IN THE SUPREME COURT OF THE STATE OF NEVADA

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an individual; and SONNIA ILIESCU, an individual,

Appellants,

vs.

THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1 through 40 inclusive,

Respondent.

Electronically Filed
Dec 30 2021 03:16 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

Supreme Court No. 83212
Washoe County Case No. CV19-00459

JOINT APPENDIX
VOLUME I
(Exhibits 1-27)

Appeal from the Second Judicial District Court of the State of Nevada
in and for the County of Washoe County
Case No. CV19-00459

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Counsel for Respondent

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55	07/27/20	Plaintiffs' Response to the Supplemental Declaration of Dane W. Anderson Regarding Expenses to be Reimbursed by Plaintiffs – Transaction 7990157	III	JA0594-0597
41	04/22/20	Pre-Trial Order – Transaction 7845782	II	JA0421-0430
109	08/23/21	Reply in Support of Motion for Attorney Fees and for Entry of Judgment for Attorney Fees and Costs – Transaction 8608634	VII	JA1339-1347
110	08/23/21	Reply in Support of Motion for Attorney Fees and for Entry of Judgment for Attorney Fees and Costs – Transaction 8608728	VII	JA1348-1364
44	05/18/20	Reply in Support of Motion for Sanctions Pursuant to NRCP 37(b)(1) – Transaction 7882116	II	JA0440-0444
85	04/29/21	Reply in Support of Motion for Summary Judgment – Transaction 8420046	V	JA0893-0941
81	04/27/21	Reply in Support of Motion in Limine to Exclude Evidence of Damages – Transaction 8416263	V	JA0831-0884
80	04/27/21	Reply in Support of Motion in Limine to Preclude Plaintiffs from Presenting Evidence Pursuant to NRS 50.275, 50.285 and 50.305 – Transaction 8416238	IV	JA0827-0830
21	11/12/19	Reply in Support of Motion to Dismiss – Transaction 7583646	I	JA0183-0190
29	02/13/20	Reply in Support of Supplemental Motion to Dismiss – Transaction 7739174	II	JA0236-0242
69	08/06/20	Request for Submission re Motion in Limine to Preclude Plaintiffs from Offering Documents Not Produced to RTC on or Before June 30, 2020 – Transaction 8007357	III	JA0614-0616

DOC.	FILE/HRG. DATE	DOCUMENT DESCRIPTION	VOL.	BATES NOS.
52	07/16/20	Request for Submission re Declaration of Dane W. Anderson Regarding Expenses To Be Reimbursed By Defendants [*sic*] – Transaction 7973986	III	JA0497-0499
39	04/20/20	Request for Submission re Motion for Discovery Sanctions – Transaction 7842053	II	JA0413-0415
69	02/25/21	Request for Submission re Motion for Sanctions Pursuant to NRCP 16.1(e) – Transaction 8313712	III	JA0663-0665
43	05/18/20	Request for Submission re Motion for Sanctions Pursuant to NRCP 37(b)(l) – Transaction 7882116	II	JA0437-0439
82	04/28/21	Request for Submission re Reply in Support of Motion in Limine to Preclude Plaintiffs From Presenting Evidence Pursuant to NRS 50.275, 50.285 and 50.305 – Transaction 8417512	V	JA0885-0887
83	04/28/21	Request for Submission re Reply in Support of Motion in Limine to Exclude Evidence of Damages – Transaction 8417518	V	JA0888-0890
91	05/24/21	Response to Notice of Intent to File Motion – Transaction 8461146	V	JA1050-1053
70	02/25/21	RTC's Reply in Support of Motion for Sanctions Pursuant to NRCP 16.1(C) – Transaction 8313712	IV	JA0666-0687
51	07/13/20	RTC's Reply to Plaintiffs' Response to Declaration of Dane W. Anderson Regarding Expenses to be Reimbursed by Defendants – Transaction 7966844	III	JA0491-0496
56	07/29/20	RTC's Reply to Plaintiffs' Response to The Supplemental Declaration of Dane W. Anderson Regarding Expenses to be Reimbursed by Defendants – Transaction 7993047	III	JA0598-0602

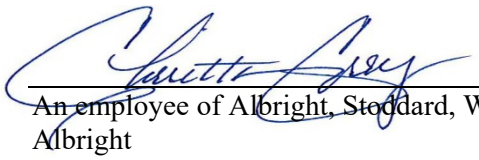
DOC.	FILE/HRG. DATE	DOCUMENT DESCRIPTION	VOL.	BATES NOS.
66	10/12/20	Scheduling Order Amended Stipulated Scheduling Order – Transaction 8111324	III	JA0649-0651
19	10/30/19	Stipulation to Conduct Discovery Prior to Holding NRCP 16.1 Conference and Prior to Filing the JCCR – Transaction 7563184 -	I	JA0171-0173
23	12/06/19	Stipulation for Entry of Order Dismissing Certain Plaintiffs' Claims for Relief and Damages With Prejudice – Transaction 7623980	I	JA0192-0195
65	10/08/20	Stipulation for Entry of Scheduling Order – Transaction 8107608	III	JA0645-0648
53	07/21/20	Supplemental ... Declaration of Dane W. Anderson Re Expenses to be Reimbursed by Plaintiffs – Transaction 7981140	III	JA0500-0507
96	06/08/21	Supplemental Exhibit to Motion for Reconsideration – Transaction 8483818	VI	JA1097-1104
27	01/30/20	Supplemental Motion to Dismiss – Transaction 7712316	I	JA0219-0225
87	05/06/21	Transcript of 4/27/21 Status Hearing	V	JA0945-1004
89	05/12/21	Transcript of 5/12/2021 Oral Arguments – Transaction 8442136	V	JA1006-1047
98	06/08/21	Transcript of 6/8/21 Oral Arguments	VI	JA1106-1147
64	09/30/20	Transcript of 9/29/20 Case Management Conference	III	JA0630-0644

CERTIFICATE OF SERVICE

Pursuant to NRAP 25(c), I hereby certify that I am an employee of ALBRIGHT, STODDARD, WARNICK & ALBRIGHT, and that on this 30th day of December, 2021, the foregoing **JOINT APPENDIX, VOLUME I**, was filed electronically with the Clerk of the Nevada Supreme Court, and therefore electronic service was made in accordance with the master service list as follows:

Dane W. Anderson, Esq.
Bronagh M. Kelly, Esq.
WOODBURN AND WEDGE
6100 Neil Road, Suite 500
Reno, Nevada 89511
danderson@woodburnandwedge.com
bkelly@woodburnandwedge.com
Attorneys for Defendant, the Regional Transportation Commission of Washoe County

Michael J. Morrison, Esq.
1495 Ridgeview Drive, #220
Reno, Nevada 89519
venturelawusa@gmail.com
Trial Counsel for Plaintiffs



An employee of Albright, Stoddard, Warnick & Albright

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Jacqueline Bryant
Clerk of the Court
Transaction # 5772609 : tbritton

$1425

Gordon H. DePaoli, Esq.
Nevada Bar No. 195
Dane W. Anderson, Esq.
Nevada Bar No. 6883
WOODBURN AND WEDGE
6100 Neil Road, Suite 500
Reno, Nevada 89511
Telephone: 775-688-3000
Facsimile: 775-688-3088
Email: danderson@woodburnandwedge.com

Attorneys for Plaintiff, the Regional Transportation Commission of Washoe County

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY, a special purpose unit of the government, Plaintiff, v. JOHN ILIESCU, JR. and SONNIA ILIESCU, Trustees of The John Iliescu, Jr. and Sonnia Iliescu 1992 Family Trust; and DOES 1 – 20, inclusive; Defendants.	Case No.: Dept. No.:

VERIFIED COMPLAINT IN EMINENT DOMAIN

Plaintiff, the Regional Transportation Commission of Washoe County ("RTC"), through its counsel, Woodburn and Wedge, alleges as follows:

1. RTC is a special purpose unit of government, duly organized and existing under the laws of the State of Nevada. RTC's principal offices are located at 1105 Terminal Way, Reno, Nevada. The RTC is charged with providing regional transportation services which are of a quality and standard necessary to satisfactorily meet the needs of the traveling public.

. . .

2. Pursuant to Chapters 37, 241 and 277A of the Nevada Revised Statutes, RTC has the power to exercise the right of eminent domain to acquire property for public purposes within the jurisdictional limits of local government if authority for the acquisition of the property has been approved by said government and notice of the condemning agency's intent to condemn has been given as required by law.

3. Pursuant to an Interlocal Cooperative Agreement, a copy of which is attached hereto as **Exhibit 1** and incorporated herein by reference, the County of Washoe and the Cities of Reno and Sparks authorized the RTC to initiate condemnation proceedings, as necessary, to acquire property needed for the construction of the 4th Street/Prater Way Complete Street and BRT Project, which will be referred to herein as "the Project."

4. The property RTC seeks to acquire by its power of eminent domain consists of a permanent easement, a public utility easement and a temporary construction easement located upon Washoe County Assessor Parcel Number ("APN") 008-244-15, metes and bounds descriptions and depictions of which are set forth in **Exhibit 2** attached hereto and incorporated herein by this reference. This APN is more commonly known as 642 E. 4th Street, Reno, NV, 89501, The permanent easement, public utility easement and temporary construction easement are collectively referred to herein as the "Property."

5. Based upon a preliminary title report dated January 28, 2016, the names of all owners, occupants and claimants of the Property insofar as known to RTC are as follows:

a. Defendants John Iliescu, Jr. and Sonnia Iliescu, Trustees of the John Iliescu, Jr. and Sonnia Iliescu 1992 Family Trust ("Iliescu");

6. The true names and capacities defendant DOES 1 through 20, are unknown to RTC at this time. RTC is informed and believes and thereupon alleges that each DOE Defendant may claim an interest in the Property. RTC will seek leave to amend this complaint to insert their true names when the same can be ascertained. RTC seeks to condemn their interests in the manner and for the purposes described herein.

7. On July 20, 2016, RTC caused a "Notice Letter Pursuant To NRS 241.034" to be sent by certified mail to the owner of the Property, Iliescu, advising that the RTC Board

would meet on August 19, 2016 to consider acquisition of the Property by the exercise of eminent domain. A true and correct copy of that Notice Letter is attached hereto as **Exhibit 3** and incorporated herein by reference.

8. On August 19, 2016, at a properly noticed public meeting, RTC adopted a "Resolution of Condemnation" authorizing its counsel to proceed, if necessary, to acquire the Property by the institution of eminent domain proceedings, and to apply for an order permitting RTC to take immediate possession of the Property as may be necessary for the construction of the Project. Pursuant to the "Resolution of Condemnation," RTC determined that the acquisition of the Property is to be applied to a public use, to wit, the Project. A true and correct copy of the "Resolution of Condemnation" is attached hereto as **Exhibit 4** and is incorporated herein by reference.

9. The Property RTC seeks to acquire and/or temporarily occupy is to be applied for the specific purpose of constructing the Project, which is within RTC's purpose of providing quality transportation facilities, a public use authorized by law. This public use will improve traffic flow along 4th Street and Prater Way.

10. If there are two (2) or more estates or divided interests in the Property, then NRS 37.115 entitles RTC to have the amount of the award for the property first determined as between RTC and all of the Defendants claiming any interest therein. The respective rights of each Defendant in and to the award are to be determined subsequently at a separate hearing in the same proceeding.

11. Pursuant to NRS 37.055, all proceedings related to this matter take precedence over all other causes and actions not involving the public interest so that all such proceedings may be heard and determined in a timely manner.

WHEREFORE, RTC prays for the following relief:

1. That the Court decree that the taking of the Property as described herein for use in the Project is a public use authorized by law;

2. That the Court decree that the taking of the Property and property rights as described herein by RTC are necessary for public use;

3. That the Court decree that RTC be allowed immediate occupancy of the Property upon application and compliance with the requirements of law;

4. That the Court ascertain and assess as between RTC and all Defendants the value of the Property and property rights sought to be condemned and the amount of any severance damages and/or special benefits;

5. That the Court ensure that any taxes or liens owing or due Washoe County or any other public agency on the Property sought to be acquired by this action be paid prior to the entry of any order authorizing withdrawal of any funds deposited by RTC pursuant to NRS 37.100 or NRS 37.150;

6. That the Court enter judgment granting RTC the permanent easement, public utility easement, the temporary construction easement, and such other interest being sought by RTC upon compliance with the terms of any judgment.

7. That the Court enter a Final Order of Condemnation pursuant to NRS 37.160;

8. For an order of fees and costs as allowed by law; and

9. Any other and further relief as the Court deems just and property under the circumstances.

Affirmation pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

DATED: October 24, 2016.

WOODBURN AND WEDGE

By _____

Gordon H. DePaoli, Esq.
Nevada Bar No. 195
Dane W. Anderson, Esq.
Nevada Bar No. 6883
Attorneys for Plaintiff The Regional Transportation Commission of Washoe County

VERIFICATION

STATE OF NEVADA)
) ss
COUNTY OF WASHOE)

I, Lee Gibson, hereby swear under penalty of perjury that the assertions of this Verified Complaint are true and correct to the best of my knowledge.

The undersigned declares that he is the Executive Director of the Regional Transportation Commission of Washoe County and in such capacity has read the foregoing Verified Complaint In Eminent Domain and knows the contents thereof, that the same is true of his own knowledge, except as to the matters stated on information and belief, and that as to such matters, he believes them to be true.

Dated this 20th day of October, 2016.

By: _____
Lee Gibson, Executive Director
The Regional Transportation
Commission of Washoe County

Subscribed and sworn to before me
this 20th day of October, 2016.

MICHELLE ANNE KRAUS
Notary Public - State of Nevada
Appointment Recorded in Washoe County
No: 15-2186-2 - Expires July 8, 2019

Michelle Anne Kraus
NOTARY PUBLIC

INDEX OF EXHIBITS

Exhibit #	Document Description	No. Pages in Exhibit
1	Interlocal Cooperative Agreement	8
2	Metes and bounds descriptions and depictions of portions of APN No. 008-244-15	6
3	Notice Letter Pursuant to NRS 241.034 dated July 20, 2016	3
4	Resolution of Condemnation	10

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Clerk of the Court
Transaction # 5772609 : tbritton

EXHIBIT 1

EXHIBIT 1

INTERLOCAL COOPERATIVE AGREEMENT
APPROVING RTC PROGRAM OF PROJECTS

This Agreement is made and executed this 19th day of September, 2014, by and between the Board of Commissioners of Washoe County, Nevada, hereinafter referred to as "County", the City Council of Reno, Nevada, hereinafter referred to as "Reno", the City Council of Sparks, Nevada, hercinafter referred to as "Sparks", and the Regional Transportation Commission of Washoe County, hereinafter referred to as "RTC".

WITNESETH:

WHEREAS, on September 19, 2014, the RTC approved the FY 2016 Program of Projects listed on Exhibit A attached to this Agreement. Each project on Exhibit A is referred to herein as a "Project" and all of such Projects are collectively referred to herein as the "Projects".

WHEREAS, the Projects will require pavement maintenance, rehabilitation, reconstruction, new construction or engineering and environmental analysis, and may require the acquisition of real property through consensual agreements with the owners or through eminent domain proceedings; and

WHEREAS, pursuant to the requirements of NRS 373.140, NRS 377A.080 and the Regional Road Impact Fee (RRIF) Program, the County, Reno, Sparks, and RTC desire by this Agreement to authorize the Projects and to set forth each entity's respective responsibilities with respect to the Projects.

NOW, THEREFORE, pursuant to the provisions of NRS 373.140, NRS 377A.080, NRS Chapter 277A, and the RRIF Ordinances/Manuals, and in consideration of the mutual promises contained herein and for other good and valuable consideration, it is hereby agreed by and between the parties hereto as follows:

I. APPROVAL OF PROJECTS

A. Reno, the County and Sparks hereby approve each and every Project and authorize the RTC to design, survey, engineer, acquire through purchase or eminent domain real property for, and construct, each of the Projects. Approval for any Project for any fiscal year shall be approval for all continued work by or on behalf of the RTC on that Project for any later

fiscal year. The RTC may expend money from one or more than one of the Regional Street and Highway Fund (the "Fuel Tax Fund"), the Transportation Sales Tax Fund (the "Sales Tax Fund") or the Regional Road Impact Fee Fund (the "RRIF Fund") on each Project as listed on the column next to the Project on Exhibit A. The cost of each Project is estimated by the RTC as shown on Exhibit A. These costs are only estimates and the RTC may expend additional monies from any one or more of the Fuel Tax Fund, the Sales Tax Fund or the RRIF Fund on each Project as such additional expenditures are reviewed and approved by the RTC Staff and/or the RTC Board of Commissioners pursuant to the RTC's policies and procedures.

B. Reno, the County and Sparks hereby authorize the RTC to adopt an appropriate resolution of condemnation and initiate and prosecute to judgment such eminent domain proceedings as may be necessary for the acquisition of such property within their respective jurisdictions as the RTC deems necessary for the construction and/or maintenance of any Project and, if prudent, future expansions of each Project identified by the Regional Transportation Plan.

II. RTC DUTIES

RTC agrees to perform the followings tasks and the County, Reno and Sparks hereby authorize the RTC to do so:

A. Provide all required services, including but not limited to design, environmental assessments and studies, surveying, construction engineering, construction management and quality assurance inspection, utilizing RTC staff and/or qualified consultants;

B. Obtain appraisal reports for any property being considered as necessary for the implementation of any Project and, if prudent, future expansions of the Project identified within the Regional Transportation Plan, conduct preliminary negotiations with the owners in an effort to arrive at a mutually agreeable purchase price and negotiate, execute and close contracts to purchase the property;

C. Offer not less than the appraisal value for the property and property rights deemed necessary for a Project and, where the prospect of reaching a mutually agreeable purchase price appears unlikely following reasonable negotiations, cause the RTC Board of Commissioners to adopt a "Resolution of Condemnation" finding that particular properties are necessary to the

success of a Project and authorize legal counsel to seek acquisition through eminent domain proceedings;

D. Coordinate all activities related to a Project including, but not limited to, advertising, receipt and review of construction bids, and execution of a contract with the contractor submitting the lowest responsive and responsible bid;

E. Maintain necessary files on each Project;

F. Pay all authorized Project costs from the Fuel Tax Fund, the RRIF Fund or the Sales Tax Fund. Payments for construction or engineering services will be paid to the contractor or consultant upon receipt of a claim or claims which have been certified as a true and correct account of the expenses incurred as a result of or in conjunction with the provisions of a contract entered into as a result of this Agreement. All submitted claims will have supporting documents attached which substantiate the basis of the claim. Such claim or claims shall be reviewed and approved in accordance with the policies and procedures of the RTC; and

G. Not permit the payment of non-reimbursable or non-payable items established by the policies and procedures of the RTC.

III. COUNTY'S, RENO'S AND SPARK'S DUTIES

The County, Reno and Sparks shall do the following:

A. Cooperate with RTC and its consultants in all phases of each Project located within their respective jurisdictions;

B. Assist the RTC in communicating with the public regarding the Project(s) located within their respective jurisdictions;

C. Accept ownership of and maintain each Project located wholly or partially within their respective jurisdictions upon completion of construction;

D. Upon notification from the RTC, require utilities having franchise agreements that require relocation to relocate their facilities prior to award of the Project in accordance with the franchise agreement; for utilities that do not address the issue of relocation in the franchise

agreement, require relocation of the subject facilities prior to the award of the Project if state law provides authority to do so; and

E. Coordinate development and administration of the Project with the RTC.

This Agreement is effective from and after the date first above written.

APPROVED AS TO LEGALITY AND FORM

BY: Dale E. Ferguson
RTC GENERAL COUNSEL

REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY

BY: Bonnie Weber
BONNIE WEBER, CHAIR

State of Nevada
County of Washoe

This FY 2015/16 Interlocal Cooperative Agreement was acknowledged before me this 19th day of September, 2014, by Bonnie Weber, as Chair of the Regional Transportation Commission of Washoe County.

Notary Public

DENISE THOMPSON
Notary Public-State of Nevada
APPT. NO. 08-6382-2
My App. Expires October 17, 2016

BOARD OF COMMISSIONERS,
WASHOE COUNTY, NEVADA

By: _____
CHAIRMAN

ATTEST:

BY: _____
WASHOE COUNTY CLERK

APPROVED AS TO FORM AND CONTENT:

BY: _____
ATTORNEY

CITY COUNCIL OF RENO, NEVADA

By: _____
MAYOR

ATTEST:

BY: _____
RENO CITY CLERK

APPROVED AS TO FORM AND CONTENT:

BY: _____
DEPUTY CITY ATTORNEY

CITY COUNCIL OF SPARKS, NEVADA

BY: _____
MAYOR

ATTEST:

BY: _____
SPARKS CITY CLERK

APPROVED AS TO FORM AND CONTENT:

BY: _____
~~DEPUTY~~ CITY ATTORNEY

EXHIBIT A

RTC PROGRAM OF PROJECTS 2015/2016

PROPOSED RTC FISCAL YEAR (FY) 2016 PROGRAM OF PROJECTS (POP)

PAVEMENT PRESERVATION AND CORRIDOR IMPROVEMENT PROJECTS

* ACTIVITY CODES
C = CONSTRUCTION (INCLUDES CONSTRUCTION SERVICES)
D = DESIGN
N = ENVIRONMENTAL (NEPA, INCLUDES PRELIMINARY DESIGN)
P = PLANNING
R = RIGHT OF WAY

PROJECT (YEAR OF CONSTRUCTION) & TERMINI	PROJECT OBJECTIVE	TOTAL PROJECT ESTIMATE	FUNDING SOURCE	PREVIOUSLY APPROVED AMOUNT	PREVIOUSLY APPROVED ACTIVITY*	FY 16 POP FUNDS (PROPOSED) AMOUNT	FY 16 POP FUNDS (PROPOSED) ACTIVITY *	TOTAL FUNDS PROGRAMMED (PROPOSED)
2015 PREVENTIVE MAINTENANCE (2015) VARIOUS REGIONAL ROADS	PAVEMENT PRESERVATIDN	$3,559,493	RTC FUEL TAX	$0				$0
			RTC SALES TAX	$3,559,493	D, C			$3,559,493
				$3,559,493				$3,559,493
2015 CORRECTIVE MAINTENANCE (2015) VARIOUS REGIONAL ROADS	PAVEMENT PRESERVATION	$1,017,786	RTC FUEL TAX	$924,900	D, C	$92,886		$1,017,786
GOLDEN VALLEY ROAD & CARLYLE DRIVE (N/A) YORKSHIRE TO N VIRGINIA & MONTGOMERY TO YORKSHIRE (N)	PAVEMENT PRESERVATION		RTC FUEL TAX	$92,886		-$92,886		
MAYBERRY DRIVE (2015) HUNTER LAKE TO CALIFORNIA	PAVEMENT PRESERVATION	$1,135,000	RTC FUEL TAX	$1,135,000	D, C			$1,135,000
2015 ADA PEDESTRIAN TRANSITION IMPROVEMENT PLAN (2015) VARIOUS REGIONAL ROADS	AMERICAN DISABILITY ACT TRANSITION PLAN	$600,000	RTC FUEL TAX	$600,000	D, C			$600,000
4TH & PRATER BUS RAPID TRANSIT PROJECT (2017) EVANS TO PYRAMID	CORRIDOR/TRANSIT CAPACITY IMPROVEMENT	$48,300,000 (EXCLUDES TRANSIT VEHICLES)	RTC FUEL TAX			$5,850,000	R, C	$5,850,000
			RTC SALES TAX	$2,100,000		$4,150,000	R, C	$6,250,000
			FEDERAL STP/TIGER	$2,000,000		$16,000,000	C	$18,000,000
				$4,100,000	D, R			$30,100,000
PRATER WAY ENHANCEMENTS PHASE 4 (2015) 22ND TO 20TH	CORRIDOR IMPROVEMENT	$1,500,000	RTC FUEL TAX	$850,000	D, R			$850,000
			FED ENHANCEMENT	$650,000	C			$650,000
				$1,500,000				$1,500,000
VIRGINIA STREET MIDTOWN & RTC RAPID EXTENSION TO UNR (2017) PLUMB TO LIBERTY & MAPLE TO 19TH	CORRIDOR/TRANSIT CAPACITY IMPROVEMENT	$24,350,000 (EXCLUDES TRANSIT VEHICLES)	RTC FUEL TAX	$598,000				$598,000
			FTA CMAQ	$510,000				$510,000
				$1,108,000	D, N			$1,108,000
VIRGINIA STREET- TRUCKEE BRIDGE REPLACEMENT (2015) FUNDING DIRECTLY TO CITY OF RENO, THROUGH SEPARATE INTERLOCAL AGREEMENT	BRIDGE REPLACEMENT	$21,233,000	RTC FUEL TAX					
			STATE BRIDGE REPL	$10,000,000				$10,000,000
			TRFMA	$7,250,000				$7,250,000
			CITY OF RENO	$1,973,000				$1,973,000
				$19,223,000				$19,223,000

RTC FUEL/SALES TAX SUMMARY:	PREVIOUS APPROVED	FY 16 POP FUNDS (PROPOSED)	PROPOSED TOTAL
RTC FUEL TAX:	$4,200,786	$26,000,000	
RTC SALES TAX:	$5,659,493	$0	
FEDERAL/OTHER NON RTC:	$22,383,000	$16,000,000	
TOTAL:	$32,243,279	$42,000,000	$74,243,279

PROPOSED RTC FISCAL YEAR (FY) 2016 PROGRAM OF PROJECTS

CAPACITY AND CONGESTION RELIEF

* ACTIVITY CODES

C = CONSTRUCTION (INCLUDES CONSTRUCTION SERVICES)
D = DESIGN
N = ENVIRONMENTAL (NEPA, INCLUDES PRELIMINARY DESIGN)
P = PLANNING
R = RIGHT OF WAY

PROJECT (YEAR OF CONSTRUCTION) & TERMINI	PROJECT OBJECTIVE	TOTAL PROJECT ESTIMATE	FUNDING SOURCE	PREVIOUSLY APPROVED AMOUNT	PREVIOUSLY APPROVED ACTIVITY*	FY 16 POP FUNDS (PROPOSED) AMOUNT	FY 16 POP FUNDS (PROPOSED) ACTIVITY *	TOTAL FUNDS PROGRAMMED (PROPOSED)
PYRAMID FREEWAY/US-395 LINK (TBD) US-395 TO PYRAMID (PRELIMINARY DESIGN ONLY)	CAPACITY IMPROVEMENT	$9,061,464	NDOT/FED	$9,061,464	N			$9,061,464
SOUTHEAST CONNECTOR PHASE 2 (2015) SOUTH MEADOWS TO CLEAN WATER	CAPACITY IMPROVEMENT	$190,000,000	RTC BOND	$140,000,000	D, R, N, C			$140,000,000
			FUEL TAX			$50,000,000	C	$50,000,000
								$190,000,000
MCCARRAN/PYRAMID INTERSECTION (2015)	CAPACITY IMPROVEMENT	$66,000,000	FUEL TAX	$1,307,618				$1,307,618
			NDOT/FED	$29,827,027	O, R			$29,827,027
				$31,134,645	D, R			$31,134,645
N MCCARRAN @ N VIRGINIA INTERSECTION IMPROVEMENT (2015)	CAPACITY IMPROVEMENT	$4,000,000	RRIF	$4,000,000	D, C			$4,000,000
SE MCCARRAN WIDENING S VIRGINIA TO MIRA LOMA (PHASE 1, COMPLETE) MIRA LOMA TO GREG (PHASE 2, 2014)	CAPACITY IMPROVEMENT	$45,000,000	RTC BOND	$45,000,000	D, C, R			$45,000,000
TRAFFIC ENGINEERING SPOT INTERSECTIONS 4 (2015) LOCATIONS TO BE DETERMINED	CAPACITY IMPROVEMENT	$750,000	RRIF	$750,000	D, C			$750,000
TRAFFIC ENGINEERING SPOT INTERSECTIONS 5 (2016) LOCATIONS TO BE DETERMINED	CAPACITY IMPROVEMENT	$1,000,000	RRIF			$1,000,000	D, C	$1,000,000
BIKE & PEDESTRIAN IMPROVEMENTS 3, 4 & 5 (2016) EVANS - 4TH TO N MCCARRAN	CAPACITY IMPROVEMENT	$1,350,000	RRIF	$67,500				$67,500
			CMAQ	$1,282,500				$1,282,500
				$1,350,000	D, C			$1,350,000
BIKE & PEDESTRIAN IMPROVEMENTS 2016 (2016) LOCATION TO BE DETERMINED	CAPACITY IMPROVEMENT	$1,000,000	RRIF			$50,000		$50,000
			CMAQ			$950,000		$950,000
						$1,000,000	D, C	$1,000,000
TRAFFIC MANAGEMENT (2015) ITS MASTER PLAN	INTELLIGENT TRAFFIC SYSTEMS (ITS)	$1,000,000	RRIF	$50,000				$50,000
			CMAQ	$950,000				$950,000
				$1,000,000	D, C			$1,000,000
TRAFFIC MANAGEMENT 2A (2015) FIBER OPTIC CONNECTIVITY	INTELLIGENT TRAFFIC SYSTEMS (ITS)	$996,500	RRIF	$49,825				$49,825
			CMAQ	$946,675				$946,675
				$996,500	C			$996,500
TRAFFIC MANAGEMENT 2B (2016) ITS EQUIPMENT INSTALLATION	INTELLIGENT TRAFFIC SYSTEMS (ITS)	$996,500	RRIF	$49,825				$49,825
			CMAQ	$946,675				$946,675
				$996,500	C			$996,500

RRIF & RTC BOND SUMMARY:	PREVIOUS APPROVED	FY 16 POP FUNDS (PROPOSED)	PROPOSED TOTAL
RRIF/FUEL TAX:	$6,274,768	$1,050,000	
RTC BONDS:	$185,000,000	$50,000,000	
FEDERAL/OTHER NON RTC:	$43,014,341	$950,000	
TOTAL	$234,289,109	$52,000,000	$286,289,109

F I L E D
Electronically
CV16-02182
2016-10-24 02:11:16 PM
Jacqueline Bryant
Clerk of the Court
Transaction # 5772609 : tbritton

EXHIBIT 2

EXHIBIT 2

LEGAL DESCRIPTION FOR PE11550PE

EXHIBIT A
LEGAL DESCRIPTION FOR
PERMANENT EASEMENT
(11550PE)
APN 008-244-15

All that certain real property situate within a portion of the Northwest One-Quarter (NW 1/4) of Section Twelve (12), Township Nineteen (19) North, Range Nineteen (19) East, Mount Diablo Meridian, City of Reno, County of Washoe, State of Nevada, being a portion of the parcel of land described in Grant, Bargain, Sale Deed Document No. 2795226, recorded on January 24, 2003, in the Official Records of Washoe County, Nevada, being more particularly described as follows:

BEGINNING at the Northeast corner of said parcel, also being on the South right-of-way line of East Fourth Street;

THENCE departing said Northeast corner and along the West right-of-way line of Park Street, South 00°08'27" West a distance of 8.31 feet;

THENCE departing said West right-of-way line and along the following three (3) courses:

1) South 84°48'43" West, 5.02 feet;
2) North 53°07'35" West, 7.08 feet;
3) North 11°03'54" West, 1.99 feet to the aforementioned South right-of-way of East Fourth Street;

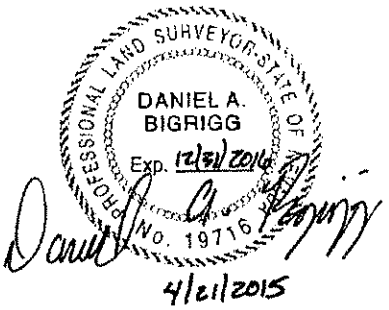
THENCE along said South right-of-way, North 76°56'48" East a distance of 11.36 feet to the **POINT OF BEGINNING**;

Containing 68 square feet of land, more or less.

See Exhibit A-1 attached hereto and made a part hereof.

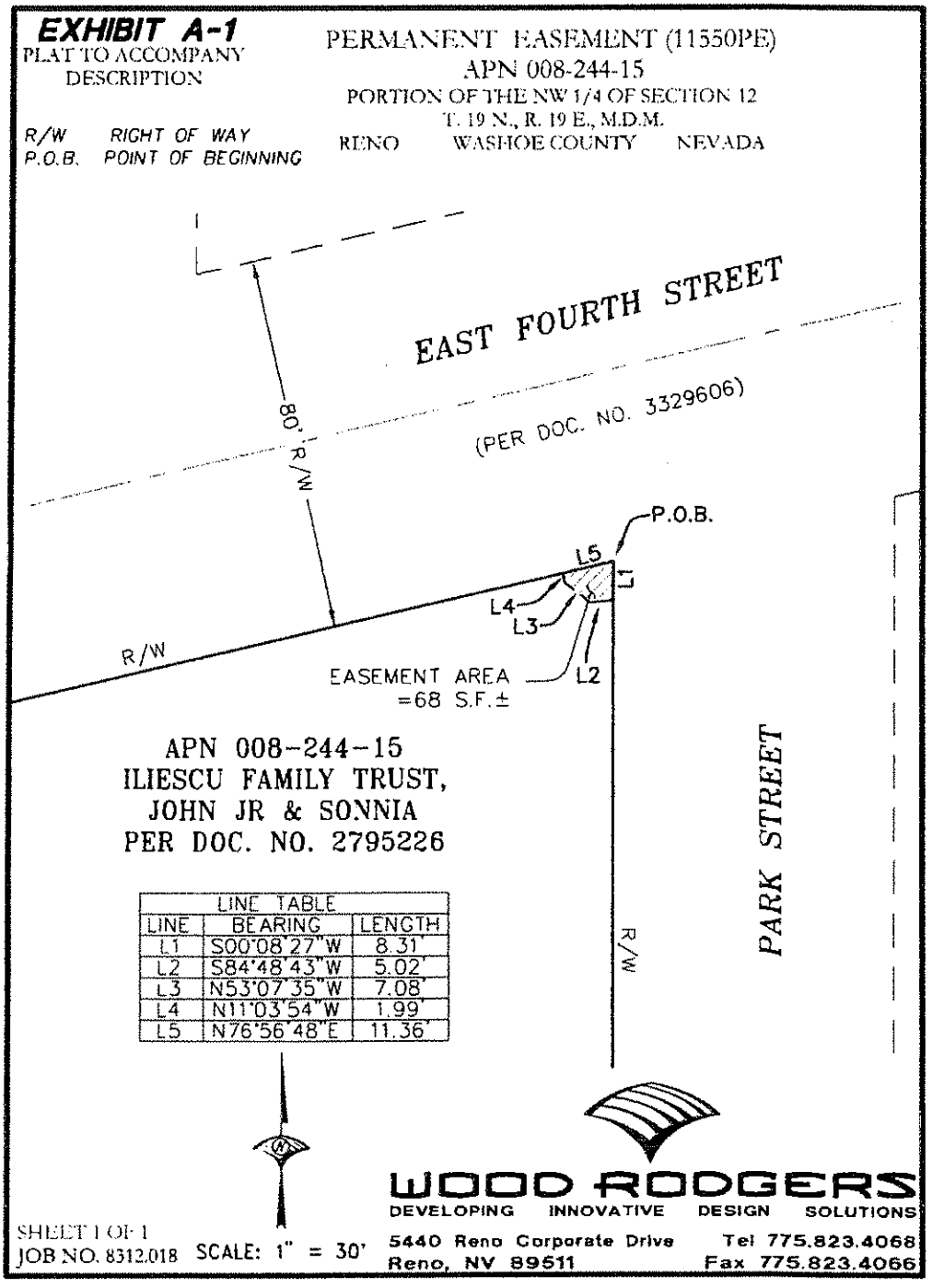
The Basis of Bearings for this description is Nevada State Plane Coordinate System, West Zone, North American Datum of 1983/1994, High Accuracy Reference Network (NAD 83/94 – HARN)

Prepared by:
Wood Rodgers, Inc.
5440 Reno Corporate Dr.
Reno, NV 89511



Daniel A. Bigrigg, P.L.S.
Nevada Certificate No. 19716

RIGHT-OF-WAY SKETCH PERMANENT EASEMENT 11550PE



LEGAL DESCRIPTION FOR PUBLIC UTILITY EASEMENT 11550PUE

EXHIBIT A
LEGAL DESCRIPTION FOR
PUBLIC UTILITY EASEMENT
(11550PUE)
APN 008-244-15

All that certain real property situate within a portion of the Northwest One-Quarter (NW 1/4) of Section Twelve (12), Township Nineteen (19) North, Range Nineteen (19) East, Mount Diablo Meridian, City of Reno, County of Washoe, State of Nevada, being a portion of the parcel of land described in the Grant, Bargain, Sale Deed Document No. 2795226, recorded on January 24, 2003, in the Official Records of Washoe County, Nevada.

11550PUE

COMMENCING at the southeast corner of said parcel, also being the intersection of the West right-of-way of Park Street and the North right-of-way of Old Glendale Road;

THENCE departing said corner and along said West right-of-way, North 00°08'27" East, 90.49 feet to the **POINT OF BEGINNING**;

THENCE departing said West right-of-way, North 44°51'33" West, 9.19 feet;

THENCE North 00°08'27" East, 6.50 feet;

THENCE North 89°51'33" West, 8.50 feet;

THENCE North 00°08'27" East, 10.00 feet;

THENCE South 89°51'33" East, 6.50 feet;

THENCE North 00°08'27" East, 10.69 feet to the South right-of-way of East Fourth Street;

THENCE along said South right-of-way, North 76°56'48" East, 6.68 feet to the northeast corner of said parcel, also being common to the aforementioned South right-of-way of East Fourth Street and the West right-of-way of Park Street;
THENCE departing said corner and along the aforementioned West right-of-way, South 00°08'27" West, 35.21 feet to the **POINT OF BEGINNING**;

Containing 288 square feet of land, more or less.

See Exhibit A-1 attached hereto and made a part hereof.

BASIS OF BEARINGS:

The Basis of Bearings for these descriptions is Nevada State Plane Coordinate System, West Zone, North American Datum of 1983/1994, High Accuracy Reference Network (NAD 83/94 – HARN)

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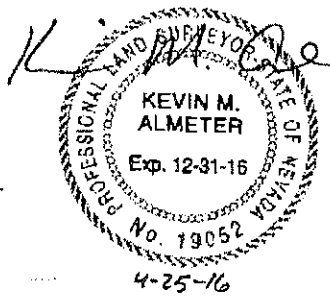
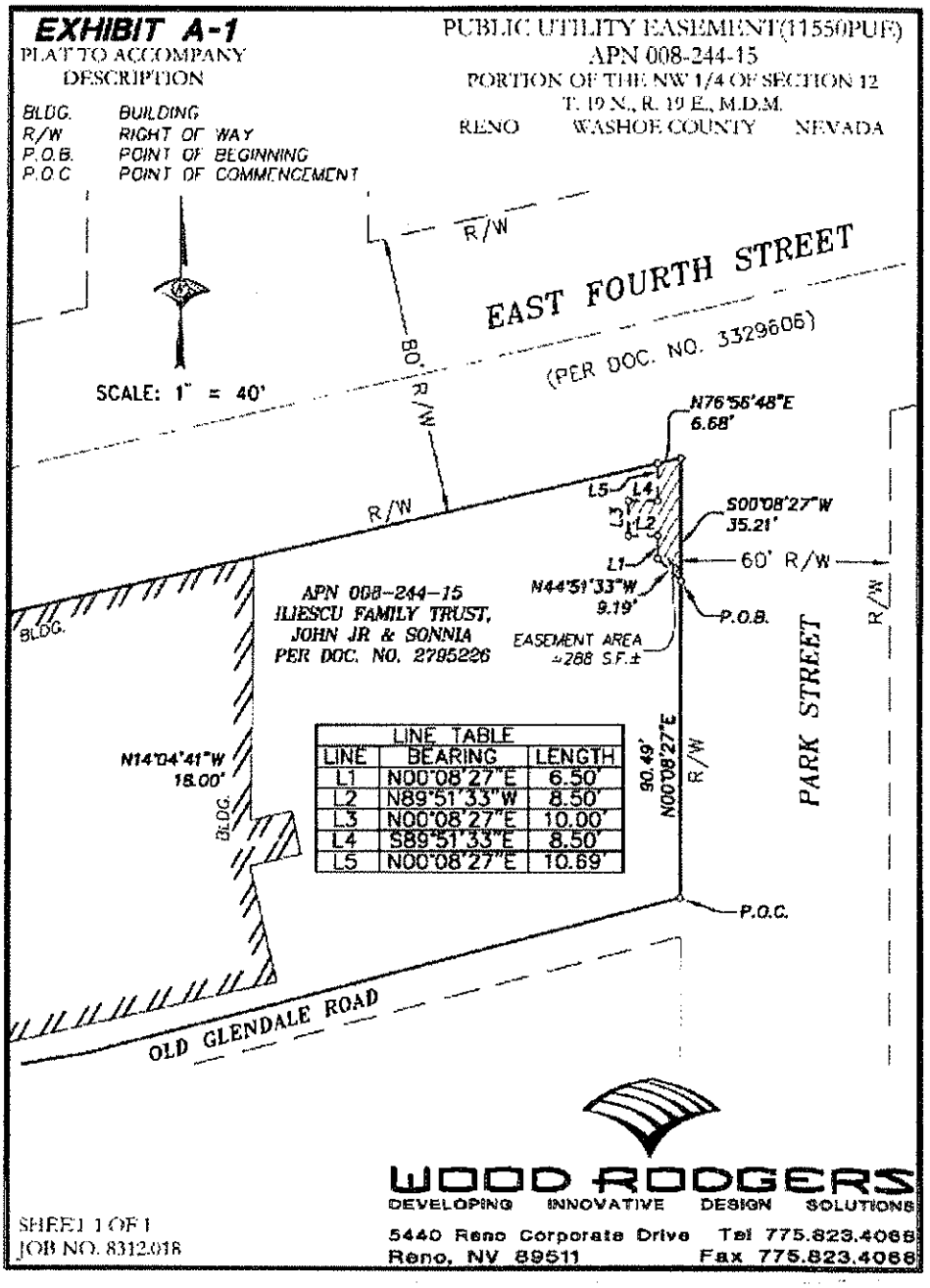


Kevin M. Almeter, P.L.S.
Nevada Certificate No. 19052

RIGHT-OF-WAY SKETCH 11550PUE



PROPOSED TEMPORARY CONSTRUCTION EASEMENT LEGAL DESCRIPTION

EXHIBIT A
LEGAL DESCRIPTION FOR
TEMPORARY CONSTRUCTION EASEMENT
(11550TCE)
APN 008-244-15

All that certain real property situate within a portion of the Northwest One-Quarter (NW 1/4) of Section Twelve (12), Township Nineteen (19) North, Range Nineteen (19) East, Mount Diablo Meridian, City of Reno, County of Washoe, State of Nevada, being a portion of the parcel of land described in Grant, Bargain, Sale Deed Document No. 2795226, recorded on January 24, 2003, in the Official Records of Washoe County, Nevada, being more particularly described as follows:

COMMENCING at the Northeast corner of said parcel, also being on the South right-of-way of East Fourth Street;

THENCE departing said Northeast corner and along the West right-of-way of Park Street, South 00°08'27" West, 8.31 feet to the **POINT OF BEGINNING**;

THENCE continuing along said West right-of-way, South 00°08'27" West, 5.02 feet;

THENCE departing said West right-of-way line and along the following three (3) courses:

1) South 84°48'43" West, 6.48 feet;
2) North 53°07'35" West, 10.92 feet;
3) North 11°03'54" West, 3.74 feet to the aforementioned South right-of-way of East Fourth Street;

THENCE along said South right-of-way, North 76°56'48" East, 5.00 feet;

THENCE departing said South right-of-way and along the following three (3) courses:

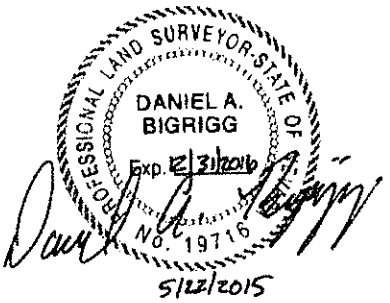
1) South 11°03'54" East, 1.99 feet;
2) South 53°07'35" East, 7.08 feet;
3) North 84°48'43" East, 5.02 feet to the aforementioned West right-of-way of Park Street and the **POINT OF BEGINNING**;

Containing 88 square feet of land, more or less.

See Exhibit A-1 attached hereto and made a part hereof.

The Basis of Bearings for this description is Nevada State Plane Coordinate System, West Zone, North American Datum of 1983/1994, High Accuracy Reference Network (NAD 83/94 – HARN)

Prepared by:
Wood Rodgers, Inc.
5440 Reno Corporate Dr.
Reno, NV 89511



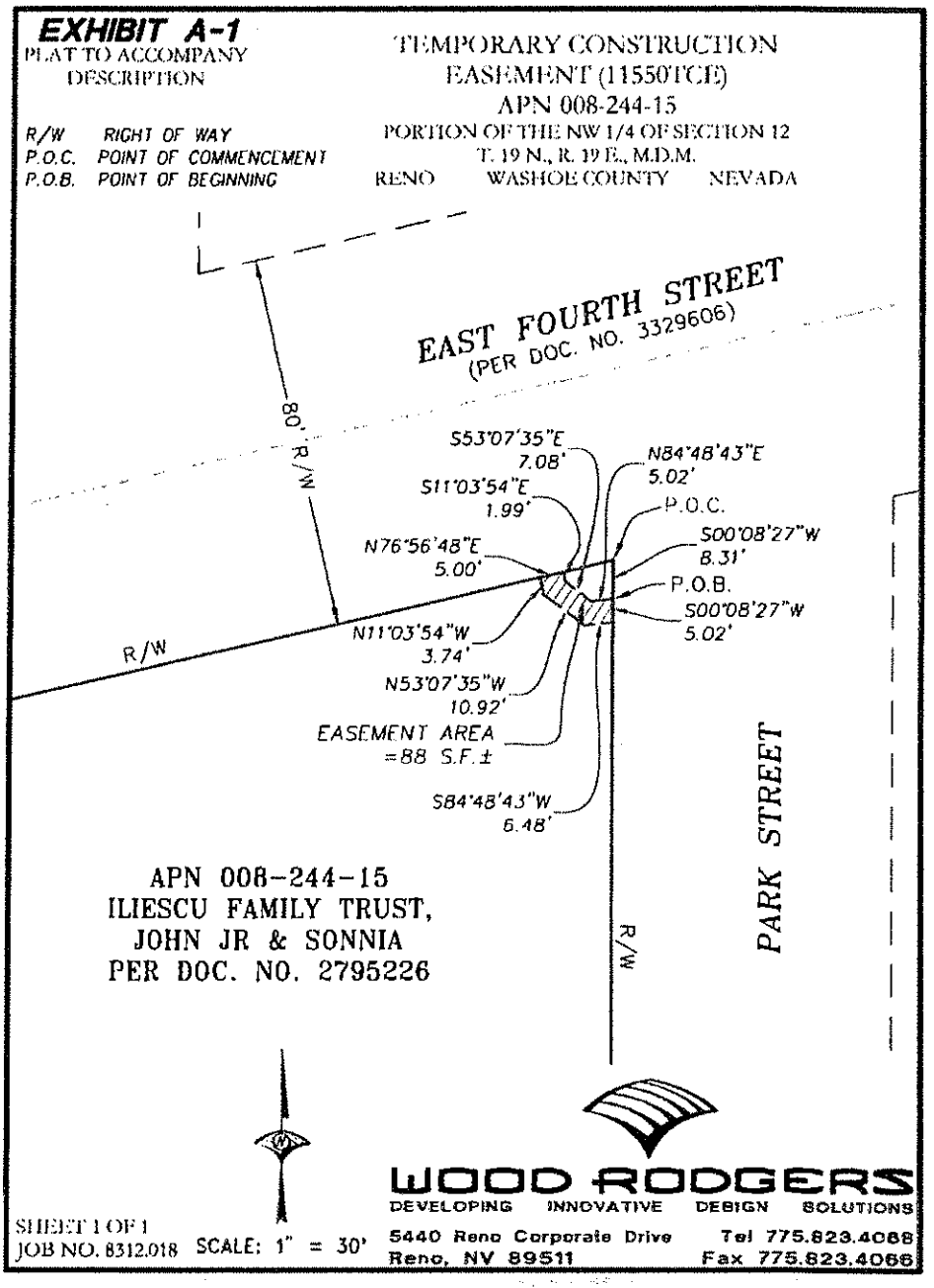
5/22/2015

Daniel A. Bigrigg, P.L.S.
Nevada Certificate No. 19716

Page 1 of 1
(11550TCE)

APN 008-244-15

TEMPORARY CONSTRUCTION EASEMENT SKETCH 10550TCE



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2016-10-24 02:11:16 PM
Jacqueline Bryant
Clerk of the Court
Transaction # 5772609 : tbritton

EXHIBIT 3

EXHIBIT 3

REGIONAL TRANSPORTATION COMMISSION
Metropolitan Planning · Public Transportation & Operations · Engineering & Construction
Metropolitan Planning Organization of Washoe County, Nevada

July 20, 2016

John Iliescu, Jr. and Sonnia Iliescu 1992
Family Trust, Agreement dated January 24, 1992
John & Sonnia Iliescu
200 Court Street
Reno, Nevada 89501
Via Certified Mail #9171 9690 0935 0111 8801 30

RTC Board Meeting
4th Street/Prater Way BRT Project
Evans Avenue to Pyramid Way
RTC Project: 242013
Grant#: NV-79-0003
APN: 008-244-15

RE: **Notice Letter Pursuant to NRS 241.034**

Dear Mr. and Mrs. Iliescu:

On behalf of the Board of Directors for the Regional Transportation Commission (RTC), you are hereby notified that the RTC Board will convene on August 19, 2016, at 9:00 am, at the Washoe County Commission Chambers, located at 1001 E. Ninth Street, Building A, Reno, Nevada 89512. At that meeting, the Board will discuss whether to acquire, and may take action to acquire, one public utility easement, one permanent easement and one temporary construction easement (property rights), located on Assessor's Parcel Number 008-244-15 by the exercise of the power of eminent domain.

APN 008-244-15	Public Utility Easement – 288 square feet
	Permanent Easement – 68 square feet
	Temporary Construction Easement – 88 square feet

This notice is provided to you pursuant to Chapter 241 of the Nevada Revised Statutes. Also pursuant to Chapter 241, this meeting is an open meeting at which comments from the public are taken.

The Washoe County Commission Chambers is accessible to individuals with disabilities. Requests for auxiliary aids to assist individuals with disabilities should be made with as much advance notice as possible. For those requiring hearing or speech assistance, contact Relay Nevada at 1-800-326-6868 (TTY, VCO or HCO). Requests for supporting documents and all other requests should be directed to Denise Thompson, at (775) 335-1826.

The RTC's preference is to continue the negotiation process with you to acquire the property rights needed for the project, however, the RTC may initiate an action in eminent domain to acquire them. Upon your response, we can schedule a meeting to work on a resolution.

RTC Board: Neoma Jardon (Chair) · Ron Smith (Vice Chair) · Bob Lucey · Paul McKenzie · Marsha Berkbigler
PO Box 30002, Reno, NV 89520 · 1105 Terminal Way, Reno, NV 89502 · 775-348-0400 · rtcwashoe.com

If you have any questions, please contact Carrie Byron, Property Agent, by phone at (775) 332-2144.

Sincerely,

Lee G. Gibson, AICP
RTC Executive Director

LGG/CAB/mak

Cc: Dale Ferguson, General Counsel, RTC

UNITED STATES POSTAL SERVICE

Date: July 25, 2016

Carrie Byron:

The following is in response to your July 25, 2016 request for delivery information on your Certified Mail™ item number 9171969009350111880130. The delivery record shows that this item was delivered on July 20, 2016 at 1:32 pm in RENO, NV 89501. The scanned image of the recipient information is provided below.

Signature of Recipient : Hamarup

Address of Recipient : 200 Court

Thank you for selecting the Postal Service for your mailing needs.

If you require additional assistance, please contact your local Post Office or postal representative.

Sincerely,
United States Postal Service

F I L E D
Electronically
CV16-02182
2016-10-24 02:11:16 PM
Jacqueline Bryant
Clerk of the Court
Transaction # 5772609 : tbritton

EXHIBIT 4

EXHIBIT 4

RESOLUTION OF CONDEMNATION

WHEREAS, it is necessary for the Regional Transportation Commission of Washoe County, hereinafter referred to as "RTC," to provide regional transportation facilities which are of a quality and standard necessary to satisfactorily meet the needs of the traveling public; and

WHEREAS, in recognition of such needs, the RTC approved the 4th Street & Prater Way Bus Rapid Transit Project from Evans Avenue to Pyramid Way, hereinafter referred to as "Project," as part of an Interlocal Cooperative Agreement ("ICA") dated October 22, 2014; and

WHEREAS, in the ICA dated October 22, 2014, the City of Reno authorized the RTC to initiate eminent domain proceedings on behalf of the City, if required, for the acquisition of right-of-way for the Project; and

WHEREAS, Chapter 277A of Nevada Revised Statutes provides that the RTC may exercise the power of eminent domain, if the city or county which has jurisdiction over the property approves; and

WHEREAS, the current owner of record of the property interests to be acquired, insofar as is known to the RTC, is John Iliescu, Jr. and Sonnia Iliescu, Trustees of the John Iliescu, Jr. and Sonnia Iliescu 1992 Family Trust, Agreement dated January 24, 1992.

NOW, THEREFORE, the members of the Regional Transportation Commission of Washoe County do hereby find:

1. That proper notice of the RTC's intent to consider eminent domain action to acquire the relevant property interests of the above referenced owner(s) has been given as required by NRS 241.034.

2. That RTC staff first contacted the landowner about the property interests described in Exhibit "A" and depicted on Exhibit "B," attached hereto and incorporated herein by reference, on or about May 12, 2016. While there have been discussions, proposals and offers made, all efforts to reach a mutually acceptable agreement for the acquisition of the property interests through purchase have been unsuccessful to date.

3. That the property interests to be acquired in conjunction with the above referenced Project are to be applied to a public use, to wit, the 4th Street & Prater Way Bus Rapid Transit Project from Evans Avenue to Pyramid Way.

4. That the property interests described herein are necessary to such public use.

Based on the aforementioned findings of fact, the RTC does hereby direct:

1. That RTC's legal counsel initiate, if needed, eminent domain proceedings on behalf of the RTC in accordance with provisions of Chapters 37 and 277A of Nevada Revised Statutes to acquire the property interests described in Exhibit "A" and depicted on Exhibit "B".

2. That said legal counsel shall commence and prosecute in the name of the RTC, eminent domain proceedings in the court having jurisdiction of the property interests described in Exhibit "A" and depicted on Exhibit "B."

3. That said legal counsel is authorized to pursue all actions deemed appropriate for the successful prosecution of this case, including but not limited to, an application to the court for an order permitting the RTC to take immediate possession of said property interests for the construction of the Project, upon complying with conditions imposed by law.

Upon motion of Commissioner McKenzie seconded by Commissioner Bybee, the foregoing Resolution was passed and adopted this 19th day of August, 2016, by the following vote of the Regional Transportation Commission:

AYES: 4 Board of Commissioners

NAYS: 0

ABSTAIN: 0

Approved this 19th day of August, 2016.

REGIONAL TRANSPORTATION COMMISSION
OF WASHOE COUNTY, STATE OF NEVADA

BY_____
NEOMA JARDON, CHAIR

STATE OF NEVADA
COUNTY OF WASHOE

The above-instrument was acknowledged before me this 19th day of August, 2016, by Neoma Jardon, Chair of the Regional Transportation Commission.

Notary Public



EXHIBIT A

EXHIBIT A
LEGAL DESCRIPTION FOR
PUBLIC UTILITY EASEMENT
(11550PUE)
APN 008-244-15

All that certain real property situate within a portion of the Northwest One-Quarter (NW 1/4) of Section Twelve (12), Township Nineteen (19) North, Range Nineteen (19) East, Mount Diablo Meridian, City of Reno, County of Washoe, State of Nevada, being a portion of the parcel of land described in the Grant, Bargain, Sale Deed Document No. 2795226, recorded on January 24, 2003, in the Official Records of Washoe County, Nevada.

11550PUE

COMMENCING at the southeast corner of said parcel, also being the intersection of the West right-of-way of Park Street and the North right-of-way of Old Glendale Road;

THENCE departing said corner and along said West right-of-way, North 00°08'27" East, 90.49 feet to the **POINT OF BEGINNING**;

THENCE departing said West right-of-way, North 44°51'33" West, 9.19 feet;

THENCE North 00°08'27" East, 6.50 feet;

THENCE North 89°51'33" West, 8.50 feet;

THENCE North 00°08'27" East, 10.00 feet;

THENCE South 89°51'33" East, 8.50 feet;

THENCE North 00°08'27" East, 10.69 feet to the South right-of-way of East Fourth Street;

THENCE along said South right-of-way, North 76°56'48" East, 6.68 feet to the northeast corner of said parcel, also being common to the aforementioned South right-of-way of East Fourth Street and the West right-of-way of Park Street;
THENCE departing said corner and along the aforementioned West right-of-way, South 00°08'27" West, 35.21 feet to the **POINT OF BEGINNING**;

Containing 288 square feet of land, more or less.

See Exhibit A-1 attached hereto and made a part hereof.

BASIS OF BEARINGS:

The Basis of Bearings for these descriptions is Nevada State Plane Coordinate System, West Zone, North American Datum of 1983/1994, High Accuracy Reference Network (NAD 83/94 – HARN)

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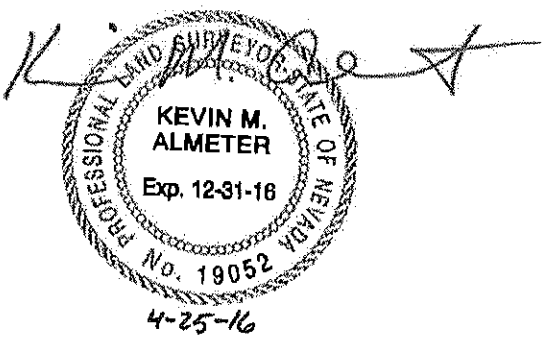
Wood Rodgers, Inc.
5440 Reno Corporate Dr.
Reno, NV 89511



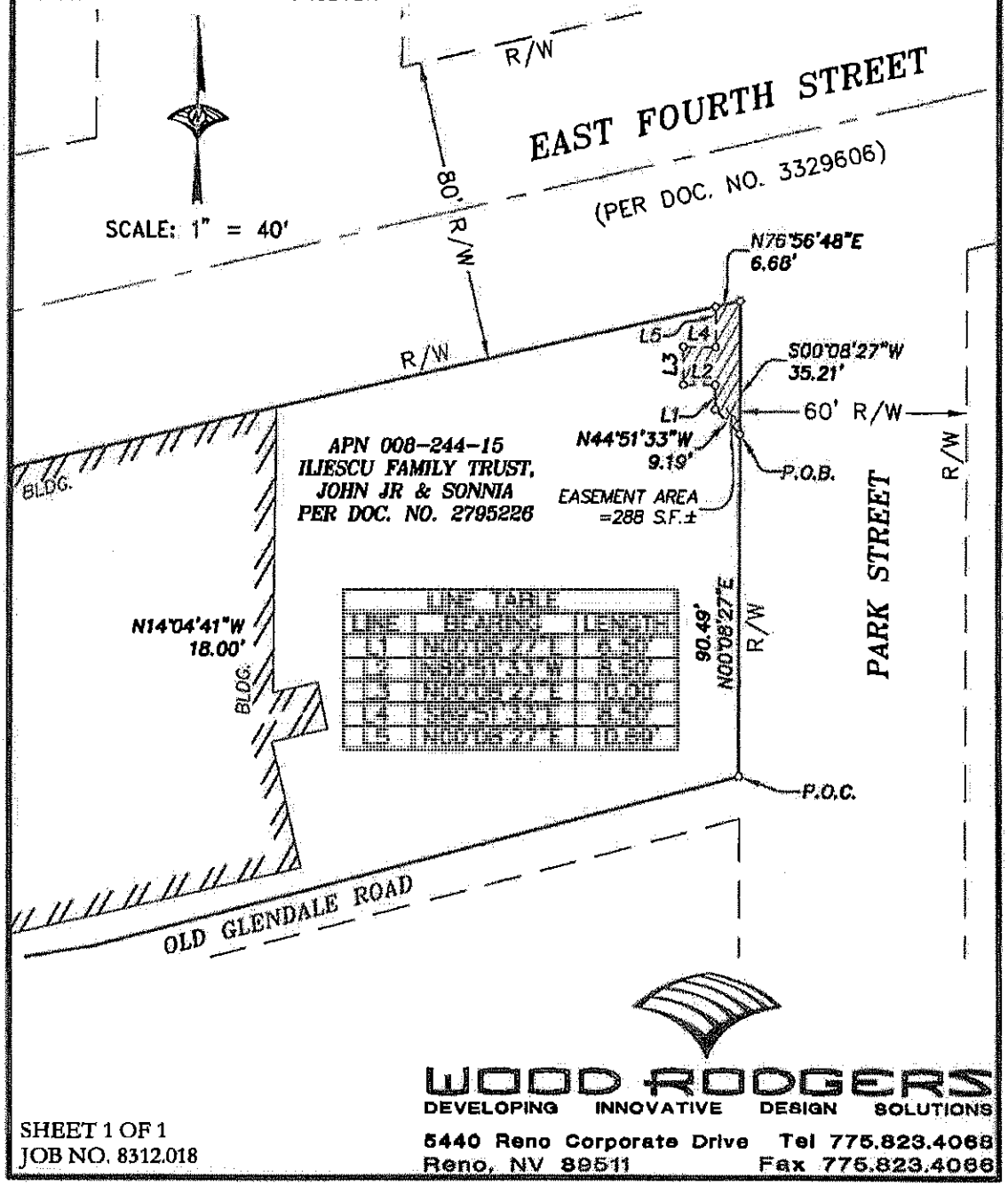
Kevin M. Almeter, P.L.S.
Nevada Certificate No. 19052

EXHIBIT A-1

PLAT TO ACCOMPANY
DESCRIPTION

PUBLIC UTILITY EASEMENT(11550PUE)
APN 008-244-15
PORTION OF THE NW 1/4 OF SECTION 12
T. 19 N., R. 19 E., M.D.M.
RENO WASHOE COUNTY NEVADA

BLDG.	BUILDING
R/W	RIGHT OF WAY
P.O.B.	POINT OF BEGINNING
P.O.C.	POINT OF COMMENCEMENT



LINE TABLE		
LINE	BEARING	LENGTH
L1	N00°08'27"E	6.68'
L2	N00°51'33"W	8.50'
L3	N00°08'27"E	10.00'
L4	S89°51'33"E	8.50'
L5	N00°08'27"E	10.00'

WOOD RODGERS
DEVELOPING INNOVATIVE DESIGN SOLUTIONS

SHEET 1 OF 1
JOB NO. 8312.018

5440 Reno Corporate Drive Tel 775.823.4068
Reno, NV 89511 Fax 775.823.4066

EXHIBIT A
LEGAL DESCRIPTION FOR
PERMANENT EASEMENT
(11550PE)
APN 008-244-15

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2) North 53°07'35" West, 7.08 feet;
3) North 11°03'54" West, 1.99 feet to the aforementioned South right-of-way of East Fourth Street;

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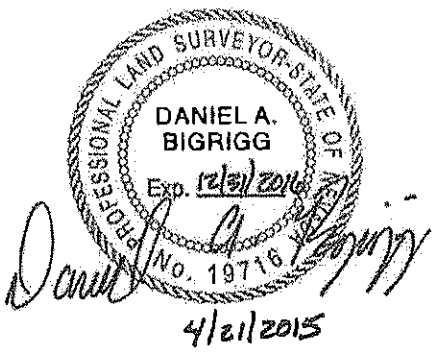
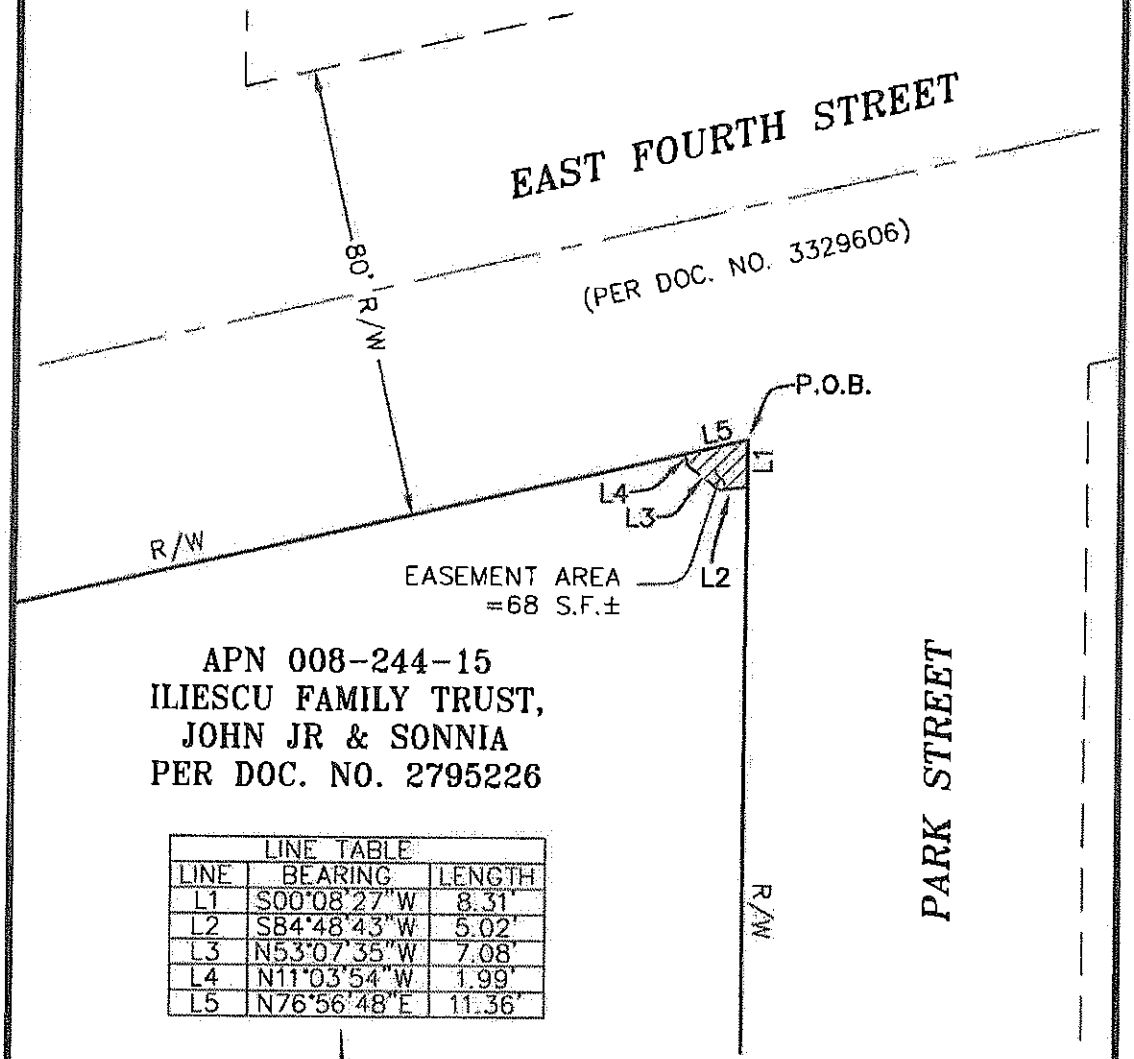


Daniel A. Bigrigg, P.L.S.
Nevada Certificate No. 19716

EXHIBIT A-1
PLAT TO ACCOMPANY
DESCRIPTION

R/W RIGHT OF WAY
P.O.B. POINT OF BEGINNING

PERMANENT EASEMENT (11550PE)
APN 008-244-15
PORTION OF THE NW 1/4 OF SECTION 12
T. 19 N., R. 19 E., M.D.M.
RENO WASHOE COUNTY NEVADA



APN 008-244-15
ILIESCU FAMILY TRUST,
JOHN JR & SONNIA
PER DOC. NO. 2795226

LINE TABLE		
LINE	BEARING	LENGTH
L1	S00°08'27"W	8.31'
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L5	N76°56'48"E	11.36'

SHEET 1 OF 1
JOB NO. 8312.018 SCALE: 1" = 30'

WOOD RODGERS
DEVELOPING INNOVATIVE DESIGN SOLUTIONS
5440 Reno Corporate Drive
Reno, NV 89511
Tel 775.823.4068
Fax 775.823.4066

EXHIBIT A
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TEMPORARY CONSTRUCTION EASEMENT
(11550TCE)
APN 008-244-15

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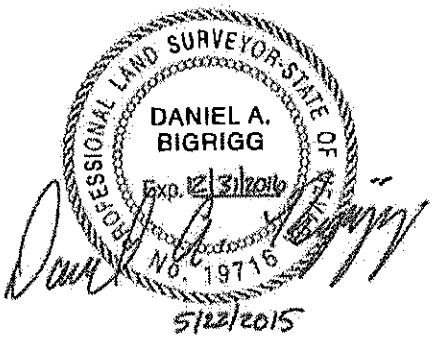


Daniel A. Bigrigg, P.L.S.
Nevada Certificate No. 19716

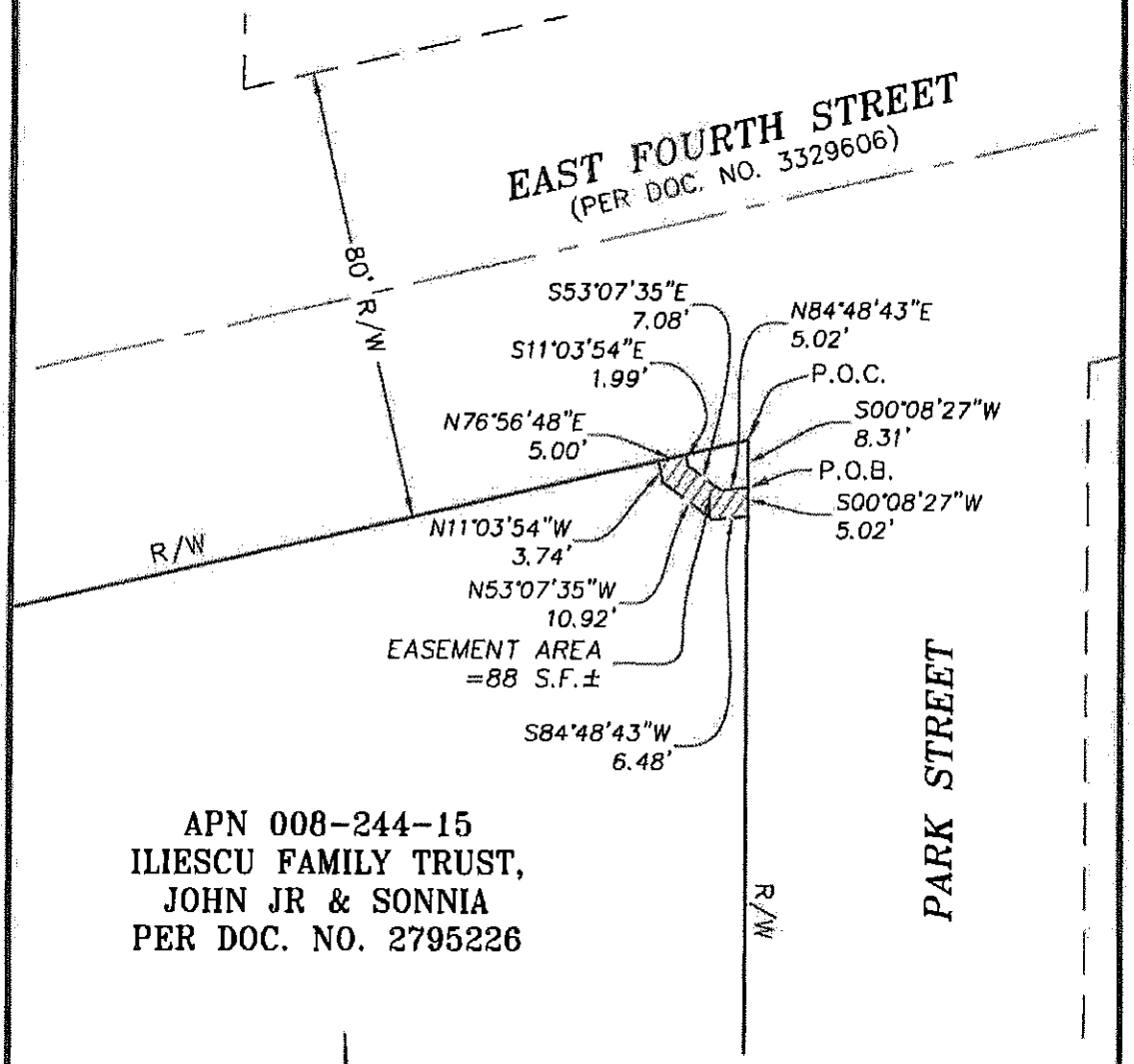
EXHIBIT A-1
PLAT TO ACCOMPANY
DESCRIPTION

R/W RIGHT OF WAY
P.O.C. POINT OF COMMENCEMENT
P.O.B. POINT OF BEGINNING

TEMPORARY CONSTRUCTION EASEMENT (11550TCE)

APN 008-244-15

PORTION OF THE NW 1/4 OF SECTION 12
T. 19 N., R. 19 E., M.D.M.
RENO WASHOE COUNTY NEVADA



APN 008-244-15
ILIESCU FAMILY TRUST,
JOHN JR & SONNIA
PER DOC. NO. 2795226

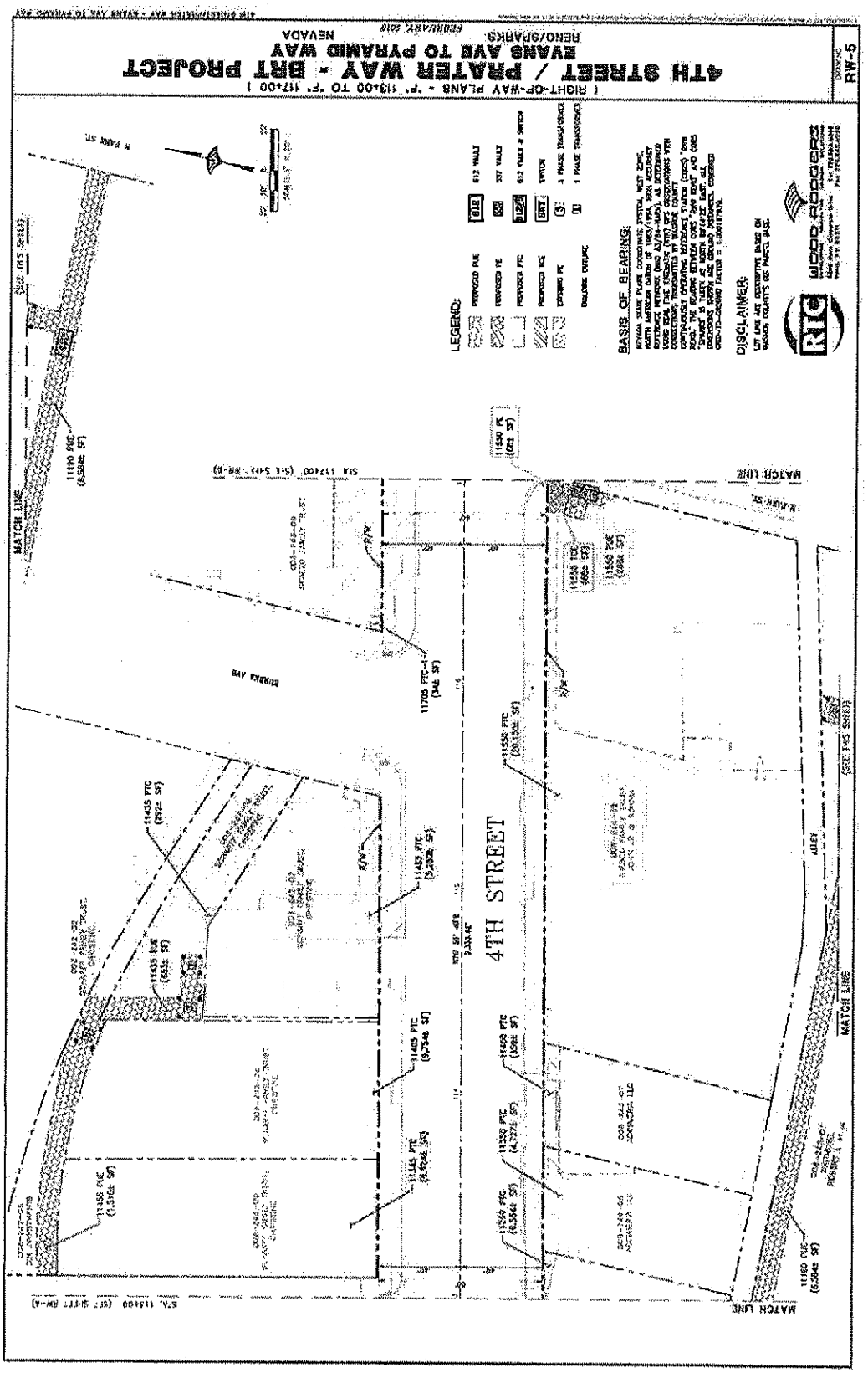
WOOD RODGERS
DEVELOPING INNOVATIVE DESIGN SOLUTIONS

SHEET 1 OF 1
JOB NO. 8312.018 SCALE: 1" = 30'

5440 Reno Corporate Drive
Reno, NV 89511

Tel 775.823.4068
Fax 775.823.4066

EXHIBIT B


4TH STREET / PRATER WAY - BRT PROJECT
EVANS AVE TO PYRAMID WAY
RENO/SPARKS NEVADA
RW-5
4TH STREET
MATCH LINE
LEGEND:
BASIS OF BEARING:
DISCLAIMER:
WOOD RODGERS

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Electronically
CV16-02182
2016-10-24 05:10:21 PM
Jacqueline Bryant
Clerk of the Court
Transaction # 5773484 : rkwatkin

2610
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Attorneys for Plaintiff, the Regional Transportation Commission of Washoe County

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY, a special purpose unit of the government, Plaintiff, v. JOHN ILIESCU, JR. and SONNIA ILIESCU, Trustees of The John Iliescu, Jr. and Sonnia Iliescu 1992 Family Trust; and DOES 1 – 20, inclusive; Defendants.	Case No.: CV16-02182 Dept. No.: 3

NOTICE OF PENDENCY OF ACTION FOR PERMANENT EASEMENT, PUBLIC UTILITY EASEMENT AND A TEMPORARY CONSTRUCTION EASEMENT

TO WHOM IT MAY CONCERN:

NOTICE IS HEREBY GIVEN that an action in eminent domain to obtain a permanent easement, a public utility easement and a temporary construction easement has been commenced in the above-entitled Court and said action affects the title and ownership of certain real property of defendants as set forth in the Verified Complaint in Eminent Domain ("the Complaint"). The object and purpose of said action is for the plaintiff, The Regional Transportation Commission of Washoe County ("RTC"), to have

and obtain a judgment in eminent domain against the above-named defendants and thereby obtain a permanent easement, a public utility easement and a temporary construction easement described in the Complaint for the purpose of construction of the 4th Street/Prater Way Complete Street and BRT Project ("the Project") in the Cities of Reno and Sparks, Washoe County, Nevada, and for such further relief as may be deemed necessary and proper. RTC seeks to acquire a permanent easement, a public utility easement and a temporary construction easement upon Washoe County Assessor's Parcel Number ("APN") 008-244-15, metes and bounds descriptions and depictions of which are set forth in Exhibit 2 to the Complaint and as described in the attached **Exhibit 1**. This APN is more commonly known as 642 E. 4th Street, Reno, NV, 89501, The permanent easement, public utility easement and temporary construction easement are collectively referred to herein as the "Property."

The real property and property rights affected by this action are located in the County of Washoe, State of Nevada.

Affirmation pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

DATED: October 24, 2016.

WOODBURN AND WEDGE

By _____
Gordon H. DePaoli, Esq.
Nevada Bar No. 195
Dane W. Anderson, Esq.
Nevada Bar No. 6883
Attorneys for Plaintiff The Regional Transportation Commission of Washoe County

INDEX OF EXHIBITS

Exhibit #	Document Description	No. Pages in Exhibit
1	Metes and bounds descriptions and depictions of portions of APN No. 008-244-15	6

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Jacqueline Bryant
Clerk of the Court
Transaction # 5772609 : tbritton

1075
Gordon H. DePaoli, Esq.
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Attorneys for Plaintiff, the Regional Transportation Commission of Washoe County

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY, a special purpose unit of the government, Plaintiff, v. JOHN ILIESCU, JR. and SONNIA ILIESCU, Trustees of The John Iliescu, Jr. and Sonnia Iliescu 1992 Family Trust; and DOES 1 – 20, inclusive; Defendants.	Case No.: Dept. No.:

AFFIDAVIT OF JEFF HALE

JEFF HALE, hereby deposes and states under oath that the following is true and correct, based on personal knowledge:

1. I am an adult over the age of 18 years and I am of sound mind.

2. I have a Bachelor of Science in Civil Engineering, and I am a registered Professional Engineer in the State of Nevada.

3. I have been employed with the Regional Transportation Commission of Washoe County ("RTC") since September 2010, and during that entire period of time I have been the Director of Engineering for RTC. I make this affidavit in support of RTC's Motion

For Immediate Occupancy Pending Final Judgment filed concurrently.

4. The RTC is a public agency created under the laws of the State of Nevada, and is empowered to spend countywide motor fuel taxes on regional roadways consistent with the Regional Transportation Plan ("RTP"), in addition to countywide sales tax revenue for both roadway and public transit services.

5. Consistent with the RTP, RTC is in the process of constructing a project known as the 4th Street/Prater Way Complete Street and BRT Project ("the Project") in Washoe County, Nevada. The Project includes improvements along 4th Street and Prater Way from Evans Avenue to Pyramid Way in Reno and Sparks, Nevada. The proposed improvements for this project include undergrounding of existing overhead utilities within the Project area, construction of curbs, gutters, pedestrian ramps and sidewalks, and installation of new lighting fixtures and landscaping within the Project limits.

6. As part of the Project, the RTC has acquired property along 4th Street and Prater Way.

7. Property owned by John Iliescu, Jr. and Sonnia Iliescu, Trustees of the John Iliescu, Jr. and Sonnia Iliescu 1992 Family Trust ("Iliescu") abuts the Project. By this lawsuit, RTC seeks to acquire a permanent easement, a public utility easement and a temporary construction easement on portions of Washoe County Assessor Parcel Number ("APN") 008-244-15, metes and bounds descriptions and depictions of which are set forth in Exhibit 3 to RTC's Verified Complaint in Eminent Domain ("the Property"). These easements are necessary to underground utilities and to construct a pedestrian ramp and sidewalk improvements. Utility relocations are the first order of work on the Project. The temporary construction easement is needed to perform the work that will occur within the permanent easement area, including pedestrian ramps and sidewalk improvements.

8. The Property is one of the few remaining acquisitions necessary for RTC to complete the Project.

9. A public need and necessity exists for the construction of the Project. The Project will connect downtown Reno and downtown Sparks with enhanced bus rapid transit

(RTC RAPID) service, accessible sidewalks and bike lanes. RTC must acquire occupancy of the Property as soon as possible to comply with the Project schedule deadline.

10. If RTC is not given full and immediate access to the Property, there is significant potential for RTC to incur substantial costs due to construction delays.

11. RTC has obtained an appraisal on the Property from a qualified professional appraiser, Reese Perkins, MAI, of Johnson-Perkins & Associates, Inc., for the purpose of assessing the value of the Property and other compensation as required by statute. It is my understanding that Mr. Perkins' affidavit and appraisal will be submitted in support of RTC's Motion For Immediate Occupancy Pending Final Judgment. RTC has given the owner of the Property, Iliescu, a copy of all appraisals of the Property obtained by RTC.

12. To the best of my knowledge, the entry of an order of immediate occupancy will not negatively impact the interests of any other parties that may claim an interest in the Property, including any utilities or utility easements associated with the Property.

FURTHER AFFIANT SAYETH NOT.

Affirmation pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

Dated: this 20 day of October, 2016.

JEFF HALE

STATE OF NEVADA)
) ss.
COUNTY OF WASHOE)

On this 28th day of October, 2016, before me appeared Jeff Hale, to me personally known, who being by me duly sworn, did state that he has made the sworn statements herein in this Affidavit, and that the statements made herein are true to the best of his knowledge, information and belief.

IN TESTIMONY WHEREOF, I hereunto set my hand and affix my official seal in the County and State aforesaid, the date and year written above.

MICHELLE ANNE KRAUS
Notary Public - State of Nevada
Appointment Recorded in Washoe County
No: 15-2186-2 - Expires July 8, 2019

Michelle Anne Kraus
Notary Public

(SEAL)
My commission expires:

1-8-19

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Jacqueline Bryant
Clerk of the Court
Transaction # 5772609 : tbritton

2490
Gordon H. DePaoli, Esq.
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Email: danderson@woodburnandwedge.com

Attorneys for Plaintiff, the Regional Transportation Commission of Washoe County

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY, a special purpose unit of the government, Plaintiff, v. JOHN ILIESCU, JR. and SONNIA ILIESCU, Trustees of The John Iliescu, Jr. and Sonnia Iliescu 1992 Family Trust; and DOES 1 – 20, inclusive; Defendants.	Case No.: Dept. No.:

MOTION FOR IMMEDIATE OCCUPANCY PENDING FINAL JUDGMENT

Plaintiff The Regional Transportation Commission of Washoe County ("RTC"), through its counsel, Woodburn and Wedge, moves this Court pursuant to NRS 37.100 for an order:

1. Finding that the use to which the Property sought to be taken in this litigation, a permanent easement, a public utility easement and a temporary construction easement ("the Property") as defined in the Verified Complaint In Eminent Domain ("Complaint") and further below, is to be applied to a public use and that RTC has complied with all statutory conditions precedent to instituting this action.

2. Finding that RTC has given the owner of the Property a copy of all appraisals of the Property obtained by RTC.

3. Permitting RTC to enter upon and occupy the Property, and permitting RTC to perform any and all work necessary to construct and complete the 4th Street/Prater Way Complete Street and BRT Project ("the Project") in Washoe County, Nevada as described in the Complaint and other papers on file herein, pending entry of a final judgment in this matter.

4. Restraining Defendants from hindering or interfering with RTC's occupation of the Property in performing the work required to construct and complete the Project.

This motion is made pursuant to NRS 37.100 and is based upon the grounds that the use for which the Property is sought to be condemned is a public use authorized by law; that the taking thereof is necessary for such use; and that immediate entry upon and possession of the Property sought to be condemned are required so that the Project may proceed in an orderly manner without delay or loss in utilization of construction time and/or without unnecessary cost and expense to the RTC.

This motion is based upon the following memorandum of points and authorities, the Complaint and exhibits attached thereto, the Affidavit of Jeff Hale filed concurrently ("Hale Affidavit") filed concurrently, the Affidavit of Reese Perkins ("Perkins Affidavit") expected to be filed prior to the hearing of this matter, the other pleadings and papers on file herein, and any additional evidence and argument the Court may wish to hear on the matter.

MEMORANDUM OF POINTS AND AUTHORITIES

This case involves the RTC's exercise of its power of eminent domain for the purpose of acquiring a permanent easement, a public utility easement and a temporary construction easement related to RTC's construction of the Project. The Project involves improvements along 4th Street and Prater Way from Evans Avenue to Pyramid Way in Reno and Sparks, Nevada. See Hale Affidavit, ¶ 5. The Project requires the RTC's

acquisition of the easements at issue in this case and, for the reasons set forth in this motion, RTC seeks this Court's order permitting it to enter upon and occupy the Property pending entry of judgment and to commence construction of the portion of the Project on the Property.

The Property that RTC seeks to acquire by its power of eminent domain consists of a permanent easement, a public utility easement and a temporary construction easements affecting Washoe County Assessor Parcel Number ("APN") 008-244-15, metes and bounds descriptions and depictions of which are set forth in Exhibit 2 to the Complaint. The easements are referred to in the Complaint and herein as the "Property." According to title reports on public records, the Property is located on parcels currently owned by John Iliescu, Jr. and Sonnia Iliescu, Trustees of the John Iliescu, Jr. and Sonnia Iliescu 1992 Family Trust ("Iliescu"). These easements are necessary to underground utilities and to construct a pedestrian ramp and sidewalk improvements for the Project. See Hale Affidavit, ¶ 7. Immediate occupancy is needed to meet the Project schedule deadline. Utility relocations are the first order of work on the Project. Id., ¶¶ 7, 9 and10.

NRS 37.100(2) provides that a plaintiff in an eminent domain action may, at any time after the commencement of a lawsuit, move the court for an order permitting the plaintiff to occupy the premises sought to be condemned pending entry of judgment, and to do such work thereon as may be required for the easement, fee or property rights sought, according to its nature. NRS 37.100(3) requires the Court to make a separate and distinct determination as to whether the property is being taken for a public use pursuant to NRS 37.010, if the defendant requests such a determination. NRS 37.100(4) provides that, if the defendant does not make this that request, or if the court determines that the property is being taken for a public use pursuant to NRS 37.010, the court shall take proof of the value of the premises sought to be condemned, the damages which will accrue from the condemnation and the reasons for requiring a speedy condemnation, and shall grant or refuse the motion according to the equity of the case and the relative damages which may accrue to the parties.

Here, the evidence set forth in the Complaint, the Hale Affidavit and the Perkins Affidavit establishes the statutory requirements for immediate occupation: (1) RTC has provided the owner of the Property with a copy of all appraisals on the Property obtained by RTC. See Hale Affidavit, ¶ 12; (2) RTC's taking of the Property is for a public use and the necessity of that use, specifically, completing the construction of the Project which will provide a beneficial public roadway. See Hale Affidavit, ¶¶ 5, 7 and 9; (3) the value of the Property plus any damages as determined by the RTC's appraisal. See Perkins Affidavit, expected to be submitted prior to the hearing on this matter; and (4) immediate occupancy is required meet Project deadlines and avoid unnecessary and costly construction delays. See Hale Affidavit, ¶¶ 7, 10.

More specifically, the Project will connect downtown Reno and downtown Sparks with enhanced bus rapid transit (RTC RAPID) service, accessible sidewalks and bike lanes. Hale Affidavit, ¶ 5, 9. If RTC is not given full and immediate access, significant project delays will occur and there is a significant potential that the RTC will incur substantial costs due to construction delays. Id.

As determined by RTC's appraisal dated April 26, 2016, the value of the Property and just compensation for the easements as of April 26, 2016, was $2,030.00. See Perkins Affidavit.[1] RTC is in the process of obtaining an update as of the date of service, as required by statute, and will submit that valuation prior to the hearing.

Based on the evidence before the Court, RTC requests the Court enter an order as requested above that, upon RTC's deposit of $2,030.00 with the clerk of the Court pursuant to NRS 37.100(6), RTC shall have immediate occupancy of the Property such that it may enter upon the Property and perform such work on the Property as may be necessary to construct and complete the Project.

. . .

. . .

. . .

[1] This will be submitted prior to the hearing on this motion.

Affirmation pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

DATED: October 24, 2016.

WOODBURN AND WEDGE

By /s/ Dane W. Anderson
Dane W. Anderson, Esq.
Nevada Bar No. 6883
Attorneys for Plaintiff
The Regional Transportation
Commission of Washoe County

FILED
Electronically
CV16-02182
2016-11-18 10:16:21 AM
Jacqueline Bryant
Clerk of the Court
Transaction # 5813621 : pmsewell

CODE:
C. NICHOLAS PEREOS, ESQ.
Nevada Bar #0000013
1610 MEADOW WOOD LANE, STE. 202
RENO, NV 89502
(775) 329-0678

ATTORNEYS FOR PLAINTIFF

IN THE SECOND JUDICIAL DISTRICT COURT OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

* * * * *

THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY, a special purpose unit of the government, Plaintiff, vs. JOHN ILIESCU, JR. and SONNIA ILIESCU, Trustees of the John Iliescu, Jrs. and Sonnia Iliescu 1992 Family Trust, and DOES I-20, inclusive; Defendants.	Case No. CV16-02182 Dept. No. 3

ANSWER TO COMPLAINT

Defendants, John and Sonnia Iliescu, by and through counsel, C. Nicholas Pereos, Ltd., answering Plaintiff's complaint on file herein, admits, denies and avers as follows:

I

These defendants are without knowledge or information sufficient to form a belief as to the truth or averments contained in Paragraphs 1, 2, 3, 4, 5, 6, 8, 9, 10, and 11. Deny each, every and all averments contained in Paragraph 7.

FIRST AFFIRMATIVE DEFENSE

Said complaint fails to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

At all times herein mentioned, the taking is not for public use.

THIRD AFFIRMATIVE DEFENSE

At all times herein mentioned, there has been a failure to comply with the purpose and intent of NRS 241.034.

FOURTH AFFIRMATIVE DEFENSE

At all times herein mentioned, there has not been a fair assessment and ascertainment of damages and value of the property that is the subject of the taking.

FIFTH AFFIRMATIVE DEFENSE

At all times herein mentioned, Plaintiff has failed to comply with NRS 37.100 as there is lacking a fair and impartial appraisal of the damages to the Defendants.

Wherefore, these Defendants pray that Plaintiff take nothing from said complaint and that these Defendants have judgment against Plaintiff for costs.

AFFIRMATION

The undersigned affirms that the foregoing pleading does not contain a social security number.

DATED this 17th day of November, 2016.

C. NICHOLAS PEREOS, LTD.

By: _____
C. NICHOLAS PEREOS, ESQ.
1610 MEADOW WOOD LANE
RENO, NV 89502
ATTORNEY FOR PLAINTIFF

CERTIFICATE OF SERVICE BY MAIL

PURSUANT TO NEVADA RULES OF CIVIL PROCEDURE 5 (b), I certify that I am an employee of C. NICHOLAS PEREOS, LTD., and that on this date, I deposited for mailing at Reno, Nevada, a true copy of the foregoing document addressed to:

Dane W. Anderson, Esq.
WOODBURN AND WEDGE
6100 Neil Road, Suite 500
Reno, NV 89511
Attorney for Plaintiff

DATED: 11/17/16

Iris M. Norton

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Gordon H. DePaoli, Esq.
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STIPULATION FOR THE ENTRY OF AN ORDER FOR IMMEDIATE OCCUPANCY PENDING ENTRY OF JUDGMENT

Plaintiff The Regional Transportation Commission of Washoe County ("RTC") and Defendants John Iliescu, Jr., and Sonnia Iliescu, Trustees of The John Iliescu, Jr. and Sonnia Iliescu 1992 Family Trust ("Real Parties in Interest"), through their respective counsel of record, stipulate and agree as follows for the entry of this Court's order pursuant to NRS 37.090 and 37.100:

1. Real Parties in Interest are the current fee simple owners of real property at issue in this litigation and, as such, have the authority to enter into this stipulation with RTC.

2. This case involves RTC's exercise of its power of eminent domain for the purpose of acquiring a permanent easement, a public utility easement and a temporary construction easement related to RTC's construction of the 4th Street/Prater Way Complete Street and BRT Project ("the Project"). The Project includes undergrounding of existing utilities within the Project area, construction of a pedestrian ramp and sidewalk improvements.

3. The property RTC seeks to acquire by its power of eminent domain consists of a permanent easement, a public utility easement and a temporary construction easement located upon portions of Washoe County Assessor Parcel Number ("APN") 008-244-15, metes and bounds descriptions and depictions of which are set forth in **Exhibit 1** attached hereto and incorporated herein by this reference. The permanent easement, public utility easement and temporary construction shall be referred to herein as "the Property."

4. On October 24, 2016, RTC filed a Motion for Immediate Occupancy Pending Final Judgment on the grounds that the use for which the Property is sought to be condemned is a public use authorized by law and that the taking thereof is necessary for such use.

5. RTC contends that immediate entry upon and possession of the Property are required so that the construction of the Project may proceed in an orderly manner without delay or loss in utilization of construction time and/or without unnecessary cost to RTC. Real Parties in Interest do not object at this time.

6. NRS 37.100 provides that a plaintiff in an eminent domain action may, at any time after the commencement of a lawsuit, move the court for an order permitting the plaintiff to occupy the premises sought to be condemned pending entry of judgment, and to do such work thereon as may be required for the easement, fee or property rights sought, according to its nature. RTC has filed and served its Motion for Immediate Occupancy pursuant to NRS 37.100. In the interests of expediency and judicial economy, RTC and Real Parties in Interest stipulate to the entry of an order for immediate occupancy as provided for herein.

7. RTC has provided Real Parties in Interest with a copy of all appraisals of the Property obtained by RTC.

8. For purposes of this stipulation only, the parties agree that the value of the property plus damages, as appraised by RTC, is $2,030.00. NRS 37.100 requires that the plaintiff deposit with the clerk of the court the sum equal to the value of the premises plus damages, as appraised by the plaintiff. Defendants claim that the appraisal report by Reese Perkins on behalf of RTC is not a fair and impartial appraisal. Accordingly, pursuant to NRS 37.100, the parties will litigate the ultimate issue of just compensation due Defendants at the trial of this matter.

9. This stipulation shall not be construed as an admission by Real Parties in Interest of any valuation amounts or just compensation for purposes of final hearing.

10. Pursuant to NRS 37.100(7), the amount of any deposit required by the Court pursuant to NRS 37.100(6) is for the purpose of this stipulation only and it not admissible in evidence on final hearing.

11. During construction of the Project, RTC and Real Parties in Interest agree to cooperate so as to minimize interference between construction of the Project and Real Parties in Interests' use of and access to the remaining land on APN 008-244-15.

Based on the foregoing, the parties hereto stipulate to the entry of the Court's order:

1. Finding that the use to which the Property sought to be taken in this litigation is to be applied to a public use and that RTC has complied with all statutory conditions precedent to instituting this action and seeking an order of immediate occupancy.

2. Directing RTC and Real Parties in Interest and their agents to cooperate so as to minimize interference between use of the Property in the construction of the Project and Real Parties in Interests' use of and access to the remaining portions of APN 008-244-15.

3. Directing RTC to deposit with the Clerk of this Court cash in the sum of $2,030.00 pursuant to NRS 37.100(6).

4. Providing that upon making the cash deposit, RTC may immediately enter upon and occupy the Property and perform such work thereon as may be necessary to construct and complete the Project.

5. Requiring Real Parties in Interest to serve a notice on the parties in this action of the Application of Real Parties in Interest to withdraw the cash deposit, giving each party a period of time after service of such notice in which to file and serve objections to such withdrawal, if any, and further notifying each party of the date, time and place the Court fixes to hear any such objections.

Affirmation pursuant to N.R.S. 239B.030

The undersigned do hereby affirm that this document does not contain the Social Security Number of any person.

DATED: November 29, 2016.

WOODBURN AND WEDGE

By _____

Gordon H. DePaoli, Esq.
Nevada Bar No. 195
Dane W. Anderson, Esq.
Nevada Bar No. 6883
6100 Neil Road, Suite 500
Reno, Nevada 89511
Telephone: 775-688-3000

Attorneys for Plaintiff The Regional Transportation Commission of Washoe County

DATED: November 29, 2016.

C. NICHOLAS PEREOS, LTD.

By _____

C. Nicholas Pereos, Esq.
Nevada Bar No. 13
1610 Meadow Wood Lane, Suite 202
Reno, NV 89502
Telephone: 775-786-3011
Attorneys for Defendants John Iliescu, Jr., and Sonnia Iliescu, Trustees of The John Iliescu, Jr. and Sonnia Iliescu 1992 Family Trust

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the law offices of Woodburn and Wedge, 6100 Neil Road, Suite 500, Reno, Nevada 89511, and that I caused to be served the foregoing document(s) described as follows:

STIPULATION FOR THE ENTRY OF AN ORDER FOR IMMEDIATE OCCUPANCY PENDING ENTRY OF JUDGMENT

On the party(s) set forth below by:

___ Placing an original or true copy thereof in a sealed envelope placed for collection and mailing in the United States Mail, at Reno, Nevada, postage prepaid, following ordinary business practices.

___ Personal delivery.

___ Facsimile (FAX).

___ Federal Express or other overnight delivery.

__x__ Electronically filed the foregoing with the Clerk of the Court by using the ECF system which will send a notice of electronic filing to the following:

C. Nicholas Pereos, Esq.
C. Nicholas Pereos, Ltd.
1610 Meadow Wood Lane, Suite 202
Reno, NV 89502
Attorneys for Defendants
John Iliescu, Jr., and Sonnia Iliescu, Trustees of The John Iliescu, Jr. and Sonnia Iliescu 1992 Family Trust

DATED this 29th day of November, 2016.

/s/ Dianne M. Kelling
An employee of Woodburn and Wedge

INDEX OF EXHIBITS

Exhibit #	Document Description	No. Pages in Exhibit
1	Metes and bounds descriptions and depictions of portions of APN No. 008-244-15	6

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Jacqueline Bryant
Clerk of the Court
Transaction # 5827255 : pmsewell

EXHIBIT 1

EXHIBIT 1

LEGAL DESCRIPTION FOR PE11550PE

EXHIBIT A
LEGAL DESCRIPTION FOR
PERMANENT EASEMENT
(11550PE)
APN 008-244-15

All that certain real property situate within a portion of the Northwest One-Quarter (NW 1/4) of Section Twelve (12), Township Nineteen (19) North, Range Nineteen (19) East, Mount Diablo Meridian, City of Reno, County of Washoe, State of Nevada, being a portion of the parcel of land described in Grant, Bargain, Sale Deed Document No. 2795226, recorded on January 24, 2003, in the Official Records of Washoe County, Nevada, being more particularly described as follows:

BEGINNING at the Northeast corner of said parcel, also being on the South right-of-way line of East Fourth Street;

THENCE departing said Northeast corner and along the West right-of-way line of Park Street, South 00°08'27" West a distance of 8.31 feet;

THENCE departing said West right-of-way line and along the following three (3) courses:

1) South 84°48'43" West, 5.02 feet;
2) North 53°07'35" West, 7.08 feet;
3) North 11°03'54" West, 1.99 feet to the aforementioned South right-of-way of East Fourth Street;

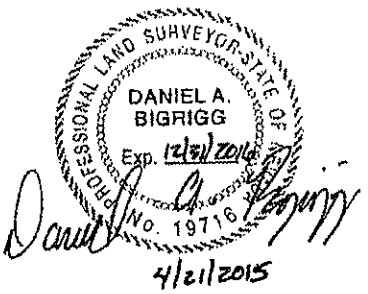
THENCE along said South right-of-way, North 76°56'48" East a distance of 11.36 feet to the **POINT OF BEGINNING;**

Containing 68 square feet of land, more or less.

See Exhibit A-1 attached hereto and made a part hereof.

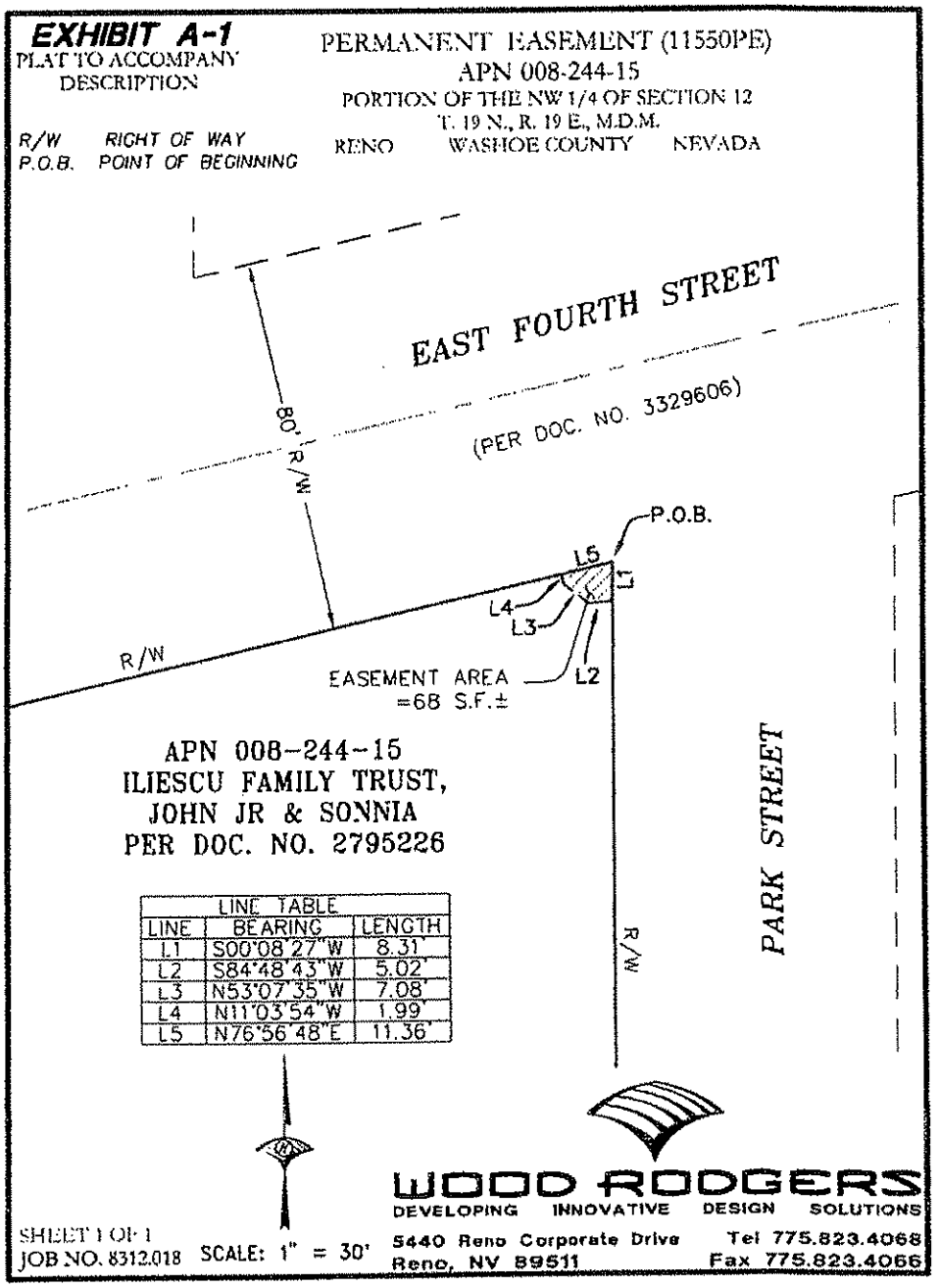
The Basis of Bearings for this description is Nevada State Plane Coordinate System, West Zone, North American Datum of 1983/1994, High Accuracy Reference Network (NAD 83/94 – HARN)

Prepared by:
Wood Rodgers, Inc.
5440 Reno Corporate Dr.
Reno, NV 89511



Daniel A. Bigrigg, P.L.S.
Nevada Certificate No. 19716

RIGHT-OF-WAY SKETCH PERMANENT EASEMENT 11550PE



LEGAL DESCRIPTION FOR PUBLIC UTILITY EASEMENT 11550PUE

EXHIBIT A
LEGAL DESCRIPTION FOR
PUBLIC UTILITY EASEMENT
(11550PUE)
APN 008-244-15

All that certain real property situate within a portion of the Northwest One-Quarter (NW 1/4) of Section Twelve (12), Township Nineteen (19) North, Range Nineteen (19) East, Mount Diablo Meridian, City of Reno, County of Washoe, State of Nevada, being a portion of the parcel of land described in the Grant, Bargain, Sale Deed Document No. 2785226, recorded on January 24, 2003, in the Official Records of Washoe County, Nevada.

11550PUE

COMMENCING at the southeast corner of said parcel, also being the intersection of the West right-of-way of Park Street and the North right-of-way of Old Glendale Road;

THENCE departing said corner and along said West right-of-way, North 00°08'27" East, 90.49 feet to the **POINT OF BEGINNING**;

THENCE departing said West right-of-way, North 44°51'33" West, 9.19 feet;

THENCE North 00°08'27" East, 6.50 feet;

THENCE North 89°51'33" West, 8.50 feet;

THENCE North 00°08'27" East, 10.00 feet;

THENCE South 89°51'33" East, 8.50 feet;

THENCE North 00°08'27" East, 10.69 feet to the South right-of-way of East Fourth Street;

THENCE along said South right-of-way, North 76°56'48" East, 6.68 feet to the northeast corner of said parcel, also being common to the aforementioned South right-of-way of East Fourth Street and the West right-of-way of Park Street,
THENCE departing said corner and along the aforementioned West right-of-way, South 00°08'27" West, 35.21 feet to the **POINT OF BEGINNING**;

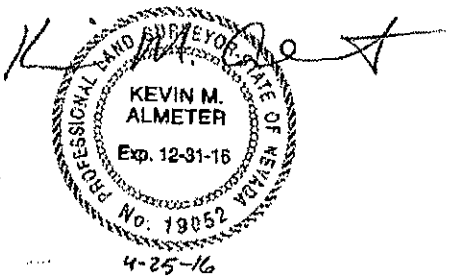
Containing 288 square feet of land, more or less.

See Exhibit A-1 attached hereto and made a part hereof.

BASIS OF BEARINGS:

The Basis of Bearings for these descriptions is Nevada State Plane Coordinate System, West Zone, North American Datum of 1983/1994, High Accuracy Reference Network (NAD 83/94 – HARN)

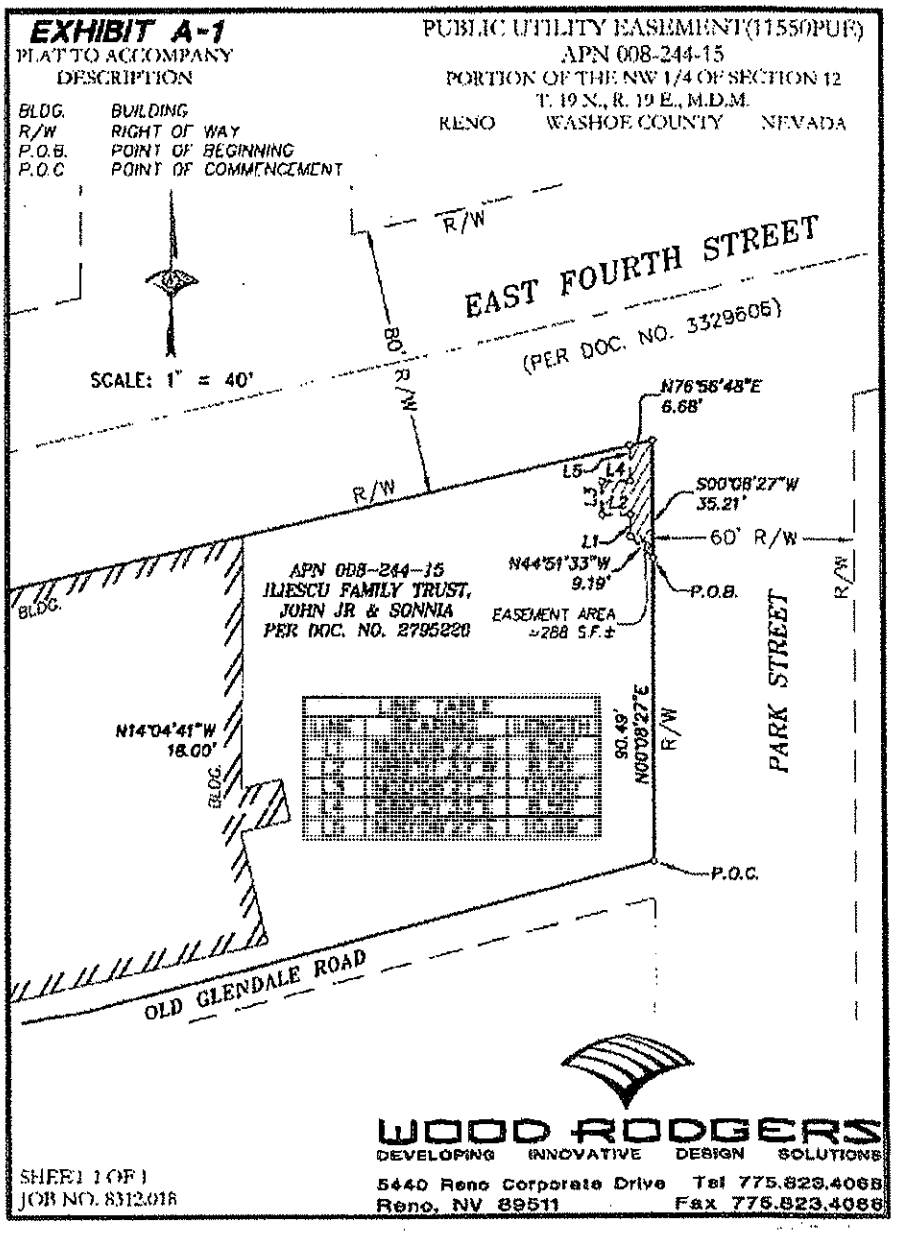
Prepared by:
Wood Rodgers, Inc.
5440 Reno Corporate Dr.
Reno, NV 89511



4-25-16

Kevin M. Almeter, P.L.S.
Nevada Certificate No. 19052

RIGHT-OF-WAY SKETCH 11550PUE



PROPOSED TEMPORARY CONSTRUCTION EASEMENT LEGAL DESCRIPTION

EXHIBIT A
LEGAL DESCRIPTION FOR
TEMPORARY CONSTRUCTION EASEMENT
(11550TCE)
APN 008-244-15

All that certain real property situate within a portion of the Northwest One-Quarter (NW 1/4) of Section Twelve (12), Township Nineteen (19) North, Range Nineteen (19) East, Mount Diablo Meridian, City of Reno, County of Washoe, State of Nevada, being a portion of the parcel of land described in Grant, Bargain, Sale Deed Document No. 2795226, recorded on January 24, 2003, in the Official Records of Washoe County, Nevada, being more particularly described as follows:

COMMENCING at the Northeast corner of said parcel, also being on the South right-of-way of East Fourth Street;

THENCE departing said Northeast corner and along the West right-of-way of Park Street, South 00°08'27" West, 8.31 feet to the **POINT OF BEGINNING**;

THENCE continuing along said West right-of-way, South 00°08'27" West, 5.02 feet;

THENCE departing said West right-of-way line and along the following three (3) courses:

1) South 84°48'43" West, 6.48 feet;
2) North 53°07'35" West, 10.92 feet;
3) North 11°03'54" West, 3.74 feet to the aforementioned South right-of-way of East Fourth Street;

THENCE along said South right-of-way, North 76°56'48" East, 5.00 feet;

THENCE departing said South right-of-way and along the following three (3) courses:

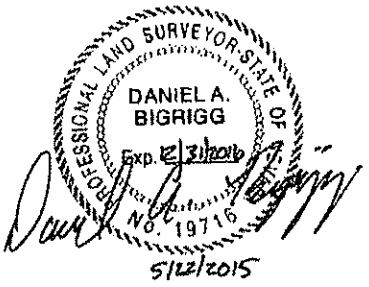
1) South 11°03'54" East, 1.99 feet;
2) South 53°07'35" East, 7.08 feet;
3) North 84°48'43" East, 5.02 feet to the aforementioned West right-of-way of Park Street and the **POINT OF BEGINNING**;

Containing 88 square feet of land, more or less.

See Exhibit A-1 attached hereto and made a part hereof.

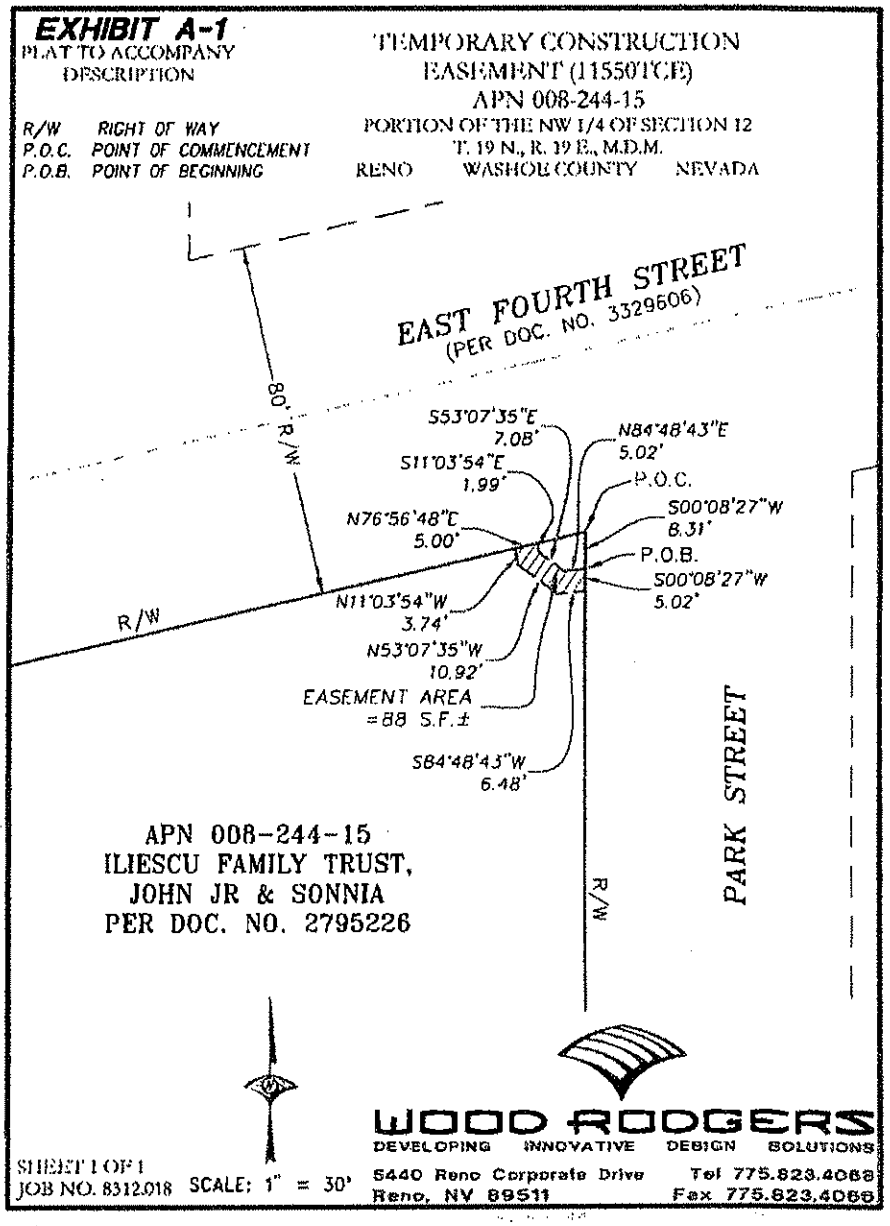
The Basis of Bearings for this description is Nevada State Plane Coordinate System, West Zone, North American Datum of 1983/1994, High Accuracy Reference Network (NAD 83/94 – HARN)

Prepared by:
Wood Rodgers, Inc.
5440 Reno Corporate Dr.
Reno, NV 89511



Daniel A. Bigrigg, P.L.S.
Nevada Certificate No. 19716

TEMPORARY CONSTRUCTION EASEMENT SKETCH 10550TCE



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Jacqueline Bryant
Clerk of the Court
Transaction # 5832427

4050
Gordon H. DePaoli, Esq.
Nevada Bar No. 195
Dane W. Anderson, Esq.
Nevada Bar No. 6883
WOODBURN AND WEDGE
6100 Neil Road, Suite 500
Reno, Nevada 89511
Telephone: 775-688-3000
Facsimile: 775-688-3088
Email: danderson@woodburnandwedge.com

Attorneys for Plaintiff, the Regional Transportation Commission of Washoe County

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY, a special purpose unit of the government, Plaintiff, v. JOHN ILIESCU, JR. and SONNIA ILIESCU, Trustees of The John Iliescu, Jr. and Sonnia Iliescu 1992 Family Trust; and DOES 1 – 20, inclusive; Defendants.	Case No.: CV16-02182 Dept. No.: 3

ORDER FOR IMMEDIATE OCCUPANCY PENDING ENTRY OF JUDGMENT

The Court, having reviewed the Stipulation For The Entry Of An Order For Immediate Occupancy Pending Entry Of Judgment ("the Stipulation"), filed by plaintiff The Regional Transportation Commission of Washoe County ("RTC") and Defendants John Iliescu, Jr., and Sonnia Iliescu, Trustees of The John Iliescu, Jr. and Sonnia Iliescu 1992 Family Trust ("Real Parties in Interest"); and having reviewed the entire file, finds, concludes and orders as follows:

1. Real Parties in Interest are the current fee simple owners of real property at issue in this litigation and, as such, have the authority to enter into the aforementioned stipulation with RTC through their attorney, C. Nicholas Pereos, Esq.

2. This case involves the RTC's exercise of its power of eminent domain for the purpose of acquiring the permanent easement, the public utility easement and the temporary construction easement defined as "the Property" in the Stipulation and described in detail in Exhibit 1 to the Stipulation, related to RTC's construction of the 4th Street/Prater Way Complete Street and BRT Project, or "the Project." The Court incorporates the definitions and descriptions of the Project set forth in the Stipulation by reference in this order.

3. The use for which the Property sought to be condemned is a public use authorized by law, and the taking thereof is necessary for such use. RTC has complied with all statutory conditions precedent to instituting this action and seeking immediate occupancy pending judgment. Immediate entry upon and possession of the Property sought to be condemned are required so that the construction of the Project may proceed in an orderly manner without delay or loss in utilization of construction time and/or without unnecessary cost and expense to the condemning agency.

4. NRS 37.090 and 37.100 provide this Court with authority to enter an order allowing RTC access to the Property sought to be condemned at any time after the commencement of suit and pending entry of judgment, to do such work thereon as may be required for the Project according to its nature.

5. For purposes of this Order only, and subject to the terms of the Stipulation concerning Defendants' objection to Reese Perkins' appraisal, the Court finds that, pursuant to NRS 37.100(4), the value of the Property sought to be obtained and/or temporary utilized during construction plus damages is $2,030.00.

. . .

. . .

Based on the foregoing, and with good cause appearing, IT IS HEREBY ORDERED:

1. RTC may have immediate possession and occupancy of the Property, as described in **Exhibit 1** attached hereto, by depositing with the Clerk of this Court the sum of $2,030.00 (the "Cash Deposit").

2. The Clerk of the Court shall deposit the Cash Deposit into an interest bearing account for the benefit of Real Parties in Interest and/or any other party determined to be entitled to those amounts.

3. Upon making the Cash Deposit, RTC may immediately enter upon and occupy the Property and perform such work thereon as may be necessary to construct and complete the Project;

4. RTC and Real Parties in Interest and their respective agents shall cooperate so as to minimize interference between construction of the Project and Real Parties in Interest's use of the remaining land of Real Parties in Interest on APN 008-244-15;

5. If Real Parties in Interest apply to withdraw the Cash Deposit, they shall serve a notice on the parties in this action of the Application, giving each party 5 days after service of such notice in which to file and serve objections to such withdrawal, if any;

6. If any such objections to the Application are filed, the Court will set a date and time for a hearing thereon.

IT IS HEREBY FURTHER ORDERED that this order shall become effective upon RTC's deposit of the Cash Deposit with the Clerk of this Court.

Dated this 30th day of November, 2016.

DISTRICT JUDGE

EXHIBIT 1

EXHIBIT 1

LEGAL DESCRIPTION FOR PE11550PE

EXHIBIT A
LEGAL DESCRIPTION FOR
PERMANENT EASEMENT
(11550PE)
APN 008-244-15

All that certain real property situate within a portion of the Northwest One-Quarter (NW 1/4) of Section Twelve (12), Township Nineteen (19) North, Range Nineteen (19) East, Mount Diablo Meridian, City of Reno, County of Washoe, State of Nevada, being a portion of the parcel of land described in Grant, Bargain, Sale Deed Document No. 2795226, recorded on January 24, 2003, in the Official Records of Washoe County, Nevada, being more particularly described as follows:

BEGINNING at the Northeast corner of said parcel, also being on the South right-of-way line of East Fourth Street;

THENCE departing said Northeast corner and along the West right-of-way line of Park Street, South 00°08'27" West a distance of 8.31 feet;

THENCE departing said West right-of-way line and along the following three (3) courses:

1) South 84°48'43" West, 5.02 feet;
2) North 53°07'35" West, 7.08 feet;
3) North 11°03'54" West, 1.99 feet to the aforementioned South right-of-way of East Fourth Street;

THENCE along said South right-of-way, North 76°56'48" East a distance of 11.36 feet to the **POINT OF BEGINNING;**

Containing 68 square feet of land, more or less.

See Exhibit A-1 attached hereto and made a part hereof.

The Basis of Bearings for this description is Nevada State Plane Coordinate System, West Zone, North American Datum of 1983/1994, High Accuracy Reference Network (NAD 83/94 – HARN)

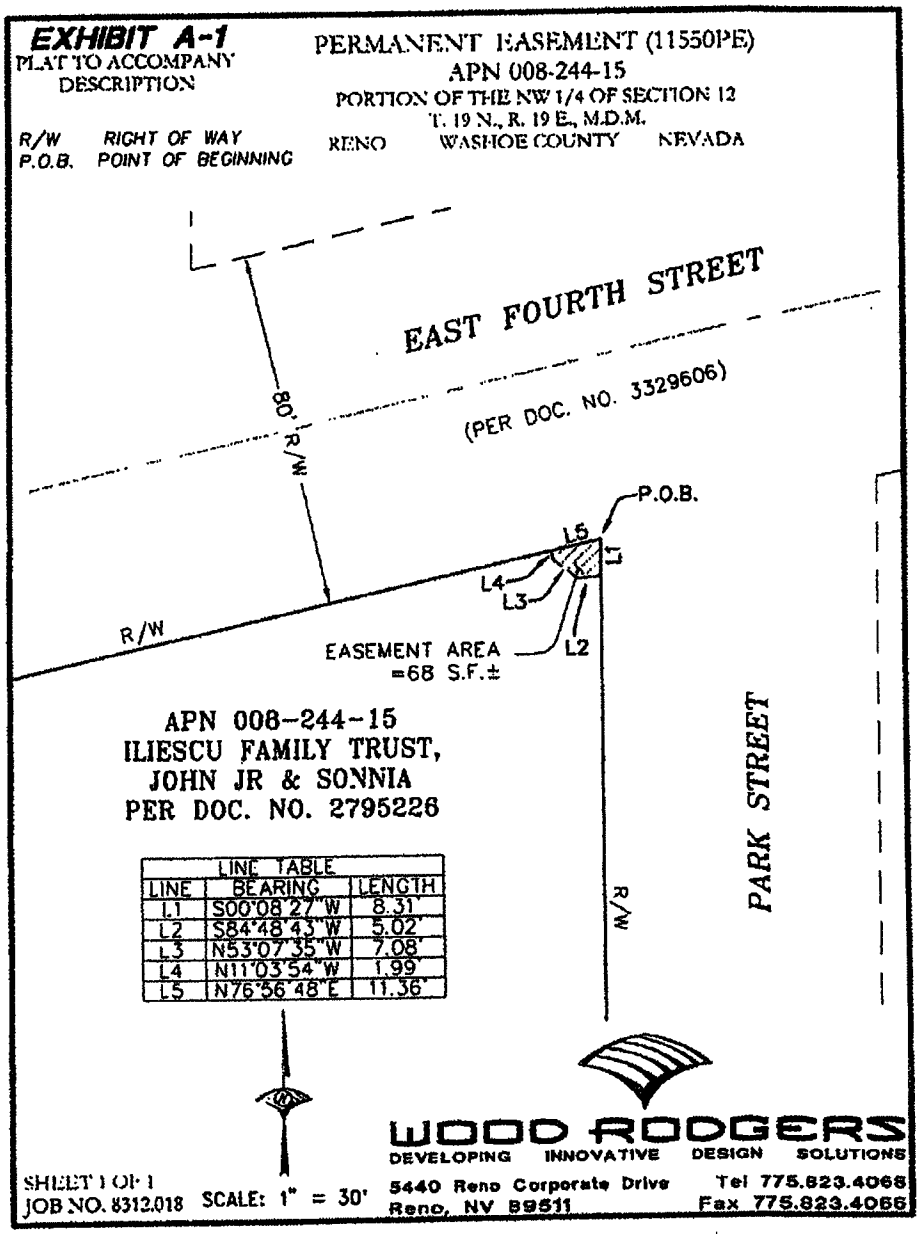
Prepared by:
Wood Rodgers, Inc.
5440 Reno Corporate Dr.
Reno, NV 89511

PROFESSIONAL LAND SURVEYOR STATE OF NEVADA
DANIEL A. BIGRIGG
Exp. 12/31/2016
No. 19716

4/21/2015

Daniel A. Bigrigg, P.L.S.
Nevada Certificate No. 19716

RIGHT-OF-WAY SKETCH PERMANENT EASEMENT 11550PE



LEGAL DESCRIPTION FOR PUBLIC UTILITY EASEMENT 11550PUE

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LEGAL DESCRIPTION FOR
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THENCE North 00°08'27" East, 10.69 feet to the South right-of-way of East Fourth Street;

THENCE along said South right-of-way, North 76°56'48" East, 6.66 feet to the northeast corner of said parcel, also being common to the aforementioned South right-of-way of East Fourth Street and the West right-of-way of Park Street,
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Containing 288 square feet of land, more or less.

See Exhibit A-1 attached hereto and made a part hereof.

BASIS OF BEARINGS:

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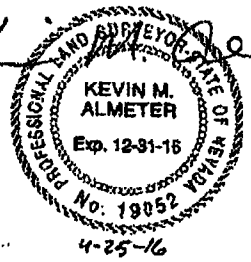
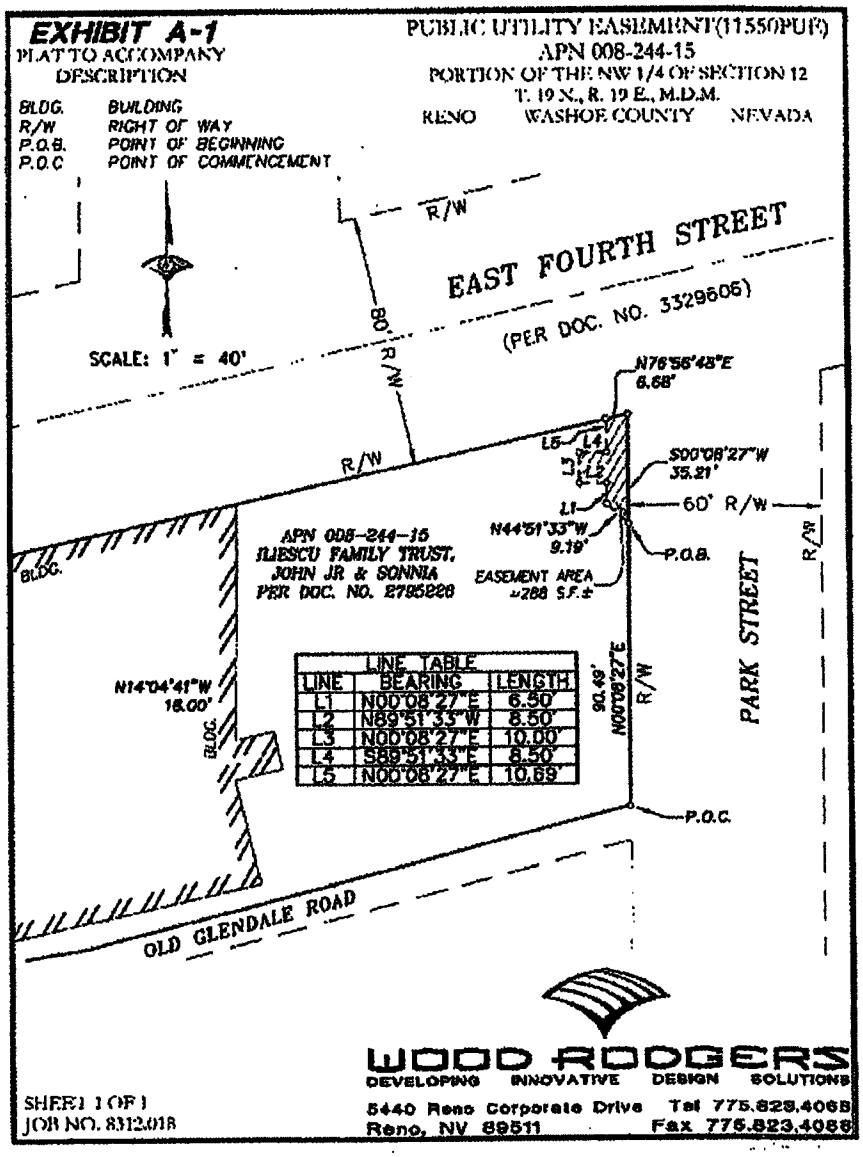


Kevin M. Almeter, P.L.S.
Nevada Certificate No. 19052

RIGHT-OF-WAY SKETCH 11550PUE



PROPOSED TEMPORARY CONSTRUCTION EASEMENT LEGAL DESCRIPTION

EXHIBIT A
LEGAL DESCRIPTION FOR
TEMPORARY CONSTRUCTION EASEMENT
(11550TCE)
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Containing 88 square feet of land, more or less.

See Exhibit A-1 attached hereto and made a part hereof.

The Basis of Bearings for this description is Nevada State Plane Coordinate System, West Zone, North American Datum of 1983/1994, High Accuracy Reference Network (NAD 83/94 – HARN)

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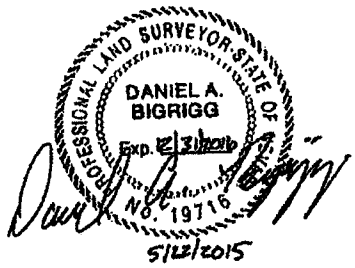
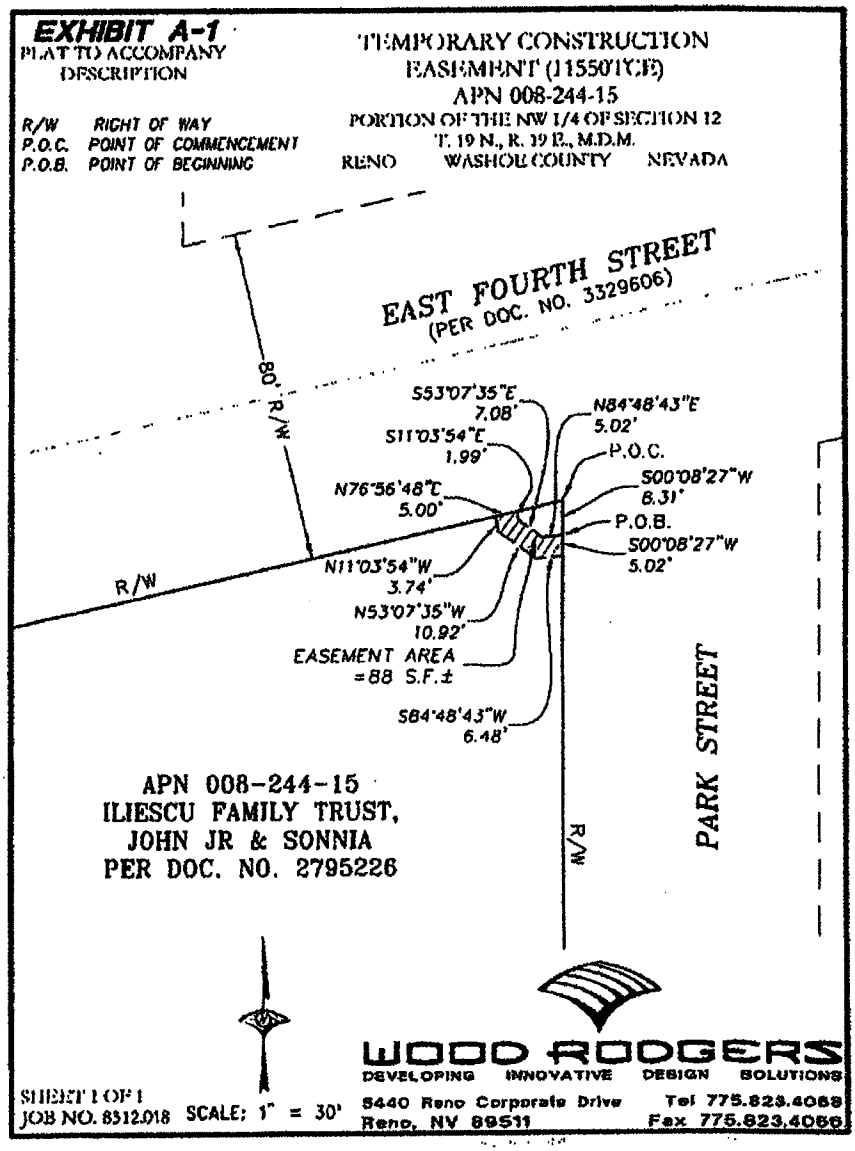
Reno, NV 89511



Daniel A. Bigrigg, P.L.S.
Nevada Certificate No. 19716

TEMPORARY CONSTRUCTION EASEMENT SKETCH 10550TCE



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Jacqueline Bryant
Clerk of the Court
Transaction # 6636350 : csulezic

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Gordon H. DePaoli, Esq.
Nevada Bar No. 195
Dane W. Anderson, Esq.
Nevada Bar No. 6883
WOODBURN AND WEDGE
6100 Neil Road, Suite 500
Reno, Nevada 89511
Telephone: 775-688-3000
Facsimile: 775-688-3088
Email: danderson@woodburnandwedge.com

Attorneys for Plaintiff, the Regional Transportation Commission of Washoe County

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY, a special purpose unit of the government, Plaintiff, v. JOHN ILIESCU, JR. and SONNIA ILIESCU, Trustees of The John Iliescu, Jr. and Sonnia Iliescu 1992 Family Trust; and DOES 1 – 20, inclusive; Defendants.	Case No.: CV16-02182 Dept. No.: 3

STIPULATION FOR THE ENTRY OF A FINAL ORDER OF CONDEMNATION AND JUDGMENT

This Stipulation For The Entry Of A Final Order Of Condemnation And Judgment is entered into by and between Plaintiff The Regional Transportation Commission of Washoe County ("RTC") and Defendants John Iliescu, Jr., and Sonnia Iliescu, Trustees of The John Iliescu, Jr. and Sonnia Iliescu 1992 Family Trust ("Iliescu"). RTC and Iliescu stipulate to the Court's entry of a Final Order of Condemnation and Judgment pursuant to NRS 37.160 based upon the following:

///

///

1. RTC is a special purpose unit of government, duly organized and existing under the laws of the State of Nevada.

2. Pursuant to Chapters 37, 241 and 277A of the Nevada Revised Statutes, RTC has the power to exercise the right of eminent domain to acquire property for public purposes within the jurisdictional limits of local government if authority for the acquisition of the property has been approved by said local government and notice of the condemning agency's intent to condemn has been given as required by law.

3. Pursuant to an Interlocal Cooperative Agreement, a copy of which is attached hereto as **Exhibit 1** and incorporated herein by reference, the County of Washoe and the Cities of Reno and Sparks authorized the RTC to initiate condemnation proceedings, as necessary, to acquire property needed for the construction of the 4th Street/Prater Way Complete Street and BRT Project ("the Project").

4. The property RTC seeks to acquire by its power of eminent domain consists of a permanent easement, a public utility easement and a temporary construction easement located upon portions of Washoe County Assessor Parcel Number ("APN") 008-244-15, metes and bounds descriptions and depictions of which are set forth in **Exhibit 2** attached hereto and incorporated herein by this reference. The permanent and public utility easements sought are perpetual easements for a pedestrian ramp and sidewalk improvements, for the location, construction, access, and maintenance of public utilities and communications, together with any and all appurtenances appertaining thereto, over, under and across the real property described in Exhibit 2. Said right includes the trimming by public utility of any trees or foliage along said right of way whenever considered necessary for the complete enjoyment thereof and the right of ingress and egress from said right of way for the purpose of exercising and performing all rights and privileges granted therein, together with all other tenements, hereditaments and appurtenances thereunto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof. The temporary construction easement was sought to facilitate work on the

Project that is now complete. The permanent easement, public utility easement, temporary construction easement and all related rights described herein are referred to as "the Property."

5. According to the Washoe County Assessor, Iliescu is the record owner of APN 008-244-15.

6. On December 1, 2016, based on the stipulation of the parties, the Court entered an Order For Immediate Occupancy Pending Entry Of Judgment. Among other things, the Court found that the use for which the Property was to be applied was a public use authorized by law, and that the taking was necessary for such use. Pursuant to that Order, RTC deposited $2,030 with the Court. The issue of just compensation was reserved for later determination.

7. RTC and Iliescu have reached a settlement agreement on the total amount of compensation to be paid Iliescu for the taking of the Property.

8. Pursuant to that agreement, RTC shall pay Iliescu the total amount of $11,065 in compensation for the acquisition of the Property, which includes the $2,030 already deposited by RTC, such that RTC owes a balance of $9,035. Iliescu acknowledges that amount is just compensation for any amounts Iliescu may have recovered in this case. .

9. Iliescu represents and warrants that all taxes due to Washoe County or any other public agency on the Property and APN 008-244-15 have, at this time, been paid.

10. RTC and Iliescu stipulate that the Court may enter a final order of condemnation and judgment granting RTC the Property as defined herein upon RTC's deposit of $9,035 with the Clerk of the Court, which will bring the total deposit to $11,065.

11. Each party shall bear its own attorney's fees and costs incurred related to this matter, including all expert and consulting fees.

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Affirmation pursuant to NRS 239B.030

The undersigned does hereby affirm that the above-entitled document filed in this matter does not contain the social security number of any person.

DATED: April 18, 2018

WOODBURN AND WEDGE

By _____

Gordon H. DePaoli, Esq.
Nevada Bar No. 195
Dane W. Anderson, Esq.
Nevada Bar No. 6883
6100 Neil Road, Suite 500
Reno, NV 89511
T: 775-688-3000

Attorneys for Plaintiff The Regional Transportation Commission of Washoe County

DATED: April 18, 2018

VENTURE LAW USA

By _____

Michael J. Morrison, Esq.
Nevada Bar No. 1665
1495 Ridgeview Drive, Suite 220
Reno, NV 89519
T: 775-827-6300

Attorney for Defendants

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the law offices of Woodburn and Wedge, 6100 Neil Road, Suite 500, Reno, Nevada 89511, and that I caused to be served the foregoing document(s) described as follows:

STIPULATION FOR THE ENTRY OF A FINAL ORDER OF CONDEMNATION AND JUDGMENT

On the party(s) set forth below by:

___ Placing an original or true copy thereof in a sealed envelope placed for collection and mailing in the United States Mail, at Reno, Nevada, postage prepaid, following ordinary business practices.

___ Personal delivery.

___ Email.

___ Federal Express or other overnight delivery.

X Electronically filed the foregoing with the Clerk of the Court by using the ECF system which will send a notice of electronic filing to the following:

Michael J. Morrison, Esq.
1495 Ridgeview Drive, Suite 220
Reno, NV 89519
venturelawusa@gmail.com

Attorneys for John Iliescu, Jr., and Sonnia Iliescu, Trustees of The John Iliescu, Jr. and Sonnia Iliescu 1992 Family Trust

Dated: April 18, 2018.

/s/ Dianne M. Kelling
An employee of Woodburn and Wedge

INDEX OF EXHIBITS

TO STIPULATION FOR THE ENTRY OF A FINAL ORDER OF CONDEMNATION AND JUDGMENT

Exhibit #	Document Description	*No. Pages in Exhibit
1	Interlocal Cooperative Agreement	8
2	Metes and bounds descriptions and depictions of portions of APN 008-244-15	6

* Number of Pages Does **Not** include the divider page marking the exhibit.

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Jacqueline Bryant
Clerk of the Court
Transaction # 6636350 : csulezic

EXHIBIT 1

EXHIBIT 1

INTERLOCAL COOPERATIVE AGREEMENT
APPROVING RTC PROGRAM OF PROJECTS

This Agreement is made and executed this 19th day of September, 2014, by and between the Board of Commissioners of Washoe County, Nevada, hereinafter referred to as "County", the City Council of Reno, Nevada, hereinafter referred to as "Reno", the City Council of Sparks, Nevada, hereinafter referred to as "Sparks", and the Regional Transportation Commission of Washoe County, hereinafter referred to as "RTC".

WITNESETH:

WHEREAS, on September 19, 2014, the RTC approved the FY 2016 Program of Projects listed on Exhibit A attached to this Agreement. Each project on Exhibit A is referred to herein as a "Project" and all of such Projects are collectively referred to herein as the "Projects".

WHEREAS, the Projects will require pavement maintenance, rehabilitation, reconstruction, new construction or engineering and environmental analysis, and may require the acquisition of real property through consensual agreements with the owners or through eminent domain proceedings; and

WHEREAS, pursuant to the requirements of NRS 373.140, NRS 377A.080 and the Regional Road Impact Fee (RRIF) Program, the County, Reno, Sparks, and RTC desire by this Agreement to authorize the Projects and to set forth each entity's respective responsibilities with respect to the Projects.

NOW, THEREFORE, pursuant to the provisions of NRS 373.140, NRS 377A.080, NRS Chapter 277A, and the RRIF Ordinances/Manuals, and in consideration of the mutual promises contained herein and for other good and valuable consideration, it is hereby agreed by and between the parties hereto as follows:

I. APPROVAL OF PROJECTS

A. Reno, the County and Sparks hereby approve each and every Project and authorize the RTC to design, survey, engineer, acquire through purchase or eminent domain real property for, and construct, each of the Projects. Approval for any Project for any fiscal year shall be approval for all continued work by or on behalf of the RTC on that Project for any later

fiscal year. The RTC may expend money from one or more than one of the Regional Street and Highway Fund (the "Fuel Tax Fund"), the Transportation Sales Tax Fund (the "Sales Tax Fund") or the Regional Road Impact Fee Fund (the "RRIF Fund") on each Project as listed on the column next to the Project on Exhibit A. The cost of each Project is estimated by the RTC as shown on Exhibit A. These costs are only estimates and the RTC may expend additional monies from any one or more of the Fuel Tax Fund, the Sales Tax Fund or the RRIF Fund on each Project as such additional expenditures are reviewed and approved by the RTC Staff and/or the RTC Board of Commissioners pursuant to the RTC's policies and procedures.

B. Reno, the County and Sparks hereby authorize the RTC to adopt an appropriate resolution of condemnation and initiate and prosecute to judgment such eminent domain proceedings as may be necessary for the acquisition of such property within their respective jurisdictions as the RTC deems necessary for the construction and/or maintenance of any Project and, if prudent, future expansions of each Project identified by the Regional Transportation Plan.

II. RTC DUTIES

RTC agrees to perform the followings tasks and the County, Reno and Sparks hereby authorize the RTC to do so:

A. Provide all required services, including but not limited to design, environmental assessments and studies, surveying, construction engineering, construction management and quality assurance inspection, utilizing RTC staff and/or qualified consultants;

B. Obtain appraisal reports for any property being considered as necessary for the implementation of any Project and, if prudent, future expansions of the Project identified within the Regional Transportation Plan, conduct preliminary negotiations with the owners in an effort to arrive at a mutually agreeable purchase price and negotiate, execute and close contracts to purchase the property;

C. Offer not less than the appraisal value for the property and property rights deemed necessary for a Project and, where the prospect of reaching a mutually agreeable purchase price appears unlikely following reasonable negotiations, cause the RTC Board of Commissioners to adopt a "Resolution of Condemnation" finding that particular properties are necessary to the

success of a Project and authorize legal counsel to seek acquisition through eminent domain proceedings;

D. Coordinate all activities related to a Project including, but not limited to, advertising, receipt and review of construction bids, and execution of a contract with the contractor submitting the lowest responsive and responsible bid;

E. Maintain necessary files on each Project;

F. Pay all authorized Project costs from the Fuel Tax Fund, the RRIF Fund or the Sales Tax Fund. Payments for construction or engineering services will be paid to the contractor or consultant upon receipt of a claim or claims which have been certified as a true and correct account of the expenses incurred as a result of or in conjunction with the provisions of a contract entered into as a result of this Agreement. All submitted claims will have supporting documents attached which substantiate the basis of the claim. Such claim or claims shall be reviewed and approved in accordance with the policies and procedures of the RTC; and

G. Not permit the payment of non-reimbursable or non-payable items established by the policies and procedures of the RTC.

III. COUNTY'S, RENO'S AND SPARK'S DUTIES

The County, Reno and Sparks shall do the following:

A. Cooperate with RTC and its consultants in all phases of each Project located within their respective jurisdictions;

B. Assist the RTC in communicating with the public regarding the Project(s) located within their respective jurisdictions;

C. Accept ownership of and maintain each Project located wholly or partially within their respective jurisdictions upon completion of construction;

D. Upon notification from the RTC, require utilities having franchise agreements that require relocation to relocate their facilities prior to award of the Project in accordance with the franchise agreement; for utilities that do not address the issue of relocation in the franchise

agreement, require relocation of the subject facilities prior to the award of the Project if state law provides authority to do so; and

E. Coordinate development and administration of the Project with the RTC.

This Agreement is effective from and after the date first above written.

APPROVED AS TO LEGALITY AND FORM

BY: Dale E. Ferguson
RTC GENERAL COUNSEL

REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY

BY: Bonnie Weber
BONNIE WEBER, CHAIR

State of Nevada
County of Washoe

This FY 2015/16 Interlocal Cooperative Agreement was acknowledged before me this 19th day of September, 2014, by Bonnie Weber, as Chair of the Regional Transportation Commission of Washoe County.

Notary Public

DENISE THOMPSON
Notary Public-State of Nevada
APPT. NO. 08-6382-2
My App. Expires October 17, 2016

BOARD OF COMMISSIONERS,
WASHOE COUNTY, NEVADA

By: _____
CHAIRMAN

ATTEST:

BY: _____
WASHOE COUNTY CLERK

APPROVED AS TO FORM AND CONTENT:

BY: _____
ATTORNEY

CITY COUNCIL OF RENO, NEVADA

By: _____
MAYOR

ATTEST:

BY: _____
RENO CITY CLERK

APPROVED AS TO FORM AND CONTENT:

BY: _____
DEPUTY CITY ATTORNEY

CITY COUNCIL OF SPARKS, NEVADA

BY: _____
MAYOR

ATTEST:

BY: _____
SPARKS CITY CLERK

APPROVED AS TO FORM AND CONTENT:

BY: _____
~~DEPUTY~~ CITY ATTORNEY

EXHIBIT A

RTC PROGRAM OF PROJECTS 2015/2016

PROPOSED RTC FISCAL YEAR (FY) 2016 PROGRAM OF PROJECTS (POP)

PAVEMENT PRESERVATION AND CORRIDOR IMPROVEMENT PROJECTS

* ACTIVITY CODES
C = CONSTRUCTION (INCLUDES CONSTRUCTION SERVICES)
D = DESIGN
N = ENVIRONMENTAL (NEPA, INCLUDES PRELIMINARY DESIGN)
P = PLANNING
R = RIGHT OF WAY

PROJECT (YEAR OF CONSTRUCTION) & TERMINI	PROJECT OBJECTIVE	TOTAL PROJECT ESTIMATE	FUNDING SOURCE	PREVIOUSLY APPROVED AMOUNT	PREVIOUSLY APPROVED ACTIVITY*	FY 16 POP FUNDS (PROPOSED) AMOUNT	FY 16 POP FUNDS (PROPOSED) ACTIVITY *	TOTAL FUNDS PROGRAMMED (PROPOSED)
2015 PREVENTIVE MAINTENANCE (2015) VARIOUS REGIONAL ROADS	PAVEMENT PRESERVATION	$3,559,493	RTC FUEL TAX	$0				$0
			RTC SALES TAX	$3,559,493	D, C			$3,559,493
				$3,559,493				$3,559,493
2015 CORRECTIVE MAINTENANCE (2015) VARIOUS REGIONAL ROADS	PAVEMENT PRESERVATION	$1,017,786	RTC FUEL TAX	$924,900	D, C	$92,886		$1,017,786
GOLDEN VALLEY ROAD & CARLYLE DRIVE (N/A) YORKSHIRE TO N. VIRGINIA & MONTGOMERY TO YORKSHIRE (N)	PAVEMENT PRESERVATION		RTC FUEL TAX	$92,886		-$92,886		
MAYBERRY DRIVE (2015) HUNTER LAKE TO CALIFORNIA	PAVEMENT PRESERVATION	$1,135,000	RTC FUEL TAX	$1,135,000	D, C			$1,135,000
2015 ADA PEDESTRIAN TRANSITION IMPROVEMENT PLAN (2015) VARIOUS REGIONAL ROADS	AMERICAN DISABILITY ACT TRANSITION PLAN	$600,000	RTC FUEL TAX	$600,000	D, C			$600,000
4TH & PRATER BUS RAPID TRANSIT PROJECT (2017) EVANS TO PYRAMID	CORRIDOR/TRANSIT CAPACITY IMPROVEMENT	$48,300,000 (EXCLUDES TRANSIT VEHICLES)	RTC FUEL TAX			$5,850,000	R, C	$5,850,000
			RTC SALES TAX	$2,100,000		$4,150,000	R, C	$6,250,000
			FEDERAL STP/TIGER	$2,000,000		$16,000,000	C	$18,000,000
				$4,100,000	D, R			$30,100,000
PRATER WAY ENHANCEMENTS PHASE 4 (2015) 22ND TO 20TH	CORRIDOR IMPROVEMENT	$1,500,000	RTC FUEL TAX	$850,000	D, R			$850,000
			FED ENHANCEMENT	$650,000	C			$650,000
				$1,500,000				$1,500,000
VIRGINIA STREET MIDTOWN & RTC RAPID EXTENSION TO UNR (2017) PLUMB TO LIBERTY & MAPLE TO 19TH	CORRIDOR/TRANSIT CAPACITY IMPROVEMENT	$24,350,000 (EXCLUDES TRANSIT VEHICLES)	RTC FUEL TAX	$598,000				$598,000
			FTA CMAQ	$510,000				$510,000
				$1,108,000	D, N			$1,108,000
VIRGINIA STREET- TRUCKEE BRIDGE REPLACEMENT (2015) FUNDING DIRECTLY TO CITY OF RENO, THROUGH SEPARATE INTERLOCAL AGREEMENT	BRIDGE REPLACEMENT	$21,233,000	RTC FUEL TAX					
			STATE BRIDGE REPL	$10,000,000				$10,000,000
			TRFMA	$7,250,000				$7,250,000
			CITY OF RENO	$1,973,000				$1,973,000
				$19,223,000				$19,223,000

RTC FUEL/SALES TAX SUMMARY:	PREVIOUS APPROVED	FY 16 POP FUNDS (PROPOSED)	PROPOSED TOTAL
RTC FUEL TAX:	$4,200,786	$26,000,000	
RTC SALES TAX:	$5,659,493	$0	
FEDERAL/OTHER NON RTC:	$22,383,000	$16,000,000	
TOTAL:	$32,243,279	$42,000,000	$74,243,279

PROPOSED RTC FISCAL YEAR (FY) 2016 PROGRAM OF PROJECTS

CAPACITY AND CONGESTION RELIEF

* ACTIVITY CODES
C = CONSTRUCTION (INCLUDES CONSTRUCTION SERVICES)
D = DESIGN
N = ENVIRONMENTAL (NEPA, INCLUDES PRELIMINARY DESIGN)
P = PLANNING
R = RIGHT OF WAY

PROJECT (YEAR OF CONSTRUCTION) & TERMINI	PROJECT OBJECTIVE	TOTAL PROJECT ESTIMATE	FUNDING SOURCE	PREVIOUSLY APPROVED AMOUNT	PREVIOUSLY APPROVED ACTIVITY*	FY 16 POP FUNDS (PROPOSED) AMOUNT	FY 16 POP FUNDS (PROPOSED) ACTIVITY *	TOTAL FUNDS PROGRAMMED (PROPOSED)
PYRAMID FREEWAY/US-395 LINK (TBD) US-395 TO PYRAMID (PRELIMINARY DESIGN ONLY)	CAPACITY IMPROVEMENT	$9,061,464	NDOT/FED	$9,061,464	N			$9,061,464
SOUTHEAST CONNECTOR PHASE 2 (2015) SOUTH MEADOWS TO CLEAN WATER	CAPACITY IMPROVEMENT	$190,000,000	RTC BOND FUEL TAX	$140,000,000	D, R, N, C	$50,000,000	C	$140,000,000 $50,000,000 $190,000,000
MCCARRAN/PYRAMID INTERSECTION (2015)	CAPACITY IMPROVEMENT	$66,000,000	FUEL TAX NDOT/FED	$1,307,618 $29,827,027 $31,134,645	 D, R D, R			$1,307,618 $29,827,027 $31,134,645
N MCCARRAN @ N VIRGINIA INTERSECTION IMPROVEMENT (2015)	CAPACITY IMPROVEMENT	$4,000,000	RRIF	$4,000,000	D, C			$4,000,000
SE MCCARRAN WIDENING S VIRGINIA TO MIRA LOMA (PHASE 1, COMPLETE) MIRA LOMA TO GREG (PHASE 2 2014)	CAPACITY IMPROVEMENT	$45,000,000	RTC BOND	$45,000,000	D, C, R			$45,000,000
TRAFFIC ENGINEERING SPOT INTERSECTIONS 4 (2015) LOCATIONS TO BE DETERMINED	CAPACITY IMPROVEMENT	$750,000	RRIF	$750,000	D, C			$750,000
TRAFFIC ENGINEERING SPOT INTERSECTIONS 5 (2016) LOCATIONS TO BE DETERMINED	CAPACITY IMPROVEMENT	$1,000,000	RRIF			$1,000,000	D, C	$1,000,000
BIKE & PEDESTRIAN IMPROVEMENTS 3, 4 & 5 (2016) EVANS - 4TH TO N MCCARRAN	CAPACITY IMPROVEMENT	$1,350,000	RRIF CMAQ	$67,500 $1,282,500 $1,350,000	 D, C			$67,500 $1,282,500 $1,350,000
BIKE & PEDESTRIAN IMPROVEMENTS 2016 (2016) LOCATION TO BE DETERMINED	CAPACITY IMPROVEMENT	$1,000,000	RRIF CMAQ			$50,000 $950,000 $1,000,000	 D, C	$50,000 $950,000 $1,000,000
TRAFFIC MANAGEMENT (2015) ITS MASTER PLAN	INTELLIGENT TRAFFIC SYSTEMS (ITS)	$1,000,000	RRIF CMAQ	$50,000 $950,000 $1,000,000	 D, C			$50,000 $950,000 $1,000,000
TRAFFIC MANAGEMENT 2A (2015) FIBER OPTIC CONNECTIVITY	INTELLIGENT TRAFFIC SYSTEMS (ITS)	$996,500	RRIF CMAQ	$49,825 $946,675 $996,500	 C			$49,825 $946,675 $996,500
TRAFFIC MANAGEMENT 2B (2016) ITS EQUIPMENT INSTALLATION	INTELLIGENT TRAFFIC SYSTEMS (ITS)	$996,500	RRIF CMAQ	$49,825 $946,675 $996,500	 C			$49,825 $946,675 $996,500

RRIF & RTC BOND SUMMARY:	PREVIOUS APPROVED	FY 16 POP FUNDS (PROPOSED)	PROPOSED TOTAL
RRIF/FUEL TAX:	$6,274,768	$1,050,000	
RTC BONDS:	$185,000,000	$50,000,000	
FEDERAL/OTHER NON RTC:	$43,014,341	$950,000	
TOTAL:	$234,289,109	$52,000,000	$286,289,109

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Jacqueline Bryant
Clerk of the Court
Transaction # 6636350 : csulezic

EXHIBIT 2

EXHIBIT 2

LEGAL DESCRIPTION FOR PE11550PE

EXHIBIT A
LEGAL DESCRIPTION FOR
PERMANENT EASEMENT
(11550PE)
APN 008-244-15

All that certain real property situate within a portion of the Northwest One-Quarter (NW 1/4) of Section Twelve (12), Township Nineteen (19) North, Range Nineteen (19) East, Mount Diablo Meridian, City of Reno, County of Washoe, State of Nevada, being a portion of the parcel of land described in Grant, Bargain, Sale Deed Document No. 2795226, recorded on January 24, 2003, in the Official Records of Washoe County, Nevada, being more particularly described as follows:

BEGINNING at the Northeast corner of said parcel, also being on the South right-of-way line of East Fourth Street;

THENCE departing said Northeast corner and along the West right-of-way line of Park Street, South 00°08'27" West a distance of 8.31 feet;

THENCE departing said West right-of-way line and along the following three (3) courses:

1) South 84°48'43" West, 5.02 feet;
2) North 53°07'35" West, 7.08 feet;
3) North 11°03'54" West, 1.99 feet to the aforementioned South right-of-way of East Fourth Street;

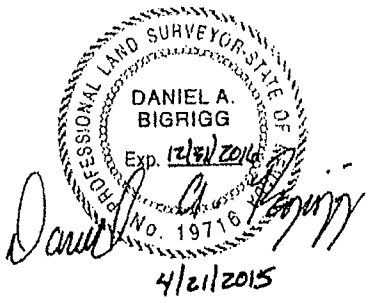
THENCE along said South right-of-way, North 76°56'48" East a distance of 11.36 feet to the **POINT OF BEGINNING**;

Containing 68 square feet of land, more or less.

See Exhibit A-1 attached hereto and made a part hereof.

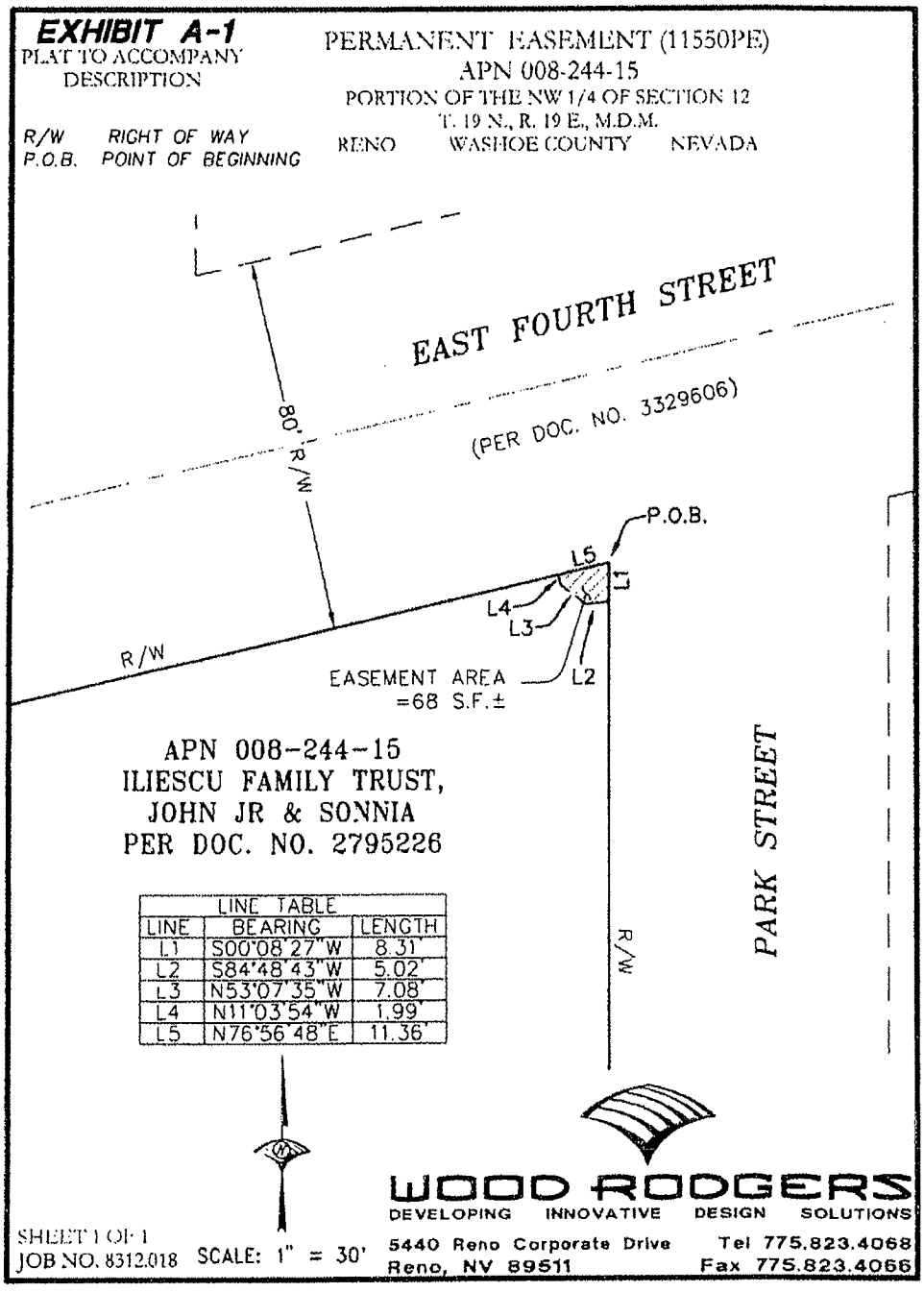
The Basis of Bearings for this description is Nevada State Plane Coordinate System, West Zone, North American Datum of 1983/1994, High Accuracy Reference Network (NAD 83/94 – HARN)

Prepared by:
Wood Rodgers, Inc.
5440 Reno Corporate Dr.
Reno, NV 89511



Daniel A. Bigrigg, P.L.S.
Nevada Certificate No. 19716

RIGHT-OF-WAY SKETCH PERMANENT EASEMENT 11550PE



LEGAL DESCRIPTION FOR PUBLIC UTILITY EASEMENT 11550PUE

EXHIBIT A
LEGAL DESCRIPTION FOR
PUBLIC UTILITY EASEMENT
(11550PUE)
APN 008-244-15

All that certain real property situate within a portion of the Northwest One-Quarter (NW 1/4) of Section Twelve (12), Township Nineteen (19) North, Range Nineteen (19) East, Mount Diablo Meridian, City of Reno, County of Washoe, State of Nevada, being a portion of the parcel of land described in the Grant, Bargain, Sale Deed Document No. 2795226, recorded on January 24, 2003, in the Official Records of Washoe County, Nevada.

11550PUE

COMMENCING at the southeast corner of said parcel, also being the intersection of the West right-of-way of Park Street and the North right-of-way of Old Glendale Road;

THENCE departing said corner and along said West right-of-way, North 00°08'27" East, 90.49 feet to the **POINT OF BEGINNING;**

THENCE departing said West right-of-way, North 44°51'33" West, 9.19 feet;

THENCE North 00°08'27" East, 6.50 feet;

THENCE North 89°51'33" West, 8.50 feet;

THENCE North 00°08'27" East, 10.00 feet;

THENCE South 89°51'33" East, 8.50 feet;

THENCE North 00°08'27" East, 10.69 feet to the South right-of-way of East Fourth Street;

THENCE along said South right-of-way, North 76°56'48" East, 6.68 feet to the northeast corner of said parcel, also being common to the aforementioned South right-of-way of East Fourth Street and the West right-of-way of Park Street,
THENCE departing said corner and along the aforementioned West right-of-way, South 00°08'27" West, 35.21 feet to the **POINT OF BEGINNING**,

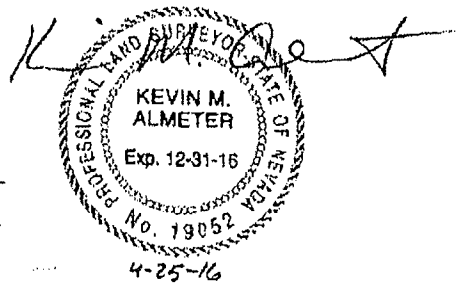
Containing 288 square feet of land, more or less.

See Exhibit A-1 attached hereto and made a part hereof.

BASIS OF BEARINGS:

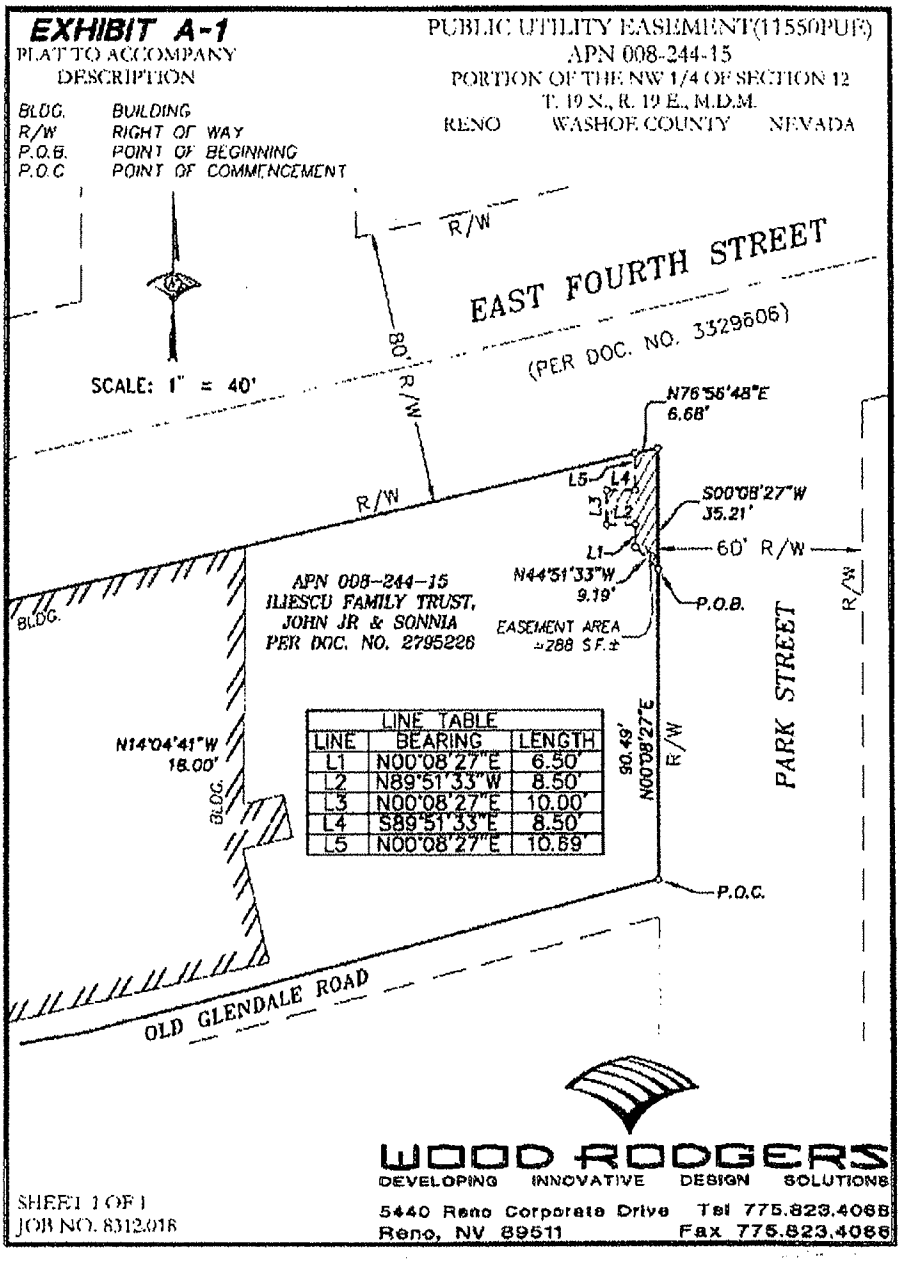
The Basis of Bearings for these descriptions is Nevada State Plane Coordinate System, West Zone, North American Datum of 1983/1994, High Accuracy Reference Network (NAD 83/94 – HARN)

Prepared by:
Wood Rodgers, Inc.
5440 Reno Corporate Dr.
Reno, NV 89511



Kevin M. Almeter, P.L.S.
Nevada Certificate No. 19052

RIGHT-OF-WAY SKETCH 11550PUE



PROPOSED TEMPORARY CONSTRUCTION EASEMENT LEGAL DESCRIPTION

EXHIBIT A
LEGAL DESCRIPTION FOR
TEMPORARY CONSTRUCTION EASEMENT
(11550TCE)
APN 008-244-15

All that certain real property situate within a portion of the Northwest One-Quarter (NW 1/4) of Section Twelve (12), Township Nineteen (19) North, Range Nineteen (19) East, Mount Diablo Meridian, City of Reno, County of Washoe, State of Nevada, being a portion of the parcel of land described in Grant, Bargain, Sale Deed Document No. 2795226, recorded on January 24, 2003, in the Official Records of Washoe County, Nevada, being more particularly described as follows:

COMMENCING at the Northeast corner of said parcel, also being on the South right-of-way of East Fourth Street;

THENCE departing said Northeast corner and along the West right-of-way of Park Street, South 00°08'27" West, 8.31 feet to the **POINT OF BEGINNING**;

THENCE continuing along said West right-of-way, South 00°08'27" West, 5.02 feet;

THENCE departing said West right-of-way line and along the following three (3) courses:

1) South 84°48'43" West, 6.48 feet;
2) North 53°07'35" West, 10.92 feet;
3) North 11°03'54" West, 3.74 feet to the aforementioned South right-of-way of East Fourth Street;

THENCE along said South right-of-way, North 76°56'48" East, 5.00 feet;

THENCE departing said South right-of-way and along the following three (3) courses:

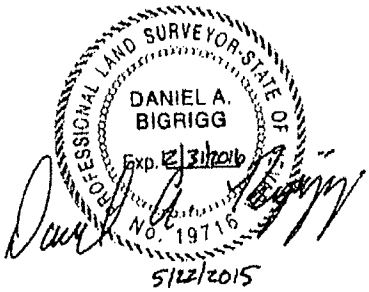
1) South 11°03'54" East, 1.99 feet;
2) South 53°07'35" East, 7.08 feet;
3) North 84°48'43" East, 5.02 feet to the aforementioned West right-of-way of Park Street and the **POINT OF BEGINNING**;

Containing 88 square feet of land, more or less.

See Exhibit A-1 attached hereto and made a part hereof.

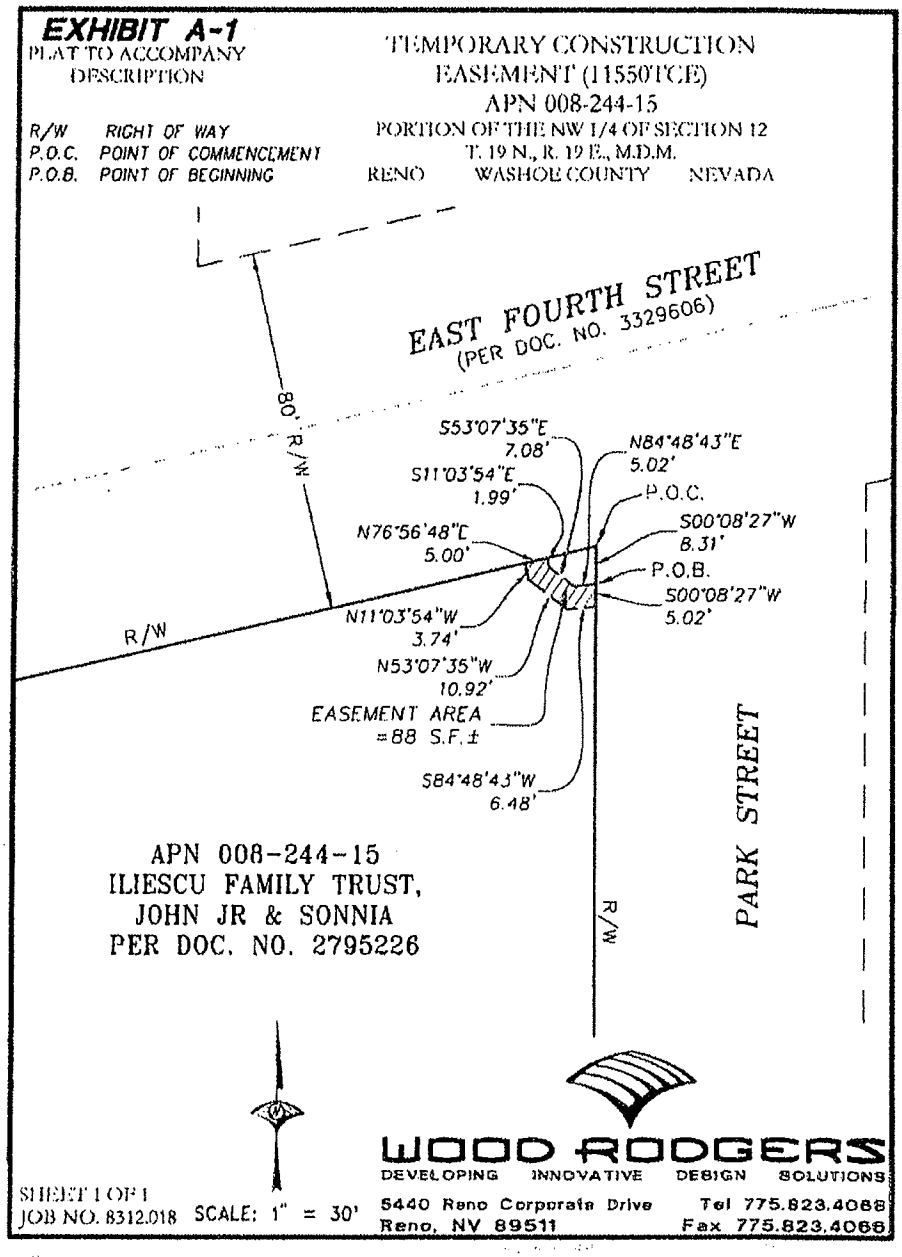
The Basis of Bearings for this description is Nevada State Plane Coordinate System, West Zone, North American Datum of 1983/1994, High Accuracy Reference Network (NAD 83/94 – HARN)

Prepared by:
Wood Rodgers, Inc.
5440 Reno Corporate Dr.
Reno, NV 89511



Daniel A. Bigrigg, P.L.S.
Nevada Certificate No. 19716

TEMPORARY CONSTRUCTION EASEMENT SKETCH 10550TCE



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2018-04-26 11:50:37 AM
Jacqueline Bryant
Clerk of the Court
Transaction # 6649694

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IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY, a special purpose unit of the government, Plaintiff, v. JOHN ILIESCU, JR. and SONNIA ILIESCU, Trustees of The John Iliescu, Jr. and Sonnia Iliescu 1992 Family Trust; and DOES 1 – 20, inclusive; Defendants.	Case No.: CV16-02182 Dept. No.: 3

FINAL ORDER OF CONDEMNATION AND JUDGMENT

The Court, having reviewed the Stipulation For The Entry Of A Final Order Of Condemnation And Judgment ("the Stipulation") filed by plaintiff The Regional Transportation Commission of Washoe County ("RTC") and Defendants John Iliescu, Jr., and Sonnia Iliescu, Trustees of The John Iliescu, Jr. and Sonnia Iliescu 1992 Family Trust ("Iliescu"), and having reviewed the entire file, finds, concludes and orders as follows:

1. RTC is a special purpose unit of government, duly organized and existing under the laws of the State of Nevada.

2. Pursuant to Chapters 37, 241 and 277A of the Nevada Revised Statutes, RTC has the power to exercise the right of eminent domain to acquire property for public purposes within the jurisdictional limits of local government if authority for the acquisition of the property has been approved by said local government and notice of the condemning agency's intent to condemn has been given as required by law.

3. Pursuant to an Interlocal Cooperative Agreement, the County of Washoe and the Cities of Reno and Sparks authorized the RTC to initiate condemnation proceedings, as necessary, to acquire property needed for the construction of the 4th Street/Prater Way Complete Street and BRT Project ("the Project").

4. The property RTC seeks to acquire by its power of eminent domain consists of a permanent easement, a public utility easement and a temporary construction easement located upon portions of Washoe County Assessor Parcel Number ("APN") 008-244-15, metes and bounds descriptions and depictions of which are set forth in **Exhibit 1** attached hereto and incorporated herein by this reference. The permanent and public utility easements sought are perpetual easements for a pedestrian ramp and sidewalk improvements, for the location, construction, access, and maintenance of public utilities and communications, together with any and all appurtenances appertaining thereto, over, under and across the real property described in Exhibit 2. Said right includes the trimming by public utility of any trees or foliage along said right of way whenever considered necessary for the complete enjoyment thereof and the right of ingress and egress from said right of way for the purpose of exercising and performing all rights and privileges granted therein, together with all other tenements, hereditaments and appurtenances thereunto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof. The temporary construction easement was sought to facilitate work on the Project that is now complete. The permanent easement, public utility easement, temporary construction easement and all related rights described herein are referred to as "the Property."

5. According to the Washoe County Assessor, Iliescu is the record owner of APN 008-244-15.

6. The Property sought to be acquired by RTC is to be used in the Project, which is a public use authorized by law.

7. The taking of the Property is necessary for that public use.

8. The total compensation due Iliescu as a result of RTC's acquisition of the Property was agreed upon in settlement as $ a settlement conference between RTC and Iliescu as $11,065, which includes the amount of $2,030 already deposited with the Clerk of the Court by RTC, leaving a balance of $9,035 to be deposited by RTC. Iliescu acknowledges that the total sum of $11,065 is just compensation for any amounts Iliescu may have recovered in this case.

9. Based on Iliescu's representations to the Court, all taxes due to Washoe County or any other public agency on the Property and APN 008-244-15 have, at this time, been paid.

Based on the foregoing and with good cause appearing,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

(1) That the Property as defined herein is hereby condemned in favor of RTC and that the purpose of such condemnation is for RTC's use in the Project described above;

(2) That RTC is granted the permanent easement, public utility easement and temporary construction easement affecting APNs 008-244-15, as described in the attached Exhibit 1, and is vested with all right title and interest in the Property as defined herein;

(3) That Iliescu is entitled to the total amount of $11,065 as compensation pursuant to NRS Chapter 37, which amount includes the $2,030 already deposited by RTC. RTC shall deposit the additional sum of $9,035 with the Clerk of this Court, at which time this order and judgment shall be effective;

(4) That, after RTC's deposit of $9,035 with the Clerk of this Court, Iliescu may apply to the Court for the release of said funds.

(5) That Iliescu is not entitled to recover any amounts from RTC beyond the $11,065 referenced above.

(6) That each party shall bear its own attorney's fees and costs incurred related to this matter, including all expert and consulting fees.

///

///

(7) That a copy of this order and judgment shall be filed with the Washoe County Recorder so as to provide public notice of the property rights vested in RTC by way of this order and judgment.

DATED: April 24th, 2018.

DISTRICT JUDGE

Case No.: CV16-02182

EXHIBIT 1

EXHIBIT 1

LEGAL DESCRIPTION FOR PE11550PE

EXHIBIT A
LEGAL DESCRIPTION FOR
PERMANENT EASEMENT
(11550PE)
APN 008-244-15

All that certain real property situate within a portion of the Northwest One-Quarter (NW 1/4) of Section Twelve (12), Township Nineteen (19) North, Range Nineteen (19) East, Mount Diablo Meridian, City of Reno, County of Washoe, State of Nevada, being a portion of the parcel of land described in Grant, Bargain, Sale Deed Document No. 2795226, recorded on January 24, 2003, in the Official Records of Washoe County, Nevada, being more particularly described as follows:

BEGINNING at the Northeast corner of said parcel, also being on the South right-of-way line of East Fourth Street;

THENCE departing said Northeast corner and along the West right-of-way line of Park Street, South 00°08'27" West a distance of 8.31 feet;

THENCE departing said West right-of-way line and along the following three (3) courses:

1) South 84°48'43" West, 5.02 feet;
2) North 53°07'35" West, 7.08 feet;
3) North 11°03'54" West, 1.99 feet to the aforementioned South right-of-way of East Fourth Street;

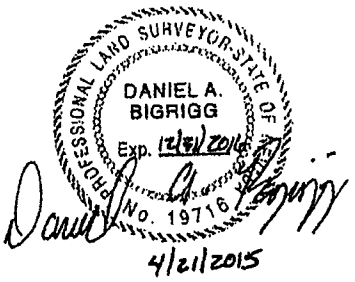
THENCE along said South right-of-way, North 76°56'48" East a distance of 11.36 feet to the **POINT OF BEGINNING;**

Containing 68 square feet of land, more or less.

See Exhibit A-1 attached hereto and made a part hereof.

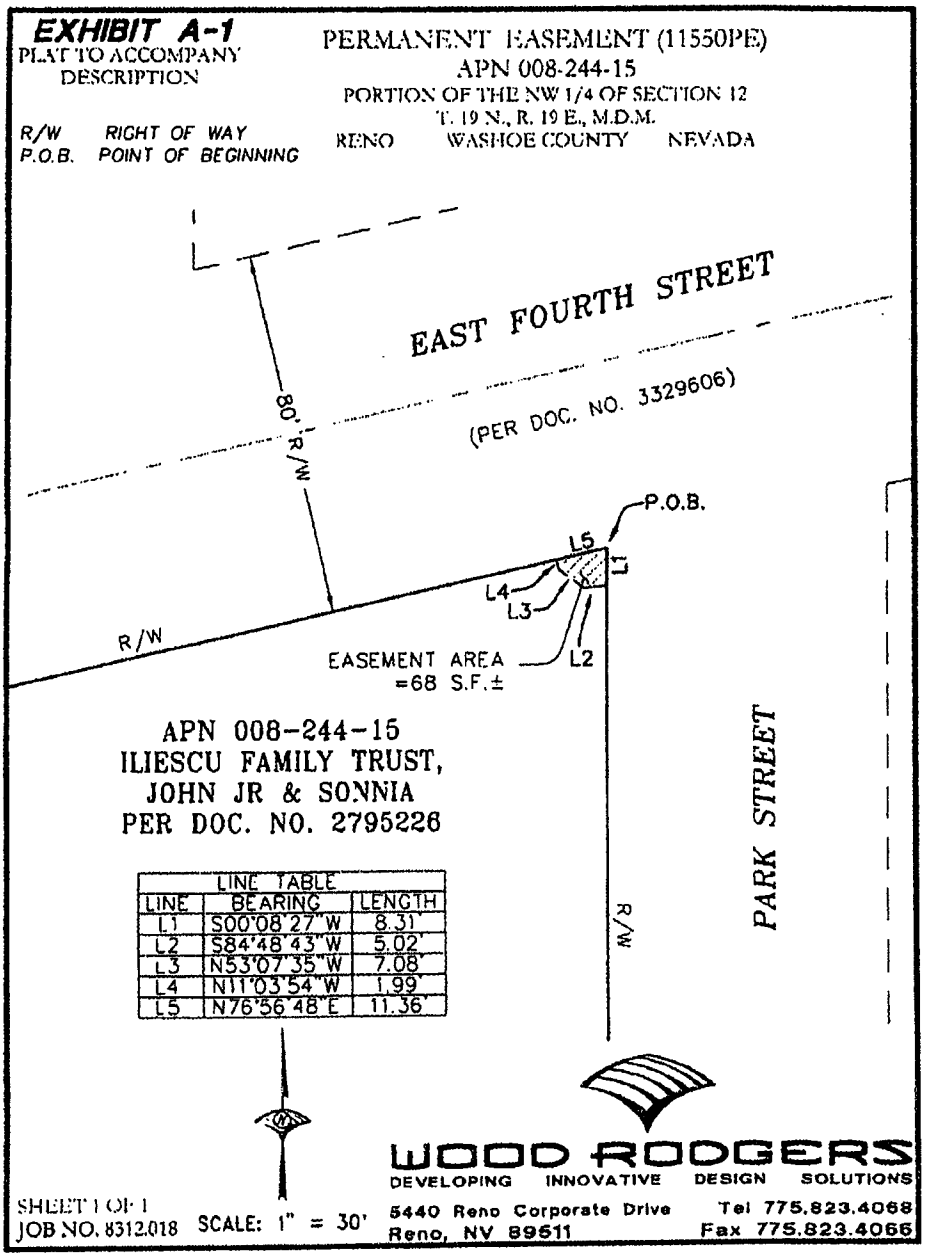
The Basis of Bearings for this description is Nevada State Plane Coordinate System, West Zone, North American Datum of 1983/1994, High Accuracy Reference Network (NAD 83/94 – HARN)

Prepared by:
Wood Rodgers, Inc.
5440 Reno Corporate Dr.
Reno, NV 89511



Daniel A. Bigrigg, P.L.S.
Nevada Certificate No. 19716

RIGHT-OF-WAY SKETCH PERMANENT EASEMENT 11550PE



15-152-04 (2)

LEGAL DESCRIPTION FOR PUBLIC UTILITY EASEMENT 11550PUE

EXHIBIT A
LEGAL DESCRIPTION FOR
PUBLIC UTILITY EASEMENT
(11550PUE)
APN 008-244-15

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11550PUE

COMMENCING at the southeast corner of said parcel, also being the intersection of the West right-of-way of Park Street and the North right-of-way of Old Glendale Road;

THENCE departing said corner and along said West right-of-way, North 00°08'27" East, 90 49 feet to the **POINT OF BEGINNING**;

THENCE departing said West right-of-way, North 44°51'33" West, 9.19 feet;

THENCE North 00°08'27" East, 6.50 feet;

THENCE North 89°51'33" West, 8.50 feet;

THENCE North 00°08'27" East, 10 00 feet;

THENCE South 89°51'33" East, 8.50 feet;

THENCE North 00°08'27" East, 10.69 feet to the South right-of-way of East Fourth Street;

THENCE along said South right-of-way, North 76°56'48" East, 6.66 feet to the northeast corner of said parcel, also being common to the aforementioned South right-of-way of East Fourth Street and the West right-of-way of Park Street,
THENCE departing said corner and along the aforementioned West right-of-way, South 00°08'27" West, 35.21 feet to the **POINT OF BEGINNING**;

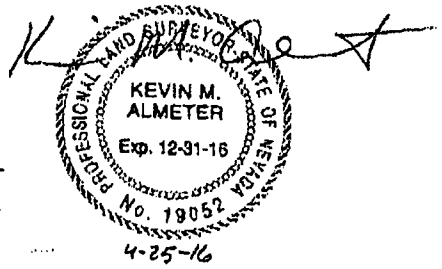
Containing 288 square feet of land, more or less.

See Exhibit A-1 attached hereto and made a part hereof.

BASIS OF BEARINGS:

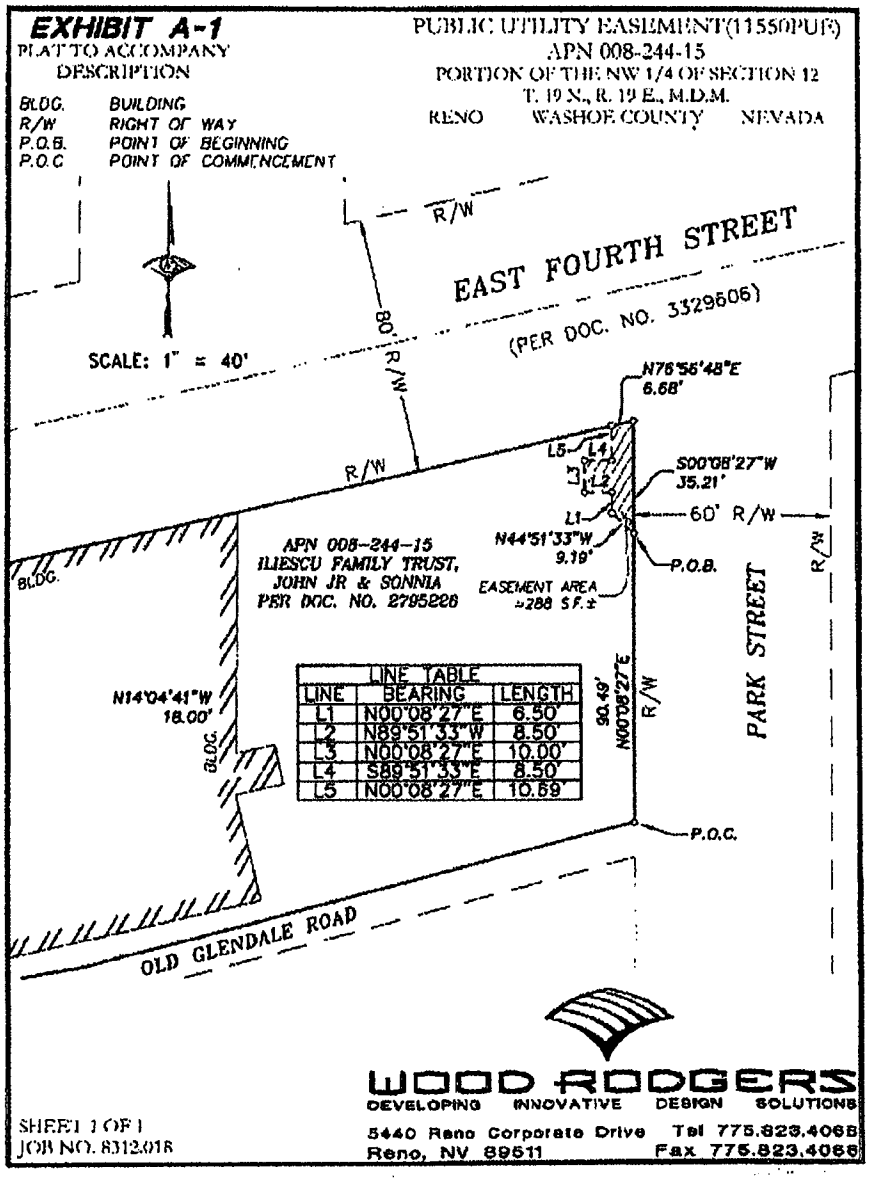
The Basis of Bearings for these descriptions is Nevada State Plane Coordinate System, West Zone, North American Datum of 1983/1994, High Accuracy Reference Network (NAD 83/94 – HARN)

Prepared by:
Wood Rodgers, Inc.
5440 Reno Corporate Dr.
Reno, NV 89511



Kevin M. Almeter, P.L.S.
Nevada Certificate No. 19052

RIGHT-OF-WAY SKETCH 11550PUE



PROPOSED TEMPORARY CONSTRUCTION EASEMENT LEGAL DESCRIPTION

EXHIBIT A
LEGAL DESCRIPTION FOR
TEMPORARY CONSTRUCTION EASEMENT
(11550TCE)
APN 008-244-15

All that certain real property situate within a portion of the Northwest One-Quarter (NW 1/4) of Section Twelve (12), Township Nineteen (19) North, Range Nineteen (19) East, Mount Diablo Meridian, City of Reno, County of Washoe, State of Nevada, being a portion of the parcel of land described in Grant, Bargain, Sale Deed Document No. 2795226, recorded on January 24, 2003, in the Official Records of Washoe County, Nevada, being more particularly described as follows:

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THENCE departing said Northeast corner and along the West right-of-way of Park Street, South 00°08'27" West, 8.31 feet to the **POINT OF BEGINNING**;

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1) South 84°48'43" West, 6.48 feet;
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3) North 11°03'54" West, 3.74 feet to the aforementioned South right-of-way of East Fourth Street;

THENCE along said South right-of-way, North 76°56'48" East, 5.00 feet;

THENCE departing said South right-of-way and along the following three (3) courses:

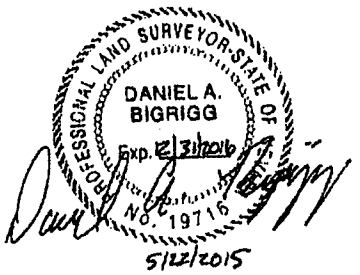
1) South 11°03'54" East, 1.99 feet;
2) South 53°07'35" East, 7.08 feet;
3) North 84°48'43" East, 5.02 feet to the aforementioned West right-of-way of Park Street and the **POINT OF BEGINNING**;

Containing 88 square feet of land, more or less.

See Exhibit A-1 attached hereto and made a part hereof.

The Basis of Bearings for this description is Nevada State Plane Coordinate System, West Zone, North American Datum of 1983/1994, High Accuracy Reference Network (NAD 83/94 – HARN)

Prepared by:
Wood Rodgers, Inc.
5440 Reno Corporate Dr.
Reno, NV 89511

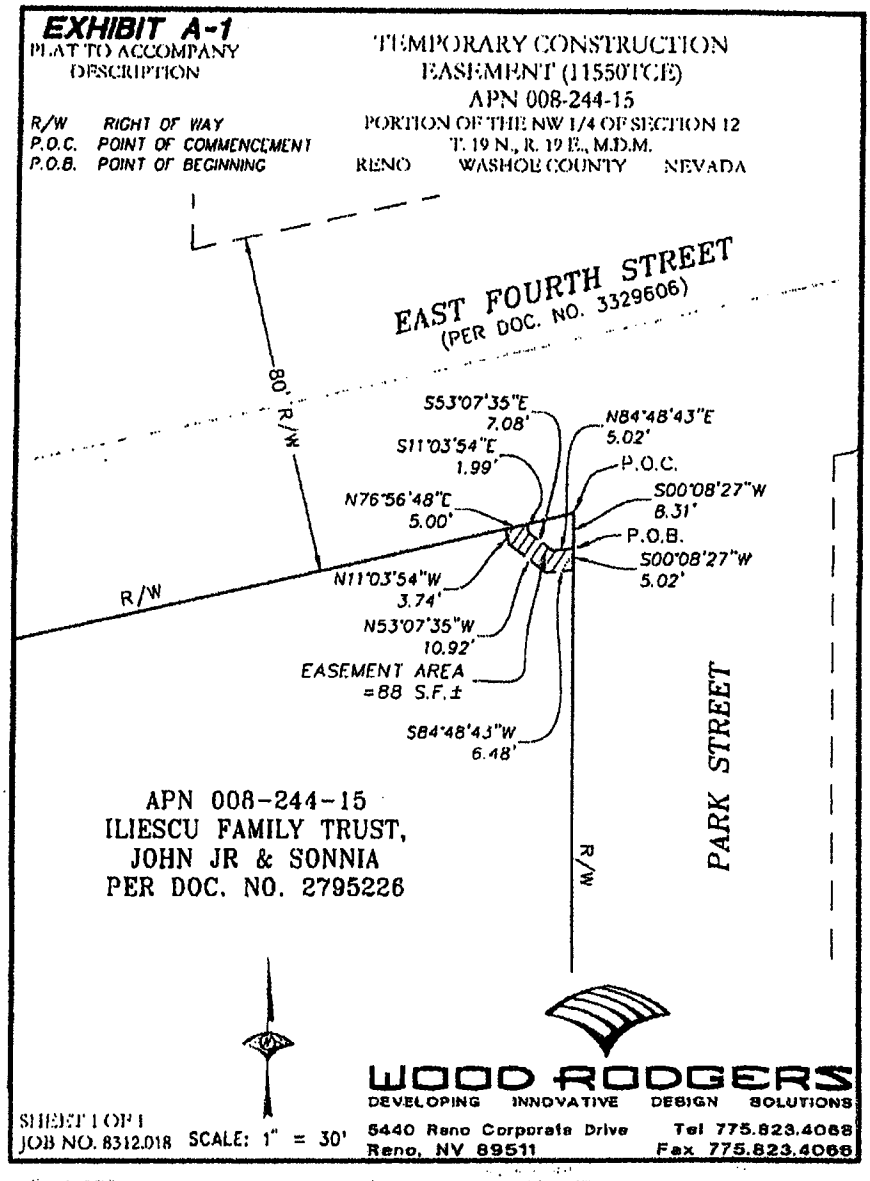


Daniel A. Bigrigg, P.L.S.
Nevada Certificate No. 19716

Page 1 of 1
(11550TCE)

APN 008-244-15

TEMPORARY CONSTRUCTION EASEMENT SKETCH 10550TCE



FILED
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2018-04-26 03:11:43 PM
Jacqueline Bryant
Clerk of the Court
Transaction # 6650430

2535/2540
Gordon H. DePaoli, Esq.
Nevada Bar No. 195
Dane W. Anderson, Esq.
Nevada Bar No. 6883
WOODBURN AND WEDGE
6100 Neil Road, Suite 500
Reno, Nevada 89511
Telephone: 775-688-3000
Facsimile: 775-688-3088
Email: gdepaoli@woodburnandwedge.com
Email: danderson@woodburnandwedge.com

Attorneys for Plaintiff, the Regional Transportation Commission of Washoe County

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY, a special purpose unit of the government, Plaintiff, v. JOHN ILIESCU, JR. and SONNIA ILIESCU, Trustees of The John Iliescu, Jr. and Sonnia Iliescu 1992 Family Trust; and DOES 1 – 20, inclusive; Defendants.	Case No.: CV16-02182 Dept. No.: 3

NOTICE OF ENTRY OF FINAL ORDER OF CONDEMNATION AND JUDGMENT

TO: ALL INTERESTED PARTIES:

PLEASE TAKE NOTICE that on the 26th day of April, 2018 a Final Order of Condemnation and Judgment signed April 24, 2018, was entered in this case. A copy of the Final Order of Condemnation and Judgment is attached hereto as **Exhibit 1**.

. . .

. . .

. . .

Affirmation pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

DATED: April 26, 2018.

WOODBURN AND WEDGE

By /s/ Dane W. Anderson
Gordon H. DePaoli, Esq.
Nevada Bar No. 195
Dane W. Anderson, Esq.
Nevada Bar No. 6883
Attorneys for Plaintiff The Regional Transportation Commission of Washoe County

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the law offices of Woodburn and Wedge, 6100 Neil Road, Suite 500, Reno, Nevada 89511, and that I caused to be served the foregoing document(s) described as follows:

NOTICE OF ENTRY OF FINAL ORDER OF CONDEMNATION AND JUDGMENT

On the party(s) set forth below by:

___ Placing an original or true copy thereof in a sealed envelope placed for collection and mailing in the United States Mail, at Reno, Nevada, postage prepaid, following ordinary business practices.

___ Personal delivery.

___ Email.

___ Federal Express or other overnight delivery.

X Electronically filed the foregoing with the Clerk of the Court by using the ECF system which will send a notice of electronic filing to the following:

Michael J. Morrison, Esq.
1495 Ridgeview Drive, Suite 220
Reno, NV 89519
venturelawusa@gmail.com

Attorneys for John Iliescu, Jr., and Sonnia Iliescu, Trustees of The John Iliescu, Jr. and Sonnia Iliescu 1992 Family Trust

Dated: April 26, 2018.

/s/ Dianne M. Kelling
An employee of Woodburn and Wedge

INDEX OF EXHIBITS

Exhibit #	Document Description	*No. Pages in Exhibit
1	Final Order of Condemnation and Judgment	11

* Number of Pages Does **Not** include the divider page marking the exhibit.

FILED
Electronically
CV16-02182
2018-05-03 12:52:31 PM
Jacqueline Bryant
Clerk of the Court
Transaction # 6661759

MICHAEL J. MORRISON, ESQ.
Nevada State Bar No. 1665
1495 Ridgeview Dr., #220
Reno, Nevada 89519
(775) 827-6300

Attorney for Defendants

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

* * * * *

THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY,
Plaintiff,

vs.

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU, JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; AND DOES 1-20,;

Defendants.
_____/

CASE NO. CV16-02182

DEPT. NO. 3

ORDER

Based on stipulation of counsel for the respective parties, and this Honorable Court's entry of a Final Order of Condemnation and Judgment, dated April 24, 2018 ("Order"), wherein this Court confirmed that, pursuant to NRS Chapter 37, Defendants were entitled to the total amount of $11,065.00 (the "Funds") as full and sole compensation for the condemned Property, and specifically provided that, once

such Funds are on deposit with the Clerk of this Court, Defendants could apply to this Court for the release of said Funds. Order, p. 3, sub-paragraphs (3), (4) and (5).

ACCORDINGLY, GOOD CAUSE APPEARING,

IT IS HEREBY ORDERED

That the Clerk of this Court shall forthwith expeditiously release the Funds on deposit in this case, in the total amount of $11,065.00 to the Defendants.

Dated: May 3, 2018

DISTRICT JUDGE

FILED
Electronically
CV16-02182
2018-09-26 04:04:55 PM
Jacqueline Bryant
Clerk of the Court
Transaction # 6899751 : cvera

4302
Gordon H. DePaoli, Esq.
Nevada Bar No. 195
Dane W. Anderson, Esq.
Nevada Bar No. 6883
WOODBURN AND WEDGE
6100 Neil Road, Suite 500
Reno, Nevada 89511
Telephone: 775-688-3000
Facsimile: 775-688-3088
Email: danderson@woodburnandwedge.com

Attorneys for Plaintiff, the Regional Transportation Commission of Washoe County

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY, a special purpose unit of the government, Plaintiff, v. JOHN ILIESCU, JR. and SONNIA ILIESCU, Trustees of The John Iliescu, Jr. and Sonnia Iliescu 1992 Family Trust; and DOES 1 – 20, inclusive; Defendants.	Case No.: CV16-02182 Dept. No.: 3

WITHDRAWAL AND RELEASE OF NOTICE OF LIS PENDENS

NOTICE IS HEREBY GIVEN that Plaintiff, The Regional Transportation Commission of Washoe County ("RTC") hereby withdraws and releases the Notice of Lis Pendens recorded with the Washoe County Recorder on October 25, 2016 as Document # 4646305. The lawsuit giving rise to the Notice of Lis Pendens has been resolved by the Court's Final Order of Condemnation and Judgment filed on April 26, 2018 and Recorded with the Washoe County Recorder on April 27, 2018 as Document #4809054. The premises affected by this Withdrawal and Release of Notice of Lis Pendens is a permanent easement, a public utility easement and a temporary

construction easement located upon portions of Washoe County Assessor Parcel Number ("APN") 008-244-15, metes and bounds descriptions and depictions, and is more particularly described in the attached **Exhibit 1**.

Affirmation pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

DATED: September 26, 2018.

WOODBURN AND WEDGE

By *_/s/ Dane W. Anderson_*
Gordon H. DePaoli, Esq.
Nevada Bar No. 195
Dane W. Anderson, Esq.
Nevada Bar No. 6883
Attorneys for Plaintiff The Regional Transportation Commission of Washoe County

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the law offices of Woodburn and Wedge, 6100 Neil Road, Suite 500, Reno, Nevada 89511, and that I caused to be served the foregoing document(s) described as follows:

WITHDRAWAL AND RELEASE OF NOTICE OF LIS PENDENS

On the party(s) set forth below by:

___ Placing an original or true copy thereof in a sealed envelope placed for collection and mailing in the United States Mail, at Reno, Nevada, postage prepaid, following ordinary business practices.

___ Personal delivery.

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x Electronically filed the foregoing with the Clerk of the Court by using the ECF system which will send a notice of electronic filing to the following:

Michael J. Morrison, Esq.
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Reno, NV 89519
venturelawusa@gmail.com

Attorneys for John Iliescu, Jr., and Sonnia Iliescu, Trustees of The John Iliescu, Jr. and Sonnia Iliescu 1992 Family Trust

Dated: September 26, 2018.

/s/ Dianne M. Kelling
An employee of Woodburn and Wedge

INDEX OF EXHIBITS

Exhibit #	Document Description	*No. Pages in Exhibit
1	Metes and bounds descriptions and depictions of portions of APN NO. 008-244-15	6

* Number of Pages Does **Not** include the divider page marking the exhibit.

FILED
Electronically
CV16-02182
2018-09-26 04:04:55 PM
Jacqueline Bryant
Clerk of the Court
Transaction # 6899751 : cvera

EXHIBIT 1

EXHIBIT 1

LEGAL DESCRIPTION FOR PE11550PE

EXHIBIT A
LEGAL DESCRIPTION FOR
PERMANENT EASEMENT
(11550PE)
APN 008-244-15

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The Basis of Bearings for this description is Nevada State Plane Coordinate System, West Zone, North American Datum of 1983/1994, High Accuracy Reference Network (NAD 83/94 – HARN)

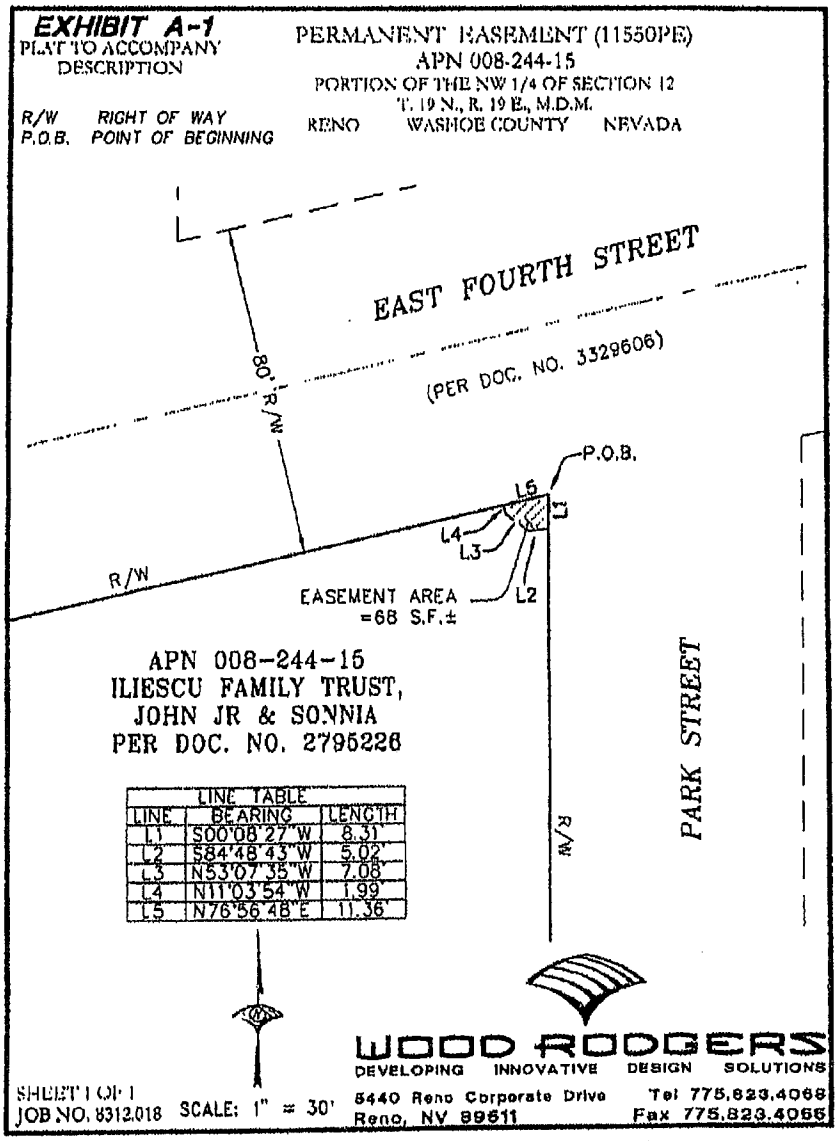
Prepared by:
Wood Rodgers, Inc.
5440 Reno Corporate Dr.
Reno, NV 89511

PROFESSIONAL LAND SURVEYOR STATE OF NEVADA
DANIEL A. BIGRIGG
Exp. 12/31/2016
No. 19716

Daniel A. Bigrigg, P.L.S.
Nevada Certificate No. 19716

4/21/2015

RIGHT-OF-WAY SKETCH PERMANENT EASEMENT 11550PE



LEGAL DESCRIPTION FOR PUBLIC UTILITY EASEMENT 11550PUE

EXHIBIT A
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PUBLIC UTILITY EASEMENT
(11550PUE)
APN 008-244-15

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11550PUE

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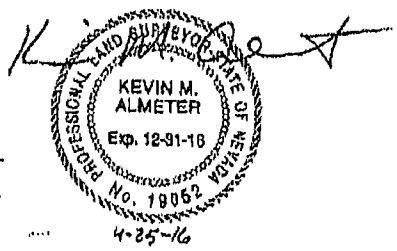

Kevin M. Almeter, P.L.S.
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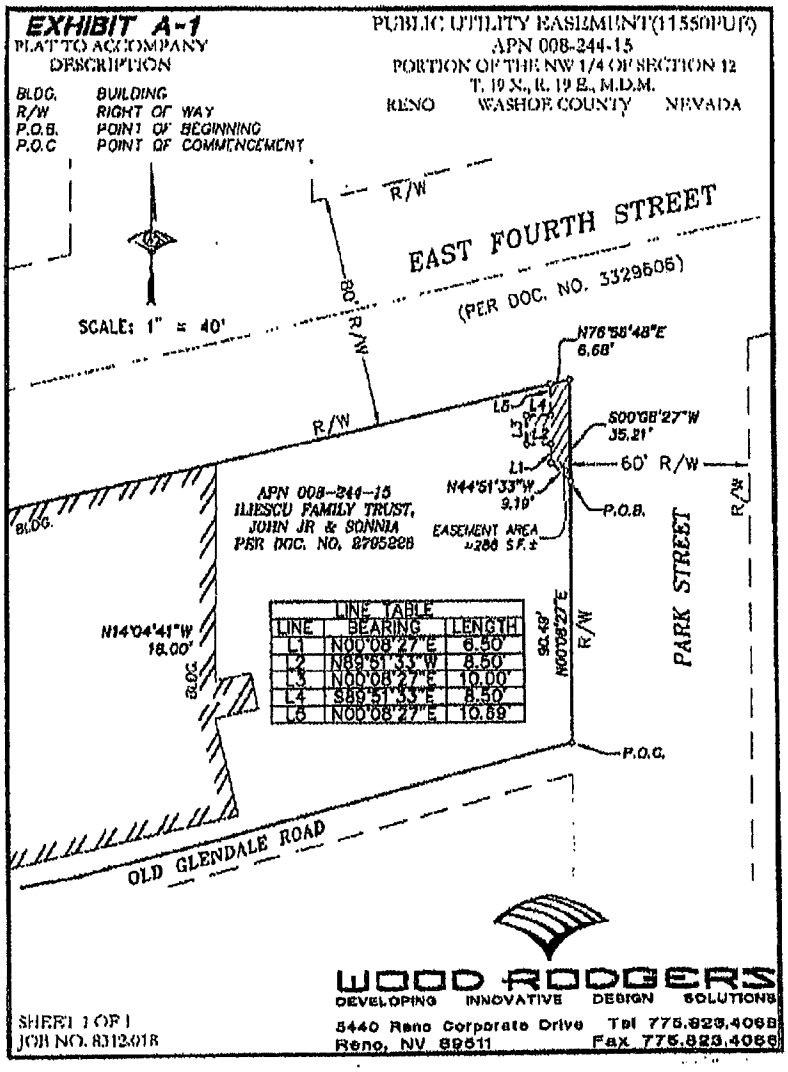

PROPOSED TEMPORARY CONSTRUCTION EASEMENT LEGAL DESCRIPTION

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LEGAL DESCRIPTION FOR
TEMPORARY CONSTRUCTION EASEMENT
(11550TCE)
APN 008-244-15

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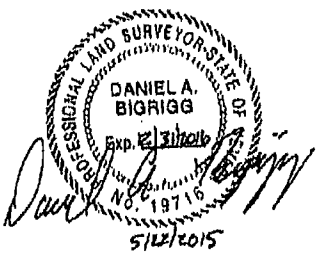


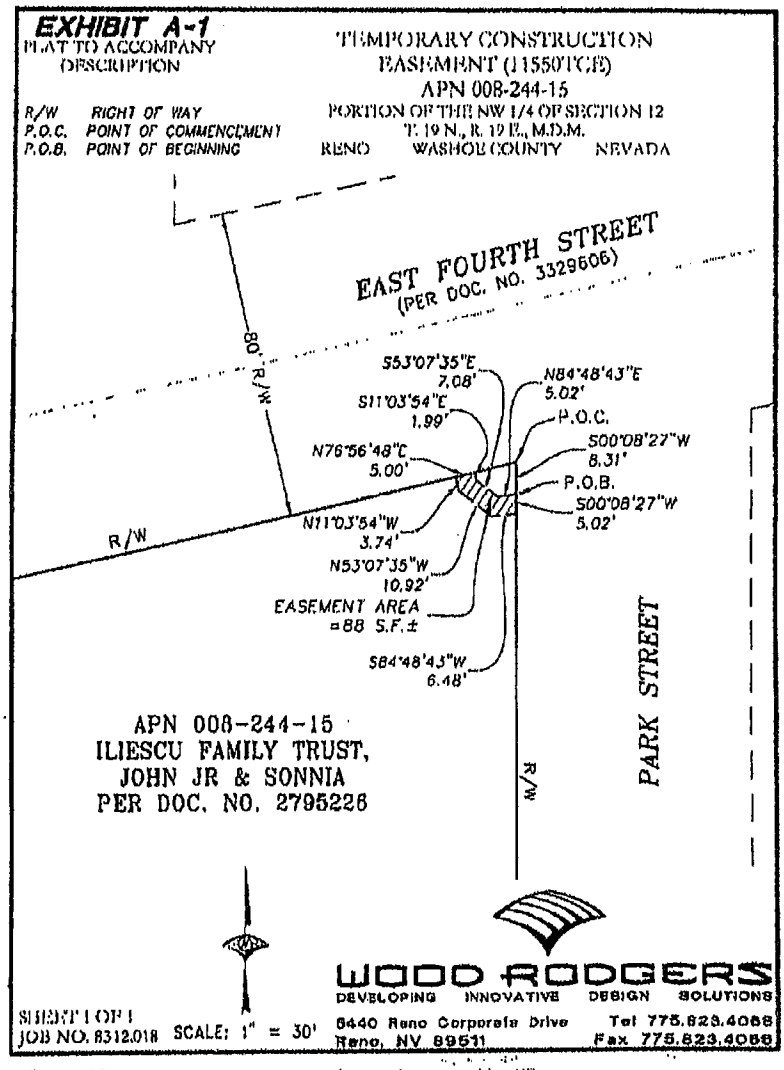
Daniel A. Bigrigg, P.L.S.
Nevada Certificate No. 19716

(11550TCE)

APN 008-244-15

15-152-04 (2)

TEMPORARY CONSTRUCTION EASEMENT SKETCH 10550TCE



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Jacqueline Bryant
Clerk of the Court
Transaction # 7140095 : yviloria

$1425

MICHAEL J. MORRISON, ESQ.
Nevada State Bar No. 1665
1495 Ridgeview Dr., #220
Reno, Nevada 89519
(775) 827-6300

Attorney for Plaintiffs

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

* * * * *

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU, JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an Individual; and SONNIA ILIESCU, an Individual, Plaintiffs, vs. THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1-40, Defendants.	CASE NO. DEPT. NO. **COMPLAINT** **(EXEMPTION FROM ARBITRATION - EQUITABLE RELIEF SOUGHT AND DAMAGES IN EXCESS OF $50,000)**

COME NOW JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU, JR. AND SONNIA ILIESCU 1992 FAMILY TRUST ("**Trust**"); JOHN ILIESCU, JR., an Individual ("**John**"); and SONNIA ILIESCU, an Individual ("**Sonnia"**), together sometimes referred to as "**Plaintiffs**", and as and for a Complaint against Defendants,and each of them, jointly and severally, allege as

follows:

PARTIES, JURISDICTION AND VENUE

1. Plaintiff Trust is the owner of the real property and improvements thereon located at 642 E. 4th St., Reno, NV 89501, Washoe County assessor parcel number 008 – 244 – 15 ("Property"). Plaintiffs John and Sonnia are the sole Trustees of the Trust and, as Individual Plaintiffs, are domiciled in and residents of, Washoe County, NV, and conduct business therein.

2. Defendant RTC is a special purpose unit of government, duly organized and existing under the laws of the state of Nevada. RTC's principal offices are located at 1105 Terminal Way, Reno, NV. The RTC is charged with providing regional transportation services. All Defendants are residents of and conduct business in Washoe County, NV.

Based on the facts set forth in paragraphs 1 and 2, above, Jurisdiction and Venue are proper in this Court and County.

3. In furtherance of its power to exercise the right of eminent domain to acquire a portion of Plaintiff's Property for public purposes, RTC initiated condemnation proceedings against the Property, allegedly needed for the construction of the Fourth Street/Prater Way RTC project, referred to herein as "the Project".

4. Plaintiff does not know the true names or capacities of the Defendants sued as DOES 1-40 and ROE CORPORATIONS 1-20, and therefore sues those Defendants by fictitious names. Plaintiff is informed and believes, and therefore alleges, that each of those Defendants is legally responsible for the claims for relief and the events and happenings referred to herein and caused damage to the Plaintiff and their Property. Plaintiff will seek leave of the Court to amend this Complaint to show their true names and capacities when the true identities of the fictitious Defendants have been determined.

5. At all relevant times, certain Defendants were the agents and/or

employees of certain co-Defendants and were acting within the course and scope of such agency and/or employment and with the permission and consent of such co-Defendants.

6. At all relevant times, the Defendants were working in concert with each other to engage in the conduct alleged in this Complaint, all in furtherance of the RTC's condemnation of the Property and conduct related to and directly impacting the Property and Project.

FACTUAL OVERVIEW

7. This action seeks damages and injunctive and declaratory relief against Defendants, and each of them, jointly and severally, for their respective willful, malicious and destructive trespass on and over, and damages to the Property, both before, during and after the work done on that portion of the Property not subject to the condemnation, and not involved in whatsoever nature in the Project, which, for purposes herein, shall be referred to as the "Remaining Property". For purposes of this action, and as referenced herein, the Remaining Property does not include the building and related improvements on the Property, but specifically does include all paved parking areas located on and constituting part of the Property.

8. To the extent that RTC and/or other Defendants had a limited form of temporary easement over the Remaining Property, RTC and/or the other Defendants, and each of them, surcharged, abused and far exceeded any reasonable use of any temporary easement, and were negligent in their respective conduct related to the Remaining Property.

9. Defendants RTC, ROE CORPORATIONS 1-20 and DOES 1-40, acting jointly and severally, intentionally and without the permission of plaintiff, on virtually every workday during the term of the Project, drove over and parked their respective vehicles, including personal vehicles, ranging from approximately 20-ton trucks, down to pick-up trucks, SUV's and automobiles, on the Remaining Property, sometimes

precluding Plaintiffs from using any portion of the Remaining Property. This conduct occurred without the consent of Plaintiff, and in fact, in total disregard of Plaintiffs' respective frequent objections to such unauthorized and illegal use of the Remaining Property. Plaintiff requested on many occasions that Defendants cease and desist in their respective use, abuse and damaging conduct on the Remaining Property, but Defendants ignored Plaintiff's requests.

Attached hereto as **Exhibit "1"** are photos of the many heavy vehicles which Defendants, and each of them, intentionally and maliciously caused to be placed on the Property and the Remaining Property on each and every work day throughout the term of the condemnation activities, and thereafter. Defendants continued to use the Property and Remaining Property as their personal parking area, all in an abusive disregard for the rights of Plaintiffs.

10. The constant use, weights of the vehicles and lengthy periods of parking by RTC and/or Defendants caused permanent damage to the Remaining Property, and precluded use of sections of the Remaining Property, all proximately caused by the willful and unauthorized use of the Remaining Property by RTC and/or the Defendants.

11. This conduct was the proximate cause of significant reparable and irreparable damages to the Remaining Property and to each of the respective Plaintiffs, including, but not limited to:

a) Loss of market value of the Remaining Property;

b) Discomfort and annoyance to Plaintiffs, and each of them;

c) Emotional distress (suffered by both John and Sonnia);

d) Loss of use of the Remaining Property by Plaintiffs, and each of them;

e) Costs of Property restoration; and

f) Physical damage to and destruction of the Property.

FIRST CAUSE OF ACTION
(Injunctive Relief)

12. Plaintiffs re-allege and incorporate by reference the allegations stated in paragraphs 1-11 of this Complaint, as though fully stated here.

13. Plaintiffs have a reasonable probability of success on the merits on each and all of the causes of action asserted in this Complaint.

14. As a direct and proximate result of the Defendants' conduct, jointly and severally, Plaintiffs are each, separately, suffering irreparable harm to their rights, titles and property interests, as well as their respective abilities to exercise their rights in and to the Property, including, but not limited to their respective rights:

a. to have full and exclusive control, use and possession of the Property, which were unlawfully violated and damaged by the Defendants, jointly and severally, including, but not limited to Defendants' breach of contract, breach of fiduciary duties/trust, misrepresentation, fraud, elder abuse, negligence, conversion for their own respective personal use and benefit, trespass, and conspiracy to engage in such conduct; and

b. to exercise their respective rights and derive all of the benefits associated with their ownership of and rights in and to the Property, which were unlawfully damaged by the Defendants' joint and several breach of contract, breach of fiduciary duties/trust, misrepresentation, fraud, elder abuse, negligence, conversion for their own respective personal use and benefit, trespass, and conspiracy to engage in such conduct.

15. Plaintiffs have no adequate remedy at law to terminate, correct or rectify the Defendants' unlawful conduct without judicial equitable relief, and such conduct is causing the Plaintiffs irreparable damage, none of which damage is able to be

adequately compensated by financial awards or damages. Compensatory damages are simply inadequate.

16. Plaintiffs are entitled to an immediate temporary and permanent injunction enjoining Defendants, and each of them, jointly and severally, and ordering them, jointly and severally, and their respective officers, directors, agents, managers, members, employees, agents, representatives, attorneys, successors and assigns, and those acting in concert with them, and all persons acting on their behalf, directly or indirectly, or acting for or in concert with them, to immediately cease and desist any and all conduct and actions to enter upon, use or otherwise pass over, on or through the Property.

17. The public's interest in seeing the harm and conduct stopped, as well as the relative hardships of the parties should the Court take or refuse to grant relief herein, weigh in favor of Plaintiffs, the owners of all rights, titles and interests in and to the Property, and their right to injunctive relief. Indeed, the purpose of the requested injunctive relief sought herein is to preserve the *status quo* and/or preserve a property interest, and the only parties to this action who have an undisputed and undeniable right to use the Property are the Plaintiffs.

18. Plaintiffs were each required to retain the services of an attorney to prosecute this action and are, therefore, each entitled to an award of legal fees, costs and expenses incurred herein.

19. Plaintiffs respectfully request that the bond required by NRCP 65(c) be for a *de minimis* amount, as Defendants have no basis or right in law or fact to ever use the Property. That right belongs solely to Plaintiffs.

WHEREFORE, Plaintiffs each pray for judgment as more particularly set forth herein.

SECOND CAUSE OF ACTION
(Breach of Contract)

20. Plaintiffs re-allege and incorporate by reference the allegations stated in

paragraphs 1-19 of this Complaint, as though fully stated here.

21. The Trust and RTC entered into valid agreement by which RTC was entitled to condemn and install utilities on a small portion of the Trust's Property, and the Trust received consideration for such right.

22. Defendants' respective conduct, as alleged in the causes for action set forth in this Complaint, constitutes a breach of the terms and conditions of the Trust-RTC agreement.

23. Defendants' conduct was motivated by self-interest, greed, and profit, and was willful and malicious.

24. As a direct and proximate result of each Defendants' conduct, the Trust and other Plaintiffs have each incurred general and special damages, each in excess of $15,000.00.

25. The PPE Shareholders/plaintiffs are each entitled to an award of costs, attorney's fees and expenses incurred herein.

WHEREFORE, Plaintiffs pray for judgment as more· particularly hereinafter set forth.

THIRD CAUSE OF ACTION
(Breach of the Covenant of Good Faith and Fair Dealing)

26 Plaintiffs re-allege and incorporate by reference the allegations stated in paragraphs 1-25 of this Complaint, as though fully stated here.

27. RTC and the other Defendants entered into valid agreements with Plaintiffs by which they exercised their respective condemnation activities.

28. Implied into each of those agreements is the covenant of good faith and fair dealing, all consistent with Nevada laws. Defendants were legally obligated to act in good faith in the performance of the agreements.

29. Plaintiffs each had justifiable expectations and relied on the fact that RTC and the other Defendants would act in good faith and deal fairly with the Plaintiffs and the Property, including but not limited to, conducting their activities and exercising

their condemnation rights and duties using due care, good faith and being respectful of any use of the Remaining Property. Plaintiffs and Defendants, and each of them, had a special relationship of trust between each Plaintiff and each Defendant. Each of the Plaintiffs also had a reasonable and justifiable expectation that they would each receive certain benefits consistent with the spirit and intent of the agreements.

30. By reason of the Defendants' aforementioned deliberate acts and conduct, the Defendants have acted in a manner that was in violation of and/or unfaithful to the purpose of the condemnation-related activities and agreement(s) and breached the covenant of good faith and fair dealing in violation of Nevada Law.

31. As a direct and proximate result of the Defendants' joint and several conduct, Plaintiffs have each incurred (a) general damages; (b) special damages; and (c) punitive, each class of such damages was in an amount in excess of $15,000.00.

32. Plaintiffs are each entitled to an award of costs, attorney's fees and expenses incurred herein.

WHEREFORE, Plaintiffs pray for judgment as more· particularly hereinafter set forth.

FOURTH CAUSE OF ACTION
(Breach of Fiduciary Duty/Breach of Trust)

33. Plaintiffs re-allege and incorporate by reference the allegations stated in paragraphs 1 to 32 of this Complaint, as though fully stated here.

34. In connection with their respective exercise of condemnation rights and duties, Defendants, jointly and severally, had fiduciary duties they owed to the Plaintiffs, and each of them.

35. RTC and the other Defendants facilitated, participated in and encouraged the conduct by Defendants, as set forth herein, which was in breach of trust and breach of fiduciary duties owed to each of the Plaintiffs by each of the Defendants.

36. Each of the Defendants knowingly assisted, facilitated and encouraged each of the other Defendants, together with the agents thereof, to engage in the conduct

described herein.

37. The Defendants, and each of them, were at all material times aware of the fiduciary duties owed by each of the Defendants to each of the Plaintiffs.

38. The Defendant RTC, as well as the other Defendants, knew, or should have known by exercising reasonable diligence and inquiry, that their respective conduct relating to the Remaining Property, was encouraging, facilitating and enabling in a breach of the fiduciary duty and trust each of the Defendants jointly and severally owed to each of the Plaintiffs in relation to their conduct relating to the Remaining Property.

39. The failure and refusal of the Defendants to honor and abide in accordance with the terms of the RTC-Trust agreement as and when demanded by Plaintiffs, and each of them, constitutes a breach of trust and breach of fiduciary duty by the Defendants, jointly and severally.

40. The breach of trust and breach of fiduciary duties owed by each of the Defendants to each of the Plaintiffs was motivated by self-interest, greed, and profit, and was willful and malicious.

41. As a direct and proximate result of each of the Defendants' respective conduct, each of the Plaintiffs have incurred general and special damages, each in excess of $15,000.00.

42. The Plaintiffs are each entitled to an award of costs, attorney's fees and expenses incurred herein from defendants, jointly and severally.

WHEREFORE, Plaintiffs pray for judgment as more· particularly hereinafter set forth.

FIFTH CAUSE OF ACTION
(Declaratory Relief)

43. Plaintiffs re-allege and incorporate by reference the allegations stated in paragraphs 1-42 of this Complaint, as though fully stated here.

44. Plaintiffs bring this claim pursuant to NRS Chapter 30, the Declaratory Judgment Act and NRCP 57.

45. A case of actual controversy exists between Plaintiffs and Defendants.

46. There is no basis in law or fact on which the Defendants can be found to have performed, or were excused from performance, under the RTC-Trust agreement, and said Defendants should not be entitled or allowed to have custody of, or control, or any right to pass on, over or through, or take any action of whatsoever nature relating to the Property owned solely and exclusively by Plaintiffs.

47. The Defendants' respective use of the Property and the Remaining Property caused irreparable damage to the Plaintiffs and their Property.

48. Plaintiffs are entitled to an order from this Court declaring the rights and relationships between and among the Plaintiffs and Defendants, and declaring that:

a. Defendant RTC totally failed and refused to properly and fully perform all terms and conditions of the RTC-Trust agreement and faithfully perform its condemnation activities.

b. The Trust and Plaintiffs John and Sonnia are the sole and exclusive legal and beneficial owners of the Property, and all rights, titles and interests thereto.

c. The Defendants have no right, title or interest in or to the Property, nor any right to pass over, through park on or use the Property;

d. Defendants knowingly and wrongfully used the Remaining Property for their respective personal purpose, including use thereof for parking their respective vehicles, and did so without paying compensation to Plaintiffs.

e. Defendants, and each of them, acting jointly and severally, wrongfully and knowingly parked their respective vehicles on the Remaining Property, causing extensive and, potentially irreparable

damage to the Property.

WHEREFORE, the Plaintiffs pray for judgment as more particularly set forth herein.

SIXTH CAUSE OF ACTION
(Waste)

49. Plaintiffs re-allege and incorporate by reference the allegations stated in paragraphs 1-48 of this Complaint, as though fully stated here.

50. The conduct of Defendants, and their respective agents and associates, constitutes acts constituting waste to the Property. Accordingly, pursuant to NRS 40.150, each Plaintiff is entitled to treble (3X) damages.

51. Defendants' acts caused permanent damage and lasting injury to the Property, to the prejudice of each Plaintiff, as each Plaintiff has a legally cognizable interest in the Property.

52. As a direct and proximate result of each Defendant's conduct, plaintiffs have each incurred general and special damages, each in excess of $15,000.00.

53. Defendant Johnson's conduct was intentional, malicious, and oppressive, for which the Plaintiffs are each entitled to recover punitive damages in excess of $15,000.00.

54. The Plaintiffs are each entitled to an award of costs, attorney's fees and expenses incurred herein.

WHEREFORE, Plaintiffs pray for judgment as more· particularly hereinafter set forth.

SEVENTH CAUSE OF ACTION
(Conversion)

55. Plaintiffs re-allege and incorporate by reference the allegations stated in paragraphs 1-54 of this Complaint, as though fully stated here.

56. The Defendants have each, motivated by self-interest, greed, and profit,

and based upon their respective conduct, as alleged in this Complaint, distinctly, intentionally and wrongfully engaged in innumerable acts of dominion and control over portions of the Property for their own use and benefit, and to the exclusion and denial of, and inconsistent with the rights of Plaintiffs to use and enjoy the Property.

57. Such conduct, as described herein, was committed in derogation, exclusion and defiance of each Plaintiff's rights, titles and interests in and to the Property, together with John's and Sonnia's respective rights and interests in the Trust.

58. As a direct and proximate result of the Defendants' joint and several conduct, the Plaintiffs have each incurred general and special damages, each class of damages in excess of $15,000.00.

59. The Defendants' conduct was intentional, malicious, and oppressive, for which the Plaintiffs are each entitled to recover punitive damages in excess of $15,000.00.

60. The Plaintiffs are each entitled to an award of costs, attorney's fees and expenses incurred herein.

WHEREFORE, Plaintiffs pray for judgment as more· particularly hereinafter set forth.

EIGHTH CAUSE OF ACTION
(Trespass)

61. Plaintiffs re-allege and incorporate by reference the allegations stated in paragraphs 1-60 of this Complaint, as though fully stated here.

Defendants jointly and severally conducted an invasion of the Property, including the Remaining Property, all owned of record and belonging solely and exclusively to the Trust, of which John and Sonnia are the sole Trustees and Beneficiaries.

62. The intrusion by Defendants, and each of them, was done intentionally and maliciously, with total disregard of the rights, titles and interests of Plaintiffs.

63. As a direct and proximate result of the conduct of Defendants, and each

of them, Plaintiffs have each incurred (a) general damages; and (b) special damages, each in excess of $15,000.00.

64. The conduct of Defendants, and each of them, was intentional, malicious, and oppressive, for which the Plaintiffs are each entitled to recover punitive damages in excess of $15,000.00.

65. The Plaintiffs are each entitled to an award of costs, attorney's fees and expenses incurred herein.

WHEREFORE, Plaintiffs pray for judgment as more· particularly hereinafter set forth.

NINTH CAUSE OF ACTION
(Civil Conspiracy)

66. Plaintiffs re-allege and incorporate by reference the allegations stated in paragraphs 1-65 of this Complaint, as though fully stated here.

67. Based upon the acts and conduct of the , and each of them, as alleged in the causes of action set forth in this Complaint, the Defendants, acting together for their own advantage, by agreeing to and acting in concert in furtherance of such agreement, carried out a scheme that was planned and intended to accomplish the unlawful objectives and conduct alleged herein, all for the purpose of harming the Plaintiffs and benefitting the Defendants, and each of them.

68. The Defendants, jointly and severally, engaged in a conspiracy to perform the acts and conduct set forth herein.

69. As a direct and proximate result of the conduct of Defendants, and each of them, the Plaintiffs have each incurred general and special damages, each in excess of $15,000.00.

70. The conduct of Defendants, and each of them, was intentional and/or negligent, malicious, and oppressive, for which the Plaintiffs are each entitled to recover punitive damages in excess of $15,000.00.

71. The Plaintiffs are each entitled to an award of costs, attorney's fees and

expenses incurred herein.

WHEREFORE, Plaintiffs pray for judgment as more· particularly hereinafter set forth.

TENTH CAUSE OF ACTION
(Negligence)

72. Plaintiffs re-allege and incorporate by reference the allegations stated in paragraphs 1-71 of this Complaint, as though fully stated here.

73. The conduct of Defendants, and each of them, as described in each and all of the causes of action set forth in this Complaint, constitutes a breach of duty and negligence towards Plaintiffs, and each of them.

74. As a direct and proximate result of such conduct, each of the Plaintiffs sustained damages, and continues to suffer damages. In addition, Plaintiffs John and Sonnia each suffer pain and discomfort, as well as mental and emotional distress, together with pain and disabilities, including, but not limited to, mental and psychological problems, including depression and loss of sleep and enjoyment of life.

75. As a further direct and proximate result of such conduct, each Plaintiff has incurred general damages in a sum in excess of $15,000.

76. As a further direct and proximate result of said conduct, each Plaintiff has incurred special damages, the full nature and extent of which have not yet been determined. Plaintiffs will amend this Complaint to conform to proof at the time of trial.

77. The conduct of Defendants, and each of them, acting jointly and severally, was willful, wanton and reckless and each Plaintiff is, thereby, entitled to an award of punitive damages in a sum in excess of $15,000.

78. Plaintiff was required to retain the services of an attorney to prosecute this action and is, therefore, entitled to an award of legal fees, costs and expenses incurred herein.

WHEREFORE, Plaintiff prays for judgment as more particularly hereinafter set

forth.

ELEVENTH CAUSE OF ACTION
(Elder Abuse)

79. Plaintiffs re-allege and incorporate by reference the allegations stated in paragraphs 1-78 of this Complaint, as though fully stated here.

80.. Plaintiffs John and Sonnia are each over 60 years of age; in fact, John is 92 years old. John and Sonnia are each in the class of persons afforded protection under the Nevada "Elder Abuse, Neglect, Exploitation & Isolation" Laws, codified in NRS 200.5091, *et seq.*

81. Elder abuse in Nevada is defined as the ***willful and unjustified infliction of pain, injury, or mental anguish***, or the deprivation of food, shelter, clothing, or services which are necessary to maintain physical or mental health. Therefore, it is a broad offense which encompasses any behavior that can cause physical or mental harm to a person aged 60 or older. NRS 200.5092.

And very significantly and specifically in this case, NRS 200.5092(c) provides:

> (c) Infliction of psychological or emotional anguish, pain or distress on an older person or a vulnerable person through any act, including, without limitation:
> (1) Threatening, controlling or socially isolating the older person or vulnerable person;
> (2) Disregarding the needs of the older person or vulnerable person; or
> (3) ***Harming, damaging or destroying any property of the older person or vulnerable person***, including, without limitation, pets.

82. The acts and conduct of Defendants, and each of them, acting jointly and severally, intentionally and/or negligently and recklessly caused "HARM, DAMAGE AND DESTRUCTION TO THE PROPERTY OF AN OLDER PERSON", namely, Plaintiff John and Plaintiff Sonnia, who each, separately, suffered, and continue to suffer, severe psychological and emotional anguish, pain and distress, with physical manifestations, as a result of the conduct of Defendants, and each of them, all as

described herein. Plaintiffs John and Sonnia each sought medical attention for his/her respective injuries as of a direct and proximate result of the conduct of Defendants, and each of them, and continued for some time to require medical care and treatment, even through the date of this Complaint.

83. Defendants, and each of them, jointly and severally, conspired and agreed to engage in the abuse and abusive conduct described herein, all in violation of NRS 200.50995.

84. As a continuing direct and proximate result of such conduct, Plaintiffs John and Sonnia each sustained injuries to his/her body and mind, and suffered, and continues to suffer anxiety, depression, loss of sleep, loss of appetite, mental distress and emotional distress.

85. As a further direct and proximate result of such conduct, Plaintiffs John and Sonnia have each incurred general damages in a sum in excess of $15,000.

86. As a further direct and proximate result of said conduct, Plaintiffs John and Sonnia have each incurred special damages, the full nature and extent of which have not yet been determined. Plaintiffs will amend this Complaint to conform to proof at the time of trial.

87. The conduct of Defendants, and each of them, was willful, wanton and reckless and Plaintiff John and Plaintiff Sonnia are each, separately, thereby entitled to an award of punitive damages in a sum in excess of $15,000.

88. Plaintiffs John and Sonnia were each required to retain the services of an attorney to prosecute this action and are, therefore, each entitled to an award of legal fees, costs and expenses incurred herein.

WHEREFORE, Plaintiffs John and Sonnia pray for judgment as more particularly hereinafter set forth.

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TWELFTH CAUSE OF ACTION
(Intentional and/or Negligent Infliction of Emotional Distress; Tort of Outrage)

89. Plaintiffs re-allege and incorporate by reference the allegations stated in paragraphs 1-88 of this Complaint, as though fully stated here.

90. Plaintiffs John and Sonnia are each over 60 years of age; in fact, John is 92 years old. Upon information and belief, Defendants each knew, or should have known that John and Sonnia were elderly, suffered illness and disabilities.

91. As a direct and proximate cause of the egregious and mean-spirited acts and conduct of Defendants, and each of them, acting jointly and severally, intentionally and/or negligently and recklessly, in an extreme and outrageous manner, with either the intention of, or reckless disregard for causing John and Sonnia to each suffer debilitating, severe and extreme emotional distress. Plaintiff John and Plaintiff Sonnia, each, separately, suffered, and continue to suffer, severe psychological and emotional anguish, pain and distress, with physical manifestations, as a result of the conduct of Defendants, and each of them, all as described herein. Plaintiffs John and Sonnia each sought medical attention for his/her respective injuries as of a direct and proximate result of the conduct of Defendants, and each of them, and continued for some time to require medical care and treatment, even through the date of this Complaint.

92. As a continuing direct and proximate result of such conduct, Plaintiffs John and Sonnia each sustained injuries to his/her body and mind, and suffered, and continues to suffer anxiety, depression, loss of sleep, loss of appetite, mental distress and emotional distress.

93. As a further direct and proximate result of such conduct, Plaintiffs John and Sonnia have each incurred general damages in a sum in excess of $15,000.

94. As a further direct and proximate result of said conduct, Plaintiffs John and Sonnia have each incurred special damages, the full nature and extent of which have not yet been determined. Plaintiffs will amend this Complaint to conform to

proof at the time of trial.

95. The conduct of Defendants, and each of them, was willful, wanton and reckless and Plaintiff John and Plaintiff Sonnia are each, separately, thereby entitled to an award of punitive damages in a sum in excess of $15,000.

96. Plaintiffs John and Sonnia were each required to retain the services of an attorney to prosecute this action and are, therefore, each entitled to an award of legal fees, costs and expenses incurred herein.

WHEREFORE, Plaintiffs John and Sonnia pray for judgment as more particularly hereinafter set forth.

REQUEST FOR JUDGMENT/PRAYER FOR RELIEF

Plaintiffs request a judgment in favor of each of the Plaintiffs, separately, and against each of the Defendants, jointly and severally, as follows:

1. An *Ex Parte* Temporary Restraining Order and Order setting an immediate hearing on a preliminary injunction, as set forth in the **FIRST CAUSE OF ACTION**;
2. For judgment in favor of each Plaintiff and against each Defendant, jointly and severally, on all causes of action set forth herein.
3. An Order consolidating the preliminary injunction hearing with a trial on the merits;
4. An injunction consistent with the **FIRST CAUSE OF ACTION**;
5. An Order granting declaratory relief, consistent with the **FIFTH CAUSE OF ACTION**;
6. General damages in excess of $15,000.00 in favor of each of the Plaintiffs and against each of the Defendants, jointly and severally;
7. Punitive damages in favor of each of the Plaintiffs and against each of the Defendants, jointly and severally, in a sum in excess of $15,000 each;

8. Reasonable attorney's fees and costs incurred in this action in favor of the Plaintiffs and against the Defendants, jointly and severally;

9. Special damages according to proof in favor of each Plaintiff and against each Defendant, jointly and severally, Plaintiff will amend this Complaint to conform to proof at the time of trial;

10. For a jury trial on all issues raised herein; and

11. Such other and further relief as this Court deems just and equitable.

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the document to which this Affirmation is attached does not contain the social security number of any person.

DATED this 25th day of February, 2019.

_____*/s/ Michael J. Morrison*_____

Michael J. Morrison, Esq.
Nevada State Bar No. 1665
1495 Ridgeview Dr., #220
Reno, Nevada 89519
(775) 827-6300

Attorney for Plaintiffs

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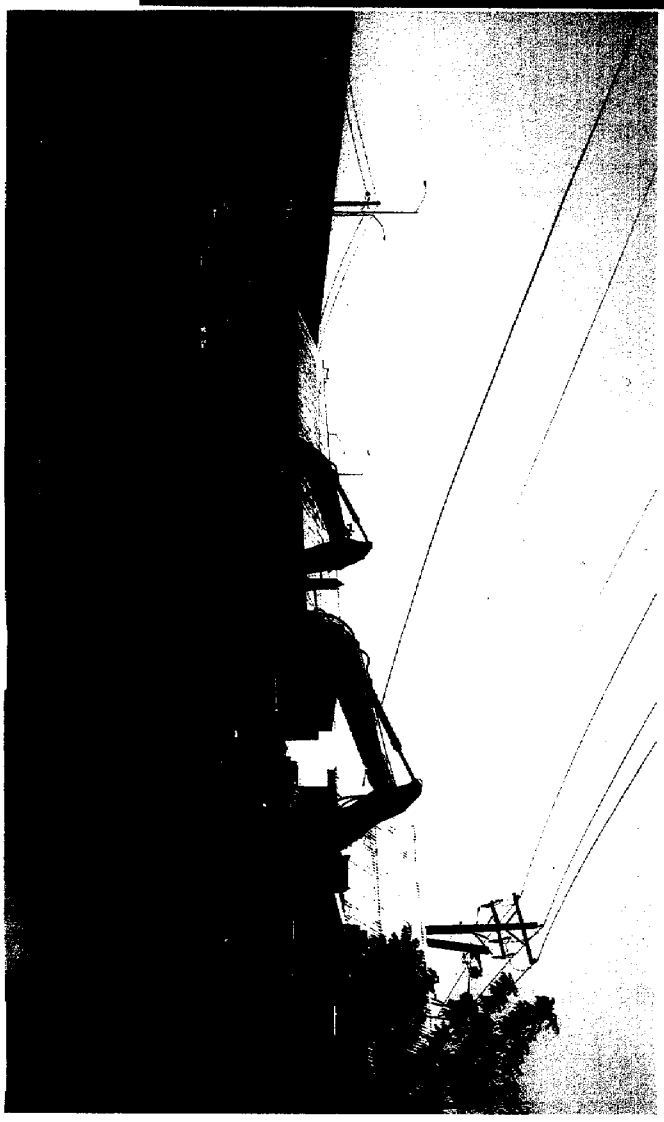
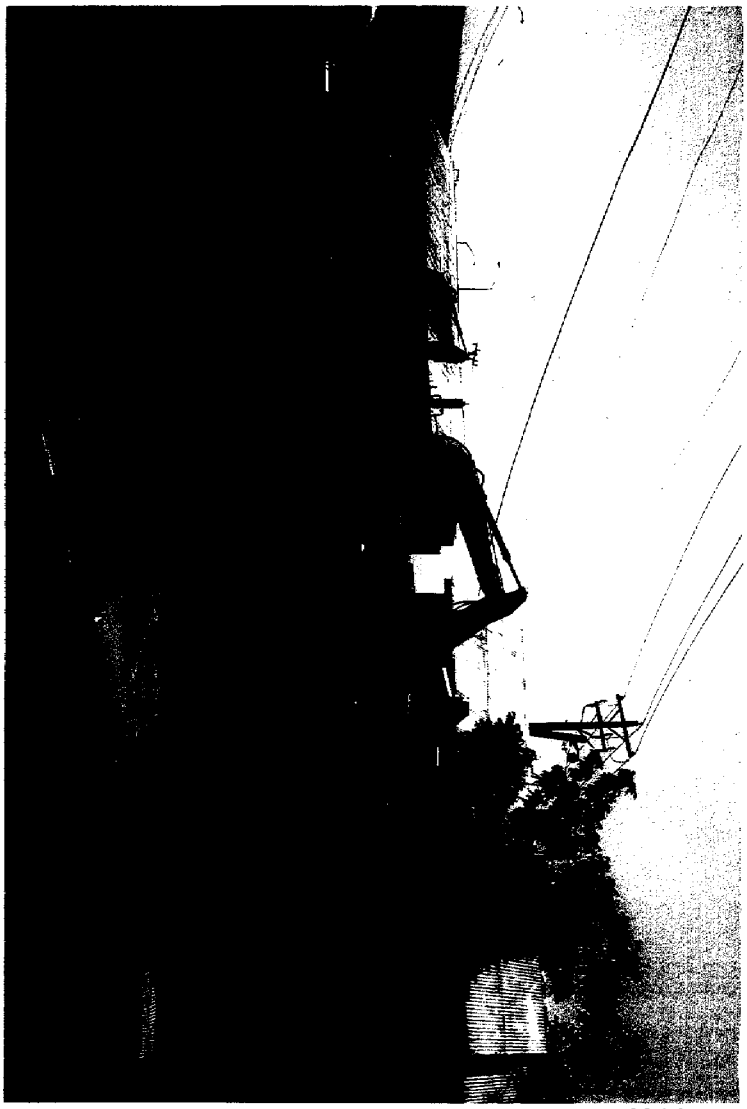
Jacqueline Bryant
Clerk of the Court
Transaction # 7140095 : yviloria

EXHIBIT "1"







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Jacqueline Bryant
Clerk of the Court
Transaction # 7349801

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU, JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an Individual; and SONNIA ILIESCU, an Individual,

Plaintiffs,

vs.

THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1-40,

Defendants.

_____/

Case No. CV19-00459

Dept. No. 15

ORDER TO SHOW CAUSE

The complaint in this case was filed on February 27, 2019. NRCP 4(e) provides in part:

> (1) **In General.** The summons and complaint must be served upon a defendant no later than 120 days after the complaint is filed, unless the court grants an extension of time under this rule.
> (2) **Dismissal.** If service of the summons and complaint is not made upon a defendant before the 120-day service period — or any extension thereof — expires, the court must dismiss the action, without prejudice, as to that defendant upon motion or upon the court's own order to show cause.

NRCP 4(d) requires proof of service to be filed with the court within "the time permitted for the defendant to respond to the summons." The 120 day deadline to effect service of process expired June 28, 2019. To date there has been no service shown and this case remains without resolution.

Plaintiff shall file proof of service or request an extension of time as required by NRCP 4(e)(4) showing good cause within 20 days. Should Plaintiff fail to file the proof or show cause as ordered, this case will be dismissed pursuant to NRCP 4(e)(2) without further notice from this Court.

IT IS SO ORDERED.

Dated: July 15th, 2019.

David A. Hardy
District Court Judge

CERTIFICATE OF SERVICE

I certify that I am an employee of the Second Judicial District Court of the State of Nevada, in and for the County of Washoe; that on the 1 day of July, 2019, I electronically filed the foregoing with the Clerk of the Court system which will send a notice of electronic filing to the following:

MICHAEL J. MORRISON, ESQ. for Plaintiffs

Further, I certify that I deposited in the county mailing system for postage and mailing with the U.S. Postal Service in Reno, Nevada, a true copy of the foregoing addressed to:

N/A

Department 15 Judicial Assistant

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Jacqueline Bryant
Clerk of the Court
Transaction # 7386969 : yviloria

MICHAEL J. MORRISON, ESQ.
Nevada State Bar No. 1665
1495 Ridgeview Dr., #220
Reno, Nevada 89519
(775) 827-6300

Attorney for Plaintiff

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

* * * * *

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU, JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an Individual; and SONNIA ILIESCU, an Individual,

Plaintiffs,

vs.

THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1-40,

Defendants.

CASE NO. CV19-00459

DEPT. NO. 15

MOTION FOR EXTENSION OF TIME

COME NOW JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU, JR. AND SONNIA ILIESCU 1992 FAMILY TRUST("**Trust**"); JOHN ILIESCU, JR., an Individual ("**John**"); and SONNIA ILIESCU, an Individual ("**Sonnia"**), together sometimes referred to as "**Plaintiffs**", and respectfully submit this Motion for Extension of Time ("Motion") pursuant to the Order to Show Cause entered by this Court on July 1, 2019, based on the following:

POINTS AND AUTHORITIES

NRCP 4 (e)(4) provides, in pertinent part, the court must first determine (1) whether good cause exists for the plaintiffs' failure to timely file the motion for an extension before the court considers (2) whether good cause exists for granting an extension of the service period. Very significantly, the determination of "good cause" is within the district court's discretion. See *Lacey v. Wen-Neva, Inc.*, 109 Nev. 341, 849 P.2d 260 (1993).

Good cause exists for the plaintiffs' failure to timely file the motion – NRCP 4 (e)(3)and (4)

In *Scrimer v. Eighth Judicial Dist. Court*, 116 Nev. 507, 998 P.2d 1190 (2000), the Nevada Supreme Court addressed considerations governing guidelines applicable to the analysis of whether good *cause exists* for a district court to grant an extension of time to file a motion within the 120-day period.

In making such analysis, the Court held that the district court should analyze the following considerations, with no single consideration controlling the outcome:

> (1) difficulties in locating the defendant; (2) the defendant's efforts at evading service or concealing improper service until after the 120-day period has lapsed; (3) the plaintiff's diligence in attempting to serve the defendant; (4) difficulties encountered by counsel; (5) the running of the applicable statute of limitations; (6) the parties' good faith attempts to settle the litigation during the 120-day period; (7) the lapse of time between the end of the 120-day period and the actual service of process on the defendant; (8) the prejudice to the defendant caused by the plaintiff's delay in serving the defendant; (9) the defendant's knowledge of the existence of the lawsuit; and (10) any extensions of time for service granted by the district court. Underlying these considerations is the policy behind N.R.C.P. 4(i) [*now replaced by NRCP 4(e)(4)*] to encourage the diligent prosecution of complaints; however, the rule was not adopted to become an automatic sanction when a plaintiff fails to serve a complaint within 120 days after filing. Scrimer v. Eighth Judicial Dist. Court, 116 Nev. 507, 998 P.2d 1190 (2000), cited, Civil Serv. Comm'n v. Second Judicial Dist. Court, 118 Nev. 186, at 190, 42 P.3d 268 (2002), cited, *Civil Serv. Comm'n v. Second Judicial Dist. Court*, 118 Nev. 186, at 190, 42 P.3d 268 (2002).
>
> *Id.*, at 511 and 516.

Plaintiffs respectfully advise that, of the ten (10) factors articulated by the Court, only numbers 4, 5, 7 and 8 are relevant for purposes of this Motion.

Factor #4 - Difficulties encountered by counsel

The undersigned counsel for Plaintiffs respectfully advises the Court that the difficulties attendant with his personal health issues has been the principal source of the delay occasioned herein. *See, e.g.,* *Domino v. Gaughan*, 103 Nev. 582, 747 P.2d 236 (1987)

Shortly after filing this case, counsel suffered significant neurological and spinal injuries and has been undergoing care, testing, treatment and rehabilitation at the V. A. Hospital, as well as at numerous medical clinics and medical treatment facilities in the Reno area. This has negatively affected counsel's ability to work.

Factor #5 - The running of the applicable statute of limitations

In the event that this Court dismisses this case, pursuant to NRCP 4, some of the claims asserted herein may be barred by the applicable statute of limitations, dependent on the facts and circumstances relating to each claim, and thus, when the claim arose.

If that occurs, Plaintiffs will be forever denied an opportunity to have their day in court on such claims. See, e.g., *Id.* at 584, 747 P.2d at 237. The court there noted that the District Court may consider "if the applicable statute of limitations would bar the refiled action…." *Id.* Which it may in Plaintiffs' case.

Factor #7- The lapse of time between the end of the 120-day period and the actual service of process on the defendant

A total of 24 calendar days have elapsed since the end of the 120-day period, and counsel represents to the Court that, if granted an extension hereunder, plaintiffs will effect service within 10 calendar days after entry of the order of extension.

Factor #8 - The prejudice to the Defendant caused by the Plaintiffs' delay in serving the Defendant

Plaintiffs respectfully submit that Defendant has not been prejudiced in any respect by the delay in service. Indeed, the condemned property related to the claims has been in the sole and exclusive possession and control of the RTC for

nearly 2 years now, and nothing raised by the claims herein seek to or will affect the condemned property. All improvements on such property have been completed and are currently being used by the RTC.

Moreover, since the complaint and summons herein have not been served on the RTC, it was unaware of the case and the claims herein, and have continued to use the condemned property for its intents and purposes without any demonstrable effect by this case being filed, but unserved.

Based on the discussion set forth above, Plaintiffs respectfully submit that the forgoing facts and circumstances support a showing of "good cause" for Plaintiffs' failure to file a motion for extension within the statutory 120-day period.

Good cause exists for granting an extension of the service period - NRCP 4 (e)(3)and (4)

Plaintiffs hereby incorporate by reference the analysis contained on pages 2 and 3, *supra*.

At this point, it should be noted that the Court in *Scrimer* concluded that there is no automatic sanction for failure to serve within 120 days. *Id.*

Rather, the Court concluded that the district court should use a "balanced and multifaceted analysis" to determine whether *good cause* exists pursuant to N.R.C.P. 4(i) [*now replaced by NRCP 4(e)(4)*] to make such determination. *Id.*

Applying this "balanced and multifaceted analysis" standard pronounced by the *Scrimer* Court, Plaintiffs respectfully submit that the foregoing facts and circumstances, together with the legal authorities set forth above, support a finding herein that "good cause" exists for granting an extension of the service period.

Finally, when making a determination under NRCP 4(i) [*now replaced by NRCP 4(e)(4)*], the district court should recognize that "good public policy dictates that cases be adjudicated on their merits." *Kahn v. Orme*, 108 Nev. 510, 516, 835 P.2d 790,

794 (1992) (citing *Hotel Last Frontier v. Frontier Prop*., 79 Nev. 150, 155-56, 380 P.2d 293, 295 (1963)).

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the document to which this Affirmation is attached does not contain the social security number of any person.

CERTIFICATE OF MAILING

Not Applicable.

DATED this 22nd day of July, 2019.

_____*/s/ Michael J. Morrison*_____

Michael J. Morrison, Esq.
Nevada State Bar No. 1665
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(775) 827-6300

Attorney for Plaintiffs

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IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU, JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an Individual; and SONNIA ILIESCU, an Individual,

Plaintiff,

vs.

THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1-40,

Defendants.
_____/

Case No. CV19-00459

Dept. No. 15

ORDER ENLARGING TIME FOR SERVICE

Before this Court is Plaintiffs' Motion for Extension of Time, dated July 22, 2019. The complaint was filed February 27, 2019. Plaintiffs request an additional ten days from the entry of any order granting the requested extension to effect service upon Defendant, RTC. This is Plaintiffs' first request to enlarge time for service.

NRCP 4(e) provides in relevant part: [1]

(e) **Time Limit for Service.**

[1] The NRCP were revised and recoded effective March 1, 2019, but the case law interpreting NRCP 4(i) remains applicable.

> (1) **In General.** The summons and complaint must be served upon a defendant no later than 120 days after the complaint is filed, unless the court grants an extension of time under this rule.
>
> ...
>
> (4) **Failure to Make Timely Motion to Extend Time.** If a plaintiff files a motion for an extension of time after the 120-day service period — or any extension thereof — expires, the court must first determine whether good cause exists for the plaintiff's failure to timely file the motion for an extension before the court considers whether good cause exists for granting an extension of the service period. If the plaintiff shows that good cause exists for the plaintiff's failure to timely file the motion and for granting an extension of the service period, the court must extend the time for service and set a reasonable date by which service should be made.

"The determination of good cause is within the district court's discretion." Scrimer v. District Court, 116 Nev. 507, 513, 998 P.2d 1190, 1193-94 (2000). When making a determination under NRCP 4(e), this Court exercises its discretion in consideration of the policy behind NRCP 4(e)—to encourage the diligent prosecution of complaints and adjudication on their merits. Scrimer, 116 Nev. at 516–17. Service of process springs from the Due Process Clause of the Fifth Amendment, which mandates litigants have adequate notice of proceedings against them. RDP Technologies, Inc. v. Cambi AS, 800 F. Supp. 2d 127 (D.D.C. 2011). The primary goal behind NRCP 4 is to ensure defendants receive actual notice of an action brought against them and adjudication of said action on the merits.

On July 1, 2019, this Court entered an order to show proof of service or show good cause to extend the time to effect service of process, noting the 120-day deadline to effect service pursuant to NRCP 4(e)(1) expired June 28, 2019. While Plaintiffs failed to timely request an extension, Counsel described personal health issues as a primary cause for the delay. Counsel also noted Plaintiffs would suffer extreme prejudice should this case be dismissed and Defendants would suffer no prejudice should the extension be granted. This Court finds good cause exists to grant Plaintiffs' request and extend the time to effect service of process.

This Court notes that while good cause exists to extend the time for service, Defendant RTC, as a government entity, is an easy defendant to serve. Therefore,

Plaintiffs will be strictly limited to the additional ten days sought to effect service of process. Accordingly, Plaintiffs shall have ten (10) calendar days from the date of this order to effect service of process. Proof of service shall be filed on or before the expiration of that ten (10) day period. If the tenth day falls on a weekend or court holiday, Plaintiffs will have until 5:00 p.m. on the following court day to file the proof as required. Should Plaintiffs fail to file the proof of service as required, this case will be dismissed pursuant to NRCP 4(e)(2) without further notice from this Court.

IT IS SO ORDERED.

Dated: July 30, 2019.

David A. Hardy
District Court Judge

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Attorney for Plaintiffs

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

* * * * *

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU, JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an Individual; and SONNIA ILIESCU, an Individual,

Plaintiffs,

vs.

THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1-40,

Defendants.

CASE NO. CV19-00459

DEPT. NO. 15

NOTICE OF ACCEPTANCE OF SERVICE

Due service of (1) the **COMPLAINT** in the above-captioned matter, directed to THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY, and (2) the related **SUMMONS**, is hereby acknowledged and accepted by me, the undersigned **DALE E. FERGUSON**, personally, and as a duly authorized representative and agent

of RTC.

Service was delivered and accepted by me, on and as of August 8, 2019, by receiving a true copy thereof.

AFFIRMATION PURSUANT TO NRS 239B.030

I hereby affirm that this document does not contain the social security number of any person.

DATED this 8th day of August, 2019.

WOODBURN AND WEDGE

By: Dale E. Ferguson

Dale E. Ferguson, Esq.
Nevada Bar No. 4986
6100 Neil Road, Suite 500
Reno, NV 89511
Attorneys for Defendant The Regional Transportation Commission of Washoe County

Code: 4085

THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

JOHN AND SONNIA ILIESCU, TRUSTEES
OF THE ILIESCU FAMILY TRUST,
Plaintiff

Case. No. CV19-00459

vs.

THE REGIONAL TRANSPORTATION
COMMISSION OF WASHOE COUNTY,
Defendant

Dept. No. 15

_____/

SUMMONS

TO THE DEFENDANT: YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND IN WRITING WITHIN 21 DAYS. READ THE INFORMATION BELOW VERY CAREFULLY.

A civil complaint or petition has been filed by the plaintiff(s) against you for the relief as set forth in that document (see complaint or petition). When service is by publication, add a brief statement of the object of the action.

The object of this action is: Collect money damages and other relief _____.

1. If you intend to defend this lawsuit, you must do the following within 21 days after service of this summons, exclusive of the day of service:
   a. File with the Clerk of the Court, whose address is shown below, **a formal written answer** to the complaint or petition, along with the appropriate filing fees, in accordance with the rules of the Court, and;
   b. Serve a copy of your answer upon the attorney or plaintiff(s) whose name and address is shown below.
2. Unless you respond, a default will be entered upon application of the plaintiff(s) and this Court may enter a judgment against you for the relief demanded in the complaint or petition.

Dated this 5th day of August, 2019.

Issued on behalf of Plaintiff(s):

Name: Michael J. Morrison, Esq.
Address: 1495 Ridgeview Dr. #220
Reno, NV 89519
Phone Number: 775-827-6300
Email: venturelawusa@gmail.com

JACQUELINE BRYANT
CLERK OF THE COURT
By: _____
Deputy Clerk
Second Judicial District Court
75 Court Street
Reno, Nevada 89501

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Clerk of the Court
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Dane W. Anderson, Esq.
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danderson@woodburnandwedge.com

Attorneys for Plaintiff, the Regional Transportation Commission of Washoe County

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA IN AND FOR THE COUNTY OF WASHOE

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an individual; AND SONNIA ILIESCU, an individual, Plaintiffs, v. THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1 – 40, inclusive, Defendants.	Case No.: CV19-00459 Dept. No.: 15

MOTION TO DISMISS

Defendant The Regional Transportation Commission of Washoe County ("RTC"), moves this Court pursuant to NRCP 12 for an order dismissing certain of Plaintiffs' claims. This motion is based on the following points and authorities and the pleadings on file.

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I. INTRODUCTION

This lawsuit arises from alleged damage to Plaintiffs' parking lot on their property located at 642 E. 4th Street in Reno. Complaint at ¶¶ 1, 7. Plaintiffs allege that RTC and its agents "drove over and parked their respective vehicles" in the parking lot without Plaintiffs' permission, thereby damaging the parking lot. Id. at ¶ 9. Plaintiffs allege permanent damage to the property, as well as emotional distress and other personal damages. Id. at ¶¶ 10-11.

Based on these general allegations, Plaintiffs' assert twelve (12) causes of action: (1) Injunctive Relief; (2) Breach of Contract; (3) Breach of the Covenant of Good Faith and Fair Dealing; (4) Breach of Fiduciary Duty/Breach of Trust; (5) Declaratory Relief; (6) Waste; (7) Conversion; (8) Trespass; (9) Civil Conspiracy; (10) Negligence; (11) Elder Abuse; (12) Intentional and/or Negligent Infliction of Emotional Distress; Tort of Outrage.

Plaintiff seeks dismissal of Plaintiffs' first, third, fourth, sixth, seventh, ninth, eleventh and twelfth causes of action, as the allegations of the complaint fail to establish the elements of these claims or otherwise fail as a matter of law.

II. LEGAL STANDARD

A complaint should be dismissed only if it appears beyond a doubt that it could prove no set of facts, which, if true, would entitle it to relief. *Buzz Stew, LLC v. City of N. Las Vegas*, 124 Nev. 224, 228, 181 P.3d 670, 672 (2008). In considering a motion to dismiss under NRCP 12(b)(5), courts must recognize all factual allegations of the complaint as true and draw all inferences in favor of the plaintiff. Id. "Dismissal is proper where the allegations are insufficient to establish the elements of a claim for relief." *Stockmeier v. Nevada Dep't of Corr. Psychological Review Panel*, 124 Nev. 313, 316, 183 P.3d 133, 135 (2008)

Here, Plaintiffs claims for: (1) Injunctive Relief; (3) Breach of the Covenant of Good Faith and Fair Dealing; (4) Breach of Fiduciary Duty/Breach of Trust; (6) Waste; (7) Conversion; (9) Civil Conspiracy; (11) Elder Abuse; and (12) Intentional and/or

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Negligent Infliction of Emotional Distress/Tort of Outrage should all be dismissed pursuant to NRCP 12(b)(5). Each claim is discussed in order below.

III. PLAINTIFFS' CLAIMS SHOULD BE DISMISSED PURSUANT TO NRCP 12(b)(5).

1. Injunctive Relief—First Cause of Action

Plaintiffs seek injunctive relief preventing RTC from entering upon and/or using their property. Complaint at ¶ 16. The alleged purpose of the requested injunctive relief is to preserve the status quo. Id. at ¶ 17. However, Plaintiffs' complaint contains no allegations that RTC or anyone else is *currently* attempting to enter upon or otherwise use the property. There are no factual allegations that the status quo is threatened in any way. The complaint contains only conclusory allegations of irreparable harm, but no factual predicate to support that conclusion.

Therefore, Plaintiffs' cause of action for injunctive relief should be dismissed.

2. Breach of Covenant of Good Faith and Fair Dealing—Third Cause of Action

It appears Plaintiffs are alleging a tortious breach of the implied covenant of good faith and fair dealing. This claim, as opposed to a claim for contractual breach of the implied covenant of good faith and fair dealing, requires a special element of reliance or fiduciary duty exist between the plaintiff and defendant, such that the defendant is in a superior or entrusted position. *Great Amer. Ins. Co. v. Gen. Builders, Inc.*, 113 Nev. 346, 354-355, 934 P.2d 257, 263 (1997). The tort action for breach of the implied covenant of good faith and fair dealing is "limited to rare and exceptional cases." *Id.* The Nevada Supreme Court has recognized this type of reliance in relationships formed by employment, bailment, insurance, partnership and franchise agreements.

There are no factual allegations as to why RTC allegedly was in a superior or entrusted position with respect to the alleged contract. The only allegation is that RTC is a government agency. As discussed below, RTC's status as a government agency does not, alone, create a fiduciary duty. There are no allegations from which it can be inferred

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that the alleged contract was anything other than arms-length. Therefore, Plaintiffs' tort cause of action for breach of the implied covenant of good faith and fair dealing should be dismissed.

3. Breach of Fiduciary Duty/Breach of Trust—Fourth Cause of Action

Plaintiffs allege that RTC owed them a fiduciary duty in connection with RTC's exercise of its right of condemnation. Complaint at ¶ 34. Under the Restatement (Second) of Torts, a "fiduciary relation exists between two persons when one of them is under a duty to act for or to give advice for the benefit of another upon matters within the scope of the relation." *Restatement (Second) of Torts, § 874 cmt. a (1979).*

Here, there are no allegations that RTC was acting for the benefit of Plaintiffs or giving them advice. The only factual allegations are that RTC and Plaintiffs had a contract regarding RTC's use of and construction upon Plaintiffs' property. Contractual relationships do not typically give rise to fiduciary duties among the parties to the contract. *Schlumberger Tech. Corp. v. Swanson*, 959 S.W.2d 171, 177 (Tex. 1997). A fiduciary or confidential relationship may arise from the circumstances of a particular case; however, to impose such a relationship in a business transaction, the relationship must exist prior to, and apart from, the agreement made the basis of the suit. *Id.* There are no such allegations here.

Further, as a general rule in Nevada, state officials have a duty to exercise only *ordinary* care in performing their duties. Butler ex rel. Biller v. Bayer, 123 Nev. 450, 464, 168 P.3d 1055, 1065 (2007). And, other states have held: "An actionable confidential or special relationship cannot exist between a government agency and a private citizen, as a matter of law." *See, e.g., Johnson v. Sawyer,* 760 F.Supp. 1216, 1233 (S.D. Tex. 1991).

Accepting Plaintiffs' allegations as true, the mere existence of a contract between Plaintiffs and RTC for construction upon and temporary use of Plaintiffs' property does not by itself establish a fiduciary duty.

Therefore, Therefore, Plaintiffs' cause of action for breach of fiduciary duty/breach of trust should be dismissed.

/ / /

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4. Waste—Sixth Cause of Action

Plaintiffs assert an action for waste under NRS 40.150 and claim treble damages. Id. at ¶ 50. That statute provides: "If a guardian, tenant for life or years, joint tenant or tenant in common of real property commit waste thereon, any person aggrieved by the waste may bring an action against the guardian or tenant who committed the waste, in which action there may be judgment for treble damages." However, there are no allegations in the complaint that RTC is a guardian, tenant for life or years, joint tenant, or tenant in common of the real property. In fact, Plaintiffs specifically allege that RTC did not have permission to use the "Remaining Property." Id. at ¶ 9.

Therefore, this claim fails as a matter of law based on the allegations of the complaint.

5. Conversion—Seventh Cause of Action

Conversion is "a distinct act of dominion wrongfully exerted over another's **personal** property in denial of, or inconsistent with his title or rights therein or in derogation, exclusion, or defiance of such title or rights." Evans v. Dean Witter Reynolds, Inc., 116 Nev. 598, 606, 5 P.3d 1043, 1048 (2000) (emphasis added). Plaintiffs' complaint contains no allegations regarding personal property. The allegations arise from damage to real property, specifically their parking lot. Complaint at ¶ 7. As such, the tort of conversion is not supported by the allegations and should be dismissed.

6. Civil Conspiracy—Ninth Cause of Action

A civil conspiracy claim exists when "a combination of two or more persons who, by some concerted action, intend to accomplish some unlawful objective for the purpose of harming another which results in damage." *Collins v. Union Fed. Sav. & Loan Ass'n*, 99 Nev. 284, 303, 662 P.2d 610, 622 (1983). To succeed on a civil conspiracy claim, a plaintiff must prove both an agreement, and that the conduct of each tortfeasor is tortious. *GES, Inc. v. Corbitt*, 117 Nev. 265, 271, 21 P.3d 11, 15 (2001) (quoting *Dow Chemical Co. v. Mahlum*, 114 Nev. 1468, 1488-89, 970 P.2d 98, 111-12 (1998)).

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Plaintiffs' complaint fails to allege the identity of the other "person" besides RTC that was part of the conspiracy. Plaintiff also fails to allege the existence of an "agreement" and the unlawful object of the agreement. Even under Nevada's liberal notice pleading standard, Plaintiffs fail to state a claim for civil conspiracy and therefore this cause of action should be dismissed.

7. Elder Abuse—Eleventh Cause of Action

Plaintiffs cite NRS 200.5091, *et seq.*, as the basis for their claim of elder abuse. Chapter 200 of the Nevada Revised Statutes is entitled "Crimes Against The Person" and includes murder, manslaughter, sexual assault and robbery amongst many other *criminal* offenses. NRS 200.5091, *et seq*, and specifically NRS 200.5099, involves the *crime* of elder abuse, and defines such criminal activity as a felony or gross misdemeanor depending on the circumstances.

There is nothing in NRS 200.5091, *et seq*. that appears to create a civil cause of action for elder abuse. Therefore, this claim should be dismissed.

8. Intentional and/or Negligent Infliction of Emotional Distress; Tort of Outrage—Twelfth Cause of Action

The "tort of outrage" and the tort of intentional infliction of emotional distress are synonymous torts. *Conway v. Circus Circus Casinos*, 116 Nev. 870, 8 P.3d 837 (2000). Generally, the elements of this cause of action are (1) extreme and outrageous conduct with either the intention of, or reckless disregard for, causing emotional distress, (2) the plaintiff's having suffered severe or extreme emotional distress and (3) actual or proximate causation. *Star v. Rabello*, 97 Nev. 124, 125, 625 P.2d 90, 91–92 (1981)

Plaintiffs fail to allege facts that support a claim for intentional infliction of emotional distress. Extreme and outrageous conduct is that which it outside all possible bounds of decency and is utterly intolerable in a civilized society; persons must necessarily be expected and required to be hardened to occasional acts that are definitely inconsiderate and unkind. *Maduike v. Agency Rent-A-Car*, 114 Nev. 1, 953 P.2d 24 (1998). Plaintiffs' complaint alleges that RTC "drove over and parked" on Plaintiffs'

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property without Plaintiffs' permission. While perhaps such alleged conduct may be inconsiderate, it does not rise to the level of "outside all possible bounds of decency" as required by the Nevada Supreme Court.

A fair reading of Plaintiffs' complaint is that the conduct complained of is a simple trespass on their property. This is not the kind of conduct that can sustain a claim for intentional infliction of emotional distress.

Plaintiffs' claim for negligent infliction of emotional distress also is unsupported by sufficient factual allegations. In cases where emotional distress damages are not secondary to physical injuries, but rather, precipitate physical symptoms, either a physical impact must have occurred or, in the absence of physical impact, proof of "serious emotional distress" causing physical injury or illness must be presented. *Barmettler v. Reno Air, Inc.*, 114 Nev. 441, 448, 956 P.2d 1382, 1387 (1998). Here, there is no allegation of physical impact to Plaintiffs, only to their real property. Thus, they must allege *facts* showing that a physical impact occurred (they have not) or *facts* that they suffered "serious emotional distress." Plaintiffs' complaint makes conclusory allegations that parrot the language of the elements, but does not allege any facts that support those elements. Therefore, their claim for negligent infliction of emotional distress should be dismissed as well.

V. CONCLUSION

Plaintiffs causes of action for injunctive relief, tortious breach of the covenant of good faith and fair dealing, breach of fiduciary duty/breach of trust, waste, conversion, civil conspiracy, elder abuse, and intentional and/or negligent infliction of emotional distress all fail as matter of law based on the allegations of the complaint. RTC requests that the Court enter an order dismissing these causes of action from this lawsuit.

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6100 Neil Road, Suite 500
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Affirmation pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the personal information of any person.

DATED: September 25, 2019.

WOODBURN AND WEDGE

By _____
Dane W. Anderson, Esq.
Nevada Bar No. 6883
Attorneys for Plaintiff
The Regional Transportation
Commission of Washoe County

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CERTIFICATE OF SERVICE

It is hereby certified that service of the foregoing **MOTION TO DISMISS** was made through the Court's electronic filing and notification or, as appropriate, by sending a copy thereof by first-class mail from Reno, Nevada addressed as follows:

MICHAEL J. MORRISON, ESQ.
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1495 Ridgeview Dr., #220
Reno, Nevada 89519
venturelawusa@gmail.com

Attorneys for Plaintiffs

DATED: September 25, 2019.

Employee of Woodburn and Wedge

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Attorneys for Plaintiff, the Regional Transportation Commission of Washoe County

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an individual; AND SONNIA ILIESCU, an individual, Plaintiffs, v. THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1 – 40, inclusive, Defendants.	Case No.: CV19-00459 Dept. No.: 15

STIPULATION TO CONDUCT DISCOVERY PRIOR TO HOLDING THE NRCP 16.1 CONFERENCE AND PRIOR TO FILING THE JOINT CASE CONFERENCE REPORT

Plaintiffs John Iliescu, Jr. and Sonnia Iliescu, Trustees of the John Iliescu, Jr., and Sonnia Iliescu 1992 Family Trust and individually ("Plaintiffs"), through their counsel of record Michael J. Morrison and Defendant The Regional Transportation Commission of Washoe County ("Defendant"), through its counsel Woodburn and Wedge, agree that the parties may conduct discovery prior to holding the NRCP 16.1 Conference and prior to filing the Joint Case Conference Report, and request that the Court enter an order allowing such discovery. The reason for this stipulation and request for order is the age of the plaintiffs and the allegations of the complaint alleging medical issues. The parties agree good cause exists

for the entry of the requested order, and represent that the requested order will not result in delaying the early case conference pursuant to NRCP 16.1

Affirmation pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

DATED: 29 Oct, 2019 By: _____

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DATED: 10/30, 2019 **WOODBURN AND WEDGE**

By: _____

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CERTIFICATE OF SERVICE

It is hereby certified that service of the foregoing **STIPULATION TO CONDUCT DISCOVERY PRIOR TO HOLDING THE NRCP 16.1 CONFERENCE AND PRIOR TO FILING THE JOINT CASE CONFERENCE REPORT** was made through the Court's electronic filing and notification or, as appropriate, by sending a copy thereof by first-class mail from Reno, Nevada addressed as follows:

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IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU, JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an Individual; and SONNIA ILIESCU, an Individual, Plaintiffs, vs. THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1-40, Defendants.	Case No. CV19-00459 Dept. No. 1 **PLAINTIFFS' OPPOSITION TO DEFENDANT'S PARTIAL MOTION TO DISMISS PLAINTIFF'S COMPLAINT**

I. INTRODUCTION

Plaintiffs, by and through their attorney of record, Michael J. Morrison, Esq., hereby opposes Defendant's Partial Motion to Dismiss Plaintiffs' Complaint (the "Motion").

It is well-established that a complaint should be dismissed only if it appears beyond a doubt that Plaintiffs could prove no set of facts, which, if true, would entitle Plaintiffs to relief. *Buzz Stew, LLC v. City of NLas Vegas,* 124 Nev. 224, 228, 181 P.3d 670, 672 (2008). In

considering a motion to dismiss under NRCP 12(b)(5), courts must recognize all factual allegations of the complaint as true and draw all inferences in favor of the plaintiff. *Id. See also, Adams v. U.S. Forest Srvc.*, 671 F.3d 1138, 1142-43 (9th Cir. 2012)

Accordingly, in order for Plaintiffs "[t]o survive a motion to dismiss, a complaint must contain sufficient factual matter, **accepted as true**, to 'state a claim to relief that is **plausible on its face**." (Emphasis added.) *Zixiang Li v. Kerry*, 710 F.3d 995, 999 (9th Cir. 2013) (quoting *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009)). It is well-established that "[a] claim is facially plausible 'when the plaintiff pleads factual content that allows the court to draw **the reasonable inference** that the defendant is liable for the misconduct alleged.'" (Emphasis added.) *Id.* (quoting Iqbal, 556 U.S. at 678). Thus, "[a]sking for plausible grounds . . . does not impose a probability requirement at the pleading stage; it simply calls for enough fact to raise a reasonable expectation that discovery will reveal evidence of [the conduct alleged]." *Bell Atl. Corp. v. Twombly,* 550 U.S. 544, 556 (2007).

II. ARGUMENT

A. Plaintiffs have Adequately Alleged a Claim for Injunctive Relief

Under Nevada law, the elements which must be proven by the party seeking the injunction are: (1) it has no adequate remedy other than an injunction (such as had set forth money damages); (2) truly irreparable harm will occur in the absence of an injunction; (3) it is more likely than not that the moving party will prevail on the underlying merits when the matter ultimately goes to trial; (4) the benefit to the party seeking the injunction outweighs the burden of the party opposed to the injunction; and (5) the moving party's right to the relief sought is clear.

Finally, contrary to Defendant's argument, Plaintiff's claim is sufficiently plausible to withstand Defendant's Motion to Dismiss. As noted above, "[a] claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Ashcroft,* 556 U.S. at 678 (quoting *Twombly*, 550 U.S. at 570). Here, Plaintiffs have alleged that, even after defendant and their affiliates, agents and related parties ("Trespassers") had completed their work, and no longer had an easement, continued to trespass upon and destroy the parking lot owned by Plaintiffs. (See *Complaint*, Paras. 9-11, with focus on Para.9, pg. 4, lines 7-12).

As set forth in Paras. 13-19, Plaintiffs have stated the facts supporting the elements to establish their right to an injunction herein. It is especially compelling to note that all Plaintiffs want is to prohibit Defendants and the other Trespassers from continuing to unlawfully use Plaintiffs' property as their personal and private parking lot whenever they happen to be downtown and cannot find parking for their incredibly large, heavy and damage-causing vehicles, all as alleged in the first cause of action Trespassers.

As noted above, at this stage the Court must draw all reasonable inferences in the light most favorable to Plaintiffs. *See Adams*, 671 F.3d at 1142-43 (9th Cir. 2012) ("In evaluating a Rule 12(b)([5]) motion, the court accepts the complaint's well-pleaded factual allegations as true and draws all reasonable inferences in the light most favorable to the plaintiff."). Moreover, courts have held that "[t]he plaintiff's allegations must be accepted as true, the complaint must be read '*as a whole,*' and all reasonable inferences must be drawn in the plaintiff's favor." *Matrixx Initiatives, Inc., v. Siracusano,* 131 S. Ct. 1309, 1323, (2011) (emphasis added). Keeping this standard in mind, it is more than plausible that

Moreover, where, as here, "a complaint adequately states a claim, it may not be dismissed based on a district court's assessment that the plaintiff will fail to find evidentiary support for

[their] allegations or prove [their] claim to the satisfaction of the factfinder." *Twombly,* 550 U.S. at 563. In essence, in its Motion, RTC is asking this Court to prejudge the evidence even before discovery, and thereby dismiss Plaintiff's claims. Plaintiffs respectfully submit that this request by RTC should be rejected.

In the event the Court finds that this claim is inadequately pled, Plaintiffs respectfully requests the Court to grant her leave to amend the Complaint. The Ninth Circuit "ha[s] held that in dismissing for failure to state a claim under Rule 12(b)(6), 'a district court should grant leave to amend even if no request to amend the pleading was made, unless it determines that the pleading could not possibly be cured by the allegation of other facts.'" *Lopez v. Smith*, 203 F.3d 1122, 1127 (9th Cir. 2000) (quoting *Doe v. United States*, 58 F.3d 494, 497 (9th Cir. 1995)). Here, to the extent the Court deems it necessary, Plaintiff would be able to provide more detail regarding the factual basis of her fraud claim if granted leave to amend.

B. Plaintiffs Have Adequately Alleged a Claim for Breach of the Covenant of Good Faith and Fair Dealing

Under Nevada law, an implied covenant of good faith and fair dealing exists in every contract. Pemberton v. Farmers Ins. Exch., 109 Nev. 789, 858 P.2d 380, 382 (Nev.1993). The Nevada Supreme Court has explained that "when one party performs a contract in a manner that is unfaithful to the purpose of the contract and the justified expectations of the other party are thus denied, damages may be awarded against the party who does not act in good faith." Hilton Hotels v. Butch Lewis Prod., 107 Nev. 226, 234, 808 P.2d 919, 923 (Nev. 1991). Reasonable expectations are to be "determined by the various factors and special circumstances that shape these expectations." Id. at 924.

In the Motion to Dismiss, Defendant argues that it did not breach a contractual duty to Plaintiff and did not act in a manner that was unfaithful to the purpose of the contract. (Mot.

Dismiss, p. 3, ln. 14-28 & p.4, ln. 1-3). Quite curiously, RTC argues that, notwithstanding Plaintiffs' reliance on *Pemberton* and *Hilton Hotels* in support of their assertion that there was a breach of the contractual covenant, RTC instead deems Plaintiffs' claim to be a tort claim, and not a contract claim. (Motion, p.3, ln. 16-20, and p. 3, ln. 25 - 26). Setting aside the distinction drawn by RTC between tort and contract, the fundamental issue is whether Plaintiffs had **justified expectations** that defendant and the Trespassers would act in good faith with respect the fact that Plaintiffs were the owners of the land upon which defendant and the Trespassers had been illegally trespassing and Plaintiffs had a reasonable and justifiable expectation that defendant and the Trespassers would respect their land and ownership rights and not continue to trespass on the subject property after the contract was concluded. (This analysis appertains whether the issue of good faith and fair dealing arise by contract or tort.)

Instead, Defendants and the Trespassers ostensibly believe that, during the term of the contract, they were entitled to trespass, and after the contract had terminated, they were still entitled to trespass. So, the solemnity of the contractual provisions were not respected in any manner by Defendants and/or the Trespassers, either during or after the termination of the contract.

C. <u>Plaintiffs Have Adequately Alleged a Claim for Breach of Fiduciary Duty/Breach of Trust.</u>

As regards Defendants tortious breach of the duty of good faith and fair dealing, their fiduciary duties and trust, based on Plaintiffs' reasonable expectations and understanding of the fact that the contract had terminated, and there was no other basis upon which defendant and/or the Trespassers were entitled, under any legal theory, to use Plaintiffs' property, and Plaintiffs were shocked that defendant and the Trespassers continued to do so. This caused John Iliescu and Sonja Iliescu, as set forth in their Complaint, to suffer constant, continuous and continuing

anxiety and emotional distress. As alleged by Plaintiffs, this was a breach of duty by both defendant and the Trespassers, as they were bullies, refused to honor Plaintiffs' innumerable requests that they not use the property, and parlayed their respective positions of superiority, *de facto* control over and mean-spirited disrespect of Plaintiffs, one of whom is 93, and the other is 75; both are elders and protected from abuse by Defendants and the Trespassers.

In this regard the defendant and Trespassers were acting in concert and in furtherance of their agreement to use Plaintiffs' property for parking, storage and overnight stays, as well as inflicting abuse and damage on the property. This conduct was in furtherance of their conspiracy, as alleged in the complaint.

In the event the Court determines that Plaintiffs have failed to state a claim for breach of the covenant and/or duty of good faith and fair dealing, Plaintiffs respectfully request the court to grant Plaintiffs leave to amend.

D. Plaintiffs Have Adequately Alleged a Claim for Waste.

Pursuant to the terms of the condemnation, take-over and total control exerted over all aspects of the property, defendant was acting in the capacity of a pseudo-trustee or guardian of the property and committed waste to the property including the personal property rights enjoyed by Plaintiffs in the form of parking privileges and similar related uses.

Therefore, Plaintiffs respectfully submit that they are a party contemplated by the subject statute and, accordingly, are entitled to its protection and the relief afforded.

E. Plaintiffs Have Adequately Alleged a Claim for Conversion.

As stated in the complaint, on pages 10-11, defendant and their affiliated Trespassers were alleged in the complaint, at pages 11-12, to have exercised acts of dominion and control over portions of the property excluding and denying Plaintiffs there right to such

property. Accordingly, such conduct falls within the scope of conversion under Nevada law. Therefore, Plaintiffs are entitled to seek relief for defendant's conversion of their properties.

F. Plaintiffs Have Adequately Alleged a Claim for Civil Conspiracy.

As stated herein above, defendant and the Trespassers, along with friends, associates and other parties (together, constituting the other "person(s)" with whom Defendants were engaged in business, whether working on the RTC project, working on activities related to the RTC project, and/or working in the surrounding areas near the property with whom Defendants had discussed and agreed that they would all be entitled to use Plaintiffs' properties on which to conduct their business, both commercial and personal, and to occupy, to the exclusion of Plaintiffs, and use all areas of Plaintiffs' property as a parking place, storage area, outside workshop and engage in related abusive and destructive activities on the property.

G. Plaintiffs Have Adequately Alleged a Claim for Elder Abuse.

In spite of the allegations of abuse made by Plaintiffs in Paras. 81-87 of the complaint, RTC baldly asserts that there is no civil cause of action available to the Defendants for the type of egregious harm and abuse proscribed in NRS 200. Plaintiffs respectfully submit to the court that the conduct of Defendants herein, constitutes tortious conduct for which a civil claim can, herein, the stated. In such event, Plaintiffs respectfully request that they be allowed to amend the pleadings to include claims related to the conduct constituting elder abuse.

H. Plaintiffs Have Adequately Alleged a Claim for Intentional and/or Negligent Infliction of Emotional Distress; Tort of Outrage.

Contrary to RTC's assertion that Plaintiffs have failed to allege facts that support the instant claim, Plaintiffs respectfully direct the court to the allegations set forth on pages 17 and 18 of the complaint, wherein Plaintiffs very cogently and compellingly describe the egregious

and mean-spirited acts and conduct of Defendants that proximately caused their respective severe psychological and emotional anguish, pain and distress, physical manifestations as a result of the conduct of Defendants. (*See*, paragraph 91 of the complaint on page 17).

IV. CONCLUSION

For the reasons set forth above, Plaintiffs respectfully submit that the Motion to Dismiss should be denied, as to all claims subject thereof. Plaintiffs also respectfully and sincerely submit that they have, contrary to the summary assertions by Defendants, adequately stated, consistent with and pursuant to, Nevada's notice pleading rules, legally valid and cognizable cclaims for (1) Injunctive Relief; (3) Breach of the Covenant of Good Faith and Fair Dealing; (4) Breach of Fiduciary Duty/Breach of Trust; (6) Waste; (7) Conversion; (9) Civil Conspiracy; (11) Elder Abuse; and (12) Intentional and/or negligent infliction of emotional distress/tort of outrage .

To the extent that the Court finds that Plaintiffs have failed to state any claim, Plaintiffs respectfully request the Court to grant them leave to amend.

DATED this 6th day of November, 2019.

/s/Michael J. Morrison

Michael J. Morrison, Esq.
Nevada State Bar No. 1665
1495 Ridgeview Drive, Suite 220
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Attorney for Plaintiffs

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the document to which this Affirmation is attached does not contain the social security number of any person.

DATE: November 6, 2019

Michael J. Morrison, Chtd.

/S/ Michael J. Morrison

Michael J. Morrison, Esq.

CERTIFICATE OF SERVICE

I certify that I am an employee of Michael J. Morrison, and that on this date I caused to be sent via CM/ECF electronic filing, a true and correct copy of the above OPPOSITION TO MOTION TO DISMISS properly addressed to the following:

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Attorneys for Plaintiff, the Regional Transportation Commission of Washoe County

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an individual; AND SONNIA ILIESCU, an individual, Plaintiffs, v. THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1 – 40, inclusive, Defendants.	Case No.: CV19-00459 Dept. No.: 15

REPLY IN SUPPORT OF MOTION TO DISMISS

Defendant The Regional Transportation Commission of Washoe County ("RTC") submits the following reply brief in support of its motion to dismiss, and in response to the opposition brief filed by plaintiffs John Iliescu Jr. and Sonnia Iliescu (collectively "Plaintiffs") on November 7, 2019. Plaintiffs' opposition fails to demonstrate that the allegations of their Complaint are sufficient to establish the elements of the claims for relief RTC seeks to have dismissed. *See Stockmeier v. Nevada Dep't of Corr. Psychological Review Panel*, 124 Nev. 313, 316, 183 P.3d 133, 135 ("Dismissal is proper

where the allegations are insufficient to establish the elements of a claim for relief."). Each of the claims RTC seeks to have dismissed are addressed in turn.

Injunctive Relief (First Cause of Action)

Plaintiffs acknowledge that two of the essential elements of a claim for injunctive relief are: (1) the threat of truly irreparable harm in the absence of injunctive relief; and (2) the absence of an adequate legal remedy. Opposition at 2:17-23. However, Plaintiffs fail to demonstrate that their Complaint contains allegations supporting these elements. Plaintiffs point to their allegation that, even after defendants completed work and no longer had an easement on Plaintiffs' property, defendants "continued to trespass and destroy the parking lot owned by Plaintiffs." Opposition at 3:5-8. However, that allegation involves *past* conduct. As pointed out in RTC's motion, there are no allegations that RTC or anyone else *currently* is attempting to enter upon or use Plaintiffs' property. There are no allegations in the Complaint supporting an inference that the status quo is threatened in any way, nor do Plaintiffs make such an assertion in their request for leave to amend. Opposition at 4:5-12.

Contrary to Plaintiffs' contention, they have failed to allege *factual* allegations that satisfy the above-referenced elements of injunctive relief. Plaintiffs refer the Court to paragraphs 13-19 of their Complaint. Opposition at 3:9-10. However, those paragraphs also contain no allegations of current or ongoing wrongdoing by RTC (or any other person) from which an inference can be drawn that the status quo is threatened or that money damages for the alleged past conduct would be inadequate.

Plaintiffs' claim for injunctive relief should be dismissed.

Breach of Implied Covenant of Good Faith and Fair Dealing (Third Cause of Action)

Plaintiffs appear to suggest that RTC has misunderstood their claim for breach of the implied covenant of good faith and fair dealing as one based in tort rather than in contract. Opposition at 5:1-4. In Nevada, a wrongful act committed during the course of a contractual relationship may give rise to both tort and contractual remedies. *Hilton Hotels Corp. v. Butch Lewis Prod., Inc.*, 109 Nev. 1043, 1046, 862 P.2d 1207, 1209

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(1993). If Plaintiffs' claim is limited to *contractual* breach of the implied covenant of good faith and fair dealing, RTC does not seek to dismiss that claim at this time (just as it did not seek to dismiss Plaintiffs' second cause of action for breach of contract).

However, Plaintiffs' Complaint includes the allegation that "there was a special relationship of trust between Plaintiff [sic] and each Defendant." Complaint at ¶ 29, 8:2-3. This, of course, is an element of the claim for *tortious* breach of the implied covenant of good faith and fair dealing. *Great Amer. Ins. Co. v. Gen. Builders, Inc.*, 113 Nev. 346, 354-355, 934 P.2d 257, 263 (1997) ("The *tort* action for breach of the implied covenant of good faith and fair dealing requires a special element of reliance or fiduciary duty." (emphasis in original)). It is unclear whether Plaintiffs are conceding that their Third Cause of Action is not a tort claim for breach of the implied covenant of good faith and fair dealing. Their response to RTC's motion to dismiss their claim for breach of fiduciary duty would suggest that Plaintiffs are, in fact, asserting this tort claim. Opposition at 5:19-23.

In that event, Plaintiffs have failed to allege facts sufficient to support this claim. Plaintiffs do not dispute the authorities cited by RTC, specifically that this claim is "limited to rare and exceptional cases" and that, in Nevada, government agencies must exercise only *ordinary* care. *See*, respectively, *Great Amer. Ins. Co.*, *supra*, 113 Nev. at 354-355, 934 P..2d at 263 and *Butler ex rel. Biller v. Bayer*, 123 Nev. 450, 464, 168 P.2d 1055, 1065 (2007).

There are no factual allegations supporting a claim for the *tort* of breach of the implied covenant of good faith and fair dealing. To the extent is a claim Plaintiffs are asserting, it should be dismissed.

Breach of Fiduciary Duty (Fourth Cause of Action)

For similar reasons, Plaintiffs claim for breach of fiduciary duty also should be dismissed. There are no factual allegations in the Complaint from which the Court can infer that a fiduciary duty existed between RTC and Plaintiffs. The only factual allegations are that RTC and Plaintiffs had a contract regarding RTC's use of and

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construction upon Plaintiffs' property. Plaintiffs' opposition fails to explain how this contract gives creates a fiduciary duty between RTC and Plaintiffs. As set forth in RTC's motion, a "fiduciary relation exists between two persons when one of them is under a duty to act for or to give advice for the benefit of another upon matters within the scope of the relation." *Restatement (Second) of Torts, § 874 cmt. a (1979).*

There are no allegations in the Complaint that RTC was acting for the benefit of Plaintiffs or giving them advice. There are no allegations to suggest that their relationship was anything other than an arm's length contract by which Plaintiffs agreed to let RTC use their property. Such contractual relationships do not typically give rise to fiduciary duties among the parties to the contract. *Schlumberger Tech. Corp. v. Swanson*, 959 S.W.2d 171, 177 (Tex. 1997). Further, cases from other jurisdictions suggest that government agencies do not owe actionable fiduciary duties to private citizens. *Johnson v. Sawyer*, 760 F.Supp. 1216, 1233 (S.D. Tex. 1991). In fact, Nevada case law provides that government agencies generally owe only a duty of *ordinary* care. *See Butler ex rel. Biller v. Bayer, supra.*

Plaintiffs cite no contradicting authorities. Instead, they appear to summarize their other claims and ignore RTC's argument that it does not owe Plaintiffs a fiduciary duty. Opposition at 5:19-6:12. This omission is telling. The existence of a fiduciary duty obviously is an essential element of a claim for breach of fiduciary duty. Plaintiffs have failed to allege facts supporting an inference that RTC owed them a fiduciary duty. Plaintiffs' claim for breach of fiduciary duty should be dismissed.

Waste (Sixth Cause of Action)

A claim for waste under NRS 40.150 provides: "If a guardian, tenant for life or years, joint tenant or tenant in common of real property commit waste thereon, any person aggrieved by the waste may bring an action against the guardian or tenant who committed the waste, in which action there may be judgment for treble damages." In its motion, RTC pointed out that the Complaint contains no allegations that RTC is a guardian, tenant for life or years, joint tenant, or tenant in common of the real property.

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In their opposition, Plaintiffs argue that RTC "was acting in the capacity of a pseudo-trustee or guardian of the property...." Opposition at 6:14-17. Plaintiffs cite no authority to support this argument. There is no allegation that RTC was a court-appointed guardian that obtained legal rights to the property by "stepping into the shoes" of Plaintiffs or any other person that had legal ownership of the property. The only allegation is that RTC obtained the right to access the property through a contractual easement. This does not make a party a "guardian" or "pseudo-trustee." Plaintiffs specifically allege that RTC did not have the right to use the remainder property, and therefore could not be a guardian or tenant under NRS 40.150.

There are no allegations in the Complaint from which the Court can infer that RTC was a guardian, tenant for life or years, joint tenant or tenant in common of the remainder property that is the subject of Plaintiffs' claims. Therefore, Plaintiffs claim for waste should be dismissed.

Conversion (Seventh Cause of Action)

Plaintiffs' Complaint alleges damages to their *real* property. As pointed out in RTC's motion, conversion is a tort involving wrongful use of another's *personal* property. There are no allegations in the Complaint regarding any wrongful activity involving Plaintiffs' personal property. The tort of conversion is not supported by any allegations in the Complaint and should be dismissed.

Civil Conspiracy (Ninth Cause of Action)

A civil conspiracy claim exists when "a combination of two or more persons who, by some concerted action, intend to accomplish some unlawful objective for the purpose of harming another which results in damage." *Collins v. Union Fed. Sav. & Loan Ass'n*, 99 Nev. 284, 303, 662 P.2d 610, 622 (1983). To succeed on a civil conspiracy claim, a plaintiff must prove both an agreement, and that the conduct of each tortfeasor is tortious. *GES, Inc. v. Corbitt*, 117 Nev. 265, 271, 21 P.3d 11, 15 (2001) (quoting *Dow Chemical Co. v. Mahlum*, 114 Nev. 1468, 1488-89, 970 P.2d 98, 111-12 (1998)).

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Plaintiffs opposition fails to explain the critical deficiency in their Complaint, that they fail to allege the identify of the other "person" with whom RTC supposedly agreed to accomplish the unlawful objective of parking on Plaintiffs' property. This is a critical failure because a claim for civil conspiracy requires two or more persons, and Plaintiffs have identified only one. Therefore, this claim should be dismissed.

Elder Abuse (Eleventh Cause of Action)

Plaintiffs specifically rely on NRS 200.5091, *et seq.*, as the basis for their claim of elder abuse. As pointed out in RTC's motion, those statutory provisions are clearly criminal in nature and do not provide for a civil remedy. Plaintiffs nevertheless argue in their opposition that NRS Chapter 200 somehow provides them with a civil claim for relief against RTC but fail to cite to any particular statutory section affording that relief. When a statute does not expressly provide for a private cause of action, the absence of such a provision suggests that the Legislature did not intend for the statute to be enforced through a private right of action. *Richardson Const., Inc. v. Clark County School Dist.*, 123 Nev. 61, 65, 156 P.3d 21, 24 (2007). Therefore, this claim should be dismissed.

Intentional and/or Negligent Infliction of Emotional Distress; Tort of Outrage (Twelfth Cause of Action)

Plaintiffs point to pages 17-18 of their Complaint, with emphasis on paragraph 91, in arguing that they have sufficiently alleged a claim for intentional and/or infliction of emotional distress. Plaintiffs claim these pages "very cogently and compellingly describe the egregious and mean-spirited acts and conduct of Defendants...." Opposition at 7:24-8:1. However, a review of those pages reveals no factual allegations about RTC's alleged conduct, only conclusory allegations that appear to rely on earlier allegations in the Complaint. *See* Complaint, ¶¶ 89-95. As pointed out in RTC's motion, those earlier allegations are that RTC "drove over and parked" on Plaintiffs' property without Plaintiffs' permission. *Id.* at ¶ 9.

In its motion, RTC pointed out that the "extreme and outrageous conduct" necessary to support this tort must be conduct that is outside all possible bounds of

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decency and is utterly intolerable in a civilized society, as opposed to that which is merely inconsiderate and unkind. *Maduike v. Agency Rent-A-Car*, 114 Nev. 1, 953 P.2d 24 (1998). Plaintiffs' Complaint fails to include factual allegations of extreme and outrageous conduct by RTC. At best, the allegations if proven would demonstrate an inconsiderate trespass on Plaintiffs' property. Therefore, Plaintiffs' claim for intentional infliction of emotional distress should be dismissed.

Plaintiffs fail to specifically address RTC's motion to dismiss their claim for negligent infliction of emotional distress. In the case of *Smith v. Clough*, 106 Nev. 568, 569-570, 796 P.2d 592, 593-594 (1990), the Nevada Supreme Court clearly held that recovery is *not* allowed for emotional distress arising from property damage. That is exactly the essence of Plaintiffs' complaint here. They claim emotional distress arising from RTC's alleged misuse of their real property. Therefore, Plaintiffs have failed to allege an actionable claim for negligent infliction of emotional distress under Nevada law. This claim should be dismissed.

Conclusion

Plaintiffs causes of action for injunctive relief, tortious breach of the covenant of good faith and fair dealing, breach of fiduciary duty/breach of trust, waste, conversion, civil conspiracy, elder abuse, and intentional and negligent infliction of emotional distress all fail as matter of law based on the allegations of the complaint. RTC requests that the Court enter an order dismissing these causes of action from this lawsuit.

Affirmation pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the personal information of any person.

DATED: November 12, 2019.

WOODBURN AND WEDGE

By _____

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CERTIFICATE OF SERVICE

It is hereby certified that service of the foregoing **REPLY IN SUPPORT OF MOTION TO DISMISS** was made through the Court's electronic filing and notification or, as appropriate, by sending a copy thereof by first-class mail from Reno, Nevada addressed as follows:

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DATED: November 12, 2019.

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IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an individual; AND SONNIA ILIESCU, an individual, Plaintiffs, v. THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1 – 40, inclusive, Defendants.	Case No.: CV19-00459 Dept. No.: 15

ORDER GRANTING STIPULATION TO CONDUCT DISCOVERY PRIOR TO HOLDING THE NRCP 16.1 CONFERENCE AND PRIOR TO FILING THE JOINT CASE CONFERENCE REPORT

The Court has reviewed and considered the parties' Stipulation Conduct Discovery Prior to Holding the NRCP 16.1 Conference and Prior to Filing the Joint Case Conference Report, and GOOD CAUSE APPEARING, IT IS HEREBY ORDERED, that the Stipulation to Conduct Discovery Prior to Holding the NRCP 16.1 Conference and Prior to Filing the Joint Case Conference Report is GRANTED.

Dated this 14th day of Nov., 2019.

DISTRICT JUDGE

FILED
Electronically
CV19-00459
2019-12-06 11:10:45 AM
Jacqueline Bryant
Clerk of the Court
Transaction # 7623980

4050
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Attorneys for Plaintiff, the Regional Transportation Commission of Washoe County

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an individual; AND SONNIA ILIESCU, an individual, Plaintiffs, v. THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1 – 40, inclusive, Defendants.	Case No.: CV19-00459 Dept. No.: 15

STIPULATION FOR ENTRY OF ORDER DISMISSING CERTAIN PLAINTIFFS' CLAIMS FOR RELIEF AND DAMAGES WITH PREJUDICE

Plaintiffs John Iliescu, Jr. and Sonnia Iliescu, Trustees of the John Iliescu, Jr., and Sonnia Iliescu 1992 Family Trust and individually ("Plaintiffs"), through their counsel of record Michael J. Morrison and Defendant The Regional Transportation Commission of Washoe County ("RTC"), through its counsel Woodburn and Wedge, stipulate to and request entry of the Court's order as follows:

1. Plaintiffs no longer wish to pursue any damages for emotional distress or personal injury, and instead have decided to limit their compensatory damages

claims in this case solely to the property damage to their parking lot as alleged in their Complaint.

2. In entering this Stipulation, Plaintiffs are advised by legal counsel and fully understand that they are voluntarily agreeing to waive any damages for emotional distress or personal injury with prejudice, such that they can never pursue any such claim against RTC or any of its agents, subcontractors or any other person or entity acting on behalf of RTC based on the facts and events alleged in the Complaint. Plaintiffs understand that RTC is relying on this stipulation and dismissal with prejudice of certain claims and damages in agreeing to forego certain discovery related to such claims and damages.

3. Based on the foregoing, Plaintiffs stipulate to the dismissal with prejudice of their Twelfth Cause of Action for intentional and/or negligent infliction of emotional distress aka tort of outrage. With respect to Plaintiffs' remaining eleven claims for relief, Plaintiffs stipulate to the dismissal with prejudice of any claims for damages other than compensatory damages specifically related to their parking lot and punitive damages.

4. In reliance on this stipulation, RTC agrees to withdraw its discovery requests for Plaintiffs' medical records and the identity of Plaintiffs' treating physicians. RTC further agrees to not inquire of such subjects during Plaintiffs' depositions.

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Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, NV 89511
775-688-3000

Affirmation pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

DATED: December 6, 2019

By: _____

Michael James Morrison, Esq.
Nevada Bar No.1665
1495 Ridgeview Drive, Suite 220
Reno, NV 89519
Tel: 775-827-6300
venturelawusa@gmail.com

Attorneys for Plaintiffs John Iliescu, Jr. and Sonnia Iliescu, Trustees of the John Iliescu, Jr and Sonnia Iliescu 1992 Family Trust and individually

DATED: December 6, 2019

WOODBURN AND WEDGE

By: _____

Dane W. Anderson, Esq.
Nevada Bar No. 6883
6100 Neil Road, Suite 500
Reno, Nevada 89511
Telephone: 775-688-3000
danderson@woodburnandwedge.com

Attorneys for Defendant, The Regional Transportation Commission of Washoe County

CERTIFICATE OF SERVICE

It is hereby certified that service of the foregoing **STIPULATION FOR ENTRY OF ORDER DISMISSING CERTAIN PLAINTIFFS' CLAIMS FOR RELIEF AND DAMAGES WITH PREJUDICE** was made through the Court's electronic filing and notification or, as appropriate, by sending a copy thereof by first-class mail from Reno, Nevada addressed as follows:

MICHAEL J. MORRISON, ESQ.
1495 Ridgeview Dr., #220
Reno, Nevada 89519
venturelawusa@gmail.com

Attorneys for Plaintiffs

DATED: December 6th, 2019.

Employee of Woodburn and Wedge

FILED
Electronically
CV19-00459
2019-12-10 10:17:19 AM
Jacqueline Bryant
Clerk of the Court
Transaction # 7629013

3105

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an individual; AND SONNIA ILIESCU, an individual, Plaintiffs, v. THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1 – 40, inclusive, Defendants.	Case No.: CV19-00459 Dept. No.: 15

ORDER GRANTING STIPULATION FOR ENTRY OF ORDER DISMISSING CERTAIN OF PLAINTIFFS' CLAIMS FOR RELIEF AND DAMAGES WITH PREJUDICE

The Court has reviewed and considered the parties' Stipulation For Entry of Order Dismissing Certain of Plaintiffs' Claims for Relief and Damages With Prejudice. Based on that Stipulation, and good cause appearing,

IT IS HEREBY ORDERED as follows:

1. Plaintiffs claim for intentional and/or negligent infliction of emotional distress aka tort of outrage is hereby dismissed with prejudice.
2. With respect to Plaintiffs' remaining claims for relief, any claims Plaintiffs may have had for damages other than compensatory damages specifically related to their parking lot and punitive damages based on the facts and

events alleged in the Complaint are also dismissed with prejudice. This includes but is not limited to any damages for emotional distress or personal injury.

Dated this 9th day of December, 2019.

DISTRICT JUDGE

FILED
Electronically
CV19-00459
2020-01-07 04:12:05 PM
Jacqueline Bryant
Clerk of the Court
Transaction # 7673003

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU, JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an Individual; and SONNIA ILIESCU, an Individual,

Plaintiff,

vs.

THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1-40,

Defendants.

_____/

Case No. CV19-00459

Dept. No. 15

ORDER ADDRESSING MOTION TO DISMISS

Before this Court is the Regional Transportation Commission's (RTC) motion to dismiss. After the matter was submitted, the parties stipulated to dismiss certain claims for relief. The stipulation and order contemplates the 12th claim for "intentional and/or negligent infliction of emotional distress aka tort of outrage" and all other claims for damages other than compensatory damages will be dismissed. The apparent purpose of the stipulation was to prevent discovery relating to Plaintiffs' medical records and treating physicians.

Cause appearing, it is appropriate for Plaintiffs to file an amended complaint in which they set forth their extant claims. This will assist this Court and the finder of fact. Plaintiffs shall file their amended complaint within 14 days. The RTC may then, if it wishes, file a supplemental motion to dismiss. The RTC shall not infer by the leave granted that this Court encourages or discourages the filing of a new motion.

IT IS SO ORDERED.

Dated: January 7, 2020.

David A. Hardy
District Court Judge

F I L E D
Electronically
CV19-00459
2020-01-21 02:41:35 PM
Jacqueline Bryant
Clerk of the Court
Transaction # 7695926 : bblough

1090

MICHAEL J. MORRISON, ESQ.
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Attorney for Plaintiffs

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

* * * * *

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU, JR. AND SONNIA ILIESCU 1992 FAMILY TRUST, Plaintiff, vs. THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; AND DOES 1-40, Defendants.	CASE NO. DEPT. NO. **FIRST AMENDED COMPLAINT** **(EXEMPTION FROM ARBITRATION - EQUITABLE RELIEF SOUGHT AND DAMAGES IN EXCESS OF $50,000)**

COME NOW JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU, JR. AND SONNIA ILIESCU 1992 FAMILY TRUST ("**Trust**"); JOHN ILIESCU, JR., an individual ("**John**"); and SONNIA ILIESCUE, an individual ("**Sonnia**"), together sometimes referred to "**Plaintiffs**", and as and for their amended complaint against the Defendants, and each of them, jointly and severally, allege as follows:

PARTIES, JURISDICTION AND VENUE

1. Plaintiff Trust is the owner of the real property and improvements thereon located at 642 E. 4th St., Reno, NV 89501, Washoe County assessor parcel number 008 – 244 – 15 ("Property"). Plaintiffs John and Sonnia are the sole Trustees of the Trust and, as Individual Plaintiffs, are domiciled in and residents of, Washoe County, NV, and conduct business therein.

2. Defendant RTC is a special purpose unit of government, duly organized and existing under the laws of the state of Nevada. RTC's principal offices are located at 1105 Terminal Way, Reno, NV. The RTC is charged with providing regional transportation services. All Defendants are residents of and conduct business in Washoe County, NV.

3. Based on the facts set forth in paragraphs 1 and 2, above, Jurisdiction and Venue are proper in this Court and County.

4. In furtherance of its power to exercise the right of eminent domain to acquire a portion of ileus skews Property for public purposes, RTC initiated condemnation proceedings against the Property, allegedly needed for the construction of the Fourth Street/Prater TRC project, referred to herein as "the Project."

5. Plaintiff does not know the true names or capacities of the Defendants sued as DOES 1-40 and ROE CORPORATIONS 1-20, and therefore sues those Defendants by fictitious names. Plaintiff is informed and believes, and therefore alleges, that each of those Defendants is legally responsible for the claims for relief and the events and happenings referred to herein and caused damage to the Plaintiff and their Property. Plaintiff will seek leave of the Court to amend this Complaint to show their true names and capacities when the true identities of the fictitious Defendants have been determined.

6. At all relevant times, certain Defendants were the agents and/or employees of certain co-Defendants and were acting within the course and scope of

such agency and/or employment and with the permission and consent of such co-Defendants.

7. At all relevant times, the Defendants were working in concert with each other to engage in the conduct alleged in this Complaint, all in furtherance of the RTC's condemnation of the Property and conduct related to and directly impacting the Property and Project.

FACTUAL OVERVIEW

8. This action seeks damages and injunctive and declaratory relief against Defendants, and each of them, jointly and severally, for their respective willful, malicious and destructive trespass on and over, and damages to the Property, both before, during and after the work done on that portion of the Property not subject to the condemnation, and not involved in whatsoever nature in the Project, which, for purposes herein, shall be referred to as the "Remaining Property". For purposes of this action, and as referenced herein, the Remaining Property does not include the building and related improvements on the Property, but specifically does include all paved parking areas located on and constituting part of the Property.

9. To the extent that RTC and/or other Defendants had a limited form of temporary easement over the Remaining Property, RTC and/or the other Defendants, and each of them, surcharged, abused and far exceeded any reasonable use of any temporary easement, and were negligent in their respective conduct related to the Remaining Property.

10. Defendants RTC, ROE CORPORATIONS 1-20 and DOES 1-40, acting jointly and severally, intentionally and without the permission of plaintiff, on virtually every workday during the term of the Project, drove over and parked their respective vehicles, including personal vehicles, ranging from approximately 20-ton trucks, down to pick-up trucks, SUV's and automobiles, on the Remaining Property, sometimes precluding Plaintiffs from using any portion of the Remaining Property. This conduct

occurred without the consent of Plaintiff, and in fact, in total disregard of Plaintiffs' respective frequent objections to such unauthorized and illegal use of the Remaining Property. Plaintiff requested on many occasions that Defendants cease and desist in their respective use, abuse and damaging conduct on the Remaining Property, but Defendants ignored Plaintiff's requests.

Plaintiffs will provide photos (during the discovery phase) of the many heavy vehicles which Defendants, and each of them, intentionally and maliciously caused to be placed on the Property and the Remaining Property on each and every work day throughout the term of the condemnation activities, and thereafter. Defendants continued to use the Property and Remaining Property as their personal parking area, all in an abusive disregard for the rights of Plaintiffs.

11. The constant use, weights of the vehicles and lengthy periods of parking by RTC and/or Defendants caused permanent damage to the Remaining Property, and precluded use of sections of the Remaining Property, all proximately caused by the willful and unauthorized use of the Remaining Property by RTC and/or the Defendants.

12. This conduct was the proximate cause of significant reparable and irreparable damages to the Remaining Property and to each of the respective Plaintiffs, including, but not limited to:

a. Loss of market value of the Remaining Property;

b. Loss of use of the Remaining Property by Plaintiffs, and each of them;

c. Costs of Property restoration; and

d. Physical damage to and destruction of the Property.

FIRST CAUSE OF ACTION
(Injunctive Relief)

13. Plaintiffs re-allege and incorporate by reference the allegations stated in paragraphs 1-12 of this Complaint, as though fully stated here.

14. Plaintiffs have a reasonable probability of success on the merits on each and all of the causes of action asserted in this Complaint.

15. As a direct and proximate result of the Defendants' conduct, jointly and severally, Plaintiffs are each, separately, suffering irreparable harm to their rights, titles and property interests, as well as their respective abilities to exercise their rights in and to the Property, including, but not limited to their respective rights:

a. to have full and exclusive control, use and possession of the Property, which were unlawfully violated and damaged by the Defendants, jointly and severally, including, but not limited to Defendants' breach of contract, breach of fiduciary duties/trust, misrepresentation, fraud, negligence, conversion for their own respective personal use and benefit, trespass, and conspiracy to engage in such conduct; and

b. to exercise their respective rights and derive all of the benefits associated with their ownership of and rights in and to the Property, which were unlawfully damaged by the Defendants' joint and several breach of contract, breach of fiduciary duties/trust, misrepresentation, fraud, negligence, conversion for their own respective personal use and benefit, trespass, and conspiracy to engage in such conduct.

16. Plaintiffs have no adequate remedy at law to terminate, correct or rectify the Defendants' unlawful conduct without judicial equitable relief, and such conduct is causing the Plaintiffs irreparable damage, none of which damage is able to be adequately compensated by financial awards or damages. Compensatory damages are simply inadequate.

17. Plaintiffs are entitled to an immediate temporary and permanent injunction enjoining Defendants, and each of them, jointly and severally, and ordering

them, jointly and severally, and their respective officers, directors, agents, managers, members, employees, agents, representatives, attorneys, successors and assigns, and those acting in concert with them, and all persons acting on their behalf, directly or indirectly, or acting for or in concert with them, to immediately cease and desist any and all conduct and actions to enter upon, use or otherwise pass over, on or through the Property.

18. The public's interest in seeing the harm and conduct stopped, as well as the relative hardships of the parties should the Court take or refuse to grant relief herein, weigh in favor of Plaintiffs, the owners of all rights, titles and interests in and to the Property, and their right to injunctive relief. Indeed, the purpose of the requested injunctive relief sought herein is to preserve the *status quo* and/or preserve a property interest, and the only parties to this action who have an undisputed and undeniable right to use the Property are the Plaintiffs.

19. Plaintiffs were each required to retain the services of an attorney to prosecute this action and are, therefore, each entitled to an award of legal fees, costs and expenses incurred herein.

20. Plaintiffs respectfully request that the bond required by NRCP 65(c) be for a *de minimis* amount, as Defendants have no basis or right in law or fact to ever use the Property. That right belongs solely to Plaintiffs.

WHEREFORE, Plaintiffs each pray for judgment as more particularly set forth herein.

SECOND CAUSE OF ACTION
(Breach of Contract)

21. Plaintiffs re-allege and incorporate by reference the allegations stated in paragraphs 1-20 of this Complaint, as though fully stated here. The Trust and RTC entered into valid agreement by which RTC was entitled to condemn and install utilities

on a very small portion of the Trust's Property, and the Trust received consideration for such right.

22. Defendants' respective conduct, as alleged in the causes for action set forth in this Complaint, constitutes a breach of the terms and conditions of the Trust-RTC agreement.

23. Defendants' conduct was motivated and evidenced by self-interest, greed, and profit, and was willful and malicious.

24. As a direct and proximate result of each Defendants' conduct, the Trust and other Plaintiffs have each incurred general and special damages, each class of damages in excess of $15,000.00.

25. Plaintiffs are each entitled to an award of costs, attorney's fees and expenses incurred herein.

WHEREFORE, Plaintiffs pray for judgment as more particularly hereinafter set forth.

THIRD CAUSE OF ACTION
(Breach of the Covenant of Good Faith and Fair Dealing – Contract Claim)

26. Plaintiffs re-allege and incorporate by reference the allegations stated in paragraphs 1-26 of this Complaint, as though fully stated here.

27. RTC and the other Defendants entered into valid agreements with Plaintiffs by which they exercised their respective condemnation activities.

28. Consistent with Nevada laws and case authorities, every contract/agreement, specifically including the agreements at issue herein, contains an implied covenant of good faith and fair dealing which prohibits any contracting party from injuring another party's right to receive the benefits of the agreement. Breach of this implied covenant creates a cause of action in contract. Accordingly, Defendants were legally obligated to act in good faith and deal fairly with Plaintiffs in the performance of the agreements.

29. Plaintiffs each had justifiable expectations and relied on the fact that RTC and the other Defendants would honor the terms and conditions of the agreements and act in good faith and deal fairly with the Plaintiffs and the Property, as well as the Remaining Property, including but not limited to, conducting their activities and exercising their respective condemnation rights and duties using due care, good faith and fair dealing, and giving deference and respect to the Remaining Property, which Defendants had no right to use. Each of the Plaintiffs also had a reasonable and justifiable expectation that they would each receive certain benefits consistent with the terms, conditions, spirit and intent of the agreements.

30. By reason of the Defendants' aforementioned deliberate acts and conduct, the Defendants have acted in a manner that was in violation of and/or unfaithful to the purpose of the condemnation-related activities and agreement(s) and breached the covenant of good faith and fair dealing in violation of Nevada Law.

31. As a direct and proximate result of the Defendants' joint and several conduct, Plaintiffs have each incurred general and special damages, each class of such damages in excess of $15,000.00.

32. The conduct of Defendants, and each of them, acting jointly and severally, was willful, wanton and reckless and, therefor, Plaintiffs respectfully request such other and further relief as this Court deems just and equitable.

33. Plaintiffs are each entitled to an award of costs, attorney's fees and expenses incurred herein.

WHEREFORE, Plaintiffs pray for judgment as more particularly hereinafter set forth.

FOURTH CAUSE OF ACTION
(Breach of Fiduciary Duty/Breach of Trust)

34. Plaintiffs re-allege and incorporate by reference the allegations stated in paragraphs 1 to 34 of this Complaint, as though fully stated here.

35. In connection with their respective exercise of condemnation rights and duties, Defendants, jointly and severally, had fiduciary duties they owed to the Plaintiffs, and each of them.

36. RTC and the other Defendants facilitated, participated in and encouraged the conduct by Defendants, as set forth herein, which was in breach of trust and breach of fiduciary duties owed to each of the Plaintiffs by each of the Defendants.

37. Each of the Defendants knowingly assisted, facilitated and encouraged each of the other Defendants, together with the agents thereof, to engage in the conduct described herein.

38. The Defendants, and each of them, were at all material times aware of, or should have been aware of, the fiduciary duties owed by each of the Defendants to each of the Plaintiffs.

39. The Defendant RTC, as well as the other Defendants, knew, or should have known by exercising reasonable diligence and inquiry, that their respective conduct relating to the Remaining Property, was encouraging, facilitating and enabling in a breach of the fiduciary duty and trust each of the Defendants jointly and severally owed to each of the Plaintiffs in relation to their conduct relating to the Remaining Property.

40. The failure and refusal of the Defendants to honor and abide in accordance with the terms of the RTC-Trust agreement as and when demanded by Plaintiffs, and each of them, constitutes a breach of trust and breach of fiduciary duty by the Defendants, jointly and severally.

41. The breach of trust and breach of fiduciary duties owed by each of the Defendants to each of the Plaintiffs was motivated by self-interest, greed, and profit, and was willful and malicious.

42. As a direct and proximate result of each of the Defendants' respective conduct, each of the Plaintiffs have incurred general and special damages, each class of

damages in excess of $15,000.00.

43. The Plaintiffs are each entitled to an award of costs, attorney's fees and expenses incurred herein from Defendants, jointly and severally.

WHEREFORE, Plaintiffs pray for judgment as more· particularly hereinafter set forth.

FIFTH CAUSE OF ACTION
(Declaratory Relief)

44. Plaintiffs re-allege and incorporate by reference the allegations stated in paragraphs 1-44 of this Complaint, as though fully stated here.

45. Plaintiffs bring this claim pursuant to NRS Chapter 30, the Declaratory Judgment Act and NRCP 57.

46. A case of actual controversy exists between Plaintiffs and Defendants.

47. There is no basis in law or fact on which the Defendants can be found to have performed, or were excused from performance, under the RTC-Trust agreement, and said Defendants were not entitled or allowed, nor should they ever be entitled or allowed to have (a) custody or control of, or (b) any right to pass on, over or through, or take any action of whatsoever nature relating to the Property owned solely and exclusively by Plaintiffs.

48. The Defendants' respective use of the Property and the Remaining Property caused irreparable damage to the Plaintiffs and their Property.

49. Plaintiffs are entitled to an order from this Court declaring the rights and relationships between and among the Plaintiffs and Defendants, and declaring that:

a. Defendant RTC totally failed and refused to properly and fully perform all terms and conditions of the RTC-Trust agreement or faithfully perform its condemnation activities.

b. The Trust and Plaintiffs John and Sonnia are the sole and exclusive legal and beneficial owners of the Property, and all rights, titles and interests thereto.

c. The Defendants never had and never will have any right, title or interest in or to the Property, nor any right to pass over or through, or park on, or use the Property;

d. Defendants knowingly and wrongfully used the Remaining Property for their respective personal purpose, including use thereof for parking their respective vehicles, including vehicles of their respective employees, as well as third parties, and did so without right, permission or paying compensation to Plaintiffs.

e. Defendants, and each of them, acting jointly and severally, wrongfully and knowingly parked their respective vehicles on the Remaining Property, causing extensive and, potentially irreparable damage to the Property, all with a callous and indifferent disregard of the law and each respective Plaintiff's undeniable, sole and exclusive right to use the Remaining Property.

WHEREFORE, the Plaintiffs pray for judgment as more particularly set forth herein.

SIXTH CAUSE OF ACTION
(Waste)

50. Plaintiffs re-allege and incorporate by reference the allegations stated in paragraphs 1-50 of this Complaint, as though fully stated here.

51. The conduct of Defendants, and their respective agents and associates, constitutes acts of waste to the Property. Accordingly, pursuant to NRS 40.150, each Plaintiff is entitled to treble (3X) damages.

52. Defendants' acts caused permanent damage and lasting injury to the Property, to the prejudice of and harm to each Plaintiff, as each Plaintiff has a legally cognizable interest in the Property.

53. As a direct and proximate result of each Defendant's conduct, Plaintiffs have each incurred general and special damages, each class of damages in excess of $15,000.00.

54. The conduct of Defendants, and each of them, acting jointly and severally, was willful, wanton and reckless and, therefor, Plaintiffs respectfully request such other and further relief as this Court deems just and equitable.

55. The Plaintiffs are each entitled to an award of costs, attorney's fees and expenses incurred herein.

WHEREFORE, Plaintiffs pray for judgment as more particularly hereinafter set forth.

SEVENTH CAUSE OF ACTION
(Conversion)

56. Plaintiffs re-allege and incorporate by reference the allegations stated in paragraphs 1-56 of this Complaint, as though fully stated here.

57. The Defendants have each, motivated by self-interest, greed, and profit, and based upon their respective conduct, as alleged in this Complaint, distinctly, intentionally and wrongfully engaged in innumerable acts of dominion and control over portions of the Property for their own use and benefit, and to the exclusion and denial of, and inconsistent with the rights of Plaintiffs to use and enjoy the Property.

58. Such conduct, as described herein, was committed in derogation, exclusion and defiance of each Plaintiff's rights, titles and interests in and to the Property, together with John's and Sonnia's respective rights and interests in the Trust.

59. As a direct and proximate result of the Defendants' joint and several conduct, the Plaintiffs have each incurred general and special damages, each class of damages in excess of $15,000.00.

60. The conduct of Defendants, and each of them, acting jointly and severally, was willful, wanton and reckless and, therefor, Plaintiffs respectfully request such other and further relief as this Court deems just and equitable.

61. The Plaintiffs are each entitled to an award of costs, attorney's fees and expenses incurred herein.

WHEREFORE, Plaintiffs pray for judgment as more particularly hereinafter set forth.

EIGHTH CAUSE OF ACTION
(Trespass)

62. Plaintiffs re-allege and incorporate by reference the allegations stated in paragraphs 1-62 of this Complaint, as though fully stated here.

63. Defendants jointly and severally conducted an invasion of the Property, including the Remaining Property, all owned of record and belonging solely and exclusively to the Trust, of which John and Sonnia are the sole Trustees and Beneficiaries.

64. The intrusion by Defendants, and each of them, was done intentionally and maliciously, with total disregard of the rights, titles and interests of Plaintiffs.

65. As a direct and proximate result of the conduct of Defendants, and each of them, Plaintiffs have each incurred general and special damages, each class of damages in excess of $15,000.00.

66. The conduct of Defendants, and each of them, acting jointly and severally, was willful, wanton and reckless and, therefor, Plaintiffs respectfully request such other and further relief as this Court deems just and equitable.

67. The Plaintiffs are each entitled to an award of costs, attorney's fees and expenses incurred herein.

WHEREFORE, Plaintiffs pray for judgment as more particularly hereinafter set forth.

NINTH CAUSE OF ACTION
(Civil Conspiracy)

68. Plaintiffs re-allege and incorporate by reference the allegations stated in paragraphs 1-68 of this Complaint, as though fully stated here.

69. Based upon the acts and conduct of the Defendants, and each of them, as alleged in the causes of action set forth in this Complaint, the Defendants, acting together for their own advantage, by agreeing to and acting in concert in furtherance of such agreement, carried out a scheme that was planned and intended to accomplish the unlawful objectives and conduct alleged herein, all for the purpose of harming the Plaintiffs and benefitting the Defendants, and each of them.

70. The Defendants, jointly and severally, engaged in a conspiracy to perform the acts and conduct set forth herein.

71. As a direct and proximate result of the conduct of Defendants, and each of them, the Plaintiffs have each incurred general and special damages, each class of damages in excess of $15,000.00.

72. The conduct of Defendants, and each of them, acting jointly and severally, was willful, wanton and reckless and, therefor, Plaintiffs respectfully request such other and further relief as this Court deems just and equitable.

73. The conduct of Defendants, and each of them, was intentional and/or negligent, malicious, and oppressive, for which the Plaintiffs are each entitled to recover punitive damages in excess of $15,000.00.

74. The Plaintiffs are each entitled to an award of costs, attorney's fees and expenses incurred herein.

WHEREFORE, Plaintiffs pray for judgment as more particualrly hereinafter set forth.

TENTH CAUSE OF ACTION
(Negligence)

75. Plaintiffs re-allege and incorporate by reference the allegations stated in paragraphs 1-73 of this Complaint, as though fully stated here.

76. The conduct of Defendants, and each of them, as described in each and all of the causes of action set forth in this Complaint, constitutes a breach of duty and negligence towards Plaintiffs, and each of them.

77. As a direct and proximate result of the conduct of Defendants, and each of them, the Plaintiffs have each incurred general and special damages, each class of damages in excess of $15,000.00.

78. The conduct of Defendants, and each of them, acting jointly and severally, was willful, wanton and reckless and, therefor, Plaintiffs respectfully request such other and further relief as this Court deems just and equitable.

79. Plaintiffs were required to retain the services of an attorney to prosecute this action and are, therefore, entitled to an award of legal fees, costs and expenses incurred herein.

WHEREFORE, Plaintiffs pray for judgment as more particualrly hereinafter set forth.

ELEVENTH CAUSE OF ACTION
(Breach of the Covenant of Good Faith and Fair Dealing – Tort Claim)

79. Plaintiffs re-allege and incorporate by reference the allegations stated in paragraphs 1-78 of this Complaint, as though fully stated here.

80. RTC and the other Defendants entered into valid agreements with Plaintiffs by which they exercised their respective condemnation activities.

81. Consistent with Nevada laws and case authorities, every contract/agreement, specifically including the agreements at issue herein, contains an implied covenant of good faith and fair dealing which prohibits any contracting party from injuring another party's right to receive the benefits of the agreement. Breach of this implied covenant creates a cause of action in tort. Accordingly, Defendants were

legally obligated/had a duty to act in good faith and deal fairly with Plaintiffs in the performance of the agreements.

82. A tort cause of action is based, in part, on the existence of a "special relationship" between the contracting parties, which justifies imposing the duty as a matter of law, independent of the underlying agreements. This "special relationship" and the vulnerability of the Plaintiffs are the public policy bases warranting tort remedies for breach of the implied covenant of good faith and fair dealing in commercial cases. Factors that support the tort claim, and facts of this case addressing such factors, are as follows:

a) whether the relationship of Plaintiffs and Defendants is inherently unbalanced;

i) Plaintiffs are mere private citizens and Defendants, and specifically, RTC, is a significantly large and controlling entity, vested with expansive and plenary governmental-like powers, specifically enabled and sanctioned by the government to manage and control the transportation industry in this region. The relationship between the parties is a classic individual citizen vs. Big Government, which “is” inherently unbalanced”.

b) whether the agreement between Plaintiffs and Defendants is adhesive in nature;

i) The decision to “take” Plaintiffs’ Property was made unilaterally and exclusively by collaboration between Big Government and Defendant RTC. Moreover, the terms and conditions of the agreement between the Plaintiffs and Defendant RTC, “taking” Plaintiffs’ private property, are mandated/dictated solely by the RTC, using government-sanctioned, government-controlled, and government-enforced laws, rules and regulations, all without any involvement, participation or negotiations with Plaintiffs. Manifestly, when the RTC and Big Government presented Plaintiffs with a fully-completed agreement (save and except for Plaintiff’s’ signature), which they

unilaterally wrote (with no involvement by Plaintiffs), and presented that agreement to Plaintiffs, with a take-it-or-leave-it attitude, it falls squarely within the text-book definition of "adhesive".

c) whether Plaintiffs are seeking a commercial advantage over Defendants, as opposed to mere protection, peace of mind and security by entering into the agreements;

i) By virtue of the above-referenced process and protocols employed by Defendants in the "taking" of Plaintiffs' private property, Plaintiffs had no desire, inclination or thoughts about seeking a commercial advantage over Defendants, but instead, simply wanted to have protection, peace of mind and security by entering into the subject agreements.

d) whether Defendants are involved or engaged in "quasi-public" activities, and if so, the obligation of good faith and fair dealing requires qualities of decency and humanity inherent in the responsibilities of a fiduciary.

i) By virtue of the above-referenced process and protocols employed by Defendants in the "taking" of Plaintiffs' private property, Defendants were, and are involved and engaged in "quasi-public" activities.

83. Based on the "special relationship" between Plaintiffs and Defendants, as discussed and established above, the conduct of Defendants, jointly and severally, breaches the tort duty of good faith and fair dealing.

84. As a direct and proximate result of the conduct of Defendants, and each of them, the Plaintiffs have each incurred general and special damages, each class of damages in excess of $15,000.00.

85. The conduct of Defendants, and each of them, acting jointly and severally, was willful, wanton and reckless and, therefor, Plaintiffs respectfully request such other and further relief as this Court deems just and equitable.

86. Plaintiffs were required to retain the services of an attorney to prosecute this action and are, therefore, entitled to an award of legal fees, costs and expenses incurred herein.

WHEREFORE, Plaintiffs pray for judgment as more particualrly hereinafter set forth.

REQUEST FOR JUDGMENT/PRAYER FOR RELIEF

Plaintiffs request a judgment in favor of each of the Plaintiffs, separately, and against each of the Defendants, jointly and severally, as follows:

1. An *Ex Parte* Temporary Restraining Order and Order setting an immediate hearing on a preliminary injunction, as set forth in the **FIRST CAUSE OF ACTION**;
2. For judgment in favor of each Plaintiff and against each Defendant, jointly and severally, on all causes of action set forth herein.
3. An Order consolidating the preliminary injunction hearing with a trial on the merits;
4. An injunction consistent with the **FIRST CAUSE OF ACTION**;
5. An Order granting declaratory relief, consistent with the **FIFTH CAUSE OF ACTION**;
6. General damages in excess of $15,000.00 in favor of each of the Plaintiffs and against each of the Defendants, jointly and severally;
7. Special damages in excess of $15,000.00 in favor of each of the Plaintiffs and against each of the Defendants, jointly and severally;
8. Reasonable attorney's fees and costs incurred in this action in favor of the Plaintiffs and against the Defendants, jointly and severally;
9. For a jury trial on all issues raised herein; and
10. Such other and further relief as this Court deems just and equitable.

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the document to which this Affirmation is attached does not contain the social security number of any person.

DATED this 21st day of January, 2020.

/s/ Michael J. Morrison
Michael J. Morrison, Esq.
Nevada State Bar No. 1665
1495 Ridgeview Dr., #220
Reno, Nevada 89519
(775) 827-6300
Attorney for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on this date I personally caused to be served a true copy of the foregoing FIRST AMENDED COMPLAINT indicated and addressed to the following:

Dane W. Anderson, Esq.
WOODBURN AND WEDGE
6100 Neil Road, Suite 500
Reno, Nevada 89511

____ Via U.S. Mail
____ Via Overnight Mail
____ Via Hand Delivery
____ Via Facsimile
__X__ Via ECF

DATED this 21st day of January, 2020.

/s/ Michael J. Morrison
Michael J. Morrison, Esq.

F I L E D
Electronically
CV19-00459
2020-01-30 09:24:23 AM
Jacqueline Bryant
Clerk of the Court
Transaction # 7712316

4105
Dane W. Anderson, Esq.
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danderson@woodburnandwedge.com

Attorneys for Plaintiff, the Regional Transportation Commission of Washoe County

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an individual; AND SONNIA ILIESCU, an individual, Plaintiffs, v. THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1 – 40, inclusive, Defendants.	Case No.: CV19-00459 Dept. No.: 15

SUPPLEMENTAL MOTION TO DISMISS

Defendant The Regional Transportation Commission of Washoe County ("RTC"), moves this Court pursuant to NRCP 12 and the Court's order of January 7, 2020, for an order dismissing certain of Plaintiffs' claims. This supplemental motion is based on the following points and authorities and the pleadings on file, including the prior briefing on RTC's original motions to dismiss.

/ / /

/ / /

I. INTRODUCTION

This supplemental motion follows the briefing and submission of RTC's motion to dismiss filed on September 25, 2019. After that motion was submitted, Plaintiffs agreed to the dismissal of their claims for emotional distress and to waive any damages for emotional distress or personal injury. See Stipulation For Entry Of Order Dismissing Certain Plaintiffs' Claims For Relief And Damages With Prejudice, filed on December 6, 2019. Plaintiffs agreed to limit their compensatory damages claim to the alleged property damage to their parking lot. Id.

On January 7, 2020, the Court entered an Order Addressing Motion To Dismiss, in which it directed Plaintiffs to file an amended complaint consistent setting forth their extant claims. Plaintiffs filed their First Amended Complaint on January 21, 2020 ("FAC"). The FAC seeks damages and equitable relief arising from Defendants alleged trespass on Plaintiffs' parking lot located at 642 E. 4th Street in Reno. FAC at ¶ 8. Plaintiffs allege that RTC and its agents "drove over and parked their respective vehicles" in the parking lot without Plaintiffs' consent, thereby damaging the parking lot. Id. at ¶ 10. Plaintiffs allege permanent damage to the property, including: (1) loss of market value; (2) loss of use; (3) cost of restoration; and (4) physical damage to and destruction of the property. Id. at ¶ 12.

Based on these general allegations, Plaintiffs' FAC asserts eleven causes of action: (1) Injunctive Relief; (2) Breach of Contract; (3) Contractual Breach of the Covenant of Good Faith and Fair Dealing; (4) Breach of Fiduciary Duty/Breach of Trust; (5) Declaratory Relief; (6) Waste; (7) Conversion; (8) Trespass; (9) Civil Conspiracy; (10) Negligence; (11) Tortious Breach of the Covenant of Good Faith and Fair Dealing;

RTC seeks dismissal of Plaintiffs' first, fourth, sixth, seventh, ninth and eleventh causes of action, as the allegations of the FAC fail to establish the elements of these claims or otherwise fail as a matter of law. In the interest of brevity, RTC incorporates by reference the legal standard set forth in its original motion.

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III. THE FOLLOWING CLAIMS SHOULD BE DISMISSED PURSUANT TO NRCP 12(b)(5).

1. Injunctive Relief—First Cause of Action

Plaintiffs seek injunctive relief preventing RTC from entering upon and/or using their property. FAC at ¶ 17. The alleged purpose of the requested injunctive relief is to preserve the status quo. Id. at ¶ 18. However, like their original complaint filed on February 27, 2019, Plaintiffs' FAC contains no allegations that RTC or anyone else is *currently* attempting to enter upon or otherwise use the property. There are no factual allegations that the status quo is threatened in any way. The FAC contains only conclusory allegations of irreparable harm, but no factual predicate to support that conclusion. In fact, Plaintiffs allegation is that the alleged conduct occurred "on virtually every workday during the term of the Project," which concluded in 2018. Further, despite the assertion of this cause of action and the fact that this case has been pending for almost a year now, Plaintiffs have never filed a motion for injunctive relief to address the alleged "irreparable harm."

Therefore, Plaintiffs' cause of action for injunctive relief should be dismissed.

2. Breach of Fiduciary Duty/Breach of Trust—Fourth Cause of Action

Plaintiffs allege that RTC owed them a fiduciary duty in connection with RTC's exercise of its right of condemnation. FAC at ¶ 35. Under the Restatement (Second) of Torts, a "fiduciary relation exists between two persons when one of them is under a duty to act for or to give advice for the benefit of another upon matters within the scope of the relation." *Restatement (Second) of Torts, § 874 cmt. a (1979).*

Here, there are no allegations that RTC was acting for the benefit of Plaintiffs or giving them advice. The only factual allegations are that RTC and Plaintiffs had a contract regarding RTC's use of and construction upon Plaintiffs' property and breached that contract. FAC at ¶ 40. Contractual relationships do not typically give rise to fiduciary duties among the parties to the contract. *Schlumberger Tech. Corp. v. Swanson*, 959 S.W.2d 171, 177 (Tex. 1997). A fiduciary or confidential relationship may arise from the circumstances of a

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particular case; however, to impose such a relationship in a business transaction, the relationship must exist prior to, and apart from, the agreement made the basis of the suit. *Id.* There are no such factual allegations in the FAC.

Further, as a general rule in Nevada, state officials have a duty to exercise only *ordinary* care in performing their duties. Butler ex rel. Biller v. Bayer, 123 Nev. 450, 464, 168 P.3d 1055, 1065 (2007). And, other states have held: "An actionable confidential or special relationship cannot exist between a government agency and a private citizen, as a matter of law." *See, e.g., Johnson v. Sawyer,* 760 F.Supp. 1216, 1233 (S.D. Tex. 1991).

Accepting Plaintiffs' allegations as true, the mere existence of a contract between Plaintiffs and RTC for construction upon and temporary use of Plaintiffs' property does not by itself establish a fiduciary duty. Therefore, Therefore, Plaintiffs' cause of action for breach of fiduciary duty/breach of trust should be dismissed.

3. Waste—Sixth Cause of Action

Plaintiffs assert an action for waste under NRS 40.150 and claim treble damages. FAC at ¶ 51. That statute provides: "If a guardian, tenant for life or years, joint tenant or tenant in common of real property commit waste thereon, any person aggrieved by the waste may bring an action against the guardian or tenant who committed the waste, in which action there may be judgment for treble damages." However, there are no allegations in the complaint that RTC is a guardian, tenant for life or years, joint tenant, or tenant in common of the real property. In fact, Plaintiffs specifically allege that RTC did not have permission to use the "Remaining Property." Id. at ¶ 10. Therefore, this claim fails as a matter of law based on the allegations of the FAC.

4. Conversion—Seventh Cause of Action

Conversion is "a distinct act of dominion wrongfully exerted over another's **personal** property in denial of, or inconsistent with his title or rights therein or in derogation, exclusion, or defiance of such title or rights." Evans v. Dean Witter Reynolds, Inc., 116 Nev. 598, 606, 5 P.3d 1043, 1048 (2000) (emphasis added). Plaintiffs' FAC contains no allegations regarding personal property. The allegations arise from damage to

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real property, specifically their parking lot. FAC at ¶¶ 8, 10. As such, the tort of conversion is not supported by the allegations and should be dismissed.

5. Civil Conspiracy—Ninth Cause of Action

A civil conspiracy claim exists when "a combination of two or more persons who, by some concerted action, intend to accomplish some unlawful objective for the purpose of harming another which results in damage." *Collins v. Union Fed. Sav. & Loan Ass'n*, 99 Nev. 284, 303, 662 P.2d 610, 622 (1983). To succeed on a civil conspiracy claim, a plaintiff must prove both an agreement, and that the conduct of each tortfeasor is tortious. *GES, Inc. v. Corbitt*, 117 Nev. 265, 271, 21 P.3d 11, 15 (2001) (quoting *Dow Chemical Co. v. Mahlum*, 114 Nev. 1468, 1488-89, 970 P.2d 98, 111-12 (1998)).

Plaintiffs' complaint fails to allege the identity of the other "person" besides RTC that was part of the conspiracy. Plaintiffs have had nearly a year since filing their initial complaint in which to discover the identity of the alleged co-conspirators and name them as defendants but have failed to do so. This cause of action should be dismissed.

6. Tortious Breach of Covenant of Good Faith and Fair Dealing—Eleventh Cause of Action

This claim, as opposed to a claim for contractual breach of the implied covenant of good faith and fair dealing, requires a special element of reliance or fiduciary duty exist between the plaintiff and defendant, such that the defendant is in a superior or entrusted position. *Great Amer. Ins. Co. v. Gen. Builders, Inc.*, 113 Nev. 346, 354-355, 934 P.2d 257, 263 (1997). The tort action for breach of the implied covenant of good faith and fair dealing is "limited to rare and exceptional cases." *Id.* The Nevada Supreme Court has recognized this type of reliance in relationships formed by employment, bailment, insurance, partnership and franchise agreements.

Again, Plaintiffs' allegations in the FAC boil down to the argument that RTC is "big government" and Plaintiffs are private citizens. FAC at ¶ 82(a), (b). As discussed

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above, RTC's status as a government agency does not, alone, create a fiduciary duty or special relationship. Therefore, Plaintiffs' cause of action for tortious breach of the implied covenant of good faith and fair dealing should be dismissed.

IV. CONCLUSION

Plaintiffs causes of action for injunctive relief, breach of fiduciary duty/breach of trust, waste, conversion, civil conspiracy and tortious breach of the covenant of good faith and fair dealing all fail as matter of law based on the allegations of the FAC. RTC requests that the Court enter an order dismissing these causes of action from this lawsuit.

Affirmation pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the personal information of any person.

DATED: January 30, 2020

WOODBURN AND WEDGE

By */s/ Dane W. Anderson*
Dane W. Anderson, Esq.
Nevada Bar No. 6883
Attorneys for Plaintiff
The Regional Transportation
Commission of Washoe County

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CERTIFICATE OF SERVICE

It is hereby certified that service of the foregoing **SUPPLEMENTAL MOTION TO DISMISS** was made through the Court's electronic filing and notification or, as appropriate, by sending a copy thereof by first-class mail from Reno, Nevada addressed as follows:

MICHAEL J. MORRISON, ESQ.
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Attorneys for Plaintiffs

DATED: January 30, 2020.

/s/ Dianne M. Kelling
Employee of Woodburn and Wedge

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an individual; and SONNIA ILIESCU, an individual,

Appellants,

vs.

THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1 through 40 inclusive,

Respondent.

Supreme Court No. 83212
Washoe County Case No. CV19-00459

JOINT APPENDIX
VOLUME II
(Exhibits 28-44)

Appeal from the Second Judicial District Court of the State of Nevada
in and for the County of Washoe County
Case No. CV19-00459

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Docket 83212 Document 2021-37261

DOCUMENT INDEX

DOC.	FILE/HRG. DATE	DOCUMENT DESCRIPTION	VOL.	BATES NOS.
WASHOE COUNTY CASE NO. CV16-02182 – JUDICIAL NOTICE				
1	10/24/16	Verified Complaint in Eminent Domain – Transaction 5772609	I	JA0001-0037
2	10/24/16	Notice of Pendency of Action for Permanent Easement, Public Utility Easement and a Temporary Construction Easement – Transaction 5773484	I	JA0038-0040
3	10/24/16	Affidavit of Jeff Hale – Transaction 5772609	I	JA0041-0044
4	10/24/16	Motion for Immediate Occupancy Pending Final Judgment – Transaction 5772609	I	JA0045-0049
5	11/18/16	Answer to Complaint – Transaction 5813621	I	JA0050-0052
6	11/29/16	Stipulation for the Entry of an Order for Immediate Occupancy Pending Entry of Judgment – Transaction 5827255	I	JA0053-0065
7	12/01/16	Order for Immediate Occupancy Pending Entry of Judgment – Transaction 5832427	I	JA0066-0075
8	04/18/18	Stipulation for the Entry of a Final Order of Condemnation and Judgment – Transaction 6636350	I	JA0076-0097
9	04/26/18	Final Order of Condemnation and Judgment – Transaction 6649694	I	JA0098-0108
10	04/26/18	Notice of Entry of Final Order of Condemnation and Judgment – Transaction 6650430	I	JA0109-0112
11	05/03/18	Order – Transaction 6661759	I	JA0113-0114
12	09/26/18	Withdrawal and Release of Notice of Lis Pendens – Transaction 6899751	I	JA0115-0125

DOC.	FILE/HRG. DATE	DOCUMENT DESCRIPTION	VOL.	BATES NOS.
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13	02/27/19	Complaint (Exemption from Arbitration – Equitable Relief Sought and Damages in Excess of $50,000) – Transaction 7140095	I	JA0126-0147
14	07/01/19	Order to Show Cause – Transaction 7349801	I	JA0148-0150
15	07/22/19	Motion for Extension of Time – Transaction 7386969	I	JA0151-0155
16	07/30/19	Order for Enlarging Time for Service – Transaction 7402741	I	JA0156-0158
17	08/08/19	Notice of Acceptance of Service – Dale Ferguston, Esq. – Transaction 7419581	I	JA0159-0161
18	09/25/19	Motion to Dismiss – Transaction 7504491	I	JA0162-0170
19	10/30/19	Stipulation to Conduct Discovery Prior to Holding NRCP 16.1 Conference and Prior to Filing the JCCR – Transaction 7563184 -	I	JA0171-0173
20	11/07/19	Plaintiffs' Opposition to Defendant's Partial Motion to Dismiss Plaintiff's Complaint – Transaction 7576382	I	JA0174-0182
21	11/12/19	Reply in Support of Motion to Dismiss – Transaction 7583646	I	JA0183-0190
22	11/18/19	Order Granting Stipulation to Conduct Discovery – Transaction 7593663	I	JA0191
23	12/06/19	Stipulation for Entry of Order Dismissing Certain Plaintiffs' Claims for Relief and Damages With Prejudice – Transaction 7623980	I	JA0192-0195
24	12/10/19	Order Granting Stipulation for Entry of Order Dismissing Certain of Plaintiff's Claims for Relief and Damages With Prejudice – Transaction 7629013	I	JA0196-0197
25	01/07/20	Order Addressing Motion to Dismiss – Plaintiff to File Amended Complaint – Transaction 7673003	I	JA0198-0199

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26	01/21/20	Amended Complaint – Transaction 7695926	I	JA0200-0218
27	01/30/20	Supplemental Motion to Dismiss – Transaction 7712316	I	JA0219-0225
28	02/10/20	Plaintiffs' Opposition to Defendant's Supplemental Motion to Dismiss – Transaction 7732495	II	JA0226-0235
29	02/13/20	Reply in Support of Supplemental Motion to Dismiss – Transaction 7739174	II	JA0236-0242
30	02/20/20	Motion to Compel – Transaction 7750935	II	JA0243-0248
31	03/11/20	Notice of Document Received But Not Considered by Court (Confidential Medical Records) – Transaction 7786510	II	JA0249-0255
32	03/20/20	Order Granting Motion to Dismiss – Transaction 7801281	II	JA0256-0257
33	03/20/20	Notice of Entry of Order – Transaction 7802297	II	JA0258-0261
34	03/23/20	Answer to First Amended Complaint – Transaction 7804469	II	JA0262-0291
35	04/01/20	Declaration of Dane W. Anderson in Support of Motion for Discovery Sanctions – Transaction 7818895	II	JA0292-0400
36	04/01/20	Motion for Sanctions Motion for Discovery Sanctions – Transaction 7818895	II	JA0401-0406
37	04/03/20	Master's Recommendation for Order – Transaction 7822158	II	JA0407-0410
38	04/20/20	Order Affirming Master Recommendation – Transaction 7841718	II	JA0411-0412
39	04/20/20	Request for Submission re Motion for Discovery Sanctions – Transaction 7842053	II	JA0413-0415
40	04/20/20	Motion for Sanctions – Transaction 7842166	II	JA0416-0420
41	04/22/20	Pre-Trial Order – Transaction 7845782	II	JA0421-0430

DOC.	FILE/HRG. DATE	DOCUMENT DESCRIPTION	VOL.	BATES NOS.
42	05/14/20	Plaintiffs' Opposition to Defendant's Motion for Sanctions – Transaction 7878297	II	JA0431-0436
43	05/18/20	Request for Submission re Motion for Sanctions Pursuant to NRCP 37(b)(l) – Transaction 7882116	II	JA0437-0439
44	05/18/20	Reply in Support of Motion for Sanctions Pursuant to NRCP 37(b)(1) – Transaction 7882116	II	JA0440-0444
45	06/10/20	Master's Recommendation for Order – Transaction 7919122	III	JA0445-0458
46	06/22/20	Declaration of Dane W. Anderson Regarding Expenses to be Reimbursed by Defendants – Transaction 7937253	III	JA0459-0476
47	06/30/20	Order Affirming Master Recommendation – Transaction 7949738	III	JA0477-0478
48	06/30/20	Order to Set File Notice to Set Within 14 Days – Transaction 7949756	III	JA0479
49	06/30/20	Plaintiffs' Notice of Intent to File Opposition to Defendant's Statement of Claimed Costs and Fees – Transaction 7950620	III	JA0480-0483
50	07/06/20	Plaintiffs' Response to Declaration of Dane W. Anderson Regarding Expenses to be Reimbursed by Defendants – Transaction 7956088	III	JA0484-0490
51	07/13/20	RTC's Reply to Plaintiffs' Response to Declaration of Dane W. Anderson Regarding Expenses to be Reimbursed by Defendants – Transaction 7966844	III	JA0491-0496
52	07/16/20	Request for Submission re Declaration of Dane W. Anderson Regarding Expenses To Be Reimbursed By Defendants [*sic*] – Transaction 7973986	III	JA0497-0499
53	07/21/20	Supplemental ... Declaration of Dane W. Anderson Re Expenses to be Reimbursed by Plaintiffs – Transaction 7981140	III	JA0500-0507

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54	07/21/20	Motion in Limine to Preclude Plaintiffs from Offering Documents Not Produced to RTC on or before June 30, 2020 Transaction 7981600	III	JA0508-0593
55	07/27/20	Plaintiffs' Response to the Supplemental Declaration of Dane W. Anderson Regarding Expenses to be Reimbursed by Plaintiffs – Transaction 7990157	III	JA0594-0597
56	07/29/20	RTC's Reply to Plaintiffs' Response to The Supplemental Declaration of Dane W. Anderson Regarding Expenses to be Reimbursed by Defendants – Transaction 7993047	III	JA0598-0602
57	08/05/20	Order Regarding Declarations of Expenses – Transaction 8004713	III	JA0603-0605
58	08/06/20	Notice of Entry of Order – Transaction 8007281	III	JA0606-0613
59	08/06/20	Request for Submission re Motion in Limine to Preclude Plaintiffs from Offering Documents Not Produced to RTC on or Before June 30, 2020 – Transaction 8007357	III	JA0614-0616
60	08/19/20	Order Granting Motion in Limine to Preclude Offering Documents Not Produced to RTC on or before June 30, 2020 – Transaction 8027856	III	JA0617-0618
61	08/20/20	Notice of Entry of Order – Transaction 8029028	III	JA0619-0625
62	03/23/20	Demand for Jury Trial – Transaction 8082710	III	JA0626-0627
63	09/30/20	Minutes 9/29/20 Case Management Conference (ESC) – Transaction 8093137	III	JA0628-0629
64	09/30/20	Transcript of 9/29/20 Case Management Conference	III	JA0630-0644
65	10/08/20	Stipulation for Entry of Scheduling Order – Transaction 8107608	III	JA0645-0648

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66	10/12/20	Scheduling Order Amended Stipulated Scheduling Order – Transaction 8111324	III	JA0649-0651
67	01/19/21	Motion for Sanctions Pursuant to NRCP 16.1(E) – Transaction 8252375	III	JA0652-0657
68	02/18/21	Opposition to Motion for Sanctions – Transaction 8302448	III	JA0658-0662
69	02/25/21	Request for Submission re Motion for Sanctions Pursuant to NRCP 16.1(e) – Transaction 8313712	III	JA0663-0665
70	02/25/21	RTC's Reply in Support of Motion for Sanctions Pursuant to NRCP 16.1(C) – Transaction 8313712	IV	JA0666-0687
71	03/09/21	Motion for Summary Judgment – Transaction 8332645	IV	JA0688-0708
72	03/09/21	Motion in Limine to Exclude Evidence of Damages – Transaction 8333168	IV	JA0709-0712
73	03/09/21	Motion in Limine to Preclude Plaintiffs From Presenting Evidence Pursuant to NRS 50.275, 50.285 and 50.305 – Transaction 8333168	IV	JA0713-0716
74	03/11/21	Application for Setting – Transaction 8337959	IV	JA0717-0720
75	03/25/21	Order Denying Motion for Sanctions – Transaction 8361465	IV	JA0721-0722
76	04/02/21	Plaintiffs' Opposition to Defendants' Motion for Summary Judgment – Transaction 8376225	IV	JA0723-0814
77	04/02/21	Plaintiffs' Opposition to Defendants' Motion in Limine to Exclude Evidence of Damages – Transaction 8376231	IV	JA0815-0818
78	04/02/21	Plaintiffs' Opposition to Defendant's Motion in Limine to Exclude Evidence Pursuant to NRS 50.275, 50.285, and 50.305 – Transaction 8376236	IV	JA0819-0822

DOC.	FILE/HRG. DATE	DOCUMENT DESCRIPTION	VOL.	BATES NOS.
79	04/02/21	Plaintiffs' Opposition to Defendant's Motion in Limine to Exclude Evidence Pursuant to NRS 50.275 – Transaction 8376273	IV	JA0823-0826
80	04/27/21	Reply in Support of Motion in Limine to Preclude Plaintiffs from Presenting Evidence Pursuant to NRS 50.275, 50.285 and 50.305 – Transaction 8416238	IV	JA0827-0830
81	04/27/21	Reply in Support of Motion in Limine to Exclude Evidence of Damages – Transaction 8416263	V	JA0831-0884
82	04/28/21	Request for Submission re Reply in Support of Motion in Limine to Preclude Plaintiffs From Presenting Evidence Pursuant to NRS 50.275, 50.285 and 50.305 – Transaction 8417512	V	JA0885-0887
83	04/28/21	Request for Submission re Reply in Support of Motion in Limine to Exclude Evidence of Damages – Transaction 8417518	V	JA0888-0890
84	04/28/21	Order Setting Hearing and for Electronic Appearance – Transaction 8419081	V	JA0891-0892
85	04/29/21	Reply in Support of Motion for Summary Judgment – Transaction 8420046	V	JA0893-0941
86	05/06/21	Minutes 4/27/2021 – Status Hearing – Transaction 8430816	V	JA0942-0944
87	05/06/21	Transcript of 4/27/21 Status Hearing	V	JA0945-1004
88	05/12/21	Minutes 5/12/2021 – Oral Arguments – Transaction 8441847	V	JA1005
89	05/12/21	Transcript of 5/12/2021 Oral Arguments – Transaction 8442136	V	JA1006-1047
90	05/13/21	Notice of Intent to File Motion – Transaction 8444437	V	JA1048-1049
91	05/24/21	Response to Notice of Intent to File Motion – Transaction 8461146	V	JA1050-1053

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92	06/01/21	Plaintiffs' Motion for Reconsideration and Rehearing of, or, in the Alternative, Motion to Set Aside this Court's Order Pursuant to NRCP 60(B)(1) and (6) – Transaction 8473201	V	JA1054-1060
93	06/02/21	First Errata to Plaintiffs' Motion for Reconsideration and Rehearing of, or, in the Alternative, Motion to Set Aside this Court's Order Pursuant to NRCP 60(B)(1) and (6) – Transaction 8474224	VI	JA1061-1082
94	06/02/21	Order Setting Hearing for Oral Argument 6/8/21 at 10:00 A.M. – Transaction 8474916	VI	JA1083-1084
95	06/07/21	Opposition to Motion for Reconsideration and Rehearing of, or in the Alternative, Motion to Set Aside this Court's Order Pursuant to NRCP 60(B)(1) and (6) [including the "First" and any other "Erratas" that may be filed] – Transaction 8483047	VI	JA1085-1096
96	06/08/21	Supplemental Exhibit to Motion for Reconsideration – Transaction 8483818	VI	JA1097-1104
97	06/08/21	Minutes regarding Oral Arguments – Transaction 8484485	VI	JA1105
98	06/08/21	Transcript of 6/8/21 Oral Arguments	VI	JA1106-1147
99	06/09/21	Order Granting Summary Judgment After Supplemental Arguments – Transaction 8487964	VI	JA1148-1159
100	06/10/21	Notice of Entry of Judgment Notice of Entry of Order Granting Summary Judgment – Transaction 8490380	VI	JA1160-1176
101	06/15/21	Memorandum of Costs – Transaction 8495869	VI	JA1177-1200
102	06/15/21	Declaration of Dane W. Anderson in Support of Memorandum of Costs – Transaction 8495884	VI	JA1201-1204

DOC.	FILE/HRG. DATE	DOCUMENT DESCRIPTION	VOL.	BATES NOS.
103	06/29/21	Motion for Attorney's Fee – Transaction 8517765	VI	JA1205-1214
104	06/29/21	Declaration in Support of Motion for Fees – Transaction 8517765	VI	JA1215-1251
105	07/09/21	Notice of Appeal – Transaction 8536470	VI	JA1252-1255
106	07/09/21	Case Appeal Statement – Transaction 8536470	VI	JA1256-1261
107	07/14/21	Notice of Appeal (*Supreme Court Filing*)	VII	JA1262-1325
108	08/14/21	Plaintiffs' Opposition to Defendant's Motion for Attorney Fees and for Entry of Judgment for Attorney Fees and Costs – Transaction 8595894	VII	JA1326-1338
109	08/23/21	Reply in Support of Motion for Attorney Fees and for Entry of Judgment for Attorney Fees and Costs – Transaction 8608634	VII	JA1339-1347
110	08/23/21	Reply in Support of Motion for Attorney Fees and for Entry of Judgment for Attorney Fees and Costs – Transaction 8608728	VII	JA1348-1364
111	10/18/21	Order Granting Attorney's Fees and Entry of Judgment – Transaction 8701865	VII	JA1365-1373
112	10/18/21	Notice of Entry of Order Granting Attorney's Fees and Entry of Judgment – Transaction 8702337	VII	JA1374-1386
113	10/21/21	Amended Notice of Appeal – Transaction 8709785	VII	JA1387-1389

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ALPHABETICAL INDEX

DOC.	FILE/HRG. DATE	DOCUMENT DESCRIPTION	VOL.	BATES NOS.
WASHOE COUNTY CASE NO. CV16-02182 – JUDICIAL NOTICE				
3	10/24/16	Affidavit of Jeff Hale - Transaction 5772609	I	AA0041-0044
5	11/18/16	Answer to Complaint - Transaction 5813621	I	AA0050-0052
9	04/26/18	Final Order of Condemnation and Judgment - Transaction 6649694	I	AA0098-0108
4	10/24/16	Motion for Immediate Occupancy Pending Final Judgment - Transaction 5772609	I	AA0045-0049
10	04/26/18	Notice of Entry of Final Order of Condemnation and Judgment - Transaction 6650430	I	AA0109-0112
2	10/24/16	Notice of Pendency of Action for Permanent Easement, Public Utility Easement and a Temporary Construction Easement - Transaction 5773484	I	AA0038-0040
11	05/03/18	Order - Transaction 6661759	I	AA0113-0114
7	12/01/16	Order for Immediate Occupancy Pending Entry of Judgment - Transaction 5832427	I	AA0066-0075
8	04/18/18	Stipulation for the Entry of a Final Order of Condemnation and Judgment - Transaction 6636350	I	AA0076-0097
6	11/29/16	Stipulation for the Entry of an Order for Immediate Occupancy Pending Entry of Judgment - Transaction 5827255	I	AA0053-0065
1	10/24/16	Verified Complaint in Eminent Domain - Transaction 5772609	I	AA0001-0037
12	09/26/18	Withdrawal and Release of Notice of Lis Pendens - Transaction 6899751	I	AA0115-0125
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26	01/21/20	Amended Complaint – Transaction 7695926	I	JA0200-0218

DOC.	FILE/HRG. DATE	DOCUMENT DESCRIPTION	VOL.	BATES NOS.
113	10/21/21	Amended Notice of Appeal – Transaction 8709785	VII	JA1387-1389
34	03/23/20	Answer to First Amended Complaint – Transaction 7804469	II	JA0262-0291
74	03/11/21	Application for Setting – Transaction 8337959	IV	JA0717-0720
106	07/09/21	Case Appeal Statement – Transaction 8536470	VI	JA1256-1261
13	02/27/19	Complaint (Exemption from Arbitration – Equitable Relief Sought and Damages in Excess of $50,000) – Transaction 7140095	I	JA0126-0147
104	06/29/21	Declaration in Support of Motion for Fees – Transaction 8517765	VI	JA1215-1251
102	06/15/21	Declaration of Dane W. Anderson in Support of Memorandum of Costs – Transaction 8495884	VI	JA1201-1204
35	04/01/20	Declaration of Dane W. Anderson in Support of Motion for Discovery Sanctions – Transaction 7818895	II	JA0292-0400
46	06/22/20	Declaration of Dane W. Anderson Regarding Expenses to be Reimbursed by Defendants – Transaction 7937253	III	JA0459-0476
62	03/23/20	Demand for Jury Trial – Transaction 8082710	III	JA0626-0627
93	06/02/21	First Errata to Plaintiffs' Motion for Reconsideration and Rehearing of, or, in the Alternative, Motion to Set Aside this Court's Order Pursuant to NRCP 60(B)(1) and (6) – Transaction 8474224	VI	JA1061-1082
37	04/03/20	Master's Recommendation for Order – Transaction 7822158	II	JA0407-0410
45	06/10/20	Master's Recommendation for Order – Transaction 7919122	III	JA0445-0458
101	06/15/21	Memorandum of Costs – Transaction 8495869	VI	JA1177-1200

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86	05/06/21	Minutes 4/27/2021 – Status Hearing – Transaction 8430816	V	JA0942-0944
88	05/12/21	Minutes 5/12/2021 – Oral Arguments – Transaction 8441847	V	JA1005
63	09/30/20	Minutes 9/29/20 Case Management Conference (ESC) – Transaction 8093137	III	JA0628-0629
97	06/08/21	Minutes regarding Oral Arguments – Transaction 8484485	VI	JA1105
103	06/29/21	Motion for Attorney's Fee – Transaction 8517765	VI	JA1205-1214
15	07/22/19	Motion for Extension of Time – Transaction 7386969	I	JA0151-0155
40	04/20/20	Motion for Sanctions – Transaction 7842166	II	JA0416-0420
36	04/01/20	Motion for Sanctions Motion for Discovery Sanctions – Transaction 7818895	II	JA0401-0406
67	01/19/21	Motion for Sanctions Pursuant to NRCP 16.1(E) – Transaction 8252375	III	JA0652-0657
71	03/09/21	Motion for Summary Judgment – Transaction 8332645	IV	JA0688-0708
72	03/09/21	Motion in Limine to Exclude Evidence of Damages – Transaction 8333168	IV	JA0709-0712
54	07/21/20	Motion in Limine to Preclude Plaintiffs from Offering Documents Not Produced to RTC on or before June 30, 2020 Transaction 7981600	III	JA0508-0593
73	03/09/21	Motion in Limine to Preclude Plaintiffs From Presenting Evidence Pursuant to NRS 50.275, 50.285 and 50.305 – Transaction 8333168	IV	JA0713-0716
30	02/20/20	Motion to Compel – Transaction 7750935	II	JA0243-0248
18	09/25/19	Motion to Dismiss – Transaction 7504491	I	JA0162-0170
17	08/08/19	Notice of Acceptance of Service – Dale Ferguston, Esq. – Transaction 7419581	I	JA0159-0161

DOC.	FILE/HRG. DATE	DOCUMENT DESCRIPTION	VOL.	BATES NOS.
105	07/09/21	Notice of Appeal – Transaction 8536470	VI	JA1252-1255
107	07/14/21	Notice of Appeal (*Supreme Court Filing*)	VII	JA1262-1325
31	03/11/20	Notice of Document Received But Not Considered by Court (Confidential Medical Records) – Transaction 7786510	II	JA0249-0255
100	06/10/21	Notice of Entry of Judgment Notice of Entry of Order Granting Summary Judgment – Transaction 8490380	VI	JA1160-1176
33	03/20/20	Notice of Entry of Order – Transaction 7802297	II	JA0258-0261
58	08/06/20	Notice of Entry of Order – Transaction 8007281	III	JA0606-0613
61	08/20/20	Notice of Entry of Order – Transaction 8029028	III	JA0619-0625
112	10/18/21	Notice of Entry of Order Granting Attorney's Fees and Entry of Judgment – Transaction 8702337	VII	JA1374-1386
90	05/13/21	Notice of Intent to File Motion – Transaction 8444437	V	JA1048-1049
95	06/07/21	Opposition to Motion for Reconsideration and Rehearing of, or in the Alternative, Motion to Set Aside this Court's Order Pursuant to NRCP 60(B)(1) and (6) [including the "First" and any other "Erratas" that may be filed] – Transaction 8483047	VI	JA1085-1096
68	02/18/21	Opposition to Motion for Sanctions – Transaction 8302448	III	JA0658-0662
25	01/07/20	Order Addressing Motion to Dismiss – Plaintiff to File Amended Complaint – Transaction 7673003	I	JA0198-0199
38	04/20/20	Order Affirming Master Recommendation – Transaction 7841718	II	JA0411-0412
47	06/30/20	Order Affirming Master Recommendation – Transaction 7949738	III	JA0477-0478

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75	03/25/21	Order Denying Motion for Sanctions – Transaction 8361465	IV	JA0721-0722
16	07/30/19	Order for Enlarging Time for Service – Transaction 7402741	I	JA0156-0158
111	10/18/21	Order Granting Attorney's Fees and Entry of Judgment – Transaction 8701865	VII	JA1365-1373
60	08/19/20	Order Granting Motion in Limine to Preclude Offering Documents Not Produced to RTC on or before June 30, 2020 – Transaction 8027856	III	JA0617-0618
32	03/20/20	Order Granting Motion to Dismiss – Transaction 7801281	II	JA0256-0257
24	12/10/19	Order Granting Stipulation for Entry of Order Dismissing Certain of Plaintiff's Claims for Relief and Damages With Prejudice – Transaction 7629013	I	JA0196-0197
22	11/18/19	Order Granting Stipulation to Conduct Discovery – Transaction 7593663	I	JA0191
99	06/09/21	Order Granting Summary Judgment After Supplemental Arguments – Transaction 8487964	VI	JA1148-1159
57	08/05/20	Order Regarding Declarations of Expenses – Transaction 8004713	III	JA0603-0605
84	04/28/21	Order Setting Hearing and for Electronic Appearance – Transaction 8419081	V	JA0891-0892
94	06/02/21	Order Setting Hearing for Oral Argument 6/8/21 at 10:00 A.M. – Transaction 8474916	VI	JA1083-1084
48	06/30/20	Order to Set File Notice to Set Within 14 Days – Transaction 7949756	III	JA0479
14	07/01/19	Order to Show Cause – Transaction 7349801	I	JA0148-0150
92	06/01/21	Plaintiffs' Motion for Reconsideration and Rehearing of, or, in the Alternative, Motion to Set Aside this Court's Order Pursuant to NRCP 60(B)(1) and (6) – Transaction 8473201	V	JA1054-1060

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49	06/30/20	Plaintiffs' Notice of Intent to File Opposition to Defendant's Statement of Claimed Costs and Fees – Transaction 7950620	III	JA0480-0483
108	08/14/21	Plaintiffs' Opposition to Defendant's Motion for Attorney Fees and for Entry of Judgment for Attorney Fees and Costs – Transaction 8595894	VII	JA1326-1338
42	05/14/20	Plaintiffs' Opposition to Defendant's Motion for Sanctions – Transaction 7878297	II	JA0431-0436
78	04/02/21	Plaintiffs' Opposition to Defendant's Motion in Limine to Exclude Evidence Pursuant to NRS 50.275, 50.285, and 50.305 – Transaction 8376236	IV	JA0819-0822
79	04/02/21	Plaintiffs' Opposition to Defendant's Motion in Limine to Exclude Evidence Pursuant to NRS 50.275 – Transaction 8376273	IV	JA0823-0826
20	11/07/19	Plaintiffs' Opposition to Defendant's Partial Motion to Dismiss Plaintiff's Complaint – Transaction 7576382	I	JA0174-0182
28	02/10/20	Plaintiffs' Opposition to Defendant's Supplemental Motion to Dismiss – Transaction 7732495	II	JA0226-0235
76	04/02/21	Plaintiffs' Opposition to Defendants' Motion for Summary Judgment – Transaction 8376225	IV	JA0723-0814
77	04/02/21	Plaintiffs' Opposition to Defendants' Motion in Limine to Exclude Evidence of Damages – Transaction 8376231	IV	JA0815-0818
50	07/06/20	Plaintiffs' Response to Declaration of Dane W. Anderson Regarding Expenses to be Reimbursed by Defendants – Transaction 7956088	III	JA0484-0490

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55	07/27/20	Plaintiffs' Response to the Supplemental Declaration of Dane W. Anderson Regarding Expenses to be Reimbursed by Plaintiffs – Transaction 7990157	III	JA0594-0597
41	04/22/20	Pre-Trial Order – Transaction 7845782	II	JA0421-0430
109	08/23/21	Reply in Support of Motion for Attorney Fees and for Entry of Judgment for Attorney Fees and Costs – Transaction 8608634	VII	JA1339-1347
110	08/23/21	Reply in Support of Motion for Attorney Fees and for Entry of Judgment for Attorney Fees and Costs – Transaction 8608728	VII	JA1348-1364
44	05/18/20	Reply in Support of Motion for Sanctions Pursuant to NRCP 37(b)(1) – Transaction 7882116	II	JA0440-0444
85	04/29/21	Reply in Support of Motion for Summary Judgment – Transaction 8420046	V	JA0893-0941
81	04/27/21	Reply in Support of Motion in Limine to Exclude Evidence of Damages – Transaction 8416263	V	JA0831-0884
80	04/27/21	Reply in Support of Motion in Limine to Preclude Plaintiffs from Presenting Evidence Pursuant to NRS 50.275, 50.285 and 50.305 – Transaction 8416238	IV	JA0827-0830
21	11/12/19	Reply in Support of Motion to Dismiss – Transaction 7583646	I	JA0183-0190
29	02/13/20	Reply in Support of Supplemental Motion to Dismiss – Transaction 7739174	II	JA0236-0242
69	08/06/20	Request for Submission re Motion in Limine to Preclude Plaintiffs from Offering Documents Not Produced to RTC on or Before June 30, 2020 – Transaction 8007357	III	JA0614-0616

DOC.	FILE/HRG. DATE	DOCUMENT DESCRIPTION	VOL.	BATES NOS.
52	07/16/20	Request for Submission re Declaration of Dane W. Anderson Regarding Expenses To Be Reimbursed By Defendants [*sic*] – Transaction 7973986	III	JA0497-0499
39	04/20/20	Request for Submission re Motion for Discovery Sanctions – Transaction 7842053	II	JA0413-0415
69	02/25/21	Request for Submission re Motion for Sanctions Pursuant to NRCP 16.1(e) – Transaction 8313712	III	JA0663-0665
43	05/18/20	Request for Submission re Motion for Sanctions Pursuant to NRCP 37(b)(l) – Transaction 7882116	II	JA0437-0439
82	04/28/21	Request for Submission re Reply in Support of Motion in Limine to Preclude Plaintiffs From Presenting Evidence Pursuant to NRS 50.275, 50.285 and 50.305 – Transaction 8417512	V	JA0885-0887
83	04/28/21	Request for Submission re Reply in Support of Motion in Limine to Exclude Evidence of Damages – Transaction 8417518	V	JA0888-0890
91	05/24/21	Response to Notice of Intent to File Motion – Transaction 8461146	V	JA1050-1053
70	02/25/21	RTC's Reply in Support of Motion for Sanctions Pursuant to NRCP 16.1(C) – Transaction 8313712	IV	JA0666-0687
51	07/13/20	RTC's Reply to Plaintiffs' Response to Declaration of Dane W. Anderson Regarding Expenses to be Reimbursed by Defendants – Transaction 7966844	III	JA0491-0496
56	07/29/20	RTC's Reply to Plaintiffs' Response to The Supplemental Declaration of Dane W. Anderson Regarding Expenses to be Reimbursed by Defendants – Transaction 7993047	III	JA0598-0602

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66	10/12/20	Scheduling Order Amended Stipulated Scheduling Order – Transaction 8111324	III	JA0649-0651
19	10/30/19	Stipulation to Conduct Discovery Prior to Holding NRCP 16.1 Conference and Prior to Filing the JCCR – Transaction 7563184 -	I	JA0171-0173
23	12/06/19	Stipulation for Entry of Order Dismissing Certain Plaintiffs' Claims for Relief and Damages With Prejudice – Transaction 7623980	I	JA0192-0195
65	10/08/20	Stipulation for Entry of Scheduling Order – Transaction 8107608	III	JA0645-0648
53	07/21/20	Supplemental ... Declaration of Dane W. Anderson Re Expenses to be Reimbursed by Plaintiffs – Transaction 7981140	III	JA0500-0507
96	06/08/21	Supplemental Exhibit to Motion for Reconsideration – Transaction 8483818	VI	JA1097-1104
27	01/30/20	Supplemental Motion to Dismiss – Transaction 7712316	I	JA0219-0225
87	05/06/21	Transcript of 4/27/21 Status Hearing	V	JA0945-1004
89	05/12/21	Transcript of 5/12/2021 Oral Arguments – Transaction 8442136	V	JA1006-1047
98	06/08/21	Transcript of 6/8/21 Oral Arguments	VI	JA1106-1147
64	09/30/20	Transcript of 9/29/20 Case Management Conference	III	JA0630-0644

CERTIFICATE OF SERVICE

Pursuant to NRAP 25(c), I hereby certify that I am an employee of ALBRIGHT, STODDARD, WARNICK & ALBRIGHT, and that on this 30th day of December, 2021, the foregoing **JOINT APPENDIX, VOLUME II**, was filed electronically with the Clerk of the Nevada Supreme Court, and therefore electronic service was made in accordance with the master service list as follows:

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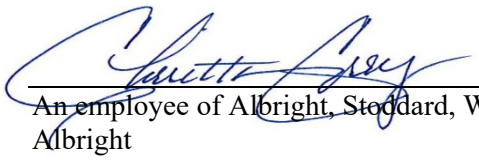

An employee of Albright, Stoddard, Warnick & Albright

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Attorney for Plaintiffs

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

* * * * *

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU, JR. AND SONNIA ILIESCU 1992 FAMILY TRUST, Plaintiff, vs. THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; AND DOES 1-40, Defendants.	CASE NO. CV19-00459 DEPT. NO. 15 **PLAINTIFFS' OPPOSITION TO DEFENDANT'S SUPPLEMENTAL MOTION TO DISMISS**

COME NOW JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU, JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., individually; and SONNIA ILIESCUE, individually (collectively, "the Iliescu plaintiffs"), by and through their attorney, Michael J. Morrison, Esq., and oppose Defendant Regional Transportation Commission of Washoe County's ("the RTC") supplemental motion to dismiss. This Opposition is made and based upon, and supported by, the following points and authorities, as follows:

///

POINTS AND AUTHORITIES

I. OVERVIEW

On January 21, 2020, the Iliescu plaintiffs filed their first amended complaint in this case to conform to the parties' December 6, 2019, stipulation related to the Iliescu plaintiffs' agreement to dismiss claims for damages other than compensatory damage claims. The Iliescu plaintiffs' first amended complaint asserts eleven causes of action against the RTC for injunctive relief and various contract- and tort-based claims as it concerns the RTC's trespass over, damage to, and destruction of the Iliescu plaintiffs' property located at 642 E. 4th Street in Reno – property over which the RTC had exercised and blatantly abused its eminent domain powers. In response to the Iliescu's first amended complaint, the RTC seeks to dismiss the Iliescu plaintiffs' first (injunctive relief), fourth (breach of fiduciary duty/breach of trust), sixth (waste), seventh (conversion), ninth (civil conspiracy), and eleventh (tortious breach of the covenant of good faith and fair dealing) claims for relief, generally asserting that the Iliescu plaintiffs fail to establish their claims or that they otherwise fail as a matter of law. RTC's assertions, however, are without merit and do not warrant an order dismissing any of the Iliescu plaintiffs' claims.

II. ARGUMENT

A claim should not be dismissed pursuant to NRCP 12(b)(5) unless it appears to a certainty that the plaintiff could prove no set of facts that would entitle him to relief. *Holcomb Condo. Homeowners' Ass'n, Inc. v. Stewart Venture, LLC*, 129 Nev. 181, 300 P.3d 124, 128 (2013), *citing Cohen v. Mirage Resorts, Inc.*, 119 Nev. 1, 22, 62 P.3d 720, 732 (2003). This is a rigorous standard, as the reviewing court ***accepts all factual recitations in the complaint as true and construes the pleading liberally, drawing every inference in favor of the nonmoving party.*** *Holcomb Condo. Homeowners' Ass'n, supra, citing Citizens for Cold Springs v. City of Reno*, 125 Nev. 625, 629, 218 P.3d 847, 850 (2009); *see also Lubin v. Kunin*, 117 Nev. 107, n. 1, 17 P.3d 422, n. 1

(2001) (reciting the well-recognized standard for considering motions to dismiss), *citing Vacation Village v. Hitachi America*, 110 Nev. 481, 484, 874 P.2d 744 (1994). To that end, dismissal for failure to state a claim is appropriate only if it appears beyond doubt that the nonmoving party could prove no set of facts that, if true, would entitle it to relief. *Buzz Stew, LLC v. City of North Las Vegas*, 124 Nev. 224, 228, 181 P.3d 670, 672 (2008). That standard is not one of "reasonable doubt" – it requires a showing *beyond* a doubt. *Id.* at 228, n. 6, 181 P.3d at 672, n. 6. In this case, accepting the Iliescu plaintiffs' factual allegations as true, considering those allegations in the context in which they are made, and drawing every permissible inference in the Iliescu plaintiffs' favor, dismissal as requested by the RTC is not warranted or appropriate. The Iliescu plaintiffs have adequately alleged a valid claim for injunctive relief, and have stated a valid claim for relief for the RTC's breach of trust/breach of fiduciary duties. Moreover, the factual allegations that support the Iliescu plaintiffs' cause of action for waste necessarily contemplate the statutory authority on which it is based, and their claim for conversion has been adequately pleaded. Because the Iliescu plaintiffs' First Amended Complaint alleges the RTC's conspiracy with others not yet known to the Iliescu plaintiffs and because the discovery process has not yet been triggered in this case, an order dismissing the Iliescu plaintiffs' civil conspiracy claim is not appropriate or warranted. Finally, the Iliescu plaintiffs have sufficiently alleged a valid cause of action for the RTC's tortious breach of the covenant of good faith and fair dealing. Thus, because the RTC has failed to show that it is beyond doubt that the Iliescu plaintiffs could prove no set of facts that, if true, would entitle them to relief, it has failed to meet the rigorous standard imposed on it in bringing its motion to dismiss pursuant to NRCP 12(b)(5).

A. The Iliescu plaintiffs have adequately pled a claim for injunctive relief.

The RTC requests that this Court dismiss the Iliescu plaintiffs' first cause of action for injunctive relief because there is no factual predicate within that claim to

support an injunction. Specifically, RTC asserts that there are no allegations that the RTC or anyone else is currently entering on or using the Iliescu plaintiffs' property, and that the RTC project that gave rise to the Iliescu plaintiffs' claims in this case concluded in 2018. Notwithstanding that the RTC offers nothing to substantiate its assertions, it ignores the allegations in the Iliescu plaintiffs' First Amended Complaint.

In Nevada, an injunction is issued to protect a plaintiff from irreparable injury and to preserve the court's power to render a meaningful decision after a trial on the merits by preserving the status quo. *Ottenheimer v. Real Estate Division,* 91 Nev. 338, 535 P.2d 1284 (1975); NRS 33.010(3) (when it shall appear, during the litigation, that the defendant is doing or threatens, or is about to do, or is procuring or suffering to be done, some act in violation of the plaintiff's rights respecting the subject of the action, and tending to render the judgment ineffectual). The standards for granting a preliminary injunction requiring a showing that, without granting the relief requested, the requesting party will suffer irreparable harm, that there is an inadequate remedy at law, and that the requesting party has a reasonable likelihood of prevailing on the merits of the case. *Dixon v. Thatcher,* 103 Nev. 414, 742 P.2d 1029 (1987). In this case, the Iliescu plaintiffs' injunctive relief claim is not only based on the allegations supporting that claim (First Amended Complaint at 5-6, ¶¶14-20), it incorporates by reference the factual allegations that precede the claim (*Id.* at 4, ¶ 13, incorporating into the injunctive relief claim the allegations stated in paragraphs 1-12 of the First Amended Complaint). Included in those paragraphs are factual allegations that the RTC's continued to trespass and damage the Iliescu plaintiffs' property *even after they completed their work and no longer had an easement*. First Amended Complaint at 3, ¶¶8-12. To that end, accepting the Iliescu plaintiffs' allegations as true and drawing all reasonable inferences in their favor (*Holcomb Condo. Homeowners' Ass'n, supra*), and considering that the RTC has a history of helping itself to the Iliescu plaintiffs' property beyond any right to do so, the Iliescu plaintiffs seek to prohibit the RTC from

continuing to exercise any right it no longer has by, i.e., continuing to unlawfully use the Iliescu plaintiffs' property as its own parking lot when they are downtown and unable to find parking for their vehicles that caused have extensive damage to the Iliescu plaintiffs' property. Thus, because the Iliescu plaintiffs have adequately pleaded a cause of action against the RTC for injunctive relief, the RTC is not entitled to an order dismissing that claim.

B. The Iliescu plaintiffs have stated a valid claim for relief for the RTC's breach of trust/breach of fiduciary duties.

The RTC goes on to challenge the Iliescu plaintiffs' claim alleging the RTC's breach of fiduciary duty and breach of trust because the parties' relationship to each other was a contractual relationship that does not give rise to a fiduciary relationship, and the Iliescu plaintiffs do not allege what is required to establish any special duty owed by the RTC to them. The Iliescu plaintiffs' First Amended Complaint, however, says otherwise.

Indeed, the project that gives rise to the Iliescu plaintiffs' claims in this case was a result of the RTC's exercise of eminent domain and its condemnation proceedings against the Iliescu plaintiffs' property, and then its reprehensible conduct toward and the damage it caused to the Iliescu plaintiffs and their property after the RTC no longer had any legal right to trespass on and use the Iliescu plaintiffs' property. First Amended Complaint at 2, ¶¶2, 4; 3, ¶ 7; 8-9, ¶¶ 34-41. Indeed, the nature of the genesis of the parties' relationship and the RTC's unilateral actions by which it subsequently and improperly exercised its position of superiority and, by imposing itself on the Iliescu plaintiffs and taking control of their property, necessarily created an obligation on the RTC to act in good faith and with due regard toward the interests of the Iliescu plaintiffs, who had been required to repose special confidence in the RTC. *Id.; accord, Long v. Towne,* 98 Nev. 11, 639 P.2d 529, 530 (Nev. 1982) (defining a fiduciary relationship as requiring one in whom another party has reposed a special

confidence to act in good faith and with due regard to that party's interests). Thus, based on the face of the First Amended Complaint – accepting all of its allegations as true and drawing all reasonable inferences in favor of the Iliescu plaintiffs (*see, supra*) – the Iliescu plaintiffs have stated a valid cause of action for the RTC's breach of fiduciary duties/ breach of trust.

C. The factual allegations that support the Iliescu plaintiffs' cause of action for waste necessarily contemplates the statutory authority on which that claim is based.

In its challenge to the Iliescu plaintiffs' cause of action for waste pursuant to NRS 40.150, the RTC asserts that the First Amended Complaint does not allege what the statute for that claim requires. Accepting the Iliescu plaintiffs' allegations as true and drawing all reasonable inferences in their favor, however, that contention is contrary to the First Amended Complaint.

In relevant part, NRS 40.150, to which the First Amended Complaint specifically cites in its Sixth Cause of Action for Waste (First Amended Complaint at 11, ¶ 51), states that if a guardian or tenant of real property commits waste on the property, the party aggrieved by the waste may bring an action against the guardian or tenant who committed the waste. As addressed above, the RTC had access to and use of the Iliescu plaintiffs' property by way of its eminent domain and condemnation powers that resulted in an easement over the Iliescu plaintiffs' property. First Amended Complaint at 3-4, ¶¶ 8-10, incorporated by reference into the Sixth Cause of Action at 11, ¶ 50. By imposing itself onto and taking control of the Iliescu plaintiffs' property, both for purposes of undertaking the project at issue and continuing occupy and exercise control over the Iliescu plaintiffs' property beyond their right to do so, the RTC necessarily became the guardian and/or tenant of the portion of the Iliescu property over which it had control and used for purposes of the requirements of NRS 40.150. Thus, the Iliescu plaintiffs' First Amended Complaint states a valid cause of action against the RTC for waste pursuant to NRS 40.150.

D. The Iliescu plaintiffs have adequately alleged a conversion claim.

The RTC requests that the Iliescu plaintiffs' conversion claim be dismissed based upon the nature of the property at issue in this case. On the face of the complaint, however, the Iliescu plaintiffs generally allege the RTC's acts of dominion and control over the Iliescu plaintiffs' property, the damage to and destruction of that property, and the denial by the RTC of the Iliescu plaintiffs' rights to their property. *See* First Amended Complaint at 2, ¶ 5; 3-4, ¶¶ 8-12; 11-13, ¶¶50-60. While the Iliescu plaintiffs' First Amended Complaint generally describes the real property that has been affected by the RTC's conduct, the extent to which the nature of all of the property at issue over which the RTC took control and destroyed and whether personal property belonging to the Iliescu plaintiffs was included is factual information that will be more fully addressed through the discovery process in this case. Thus, because the RTC's course of conduct as alleged in this case is within the scope of a conversion claim and because discovery has not yet been conducted, there is no basis on which the Iliescu plaintiffs' conversion claim should be dismissed.

E. Because the Iliescu plaintiffs' First Amended Complaint alleges the RTC's conspiracy with others not yet known to the Iliescu plaintiffs and because the discovery process has not yet been triggered in this case, an order dismissing the Iliescu plaintiffs' civil conspiracy claim is not appropriate or warranted.

In response to the Iliescu plaintiffs' civil conspiracy claim, the RTC contends that the complaint does not identify the party or parties with whom the RTC has conspired for the purpose of harming the Iliescu plaintiffs (*citing, Collins v. Union Fed. Sav. & Loan Ass'n,* 99 Nev. 284, 662 P.2d 610 (1983) (defining actionable civil conspiracy)) and noting the passage of time since the Iliescu plaintiffs filed their initial complaint in this case in relation to the Iliescu plaintiffs ability to "discover" any other responsible parties. That contention, however, ignores the Iliescu plaintiffs' allegations and the fact that this case is still in its pleading phase.

Initially, the Iliescu plaintiffs' clearly alleged that the RTC and other Defendants not yet known to the Iliescu plaintiffs – such as including friends, associates, and another parties (together, constituting other parties) with whom the RTC was engaged in business, whether working on the RTC project, working on activities related to the RTC project, and/or working in the surrounding areas near the property – with whom the RTC had discussed and agreed that they would all be entitled to use Plaintiffs' properties on which to conduct their business, both commercial and personal, and to occupy, to the exclusion of Plaintiffs, and use all areas of Plaintiffs' property as a parking place, storage area, outside workshop and engage in related abusive and destructive activities on the property. *See* First Amended Complaint at 2, ¶ 5; 3-4, ¶¶ 7-12; 14, ¶¶ 68-74. Because the RTC has not yet answered the Iliescu plaintiffs' complaint (this case still being in the pleading phase), discovery in this case has not yet begun. Indeed, once discovery begins, the Iliescu plaintiffs can engage in the process of obtaining documents and information related to this case that would reveal the identify of the defendants who are currently alleged as the DOE and ROE CORPORATION defendants who conspired with the RTC. *Id.* at 2, ¶ 5; 3-4, ¶ 10; 14, ¶¶ 68-74. Until then, an order dismissing the Iliescu plaintiffs' civil conspiracy claim is not appropriate or warranted.

F. The Iliescu plaintiffs have sufficiently alleged a valid cause of action for the RTC's tortious breach of the covenant of good faith and fair dealing.

Finally, the RTC requests that the Iliescu plaintiffs' eleventh claim for relief for the tortious breach of the covenant of good faith and fair dealing be dismissed because, for the same reasons stated in its challenge to the Iliescu plaintiffs' breach of trust/breach of fiduciary duty claim, the Iliescu plaintiffs do not allege what is required to establish any special duty owed by the RTC to them. For the same reasons addressed above, the RTC's assertion is without merit.

As explained in reference to the Iliescu plaintiffs' breach of trust/breach of fiduciary duties claim, the project that gives rise to the Iliescu plaintiffs' claims in this case was a result of the RTC's exercise of eminent domain and its condemnation proceedings against the Iliescu plaintiffs' property, and then its reprehensible conduct toward and the damages it caused to the Iliescu plaintiffs and their property after the RTC no longer had any legal right to access and use the Iliescu plaintiffs' property. First Amended Complaint at 2, ¶¶2, 4; 3, ¶ 7; 8-9, ¶¶ 79-86. In fact, the Iliescu plaintiffs alleged, in detail, the basis for the "special relationship" element of their tortious breach of the covenant of good faith and fair dealing claim. *Id.* at 16-17, ¶ 82 (alleging, among other things, the unbalanced nature of the parties' relationship, and the duty imposed on the RTC to act in good faith and with due regard toward the Iliescu plaintiffs' interests based upon the RTC's superior position); *accord, Long v. Town, supra.* Thus, based on the face of the First Amended Complaint – accepting all of its allegations as true and drawing all reasonable inferences in favor of the Iliescu plaintiffs (*see, supra*) – the Iliescu plaintiffs have stated a valid cause of action for the RTC's tortious breach of the covenant of good faith and fair dealing.

III. CONCLUSION

Based on the foregoing, the Iliescu plaintiffs respectfully request that this Court deny the RTC's motion to dismiss.

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the document to which this Affirmation is attached does not contain the social security number of any person.

DATED this 10th day of February, 2020.

/s/ Michael J. Morrison
Michael J. Morrison, Esq.
Nevada State Bar No. 1665
1495 Ridgeview Dr., #220
Reno, Nevada 89519
(775) 827-6300
Attorney for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on this date I personally caused to be served a true copy of the foregoing PLAINTIFFS' OPPOSITION TO DEFENDANT'S SUPPLEMENTAL MOTION TO DISMISS indicated and addressed to the following:

Dane W. Anderson, Esq.
WOODBURN AND WEDGE
6100 Neil Road, Suite 500
Reno, Nevada 89511

____ Via U.S. Mail
____ Via Overnight Mail
____ Via Hand Delivery
____ Via Facsimile
__X__ Via ECF

DATED this 10th day of February, 2020.

/s/Michael J. Morrison
Michael J. Morrison, Esq.

FILED
Electronically
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2020-02-13 10:22:44 AM
Jacqueline Bryant
Clerk of the Court
Transaction # 7739174 : csulezic

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Dane W. Anderson, Esq.
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Attorneys for Plaintiff, the Regional Transportation Commission of Washoe County

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an individual; AND SONNIA ILIESCU, an individual, Plaintiffs, v. THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1 – 40, inclusive, Defendants.	Case No.: CV19-00459 Dept. No.: 15

REPLY IN SUPPORT OF SUPPLEMENTAL MOTION TO DISMISS

Defendant The Regional Transportation Commission of Washoe County ("RTC") submits the following reply brief in support of its supplemental motion to dismiss, and in response to the opposition brief filed by plaintiffs John Iliescu Jr. and Sonnia Iliescu (collectively "Plaintiffs") on February 10, 2019. Plaintiffs' opposition fails to demonstrate that the allegations of their First Amended Complaint are sufficient to establish the elements of the claims for relief RTC seeks to have dismissed. *See Stockmeier v. Nevada Dep't of Corr. Psychological Review Panel*, 124 Nev. 313, 316, 183 P.3d 133, 135 ("Dismissal is proper where the allegations are insufficient to establish the

elements of a claim for relief."). Each of the claims RTC seeks to have dismissed are addressed in turn.

1. Injunctive Relief (First Cause of Action)

Plaintiffs acknowledge that the basis of their claim for injunctive relief is that RTC "continued to trespass and damage the Iliescu plaintiffs' proper *even after they completed their work and no longer had an easement.*" Opposition at 4:21-24, citing First Amended Complaint ¶¶ 8-12 (emphasis in original). This is not an allegation of a *current* threat of irreparable harm. It is an allegation of past conduct allegedly giving rise to damages. The project that is the basis of Plaintiffs' claims was completed in 2018. Plaintiffs appear to suggest injunctive relief is appropriate on the off chance RTC might, at some point in the future, park a vehicle on Plaintiffs' property. Opposition at 4:24-5:4. The purpose of injunctive relief is to preserve the status quo, and there are no factual allegations in the First Amended Complaint that the status quo is threatened. Plaintiffs' claim for injunctive relief based on some remote possibility in the future must be dismissed.

2. Breach of Fiduciary Duty/Breach of Trust (Fourth Cause of Action)

Plaintiffs cite to paragraphs 2, 4, 7 and 34-41 in support of their assertion that the First Amended Complaint adequately states a claim for breach of fiduciary duty. Opposition at 5:20. A review of these paragraphs reveals no factual basis that would establish the existence of a fiduciary duty owed by RTC to Plaintiffs. Paragraph 2 alleges that RTC is a government agency that provides transportation services, and that Plaintiffs live in Washoe County. Paragraph 4 alleges that RTC initiated condemnation proceedings against the subject property. Paragraphs 34-41 allege that RTC owed Plaintiffs a fiduciary duty "in connection with" the exercise of condemnation rights and by breaching the alleged "RTC-Trust agreement." See First Amended Complaint at ¶¶ 35, 40.

Plaintiff cite no authority to support their contention that the exercise of eminent domain/condemnation creates a fiduciary duty between the condemning agency and the property owner, nor do they cite any authority that the mere existence of a contract to use another's real property creates a fiduciary duty. On the other hand, RTC did cite authorities

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in its Supplemental Motion supporting the conclusion that no fiduciary duty existed under the factual allegations contained in the First Amended Complaint. Therefore, Plaintiffs' cause of action for breach of fiduciary duty/breach of trust should be dismissed.

3. Waste (Sixth Cause of Action)

Plaintiffs cite to paragraphs 8-10 and 50-51 of their First Amended Complaint in arguing that they have stated a claim for waste under NRS 40.150. That statute provides: "If a guardian, tenant for life or years, joint tenant or tenant in common of real property commit waste thereon, any person aggrieved by the waste may bring an action against the guardian or tenant who committed the waste, in which action there may be judgment for treble damages." All of those capacities have one thing in common—the express permission to use the real property at issue in which others have a legal interest.

In this case, Plaintiffs seek damages and other relief arising from RTC's alleged trespass "on that portion of the Property not subject to the condemnation, and not involved in whatsoever nature in the Project...." See First Amended Complaint at ¶ 8. Plaintiffs refer to this as the "Remaining Property." Id. Plaintiffs allege that RTC drove over and parked its vehicles on the Remaining Property "without the permission of [Plaintiffs]," and "in total disregard of Plaintiffs' respective frequent objections to such unauthorized and illegal use of the Remaining Property." Id. at ¶ 10 (emphasis added).

Plaintiffs have clearly alleged that RTC did not have permission to use the Remaining Property. The allegations of the First Amended Complaint are entirely inconsistent with Plaintiffs argument in their opposition brief that RTC was a guardian or tenant of the Remaining Property. Opposition at 6:24. Therefore, Plaintiffs' claim for waste should be dismissed.

4. Conversion (Seventh Cause of Action)

RTC sought the dismissal of this claim in its original motion to dismiss filed on September 25, 2019, arguing that Plaintiffs' original complaint lacked any allegations regarding personal property, and that the only damage alleged related to Plaintiffs' real property—specifically their parking lot. On December 6, 2019, RTC and Plaintiffs filed a

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Stipulation For Entry Of Order Dismissing Certain Plaintiffs' Claims For Relief And Damages With Prejudice, in which Plaintiffs agreed to dismiss with prejudice "any claims for damages other than compensatory damages specifically related to their parking lot...." See Stipulation at ¶ 3 (also at ¶ 1, in which Plaintiffs expressed their desire to limit their claims in this case "solely to the property damages to their parking lot....").

Despite expressly waiving any claim for conversion of personal property, Plaintiffs First Amended Complaint asserts this claim. Plaintiffs' opposition acknowledges that the First Amended Complaint, like its predecessor, is devoid of allegations regarding personal property but expresses a hope that some factual basis *might* be revealed in discovery. Opposition at 7:7-12. However, that is not how Rule 11 works—parties cannot assert claims on the mere hope that discovery might reveal evidence to support those claims. Further, they cannot assert claims for relief that they have expressly waived.

Plaintiffs' claim for conversion should be dismissed.

5. Civil Conspiracy (Ninth Cause of Action)

Plaintiffs argue they have been unable to identify the other party or parties to the alleged civil conspiracy because "discovery in this case has not yet begun." Opposition at 12-16. That statement is inaccurate. On October 30, 2019, the parties filed a Stipulation to Conduct Discovery Prior to Holding the NRCP 16.1 Conference and Prior to Filing the Joint Case Conference, in which they requested that the Court enter an order providing "that the parties may conduct discovery prior to holding the NRCP 16.1 Conference and prior to filing the Joint Case Conference Report." The Court entered its Order granting that stipulation on November 18, 2019. While RTC has served discovery pursuant to that stipulation and order, Plaintiffs have served no discovery requests.

To succeed on a civil conspiracy claim, a plaintiff must prove both an agreement, and that the conduct of each tortfeasor is tortious. *GES, Inc. v. Corbitt*, 117 Nev. 265, 271, 21 P.3d 11, 15 (2001) (quoting *Dow Chemical Co. v. Mahlum*, 114 Nev. 1468, 1488-89, 970 P.2d 98, 111-12 (1998)). This action has been pending for a year. Plaintiffs have served no discovery in an effort to determine the identity of any alleged co-conspirator,

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the existence of any agreement, or the presence of any tortious conduct. This cause of action should be dismissed.

6. Tortious Breach of Covenant of Good Faith and Fair Dealing (Eleventh Cause of Action)

As stated in RTC's Supplemental Motion, this claim requires a special element of reliance or fiduciary duty exist between the plaintiff and defendant, such that the defendant is in a superior or entrusted position. *Great Amer. Ins. Co. v. Gen. Builders, Inc.*, 113 Nev. 346, 354-355, 934 P.2d 257, 263 (1997). The tort action for breach of the implied covenant of good faith and fair dealing is "limited to rare and exceptional cases." *Id.* In arguing that they have adequately alleged the existence of a fiduciary duty owed by RTC, Plaintiffs cite to paragraphs 2, 4, 7 and 34-41 of the First Amended Complaint. Paragraph 2 alleges that RTC is a government entity providing transportation services. Paragraph 4 alleges that RTC acquired a portion of Plaintiffs' property under eminent domain/condemnation for the construction of the Fourth Street/Prater Way Project. Paragraphs 34-41 are largely legal conclusions. Paragraph 30 alleges that RTC owed Plaintiffs a fiduciary duty "in connection with" the exercise of RTC's condemnation rights. Paragraph 40 alleges that RTC's breach of the alleged "RTC-Trust agreement" constituted a breach of fiduciary duty.

Plaintiffs cite *Long v. Towne*, 98 Nev. 11, 639 P.2d 529, 530 (1982) in support of their argument that RTC owed Plaintiffs a fiduciary duty. However, in that case the Nevada Supreme Court found that no fiduciary duty or special relationship existed. As with their breach of fiduciary duty claim, Plaintiffs offer no authority supporting the proposition that the RTC's exercise of its power of eminent domain/condemnation creates a fiduciary duty owed to property owners.

On the contrary, RTC cites authority that, in Nevada, state officials have a duty to exercise only *ordinary* care in performing their duties. Butler ex rel. Biller v. Bayer, 123 Nev. 450, 464, 168 P.3d 1055, 1065 (2007). Other states have held: "An actionable confidential or special relationship cannot exist between a government agency and a private

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citizen, as a matter of law." *See, e.g., Johnson v. Sawyer,* 760 F.Supp. 1216, 1233 (S.D. Tex. 1991). Further, contractual relationships do not typically give rise to fiduciary duties among the parties to the contract. *Schlumberger Tech. Corp. v. Swanson*, 959 S.W.2d 171, 177 (Tex. 1997).

Plaintiffs have not established that the allegations of their First Amended Complaint rise to the lofty standard of a "rare and exceptional case" to which this tort is limited. Plaintiffs cause of action for tortious breach of the implied covenant of good faith and fair dealing should be dismissed.

Conclusion

Plaintiffs' First Amended Complaint assert eleven causes of action, attempting to convert a simple breach of contract and trespass case into the crime of the century. But their factual allegations are insufficient to support most of their asserted claims. Plaintiffs' causes of action for injunctive relief, breach of fiduciary duty/breach of trust, waste, conversion, civil conspiracy and tortious breach of the covenant of good faith and fair dealing all fail as matter of law based on the allegations of the FAC. RTC requests that the Court enter an order dismissing these causes of action from this lawsuit.

Affirmation pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the personal information of any person.

DATED: February 13, 2020. WOODBURN AND WEDGE

By */s/ Dane W. Anderson*
Dane W. Anderson, Esq.
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Attorneys for Plaintiff
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Commission of Washoe County

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CERTIFICATE OF SERVICE

It is hereby certified that service of the foregoing **REPLY IN SUPPORT OF SUPPLEMENTAL MOTION TO DISMISS** was made through the Court's electronic filing and notification or, as appropriate, by sending a copy thereof by first-class mail from Reno, Nevada addressed as follows:

MICHAEL J. MORRISON, ESQ.
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venturelawusa@gmail.com

Attorneys for Plaintiffs

DATED: February 13, 2020.

/s/ Dianne M. Kelling
Employee of Woodburn and Wedge

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Attorneys for Plaintiff, the Regional Transportation Commission of Washoe County

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an individual; AND SONNIA ILIESCU, an individual, Plaintiffs, v. THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1 – 40, inclusive, Defendants.	Case No.: CV19-00459 Dept. No.: 15

MOTION TO COMPEL

Defendant The Regional Transportation Commission of Washoe County ("RTC"), moves this Court pursuant to NRCP 37 for an order compelling Plaintiffs John Iliescu, Jr. and Sonnia Iliescu, individually and as Trustees of the John Iliescu, Jr. and Sonnia Iliesscu 1992 Family Trust ("Plaintiffs") to respond to discovery requests property served by RTC and to which Plaintiffs have provided no response whatsoever. RTC further requests, pursuant to NRCP 37(a)(5), an award of reasonable attorney fees and expenses incurred in connection with making this motion. This motion is based on the following points and authorities and the entire file in this matter.

I. INTRODUCTION

Plaintiffs filed this suit accusing RTC of numerous atrocities arising from RTC's alleged unauthorized use of Plaintiffs' parking lot on 4th Street. Although this action was filed on February 27, 2019, Plaintiffs did not bother to serve RTC until August 8, 2019 in response to this Court's July 1, 2019 Order to Show Cause. RTC filed a motion to dismiss and, considering Plaintiffs' ages, promptly sought and obtained permission to conduct early discovery. See Stipulation To Conduct Discovery Prior To Holding The NRCP 16.1 Conference And Prior To Filing The Joint Case Conference Report filed on October 30, 2019, and the Court's November 18, 2019 Order granting same.

Pursuant to the parties' agreement, RTC served separate requests for production pursuant to NRCP 34 on both John Iliescu, Jr., and Sonnia Iliescu. See **Exhibits 1 and 2**, attached. The requests were served on November 8, 2019. Pursuant to NRCP 34, Plaintiffs were required to serve responses on or before December 9, 2019. Plaintiffs failed to timely serve any response, thereby waiving any objections to RTC's discovery requests. Having received no response from Plaintiffs, RTC's counsel sent Plaintiffs' counsel an email on December 16, 2019, requesting complete responses no later than December 23, 2019. See **Exhibit 3**, attached. Following the holidays and a busy January, and still having received no response from Plaintiffs or their counsel, RTC's counsel sent another email on January 27, 2020 noting the lack of response and requesting complete responses (without any objections) no later than February 3, 2020. See **Exhibit 4**, attached.[1] Plaintiffs' counsel called the undersigned's office on January 30, 2020, acknowledging Plaintiffs' failure to respond to the requests for production, but not indicating when responses would be provided.

Now, nearly three weeks later, Plaintiffs still have not provided any responses whatsoever to the requests for production served on November 8, 2019, including the alleged contract that forms the basis of many of Plaintiffs claims. RTC seeks the Court's

[1]This email also discusses Plaintiffs' refusal to reasonably cooperate in having their depositions taken. RTC will seek appropriate relief related to this issue by way of a separate motion.

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order compelling Plaintiffs to provided complete responses, without any objections. RTC also seeks an award of reasonable attorney fees and expenses for having to bring this motion. RTC will submit a declaration supporting such fees and expenses upon the completion of briefing.

II. LAW AND ARGUMENT

NRCP 37(a)(1) provides that a party may move for an order compelling discovery. NRCP 37(a)(5)(A) provides that, if the motion to compel is granted or if the discovery is provided after the motion is filed, the court must, after giving an opportunity to be heard, require the party whose conduct necessitated the motion to pay the movant's reasonable expenses incurred in making the motion, including reasonable attorney fees.

Here the parties agreed to conduct early discovery based on the circumstances of this case. RTC served requests for production pursuant to NRCP 34. Plaintiffs have acknowledged their obligation to respond but have failed to do so. RTC's counsel has, on several occasions, tried to resolve this matter without the Court's involvement, but Plaintiffs have failed to cooperate. An order compelling production and awarding fees is appropriate under NRCP 37.

III. CERTIFICATON OF COUNSEL

The undersigned certifies that, on behalf of RTC, he has in good faith conferred or attempted to confer with Plaintiffs' counsel in an effort to obtain the subject discovery without the Court's intervention.

IV. CONCLUSION

RTC requests the Court enter an order compelling Plaintiffs to response to RTC's discovery requests and awarding RTC reasonable attorney fees and expenses incurred in bringing this motion.

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Affirmation pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the personal information of any person.

DATED: February 20, 2020

WOODBURN AND WEDGE

By */s/ Dane W. Anderson*
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Attorneys for Plaintiff
The Regional Transportation Commission of Washoe County

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TABLE OF EXHIBITS

Exhibit	No. of Pages (*Including Exhibit Sheet*)	Exhibit No.
Defendant's First Set of Requests for Production of Documents to Plaintiff John Iliescu, Jr.	9	1
Defendant's First Set of Requests for Production of Documents to Plaintiff Sonnia Iliescu	9	2
Email from Dane Anderson to Michael J. Morrison dated December 16, 2019	2	3
Email from Dane Anderson to Michael J. Morrison dated January 27, 2020	4	4

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CERTIFICATE OF SERVICE

It is hereby certified that service of the foregoing **MOTION TO COMPEL** was made through the Court's eFlex electronic system, addressed as follows:

MICHAEL J. MORRISON, ESQ.
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Attorneys for Plaintiffs

DATED: February 20, 2020.

/s/ Melissa C. Payette
Employee of Woodburn and Wedge

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2020-03-11 10:22:40 AM
Jacqueline Bryant
Clerk of the Court
Transaction # 7786510

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,

IN AND FOR THE COUNTY OF WASHOE

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU, JR. AND SONNIA ILIESCU 1992 FAMILY TRUST,

Plaintiff,

vs.

THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; AND DOES 1-40,

Defendants.

/

Case No. CV19-00459

Dept. No. D15

NOTICE OF DOCUMENT RECEIVED BUT NOT CONSIDERED BY THE COURT (CONFIDENTIAL)

Take notice that the attached document has been received unsolicited by the Court. The Court has not reviewed the document. Further, the Court will not review the document absent an affirmative request to do so from a party.

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This document was considered by the Court only if initialed and dated by the Judge below.

_____ Date

_____ Judge's Initials

FAX COVERSHEET

DATE: March 10, 2020

TO: Honorable David Hardy

FAX NO.: (775) 328-3534

NO. OF PAGES (INCLUDING COVERSHEET): 6

FROM: John Iliescu

FAX NO.: 322-4112

TELEPHONE NO: 322-0400

MESSAGE: Re: Case CV19-00459

JOHN ILIESCU, M.D., D.D.S., F.A.C.S.
RECONSTRUCTIVE & PLASTIC SURGERY
DIPLOMAT OF THE AMERICAN BOARD OF PLASTIC SURGERY
DIPLOMAT OF THE AMERICAN BOARD OF SURGERY

TWO HUNDRED COURT STREET
RENO, NEVADA 89501

TELEPHONE: (775) 322-0400
FAX: (775) 322-6076

March 7, 2020

Michael Moore, MD
Sierra Neurosurgery Group
5590 Kietzki Lane
Reno, NV 89511

Dear Dr Moore,

I want to give you a progress report as to what has happened since our visit in your office on March 3, 2020. At that time, my MRI showed a compression fracture to L2 that must have contributed to the severe pain I have experienced getting up and down to sit, getting in and out of bed, going to the bathroom, etc. It was agreed upon that we would try anti-inflammatory medicine as well as narcotics to relieve this pain. (You probably know from your practice with other patients that this type of pain can take your breath away with any motion.) What I did not share with you is that I have had a persistent productive bronchial cough for over four months that will not clear up. The forceful coughing to get the tenacious phlegm up exacerbates the back pain. I am being treated for it by Stephen Baez MD, a pulmonologist with Renown Pulmonary Medicine. Please consult with Dr. Baez office.

Most recently, on March 6, I was scheduled for a deposition regarding a dispute with RTC. My attorney communicated with RTC's attorney to delay the deposition until such a time as I would be able to give the deposition without a lot of physical discomfort. For whatever reason, RTC's attorney told my attorney that the medical report submitted by your office was not sufficient enough to cancel the deposition, and it is now my understanding that I appear to be in defiance of the court. Let me assure you that at 93 years of age I just want to be well and to get all of this behind me. If need be I would like to set up another appointment with you prior to the return visit scheduled for March 31.

We are also scheduled to see Dr. Zollinger at Sweetwater Spine and Pain Clinic on Monday, March 9. Without sounding bitter, I would not like anyone to experience what I have gone through since the two falls, considering my age and other health concerns that I live with. I would hope that we can find a common ground here to resolve these issues.

Sincerely,

John Iliescu

Cc: Michael Morrison, Esq
Brett Maupin, Esq.
Dane Anderson, Esq.
Honorable David Hardy
Zivile Ignataviciute, MD, VA Sierra Nevada

JOHN ILIESCU, M.D., D.D.S., F.A.C.S.
RECONSTRUCTIVE & PLASTIC SURGERY
DIPLOMAT OF THE AMERICAN BOARD OF PLASTIC SURGERY
DIPLOMAT OF THE AMERICAN BOARD OF SURGERY

TWO HUNDRED COURT STREET
RENO, NEVADA 89501

TELEPHONE: (775) 322-0400
FAX: (775) 322-6076

March 7, 2020

Stephen Baez, MD
Renown Pulmonary Medicine
236 W. Sixth Street
Reno, NV 89503

Dear Steve,
This persistent deep chronic cough plus a recent lumbar fracture is very hard to cope with. Th tenacious phlegm does not want to come up and I often feel like I cannot breathe in light of the fact that I am using the nebulizer and treatments regularly. The worst part of it is that following the two falls that you know about, I had an MRI recently because of the severe pain in my lower back that showed I had sustained a compression fracture on L2. (See the enclosed report.) The combination of both the intense chronic bronchial cough and the severe pain in the lumbar region makes it hard to find a position of comfort without heavy sedation and its consequences. The persistent cough wears me out since it lodges in my bronchials and I can't cough it up.

On Friday March 6, I was scheduled for a deposition for a dispute with RTC and was forced to postpone it as there was no way I could sit there for any length of time with this cough and back pain. I so informed my attorney who informed RTC's attorney who apparently felt that there was no justifiable reason for me not to appear based on the neurologist's report regarding my lumbar injury. (There was no mention of my chronic bronchial condition.) Apparently now I am in contempt of the court since I did not appear at the deposition. I find it hard to believe that everyone would not work together if they knew the facts. I share this with you at this time because you know my bronchial condition and understand the problems when combined with a painful back injury. I am sorry to be a problem to you, but this is just becoming out of hand. Thank you for the support you have given me.

Sincerely,

John Iliescu

Cc: Michael Morrison, Esq
Brett Maupin, Esq
Dane Anderson, RTC Attorney
Honorable David Hardy
Zivile Ignataviciute, MD, VA Sierra Nevada

ILIESCU, JOHN (id #177626, dob: 08/26/1926)

Assessment and Plan

Lumbar MRI from 2/26/2020 demonstrates significant degenerative disc disease at the L1-4 level and then from L5-S1 with a small anterior listhesis of L5 on S1 of approximately 20% he also has significant redundancy of the ligamentum flavum and facet hypertrophy causing severe or critical central canal stenosis at the L4-5 level and moderate to severe lateral recess and foraminal stenosis L2-L3 and L3-L4. T2 sagittal fat-saturated imaging demonstrates some edema in the L2 vertebral body consistent with likely small amount of compression fracture no significant height loss at this level no severe increase in deformity.

Assessment and plan
Is a 93-year-old gentleman who presents to neurosurgery clinic 2 weeks after having a ground-level fall giving himself a L2 compression fracture with minimal height loss. The patient has no other acute issues. He has an MRI which demonstrates vasogenic edema in the L2 bone marrow consistent with a mild compression fracture he does not show any deformity across this he has degenerative disc disease at multiple levels that are chronic. At this time we have told him that we would treat him conservatively and agree with Tylenol we have told him to try to limit his anti-inflammatories given that this can impede fusion however he is not a good candidate for opioid use and he did not want any today on his visit given his pulmonary issues and we have therefore told him that we would max out his Tylenol dosing prior to using an NSAID that if he required additional pain medication it would be acceptable for him to use some NSAIDs. We have also told him that we would monitor him for progressive collapse at the L2 level given that he has some degree of osteoporosis and we will get a scan with plain film x-ray AP lateral oblique in 4 weeks from today to monitor him for progressive collapse. If he is doing well with no sign of collapse we would get a 6-month scan to ensure that he is not showing any further collapse and that he is doing well if he is progressing as expected then he will be continued to be treated conservatively. For any reason if he has additional trauma or has significant collapse across the level he potentially could be a candidate for kyphoplasty given his advanced age and the need to do something extremely conservative to maintain the patient's mobility. However at this time he is mobilizing very well with a cane we have told him restricted the level of weight that he carries in his arms and to refrain from any activity that could lead to additional trauma to his back.

A total of 30 minutes was spent with the patient discussing his imaging and our further evaluation.

1. Compression fracture of lumbar spine
M48.56XA: Collapsed vertebra, not elsewhere classified, lumbar region, initial encounter for fracture
- XR, LUMBAR SPINE

Views (X-RAY, LUMBAR SPINE): AP, Lateral & Obliques

Return to Office
- Michael K Moore, MD for FOLLOW UP 30 at SIERRA NEURO KIETZKE_NEURO on 03/31/2020 at 11:30 AM

Electronically Signed by: MICHAEL K MOORE, MD
03/03/2020 10:43 AM

Show result comparison

Results History

MR-LUMBAR SPINE-W/O (Order 216438759)

2/26/2020 2:21 PM - Intf, Radiant In

Narrative & Impression

2/26/2020 1:36 PM

HISTORY/REASON FOR EXAM: Back pain or radiculopathy, < 6 wks, uncomplicated.

TECHNIQUE/EXAM DESCRIPTION:
MRI of the lumbar spine without contrast.

The study was performed on a G.E. Signa 1.5 Tesla MRI scanner.
T1 sagittal, T2 fast spin-echo sagittal, T2 fat-suppressed sagittal, and T2 axial images were obtained of the lumbar spine.

COMPARISON: None.

FINDINGS:
There is mild compression of superior endplate of the L2 vertebral body. There is a elliptical region of decreased T1 and increased T2 signal intensity adjacent to the superior endplate of the L2 vertebral body. There is a mild dextroscoliosis of the mid
lumbar spine.

There is 3 mm of anterolisthesis at the L5-S1 level.. There are there are mild to moderate marginal osteophytic changes. The prevertebral and paraspinous soft tissues are unremarkable.

The conus is normal in position and signal.

There is severe disc space narrowing at the L2-3 and L5-S1 levels. There is moderate disc space narrowing at the L1-2 and L3-4 levels. There are bandlike endplate degenerative changes at the L2-3, L3-4, and a lesser extent at the L5-S1 level

Level specific findings:

L5-S1 level minimal posterior spurring and annular bulging. Severe bilateral neural foraminal narrowing.

L4-5 level minimal posterior spurring and annular bulging. Severe central canal stenosis secondary to facet arthropathy. Mild bilateral neural foraminal stenosis.

L3-4 level mild posterior spurring and annular bulging. Moderate severe central canal stenosis secondary to facet arthropathy. Mild to moderate bilateral neural foraminal narrowing.

L2-3 level mild posterior spurring and annular bulging effaces the ventral surface of thecal sac. Mild to moderate central canal stenosis secondary to facet arthropathy. Mild right-sided neural foraminal narrowing.

L1-2 level minimal posterior spurring and annular bulging.

IMPRESSION:

1. Mild acute superior endplate compression fracture the L2 vertebral body amenable to vertebral augmentation.

2. Mild dextroscoliosis of the mid lumbar spine.

3. Mild degenerative anterolisthesis at the L5-S1 level.

4. Severe discal degenerative changes about endplate degenerative changes at the L2-3 and L5-S1 levels with mild to moderate discal and endplate degenerative changes at the L1-2 and L3-4 levels.

5. Severe central canal stenosis at the L4-5 level with moderate to severe central canal stenosis at the L3-4 and L2-3 level secondary to facet arthropathy.

6. Minimal to mild multilevel lumbar spondylotic change.

7. Moderate severe multilevel neural foraminal stenosis.

2/26/2020 2:19 PM - Anthony J Bruno, M.D.

Result not yet available

This result will become available once transcription has been completed.

2/26/2020 1:36 PM - Curtis W Wright

Result not yet available

Exam Ended

FILED
Electronically
CV19-00459
2020-03-20 09:15:06 AM
Jacqueline Bryant
Clerk of the Court
Transaction # 7801281

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU, JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an Individual; and SONNIA ILIESCU, an Individual,

Plaintiff,

vs.

THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1-40,

Defendants.

_____/

Case No. CV19-00459

Dept. No. 15

ORDER GRANTING MOTION TO DISMISS

Before this Court is the Regional Transportation Commission's supplemental motion to dismiss. This Court has re-read the initial moving papers and First Amended Complaint, filed January 21, 2020. The parties are familiar with the standards of dismissal under NRCP 12 and its decisional authority. This Court understands the operative facts, as alleged, and notes it must look to the substance of the claims, not just the labels used in the complaint. Nevada Power Co. v. District Court, 120 Nev. 948, 960, 102 P.3d 578, 586 (2004). Cause appearing, the following claims for relief are dismissed:

1. Injunctive Relief.
2. Breach of Fiduciary Duty/Breach of Trust.

6. Waste.

7. Conversion.

11. Tortious Breach of the Covenant of Good Faith and Fair Dealing.

This Court denies the motion to dismiss claim 9: Civil Conspiracy. Under the standards for dismissal, the First Amended Complaint sets forth a claim for relief that may be granted. The pre-trial resolution of civil conspiracy, if any, can only be considered through a motion for summary judgment after appropriate discovery is conducted.

IT IS SO ORDERED.

Dated: March 19, 2020.

David A. Hardy
District Court Judge

FILED
Electronically
CV19-00459
2020-03-20 02:37:38 PM
Jacqueline Bryant
Clerk of the Court
Transaction # 7802297

2540
Dane W. Anderson, Esq.
Nevada Bar No. 6883
WOODBURN AND WEDGE
6100 Neil Road, Suite 500
Reno, Nevada 89511
Telephone: 775-688-3000
Facsimile: 775-688-3088
danderson@woodburnandwedge.com

Attorneys for Defendant, the Regional Transportation Commission of Washoe County

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an individual; AND SONNIA ILIESCU, an individual, Plaintiffs, v. THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1 – 40, inclusive, Defendants.	Case No.: CV19-00459 Dept. No.: 15

NOTICE OF ENTRY OF ORDER

TO: ALL INTERESTED PARTIES:

PLEASE TAKE NOTICE that an Order Granting Motion to Dismiss was entered in the above-entitled action on March 20, 2020, by this Court. A copy of the Order is attached hereto as **Exhibit 1.**

///

///

///

Affirmation pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the personal information of any person.

DATED: March 20, 2020.

WOODBURN AND WEDGE

By *__/s/ Dane W. Anderson__*
Dane W. Anderson, Esq.
Nevada Bar No. 6883
Attorneys for Defendant
The Regional Transportation
Commission of Washoe County

Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, NV 89511
775-688-3000

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Woodburn and Wedge and that on this date, I caused to be sent via electronic delivery through the Court's E-flex system a true and correct copy of the ***NOTICE OF ENTRY OF ORDER*** to:

MICHAEL J. MORRISON, ESQ.
1495 Ridgeview Dr., #220
Reno, Nevada 89519
venturelawusa@gmail.com

Attorneys for Plaintiffs

DATED: March 20, 2020.

/s/ Dianne M. Kelling
Employee of Woodburn and Wedge

Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, NV 89511
775-688-3000

EXHIBIT INDEX

EXHIBIT NO.	DESCRIPTION OF EXHIBIT	NO OF PAGES INCLUDING EXHIBIT PAGES
1	ORDER GRANTING MOTION TO DISMISS	3

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Transaction # 7804469 : sacordag

1140
Dane W. Anderson, Esq.
Nevada Bar No. 6883
WOODBURN AND WEDGE
6100 Neil Road, Suite 500
Reno, Nevada 89511
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Facsimile: 775-688-3088
danderson@woodburnandwedge.com

Attorneys for Plaintiff, the Regional Transportation Commission of Washoe County

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an individual; AND SONNIA ILIESCU, an individual, Plaintiffs, v. THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1 – 40, inclusive, Defendants.	Case No.: CV19-00459 Dept. No.: 15

ANSWER TO FIRST AMENDED COMPLAINT

Defendant The Regional Transportation Commission of Washoe County ("RTC") answers Plaintiffs' First Amended Complaint as follows:

1. RTC lacks information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 1 and on that basis denies the same.

2. Answering paragraph 2, RTC admits the allegations therein except for the last sentence regarding the residency and business activities of "all defendants," which RTC denies based on lack of information.

3. Answering paragraph 3, RTC admits jurisdiction and venue are proper in this Court.

4. Answering paragraph 4, RTC admits that it initiated a condemnation action in October 2016 to acquire certain easement interests on Washoe County APN 008-244-15 for the purpose of constructing the Fourth Street/Prater Way Bus Rapid Transit Project ("the Project"). RTC denies the remaining allegations of paragraph 4.

5. RTC lacks information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 5 and on that basis denies the same.

6. RTC lacks information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 6 and on that basis denies the same.

7. RTC lacks information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 7 and on that basis denies the same.

8, Answering paragraph 8, RTC specifically denies it engaged in any improper conduct. RTC lacks information sufficient to form a belief as to the truth or falsity of the remaining allegations in paragraph 8 and on that basis denies the same.

9. RTC denies the allegations of paragraph 9.

10. Answering paragraph 10, RTC specifically denies it engaged in any improper conduct. RTC lacks information sufficient to form a belief as to the truth or falsity of the remaining allegations in paragraph 10 and on that basis denies the same.

11. RTC denies the allegations of paragraph 11.

12. RTC denies the allegations of paragraph 12.

13. Paragraphs 13-20 pertain to a cause of action that has been dismissed by the Court and therefore no response is required of RTC. To the extent a response is required, these allegations are denied.

14. Answering paragraph 21, RTC incorporates its responses to all prior paragraphs in this answer and specifically denies the allegation that RTC and Plaintiffs entered into an agreement. No such agreement was attached to the First Amended Complaint and none has been provided despite RTC's requests.

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15. RTC denies the allegations of paragraphs 22-25.

16. Answering paragraph 26, RTC incorporates its responses to all prior paragraphs in this answer.

17. RTC denies the allegations of paragraph 27. No agreements were attached to the First Amended Complaint and none have been provided despite RTC's requests.

18. Paragraph 28 is a statement of law rather than an allegation of fact and therefore no response is required of RTC.

19. Based on the response to paragraph 28, RTC also denies the allegations of paragraph 29 and alleges that it has no information as to what were or were not Plaintiffs' expectations.

20. RTC denies the allegations of paragraphs 30-33.

21. Paragraphs 34-43 pertain to a cause of action that has been dismissed by the Court and therefore no response is required of RTC. To the extent a response is required, these allegations are denied.

22. Answering paragraph 44, RTC incorporates its responses to all prior paragraphs in this answer.

23. Paragraph 45 is a statement of law rather than an allegation of fact and therefore not response is required of RTC.

24. RTC denies the allegations of paragraphs 46-49.

25. Paragraphs 50-55 pertain to a cause of action that has been dismissed by the Court and therefore no response is required of RTC. To the extent a response is required, these allegations are denied.

26. Paragraphs 56-61 pertain to a cause of action that has been dismissed by the Court and therefore no response is required of RTC. To the extent a response is required, these allegations are denied.

27. Answering paragraph 62, RTC incorporates its responses to all prior paragraphs in this answer.

28. RTC denies the allegations of paragraphs 63-67.

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29. Answering paragraph 68, RTC incorporates its responses to all prior paragraphs in this answer.

30. RTC denies the allegations of paragraphs 69-74.

31. Answering paragraph 75, RTC incorporates its responses to all prior paragraphs in this answer.

32. RTC denies the allegations in paragraphs 76-79.

33. Paragraphs 79-86 (the First Amended Complaint has two paragraphs 79) pertain to a cause of action that has been dismissed by the Court and therefore no response is required of RTC. To the extent a response is required, these allegations are denied.

34. To the extent RTC's responses above have not addressed any particular allegations of the First Amended Complaint, RTC hereby denies those allegations.

Affirmative Defenses

1. Plaintiffs fail to state a claim upon which relief can be granted.

2. Plaintiffs' claims are barred by estoppel.

3. Plaintiffs' failed to perform under any contracts that may exist between them and RTC.

4. Plaintiffs' claims are barred by laches.

5. Any damage to Plaintiffs' property was pre-existing.

6. Any damage to Plaintiffs' property that was not pre-existing was caused either by Plaintiffs and their agents or by third parties over whom RTC exercised no control.

7. Plaintiffs have waived and/or released the claims they now assert.

8. Plaintiffs' claims are barred by res judicata.

9. Plaintiffs' claims are barred by the applicable statute of limitations.

10. At all relevant times, Plaintiffs either expressly or impliedly consented to the use of their property.

11. Plaintiffs failed to mitigate their alleged damages.

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6100 Neil Road, Suite 500
Reno, NV 89511
775-688-3000

12. RTC reserves the right to amend its answer to add additional affirmative defenses as discovery progresses in this matter.

Affirmation pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the personal information of any person.

DATED: March 23rd, 2020

WOODBURN AND WEDGE

By *__/s/ Dane W. Anderson__*
Dane W. Anderson, Esq.
Nevada Bar No. 6883
Attorneys for Plaintiff
The Regional Transportation
Commission of Washoe County

Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, NV 89511
775-688-3000

CERTIFICATE OF SERVICE

It is hereby certified that service of the foregoing **ANSWER TO FIRST AMENDED COMPLAINT** was made through the Court's electronic filing and notification or, as appropriate, by sending a copy thereof by first-class mail from Reno, Nevada addressed as follows:

MICHAEL J. MORRISON, ESQ.
Nevada State Bar No. 1665
1495 Ridgeview Dr., #220
Reno, Nevada 89519
venturelawusa@gmail.com

Attorneys for Plaintiffs

DATED: March 23, 2020.

/s/ Dianne M. Kelling
Employee of Woodburn and Wedge

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2020-02-20 02:09:16 PM
Jacqueline Bryant
Clerk of the Court
Transaction # 7750935 : bblough

EXHIBIT “1”

EXHIBIT “1”

DISCOVERY

Dane W. Anderson, Esq.
Nevada Bar No. 6883
WOODBURN AND WEDGE
6100 Neil Road, Suite 500
Reno, Nevada 89511
Telephone: 775-688-3000
Facsimile: 775-688-3088
danderson@woodburnandwedge.com

Attorneys for Defendant, the Regional Transportation Commission of Washoe County

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an individual; AND SONNIA ILIESCU, an individual, Plaintiffs, v. THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1 – 40, inclusive, Defendants.	Case No.: CV19-00459 Dept. No.: 15

DEFENDANT'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS TO PLAINTIFF JOHN ILIESCU, JR.

TO: Plaintiff John Iliescu, Jr., and Michael J. Morrison, Esq., 1495 Ridgeview Drive, Suite 220, Reno, NV 89519, his counsel of record:

Defendant The Regional Transportation Commission of Washoe County ("RTC"), by and through its counsel of record, hereby propounds the following requests for production to Plaintiff John Iliescu, Jr., ("ILIESCU") pursuant to Rules 26 and 34 of the Nevada Rules of Civil Procedure. The requested documents are to be produced to

Defendant The Regional Transportation Commission of Washoe County's counsel, Woodburn and Wedge, 6100 Neil Road, Suite 500, Reno, Nevada, 89511.

DEFINITIONS

1. As used throughout these requests, "document" or "documents" has the same meaning as the definitions of "writings" and "recordings" and "photographs" as defined in NRS 52.225 and NRS 52.215. This includes, but is not limited to, all originals, copies and drafts of all letters, electronic mail, telegrams, cablegrams, telexes, memoranda, notes, records, reports, studies, calendars, diaries, agenda, minutes, books, pamphlets, periodicals, newspaper clippings, graphics, indexes, charts, tabulations, statistical accumulations, financial statements, accounting entries, press releases, contracts, affidavits, transcripts, legal documents, accountant work papers, financial reports, tax returns, recordings of meetings and conferences, records of conversations and telephone calls, still photographs, videotapes, motion pictures, tape recordings, microfilms, punch cards, computer programs, print-outs, polygraph examination, records, recordings, made through data processing techniques and the written information necessary to understand and use such films and records.

2. As used throughout these requests, a request for information that "relates to" any given subject means any information that in whole or in part constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is in any way pertinent to that subject.

3. All references to the singular in these definitions and requests shall be deemed to include the plural, and all references to the plural shall be deemed to include the singular. All references to masculine gender shall be deemed to include the feminine and neuter.

4. "Any" means any and all.

5. "All" means any and all.

6. "Or" means and/or.

7. "Including" means including, but not limited to.

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Reno, NV 89511
775-688-3000

8. "Communication" or "Communications" includes all conversations, written or oral, meetings, memoranda, correspondence, emails, text messages, social media, conferences and any other means or manner of transmitting written transmissions.

9. Unless otherwise specified, the terms "you" or "your" means Plaintiff JOHN ILIESCU and his attorneys, accountants, agents, employees and anyone else purporting to act on his behalf with respect to the facts and allegations that are the subject of this litigation.

INSTRUCTIONS

1. Under Rule 34 of the Nevada Rules of Civil Procedure, you are required to produce the documents as they are kept in the usual course of business or to organize and label them to correspond with the categories of this request. Accordingly, whenever a document or group of documents is taken out of a file folder, file drawer, file box or notebook, before the same is produced, you are requested to attach thereto a copy of the label and the file folder, file drawer, file box or notebook from which a document or group of documents was removed.

2. For each document responsive to this request that is withheld under claim of privilege or work-product immunity, write a statement under oath by a person having knowledge setting forth as to each document:

a) The name and title of the author;

b) The name and title of each person to whom the document was addressed;

c) The name and title of each person to whom a copy of the document was sent;

d) The date of the document;

e) The number of pages in the document;

f) A brief description of the nature and subject matter of the document;

g) The nature of the claimed privilege of immunity;

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Reno, NV 89511
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h) The category or categories of this request to which the document is responsive; and

i) The exact location of the original and each copy as of the date of the receipt of this request, along with the names and addresses of the custodian of said originals and copies.

3. If you are aware of any document otherwise responsive to this request, which document is no longer in your custody or control, identify the name and title of the author, the name and title of the addressee, the date of the document, the subject matter of the document or documents, the last date in which the document was in your control, the person or entity, if any, now in control of the document, and the reasons for your disposition of release of the document.

4. This request for Production of Documents shall be deemed continuing pursuant to Rule26(e), Nevada Rules of Civil Procedure, and as additional information is secured, such additional information shall be supplied to Woodburn and Wedge, 6100 Neil Road, Suite 500, Reno, NV 89511, attorneys for Defendant The Regional Transportation Commission of Washoe County.

DOCUMENTS REQUESTED

REQUEST NO. 1:

All documents supporting your contention that RTC or anyone you contend was acting on behalf of RTC drove over and parked their vehicles on your property "on virtually every workday during the term of the Project," as alleged in paragraph 9 of your Complaint.

REQUEST NO. 2:

All documents supporting your allegation that you and/or Sonnia Iliescu made "frequent objections" to RTC's alleged use of any portion of your property at issue in this litigation, as set forth in paragraph 9 of your Complaint, as well as all documents supporting your allegation that you and/or Sonnia Iliescu made "innumerable requests"

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Reno, NV 89511
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that RTC not use the property, as set forth on page 6 of your opposition to the motion to dismiss.

REQUEST NO. 3:

All documents, including photographs, that depict or discuss the condition of the subject parking lot at any time, whether before, during and after the Project that is the subject of your complaint. With respect to documents and photographs before the Project, RTC seeks documents depict or discuss the condition of the subject parking lot in the 15 years prior to the Project. The response to this request should include any correspondence, bids, quotes or other documents discussion possible repairs to or work to be done on the subject parking lot.

REQUEST NO. 4:

All documents supporting your claim that you have suffered reparable and irreparable damages to the "Remaining Property and to each of the respective Plaintiffs," as alleged in paragraph 11 of your Complaint.

REQUEST NO. 5:

All documents supporting your claim for loss of market value of the Remaining Property as alleged in paragraph 11(a) of your Complaint.

REQUEST NO. 6:

All documents supporting your claim for discomfort and annoyance to Plaintiffs as alleged in paragraph 11(b) of your Complaint.

REQUEST NO. 7:

All documents supporting your claim for emotional distress as alleged in paragraph 11(c) of your Complaint.

REQUEST NO. 8:

All documents supporting your claim for emotional distress as alleged in paragraph 11(c) of your Complaint

///

///

Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, NV 89511
775-688-3000

REQUEST NO. 9:

All documents supporting your claim for loss of use of the Remaining Property as alleged in paragraph 11(d) of your Complaint.

REQUEST NO. 10:

All documents supporting your claim for costs of property restoration as alleged in paragraph 11(e) of the Complaint.

REQUEST NO. 11:

All documents supporting your claim for physical damage to and destruction of the Property as alleged in paragraph 11(c) of your Complaint.

REQUEST NO. 12:

All contracts you allege exist between you and RTC or any other party related to this matter, including but not limited to the agreement referenced in paragraph 11 of your Complaint, the agreements referenced in paragraphs 27 of your Complaint, and the "RTC-Trust Agreement" referenced in paragraphs 39, 46 and 48(a) of your Complaint.

REQUEST NO. 13:

All documents supporting your allegation that Defendants agreed to carry out a scheme intended to accomplish unlawful objectives, as alleged in paragraph 67 of your Complaint.

REQUEST NO. 14:

All documents supporting your allegation that you and Sonnia Iliescu each suffered pain, discomfort, mental and emotional distress, pain and disabilities, mental and psychological problems, depression, loss of sleep, appetite and enjoyment of life as a result of RTC's conduct, as alleged in paragraphs 74, 82, 84, 91 and 92 of your Complaint. Your response should include all medical records supporting your allegation that you and Sonnia Iliescu each sought medical attention for your respective injuries and "continued for some time to require medical care and treatment, even though the date of this Complaint," as alleged in paragraph 82 of your Complaint, as well as any such records up to and including the date of your response.

Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, NV 89511
775-688-3000

REQUEST NO. 15:

All documents supporting your allegation that RTC or any other defendant acted in a malicious, destructive, willful, mean-spirited or other improper manner.

REQUEST NO. 16:

All documents supporting your allegation that RTC owed you a fiduciary duty.

Affirmation pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the personal information of any person.

DATED: November 8, 2019.

WOODBURN AND WEDGE

By: _____

Dane W. Anderson, Esq.
Nevada Bar No. 6883
Attorneys for Defendant
The Regional Transportation
Commission of Washoe County

Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, NV 89511
775-688-3000

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Woodburn and Wedge, and that on this date, I caused to be hand delivered a true and correct copy of the attached document addressed to:

Michael J. Morrison, Esq.
1495 Ridgeview Dr., #220
Reno, Nevada 89519
venturelawusa@gmail.com

Attorneys for Plaintiffs

DATED: November 8, 2019.

Employee of Woodburn and Wedge

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2020-02-20 02:09:16 PM
Jacqueline Bryant
Clerk of the Court
Transaction # 7750935 : bblough

EXHIBIT "2"

EXHIBIT "2"

DISCOVERY

Dane W. Anderson, Esq.
Nevada Bar No. 6883
WOODBURN AND WEDGE
6100 Neil Road, Suite 500
Reno, Nevada 89511
Telephone: 775-688-3000
Facsimile: 775-688-3088
danderson@woodburnandwedge.com

Attorneys for Defendant, the Regional Transportation Commission of Washoe County

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

OHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an individual; AND SONNIA ILIESCU, an individual, Plaintiffs, v. THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1 – 40, inclusive, Defendants.	Case No.: CV19-00459 Dept. No.: 15

DEFENDANT'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS TO PLAINTIFF SONNIA ILIESCU

TO: Plaintiff Sonnia Iliescu, and Michael J. Morrison, Esq., 1495 Ridgeview Drive, Suite 220, Reno, NV 89519, her counsel of record:

Defendant The Regional Transportation Commission of Washoe County ("RTC"), by and through its counsel of record, hereby propounds the following requests for production to Plaintiff John Iliescu, Jr., ("ILIESCU") pursuant to Rules 26 and 34 of the Nevada Rules of Civil Procedure. The requested documents are to be produced to

Defendant he Regional Transportation Commission of Washoe County's counsel, Woodburn and Wedge, 6100 Neil Road, Suite 500, Reno, Nevada, 89511.

DEFINITIONS

1. As used throughout these requests, "document" or "documents" has the same meaning as the definitions of "writings" and "recordings" and "photographs" as defined in NRS 52.225 and NRS 52.215. This includes, but is not limited to, all originals, copies and drafts of all letters, electronic mail, telegrams, cablegrams, telexes, memoranda, notes, records, reports, studies, calendars, diaries, agenda, minutes, books, pamphlets, periodicals, newspaper clippings, graphics, indexes, charts, tabulations, statistical accumulations, financial statements, accounting entries, press releases, contracts, affidavits, transcripts, legal documents, accountant work papers, financial reports, tax returns, recordings of meetings and conferences, records of conversations and telephone calls, still photographs, videotapes, motion pictures, tape recordings, microfilms, punch cards, computer programs, print-outs, polygraph examination, records, recordings, made through data processing techniques and the written information necessary to understand and use such films and records.

2. As used throughout these requests, a request for information that "relates to" any given subject means any information that in whole or in part constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is in any way pertinent to that subject.

3. All references to the singular in these definitions and requests shall be deemed to include the plural, and all references to the plural shall be deemed to include the singular. All references to masculine gender shall be deemed to include the feminine and neuter.

4. "Any" means any and all.

5. "All" means any and all.

6. "Or" means and/or.

7. "Including" means including, but not limited to.

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775-688-3000

8. "Communication" or "Communications" includes all conversations, written or oral, meetings, memoranda, correspondence, emails, text messages, social media, conferences and any other means or manner of transmitting written transmissions.

9. Unless otherwise specified, the term "you" or "your" means Plaintiff SONNIA ILIESCU and her attorneys, accountants, agents, employees and anyone else purporting to act on her behalf with respect to the loan and/or property that is the subject of this litigation.

INSTRUCTIONS

1. Under Rule 34 of the Nevada Rules of Civil Procedure, you are required to produce the documents as they are kept in the usual course of business or to organize and label them to correspond with the categories of this request. Accordingly, whenever a document or group of documents is taken out of a file folder, file drawer, file box or notebook, before the same is produced, you are requested to attach thereto a copy of the label and the file folder, file drawer, file box or notebook from which a document or group of documents was removed.

2. For each document responsive to this request that is withheld under claim of privilege or work-product immunity, write a statement under oath by a person having knowledge setting forth as to each document:

a) The name and title of the author;

b) The name and title of each person to whom the document was addressed;

c) The name and title of each person to whom a copy of the document was sent;

d) The date of the document;

e) The number of pages in the document;

f) A brief description of the nature and subject matter of the document;

g) The nature of the claimed privilege of immunity;

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Reno, NV 89511
775-688-3000

h) The category or categories of this request to which the document is responsive; and

i) The exact location of the original and each copy as of the date of the receipt of this request, along with the names and addresses of the custodian of said originals and copies.

3. If you are aware of any document otherwise responsive to this request, which document is no longer in your custody or control, identify the name and title of the author, the name and title of the addressee, the date of the document, the subject matter of the document or documents, the last date in which the document was in your control, the person or entity, if any, now in control of the document, and the reasons for your disposition of release of the document.

4. This request for Production of Documents shall be deemed continuing pursuant to Rule26(e), Nevada Rules of Civil Procedure, and as additional information is secured, such additional information shall be supplied to Woodburn and Wedge, 6100 Neil Road, Suite 500, Reno, NV 89511, attorneys for Defendant The Regional Transportation Commission of Washoe County.

DOCUMENTS REQUESTED

REQUEST NO. 1:

All documents supporting your contention that RTC or anyone you contend was acting on behalf of RTC drove over and parked their vehicles on your property "on virtually every workday during the term of the Project," as alleged in paragraph 9 of your Complaint.

REQUEST NO. 2:

All documents supporting your allegation that you and/or John Iliescu made "frequent objections" to RTC's alleged use of any portion of your property at issue in this litigation, as set forth in paragraph 9 of your Complaint, as well as all documents supporting your allegation that you and/or John Iliescu made "innumerable requests" that

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Reno, NV 89511
775-688-3000

RTC not use the property, as set forth on page 6 of your opposition to the motion to dismiss.

REQUEST NO. 3:

All documents, including photographs, that depict or discuss the condition of the subject parking lot at any time, whether before, during and after the Project that is the subject of your complaint. With respect to documents and photographs before the Project, RTC seeks documents depict or discuss the condition of the subject parking lot in the 15 years prior to the Project. The response to this request should include any correspondence, bids, quotes or other documents discussion possible repairs to or work to be done on the subject parking lot.

REQUEST NO. 4:

All documents supporting your claim that you have suffered reparable and irreparable damages to the "Remaining Property and to each of the respective Plaintiffs," as alleged in paragraph 11 of your Complaint.

REQUEST NO. 5:

All documents supporting your claim for loss of market value of the Remaining Property as alleged in paragraph 11(a) of your Complaint.

REQUEST NO. 6:

All documents supporting your claim for discomfort and annoyance to Plaintiffs as alleged in paragraph 11(b) of your Complaint.

REQUEST NO. 7:

All documents supporting your claim for emotional distress as alleged in paragraph 11(c) of your Complaint.

REQUEST NO. 8:

All documents supporting your claim for emotional distress as alleged in paragraph 11(c) of your Complaint.

///

///

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Reno, NV 89511
775-688-3000

REQUEST NO. 9:

All documents supporting your claim for loss of use of the Remaining Property as alleged in paragraph 11(d) of your Complaint.

REQUEST NO. 10:

All documents supporting your claim for costs of property restoration as alleged in paragraph 11(e) of the Complaint.

REQUEST NO. 11:

All documents supporting your claim for physical damage to and destruction of the Property as alleged in paragraph 11(c) of your Complaint.

REQUEST NO. 12:

All contracts you allege exist between you and RTC or any other party related to this matter, including but not limited to the agreement referenced in paragraph 11 of your Complaint, the agreements referenced in paragraphs 27 of your Complaint, and the "RTC-Trust Agreement" referenced in paragraphs 39, 46 and 48(a) of your Complaint.

REQUEST NO. 13:

All documents supporting your allegation that Defendants agreed to carry out a scheme intended to accomplish unlawful objectives, as alleged in paragraph 67 of your Complaint.

REQUEST NO. 14:

All documents supporting your allegation that you and John Iliescu each suffered pain, discomfort, mental and emotional distress, pain and disabilities, mental and psychological problems, depression, loss of sleep, appetite and enjoyment of life as a result of RTC's conduct, as alleged in paragraphs 74, 82, 84, 91 and 92 of your Complaint. Your response should include all medical records supporting your allegation that you and John Iliescu each sought medical attention for your respective injuries and "continued for some time to require medical care and treatment, even though the date of this Complaint," as alleged in paragraph 82 of your Complaint, as well as any such records up to and including the date of your response.

Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, NV 89511
775-688-3000

REQUEST NO. 15:

All documents supporting your allegation that RTC or any other defendant acted in a malicious, destructive, willful, mean-spirited or other improper manner.

REQUEST NO. 16:

All documents supporting your allegation that RTC owed you a fiduciary duty.

Affirmation pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the personal information of any person.

DATED: November 8, 2019.

WOODBURN AND WEDGE

By: _____

Dane W. Anderson, Esq.
Nevada Bar No. 6883
Attorneys for Defendant
The Regional Transportation
Commission of Washoe County

Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, NV 89511
775-688-3000

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Woodburn and Wedge, and that on this date, I caused to be hand delivered a true and correct copy of the attached document addressed to:

Michael J. Morrison, Esq.
1495 Ridgeview Dr., #220
Reno, Nevada 89519
venturelawusa@gmail.com

Attorneys for Plaintiffs

DATED: November 8, 2019.

Employee of Woodburn and Wedge

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Jacqueline Bryant
Clerk of the Court
Transaction # 7750935 : bblough

EXHIBIT “3”

EXHIBIT “3”

Dane Anderson

From: Dane Anderson
Sent: Monday, December 16, 2019 8:08 PM
To: Michael J. Morrison, Chtd.
Cc: Dianne Kelling
Subject: Iliescu v. RTC

Mike,

The Iliescus' responses to RTC's requests for production were due last week on December 11. We did not receive any responses. Please note that any objections have been waived. Please provide complete responses without objections no later than Monday, December 23.

Dane W. Anderson

WOODBURN AND WEDGE

Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, Nevada 89511-1159
775.688.3000
Direct Dial: 775.688.3018
danderson@woodburnandwedge.com

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Jacqueline Bryant
Clerk of the Court
Transaction # 7750935 : bblough

EXHIBIT “4”

EXHIBIT “4”

Dane Anderson

From: Dane Anderson
Sent: Monday, January 27, 2020 2:26 PM
To: Michael J. Morrison, Chtd.
Subject: RE: Iliescu
Attachments: Re: RTC adv. Iliescu; 2019 11 08 RTCs RFP to J. Iliescu.pdf; 2019 11 08 RTCs RFP to S. Iliescu.pdf

Mike,

I have not heard back from you regarding the depositions of your clients. I have attempted on several prior occasions to schedule them, only for you to cancel at the last minute based on your clients' unavailability. If we cannot agree on a mutually convenient date by close of business on Wednesday, January 29, I will notice a date that works for my schedule and will not agree to reschedule. I don't normally take a hard line stance, but feel I've been more than accommodating. We agreed to early discovery based on your clients' age and health but so far I have received nothing.

Which brings me to the next issue. I have not received any responses to the request for production I sent out on November 8, 2019 (see attached), which contained 16 separate requests. I realize that Request Nos. 7, 8, 14 are moot in light of your clients' agreement to withdraw claims for emotional distress and personal injury damages, but all other requests remained valid and were not timely answered. As such, any objections have been waived. I must request that your clients provide complete responses (without any objections) to the remaining requests, as well as production of all responsive documents, within seven (7) days of the date of this email, or **February 3, 2020**. Otherwise, I will have to proceed with a motion to compel.

In addition to formal discovery, I informally requested a copy of the contract alleged in the complaint. You indicated on September 18, 2019 that you would provide it (see attached), but I have not seen it.

Our trial date is set to commence July 20. That may seem like a lot of time, but it will go faster than both of us think. We need to get moving on discovery, so please get back to me asap. I would prefer to resolve these issues between us, but that has proven frustrating so far.

Dane W. Anderson
WOODBURN AND WEDGE
Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, Nevada 89511-1159
775.688.3000
Direct Dial: 775.688.3018
danderson@woodburnandwedge.com

From: Michael J. Morrison, Chtd. <venturelawusa@gmail.com>
Sent: Tuesday, January 21, 2020 3:00 PM
To: Dane Anderson <DAnderson@woodburnandwedge.com>
Subject: Re: Iliescu

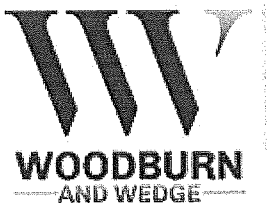
I'll check now.

On Tue, Jan 21, 2020 at 2:58 PM Dane Anderson <DAnderson@woodburnandwedge.com> wrote:

Mike,

Following up, I am wondering whether it would be possible to schedule the Iliescus depositions that you requested be vacated back in November. Please advise. I have good availability next week as I was supposed to have a trial but it settled.

Dane W. Anderson



Woodburn and Wedge

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Reno, Nevada 89511-1159

775.688.3000

Direct Dial: 775.688.3018

danderson@woodburnandwedge.com

From: Michael J. Morrison, Chtd. <venturelawusa@gmail.com>
Sent: Tuesday, January 21, 2020 2:46 PM
To: Dane Anderson <DAnderson@woodburnandwedge.com>; Dianne Kelling <DKelling@woodburnandwedge.com>
Subject: Iliescu

Hey, Dean -

Hope you and yours had a great weekend.

I have just filed my Amended Complaint and attach courtesy copy herewith.

Best,

Mike

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Jacqueline Bryant
Clerk of the Court
Transaction # 7818895 : sacordag

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Dane W. Anderson, Esq.
Nevada Bar No. 6883
WOODBURN AND WEDGE
6100 Neil Road, Suite 500
Reno, Nevada 89511
Telephone: 775-688-3000
Facsimile: 775-688-3088
danderson@woodburnandwedge.com

Attorneys for Plaintiff, the Regional Transportation Commission of Washoe County

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an individual; AND SONNIA ILIESCU, an individual, Plaintiffs, v. THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1 – 40, inclusive, Defendants.	Case No.: CV19-00459 Dept. No.: 15

DECLARATION OF DANE W. ANDERSON IN SUPPORT OF MOTION FOR DISCOVERY SANCTIONS

1. I am an attorney licensed to practice in the State of Nevada. I am over the age of 18 and make this declaration of my own personal knowledge in support of the Motion for Discovery Sanctions filed concurrently.

2. I am a shareholder with the law firm of Woodburn and Wedge ("Woodburn"). Woodburn is counsel for defendant The Regional Transportation Commission of Washoe County ("RTC") in this matter.

3. I have represented RTC in this matter since the date my firm accepted service of process on RTC's behalf.

4. Based on the allegations of the complaint, which included Plaintiffs' elderly status and alleged health issues, and having met Plaintiffs personally on another case, I decided early on in this case that it may be important to conduct written discovery and Plaintiffs' depositions as soon as possible. Therefore, I sought and obtained an agreement from Plaintiffs' counsel to conduct discovery prior to conducting the early case conference and filing the joint case conference report. This was particularly important in my mind because RTC had filed a motion to dismiss that would delay the early case conference—and therefore the commencement of discovery pursuant to NRCP 16.1 and 26—for an unknown period of time.

5. On October 1, 2019, I sent an email to Plaintiffs' counsel confirming our telephone conversation in which he agreed to make his clients available for deposition in October 2019. A true and correct copy of that email is attached as **Exhibit 1**. Plaintiffs' counsel replied "No drama," which I took to mean he agreed with my summary of our phone conversation and would work to secure his clients' attendance for a deposition in October 2019. A true and copy of that email is attached as **Exhibit 2**.

6. Over a week later, not having heard from Plaintiffs' counsel with proposed dates for his clients' depositions, I noticed Plaintiffs' depositions for October 29 and 30, 2019. True and correct copies of those notices are attached as **Exhibits 3 and 4**.

7. I heard nothing from Plaintiffs' counsel in response to the notices of deposition, so I proceeded with the understanding that the dates I had selected were acceptable to Plaintiffs and their counsel. On October 28, 2019, one day prior to the scheduled deposition, my office was contacted by Litigation Services to confirm the scheduled video depositions. In turn, I contacted Plaintiffs' counsel to verify Plaintiffs would be attending. A true and correct copy of that email is attached as **Exhibit 5**. In response, Plaintiffs' counsel called me that same day and said that he did not have the depositions on calendar due to an error on his part. I asked him to let me know when his

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clients would be available, because time may be important. He agreed to let me know. This conversation was summarized in my email of October 28, 2019 to Plaintiffs' counsel, a true and correct copy of which is attached as **Exhibit 6**. Plaintiffs' counsel responded "Thanks for your courtesies." I understood this to mean he would comply in good faith with my request to promptly take Plaintiffs' depositions. See **Exhibit 7**, attached.

8. On or about November 4, 2019, Plaintiffs' counsel contacted my office and advised that his clients would be available for deposition on December 11 and 12, 2019. In response, I sent him an email asking if that was really the earliest Plaintiffs could be available for deposition. A true and correct copy of that email is attached as **Exhibit 8**. I was frustrated because we had previously agreed to conduct the depositions in October. However, having received no response to my email, on November 6, 2019, I noticed Plaintiffs' depositions (again) for the dates Plaintiffs' counsel provided, December 11 and 12, 2019. See **Exhibits 9 and 10**, attached.

9. The next day, November 7, 2019, Plaintiffs' counsel left me a non-specific voicemail. In response that afternoon, I sent him an email, a true and correct copy of which is attached as **Exhibit 11**. In the email, I asked whether it would be possible to take the depositions earlier than December 11 and 12, as I remained concerned about the passage of time. Plaintiffs' counsel responded the same day that the "depos are as set—no changes." A true and correct copy of that email is attached as **Exhibit 12**. I took his response to mean that the depositions would not happen earlier, but would happen on December 11 and 12, 2019.

10. On November 8, 2019, I caused to be served on Plaintiffs' counsel RTC's first set of requests for production of documents, generally seeking documents that may support the allegations of Plaintiffs' complaint. See **Exhibits 13 and 14**, attached.

11. On November 19, 2019, I sent Plaintiffs' counsel an email regarding certain documents requested and Plaintiffs' depositions set for December 11 and 12, a true and correct copy of which is attached as **Exhibit 15**. Plaintiffs' counsel responded on November 20, 2019, that Dr. Iliescu had some health issues but that counsel would "bird

dog" the issue with Mrs. Iliescu. A true and correct copy of that email is attached as **Exhibit 16**.

12. Over a week later, on November 25, 2019, not having heard anything from Plaintiffs' counsel, I sent a follow up email, a true and correct copy of which is attached as **Exhibit 17**. I received no response to this email.

13. Having heard nothing from Plaintiffs' counsel, on December 10, 2019 I sent an email to him inquiring whether his clients would be attending the long-noticed depositions on December 11 and 12, 2019. A true and correct copy of that email is attached as **Exhibit 18**. Plaintiffs' counsel called in response and advised that his clients would not be attending their depositions due to health issues. This was the second last-minute cancellation. In both cases, I likely would not have been made aware of their intent not to appear had I not inquired.

14. Given the approaching holidays and school break, which included an overseas vacation for me, I waited until after the new year to contact Plaintiffs' counsel regarding rescheduling the twice-vacated depositions of Plaintiffs. At no time did Plaintiffs' counsel contact me to offer any dates for his clients' depositions. So, on January 21, 2020, I emailed Plaintiffs' counsel asking to reschedule the depositions for the following week. A true and correct copy of that email is attached as **Exhibit 19**. In response that same day, Plaintiffs' counsel stated "I'll check now." A true and correct copy of that email is attached as **Exhibit 20**.

15. After receiving no further response, on January 27, 2020 I sent Plaintiffs' counsel a long email expressing my frustration regarding Plaintiffs' lack of cooperation in scheduling—and attending—depositions, as well as their failure to respond to RTC's written discovery requests and other issues. A true and correct copy of that email is attached as **Exhibit 21**.

16. On January 30, 2020, Plaintiffs' counsel called my office and provided his explanation for his failure to respond. See **Exhibit 22**, attached. He indicated he knew

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6100 Neil Road, Suite 500
Reno, NV 89511
775-688-3000

the depositions had to be taken and that he owed responses to written discovery as well. Id.

17. Three weeks later, after receiving no further response whatsoever from Plaintiffs' counsel, I filed a motion to compel production of documents on February 20, 2020. Plaintiffs failed to file a timely response (and still have neither responded nor produced any documents whatsoever), so I submitted the motion to compel for decision on March 6, 2020. That motion remains pending.

18. On February 20, 2020, having received no response from Plaintiffs' counsel regarding depositions, I again served notices of Plaintiffs' depositions, this time for March 5 and 6, 2020. See **Exhibits 23 and 24**, attached. These notices were hand-delivered to Plaintiffs' counsel on February 20, 2020.

19. Plaintiffs' counsel did not contact me in response to the notices of deposition, so I assumed the dates worked for him and for Plaintiffs. On March 2, 2020, I sent Plaintiffs' counsel an email asking him to confirm that he and his clients would be attending the depositions noticed for March 5 and 6. A true and correct copy of that email is attached as **Exhibit 25.** Plaintiff's counsel responded that same day (in reply to an email on a different case) that he will check "manana" and let me know. A true and correct copy of that email is attached as **Exhibit 26**. I replied to that email asking him to let me know as soon as possible so I could avoid canceling on the court reporter at the last minute again. A true and correct copy of that email is attached as **Exhibit 27**. Plaintiffs' counsel replied that he understood. A true and correct copy of that email is attached as **Exhibit 28**.

20. Having heard nothing by late the following day, I sent Plaintiffs' counsel a follow up email asking whether the depositions were going forward. A true and correct copy of that email is attached as **Exhibit 29**.

21. Plaintiffs' counsel did not respond, so I prepared for the depositions believing Plaintiffs would attend as required by the properly served notices of deposition.

My office also confirmed with the court reporter that the depositions would be going forward.

22. On March 4, 2020, the night before Dr. Iliescu's deposition, I left the office at approximately 4:00 p.m. to attend to other matters.

23. On March 5, 2020, I went straight from home to the deposition at Litigation Services. Neither Dr. Iliescu nor his counsel appeared at the scheduled time of 10 a.m. I called my office and checked my voicemail. Plaintiffs' counsel had left me a voicemail at approximately 4:40 p.m. on March 4, 2020 indicating that Dr. Iliescu would not be appearing at his deposition the following morning. He did not send an email to this effect and he did not contact my assistant to let her know they would not be appearing the next day. I made a record of Dr. Iliescu's non-appearance, a true and correct copy of which is attached as **Exhibit 30**. I returned to the office and sent Plaintiffs' counsel an email expressing my frustration and inquiring whether Mrs. Iliescu would be attending her deposition the following day. A true and correct copy of that email is attached as **Exhibit 31**. Plaintiffs' counsel advised that she would not be appearing for her deposition. A true and correct copy of that email is attached as **Exhibit 32**.

24. On March 6, 2020, my colleague, Bronagh Kelly, attended Mrs. Iliescu's scheduled deposition at Litigation Services and, when Mrs. Iliescu did not appear, she made a record of nonappearance, a true and correct copy of which is attached as **Exhibit 33**.

25. Plaintiffs' counsel has not contacted me since his email of March 5. However, on March 9, 2020 at approximately 1:00 a.m., my office received a fax directly from Dr. Iliescu. The fax contained two detailed letters written by Dr. Iliescu to his physicians dated March 7, 2020. The fax was copied to Plaintiffs' attorneys (Mr. Morrison and Brett Maupin) as well as the Court, other physicians and me. The letter suggested that I was being unreasonable and that I had been provided certain medical information about the Iliescus that I had not been provided. These letters contained defamatory statements about me and, although they were not considered by the Court, the

undersigned will provide them under seal should the Court wish to review them, as they contain protected medical information concerning Plaintiffs.

26. I have received no communication from Plaintiffs or their counsel since. This matter is languishing and my reasonable and persistent efforts at discovery on behalf of RTC have been frustrated at every turn.

27. Plaintiffs have provided no documents and have repeatedly failed to appear at their depositions by cancelling at the last minute.

28. I understand dismissal is an extreme sanction, but Plaintiffs have asserted extreme allegations against my client (intentional, malicious and conspiratorial misconduct) and are seeking punitive damages. I believe dismissal is an appropriate sanction under the circumstances I have detailed in this declaration.

29. Additionally, RTC has incurred substantial attorney fees and costs as a result of Plaintiffs' refusal to participate in discovery. I am in the process of gathering those attorney billing records and the documentation supporting RTC's claim for costs. Should the Court award RTC fees and costs as requested, I will submit a declaration with appropriate documentation supporting an award of reasonable fees and costs.

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

Affirmation pursuant to NRS 239B.030

The undersigned does hereby affirm that the above-entitled document filed in this matter does not contain the social security number of any person.

Dated this 1st day of April, 2019.

/s/ Dane W. Anderson
DANE W. ANDERSON

Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, NV 89511
775-688-3000

CERTIFICATE OF SERVICE

It is hereby certified that service of the foregoing **DECLARATION OF DANE W. ANDERSON IN SUPPORT OF MOTION FOR DISCOVERY SANCTIONS** was made through the Court's electronic filing and notification or, as appropriate, by sending a copy thereof by first-class mail from Reno, Nevada addressed as follows:

MICHAEL J. MORRISON, ESQ.
Nevada State Bar No. 1665
1495 Ridgeview Dr., #220
Reno, Nevada 89519
venturelawusa@gmail.com

Attorneys for Plaintiffs

DATED: April 1, 2020.

/s/ Dianne M. Kelling
Employee of Woodburn and Wedge

EXHIBIT INDEX TO DECLARATION OF DANE W. ANDERSON IN SUPPORT OF MOTION FOR DISCOVERY SANCTIONS

EXHIBIT NO.	DESCRIPTION OF EXHIBIT	NO OF PAGES INCLUDING EXHIBIT PAGES
1	Email from Dane W. Anderson to Mike Morrison, dated October 1, 2019	2
2	Response Email from Mike Morrison to Dane W. Anderson, dated October 1, 2019	2
3	Notice of Taking Deposition of Sonia Iliescu (October 29, 2019)	4
4	Notice of Taking Deposition of John Iliescu (October 30, 2019)	4
5	Email from Dane W. Anderson to Mike Morrison, dated October 28, 2019	2
6	Email from Dane W. Anderson to Mike Morrison, dated October 28, 2019 regarding availability of plaintiffs' depositions	2
7	Response Email from Mike Morrison to Dane W. Anderson, dated October 28, 2019	2
8	Email from Mike Morrison to Dane W. Anderson, dated November 4, 2019 re availability of plaintiffs' depositions	2
9	Second Amended Notice of Taking Deposition of John Iliescu, Jr. (December 11, 2019)	4
10	Second Amended Notice of Taking Deposition of Sonnia Iliescu (December 12, 2019)	4
11	Email from Mike Morrison to Dane W. Anderson, dated November 7, 2019	2
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13	Defendant's First Set of Requests for Production of Document to Plaintiff John Iliescu, Jr.	9
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15	Email from Dane W. Anderson to Mike Morrison, dated November 19, 2019 regarding certain documents requested and re Plaintiffs deposition set for December 11th and 12th	2
16	Response Email from Mike Morrison to Dane W. Anderson, dated November 20, 2019	2
17	Email from Dane W. Anderson to Mike Morrison, dated November 25, 2019	2

18	Email from Dane W. Anderson to Mike Morrison, dated December 10, 2019	2
19	Email from Dane W. Anderson to Mike Morrison, dated January 21, 2020	2
20	Response Email from Mike Morrison to Dane W. Anderson, dated January 21, 2020	2
21	Email from Dane W. Anderson to Mike Morrison, dated January 27, 2020	3
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23	Third Amended Notice of Taking Deposition of John Iliescu, Jr. (March 5, 2020)	4
24	Third Amended Notice of Taking Deposition of Sonnia Iliescu (March 6, 2020)	4
25	Email from Dane W. Anderson to Mike Morrison, dated March 2, 2020	2
26	Response Email from Mike Morrison to Dane W. Anderson, dated March 2, 2020	2
27	Response Email from Dane W. Anderson to Mike Morrison, dated March 2, 2020	2
28	Response Email from Mike Morrison to Dane W. Anderson, dated March 2, 2020	2
29	Email from Dane W. Anderson to Mike Morrison, dated March 3, 2020	2
30	Affidavit of Nonappearance of John Iliescu, Jr., dated March 5, 2020	5
31	Email from Dane W. Anderson to Mike Morrison, dated March 5, 2020	2
32	Email Response from Mike Morrison to Dane W. Anderson, dated March 5, 2020	2
33	Certification of Notice of Nonappearance of Sonnia Iliescu	5

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Clerk of the Court
Transaction # 7818895 : sacordag

EXHIBIT 1

EXHIBIT 1

Dianne Kelling

From: Dane Anderson
Sent: Tuesday, October 01, 2019 3:11 PM
To: Michael J. Morrison, Chtd.
Cc: Dianne Kelling
Subject: Iliescu v. RTC

Mike,

This will confirm that I have given you an extension until October 21 to file your opposition to summary judgment. You also agreed to inquire with your clients for deposition dates in October (I am not available October 7-11) and whether they will provide a release for medical records at whatever providers they visited related to the allegations in the complaint. Please let me know as soon as possible, as I would like to start gathering those records and getting the depositions scheduled. Thank you.

Dane W. Anderson

WOODBURN AND WEDGE

Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, Nevada 89511-1159
775.688.3000
Direct Dial: 775.688.3018
danderson@woodburnandwedge.com

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Clerk of the Court
Transaction # 7818895 : sacordag

EXHIBIT 2

EXHIBIT 2

Dianne Kelling

From: Michael J. Morrison, Chtd. <venturelawusa@gmail.com>
Sent: Tuesday, October 01, 2019 4:36 PM
To: Dane Anderson
Cc: Dianne Kelling
Subject: Re: Iliescu v. RTC

No drama.

On Tue, Oct 1, 2019 at 3:42 PM Dane Anderson <DAnderson@woodburnandwedge.com> wrote:

Hi Mike,

To clarify, I mean your opposition to the motion to dismiss. Obviously I have not filed a motion for summary judgment. Sorry for the error.

Dane W. Anderson

WOODBURN AND WEDGE

Woodburn and Wedge

6100 Neil Road, Suite 500

Reno, Nevada 89511-1159

775.688.3000

Direct Dial: 775.688.3018

danderson@woodburnandwedge.com

From: Dane Anderson
Sent: Tuesday, October 01, 2019 3:11 PM
To: 'Michael J. Morrison, Chtd.' <venturelawusa@gmail.com>
Cc: Dianne Kelling <DKelling@woodburnandwedge.com>
Subject: Iliescu v. RTC

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Transaction # 7818895 : sacordag

EXHIBIT 3

EXHIBIT 3

2582
Dane W. Anderson, Esq.
Nevada Bar No. 6883
WOODBURN AND WEDGE
6100 Neil Road, Suite 500
Reno, Nevada 89511
Telephone: 775-688-3000
Facsimile: 775-688-3088
danderson@woodburnandwedge.com

Attorneys for Plaintiff, the Regional Transportation Commission of Washoe County

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an individual; AND SONNIA ILIESCU, an individual, Plaintiffs, v. THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1 – 40, inclusive, Defendants.	Case No.: CV19-00459 Dept. No.: 15

NOTICE OF TAKING DEPOSITION OF SONNIA ILIESCU

PLEASE TAKE NOTICE that, pursuant to Rules 26 and 30 of the Nevada Rules of Civil Procedure, Defendant, The Regional Transportation Commission of Washoe County, by and through their attorneys of record, will take the deposition by oral examination of Plaintiff **Sonnia Iliescu**, on **Tuesday, October 29, 2019**, at **10:00 a.m.**, at the offices of Sunshine Litigation Services, 151 Country Estates Circle, Reno, Nevada 89511, or at such alternative date, time, and place as mutually agreed upon by counsel for the parties.

///

The deposition will be taken pursuant to the Nevada Rules of Civil Procedure before a Notary Public or other officer duly authorized by law to administer oaths, and will continue from day-to-day until completed, with such adjournments as time and place that may be necessary.

You are invited to attend and cross-examine.

Affirmation pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the personal information of any person.

DATED: October 9, 2019

WOODBURN AND WEDGE

By: _____ 10/24, for

Dane W. Anderson, Esq.
Nevada Bar No. 6883
Attorneys for Plaintiff
The Regional Transportation
Commission of Washoe County

Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, NV 89511
775-688-3000

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Woodburn and Wedge, and that on this date, pursuant to NRCP 5(b), I deposited in the United States Mail at Reno, Nevada, a true and correct copy of the attached document addressed to:

MICHAEL J. MORRISON, ESQ.
Nevada State Bar No. 1665
1495 Ridgeview Dr., #220
Reno, Nevada 89519
venturelawusa@gmail.com

Attorneys for Plaintiffs

DATED: October 9, 2019

Employee of Woodburn and Wedge

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Transaction # 7818895 : sacordag

EXHIBIT 4

EXHIBIT 4

2582
Dane W. Anderson, Esq.
Nevada Bar No. 6883
WOODBURN AND WEDGE
6100 Neil Road, Suite 500
Reno, Nevada 89511
Telephone: 775-688-3000
Facsimile: 775-688-3088
danderson@woodburnandwedge.com

Attorneys for Plaintiff, the Regional Transportation Commission of Washoe County

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an individual; AND SONNIA ILIESCU, an individual, Plaintiffs, v. THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1 – 40, inclusive, Defendants.	Case No.: CV19-00459 Dept. No.: 15

NOTICE OF TAKING DEPOSITION OF JOHN ILIESCU, JR.

PLEASE TAKE NOTICE that, pursuant to Rules 26 and 30 of the Nevada Rules of Civil Procedure, Defendant, The Regional Transportation Commission of Washoe County, by and through their attorneys of record, will take the deposition by oral examination of Plaintiff **John Iliescu, Jr.**, on **Wednesday, October 30, 2019**, at **10:00 a.m.**, at the offices of Sunshine Litigation Services, 151 Country Estates Circle, Reno, Nevada 89511, or at such alternative date, time, and place as mutually agreed upon by counsel for the parties.

///

The deposition will be taken pursuant to the Nevada Rules of Civil Procedure before a Notary Public or other officer duly authorized by law to administer oaths, and will continue from day-to-day until completed, with such adjournments as time and place that may be necessary.

You are invited to attend and cross-examine.

Affirmation pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the personal information of any person.

DATED: October 9, 2019

WOODBURN AND WEDGE

By: _____

Dane W. Anderson, Esq.
Nevada Bar No. 6883
Attorneys for Plaintiff
The Regional Transportation
Commission of Washoe County

Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, NV 89511
775-688-3000

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Woodburn and Wedge, and that on this date, pursuant to NRCP 5(b), I deposited in the United States Mail at Reno, Nevada, a true and correct copy of the attached document addressed to:

MICHAEL J. MORRISON, ESQ.
Nevada State Bar No. 1665
1495 Ridgeview Dr., #220
Reno, Nevada 89519
venturelawusa@gmail.com

Attorneys for Plaintiffs

DATED: October 9, 2019

Employee of Woodburn and Wedge

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EXHIBIT 5

EXHIBIT 5

Dianne Kelling

From: Dane Anderson
Sent: Monday, October 28, 2019 11:45 AM
To: Michael J. Morrison, Chtd.
Subject: Iliescu depositions

Mike,

I just want to make sure we are still on for the depositions of Dr. and Sonnia Iliescu starting tomorrow at 10 a.m. Please confirm. Thank you.

Dane W. Anderson

WOODBURN AND WEDGE

Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, Nevada 89511-1159
775.688.3000
Direct Dial: 775.688.3018
danderson@woodburnandwedge.com

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EXHIBIT 6

EXHIBIT 6

Dianne Kelling

From: Dane Anderson
Sent: Monday, October 28, 2019 4:20 PM
To: Michael J. Morrison, Chtd.
Cc: Dianne Kelling
Subject: Iliescu v. RTC
Attachments: Stip to Conduct Discovery Prior to Holding NRCP 16.1 Conference & Prior to Filing the JCCR.doc

Mike,

This email follows our conversation this morning, in which you indicated that you did not have the depositions of your clients on calendar due to an error on your part. Please advise when your clients will be available, as time may be important. Please also provided, as soon as possible, the releases for the medical providers that I have previously requested—those that will support your client's allegations in the complaint, and any others that may have information bearing on your clients' conditions. I've attached a proposed stipulation allowing early discovery, so we can formalize the agreement we've already reached. Please sign the stipulation and return to my office.

As to your request for an additional extension to file plaintiffs' response to RTC's motion to dismiss, I can agree to an up to and including **November 6 2019**. That will be the last extension I can agree to absent an extraordinary circumstance. My client wants to move this case forward to disposition.

Dane W. Anderson

WOODBURN AND WEDGE

Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, Nevada 89511-1159
775.688.3000
Direct Dial: 775.688.3018
danderson@woodburnandwedge.com

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EXHIBIT 7

EXHIBIT 7

[redacted]

From: Michael J. Morrison, Chtd. <venturelawusa@gmail.com>
Sent: Monday, October 28, 2019 4:40 PM
To: Dane Anderson <DAnderson@woodburnandwedge.com>
Cc: Dianne Kelling <DKelling@woodburnandwedge.com>
Subject: Re: Iliescu v. RTC

Thanks for your courtesies.

Mike

On Mon, Oct 28, 2019 at 4:20 PM Dane Anderson <DAnderson@woodburnandwedge.com> wrote:

> Mike,
>
> This email follows our conversation this morning, in which you indicated that you did not have the depositions of your clients on calendar due to an error on your part. Please advise when your clients will be available, as time may be important. Please also provided, as soon as possible, the releases for the medical providers that I have previously requested—those that will support your client's allegations in the complaint, and any others that may have information bearing on your clients' conditions. I've attached a proposed stipulation allowing early discovery, so we can formalize the agreement we've already reached. Please sign the stipulation and return to my office.
>
> As to your request for an additional extension to file plaintiffs' response to RTC's motion to dismiss, I can agree to an up to and including **November 6 2019**. That will be the last extension I can agree to absent an extraordinary circumstance. My client wants to move this case forward to disposition.

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EXHIBIT 8

EXHIBIT 8

[redacted]

From: Dane Anderson
Sent: Monday, November 04, 2019 12:59 PM
To: Michael J. Morrison, Chtd. <venturelawusa@gmail.com>
Subject: Iliescu

Mike,

Is December 11 and 12 really the earliest your clients are available for deposition? They were supposed to be deposed at the end of October. Please advise.

Also, we have not received the medical releases you indicated the Iliescus would provide, along with the names of the relevant medical providers.

Dane W. Anderson

WOODBURN AND WEDGE

Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, Nevada 89511-1159
775.688.3000
Direct Dial: 775.688.3018
danderson@woodburnandwedge.com

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EXHIBIT 9

EXHIBIT 9

1120
Dane W. Anderson, Esq.
Nevada Bar No. 6883
WOODBURN AND WEDGE
6100 Neil Road, Suite 500
Reno, Nevada 89511
Telephone: 775-688-3000
Facsimile: 775-688-3088
danderson@woodburnandwedge.com

Attorneys for Plaintiff, the Regional Transportation Commission of Washoe County

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an individual; AND SONNIA ILIESCU, an individual, Plaintiffs, v. THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1 – 40, inclusive, Defendants.	Case No.: CV19-00459 Dept. No.: 15

SECOND AMENDED NOTICE OF TAKING DEPOSITION OF JOHN ILIESCU, JR.

PLEASE TAKE NOTICE that, pursuant to Rules 26 and 30 of the Nevada Rules of Civil Procedure, Defendant, The Regional Transportation Commission of Washoe County, by and through their attorneys of record, will take the deposition by oral examination of Plaintiff **John Iliescu, Jr.**, on **Wednesday, December 11, 2019**, at **10:00 a.m.**, at the offices of Sunshine Litigation Services, 151 Country Estates Circle, Reno, Nevada 89511, or at such alternative date, time, and place as mutually agreed upon by counsel for the parties.

///

The deposition will be taken pursuant to the Nevada Rules of Civil Procedure before a Notary Public or other officer duly authorized by law to administer oaths, and will continue from day-to-day until completed, with such adjournments as time and place that may be necessary. The deposition will be recorded by sound and visual means (audio/video technology). Pursuant to NRCP 30(b)(3), any party may arrange for a transcription to be made from the recording of a deposition taken by non-stenographic means.

You are invited to attend and cross-examine.

Affirmation pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the personal information of any person.

DATED: November 6, 2019

WOODBURN AND WEDGE

By: _____

Dane W. Anderson, Esq.
Nevada Bar No. 6883
Attorneys for Plaintiff
The Regional Transportation Commission of Washoe County

Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, NV 89511
775-688-3000

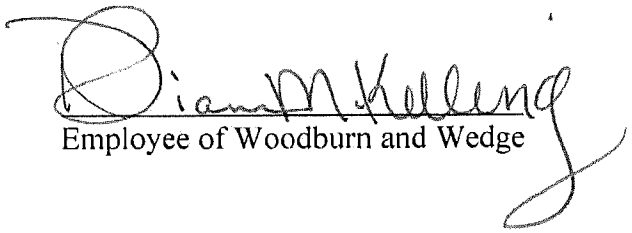
CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Woodburn and Wedge, and that on this date, pursuant to NRCP 5(b), I deposited in the United States Mail at Reno, Nevada, a true and correct copy of the attached document addressed to:

Michael J. Morrison, Esq.
1495 Ridgeview Dr., #220
Reno, Nevada 89519
venturelawusa@gmail.com

Attorneys for Plaintiffs

DATED: November 6, 2019



Employee of Woodburn and Wedge

Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, NV 89511
775-688-3000

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EXHIBIT 10

EXHIBIT 10

1120
Dane W. Anderson, Esq.
Nevada Bar No. 6883
WOODBURN AND WEDGE
6100 Neil Road, Suite 500
Reno, Nevada 89511
Telephone: 775-688-3000
Facsimile: 775-688-3088
danderson@woodburnandwedge.com

Attorneys for Plaintiff, the Regional Transportation Commission of Washoe County

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an individual; AND SONNIA ILIESCU, an individual, Plaintiffs, v. THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1 – 40, inclusive, Defendants.	Case No.: CV19-00459 Dept. No.: 15

SECOND AMENDED NOTICE OF TAKING DEPOSITION OF SONNIA ILIESCU

PLEASE TAKE NOTICE that, pursuant to Rules 26 and 30 of the Nevada Rules of Civil Procedure, Defendant, The Regional Transportation Commission of Washoe County, by and through their attorneys of record, will take the deposition by oral examination of Plaintiff **Sonnia Iliescu**, on **Thursday, December 12, 2019**, at **10:00 a.m.**, at the offices of Sunshine Litigation Services, 151 Country Estates Circle, Reno, Nevada 89511, or at such alternative date, time, and place as mutually agreed upon by counsel for the parties.

///

The deposition will be taken pursuant to the Nevada Rules of Civil Procedure before a Notary Public or other officer duly authorized by law to administer oaths, and will continue from day-to-day until completed, with such adjournments as time and place that may be necessary. The deposition will be recorded by sound and visual means (audio/video technology). Pursuant to NRCP 30(b)(3), any party may arrange for a transcription to be made from the recording of a deposition taken by non-stenographic means.

You are invited to attend and cross-examine.

Affirmation pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the personal information of any person.

DATED: November 6, 2019

WOODBURN AND WEDGE

By: _____
Dane W. Anderson, Esq.
Nevada Bar No. 6883

Attorneys for Plaintiff
The Regional Transportation Commission of Washoe County

Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, NV 89511
775-688-3000

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Woodburn and Wedge, and that on this date, pursuant to NRCP 5(b), I deposited in the United States Mail at Reno, Nevada, a true and correct copy of the attached document addressed to:

Michael J. Morrison, Esq.
1495 Ridgeview Dr., #220
Reno, Nevada 89519
venturelawusa@gmail.com

Attorneys for Plaintiffs

DATED: November 6, 2019

Employee of Woodburn and Wedge

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EXHIBIT 11

EXHIBIT 11

Dianne Kelling

From: Dane Anderson
Sent: Thursday, November 07, 2019 4:08 PM
To: Michael J. Morrison, Chtd.
Cc: Dianne Kelling
Subject: Iliescu v. RTC

Mike,

I received your voicemail this afternoon regarding the Iliescus' depositions. I just tried to call you back on your cell phone, which indicated that your voicemail is full and cannot accept additional messages. I presume you are calling response to our notices of deposition for Dr. and Mrs. Iliescu on December 11 and 12. It is my understanding you provided those dates to my assistant. Please advise if there is a problem. If it is possible, I would like to conduct them earlier.

Also, please provide the medical releases we sent you along with the names of the Iliescus medical providers, as I would like to gather their records prior to deposition. We have requested this several times and you indicated it would not be a problem. I'm not trying to be difficult, but given the allegations of the complaint and the opposition brief you filed today, I would like to get these records ASAP.

Dane W. Anderson

WOODBURN AND WEDGE

Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, Nevada 89511-1159
775.688.3000
Direct Dial: 775.688.3018
danderson@woodburnandwedge.com

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Clerk of the Court
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EXHIBIT 12

EXHIBIT 12

Dianne Kelling

From: Michael J. Morrison, Chtd. <venturelawusa@gmail.com>
Sent: Thursday, November 07, 2019 7:50 PM
To: Dane Anderson
Cc: Dianne Kelling
Subject: Re: Iliescu v. RTC

Dane - No worries; the depos are as set - no changes.
I'll call you manana.

On Thu, Nov 7, 2019 at 4:08 PM Dane Anderson <DAnderson@woodburnandwedge.com> wrote:

Mike,

I received your voicemail this afternoon regarding the Iliescus' depositions. I just tried to call you back on your cell phone, which indicated that your voicemail is full and cannot accept additional messages. I presume you are calling response to our notices of deposition for Dr. and Mrs. Iliescu on December 11 and 12. It is my understanding you provided those dates to my assistant. Please advise if there is a problem. If it is possible, I would like to conduct them earlier.

Also, please provide the medical releases we sent you along with the names of the Iliescus medical providers, as I would like to gather their records prior to deposition. We have requested this several times and you indicated it would not be a problem. I'm not trying to be difficult, but given the allegations of the complaint and the opposition brief you filed today, I would like to get these records ASAP.

Dane W. Anderson

WOODBURN AND WEDGE

Woodburn and Wedge

6100 Neil Road, Suite 500

Reno, Nevada 89511-1159

775.688.3000

Direct Dial: 775.688.3018

danderson@woodburnandwedge.com

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EXHIBIT 13

EXHIBIT 13

DISCOVERY

Dane W. Anderson, Esq.
Nevada Bar No. 6883
WOODBURN AND WEDGE
6100 Neil Road, Suite 500
Reno, Nevada 89511
Telephone: 775-688-3000
Facsimile: 775-688-3088
danderson@woodburnandwedge.com

Attorneys for Defendant, the Regional Transportation Commission of Washoe County

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an individual; AND SONNIA ILIESCU, an individual, Plaintiffs, v. THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1 – 40, inclusive, Defendants.	Case No.: CV19-00459 Dept. No.: 15

DEFENDANT'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS TO PLAINTIFF JOHN ILIESCU, JR.

TO: Plaintiff John Iliescu, Jr., and Michael J. Morrison, Esq., 1495 Ridgeview Drive, Suite 220, Reno, NV 89519, his counsel of record:

Defendant The Regional Transportation Commission of Washoe County ("RTC"), by and through its counsel of record, hereby propounds the following requests for production to Plaintiff John Iliescu, Jr., ("ILIESCU") pursuant to Rules 26 and 34 of the Nevada Rules of Civil Procedure. The requested documents are to be produced to

Defendant The Regional Transportation Commission of Washoe County's counsel, Woodburn and Wedge, 6100 Neil Road, Suite 500, Reno, Nevada, 89511.

DEFINITIONS

1. As used throughout these requests, "document" or "documents" has the same meaning as the definitions of "writings" and "recordings" and "photographs" as defined in NRS 52.225 and NRS 52.215. This includes, but is not limited to, all originals, copies and drafts of all letters, electronic mail, telegrams, cablegrams, telexes, memoranda, notes, records, reports, studies, calendars, diaries, agenda, minutes, books, pamphlets, periodicals, newspaper clippings, graphics, indexes, charts, tabulations, statistical accumulations, financial statements, accounting entries, press releases, contracts, affidavits, transcripts, legal documents, accountant work papers, financial reports, tax returns, recordings of meetings and conferences, records of conversations and telephone calls, still photographs, videotapes, motion pictures, tape recordings, microfilms, punch cards, computer programs, print-outs, polygraph examination, records, recordings, made through data processing techniques and the written information necessary to understand and use such films and records.

2. As used throughout these requests, a request for information that "relates to" any given subject means any information that in whole or in part constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is in any way pertinent to that subject.

3. All references to the singular in these definitions and requests shall be deemed to include the plural, and all references to the plural shall be deemed to include the singular. All references to masculine gender shall be deemed to include the feminine and neuter.

4. "Any" means any and all.

5. "All" means any and all.

6. "Or" means and/or.

7. "Including" means including, but not limited to.

Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, NV 89511
775-688-3000

8. "Communication" or "Communications" includes all conversations, written or oral, meetings, memoranda, correspondence, emails, text messages, social media, conferences and any other means or manner of transmitting written transmissions.

9. Unless otherwise specified, the terms "you" or "your" means Plaintiff JOHN ILIESCU and his attorneys, accountants, agents, employees and anyone else purporting to act on his behalf with respect to the facts and allegations that are the subject of this litigation.

INSTRUCTIONS

1. Under Rule 34 of the Nevada Rules of Civil Procedure, you are required to produce the documents as they are kept in the usual course of business or to organize and label them to correspond with the categories of this request. Accordingly, whenever a document or group of documents is taken out of a file folder, file drawer, file box or notebook, before the same is produced, you are requested to attach thereto a copy of the label and the file folder, file drawer, file box or notebook from which a document or group of documents was removed.

2. For each document responsive to this request that is withheld under claim of privilege or work-product immunity, write a statement under oath by a person having knowledge setting forth as to each document:

a) The name and title of the author;

b) The name and title of each person to whom the document was addressed;

c) The name and title of each person to whom a copy of the document was sent;

d) The date of the document;

e) The number of pages in the document;

f) A brief description of the nature and subject matter of the document;

g) The nature of the claimed privilege of immunity;

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Reno, NV 89511
775-688-3000

h) The category or categories of this request to which the document is responsive; and

i) The exact location of the original and each copy as of the date of the receipt of this request, along with the names and addresses of the custodian of said originals and copies.

3. If you are aware of any document otherwise responsive to this request, which document is no longer in your custody or control, identify the name and title of the author, the name and title of the addressee, the date of the document, the subject matter of the document or documents, the last date in which the document was in your control, the person or entity, if any, now in control of the document, and the reasons for your disposition of release of the document.

4. This request for Production of Documents shall be deemed continuing pursuant to Rule26(e), Nevada Rules of Civil Procedure, and as additional information is secured, such additional information shall be supplied to Woodburn and Wedge, 6100 Neil Road, Suite 500, Reno, NV 89511, attorneys for Defendant The Regional Transportation Commission of Washoe County.

DOCUMENTS REQUESTED

REQUEST NO. 1:

All documents supporting your contention that RTC or anyone you contend was acting on behalf of RTC drove over and parked their vehicles on your property "on virtually every workday during the term of the Project," as alleged in paragraph 9 of your Complaint.

REQUEST NO. 2:

All documents supporting your allegation that you and/or Sonnia Iliescu made "frequent objections" to RTC's alleged use of any portion of your property at issue in this litigation, as set forth in paragraph 9 of your Complaint, as well as all documents supporting your allegation that you and/or Sonnia Iliescu made "innumerable requests"

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that RTC not use the property, as set forth on page 6 of your opposition to the motion to dismiss.

REQUEST NO. 3:

All documents, including photographs, that depict or discuss the condition of the subject parking lot at any time, whether before, during and after the Project that is the subject of your complaint. With respect to documents and photographs before the Project, RTC seeks documents depict or discuss the condition of the subject parking lot in the 15 years prior to the Project. The response to this request should include any correspondence, bids, quotes or other documents discussion possible repairs to or work to be done on the subject parking lot.

REQUEST NO. 4:

All documents supporting your claim that you have suffered reparable and irreparable damages to the "Remaining Property and to each of the respective Plaintiffs," as alleged in paragraph 11 of your Complaint.

REQUEST NO. 5:

All documents supporting your claim for loss of market value of the Remaining Property as alleged in paragraph 11(a) of your Complaint.

REQUEST NO. 6:

All documents supporting your claim for discomfort and annoyance to Plaintiffs as alleged in paragraph 11(b) of your Complaint.

REQUEST NO. 7:

All documents supporting your claim for emotional distress as alleged in paragraph 11(c) of your Complaint.

REQUEST NO. 8:

All documents supporting your claim for emotional distress as alleged in paragraph 11(c) of your Complaint

///

///

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6100 Neil Road, Suite 500
Reno, NV 89511
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REQUEST NO. 9:

All documents supporting your claim for loss of use of the Remaining Property as alleged in paragraph 11(d) of your Complaint.

REQUEST NO. 10:

All documents supporting your claim for costs of property restoration as alleged in paragraph 11(e) of the Complaint.

REQUEST NO. 11:

All documents supporting your claim for physical damage to and destruction of the Property as alleged in paragraph 11(c) of your Complaint.

REQUEST NO. 12:

All contracts you allege exist between you and RTC or any other party related to this matter, including but not limited to the agreement referenced in paragraph 11 of your Complaint, the agreements referenced in paragraphs 27 of your Complaint, and the "RTC-Trust Agreement" referenced in paragraphs 39, 46 and 48(a) of your Complaint.

REQUEST NO. 13:

All documents supporting your allegation that Defendants agreed to carry out a scheme intended to accomplish unlawful objectives, as alleged in paragraph 67 of your Complaint.

REQUEST NO. 14:

All documents supporting your allegation that you and Sonnia Iliescu each suffered pain, discomfort, mental and emotional distress, pain and disabilities, mental and psychological problems, depression, loss of sleep, appetite and enjoyment of life as a result of RTC's conduct, as alleged in paragraphs 74, 82, 84, 91 and 92 of your Complaint. Your response should include all medical records supporting your allegation that you and Sonnia Iliescu each sought medical attention for your respective injuries and "continued for some time to require medical care and treatment, even though the date of this Complaint," as alleged in paragraph 82 of your Complaint, as well as any such records up to and including the date of your response.

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6100 Neil Road, Suite 500
Reno, NV 89511
775-688-3000

REQUEST NO. 15:

All documents supporting your allegation that RTC or any other defendant acted in a malicious, destructive, willful, mean-spirited or other improper manner.

REQUEST NO. 16:

All documents supporting your allegation that RTC owed you a fiduciary duty.

Affirmation pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the personal information of any person.

DATED: November 8, 2019.

WOODBURN AND WEDGE

By: _____

Dane W. Anderson, Esq.
Nevada Bar No. 6883
Attorneys for Defendant
The Regional Transportation
Commission of Washoe County

Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, NV 89511
775-688-3000

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Woodburn and Wedge, and that on this date, I caused to be hand delivered a true and correct copy of the attached document addressed to:

Michael J. Morrison, Esq.
1495 Ridgeview Dr., #220
Reno, Nevada 89519
venturelawusa@gmail.com

Attorneys for Plaintiffs

DATED: November 8, 2019.

Employee of Woodburn and Wedge

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Electronically
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2020-04-01 04:40:40 PM
Jacqueline Bryant
Clerk of the Court
Transaction # 7818895 : sacordag

EXHIBIT 14

EXHIBIT 14

DISCOVERY

Dane W. Anderson, Esq.
Nevada Bar No. 6883
WOODBURN AND WEDGE
6100 Neil Road, Suite 500
Reno, Nevada 89511
Telephone: 775-688-3000
Facsimile: 775-688-3088
danderson@woodburnandwedge.com

Attorneys for Defendant, the Regional Transportation Commission of Washoe County

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

OHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an individual; AND SONNIA ILIESCU, an individual, Plaintiffs, v. THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1 – 40, inclusive, Defendants.	Case No.: CV19-00459 Dept. No.: 15

DEFENDANT'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS TO PLAINTIFF SONNIA ILIESCU

TO: Plaintiff Sonnia Iliescu, and Michael J. Morrison, Esq., 1495 Ridgeview Drive, Suite 220, Reno, NV 89519, her counsel of record:

Defendant The Regional Transportation Commission of Washoe County ("RTC"), by and through its counsel of record, hereby propounds the following requests for production to Plaintiff John Iliescu, Jr., ("ILIESCU") pursuant to Rules 26 and 34 of the Nevada Rules of Civil Procedure. The requested documents are to be produced to

Defendant he Regional Transportation Commission of Washoe County's counsel, Woodburn and Wedge, 6100 Neil Road, Suite 500, Reno, Nevada, 89511.

DEFINITIONS

1. As used throughout these requests, "document" or "documents" has the same meaning as the definitions of "writings" and "recordings" and "photographs" as defined in NRS 52.225 and NRS 52.215. This includes, but is not limited to, all originals, copies and drafts of all letters, electronic mail, telegrams, cablegrams, telexes, memoranda, notes, records, reports, studies, calendars, diaries, agenda, minutes, books, pamphlets, periodicals, newspaper clippings, graphics, indexes, charts, tabulations, statistical accumulations, financial statements, accounting entries, press releases, contracts, affidavits, transcripts, legal documents, accountant work papers, financial reports, tax returns, recordings of meetings and conferences, records of conversations and telephone calls, still photographs, videotapes, motion pictures, tape recordings, microfilms, punch cards, computer programs, print-outs, polygraph examination, records, recordings, made through data processing techniques and the written information necessary to understand and use such films and records.

2. As used throughout these requests, a request for information that "relates to" any given subject means any information that in whole or in part constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is in any way pertinent to that subject.

3. All references to the singular in these definitions and requests shall be deemed to include the plural, and all references to the plural shall be deemed to include the singular. All references to masculine gender shall be deemed to include the feminine and neuter.

4. "Any" means any and all.

5. "All" means any and all.

6. "Or" means and/or.

7. "Including" means including, but not limited to.

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6100 Neil Road, Suite 500
Reno, NV 89511
775-688-3000

8. "Communication" or "Communications" includes all conversations, written or oral, meetings, memoranda, correspondence, emails, text messages, social media, conferences and any other means or manner of transmitting written transmissions.

9. Unless otherwise specified, the term "you" or "your" means Plaintiff SONNIA ILIESCU and her attorneys, accountants, agents, employees and anyone else purporting to act on her behalf with respect to the loan and/or property that is the subject of this litigation.

INSTRUCTIONS

1. Under Rule 34 of the Nevada Rules of Civil Procedure, you are required to produce the documents as they are kept in the usual course of business or to organize and label them to correspond with the categories of this request. Accordingly, whenever a document or group of documents is taken out of a file folder, file drawer, file box or notebook, before the same is produced, you are requested to attach thereto a copy of the label and the file folder, file drawer, file box or notebook from which a document or group of documents was removed.

2. For each document responsive to this request that is withheld under claim of privilege or work-product immunity, write a statement under oath by a person having knowledge setting forth as to each document:

a) The name and title of the author;

b) The name and title of each person to whom the document was addressed;

c) The name and title of each person to whom a copy of the document was sent;

d) The date of the document;

e) The number of pages in the document;

f) A brief description of the nature and subject matter of the document;

g) The nature of the claimed privilege of immunity;

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h) The category or categories of this request to which the document is responsive; and

i) The exact location of the original and each copy as of the date of the receipt of this request, along with the names and addresses of the custodian of said originals and copies.

3. If you are aware of any document otherwise responsive to this request, which document is no longer in your custody or control, identify the name and title of the author, the name and title of the addressee, the date of the document, the subject matter of the document or documents, the last date in which the document was in your control, the person or entity, if any, now in control of the document, and the reasons for your disposition of release of the document.

4. This request for Production of Documents shall be deemed continuing pursuant to Rule26(e), Nevada Rules of Civil Procedure, and as additional information is secured, such additional information shall be supplied to Woodburn and Wedge, 6100 Neil Road, Suite 500, Reno, NV 89511, attorneys for Defendant The Regional Transportation Commission of Washoe County.

DOCUMENTS REQUESTED

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All documents supporting your allegation that you and/or John Iliescu made "frequent objections" to RTC's alleged use of any portion of your property at issue in this litigation, as set forth in paragraph 9 of your Complaint, as well as all documents supporting your allegation that you and/or John Iliescu made "innumerable requests" that

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RTC not use the property, as set forth on page 6 of your opposition to the motion to dismiss.

REQUEST NO. 3:

All documents, including photographs, that depict or discuss the condition of the subject parking lot at any time, whether before, during and after the Project that is the subject of your complaint. With respect to documents and photographs before the Project, RTC seeks documents depict or discuss the condition of the subject parking lot in the 15 years prior to the Project. The response to this request should include any correspondence, bids, quotes or other documents discussion possible repairs to or work to be done on the subject parking lot.

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All documents supporting your claim for discomfort and annoyance to Plaintiffs as alleged in paragraph 11(b) of your Complaint.

REQUEST NO. 7:

All documents supporting your claim for emotional distress as alleged in paragraph 11(c) of your Complaint.

REQUEST NO. 8:

All documents supporting your claim for emotional distress as alleged in paragraph 11(c) of your Complaint.

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Reno, NV 89511
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All documents supporting your claim for costs of property restoration as alleged in paragraph 11(e) of the Complaint.

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775-688-3000

REQUEST NO. 15:

All documents supporting your allegation that RTC or any other defendant acted in a malicious, destructive, willful, mean-spirited or other improper manner.

REQUEST NO. 16:

All documents supporting your allegation that RTC owed you a fiduciary duty.

Affirmation pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the personal information of any person.

DATED: November 8, 2019.

WOODBURN AND WEDGE

By: _____

Dane W. Anderson, Esq.
Nevada Bar No. 6883
Attorneys for Defendant
The Regional Transportation
Commission of Washoe County

Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, NV 89511
775-688-3000

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Woodburn and Wedge, and that on this date, I caused to be hand delivered a true and correct copy of the attached document addressed to:

Michael J. Morrison, Esq.
1495 Ridgeview Dr., #220
Reno, Nevada 89519
venturelawusa@gmail.com

Attorneys for Plaintiffs

DATED: November 8, 2019.

Employee of Woodburn and Wedge

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Jacqueline Bryant
Clerk of the Court
Transaction # 7818895 : sacordag

EXHIBIT 15

EXHIBIT 15

Dianne Kelling

From: Dane Anderson
Sent: Tuesday, November 19, 2019 3:25 PM
To: Michael J. Morrison, Chtd.
Cc: Dianne Kelling
Subject: FW: RTC/Iliescu
Attachments: 2019 10 17 Letter to Morrison re medical authorizations.pdf

Hello Mike,

It's been more than a month and we still do not have the medical authorizations and the list of providers that I requested. I need that information before your client's depositions on December 11 and 12. Please provide the signed authorizations and the list of relevant medical providers to me ASAP. Thank you.

Dane W. Anderson
WOODBURN AND WEDGE
Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, Nevada 89511-1159
775.688.3000
Direct Dial: 775.688.3018
danderson@woodburnandwedge.com

From: Dianne Kelling <DKelling@woodburnandwedge.com>
Sent: Thursday, October 17, 2019 2:23 PM
To: Michael J. Morrison, Chtd. <venturelawusa@gmail.com>
Cc: Dane Anderson <DAnderson@woodburnandwedge.com>
Subject: RTC/Iliescu

Good afternoon Mr. Morrison,

Please find attached a cover letter and Medical Authorizations for Dr. Iliescu and Mrs. Iliescu to complete, sign and return to us.

Thank you.

Dianne M. Kelling
Legal Assistant to Dane W. Anderson and Shay L. Wells
WOODBURN AND WEDGE
Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, Nevada 89511-1159
775.688.3000
Direct Dial: 775-688-3057
dkelling@woodburnandwedge.com

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Clerk of the Court
Transaction # 7818895 : sacordag

EXHIBIT 16

EXHIBIT 16

Dianne Kelling

From: Michael J. Morrison, Chtd. <venturelawusa@gmail.com>
Sent: Wednesday, November 20, 2019 12:35 AM
To: Dane Anderson
Cc: Dianne Kelling
Subject: Re: FW: RTC/Iliescu

John's been beset by health issues,tests and hospital visits.
I spoke w/ Sonnia today and will bird-dog this manana.

On Tue, Nov 19, 2019 at 3:25 PM Dane Anderson <DAnderson@woodburnandwedge.com> wrote:

Hello Mike,

It's been more than a month and we still do not have the medical authorizations and the list of providers that I requested. I need that information before your client's depositions on December 11 and 12. Please provide the signed authorizations and the list of relevant medical providers to me ASAP. Thank you.

Dane W. Anderson

WOODBURN AND WEDGE

Woodburn and Wedge

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Reno, Nevada 89511-1159

775.688.3000

Direct Dial: 775.688.3018

danderson@woodburnandwedge.com

From: Dianne Kelling <DKelling@woodburnandwedge.com>
Sent: Thursday, October 17, 2019 2:23 PM
To: Michael J. Morrison, Chtd. <venturelawusa@gmail.com>

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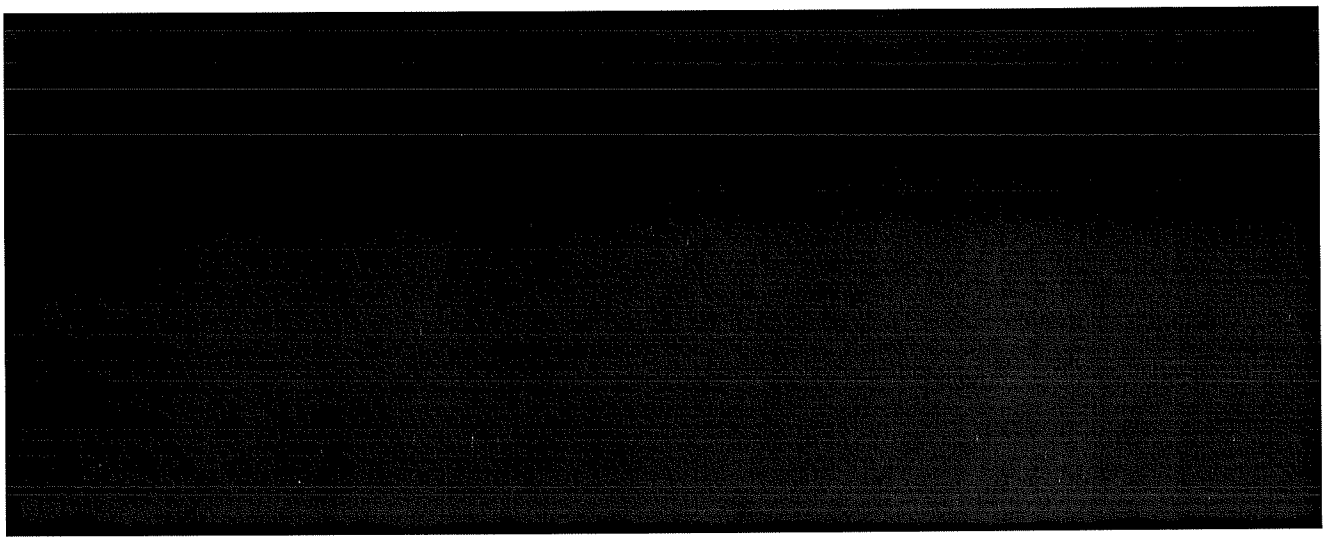
EXHIBIT 17

EXHIBIT 17



From: Dane Anderson
Sent: Monday, November 25, 2019 4:50 PM
To: Michael J. Morrison, Chtd. <venturelawusa@gmail.com>
Cc: Dianne Kelling <DKelling@woodburnandwedge.com>
Subject: RE: FW: RTC/Iliescu

Following up.

Dane W. Anderson
Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, Nevada 89511-1159
775.688.3000
Direct Dial: 775.688.3018
danderson@woodburnandwedge.com

From: Michael J. Morrison, Chtd. <venturelawusa@gmail.com>
Sent: Wednesday, November 20, 2019 12:35 AM
To: Dane Anderson <DAnderson@woodburnandwedge.com>
Cc: Dianne Kelling <DKelling@woodburnandwedge.com>
Subject: Re: FW: RTC/Iliescu

John's been beset by health issues,tests and hospital visits.
I spoke w/ Sonnia today and will bird-dog this manana.

On Tue, Nov 19, 2019 at 3:25 PM Dane Anderson <DAnderson@woodburnandwedge.com> wrote:

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EXHIBIT 18

EXHIBIT 18

[redacted]

From: Dane Anderson
Sent: Tuesday, December 10, 2019 10:15 AM
To: 'Michael J. Morrison, Chtd.' <venturelawusa@gmail.com>
Cc: Dianne Kelling <DKelling@woodburnandwedge.com>
Subject: Iliescu v. RTC

Mike,

Will your clients be attending the depositions this week? Please let me know, as I have to verify with the court reporter.

Dane W. Anderson

WOODBURN AND WEDGE

Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, Nevada 89511-1159
775.688.3000
Direct Dial: 775.688.3018
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EXHIBIT 19

EXHIBIT 19

Dianne Kelling

From: Dane Anderson
Sent: Tuesday, January 21, 2020 2:59 PM
To: Michael J. Morrison, Chtd.; Dianne Kelling
Subject: RE: Iliescu

Mike,

Following up, I am wondering whether it would be possible to schedule the Iliescus depositions that you requested be vacated back in November. Please advise. I have good availability next week as I was supposed to have a trial but it settled.

Dane W. Anderson

WOODBURN AND WEDGE

Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, Nevada 89511-1159
775.688.3000
Direct Dial: 775.688.3018
danderson@woodburnandwedge.com

From: Michael J. Morrison, Chtd. <venturelawusa@gmail.com>
Sent: Tuesday, January 21, 2020 2:46 PM
To: Dane Anderson <DAnderson@woodburnandwedge.com>; Dianne Kelling <DKelling@woodburnandwedge.com>
Subject: Iliescu

Hey, Dean -

Hope you and yours had a great weekend.

I have just filed my Amended Complaint and attach courtesy copy herewith.

Best,
Mike

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2020-04-01 04:40:40 PM
Jacqueline Bryant
Clerk of the Court
Transaction # 7818895 : sacordag

EXHIBIT 20

EXHIBIT 20

Dianne Kelling

From: Michael J. Morrison, Chtd. <venturelawusa@gmail.com>
Sent: Tuesday, January 21, 2020 3:00 PM
To: Dane Anderson
Subject: Re: Iliescu

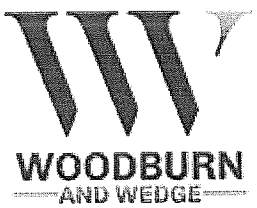
I'll check now.

On Tue, Jan 21, 2020 at 2:58 PM Dane Anderson <DAnderson@woodburnandwedge.com> wrote:

Mike,

Following up, I am wondering whether it would be possible to schedule the Iliescus depositions that you requested be vacated back in November. Please advise. I have good availability next week as I was supposed to have a trial but it settled.

Dane W. Anderson



Woodburn and Wedge

6100 Neil Road, Suite 500

Reno, Nevada 89511-1159

775.688.3000

Direct Dial: 775.688.3018

danderson@woodburnandwedge.com

From: Michael J. Morrison, Chtd. <venturelawusa@gmail.com>
Sent: Tuesday, January 21, 2020 2:46 PM
To: Dane Anderson <DAnderson@woodburnandwedge.com>; Dianne Kelling <DKelling@woodburnandwedge.com>
Subject: Iliescu

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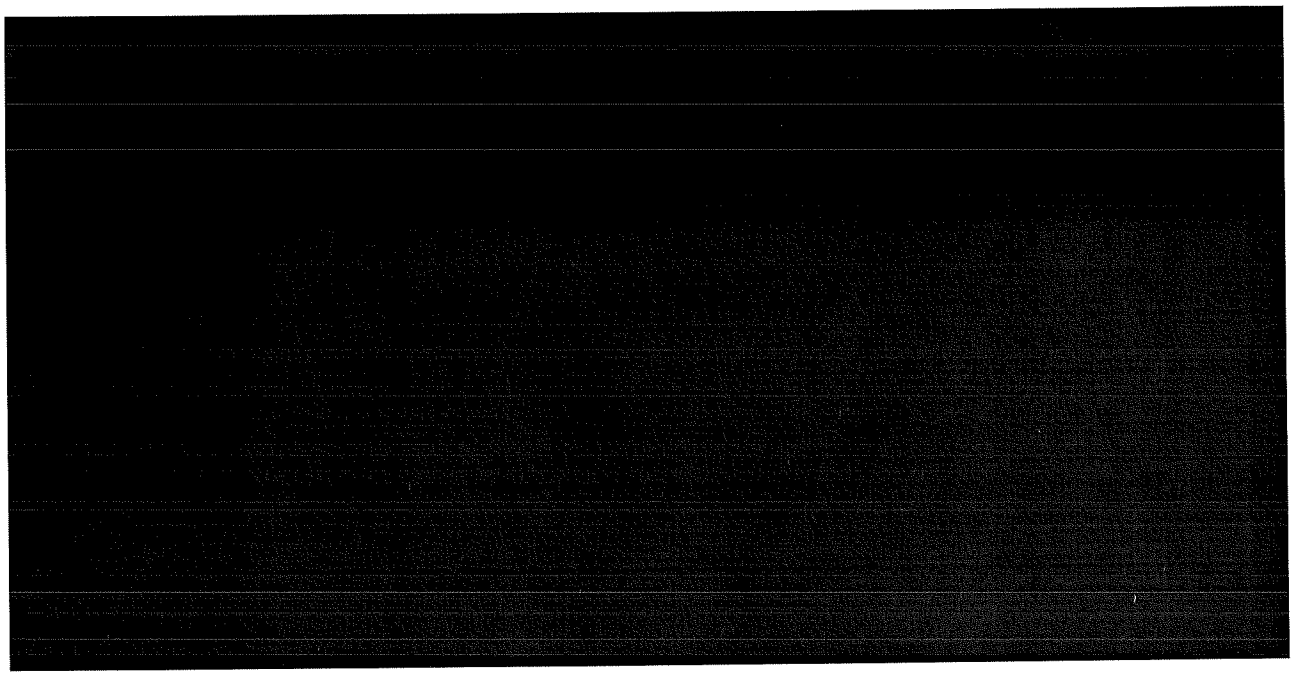
EXHIBIT 21

EXHIBIT 21



From: Dane Anderson
Sent: Monday, January 27, 2020 2:26 PM
To: Michael J. Morrison, Chtd. <venturelawusa@gmail.com>
Subject: RE: Iliescu

Mike,

I have not heard back from you regarding the depositions of your clients. I have attempted on several prior occasions to schedule them, only for you to cancel at the last minute based on your clients' unavailability. If we cannot agree on a mutually convenient date by close of business on Wednesday, January 29, I will notice a date that works for my schedule and will not agree to reschedule. I don't normally take a hard line stance, but feel I've been more than accommodating. We agreed to early discovery based on your clients' age and health but so far I have received nothing.

Which brings me to the next issue. I have not received any responses to the request for production I sent out on November 8, 2019 (see attached), which contained 16 separate requests. I realize that Request Nos. 7, 8, 14 are moot in light of your clients' agreement to withdraw claims for emotional distress and personal injury damages, but all other requests remained valid and were not timely answered. As such, any objections have been waived. I must request that your clients provide complete responses (without any objections) to the remaining requests, as well as production of all responsive documents, within seven (7) days of the date of this email, or **February 3, 2020**. Otherwise, I will have to proceed with a motion to compel.

In addition to formal discovery, I informally requested a copy of the contract alleged in the complaint. You indicated on September 18, 2019 that you would provide it (see attached), but I have not seen it.

Our trial date is set to commence July 20. That may seem like a lot of time, but it will go faster than both of us think. We need to get moving on discovery, so please get back to me asap. I would prefer to resolve these issues between us, but that has proven frustrating so far.

Dane W. Anderson

WOODBURN AND WEDGE

Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, Nevada 89511-1159
775.688.3000
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From: Michael J. Morrison, Chtd. <venturelawusa@gmail.com>
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To: Dane Anderson <DAnderson@woodburnandwedge.com>
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>
> **Dane W. Anderson**
>
> WOODBURN AND WEDGE
>
> Woodburn and Wedge
> 6100 Neil Road, Suite 500
> Reno, Nevada 89511-1159
> 775.688.3000
> Direct Dial: 775.688.3018
> danderson@woodburnandwedge.com
>
> **From:** Michael J. Morrison, Chtd. <venturelawusa@gmail.com>
> **Sent:** Tuesday, January 21, 2020 2:46 PM
> **To:** Dane Anderson <DAnderson@woodburnandwedge.com>; Dianne Kelling <DKelling@woodburnandwedge.com>
> **Subject:** Iliescu

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Clerk of the Court
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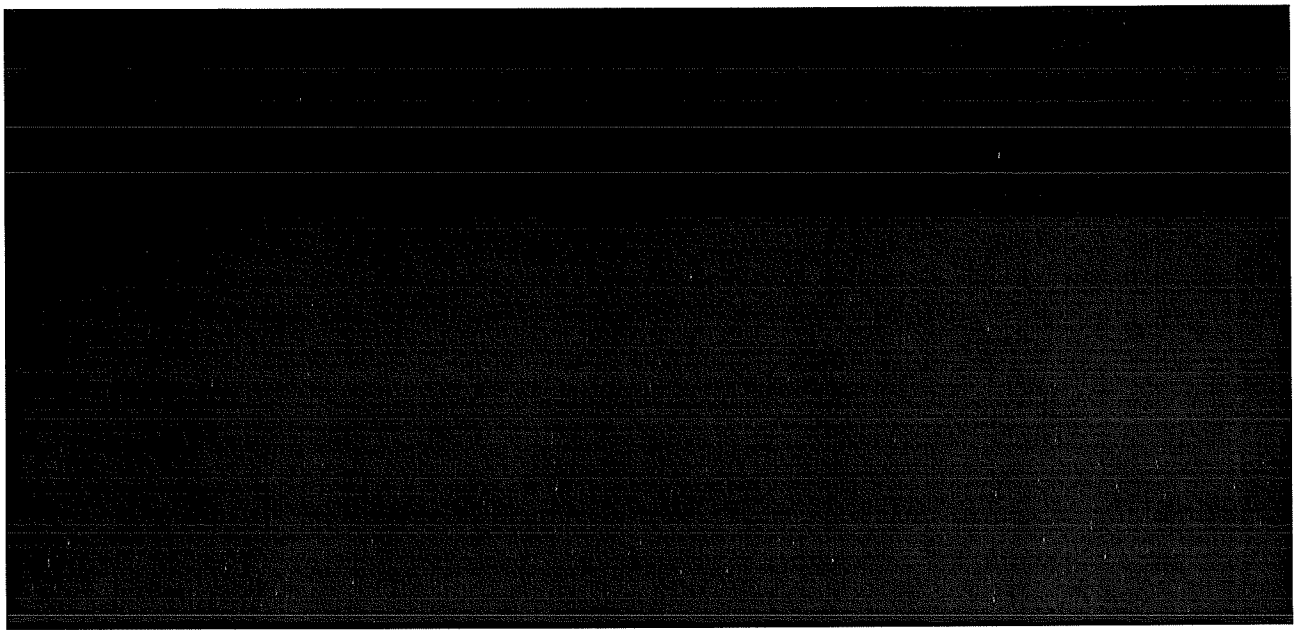
EXHIBIT 22

EXHIBIT 22



From: Dianne Kelling <DKelling@woodburnandwedge.com>
Sent: Thursday, January 30, 2020 1:08 PM
To: Dane Anderson <DAnderson@woodburnandwedge.com>
Subject: Iliescu/RTC

Dane,

Mr. Morrison called to advise me that he has not been intentionally avoiding you. John Iliescu's sister (last one) died and her burial was yesterday. Mr. Iliescu is having breathing problems and is currently at the V.A. Hospital seeking treatment. Sonnia will call Mr. Morrison as soon as he is released from the V.A. and at home to discuss the depositions. Sonnia knows the depos need to be taken and has no objections. Mr. Morrison also mentioned he owes you responses to requests for production.

Dianne M. Kelling
Legal Assistant to Dane W. Anderson and Shay L. Wells

WOODBURN AND WEDGE

Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, Nevada 89511-1159
775.688.3000
Direct Dial: 775-688-3057
dkelling@woodburnandwedge.com

CONFIDENTIALITY NOTE:
The information contained in this email message is legally privileged and confidential information intended only for the use of the individual or entity to whom it is addressed. If the reader of this message is not the intended recipient, you are hereby notified that any

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EXHIBIT 23

EXHIBIT 23

1120
Dane W. Anderson, Esq.
Nevada Bar No. 6883
WOODBURN AND WEDGE
6100 Neil Road, Suite 500
Reno, Nevada 89511
Telephone: 775-688-3000
Facsimile: 775-688-3088
danderson@woodburnandwedge.com

Attorneys for Plaintiff, the Regional Transportation Commission of Washoe County

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an individual; AND SONNIA ILIESCU, an individual, Plaintiffs, v. THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1 – 40, inclusive, Defendants.	Case No.: CV19-00459 Dept. No.: 15

THIRD AMENDED NOTICE OF TAKING DEPOSITION OF JOHN ILIESCU, JR.

PLEASE TAKE NOTICE that, pursuant to Rules 26 and 30 of the Nevada Rules of Civil Procedure, Defendant, The Regional Transportation Commission of Washoe County, by and through their attorneys of record, will take the deposition by oral examination of Plaintiff **John Iliescu, Jr.**, on **Thursday, March 5, 2020**, at **10:00 a.m.**, at the offices of Sunshine Litigation Services, 151 Country Estates Circle, Reno, Nevada 89511, or at such alternative date, time, and place as mutually agreed upon by counsel for the parties.

///

The deposition will be taken pursuant to the Nevada Rules of Civil Procedure before a Notary Public or other officer duly authorized by law to administer oaths, and will continue from day-to-day until completed, with such adjournments as time and place that may be necessary. The deposition will be recorded by sound and visual means (audio/video technology). Pursuant to NRCP 30(b)(3), any party may arrange for a transcription to be made from the recording of a deposition taken by non-stenographic means.

You are invited to attend and cross-examine.

Affirmation pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the personal information of any person.

DATED: February 20, 2020.

WOODBURN AND WEDGE

By: _____

Dane W. Anderson, Esq.
Nevada Bar No. 6883
Attorneys for Plaintiff
The Regional Transportation
Commission of Washoe County

Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, NV 89511
775-688-3000

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Woodburn and Wedge, and that on this date, I caused to be hand delivered a true and correct copy of the **THIRD AMENDED NOTICE OF TAKING DEPOSITION OF JOHN ILIESCU, JR.** to:

Michael J. Morrison, Esq.
1495 Ridgeview Dr., #220
Reno, Nevada 89519
venturelawusa@gmail.com

Attorneys for Plaintiffs

DATED: February 20, 2020

Employee of Woodburn and Wedge

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Transaction # 7818895 : sacordag

EXHIBIT 24

EXHIBIT 24

1120
Dane W. Anderson, Esq.
Nevada Bar No. 6883
WOODBURN AND WEDGE
6100 Neil Road, Suite 500
Reno, Nevada 89511
Telephone: 775-688-3000
Facsimile: 775-688-3088
danderson@woodburnandwedge.com

Attorneys for Plaintiff, the Regional Transportation Commission of Washoe County

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an individual; AND SONNIA ILIESCU, an individual, Plaintiffs, v. THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1 – 40, inclusive, Defendants.	Case No.: CV19-00459 Dept. No.: 15

THIRD AMENDED NOTICE OF TAKING DEPOSITION OF SONNIA ILIESCU

PLEASE TAKE NOTICE that, pursuant to Rules 26 and 30 of the Nevada Rules of Civil Procedure, Defendant, The Regional Transportation Commission of Washoe County, by and through their attorneys of record, will take the deposition by oral examination of Plaintiff **Sonnia Iliescu**, on **Friday, March 6, 2020**, at **10:00 a.m.**, at the offices of Sunshine Litigation Services, 151 Country Estates Circle, Reno, Nevada 89511, or at such alternative date, time, and place as mutually agreed upon by counsel for the parties.

///

The deposition will be taken pursuant to the Nevada Rules of Civil Procedure before a Notary Public or other officer duly authorized by law to administer oaths, and will continue from day-to-day until completed, with such adjournments as time and place that may be necessary. The deposition will be recorded by sound and visual means (audio/video technology). Pursuant to NRCP 30(b)(3), any party may arrange for a transcription to be made from the recording of a deposition taken by non-stenographic means.

You are invited to attend and cross-examine.

Affirmation pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the personal information of any person.

DATED: February 20, 2020.

WOODBURN AND WEDGE

By: _____
Dane W. Anderson, Esq.
Nevada Bar No. 6883

Attorneys for Plaintiff
The Regional Transportation Commission of Washoe County

Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, NV 89511
775-688-3000

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Woodburn and Wedge, and that on this date, I caused to be hand delivered a true and correct copy of the **THIRD AMENDED NOTICE OF TAKING DEPOSITION OF SONNIA ILIESCU** to:

Michael J. Morrison, Esq.
1495 Ridgeview Dr., #220
Reno, Nevada 89519
venturelawusa@gmail.com

Attorneys for Plaintiffs

DATED: February 20, 2020

Employee of Woodburn and Wedge

Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, NV 89511
775-688-3000

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EXHIBIT 25

EXHIBIT 25

Dianne Kelling

From: Dane Anderson
Sent: Monday, March 02, 2020 5:03 PM
To: Michael J. Morrison, Chtd.
Cc: Bronagh M. Kelly; Dianne Kelling
Subject: Iliescu v. RTC (4th Street)

Mike,

Are you and your clients going to be available on Thursday and Friday for depositions in this case?

Dane W. Anderson

WOODBURN AND WEDGE

Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, Nevada 89511-1159
775.688.3000
Direct Dial: 775.688.3018
danderson@woodburnandwedge.com

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EXHIBIT 26

EXHIBIT 26

Dianne Kelling

From: Michael J. Morrison, Chtd. <venturelawusa@gmail.com>
Sent: Monday, March 02, 2020 5:45 PM
To: Dane Anderson
Subject: Re: RTC - Iliescu (Virginia Street)

Sure; just send me an email telling me when you'll have it done and that will be our agreement.

I'll have to discuss the $$ w/ the Iliescus and will let you know.

As for the noticed depos, I'll ck manana and let you know. When I spoke to Sonnia, I was unable to speak w/ John because he was bed-ridden w/ severe back pain, and had been for over a week.

On Mon, Mar 2, 2020 at 5:02 PM Dane Anderson <DAnderson@woodburnandwedge.com> wrote:

> Mike,
>
> Can I have an extension to file a reply? I spoke to Brett Maupin last week. I am hopeful we can work out a resolution. Would your client be willing to pay RTC's fees in having to bring the motion if we withdraw it and agree on a date of the report. I don't have authority to formally offer this but if your clients would agree to that I will discuss it with my client.

Dane W. Anderson

WOODBURN AND WEDGE

Woodburn and Wedge

6100 Neil Road, Suite 500

Reno, Nevada 89511-1159

775.688.3000

Direct Dial: 775.688.3018

danderson@woodburnandwedge.com

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EXHIBIT 27

EXHIBIT 27

Dianne Kelling

From: Dane Anderson
Sent: Monday, March 02, 2020 8:02 PM
To: 'Michael J. Morrison, Chtd.'
Subject: RE: RTC - Iliescu (Virginia Street)

Thank you Mike. I'll ask for a two week extension to March 17. I'm hopeful we can work it out along the lines I proposed.

Re depos, please let me know asap. I want to avoid canceling on the court reporter at the last moment again.

Dane W. Anderson
WOODBURN AND WEDGE
Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, Nevada 89511-1159
775.688.3000
Direct Dial: 775.688.3018
danderson@woodburnandwedge.com

From: Michael J. Morrison, Chtd.
Sent: Monday, March 02, 2020 5:45 PM
To: Dane Anderson
Subject: Re: RTC - Iliescu (Virginia Street)

Sure; just send me an email telling me when you'll have it done and that will be our agreement.

I'll have to discuss the $$ w/ the Iliescus and will let you know.

As for the noticed depos, I'll ck manana and let you know. When I spoke to Sonnia, I was unable to speak w/ John because he was bed-ridden w/ severe back pain, and had been for over a week.

On Mon, Mar 2, 2020 at 5:02 PM Dane Anderson <DAnderson@woodburnandwedge.com> wrote:

> Mike,
>
> Can I have an extension to file a reply? I spoke to Brett Maupin last week. I am hopeful we can work out a resolution. Would your client be willing to pay RTC's fees in having to bring the motion if we withdraw it and agree on a date of the report. I don't have authority to formally offer this but if your clients would agree to that I will discuss it with my client.

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Transaction # 7818895 : sacordag

EXHIBIT 28

EXHIBIT 28

Dianne Kelling

From: Michael J. Morrison, Chtd. <venturelawusa@gmail.com>
Sent: Monday, March 02, 2020 8:12 PM
To: Dane Anderson
Subject: Re: RTC - Iliescu (Virginia Street)

I understand, amigo.

On Mon, Mar 2, 2020 at 8:02 PM Dane Anderson <DAnderson@woodburnandwedge.com> wrote:

Thank you Mike. I'll ask for a two week extension to March 17. I'm hopeful we can work it out along the lines I proposed.

Re depos, please let me know asap. I want to avoid canceling on the court reporter at the last moment again.

Dane W. Anderson

WOODBURN AND WEDGE

Woodburn and Wedge

6100 Neil Road, Suite 500

Reno, Nevada 89511-1159

775.688.3000

Direct Dial: 775.688.3018

danderson@woodburnandwedge.com

From: Michael J. Morrison, Chtd. <venturelawusa@gmail.com>
Sent: Monday, March 02, 2020 5:45 PM
To: Dane Anderson <DAnderson@woodburnandwedge.com>
Subject: Re: RTC - Iliescu (Virginia Street)

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Transaction # 7818895 : sacordag

EXHIBIT 29

EXHIBIT 29



From: Dane Anderson
Sent: Tuesday, March 03, 2020 3:31 PM
To: Michael J. Morrison, Chtd. <venturelawusa@gmail.com>
Subject: RE: RTC - Iliescu (Virginia Street)

Mike,

Any word?

Dane W. Anderson

WOODBURN AND WEDGE

Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, Nevada 89511-1159
775.688.3000
Direct Dial: 775.688.3018
danderson@woodburnandwedge.com

From: Michael J. Morrison, Chtd.
Sent: Monday, March 02, 2020 8:12 PM
To: Dane Anderson
Subject: Re: RTC - Iliescu (Virginia Street)

I understand, amigo.

On Mon, Mar 2, 2020 at 8:02 PM Dane Anderson <DAnderson@woodburnandwedge.com> wrote:

> Thank you Mike. I'll ask for a two week extension to March 17. I'm hopeful we can work it out along the lines I proposed.

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EXHIBIT 30

EXHIBIT 30

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA IN AND FOR THE COUNTY OF WASHOE

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an individual; AND SONNIA ILIESCU, an individual,
Plaintiffs,

vs.

THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1-40, inclusive,
Defendants.

CASE NO. CV19-00459

DEPT NO: 15

AFFIDAVIT OF NONAPPEARANCE

STATE OF NEVADA) ss.
COUNTY OF WASHOE)

NICOLE J. HANSEN, a person duly authorized to administer oaths in the State of Nevada, being first duly sworn upon her oath deposes and says:

That she appeared at Sunshine Litigation Services, 151 Country Estates Circle, Reno, Nevada 89511, on March 5th, 2020, at 10:00 a.m., to take the video deposition of JOHN ILIESCU, JR. in the above-entitled case; That Mr. Dane Anderson and Ms. Bronaugh Kelly appeared, representing the Plaintiff, the Regional Transportation Commission of Washoe County, that JOHN ILIESCU, JR. did not appear;

That in view of the failure of the witness to appear between the time of 10:00 o'clock and 10:30 o'clock a.m. of this date, the video deposition was not taken. DATED this 6th day of March, 2020.

Nicole J. Hansen
Certified Court Reporter #446

(Exhibit 1 was marked for identification.)

MR. ANDERSON: This is the time and place set, pursuant to the notice that has been marked as Exhibit 1, for the deposition of plaintiff, John Iliescu, Junior.

It is now about 10:05 a.m. The deponent is not here. And I am making a record of non-appearance for possible use in further motion practice.

(The proceedings concluded at 10:07 a.m.)

-o0o-

CERTIFICATE OF REPORTER

I, Nicole J. Hansen, Certified Court Reporter, State of Nevada, do hereby certify:

I personally appeared to report the deposition of JOHN ILIESCU, JR., in the matter entitled herein; commencing on Thursday, March 5, 2020, at 10:05 a.m.

The deponent did not appear. I thereafter transcribed my said shorthand notes into typewriting and that the typewritten transcript is a complete, true and accurate transcription of my said shorthand notes.

I further certify that I am not a relative or employee of counsel of any of the parties, nor a relative or employee of the parties involved in said action, nor a person financially interested in the action.

In witness whereof, I hereunto subscribe my name at Reno, Nevada, this 6th day of March, 2020.

Nicole J. Hansen

NICOLE J. HANSEN, CCR NO. 446

HEALTH INFORMATION PRIVACY & SECURITY: CAUTIONARY NOTICE

Litigation Services is committed to compliance with applicable federal and state laws and regulations ("Privacy Laws") governing the protection andsecurity of patient health information.Notice is herebygiven to all parties that transcripts of depositions and legal proceedings, and transcript exhibits, may contain patient health information that is protected from unauthorized access, use and disclosure by Privacy Laws. Litigation Services requires that access, maintenance, use, and disclosure (including but not limited to electronic database maintenance and access, storage, distribution/ dissemination and communication) of transcripts/exhibits containing patient information be performed in compliance with Privacy Laws. No transcript or exhibit containing protected patient health information may be further disclosed except as permitted by Privacy Laws. Litigation Services expects that all parties, parties' attorneys, and their HIPAA Business Associates and Subcontractors will make every reasonable effort to protect and secure patient health information, and to comply with applicable Privacy Law mandates, including but not limited to restrictions on access, storage, use, and disclosure (sharing) of transcripts and transcript exhibits, and applying "minimum necessary" standards where appropriate. It is recommended that your office review its policies regarding sharing of transcripts and exhibits - including access, storage, use, and disclosure - for compliance with Privacy Laws.

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#

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5th 1:17

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A

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administer 1:15

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Court 1:1,24

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Dane 1:18

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NONAPPEARANCE 1:12

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State 1:1,13,15

Sunshine 1:16

sworn 1:15

T

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Transportation 1:8,19

TRUST 1:4

TRUSTEES 1:3

U

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V

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W

Washoe 1:1,8, 13,19

witness 1:20

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EXHIBIT 31

EXHIBIT 31

Dianne Kelling

From: Dane Anderson
Sent: Thursday, March 05, 2020 10:44 AM
To: Michael J. Morrison, Chtd.
Cc: Bronagh M. Kelly
Subject: Iliescu v. RTC
Attachments: 2020 02 20 Third Amended Depo Notice JI.pdf

Importance: High

Mike,

As Dr. Iliescu did not appear at his deposition scheduled for this morning, and after listening to the voicemail you left me at 4:40 p.m. yesterday afternoon (after I had left the office) I made a record of his non-appearance. My email of Monday, March 2, specifically requested that you notify me ASAP whether Dr. Iliescu would be attending his deposition, so I could avoid any last minute cancellations with the court reporter and videographer (as has been the case on at least two prior efforts to take his deposition), not to mention avoiding preparing for a deposition that will not happen. It is my intent to seek appropriate relief from the court, both monetary and otherwise.

Am I correct that Sonnia Iliescu also will not be attending her deposition scheduled for tomorrow morning? Please advise immediately. I don't know if we can avoid any charges imposed by the court reporter, but RTC will attempt to mitigate such expenses while reserving the right to seek full reimbursement from your clients.

This is beyond frustrating.

Dane W. Anderson
WOODBURN AND WEDGE
Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, Nevada 89511-1159
775.688.3000
Direct Dial: 775.688.3018
danderson@woodburnandwedge.com

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Clerk of the Court
Transaction # 7818895 : sacordag

EXHIBIT 32

EXHIBIT 32

Dianne Kelling

From: Michael J. Morrison, Chtd. <venturelawusa@gmail.com>
Sent: Thursday, March 05, 2020 11:25 AM
To: Dane Anderson
Cc: Bronagh M. Kelly
Subject: Re: Iliescu v. RTC

Correct; Sonnia will be unable to appear tomorrow.

On Thu, Mar 5, 2020 at 10:44 AM Dane Anderson <DAnderson@woodburnandwedge.com> wrote:

> Mike,
>
> As Dr. Iliescu did not appear at his deposition scheduled for this morning, and after listening to the voicemail you left me at 4:40 p.m. yesterday afternoon (after I had left the office) I made a record of his non-appearance. My email of Monday, March 2, specifically requested that you notify me ASAP whether Dr. Iliescu would be attending his deposition, so I could avoid any last minute cancellations with the court reporter and videographer (as has been the case on at least two prior efforts to take his deposition), not to mention avoiding preparing for a deposition that will not happen. It is my intent to seek appropriate relief from the court, both monetary and otherwise.
>
> Am I correct that Sonnia Iliescu also will not be attending her deposition scheduled for tomorrow morning? Please advise immediately. I don't know if we can avoid any charges imposed by the court reporter, but RTC will attempt to mitigate such expenses while reserving the right to seek full reimbursement from your clients.
>
> This is beyond frustrating.

Dane W. Anderson

WOODBURN AND WEDGE

Woodburn and Wedge

6100 Neil Road, Suite 500

Reno, Nevada 89511-1159

775.688.3000

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Transaction # 7818895 : sacordag

EXHIBIT 33

EXHIBIT 33

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

-o0o-

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU, JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an individual; AND SONNIA ILIESCU, an individual,

Plaintiffs,

vs.

THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY, et al.,

Defendants.

Case No. CV19-00459

Dept. No. 15

Job Number. 609040

CERTIFICATION RE NONAPPEARANCE OF WITNESS

SONNIA ILIESCU

STATE OF NEVADA)

) ss.

COUNTY OF WASHOE)

I, LESLEY A. CLARKSON, certified court reporter for the State of Nevada, do hereby certify:

That at 10:00 a.m. Friday, March 6, 2020, at the offices of Sunshine Litigation Services, 151 Country Estates

Circle, Reno, Nevada, I was present for the purpose of acting as certified court reporter for the taking of the deposition of Sonnia Iliescu;

That said Sonnia Iliescu did not appear at said time and place, and the following proceedings were had:

MS. KELLY: We are on the record.

This is the time and place set for the taking of the deposition of plaintiff Sonnia Iliescu pursuant to the third amended notice, which has been marked as Exhibit 1. It is now 10:10. Miss Iliescu is not present, and we make this notice of nonappearance for any future court proceeding in this matter.

-o0o-

CERTIFICATE OF REPORTER

STATE OF NEVADA,)
) ss.
COUNTY OF WASHOE.)

I, LESLEY A. CLARKSON, Certified Court Reporter for the State of Nevada, do hereby certify:

That on Friday, March 6, 2020, at the offices of Sunshine Litigation Services, 151 Country Estates Circle, Reno, Nevada, I was present and took stenotype notes of the proceedings entitled herein, and thereafter transcribed the same into typewriting as herein appears;

That the foregoing transcript is a full, true and correct transcript of my stenotype notes of said proceedings.

I further certify that I am not a relative or employee of an attorney or counsel of any of the parties, nor a relative or employee of an attorney or counsel involved in said action, nor a person financially interested in the action.

Dated at Reno, Nevada, this 10th day of March 2020.

Lesley A. Clarkson

Lesley A. Clarkson, CCR #182

HEALTH INFORMATION PRIVACY & SECURITY: CAUTIONARY NOTICE

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IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an individual; AND SONNIA ILIESCU, an individual, Plaintiffs, v. THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1 – 40, inclusive, Defendants.	Case No.: CV19-00459 Dept. No.: 15

MOTION FOR DISCOVERY SANCTIONS

Defendant The Regional Transportation Commission of Washoe County ("RTC") moves the Court pursuant to NRCP 37 for an order imposing sanctions against Plaintiffs as a result of their failure to appear at their properly noticed depositions and other failures to participate in discovery in good faith. This motion is based on the following points and authorities, the Declaration of Dane W. Anderson filed concurrently, and the entire file in this matter.

/ / /

I. INTRODUCTION

This case is over a year old and yet Plaintiffs have provided not one shred of evidence to support their claims. This is a serious case—Plaintiffs accuse RTC and others of conspiring to intentionally damage Plaintiffs' property and maliciously ignoring Plaintiffs' requests to cease and desist. Plaintiffs seek punitive damages against RTC and its "co-conspirators."

Plaintiffs are elderly. Their original complaint emphasized their advanced ages, accused RTC of elder abuse and alleged medical issues arising from RTC's alleged intentional misconduct, including severe emotional distress. Therefore, RTC's counsel felt it important to take their depositions and seek written discovery early on in the case. Thus, despite filing a motion to dismiss that would delay discovery for some time, RTC sought and obtained an order to conduct discovery prior to conducting the early case conference and filing a joint case conference report.

As set forth in the Declaration of Dane W. Anderson filed concurrently, although Plaintiffs stipulated to allow RTC to conduct early discovery, they have since failed and refused to participate in good faith. They did not respond to requests for production and have provided no documents whatsoever, despite acknowledging their obligation to do so. They failed to respond to RTC's motion to compel production. They have repeatedly attempted to cancel depositions at the last minute. To date, RTC has been unable to depose Plaintiffs despite numerous efforts since early October 2019. Plaintiffs have made very serious allegations against RTC but have utterly refused to allow RTC to explore the evidentiary basis for those allegations.

Plaintiffs' conduct warrants the extreme sanction of dismissal of this action. Plaintiffs' refusal to participate in discovery has prejudiced RTC and caused RTC to incur substantial attorney fees and costs as a result. RTC requests both dismissal and an award of reasonable fees and costs. Should the Court grant the latter, RTC will submit a declaration and supporting documentation for an award of fees and costs.

///

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II. LAW AND ARGUMENT

Under NRCP 37(d)(1)(A), the Court may order sanctions if a party fails to appear for deposition after being served with proper notice and/or fails to serve a proper response to written discovery under NRCP 34.

Both apply here. The details of Plaintiffs' failure to serve a proper response to RTC's requests for production are set forth in RTC's Motion to Compel filed on February 20, 2020. Plaintiffs did not oppose that motion and RTC submitted it for decision on March 6, 2020. RTC seeks sanctions pursuant to NRCP 37 for this failure and for Plaintiffs' refusal to comply with Nevada's discovery rules.

And, as detailed above and in the Declaration of Dane W. Anderson filed concurrently, Plaintiffs also recently failed to appear for their depositions after being served with proper notice. RTC had been attempting to take their depositions since October 2019, to no avail. As discussed above, the primary purpose of seeking early discovery was to obtain Plaintiffs' testimony due to their elder status and alleged medical condition. RTC has been frustrated at every turn, including an incredibly late and inadequate attempt to cancel Plaintiffs' depositions scheduled for March 5 and 6, 2020.

The complete failure of Plaintiffs to provide any information supporting their claims despite proper discovery requests and deposition notices warrants the imposition of sanctions.

NRCP 37(d)(3) sets for the available sanctions, which include the sanctions available under NRCP 37(b)(1). The sanctions available under NRCP 37(b)(1) include dismissing the action in whole or in part. NRCP 37(b)(1)(E). NRCP 37(d)(3) also allows the Court to award the moving party reasonable expenses, including attorney fees, caused by the disobedient party's failure to comply.

Sanctions may be imposed where there has been willful noncompliance with a court order or where the adversary process has been halted by the actions of the unresponsive party. GNLV Corp. v. Serv. Control Corp., 111 Nev. 866, 869, 900 P.2d 323, 325 (1995). Courts have inherent equitable powers to dismiss actions for litigation

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abuses, whether proscribed by statute or not. Young v. Johnny Ribeiro Bldg., Inc., 106 Nev. 88, 92, 787 P.2d 777, 779 (1990). Selection of a particular sanction for discovery abuses under NRCP 37 is generally a matter committed to the sound discretion of the district court. Stubli v. Big D Int'l Trucks, Inc., 107 Nev. 309, 312, 810 P.2d 785, 787 (1991). While a "somewhat heightened standard of review applies" where the sanction is one of dismissal with prejudice, RTC believes that sanction is appropriate here. Stubli v. Big D Int'l Trucks, Inc., 107 Nev. 309, 313, 810 P.2d 785, 787 (1991). Although dismissal should only be imposed after thoughtful consideration of all the factors involved in a particular case, it need not be preceded by other less severe sanctions. GNLV Corp. v. Serv. Control Corp., 111 Nev. 866, 870, 900 P.2d 323, 325 (1995).

Here, Plaintiffs have both willfully refused to comply with the Court's order allowing early discovery and they have halted the adversary process by refusing to comply with proper discovery requests and deposition notices. NRCP 1 provides that the rules of procedure should be "construed, administered, and employed by the court and the parties to secure the just, speedy and inexpensive determination of every action and proceeding." Plaintiffs stipulated to this Court's order allowing early discovery based on the concern over Plaintiffs' ages and health conditions. By refusing to make themselves available for deposition for nearly 5 months, and by cancelling properly noticed depositions at least 3 times at the last minute, they have halted the adversary process and contravened the purpose of NRCP 1.

RTC requests that the Court dismiss Plaintiffs' claims with prejudice and order that RTC submit a declaration of its reasonable fees and costs for award by the Court.

III. CERTIFICATION OF COUNSEL

The undersigned certifies that he has in good faith conferred or attempted to conferred with Plaintiffs' counsel in an effort to obtain the discovery without court action. Those efforts are set forth in detail in the Declaration of Dane W. Anderson filed concurrently.

/ / /

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IV. CONCLUSION

Based on the foregoing, RTC requests that the Court dismiss this action and award RTC reasonable attorney fees and costs incurred because of Plaintiffs' failure to participate in discovery in this matter. RTC requests that the Court order RTC to submit a declaration of the claimed attorney fees and costs, with supporting documentation.

Affirmation pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the personal information of any person.

DATED: April 1st, 2020

WOODBURN AND WEDGE

By */s/ Dane W. Anderson*
Dane W. Anderson, Esq.
Nevada Bar No. 6883
Attorneys for Plaintiff
The Regional Transportation
Commission of Washoe County

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CERTIFICATE OF SERVICE

It is hereby certified that service of the foregoing **MOTION FOR DISCOVERY SANCTIONS** was made through the Court's electronic filing and notification or, as appropriate, by sending a copy thereof by first-class mail from Reno, Nevada addressed as follows:

MICHAEL J. MORRISON, ESQ.
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venturelawusa@gmail.com

Attorneys for Plaintiffs

DATED: April 1, 2020.

/s/ Dianne M. Kelling
Employee of Woodburn and Wedge

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Jacqueline Bryant
Clerk of the Court
Transaction # 7822158

CODE NO. 1945

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

* * *

JOHN ILIESCU, JR., and SONNIA ILIESCU, Trustees of THE JOHN ILIESCU, JR. AND SONNIA ILIESCU 1992 FAMILY TRUST,

Plaintiffs,

vs.

THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY et al.,

Defendants.
_____/

Case No. CV19-00459

Dept. No. 15

RECOMMENDATION FOR ORDER

Presently before the Court is a *Motion to Compel* filed by Defendant The Regional Transportation Commission of Washoe County on February 20, 2020. Defendant states that it served Plaintiffs John Iliescu, Jr., and Sonnia Iliescu, individually and as Trustees of the John Iliescu, Jr. and Sonnia Iliesscu 1992 Family Trust, with separate requests for production on November 8, 2019. It asserts that Plaintiffs have not produced responsive documents or provided any written responses despite its counsel's communications with Plaintiffs' counsel. Defendant therefore seeks an order compelling Plaintiffs to respond to the requests for production, and an order directing them to reimburse it for the reasonable expenses incurred in making this motion. This motion was served on Plaintiffs' counsel via the Court's electronic filing system; however, Plaintiffs have not filed an opposition or other response. This motion was submitted on March 6, 2020.

Failure of an opposing party to serve and file a written opposition to a motion may be construed as an admission that the motion is meritorious and a consent to granting the same. See DCR 13(3). Since Plaintiffs did not file any opposition, the Court may properly assume that the statements in Defendant's motion are true and correct. Significantly, NRCP 34(b)(2) requires service of a written response within thirty days after being served with the request, and a failure to assert objections in a timely response generally results in a waiver of any objections. See, e.g., Lopez v. Cardenas Mkts., Inc., No. 2:11-cv-00323-ECR-CWH, 2011 WL 4738111, at *2 (D. Nev. Oct. 5, 2011) (quoting Senat v. City of N.Y., 255 F.R.D. 338, 339 (E.D.N.Y. 2009)) ("there is consistent authority that a failure to serve timely responses to interrogatories and document requests serves as a waiver of objections"); Colony Ins. Co. v. Kuehn, No. 2:10-cv-01943-KJD-GWF, 2011 WL 4402738, at *6 (D. Nev. Sept. 20, 2011) ("Defendants failed to timely serve responses to the requests for production or to respond to the Plaintiff's first motion to compel, thereby waiving their right to object"). Therefore, Defendant is entitled to an order compelling Plaintiffs to produce all documents within their possession, custody, or control that are responsive to the categories of the outstanding requests for production.

Defendant also seeks sanctions against Plaintiffs, in the form of an award of reasonable expenses, including attorney fees, incurred in making this motion. In that regard, NRCP 37(d)(1)(A)(ii) provides for sanctions if "a party, after being properly served with . . . a request for inspection under Rule 34, fails to serve its answers, objections, or written response." Sanctions may include any of the orders listed in NRCP 37(b)(1). Instead of or in addition to those sanctions, "the court must require the party failing to act, the attorney advising that party, or both to pay the reasonable expenses, including attorney fees, caused by the failure, unless the failure was substantially justified or other circumstances make an award of expenses unjust." See NRCP 37(d)(3).

Absent any opposition by Plaintiffs, the Court cannot find that their failure to serve written responses or produce all responsive documents was substantially justified, and it is aware of no circumstances that would make an award of expenses unjust. NRCP 37(d)(1)(B) further requires

that a motion for sanctions for failing to answer or respond to an NRCP 34 request "must include a certification that the movant has in good faith conferred or attempted to confer with the party failing to act in an effort to obtain the answer or response without court action." That certification is included in Defendant's motion, and the motion also includes attached exhibits reflecting the communications from Defendant's counsel to Plaintiffs' counsel regarding the outstanding responses. The Court therefore finds that Defendant is entitled to an award of the reasonable expenses incurred in connection with this motion.[1]

ACCORDINGLY, Defendant's *Motion to Compel* should be GRANTED.

IT SHOULD, THEREFORE, BE ORDERED that Plaintiffs produce for inspection and copying by Defendant, without objections and no later than April 17, 2020, all documents within their possession, custody, or control that fall within the descriptions set forth in the NRCP 34 requests served upon them by Defendant on November 8, 2019.

IT SHOULD FURTHER BE ORDERED that with respect to any category of the NRCP 34 requests, if Plaintiffs maintain that one or more responsive documents never existed, no longer exist, or are only within the possession, custody, or control of some other person or entity, then they must serve upon Defendant, without objections and no later than April 17, 2020, a written response, under oath, in which the responding Plaintiff provides this information to Defendant (including, as appropriate, an explanation as to why they no longer exist, or an identification of the other person or entity who has possession, custody, or control of the requested documents).

IT SHOULD FURTHER BE ORDERED that Plaintiffs, collectively, pay to Defendant the sum of $1,000.00, as and for a sanction for their unexcused failures to respond to Defendant's requests.

DATED: This 3rd day of April, 2020.

WESLEY M. AYRES
DISCOVERY COMMISSIONER

[1] Because both parties had the opportunity to fully express their positions in writing, they have had the "opportunity to be heard" required by NRCP 37(a)(5)(A). See Hartman v. Caplan, 115 F.R.D. 599, 602 (N.D. Ill. 1987); Addington v. Mid-American Lines, 77 F.R.D. 750, 752 n.1 (W.D. Mo. 1978).

CERTIFICATE OF SERVICE

CASE NO. CV19-00459

I certify that I am an employee of the SECOND JUDICIAL DISTRICT COURT of the STATE OF NEVADA, COUNTY OF WASHOE; that on the 3rd day of April, 2020, I electronically filed the **RECOMMENDATION FOR ORDER** with the Clerk of the Court by using the ECF system.

I further certify that I transmitted a true and correct copy of the foregoing document by the method(s) noted below:

Electronically filed with the Clerk of the Court by using the ECF system which will send a notice of electronic filing to the following:

DANE W. ANDERSON, ESQ. for THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY

MICHAEL JAMES MORRISON, ESQ. for JOHN ILIESCU & SONNIA ILIESCU, TRUSTEES, JOHN ILIESCU, SONNIA ILIESCU

Deposited in the Washoe County mailing system for postage and mailing with the United States Postal Service in Reno, Nevada: [NONE]

Danielle Spinelli
Administrative Secretary

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Clerk of the Court
Transaction # 7841718

CODE NO. 2690

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

* * *

JOHN ILIESCU, JR., and SONNIA ILIESCU, Trustees of THE JOHN ILIESCU, JR. AND SONNIA ILIESCU 1992 FAMILY TRUST,

Plaintiffs,

vs.

THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY et al.,

Defendants.
/

Case No. CV19-00459

Dept. No. 15

CONFIRMING ORDER

On April 3, 2020, the Discovery Commissioner served a *Recommendation for Order* in this action. None of the parties to this action has filed an objection regarding that recommendation and the period for filing any objection concerning that recommendation has expired. See NRCP 16.3(c)(2).

ACCORDINGLY, the Court hereby CONFIRMS, APPROVES, and ADOPTS the Discovery Commissioner's Recommendation for Order served on April 3, 2020.

DATED this 20th day of April, 2020.

DISTRICT JUDGE

CERTIFICATE OF SERVICE

CASE NO. CV19-00459

I certify that I am an employee of the SECOND JUDICIAL DISTRICT COURT of the STATE OF NEVADA, COUNTY OF WASHOE; that on the 20 day of April, 2020, I electronically filed the **CONFIRMING ORDER** with the Clerk of the Court by using the ECF system.

I further certify that I transmitted a true and correct copy of the foregoing document by the method(s) noted below:

Electronically filed with the Clerk of the Court by using the ECF system which will send a notice of electronic filing to the following:

DANE W. ANDERSON, ESQ. for THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY

MICHAEL JAMES MORRISON, ESQ. for JOHN ILIESCU & SONNIA ILIESCU, TRUSTEES, JOHN ILIESCU, SONNIA ILIESCU

Deposited in the Washoe County mailing system for postage and mailing with the United States Postal Service in Reno, Nevada:

NONE

JUDICIAL ASSISTANT

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IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an individual; AND SONNIA ILIESCU, an individual, Plaintiffs, v. THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1 – 40, inclusive, Defendants.	Case No.: CV19-00459 Dept. No.: 15

REQUEST FOR SUBMISSION

It is hereby requested that the Motion for Discovery Sanctions, filed on April 1, 2020, be submitted to the Court for consideration and determination. Plaintiffs did not timely file or serve an opposition brief. Therefore, pursuant to DCR 13(3), the Court may construe such failure to timely oppose the motion as an admission that the motion is meritorious and a consent to granting the same.

///

///

A true and correct copy of this request has been served on all counsel and parties.

Affirmation pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the personal information of any person.

DATED: April 20, 2020.

WOODBURN AND WEDGE

By: */s/ Dane W. Anderson*
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Nevada Bar No. 6883
Attorneys for Defendant
The Regional Transportation
Commission of Washoe County

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Reno, NV 89511
775-688-3000

CERTIFICATE OF SERVICE

I further hereby certify that I am an employee of Woodburn and Wedge and that on this date, I caused to be sent via electronic delivery through the Court's E-flex system a true and correct copy of the **REQUEST FOR SUBMISSION** to:

MICHAEL J. MORRISON, ESQ.
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Reno, Nevada 89519
venturelawusa@gmail.com

Attorneys for Plaintiffs

DATED: April 20, 2020.

/s/ Dianne M. Kelling
Employee of Woodburn and Wedge

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Attorneys for Defendant, the Regional Transportation Commission of Washoe County

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an individual; AND SONNIA ILIESCU, an individual, Plaintiffs, v. THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1 – 40, inclusive, Defendants.	Case No.: CV19-00459 Dept. No.: 15

MOTION FOR SANCTIONS PURSUANT TO NRCP 37(b)(1)

Defendant The Regional Transportation Commission of Washoe County ("RTC") moves the Court pursuant to NRCP 37(b) for an order imposing sanctions against Plaintiffs for their failure to comply with this Court's order regarding discovery. This motion is based on the following points and authorities and the entire file in this matter.

I. INTRODUCTION

On April 3, 2020, the Discovery Commissioner entered a Recommendation for Order that Plaintiffs be required to produce, "without objections and no later than April 17, 2020," all documents requested by RTC in its NRCP 34 requests for production served

on November 8, 2019. The Discovery Commissioner also recommended that Plaintiffs provide a written response (again, no later than April 17, 2020) with respect to certain categories of documents and that Plaintiffs' pay RTC $1,000 as a sanction for their discovery failures.

On April 20, 2020, this Court entered its Confirming Order adopting the Discovery Commissioner's recommendations and noting that no objection to those recommendations had been filed pursuant to NRCP 16.1(c)(3)(2). Plaintiffs provided RTC no documents or other written response by April 17, 2020 and therefore have failed to comply with this Court's order. Therefore, RTC seeks appropriate sanctions pursuant to NRCP 37(b), specifically either default judgment against Plaintiffs or dismissal of this action with prejudice and an award of all reasonable attorney fees and costs caused by Plaintiffs' failure to comply.

RTC notes that this motion is its second seeking discovery sanctions against Plaintiffs. RTC filed a Motion for Discovery Sanctions on April 1, 2020, seeking both dismissal and an award of attorney fees and costs. The deadline for Plaintiffs to oppose that motion was April 15, 2020. Plaintiffs filed no response so, on April 20, 2020, RTC submitted that motion for decision. If the Court grants dismissal pursuant to that motion, this motion may be rendered moot, except for any attorney fees and costs that may be awarded for Plaintiffs' failure to comply with this Court's discovery order. As requested in RTC's prior motion for sanctions, if the Court grants RTC relief pursuant to NRCP 37(b), RTC's counsel will submit a declaration and supporting documentation to support an award of attorney fees and costs. Plaintiffs may then object, if they wish, and the Court can determine the appropriate award.

II. LAW AND ARGUMENT

NRCP 37(b)(1) provides that sanctions may be imposed against a party for its failure to provide discovery as required by a court's order. In the event of such failure, courts may impose an array of sanctions, including dismissal, striking of pleadings, or entry of default judgment against the disobedient party.

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The facts giving rise to RTC's two motions for sanctions are detailed in its prior filings, which are incorporated by reference. Plaintiffs' failure to comply with this Court's order requiring that documents and other written responses be produced no later than April 17, 2020 is just the latest in a long line of failures that have frustrated the discovery process, prejudiced RTC's ability to defend this case and contravened the letter and spirit of NRCP 1. RTC acknowledges Nevada's strong policy of deciding cases on their merits. However, the right to have a case determined on its merits is inextricably intertwined with the obligation to comply with the rules of civil procedure. Plaintiffs' failure to do so is beyond dispute.

Therefore, RTC requests that the Court impose appropriate sanctions against Plaintiffs. The circumstances of this case warrant case-terminating sanctions. The most appropriate sanction may be a default judgment against Plaintiffs or a dismissal of this action with prejudice, such that this matter is concluded and Plaintiffs cannot re-file. In either instance, RTC should be awarded *all* of its reasonable costs and attorney fees in having to defend this action.

III. CERTIFICATION OF COUNSEL

The undersigned certifies that he has in good faith conferred or attempted to confer with Plaintiffs' counsel in an effort to obtain the discovery without court action. The undersigned was forced to file a motion to compel which the Court granted. Plaintiffs then failed to comply with that order, necessitating this motion.

IV. CONCLUSION

Based on the foregoing, RTC requests that the Court impose sanctions against Plaintiffs pursuant to NRCP 37(b). RTC requests that the Court either enter default judgment against Plaintiffs or dismiss this action with prejudice and, in either instance, award RTC all reasonable costs and attorney fees incurred as a result of Plaintiffs' conduct. RTC requests that the Court's order imposing sanctions direct RTC's counsel to submit a declaration, with supporting documentation, to support an award of costs and attorney fees, and allowing Plaintiffs' to file a response if they wish.

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Reno, NV 89511
775-688-3000

Affirmation pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the personal information of any person.

DATED: April 20th, 2020

WOODBURN AND WEDGE

By */s/ Dane W. Anderson*
Dane W. Anderson, Esq.
Nevada Bar No. 6883
Attorneys for Defendant
The Regional Transportation
Commission of Washoe County

Woodburn and Wedge
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775-688-3000

CERTIFICATE OF SERVICE

It is hereby certified that service of the foregoing **MOTION FOR SANCTIONS PURSUANT TO NRCP 37(b)(1)** was made through the Court's electronic filing and notification or, as appropriate, by sending a copy thereof by first-class mail from Reno, Nevada addressed as follows:

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Attorneys for Plaintiffs

DATED: April 20, 2020.

/s/ Dianne M. Kelling
Employee of Woodburn and Wedge

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IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU, JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an Individual; and SONNIA ILIESCU, an Individual,

Plaintiff,

vs.

THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1-40,

Defendants.
_____/

Case No. CV19-00459

Dept. No. 15

PRETRIAL ORDER

The procedures described in this pretrial order are designed to secure a just, speedy, and inexpensive determination of this case. If any party believes a procedure required by this order will not achieve these ends, that party should seek an immediate conference among all parties and this Court so an alternative order may be discussed. **Otherwise, failure to comply with the provisions in this order may result in the imposition of sanctions, which may include, but are not limited to, dismissal of the action or entry of a default.** All references to "counsel" include self-represented litigants.

I. TRIAL SETTING

Unless the parties have already done so, counsel for the parties shall set trial no later than 20 days after entry of this order. Please contact the Department 15 Judicial Assistant at 775-328-3880 or shannon.parke@washoecourts.us to schedule a setting appointment. Plaintiff's counsel shall file a notice to set and prepare the Application for Setting form. The sections regarding juries only apply if a jury trial is requested.

II. PRETRIAL CONFERENCES

A. **Early Pretrial and Scheduling Conference.** Simultaneously with the trial setting appointment if the trial has not already been set, counsel for the parties shall set a pretrial scheduling conference, to be held within 60 days.

1. Purpose. The pretrial scheduling conference provides the parties with an opportunity to meet directly with the Court in an effort to facilitate the purposes identified at NRCP 16(a), present suggestions regarding the matters identified at NRCP 16(c), and address disputes or problems arising out of the early case conference.

2. Required Attendance. Lead trial counsel for all parties, as well as all unrepresented parties, must attend the pretrial scheduling conference.

3. Stipulation to Vacate Conference. **The parties may stipulate to vacate the pretrial scheduling conference and the Court will order the same** if the Court is provided with a written stipulation stating the agreement of all parties that an early pretrial scheduling conference is not warranted, and including a stipulated scheduling order for entry in this case. The stipulated scheduling order must specify deadlines, using calendar dates, that comply with the provisions of NRCP 16.1(a) and (c) for:

(a) filing motions to amend the pleadings or to add parties;

(b) making initial expert disclosures;

(c) making rebuttal expert disclosures;

(d) completing discovery proceedings; and

(e) filing dispositive motions.

The stipulated scheduling order also must specify a calendar date by which all pretrial

motions, including dispositive motions and motions limiting or excluding an expert's testimony, must be submitted for decision, said submission date must be no later than 30 calendar days before trial.

B. **Interim Pretrial Conferences.** This Court is available to meet with the parties whenever the parties agree a meeting would be beneficial. This Court may also order one or more pretrial conferences sua sponte or upon motion by any party.

C. **Final Pretrial Conference.** At the same time trial is scheduled, the parties must also schedule the date for a final pretrial conference, to be held no later than 30 days[1] prior to trial.

1. Purpose. The conference is intended to develop a plan for trial, including a protocol for facilitating the admission of evidence and to address any trial-related disputes, needs, or requests.

2. Required Attendance. This conference must be attended by:

(a) the attorneys who will try the case (the parties, which includes an authorized representative of any party that is an entity, may be required to attend); and

(b) any unrepresented parties.

3. Use of Equipment at Trial. At the final pretrial conference, counsel must advise the Court fully with respect to the following matters:

(a) the equipment to be used during trial, including any request to use the Court's equipment;

(b) the presentation software to be used during trial, and whether each party is able to receive and use digital files of presentation materials prepared by another;

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[1] See WDCR 6

(c) any expected use of videoconferencing; and

(d) the reliability and positioning for any equipment to be brought to the courtroom.

D. **Personal Appearance Required at all conferences.** Counsel's personal appearance is required at all conferences, except upon prior approval of the Court.

III. DISCOVERY

A. **Consultation Before Discovery Motion Practice.** Prior to filing any discovery motion, the attorney for the moving party must consult with opposing counsel about the disputed issues. Counsel for each side must present to each other the merits of their respective positions with the same candor, specificity, and supporting material as would be used in connection with a discovery motion. The Parties are reminded that the Discovery Commissioner is available to address some disputes telephonically.

B. **Discovery Hearings.** Discovery motions typically are resolved without the need for oral argument. However, if both sides desire a dispute resolution conference pursuant to NRCP 16.l(d), counsel must contact the Discovery Commissioner's office at (775) 328-3293 to obtain a convenient date and time for the conference. If the parties cannot agree upon the need for a conference, the party seeking the conference must file and submit a motion in that regard.

C. **Effect of Trial Continuance.** A continuance of trial does not extend the deadline for completing discovery. A request for an extension of the discovery deadline, if needed, must be made separately or included as part of any motion for continuance of trial. The parties may include an agreement to extend discovery in a stipulation to continue trial presented for court order.

D. **Computer Animations.** If any party intends to offer a computer-generated animation either as an evidentiary exhibit or an illustrative aid, that party must disclose that intention when expert disclosures are made pursuant to NRCP 16.1(a)(2). A copy of the animation must be furnished to all other parties and the Court no later than thirty days

prior to trial. Disclosure of the animation includes copies of the underlying digital files as well as of the completed animation.

IV. SETTLEMENT AND ALTERNATIVE DISPUTE RESOLUTION

A. **Notice of Settlement.** In the event that this case is settled prior to trial, the parties must promptly notify the department Judicial Assistant.

B. **Settlement Conference or Alternative Dispute Resolution.** This Court may order, upon a party's request or sua sponte, that the parties and their attorneys 1) meet in person with a judge other than the presiding judge in this case and attempt to settle the case, or 2) participate in mediation or some other appropriate form of alternative dispute resolution in an effort to resolve this case prior to trial.

V. TRIAL-RELATED PROCEDURES

A. **Motions in Limine.** All motions in limine, except motions in limine to exclude an expert's testimony, must be submitted for decision no later than 15 calendar days before trial.

B. **All Other Motions.** All motions, except motions in limine as defined above, must be submitted for decision no later than 30 calendar days before trial.

C. **Exhibits.** Trial counsel for the parties shall contact the Courtroom Clerk, Amanda Dick, no later than ten judicial days before trial, to arrange a date and time to mark trial exhibits. In no event shall the marking of exhibits take place later than the Monday before trial, without leave of the Court. All trial exhibits must be reviewed by both sides prior to the day of delivery.

1. Marking and Objections. All exhibits shall be marked in one numbered series (Exhibit 1, 2, 3, etc.) and placed in one or more binders with corresponding tabs provided by counsel, unless the Court permits a different procedure. Plaintiff exhibits begin with number 1 and continue until completion. Defense shall begin marking their exhibits with the next sequential number. When marking the exhibits with the clerk, counsel shall advise the clerk of all exhibits which may be admitted without objection, and those that may be admissible subject to objections. Any exhibits not timely

submitted to opposing counsel and the clerk may not be offered or referenced during the trial, without leave of the Court. If additional exhibits are marked during the trial, counsel must provide the clerk with those number tabs.

2. Copies. Counsel must cooperate to insure that the official exhibits and copies are provided to the Court. Three copies shall be delivered to the clerk. One set of originals, one copy for opposing counsel, and one copy for the court to review during testimony. The Court's copy shall also be in a binder with tabs.

3. Custody of Exhibits. After marking trial Exhibits by the clerk, the exhibits will remain in the custody of the clerk, until an order is issued directing the disposition or return to counsel.

4. Demonstrative Exhibits. Demonstrative Exhibits must be disclosed to counsel and the Court within a reasonable period before their anticipated use to permit appropriate objections, if any.

D. **Trial Statements.** Trial Statements must conform to WDCR 5. Trial Statements must be filed and served no later than 5:00 p.m. five calendar days before trial, unless otherwise ordered by the Court. They must be served upon other parties by e-filing, personal delivery, fax, or email.

E. **Jury Instructions and Verdict Forms.** All proposed jury instructions and verdict forms must be submitted to the Court no later than 5:00 p.m. on the Wednesday before trial, unless otherwise ordered by the court.[2]

1. Format. All original jury instructions must be accompanied by a separate copy of each instruction containing a citation to the form instruction or to the authority supporting that instruction. All modifications made to instructions taken from statutory authority must be separately underscored on the citation page.

[2] See WDCR 7(8).

2. Exchange. The parties must exchange all proposed jury instructions and verdict forms no later than seven calendar days before trial, unless otherwise ordered by the Court.

3. Agreement and Submission. The parties must confer regarding the proposed jury instructions and verdict forms before they are submitted to the Court and shall use their best efforts to stipulate to uncontested instructions. All undisputed instructions and verdict forms must be submitted jointly to the Court; the parties must separately submit any disputed instructions and verdict forms.

4. Disputes and Additional Instructions. After commencement of the trial, the Court will meet with counsel to determine the jury instructions and verdict forms that will be used. At that time, the Court will resolve all disputes over instructions and verdict forms, and consider the need for any additional instructions which were not foreseen prior to trial.

F. **Juror Notes and Questions.** Jurors will be permitted to take notes during trial. Jurors will be permitted to submit questions in writing during trial; however, juror questions will be asked only after the questions are reviewed by counsel and approved by the Court.

G. **Use of Electronically Recorded Depositions.** No depositions recorded by other than stenographic means may be edited until the Court rules on objections. If such a recording is to be used at trial, it must be edited to eliminate cumulative testimony and to present only matters that are relevant and material.

H. **Evidentiary Rulings.** Every witness that counsel intends to call at trial must be informed by counsel about any rulings that restrict or limit testimony or evidence (e.g., rulings on motions in limine) to inform them that they may not offer or mention any evidence that is subject to that ruling.

I. **Examination Limits.** Absent extraordinary circumstances, counsel will be given the opportunity for one re-direct and one re-cross examination.

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VI. MISCELLANEOUS

A. **Civility.** The use of language which characterizes the conduct, arguments or ethics of another is to be avoided unless relevant to a motion or proceeding before the Court. In the appropriate case, the Court will upon motion or sua sponte, consider sanctions, including monetary penalties and/or striking the pleading or document in which such improprieties appear, and may order any other suitable measure the Court deems to be justified. This section of this Order includes, but is not limited to, written material exchanged between counsel, briefs or other written materials submitted to the Court, and conduct at depositions, hearings, trial or meetings with the Court.

B. **Communication with Department.** In addition to communication by telephone, letter, or fax, counsel may communicate with Department 15 by e-mailing the Judicial Assistant, shannon.parke@washoecourts.us, or the Court Clerk, Amanda.dick@washoecourts.us. All written communications must be copied to all opposing counsel and unrepresented litigants.

C. **Page Limits.** All pleadings including accompanying legal memoranda submitted in support of any motion may not exceed 20 pages in length; opposition pleadings may not exceed 20 pages in length; and reply pleadings may not exceed 10 pages in length. These limitations are exclusive of exhibits. A party may file a pleading that exceeds these limits by five pages, so long as it is filed with a certification of counsel that good cause existed to exceed the standard page limits and the reasons therefore. Briefs in excess of five pages over these limits may only be filed with prior leave of the Court, upon a showing of good cause.

D. **Request for Accommodation or Interpreter.** Counsel must notify the Court no later than 30 days before trial of any reasonable accommodation needed because of a disability, or immediately upon learning of the need if not known in advance. Counsel is also responsible for acquiring interpreter services and coordinating all scheduling needs related thereto.

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E. **Etiquette and Decorum.** Counsel must at all times adhere to professional standards of courtroom etiquette and decorum, including but not limited to the following:

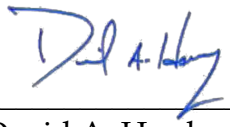
- Counsel may not use speaking objections
- Counsel must stand when speaking
- Counsel may not address each other during their respective arguments
- Counsel must be punctual
- Counsel must be prepared

VII. CASE SPECIFIC REQUIREMENTS

N/A

IT IS SO ORDERED.

Dated: April _____, 2020.



David A. Hardy
District Court Judge

CERTIFICATE OF SERVICE

I certify that I am an employee of the Second Judicial District Court of the State of Nevada, in and for the County of Washoe; that on the 22nd day of April, 2020, I electronically filed the foregoing with the Second Judicial District Court's electronic filing system which will send a notice of electronic filing to the following:

SONNIA ILIESCU

MICHAEL JAMES MORRISON, ESQ. for JOHN JR. ILIESCU, JOHN ILIESCU & SONNIA ILIESCU, TRUSTEES

DANE W. ANDERSON, ESQ. for THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY

Further, I certify that I deposited in the county mailing system for postage and mailing with the U.S. Postal Service in Reno, Nevada, a true copy of the foregoing addressed to:

N/A

__/s/ Shannon Parke_____
Department 15 Judicial Assistant

F I L E D
Electronically
CV19-00459
2020-05-14 07:44:10 PM
Jacqueline Bryant
Clerk of the Court
Transaction # 7878297 : bblough

2645
MICHAEL J. MORRISON, ESQ.
Nevada State Bar No. 1665
1495 Ridgeview Dr., #220
Reno, Nevada 89519
(775) 827-6300

Attorney for Plaintiffs

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

*** * * * ***

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU, JR. AND SONNIA ILIESCU 1992 FAMILY TRUST, Plaintiff, vs. THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; AND DOES 1-40, Defendants.	CASE NO. CV19-00459 DEPT. NO. 15 **PLAINTIFFS' OPPOSITION TO DEFENDANT'S MOTION FOR SANCTIONS**

COME NOW JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU, JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., individually; and SONNIA ILIESCUE, individually (collectively, "the Iliescu plaintiffs"), by and through their attorney, Michael J. Morrison, Esq., and oppose Defendant Regional Transportation Commission of Washoe County's ("the RTC") motion to for sanctions.

SUPPORTING POINTS AND AUTHORITIES

The RTC has moved this Court for sanctions against the Iliescu plaintiffs, citing to the Iliescu plaintiffs having not provided documents and discovery responses as required by this Court's Order. As the sanction requested, the RTC seeks a default judgment in its favor or an order dismissing this action with prejudice and, in either case, an award to the RTC of its costs and attorney's fees.

As previously explained to this Court, the undersigned's participation in this case was adversely affected by the serious neurological and spinal injuries he sustained soon after this case was filed, and for which he has been undergoing extensive care, testing, treatment, and rehabilitation. The undersigned's recovery efforts have now been further compromised by the current COVID-19 crisis. Due both to his age and his current and underlying medical conditions, and because there has been an incident of COVID-19 in the building in which his office is located and that directly impacted his office, the undersigned has been under strict medical orders to stay home. Having been advised by his medical providers that he is at very high risk if he contracts the novel coronavirus, the undersigned has been confined at home for nearly eight (8) weeks and, during that time, has not been able to go to or work at his office, which is where his work computer is located and where he would be far better equipped to work, at such time as his health permits. To that end, the undersigned's receipt of documents and information related to, among others, this case has been significantly hindered. And, because of the incident of COVID-19 in the building in which the undersigned's office is located and that it directly affected his office, the undersigned's office needs to be sanitized before he can return, once he is released to do so. Moreover, and quite unfortunately, the undersigned's office building has five (5) medical offices in a two-story building housing twelve (12) offices, and the patient traffic going past his office is substantial, and is continuous throughout the day. One of the medical offices, which gets the bulk of the patients coming to the building, is situated right next door to the

undersigned's office. This situation is what directly resulted in the contamination of the undersigned's office.

The undersigned's ability to address the discovery requests and requirements in this case has been, and continues to be further complicated and severely hindered/frustrated by the fact that the Iliescu plaintiffs are elderly (Dr. Iliescu is 94 years old) and medically compromised and, therefore, are also at extremely high risk if they contract the novel coronavirus. To that end, and based upon his own current limitations, the undersigned does not have, and for at least the eight weeks that he has been medically confined to his home, has not had the ability to meaningfully meet and/or communicate with his clients in regard to the discovery process and this Court's Order as they relate to the RTC's discovery requests.

Indeed, the seriousness of the current COVID-19 crisis and the State of Nevada's response to it has resulted in numerous Administrative Orders by this Court addressing changes in how this Court is currently operating. *See* Administrative Orders 2020-02 – 2020-07. Those changes include a provision of good cause "…in any case type where good cause must be found to extend a deadline or for a continuance…." Administrative Order 2020-02 at 3:13-14; *see also* Administrative Order 2020-02(A), extending any time periods identified in Administrative Order 2020-02.

While the Iliescu plaintiffs do not dispute that NRCP 37 generally provides for the imposition of sanctions for a party's failure to comply with a discovery order, the Iliescu plaintiffs respectfully submit to this Court that the sanctions that the RTC seeks – a default judgment or an order dismissing this case with prejudice plus an award of attorney's fees and costs – are *exceedingly* disproportionate to and inappropriate under the current extraordinary circumstances that have prevented the undersigned and the Iliescu plaintiffs from being able to produce the discovery identified in this Court's order. That is especially true in light of this Court's discretionary option to stay these proceedings pending the Iliescu plaintiffs' ability to comply with such Order and the

discovery rules. *Accord* NRCP 37(b)(1)(D). Thus, based upon the blanket "good cause" that this Court's Administrative Order 2020-02 provides and the prohibitions and complications that the current, and historically unprecedented COVID-19 crisis has created and imposed on the undersigned's and the Iliescu plaintiffs' ability to meaningfully and fully address the discovery disclosures required by this Court's Order, the Iliescu plaintiffs respectfully request that that this Court deny the RTC's motion.

The Iliescu plaintiffs further respectfully request that this Court stay these proceedings and/or extend the time in which they are required to comply with the Court's Order, and that any such deadline imposed under either scenario take into account: (1) a time after which the novel coronavirus is no longer an extreme threat to Iliescu plaintiffs' and the undersigned's respective health and safety; (2) the undersigned is able to safely return to his office and work activities; and (3) the Iliescu plaintiffs and the undersigned are able to meaningfully address this Court's Order with the undersigned without the crippling limitations the COVID-19 crisis has had on them, respectively.

The undersigned and Iliescu plaintiffs are certainly mindful of and understand that the delays occasioned by the above-described unfortunate and largely unprecedented facts and events have occasioned unforeseen delays in the prosecution and pace of this case.

Accordingly, the undersigned and the Iliescu plaintiffs hereby respectfully request that the Court, in exercise of its wide-ranging discretion, and giving due deference to the ever-changing and unimaginably profound impact of the COVID-19 crisis, structure an equitable remedy herein that will ensure that the Iliescu plaintiffs have the opportunity to present their evidence and have their "day in court", while concurrently giving Defendants a firm timeline within which this case will be concluded. Therefore, the Iliescu plaintiffs request that this Court afford them 60

calendar days within which to comply with the Court's Discovery Order, regardless of whether the undersigned's health issues allow him to participate, or whether other counsel has be engaged to represent the Iliescu plaintiffs herein.

The undersigned and the Iliescu plaintiffs respectfully submit this Opposition in good faith and for no purpose of unreasonable delays.

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the document to which this Affirmation is attached does not contain the social security number of any person.

DATED this 14th day of May, 2020.

/s/ Michael J. Morrison
Michael J. Morrison, Esq.
Nevada State Bar No. 1665
1495 Ridgeview Dr., #220
Reno, Nevada 89519
(775) 827-6300
Attorney for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on this date I personally caused to be served a true copy of the foregoing PLAINTIFFS' OPPOSITION TO DEFENDANT'S MOTION FOR SANCTIONS indicated and addressed to the following:

Dane W. Anderson, Esq.
WOODBURN AND WEDGE
6100 Neil Road, Suite 500
Reno, Nevada 89511

____ Via U.S. Mail
____ Via Overnight Mail
____ Via Hand Delivery
____ Via Facsimile
__X__ Via ECF

DATED this 14th day of May, 2020.

/s/ Michael J. Morrison

FILED
Electronically
CV19-00459
2020-05-18 03:25:20 PM
Jacqueline Bryant
Clerk of the Court
Transaction # 7882116 : sacordag

3860
Dane W. Anderson, Esq.
Nevada Bar No. 6883
WOODBURN AND WEDGE
6100 Neil Road, Suite 500
Reno, Nevada 89511
Telephone: 775-688-3000
Facsimile: 775-688-3088
danderson@woodburnandwedge.com

Attorneys for Defendant, the Regional Transportation Commission of Washoe County

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an individual; AND SONNIA ILIESCU, an individual, Plaintiffs, v. THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1 – 40, inclusive, Defendants.	Case No.: CV19-00459 Dept. No.: 15

REQUEST FOR SUBMISSION

It is hereby requested that the Motion for Sanctions Pursuant to NRCP 37(b)(1), filed on April 20, 2020, be submitted to the Court for consideration and determination.

A true and correct copy of this request has been served on all counsel and parties.

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Affirmation pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the personal information of any person.

DATED: May 18, 2020

WOODBURN AND WEDGE

By: */s/ Dane W. Anderson*
Dane W. Anderson, Esq.
Nevada Bar No. 6883
Attorneys for Defendant
The Regional Transportation
Commission of Washoe County

Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, NV 89511
775-688-3000

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Woodburn and Wedge and that on this date, I caused to be sent via electronic delivery through the Court's E-flex system a true and correct copy of the **REQUEST FOR SUBMISSION** to:

MICHAEL J. MORRISON, ESQ.
1495 Ridgeview Dr., #220
Reno, Nevada 89519
venturelawusa@gmail.com

Attorneys for Plaintiffs

DATED: May 18, 2020.

/s/ Dianne M. Kelling
Employee of Woodburn and Wedge

FILED
Electronically
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2020-05-18 03:25:20 PM
Jacqueline Bryant
Clerk of the Court
Transaction # 7882116 : sacordag

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Dane W. Anderson, Esq.
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danderson@woodburnandwedge.com

Attorneys for Defendant, the Regional Transportation Commission of Washoe County

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an individual; AND SONNIA ILIESCU, an individual, Plaintiffs, v. THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1 – 40, inclusive, Defendants.	Case No.: CV19-00459 Dept. No.: 15

REPLY IN SUPPORT OF MOTION FOR SANCTIONS PURSUANT TO NRCP 37(b)(1)

Defendant The Regional Transportation Commission of Washoe County ("RTC") replies to Plaintiffs' Opposition To Defendant's Motion For Sanctions ("Opposition") as follows:

It is important to remember, at the outset, that Plaintiffs have only opposed RTC's motion for sanctions that was filed on April 20, 2020. RTC previously filed a Motion for Discovery Sanctions on April 1, 2020, which Plaintiffs did not oppose. That motion was submitted for decision on April 20, 2020, the same day the instant motion was filed, and is

pending. Plaintiffs oppose the instant motion on two grounds: (1) their counsel's ongoing medical issues and (2) the logistical challenges presented by the COVID pandemic. While RTC and its counsel are sympathetic to the former and empathetic to the latter, neither justifies denying RTC the relief it seeks in the instant motion.

Plaintiffs' counsel first raised his medical issues in Plaintiffs' July 22, 2019 Motion for Extension of Time, in which Plaintiffs sought an extension of time to serve process on RTC in response to this Court's Order to Show Cause filed July 1, 2019. Thus, Plaintiffs' counsel's medical issues are not a recent development in which counsel was unexpectedly rendered unable to work. With all due respect to Plaintiffs' counsel, if his medical condition is—and has been for 10 months or more—such that he is unable to comply with the rules of civil procedure and this Court's orders, perhaps the case should have been handled by other counsel. However, Plaintiffs' counsel has been able to respond to two motions to dismiss, file an amended complaint and participate in several stipulations—including one allowing for early discovery. Further, Plaintiffs' counsel acknowledged on January 30, 2020, that his clients were obligated to respond to requests for production. See Exhibit 22 to Declaration of Dane W. Anderson in Support of Motion for Discovery Sanctions filed on April 1, 2020. With all due sympathy to Plaintiffs' counsel, any continuing medical issues are not an excuse for Plaintiffs' failure to comply with the Court's order.

Regarding the pandemic, it indeed has caused logistical challenges for attorneys and the Court alike. However, the undersigned has been working from home for more than eight weeks and does not believe that is an excuse for failing to comply with discovery, failing to respond to motions, failing to object to Discovery Commissioner's recommendations and failing to obey this Court's orders. Plaintiffs' counsel obviously can file electronically, suggesting he received the Discovery Commissioner's recommendation for order on April 3, 2020 and could have filed an objection to the time frame in which Plaintiff's were required to comply, but did not do so. Nor did he reach out to RTC's counsel to seek an extension of that deadline. Plaintiffs' counsel does not

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state that he cannot work from home. Given the circumstances described in the Opposition, he presumably filed that document from home. The pandemic is not an excuse for Plaintiffs' failure to comply with the Court's order.

Nor is Plaintiffs' elderly status an excuse. That was the entire point of seeking early discovery. Starting in October 2019, RTC attempted to secure Plaintiffs' depositions, only to be met with last-minute cancellations on 3 occasions and no effort by Plaintiffs to make themselves available at any point in time. The requests for production that were the subject of the motion to compel were served in early November 2019, and as of today's date RTC has been provided not one shred of paper from Plaintiffs. Plaintiffs' elderly status is not an excuse for their pervasive failure to provide any documents or testimony supporting their claims.

Plaintiffs' request for a 60-day "extension" should not be entertained. They failed to object to the Discovery Commissioner's recommendation for order with 14 days as required by NRCP 16.3(c)(2). Indeed, Plaintiffs did not even oppose RTC's Motion to Compel resulting in the Discovery Commissioner's recommendation and this Court's order. Plaintiffs' citation to this Court's Administrative Orders do not justify an "extension" nor do they excuse Plaintiffs' failure to comply with the Court's order.

The provision upon which Plaintiffs rely in in Administrative Order 2020-02 provides: "In addition, in any case type where good cause must be found to extend a deadline or for a continuance to be granted, this order shall establish good cause." That Administrate Order was entered on March 16, 2020. Plaintiffs could have cited that order in a timely objection to the Discovery Commissioner's recommendation for order and a corresponding request for an extension (or even in a courtesy call to counsel) but did not do so. Therefore, they have waived the ability to demonstrate "good cause" for an extension of the deadline in this Court's order. Further, they request a 60-day extension but offer no explanation of how they will now, after all this time, be able to produce those documents. Why did they not just produce the documents that were requested 6 months ago? Plaintiffs offer no explanation for their failure to do so. Plaintiffs failed to timely

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seek proper relief. Their Opposition is not a proper vehicle to seek an extension of time to comply with the Court's order. That time has come and gone.

Plaintiffs failed to comply with the Court's order, which was issued after they failed to oppose the motion to compel and failed to object to the Discovery Commissioner's recommendation. The Court should take into consideration the other circumstances of this case, which involved Plaintiffs repeatedly failing to appear for properly noticed depositions and failing to oppose RTC's motion for sanctions related to that failure. Plaintiffs filed this case accusing RTC of serious wrongdoing but have done absolutely nothing to move the case forward. While RTC recognizes that parties generally have a right to "their day in court," that right is contingent upon compliance with rules and orders. Plaintiffs have repeatedly failed to comply with both.

As a result, this Court should either enter default judgment against Plaintiffs or dismiss this action with prejudice and, in either instance, should award RTC all reasonable costs and attorney fees incurred as a result of Plaintiffs' conduct. RTC requests that the Court's order imposing sanctions direct RTC's counsel to submit a declaration, with supporting documentation, to support an award of costs and attorney fees, and allowing Plaintiffs' to file a response if they wish.

Affirmation pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the personal information of any person.

DATED: May 18th, 2020

WOODBURN AND WEDGE

By /s/ Dane W. Anderson
Dane W. Anderson, Esq.
Nevada Bar No. 6883
Attorneys for Defendant
The Regional Transportation
Commission of Washoe County

Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, NV 89511
775-688-3000

CERTIFICATE OF SERVICE

It is hereby certified that service of the foregoing **REPLY IN SUPPORT OF MOTION FOR SANCTIONS PURSUANT TO NRCP 37(b)(1)** was made through the Court's electronic filing and notification or, as appropriate, by sending a copy thereof by first-class mail from Reno, Nevada addressed as follows:

MICHAEL J. MORRISON, ESQ.
Nevada State Bar No. 1665
1495 Ridgeview Dr., #220
Reno, Nevada 89519
venturelawusa@gmail.com

Attorneys for Plaintiffs

DATED: May 18, 2020.

/s/ Dianne M. Kelling
Employee of Woodburn and Wedge

Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, NV 89511
775-688-3000

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an individual; and SONNIA ILIESCU, an individual,

Appellants,

vs.

THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1 through 40 inclusive,

Respondent.

Supreme Court No. 83212
Washoe County Case No. CV19-00459

JOINT APPENDIX
VOLUME III
(Exhibits 45-69)

Appeal from the Second Judicial District Court of the State of Nevada
in and for the County of Washoe County
Case No. CV19-00459

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55	07/27/20	Plaintiffs' Response to the Supplemental Declaration of Dane W. Anderson Regarding Expenses to be Reimbursed by Plaintiffs – Transaction 7990157	III	JA0594-0597
41	04/22/20	Pre-Trial Order – Transaction 7845782	II	JA0421-0430
109	08/23/21	Reply in Support of Motion for Attorney Fees and for Entry of Judgment for Attorney Fees and Costs – Transaction 8608634	VII	JA1339-1347
110	08/23/21	Reply in Support of Motion for Attorney Fees and for Entry of Judgment for Attorney Fees and Costs – Transaction 8608728	VII	JA1348-1364
44	05/18/20	Reply in Support of Motion for Sanctions Pursuant to NRCP 37(b)(1) – Transaction 7882116	II	JA0440-0444
85	04/29/21	Reply in Support of Motion for Summary Judgment – Transaction 8420046	V	JA0893-0941
81	04/27/21	Reply in Support of Motion in Limine to Exclude Evidence of Damages – Transaction 8416263	V	JA0831-0884
80	04/27/21	Reply in Support of Motion in Limine to Preclude Plaintiffs from Presenting Evidence Pursuant to NRS 50.275, 50.285 and 50.305 – Transaction 8416238	IV	JA0827-0830
21	11/12/19	Reply in Support of Motion to Dismiss – Transaction 7583646	I	JA0183-0190
29	02/13/20	Reply in Support of Supplemental Motion to Dismiss – Transaction 7739174	II	JA0236-0242
69	08/06/20	Request for Submission re Motion in Limine to Preclude Plaintiffs from Offering Documents Not Produced to RTC on or Before June 30, 2020 – Transaction 8007357	III	JA0614-0616

DOC.	FILE/HRG. DATE	DOCUMENT DESCRIPTION	VOL.	BATES NOS.
52	07/16/20	Request for Submission re Declaration of Dane W. Anderson Regarding Expenses To Be Reimbursed By Defendants [*sic*] – Transaction 7973986	III	JA0497-0499
39	04/20/20	Request for Submission re Motion for Discovery Sanctions – Transaction 7842053	II	JA0413-0415
69	02/25/21	Request for Submission re Motion for Sanctions Pursuant to NRCP 16.1(e) – Transaction 8313712	III	JA0663-0665
43	05/18/20	Request for Submission re Motion for Sanctions Pursuant to NRCP 37(b)(l) – Transaction 7882116	II	JA0437-0439
82	04/28/21	Request for Submission re Reply in Support of Motion in Limine to Preclude Plaintiffs From Presenting Evidence Pursuant to NRS 50.275, 50.285 and 50.305 – Transaction 8417512	V	JA0885-0887
83	04/28/21	Request for Submission re Reply in Support of Motion in Limine to Exclude Evidence of Damages – Transaction 8417518	V	JA0888-0890
91	05/24/21	Response to Notice of Intent to File Motion – Transaction 8461146	V	JA1050-1053
70	02/25/21	RTC's Reply in Support of Motion for Sanctions Pursuant to NRCP 16.1(C) – Transaction 8313712	IV	JA0666-0687
51	07/13/20	RTC's Reply to Plaintiffs' Response to Declaration of Dane W. Anderson Regarding Expenses to be Reimbursed by Defendants – Transaction 7966844	III	JA0491-0496
56	07/29/20	RTC's Reply to Plaintiffs' Response to The Supplemental Declaration of Dane W. Anderson Regarding Expenses to be Reimbursed by Defendants – Transaction 7993047	III	JA0598-0602

DOC.	FILE/HRG. DATE	DOCUMENT DESCRIPTION	VOL.	BATES NOS.
66	10/12/20	Scheduling Order Amended Stipulated Scheduling Order – Transaction 8111324	III	JA0649-0651
19	10/30/19	Stipulation to Conduct Discovery Prior to Holding NRCP 16.1 Conference and Prior to Filing the JCCR – Transaction 7563184 -	I	JA0171-0173
23	12/06/19	Stipulation for Entry of Order Dismissing Certain Plaintiffs' Claims for Relief and Damages With Prejudice – Transaction 7623980	I	JA0192-0195
65	10/08/20	Stipulation for Entry of Scheduling Order – Transaction 8107608	III	JA0645-0648
53	07/21/20	Supplemental ... Declaration of Dane W. Anderson Re Expenses to be Reimbursed by Plaintiffs – Transaction 7981140	III	JA0500-0507
96	06/08/21	Supplemental Exhibit to Motion for Reconsideration – Transaction 8483818	VI	JA1097-1104
27	01/30/20	Supplemental Motion to Dismiss – Transaction 7712316	I	JA0219-0225
87	05/06/21	Transcript of 4/27/21 Status Hearing	V	JA0945-1004
89	05/12/21	Transcript of 5/12/2021 Oral Arguments – Transaction 8442136	V	JA1006-1047
98	06/08/21	Transcript of 6/8/21 Oral Arguments	VI	JA1106-1147
64	09/30/20	Transcript of 9/29/20 Case Management Conference	III	JA0630-0644

CERTIFICATE OF SERVICE

Pursuant to NRAP 25(c), I hereby certify that I am an employee of ALBRIGHT, STODDARD, WARNICK & ALBRIGHT, and that on this 30th day of December, 2021, the foregoing **JOINT APPENDIX, VOLUME III**, was filed electronically with the Clerk of the Nevada Supreme Court, and therefore electronic service was made in accordance with the master service list as follows:

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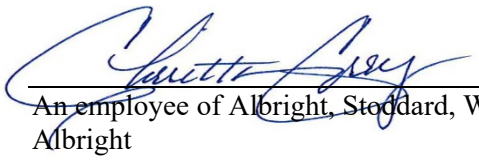

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Jacqueline Bryant
Clerk of the Court
Transaction # 7919122

CODE NO. 1945

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

* * *

JOHN ILIESCU, JR., and SONNIA ILIESCU, Trustees of THE JOHN ILIESCU, JR. AND SONNIA ILIESCU 1992 FAMILY TRUST,

Plaintiffs,

vs.

THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY et al.,

Defendants.
_____/

Case No. CV19-00459

Dept. No. 15

RECOMMENDATION FOR ORDER

Presently before the Court are two discovery-related motions.[1] On April 1, 2020, Defendant filed a *Motion for Discovery Sanctions*. Plaintiffs did not file a written opposition to that motion, and it was submitted for decision on April 20, 2020. In addition, on April 20, 2020, Defendant filed a *Motion for Sanctions Pursuant to NRCP 37(b)(1)*. On May 14, 2020, Plaintiffs filed *Plaintiffs' Opposition to Defendant's Motion for Sanctions*. On May 18, 2020, Defendant filed its *Reply in Support of Motion for Sanctions Pursuant to NRCP 37(b)(1)*, and the motion was submitted for decision on that same date.[2]

[1] The background of this action is set forth in greater detail in previous Court decisions.

[2] The failure of Plaintiffs to file an opposition to Defendant's *Motion for Discovery Sanctions*, could be construed as an admission that the motion is meritorious and a consent to granting the same. See DCR 13(3). However, under the circumstances, the Court will consider the assertions and arguments raised by Plaintiffs in connection with Defendant's *Motion for Sanctions Pursuant to NRCP 37(b)(1)* as intended by Plaintiffs to apply to both of the pending motions.

Under NRCP 37(b)(1), the Court may impose sanctions through any "just orders" against any party who "fails to obey an order to provide or permit discovery." The rule describes several different kinds of sanctions, and expressly includes an order "dismissing the action or proceeding in whole or in part." See NRCP 37(b)(1)(E). Under NRCP 37(d)(1)(A), the Court may impose sanctions against a party who (a) "fails, after being served with proper notice, to appear for that person's deposition," or (b) "after being properly served with . . . a request for inspection under Rule 34, fails to serve its answers, objections, or written response." Sanctions may include any of the orders listed in NRCP 37(b)(1). Any failure under NRCP 37(d)(1)(A) is not excused on the ground that the discovery sought was objectionable, unless the party failing to act has a pending motion for a protective order. See id. 37(d)(2). Both rules require that the offending party, its counsel, or both, pay the moving party's reasonable expenses, including attorney fees, caused by its failures, unless the failures were substantially justified or other circumstances make an award of expenses unjust.

In a *Declaration of Dane W. Anderson in Support of Motion for Discovery Sanctions* filed on April 1, 2020, Defendant's counsel describes Plaintiffs' discovery failures to date. He notes that the parties agreed to permit discovery prior to complying with the requirements of NRCP 16.1 (a stipulation that ultimately was approved in an order entered on November 18, 2019). To that end, Defendant's counsel sent an email to Plaintiffs' counsel on October 1, 2019, reminding him that he had agreed to confer with Plaintiffs about available dates in October for their depositions. Dates were not provided, however, so on October 9, 2019, Defendant served Plaintiffs with NRCP 30(b)(1) notices informing them that their depositions would proceed on October 29 and 30, 2019.

In an email sent on October 28, 2019, Defendant's counsel asked Plaintiffs' counsel to confirm that the depositions would proceed as scheduled. Plaintiffs' counsel then telephoned Defendant's counsel and explained that the depositions were not on his calendar, so those depositions did not go forward. In a separate email sent on that date, Defendant's counsel asked Plaintiffs' counsel to "[p]lease advise when your clients will be available, as time may be important." On or about November 4, 2019, Plaintiffs' counsel advised Defendant's counsel that Plaintiffs would

be available for their depositions on December 11 and 12, 2019. On November 6, 2019, Defendant served Plaintiffs with NRCP 30(b)(1) notices scheduling their depositions for the dates provided by their counsel. Plaintiffs' counsel confirmed the deposition dates in an email to Defendant's counsel sent on November 7, 2019.

On November 8, 2019, Defendant served Plaintiffs with an NRCP 34 request for production of documents. On November 20, 2019, in response to a request by Defendant's counsel that certain authorizations and related information be provided prior to Plaintiffs' depositions, Plaintiffs' counsel mentioned that "John's been beset by health issues, tests and hospital visits" and agreed to follow up on Defendant's requests. In an email sent on November 25, 2019, Defendant's counsel sought an update on his earlier request; however, Plaintiffs' counsel did not respond to that email. In addition, Plaintiffs did not serve a written response to Defendant's request for production, or otherwise produce the requested documents.

In an email sent on December 10, 2019, Defendant's counsel asked Plaintiffs' counsel to confirm that the depositions would proceed as scheduled. Plaintiffs' counsel called in response and advised that his clients would not be attending their depositions due to health issues. In an email sent to Plaintiffs' counsel on January 21, 2020, Defendant's counsel stated that "I am wondering whether it would be possible to schedule the Iliescus depositions." Plaintiffs' counsel immediately responded with an email stating, "I'll check now." However, Defendant's counsel did not receive a further response.

In an email sent to Plaintiffs' counsel on January 27, 2020, Defendant's counsel expressed his frustration in trying to obtain dates for Plaintiffs' depositions, and observed that Plaintiffs had not responded to Defendant's NRCP 34 request. In an email to Defendant's counsel dated January 30, 2020, Plaintiffs' counsel's legal assistant stated as follows:

> Mr. Morrison called to advise me that he has not been intentionally avoiding you. John Iliescu's sister (last one) died and her burial was yesterday. Mr. Iliescu is having breathing problems and is currently at the V.A. Hospital seeking treatment. Sonnia will call Mr. Morrison as soon as he is released from the V.A. and at home to discuss the depositions. Sonnia knows the depos need to be taken and has no objections. Mr. Morrison also mentioned he owes you responses to requests for production.

Defendant's counsel did not receive any additional communications on these matters during the next three weeks. So, on February 20, 2020, Defendant again served Plaintiff with NRCP 30(b)(1) notices informing Plaintiffs that their depositions were scheduled for March 5 and 6, 2020. On that same date, Defendant also filed a motion to compel concerning Plaintiffs' overdue response to its NRCP 34 request.

In an email sent on March 2, 2020, Defendant's counsel asked Plaintiffs' counsel to confirm that the depositions would proceed as scheduled. In a response email of that same date, Plaintiffs' counsel stated, in pertinent part, as follows:

> As for the noticed depos, I'll ck manana and let you know. When I spoke to Sonnia, I was unable to speak w/ John because he was bed-ridden w/severe back pain, and had been for over a week.

Defendants' counsel replied with a request that Plaintiffs' counsel let him know as soon as possible. In an email sent on March 3, 2020, he again asked Plaintiffs' counsel if he had "any word" regarding the depositions. Ultimately, on March 4, 2020, at approximately 4:40 p.m.—after Defendant's counsel had left the office—Plaintiffs' counsel left a voicemail message stating that Mr. Iliescu would not be appearing for his deposition the following morning. Unaware of that message, Defendant's counsel appeared for Mr. Iliescu's scheduled deposition and noted his non-appearance on the record. In an email to Plaintiffs' counsel sent on March 5, 2020, Defendant's counsel recounted the events of that morning and stated that he would be seeking appropriate relief. He also asked whether Ms. Iliescu would be appearing for her deposition scheduled for the following day. In an email sent on that same date, Plaintiffs' counsel stated that she "will be unable to appear tomorrow"; however, no reason was given. At the time set for her deposition to begin on March 6, 2020, Ms. Iliescu's non-appearance was noted on the record.

Plaintiffs did not file any opposition to Defendant's motion to compel their response to its NRCP 34 request. In a *Recommendation for Order* entered on April 3, 2020, the Discovery Commissioner determined that Plaintiffs should be ordered to produce the documents requested by Defendant, and to pay sanctions in the amount of $1,000. Plaintiffs did not object to that

recommendation, and the Court adopted that decision in an order entered on April 20, 2020. Notwithstanding that order, Plaintiffs have not complied with the Court's directives. Plaintiffs' failures to produce the documents sought in Defendant's NRCP 34 request and to appear for their properly scheduled depositions form the basis for Defendant's *Motion for Discovery Sanctions.* Defendant's *Motion for Sanctions Pursuant to NRCP 37(b)(1)* is based on Plaintiffs' failure to comply with the Court's discovery order.

In their opposition, Plaintiffs state as follows: "As previously explained to this Court, the undersigned's [i.e., Plaintiffs' counsel's] participation in this case was adversely affected by the serious neurological and spinal injuries he sustained soon after this case was filed, and for which he has been undergoing extensive care, testing, treatment, and rehabilitation."[3] This explanation is problematic for a few reasons. First, no evidence has been submitted to support it. While various assertions of fact are made in Plaintiffs' opposition, assertions made in briefs do not constitute evidence.[4] See, e.g., Ladner v. Litespeed Mfg. Co., 537 F. Supp. 2d 1206, 1217 (N.D. Ala. 2008) (statements by counsel in briefs do not constitute evidence); see also Jain v. McFarland, 109 Nev. 465, 475-76, 851 P.2d 450, 457 (1993) ("[a]rguments of counsel are not evidence and do not establish the facts of the case"); Phillips v. State, 105 Nev. 631, 634, 782 P.2d 381, 383 (1989) ("[f]acts or allegations contained in a brief are not evidence and are not part of the record"). Second, the Court has reviewed the exhibits provided in connection with this motion, and none of the written communications from Plaintiffs' counsel when those failures occurred offered his medical condition

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[3] On July 1, 2019, the Court entered an *Order to Show Cause* allowing Plaintiff twenty days in which to provide proof that Defendants had been served with process in this action. In a *Motion for Extension of Time* filed on July 22, 2019, Plaintiffs stated that their delay was primarily due to their counsel's "personal health issues" and "difficulties attendant" thereto. They offered the following brief explanation:

> Shortly after filing this case, counsel suffered significant neurological and spinal injuries and has been undergoing care, testing, treatment and rehabilitation at the V.A. Hospital, as well as at numerous medical clinics and medical treatment facilities in the Reno area. This has negatively affected counsel's ability to work.

No evidence was submitted in support of these statements. However, the motion was not opposed, and the Court granted the requested extension.

[4] The Court appreciates that Plaintiffs' counsel is an officer of the Court, and it does not mean to impugn his integrity in any way. However, Plaintiffs cannot successfully oppose a motion for case-terminating sanctions—a motion for which evidentiary support has been provided—by resting on a relatively brief and unsupported explanation about their counsel's health.

as the reason why Plaintiffs failed to comply with their discovery obligations. For the depositions, the reasons provided were an error in calendaring and Plaintiffs' health conditions. No explanation was ever provided for their failure to respond to the NRCP 34 request, and nearly seven months have passed since that request was served upon Plaintiffs. Third, counsel's condition did not apparently impair his ability to oppose two motions to dismiss, file an amended complaint, and participate in several stipulations.

Plaintiffs also maintain that their counsel's "recovery efforts have now been further compromised by the current COVID-19 crisis." Specifically, they rely on the following circumstances:

- Counsel's age and his "current and underlying medical conditions"
- "[T]here has been an incident of COVID-19 in the building in which his office is located and that directly impacted his office"[5]
- Counsel "has been under strict medical orders to stay home" because "he is at very high risk if he contracts the novel coronavirus"
- During his extended home confinement, counsel "has not been able to go to or work at his office, which is where his work computer is located and where he would be far better equipped to work, at such time as his health permits," and his "receipt of documents and information related to, among others, this case has been significantly hindered"
- Counsel's office "needs to be sanitized before he can return, once he is released to do so"

Again, a significant problem with this explanation is that it lacks any evidentiary support. Some kind of evidence along these lines is necessary because so many attorneys are finding ways to perform their work in a reasonably timely manner notwithstanding the COVID-19 pandemic. Yet Plaintiffs have not offered any affidavit or declaration from Plaintiffs' counsel's physician, or provided other supporting evidence (e.g., medical records) to support their assertions about his medical conditions,

[5] Plaintiffs state that nearly half of the offices in his office building are medical offices, "and the patient traffic going past his office is substantial, and is continuous throughout the day." They further state that the medical office receiving the most patients is situated next to their counsel's office, and that "[t]his situation is what directly resulted in the contamination of the undersigned's [i.e., Plaintiffs' counsel's] office."

the risk presented by those conditions and his age, the medical directive that he remain at home, or the requirement that his office be sanitized.

Even if the risks presented by SARS-CoV-2 were facts of which judicial notice could be taken, other attorneys involved in civil litigation—many of whom have their own health conditions or are similar in age to Plaintiffs' counsel—are finding ways to accomplish their work notwithstanding the difficulties created by the COVID-19 pandemic. Plaintiffs have not provided any explanation of the efforts their counsel is taking to comply with the requirements imposed on him and his clients by our rules of civil procedure (including our discovery rules) and other authorities. For example, counsel could arrange for someone to retrieve his work computer and accessories (or at least its central processing unit) and bring them to his home,[6] and he could arrange to have his work emails forwarded to his home email address. Various other means—technical or non-technical—presumably exist to enable Plaintiffs' counsel to continue his work as Plaintiffs' legal representative in this action.

Concerns about COVID-19 are unavailing for another reason. Plaintiffs failed to attend their scheduled depositions in October and December prior to any widely recognized concerns about the risks posed by that illness. Further, as noted above, concerns about COVID-19 were not raised by Plaintiffs' counsel in his communications regarding the vacating of those examinations. Similarly, Plaintiffs were required to serve a written response to Defendant's NRCP 34 request, or to produce the requested documents, on or before December 9, 2019. The COVID-19 pandemic that has arisen in 2020 does not provide justification for Plaintiffs' failures to participate in discovery proceedings in 2019.

Plaintiffs also assert that their participation in discovery proceedings "has been, and continues to be further complicated and severely hindered/frustrated by the fact that the Iliescu plaintiffs are elderly (Dr. Iliescu is 94 years old) and medically compromised and, therefore, are also at extremely high risk if they contract the novel coronavirus." Again, no evidence has been

[6] The Court appreciates that Plaintiffs' counsel would want whatever is brought from his office to be sanitized before it enters his home, but he has not suggested that sanitization of that equipment is not practicable.

presented to support a finding that Plaintiffs are unable to answer questions in a deposition and cannot locate and provide documents—either alone or with someone's assistance (e.g., to lift and move boxes)—that have been properly requested by Defendant.[7] In any event, if Plaintiffs' age and medical condition are such that they preclude Plaintiffs' participation in discovery proceedings, then Plaintiffs need to take some kind of affirmative measures to address this problem, such as moving for a protective order or requesting a pretrial conference to discuss how this case can proceed (e.g., teleconferenced depositions). But they are not permitted to unilaterally vacate scheduled depositions or indefinitely delay their response to a written discovery request.

This same analysis applies to Plaintiffs' failure to comply with the Court's discovery order. Defendant was forced to file a motion to compel, which Plaintiffs failed to oppose. They also did not oppose the recommendation that the motion to compel be granted. Accordingly, the Court entered an order adopting the recommendation. But instead of filing an appropriate motion to obtain relief from that order, or seeking a conference with the Court, Plaintiffs simply failed to comply with it. That order was properly served under NRCP 5(b), and no evidence has been presented to show that Plaintiffs were unaware of the Court's order.

Under these circumstances, Defendant has shown that sanctions may properly be imposed under NRCP 37(b)(1) and NRCP 37(d)(1). The particular sanction to be imposed under these rules—or for any discovery abuse, whether under our discovery rules or under the Court's inherent authority—is a matter within the district court's discretion. See Bahena v. Goodyear Tire & Rubber Co., 126 Nev. 243, 252-55, 235 P.3d 592, 598-600 (2010); GNLV Corp. v. Serv. Control Corp., 111 Nev. 866, 869, 900 P.2d 323, 325 (1995); Nev. Power Co. v. Fluor Ill., 108 Nev. 638, 644, 837 P.2d 1354, 1358-59 (1992); Young v. Johnny Ribeiro Bldg., 106 Nev. 88, 92, 787 P.2d 777, 779 (1990). In that regard, case-concluding sanctions "will be upheld where the normal adversary process has been halted due to an unresponsive party, because diligent parties are entitled to be protected against interminable delay and uncertainty as to their legal rights." See Skeen v. Valley Bank, 89

[7] On March 11, 2020, Plaintiff John Iliescu, Jr., faxed an improper ex parte communication to the Court, consisting of letters that he sent to two physicians and what appear to be three pages of his medical records. None of these documents are authenticated and they will not be considered in connection with this motion.

Nev. 301, 303, 511 P.2d 1053, 1054 (1973); see also Bahena, 126 Nev. at 253, 235 P.3d at 599 (quoting Foster v. Dingwall, 126 Nev. 56, 65, 227 P.3d 1042, 1048 (2010)) ("entries of complete default are proper where 'litigants are unresponsive and engaged in abusive litigation practices that cause interminable delays'"). However, since case-concluding sanctions are drastic remedies that should be used only in extreme situations, see Nev. Power, 108 Nev. at 645, 837 P.2d at 1359, they are subject to a somewhat heightened standard of review, see MEI-GSR Holdings, LLC v. Peppermill Casinos, Inc., 134 Nev. 235, 242, 416 P.3d 249, 256 (2018); Foster, 126 Nev. at 65, 227 P.3d at 1048; Young, 106 Nev. at 92, 787 P.2d at 779.

The imposition of case-concluding sanctions must be just and must relate to the claims, denials, or defenses implicated in the discovery order that was violated or the prejudice caused by the discovery abuse at issue. See, e.g., Blanco v. Blanco, 129 Nev. 723, 729-30, 311 P.3d 1170, 1174 (2013) ("[p]rocedural due process considerations require that such case-concluding discovery sanctions be just and that they relate to the claims at issue in the violated discovery order"); Foster, 126 Nev. at 65, 227 P.3d at 1048 ("the district court abuses its discretion if the sanctions are not just and do not relate to the claims at issue in the discovery order that was violated"). Case-concluding sanctions need not be preceded by other, less severe sanctions, but they should only be imposed after thoughtful consideration of all the factors involved in a particular case. See, e.g., Young, 106 Nev. at 92, 787 P.2d at 780. Those factors include considerations such as

> the degree of willfulness of the offending party, the extent to which the non-offending party would be prejudiced by a lesser sanction, the severity of the sanction of dismissal relative to the severity of the discovery abuse, whether any evidence has been irreparably lost, the feasibility and fairness of alternative, less severe sanctions, the policy favoring adjudication on the merits, whether sanctions unfairly operate to penalize a party for the misconduct of his or her attorney, and the need to deter both the parties and future litigants from similar discovery abuses.

Id. at 93, 787 P.2d at 780. The decision to impose case-concluding sanctions must be supported by "an express, careful and preferably written explanation of the court's analysis of the pertinent factors." See Bahena, 126 Nev. at 252, 235 P.3d at 598 (quoting Young, 106 Nev. at 93, 787 P.2d at 780). Prior to imposing case-concluding sanctions, the district court must conduct an evidentiary

hearing if the party against whom sanctions may be imposed raises a question of fact as to any of these factors. See Nev. Power, 108 Nev. at 645, 837 P.2d at 1359. If ultimate sanctions are not imposed, an evidentiary hearing is not required; rather, the district court "should, at its discretion, hold such hearing as it reasonably deems necessary to consider matters that are pertinent to the imposition of appropriate sanctions." See Bahena, 126 Nev. at 256, 235 P.3d at 600-01.

The concept of willfulness "suggests a stubborn persistence in doing what one wishes, esp. in opposition to those whose wishes or commands ought to be respected or obeyed." See Random House Dictionary of the English Language 2175 (unabr. 2d ed. 1987) (definition of willful). Plaintiffs are essentially asserting that their discovery failures were the result of an inability to comply, rather than willfulness. They maintain that the first scheduled depositions were vacated due to a calendaring error, and the other depositions were vacated ostensibly due to Plaintiffs' health conditions. They likewise cite those health conditions as at least part of the reason why they have not produced documents (although the failure to serve a written response is harder to justify). Significantly, Plaintiffs do not dispute that Defendant is entitled to take their depositions, or that they are obligated to produce requested documents. The lack of supporting evidence is an issue, as noted above; but Plaintiffs' failures do not appear to be rooted in some dispute with Defendant, disagreement with the Court, or intentional effort to deprive Defendant of evidence.

The Court appreciates that alternative or lesser sanctions would be problematic against a plaintiff who refuses to appear for deposition or to produce documents supporting that party's claims. Moreover, dismissal of an action is not too severe in those circumstances. See Bahena, 126 Nev. at 255, 235 P.3d at 600 ("[a]mong the sanctions that are authorized by this rule [i.e., NRCP 37(d)] are for the court to enter an order striking a pleading or parts thereof"); Skeen, 89 Nev. at 303, 511 P.2d at 1054 (affirming order striking defendant's answer based on failure to appear for deposition). This sanction likewise may be imposed for a party's failure to comply with a discovery order. See Nev. Power, 108 Nev. at 644, 837 P.2d at 1359 ("[u]nder NRCP 37(b)(2), a party's suit may be dismissed if the party 'fails to obey an order to provide or permit discovery'"); Kerley v. Aetna Cas. & Sur. Co.,

94 Nev. 710, 711, 585 P.2d 1339, 1340 (1978) (affirming dismissal of complaint under NRCP 37(b) for failure to comply with discovery order). But Defendant has not demonstrated that any evidence has been irreparably lost. Given the fact that this case has not yet been set for trial—indeed, the parties have not even participated in an early case conference—the policy favoring adjudication on the merits tips in favor of Plaintiffs. The Court also notes that in their opposition, Plaintiffs have emphasized the health issues of their counsel even more than their own, and Plaintiffs were not responsible for the failure to properly calendar their first depositions. The Court is mindful of the need to deter Plaintiffs and future litigants from failing to comply with their discovery obligations. But that factor is entitled to less weight under these circumstances, in which evidence of willfulness is lacking and the parties have not yet participated in an early case conference or made initial disclosures under NRCP 16.1. After reviewing the factors identified above, the Court is not persuaded that case-terminating sanctions are warranted at this time.

Instead, the Court will impose a monetary sanction on Plaintiffs. When Plaintiffs failed to appear for their depositions, Defendant was forced to file a motion to address that failure. The same is true when Plaintiffs failed to comply with the Court's discovery order. In that regard, no evidence has been presented to support a finding that Plaintiffs' failures were substantially justified, or that other circumstances make an award of expenses unjust.[8] Defendant is therefore entitled to monetary sanctions to compensate them for the expense incurred in connection with those matters.

But simply imposing monetary sanctions will not address the underlying problem—Defendant's need to obtain discovery from Plaintiffs, including their deposition testimony and the documents requested by Defendant. In that regard, Plaintiffs have requested the following relief:

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[8] The Court does not disagree with Plaintiffs' argument that the COVID-19 pandemic is an extraordinary event that is impacting the ability of attorneys to perform certain legal work, or the manner in which they accomplish some legal work. While it appreciates the difficulties and concerns raised by this situation, it again emphasizes that other attorneys are continuing to move forward with their civil actions, albeit in ways that may differ from procedures that ordinarily would be followed prior to the pandemic. Thus, Plaintiffs and their counsel are expected to find ways to continue meeting the obligations imposed on them by our rules and other authorities (which may include the association or substitution of counsel, if Plaintiffs' current counsel is medically unable to perform the work that is required in connection with this action). Alternatively, they may proactively seek accommodations or other relief, but they have not done so thus far, and their failure to do so has resulted in expenses incurred by Defendant. Further, the pandemic cannot be used as justification for their failures to respond to Defendant's motions.

> The Iliescu plaintiffs further respectfully request that this Court stay these proceedings and/or extend the time in which they are required to comply with the Court's Order, and that any such deadline imposed under either scenario take into account: (1) a time after which the novel coronavirus is no longer an extreme threat to Iliescu plaintiffs' and the undersigned's respective health and safety; (2) the undersigned is able to safely return to his office and work activities; and (3) the Iliescu plaintiffs and the undersigned are able to meaningfully address this Court's Order with the undersigned without the crippling limitations the COVID-19 crisis has had on them, respectively.

Plaintiffs believe that the Court should "afford them 60 calendar days within which to comply with the Court's Discovery Order, regardless of whether the undersigned's health issues allow him to participate, or whether other counsel has be engaged to represent the Iliescu plaintiffs herein."

Under WDCR 10(3)(a), "[a]ny motion, opposition, reply, etc., must be filed as a separate document unless it is pleaded in the alternative." In this case, Plaintiffs oppose Defendant's request for sanctions, and their request for a stay or delay of the proceedings is not offered as an alternative to that opposition—it is an additional, separate request. Moreover, no evidence has been submitted with the opposition to support this request. Under our local rule, that request must be presented in a separate motion. Therefore, the Court will direct that Plaintiffs (a) submit to depositions by the end of June 2020, and (b) produce the documents identified in Defendant's NRCP 34 request by the end of June 2020.

ACCORDINGLY, Defendant's *Motion for Discovery Sanctions* should be GRANTED in part, and DENIED in part.

FURTHER, Defendant's *Motion for Sanctions Pursuant to NRCP 37(b)(1)* should be GRANTED in part, and DENIED in part.

IT SHOULD, THEREFORE, BE ORDERED that Plaintiffs appear for their depositions at a date and time that is convenient to both sides, but in any event no later than June 30, 2020.

IT SHOULD, THEREFORE, BE ORDERED that Plaintiffs produce to Defendant no later than June 30, 2020, the originals or copies of all documents described in Defendant's NRCP 34 request previously served upon Plaintiffs on or about November 8, 2019.

///

IT SHOULD FURTHER BE ORDERED that the documents produced by Plaintiffs must be organized and labeled to correspond to the categories in Defendant's NRCP 34 request.

IT SHOULD FURTHER BE ORDERED that with respect to each category of Defendant's NRCP 34 request, if Plaintiffs maintain that one or more responsive documents never existed, no longer exist, or are only within the possession, custody, or control of some other person or entity, then they must serve upon Defendant, without objections and no later than June 30, 2020, a written response, under oath, in which they provide this information to Defendant (including, as appropriate, an explanation as to why they no longer exist, or an identification of the other person or entity who has possession, custody, or control of the requested documents).

IT SHOULD FURTHER BE ORDERED that Plaintiffs reimburse Defendant for the reasonable expenses incurred in connection with its *Motion for Discovery Sanctions* and its *Motion for Sanctions Pursuant to NRCP 37(b)(1)*, as and for a sanction under NRCP 37(b)(1) and NRCP 37(d); Defendant must submit a declaration, with supporting documentation, showing the reasonable expenses incurred in connection with these two motions, to which Plaintiffs may file a response, if they wish to do so.

DATED: This 10th day of June, 2020.

WESLEY M. AYRES
DISCOVERY COMMISSIONER

CERTIFICATE OF SERVICE

CASE NO. CV19-00459

I certify that I am an employee of the SECOND JUDICIAL DISTRICT COURT of the STATE OF NEVADA, COUNTY OF WASHOE; that on the 10th day of June, 2020, I electronically filed the **RECOMMENDATION FOR ORDER** with the Clerk of the Court by using the ECF system.

I further certify that I transmitted a true and correct copy of the foregoing document by the method(s) noted below:

Electronically filed with the Clerk of the Court by using the ECF system which will send a notice of electronic filing to the following:

DANE W. ANDERSON, ESQ. for THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY

MICHAEL JAMES MORRISON, ESQ. for JOHN ILIESCU & SONNIA ILIESCU, TRUSTEES, JOHN ILIESCU, SONNIA ILIESCU

Deposited in the Washoe County mailing system for postage and mailing with the United States Postal Service in Reno, Nevada: [NONE]

Danielle Spinella
Administrative Secretary

FILED
Electronically
CV19-00459
2020-06-22 03:51:19 PM
Jacqueline Bryant
Clerk of the Court
Transaction # 7937253

1520
Dane W. Anderson, Esq.
Nevada Bar No. 6883
WOODBURN AND WEDGE
6100 Neil Road, Suite 500
Reno, Nevada 89511
Telephone: 775-688-3000
Facsimile: 775-688-3088
danderson@woodburnandwedge.com

Attorneys for Plaintiff, the Regional Transportation Commission of Washoe County

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an individual; AND SONNIA ILIESCU, an individual, Plaintiffs, v. THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1 – 40, inclusive, Defendants.	Case No.: CV19-00459 Dept. No.: 15

DECLARATION OF DANE W. ANDERSON REGARDING EXPENSES TO BE REIMBURSED BY DEFENDANTS

1. I am an attorney licensed to practice in the State of Nevada. I am over the age of 18 and make this declaration of my own personal knowledge.

2. I am a shareholder with the law firm of Woodburn and Wedge ("Woodburn"). Woodburn is counsel for defendant The Regional Transportation Commission of Washoe County ("RTC") in this matter. I have represented RTC in this matter since the date my firm accepted service of process on RTC's behalf.

3. I make this declaration pursuant to the Court's Recommendation For Order filed on June 10, 2020. Specifically, the Court ordered that Plaintiffs shall reimburse RTC "for reasonable expenses incurred in connection with RTC's *Motion for Discovery Sanctions* and its *Motion for Sanctions Pursuant to NRCP 37(b)(1)*" and directed that RTC submit a declaration with supporting documentation showing these expenses.

4. Attached as **Exhibit 1** is a true and correct Statement of Account for this matter. This document was generated by my firm's accounting department from our electronic billing system. It contains accurate entries for both attorney fees and costs incurred in this matter. My office has redacted entries for fees and costs that were not incurred "in connection with" RTC's motions for sanctions. I have also redacted relevant entries for information protected by the attorney client privilege and work product doctrine.

5. The attorney fees incurred "in connection with" RTC's motion—which I interpret as the fees incurred in the events giving rise to the motions, the motions themselves, and the work done to prepare this declaration—total $17,810 through May 31, 2020. I have done additional work for the month of June for which billing records are not yet available. I will file a supplemental declaration along with the supporting documentation when those records become available.

6. The costs incurred in connection with RTC's motions at issue are $739.90. Additional supporting documentation for these costs is included with **Exhibit 2**. Those costs are comprised of invoices from Sunshine Reporting & Litigation Services related to Plaintiffs' failure to appear at their depositions in March 2020.

7. These attorney fees and costs were reasonably incurred as part of RTC's reasonable and diligent efforts to discover the factual basis of Plaintiffs' claims, which efforts have been totally frustrated by Plaintiffs' refusal to participate in discovery. I believe an award of the entire amount is appropriate and supported by the record.

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

Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, NV 89511
775-688-3000

Affirmation pursuant to NRS 239B.030

The undersigned does hereby affirm that the above-entitled document filed in this matter does not contain the social security number of any person.

Dated this 22th day of June, 2020.

/s/ Dane W. Anderson
DANE W. ANDERSON

Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, NV 89511
775-688-3000

CERTIFICATE OF SERVICE

It is hereby certified that service of the foregoing **DECLARATION OF DANE W. ANDERSON IN SUPPORT OF MOTION FOR DISCOVERY SANCTIONS** was made through the Court's electronic filing and notification or, as appropriate, by sending a copy thereof by first-class mail from Reno, Nevada addressed as follows:

MICHAEL J. MORRISON, ESQ.
Nevada State Bar No. 1665
1495 Ridgeview Dr., #220
Reno, Nevada 89519
venturelawusa@gmail.com

Attorneys for Plaintiffs

DATED: June 22, 2020.

/s/ Dianne M. Kelling
Employee of Woodburn and Wedge

Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, NV 89511
775-688-3000

EXHIBIT INDEX

EXHIBIT NO.	DESCRIPTION OF EXHIBIT	NO OF PAGES INCLUDING EXHIBIT PAGES
1	Statement of Account	6
2	Supporting Documentation for Costs	7

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Jacqueline Bryant
Clerk of the Court
Transaction # 7937253

EXHIBIT 1

EXHIBIT 1

Statement of Account

010487 Regional Transportation Commission
000160 adv. John Iliescu, Jr. and Sonnia Iliescu, et al.

2050 Villanova Drive
PO Box 30002
Reno, NV 89520

- 06/10/2020
Time & Rate: Original Value

Fees

Date	ID	Description	Time	Hrly Rate	Orig Amount	Bill Amount
[redacted]						

Statement of Account

010487 Regional Transportation Commission
000160 adv. John Iliescu, Jr. and Sonnia Iliescu, et al.

- 06/10/2020
Time & Rate: Original Value

Fees

Date	ID	Description	Time	Hrly Rate	Orig Amount	Bill Amount
10/18/2019	DWA	Conference regarding depositions and begin preparing for same.	0.50	$325	$162.50	$162.50
10/21/2019	DWA	Review rules regarding video recording of depositions; Prepare amended notices of deposition to reflect video recording; Begin preparing for depositions of plaintiffs.	1.20	$325	$390.00	$390.00
10/22/2019	DWA	Work on deposition issues.	0.40	$325	$130.00	$130.00
10/23/2019	DWA	Conference with associate regarding depositions and issues re medical records request; Continue preparation for depositions.	1.00	$325	$325.00	$325.00
10/23/2019	BMK	Conference with DWA re depositions.	0.30	$250	$75.00	$0.00
10/24/2019	DWA	Work on deposition preparation.	0.40	$325	$130.00	$130.00
10/24/2019	BMK	Review complaint and other documents in prep for deposition of Plaintiff's; Annotate and begin drafting questions for deposition based upon allegations and claims made therein.	3.00	$250	$750.00	$0.00
10/25/2019	DWA	Work on deposition preparation.	1.60	$325	$520.00	$520.00
10/28/2019	DWA	Continue preparing for depositions; Telephone conference with Mike Morrison regarding his request to reschedule due to calendaring error; Conference with Dale Ferguson regarding same; Draft stipulation for early discovery; Draft email to Mike Morrison regarding rescheduling depositions and related issues.	2.50	$325	$812.50	$812.50
10/28/2019	BMK	Prep for depos; Conference with DWA re depos being rescheduled.	0.90	$250	$225.00	$0.00
10/29/2019	DWA	Emails with Mike Morrison regarding stipulation to conduct early discovery; Conference regarding his refusal to provide alternative dates for Iliescu depositions; Consider possible additional early discovery.	0.30	$325	$97.50	$97.50
		Total Fees: 10/2019	**12.80**		**$3,845.00**	**$2,795.00**
[redacted]		and begin working on reply.	[redacted]		[redacted]	[redacted]
11/8/2019	DWA	Work on discovery requests; Work on initial disclosures.	1.50	$325	$487.50	$487.50
[redacted]			[redacted]		[redacted]	[redacted]
11/25/2019	DWA	Conference regarding upcoming depositions of Iliescu; Email to Mike Morrison regarding medical releases.	0.30	$325	$97.50	$97.50
		Total Fees: 11/2019	**16.80**		**$5,460.00**	**$5,460.00**
[redacted]			[redacted]		[redacted]	[redacted]

Statement of Account

010487 Regional Transportation Commission
000160 adv. John Iliescu, Jr. and Sonnia Iliescu, et al.

-06/10/2020
Time & Rate: Original Value

Fees

Date	ID	Description	Time	Hrly Rate	Orig Amount	Bill Amount
[redacted]						
12/11/2019	DWA	Review discovery status and conference regarding Iliescu responses.	0.20	$325	$65.00	$65.00
		Total Fees: 12/2019	**4.30**		**$1,397.50**	**$1,397.50**
[redacted]						
		Total Fees: 02/2020	**15.70**		**$5,102.50**	**$4,777.50**
3/3/2020	DWA	Conference regarding depositions; Work on gathering documents; Research regarding Iliescus and their businesses and properties; Begin preparing for depositions.	3.00	$325	$975.00	$975.00
3/4/2020	DWA	Finish preparing for depositions, reviewing additional documents and assembling exhibits.	6.20	$325	$2,015.00	$2,015.00
3/9/2020	DWA	Review letter from John Iliescu to Court, physicians, counsel; Review prior correspondence [redacted]; Conference with colleagues [redacted]; Research [redacted] Consider motion for sanctions.	2.00	$325	$650.00	$650.00
3/11/2020	DWA	Review Court's notice of nonconsideration of Iliescu's letter.	0.20	$325	$65.00	$65.00
3/19/2020	DWA	Conference regarding notices of non-appearance to be included in motions for sanctions; Work on same.	0.50	$325	$162.50	$162.50
[redacted]						

Statement of Account

010487 Regional Transportation Commission
000160 adv. John Iliescu, Jr. and Sonnia Iliescu, et al.

- 06/10/2020
Time & Rate: Original Value

Fees

Date	ID	Description	Time	Hrly Rate	Orig Amount	Bill Amount
[redacted]	[redacted]	[redacted] Continue work on motion for sanctions, including researching applicable authority.	[redacted]	[redacted]	$1,300.00	$1,300.00
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
3/24/2020	DWA	Review file regarding notes of conversations with counsel; Begin review of emails from both cases for communications regarding plaintiffs' failure to participate in discovery; Research for cases specific to facts of case; Work on motion for sanctions; Email to client [redacted].	2.30	$325	$747.50	$747.50
3/25/2020	DWA	Continue work on motion for sanctions, reviewing file regarding prior communications, researching standards for dismissal and other sanctions.	1.10	$325	$357.50	$357.50
3/26/2020	DWA	Work on issues for motion for discovery sanctions; Work on disclosures.	1.70	$325	$552.50	$552.50
3/27/2020	DWA	Work on motion for discovery sanctions and related documents.	1.50	$325	$487.50	$487.50
3/30/2020	DWA	Review invoices from Litigation Services for Iliescus" non-appearance at deposition; Conference with staff [redacted]; Continue work on motion for sanctions and related documents.	0.60	$325	$195.00	$195.00
3/31/2020	DWA	Draft declaration of Dane W. Anderson in support of motion for discovery sanctions; Locate and assemble the numerous exhibits detailing the bases for dismissal of the action, including numerous emails, depositions notices and discovery requests; Continue work on motion for discovery sanctions.	7.50	$325	$2,437.50	$2,437.50
		Total Fees: 03/2020	**34.60**		**$11,245.00**	**$11,245.00**
4/1/2020	DEF	Review motion for discovery sanctions and supporting affidavit; Telephone conference with Dane W. Anderson.	1.20	$325	$390.00	$390.00
4/1/2020	DWA	Finish motion for sanctions and conference regarding exhibits.	3.30	$325	$1,072.50	$1,072.50
4/3/2020	DWA	Review Master's Recommendation for Order granting our motion to compel and brief research regarding same and award of sanctions.	0.50	$325	$162.50	$162.50
4/6/2020	DEF	Review recommendation for order.	0.40	$325	$130.00	$130.00
4/7/2020	DWA	Conference call with client [redacted].	0.30	$325	$97.50	$97.50
4/20/2020	DWA	Review order approving Discovery Commissioner's recommendation for order re motion to compel; Review docket re discovery issues; Draft request for submission of request for discovery sanctions; Draft motion to additional discovery sanctions based on Plaintiffs' failure to comply with order granting motion to compel; Conference regarding Iliescus' failure to oppose motion for discovery sanctions; Prepare request for submission noting Iliescus' failure to respond.	3.10	$325	$1,007.50	$1,007.50
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
4/29/2020	DWA	Emails with Mike Morrison regarding case.	0.20	$325	$65.00	$65.00
4/30/2020	DWA	Email from Mike Morrison regarding motion for sanctions; Review docket regarding same and conference regarding request for extension; Consider strategy for allowing or disallowing extension; Review NRCP 16.1 issues.	0.80	$325	$260.00	$260.00
		Total Fees: 04/2020	**10.50**		**$3,412.50**	**$3,412.50**
5/12/2020	DWA	Review docket and draft report to Dale Ferguson regarding case status and	0.50	$325	$162.50	$162.50

Statement of Account

010487 Regional Transportation Commission
000160 adv. John Iliescu, Jr. and Sonnia Iliescu, et al.

- 06/10/2020
Time & Rate: Original Value

Fees

Date	ID	Description	Time	Hrly Rate	Orig Amount	Bill Amount
		strategy.				
5/15/2020	DEF	Review Plaintiff's opposition to RTC motion for sanctions.	0.50	$325	$162.50	$162.50
5/15/2020	DWA	Review plaintiffs' opposition to motion for sanctions; Research issues raised therein and begin work on reply brief.	2.00	$325	$650.00	$650.00
5/18/2020	DWA	Finish drafting reply brief in support of motion for sanctions; Review docket regarding status of prior motion for sanctions; Revise and finalize brief.	3.00	$325	$975.00	$975.00
		Total Fees: 05/2020	**6.00**		**$1,950.00**	**$1,950.00**
		Total Fees:	**153.80**		**$49,362.50**	**$46,962.50**

Costs and Expenses

Date	Description	Orig Expense	Orig Cost	Bill Amount
[redacted]				
03/25/2020	Sunshine Reporting & Litigation Services- - Certificate of Non-appearance for John Iliescu, Jr.		$209.95	$209.95
	Total Costs/Expenses: 03/2020	**$1.20**	**$209.95**	**$209.95**
[redacted]				
04/03/2020	Sunshine Reporting & Litigation Services- - Certificate of Non-Appearance for Sonnia Iliescu		$234.95	$234.95
04/03/2020	Sunshine Reporting & Litigation Services- - Cancelled Videography Services for John Iliescu, Jr.		$295.00	$295.00
	Total Costs/Expenses: 04/2020	**$0.50**	**$529.95**	**$529.95**
	Total Costs/Expenses:	**$2,224.76**	**$751.10**	**$751.10**

Other Accounting

Date	Description	Amount

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Jacqueline Bryant
Clerk of the Court
Transaction # 7937253

EXHIBIT 2

EXHIBIT 2

WOODBURN AND WEDGE

111103

INVOICE	DATE	DESCRIPTION	INV AMOUNT
1372254	3/25/2020	Certificate of Non-appearance for John Iliescu, Jr.	209.95

Check# / Date 111103 3/25/2020 Sunshine Reporting & Litigation Services 209.95

Requested by: FIRM G/L 1180 1180-000

RTC adv. Iliescu
10487-160

INVOICE

Litigation Services
Discovery Depositions Trial

151 Country Estates Circle
Reno, NV 89511
Phone: 800 330-1112
litigationservices.com

Invoice No.	Invoice Date	Job No.
1372254	3/13/2020	609037
Job Date	**Case No.**	
3/5/2020	CV19-00459	
Case Name		
Iliescu, Jr., John et al. vs. The Regional Transportation Commission		
Payment Terms		
Net 30		

Dane W. Anderson, Esq.
Woodburn & Wedge
P.O. Box 2311
Reno, NV 89505

Certificate of Non-Appearance for:
John Iliescu, Jr.

209.95

TOTAL DUE >>> **$209.95**
AFTER 4/12/2020 PAY $230.95

Client Matter No.: 010487-160
Claim No. : N/A
Insured : N/A
Location of Job : Reno, NV

NC
DWA

Please note, disputes or refunds will not be honored or issued after 30 days

Tax ID: 20-3835523 Phone: 775-688-3000 Fax:775-688-3088

Please detach bottom portion and return with payment

WOODBURN AND WEDGE

111141

INVOICE	DATE	DESCRIPTION	INV AMOUNT
1373754	4/3/2020	Certificate of Non-Appearance for Sonnia Iliescu	234.95

Check# / Date 111141 4/3/2020 Sunshine Reporting & Litigation Services 234.95

Requested by: FIRM G/L 1180 1180-000

#10487-100

INVOICE

SUNSHINE Litigation SERVICES
Discovery | Depositions | Trial

151 Country Estates Circle
Reno, NV 89511
Phone: 800-330-1112
litigationservices.com

BHK

Bronagh M. Kelly
Woodburn & Wedge
P.O. Box 2311
Reno, NV 89505

5549

Invoice No.	Invoice Date	Job No.
1373754	3/17/2020	609040
Job Date	**Case No.**	
3/6/2020	CV19-00459	
Case Name		
Iliescu, Jr., John et al. vs. The Regional Transportation Commission		
Payment Terms		
Net 30		

Certificate of Non-Appearance for:
Sonnia Iliescu 234.95

TOTAL DUE >>> **$234.95**
AFTER 4/16/2020 PAY $258.45

Please note, disputes or refunds will not be honored or issued after 30 days

Tax ID: 20-3835523 Phone: 775-688-3000 Fax:775-688-3088

WOODBURN AND WEDGE

111142

INVOICE	DATE	DESCRIPTION	INV AMOUNT
1375152	4/3/2020	Cancelled Videography Services for John Iliescu, Jr.	295.00

Check# / Date	111142	4/3/2020	Sunshine Reporting & Litigation Services		295.00
Requested by:	FIRM		G/L 1180	1180-000	

INVOICE

SUNSHINE Litigation SERVICES
Discovery | Depositions | Trial

151 County Estates Circle
Reno, NV 89511
Phone: 800-330-1112
litigationservices.com

2. pay

Dane W. Anderson, Esq.
Woodburn & Wedge
P.O. Box 2311
Reno, NV 89505

Invoice No.	Invoice Date	Job No.
1375152	3/19/2020	609526
Job Date	**Case No.**	
3/5/2020	CV19-00459	
Case Name		
Iliescu, Jr., John et al. vs. The Regional Transportation Commission		
Payment Terms		
Net 30		

Cancelled Videography Services for:
John Iliescu, Jr. (Video) 295.00

TOTAL DUE >>> **$295.00**
AFTER 4/18/2020 PAY $324.50

Please note, disputes or refunds will not be honored or issued after 30 days

Tax ID: 20-3835523

Phone: 775-688-3000 Fax:775-688-3088

Please detach bottom portion and return with payment

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Jacqueline Bryant
Clerk of the Court
Transaction # 7949738

CODE NO. 2690

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

* * *

JOHN ILIESCU, JR., and SONNIA ILIESCU, Trustees of THE JOHN ILIESCU, JR. AND SONNIA ILIESCU 1992 FAMILY TRUST,

Plaintiffs,

vs.

THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY et al.,

Defendants.

/

Case No. CV19-00459

Dept. No. 15

CONFIRMING ORDER

On June 10, 2020, the Discovery Commissioner served a *Recommendation for Order* in this action. None of the parties to this action has filed an objection regarding that recommendation and the period for filing any objection concerning that recommendation has expired. See NRCP 16.3(c)(2).

ACCORDINGLY, the Court hereby CONFIRMS, APPROVES, and ADOPTS the Discovery Commissioner's Recommendation for Order served on June 10, 2020.

DATED this 30th day of June, 2020.

DISTRICT JUDGE

CERTIFICATE OF SERVICE

CASE NO. CV19-00459

I certify that I am an employee of the SECOND JUDICIAL DISTRICT COURT of the STATE OF NEVADA, COUNTY OF WASHOE; that on the 30 day of June, 2020, I electronically filed the **CONFIRMING ORDER** with the Clerk of the Court by using the ECF system.

I further certify that I transmitted a true and correct copy of the foregoing document by the method(s) noted below:

Electronically filed with the Clerk of the Court by using the ECF system which will send a notice of electronic filing to the following:

DANE ANDERSON, ESQ. for THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY

SONNIA ILIESCU

BRONAGH KELLY, ESQ. for THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY

MICHAEL MORRISON, ESQ. for JOHN JR. ILIESCU, JOHN ILIESCU & SONNIA ILIESCU, TRUSTEES

Deposited in the Washoe County mailing system for postage and mailing with the United States Postal Service in Reno, Nevada:

NONE

JUDICIAL ASSISTANT

FILED
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Jacqueline Bryant
Clerk of the Court
Transaction # 7949756

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU, JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an Individual; and SONNIA ILIESCU, an Individual,

Plaintiff,

vs.

THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1-40,

Defendants.

_____/

Case No. CV19-00459

Dept. No. 15

ORDER TO SET

On April 22, 2020, this Court entered a pretrial order requiring the parties to contact the Department 15 Judicial Assistant and schedule a setting appointment within 20 days. At the setting appointment the parties were to set an early pretrial scheduling conference, a final pretrial conference, and trial. To date no party has contacted Department 15 or filed a notice to set. If Plaintiffs do not file a notice to set within 14 days this case may be dismissed without prejudice.

IT IS SO ORDERED.

Dated: June 30, 2020.

David A. Hardy
District Court Judge

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2020-06-30 11:56:34 PM
Jacqueline Bryant
Clerk of the Court
Transaction # 7950620 : bblough

2645
MICHAEL J. MORRISON, ESQ.
Nevada State Bar No. 1665
1495 Ridgeview Dr., #220
Reno, Nevada 89519
(775) 827-6300

Attorney for Plaintiffs

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

* * * * *

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU, JR. AND SONNIA ILIESCU 1992 FAMILY TRUST, Plaintiff, vs. THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; AND DOES 1-40, Defendants.	CASE NO. CV19-00459 DEPT. NO. 15 **PLAINTIFFS' NOTICE ON INTENT TO FILE OPPOSITION TO DEFENDANT'S STATEMENT OF CLAIMED COSTS AND FEES**

COME NOW JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU, JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., individually; and SONNIA ILIESCUE, individually (collectively, "the "Plaintiffs"), by and through their attorney, Michael J. Morrison, Esq., and oppose Defendant Regional Transportation Commission of Washoe County's ("the RTC") 2 Motions for Sanctions. This Opposition is made and based upon, and supported by, the following points and authorities, as follows:

///

POINTS AND AUTHORITIES

I. OVERVIEW

On June 10, 2020, the Discovery Commissioner made his Recommendation for Order ("Order"), specifically directing RTC to submit a declaration with supporting documentation showing the reasonable expenses incurred in connection with the 2 Motions. Order, p. 13, lines 13-14. No time for filing the RTC declaration was provided by the Commissioner.

RTC did not file its declaration until June 22, 2020 - 12 days after the date of the Commissioner's Order. It was at that time that Plaintiffs first had knowledge of the claimed "reasonable expenses" RTC alleged it was entitled to.

Plaintiffs then started reviewing the declaration and preparing their response to the RTC declaration, as specifically authorized by the Commissioner in his Order, at p.13, lines 14-15. No time for filing the Plaintiffs' response was provided by the Commissioner. At this time, Plaintiffs have been engaging in good-faith efforts to prepare their response and, most significantly, are well into the briefing process for their response and anticipate filing their response no later than July 2, 2020.

Accordingly, Plaintiffs respectfully submit to this Court that the NRCP 16.3 standards should not be the basis/time for declaring the Order unopposed, since the Order had set different time standards.

II. CONCLUSION

Based on the foregoing, the Iliescu Plaintiffs respectfully request that this Court withdraw its Order of this date and allow Plaintiffs to have the matter decided on its merits.

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the document to which this Affirmation is attached does not contain the social security number of any person.

DATED this 10th day of February, 2020.

/s/ Michael J. Morrison
Michael J. Morrison, Esq.
Nevada State Bar No. 1665
1495 Ridgeview Dr., #220
Reno, Nevada 89519
(775) 827-6300
Attorney for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on this date I personally caused to be served a true copy of the foregoing PLAINTIFFS' OPPOSITION TO DEFENDANT'S SUPPLEMENTAL MOTION TO DISMISS indicated and addressed to the following:

Dane W. Anderson, Esq.
WOODBURN AND WEDGE
6100 Neil Road, Suite 500
Reno, Nevada 89511

____ Via U.S. Mail
____ Via Overnight Mail
____ Via Hand Delivery
____ Via Facsimile
__X__ Via ECF

DATED this 10th day of February, 2020.

/s/Michael J. Morrison
Michael J. Morrison, Esq.

F I L E D
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2020-07-06 12:39:52 PM
Jacqueline Bryant
Clerk of the Court
Transaction # 7956088 : csulezic

3880
MICHAEL J. MORRISON, ESQ.
Nevada State Bar No. 1665
1495 Ridgeview Dr., #220
Reno, Nevada 89519
(775) 827-6300

Attorney for Plaintiffs

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

*** * * * ***

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU, JR. AND SONNIA ILIESCU 1992 FAMILY TRUST, Plaintiff, vs. THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; AND DOES 1-40, Defendants.	CASE NO. CV19-00459 DEPT. NO. 15 **PLAINTIFFS' RESPONSE TO DECLARATION OF DANE W. ANDERSON REGARDING EXPENSES TO BE REIMBURSED BY DEFENDANTS**

COME NOW JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU, JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., individually; and SONNIA ILIESCUE, individually (collectively, "the Iliescu Plaintiffs"), by and through their attorney, Michael J. Morrison, Esq., and pursuant to the June 10, 2020, Recommendation for Order, respond to the Declaration of Dane W. Anderson regarding expenses to be reimbursed by the Defendants (*sic*.), as follows:

SUPPORTING POINTS AND AUTHORITIES

I. OVERVIEW

Pursuant to the June 10, 2020, Recommendation for Order in this case, the Iliescu Plaintiffs are ordered to reimburse Defendant ("the RTC") for the "…*reasonable* expenses incurred in connection with [the Defendant's] Motion for Discovery Sanctions and its Motion for Sanctions pursuant to NRCP 37(b)(1)…." (emphasis added). To that end, the RTC has been required to "…submit a declaration, with supporting documentation, showing the *reasonable* expenses incurred *in connection with these two motions*, to which the Plaintiffs may file a response…." *Id.* (emphasis added).

In response to the June 10, 2020, Recommendation for Order, counsel for Defendant submitted a declaration and supporting documents for his request that the Iliescu Plaintiffs pay, as sanctions, **$17,810.00,** purportedly representing the fees incurred "in connection with" the RTC's two motions for sanctions. In so doing, counsel for the RTC has interpreted the phrase "in connection with" to include not only months of work that preceded the point in time that RTC counsel first considered a motion for sanctions, but also work on discovery issues that had to be done in the case in any event in order to be prepared for discovery activities. Plaintiffs respectfully submit that the amount RTC counsel seeks for fees "in connection with" sanctions, however, is not only unreasonable, it is grossly excessive.

II. ARGUMENT

While it is generally within this Court's discretion to determine a reasonable amount of attorney fee under a statute or rule, it must evaluate those fees under the factors stated in *Brunzell v. Golden Gate Nat'l Bank,* 85 Nev. 345, 349, 455 P.2d 31, 33 (1969). *See Miller v. Wilfong,* 121 Nev. 619, 623, 119 P.3d 727, 730 (Nev. 2005). Those factors include the qualities of the advocate, the character and difficulty of the work performed, the work actually performed by the attorney, and the result obtained.

Brunzell, supra. While there is no dispute that counsel for the RTC is a reputable and experienced attorney and that he prevailed on his motions for sanctions, the nature and scope of the non-duplicated, original work he performed "in connection" with the two motions for sanctions do not justify an award of fees of nearly $18,000.00.

Initially, and as noted above, the Iliescu Plaintiffs take issue with RTC's counsel's interpretation of fees incurred "in connection with" the two motions for sanctions as including months of fees incurred for work that preceded the date when he considered a motion for sanctions. Based upon the unredacted information attached as Exhibit 1 to RTC's counsel's declaration, from October 18, 2019 to March 4, 2020, RTC incurred nearly $7,300.00 in fees for *preparing for and discussing depositions, and preparing other discovery requests and disclosures*. *See* Exhibit 1 to RTC's counsel's declaration at 2-3 (billing entries from October 18, 2019 through March 4, 2020). RTC's counsel's billing for *discovery-related* work, as opposed to *sanction-related* work, however, is not work that is "in connection with" his two motions for sanctions, which is the clear and unequivocal scope of the Commissioner's Recommendation for Order and this Court's Confirming Order. Not only does counsel include, e.g., billings for preparing discovery disclosures that he is required, under the discovery Rules, to provide on behalf of his clients (*Id.* at 2 – 11/8/2019 entry), counsel is also including in his fees calculation the fees incurred to prepare for depositions that the June 10, 2020, Recommendation for Order requires to occur and for preparing discovery requests for which the June 10, 2020, Recommendation for Order requires responses. *See* June 10, 2020, Recommendation for Order at 12-13. Indeed, it is all work that occurs in the general course of discovery in civil cases and, therefore, is not "in connection with" RTC's counsel's two motions for sanctions for which this Court has permitted RTC to recover its fees. Thus, the Iliescu Plaintiffs respectfully submit that the nearly $7,300.00 for RTC's counsel's fee entries from October 18, 2019 through March 4, 2020, should not be included in the calculation of the attorney's fees

RTC is being awarded for fees based solely and exclusively on the time expended "in connection with" the two motions, as clearly and unequivocally articulated in the Commissioner's June 10, 2020, Recommendation for Order.

Moreover, the amount that RTC's counsel seeks for fees that he suggests are "in connection with" his two motions for sanctions is blatantly unreasonable and grossly excessive. Indeed, the substantive portion of RTC's April 1, 2020, Motion for Discovery Sanctions is essentially three (3) pages that consist of a conclusory overview and a "Law and Argument" section that cites to the well-known rule and case law that generally governs discovery sanctions and is oft-cited in support thereof. In his supporting declaration to that motion, RTC's counsel devotes six pages to outlining, with exhibits, the dialog he and counsel for the Iliescu Plaintiffs had regarding the depositions RTC's counsel sought to take of the Iliescu Plaintiffs. While RTC's counsel attached numerous exhibits, most of which were brief email exchanges, none of them were voluminous or complex. Yet, after March 4, 2020, when RTC's counsel apparently first "consider[ed] motion for sanctions" (Exhibit 1 to RTC's counsel's declaration in support of fees at 4), RTC's counsel billed approximately 25 hours and nearly $8,00.00 in fees to that effort and "review" of the resulting Recommendation for Order. *See* Exhibit 1 to RTC's counsel's declaration at 3-4 (billing entries from March 19, 2020 through April 6, 2020).[1] For an attorney as experienced, seasoned and reputable as counsel for the RTC, and because his motion and request are not complex and are based upon well-known and often-cited authority, the time spent and fees charged for the first motion for sanctions is wholly excessive and unreasonable.

The time spent and fees charged for RTC's second motion for sanctions is also excessive and unreasonable. That effort consisted of RTC's counsel's two (2)-page

[1] Included in this calculation is the first billing entry on page 4 of Exhibit 1, most of which (including the date, the initials of the person doing the work, the time billed, and the hourly rate) is redacted, but indicates $1,300.00 billed for "Continue work on motion for sanctions, including researching applicable authority." Because attorney time for RTC appears to be primarily billed at $325/hour, the calculation for this entry was for 4 hours.

motion and three (3)-page reply, most of which relies on and/or recites to what had previously been filed and otherwise summarily, and with virtually no authority, argues with the basis on which the Iliescu Plaintiffs opposed the second motion for sanctions. Nevertheless, RTC's counsel spent more than ten (10) hours and billed nearly $3,300.00 for their work "in connection with" the second motion for sanctions – time and charges Plaintiff's counsel respectfully and in good faith submits are wholly inconsistent and excessive, given (1) the amount, scope and simplicity of the work performed, combined with (2) the manifest experience of RTC's counsel in undeniably similar condemnation cases, as well as the vast number of civil litigation cases handled by Woodburn Wedge, RTC's instant counsel, in the Reno area, as well as (3) the undeniably vast databank of research, forms and similar pleadings the firm – and, specifically, RTC's counsel – has at his easy access, especially given the number of decades the firm has represented the RTC in similar, if not identical condemnation cases. Plaintiff's counsel respectfully submits that it is common knowledge among lawyers practicing condemnation law, as well as the Courts that try such cases, that there are only a small number of issues and arguments that can be asserted in condemnation cases, and especially in this case, as the statutory provisions are very narrow and limited in that regard. *See generally*, NRS 271.275 - 271.285 (inclusive).

Finally, the RTC requests that this Court award it $739.90 in costs invoices from Sunshine Reporting & Litigation Services related to the Iliescu Plaintiffs' "failure to appear at their depositions in March 2020." By RTC's counsel's own statements in this case, however, those costs – and in particular, the costs associated with the certificates of non-appearance – were unnecessarily incurred. According to RTC's counsel, the Iliescu Plaintiffs' counsel made efforts to advise RTC's counsel, during regular business hours and prior to the scheduled depositions of the Iliescu Plaintiffs, that the Iliescu Plaintiffs were not able to attend their depositions. *See* RTC's counsel's April 1, 2020, declaration in support of motion for discovery sanctions (on file in this case) at

6 (¶ 23), which states: (1) Plaintiffs' counsel left a voicemail for RTC's counsel the evening before the deposition scheduled for Plaintiff John Iliescu, Jr. letting him know that Dr. Iliescu would not be at the deposition the following day, but counsel for RTC did not receive the message because he left early from the office that day (*Id.* at ¶ 22) and did not return to the office in the morning before the 10:00 a.m. deposition; and (2) that, the day before Sonnia Iliescu's scheduled deposition, counsel for the Iliescu Plaintiffs advised RTC's counsel that she was not able to attend the deposition. To that end, the charges associated with the notices of non-appearance were not necessary and, therefore, should not be attributable to the Iliescu Plaintiffs.

III. CONCLUSION

Based on the foregoing, the Iliescu Plaintiffs respectfully request that this Court deny RTC's request for $17,810.00 in attorney's fees and $739.90 in costs for their counsel's work "in connection with" RTC's two motions for sanctions as unreasonable and excessive, and impose any monetary sanction related to the attorney's fees and costs that RTC incurred "in connection with" its two motions for sanctions in a manner consistent with that which is "reasonable" in light of the nature, simplicity and scope of the motions in the context and under the circumstances of this case.

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the document to which this Affirmation is attached does not contain the social security number of any person.

DATED this 6th day of July, 2020.

/s/ Michael J. Morrison
Michael J. Morrison, Esq.
Nevada State Bar No. 1665
1495 Ridgeview Dr., #220
Reno, Nevada 89519
(775) 827-6300
Attorney for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on this date I personally caused to be served a true copy of the foregoing PLAINTIFFS' RESPONSE TO DECLARATION OF DANE W. ANDERSON REGARDING EXPENSES TO BE REIMBURSED BY DEFENDANTS indicated and addressed to the following:

Dane W. Anderson, Esq.
WOODBURN AND WEDGE
6100 Neil Road, Suite 500
Reno, Nevada 89511

____ Via U.S. Mail
____ Via Overnight Mail
____ Via Hand Delivery
____ Via Facsimile
XX Via ECF

DATED this 6th day of July, 2020.

/s/ Michael J. Morrison

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Jacqueline Bryant
Clerk of the Court
Transaction # 7966844 : csulezic

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Attorneys for Plaintiff, the Regional Transportation Commission of Washoe County

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an individual; AND SONNIA ILIESCU, an individual, Plaintiffs, v. THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1 – 40, inclusive, Defendants.	Case No.: CV19-00459 Dept. No.: 15

RTC'S REPLY TO PLAINTIFFS' RESPONSE TO DECLARATION OF DANE W. ANDERSON REGARDING EXPENSES TO BE REIMBURSED BY DEFENDANTS

Defendant The Regional Transportation Commission of Washoe County ("RTC") replies to Plaintiffs' Response To Declaration Of Dane W. Anderson Regarding Expenses To Be Reimbursed By Defendants as follows[1]:

/ / /

[1] To the extent Plaintiffs' "Notice On [sic] Intent To File Opposition To Defendant's Statement Of Claimed Costs And Fees filed on June 30, 2020 contains anything of substance, this reply responds to that as well.

I. INTRODUCTION

Plaintiffs' objection to RTC's claimed fees is based on an exceedingly narrow interpretation of "in connection with" as well as a fundamental lack of understanding of their own case. They argue that the Court should not award the $17,810 in attorney fees and $739.90 in costs that RTC has requested. However, Plaintiffs fail to make any suggestion as to what they believe is a reasonable award for the expenses incurred in connection with their repeated and unexcused failures to comply with legitimate discovery requests causing RTC to incur substantial expenses "in connection with" those failures.

It appears Plaintiffs are suggesting RTC should be awarded almost nothing for fees incurred "in connection with" Plaintiffs repeated discovery abuses. RTC did not file this action. Plaintiffs filed this lawsuit over a year and a half ago and have done *nothing* to move it forward; instead, they have thwarted RTC's reasonable discovery efforts at every turn. They have failed and refused to appear for their depositions multiple times, after RTC's counsel had prepared on each occasion for those depositions. They have only recently produced documents in response to long overdue requests for production and this Court's order upon a motion to compel, none of which documents support their allegations of serious wrongdoing against RTC.

Plaintiffs' response is a "good cop-bad cop" attack on RTC's counsel, heaping praise on RTC's counsel while at the same time accusing him of requesting unreasonable and excessive fees. Plaintiffs ignore their own culpability in filing this action, agreeing to early discovery, agreeing to multiple deposition dates, refusing to appear at the same, and causing RTC to incur substantial expense in the process. It is also worth noting that Plaintiffs have failed to pay RTC the $1,000 sanction previously awarded for their discovery abuses.

Plaintiffs were ordered to pay RTC "reasonable expenses incurred in connection with" RTC's two discovery motions. "In connection with" is a broad phrase which, in the context of this case, involves not only the drafting of the two discovery motions but the frustrated discovery expenses incurred "in connection with" those motions, which will largely have to be repeated if and when Plaintiffs ever appear for their depositions.

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Merriam-Webster broadly defines "in connection with" as "in relation to (something); for reasons that relate to (something)."

All the discovery RTC has attempted to do in this case was done "for reasons that related to" the two motions discovery motions. RTC's counsel has prepared for Plaintiffs depositions in October, December, and March, only to have Plaintiffs cancel at the last minute every time. If they decide to appear for a future deposition, those efforts will have to be repeated again. This is no "ordinary course of discovery" work. Having to repeat work because of Plaintiffs' dilatory conduct is not ordinary discovery work. RTC should be awarded all of its claimed expenses.

II. PLAINTIFFS' OBJECTION TO RTC'S CLAIMED DEPOSITION COSTS IS ABSURD.

Despite failing to appear for the third time at a scheduled deposition, Plaintiffs' object to RTC's claim for $739.90 in deposition costs. Plaintiffs' counsel suggested these costs were unnecessarily incurred because he left a voicemail at 4:40 p.m. the night before the scheduled video deposition of his clients were scheduled to occur. This voicemail left "during regular business hours" came after several requests by RTC's counsel for confirmation. Even if RTC's counsel had been in the office to receive this exceedingly late cancellation, RTC could not have avoided the charge imposed by the reporter. After Plaintiffs' repeated refusals to comply with discovery, it was not unreasonable for RTC to also notice the nonappearance of Mrs. Iliescu the following day. Plaintiffs have done nothing to comply with discovery and should be subject to substantial sanctions.

III. THIS IS NOT A CONDEMNATION ACTION

Plaintiffs are confused about the nature of their own case. Plaintiffs repeatedly suggest this is a simple "condemnation" case in an attempt to challenge the reasonableness of the fees RTC's to recover. Opposition at 5:4-17. This is not a condemnation action. RTC does not seek to acquire any property from Plaintiffs through the exercise of eminent domain.

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Rather, Plaintiffs filed this action accusing RTC (and a number of other unidentified defendants) of numerous atrocities related to alleged trespasses by RTC on their property. This case has been far from simple. Plaintiffs initially asserted twelve claims for relief for a variety of alleged damages ranging from personal injury to real property destruction to punitive damages—with claims alleging elder abuse, civil conspiracy and conversion, among others. Through several motions to dismiss and Plaintiffs' voluntary dismissal of certain claims to avoid discovery into their medical conditions, the number of claims was reduced but the underlying allegations are no less simple.

Contrary to Plaintiffs' suggestion, there is no roadmap for a case like this one. The undersigned does not have "manifest experience" with this type of case nor is there a "vast databank of research" to Plaintiffs' claims. Plaintiffs' suggestion that this is a run-of-the-mill case is belied by their own pleadings. Plaintiffs' complaint gave rise to RTC's request for early discovery and their blatant failure to comply with the rules of discovery and this Court's orders gave rise to significant expenses "incurred in connection with" RTC's two sanctions motions.

IV. CONCLUSION

"In connection with" is a broad term that should be construed accordingly. RTC did not ask for this case to be filed. Plaintiffs decided to file this lawsuit. RTC has acted reasonably by engaging in discovery efforts to discover the factual basis of Plaintiffs' claims but have been frustrated at every turn. RTC is entitled to a substantial award of fees and costs incurred "in connection with" with the discovery motions they filed. This includes its efforts related to the discovery giving rise to those motions, with which Plaintiffs have flat out refused to comply.

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Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, NV 89511
775-688-3000

Affirmation pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding RTC'S Reply to Plaintiffs' Response to Declaration of Dane W. Anderson Regarding Expenses to be Reimbursed by Defendants does not contain the personal information of any person.

DATED: July 13, 2020

WOODBURN AND WEDGE

By *__/s/ Dane W. Anderson__*
Dane W. Anderson, Esq.
Nevada Bar No. 6883
Attorneys for Plaintiff
The Regional Transportation
Commission of Washoe County

Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, NV 89511
775-688-3000

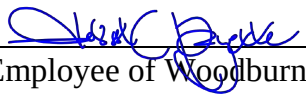
CERTIFICATE OF SERVICE

It is hereby certified that service of the foregoing RTC'S REPLY TO PLAINTIFFS' RESPONSE TO DECLARATION OF DANE W. ANDERSON REGARDING EXPENSES TO BE REIMBURSED BY DEFENDANTS was made through the Court's electronic filing and notification or, as appropriate, by sending a copy thereof by first-class mail from Reno, Nevada addressed as follows:

MICHAEL J. MORRISON, ESQ.
Nevada State Bar No. 1665
1495 Ridgeview Dr., #220
Reno, Nevada 89519
venturelawusa@gmail.com

Attorneys for Plaintiffs

DATED: July 13, 2020.



Employee of Woodburn and Wedge

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Clerk of the Court
Transaction # 7973986

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Nevada Bar No. 6883
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bkelly@woodburnandwedge.com

Attorneys for Defendant, the Regional Transportation Commission of Washoe County

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an individual; AND SONNIA ILIESCU, an individual, Plaintiffs, v. THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1 – 40, inclusive, Defendants.	Case No.: CV19-00459 Dept. No.: 15

REQUEST FOR SUBMISSION

It is hereby requested that the Declaration of Dane W. Anderson Regarding Expenses To Be Reimbursed By Defendants [*sic*], filed on June 22, 2020, be submitted to the Court for consideration and determination.

///

///

A true and correct copy of this request has been served on all counsel and parties.

Affirmation pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the personal information of any person.

DATED: July 16, 2020.

WOODBURN AND WEDGE

By: /s/ Dane W. Anderson
Dane W. Anderson, Esq.
Nevada Bar No. 6883
Bronagh M. Kelly, Esq.
Nevada Bar No. 14555

Attorneys for Defendant
The Regional Transportation
Commission of Washoe County

Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, NV 89511
775-688-3000

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Woodburn and Wedge and that on this date, I caused to be sent via electronic delivery through the Court's E-flex system a true and correct copy of the **REQUEST FOR SUBMISSION** to:

MICHAEL J. MORRISON, ESQ.
1495 Ridgeview Dr., #220
Reno, Nevada 89519
venturelawusa@gmail.com

Attorneys for Plaintiffs

DATED: July 16, 2020.

/s/ Dianne M. Kelling
Employee of Woodburn and Wedge

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Transaction # 7981140

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Attorneys for Defendant, the Regional Transportation Commission of Washoe County

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an individual; AND SONNIA ILIESCU, an individual, Plaintiffs, v. THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1 – 40, inclusive, Defendants.	Case No.: CV19-00459 Dept. No.: 15

SUPLEMENTAL DECLARATION OF DANE W. ANDERSON REGARDING EXPENSES TO BE REIMBURSED BY PLAINTIFFS

1. This supplemental declaration provides additional information for June 2020 and July 2020 that was not available at the time of my declaration of June 22, 2020. This supplemental declaration is submitted to support RTC's claim for reimbursement of expenses pursuant to the Discovery Commissioner's Recommendation For Order filed on June 10, 2020, which has since been affirmed by this Court.

2. Attached as **Exhibit 1** is a true and correct Statement of Account for this matter for the months of June 2020 and July 2020. This document was generated by my firm's accounting department from our electronic billing system. It contains accurate entries for attorney fees and costs incurred in this matter. My office has redacted entries for fees and costs that were not incurred "in connection with" RTC's motions for sanctions. I have also redacted, if necessary, any relevant entries for information protected by the attorney client privilege and work product doctrine.

5. My prior declaration provided support for the attorney fees incurred "in connection with" RTC's motions—which I interpret as the fees incurred in the events giving rise to the motions, the motions themselves, and the work done to prepare this declaration—total $17,810 through May 31, 2020. The costs incurred in connection with RTC's motions were $739.90, for a requested award of reimburse of fees and costs through May 31, 2020 of $18,549.90.

6. The additional work I have performed in June 2020 and July 2020 "in connection" with RTC's motions for sanctions is described in the attached Exhibit 1. This work generally includes reviewing the Discovery Commissioner's recommendation, preparing my declaration of June 22, 2020, reviewing Plaintiffs' "notice of intent" to file an opposition, reviewing their actual opposition and then preparing a reply along with this supplemental declaration. These additional fees total $4,647.50.

7. RTC requests that these fees also be awarded in addition to those previously requested, for a total award of reimbursement of $23,197.40.

8. All of fees and costs were reasonably incurred "in connection" with RTC's motions for sanctions, as they all derive from Plaintiffs' failure to participate in discovery. Discovery disputes are expensive. Had Plaintiffs simply cooperated from the start, in a case they filed, RTC would not have incurred all these fees in connection with seeking sanctions against Plaintiffs. A substantial award is necessary not only to give RTC some measure of relief, but also to punish and deter Plaintiffs from further engaging in dilatory behavior as this case proceeds to trial.

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

Affirmation pursuant to NRS 239B.030

The undersigned does hereby affirm that the above-entitled document filed in this matter does not contain the social security number of any person.

Dated this 21st day of July, 2020.

/s/ Dane W. Anderson
DANE W. ANDERSON

Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, NV 89511
775-688-3000

CERTIFICATE OF SERVICE

It is hereby certified that service of the foregoing **SUPPLEMENTAL DECLARATION OF DANE W. ANDERSON REGARDING EXPENSES TO BE REIMBURSED BY PLAINTIFFS** was made through the Court's electronic filing and notification addressed as follows:

MICHAEL J. MORRISON, ESQ.
Nevada State Bar No. 1665
1495 Ridgeview Dr., #220
Reno, Nevada 89519
venturelawusa@gmail.com

Attorneys for Plaintiffs

DATED: July 21, 2020.

/s/ Dianne M. Kelling
Employee of Woodburn and Wedge

EXHIBIT INDEX

EXHIBIT NO.	DESCRIPTION OF EXHIBIT	NO OF PAGES INCLUDING EXHIBIT PAGES
1	Statement of Account for June and July, 2020	3

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2020-07-21 01:52:07 PM
Jacqueline Bryant
Clerk of the Court
Transaction # 7981140

EXHIBIT 1

EXHIBIT 1

Statement of Account

010487 Regional Transportation Commission
000160 adv. John Iliescu, Jr. and Sonnia Iliescu, et al.

06/01/2020 - 07/21/2020
Time & Rate: Original Value

2050 Villanova Drive
PO Box 30002
Reno, NV 89520

Fees

Date	ID	Description	Time	Hrly Rate	Orig Amount	Bill Amount
6/10/2020	DEF	Review recommendation for order re motions for discovery sanctions.	0.80	$325	$260.00	$260.00
6/10/2020	DWA	Review Discovery Master's recommendation for order, granting in part and denying in part RTC's requests for sanctions; Consider possible objections and responses to same; Begin work on declaration and supporting documentation for fees and costs.	2.00	$325	$650.00	$650.00
6/11/2020	DEF	Further review of recommendation for order and telephone conference with Dane W. Anderson.	0.70	$325	$227.50	$227.50
6/11/2020	DWA	Draft email to Mike Morrison regarding depositions; Telephone conference with Dale Ferguson re status.	0.50	$325	$162.50	$162.50
6/19/2020	DWA	Conference regarding scheduling of Iliescu depositions.	0.30	$325	$97.50	$97.50
6/22/2020	DEF	Review declaration regarding expenses to be reimbursed by Defendants.	0.50	$325	$162.50	$162.50
6/22/2020	DWA	Review and revise declaration in support of reimbursement; Review exhibit and finalize for filing; Conference regarding depositions and Iliescus' and counsel's refusal to attend in person; Conference regarding possible Zoom depositions; Review discovery commissioner's order regarding depositions.	1.20	$325	$390.00	$390.00
6/24/2020	DWA	Telephone conference with Mike Morrison regarding deposition and discovery issues; Draft confirming email agreeing to reschedule depositions; Draft stipulation regarding same.	0.50	$325	$162.50	$162.50
6/25/2020	DWA	Work on issues for remote depositions; Revise notices of deposition.	0.60	$325	$195.00	$195.00
6/29/2020	DWA	Emails with Mike Morrison regarding deadline to produce discovery; Review emails and conference with staff regarding same.	0.30	$325	$97.50	$97.50
6/30/2020	DWA	Conference regarding Iliescus' obligation to produce documents; Review document production; Review Iliescus' brief regarding response to our declaration claiming fees.	1.00	$325	$325.00	$325.00
		Total Fees: 06/2020	**8.40**		**$2,730.00**	**$2,730.00**
7/1/2020	DWA	Review Plaintiffs' "notice of intent to file opposition" to RTC's request for reimbursement and conference regarding same.	0.40	$325	$130.00	$130.00
7/6/2020	DWA	Review Plaintiffs' opposition to RTC's request for reimbursement of fees as discovery sanctions against Plaintiffs; Research factual allegations and legal issues raised.	2.00	$325	$650.00	$650.00
7/6/2020	BMK	Review of Response to Declaration for fees filed by opposing counsel.	0.30	$250	$75.00	$75.00
7/8/2020	BMK	Telephone with court re trial setting: conference with DWA re issues for trial and pending motions.	0.50	$250	$125.00	$125.00
7/12/2020	DWA	Draft reply brief in support of request for reimbursement of fees as a discovery sanction; Email to colleagues re same.	3.00	$325	$975.00	$975.00
7/13/2020	DWA	Finalize and file reply in support of request for reimbursement.	0.40	$325	$130.00	$130.00
7/13/2020	BMK	Review of Reply in support of request for fees; Follow up re trial setting: Review of Notice filed by Court re pretrial conferences.	0.50	$250	$125.00	$125.00
7/20/2020	DWA	Draft supplemental declaration in support of request for reimbursement.	1.00	$325	$325.00	$325.00
7/21/2020	DWA	Review and redact billings supporting supplemental declaration; Revise and finalize declaration for filing.	1.00	$325	$325.00	$325.00
		Total Fees: 07/2020	**9.10**		**$2,860.00**	**$2,860.00**
		Total Fees:	**17.50**		**$5,590.00**	**$5,590.00**

Statement of Account

010487 Regional Transportation Commission
000160 adv. John Iliescu, Jr. and Sonnia Iliescu, et al.

06/01/2020 - 07/21/2020
Time & Rate: Original Value

Costs and Expenses

Date	Description	Orig Expense	Orig Cost	Bill Amount
06/22/2020	Photocopies	$0.60		$0.00
	Total Costs/Expenses: 06/2020	**$0.60**	**$0.00**	**$0.00**
	Total Costs/Expenses:	**$0.60**	**$0.00**	**$0.00**

Other Accounting

Date	Description	Amount
06/22/2020	Payment	$3,942.45

FILED
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CV19-00459
2020-07-21 03:43:26 PM
Jacqueline Bryant
Clerk of the Court
Transaction # 7981600

2245
Dane W. Anderson, Esq.
Nevada Bar No. 6883
WOODBURN AND WEDGE
6100 Neil Road, Suite 500
Reno, Nevada 89511
Telephone: 775-688-3000
Facsimile: 775-688-3088
danderson@woodburnandwedge.com

Attorneys for Defendant, the Regional Transportation Commission of Washoe County

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an individual; AND SONNIA ILIESCU, an individual, Plaintiffs, v. THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1 – 40, inclusive, Defendants.	Case No.: CV19-00459 Dept. No.: 15

MOTION IN LIMINE TO PRECLUDE PLAINTIFFS FROM OFFERING DOCUMENTS NOT PRODUCED TO RTC ON OR BEFORE JUNE 30, 2020

Defendant The Regional Transportation Commission of Washoe County ("RTC") moves this Court for an order precluding Plaintiffs from offering at trial any documents not produced to RTC on or before June 30, 2020. This motion is based on the Court's Confirming Order of June 30, 2020 which approved and adopted the Discovery Commissioner's Recommendation For Order of June 10, 2020, the following points and authorities and the entire file in this matter.

The Court is familiar with the procedural history of this matter and RTC will not repeat it here except as necessary to address recent events. On June 30, 2020, this Court entered its Confirming Order, approving and adopting the Discovery Commissioner's Recommendation For Order filed on June 10, 2020. In its Confirming Order, the Court noted that none of the parties had filed an objection regarding the Discovery Commissioner's recommendations.

Among other things, the Discovery Commissioner recommended—and this Court ordered—that Plaintiffs produce to RTC "no later than June 30, 2020, the originals or copies of all documents described in Defendant's NRC 34 request previously served on Plaintiffs on or about November 8, 2019." On the evening of June 30, 2020, Plaintiffs' counsel emailed the attached **Exhibits 1** and **2** to RTC's counsel in purported compliance with the Court's order. The documents Plaintiffs produced on June 30 are not voluminous and are included in the attached exhibits. However, Plaintiffs included the following statement in their responses:

> Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties. Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing system for Case No. CV16-02182, styled 'RTC v. Iliescu Family Trust.'

This response is problematic for several reasons. First and foremost, Plaintiffs failed to object to the Discovery Commissioner's recommendation "that Plaintiffs produce to Defendant no later than June 30, 2020, the originals or copies of all documents described in Defendant's NRCP 34 request...." (emphasis added). This requirement was approved by the Court in its Confirming Order of June 30, 2020, which modified the Court's prior order that "Plaintiffs produce for inspection and copying by Defendant, without objections and no later than April 17, 2020, all documents within their possession,

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6100 Neil Road, Suite 500
Reno, NV 89511
775-688-3000

custody, or control that fall within the descriptions set forth in the NRCP 34 requests served upon them by Defendant on November 8, 2019." See Recommendation For Order dated April 3, 2020 and Confirming Order of April 20, 2020.

Thus, Plaintiffs lost the option to comply with the Court's order and NRCP 34 by allowing inspection and copying. Rather, they were required to "produce to Defendant" all responsive documents. The Court's prior requirement that Plaintiffs do so "without objections" precludes Plaintiffs from now objecting that the alleged documents are voluminous or that production would be burdensome. Those objections were waived long ago and, in any event, Plaintiffs' unsupported and vague allegation regarding the burdensome nature of production is insufficient. In his March 1995 "Notes on Discovery and Arbitration," Discovery Commissioner Ayres addressed this tactic:

> First, when objecting to an interrogatory or a document request, the reasons for the objection must be stated. *See* NRCP 33(a), 34(b). But merely asserting the ground for the objection (e.g., "irrelevant," "over broad," "vague," etc.) is not sufficient to sustain an objection to a discovery request. *See McLeod, Alexander, Powel & Apffel, P.C. v. Quarles*, 894 F.2d 1482, 1484-85 (5th Cir. 1990); *Panola Land Buyers Ass'n v. Shuman*, 762 F.2d 1550, 1559 (11th Cir. 1985); *Josephs v. Harris Corp.*, 677 F.2d 985, 991-92 (3rd Cir. 1982); *Wauchop v. Domino's Pizza, Inc.*, 138 F.R.D. 539, 544 (N.D.Ind. 1991); *Roesberg v. Johns-Manville Corp.*, 85 F.R.D. 292, 296-97 (E.D.Pa. 1980). The party objecting to the discovery request must specifically detail the reasons that support its objection, including, if appropriate, affidavits or other evidentiary support. *See Schaap v. Executive Indus., Inc.*, 130 F.R.D. 384, 387 (N.D.Ill. 1990). If the objection is that a request is unduly burdensome, the objecting party must explain *why* the request is unduly burdensome, and any factual assertions must be supported by affidavit/declaration, or other evidentiary support. If the objection is that a request is vague, ambiguous, or overly broad, the responding party must explain precisely *how* the interrogatory is vague, ambiguous, or overly broad. Moreover, the failure to properly support an objection generally results in a waiver of that, and any other, objection. *See Roesberg*, 85 F.R.D. at 297.
>
> This analysis should not be viewed as a desire to promote form over substance. Our system of pretrial discovery depends in large part upon the parties resolving their discovery disputes without Court involvement. Litigants should seek Court involvement in resolving discovery disputes only as a last resort. This attitude is reflected in Rule 37(a), which mandates that the prevailing party in a discovery dispute be permitted to recover from the losing party the expenses of bringing or opposing a motion to compel

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> discovery, "unless the court finds that the opposition to the motion was substantially justified or that other circumstances make an award of expenses unjust." By requiring a party objecting to a discovery request to explain in detail the reasons supporting an objection, and to include evidentiary support for any factual assertions in the objecting party's responses, our discovery rules increase the chances that the litigants will be able to resolve their discovery disputes without Court participation. The result in a more efficient, and less expensive, litigation process.

Plaintiffs fail to provide any detail regarding their allegation that compliance with the Court's June 30 order would have been burdensome, and their overall response to reasonable discovery has been the antithesis of what the Discovery Commissioner Ayres emphasized is required of parties. Moreover, their reference to documents on file in prior cases is also inappropriate. See Davidson v. Goord, 215 F.R.D. 73, 77 (W.D.N.Y. 2003) (a party may not refuse to respond to a discovery request on the ground that the information sought is already available to the requesting party).

For all of these reasons, Plaintiffs should be precluded from offering at trial any documents responsive to RTC's NRCP 34 requests for production that were not produced to RTC on or before June 30, 2020.

Affirmation pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the personal information of any person.

DATED: July 21, 2020

WOODBURN AND WEDGE

By /s/ Dane W. Anderson
Dane W. Anderson, Esq.
Nevada Bar No. 6883
Attorneys for Defendant
The Regional Transportation
Commission of Washoe County

Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, NV 89511
775-688-3000

CERTIFICATE OF SERVICE

It is hereby certified that service of the foregoing **MOTION IN LIMINE TO PRECLUDE PLAINTIFFS FROM OFFERING DOCUMENTS NOT PRODUCED TO RTC ON OR BEFORE JUNE 30, 2020** was made through the Court's electronic filing and notification or, as appropriate, by sending a copy thereof by first-class mail from Reno, Nevada addressed as follows:

MICHAEL J. MORRISON, ESQ.
Nevada State Bar No. 1665
1495 Ridgeview Dr., #220
Reno, Nevada 89519
venturelawusa@gmail.com

Attorneys for Plaintiffs

DATED: July 21, 2020.

/s/ Dianne M. Kelling
Employee of Woodburn and Wedge

EXHIBIT INDEX

EXHIBIT NO.	DESCRIPTION OF EXHIBIT	NO OF PAGES INCLUDING EXHIBIT PAGES
1	Email from Michael Morrison to Dane W. Anderson, dated June 30, 2020, with John Iliescu's Responses to Request for Production and Exhibits 1-5 attached	40
2	Email from Michael J. Morrison to Dane W. Anderson, dated June 30, 2020, with Sonnia Iliescu's Responses to Request for Production and Exhibits 1-5attached	40

F I L E D
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CV19-00459
2020-07-21 03:43:26 PM
Jacqueline Bryant
Clerk of the Court
Transaction # 7981600

EXHIBIT 1

EXHIBIT 1

Dianne Kelling

From: Michael J. Morrison, Chtd. <venturelawusa@gmail.com>
Sent: Tuesday, June 30, 2020 6:59 PM
To: Dianne Kelling; Dane Anderson
Subject: Iliescu vs RTC
Attachments: Ilisecu-RTC-4th Street-Exhibits 1-5-Prod Docs.pdf; Iliescu v RTC - SIG COPY - JOHN Responses to RFP -FINAL - 30Jun2020.pdf

Dear Dianne and Dane -

Attached please find Dr. John's responses to your RFP.

Sonnia's will follow.

Thanks,
Mike

Discovery

MICHAEL J. MORRISON, ESQ.
Nevada State Bar No. 1665
1495 Ridgeview Dr., #220
Reno, Nevada 89519
(775) 827-6300
Attorney for Plaintiffs

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

* * * * *

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU, JR. AND SONNIA ILIESCU 1992 FAMILY TRUST,

Plaintiff,

vs.

THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; AND DOES 1-40,

Defendants.

CASE NO. CV19-00459

DEPT. NO. 15

PLAINTIFF'S RESPONSES TO DEFENDANT'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS TO PLAINTIFF JOHN ILIESCU, JR.

COMES NOW JOHN ILIESCU, JR., individually, by and through their attorney, Michael J. Morrison, Esq., and pursuant to NRCP 26 and 34, Plaintiff John Iliescu, Jr., respectfully responds to the Defendant's First Set of Requests for Production of Documents to Plaintiff John Iliescu, Jr. ("Plaintiff"), as follows:

PRELIMINARY OBJECTIONS AND COMMENTS

1. These responses and productions are based solely on information and documents as is presently known and in the possession of Plaintiff. Further discovery may lead to additions to, changes in, or modification of these answers in accordance with Nevada Rules of Civil Procedure. Accordingly, these responses are being given without prejudice to Plaintiff's right to produce subsequent discovery evidence and to introduce the same at trial.

2. Plaintiff will supplement his responses to the requests as required by the Nevada Rules of Civil Procedure.

3 All responses will be made solely for the purpose of this action. Each response will be subject to all objections as to competence, relevance, materiality, propriety and admissibility, and to any and all objections on any ground which would require the exclusion from evidence of any document produced herein, all of which objections and grounds are expressly reserved and may be interposed at any hearings.

4. Plaintiff adopts by reference the above objections and incorporates each objection as if it were fully set forth below in each of Plaintiff's Responses.

REQUEST NO. 1:

All documents supporting your contention that RTC or anyone you contend was acting on behalf of RTC drove over and parked their vehicles on your property "on virtually every workday during the term of the Project," as alleged in paragraph 9 of your Complaint.

RESPONSE TO REQUEST NO. 1:

See Exhibit "1". Photos of the subject trucks on the subject property, taken April 3, 2018.

See Exhibit "2". Letter from Paragon Partners, Defendant's designated and contracted construction firm.

See Exhibit "3". Preliminary Draft of Broker Price Opinion (Cover Page Only) containing photos of the subject property (on pages 4 & 5) before construction commenced.

See Exhibit "4". Order of the Court granting RTC (Defendant in this case) possession and occupancy of the property, and specifically ordering Defendant to "minimize interference between construction of the Project and Real Parties in Interest's (Iliescus' use of the remaining land of Real Parties in Interest on APN 008-244-15. Also included are other documents related to the process.

See Exhibit "5". Cover page of Appraisal Report prepared for the Iliescus by Joseph S. Campbell, MAI, dated May 15, 2017, containing photos of the subject property before RTC commenced construction.

Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due

deference accorded the respective schedules of counsel for the respective parties. Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust", including Transaction #5832427, the Verified Complaint in Eminent Domain, containing Exhibits 1-4 (inclusive), specifying, *inter alia*, rights and duties of Defendant and its included governmental and other associated parties, as well as the small size and limited use and scope of its "Temporary Construction Easement"; and Transaction #5832427, delineating the very limited easement the Court granted Defendant with respect to the property subject of the instant case.

REQUEST NO. 2:

All documents supporting your allegation that you and/or Sonnia Iliescu made "frequent objections" to RTC's alleged use of any portion of your property at issue in this litigation, as set forth in paragraph 9 of your Complaint, as well as all documents supporting your allegation that you and/or Sonnia Iliescu made "innumerable requests" that RTC not use the property, as set forth on page 6 of your opposition to the motion to dismiss.

RESPONSE TO REQUEST NO. 2:

See Exhibits "1" and "4".

Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties. Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

REQUEST NO. 3:

All documents, including photographs, that depict or discuss the condition of the subject parking lot at any time, whether before, during and after the Project that is the subject of your complaint. With respect to documents and photographs before the Project,

RTC seeks documents depict or discuss the condition of the subject parking lot in the 15 years prior to the Project. The response to this request should include any correspondence, bids, quotes or other documents discussion possible repairs to or work to be done on the subject parking lot.

RESPONSE TO REQUEST NO. 3:

See Exhibit "1". Photos of the subject trucks on the subject property, taken April 3, 2018.
See Exhibit "2". Letter from Paragon Partners, Defendant's designated and contracted construction firm.
See Exhibit "3". Preliminary Draft of Broker Price Opinion (Cover Page Only) containing photos of the subject property (on pages 4 & 5) before construction commenced.
See Exhibit "4". Order of the Court granting RTC (Defendant in this case) possession and occupancy of the property, and specifically ordering Defendant to "minimize interference between construction of the Project and Real Parties in Interest's (Iliescus' use of the remaining land of Real Parties in Interest on APN 008-244-15. Also included are other documents related to the process.
See Exhibit "5". Cover page of Appraisal Report prepared for the Iliescus by Joseph S. Campbell, MAI, dated May 15, 2017, containing photos of the subject property before RTC commenced construction.
Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties.
Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

REQUEST NO. 4:

All documents supporting your claim that you have suffered reparable and irreparable damages to the "Remaining Property and to each of the respective Plaintiffs," as alleged in paragraph 11 of your Complaint.

RESPONSE TO REQUEST NO. 4:

See Exhibit "1".

Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties. Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

REQUEST NO. 5:

All documents supporting your claim for loss of market value of the Remaining Property as alleged in paragraph 11(a) of your Complaint.

RESPONSE TO REQUEST NO. 5:

See Exhibits "1" and "5".

Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties. Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

REQUEST NO. 6:

All documents supporting your claim for discomfort and annoyance to Plaintiffs as alleged in paragraph 11(b) of your Complaint.

RESPONSE TO REQUEST NO. 6:

See Exhibit "1". Photos of the subject trucks on the subject property, taken April 3, 2018.

See Exhibit "2". Letter from Paragon Partners, Defendant's designated and contracted

construction firm.

See Exhibit "3". Preliminary Draft of Broker Price Opinion (Cover Page Only) containing photos of the subject property (on pages 4 & 5) before construction commenced.

See Exhibit "4". Order of the Court granting RTC (Defendant in this case) possession and occupancy of the property, and specifically ordering Defendant to "minimize interference between construction of the Project and Real Parties in Interest's (Iliescus' use of the remaining land of Real Parties in Interest on APN 008-244-15. Also included are other documents related to the process.

See Exhibit "5". Cover page of Appraisal Report prepared for the Iliescus by Joseph S. Campbell, MAI, dated May 15, 2017, containing photos of the subject property before RTC commenced construction.

Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties.

Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

REQUEST NO. 7:

All documents supporting your claim for emotional distress as alleged in paragraph 11(c) of your Complaint.

RESPONSE TO REQUEST NO. 7:

See Exhibit "1". Photos of the subject trucks on the subject property, taken April 3, 2018.

See Exhibit "2". Letter from Paragon Partners, Defendant's designated and contracted construction firm.

See Exhibit "3". Preliminary Draft of Broker Price Opinion (Cover Page Only) containing photos of the subject property (on pages 4 & 5) before construction commenced.

See Exhibit "4". Order of the Court granting RTC (Defendant in this case) possession and occupancy of the property, and specifically ordering Defendant to "minimize interference between construction of the Project and Real Parties in Interest's (Iliescus' use of the

remaining land of Real Parties in Interest on APN 008-244-15. Also included are other documents related to the process.

See Exhibit "5". Cover page of Appraisal Report prepared for the Iliescus by Joseph S. Campbell, MAI, dated May 15, 2017, containing photos of the subject property before RTC commenced construction.

Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties.

Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

REQUEST NO. 8:

All documents supporting your claim for emotional distress as alleged in paragraph 11(c) of your Complaint.

RESPONSE TO REQUEST NO. 8:

See Exhibit "1". Photos of the subject trucks on the subject property, taken April 3, 2018.

See Exhibit "2". Letter from Paragon Partners, Defendant's designated and contracted construction firm.

See Exhibit "3". Preliminary Draft of Broker Price Opinion (Cover Page Only) containing photos of the subject property (on pages 4 & 5) before construction commenced.

See Exhibit "4". Order of the Court granting RTC (Defendant in this case) possession and occupancy of the property, and specifically ordering Defendant to "minimize interference between construction of the Project and Real Parties in Interest's (Iliescus' use of the remaining land of Real Parties in Interest on APN 008-244-15. Also included are other documents related to the process.

See Exhibit "5". Cover page of Appraisal Report prepared for the Iliescus by Joseph S. Campbell, MAI, dated May 15, 2017, containing photos of the subject property before RTC commenced construction.

Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that

there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties. Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

REQUEST NO. 9:

All documents supporting your claim for loss of use of the Remaining Property as alleged in paragraph 11(d) of your Complaint.

RESPONSE TO REQUEST NO. 9:

See Exhibit "1". Photos of the subject trucks on the subject property, taken April 3, 2018.
See Exhibit "2". Letter from Paragon Partners, Defendant's designated and contracted construction firm.
See Exhibit "3". Preliminary Draft of Broker Price Opinion (Cover Page Only) containing photos of the subject property (on pages 4 & 5) before construction commenced.
See Exhibit "4". Order of the Court granting RTC (Defendant in this case) possession and occupancy of the property, and specifically ordering Defendant to "minimize interference between construction of the Project and Real Parties in Interest's (Iliescus' use of the remaining land of Real Parties in Interest on APN 008-244-15. Also included are other documents related to the process.
See Exhibit "5". Cover page of Appraisal Report prepared for the Iliescus by Joseph S. Campbell, MAI, dated May 15, 2017, containing photos of the subject property before RTC commenced construction.
Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties. Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

REQUEST NO. 10:

All documents supporting your claim for costs of property restoration as alleged in paragraph 11(e) of the Complaint.

RESPONSE TO REQUEST NO. 10:

See Exhibits "1" and "5".

Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties.

Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

REQUEST NO. 11:

All documents supporting your claim for physical damage to and destruction of the Property as alleged in paragraph 11(c) of your Complaint.

RESPONSE TO REQUEST NO. 11:

See Exhibit "1". Photos of the subject trucks on the subject property, taken April 3, 2018.

See Exhibit "2". Letter from Paragon Partners, Defendant's designated and contracted construction firm.

See Exhibit "3". Preliminary Draft of Broker Price Opinion (Cover Page Only) containing photos of the subject property (on pages 4 & 5) before construction commenced.

See Exhibit "4". Order of the Court granting RTC (Defendant in this case) possession and occupancy of the property, and specifically ordering Defendant to "minimize interference between construction of the Project and Real Parties in Interest's (Iliescus' use of the remaining land of Real Parties in Interest on APN 008-244-15. Also included are other documents related to the process.

See Exhibit "5". Cover page of Appraisal Report prepared for the Iliescus by Joseph S. Campbell, MAI, dated May 15, 2017, containing photos of the subject property before RTC commenced construction.

Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties. Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

REQUEST NO. 12:

All contracts you allege exist between you and RTC or any other party related to this matter, including but not limited to the agreement referenced in paragraph 11 of your Complaint, the agreements referenced in paragraphs 27 of your Complaint, and the "RTC-Trust Agreement" referenced in paragraphs 39, 46 and 48(a) of your Complaint.

RESPONSE TO REQUEST NO. 12:

See Exhibits "2", "3" and "4".

Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties. Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

REQUEST NO. 13:

All documents supporting your allegation that Defendants agreed to carry out a scheme intended to accomplish unlawful objectives, as alleged in paragraph 67 of your Complaint.

RESPONSE TO REQUEST NO. 13:

See Exhibit "1".

Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to

inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties. Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

REQUEST NO. 14:

All documents supporting your allegation that you and Sonnia Iliescu each suffered pain, discomfort, mental and emotional distress, pain and disabilities, mental and psychological problems, depression, loss of sleep, appetite and enjoyment of life as a result of RTC's conduct, as alleged in paragraphs 74, 82, 84, 91 and 92 of your Complaint. Your response should include all medical records supporting your allegation that you and Sonnia Iliescu each sought medical attention for your respective injuries and "continued for some time to require medical care and treatment, even though the date of this Complaint," as alleged in paragraph 82 of your Complaint, as well as any such records up to and including the date of your response.

RESPONSE TO REQUEST NO. 14:

See Exhibit "1". Photos of the subject trucks on the subject property, taken April 3, 2018.
See Exhibit "2". Letter from Paragon Partners, Defendant's designated and contracted construction firm.
See Exhibit "3". Preliminary Draft of Broker Price Opinion (Cover Page Only) containing photos of the subject property (on pages 4 & 5) before construction commenced.
See Exhibit "4". Order of the Court granting RTC (Defendant in this case) possession and occupancy of the property, and specifically ordering Defendant to "minimize interference between construction of the Project and Real Parties in Interest's (Iliescus' use of the remaining land of Real Parties in Interest on APN 008-244-15. Also included are other documents related to the process.
See Exhibit "5". Cover page of Appraisal Report prepared for the Iliescus by Joseph S. Campbell, MAI, dated May 15, 2017, containing photos of the subject property before RTC commenced construction.

Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties. Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

REQUEST NO. 15:

All documents supporting your allegation that RTC or any other defendant acted in a malicious, destructive, willful, mean-spirited or other improper manner.

RESPONSE TO REQUEST NO. 15:

See Exhibit "1". Photos of the subject trucks on the subject property, taken April 3, 2018.
See Exhibit "2". Letter from Paragon Partners, Defendant's designated and contracted construction firm.
See Exhibit "3". Preliminary Draft of Broker Price Opinion (Cover Page Only) containing photos of the subject property (on pages 4 & 5) before construction commenced.
See Exhibit "4". Order of the Court granting RTC (Defendant in this case) possession and occupancy of the property, and specifically ordering Defendant to "minimize interference between construction of the Project and Real Parties in Interest's (Iliescus' use of the remaining land of Real Parties in Interest on APN 008-244-15. Also included are other documents related to the process.
See Exhibit "5". Cover page of Appraisal Report prepared for the Iliescus by Joseph S. Campbell, MAI, dated May 15, 2017, containing photos of the subject property before RTC commenced construction.
Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties. Plaintiff further represents that many of the responsive documents are contained in this

Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

REQUEST NO. 16:

All documents supporting your allegation that RTC owed you a fiduciary duty.

RESPONSE TO REQUEST NO. 16:

See Exhibit "4".

Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties. Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

NOTE: Plaintiff John Iliescu is currently continuing his research and discovery to locate any additional documents responsive to REQUESTS NOS. 1-16, which will be produced if and when available.

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the document to which this Affirmation is attached does not contain the social security number of any person.

DATED this 30th day of June, 2020.

/s/Michael J. Morrison

Michael J. Morrison, Esq.
Attorney for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on this date I personally caused to be served a true copy of the foregoing PLAINTIFFS' RESPONSE TO DEFENDANT'S FIRST REQUESTS FOR PRODUCTION OF DOCUMENTS TO PLAINTIFF JOHN ILIESCU, JR. indicated and addressed to the following:

Dane W. Anderson, Esq.
WOODBURN AND WEDGE
6100 Neil Road, Suite 500
Reno, Nevada 89511

XX Via U.S. Mail
____ Via Overnight Mail
____ Via Hand Delivery
XX Via E-mail
____ Via ECF

DATED this 30th day of June, 2020.

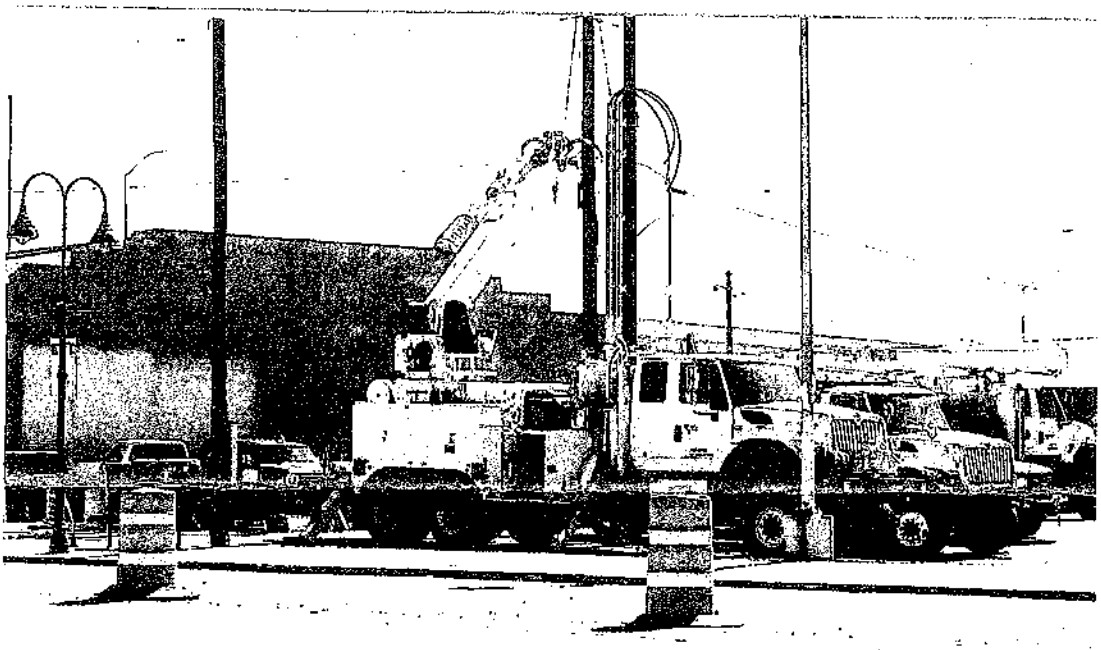
/s/Michael J. Morrison

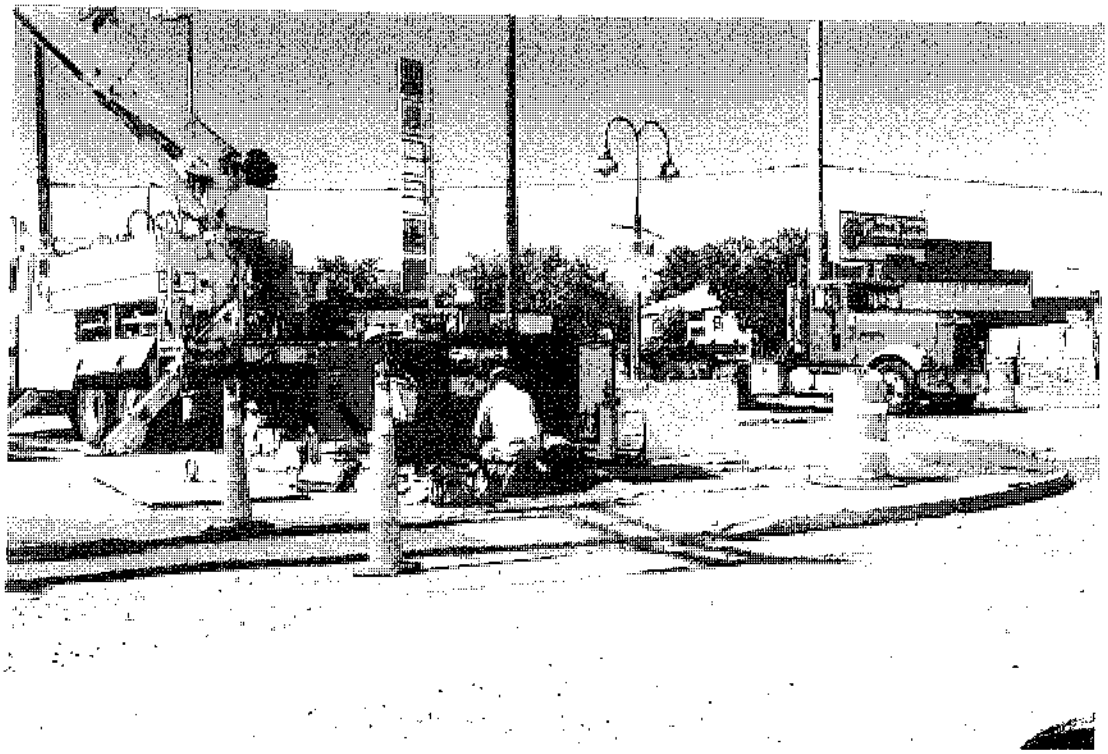
Michael J. Morrison

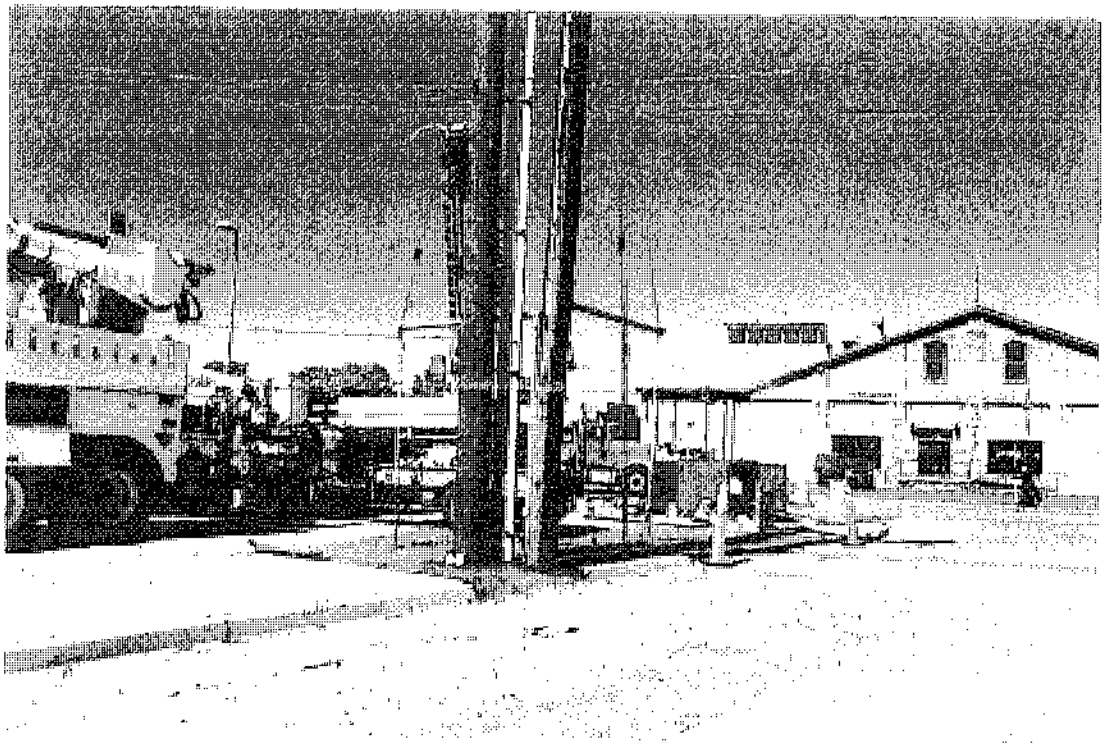
EXHIBIT "1"

EXHIBIT "1"


RANCHO
77









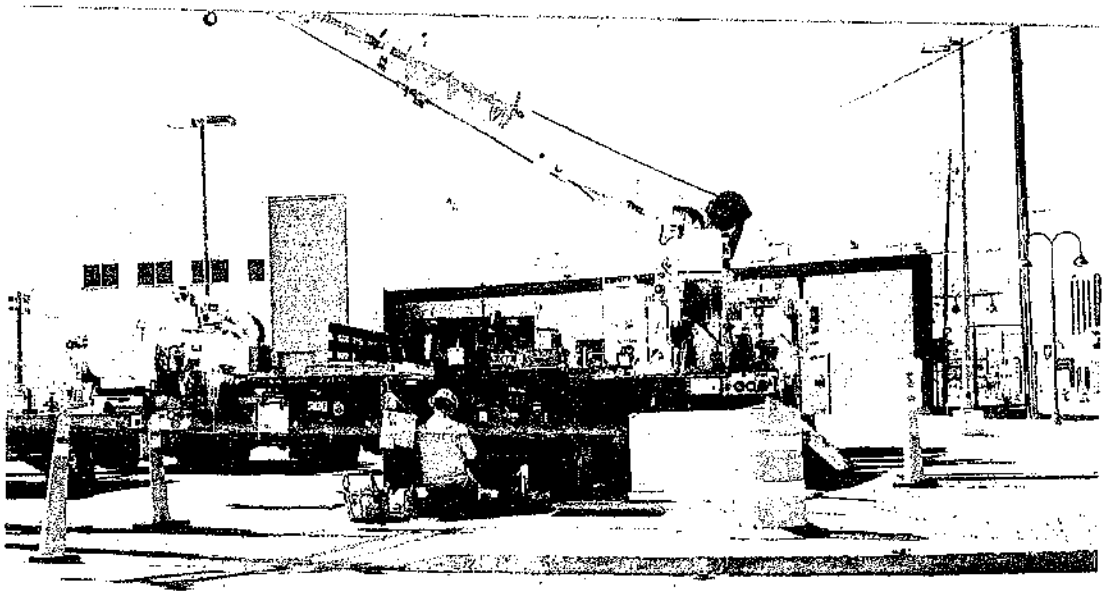


EXHIBIT "2"

EXHIBIT "2"

Todd Keizer
008-244-15 John and Sonnia Iliescu Family Trust
August 12, 2015 at 11:51 AM

John and Sonnia,

Thank you for your call today. It was a pleasure speaking with you. I have attached four maps to show you what we are proposing regarding your property.

The first attachment is labeled "PE" which is the permanent easement on the corner of 4th Street and Parker. It is 68 SF.

The second attachment is labeled "PUE" which is the utility easement on the southeast corner of your property. It is 584 SF but only 5 +/- feet wide at the widest point.

The third attachment is labeled "TCE" which is the temporary easement.

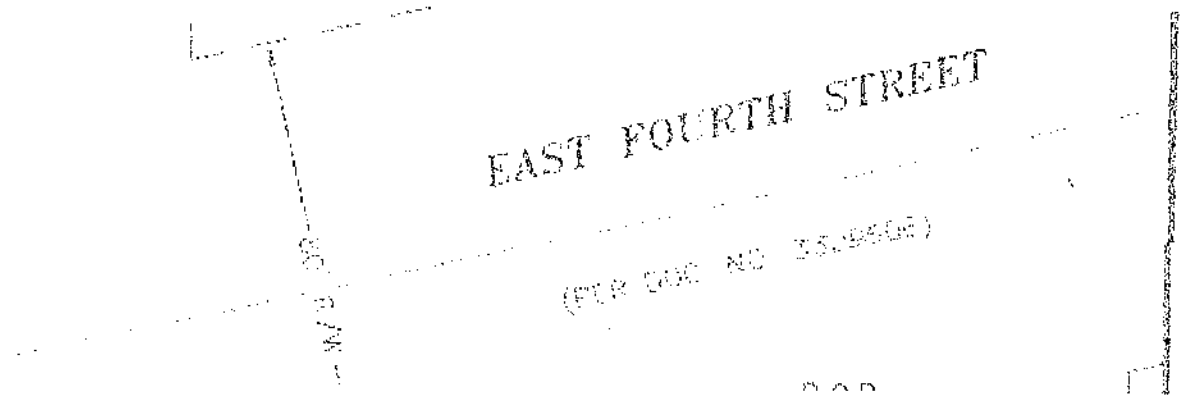
Lastly, I didn't mention it on the phone but I believe we are going to request access to the main parking area of the property. This is solely for your benefit to tie the driveway into 4th street, address grade issues, upgrade asphalt/curbing, etc. This last map labeled "full ROW map" shows this area in purple and will be completely voluntary and temporary on your part as the RTC will not compel you to allow us access. I will get you more information on this so you better understand the benefits to you will be.

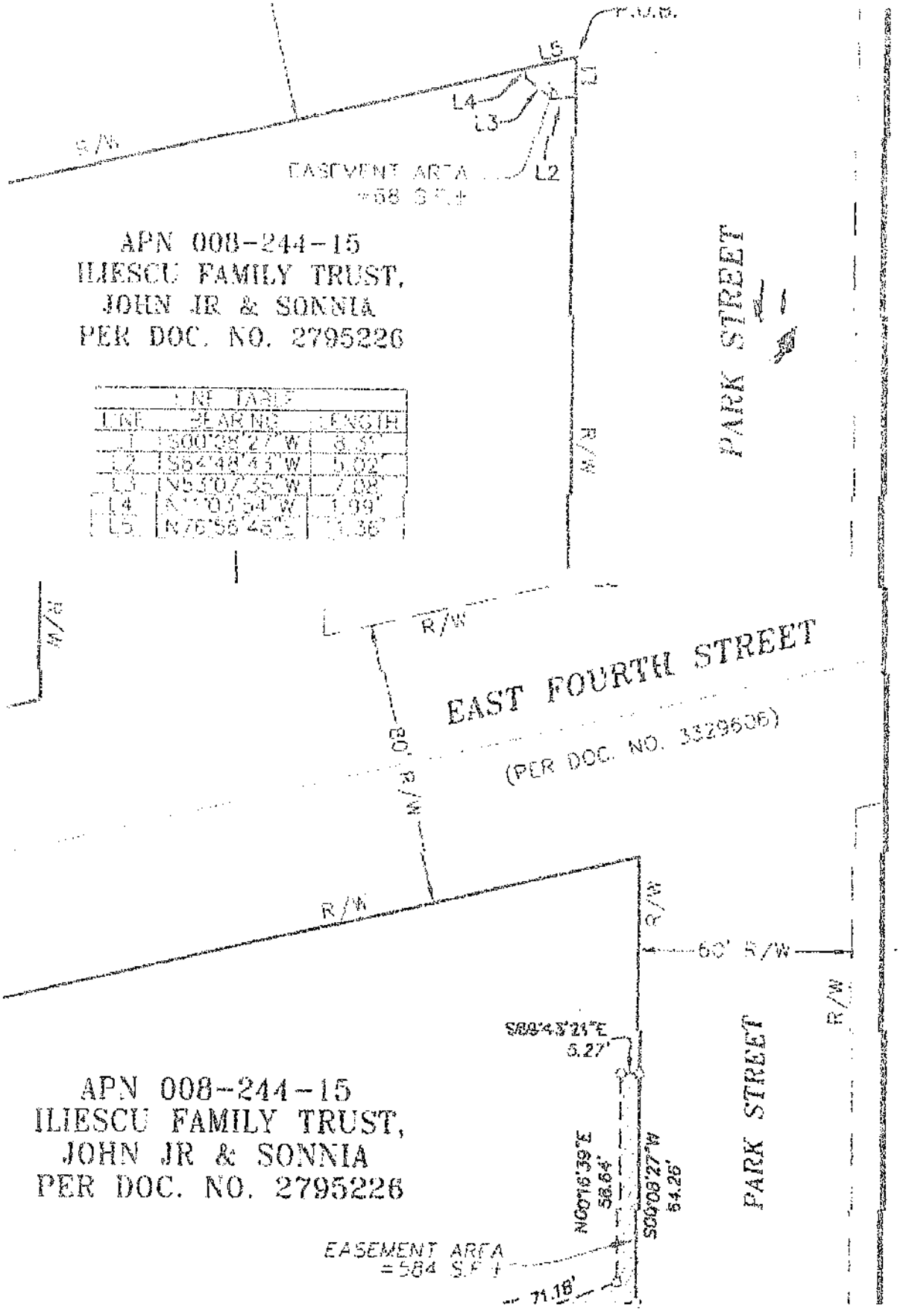
Please feel free to contact me at any time should you have additional questions.

Thank you.

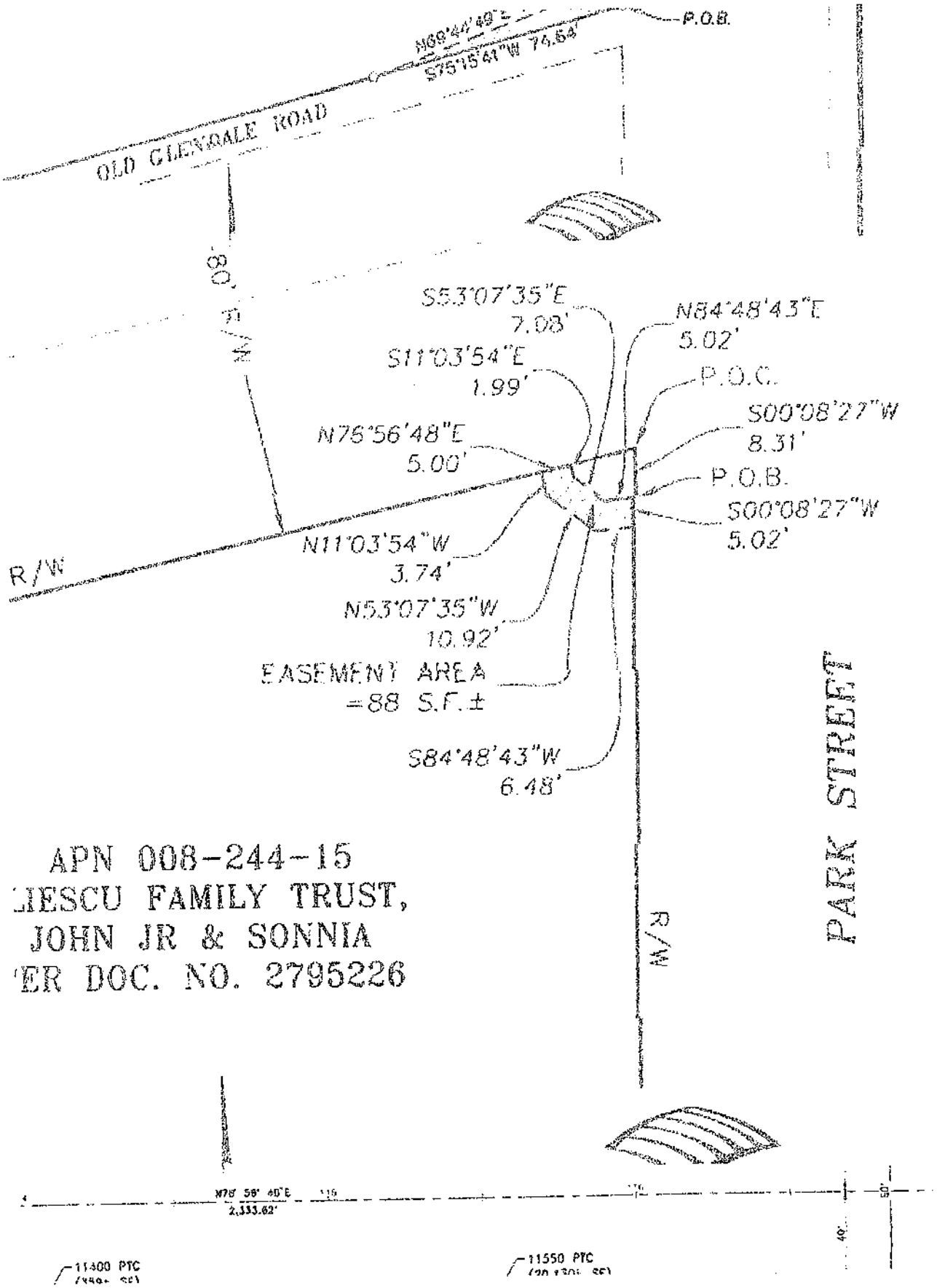
Todd Keizer
Project Manager
Paragon Partners Ltd.
5762 Bolsa Ave., Suite 201
Huntington Beach, CA 92649
Email: tkeizer@paragon-partners.com
www.paragon-partners.com
Tel.: 714.379.3376
Mobile: 310.497.4012
Fax: 714.373.1234

8-17-15
JT Spoke w/ Todd
[illegible]





LINE TABLE		
LINE	BEARING	LENGTH
L1	S00°08'27"W	8.3'
L2	S64°48'43"W	5.02'
L3	N53°07'35"W	7.08'
L4	N11°03'54"W	1.99'
L5	N76°56'46"E	11.36'


P.O.B.
N68°44'49"E
S75°15'41"W 74.64'
OLD GLENDALE ROAD
S53°07'35"E
7.08'
N84°48'43"E
5.02'
S11°03'54"E
1.99'
P.O.C.
S00°08'27"W
8.31'
N75°56'48"E
5.00'
P.O.B.
S00°08'27"W
5.02'
R/W
N11°03'54"W
3.74'
N53°07'35"W
10.92'
EASEMENT AREA
=88 S.F.±
S84°48'43"W
6.48'
APN 008-244-15
LIESCU FAMILY TRUST,
JOHN JR & SONNIA
'ER DOC. NO. 2795226
R/W
PARK STREET
N75° 56' 48"E
2,333.62'
11400 PTC
11550 PTC

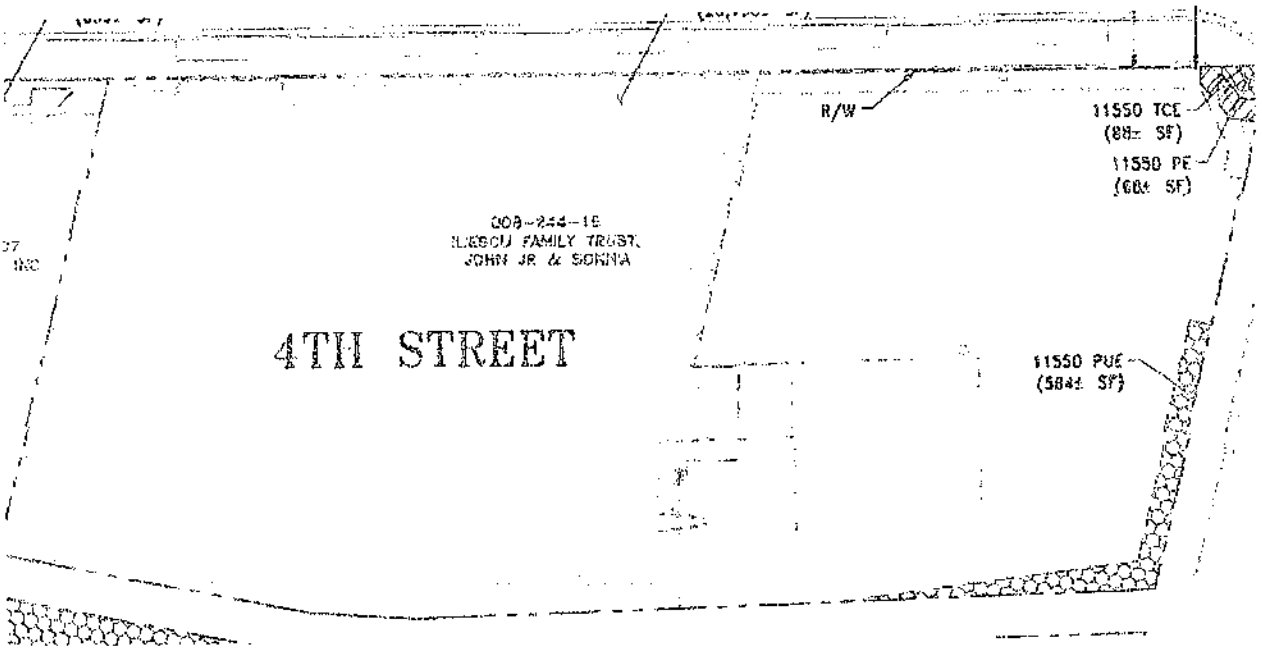

R/W
11550 TCE
(88± SF)
11550 PE
(604 SF)
008-244-18
ILIESCU FAMILY TRUST,
JOHN JR & SONNIA
4TH STREET
11550 PUE
(584± SF)

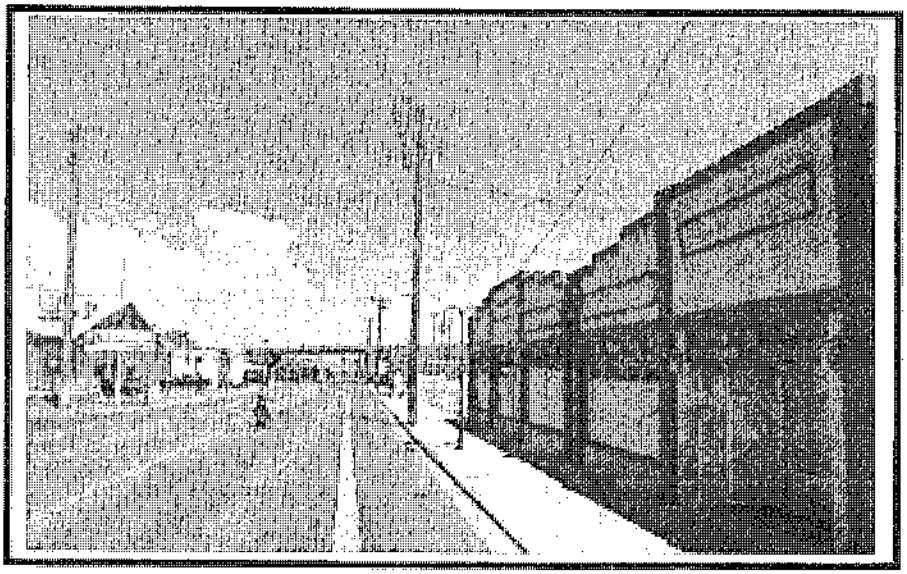
EXHIBIT "3"

EXHIBIT "3"

JOHNSON GROUP
Commercial | Residential | Investment | Realty

Richard K Johnson
5255 Longley Ln Suite 105
Reno, Nevada 89511
Phone: 775-823-8877
Fax: 866-716-8848
Dick@JohnsonGroup.net

BROKER PRICE OPINION



THIS IS A PRELIMINARY DRAFT FOR REFERENCE ONLY

Subject Address: **642 E 4th , Reno, Nv**

Date Prepared: August 18, 2016

TO THE ATTENTION OF:

RTC and
Dr & Sonnia Iliescu

PREPARED BY:

Richard K. "Dick" Johnson, Broker/Owner *License #:* 58025

Note: You and your advisors (such as tax, legal, and financial) should conduct careful and independent investigation to determine to your satisfaction the suitability of the property for your needs. The information has been obtained from sources believed reliable. Agents make no representations or warranties as to the accuracy or completeness of supplied information and/or projections.

PROPERTY
ASSESSMENTS AND RECOMMENDATIONS

PROPERTY DATA:

Property Address:	642 E 4th, Reno, Nevada
APN #:	011-051-15
Owner of Record:	Iliescu Family Trust

PROPERTY CHARACTERISTICS:

APN: 008-244-15 Card 1 of 1

Owner Information & Legal Description

Situs: 642 E 4TH ST
ILIESCU FAMILY TRUST, JOHN JR & SONNIA
Mail Address: 200 COURT ST
RENO NV 89501
ILIESCU TRUSTEE, JOHN JR & SONNIA
Rec Doc No: Rec Date: 01/24/2003
Prior Owner: SALVATION ARMY THE.
Prior Doc: MEMO
Keyline Desc: COMMERCIAL ADD LTS 1 THRU 11 BLK 1
Subdivision: COMMERCIAL ADDITION
Lot: 1-11 Block: 1 Sub Map#
Record of Survey Map: Parcel Map#
Section: Township: 19 Range: 19
1002 Prior APN
Use does not qualify for Low Cap, High Cap Applied

Building Information

Quality: C1S Low/Avg
Stories: 1.00
Year Built: 1935
Area.
1971
0
Full Baths: 0
Half Baths: 0
Fixtures:
Fireplaces: 0
Heat Type: PACKAGE UNIT
Sec Heat Type: SPACE HEATER
Ext Walls: BRICK SOLID
Sec Ext Walls:
Roof Cover:
0
% Incomplete:
Retail Store
Storage Warehouse
29,408
does not include Basement or Garage Conversion
Finished Bsmt: 0
Unfin Bsmt: 0
Gar Conv Sq Foot: 0
Total Gar Area: 0
Gar Type:
Det Garage: 0
Bsmt Gar Door: 0
Sub Floor:
Frame: MASONRY BRNG
Construction Med: 0

Land Information

NBC = Neighborhood Code
400
Size: 31,866 SqFt or ~ 0.732 Acre
MUDR
Water: Muni
Sewer: Municipal
Street: Paved
NBC: AHBQ
NBC Map:

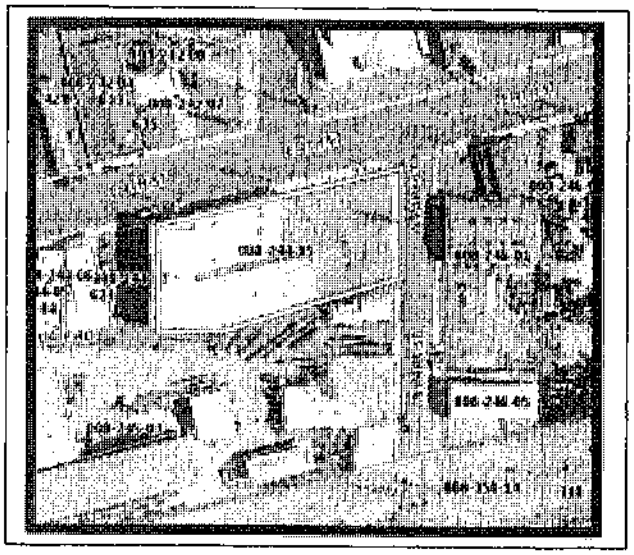
Valuation Information

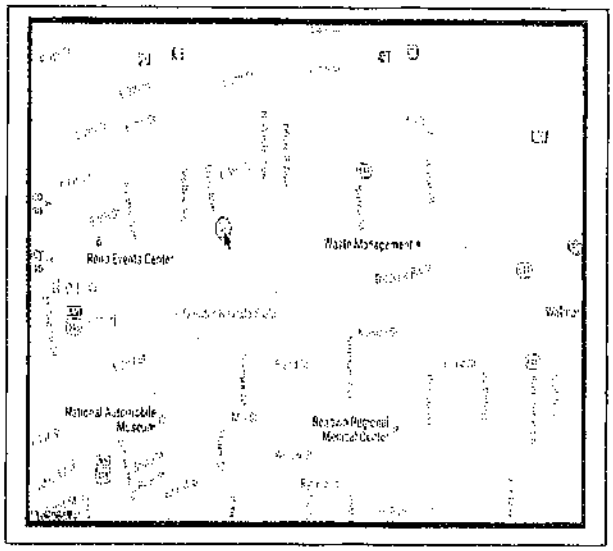
	2015/16 FV	2016/17 FV
Taxable Land Value	191,196	191,196
Taxable Improvement Value	559,814	544,867
Taxable Total	751,010	736,063
Assessed Land Value	66,919	66,919
Assessed Improvement Value	195,935	190,703
Total Assessed	262,854	257,622

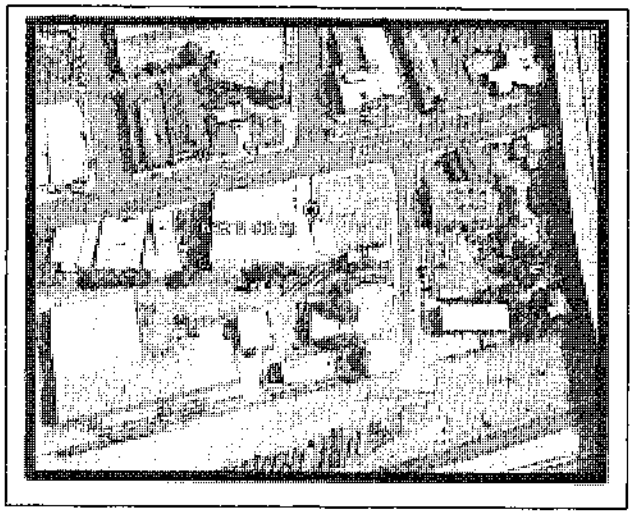
Sales/Transfer Information/Recorded Document

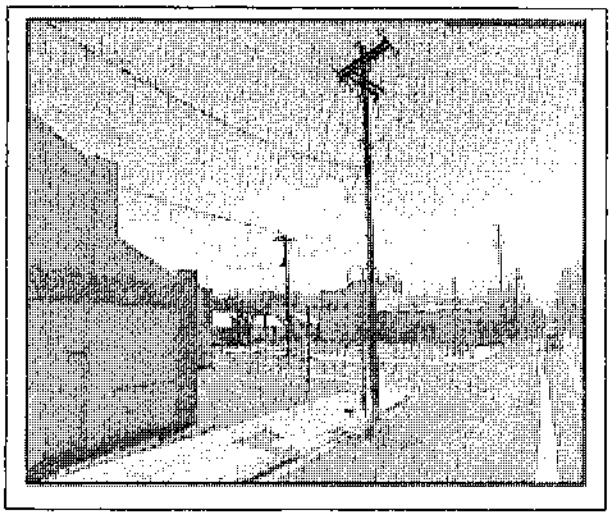
		Doc Date	Value/Sale Price	Grantor	Grantee
1G	400	01-24-2003	810,000	SALVATION ARMY THE.	ILIESCU FAMILY TRUST, JOHN JR & SONNIA
		08-21-1975	0		SALVATION ARMY THE

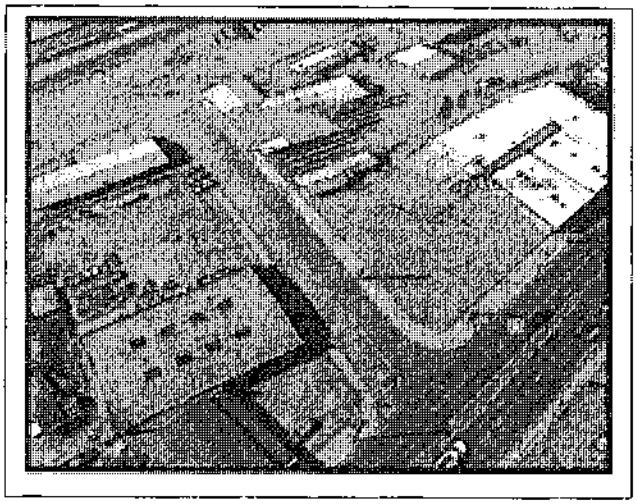
Note: You and your advisors (such as tax, legal, and financial) should conduct careful and independant investigation to determine to your satisfaction the suitability of the property for your needs. The information has been obtained from sources believed reliable. Agents make no representations or warranties as to the accuracy or completeness of supplied information and/or projections.

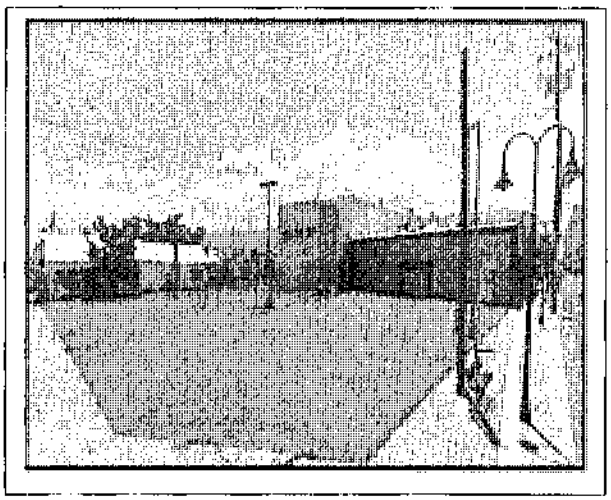






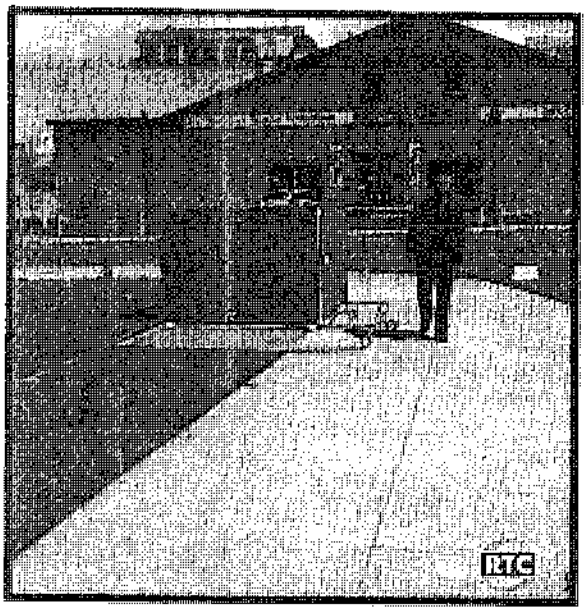


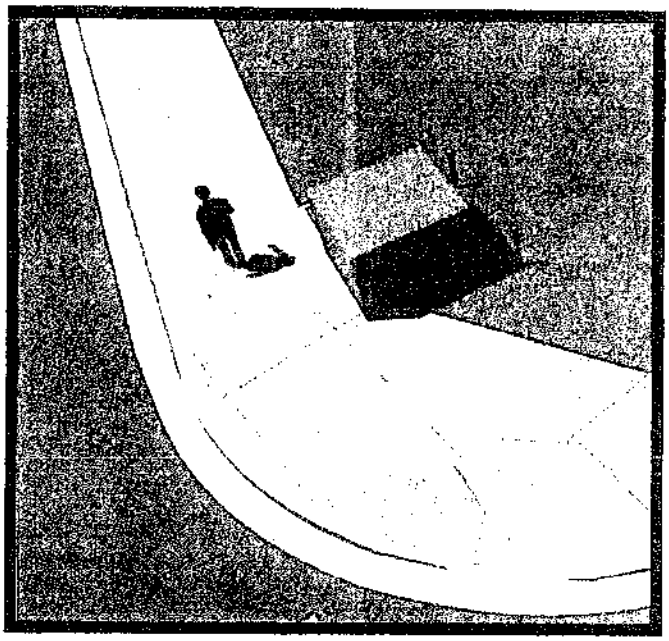


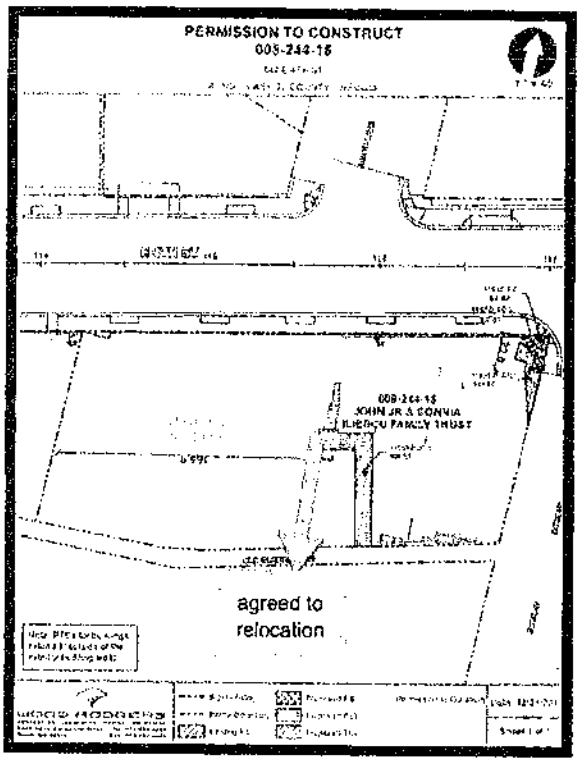


Note: You and your advisors (such as tax, legal, and financial) should conduct careful and independent investigation to determine to your satisfaction the suitability of the property for your needs. The information has been obtained from sources believed reliable. Agents make no representations or warranties as to the accuracy or completeness of supplied information and/or projections.

RTC (proposed) easement







On following page, see the list of Comps as provided by Appraiser hired by RTC.

Note: You and your advisors (such as tax, legal, and financial) should conduct careful and independant investigation to determine to your satisfaction the suitability of the property for your needs. The information has been obtained from sources believed reliable. Agents make no representations or warranties as to the accuracy or completeness of supplied information and/or projections.

Received from RTC employed Appraiser.

COMPARABLE COMMERCIAL LAND SALES CHART

Sale Number	Assessor's Parcel Number Location	Sale Date Sale Price	Zoning Topography	Land Area	Sale Price Per S.F.
LS-1	143-040-25 Northeast corner Geiger Grade and Veterans Parkway	07/31/2013 $430,000	PUD Level	1.50± Ac. 65,356± SF	$14.08
LS-2	008-341-03 North side east 5th St., between N. Wells Ave. and Morrill Ave., Reno	02/23/2013 $350,000	MUE4 Level	1.0± Ac. 43,560± SF	$8.03
LS-3	033-314-11 Northeast corner Vermilion Ave and 3rd St., Sparks	8/01/2013 $220,000	TOD Level	.47± Ac. 20,653± SF	$10.65
LS-4	163-300-04 North side South Meadows Parkway, 700± feet east of Double R Boulevard	01/02/2014 $435,000	PUD Commercial/ Office Level	1.0± Ac. 43,560± SF	$10.44
LS-5	034-145-03 Between E. Greg St. and Stanford Way, 230± feet west of S. McCarran Blvd	01/15/2014 $525,000	I Level	1.149± Ac. 50,047± SF	$10.49
LS-6	008-341-04 South side East 6th St., between N. Wells Ave. and Morrill Ave., Reno	07/02/2014 $350,000	MUE4 Level	.912± Ac. 39,719± SF	$8.81
LS-7	026-182-69 E/S Northtowne Lane, 330' south of N. McCarran Blvd	09/03/2014 $625,000	AC Level	1.775± Ac. 77,326± SF	$8.08
LS-8	532-131-07 W/S Access Road, 135' north of Eagle Canyon Drive	01/05/2015 $650,000	NC Level	1.988± Ac. 86,611± SF	$7.50
LS-9	510-491-11 Southeast corner of Los Altos Parkway and Galleria Parkway	02/05/2015 $623,788	NUD Level	1.573± Ac. 68,525± SF	$9.09
LS-10	013-081-18 South side Mill St., 215' E. of Kietzke Lane, Reno	02/24/2015 $91,000	MURC Level	.21± Ac. 9,103± SF	$10.00
LS-11	013-093-15 South side Monroe Street, 105' E of S. Wells Ave., Reno	03/26/2015 $42,000	CC Level	.09± Ac. 4,000± SF	$10.00
LS-12	013-281-03 Southwest corner of Harvard Way & Yale Way, Reno	04/08/2015 $1,473,019	CC Level	3.020± Ac. 131,528± SF	$11.00
LS-13	013-361-21 Southwest corner of Terminal Way & Villa Nova Drive, Reno	04/23/2015 $512,500	MURT Level	1.110± Ac. 48,351± SF	$10.60
LS-14	160-070-11 Northeast corner Double R Blvd. & Professional Circle	05/06/2015 $610,649	PUD Level	1.190± Ac. 51,836± SF	$11.43

Sale Number	Assessor's Parcel Number Location	Sale Date Sale Price	Zoning Topography	Land Area	Sale Price Per S.F.
LS-15	510-491-13 & 15 South side Los Altos Pkwy., 379± W. of Ion Court, Sparks	06/01/2015 $1,131,800	NUD Level	3.51± Ac. 152,950± SF	$7.40
LS-16	163-120-04 East side S. Virginia St., N. of South Meadows Parkway, Reno	11/16/2015 $804,115	PUD Level	1.42± Ac. 6,,8554± SF	$13.00
PLS-17	027-413-38 North side Oddie Blvd., 300' E. of Sullivan Lane	01/08/2016 $725,000	MUD, MUD-C Level	2.201± Ac. 95,876± Sf	$7.56

NONE OF THESE ARE ON OR ADJOINING THE 4th STREET ARE OF THE SUBJECT SITE.

Note: You and your advisors (such as tax, legal, and financial) should conduct careful and independant investigation to determine to your satisfaction the suitability of the property for your needs. The information has been obtained from sources believed reliable. Agents make no representations or warranties as to the accuracy or completeness of supplied information and/or projections.

EXHIBIT "4"

EXHIBIT "4"

1. Real Parties in Interest are the current fee simple owners of real property at issue in this litigation and, as such, have the authority to enter into the aforementioned stipulation with RTC through their attorney, C. Nicholas Pereos, Esq.

2. This case involves the RTC's exercise of its power of eminent domain for the purpose of acquiring the permanent easement, the public utility easement and the temporary construction easement defined as "the Property" in the Stipulation and described in detail in Exhibit 1 to the Stipulation, related to RTC's construction of the 4th Street/Prater Way Complete Street and BRT Project, or "the Project." The Court incorporates the definitions and descriptions of the Project set forth in the Stipulation by reference in this order.

3. The use for which the Property sought to be condemned is a public use authorized by law, and the taking thereof is necessary for such use. RTC has complied with all statutory conditions precedent to instituting this action and seeking immediate occupancy pending judgment. Immediate entry upon and possession of the Property sought to be condemned are required so that the construction of the Project may proceed in an orderly manner without delay or loss in utilization of construction time and/or without unnecessary cost and expense to the condemning agency.

4. NRS 37.090 and 37.100 provide this Court with authority to enter an order allowing RTC access to the Property sought to be condemned at any time after the commencement of suit and pending entry of judgment, to do such work thereon as may be required for the Project according to its nature.

5. For purposes of this Order only, and subject to the terms of the Stipulation concerning Defendants' objection to Reese Perkins' appraisal, the Court finds that, pursuant to NRS 37.100(4), the value of the Property sought to be obtained and/or temporary utilized during construction plus damages is $2,030.00.

. . .

. . .

Based on the foregoing, and with good cause appearing, IT IS HEREBY ORDERED:

1. RTC may have immediate possession and occupancy of the Property, as described in Exhibit 1 attached hereto, by depositing with the Clerk of this Court the sum of $2,030.00 (the "Cash Deposit").

2. The Clerk of the Court shall deposit the Cash Deposit into an interest bearing account for the benefit of Real Parties in Interest and/or any other party determined to be entitled to those amounts.

3. Upon making the Cash Deposit, RTC may immediately enter upon and occupy the Property and perform such work thereon as may be necessary to construct and complete the Project;

4. RTC and Real Parties in Interest and their respective agents shall cooperate so as to minimize interference between construction of the Project and Real Parties in Interest's use of the remaining land of Real Parties in Interest on APN 008-244-15;

5. If Real Parties in Interest apply to withdraw the Cash Deposit, they shall serve a notice on the parties in this action of the Application, giving each party 5 days after service of such notice in which to file and serve objections to such withdrawal, if any;

6. If any such objections to the Application are filed, the Court will set a date and time for a hearing thereon.

IT IS HEREBY FURTHER ORDERED that this order shall become effective upon RTC's deposit of the Cash Deposit with the Clerk of this Court.

Dated this 30th day of November, 2016.

DISTRICT JUDGE

JOHNSON | PERKINS | GRIFFIN
REAL ESTATE APPRAISERS & CONSULTANTS

245 E. Liberty Street, Suite 100, Reno, NV 89501
775.322.1155 | Fax 775.322.1156 | jpgnv.com

Stephen R. Johnson, MAI, SREA
Reese Perkins, MAI, SRA
Scott Q. Griffin, MAI
Cindy Lund Fogel, MAI
Karen K. Sanders

August 5, 2015

Via Certified Mail No: 7005 1820 0001 8006 1560

John Iliescu, Jr. & Sonnia Iliescu
200 Court Street
Reno, Nevada 89501

Re: 4th Street/Prater Way BRT (Bus Rapid Transit) Project
RTC Project No. 242013
642 East 4th Street, Reno, NV (A.P.N. 008-244-15)

Dear Mr. & Mrs. Iliescu:

The Regional Transportation Commission of Washoe County (RTC) has approved and accepted a plan for the 4th Street/Prater Way BRT (Bus Rapid Transit) improvement project to be constructed in the vicinity of the property that you now own and or occupy. The project is intended to better facilitate travel between Reno and downtown Sparks. Your property will be affected by this project, and as a result, it will be necessary for the RTC to have it appraised.

Paragon Partners LLC, acting on behalf of the Regional Transportation Commission, has contracted with Johnson Perkins Griffin, LLC to prepare an appraisal of the above referenced property. The purpose of the appraisal is to estimate the Market Value of the fee simple interest in the subject property, as of a current date of valuation.

Johnson Perkins Griffin, LLC will be appraising your property. We are requesting that you or your representative accompany us when we physically inspect your property. You may contact us at (775) 322-1155 or clf@jpgnv.com to arrange an appointment to inspect the subject property.

15-152-04

We are requesting any information considered relevant to the valuation of your property, including recent sales or listings of the subject, comparable sales or listing data, rental agreements or other pertinent information. Should you desire additional information regarding this project, please contact Mr. Todd Keizer, R/W Agent (310) 497-4012 or email him at tkeizer@paragon-partners.com.

Thank you in advance for your cooperation and assistance.

Sincerely,

Reese Perkins, MAI, SRA
Nevada Certified General Appraiser
License Number A.0000120-CG

Cindy Lund Fogel, MAI
Nevada Certified General Appraiser
License Number A.0002312-CG

RP/lc

Cc: Todd Keizer

15-152-04

REGIONAL TRANSPORTATION COMMISSION
Metropolitan Planning · Public Transportation & Operations · Engineering & Construction
Metropolitan Planning Organization of Washoe County, Nevada

July 20, 2016

John Iliescu, Jr. and Sonnia Iliescu 1992
Family Trust, Agreement dated January 24, 1992
John & Sonnia Iliescu
200 Court Street
Reno, Nevada 89501
Via Certified Mail #9171 9690 0935 0111 8801 30

RTC Board Meeting
4th Street/Prater Way BRT Project
Evans Avenue to Pyramid Way
RTC Project: 242013
Grant#: NV-79-0003
APN: 008-244-15

RE: **Notice Letter Pursuant to NRS 241.034**

Dear Mr. and Mrs. Iliescu:

On behalf of the Board of Directors for the Regional Transportation Commission (RTC), you are hereby notified that the RTC Board will convene on August 19, 2016, at 9:00 am, at the Washoe County Commission Chambers, located at 1001 E. Ninth Street, Building A, Reno, Nevada 89512. At that meeting, the Board will discuss whether to acquire, and may take action to acquire, one public utility easement, one permanent easement and one temporary construction easement (property rights), located on Assessor's Parcel Number 008-244-15 by the exercise of the power of eminent domain.

APN 008-244-15	Public Utility Easement – 288 square feet
	Permanent Easement – 68 square feet
	Temporary Construction Easement – 88 square feet

This notice is provided to you pursuant to Chapter 241 of the Nevada Revised Statutes. Also pursuant to Chapter 241, this meeting is an open meeting at which comments from the public are taken.

The Washoe County Commission Chambers is accessible to individuals with disabilities. Requests for auxiliary aids to assist individuals with disabilities should be made with as much advance notice as possible. For those requiring hearing or speech assistance, contact Relay Nevada at 1-800-326-6868 (TTY, VCO or HCO). Requests for supporting documents and all other requests should be directed to Denise Thompson, at (775) 335-1826.

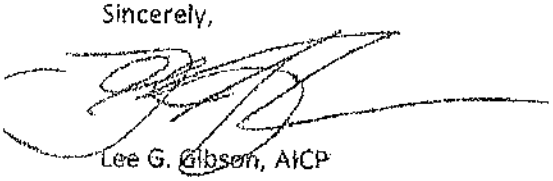
The RTC's preference is to continue the negotiation process with you to acquire the property rights needed for the project, however, the RTC may initiate an action in eminent domain to acquire them. Upon your response, we can schedule a meeting to work on a resolution.

7-20-16

RTC Board: Neoma Jardon (Chair) · Ron Smith (Vice Chair) · Bob Lucey · Paul McKenzie · Marsha Berkbigler
PO Box 30002, Reno, NV 89520 · 1105 Terminal Way, Reno, NV 89502 · 775-348-0400 · rtcwashoe.com

If you have any questions, please contact Carrie Byron, Property Agent, by phone at (775) 332-2144.

Sincerely,



Lee G. Gibson, AICP
RTC Executive Director

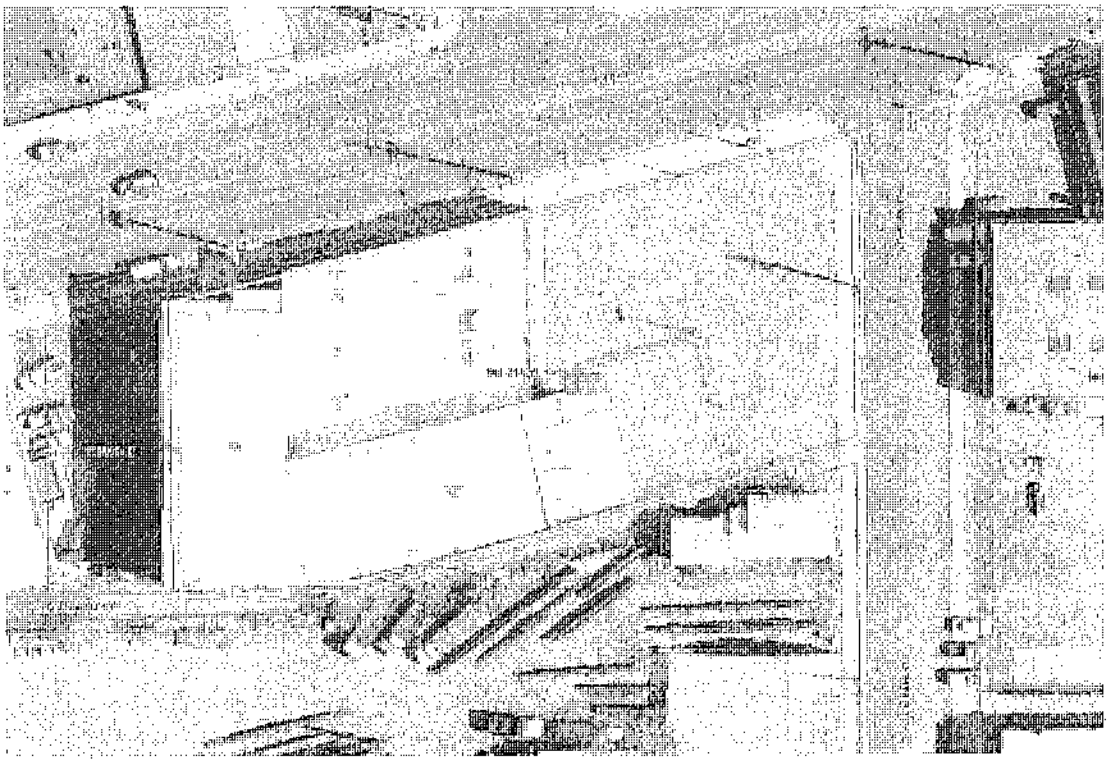
LGG/CAB/mak

Cc: Dale Ferguson, General Counsel, RTC

EXHIBIT "5"

EXHIBIT "5"

APPRAISAL REPORT
642 EAST FOURTH STREET, APN 008-244-15
RENO, WASHOE COUNTY, NEVADA



PREPARED FOR THE PURPOSE OF
ESTIMATING MARKET VALUE
for
ILIESCU FAMILY TRUST, JOHN JR. & SONNIA
Public Easements
11550PE, 11550PUE, & 11550TCU

May 15, 2017

submitted by
Joseph S. Campbell, MAI
PO Box 21453
Reno, Nevada 89515

F I L E D
Electronically
CV19-00459
2020-07-21 03:43:26 PM
Jacqueline Bryant
Clerk of the Court
Transaction # 7981600

EXHIBIT 2

EXHIBIT 2

Dianne Kelling

From: Michael J. Morrison, Chtd. <venturelawusa@gmail.com>
Sent: Tuesday, June 30, 2020 7:24 PM
To: Dianne Kelling; Dane Anderson; Bronagh M. Kelly
Subject: Re: Iliescu vs RTC
Attachments: Iliescu v RTC - SIG COPY - SONNIA - Responses to RFP -FINAL - 30Jun2020.pdf; Ilisecu-RTC-4th Street-Exhibits 1-5-Prod Docs.pdf

Dear Dianne and Dane -
Attached please find Sonnia's responses to your RFP.
Thanks,
Mike

P.S. Sorry I left Ms. Kelly's address off my prior email.

Discovery

MICHAEL J. MORRISON, ESQ.
Nevada State Bar No. 1665
1495 Ridgeview Dr., #220
Reno, Nevada 89519
(775) 827-6300
Attorney for Plaintiffs

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

* * * * *

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU, JR. AND SONNIA ILIESCU 1992 FAMILY TRUST,

Plaintiff,

vs.

THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; AND DOES 1-40,

Defendants.

CASE NO. CV19-00459

DEPT. NO. 15

PLAINTIFF'S RESPONSES TO DEFENDANT'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS TO PLAINTIFF SONNIA ILIESCU

COMES NOW Sonnia Iliescu, individually, by and through her attorney, Michael J. Morrison, Esq., and pursuant to NRCP 26 and 34, Plaintiff Sonnia Iliescu, respectfully responds to the Defendant's First Set of Requests for Production of Documents to Plaintiff Sonnia Iliescu ("Plaintiff"), as follows:

PRELIMINARY OBJECTIONS AND COMMENTS

1. These responses and productions are based solely on information and documents as is presently known and in the possession of Plaintiff. Further discovery may lead to additions to, changes in, or modification of these answers in accordance with Nevada Rules of Civil Procedure. Accordingly, these responses are being given without prejudice to Plaintiff's right to produce subsequent discovery evidence and to introduce the same at trial.

2. Plaintiff will supplement her responses to the requests as required by the Nevada Rules of Civil Procedure.

3 All responses will be made solely for the purpose of this action. Each response will be subject to all objections as to competence, relevance, materiality, propriety and admissibility, and to any and all objections on any ground which would require the exclusion from evidence of any document produced herein, all of which objections and grounds are expressly reserved and may be interposed at any hearings.

4. Plaintiff adopts by reference the above objections and incorporates each objection as if it were fully set forth below in each of Plaintiff's Responses.

REQUEST NO. 1:

All documents supporting your contention that RTC or anyone you contend was acting on behalf of RTC drove over and parked their vehicles on your property "on virtually every workday during the term of the Project," as alleged in paragraph 9 of your Complaint.

RESPONSE TO REQUEST NO. 1:

See Exhibit "1". Photos of the subject trucks on the subject property, taken April 3, 2018.
See Exhibit "2". Letter from Paragon Partners, Defendant's designated and contracted construction firm.
See Exhibit "3". Preliminary Draft of Broker Price Opinion (Cover Page Only) containing photos of the subject property (on pages 4 & 5) before construction commenced.
See Exhibit "4". Order of the Court granting RTC (Defendant in this case) possession and occupancy of the property, and specifically ordering Defendant to "minimize interference between construction of the Project and Real Parties in Interest's (Iliescus' use of the remaining land of Real Parties in Interest on APN 008-244-15. Also included are other documents related to the process.
See Exhibit "5". Cover page of Appraisal Report prepared for the Iliescus by Joseph S. Campbell, MAI, dated May 15, 2017, containing photos of the subject property before RTC commenced construction.

Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due

deference accorded the respective schedules of counsel for the respective parties. Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust", including Transaction #5832427, the Verified Complaint in Eminent Domain, containing Exhibits 1-4 (inclusive), specifying, *inter alia*, rights and duties of Defendant and its included governmental and other associated parties, as well as the small size and limited use and scope of its "Temporary Construction Easement"; and Transaction #5832427, delineating the very limited easement the Court granted Defendant with respect to the property subject of the instant case.

REQUEST NO. 2:

All documents supporting your allegation that you and/or John Iliescu made "frequent objections" to RTC's alleged use of any portion of your property at issue in this litigation, as set forth in paragraph 9 of your Complaint, as well as all documents supporting your allegation that you and/or John Iliescu made "innumerable requests" that RTC not use the property, as set forth on page 6 of your opposition to the motion to dismiss.

RESPONSE TO REQUEST NO. 2:

See Exhibits "1" and "4".

Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties. Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

REQUEST NO. 3:

All documents, including photographs, that depict or discuss the condition of the subject parking lot at any time, whether before, during and after the Project that is the subject of your complaint. With respect to documents and photographs before the Project,

RTC seeks documents depict or discuss the condition of the subject parking lot in the 15 years prior to the Project. The response to this request should include any correspondence, bids, quotes or other documents discussion possible repairs to or work to be done on the subject parking lot.

RESPONSE TO REQUEST NO. 3:

See Exhibit "1". Photos of the subject trucks on the subject property, taken April 3, 2018.

See Exhibit "2". Letter from Paragon Partners, Defendant's designated and contracted construction firm.

See Exhibit "3". Preliminary Draft of Broker Price Opinion (Cover Page Only) containing photos of the subject property (on pages 4 & 5) before construction commenced.

See Exhibit "4". Order of the Court granting RTC (Defendant in this case) possession and occupancy of the property, and specifically ordering Defendant to "minimize interference between construction of the Project and Real Parties in Interest's (Iliescus' use of the remaining land of Real Parties in Interest on APN 008-244-15. Also included are other documents related to the process.

See Exhibit "5". Cover page of Appraisal Report prepared for the Iliescus by Joseph S. Campbell, MAI, dated May 15, 2017, containing photos of the subject property before RTC commenced construction.

Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties.

Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

REQUEST NO. 4:

All documents supporting your claim that you have suffered reparable and irreparable damages to the "Remaining Property and to each of the respective Plaintiffs," as alleged in paragraph 11 of your Complaint.

RESPONSE TO REQUEST NO. 4:

See Exhibit "1".

Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties. Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

REQUEST NO. 5:

All documents supporting your claim for loss of market value of the Remaining Property as alleged in paragraph 11(a) of your Complaint.

RESPONSE TO REQUEST NO. 5:

See Exhibits "1" and "5".

Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties. Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

REQUEST NO. 6:

All documents supporting your claim for discomfort and annoyance to Plaintiffs as alleged in paragraph 11(b) of your Complaint.

RESPONSE TO REQUEST NO. 6:

See Exhibit "1". Photos of the subject trucks on the subject property, taken April 3, 2018.

See Exhibit "2". Letter from Paragon Partners, Defendant's designated and contracted

construction firm.

See Exhibit "3". Preliminary Draft of Broker Price Opinion (Cover Page Only) containing photos of the subject property (on pages 4 & 5) before construction commenced.

See Exhibit "4". Order of the Court granting RTC (Defendant in this case) possession and occupancy of the property, and specifically ordering Defendant to "minimize interference between construction of the Project and Real Parties in Interest's (Iliescus' use of the remaining land of Real Parties in Interest on APN 008-244-15. Also included are other documents related to the process.

See Exhibit "5". Cover page of Appraisal Report prepared for the Iliescus by Joseph S. Campbell, MAI, dated May 15, 2017, containing photos of the subject property before RTC commenced construction.

Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties.

Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

REQUEST NO. 7:

All documents supporting your claim for emotional distress as alleged in paragraph 11(c) of your Complaint.

RESPONSE TO REQUEST NO. 7:

See Exhibit "1". Photos of the subject trucks on the subject property, taken April 3, 2018.

See Exhibit "2". Letter from Paragon Partners, Defendant's designated and contracted construction firm.

See Exhibit "3". Preliminary Draft of Broker Price Opinion (Cover Page Only) containing photos of the subject property (on pages 4 & 5) before construction commenced.

See Exhibit "4". Order of the Court granting RTC (Defendant in this case) possession and occupancy of the property, and specifically ordering Defendant to "minimize interference between construction of the Project and Real Parties in Interest's (Iliescus') use of the

remaining land of Real Parties in Interest on APN 008-244-15. Also included are other documents related to the process.

See Exhibit "5". Cover page of Appraisal Report prepared for the Iliescus by Joseph S. Campbell, MAI, dated May 15, 2017, containing photos of the subject property before RTC commenced construction.

Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties.

Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

REQUEST NO. 8:

All documents supporting your claim for emotional distress as alleged in paragraph 11(c) of your Complaint.

RESPONSE TO REQUEST NO. 8:

See Exhibit "1". Photos of the subject trucks on the subject property, taken April 3, 2018.

See Exhibit "2". Letter from Paragon Partners, Defendant's designated and contracted construction firm.

See Exhibit "3". Preliminary Draft of Broker Price Opinion (Cover Page Only) containing photos of the subject property (on pages 4 & 5) before construction commenced.

See Exhibit "4". Order of the Court granting RTC (Defendant in this case) possession and occupancy of the property, and specifically ordering Defendant to "minimize interference between construction of the Project and Real Parties in Interest's (Iliescus' use of the remaining land of Real Parties in Interest on APN 008-244-15. Also included are other documents related to the process.

See Exhibit "5". Cover page of Appraisal Report prepared for the Iliescus by Joseph S. Campbell, MAI, dated May 15, 2017, containing photos of the subject property before RTC commenced construction.

Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that

there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties. Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

REQUEST NO. 9:

All documents supporting your claim for loss of use of the Remaining Property as alleged in paragraph 11(d) of your Complaint.

RESPONSE TO REQUEST NO. 9:

See Exhibit "1". Photos of the subject trucks on the subject property, taken April 3, 2018.
See Exhibit "2". Letter from Paragon Partners, Defendant's designated and contracted construction firm.
See Exhibit "3". Preliminary Draft of Broker Price Opinion (Cover Page Only) containing photos of the subject property (on pages 4 & 5) before construction commenced.
See Exhibit "4". Order of the Court granting RTC (Defendant in this case) possession and occupancy of the property, and specifically ordering Defendant to "minimize interference between construction of the Project and Real Parties in Interest's (Iliescus' use of the remaining land of Real Parties in Interest on APN 008-244-15. Also included are other documents related to the process.
See Exhibit "5". Cover page of Appraisal Report prepared for the Iliescus by Joseph S. Campbell, MAI, dated May 15, 2017, containing photos of the subject property before RTC commenced construction.
Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties. Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

REQUEST NO. 10:

All documents supporting your claim for costs of property restoration as alleged in paragraph 11(e) of the Complaint.

RESPONSE TO REQUEST NO. 10:

See Exhibits "1" and "5".

Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties.

Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

REQUEST NO. 11:

All documents supporting your claim for physical damage to and destruction of the Property as alleged in paragraph 11(c) of your Complaint.

RESPONSE TO REQUEST NO. 11:

See Exhibit "1". Photos of the subject trucks on the subject property, taken April 3, 2018.

See Exhibit "2". Letter from Paragon Partners, Defendant's designated and contracted construction firm.

See Exhibit "3". Preliminary Draft of Broker Price Opinion (Cover Page Only) containing photos of the subject property (on pages 4 & 5) before construction commenced.

See Exhibit "4". Order of the Court granting RTC (Defendant in this case) possession and occupancy of the property, and specifically ordering Defendant to "minimize interference between construction of the Project and Real Parties in Interest's (Iliescus' use of the remaining land of Real Parties in Interest on APN 008-244-15. Also included are other documents related to the process.

See Exhibit "5". Cover page of Appraisal Report prepared for the Iliescus by Joseph S. Campbell, MAI, dated May 15, 2017, containing photos of the subject property before RTC commenced construction.

Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties. Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

REQUEST NO. 12:

All contracts you allege exist between you and RTC or any other party related to this matter, including but not limited to the agreement referenced in paragraph 11 of your Complaint, the agreements referenced in paragraphs 27 of your Complaint, and the "RTC-Trust Agreement" referenced in paragraphs 39, 46 and 48(a) of your Complaint.

RESPONSE TO REQUEST NO. 12:

See Exhibits "2", "3" and "4".

Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties. Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

REQUEST NO. 13:

All documents supporting your allegation that Defendants agreed to carry out a scheme intended to accomplish unlawful objectives, as alleged in paragraph 67 of your Complaint.

RESPONSE TO REQUEST NO. 13:

See Exhibit "1".

Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to

inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties. Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

REQUEST NO. 14:

All documents supporting your allegation that you and John Iliescu each suffered pain, discomfort, mental and emotional distress, pain and disabilities, mental and psychological problems, depression, loss of sleep, appetite and enjoyment of life as a result of RTC's conduct, as alleged in paragraphs 74, 82, 84, 91 and 92 of your Complaint. Your response should include all medical records supporting your allegation that you and John Iliescu each sought medical attention for your respective injuries and "continued for some time to require medical care and treatment, even though the date of this Complaint," as alleged in paragraph 82 of your Complaint, as well as any such records up to and including the date of your response.

RESPONSE TO REQUEST NO. 14:

See Exhibit "1". Photos of the subject trucks on the subject property, taken April 3, 2018.
See Exhibit "2". Letter from Paragon Partners, Defendant's designated and contracted construction firm.
See Exhibit "3". Preliminary Draft of Broker Price Opinion (Cover Page Only) containing photos of the subject property (on pages 4 & 5) before construction commenced.
See Exhibit "4". Order of the Court granting RTC (Defendant in this case) possession and occupancy of the property, and specifically ordering Defendant to "minimize interference between construction of the Project and Real Parties in Interest's (Iliescus' use of the remaining land of Real Parties in Interest on APN 008-244-15. Also included are other documents related to the process.
See Exhibit "5". Cover page of Appraisal Report prepared for the Iliescus by Joseph S. Campbell, MAI, dated May 15, 2017, containing photos of the subject property before RTC commenced construction.

Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties. Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

REQUEST NO. 15:

All documents supporting your allegation that RTC or any other defendant acted in a malicious, destructive, willful, mean-spirited or other improper manner.

RESPONSE TO REQUEST NO. 15:

See Exhibit "1". Photos of the subject trucks on the subject property, taken April 3, 2018.
See Exhibit "2". Letter from Paragon Partners, Defendant's designated and contracted construction firm.
See Exhibit "3". Preliminary Draft of Broker Price Opinion (Cover Page Only) containing photos of the subject property (on pages 4 & 5) before construction commenced.
See Exhibit "4". Order of the Court granting RTC (Defendant in this case) possession and occupancy of the property, and specifically ordering Defendant to "minimize interference between construction of the Project and Real Parties in Interest's (Iliescus' use of the remaining land of Real Parties in Interest on APN 008-244-15. Also included are other documents related to the process.
See Exhibit "5". Cover page of Appraisal Report prepared for the Iliescus by Joseph S. Campbell, MAI, dated May 15, 2017, containing photos of the subject property before RTC commenced construction.
Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties. Plaintiff further represents that many of the responsive documents are contained in this

Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

REQUEST NO. 16:

All documents supporting your allegation that RTC owed you a fiduciary duty.

RESPONSE TO REQUEST NO. 16:

See Exhibit "4".

Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties. Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

NOTE: Plaintiff Sonnia Iliescu is currently continuing her research and discovery to locate any additional documents responsive to REQUESTS NOS. 1-16, which will be produced if and when available.

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the document to which this Affirmation is attached does not contain the social security number of any person.

DATED this 30th day of June, 2020.

/s/Michael J. Morrison

Michael J. Morrison, Esq.
Attorney for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on this date I personally caused to be served a true copy of the foregoing PLAINTIFF'S RESPONSE TO DEFENDANT'S FIRST REQUESTS FOR PRODUCTION OF DOCUMENTS TO PLAINTIFF SONNIA ILIESCU at the address indicated and addressed to the following:

Dane W. Anderson, Esq.
WOODBURN AND WEDGE
6100 Neil Road, Suite 500
Reno, Nevada 89511

XX Via U.S. Mail
____ Via Overnight Mail
____ Via Hand Delivery
XX Via E-mail
____ Via ECF

DATED this 30th day of June, 2020.

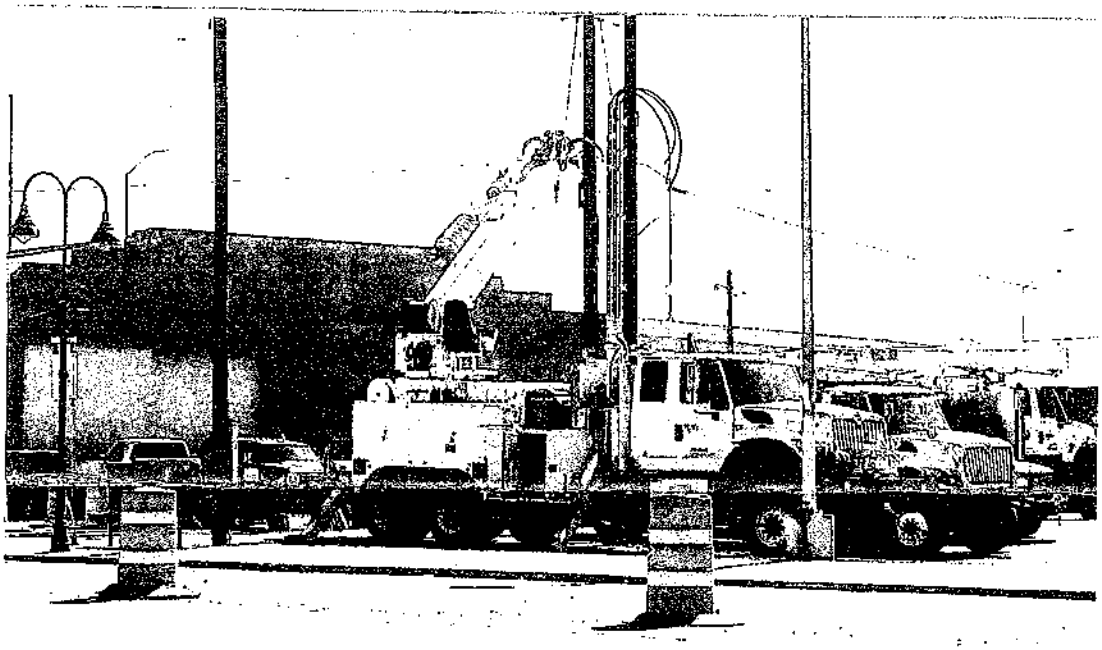
/s/Michael J. Morrison

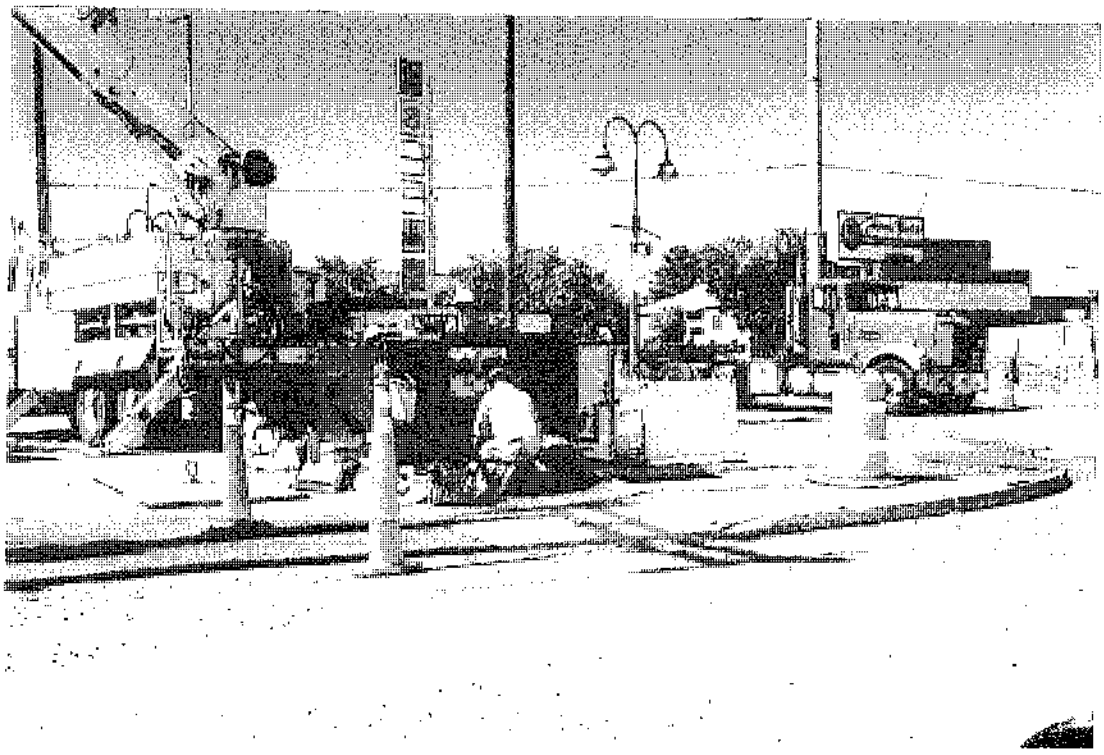
Michael J. Morrison

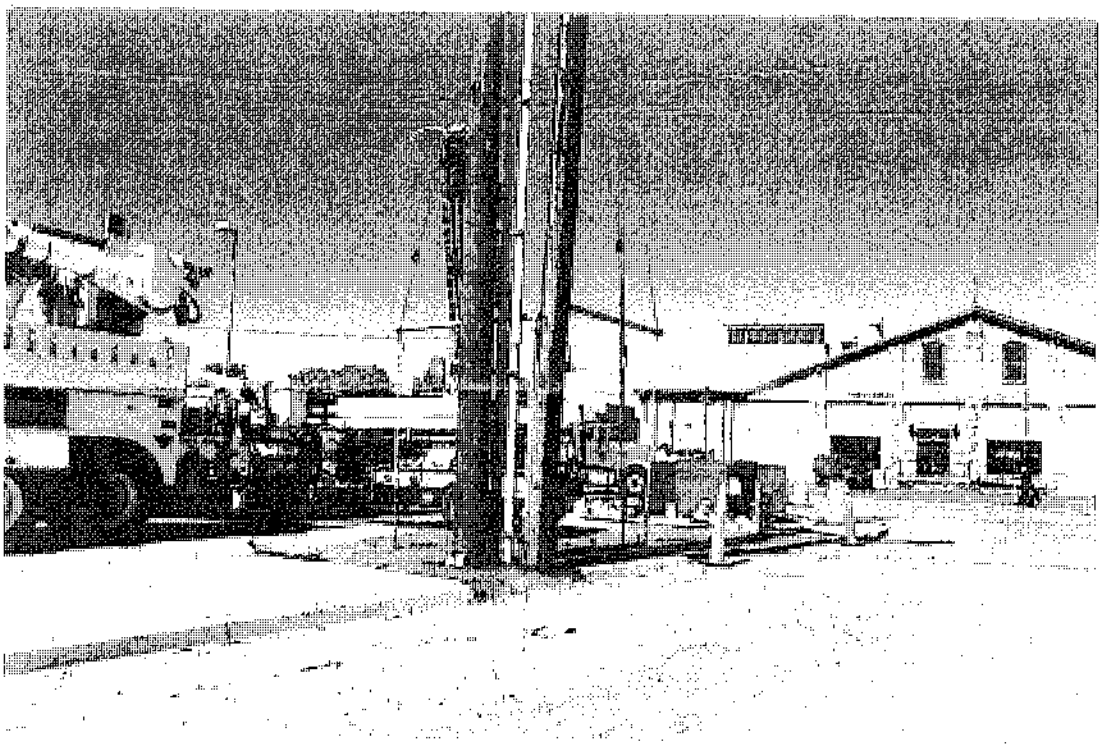
EXHIBIT "1"

EXHIBIT "1"


RANCHO
777









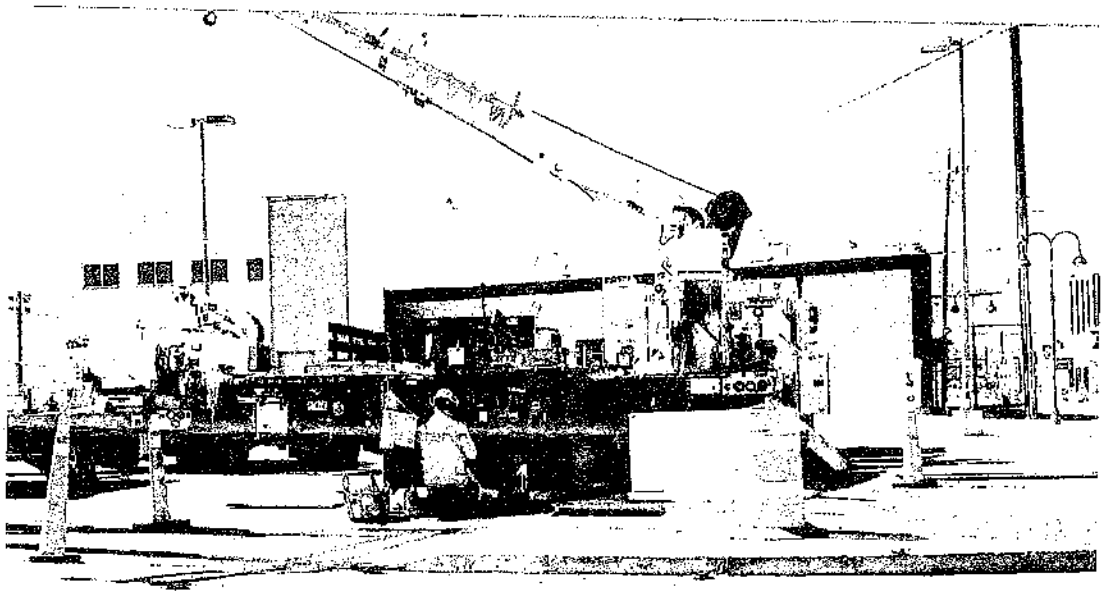


EXHIBIT "2"

EXHIBIT "2"

Todd Keizer
008-244-15 John and Sonnia Iliescu Family Trust
August 12, 2015 at 11:51 AM

John and Sonnia,

Thank you for your call today. It was a pleasure speaking with you. I have attached four maps to show you what we are proposing regarding your property.

The first attachment is labeled "PE" which is the permanent easement on the corner of 4th Street and Parker. It is 68 SF.

The second attachment is labeled "PUE" which is the utility easement on the southeast corner of your property. It is 584 SF but only 5 +/- feet wide at the widest point.

The third attachment is labeled "TCE" which is the temporary easement.

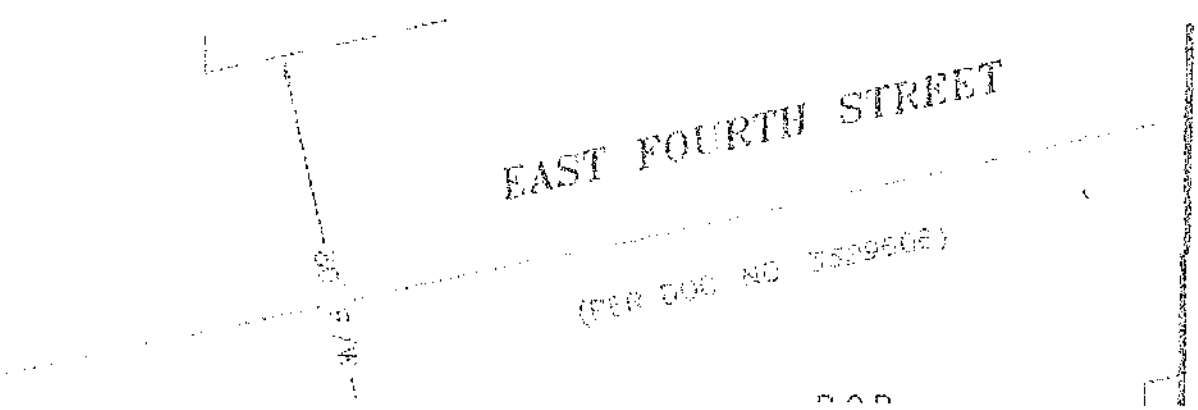
Lastly, I didn't mention it on the phone but I believe we are going to request access to the main parking area of the property. This is solely for your benefit to tie the driveway into 4th street, address grade issues, upgrade asphalt/curbing, etc. This last map labeled "full ROW map" shows this area in purple and will be completely voluntary and temporary on your part as the RTC will not compel you to allow us access. I will get you more information on this so you better understand the benefits to you will be.

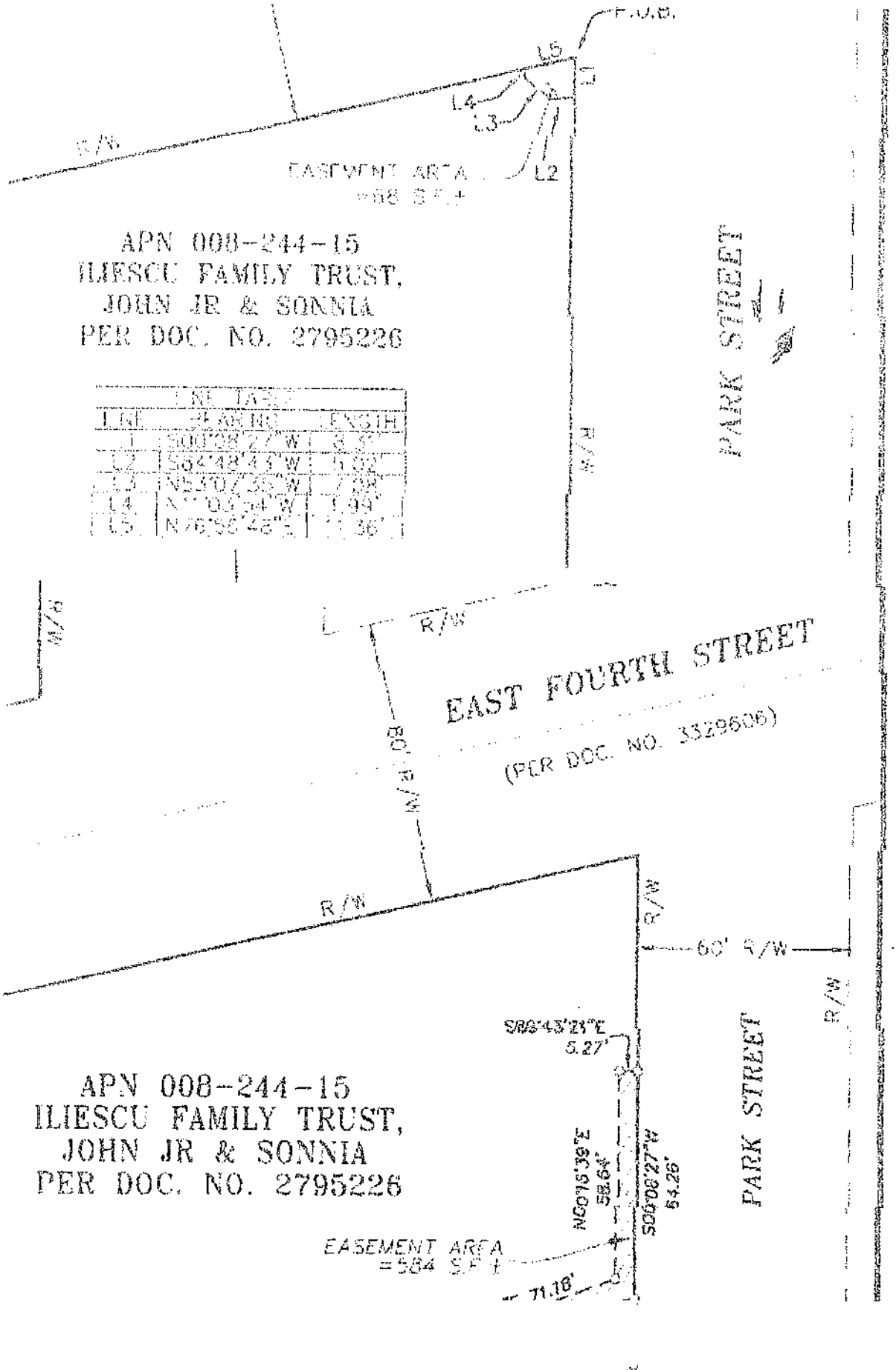
Please feel free to contact me at any time should you have additional questions.

Thank you.

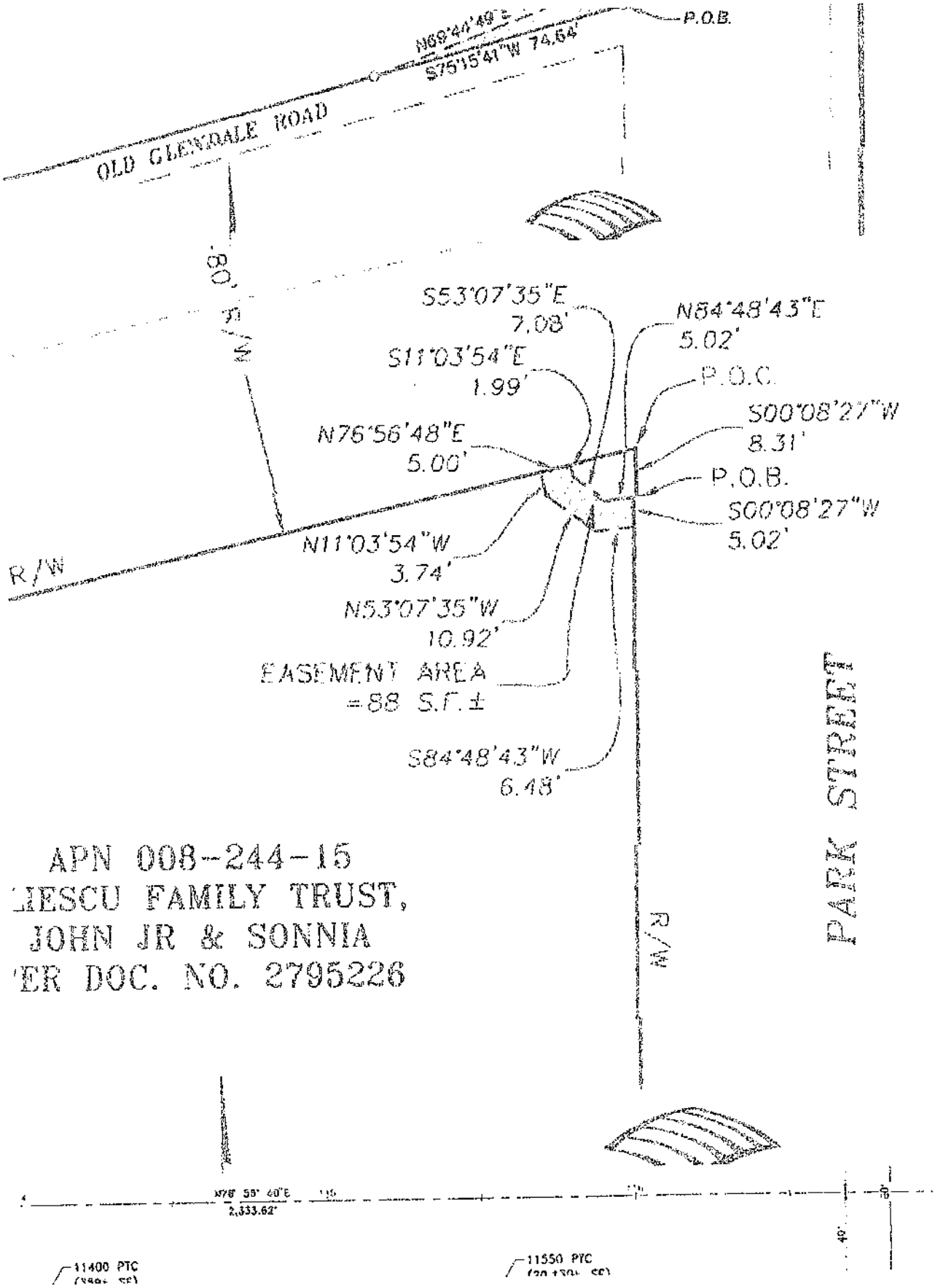
Todd Keizer
Project Manager
Paragon Partners Ltd.
5762 Bolsa Ave., Suite 201
Huntington Beach, CA 92649
Email: tkeizer@paragon-partners.com
www.paragon-partners.com
Tel.: 714.379.3376
Mobile: 310.497.4012
Fax: 714.373.1234

8-17-15
JT Spoke w/ Todd [illegible]





LINE TABLE		
LINE	BEARING	LENGTH
L1	S00°08'27"W	8.3'
L2	S84°48'43"W	5.02'
L3	N53°07'35"W	7.08'
L4	N[illegible]°03'54"W	1.99'
L5	N76°56'48"E	[illegible]36'


P.O.B.
N69°44'49"E
S75°15'41"W 74.64'
OLD GLENDALE ROAD
80.00'
R/W
S53°07'35"E
7.08'
S11°03'54"E
1.99'
N76°56'48"E
5.00'
N84°48'43"E
5.02'
P.O.C.
S00°08'27"W
8.31'
P.O.B.
S00°08'27"W
5.02'
N11°03'54"W
3.74'
N53°07'35"W
10.92'
EASEMENT AREA
=88 S.F.±
S84°48'43"W
6.48'
APN 008-244-15
IESCU FAMILY TRUST,
JOHN JR & SONNIA
'ER DOC. NO. 2795226
R/W
PARK STREET
N78° 55' 40"E
2,333.62'
40'
11400 PTC
11550 PTC

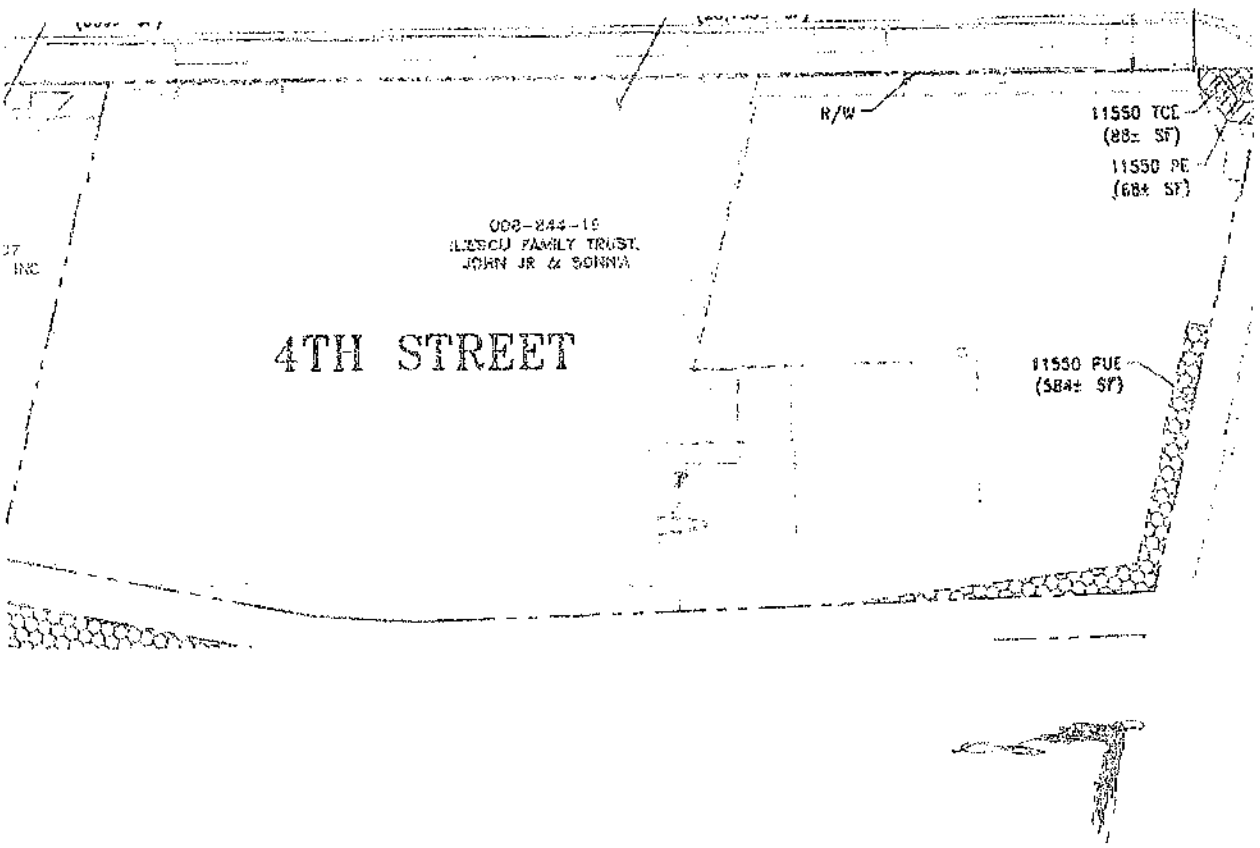

R/W
11550 TCE
(88± SF)
11550 PE
(68± SF)
008-244-19
ILIESCU FAMILY TRUST,
JOHN JR & SONNIA
4TH STREET
11550 PUE
(584± SF)

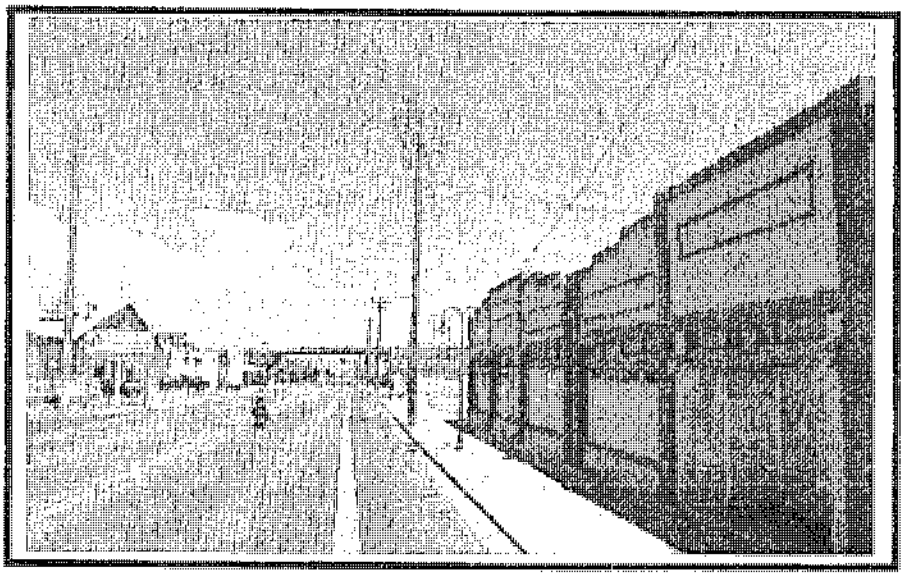
EXHIBIT "3"

EXHIBIT "3"

JOHNSON GROUP
Commercial | Residential | Investment | Realty

Richard K. Johnson
5255 Longley Ln. Suite105
Reno, Nevada 89511
Phone: 775-824-8877
Fax: 866-716-8848
Dick@JohnsonGroup.net

BROKER PRICE OPINION



THIS IS A PRELIMINARY DRAFT FOR REFERENCE ONLY

Subject Address: **642 E 4th , Reno, Nv**

Date Prepared: August 18, 2016

TO THE ATTENTION OF:

RTC and
Dr & Sonnia Iliescu

PREPARED BY:

Richard K. "Dick" Johnson, Broker/Owner *License #:* 58025

Note: You and your advisors (such as tax, legal, and financial) should conduct careful and independent investigation to determine to your satisfaction the suitability of the property for your needs. The information has been obtained from sources believed reliable. Agents make no representations or warranties as to the accuracy or completeness of supplied information and/or projections.

PROPERTY
ASSESSMENTS AND RECOMMENDATIONS

PROPERTY DATA:

Property Address:	642 E 4th, Reno, Nevada
APN #:	011-051-15
Owner of Record:	Iliescu Family Trust

PROPERTY CHARACTERISTICS:

APN: 008-244-15 Card 1 of 1

Owner Information & Legal Description

Situs: 642 E 4TH ST
ILIESCU FAMILY TRUST, JOHN JR & SONNIA
Mail Address: 200 COURT ST
RENO NV 89501
ILIESCU TRUSTEE, JOHN JR & SONNIA
Rec Doc No: Rec Date: 01/24/2003
Prior Owner: SALVATION ARMY THE,
Prior Doc: MEMO
Keyline Desc: COMMERCIAL ADD LTS 1 THRU 11 BLK 1
Subdivision: COMMERCIAL ADDITION
Lot: 1-11 Block: 1 Sub Map#
Record of Survey Map: Parcel Map#
Section: Township: 19 Range: 19
1002 Prior APN
Use does not qualify for Low Cap, High Cap Applied

Building Information

Quality	C1S Low/Avg		Retail Store
			Storage Warehouse
Stories	1.00		29,408
Year Built	1935	Area.	does not include Basement or Garage Conversion
	1971	Finished Bsmt	0
	0	Unfin Bsmt	0
Full Baths	0		
Half Baths	0	Gar Conv Sq Foot	0
Fixtures		Total Gar Area	0
Fireplaces	0	Gar Type	
Heat Type	PACKAGE UNIT	Det Garage	0
Sec Heat Type	SPACE HEATER	Comm Gar Door	0
Ext Walls	BRICK SOLID	Sub Floor	
Sec Ext Walls		Frame	MASONRY BRNG
Roof Cover		Construction Mod	0
	0		1
% Incomplete			1

Land Information

NBC = Neighborhood Code

	400	MUDR	Sewer Municipal
Size	31,866 SqFt or 0.732 Acre	Water Muni	Street Paved

NBC: AHBQ
NBL Map:

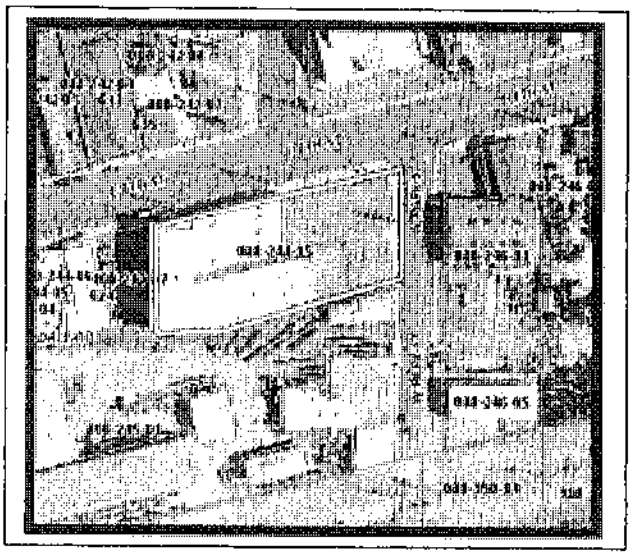
Valuation Information

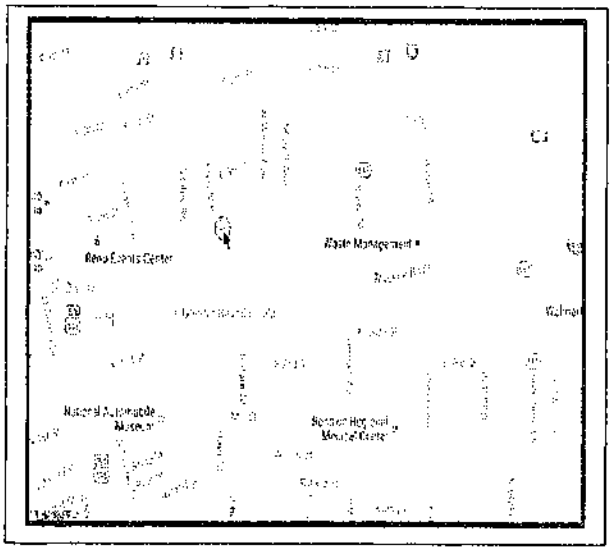
	2015/16 FV	2016/17 FV
Taxable Land Value	191,196	191,196
Taxable Improvement Value	559,814	544,867
Taxable Total	751,010	736,063
Assessed Land Value	66,919	66,919
Assessed Improvement Value	195,935	190,703
Total Assessed	262,854	257,622

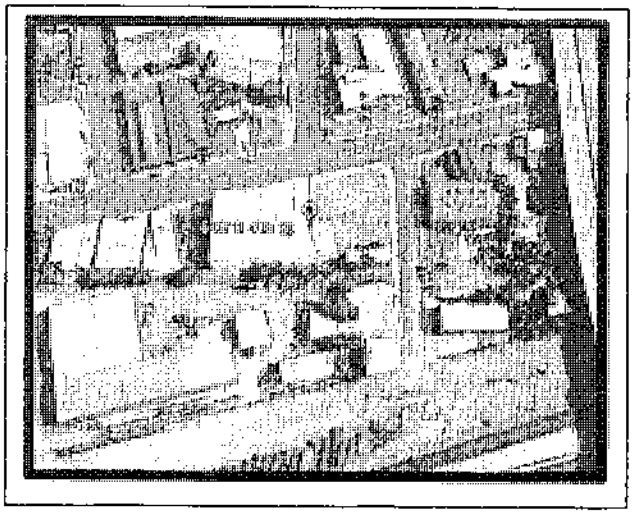
Sales/Transfer Information/Recorded Document

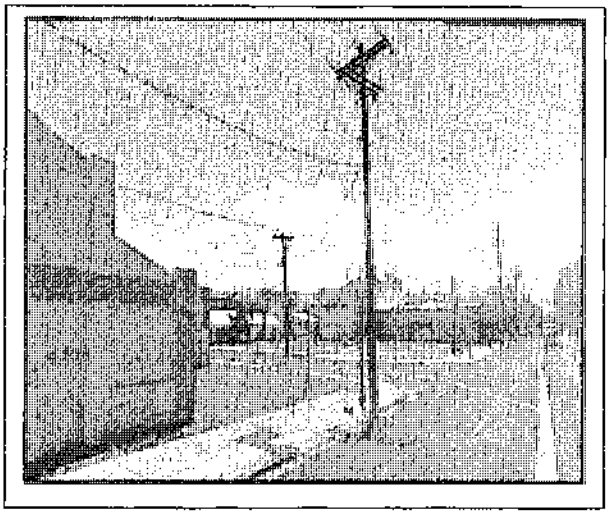
		Doc Date	Value/Sale Price	Grantor	Grantee
1G	400	01-24-2003	810,000	SALVATION ARMY THE,	ILIESCU FAMILY TRUST, JOHN JR & SONNIA
		08-21-1975	0		SALVATION ARMY THE

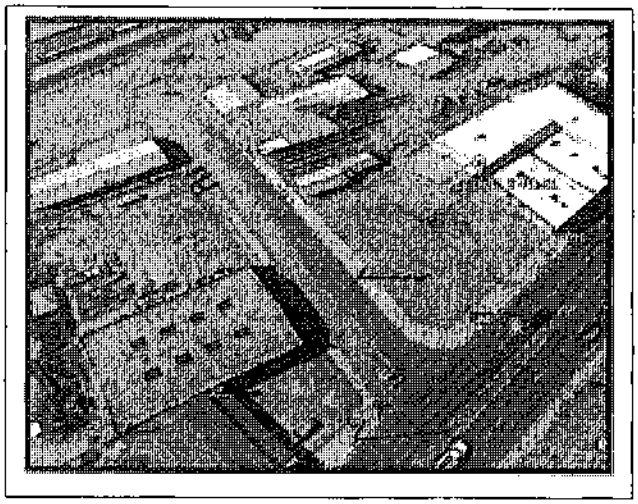
Note: You and your advisors (such as tax, legal, and financial) should conduct careful and independant investigation to determine to your satisfaction the suitability of the property for your needs. The information has been obtained from sources believed reliable. Agents make no representations or warranties as to the accuracy of completeness of supplied information and/or projections.

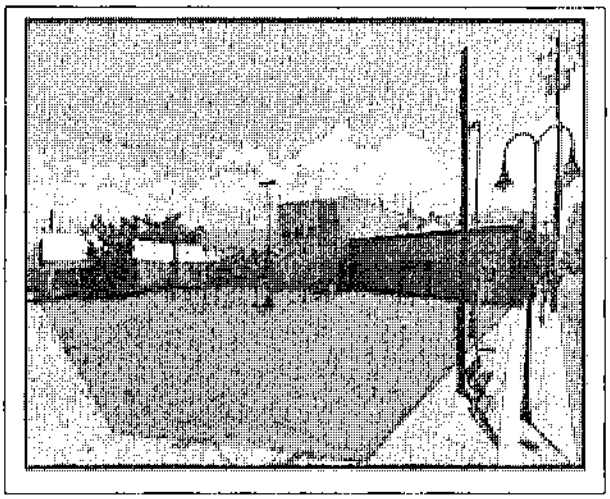












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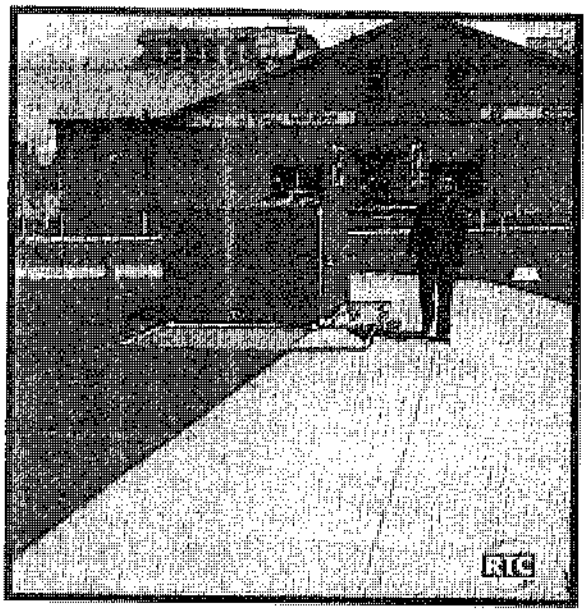
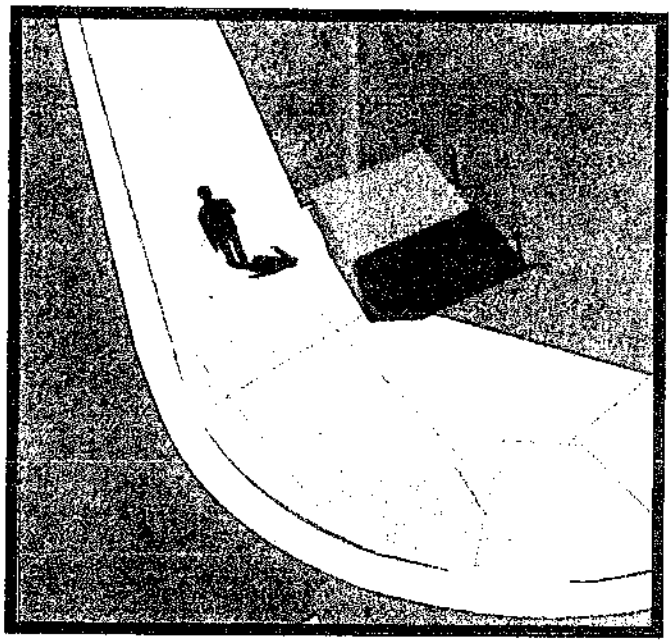
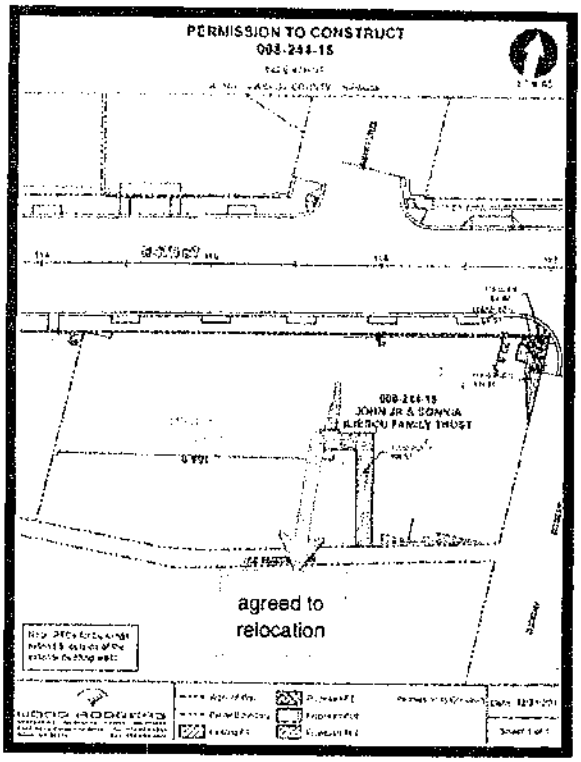
RTC (proposed) easement







On following page, see the list of Comps as provided by Appraiser hired by RTC.

*Note: You and your advisors (such as tax, legal, and financial) should conduct careful and independant investigation to determine to your satisfaction the suitability of the property for your needs. The information has been obtained from sources believed reliable. Agents make no representations or warranties as to the accuracy or completeness of supplied information and/or projections.

Received from RTC employed Appraiser.

COMPARABLE COMMERCIAL LAND SALES CHART

Sale Number	Assessor's Parcel Number Location	Sale Date Sale Price	Zoning Topography	Land Area	Sale Price Per S.F.
LS-1	143-040-25 Northeast corner Geiger Grade and Veterans Parkway	07/31/2012 $970,000	PUD Level	1.50± Ac 65,356± SF	$14.08
LS-2	009-341-08 North side east 5th St., between N. Wells Ave. and Morrill Ave., Reno	07/23/2013 $350,000	MUR4 Level	1.0± Ac. 43,560± SF	$8.03
LS-3	033-314-12 Northeast corner Veterans Ave and 3rd St., Sparks	5/01/2013 $220,000	TOD Level	.47± Ac 20,654± SF	$10.65
LS-4	163-200-04 North side South Meadows Parkway, 700± feet east of Double R Boulevard	01/02/2014 $435,000	PUD Commercial/ Office Level	1.0± Ac. 43,566± SF	$10.44
LS-5	034-145-03 Between E. Greg St. and Stanford Way, 210± feet west of S. McCarran Blvd.	03/28/2014 $535,000	I Level	1.149± Ac 50,047± SF	$10.49
LS-6	008-341-03 South side East 6th St., between N. Wells Ave. and Morrill Ave., Reno	07/03/2014 $350,000	MUR4 Level	.912± Ac. 39,719± SF	$8.81
LS-7	026-182-49 E/S Northtowne Lane, 310' south of N. McCarran Blvd	08/08/2014 $625,000	AC Level	1.775± Ac. 77,328± SF	$8.08
LS-8	532-131-07 W/S Access Road, 135' north of Eagle Canyon Drive	01/05/2015 $650,000	NC Level	1.988± Ac. 86,611± SF	$7.50
LS-9	510-491-11 Southeast corner of Los Altos Parkway and Galleria Parkway	02/05/2015 $623,793	NUD Level	1.578± Ac. 68,729± SF	$9.08
LS-10	013-081-18 South side Mill St., 215' E. of Kietzke Lane, Reno	02/24/2015 $91,000	MURC Level	.21± Ac. 9,100± SF	$10.50
LS-11	013-093-15 South side Moran Street, 105' E. of S. Wells Ave., Reno	02/26/2015 $42,000	CC Level	.09± Ac. 4,000± SF	$10.00
LS-12	013-281-03 Southeast corner of Harvard Way & Vale Way, Reno	04/08/2015 $1,471,019	CC Level	3.020± Ac. 133,728± SF	$11.00
LS-13	013-341-21 Southwest corner of Terminal Way & Villa Nova Drive, Reno	04/22/2015 $512,500	MURT Level	1.110± Ac 48,351± SF	$10.60
LS-14	160-070-12 Northwest corner Double R Blvd. & Professional Circle	05/06/2015 $630,549	PUD Level	1.190± Ac 51,836± SF	$12.13

Sale Number	Assessor's Parcel Number Location	Sale Date Sale Price	Zoning Topography	Land Area	Sale Price Per S.F.
LS-15	510-491-13 & 15 South side Los Altos Pkwy., 379± W. of Ion Court, Sparks	06/01/2015 $1,131,800	NUD Level	3.51± Ac. 152,950± SF	$7.40
LS-16	163-120-04 East side S. Virginia St., N. of South Meadows Parkway, Reno	11/16/2015 $804,115	PUD Level	1.42± Ac. 6,,8554± SF	$13.00
PLS-17	027-412-38 North side Oddie Blvd., 300' E of Sullivan Lane	01/08/2016 $725,000	MUD, MUD-C Level	2.201± Ac. 95,876± Sf	$7.56

NONE OF THESE ARE ON OR ADJOINING THE 4th STREET ARE OF THE SUBJECT SITE.

Note: You and your advisors (such as tax, legal, and financial) should conduct careful and independant investigation to determine to your satisfaction the suitability of the property for your needs. The information has been obtained from sources believed reliable. Agents make no representations or warranties as to the accuracy or completeness of supplied information and/or projections.

EXHIBIT "4"

EXHIBIT "4"

1. Real Parties in Interest are the current fee simple owners of real property at issue in this litigation and, as such, have the authority to enter into the aforementioned stipulation with RTC through their attorney, C. Nicholas Pereos, Esq.

2. This case involves the RTC's exercise of its power of eminent domain for the purpose of acquiring the permanent easement, the public utility easement and the temporary construction easement defined as "the Property" in the Stipulation and described in detail in Exhibit 1 to the Stipulation, related to RTC's construction of the 4th Street/Prater Way Complete Street and BRT Project, or "the Project." The Court incorporates the definitions and descriptions of the Project set forth in the Stipulation by reference in this order.

3. The use for which the Property sought to be condemned is a public use authorized by law, and the taking thereof is necessary for such use. RTC has complied with all statutory conditions precedent to instituting this action and seeking immediate occupancy pending judgment. Immediate entry upon and possession of the Property sought to be condemned are required so that the construction of the Project may proceed in an orderly manner without delay or loss in utilization of construction time and/or without unnecessary cost and expense to the condemning agency.

4. NRS 37.090 and 37.100 provide this Court with authority to enter an order allowing RTC access to the Property sought to be condemned at any time after the commencement of suit and pending entry of judgment, to do such work thereon as may be required for the Project according to its nature.

5. For purposes of this Order only, and subject to the terms of the Stipulation concerning Defendants' objection to Reese Perkins' appraisal, the Court finds that, pursuant to NRS 37.100(4), the value of the Property sought to be obtained and/or temporary utilized during construction plus damages is $2,030.00.

. . .

. . .

Based on the foregoing, and with good cause appearing, IT IS HEREBY ORDERED:

1. RTC may have immediate possession and occupancy of the Property, as described in **Exhibit 1** attached hereto, by depositing with the Clerk of this Court the sum of $2,030.00 (the "Cash Deposit").

2. The Clerk of the Court shall deposit the Cash Deposit into an interest bearing account for the benefit of Real Parties in Interest and/or any other party determined to be entitled to those amounts.

3. Upon making the Cash Deposit, RTC may immediately enter upon and occupy the Property and perform such work thereon as may be necessary to construct and complete the Project;

4. RTC and Real Parties in Interest and their respective agents shall cooperate so as to minimize interference between construction of the Project and Real Parties in Interest's use of the remaining land of Real Parties in Interest on APN 008-244-15;

5. If Real Parties in Interest apply to withdraw the Cash Deposit, they shall serve a notice on the parties in this action of the Application, giving each party 5 days after service of such notice in which to file and serve objections to such withdrawal, if any;

6. If any such objections to the Application are filed, the Court will set a date and time for a hearing thereon.

IT IS HEREBY FURTHER ORDERED that this order shall become effective upon RTC's deposit of the Cash Deposit with the Clerk of this Court.

Dated this 30th day of November, 2016.

DISTRICT JUDGE

JOHNSON | PERKINS | GRIFFIN
REAL ESTATE APPRAISERS & CONSULTANTS

245 E. Liberty Street, Suite 100, Reno, NV 89501
775.322.1155 | Fax 775.322.1156 | jpgnv.com

Stephen R. Johnson, MAI, SREA
Reese Perkins, MAI, SRA
Scott D. Griffin, MAI
Cindy Lund Fogel, MAI
Karen K. Sanders

August 5, 2015

Via Certified Mail No: 7005 1820 0001 8006 1560

John Iliescu, Jr. & Sonnia Iliescu
200 Court Street
Reno, Nevada 89501

Re: 4th Street/Prater Way BRT (Bus Rapid Transit) Project
RTC Project No. 242013
642 East 4th Street, Reno, NV (A.P.N. 008-244-15)

Dear Mr. & Mrs. Iliescu:

The Regional Transportation Commission of Washoe County (RTC) has approved and accepted a plan for the 4th Street/Prater Way BRT (Bus Rapid Transit) improvement project to be constructed in the vicinity of the property that you now own and or occupy. The project is intended to better facilitate travel between Reno and downtown Sparks. Your property will be affected by this project, and as a result, it will be necessary for the RTC to have it appraised.

Paragon Partners LLC, acting on behalf of the Regional Transportation Commission, has contracted with Johnson Perkins Griffin, LLC to prepare an appraisal of the above referenced property. The purpose of the appraisal is to estimate the Market Value of the fee simple interest in the subject property, as of a current date of valuation.

Johnson Perkins Griffin, LLC will be appraising your property. We are requesting that you or your representative accompany us when we physically inspect your property. You may contact us at (775) 322-1155 or clf@jpgnv.com to arrange an appointment to inspect the subject property.

15-152-04

We are requesting any information considered relevant to the valuation of your property, including recent sales or listings of the subject, comparable sales or listing data, rental agreements or other pertinent information. Should you desire additional information regarding this project, please contact Mr. Todd Keizer, R/W Agent (310) 497-4012 or email him at tkeizer@paragon-partners.com.

Thank you in advance for your cooperation and assistance.

Sincerely,

Reese Perkins, MAI, SRA
Nevada Certified General Appraiser
License Number A.0000120-CG

Cindy Lund Fogel, MAI
Nevada Certified General Appraiser
License Number A.0002312-CG

RP/lc

Cc: Todd Keizer

15-152-04

REGIONAL TRANSPORTATION COMMISSION
Metropolitan Planning • Public Transportation & Operations • Engineering & Construction
Metropolitan Planning Organization of Washoe County, Nevada

July 20, 2016

John Iliescu, Jr. and Sonnia Iliescu 1992
Family Trust, Agreement dated January 24, 1992
John & Sonnia Iliescu
200 Court Street
Reno, Nevada 89501
Via Certified Mail #9171 9690 0935 0111 8801 30

RTC Board Meeting
4th Street/Prater Way BRT Project
Evans Avenue to Pyramid Way
RTC Project: 242013
Grant#: NV-79-0003
APN: 008-244-15

RE: **Notice Letter Pursuant to NRS 241.034**

Dear Mr. and Mrs. Iliescu:

On behalf of the Board of Directors for the Regional Transportation Commission (RTC), you are hereby notified that the RTC Board will convene on August 19, 2016, at 9:00 am, at the Washoe County Commission Chambers, located at 1001 E. Ninth Street, Building A, Reno, Nevada 89512. At that meeting, the Board will discuss whether to acquire, and may take action to acquire, one public utility easement, one permanent easement and one temporary construction easement (property rights), located on Assessor's Parcel Number 008-244-15 by the exercise of the power of eminent domain.

APN 008-244-15	Public Utility Easement – 288 square feet
	Permanent Easement – 68 square feet
	Temporary Construction Easement – 88 square feet

This notice is provided to you pursuant to Chapter 241 of the Nevada Revised Statutes. Also pursuant to Chapter 241, this meeting is an open meeting at which comments from the public are taken.

The Washoe County Commission Chambers is accessible to individuals with disabilities. Requests for auxiliary aids to assist individuals with disabilities should be made with as much advance notice as possible. For those requiring hearing or speech assistance, contact Relay Nevada at 1-800-326-6868 (TTY, VCO or HCO). Requests for supporting documents and all other requests should be directed to Denise Thompson, at (775) 335-1826.

The RTC's preference is to continue the negotiation process with you to acquire the property rights needed for the project, however, the RTC may initiate an action in eminent domain to acquire them. Upon your response, we can schedule a meeting to work on a resolution.

7-20-16 Received

RTC Board: Neoma Jardon (Chair) · Ron Smith (Vice Chair) · Bob Lucey · Paul McKenzie · Marsha Berkbigler
PO Box 30002, Reno, NV 89520 · 1105 Terminal Way, Reno, NV 89502 · 775-348-0400 · rtcwashoe.com

If you have any questions, please contact Carrie Byron, Property Agent, by phone at (775) 332-2144.

Sincerely,

Lee G. Gibson, AICP
RTC Executive Director

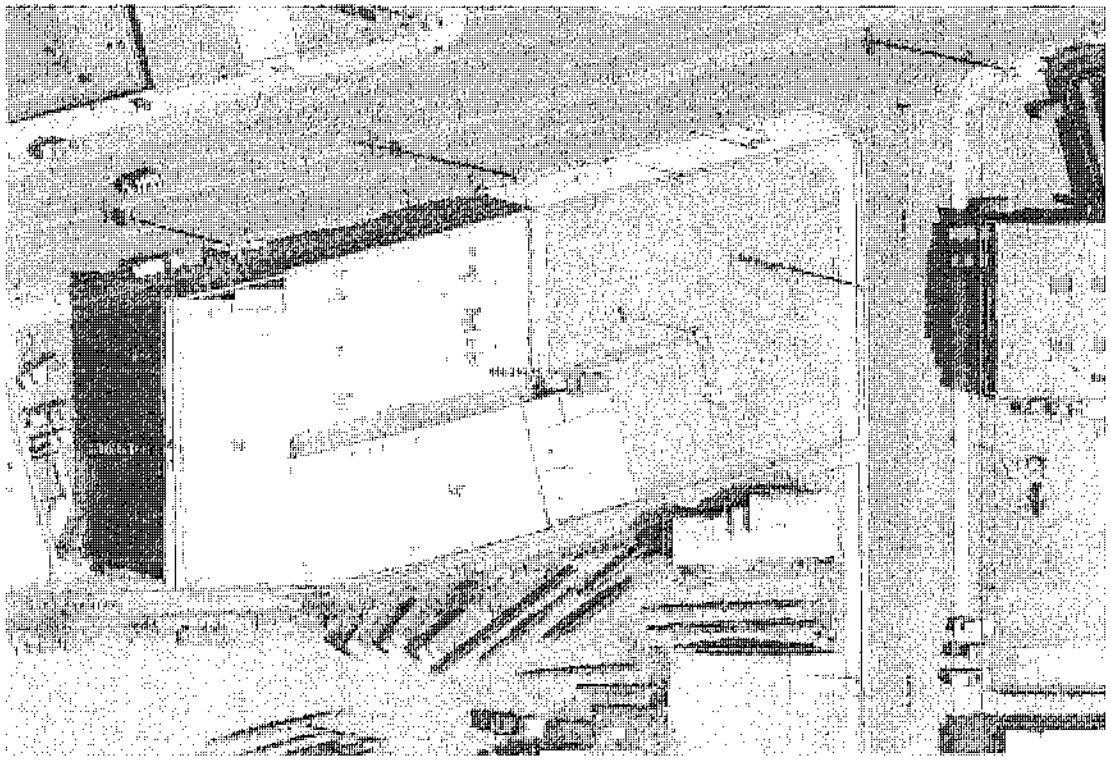
LGG/CAB/mak

Cc: Dale Ferguson, General Counsel, RTC

EXHIBIT "5"

EXHIBIT "5"

APPRAISAL REPORT
642 EAST FOURTH STREET, APN 008-244-15
RENO, WASHOE COUNTY, NEVADA



PREPARED FOR THE PURPOSE OF
ESTIMATING MARKET VALUE
for
ILIESCU FAMILY TRUST, JOHN JR. & SONNIA
Public Easements
11550PE, 11550PUE, & 11550TCU

May 15, 2017

submitted by
Joseph S. Campbell, MAI
PO Box 21453
Reno, Nevada 89515

FILED
Electronically
CV19-00459
2020-07-29 08:50:46 AM
Jacqueline Bryant
Clerk of the Court
Transaction # 7993047 : bblough

3790
Dane W. Anderson, Esq.
Nevada Bar No. 6883
WOODBURN AND WEDGE
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Reno, Nevada 89511
Telephone: 775-688-3000
Facsimile: 775-688-3088
danderson@woodburnandwedge.com

Attorneys for Plaintiff, the Regional Transportation Commission of Washoe County

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an individual; AND SONNIA ILIESCU, an individual, Plaintiffs, v. THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1 – 40, inclusive, Defendants.	Case No.: CV19-00459 Dept. No.: 15

RTC'S REPLY TO PLAINTIFFS' RESPONSE TO THE SUPPLEMENTAL DECLARATION OF DANE W. ANDERSON REGARDING EXPENSES TO BE REIMBURSED BY DEFENDANTS

Defendant The Regional Transportation Commission of Washoe County ("RTC") replies to Plaintiffs' Response To The Supplemental Declaration Of Dane W. Anderson Regarding Expenses To Be Reimbursed By Defendants as follows:

/ / /

/ / /

Initially, RTC's counsel must clarify a clerical error in the Supplemental Declaration of its counsel. It was the intent of the undersigned that the yellow highlighted billing items be redacted from the filing, as they are *not* fees that RTC claims were incurred "in connection with" its motions for sanctions. The fees that are highlighted were for items not "connected with" the motions for sanctions or reflect associate time spent on such items but for which RTC is not requesting sanctions. Everything not highlighted are fees incurred in connection with RTC's motions for sanctions and total the additional sum RTC requests be reimbursed by Plaintiffs as part of the fees RTC has incurred "in connection with" its motions for sanctions arising from Plaintiffs' repeated and numerous failures and refusals to comply with discovery rules and this Court's orders.

Once again, Plaintiffs' objection to RTC's claimed fees is based on an exceedingly narrow interpretation of the phrase "in connection with" included in the Discovery Commissioner's recommendation that RTC be reimbursed for "reasonable expenses incurred "in connection with" its two motions for discovery sanctions against Plaintiffs. As pointed out previously, Merriam-Webster broadly defines "in connection with" as "in relation to (something); for reasons that relate to (something)." There can be no dispute that all of the claimed fees "relate to" RTC's two motions for discovery sanctions, including the events giving rise to the motions, the motions themselves and the briefing subsequent to the motions. Plaintiffs offer no alternative definition as to what "in connection with" should mean. It is unreasonable to suggest that RTC's reply to an objection "exceeds" what is contemplated. RTC is entitled to due process, just the same as Plaintiffs. Plaintiffs' objection is essentially a motion to retax, to which a responsible is reasonably required.

Plaintiffs claim that RTC expenses are excessive and unreasonable but make no effort whatsoever to demonstrate to the Court the amount they believe *is* reasonable. That is tantamount to a failure to oppose under DCR 13(3). It must be kept in mind that the only reason these filings are necessary is because Plaintiffs have repeatedly failed to

Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, NV 89511
775-688-3000

participate in discovery. RTC's repeated and reasonable efforts have been thwarted at every turn, and RTC should be reimbursed accordingly.

Affirmation pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the personal information of any person.

DATED: July 29, 2020

WOODBURN AND WEDGE

By */s/ Dane W. Anderson*
Dane W. Anderson, Esq.
Nevada Bar No. 6883
Attorneys for Plaintiff
The Regional Transportation Commission of Washoe County

Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, NV 89511
775-688-3000

CERTIFICATE OF SERVICE

It is hereby certified that service of the foregoing **RTC'S REPLY TO PLAINTIFFS' RESPONSE TO THE SUPPLEMENTAL DECLARATION OF DANE W. ANDERSON REGARDING EXPENSES TO BE REIMBURSED BY DEFENDANTS** was made through the Court's electronic filing and notification or, as appropriate, by sending a copy thereof by first-class mail from Reno, Nevada addressed as follows:

MICHAEL J. MORRISON, ESQ.
Nevada State Bar No. 1665
1495 Ridgeview Dr., #220
Reno, Nevada 89519
venturelawusa@gmail.com

Attorneys for Plaintiffs

DATED: July 29, 2020.

/s/ Candace Kelley
Employee of Woodburn and Wedge

F I L E D
Electronically
CV19-00459
2020-07-27 03:32:25 PM
Jacqueline Bryant
Clerk of the Court
Transaction # 7990157 : bblough

3880
MICHAEL J. MORRISON, ESQ.
Nevada State Bar No. 1665
1495 Ridgeview Dr., #220
Reno, Nevada 89519
(775) 827-6300

Attorney for Plaintiffs

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

* * * * *

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU, JR. AND SONNIA ILIESCU 1992 FAMILY TRUST, Plaintiff, vs. THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; AND DOES 1-40, Defendants.	CASE NO. CV19-00459 DEPT. NO. 15 **PLAINTIFFS' RESPONSE TO THE SUPPLEMENTAL DECLARATION OF DANE W. ANDERSON REGARDING EXPENSES TO BE REIMBURSED BY PLAINTIFFS**

COME NOW JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU, JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., individually; and SONNIA ILIESCUE, individually (collectively, "the Iliescu Plaintiffs"), by and through their attorney, Michael J. Morrison, Esq., and pursuant to the June 10, 2020, Recommendation for Order, respond to the Supplemental Declaration of Dane W. Anderson regarding expenses to be reimbursed by the Plaintiffs, as follows:

SUPPORTING POINTS AND AUTHORITIES

I. OVERVIEW

Counsel for Defendant ("the RTC") has submitted a Supplemental Declaration regarding the expenses for which the RTC seeks reimbursement, seeking $4,647.50 in fees in addition to the more than $18,500.00 in fees and costs addressed in his initial Declaration. The RTC's additional request is based upon billing statements from June and July that purport to represent fees the RTC incurred "in connection with" its two motions for sanctions (as counsel for the RTC interprets that term). A review of the RTC's supplemental declaration, however, reveals some of the same issues the Iliescu Plaintiff raised in response to the RTC's initial declaration. Not only are they excessive and unreasonable, they are not contemplated by the June 10, 2020, Recommendation for Order. Thus, the Iliescu Plaintiffs request that this Court deny the RTC the additional amount of fees and costs it seeks in connection with its two motions for sanctions.

II. ARGUMENT

As the Iliescu Plaintiffs noted in their response to the RTC's first declaration in support of its request for fees, the June 10, 2020, Recommendation for Order (confirmed by this Court on June 30, 2020) states that the Iliescu Plaintiffs were obligated to reimburse the RTC for the "…*reasonable* expenses incurred in connection with [the Defendant's] Motion for Discovery Sanctions and its Motion for Sanctions pursuant to NRCP 37(b)(1)…." *See* June 10, 2020, Recommendation for Order (on file in this case) at 13:10-13 (emphasis added). To that end, Discovery Commissioner Ayres: (1) directed the RTC to submit a declaration with supporting documentation; and (2) permitted the Iliescu Plaintiffs to file a response to that declaration. *Id.* at 13:13-15.

It appears from the supporting billing information that is Exhibit 1 to the RTC's supplemental declaration that the yellow highlighted billing items were not included in

the calculation of the additional fees sought. To that end, of the 17.5 hours billed in June and July 2020, only 3.2 of those hours were not included in what the RTC seeks to recover from the Iliescu Plaintiffs. The fees for legal work for which the RTC seeks to be reimbursed appear primarily to be for 14.3 hours spent preparing the two declarations it has filed in support of the amount of fees it requests (the substantive portion of each declaration being about one page) and its three page reply to the response the Discovery Commissioner permitted the Iliescu Plaintiffs to file. That work, however, exceeds what the Recommendation for Order intends in reference to its fee reimbursement provision.

As the Iliescu Plaintiffs previously asserted and as stated above, the Recommendation for Order limits what the RTC can recover to the *reasonable expenses* it incurred "in connection with" its two motions for sanctions. That is, the fees the RTC incurred only in reference to the legal work undertaken for its two motions for sanctions. In directing the RTC to submit a declaration in support of its request for fees, Discovery Commissioner Ayres said nothing about the RTC being able to request and recover the fees incurred in preparing that supporting document. And, in permitting the Iliescu Plaintiffs to file a response to the RTC's supporting declaration, Discovery Commissioner Ayers said nothing about: (1) the RTC filing a response to the Iliescu Plaintiffs' response; or (2) imposing on the Iliescu Plaintiffs the fees the RTC incurred in reviewing the Iliescu Plaintiffs' response or in choosing to prepare and file a reply. Thus, none of the additional fees the RTC seeks to recover from the Iliescu Plaintiffs are contemplated by the Recommendation for Order on which the RTC bases its fee reimbursement efforts and, therefore, should be denied.

Should this Court nevertheless decide to award any fees to the RTC based upon its supplemental declaration, it is the Iliescu Plaintiffs' position that the 14.3 hours billed for the work that was undertaken is excessive and unreasonable. As noted above, the substantive portions of the RTC's supporting declarations and its unauthorized reply

to the Iliescu Plaintiffs' response amounted to a total of 5 pages. Given the relatively simple and straightforward content of the work product identified in the supplemental declaration, it is inconceivable that each page was the result of nearly three hours of review, research, and drafting. Thus, should this Court consider the additional fees the RTC seeks in its supplemental declaration, it should determine what is *reasonable* based upon the nature and scope of what was intended by the Recommendation for Order and the work undertaken, and should make that determination pursuant to the factors stated in *Brunzell v. Golden Gate Nat'l Bank,* 85 Nev. 345, 349, 455 P.2d 31, 33 (1969).

III. CONCLUSION

Based on the foregoing, the Iliescu Plaintiffs respectfully request that this Court deny RTC's request for an additional $4,647.50 in legal fees for its counsel's work "in connection with" RTC's two motions for sanctions as unreasonable and excessive, and as unauthorized by the June 10, 2020, Recommendation and Order. Alternatively, the Iliescu Plaintiffs request that any amount this Court awards to the RTC be reduced to an amount that it determines to be reasonable based upon the intent of the Recommendation and Order and pursuant to *Brunzell, supra.*

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the document to which this Affirmation is attached does not contain the social security number of any person.

DATED this 27th day of July, 2020.

/s/ Michael J. Morrison
Michael J. Morrison, Esq.
Nevada State Bar No. 1665
1495 Ridgeview Dr., #220
Reno, Nevada 89519
(775) 827-6300
Attorney for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on this date I personally caused to be served a true copy of the foregoing PLAINTIFFS' RESPONSE TO THE SUPPLEMENTAL DECLARATION OF DANE W. ANDERSON REGARDING EXPENSES TO BE REIMBURSED BY PLAINTIFFS indicated and addressed to the following:

Dane W. Anderson, Esq.
WOODBURN AND WEDGE
6100 Neil Road, Suite 500
Reno, Nevada 89511

____ Via U.S. Mail
____ Via Overnight Mail
____ Via Hand Delivery
____ Via Facsimile
__XX__ Via ECF

DATED this 27th day of July, 2020.

/s/ Michael J. Morrison

FILED
Electronically
CV19-00459
2020-08-05 01:13:59 PM
Jacqueline Bryant
Clerk of the Court
Transaction # 8004713

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU, JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an Individual; and SONNIA ILIESCU, an Individual,

Plaintiff,

vs.

THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1-40,

Defendants.

_____/

Case No. CV19-00459

Dept. No. 15

ORDER REGARDING DECLARATIONS OF EXPENSES

Before this Court is the opposed declaration of Dane W. Anderson regarding expenses to be reimbursed by Plaintiffs and opposed supplemental declaration. This Court has reviewed the declarations and other papers and pleadings on file, and now finds and orders as follows.

On June 10, 2020, Discovery Commissioner Ayres entered a Recommendation for Order recommending in part that Plaintiffs be ordered to "reimburse Defendant for the reasonable expenses incurred in connection with its *Motion for Discovery Sanctions* and its *Motion for Sanctions Pursuant to NRCP 37(b)(1)*, as and for a sanction under NRCP 37(b)(1) and NRCP 37(d)." Further, the Recommendation directed Defendant to submit a

declaration, with supporting documentation, showing the reasonable expenses incurred in connection with these two motions. This recommendation was confirmed by order entered June 30, 2020.

On June 22, 2020 Dane W. Anderson filed his first declaration stating he interpreted the fees incurred "in connection with" RTC's motions "as the fees incurred in the events giving rise to the motions, the motions themselves, and the work done to prepare this declaration" noting he would file a supplemental declaration for work done in June and July related to his declaration. See Decl. 2:13-16. This Declaration sought $17,810.00 in attorney's fees and $739.90 cents in costs. Plaintiffs responded to this declaration on July 6, 2020 arguing the fees sought are unreasonable, "grossly excessive," and not contemplated by the Recommendation. See Response 2:18-20, 3:13-15. Mr. Anderson argues his interpretation is reasonable as "in connection with" is a broad term and the motions would not have been necessary had it not been for Plaintiffs' dilatory conduct requiring RTC to repeat its discovery requests multiple times.

The Supplemental Declaration seeks an additional $4,647.50 in attorney's fees related to work performed relating to the declarations. RTC seeks reimbursement of $22,457.50 for fees and $739.90 in costs, totaling $23,197.40.

While Defendant supported its broad interpretation of the sanctions language this Court interprets that language more narrowly.[1] Plaintiffs are required to reimburse Defendant for the expenses incurred in connection with the two referenced motions, and the costs incurred when they failed to appear at their scheduled depositions. As noted in the Recommendation, Plaintiffs are not permitted to unilaterally vacate scheduled depositions. See Recommendation 8:7-8. This is especially true when this happens via

---

[1] This Court could have referred this to the discovery commissioner whose recommendation is susceptible to multiple interpretations. Instead, it consulted with Discovery Commissioner Ayres as contemplated by the Code of Judicial Conduct. See NCJC Rule 2.9(3) (A judge may consult with court staff and court officials whose functions are to aid the judge in carrying out the judge's adjudicative responsibilities, or with other judges, provided the judge makes reasonable efforts to avoid receiving factual information that is not part of the record, and does not abrogate the responsibility personally to decide the matter.)

voicemail left at 4:40 p.m. on the business day immediately preceding the depositions. See RTC's July 13, 2020 Reply 3:13-15.

When this Court reviewed the exhibits Defendant provided, it found the expenses incurred with the first motion for sanctions were $7,312.50, and those incurred with the second motion for sanctions were $2,632.50. Accordingly, Plaintiff's shall pay sanctions of $10,684.90 to RTC in compliance with Discovery Commissioner Ayres' confirmed Recommendation for Order.

IT IS SO ORDERED.

Dated: August 5, 2020.

David A. Hardy
District Court Judge

FILED
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CV19-00459
2020-08-06 02:18:06 PM
Jacqueline Bryant
Clerk of the Court
Transaction # 8007281

2540
Dane W. Anderson, Esq.
Nevada Bar No. 6883
Bronagh M. Kelly, Esq.
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Facsimile: 775-688-3088
danderson@woodburnandwedge.com
bkelly@woodburnandwedge.com

Attorneys for Defendant, the Regional Transportation Commission of Washoe County

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an individual; AND SONNIA ILIESCU, an individual, Plaintiffs, v. THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1 – 40, inclusive, Defendants.	Case No.: CV19-00459 Dept. No.: 15

NOTICE OF ENTRY OF ORDER

TO: ALL INTERESTED PARTIES:

PLEASE TAKE NOTICE that an Order Regarding Declarations of Expenses was entered in the above-entitled action on August 5, 2020, by this Court. A copy of the Order is attached hereto as **Exhibit 1**.

///

///

Affirmation pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the personal information of any person.

Dated: August 6, 2020

WOODBURN AND WEDGE

By: */s/ Dane W. Anderson*
Dane W. Anderson, Esq.
Nevada Bar No. 6883
Bronagh M. Kelly, Esq.
Nevada Bar No. 14555

Attorneys for Defendant
The Regional Transportation
Commission of Washoe County

Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, NV 89511
775-688-3000

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Woodburn and Wedge and that on this date, I caused to be sent via electronic delivery through the Court's E-flex system a true and correct copy of the **NOTICE OF ENTRY OF ORDER** to:

MICHAEL J. MORRISON, ESQ.
1495 Ridgeview Dr., #220
Reno, Nevada 89519
venturelawusa@gmail.com

Attorneys for Plaintiffs

DATED: August 6, 2020.

/s/ Dianne M. Kelling
Employee of Woodburn and Wedge

Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, NV 89511
775-688-3000

EXHIBIT INDEX

EXHIBIT NO.	DESCRIPTION OF EXHIBIT	NO OF PAGES (INCLUDING EXHIBIT PAGES)
1	Order Regarding Declarations of Expenses	4

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Jacqueline Bryant
Clerk of the Court
Transaction # 8007281

EXHIBIT 1

EXHIBIT 1

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2020-08-05 01:13:59 PM
Jacqueline Bryant
Clerk of the Court
Transaction # 8004713

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU, JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an Individual; and SONNIA ILIESCU, an Individual,

Plaintiff,

vs.

THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1-40,

Defendants.
_____/

Case No. CV19-00459

Dept. No. 15

ORDER REGARDING DECLARATIONS OF EXPENSES

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The Supplemental Declaration seeks an additional $4,647.50 in attorney's fees related to work performed relating to the declarations. RTC seeks reimbursement of $22,457.50 for fees and $739.90 in costs, totaling $23,197.40.

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[1] This Court could have referred this to the discovery commissioner whose recommendation is susceptible to multiple interpretations. Instead, it consulted with Discovery Commissioner Ayres as contemplated by the Code of Judicial Conduct. See NCJC Rule 2.9(3) (A judge may consult with court staff and court officials whose functions are to aid the judge in carrying out the judge's adjudicative responsibilities, or with other judges, provided the judge makes reasonable efforts to avoid receiving factual information that is not part of the record, and does not abrogate the responsibility personally to decide the matter.)

voicemail left at 4:40 p.m. on the business day immediately preceding the depositions. See RTC's July 13, 2020 Reply 3:13-15.

When this Court reviewed the exhibits Defendant provided, it found the expenses incurred with the first motion for sanctions were $7,312.50, and those incurred with the second motion for sanctions were $2,632.50. Accordingly, Plaintiff's shall pay sanctions of $10,684.90 to RTC in compliance with Discovery Commissioner Ayres' confirmed Recommendation for Order.

IT IS SO ORDERED.

Dated: August 5, 2020.

David A. Hardy
District Court Judge

FILED
Electronically
CV19-00459
2020-08-06 02:37:30 PM
Jacqueline Bryant
Clerk of the Court
Transaction # 8007357

3860
Dane W. Anderson, Esq.
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danderson@woodburnandwedge.com
bkelly@woodburnandwedge.com

Attorneys for Defendant, the Regional Transportation Commission of Washoe County

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an individual; AND SONNIA ILIESCU, an individual, Plaintiffs, v. THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1 – 40, inclusive, Defendants.	Case No.: CV19-00459 Dept. No.: 15

REQUEST FOR SUBMISSION

It is hereby requested that the Motion in Limine to Preclude Plaintiffs from Offering Documents Not Produced to RTC on or Before June 30, 2020, filed on July 21, 2020, be submitted to the Court for consideration and determination. Plaintiffs did not timely file or serve an opposition brief within 14 days pursuant to WDCR 12(2).

///

///

Affirmation pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the personal information of any person.

DATED: August 6, 2020.

WOODBURN AND WEDGE

By: */s/ Dane W. Anderson*
Dane W. Anderson, Esq.
Nevada Bar No. 6883
Bronagh M. Kelly, Esq.
Nevada Bar No. 14555

Attorneys for Defendant
The Regional Transportation Commission of Washoe County

Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, NV 89511
775-688-3000

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Woodburn and Wedge and that on this date, I caused to be sent via electronic delivery through the Court's E-flex system a true and correct copy of the **REQUEST FOR SUBMISSION** to:

MICHAEL J. MORRISON, ESQ.
1495 Ridgeview Dr., #220
Reno, Nevada 89519
venturelawusa@gmail.com

Attorneys for Plaintiffs

DATED: August 6, 2020.

/s/ Dianne M. Kelling
Employee of Woodburn and Wedge

Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, NV 89511
775-688-3000

FILED
Electronically
CV19-00459
2020-08-19 04:16:52 PM
Jacqueline Bryant
Clerk of the Court
Transaction # 8027856

3105

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an individual; AND SONNIA ILIESCU, an individual, Plaintiffs, v. THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1 – 40, inclusive, Defendants.	Case No.: CV19-00459 Dept. No.: 15

ORDER GRANTING MOTION IN LIMINE TO PRECLUDE PLAINTIFFS FROM OFFERING DOCUMENTS NOT PRODUCED TO RTC ON OR BEFORE JUNE 30, 2020

On July 21, 2020, RTC filed a Motion In Limine To Preclude Plaintiffs From Offering Documents Not Produced To RTC On Or Before June 30, 2020. Plaintiffs did not oppose the Motion and, pursuant to DCR 13(3), the Court construes Plaintiffs' failure to oppose as an admission that the Motion is meritorious and a consent to granting the same. The Court further finds the Motion is meritorious for the reasons stated therein and agrees with RTC that the relief sought it appropriate considering Plaintiffs' course of conduct in discovery.

///

///

Based on the foregoing and with good cause appearing,

IT IS HEREBY ORDERED that Plaintiffs are precluded from offering at trial any documents responsive to RTC's NRCP 34 requests for production that were not produced to RTC on or before June 30, 2020.

Dated this 19 day of August, 2020.

DISTRICT JUDGE

FILED
Electronically
CV19-00459
2020-08-20 10:46:19 AM
Jacqueline Bryant
Clerk of the Court
Transaction # 8029028

2540
Dane W. Anderson, Esq.
Nevada Bar No. 6883
Bronagh M. Kelly, Esq.
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bkelly@woodburnandwedge.com

Attorneys for Defendant, the Regional Transportation Commission of Washoe County

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an individual; AND SONNIA ILIESCU, an individual, Plaintiffs, v. THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1 – 40, inclusive, Defendants.	Case No.: CV19-00459 Dept. No.: 15

NOTICE OF ENTRY OF ORDER

TO: ALL INTERESTED PARTIES:

PLEASE TAKE NOTICE that an Order Granting Motion in Limine to Preclude Plaintiffs from Offering Documents Not Produced to RTC on or Before June 30, 2020 was entered in the above-entitled action on August 19, 2020, by this Court. A copy of the Order is attached hereto as **Exhibit 1**.

///

Affirmation pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the personal information of any person.

Dated: August 20, 2020

WOODBURN AND WEDGE

By: */s/ Dane W. Anderson*
Dane W. Anderson, Esq.
Nevada Bar No. 6883
Bronagh M. Kelly, Esq.
Nevada Bar No. 14555

Attorneys for Defendant
The Regional Transportation
Commission of Washoe County

Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, NV 89511
775-688-3000

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Woodburn and Wedge and that on this date, I caused to be sent via electronic delivery through the Court's E-flex system a true and correct copy of the **NOTICE OF ENTRY OF ORDER** to:

MICHAEL J. MORRISON, ESQ.
1495 Ridgeview Dr., #220
Reno, Nevada 89519
venturelawusa@gmail.com

Attorneys for Plaintiffs

DATED: August 20, 2020.

/s/ Dianne M. Kelling
Employee of Woodburn and Wedge

Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, NV 89511
775-688-3000

EXHIBIT INDEX

EXHIBIT NO.	DESCRIPTION OF EXHIBIT	NO OF PAGES (INCLUDING EXHIBIT PAGES)
1	Order Granting Motion to Preclude Plaintiffs From Offering Documents Not Produced to RTC On Or Before June 30, 2020	3

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Clerk of the Court
Transaction # 8029028

EXHIBIT 1

EXHIBIT 1

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Clerk of the Court
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IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an individual; AND SONNIA ILIESCU, an individual, Plaintiffs, v. THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1 – 40, inclusive, Defendants.	Case No.: CV19-00459 Dept. No.: 15

ORDER GRANTING MOTION IN LIMINE TO PRECLUDE PLAINTIFFS FROM OFFERING DOCUMENTS NOT PRODUCED TO RTC ON OR BEFORE JUNE 30, 2020

On July 21, 2020, RTC filed a Motion In Limine To Preclude Plaintiffs From Offering Documents Not Produced To RTC On Or Before June 30, 2020. Plaintiffs did not oppose the Motion and, pursuant to DCR 13(3), the Court construes Plaintiffs' failure to oppose as an admission that the Motion is meritorious and a consent to granting the same. The Court further finds the Motion is meritorious for the reasons stated therein and agrees with RTC that the relief sought it appropriate considering Plaintiffs' course of conduct in discovery.

///

///

Based on the foregoing and with good cause appearing,

IT IS HEREBY ORDERED that Plaintiffs are precluded from offering at trial any documents responsive to RTC's NRCP 34 requests for production that were not produced to RTC on or before June 30, 2020.

Dated this 19 day of August, 2020.

DISTRICT JUDGE

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Jacqueline Bryant
Clerk of the Court
Transaction # 8082710 : yviloria

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MICHAEL J. MORRISON, ESQ.
Nevada State Bar No. 1665
1495 Ridgeview Dr., #220
Reno, Nevada 89519
(775) 827-6300

Attorney for Iliescu Plaintiffs

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

*** * * * ***

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU, JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an Individual; and SONNIA ILIESCU, an Individual,

Plaintiffs,

vs.

THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1-40,

Defendants.

CASE NO. CV19-00459

DEPT. NO. 15

DEMAND FOR JURY TRIAL

COMES NOW Michael J. Morrison, Esq., and as attorney for JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU, JR. AND SONNIA ILIESCU 1992 FAMILY TRUST ("**Trust**"), hereby respectfully demand a trial by jury herein. The Jury Fees of $320.00 is filed herewith.

//////

/s/ Michael J. Morrison
MICHAEL J. MORRISON, ESQ.
Nevada State Bar No. 1665
1495 Ridgeview Dr., #220
Reno, Nevada 89519
(775) 827-6300

Attorney for Iliescu Plaintiffs

Dated: July 13, 2020

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the document to which this Affirmation is attached does not contain the social security number of any person.

DATED this 13th day of July, 2020.

/s/ Michael J. Morrison

Michael J. Morrison, Esq.
Nevada State Bar No. 1665
1495 Ridgeview Dr., #220
Reno, Nevada 89519
(775) 827-6300

Attorney for Iliescu Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on September 23, 2020, I personally caused to be served a true copy of the foregoing **DEMAND FOR JURY TRIAL** by the method indicated and addressed to the following:

Dane W. Anderson, Esq.
Woodburn Wedge
6100 Neil Road, Suite 500
Reno, Nevada 89511

____ Via U.S. Mail
____ Via Overnight Mail
____ Via Hand Delivery
____ Via Facsimile
__x__ Via ECF

/s/ Michael J. Morrison

Michael J. Morrison

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Jacqueline Bryant
Clerk of the Court
Transaction # 8093137

CASE NO. CV19-00459 JOHN ILIESCU, JR. ET. AL VS. RTC WASHOE CO

DATE, JUDGE OFFICERS OF COURT PRESENT	APPEARANCES-HEARING	CONTINUED TO
9/29/20 HONORABLE DAVID A. HARDY Dept. No. 15 A. Dick (Clerk) L. Shaw (Reporter) ZOOM WEBINAR	CASE MANAGEMENT CONFERENCE Michael Morrison, Esq. represented Plaintiffs John Iliescu and Sonnia Iliescu who were not present. Dane Anderson, Esq. represented Defendant Regional Transportation Commission and a representative was not present. *Pursuant to the national and local COVID-19 emergency response that caused temporary closure of the courthouse located at 75 Court Street in Reno, Washoe County, NV, this hearing was conducted remotely. This Court and all participants appeared electronically via Zoom Webinar. This Court was physically located in Washoe County, NV.*	July 9, 2021 10:00 a.m. Pretrial Conference Aug. 9, 2021 1:00 p.m. Jury Trial (5 days)

4:35 p.m. – Court convened, via Zoom Webinar, with counsel present.
ATTY Anderson addressed and advised CT Defendant agreed to take Plaintiffs' depositions via Zoom and also agreed to extend the deposition date(s) approximately 2 months. Counsel further advised last week opposing counsel provided a proposed scheduling order for review; however, there is a dispute requiring this Court's assistance between the parties regarding 16.1 disclosures before entering a scheduling order in this case.
ATTY Morrison addressed CT referenced this Court's order granting Defendant's MIL precluding Plaintiffs from offering documents not produced to RTC prior to 6/30/20.
COURT stated it would expect Plaintiffs to seek leave if deemed appropriate; further, it was its intention for a 16.1 conference to commence and other discovery to commence.
ATTY Anderson indicated discovery should be properly conducted, the problem being there has not been a 16.1 conference, and it is the Plaintiffs' obligation to move this case forward. Counsel further indicated Plaintiffs should submit a proposed scheduling order to D15 staff.
ATTY Morrison indicated D15's JA previously provided a proposed scheduling order template for counsels' use and did not object to providing said order to D15 staff. Counsel further indicated parties are open to settlement discussions.
COURT ORDERED: No later than Tuesday, 10/6, counsel Anderson shall respond to counsel Morrison regarding the previously provided proposed scheduling order. Further, no later

than Thursday, 10/8, counsel Morrison shall submit to D15 staff said proposed order.
COURT stated at counsel Anderson's discretion he may include reservation language in the proposed scheduling order regarding this Court's Order Granting Defendant's MIL entered 8/19/20.
COURT ORDERED: Matter continued for pretrial conference and trial by jury.
Court stood in recess.

04:29PM

Code #4185
SUNSHINE LITIGATION SERVICES
151 Country Estates Circle
Reno, NV 89511

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

HONORABLE DAVID HARDY, DISTRICT JUDGE

-o0o-

JOHN ILIESCU, JR., AND SONNIA ILIESCU, et al.,

Plaintiffs,

vs.

THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY, et al.,

Defendant.
_____/

Case No. CV20-00459

Dept. No. 15

BY ZOOM VIDEOCONFERENCE

TRANSCRIPT OF PROCEEDINGS

PRETRIAL CONFERENCE

September 29, 2020

RENO, NEVADA

REPORTED BY: **LINDA B. SHAW**, CCR #123, RPR, CSR

JOB NUMBER:

A P P E A R A N C E S

09:50AM

FOR THE PLAINTIFF: MICHAEL MORRISON, ESQ.
1495 Ridgeview Drive, #220
Reno, NV 89519

FOR THE DEFENDANT: WOODBURN WEDGE
BY: DANE ANDERSON, ESQ.
6100 Neil Road, Suite 500
Reno, NV 89511

TUESDAY, SEPTEMBER 29, 2021, 4:30 P.M., RENO, NEVADA

-o0o-

04:30PM

04:39PM THE COURT: We can go on the record in CV19-00459. It is the Iliescu versus RTC case. I preside over this hearing with audio visual means. We are all responding to the COVID pandemic, and I am available to the attorneys through the Zoom program, which allows remote participation.

04:39PM Mr. Morrison, Michael Morrison, is present on behalf of the plaintiffs. Mr. Anderson is present on behalf of the defendant.

04:39PM This time is set for an early case conference. Counsel, in a moment I'm going to allow you to tell me what's going on. I will share with you in advance about 90 percent of these early case conferences go off calendar, because the attorneys are able to work out a scheduling order between themselves.

04:40PM So at the end of the hearing today, I will order some protocols for getting a scheduling order presented, but there has been some discovery history in this case and there's been some judicial intervention, and I thought it was appropriate that I hear from everybody.

04:40PM I'll tell you that I've reviewed the file to include the most recent filings, which was a jury demand by the

plaintiffs.

Let me begin with Mr. Anderson.

Did the Iliescus appear for their deposition by the date set in June?

MR. ANDERSON: Your Honor, it was not by the date set in June, but Mr. Morrison and I agreed to bump it out a couple of weeks to accommodate. There was some confusion, I believe, that they were going to appear in person. And they elderly, and were not comfortable doing that, so we agreed to take the depositions by Zoom. So I would say that they showed up within the time frame that Mr. Morrison and I agreed upon.

THE COURT: Okay. I'm going to ask each attorney the same question. What issues do you have, Mr. Anderson, and what information do you think I should hear today?

MR. ANDERSON: Mr. Morrison sent me a proposed scheduling order. It was on Thursday evening, right before my wife and I departed to the trip that we are on this weekend. I didn't really have a chance to look at it until yesterday.

The only issue I think really exits is that Mr. Morrison wants to include language about the deadline for disclosures under NRCP16.1 and As the court will recall, from reviewing the file recently, the court entered an order in limine precluding plaintiffs from offering documents that were not disclosed by a deadline set forth in the order, I believe it was June 29th.

04:42PM So my concern with including language about allowing disclosures under 16.1, is that it might somehow be construed somehow as a waiver of RTC's right under that order.

And Mr. Morrison and I did talk about this right before we met with the Court. And I don't know that we have reached an agreement. We might need the court's assistance in that regard.

That's basically really the only issue that precluded us from entering a stipulated scheduling order.

THE COURT: Mr. Morrison.

MR. MORRISON: Yes, Your Honor.

THE COURT: Anything from you, sir?

MR. MORRISON: Yes, sir. In regard to the order that the Court entered, it was based upon a stipulation that Mr. Anderson and I had entered into at his request.

He wanted to take the depositions of Dr. And Mrs. Iliescu, as soon as possible, because of their health, which I stipulated to.

And in the stipulation there was language that the parties agree that they may conduct discovery prior to holding the 16.1, and prior to filing a joint case conference report. And that's the order that they requested, based upon the age of the parties, and my stipulation.

So -- the sequence of events was such that that discovery in the litigation that happened during the time I've

been ill only dressed the production of the documents that were requested in discovery requests in writing, and the deposition took place based on that.

So as a practical matter, Mr. Anderson and I had stipulated that we hadn't done the 16.1, but we were going to allow RTC to take those depositions, which happened. And then the order for a motion in limine provided that it would be applicable to documents that weren't produced by the Iliescus during that period.

But now we've got to hold the 16.1 conference, and my concern is that the order that would come out in regard to this matter would -- potentially could result in my not being able to do the 16.1, get witnesses, talk to RTC at depositions and discovery. And through that I anticipate that I'll accumulate additional information and documents from witnesses and the RTC themselves.

And my concern is that anything that is fruitful out of the discovery under the 16.1, would be admissible and not subject to the motion in limine. That the motion in limine just addressed the documents that were requested, and those were only from the Iliescus themselves.

That concludes my input, Your Honor, and thank you.

THE COURT: I'm just thinking, if you will allow me to pause, please.

I really appreciated the footnote Commissioner Ayres

included in one of his recommendations. His footnote for -- Commissioner Ayres is such a gentleman and has, in my opinion, perfect judicial temperament, and demeanor. And here is a footnote for -- to the June 10th, 2020 recommendation for order.

In which Commissioner Ayres wrote: The court appreciates that plaintiffs' counsel is an officer of the court and it does not mean to impune his integrity in any way.

I share those sentiments. I believe that Mr. Morrison and I have met over the years. I hold fondness for him as a member of the bar. I don't have any personal animus.

I'm saying all this because the context of this case is difficult, because of some of the discovery events. And so -- and so I have this motion in limine that's presented to the court, and there is no opposition filed. And that comes on the heels of some other nonresponsiveness, so I granted the motion in limine pursuant to District Court Rule 13.

If Mr. Morrison thinks that leave or relief should be given from that order, there's an appropriate mechanism to seek that relief. It's also my expectation that I would narrowly construe the order to be on all fours with the motion underlying it.

And as I remember that motion, there were specific requests made, those requests were not completed, and now I have barred the plaintiffs from presenting evidence relating to

those requests.

I don't believe it was my intention to stop all discovery and determine what fruitful avenues may exist elsewhere for the plaintiffs. And so I'm hearing 2 things from opposing counsel, and I agree with both of them.

Mr. Anderson, I don't intend to dilute the order that I've entered, but I intend to specifically construe it. It's like granting default. The defaults I grant are always strictly construed in light of the pleading that underlies it.

So I believe there should be 16.1 conference and other discovery, while not retreating from the order that's been entered.

So having said that long speech, counsel, let me have you both respond to me, because that's where I am right now. Mr. Anderson.

MR. ANDERSON: Thank you, Your Honor. I don't disagree that discovery should be properly conducted and he can explore anything that may lead to the admissible -- likelihood of admissibility of evidence.

The problem I have I guess is we've been in this case now over a year. I have been finally able to depose his clients. There hasn't been a 16.1, and I don't know why. As the defendants' counsel it's not my obligation to move the case forward. It's the plaintiffs' counsel, their obligation to move the case forward.

So I guess I'm frustrated by that, but I understand that the order was limited to the specific requests for production that were served in November and not responded to. And the documents that were produced were limited, but the requests -- I think were fairly broad, so I just wanted to be careful from the RTC standpoint not to waive a strategic advantage by stipulating the documents could be produced in 16.1` would somehow cure this problem.

THE COURT: I don't mind if you include some placeholder language that contains what you just said, because you want to preserve your right to argue the meaning and efficacy of the order that's been entered. But I think you guys ought to do discovery, otherwise.

MR. ANDERSON: I don't disagree, Your Honor, he can take depositions. Assuming the 16.1 does happen or a joint case conference or individual case conference report is filed, then I don't have a problem with him conducting whatever discovery he wants to conduct in terms of my client.

Although, I do object to any disclosures on behalf of the Iliescus that involve documents -- I'm sorry, Your Honor, I got phone call in the middle of that -- the documents that were within their possession, custody and control that weren't produced -- that were responsive to the document request. I do object to those.

Beyond that, I agree with the Court he should be able

to conduct any discovery that he thinks is reasonable under the circumstances.

THE COURT: Mr. Anderson, before that I turn to Mr. Morrison. Who should I order to submit the stipulated scheduling order?

MR. ANDERSON: Your Honor, I would believe the plaintiff should be obligated to do that as the prosecutor of this case. Mr. Morrison did send me a proposed form, I believe it was Thursday evening. And I didn't disagree with a substantial portion of it. Just the portion regarding the 16.1 disclosures.

I think the work is almost all done. On behalf of RTC, the defendant, I would request the court order the plaintiff to submit it.

THE COURT: Thank you. Mr. Morrison, do you have anything to add.

MR. MORRISON: Just a couple of things, Your Honor, and thank you for hearing this today.

I just want to make note that I have whole hearted understanding and appreciation, as you do, for Commissioner Ayres. He's just done a spectacular and thoroughly professional job in his duties. And so I -- I would like to applaud him, because he deserves it, and I know he doesn't get it very much.

On the substantive note, Your Honor, as far as what

Mr. Anderson has stated, I'm not in disagreement. In fact, to apprise the court of where the parties are at this juncture, Mr. Anderson and I before this hearing discussed the possibility of settlement, and he was kindly the one who broached that.

And so we had some discussions. I think that it's going to be fruitful, but to the point, I have no problem preparing the stip -- the order, because as Mr. Anderson stated, I did provide one to him earlier. And the only issue that we had -- he had with it was as to the matters that he's already stated.

And so I'll prepare the order, have Mr. Anderson take a look at it, and we'll get that over to you, Judge.

THE COURT: So Ms. Court Clerk, have we sent to counsel our template scheduling order? I know Shannon often does that, but she's off this week.

THE CLERK: Counsel, did you receive a standard order from Miss Park?

MR. MORRISON: Yes.

THE COURT: So I'm going to pull up my calendar real quick. Mr. Anderson, when do you return to the office?

MR. ANDERSON: I will be back in the office on Thursday.

THE COURT: Sorry to be looking away, I've got multiple screens here, and I've got a big screen just out of my

range of vision, and I can't find my calendar function, so I know it's on here somewhere.

MR. ANDERSON: If Your Honor will forgive me, I'm doing the same thing, looking at my calendar on my phone while looking at Zoom.

THE COURT: So, Ms. Court Clerk, if you will take a minute order that reflects the following.

Mr. Anderson will respond to Mr. Morrison no later than close of business on Tuesday, November 6th, is it --

THE CLERK: October.

THE COURT: October I mean, yeah.

And his response with a sentence, if he wishes, that creates the placeholder reservation. And then Mr. Morrison will submit the proposed scheduling order by Thursday, and I will sign it beginning on Friday.

So Tuesday to you, Mr. Anderson. Thursday from you, Mr. Morrison. My scheduling order beginning on Friday. I may not be in on Friday, so I could sign it the following Monday. Let's get this in place, so you can go about your discovery efforts.

MR. ANDERSON: Thank you, Your Honor.

MR. MORRISON: Your Honor, if I may indulge the court for a moment.

THE COURT: Yes.

MR. MORRISON: Could you explain the placeholder

scenario? I'm sorry, I'm not familiar with that.

THE COURT: Mr. Anderson wanted to include in the scheduling order a sentence that recognizes the existence of the order that this court entered on August 19th. And a reservation that the -- that the 16.1 conference and conducting discovery does not waive the effect of the August 19th order. So it's just a one sentence reservation essentially.

MR. MORRISON: Okay, I understand. Thank you, Your Honor.

THE COURT: Counsel, I'm an introvert by personality inventory and I have not struggled with the loneliness of judicial office. It's been very nice for me over the last 16 years, but when this pandemic began, I realized how much I miss people, miss hearing from them, miss seeing them. I miss the civility and collegiality in our profession. So I'm delighted to hear both of your voices and hope this case progresses and ends in a way that is just for all involved.

MR. ANDERSON: Thank you, Your Honor. It's nice to see your face and the faces of your staff. And I would love to and I'm sure Mr. Morrison would too be in court with you again some time soon.

THE COURT: Be careful what you wish for, counsel, do you remember the days we were pushing 6 and 7 day weeks. And sleeping and stress and awakening with stress, it's a tough profession.

04:58PM I'm going to off the record. Mr. Anderson stay just a moment. Ms. Reporter, you can certainly stay, but I'm going to go off the record now.

04:58PM (The proceedings concluded at 4:58.)

STATE OF NEVADA .)
) ss.
WASHOE COUNTY)

I, LINDA B. SHAW, an Official Reporter of the Second Judicial District Court of the State of Nevada, in and for Washoe County, DO HEREBY CERTIFY;

That I was present in Department No. 15 of the above-entitled Court on September 29, 2020, and took verbatim stenotype notes of the proceedings had upon the matter captioned within, and thereafter transcribed them into typewriting as herein appears;

That the foregoing transcript, consisting of pages 1 through 14, is a full, true and correct transcription of my stenotype notes of said proceedings.

DATED: At Reno, Nevada, this 25th day of October, 2021.

_____
LINDA B. SHAW, CCR #123, RPR, CSR

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Jacqueline Bryant
Clerk of the Court
Transaction # 8107608

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Dane W. Anderson, Esq.
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Attorneys for Defendant, the Regional Transportation Commission of Washoe County

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an individual; AND SONNIA ILIESCU, an individual, Plaintiffs, v. THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1 – 40, inclusive, Defendants.	Case No.: CV19-00459 Dept. No.: 15

STIPULATION FOR ENTRY OF SCHEDULING ORDER

This Stipulation for Entry of Scheduling Order ("Stipulation") is entered into by and between Michael J. Morrison, Esq. on behalf of Plaintiffs John Iliescu, Jr., and Sonnia Iliescu, Trustees of The John Iliescu, Jr. and Sonnia Iliescu 1992 Family Trust; John Iliescu an individual, and Sonnia Iliescu, an individual ("Iliescu") and Dane W. Anderson, Esq., Woodburn and Wedge, on behalf of Defendant The Regional Transportation Commission of Washoe County ("RTC").

The parties stipulate to the entry of the following scheduling order based on the current trial date of **August 9, 2021**.

1. Complete all discovery on or before: **Friday, May 28, 2021** (73 days before the trial).
2. File motions to amend pleadings or join parties on or before: **Friday, February 26, 2021** (91 days prior to close of discovery).
3. Make initial expert disclosures pursuant to NRCP 16.1(a)(2) on or before: **Friday, February 26, 2021** (91 days prior to close of discovery).
4. Make rebuttal expert disclosures pursuant to NRCP 16.1(a)(2) on or before: **Monday, March 29, 2021** (31 days after initial expert disclosures).
    a. Written reports of experts waived: ____ yes OR __X__ no
5. Motions in limine to be filed on or before: **Monday, July 5, 2021.**
    a. Oppositions to be filed on or before: **Monday, July 19, 2021.**
    b. Replies to be filed and motions submitted, except motions in limine to exclude an expert's testimony, on or before: **Monday, July 26, 2021**[1] (15 days before the trial).
6. All pretrial motions, including dispositive motions and motions in limine to exclude an expert's testimony, to be served, fully briefed, filed and submitted for decision on or before: **Monday, July 12, 2021**[2] (30 calendar days before the trial).
7. Trial statements to be filed and served on or before: **Monday, August 2, 2021** (7 days before the trial in accordance with WDCR 5).
8. All proposed jury instructions, including a stipulated packet of jury instructions, and verdict forms must be submitted on or before: **Friday, August 6, 2021, by 5:00 p.m.** in accordance with WDCR 7(8).
9. Counsel shall appear to address all pre-trial matters on **July 9, 2021 at 10:00 a.m.**

[1] The 15 day deadline to submit motions in limine, except motions in limine to exclude an expert's testimony, falls on a Sunday, July 25, 2021, therefore the calendar date for this deadline has been adjusted to Monday, July 26, 2021, pursuant to NRCP 6.

[2] The 30 day deadline to submit dispositive motions, including motions for summary judgment, and motions in limine to exclude an expert's testimony, falls on a Saturday, July 10, 2021, therefore the calendar date for this deadline has been adjusted to Monday, July 12, 2021, pursuant to NCRP 6.

Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, NV 89511
775-688-3000

This schedule will not be modified except by leave of this Court or the Discovery Commissioner upon a showing of good cause.

The parties have not yet participated in the NRCP 16.1 early case conference. The parties shall make their initial disclosures pursuant to that rule within 14 days after the case conference, subject to the following: RTC sought and obtained an order in limine precluding Plaintiffs from offering at trial any documents responsive to RTC's NRCP 34 requests for production that were not produced to RTC on or before **June 30, 2020.** Nothing in this scheduling order shall be construed as a waiver of RTC's rights under that order in limine or otherwise under applicable law.

Affirmation pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the personal information of any person.

DATED: October 8, 2020.

By: */s/ Michael James Morrison*
Michael James Morrison, Esq.
Nevada Bar No.1665
1495 Ridgeview Drive, Suite 220
Reno, NV 89519
Tel: 775-827-6300
venturelawusa@gmail.com

Attorneys for Plaintiffs John Iliescu, Jr., and Sonnia Iliescu, Trustees of The John Iliescu, Jr. and Sonnia Iliescu 1992 Family Trust; John Iliescu, Jr., an individual and Sonnia Iliescu, an individual

DATED: October 8, 2020.

WOODBURN AND WEDGE

By: */s/ Dane W. Anderson*
Dane W. Anderson, Esq.
Nevada Bar No. 6883
Bronagh M. Kelly, Esq.
Nevada Bar No. 14555
6100 Neil Road, Suite 500
Reno, NV 89511
Tel: 775-688-3000
danderson@woodburnandwedge.com
bkelly@woodburnandwedge.com

Attorneys for Defendant The Regional Transportation Commission of Washoe County

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Woodburn and Wedge and that on this date, I caused to be sent via electronic delivery through the Court's E-flex system a true and correct copy of the ***STIPULATION FOR ENTRY OF SCHEDULING ORDER*** to:

MICHAEL J. MORRISON, ESQ.
1495 Ridgeview Dr., #220
Reno, Nevada 89519
venturelawusa@gmail.com

Attorneys for Plaintiffs

DATED: October 8, 2020.

/s/ Dianne M. Kelling
Employee of Woodburn and Wedge

FILED
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2020-10-12 02:33:12 PM
Jacqueline Bryant
Clerk of the Court
Transaction # 8111324

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IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an individual; AND SONNIA ILIESCU, an individual, Plaintiffs, v. THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1 – 40, inclusive, Defendants.	Case No.: CV19-00459 Dept. No.: 15

ORDER GRANTING STIPULATED SCHEDULING ORDER

Based upon the Stipulation for Entry of Scheduling Order of the parties, and pursuant to the Nevada Rules of Civil Procedure, the following Scheduling Order is hereby approved:

Deadlines with respect to a scheduling order:

1. The current trial date is set for **August 9, 2021**

2. Complete all discovery on or before: **Friday, May 28, 2021** (73 days before the trial).

3. File motions to amend pleadings or join parties on or before: **Friday, February 26, 2021** (91 days prior to close of discovery).

4. Make initial expert disclosures pursuant to NRCP 16.1(a)(2) on or before: **Friday, February 26, 2021** (91 days prior to close of discovery).

5. Make rebuttal expert disclosures pursuant to NRCP 16.1(a)(2) on or before: **Monday, March 29, 2021** (31 days after initial expert disclosures).

a. Written reports of experts waived: ____ yes OR __X__ no

6. Motions in limine to be filed on or before: **Monday, July 5, 2021.**

b. Oppositions to be filed on or before: **Monday, July 19, 2021.**

c. Replies to be filed and motions submitted, except motions in limine to exclude an expert's testimony, on or before: **Monday, July 26, 2021**[1] (15 days before the trial).

7. All pretrial motions, including dispositive motions and motions in limine to exclude an expert's testimony, to be served, fully briefed, filed and submitted for decision on or before: **Monday, July 12, 2021**[2] (30 calendar days before the trial).

8. Trial statements to be filed and served on or before: **Monday, August 2, 2021** (7 days before the trial in accordance with WDCR 5).

9. All proposed jury instructions, including a stipulated packet of jury instructions, and verdict forms must be submitted on or before: **Friday, August 6, 2021, by 5:00 p.m.** in accordance with WDCR 7(8).

10. Counsel will appear to address all pre-trial matters on **July 9, 2021 at 10:00 a.m.**

This schedule will not be modified except by leave of this Court or the Discovery Commissioner upon a showing of good cause.

The parties have not yet participated in the NRCP 16.1 early case conference. The parties shall make their initial disclosures pursuant to that rule within 14 days after the case conference, subject to the following: RTC sought and obtained an order in limine precluding Plaintiffs from offering at trial any documents responsive to RTC's NRCP 34 requests for

[1] The 15 day deadline to submit motions in limine, except motions in limine to exclude an expert's testimony, falls on a Sunday, July 25, 2021, therefore the calendar date for this deadline has been adjusted to Monday, July 26, 2021, pursuant to NRCP 6.

[2] The 30 day deadline to submit dispositive motions, including motions for summary judgment, and motions in limine to exclude an expert's testimony, falls on a Saturday, July 10, 2021, therefore the calendar date for this deadline has been adjusted to Monday, July 12, 2021, pursuant to NCRP 6.

production that were not produced to RTC on or before **June 30, 2020.** Nothing in this scheduling order shall be construed as a waiver of RTC's rights under that order in limine or otherwise under applicable law.

IT IS SO ORDERED.

Dated: this 11th day of October, 2020.

DISTRICT JUDGE

SUBMITTED BY:

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Transaction # 8252375 : yviloria

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Attorneys for Defendant, the Regional Transportation Commission of Washoe County

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an individual; AND SONNIA ILIESCU, an individual, Plaintiffs, v. THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1 – 40, inclusive, Defendants.	Case No.: CV19-00459 Dept. No.: 15

MOTION FOR SANCTIONS PURSUANT TO NRCP 16.1(e)

Defendant The Regional Transportation Commission of Washoe County ("RTC") moves the Court pursuant to NRCP 16.1(e) for an order dismissing this case. Plaintiffs have neither conducted an NRCP 16.1 conference nor filed a case conference report in the frames set forth in that rule. This motion is based on the following points and authorities and the entire file in this matter.

/ / /

I. INTRODUCTION

Plaintiffs filed this case in February 2019 and, since that time, have done nothing to move it forward. Plaintiffs initially asserted twelve claims for relief against RTC but, after two motions to dismiss, only six claims remain. RTC served its Answer to First Amended Complaint on March 23, 2020. Pursuant to NRCP 16.1(b)(2)(A), the early case conference should have been held no later than April 22, 2020. Although NRCP 16.1(b)(2)(B) provides that the parties may agree to continue the time to hold the early case conference for an additional period of 90 days, in this case July 21, 2020, Plaintiffs did not request such a continuance nor did RTC agree to such a continuance. NRCP 16.1(b)(2)(B) further provides that, absent extraordinary and compelling circumstances neither the court nor the parties may extend the time for the early case conference beyond 180 days after service of an answer by the defendant.

NRCP 16.1(b)(3) allows parties to conduct early case conferences by phone, Zoom or other audiovisual methods. NRCP 16.1(b)(4)(A) provides that plaintiff is responsible for designating the time and place of each conference. There is no excuse for Plaintiffs' failure to hold a case conference. The deadline for Plaintiffs to file a case conference report was November 18, 2020. Since no case conference was held, no case conference report has been filed. Plaintiffs have failed to move this case forward and it should be dismissed.

II. LAW AND ARGUMENT

NRCP 16.1(e) provides for sanctions in the event of an untimely case conference or an untimely case conference report, both of which are issues in this case. NRCP 16.1(e)(1) provides that the Court may dismiss the case without prejudice if an NRCP 16.1(b) conference is not held within 180 days after service of an answer by a defendant, unless there are compelling and extraordinary circumstances for a continuance beyond this period.

Similarly, NRCP 16.1(e)(2) provides that the Court may dismiss the case without prejudice if the plaintiff does not file a case conference report within 240 days after

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service of answer by a defendant. NRCP 16.1(e)(2) does not contain the same exception for "compelling and extraordinary circumstances."

RTC served its Answer To First Amended Complaint on March 23, 2020. Therefore, the 180-day deadline to hold the NRCP 16.1(b) conference was **September 21, 2020** and the 240-day deadline to file a case conference report was **November 18, 2020**. Despite participating in the Case Management Conference on September 29, 2020 and filing a Stipulation For Entry Of Scheduling Order on October 8, 2020, Plaintiffs have failed to make any effort to schedule the NRCP 16.1(b) conference.

This Court has broad discretion to impose discovery sanctions. *Hamlett v. Reynolds*, 114 Nev. 863, 865, 963 P.2d 457, 458 (1998). In *Arnold v. Kip*, the Nevada Supreme Court held that the party moving for dismissal under NRCP 16.1(e) is not required to demonstrate prejudice and the district court is not required to consider whether the defendant has suffered prejudice because of the delay in complying with that rule. 123 Nev. 410, 415, 168 P.3d 1050, 1053 (2007). The *Arnold* Court noted that NRCP 16.1(e) was adopted to promote prosecution of litigation within adequate timelines, and that rule permits sanctions to ensure compliance with specific guidelines. *Id*. A nonexhaustive list of factors to consider includes: (1) the length of the delay; (2) whether the defendant induced or caused the delay; (3) whether the delay has impeded the timely prosecution of the case; (4) general considerations of case management such as compliance with any case scheduling order or the existence or postponement of any trial date; or (5) whether the plaintiff has provided good cause for the delay. *Arnold*, 123 Nev. at 1053-1054, 168 P.3d at 415-416.

The length of the delay for holding the early case conference is 9 months. RTC filed its answer on March 23, 2020, so Plaintiffs were required to hold the early case conference by April 22, 2020. Even if the parties had agreed to extend the time to hold the early case conference, which they did not, the latest date on which the parties could agree to hold the conference was July 21, 2020. The case conference report must be filed within 30 days after the early case conference. Because Plaintiffs never scheduled the

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early case conference, it obviously follows that no case conference report has ever been filed. The delay is inexcusable, especially considering the ease with which it can be conducted by phone or Zoom.

RTC has not induced or caused this delay. And while Covid-19 certainly impacted the ability (or at least the wisdom) of conducting early case conferences in person, NRCP 16.1(b)(3) clearly allows parties to conduct early case conferences by phone, Zoom or other audiovisual methods that do not require interpersonal contact. The delay in conducting the early case conference and the consequent failure to file a case conference report is entirely on Plaintiffs' shoulders. RTC does not know what excuse Plaintiffs will offer up in response, but believes it is unlikely they can show good cause for the delay.

Plaintiffs' delay has impeded the timely prosecution of the case. They have produced almost no documents and identified no witnesses with any real knowledge of the factual allegations underlying their claims. Expert disclosures are due in a month and Plaintiffs have provided no information from which RTC can evaluate what experts may be needed and what opinions may be required. Even if they provided any such information now—assuming any such information exists—it would likely require extending current deadlines under the existing scheduling order and the postponement of the current trial date. Further, Plaintiffs have not provided a computation of damages that ordinarily would be included in a party's initial disclosures. RTC has no idea what amount of damages Plaintiffs are seeking in this case.

Plaintiffs' delay in holding the early case conference report and consequent failure to file a case conference report is simply inexcusable. This case has been pending a long time and Plaintiffs have done nothing to move it forward. "[I]t is incumbent upon the plaintiff to act diligently and 'carefully track the crucial procedural dates and to actively advance the case at all stages.'" *Monroe v. Columbia Sunrise Hosp. and Med. Ctr.*, 123 Nev. 96, 100, 158 P.3d 1008, 1010 (2007) (quoting *Allyn v. McDonald*, 117 Nev. 907, 912, 34 P.3d 584, 587 (2001). Plaintiffs in this case have not done so, and this case should be dismissed.

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III. CONCLUSION

This case should be dismissed pursuant to NRCP 16.1(e). Plaintiffs have failed to hold an early case conference within 180 days after RTC's answer and also have failed to file a case conference report within 240 days after RTC's answer.

Affirmation pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the personal information of any person.

DATED: January 19th, 2021.

WOODBURN AND WEDGE

By *__/s/ Dane W. Anderson__*
Dane W. Anderson, Esq.
Nevada Bar No. 6883
Bronagh M. Kelly, Esq.
Nevada Bar No. 14555

Attorneys for Defendant
The Regional Transportation
Commission of Washoe County

Woodburn and Wedge
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775-688-3000

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Woodburn and Wedge and that on this date, I caused to be sent via electronic delivery through the Court's E-flex system a true and correct copy of the ***MOTION FOR SANCTIONS PURSUANT TO NRCP 16.1(e)*** to:

MICHAEL J. MORRISON, ESQ.
1495 Ridgeview Dr., #220
Reno, Nevada 89519
venturelawusa@gmail.com

Attorneys for Plaintiffs

DATED: January 19, 2021.

/s/ Dianne M. Kelling
Employee of Woodburn and Wedge

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(775) 827-6300

Attorney for Iliescu Plaintiffs

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

*** * * * ***

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU, JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an Individual; and SONNIA ILIESCU, an Individual,

Plaintiffs,

vs.

THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1-40,

Defendants.

CASE NO. CV19-00459

DEPT. NO. 15

OPPOSITION TO MOTION FOR SANCTIONS

COMES NOW Michael J. Morrison, Esq., and as attorney for JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU, JR. AND SONNIA ILIESCU 1992 FAMILY TRUST ("**Trust**"), hereby respectfully submits this Opposition to Defendants' Motion for Sanctions.

FACTS AND CIRCUMSTANCES

Shortly after this case was filed, counsel for RTC contacted the undersigned counsel for Plaintiffs, on numerous occasions, requesting that, notwithstanding the Rules and protocols governing early disclosure, conferences and discovery rules, RTC be allowed to conduct unlimited discovery, including written discovery and the depositions, of the Plaintiffs prior to engaging in any other rule-required protocols. The RTC's request also provided that Plaintiffs were precluded from conducting any statutory discovery – only the RTC was "excused" from adhering to the Rules.

RTC repeatedly raised the issue of the "urgency" for RTC to unilaterally conduct its discovery on the grounds that RTC wanted to be fully apprised of any and all information and materials in this lawsuit in case the Plaintiffs experienced health problems before the statutory protocols were followed, and RTC could thereby be prejudiced. As a courtesy to RTC, Plaintiffs agreed to allow RTC to employ these highly unusual protocols, which circumvented and emasculated the statutory provisions of Rule 16.1 and related pre-trial protocols.

Plaintiffs respectfully submit that, by using the forgoing unilateral and highly beneficial "urgent stipulation", RTC, in truth and fact, received the full suite of benefits it was entitled to receive pursuant to the formal protocols set forth in Rule 16.1. Moreover, throughout the RTC unilateral discovery process, counsel for RTC and counsel for Plaintiffs were communicating regularly, and cordially, about all the issues that counsel would routinely discuss and go back and forth about during the disclosure, conference and discovery activitiies contemplated by Rule 16.1. In addition, Plaintiffs participated in the Case Management Conference and cooperated in a Stipulation for Entry of a Scheduling Order herein.

Now, after requesting and inducing Plaintiffs to acquiesce to RTC's proposal to ignore, disregard, circumvent and abandon the statutory protocols of Rule 16.1, solely and exclusively to enable RTC to obtain all of the discovery RTC desired to obtain from Plaintiffs, RTC, without any notice or attempt to communicate with counsel for

Plaintiffs, seeks to vigorously enforce each and all of the formal aspects of Rule 16.1 against Plaintiffs, specifically including the ultimate sanction of dismissal of Plaintiffs' entire case, thereby denying them their day in Court.

Finally, when the undersigned received the instant Motion from RTC, he called RTC's counsel and requested that the parties schedule the Rule 16.1 conference, but counsel refused, stating, "This case is over."

LEGAL ISSUES

In support of its request for sanctions, RTC points to NRCP 16.1(e), provides that the imposition of sanctions lies within the broad and sole discretion of this Court. *Hamlett v. Reynolds*, 114 Nev. 863, 865, 963 P.2d 457, 458 (1998). As guidelines in exercise of the Court's discretion, the Supreme Court provided a nonexhaustive list of factors which this Court may consider. *Arnold v. Kip*, 123 Nev. 410, 415, 168 P.3d 1050, 1053 (2007). This list includes: (1) the length of the delay; (2) whether the defendant induced or caused the delay; (3) whether the delay has impeded the timely prosecution of the case; (4) general considerations of case management such as compliance with any case scheduling order or the existence or postponement of any trial date; or (5) whether the plaintiff has provided good cause for the delay. *Arnold*, 123 Nev. at 1053-1054, 168 P.3d at 415-416.

Plaintiffs respectfully suggest to the Court that an analysis of these factors, in light of the facts and circumstances existing herein, are both telling in compelling.

Indeed, with respect to the length of the delay, the date at issue is November 18, 2020. Any delay herein, if any, was induced and/or caused by the unilateral discovery protocols "urgently" required and utilized by RTC, which protocols significantly interfered with and undeniably wreaked havoc on any and all Rule-provided dates now sought to be enforced by RTC. Moreover, for the many months during which RTC was solely and exclusively conducting non-compliant protocols, Plaintiffs were being prejudiced.

Commented [MM1]:

As regards additional "good cause" for any delays, Plaintiffs respectfully advise the Court that any delays attendant to this process were directly related to the undersigned's health problems, which were present for some time during the period at issue herein, were exacerbated in late October 2020, treated for several weeks, and resulted in a surgery on

November 12-13, 2020, at the Reno VA Hospital, with the attendant on-going months of recovery, bed rest and rehab, during which he contracted and has been (and still is), trying to recover from a seriously disabling bout of COVID-19, including the unpredictable and as-yet-not-fully-known impact on his neurological system and organs.

In the past, when the undersigned needed assistance with his legal tasks, he could turn to two (2) very long-time and highly experienced local lawyers, who would kindly, and graciously, provide reliable assistance to him. However, in the past few months, they have both retired, leaving a vacuum that has not yet been filled, but the undersigned is exercising good faith and due diligence, as time and health permit, to locate lawyers to provide assistance, as and when required, to help avoid/eliminate future delays.

Based on the foregoing facts and circumstances, the undersigned respectfully, and very earnestly, submits that counsel's health issues have occasioned any unforeseen and unavoidable delays, if any, in Plaintiffs' prosecution of this case. In this regard, Plaintiffs respectfully submit that, in addition to the delays occasionedd by RTC herein, counsel's health issues constitute the statutory requisite of "good cause" to deny any sanctions herein. NRCP 16.1(e).

Furthermore, Plaintiffs also respectfully assert there is no prejudice to Defendants herein as a result of any alleged delay, but the sanction of dismissal constitutes, and will result in severe, indeed, fatal prejudice to Plaintiffs, as the statute of limitations may have expired on Plaintiffs' claims, and they may be barred from ever pursuing their valid and legally cognizable claims.

CONCLUSION

Based on the forgoing facts and argument, Plaintiffs respectfully request the Court deny the instant Motion.

///

///

AFFIRMATION

(Pursuant to NRS 2398.030)

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

DATED this 18th day of February, 2021.

/s/ Michael J. Morrison

By: _____

Michael J. Morrison, Esq.
Nevada State Bar No. 1665
1495 Ridgeview Dr., #220
Reno, Nevada 89519
(775) 827-6300

Attorney for Iliescu Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on February 18, 2021, I personally caused to be served a true copy of the foregoing **OPPOSITION** by the method indicated and addressed to the following:

Dane W. Anderson, Esq. Woodburn Wedge 6100 Neil Road, Suite 500 Reno, Nevada 89511	____ Via U.S. Mail ____ Via Overnight Mail ____ Via Hand Delivery ____ Via Facsimile __x__ Via ECF

/s/ Michael J. Morrison

Michael J. Morrison

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Attorneys for Defendant, the Regional Transportation Commission of Washoe County

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an individual; AND SONNIA ILIESCU, an individual, Plaintiffs, v. THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1 – 40, inclusive, Defendants.	Case No.: CV19-00459 Dept. No.: 15

REQUEST FOR SUBMISSION

It is hereby requested that the Motion for Sanctions Pursuant to NRCP 16.1(e), filed on January 19, 2021, be submitted to the Court for consideration and determination.

A true and correct copy of this request has been served on all counsel and parties.

///

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Affirmation pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the personal information of any person.

DATED: February 25, 2021.

WOODBURN AND WEDGE

By: */s/ Dane W. Anderson*
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Nevada Bar No. 6883
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Nevada Bar No. 14555

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The Regional Transportation
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CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Woodburn and Wedge and that on this date, I caused to be sent via electronic delivery through the Court's E-flex system a true and correct copy of the **REQUEST FOR SUBMISSION** to:

MICHAEL J. MORRISON, ESQ.
1495 Ridgeview Dr., #220
Reno, Nevada 89519
venturelawusa@gmail.com

Attorneys for Plaintiffs

DATED: February 25, 2021.

/s/ Dianne M. Kelling
Employee of Woodburn and Wedge

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IN THE SUPREME COURT OF THE STATE OF NEVADA

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an individual; and SONNIA ILIESCU, an individual,

Appellants,

vs.

THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1 through 40 inclusive,

Respondent.

Supreme Court No. 83212
Washoe County Case No. CV19-00459

JOINT APPENDIX
VOLUME IV
(Exhibits 70-80)

Appeal from the Second Judicial District Court of the State of Nevada
in and for the County of Washoe County
Case No. CV19-00459

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Counsel for Respondent

Docket 83212 Document 2021-37261

DOCUMENT INDEX

DOC.	FILE/HRG. DATE	DOCUMENT DESCRIPTION	VOL.	BATES NOS.
WASHOE COUNTY CASE NO. CV16-02182 – JUDICIAL NOTICE				
1	10/24/16	Verified Complaint in Eminent Domain – Transaction 5772609	I	JA0001-0037
2	10/24/16	Notice of Pendency of Action for Permanent Easement, Public Utility Easement and a Temporary Construction Easement – Transaction 5773484	I	JA0038-0040
3	10/24/16	Affidavit of Jeff Hale – Transaction 5772609	I	JA0041-0044
4	10/24/16	Motion for Immediate Occupancy Pending Final Judgment – Transaction 5772609	I	JA0045-0049
5	11/18/16	Answer to Complaint – Transaction 5813621	I	JA0050-0052
6	11/29/16	Stipulation for the Entry of an Order for Immediate Occupancy Pending Entry of Judgment – Transaction 5827255	I	JA0053-0065
7	12/01/16	Order for Immediate Occupancy Pending Entry of Judgment – Transaction 5832427	I	JA0066-0075
8	04/18/18	Stipulation for the Entry of a Final Order of Condemnation and Judgment – Transaction 6636350	I	JA0076-0097
9	04/26/18	Final Order of Condemnation and Judgment – Transaction 6649694	I	JA0098-0108
10	04/26/18	Notice of Entry of Final Order of Condemnation and Judgment – Transaction 6650430	I	JA0109-0112
11	05/03/18	Order – Transaction 6661759	I	JA0113-0114
12	09/26/18	Withdrawal and Release of Notice of Lis Pendens – Transaction 6899751	I	JA0115-0125

DOC.	FILE/HRG. DATE	DOCUMENT DESCRIPTION	VOL.	BATES NOS.
WASHOE COUNTY CASE NO. CV19-00459				
13	02/27/19	Complaint (Exemption from Arbitration – Equitable Relief Sought and Damages in Excess of $50,000) – Transaction 7140095	I	JA0126-0147
14	07/01/19	Order to Show Cause – Transaction 7349801	I	JA0148-0150
15	07/22/19	Motion for Extension of Time – Transaction 7386969	I	JA0151-0155
16	07/30/19	Order for Enlarging Time for Service – Transaction 7402741	I	JA0156-0158
17	08/08/19	Notice of Acceptance of Service – Dale Ferguston, Esq. – Transaction 7419581	I	JA0159-0161
18	09/25/19	Motion to Dismiss – Transaction 7504491	I	JA0162-0170
19	10/30/19	Stipulation to Conduct Discovery Prior to Holding NRCP 16.1 Conference and Prior to Filing the JCCR – Transaction 7563184 -	I	JA0171-0173
20	11/07/19	Plaintiffs' Opposition to Defendant's Partial Motion to Dismiss Plaintiff's Complaint – Transaction 7576382	I	JA0174-0182
21	11/12/19	Reply in Support of Motion to Dismiss – Transaction 7583646	I	JA0183-0190
22	11/18/19	Order Granting Stipulation to Conduct Discovery – Transaction 7593663	I	JA0191
23	12/06/19	Stipulation for Entry of Order Dismissing Certain Plaintiffs' Claims for Relief and Damages With Prejudice – Transaction 7623980	I	JA0192-0195
24	12/10/19	Order Granting Stipulation for Entry of Order Dismissing Certain of Plaintiff's Claims for Relief and Damages With Prejudice – Transaction 7629013	I	JA0196-0197
25	01/07/20	Order Addressing Motion to Dismiss – Plaintiff to File Amended Complaint – Transaction 7673003	I	JA0198-0199

DOC.	FILE/HRG. DATE	DOCUMENT DESCRIPTION	VOL.	BATES NOS.
26	01/21/20	Amended Complaint – Transaction 7695926	I	JA0200-0218
27	01/30/20	Supplemental Motion to Dismiss – Transaction 7712316	I	JA0219-0225
28	02/10/20	Plaintiffs' Opposition to Defendant's Supplemental Motion to Dismiss – Transaction 7732495	II	JA0226-0235
29	02/13/20	Reply in Support of Supplemental Motion to Dismiss – Transaction 7739174	II	JA0236-0242
30	02/20/20	Motion to Compel – Transaction 7750935	II	JA0243-0248
31	03/11/20	Notice of Document Received But Not Considered by Court (Confidential Medical Records) – Transaction 7786510	II	JA0249-0255
32	03/20/20	Order Granting Motion to Dismiss – Transaction 7801281	II	JA0256-0257
33	03/20/20	Notice of Entry of Order – Transaction 7802297	II	JA0258-0261
34	03/23/20	Answer to First Amended Complaint – Transaction 7804469	II	JA0262-0291
35	04/01/20	Declaration of Dane W. Anderson in Support of Motion for Discovery Sanctions – Transaction 7818895	II	JA0292-0400
36	04/01/20	Motion for Sanctions Motion for Discovery Sanctions – Transaction 7818895	II	JA0401-0406
37	04/03/20	Master's Recommendation for Order – Transaction 7822158	II	JA0407-0410
38	04/20/20	Order Affirming Master Recommendation – Transaction 7841718	II	JA0411-0412
39	04/20/20	Request for Submission re Motion for Discovery Sanctions – Transaction 7842053	II	JA0413-0415
40	04/20/20	Motion for Sanctions – Transaction 7842166	II	JA0416-0420
41	04/22/20	Pre-Trial Order – Transaction 7845782	II	JA0421-0430

DOC.	FILE/HRG. DATE	DOCUMENT DESCRIPTION	VOL.	BATES NOS.
42	05/14/20	Plaintiffs' Opposition to Defendant's Motion for Sanctions – Transaction 7878297	II	JA0431-0436
43	05/18/20	Request for Submission re Motion for Sanctions Pursuant to NRCP 37(b)(l) – Transaction 7882116	II	JA0437-0439
44	05/18/20	Reply in Support of Motion for Sanctions Pursuant to NRCP 37(b)(1) – Transaction 7882116	II	JA0440-0444
45	06/10/20	Master's Recommendation for Order – Transaction 7919122	III	JA0445-0458
46	06/22/20	Declaration of Dane W. Anderson Regarding Expenses to be Reimbursed by Defendants – Transaction 7937253	III	JA0459-0476
47	06/30/20	Order Affirming Master Recommendation – Transaction 7949738	III	JA0477-0478
48	06/30/20	Order to Set File Notice to Set Within 14 Days – Transaction 7949756	III	JA0479
49	06/30/20	Plaintiffs' Notice of Intent to File Opposition to Defendant's Statement of Claimed Costs and Fees – Transaction 7950620	III	JA0480-0483
50	07/06/20	Plaintiffs' Response to Declaration of Dane W. Anderson Regarding Expenses to be Reimbursed by Defendants – Transaction 7956088	III	JA0484-0490
51	07/13/20	RTC's Reply to Plaintiffs' Response to Declaration of Dane W. Anderson Regarding Expenses to be Reimbursed by Defendants – Transaction 7966844	III	JA0491-0496
52	07/16/20	Request for Submission re Declaration of Dane W. Anderson Regarding Expenses To Be Reimbursed By Defendants [*sic*] – Transaction 7973986	III	JA0497-0499
53	07/21/20	Supplemental ... Declaration of Dane W. Anderson Re Expenses to be Reimbursed by Plaintiffs – Transaction 7981140	III	JA0500-0507

DOC.	FILE/HRG. DATE	DOCUMENT DESCRIPTION	VOL.	BATES NOS.
54	07/21/20	Motion in Limine to Preclude Plaintiffs from Offering Documents Not Produced to RTC on or before June 30, 2020 Transaction 7981600	III	JA0508-0593
55	07/27/20	Plaintiffs' Response to the Supplemental Declaration of Dane W. Anderson Regarding Expenses to be Reimbursed by Plaintiffs – Transaction 7990157	III	JA0594-0597
56	07/29/20	RTC's Reply to Plaintiffs' Response to The Supplemental Declaration of Dane W. Anderson Regarding Expenses to be Reimbursed by Defendants – Transaction 7993047	III	JA0598-0602
57	08/05/20	Order Regarding Declarations of Expenses – Transaction 8004713	III	JA0603-0605
58	08/06/20	Notice of Entry of Order – Transaction 8007281	III	JA0606-0613
59	08/06/20	Request for Submission re Motion in Limine to Preclude Plaintiffs from Offering Documents Not Produced to RTC on or Before June 30, 2020 – Transaction 8007357	III	JA0614-0616
60	08/19/20	Order Granting Motion in Limine to Preclude Offering Documents Not Produced to RTC on or before June 30, 2020 – Transaction 8027856	III	JA0617-0618
61	08/20/20	Notice of Entry of Order – Transaction 8029028	III	JA0619-0625
62	03/23/20	Demand for Jury Trial – Transaction 8082710	III	JA0626-0627
63	09/30/20	Minutes 9/29/20 Case Management Conference (ESC) – Transaction 8093137	III	JA0628-0629
64	09/30/20	Transcript of 9/29/20 Case Management Conference	III	JA0630-0644
65	10/08/20	Stipulation for Entry of Scheduling Order – Transaction 8107608	III	JA0645-0648

DOC.	FILE/HRG. DATE	DOCUMENT DESCRIPTION	VOL.	BATES NOS.
66	10/12/20	Scheduling Order Amended Stipulated Scheduling Order – Transaction 8111324	III	JA0649-0651
67	01/19/21	Motion for Sanctions Pursuant to NRCP 16.1(E) – Transaction 8252375	III	JA0652-0657
68	02/18/21	Opposition to Motion for Sanctions – Transaction 8302448	III	JA0658-0662
69	02/25/21	Request for Submission re Motion for Sanctions Pursuant to NRCP 16.1(e) – Transaction 8313712	III	JA0663-0665
70	02/25/21	RTC's Reply in Support of Motion for Sanctions Pursuant to NRCP 16.1(C) – Transaction 8313712	IV	JA0666-0687
71	03/09/21	Motion for Summary Judgment – Transaction 8332645	IV	JA0688-0708
72	03/09/21	Motion in Limine to Exclude Evidence of Damages – Transaction 8333168	IV	JA0709-0712
73	03/09/21	Motion in Limine to Preclude Plaintiffs From Presenting Evidence Pursuant to NRS 50.275, 50.285 and 50.305 – Transaction 8333168	IV	JA0713-0716
74	03/11/21	Application for Setting – Transaction 8337959	IV	JA0717-0720
75	03/25/21	Order Denying Motion for Sanctions – Transaction 8361465	IV	JA0721-0722
76	04/02/21	Plaintiffs' Opposition to Defendants' Motion for Summary Judgment – Transaction 8376225	IV	JA0723-0814
77	04/02/21	Plaintiffs' Opposition to Defendants' Motion in Limine to Exclude Evidence of Damages – Transaction 8376231	IV	JA0815-0818
78	04/02/21	Plaintiffs' Opposition to Defendant's Motion in Limine to Exclude Evidence Pursuant to NRS 50.275, 50.285, and 50.305 – Transaction 8376236	IV	JA0819-0822

DOC.	FILE/HRG. DATE	DOCUMENT DESCRIPTION	VOL.	BATES NOS.
79	04/02/21	Plaintiffs' Opposition to Defendant's Motion in Limine to Exclude Evidence Pursuant to NRS 50.275 – Transaction 8376273	IV	JA0823-0826
80	04/27/21	Reply in Support of Motion in Limine to Preclude Plaintiffs from Presenting Evidence Pursuant to NRS 50.275, 50.285 and 50.305 – Transaction 8416238	IV	JA0827-0830
81	04/27/21	Reply in Support of Motion in Limine to Exclude Evidence of Damages – Transaction 8416263	V	JA0831-0884
82	04/28/21	Request for Submission re Reply in Support of Motion in Limine to Preclude Plaintiffs From Presenting Evidence Pursuant to NRS 50.275, 50.285 and 50.305 – Transaction 8417512	V	JA0885-0887
83	04/28/21	Request for Submission re Reply in Support of Motion in Limine to Exclude Evidence of Damages – Transaction 8417518	V	JA0888-0890
84	04/28/21	Order Setting Hearing and for Electronic Appearance – Transaction 8419081	V	JA0891-0892
85	04/29/21	Reply in Support of Motion for Summary Judgment – Transaction 8420046	V	JA0893-0941
86	05/06/21	Minutes 4/27/2021 – Status Hearing – Transaction 8430816	V	JA0942-0944
87	05/06/21	Transcript of 4/27/21 Status Hearing	V	JA0945-1004
88	05/12/21	Minutes 5/12/2021 – Oral Arguments – Transaction 8441847	V	JA1005
89	05/12/21	Transcript of 5/12/2021 Oral Arguments – Transaction 8442136	V	JA1006-1047
90	05/13/21	Notice of Intent to File Motion – Transaction 8444437	V	JA1048-1049
91	05/24/21	Response to Notice of Intent to File Motion – Transaction 8461146	V	JA1050-1053

DOC.	FILE/HRG. DATE	DOCUMENT DESCRIPTION	VOL.	BATES NOS.
92	06/01/21	Plaintiffs' Motion for Reconsideration and Rehearing of, or, in the Alternative, Motion to Set Aside this Court's Order Pursuant to NRCP 60(B)(1) and (6) – Transaction 8473201	V	JA1054-1060
93	06/02/21	First Errata to Plaintiffs' Motion for Reconsideration and Rehearing of, or, in the Alternative, Motion to Set Aside this Court's Order Pursuant to NRCP 60(B)(1) and (6) – Transaction 8474224	VI	JA1061-1082
94	06/02/21	Order Setting Hearing for Oral Argument 6/8/21 at 10:00 A.M. – Transaction 8474916	VI	JA1083-1084
95	06/07/21	Opposition to Motion for Reconsideration and Rehearing of, or in the Alternative, Motion to Set Aside this Court's Order Pursuant to NRCP 60(B)(1) and (6) [including the "First" and any other "Erratas" that may be filed] – Transaction 8483047	VI	JA1085-1096
96	06/08/21	Supplemental Exhibit to Motion for Reconsideration – Transaction 8483818	VI	JA1097-1104
97	06/08/21	Minutes regarding Oral Arguments – Transaction 8484485	VI	JA1105
98	06/08/21	Transcript of 6/8/21 Oral Arguments	VI	JA1106-1147
99	06/09/21	Order Granting Summary Judgment After Supplemental Arguments – Transaction 8487964	VI	JA1148-1159
100	06/10/21	Notice of Entry of Judgment Notice of Entry of Order Granting Summary Judgment – Transaction 8490380	VI	JA1160-1176
101	06/15/21	Memorandum of Costs – Transaction 8495869	VI	JA1177-1200
102	06/15/21	Declaration of Dane W. Anderson in Support of Memorandum of Costs – Transaction 8495884	VI	JA1201-1204

DOC.	FILE/HRG. DATE	DOCUMENT DESCRIPTION	VOL.	BATES NOS.
103	06/29/21	Motion for Attorney's Fee – Transaction 8517765	VI	JA1205-1214
104	06/29/21	Declaration in Support of Motion for Fees – Transaction 8517765	VI	JA1215-1251
105	07/09/21	Notice of Appeal – Transaction 8536470	VI	JA1252-1255
106	07/09/21	Case Appeal Statement – Transaction 8536470	VI	JA1256-1261
107	07/14/21	Notice of Appeal (*Supreme Court Filing*)	VII	JA1262-1325
108	08/14/21	Plaintiffs' Opposition to Defendant's Motion for Attorney Fees and for Entry of Judgment for Attorney Fees and Costs – Transaction 8595894	VII	JA1326-1338
109	08/23/21	Reply in Support of Motion for Attorney Fees and for Entry of Judgment for Attorney Fees and Costs – Transaction 8608634	VII	JA1339-1347
110	08/23/21	Reply in Support of Motion for Attorney Fees and for Entry of Judgment for Attorney Fees and Costs – Transaction 8608728	VII	JA1348-1364
111	10/18/21	Order Granting Attorney's Fees and Entry of Judgment – Transaction 8701865	VII	JA1365-1373
112	10/18/21	Notice of Entry of Order Granting Attorney's Fees and Entry of Judgment – Transaction 8702337	VII	JA1374-1386
113	10/21/21	Amended Notice of Appeal – Transaction 8709785	VII	JA1387-1389

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ALPHABETICAL INDEX

DOC.	FILE/HRG. DATE	DOCUMENT DESCRIPTION	VOL.	BATES NOS.
WASHOE COUNTY CASE NO. CV16-02182 – JUDICIAL NOTICE				
3	10/24/16	Affidavit of Jeff Hale - Transaction 5772609	I	AA0041-0044
5	11/18/16	Answer to Complaint - Transaction 5813621	I	AA0050-0052
9	04/26/18	Final Order of Condemnation and Judgment - Transaction 6649694	I	AA0098-0108
4	10/24/16	Motion for Immediate Occupancy Pending Final Judgment - Transaction 5772609	I	AA0045-0049
10	04/26/18	Notice of Entry of Final Order of Condemnation and Judgment - Transaction 6650430	I	AA0109-0112
2	10/24/16	Notice of Pendency of Action for Permanent Easement, Public Utility Easement and a Temporary Construction Easement - Transaction 5773484	I	AA0038-0040
11	05/03/18	Order - Transaction 6661759	I	AA0113-0114
7	12/01/16	Order for Immediate Occupancy Pending Entry of Judgment - Transaction 5832427	I	AA0066-0075
8	04/18/18	Stipulation for the Entry of a Final Order of Condemnation and Judgment - Transaction 6636350	I	AA0076-0097
6	11/29/16	Stipulation for the Entry of an Order for Immediate Occupancy Pending Entry of Judgment - Transaction 5827255	I	AA0053-0065
1	10/24/16	Verified Complaint in Eminent Domain - Transaction 5772609	I	AA0001-0037
12	09/26/18	Withdrawal and Release of Notice of Lis Pendens - Transaction 6899751	I	AA0115-0125
WASHOE COUNTY CASE NO. CV19-00459				
26	01/21/20	Amended Complaint – Transaction 7695926	I	JA0200-0218

DOC.	FILE/HRG. DATE	DOCUMENT DESCRIPTION	VOL.	BATES NOS.
113	10/21/21	Amended Notice of Appeal – Transaction 8709785	VII	JA1387-1389
34	03/23/20	Answer to First Amended Complaint – Transaction 7804469	II	JA0262-0291
74	03/11/21	Application for Setting – Transaction 8337959	IV	JA0717-0720
106	07/09/21	Case Appeal Statement – Transaction 8536470	VI	JA1256-1261
13	02/27/19	Complaint (Exemption from Arbitration – Equitable Relief Sought and Damages in Excess of $50,000) – Transaction 7140095	I	JA0126-0147
104	06/29/21	Declaration in Support of Motion for Fees – Transaction 8517765	VI	JA1215-1251
102	06/15/21	Declaration of Dane W. Anderson in Support of Memorandum of Costs – Transaction 8495884	VI	JA1201-1204
35	04/01/20	Declaration of Dane W. Anderson in Support of Motion for Discovery Sanctions – Transaction 7818895	II	JA0292-0400
46	06/22/20	Declaration of Dane W. Anderson Regarding Expenses to be Reimbursed by Defendants – Transaction 7937253	III	JA0459-0476
62	03/23/20	Demand for Jury Trial – Transaction 8082710	III	JA0626-0627
93	06/02/21	First Errata to Plaintiffs' Motion for Reconsideration and Rehearing of, or, in the Alternative, Motion to Set Aside this Court's Order Pursuant to NRCP 60(B)(1) and (6) – Transaction 8474224	VI	JA1061-1082
37	04/03/20	Master's Recommendation for Order – Transaction 7822158	II	JA0407-0410
45	06/10/20	Master's Recommendation for Order – Transaction 7919122	III	JA0445-0458
101	06/15/21	Memorandum of Costs – Transaction 8495869	VI	JA1177-1200

DOC.	FILE/HRG. DATE	DOCUMENT DESCRIPTION	VOL.	BATES NOS.
86	05/06/21	Minutes 4/27/2021 – Status Hearing – Transaction 8430816	V	JA0942-0944
88	05/12/21	Minutes 5/12/2021 – Oral Arguments – Transaction 8441847	V	JA1005
63	09/30/20	Minutes 9/29/20 Case Management Conference (ESC) – Transaction 8093137	III	JA0628-0629
97	06/08/21	Minutes regarding Oral Arguments – Transaction 8484485	VI	JA1105
103	06/29/21	Motion for Attorney's Fee – Transaction 8517765	VI	JA1205-1214
15	07/22/19	Motion for Extension of Time – Transaction 7386969	I	JA0151-0155
40	04/20/20	Motion for Sanctions – Transaction 7842166	II	JA0416-0420
36	04/01/20	Motion for Sanctions Motion for Discovery Sanctions – Transaction 7818895	II	JA0401-0406
67	01/19/21	Motion for Sanctions Pursuant to NRCP 16.1(E) – Transaction 8252375	III	JA0652-0657
71	03/09/21	Motion for Summary Judgment – Transaction 8332645	IV	JA0688-0708
72	03/09/21	Motion in Limine to Exclude Evidence of Damages – Transaction 8333168	IV	JA0709-0712
54	07/21/20	Motion in Limine to Preclude Plaintiffs from Offering Documents Not Produced to RTC on or before June 30, 2020 Transaction 7981600	III	JA0508-0593
73	03/09/21	Motion in Limine to Preclude Plaintiffs From Presenting Evidence Pursuant to NRS 50.275, 50.285 and 50.305 – Transaction 8333168	IV	JA0713-0716
30	02/20/20	Motion to Compel – Transaction 7750935	II	JA0243-0248
18	09/25/19	Motion to Dismiss – Transaction 7504491	I	JA0162-0170
17	08/08/19	Notice of Acceptance of Service – Dale Ferguston, Esq. – Transaction 7419581	I	JA0159-0161

DOC.	FILE/HRG. DATE	DOCUMENT DESCRIPTION	VOL.	BATES NOS.
105	07/09/21	Notice of Appeal – Transaction 8536470	VI	JA1252-1255
107	07/14/21	Notice of Appeal (*Supreme Court Filing*)	VII	JA1262-1325
31	03/11/20	Notice of Document Received But Not Considered by Court (Confidential Medical Records) – Transaction 7786510	II	JA0249-0255
100	06/10/21	Notice of Entry of Judgment Notice of Entry of Order Granting Summary Judgment – Transaction 8490380	VI	JA1160-1176
33	03/20/20	Notice of Entry of Order – Transaction 7802297	II	JA0258-0261
58	08/06/20	Notice of Entry of Order – Transaction 8007281	III	JA0606-0613
61	08/20/20	Notice of Entry of Order – Transaction 8029028	III	JA0619-0625
112	10/18/21	Notice of Entry of Order Granting Attorney's Fees and Entry of Judgment – Transaction 8702337	VII	JA1374-1386
90	05/13/21	Notice of Intent to File Motion – Transaction 8444437	V	JA1048-1049
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68	02/18/21	Opposition to Motion for Sanctions – Transaction 8302448	III	JA0658-0662
25	01/07/20	Order Addressing Motion to Dismiss – Plaintiff to File Amended Complaint – Transaction 7673003	I	JA0198-0199
38	04/20/20	Order Affirming Master Recommendation – Transaction 7841718	II	JA0411-0412
47	06/30/20	Order Affirming Master Recommendation – Transaction 7949738	III	JA0477-0478

DOC.	FILE/HRG. DATE	DOCUMENT DESCRIPTION	VOL.	BATES NOS.
75	03/25/21	Order Denying Motion for Sanctions – Transaction 8361465	IV	JA0721-0722
16	07/30/19	Order for Enlarging Time for Service – Transaction 7402741	I	JA0156-0158
111	10/18/21	Order Granting Attorney's Fees and Entry of Judgment – Transaction 8701865	VII	JA1365-1373
60	08/19/20	Order Granting Motion in Limine to Preclude Offering Documents Not Produced to RTC on or before June 30, 2020 – Transaction 8027856	III	JA0617-0618
32	03/20/20	Order Granting Motion to Dismiss – Transaction 7801281	II	JA0256-0257
24	12/10/19	Order Granting Stipulation for Entry of Order Dismissing Certain of Plaintiff's Claims for Relief and Damages With Prejudice – Transaction 7629013	I	JA0196-0197
22	11/18/19	Order Granting Stipulation to Conduct Discovery – Transaction 7593663	I	JA0191
99	06/09/21	Order Granting Summary Judgment After Supplemental Arguments – Transaction 8487964	VI	JA1148-1159
57	08/05/20	Order Regarding Declarations of Expenses – Transaction 8004713	III	JA0603-0605
84	04/28/21	Order Setting Hearing and for Electronic Appearance – Transaction 8419081	V	JA0891-0892
94	06/02/21	Order Setting Hearing for Oral Argument 6/8/21 at 10:00 A.M. – Transaction 8474916	VI	JA1083-1084
48	06/30/20	Order to Set File Notice to Set Within 14 Days – Transaction 7949756	III	JA0479
14	07/01/19	Order to Show Cause – Transaction 7349801	I	JA0148-0150
92	06/01/21	Plaintiffs' Motion for Reconsideration and Rehearing of, or, in the Alternative, Motion to Set Aside this Court's Order Pursuant to NRCP 60(B)(1) and (6) – Transaction 8473201	V	JA1054-1060

DOC.	FILE/HRG. DATE	DOCUMENT DESCRIPTION	VOL.	BATES NOS.
49	06/30/20	Plaintiffs' Notice of Intent to File Opposition to Defendant's Statement of Claimed Costs and Fees – Transaction 7950620	III	JA0480-0483
108	08/14/21	Plaintiffs' Opposition to Defendant's Motion for Attorney Fees and for Entry of Judgment for Attorney Fees and Costs – Transaction 8595894	VII	JA1326-1338
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78	04/02/21	Plaintiffs' Opposition to Defendant's Motion in Limine to Exclude Evidence Pursuant to NRS 50.275, 50.285, and 50.305 – Transaction 8376236	IV	JA0819-0822
79	04/02/21	Plaintiffs' Opposition to Defendant's Motion in Limine to Exclude Evidence Pursuant to NRS 50.275 – Transaction 8376273	IV	JA0823-0826
20	11/07/19	Plaintiffs' Opposition to Defendant's Partial Motion to Dismiss Plaintiff's Complaint – Transaction 7576382	I	JA0174-0182
28	02/10/20	Plaintiffs' Opposition to Defendant's Supplemental Motion to Dismiss – Transaction 7732495	II	JA0226-0235
76	04/02/21	Plaintiffs' Opposition to Defendants' Motion for Summary Judgment – Transaction 8376225	IV	JA0723-0814
77	04/02/21	Plaintiffs' Opposition to Defendants' Motion in Limine to Exclude Evidence of Damages – Transaction 8376231	IV	JA0815-0818
50	07/06/20	Plaintiffs' Response to Declaration of Dane W. Anderson Regarding Expenses to be Reimbursed by Defendants – Transaction 7956088	III	JA0484-0490

DOC.	FILE/HRG. DATE	DOCUMENT DESCRIPTION	VOL.	BATES NOS.
55	07/27/20	Plaintiffs' Response to the Supplemental Declaration of Dane W. Anderson Regarding Expenses to be Reimbursed by Plaintiffs – Transaction 7990157	III	JA0594-0597
41	04/22/20	Pre-Trial Order – Transaction 7845782	II	JA0421-0430
109	08/23/21	Reply in Support of Motion for Attorney Fees and for Entry of Judgment for Attorney Fees and Costs – Transaction 8608634	VII	JA1339-1347
110	08/23/21	Reply in Support of Motion for Attorney Fees and for Entry of Judgment for Attorney Fees and Costs – Transaction 8608728	VII	JA1348-1364
44	05/18/20	Reply in Support of Motion for Sanctions Pursuant to NRCP 37(b)(1) – Transaction 7882116	II	JA0440-0444
85	04/29/21	Reply in Support of Motion for Summary Judgment – Transaction 8420046	V	JA0893-0941
81	04/27/21	Reply in Support of Motion in Limine to Exclude Evidence of Damages – Transaction 8416263	V	JA0831-0884
80	04/27/21	Reply in Support of Motion in Limine to Preclude Plaintiffs from Presenting Evidence Pursuant to NRS 50.275, 50.285 and 50.305 – Transaction 8416238	IV	JA0827-0830
21	11/12/19	Reply in Support of Motion to Dismiss – Transaction 7583646	I	JA0183-0190
29	02/13/20	Reply in Support of Supplemental Motion to Dismiss – Transaction 7739174	II	JA0236-0242
69	08/06/20	Request for Submission re Motion in Limine to Preclude Plaintiffs from Offering Documents Not Produced to RTC on or Before June 30, 2020 – Transaction 8007357	III	JA0614-0616

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52	07/16/20	Request for Submission re Declaration of Dane W. Anderson Regarding Expenses To Be Reimbursed By Defendants [*sic*] – Transaction 7973986	III	JA0497-0499
39	04/20/20	Request for Submission re Motion for Discovery Sanctions – Transaction 7842053	II	JA0413-0415
69	02/25/21	Request for Submission re Motion for Sanctions Pursuant to NRCP 16.1(e) – Transaction 8313712	III	JA0663-0665
43	05/18/20	Request for Submission re Motion for Sanctions Pursuant to NRCP 37(b)(l) – Transaction 7882116	II	JA0437-0439
82	04/28/21	Request for Submission re Reply in Support of Motion in Limine to Preclude Plaintiffs From Presenting Evidence Pursuant to NRS 50.275, 50.285 and 50.305 – Transaction 8417512	V	JA0885-0887
83	04/28/21	Request for Submission re Reply in Support of Motion in Limine to Exclude Evidence of Damages – Transaction 8417518	V	JA0888-0890
91	05/24/21	Response to Notice of Intent to File Motion – Transaction 8461146	V	JA1050-1053
70	02/25/21	RTC's Reply in Support of Motion for Sanctions Pursuant to NRCP 16.1(C) – Transaction 8313712	IV	JA0666-0687
51	07/13/20	RTC's Reply to Plaintiffs' Response to Declaration of Dane W. Anderson Regarding Expenses to be Reimbursed by Defendants – Transaction 7966844	III	JA0491-0496
56	07/29/20	RTC's Reply to Plaintiffs' Response to The Supplemental Declaration of Dane W. Anderson Regarding Expenses to be Reimbursed by Defendants – Transaction 7993047	III	JA0598-0602

DOC.	FILE/HRG. DATE	DOCUMENT DESCRIPTION	VOL.	BATES NOS.
66	10/12/20	Scheduling Order Amended Stipulated Scheduling Order – Transaction 8111324	III	JA0649-0651
19	10/30/19	Stipulation to Conduct Discovery Prior to Holding NRCP 16.1 Conference and Prior to Filing the JCCR – Transaction 7563184 -	I	JA0171-0173
23	12/06/19	Stipulation for Entry of Order Dismissing Certain Plaintiffs' Claims for Relief and Damages With Prejudice – Transaction 7623980	I	JA0192-0195
65	10/08/20	Stipulation for Entry of Scheduling Order – Transaction 8107608	III	JA0645-0648
53	07/21/20	Supplemental ... Declaration of Dane W. Anderson Re Expenses to be Reimbursed by Plaintiffs – Transaction 7981140	III	JA0500-0507
96	06/08/21	Supplemental Exhibit to Motion for Reconsideration – Transaction 8483818	VI	JA1097-1104
27	01/30/20	Supplemental Motion to Dismiss – Transaction 7712316	I	JA0219-0225
87	05/06/21	Transcript of 4/27/21 Status Hearing	V	JA0945-1004
89	05/12/21	Transcript of 5/12/2021 Oral Arguments – Transaction 8442136	V	JA1006-1047
98	06/08/21	Transcript of 6/8/21 Oral Arguments	VI	JA1106-1147
64	09/30/20	Transcript of 9/29/20 Case Management Conference	III	JA0630-0644

CERTIFICATE OF SERVICE

Pursuant to NRAP 25(c), I hereby certify that I am an employee of ALBRIGHT, STODDARD, WARNICK & ALBRIGHT, and that on this 30th day of December, 2021, the foregoing **JOINT APPENDIX, VOLUME IV**, was filed electronically with the Clerk of the Nevada Supreme Court, and therefore electronic service was made in accordance with the master service list as follows:

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Trial Counsel for Plaintiffs

An employee of Albright, Stoddard, Warnick & Albright

FILED
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Jacqueline Bryant
Clerk of the Court
Transaction # 8313712 : yviloria

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Dane W. Anderson, Esq.
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Attorneys for Defendant, the Regional Transportation Commission of Washoe County

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an individual; AND SONNIA ILIESCU, an individual, Plaintiffs, v. THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1 – 40, inclusive, Defendants.	Case No.: CV19-00459 Dept. No.: 15

RTC'S REPLY IN SUPPORT OF MOTION FOR SANCTIONS PURSUANT TO NRCP 16.1(e)

Defendant The Regional Transportation Commission of Washoe County ("RTC") submits the following reply in support of its Motion For Sanctions Pursuant To NRCP 16.1(e) and in response to Plaintiffs' opposition brief filed on February 18, 2021 ("Opposition").

///

I. INTRODUCTION

Plaintiffs offer two excuses for their failure to timely hold an early case conference and corresponding failure to file a case conference report: (1) their delay in holding the early case conference (and filing a case conference report) was somehow induced by RTC's request to conduct early discovery; and (2) the ongoing health issues of their counsel prevented Plaintiffs' compliance with NRCP 16.1.

As discussed below, neither excuse has merit. Plaintiffs' opposition lacks any evidentiary support and contains numerous misstatements of fact—including that "Plaintiffs were precluded from conducting any statutory discovery." Opposition at 2:7. As discussed below, the stipulation for early discovery was reciprocal—both parties were entitled to conduct early discovery. Nothing in that stipulation excused Plaintiffs from holding an early case conference and filing a case conference report, and Plaintiffs never asked the Court for such relief. In fact, at the Case Management Conference on September 29, 2020, the Court advised Plaintiffs that it expected a 16.1 conference to be held. *See* Minutes filed on September 30, 2020. Further, the Scheduling Order entered on October 12, 2020 stated that the early case conference had not yet been held and that initial disclosures pursuant to NRCP 16.1 would be made within 14 days after the case conference, subject to the Court's prior order in limine. There is no evidence whatsoever that RTC induced Plaintiffs to "ignore, disregard, circumvent and abandon" the requirements of NRCP 16.1. Opposition at 2:26.

Plaintiffs incorrectly assert that the date for measuring their delay is November 18, 2020. Opposition at 3:19. RTC served its answer on March 23, 2020, and therefore the case conference should have been held no later than April 22, 2020. The absolute deadline to hold the case conference, absent "extraordinary and compelling circumstances," was September 21, 2020. Plaintiffs missed that deadline by 4 months at the time this motion was filed. The absolute deadline to file the joint case conference report was November 18, 2020, but since a case conference was never held Plaintiffs cannot file a case conference report.

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The reality is that Plaintiffs have failed to comply with NRCP 16.1. They have provided almost no documents and have provided no witness lists and no damages disclosures. They have done almost nothing to move this case forward in the two years it has been pending. "[I]t is incumbent upon the plaintiff to diligently and 'carefully track the crucial procedural dates and to actively advance the case at all stages.'" *Monroe v. Columbia Sunrise Hosp. and Med. Ctr.*, 123 Nev. 96, 100, 158 P.3d 1008, 1010 (2007) (quoting *Allyn v. McDonald*, 117 Nev. 907, 912, 34 P.3d 584, 587 (2001).[1]

Plaintiffs' dilatory conduct justifies the dismissal of their lawsuit. RTC should also be awarded its attorney fees incurred in this lawsuit, including the expenses associated with this motion.

II. PROCEDURAL HISTORY

While the Court may be familiar with this case through prior briefing (including multiple prior sanctions against Plaintiffs), Plaintiffs' accusations against RTC regarding its request for early discovery and their most recent attempt to blame their failure to prosecute this case on the health problems of their attorney require a little trip down memory lane to set the record straight.

Plaintiffs filed this action on February 27, 2019, asserting twelve causes of action (including a claim for "elder abuse") and accusing RTC of willful and malicious atrocities causing damage to Plaintiffs' property and causing Plaintiffs to sustain personal injuries and emotional distress. Plaintiffs sought specific and general damages for these injuries, as well as punitive damages. Plaintiff specifically alleged their elderly status and vulnerable health, including that Dr. Iliescu was (at that time) 92 years old. Complaint at ¶¶ 80, 92.

Plaintiffs failed to serve the complaint within 120 days as required by NRCP 4(e), prompting the Court enter an Order To Show Cause on July 1, 2019, requiring Plaintiffs to file proof of service or show cause for their failure within 20 days. In response to that

[1] Plaintiffs complain that RTC did not contact them prior to filing the instant motion. Opposition at 2:28. RTC's counsel has extended numerous courtesies throughout this case, including granting Plaintiffs' counsel several extensions of time to respond to RTC's instant motion. However, professional courtesies have their limits and cannot be elevated over acting in a client's best interest.

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order, Plaintiffs filed a Motion for Extension of Time on July 22, 2019, asserting that their counsel's health issues had negatively impacted his ability to work and that dismissal would cause some of their claims to be barred by the applicable statutes of limitations. On July 30, 2019, the Court entered an Order Enlarging Time For Service, granting Plaintiffs ten calendar days from the date of the order to effect service of process. The Court noted that failure to serve RTC within that time frame would result in dismissal of the lawsuit, even though dismissal would result in an expiration of the statute of limitations.

RTC's counsel accepted service on August 8, 2019 and, on September 25, 2019, filed a Motion to Dismiss seeking to dismiss most of Plaintiffs' claims for relief. On October 1, 2019, Plaintiffs' counsel called the undersigned to request an extension of time to oppose the motion to dismiss. During that call, the undersigned expressed concern about preserving Plaintiffs' testimony in light of the allegations of the Complaint, including their age and health condition. This discussion is reflected in the email attached as **Exhibit 1**.

On October 30, 2019, the parties filed a Stipulation To Conduct Discovery Prior To Holding The NRCP 16.1 Conference And Prior To Filing the Joint Case Conference Report, which the Court granted on November 18, 2019. While Plaintiffs' ages and health were cited as the basis for the stipulation, the agreement was that "the parties may conduct discovery prior to holding the NRCP 16.1 Conference and Prior to filing the Joint Case Conference Report . . . ." The stipulation did not restrict Plaintiffs in any way.

On December 6, 2019, in order to avoid discovery into their medical records and treatment, Plaintiffs stipulated to the dismissal of all claims for personal injury and emotional distress. The Court granted that stipulation on December 10, 2019. On January 7, 2020, the Court directed Plaintiffs to file an amended complaint setting forth their extant claims. Plaintiffs filed their Amended Complaint on January 21, 2020, and RTC filed a Supplemental Motion to Dismiss on January 30, 2020. After briefing, the Court

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entered an Order Granting Motion to Dismiss on March 20, 2020, dismissing five of Plaintiffs' claims.

RTC filed its Answer To Amended Complaint on March 23, 2020, triggering Plaintiffs' obligation to comply NRCP 16.1 by holding a case conference within 30 days after RTC's answer, by making their initial disclosures with 14 days following the case conference, and by filing a case conference report within 30 days following the case conference. None of those requirements were met, despite the Court reminding Plaintiffs at the Case Management Conference in September 2020 that they must occur.

Instead, Plaintiffs did nothing. Their counsel did not attempt to schedule the case conference until approximately a week *after* RTC filed the instant motion. In response, the undersigned sent an email to Plaintiffs' counsel on January 26, 2021, attached as **Exhibit 2**. The undersigned did not say "This case is over." Opposition at 3:5. RTC's counsel simply informed Plaintiffs' counsel that his attempt to schedule the early case conference was "too late." Exhibit 2.

Yet Plaintiffs seek to be excused from their failures by blaming the parties' stipulation for early discovery and their counsel's health problems, which has been an issue since this case was commenced. While RTC has sympathy for Plaintiffs' counsel, neither excuse is sufficient to avoid the dismissal of this case and other appropriate sanctions, including attorney fees for having to bring this motion.

II. LAW AND ARGUMENT

A. The parties' agreement to conduct early discovery does not excuse Plaintiffs' failure to comply with NRCP 16.1.

Plaintiffs spend the bulk of their brief blaming their failure to hold an NRCP 16.1 case conference (and consequent failure to file a case conference report) on the parties' agreement to conduct early discovery. Plaintiffs inaccurately assert that the agreement: (1) precluded them from conducting statutory discovery (Opposition at 2:7); (2) "circumvented and emasculated the statutory provisions of Rule 16.1 and related pre-trial protocols" (*Id.* at 2:13-15); (3) provided RTC all the benefits of the 16.1 conference,

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disclosures and case conference report (*Id.* at 2:16-24); (4) "significantly interfered with and undeniably wreaked havoc on any and all Rule-provided dates now sought to be enforced by RTC." (*Id.* at 3:21-23); and (5) caused Plaintiffs prejudice for "many months" because "RTC was solely and exclusively conducting non-compliant protocols." (Opposition at 3:23-24).

Plaintiffs' proffered excuse is absurd. First, NRCP 26(a) states that the Court may permit discovery at a time other than after the filing of a case conference report. In this case, based on Plaintiffs' complaint, RTC had legitimate concerns about their ages and health status. Given the fact that RTC filed successive motions to dismiss, early discovery was appropriate because the NRCP 16.1 conference and case conference report would be delayed by those motions. Second, there is no evidence that the right to conduct early discovery was unilateral—in fact, the stipulation for early discovery filed on October 30, 2019 provides that "the parties may conduct discovery prior to holding the NRCP 16.1 Conference..." (emphasis added). The stipulation, granted by the Court, was expressly agreed to by Plaintiffs and allowed them to also conduct discovery.

Third, RTC did not receive the benefits of NRCP 16.1. There were no witness disclosures, extremely minimal documents produced and, significantly, no damages computation. RTC still has no idea what damages Plaintiffs claim in this case. Fourth, there is no evidence that the stipulation for early discovery "wreaked havoc" on the requirements of NRCP 16.1. Upon RTC filing its answer, Plaintiffs could have scheduled the early case conference but never did—even after the Court essentially directed them to do so at the Case Management Conference—despite the ease with which such conferences can be conducted (via phone, Zoom, etc.). Fifth, there is no evidence of prejudice to Plaintiffs. Even if there were, any such prejudice is of their own doing.

This case should be dismissed and RTC should be awarded expenses. Plaintiffs' attempt to blame their delay on the agreement for early mutual discovery is simply unpersuasive.

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B. Counsel's health issues do not excuse Plaintiffs' failure to comply with NRCP 16.1.

As a backup excuse, Plaintiffs again cite to the health issues of their counsel. As discussed above, RTC and its counsel certainly wish Plaintiffs' counsel good health and sympathize with his ongoing problems. However, as stated in Plaintiffs' Motion For Extension Of Time filed on July 22, 2019, these health problems have been ongoing since the case was filed. Plaintiffs offered this same excuse in response their Opposition to Defendant's Motion for Sanctions filed on May 14, 2020. Most recently, they offer this excuse in opposition to the instant motion. Yet despite these health issues, counsel was able to oppose RTC's two motions to dismiss, file an amended complaint, oppose RTC's motions for sanctions and claimed expenses, defend Plaintiffs' depositions taken on July 30, 2020, participate in a trial setting and Case Management Conference in September 2020, and negotiate a stipulated Scheduling Order in October 2020.

However, between October 8, 2020 and the filing of the instant motion, the undersigned received no communication whatsoever from Plaintiffs' counsel, not even to advise of the alleged facts set forth in the opposition brief. Even after RTC's motion was filed, Plaintiffs' counsel simply called and asked to schedule the 16.1 conference, without offering any detail about his health issues. As discussed above, the undersigned explained that it was "too late," not that "This case is over." *See* Exhibit 2; Opposition at 3:5.

At some point, if his health issues were truly debilitating, counsel should have assigned this case to another attorney. There are more than two qualified attorneys in Reno. RTC has the right to have the rules of procedure enforced so as to secure the speedy and inexpensive determination of this lawsuit. NRCP 1. Due to Plaintiffs' conduct, this lawsuit has been neither inexpensive nor has it resolved quickly or efficiently. While certain delays are understandable, the health issues of Plaintiffs' counsel cannot continually be used as a reason to delay the resolution of this lawsuit to RTC's detriment.

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C. RTC has been severely prejudiced by Plaintiffs' failure to comply with NRCP 16.1.

Plaintiffs assert "there is no prejudice to [RTC]" as a result of any delay but that they will suffer great prejudice if this case is dismissed because the statute of limitations may have expired on their claims. However, Plaintiffs knew of this risk back in July 2019, when they asked the Court for more time to serve RTC under NRCP 4. Plaintiffs cannot continue to ignore deadlines and avoid dismissal solely because their claims may be time barred.

As for prejudice to RTC, the Nevada Supreme Court has held that the party seeking dismissal under NRCP 16.1(e) is not required to demonstrate prejudice. *Arnold v. Kip*, 123 Nev. 410, 415, 168 P.3d 1050, 1053 (2007). Nevertheless, contrary to Plaintiffs' assertion, RTC is significantly prejudiced by their failure to comply with NRCP 16.1. As discussed in RTC's Motion In Limine To Preclude Plaintiffs From Offering Documents Not Produced To RTC On Or Before June 30, 2020 filed on July 21, 2020 (and which was granted on August 19, 2020), Plaintiffs have produced only about 15 pages of documents in this case, none of which shed any light on their claims in this case and, in particular, their claimed damages. *See* Exhibits 1 and 2 to RTC's motion in limine. Plaintiffs have never provided a computation of damages and, therefore, RTC has been unable to evaluate their claims or have an expert analyze their claims. They have never provided a list of witnesses so that RTC can inquire of individuals that may have information.

The expert deadline is tomorrow, and RTC has almost no information to provide an expert to evaluate Plaintiffs' claims and damages. There is significant prejudice to RTC and RTC requests that this case be dismissed and that appropriate monetary sanctions imposed to compensate RTC.

III. CONCLUSION

This case should be dismissed pursuant to NRCP 16.1(e). Plaintiffs have failed to hold an early case conference within 180 days after RTC's answer and also have failed to file a case conference report within 240 days after RTC's answer. Plaintiffs' opposition

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lacks merit and evidentiary support. RTC should also be awarded monetary sanctions in having to bring this motion.

Affirmation pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the personal information of any person.

DATED: February 25, 2021.

WOODBURN AND WEDGE

By *__/s/ Dane W. Anderson__*
Dane W. Anderson, Esq.
Nevada Bar No. 6883
Bronagh M. Kelly, Esq.
Nevada Bar No. 14555

Attorneys for Defendant
The Regional Transportation
Commission of Washoe County

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CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Woodburn and Wedge and that on this date, I caused to be sent via electronic delivery through the Court's E-flex system a true and correct copy of the **RTC'S REPLY IN SUPPORT OF MOTION FOR SANCTIONS PURSUANT TO NRCP 16.1(e)** to:

MICHAEL J. MORRISON, ESQ.
1495 Ridgeview Dr., #220
Reno, Nevada 89519
venturelawusa@gmail.com

Attorneys for Plaintiffs

DATED: February 25, 2021.

/s/ Dianne M. Kelling
Employee of Woodburn and Wedge

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EXHIBIT INDEX

EXHIBIT NO.	DESCRIPTION OF EXHIBIT	NO OF PAGES (INCLUDING EXHIBIT PAGES)
1	Email dated October 1, 2019	2
2	Email dated January 26, 2021	2

F I L E D
Electronically
CV19-00459
2021-03-09 11:24:12 AM
Jacqueline Bryant
Clerk of the Court
Transaction # 8332645 : sacordag

EXHIBIT 1

EXHIBIT 1

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

-o0o-

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU, JR. AND SONNIA ILIESCU 1992 FAMILY TRUST,
Plaintiffs,
vs.
THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY, et al.,
Defendants.
_____/

Case No. CV19-00459

Dept No. 15

VIDEOTAPED DEPOSITION BY ZOOM OF

JOHN ILIESCU, JR., M.D.

JULY 30, 2020

RENO, NEVADA

REPORTED REMOTELY BY: CORRIE L. WOLDEN, NV CSR #194, RPR, CP

JOB NO. 646022a

the heavy equipment being put on there, multiple vehicles, occurred after the condemnation took place?

A Yes, primarily, yeah. Different attitude altogether.

Q I'm sorry?

A Different attitude of all these other of everyone concerned.

Q Okay. But it sounds like the, the trespass that you are really complaining about in this case began after RTC condemned the portion of the property for the easements; is that right?

A That's primarily right. Of course I mentioned the other factors, but that's primary, yes.

Q Okay. And you mentioned that there were multiple big trucks, multiple attempts to ask them why they were on the property. You tried to get ahold of Lee Gibson and that you believe that the heavy equipment should have been placed on Park Street. Is that kind of a fair summary?

A Yes.

Q Okay. Whose trucks were parked on your property during, during that time?

A I'm going to assume it's somebody associated with you. They were not associated with me.

Q You mean associated with RTC?

A That's correct. They were doing RTC work.

Q Okay. Did you see any indications on the trucks as to who they belonged to?

A Why would I do that? No.

Q I'm just asking you if you saw them?

A No. I apologize, no.

Q Okay. And do you know who you spoke with regarding your request to ask them why they are on the property?

A No. You couldn't get a straight answer from anybody. I'm not about to ask a name who wouldn't give me a straight answer as to what is going on.

Q Okay. So you don't know --

A Excuse me, I have got a bad cold.

Q Are you ready?

A Yes. Thank you.

Q Okay. You don't know whose trucks they were necessarily or which employees you spoke with of any particular entity?

A I was hoping you knew that. I certainly didn't.

Q Well, unfortunately, I wasn't, I wasn't there at the time.

A You know, as a guy to another guy, this is -- I certainly wouldn't know and this is your company or your representation. I don't know.

Q Okay. Well, you understood that, that while RTC

record.

A Okay.

Q "The Trust and RTC entered into a valid agreement by which RTC was entitled to condemn and install utilities on a very small portion of the Trust property and the Trust received consideration for such right."

Is that the, the condemnation action that you were talking about from a couple years ago?

A It's the condemnation which happened in Judge Polaha's court condemned --

Q Okay.

A -- the property on the corner of Fourth and Park.

Q Okay. And so that was the, the lawsuit that was in front of Judge Polaha that was ultimately resolved. And are you alleging that there are any other contracts between RTC and the Trust?

MR. MORRISON: I'm going to object. It calls for a legal conclusion.

BY MR. ANDERSON:

Q You can answer.

A I don't understand the question.

Q Okay. Other than the condemnation action before Judge Polaha, which you just talked about, are there any other contracts between RTC and yourself as trustee of the Trust?

A We got to go back this way, Honey. Page 14. Okay. Mr. Anderson, I have it.

Q Thank you. This is a cause of action for civil conspiracy, and I'm not going to ask you about the legalities of it, but I will represent to you that paragraph 69 suggests that RTC entered into an agreement with other parties to carry out the unlawful purpose of damaging your property. Do you have an understanding that that's what that means?

A To me that means that RTC executives didn't come out and do the work. They engaged somebody else to do it. And they, when they engaged them, they were responsible for the people they retained.

Q Okay. Do you have any information that RTC entered into an agreement with third parties to cause damage to your property?

A No. I know RTC condemned me.

Q Okay. So you don't have that information then?

A No, but the final word was that you condemned me and were responsible for what you condemned.

Q Other than -- I just want to make sure we've talked about everything, because I'm almost done and I don't want to make, I don't want to have missed anything. We talked about the efforts you made to speak with employees or workers on the property to get the vehicles off your

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Clerk of the Court
Transaction # 8332645 : sacordag

EXHIBIT 2

EXHIBIT 2

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

-o0o-

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU, JR. AND SONNIA ILIESCU 1992 FAMILY TRUST,
Plaintiffs,
vs.
THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY, et al.,
Defendants.
_____/

Case No. CV19-00459

Dept No. 15

VIDEOTAPED DEPOSITION BY ZOOM OF

SONNIA ILIESCU

JULY 30, 2020

RENO, NEVADA

REPORTED REMOTELY BY: CORRIE L. WOLDEN, NV CSR #194, RPR, CP

JOB NO. 646022b

that they were waiting for and requiring for what they were doing.

So I did not approach people. I was not comfortable with that. These people were working at a job and it was not, it was not something that was comfortable for me to do.

Q Okay. When you say these people and these trucks, whom are you referring to?

A I'm not sure I understand your question. These were construction people working on the RTC project. There was a great deal of equipment that was required apparently and they had this, these pieces of equipment on our property and in the street.

Q And those pieces of machinery or trucks, did they have any specific markings that would indicate ownership of those trucks?

A I would assume they did.

Q Well, did you see specifically any markings or colors or names that would indicate who those construction workers were?

A I was not looking for that.

Q So the trucks you can't conclusively say were RTC trucks, for example?

A They were working on the RTC project, that's all I can tell you. They were working for RTC in some capacity.

physical impediment?

A That's correct.

Q And that physical impediment was a construction truck, a truck or some other --

A An obstacle, yes, an obstacle.

Q And you cannot recall any markings or names on those trucks that would indicate ownership?

A That's correct.

Q And of the construction workers, is there anything that you can recall distinctive about their uniform or colors that may indicate --

A No.

Q -- by whom they were employed?

A No, no, I don't have any recollection of that.

Q And I believe you testified that the only access to the property at 4 -- sorry.

A 642.

Q 642 is off Park Street; is that correct?

A That's correct.

Q I'm going to ask you to turn to paragraph 21 of Exhibit 3. It's on page 6. And the second sentence says, "The Trust and RTC entered into a valid agreement."

Do you see that?

A Yes, I see that.

Q What is your understanding of what that valid

A Absolutely not.

Q Are you aware of any agreement between RTC and any third party, not the trust or yourselves or any member of the Iliescu family, but an agreement between RTC and any other third party to use your property on Fourth Street?

A I'm not aware of anything.

MS. KELLY: I have no further questions.

THE COURT REPORTER: You are on mute.

MR. MORRISON: Thanks, Corrie.

I have no further questions, Bronagh.

THE VIDEOGRAPHER: Off the video record at 1:43.

(Whereupon the proceedings concluded at 1:43 p.m.)

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2021-03-09 11:24:12 AM
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Clerk of the Court
Transaction # 8332645 : sacordag

$2200
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Attorneys for Defendant, the Regional Transportation Commission of Washoe County

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an individual; AND SONNIA ILIESCU, an individual, Plaintiffs, v. THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1 – 40, inclusive, Defendants.	Case No.: CV19-00459 Dept. No.: 15

MOTION FOR SUMMARY JUDGMENT

Defendant The Regional Transportation Commission of Washoe County ("RTC") moves the Court for summary judgment pursuant to NRCP 56 on the grounds that there are no genuine issues of material fact and that RTC is entitled to judgment as a matter of law. This motion is based on the following points and authorities, excerpts of the depositions of John Iliescu and Sonnia Iliescu attached as **Exhibits 1 and 2**, and the entire file in this matter.

I. INTRODUCTION

Plaintiffs filed this action seeking damages and other relief arising from RTC's alleged "willful, malicious and destructive trespass" on Plaintiffs' property at 642 E. 4th Street in Reno. *See* First Amended Complaint, ¶¶ 1, 9. Plaintiffs initially filed twelve (12) claims for relief but, after RTC filed successive motions to dismiss, only six claims remain: (1) breach of contract; (2) contractual breach of the implied covenant of good faith and fair dealing; (3) declaratory relief; (4) trespass; (5) civil conspiracy; (6) negligence. Plaintiffs also stipulated to the dismissal of any claim for damages other than compensatory damages specifically related to their parking lot and punitive damages. *See* Order Granting Stipulation For Entry Of Order Dismissing Certain Of Plaintiffs' Claims For Relief And Damages With Prejudice filed on December 10, 2019.

At its core, Plaintiffs' claim is for damages to their parking lot arising from RTC's alleged unauthorized use of the property. However, Defendants have produced no evidence of those claimed damages and failed to timely serve an expert report establishing the same.

II. STATEMENT OF FACTS NOT GENUINELY AT ISSUE

1. Plaintiffs have produced no computation of damages pursuant to NRCP 16.1(a)(1)(A)(iv).

2. Plaintiffs have produced no documents or other evidentiary material to establish the amount of damages they seek.

3. Plaintiffs failed to timely disclose an expert witness by the deadline to disclose initial experts (and reports), February 29, 2021.

4. Plaintiffs do not know whose trucks were parked on their property. Deposition of John Iliescu, 34:20-35:3; Deposition of Sonnia Iliescu at 19:14-25; 30:6-14.

5. The "RTC-Trust agreement" upon which Plaintiffs base their claims for breach of contract and breach of the implied covenant of good faith and fair dealing is not a contract, but rather the judgment of condemnation entered by the Court in a separate

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lawsuit RTC filed in 2016 to obtain certain limited easements on Plaintiffs' property. Deposition of John Iliescu at 63:3-12.

6. There is no agreement between RTC and any third party to cause damage to Plaintiffs' property. Deposition of John Iliescu at 69:14-17; Deposition of Sonnia Iliescu at 39:2-6.

III. LAW AND ARGUMENT

A. Legal standard

Summary judgment is appropriate and "shall be rendered forthwith" when the pleadings and other evidence on file demonstrate that no "genuine issue as to any material fact [remains] and that the moving party is entitled to a judgment as a matter of law." *Wood v. Safeway, Inc.*, 121 Nev. 724, 729, 121 P.3d 1026, 1029 (2005). "A factual dispute is genuine when the evidence is such that a rational trier of fact could return a verdict for the nonmoving party." *Id.* The nonmoving party must, by affidavit or otherwise, set forth specific facts demonstrating the existence of a genuine issue for trial or have summary judgment entered against them—they are not entitled to build a case on speculation and conjecture. *Id.*, 121 Nev. at 732, 121 P.3d at 1031.

B. There is no evidence of Plaintiffs' damages.

As set forth in prior briefing, Plaintiffs never provided a computation of damages pursuant to NRCP 16.1(a)(1)(A)(iv), nor did they produce any documents evidencing their claimed damages. Plaintiffs also did not timely disclose an expert witness—the deadline for doing so was February 26, 2021. *See* Order Granting Stipulated Scheduling Order filed on October 12, 2020. The only documents Plaintiffs have produced are attached to RTC's Motion In Limine To Preclude Plaintiffs From Offering Documents Not Produced To RTC On Or Before June 30, 2020, which was filed on July 21, 2020 and granted on August 19, 2020. None of those documents create a genuine issue of material fact as to Plaintiffs' claimed damages in this case.

Because there is no admissible evidence of Plaintiffs' claimed damages, RTC is entitled to summary judgment on all of Plaintiffs' claims.

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C. **Plaintiffs' contract-based claims fail.**

Plaintiffs assert claims for breach of contract and breach of the implied covenant of good faith and fair dealing. Both claims are based on an alleged contract Plaintiffs refer to as "the RTC-Trust agreement." *See* First Amended Complaint at ¶¶ 21, 47. Plaintiffs allege that, pursuant to this contract, "RTC was entitled to condemn and install utilities on a very small portion of the Trust's Property, and the Trust received consideration for such right." *Id.*, at ¶ 21. When deposed, Dr. Iliescu testified that the "RTC-Trust agreement" that is the basis of these claims is the Court's judgment in the condemnation action previously litigated between RTC and Plaintiffs in 2016-2018. *See* Deposition of John Iliescu at 63:3-12.

That action, Case No. CV16-02182 in Department 3 of this Court ("the Condemnation Action"), involved RTC exercising its power of eminent domain to acquire a permanent easement, public utility easement and temporary construction easement at the northeast corner of Plaintiffs' property. On April 26, 2018, the Court entered a Final Order of Condemnation And Judgment pursuant to the stipulation of the parties, condemning the limited easements in favor of RTC in exchange for RTC's payment of $11,065 in just compensation to the Iliescus.

Thus, neither the parties' stipulation for judgment nor the judgment itself in the Condemnation Action address what Plaintiffs call "the Remainder Property" that is the subject of their alleged damages in this case. "Basic contract principles require, for an enforceable contract, an offer and acceptance, meeting of the minds and consideration." *Certified Fire Prot. Inc. v. Precision Construction, Inc.*, 128 Nev. 371, 378, 283 P.3d 250, 255 (2012). "A meeting of the minds exists when the parties have agreed upon the contract's essential terms." *Id.*

Here, there is no evidence of an offer and acceptance between RTC and Plaintiffs with respect to the Remainder Property, nor is there any evidence of a "meeting of the minds" as to the Remainder Property. The Court's judgment in the Condemnation Action

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is not a contract between the parties with respect to the Remainder Property. It dealt only with RTC's acquisition of the limited easements described above.

There was no contract formed between RTC and Plaintiffs with respect to the Remainder Property and therefore Plaintiffs cannot, as a matter of law, assert a claim for breach of contract or breach of the implied covenant of good faith and fair dealing. Further, even if a contract did exist, a plaintiff asserting a claim for breach of contract (and breach of the implied covenant of good faith and fair dealing) must prove damages as a result of the breach. As discussed above, there is no admissible evidence of Plaintiffs' alleged damages.

There are no genuine issues of material fact as to Plaintiffs' claims for breach of contract and breach of the implied covenant of good faith and fair dealing, and RTC is entitled to judgment as a matter of law on these claims.

D. Plaintiffs' trespass claim fails.

To prove trespass, the claimant must show that the defendant invaded the claimant's real property. *Lied v. County of Clark*, 94 Nev. 275, 279, 579 P.2d 171, 173-174 (1978). The invasion must result in damages. *Wallace v. Lewis County*, 134 Wash.App. 1, 137 P.3d 101, 108 (Wash. Ct. App. 2006). As discussed above, there is no evidence of Plaintiffs' damages arising from the alleged trespass, so Plaintiffs' claim fails on that basis alone.

Further, there is no evidence that RTC "invaded" Plaintiffs' property or that RTC directed any other party to do so. Plaintiffs admit they do not know whose trucks were on their property. *See* Deposition of John Iliescu at 35:1-19; Deposition of Sonnia Iliescu at 19:14-25; 30:6-14. Plaintiffs have failed to name any third parties as defendants despite having more than enough time to conduct discovery on this issue. Therefore, RTC is entitled to judgment as a matter of law on Plaintiffs' trespass claim.

E. Plaintiffs' civil conspiracy claim fails.

The Court previously denied RTC's motion to dismiss Plaintiffs' claim for civil conspiracy, stating that the pre-trial resolution of this claim can only be considered

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through a motion for summary judgment after appropriate discovery is conducted. *See* Order Granting Motion To Dismiss filed March 20, 2021 at 2:4-7.

A civil conspiracy claim exists when a combination of two or more persons who, by some concerted action, intend to accomplish some unlawful objective for the purpose of harming another and resulting in damages. *Collins v. United Fed. Sav. & Loan Ass'n*, 99 Nev. 284, 303, 662 P.2d 610, 622 (1983). As discussed above, there is no evidence of Plaintiffs' alleged damages and Plaintiffs failed to timely serve an expert report to establish the damages to their parking lot. Plaintiffs' civil conspiracy claim fails for other reasons as well.

To succeed on a civil conspiracy claim, a plaintiff must prove *both* an agreement between tortfeasors *and* that the conduct of *each* defendant is tortious. *GES, Inc. v. Corbitt*, 117 Nev. 265, 271, 21 P.3d 11, 15 (2001). Plaintiffs admit they have no evidence that RTC entered into an agreement with third parties to cause damage to their property. *See* Deposition of John Iliescu at 69:3-12; Deposition of Sonnia Iliescu at 39:2-6. In addition to the absence of evidence of any agreement, there is no evidence that RTC engaged in any tortious conduct. Plaintiffs admit they do not know whose trucks were on their property. *See* Deposition of John Iliescu at 35:1-19; Deposition of Sonnia Iliescu at 19:14-25; 30:6-14.

Plaintiffs have no evidence of an agreement, no identification of any third-party co-conspirator, no evidence of tortious conduct by RTC and no evidence of any damages. As such, RTC is entitled to summary judgment on Plaintiffs' claim for civil conspiracy.

F. Plaintiffs' negligence claim fails.

To establish a negligence claim, a plaintiff must demonstrate: (1) that defendant owed plaintiff a duty of care; (2) that defendant breached that duty; (3) the breach was the legal cause of plaintiff's injuries; and (4) plaintiff sustained damages. *Scialabba v. Brandise Construction Co.*, 112 Nev. 965, 921 P.2d 928 (1996). Here, there is no duty that RTC breached any duty of care to Plaintiffs. Plaintiffs admit they do not know whose trucks were on their property. *See* Deposition of John Iliescu at 35:1-19; Deposition of

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Sonnia Iliescu at 19:14-25; 30:6-14. There is no evidence that RTC directed or allowed any trucks to park on Plaintiffs' property, and therefore no evidence that RTC breached any duty it owed to Plaintiffs.

Further, as discussed above, there is no evidence of Plaintiffs' damages. "The plaintiff has the burden to prove the amount of damages it is seeking. *Clark County School Dist. v. Richardson Const.*, 123 Nev. 382, 397, 168 P.3d 87, 97 (2007). "Although the amount of damages need not be proven with mathematical certainty, testimony on the amount may not be speculative." *Id.* Here, Plaintiffs have provided no damages computation and no evidence whatsoever of the amount of damages they are seeking. It is too late for them to designate an expert to provide evidence of the amount of damages, and therefore RTC is entitled to judgment as a matter of law on Plaintiffs' negligence claims.

G. Plaintiffs' declaratory relief claim fails.

Plaintiffs seek a declaration that (1) RTC failed to perform under the "RTC-Trust agreement" or its "condemnation activities"; (2) Plaintiffs are the sole and exclusive owners of their "Property" at 642 E. 4th St. in Reno; (3) RTC has no right, title or interest in the Property and no right to use the Property; (4) RTC "knowingly and wrongfully used the Remaining Property" without paying compensation to Plaintiffs; and (5) RTC wrongfully parked its vehicles on the Remaining Property, causing extensive damage in callous disregard of the law. *See* First Amended Complaint, ¶ 49(a)-(e).

First, there is no "RTC-Trust agreement" or any other contract between RTC and Plaintiffs and any issue involving RTC's "condemnation activities" has already been adjudicated in the Condemnation Action. Second, while Plaintiffs own "the Property," they own it subject to RTC's valid and existing easements as established by way of the Condemnation Action. Third, RTC has the rights, title and interest in the easements on the Property acquired by way of the Condemnation Action and for which Plaintiffs received just compensation. Fourth, there is no evidence that RTC used the Remaining Property, as Plaintiffs admit they do not know whose trucks were on the Remaining

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Property. Finally, there is no evidence of Plaintiffs' damages and no evidence that RTC "callously disregarded" the law.

There is no evidence to support Plaintiffs' claim for declaratory relief. RTC is entitled to judgment as a matter of law.

IV. CONCLUSION

There are no genuine issues of material fact as to any of Plaintiffs' claims, and RTC is entitled to judgment as a matter of law on all claims.

Affirmation pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the personal information of any person.

DATED: March 9th, 2021.

WOODBURN AND WEDGE

By *__/s/ Dane W. Anderson__*
Dane W. Anderson, Esq.
Nevada Bar No. 6883
Bronagh M. Kelly, Esq.
Nevada Bar No. 14555

Attorneys for Defendant
The Regional Transportation
Commission of Washoe County

Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, NV 89511
775-688-3000

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Woodburn and Wedge and that on this date, I caused to be sent via electronic delivery through the Court's E-flex system a true and correct copy of the ***MOTION FOR SUMMARY JUDGMENT*** to:

MICHAEL J. MORRISON, ESQ.
1495 Ridgeview Dr., #220
Reno, Nevada 89519
venturelawusa@gmail.com

Attorneys for Plaintiffs

DATED: March 9, 2021.

/s/ Dianne M. Kelling
Employee of Woodburn and Wedge

EXHIBIT INDEX

EXHIBIT NO.	DESCRIPTION OF EXHIBIT	NO OF PAGES (INCLUDING EXHIBIT PAGES)
1	Excerpts from the Deposition of John Iliescu, taken on July 30, 2020	6
2	Excerpts from the Deposition of Sonnia Iliescu, taken on July 30, 2020	5

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Jacqueline Bryant
Clerk of the Court
Transaction # 8332645 : sacordag

EXHIBIT 1

EXHIBIT 1

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

-o0o-

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU, JR. AND SONNIA ILIESCU 1992 FAMILY TRUST,
Plaintiffs,
vs.
THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY, et al.,
Defendants.
_____/

Case No. CV19-00459

Dept No. 15

VIDEOTAPED DEPOSITION BY ZOOM OF

JOHN ILIESCU, JR., M.D.

JULY 30, 2020

RENO, NEVADA

REPORTED REMOTELY BY: CORRIE L. WOLDEN, NV CSR #194, RPR, CP

JOB NO. 646022a

the heavy equipment being put on there, multiple vehicles, occurred after the condemnation took place?

A Yes, primarily, yeah. Different attitude altogether.

Q I'm sorry?

A Different attitude of all these other of everyone concerned.

Q Okay. But it sounds like the, the trespass that you are really complaining about in this case began after RTC condemned the portion of the property for the easements; is that right?

A That's primarily right. Of course I mentioned the other factors, but that's primary, yes.

Q Okay. And you mentioned that there were multiple big trucks, multiple attempts to ask them why they were on the property. You tried to get ahold of Lee Gibson and that you believe that the heavy equipment should have been placed on Park Street. Is that kind of a fair summary?

A Yes.

Q Okay. Whose trucks were parked on your property during, during that time?

A I'm going to assume it's somebody associated with you. They were not associated with me.

Q You mean associated with RTC?

A That's correct. They were doing RTC work.

Q Okay. Did you see any indications on the trucks as to who they belonged to?

A Why would I do that? No.

Q I'm just asking you if you saw them?

A No. I apologize, no.

Q Okay. And do you know who you spoke with regarding your request to ask them why they are on the property?

A No. You couldn't get a straight answer from anybody. I'm not about to ask a name who wouldn't give me a straight answer as to what is going on.

Q Okay. So you don't know --

A Excuse me, I have got a bad cold.

Q Are you ready?

A Yes. Thank you.

Q Okay. You don't know whose trucks they were necessarily or which employees you spoke with of any particular entity?

A I was hoping you knew that. I certainly didn't.

Q Well, unfortunately, I wasn't, I wasn't there at the time.

A You know, as a guy to another guy, this is -- I certainly wouldn't know and this is your company or your representation. I don't know.

Q Okay. Well, you understood that, that while RTC

record.

A Okay.

Q "The Trust and RTC entered into a valid agreement by which RTC was entitled to condemn and install utilities on a very small portion of the Trust property and the Trust received consideration for such right."

Is that the, the condemnation action that you were talking about from a couple years ago?

A It's the condemnation which happened in Judge Polaha's court condemned --

Q Okay.

A -- the property on the corner of Fourth and Park.

Q Okay. And so that was the, the lawsuit that was in front of Judge Polaha that was ultimately resolved. And are you alleging that there are any other contracts between RTC and the Trust?

MR. MORRISON: I'm going to object. It calls for a legal conclusion.

BY MR. ANDERSON:

Q You can answer.

A I don't understand the question.

Q Okay. Other than the condemnation action before Judge Polaha, which you just talked about, are there any other contracts between RTC and yourself as trustee of the Trust?

A We got to go back this way, Honey. Page 14. Okay. Mr. Anderson, I have it.

Q Thank you. This is a cause of action for civil conspiracy, and I'm not going to ask you about the legalities of it, but I will represent to you that paragraph 69 suggests that RTC entered into an agreement with other parties to carry out the unlawful purpose of damaging your property. Do you have an understanding that that's what that means?

A To me that means that RTC executives didn't come out and do the work. They engaged somebody else to do it. And they, when they engaged them, they were responsible for the people they retained.

Q Okay. Do you have any information that RTC entered into an agreement with third parties to cause damage to your property?

A No. I know RTC condemned me.

Q Okay. So you don't have that information then?

A No, but the final word was that you condemned me and were responsible for what you condemned.

Q Other than -- I just want to make sure we've talked about everything, because I'm almost done and I don't want to make, I don't want to have missed anything. We talked about the efforts you made to speak with employees or workers on the property to get the vehicles off your

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Transaction # 8332645 : sacordag

EXHIBIT 2

EXHIBIT 2

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

-o0o-

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU, JR. AND SONNIA ILIESCU 1992 FAMILY TRUST,
Plaintiffs,
vs.
THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY, et al.,
Defendants.
_____/

Case No. CV19-00459

Dept No. 15

VIDEOTAPED DEPOSITION BY ZOOM OF

SONNIA ILIESCU

JULY 30, 2020

RENO, NEVADA

REPORTED REMOTELY BY: CORRIE L. WOLDEN, NV CSR #194, RPR, CP

JOB NO. 646022b

that they were waiting for and requiring for what they were doing.

So I did not approach people. I was not comfortable with that. These people were working at a job and it was not, it was not something that was comfortable for me to do.

Q Okay. When you say these people and these trucks, whom are you referring to?

A I'm not sure I understand your question. These were construction people working on the RTC project. There was a great deal of equipment that was required apparently and they had this, these pieces of equipment on our property and in the street.

Q And those pieces of machinery or trucks, did they have any specific markings that would indicate ownership of those trucks?

A I would assume they did.

Q Well, did you see specifically any markings or colors or names that would indicate who those construction workers were?

A I was not looking for that.

Q So the trucks you can't conclusively say were RTC trucks, for example?

A They were working on the RTC project, that's all I can tell you. They were working for RTC in some capacity.

physical impediment?

A That's correct.

Q And that physical impediment was a construction truck, a truck or some other --

A An obstacle, yes, an obstacle.

Q And you cannot recall any markings or names on those trucks that would indicate ownership?

A That's correct.

Q And of the construction workers, is there anything that you can recall distinctive about their uniform or colors that may indicate --

A No.

Q -- by whom they were employed?

A No, no, I don't have any recollection of that.

Q And I believe you testified that the only access to the property at 4 -- sorry.

A 642.

Q 642 is off Park Street; is that correct?

A That's correct.

Q I'm going to ask you to turn to paragraph 21 of Exhibit 3. It's on page 6. And the second sentence says, "The Trust and RTC entered into a valid agreement."

Do you see that?

A Yes, I see that.

Q What is your understanding of what that valid

A Absolutely not.

Q Are you aware of any agreement between RTC and any third party, not the trust or yourselves or any member of the Iliescu family, but an agreement between RTC and any other third party to use your property on Fourth Street?

A I'm not aware of anything.

MS. KELLY: I have no further questions.

THE COURT REPORTER: You are on mute.

MR. MORRISON: Thanks, Corrie.

I have no further questions, Bronagh.

THE VIDEOGRAPHER: Off the video record at 1:43.

(Whereupon the proceedings concluded at 1:43 p.m.)

-o0o-

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2245
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Attorneys for Defendant, the Regional Transportation Commission of Washoe County

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an individual; AND SONNIA ILIESCU, an individual, Plaintiffs, v. THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1 – 40, inclusive, Defendants.	Case No.: CV19-00459 Dept. No.: 15

MOTION IN LIMINE TO PRECLUDE PLAINTIFFS FROM PRESENTING EVIDENCE PURSUANT TO NRS 50.275, 50285 AND 50.305

Defendant The Regional Transportation Commission of Washoe County ("RTC") moves this Court pursuant to the authorities cited herein for an order precluding Plaintiffs from offering evidence at trial pursuant to NRS 50.275, 50.285 and 50.305. This motion is supported by the following memorandum of points and authorities and all other pleadings and papers on file in this matter.

This action involves an alleged trespass on Plaintiffs' property at 642 E. 4th Street in Reno. Plaintiffs claim their parking lot has been damaged by the alleged trespass but have provided no evidence of the amount of damages they claim, including failing to timely disclose an expert witness to opine as to the cost to repair the alleged damage.

NRCP 16.1(a)(2) is clear. Witnesses who will give testimony pursuant to NRS 50.275, 50.285 and 50.305 must be timely disclosed. The Scheduling Order imposed a deadline of February 29, 2021 for the parties to disclose initial experts. Plaintiffs bear the burden of proof in this case but failed to timely disclose an expert witness. Therefore, Plaintiffs should be precluded from offering any evidence pursuant to NRS 50.275, 50.285 and 50.385 in this case.

The purpose of a motion in limine is to determine the admissibility of evidence at the outset of trial. *Luce v. United States*, 469 U.S. 38, 40 n. 2, 105 S. Ct. 460, 462 n.2 (1984); see also *Born v. Eisenman*, 114 Nev. 854, 962 P.2d 1227 (1998). Motions in limine are a simple and useful tool available to attorneys for the protection of their trial evidence. *Bridges v. City of Richardson*, 354 S.W. 2d 366 (1962). Furthermore, pretrial motions are useful tools to resolve issues which would otherwise "clutter up" the trial..." *Palmerin v. City of Riverside*, 794 F.2d 1409, 1413 (9th Cir. 1986).

Such motions are brought to suppress evidence which is either not competent or is improper. In Nevada, it has been held that the "trial court is vested with broad discretion in determining the admissibility of evidence." *State ex rel. Dept. of Highways v. Nevada Aggregates & Asphalt Co.*, 92 Nev. 370, 376, 551 P.2d 1095, 1098 (1976). "The exercise of such discretion will not be interfered with on appeal in the absence of a showing of palpable abuse." *Id.*

Here, Plaintiffs failed to timely disclose an expert witness. Therefore, Plaintiffs should be precluded from offering any evidence pursuant to NRS 50.275, 50.285 and 50.385 in this case.

///

///

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6100 Neil Road, Suite 500
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775-688-3000

Affirmation pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the personal information of any person.

DATED: March 9, 2021

WOODBURN AND WEDGE

By */s/ Dane W. Anderson*
Dane W. Anderson, Esq.
Nevada Bar No. 6883
Bronagh M. Kelly, Esq.
Nevada Bar No. 14555
Attorneys for Defendant
The Regional Transportation
Commission of Washoe County

Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, NV 89511
775-688-3000

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Woodburn and Wedge and that on this date, I caused to be sent via electronic delivery through the Court's E-flex system a true and correct copy of the ***MOTION IN LIMINE TO PRECLUDE PLAINTIFFS FROM PRESENTING EVIDENCE PURSUANT TO NRS 50.275, 50285 AND 50.305*** addressed to:

MICHAEL J. MORRISON, ESQ.
1495 Ridgeview Dr., #220
Reno, Nevada 89519
venturelawusa@gmail.com

Attorneys for Plaintiffs

DATED: March 9, 2021.

/s/ Dianne M. Kelling
Employee of Woodburn and Wedge

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6100 Neil Road, Suite 500
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Attorneys for Defendant, the Regional Transportation Commission of Washoe County

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an individual; AND SONNIA ILIESCU, an individual, Plaintiffs, v. THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1 – 40, inclusive, Defendants.	Case No.: CV19-00459 Dept. No.: 15

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Here, Plaintiffs failed to timely disclose an expert witness. Therefore, Plaintiffs should be precluded from offering any evidence pursuant to NRS 50.275, 50.285 and 50.385 in this case.

///

///

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6100 Neil Road, Suite 500
Reno, NV 89511
775-688-3000

Affirmation pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the personal information of any person.

DATED: March 9, 2021

WOODBURN AND WEDGE

By */s/ Dane W. Anderson*
Dane W. Anderson, Esq.
Nevada Bar No. 6883
Bronagh M. Kelly, Esq.
Nevada Bar No. 14555
Attorneys for Defendant
The Regional Transportation
Commission of Washoe County

Woodburn and Wedge
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Reno, NV 89511
775-688-3000

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Woodburn and Wedge and that on this date, I caused to be sent via electronic delivery through the Court's E-flex system a true and correct copy of the ***MOTION IN LIMINE TO PRECLUDE PLAINTIFFS FROM PRESENTING EVIDENCE PURSUANT TO NRS 50.275, 50285 AND 50.305*** addressed to:

MICHAEL J. MORRISON, ESQ.
1495 Ridgeview Dr., #220
Reno, Nevada 89519
venturelawusa@gmail.com

Attorneys for Plaintiffs

DATED: March 9, 2021.

/s/ Dianne M. Kelling
Employee of Woodburn and Wedge

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IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,

IN AND FOR THE COUNTY OF WASHOE

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU, JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; et al.,

Plaintiffs,

vs.

THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1-40,

Defendants.

_____/

Case No. CV19-00459

Dept. No. 15

APPLICATION FOR SETTING

TYPE OF ACTION: Civil

MATTER TO BE HEARD: 90-day Status Hearing

DATE OF APPLICATION: March 11, 2021 **MADE BY:** Court with e-mail cooperation of Dane W. Anderson, Esq., and Michael J. Morrison, Esq. The e-mail correspondence is attached.

Jury Demanded: Yes

Jury Trial: TS 6

Setting:

90-Day Status Hearing at 3:00 **p.m.** on **May 26, 2021**.

Parke, Shannon

From: Michael J. Morrison, Chtd. <venturelawusa@gmail.com>
Sent: Thursday, March 11, 2021 12:52 PM
To: Parke, Shannon
Cc: Dane Anderson; Dianne Kelling
Subject: Re: SCHEDULING Iliescu, et al. v. RTC/Case No.:CV19-00459

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Sorry. Yes, that'll be fine.
Thank you.

On Thu, Mar 11, 2021 at 12:03 PM Parke, Shannon <Shannon.Parke@washoecourts.us> wrote:

Mr. Morrison, any objection to setting the 90-day status hearing on 5/26/21 at 3:00 p.m.? If I hear no objection by 5:00 p.m. today I will get it set.

Thank you.

Shannon Parke, JD
Judicial Assistant

Second Judicial District Court

Department15, Judge David A. Hardy
75 Court Street

Reno, NV 89501
Phone: (775) 328- 3880

Fax: (775) 328-3534

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From: Dane Anderson <DAnderson@woodburnandwedge.com>
Sent: Wednesday, March 10, 2021 2:41 PM
To: Parke, Shannon <Shannon.Parke@washoecourts.us>; Michael J. Morrison, Chtd. <venturelawusa@gmail.com>
Cc: Dianne Kelling <DKelling@woodburnandwedge.com>
Subject: RE: SCHEDULING Iliescu, et al. v. RTC/Case No.:CV19-00459

[**NOTICE:** This message originated outside of Second Judicial District Court, State of Nevada -- **DO NOT CLICK** on **links** or open **attachments** unless you are sure the content is safe.]

Hi Shannon,

I am available on May 26 at 3:00 p.m. for a status hearing, which I assume will take no more than an hour. I have a 4:00 p.m. status hearing on another matter (I believe that is also in D15).

Dane W. Anderson

WOODBURN AND WEDGE

Woodburn and Wedge

6100 Neil Road, Suite 500

Reno, Nevada 89511-1159

775.688.3000

Direct Dial: 775.688.3018

danderson@woodburnandwedge.com

From: Parke, Shannon <Shannon.Parke@washoecourts.us>
Sent: Wednesday, March 10, 2021 2:35 PM
To: Dane Anderson <DAnderson@woodburnandwedge.com>; Michael J. Morrison, Chtd. <venturelawusa@gmail.com>
Cc: Dianne Kelling <DKelling@woodburnandwedge.com>
Subject: SCHEDULING Iliescu, et al. v. RTC/Case No.:CV19-00459

Hello Counsel,

Trial in this matter has been set on Trial Stack 6, beginning August 24, 2021. See Admin. Order 2021-07(A). In conjunction with that trial date we need to set a 90-day status hearing to occur on or by 5/28/21, and a final calendar call on or by 7/23/21. See AO 2021-07. To that end can we set the 90-day status hearing on 5/26/21 at 3:00 p.m.. Your current pre-trial conference date of 7/9/21 at 10:00 a.m., will become the final calendar call.

Shannon k. Parke, JD
Judicial Assistant to Hon. David A. Hardy

Second Judicial District Court

Department 15
75 Court Street

Reno, NV 89501
Phone: (775) 328-3880

Fax: (775) 328-3534

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Jacqueline Bryant
Clerk of the Court
Transaction # 8361465

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU JR. AND SONIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an Individual; AND SONNIA ILIESCU, an individual,

Plaintiffs,

vs.

THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1-40, inclusive,

Defendants.
_____/

Case No.: CV19-00459

Dept. No.: 15

ORDER DENYING MOTION FOR SANCTIONS

Before this Court is Defendant RTC's opposed motion for sanctions pursuant to NRCP 16.1(e), for failure to participate in pretrial procedures. This Court may dismiss a case without prejudice if the 16.1(b) conference is not conducted within 180 days of the filing of the first answer or if a case conference report is not filed within 240 days of the answer. NRCP 16.1(e)(1)-(2); see also Arnold v. Kip, 123 Nev. 410, 168 P.3d 1050 (2007).

Here, Plaintiffs failed to conduct a NRCP 16(b) conference and failed to file a case conference report within the time prescribed by NRCP 16.1. While dismissal for

noncompliance is discretionary, Plaintiffs' failure should be contextualized with the parties' stipulated start to discovery, the Covid-19 pandemic, and the health problems of Plaintiffs' counsel. Thus, this Court denies dismissal as a sanction at this time. However, no further failures to prosecute will be excused. Since this case was initiated in February 2019, Plaintiffs have repeatedly failed to prosecute their case, notwithstanding oppositions to RTC's motion practice. It is time to return to procedural normalcy and move this case forward.

Plaintiffs must conduct a Rule 16(b) conference within 30 days of this order, consisting of meaningful exchanges of information. The parties shall appear before this Court on April 27, 2021, at 2:00 p.m. via Zoom Webinar to show Plaintiffs' compliance with this order or possible substitution of Plaintiffs' counsel.[1]

The Zoom Webinar information will be posted here: https://www.washoecourts.com/onlinehearings. You can also e-mail shannon.parke@washoecourts.us or Mikki.Merkouris@washoecourts.us for an electronic copy of the link.

If you do not have access to a device with internet access plus video and audio capabilities, please email department 15 staff (shannon.parke@washoecourts.us or Mikki.Merkouris@washoecourts.us) for call-in information.

IT IS SO ORDERED

DATED this 25 day of March, 2021.

DAVID A. HARDY
District Judge

[1] This Court reminds all participants to dress appropriately. The electronic platform does not negate the gravity or formality of the proceedings. Protocols for attending hearings via zoom are posted in Spanish and English here:https://www.washoecourts.com/main/covid19response#ZoomProtocols.

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Jacqueline Bryant
Clerk of the Court
Transaction # 8376225 : yviloria

2645
MICHAEL J. MORRISON, ESQ.
Nevada State Bar No. 1665
1495 Ridgeview Dr., #220
Reno, Nevada 89519
(775) 827-6300

Attorney for Plaintiffs

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

* * * * *

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU, JR. AND SONNIA ILIESCU 1992 FAMILY TRUST, Plaintiff, vs. THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; AND DOES 1-40, Defendants.	CASE NO. CV19-00459 DEPT. NO. 15 **PLAINTIFFS' OPPOSITION TO DEFENDANT'S MOTION FOR SUMMARY JUDGMENT**

COME NOW JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU, JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., individually; and SONNIA ILIESCUE, individually (collectively, "the Iliescu Plaintiffs"), by and through their attorney, Michael J. Morrison, Esq., and pursuant to NRCP 56(b), opposes the Defendant's Motion for Summary Judgment, as follows:

SUPPORTING POINTS AND AUTHORITIES

I. OVERVIEW

The Iliescu Plaintiffs have sued Defendant The Regional Transportation Commission of Washoe County ("the RTC") for, among other injuries, the damage the RTC caused to the Iliescu's property. *See* January 21, 2021, First Amended Complaint. The Iliescu Plaintiffs own real property over which the RTC exercised eminent domain for the construction of the Fourth Street/Prater RTC project ("the Project"). *Id.* at 2. During construction on the Project, the RTC damaged the portion of the Iliescu's property over which the RTC did not exercise eminent domain, and specifically the paved parking areas of the property that the RTC was not authorized to use. *Id.* at 3-4. To that end, the RTC's construction crew drove over and parked their vehicles, including personal vehicles, ranging from approximately 20-ton trucks to pick-up trucks, SUV's and automobiles, on the Iliescu property, sometimes precluding Iliescu Plaintiffs from using any portion of their property. *Id*. As a consequence, the Iliescu Plaintiffs have asserted causes of action against the RTC for breach of contract, contractual breach of the implied covenant of good faith and fair dealing, declaratory relief, trespass, civil conspiracy, and negligence. *Id.* They seek damages for the damage to the property, the costs to restore the property, the loss of the property's market value, their loss of use of the property, and other related damages. *Id.* at 4-18.

The RTC has moved this Court for summary judgment in its favor, asserting that there is no evidence of the Iliescu Plaintiffs' damages, and that the Iliescu Plaintiffs cannot maintain their contract, trespass, civil conspiracy, negligence, and declaratory relief claims. The RTC generally asserts that there is insufficient evidence to support the Iliescu Plaintiffs and each of their claims. The RTC's motion, however, ignores that discovery in this case has not yet closed, and is otherwise without merit.

II. SUMMARY JUDGMENT STANDARD

Rule 56(b) provides that "a party against whom a claim… is asserted may, at any time, move with or without supporting affidavits for a summary judgment in his favor as to all or any part thereof." Summary judgment, however, may only be granted where there are no genuine issues of disputed material fact and judgment can be rendered as a matter of law. NRCP 56; *Great Amer. Ins. Co. v. General Builders, Inc.,* 113 Nev. 346, 943 P.2d 257 (1997), *citing, Butler v. Bogdanovich*, 101 Nev. 449, 451, 705 P.2d 662, 663 (1985); *Posadas v. City of Reno*, 109 Nev. 448, 452, 851 P.2d 438, 441-42 (1993). In considering a motion for summary judgment, this Court must accept all of the nonmovant's statements as true (*Great Amer. Ins. Co., supra, citing Sawyer v. Sugarless Shops,* 106 Nev. 265, 267, 792 P.2d 14, 15 (1990)), and ***must*** **accept all reasonable inferences in favor of the nonmoving party** (S*tate, University and Community College System v. Sutton,* 120 Nev. 972, 103 P.3d 8, 13 (2004)).

Because the purpose of summary judgment is not to cut litigants off from their right of trial where there are genuine issues to try (*Short v. Hotel Riviera*, 79 Nev. 94, 103, 378 P.2d 979 (1963)), summary judgment may not be used as a shortcut to resolve disputes over material facts (*Parman v. Petriccianni*, 70 Nev. 427, 437, 272 P.2d 492 (1954)). Indeed, great caution must be exercised in granting summary judgment, which is improper if there is any disputed issue as to the operative facts. *Posadas v. City of Reno*, 109 Nev. 448, 452, 851 P.2d 438 (1993). In this case, the RTC's motion for summary judgment is not appropriate. Notwithstanding the deference to be afforded to the Iliescu Plaintiffs' assertions and evidence it has provided in this case in the context of summary judgment, the May 28, 2021, discovery deadline stated in this Court's October 12, 2020, Order granting the parties' stipulated scheduling order has not yet lapsed. Moreover, this Court's March 25, 2021, Order requiring counsel for the parties to meet and engage in a meaningful exchange of information obviates the RTC's motion. Thus, there is no basis on which the RTC is entitled to summary judgment.

III. ARGUMENT AND DISCUSSION

The Iliescu Plaintiffs have produced evidence of their damages in this case, and are entitled to further address their damages during discovery, which is ongoing, and the meaningful exchange of information required by this Court. Because discovery is ongoing and this Court has required an exchange of meaningful information in this case, RTC is not entitled to summary judgment on the Iliescu Plaintiffs' contract-based claims. The bases on which RTC seeks summary judgment on the Iliescu Plaintiffs' trespass claim are misleading and ignore that the discovery process is still open. The Iliescu Plaintiffs' testimony regarding the vehicles that were parked on their property and the evidence of the damage to the Iliescu Plaintiffs' property by those vehicles precludes summary judgment on their negligence claim. Finally, because the Iliescu Plaintiffs' testimony and the documents they have produced in this case raise questions of material fact as to whether there is a justiciable controversy between the RTC and the Iliescu Plaintiffs that is ripe for judicial determination, the RTC is not entitled to summary judgment on their declaratory judgment claim. Thus, the RTC is not entitled to summary judgment on the Iliescu Plaintiffs' claims.

A. The Iliescu Plaintiffs have provided evidence of their damages in this case, and are entitled to further address their damages during discovery, which is ongoing, and the meaningful exchange of information required by this Court.

The RTC requests summary judgment on all of the Iliescu Plaintiffs' claims because the Iliescu Plaintiffs do not have evidence of the damages for which they seek to be compensated in this case. The RTC asserts that the Iliescu Plaintiffs did not provide a computation of damages or timely disclose an expert witness, and that the documents they have produced in this case do not create a genuine issue of fact based upon the RTC's June 30, 2020, motion in limine and this Court's August 19, 2020, order on that motion. The RTC's assertion, however, does not account for: (1) this Court's October 12, 2020, Order granting the parties' stipulated scheduling order,

which followed and, by its content, overrode the June and August 2020 motion and order in limine; or (2) this Court's March 25, 2021, Order, the spirit and intent of which is for this case to *meaningfully* move forward in light of the stipulated scheduling order and the context in which the Iliescu Plaintiffs and their counsel have struggled through the Covid-19 pandemic.

Indeed, by its reference to the documents that the Iliescu Plaintiffs have produced in this case, the RTC acknowledges that the Iliescu Plaintiffs have evidence of their damages. That evidence was forwarded to counsel for the RTC on June 30, 2020. *See* June 20, 2020, emails from the Iliescu Plaintiffs' counsel to counsel for the RTC and the Iliescu Plaintiffs' responses to the RTC's request for production of documents, Exhibit 1. The Iliescu Plaintiffs are also able to testify as to the damages the RTC caused to their property. Discovery in this case does not close until May 28, 2021, and, as just noted, this Court has required the parties to meet and engage in "… *meaningful* exchanges of information." *See* March 25, 2021, Order Denying Motion for Sanctions at 2:8-9. That directive, considered on its face and in the context of the Order granting the parties' stipulated scheduling order, is for the *meaningful* exchange of evidence that will permit this case to move forward. Thus, the RTC is not entitled to summary judgment on all of the Iliescu Plaintiffs' claims in relation to the Iliescu Plaintiffs' evidence of their damages.

B. Because discovery is ongoing and this Court has required an exchange of meaningful information in this case, RTC is not entitled to summary judgment on the Iliescu Plaintiffs' contract-based claims.

In seeking summary judgment on the Iliescu Plaintiffs' contract-based claims, the RTC asserts that there is no evidence of a contract on which they can base their claims and, even if a valid contract between the parties existed, the Iliescu Plaintiffs cannot establish any damages. The RTC challenges Plaintiff John Iliescu's ("Dr. Iliescu") deposition testimony regarding the basis on which the Iliescu Plaintiffs asserted their contract-based claims, and incorporates its challenge to the Iliescu

Plaintiffs' damages claim. It is a challenge, however, that does not justify summary judgment.

In citing to Dr. Iliescu's deposition testimony as supporting its request, the RTC relies on an incomplete dialog. In the portion of Dr. Iliescu's deposition it included with its motion, the RTC provided one page that addressed the basis for the Iliescu Plaintiffs' contract-based claims. *See* Exhibit 1 to RTC's motion for summary judgment at 63. On that page, Dr. Iliescu referenced the condemnation action, but when RTC's counsel inquired about whether there were any other contracts, counsel for the Iliescu Plaintiffs objected because the question called for a legal conclusion. *Id.* While counsel for the RTC asked the question again (*Id.*), any answer Dr. Iliescu may have provided was not included as part of RTC's supporting evidence. To that end, the incomplete dialog is insufficient to justify summary judgment, especially considering the summary judgment standard of accepting the Iliescu Plaintiffs' assertions as true and affording all reasonable inferences in their favor, and because the discovery process is still open. *See* October 12, 2020, Order granting the parties' stipulated scheduling order. Moreover, for the reasons asserted above, the RTC's challenge to the Iliescu Plaintiffs' contract-based claims: (1) ignores that, by order granting *the parties' stipulation*, the discovery process does not close in this case until May 28, 2021; and (2) is contrary to this Court's March 25, 2021, Order requiring that counsel for the parties meet and engage in a meaningful exchange of information for the purpose of moving this case forward on its merits. Thus, accepting the Iliescu assertions as true and making all reasonable inferences in their favor, and in light of this Court's October 12, 2020, and March 25, 2021, Orders, the RTC is not entitled to summary judgment on the Iliescu Plaintiffs' contract-based claims.

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C. The bases on which RTC seeks summary judgment on the Iliescu Plaintiffs' trespass claim are misleading and ignore that the discovery process is still open.

The RTC seeks summary judgment on the Iliescu Plaintiffs' trespass claim because there is no evidence that the RTC invaded the Iliescu Plaintiffs' property or that the Iliescu Plaintiffs suffered damages. The RTC cites to Dr. Iliescu's deposition testimony that he did not know whose vehicles were on their property, and incorporates its challenge to the Iliescu Plaintiffs' damages claim. The bases on which RTC seeks summary judgment on the Iliescu Plaintiffs' trespass claim, however, are misleading.

Initially, RTC misstates Dr. Iliescu's deposition testimony. While Dr. Iliescu may not have known the identity of the individuals or RTC employees who drove the vehicles or to whom the vehicles belonged, Dr. Iliescu testified that the vehicles were associated with RTC, as those who drove them were doing RTC work. Exhibit 1 to RTC's motion for summary judgment at 34:14-25. Plaintiff Sonnia Iliescu ("Mrs. Iliescu") echoed that understanding. *See* Exhibit 2 to RTC's motion for summary judgment at 19:9-13 (stating that the people who parked vehicles on the Iliescu's property "were construction people working on the RTC project… they had [] these pieces of equipment on our property…."). Accepting the Iliescu Plaintiffs' testimony as true and affording them all reasonable inferences, there is at least a question of fact as to who drove and/or owned the vehicles that trespassed on their property, and whether they were associated with and/or worked for RTC. In any event, the discovery process is still open, and on March 25, 2021, this Court entered its order requiring that counsel for the parties meet and engage in an exchange of meaningful information that will move this case forward. Thus, RTC is not entitled to summary judgment on the Iliescu Plaintiffs' trespass claims.

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D. The RTC's request for summary judgment on the Iliescu Plaintiffs' Civil Conspiracy claim is precluded by this Court's March 20, 2021, Order in the context of its March 25, 2021, Order, and mischaracterizes the evidence on which it is based.

RTC's request for summary judgment on the Iliescu Plaintiffs' civil conspiracy claim relies on its repeated challenge to the Iliescu Plaintiffs' damages claim and its contention that, based on Dr. Iliescu's testimony, there is no evidence that the RTC agreed with others to cause damage to the Iliescu Plaintiffs' property. Notwithstanding its mischaracterization of the portion of Dr. Iliescu's deposition testimony it provides with its motion, RTC states the very basis for why its request should be denied.

RTC introduced its challenge to the Iliescu Plaintiffs' civil conspiracy claim by stating that this "…Court previously denied RTC's motion to dismiss Plaintiffs' claim for civil conspiracy, stating that the pre-trial resolution of this claim can only be considered through a motion for summary judgment ***after appropriate discovery is conducted.***" Motion at 5:27-6:2 (emphasis added), citing this Court's March 20, 2021, Order Granting Motion to Dismiss. As repeatedly stated above, the parties stipulated to May 28, 2021, as the close of discovery in this case. At this writing, that discovery deadline is two (2) months away. Thus, discovery is still open, and based upon this Court's March 25, 2021, Order requiring that counsel for the parties meet and engage in a *meaningful exchange of information* to move this case forward, consideration of the Iliescu Plaintiffs' civil conspiracy claim on RTC's motion for summary judgment is not appropriate.

Be that as it may, the RTC's assertion that the Iliescu Plaintiffs do not have evidence of their damages and that they admit that they have no evidence that the RTC entered into an agreement with others to damage their property is disingenuous and misleading. For the reasons stated above, the RTC's request for summary judgment based upon the lack evidence of the Iliescu Plaintiffs' damages is belied by the RTC's own argument and overrode by this Court's March 25, 2021, Order. As to the Iliescu

Plaintiffs' testimony related to their civil conspiracy claim, Dr. Iliescu's testimony was in the context of RTC's counsel inquiring of Dr. Iliescu's understanding of the legal requirements for a conspiracy claim, and Dr. Iliescu explaining that RTC engaged others to work on the project and RTC is responsible for those they retained (Exhibit 1 to RTC's motion at 69). The RTC did not include the portion of Mrs. Iliescu's deposition that would have provided the context for her testimony and, therefore, conveniently cites to an incomplete dialog as a basis for its summary judgment request (Exhibit 2 to RTC's motion at 39). And, contrary to the RTC's assertion, neither of the Iliescu Plaintiffs "admitted" they did not have evidence to support their civil conspiracy claim. Thus, accepting the Iliescu Plaintiffs' allegations and statements as true, and affording all reasonable inferences in their favor, summary judgment on their civil conspiracy claim is not warranted.

E. The Iliescu Plaintiffs' testimony regarding the vehicles that were parked on their property and the evidence of the damage to the Iliescu Plaintiffs' property by those vehicles precludes summary judgment on their negligence claim.

The RTC seeks summary judgment on the Iliescu Plaintiffs' negligence claim based on its contentions: (1) that the Iliescu Plaintiffs do not know whose trucks were on their property or that RTC directed or allowed any trucks to park on their property, and therefore, do not have evidence that RTC breached any duty to them; and (2) the Iliescu Plaintiffs do not have evidence of their damages. For the reasons explained above and incorporated here, however, those contentions do not constitute a basis for summary judgment. The RTC misstate and mischaracterize the Iliescu Plaintiffs' testimony, and evidence of the Iliescu Plaintiffs' damages have been produced in this case and are subject to this Court's requirement that the parties engage in a meaningful exchange of information to move this case forward. Thus, the RTC is not entitled to summary judgment on the Iliescu Plaintiffs' negligence claim.

F. Because the Iliescu Plaintiffs' testimony and the documents they have produced in this case raise questions of material fact as to whether there is a justiciable controversy between the RTC and the Iliescu Plaintiffs that is ripe for judicial determination, the RTC is not entitled to summary judgment on their declaratory judgment claim.

In culminating all of the bases on which it seeks summary judgment, the RTC requests that this Court grant summary judgment in its favor on the Iliescu Plaintiffs' declaratory relief claim. The RTC asserts there is no contract in reference to the Iliescu Plaintiffs' property, the RTC has valid and existing easements over the Iliescu Plaintiffs' property, the Iliescu Plaintiffs received just compensation for the RTC's condemnation of the Iliescu Plaintiffs' property, and there is no evidence that the RTC parked vehicles and equipment on the Iliescu Plaintiffs' property or that the Iliescu Plaintiffs suffered damages. As more fully addressed above, the testimony on which the RTC relies in support of some of its assertions is misstated and/or misleading, incomplete, and without sufficient context. *See, supra.* Based upon the Iliescu Plaintiffs' testimony regarding the vehicles and equipment that were parked on and damaged their property, and that those vehicles and equipment were driven by and/or belonged to those who were working on the RTC project on the Iliescu Plaintiffs' condemned property (Exhibits 1 and 2 to RTC's motion for summary judgment at 34:14-25 and 19:9-13, respectively). Moreover, and as also addressed above, there remain issues to be resolved in reference to the testimony and documents related to the Iliescu Plaintiffs' contract-based and damages claims. Because this Court has ordered the parties to engage in a meaningful exchange of information is this case – information that will go to the salient issues and claims and move this case forward – there remain questions of fact as to whether there is a justiciable controversy between the RTC and the Iliescu Plaintiffs that is ripe for judicial determination. *Accord, Kress v. Corey,* 65 Nev. 1, 25-26, 189 P.2d 352, 364 (1948) (stating the elements for declaratory relief). Thus, there is no basis on which this Court can grant summary judgment in RTC's favor on the Iliescu Plaintiffs' declaratory relief claim.

IV. CONCLUSION

Based on the foregoing, the Iliescu Plaintiffs request that this Court deny RTC's Motion for Summary Judgment.

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the document to which this Affirmation is attached does not contain the social security number of any person.

DATED this 2nd day of April, 2021.

/s/ Michael J. Morrison
Michael J. Morrison, Esq.
Nevada State Bar No. 1665
1495 Ridgeview Dr., #220
Reno, Nevada 89519
(775) 827-6300
Attorney for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on this date I personally caused to be served a true copy of the foregoing PLAINTIFFS' OPPOSITION TO DEFENDANT'S MOTION FOR SUMMARY JUDGMENT indicated and addressed to the following:

Dane W. Anderson, Esq.
WOODBURN AND WEDGE
6100 Neil Road, Suite 500
Reno, Nevada 89511

____ Via U.S. Mail
____ Via Overnight Mail
____ Via Hand Delivery
____ Via Facsimile
__XX__ Via ECF

DATED this 2nd day of April, 2021.

/s/ Michael J. Morrison

INDEX OF EXHIBITS

Exhibit No.	Description	No. Pages
1	Michael Morrison's June 30, 2020, emails to Counsel for RTC with John and Sonnia Iliescu's respective June 30, 2020, Responses to RTC's Request For Production of Documents	79

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Jacqueline Bryant
Clerk of the Court
Transaction # 8376225 : yviloria

EXHIBIT 1

From: **Michael J. Morrison, Chtd.** <venturelawusa@gmail.com>
Date: Tue, Jun 30, 2020 at 6:58 PM
Subject: Iliescu vs RTC
To: Dianne Kelling <dkelling@woodburnandwedge.com>, Dane Anderson <DAnderson@woodburnandwedge.com>

Dear Dianne and Dane -

Attached please find Dr. John's responses to your RFP.

Sonnia's will follow.

Thanks,
Mike



Ilisecu-RTC-4th Street-...cs.pdf



Iliescu v RTC - SIG CO...20.pdf

From: **Michael J. Morrison, Chtd.** <venturelawusa@gmail.com>
Date: Tue, Jun 30, 2020 at 7:23 PM
Subject: Re: Iliescu vs RTC
To: Dianne Kelling <dkelling@woodburnandwedge.com>, Dane Anderson <DAnderson@woodburnandwedge.com>, Bronagh M. Kelly <BKelly@woodburnandwedge.com>

Dear Dianne and Dane -
Attached please find Sonnia's responses to your RFP.
Thanks,
Mike

P.S. Sorry I left Ms. Kelly's address off my prior email.



Iliescu v RTC - SIG CO...20.pdf



Ilisecu-RTC-4th Street-...cs.pdf

Discovery

MICHAEL J. MORRISON, ESQ.
Nevada State Bar No. 1665
1495 Ridgeview Dr., #220
Reno, Nevada 89519
(775) 827-6300
Attorney for Plaintiffs

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

* * * * *

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU, JR. AND SONNIA ILIESCU 1992 FAMILY TRUST, Plaintiff, vs. THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; AND DOES 1-40, Defendants.	CASE NO. CV19-00459 DEPT. NO. 15 **PLAINTIFF'S RESPONSES TO DEFENDANT'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS TO PLAINTIFF JOHN ILIESCU, JR.**

COMES NOW JOHN ILIESCU, JR., individually, by and through their attorney, Michael J. Morrison, Esq., and pursuant to NRCP 26 and 34, Plaintiff John Iliescu, Jr., respectfully responds to the Defendant's First Set of Requests for Production of Documents to Plaintiff John Iliescu, Jr. ("Plaintiff"), as follows:

PRELIMINARY OBJECTIONS AND COMMENTS

1. These responses and productions are based solely on information and documents as is presently known and in the possession of Plaintiff. Further discovery may lead to additions to, changes in, or modification of these answers in accordance with Nevada Rules of Civil Procedure. Accordingly, these responses are being given without prejudice to Plaintiff's right to produce subsequent discovery evidence and to introduce the same at trial.

2. Plaintiff will supplement his responses to the requests as required by the Nevada Rules of Civil Procedure.

3 All responses will be made solely for the purpose of this action. Each response will be subject to all objections as to competence, relevance, materiality, propriety and admissibility, and to any and all objections on any ground which would require the exclusion from evidence of any document produced herein, all of which objections and grounds are expressly reserved and may be interposed at any hearings.

4. Plaintiff adopts by reference the above objections and incorporates each objection as if it were fully set forth below in each of Plaintiff's Responses.

REQUEST NO. 1:

All documents supporting your contention that RTC or anyone you contend was acting on behalf of RTC drove over and parked their vehicles on your property "on virtually every workday during the term of the Project," as alleged in paragraph 9 of your Complaint.

RESPONSE TO REQUEST NO. 1:

See Exhibit "1". Photos of the subject trucks on the subject property, taken April 3, 2018.
See Exhibit "2". Letter from Paragon Partners, Defendant's designated and contracted construction firm.
See Exhibit "3". Preliminary Draft of Broker Price Opinion (Cover Page Only) containing photos of the subject property (on pages 4 & 5) before construction commenced.
See Exhibit "4". Order of the Court granting RTC (Defendant in this case) possession and occupancy of the property, and specifically ordering Defendant to "minimize interference between construction of the Project and Real Parties in Interest's (Iliescus' use of the remaining land of Real Parties in Interest on APN 008-244-15. Also included are other documents related to the process.
See Exhibit "5". Cover page of Appraisal Report prepared for the Iliescus by Joseph S. Campbell, MAI, dated May 15, 2017, containing photos of the subject property before RTC commenced construction.

Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due

deference accorded the respective schedules of counsel for the respective parties. Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust", including Transaction #5832427, the Verified Complaint in Eminent Domain, containing Exhibits 1-4 (inclusive), specifying, *inter alia*, rights and duties of Defendant and its included governmental and other associated parties, as well as the small size and limited use and scope of its "Temporary Construction Easement"; and Transaction #5832427, delineating the very limited easement the Court granted Defendant with respect to the property subject of the instant case.

REQUEST NO. 2:

All documents supporting your allegation that you and/or Sonnia Iliescu made "frequent objections" to RTC's alleged use of any portion of your property at issue in this litigation, as set forth in paragraph 9 of your Complaint, as well as all documents supporting your allegation that you and/or Sonnia Iliescu made "innumerable requests" that RTC not use the property, as set forth on page 6 of your opposition to the motion to dismiss.

RESPONSE TO REQUEST NO. 2:

See Exhibits "1" and "4".

Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties. Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

REQUEST NO. 3:

All documents, including photographs, that depict or discuss the condition of the subject parking lot at any time, whether before, during and after the Project that is the subject of your complaint. With respect to documents and photographs before the Project,

RTC seeks documents depict or discuss the condition of the subject parking lot in the 15 years prior to the Project. The response to this request should include any correspondence, bids, quotes or other documents discussion possible repairs to or work to be done on the subject parking lot.

RESPONSE TO REQUEST NO. 3:

See Exhibit "1". Photos of the subject trucks on the subject property, taken April 3, 2018.
See Exhibit "2". Letter from Paragon Partners, Defendant's designated and contracted construction firm.
See Exhibit "3". Preliminary Draft of Broker Price Opinion (Cover Page Only) containing photos of the subject property (on pages 4 & 5) before construction commenced.
See Exhibit "4". Order of the Court granting RTC (Defendant in this case) possession and occupancy of the property, and specifically ordering Defendant to "minimize interference between construction of the Project and Real Parties in Interest's (Iliescus' use of the remaining land of Real Parties in Interest on APN 008-244-15. Also included are other documents related to the process.
See Exhibit "5". Cover page of Appraisal Report prepared for the Iliescus by Joseph S. Campbell, MAI, dated May 15, 2017, containing photos of the subject property before RTC commenced construction.
Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties.
Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

REQUEST NO. 4:

All documents supporting your claim that you have suffered reparable and irreparable damages to the "Remaining Property and to each of the respective Plaintiffs," as alleged in paragraph 11 of your Complaint.

RESPONSE TO REQUEST NO. 4:

See Exhibit "1".

Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties. Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

REQUEST NO. 5:

All documents supporting your claim for loss of market value of the Remaining Property as alleged in paragraph 11(a) of your Complaint.

RESPONSE TO REQUEST NO. 5:

See Exhibits "1" and "5".

Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties. Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

REQUEST NO. 6:

All documents supporting your claim for discomfort and annoyance to Plaintiffs as alleged in paragraph 11(b) of your Complaint.

RESPONSE TO REQUEST NO. 6:

See Exhibit "1". Photos of the subject trucks on the subject property, taken April 3, 2018.

See Exhibit "2". Letter from Paragon Partners, Defendant's designated and contracted

construction firm.

See Exhibit "3". Preliminary Draft of Broker Price Opinion (Cover Page Only) containing photos of the subject property (on pages 4 & 5) before construction commenced.

See Exhibit "4". Order of the Court granting RTC (Defendant in this case) possession and occupancy of the property, and specifically ordering Defendant to "minimize interference between construction of the Project and Real Parties in Interest's (Iliescus' use of the remaining land of Real Parties in Interest on APN 008-244-15. Also included are other documents related to the process.

See Exhibit "5". Cover page of Appraisal Report prepared for the Iliescus by Joseph S. Campbell, MAI, dated May 15, 2017, containing photos of the subject property before RTC commenced construction.

Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties. Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

REQUEST NO. 7:

All documents supporting your claim for emotional distress as alleged in paragraph 11(c) of your Complaint.

RESPONSE TO REQUEST NO. 7:

See Exhibit "1". Photos of the subject trucks on the subject property, taken April 3, 2018.

See Exhibit "2". Letter from Paragon Partners, Defendant's designated and contracted construction firm.

See Exhibit "3". Preliminary Draft of Broker Price Opinion (Cover Page Only) containing photos of the subject property (on pages 4 & 5) before construction commenced.

See Exhibit "4". Order of the Court granting RTC (Defendant in this case) possession and occupancy of the property, and specifically ordering Defendant to "minimize interference between construction of the Project and Real Parties in Interest's (Iliescus' use of the

remaining land of Real Parties in Interest on APN 008-244-15. Also included are other documents related to the process.

See Exhibit "5". Cover page of Appraisal Report prepared for the Iliescus by Joseph S. Campbell, MAI, dated May 15, 2017, containing photos of the subject property before RTC commenced construction.

Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties.

Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

REQUEST NO. 8:

All documents supporting your claim for emotional distress as alleged in paragraph 11(c) of your Complaint.

RESPONSE TO REQUEST NO. 8:

See Exhibit "1". Photos of the subject trucks on the subject property, taken April 3, 2018.

See Exhibit "2". Letter from Paragon Partners, Defendant's designated and contracted construction firm.

See Exhibit "3". Preliminary Draft of Broker Price Opinion (Cover Page Only) containing photos of the subject property (on pages 4 & 5) before construction commenced.

See Exhibit "4". Order of the Court granting RTC (Defendant in this case) possession and occupancy of the property, and specifically ordering Defendant to "minimize interference between construction of the Project and Real Parties in Interest's (Iliescus' use of the remaining land of Real Parties in Interest on APN 008-244-15. Also included are other documents related to the process.

See Exhibit "5". Cover page of Appraisal Report prepared for the Iliescus by Joseph S. Campbell, MAI, dated May 15, 2017, containing photos of the subject property before RTC commenced construction.

Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that

there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties. Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

REQUEST NO. 9:

All documents supporting your claim for loss of use of the Remaining Property as alleged in paragraph 11(d) of your Complaint.

RESPONSE TO REQUEST NO. 9:

See Exhibit "1". Photos of the subject trucks on the subject property, taken April 3, 2018.
See Exhibit "2". Letter from Paragon Partners, Defendant's designated and contracted construction firm.
See Exhibit "3". Preliminary Draft of Broker Price Opinion (Cover Page Only) containing photos of the subject property (on pages 4 & 5) before construction commenced.
See Exhibit "4". Order of the Court granting RTC (Defendant in this case) possession and occupancy of the property, and specifically ordering Defendant to "minimize interference between construction of the Project and Real Parties in Interest's (Iliescus' use of the remaining land of Real Parties in Interest on APN 008-244-15. Also included are other documents related to the process.
See Exhibit "5". Cover page of Appraisal Report prepared for the Iliescus by Joseph S. Campbell, MAI, dated May 15, 2017, containing photos of the subject property before RTC commenced construction.
Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties. Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

REQUEST NO. 10:

All documents supporting your claim for costs of property restoration as alleged in paragraph 11(e) of the Complaint.

RESPONSE TO REQUEST NO. 10:

See Exhibits "1" and "5".

Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties. Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

REQUEST NO. 11:

All documents supporting your claim for physical damage to and destruction of the Property as alleged in paragraph 11(c) of your Complaint.

RESPONSE TO REQUEST NO. 11:

See Exhibit "1". Photos of the subject trucks on the subject property, taken April 3, 2018.

See Exhibit "2". Letter from Paragon Partners, Defendant's designated and contracted construction firm.

See Exhibit "3". Preliminary Draft of Broker Price Opinion (Cover Page Only) containing photos of the subject property (on pages 4 & 5) before construction commenced.

See Exhibit "4". Order of the Court granting RTC (Defendant in this case) possession and occupancy of the property, and specifically ordering Defendant to "minimize interference between construction of the Project and Real Parties in Interest's (Iliescus' use of the remaining land of Real Parties in Interest on APN 008-244-15. Also included are other documents related to the process.

See Exhibit "5". Cover page of Appraisal Report prepared for the Iliescus by Joseph S. Campbell, MAI, dated May 15, 2017, containing photos of the subject property before RTC commenced construction.

Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties. Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

REQUEST NO. 12:

All contracts you allege exist between you and RTC or any other party related to this matter, including but not limited to the agreement referenced in paragraph 11 of your Complaint, the agreements referenced in paragraphs 27 of your Complaint, and the "RTC-Trust Agreement" referenced in paragraphs 39, 46 and 48(a) of your Complaint.

RESPONSE TO REQUEST NO. 12:

See Exhibits "2", "3" and "4".

Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties. Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

REQUEST NO. 13:

All documents supporting your allegation that Defendants agreed to carry out a scheme intended to accomplish unlawful objectives, as alleged in paragraph 67 of your Complaint.

RESPONSE TO REQUEST NO. 13:

See Exhibit "1".

Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to

inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties. Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

REQUEST NO. 14:

All documents supporting your allegation that you and Sonnia Iliescu each suffered pain, discomfort, mental and emotional distress, pain and disabilities, mental and psychological problems, depression, loss of sleep, appetite and enjoyment of life as a result of RTC's conduct, as alleged in paragraphs 74, 82, 84, 91 and 92 of your Complaint. Your response should include all medical records supporting your allegation that you and Sonnia Iliescu each sought medical attention for your respective injuries and "continued for some time to require medical care and treatment, even though the date of this Complaint," as alleged in paragraph 82 of your Complaint, as well as any such records up to and including the date of your response.

RESPONSE TO REQUEST NO. 14:

See Exhibit "1". Photos of the subject trucks on the subject property, taken April 3, 2018.
See Exhibit "2". Letter from Paragon Partners, Defendant's designated and contracted construction firm.
See Exhibit "3". Preliminary Draft of Broker Price Opinion (Cover Page Only) containing photos of the subject property (on pages 4 & 5) before construction commenced.
See Exhibit "4". Order of the Court granting RTC (Defendant in this case) possession and occupancy of the property, and specifically ordering Defendant to "minimize interference between construction of the Project and Real Parties in Interest's (Iliescus' use of the remaining land of Real Parties in Interest on APN 008-244-15. Also included are other documents related to the process.
See Exhibit "5". Cover page of Appraisal Report prepared for the Iliescus by Joseph S. Campbell, MAI, dated May 15, 2017, containing photos of the subject property before RTC commenced construction.

Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties. Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

REQUEST NO. 15:

All documents supporting your allegation that RTC or any other defendant acted in a malicious, destructive, willful, mean-spirited or other improper manner.

RESPONSE TO REQUEST NO. 15:

See Exhibit "1". Photos of the subject trucks on the subject property, taken April 3, 2018.
See Exhibit "2". Letter from Paragon Partners, Defendant's designated and contracted construction firm.
See Exhibit "3". Preliminary Draft of Broker Price Opinion (Cover Page Only) containing photos of the subject property (on pages 4 & 5) before construction commenced.
See Exhibit "4". Order of the Court granting RTC (Defendant in this case) possession and occupancy of the property, and specifically ordering Defendant to "minimize interference between construction of the Project and Real Parties in Interest's (Iliescus' use of the remaining land of Real Parties in Interest on APN 008-244-15. Also included are other documents related to the process.
See Exhibit "5". Cover page of Appraisal Report prepared for the Iliescus by Joseph S. Campbell, MAI, dated May 15, 2017, containing photos of the subject property before RTC commenced construction.
Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties. Plaintiff further represents that many of the responsive documents are contained in this

Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

REQUEST NO. 16:

All documents supporting your allegation that RTC owed you a fiduciary duty.

RESPONSE TO REQUEST NO. 16:

See Exhibit "4".

Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties. Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

NOTE: Plaintiff John Iliescu is currently continuing his research and discovery to locate any additional documents responsive to REQUESTS NOS. 1-16, which will be produced if and when available.

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the document to which this Affirmation is attached does not contain the social security number of any person.

DATED this 30th day of June, 2020.

/s/Michael J. Morrison

Michael J. Morrison, Esq.
Attorney for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on this date I personally caused to be served a true copy of the foregoing PLAINTIFFS' RESPONSE TO DEFENDANT'S FIRST REQUESTS FOR PRODUCTION OF DOCUMENTS TO PLAINTIFF JOHN ILIESCU, JR. indicated and addressed to the following:

Dane W. Anderson, Esq.
WOODBURN AND WEDGE
6100 Neil Road, Suite 500
Reno, Nevada 89511

XX Via U.S. Mail
____ Via Overnight Mail
____ Via Hand Delivery
XX Via E-mail
____ Via ECF

DATED this 30th day of June, 2020.

/s/Michael J. Morrison

Michael J. Morrison

EXHIBIT "1"

EXHIBIT "1"


RANCHO
777








RANCHO



EXHIBIT "2"

EXHIBIT "2"

From: **Todd Keizer** tkeizer@paragon-partners.com
Subject: 008-244-15 John and Sonnia Iliescu Family Trust
Date: August 12, 2015 at 11:51 AM
To: [illegible]

John and Sonnia,

Thank you for your call today. It was a pleasure speaking with you. I have attached four maps to show you what we are proposing regarding your property.

The first attachment is labeled "PE" which is the permanent easement on the corner of 4th Street and Parker. It is 68 SF.

The second attachment is labeled "PUE" which is the utility easement on the southeast corner of your property. It is 584 SF but only 5 +/- feet wide at the widest point.

The third attachment is labeled "TCE" which is the temporary easement.

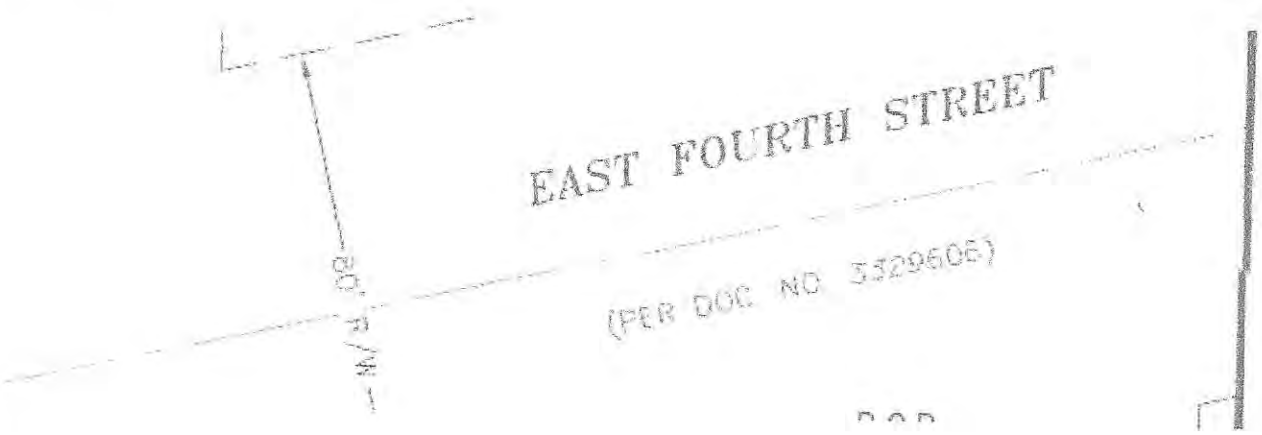
Lastly, I didn't mention it on the phone but I believe we are going to request access to the main parking area of the property. This is solely for your benefit to tie the driveway into 4th street, address grade issues, upgrade asphalt/curbing, etc. This last map labeled "full ROW map" shows this area in purple and will be completely voluntary and temporary on your part as the RTC will not compel you to allow us access. I will get you more information on this so you better understand the benefits to you will be.

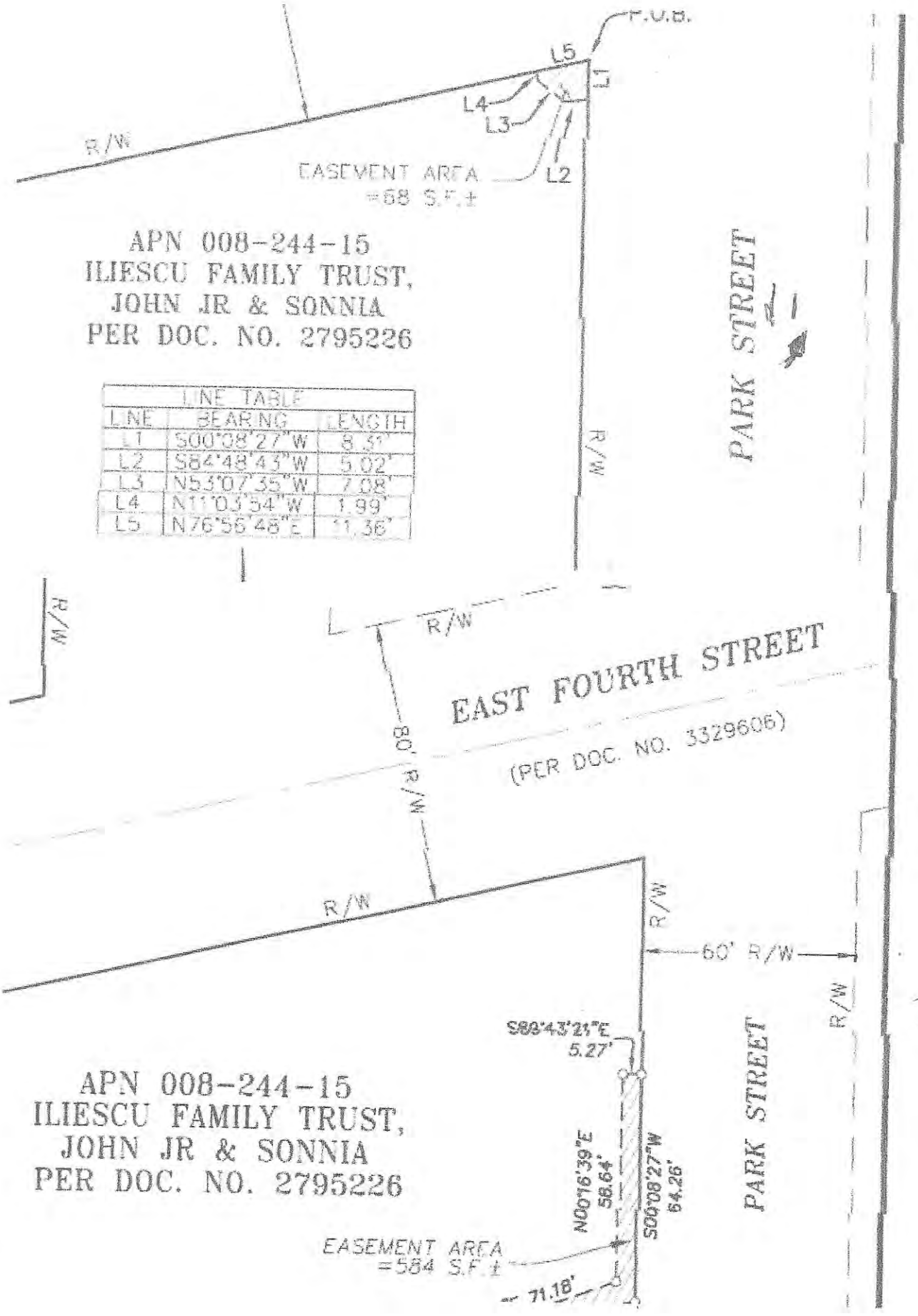
Please feel free to contact me at any time should you have additional questions.

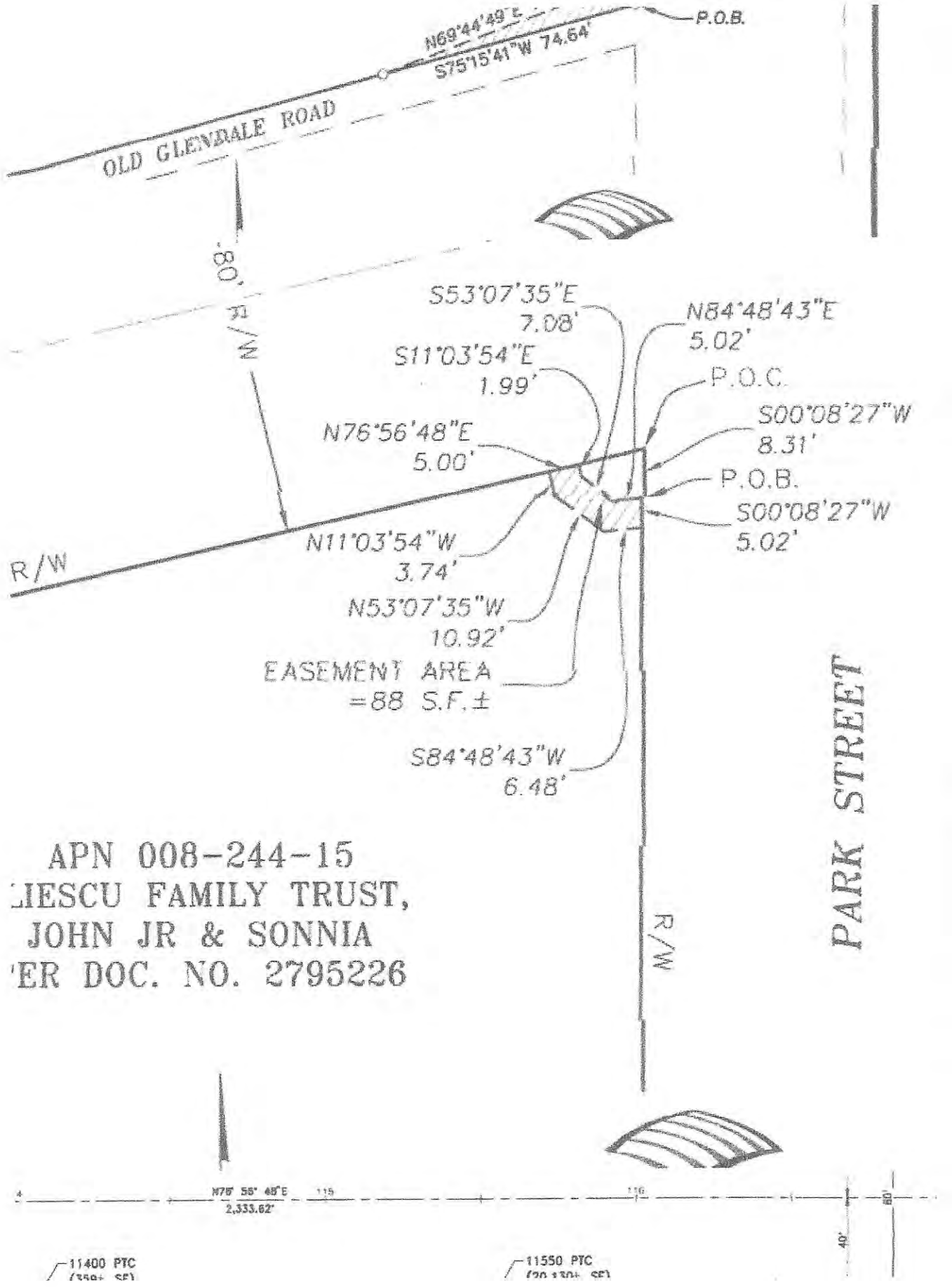
Thank you.

Todd Keizer
Project Manager
Paragon Partners Ltd.
5762 Bolsa Ave., Suite 201
Huntington Beach, CA 92649
Email: tkeizer@paragon-partners.com
www.paragon-partners.com
Tel.: 714.379.3376
Mobile: 310.497.4012
Fax: 714.373.1234

8-17-15
JI spoke w/ Todd & explained his position. Does not want on prop on [illegible]
Todd is to be [illegible] 1/31 will call to meet.




P.O.B.
L5
L1
L4
L3
L2
R/W
EASEMENT AREA
=68 S.F.±
APN 008-244-15
ILIESCU FAMILY TRUST,
JOHN JR & SONNIA
PER DOC. NO. 2795226
LINE TABLE
LINE | BEARING | LENGTH
L1 | S00°08'27"W | 8.51'
L2 | S84°48'43"W | 5.02'
L3 | N53°07'35"W | 7.08'
L4 | N11°03'54"W | 1.99'
L5 | N76°56'48"E | 11.36'
PARK STREET
R/W
EAST FOURTH STREET
(PER DOC. NO. 3329606)
80'
60' R/W
S89°43'21"E
5.27'
N00°16'39"E
58.64'
S00°08'27"W
64.26'
EASEMENT AREA
=584 S.F.±
71.18'
APN 008-244-15
ILIESCU FAMILY TRUST,
JOHN JR & SONNIA
PER DOC. NO. 2795226
PARK STREET


OLD GLENDALE ROAD
N69°44'49"E
S75°15'41"W 74.64'
P.O.B.
60'
R/W
S53°07'35"E
7.08'
S11°03'54"E
1.99'
N76°56'48"E
5.00'
N11°03'54"W
3.74'
N53°07'35"W
10.92'
EASEMENT AREA
=88 S.F.±
S84°48'43"W
6.48'
N84°48'43"E
5.02'
P.O.C.
S00°08'27"W
8.31'
P.O.B.
S00°08'27"W
5.02'
R/W
PARK STREET
APN 008-244-15
LIESCU FAMILY TRUST,
JOHN JR & SONNIA
'ER DOC. NO. 2795226
N75° 55' 48"E
2,333.62'
115
116
80'
49'
11400 PTC
11550 PTC

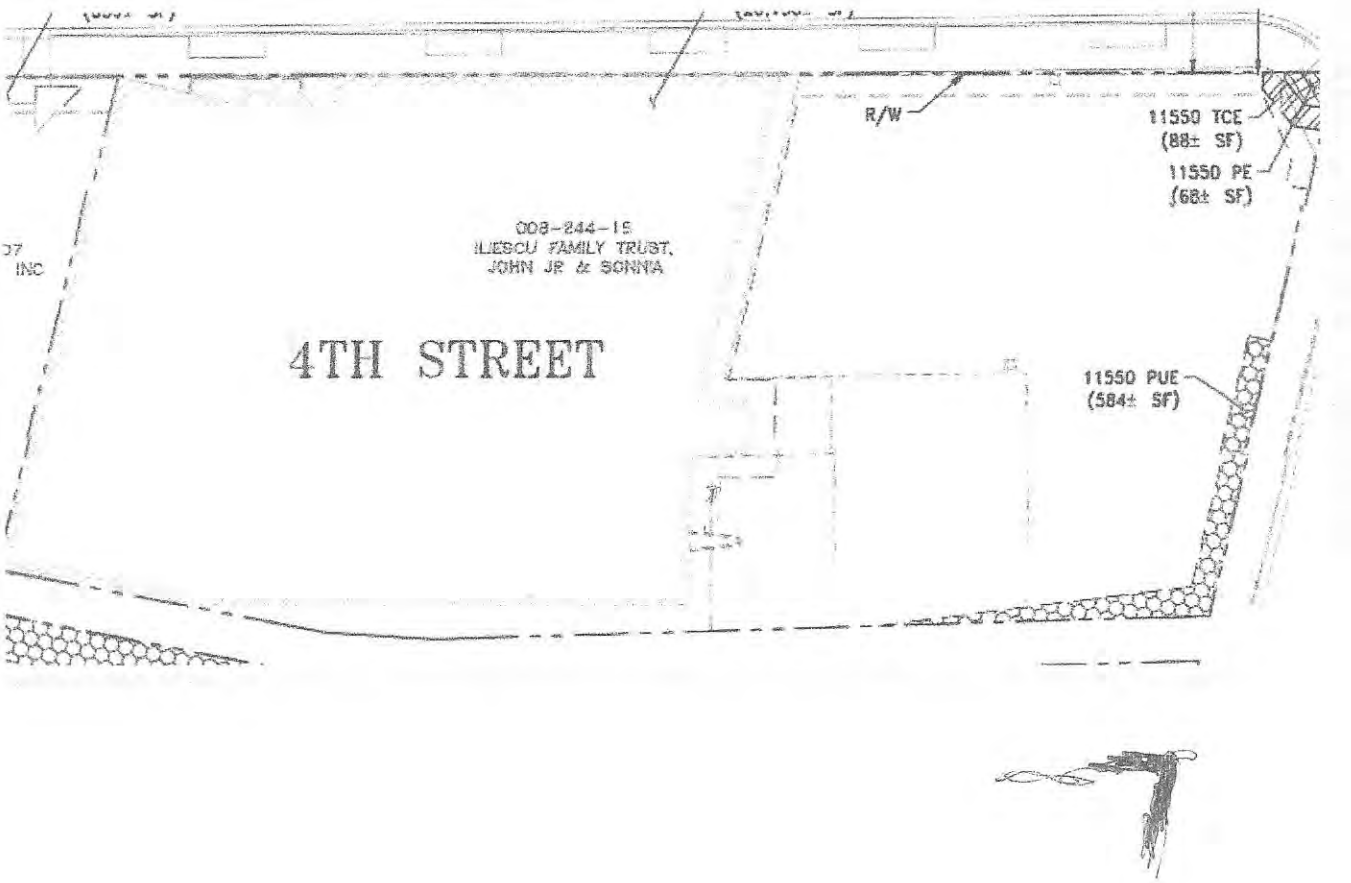

R/W
11550 TCE
(88± SF)
11550 PE
(68± SF)
008-244-15
ILIESCU FAMILY TRUST,
JOHN JR & SONNIA
INC
4TH STREET
11550 PUE
(584± SF)

EXHIBIT "3"

EXHIBIT "3"

JOHNSON GROUP
Commercial | Residential | Investment | Realty

Richard K. Johnson
5255 Longley Ln, Suite105
Reno, Nevada 89511
Phone: 775-823-8877
Fax: 866-716-8848
Dick@JohnsonGroup.net

BROKER PRICE OPINION



THIS IS A PRELIMINARY DRAFT FOR REFERENCE ONLY

Subject Address: **642 E 4th , Reno, Nv**

Date Prepared: **August 18, 2016**

TO THE ATTENTION OF:

RTC and
Dr & Sonnia Iliescu

PREPARED BY:

Richard K. "Dick" Johnson, Broker/Owner *License #:* 58025

Note: You and your advisors (such as tax, legal, and financial) should conduct carefull and independant investigation to determine to your satisfaction the suitability of the property for your needs. The information has been obtained from sources believed reliable. Agents make no representations or warranties as to the accuracy or completeness of supplied information and/or projections.

PROPERTY
ASSESSMENTS AND RECOMMENDATIONS

PROPERTY DATA:

Property Address:	642 E 4th, Reno, Nevada
APN #:	011-051-15
Owner of Record:	Iliescu Family Trust

PROPERTY CHARACTERISTICS:

APN: 008-244-15 Card 1 of 1

Owner Information & Legal Description

Situs	642 E 4TH ST
Owner 1	ILIESCU FAMILY TRUST, JOHN JR & SONNIA
Mail Address	200 COURT ST
	RENO NV 89501
Owner 2 or Trustee	ILIESCU TRUSTEE, JOHN JR & SONNIA
Rec Doc No	2765226 Rec Date 01/24/2003
Prior Owner	SALVATION ARMY THE,
Prior Doc	MEMO
Keyline Desc	COMMERCIAL ADD LTS 1 THRU 11 BLK 1
Subdivision	COMMERCIAL ADDITION
	Lot: 1-11 Block: 1 Sub Map#
	Record of Survey Map: Parcel Map#
Section:	Township: 19 Range: 19 SPC
Tax Dist	1002 Add'l Tax Info Prior APN
Tax Cap Status	Use does not qualify for Low Cap, High Cap Applied

Building Information

Quality	C15 Low/Avg	Occupancy	Retail Store
		Sec Occupancy	Storage Warehouse
Stories	1.00	Square Feet	29,408
Year Built	1935	Square Feet does not include Basement or Garage Conversion Area.	
W.A.Y	1971	Finished Bsmt	0
Bedrooms	0	Unfin Bsmt	0
Full Baths	0	Bsmt Type	
Half Baths	0	Gar Conv Sq Foot	0
Fixtures		Total Gar Area	0
Fireplaces	0	Gar Type	
Heat Type	PACKAGE UNIT	Det Garage	0
Sec Heat Type	SPACE HEATER	Bsmt Gar Door	0
Ext Walls	BRICK SOLID	Sub Floor	
Sec Ext Walls		Frame	MASONRY BRNG
Roof Cover		Construction Mod	0
Obsn/Bldg Adj	0	Units/Bldg	1
% Incomplete		Units/Parcel	1

Land Information

Land Detail

Land Use	400	Zoning	MUDR	Sewer	Municipal
Size	31,866 SqFt or ~0.732 Acre	Water	Muni	Street	Paved

NBC = Neighborhood Code
NBC AHBQ
NBC Map Alt NBC Map

Valuation Information

Valuation History	2015/16 FV	2016/17 FV
Taxable Land Value	191,196	191,196
Taxable Improvement Value	559,814	544,867
Taxable Total	751,010	736,063
Assessed Land Value	66,919	66,919
Assessed Improvement Value	195,935	190,703
Total Assessed	262,854	257,622

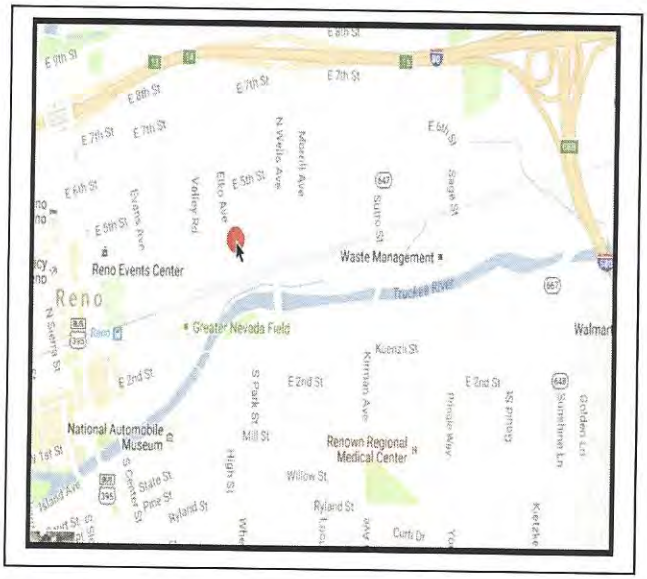
Sales/Transfer Information/Recorded Document

Sales/Transfer History

V-Code	LUC	Doc Date	Value/Sale Price	Grantor	Grantee
1G	400	01-24-2003	810,000	SALVATION ARMY THE,	ILIESCU FAMILY TRUST, JOHN JR & SONNIA
		08-21-1975	0		SALVATION ARMY THE

Note: You and your advisors (such as tax, legal, and financial) should conduct carefull and independant investigation to determine to your satisfaction the suitability of the property for your needs. The information has been obtained from sources believed reliable. Agents make no representations or warranties as to the accuracy or completeness of supplied information and/or projections.











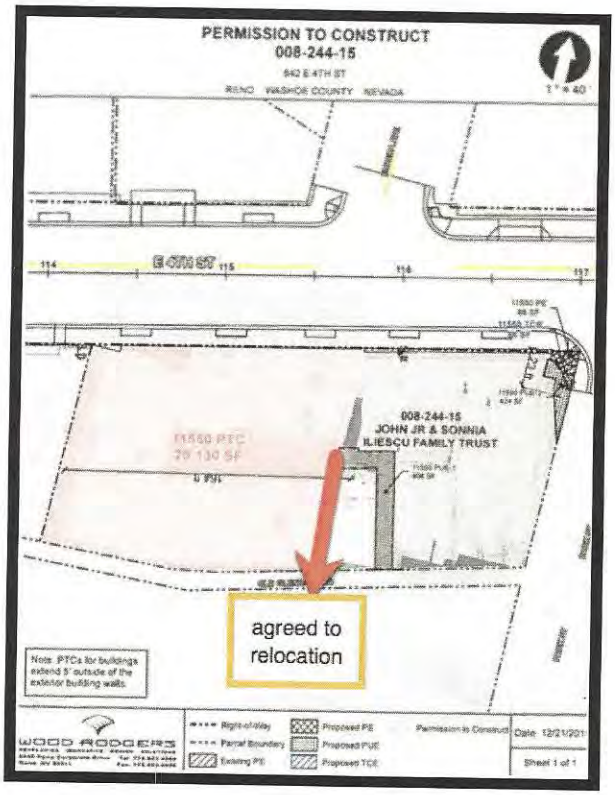


Note: You and your advisors (such as tax, legal, and financial) should conduct carefull and independant investigation to determine to your satisfaction the suitability of the property for your needs. The information has been obtained from sources believed reliable. Agents make no representations or warranties as to the accuracy or completeness of supplied information and/or projections.

RTC (proposed) easement







On following page, see the list of Comps as provided by Appraiser hired by RTC.

Note: You and your advisors (such as tax, legal, and financial) should conduct carefull and independant investigation to determine to your satisfaction the suitability of the property for your needs. The information has been obtained from sources believed reliable. Agents make no representations or warranties as to the accuracy or completeness of supplied information and/or projections.

Received from RTC employed Appraiser.

COMPARABLE COMMERCIAL LAND SALES CHART

Sale Number	Assessor's Parcel Number Location	Sale Date Sale Price	Zoning Topography	Land Area	Sale Price Per S.F.
LS-1	143-040-25 Northeast corner Geiger Grade and Veterans Parkway	07/31/2012 $920,000	PUD Level	1.50± Ac. 65,356± SF	$14.08
LS-2	008-341-06 North side east 5th St., between N. Wells Ave. and Morrill Ave., Reno	02/25/2013 $350,000	MUE4 Level	1.0± Ac. 43,560± Sf	$8.03
LS-3	033-314-11 Northeast corner Victorian Ave. and 3rd St., Sparks	5/01/2013 $220,000	TOD Level	.47± Ac. 20,658± Sf	$10.65
LS-4	163-200-04 North side South Meadows Parkway, 700± feet east of Double R Boulevard	01/02/2014 $455,000	PUD Commercial/ Office Level	1.0± Ac. 43,566± SF	$10.44
LS-5	034-145-08 Between E. Greg St. and Stanford Way, 220± feet west of S. McCarran Blvd.	03/28/2014 $525,000	I Level	1.149± Ac 50,047± SF	$10.49
LS-6	008-341-05 South side East 6th St., between N. Wells Ave. and Morrill Ave., Reno	07/02/2014 $350,000	MUE4 Level	.912± Ac. 39,719± Sf	$8.81
LS-7	026-182-69 E/S Northtowne Lane, 390' south of N. McCarran Blvd	08/08/2014 $625,000	AC Level	1.775± Ac. 77,328± SF	$8.08
LS-8	532-131-07 W/S Access Road, 135' north of Eagle Canyon Drive	01/05/2015 $650,000	NC Level	1.988± Ac. 86,611± SF	$7.50
LS-9	510-491-11 Southeast corner of Los Altos Parkway and Galleria Parkway	02/05/2015 $623,798	NUD Level	1.578± Ac. 68,729± SF	$9.08
LS-10	013-081-18 South side Mill St., 215' E. of Kietzke Lane, Reno	02/24/2015 $91,000	MURC Level	.21± Ac. 9,100± SF	$10.50
LS-11	013-095-15 South side Moran Street, 105' E. of S. Wells Ave., Reno	02/26/2015 $42,000	CC Level	.09± Ac. 4,000± Sf	$10.00
LS-12	013-281-03 Southeast corner of Harvard Way & Yale Way, Reno	04/08/2015 $1,471,019	CC Level	3.070± Ac. 133,728± SF	$11.00
LS-13	013-341-21 Southwest corner of Terminal Way & Villa Nova Drive, Reno	04/22/2015 $512,500	MURT Level	1.110± Ac. 48,351± SF	$10.60
LS-14	160-070-12 Northwest corner Double R Blvd. & Professional Circle	05/06/2015 $680,649	PUD Level	1.190± Ac. 51,836± SF	$13.13
LS-15	510-491-13 & 15 South side Los Altos Pkwy., 379± W. of Ion Court, Sparks	06/01/2015 $1,131,800	NUD Level	3.51± Ac. 152,950± SF	$7.40
LS-16	163-120-04 East side S. Virginia St., N. of South Meadows Parkway, Reno	11/16/2015 $804,115	PUD Level	1.42± Ac. 6,.8554± SF	$13.00
PLS-17	027-412-38 North side Oddie Blvd., 300' E. of Sullivan Lane	01/08/2016 $725,000	MUD, MUD-C Level	2.201± Ac. 95,876± Sf	$7.56

NONE OF THESE ARE ON OR ADJOINING THE 4th STREET ARE OF THE SUBJECT SITE.

Note: You and your advisors (such as tax, legal, and financial) should conduct carefull and independant investigation to determine to your satisfaction the suitability of the property for your needs. The information has been obtained from sources believed reliable. Agents make no representations or warranties as to the accuracy or completeness of supplied information and/or projections.

EXHIBIT "4"

EXHIBIT "4"

1. Real Parties in Interest are the current fee simple owners of real property at issue in this litigation and, as such, have the authority to enter into the aforementioned stipulation with RTC through their attorney, C. Nicholas Pereos, Esq.

2. This case involves the RTC's exercise of its power of eminent domain for the purpose of acquiring the permanent easement, the public utility easement and the temporary construction easement defined as "the Property" in the Stipulation and described in detail in Exhibit 1 to the Stipulation, related to RTC's construction of the 4th Street/Prater Way Complete Street and BRT Project, or "the Project." The Court incorporates the definitions and descriptions of the Project set forth in the Stipulation by reference in this order.

3. The use for which the Property sought to be condemned is a public use authorized by law, and the taking thereof is necessary for such use. RTC has complied with all statutory conditions precedent to instituting this action and seeking immediate occupancy pending judgment. Immediate entry upon and possession of the Property sought to be condemned are required so that the construction of the Project may proceed in an orderly manner without delay or loss in utilization of construction time and/or without unnecessary cost and expense to the condemning agency.

4. NRS 37.090 and 37.100 provide this Court with authority to enter an order allowing RTC access to the Property sought to be condemned at any time after the commencement of suit and pending entry of judgment, to do such work thereon as may be required for the Project according to its nature.

5. For purposes of this Order only, and subject to the terms of the Stipulation concerning Defendants' objection to Reese Perkins' appraisal, the Court finds that, pursuant to NRS 37.100(4), the value of the Property sought to be obtained and/or temporary utilized during construction plus damages is $2,030.00.

. . .

. . .

Based on the foregoing, and with good cause appearing, IT IS HEREBY ORDERED:

1. RTC may have immediate possession and occupancy of the Property, as described in **Exhibit 1** attached hereto, by depositing with the Clerk of this Court the sum of $2,030.00 (the "Cash Deposit").

2. The Clerk of the Court shall deposit the Cash Deposit into an interest bearing account for the benefit of Real Parties in Interest and/or any other party determined to be entitled to those amounts.

3. Upon making the Cash Deposit, RTC may immediately enter upon and occupy the Property and perform such work thereon as may be necessary to construct and complete the Project;

4. RTC and Real Parties in Interest and their respective agents shall cooperate so as to minimize interference between construction of the Project and Real Parties in Interest's use of the remaining land of Real Parties in Interest on APN 008-244-15;

5. If Real Parties in Interest apply to withdraw the Cash Deposit, they shall serve a notice on the parties in this action of the Application, giving each party 5 days after service of such notice in which to file and serve objections to such withdrawal, if any;

6. If any such objections to the Application are filed, the Court will set a date and time for a hearing thereon.

IT IS HEREBY FURTHER ORDERED that this order shall become effective upon RTC's deposit of the Cash Deposit with the Clerk of this Court.

Dated this 30th day of November, 2016.

DISTRICT JUDGE

JOHNSON | PERKINS | GRIFFIN
REAL ESTATE APPRAISERS & CONSULTANTS

245 E. Liberty Street, Suite 100, Reno, NV 89501
775.322.1155 | Fax 775.322.1156 | jpgnv.com

Stephen R. Johnson, MAI, SREA
Reese Perkins, MAI, SRA
Scott O. Griffin, MAI
Cindy Lund Fogel, MAI
Karen K. Sanders

August 5, 2015

Via Certified Mail No: 7005 1820 0001 8006 1560

John Iliescu, Jr. & Sonnia Iliescu
200 Court Street
Reno, Nevada 89501

Re: 4th Street/Prater Way BRT (Bus Rapid Transit) Project
RTC Project No. 242013
642 East 4th Street, Reno, NV (A.P.N. 008-244-15)

Dear Mr. & Mrs. Iliescu:

The Regional Transportation Commission of Washoe County (RTC) has approved and accepted a plan for the 4th Street/Prater Way BRT (Bus Rapid Transit) improvement project to be constructed in the vicinity of the property that you now own and or occupy. The project is intended to better facilitate travel between Reno and downtown Sparks. Your property will be affected by this project, and as a result, it will be necessary for the RTC to have it appraised.

Paragon Partners LLC, acting on behalf of the Regional Transportation Commission, has contracted with Johnson Perkins Griffin, LLC to prepare an appraisal of the above referenced property. The purpose of the appraisal is to estimate the Market Value of the fee simple interest in the subject property, as of a current date of valuation.

Johnson Perkins Griffin, LLC will be appraising your property. We are requesting that you or your representative accompany us when we physically inspect your property. You may contact us at (775) 322-1155 or clf@jpgnv.com to arrange an appointment to inspect the subject property.

15-152-04

We are requesting any information considered relevant to the valuation of your property, including recent sales or listings of the subject, comparable sales or listing data, rental agreements or other pertinent information. Should you desire additional information regarding this project, please contact Mr. Todd Keizer, R/W Agent (310) 497-4012 or email him at tkeizer@paragon-partners.com.

Thank you in advance for your cooperation and assistance.

Sincerely,

Reese Perkins, MAI, SRA
Nevada Certified General Appraiser
License Number A.0000120-CG

Cindy Lund Fogel, MAI
Nevada Certified General Appraiser
License Number A.0002312-CG

RP/lc

Cc: Todd Keizer

15-152-04

REGIONAL TRANSPORTATION COMMISSION
Metropolitan Planning · Public Transportation & Operations · Engineering & Construction
Metropolitan Planning Organization of Washoe County, Nevada

July 20, 2016

John Iliescu, Jr. and Sonnia Iliescu 1992
Family Trust, Agreement dated January 24, 1992
John & Sonnia Iliescu
200 Court Street
Reno, Nevada 89501
Via Certified Mail #9171 9690 0935 0111 8801 30

RTC Board Meeting
4th Street/Prater Way BRT Project
Evans Avenue to Pyramid Way
RTC Project: 242013
Grant#: NV-79-0003
APN: 008-244-15

RE: **Notice Letter Pursuant to NRS 241.034**

Dear Mr. and Mrs. Iliescu:

On behalf of the Board of Directors for the Regional Transportation Commission (RTC), you are hereby notified that the RTC Board will convene on August 19, 2016, at 9:00 am, at the Washoe County Commission Chambers, located at 1001 E. Ninth Street, Building A, Reno, Nevada 89512. At that meeting, the Board will discuss whether to acquire, and may take action to acquire, one public utility easement, one permanent easement and one temporary construction easement (property rights), located on Assessor's Parcel Number 008-244-15 by the exercise of the power of eminent domain.

APN 008-244-15	Public Utility Easement – 288 square feet
	Permanent Easement – 68 square feet
	Temporary Construction Easement – 88 square feet

This notice is provided to you pursuant to Chapter 241 of the Nevada Revised Statutes. Also pursuant to Chapter 241, this meeting is an open meeting at which comments from the public are taken.

The Washoe County Commission Chambers is accessible to individuals with disabilities. Requests for auxiliary aids to assist individuals with disabilities should be made with as much advance notice as possible. For those requiring hearing or speech assistance, contact Relay Nevada at 1-800-326-6868 (TTY, VCO or HCO). Requests for supporting documents and all other requests should be directed to Denise Thompson, at (775) 335-1826.

The RTC's preference is to continue the negotiation process with you to acquire the property rights needed for the project, however, the RTC may initiate an action in eminent domain to acquire them. Upon your response, we can schedule a meeting to work on a resolution.

7-20-16 Served

RTC Board: Neoma Jardon (Chair) · Ron Smith (Vice Chair) · Bob Lucey · Paul McKenzie · Marsha Berkbigler
PO Box 30002, Reno, NV 89520 · 1105 Terminal Way, Reno, NV 89502 · 775-348-0400 · rtcwashoe.com

If you have any questions, please contact Carrie Byron, Property Agent, by phone at (775) 332-2144.

Sincerely,

Lee G. Gibson, AICP
RTC Executive Director

LGG/CAB/mak

Cc: Dale Ferguson, General Counsel, RTC

EXHIBIT "5"

EXHIBIT "5"

APPRAISAL REPORT
642 EAST FOURTH STREET, APN 008-244-15

RENO, WASHOE COUNTY, NEVADA



PREPARED FOR THE PURPOSE OF
ESTIMATING MARKET VALUE

for

ILIESCU FAMILY TRUST, JOHN JR. & SONNIA

Public Easements

11550PE, 11550PUE, & 11550TCU

May 15, 2017

submitted by
Joseph S. Campbell, MAI
PO Box 21453
Reno, Nevada 89515

Discovery

MICHAEL J. MORRISON, ESQ.
Nevada State Bar No. 1665
1495 Ridgeview Dr., #220
Reno, Nevada 89519
(775) 827-6300
Attorney for Plaintiffs

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

* * * * *

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU, JR. AND SONNIA ILIESCU 1992 FAMILY TRUST, Plaintiff, vs. THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; AND DOES 1-40, Defendants.	CASE NO. CV19-00459 DEPT. NO. 15 **PLAINTIFF'S RESPONSES TO DEFENDANT'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS TO PLAINTIFF SONNIA ILIESCU**

COMES NOW Sonnia Iliescu, individually, by and through her attorney, Michael J. Morrison, Esq., and pursuant to NRCP 26 and 34, Plaintiff Sonnia Iliescu, respectfully responds to the Defendant's First Set of Requests for Production of Documents to Plaintiff Sonnia Iliescu ("Plaintiff"), as follows:

PRELIMINARY OBJECTIONS AND COMMENTS

1. These responses and productions are based solely on information and documents as is presently known and in the possession of Plaintiff. Further discovery may lead to additions to, changes in, or modification of these answers in accordance with Nevada Rules of Civil Procedure. Accordingly, these responses are being given without prejudice to Plaintiff's right to produce subsequent discovery evidence and to introduce the same at trial.

2. Plaintiff will supplement her responses to the requests as required by the Nevada Rules of Civil Procedure.

3 All responses will be made solely for the purpose of this action. Each response will be subject to all objections as to competence, relevance, materiality, propriety and admissibility, and to any and all objections on any ground which would require the exclusion from evidence of any document produced herein, all of which objections and grounds are expressly reserved and may be interposed at any hearings.

4. Plaintiff adopts by reference the above objections and incorporates each objection as if it were fully set forth below in each of Plaintiff's Responses.

REQUEST NO. 1:

All documents supporting your contention that RTC or anyone you contend was acting on behalf of RTC drove over and parked their vehicles on your property "on virtually every workday during the term of the Project," as alleged in paragraph 9 of your Complaint.

RESPONSE TO REQUEST NO. 1:

See Exhibit "1". Photos of the subject trucks on the subject property, taken April 3, 2018.
See Exhibit "2". Letter from Paragon Partners, Defendant's designated and contracted construction firm.
See Exhibit "3". Preliminary Draft of Broker Price Opinion (Cover Page Only) containing photos of the subject property (on pages 4 & 5) before construction commenced.
See Exhibit "4". Order of the Court granting RTC (Defendant in this case) possession and occupancy of the property, and specifically ordering Defendant to "minimize interference between construction of the Project and Real Parties in Interest's (Iliescus' use of the remaining land of Real Parties in Interest on APN 008-244-15. Also included are other documents related to the process.
See Exhibit "5". Cover page of Appraisal Report prepared for the Iliescus by Joseph S. Campbell, MAI, dated May 15, 2017, containing photos of the subject property before RTC commenced construction.

Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due

deference accorded the respective schedules of counsel for the respective parties. Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust", including Transaction #5832427, the Verified Complaint in Eminent Domain, containing Exhibits 1-4 (inclusive), specifying, *inter alia*, rights and duties of Defendant and its included governmental and other associated parties, as well as the small size and limited use and scope of its "Temporary Construction Easement"; and Transaction #5832427, delineating the very limited easement the Court granted Defendant with respect to the property subject of the instant case.

REQUEST NO. 2:

All documents supporting your allegation that you and/or John Iliescu made "frequent objections" to RTC's alleged use of any portion of your property at issue in this litigation, as set forth in paragraph 9 of your Complaint, as well as all documents supporting your allegation that you and/or John Iliescu made "innumerable requests" that RTC not use the property, as set forth on page 6 of your opposition to the motion to dismiss.

RESPONSE TO REQUEST NO. 2:

See Exhibits "1" and "4".

Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties. Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

REQUEST NO. 3:

All documents, including photographs, that depict or discuss the condition of the subject parking lot at any time, whether before, during and after the Project that is the subject of your complaint. With respect to documents and photographs before the Project,

RTC seeks documents depict or discuss the condition of the subject parking lot in the 15 years prior to the Project. The response to this request should include any correspondence, bids, quotes or other documents discussion possible repairs to or work to be done on the subject parking lot.

RESPONSE TO REQUEST NO. 3:

See Exhibit "1". Photos of the subject trucks on the subject property, taken April 3, 2018.
See Exhibit "2". Letter from Paragon Partners, Defendant's designated and contracted construction firm.
See Exhibit "3". Preliminary Draft of Broker Price Opinion (Cover Page Only) containing photos of the subject property (on pages 4 & 5) before construction commenced.
See Exhibit "4". Order of the Court granting RTC (Defendant in this case) possession and occupancy of the property, and specifically ordering Defendant to "minimize interference between construction of the Project and Real Parties in Interest's (Iliescus' use of the remaining land of Real Parties in Interest on APN 008-244-15. Also included are other documents related to the process.
See Exhibit "5". Cover page of Appraisal Report prepared for the Iliescus by Joseph S. Campbell, MAI, dated May 15, 2017, containing photos of the subject property before RTC commenced construction.
Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties.
Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

REQUEST NO. 4:

All documents supporting your claim that you have suffered reparable and irreparable damages to the "Remaining Property and to each of the respective Plaintiffs," as alleged in paragraph 11 of your Complaint.

RESPONSE TO REQUEST NO. 4:

See Exhibit "1".

Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties. Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

REQUEST NO. 5:

All documents supporting your claim for loss of market value of the Remaining Property as alleged in paragraph 11(a) of your Complaint.

RESPONSE TO REQUEST NO. 5:

See Exhibits "1" and "5".

Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties. Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

REQUEST NO. 6:

All documents supporting your claim for discomfort and annoyance to Plaintiffs as alleged in paragraph 11(b) of your Complaint.

RESPONSE TO REQUEST NO. 6:

See Exhibit "1". Photos of the subject trucks on the subject property, taken April 3, 2018.

See Exhibit "2". Letter from Paragon Partners, Defendant's designated and contracted

construction firm.

See Exhibit "3". Preliminary Draft of Broker Price Opinion (Cover Page Only) containing photos of the subject property (on pages 4 & 5) before construction commenced.

See Exhibit "4". Order of the Court granting RTC (Defendant in this case) possession and occupancy of the property, and specifically ordering Defendant to "minimize interference between construction of the Project and Real Parties in Interest's (Iliescus' use of the remaining land of Real Parties in Interest on APN 008-244-15. Also included are other documents related to the process.

See Exhibit "5". Cover page of Appraisal Report prepared for the Iliescus by Joseph S. Campbell, MAI, dated May 15, 2017, containing photos of the subject property before RTC commenced construction.

Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties. Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

REQUEST NO. 7:

All documents supporting your claim for emotional distress as alleged in paragraph 11(c) of your Complaint.

RESPONSE TO REQUEST NO. 7:

See Exhibit "1". Photos of the subject trucks on the subject property, taken April 3, 2018.

See Exhibit "2". Letter from Paragon Partners, Defendant's designated and contracted construction firm.

See Exhibit "3". Preliminary Draft of Broker Price Opinion (Cover Page Only) containing photos of the subject property (on pages 4 & 5) before construction commenced.

See Exhibit "4". Order of the Court granting RTC (Defendant in this case) possession and occupancy of the property, and specifically ordering Defendant to "minimize interference between construction of the Project and Real Parties in Interest's (Iliescus') use of the

remaining land of Real Parties in Interest on APN 008-244-15. Also included are other documents related to the process.

See Exhibit "5". Cover page of Appraisal Report prepared for the Iliescus by Joseph S. Campbell, MAI, dated May 15, 2017, containing photos of the subject property before RTC commenced construction.

Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties.

Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

REQUEST NO. 8:

All documents supporting your claim for emotional distress as alleged in paragraph 11(c) of your Complaint.

RESPONSE TO REQUEST NO. 8:

See Exhibit "1". Photos of the subject trucks on the subject property, taken April 3, 2018.

See Exhibit "2". Letter from Paragon Partners, Defendant's designated and contracted construction firm.

See Exhibit "3". Preliminary Draft of Broker Price Opinion (Cover Page Only) containing photos of the subject property (on pages 4 & 5) before construction commenced.

See Exhibit "4". Order of the Court granting RTC (Defendant in this case) possession and occupancy of the property, and specifically ordering Defendant to "minimize interference between construction of the Project and Real Parties in Interest's (Iliescus' use of the remaining land of Real Parties in Interest on APN 008-244-15. Also included are other documents related to the process.

See Exhibit "5". Cover page of Appraisal Report prepared for the Iliescus by Joseph S. Campbell, MAI, dated May 15, 2017, containing photos of the subject property before RTC commenced construction.

Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that

there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties. Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

REQUEST NO. 9:

All documents supporting your claim for loss of use of the Remaining Property as alleged in paragraph 11(d) of your Complaint.

RESPONSE TO REQUEST NO. 9:

See Exhibit "1". Photos of the subject trucks on the subject property, taken April 3, 2018.
See Exhibit "2". Letter from Paragon Partners, Defendant's designated and contracted construction firm.
See Exhibit "3". Preliminary Draft of Broker Price Opinion (Cover Page Only) containing photos of the subject property (on pages 4 & 5) before construction commenced.
See Exhibit "4". Order of the Court granting RTC (Defendant in this case) possession and occupancy of the property, and specifically ordering Defendant to "minimize interference between construction of the Project and Real Parties in Interest's (Iliescus' use of the remaining land of Real Parties in Interest on APN 008-244-15. Also included are other documents related to the process.
See Exhibit "5". Cover page of Appraisal Report prepared for the Iliescus by Joseph S. Campbell, MAI, dated May 15, 2017, containing photos of the subject property before RTC commenced construction.
Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties. Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

REQUEST NO. 10:

All documents supporting your claim for costs of property restoration as alleged in paragraph 11(e) of the Complaint.

RESPONSE TO REQUEST NO. 10:

See Exhibits "1" and "5".

Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties. Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

REQUEST NO. 11:

All documents supporting your claim for physical damage to and destruction of the Property as alleged in paragraph 11(c) of your Complaint.

RESPONSE TO REQUEST NO. 11:

See Exhibit "1". Photos of the subject trucks on the subject property, taken April 3, 2018.

See Exhibit "2". Letter from Paragon Partners, Defendant's designated and contracted construction firm.

See Exhibit "3". Preliminary Draft of Broker Price Opinion (Cover Page Only) containing photos of the subject property (on pages 4 & 5) before construction commenced.

See Exhibit "4". Order of the Court granting RTC (Defendant in this case) possession and occupancy of the property, and specifically ordering Defendant to "minimize interference between construction of the Project and Real Parties in Interest's (Iliescus' use of the remaining land of Real Parties in Interest on APN 008-244-15. Also included are other documents related to the process.

See Exhibit "5". Cover page of Appraisal Report prepared for the Iliescus by Joseph S. Campbell, MAI, dated May 15, 2017, containing photos of the subject property before RTC commenced construction.

Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties. Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

REQUEST NO. 12:

All contracts you allege exist between you and RTC or any other party related to this matter, including but not limited to the agreement referenced in paragraph 11 of your Complaint, the agreements referenced in paragraphs 27 of your Complaint, and the "RTC-Trust Agreement" referenced in paragraphs 39, 46 and 48(a) of your Complaint.

RESPONSE TO REQUEST NO. 12:

See Exhibits "2", "3" and "4".

Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties. Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

REQUEST NO. 13:

All documents supporting your allegation that Defendants agreed to carry out a scheme intended to accomplish unlawful objectives, as alleged in paragraph 67 of your Complaint.

RESPONSE TO REQUEST NO. 13:

See Exhibit "1".

Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to

inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties. Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

REQUEST NO. 14:

All documents supporting your allegation that you and John Iliescu each suffered pain, discomfort, mental and emotional distress, pain and disabilities, mental and psychological problems, depression, loss of sleep, appetite and enjoyment of life as a result of RTC's conduct, as alleged in paragraphs 74, 82, 84, 91 and 92 of your Complaint. Your response should include all medical records supporting your allegation that you and John Iliescu each sought medical attention for your respective injuries and "continued for some time to require medical care and treatment, even though the date of this Complaint," as alleged in paragraph 82 of your Complaint, as well as any such records up to and including the date of your response.

RESPONSE TO REQUEST NO. 14:

See Exhibit "1". Photos of the subject trucks on the subject property, taken April 3, 2018.
See Exhibit "2". Letter from Paragon Partners, Defendant's designated and contracted construction firm.
See Exhibit "3". Preliminary Draft of Broker Price Opinion (Cover Page Only) containing photos of the subject property (on pages 4 & 5) before construction commenced.
See Exhibit "4". Order of the Court granting RTC (Defendant in this case) possession and occupancy of the property, and specifically ordering Defendant to "minimize interference between construction of the Project and Real Parties in Interest's (Iliescus' use of the remaining land of Real Parties in Interest on APN 008-244-15. Also included are other documents related to the process.
See Exhibit "5". Cover page of Appraisal Report prepared for the Iliescus by Joseph S. Campbell, MAI, dated May 15, 2017, containing photos of the subject property before RTC commenced construction.

Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties. Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

REQUEST NO. 15:

All documents supporting your allegation that RTC or any other defendant acted in a malicious, destructive, willful, mean-spirited or other improper manner.

RESPONSE TO REQUEST NO. 15:

See Exhibit "1". Photos of the subject trucks on the subject property, taken April 3, 2018.
See Exhibit "2". Letter from Paragon Partners, Defendant's designated and contracted construction firm.
See Exhibit "3". Preliminary Draft of Broker Price Opinion (Cover Page Only) containing photos of the subject property (on pages 4 & 5) before construction commenced.
See Exhibit "4". Order of the Court granting RTC (Defendant in this case) possession and occupancy of the property, and specifically ordering Defendant to "minimize interference between construction of the Project and Real Parties in Interest's (Iliescus' use of the remaining land of Real Parties in Interest on APN 008-244-15. Also included are other documents related to the process.
See Exhibit "5". Cover page of Appraisal Report prepared for the Iliescus by Joseph S. Campbell, MAI, dated May 15, 2017, containing photos of the subject property before RTC commenced construction.
Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties. Plaintiff further represents that many of the responsive documents are contained in this

Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

REQUEST NO. 16:

All documents supporting your allegation that RTC owed you a fiduciary duty.

RESPONSE TO REQUEST NO. 16:

See Exhibit "4".

Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties. Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

NOTE: Plaintiff Sonnia Iliescu is currently continuing her research and discovery to locate any additional documents responsive to REQUESTS NOS. 1-16, which will be produced if and when available.

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the document to which this Affirmation is attached does not contain the social security number of any person.

DATED this 30th day of June, 2020.

/s/Michael J. Morrison

Michael J. Morrison, Esq.
Attorney for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on this date I personally caused to be served a true copy of the foregoing PLAINTIFF'S RESPONSE TO DEFENDANT'S FIRST REQUESTS FOR PRODUCTION OF DOCUMENTS TO PLAINTIFF SONNIA ILIESCU at the address indicated and addressed to the following:

Dane W. Anderson, Esq.
WOODBURN AND WEDGE
6100 Neil Road, Suite 500
Reno, Nevada 89511

XX Via U.S. Mail
____ Via Overnight Mail
____ Via Hand Delivery
XX Via E-mail
____ Via ECF

DATED this 30th day of June, 2020.

/s/Michael J. Morrison

Michael J. Morrison

EXHIBIT "1"

EXHIBIT "1"


RANCHO
777








RANCHO
777



EXHIBIT "2"

EXHIBIT "2"

From: **Todd Keizer** tkeizer@paragon-partners.com
Subject: 008-244-15 John and Sonnia Iliescu Family Trust
Date: August 12, 2015 at 11:51 AM
To: [illegible]

John and Sonnia,

Thank you for your call today. It was a pleasure speaking with you. I have attached four maps to show you what we are proposing regarding your property.

The first attachment is labeled "PE" which is the permanent easement on the corner of 4th Street and Parker. It is 68 SF.

The second attachment is labeled "PUE" which is the utility easement on the southeast corner of your property. It is 584 SF but only 5 +/- feet wide at the widest point.

The third attachment is labeled "TCE" which is the temporary easement.

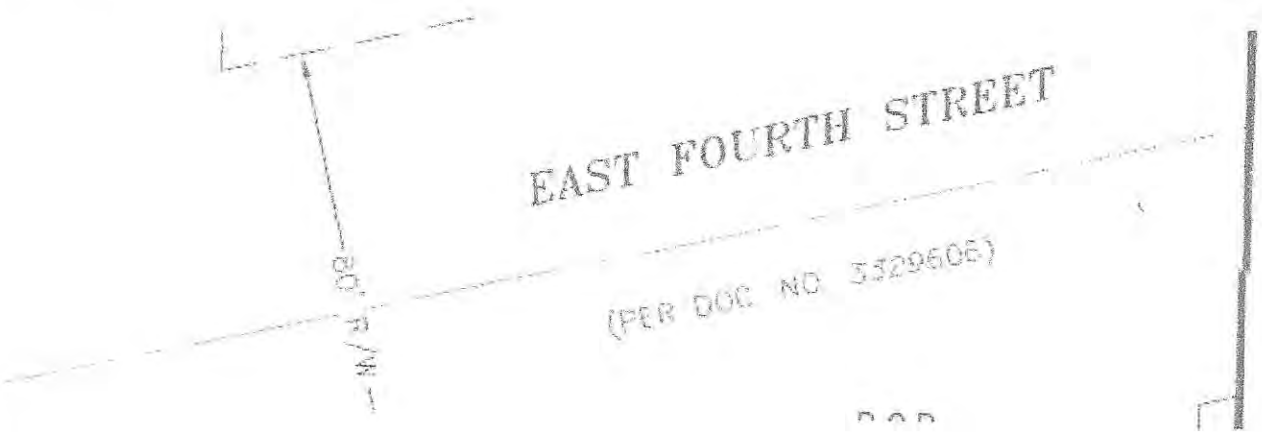
Lastly, I didn't mention it on the phone but I believe we are going to request access to the main parking area of the property. This is solely for your benefit to tie the driveway into 4th street, address grade issues, upgrade asphalt/curbing, etc. This last map labeled "full ROW map" shows this area in purple and will be completely voluntary and temporary on your part as the RTC will not compel you to allow us access. I will get you more information on this so you better understand the benefits to you will be.

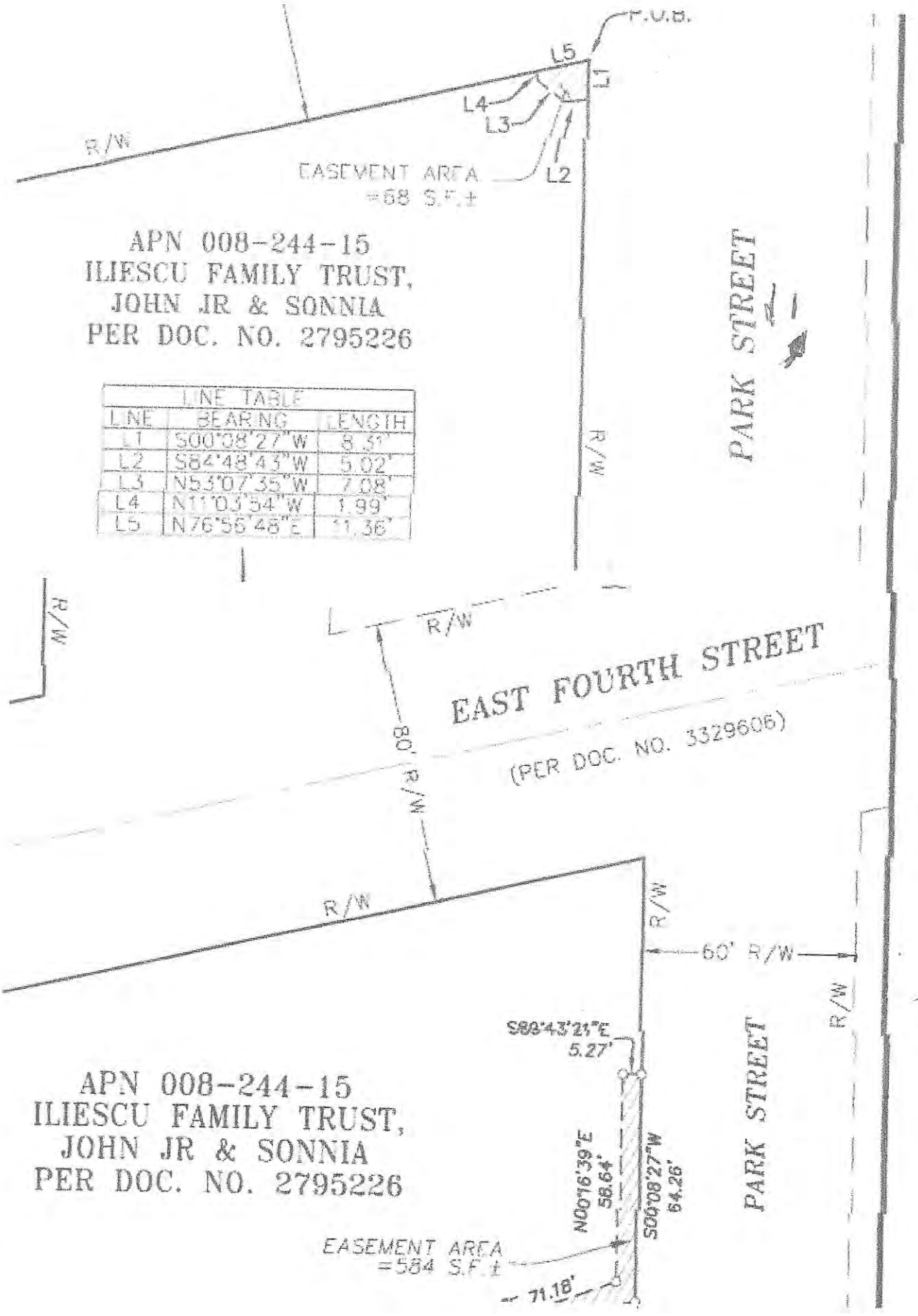
Please feel free to contact me at any time should you have additional questions.

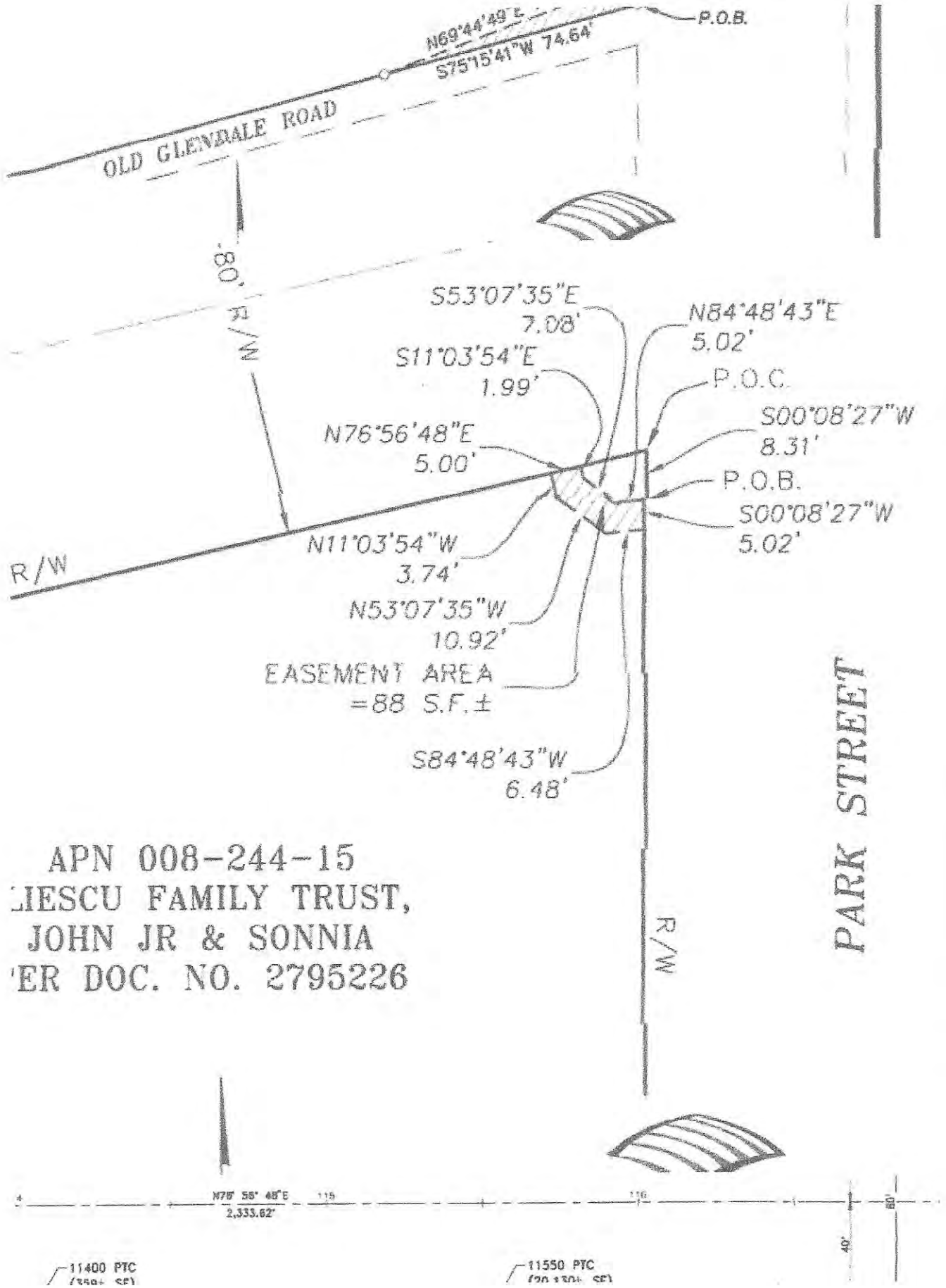
Thank you.

Todd Keizer
Project Manager
Paragon Partners Ltd.
5762 Bolsa Ave., Suite 201
Huntington Beach, CA 92649
Email: tkeizer@paragon-partners.com
www.paragon-partners.com
Tel.: 714.379.3376
Mobile: 310.497.4012
Fax: 714.373.1234

8-17-15
JI spoke w/ Todd & explained his position. Does not want on prop on PARK BOTTOM
Todd is to be [illegible] 8/31 will call to meet.




P.O.B.
L5
L1
L4
L3
L2
R/W
EASEMENT AREA
=68 S.F.±
APN 008-244-15
ILIESCU FAMILY TRUST,
JOHN JR & SONNIA
PER DOC. NO. 2795226
LINE TABLE
LINE | BEARING | LENGTH
L1 | S00°08'27"W | 8.51'
L2 | S84°48'43"W | 5.02'
L3 | N53°07'35"W | 7.08'
L4 | N11°03'54"W | 1.99'
L5 | N76°56'48"E | 11.36'
PARK STREET
R/W
EAST FOURTH STREET
(PER DOC. NO. 3329606)
80'
60' R/W
S89°43'21"E
5.27'
N00°16'39"E
58.64'
S00°08'27"W
64.26'
EASEMENT AREA
=584 S.F.±
71.18'
APN 008-244-15
ILIESCU FAMILY TRUST,
JOHN JR & SONNIA
PER DOC. NO. 2795226
PARK STREET


OLD GLENDALE ROAD
N69°44'49"E
S75°15'41"W 74.64'
P.O.B.
60.00'
R/W
S53°07'35"E
7.08'
S11°03'54"E
1.99'
N76°56'48"E
5.00'
N11°03'54"W
3.74'
N53°07'35"W
10.92'
EASEMENT AREA
=88 S.F.±
S84°48'43"W
6.48'
N84°48'43"E
5.02'
P.O.C.
S00°08'27"W
8.31'
P.O.B.
S00°08'27"W
5.02'
PARK STREET
R/W
APN 008-244-15
LIESCU FAMILY TRUST,
JOHN JR & SONNIA
'ER DOC. NO. 2795226
N75° 55' 48"E
2,333.62'
115
116
80'
49'
11400 PTC
11550 PTC

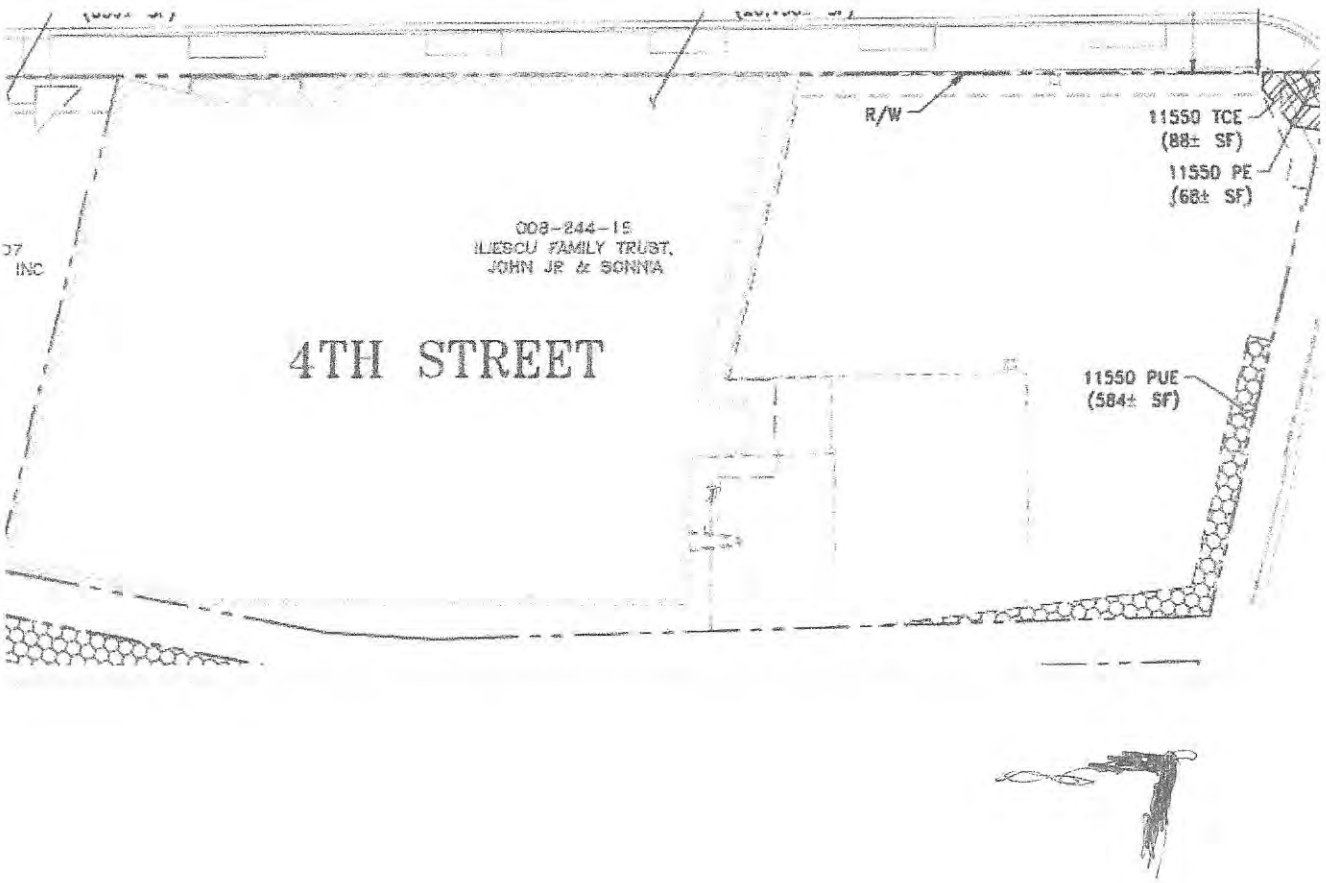

R/W
11550 TCE
(88± SF)
11550 PE
(68± SF)
008-244-15
ILIESCU FAMILY TRUST,
JOHN JR & SONNIA
INC
4TH STREET
11550 PUE
(584± SF)

EXHIBIT "3"

EXHIBIT "3"

JOHNSON GROUP
Commercial | Residential | Investment | Realty

Richard K. Johnson
5255 Longley Ln, Suite105
Reno, Nevada 89511
Phone: 775-823-8877
Fax: 866-716-8848
Dick@JohnsonGroup.net

BROKER PRICE OPINION



THIS IS A PRELIMINARY DRAFT FOR REFERENCE ONLY

Subject Address: **642 E 4th , Reno, Nv**

Date Prepared: **August 18, 2016**

TO THE ATTENTION OF:

RTC and
Dr & Sonnia Iliescu

PREPARED BY:

Richard K. "Dick" Johnson, Broker/Owner *License #:* 58025

Note: You and your advisors (such as tax, legal, and financial) should conduct carefull and independant investigation to determine to your satisfaction the suitability of the property for your needs. The information has been obtained from sources believed reliable. Agents make no representations or warranties as to the accuracy or completeness of supplied information and/or projections.

PROPERTY
ASSESSMENTS AND RECOMMENDATIONS

PROPERTY DATA:

Property Address: **642 E 4th, Reno, Nevada**

APN #: **011-051-15**

Owner of Record: **Iliescu Family Trust**

PROPERTY CHARACTERISTICS:

APN: 008-244-15 Card 1 of 1

Owner Information & Legal Description

Situs	642 E 4TH ST
Owner 1	ILIESCU FAMILY TRUST, JOHN JR & SONNIA
Mail Address	200 COURT ST
	RENO NV 89501
Owner 2 or Trustee	ILIESCU TRUSTEE, JOHN JR & SONNIA
Rec Doc No	2765226 Rec Date 01/24/2003
Prior Owner	SALVATION ARMY THE,
Prior Doc	MEMO
Keyline Desc	COMMERCIAL ADD LTS 1 THRU 11 BLK 1
Subdivision	COMMERCIAL ADDITION
	Lot: 1-11 Block: 1 Sub Map#
	Record of Survey Map: Parcel Map#
Section:	Township: 19 Range: 19 SPC
Tax Dist	1002 Add'l Tax Info Prior APN
Tax Cap Status	Use does not qualify for Low Cap, High Cap Applied

Building Information

Quality	C15 Low/Avg	Occupancy	Retail Store
		Sec Occupancy	Storage Warehouse
Stories	1.00	Square Feet	29,408
Year Built	1935	Square Feet does not include Basement or Garage Conversion Area.	
W.A.Y	1971	Finished Bsmt	0
Bedrooms	0	Unfin Bsmt	0
Full Baths	0	Bsmt Type	
Half Baths	0	Gar Conv Sq Foot	0
Fixtures		Total Gar Area	0
Fireplaces	0	Gar Type	
Heat Type	PACKAGE UNIT	Det Garage	0
Sec Heat Type	SPACE HEATER	Bsmt Gar Door	0
Ext Walls	BRICK SOLID	Sub Floor	
Sec Ext Walls		Frame	MASONRY BRNG
Roof Cover		Construction Mod	0
Obsn/Bldg Adj	0	Units/Bldg	1
% Incomplete		Units/Parcel	1

Land Information

Land Detail

Land Use	400	Zoning	MUDR	Sewer	Municipal
Size	31,866 SqFt or ~0.732 Acre	Water	Muni	Street	Paved

NBC = Neighborhood Code

NBC AHBQ

NBC Map Alt NBC Map

Valuation Information

Valuation History	2015/16 FV	2016/17 FV
Taxable Land Value	191,196	191,196
Taxable Improvement Value	559,814	544,867
Taxable Total	751,010	736,063
Assessed Land Value	66,919	66,919
Assessed Improvement Value	195,935	190,703
Total Assessed	262,854	257,622

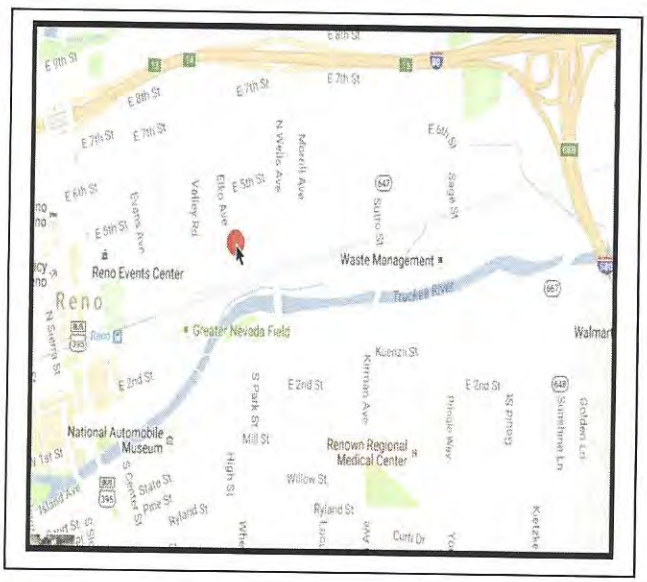
Sales/Transfer Information/Recorded Document

Sales/Transfer History

V-Code	LUC	Doc Date	Value/Sale Price	Grantor	Grantee
1G	400	01-24-2003	810,000	SALVATION ARMY THE,	ILIESCU FAMILY TRUST, JOHN JR & SONNIA
		08-21-1975	0		SALVATION ARMY THE

Note: You and your advisors (such as tax, legal, and financial) should conduct carefull and independant investigation to determine to your satisfaction the suitability of the property for your needs. The information has been obtained from sources believed reliable. Agents make no representations or warranties as to the accuracy or completeness of supplied information and/or projections.











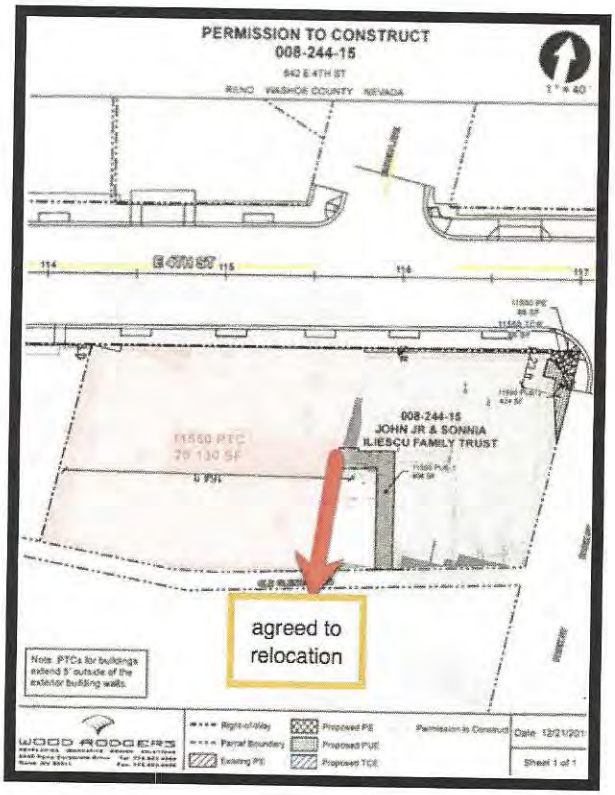


Note: You and your advisors (such as tax, legal, and financial) should conduct carefull and independant investigation to determine to your satisfaction the suitability of the property for your needs. The information has been obtained from sources believed reliable. Agents make no representations or warranties as to the accuracy or completeness of supplied information and/or projections.

RTC (proposed) easement







On following page, see the list of Comps as provided by Appraiser hired by RTC.

Note: You and your advisors (such as tax, legal, and financial) should conduct carefull and independant investigation to determine to your satisfaction the suitability of the property for your needs. The information has been obtained from sources believed reliable. Agents make no representations or warranties as to the accuracy or completeness of supplied information and/or projections.

Received from RTC employed Appraiser.

COMPARABLE COMMERCIAL LAND SALES CHART

Sale Number	Assessor's Parcel Number Location	Sale Date Sale Price	Zoning Topography	Land Area	Sale Price Per S.F.
LS-1	143-040-25 Northeast corner Geiger Grade and Veterans Parkway	07/31/2012 $920,000	PUD Level	1.50± Ac. 65,356± SF	$14.08
LS-2	008-341-06 North side east 5th St., between N. Wells Ave. and Morrill Ave., Reno	02/25/2013 $350,000	MUE4 Level	1.0± Ac. 43,560± Sf	$8.03
LS-3	033-314-11 Northeast corner Victorian Ave. and 3rd St., Sparks	5/01/2013 $220,000	TOD Level	.47± Ac. 20,658± Sf	$10.65
LS-4	163-200-04 North side South Meadows Parkway, 700± feet east of Double R Boulevard	01/02/2014 $455,000	PUD Commercial/ Office Level	1.0± Ac. 43,566± SF	$10.44
LS-5	034-145-08 Between E. Greg St. and Stanford Way, 220± feet west of S. McCarran Blvd.	03/28/2014 $525,000	I Level	1.149± Ac 50,047± SF	$10.49
LS-6	008-341-05 South side East 6th St., between N. Wells Ave. and Morrill Ave., Reno	07/02/2014 $350,000	MUE4 Level	.912± Ac. 39,719± Sf	$8.81
LS-7	026-182-69 E/S Northtowne Lane, 390' south of N. McCarran Blvd	08/08/2014 $625,000	AC Level	1.775± Ac. 77,328± SF	$8.08
LS-8	532-131-07 W/S Access Road, 135' north of Eagle Canyon Drive	01/05/2015 $650,000	NC Level	1.988± Ac. 86,611± SF	$7.50
LS-9	510-491-11 Southeast corner of Los Altos Parkway and Galleria Parkway	02/05/2015 $623,798	NUD Level	1.578± Ac. 68,729± SF	$9.08
LS-10	013-081-18 South side Mill St., 215' E. of Kietzke Lane, Reno	02/24/2015 $91,000	MURC Level	.21± Ac. 9,100± SF	$10.50
LS-11	013-095-15 South side Moran Street, 105' E. of S. Wells Ave., Reno	02/26/2015 $42,000	CC Level	.09± Ac. 4,000± Sf	$10.00
LS-12	013-281-03 Southeast corner of Harvard Way & Yale Way, Reno	04/08/2015 $1,471,019	CC Level	3.070± Ac. 133,728± SF	$11.00
LS-13	013-341-21 Southwest corner of Terminal Way & Villa Nova Drive, Reno	04/22/2015 $512,500	MURT Level	1.110± Ac. 48,351± SF	$10.60
LS-14	160-070-12 Northwest corner Double R Blvd. & Professional Circle	05/06/2015 $680,649	PUD Level	1.190± Ac. 51,836± SF	$13.13
LS-15	510-491-13 & 15 South side Los Altos Pkwy., 379± W. of Ion Court, Sparks	06/01/2015 $1,131,800	NUD Level	3.51± Ac. 152,950± SF	$7.40
LS-16	163-120-04 East side S. Virginia St., N. of South Meadows Parkway, Reno	11/16/2015 $804,115	PUD Level	1.42± Ac. 6,.8554± SF	$13.00
PLS-17	027-412-38 North side Oddie Blvd., 300' E. of Sullivan Lane	01/08/2016 $725,000	MUD, MUD-C Level	2.201± Ac. 95,876± Sf	$7.56

NONE OF THESE ARE ON OR ADJOINING THE 4th STREET ARE OF THE SUBJECT SITE.

Note: You and your advisors (such as tax, legal, and financial) should conduct carefull and independant investigation to determine to your satisfaction the suitability of the property for your needs. The information has been obtained from sources believed reliable. Agents make no representations or warranties as to the accuracy or completeness of supplied information and/or projections.

EXHIBIT "4"

EXHIBIT "4"

1. Real Parties in Interest are the current fee simple owners of real property at issue in this litigation and, as such, have the authority to enter into the aforementioned stipulation with RTC through their attorney, C. Nicholas Pereos, Esq.

2. This case involves the RTC's exercise of its power of eminent domain for the purpose of acquiring the permanent easement, the public utility easement and the temporary construction easement defined as "the Property" in the Stipulation and described in detail in Exhibit 1 to the Stipulation, related to RTC's construction of the 4th Street/Prater Way Complete Street and BRT Project, or "the Project." The Court incorporates the definitions and descriptions of the Project set forth in the Stipulation by reference in this order.

3. The use for which the Property sought to be condemned is a public use authorized by law, and the taking thereof is necessary for such use. RTC has complied with all statutory conditions precedent to instituting this action and seeking immediate occupancy pending judgment. Immediate entry upon and possession of the Property sought to be condemned are required so that the construction of the Project may proceed in an orderly manner without delay or loss in utilization of construction time and/or without unnecessary cost and expense to the condemning agency.

4. NRS 37.090 and 37.100 provide this Court with authority to enter an order allowing RTC access to the Property sought to be condemned at any time after the commencement of suit and pending entry of judgment, to do such work thereon as may be required for the Project according to its nature.

5. For purposes of this Order only, and subject to the terms of the Stipulation concerning Defendants' objection to Reese Perkins' appraisal, the Court finds that, pursuant to NRS 37.100(4), the value of the Property sought to be obtained and/or temporary utilized during construction plus damages is $2,030.00.

. . .

. . .

Based on the foregoing, and with good cause appearing, IT IS HEREBY ORDERED:

1. RTC may have immediate possession and occupancy of the Property, as described in **Exhibit 1** attached hereto, by depositing with the Clerk of this Court the sum of $2,030.00 (the "Cash Deposit").

2. The Clerk of the Court shall deposit the Cash Deposit into an interest bearing account for the benefit of Real Parties in Interest and/or any other party determined to be entitled to those amounts.

3. Upon making the Cash Deposit, RTC may immediately enter upon and occupy the Property and perform such work thereon as may be necessary to construct and complete the Project;

4. RTC and Real Parties in Interest and their respective agents shall cooperate so as to minimize interference between construction of the Project and Real Parties in Interest's use of the remaining land of Real Parties in Interest on APN 008-244-15;

5. If Real Parties in Interest apply to withdraw the Cash Deposit, they shall serve a notice on the parties in this action of the Application, giving each party 5 days after service of such notice in which to file and serve objections to such withdrawal, if any;

6. If any such objections to the Application are filed, the Court will set a date and time for a hearing thereon.

IT IS HEREBY FURTHER ORDERED that this order shall become effective upon RTC's deposit of the Cash Deposit with the Clerk of this Court.

Dated this 30th day of November, 2016.

DISTRICT JUDGE

JOHNSON | PERKINS | GRIFFIN
REAL ESTATE APPRAISERS & CONSULTANTS

245 E. Liberty Street, Suite 100, Reno, NV 89501
775.322.1155 | Fax 775.322.1156 | jpgnv.com

Stephen R. Johnson, MAI, SREA
Reese Perkins, MAI, SRA
Scott O. Griffin, MAI
Cindy Lund Fogel, MAI
Karen K. Sanders

August 5, 2015

Via Certified Mail No: 7005 1820 0001 8006 1560

John Iliescu, Jr. & Sonnia Iliescu
200 Court Street
Reno, Nevada 89501

Re: 4th Street/Prater Way BRT (Bus Rapid Transit) Project
RTC Project No. 242013
642 East 4th Street, Reno, NV (A.P.N. 008-244-15)

Dear Mr. & Mrs. Iliescu:

The Regional Transportation Commission of Washoe County (RTC) has approved and accepted a plan for the 4th Street/Prater Way BRT (Bus Rapid Transit) improvement project to be constructed in the vicinity of the property that you now own and or occupy. The project is intended to better facilitate travel between Reno and downtown Sparks. Your property will be affected by this project, and as a result, it will be necessary for the RTC to have it appraised.

Paragon Partners LLC, acting on behalf of the Regional Transportation Commission, has contracted with Johnson Perkins Griffin, LLC to prepare an appraisal of the above referenced property. The purpose of the appraisal is to estimate the Market Value of the fee simple interest in the subject property, as of a current date of valuation.

Johnson Perkins Griffin, LLC will be appraising your property. We are requesting that you or your representative accompany us when we physically inspect your property. You may contact us at (775) 322-1155 or clf@jpgnv.com to arrange an appointment to inspect the subject property.

15-152-04

We are requesting any information considered relevant to the valuation of your property, including recent sales or listings of the subject, comparable sales or listing data, rental agreements or other pertinent information. Should you desire additional information regarding this project, please contact Mr. Todd Keizer, R/W Agent (310) 497-4012 or email him at tkeizer@paragon-partners.com.

Thank you in advance for your cooperation and assistance.

Sincerely,

Reese Perkins, MAI, SRA
Nevada Certified General Appraiser
License Number A.0000120-CG

Cindy Lund Fogel, MAI
Nevada Certified General Appraiser
License Number A.0002312-CG

RP/lc

Cc: Todd Keizer

15-152-04

REGIONAL TRANSPORTATION COMMISSION
Metropolitan Planning · Public Transportation & Operations · Engineering & Construction
Metropolitan Planning Organization of Washoe County, Nevada

July 20, 2016

John Iliescu, Jr. and Sonnia Iliescu 1992
Family Trust, Agreement dated January 24, 1992
John & Sonnia Iliescu
200 Court Street
Reno, Nevada 89501
Via Certified Mail #9171 9690 0935 0111 8801 30

RTC Board Meeting
4th Street/Prater Way BRT Project
Evans Avenue to Pyramid Way
RTC Project: 242013
Grant#: NV-79-0003
APN: 008-244-15

RE: **Notice Letter Pursuant to NRS 241.034**

Dear Mr. and Mrs. Iliescu:

On behalf of the Board of Directors for the Regional Transportation Commission (RTC), you are hereby notified that the RTC Board will convene on August 19, 2016, at 9:00 am, at the Washoe County Commission Chambers, located at 1001 E. Ninth Street, Building A, Reno, Nevada 89512. At that meeting, the Board will discuss whether to acquire, and may take action to acquire, one public utility easement, one permanent easement and one temporary construction easement (property rights), located on Assessor's Parcel Number 008-244-15 by the exercise of the power of eminent domain.

APN 008-244-15	Public Utility Easement – 288 square feet
	Permanent Easement – 68 square feet
	Temporary Construction Easement – 88 square feet

This notice is provided to you pursuant to Chapter 241 of the Nevada Revised Statutes. Also pursuant to Chapter 241, this meeting is an open meeting at which comments from the public are taken.

The Washoe County Commission Chambers is accessible to individuals with disabilities. Requests for auxiliary aids to assist individuals with disabilities should be made with as much advance notice as possible. For those requiring hearing or speech assistance, contact Relay Nevada at 1-800-326-6868 (TTY, VCO or HCO). Requests for supporting documents and all other requests should be directed to Denise Thompson, at (775) 335-1826.

The RTC's preference is to continue the negotiation process with you to acquire the property rights needed for the project, however, the RTC may initiate an action in eminent domain to acquire them. Upon your response, we can schedule a meeting to work on a resolution.

7-20-16 Faxed

RTC Board: Neoma Jardon (Chair) · Ron Smith (Vice Chair) · Bob Lucey · Paul McKenzie · Marsha Berkbigler
PO Box 30002, Reno, NV 89520 · 1105 Terminal Way, Reno, NV 89502 · 775-348-0400 · rtcwashoe.com

If you have any questions, please contact Carrie Byron, Property Agent, by phone at (775) 332-2144.

Sincerely,

Lee G. Gibson, AICP
RTC Executive Director

LGG/CAB/mak

Cc: Dale Ferguson, General Counsel, RTC

EXHIBIT "5"

EXHIBIT "5"

APPRAISAL REPORT
642 EAST FOURTH STREET, APN 008-244-15

RENO, WASHOE COUNTY, NEVADA



PREPARED FOR THE PURPOSE OF
ESTIMATING MARKET VALUE

for

ILIESCU FAMILY TRUST, JOHN JR. & SONNIA

Public Easements

11550PE, 11550PUE, & 11550TCU

May 15, 2017

submitted by
Joseph S. Campbell, MAI
PO Box 21453
Reno, Nevada 89515

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Jacqueline Bryant
Clerk of the Court
Transaction # 8376231 : yviloria

2645
MICHAEL J. MORRISON, ESQ.
Nevada State Bar No. 1665
1495 Ridgeview Dr., #220
Reno, Nevada 89519
(775) 827-6300

Attorney for Plaintiffs

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

* * * * *

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU, JR. AND SONNIA ILIESCU 1992 FAMILY TRUST, Plaintiff, vs. THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; AND DOES 1-40, Defendants.	CASE NO. CV19-00459 DEPT. NO. 15 **PLAINTIFFS' OPPOSITION TO DEFENDANT'S MOTION IN LIMINE TO EXCLUDE EVIDENCE OF DAMAGES**

COME NOW JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU, JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., individually; and SONNIA ILIESCUE, individually (collectively, "the Iliescu Plaintiffs"), by and through their attorney, Michael J. Morrison, Esq., and opposes the Defendant's motion *in limine* to exclude evidence of damages, as follows:

As more fully explained in the Iliescu Plaintiffs' April 2, 2021, Opposition to Defendant The Regional Transportation Commission of Washoe County's ("The RTC") motion for summary judgment, which is incorporated here by reference, the

Iliescu Plaintiffs have sued the RTC for, among other injuries, the damage the RTC caused to the Iiescu's property with the vehicles and equipment its employees and/or agents parked on the Iliescu Plaintiffs' property while undertaking a construction project on a different portion of the Iliescu Plaintiffs' property over which the RTC had exercised eminent domain. The Iliescue Plaintiffs seek to recover for the damage to their property, the costs to restore the property, the loss of the property's market value, their loss of use of their property, and other related damages. *Id.* at 4-18.

The RTC has moved this Court for an order *in limine* to exclude any evidence of the Iliescu Plaintiffs' damages. The RTC asserts that the Iliescu Plaintiffs have not provided a computation of their damages or documents from which a computation can be ascertained, and have not designated an expert witness in reference to their damages. After the RTC filed its motion, this Court entered its March 25, 2021, Order requiring that the parties comply with the case conference and discovery requirements of NRCP 16 and 16.1 and to meet and engage in "…*meaningful* exchanges of information." *See* March 25, 2021, Order Denying Motion for Sanctions at 2:8-9. As a consequence, the RTC's motion *in limine* does not account for this Court's March 25, 2021, Order, or the fact that discovery in this case is still open.

Indeed, the basis on which RTC seeks an order *in limine* excluding the Iliescu Plaintiffs' damages is the same as the basis it has sought summary judgment on the Iliescu Plaintiffs' damages claim. For the same reasons the Iliescu Plaintiffs have opposed the RTC's motion for summary judgment, they oppose the RTC's motion *in limine* to exclude evidence of their damages. As acknowledged by the RTC in its motion for summary judgment, the Iliescu Plaintiffs have provided evidence of their damages in this case, and are able to testify as to the damages the RTC caused to their property. Because discovery in this case is still open, and because this Court has required the parties to meet and engage in "…*meaningful* exchanges of information…." pursuant to the pretrial conference and discovery requirements (*see, supra*), this Court

intends for this case to *meaningfully* move forward, especially in the context in which the Iliescu Plaintiffs and their counsel have struggled through, among other things, the Covid-19 pandemic. To that end, this Court's directive is for the *meaningful* exchange of evidence that will permit this case to move forward. Thus, the RTC is not entitled to an order *in limine* excluding the Iliescu Plaintiffs' damages. As a consequence, the Iliescu Plaintiffs request that this Court deny the RTC's motion *in limine* to exclude evidence of damages.

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the document to which this Affirmation is attached does not contain the social security number of any person.

DATED this 2nd day of April, 2021.

/s/ Michael J. Morrison
Michael J. Morrison, Esq.
Nevada State Bar No. 1665
1495 Ridgeview Dr., #220
Reno, Nevada 89519
(775) 827-6300
Attorney for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on this date I personally caused to be served a true copy of the foregoing PLAINTIFFS' OPPOSITION TO DEFENDANT'S MOTION IN LIMINE TO EXCLUDE EVIDENCE OF DAMAGES indicated and addressed to the following:

Dane W. Anderson, Esq.
WOODBURN AND WEDGE
6100 Neil Road, Suite 500
Reno, Nevada 89511

____ Via U.S. Mail
____ Via Overnight Mail
____ Via Hand Delivery
____ Via Facsimile
__XX__ Via ECF

DATED this 2nd day of April, 2021.

/s/ Michael J. Morrison

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CV19-00459
2021-04-02 04:46:06 PM
Jacqueline Bryant
Clerk of the Court
Transaction # 8376236 : yviloria

2645
MICHAEL J. MORRISON, ESQ.
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Reno, Nevada 89519
(775) 827-6300

Attorney for Plaintiffs

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

* * * * *

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU, JR. AND SONNIA ILIESCU 1992 FAMILY TRUST,

Plaintiff,

vs.

THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; AND DOES 1-40,

Defendants.

CASE NO. CV19-00459

DEPT. NO. 15

PLAINTIFFS' OPPOSITION TO DEFENDANT'S MOTION IN LIMINE TO EXCLUDE EVIDENCE PURSUANT TO NRS 50.275, 50.285, AND 50.305

COME NOW JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU, JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., individually; and SONNIA ILIESCUE, individually (collectively, "the Iliescu Plaintiffs"), by and through their attorney, Michael J. Morrison, Esq., and opposes the Defendant's motion *in limine* to exclude evidence pursuant to NRS 50.275, 50.285, and 50.305, as follows:

As more fully explained in the Iliescu Plaintiffs' April 2, 2021, Opposition to Defendant The Regional Transportation Commission of Washoe County's ("The

RTC") motion for summary judgment, which is incorporated here by reference, the Iliescu Plaintiffs have sued the RTC for, among other injuries, the damage the RTC caused to the Iiescu's property with the vehicles and equipment its employees and/or agents parked on the Iliescu Plaintiffs' property while undertaking a construction project on a different portion of the Iliescu Plaintiffs' property over which the RTC had exercised eminent domain. The Iliescue Plaintiffs seek to recover for the damage to their property, the costs to restore the property, the loss of the property's market value, their loss of use of their property, and other related damages. *Id.* at 4-18.

The RTC has moved this Court for an order *in limine* to exclude any evidence of the Iliescu Plaintiffs' damages. The RTC asserts that the Iliescu Plaintiffs should be preluded from offering any expert witness evidence pursuant to NRS 50.275, 50.285, and 50.305 because the Iliescu Plaintiffs did not timely disclose an expert witness. After the RTC filed its motion, this Court entered its March 25, 2021, Order requiring that the parties comply with the case conference and discovery requirements of NRCP 16 and 16.1 and to meet and engage in "…*meaningful* exchanges of information." *See* March 25, 2021, Order Denying Motion for Sanctions at 2:8-9. As a consequence, the RTC's motion *in limine* does not account for this Court's March 25, 2021, Order, the spirit and intent of which is for the parties to exchange information that will *meaningfully* move this case forward pursuant to the pretrial conference and discovery requirements of NRCP 16 and 16.1.

As acknowledged by this Court in its Order, the Iliescu Plaintiffs and their counsel have significantly struggled through, among other things, the Covid-19 pandemic. Those struggles and their causes have thus far prevented a *meaningful* exchange of information as required by the applicable procedural rules – information that would reveal the extent to which there are issues that require expert analysis and testimony. Thus, because discovery in this case is still open, and because it is this Court's intent for this case to meaningfully move forward in the wake of the worst of

the Covid-19 pandemic, the Iliescu Plaintiffs request that this Court deny the RTC's motion to preclude expert witness evidence.

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the document to which this Affirmation is attached does not contain the social security number of any person.

DATED this 2nd day of April, 2021.

/s/ Michael J. Morrison
Michael J. Morrison, Esq.
Nevada State Bar No. 1665
1495 Ridgeview Dr., #220
Reno, Nevada 89519
(775) 827-6300
Attorney for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on this date I personally caused to be served a true copy of the foregoing PLAINTIFFS' OPPOSITION TO DEFENDANT'S MOTION IN LIMINE TO EXCLUDE EVIDENCE EVIDENCE PURSUANT TO NRS 50.275, 50.285, AND 50.305 indicated and addressed to the following:

Dane W. Anderson, Esq.
WOODBURN AND WEDGE
6100 Neil Road, Suite 500
Reno, Nevada 89511

____ Via U.S. Mail
____ Via Overnight Mail
____ Via Hand Delivery
____ Via Facsimile
XX Via ECF

DATED this 2nd day of April, 2021.

/s/ Michael J. Morrison

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Jacqueline Bryant
Clerk of the Court
Transaction # 8376273 : azamora

2645
MICHAEL J. MORRISON, ESQ.
Nevada State Bar No. 1665
1495 Ridgeview Dr., #220
Reno, Nevada 89519
(775) 827-6300

Attorney for Plaintiffs

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

* * * * *

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU, JR. AND SONNIA ILIESCU 1992 FAMILY TRUST, Plaintiff, vs. THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; AND DOES 1-40, Defendants.	CASE NO. CV19-00459 DEPT. NO. 15 **PLAINTIFFS' OPPOSITION TO DEFENDANT'S MOTION IN LIMINE TO EXCLUDE EVIDENCE PURSUANT TO NRS 50.275, 50.285, AND 50.305**

COME NOW JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU, JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., individually; and SONNIA ILIESCUE, individually (collectively, "the Iliescu Plaintiffs"), by and through their attorney, Michael J. Morrison, Esq., and opposes the Defendant's motion *in limine* to exclude evidence pursuant to NRS 50.275, 50.285, and 50.305, as follows:

As more fully explained in the Iliescu Plaintiffs' April 2, 2021, Opposition to Defendant The Regional Transportation Commission of Washoe County's ("The

RTC") motion for summary judgment, which is incorporated here by reference, the Iliescu Plaintiffs have sued the RTC for, among other injuries, the damage the RTC caused to the Iiescu's property with the vehicles and equipment its employees and/or agents parked on the Iliescu Plaintiffs' property while undertaking a construction project on a different portion of the Iliescu Plaintiffs' property over which the RTC had exercised eminent domain. The Iliescue Plaintiffs seek to recover for the damage to their property, the costs to restore the property, the loss of the property's market value, their loss of use of their property, and other related damages. *Id.* at 4-18.

The RTC has moved this Court for an order *in limine* to exclude any evidence of the Iliescu Plaintiffs' damages. The RTC asserts that the Iliescu Plaintiffs should be preluded from offering any expert witness evidence pursuant to NRS 50.275, 50.285, and 50.305 because the Iliescu Plaintiffs did not timely disclose an expert witness. After the RTC filed its motion, this Court entered its March 25, 2021, Order requiring that the parties comply with the case conference and discovery requirements of NRCP 16 and 16.1 and to meet and engage in "…*meaningful* exchanges of information." *See* March 25, 2021, Order Denying Motion for Sanctions at 2:8-9. As a consequence, the RTC's motion *in limine* does not account for this Court's March 25, 2021, Order, the spirit and intent of which is for the parties to exchange information that will *meaningfully* move this case forward pursuant to the pretrial conference and discovery requirements of NRCP 16 and 16.1.

As acknowledged by this Court in its Order, the Iliescu Plaintiffs and their counsel have significantly struggled through, among other things, the Covid-19 pandemic. Those struggles and their causes have thus far prevented a *meaningful* exchange of information as required by the applicable procedural rules – information that would reveal the extent to which there are issues that require expert analysis and testimony. Thus, because discovery in this case is still open, and because it is this Court's intent for this case to meaningfully move forward in the wake of the worst of

the Covid-19 pandemic, the Iliescu Plaintiffs request that this Court deny the RTC's motion to preclude expert witness evidence.

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the document to which this Affirmation is attached does not contain the social security number of any person.

DATED this 2nd day of April, 2021.

/s/ Michael J. Morrison
Michael J. Morrison, Esq.
Nevada State Bar No. 1665
1495 Ridgeview Dr., #220
Reno, Nevada 89519
(775) 827-6300
Attorney for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on this date I personally caused to be served a true copy of the foregoing PLAINTIFFS' OPPOSITION TO DEFENDANT'S MOTION IN LIMINE TO EXCLUDE EVIDENCE EVIDENCE PURSUANT TO NRS 50.275, 50.285, AND 50.305 indicated and addressed to the following:

Dane W. Anderson, Esq.
WOODBURN AND WEDGE
6100 Neil Road, Suite 500
Reno, Nevada 89511

____ Via U.S. Mail
____ Via Overnight Mail
____ Via Hand Delivery
____ Via Facsimile
__XX__ Via ECF

DATED this 2nd day of April, 2021.

/s/ Michael J. Morrison

FILED
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2021-04-27 04:51:52 PM
Alicia L. Lerud
Clerk of the Court
Transaction # 8416238 : nmason

3795
Dane W. Anderson, Esq.
Nevada Bar No. 6883
Bronagh M. Kelly, Esq.
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danderson@woodburnandwedge.com
bkelly@woodburnandwedge.com

Attorneys for Defendant, the Regional Transportation Commission of Washoe County

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an individual; AND SONNIA ILIESCU, an individual, Plaintiffs, v. THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1 – 40, inclusive, Defendants.	Case No.: CV19-00459 Dept. No.: 15

REPLY IN SUPPORT OF MOTION IN LIMINE TO PRECLUDE PLAINTIFFS FROM PRESENTING EVIDENCE PURSUANT TO NRS 50.275, 50.285 AND 50.305

Defendant The Regional Transportation Commission of Washoe County ("RTC") submits the following reply in support of its Motion In Limine To Preclude Plaintiffs From Presenting Evidence Pursuant To NRS 50.275, 50.285 And 50.305 ("Motion To Exclude Experts"), and in response to Plaintiffs' opposition brief filed on April 2, 2021.

There is no dispute that Plaintiffs failed to timely disclose an expert witness in this case. Pursuant to the Court's Scheduling Order, Plaintiffs were required to properly disclose experts no later than February 26, 2021. Based on that failure, RTC filed its Motion To Exclude Experts. Based on Plaintiffs' opposition brief, they appear to believe that the Court's March 25, 2021 Order Denying Motion For Sanctions somehow relieves them of this failure. Plaintiffs' counsel stated at the status hearing on April 27, 2021 that he believed the Court's March 25 order was "a reset to the starting blocks."

That is not the case. The Court's March 25 order dealt with a request for sanctions related to Plaintiffs' procedural failure to hold the NRCP 16.1 conference. Plaintiffs never sought a continuance of the expert deadline prior to its expiration, nor did this Court ever grant any such extension. The only monetary issue in this case is the cost to repair Plaintiffs' parking lot. Plaintiffs have been aware of this issue for years, yet never disclosed any expert report meeting the requirements of NRCP 16.1(a)(2)(B). There is no reason Plaintiffs could not have retained an expert to evaluate their parking lot and provide an opinion as to the cost of repair or impact on market value.

Contrary to the suggestion of Plaintiffs' counsel, RTC did nothing to hinder Plaintiffs' ability to conduct discovery. The stipulation for early discovery entered into on October 30, 2019, allowed *both* parties to conduct discovery prior to the filing of a joint case conference report. Further, RTC filed its answer to the complaint on March 23, 2020, after which Plaintiff was free to schedule the 16.1 conference and move the case forward. Plaintiff failed to do anything to move its case forward.

While Plaintiffs are correct that discovery is still open for one more month, that remaining discovery period does not include the right to disclose experts or expert reports. That February 26, 2021 deadline, to which Plaintiffs stipulated, has come and gone. Plaintiffs' health issues and those of their counsel, while unfortunate, cannot plausibly be blamed for their failure to disclose an expert. Plaintiffs and their counsel participated in depositions, responded to written discovery, and participated in other proceedings. Contacting an asphalt repair contractor to opine on the cost to repair the parking lot or

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finding an appraiser to provide an opinion on market value would have required minimal effort. Plaintiffs cannot legitimately blame RTC for their failure to timely disclose such an expert.

Plaintiffs should be precluded from offering any evidence pursuant to NRS 50.275, 50.285 and 50.385 in this case.

Affirmation pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the personal information of any person.

DATED: April 27, 2021

WOODBURN AND WEDGE

By */s/ Dane W. Anderson*
Dane W. Anderson, Esq.
Nevada Bar No. 6883
Bronagh M. Kelly, Esq.
Nevada Bar No. 14555
Attorneys for Defendant
The Regional Transportation
Commission of Washoe County

Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, NV 89511
775-688-3000

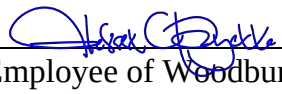
CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Woodburn and Wedge and that on this date, I caused to be sent via electronic delivery through the Court's E-flex system a true and correct copy of the ***REPLY IN SUPPORT OF MOTION IN LIMINE TO PRECLUDE PLAINTIFFS FROM PRESENTING EVIDENCE PURSUANT TO NRS 50.275, 50.285 AND 50.305*** addressed to:

MICHAEL J. MORRISON, ESQ.
1495 Ridgeview Dr., #220
Reno, Nevada 89519
venturelawusa@gmail.com

Attorneys for Plaintiffs

DATED: April 27, 2021.



Employee of Woodburn and Wedge

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an individual; and SONNIA ILIESCU, an individual,

Appellants,

vs.

THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1 through 40 inclusive,

Respondent.

Supreme Court No. 83212
Washoe County Case No. CV19-00459

JOINT APPENDIX
VOLUME V
(Exhibits 81-92)

Appeal from the Second Judicial District Court of the State of Nevada
in and for the County of Washoe County
Case No. CV19-00459

D. CHRIS ALBRIGHT, ESQ.
ALBRIGHT, STODDARD, WARNICK & ALBRIGHT
801 South Rancho Drive, Suite D-4
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dca@albrightstoddard.com
Counsel for Appellants

DANE W. ANDERSON, ESQ.
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bkelly@woodburnandwedge.com
Counsel for Respondent

Docket 83212 Document 2021-37261

DOCUMENT INDEX

DOC.	FILE/HRG. DATE	DOCUMENT DESCRIPTION	VOL.	BATES NOS.
WASHOE COUNTY CASE NO. CV16-02182 – JUDICIAL NOTICE				
1	10/24/16	Verified Complaint in Eminent Domain – Transaction 5772609	I	JA0001-0037
2	10/24/16	Notice of Pendency of Action for Permanent Easement, Public Utility Easement and a Temporary Construction Easement – Transaction 5773484	I	JA0038-0040
3	10/24/16	Affidavit of Jeff Hale – Transaction 5772609	I	JA0041-0044
4	10/24/16	Motion for Immediate Occupancy Pending Final Judgment – Transaction 5772609	I	JA0045-0049
5	11/18/16	Answer to Complaint – Transaction 5813621	I	JA0050-0052
6	11/29/16	Stipulation for the Entry of an Order for Immediate Occupancy Pending Entry of Judgment – Transaction 5827255	I	JA0053-0065
7	12/01/16	Order for Immediate Occupancy Pending Entry of Judgment – Transaction 5832427	I	JA0066-0075
8	04/18/18	Stipulation for the Entry of a Final Order of Condemnation and Judgment – Transaction 6636350	I	JA0076-0097
9	04/26/18	Final Order of Condemnation and Judgment – Transaction 6649694	I	JA0098-0108
10	04/26/18	Notice of Entry of Final Order of Condemnation and Judgment – Transaction 6650430	I	JA0109-0112
11	05/03/18	Order – Transaction 6661759	I	JA0113-0114
12	09/26/18	Withdrawal and Release of Notice of Lis Pendens – Transaction 6899751	I	JA0115-0125

DOC.	FILE/HRG. DATE	DOCUMENT DESCRIPTION	VOL.	BATES NOS.
WASHOE COUNTY CASE NO. CV19-00459				
13	02/27/19	Complaint (Exemption from Arbitration – Equitable Relief Sought and Damages in Excess of $50,000) – Transaction 7140095	I	JA0126-0147
14	07/01/19	Order to Show Cause – Transaction 7349801	I	JA0148-0150
15	07/22/19	Motion for Extension of Time – Transaction 7386969	I	JA0151-0155
16	07/30/19	Order for Enlarging Time for Service – Transaction 7402741	I	JA0156-0158
17	08/08/19	Notice of Acceptance of Service – Dale Ferguston, Esq. – Transaction 7419581	I	JA0159-0161
18	09/25/19	Motion to Dismiss – Transaction 7504491	I	JA0162-0170
19	10/30/19	Stipulation to Conduct Discovery Prior to Holding NRCP 16.1 Conference and Prior to Filing the JCCR – Transaction 7563184 -	I	JA0171-0173
20	11/07/19	Plaintiffs' Opposition to Defendant's Partial Motion to Dismiss Plaintiff's Complaint – Transaction 7576382	I	JA0174-0182
21	11/12/19	Reply in Support of Motion to Dismiss – Transaction 7583646	I	JA0183-0190
22	11/18/19	Order Granting Stipulation to Conduct Discovery – Transaction 7593663	I	JA0191
23	12/06/19	Stipulation for Entry of Order Dismissing Certain Plaintiffs' Claims for Relief and Damages With Prejudice – Transaction 7623980	I	JA0192-0195
24	12/10/19	Order Granting Stipulation for Entry of Order Dismissing Certain of Plaintiff's Claims for Relief and Damages With Prejudice – Transaction 7629013	I	JA0196-0197
25	01/07/20	Order Addressing Motion to Dismiss – Plaintiff to File Amended Complaint – Transaction 7673003	I	JA0198-0199

DOC.	FILE/HRG. DATE	DOCUMENT DESCRIPTION	VOL.	BATES NOS.
26	01/21/20	Amended Complaint – Transaction 7695926	I	JA0200-0218
27	01/30/20	Supplemental Motion to Dismiss – Transaction 7712316	I	JA0219-0225
28	02/10/20	Plaintiffs' Opposition to Defendant's Supplemental Motion to Dismiss – Transaction 7732495	II	JA0226-0235
29	02/13/20	Reply in Support of Supplemental Motion to Dismiss – Transaction 7739174	II	JA0236-0242
30	02/20/20	Motion to Compel – Transaction 7750935	II	JA0243-0248
31	03/11/20	Notice of Document Received But Not Considered by Court (Confidential Medical Records) – Transaction 7786510	II	JA0249-0255
32	03/20/20	Order Granting Motion to Dismiss – Transaction 7801281	II	JA0256-0257
33	03/20/20	Notice of Entry of Order – Transaction 7802297	II	JA0258-0261
34	03/23/20	Answer to First Amended Complaint – Transaction 7804469	II	JA0262-0291
35	04/01/20	Declaration of Dane W. Anderson in Support of Motion for Discovery Sanctions – Transaction 7818895	II	JA0292-0400
36	04/01/20	Motion for Sanctions Motion for Discovery Sanctions – Transaction 7818895	II	JA0401-0406
37	04/03/20	Master's Recommendation for Order – Transaction 7822158	II	JA0407-0410
38	04/20/20	Order Affirming Master Recommendation – Transaction 7841718	II	JA0411-0412
39	04/20/20	Request for Submission re Motion for Discovery Sanctions – Transaction 7842053	II	JA0413-0415
40	04/20/20	Motion for Sanctions – Transaction 7842166	II	JA0416-0420
41	04/22/20	Pre-Trial Order – Transaction 7845782	II	JA0421-0430

DOC.	FILE/HRG. DATE	DOCUMENT DESCRIPTION	VOL.	BATES NOS.
42	05/14/20	Plaintiffs' Opposition to Defendant's Motion for Sanctions – Transaction 7878297	II	JA0431-0436
43	05/18/20	Request for Submission re Motion for Sanctions Pursuant to NRCP 37(b)(l) – Transaction 7882116	II	JA0437-0439
44	05/18/20	Reply in Support of Motion for Sanctions Pursuant to NRCP 37(b)(1) – Transaction 7882116	II	JA0440-0444
45	06/10/20	Master's Recommendation for Order – Transaction 7919122	III	JA0445-0458
46	06/22/20	Declaration of Dane W. Anderson Regarding Expenses to be Reimbursed by Defendants – Transaction 7937253	III	JA0459-0476
47	06/30/20	Order Affirming Master Recommendation – Transaction 7949738	III	JA0477-0478
48	06/30/20	Order to Set File Notice to Set Within 14 Days – Transaction 7949756	III	JA0479
49	06/30/20	Plaintiffs' Notice of Intent to File Opposition to Defendant's Statement of Claimed Costs and Fees – Transaction 7950620	III	JA0480-0483
50	07/06/20	Plaintiffs' Response to Declaration of Dane W. Anderson Regarding Expenses to be Reimbursed by Defendants – Transaction 7956088	III	JA0484-0490
51	07/13/20	RTC's Reply to Plaintiffs' Response to Declaration of Dane W. Anderson Regarding Expenses to be Reimbursed by Defendants – Transaction 7966844	III	JA0491-0496
52	07/16/20	Request for Submission re Declaration of Dane W. Anderson Regarding Expenses To Be Reimbursed By Defendants [*sic*] – Transaction 7973986	III	JA0497-0499
53	07/21/20	Supplemental ... Declaration of Dane W. Anderson Re Expenses to be Reimbursed by Plaintiffs – Transaction 7981140	III	JA0500-0507

DOC.	FILE/HRG. DATE	DOCUMENT DESCRIPTION	VOL.	BATES NOS.
54	07/21/20	Motion in Limine to Preclude Plaintiffs from Offering Documents Not Produced to RTC on or before June 30, 2020 Transaction 7981600	III	JA0508-0593
55	07/27/20	Plaintiffs' Response to the Supplemental Declaration of Dane W. Anderson Regarding Expenses to be Reimbursed by Plaintiffs – Transaction 7990157	III	JA0594-0597
56	07/29/20	RTC's Reply to Plaintiffs' Response to The Supplemental Declaration of Dane W. Anderson Regarding Expenses to be Reimbursed by Defendants – Transaction 7993047	III	JA0598-0602
57	08/05/20	Order Regarding Declarations of Expenses – Transaction 8004713	III	JA0603-0605
58	08/06/20	Notice of Entry of Order – Transaction 8007281	III	JA0606-0613
59	08/06/20	Request for Submission re Motion in Limine to Preclude Plaintiffs from Offering Documents Not Produced to RTC on or Before June 30, 2020 – Transaction 8007357	III	JA0614-0616
60	08/19/20	Order Granting Motion in Limine to Preclude Offering Documents Not Produced to RTC on or before June 30, 2020 – Transaction 8027856	III	JA0617-0618
61	08/20/20	Notice of Entry of Order – Transaction 8029028	III	JA0619-0625
62	03/23/20	Demand for Jury Trial – Transaction 8082710	III	JA0626-0627
63	09/30/20	Minutes 9/29/20 Case Management Conference (ESC) – Transaction 8093137	III	JA0628-0629
64	09/30/20	Transcript of 9/29/20 Case Management Conference	III	JA0630-0644
65	10/08/20	Stipulation for Entry of Scheduling Order – Transaction 8107608	III	JA0645-0648

DOC.	FILE/HRG. DATE	DOCUMENT DESCRIPTION	VOL.	BATES NOS.
66	10/12/20	Scheduling Order Amended Stipulated Scheduling Order – Transaction 8111324	III	JA0649-0651
67	01/19/21	Motion for Sanctions Pursuant to NRCP 16.1(E) – Transaction 8252375	III	JA0652-0657
68	02/18/21	Opposition to Motion for Sanctions – Transaction 8302448	III	JA0658-0662
69	02/25/21	Request for Submission re Motion for Sanctions Pursuant to NRCP 16.1(e) – Transaction 8313712	III	JA0663-0665
70	02/25/21	RTC's Reply in Support of Motion for Sanctions Pursuant to NRCP 16.1(C) – Transaction 8313712	IV	JA0666-0687
71	03/09/21	Motion for Summary Judgment – Transaction 8332645	IV	JA0688-0708
72	03/09/21	Motion in Limine to Exclude Evidence of Damages – Transaction 8333168	IV	JA0709-0712
73	03/09/21	Motion in Limine to Preclude Plaintiffs From Presenting Evidence Pursuant to NRS 50.275, 50.285 and 50.305 – Transaction 8333168	IV	JA0713-0716
74	03/11/21	Application for Setting – Transaction 8337959	IV	JA0717-0720
75	03/25/21	Order Denying Motion for Sanctions – Transaction 8361465	IV	JA0721-0722
76	04/02/21	Plaintiffs' Opposition to Defendants' Motion for Summary Judgment – Transaction 8376225	IV	JA0723-0814
77	04/02/21	Plaintiffs' Opposition to Defendants' Motion in Limine to Exclude Evidence of Damages – Transaction 8376231	IV	JA0815-0818
78	04/02/21	Plaintiffs' Opposition to Defendant's Motion in Limine to Exclude Evidence Pursuant to NRS 50.275, 50.285, and 50.305 – Transaction 8376236	IV	JA0819-0822

DOC.	FILE/HRG. DATE	DOCUMENT DESCRIPTION	VOL.	BATES NOS.
79	04/02/21	Plaintiffs' Opposition to Defendant's Motion in Limine to Exclude Evidence Pursuant to NRS 50.275 – Transaction 8376273	IV	JA0823-0826
80	04/27/21	Reply in Support of Motion in Limine to Preclude Plaintiffs from Presenting Evidence Pursuant to NRS 50.275, 50.285 and 50.305 – Transaction 8416238	IV	JA0827-0830
81	04/27/21	Reply in Support of Motion in Limine to Exclude Evidence of Damages – Transaction 8416263	V	JA0831-0884
82	04/28/21	Request for Submission re Reply in Support of Motion in Limine to Preclude Plaintiffs From Presenting Evidence Pursuant to NRS 50.275, 50.285 and 50.305 – Transaction 8417512	V	JA0885-0887
83	04/28/21	Request for Submission re Reply in Support of Motion in Limine to Exclude Evidence of Damages – Transaction 8417518	V	JA0888-0890
84	04/28/21	Order Setting Hearing and for Electronic Appearance – Transaction 8419081	V	JA0891-0892
85	04/29/21	Reply in Support of Motion for Summary Judgment – Transaction 8420046	V	JA0893-0941
86	05/06/21	Minutes 4/27/2021 – Status Hearing – Transaction 8430816	V	JA0942-0944
87	05/06/21	Transcript of 4/27/21 Status Hearing	V	JA0945-1004
88	05/12/21	Minutes 5/12/2021 – Oral Arguments – Transaction 8441847	V	JA1005
89	05/12/21	Transcript of 5/12/2021 Oral Arguments – Transaction 8442136	V	JA1006-1047
90	05/13/21	Notice of Intent to File Motion – Transaction 8444437	V	JA1048-1049
91	05/24/21	Response to Notice of Intent to File Motion – Transaction 8461146	V	JA1050-1053

DOC.	FILE/HRG. DATE	DOCUMENT DESCRIPTION	VOL.	BATES NOS.
92	06/01/21	Plaintiffs' Motion for Reconsideration and Rehearing of, or, in the Alternative, Motion to Set Aside this Court's Order Pursuant to NRCP 60(B)(1) and (6) – Transaction 8473201	V	JA1054-1060
93	06/02/21	First Errata to Plaintiffs' Motion for Reconsideration and Rehearing of, or, in the Alternative, Motion to Set Aside this Court's Order Pursuant to NRCP 60(B)(1) and (6) – Transaction 8474224	VI	JA1061-1082
94	06/02/21	Order Setting Hearing for Oral Argument 6/8/21 at 10:00 A.M. – Transaction 8474916	VI	JA1083-1084
95	06/07/21	Opposition to Motion for Reconsideration and Rehearing of, or in the Alternative, Motion to Set Aside this Court's Order Pursuant to NRCP 60(B)(1) and (6) [including the "First" and any other "Erratas" that may be filed] – Transaction 8483047	VI	JA1085-1096
96	06/08/21	Supplemental Exhibit to Motion for Reconsideration – Transaction 8483818	VI	JA1097-1104
97	06/08/21	Minutes regarding Oral Arguments – Transaction 8484485	VI	JA1105
98	06/08/21	Transcript of 6/8/21 Oral Arguments	VI	JA1106-1147
99	06/09/21	Order Granting Summary Judgment After Supplemental Arguments – Transaction 8487964	VI	JA1148-1159
100	06/10/21	Notice of Entry of Judgment Notice of Entry of Order Granting Summary Judgment – Transaction 8490380	VI	JA1160-1176
101	06/15/21	Memorandum of Costs – Transaction 8495869	VI	JA1177-1200
102	06/15/21	Declaration of Dane W. Anderson in Support of Memorandum of Costs – Transaction 8495884	VI	JA1201-1204

DOC.	FILE/HRG. DATE	DOCUMENT DESCRIPTION	VOL.	BATES NOS.
103	06/29/21	Motion for Attorney's Fee – Transaction 8517765	VI	JA1205-1214
104	06/29/21	Declaration in Support of Motion for Fees – Transaction 8517765	VI	JA1215-1251
105	07/09/21	Notice of Appeal – Transaction 8536470	VI	JA1252-1255
106	07/09/21	Case Appeal Statement – Transaction 8536470	VI	JA1256-1261
107	07/14/21	Notice of Appeal (*Supreme Court Filing*)	VII	JA1262-1325
108	08/14/21	Plaintiffs' Opposition to Defendant's Motion for Attorney Fees and for Entry of Judgment for Attorney Fees and Costs – Transaction 8595894	VII	JA1326-1338
109	08/23/21	Reply in Support of Motion for Attorney Fees and for Entry of Judgment for Attorney Fees and Costs – Transaction 8608634	VII	JA1339-1347
110	08/23/21	Reply in Support of Motion for Attorney Fees and for Entry of Judgment for Attorney Fees and Costs – Transaction 8608728	VII	JA1348-1364
111	10/18/21	Order Granting Attorney's Fees and Entry of Judgment – Transaction 8701865	VII	JA1365-1373
112	10/18/21	Notice of Entry of Order Granting Attorney's Fees and Entry of Judgment – Transaction 8702337	VII	JA1374-1386
113	10/21/21	Amended Notice of Appeal – Transaction 8709785	VII	JA1387-1389

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ALPHABETICAL INDEX

DOC.	FILE/HRG. DATE	DOCUMENT DESCRIPTION	VOL.	BATES NOS.
WASHOE COUNTY CASE NO. CV16-02182 – JUDICIAL NOTICE				
3	10/24/16	Affidavit of Jeff Hale - Transaction 5772609	I	AA0041-0044
5	11/18/16	Answer to Complaint - Transaction 5813621	I	AA0050-0052
9	04/26/18	Final Order of Condemnation and Judgment - Transaction 6649694	I	AA0098-0108
4	10/24/16	Motion for Immediate Occupancy Pending Final Judgment - Transaction 5772609	I	AA0045-0049
10	04/26/18	Notice of Entry of Final Order of Condemnation and Judgment - Transaction 6650430	I	AA0109-0112
2	10/24/16	Notice of Pendency of Action for Permanent Easement, Public Utility Easement and a Temporary Construction Easement - Transaction 5773484	I	AA0038-0040
11	05/03/18	Order - Transaction 6661759	I	AA0113-0114
7	12/01/16	Order for Immediate Occupancy Pending Entry of Judgment - Transaction 5832427	I	AA0066-0075
8	04/18/18	Stipulation for the Entry of a Final Order of Condemnation and Judgment - Transaction 6636350	I	AA0076-0097
6	11/29/16	Stipulation for the Entry of an Order for Immediate Occupancy Pending Entry of Judgment - Transaction 5827255	I	AA0053-0065
1	10/24/16	Verified Complaint in Eminent Domain - Transaction 5772609	I	AA0001-0037
12	09/26/18	Withdrawal and Release of Notice of Lis Pendens - Transaction 6899751	I	AA0115-0125
WASHOE COUNTY CASE NO. CV19-00459				
26	01/21/20	Amended Complaint – Transaction 7695926	I	JA0200-0218

DOC.	FILE/HRG. DATE	DOCUMENT DESCRIPTION	VOL.	BATES NOS.
113	10/21/21	Amended Notice of Appeal – Transaction 8709785	VII	JA1387-1389
34	03/23/20	Answer to First Amended Complaint – Transaction 7804469	II	JA0262-0291
74	03/11/21	Application for Setting – Transaction 8337959	IV	JA0717-0720
106	07/09/21	Case Appeal Statement – Transaction 8536470	VI	JA1256-1261
13	02/27/19	Complaint (Exemption from Arbitration – Equitable Relief Sought and Damages in Excess of $50,000) – Transaction 7140095	I	JA0126-0147
104	06/29/21	Declaration in Support of Motion for Fees – Transaction 8517765	VI	JA1215-1251
102	06/15/21	Declaration of Dane W. Anderson in Support of Memorandum of Costs – Transaction 8495884	VI	JA1201-1204
35	04/01/20	Declaration of Dane W. Anderson in Support of Motion for Discovery Sanctions – Transaction 7818895	II	JA0292-0400
46	06/22/20	Declaration of Dane W. Anderson Regarding Expenses to be Reimbursed by Defendants – Transaction 7937253	III	JA0459-0476
62	03/23/20	Demand for Jury Trial – Transaction 8082710	III	JA0626-0627
93	06/02/21	First Errata to Plaintiffs' Motion for Reconsideration and Rehearing of, or, in the Alternative, Motion to Set Aside this Court's Order Pursuant to NRCP 60(B)(1) and (6) – Transaction 8474224	VI	JA1061-1082
37	04/03/20	Master's Recommendation for Order – Transaction 7822158	II	JA0407-0410
45	06/10/20	Master's Recommendation for Order – Transaction 7919122	III	JA0445-0458
101	06/15/21	Memorandum of Costs – Transaction 8495869	VI	JA1177-1200

DOC.	FILE/HRG. DATE	DOCUMENT DESCRIPTION	VOL.	BATES NOS.
86	05/06/21	Minutes 4/27/2021 – Status Hearing – Transaction 8430816	V	JA0942-0944
88	05/12/21	Minutes 5/12/2021 – Oral Arguments – Transaction 8441847	V	JA1005
63	09/30/20	Minutes 9/29/20 Case Management Conference (ESC) – Transaction 8093137	III	JA0628-0629
97	06/08/21	Minutes regarding Oral Arguments – Transaction 8484485	VI	JA1105
103	06/29/21	Motion for Attorney's Fee – Transaction 8517765	VI	JA1205-1214
15	07/22/19	Motion for Extension of Time – Transaction 7386969	I	JA0151-0155
40	04/20/20	Motion for Sanctions – Transaction 7842166	II	JA0416-0420
36	04/01/20	Motion for Sanctions Motion for Discovery Sanctions – Transaction 7818895	II	JA0401-0406
67	01/19/21	Motion for Sanctions Pursuant to NRCP 16.1(E) – Transaction 8252375	III	JA0652-0657
71	03/09/21	Motion for Summary Judgment – Transaction 8332645	IV	JA0688-0708
72	03/09/21	Motion in Limine to Exclude Evidence of Damages – Transaction 8333168	IV	JA0709-0712
54	07/21/20	Motion in Limine to Preclude Plaintiffs from Offering Documents Not Produced to RTC on or before June 30, 2020 Transaction 7981600	III	JA0508-0593
73	03/09/21	Motion in Limine to Preclude Plaintiffs From Presenting Evidence Pursuant to NRS 50.275, 50.285 and 50.305 – Transaction 8333168	IV	JA0713-0716
30	02/20/20	Motion to Compel – Transaction 7750935	II	JA0243-0248
18	09/25/19	Motion to Dismiss – Transaction 7504491	I	JA0162-0170
17	08/08/19	Notice of Acceptance of Service – Dale Ferguston, Esq. – Transaction 7419581	I	JA0159-0161

DOC.	FILE/HRG. DATE	DOCUMENT DESCRIPTION	VOL.	BATES NOS.
105	07/09/21	Notice of Appeal – Transaction 8536470	VI	JA1252-1255
107	07/14/21	Notice of Appeal (*Supreme Court Filing*)	VII	JA1262-1325
31	03/11/20	Notice of Document Received But Not Considered by Court (Confidential Medical Records) – Transaction 7786510	II	JA0249-0255
100	06/10/21	Notice of Entry of Judgment Notice of Entry of Order Granting Summary Judgment – Transaction 8490380	VI	JA1160-1176
33	03/20/20	Notice of Entry of Order – Transaction 7802297	II	JA0258-0261
58	08/06/20	Notice of Entry of Order – Transaction 8007281	III	JA0606-0613
61	08/20/20	Notice of Entry of Order – Transaction 8029028	III	JA0619-0625
112	10/18/21	Notice of Entry of Order Granting Attorney's Fees and Entry of Judgment – Transaction 8702337	VII	JA1374-1386
90	05/13/21	Notice of Intent to File Motion – Transaction 8444437	V	JA1048-1049
95	06/07/21	Opposition to Motion for Reconsideration and Rehearing of, or in the Alternative, Motion to Set Aside this Court's Order Pursuant to NRCP 60(B)(1) and (6) [including the "First" and any other "Erratas" that may be filed] – Transaction 8483047	VI	JA1085-1096
68	02/18/21	Opposition to Motion for Sanctions – Transaction 8302448	III	JA0658-0662
25	01/07/20	Order Addressing Motion to Dismiss – Plaintiff to File Amended Complaint – Transaction 7673003	I	JA0198-0199
38	04/20/20	Order Affirming Master Recommendation – Transaction 7841718	II	JA0411-0412
47	06/30/20	Order Affirming Master Recommendation – Transaction 7949738	III	JA0477-0478

DOC.	FILE/HRG. DATE	DOCUMENT DESCRIPTION	VOL.	BATES NOS.
75	03/25/21	Order Denying Motion for Sanctions – Transaction 8361465	IV	JA0721-0722
16	07/30/19	Order for Enlarging Time for Service – Transaction 7402741	I	JA0156-0158
111	10/18/21	Order Granting Attorney's Fees and Entry of Judgment – Transaction 8701865	VII	JA1365-1373
60	08/19/20	Order Granting Motion in Limine to Preclude Offering Documents Not Produced to RTC on or before June 30, 2020 – Transaction 8027856	III	JA0617-0618
32	03/20/20	Order Granting Motion to Dismiss – Transaction 7801281	II	JA0256-0257
24	12/10/19	Order Granting Stipulation for Entry of Order Dismissing Certain of Plaintiff's Claims for Relief and Damages With Prejudice – Transaction 7629013	I	JA0196-0197
22	11/18/19	Order Granting Stipulation to Conduct Discovery – Transaction 7593663	I	JA0191
99	06/09/21	Order Granting Summary Judgment After Supplemental Arguments – Transaction 8487964	VI	JA1148-1159
57	08/05/20	Order Regarding Declarations of Expenses – Transaction 8004713	III	JA0603-0605
84	04/28/21	Order Setting Hearing and for Electronic Appearance – Transaction 8419081	V	JA0891-0892
94	06/02/21	Order Setting Hearing for Oral Argument 6/8/21 at 10:00 A.M. – Transaction 8474916	VI	JA1083-1084
48	06/30/20	Order to Set File Notice to Set Within 14 Days – Transaction 7949756	III	JA0479
14	07/01/19	Order to Show Cause – Transaction 7349801	I	JA0148-0150
92	06/01/21	Plaintiffs' Motion for Reconsideration and Rehearing of, or, in the Alternative, Motion to Set Aside this Court's Order Pursuant to NRCP 60(B)(1) and (6) – Transaction 8473201	V	JA1054-1060

DOC.	FILE/HRG. DATE	DOCUMENT DESCRIPTION	VOL.	BATES NOS.
49	06/30/20	Plaintiffs' Notice of Intent to File Opposition to Defendant's Statement of Claimed Costs and Fees – Transaction 7950620	III	JA0480-0483
108	08/14/21	Plaintiffs' Opposition to Defendant's Motion for Attorney Fees and for Entry of Judgment for Attorney Fees and Costs – Transaction 8595894	VII	JA1326-1338
42	05/14/20	Plaintiffs' Opposition to Defendant's Motion for Sanctions – Transaction 7878297	II	JA0431-0436
78	04/02/21	Plaintiffs' Opposition to Defendant's Motion in Limine to Exclude Evidence Pursuant to NRS 50.275, 50.285, and 50.305 – Transaction 8376236	IV	JA0819-0822
79	04/02/21	Plaintiffs' Opposition to Defendant's Motion in Limine to Exclude Evidence Pursuant to NRS 50.275 – Transaction 8376273	IV	JA0823-0826
20	11/07/19	Plaintiffs' Opposition to Defendant's Partial Motion to Dismiss Plaintiff's Complaint – Transaction 7576382	I	JA0174-0182
28	02/10/20	Plaintiffs' Opposition to Defendant's Supplemental Motion to Dismiss – Transaction 7732495	II	JA0226-0235
76	04/02/21	Plaintiffs' Opposition to Defendants' Motion for Summary Judgment – Transaction 8376225	IV	JA0723-0814
77	04/02/21	Plaintiffs' Opposition to Defendants' Motion in Limine to Exclude Evidence of Damages – Transaction 8376231	IV	JA0815-0818
50	07/06/20	Plaintiffs' Response to Declaration of Dane W. Anderson Regarding Expenses to be Reimbursed by Defendants – Transaction 7956088	III	JA0484-0490

DOC.	FILE/HRG. DATE	DOCUMENT DESCRIPTION	VOL.	BATES NOS.
55	07/27/20	Plaintiffs' Response to the Supplemental Declaration of Dane W. Anderson Regarding Expenses to be Reimbursed by Plaintiffs – Transaction 7990157	III	JA0594-0597
41	04/22/20	Pre-Trial Order – Transaction 7845782	II	JA0421-0430
109	08/23/21	Reply in Support of Motion for Attorney Fees and for Entry of Judgment for Attorney Fees and Costs – Transaction 8608634	VII	JA1339-1347
110	08/23/21	Reply in Support of Motion for Attorney Fees and for Entry of Judgment for Attorney Fees and Costs – Transaction 8608728	VII	JA1348-1364
44	05/18/20	Reply in Support of Motion for Sanctions Pursuant to NRCP 37(b)(1) – Transaction 7882116	II	JA0440-0444
85	04/29/21	Reply in Support of Motion for Summary Judgment – Transaction 8420046	V	JA0893-0941
81	04/27/21	Reply in Support of Motion in Limine to Exclude Evidence of Damages – Transaction 8416263	V	JA0831-0884
80	04/27/21	Reply in Support of Motion in Limine to Preclude Plaintiffs from Presenting Evidence Pursuant to NRS 50.275, 50.285 and 50.305 – Transaction 8416238	IV	JA0827-0830
21	11/12/19	Reply in Support of Motion to Dismiss – Transaction 7583646	I	JA0183-0190
29	02/13/20	Reply in Support of Supplemental Motion to Dismiss – Transaction 7739174	II	JA0236-0242
69	08/06/20	Request for Submission re Motion in Limine to Preclude Plaintiffs from Offering Documents Not Produced to RTC on or Before June 30, 2020 – Transaction 8007357	III	JA0614-0616

DOC.	FILE/HRG. DATE	DOCUMENT DESCRIPTION	VOL.	BATES NOS.
52	07/16/20	Request for Submission re Declaration of Dane W. Anderson Regarding Expenses To Be Reimbursed By Defendants [*sic*] – Transaction 7973986	III	JA0497-0499
39	04/20/20	Request for Submission re Motion for Discovery Sanctions – Transaction 7842053	II	JA0413-0415
69	02/25/21	Request for Submission re Motion for Sanctions Pursuant to NRCP 16.1(e) – Transaction 8313712	III	JA0663-0665
43	05/18/20	Request for Submission re Motion for Sanctions Pursuant to NRCP 37(b)(l) – Transaction 7882116	II	JA0437-0439
82	04/28/21	Request for Submission re Reply in Support of Motion in Limine to Preclude Plaintiffs From Presenting Evidence Pursuant to NRS 50.275, 50.285 and 50.305 – Transaction 8417512	V	JA0885-0887
83	04/28/21	Request for Submission re Reply in Support of Motion in Limine to Exclude Evidence of Damages – Transaction 8417518	V	JA0888-0890
91	05/24/21	Response to Notice of Intent to File Motion – Transaction 8461146	V	JA1050-1053
70	02/25/21	RTC's Reply in Support of Motion for Sanctions Pursuant to NRCP 16.1(C) – Transaction 8313712	IV	JA0666-0687
51	07/13/20	RTC's Reply to Plaintiffs' Response to Declaration of Dane W. Anderson Regarding Expenses to be Reimbursed by Defendants – Transaction 7966844	III	JA0491-0496
56	07/29/20	RTC's Reply to Plaintiffs' Response to The Supplemental Declaration of Dane W. Anderson Regarding Expenses to be Reimbursed by Defendants – Transaction 7993047	III	JA0598-0602

DOC.	FILE/HRG. DATE	DOCUMENT DESCRIPTION	VOL.	BATES NOS.
66	10/12/20	Scheduling Order Amended Stipulated Scheduling Order – Transaction 8111324	III	JA0649-0651
19	10/30/19	Stipulation to Conduct Discovery Prior to Holding NRCP 16.1 Conference and Prior to Filing the JCCR – Transaction 7563184 -	I	JA0171-0173
23	12/06/19	Stipulation for Entry of Order Dismissing Certain Plaintiffs' Claims for Relief and Damages With Prejudice – Transaction 7623980	I	JA0192-0195
65	10/08/20	Stipulation for Entry of Scheduling Order – Transaction 8107608	III	JA0645-0648
53	07/21/20	Supplemental ... Declaration of Dane W. Anderson Re Expenses to be Reimbursed by Plaintiffs – Transaction 7981140	III	JA0500-0507
96	06/08/21	Supplemental Exhibit to Motion for Reconsideration – Transaction 8483818	VI	JA1097-1104
27	01/30/20	Supplemental Motion to Dismiss – Transaction 7712316	I	JA0219-0225
87	05/06/21	Transcript of 4/27/21 Status Hearing	V	JA0945-1004
89	05/12/21	Transcript of 5/12/2021 Oral Arguments – Transaction 8442136	V	JA1006-1047
98	06/08/21	Transcript of 6/8/21 Oral Arguments	VI	JA1106-1147
64	09/30/20	Transcript of 9/29/20 Case Management Conference	III	JA0630-0644

CERTIFICATE OF SERVICE

Pursuant to NRAP 25(c), I hereby certify that I am an employee of ALBRIGHT, STODDARD, WARNICK & ALBRIGHT, and that on this 30th day of December, 2021, the foregoing **JOINT APPENDIX, VOLUME V**, was filed electronically with the Clerk of the Nevada Supreme Court, and therefore electronic service was made in accordance with the master service list as follows:

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Bronagh M. Kelly, Esq.
WOODBURN AND WEDGE
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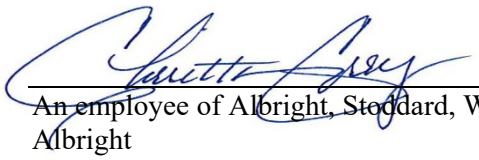
Trial Counsel for Plaintiffs



An employee of Albright, Stoddard, Warnick & Albright

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Alicia L. Lerud
Clerk of the Court
Transaction # 8416263 : nmason

3795
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Attorneys for Defendant, the Regional Transportation Commission of Washoe County

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an individual; AND SONNIA ILIESCU, an individual, Plaintiffs, v. THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1 – 40, inclusive, Defendants.	Case No.: CV19-00459 Dept. No.: 15

REPLY IN SUPPORT OF MOTION IN LIMINE TO EXCLUDE EVIDENCE OF DAMAGES

Plaintiff The Regional Transportation Commission of Washoe County ("RTC") submits the following reply in support of its Motion In Limine To Exclude Evidence Of Damages and in response to Plaintiffs' opposition brief filed on April 2, 2021. This motion is supported by the following memorandum of points and authorities and all other pleadings and papers on file in this matter.

This action involves an alleged trespass on Plaintiffs' property at 642 E. 4th Street in Reno. Plaintiffs claim their parking lot has been damaged by the alleged trespass but have provided no evidence of the amount of damages they claim, including failing to provide a computation of damages with supporting documentation as required by NRCP 16.1(a)(1)(A)(iv). The expert deadline has passed without Plaintiffs disclosing a witness with specialized knowledge to opine upon the damage to Plaintiffs' parking lot or any other claimed damages in this case.

Only Plaintiffs know what damages they claim in this case, yet they have provided no information to RTC. Yet they have provided nothing, even in response to specific written discovery on that issue. See **Exhibit 1**, attached.[1] The only documents produced in this case are attached as **Exhibit 2**.[2] There is nothing in those documents that gives any inkling as to the amount or computation of Plaintiffs' damages.

Contrary to the suggestion of Plaintiffs' counsel, RTC did nothing to hinder Plaintiffs' ability to conduct discovery. Information regarding Plaintiffs' damages is completely within their control.

While Plaintiffs are correct that discovery is still open for one more month, any disclosure of damages information at this point would be prejudicial to RTC, as there is insufficient time to conduct any meaningful follow up discovery.

Here, Plaintiffs have provided no computation of damages and have provided no documents from which that computation can be ascertained, nor have they designated an

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[1] An identical set was served on Mrs. Iliescu.

[2] Mrs. Iliescu produced an identical set of documents.

Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, NV 89511
775-688-3000

expert witness to opine on these matters. Therefore, Plaintiffs should be precluded from offering any evidence of their alleged damages in this case.

Affirmation pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the personal information of any person.

DATED: April 27, 2021

WOODBURN AND WEDGE

By*/s/ Dane W. Anderson*
Dane W. Anderson, Esq.
Nevada Bar No. 6883
Bronagh M. Kelly, Esq.
Nevada Bar No. 14555
Attorneys for Defendant
The Regional Transportation
Commission of Washoe County

Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, NV 89511
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TABLE OF EXHIBITS

Exhibit	No. of Pages (*Including Exhibit Sheet*)	Exhibit No.
Defendant's First Set of Requests for Production of Documents to Plaintiff John Iliescu, Jr.	9	1
Plaintiff's Responses to Defendant's First Request for Production of Documents to Plaintiff John Iliescu, Jr.	40	2

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6100 Neil Road, Suite 500
Reno, NV 89511
775-688-3000

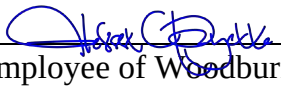
CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Woodburn and Wedge and that on this date, I caused to be sent via electronic delivery through the Court's E-flex system a true and correct copy of the ***REPLY IN SUPPORT OF MOTION IN LIMINE TO EXCLUDE EVIDENCE OF DAMAGES*** addressed to:

MICHAEL J. MORRISON, ESQ.
1495 Ridgeview Dr., #220
Reno, Nevada 89519
venturelawusa@gmail.com

Attorneys for Plaintiffs

DATED: April 27, 2021.



Employee of Woodburn and Wedge

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Alicia L. Lerud
Clerk of the Court
Transaction # 8416263 : nmason

EXHIBIT “1”

EXHIBIT “1”

DISCOVERY

Dane W. Anderson, Esq.
Nevada Bar No. 6883
WOODBURN AND WEDGE
6100 Neil Road, Suite 500
Reno, Nevada 89511
Telephone: 775-688-3000
Facsimile: 775-688-3088
danderson@woodburnandwedge.com

Attorneys for Defendant, the Regional Transportation Commission of Washoe County

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an individual; AND SONNIA ILIESCU, an individual, Plaintiffs, v. THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1 – 40, inclusive, Defendants.	Case No.: CV19-00459 Dept. No.: 15

DEFENDANT'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS TO PLAINTIFF JOHN ILIESCU, JR.

TO: Plaintiff John Iliescu, Jr., and Michael J. Morrison, Esq., 1495 Ridgeview Drive, Suite 220, Reno, NV 89519, his counsel of record:

Defendant The Regional Transportation Commission of Washoe County ("RTC"), by and through its counsel of record, hereby propounds the following requests for production to Plaintiff John Iliescu, Jr., ("ILIESCU") pursuant to Rules 26 and 34 of the Nevada Rules of Civil Procedure. The requested documents are to be produced to

Defendant The Regional Transportation Commission of Washoe County's counsel, Woodburn and Wedge, 6100 Neil Road, Suite 500, Reno, Nevada, 89511.

DEFINITIONS

1. As used throughout these requests, "document" or "documents" has the same meaning as the definitions of "writings" and "recordings" and "photographs" as defined in NRS 52.225 and NRS 52.215. This includes, but is not limited to, all originals, copies and drafts of all letters, electronic mail, telegrams, cablegrams, telexes, memoranda, notes, records, reports, studies, calendars, diaries, agenda, minutes, books, pamphlets, periodicals, newspaper clippings, graphics, indexes, charts, tabulations, statistical accumulations, financial statements, accounting entries, press releases, contracts, affidavits, transcripts, legal documents, accountant work papers, financial reports, tax returns, recordings of meetings and conferences, records of conversations and telephone calls, still photographs, videotapes, motion pictures, tape recordings, microfilms, punch cards, computer programs, print-outs, polygraph examination, records, recordings, made through data processing techniques and the written information necessary to understand and use such films and records.

2. As used throughout these requests, a request for information that "relates to" any given subject means any information that in whole or in part constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is in any way pertinent to that subject.

3. All references to the singular in these definitions and requests shall be deemed to include the plural, and all references to the plural shall be deemed to include the singular. All references to masculine gender shall be deemed to include the feminine and neuter.

4. "Any" means any and all.

5. "All" means any and all.

6. "Or" means and/or.

7. "Including" means including, but not limited to.

8. "Communication" or "Communications" includes all conversations, written or oral, meetings, memoranda, correspondence, emails, text messages, social media, conferences and any other means or manner of transmitting written transmissions.

9. Unless otherwise specified, the terms "you" or "your" means Plaintiff JOHN ILIESCU and his attorneys, accountants, agents, employees and anyone else purporting to act on his behalf with respect to the facts and allegations that are the subject of this litigation.

INSTRUCTIONS

1. Under Rule 34 of the Nevada Rules of Civil Procedure, you are required to produce the documents as they are kept in the usual course of business or to organize and label them to correspond with the categories of this request. Accordingly, whenever a document or group of documents is taken out of a file folder, file drawer, file box or notebook, before the same is produced, you are requested to attach thereto a copy of the label and the file folder, file drawer, file box or notebook from which a document or group of documents was removed.

2. For each document responsive to this request that is withheld under claim of privilege or work-product immunity, write a statement under oath by a person having knowledge setting forth as to each document:

a) The name and title of the author;

b) The name and title of each person to whom the document was addressed;

c) The name and title of each person to whom a copy of the document was sent;

d) The date of the document;

e) The number of pages in the document;

f) A brief description of the nature and subject matter of the document;

g) The nature of the claimed privilege of immunity;

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Reno, NV 89511
775-688-3000

h) The category or categories of this request to which the document is responsive; and

i) The exact location of the original and each copy as of the date of the receipt of this request, along with the names and addresses of the custodian of said originals and copies.

3. If you are aware of any document otherwise responsive to this request, which document is no longer in your custody or control, identify the name and title of the author, the name and title of the addressee, the date of the document, the subject matter of the document or documents, the last date in which the document was in your control, the person or entity, if any, now in control of the document, and the reasons for your disposition of release of the document.

4. This request for Production of Documents shall be deemed continuing pursuant to Rule26(e), Nevada Rules of Civil Procedure, and as additional information is secured, such additional information shall be supplied to Woodburn and Wedge, 6100 Neil Road, Suite 500, Reno, NV 89511, attorneys for Defendant The Regional Transportation Commission of Washoe County.

DOCUMENTS REQUESTED

REQUEST NO. 1:

All documents supporting your contention that RTC or anyone you contend was acting on behalf of RTC drove over and parked their vehicles on your property "on virtually every workday during the term of the Project," as alleged in paragraph 9 of your Complaint.

REQUEST NO. 2:

All documents supporting your allegation that you and/or Sonnia Iliescu made "frequent objections" to RTC's alleged use of any portion of your property at issue in this litigation, as set forth in paragraph 9 of your Complaint, as well as all documents supporting your allegation that you and/or Sonnia Iliescu made "innumerable requests"

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that RTC not use the property, as set forth on page 6 of your opposition to the motion to dismiss.

REQUEST NO. 3:

All documents, including photographs, that depict or discuss the condition of the subject parking lot at any time, whether before, during and after the Project that is the subject of your complaint. With respect to documents and photographs before the Project, RTC seeks documents depict or discuss the condition of the subject parking lot in the 15 years prior to the Project. The response to this request should include any correspondence, bids, quotes or other documents discussion possible repairs to or work to be done on the subject parking lot.

REQUEST NO. 4:

All documents supporting your claim that you have suffered reparable and irreparable damages to the "Remaining Property and to each of the respective Plaintiffs," as alleged in paragraph 11 of your Complaint.

REQUEST NO. 5:

All documents supporting your claim for loss of market value of the Remaining Property as alleged in paragraph 11(a) of your Complaint.

REQUEST NO. 6:

All documents supporting your claim for discomfort and annoyance to Plaintiffs as alleged in paragraph 11(b) of your Complaint.

REQUEST NO. 7:

All documents supporting your claim for emotional distress as alleged in paragraph 11(c) of your Complaint.

REQUEST NO. 8:

All documents supporting your claim for emotional distress as alleged in paragraph 11(c) of your Complaint

///

///

Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, NV 89511
775-688-3000

REQUEST NO. 9:

All documents supporting your claim for loss of use of the Remaining Property as alleged in paragraph 11(d) of your Complaint.

REQUEST NO. 10:

All documents supporting your claim for costs of property restoration as alleged in paragraph 11(e) of the Complaint.

REQUEST NO. 11:

All documents supporting your claim for physical damage to and destruction of the Property as alleged in paragraph 11(c) of your Complaint.

REQUEST NO. 12:

All contracts you allege exist between you and RTC or any other party related to this matter, including but not limited to the agreement referenced in paragraph 11 of your Complaint, the agreements referenced in paragraphs 27 of your Complaint, and the "RTC-Trust Agreement" referenced in paragraphs 39, 46 and 48(a) of your Complaint.

REQUEST NO. 13:

All documents supporting your allegation that Defendants agreed to carry out a scheme intended to accomplish unlawful objectives, as alleged in paragraph 67 of your Complaint.

REQUEST NO. 14:

All documents supporting your allegation that you and Sonnia Iliescu each suffered pain, discomfort, mental and emotional distress, pain and disabilities, mental and psychological problems, depression, loss of sleep, appetite and enjoyment of life as a result of RTC's conduct, as alleged in paragraphs 74, 82, 84, 91 and 92 of your Complaint. Your response should include all medical records supporting your allegation that you and Sonnia Iliescu each sought medical attention for your respective injuries and "continued for some time to require medical care and treatment, even though the date of this Complaint," as alleged in paragraph 82 of your Complaint, as well as any such records up to and including the date of your response.

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REQUEST NO. 15:

All documents supporting your allegation that RTC or any other defendant acted in a malicious, destructive, willful, mean-spirited or other improper manner.

REQUEST NO. 16:

All documents supporting your allegation that RTC owed you a fiduciary duty.

Affirmation pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the personal information of any person.

DATED: November 8, 2019.

WOODBURN AND WEDGE

By: _____

Dane W. Anderson, Esq.
Nevada Bar No. 6883
Attorneys for Defendant
The Regional Transportation
Commission of Washoe County

Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, NV 89511
775-688-3000

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Woodburn and Wedge, and that on this date, I caused to be hand delivered a true and correct copy of the attached document addressed to:

Michael J. Morrison, Esq.
1495 Ridgeview Dr., #220
Reno, Nevada 89519
venturelawusa@gmail.com

Attorneys for Plaintiffs

DATED: November 8, 2019.

Employee of Woodburn and Wedge

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2021-04-27 04:56:35 PM
Alicia L. Lerud
Clerk of the Court
Transaction # 8416263 : nmason

EXHIBIT "2"

EXHIBIT "2"

Dianne Kelling

From: Michael J. Morrison, Chtd. <venturelawusa@gmail.com>
Sent: Tuesday, June 30, 2020 6:59 PM
To: Dianne Kelling; Dane Anderson
Subject: Iliescu vs RTC
Attachments: Ilisecu-RTC-4th Street-Exhibits 1-5-Prod Docs.pdf; Iliescu v RTC - SIG COPY - JOHN Responses to RFP -FINAL - 30Jun2020.pdf

Dear Dianne and Dane -

Attached please find Dr. John's responses to your RFP.

Sonnia's will follow.

Thanks,
Mike

Discovery

MICHAEL J. MORRISON, ESQ.
Nevada State Bar No. 1665
1495 Ridgeview Dr., #220
Reno, Nevada 89519
(775) 827-6300
Attorney for Plaintiffs

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

* * * * *

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU, JR. AND SONNIA ILIESCU 1992 FAMILY TRUST, Plaintiff, vs. THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; AND DOES 1-40, Defendants.	CASE NO. CV19-00459 DEPT. NO. 15 **PLAINTIFF'S RESPONSES TO DEFENDANT'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS TO PLAINTIFF JOHN ILIESCU, JR.**

COMES NOW JOHN ILIESCU, JR., individually, by and through their attorney, Michael J. Morrison, Esq., and pursuant to NRCP 26 and 34, Plaintiff John Iliescu, Jr., respectfully responds to the Defendant's First Set of Requests for Production of Documents to Plaintiff John Iliescu, Jr. ("Plaintiff"), as follows:

PRELIMINARY OBJECTIONS AND COMMENTS

1. These responses and productions are based solely on information and documents as is presently known and in the possession of Plaintiff. Further discovery may lead to additions to, changes in, or modification of these answers in accordance with Nevada Rules of Civil Procedure. Accordingly, these responses are being given without prejudice to Plaintiff's right to produce subsequent discovery evidence and to introduce the same at trial.

2. Plaintiff will supplement his responses to the requests as required by the Nevada Rules of Civil Procedure.

3 All responses will be made solely for the purpose of this action. Each response will be subject to all objections as to competence, relevance, materiality, propriety and admissibility, and to any and all objections on any ground which would require the exclusion from evidence of any document produced herein, all of which objections and grounds are expressly reserved and may be interposed at any hearings.

4. Plaintiff adopts by reference the above objections and incorporates each objection as if it were fully set forth below in each of Plaintiff's Responses.

REQUEST NO. 1:

All documents supporting your contention that RTC or anyone you contend was acting on behalf of RTC drove over and parked their vehicles on your property "on virtually every workday during the term of the Project," as alleged in paragraph 9 of your Complaint.

RESPONSE TO REQUEST NO. 1:

See Exhibit "1". Photos of the subject trucks on the subject property, taken April 3, 2018.
See Exhibit "2". Letter from Paragon Partners, Defendant's designated and contracted construction firm.
See Exhibit "3". Preliminary Draft of Broker Price Opinion (Cover Page Only) containing photos of the subject property (on pages 4 & 5) before construction commenced.
See Exhibit "4". Order of the Court granting RTC (Defendant in this case) possession and occupancy of the property, and specifically ordering Defendant to "minimize interference between construction of the Project and Real Parties in Interest's (Iliescus' use of the remaining land of Real Parties in Interest on APN 008-244-15. Also included are other documents related to the process.
See Exhibit "5". Cover page of Appraisal Report prepared for the Iliescus by Joseph S. Campbell, MAI, dated May 15, 2017, containing photos of the subject property before RTC commenced construction.

Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due

deference accorded the respective schedules of counsel for the respective parties. Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust", including Transaction #5832427, the Verified Complaint in Eminent Domain, containing Exhibits 1-4 (inclusive), specifying, *inter alia*, rights and duties of Defendant and its included governmental and other associated parties, as well as the small size and limited use and scope of its "Temporary Construction Easement"; and Transaction #5832427, delineating the very limited easement the Court granted Defendant with respect to the property subject of the instant case.

REQUEST NO. 2:

All documents supporting your allegation that you and/or Sonnia Iliescu made "frequent objections" to RTC's alleged use of any portion of your property at issue in this litigation, as set forth in paragraph 9 of your Complaint, as well as all documents supporting your allegation that you and/or Sonnia Iliescu made "innumerable requests" that RTC not use the property, as set forth on page 6 of your opposition to the motion to dismiss.

RESPONSE TO REQUEST NO. 2:

See Exhibits "1" and "4".

Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties. Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

REQUEST NO. 3:

All documents, including photographs, that depict or discuss the condition of the subject parking lot at any time, whether before, during and after the Project that is the subject of your complaint. With respect to documents and photographs before the Project,

RTC seeks documents depict or discuss the condition of the subject parking lot in the 15 years prior to the Project. The response to this request should include any correspondence, bids, quotes or other documents discussion possible repairs to or work to be done on the subject parking lot.

RESPONSE TO REQUEST NO. 3:

See Exhibit "1". Photos of the subject trucks on the subject property, taken April 3, 2018.
See Exhibit "2". Letter from Paragon Partners, Defendant's designated and contracted construction firm.
See Exhibit "3". Preliminary Draft of Broker Price Opinion (Cover Page Only) containing photos of the subject property (on pages 4 & 5) before construction commenced.
See Exhibit "4". Order of the Court granting RTC (Defendant in this case) possession and occupancy of the property, and specifically ordering Defendant to "minimize interference between construction of the Project and Real Parties in Interest's (Iliescus' use of the remaining land of Real Parties in Interest on APN 008-244-15. Also included are other documents related to the process.
See Exhibit "5". Cover page of Appraisal Report prepared for the Iliescus by Joseph S. Campbell, MAI, dated May 15, 2017, containing photos of the subject property before RTC commenced construction.
Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties.
Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

REQUEST NO. 4:

All documents supporting your claim that you have suffered reparable and irreparable damages to the "Remaining Property and to each of the respective Plaintiffs," as alleged in paragraph 11 of your Complaint.

RESPONSE TO REQUEST NO. 4:

See Exhibit "1".

Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties. Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

REQUEST NO. 5:

All documents supporting your claim for loss of market value of the Remaining Property as alleged in paragraph 11(a) of your Complaint.

RESPONSE TO REQUEST NO. 5:

See Exhibits "1" and "5".

Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties. Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

REQUEST NO. 6:

All documents supporting your claim for discomfort and annoyance to Plaintiffs as alleged in paragraph 11(b) of your Complaint.

RESPONSE TO REQUEST NO. 6:

See Exhibit "1". Photos of the subject trucks on the subject property, taken April 3, 2018.

See Exhibit "2". Letter from Paragon Partners, Defendant's designated and contracted

construction firm.

See Exhibit "3". Preliminary Draft of Broker Price Opinion (Cover Page Only) containing photos of the subject property (on pages 4 & 5) before construction commenced.

See Exhibit "4". Order of the Court granting RTC (Defendant in this case) possession and occupancy of the property, and specifically ordering Defendant to "minimize interference between construction of the Project and Real Parties in Interest's (Iliescus' use of the remaining land of Real Parties in Interest on APN 008-244-15. Also included are other documents related to the process.

See Exhibit "5". Cover page of Appraisal Report prepared for the Iliescus by Joseph S. Campbell, MAI, dated May 15, 2017, containing photos of the subject property before RTC commenced construction.

Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties.

Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

REQUEST NO. 7:

All documents supporting your claim for emotional distress as alleged in paragraph 11(c) of your Complaint.

RESPONSE TO REQUEST NO. 7:

See Exhibit "1". Photos of the subject trucks on the subject property, taken April 3, 2018.

See Exhibit "2". Letter from Paragon Partners, Defendant's designated and contracted construction firm.

See Exhibit "3". Preliminary Draft of Broker Price Opinion (Cover Page Only) containing photos of the subject property (on pages 4 & 5) before construction commenced.

See Exhibit "4". Order of the Court granting RTC (Defendant in this case) possession and occupancy of the property, and specifically ordering Defendant to "minimize interference between construction of the Project and Real Parties in Interest's (Iliescus' use of the

remaining land of Real Parties in Interest on APN 008-244-15. Also included are other documents related to the process.

See Exhibit "5". Cover page of Appraisal Report prepared for the Iliescus by Joseph S. Campbell, MAI, dated May 15, 2017, containing photos of the subject property before RTC commenced construction.

Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties.

Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

REQUEST NO. 8:

All documents supporting your claim for emotional distress as alleged in paragraph 11(c) of your Complaint.

RESPONSE TO REQUEST NO. 8:

See Exhibit "1". Photos of the subject trucks on the subject property, taken April 3, 2018.

See Exhibit "2". Letter from Paragon Partners, Defendant's designated and contracted construction firm.

See Exhibit "3". Preliminary Draft of Broker Price Opinion (Cover Page Only) containing photos of the subject property (on pages 4 & 5) before construction commenced.

See Exhibit "4". Order of the Court granting RTC (Defendant in this case) possession and occupancy of the property, and specifically ordering Defendant to "minimize interference between construction of the Project and Real Parties in Interest's (Iliescus' use of the remaining land of Real Parties in Interest on APN 008-244-15. Also included are other documents related to the process.

See Exhibit "5". Cover page of Appraisal Report prepared for the Iliescus by Joseph S. Campbell, MAI, dated May 15, 2017, containing photos of the subject property before RTC commenced construction.

Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that

there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties. Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

REQUEST NO. 9:

All documents supporting your claim for loss of use of the Remaining Property as alleged in paragraph 11(d) of your Complaint.

RESPONSE TO REQUEST NO. 9:

See Exhibit "1". Photos of the subject trucks on the subject property, taken April 3, 2018.
See Exhibit "2". Letter from Paragon Partners, Defendant's designated and contracted construction firm.
See Exhibit "3". Preliminary Draft of Broker Price Opinion (Cover Page Only) containing photos of the subject property (on pages 4 & 5) before construction commenced.
See Exhibit "4". Order of the Court granting RTC (Defendant in this case) possession and occupancy of the property, and specifically ordering Defendant to "minimize interference between construction of the Project and Real Parties in Interest's (Iliescus' use of the remaining land of Real Parties in Interest on APN 008-244-15. Also included are other documents related to the process.
See Exhibit "5". Cover page of Appraisal Report prepared for the Iliescus by Joseph S. Campbell, MAI, dated May 15, 2017, containing photos of the subject property before RTC commenced construction.
Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties. Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

REQUEST NO. 10:

All documents supporting your claim for costs of property restoration as alleged in paragraph 11(e) of the Complaint.

RESPONSE TO REQUEST NO. 10:

See Exhibits "1" and "5".

Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties. Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

REQUEST NO. 11:

All documents supporting your claim for physical damage to and destruction of the Property as alleged in paragraph 11(c) of your Complaint.

RESPONSE TO REQUEST NO. 11:

See Exhibit "1". Photos of the subject trucks on the subject property, taken April 3, 2018.

See Exhibit "2". Letter from Paragon Partners, Defendant's designated and contracted construction firm.

See Exhibit "3". Preliminary Draft of Broker Price Opinion (Cover Page Only) containing photos of the subject property (on pages 4 & 5) before construction commenced.

See Exhibit "4". Order of the Court granting RTC (Defendant in this case) possession and occupancy of the property, and specifically ordering Defendant to "minimize interference between construction of the Project and Real Parties in Interest's (Iliescus' use of the remaining land of Real Parties in Interest on APN 008-244-15. Also included are other documents related to the process.

See Exhibit "5". Cover page of Appraisal Report prepared for the Iliescus by Joseph S. Campbell, MAI, dated May 15, 2017, containing photos of the subject property before RTC commenced construction.

Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties. Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

REQUEST NO. 12:

All contracts you allege exist between you and RTC or any other party related to this matter, including but not limited to the agreement referenced in paragraph 11 of your Complaint, the agreements referenced in paragraphs 27 of your Complaint, and the "RTC-Trust Agreement" referenced in paragraphs 39, 46 and 48(a) of your Complaint.

RESPONSE TO REQUEST NO. 12:

See Exhibits "2", "3" and "4".

Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties. Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

REQUEST NO. 13:

All documents supporting your allegation that Defendants agreed to carry out a scheme intended to accomplish unlawful objectives, as alleged in paragraph 67 of your Complaint.

RESPONSE TO REQUEST NO. 13:

See Exhibit "1".

Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to

inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties. Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

REQUEST NO. 14:

All documents supporting your allegation that you and Sonnia Iliescu each suffered pain, discomfort, mental and emotional distress, pain and disabilities, mental and psychological problems, depression, loss of sleep, appetite and enjoyment of life as a result of RTC's conduct, as alleged in paragraphs 74, 82, 84, 91 and 92 of your Complaint. Your response should include all medical records supporting your allegation that you and Sonnia Iliescu each sought medical attention for your respective injuries and "continued for some time to require medical care and treatment, even though the date of this Complaint," as alleged in paragraph 82 of your Complaint, as well as any such records up to and including the date of your response.

RESPONSE TO REQUEST NO. 14:

See Exhibit "1". Photos of the subject trucks on the subject property, taken April 3, 2018.
See Exhibit "2". Letter from Paragon Partners, Defendant's designated and contracted construction firm.
See Exhibit "3". Preliminary Draft of Broker Price Opinion (Cover Page Only) containing photos of the subject property (on pages 4 & 5) before construction commenced.
See Exhibit "4". Order of the Court granting RTC (Defendant in this case) possession and occupancy of the property, and specifically ordering Defendant to "minimize interference between construction of the Project and Real Parties in Interest's (Iliescus' use of the remaining land of Real Parties in Interest on APN 008-244-15. Also included are other documents related to the process.
See Exhibit "5". Cover page of Appraisal Report prepared for the Iliescus by Joseph S. Campbell, MAI, dated May 15, 2017, containing photos of the subject property before RTC commenced construction.

Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties. Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

REQUEST NO. 15:

All documents supporting your allegation that RTC or any other defendant acted in a malicious, destructive, willful, mean-spirited or other improper manner.

RESPONSE TO REQUEST NO. 15:

See Exhibit "1". Photos of the subject trucks on the subject property, taken April 3, 2018.
See Exhibit "2". Letter from Paragon Partners, Defendant's designated and contracted construction firm.
See Exhibit "3". Preliminary Draft of Broker Price Opinion (Cover Page Only) containing photos of the subject property (on pages 4 & 5) before construction commenced.
See Exhibit "4". Order of the Court granting RTC (Defendant in this case) possession and occupancy of the property, and specifically ordering Defendant to "minimize interference between construction of the Project and Real Parties in Interest's (Iliescus' use of the remaining land of Real Parties in Interest on APN 008-244-15. Also included are other documents related to the process.
See Exhibit "5". Cover page of Appraisal Report prepared for the Iliescus by Joseph S. Campbell, MAI, dated May 15, 2017, containing photos of the subject property before RTC commenced construction.
Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties. Plaintiff further represents that many of the responsive documents are contained in this

Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

REQUEST NO. 16:

All documents supporting your allegation that RTC owed you a fiduciary duty.

RESPONSE TO REQUEST NO. 16:

See Exhibit "4".

Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties. Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

NOTE: Plaintiff John Iliescu is currently continuing his research and discovery to locate any additional documents responsive to REQUESTS NOS. 1-16, which will be produced if and when available.

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the document to which this Affirmation is attached does not contain the social security number of any person.

DATED this 30th day of June, 2020.

/s/Michael J. Morrison

Michael J. Morrison, Esq.
Attorney for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on this date I personally caused to be served a true copy of the foregoing PLAINTIFFS' RESPONSE TO DEFENDANT'S FIRST REQUESTS FOR PRODUCTION OF DOCUMENTS TO PLAINTIFF JOHN ILIESCU, JR. indicated and addressed to the following:

Dane W. Anderson, Esq.
WOODBURN AND WEDGE
6100 Neil Road, Suite 500
Reno, Nevada 89511

XX Via U.S. Mail
___ Via Overnight Mail
___ Via Hand Delivery
XX Via E-mail
___ Via ECF

DATED this 30th day of June, 2020.

/s/Michael J. Morrison

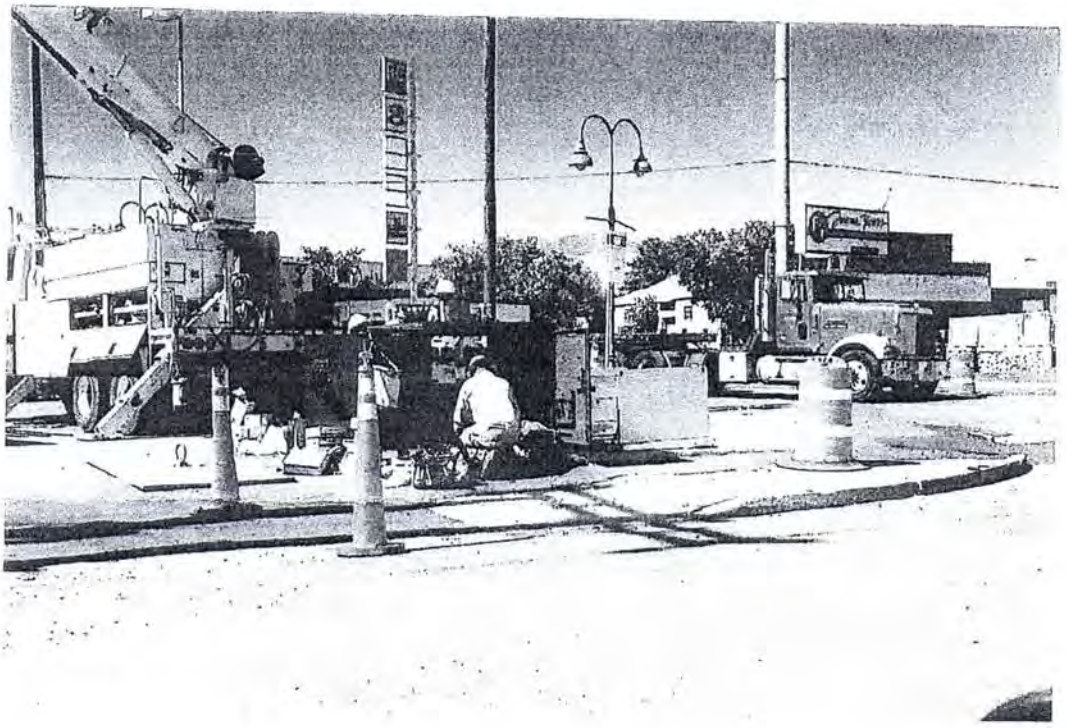
Michael J. Morrison

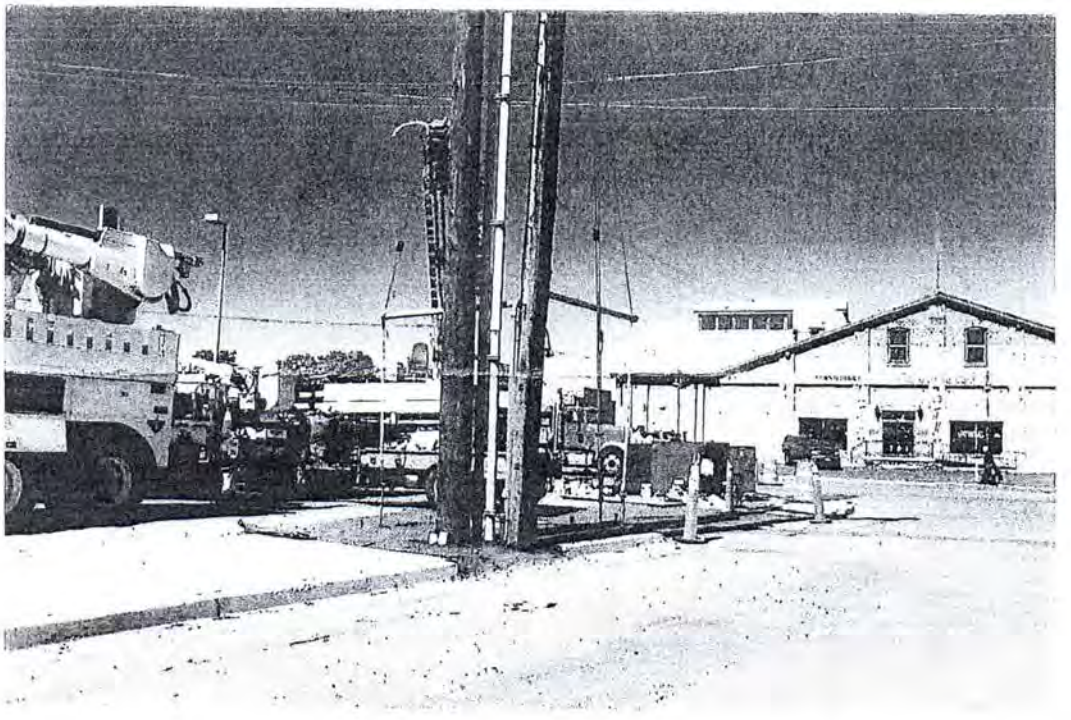
EXHIBIT "1"

EXHIBIT "1"


RANCHO
777








RANCHO

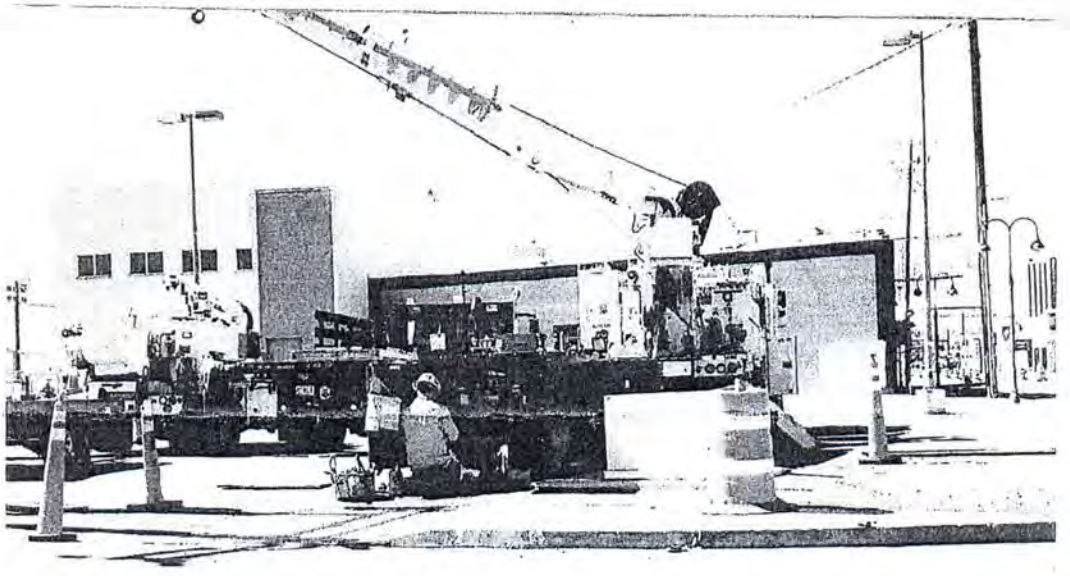


EXHIBIT "2"

EXHIBIT "2"

Todd Keizer
008-244-15 John and Sonnia Iliescu Family Trust
August 12, 2015 at 11:51 AM

John and Sonnia,

Thank you for your call today. It was a pleasure speaking with you. I have attached four maps to show you what we are proposing regarding your property.

The first attachment is labeled "PE" which is the permanent easement on the corner of 4th Street and Parker. It is 68 SF.

The second attachment is labeled "PUE" which is the utility easement on the southeast corner of your property. It is 584 SF but only 5 +/- feet wide at the widest point.

The third attachment is labeled "TCE" which is the temporary easement.

Lastly, I didn't mention it on the phone but I believe we are going to request access to the main parking area of the property. This is solely for your benefit to tie the driveway into 4th street, address grade issues, upgrade asphalt/curbing, etc. This last map labeled "full ROW map" shows this area in purple and will be completely voluntary and temporary on your part as the RTC will not compel you to allow us access. I will get you more information on this so you better understand the benefits to you will be.

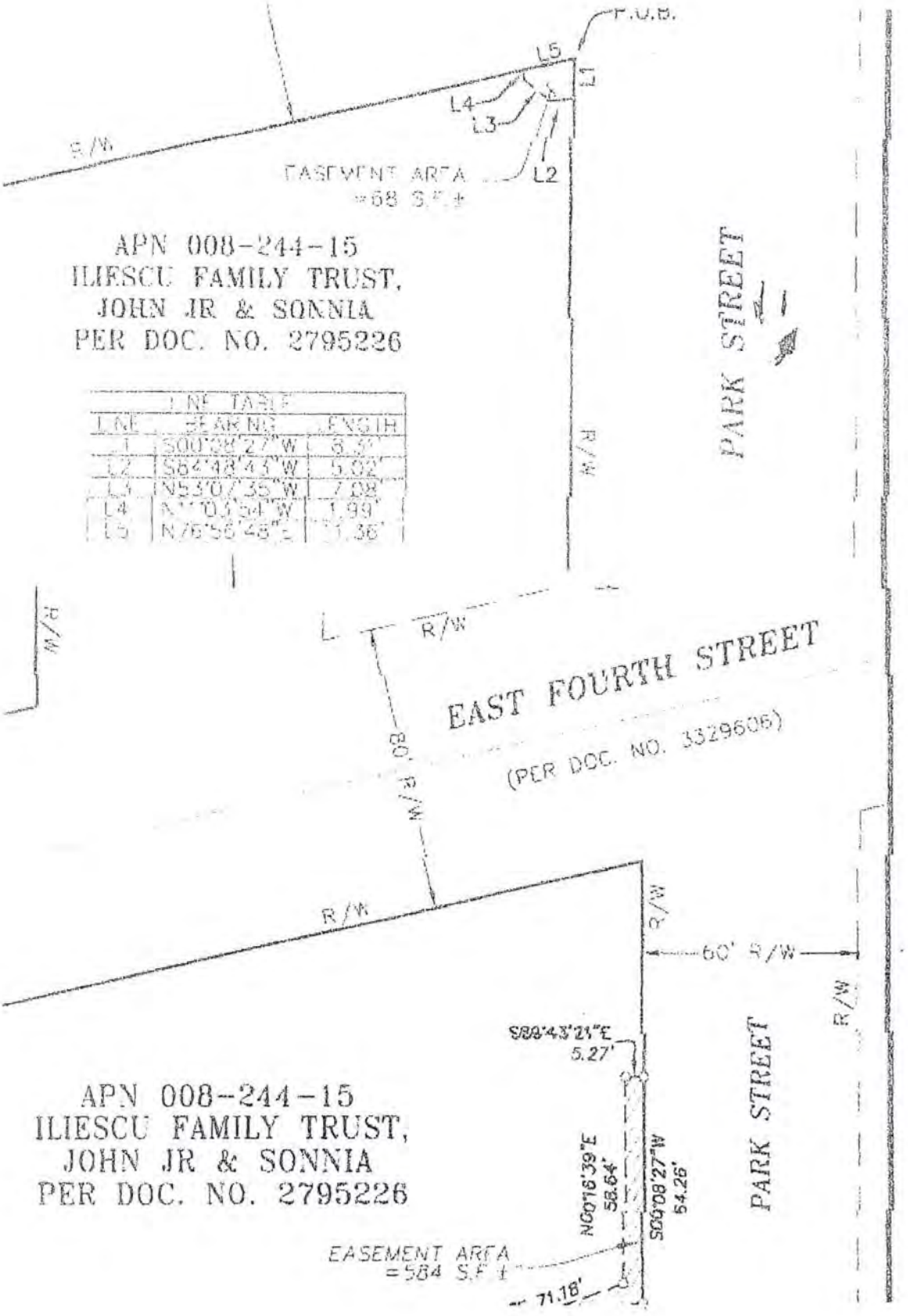
Please feel free to contact me at any time should you have additional questions.

Thank you.

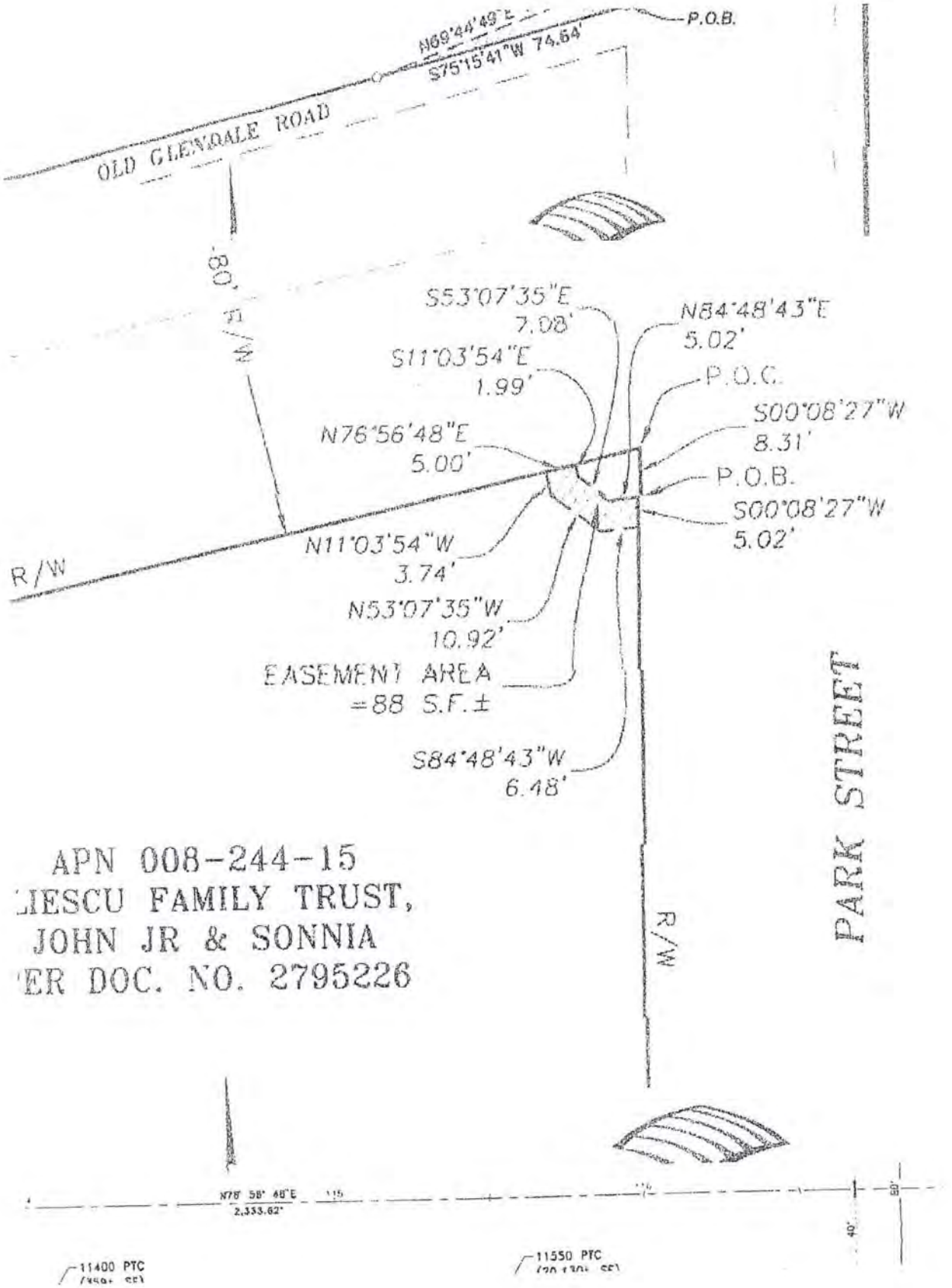
Todd Keizer
Project Manager
Paragon Partners Ltd.
5762 Bolsa Ave., Suite 201
Huntington Beach, CA 92649
Email: tkeizer@paragon-partners.com
www.paragon-partners.com
Tel.: 714.379.3376
Mobile: 310.497.4012
Fax: 714.373.1234

8-17-15
JT spoke w/ Todd
[illegible]




P.O.B.
L5
L1
L4
L3
L2
S/W
EASEMENT AREA
=68 S.F.±
APN 008-244-15
ILIESCU FAMILY TRUST,
JOHN JR & SONNIA
PER DOC. NO. 2795226
LINE TABLE
LINE BEARING LENGTH
L1 S00°28'27"W 6.57'
L2 S64°48'43"W 5.02'
L3 N53°0'35"W 7.08'
L4 N1°0'54"W 1.99'
L5 N76°56'48"E 11.36'
R/W
PARK STREET
EAST FOURTH STREET
(PER DOC. NO. 3329606)
80'
60' R/W
S88°43'21"E
5.27'
N00°16'39"E
58.64'
S00°08'27"W
54.26'
EASEMENT AREA
=584 S.F.±
71.18'
APN 008-244-15
ILIESCU FAMILY TRUST,
JOHN JR & SONNIA
PER DOC. NO. 2795226

JA0867


N69°44'49"E
S75°15'41"W 74.64'
P.O.B.
OLD GLENDALE ROAD
80'
R/W
S53°07'35"E
7.08'
S11°03'54"E
1.99'
N76°56'48"E
5.00'
N84°48'43"E
5.02'
P.O.C.
S00°08'27"W
8.31'
P.O.B.
S00°08'27"W
5.02'
N11°03'54"W
3.74'
N53°07'35"W
10.92'
EASEMENT AREA
=88 S.F.±
S84°48'43"W
6.48'
R/W
PARK STREET
APN 008-244-15
IESCU FAMILY TRUST,
JOHN JR & SONNIA
ER DOC. NO. 2795226
N78° 58' 48"E
2,333.62'
40'
50'
11400 PTC
11550 PTC


R/W
11550 TCE
(88± SF)
11550 PE
(68± SF)
008-244-19
ILIESCU FAMILY TRUST,
JOHN JR & SONNA
4TH STREET
11550 PUE
(584± SF)

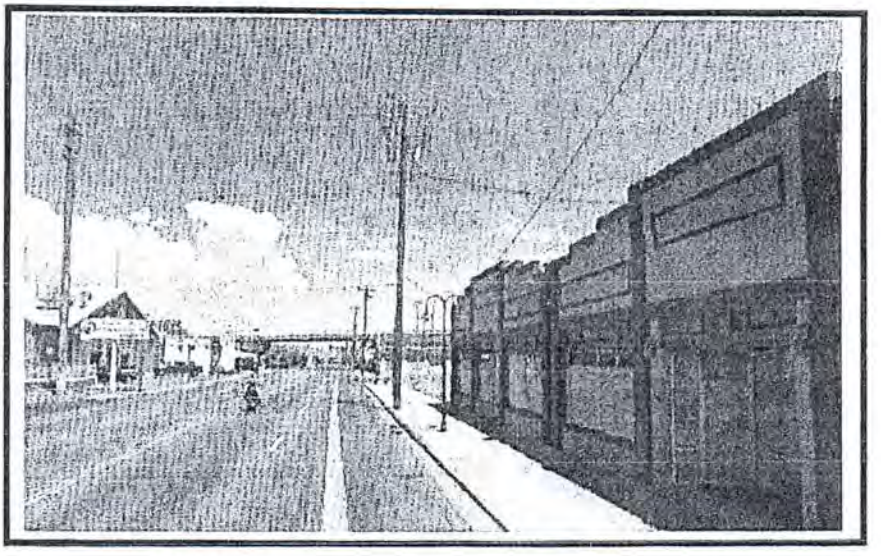
EXHIBIT "3"

EXHIBIT "3"

JOHNSON GROUP
Commercial | Residential | Investment | Realty

Richard K. Johnson
5255 Longley Ln, Suite105
Reno, Nevada 89511
Phone: 775-823-8877
Fax: 866-716-8848
Dick@JohnsonGroup.net

BROKER PRICE OPINION



THIS IS A PRELIMINARY DRAFT FOR REFERENCE ONLY

Subject Address: 642 E 4th , Reno, Nv

Date Prepared: August 18, 2016

TO THE ATTENTION OF:

RTC and
Dr & Sonnia Iliescu

PREPARED BY:

Richard K. "Dick" Johnson, Broker/Owner *License #:* 58025

Note: You and your advisors (such as tax, legal, and financial) should conduct careful and independent investigation to determine to your satisfaction the suitability of the property for your needs. The information has been obtained from sources believed reliable Agents make no representations or warranties as to the accuracy or completeness of supplied information and/or projections.

PROPERTY
ASSESSMENTS AND RECOMMENDATIONS

PROPERTY DATA:

Property Address:	642 E 4th, Reno, Nevada
APN #:	011-051-15
Owner of Record:	Iliescu Family Trust

PROPERTY CHARACTERISTICS:

APN: 008-244-15 Card 1 of 1

Owner Information & Legal Description

Situs 642 E 4TH ST
ILIESCU FAMILY TRUST, JOHN JR & SONNIA
Mail Address 200 COURT ST
RENO NV 89501
ILIESCU TRUSTEE, JOHN JR & SONNIA
Rec Doc No Rec Date 01/24/2003
Prior Owner SALVATION ARMY THE,
Prior Doc MEMO
Keyline Desc COMMERCIAL ADD LTS 1 THRU 11 BLK 1
Subdivision COMMERCIAL ADDITION
Lot: 1-11 Block: 1 Sub Map#
Record of Survey Map: Parcel Map#
Section: Township: 19 Range: 19
1002 Prior APN
Use does not qualify for Low Cap, High Cap Applied

Building Information

Quality C1S Low/Avg
Retail Store
Storage Warehouse
Stories 1.00
29,408
Year Built 1935
does not include Basement or Garage Conversion
Area.
1971 Finished Bsmt 0
0 Unfin Bsmt 0
Full Baths 0
Half Baths 0 Gar Conv Sq Foot 0
Fixtures Total Gar Area 0
Fireplaces 0 Gar Type
Heat Type PACKAGE UNIT Det Garage 0
Sec Heat Type SPACE HEATER Bsmt Gar Door 0
Ext Walls BRICK SOLID Sub Floor
Sec Ext Walls Frame MASONRY BRNG
Roof Cover Construction Mod 0
0 1
% Incomplete 1

Land Information

NBC = Neighborhood Code
400 MUDR Sewer Municipal NBC AHBQ
Size 31,866 SqFt or ~ 0.732 Acre Water Muni Street Paved NBC Map

Valuation Information

	2015/16 FV	2016/17 FV
Taxable Land Value	191,196	191,196
Taxable Improvement Value	559,814	544,867
Taxable Total	751,010	736,063
Assessed Land Value	66,919	66,919
Assessed Improvement Value	195,935	190,703
Total Assessed	262,854	257,622

Sales/Transfer Information/Recorded Document

Code	Use	Doc Date	Value/Sale Price	Grantor	Grantee
1G	400	01-24-2003	810,000	SALVATION ARMY THE,	ILIESCU FAMILY TRUST, JOHN JR & SONNIA
		08-21-1975	0		SALVATION ARMY THE

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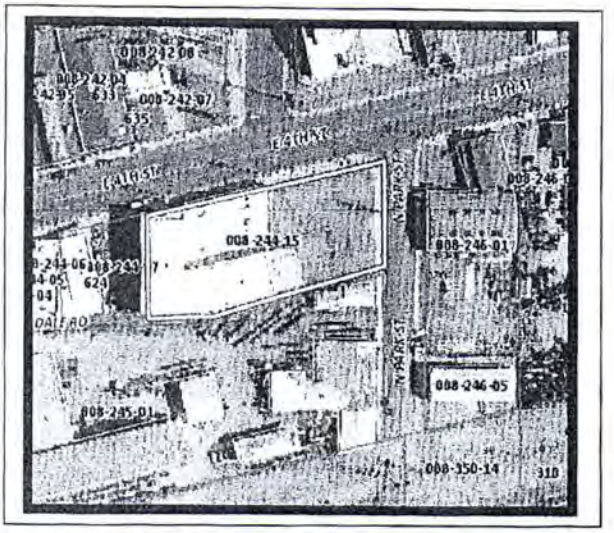
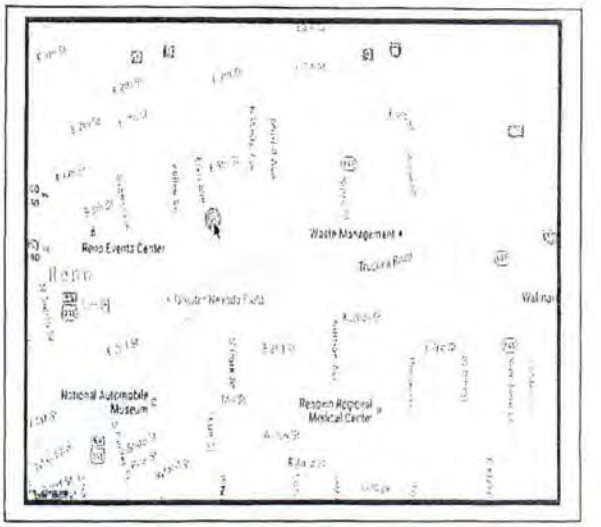
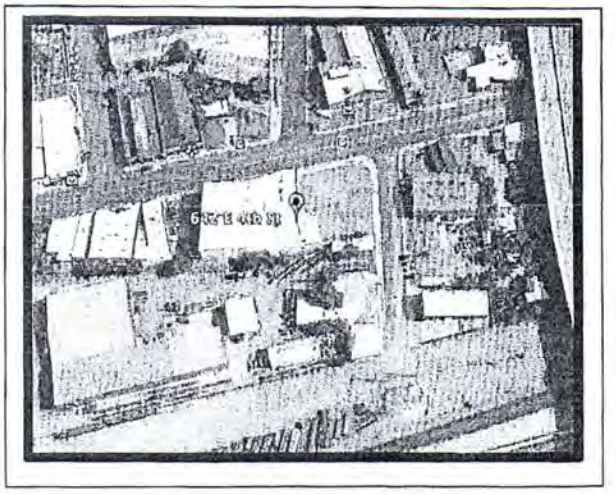
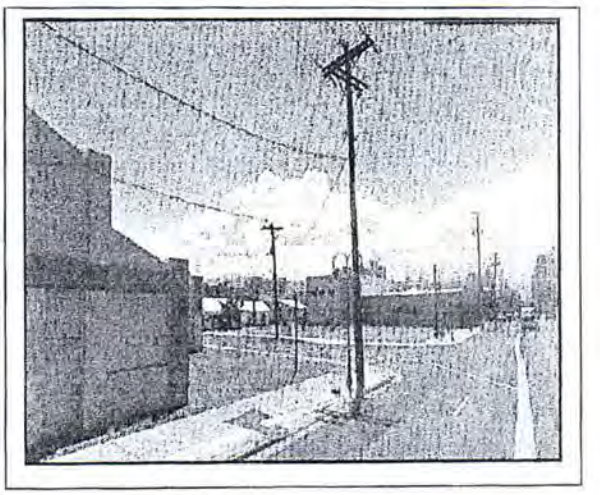
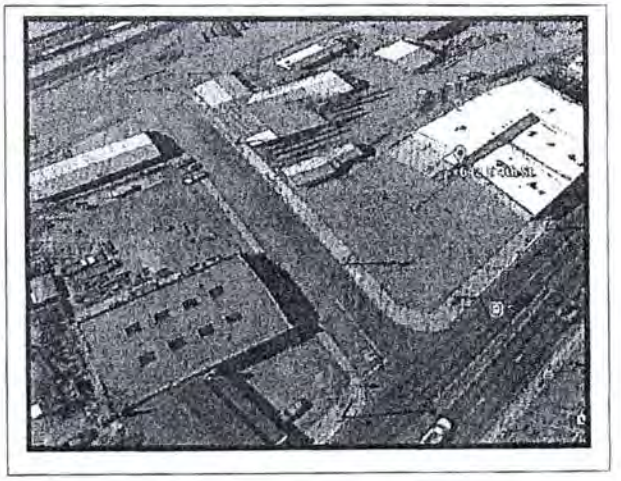
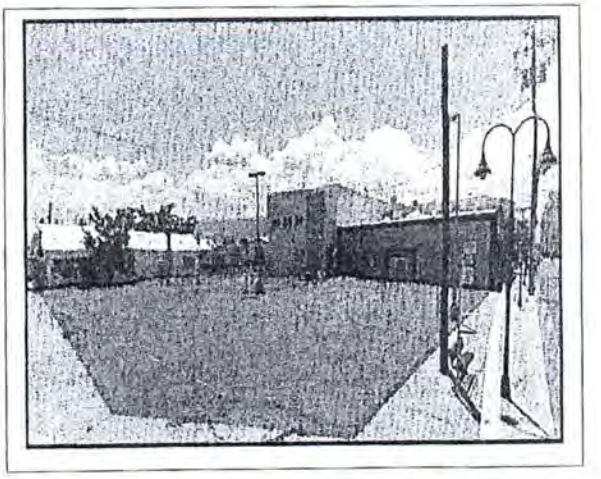








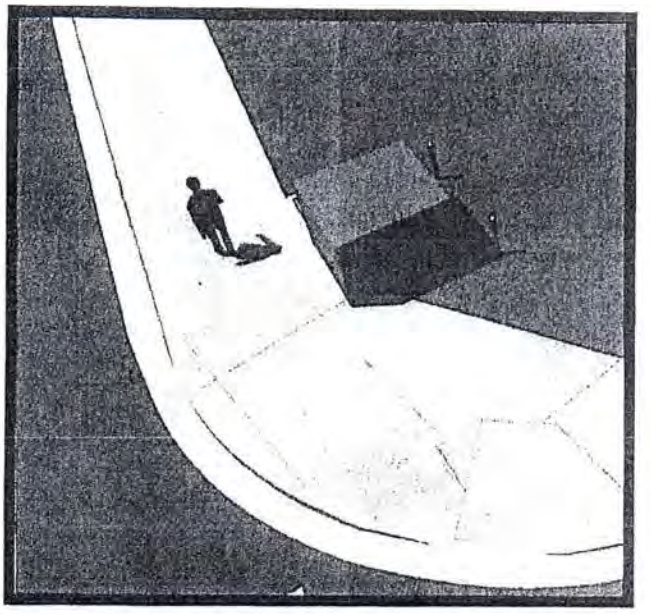


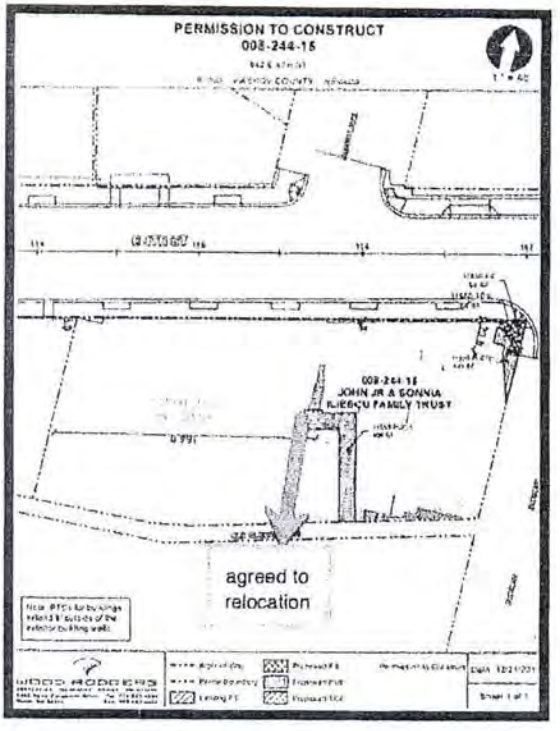


Note: You and your advisors (such as tax, legal, and financial) should conduct careful and independant investigation to determine to your satisfaction the suitability of the property for your needs. The information has been obtained from sources believed reliable. Agents make no representations or warranties as to the accuracy or completeness of supplied information and/or projections.

RTC (proposed) easement







On following page, see the list of Comps as provided by Appraiser hired by RTC.

Note: You and your advisors (such as tax, legal, and financial) should conduct careful and independant investigation to determine to your satisfaction the suitability of the property for your needs. The information has been obtained from sources believed reliable. Agents make no representations or warranties as to the accuracy or completeness of supplied information and/or projections

Received from RTC employed Appraiser.

COMPARABLE COMMERCIAL LAND SALES CHART

Sale Number	Assessor's Parcel Number Location	Sale Date Sale Price	Zoning Topography	Land Area	Sale Price Per S.F.
LS-1	143-040-25 Northeast corner Geiger Grade and Veterans Parkway	07/31/2012 $920,000	PUD Level	1.50± Ac 65,356± SF	$14.08
LS-2	008-341-06 North side east 3rd St., between N. Wells Ave. and Morrill Ave., Reno	03/25/2013 $350,000	MUE4 Level	1.0± Ac. 43,560± Sf	$8.03
LS-3	033-314-11 Northeast corner Victorian Ave and 3rd St., Sparks	5/01/2013 $220,000	TOD Level	.47± Ac 20,653± SF	$10.65
LS-4	163-300-04 North side South Meadows Parkway, 700± feet east of Double R Boulevard	01/02/2014 $455,000	PUD Commercial/ Office Level	1.0± Ac 41,566± SF	$10.44
LS-5	034-145-03 Between E. Greg St. and Stanford Way, 210± feet west of S. McCarran Blvd	01/28/2014 $525,000	I Level	1.149± Ac 50,047± SF	$10.49
LS-6	008-341-03 South side East 6th St., between N. Wells Ave. and Morrill Ave., Reno	07/02/2014 $350,000	MUE4 Level	.912± Ac. 39,719± Sf	$8.81
LS-7	026-182-69 E/S Northtowne Lane, 330' south of N. McCarran Blvd	08/08/2014 $625,000	AC Level	1.775± Ac. 77,328± Sf	$8.08
LS-8	532-131-07 W/S Access Road, 135' north of Eagle Canyon Drive	01/05/2015 $650,000	NC Level	1.988± Ac. 86,611± SF	$7.50
LS-9	510-491-11 Southeast corner of Los Altos Parkway and Galleria Parkway	02/05/2015 $623,793	NUD Level	1.578± Ac. 68,729± SF	$9.08
LS-10	013-081-18 South side Mill St., 215' E. of Kietzke Lane, Reno	02/24/2015 $91,000	MURC Level	.21± Ac. 9,100± SF	$10.30
LS-11	013-093-15 South side Morris Street, 105' E. of S. Wells Ave., Reno	02/26/2015 $42,000	CC Level	.09± Ac. 4,000± Sf	$10.00
LS-12	013-281-03 Southeast corner of Harvard Way & Yale Way, Reno	04/08/2015 $1,471,019	CC Level	3.070± Ac. 133,728± SF	$11.00
LS-13	013-341-21 Southwest corner of Terminal Way & Villa Nova Drive, Reno	04/22/2015 $512,500	MURT Level	1.110± Ac 48,351± SF	$10.60
LS-14	160-070-12 Northwest corner Double R Blvd. & Professional Circle	05/06/2015 $830,649	PUD Level	1.190± Ac 51,836± SF	$13.13
LS-15	510-491-13 & 15 South side Los Altos Pkwy., 379± W. of Ion Court, Sparks	06/01/2015 $1,131,800	NUD Level	3.51± Ac. 152,950± SF	$7.40
LS-16	163-120-04 East side S. Virginia St., N. of South Meadows Parkway, Reno	11/16/2015 $804,115	PUD Level	1.42± Ac. 6,.8554± SF	$13.00
PLS-17	027-412-38 North side Oddie Blvd., 300' E. of Sullivan Lane	01/08/2016 $725,000	MUD, MUD-C Level	2.201± Ac. 95,876± Sf	$7.56

NONE OF THESE ARE ON OR ADJOINING THE 4th STREET ARE OF THE SUBJECT SITE.

Note: You and your advisors (such as tax, legal, and financial) should conduct carefull and independant investigation to determine to your satisfaction the suitability of the property for your needs. The information has been obtained from sources believed reliable. Agents make no representations or warranties as to the accuracy or completeness of supplied information and/or projections.

EXHIBIT "4"

EXHIBIT "4"

1. Real Parties in Interest are the current fee simple owners of real property at issue in this litigation and, as such, have the authority to enter into the aforementioned stipulation with RTC through their attorney, C. Nicholas Pereos, Esq.

2. This case involves the RTC's exercise of its power of eminent domain for the purpose of acquiring the permanent easement, the public utility easement and the temporary construction easement defined as "the Property" in the Stipulation and described in detail in Exhibit 1 to the Stipulation, related to RTC's construction of the 4th Street/Prater Way Complete Street and BRT Project, or "the Project." The Court incorporates the definitions and descriptions of the Project set forth in the Stipulation by reference in this order.

3. The use for which the Property sought to be condemned is a public use authorized by law, and the taking thereof is necessary for such use. RTC has complied with all statutory conditions precedent to instituting this action and seeking immediate occupancy pending judgment. Immediate entry upon and possession of the Property sought to be condemned are required so that the construction of the Project may proceed in an orderly manner without delay or loss in utilization of construction time and/or without unnecessary cost and expense to the condemning agency.

4. NRS 37.090 and 37.100 provide this Court with authority to enter an order allowing RTC access to the Property sought to be condemned at any time after the commencement of suit and pending entry of judgment, to do such work thereon as may be required for the Project according to its nature.

5. For purposes of this Order only, and subject to the terms of the Stipulation concerning Defendants' objection to Reese Perkins' appraisal, the Court finds that, pursuant to NRS 37.100(4), the value of the Property sought to be obtained and/or temporary utilized during construction plus damages is $2,030.00.

. . .

. . .

Based on the foregoing, and with good cause appearing, IT IS HEREBY ORDERED:

1. RTC may have immediate possession and occupancy of the Property, as described in **Exhibit 1** attached hereto, by depositing with the Clerk of this Court the sum of $2,030.00 (the "Cash Deposit").

2. The Clerk of the Court shall deposit the Cash Deposit into an interest bearing account for the benefit of Real Parties in Interest and/or any other party determined to be entitled to those amounts.

3. Upon making the Cash Deposit, RTC may immediately enter upon and occupy the Property and perform such work thereon as may be necessary to construct and complete the Project;

4. RTC and Real Parties in Interest and their respective agents shall cooperate so as to minimize interference between construction of the Project and Real Parties in Interest's use of the remaining land of Real Parties in Interest on APN 008-244-15;

5. If Real Parties in Interest apply to withdraw the Cash Deposit, they shall serve a notice on the parties in this action of the Application, giving each party 5 days after service of such notice in which to file and serve objections to such withdrawal, if any;

6. If any such objections to the Application are filed, the Court will set a date and time for a hearing thereon.

IT IS HEREBY FURTHER ORDERED that this order shall become effective upon RTC's deposit of the Cash Deposit with the Clerk of this Court.

Dated this 30th day of November, 2016.

DISTRICT JUDGE

JOHNSON | PERKINS | GRIFFIN
REAL ESTATE APPRAISERS & CONSULTANTS

245 E. Liberty Street, Suite 100, Reno, NV 89501
775.322.1155 | Fax 775.322.1156 | jpgnv.com

Stephen R. Johnson, MAI, SREA
Reese Perkins, MAI, SRA
Scott G. Griffin, MAI
Cindy Lund Fogel, MAI
Karen K. Sandors

August 5, 2015

Via Certified Mail No: 7005 1820 0001 8006 1560

John Iliescu, Jr. & Sonnia Iliescu
200 Court Street
Reno, Nevada 89501

Re: 4th Street/Prater Way BRT (Bus Rapid Transit) Project
RTC Project No. 242013
642 East 4th Street, Reno, NV (A.P.N. 008-244-15)

Dear Mr. & Mrs. Iliescu:

The Regional Transportation Commission of Washoe County (RTC) has approved and accepted a plan for the 4th Street/Prater Way BRT (Bus Rapid Transit) improvement project to be constructed in the vicinity of the property that you now own and or occupy. The project is intended to better facilitate travel between Reno and downtown Sparks. Your property will be affected by this project, and as a result, it will be necessary for the RTC to have it appraised.

Paragon Partners LLC, acting on behalf of the Regional Transportation Commission, has contracted with Johnson Perkins Griffin, LLC to prepare an appraisal of the above referenced property. The purpose of the appraisal is to estimate the Market Value of the fee simple interest in the subject property, as of a current date of valuation.

Johnson Perkins Griffin, LLC will be appraising your property. We are requesting that you or your representative accompany us when we physically inspect your property. You may contact us at (775) 322-1155 or clf@jpgnv.com to arrange an appointment to inspect the subject property.

15-152-04

We are requesting any information considered relevant to the valuation of your property, including recent sales or listings of the subject, comparable sales or listing data, rental agreements or other pertinent information. Should you desire additional information regarding this project, please contact Mr. Todd Keizer, R/W Agent (310) 497-4012 or email him at tkeizer@paragon-partners.com.

Thank you in advance for your cooperation and assistance.

Sincerely,

Reese Perkins, MAI, SRA
Nevada Certified General Appraiser
License Number A.0000120-CG

Cindy Lund Fogel, MAI
Nevada Certified General Appraiser
License Number A.0002312-CG

RP/lc

Cc: Todd Keizer

15-152-04

REGIONAL TRANSPORTATION COMMISSION
Metropolitan Planning • Public Transportation & Operations • Engineering & Construction
Metropolitan Planning Organization of Washoe County, Nevada

July 20, 2016

John Iliescu, Jr. and Sonnia Iliescu 1992
Family Trust, Agreement dated January 24, 1992
John & Sonnia Iliescu
200 Court Street
Reno, Nevada 89501
Via Certified Mail #9171 9690 0935 0111 8801 30

RTC Board Meeting
4th Street/Prater Way BRT Project
Evans Avenue to Pyramid Way
RTC Project: 242013
Grant#: NV-79-0003
APN: 008-244-15

RE: **Notice Letter Pursuant to NRS 241.034**

Dear Mr. and Mrs. Iliescu:

On behalf of the Board of Directors for the Regional Transportation Commission (RTC), you are hereby notified that the RTC Board will convene on August 19, 2016, at 9:00 am, at the Washoe County Commission Chambers, located at 1001 E. Ninth Street, Building A, Reno, Nevada 89512. At that meeting, the Board will discuss whether to acquire, and may take action to acquire, one public utility easement, one permanent easement and one temporary construction easement (property rights), located on Assessor's Parcel Number 008-244-15 by the exercise of the power of eminent domain.

APN 008-244-15	Public Utility Easement – 288 square feet
	Permanent Easement – 68 square feet
	Temporary Construction Easement – 88 square feet

This notice is provided to you pursuant to Chapter 241 of the Nevada Revised Statutes. Also pursuant to Chapter 241, this meeting is an open meeting at which comments from the public are taken.

The Washoe County Commission Chambers is accessible to individuals with disabilities. Requests for auxiliary aids to assist individuals with disabilities should be made with as much advance notice as possible. For those requiring hearing or speech assistance, contact Relay Nevada at 1-800-326-6868 (TTY, VCO or HCO). Requests for supporting documents and all other requests should be directed to Denise Thompson, at (775) 335-1826.

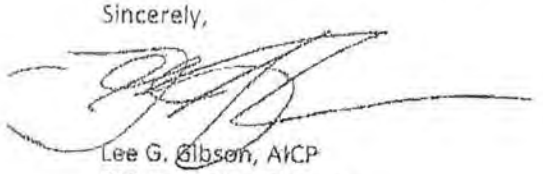
The RTC's preference is to continue the negotiation process with you to acquire the property rights needed for the project, however, the RTC may initiate an action in eminent domain to acquire them. Upon your response, we can schedule a meeting to work on a resolution.

7-20-16 Faxed

RTC Board: Neoma Jardon (Chair) · Ron Smith (Vice Chair) · Bob Lucey · Paul McKenzie · Marsha Berkbigler
PO Box 30002, Reno, NV 89520 · 1105 Terminal Way, Reno, NV 89502 · 775-348-0400 · rtcwashoe.com

If you have any questions, please contact Carrie Byron, Property Agent, by phone at (775) 332-2144.

Sincerely,



Lee G. Gibson, AICP
RTC Executive Director

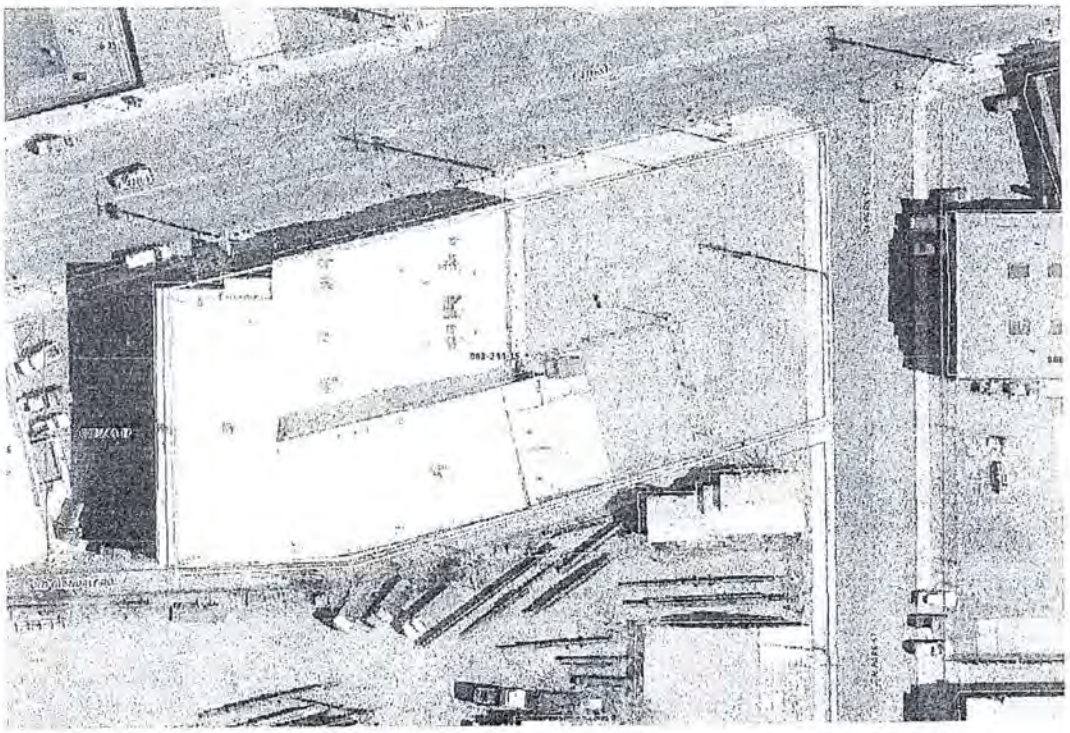
LGG/CAB/mak

Cc: Dale Ferguson, General Counsel, RTC

EXHIBIT "5"

EXHIBIT "5"

APPRAISAL REPORT
642 EAST FOURTH STREET, APN 008-244-15
RENO, WASHOE COUNTY, NEVADA



PREPARED FOR THE PURPOSE OF
ESTIMATING MARKET VALUE
for
ILIESCU FAMILY TRUST, JOHN JR. & SONNIA
Public Easements
11550PE, 11550PUE, & 11550TCU

May 15, 2017

submitted by
Joseph S. Campbell, MAI
PO Box 21453
Reno, Nevada 89515

FILED
Electronically
CV19-00459
2021-04-28 11:52:18 AM
Alicia L. Lerud
Clerk of the Court
Transaction # 8417512

3860
Dane W. Anderson, Esq.
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Facsimile: 775-688-3088
danderson@woodburnandwedge.com
bkelly@woodburnandwedge.com

Attorneys for Defendant, the Regional Transportation Commission of Washoe County

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an individual; AND SONNIA ILIESCU, an individual, Plaintiffs, v. THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1 – 40, inclusive, Defendants.	Case No.: CV19-00459 Dept. No.: 15

REQUEST FOR SUBMISSION

It is hereby requested that the Reply in Support of Motion in Limine to Preclude Plaintiffs From Presenting Evidence Pursuant to NRS 50.275, 50.285 and 50.305, filed on April 27, 2021, be submitted to the Court for consideration and determination.

/ /

/ /

Affirmation pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the personal information of any person.

DATED: April 28, 2021

WOODBURN AND WEDGE

By*/s/ Dane W. Anderson*

Dane W. Anderson, Esq.
Nevada Bar No. 6883
Bronagh M. Kelly, Esq.
Nevada Bar No. 14555
Attorneys for Defendant
The Regional Transportation
Commission of Washoe County

Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, NV 89511
775-688-3000

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Woodburn and Wedge and that on this date, I caused to be sent via electronic delivery through the Court's E-flex system a true and correct copy of the ***REQUEST FOR SUBMISSION OF REPLY IN SUPPORT OF MOTION IN LIMINE TO PRECLUDE PLAINTIFFS FROM PRESENTING EVIDENCE PURSUANT TO NRS 50.275, 50.285 AND 50.305*** addressed to:

MICHAEL J. MORRISON, ESQ.
1495 Ridgeview Dr., #220
Reno, Nevada 89519
venturelawusa@gmail.com

Attorneys for Plaintiffs

DATED: April 28, 2021.

Employee of Woodburn and Wedge

FILED
Electronically
CV19-00459
2021-04-28 11:52:59 AM
Alicia L. Lerud
Clerk of the Court
Transaction # 8417518

3860
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Attorneys for Defendant, the Regional Transportation Commission of Washoe County

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an individual; AND SONNIA ILIESCU, an individual, Plaintiffs, v. THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1 – 40, inclusive, Defendants.	Case No.: CV19-00459 Dept. No.: 15

REQUEST FOR SUBMISSION

It is hereby requested that the Reply in Support of Motion in Limine to Exclude Evidence of Damages, filed on April 27, 2021, be submitted to the Court for consideration and determination.

/ /

/ /

Affirmation pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the personal information of any person.

DATED: April 28, 2021

WOODBURN AND WEDGE

By*/s/ Dane W. Anderson*

Dane W. Anderson, Esq.
Nevada Bar No. 6883
Bronagh M. Kelly, Esq.
Nevada Bar No. 14555
Attorneys for Defendant
The Regional Transportation
Commission of Washoe County

Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, NV 89511
775-688-3000

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Woodburn and Wedge and that on this date, I caused to be sent via electronic delivery through the Court's E-flex system a true and correct copy of the ***REQUEST FOR SUBMISSION OF REPLY IN SUPPORT OF MOTION IN LIMINE TO EXCLUDE EVIDENCE OF DAMAGES*** addressed to:

MICHAEL J. MORRISON, ESQ.
1495 Ridgeview Dr., #220
Reno, Nevada 89519
venturelawusa@gmail.com

Attorneys for Plaintiffs

DATED: April 28, 2021.

Employee of Woodburn and Wedge

FILED
Electronically
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2021-04-28 04:51:36 PM
Alicia L. Lerud
Clerk of the Court
Transaction # 8419081

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU, JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an Individual; and SONNIA ILIESCU, an Individual,

Plaintiff,

vs.

THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1-40,

Defendants.

_____/

Case No. CV19-00459

Dept. No. 15

ORDER RESETTING HEARING AND FOR ELECTRONIC APPEARANCE

Due to a conflict with this Court's trial calendar, Oral Arguments on the Motion for Summary Judgment set for May 6, 2021 must be continued. Accordingly, with the e-mail cooperation of counsel Oral Argument have been rescheduled to occur on May 12, 2021 at 2:00 p.m. Pursuant to Administrative Order 2021-05(A), Temporarily Closing In-Person Public Access to the Second Judicial District Court Through May 31, 2021, entered April

20, 2021, all counsel and respective parties shall appear telephonically/electronically through Zoom.[1]

The Zoom Webinar information will be posted here: https://www.washoecourts.com/onlinehearings. You can also e-mail shannon.parke@washoecourts.us or Mikki.Merkouris@washoecourts.us for an electronic copy of the link.

If you do not have access to a device with internet access plus video and audio capabilities, please email department 15 staff (shannon.parke@washoecourts.us or Mikki.Merkouris@washoecourts.us) for call-in information.

The parties shall email a courtesy copy of any document filed on or after 4:00 p.m. on the judicial day immediately preceding this hearing to department 15 staff.

IT IS SO ORDERED.

Dated: April 26, 2021.

David A. Hardy
District Court Judge

[1] This Court reminds all participants to dress appropriately. The electronic platform does not negate the gravity or formality of the proceedings. Protocols for attending hearings via zoom are posted in Spanish and English here:https://www.washoecourts.com/main/covid19response#ZoomProtocols.

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Alicia L. Lerud
Clerk of the Court
Transaction # 8420046 : csulezic

3795
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danderson@woodburnandwedge.com
bkelly@woodburnandwedge.com

Attorneys for Defendant, the Regional Transportation Commission of Washoe County

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an individual; AND SONNIA ILIESCU, an individual, Plaintiffs, v. THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1 – 40, inclusive, Defendants.	Case No.: CV19-00459 Dept. No.: 15

REPLY IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT

Defendant The Regional Transportation Commission of Washoe County ("RTC") submits the following reply in support of its Motion For Summary Judgment and in response to Plaintiffs' opposition brief filed on April 2, 2021.

I. INTRODUCTION

Plaintiffs' opposition brief is woefully inadequate to survive summary judgment. They provide no admissible evidence to demonstrate the existence of any genuine issue of

material fact. While Plaintiffs vaguely reference alleged deposition testimony and other documents supposedly produced in this case as evidence that would defeat summary judgment, they provide the Court with no such evidence. Additionally, Plaintiffs rely on flawed analyses and ignore applicable standards governing summary judgment, such that they give this Court no legitimate basis upon which to deny RTC summary judgment on all of Plaintiffs' claims.

Below, RTC will first address the shortcomings applicable to all of Plaintiffs' claims, then will address the arguments applicable to each specific claim. It is clear there are no genuine issues of material fact and that RTC is entitled to judgment as a matter of law. It is time for this case to reach its conclusion.

II. LEGAL STANDARD

In opposing summary judgment, the nonmoving party "must, by affidavit or otherwise, set forth specific facts demonstrating the existence of a genuine issue for trial or have summary judgment entered against him." *Wood v. Safeway, Inc.*, 121 Nev. 724, 732, 121 P.3d 1026, 1031 (2005). "Evidence introduced in…opposition to a motion for summary judgment must be admissible evidence." *Collins v. Union Fed. Savings & Loan*, 99 Nev. 284, 302, 662 P.2d 610, 621 (1983), citing NRCP 56(e).

Plaintiffs provide no affidavits or any other admissible evidence demonstrating the existence of a genuine issue of material fact. While they claim such evidence exists in the record (it does not), this Court is not obligated to search the record for facts that might support Plaintiffs' claims. *Schuck v. Signature Flight Support of Nevada, Inc.*, 126 Nev. 434, 438, 245 P.3d 542, 545 (2010). Plaintiffs rely almost exclusively on their January 21, 2021 Amended Complaint to support the "facts" in their opposition brief. Opposition at 2: 3-19. However, the Amended Complaint is not verified and does not constitute evidence.

As discussed below, Plaintiffs' failure to provide any admissible evidence in opposition to summary judgment is fatal to their case. There are no genuine issues of material fact and RTC is entitled to judgment as a matter of law.

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775-688-3000

III. PLAINTIFFS HAVE NOT SOUGHT NRCP 56(d) RELIEF

Plaintiffs spend much of their brief repeating that the discovery deadline has not yet lapsed, as if that fact alone defeats summary judgment. Opposition at 3:23-25, 4:3-4, 6:17-18, 7:20-21, 8:15-17. NRCP 56(d) provides a specific remedy that may be used in instances where the nonmovant demonstrates by affidavit that, for specified reasons, it cannot present facts essential to justify its opposition. If such a showing is made, the court may defer considering the motion for summary judgment or deny it, or the court may allow the nonmovant time to obtain affidavits or declarations or take discovery. *Id.* However, the nonmovant must explain in the affidavit why he or she is currently unable to present evidence sufficient to oppose the summary judgment motion and must also articulate the facts he or she seeks to obtain that will defeat summary judgment. *Eli Applebaum IRA v. Arizona Acreage, LLC*, 128 Nev. 894, 381 P.3d 609 (2012).

Here, it is not sufficient that Plaintiffs vaguely state that discovery is still open and to suggest that somehow, in the next month, they will find something that would demonstrate summary judgment is improper. Therefore, that discovery is still open does not bar this Court from granting summary judgment in favor of RTC.

IV. THE MARCH 25, 2021 ORDER DOES NOT "RESET" THIS CASE

Plaintiffs also base their opposition to summary judgment in significant part on their belief that this Court's March 25, 2021 Order Denying Motion For Sanctions somehow was a "reset to the starting blocks" of this case. Opposition at 3:25-27, 4:4-6, 5:2-5, 6:19-21, 7:21-23, 8:25-27, 10:20-24. That belief is extremely misplaced. The Court's March 25 order was specific to RTC's request for case-terminating sanctions based on Plaintiffs' failure to hold an early case conference. Nothing in that order reset any of the other deadlines in this case, including but not limited to the deadline to disclose expert witnesses. The Court's March 25, 2021 order is not a legitimate basis for denying RTC summary judgment.

Plaintiffs also half-heartedly argue that the Court's October 12, 2020 Scheduling Order "followed and, by its content, overrode" the Court's August 19, 2020 Order Granting Motion In Limine To Preclude Plaintiffs From Offering Documents Not Produced To RTC

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775-688-3000

On or Before June 30, 2020. Opposition at 4:26-5:2. This argument is desperate, absurd and frivolous—the Scheduling Order specifically provides: "Nothing in this scheduling order shall be construed as a waiver of RTC's rights under that order in limine or otherwise under applicable law."

V. THERE IS *NO* EVIDENCE OF PLAINTIFFS' DAMAGES

Plaintiffs assert that they have produced evidence of their damages in this case. Opposition at 4:2, 5:7-8. They also claim they are "able to testify as to the damages the RTC caused to their property," yet they provide no affidavits or declarations with such testimony. Opposition at 5:11-12. It is undisputed that Plaintiffs have failed to timely disclose an expert to opine on either cost of repair or loss of market value, and Plaintiffs are not qualified to provide such testimony on either topic (and in any event were not themselves disclosed as experts).

The *only* documents Plaintiffs have produced in this case are attached as **Exhibit 1**, none of which remotely demonstrate the cost of repair or loss of market value for the alleged damage to the "Remainder Property." While Plaintiffs will testify that RTC physically damaged their parking lot by allowing heavy equipment to park on those lots, they have done nothing to put a number to that alleged physical damage. There is no evidence before the Court that would demonstrate the existence of a genuine issue of material facts as to Plaintiffs' claimed damages.

VI. RTC IS ENTITLED TO SUMMARY JUDGMENT ON EACH OF PLAINTIFFS' CLAIMS

1. Contract claims

Plaintiffs assert claims for breach of contract and breach of the implied covenant of good faith and fair dealing. In its motion, RTC provided evidence that "the RTC-Trust agreement" upon which those claims are based is actually this Court's judgment in a prior condemnation action litigated between RTC and Plaintiffs in 2016-2018. *See* Deposition of John Iliescu at 63:3-12.

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Reno, NV 89511
775-688-3000

Plaintiffs complain that the cited evidence is an "incomplete dialog" but fail to present any additional pages of Dr. Iliescu's deposition that would demonstrate the existence of any contract giving rise to any valid legal claims. Opposition at 6:7-15. Nor do Plaintiffs provide any evidence whatsoever of the existence of a valid and existing contract between RTC and Plaintiffs pertaining to the "Remainder Property" that would give rise to the damages they seek in this case. As RTC argued in its motion, there is no evidence of an offer, acceptance, meeting of the minds or consideration between RTC and Plaintiffs. The Court's judgment in the prior condemnation action is not a contract between the parties with respect to the "Remainder Property."

There are no genuine issues of material fact as to Plaintiffs' claims for breach of contract and breach of the implied covenant of good faith and fair dealing, and RTC is entitled to judgment as a matter of law on these claims.

2. Trespass

To prove trespass, the claimant must show that the defendant invaded the claimant's real property. *Lied v. County of Clark*, 94 Nev. 275, 279, 579 P.2d 171, 173-174 (1978). The invasion must result in damages. *Wallace v. Lewis County*, 134 Wash.App. 1, 137 P.3d 101, 108 (Wash. Ct. App. 2006). As discussed above, there is no evidence of Plaintiffs' damages arising from the alleged trespass, so Plaintiffs' claim fails on that basis alone.

With respect to the first element of trespass, Plaintiffs have failed to provide admissible evidence that RTC "invaded" their real property. With respect to the trucks parked on his property, Dr. Iliescu testified: "I'm going to **assume** it was somebody associated with [RTC]." Deposition of John Iliescu at 35:1-19. Assumptions are not evidence. Therefore, RTC is entitled to judgment as a matter of law on Plaintiffs' trespass claim.

3. Civil conspiracy

A civil conspiracy claim exists when a combination of two or more persons who, by some concerted action, intend to accomplish some unlawful objective for the purpose of harming another and resulting in damages. *Collins v. United Fed. Sav. & Loan Ass'n*, 99 Nev. 284, 303, 662 P.2d 610, 622 (1983). To succeed on a civil conspiracy claim, a plaintiff

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must prove *both* an agreement between tortfeasors *and* that the conduct of *each* defendant is tortious. *GES, Inc. v. Corbitt*, 117 Nev. 265, 271, 21 P.3d 11, 15 (2001).

Plaintiffs admit they have no evidence that RTC entered into an agreement with third parties to cause damage to their property. *See* Deposition of John Iliescu at 69:3-12; Deposition of Sonnia Iliescu at 39:2-6. Moreover, there is no admissible evidence that RTC engaged in any tortious conduct.

Plaintiffs assert that RTC is "disingenuous and misleading" in arguing that Plaintiffs have no evidence of an agreement between RTC and a third party to cause damage to Plaintiffs' property. Opposition at 8:22-25. They claim that RTC has mischaracterized their deposition testimony yet offer no additional testimony or other evidence to support these accusations. The simple truth is that Plaintiffs have offered this Court no evidence whatsoever to demonstrate the existence of a genuine issue of material fact on this claim.

RTC is entitled to summary judgment on Plaintiffs' claim for civil conspiracy.

4. Negligence

To establish a negligence claim, a plaintiff must demonstrate: (1) that defendant owed plaintiff a duty of care; (2) that defendant breached that duty; (3) the breach was the legal cause of plaintiff's injuries; and (4) plaintiff sustained damages. *Scialabba v. Brandise Construction Co.*, 112 Nev. 965, 921 P.2d 928 (1996).

Plaintiffs offer no evidence as to what duty RTC owed them and whether that duty was breached. As discussed above Plaintiffs "assume" there were RTC vehicles on their property but offer no evidence to prove this as fact. Again, assumptions are not evidence.

RTC is entitled to judgment as a matter of law on Plaintiffs' negligence claim.

5. Declaratory relief

Plaintiffs' response to RTC's motion for summary judgment on their declaratory relief claim is nothing more than a regurgitation of the meritless arguments they assert throughout their brief. They provide no evidence to support their various requests for declaratory relief.

RTC is entitled to judgment as a matter of law.

/ / /

Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, NV 89511
775-688-3000

VII. CONCLUSION

Plaintiffs have presented no evidence to demonstrate the existence of a genuine issue of material fact on any of their claims. RTC is entitled to judgment as a matter of law on all claims.

Affirmation pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the personal information of any person.

DATED: April 29, 2021.

WOODBURN AND WEDGE

By *__/s/ Dane W. Anderson__*
Dane W. Anderson, Esq.
Nevada Bar No. 6883
Bronagh M. Kelly, Esq.
Nevada Bar No. 14555

Attorneys for Defendant
The Regional Transportation
Commission of Washoe County

Woodburn and Wedge
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775-688-3000

TABLE OF EXHIBIT

Exhibit No.	Exhibit Name	No. of Pages (*Including Exhibit Sheet*)
1	Plaintiff's Responses to Defendant's First Request for Production of Documents to Plaintiff John Iliescu, Jr.	40

Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, NV 89511
775-688-3000

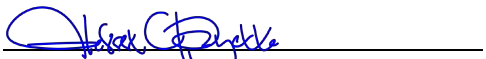
CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Woodburn and Wedge and that on this date, I caused to be sent via electronic delivery through the Court's E-flex system a true and correct copy of the ***REPLY IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT*** to:

MICHAEL J. MORRISON, ESQ.
1495 Ridgeview Dr., #220
Reno, Nevada 89519
venturelawusa@gmail.com

Attorneys for Plaintiffs

DATED: April 29, 2021.



An Employee of Woodburn and Wedge

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CV19-00459
2021-04-29 10:53:03 AM
Alicia L. Lerud
Clerk of the Court
Transaction # 8420046 : csulezic

EXHIBIT “1”

EXHIBIT “1”

Dianne Kelling

From: Michael J. Morrison, Chtd. <venturelawusa@gmail.com>
Sent: Tuesday, June 30, 2020 6:59 PM
To: Dianne Kelling; Dane Anderson
Subject: Iliescu vs RTC
Attachments: Ilisecu-RTC-4th Street-Exhibits 1-5-Prod Docs.pdf; Iliescu v RTC - SIG COPY - JOHN Responses to RFP -FINAL - 30Jun2020.pdf

Dear Dianne and Dane -

Attached please find Dr. John's responses to your RFP.

Sonnia's will follow.

Thanks,
Mike

Discovery

MICHAEL J. MORRISON, ESQ.
Nevada State Bar No. 1665
1495 Ridgeview Dr., #220
Reno, Nevada 89519
(775) 827-6300
Attorney for Plaintiffs

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

* * * * *

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU, JR. AND SONNIA ILIESCU 1992 FAMILY TRUST, Plaintiff, vs. THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; AND DOES 1-40, Defendants.	CASE NO. CV19-00459 DEPT. NO. 15 **PLAINTIFF'S RESPONSES TO DEFENDANT'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS TO PLAINTIFF JOHN ILIESCU, JR.**

COMES NOW JOHN ILIESCU, JR., individually, by and through their attorney, Michael J. Morrison, Esq., and pursuant to NRCP 26 and 34, Plaintiff John Iliescu, Jr., respectfully responds to the Defendant's First Set of Requests for Production of Documents to Plaintiff John Iliescu, Jr. ("Plaintiff"), as follows:

PRELIMINARY OBJECTIONS AND COMMENTS

1. These responses and productions are based solely on information and documents as is presently known and in the possession of Plaintiff. Further discovery may lead to additions to, changes in, or modification of these answers in accordance with Nevada Rules of Civil Procedure. Accordingly, these responses are being given without prejudice to Plaintiff's right to produce subsequent discovery evidence and to introduce the same at trial.

2. Plaintiff will supplement his responses to the requests as required by the Nevada Rules of Civil Procedure.

3 All responses will be made solely for the purpose of this action. Each response will be subject to all objections as to competence, relevance, materiality, propriety and admissibility, and to any and all objections on any ground which would require the exclusion from evidence of any document produced herein, all of which objections and grounds are expressly reserved and may be interposed at any hearings.

4. Plaintiff adopts by reference the above objections and incorporates each objection as if it were fully set forth below in each of Plaintiff's Responses.

REQUEST NO. 1:

All documents supporting your contention that RTC or anyone you contend was acting on behalf of RTC drove over and parked their vehicles on your property "on virtually every workday during the term of the Project," as alleged in paragraph 9 of your Complaint.

RESPONSE TO REQUEST NO. 1:

See Exhibit "1". Photos of the subject trucks on the subject property, taken April 3, 2018.
See Exhibit "2". Letter from Paragon Partners, Defendant's designated and contracted construction firm.
See Exhibit "3". Preliminary Draft of Broker Price Opinion (Cover Page Only) containing photos of the subject property (on pages 4 & 5) before construction commenced.
See Exhibit "4". Order of the Court granting RTC (Defendant in this case) possession and occupancy of the property, and specifically ordering Defendant to "minimize interference between construction of the Project and Real Parties in Interest's (Iliescus' use of the remaining land of Real Parties in Interest on APN 008-244-15. Also included are other documents related to the process.
See Exhibit "5". Cover page of Appraisal Report prepared for the Iliescus by Joseph S. Campbell, MAI, dated May 15, 2017, containing photos of the subject property before RTC commenced construction.

Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due

deference accorded the respective schedules of counsel for the respective parties. Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust", including Transaction #5832427, the Verified Complaint in Eminent Domain, containing Exhibits 1-4 (inclusive), specifying, *inter alia*, rights and duties of Defendant and its included governmental and other associated parties, as well as the small size and limited use and scope of its "Temporary Construction Easement"; and Transaction #5832427, delineating the very limited easement the Court granted Defendant with respect to the property subject of the instant case.

REQUEST NO. 2:

All documents supporting your allegation that you and/or Sonnia Iliescu made "frequent objections" to RTC's alleged use of any portion of your property at issue in this litigation, as set forth in paragraph 9 of your Complaint, as well as all documents supporting your allegation that you and/or Sonnia Iliescu made "innumerable requests" that RTC not use the property, as set forth on page 6 of your opposition to the motion to dismiss.

RESPONSE TO REQUEST NO. 2:

See Exhibits "1" and "4".

Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties. Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

REQUEST NO. 3:

All documents, including photographs, that depict or discuss the condition of the subject parking lot at any time, whether before, during and after the Project that is the subject of your complaint. With respect to documents and photographs before the Project,

RTC seeks documents depict or discuss the condition of the subject parking lot in the 15 years prior to the Project. The response to this request should include any correspondence, bids, quotes or other documents discussion possible repairs to or work to be done on the subject parking lot.

RESPONSE TO REQUEST NO. 3:

See Exhibit "1". Photos of the subject trucks on the subject property, taken April 3, 2018.
See Exhibit "2". Letter from Paragon Partners, Defendant's designated and contracted construction firm.
See Exhibit "3". Preliminary Draft of Broker Price Opinion (Cover Page Only) containing photos of the subject property (on pages 4 & 5) before construction commenced.
See Exhibit "4". Order of the Court granting RTC (Defendant in this case) possession and occupancy of the property, and specifically ordering Defendant to "minimize interference between construction of the Project and Real Parties in Interest's (Iliescus' use of the remaining land of Real Parties in Interest on APN 008-244-15. Also included are other documents related to the process.
See Exhibit "5". Cover page of Appraisal Report prepared for the Iliescus by Joseph S. Campbell, MAI, dated May 15, 2017, containing photos of the subject property before RTC commenced construction.
Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties.
Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

REQUEST NO. 4:

All documents supporting your claim that you have suffered reparable and irreparable damages to the "Remaining Property and to each of the respective Plaintiffs," as alleged in paragraph 11 of your Complaint.

RESPONSE TO REQUEST NO. 4:

See Exhibit "1".

Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties. Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

REQUEST NO. 5:

All documents supporting your claim for loss of market value of the Remaining Property as alleged in paragraph 11(a) of your Complaint.

RESPONSE TO REQUEST NO. 5:

See Exhibits "1" and "5".

Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties. Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

REQUEST NO. 6:

All documents supporting your claim for discomfort and annoyance to Plaintiffs as alleged in paragraph 11(b) of your Complaint.

RESPONSE TO REQUEST NO. 6:

See Exhibit "1". Photos of the subject trucks on the subject property, taken April 3, 2018.

See Exhibit "2". Letter from Paragon Partners, Defendant's designated and contracted

construction firm.

See Exhibit "3". Preliminary Draft of Broker Price Opinion (Cover Page Only) containing photos of the subject property (on pages 4 & 5) before construction commenced.

See Exhibit "4". Order of the Court granting RTC (Defendant in this case) possession and occupancy of the property, and specifically ordering Defendant to "minimize interference between construction of the Project and Real Parties in Interest's (Iliescus' use of the remaining land of Real Parties in Interest on APN 008-244-15. Also included are other documents related to the process.

See Exhibit "5". Cover page of Appraisal Report prepared for the Iliescus by Joseph S. Campbell, MAI, dated May 15, 2017, containing photos of the subject property before RTC commenced construction.

Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties.

Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

REQUEST NO. 7:

All documents supporting your claim for emotional distress as alleged in paragraph 11(c) of your Complaint.

RESPONSE TO REQUEST NO. 7:

See Exhibit "1". Photos of the subject trucks on the subject property, taken April 3, 2018.

See Exhibit "2". Letter from Paragon Partners, Defendant's designated and contracted construction firm.

See Exhibit "3". Preliminary Draft of Broker Price Opinion (Cover Page Only) containing photos of the subject property (on pages 4 & 5) before construction commenced.

See Exhibit "4". Order of the Court granting RTC (Defendant in this case) possession and occupancy of the property, and specifically ordering Defendant to "minimize interference between construction of the Project and Real Parties in Interest's (Iliescus' use of the

remaining land of Real Parties in Interest on APN 008-244-15. Also included are other documents related to the process.

See Exhibit "5". Cover page of Appraisal Report prepared for the Iliescus by Joseph S. Campbell, MAI, dated May 15, 2017, containing photos of the subject property before RTC commenced construction.

Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties.

Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

REQUEST NO. 8:

All documents supporting your claim for emotional distress as alleged in paragraph 11(c) of your Complaint.

RESPONSE TO REQUEST NO. 8:

See Exhibit "1". Photos of the subject trucks on the subject property, taken April 3, 2018.

See Exhibit "2". Letter from Paragon Partners, Defendant's designated and contracted construction firm.

See Exhibit "3". Preliminary Draft of Broker Price Opinion (Cover Page Only) containing photos of the subject property (on pages 4 & 5) before construction commenced.

See Exhibit "4". Order of the Court granting RTC (Defendant in this case) possession and occupancy of the property, and specifically ordering Defendant to "minimize interference between construction of the Project and Real Parties in Interest's (Iliescus' use of the remaining land of Real Parties in Interest on APN 008-244-15. Also included are other documents related to the process.

See Exhibit "5". Cover page of Appraisal Report prepared for the Iliescus by Joseph S. Campbell, MAI, dated May 15, 2017, containing photos of the subject property before RTC commenced construction.

Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that

there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties. Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

REQUEST NO. 9:

All documents supporting your claim for loss of use of the Remaining Property as alleged in paragraph 11(d) of your Complaint.

RESPONSE TO REQUEST NO. 9:

See Exhibit "1". Photos of the subject trucks on the subject property, taken April 3, 2018.
See Exhibit "2". Letter from Paragon Partners, Defendant's designated and contracted construction firm.
See Exhibit "3". Preliminary Draft of Broker Price Opinion (Cover Page Only) containing photos of the subject property (on pages 4 & 5) before construction commenced.
See Exhibit "4". Order of the Court granting RTC (Defendant in this case) possession and occupancy of the property, and specifically ordering Defendant to "minimize interference between construction of the Project and Real Parties in Interest's (Iliescus' use of the remaining land of Real Parties in Interest on APN 008-244-15. Also included are other documents related to the process.
See Exhibit "5". Cover page of Appraisal Report prepared for the Iliescus by Joseph S. Campbell, MAI, dated May 15, 2017, containing photos of the subject property before RTC commenced construction.
Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties. Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

REQUEST NO. 10:

All documents supporting your claim for costs of property restoration as alleged in paragraph 11(e) of the Complaint.

RESPONSE TO REQUEST NO. 10:

See Exhibits "1" and "5".

Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties. Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

REQUEST NO. 11:

All documents supporting your claim for physical damage to and destruction of the Property as alleged in paragraph 11(c) of your Complaint.

RESPONSE TO REQUEST NO. 11:

See Exhibit "1". Photos of the subject trucks on the subject property, taken April 3, 2018.

See Exhibit "2". Letter from Paragon Partners, Defendant's designated and contracted construction firm.

See Exhibit "3". Preliminary Draft of Broker Price Opinion (Cover Page Only) containing photos of the subject property (on pages 4 & 5) before construction commenced.

See Exhibit "4". Order of the Court granting RTC (Defendant in this case) possession and occupancy of the property, and specifically ordering Defendant to "minimize interference between construction of the Project and Real Parties in Interest's (Iliescus' use of the remaining land of Real Parties in Interest on APN 008-244-15. Also included are other documents related to the process.

See Exhibit "5". Cover page of Appraisal Report prepared for the Iliescus by Joseph S. Campbell, MAI, dated May 15, 2017, containing photos of the subject property before RTC commenced construction.

Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties. Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

REQUEST NO. 12:

All contracts you allege exist between you and RTC or any other party related to this matter, including but not limited to the agreement referenced in paragraph 11 of your Complaint, the agreements referenced in paragraphs 27 of your Complaint, and the "RTC-Trust Agreement" referenced in paragraphs 39, 46 and 48(a) of your Complaint.

RESPONSE TO REQUEST NO. 12:

See Exhibits "2", "3" and "4".

Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties. Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

REQUEST NO. 13:

All documents supporting your allegation that Defendants agreed to carry out a scheme intended to accomplish unlawful objectives, as alleged in paragraph 67 of your Complaint.

RESPONSE TO REQUEST NO. 13:

See Exhibit "1".

Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to

inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties. Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

REQUEST NO. 14:

All documents supporting your allegation that you and Sonnia Iliescu each suffered pain, discomfort, mental and emotional distress, pain and disabilities, mental and psychological problems, depression, loss of sleep, appetite and enjoyment of life as a result of RTC's conduct, as alleged in paragraphs 74, 82, 84, 91 and 92 of your Complaint. Your response should include all medical records supporting your allegation that you and Sonnia Iliescu each sought medical attention for your respective injuries and "continued for some time to require medical care and treatment, even though the date of this Complaint," as alleged in paragraph 82 of your Complaint, as well as any such records up to and including the date of your response.

RESPONSE TO REQUEST NO. 14:

See Exhibit "1". Photos of the subject trucks on the subject property, taken April 3, 2018.
See Exhibit "2". Letter from Paragon Partners, Defendant's designated and contracted construction firm.
See Exhibit "3". Preliminary Draft of Broker Price Opinion (Cover Page Only) containing photos of the subject property (on pages 4 & 5) before construction commenced.
See Exhibit "4". Order of the Court granting RTC (Defendant in this case) possession and occupancy of the property, and specifically ordering Defendant to "minimize interference between construction of the Project and Real Parties in Interest's (Iliescus' use of the remaining land of Real Parties in Interest on APN 008-244-15. Also included are other documents related to the process.
See Exhibit "5". Cover page of Appraisal Report prepared for the Iliescus by Joseph S. Campbell, MAI, dated May 15, 2017, containing photos of the subject property before RTC commenced construction.

Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties. Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

REQUEST NO. 15:

All documents supporting your allegation that RTC or any other defendant acted in a malicious, destructive, willful, mean-spirited or other improper manner.

RESPONSE TO REQUEST NO. 15:

See Exhibit "1". Photos of the subject trucks on the subject property, taken April 3, 2018.
See Exhibit "2". Letter from Paragon Partners, Defendant's designated and contracted construction firm.
See Exhibit "3". Preliminary Draft of Broker Price Opinion (Cover Page Only) containing photos of the subject property (on pages 4 & 5) before construction commenced.
See Exhibit "4". Order of the Court granting RTC (Defendant in this case) possession and occupancy of the property, and specifically ordering Defendant to "minimize interference between construction of the Project and Real Parties in Interest's (Iliescus' use of the remaining land of Real Parties in Interest on APN 008-244-15. Also included are other documents related to the process.
See Exhibit "5". Cover page of Appraisal Report prepared for the Iliescus by Joseph S. Campbell, MAI, dated May 15, 2017, containing photos of the subject property before RTC commenced construction.
Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties. Plaintiff further represents that many of the responsive documents are contained in this

Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

REQUEST NO. 16:

All documents supporting your allegation that RTC owed you a fiduciary duty.

RESPONSE TO REQUEST NO. 16:

See Exhibit "4".

Pursuant to NRCP 34(a)(1), (b)(2)(B), (b)(2)(E) and (d), Plaintiff respectfully advises that there are additional responsive documents and Defendant is permitted and invited to inspect and copy additional requested documents, which are voluminous and burdensome to produce. Such inspection and copying will be permitted as soon as possible, with due deference accorded the respective schedules of counsel for the respective parties. Plaintiff further represents that many of the responsive documents are contained in this Court's e-Flex filing sytem for Case No. CV16-02182, styled "RTC v. Iliescu Family Trust".

NOTE: Plaintiff John Iliescu is currently continuing his research and discovery to locate any additional documents responsive to REQUESTS NOS. 1-16, which will be produced if and when available.

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the document to which this Affirmation is attached does not contain the social security number of any person.

DATED this 30th day of June, 2020.

/s/Michael J. Morrison

Michael J. Morrison, Esq.
Attorney for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on this date I personally caused to be served a true copy of the foregoing PLAINTIFFS' RESPONSE TO DEFENDANT'S FIRST REQUESTS FOR PRODUCTION OF DOCUMENTS TO PLAINTIFF JOHN ILIESCU, JR. indicated and addressed to the following:

Dane W. Anderson, Esq.
WOODBURN AND WEDGE
6100 Neil Road, Suite 500
Reno, Nevada 89511

XX Via U.S. Mail
___ Via Overnight Mail
___ Via Hand Delivery
XX Via E-mail
___ Via ECF

DATED this 30th day of June, 2020.

/s/Michael J. Morrison

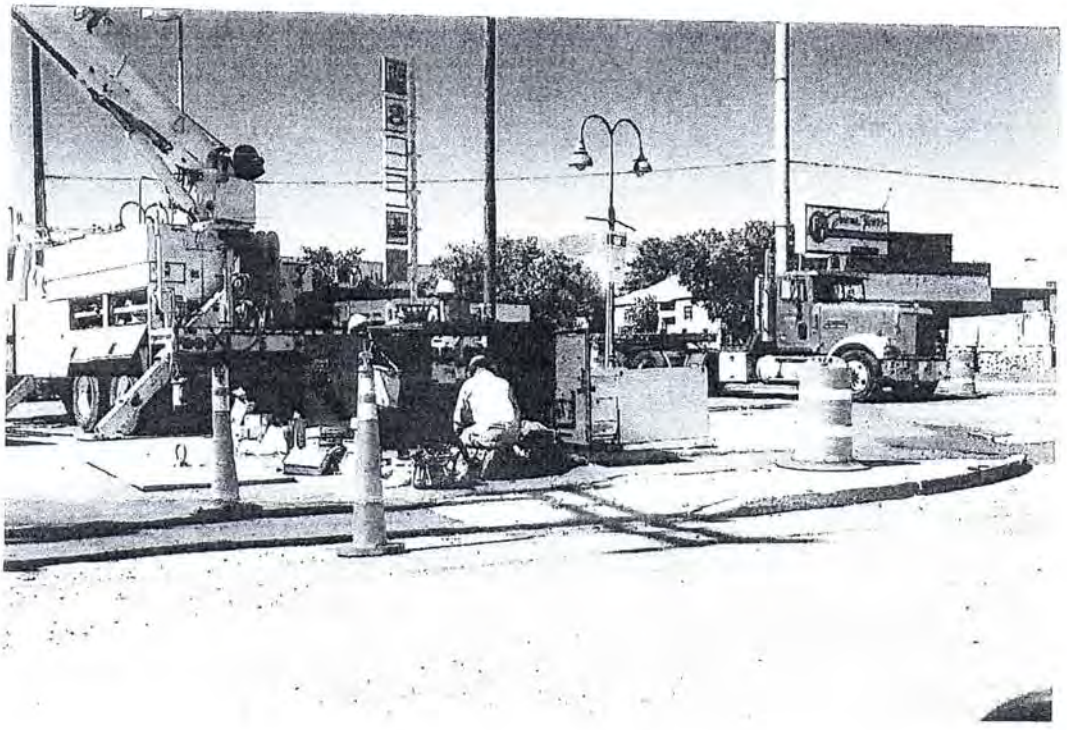
Michael J. Morrison

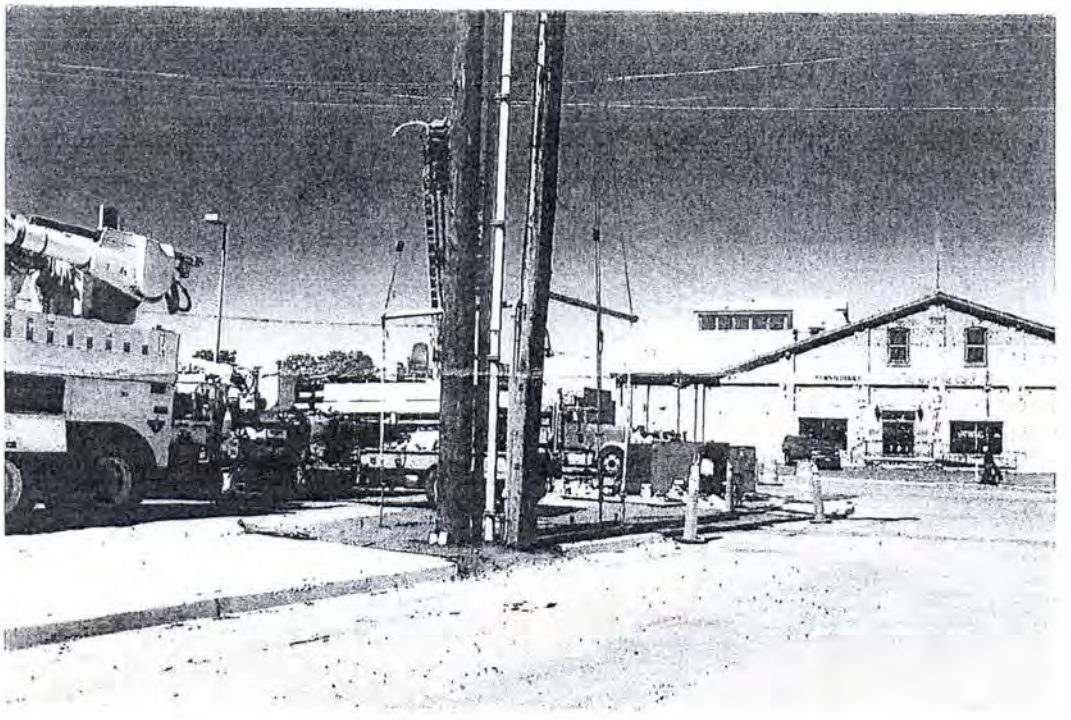
EXHIBIT "1"

EXHIBIT "1"


RANCHO
777








RANCHO

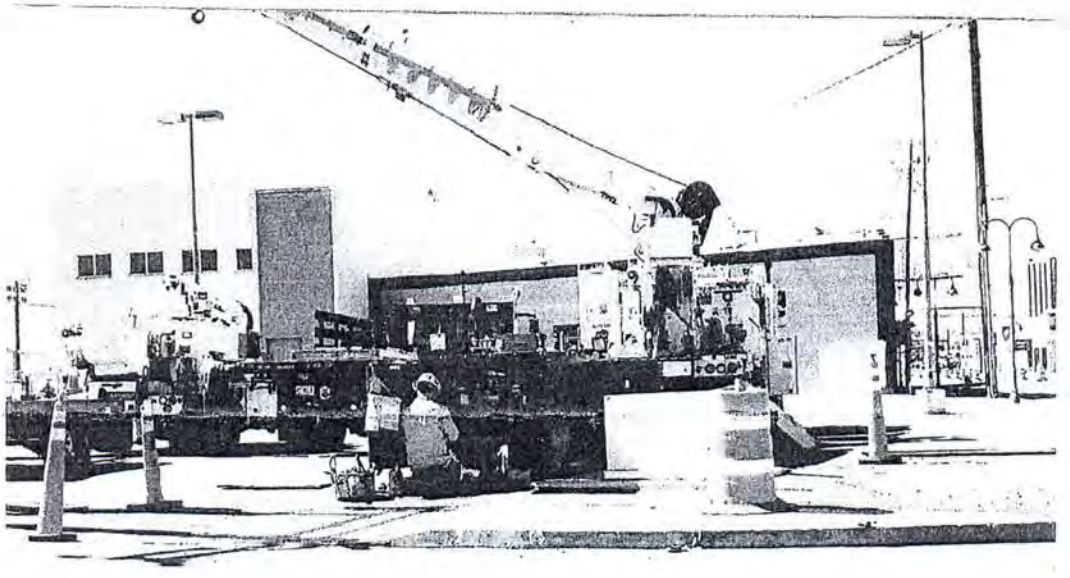


EXHIBIT "2"

EXHIBIT "2"

Todd Keizer
008-244-15 John and Sonnia Iliescu Family Trust
August 12, 2015 at 11:51 AM

John and Sonnia,

Thank you for your call today. It was a pleasure speaking with you. I have attached four maps to show you what we are proposing regarding your property.

The first attachment is labeled "PE" which is the permanent easement on the corner of 4th Street and Parker. It is 68 SF.

The second attachment is labeled "PUE" which is the utility easement on the southeast corner of your property. It is 584 SF but only 5 +/- feet wide at the widest point.

The third attachment is labeled "TCE" which is the temporary easement.

Lastly, I didn't mention it on the phone but I believe we are going to request access to the main parking area of the property. This is solely for your benefit to tie the driveway into 4th street, address grade issues, upgrade asphalt/curbing, etc. This last map labeled "full ROW map" shows this area in purple and will be completely voluntary and temporary on your part as the RTC will not compel you to allow us access. I will get you more information on this so you better understand the benefits to you will be.

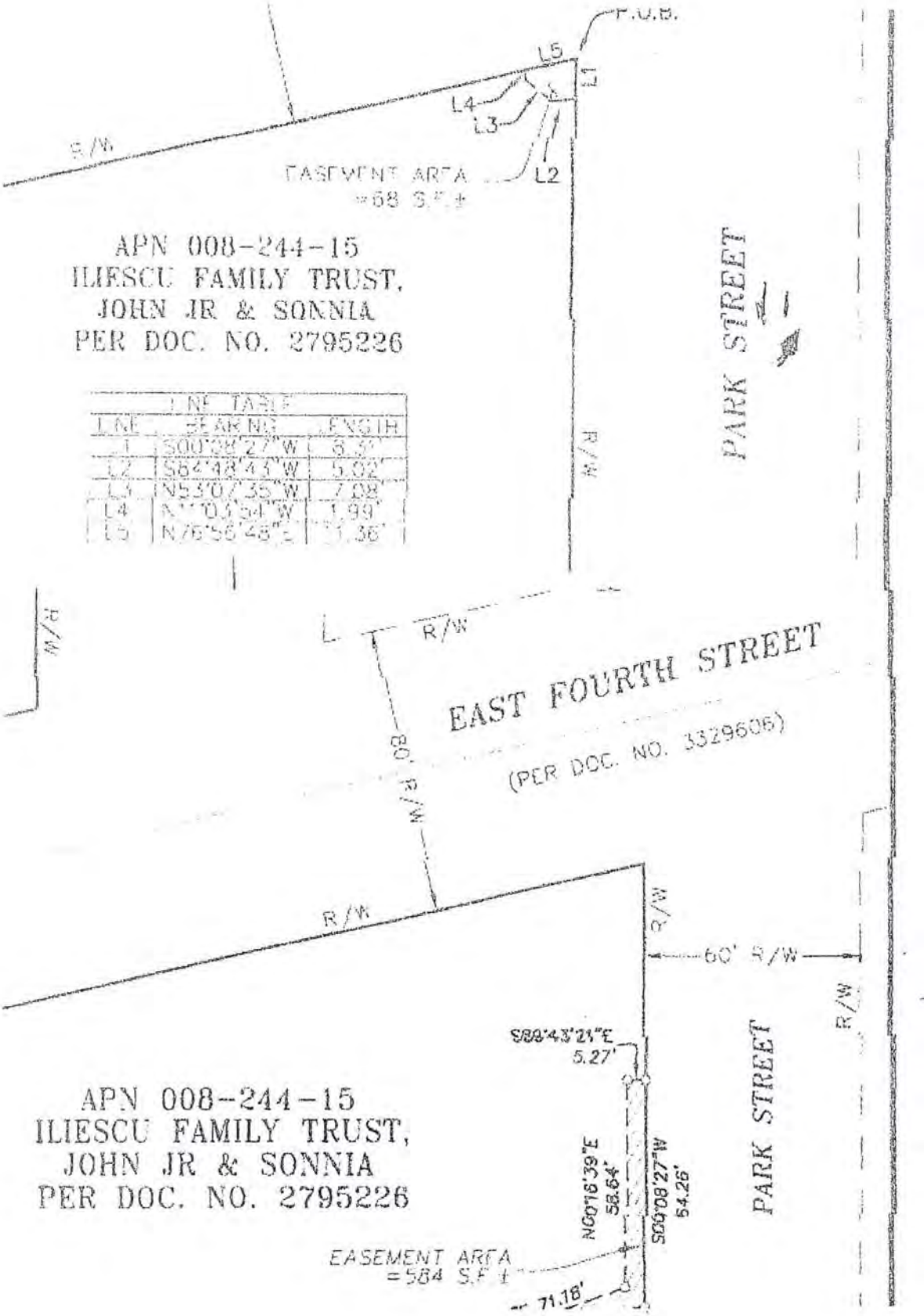
Please feel free to contact me at any time should you have additional questions.

Thank you.

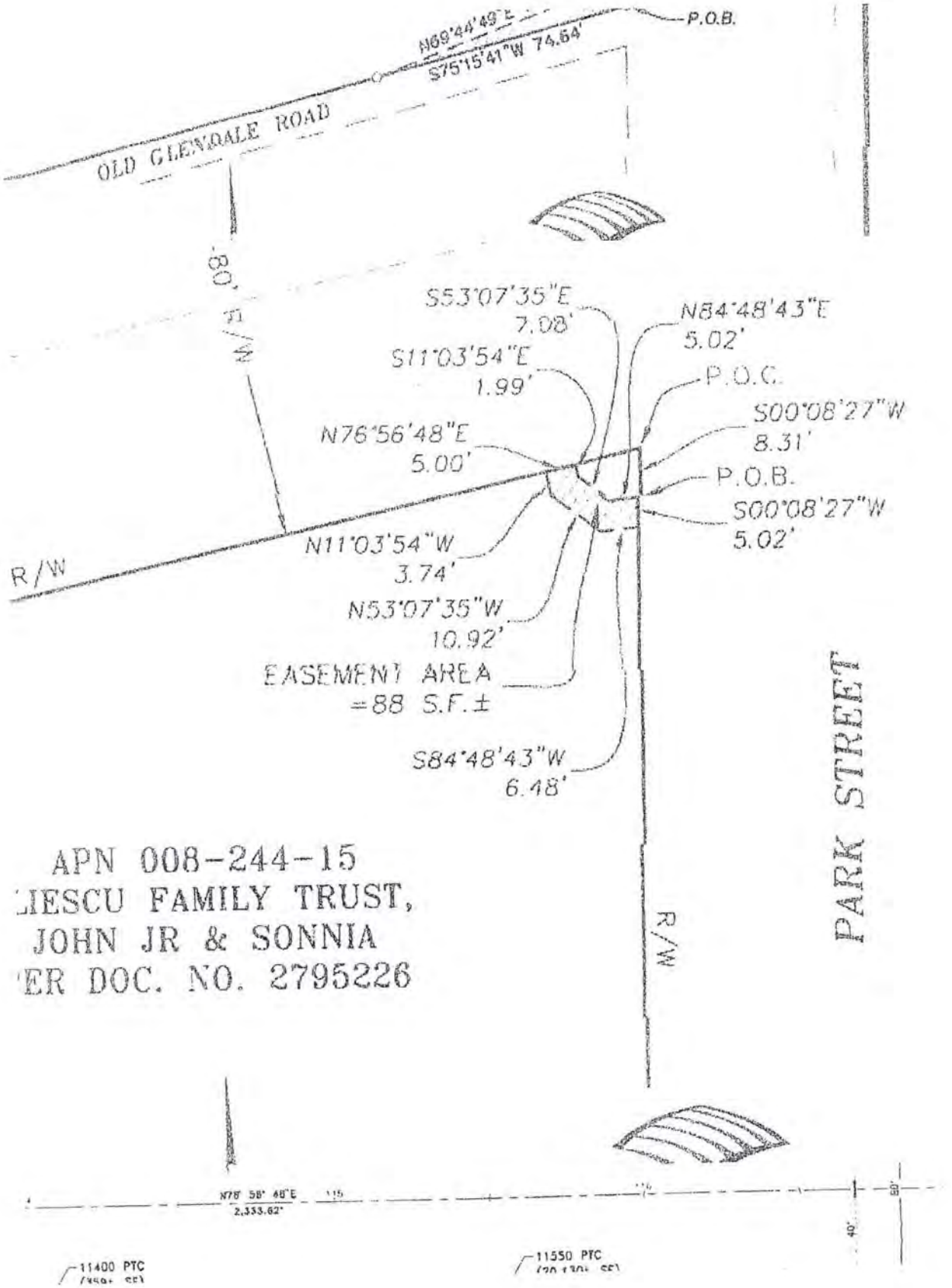
Todd Keizer
Project Manager
Paragon Partners Ltd.
5762 Bolsa Ave., Suite 201
Huntington Beach, CA 92649
Email: tkeizer@paragon-partners.com
www.paragon-partners.com
Tel.: 714.379.3376
Mobile: 310.497.4012
Fax: 714.373.1234

8-17-15
JT spoke w/ Todd
[illegible]





LINE TABLE		
LINE	BEARING	LENGTH
L1	S00°28'27"W	6.57'
L2	S64°48'43"W	5.02'
L3	N53°0'35"W	7.08'
L4	N1°0'54"W	1.99'
L5	N76°56'48"E	11.36'


N69°44'49"E
S75°15'41"W 74.64'
P.O.B.
OLD GLENDALE ROAD
80'
R/W
S53°07'35"E
7.08'
S11°03'54"E
1.99'
N76°56'48"E
5.00'
N84°48'43"E
5.02'
P.O.C.
S00°08'27"W
8.31'
P.O.B.
S00°08'27"W
5.02'
N11°03'54"W
3.74'
N53°07'35"W
10.92'
EASEMENT AREA
=88 S.F.±
S84°48'43"W
6.48'
R/W
PARK STREET
APN 008-244-15
IESCU FAMILY TRUST,
JOHN JR & SONNIA
ER DOC. NO. 2795226
N78° 58' 48"E
2,333.62'
50'
40'
11400 PTC
11550 PTC


R/W
11550 TCE
(88± SF)
11550 PE
(68± SF)
008-244-19
ILIESCU FAMILY TRUST,
JOHN JR & SONNA
4TH STREET
11550 PUE
(584± SF)

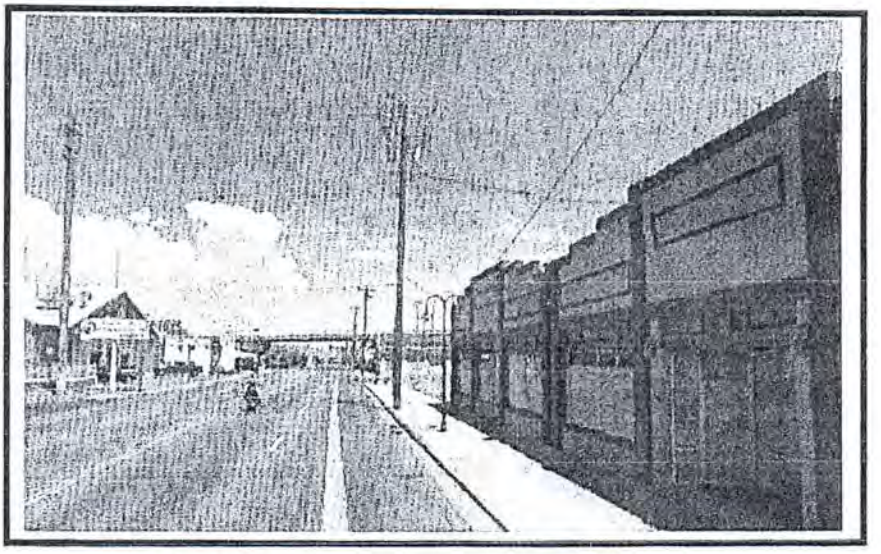
EXHIBIT "3"

EXHIBIT "3"

JOHNSON GROUP
Commercial | Residential | Investment | Realty

Richard K. Johnson
5255 Longley Ln, Suite105
Reno, Nevada 89511
Phone: 775-823-8877
Fax: 866-716-8848
Dick@JohnsonGroup.net

BROKER PRICE OPINION



THIS IS A PRELIMINARY DRAFT FOR REFERENCE ONLY

Subject Address: 642 E 4th , Reno, Nv

Date Prepared: August 18, 2016

TO THE ATTENTION OF:

RTC and
Dr & Sonnia Iliescu

PREPARED BY:

Richard K. "Dick" Johnson, Broker/Owner *License #:* 58025

Note: You and your advisors (such as tax, legal, and financial) should conduct careful and independent investigation to determine to your satisfaction the suitability of the property for your needs. The information has been obtained from sources believed reliable. Agents make no representations or warranties as to the accuracy or completeness of supplied information and/or projections.

PROPERTY
ASSESSMENTS AND RECOMMENDATIONS

PROPERTY DATA:

Property Address:	642 E 4th, Reno, Nevada
APN #:	011-051-15
Owner of Record:	Iliescu Family Trust

PROPERTY CHARACTERISTICS:

APN: 008-244-15 Card 1 of 1

Owner Information & Legal Description

Situs 642 E 4TH ST
ILIESCU FAMILY TRUST, JOHN JR & SONNIA
Mail Address 200 COURT ST
RENO NV 89501
ILIESCU TRUSTEE, JOHN JR & SONNIA
Rec Doc No Rec Date 01/24/2003
Prior Owner SALVATION ARMY THE,
Prior Doc MEMO
Keyline Desc COMMERCIAL ADD LTS 1 THRU 11 BLK 1
Subdivision COMMERCIAL ADDITION
Lot: 1-11 Block: 1 Sub Map#
Record of Survey Map: Parcel Map#
Section: Township: 19 Range: 19
1002 Prior APN
Use does not qualify for Low Cap, High Cap Applied

Building Information

Quality C1S Low/Avg
Retail Store
Storage Warehouse
Stories 1.00
29,408
Year Built 1935
does not include Basement or Garage Conversion
Area.
1971 Finished Bsmt 0
0 Unfin Bsmt 0
Full Baths 0
Half Baths 0 Gar Conv Sq Foot 0
Fixtures Total Gar Area 0
Fireplaces 0 Gar Type
Heat Type PACKAGE UNIT Det Garage 0
Sec Heat Type SPACE HEATER Bsmt Gar Door 0
Ext Walls BRICK SOLID Sub Floor
Sec Ext Walls Frame MASONRY BRNG
Roof Cover Construction Mod 0
0 1
% Incomplete 1

Land Information

NBC = Neighborhood Code
400 MUDR Sewer Municipal NBC AHBQ
Size 31,866 SqFt or ~ 0.732 Acre Water Muni Street Paved NBC Map

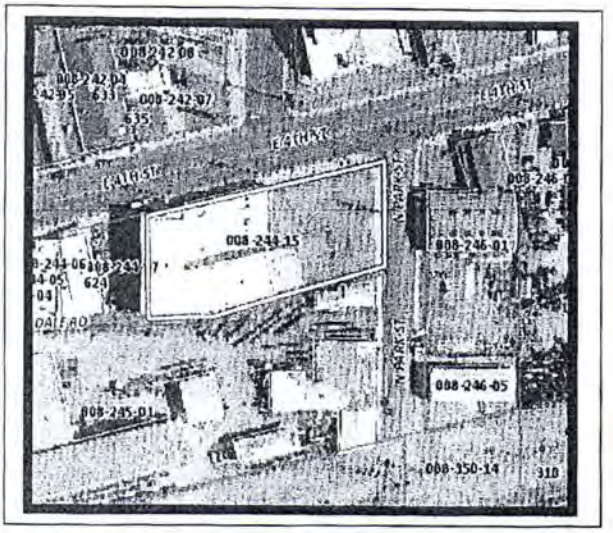
Valuation Information

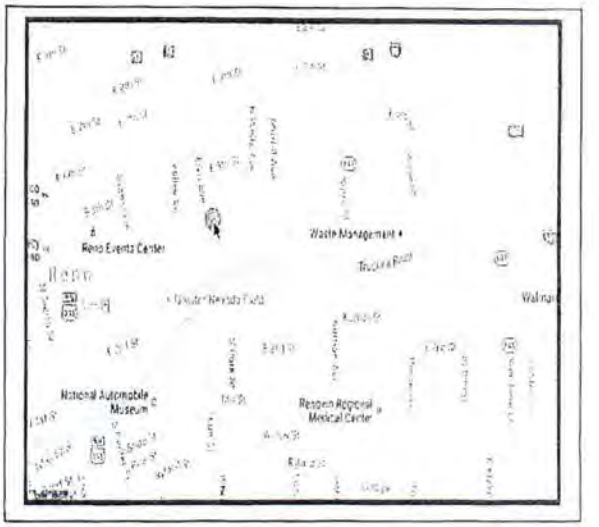
	2015/16 FV	2016/17 FV
Taxable Land Value	191,196	191,196
Taxable Improvement Value	559,814	544,867
Taxable Total	751,010	736,063
Assessed Land Value	66,919	66,919
Assessed Improvement Value	195,935	190,703
Total Assessed	262,854	257,622

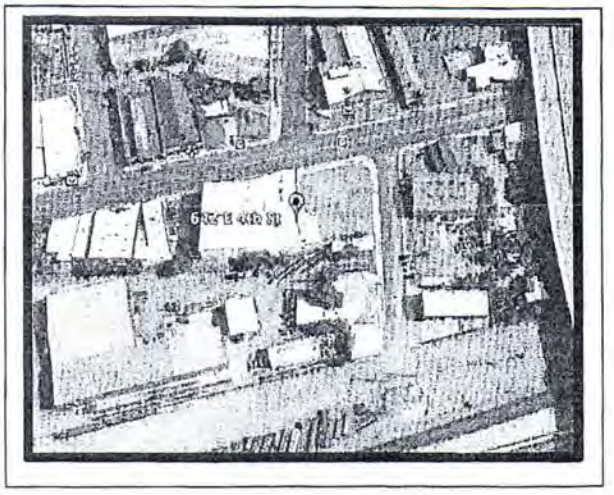
Sales/Transfer Information/Recorded Document

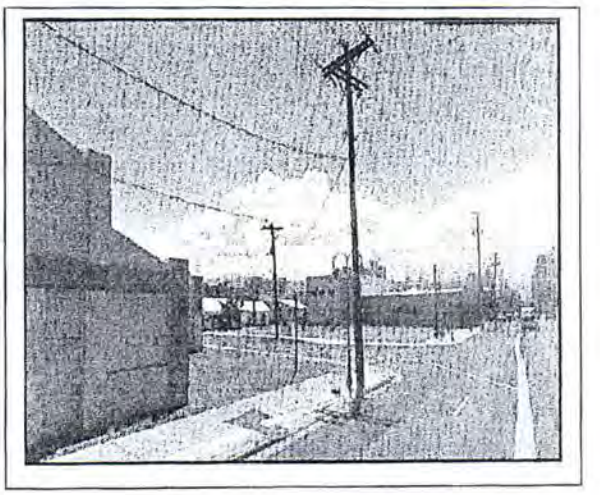
Code	Doc Date	Value/Sale Price	Grantor	Grantee
1G 400	01-24-2003	810,000	SALVATION ARMY THE,	ILIESCU FAMILY TRUST, JOHN JR & SONNIA
	08-21-1975	0		SALVATION ARMY THE

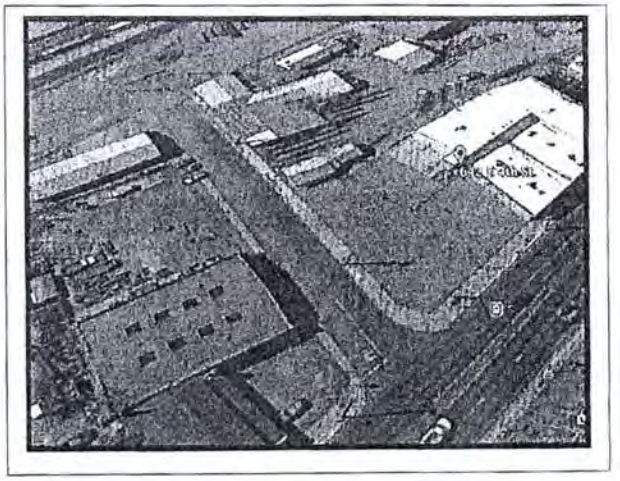
Note: You and your advisors (such as tax, legal, and financial) should conduct carefull and independant investigation to determine to your satisfaction the suitability of the property for your needs. The information has been obtained from sources believed reliable. Agents make no representations or warranties as to the accuracy or completeness of supplied information and/or projections.

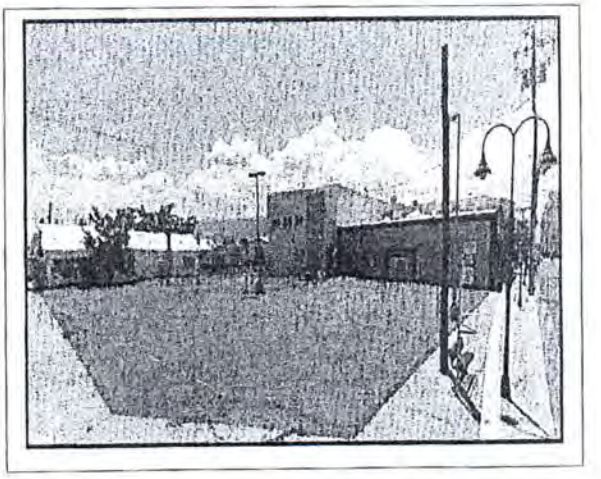












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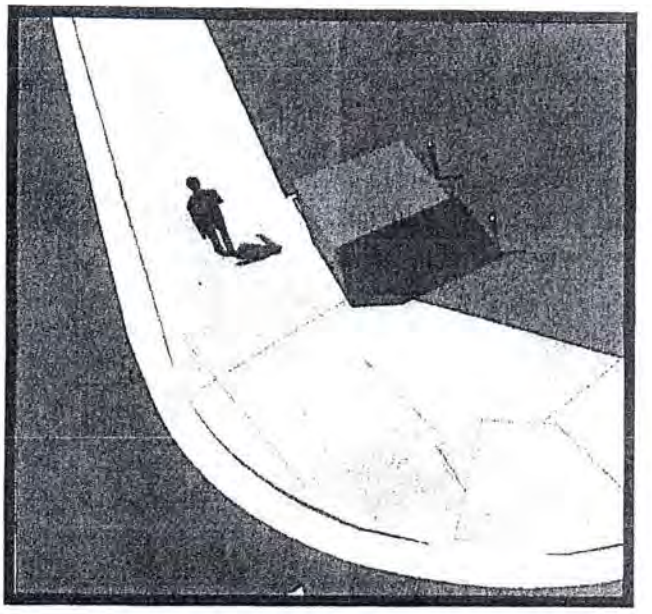
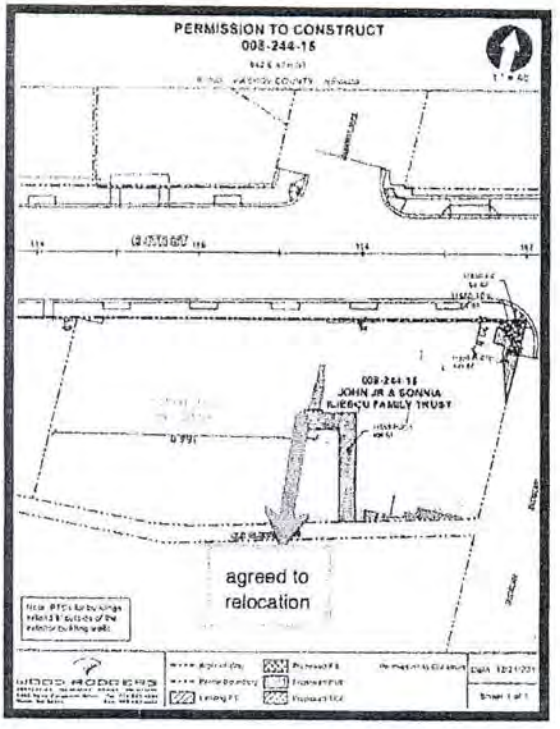
RTC (proposed) easement







On following page, see the list of Comps as provided by Appraiser hired by RTC.

Note: You and your advisors (such as tax, legal, and financial) should conduct careful and independant investigation to determine to your satisfaction the suitability of the property for your needs. The information has been obtained from sources believed reliable. Agents make no representations or warranties as to the accuracy or completeness of supplied information and/or projections

Received from RTC employed Appraiser.

COMPARABLE COMMERCIAL LAND SALES CHART

Sale Number	Assessor's Parcel Number Location	Sale Date Sale Price	Zoning Topography	Land Area	Sale Price Per S.F.
LS-1	143-040-25 Northeast corner Geiger Grade and Veterans Parkway	07/31/2012 $920,000	PUD Level	1.50± Ac 65,356± SF	$14.08
LS-2	008-341-06 North side east 3rd St., between N. Wells Ave. and Merrill Ave., Reno	03/25/2013 $350,000	MUE4 Level	1.0± Ac. 43,560± Sf	$8.03
LS-3	033-314-11 Northeast corner Victorian Ave and 3rd St., Sparks	5/01/2013 $220,000	TOD Level	.47± Ac 20,653± SF	$10.65
LS-4	163-300-04 North side South Meadows Parkway, 700± feet east of Double R Boulevard	01/02/2014 $455,000	PUD Commercial/ Office Level	1.0± Ac 41,566± SF	$10.44
LS-5	034-145-03 Between E. Greg St. and Stanford Way, 210± feet west of S. McCarran Blvd	01/28/2014 $525,000	I Level	1.149± Ac 50,047± SF	$10.49
LS-6	008-341-03 South side East 6th St., between N. Wells Ave. and Merrill Ave., Reno	07/02/2014 $350,000	MUE4 Level	.912± Ac. 39,719± Sf	$8.81
LS-7	026-182-69 E/S Northtowne Lane, 330' south of N. McCarran Blvd	08/08/2014 $625,000	AC Level	1.775± Ac. 77,328± Sf	$8.08
LS-8	532-131-07 W/S Access Road, 135' north of Eagle Canyon Drive	01/05/2015 $650,000	NC Level	1.988± Ac. 86,611± SF	$7.50
LS-9	510-491-11 Southeast corner of Los Altos Parkway and Galleria Parkway	02/05/2015 $623,793	NUD Level	1.578± Ac. 68,729± SF	$9.08
LS-10	013-081-18 South side Mill St., 215' E. of Kietzke Lane, Reno	02/24/2015 $91,000	MURC Level	.21± Ac. 9,100± SF	$10.30
LS-11	013-093-15 South side Morrill Street, 105' E. of S. Wells Ave., Reno	02/26/2015 $42,000	CC Level	.09± Ac. 4,000± Sf	$10.00
LS-12	013-281-03 Southeast corner of Harvard Way & Yale Way, Reno	04/08/2015 $1,471,019	CC Level	3.070± Ac. 133,728± SF	$11.00
LS-13	013-341-21 Southwest corner of Terminal Way & Villa Nova Drive, Reno	04/22/2015 $512,500	MURT Level	1.110± Ac 48,351± SF	$10.60
LS-14	160-070-12 Northwest corner Double R Blvd. & Professional Circle	05/06/2015 $830,649	PUD Level	1.190± Ac 51,836± SF	$13.13
LS-15	510-491-13 & 15 South side Los Altos Pkwy., 379± W. of Ion Court, Sparks	06/01/2015 $1,131,800	NUD Level	3.51± Ac. 152,950± SF	$7.40
LS-16	163-120-04 East side S. Virginia St., N. of South Meadows Parkway, Reno	11/16/2015 $804,115	PUD Level	1.42± Ac. 6,.8554± SF	$13.00
PLS-17	027-412-38 North side Oddie Blvd., 300' E. of Sullivan Lane	01/08/2016 $725,000	MUD, MUD-C Level	2.201± Ac. 95,876± Sf	$7.56

NONE OF THESE ARE ON OR ADJOINING THE 4th STREET ARE OF THE SUBJECT SITE.

Note: You and your advisors (such as tax, legal, and financial) should conduct carefull and independant investigation to determine to your satisfaction the suitability of the property for your needs. The information has been obtained from sources believed reliable. Agents make no representations or warranties as to the accuracy or completeness of supplied information and/or projections.

EXHIBIT "4"

EXHIBIT "4"

1. Real Parties in Interest are the current fee simple owners of real property at issue in this litigation and, as such, have the authority to enter into the aforementioned stipulation with RTC through their attorney, C. Nicholas Pereos, Esq.

2. This case involves the RTC's exercise of its power of eminent domain for the purpose of acquiring the permanent easement, the public utility easement and the temporary construction easement defined as "the Property" in the Stipulation and described in detail in Exhibit 1 to the Stipulation, related to RTC's construction of the 4th Street/Prater Way Complete Street and BRT Project, or "the Project." The Court incorporates the definitions and descriptions of the Project set forth in the Stipulation by reference in this order.

3. The use for which the Property sought to be condemned is a public use authorized by law, and the taking thereof is necessary for such use. RTC has complied with all statutory conditions precedent to instituting this action and seeking immediate occupancy pending judgment. Immediate entry upon and possession of the Property sought to be condemned are required so that the construction of the Project may proceed in an orderly manner without delay or loss in utilization of construction time and/or without unnecessary cost and expense to the condemning agency.

4. NRS 37.090 and 37.100 provide this Court with authority to enter an order allowing RTC access to the Property sought to be condemned at any time after the commencement of suit and pending entry of judgment, to do such work thereon as may be required for the Project according to its nature.

5. For purposes of this Order only, and subject to the terms of the Stipulation concerning Defendants' objection to Reese Perkins' appraisal, the Court finds that, pursuant to NRS 37.100(4), the value of the Property sought to be obtained and/or temporary utilized during construction plus damages is $2,030.00.

. . .

. . .

Based on the foregoing, and with good cause appearing, IT IS HEREBY ORDERED:

1. RTC may have immediate possession and occupancy of the Property, as described in **Exhibit 1** attached hereto, by depositing with the Clerk of this Court the sum of $2,030.00 (the "Cash Deposit").

2. The Clerk of the Court shall deposit the Cash Deposit into an interest bearing account for the benefit of Real Parties in Interest and/or any other party determined to be entitled to those amounts.

3. Upon making the Cash Deposit, RTC may immediately enter upon and occupy the Property and perform such work thereon as may be necessary to construct and complete the Project;

4. RTC and Real Parties in Interest and their respective agents shall cooperate so as to minimize interference between construction of the Project and Real Parties in Interest's use of the remaining land of Real Parties in Interest on APN 008-244-15;

5. If Real Parties in Interest apply to withdraw the Cash Deposit, they shall serve a notice on the parties in this action of the Application, giving each party 5 days after service of such notice in which to file and serve objections to such withdrawal, if any;

6. If any such objections to the Application are filed, the Court will set a date and time for a hearing thereon.

IT IS HEREBY FURTHER ORDERED that this order shall become effective upon RTC's deposit of the Cash Deposit with the Clerk of this Court.

Dated this 30th day of November, 2016.

DISTRICT JUDGE

JOHNSON | PERKINS | GRIFFIN
REAL ESTATE APPRAISERS & CONSULTANTS

245 E. Liberty Street, Suite 100, Reno, NV 89501
775.322.1155 | Fax 775.322.1156 | jpgnv.com

Stephen R. Johnson, MAI, SREA
Reese Perkins, MAI, SRA
Scott G. Griffin, MAI
Cindy Lund Fogel, MAI
Karen K. Sandors

August 5, 2015

Via Certified Mail No: 7005 1820 0001 8006 1560

John Iliescu, Jr. & Sonnia Iliescu
200 Court Street
Reno, Nevada 89501

Re: 4th Street/Prater Way BRT (Bus Rapid Transit) Project
RTC Project No. 242013
642 East 4th Street, Reno, NV (A.P.N. 008-244-15)

Dear Mr. & Mrs. Iliescu:

The Regional Transportation Commission of Washoe County (RTC) has approved and accepted a plan for the 4th Street/Prater Way BRT (Bus Rapid Transit) improvement project to be constructed in the vicinity of the property that you now own and or occupy. The project is intended to better facilitate travel between Reno and downtown Sparks. Your property will be affected by this project, and as a result, it will be necessary for the RTC to have it appraised.

Paragon Partners LLC, acting on behalf of the Regional Transportation Commission, has contracted with Johnson Perkins Griffin, LLC to prepare an appraisal of the above referenced property. The purpose of the appraisal is to estimate the Market Value of the fee simple interest in the subject property, as of a current date of valuation.

Johnson Perkins Griffin, LLC will be appraising your property. We are requesting that you or your representative accompany us when we physically inspect your property. You may contact us at (775) 322-1155 or clf@jpgnv.com to arrange an appointment to inspect the subject property.

We are requesting any information considered relevant to the valuation of your property, including recent sales or listings of the subject, comparable sales or listing data, rental agreements or other pertinent information. Should you desire additional information regarding this project, please contact Mr. Todd Keizer, R/W Agent (310) 497-4012 or email him at tkeizer@paragon-partners.com.

Thank you in advance for your cooperation and assistance.

Sincerely,

Reese Perkins, MAI, SRA
Nevada Certified General Appraiser
License Number A.0000120-CG

Cindy Lund Fogel, MAI
Nevada Certified General Appraiser
License Number A.0002312-CG

RP/lc

Cc: Todd Keizer

15-152-04

REGIONAL TRANSPORTATION COMMISSION
Metropolitan Planning • Public Transportation & Operations • Engineering & Construction
Metropolitan Planning Organization of Washoe County, Nevada

July 20, 2016

John Iliescu, Jr. and Sonnia Iliescu 1992
Family Trust, Agreement dated January 24, 1992
John & Sonnia Iliescu
200 Court Street
Reno, Nevada 89501
Via Certified Mail #9171 9690 0935 0111 8801 30

RTC Board Meeting
4th Street/Prater Way BRT Project
Evans Avenue to Pyramid Way
RTC Project: 242013
Grant#: NV-79-0003
APN: 008-244-15

RE: **Notice Letter Pursuant to NRS 241.034**

Dear Mr. and Mrs. Iliescu:

On behalf of the Board of Directors for the Regional Transportation Commission (RTC), you are hereby notified that the RTC Board will convene on August 19, 2016, at 9:00 am, at the Washoe County Commission Chambers, located at 1001 E. Ninth Street, Building A, Reno, Nevada 89512. At that meeting, the Board will discuss whether to acquire, and may take action to acquire, one public utility easement, one permanent easement and one temporary construction easement (property rights), located on Assessor's Parcel Number 008-244-15 by the exercise of the power of eminent domain.

APN 008-244-15	Public Utility Easement – 288 square feet
	Permanent Easement – 68 square feet
	Temporary Construction Easement – 88 square feet

This notice is provided to you pursuant to Chapter 241 of the Nevada Revised Statutes. Also pursuant to Chapter 241, this meeting is an open meeting at which comments from the public are taken.

The Washoe County Commission Chambers is accessible to individuals with disabilities. Requests for auxiliary aids to assist individuals with disabilities should be made with as much advance notice as possible. For those requiring hearing or speech assistance, contact Relay Nevada at 1-800-326-6868 (TTY, VCO or HCO). Requests for supporting documents and all other requests should be directed to Denise Thompson, at (775) 335-1826.

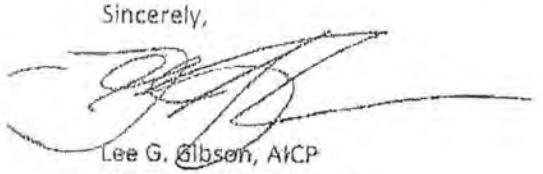
The RTC's preference is to continue the negotiation process with you to acquire the property rights needed for the project, however, the RTC may initiate an action in eminent domain to acquire them. Upon your response, we can schedule a meeting to work on a resolution.

7-20-16 Faxed

RTC Board: Neoma Jardon (Chair) · Ron Smith (Vice Chair) · Bob Lucey · Paul McKenzie · Marsha Berkbigler
PO Box 30002, Reno, NV 89520 · 1105 Terminal Way, Reno, NV 89502 · 775-348-0400 · rtcwashoe.com

If you have any questions, please contact Carrie Byron, Property Agent, by phone at (775) 332-2144.

Sincerely,



Lee G. Gibson, AICP
RTC Executive Director

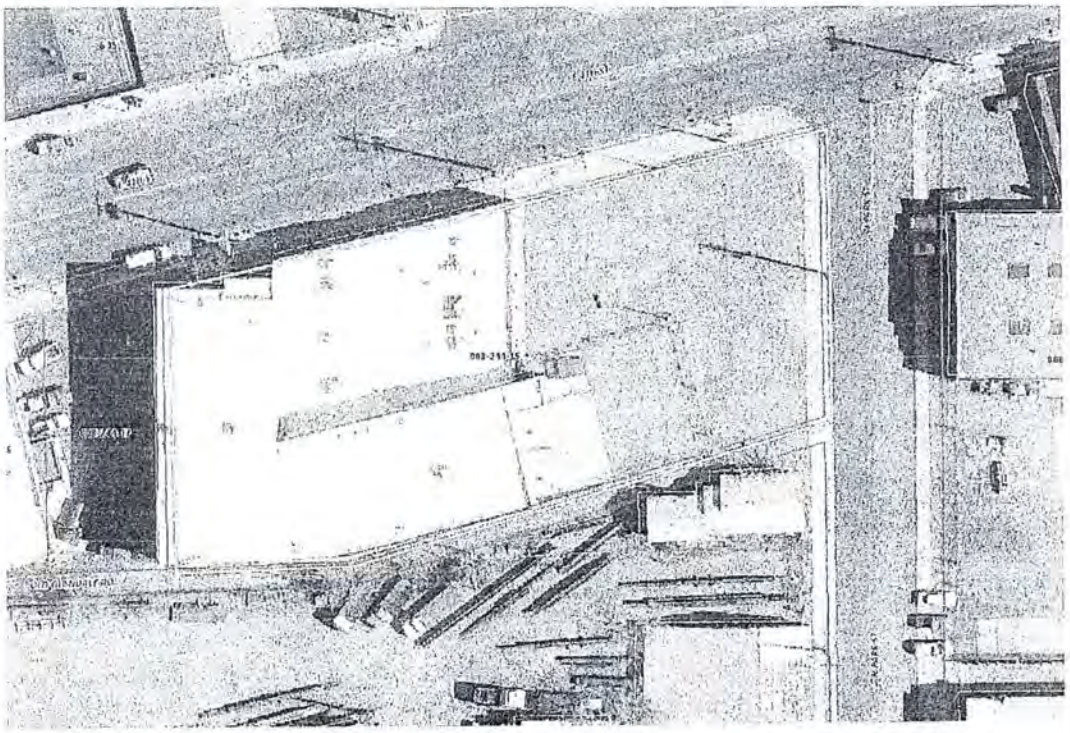
LGG/CAB/mak

Cc: Dale Ferguson, General Counsel, RTC

EXHIBIT "5"

EXHIBIT "5"

APPRAISAL REPORT
642 EAST FOURTH STREET, APN 008-244-15
RENO, WASHOE COUNTY, NEVADA



PREPARED FOR THE PURPOSE OF
ESTIMATING MARKET VALUE
for
ILIESCU FAMILY TRUST, JOHN JR. & SONNIA
Public Easements
11550PE, 11550PUE, & 11550TCU

May 15, 2017

submitted by
Joseph S. Campbell, MAI
PO Box 21453
Reno, Nevada 89515

F I L E D
Electronically
CV19-00459
2021-05-06 09:45:32 AM
Alicia L. Lerud
Clerk of the Court
Transaction # 8430816

CASE NO. CV19-00459 **JOHN ILIESCU JR. ETAL VS. RTC WASHOE COUNTY**

DATE, JUDGE OFFICERS OF COURT PRESENT — APPEARANCES-HEARING

4/27/2021
HONORABLE DAVID A. HARDY
DEPT. NO. 15
M. Merkouris (Clerk)
N. Alexander (Reporter)
Zoom Webinar

STATUS HEARING

2:00 p.m. – Court convened via Zoom.
Michael Morrison, Esq., was present on behalf of Plaintiffs John & Sonnia Iliescu.
Dane Anderson, Esq., was present on behalf of Defendant RTC Washoe County.

Pursuant to the national and local COVID-19 emergency response that caused temporary closure of the courthouse located at 75 Court Street in Reno, Washoe County, Nevada, this hearing was conducted remotely. This Court and all participants appeared electronically via Zoom Webinar. This Court was physically located in Washoe County, Nevada.

COURT reviewed the procedural history of the case; the pending motions and issues in the case; and the Order Denying Motion for Sanctions filed on March 25, 2021.
Counsel Morrison responded to the Court regarding the March 25th Order, noting that they have held a 16.1 conference and discussed some of the issues raised by the Court. Counsel Morrison further gave the Court information regarding the case, discovery issues, and lack of cooperation from counsel Anderson, noting that he is at a bit of a loss and of course the Defendants are ready for trial because they were allowed to get everything they needed and he has been foreclosed on getting what he needs; and he further indicated that he believes the March 25th Order got the case back on track, and he requested that the Court give the Plaintiffs consideration in this unusual situation where the Defendants were permitted to get everything they needed, and he has been foreclosed from doing anything.
COURT questioned counsel Morrison regarding the damage to the property.
Counsel Morrison indicated that there is damage to the surface of the asphalt due to RTC's heavy trucks being parked there, and the Plaintiffs have asked RTC to move them. Counsel Morrison further advised the Court that Mr. Iliescu has consulted repair specialists and had people out to look at the damage, however the damage continues today; and he further indicated that Mr. Iliescu has determined that the repairs could be done and would be expensive, however stating that number today would be inappropriate.
COURT questioned counsel Morrison regarding how he has disclosed to the Defendants his method for calculating market value loss.
Counsel Morrison indicated that expert opinions have been provided to the Defendants, but it was not timely, and that is why the Defendants are trying to keep that evidence out. Counsel Morrison further indicated that it is not that the Defendants did not know about the expert opinion, however RTC does not think the damage is their problem, and there will be evidence that RTC parked their vehicles and all other trucks from surrounding properties on Mr. Iliescu's property, noting that Mr. Iliescu has photos of the lot when it was clean and unmarked prior to RTC using it.
COURT advised respective counsel that he paused when he heard that counsel Morrison did not want to disclose the cost of the repairs, noting that the purpose of discovery and pretrial disclosures is to tell the Defendants what the cost would be to repair the property.

CASE NO. CV19-00459 **JOHN ILIESCU JR. ETAL VS. RTC WASHOE COUNTY**

DATE, JUDGE OFFICERS OF COURT PRESENT

Pg. 2

APPEARANCES-HEARING

4/27/2021
HONORABLE DAVID A. HARDY
DEPT. NO. 15
M. Merkouris (Clerk)
N. Alexander (Reporter)
Zoom Webinar

STATUS HEARING

Counsel Morrison advised the Court that he did have a conversation with counsel Anderson today regarding the bids, noting that they range from $40k to $70k just to restore the property.

Upon questioning by the Court regarding the how the Plaintiffs are doing, counsel Morrison indicated that they are feeling better, however they are still not doing very good.

At this point in the hearing, the Court took a very brief recess.

Counsel Anderson responded to counsel Morrison, noting that first and foremost he wishes the Iliescu's the best, and he is sorry to hear they have had health problems.

Counsel Anderson further indicated that if the parking lot can be repaired, there is no loss of value; he believes Apex gave an estimate for repairs, but it has not been disclosed yet; and he has received no appraisals other than what is in the file.

Upon questioning by the Court, counsel Anderson indicated that his clients do not acknowledge that they damaged the lot, and they would testify at trial that the parking lot was damaged before they started using it.

Counsel Anderson further advised the Court that this is a cost of repair to a parking lot case, but this not how it was pled, and the Complaint contains scorched earth claims; he agrees with counsel Morrison that the Plaintiffs should be leading this case; he became concerned that the Plaintiffs may not be able to testify at trial and that is why he requested early discovery; and he further gave the Court information regarding delays in the case, noting that stipulation went both ways and he never stopped counsel Morrison from obtaining discovery. Counsel Anderson further indicated that he resents the accusation that he has somehow hamstrung the Plaintiffs from getting the discovery they need, and he is at a loss as to why they would accuse him of perpetuating some scheme to stop them from obtaining discovery, noting that they have access to the lot and people who can evaluate the damage; he has filed a procedurally appropriate motion regarding the Plaintiffs' failure to comply with discovery deadlines and he would welcome oral arguments on the Motion for Summary Judgment.

Upon questioning by the Court, counsel Anderson gave the Court information regarding the 16.1 conference and he summarized the discovery that has occurred to date, noting the Plaintiffs have not disclosed their damages or provided an expert report, and he is not obligated to prove their case for them.

COURT questioned counsel Morrison regarding his argument that discovery still needs to be conducted, and that the Motion for Summary Judgment is premature.

Counsel Morrison gave the Court information regarding what discovery is still needed, and he replied to counsel Anderson.

Counsel Anderson further responded.

COURT advised respective counsel that oral arguments should be set, and discussion ensued regarding an acceptable date and time.

CASE NO. CV19-00459 **JOHN ILIESCU JR. ETAL VS. RTC WASHOE COUNTY**

DATE, JUDGE OFFICERS OF COURT PRESENT	APPEARANCES-HEARING
4/27/2021 HONORABLE DAVID A. HARDY DEPT. NO. 15 M. Merkouris (Clerk) N. Alexander (Reporter) **Zoom Webinar**	**STATUS HEARING** **COURT ORDERED:** Oral arguments on the Motion for Summary Judgment (filed March 9, 2021) shall be set for May 6, 2021 at 9:30 a.m. (2 hours). **COURT** directed counsel Anderson to have the reply filed by close of business this Friday, April 30, 2021. **COURT** noted that the hearing will be set for 2 hours only, and he gave counsel information regarding what their arguments should be focused on. 3:09 p.m. – Court adjourned.

In the Matter Of:

Department 15

TRANSCRIPT OF PROCEEDINGS

April 27, 2021

Job Number: 753162

CODE: 4185
NICOLE J. HANSEN, CCR 446
Sunshine Litigation Services
151 Country Estates Circle
Reno, Nevada 89511
(775) 323-3411
Court Reporter

SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

THE HONORABLE DAVID A. HARDY, DISTRICT JUDGE

--o0o--

JOHN ILIESCU, ET. AL., JR. Case No. CR19-00459

Plaintiff, Dept. No. 15

vs.

RTC WASHOE COUNTY,

Defendant.

TRANSCRIPT OF PROCEEDINGS
STATUS HEARING
TUESDAY, APRIL 27, 2021

APPEARANCES:

For the Plaintiff: MICHAEL MORRISON, ESQ.
1495 Ridgeview Drive, Suite 220
Reno, NV 89519

For the Defendant: DANE ANDERSON, ESQ.
Woodburn & Wedge
6100 Neil Road
Reno, Nevada 89511

Job Number. 753162

-o0o-

RENO, NEVADA; TUESDAY, APRIL 27, 2021, 2:00 P.M.

-o0o-

THE COURT: Hello. This is CV19-00459. This is the time set for really a status conference in the Iliescu versus Regional Transportation Commission dispute.

I want to talk for a moment, and then I'll invite counsel to bring to my attention anything they believe is important. I have read the file, including the motion for summary judgment, which was filed on March 9th, the two motions in limine, filed on March 9th regarding calculation of damages, computation of damages, and another motion in limine regarding expert witnesses. I have read the oppositions to the two motions in limine and the motion for summary judgment. None are submitted. None are ripe. There may be replies filed, but I want to know that I've read those.

I recently resolved a motion for what I considered case-ending sanctions, and that motion was analytically connected to rule compliance. And I thought then and I continue to think now that this case, if it is adjudicated before trial, should be reviewed in a more mainstream broader sense. So I anticipated that there

would be some motion for summary judgment, which there is.

By my words, I'm not inviting that motion. I just anticipate it, having seen this file for a while. I'm aware of my August 19th order which prevents the production of evidence not disclosed by June 30th.

I'm somewhat troubled when I read the opposition to the motion for summary judgment and motions in limine because there is this recurring theme that the March 25th order -- this is my inference, this is not expressly argued -- but my inference is that my March 25th order somehow dilutes rule compliance and instead reauthorizes a meaningful disclosure.

It was not my intent to, for example, extend a deadline for expert witnesses. It was not my intent to enlarge rights which may have been extinguished by rule. I just want there to be a fair and full opportunity to present all issues before I consider whether the plaintiff's failure to prosecute emasculates the plaintiff's case essentially.

For example, there is the allegation that there are costs to restore the property. I imagine those are susceptible to an expert or some computation. There's an allegation of loss of market value. That's

susceptible to expert and a computation of damages. There's an allegation of loss of use, which I again believe is susceptible to either expert or some computation.

So this will be the last thing I say and then I'll invite counsel to speak. I don't intend to relieve the plaintiff of the consequences created by the plaintiffs' delays. Whatever those consequences are, I'll address in the motion. I just didn't want to simply offer a case-ending sanction because of the Rule 16 issue.

I don't know what's going to be produced between now and the close of discovery in a few weeks. I don't know what has been produced since my March 25th order. And so my thought is to hear from you today, and then if you intend to follow a reply to these documents, I would probably set oral arguments on the motion for summary judgment. And within a week or two after they're all submitted to me, I'll give the attorneys their very best opportunity to persuade me. With that, that's everything I want to say, I believe.

On behalf of the plaintiff, Mr. Morrison?

MR. MORRISON: Yes, sir. If I may, Your Honor.

THE COURT: Yes.

MR. MORRISON: With respect to the Court's order to appear and show compliance with that order, Mr. Anderson and I have held a 16.1 conference and discussed some of the same issues that you've raised, Your Honor. But I did read your order not to emasculate the protocols and procedures in the case but rather to give the plaintiff an opportunity to be heard in light of the fact that this was a very unusual case and one I've never had in my whole time of practicing, Your Honor.

The case interrupted the flow of the 16.1 and discovery by accommodating the defendant in a very unusual way, but I wanted to show cooperation and good faith in respect to what Mr. Anderson felt were exigent circumstances, that being the health of Dr. Iliescu and his wife and allow him to cut in line, so to speak, to in essence do all of the discovery that he wanted and hold up on all of the discovery that I wanted to do. That's the way it was set up and that's the way it went forward, Your Honor.

So at this juncture, Mr. Anderson, he may have more discovery he wants to do. But the entire thrust of his defense case has already been subjected to the discovery process.

So he's sitting in what I would view respectfully, Your Honor, as the cat perch seat because he's got everything he wants or needs for this case and has in essence said so in his pleadings, yet he's done everything he can to insure that I can't move forward with my case and give me some accommodation in respect to what he has already done.

Now it's my turn to do those things, and there's nothing but a lack of cooperation, quite candidly, and an effort to try to foreclose the plaintiff from doing its discovery in light of what's already transpired.

So I'm at a bit of a loss from the standpoint of what I view the defendant's case to be. Of course they're set to go to trial. They were allowed free reign to get everything they wanted from the plaintiff over the course of months including hold depositions all the while having me foreclosed from doing that because the arrangement was that he would be allowed to do all of his discovery but then we'd get back on a normal track which hasn't until very recently and quite frankly, it was your order, Your Honor, that I think put this case back on track to allow the plaintiff to step in and take action and conduct activities.

If defendant thinks there's more discovery to be done, there's been no approach to it. And in fact, there's been no mention of it. And the obvious reason is because they've already got everything they want through this unusual protocol of allowing the defendant to do all of their discovery while the plaintiff was held in abeyance in doing anything.

And so I read your order not to emasculate the protocols and rules, Your Honor, but rather to reset the parties in conjunction with those rules and the highly unusual circumstance and protocol that has been conducted heretofore in the discovery.

And so I think that I read those orders to mean that the Court had recognized that there was an imbalance and wanted to put it back on track from the standpoint of telling the parties okay. Now we're going to go forward with this, and you, plaintiff, hold a 16.1.

That conveyed to me, Your Honor, very respectfully, that you were going to put this back on track and we were going back to the start of what should have been done and conducting it that way so that in essence, this case really didn't come into focus for both parties until your order came out addressing the issue about what had happened in the past and paying deference

to the myriad health issues that arose between Dr. Iliescu, his wife and myself.

And so I don't view this as a case where it's now time to take the only evidence that's been produced and make a decision on it. I think, Your Honor, that that would serve to emasculate the plaintiffs' rights because if nothing can be done by the plaintiff other than sit back and stand in a corner and take the hits, then that of course would impact the due process rights and opportunity to be heard.

The only way there's an opportunity to be heard in my view, Your Honor, is for your order to represent a reset of the protocols and rules such that they start out with everybody on the same starting box and move forward.

Now, the defendant's already had a lap around the track while I was standing at the blocks. And in my opinion, Your Honor, I think that Your Honor did the perfect thing. I viewed it as very creative to say okay. I've seen all of the things that have gone on, but this thing, this case has to follow the rules and the procedures. And so there's going to be a reset on the 16.1 and necessarily, we would move forward just as 16.1 Rules provide, albeit on a shortened course because the

plaintiff is really the one who should be leading this charge but deferred out of courtesy to the defendant to run helter-skelter through the entire case and getting anything and everything they wanted.

There seriously cannot be anything that they wanted that they haven't gotten from the plaintiff during their long-leash availability of doing discovery and finding anything and everything that the Iliescus had. And I respectfully would request the Court to give consideration to that circumstance, as highly unusual and bizarre as it may be where the defendant gets to lead the case and then make some efforts to foreclose the plaintiff from doing anything.

The truth is that those documents that were subject of a motion in limine were actually previously produced to the defendants. During the time when the defendants were seeking to put an emphasis on their taking over the discovery lead on the basis that Dr. Iliescu was ill and so was Sonja, so they wanted to get those in right away.

But after that was done, there was no consideration or cooperation with respect to the plaintiffs' rights which had been, in my view, emasculated; certainly thrown off track by protocol that

was followed, and it's a courtesy that was granted by me to the defense team because I understood what they were saying and wanted to allow them to do what they thought they needed to do which I think is now being used as a sword against the Iliescus.

And I look back on it and say gees. Maybe that wasn't such a smart thing to do as courteous as it might have been because now, there's been a turn of events, and I'm in essence on defense with the plaintiff -- excuse me -- the defendant armed with all of the necessary weapons, and now I'm going to be punished for what I've done. And I just think that your order gave a perfect deference to the parties and say okay. We're going to get this case back on track, and we're going to do it through plaintiff doing a 16.1.

And I'll rest and reserve any time the Court would afford me at this point, Your Honor. Thank you very much.

THE COURT: Thank you, Mr. Morrison. I have a question for you, if I might. A few questions. In Nevada, we have notice pleading, and plaintiffs can allege whatever they have is a good-cause basis to allege, and then we proceed to some type of discovery. Whatever coherent or inherent way it unfolds, there's

discovery which produces the evidence underlying the claims.

I'm going to ask you just by way of proffer not to argue the evidence, but identify the evidence for me. I acknowledge that the attached depositions were excerpts, so I didn't read the depositions of the plaintiffs in their entirety just the excerpted pages.

You have alleged -- your clients have alleged that there is physical damage to the property that is the non-easement portion of the property. Is that correct?

MR. MORRISON: That's exactly the case, Your Honor.

THE COURT: What is that injury to the property? I know that's separate from loss of use or nuisance, but what specific injury will the evidence show exists on this property?

MR. MORRISON: Well, it will undeniably show the damage to the surface of the asphalt with all of the trucks from the RTC placed on there.

Now, what's not clear but would come out in evidence, Your Honor, is that Dr. Iliescu asked the RTC to move those trucks. There are many pictures that show massive construction trucks. And the only thing the RTC was given the right to do was take an eight-foot

easement.

THE COURT: Hold on, Mr. Morrison. You're arguing it for me, and I'm trying to keep this very confined.

MR. MORRISON: Okay. I'm sorry.

THE COURT: No, you're a skilled advocate, and I don't want you to argue it just yet because there is trespass as an allegation, and I'm not focusing on that. There's loss of use. Maybe the Iliescus were barred from entering their property because there were obstructions. I'm not focusing on that.

I'm focusing on the actual injury to the property. And now you've said there's injury because of the big RTC trucks. Is there gouging in the pavement? Is there discoloration? Are there oil spills? What specific injury exists on this property?

MR. MORRISON: There's very clear and obvious damage to the surface of the asphalt because the weight of these trucks, many tons and many trucks weighing many tons sat on the asphalt, and RTC used it as a convenient parking spot for all of their construction --

THE COURT: Okay.

MR. MORRISON: -- work around it, and so it's caved in.

THE COURT: All right. So we have undulation. We have uneven rolling of the pavement caused by these heavy trucks.

MR. MORRISON: Correct.

THE COURT: And how have you valued the costs to repair that property?

MR. MORRISON: Well, Dr. Iliescu's talked to some repair specialists on that issue, and I don't remember frankly at this point if Mr. Anderson inquired into that during his deposition, but --

THE COURT: Well, just stay with me for a moment. I'm trying to do this sequentially. Because Dr. Iliescu can testify as to what he observes and certainly what he experienced on some of the other issues, but he will not be -- that I can imagine -- he will not be an expert witness as to the cause of the damage and the restoration costs of the damage.

Have you disclosed who will be sitting on this witness stand to provide that testimony about the cause and the costs of repair?

MR. MORRISON: I frankly don't remember whether Dr. Iliescu disclosed that in his deposition. I know that he had some numbers that he'd discussed at least with me and that he had had professionals out there

to look at those to look at those repairs, but even when he did that, there was still damage that continued to occur as a result of their being these broken sections where the supporting ground was exposed and being washed out. And so it continues. It continues today to get worse, and that's just the nature of that kind of injury to asphalt and ground.

But yes, he has looked into that and he has made a determination that it could be done and it was not inexpensive, and I don't think it would be appropriate for me to throw out a number to the Court at this point, but those were determined by Dr. Iliescu. And like I said, I don't know if he testified to that in his deposition or whether that was a conversation that he had with myself and his wife.

THE COURT: Let me turn the same questioning to loss of market value. When I see value decreases, for example, the reduction in value of the property as a whole or the value of construction, temporary construction easements, they're always third-party expert appraisers who establish values.

How have you disclosed to the defendant your method and calculation of market value loss?

MR. MORRISON: Well, we've provided the

defendant with an expert appraisal, an expert opinion on it. It just didn't get to the defendants on a timely basis, and that's why the defense respectfully was working very hard to make sure that evidence didn't get in. And that's what occurred in the motion in limine.

THE COURT: Thank you for --

MR. MORRISON: I'm sorry, Your Honor. But I'd be remiss if I didn't clarify what I think I misspoke about. It wasn't that the defendants didn't know about it at all. They knew about all of the damage because there were a wide and varied number of people, RTC employees and other people, who had been out there and seen what had taken place. It's just that the RTC felt like it was not their problem.

And so it's not that there aren't witnesses to it, and those people are disclosed because when Mr. Anderson asked Dr. Iliescu if he ever complained to these RTC employees, he described it and it was a very callous atmosphere that was presented by the RTC with respect to where they were going to put their trucks and so forth because there will be evidence -- if there's a trial in the matter -- that the RTC parked not only the vehicles that were being used for the construction of just one on this one eight-foot easement that was on the

curb, by the way. It wasn't at the parking area. But there will be testimony that says that the RTC parked not only the vehicles that were being used which were minimal at the Iliescu property, but they parked their trucks for all surrounding projects that they were working on and used it as like a storage yard. And we've got photos for that.

Now, those photos have been timely produced, and those photos show damage to the property. Dr. Iliescu recently found or it was provided to him photos that showed the properties being absolutely unmarked, absolutely levelled and clean before the RTC went in. And that was done in connection with another project that Dr. Iliescu was working on, but there's no doubt about the evidence and the testimony and the people who have been disclosed in the deposition who would come in and say what happened to that.

THE COURT: So, Mr. Morrison, I want to go back to one of your previous answers. I must admit that I caught my breath a little bit when you said that you didn't want to disclose the costs of repair at this point in the presence of Mr. Anderson. Those weren't your exact words, but you essentially said Dr. Iliescu had conversations about the cost, but it would be

inappropriate for me to disclose to the Court at this time.

And as soon as you said that, I thought well, the purpose of pretrial discovery and production is to set forth the details underlying the claimed amount. When did you anticipate telling the defendant about the costs to restore the property?

MR. MORRISON: I actually had a discussion with Mr. Anderson today about it. He was discussing with me well -- and these were all in the nature of settlement discussions that would be inadmissible, but I told Mr. Anderson that Dr. Iliescu had gotten appraisals for it, and Mr. Anderson asked if I could get him those written amounts because he thought he could take that to his client to discuss a settlement of the case and the settlement being only what it cost to repair. And so that's how the topic came up.

And I told him that Dr. Iliescu had gotten some bids and that they ran somewhere -- and I can't remember the numbers, but that it was in the neighborhood of $40, $70, in that range of dollars, and that would be what the RTC would have to come up with because Dr. Iliescu frankly just wants the repairs done.

THE COURT: How is Dr. Iliescu and his wife

regarding their health?

MR. MORRISON: Not good.

THE COURT: Okay.

MR. MORRISON: Better. They're better than they were during the last many months, but he's going on 95. He's losing vision in one of his eyes now, and he's had a lot of surgeries.

And as tough the as that guy is, I mean, he's a World War II frogman, the pre before that's what the SEALS became in the Navy. And he grew up on the south side of Chicago. He's a tough guy and he fights for the everything including especially his life and the health of his wife, and so he's very resolute in his intentions to keep living and to enjoy his life with his wife. He's got a very large family as well.

And so I see his health going down, but I don't see it going out because of the way that he fights back. He's been down and out and people have had him counted out -- I can't count the times. But that's his posture.

He is willing to do whatever he's supposed to do, health permitting, to appear at the case and testify, and of course he's aware that his deposition can be used in his absence. But he has come across some other people

and other photos that don't replace or do anything but enhance the descriptions that he gave about the damage to the property.

THE COURT: Okay. So I'm going to give an equal amount of time to Mr. Anderson. The first part will be uninterrupted, and then I might have questions.

Mr. Anderson, I just ask you to pause for about 60 seconds while the reporter takes a minute and please be mindful of your pace. In fact, I'm going to get up and refill my cup of water which will take about sixty seconds, and I think that will be a great duration of our break.

MR. ANDERSON: I'll do the same.

THE COURT: Mr. Anderson, you may begin.

MR. ANDERSON: Thank you, Your Honor. Mr. Morrison had quite a lot to say, and I'm not sure if there's any particular order in which the Court wants me to address it. I may jump around a little bit, but I want to try to address everything.

First and foremost, I wish the Iliescus the best of health and sorry to hear that they and Mr. Morrison had problems. The issue of costs to repair and loss of market value were addressed in their depositions.

Both of them agreed that if the parking lot can be repaired then there really is no loss of value because it will be restored to whatever value it may or may not have had prior to those repairs.

With respect to the costs of repair, I can't remember if it was Dr. Iliescu or Mrs. Iliescu testified that they had gotten an estimate from I think it was Apex Concrete or something of that nature, and that that would be provided. I've not seen a copy of it. Certainly, it wasn't disclosed as part of an expert disclosure in this case.

So with respect to, I guess, Mr. Morrison's comment that I've received a copy of some sort of expert estimate, that's just not accurate. There was maybe one page or a cover page of an appraisal that was included with the documents that are before the Court or that are in the Court file. Those are the only documents I've seen in this case. So whatever is in the court file, I think it was attached to my motion to preclude them from offering documents that were not disclosed prior to June 30th of 2020. That's all I have from them.

THE COURT: Mr. Anderson, did your clients acknowledge there is some injury to the property that is the cause for repair?

MR. ANDERSON: No, Your Honor. My client would testify as to their observation that the parking lot had damage to it before they even started work. And Dr. Iliescu testified that he acquired the property, I think, 20 years ago roughly, and that someone owned it before that. And to his knowledge, the property has never been resurfaced since its construction. I believe that's his testimony. Don't hold me to it, but basically, it's never been resurfaced or repaired or maintained to his knowledge.

So I kind of want to back up a little bit because I think really this case, at its essence, is a cost of repair to the parking lot type case, but that's now how it was pleaded. The original complaint contained, I think, 15 claims for relief or 12 claims for relief ranging from conspiracy to intentional infliction of distress. The Iliescus were asking for, I believe, intentional infliction damages, medical damages, you know, all kinds of really scorch-the-earth type claims.

And I agree with Mr. Morrison on one point, which is the plaintiff should be leading a charge in this case. It's the plaintiff's burden to move a case forward. And he filed this complaint, I think, in January or February of 2019 and didn't serve RTC

initially in the required period, asked the Court for an extension, which was granted, and RTC eventually appeared.

And while we were doing these successive motions to dismiss to sort of whittle this case down to its essence, I became concerned that the Iliescus might not be around to testify as to what they observed, and I asked Mr. Morrison to conduct early discovery.

He somehow is suggesting that in doing that, I was sort of perpetrating some scheme to preclude the plaintiffs from obtaining discovery or from obtaining the information that we need but not what he needs. And I want to read the Court the language from the stipulation to conduct discovery that was filed on October 30th of 2019.

And basically, the parties agreed that "the parties" -- and I put that in quotes -- "may conduct discovery prior to holding the 16.1 conference." It was not a unilateral stipulation that the Court approved. It was bilateral. It goes both ways. I never told Mr. Morrison not to conduct discovery. He could have done it by way of the stipulation. They filed their answer a few months later, and we could have held the 16.1 conference in the ordinary course and we did not.

It's not defendant's burden to do that. And so I guess I resent, frankly, a little bit, the accusation that I've somehow hamstrung them from moving their case forward or obtaining the discovery that they need. And quite frankly, I would say that most of what they need to prove their case is within their control. They have access to the parking lot. They have access to people who can evaluate the cost of repair, and we simply haven't received that.

And so while it's unusual, yes, to do discovery prior to holding the 16.1, there was never a discussion that he couldn't proceed with the ordinary course once the defendant -- once RTC filed its answer after the two motions to dismiss were considered and decided.

And so I guess I'm at a loss of being accused of sort of perpetrating a scheme to I think he said put them in a corner and get all of the discovery that the RTC needs because that just wasn't the case. I don't think there's any evidence to prove that. And if this is the basis of what's going to be it sounds like a motion for a continuance, then I would really appreciate obtaining a copy of the transcript from today because I wasn't quite frankly ready to address all of those issues

at this time.

I disagree with Mr. Morrison's belief that the Court's order denying 16.1 sanctions somehow equates to going back to the starting blocks.

I appreciate the fact that he and his clients have had health issues during the pandemic. It's been difficult for everyone for a myriad of reasons, but I have a client to represent too. And although it's a public entity, it may not be as sympathetic and Dr. and Mrs. Iliescu, it doesn't change my duty to represent them to the best of my ability. And so I've been pursuing what I believe to be procedurally appropriate motions based on failure to comply with discovery deadlines.

And it's not like these deadlines were a secret. We stipulated to them, and the Court put it in its scheduling order. So the failure to provide an expert report by February 29th, in my mind, is fatal to their case and in my mind has nothing to do with my attempting to obtain discovery prior to 16.1 conference.

So bear with me, Your Honor. So with respect to the pending motions and yes, I'm going to be filing reply briefs by the end of this week, basically, that's the essence of my reply is that that order, the March 25th order, does not reset the clock. It does not

relieve them of prior procedural failures, and we'll be submitting those this week, and I would welcome oral argument on the motion for summary judgment as well, I guess, as an opportunity to present a more organized thoughtful response to some of the things Mr. Morrison has said today.

THE COURT: So, Mr. Anderson, I ordered that plaintiffs must conduct a Rule 16B conference within 30 days of March 25th and that the 16B conference include the meaningful exchange of information. Did that occur?

MR. ANDERSON: Like Mr. Morrison said, we had a good discussion about the prospect of settlement, which is one of the requirements of a 16.1 conference. I told him my view is that this case is at a procedural place where it would make it difficult for me to recommend to my client that RTC pay an extraordinary amount to settle it, but please get me whatever information you can so I can get it to them to evaluate.

As it was a settlement discussion, in my mind, it doesn't waive RTC's right to pursue the motions it's pursuing. I did mention to Mr. Morrison from the outset that I don't think that where we are procedurally means that we're going to start exchanging witness lists and the other things that are required by 16.1 because

we're essentially two or three months from trial and the discovery deadline is a month away.

And so yes, a discussion did take place about that. And I'm not sure we reached any -- well, I know we didn't reach an agreement as to how that would take place and obviously the Court can see that if we have a different viewpoint on that issue.

THE COURT: Did the defendant disclose along the way documents that would otherwise be required for disclosure at a 16 conference?

MR. ANDERSON: Your Honor, we did not do any formal disclosures because we never had the 16.1 conference and because I never received any sort of discovery request from Mr. Morrison. He didn't serve any requests for production of documents. He didn't serve any interrogatories. So no, we haven't responded to any discovery requests.

THE COURT: Did you summarize the discovery that's occurred to date? I know that there are depositions of Mr. and Ms. Iliescu. What other discovery has occurred?

MR. ANDERSON: Pursuant to the stipulation, Your Honor, I served request for production of documents on the plaintiffs, and I believe interrogatories on the

plaintiffs gosh, I want to say it was back in 2019, maybe early 2020. And what was produced was the documents that are included in my motion to exclude evidence other than what was produced prior to June 20th of 2020.

So basically, we received, I think, maybe 19 or 20 pages of documents from the plaintiffs in response to that request for production none of which really set forth any kind of computation of damages.

And so I guess it kind of gets back to this whole point of being accused of kind of running helter-skelter and doing all of this discovery. RTC really hasn't done that much discovery. I think it was just a request for production and took a couple of depositions.

And the way I viewed it, you know, if they can establish liability, what are the damages in this case? And RTC doesn't have any burden to prove damages. It doesn't have any burden to prove liability. It would contest liability. But until they tell us what their damages are and provide an expert report that we can provide, I don't think we have any obligation to do anything in terms of proving their case for them.

So, Your Honor, and I think I've addressed most of what I want to do in terms of Mr. Morrison's

comments to the Court. And if the Court has any further questions, I'm happy to address them.

THE COURT: Let me pause, please. I've become a slow thinker, and I just want to reflect upon what I've heard so far.

Mr. Morrison, you said -- and I know that the motion for summary judgment is not set for arguments today, so don't feel bad if I ask a question beyond the scope.

MR. MORRISON: Certainly.

THE COURT: But one of the recurring themes in your opposition is that there's still discovery to be conducted, that the motion is premature. What discovery do you anticipate conducting between now and the close of discovery?

MR. MORRISON: Well, Your Honor, first of all, I think that the rules for discovery, the spirit and intent of the rules contemplates that at a 16.1 to provide meaningful disclosure doesn't bring into focus a determination as to whether that's relevant or whether the RTC has a duty to provide any documents. They do.

They're supposed to provide, at the 16.1, some level of production of information that would let me know what they have and let me see what their case is

about. And that's what Mr. Anderson said that the RTC didn't feel they had any obligation to produce anything at the 16.1. And I just think that that is an example of the way the RTC views this case and views the Iliescus. They ran roughshod over them before, and now it's perpetuated by RTC's refusal to give up any discovery at the time of the 16.1.

Now the stuff that I think -- Let me back up and get my thoughts, Your Honor, if you would give me a chance.

THE COURT: Yes.

MR. MORRISON: I apologize to the Court. Just losing my focus here. Oh. The way that I've always viewed 16.1, and most lawyers I know seem to dovetail in there without discussing it with anyone, is just the fact that when there's a 16.1, the whole idea is that each side gives up as much as they have to the other side, good, bad or ugly.

And one of the things that I was hoping to get out of the 16.1, a fundamental thing, Your Honor, was a disclosure of what it is that RTC has that they're going to present in the case if they have stuff to support their defenses or against the plaintiffs' evidence which was all produced, as Mr. Anderson

correctly noted, then at the 16.1 or before, I would have an idea of what those documents were, and that would form in my way of looking at it, Judge, I would take that information from the 16.1 and extrapolate on that to find out who said what and who was a witness to what, and that's the exact position that I'm in at this point because Dr. Iliescu and Sonja Iliescu testified that there were people that they talked to and they could describe what they looked like. They didn't know their names. I think they did know one person's name. But that would be the kind of thing that I'd expect to come if not a 16.1, through some discovery.

And so one of the things that I'd like to do is take the deposition of whoever from the RTC was tasked with being in charge of that operation.

THE COURT: Have you asked the RTC to disclose who was in charge of that project?

MR. MORRISON: No, I haven't asked them that, Your Honor. I was going to wait until after the 16.1 to see what was produced so that I could limit what those depositions were and what the discovery was because the discovery really needs to focus on what they were doing out there and why they were there and how long they were there and take a look at that versus the ability that

they have to produce -- to conduct their work on the easements that they acquired from the Iliescus.

I mean, they paid $2,000 to get an easement on the property there on 4th Street. And the doctor didn't try to fight them on that issue. It was what was determined to be paid on that work, and the doctor didn't feel like disputing that because it was a worthwhile improvement that the RTC felt they needed to make to further their performance.

And so that eight-foot easement is something that I'd like to talk to someone in charge about and what kind of equipment was required to support that. And very significantly, what other projects was Dr. Iliescu's property supporting from the standpoint of trucks and cars and the employees of the RTC themselves were using it as their parking lot for this project.

And there's a good reason for that because in that area of 4th Street, there is no parking, and so it would be an inconvenience for them to park blocks away or whatever it would take -- I have no idea. But certainly, that kind of information will come out of a deposition of person most knowledgeable or the person who is designated as the chief out there. And I think that the disclosure of something by the RTC would, I mean, I expect it. I'm

just postulating that it's something that anyone in a similar position to me would look for and expect at the 16.1.

And so without having that disclosure from the RTC, it makes the plaintiffs' job more difficult -- not impossible certainly, because I can go other directions to get that information, I think and hope, but in any event, I'm in the same position that I was in back many months ago before the depositions of the Iliescus started.

THE COURT: Okay.

MR. MORRISON: And I thought that the 16.1 would serve as a discovery platform for both sides. And so when the plaintiffs had those depositions and the documents were produced and there were actually additional documents produced because it's my understanding that Ms. Iliescu dropped some documents off at RTC, and she didn't talk to me about it. She didn't catalog anything. It was just documents that she found and took them over there.

And the Iliescus have been an open book on this. There's been no kind of hesitation or reluctance to produce anything that they have. And they've been looking to dig out photos, and they've found some

additional photos in Dr. Iliescu's files which they're not that organized.

He hasn't practiced medicine for a while, and he's got them spread out in a couple of buildings that he has. For a long time, they were in the Nixon house, and I don't need to go into that, but there were documents that were stored in many places due to the Iliescus, their habits and business operations. So there's nothing been withheld. And if there's something else, it will be provided.

And certainly, this issue of the -- and I didn't remember it as I represented to the Court, but there was some discussion about the value of that, and I also agree with what Mr. Anderson said that it was Apex. I think that's accurate.

THE COURT: Okay. All right. I hope everybody's had an opportunity to be heard.

MR. ANDERSON: Your Honor, may I briefly just address some of the things Mr. Morrison said regarding the disclosure issue?

THE COURT: Yes.

MR. ANDERSON: Thank you. My anticipation was we were going to hold the 16.1, which we did this morning. We talked about the issues I discussed. I'm

happy to provide, you know, he didn't really identify what disclosures he wants. I can check with my client, but I can tell you one thing I know they don't have is an estimate of the cost of repairing the parking lot which goes to the damages component of plaintiffs' claim.

My clients do not have that. They haven't done a cost of repair analysis on a retail value like they're going to need for this case, and so whatever I can provide to Mr. Morrison regarding trucks being parked on the parking lot, I will. But he's not going to get an estimate of the cost of repair from us. That's on the plaintiff to provide.

They've had the ability since RTC filed its answer back in March of last year to conduct the 16.1, to do whatever discovery. In fact, they could have done discovery as far back as December of '19, and they haven't done it. And so their damages component depends on expert analysis of the cost of repair. They haven't timely disclosed that.

And so in my mind, whatever information I provide from the RTC side regarding trucks parking on their parking lot is not going to cure that defect in their case. And that's not on me. That's on them. And that's all I have to say, Your Honor.

THE COURT: Okay. I hope everyone had an opportunity to be heard.

Mr. Anderson, you indicated you would be filing replies to your motions sometime later this week.

MR. ANDERSON: Yes, Your Honor.

THE COURT: I would like to set oral arguments on those motions so that counsel have an opportunity to specifically prepare their arguments, both for and in opposition to the motion. I am looking at oral arguments either Tuesday or Friday of next week.

MR. ANDERSON: I was going to say Tuesday, the 4th would be preferable for me.

MR. MORRISON: On Tuesday, I have two separate tests that are going to be run on me at the VA that will start -- they start at 8:00 o'clock, and they'll go for, they think, 11:00 or 12:00.

THE COURT: Can you be prepared to argue on Wednesday if you have those personal appointments on Tuesday?

MR. MORRISON: I certainly have the time, Your Honor. Frankly, I do. I don't know what the effect of those tests are going to be. Sometimes I feel like I've been ripped and zipped after them, and these are going to be active tests for various things. And I don't

know what it will be like, but maybe --

THE COURT: I can give you two hours Wednesday early afternoon. I can give you -- I actually want to give you two hours Thursday morning. Would you be more comfortable with Thursday, Mr. Morrison?

MR. MORRISON: I sure would, Your Honor.

THE COURT: Mr. Anderson, how do you look for 9:30 Thursday? Excuse me. 9:30 on Thursday, May 6th?

MR. ANDERSON: And that will work, fine.

THE COURT: It has to be two hours because I have a noon CLE that I have to prepare for and then attend, so 9:30 to 11:30. I would start with the moving party. I would ask you to focus specifically on the standards under Rule 56 and your very best arguments to include a foreshadowing of the evidence that exists in this file.

I want to know if there's a genuine issue of fact. I think there are some issues about a contract, existence of a contract, a violation of the implied covenant within a contract. There are some things to argue about.

So, Mr. Morrison, will your schedule allow you to begin arguments at 9:30 on Thursday morning?

MR. MORRISON: Yes, Your Honor. Thank you.

THE COURT: Mr. Anderson, make sure everything is filed by Friday, by close of business close of business on Friday.

MR. ANDERSON: Yes, Your Honor. It will be.

THE COURT: Okay. Thank you, Counsel. Good to hear from you and see you next week.

-o0o-

STATE OF NEVADA)
COUNTY OF WASHOE) ss.

I, NICOLE J. HANSEN, Certified Court Reporter in and for the State of Nevada, do hereby certify:

That the foregoing proceedings were taken by me at the time and place therein set forth; that the proceedings were recorded stenographically by me and thereafter transcribed via computer under my supervision; that the foregoing is a full, true and correct transcription of the proceedings to the best of my knowledge, skill and ability.

I further certify that I am not a relative nor an employee of any attorney or any of the parties, nor am I financially or otherwise interested in this action.

I declare under penalty of perjury under the laws of the State of Nevada that the foregoing statements are true and correct.

Dated this April 27, 2021.

Nicole J. Hansen

Nicole J. Hansen

Nicole J. Hansen, CCR #446, RPR
CRR, RMR

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F I L E D
Electronically
CV19-00459
2021-05-12 03:58:14 PM
Alicia L. Lerud
Clerk of the Court
Transaction # 8441847

CASE NO. CV19-00459 **JOHN ILIESCU JR. ETAL VS. RTC WASHOE COUNTY**

DATE, JUDGE OFFICERS OF COURT PRESENT | APPEARANCES-HEARING

5/12/2021
HONORABLE DAVID A. HARDY
DEPT. NO. 15
M. Merkouris (Clerk)
T. Amundson (Reporter)
Zoom Webinar

ORAL ARGUMENTS

2:03 p.m. – Court convened via Zoom.
Plaintiffs' counsel, Michael Morrison, Esq., was not present.
Dane Anderson, Esq., and Bronagh Kelly, Esq., were present on behalf of Defendant RTC Washoe County.

Pursuant to the national and local COVID-19 emergency response that caused temporary closure of the courthouse located at 75 Court Street in Reno, Washoe County, Nevada, this hearing was conducted remotely. This Court and all participants appeared electronically via Zoom Webinar. This Court was physically located in Washoe County, Nevada.

COURT noted that this is the time set to address the Motion for Summary Judgment, filed March 9, 2021, and counsel Morrison is not present.
COURT reviewed the case and Motion for Summary Judgment, giving counsel Anderson some of his preliminary thoughts on the matter.
Counsel Anderson advised the Court that even though counsel Morrison is not present, he will not argue that the claims have been abandoned and he would like to proceed on the merits of the Motion for Summary Judgment.
Counsel Anderson presented argument in support of the Motion for Summary Judgment. Counsel Anderson further gave the Court information regarding the early discovery conducted in this case, noting it was bilateral, and he in no way prevented counsel Morrison from conducing discovery or proving his case; and he further argued that RTC is entitled to summary judgment on all claims.
Discussion ensued between the Court and counsel Anderson regarding the Motion for Summary Judgment and the stipulation regarding discovery and abandonment of some of the claims.
COURT set forth findings of facts and conclusions of law.
COURT GRANTED the Motion for Summary Judgment, filed March 9, 2021; counsel Anderson shall prepare the order.
Counsel Anderson inquired about the two pending Motions in Limine.
COURT DENIED the two pending Motions in Limine as moot.
3:05 p.m. – Court adjourned.

4185

IN THE SECOND JUDICIAL DISTRICT COURT

STATE OF NEVADA, COUNTY OF WASHOE

THE HONORABLE DAVID HARDY, DISTRICT JUDGE

JOHN ILIESCU, JR. Department No. 15

Plaintiff, Case CV19-00459

vs.

RTC WASHOE COUNTY,

Defendant.

_____/

Pages 1 to 42, inclusive.

TRANSCRIPT OF PROCEEDINGS

ORAL ARGUMENTS ON MSJ

Wednesday, May 12, 2021

A P P E A R A N C E S:

FOR RTC: DAN ANDERSON, ESQ.
BRONAGH KELLY, ESQ.
WOODBURN & WEDGE
6100 Neil Road, Suite 500
Reno, NV

REPORTED via Zoom BY: Christina Amundson, CCR #641
Litigation Services 323.3411

RENO, NEVADA -- 5/12/21 -- 2:00 P.M.

-o0o-

THE COURT: Let the record reflect this session of the court is taking place on Wednesday, May 12th, 2021, and is being held remotely because of the closure of the courthouse at 75 Court Street in Reno, Washoe County, Nevada, due to the national and local emergency caused by COVID-19. The court and all the participants are appearing through simultaneous audio-visual transmission. I'm physically located in Reno, Washoe County, Nevada, which is the site of today's court session.

***

THE COURT: We're going on the record in CV19-00459. Mr. Morrison is not here. This is the time set for arguments on the motion for summary judgment. I'm going to begin with some of my thoughts, Mr. Anderson, and let you just complete our record.

As I read the complaint and moving papers, I'm unaware of what contract has been breached, and inseparable from the existence or identification of that contract, the claim breach of the Implied Covenant of Good Faith and Fair Dealing appears to

be -- it will rise or fall according to the existence of that contract. I'm unaware of any party or person or entity that is part of this civil conspiracy. I'm unaware of any duty that is owed under a negligence theory. That duty's not been identified, so there appears to be some traction in the motion for summary judgment.

I'm aware of, and review in almost every case, concerns about computation of damages. I really didn't understand the relevance or the role of the broker's price opinion that is referenced in the discovery -- the plaintiffs' discovery responses and attached as Exhibit 1 to the opposition, so the role of that broker's price opinion is intriguing to the court.

You have cited a 2006 decision from a court of appeals in the state of Washington alleging that there must be damages as an element of trespass. I've been unable to find any similar support in the state of Nevada. In fact, Nevada has acknowledged there is no civil trespass statute and the mere fact of trespass may or may not be viable without damages, so I'm uncertain about that.

Declaratory relief will rise or fall, I

believe, based upon the arguments in evidence before the court.

I'm struggling with the absence of genuine cost of repair or loss-of-value expert. Preliminarily it appears that the trespass claim may survive and I'm not certain about the -- and the dec relief may survive. The others may not.

Those are my thoughts as I take the bench and I intended to ask Mr. Morrison and you, Mr. Anderson, what specific discovery has Plaintiff initiated and pursued and completed since the parties reached a stipulation to conduct discovery in advance of the joint case conference?

With that, you can respond any way you want. I know that Mr. Morrison's not here. You could argue that's an abandonment of his opposition and so forth, but I do want a record.

MR. ANDERSON: Yes, your Honor. I appreciate that. I would rather rely on merits than abandonments. I have an outline prepared. As the Court might imagine, it pretty much tracks the briefing I've already done. I understand the Court's questions. Do you want me to make a record with the argument I've already prepared?

THE COURT: I do. I want you to pause and emphasize where my questions might intercept with your prepared outline.

MR. ANDERSON: I'll do that and try to weave in your questions, and then when I finish my argument, if I've not addressed any of those as part of my argument, I'll address those at the tail end.

THE COURT: Because it will only be you, would you be mindful of your pace, the cadence of your speech, please.

MR. ANDERSON: Yes, your Honor.

THE CLERK: Judge, I'll let everyone know that Shannon got ahold of Mr. Morrison and he's having technical difficulties.

THE COURT: Okay. You may continue, Mr. Anderson.

MR. ANDERSON: Thank you, your Honor.

Your Honor, at the status hearing that was held on April 27th you asked counsel to address in oral argument and to focus specifically on the standards under Rule 56 and our best arguments regarding the evidence that is part of the file. And I'll just briefly address that legal standard, even though I know the Court is well aware of the

Wood v. Safeway decision and that, basically, summary judgment is appropriate in the absence of any genuine issue of material fact and a demonstration that the moving party is entitled to judgment as a matter of law, and that's Wood v. Safeway 121 Nevada 724, a2005 decision. And that's the basic standard.

And then in our reply brief we also cited some cases regarding the obligation of the nonmoving party in responding to a motion for summary judgment. And the nonmoving party must, by affidavit or otherwise, set forth specific facts demonstrating the existence of a genuine issue for trial or have summary judgment entered against him. Again, that's Wood v. Safeway. And then we cited another case, Collins v. Union Federal Savings and Loan. That's a 99 Nevada 284, 1983 case. And what that case held was that, basically, a party has to come forth with admissible evidence in order to avoid summary judgment or some other excuse as to why they haven't been able to obtain that evidence. Just briefly I'll point out that Plaintiffs have not presented any admissible evidence to this court.

There are documents that they provided in

attachment to their opposition and, again, I'd point out those are the only documents that we've received in this case from them as part of formal disclosures. And those documents don't provide any sort of affidavit, provide a foundation for their admissibility. I believe most of them are hearsay. I know the Court expressed intrigue as to the broker's price opinion that's included within there. I think that document is a cover page to an appraisal and possibly some tables regarding value. Those were not disclosed as part of any expert disclosure. There's been no expert disclosure in this case and so I'm not sure exactly what that might show.

I believe it to be a document that was included as part of the initial appraisal of the property for purposes of the condemnation action that took place, I think, in 2015 or 2016, several years ago. And so I don't believe that that's evidence in support of a loss of value as related to the alleged damage to the real property. I think that was just an appraisal of the value of the property five years ago for the purpose of determining what the value of the easements were

that the RTC was taking in that case.

So, hopefully, I'm answering the Court's question regarding that document. I don't believe that's at all evidentiary support for any sort of loss of value or cost of repair in this case.

And just quickly to answer the Court's question about what discovery has the plaintiff done, the answer is none. There's been no written discovery at any point in time served by Mr. Morrison's office or anyone else acting for the plaintiffs seeking discovery from the RTC. They've attempted no depositions. They've, again, produced no expert reports and so, really, they haven't done any discovery and made no effort to obtain information in this case.

THE COURT: Has any discovery been propounded since my March 25th order reserving the effect of that order? I know there are different arguments related to whether that resets, but since that March 25th order, as I understand discovery closes on May 28th or thereabouts, has there been any renewed energy towards discovery by the plaintiffs?

MR. ANDERSON: Your Honor, there's been no

specific discovery requests served on RTC at any time, including since this court's March 25th order or including since the April 27th status hearing. Last night at about 5:00 I did receive an email from Mr. Morrison with the email -- and I had copies thinking for some reason I'd be going to court today, which obviously, I'm not. But I'll represent to the Court the email says, "Hey, Dane. Please see attached. Regards, Mike." It was sent to me at 4:58 p.m. yesterday evening. It's a supplemental response to their prior responses to requests for production. And attached to this document is what looks to be a bid estimate to have the parking lot repaired. I can't quite read the name of the company on the top because the transmission was not good. It is -- has an electronic signature of whoever, apparently, is responsible for the company and it has a damage estimate of roughly -- or a repair estimate of roughly $98,000.

So, I received that last night and that's the only activity I've seen since the case began, really, other than the other disclosures.

THE COURT: You told me you received it

yesterday, but what is the date of the estimate of repair?

MR. ANDERSON: Yes, your Honor. The date of the proposal is dated May 9th, 2021, and so I guess that was Sunday I believe that that was prepared. And Mr. Morrison provided it to me, as I said, yesterday evening. I hope that answers your Honor's question. That's the only activity I've seen since both the March 25th order and the April 27th status conference.

So, going back to the standards on summary judgment, there's just no admissible evidence -- and I'd have the same objection to this document that we received last night. It clearly is in the nature of what's purporting to be an expert opinion. It did not exist until three days ago. It's attempting, I think, to cover for the prior failure to disclose by February 26th an expert to provide a cost of repair. And so at the current time it's not part of the Court's file, and in any event at this point it's also inadmissible hearsay.

As to whether there's any other evidence in the record that might support their claims, I think they were obligated on opposition to summary

judgment to cite to that evidence. It's not the Court's job to search through the record itself and try to find something that will assist the plaintiff in opposing summary judgment. Their opposition talked about the fact that there is evidence that the plaintiffs can testify to things, and, again, their time to do that was in the opposition. The time for Dr. Iliescu and Mrs. Iliescu to put forth whatever evidence they had was in opposition to summary judgment, and they simply didn't do that and I think that the lack of that admissible evidence is failed to their case.

Moving on to the flaw, I think, in their case that's really applicable to all claims is the lack of evidence of damages. And notwithstanding what was provided to me last night, they simply haven't provided any computation of damages pursuant to NRCP 16.1. They failed to timely disclose an expert witness by February 26th, 2021. They don't have anyone who can provide admissible evidence on the cost of repair or on the loss of value that they've claimed.

In fact, Dr. Iliescu and Mrs. Iliescu admitted in their depositions that, if the property

can be repaired, then there's no loss of value because, basically, it's restored back to whatever condition or better condition than it existed prior to the alleged damage. And so I think, your Honor, that really, in my mind, entitles the RTC to summary judgment on all their claims.

Now, I know the Court addressed trespass in particular and the fact that I'd cited a Washington Appellate Court case that damages is a necessary component to that. Off the top of my head, I don't have a Nevada Supreme Court case or a published Nevada Appellate Court case, holding that damages are a necessary element but, practically speaking, I guess I'm not sure what the Iliescus would stand to gain by a simple declaration that the RTC trespassed. So, I believe that damages are a necessary component to that claim and that the absence of admissible evidence to that effect is fatal to all of the plaintiffs' claims.

THE COURT: Let me chase that for a minute, Mr. Anderson.

I agree that I have been unable -- I agree with you that Nevada law so far has not revealed itself on the requirement for damages and trespass.

And if I'm to give every benefit to the nonmoving party, even from the deposition excerpts -- and I have not read and it's not my job to read through all of the deposition transcripts to find that genuine issue of material fact.

But from the excerpts attached, it appears the general theme of the case is that RTC had the right to temporarily occupy the Iliescu property for purposes of construction. That was a temporary construction easement identified and compensated. And that during construction there were lots of trucks, heavy trucks, personal vehicles, a lot of vehicles that went onto the Iliescu property.

If that's accurate, giving benefit to the plaintiff, that could constitute a trespass. I see trespass in the same way I see defamation. Did it occur or did it not occur? And then a second, more difficult, problem is how do you compensate for the defamation? That's why we see throughout the country $1 in damages, you know, some type of declaration, some puric conviction that you trespassed and you shouldn't have. I'm not sure why the plaintiffs don't have the right to prove trespass and then argue their perception of damage

without the need for an expert. I'm just struggling with that.

Anything you could say in response would be helpful.

MR. ANDERSON: I understand, your Honor, and if you could bear with me one moment, I have my handy book of The Elements of Nevada Legal Theories. I'm sure whatever citation I put in there was from this book and it's not published Nevada Supreme Court legal authority, so I'll offer it with a grain of salt, if I can find the claim.

And I apologize, your Honor. I think -- I can't find it right now, but I think in those cases you talked about where it's this puric victory and oftentimes it involves justifying an award of attorney's fees or the plaintiffs proved their case and they're entitled to $1, and if they're the prevailing party, they're entitled to an award of attorney's fees.

So, right now I don't have a good answer for the Court in terms of whether damages are required. I guess I don't see why that claim would exist but for the opportunity to recover damages, because I'm not aware of any basis on which they'd

be entitled to an award of attorney's fees or any relief, really, stemming from that one claim, especially if the RTC were to prevail on the 11 other claims that were asserted in the complaint.

So, I'm happy to address that in subsequent briefing for the Court. I just don't have an answer for your Honor right now because, frankly, I believe that what this case was all about was the plaintiffs' attempt to recover money damages from the RTC.

THE COURT: I'm sure that's how the case began, is they believe that the RTC vehicles damaged their property. Seems like that's the genesis of the complaint. And I agree that in the file materials at the moment there doesn't appear to be admissible evidence of the existence of damages, the -- existence of injury to the property, the causation of the injury to RTC, although I think that could be circumstantial and proven. In fact, I think there are photographs associated with it, at least attached as Exhibit 1, but then the big question is, How do you value that injury to the property?

MR. ANDERSON: Correct, your Honor. And I

don't know that the plaintiffs are qualified to do that. You know, the fact they went out and got an appraisal -- or, actually, a bid to repair the property tells me that neither Dr. Iliescu nor Mrs. Iliescu is qualified to provide testimony on the cost to, you know, tear up and repave the parking lot.

Your Honor brings up an interesting question, though, regarding causation, and I understand and appreciate what you're saying in terms of the big trucks may be associated with the construction of the project and they're entitled to inference. But there's also evidence from Dr. Iliescu that the property's never been repaired or maintained, really, in the 30 or 40 years since the property was constructed.

So, I'm not sure that there's been a causation or that there's any evidence of causation in the record showing that those trucks actually caused that damage, unless it's in the plaintiffs' excerpts. But I think that's probably too close of a call to make it a focal point of my argument, your Honor. I'm focused in on the damages issue in particular.

So, maybe we could come back at your Honor's preference to revisit the trespass issue, but all the other claims, with the exception of declaratory relief that are remaining in the case require an element of damages. That includes the breach of contract claim and the breach of the Implied Covenant of Good Faith and Fair Dealing claim.

And your Honor asked about the existence or lack thereof of a contract in this case and, obviously, there's been no written contract produced by the plaintiffs or anyone else. There's been no affidavit testimony from Dr. Iliescu as to the existence of any contract. In fact, Dr. Iliescu testified in his deposition that the contract they referred to in the complaint is actually the Second Judicial District Court's judgment in the prior condemnation action.

And I set forth my arguments and briefing as to why that's not a contract, it's not evidence of an offer except in consideration, meeting of the minds. None of those elements are met by that judgment. And early on in the case -- it was September of 2019 -- I emailed Mr. Morrison and I

said, Hey, can you send me the RTC trust agreement that's referred to in the complaint, and he responded that he would get it over to me. I never saw it. We reserved requests for productions that would call for the production of that contract, and it was simply never produced.

So, in addition to the fact that there's no admissible evidence of damages, there's simply no evidence of the existence of the so-called RTC trust agreement that they refer to as it relates to the damage to the remainder property. So, with that specific claim, your Honor, I think RTC is definitely entitled to summary judgment on that one just because there's no genuine issue of material fact as to the existence of a contract.

As your Honor pointed out, if there's no contract, there's no Implied Covenant of Good Faith and Fair Dealing, so both of those claims go hand in hand and would fail on the same grounds.

With respect to the conspiracy claim, your Honor pointed out at the beginning that you're unaware of any conspiracy, and I would agree. There's no evidence of any agreement between RTC and any third party, nor any identification of any third

party that entered into an agreement for the purposes of harming the plaintiffs, and those are part of the elements of the claim.

And so I asked Dr. Iliescu in his deposition whether he was aware of the existence of any agreement and he said no, and I believe Mrs. Iliescu did as well. And so there's simply no evidence to support that claim, but both from a damages standpoint as well as a liability standpoint.

With respect to the negligence claim, your Honor also pointed out at the beginning you're not aware of any duty that would be specifically applicable in this case on behalf of the RTC, and I agree with that. There's no evidence of what duty is owed and, you know, in this case whether there was any injury to the plaintiffs. That goes back to the damages component of it.

So, I believe the negligence claim fails along with the other two I already mentioned. The declaratory relief claim is interesting because, if you look at their complaint, it specifically mentions certain things and I'd like to just quickly go to those. Plaintiffs' amended complaint seeks a

declaration that, one, "RTC failed to perform under the RTC trust agreement or its condemnation activities." I think I already addressed that one. There's no evidence of an RTC trust agreement.

No. 2, they asked that the court declare that plaintiffs are the sole and exclusive owners of their property at East Fourth Street. In my briefing I pointed out that there's really no dispute that they are the title owners of that parcel, but it's subject to RTC's rights under the easement -- the condemnation judgment allowing for the use of those easements that are permanent in nature and will always be on their property. So, I don't think there's really a justiciable controversy that requires a declaration in that regard. It's clear that they own the property subject to RTC's easement rights.

The third request was that RTC has no right, title, or interest in the property and no right to use the property. Again, that dovetails off what I just said. RTC has the rights to those easements.

Fourth, RTC knowingly and wrongfully used the remainder property without paying compensation

to Plaintiffs. That kinda goes to the trespass issue. I don't know that there's any evidence that RTC knowingly or wrongfully or willfully did that, you know. The evidence is that maybe there were some trucks parked there, but there's no evidence that it was sort of an intentional wrongdoing, which is what I think this request seeks.

And, five, RTC parked its vehicles on the remaining property causing extensive damage in callous disregard of the law. Again, I don't think there's any evidence it was done callously or willfully to harm them, and there's no evidence of the damages that were caused, other than maybe the parking lot looks different than it did prior to construction. But, you know, they're asking for a declaration that it's caused damage and I think that ties to a number that simply hasn't been provided.

The declaratory relief claim is based, in large part, on most of the other claims, and in the absence of damages I simply don't view it as a viable claim in this particular case, because most of the declarations they seek really aren't in dispute. And if they are in dispute, there's no evidence of damages.

Getting back to the March 25th order, that was really heavily emphasized in their briefing and they kind of characterized your Honor's order denying our request for sanctions under 16.1 as a reset of the entire case and that somehow that was going to send us all back to the starting blocks. I think your Honor in the April 27th status conference indicated that that wasn't the Court's intent. I don't think it makes sense. I don't think it makes sense from a judicial economy standpoint to relieve the plaintiffs of failures to provide expert reports in a timely manner, to conduct discovery, to basically prove their case. It's their burden to move the case further and I don't think it was the Court's intent by way of the March 25th order to send everybody back to the beginning, ignore what's happened or has not happened in the last two years, and basically reset the batteries.

The other argument that the plaintiffs made was that somehow the Court's October 12th, 2020, scheduling order overrode the prior order in limine August 19th, 2020, that precluded the plaintiffs from offering documents that were not produced

pursuant to the prior requests for production. And I think I pointed out in my reply brief --

THE COURT: Would that August 19th, 2020, order preclude the admission of the document you received yesterday by email?

MR. ANDERSON: Your Honor, I don't believe it would by its express language preclude that. I think the order was limited to documents that were in the possession or control of the plaintiffs as of the time that they were obligated to respond. So, it would preclude documents that existed prior to June 30th of 2020 and not preclude the document that was disclosed last night. I think it would be prohibited on other grounds but not by way of that specific order.

And just to finish that thought, the October 12th, 2020, scheduling order specifically said that nothing in the scheduling order shall be construed as a waiver of RTC's rights under that order in limine or otherwise under applicable law. So, I think the express language of the scheduling order defeats the argument that it somehow overrode the prior order in limine and gave Plaintiffs an opportunity to just start fresh and produce

everything that they've got.

And lastly, your Honor, I want to address what Mr. Morrison brought up in the status hearing on April 27th. I was somewhat taken aback by some of the accusations he made against me that I've somehow prevented him from conducting discovery, that I've refused to cooperate and attempted to foreclose Plaintiff from conducting discovery, that RTC has run helter-skelter in getting everything they wanted to do in this case while hamstringing the plaintiffs. It's just simply not true and I indicated already that I resented that accusation.

The Court's order -- well, the stipulation that we entered into to do early discovery in this case, I think I pointed out, allowed both parties to conduct discovery. And, yes, it was at my request but the order that granted that and the stipulation was bilateral. He could have conducted discovery just the same as I did, and I really didn't do that much. I served one request for production that had eight or nine requests and I conducted two depositions. I never asked him not to conduct discovery. I never precluded him from taking depositions. It's just simply not true.

And so I don't know if that was going to be the basis for one of his arguments today. I realize it's unusual to conduct early discovery in cases but it's not as if this was some complex thing that threw the whole case off schedule. The agreement was to conduct early discovery. After the motions to dismiss were decided, RTC filed its answer. And anytime a party files an answer and it's the first answer, you conduct the 16.1 conference. And I was waiting for Mr. Morrison to do that and it just never happened.

But that wouldn't stop him from doing discovery or from doing anything else he wanted to do to prove his case. In fact, I think most of the information that they needed to prove their damages was within their control. They've got the parking lot. They have access to the parking lot. They could have hired this contractor that they sent me last night and had him do that bid a year and a half ago and disclosed it as a properly prepared expert report. But that didn't happen and now the expert deadline is nearly three months expired. We have a trial stack coming up.

There's just no evidence to support their

case, your Honor, so I think RTC's entitled to summary judgment on all claims. Recognizing that the Court has concerns about the trespass claim, you know, we'd be happy to address that in supplemental briefing and I'd like the Court to give Mr. Morrison an opportunity to have his say on that issue as well. I just kinda look at it as what is the effect of a trespass claim where you can't get damages. I'm not sure of that. I haven't thought that through, your Honor.

Let me just take a look at my notes to see if I've addressed all your questions.

I believe, your Honor, I've addressed all your specific questions, or at least acknowledged that I don't have an answer for at least one of them. If you have further questions, I'm happy to discuss those at this time.

THE COURT: I'm still thinking about that analogous defamation claim and whether there must be an expert who testifies -- who quantifies the value of the assault upon the plaintiff's character or whether the plaintiff can simply allege, You have defamed me.

I've never had a defamation trial. I don't

know how damages are calculated. But it seems to me that the absence of an expert in a defamation case doesn't -- is not fatal to the defamation case, and I guess I'm seeing the trespass similarly. I'm thinking out loud here.

MR. ANDERSON: Yes, your Honor. I haven't had a lot of defamation cases. My recollection is that there's sort of a difference between defamation and defamation per se or liable per quad, or things of that nature where you defame someone's specific aspects that are entitling a party to presumed damages, and I don't know if that's what your Honor is thinking. I know that impugning somebody's -- or defaming someone's reputation in their profession is an instance where it gives rise to sort of presumed damages. I just don't know -- I guess I don't know specifically what that rule is and whether an expert's required.

I think it's a little bit different in this case because we're not really talking about someone's reputation or injury to their goodwill in the community. We're talking about a piece of real property that's been damaged and there are specific people who can tell you how much it's gonna cost to

repair that property. I think only those specific people with specialized knowledge can tell you what it's going to cost.

I don't know how the Iliescus would come in and say, We think it'll cost X or, We're entitled to X, without pointing to these experts that they've been speaking with, and in particular this one that was provided to me last night. So, I think it's a little bit different than just talking about general damages for damage to someone's reputation as opposed to a construction -- a piece of construction that has specific requirements including demolition, materials, cost of repair, you know, and then overhead and profit for the contractor, all of which will be paid by somebody.

THE COURT: I'm thinking. Let me just sit with what you've said for a moment.

I agree there cannot be a quantification of damage to the property without a pretrial computation and disclosure. I agree with that. And the way we would typically see computation is through the disclosure of an expert witness and analysis set forth in a report.

But in a larger sense, Mr. Anderson, I

continue to receive defensive arguments about the computation of damages. And it says, if it prevents even the assertion of harm, not quantifiable formulaic cost of repair. In fact, Mr. Anderson, I'm thinking about a case you had in this department where you alleged that the -- in a counterclaim you alleged that the original plaintiff had injured your client. You didn't have an expert report. You just asked that the plaintiff be punished. You requested and received a million dollars. There's no expert report.

And it seems like this recurring and growing computation of damages argument based upon Rule 16 somehow precludes the argument to a jury that Defendant did this and it harmed me. Tell me the value of my harm, which is separate than cost of repair. Plaintiff doesn't get into cost of repair because Plaintiff hasn't produced cost of repair analysis. But the mere fact that there has been a harm and it is tendered to the jury to value that harm is kind of a time-honored tradition within our jurisprudence, and that's what I'm struggling with here.

MR. ANDERSON: I remember that case very

well. That was an abuse of process counterclaim against, in my opinion, a vexatious type of litigant. There was a proof of damages. The monetary damages that were recovered were, I believe, roughly $170,000 in attorney's fees that were the base damages. And then under abuse of process jurisprudence, the plaintiff was allowed to recover general damages for sort of the pain and suffering, for lack of a better word, that comes along with being subject to an abuse of process.

And I agree with your Honor, there wasn't an expert but I believe the law allowed the jury to award general damages based on the events that she went through and the fact that there was $180,000 in attorney's fees she incurred to sort of get to that point. And then there was a punitive damages, of course, as the Court pointed out -- award on top of that for what the jury found to be fraudulent, vexatious, oppressive conduct. And so I think in the specific confines of that claim, the abuse of process claim, the jury was allowed to award her general damages based on what she'd been through.

In this particular case, your Honor, I don't think that the jury would be allowed to award

damages for repair of a parking lot in the absence of any evidence of what that cost is. I think that would be based on their speculation.

THE COURT: I agree with that. I kind of regret using your case as an example because you, obviously, have added more insight into the case.

I'm thinking more generally. A plaintiff looks at the jury and says, This person harmed me. Oh, really? What's the harm? Well, you know, I wasn't able to sleep or it affected my enjoyment of life, or it caused me stress and I had to look at my property every day to see what else had been happening. There's an effect upon the person that is distinct from the injury to the property.

MR. ANDERSON: I understand, your Honor. And I think -- I'm trying to pull up the docket in this case because I think early on, as your Honor may recall, they filed their initial complaint and it was subject to the RTC's motion to dismiss. It was during that time I asked to do early discovery in light of the plaintiff's health condition.

I asked for medical records, and when they -- basically, Mr. Morrison indicated to me that they didn't want to produce their medical records, he

agreed to drop those types of claims. And I believe -- I'll have to look at the stipulation. I believe he specifically agreed to limit the damages to the parking lot as well --

THE COURT: I'm familiar with the claim that was dismissed based upon infliction of emotional distress whether negligent or intentional. Pull up the stipulation. I'd be very interested to see if he waived in writing any of those general pain and suffering-type claims.

MR. ANDERSON: Yes, your Honor. Bear with me one moment. Your Honor, I believe it's the December 6th, 2019 -- at least that's the stipulation -- and the order was entered on December 10, 2019. The second paragraph of your order is that "With respect to Plaintiffs' remaining claims for relief, any claims Plaintiffs may have had for damages other than compensatory damages specifically related to their parking lot and punitive damages based on the facts and events alleged in the complaint, are also dismissed with prejudice."

So, by doing that, your Honor, I believe that they knowingly waived any claim for the type of damages your Honor is talking about, where they

couldn't sleep, they couldn't eat, they had anxiety, they had medical treatment. Those allegations were in the complaint and I was prepared to conduct discovery on that and dig through their medical records. And it was represented to me by Mr. Morrison they didn't want that to happen and they were willing to let those claims go.

So, I don't believe there's any remaining basis on which they can claim those kind of general damages for anxiety or stress or medical treatment related to that issue. In any event, they'd still have to prove what those damages were, I think. They'd have to prove their medical treatment and then they might be entitled to an award of emotional distress or damages on top of that, had they kept those claims in there. But in the absence of those claims, we're just talking about either cost of repair to the parking lot or loss of value, neither of which there's any evidence of.

So, I understand what your Honor's saying. I just don't think, in light of the posture of this case and the stipulation and order dismissing those types of damages, that they'd be entitled to recover those at trial.

THE COURT: I hope this record reflects my wrestle with the legal standard presented, which is to resolve every doubt in favor of the nonmoving party.

MR. ANDERSON: I understand, your Honor.

THE COURT: I was aware of that stipulation, I was aware of the dismissal of claims, but I was unaware or unable to recollect from memory that there was a voluntary foreclosure of certain types of damages. And the identification of the only extent damages that were at issue, so this last bit has been very helpful to the court.

All right. Mr. Anderson, I'll invite you to prepare a proposed order. There will be different parts to this proposed order.

One is your -- one is the way you blend your duties to your client with candor to the court with civility and professionalism when possible, because the order has to reflect the holistic experience of this case, specifically the de minimus prosecution of the claims, the serial violations of procedural rules. But I want you to do so in a way that is civil and respectful to Mr. Morrison, to the extent you can be. We should never be afraid of the

truth but the words we use to describe the truth are very important. This case has not been prosecuted but neither the defendant nor the court have created that fact.

And I think that any review of my order should include at least a reference, an invitation to review the case as a larger whole and you'll have to summarize some of the events of this case that lead us to today.

The order should also formally state that this court's March 25th order was not a reset of the entire case but, instead, was the court's attempt to offer a lifeline in lieu of a technical non-merit-based dismissal. Your holistic and longitudinal description of this case must include the order in limine that was entered on August 19th, because it reflects the type of problems that have been in this case.

I don't know the extent to which Mr. Morrison has been personally ill. There is some signal to that, and overshadowing this entire case has been COVID. But the fact is COVID has not stopped the prosecution and defense of cases. It's made the prosecution and defense more complicated

but litigation can continue and in this case it did not.

I think that the order should make specific reference to the stipulation and the types of damages that the plaintiffs waived when they specifically identified damage to the parking lot, which can only come in one of two ways, cost of repair or loss of value. The order should reflect some of your concerns, and in this I ask you to not be a zealous advocate but just simply be true to the file, and that is that nothing prohibited Plaintiffs from pursuing discovery because there was an early start to discovery. I agree with you that the discovery right was mutual. The order should reflect the de minimus or nonexistent discovery efforts that Plaintiffs have made and all of that as the predicate to the substantive order, which is as follows:

The nonmoving party when confronted with a motion for summary judgment has a rule-based duty to offer declarations or admissible evidence in opposition to the motion for summary judgment, and there is no such declaration or admissible evidence tendered in this case.

I've carefully reviewed Exhibit 1 and there are some photographs and there's a pre-trespass -- I'm using that word to describe a preconstruction broker's price opinion that does not appear to be created in response to the events that are alleged in this complaint. That's the only evidence I can glean from the opposition, but that evidence itself is precluded because Plaintiffs have failed to comply with the expert witness designation and rule requirement.

So, understanding that Rule 56 there's a recent supreme court decision within the last two or three years that says essentially -- my paraphrase -- District Judges, don't be afraid of summary judgment, grant it when appropriate. It's there. Those are not the words the supreme court used but that was the clear message.

So, after establishing the standard for summary judgment, I then turn to specific claims for relief. I'm unaware of any contract that is alleged to be breached. There's been no identification of that contract. I'm familiar with Judge Polaha, Department 3's case in which there was value awarded for temporary construction easements and then a

permanent utility easement, but that judgment itself is not a contract.

And I'm unaware of any other contract that the parties reached with the elements that you set forth in your motion that is now breached. Plaintiffs have simply not identified what that contract is. Because there can be no breach of contract claim, there can be no breach of the Implied Covenant of Good Faith and Fair Dealing.

It seems to me that Mr. Iliescu in his deposition -- and, again, I've only read the excerpts -- identified as "conspirators," the vendors the RTC hired, but there's been no effort to identify them or to put them with any type of -- within any dispute context and just simply said, Well, there must have been other people because there are other trucks, but he didn't identify whose trucks they were. This all creates a burden upon the plaintiff to discover their case and they didn't. So, there is no admissible evidence. There's no genuine issue of material fact regarding the existence or the identity of conspirators. The civil conspiracy must fail.

There's been no identified duty and breach

underlying negligence and the overarching theme is there's no proof of damages. There is a rule which requires a computation of damages. Again, I've wrestled with that. I'm not sure the extent to which that rule is satisfied or not satisfied. I don't know where the middle ground is, but I know here it has not been. There is no witness and there is no evidence that describes the injury to the property, the causation between Plaintiffs' conduct and the injury, and the value of the injury.

And I've decided that I'm going to include trespass as a claim that I summarily adjudicate in Defendant's favor. I took the bench not intending to do that. You've heard me wrestle with this idea of proving trespass as a matter of fact and letting the plaintiff argue what the value of that proven fact is. There can be and should be just a statement of general damages that are nonquantifiable, but here I don't believe those damages can be made because of the stipulation.

Plaintiffs chose to withhold their medical records, they chose not to disclose any type of personal effect upon themselves. And I think that any damages associated with the trespass cannot

include a general statement of harm but, instead, must be a quantified expert valuation of harm.

I'm holding true to that stipulation, because it was that stipulation that benefited Plaintiffs and it is both a sword and a shield. I don't believe that they can prove any damages associated with trespass other than the damages identified in the stipulation, and for that reason I'll also summarily adjudicate the trespass.

So put an order together. I understand that Mr. Morrison -- I just heard through staff on our record he had some technology problems. If he files a motion explaining what happened, with leave of court I may reconvene but the burden is upon Mr. Morrison to initiate some type of leave from his absence. We were all here and he's previously appeared by Zoom, and I don't know what the problem has been, but his absence today is kind of indicative of the entire case.

I wish to be very respectful to Mr. Morrison. At this point in my career and as we all age into some higher level of civility and maturity, there's no reason to be gratuitously mean about it, but he hasn't participated -- through him his

clients have not participated in this case and it's just is what it is.

MR. ANDERSON: Your Honor, with respect to the specific claims, is there a court ruling on the declaratory relief claim?

THE COURT: I'll just follow your analysis as you set forth the five prongs that were included. I was gonna keep the declaratory relief open if I kept the trespass open, but I'm also going to summarily adjudicate the declaratory relief. Please submit that order to chambers.

MR. ANDERSON: I will. And, just briefly, there are two pending motions in limine. Does the Court wish to grant those as part of this order or deny them as moot?

THE COURT: I'd like to deny them as moot.

MR. ANDERSON: I will prepare the order as quickly as possible, your Honor, and submit it.

THE COURT: All right. Thank you. Nice to see you both.

MR. ANDERSON: Thank you, your Honor.

THE COURT: We'll be in recess.

(End of proceedings at 3:05 p.m.)

STATE OF NEVADA)
) SS.
COUNTY OF WASHOE)

I, CHRISTINA MARIE AMUNDSON, official reporter of the Second Judicial District Court of the State of Nevada, in and for the County of Washoe, do hereby certify:

That as such reporter, I was present via Zoom audio-visual in Department No. 15 of the above court Wednesday, May 12, 2021, at the hour of 2:00 p.m. a.m. of said day, and I then and there took verbatim stenotype notes of the proceedings had and testimony given therein in the case of JOHN ILIESCU, JR. v. RTC, Case No. CV19-00459.

That the foregoing transcript is a true and correct transcript of my said stenotype notes so taken as aforesaid, and is a true and correct statement of the proceedings had and testimony given in the above-entitled action to the best of my knowledge, skill and ability.

DATED: At Reno, Nevada, on 12th day of May 2021.

/S/ Christina Marie Amundson, CCR #641

Christina Marie Amundson, CCR #641

F I L E D
Electronically
CV19-00459
2021-05-13 04:51:22 PM
Alicia L. Lerud
Clerk of the Court
Transaction # 8444437 : yviloria

2610
MICHAEL J. MORRISON, ESQ.
Nevada State Bar No. 1665
1495 Ridgeview Dr., #220
Reno, Nevada 89519
(775) 827-6300

Attorney for Plaintiff

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

* * * * *

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU, JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an Individual; and SONNIA ILIESCU, an Individual,

Plaintiffs,

vs.

THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1-40,

Defendants.

CASE NO. CV19-00459

DEPT. NO. 15

NOTICE OF INTENT TO FILE MOTION

COME NOW JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU, JR. AND SONNIA ILIESCU 1992 FAMILY TRUST("**Trust**"); JOHN ILIESCU, JR., an Individual ("**John**"); and SONNIA ILIESCU, an Individual ("**Sonnia"**), together sometimes referred to as "**Plaintiffs**", and respectfully submit this Notice of Intent to File Motion ("**Motion**") to request a rehearing of Defendants'

Motion for Summary Judgement ("**MSJ**") based the fact the fact that Plaintiffs were denied, *inter alia*, their Constitutional right to appear and be heard by the Court because of a technical error, oversight, mistake and/or inadvertance relating directly and/or indirectly, to the Zoom platform and its operation. Plaintiffs expressly do not attribute the situation or events to any of the parties, their counsel or this Honorable Court and its professional staff.

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the document to which this Affirmation is attached does not contain the social security number of any person.

DATED this 13th day of May, 2021.

_____*/s/ Michael J. Morrison*_____

Michael J. Morrison, Esq.
Nevada State Bar No. 1665
1495 Ridgeview Dr., #220
Reno, Nevada 89519
(775) 827-6300

Attorney for Plaintiffs

CERTIFICATE OF MAILING

I hereby certify that on this date I personally caused to be served a true copy of the foregoing Notice of Intent to File Motion by the method indicated and addressed to the following:

Dane W. Anderson, Esq.
Woodburn Wedge
6100 Neil Road, Suite 500
Reno, Nevada 89511

____ Via U.S. Mail
____ Via Overnight Mail
____ Via Hand Delivery
____ Via Facsimile
_X___ Via ECF

DATED this 13th day of May, 2021.

_____*/s/ Michael J. Morrison*_____

Michael J. Morrison, Esq.

F I L E D
Electronically
CV19-00459
2021-05-24 04:07:58 PM
Alicia L. Lerud
Clerk of the Court
Transaction # 8461146 : yviloria

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Bronagh M. Kelly, Esq.
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Attorneys for Defendant, the Regional Transportation Commission of Washoe County

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an individual; AND SONNIA ILIESCU, an individual, Plaintiffs, v. THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1 – 40, inclusive, Defendants.	Case No.: CV19-00459 Dept. No.: 15

RESPONSE TO NOTICE OF INTENT TO FILE MOTION

Defendant The Regional Transportation Commission of Washoe County ("RTC") submits this response to the Notice Of Intent To File Motion filed by Plaintiffs on May 13, 2021. While the title of the document suggested an actual motion would be filed, Plaintiffs have not yet done so. Further, the document itself appears to request a "rehearing" of RTC's motion for summary judgment because Plaintiffs were denied due process as a result of their counsel's alleged inability to access the scheduled oral

argument on Zoom. RTC submits this brief response out of an abundance of caution in the event Plaintiffs' Notice Of Intent To File Motion is actually their motion.

Plaintiffs were not denied due process. Procedural due process requires only that parties receive "notice and an opportunity to be heard." *Eureka Cty. v. Seventh Jud. Dist. Ct. in & for Cty. of Eureka*, 134 Nev. 275, 279, 417 P.3d 1121, 1124 (2018). Plaintiffs were given notice that summary judgment may be entered against them by way of RTC's written Motion For Summary Judgment. They had an opportunity to be heard, and were heard, by way of their written opposition brief. They were given notice that the Court would hear oral argument (not an evidentiary hearing) on May 12, 2021 at 2:00 p.m. via Zoom and the Court provided the information to access that hearing. RTC's counsel was able to access the Zoom link without difficulty and fully participated in the oral argument. Plaintiffs' failure to participate at oral argument is reflective of their failure to participate and prosecute their case throughout this litigation.

Moreover, Plaintiffs fail to demonstrate how the participation of their counsel would have yielded a different result. There still is no evidence in the record to support any of their claims or their alleged damages. Nothing at oral argument would change the fact that Plaintiffs expressly waived any compensatory damages except those related to the alleged physical damages to their parking lot, and that they failed to timely disclose an expert witness on any subject. Nothing at oral argument would change this Court's order in limine precluding Plaintiffs from offering documents not disclosed to RTC prior to June 30, 2020 or that those documents were useless to Plaintiffs' case. Therefore, Plaintiffs' failure to participate in the May 12 oral argument was harmless.

Plaintiffs' Notice Of Intent To File Motion, to the extent that document constitutes a motion for rehearing, should be denied.

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Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, NV 89511
775-688-3000

Affirmation pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the personal information of any person.

DATED: May 24, 2021.

WOODBURN AND WEDGE

By *<u>/s/ Dane W. Anderson</u>*
Dane W. Anderson, Esq.
Nevada Bar No. 6883
Bronagh M. Kelly, Esq.
Nevada Bar No. 14555

Attorneys for Defendant
The Regional Transportation
Commission of Washoe County

Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, NV 89511
775-688-3000

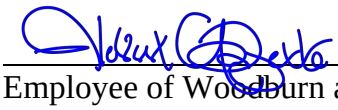
CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Woodburn and Wedge and that on this date, I caused to be sent via electronic delivery through the Court's E-flex system a true and correct copy of the ***RESPONSE TO NOTICE OF INTENT TO FILE MOTION*** to:

MICHAEL J. MORRISON, ESQ.
1495 Ridgeview Dr., #220
Reno, Nevada 89519
venturelawusa@gmail.com

Attorneys for Plaintiffs

DATED: May 24, 2021.



Employee of Woodburn and Wedge

Woodburn and Wedge
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F I L E D
Electronically
CV19-00459
2021-06-01 04:59:15 PM
Alicia L. Lerud
Clerk of the Court
Transaction # 8473201 : csulezic

2610
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(775) 827-6300

Attorney for Plaintiff

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

* * * * *

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU, JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an Individual; and SONNIA ILIESCU, an Individual, Plaintiffs, vs. THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1-40, Defendants.	CASE NO. CV19-00459 DEPT. NO. 15 **PLAINTIFFS' MOTION FOR RECONSIDERATION AND REHEARING OF, OR, IN THE ALTERNATIVE, MOTION TO SET ASIDE THIS COURT'S ORDER PURSUANT TO NRCP 60(b)(1) and (6)**

COME NOW JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU, JR. AND SONNIA ILIESCU 1992 FAMILY TRUST("**Trust**"); JOHN ILIESCU, JR., an Individual ("**John**"); and SONNIA ILIESCU, an Individual ("**Sonnia"**), together sometimes referred to as "**Plaintiffs**", and, pursuant to D.C.R. 13 (7), and WDCR 12(8), respectfully submit this request for:

(1) a reconsideration and rehearing of this Honorable Court's Order, entered by the Court on May12, 2021 ("**Order**"), granting Defendants' Motion for Summary Judgement ("**MSJ**"), and/or

(2) the setting aside of such Order based upon, among other reasons, (A) mistake, inadvertence, surprise, or excusable neglect (NRCP 60(b)(1)), or (B) any other reason that justifies relief (NRCP 60(b)(6)).

Fundamentally, Plaintiffs were denied, *inter alia*, their Constitutional right to appear and be heard by the Court because of a technical error, equipment malfunction, oversight, mistake and/or inadvertance relating directly and/or indirectly, to the Zoom teleconference platform and its operation ("**Zoom Call**").

Plaintiffs expressly do not attribute the situation or events to any of the parties, their counsel or this Honorable Court and its professional staff.

I. ARGUMENT

Rule 12(8) of the Second Judicial District Court rules permit a party to seek reconsideration of a ruling by this Court within ten (10) days after service of written notice of entry of the order or judgment and in conformity with DCR 13(7) (a matter once heard and disposed of may be reheard upon leave of court granted upon a motion therefor). If a motion for rehearing is granted, the court may restore the matter to the calendar for re-argument or resubmission, or may make such other orders as are deemed appropriate under the circumstances. WDCR 12(9).

Rule 60(b) of the Nevada Rules of Civil Procedure permits this Court to set aside an order based upon, among other reasons, mistake, inadvertence, surprise, or excusable neglect (NRCP 60(b)(1)), and for fraud, misrepresentation, or other misconduct of the adverse party (NRCP 60(b)(6)). Motions made pursuant to NRCP 60(b)(1) and (6) must be made within a reasonable time, and not more than 6 months after the date that written notice of entry of the order was served. NRCP 60(b).

It is well established that N.R.C.P. 60 providing for relief from judgments on the

ground of mistake, inadvertence, surprise or excusable neglect is a remedial statute and should be liberally construed to carry out its purpose. *See* La-Tex Partnership v. Deters, 111 Nev. 471, at 476, 893 P.2d 361 (1995), Sherman v. Southern Pac. Co., 31 Nev. 285, 102 Pac. 257 (1909), cited, Whise v. Whise, 36 Nev. 16, at 20, 131 Pac. 967 (1913), Markwell v. Gray, 50 Nev. 427, at 431, 265 Pac. 705 (1928), Brockman v. Ullom, 52 Nev. 267, at 269, 286 Pac. 417 (1930). *See also,* Abel v. Lowry, 68 Nev. 284, 231 P.2d 191 (1951), cited, In re Estate of Ray, 68 Nev. 492, at 501, 236 P.2d 300 (1951), A-Mark Coin Co. v. Estate of Redfield, 94 Nev. 495, at 498, 582 P.2d 359 (1978).

And Plaintiff is pursuing this motion promptly, in good faith, for good cause and with no intent to delay the proceedings. *See* Passarelli v. J-Mar Dev., Inc., 102 Nev. 283, at 285, 720 P.2d 1221 (1986), Still v. Huntley, 102 Nev. 584, at 585, 729 P.2d 489 (1986), Kahn v. Orme, 108 Nev. 510, at 513, 835 P.2d 790 (1992), *see also* Stoecklein v. Johnson Elec., Inc., 109 Nev. 268, at 271-74, 849 P.2d 305 (1993), Bauwens v. Evans, 109 Nev. 537, at 539, 853 P.2d 121 (1993), Milender v. Marcum, 110 Nev. 972, at 979, 879 P.2d 748 (1994).

In this case, reconsideration, or in the alternative, issuance of an order setting aside this Court's Order is appropriate and warranted based upon the the fact that the undersigned was prepared, willing and able to fully participate the the Hearing(s) calendared for the three (3) separate motions filed by Plaintiff herein**.** *See* **Exhibit "1"** (Affidavit of Michael J. Morrison, Esq. ("**MJM"**)), but was unable to do so based solely on a technical problem with the Zoom Call. *Id.* Moreover, Plaintiffs have cogent and compelling ***disputed facts*** to present in opposition to the three (3) subject motions. *Id.*

Indeed, MJM worked for many hours reading and re-reading the files, documents, discovery requests and pleadings in this case (on both sides). In addition, as ordered by this Court, MJM consulted with the Plaintiffs and Plaintiffs obtained a new written bid from Desert Engineering, dated May 9, 2021, estimating costs and services necessary to repair the parking lot damaged by the trucks and other vehicles used by agents of Defendant during the condemnation and construction period, *Id.*, which was in the amount of $84,550.00. *See*

Exhibit "2". Very significantly, this estimate was provided to Defendant by Plaintiffs' supplement to Responses to Defendant's Request for Production of Documents (Set 1), sent to Defendant via e-mail on May 11, 2021. This new and current estimate/bid was in addition to the estimate/bid for repairs to the subject parking lot previously provided to Defendant by Plaintiffs on Apex Grading & Paving, Inc., in the amount of $$73,000.00. *See* **Exhibit "3"**.

By way of context, Exhibits 2 & 3 contain some of the material that this Court advised (at the April 27, 2021 hearing) it wanted to see at the time of the May 12, 2021 hearing. Manifestly, such material from Plaintiffs, compared to the material already provided by Defendant, would clearly and unequivocally constitute highly material, indeed, potentially dispositive "disputed facts" that a jury is entitled to hear, thus precluding summary judgement herein. NRCP 56.

He tried on several occasions, through several telephone numbers, to contact the personnel in Department 10 shortly before 2:00 PM on the hearing date to confirm the link to the zoom call. Having been unsuccessful in reaching anyone by telephone, he sent an email to Department 10 requesting information on how to join the zoom call. Court staff were very helpful and courteous, and sent him the standard link for the zoom call. When he pressed the link, he was taken to a site awaiting his turn to be joined in. The court had previously advised that it was allocating 2 hours to the hearing.

Accordingly, when he was on the zoom site awaiting to be joined into the call by the court, he patiently waited, assuming the Court was attending to other matters and would get to him as soon as possible, after the court was ready.

He was placed on the zoom call at approximately 2:08, and waited, without interruption or leaving the site, until approximately 4:08, when he became aware of an email from the court advising it had entered an order granting defendant's motion for summary judgment, based on the fact that he had not appeared at the hearing.

After the order was entered, at approximately 4:10, he contacted the Department 10 staff to advise what had happened and was informed that, indeed, the court had entered an

order based upon my failure to attend.

A copy of his correspondence with Department 10 is attached hereto as Schedule A.

Finally, in keeping with this Court's comments at the last hearing regarding costs of repair, MJM felt very well-prepared for the May 12, 2021 Zoom Call at 2:00 p.m., and hereby respectfully submits that Plaintiffs should be allowed to present the materials which the Court wanted to see (as well as other cogent, compelling, admissable and patently disputed facts) Exhibit 1, and then, in the Court's discretion, allow arguments of the parties on the case-dispositive facts, issues and motion(s).

II. CONCLUSION

Based on the foregoing, Plaintiff respectfully prays for an order, pursuant to WDCR 12 (8), granting leave for reconsideration of this Court's May __, 2021, Order, or, in the alternative, respectfully submits that setting aside its May __, 2021, Order pursuant to NRCP 60(b)(1) and (6) is warranted based hereon.

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the document to which this Affirmation is attached does not contain the social security number of any person.

DATED this 1st day of June, 2021.

*/s/ Michael J. Morrison*_____

Michael J. Morrison, Esq.
Nevada State Bar No. 1665
1495 Ridgeview Dr., #220
Reno, Nevada 89519
(775) 827-6300

Attorney for Plaintiffs

CERTIFICATE OF MAILING

I hereby certify that on this date I personally caused to be served a true

copy of the foregoing I hereby certify that on this date I personally caused to be served a true copy of the foregoing **PLAINTIFF'S MOTION FOR LEAVE FOR RECONSIDERATION AND REHEARING, OR IN THE ALTERNATIVE, MOTION TO SET ASIDE, THIS COURT'S ORDER PURSUANT TO NRCP 60(b)(1) and (6),** by the method indicated and addressed to the following:

Dane W. Anderson, Esq.
Woodburn Wedge
6100 Neil Road, Suite 500
Reno, Nevada 89511

____ Via U.S. Mail
____ Via Overnight Mail
____ Via Hand Delivery
____ Via Facsimile
_X___ Via ECF

DATED this 1st day of June, 2021

s/ Michael J. Morrison

Michael J. Morrison

INDEX OF EXHIBITS

Exhibit No.	Description	No. Pages
1	Declaration of Michael J. Morrison	2g

Exhibit No.	Description	No. Pages
2	Declaration of Michael J. Morrison	9

Exhibit No.	Description	No. Pages
3	Declaration of Michael J. Morrison	9

Exhibit No.	Description	No. Pages
4	Declaration of Michael J. Morrison	9

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an individual; and SONNIA ILIESCU, an individual,

Appellants,

vs.

THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1 through 40 inclusive,

Respondent.

Supreme Court No. 83212
Washoe County Case No. CV19-00459

JOINT APPENDIX
VOLUME VI
(Exhibits 93-106)

Appeal from the Second Judicial District Court of the State of Nevada
in and for the County of Washoe County
Case No. CV19-00459

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Counsel for Respondent

Docket 83212 Document 2021-37261

DOCUMENT INDEX

DOC.	FILE/HRG. DATE	DOCUMENT DESCRIPTION	VOL.	BATES NOS.
WASHOE COUNTY CASE NO. CV16-02182 – JUDICIAL NOTICE				
1	10/24/16	Verified Complaint in Eminent Domain – Transaction 5772609	I	JA0001-0037
2	10/24/16	Notice of Pendency of Action for Permanent Easement, Public Utility Easement and a Temporary Construction Easement – Transaction 5773484	I	JA0038-0040
3	10/24/16	Affidavit of Jeff Hale – Transaction 5772609	I	JA0041-0044
4	10/24/16	Motion for Immediate Occupancy Pending Final Judgment – Transaction 5772609	I	JA0045-0049
5	11/18/16	Answer to Complaint – Transaction 5813621	I	JA0050-0052
6	11/29/16	Stipulation for the Entry of an Order for Immediate Occupancy Pending Entry of Judgment – Transaction 5827255	I	JA0053-0065
7	12/01/16	Order for Immediate Occupancy Pending Entry of Judgment – Transaction 5832427	I	JA0066-0075
8	04/18/18	Stipulation for the Entry of a Final Order of Condemnation and Judgment – Transaction 6636350	I	JA0076-0097
9	04/26/18	Final Order of Condemnation and Judgment – Transaction 6649694	I	JA0098-0108
10	04/26/18	Notice of Entry of Final Order of Condemnation and Judgment – Transaction 6650430	I	JA0109-0112
11	05/03/18	Order – Transaction 6661759	I	JA0113-0114
12	09/26/18	Withdrawal and Release of Notice of Lis Pendens – Transaction 6899751	I	JA0115-0125

DOC.	FILE/HRG. DATE	DOCUMENT DESCRIPTION	VOL.	BATES NOS.
WASHOE COUNTY CASE NO. CV19-00459				
13	02/27/19	Complaint (Exemption from Arbitration – Equitable Relief Sought and Damages in Excess of $50,000) – Transaction 7140095	I	JA0126-0147
14	07/01/19	Order to Show Cause – Transaction 7349801	I	JA0148-0150
15	07/22/19	Motion for Extension of Time – Transaction 7386969	I	JA0151-0155
16	07/30/19	Order for Enlarging Time for Service – Transaction 7402741	I	JA0156-0158
17	08/08/19	Notice of Acceptance of Service – Dale Ferguston, Esq. – Transaction 7419581	I	JA0159-0161
18	09/25/19	Motion to Dismiss – Transaction 7504491	I	JA0162-0170
19	10/30/19	Stipulation to Conduct Discovery Prior to Holding NRCP 16.1 Conference and Prior to Filing the JCCR – Transaction 7563184 -	I	JA0171-0173
20	11/07/19	Plaintiffs' Opposition to Defendant's Partial Motion to Dismiss Plaintiff's Complaint – Transaction 7576382	I	JA0174-0182
21	11/12/19	Reply in Support of Motion to Dismiss – Transaction 7583646	I	JA0183-0190
22	11/18/19	Order Granting Stipulation to Conduct Discovery – Transaction 7593663	I	JA0191
23	12/06/19	Stipulation for Entry of Order Dismissing Certain Plaintiffs' Claims for Relief and Damages With Prejudice – Transaction 7623980	I	JA0192-0195
24	12/10/19	Order Granting Stipulation for Entry of Order Dismissing Certain of Plaintiff's Claims for Relief and Damages With Prejudice – Transaction 7629013	I	JA0196-0197
25	01/07/20	Order Addressing Motion to Dismiss – Plaintiff to File Amended Complaint – Transaction 7673003	I	JA0198-0199

DOC.	FILE/HRG. DATE	DOCUMENT DESCRIPTION	VOL.	BATES NOS.
26	01/21/20	Amended Complaint – Transaction 7695926	I	JA0200-0218
27	01/30/20	Supplemental Motion to Dismiss – Transaction 7712316	I	JA0219-0225
28	02/10/20	Plaintiffs' Opposition to Defendant's Supplemental Motion to Dismiss – Transaction 7732495	II	JA0226-0235
29	02/13/20	Reply in Support of Supplemental Motion to Dismiss – Transaction 7739174	II	JA0236-0242
30	02/20/20	Motion to Compel – Transaction 7750935	II	JA0243-0248
31	03/11/20	Notice of Document Received But Not Considered by Court (Confidential Medical Records) – Transaction 7786510	II	JA0249-0255
32	03/20/20	Order Granting Motion to Dismiss – Transaction 7801281	II	JA0256-0257
33	03/20/20	Notice of Entry of Order – Transaction 7802297	II	JA0258-0261
34	03/23/20	Answer to First Amended Complaint – Transaction 7804469	II	JA0262-0291
35	04/01/20	Declaration of Dane W. Anderson in Support of Motion for Discovery Sanctions – Transaction 7818895	II	JA0292-0400
36	04/01/20	Motion for Sanctions Motion for Discovery Sanctions – Transaction 7818895	II	JA0401-0406
37	04/03/20	Master's Recommendation for Order – Transaction 7822158	II	JA0407-0410
38	04/20/20	Order Affirming Master Recommendation – Transaction 7841718	II	JA0411-0412
39	04/20/20	Request for Submission re Motion for Discovery Sanctions – Transaction 7842053	II	JA0413-0415
40	04/20/20	Motion for Sanctions – Transaction 7842166	II	JA0416-0420
41	04/22/20	Pre-Trial Order – Transaction 7845782	II	JA0421-0430

DOC.	FILE/HRG. DATE	DOCUMENT DESCRIPTION	VOL.	BATES NOS.
42	05/14/20	Plaintiffs' Opposition to Defendant's Motion for Sanctions – Transaction 7878297	II	JA0431-0436
43	05/18/20	Request for Submission re Motion for Sanctions Pursuant to NRCP 37(b)(l) – Transaction 7882116	II	JA0437-0439
44	05/18/20	Reply in Support of Motion for Sanctions Pursuant to NRCP 37(b)(1) – Transaction 7882116	II	JA0440-0444
45	06/10/20	Master's Recommendation for Order – Transaction 7919122	III	JA0445-0458
46	06/22/20	Declaration of Dane W. Anderson Regarding Expenses to be Reimbursed by Defendants – Transaction 7937253	III	JA0459-0476
47	06/30/20	Order Affirming Master Recommendation – Transaction 7949738	III	JA0477-0478
48	06/30/20	Order to Set File Notice to Set Within 14 Days – Transaction 7949756	III	JA0479
49	06/30/20	Plaintiffs' Notice of Intent to File Opposition to Defendant's Statement of Claimed Costs and Fees – Transaction 7950620	III	JA0480-0483
50	07/06/20	Plaintiffs' Response to Declaration of Dane W. Anderson Regarding Expenses to be Reimbursed by Defendants – Transaction 7956088	III	JA0484-0490
51	07/13/20	RTC's Reply to Plaintiffs' Response to Declaration of Dane W. Anderson Regarding Expenses to be Reimbursed by Defendants – Transaction 7966844	III	JA0491-0496
52	07/16/20	Request for Submission re Declaration of Dane W. Anderson Regarding Expenses To Be Reimbursed By Defendants [*sic*] – Transaction 7973986	III	JA0497-0499
53	07/21/20	Supplemental ... Declaration of Dane W. Anderson Re Expenses to be Reimbursed by Plaintiffs – Transaction 7981140	III	JA0500-0507

DOC.	FILE/HRG. DATE	DOCUMENT DESCRIPTION	VOL.	BATES NOS.
54	07/21/20	Motion in Limine to Preclude Plaintiffs from Offering Documents Not Produced to RTC on or before June 30, 2020 Transaction 7981600	III	JA0508-0593
55	07/27/20	Plaintiffs' Response to the Supplemental Declaration of Dane W. Anderson Regarding Expenses to be Reimbursed by Plaintiffs – Transaction 7990157	III	JA0594-0597
56	07/29/20	RTC's Reply to Plaintiffs' Response to The Supplemental Declaration of Dane W. Anderson Regarding Expenses to be Reimbursed by Defendants – Transaction 7993047	III	JA0598-0602
57	08/05/20	Order Regarding Declarations of Expenses – Transaction 8004713	III	JA0603-0605
58	08/06/20	Notice of Entry of Order – Transaction 8007281	III	JA0606-0613
59	08/06/20	Request for Submission re Motion in Limine to Preclude Plaintiffs from Offering Documents Not Produced to RTC on or Before June 30, 2020 – Transaction 8007357	III	JA0614-0616
60	08/19/20	Order Granting Motion in Limine to Preclude Offering Documents Not Produced to RTC on or before June 30, 2020 – Transaction 8027856	III	JA0617-0618
61	08/20/20	Notice of Entry of Order – Transaction 8029028	III	JA0619-0625
62	03/23/20	Demand for Jury Trial – Transaction 8082710	III	JA0626-0627
63	09/30/20	Minutes 9/29/20 Case Management Conference (ESC) – Transaction 8093137	III	JA0628-0629
64	09/30/20	Transcript of 9/29/20 Case Management Conference	III	JA0630-0644
65	10/08/20	Stipulation for Entry of Scheduling Order – Transaction 8107608	III	JA0645-0648

DOC.	FILE/HRG. DATE	DOCUMENT DESCRIPTION	VOL.	BATES NOS.
66	10/12/20	Scheduling Order Amended Stipulated Scheduling Order – Transaction 8111324	III	JA0649-0651
67	01/19/21	Motion for Sanctions Pursuant to NRCP 16.1(E) – Transaction 8252375	III	JA0652-0657
68	02/18/21	Opposition to Motion for Sanctions – Transaction 8302448	III	JA0658-0662
69	02/25/21	Request for Submission re Motion for Sanctions Pursuant to NRCP 16.1(e) – Transaction 8313712	III	JA0663-0665
70	02/25/21	RTC's Reply in Support of Motion for Sanctions Pursuant to NRCP 16.1(C) – Transaction 8313712	IV	JA0666-0687
71	03/09/21	Motion for Summary Judgment – Transaction 8332645	IV	JA0688-0708
72	03/09/21	Motion in Limine to Exclude Evidence of Damages – Transaction 8333168	IV	JA0709-0712
73	03/09/21	Motion in Limine to Preclude Plaintiffs From Presenting Evidence Pursuant to NRS 50.275, 50.285 and 50.305 – Transaction 8333168	IV	JA0713-0716
74	03/11/21	Application for Setting – Transaction 8337959	IV	JA0717-0720
75	03/25/21	Order Denying Motion for Sanctions – Transaction 8361465	IV	JA0721-0722
76	04/02/21	Plaintiffs' Opposition to Defendants' Motion for Summary Judgment – Transaction 8376225	IV	JA0723-0814
77	04/02/21	Plaintiffs' Opposition to Defendants' Motion in Limine to Exclude Evidence of Damages – Transaction 8376231	IV	JA0815-0818
78	04/02/21	Plaintiffs' Opposition to Defendant's Motion in Limine to Exclude Evidence Pursuant to NRS 50.275, 50.285, and 50.305 – Transaction 8376236	IV	JA0819-0822

DOC.	FILE/HRG. DATE	DOCUMENT DESCRIPTION	VOL.	BATES NOS.
79	04/02/21	Plaintiffs' Opposition to Defendant's Motion in Limine to Exclude Evidence Pursuant to NRS 50.275 – Transaction 8376273	IV	JA0823-0826
80	04/27/21	Reply in Support of Motion in Limine to Preclude Plaintiffs from Presenting Evidence Pursuant to NRS 50.275, 50.285 and 50.305 – Transaction 8416238	IV	JA0827-0830
81	04/27/21	Reply in Support of Motion in Limine to Exclude Evidence of Damages – Transaction 8416263	V	JA0831-0884
82	04/28/21	Request for Submission re Reply in Support of Motion in Limine to Preclude Plaintiffs From Presenting Evidence Pursuant to NRS 50.275, 50.285 and 50.305 – Transaction 8417512	V	JA0885-0887
83	04/28/21	Request for Submission re Reply in Support of Motion in Limine to Exclude Evidence of Damages – Transaction 8417518	V	JA0888-0890
84	04/28/21	Order Setting Hearing and for Electronic Appearance – Transaction 8419081	V	JA0891-0892
85	04/29/21	Reply in Support of Motion for Summary Judgment – Transaction 8420046	V	JA0893-0941
86	05/06/21	Minutes 4/27/2021 – Status Hearing – Transaction 8430816	V	JA0942-0944
87	05/06/21	Transcript of 4/27/21 Status Hearing	V	JA0945-1004
88	05/12/21	Minutes 5/12/2021 – Oral Arguments – Transaction 8441847	V	JA1005
89	05/12/21	Transcript of 5/12/2021 Oral Arguments – Transaction 8442136	V	JA1006-1047
90	05/13/21	Notice of Intent to File Motion – Transaction 8444437	V	JA1048-1049
91	05/24/21	Response to Notice of Intent to File Motion – Transaction 8461146	V	JA1050-1053

DOC.	FILE/HRG. DATE	DOCUMENT DESCRIPTION	VOL.	BATES NOS.
92	06/01/21	Plaintiffs' Motion for Reconsideration and Rehearing of, or, in the Alternative, Motion to Set Aside this Court's Order Pursuant to NRCP 60(B)(1) and (6) – Transaction 8473201	V	JA1054-1060
93	06/02/21	First Errata to Plaintiffs' Motion for Reconsideration and Rehearing of, or, in the Alternative, Motion to Set Aside this Court's Order Pursuant to NRCP 60(B)(1) and (6) – Transaction 8474224	VI	JA1061-1082
94	06/02/21	Order Setting Hearing for Oral Argument 6/8/21 at 10:00 A.M. – Transaction 8474916	VI	JA1083-1084
95	06/07/21	Opposition to Motion for Reconsideration and Rehearing of, or in the Alternative, Motion to Set Aside this Court's Order Pursuant to NRCP 60(B)(1) and (6) [including the "First" and any other "Erratas" that may be filed] – Transaction 8483047	VI	JA1085-1096
96	06/08/21	Supplemental Exhibit to Motion for Reconsideration – Transaction 8483818	VI	JA1097-1104
97	06/08/21	Minutes regarding Oral Arguments – Transaction 8484485	VI	JA1105
98	06/08/21	Transcript of 6/8/21 Oral Arguments	VI	JA1106-1147
99	06/09/21	Order Granting Summary Judgment After Supplemental Arguments – Transaction 8487964	VI	JA1148-1159
100	06/10/21	Notice of Entry of Judgment Notice of Entry of Order Granting Summary Judgment – Transaction 8490380	VI	JA1160-1176
101	06/15/21	Memorandum of Costs – Transaction 8495869	VI	JA1177-1200
102	06/15/21	Declaration of Dane W. Anderson in Support of Memorandum of Costs – Transaction 8495884	VI	JA1201-1204

DOC.	FILE/HRG. DATE	DOCUMENT DESCRIPTION	VOL.	BATES NOS.
103	06/29/21	Motion for Attorney's Fee – Transaction 8517765	VI	JA1205-1214
104	06/29/21	Declaration in Support of Motion for Fees – Transaction 8517765	VI	JA1215-1251
105	07/09/21	Notice of Appeal – Transaction 8536470	VI	JA1252-1255
106	07/09/21	Case Appeal Statement – Transaction 8536470	VI	JA1256-1261
107	07/14/21	Notice of Appeal (*Supreme Court Filing*)	VII	JA1262-1325
108	08/14/21	Plaintiffs' Opposition to Defendant's Motion for Attorney Fees and for Entry of Judgment for Attorney Fees and Costs – Transaction 8595894	VII	JA1326-1338
109	08/23/21	Reply in Support of Motion for Attorney Fees and for Entry of Judgment for Attorney Fees and Costs – Transaction 8608634	VII	JA1339-1347
110	08/23/21	Reply in Support of Motion for Attorney Fees and for Entry of Judgment for Attorney Fees and Costs – Transaction 8608728	VII	JA1348-1364
111	10/18/21	Order Granting Attorney's Fees and Entry of Judgment – Transaction 8701865	VII	JA1365-1373
112	10/18/21	Notice of Entry of Order Granting Attorney's Fees and Entry of Judgment – Transaction 8702337	VII	JA1374-1386
113	10/21/21	Amended Notice of Appeal – Transaction 8709785	VII	JA1387-1389

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ALPHABETICAL INDEX

DOC.	FILE/HRG. DATE	DOCUMENT DESCRIPTION	VOL.	BATES NOS.
WASHOE COUNTY CASE NO. CV16-02182 – JUDICIAL NOTICE				
3	10/24/16	Affidavit of Jeff Hale - Transaction 5772609	I	AA0041-0044
5	11/18/16	Answer to Complaint - Transaction 5813621	I	AA0050-0052
9	04/26/18	Final Order of Condemnation and Judgment - Transaction 6649694	I	AA0098-0108
4	10/24/16	Motion for Immediate Occupancy Pending Final Judgment - Transaction 5772609	I	AA0045-0049
10	04/26/18	Notice of Entry of Final Order of Condemnation and Judgment - Transaction 6650430	I	AA0109-0112
2	10/24/16	Notice of Pendency of Action for Permanent Easement, Public Utility Easement and a Temporary Construction Easement - Transaction 5773484	I	AA0038-0040
11	05/03/18	Order - Transaction 6661759	I	AA0113-0114
7	12/01/16	Order for Immediate Occupancy Pending Entry of Judgment - Transaction 5832427	I	AA0066-0075
8	04/18/18	Stipulation for the Entry of a Final Order of Condemnation and Judgment - Transaction 6636350	I	AA0076-0097
6	11/29/16	Stipulation for the Entry of an Order for Immediate Occupancy Pending Entry of Judgment - Transaction 5827255	I	AA0053-0065
1	10/24/16	Verified Complaint in Eminent Domain - Transaction 5772609	I	AA0001-0037
12	09/26/18	Withdrawal and Release of Notice of Lis Pendens - Transaction 6899751	I	AA0115-0125
WASHOE COUNTY CASE NO. CV19-00459				
26	01/21/20	Amended Complaint – Transaction 7695926	I	JA0200-0218

DOC.	FILE/HRG. DATE	DOCUMENT DESCRIPTION	VOL.	BATES NOS.
113	10/21/21	Amended Notice of Appeal – Transaction 8709785	VII	JA1387-1389
34	03/23/20	Answer to First Amended Complaint – Transaction 7804469	II	JA0262-0291
74	03/11/21	Application for Setting – Transaction 8337959	IV	JA0717-0720
106	07/09/21	Case Appeal Statement – Transaction 8536470	VI	JA1256-1261
13	02/27/19	Complaint (Exemption from Arbitration – Equitable Relief Sought and Damages in Excess of $50,000) – Transaction 7140095	I	JA0126-0147
104	06/29/21	Declaration in Support of Motion for Fees – Transaction 8517765	VI	JA1215-1251
102	06/15/21	Declaration of Dane W. Anderson in Support of Memorandum of Costs – Transaction 8495884	VI	JA1201-1204
35	04/01/20	Declaration of Dane W. Anderson in Support of Motion for Discovery Sanctions – Transaction 7818895	II	JA0292-0400
46	06/22/20	Declaration of Dane W. Anderson Regarding Expenses to be Reimbursed by Defendants – Transaction 7937253	III	JA0459-0476
62	03/23/20	Demand for Jury Trial – Transaction 8082710	III	JA0626-0627
93	06/02/21	First Errata to Plaintiffs' Motion for Reconsideration and Rehearing of, or, in the Alternative, Motion to Set Aside this Court's Order Pursuant to NRCP 60(B)(1) and (6) – Transaction 8474224	VI	JA1061-1082
37	04/03/20	Master's Recommendation for Order – Transaction 7822158	II	JA0407-0410
45	06/10/20	Master's Recommendation for Order – Transaction 7919122	III	JA0445-0458
101	06/15/21	Memorandum of Costs – Transaction 8495869	VI	JA1177-1200

DOC.	FILE/HRG. DATE	DOCUMENT DESCRIPTION	VOL.	BATES NOS.
86	05/06/21	Minutes 4/27/2021 – Status Hearing – Transaction 8430816	V	JA0942-0944
88	05/12/21	Minutes 5/12/2021 – Oral Arguments – Transaction 8441847	V	JA1005
63	09/30/20	Minutes 9/29/20 Case Management Conference (ESC) – Transaction 8093137	III	JA0628-0629
97	06/08/21	Minutes regarding Oral Arguments – Transaction 8484485	VI	JA1105
103	06/29/21	Motion for Attorney's Fee – Transaction 8517765	VI	JA1205-1214
15	07/22/19	Motion for Extension of Time – Transaction 7386969	I	JA0151-0155
40	04/20/20	Motion for Sanctions – Transaction 7842166	II	JA0416-0420
36	04/01/20	Motion for Sanctions Motion for Discovery Sanctions – Transaction 7818895	II	JA0401-0406
67	01/19/21	Motion for Sanctions Pursuant to NRCP 16.1(E) – Transaction 8252375	III	JA0652-0657
71	03/09/21	Motion for Summary Judgment – Transaction 8332645	IV	JA0688-0708
72	03/09/21	Motion in Limine to Exclude Evidence of Damages – Transaction 8333168	IV	JA0709-0712
54	07/21/20	Motion in Limine to Preclude Plaintiffs from Offering Documents Not Produced to RTC on or before June 30, 2020 Transaction 7981600	III	JA0508-0593
73	03/09/21	Motion in Limine to Preclude Plaintiffs From Presenting Evidence Pursuant to NRS 50.275, 50.285 and 50.305 – Transaction 8333168	IV	JA0713-0716
30	02/20/20	Motion to Compel – Transaction 7750935	II	JA0243-0248
18	09/25/19	Motion to Dismiss – Transaction 7504491	I	JA0162-0170
17	08/08/19	Notice of Acceptance of Service – Dale Ferguston, Esq. – Transaction 7419581	I	JA0159-0161

DOC.	FILE/HRG. DATE	DOCUMENT DESCRIPTION	VOL.	BATES NOS.
105	07/09/21	Notice of Appeal – Transaction 8536470	VI	JA1252-1255
107	07/14/21	Notice of Appeal (*Supreme Court Filing*)	VII	JA1262-1325
31	03/11/20	Notice of Document Received But Not Considered by Court (Confidential Medical Records) – Transaction 7786510	II	JA0249-0255
100	06/10/21	Notice of Entry of Judgment Notice of Entry of Order Granting Summary Judgment – Transaction 8490380	VI	JA1160-1176
33	03/20/20	Notice of Entry of Order – Transaction 7802297	II	JA0258-0261
58	08/06/20	Notice of Entry of Order – Transaction 8007281	III	JA0606-0613
61	08/20/20	Notice of Entry of Order – Transaction 8029028	III	JA0619-0625
112	10/18/21	Notice of Entry of Order Granting Attorney's Fees and Entry of Judgment – Transaction 8702337	VII	JA1374-1386
90	05/13/21	Notice of Intent to File Motion – Transaction 8444437	V	JA1048-1049
95	06/07/21	Opposition to Motion for Reconsideration and Rehearing of, or in the Alternative, Motion to Set Aside this Court's Order Pursuant to NRCP 60(B)(1) and (6) [including the "First" and any other "Erratas" that may be filed] – Transaction 8483047	VI	JA1085-1096
68	02/18/21	Opposition to Motion for Sanctions – Transaction 8302448	III	JA0658-0662
25	01/07/20	Order Addressing Motion to Dismiss – Plaintiff to File Amended Complaint – Transaction 7673003	I	JA0198-0199
38	04/20/20	Order Affirming Master Recommendation – Transaction 7841718	II	JA0411-0412
47	06/30/20	Order Affirming Master Recommendation – Transaction 7949738	III	JA0477-0478

DOC.	FILE/HRG. DATE	DOCUMENT DESCRIPTION	VOL.	BATES NOS.
75	03/25/21	Order Denying Motion for Sanctions – Transaction 8361465	IV	JA0721-0722
16	07/30/19	Order for Enlarging Time for Service – Transaction 7402741	I	JA0156-0158
111	10/18/21	Order Granting Attorney's Fees and Entry of Judgment – Transaction 8701865	VII	JA1365-1373
60	08/19/20	Order Granting Motion in Limine to Preclude Offering Documents Not Produced to RTC on or before June 30, 2020 – Transaction 8027856	III	JA0617-0618
32	03/20/20	Order Granting Motion to Dismiss – Transaction 7801281	II	JA0256-0257
24	12/10/19	Order Granting Stipulation for Entry of Order Dismissing Certain of Plaintiff's Claims for Relief and Damages With Prejudice – Transaction 7629013	I	JA0196-0197
22	11/18/19	Order Granting Stipulation to Conduct Discovery – Transaction 7593663	I	JA0191
99	06/09/21	Order Granting Summary Judgment After Supplemental Arguments – Transaction 8487964	VI	JA1148-1159
57	08/05/20	Order Regarding Declarations of Expenses – Transaction 8004713	III	JA0603-0605
84	04/28/21	Order Setting Hearing and for Electronic Appearance – Transaction 8419081	V	JA0891-0892
94	06/02/21	Order Setting Hearing for Oral Argument 6/8/21 at 10:00 A.M. – Transaction 8474916	VI	JA1083-1084
48	06/30/20	Order to Set File Notice to Set Within 14 Days – Transaction 7949756	III	JA0479
14	07/01/19	Order to Show Cause – Transaction 7349801	I	JA0148-0150
92	06/01/21	Plaintiffs' Motion for Reconsideration and Rehearing of, or, in the Alternative, Motion to Set Aside this Court's Order Pursuant to NRCP 60(B)(1) and (6) – Transaction 8473201	V	JA1054-1060

DOC.	FILE/HRG. DATE	DOCUMENT DESCRIPTION	VOL.	BATES NOS.
49	06/30/20	Plaintiffs' Notice of Intent to File Opposition to Defendant's Statement of Claimed Costs and Fees – Transaction 7950620	III	JA0480-0483
108	08/14/21	Plaintiffs' Opposition to Defendant's Motion for Attorney Fees and for Entry of Judgment for Attorney Fees and Costs – Transaction 8595894	VII	JA1326-1338
42	05/14/20	Plaintiffs' Opposition to Defendant's Motion for Sanctions – Transaction 7878297	II	JA0431-0436
78	04/02/21	Plaintiffs' Opposition to Defendant's Motion in Limine to Exclude Evidence Pursuant to NRS 50.275, 50.285, and 50.305 – Transaction 8376236	IV	JA0819-0822
79	04/02/21	Plaintiffs' Opposition to Defendant's Motion in Limine to Exclude Evidence Pursuant to NRS 50.275 – Transaction 8376273	IV	JA0823-0826
20	11/07/19	Plaintiffs' Opposition to Defendant's Partial Motion to Dismiss Plaintiff's Complaint – Transaction 7576382	I	JA0174-0182
28	02/10/20	Plaintiffs' Opposition to Defendant's Supplemental Motion to Dismiss – Transaction 7732495	II	JA0226-0235
76	04/02/21	Plaintiffs' Opposition to Defendants' Motion for Summary Judgment – Transaction 8376225	IV	JA0723-0814
77	04/02/21	Plaintiffs' Opposition to Defendants' Motion in Limine to Exclude Evidence of Damages – Transaction 8376231	IV	JA0815-0818
50	07/06/20	Plaintiffs' Response to Declaration of Dane W. Anderson Regarding Expenses to be Reimbursed by Defendants – Transaction 7956088	III	JA0484-0490

DOC.	FILE/HRG. DATE	DOCUMENT DESCRIPTION	VOL.	BATES NOS.
55	07/27/20	Plaintiffs' Response to the Supplemental Declaration of Dane W. Anderson Regarding Expenses to be Reimbursed by Plaintiffs – Transaction 7990157	III	JA0594-0597
41	04/22/20	Pre-Trial Order – Transaction 7845782	II	JA0421-0430
109	08/23/21	Reply in Support of Motion for Attorney Fees and for Entry of Judgment for Attorney Fees and Costs – Transaction 8608634	VII	JA1339-1347
110	08/23/21	Reply in Support of Motion for Attorney Fees and for Entry of Judgment for Attorney Fees and Costs – Transaction 8608728	VII	JA1348-1364
44	05/18/20	Reply in Support of Motion for Sanctions Pursuant to NRCP 37(b)(1) – Transaction 7882116	II	JA0440-0444
85	04/29/21	Reply in Support of Motion for Summary Judgment – Transaction 8420046	V	JA0893-0941
81	04/27/21	Reply in Support of Motion in Limine to Exclude Evidence of Damages – Transaction 8416263	V	JA0831-0884
80	04/27/21	Reply in Support of Motion in Limine to Preclude Plaintiffs from Presenting Evidence Pursuant to NRS 50.275, 50.285 and 50.305 – Transaction 8416238	IV	JA0827-0830
21	11/12/19	Reply in Support of Motion to Dismiss – Transaction 7583646	I	JA0183-0190
29	02/13/20	Reply in Support of Supplemental Motion to Dismiss – Transaction 7739174	II	JA0236-0242
69	08/06/20	Request for Submission re Motion in Limine to Preclude Plaintiffs from Offering Documents Not Produced to RTC on or Before June 30, 2020 – Transaction 8007357	III	JA0614-0616

DOC.	FILE/HRG. DATE	DOCUMENT DESCRIPTION	VOL.	BATES NOS.
52	07/16/20	Request for Submission re Declaration of Dane W. Anderson Regarding Expenses To Be Reimbursed By Defendants [*sic*] – Transaction 7973986	III	JA0497-0499
39	04/20/20	Request for Submission re Motion for Discovery Sanctions – Transaction 7842053	II	JA0413-0415
69	02/25/21	Request for Submission re Motion for Sanctions Pursuant to NRCP 16.1(e) – Transaction 8313712	III	JA0663-0665
43	05/18/20	Request for Submission re Motion for Sanctions Pursuant to NRCP 37(b)(l) – Transaction 7882116	II	JA0437-0439
82	04/28/21	Request for Submission re Reply in Support of Motion in Limine to Preclude Plaintiffs From Presenting Evidence Pursuant to NRS 50.275, 50.285 and 50.305 – Transaction 8417512	V	JA0885-0887
83	04/28/21	Request for Submission re Reply in Support of Motion in Limine to Exclude Evidence of Damages – Transaction 8417518	V	JA0888-0890
91	05/24/21	Response to Notice of Intent to File Motion – Transaction 8461146	V	JA1050-1053
70	02/25/21	RTC's Reply in Support of Motion for Sanctions Pursuant to NRCP 16.1(C) – Transaction 8313712	IV	JA0666-0687
51	07/13/20	RTC's Reply to Plaintiffs' Response to Declaration of Dane W. Anderson Regarding Expenses to be Reimbursed by Defendants – Transaction 7966844	III	JA0491-0496
56	07/29/20	RTC's Reply to Plaintiffs' Response to The Supplemental Declaration of Dane W. Anderson Regarding Expenses to be Reimbursed by Defendants – Transaction 7993047	III	JA0598-0602

DOC.	FILE/HRG. DATE	DOCUMENT DESCRIPTION	VOL.	BATES NOS.
66	10/12/20	Scheduling Order Amended Stipulated Scheduling Order – Transaction 8111324	III	JA0649-0651
19	10/30/19	Stipulation to Conduct Discovery Prior to Holding NRCP 16.1 Conference and Prior to Filing the JCCR – Transaction 7563184 -	I	JA0171-0173
23	12/06/19	Stipulation for Entry of Order Dismissing Certain Plaintiffs' Claims for Relief and Damages With Prejudice – Transaction 7623980	I	JA0192-0195
65	10/08/20	Stipulation for Entry of Scheduling Order – Transaction 8107608	III	JA0645-0648
53	07/21/20	Supplemental ... Declaration of Dane W. Anderson Re Expenses to be Reimbursed by Plaintiffs – Transaction 7981140	III	JA0500-0507
96	06/08/21	Supplemental Exhibit to Motion for Reconsideration – Transaction 8483818	VI	JA1097-1104
27	01/30/20	Supplemental Motion to Dismiss – Transaction 7712316	I	JA0219-0225
87	05/06/21	Transcript of 4/27/21 Status Hearing	V	JA0945-1004
89	05/12/21	Transcript of 5/12/2021 Oral Arguments – Transaction 8442136	V	JA1006-1047
98	06/08/21	Transcript of 6/8/21 Oral Arguments	VI	JA1106-1147
64	09/30/20	Transcript of 9/29/20 Case Management Conference	III	JA0630-0644

CERTIFICATE OF SERVICE

Pursuant to NRAP 25(c), I hereby certify that I am an employee of ALBRIGHT, STODDARD, WARNICK & ALBRIGHT, and that on this 30th day of December, 2021, the foregoing **JOINT APPENDIX, VOLUME VI**, was filed electronically with the Clerk of the Nevada Supreme Court, and therefore electronic service was made in accordance with the master service list as follows:

Dane W. Anderson, Esq.
Bronagh M. Kelly, Esq.
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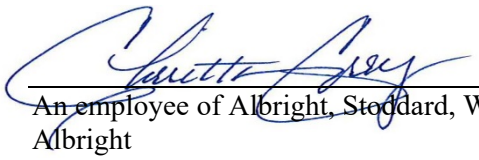
Trial Counsel for Plaintiffs



An employee of Albright, Stoddard, Warnick & Albright

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Clerk of the Court
Transaction # 8474224 : csulezic

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MICHAEL J. MORRISON, ESQ.
Nevada State Bar No. 1665
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Reno, Nevada 89519
(775) 827-6300

Attorney for Plaintiff

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

* * * * *

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU, JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an Individual; and SONNIA ILIESCU, an Individual,

Plaintiffs,

vs.

THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1-40,

Defendants.

CASE NO. CV19-00459

DEPT. NO. 15

FIRST ERRATA TO PLAINTIFFS' MOTION FOR RECONSIDERATION AND REHEARING OF, OR, IN THE ALTERNATIVE, MOTION TO SET ASIDE THIS COURT'S ORDER PURSUANT TO NRCP 60(b)(1) and (6)

COME NOW JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU, JR. AND SONNIA ILIESCU 1992 FAMILY TRUST("**Trust**"); JOHN ILIESCU, JR., an Individual ("**John**"); and SONNIA ILIESCU, an Individual ("**Sonnia"**), together sometimes referred to as "**Plaintiffs**", and, pursuant to D.C.R. 13 (7), and WDCR 12(8), respectfully submit this request for:

(1) a reconsideration and rehearing of this Honorable Court's Order, entered by the Court on May12, 2021 ("**Order**"), granting Defendants' Motion for Summary Judgement ("**MSJ**"), and/or

(2) the setting aside of such Order based upon, among other reasons, (A) mistake, inadvertence, surprise, or excusable neglect (NRCP 60(b)(1)), or (B) any other reason that justifies relief (NRCP 60(b)(6)).

Fundamentally, Plaintiffs were denied, *inter alia*, their Constitutional right to appear and be heard by the Court because of a technical error, equipment malfunction, oversight, mistake and/or inadvertance relating directly and/or indirectly, to the Zoom teleconference platform and its operation ("**Zoom Call**").

Plaintiffs expressly do not attribute the situation or events to any of the parties, their counsel or this Honorable Court and its professional staff.

I. ARGUMENT

Rule 12(8) of the Second Judicial District Court rules permit a party to seek reconsideration of a ruling by this Court within ten (10) days after service of written notice of entry of the order or judgment and in conformity with DCR 13(7) (a matter once heard and disposed of may be reheard upon leave of court granted upon a motion therefor). If a motion for rehearing is granted, the court may restore the matter to the calendar for re-argument or resubmission, or may make such other orders as are deemed appropriate under the circumstances. WDCR 12(9).

Rule 60(b) of the Nevada Rules of Civil Procedure permits this Court to set aside an order based upon, among other reasons, mistake, inadvertence, surprise, or excusable neglect (NRCP 60(b)(1)), and for fraud, misrepresentation, or other misconduct of the adverse party (NRCP 60(b)(6)). Motions made pursuant to NRCP 60(b)(1) and (6) must be made within a reasonable time, and not more than 6 months after the date that written notice of entry of the order was served. NRCP 60(b).

It is well established that N.R.C.P. 60 providing for relief from judgments on the ground of mistake, inadvertence, surprise or excusable neglect is a remedial statute and should

be liberally construed to carry out its purpose. *See* La-Tex Partnership v. Deters, 111 Nev. 471, at 476, 893 P.2d 361 (1995), Sherman v. Southern Pac. Co., 31 Nev. 285, 102 Pac. 257 (1909), cited, Whise v. Whise, 36 Nev. 16, at 20, 131 Pac. 967 (1913), Markwell v. Gray, 50 Nev. 427, at 431, 265 Pac. 705 (1928), Brockman v. Ullom, 52 Nev. 267, at 269, 286 Pac. 417 (1930). *See also,* Abel v. Lowry, 68 Nev. 284, 231 P.2d 191 (1951), cited, In re Estate of Ray, 68 Nev. 492, at 501, 236 P.2d 300 (1951), A-Mark Coin Co. v. Estate of Redfield, 94 Nev. 495, at 498, 582 P.2d 359 (1978).

And Plaintiff is pursuing this motion promptly, in good faith, for good cause and with no intent to delay the proceedings. *See* Passarelli v. J-Mar Dev., Inc., 102 Nev. 283, at 285, 720 P.2d 1221 (1986), Still v. Huntley, 102 Nev. 584, at 585, 729 P.2d 489 (1986), Kahn v. Orme, 108 Nev. 510, at 513, 835 P.2d 790 (1992), *see also* Stoecklein v. Johnson Elec., Inc., 109 Nev. 268, at 271-74, 849 P.2d 305 (1993), Bauwens v. Evans, 109 Nev. 537, at 539, 853 P.2d 121 (1993), Milender v. Marcum, 110 Nev. 972, at 979, 879 P.2d 748 (1994).

In this case, reconsideration, or in the alternative, issuance of an order setting aside this Court's Order is appropriate and warranted based upon the the fact that the undersigned was prepared, willing and able to fully participate the the Hearing(s) calendared for the three (3) separate motions filed by Plaintiff herein**.** *See* **Exhibit "1"** (Affidavit of Michael J. Morrison, Esq. ("**MJM"**)), but was unable to do so based solely on a technical problem with the Zoom Call. *Id.* Moreover, Plaintiffs have cogent and compelling ***disputed facts*** to present in opposition to the three (3) subject motions. *Id.*

Indeed, MJM worked for many hours reading and re-reading the files, documents, discovery requests and pleadings in this case (on both sides). In addition, as requested by this Court, MJM consulted with the Plaintiffs and Plaintiffs obtained a new written bid from Desert Engineering, dated May 9, 2021, estimating costs and services necessary to repair the parking lot damaged by the trucks and other vehicles used by agents of Defendant during the condemnation and construction period, *Id.*, which was in the amount of **$84,550.00**. *See* **Exhibit "2".** Very significantly, this estimate was provided to Defendant in Plaintiffs'

Supplement to Responses to Defendant's Request for Production of Documents, sent to Defendant via e-mail on May 11, 2021. This new and current estimate/bid was in addition to the estimate/bid for repairs to the subject parking lot submitted by Apex Grading & Paving, Inc., on or about August 26, 2020, in the approximate amount of $$73,000.00. This was previously provided to Defendant by Plaintiffs on or about August 26, 2020

By way of context, Exhibit 2 contains some of the material that this Court advised (at the April 27, 2021 hearing) it wanted to see at the time of the May 12, 2021 hearing. Manifestly, such material from Plaintiffs, compared to the material already provided by Defendant, would clearly and unequivocally constitute highly material, indeed, potentially dispositive "disputed facts" that a jury is entitled to hear, thus precluding summary judgement herein. NRCP 56.

As regards MJM's non-participation in the Zoom Call, prior to the 2:00 p.m. hearing, MJM tried on several occasions, through several telephone numbers, to contact the personnel in Department 10 shortly before 2:00 PM on the hearing date to confirm the link to the Zoom Call. Having been unsuccessful in reaching anyone by telephone, he sent an email to Department 10 requesting information on how to join the Zoom Call. Court staff were very helpful and courteous, and sent him the standard link for the Zoom Call. When he pressed the link, he was taken to a Zoom site awaiting his turn to be joined in. The court had previously advised the parties that it was allocating 2 hours to the hearing.

Accordingly, when he was on the zoom site awaiting to be joined into the Zoom Call by the court, he patiently waited, assuming the Court was attending to other matters and would get to the Hearing as soon as possible, after the court was ready.

He clicked on the link kindly and promptly provided by the Court was placed on a Zoom site at approximately 2:08, and waited, without interruption or leaving the site, until approximately 4:08, when he became aware of an eFile notice from the court advising it had entered an order granting defendant's motion for summary judgment, based on the fact that he, as Plaintiffs' counsel, had not appeared at the hearing.

After the order was entered, at approximately 4:10, MJM contacted the Department 10 staff to advise what had happened and was informed that, indeed, the Court had entered an order based upon my failure to attend.

A copy of his correspondence with Department 10 is attached to Exhibit 1 as Schedule A.

Having focused his attention on this Court's comments at the last hearing regarding Plaintiffs providing costs of repair, MJM felt very well-prepared for the May 12, 2021, Zoom Call at 2:00 p.m., *Id.*, and hereby respectfully submits that Plaintiffs should be allowed to present the materials which the Court wanted to see (as well as other cogent, compelling, admissible and patently disputed facts), and thereafter, in the Court's discretion, allow arguments of the parties on the case-dispositive facts, issues and motion(s).

II. CONCLUSION

Based on the foregoing, Plaintiff respectfully prays for an order, pursuant to WDCR 12 (8), granting leave for reconsideration of this Court's May 12, 2021 Order, or in the alternative, respectfully submits that setting aside its May 12, 2021 Order, pursuant to NRCP 60(b)(1) and (6), is warranted herein.

On the other hand, if summary judgement is sustained based on a technical glitch of the communcation system used to administer justice and/or a mistake, inadvertance, oversight and/or excusable neglect of counsel in using the communication system, a citizen's rights of due process may soon be at risk of partial or total confusion and emasculation, in a way certainly not intended by the signatories of our Constitution.

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the document to which this Affirmation is attached does not contain the social security number of any person.

DATED this 1st day of June, 2021.

*/s/ Michael J. Morrison*_____

Michael J. Morrison, Esq.
Nevada State Bar No. 1665

1495 Ridgeview Dr., #220
Reno, Nevada 89519
(775) 827-6300

Attorney for Plaintiffs

CERTIFICATE OF MAILING

I hereby certify that on this date I personally caused to be served a true copy of the foregoing I hereby certify that on this date I personally caused to be served a true copy of the foregoing **PLAINTIFF'S MOTION FOR LEAVE FOR RECONSIDERATION AND REHEARING, OR IN THE ALTERNATIVE, MOTION TO SET ASIDE, THIS COURT'S ORDER PURSUANT TO NRCP 60(b)(1) and (6),** by the method indicated and addressed to the following:

Dane W. Anderson, Esq. Woodburn Wedge 6100 Neil Road, Suite 500 Reno, Nevada 89511	____ Via U.S. Mail ____ Via Overnight Mail ____ Via Hand Delivery ____ Via Facsimile _X___ Via ECF

DATED this 1st day of June, 2021

s/ Michael J. Morrison

Michael J. Morrison

INDEX OF EXHIBITS

Exhibit No.	Description	No. Pages
1	Declaration of Michael J. Morrison	2

Exhibit No.	Description	No. Pages
2	Plaintiffs' Supplemental Responses to First Request for Production, including Copy of Bid by Desert Engineering, dated May 9, 2021	4

F I L E D
Electronically
CV19-00459
2021-06-02 10:49:44 AM
Alicia L. Lerud
Clerk of the Court
Transaction # 8474224 : csulezic

EXHIBIT 1

EXHIBIT 1

DECLARATION OF MICHAEL J. MORRISON

STATE OF NEVADA)
) ss:
COUNTY OF WASHOE)

After being first duly sworn and deposed, Michael J. Morrison states under penalty of perjury, that:

1. He is an attorney licensed to practice in the State of Nevada; SBN 1665.

2. He is the Attorney for Plaintiffs in this action and was prepared, willing and able to fully participate the May 12, 2021 Hearing(s) calendared for the three (3) separate motions filed by Plaintiff herein. but was unable to do so based solely on a technical problem with the Zoom Call.

3. Plaintiffs have cogent and compelling *disputed facts* to present in opposition to the three (3) subject motions.

4. He worked for many hours reading and re-reading the files, documents, discovery requests and pleadings in this case (on both sides). In addition, as requested by this Court, he consulted with the Plaintiffs and Plaintiffs obtained a new written bid from Desert Engineering, dated May 9, 2021, estimating costs and services necessary to repair the parking lot damaged by the trucks and other vehicles used by agents of Defendant during the condemnation and construction period.

5. Focusing on this Court's comments at the last hearing regarding costs of repair, he felt very well-prepared for the May 12, 2021 Zoom Call at 2:00 p.m., and hereby respectfully submits that Plaintiffs should be allowed to present the materials which the Court wanted to see (as well as other cogent, compelling, admissible and patently disputed facts).

6. He tried on several occasions, through several telephone numbers, to contact the personnel in Department 10 shortly before 2:00 PM on the hearing date to confirm

the link to the zoom call. Having been unsuccessful in reaching anyone by telephone, MJM sent an email to Department 10 requesting information on how to join the zoom call. Court staff were very helpful and courteous, and sent him the standard link for the zoom call. When MJM pressed the link, he was taken to a site awaiting his turn to be joined in. The court had previously advised that it was allocating 2 hours to the hearing.

7. Accordingly, when MJM was on the zoom site awaiting to be joined into the call by the court, MJM patiently waited, assuming the Court was attending to other matters and would get to him as soon as possible, after the court was ready.

8. MJM was placed on the zoom call at approximately 2:08, and waited, without interruption or leaving the site, until approximately 4:08, when MJM became aware of an email from the court advising it had entered an order granting defendant's motion for summary judgment, based on the fact that MJM had not appeared at the hearing.

9. After the order was entered, at approximately 4:10, MJM contacted the Department 10 staff to advise what had happened and was informed that, indeed, the court had entered an order based upon my failure to attend.

10. A copy of his correspondence with Department 10 is attached hereto as Schedule A.

Further Affiant sayeth not.

Dated this 1st day of June, 2021.

/s/ Michael J. Morrison

Michael J. Morrison

Gmail Michael J. Morrison, Chtd. <venturelawusa@gmail.com>

ZOOM LINK

Parke, Shannon <Shannon.Parke@washoecourts.us> Wed, May 12, 2021 at 2:07 PM
To: "Michael J. Morrison, Chtd." <venturelawusa@gmail.com>
Cc: "Merkouris, Mikki" <Mikki.Merkouris@washoecourts.us>

Hi there,

You are invited to a Zoom webinar.

When: May 12, 2021 02:00 PM Pacific Time (US and Canada)

Topic: CV19-00459 ILLIESCU v. RTC - ORAL ARGUMENTS ON MSJ

Please click the link below to join the webinar:

https://washoecourts.zoom.us/j/92072190692

Shannon Parke, JD
Judicial Assistant

Second Judicial District Court

Department15, Judge David A. Hardy
75 Court Street

Reno, NV 89501
Phone: (775) 328- 3880

Fax: (775) 328-3534

NOTICE: This communication, including any attachments, may contain confidential information and is intended only for the individual or entity to whom it is addressed. Any review, dissemination, or copying of this communication by anyone other than the recipient is strictly prohibited by the Electronic Communications Privacy Act, 18 U.S.C. 2510-2521. If you are not the intended recipient, please contact the sender by reply email, delete and destroy all copies of the original message.

Schedule "A"

ZOOM LINK

Michael J. Morrison, Chtd. <venturelawusa@gmail.com> Wed, May 12, 2021 at 4:27 PM
To: "Parke, Shannon" <Shannon.Parke@washoecourts.us>
Cc: "Merkouris, Mikki" <Mikki.Merkouris@washoecourts.us>, Dane Anderson <DAnderson@woodburnandwedge.com>
Bcc: venturelawusa@gmail.com

Hi, Shannon-

When you kindly sent me the link and told me to click on it and the Judge would come on when he's ready, I clicked on the link and Zoom came up, I "joined" and was put into the waiting room and waited for the Judge to join me in.
And I waited for the Judge from approximately 2:08, until 4:08, when saw your Order e-mailed to me that the Court concluded I chose not to attend and granted relief to RTC.
If the Court does not have a protocol for addressing a system error / mistake like this, I would greatly appreciate it if you would so notify me in order that I may have an opportunity to file for some relief with the Court. Thank you very much for your kind assistance.

Best,
Mike

Sent from my iPhone

> On May 12, 2021, at 14:07, Parke, Shannon <Shannon.Parke@washoecourts.us> wrote:
>
> Hi there,
>
> You are invited to a Zoom webinar.
>
> When: May 12, 2021 02:00 PM Pacific Time (US and Canada)
>
> Topic: CV19-00459 ILLIESCU v. RTC - ORAL ARGUMENTS ON MSJ

Gmail Michael J. Morrison, Chtd. <venturelawusa@gmail.com>

ZOOM LINK

Parke, Shannon <Shannon.Parke@washoecourts.us> Wed, May 12, 2021 at 4:41 PM
To: "Michael J. Morrison, Chtd." <venturelawusa@gmail.com>
Cc: "Merkouris, Mikki" <Mikki.Merkouris@washoecourts.us>, Dane Anderson <DAnderson@woodburnandwedge.com>

Mr. Morrison,

I reviewed the zoom link I sent to verify it was correct. It was. There is no waiting room on webinars. I provided no instruction about waiting for the Judge to join. I did not e-mail you any order. Finally, as far as I know no order exists yet.

Please file any request for relief you deem appropriate.

Shannon Parke, JD
Judicial Assistant

Second Judicial District Court

Department15, Judge David A. Hardy
75 Court Street

Reno, NV 89501
Phone: (775) 328- 3880

Fax: (775) 328-3534

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From: Michael J. Morrison, Chtd. <venturelawusa@gmail.com>
Sent: Wednesday, May 12, 2021 4:28 PM
To: Parke, Shannon <Shannon.Parke@washoecourts.us> 3

ZOOM LINK

Michael J. Morrison, Chtd. <venturelawusa@gmail.com> Wed, May 12, 2021 at 5:20 PM
To: "Parke, Shannon" <Shannon.Parke@washoecourts.us>, "Michael J. Morrison, Chtd." <venturelawusa@gmail.com>
Cc: "Merkouris, Mikki" <Mikki.Merkouris@washoecourts.us>

Hey, Shannon - I certainly apologize for my use of incorrect "terms" when it comes to the Zoom system and operation.
But I did click "join"; it told me I was "joined"; and it told me something to the effect that I'd be joined in when the person in control did so. And I have a memory that you instructed me to wait for the Judge to join me. That said, I in no way mean to, or would ever, try to misstate what you said. I am stating what my COVID Brain heard. I am sorry for my misunderstanding that caused you concern. For that, I sincerely apologize.

And this is what I was referencing when I said I received an Order from "you" (meaning the Court):

NEF: JOHN ILIESCU JR ETAL VS RTC WASHOE CO (D15): ***Minutes: CV19-00459 Inbox

3:59 PM (54 minutes ago)

to me

****** IMPORTANT NOTICE - READ THIS INFORMATION *****

PROOF OF SERVICE OF ELECTRONIC FILING

A filing has been submitted to the court RE: CV19-00459
Judge: HONORABLE DAVID A. HARDY

Official File Stamp:	05-12-2021:15:58:14
Clerk Accepted:	05-12-2021:15:58:51
Court:	Second Judicial District Court - State of Nevada Civil
Case Title:	JOHN ILIESCU JR ETAL VS RTC WASHOE CO (D15)
Document(s) Submitted:	***Minutes
Filed By:	Court Clerk MMerkouris

Here, I see that I had mistakenly assumed you and the Court Clerk had worked together to process the Order. Again, no offense intended. But, I offer my apology for my confusion.

Finally (and very sincerely):
Sorry for creating undeserved drama for you at the end of your work day.

Cheers,
Mike
[Quoted text hidden]

Gmail Michael J. Morrison, Chtd. <venturelawusa@gmail.com>

ZOOM LINK

Parke, Shannon <Shannon.Parke@washoecourts.us> Thu, May 13, 2021 at 8:26 AM
To: "Michael J. Morrison, Chtd." <venturelawusa@gmail.com>
Cc: "Merkouris, Mikki" <Mikki.Merkouris@washoecourts.us>

No problem. I am sorry if I came off harsh. By way of clarification – the minutes are not an order, but do reflect what transpired in the hearing. I had no idea they had been entered so quickly. I am sorry for the confusion regarding zoom. I know Judge Hardy already had the zoom webinar running when I sent you the link so I don't know how you were waiting to join. All I can say now is to file any objections or statements for Judge Hardy to review.

I hope zoom works better for you in the future, but more I hope we can get back into court and stop using zoom.

Shannon Parke, JD
Judicial Assistant

Second Judicial District Court

Department15, Judge David A. Hardy
75 Court Street

Reno, NV 89501
Phone: (775) 328- 3880

Fax: (775) 328-3534

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From: Michael J. Morrison, Chtd. <venturelawusa@gmail.com>
Sent: Wednesday, May 12, 2021 5:21 PM
To: Parke, Shannon <Shannon.Parke@washoecourts.us>; Michael J. Morrison, Chtd. <venturelawusa@gmail.com>
Cc: Merkouris, Mikki <Mikki.Merkouris@washoecourts.us>
Subject: Re: ZOOM LINK

[**NOTICE:** This message originated outside of Second Judicial District Court, State of Nevada -- **DO NOT CLICK** on **links** or open **attachments** unless you are sure the content is safe.] 6

ZOOM LINK

Michael J. Morrison, Chtd. <venturelawusa@gmail.com> Thu, May 13, 2021 at 8:57 AM
To: "Parke, Shannon" <Shannon.Parke@washoecourts.us>
Cc: "Merkouris, Mikki" <Mikki.Merkouris@washoecourts.us>

Hey, Shannon -
Thanks very much for your email; I appreciate your clarification of the events.
From here, I'll do some research and file an appropriate pleading.
And please lemme know when the "Back to Court" Party is on the Docket!

Best,
Mike
[Quoted text hidden]

F I L E D
Electronically
CV19-00459
2021-06-02 10:49:44 AM
Alicia L. Lerud
Clerk of the Court
Transaction # 8474224 : csulezic

EXHIBIT "2"

EXHIBIT "2"

Discovery

MICHAEL J. MORRISON, ESQ.
Nevada State Bar No. 1665
1495 Ridgeview Dr., #220
Reno, Nevada 89519
(775) 827-6300

Attorney for Plaintiffs

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

* * * * *

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU, JR. AND SONNIA ILIESCU 1992 FAMILY TRUST, Plaintiff, vs. THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; AND DOES 1-40, Defendants.	CASE NO. CV19-00459 DEPT. NO. 15 **PLAINTIFFS' SUPPLEMENTAL RESPONSES TO DEFENDANT'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS TO PLAINTIFF SONNIA ILIESCU**

COME NOW JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU, JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., individually; and SONNIA ILIESCUE, individually, by and through their attorney, Michael J. Morrison, Esq., and pursuant to NRCP 26 and 34, supplementally respond to the Defendant's First Set of Requests for Production of Documents to Plaintiff Sonnia Iliescu, as follows:

REQUEST NO. 4:

All documents supporting your claim that you have suffered reparable and irreparable damages to the "Remaining Property and to each of the respective Plaintiffs," as alleged in paragraph 11 of your Complaint.

RESPONSE TO REQUEST NO. 4:

See Exhibit "1", attached.

REQUEST NO. 5:

All documents supporting your claim for loss of market value of the Remaining Property as alleged in paragraph 11(a) of your Complaint.

RESPONSE TO REQUEST NO. 5:

See Exhibit "1", attached.

REQUEST NO. 9:

All documents supporting your claim for loss of use of the Remaining Property as alleged in paragraph 11(d) of your Complaint.

RESPONSE TO REQUEST NO. 9:

See Exhibit "1", attached.

REQUEST NO. 10:

All documents supporting your claim for costs of property restoration as alleged in paragraph 11(e) of the Complaint.

RESPONSE TO REQUEST NO. 10:

See Exhibit "1", attached.

REQUEST NO. 11:

All documents supporting your claim for physical damage to and destruction of the Property as alleged in paragraph 11(c) of your Complaint.

RESPONSE TO REQUEST NO. 11:

See Exhibit "1", attached.

REQUEST NO. 15:

All documents supporting your allegation that RTC or any other defendant acted in a malicious, destructive, willful, mean-spirited or other improper manner.

RESPONSE TO REQUEST NO. 15:

See Exhibit "1", attached.

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the document to which this Affirmation is attached does not contain the social security number of any person.

DATED this 11th day of May, 2021.

/Michael J. Morrison/

Michael J. Morrison, Esq.
Nevada State Bar No. 1665
1495 Ridgeview Dr., #220
Reno, Nevada 89519
(775) 827-6300
Attorney for Plaintiffs

DESERT ENGINEERING
26 E. Parsell Lane Yerington, NV 89447 | 775-463-3478 | Fax 775-463-3524
Nevada State Contractor License #39479 | California State Contractor License #1027971

Limit: Unlimited

PROPOSAL / CONTRACT

TO:
Sonnia Iliescu Family Trust
642 East 4th Street
Reno, NV 89502

Contract # 2105091
Date: 5/09/2021

Telephone: 775- 771-6263
Email:

We propose to furnish all materials, machinery and perform all labor necessary to complete the following:

4th Street Parking Lot Rehabilitation:

Remove and replace a 13,042 sq. ft. asphalt parking lot.
- **Pulverize existing asphalt**
- **Excavate and off haul generated spoils**
- **Fine grade and compact subgrade**
- **Tack vertical edges with SS-1h**
- **Install 3 inches of compacted Type 3 PG-64-22 asphalt paving**
- **Install painted asphalt markings and handicap sign and post**

General Conditions & Exclusions

No fees, bonds or permits.
No construction staking, surveying, or materials testing.
No erosion control measures or SWPP improvements.
No responsibility for base rock installations or soil sterilant installations.
Bid is based on established pricing through June 2021. Dependent on weather, schedule and crew availability. If work continues past this date prices will be subject to change in reflection of current labor, equipment and or materials price escalations.
Bid is based on asphalt mix to conform to a Type 3 asphalt PG64-22 w/ RAP, asphalt mix design.
Bid is based on closing the parking lot and drive-thru for 3 days while work is being done.

The property is described as parking lot located at 642 East 4th, Reno NV 89502

All the above work to be completed in a substantial and workmanlike manner according to standard practices, for the sum of: Eighty Four Thousand Five Hundred Fifty **Dollars $84,550.00**

Payment to be made as follows:
As the work progresses to the value one hundred percent 100 % of all work completed.

The entire amount of contract to be paid within 30 days of completion. Interest at the legal rate will be charged for late payments. Any alterations or deviation from the specifications involving extra cost of material or labor will only be executed upon written order for same, and will become an extra charge over the sum mentioned in this contract. All agreements must be made in writing. Any question concerning a contractor may be referred to the registrar of the board whose address is:
Nevada State Contractors Board
9670 Gateway Drive Suite 100
Reno, NV. 89502

Authorized Signature: Jim Chico

NOTE: This proposal may be withdrawn by us if not accepted within: 30 Days

You are hereby authorized to furnish all materials and labor required to complete the work mentioned in the above proposal, for which I/W agree to pay the amount mentioned in said proposal, and according to the terms thereof.

Accepted Signature: _____ Date: _____

FILED
Electronically
CV19-00459
2021-06-02 01:41:47 PM
Alicia L. Lerud
Clerk of the Court
Transaction # 8474916

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU, JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an Individual; and SONNIA ILIESCU, an Individual,

Plaintiffs,

vs.

THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1-40,

Defendants.

_____/

Case No. CV19-00459

Dept. No. 15

ORDER SETTING HEARING AND FOR ELECTRONIC APPEARANCE

This Court is in receipt of Plaintiffs' Motion for Reconsideration and Rehearing filed June 1, 2021 and finds oral arguments appropriate. Accordingly, with the e-mail cooperation of counsel Oral Argument have been scheduled to occur on June 8, 2021 at 10:00 a.m. As the Second Judicial District Court remains temporarily closed to in-person

public access, all counsel and respective parties shall appear telephonically/electronically through Zoom.[1]

The Zoom Webinar information will be posted here: https://www.washoecourts.com/onlinehearings. You can also e-mail sheila.mansfield@washoecourts.us or Mikki.Merkouris@washoecourts.us for an electronic copy of the link.

If you do not have access to a device with internet access plus video and audio capabilities, please email department 15 staff (sheila.mansfield@washoecourts.us or Mikki.Merkouris@washoecourts.us) for call-in information.

The parties shall email a courtesy copy of any document filed on or after 4:00 p.m. on the judicial day immediately preceding this hearing to department 15 staff.

IT IS SO ORDERED.

Dated: June 2, 2021.

David A. Hardy
District Court Judge

[1] This Court reminds all participants to dress appropriately. The electronic platform does not negate the gravity or formality of the proceedings. Protocols for attending hearings via zoom are posted in Spanish and English here: https://www.washoecourts.com/main/covid19response#ZoomProtocols.

F I L E D
Electronically
CV19-00459
2021-06-07 04:07:15 PM
Alicia L. Lerud
Clerk of the Court
Transaction # 8483047 : yviloria

2645
Dane W. Anderson, Esq.
Nevada Bar No. 6883
Bronagh M. Kelly, Esq.
Nevada Bar No. 14555
WOODBURN AND WEDGE
6100 Neil Road, Suite 500
Reno, Nevada 89511
Telephone: 775-688-3000
Facsimile: 775-688-3088
danderson@woodburnandwedge.com
bkelly@woodburnandwedge.com

Attorneys for Defendant, the Regional Transportation Commission of Washoe County

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an individual; AND SONNIA ILIESCU, an individual, Plaintiffs, v. THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1 – 40, inclusive, Defendants.	Case No.: CV19-00459 Dept. No.: 15

OPPOSITION TO MOTION FOR RECONSIDERATION AND REHEARING OF, OR IN THE ALTERNATIVE, MOTION TO SET ASIDE THIS COURT'S ORDER PURSUANT TO NRCP 60(b)(1) and (6) [INCLUDING THE "FIRST" AND ANY OTHER "ERRATAS" THAT MAY BE FILED]

Defendant The Regional Transportation Commission of Washoe County ("RTC") submits its opposition to Plaintiffs' Motion For Reconsideration And Rehearing Of, Or In The Alternative, Motion to Set Aside This Court's Order Pursuant To NRCP 60(b)(1) and (6) filed on June 1, 2021 (referred to hereafter as "MFR"), including the "First Errata"

filed the same day and any subsequent "Errata" Plaintiffs may file. This opposition is based on the following points and authorities, the documents on file with the Court, all transcripts of hearings before the Court in this matter, and any further argument at the hearing scheduled for June 8, 2021.

I. INTRODUCTION

Plaintiffs ask the Court to (1) reconsider its decision to grant RTC's motion for summary judgment and to "rehear" that motion and/or (2) set aside its order pursuant to NRCP 60(b) and, presumably, permit this case to proceed to trial. As discussed below, Plaintiffs have failed to demonstrate that either remedy is appropriate in this case.

Plaintiffs assert they were denied due process because their attorney did not appear at the May 12, 2021, oral argument on RTC's motion for summary judgment, which was held via a Zoom webinar conference. Plaintiffs blame "a technical error, equipment malfunction, oversight, mistake and/or inadvertence" for their attorney's failure to appear. MFR at 2:7-10. Plaintiffs claim their attorney waited in the "Zoom waiting site" for two hours before he was notified that the hearing was concluded and the Court had granted RTC's motion for summary judgment.[1] *See* MFR at 3:19-20; Declaration of Michael J. Morrison, attached to the First Errata as Exhibit 1, ¶¶ 6-9.

Plaintiffs suggest that, had their attorney attended the oral argument on May 12, Plaintiffs would have demonstrated that summary judgment should not have been granted. Plaintiffs state that they have "cogent and compelling ***disputed facts*** to present" in opposition to summary judgment. *Id.* at ¶ 3 (emphasis in original). It appears from Plaintiffs' MFR and First Errata that these "facts" consist of solely of a one-page bid from Desert Engineering dated May 9, 2021, containing an estimate of $84,500 to remove and replace the asphalt parking lot. *See* Exhibit 2 to First Errata. This was emailed to RTC's counsel at 5:00 p.m. on May 11, 2021, the night before oral argument, 74 days after the expert witness disclosure deadline, and over two months after RTC had filed its motion in limine to exclude experts.

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Reno, NV 89511
775-688-3000

Plaintiffs assert that the Court "ordered" them to obtain this new bid. MFR at 3:22-27; Declaration of Michael J. Morrison at ¶ 4. RTC's counsel reviewed the transcript for the April 27, 2021, status hearing as well as the entire file in this matter and found no such order or request. Plaintiffs further claim there was a bid from Apex Grading & Paving in the amount of $73,000 that was "previously provided to Defendant by Plaintiffs on or about August 26, 2020. *See* MFR at 4:3-5; First Errata at 4:2-4. This is false. RTC's counsel has searched his records and found no such disclosure. Further, Plaintiffs fail to attach any such bid to their briefs, despite citing that bid as Exhibit 3 to the MFR. Moreover, even if Plaintiffs had provided the alleged Apex bid when they claim they did, they still failed to timely disclose any experts in this case.

In short, there is no admissible evidence before the Court that would defeat summary judgment. There is no admissible evidence of the cost to repair the parking lot, and no admissible evidence of reduction in property value as a result of the alleged damage to the parking lot. Plaintiffs waived any other compensatory damages by virtue of the parties' December 6, 2019, stipulation. Thus, there is no basis on which to reconsider or set aside the order granting summary judgment.

II. LAW AND ARGUMENT

A. Plaintiffs fail to demonstrate that reconsideration is warranted.

Reconsideration is appropriate only when "substantially different evidence is subsequently introduced or the decision is clearly erroneous." *Masonry & Tile Contractors Ass'n of S. Nev. v. Jolley, Urga & Wirth, Ltd.*, 113 Nev. 737, 741, 941 P.2d 486, 489 (1997). Motions for reconsideration are not the proper vehicles for rehashing old arguments or advancing theories that could have been presented earlier but were not. *Resolution Trust Corp. v. Holmes*, 846 F.Supp. 1310, 1316 (S.D. Tex. 1994). Nor are motions for reconsideration "intended to give an unhappy litigant one additional chance to sway the judge." *Durkin v. Taylor*, 444 F.Supp. 879, 889 (E.D. Va. 1977).

[1] RTC has no information to challenge Plaintiffs' version of events, but it is hard to believe an attorney prepared to argue a dispositive motion would simply wait for hours without doing anything.

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Plaintiffs have presented no "substantially different evidence." While they attach the Desert Engineering bid to the First Errata, RTC previously brought that bid to the Court's attention at the May 12 oral argument prior to the Court's ruling. *See* Transcript of Proceedings, Oral Arguments on MSJ, excerpts of which are attached hereto as **Exhibit 1**, 8:16-10:10. Despite being made aware of the Desert Engineering bid, the Court entered summary judgment anyway. Thus, there is nothing new or different about that bid. Additionally, it remains inadmissible hearsay and an improper attempt to belatedly introduce expert opinion.

There is nothing clearly erroneous about the Court's ruling on summary judgment. The result would have been the same had Plaintiffs' counsel appeared for the oral argument because there is simply a complete lack of evidence supporting Plaintiffs' claims. Therefore, Plaintiffs' motion for reconsideration should be denied.

B. Relief under NRCP 60(b) is not warranted.

Plaintiffs claim they were denied due process because their Counsel failed to appear at the May 12 oral argument due to excusable neglect.[2] Plaintiffs ask the Court to set aside its order granting summary judgment pursuant to NRCP 60(b), the purpose of which is to "redress any injustices that may have resulted *because of* excusable neglect or the wrongs of the opposing party." *Rodriguez v. Fiesta Palms, LLC*, 134 Nev. 654, 656, 428 P.3d 255, 257 (2018) (emphasis added). Put another way, the perceived injustice—in this case the entry of summary judgment—must be the result of the alleged excusable neglect—in this case counsel's failure to participate in oral argument.

That is not the case here. Summary judgment was not entered because Plaintiffs' counsel did not appear at oral argument. Summary judgment was entered because there is no evidence supporting Plaintiffs' claims. No argument would have changed that. The May 12 oral argument was not an evidentiary hearing at which Plaintiffs would have been permitted to introduce new evidence or to disclose an expert report that should have been

[2] RTC incorporates by reference and does not repeat here the arguments set forth in its Response To Notice Of Intent To File Motion filed on May 24, 2021.

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775-688-3000

disclosed months earlier. The purpose of NRCP 60(b) would not be served by setting aside summary judgment.

RTC does not know why Plaintiffs' counsel failed to participate in the hearing. RTC does question whether Plaintiffs' motion is brought in good faith and without intent to delay the proceedings. This case has been pending for years without any effort from Plaintiffs to prosecute their claims. Clearly Plaintiffs' counsel is aware of the Court's procedural requirements, one of which is to attend scheduled hearings. The offered excuse for his failure to appear is questionable.

Plaintiffs' Rule 60(b) request should be denied, as it flies in the fact of NRCP 1, which provides that the rules of procedure be construed and administered to secure the just, speedy and inexpensive determination of every action.

III. CONCLUSION

Plaintiffs have failed to demonstrate that reconsideration and/or Rule 60(b) relief are warranted. Their motion should be denied.

Affirmation pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the personal information of any person.

DATED: June 7, 2021.

WOODBURN AND WEDGE

By *<u>/s/ Dane W. Anderson</u>*
Dane W. Anderson, Esq.
Nevada Bar No. 6883
Bronagh M. Kelly, Esq.
Nevada Bar No. 14555

Attorneys for Defendant
The Regional Transportation
Commission of Washoe County

Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, NV 89511
775-688-3000

TABLE OF EXHIBIT

Exhibit	No. of Pages (*Including Exhibit Sheet*)	Exhibit No.
Excerpts from Hearing Transcript re: May 12, 2021 Oral Arguments on MSJ	5	1

Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, NV 89511
775-688-3000

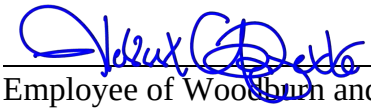
CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Woodburn and Wedge and that on this date, I caused to be sent via electronic delivery through the Court's E-flex system a true and correct copy of the **OPPOSITION TO MOTION FOR RECONSIDERATION AND REHEARING OF, OR IN THE ALTERNATIVE, MOTION TO SET ASIDE THIS COURT'S ORDER PURSUANT TO NRCP 60(b)(1) and (6) [INCLUDING THE "FIRST" AND ANY OTHER "ERRATAS" THAT MAY BE FILED]** to:

MICHAEL J. MORRISON, ESQ.
1495 Ridgeview Dr., #220
Reno, Nevada 89519
venturelawusa@gmail.com

Attorneys for Plaintiffs

DATED: June 7, 2021.



Employee of Woodburn and Wedge

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CV19-00459
2021-06-07 04:07:15 PM
Alicia L. Lerud
Clerk of the Court
Transaction # 8483047 : yviloria

EXHIBIT "1"

EXHIBIT "1"

In the Matter Of:

Department 15

ORAL ARGUMENTS ON MSJ

May 12, 2021

Job Number: 758613

that the RTC was taking in that case.

So, hopefully, I'm answering the Court's question regarding that document. I don't believe that's at all evidentiary support for any sort of loss of value or cost of repair in this case.

And just quickly to answer the Court's question about what discovery has the plaintiff done, the answer is none. There's been no written discovery at any point in time served by Mr. Morrison's office or anyone else acting for the plaintiffs seeking discovery from the RTC. They've attempted no depositions. They've, again, produced no expert reports and so, really, they haven't done any discovery and made no effort to obtain information in this case.

THE COURT: Has any discovery been propounded since my March 25th order reserving the effect of that order? I know there are different arguments related to whether that resets, but since that March 25th order, as I understand discovery closes on May 28th or thereabouts, has there been any renewed energy towards discovery by the plaintiffs?

MR. ANDERSON: Your Honor, there's been no

specific discovery requests served on RTC at any time, including since this court's March 25th order or including since the April 27th status hearing. Last night at about 5:00 I did receive an email from Mr. Morrison with the email -- and I had copies thinking for some reason I'd be going to court today, which obviously, I'm not. But I'll represent to the Court the email says, "Hey, Dane. Please see attached. Regards, Mike." It was sent to me at 4:58 p.m. yesterday evening. It's a supplemental response to their prior responses to requests for production. And attached to this document is what looks to be a bid estimate to have the parking lot repaired. I can't quite read the name of the company on the top because the transmission was not good. It is -- has an electronic signature of whoever, apparently, is responsible for the company and it has a damage estimate of roughly -- or a repair estimate of roughly $98,000.

So, I received that last night and that's the only activity I've seen since the case began, really, other than the other disclosures.

THE COURT: You told me you received it

yesterday, but what is the date of the estimate of repair?

MR. ANDERSON: Yes, your Honor. The date of the proposal is dated May 9th, 2021, and so I guess that was Sunday I believe that that was prepared. And Mr. Morrison provided it to me, as I said, yesterday evening. I hope that answers your Honor's question. That's the only activity I've seen since both the March 25th order and the April 27th status conference.

So, going back to the standards on summary judgment, there's just no admissible evidence -- and I'd have the same objection to this document that we received last night. It clearly is in the nature of what's purporting to be an expert opinion. It did not exist until three days ago. It's attempting, I think, to cover for the prior failure to disclose by February 26th an expert to provide a cost of repair. And so at the current time it's not part of the Court's file, and in any event at this point it's also inadmissible hearsay.

As to whether there's any other evidence in the record that might support their claims, I think they were obligated on opposition to summary

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2021-06-08 09:19:59 AM
Alicia L. Lerud
Clerk of the Court
Transaction # 8483818

2610
MICHAEL J. MORRISON, ESQ.
Nevada State Bar No. 1665
1495 Ridgeview Dr., #220
Reno, Nevada 89519
(775) 827-6300

Attorney for Plaintiff

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

* * * * *

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU, JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an Individual; and SONNIA ILIESCU, an Individual,

Plaintiffs,

vs.

THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1-40,

Defendants.

CASE NO. CV19-00459

DEPT. NO. 15

PLAINTIFF'S FIRST SUPPLEMENT TO EXHIBITS TO MOTION FOR LEAVE FOR RECONSIDERATION AND REHEARING OF, OR, IN THE ALTERNATIVE, MOTION TO SET ASIDE, THIS COURT'S ORDER PURSUANT TO NRCP 60(b)(1) and (6)

COME NOW JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU, JR. AND SONNIA ILIESCU 1992 FAMILY TRUST("**Trust**"); JOHN ILIESCU, JR., an Individual ("**John**"); and SONNIA ILIESCU, an Individual ("**Sonnia"**), together sometimes referred to as "**Plaintiffs**", and respectfully submit this supplementary Exhibit to the Motion pending herein.

This Exhibit 2 contains e-mails between the undersigned counsel and Zoom technical support personnel relating to the technical problems experienced by the undersigned in connection with the undersigned's difficulties and resulting inability to access the Zoom hearing on May 12, 2021.

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the document to which this Affirmation is attached does not contain the social security number of any person.

DATED this 8th day of June, 2021.

_____/s/ *Michael J. Morrison*_____

Michael J. Morrison, Esq.
Nevada State Bar No. 1665
1495 Ridgeview Dr., #220
Reno, Nevada 89519
(775) 827-6300

Attorney for Plaintiffs

CERTIFICATE OF MAILING

I hereby certify that on this date I personally caused to be served a true copy of the foregoing I hereby certify that on this date I personally caused to be served a true copy of the foregoing Supplement by the method indicated and addressed to the following:

Dane W. Anderson, Esq.	____ Via U.S. Mail
Woodburn Wedge	____ Via Overnight Mail
6100 Neil Road, Suite 500	____ Via Hand Delivery
Reno, Nevada 89511	_X___ Via E-mail
	_X___ Via ECF

DATED this 8th day of June, 2021.

_____/s/ *Michael J. Morrison*_____

Michael J. Morrison, Esq.

INDEX OF EXHIBITS

Exhibit No.	Description	No. Pages
1	E-mail messages between Michael J. Morrison Dated June 7-8, 2021	4

F I L E D
Electronically
CV19-00459
2021-06-08 09:19:59 AM
Alicia L. Lerud
Clerk of the Court
Transaction # 8483818

EXHIBIT "2"

EXHIBIT "2"

Marimar Cunanan (Zoom)

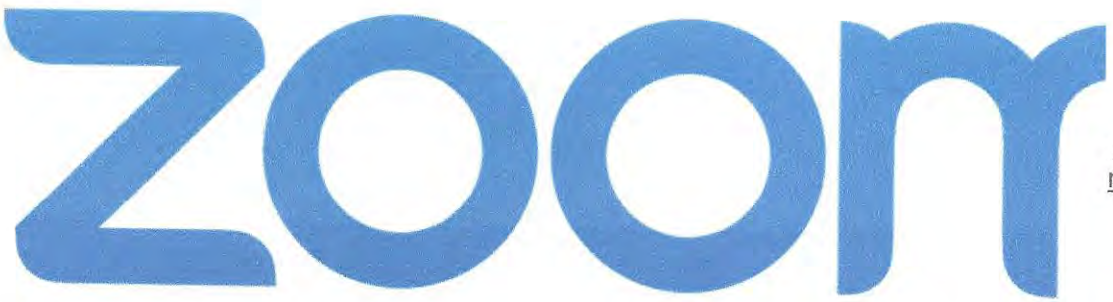
Jun 8, 2021, 0:49 PDT

Hi Michael,

Thanks for contacting Zoom Support! I do apologize we have a limited scope of support if we didn't have the meeting ID. When I also, click the link it is saying that it needs a meeting ID.

I would like to check if possible for you to ask Shannon to confirm if this is the meeting ID number 92072190692 on the meeting you should attend to?

Thanks
Marimar



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Your request (#11163134) has been updated. Reply to this email or follow the link above.

If this update helps resolve your issue, please select "Close My Ticket" below.

Close My Ticket

Marimar Cunanan (Zoom)

Jun 7, 2021, 21:43 PDT

Hi Michael,

Thanks for contacting Zoom Support! I would like to know by any chance can they provide the meeting ID number or would it be possible to confirm if this is the meeting ID number 92072190692 on the meeting you should attend to? I would like to check this further so we can identify the issue. Thank you!

Thanks
Marimar

venturelawusa

Jun 7, 2021, 21:32 PDT

This is the invitation from the court to attend the zoom meeting on May 12, 2021 at 2 PM Pacific time. This is the zoom call link that I clicked on May 12, 2021 at approximately 2:08 PM (Pacific).

Sent from my iPhone

On May 12, 2021, at 14:07, Parke, Shannon <Shannon.Parke@washoecourts.us> wrote:

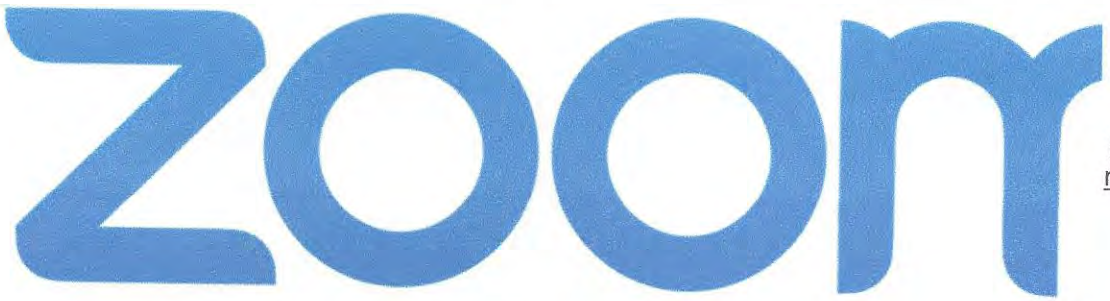
Hi there,

You are invited to a Zoom webinar.
When: May 12, 2021 02:00 PM Pacific Time (US and Canada)
Topic: CV19-00459 ILLIESCU v. RTC - ORAL ARGUMENTS ON MSJ

Please click the link below to join the webinar:
https://washoecourts.zoom.us/j/92072190692

<image002.png>

Shannon Parke, JD
Judicial Assistant
Second Judicial District Court
Department15, Judge David A. Hardy
75 Court Street
Reno, NV 89501
Phone: (775) 328- 3880
Fax: (775) 328-3534



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Your request (#11163134) has been updated. Reply to this email or follow the link above.

If this update helps resolve your issue, please select "Close My Ticket" below.

Close My Ticket

Marimar Cunanan (Zoom)

Jun 7, 2021, 20:02 PDT

Hi Michael,

I appreciate your providing me these details, there are several possibilities that this issue might have caused you. Either you have entered a different Zoom meeting or you are in the waiting room for the host to enter you.

Did they possibly give you /provide you with the meeting ID, time, and date that this occurred? I would like to take a better look at the meeting in our backend.

Looking forward to your response, please feel free to let me know if you need anything else!

Thanks
Marimar

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CV19-00459
2021-06-08 11:42:41 AM
Alicia L. Lerud
Clerk of the Court
Transaction # 8484485

CASE NO. CV19-00459 **JOHN ILIESCU JR. ETAL VS. RTC WASHOE COUNTY**

DATE, JUDGE OFFICERS OF COURT PRESENT	APPEARANCES-HEARING
6/8/2021 HONORABLE DAVID A. HARDY DEPT. NO. 15 M. Merkouris (Clerk) S. Koetting (Reporter) **Zoom Webinar**	**ORAL ARGUMENTS ON MOTION FOR RECONSIDERATION** 10:05 a.m. – Court convened via Zoom. Michael Morrison, Esq., was present on behalf of Plaintiffs John & Sonnia Iliescu. Dane Anderson, Esq., and Bronagh Kelly, Esq., were present on behalf of Defendant RTC Washoe County. *Pursuant to the national and local COVID-19 emergency response that caused temporary closure of the courthouse located at 75 Court Street in Reno, Washoe County, Nevada, this hearing was conducted remotely. This Court and all participants appeared electronically via Zoom Webinar. This Court was physically located in Washoe County, Nevada.* **COURT** noted that this is the time set to address the Plaintiffs' Motion for Reconsideration and Rehearing of, or, in the Alternative, Motion to Set Aside This Court's Order Pursuant to NRCP 60(b)(1) and (6), filed June 1, 2021, however if counsel Morrison was unable to join the Zoom Webinar on May 12, 2021, this Court will accept that representation and will allow him to present argument in opposition of the Motion for Summary Judgment. Counsel Anderson indicated that he has no reason to doubt counsel Morrison's representation that he unsuccessfully attempted to join the Zoom Webinar on May 12, 2021 and has no objection to the Court allowing him to present argument on the Motion for Summary Judgment. **COURT ORDERED:** Counsel Morrison's Motion for Reconsideration is GRANTED, and he may present argument on the Motion for Summary Judgment. Counsel Morrison advised the Court that he was prepared to argue the Motion for Reconsideration this morning, and he would request a brief recess to allow him to gather his documents on the Motion for Summary Judgment. 10:10 a.m. – Court stood in recess. 10:15 a.m. – Court reconvened. Counsel Morrison presented argument in opposition of the Motion for Summary Judgment, filed March 9, 2021. Counsel Anderson lodged a continuing objection to counsel Morrison arguing and testifying to facts not in evidence. **COURT** noted counsel Anderson's objection, and allowed counsel Morrison to continue. Counsel Morrison further presented argument in opposition of the Motion for Summary Judgment. Counsel Anderson responded; and he further argued in support of the Motion for Summary Judgment. Counsel Morrison replied; and he presented further argument in opposition of the Motion for Summary Judgment. **COURT ORDERED:** Matter taken under advisement; the Court will speak through a written order. 11:32 a.m. – Court adjourned.

4185

STEPHANIE KOETTING

CCR #207

75 COURT STREET

RENO, NEVADA

IN THE SECOND JUDICIAL DISTRICT COURT

IN AND FOR THE COUNTY OF WASHOE

THE HONORABLE DAVID HARDY, DISTRICT JUDGE

--oOo--

JOHN ILIESCU, JR. AND SONNIA ILIESCU, et al.,	)	
Plaintiffs,	)	
vs.	)	Case No. CV19-00459
THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY,	)	Department 15
Defendant.	)	

_____

TRANSCRIPT OF PROCEEDINGS

HEARING

June 8, 2021

10:00 a.m.

Reno, Nevada

Reported by: STEPHANIE KOETTING, CCR #207,
Computer-Aided Transcription

APPEARANCES:

For the Plaintiff:

MICHAEL MORRISON, ESQ.
Attorney at Law
1495 Ridgeview Drive
Reno, Nevada

For the Defendant:

WOODBURN AND WEDGE
By: DANE ANDERSON, ESQ.
6100 Neil Rd.
Reno, Nevada

RENO, NEVADA, June 8, 2021, 10:00 a.m.

--oOo--

THE COURT: This is CV19-00459. It is captioned Iliescu versus the Regional Transportation Commission. I see Mr. Anderson and Mr. Morrison.

MR. MORRISON: Good morning, your Honor.

THE COURT: Good morning to both of you. Let me dispel some arguments and attempt to focus on what is most important for me.

MR. MORRISON: Okay.

THE COURT: If Mr. Morrison tells me that he attempted to join us by Zoom, that is good enough for me. I think that alone compels this hearing. We have pledged grace and accommodation through this electronic environment.

So I don't need to see emails with Zoom and I don't need, Mr. Morrison, I don't need you to prove that attempted to participate. I accept that as true.

MR. MORRISON: Thank you, your Honor.

THE COURT: I think the biggest question for me is whether there is a genuine issue of material fact created by admissible evidence. And the RTC's position has been that there was a failure of evidence such that there cannot be a genuine issue of material fact and it really comes down to

whether the first and now the second cost of repairs qualify through the filter of expert reports and causation, damages to costs -- excuse me -- damage to property, to costs of repair and so forth.

And so I kind of want to reset and allow Mr. Morrison to make whatever arguments he would have made if he was able to join us by Zoom so that there's a full opportunity to be heard. And so, counsel, do either of you want to respond to what I've said so far?

MR. MORRISON: No, your Honor. I understand and appreciate the rules of engagement here.

MR. ANDERSON: No, your Honor. I accept the Court's acceptance of Mr. Morrison's attempts. I have no reason to doubt them.

I do want to quickly introduce my associate, Bronagh Kelly, who is also joining us from Woodburn and Wedge on behalf of RTC in this hearing.

THE COURT: Thank you. Good morning to you.

MS. KELLY: Good morning.

THE COURT: I don't know how to do a do-over. I don't know if I invite Mr. Anderson to argue his points and authorities as the moving party or whether I should have Mr. Morrison begin with what he hoped to present to the Court last time.

MR. MORRISON: Your Honor, respectfully, I had understood and prepared for the motion for reconsideration versus the summary judgment. And so if the Court is going to want to hear the motion for summary judgment, I respectfully ask for a couple of minutes to find the documents and files that I had for that prior hearing on the 12th.

I have my motion for reconsideration stuff before me and I can very quickly move into the other arena. I'm mindful of what Mr. Anderson has filed in respect to the fact that there's no factual evidence and that there hasn't been any production of documents. I recognize that and I had prepared for that in the May 12th hearing.

So since the Court's desire is to move to the issue of the facts that would support some damages, I'll change lanes here.

THE COURT: I want to give you a full opportunity to be heard on anything you believe is relevant to my decision on summary judgment. That's what I would most benefit from.

MR. MORRISON: Okay. Very well. If the Court would indulge me for just a minute, I'll get my other pad.

THE COURT: Sure. So I'm going to mute myself and deactivate my video for five minutes. Is that long enough?

MR. MORRISON: Yes, your Honor, that should be

more than enough. Thank you.

THE COURT: It's 10:10. I'll see you at 10:15.

MR. MORRISON: Appreciate it.

(A short break was taken.)

THE COURT: And to Mr. Morrison, you may begin.

MR. MORRISON: Thank you, your Honor. Turning first to the issue of no documents served, no evidence to support the damages, I'd respectfully submit, your Honor, that there was sufficient and substantive disclosure to enable RTC to understand what the nature and extent of the damages were and then there were two estimates of the cost to repair the damages.

There's been some reference to the fact that there had never previously been disclosure of the Apex document, but that was disclosed in the opposition to summary judgment dated 30 June 2020 consisted of responses to RTC's request for production by both John and Sonnia Iliescu wherein they stated that these damages had been incurred to the pavement.

There's been great weight about the fact that there's nobody who has been identified or the trucks haven't been identified. And I think that is slightly confusing in the way that it's asserted, your Honor, because in truth and fact, what happened was that the RTC had itself, along with its agent, the contracting party, stated to Mr. Iliescu and

to the city council when they went for approval that there was going to be trucks parked on the pavement in furtherance of the job.

I think it's important to keep in mind the scope of this job. There was only about 60 to 80 square feet, approximately, that was taken. It was just along the street and at the curb and both the RTC and the contractor who was doing the work acknowledged. And in order to approve the condemnation, the commission required disclosure of what the scope of the work and scope of the project was and they highlighted the fact that there were de minimis amounts of property that were really needed and they all were adjacent to the street. One small part to put an item at the corner where the street came off Fourth Street and then a little bit further into the street -- or down the street was the installation of some type of electrical box.

And indeed they had a truck out there working and there are photos of that working. Sorry. I don't know what happened.

THE COURT: That's okay.

MR. MORRISON: And in connection with the scope of that work, there was a portion of Judge Polaha's order, which is Exhibit 4 to that opposition, Judge Polaha stated in paragraph four that the parties shall cooperate so as to

minimize interference between construction of the project and real parties' use of the remaining land on the parcel.

And so there's been a forceful and determined approach to make sure that there was no contract identified by the parties, but the plaintiffs testified that they thought it was a contract. And I respectfully suggest that Judge Polaha's order says very clearly the parties shall cooperate to minimize interference between construction and the use of the property.

And that to me is telling the parties that they have to come to some type of an agreement, and without that agreement, the project couldn't go forward.

And in paragraph two of Judge Polaha's order, it says that the property was defined as the three easements. And those easements are talking about areas next to the road. There was no need other than for one truck to be used in that project. And so the RTC has argued strongly that the project used the parking lot for furtherance of their exercise of their condemnation and the improvements that were being done.

Well, there were anywhere between five to six of those gigantic white trucks with big booms on them and they did use one at the site, certainly. And even if you say that -- because I wasn't out there all the time, there were two working on there, there were at least that many, if not

more, two, three, four other trucks parked on the lot as well as all the trucks for the construction workers that were hired and used by the subcontractors. And those are all agents of the RTC.

And the fact that John and Sonnia Iliescu don't know the names of them is really of no moment, because the RTC and most significantly the contractor engineering firm had stated that they would be using that area.

So I don't think there's really a legally cognizable doubt about the fact that the trucks belonged to the construction company. And I'm just looking here.

MR. ANDERSON: Your Honor, I hate to interrupt Mr. Morrison's argument, but I do need to state for the record, I think he's testifying, essentially, to a lot of facts that are not in evidence. I don't want my silence to be construed as a waiver of that objection. If I can have an ongoing objection that he's arguing facts not in the record and/or testifying as to matters that he may be a witness himself.

THE COURT: I understand. And you've lodged a contemporaneous objection, which shall be continuous. I do want Mr. Morrison to be heard in his entirety with the caveat that you just created. Go ahead, please, Mr. Morrison.

MR. MORRISON: Yes, your Honor. I'm just -- I'm

on the site looking for that document that will be more responsive to Mr. Anderson's comments. Forgive me, your Honor, and Mr. Anderson.

THE COURT: That's all right. Take your time.

MR. MORRISON: In respect to, back on target here, your Honor, as regards the cognizable evidence, admissible evidence, in Exhibit 5 to the opposition to summary judgment, there's a photo contained in Exhibit 5 that shows the condition of the pavement before condemnation. And that photo is included with the appraisal report and that was the Apex appraisal report.

There was also a letter from Mr. Johnson concerning the appraisal on 5 August 2015, and so there is in the record as Exhibit 4 to the opposition documents. There's a letter from the RTC and one from Mr. Johnson concerning the appraisal. The letter from RTC was included because the description of the size of the easement and the use therefor.

Then in Exhibit 3, the Johnson appraisal, had the photos of the parking area before construction started that were very clear and unequivocal about that.

As far as testimony from the deposition of Dr. Iliescu, at page 34, lines 22 to 25, and 69, lines 10 to 13, there's reference to the fact of the ownership of the trucks. And the fact that they don't know who the owner is, the other

parties who are agents to the RTC did identify who those trucks belonged to, because the engineering company sent a letter to Dr. Iliescu telling him. And this was produced in the request for production of documents. The president, I believe, that was the president was certainly a duly authorized officer, who had stated in his letter that their trucks, the energy company's trucks, so the owner of the trucks are already included in the record before any depositions or discovery were taken, because this was back when the condemnation was going through and the order to allow construction was issued.

Similarly, in Sonnia Iliescu's deposition, at page 19, pages 9 through 13, and 22 through 25, also indicate that same ownership issue. That these trucks that Mr. Anderson says there's no evidence of ownership of the trucks and no evidence of who the people were driving them, but that flies in the face of the statement by RTC's contracted agent to perform the work, the engineering company, telling Dr. Iliescu and his wife in writing that those trucks, that they were going to have their trucks. The only interpretation of that is that those trucks did belong. It's an admission and it's an admission against their principal, the RTC, as far as ownership goes.

The people who were driving the trucks, there was

attention paid to the fact that we didn't -- that the Iliescus didn't know who was driving the trucks. Well, they were the people who the engineering company had authorized to drive the trucks, because it told Dr. Iliescu and his wife that they were going to be their trucks being used in this project.

So the ownership of the truck issue that we can't identify anything so there can't be any evidence, I think, falls far from the mark respectfully, your Honor.

THE COURT: Mr. Morrison, let me ask a question about that, if I might.

MR. MORRISON: Please.

THE COURT: The claims have different elements and if this sole element before me was whether RTC or its agents entered upon the Iliescu property, that would be a fact question that I would not summarily adjudicate. And by enter the property, park their trucks, drive their trucks.

I don't believe that the Iliescus' failure to identify by name who was on their property is fatal. I would allow that go to a jury as a fact to be resolved. And I think the Iliescu testimony would create a fact question and then the RTC would respond to that fact question.

But as I understand the argument, it's not whether RTC or its agents were on the property. The argument that I

understand from RTC is that even if true, there is no evidence of what damage was caused by that presence on the Iliescu property.

I've previously heard that the parking lot maybe for 40 years had not been maintained or I can't remember, maybe it was 20 years, hasn't been maintained. So there was a condition of the property before RTC and the condition of the property after RTC. And the Iliescus have failed to identify any person or fact that would demonstrate the injury to the property caused by RTC or its agents' presence.

What evidence do you have that will show the impact -- it's kind of -- if there's injury to a 40-year-old property, you don't get a brand-new property to restore the 40 years. You only get damages associated with that event. And I'm looking for any evidence of any type that would show this is the result of these unknown actors' presence on the property.

MR. MORRISON: Okay, your Honor, I appreciate that comment on focus and I'll address that in a focused way as well.

Both Dr. Iliescu and Mrs. Iliescu have testified that the trucks caused the damage. They said that the property wasn't damaged to the extent of the craters and cracks and cave-ins before the fact.

Now, the Johnson appraisal, as well as numerous other appraisals or photos that have been produced in connection with the request for production of documents, there's over 20 of them that show the trucks, shows the damage, shows the caved-in area that the Iliescus have described verbally. And then in contrast, before the RTC went in to work on it, there was an appraisal done.

And that appraisal has photos taken by the appraising party's firm that show unconditionally without any doubt that that was a flat area that did not have craters and damages to the pavement.

The Iliescus said that that occurred only when the trucks started coming in and they tried to complain to the drivers and the drivers, as Ms. Iliescu said in her deposition, they could care less. They didn't want to talk to them about anything.

So we're left with the Iliescus' testimony and the pictures by third parties that there was no damage before the condemnation, but after construction started and throughout the construction, including afterwards, there are photos to show those huge craters in the pavement.

THE COURT: May I interrupt to summarize what I believe I've just heard? I'm aware of this appraisal, which was prepared as part of the condemnation action, not the

action we're in now.

MR. MORRISON: Right.

THE COURT: So the value assessment of that appraisal is of highly questionable relevance. But you're telling me that that appraisal is not relevant to establish property value, that appraisal is relevant, because there are photographs attached, which established the pre-condemnation condition of the property, and now we have additional photographs that establish the post-condemnation condition of the property, therefore, any degradation in condition must have occurred during the condemnation work. Is that what you said?

MR. MORRISON: Yes, your Honor. That the Iliescus have so testified that the condition of the property was as depicted in the aerial photographs of which there's numerous in the record. They've been produced for Mr. Anderson and they were used by professionals in connection with documents that they were preparing for another purpose.

And I would acknowledge, your Honor, that the appraisal per se, the amount of money that the property was valued at is not at issue here, your Honor, at all. The Iliescus, just to show the scope of the project, the Iliescus received approximately $2,000 for the easements that were granted by Judge Polaha and the construction commenced

thereafter. And when that construction commenced, at the start of it, there are photos, value notwithstanding, the Iliescus got $2,000 for the value of what was taken.

But this case concerns not the appraisal per se and not the valuation contained in that, but the fact that RTC itself submitted this document with these photos and now deny that damage was caused by their trucks. But the testimony of John and Sonnia Iliescu is very solid in that respect.

THE COURT: How do you value the damage that was created? I understand that there are these two estimates, but walk me through your legal, admissible evidence analysis of how you then establish the damages of the injury to the property that you believe there is a genuine issue of material fact. What witness and what document do you intend to introduce to the jury that establishes those damages?

MR. MORRISON: Okay. First of all, your Honor, I'm very glad that you framed the question in that manner, because I'm, as you can tell, struggling with my speech and so forth. So I appreciate it.

To that point, your Honor, John Iliescu testified and Sonnia Iliescu testified that there was nothing wrong with the pavement and that the photos taken by the RTC and their engineering specialist depict a level, uncratered,

undamaged parking lot.

Now, in the spirit of full disclosure in this context, those photos do show two long lines that go across the pavement. But what's significant about that, your Honor, is those two long lines stayed there. But the other areas that were divorced, geographically divorced from those lines is what caved in and Iliescu testified that it wasn't caved in, it was a perfectly good parking lot.

So the measure of those damages has been estimated by two separate firms, Apex and Desert, and, yes, they have different numbers, but what they talk about repairing is the part that is damaged.

Now, the damage part has been testified to and so there's been no controverting testimony or other evidence to indicate that the amount that was damaged is different from what the estimated repair scope and area is. Both of those from Apex and Desert have been provided to the RTC long ago and well before any kind of discovery date ever came up.

So I think that Dr. Iliescu's ownership and his status as a real estate developer and real estate rebuilder, because there's plenty of evidence that he has owned many properties and done repairs and rebuilding and rehabing and remodeling of those buildings, he has a wealth of experience over his 94 or 95 years and especially here in Reno. And he

said that this is what was damaged and that's what needs to be repaired.

So the two experts in paving, they come out and say, oh, we got -- that's their job. That's what their business is. They're specialists in it.

THE COURT: Were these two experts disclosed and did they file expert reports?

MR. MORRISON: They were disclosed, but the only reports were the estimates that they prepared. Their expertise is more in the nature of and limited to what's it take to install pavement and what's it take to repair pavement. That's all they do.

And so they prepared these estimates unaffected by Dr. and Mrs. Iliescu. They didn't go out there to do anything in connection with any of it. They just said, we need this repaired, how much is it going to cost? And they gave them the scope of what the repairs needed to be and then the estimates of repair came in and those were what was provided to the RTC.

And the first one was way in advance of any kind of discovery cutoff, as was the second one. The second one was timely within the scope of the new discovery period, your Honor. And so to say that the plaintiffs did no discovery, certainly, they cooperated in producing discovery, but the

discovery that they needed in this case had previously been acquired by them and disclosed to the RTC, as well as the fact that the RTC had prepared their own documents and made those as a 16.1 disclosure to the plaintiffs. And so the plaintiffs feel that in this moment that there's no further discovery that they needed to do.

Now, I will point out one thing, because I just remembered it, and that was that -- sorry, your Honor. Well, I lost that thought, your Honor. But from the standpoint of the discovery that had been produced by defendant to the plaintiffs combined with what the plaintiffs already had and during the time of the discovery period -- oh, forgive me, your Honor, for skipping around. I just remembered what my comment was before.

There was a disclosure by the doctor of the documents and photos that they had and the RTC had disclosed their documents and photos to the plaintiffs. And at that time, the plaintiffs determined that they had the information that they needed from the RTC, save and except for one thing. And that was when the deposition situation with Dr. Iliescu and his health and so forth was going on, there had been telephone calls between myself and Mr. Anderson to the effect that, oh, look, we've already got some court reporters, let's just let the plaintiffs take the person most knowledgeable

about this project, their deposition.

And Mr. Anderson, and I accepted it as a fellow lawyer, he said, well, I gave notice for the deposition of Dr. Iliescu months ago and I'm entitled to take his deposition. And nothing is going to be done and that's hence the -- my belief and understanding that there wasn't going to be any other discovery done by plaintiff. Nobody is going to take a deposition until I've had Dr. Iliescu's deposition, because I've noticed it many times, which is true, and I've never had an opportunity to take it. So I am going to have the deposition of Dr. Iliescu done before we do anything else. I acknowledged that and I tried very diligently to respect that and I did in all respects.

But during that time period, Dr. Iliescu had, as he's prone to do, as well as his wife Sonnia, to talk to people and dig around and look for stuff and talk to people about information or their knowledge. And as a result of that, Dr. Iliescu was reminded of things that he already had and together with the documents that he had received several years -- it's probably two or three years ago, he had information from Johnson that spelled out in pretty clear detail what the parking lot looked like.

And as a result of that, he told me, John Iliescu told me, and his wife is virtually always present when he's

speaking to someone just to help him along, owing to his age and health issues, so both of them were there when John said, you know, I don't know if we need anything else. Don't we have everything? It's pretty open and simple.

They had 80 or 90 feet of condemnation land that they built on and they used mine to support all of their construction along Fourth Street because there was no parking anywhere else so it was -- they just used it. And so as a result, John Iliescu felt that this was a pretty forward issue that involved only the construction and repair of that.

He, I know I don't need to remind the judge, but I kind of remind myself, that Dr. Iliescu had voluntarily dismissed all of his claims that related to any kind of medical or damages that had to do with anything, except for one thing, the damage.

And so that's why there was a change in the RTC's approach, because they now realized that they weren't defending damages to a 94-year-old doctor, but rather were solely limited to the cost to repair.

And I had that conversation on a couple of occasions with Mr. Anderson and he suggested and I agreed that this was a case about the damages to the pavement. That was it. Not the Johnson document at all.

So this case is narrowed down to one issue and

John felt all along once he got rid of his -- once he surrendered his medical claims, related claims, that this was a very simple case. There was only one thing left. Dr. John felt that way as well as Sonnia, so they thought it was now -- and this was a couple of years ago when Dr. John surrendered his medical related claims.

So for a couple of years, they've had in their mind that this was just one issue and then that's why after their deposition they queried me about why the -- why were all these questions coming out about stuff?

And they recognized that the RTC was entitled to ask whatever they wanted to. The relevance of some of it I explained to them was going to be dealt with later. But that the RTC was entitled to ask anything they want.

So in light of that, Dr. Iliescu, he called me one day and he was -- I can tell when he's really excited. He said, you know, Mike, this is just a one issue case. Get that parking lot done and we're gone. He says, see if they'll -- if they'll pay some money for that.

And I said, well, I have talked with Mr. Anderson about that, but he said that he wanted to see some numbers. And so the Johnson appraisal did provide numbers, but they provided context for what the scope of those damages were.

And the Apex estimate of repairs was in the RTC's

hand long before there was any contention about the issues of valuation. And that's when I know that this evidence isn't admissible, but I did have conversations with Mr. Anderson about seeing whether we could come to terms and he said, what's some numbers? I said, well, you got the Apex.

So at that time, since the economy was changing, I decided to ask Dr. Iliescu to get another estimate of what it was going to be to repair it and he got Desert and that was due on a date certain. I think it was due by May 12th. And I think that Mr. Anderson had it sent over by me the evening before that so that he had it before the 12th. So I suggest, respectfully, judge, that these numbers aren't foreign and unknown and some kind of a mystery to the RTC.

Now, I guess there's enough been said about that issue of the specific amount to repair it, but the repairs are what they are. Both repair people had the same scope of the repairs. The difference in the price is left for a jury to decide if there's a number that should be different than what was in those reports.

But I feel, your Honor, that there has been over the course of this case the type of meaningful disclosure that is contemplated by the law from the standpoint of allowing people to be heard and any kind of dispute could be resolved with factual information that would come from a

variety of sources.

But the source of those numbers is from the people who were going to repair them and that's what they do for a living. They're repairmen of note and good standing in the industry.

THE COURT: All right.

MR. MORRISON: As to those numbers, I note that I've been trying to get to the Court the information that it requested, but if there's something that your Honor had contemplated that you wanted beyond what that discussion is about the costs of repairs, I'll certainly address those, your Honor.

THE COURT: Thank you, Mr. Morrison. I think it's appropriate that I turn to Mr. Anderson.

MR. ANDERSON: Thank you, your Honor. And your Honor asked the one question, the most important question, I think, that wasn't really answered and that is, were any expert disclosures ever made? The deadline was February 26th of this year to disclose expert reports. And the Desert Engineering report clearly was generated three months later. I call it a report. It's actually just a bid or an estimate to repair -- I'm sorry -- to remove and replace the parking lot.

So that estimate despite being quite old or quite

well past the deadline also fails in respect, because it doesn't -- it doesn't talk about returning the parking lot to the condition that it was in prior to the alleged damage, but to provide an entirely new parking lot where previously there was a 40-year-old, unrepaired, unmaintained parking lot that existed.

I think the Summit Engineering document not only is hearsay, lacks foundation, et cetera, but is not a valid expert report, not timely disclosed and can't be considered by the Court even though it is in the Court's record at the moment.

The Apex report that Mr. Morrison keeps referring to as having been previously disclosed to RTC, I can't find any record of that. The documents that were disclosed, all the documents that the Iliescus disclosed in this case are before the Court by virtue of the prior pleadings, summary judgment motions and oppositions and the Apex document is not from what I can find anywhere in this record.

It was mentioned by the Iliescus at their deposition last July that they had consulted with Apex. I did request a copy at that time from Mr. Morrison on the record in the deposition, I believe, and that was never provided. The document that they filed recently said that that report was provided to RTC on August 26th of 2020 and I

can't find any disclosures, any formal disclosure documents or anywhere else in my email where this document was supposedly provided. So I don't have any Apex estimate. And in any event, it was not disclosed as an expert report either.

If you look at NRCP 16.1 in terms of expert disclosures, and I apologize, your Honor, I'm looking at my computer screen while I'm doing this, unless otherwise excused by the Court, they have to provide a written report. And the written report isn't just the estimate that is provided. It has to contain the facts that are considered by the witness, any exhibits used to summarize particular items, the witness' qualifications, including a list of publications, et cetera, a list of other cases in which they've testified and a statement of the compensation to be paid for the study and the testimony in the case and none of that information has been provided.

The Summit Engineering report -- I'm sorry is -- I think I was calling it Summit Engineering -- Desert Engineering. I apologize, your Honor. So there's just no evidence of damages. Mr. Morrison testified, essentially, at length as to what the Iliescus may or may not say, what the RTC may or may not say, but he didn't provide any affidavits in opposition to summary judgment.

The materials he did provide and he referenced it as exhibits to the summary judgment, the appraisal report, I think he mentioned it's Exhibit 5 to their opposition to summary judgment, is not a document that was generated by Apex or Desert Engineering. It's part of an appraisal prepared by Joseph Campbell and it contains an aerial photograph from I don't know how far above the property it is, but it's impossible to tell what the before condition was, whether there's any depressions in the parking lot.

I think my client would contest that the nature of the -- or the condition of the parking lot prior to construction was essentially the same as it is now.

THE COURT: Before you go there, I don't want you to leave this -- the expert reports, because I find myself still thinking about that where you've pivot to photographs. Let me just pause for a moment.

Mr. Morrison's arguing that -- I believe he's arguing that the Rule 16 role of an expert is different than the mere repair costs that are set forth in the estimate. Why do you believe the Desert estimate and the Apex estimate, why do you believe they need to be embedded in an expert report? What information would you glean from the expert's report? What areas would you cross examine or depose? Help me understand why it's an expert as opposed to this is just

the cost to repair our parking lot?

One more thing, I don't need a copy of other books that this expert has written. I don't need to know that a licensed contractor is qualified. You know, some of those 16 standards don't really apply here. So tease out the distinction between the expert that you seek and the mere cost of repair estimate that Mr. Morrison asserts.

MR. ANDERSON: Yes, your Honor. Well, in any trial, there's two types of evidence. There's witnesses who have personal knowledge of things that have happened, events that have happened that are relevant to the case, and then you have expert witnesses who have specialized knowledge, education, training, experience that look at a situation in which they weren't personally involved and come up with an opinion or testimony to help the jury understand the issues.

In this case, there's, I think, a debate over causation. You know, if there is damage, how was it caused? And, number two, how do you compensate the Iliescus if indeed the RTC did cause that damage?

So I can't go look at the property and say, I think the Iliescus are entitled to a hundred thousand dollars, because I have no training or education in parking lot repair or construction.

That's why they need an expert to opine not only

on the issue of causation, but what does it cost to repair and how does that person who is going to testify as to that cost know that. What's their background? How many projects have they done of this type? And they also need to say, what would it cost to get it back to the condition it was in prior to the construction being done, not to a brand-new parking lot. That's not what they're entitled to in this case.

Dr. Iliescu testified in his deposition that this thing hadn't been maintained in 40 years, roughly. That's what you need, your Honor, you need that type of witness with specialized knowledge to look at all those things and then provide an expert report in a timely fashion so that the opposing party can get a rebuttal expert, if necessary, and challenge that testimony. And so that's what they're missing in this case.

I know Mr. Morrison had discussed that Dr. Iliescu is capable of that, but NRCP 16.1 still does not relieve them of the obligation to make the appropriate disclosure, even if it's a witness like Dr. Iliescu, and that just hasn't happened in this case.

And I think, if I recall correctly, Dr. Iliescu testified in his deposition that he's not, I don't know, qualified to provide the numbers, that he would defer to the experts on that.

So I think that's what they're missing in this case, your Honor, and I think, quite frankly, it's fatal to all of their claims for the exact reasons that Mr. Morrison mentioned a few minutes ago and which are the same reasons you and I discussed at the prior hearing on May 12th, which is the Iliescus have waived all damages with the exception of the cost to repair the parking lot or the loss of value, you know, physical issues with the parking lot and punitive damages.

And so this discussion about them waiving their health claims is really what takes this case out of the realm of the nominal damages that your Honor was concerned about at the last hearing. And then the pain and suffering damages that they can get as a result of those nominal damages.

So in the absence of any evidence of any cost to repair and the causation issues on the physical parking lot, none of their claims survive. Does that answer your Honor's question?

THE COURT: I appreciate your response. Anything else, Mr. Anderson? I interrupted you. You were just moving to the comparison of the photographs.

MR. ANDERSON: Yes, your Honor, and I might jump around a little bit. I'm trying to track my notes from Mr. Morrison's discussion.

There was some discussion about the deposition of RTC's person most knowledgeable between Mr. Morrison and myself. I quite frankly don't recall that. If he had sent a notice for a deposition of RTC or asked to schedule it, I would agree to schedule it.

I think I pointed out previously, I never told Mr. Morrison not to conduct any discovery he wanted to conduct. He had every opportunity to do that. If he wanted to depose somebody from the RTC, serve a request for production, serve an interrogatory or request for admission, then he certainly could have done that and the RTC would have responded pursuant to the rules and that just didn't happen.

There was a lot of discussion about the trucks being parked and whose trucks were they. I think the Court -- I understand what the Court is saying that if it were just an issue of whether those trucks were agents of the RTC for purposes of vicarious viability, that's one thing. But when you're talking about a claim for conspiracy, which I think was the important point of being able to identify these other parties, because the Iliescus did assert a conspiracy claim and that requires, I can't remember all the elements off the top of my head, but they're in my brief and the proposed order I submitted, it requires an agreement between the defendant and a third party. And they just haven't

identified who those third parties are.

And so that's the reason that the identification of the trucks is important is for that element of that conspiracy claim. So I think that claim fails for reasons other than just the lack of damages.

Bear with me, your Honor, please. Regarding the breach of contract claim, Mr. Morrison, I think, essentially reargued what they had already argued previously regarding a contract. The basis of their claim for breach of contract being Judge Polaha's ruling in the condemnation case. And I think I argued this in prior briefing, but if I didn't, I'll state, again, that Judge Polaha's order is in that particular case.

And if for some reasons the Iliescus felt that the RTC was not abiding by that directive that they cooperate regarding access and similar issues, their remedy was to go seek enforcement of that order in that case and not to file a new action for a breach of contract where none of the elements for a contract were actually met, including damages. And so, again, that's not a basis for a breach of contract claim.

I apologize, your Honor. Your Honor, I don't believe I have any more comments as to the remarks that Mr. Morrison made other than the general observation that I

think he was introducing a lot of what he believes would be evidence that could have been obtained, but was not.

The evidence that the Court has to operate from is what's in the record before it currently. The Iliescus had an obligation in their opposition to summary judgment to come forth with admissible evidence demonstrating the existence of a genuine issue of material fact and they just haven't done that. So whatever Mr. Morrison thinks may or may not have been presented at trial is irrelevant at this point, because it's not before the Court.

I think summary judgment is appropriate. I don't know procedurally where we are at this point in terms of the Court's consideration of their motion for reconsideration, because the order on summary judgment hasn't actually been entered. And so I'll just argue this like I'm still arguing the summary judgment that they haven't met the elements of their claims, most importantly regarding damages, and that RTC is entitled to summary judgment on the remaining claims in this case.

THE COURT: Any concluding remarks, Mr. Morrison, based upon anything about Mr. Anderson said?

MR. MORRISON: Yes, thank you, your Honor. As regards the conspiracy, I mentioned once before a contract that was implied by Judge Polaha, but also in the exhibits to

the responses for request for production that were, of course, disclosed and had by all. The exhibits in that consist of numerous pictures, maybe six or eight pictures of the trucks on the ground showing that there was no caving-in.

And very significantly, also produced in that was a letter from Todd Keizer project manager of Paragon Partners, who I'll represent as he did, they were working on the project and were responsible for it and parking lot. Mr. Keizer told Dr. Iliescu, lastly, I didn't mention it on the phone, but I believe we are going to request access to the main parking area of the property. This is solely for your benefit to tie the driveway into Fourth Street, address grade issues, upgrade asphalt, curbing, et cetera.

This last map shows it in purple and will be completely voluntary and temporary on your part as the RTC will not compel you to allow us access. And Sonnia -- I'll represent to you that the document has handwriting from Sonnia. And it was a note that says, JI spoke with Todd and explained his position and he does not want on the property -- property on the pavement.

And so in essence what Mr. Keizer says is that he is going to enter into some activities that solely for your, Iliescu's, benefit to do grading, asphalting and so forth, but it's voluntary. And have to be examination of these

facts with the parties, but Dr. Iliescu says that he didn't grant that approval, but it was taken anyway.

And, respectfully, a trespass is pretty well -- or this statement and conduct is pretty much the legal elements of the trespass, because when Keizer, who is an agent of the RTC, through a daisy chain with the other contracting parties, when they told Iliescu that it was voluntary and temporary, there's only one way to interpret that in my mind, your Honor.

And also I think that also, that letter and conduct, constitutes a contract between, if nobody else, Keizer, who is an agent of RTC, and the Iliescus that they're going to benefit his property, fix grade issues, asphalt and so forth, but it was all temporary. And that has in essence the elements of a contract that Iliescu allowed Keizer to proceed under.

No, he doesn't have that in a written contract formal form, but certainly these contemporaneous documents and statements should provide and be admissible as evidence as to what the agreement was among the parties. And that also would dovetail into the conspiracy, your Honor, which is -- that was Exhibit 2 that I was reading from, your Honor. And Exhibit 3 is the Johnson report prepared August 18th, 2016.

And it's pretty clear from all of those pictures that the parking lot was -- except the two cracks I discussed, was the same as it was when -- in Exhibit 1. The Exhibit 1 photos were taken after the RTC had taken over the property and those pictures reflect exactly what the aerial photograph from Johnson in 2016 reflect and that is that there's lots of trucks there and the area that is now caved-in was not caved-in.

And so I think that, yeah, there might have been -- there might have been those two cracks, but there wasn't the kind of damage that exists there today that Dr. Iliescu is complaining about in this arena. And as I said, it's Exhibit 1 and 3 that are so contrasting and evident of what the condition of the property is and it -- the causation was taking place throughout the series of these pictures. So I don't think there's a serious argument that those were preexisting.

And, again, I think I said this, judge, and excuse me if I repeat this, but item paragraph four in the order from Judge Polaha on the 30th of November 2016 says that the RTC and real parties in interest and their respected agents shall cooperate so as to minimize the interference with construction of the project and real parties in interest use of the remaining land. And that's exactly the target of this

lawsuit is they -- nobody cooperated. That was an order, but it also sanctioned a contract -- excuse me -- from the standpoint that the RTC and their real parties shall cooperate so as to minimize the interference in the real parties in interest use of the remaining land.

Maybe you'd need someone to testify as to what the pictures show, if someone couldn't see them, but the pictures are pretty clear on that.

THE COURT: Mr. Morrison, how do you respond to Mr. Anderson's argument that your client owns a parking lot that is 40 years old and he's seeking to have the entire parking lot resurfaced or repaired because of craters, cracks and cave-ins that -- Mr. Anderson is not saying this, I'm saying this now at this point. If I have a 40-year-old parking lot that has not been maintained and then there's some activity that creates craters, cracks and cave-ins, why does your client get the entire parking lot new again when it had already expired its depreciable life?

Parking lots should be repaired within four years. I don't know what the tables are for parking lot, because I'm not an expert, but we have depreciation schedules and at some point the value for that parking lot is zero after 40 years. Why does your client deserve a new parking lot to remedy that 40-year age?

MR. MORRISON: That's a very poignant comment, your Honor, and my information is that you can't -- and I believe this, because I've witnessed it over 75 years, you can't just patch one tiny part of a large asphalt area and not expect that tiny part to in essence have some ramification on the rest of the parking lot. And it doesn't take very long for that one spot that was repaired to need repair again.

I know there's a lot of jokes made about the city's road repair, but they need to repair a whole area to give integrity to the one part that they need to repair so that if they -- if they did the spot patching and repair, and I know that on my own drive area, there's not going to be a solution that is acceptable to anyone who owns that parking lot.

THE COURT: Who is going to provide that testimony?

MR. MORRISON: So to make that parking lot repair have some structural integrity, they need to pave the whole area around that damaged area to have that structural integrity, otherwise they're just creating more work for everyone and more loss for --

THE COURT: Who is going to provide that testimony to the jury? You just answered my question and I thank you

for that. But you just provided a technical answer about the inability to spot repair, who provides that testimony to the jury?

MR. MORRISON: The people who submitted the bids. That's the business they're in and they're defending their proposal from the standpoint of what they feel needs to be done to effect the repairs that they have on their proposal for the price that has been bid.

So the concept of having a 40-year-old parking lot repaired just because there's one section that is caved-in and damaged is a good argument in one respect, but it doesn't give deference to what people who repair parking lots have uniformly resoundingly been talking about. We got to do the whole thing.

THE COURT: Okay. Thank you.

MR. MORRISON: Or else we don't get the benefit of the repair and know that there's -- I think that -- I think that it's in my mind a little shortsighted to allow the RTC to say, oh, no, we're only going to repair the part where it caved in, when, in fact, they're the ones who caused the need for anything to be done to the parking lot.

Now, they want to limit what their damages are just based upon the fact that, oh, you're covering too big an area. And I think that is turning a blind eye towards the

realities of a parking lot and the right that Dr. Iliescu and his wife have to do what they want with the parking lot. The parking lot was serving them just fine until the RTC got a contract.

Now, the RTC wants to say, oh, but we shouldn't have to make sure that the repair is not required in the next year or so, we only need to pay for what the hole is. And I don't think that is -- I think it ignores the reality of the fact that these workers, contractors had a duty as set forth in these exhibits to the request for production.

And now they want to turn tail and say, no, we don't really have a duty to repair your parking lot when in a number of places the commission and Johnson Perkins and RTC acknowledge that they're going to go in there to cause no interference with -- so Johnson Perkins in Exhibit 4 acknowledged that they have -- in paragraph one, that the Iliescus' property will be affected by the project, so there's something going to happen.

And he acknowledges, that's Reese Perkins, well-known figure in the industry, and he says -- acknowledges that there's going to be an affect to the project and then --

MR. ANDERSON: I apologize, your Honor. Which exhibit is Mr. Morrison looking at?

THE COURT: I'm not sure, but I think the Court is fully informed at this point.

MR. MORRISON: Okay, your Honor.

THE COURT: At some point, I have enough argument that demonstrates Mr. Morrison's position on behalf of his clients regarding genuine issues of material fact and I've reviewed the moving papers and exhibits and so forth. I appreciate that we've had a chance to be together again, because I very much wanted to hear from Mr. Morrison and I was disappointed he didn't appear. I accept his explanation it was through no fault of his own. I just thought it was appropriate that he had an opportunity to be heard.

But at this point, I'm going to thank you both and take it under advisement and I'll issue a written order. Good day to both of you. Court will be in recess.

MR. MORRISON: Thank you, judge, and I want to thank you and Mr. Anderson for indulging my delays.

THE COURT: Thank you.

--oOo--

STATE OF NEVADA)
) ss.
County of Washoe)

I, STEPHANIE KOETTING, a Certified Court Reporter of the Second Judicial District Court of the State of Nevada, in and for the County of Washoe, do hereby certify;

That I was present in Department No. 15 of the above-entitled Court on June 8, 2021, at the hour of 10:00 a.m., and took verbatim stenotype notes of the proceedings had upon the hearing in the matter of JOHN ILIESCU, JR. AND SONNIA ILIESCU, et al., Plaintiffs vs. THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY, Defendant, Case No. CV19-00459, and thereafter, by means of computer-aided transcription, transcribed them into typewriting as herein appears;

That the foregoing transcript, consisting of pages 1 through 42, both inclusive, contains a full, true and complete transcript of my said stenotype notes, and is a full, true and correct record of the proceedings had at said time and place.

DATED: At Reno, Nevada, this 1st day of November 2021.

S/s Stephanie Koetting
STEPHANIE KOETTING, CCR #207

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Alicia L. Lerud
Clerk of the Court
Transaction # 8487964

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IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an individual; AND SONNIA ILIESCU, an individual, Plaintiffs, v. THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1 – 40, inclusive, Defendants.	Case No.: CV19-00459 Dept. No.: 15

ORDER GRANTING SUMMARY JUDGMENT AFTER SUPPLEMENTAL ARGUMENTS

Before the Court is RTC's Motion for Summary Judgment. RTC filed the motion on March 29, 2021. Plaintiffs filed their opposition brief on April 2, 2021. RTC filed its reply brief on April 29, 2021, and the matter was submitted for the Court's decision. The Court scheduled oral argument for May 12, 2020, at which it heard argument from RTC's counsel. Plaintiffs' counsel did not appear at oral argument. At the conclusion of oral arguments this Court orally pronounced that it would grant summary judgment and deny the pending motions in limine as moot; it directed RTC's Counsel, Dane Anderson Esq., to prepare and submit the

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PROCEDURAL BACKGROUND

1. Plaintiffs filed this action on February 27, 2019. Their complaint asserted twelve claims for relief: (1) injunctive relief; (2) breach of contract; (3) breach of the implied covenant of good faith and fair dealing; (4) breach of fiduciary duty/breach of trust; (5) declaratory relief; (6) waste; (7) conversion; (8) trespass; (9) civil conspiracy; (10) negligence; (11) elder abuse; and (12) intentional and/or negligent infliction of emotional distress/tort of outrage. Plaintiffs' claims were all based on the RTC's alleged improper use of the parking lot on Plaintiffs' property at 642 E. 4th Street in Reno. Plaintiffs alleged damages to the parking lot, personal injuries (including emotional distress, anxiety and depression) and also sought punitive damages against RTC.

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3. After being served, RTC file a motion to dismiss certain claims. While that motion was pending, the parties filed a Stipulation To Conduct Discovery Prior To Holding The NRCP 16.1 Conference And Prior To Filing The Joint Case Conference Report. The stipulation was based on Plaintiffs' ages and allegations in the complaint regarding Plaintiffs' medical issues. Significantly, the stipulation allowed *both* parties to conduct early discovery. The Court granted the stipulation on November 18, 2019.

4. Pursuant to the stipulation and order for early discovery, RTC served written requests for production on Plaintiffs, including requests seeking information regarding Plaintiffs' alleged damages—both damages to the parking lot as well as alleged personal injury and emotional distress damages. In response to these requests, Plaintiffs indicated they did not wish to disclose their medical records. Therefore, on December 6, 2019, the parties entered into a Stipulation For Entry Of Order Dismissing Certain Plaintiffs' Claims For Relief And Damages With Prejudice. By way of that stipulation, Plaintiffs expressly stated they no longer wished to pursue any damages for emotional distress or personal injury and had decided to limit their compensatory damages solely to the property damage to their parking lot. Plaintiffs agreed to dismiss with prejudice their claim for intentional and/or negligent infliction of emotional distress as well as any claims for damages other than those specifically related to their parking lot and punitive damages. Plaintiffs acknowledged that RTC was relying on that agreement by withdrawing its discovery requests relating to Plaintiffs' medical records and treating physicians.

5. On December 10, 2019, the Court entered its Order Granting Stipulation For Entry Of Order Dismissing Certain Of Plaintiffs' Claims For Relief And Damages With Prejudice. That order specifically adopted the parties' agreement that Plaintiffs' compensatory damages would be limited to alleged damage to the parking lot, and that any damages for emotional distress or personal injury were dismissed with prejudice.

6. Shortly thereafter, the Court ordered Plaintiffs to file an amended complaint consistent with the parties' stipulation. Plaintiffs filed their Amended Complaint on January 21, 2020, asserting eleven claims for relief: (1) injunctive relief; (2) breach of contract; (3) contractual breach of the implied covenant of good faith and fair dealing; (4) breach of fiduciary duty/breach of trust; (5) declaratory relief; (6) waste; (7) conversion; (8) trespass; (9) civil conspiracy; (10) negligence; (11) tortious breach of the implied covenant of good faith and fair dealing.

7. On January 30, 2020, RTC filed a Supplemental Motion To Dismiss. After briefing, the Court entered an Order Granting Motion To Dismiss on March 20, 2020, dismissing Plaintiffs' claims for injunctive relief, breach of fiduciary duty/breach of trust, waste, conversion and tortious breach of the implied covenant of good faith and fair dealing. The Court denied RTC's motion to dismiss the civil conspiracy claim, noting the pre-trial resolution of that claim, if any, could only be considered through a motion for summary judgment after appropriate discovery is conducted. Thus, the case proceeded on Plaintiffs' claims for breach of contract, contractual breach of the implied covenant of good faith and fair dealing, declaratory relief, trespass, civil conspiracy, and negligence.

8. On January 20, 2020, RTC filed a Motion To Compel because Plaintiffs had failed to serve responses to RTC's requests for production of documents pursuant to NRCP 34 and the parties' stipulation for early discovery. Plaintiffs did not respond to that motion and,

on April 20, 2020, the Court entered a Confirming Order approving the Master's Recommendation For Order that Plaintiffs produce responses, including responsive documents within their possession, custody or control, no later than April 17, 2020 and that Plaintiffs pay RTC $1,000 as a sanction for their discovery failures.

9. On March 23, 2020, RTC filed its Answer to First Amended Complaint. Thereafter, Plaintiffs failed to schedule an early case conference and failed to file a case conference report. This failure will be addressed further below.

10. On April 1, 2020, RTC filed a Motion For Discovery Sanctions based on Plaintiffs' failure to appear at their properly noticed depositions and other discovery failures. On April 20, 2020, RTC filed a Motion For Sanctions Pursuant To NRCP 37(b)(1) based on Plaintiffs failure to comply with the Court's April 20, 2020 Confirming Order. Among other things, the Court ordered Plaintiffs to produce documents responsive to RTC's requests for production no later than June 30, 2020. The Court further ordered RTC to submit a declaration setting forth RTC's reasonable expenses incurred in connection with the discovery motions. After briefing, the Court ordered Plaintiffs to pay $10,684.90 to RTC in sanctions for their discovery failures.

11. On July 21, 2020, RTC filed a Motion In Limine To Preclude Plaintiffs From Offering Documents Not Produced To RTC On Or Before June 30, 2020. Plaintiffs did not oppose this motion and, on August 19, 2020, the Court entered an order granting it.

12. On October 12, 2020, the Court entered an Order Granting Stipulated Scheduling Order. Among other deadlines, the Court ordered that the deadline to make expert disclosures was February 26, 2021, and the deadline to disclose rebuttal experts was March 29, 2021. The Court noted the NRCP 16.1 case conference had not been held and nothing in the scheduling order should be construed as a waiver of RTC's rights under the August 19,

2020 Order granting RTC's motion in limine.

13. On January 19, 2021, RTC filed a Motion For Sanctions Pursuant To NRCP 16.1(e), seeking dismissal of this case due to Plaintiffs' failure to hold an early case conference pursuant to NRCP 16.1 and consequent failure to file a case conference report. Following briefing, the Court entered an Order Denying Motion For Sanctions on March 25, 2021. The Court denied the requested sanction of dismissal because it wanted to decide the case on its merits, but it noted Plaintiffs' repeated failure to prosecute their case. The Court ordered the parties to conduct an NRCP 16(b) conference and also ordered the parties to appear before the Court for a status hearing on April 27, 2020.

14. On March 9, 2021, RTC filed its Motion For Summary Judgment, along with two motions in limine: (1) Motion In Limine To Preclude Plaintiffs From Presenting Evidence Pursuant To NRS 50.275, 50.285 and 50.305 ("Motion In Limine Re Experts"); and (2) Motion In Limine To Exclude Evidence Of Damages. The Motion In Limine Re Experts was based on Plaintiffs' failure to timely disclose any expert witnesses. The Motion In Limine To Exclude Evidence Of Damages was based on Plaintiffs' failure to provide a computation of damages pursuant to NRCP 16.1(a)(1) and their failure to provide any documentation to support their damages claim. Those motions in limine are pending and will be denied as moot in light of the Court's ruling on the Motion for Summary Judgment.

15. Plaintiffs filed their opposition briefs on April 2, 2021. The primary theme of these oppositions was that the Court's March 25, 2021 Order Denying Motion For Sanctions was a "reset" of this case excusing Plaintiffs from their repeated procedural failures.

16. On April 27, 2021, the Court held a status conference, at which Plaintiffs' counsel asserted the parties' stipulation for early discovery somehow restricted Plaintiffs from conducting discovery in this case. As discussed below, the Court finds this assertion to be

unsupported by the documents of record. Following the hearing, the Court set oral arguments on RTC's Motion For Summary Judgment for May 12, 2021 at 2:00 p.m.

FINDINGS OF FACT

17. In entering the December 6, 2019, Stipulation For Entry Of Order Dismissing Certain Plaintiffs' Claims For Relief And Damages With Prejudice, which the Court granted by its Order of December 10, 2019, Plaintiffs expressly waived, with prejudice, any claim for compensatory damages other than compensation for physical damage to the parking lot.

18. Plaintiffs failed to timely disclose an expert witness on any subject, including Plaintiffs' alleged damages. This Court concludes expert evidence is necessary to determine causation, scope of repair, diminishment in value, and damages. As a result, Plaintiffs have no expert evidence as to the cost to repair the parking lot or the loss of value to the property based on the alleged damage to the parking lot. Plaintiffs are not qualified to provide such evidence and were not designated to provide such testimony.

19. Plaintiffs have not conducted discovery necessary to prosecute their case.

20. The October 30, 2019 Stipulation To Conduct Discovery Prior To Holding The NRCP 16.1 Conference And Prior To Filing The Joint Case Conference Report expressly allowed *both* parties to conduct discovery. Nothing in that Stipulation or the November 18, 2019 Order granting the Stipulation, restricted Plaintiffs' right or ability to conduct discovery. The Court does not find that RTC or its counsel in any way precluded Plaintiffs from prosecuting their case.

21. In opposing summary judgment, Plaintiffs presented no declarations or any other admissible evidence to support their claims. The documents Plaintiffs submitted to the Court suffer from several evidentiary infirmities.

22. There is no admissible evidence supporting each of the elements of Plaintiffs'

claims.

23. There is no admissible evidence of Plaintiffs' alleged damages.

24. The Court's March 25, 2021 Order Denying Motion For Sanctions was not a "reset" of the entire case. The Court simply wished to avoid imposing case ending sanctions based solely on Plaintiffs' failure to hold an early case conference. That Order was not intended to, and did not, relieve Plaintiffs of any other procedural failures in this case. Contrary to Plaintiffs' suggestion, the March 25, 2021 order did not override or supersede the Court's August 19, 2020 Order Granting Motion In Limine To Preclude Plaintiffs From Offering Documents Not Produced To RTC On Or Before June 30, 2020.

CONCLUSIONS OF LAW

25. Summary judgment is appropriate and "shall be rendered forthwith" when the pleadings and other evidence on file demonstrate that no "genuine issue as to any material fact [remains] and that the moving party is entitled to a judgment as a matter of law." *Wood v. Safeway, Inc.*, 121 Nev. 724, 729, 121 P.3d 1026, 1029 (2005).

26. In opposing summary judgment, the nonmoving party "must, by affidavit or otherwise, set forth specific facts demonstrating the existence of a genuine issue for trial or have summary judgment entered against him." *Id.*, 121 Nev. at 732, 121 P.3d at 1031. "Evidence introduced in...opposition to a motion for summary judgment must be admissible evidence." *Collins v. Union Fed. Savings & Loan*, 99 Nev. 284, 302, 662 P.2d 610, 621 (1983), citing NRCP 56(e).

27. Summary judgment serves an important role in promoting sound judicial economy. Courts should not hesitate to discourage litigation in instances where claims are deficient of evidentiary support and are based on little more than the complainants' conclusory allegations and accusations. *Boesiger v. Desert Appraisals, LLC*, 135 Nev. 192,

193, 444 P.3d 436, 438 (2019). In doing so, courts avoid the unwarranted consumption of public and private resources. *Id.*, 135 Nev. at 194, 444 P.3d at 438.

28. Here, the Court concludes that RTC is entitled to summary judgment on all of Plaintiffs' remaining claims: (1) breach of contract; (2) contractual breach of the implied covenant of good faith and fair dealing; (3) civil conspiracy; (4) trespass; (5) negligence; and (6) declaratory relief. Each is addressed in turn.

29. "Basic contract principles require, for an enforceable contract, an offer and acceptance, meeting of the minds and consideration." *Certified Fire Prot. Inc. v. Precision Construction, Inc.*, 128 Nev. 371, 378, 283 P.3d 250, 255 (2012). "A meeting of the minds exists when the parties have agreed upon the contract's essential terms." *Id.* There is no evidence supporting any of these elements, nor is there any evidence of Plaintiffs' alleged damages. Plaintiffs' breach of contract claim fails.

30. A claim for breach of the implied covenant of good faith and fair dealing requires the plaintiff to prove the existence of a contract. *Perry v. Jordan*, 111 Nev. 943, 900 P.2d 335 (1995). Plaintiffs have failed to prove the existence of a contract with RTC and have provided no evidence of damages. Therefore, Plaintiffs' claim for breach of the implied covenant of good faith and fair dealing fails.

31. A civil conspiracy claim exists when a combination of two or more persons who, by some concerted action, intend to accomplish some unlawful objective for the purpose of harming another and resulting in damages. *Collins*, *supra*, 99 Nev. at 303, 662 P.2d at 622. To succeed on a civil conspiracy claim, a plaintiff must prove both an agreement between tortfeasors and that the conduct of each defendant is tortious. *GES, Inc. v. Corbitt*, 117 Nev. 265, 271, 21 P.3d 11, 15 (2001). Here, there is no evidence of the existence or identity of any alleged co-conspirator, no evidence of any agreement between RTC and anyone else, and no

evidence of Plaintiffs' alleged damages. As noted above, there is no evidence of the cost of repair or loss of value based on the alleged damage to the parking lot and Plaintiffs have waived all other damages by way of the December 6, 2019 stipulation. Plaintiffs' civil conspiracy claim fails.

32. To prove trespass, the claimant must show that the defendant invaded the claimant's real property. *Lied v. County of Clark*, 94 Nev. 275, 279, 579 P.2d 171, 173-174 (1978). A plaintiff may recover compensatory, nominal, and/or punitive damages under a trespass claim. *See True v. Bosch,* 73 Nev. 270, 317 P.2d 1089 (1957) (compensatory damages to property); *Land Baron Invs., Inc. v. Bonnie Springs Family Ltd. P'ship*, 131 Nev. 686, 700, 356 P.3d 511, 521 (2015) (plaintiff asserting a trespass claim may recover damages for annoyance and discomfort). Here, Plaintiffs waived any damages other than compensatory damages for the physical damage to the parking lot and punitive damages. Therefore, they cannot recover nominal damages or general damages for annoyance, discomfort, emotional distress, anxiety or depression. There is no evidence of cost of repair or loss of value based on the alleged physical damage. There is also no evidence that would support an award of punitive damages.

33. To establish a negligence claim, a plaintiff must demonstrate: (1) that defendant owed plaintiff a duty of care; (2) that defendant breached that duty; (3) the breach was the legal cause of plaintiff's injuries; and (4) plaintiff sustained damages. *Scialabba v. Brandise Construction Co.*, 112 Nev. 965, 921 P.2d 928 (1996). Here, Plaintiffs have failed to present any evidence identifying the duty RTC allegedly owed them, nor have they presented any evidence of damages. Plaintiffs' negligence claim fails.

34. Plaintiffs' declaratory relief claim also fails. Plaintiffs sought a declaration that (1) RTC failed to perform under the "RTC-Trust agreement" or its "condemnation

activities"; (2) Plaintiffs are the sole and exclusive owners of their "Property" at 642 E. 4th St. in Reno; (3) RTC has no right, title or interest in the Property and no right to use the Property; (4) RTC "knowingly and wrongfully used the Remaining Property" without paying compensation to Plaintiffs; and (5) RTC wrongfully parked its vehicles on the Remaining Property, causing extensive damage in callous disregard of the law. First, there is no evidence of any contract between RTC and Plaintiffs and any issue involving RTC's "condemnation activities" was already adjudicated in the previous condemnation action between the parties. Second, while Plaintiffs own "the Property," they own it subject to RTC's valid and existing easements established by way of the prior condemnation action between the parties. Third, RTC has the rights, title and interest in the easements on the Property acquired by way of that condemnation action and for which Plaintiffs received just compensation. Finally, there is no evidence of Plaintiffs' damages and no evidence RTC "callously disregarded" the law. Plaintiffs' claim for declaratory relief fails.

36. In sum, there is no admissible evidence to support Plaintiffs' claims. All of Plaintiffs' remaining claims are dismissed. No genuine issues remain as to any material facts. RTC is entitled to judgment as a matter of law on all of Plaintiffs' claims.

Based on the foregoing and with good cause appearing,

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IT IS HEREBY ORDERED that RTC's Motion for Summary Judgment is GRANTED. The Court denies as moot RTC's pending Motion In Limine To Preclude Plaintiffs From Presenting Evidence Pursuant To NRS 50.275, 50.285 and 50.305 and the Motion In Limine To Exclude Evidence Of Damages. The jury trial currently set for August 9, 2021 is vacated.

Dated this 9th day of June, 2021.

DISTRICT JUDGE

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Clerk of the Court
Transaction # 8490380

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Attorneys for Defendant, the Regional Transportation Commission of Washoe County

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

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NOTICE OF ENTRY OF ORDER GRANTING SUMMARY JUDGMENT

TO: ALL INTERESTED PARTIES:

PLEASE TAKE NOTICE that an Order Granting Summary Judgment After Supplemental Arguments was entered in the above-entitled action on June 9, 2021, by this Court. A copy of the Order is attached hereto as **Exhibit 1.**

/ / /

Affirmation pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding Notice of Entry of Order Granting Summary Judgment does not contain any personal information.

Dated: June 10, 2021

WOODBURN AND WEDGE

By: */s/ Dane W. Anderson*
Dane W. Anderson, Esq.
Nevada Bar No. 6883
Bronagh M. Kelly, Esq.
Nevada Bar No. 14555

Attorneys for Defendant
The Regional Transportation
Commission of Washoe County

Woodburn and Wedge
6100 Neil Road, Suite 500
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TABLE OF EXHIBITS

Exhibit	No. of Pages (*Including Exhibit Sheet*)	Exhibit No.
Order Granting Summary Judgment After Supplemental Arguments filed June 9, 2021	13	1

Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, NV 89511
775-688-3000

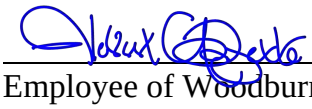
CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Woodburn and Wedge and that on this date, I caused to be sent via electronic delivery through the Court's E-flex system a true and correct copy of the **NOTICE OF ENTRY OF ORDER GRANTING SUMMARY JUDGMENT** to:

MICHAEL J. MORRISON, ESQ.
1495 Ridgeview Dr., #220
Reno, Nevada 89519
venturelawusa@gmail.com

Attorneys for Plaintiffs

DATED: June 10, 2021



Employee of Woodburn and Wedge

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EXHIBIT “1”

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5. On December 10, 2019, the Court entered its Order Granting Stipulation For Entry Of Order Dismissing Certain Of Plaintiffs' Claims For Relief And Damages With Prejudice. That order specifically adopted the parties' agreement that Plaintiffs' compensatory damages would be limited to alleged damage to the parking lot, and that any damages for emotional distress or personal injury were dismissed with prejudice.

6. Shortly thereafter, the Court ordered Plaintiffs to file an amended complaint consistent with the parties' stipulation. Plaintiffs filed their Amended Complaint on January 21, 2020, asserting eleven claims for relief: (1) injunctive relief; (2) breach of contract; (3) contractual breach of the implied covenant of good faith and fair dealing; (4) breach of fiduciary duty/breach of trust; (5) declaratory relief; (6) waste; (7) conversion; (8) trespass; (9) civil conspiracy; (10) negligence; (11) tortious breach of the implied covenant of good faith and fair dealing.

7. On January 30, 2020, RTC filed a Supplemental Motion To Dismiss. After briefing, the Court entered an Order Granting Motion To Dismiss on March 20, 2020, dismissing Plaintiffs' claims for injunctive relief, breach of fiduciary duty/breach of trust, waste, conversion and tortious breach of the implied covenant of good faith and fair dealing. The Court denied RTC's motion to dismiss the civil conspiracy claim, noting the pre-trial resolution of that claim, if any, could only be considered through a motion for summary judgment after appropriate discovery is conducted. Thus, the case proceeded on Plaintiffs' claims for breach of contract, contractual breach of the implied covenant of good faith and fair dealing, declaratory relief, trespass, civil conspiracy, and negligence.

8. On January 20, 2020, RTC filed a Motion To Compel because Plaintiffs had failed to serve responses to RTC's requests for production of documents pursuant to NRCP 34 and the parties' stipulation for early discovery. Plaintiffs did not respond to that motion and,

on April 20, 2020, the Court entered a Confirming Order approving the Master's Recommendation For Order that Plaintiffs produce responses, including responsive documents within their possession, custody or control, no later than April 17, 2020 and that Plaintiffs pay RTC $1,000 as a sanction for their discovery failures.

9. On March 23, 2020, RTC filed its Answer to First Amended Complaint. Thereafter, Plaintiffs failed to schedule an early case conference and failed to file a case conference report. This failure will be addressed further below.

10. On April 1, 2020, RTC filed a Motion For Discovery Sanctions based on Plaintiffs' failure to appear at their properly noticed depositions and other discovery failures. On April 20, 2020, RTC filed a Motion For Sanctions Pursuant To NRCP 37(b)(1) based on Plaintiffs failure to comply with the Court's April 20, 2020 Confirming Order. Among other things, the Court ordered Plaintiffs to produce documents responsive to RTC's requests for production no later than June 30, 2020. The Court further ordered RTC to submit a declaration setting forth RTC's reasonable expenses incurred in connection with the discovery motions. After briefing, the Court ordered Plaintiffs to pay $10,684.90 to RTC in sanctions for their discovery failures.

11. On July 21, 2020, RTC filed a Motion In Limine To Preclude Plaintiffs From Offering Documents Not Produced To RTC On Or Before June 30, 2020. Plaintiffs did not oppose this motion and, on August 19, 2020, the Court entered an order granting it.

12. On October 12, 2020, the Court entered an Order Granting Stipulated Scheduling Order. Among other deadlines, the Court ordered that the deadline to make expert disclosures was February 26, 2021, and the deadline to disclose rebuttal experts was March 29, 2021. The Court noted the NRCP 16.1 case conference had not been held and nothing in the scheduling order should be construed as a waiver of RTC's rights under the August 19,

2020 Order granting RTC's motion in limine.

13. On January 19, 2021, RTC filed a Motion For Sanctions Pursuant To NRCP 16.1(e), seeking dismissal of this case due to Plaintiffs' failure to hold an early case conference pursuant to NRCP 16.1 and consequent failure to file a case conference report. Following briefing, the Court entered an Order Denying Motion For Sanctions on March 25, 2021. The Court denied the requested sanction of dismissal because it wanted to decide the case on its merits, but it noted Plaintiffs' repeated failure to prosecute their case. The Court ordered the parties to conduct an NRCP 16(b) conference and also ordered the parties to appear before the Court for a status hearing on April 27, 2020.

14. On March 9, 2021, RTC filed its Motion For Summary Judgment, along with two motions in limine: (1) Motion In Limine To Preclude Plaintiffs From Presenting Evidence Pursuant To NRS 50.275, 50.285 and 50.305 ("Motion In Limine Re Experts"); and (2) Motion In Limine To Exclude Evidence Of Damages. The Motion In Limine Re Experts was based on Plaintiffs' failure to timely disclose any expert witnesses. The Motion In Limine To Exclude Evidence Of Damages was based on Plaintiffs' failure to provide a computation of damages pursuant to NRCP 16.1(a)(1) and their failure to provide any documentation to support their damages claim. Those motions in limine are pending and will be denied as moot in light of the Court's ruling on the Motion for Summary Judgment.

15. Plaintiffs filed their opposition briefs on April 2, 2021. The primary theme of these oppositions was that the Court's March 25, 2021 Order Denying Motion For Sanctions was a "reset" of this case excusing Plaintiffs from their repeated procedural failures.

16. On April 27, 2021, the Court held a status conference, at which Plaintiffs' counsel asserted the parties' stipulation for early discovery somehow restricted Plaintiffs from conducting discovery in this case. As discussed below, the Court finds this assertion to be

unsupported by the documents of record. Following the hearing, the Court set oral arguments on RTC's Motion For Summary Judgment for May 12, 2021 at 2:00 p.m.

FINDINGS OF FACT

17. In entering the December 6, 2019, Stipulation For Entry Of Order Dismissing Certain Plaintiffs' Claims For Relief And Damages With Prejudice, which the Court granted by its Order of December 10, 2019, Plaintiffs expressly waived, with prejudice, any claim for compensatory damages other than compensation for physical damage to the parking lot.

18. Plaintiffs failed to timely disclose an expert witness on any subject, including Plaintiffs' alleged damages. This Court concludes expert evidence is necessary to determine causation, scope of repair, diminishment in value, and damages. As a result, Plaintiffs have no expert evidence as to the cost to repair the parking lot or the loss of value to the property based on the alleged damage to the parking lot. Plaintiffs are not qualified to provide such evidence and were not designated to provide such testimony.

19. Plaintiffs have not conducted discovery necessary to prosecute their case.

20. The October 30, 2019 Stipulation To Conduct Discovery Prior To Holding The NRCP 16.1 Conference And Prior To Filing The Joint Case Conference Report expressly allowed *both* parties to conduct discovery. Nothing in that Stipulation or the November 18, 2019 Order granting the Stipulation, restricted Plaintiffs' right or ability to conduct discovery. The Court does not find that RTC or its counsel in any way precluded Plaintiffs from prosecuting their case.

21. In opposing summary judgment, Plaintiffs presented no declarations or any other admissible evidence to support their claims. The documents Plaintiffs submitted to the Court suffer from several evidentiary infirmities.

22. There is no admissible evidence supporting each of the elements of Plaintiffs'

claims.

23. There is no admissible evidence of Plaintiffs' alleged damages.

24. The Court's March 25, 2021 Order Denying Motion For Sanctions was not a "reset" of the entire case. The Court simply wished to avoid imposing case ending sanctions based solely on Plaintiffs' failure to hold an early case conference. That Order was not intended to, and did not, relieve Plaintiffs of any other procedural failures in this case. Contrary to Plaintiffs' suggestion, the March 25, 2021 order did not override or supersede the Court's August 19, 2020 Order Granting Motion In Limine To Preclude Plaintiffs From Offering Documents Not Produced To RTC On Or Before June 30, 2020.

CONCLUSIONS OF LAW

25. Summary judgment is appropriate and "shall be rendered forthwith" when the pleadings and other evidence on file demonstrate that no "genuine issue as to any material fact [remains] and that the moving party is entitled to a judgment as a matter of law." *Wood v. Safeway, Inc.*, 121 Nev. 724, 729, 121 P.3d 1026, 1029 (2005).

26. In opposing summary judgment, the nonmoving party "must, by affidavit or otherwise, set forth specific facts demonstrating the existence of a genuine issue for trial or have summary judgment entered against him." *Id.*, 121 Nev. at 732, 121 P.3d at 1031. "Evidence introduced in...opposition to a motion for summary judgment must be admissible evidence." *Collins v. Union Fed. Savings & Loan*, 99 Nev. 284, 302, 662 P.2d 610, 621 (1983), citing NRCP 56(e).

27. Summary judgment serves an important role in promoting sound judicial economy. Courts should not hesitate to discourage litigation in instances where claims are deficient of evidentiary support and are based on little more than the complainants' conclusory allegations and accusations. *Boesiger v. Desert Appraisals, LLC*, 135 Nev. 192,

193, 444 P.3d 436, 438 (2019). In doing so, courts avoid the unwarranted consumption of public and private resources. *Id.*, 135 Nev. at 194, 444 P.3d at 438.

28. Here, the Court concludes that RTC is entitled to summary judgment on all of Plaintiffs' remaining claims: (1) breach of contract; (2) contractual breach of the implied covenant of good faith and fair dealing; (3) civil conspiracy; (4) trespass; (5) negligence; and (6) declaratory relief. Each is addressed in turn.

29. "Basic contract principles require, for an enforceable contract, an offer and acceptance, meeting of the minds and consideration." *Certified Fire Prot. Inc. v. Precision Construction, Inc.*, 128 Nev. 371, 378, 283 P.3d 250, 255 (2012). "A meeting of the minds exists when the parties have agreed upon the contract's essential terms." *Id.* There is no evidence supporting any of these elements, nor is there any evidence of Plaintiffs' alleged damages. Plaintiffs' breach of contract claim fails.

30. A claim for breach of the implied covenant of good faith and fair dealing requires the plaintiff to prove the existence of a contract. *Perry v. Jordan*, 111 Nev. 943, 900 P.2d 335 (1995). Plaintiffs have failed to prove the existence of a contract with RTC and have provided no evidence of damages. Therefore, Plaintiffs' claim for breach of the implied covenant of good faith and fair dealing fails.

31. A civil conspiracy claim exists when a combination of two or more persons who, by some concerted action, intend to accomplish some unlawful objective for the purpose of harming another and resulting in damages. *Collins*, *supra*, 99 Nev. at 303, 662 P.2d at 622. To succeed on a civil conspiracy claim, a plaintiff must prove both an agreement between tortfeasors and that the conduct of each defendant is tortious. *GES, Inc. v. Corbitt*, 117 Nev. 265, 271, 21 P.3d 11, 15 (2001). Here, there is no evidence of the existence or identity of any alleged co-conspirator, no evidence of any agreement between RTC and anyone else, and no

evidence of Plaintiffs' alleged damages. As noted above, there is no evidence of the cost of repair or loss of value based on the alleged damage to the parking lot and Plaintiffs have waived all other damages by way of the December 6, 2019 stipulation. Plaintiffs' civil conspiracy claim fails.

32. To prove trespass, the claimant must show that the defendant invaded the claimant's real property. *Lied v. County of Clark*, 94 Nev. 275, 279, 579 P.2d 171, 173-174 (1978). A plaintiff may recover compensatory, nominal, and/or punitive damages under a trespass claim. *See True v. Bosch,* 73 Nev. 270, 317 P.2d 1089 (1957) (compensatory damages to property); *Land Baron Invs., Inc. v. Bonnie Springs Family Ltd. P'ship*, 131 Nev. 686, 700, 356 P.3d 511, 521 (2015) (plaintiff asserting a trespass claim may recover damages for annoyance and discomfort). Here, Plaintiffs waived any damages other than compensatory damages for the physical damage to the parking lot and punitive damages. Therefore, they cannot recover nominal damages or general damages for annoyance, discomfort, emotional distress, anxiety or depression. There is no evidence of cost of repair or loss of value based on the alleged physical damage. There is also no evidence that would support an award of punitive damages.

33. To establish a negligence claim, a plaintiff must demonstrate: (1) that defendant owed plaintiff a duty of care; (2) that defendant breached that duty; (3) the breach was the legal cause of plaintiff's injuries; and (4) plaintiff sustained damages. *Scialabba v. Brandise Construction Co.*, 112 Nev. 965, 921 P.2d 928 (1996). Here, Plaintiffs have failed to present any evidence identifying the duty RTC allegedly owed them, nor have they presented any evidence of damages. Plaintiffs' negligence claim fails.

34. Plaintiffs' declaratory relief claim also fails. Plaintiffs sought a declaration that (1) RTC failed to perform under the "RTC-Trust agreement" or its "condemnation

activities"; (2) Plaintiffs are the sole and exclusive owners of their "Property" at 642 E. 4th St. in Reno; (3) RTC has no right, title or interest in the Property and no right to use the Property; (4) RTC "knowingly and wrongfully used the Remaining Property" without paying compensation to Plaintiffs; and (5) RTC wrongfully parked its vehicles on the Remaining Property, causing extensive damage in callous disregard of the law. First, there is no evidence of any contract between RTC and Plaintiffs and any issue involving RTC's "condemnation activities" was already adjudicated in the previous condemnation action between the parties. Second, while Plaintiffs own "the Property," they own it subject to RTC's valid and existing easements established by way of the prior condemnation action between the parties. Third, RTC has the rights, title and interest in the easements on the Property acquired by way of that condemnation action and for which Plaintiffs received just compensation. Finally, there is no evidence of Plaintiffs' damages and no evidence RTC "callously disregarded" the law. Plaintiffs' claim for declaratory relief fails.

36. In sum, there is no admissible evidence to support Plaintiffs' claims. All of Plaintiffs' remaining claims are dismissed. No genuine issues remain as to any material facts. RTC is entitled to judgment as a matter of law on all of Plaintiffs' claims.

Based on the foregoing and with good cause appearing,

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IT IS HEREBY ORDERED that RTC's Motion for Summary Judgment is GRANTED. The Court denies as moot RTC's pending Motion In Limine To Preclude Plaintiffs From Presenting Evidence Pursuant To NRS 50.275, 50.285 and 50.305 and the Motion In Limine To Exclude Evidence Of Damages. The jury trial currently set for August 9, 2021 is vacated.

Dated this 9th day of June, 2021.

DISTRICT JUDGE

F I L E D
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CV19-00459
2021-06-15 11:25:03 AM
Alicia L. Lerud
Clerk of the Court
Transaction # 8495869

1950
Dane W. Anderson, Esq.
Nevada Bar No. 6883
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WOODBURN AND WEDGE
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danderson@woodburnandwedge.com
bkelly@woodburnandwedge.com

Attorneys for Defendant, the Regional Transportation Commission of Washoe County

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an individual; AND SONNIA ILIESCU, an individual, Plaintiffs, v. THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1 – 40, inclusive, Defendants.	Case No.: CV19-00459 Dept. No.: 15

VERIFIED MEMORANDUM OF COSTS

Defendant The Regional Transportation Commission of Washoe County ("RTC"), by and through its attorneys and pursuant to NRS 18.110, submits the following Memorandum of Costs, also supported by the Declaration of Dane W. Anderson filed concurrently:

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	Cost Type		Subtotal		Total Amount
1.	Clerk's Fees	$		$	0
2.	Deposition Reporters' Fees	$		$	3,177.20
3.	Jurors' Fees	$		$	0
4.	Witness Fees	$		$	0
5.	Expert Witness Fees	$		$	0
6.	Interpreters' Fees	$		$	0
7.	Process Service	$		$	0
8.	Court Reporters' Fees	$		$	455.65
9.	Bonds	$		$	0
10.	Court Bailiff/Deputy Marshall Overtime	$		$	0
11.	Telecopies	$		$	0
12.	Photocopies	$		$	42.00
13.	Long Distance Telephone	$		$	0
14.	Postage	$		$	1.15
15.	Travel/Lodging for Discovery	$		$	0
16.	NRS 19.0335 Fees	$		$	0
17.	Other Necessary Expenses (*Pursuant to NRS 18.005(17)*)	$		$	**2,241.30**
	a) Computerized Legal Research Fees	*$*	2,221.20		
	b) Messenger Fees	*$*	20.10		
	c) Subpoena Delivery	*$*	0		
	d) Telephonic Court Appearance	*$*	0		
	e) Misc. Court Fees	*$*	0		
TOTAL:				**$**	**5,917.30**

Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, NV 89511
775-688-3000

STATE OF NEVADA)
) ss.
COUNTY OF WASHOE)

As attorney for Defendant The Regional Transportation Commission of Washoe County in this matter, I verify that, to the best of my knowledge and belief, the above items are correct and that such costs have been necessarily incurred in this action.

The undersigned does hereby further affirm that the preceding document does not contain any personal information.

DATED this 15th day of June, 2021.

WOODBURN AND WEDGE

Dane W. Anderson

Attorneys for Plaintiff

SUBSCRIBED AND SWORN to before me this 15th day of June, 2021.

MELISSA C. PAYETTE
Notary Public - State of Nevada
Appointment Recorded in Washoe County
No: 97-1155-2 - Expires April 4, 2025

NOTARY PUBLIC

Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, NV 89511
775-688-3000

TABLE OF EXHIBITS

Exhibit	No. of Pages (*Including Exhibit Sheet*)	Exhibit No.
Woodburn and Wedge Expense Report	2	1
Backup documentation (receipts, invoices)	17	2

Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, NV 89511
775-688-3000

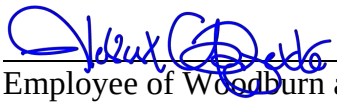
CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Woodburn and Wedge and that on this date, I caused to be sent via electronic delivery through the Court's E-flex system a true and correct copy of the **VERIFIED MEMORANDUM OF COSTS** to:

MICHAEL J. MORRISON, ESQ.
1495 Ridgeview Dr., #220
Reno, Nevada 89519
venturelawusa@gmail.com

Attorneys for Plaintiffs

DATED: June 15, 2021.



Employee of Woodburn and Wedge

Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, NV 89511
775-688-3000

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Electronically
CV19-00459
2021-06-15 11:25:03 AM
Alicia L. Lerud
Clerk of the Court
Transaction # 8495869

EXHIBIT "1"

EXHIBIT "1"

Expense Manager

Query Name: Start Date: 12/30/1899 End Date: 06/12/2021 Client-Matter: 010487-000160

Selected Records Only

Record	Date	Client Matter	Code	Description	Amount
221623	07/22/2020	010487-000160	EXCCPY	Color Photocopies	$1.00
213098	11/27/2019	010487-000160	CAMESS	Madeline G. Barnard- Special Messenger Services-	$5.60
208800	08/12/2019	010487-000160	EXC10	Photocopies	$0.10
212762	11/18/2019	010487-000160	EXC10	Photocopies	$0.60
217083	03/04/2020	010487-000160	EXC10	Photocopies	$1.20
218050	04/01/2020	010487-000160	EXC10	Photocopies	$0.50
220388	06/22/2020	010487-000160	EXC10	Photocopies	$0.60
221621	07/22/2020	010487-000160	EXC10	Photocopies	$37.30
221720	07/24/2020	010487-000160	EXC10	Photocopies	$0.30
222422	08/06/2020	010487-000160	EXC10	Photocopies	$0.10
223002	08/20/2020	010487-000160	EXC10	Photocopies	$0.30
213487	12/03/2019	010487-000160	EXPOST	Postage	$1.15
216878	02/27/2020	010487-000160	CAMESS	Special Messenger Services-	$5.60
223909	09/17/2020	010487-000160	CAMESS	Special Messenger Services-	$8.90
235071	05/25/2021	010487-000160	CAMISC	Sunshine Reporting & Litigation Services- -	$455.65
218080	04/03/2020	010487-000160	CAMISC	Sunshine Reporting & Litigation Services- - Cancelle	$295.00
217684	03/25/2020	010487-000160	CAMISC	Sunshine Reporting & Litigation Services- - Certificat	$209.95
218079	04/03/2020	010487-000160	CAMISC	Sunshine Reporting & Litigation Services- - Certificat	$234.95
223126	08/25/2020	010487-000160	CAMISC	Sunshine Reporting & Litigation Services- - Original	$1,327.30
222564	08/13/2020	010487-000160	CAMISC	Sunshine Reporting & Litigation Services- - Videogra	$1,110.00
210788	09/30/2019	010487-000160	EXWEST	Westlaw Research	$2,221.21
					$5,917.31

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Alicia L. Lerud
Clerk of the Court
Transaction # 8495869

EXHIBIT "2"

EXHIBIT "2"

RTC adv. Iliescu 10487-160

INVOICE

SUNSHINE Litigation SERVICES
Discovery Depositions Trial

151 Country Estates Circle
Reno, NV 89511
Phone: 800-330-1112
litigationservices.com

Invoice No.	Invoice Date	Job No.
1372254	3/13/2020	609037
Job Date	**Case No.**	
3/5/2020	CV19-00459	
Case Name		
Iliescu, Jr., John et al. vs. The Regional Transportation Commission		
Payment Terms		
Net 30		

Dane W. Anderson, Esq.
Woodburn & Wedge
P.O. Box 2311
Reno, NV 89505

Certificate of Non-Appearance for:
John Iliescu, Jr. 209.95

TOTAL DUE >>> **$209.95**
AFTER 4/12/2020 PAY $230.95

Client Matter No.: 010487-160
Claim No. : N/A
Insured : N/A
Location of Job : Reno, NV

MC
DWA

Please note, disputes or refunds will not be honored or issued after 30 days

Tax ID: 20-3835523

Phone: 775-688-3000 Fax:775-688-3088

Please detach bottom portion and return with payment.

INVOICE	DATE	DESCRIPTION	INV AMOUNT
1372254	3/25/2020	Certificate of Non-appearance for John Iliescu, Jr.	209.95

Check# / Date 111103 3/25/2020 Sunshine Reporting & Litigation Services 209.95

Requested by: FIRM G/L 1180 1180-000

#10487-100

INVOICE

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BMK

Bronagh M. Kelly
Woodburn & Wedge
P.O. Box 2311
Reno, NV 89505

5549

Invoice No.	Invoice Date	Job No.
1373754	3/17/2020	609040
Job Date	**Case No.**	
3/6/2020	CV19-00459	
Case Name		
Iliescu, Jr., John et al. vs. The Regional Transportation Commission		
Payment Terms		
Net 30		

Certificate of Non-Appearance for:
Sonnia Iliescu

234.95

TOTAL DUE >>> **$234.95**
AFTER 4/16/2020 PAY $258.45

Please note, disputes or refunds will not be honored or issued after 30 days

Tax ID: 20-3835523

Phone: 775-688-3000 Fax:775-688-3088

INVOICE	DATE	DESCRIPTION	INV AMOUNT
1373754	4/3/2020	Certificate of Non-Appearance for Sonnia Iliescu	234.95

Check# / Date 111141 4/3/2020 Sunshine Reporting & Litigation Services 234.95
Requested by: FIRM G/L 1180 1180-000

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Dane W. Anderson, Esq.
Woodburn & Wedge
P.O. Box 2311
Reno, NV 89505

Invoice No.	Invoice Date	Job No.
1375152	3/19/2020	609526
Job Date	**Case No.**	
3/5/2020	CV19-00459	
Case Name		
Iliescu, Jr., John et al. vs. The Regional Transportation Commission		
Payment Terms		
Net 30		

Cancelled Videography Services for:
John Iliescu, Jr. (Video) 295.00

TOTAL DUE >>> **$295.00**
AFTER 4/1B/2020 PAY $324.50

Please note, disputes or refunds will not be honored or issued after 30 days

Tax ID: 20-3835523

Phone: 775-688-3000 Fax:775-688-3088

Please detach bottom portion and return with payment

INVOICE	DATE	DESCRIPTION	INV AMOUNT
1375152	4/3/2020	Cancelled Videography Services for John Iliescu, Jr.	295.00

Check# / Date	111142	4/3/2020	Sunshine Reporting & Litigation Services		295.00
Requested by:	FIRM		G/L 1180	1180-000	

010487-160
Iliescu/RTC

INVOICE

SUNSHINE Litigation SERVICES
Discovery : Depositions : Trial

151 County Estates Circle
Reno, NV 89511
Phone: 800-330-1112
litigationservices.com

Invoice No.	Invoice Date	Job No.
1393837	7/31/2020	646026
Job Date	**Case No.**	
7/30/2020	CV19-00459	
Case Name		
Iliescu, Jr., John et al. vs. The Regional Transportation Commission		
Payment Terms		
Net 30		

Dane W. Anderson, Esq.
Woodburn & Wedge
P.O. Box 2311
Reno, NV 89505

Videography Services for:
Sonnia Iliescu/John Iliescu, Jr. (Video) 1,110.00

TOTAL DUE >>> **$1,110.00**
AFTER 8/30/2020 PAY $1,221.00

Please note, disputes or refunds will not be honored or issued after 30 days

Tax ID: 20-3835523 Phone: 775-688-3000 Fax:775-688-3088

INVOICE	DATE	DESCRIPTION	INV AMOUNT
1393837	8/13/2020	Videography Services for Sonnia Iliescu/John Iliescu, Jr.	1,110.00

Check# / Date 111643 8/13/2020 Sunshine Reporting & Litigation Services 1,110.00
Requested by: FIRM G/L 1180 1180-000

010487-160
RTC adv. Iliescu

INVOICE

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Invoice No.	Invoice Date	Job No.
1395303	8/11/2020	646022
Job Date	**Case No.**	
7/30/2020	CV19-00459	
Case Name		
Iliescu, Jr., John et al. vs. The Regional Transportation Commission		
Payment Terms		
Net 30		

Dane W. Anderson
Woodburn & Wedge
P.O. Box 2311
Reno, NV 89505

Original & One Certified Copy - Video Deposition of: John Iliescu, Jr., M.D.	893.80
Original & One Certified Copy - Video Deposition of: Sonnia Iliescu	433.50
TOTAL DUE >>>	**$1,327.30**
AFTER 9/10/2020 PAY	$1,460.03

Client Matter No.: 010487-160
Claim No. : N/A
Insured : N/A
Location of Job : Reno, NV

Please note, disputes or refunds will not be honored or issued after 30 days

OK
DWA

Tax ID: 20-3835523

Phone: 775-688-3000 Fax:775-688-3088

INVOICE	DATE	DESCRIPTION	INV AMOUNT
1395303	8/25/2020	Original & One Certified Copy of Video Deposition	1,327.30

Check# / Date 111701 8/25/2020 Sunshine Reporting & Litigation Services 1,327.30
Requested by: FIRM G/L 1180 1180-000

INVOICE

SUNSHINE Litigation SERVICES
Discovery Depositions Trial

151 Country Estates Circle
Reno, NV 89511
Phone: 800-330-1112
litigationservices.com

Invoice No.	Invoice Date	Job No.
1463529	5/13/2021	758613
Job Date	**Case No.**	
5/12/2021	CV19-00459	
Case Name		
Department 15 RTC/Iliescu		
Payment Terms		
Net 30		

Dane W. Anderson, Esq.
Woodburn & Wedge
P.O. Box 2311
Reno, NV 89505

10487-160

ORIGINAL AND 1 CERTIFIED COPY OF TRANSCRIPT OF:
Oral Arguments on MSJ

455.65

TOTAL DUE >>> **$455.65**

AFTER 6/12/2021 PAY $501.22

Location of Job : Department 15
75 Court Street
Reno, NV 89501

Case CV19-00459
John Iliescu, Jr. vs RTC Washoe County
Expedited transcript production requested. Hourly Civil Reporting fee billed per state statute and included in this invoice.

Please note, disputes or refunds will not be honored or issued after 30 days

WOODBURN AND WEDGE

113025

INVOICE	DATE	DESCRIPTION	INV AMOUNT
1463529	5/25/2021	Original and 1 Certified Copy of Transcript	455.65

Check# / Date 113025 5/25/2021 Sunshine Reporting & Litigation Services 455.65

Requested by: FIRM G/L 1180 1180-000

DATE: Ilicsku v RTC 11-18-19 ATTY: DWG

CLIENT NAME: NO. 010487-1200

TYPE OF MAIL: AMT: 1.15

MB
$5.60

WOODBURN AND WEDGE
ERRAND REQUEST FOR RUNNERS

DATE: **11.08.19** Time: 3pm

DATE & TIME OF COMPLETION REQUESTED: **11.08.19**

CLIENT: RTC adv. Iliescu
Client No.: 010487
MATTTER NO.: 160

ATTY: DWA

RECEIVED BY: _____

Assignment:

DELIVER TO:

MICHAEL J. MORRISON, ESQ.
1495 Ridgeview Dr., #220
Reno, Nevada 89519

If Mr. Morrison's office is closed, please drop in mail box, if there is one. If there is no mail box, please call me. Perhaps there is a business close to him and we can leave the docs with the neighboring business, but call me first before you do that.

Thank you,

SE
$5.60

WOODBURN AND WEDGE
ERRAND REQUEST FOR RUNNERS

DATE: **02.20.2020** Time: 1 PM

DATE & TIME OF COMPLETION REQUESTED: **02.20.2020**

CLIENT: Iliescu v. RTC ATTY:DWA
Client No.: 010487
MATTTER NO.: 160

RECEIVED BY: _____

Assignment:

Deliver to:

Michael J. Morrison, Esq.
1495 Ridgeview Dr., #220
Reno, Nevada 89519

Please have someone sign for this delivery and return a copy of the signed run slip to me today.

THANK YOU,
DIANNE ☺

SE
$8.90

WOODBURN AND WEDGE
ERRAND REQUEST FOR RUNNERS

DOWNTOWN RENO
PICKUP

DATE: **09/15/2020** TIME IN RUN BOX: **09/15/2020 AT: 10:30 a.m.**

DATE & TIME OF COMPLETION REQUESTED: **09/15/2020**

CLIENT: RTC adv. Iliescu ATTY: DWA
Client No. 010487
MATTTER NO.: 160

RECEIVED BY: _____

Assignment:

PICK UP FROM:

100 North Arlington Avenue
Reno, NV

You will be picking up a check in the amount of $10,945.00 at the guard shack in the main lobby and returning it to me today.

F I L E D
Electronically
CV19-00459
2021-06-15 11:28:50 AM
Alicia L. Lerud
Clerk of the Court
Transaction # 8495884

1520
Dane W. Anderson, Esq.
Nevada Bar No. 6883
Bronagh M. Kelly, Esq.
Nevada Bar No. 14555
WOODBURN AND WEDGE
6100 Neil Road, Suite 500
Reno, Nevada 89511
Telephone: 775-688-3000
Facsimile: 775-688-3088
danderson@woodburnandwedge.com
bkelly@woodburnandwedge.com

Attorneys for Defendant, the Regional Transportation Commission of Washoe County

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an individual; AND SONNIA ILIESCU, an individual, Plaintiffs, v. THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1 – 40, inclusive, Defendants.	Case No.: CV19-00459 Dept. No.: 15

DECLARATION OF DANE W. ANDERSON IN SUPPORT OF MEMORANDUM OF COSTS

1. I am an attorney licensed to practice in the State of Nevada. I am over the age of 18 and make this declaration of my own personal knowledge.

2. I am a shareholder with the law firm of Woodburn and Wedge ("Woodburn"). Woodburn is counsel for defendant The Regional Transportation

Commission of Washoe County ("RTC") in this matter. I have represented RTC in this matter since the date my firm accepted service of process on RTC's behalf.

3. I make this declaration in support of RTC's Verified Memorandum of Costs filed concurrently and to provide additional detail regarding certain claimed items of costs.

4. To the best of my knowledge, the documentation attached to the Verified Memorandum of Costs are accurate copies of invoices and/or accurately reflect the computerized data justifying these costs.

5. Regarding computerized legal research, Woodburn has submitted the available documentation from its computerized records. Unfortunately, those records do not contain a description of the purpose of the research. Therefore, I reviewed those records in conjunction with my firm's attorney fee transaction listing to connect the Westlaw charges with the work that was performed. The Westlaw computerized records reflect that research was performed on September 20 and 23 of 2019. In reviewing the time entries for those days on this matter, I located entries by my associate, Bronagh Kelly, for those days. Both time entries involve the issue of whether a government entity (such as RTC) owes a fiduciary duty to private citizens. This research was done as part of RTC's motion to dismiss certain claims. RTC was successful in obtaining dismissal of Plaintiffs' claim for breach of fiduciary duty. I believe these Westlaw charges were reasonably and necessarily incurred and that RTC should be reimbursed for these expenses.

6. Regarding photocopies, I believe the charges are reasonable for a case that was pending for over two years, and that the charges were necessarily incurred. The charge for $37.30 related to making copies for Plaintiffs' depositions. I believe the messenger fees mainly related to delivering items to Mr. Morrison.

/ / /

/ / /

/ / /

Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, NV 89511
775-688-3000

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

Affirmation pursuant to NRS 239B.030

The undersigned does hereby affirm that the above-entitled document filed in this matter does not contain any personal information.

Dated this 15 day of June, 2021.

/s/ Dane W. Anderson
DANE W. ANDERSON

Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, NV 89511
775-688-3000

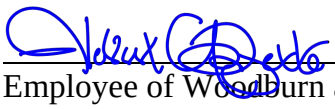
CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Woodburn and Wedge and that on this date, I caused to be sent via electronic delivery through the Court's E-flex system a true and correct copy of the **DECLARATION OF DANE W. ANDERSON IN SUPPORT OF MEMORANDUM OF COSTS** to:

MICHAEL J. MORRISON, ESQ.
1495 Ridgeview Dr., #220
Reno, Nevada 89519
venturelawusa@gmail.com

Attorneys for Plaintiffs

DATED: June 15, 2021



Employee of Woodburn and Wedge

Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, NV 89511
775-688-3000

FILED
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2021-06-29 11:29:42 AM
Alicia L. Lerud
Clerk of the Court
Transaction # 8517765

2010
Dane W. Anderson, Esq.
Nevada Bar No. 6883
Bronagh M. Kelly, Esq.
Nevada Bar No. 14555
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danderson@woodburnandwedge.com
bkelly@woodburnandwedge.com

Attorneys for Defendant, the Regional Transportation Commission of Washoe County

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an individual; AND SONNIA ILIESCU, an individual, Plaintiffs, v. THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1 – 40, inclusive, Defendants.	Case No.: CV19-00459 Dept. No.: 15

MOTION FOR ATTORNEY FEES AND FOR ENTRY OF JUDGMENT FOR ATTORNEY FEES AND COSTS

Defendant THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY ("RTC"), moves this Court for an order awarding attorney fees pursuant to NRS 18.010(2)(b). RTC also asks that the Court enter judgment: (1) for attorney fees awarded; and (2) for RTC's costs incurred in this matter as set forth in RTC's Verified Memorandum of

Costs filed on June 15, 2021, in response to which Plaintiffs did not timely file a motion to retax and settle costs pursuant to NRS 18.110(4). This motion is based on the following points and authorities and the record in this case, including the Declaration of Dane W. Anderson filed concurrently ("Anderson Declaration") which includes a billing summary of all attorney fees incurred in this matter through the last available billing date.

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

The Court is familiar with this case by way of prior motion practice and multiple hearings. This has been an expensive case for RTC. Plaintiffs chose to bring a lawsuit accusing RTC of numerous atrocities arising from RTC's alleged trespass on Plaintiffs' parking lot, but never provided any credible evidence—or any admissible evidence at all—to support their claims. Plaintiffs failed to prosecute their claims. RTC successfully sought dismissal of many of Plaintiffs' claims and, ultimately, summary judgment on the remaining claims.

RTC seeks an award of fees against Plaintiffs pursuant to NRS 18.010(2)(b). That statute contains language mandating that courts "liberally construe" its provisions in favor of awarding attorneys' fees "in all appropriate situations" to accomplish the Legislature's intent to both punish for and deter litigants from asserting claims not supported by credible evidence, which is the situation presented here—Plaintiffs never offered any admissible, credible evidence to support their claims.

At the end of the day, RTC prevailed on every front. However, it has incurred more than $100,000 in attorneys' fees and costs because of Plaintiffs' frivolous and unreasonable conduct. RTC is entitled to a substantial attorney fee award against Plaintiffs pursuant to NRS 18.010(2)(b). As discussed below, this Court is vested with great discretion to award attorney fees. RTC requests that the Court exercise that discretion and award RTC its reasonable attorney fees incurred in this case. RTC also asks the Court to enter judgment upon its award of attorney fees as well as RTC's Verified Memorandum of Costs that Plaintiffs did not timely challenge.

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II. RELEVANT BACKGROUND

Plaintiffs filed this action on February 27, 2019. Their complaint asserted twelve (12) claims for relief: (1) injunctive relief; (2) breach of contract; (3) breach of the implied covenant of good faith and fair dealing; (4) breach of fiduciary duty/breach of trust; (5) declaratory relief; (6) waste; (7) conversion; (8) trespass; (9) civil conspiracy; (10) negligence; (11) elder abuse; and (12) intentional and/or negligent infliction of emotional distress/tort of outrage. Plaintiffs' claims were all based on RTC's alleged improper use of the parking lot on Plaintiffs' property at 642 E. 4th Street in Reno. Plaintiffs' complaint alleged damage to the parking lot, reduction in value, personal injuries (including emotional distress, anxiety and depression) and also sought punitive damages against RTC.

After being served, RTC file a motion to dismiss certain of Plaintiffs' claims. While that motion was pending, the parties filed a Stipulation To Conduct Discovery Prior To Holding The NRCP 16.1 Conference And Prior To Filing The Joint Case Conference Report on October 30, 2019. The stipulation was based on Plaintiffs' ages and allegations in the complaint regarding Plaintiffs' medical issues. Significantly, the stipulation allowed *both* parties to conduct early discovery.

Pursuant to the stipulation and order for early discovery, RTC served written requests for production on Plaintiffs, including requests seeking information regarding Plaintiffs' alleged damages—both damages to the parking lot as well as alleged personal injury and emotional distress damages. In response to these requests, Plaintiffs indicated they did not wish to disclose their medical records. Therefore, on December 6, 2019, the parties entered into a Stipulation For Entry Of Order Dismissing Certain Plaintiffs' Claims For Relief And Damages With Prejudice. By way of that stipulation, Plaintiffs expressly stated that they no longer wished to pursue any damages for emotional distress or personal injury and had decided to limit their compensatory damages solely to the property damage to their parking lot. Plaintiffs agreed to dismiss with prejudice their claim for intentional and/or negligent infliction of emotional distress as well as any claims for damages other than those specifically related to their parking lot and punitive damages.

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Shortly thereafter, the Court ordered Plaintiffs to file an amended complaint consistent with the parties' stipulation. Plaintiffs filed their Amended Complaint on January 21, 2020, asserting eleven (11) claims for relief: (1) injunctive relief; (2) breach of contract; (3) contractual breach of the implied covenant of good faith and fair dealing; (4) breach of fiduciary duty/breach of trust; (5) declaratory relief; (6) waste; (7) conversion; (8) trespass; (9) civil conspiracy; (10) negligence; (11) tortious breach of the implied covenant of good faith and fair dealing.

On January 30, 2020, RTC filed a Supplemental Motion To Dismiss. After briefing, the Court entered an Order Granting Motion To Dismiss on March 20, 2020, dismissing Plaintiffs' claims for injunctive relief, breach of fiduciary duty/breach of trust, waste, conversion and tortious breach of the implied covenant of good faith and fair dealing. The Court denied RTC's motion to dismiss as to the civil conspiracy claim, noting that the pre-trial resolution of that claim, if any, can only be considered through a motion for summary judgment after appropriate discovery is conducted. Thus, the case proceeded on Plaintiffs' claims for breach of contract, contractual breach of the implied covenant of good faith and fair dealing, declaratory relief, trespass, civil conspiracy and negligence.

On January 20, 2020, RTC filed a Motion To Compel because Plaintiffs had failed to serve responses to RTC's requests for production of documents pursuant to NRCP 34 and the parties' stipulation for early discovery. Plaintiffs did not respond to that motion and, on April 20, 2020, the Court entered a Confirming Order approving the Master's Recommendation For Order that Plaintiffs produce responses, including responsive documents within their possession, custody or control, no later than April 17, 2020 and that Plaintiffs pay RTC $1,000 as a sanction for their discovery failures.

On March 23, 2020, RTC filed its Answer to First Amended Complaint. Thereafter, Plaintiffs failed to schedule an early case conference and failed to file a case conference report.

On April 1, 2020, RTC filed a Motion For Discovery Sanctions based on Plaintiffs' repeated failure to appear at their properly noticed depositions and other discovery failures.

On April 20, 2020, RTC filed a Motion For Sanctions Pursuant To NRCP 37(b)(1) based on Plaintiffs failure to comply with the Court's April 20, 2020 Confirming Order. Among other things, the Court ordered Plaintiffs to produce documents responsive to RTC's requests for production no later than June 30, 2020. The Court further ordered RTC to submit a declaration setting forth RTC's reasonable expenses incurred in connection with the discovery motions. After briefing, the Court ordered Plaintiffs to pay RTC $11,684.90 in sanctions for their discovery failures.

On July 21, 2020, RTC filed a Motion In Limine To Preclude Plaintiffs From Offering Documents Not Produced To RTC On Or Before June 30, 2020. Plaintiffs did not oppose this motion and, on August 19, 2020, the Court entered an order granting it. As discussed below, the documents Plaintiffs produced on or before June 30, 2020 are not admissible evidence establishing Plaintiffs' claims.

On October 12, 2020, the Court entered an Order Granting Stipulated Scheduling Order. Among other deadlines, the Court ordered that the deadline to make expert disclosures was February 26, 2021, and the deadline to disclose rebuttal experts was March 29, 2021. The Court noted that the NRCP 16.1 case conference had not been held and also that nothing in the scheduling order should be construed as a waiver of RTC's rights under the August 19, 2020 Order granting RTC's motion in limine.

On January 19, 2021, RTC filed a Motion For Sanctions Pursuant To NRCP 16.1(e), seeking dismissal of this case due to Plaintiffs' failure to hold an early case conference pursuant to NRCP 16.1 and consequent failure to file a case conference report. Following briefing, the Court entered an Order Denying Motion For Sanctions on March 25, 2021. The Court denied the requested sanction of dismissal because it wanted to decide the case on its merits but noted Plaintiffs' repeated failure to prosecute their case.

On March 9, 2021, RTC filed its Motion For Summary Judgment, along with two motions in limine: (1) Motion In Limine To Preclude Plaintiffs From Presenting Evidence Pursuant To NRS 50.275, 50.285 and 50.305 ("Motion In Limine Re Experts"); and (2) Motion In Limine To Exclude Evidence Of Damages. The Motion In Limine Re Experts was

based on Plaintiffs' failure to timely disclose any expert witnesses. The Motion In Limine To Exclude Evidence Of Damages was based on Plaintiffs' failure to provide a computation of damages pursuant to NRCP 16.1(a)(1) and their failure to provide any documentation to support their damages claim.

Plaintiffs filed their opposition briefs on April 2, 2021. The primary thrust of these oppositions was that the Court's March 25, 2021 Order Denying Motion For Sanctions was a "reset" of this case excusing Plaintiffs from their repeated procedural failures. Plaintiffs apparently believed the March 25, 2021 Order relieved them of their numerous procedural failures.

On April 27, 2021, the Court held a status conference, at which Plaintiffs' counsel asserted that the parties' stipulation for early discovery somehow restricted Plaintiffs from conducting discovery in this case. That assertion was without merit, as the order permitting early discovery allowed both parties to conduct discovery. Plaintiffs never did so. As discussed below, the Court finds this assertion to be meritless. Following the hearing, the Court set oral arguments on RTC's Motion For Summary Judgment for May 12, 2021 at 2:00 p.m.

The oral argument hearing on RTC's Motion For Summary Judgment proceeded as scheduled on May 12, 2021 at 2:00 p.m. via Zoom. Plaintiffs' counsel did not appear on time and cited technical difficulties. RTC's counsel proceed to argue the motion and the Court pronounced from the bench its findings and conclusions. Following that hearing, Plaintiffs filed several documents requesting rcconsideration on the grounds that Plaintiffs' counsel had technical difficulties with Zoom that prevented his participation in the oral argument. The Court permitted a subsequent oral argument on June 7, 2021. RTC's counsel again prepared for oral argument on the motion for summary judgment. The Court granted RTC's motion on June 9, 2021 and entered summary judgment in RTC's favor on all of Plaintiffs' remaining claims, finding there was no admissible evidence supporting those claims.

RTC has incurred substantial fees in this case. Plaintiffs failed to present any evidence to support their claims in over 2 years of litigation. RTC should be awarded its reasonable

attorney fees incurred in having to deal with this frivolous lawsuit.

III. LAW AND ARGUMENT

NRS 18.010(2)(b) provides:

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

A claim or defense is groundless if the allegations upon which they are based are not supported by any credible evidence at trial. *Semenza v. Caughlin Crafted Homes*, 111 Nev. 1089, 1095, 901 P.2d 684, 688 (1995). While this matter did not reach trial, it was because Plaintiffs' claims were not supported by any credible evidence and the Court entered summary judgment in favor of RTC. Many of Plaintiffs' claims were dismissed as meritless prior to summary judgment. The remaining claims were dismissed on summary judgment because Plaintiffs presented no evidence to support them. This case has been pending since February 2019. Plaintiffs conducted no discovery, failed to respond to RTC's written discovery requests and repeatedly failed to appear at their properly scheduled depositions. Plaintiffs were sanctioned a total of $11,684.90 for their conduct. That conduct exemplifies this entire case. Plaintiffs dragged RTC into this litigation and then did nothing to try to prove their case.

In Nevada, "district courts have great discretion to award attorney fees, and this discretion is tempered only by reason and fairness." *Haley v. Dist. Ct.*, 128 Nev. 171, 178, 273 P.3d 855, 860 (Nev. 2012). In determining the amount of fees to award, the court is not limited to one specific approach; its analysis may begin with any method rationally designed

to calculate a reasonable amount. *Shuette v. Bezer Homes Holdings Corp.*, 121 Nev. 837, 864, 124 P.3d 530, 549 (2005). The "*Brunzell* factors" to determine the reasonableness of attorneys' fees are: (1) the qualities of the attorney, (2) the character of the work to be done, (3) the actual work performed by the attorney, and (4) the case's result. *Id.*

This case was an overwhelming success for RTC, but at significant cost to RTC and its constituent taxpayers because Plaintiffs asserted claims without reasonable grounds and engaged in vexatious conduct throughout the case. The Court granted summary judgment in favor of RTC on all of Plaintiffs' remaining claims. Plaintiffs' other claims, as asserted in their pleadings, were either abandoned by Plaintiffs after RTC's legitimate discovery requests or dismissed by the Court pursuant to NRCP 12. The work was complicated by Plaintiffs' numerous and varied claims. Instead of asserting a simple trespass claim—which is really what this case is all about—they proceeded in a "scorched earth" manner, asserting a variety of contract, tort and equitable claims that had no merit. The work was further complicated by Plaintiffs refusal to participate in discovery. The actual work performed by RTC's counsel was reasonable to try to resolve this case based on both substantive and procedural grounds.

RTC is entitled to a substantial award of attorney fees against Plaintiffs. Considering Plaintiffs' failure to produce any evidence to support their claims, and their frivolous and unreasonable conduct throughout this case, RTC respectfully submits that an attorney fee award against Plaintiffs, jointly and severally, of $101,420 through May 2021 plus additional fees incurred subsequently (which documentation is not yet available would be reasonable and justified under the *Brunzell* factors), less the $11,684.90 already awarded to RTC as sanctions in this case..

IV. CONCLUSION

RTC should be awarded attorney fees. The amount incurred through May is $101,420. RTC should be awarded that amount and fees incurred in June, for which records are not yet available, less the $11,684.90 already awarded to RTC as sanctions. RTC requests

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that the fee award, along with an award of costs in the amount of $3,647.35[1] (which Plaintiffs did not timely dispute), be reduced to a judgment against Plaintiffs.

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the above-entitled document filed in this matter does not contain any personal information.

Dated this 29th day of June, 2021.

/s/ Dane W. Anderson
DANE W. ANDERSON

[1] The RTC has submitted the correct amount of costs with this Motion. That amount was incorrectly stated in the previously filed Application for Costs due to an accounting error.

Woodburn and Wedge
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Reno, NV 89511
775-688-3000

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Woodburn and Wedge and that on this date, I caused to be sent via electronic delivery through the Court's E-flex system a true and correct copy of the **MOTION FOR ATTORNEY FEES AND FOR ENTRY OF JUDGMENT FOR ATTORNEY FEES AND COSTS** to:

MICHAEL J. MORRISON, ESQ.
1495 Ridgeview Dr., #220
Reno, Nevada 89519
venturelawusa@gmail.com

Attorneys for Plaintiffs

DATED: June 29, 2021

Employee of Woodburn and Wedge

FILED
Electronically
CV19-00459
2021-06-29 11:29:42 AM
Alicia L. Lerud
Clerk of the Court
Transaction # 8517765

1520
Dane W. Anderson, Esq.
Nevada Bar No. 6883
WOODBURN AND WEDGE
6100 Neil Road, Suite 500
Reno, Nevada 89511
Telephone: 775-688-3000
Facsimile: 775-688-3088
danderson@woodburnandwedge.com

Attorneys for Plaintiff, the Regional Transportation Commission of Washoe County

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an individual; AND SONNIA ILIESCU, an individual, Plaintiffs, v. THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1 – 40, inclusive, Defendants.	Case No.: CV19-00459 Dept. No.: 15

DECLARATION OF DANE ANDERSON IN SUPPORT OF MOTION FOR ATTORNEY FEES AND FOR ENTRY OF JUDGMENT FOR ATTORNEY FEES AND COSTS

1. I am an attorney licensed to practice in the State of Nevada. I am over the age of 18 and make this declaration of my own personal knowledge.

2. I am a shareholder with the law firm of Woodburn and Wedge ("Woodburn"). Woodburn is counsel for defendant The Regional Transportation Commission of Washoe County ("RTC") in this matter. I have represented RTC in this matter since the date my firm accepted service of process on RTC's behalf.

3. I make this declaration in support of RTC's motion for attorney fees filed concurrent.

4. Attached as **Exhibit 1** are true and correct copies of invoices for this matter through May 2021. These documents were generated by my firm's accounting department from our billing system. It contains accurate entries for attorney fees incurred in this matter.

5. I have done additional work for the month of June 2021 for which billing records are not yet available. I will file a supplemental declaration along with the supporting documentation when those records become available.

6. For the reasons set forth in RTC's motion for attorney fees, I believe the fees incurred to date and that continue to be incurred are reasonable and were necessary to successfully defend this case. I believe the entire amount incurred, $101,420 plus the additional fees incurred subsequently should be awarded as a result of Plaintiffs' pursuit of claims without reasonable grounds and without any evidence. I found the work to be difficult and complicated because Plaintiffs pursued numerous and varied contract, tort and equitable claims, including a request for punitive damages, for what appeared to be a simple trespass claim. This required filing two successful motions to dismiss and, ultimately, a motion for summary judgment. My efforts at discovery were repeatedly frustrated, resulting in two sanction awards against Plaintiffs. I had to prepare for two summary judgment oral arguments and prepared two motions in limine in preparation of trial.

7. I recognize that Plaintiff paid the sanction award in the amount of $11,684.90 and that RTC should not be paid twice for these fees. However, I believe that RTC should be paid for the remainder of its fees incurred in defending a case that Plaintiffs failed to prosecute and failed to support with any admissible evidence. Therefore, RTC should be awarded a minimum amount of $89,735.10 pursuant to this Motion.

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Reno, NV 89511
775-688-3000

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

Affirmation pursuant to NRS 239B.030

The undersigned does hereby affirm that the above-entitled document filed in this matter does not contain the social security number of any person.

Dated this 29th day of June, 2021.

/s/ Dane W. Anderson
DANE W. ANDERSON

Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, NV 89511
775-688-3000

CERTIFICATE OF SERVICE

It is hereby certified that service of the foregoing **DECLARATION OF DANE ANDERSON IN SUPPORT OF MOTION FOR ATTORNEY FEES AND FOR ENTRY OF JUDGMENT FOR ATTORNEY FEES AND COSTS** was made through the Court's electronic filing and notification or, as appropriate, by sending a copy thereof by first-class mail from Reno, Nevada addressed as follows:

MICHAEL J. MORRISON, ESQ.
Nevada State Bar No. 1665
1495 Ridgeview Dr., #220
Reno, Nevada 89519
venturelawusa@gmail.com

Attorneys for Plaintiffs

DATED: June 29, 2021.

Candace McCarty
Employee of Woodburn and Wedge

EXHIBIT LIST

No.	Description	Pages
1.	Invoices	31

Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, NV 89511
775-688-3000

F I L E D
Electronically
CV19-00459
2021-06-29 11:29:42 AM
Alicia L. Lerud
Clerk of the Court
Transaction # 8517765

EXHIBIT 1

EXHIBIT 1

Date	Fees	Costs		Fees + Costs
9/24/2019	$2,567.50			$2,567.50
10/18/2019	$9,945.00			$9,945.00
11/6/2019	$2,795.00			$2,795.00
12/23/2019	$5,460.00			$5,460.00
1/17/2020	$1,397.50			$1,397.50
2/24/2020	$3,412.50			$3,412.50
3/13/2020	$4,777.50	$5.60		$4,783.10
4/16/2020	$11,245.00	$209.95		$11,454.95
5/27/2020	$3,412.50	$529.95		$3,942.45
6/30/2020	$1,787.50			$1,787.50
7/22/2020	$2,730.00			$2,730.00
8/26/2020	$10,172.50			$10,172.50
9/22/2020	$2,827.50	$2,437.30		$5,264.80
10/22/2020	$1,300.00	$8.90		$1,308.90
11/17/2020	$1,105.00			$1,105.00
12/28/2020	$1,787.50			$1,787.50
1/7/2021	$1,397.50			$1,397.50
2/8/2021	$6,402.50			$6,402.50
3/10/2021	$7,085.00			$7,085.00
4/18/2021	$5,200.00			$5,200.00
5/17/2021	$5,135.00			$5,135.00
6/8/2021	$9,477.50	$455.65		$9,933.15
Total	**$101,420.00**	**$3,647.35**		**$105,067.35**

Woodburn and Wedge
ATTORNEYS AND COUNSELORS AT LAW
6100 Neil Road, Suite 500
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Regional Transportation Commission
2050 Villanova Drive
PO Box 30002
Reno, NV 89520

September 24, 2019
Invoice #: 428904
Resp. Atty: DEF
Client: 010487
Matter: 000160
Page: 1

RE: adv. John Iliescu, Jr. and Sonnia Iliescu, et al.
RTC Purchase Order No 0034136 - Project No 8131087

For Professional Services Rendered Through August 31, 2019

Federal Tax I.D. No.: 88-0104505

SERVICES

Date	Person	Description of Services	Hours	Amount
08/06/2019	DWA	Email from Mike Morrison regarding new lawsuit; Email to Dale Ferguson regarding same.	0.2	$65.00
08/09/2019	DWA	Conference with Dale Ferguson regarding case; Review rules regarding time line for response and regarding defensive motions; Draft memo to Dale Ferguson regarding same; Continue analyzing possible defenses.	1.2	$390.00
08/10/2019	DWA	Review prior Iliescu file regarding claims; Continue review of claims and research regarding possible motion relief.	2.5	$812.50
08/12/2019	DWA	Review rule regarding due date for response and draft letter to Mike Morrison regarding deadline to file response.	0.3	$97.50
08/19/2019	DWA	Review file and emails regarding status; Conference regarding Iliescu's failure to provide 16.1 disclosures.	0.5	$162.50
08/20/2019	DWA	Continue analysis of complaint and possible response.	1.4	$455.00
08/30/2019	DWA	Continue work on response to complaint.	1.8	$585.00
		Total Professional Services	7.9	$2,567.50

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Regional Transportation Commission
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PO Box 30002
Reno, NV 89520

October 18, 2019
Invoice #: 429432
Resp. Atty: DEF
Client: 010487
Matter: 000160
Page: 1

RE: adv. John Iliescu, Jr. and Sonnia Iliescu, et al.
RTC Purchase Order No 0034136 - Project No 8131087

For Professional Services Rendered Through September 30, 2019

Federal Tax I.D. No.: 88-0104505

SERVICES

Date	Person	Description of Services	Hours	Amount
09/10/2019	DWA	Conference with Dale Ferguson regarding response to complaint; Continue work on same.	0.9	$292.50
09/11/2019	DWA	Continue work on motion to dismiss.	0.6	$195.00
09/12/2019	DWA	Work on motion to dismiss and related issues.	3.4	$1,105.00
09/16/2019	DWA	Work on researching issues for motion to dismiss.	2.0	$650.00
09/17/2019	DWA	Continue work on research issues and motion to dismiss.	5.2	$1,690.00
09/18/2019	DEF	Conference with Brian Stewart and Carrie Byron; Begin review of additional information re this matter provided by RTC.	2.3	$747.50
09/18/2019	DWA	Continue work on motion to dismiss; Trip to RTC for meeting with Brian Stewart, Carrie Byron and Dale Ferguson regarding motion to dismiss and related issues; Review additional documents from client.	3.8	$1,235.00
09/19/2019	DWA	Continue work on motion to dismiss; Review documents and other materials from client regarding case; Conference with associate regarding research issue.	4.5	$1,462.50
09/20/2019	DWA	Continue work on motion to dismiss.	0.7	$227.50
09/24/2019	DEF	Review draft motion to dismiss and legal authority cited therein.	2.5	$812.50
09/24/2019	DWA	Finish drafting motion to dismiss; Emails to Dale Ferguson and clients regarding same.	2.5	$812.50
09/25/2019	DWA	Revise motion to dismiss; Final review and file; Research regarding procedure for obtaining early discovery.	2.2	$715.00
		Total Professional Services	30.6	$9,945.00

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Reno, NV 89520

November 06, 2019
Invoice #: 429947
Resp. Atty: DEF
Client: 010487
Matter: 000160
Page: 1

RE: adv. John Iliescu, Jr. and Sonnia Iliescu, et al.
RTC Purchase Order No 0034136 - Project No 8131087

For Professional Services Rendered Through October 31, 2019

Federal Tax I.D. No.: 88-0104505

SERVICES

Date	Person	Description of Services	Hours	Amount
10/08/2019	DWA	Conference regarding scheduling depositions.	0.2	$65.00
10/17/2019	DWA	Draft letter to Mike Morrison regarding medical releases; Review and edit form releases.	0.5	$162.50
10/18/2019	DWA	Conference regarding depositions and begin preparing for same.	0.5	$162.50
10/21/2019	DWA	Review rules regarding video recording of depositions; Prepare amended notices of deposition to reflect video recording; Begin preparing for depositions of plaintiffs.	1.2	$390.00
10/22/2019	DWA	Work on deposition issues.	0.4	$130.00
10/23/2019	DWA	Conference with associate regarding depositions and issues re medical records request; Continue preparation for depositions.	1.0	$325.00
10/24/2019	DWA	Work on deposition preparation.	0.4	$130.00
10/25/2019	DWA	Work on deposition preparation.	1.6	$520.00
10/28/2019	DWA	Continue preparing for depositions; Telephone conference with Mike Morrison regarding his request to reschedule due to calendaring error; Conference with Dale Ferguson regarding same; Draft stipulation for early discovery; Draft email to Mike Morrison regarding rescheduling depositions and related issues.	2.5	$812.50
10/29/2019	DWA	Emails with Mike Morrison regarding stipulation to conduct early discovery; Conference regarding his refusal to provide alternative dates for Iliescu depositions; Consider possible additional early discovery.	0.3	$97.50
		Total Professional Services	8.6	$2,795.00

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Regional Transportation Commission
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Reno, NV 89520

December 23, 2019
Invoice #: 431359
Resp. Atty: DEF
Client: 010487
Matter: 000160
Page: 1

RE: adv. John Iliescu, Jr. and Sonnia Iliescu, et al.
RTC Purchase Order No 0034136 - Project No 8131087

For Professional Services Rendered Through November 30, 2019

Federal Tax I.D. No.: 88-0104505

SERVICES

Date	Person	Description of Services	Hours	Amount
11/07/2019	DEF	Review opposition to motion to dismiss.	0.7	$227.50
11/07/2019	DWA	Review opposition to motion to dismiss; Research issues raised in opposition and begin working on reply.	3.2	$1,040.00
11/08/2019	DWA	Work on discovery requests.	1.0	$325.00
11/08/2019	DWA	Work on initial disclosures.	0.5	$162.50
11/11/2019	DWA	Finish drafting reply in support of motion to dismiss and research of issues regarding same; Draft email to client regarding same.	7.5	$2,437.50
11/12/2019	DEF	Review of reply in support of motion to dismiss and legal authority cited therein.	1.3	$422.50
11/12/2019	DWA	Brief research regarding private causes of action in statutory provisions and revise reply brief re motion to dismiss; Final review and edits.	0.6	$195.00
11/18/2019	DWA	Review and finalize initial disclosures for service; Conference regarding status of other discovery issues.	1.0	$325.00
11/19/2019	DWA	Conference regarding Iliescu medical authorizations and email to Mike Morrison regarding same.	0.2	$65.00
11/20/2019	DWA	Review email from Mike Morrison regarding discovery of medical providers and status of Dr. Iliescu's health; Research alternative discovery methods.	0.5	$162.50
11/25/2019	DWA	Conference regarding upcoming depositions of Iliescu; Email to Mike Morrison regarding medical releases.	0.3	$97.50
		Total Professional Services	16.8	$5,460.00

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Reno, NV 89520

January 17, 2020
Invoice #: 431874
Resp. Atty: DEF
Client: 010487
Matter: 000160
Page: 1

RE: adv. John Iliescu, Jr. and Sonnia Iliescu, et al.
RTC Purchase Order No 0034136 - Project No 8131087

For Professional Services Rendered Through December 31, 2019

Federal Tax I.D. No.: 88-0104505

SERVICES

Date	Person	Description of Services	Hours	Amount
12/03/2019	DEF	Review stipulation to dismiss certain claims and related emails.	0.4	$130.00
12/03/2019	DWA	Lengthy telephone conference with Mike Morrison regarding discovery issues and claims; Draft stipulation to dismiss certain tort claims and damages; Draft email report to client regarding same; Conferences with Dale Ferguson and Gordon Depaoli regarding stipulation.	2.3	$747.50
12/04/2019	DWA	Work on stipulation to dismiss Iliescus' emotional distress claims and related damages.	0.3	$97.50
12/04/2019	GHD	Review stipulation for partial dismissal; Email to Dane Anderson.	0.2	$65.00
12/05/2019	DEF	Review email re this matter.	0.3	$97.50
12/06/2019	DWA	Telephone conference with Mike Morrison; Finalize stipulation and emails regarding same.	0.6	$195.00
12/11/2019	DWA	Review discovery status and conference regarding Iliescu responses.	0.2	$65.00
		Total Professional Services	4.3	$1,397.50

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Reno, NV 89520

February 24, 2020
Invoice #: 432715
Resp. Atty: DEF
Client: 010487
Matter: 000160
Page: 1

RE: adv. John Iliescu, Jr. and Sonnia Iliescu, et al.
RTC Purchase Order No 0034136 - Project No 8131087

For Professional Services Rendered Through January 31, 2020

Federal Tax I.D. No.: 88-0104505

SERVICES

Date	Person	Description of Services	Hours	Amount
01/07/2020	DWA	Review order addressing motion to dismiss and conference regarding same.	0.4	$130.00
01/08/2020	DWA	Email exchange with client regarding status.	0.2	$65.00
01/21/2020	DWA	Review amended complaint; Emails with Mike Morrison regarding same and discovery; Begin work on supplemental motion to dismiss.	2.0	$650.00
01/23/2020	DWA	Work on issues for expert disclosure.	0.3	$97.50
01/27/2020	DWA	Work on renewed motion to dismiss and email draft to Dale Ferguson and Gordon DePaoli; Draft lengthy email to Mike Morrison regarding Iliescus' failure to provide discovery.	4.8	$1,560.00
01/28/2020	DEF	Review draft supplemental motion to dismiss and relevant case law.	1.5	$487.50
01/29/2020	DEF	Further review of case law re supplemental motion to dismiss.	1.3	$422.50
		Total Professional Services	10.5	$3,412.50

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Regional Transportation Commission
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Reno, NV 89520

March 13, 2020
Invoice #: 433348
Resp. Atty: DEF
Client: 010487
Matter: 000160
Page: 1

RE: adv. John Iliescu, Jr. and Sonnia Iliescu, et al.
RTC Purchase Order No 0034136 - Project No 8131087

For Professional Services Rendered Through February 29, 2020 Federal Tax I.D. No.: 88-0104505

SERVICES

Date	Person	Description of Services	Hours	Amount
02/03/2020	DWA	Review discovery status and begin work on motion to compel.	1.5	$487.50
02/05/2020	DWA	Work on motion to compel.	0.5	$162.50
02/06/2020	DWA	Work on motion to compel.	0.5	$162.50
02/10/2020	DEF	Review draft motion in limine and relevant legal authority.	1.3	$422.50
02/10/2020	DWA	Review opposition to supplemental motion to dismiss; Begin work on reply brief.	1.5	$487.50
02/11/2020	DWA	Finish drafting reply brief in support of supplemental motion to dismiss; Continue work on motion to compel discovery responses.	2.3	$747.50
02/12/2020	DEF	Review reply in support of supplemental motion to dismiss and related authority.	2.0	$650.00
02/13/2020	DWA	Revise and finalize reply brief.	0.5	$162.50
02/20/2020	DWA	Review file and conference with Dale Ferguson regarding Iliescu's failure to answer discovery; Draft motion to compel; Work on deposition issues.	3.4	$1,105.00
02/21/2020	DEF	Review Motion for Summary Judgment.	1.2	$390.00
		Total Professional Services	14.7	$4,777.50

DISBURSEMENTS

Date	Description of Disbursements	Amount
02/27/2020	Special Messenger Services-	$5.60
	Total Disbursements	$5.60

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April 16, 2020
Invoice #: 434088
Resp. Atty: DEF
Client: 010487
Matter: 000160
Page: 1

RE: adv. John Iliescu, Jr. and Sonnia Iliescu, et al.
RTC Purchase Order No 0034136 - Project No 8131087

For Professional Services Rendered Through March 31, 2020

Federal Tax I.D. No.: 88-0104505

SERVICES

Date	Person	Description of Services	Hours	Amount
03/03/2020	DWA	Conference regarding depositions; Work on gathering documents; Research regarding Iliescus and their businesses and properties; Begin preparing for depositions.	3.0	$975.00
03/04/2020	DWA	Finish preparing for depositions, reviewing additional documents and assembling exhibits.	6.2	$2,015.00
03/09/2020	DWA	Review letter from John Iliescu to Court, physicians, counsel; Review prior correspondence re depositions; Conference with colleagues re how to respond; Research re same; Consider motion for sanctions.	2.0	$650.00
03/11/2020	DWA	Review Court's notice of nonconsideration of Iliescu's letter.	0.2	$65.00
03/19/2020	DWA	Conference regarding notices of non-appearance to be included in motions for sanctions; Work on same.	0.5	$162.50
03/20/2020	DEF	Review order granting motion to dismiss and related email; Review draft answer to first amended complaint and related pleadings.	1.3	$422.50
03/20/2020	DWA	Review order granting RTC's motion to dismiss certain of Plaintiffs' claims; Email to client regarding same; Draft answer to complaint; Email to Dale Ferguson and Gordon DePaoli re same; Continue work on motion for sanctions, including researching applicable authority.	4.0	$1,300.00
03/23/2020	DWA	Emails with Gordon DePaoli regarding answer to complaint; Revise answer to complaint; Research regarding additional affirmative defenses; Finalize and file answer; Telephone conference with Brian Stewart regarding case; Work on disclosures.	2.5	$812.50
03/23/2020	GHD	Review answer to first amended complaint; Email to Dane Anderson.	0.2	$65.00

SERVICES

Date	Person	Description of Services	Hours	Amount
03/24/2020	DWA	Review file regarding notes of conversations with counsel; Begin review of emails from both cases for communications regarding plaintiffs' failure to participate in discovery; Research for cases specific to facts of case; Work on motion for sanctions; Email to client regarding answer to amended complaint.	2.3	$747.50
03/25/2020	DWA	Continue work on motion for sanctions, reviewing file regarding prior communications, researching standards for dismissal and other sanctions.	1.1	$357.50
03/26/2020	DWA	Work on issues for motion for discovery sanctions; Work on disclosures.	1.7	$552.50
03/27/2020	DWA	Work on motion for discovery sanctions and related documents.	1.5	$487.50
03/30/2020	DWA	Review invoices from Litigation Services for Iliescus" non-appearance at deposition; Conference with staff regarding claiming recovery of those costs in motion for sanctions; Continue work on motion for sanctions and related documents.	0.6	$195.00
03/31/2020	DWA	Draft declaration of Dane W. Anderson in support of motion for discovery sanctions; Locate and assemble the numerous exhibits detailing the bases for dismissal of the action, including numerous emails, depositions notices and discovery requests; Continue work on motion for discovery sanctions.	7.5	$2,437.50
		Total Professional Services	34.6	$11,245.00

DISBURSEMENTS

Date	Description of Disbursements	Amount
03/25/2020	Sunshine Reporting & Litigation Services- - Certificate of Non-appearance for John Iliescu, Jr.	$209.95
	Total Disbursements	$209.95

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Reno, NV 89520

May 27, 2020
Invoice #: 434872
Resp. Atty: DEF
Client: 010487
Matter: 000160
Page: 1

RE: adv. John Iliescu, Jr. and Sonnia Iliescu, et al.
RTC Purchase Order No 0034136 - Project No 8131087

For Professional Services Rendered Through April 30, 2020 Federal Tax I.D. No.: 88-0104505

SERVICES

Date	Person	Description of Services	Hours	Amount
04/01/2020	DEF	Review motion for discovery sanctions and supporting affidavit; Telephone conference with Dane W. Anderson.	1.2	$390.00
04/01/2020	DWA	Finish motion for sanctions and conference regarding exhibits.	3.3	$1,072.50
04/03/2020	DWA	Review Master's Recommendation for Order granting our motion to compel and brief research regarding same and award of sanctions.	0.5	$162.50
04/06/2020	DEF	Review recommendation for order.	0.4	$130.00
04/07/2020	DWA	Conference call with client regarding status of case and pending motions.	0.3	$97.50
04/20/2020	DWA	Review order approving Discovery Commissioner's recommendation for order re motion to compel; Review docket re discovery issues; Draft request for submission of request for discovery sanctions; Draft motion to additional discovery sanctions based on Plaintiffs' failure to comply with order granting motion to compel.	2.8	$910.00
04/20/2020	DWA	Conference regarding Iliescus' failure to oppose motion for discovery sanctions; Prepare request for submission noting Iliescus' failure to respond.	0.3	$97.50
04/21/2020	DWA	Review exemption from arbitration.	0.2	$65.00
04/22/2020	DWA	Review exemption from arbitration; Review pretrial order.	0.5	$162.50
04/29/2020	DWA	Emails with Mike Morrison regarding case.	0.2	$65.00
04/30/2020	DWA	Email from Mike Morrison regarding motion for sanctions; Review docket regarding same and conference regarding request for extension; Consider strategy for allowing or disallowing extension; Review NRCP 16.1 issues.	0.8	$260.00

SERVICES

Date	Person	Description of Services	Hours	Amount
		Total Professional Services	10.5	$3,412.50

DISBURSEMENTS

Date	Description of Disbursements	Amount
04/03/2020	Sunshine Reporting & Litigation Services- - Certificate of Non-Appearance for Sonnia Iliescu	$234.95
04/03/2020	Sunshine Reporting & Litigation Services- - Cancelled Videography Services for John Iliescu, Jr.	$295.00
	Total Disbursements	$529.95

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Regional Transportation Commission
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Reno, NV 89520

June 30, 2020
Invoice #: 435636
Resp. Atty: DEF
Client: 010487
Matter: 000160
Page: 1

RE: adv. John Iliescu, Jr. and Sonnia Iliescu, et al.
RTC Purchase Order No 0034136 - Project No 8131087

For Professional Services Rendered Through May 31, 2020

Federal Tax I.D. No.: 88-0104505

SERVICES

Date	Person	Description of Services	Hours	Amount
05/15/2020	DEF	Review Plaintiff's opposition to RTC motion for sanctions.	0.5	$162.50
05/15/2020	DWA	Review plaintiffs' opposition to motion for sanctions; Research issues raised therein and begin work on reply brief.	2.0	$650.00
05/18/2020	DWA	Finish drafting reply brief in support of motion for sanctions; Review docket regarding status of prior motion for sanctions; Revise and finalize brief.	3.0	$975.00
		Total Professional Services	5.5	$1,787.50

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Regional Transportation Commission
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PO Box 30002
Reno, NV 89520

July 22, 2020
Invoice #: 436265
Resp. Atty: DEF
Client: 010487
Matter: 000160
Page: 1

RE: adv. John Iliescu, Jr. and Sonnia Iliescu, et al.
RTC Purchase Order No 0034136 - Project No 8131087

For Professional Services Rendered Through June 30, 2020

Federal Tax I.D. No.: 88-0104505

SERVICES

Date	Person	Description of Services	Hours	Amount
06/10/2020	DEF	Review recommendation for order re motions for discovery sanctions.	0.8	$260.00
06/10/2020	DWA	Review Discovery Master's recommendation for order, granting in part and denying in part RTC's requests for sanctions; Consider possible objections and responses to same; Begin work on declaration and supporting documentation for fees and costs.	2.0	$650.00
06/11/2020	DEF	Further review of recommendation for order and telephone conference with Dane W. Anderson.	0.7	$227.50
06/11/2020	DWA	Draft email to Mike Morrison regarding depositions; Telephone conference with Dale Ferguson re status.	0.5	$162.50
06/19/2020	DWA	Conference regarding scheduling of Iliescu depositions.	0.3	$97.50
06/22/2020	DEF	Review declaration regarding expenses to be reimbursed by Defendants.	0.5	$162.50
06/22/2020	DWA	Review and revise declaration in support of reimbursement; Review exhibit and finalize for filing; Conference regarding depositions and Iliescus' and counsel's refusal to attend in person; Conference regarding possible Zoom depositions; Review discovery commissioner's order regarding depositions.	1.2	$390.00
06/24/2020	DWA	Telephone conference with Mike Morrison regarding deposition and discovery issues; Draft confirming email agreeing to reschedule depositions; Draft stipulation regarding same.	0.5	$162.50
06/25/2020	DWA	Work on issues for remote depositions; Revise notices of deposition.	0.6	$195.00
06/29/2020	DWA	Emails with Mike Morrison regarding deadline to produce discovery; Review emails and conference with staff regarding same.	0.3	$97.50

SERVICES

Date	Person	Description of Services	Hours	Amount
06/30/2020	DWA	Conference regarding Iliescus' obligation to produce documents; Review document production; Review Iliescus' brief regarding response to our declaration claiming fees.	1.0	$325.00
		Total Professional Services	8.4	$2,730.00

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Regional Transportation Commission
2050 Villanova Drive
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Reno, NV 89520

August 26, 2020
Invoice #: 436828
Resp. Atty: DEF
Client: 010487
Matter: 000160
Page: 1

RE: adv. John Iliescu, Jr. and Sonnia Iliescu, et al.
RTC Purchase Order No 0034136 - Project No 8131087

For Professional Services Rendered Through July 31, 2020 Federal Tax I.D. No.: 88-0104505

SERVICES

Date	Person	Description of Services	Hours	Amount
07/01/2020	DEF	Review Plaintiffs Notice of Intent to file opposition.	0.3	$97.50
07/01/2020	DWA	Review Plaintiffs' "notice of intent to file opposition" to RTC's request for reimbursement and conference regarding same; Review order to set case for trial.	0.6	$195.00
07/06/2020	DEF	Review Plaintiffs' Response to Declaration of Dane W. Anderson.	0.5	$162.50
07/06/2020	DWA	Review Plaintiffs' opposition to RTC's request for reimbursement of fees as discovery sanctions against Plaintiffs; Research factual allegations and legal issues raised.	2.0	$650.00
07/08/2020	DWA	Email with Mike Morrison regarding trial setting.	0.2	$65.00
07/12/2020	DWA	Draft reply brief in support of request for reimbursement of fees as a discovery sanction; Email to colleagues re same; Work on issues for deposition and other discovery matters.	3.0	$975.00
07/13/2020	DWA	Finalize and file reply in support of request for reimbursement; Attend telephonic trial setting.	0.8	$260.00
07/15/2020	DWA	Email with Mike Morrison regarding depositions.	0.2	$65.00
07/16/2020	DWA	Review email from Mike Morrison regarding document disclosure and conference regarding same; Prepare request for submission of declaration for fees.	0.3	$97.50
07/17/2020	DWA	Conference regarding status of deadlines for early case conference and joint case conference report; Review docket re same.	0.4	$130.00
07/20/2020	DWA	Draft supplemental declaration in support of request for reimbursement; Draft email to Mike Morrison objecting to untimely production of documents.	1.2	$390.00
07/21/2020	DEF	Review Supplemental Declaration of Dane W. Anderson re reimbursement of expenses, and notices of deposition.	0.7	$227.50

SERVICES

Date	Person	Description of Services	Hours	Amount
07/21/2020	DWA	Review and redact billings supporting supplemental declaration; Revise and finalize declaration for filing; Review file and draft motion in limine to preclude plaintiffs from offering documents not disclosed prior to June 30, 2020; Conference with Dale Ferguson re same; Prepare deposition notices.	3.5	$1,137.50
07/22/2020	DEF	Review RTC Motion in Limine.	0.7	$227.50
07/22/2020	DWA	Work on logistics for depositions; Research regarding Iliescu properties and legal matters and additional background for depositions.	1.0	$325.00
07/27/2020	DEF	Review Plaintiff's Response to Supplemental Declaration of Dane W. Anderson.	0.5	$162.50
07/27/2020	DWA	Work on deposition preparation.	1.5	$487.50
07/28/2020	DWA	Continue preparing for depositions; Finish outline; Conference with associate regarding deposition of Sonnia Iliescu; Work on logistics for exhibits and testimony in Zoom call.	2.2	$715.00
07/28/2020	DWA	Review plaintiffs' response to supplemental declaration of fees and draft reply to same.	1.0	$325.00
07/29/2020	DWA	Conference with associate regarding depositions; Continue preparation for same; Research factual bases for summary judgment for purposes of deposition.	2.5	$812.50
07/30/2020	DWA	Finish preparing for depositions; Attend depositions of John and Sonnia Iliescu; Report to Dale Ferguson regarding same.	6.2	$2,015.00
07/31/2020	DWA	Review additional documents from opposing counsel and conference regarding objections to same; Work on status report.	2.0	$650.00
		Total Professional Services	31.3	$10,172.50

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Regional Transportation Commission
2050 Villanova Drive
PO Box 30002
Reno, NV 89520

September 22, 2020
Invoice #: 437591
Resp. Atty: DEF
Client: 010487
Matter: 000160
Page: 1

RE: adv. John Iliescu, Jr. and Sonnia Iliescu, et al.
RTC Purchase Order No 0034136 - Project No 8131087

For Professional Services Rendered Through August 31, 2020 Federal Tax I.D. No.: 88-0104505

SERVICES

Date	Person	Description of Services	Hours	Amount
08/05/2020	DEF	Review order regarding declaration of expenses.	0.3	$97.50
08/06/2020	DWA	Review order awarding RTC sanctions against Iliescu and conference with Dale Ferguson re same.	0.5	$162.50
08/10/2020	DWA	Review photographs from Mike Morrison and brief research re same; Conference regarding belated disclosures under court order.	0.5	$162.50
08/11/2020	DWA	Review deposition transcripts of John and Sonnia Iliescu.	2.0	$650.00
08/19/2020	DWA	Draft proposed order granting motion in limine regarding document disclosures; Email with Court regarding same; Review signed order and consider next steps in case.	0.8	$260.00
08/25/2020	DWA	Review Iliescu deposition transcripts and continue work on analysis of case status and strategy for report to client.	2.0	$650.00
08/25/2020	DWA	Draft email to client regarding Court's order granting motion in limine to preclude plaintiffs from offering certain evidence at trial.	0.2	$65.00
08/26/2020	DWA	Finish review of depositions and draft report to client regarding status of case and strategy; Email to opposing counsel regarding sanctions order and request for payment; Research regarding consequences of failure to comply.	2.0	$650.00
08/31/2020	DWA	Email to Mike Morrison regarding payment of sanction award against plaintiffs; Brief research regarding failure to comply.	0.4	$130.00
		Total Professional Services	8.7	$2,827.50

DISBURSEMENTS

Date	Description of Disbursements	Amount
08/13/2020	Sunshine Reporting & Litigation Services- - Videography Services for Sonnia Iliescu/John Iliescu, Jr.	$1,110.00
08/25/2020	Sunshine Reporting & Litigation Services- - Original & One Certified Copy of Video Deposition	$1,327.30
	Total Disbursements	$2,437.30

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October 22, 2020
Invoice #: 438404
Resp. Atty: DEF
Client: 010487
Matter: 000160
Page: 1

RE: adv. John Iliescu, Jr. and Sonnia Iliescu, et al.
RTC Purchase Order No 0034136 - Project No 8131087

For Professional Services Rendered Through September 30, 2020

Federal Tax I.D. No.: 88-0104505

SERVICES

Date	Person	Description of Services	Hours	Amount
09/03/2020	DWA	Review notice of appeal and case appeal statement and conference re same.	0.4	$130.00
09/08/2020	DWA	Emails with Department 15 regarding scheduling conference.	0.2	$65.00
09/08/2020	DWA	Emails with court re scheduling conference.	0.2	$65.00
09/24/2020	DWA	Emails with court and counsel regarding demand for jury and proposed scheduling order; Research regarding dates for scheduling order.	0.5	$162.50
09/29/2020	DWA	Review plaintiffs' proposed scheduling order and send redline comments to Mike Morrison; Prepare for scheduling hearing; Telephone conference with Mike Morrison regarding proposed scheduling order and RTC's concerns about effect on order in limine precluding plaintiffs from presenting documents; Attend scheduling conference with Judge Hardy; Conference with opposing counsel about plaintiffs' damage claim.	2.5	$812.50
09/30/2020	DWA	Review minutes from scheduling hearing.	0.2	$65.00
		Total Professional Services	4.0	$1,300.00

DISBURSEMENTS

Date	Description of Disbursements	Amount
09/17/2020	Special Messenger Services-	$8.90
	Total Disbursements	$8.90

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November 17, 2020
Invoice #: 439136
Resp. Atty: DEF
Client: 010487
Matter: 000160
Page: 1

RE: adv. John Iliescu, Jr. and Sonnia Iliescu, et al.
RTC Purchase Order No 0034136 - Project No 8131087

For Professional Services Rendered Through October 31, 2020

Federal Tax I.D. No.: 88-0104505

SERVICES

Date	Person	Description of Services	Hours	Amount
10/01/2020	DWA	Review court minutes and notes from hearing and revise proposed scheduling order; Email to Mike Morrison re same; Research deadlines with which plaintiffs have yet to comply; Consider strategy for possible summary disposition.	1.0	$325.00
10/05/2020	DWA	Email with Mike Morrison regarding scheduling order.	0.2	$65.00
10/06/2020	DWA	Continue dealing with Mike Morrison on scheduling order issues; Conference re same; Research deadline issues and send Mike Morrison a revised draft; Follow up emails re same.	1.0	$325.00
10/07/2020	DWA	Emails with Mike Morrison regarding scheduling order and dispute over language regarding order in limine; Research re submission of contested order.	0.5	$162.50
10/08/2020	DWA	Telephone calls and emails with Mike Morrison regarding stipulation and order; Finalize same.	0.3	$97.50
10/12/2020	DWA	Review scheduling order.	0.2	$65.00
10/22/2020	DWA	Brief conference with client regarding status of case.	0.2	$65.00
		Total Professional Services	3.4	$1,105.00

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December 28, 2020
Invoice #: 440235
Resp. Atty: DEF
Client: 010487
Matter: 000160
Page: 1

RE: adv. John Iliescu, Jr. and Sonnia Iliescu, et al.
RTC Purchase Order No 0034136 - Project No 8131087

For Professional Services Rendered Through November 30, 2020

Federal Tax I.D. No.: 88-0104505

SERVICES

Date	Person	Description of Services	Hours	Amount
11/02/2020	DWA	Review docket regarding status; Review rules regarding dismissal for failure to meet procedural deadlines; Consider filing motion to dismiss.	0.5	$162.50
11/06/2020	DWA	Research and evaluate possible dispositive motions.	3.0	$975.00
11/10/2020	DWA	Review email from client and estimate regarding parking lot damages; Research regarding expert issues and analyze whether an initial expert disclosure is necessary for RTC.	2.0	$650.00
		Total Professional Services	5.5	$1,787.50

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PO Box 30002
Reno, NV 89520

January 07, 2021
Invoice #: 440509
Resp. Atty: DEF
Client: 010487
Matter: 000160
Page: 1

RE: adv. John Iliescu, Jr. and Sonnia Iliescu, et al.
RTC Purchase Order No 0034136 - Project No 8131087

For Professional Services Rendered Through December 31, 2020

Federal Tax I.D. No.: 88-0104505

SERVICES

Date	Person	Description of Services	Hours	Amount
12/01/2020	DWA	Conference regarding deadlines to conduct the early case conference and file a case conference report; Review docket re same.	0.3	$97.50
12/04/2020	DEF	Review email re this matter.	0.5	$162.50
12/17/2020	DWA	Research regarding possible experts and evaluate issues to be reviewed.	2.0	$650.00
12/31/2020	DWA	Review status and evaluate possible procedural motions to dismiss; Research re same.	1.5	$487.50
		Total Professional Services	4.3	$1,397.50

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February 08, 2021
Invoice #: 441391
Resp. Atty: DEF
Client: 010487
Matter: 000160
Page: 1

RE: adv. John Iliescu, Jr. and Sonnia Iliescu, et al.
RTC Purchase Order No 0034136 - Project No 8131087

For Professional Services Rendered Through January 31, 2021

Federal Tax I.D. No.: 88-0104505

SERVICES

Date	Person	Description of Services	Hours	Amount
01/13/2021	DWA	Work on factual background for motion to dismiss; Research regarding duration of 4th street project; Email to Brian Stewart regarding same; Research regarding other possible dispositive motions to consider filing prior to February deadline.	2.3	$747.50
01/14/2021	DWA	Research legal authorities regarding dismissal for plaintiff's failure to comply with NRCP 16.1; Begin outlining motion to dismiss.	2.2	$715.00
01/15/2021	DEF	Review motion for sanctions, NRCP 16 and relevant case law.	1.2	$390.00
01/15/2021	DWA	Review file and draft motion to dismiss for failure to prosecute case; Email to Dale Ferguson regarding same.	5.2	$1,690.00
01/26/2021	DWA	Continue working on issues for motion for summary judgment.	3.0	$975.00
01/27/2021	DWA	Continue work on summary judgment issues; Begin review of Iliescu depositions re same.	2.3	$747.50
01/28/2021	DWA	Finish review of Iliescu depositions and continue work on summary judgment issues.	3.5	$1,137.50
		Total Professional Services	19.7	$6,402.50

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March 10, 2021
Invoice #: 442245
Resp. Atty: DEF
Client: 010487
Matter: 000160
Page: 1

RE: adv. John Iliescu, Jr. and Sonnia Iliescu, et al.
RTC Purchase Order No 0034136 - Project No 8131087

For Professional Services Rendered Through February 28, 2021

Federal Tax I.D. No.: 88-0104505

SERVICES

Date	Person	Description of Services	Hours	Amount
02/01/2021	DWA	Continue work on issues for motion for summary judgment; Conference regarding deadline for Iliescus to respond to motion for sanctions.	1.5	$487.50
02/03/2021	DWA	Telephone conference with Mike Morrison regarding his request for an extension of time to respond to motion to dismiss; Review pretrial order regarding various deadlines and email to Mike Morrison re same.	0.4	$130.00
02/04/2021	DWA	Review order reinstating briefing and conference with Dale Ferguson re same.	0.3	$97.50
02/05/2021	DWA	Review voicemail from opposing counsel requesting an extension of time to respond to RTC's motion to dismiss; Draft email confirming same.	0.2	$65.00
02/05/2021	DWA	Continue work on summary judgment issues.	1.2	$390.00
02/08/2021	DWA	Lengthy telephone conference with Mike Morrison regarding status of opposition to motion to dismiss and his health issues; Continue work on summary judgment issues and consideration of possible motions in limine.	2.7	$877.50
02/09/2021	DWA	Telephone conference with Mike Morrison regarding case and motion to dismiss; Follow up on issues related to same.	1.0	$325.00
02/16/2021	DWA	Telephone conference with Mike Morrison regarding extension of time to oppose motion for sanctions pursuant to NRCP 16.1(e).	0.2	$65.00
02/18/2021	DWA	Telephone conference with Mike Morrison regarding his request for another extension; Email regarding same; Continue work on summary judgment issues.	1.2	$390.00
02/19/2021	DWA	Review plaintiffs' opposition to motion for sanctions/dismissal; Conference with Dale Ferguson re same; Begin outlining reply.	1.0	$325.00
02/20/2021	DEF	Review opposition to motion for sanctions.	0.7	$227.50

SERVICES

Date	Person	Description of Services	Hours	Amount
02/23/2021	DWA	Review file and emails regarding chronology of events to counter plaintiffs' inaccurate version set forth in their opposition to motion to dismiss; Begin drafting reply brief.	3.3	$1,072.50
02/24/2021	DWA	Finish drafting reply in support of motion to dismiss and email same to Dale Ferguson.	4.3	$1,397.50
02/25/2021	DEF	Review RTC's reply in support of motions for sanctions and relevant provisions of NRCP 16.1; Conference with Dane W. Anderson.	1.2	$390.00
02/25/2021	DWA	Revisions to reply brief; Review Iliescu depositions re same; Finalize reply brief and submit for filing; Continue work on summary judgment issues.	2.4	$780.00
02/26/2021	DWA	Email to client regarding briefing on motion to dismiss.	0.2	$65.00
		Total Professional Services	21.8	$7,085.00

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April 16, 2021
Invoice #: 443204
Resp. Atty: DEF
Client: 010487
Matter: 000160
Page: 1

RE: adv. John Iliescu, Jr. and Sonnia Iliescu, et al.
RTC Purchase Order No 0034136 - Project No 8131087

For Professional Services Rendered Through March 31, 2021

Federal Tax I.D. No.: 88-0104505

SERVICES

Date	Person	Description of Services	Hours	Amount
03/07/2021	DWA	Work on motion for summary judgment and motions in limine.	2.4	$780.00
03/08/2021	DEF	Review draft motion for summary judgment and legal authority cited therein.	2.5	$812.50
03/08/2021	DWA	Finish drafting motion for summary judgment; Email draft to Dale Ferguson; Work on motion in llimine to exclude experts.	4.4	$1,430.00
03/09/2021	DWA	Conference with Dale Ferguson regarding motion for summary judgment; Revise and finalize motion for summary judgment for filing; Finish drafting motion in limine to preclude Plaintiffs from calling expert witnesses; Draft motion in limine to preclude plaintiffs from presenting evidence of their claimed damages.	2.9	$942.50
03/10/2021	DEF	Review motion in limine and motion to exclude evidence.	0.5	$162.50
03/10/2021	DWA	Emails with court and counsel regarding pretrial conference.	0.3	$97.50
03/11/2021	DWA	Emails with Court and counsel regarding pretrial conference; Call with client regarding deposition schedule and email opposing counsel re same.	0.5	$162.50
03/15/2021	DWA	Conference regarding attendance at pretrial conference; Inquiry to court re same.	0.3	$97.50
03/23/2021	DWA	Emails with opposing counsel regarding briefing schedule on RTC's motions.	0.3	$97.50
03/25/2021	DEF	Review order denying motion for sanctions and related previous pleadings filed in this matter; Review relevant provisions of NRCP 16.1.	1.2	$390.00
03/25/2021	DWA	Review order denying motion to dismiss based on Plaintiffs' failure to comply with NRCP 16.1; Conference with Dale Ferguson re same.	0.5	$162.50

SERVICES

Date	Person	Description of Services	Hours	Amount
03/26/2021	DWA	Email with Mike Morrison re response to motion for summary judgment.	0.2	$65.00
		Total Professional Services	16.0	$5,200.00

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2050 Villanova Drive
PO Box 30002
Reno, NV 89520

May 17, 2021
Invoice #: 443898
Resp. Atty: DEF
Client: 010487
Matter: 000160
Page: 1

RE: adv. John Iliescu, Jr. and Sonnia Iliescu, et al.
RTC Purchase Order No 0034136 - Project No 8131087

For Professional Services Rendered Through April 30, 2021

Federal Tax I.D. No.: 88-0104505

SERVICES

Date	Person	Description of Services	Hours	Amount
04/02/2021	DWA	Review oppositions to motions in limine and motion for summary judgment and begin research re same; Begin work on reply briefs.	3.0	$975.00
04/08/2021	DWA	Review calendar and conference re deadlines; Email to opposing counsel regarding extension of time to file reply briefs.	0.3	$97.50
04/17/2021	DWA	Work on replies in support of various motions in limine and summary judgment; Begin preparing for early case conference.	2.5	$812.50
04/19/2021	DWA	Finish preparing for early case conference; Emails to Mike Morrison regarding his failure to appear; Conference re same.	1.0	$325.00
04/27/2021	DWA	Prepare for status hearing; Attend status hearing with Court and counsel; Finish drafting reply briefs in support of motions in limine; Continue work on opposition to summary judgment.	3.5	$1,137.50
04/28/2021	DEF	Review previous pleadings and conference with Dane W. Anderson.	0.5	$162.50
04/28/2021	DWA	Finish drafting reply brief in support of motion for summary judgment; Emails with court and counsel regarding oral argument on same.	4.0	$1,300.00
04/29/2021	DWA	Revise and finalize reply re summary judgment; Conference regarding obtaining hearing transcript for oral argument on summary judgment.	1.0	$325.00
		Total Professional Services	15.8	$5,135.00

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Reno, NV 89520

June 08, 2021
Invoice #: 444513
Resp. Atty: DEF
Client: 010487
Matter: 000160
Page: 1

RE: adv. John Iliescu, Jr. and Sonnia Iliescu, et al.
RTC Purchase Order No 0034136 - Project No 8131087

For Professional Services Rendered Through May 31, 2021

Federal Tax I.D. No.: 88-0104505

SERVICES

Date	Person	Description of Services	Hours	Amount
05/03/2021	DWA	Emails with court regarding summary judgment hearing.	0.2	$65.00
05/04/2021	DWA	Continue preparing for hearing on pending motions.	1.0	$325.00
05/06/2021	DWA	Review Court's minutes from status hearing and conference regarding preparing for summary judgment hearing.	0.5	$162.50
05/10/2021	DWA	Begin review of entire file to prepare for hearing on motion for summary judgment.	2.3	$747.50
05/11/2021	DWA	Finish review of entire file; Begin preparing for hearing on motion for summary judgment.	3.8	$1,235.00
05/12/2021	DEF	Review pleadings in this matter; Telephone conference with Dane W. Anderson.	1.0	$325.00
05/12/2021	DWA	Finish preparing for hearing on RTC's motion for summary judgment; Conference with associate regarding research issues; Attend summary judgment hearing at which Court ruled in RTC's favor and directed RTC to prepare a written order; Review emails between Court and counsel regarding the latter's failure to appear at the hearing; Conference regarding obtaining expedited transcript to assist in preparing order; Review Court minutes from hearing.	3.5	$1,137.50
05/12/2021	BMK	Research e case law that summary judgment is appropriate when failure to timely disclose expert.	0.7	$175.00
05/12/2021	BMK	Appear at oral argument on motion for summary judgment and conference with Dane Anderson re same.	1.4	$350.00
05/14/2021	BMK	Review of Plaintiff's Notice of Intent to file motion for rehearing and review of minutes from hearing.	0.3	$75.00
05/18/2021	DWA	Continue work on proposed order granting summary judgment.	2.8	$910.00

SERVICES

Date	Person	Description of Services	Hours	Amount
05/19/2021	DWA	Continue work on preparing proposed order granting summary judgment with the details ordered by the Court; Conference with associate re research assignment.	3.3	$1,072.50
05/19/2021	BMK	Research recent case law from Supreme Court re summary judgment being appropriate.	0.8	$200.00
05/20/2021	DEF	Review portions of transcript from oral argument on RTC motion for summary judgment; Review and revise draft order; Telephone conference with Dane W. Anderson.	2.3	$747.50
05/20/2021	DWA	Telephone conference with client regarding status; Finish drafting proposed order granting summary judgment; Conference with Dale Ferguson regarding same; Email proposed order to the Court.	3.5	$1,137.50
05/23/2021	DWA	Research regarding due process issues; Draft opposition to plaintiffs' notice of intent to file motion.	2.0	$650.00
05/25/2021	DWA	Review order vacating hearing and email with court staff regarding same.	0.3	$97.50
05/26/2021	DWA	Review Court's order vacating status hearing and email with Court staff re same.	0.2	$65.00
		Total Professional Services	29.9	$9,477.50

DISBURSEMENTS

Date	Description of Disbursements	Amount
05/25/2021	Sunshine Reporting & Litigation Services- -	$455.65
	Total Disbursements	$455.65

FILED
Electronically
CV19-00459
2021-07-09 04:02:20 PM
Alicia L. Lerud
Clerk of the Court
Transaction # 8536470 : yviloria

CODE: 1097
D. CHRIS ALBRIGHT, ESQ.
Nevada Bar No. 4904
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801 South Rancho Drive, Suite D-4
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dca@albrightstoddard.com
Attorneys for Plaintiffs/Appellants

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an individual; and SONNIA ILIESCU, an individual, Plaintiffs, v. THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1 through 40 inclusive, Defendants.	CASE NO. CV19-00459 **NOTICE OF APPEAL**

NOTICE IS HEREBY GIVEN that Plaintiffs, JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an individual; and SONNIA ILIESCU, an individual, hereby appeal to the Supreme Court of the State of Nevada from the following:

A. "Order Granting Summary Judgment After Supplemental Arguments" in favor of Defendant, The Regional Transportation Commission of Washoe County [Washoe County Clerk Transaction #8487964] entered on June 9, 2021.

B. Any other orders, judgments, decisions, or rulings of the District Court during this litigation which led to or resulted from the foregoing order, or which would need to be overturned in order to afford the Plaintiffs full and adequate appellate relief herein.

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A PROFESSIONAL CORPORATION
QUAIL PARK, SUITE D-4
801 SOUTH RANCHO DRIVE
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LAS VEGAS, NEVADA 89106

DATED this 9th day of July, 2021.

D. CHRIS ALBRIGHT, ESQ.
Nevada Bar No. 4904
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801 South Rancho Drive, Suite D-4
Las Vegas, Nevada 89106
Tel: (702) 384-7111
dca@albrightstoddard.com
Attorneys for Appellants

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LAS VEGAS, NEVADA 89106

AFFIRMATION

The undersigned does hereby affirm that the preceding document filed in the Second Judicial District Court does not contain the social security number of any person.

DATED this 9th day of July, 2021.

D. CHRIS ALBRIGHT, ESQ.
Nevada Bar No. 4904
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Attorneys for Appellants

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CERTIFICATE OF SERVICE

I hereby certify that I am an employee of ALBRIGHT, STODDARD, WARNICK & ALBRIGHT and that on the 1st day of July, 2021, I served a true and correct copy of the foregoing **NOTICE OF APPEAL** upon all counsel of record by electronically serving the document using the Court's electronic filing system:

Dane W. Anderson, Esq.
Bronagh M. Kelly, Esq.
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danderson@woodburnandwedge.com
bkelly@woodburnandwedge.com
Attorneys for Defendant, the Regional Transportation Commission of Washoe County

Michael J. Morrison, Esq.
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Trial Counsel for Plaintiffs

An Employee of Albright Stoddard Warnick & Albright

FILED
Electronically
CV19-00459
2021-07-09 04:02:20 PM
Alicia L. Lerud
Clerk of the Court
Transaction # 8536470 : yviloria

IN THE SUPREME COURT

OF THE STATE OF NEVADA

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an individual; and SONNIA ILIESCU, an individual, Appellants, v. THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1 through 40 inclusive, Respondents.	**CASE NO.** **DISTRICT COURT CASE NO: CV19-00459**

CASE APPEAL STATEMENT

ALBRIGHT, STODDARD, WARNICK & ALBRIGHT
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Attorneys for Appellants

1. The names of the Appellants filing this Case Appeal Statement are John Iliescu and Sonnia Iliescu as Trustees of the John Iliescu, Jr. and Sonnia Iliescu 1992 Family Trust and John Iliescu, Jr., an individual and Sonnia Iliescu, an individual, which Appellants were the Plaintiffs in Case No. CV19-00439.

2. The following Judge issued the decision(s), judgment(s), or order(s) appealed from: The Honorable David A. Hardy, Second Judicial District Court, Washoe County, Nevada.

3. The identity of each Appellant and the name and address of counsel for each Appellant are as follows:

APPELLANTS:	John Iliescu and Sonnia Iliescu as Trustees of the John Iliescu, Jr. and Sonnia Iliescu 1992 Family Trust, John Iliescu, Jr., an individual and Sonnia Iliescu, an individual
APPELLANTS' COUNSEL:	D. Chris Albright, Esq. Nevada Bar No. 004904 ALBRIGHT, STODDARD, WARNICK & ALBRIGHT 801 South Rancho Drive, Suite D-4 Las Vegas, Nevada 89106 Tel: (702) 384-7111 Fax: (702) 384-0605 dca@albrightstoddard.com

Appellants Counsel was not their trial counsel. Trial counsel for appellants were:

Michael J. Morrison, Esq.
1495 Ridgeview Drive, #220
Reno, Nevada 89519
venturelawusa@gmail.com

4. The identity of each Respondent and the name and address of anticipated appellate counsel, which was also trial counsel, for each Respondent are as follows:

RESPONDENT:	The Regional Transportation Commission of Washoe County.
RESPONDENT'S COUNSEL:	Dane W. Anderson, Esq. Bronagh M. Kelly, Esq. WOODBURN AND WEDGE 6100 Neil Road, Suite 500 Reno, Nevada 89511 danderson@woodburnandwedge.com bkelly@woodburnandwedge.com *Attorneys for Respondent, the Regional Transportation Commission of Washoe County*

5. All counsel identified in paragraphs 3 and 4 above are licensed to practice law in the State of Nevada.

6. Appellants were represented by retained counsel in the District Court.

7. Appellants are represented by retained counsel on appeal.

8. Appellants have not sought nor have they been granted leave to proceed in forma pauperis.

9. The date the proceedings commenced in the district court is as follows: The Iliescus' Complaint initiating the action, and commencing Case No. CV19-00459 was filed on February 27, 2019.

10. A brief description of the nature of the action and result in the district court, including the type of judgment and orders being appealed and the relief granted by the district court are as follows: This case involved a suit against the Respondent, Regional Transportation Commission of Washoe County (hereinafter the "RTC"), seeking damages and other relief for the RTC having, in conjunction with condemning a small portion of a real property parcel owned by Appellants, denied the Appellants their use and access towards the entirety of the remainder of the parcel, for a time, and having damaged other portions of the parcel beyond that portion which was condemned.

The District Court entered summary judgment in favor of RTC, rejecting appellants' claims as a matter of law, on June 9, 2021, which judgment is now appealed herein.

11. This case has not previously been the subject of an appeal or an original writ proceeding to the Nevada Supreme Court.

12. This appeal does not involve child custody or visitation.

13. It is unknown at this time whether this appeal involves the possibility of settlement.

DATED this 9th day of July, 2021.

D. CHRIS ALBRIGHT, ESQ.
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Attorneys for Appellants

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of ALBRIGHT, STODDARD, WARNICK & ALBRIGHT and that on the 9th day of July, 2021, I served a true and correct copy of the foregoing **CASE APPEAL STATEMENT** upon all counsel of record by electronically serving the document using the Court's electronic filing system:

Dane W. Anderson, Esq.
Bronagh M. Kelly, Esq.
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Attorneys for Respondent, the Regional Transportation Commission of Washoe County

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Trial Counsel for Appellants

An Employee of Albright Stoddard Warnick & Albright

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an individual; and SONNIA ILIESCU, an individual,

Appellants,

vs.

THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1 through 40 inclusive,

Respondent.

Supreme Court No. 83212
Washoe County Case No. CV19-00459

JOINT APPENDIX
VOLUME VII
(Exhibits 107-113)

Appeal from the Second Judicial District Court of the State of Nevada
in and for the County of Washoe County
Case No. CV19-00459

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Docket 83212 Document 2021-37261

DOCUMENT INDEX

DOC.	FILE/HRG. DATE	DOCUMENT DESCRIPTION	VOL.	BATES NOS.
WASHOE COUNTY CASE NO. CV16-02182 – JUDICIAL NOTICE				
1	10/24/16	Verified Complaint in Eminent Domain – Transaction 5772609	I	JA0001-0037
2	10/24/16	Notice of Pendency of Action for Permanent Easement, Public Utility Easement and a Temporary Construction Easement – Transaction 5773484	I	JA0038-0040
3	10/24/16	Affidavit of Jeff Hale – Transaction 5772609	I	JA0041-0044
4	10/24/16	Motion for Immediate Occupancy Pending Final Judgment – Transaction 5772609	I	JA0045-0049
5	11/18/16	Answer to Complaint – Transaction 5813621	I	JA0050-0052
6	11/29/16	Stipulation for the Entry of an Order for Immediate Occupancy Pending Entry of Judgment – Transaction 5827255	I	JA0053-0065
7	12/01/16	Order for Immediate Occupancy Pending Entry of Judgment – Transaction 5832427	I	JA0066-0075
8	04/18/18	Stipulation for the Entry of a Final Order of Condemnation and Judgment – Transaction 6636350	I	JA0076-0097
9	04/26/18	Final Order of Condemnation and Judgment – Transaction 6649694	I	JA0098-0108
10	04/26/18	Notice of Entry of Final Order of Condemnation and Judgment – Transaction 6650430	I	JA0109-0112
11	05/03/18	Order – Transaction 6661759	I	JA0113-0114
12	09/26/18	Withdrawal and Release of Notice of Lis Pendens – Transaction 6899751	I	JA0115-0125

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WASHOE COUNTY CASE NO. CV19-00459				
13	02/27/19	Complaint (Exemption from Arbitration – Equitable Relief Sought and Damages in Excess of $50,000) – Transaction 7140095	I	JA0126-0147
14	07/01/19	Order to Show Cause – Transaction 7349801	I	JA0148-0150
15	07/22/19	Motion for Extension of Time – Transaction 7386969	I	JA0151-0155
16	07/30/19	Order for Enlarging Time for Service – Transaction 7402741	I	JA0156-0158
17	08/08/19	Notice of Acceptance of Service – Dale Ferguston, Esq. – Transaction 7419581	I	JA0159-0161
18	09/25/19	Motion to Dismiss – Transaction 7504491	I	JA0162-0170
19	10/30/19	Stipulation to Conduct Discovery Prior to Holding NRCP 16.1 Conference and Prior to Filing the JCCR – Transaction 7563184 -	I	JA0171-0173
20	11/07/19	Plaintiffs' Opposition to Defendant's Partial Motion to Dismiss Plaintiff's Complaint – Transaction 7576382	I	JA0174-0182
21	11/12/19	Reply in Support of Motion to Dismiss – Transaction 7583646	I	JA0183-0190
22	11/18/19	Order Granting Stipulation to Conduct Discovery – Transaction 7593663	I	JA0191
23	12/06/19	Stipulation for Entry of Order Dismissing Certain Plaintiffs' Claims for Relief and Damages With Prejudice – Transaction 7623980	I	JA0192-0195
24	12/10/19	Order Granting Stipulation for Entry of Order Dismissing Certain of Plaintiff's Claims for Relief and Damages With Prejudice – Transaction 7629013	I	JA0196-0197
25	01/07/20	Order Addressing Motion to Dismiss – Plaintiff to File Amended Complaint – Transaction 7673003	I	JA0198-0199

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26	01/21/20	Amended Complaint – Transaction 7695926	I	JA0200-0218
27	01/30/20	Supplemental Motion to Dismiss – Transaction 7712316	I	JA0219-0225
28	02/10/20	Plaintiffs' Opposition to Defendant's Supplemental Motion to Dismiss – Transaction 7732495	II	JA0226-0235
29	02/13/20	Reply in Support of Supplemental Motion to Dismiss – Transaction 7739174	II	JA0236-0242
30	02/20/20	Motion to Compel – Transaction 7750935	II	JA0243-0248
31	03/11/20	Notice of Document Received But Not Considered by Court (Confidential Medical Records) – Transaction 7786510	II	JA0249-0255
32	03/20/20	Order Granting Motion to Dismiss – Transaction 7801281	II	JA0256-0257
33	03/20/20	Notice of Entry of Order – Transaction 7802297	II	JA0258-0261
34	03/23/20	Answer to First Amended Complaint – Transaction 7804469	II	JA0262-0291
35	04/01/20	Declaration of Dane W. Anderson in Support of Motion for Discovery Sanctions – Transaction 7818895	II	JA0292-0400
36	04/01/20	Motion for Sanctions Motion for Discovery Sanctions – Transaction 7818895	II	JA0401-0406
37	04/03/20	Master's Recommendation for Order – Transaction 7822158	II	JA0407-0410
38	04/20/20	Order Affirming Master Recommendation – Transaction 7841718	II	JA0411-0412
39	04/20/20	Request for Submission re Motion for Discovery Sanctions – Transaction 7842053	II	JA0413-0415
40	04/20/20	Motion for Sanctions – Transaction 7842166	II	JA0416-0420
41	04/22/20	Pre-Trial Order – Transaction 7845782	II	JA0421-0430

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42	05/14/20	Plaintiffs' Opposition to Defendant's Motion for Sanctions – Transaction 7878297	II	JA0431-0436
43	05/18/20	Request for Submission re Motion for Sanctions Pursuant to NRCP 37(b)(l) – Transaction 7882116	II	JA0437-0439
44	05/18/20	Reply in Support of Motion for Sanctions Pursuant to NRCP 37(b)(1) – Transaction 7882116	II	JA0440-0444
45	06/10/20	Master's Recommendation for Order – Transaction 7919122	III	JA0445-0458
46	06/22/20	Declaration of Dane W. Anderson Regarding Expenses to be Reimbursed by Defendants – Transaction 7937253	III	JA0459-0476
47	06/30/20	Order Affirming Master Recommendation – Transaction 7949738	III	JA0477-0478
48	06/30/20	Order to Set File Notice to Set Within 14 Days – Transaction 7949756	III	JA0479
49	06/30/20	Plaintiffs' Notice of Intent to File Opposition to Defendant's Statement of Claimed Costs and Fees – Transaction 7950620	III	JA0480-0483
50	07/06/20	Plaintiffs' Response to Declaration of Dane W. Anderson Regarding Expenses to be Reimbursed by Defendants – Transaction 7956088	III	JA0484-0490
51	07/13/20	RTC's Reply to Plaintiffs' Response to Declaration of Dane W. Anderson Regarding Expenses to be Reimbursed by Defendants – Transaction 7966844	III	JA0491-0496
52	07/16/20	Request for Submission re Declaration of Dane W. Anderson Regarding Expenses To Be Reimbursed By Defendants [*sic*] – Transaction 7973986	III	JA0497-0499
53	07/21/20	Supplemental ... Declaration of Dane W. Anderson Re Expenses to be Reimbursed by Plaintiffs – Transaction 7981140	III	JA0500-0507

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54	07/21/20	Motion in Limine to Preclude Plaintiffs from Offering Documents Not Produced to RTC on or before June 30, 2020 Transaction 7981600	III	JA0508-0593
55	07/27/20	Plaintiffs' Response to the Supplemental Declaration of Dane W. Anderson Regarding Expenses to be Reimbursed by Plaintiffs – Transaction 7990157	III	JA0594-0597
56	07/29/20	RTC's Reply to Plaintiffs' Response to The Supplemental Declaration of Dane W. Anderson Regarding Expenses to be Reimbursed by Defendants – Transaction 7993047	III	JA0598-0602
57	08/05/20	Order Regarding Declarations of Expenses – Transaction 8004713	III	JA0603-0605
58	08/06/20	Notice of Entry of Order – Transaction 8007281	III	JA0606-0613
59	08/06/20	Request for Submission re Motion in Limine to Preclude Plaintiffs from Offering Documents Not Produced to RTC on or Before June 30, 2020 – Transaction 8007357	III	JA0614-0616
60	08/19/20	Order Granting Motion in Limine to Preclude Offering Documents Not Produced to RTC on or before June 30, 2020 – Transaction 8027856	III	JA0617-0618
61	08/20/20	Notice of Entry of Order – Transaction 8029028	III	JA0619-0625
62	03/23/20	Demand for Jury Trial – Transaction 8082710	III	JA0626-0627
63	09/30/20	Minutes 9/29/20 Case Management Conference (ESC) – Transaction 8093137	III	JA0628-0629
64	09/30/20	Transcript of 9/29/20 Case Management Conference	III	JA0630-0644
65	10/08/20	Stipulation for Entry of Scheduling Order – Transaction 8107608	III	JA0645-0648

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67	01/19/21	Motion for Sanctions Pursuant to NRCP 16.1(E) – Transaction 8252375	III	JA0652-0657
68	02/18/21	Opposition to Motion for Sanctions – Transaction 8302448	III	JA0658-0662
69	02/25/21	Request for Submission re Motion for Sanctions Pursuant to NRCP 16.1(e) – Transaction 8313712	III	JA0663-0665
70	02/25/21	RTC's Reply in Support of Motion for Sanctions Pursuant to NRCP 16.1(C) – Transaction 8313712	IV	JA0666-0687
71	03/09/21	Motion for Summary Judgment – Transaction 8332645	IV	JA0688-0708
72	03/09/21	Motion in Limine to Exclude Evidence of Damages – Transaction 8333168	IV	JA0709-0712
73	03/09/21	Motion in Limine to Preclude Plaintiffs From Presenting Evidence Pursuant to NRS 50.275, 50.285 and 50.305 – Transaction 8333168	IV	JA0713-0716
74	03/11/21	Application for Setting – Transaction 8337959	IV	JA0717-0720
75	03/25/21	Order Denying Motion for Sanctions – Transaction 8361465	IV	JA0721-0722
76	04/02/21	Plaintiffs' Opposition to Defendants' Motion for Summary Judgment – Transaction 8376225	IV	JA0723-0814
77	04/02/21	Plaintiffs' Opposition to Defendants' Motion in Limine to Exclude Evidence of Damages – Transaction 8376231	IV	JA0815-0818
78	04/02/21	Plaintiffs' Opposition to Defendant's Motion in Limine to Exclude Evidence Pursuant to NRS 50.275, 50.285, and 50.305 – Transaction 8376236	IV	JA0819-0822

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80	04/27/21	Reply in Support of Motion in Limine to Preclude Plaintiffs from Presenting Evidence Pursuant to NRS 50.275, 50.285 and 50.305 – Transaction 8416238	IV	JA0827-0830
81	04/27/21	Reply in Support of Motion in Limine to Exclude Evidence of Damages – Transaction 8416263	V	JA0831-0884
82	04/28/21	Request for Submission re Reply in Support of Motion in Limine to Preclude Plaintiffs From Presenting Evidence Pursuant to NRS 50.275, 50.285 and 50.305 – Transaction 8417512	V	JA0885-0887
83	04/28/21	Request for Submission re Reply in Support of Motion in Limine to Exclude Evidence of Damages – Transaction 8417518	V	JA0888-0890
84	04/28/21	Order Setting Hearing and for Electronic Appearance – Transaction 8419081	V	JA0891-0892
85	04/29/21	Reply in Support of Motion for Summary Judgment – Transaction 8420046	V	JA0893-0941
86	05/06/21	Minutes 4/27/2021 – Status Hearing – Transaction 8430816	V	JA0942-0944
87	05/06/21	Transcript of 4/27/21 Status Hearing	V	JA0945-1004
88	05/12/21	Minutes 5/12/2021 – Oral Arguments – Transaction 8441847	V	JA1005
89	05/12/21	Transcript of 5/12/2021 Oral Arguments – Transaction 8442136	V	JA1006-1047
90	05/13/21	Notice of Intent to File Motion – Transaction 8444437	V	JA1048-1049
91	05/24/21	Response to Notice of Intent to File Motion – Transaction 8461146	V	JA1050-1053

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92	06/01/21	Plaintiffs' Motion for Reconsideration and Rehearing of, or, in the Alternative, Motion to Set Aside this Court's Order Pursuant to NRCP 60(B)(1) and (6) – Transaction 8473201	V	JA1054-1060
93	06/02/21	First Errata to Plaintiffs' Motion for Reconsideration and Rehearing of, or, in the Alternative, Motion to Set Aside this Court's Order Pursuant to NRCP 60(B)(1) and (6) – Transaction 8474224	VI	JA1061-1082
94	06/02/21	Order Setting Hearing for Oral Argument 6/8/21 at 10:00 A.M. – Transaction 8474916	VI	JA1083-1084
95	06/07/21	Opposition to Motion for Reconsideration and Rehearing of, or in the Alternative, Motion to Set Aside this Court's Order Pursuant to NRCP 60(B)(1) and (6) [including the "First" and any other "Erratas" that may be filed] – Transaction 8483047	VI	JA1085-1096
96	06/08/21	Supplemental Exhibit to Motion for Reconsideration – Transaction 8483818	VI	JA1097-1104
97	06/08/21	Minutes regarding Oral Arguments – Transaction 8484485	VI	JA1105
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99	06/09/21	Order Granting Summary Judgment After Supplemental Arguments – Transaction 8487964	VI	JA1148-1159
100	06/10/21	Notice of Entry of Judgment Notice of Entry of Order Granting Summary Judgment – Transaction 8490380	VI	JA1160-1176
101	06/15/21	Memorandum of Costs – Transaction 8495869	VI	JA1177-1200
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104	06/29/21	Declaration in Support of Motion for Fees – Transaction 8517765	VI	JA1215-1251
105	07/09/21	Notice of Appeal – Transaction 8536470	VI	JA1252-1255
106	07/09/21	Case Appeal Statement – Transaction 8536470	VI	JA1256-1261
107	07/14/21	Notice of Appeal (*Supreme Court Filing*)	VII	JA1262-1325
108	08/14/21	Plaintiffs' Opposition to Defendant's Motion for Attorney Fees and for Entry of Judgment for Attorney Fees and Costs – Transaction 8595894	VII	JA1326-1338
109	08/23/21	Reply in Support of Motion for Attorney Fees and for Entry of Judgment for Attorney Fees and Costs – Transaction 8608634	VII	JA1339-1347
110	08/23/21	Reply in Support of Motion for Attorney Fees and for Entry of Judgment for Attorney Fees and Costs – Transaction 8608728	VII	JA1348-1364
111	10/18/21	Order Granting Attorney's Fees and Entry of Judgment – Transaction 8701865	VII	JA1365-1373
112	10/18/21	Notice of Entry of Order Granting Attorney's Fees and Entry of Judgment – Transaction 8702337	VII	JA1374-1386
113	10/21/21	Amended Notice of Appeal – Transaction 8709785	VII	JA1387-1389

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11	05/03/18	Order - Transaction 6661759	I	AA0113-0114
7	12/01/16	Order for Immediate Occupancy Pending Entry of Judgment - Transaction 5832427	I	AA0066-0075
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WASHOE COUNTY CASE NO. CV19-00459				
26	01/21/20	Amended Complaint – Transaction 7695926	I	JA0200-0218

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113	10/21/21	Amended Notice of Appeal – Transaction 8709785	VII	JA1387-1389
34	03/23/20	Answer to First Amended Complaint – Transaction 7804469	II	JA0262-0291
74	03/11/21	Application for Setting – Transaction 8337959	IV	JA0717-0720
106	07/09/21	Case Appeal Statement – Transaction 8536470	VI	JA1256-1261
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104	06/29/21	Declaration in Support of Motion for Fees – Transaction 8517765	VI	JA1215-1251
102	06/15/21	Declaration of Dane W. Anderson in Support of Memorandum of Costs – Transaction 8495884	VI	JA1201-1204
35	04/01/20	Declaration of Dane W. Anderson in Support of Motion for Discovery Sanctions – Transaction 7818895	II	JA0292-0400
46	06/22/20	Declaration of Dane W. Anderson Regarding Expenses to be Reimbursed by Defendants – Transaction 7937253	III	JA0459-0476
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37	04/03/20	Master's Recommendation for Order – Transaction 7822158	II	JA0407-0410
45	06/10/20	Master's Recommendation for Order – Transaction 7919122	III	JA0445-0458
101	06/15/21	Memorandum of Costs – Transaction 8495869	VI	JA1177-1200

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86	05/06/21	Minutes 4/27/2021 – Status Hearing – Transaction 8430816	V	JA0942-0944
88	05/12/21	Minutes 5/12/2021 – Oral Arguments – Transaction 8441847	V	JA1005
63	09/30/20	Minutes 9/29/20 Case Management Conference (ESC) – Transaction 8093137	III	JA0628-0629
97	06/08/21	Minutes regarding Oral Arguments – Transaction 8484485	VI	JA1105
103	06/29/21	Motion for Attorney's Fee – Transaction 8517765	VI	JA1205-1214
15	07/22/19	Motion for Extension of Time – Transaction 7386969	I	JA0151-0155
40	04/20/20	Motion for Sanctions – Transaction 7842166	II	JA0416-0420
36	04/01/20	Motion for Sanctions Motion for Discovery Sanctions – Transaction 7818895	II	JA0401-0406
67	01/19/21	Motion for Sanctions Pursuant to NRCP 16.1(E) – Transaction 8252375	III	JA0652-0657
71	03/09/21	Motion for Summary Judgment – Transaction 8332645	IV	JA0688-0708
72	03/09/21	Motion in Limine to Exclude Evidence of Damages – Transaction 8333168	IV	JA0709-0712
54	07/21/20	Motion in Limine to Preclude Plaintiffs from Offering Documents Not Produced to RTC on or before June 30, 2020 Transaction 7981600	III	JA0508-0593
73	03/09/21	Motion in Limine to Preclude Plaintiffs From Presenting Evidence Pursuant to NRS 50.275, 50.285 and 50.305 – Transaction 8333168	IV	JA0713-0716
30	02/20/20	Motion to Compel – Transaction 7750935	II	JA0243-0248
18	09/25/19	Motion to Dismiss – Transaction 7504491	I	JA0162-0170
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31	03/11/20	Notice of Document Received But Not Considered by Court (Confidential Medical Records) – Transaction 7786510	II	JA0249-0255
100	06/10/21	Notice of Entry of Judgment Notice of Entry of Order Granting Summary Judgment – Transaction 8490380	VI	JA1160-1176
33	03/20/20	Notice of Entry of Order – Transaction 7802297	II	JA0258-0261
58	08/06/20	Notice of Entry of Order – Transaction 8007281	III	JA0606-0613
61	08/20/20	Notice of Entry of Order – Transaction 8029028	III	JA0619-0625
112	10/18/21	Notice of Entry of Order Granting Attorney's Fees and Entry of Judgment – Transaction 8702337	VII	JA1374-1386
90	05/13/21	Notice of Intent to File Motion – Transaction 8444437	V	JA1048-1049
95	06/07/21	Opposition to Motion for Reconsideration and Rehearing of, or in the Alternative, Motion to Set Aside this Court's Order Pursuant to NRCP 60(B)(1) and (6) [including the "First" and any other "Erratas" that may be filed] – Transaction 8483047	VI	JA1085-1096
68	02/18/21	Opposition to Motion for Sanctions – Transaction 8302448	III	JA0658-0662
25	01/07/20	Order Addressing Motion to Dismiss – Plaintiff to File Amended Complaint – Transaction 7673003	I	JA0198-0199
38	04/20/20	Order Affirming Master Recommendation – Transaction 7841718	II	JA0411-0412
47	06/30/20	Order Affirming Master Recommendation – Transaction 7949738	III	JA0477-0478

DOC.	FILE/HRG. DATE	DOCUMENT DESCRIPTION	VOL.	BATES NOS.
75	03/25/21	Order Denying Motion for Sanctions – Transaction 8361465	IV	JA0721-0722
16	07/30/19	Order for Enlarging Time for Service – Transaction 7402741	I	JA0156-0158
111	10/18/21	Order Granting Attorney's Fees and Entry of Judgment – Transaction 8701865	VII	JA1365-1373
60	08/19/20	Order Granting Motion in Limine to Preclude Offering Documents Not Produced to RTC on or before June 30, 2020 – Transaction 8027856	III	JA0617-0618
32	03/20/20	Order Granting Motion to Dismiss – Transaction 7801281	II	JA0256-0257
24	12/10/19	Order Granting Stipulation for Entry of Order Dismissing Certain of Plaintiff's Claims for Relief and Damages With Prejudice – Transaction 7629013	I	JA0196-0197
22	11/18/19	Order Granting Stipulation to Conduct Discovery – Transaction 7593663	I	JA0191
99	06/09/21	Order Granting Summary Judgment After Supplemental Arguments – Transaction 8487964	VI	JA1148-1159
57	08/05/20	Order Regarding Declarations of Expenses – Transaction 8004713	III	JA0603-0605
84	04/28/21	Order Setting Hearing and for Electronic Appearance – Transaction 8419081	V	JA0891-0892
94	06/02/21	Order Setting Hearing for Oral Argument 6/8/21 at 10:00 A.M. – Transaction 8474916	VI	JA1083-1084
48	06/30/20	Order to Set File Notice to Set Within 14 Days – Transaction 7949756	III	JA0479
14	07/01/19	Order to Show Cause – Transaction 7349801	I	JA0148-0150
92	06/01/21	Plaintiffs' Motion for Reconsideration and Rehearing of, or, in the Alternative, Motion to Set Aside this Court's Order Pursuant to NRCP 60(B)(1) and (6) – Transaction 8473201	V	JA1054-1060

DOC.	FILE/HRG. DATE	DOCUMENT DESCRIPTION	VOL.	BATES NOS.
49	06/30/20	Plaintiffs' Notice of Intent to File Opposition to Defendant's Statement of Claimed Costs and Fees – Transaction 7950620	III	JA0480-0483
108	08/14/21	Plaintiffs' Opposition to Defendant's Motion for Attorney Fees and for Entry of Judgment for Attorney Fees and Costs – Transaction 8595894	VII	JA1326-1338
42	05/14/20	Plaintiffs' Opposition to Defendant's Motion for Sanctions – Transaction 7878297	II	JA0431-0436
78	04/02/21	Plaintiffs' Opposition to Defendant's Motion in Limine to Exclude Evidence Pursuant to NRS 50.275, 50.285, and 50.305 – Transaction 8376236	IV	JA0819-0822
79	04/02/21	Plaintiffs' Opposition to Defendant's Motion in Limine to Exclude Evidence Pursuant to NRS 50.275 – Transaction 8376273	IV	JA0823-0826
20	11/07/19	Plaintiffs' Opposition to Defendant's Partial Motion to Dismiss Plaintiff's Complaint – Transaction 7576382	I	JA0174-0182
28	02/10/20	Plaintiffs' Opposition to Defendant's Supplemental Motion to Dismiss – Transaction 7732495	II	JA0226-0235
76	04/02/21	Plaintiffs' Opposition to Defendants' Motion for Summary Judgment – Transaction 8376225	IV	JA0723-0814
77	04/02/21	Plaintiffs' Opposition to Defendants' Motion in Limine to Exclude Evidence of Damages – Transaction 8376231	IV	JA0815-0818
50	07/06/20	Plaintiffs' Response to Declaration of Dane W. Anderson Regarding Expenses to be Reimbursed by Defendants – Transaction 7956088	III	JA0484-0490

DOC.	FILE/HRG. DATE	DOCUMENT DESCRIPTION	VOL.	BATES NOS.
55	07/27/20	Plaintiffs' Response to the Supplemental Declaration of Dane W. Anderson Regarding Expenses to be Reimbursed by Plaintiffs – Transaction 7990157	III	JA0594-0597
41	04/22/20	Pre-Trial Order – Transaction 7845782	II	JA0421-0430
109	08/23/21	Reply in Support of Motion for Attorney Fees and for Entry of Judgment for Attorney Fees and Costs – Transaction 8608634	VII	JA1339-1347
110	08/23/21	Reply in Support of Motion for Attorney Fees and for Entry of Judgment for Attorney Fees and Costs – Transaction 8608728	VII	JA1348-1364
44	05/18/20	Reply in Support of Motion for Sanctions Pursuant to NRCP 37(b)(1) – Transaction 7882116	II	JA0440-0444
85	04/29/21	Reply in Support of Motion for Summary Judgment – Transaction 8420046	V	JA0893-0941
81	04/27/21	Reply in Support of Motion in Limine to Exclude Evidence of Damages – Transaction 8416263	V	JA0831-0884
80	04/27/21	Reply in Support of Motion in Limine to Preclude Plaintiffs from Presenting Evidence Pursuant to NRS 50.275, 50.285 and 50.305 – Transaction 8416238	IV	JA0827-0830
21	11/12/19	Reply in Support of Motion to Dismiss – Transaction 7583646	I	JA0183-0190
29	02/13/20	Reply in Support of Supplemental Motion to Dismiss – Transaction 7739174	II	JA0236-0242
69	08/06/20	Request for Submission re Motion in Limine to Preclude Plaintiffs from Offering Documents Not Produced to RTC on or Before June 30, 2020 – Transaction 8007357	III	JA0614-0616

DOC.	FILE/HRG. DATE	DOCUMENT DESCRIPTION	VOL.	BATES NOS.
52	07/16/20	Request for Submission re Declaration of Dane W. Anderson Regarding Expenses To Be Reimbursed By Defendants [*sic*] – Transaction 7973986	III	JA0497-0499
39	04/20/20	Request for Submission re Motion for Discovery Sanctions – Transaction 7842053	II	JA0413-0415
69	02/25/21	Request for Submission re Motion for Sanctions Pursuant to NRCP 16.1(e) – Transaction 8313712	III	JA0663-0665
43	05/18/20	Request for Submission re Motion for Sanctions Pursuant to NRCP 37(b)(l) – Transaction 7882116	II	JA0437-0439
82	04/28/21	Request for Submission re Reply in Support of Motion in Limine to Preclude Plaintiffs From Presenting Evidence Pursuant to NRS 50.275, 50.285 and 50.305 – Transaction 8417512	V	JA0885-0887
83	04/28/21	Request for Submission re Reply in Support of Motion in Limine to Exclude Evidence of Damages – Transaction 8417518	V	JA0888-0890
91	05/24/21	Response to Notice of Intent to File Motion – Transaction 8461146	V	JA1050-1053
70	02/25/21	RTC's Reply in Support of Motion for Sanctions Pursuant to NRCP 16.1(C) – Transaction 8313712	IV	JA0666-0687
51	07/13/20	RTC's Reply to Plaintiffs' Response to Declaration of Dane W. Anderson Regarding Expenses to be Reimbursed by Defendants – Transaction 7966844	III	JA0491-0496
56	07/29/20	RTC's Reply to Plaintiffs' Response to The Supplemental Declaration of Dane W. Anderson Regarding Expenses to be Reimbursed by Defendants – Transaction 7993047	III	JA0598-0602

DOC.	FILE/HRG. DATE	DOCUMENT DESCRIPTION	VOL.	BATES NOS.
66	10/12/20	Scheduling Order Amended Stipulated Scheduling Order – Transaction 8111324	III	JA0649-0651
19	10/30/19	Stipulation to Conduct Discovery Prior to Holding NRCP 16.1 Conference and Prior to Filing the JCCR – Transaction 7563184 -	I	JA0171-0173
23	12/06/19	Stipulation for Entry of Order Dismissing Certain Plaintiffs' Claims for Relief and Damages With Prejudice – Transaction 7623980	I	JA0192-0195
65	10/08/20	Stipulation for Entry of Scheduling Order – Transaction 8107608	III	JA0645-0648
53	07/21/20	Supplemental ... Declaration of Dane W. Anderson Re Expenses to be Reimbursed by Plaintiffs – Transaction 7981140	III	JA0500-0507
96	06/08/21	Supplemental Exhibit to Motion for Reconsideration – Transaction 8483818	VI	JA1097-1104
27	01/30/20	Supplemental Motion to Dismiss – Transaction 7712316	I	JA0219-0225
87	05/06/21	Transcript of 4/27/21 Status Hearing	V	JA0945-1004
89	05/12/21	Transcript of 5/12/2021 Oral Arguments – Transaction 8442136	V	JA1006-1047
98	06/08/21	Transcript of 6/8/21 Oral Arguments	VI	JA1106-1147
64	09/30/20	Transcript of 9/29/20 Case Management Conference	III	JA0630-0644

CERTIFICATE OF SERVICE

Pursuant to NRAP 25(c), I hereby certify that I am an employee of ALBRIGHT, STODDARD, WARNICK & ALBRIGHT, and that on this 30th day of December, 2021, the foregoing **JOINT APPENDIX, VOLUME VII**, was filed electronically with the Clerk of the Nevada Supreme Court, and therefore electronic service was made in accordance with the master service list as follows:

Dane W. Anderson, Esq.
Bronagh M. Kelly, Esq.
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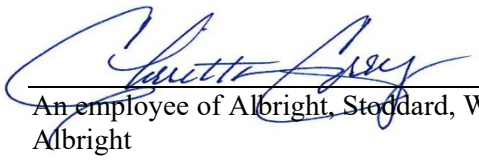
Trial Counsel for Plaintiffs



An employee of Albright, Stoddard, Warnick & Albright

FILED
Electronically
CV19-00459
2021-07-09 04:02:20 PM
Alicia L. Lerud
Clerk of the Court
Transaction # 8536470 : yviloria

CODE: 1097
D. CHRIS ALBRIGHT, ESQ.
Nevada Bar No. 4904
ALBRIGHT, STODDARD, WARNICK & ALBRIGHT
801 South Rancho Drive, Suite D-4
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Electronically Filed
Jul 15 2021 09:18 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

LAW OFFICES
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801 SOUTH RANCHO DRIVE
LAS VEGAS, NEVADA 89106
LAS VEGAS, NEVADA 89106

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an individual; and SONNIA ILIESCU, an individual, Plaintiffs, v. THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1 through 40 inclusive, Defendants.	CASE NO. CV19-00459 **NOTICE OF APPEAL**

NOTICE IS HEREBY GIVEN that Plaintiffs, JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an individual; and SONNIA ILIESCU, an individual, hereby appeal to the Supreme Court of the State of Nevada from the following:

A. "Order Granting Summary Judgment After Supplemental Arguments" in favor of Defendant, The Regional Transportation Commission of Washoe County [Washoe County Clerk Transaction #8487964] entered on June 9, 2021.

B. Any other orders, judgments, decisions, or rulings of the District Court during this litigation which led to or resulted from the foregoing order, or which would need to be overturned in order to afford the Plaintiffs full and adequate appellate relief herein.

DATED this 9th day of July, 2021.

D. CHRIS ALBRIGHT, ESQ.
Nevada Bar No. 4904
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Attorneys for Appellants

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LAS VEGAS, NEVADA 89106
LAS VEGAS, NEVADA 89106

AFFIRMATION

The undersigned does hereby affirm that the preceding document filed in the Second Judicial District Court does not contain the social security number of any person.

DATED this 9th day of July, 2021.

D. CHRIS ALBRIGHT, ESQ.
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LAS VEGAS, NEVADA 89106

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of ALBRIGHT, STODDARD, WARNICK & ALBRIGHT and that on the 1st day of July, 2021, I served a true and correct copy of the foregoing **NOTICE OF APPEAL** upon all counsel of record by electronically serving the document using the Court's electronic filing system:

Dane W. Anderson, Esq.
Bronagh M. Kelly, Esq.
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6100 Neil Road, Suite 500
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Trial Counsel for Plaintiffs

An Employee of Albright Stoddard Warnick & Albright

F I L E D
Electronically
CV19-00459
2021-07-09 04:02:20 PM
Alicia L. Lerud
Clerk of the Court
Transaction # 8536470 : yviloria

IN THE SUPREME COURT

OF THE STATE OF NEVADA

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an individual; and SONNIA ILIESCU, an individual, Appellants, v. THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1 through 40 inclusive, Respondents.	**CASE NO.** **DISTRICT COURT CASE NO: CV19-00459**

CASE APPEAL STATEMENT

ALBRIGHT, STODDARD, WARNICK & ALBRIGHT
801 South Rancho Drive, Suite D-4
Las Vegas, Nevada 89106
Tel: (702) 384-7111
D. CHRIS ALBRIGHT, ESQ.
Nevada Bar No. 4904
dca@albrightstoddard.com
Attorneys for Appellants

1. The names of the Appellants filing this Case Appeal Statement are John Iliescu and Sonnia Iliescu as Trustees of the John Iliescu, Jr. and Sonnia Iliescu 1992 Family Trust and John Iliescu, Jr., an individual and Sonnia Iliescu, an individual, which Appellants were the Plaintiffs in Case No. CV19-00439.

2. The following Judge issued the decision(s), judgment(s), or order(s) appealed from: The Honorable David A. Hardy, Second Judicial District Court, Washoe County, Nevada.

3. The identity of each Appellant and the name and address of counsel for each Appellant are as follows:

APPELLANTS:	John Iliescu and Sonnia Iliescu as Trustees of the John Iliescu, Jr. and Sonnia Iliescu 1992 Family Trust, John Iliescu, Jr., an individual and Sonnia Iliescu, an individual
APPELLANTS' COUNSEL:	D. Chris Albright, Esq. Nevada Bar No. 004904 ALBRIGHT, STODDARD, WARNICK & ALBRIGHT 801 South Rancho Drive, Suite D-4 Las Vegas, Nevada 89106 Tel: (702) 384-7111 Fax: (702) 384-0605 dca@albrightstoddard.com

Appellants Counsel was not their trial counsel. Trial counsel for appellants were:

Michael J. Morrison, Esq.
1495 Ridgeview Drive, #220
Reno, Nevada 89519
venturelawusa@gmail.com

4. The identity of each Respondent and the name and address of anticipated appellate counsel, which was also trial counsel, for each Respondent are as follows:

RESPONDENT:	The Regional Transportation Commission of Washoe County.
RESPONDENT'S COUNSEL:	Dane W. Anderson, Esq. Bronagh M. Kelly, Esq. WOODBURN AND WEDGE 6100 Neil Road, Suite 500 Reno, Nevada 89511 danderson@woodburnandwedge.com bkelly@woodburnandwedge.com *Attorneys for Respondent, the Regional Transportation Commission of Washoe County*

5. All counsel identified in paragraphs 3 and 4 above are licensed to practice law in the State of Nevada.

6. Appellants were represented by retained counsel in the District Court.

7. Appellants are represented by retained counsel on appeal.

8. Appellants have not sought nor have they been granted leave to proceed in forma pauperis.

9. The date the proceedings commenced in the district court is as follows: The Iliescus' Complaint initiating the action, and commencing Case No. CV19-00459 was filed on February 27, 2019.

10. A brief description of the nature of the action and result in the district court, including the type of judgment and orders being appealed and the relief granted by the district court are as follows: This case involved a suit against the Respondent, Regional Transportation Commission of Washoe County (hereinafter the "RTC"), seeking damages and other relief for the RTC having, in conjunction with condemning a small portion of a real property parcel owned by Appellants, denied the Appellants their use and access towards the entirety of the remainder of the parcel, for a time, and having damaged other portions of the parcel beyond that portion which was condemned.

The District Court entered summary judgment in favor of RTC, rejecting appellants' claims as a matter of law, on June 9, 2021, which judgment is now appealed herein.

11. This case has not previously been the subject of an appeal or an original writ proceeding to the Nevada Supreme Court.

12. This appeal does not involve child custody or visitation.

13. It is unknown at this time whether this appeal involves the possibility of settlement.

DATED this 9th day of July, 2021.

D. CHRIS ALBRIGHT, ESQ.
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Attorneys for Appellants

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of ALBRIGHT, STODDARD, WARNICK & ALBRIGHT and that on the 9th day of July, 2021, I served a true and correct copy of the foregoing **CASE APPEAL STATEMENT** upon all counsel of record by electronically serving the document using the Court's electronic filing system:

Dane W. Anderson, Esq.
Bronagh M. Kelly, Esq.
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Trial Counsel for Appellants

An Employee of Albright Stoddard Warnick & Albright

SECOND JUDICIAL DISTRICT COURT
STATE OF NEVADA
COUNTY OF WASHOE

Case History - CV19-00459

Case Description: JOHN ILIESCU JR ETAL VS RTC WASHOE CO (D15)

Case Number: CV19-00459 Case Type: OTHER CIVIL MATTERS - Initially Filed On: 2/27/2019

Parties

Party Type & Name	Party Status
JUDG - DAVID A. HARDY - D15	Active
PLTF - JOHN ILIESCU & SONNIA ILIESCU, TRUSTEES - @1310994	Active
PLTF - JOHN JR. ILIESCU - @326792	Active
PLTF - SONNIA ILIESCU - @77375	Active
DEFT - THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY - @1288539	Active
ATTY - Dane W. Anderson, Esq. - 6883	Active
ATTY - D. Chris Albright, Esq. - 4904	Active
ATTY - Michael James Morrison, Esq. - 1665	Active
ATTY - Bronagh Mary Kelly, Esq. - 14555	Active

Disposed Hearings

1 Department: D15 -- Event: Request for Submission -- Scheduled Date & Time: 11/12/2019 at 16:45:00
Extra Event Text: MOTION TO DISMISS FILED 9/25/19
Event Disposition: S200 - 1/7/2020

2 Department: D15 -- Event: Request for Submission -- Scheduled Date & Time: 2/13/2020 at 10:35:00
Extra Event Text: SUPPLEMENTAL MOTION TO DISMISS FILED 1/30/2020 -
Event Disposition: S200 - 3/20/2020

3 Department: B -- Event: Request for Submission -- Scheduled Date & Time: 3/6/2020 at 14:50:00
Extra Event Text: MOTION TO COMPEL FILED 2-20-2020
Event Disposition: S200 - 4/3/2020

4 Department: DISC -- Event: Request for Submission -- Scheduled Date & Time: 4/20/2020 at 13:42:00
Extra Event Text: MOTION FOR DISCOVERY SANCTIONS FILED 4-1-2020
Event Disposition: S200 - 6/10/2020

5 Department: D15 -- Event: Request for Submission -- Scheduled Date & Time: 5/18/2020 at 15:30:00
Extra Event Text: Motion for Sanctions Pursuant to NRCP 37(b)(1)
Event Disposition: S200 - 6/10/2020

6 Department: D15 -- Event: Request for Submission -- Scheduled Date & Time: 7/16/2020 at 10:53:00
Extra Event Text: DECLARATION OF DANE W. ANDERSON REGARDING EXPENSES TO BE REIMBURSED BY DEFENDANTS [SIC] (NO ORDER PROVIDED)
Event Disposition: S200 - 8/5/2020

7 Department: D15 -- Event: Request for Submission -- Scheduled Date & Time: 8/6/2020 at 14:37:00
Extra Event Text: MOTION IN LIMINE TO PRECLUDE PLAINTIFFS FROM OFFERING DOCUMENTS NOT PRODUCED TO RTC ON OR BEFORE JUNE 30, 2020
Event Disposition: S200 - 8/19/2020

8 Department: D15 -- Event: CASE MANAGEMENT CONFERENCE -- Scheduled Date & Time: 9/29/2020 at 16:30:00
Extra Event Text: LIKELY TO VACATE
Event Disposition: D260 - 9/29/2020

9 Department: D15 -- Event: Request for Submission -- Scheduled Date & Time: 2/25/2021 at 13:02:00
Extra Event Text: MOTION FOR SANCTIONS PURSUANT TO NRCP 16.1(c) FILED JAN 19, 2021 -
Event Disposition: S200 - 3/25/2021

10 Department: D15 -- Event: STATUS HEARING -- Scheduled Date & Time: 4/27/2021 at 14:00:00
Extra Event Text: TO ENSURE CASE RETURNS TO PROCEDURAL NORMALCY AND IS PROSECUTED IN COMPLIANCE WIHT 3/25/21 ORDER
Event Disposition: D435 - 4/27/2021

11 Department: D15 -- Event: Request for Submission -- Scheduled Date & Time: 4/28/2021 at 11:52:00
Extra Event Text: REPLY IN SUPPORT OF MOTION IN LIMINE TO EXCLUDE EVIDENCE OF DAMAGES FILED APRIL 27, 2021
Event Disposition: S200 - 6/9/2021

12 Department: D15 -- Event: Request for Submission -- Scheduled Date & Time: 4/28/2021 at 11:52:00
Extra Event Text: REPLY IN SUPPORT OF MOTION IN LIMINE TO PRECLUDE PLAINTIFFS FROM PRESENTING EVIDENCE PURSUANT TO NRS 50.275, 50.28
Event Disposition: S200 - 6/9/2021

13 Department: D15 -- Event: Request for Submission -- Scheduled Date & Time: 4/29/2021 at 10:53:00
Extra Event Text: MOTION FOR SUMMARY JUDGMENT FILED 3/09/2021
Event Disposition: S200 - 6/9/2021

14 Department: D15 -- Event: ORAL ARGUMENTS -- Scheduled Date & Time: 5/6/2021 at 09:30:00
Extra Event Text: (2 HOURS)
Event Disposition: D844 - 4/28/2021

15 Department: D15 -- Event: ORAL ARGUMENTS -- Scheduled Date & Time: 5/12/2021 at 14:00:00
Extra Event Text: (2 HOURS)
Event Disposition: D425 - 5/12/2021

16 Department: D15 -- Event: STATUS HEARING -- Scheduled Date & Time: 5/26/2021 at 15:00:00
Extra Event Text: TS-6 90 DAY STATUS HEARING
Event Disposition: D860 - 5/25/2021

17 Department: D15 -- Event: ORAL ARGUMENTS -- Scheduled Date & Time: 6/8/2021 at 10:00:00
Extra Event Text: ON MOTION FOR RECONSIDERATION
Event Disposition: D840 - 6/8/2021

18 Department: D15 -- Event: PRE-TRIAL CONFERENCE -- Scheduled Date & Time: 7/9/2021 at 10:00:00
Extra Event Text: TS-6 FCC/PTC
Event Disposition: D845 - 6/9/2021

19 Department: D15 -- Event: TRIAL - JURY -- Scheduled Date & Time: 8/9/2021 at 13:00:00
Extra Event Text: DAY 1 OF 5
Event Disposition: D845 - 6/9/2021

Actions

	Filing Date	-	Docket Code & Description
1	2/27/2019	-	$1425 - $Complaint - Civil

Additional Text: COMPLAING (EXEMPTION FROM ARBITRATION - EQUITABLE RELIEF SOUGHT AND DAMAGES IN EXCESS OF $50,000) - Transaction 7140095 - Approved By: YVILORIA : 02-28-2019:07:59:58

2	2/27/2019	-	$PLTF - $Addl Plaintiff/Complaint

Additional Text: JOHN ILIESCU JR INDIVIDUAL - Transaction 7140095 - Approved By: YVILORIA : 02-28-2019:07:59:58

3 2/27/2019 - $PLTF - $Addl Plaintiff/Complaint

Additional Text: SONNIA ILIESCU INDIVIDUAL - Transaction 7140095 - Approved By: YVILORIA : 02-28-2019:07:59:58

4 2/28/2019 - PAYRC - **Payment Receipted

Additional Text: A Payment of $320.00 was made on receipt DCDC631984.

5 7/1/2019 - 3355 - Ord to Show Cause

Additional Text: FILE PROOF OF SERVICE OR SHOW CAUSE FOR AN EXTENSION - Transaction 7349801 - Approved By: NOREVIEW : 07-01-2019:13:50:28

6 7/1/2019 - NEF - Proof of Electronic Service

Additional Text: Transaction 7349806 - Approved By: NOREVIEW : 07-01-2019:13:51:45

7 7/22/2019 - 2075 - Mtn for Extension of Time

Additional Text: MOTION FOR EXTENSION OF TIME - Transaction 7386969 - Approved By: YVILORIA : 07-22-2019:16:57:42

8 7/22/2019 - NEF - Proof of Electronic Service

Additional Text: Transaction 7387024 - Approved By: NOREVIEW : 07-22-2019:16:59:35

9 7/30/2019 - 3030 - Ord Granting Extension Time

Additional Text: 10 MORE DAYS TO SERVE PROCESS - Transaction 7402741 - Approved By: NOREVIEW : 07-30-2019:16:00:34

10 7/30/2019 - NEF - Proof of Electronic Service

Additional Text: Transaction 7402754 - Approved By: NOREVIEW : 07-30-2019:16:01:59

11 8/5/2019 - 4090 - ** Summons Issued

No additional text exists for this entry.

12 8/8/2019 - 1005 - Acceptance of Service

Additional Text: NOTICE OF ACCEPTANCE OF SERVICE - DALE FERGUSTON ESQ 8-8-19 - Transaction 7419581 - Approved By: YVILORIA : 08-08-2019:15:26:17

13 8/8/2019 - NEF - Proof of Electronic Service

Additional Text: Transaction 7419735 - Approved By: NOREVIEW : 08-08-2019:15:27:34

14 9/25/2019 - 2315 - Mtn to Dismiss ...

Additional Text: Transaction 7504491 - Approved By: CSULEZIC : 09-25-2019:15:53:14

15 9/25/2019 - NEF - Proof of Electronic Service

Additional Text: Transaction 7504669 - Approved By: NOREVIEW : 09-25-2019:15:55:56

16 10/30/2019 - 4050 - Stipulation ...

Additional Text: to Conduct Discovery Prior to Holding NRCP 16.1 Conference and Prior to Filing the JCCR - Transaction 7563184 - Approved By: NOREVIEW : 10-30-2019:09:34:00

17 10/30/2019 - NEF - Proof of Electronic Service

Additional Text: Transaction 7563197 - Approved By: NOREVIEW : 10-30-2019:09:35:27

18 11/7/2019 - 2645 - Opposition to Mtn ...

Additional Text: PLAINTIFFS' OPPOSITION TO DEFENDANT'S PARTIAL MOTION TO DISMISS PLAINTIFF'S COMPLAINT - Transaction 7576382 - Approved By: CSULEZIC : 11-07-2019:10:40:43

19 11/7/2019 - NEF - Proof of Electronic Service

Additional Text: Transaction 7577120 - Approved By: NOREVIEW : 11-07-2019:10:41:38

20 11/12/2019 - 3795 - Reply...

Additional Text: REPLY IN SUPPORT OF MOTION TO DISMISS - Transaction 7583646 - Approved By: CSULEZIC : 11-12-2019:16:43:36

21 11/12/2019 - 3860 - Request for Submission

Additional Text: MOTION TO DISMISS FILED 9/25/19 - Transaction 7583646 - Approved By: CSULEZIC : 11-12-2019:16:43:36
PARTY SUBMITTING: DANE ANDERSON ESQ
DATE SUBMITTED: 11/12/19
SUBMITTED BY: CS
DATE RECEIVED JUDGE OFFICE:

22 11/12/2019 - NEF - Proof of Electronic Service

Additional Text: Transaction 7584356 - Approved By: NOREVIEW : 11-12-2019:16:44:54

23 11/18/2019 - 3105 - Ord Granting ...

Additional Text: STIPULATION TO CONDUCT DISCOVERY - Transaction 7593663 - Approved By: NOREVIEW : 11-18-2019:13:24:30

24 11/18/2019 - NEF - Proof of Electronic Service

Additional Text: Transaction 7593668 - Approved By: NOREVIEW : 11-18-2019:13:25:39

25 12/6/2019 - 4050 - Stipulation ...

Additional Text: For Entry of Order Dismissing Certain Plaintiffs' Claims for Relief and Damages With Prejudice - Transaction 7623980 - Approved By: NOREVIEW : 12-06-2019:11:12:22

26 12/6/2019 - NEF - Proof of Electronic Service

Additional Text: Transaction 7623989 - Approved By: NOREVIEW : 12-06-2019:11:13:47

27 12/10/2019 - 3105 - Ord Granting ...

Additional Text: STIPULATION FOR ENTRY OF ORDER DISMISSING CERTAIN OF PLAINTIFF'S CLAIMS FOR RELIEF AND DAMAGES WITH PREJUDICE - Transaction 7629013 - Approved By: NOREVIEW : 12-10-2019:10:18:05

28 12/10/2019 - NEF - Proof of Electronic Service

Additional Text: Transaction 7629023 - Approved By: NOREVIEW : 12-10-2019:10:19:30

29 1/7/2020 - 2682 - Ord Addressing Motions

Additional Text: ORDER ADDRESSING MOTION TO DISMISS - PLAINTIFF TO FILE AMENDED COMPLAINT - Transaction 7673003 - Approved By: NOREVIEW : 01-07-2020:16:12:45

30 1/7/2020 - NEF - Proof of Electronic Service

Additional Text: Transaction 7673020 - Approved By: NOREVIEW : 01-07-2020:16:14:31

31 1/7/2020 - S200 - Request for Submission Complet

Additional Text: MOTION TO DISMISS FILED 9/25/19 - DENIED AS MOOT

32 1/21/2020 - 1090 - Amended Complaint

Additional Text: Transaction 7695926 - Approved By: BBLOUGH : 01-21-2020:16:48:25

33 1/21/2020 - NEF - Proof of Electronic Service

Additional Text: Transaction 7696658 - Approved By: NOREVIEW : 01-21-2020:16:50:58

34 1/30/2020 - 4105 - Supplemental ...

Additional Text: Motion to Dismiss - Transaction 7712316 - Approved By: NOREVIEW : 01-30-2020:09:24:56

35 1/30/2020 - NEF - Proof of Electronic Service

Additional Text: Transaction 7712321 - Approved By: NOREVIEW : 01-30-2020:09:26:01

36 2/10/2020 - 3795 - Reply...

Additional Text: PLAINTIFFS' OPPOSITION TO DEFENDANT'S SUPPLEMENTAL MOTION TO DISMISS - Transaction 7732495 - Approved By: YVILORIA : 02-10-2020:16:26:09

37 2/10/2020 - NEF - Proof of Electronic Service

Additional Text: Transaction 7732505 - Approved By: NOREVIEW : 02-10-2020:16:27:09

38 2/13/2020 - 3795 - Reply...

Additional Text: REPLY IN SUPPORT OF SUPPLEMENTAL MOTION TO DISMISS - Transaction 7739174 - Approved By: CSULEZIC : 02-13-2020:10:25:06

39 2/13/2020 - 3860 - Request for Submission

Additional Text: SUPPLEMENTAL MOTION TO DISMISS FILED 1/30/2020 - Transaction 7739174 - Approved By: CSULEZIC : 02-13-2020:10:25:06
PARTY SUBMITTING: DANE ANDERSON ESQ
DATE SUBMITTED: 2/13/2020
SUBMITTED BY: CS
DATE RECEIVED JUDGE OFFICE:

40 2/13/2020 - NEF - Proof of Electronic Service

Additional Text: Transaction 7739194 - Approved By: NOREVIEW : 02-13-2020:10:26:35

41 2/20/2020 - 2270 - Mtn to Compel...

Additional Text: Transaction 7750935 - Approved By: BBLOUGH : 02-20-2020:14:18:39

42 2/20/2020 - NEF - Proof of Electronic Service

Additional Text: Transaction 7751018 - Approved By: NOREVIEW : 02-20-2020:14:20:13

43 3/6/2020 - 3860 - Request for Submission

Additional Text: Transaction 7780001 - Approved By: NOREVIEW : 03-06-2020:14:53:02
DOCUMENT TITLE: MOTION TO COMPEL FILED 2-20-2020
PARTY SUBMITTING: DANE ANDERSON ESQ
DATE SUBMITTED: 3-6-2020
SUBMITTED BY: YV
DATE RECEIVED JUDGE OFFICE:

44 3/6/2020 - NEF - Proof of Electronic Service

Additional Text: Transaction 7780006 - Approved By: NOREVIEW : 03-06-2020:14:54:07

45 3/11/2020 - 2528 - Not/Doc/Rc'd/Not/Cons/by Crt

Additional Text: CONTIANS CONFIDENTIAL MEDICAL RECORDS - Transaction 7786510 - Approved By: NOREVIEW : 03-11-2020:10:23:20

46 3/11/2020 - NEF - Proof of Electronic Service

Additional Text: Transaction 7786520 - Approved By: NOREVIEW : 03-11-2020:10:24:44

47 3/20/2020 - 3060 - Ord Granting Mtn ...

Additional Text: ORDER GRANTING MOTION TO DIMISS - Transaction 7801281 - Approved By: NOREVIEW : 03-20-2020:09:15:46

48 3/20/2020 - NEF - Proof of Electronic Service

Additional Text: Transaction 7801283 - Approved By: NOREVIEW : 03-20-2020:09:16:45

49 3/20/2020 - S200 - Request for Submission Complet

Additional Text: SUPPLEMENTAL MOTION TO DISMISS FILED - partially granted

50 3/20/2020 - 2540 - Notice of Entry of Ord

Additional Text: Transaction 7802297 - Approved By: NOREVIEW : 03-20-2020:14:38:24

51 3/20/2020 - NEF - Proof of Electronic Service

Additional Text: Transaction 7802301 - Approved By: NOREVIEW : 03-20-2020:14:39:23

52 3/23/2020 - 1140 - Answer to Amended Complaint

Additional Text: ANSWER TO FIRST AMENDED COMPLAINT - Transaction 7804469 - Approved By: SACORDAG : 03-23-2020:12:29:45

53 3/23/2020 - NEF - Proof of Electronic Service

Additional Text: Transaction 7804537 - Approved By: NOREVIEW : 03-23-2020:12:30:43

54 4/1/2020 - 2185 - Mtn for Sanctions

Additional Text: Motion for Discovery Sanctions - Transaction 7818895 - Approved By: SACORDAG : 04-01-2020:16:56:45

55 4/1/2020 - 1520 - Declaration

Additional Text: DECLARATION OF DANE W. ANDERSON IN SUPPORT OF MOTION FOR MSCOVERY SANCTIONS - Transaction 7818895 - Approved By: SACORDAG : 04-01-2020:16:56:45

56 4/1/2020 - NEF - Proof of Electronic Service

Additional Text: Transaction 7818929 - Approved By: NOREVIEW : 04-01-2020:16:57:43

57 4/3/2020 - 1945 - Master's Recommendation/Ord

Additional Text: RECOMMENDATION FOR ORDER - Transaction 7822158 - Approved By: NOREVIEW : 04-03-2020:16:39:59

58 4/3/2020 - S200 - Request for Submission Complet

Additional Text: Submission on 3/6/20

59 4/3/2020 - NEF - Proof of Electronic Service

Additional Text: Transaction 7822161 - Approved By: NOREVIEW : 04-03-2020:16:41:02

60 4/20/2020 - 2690 - Ord Affirming Master Recommend

Additional Text: CONFIRMING ORDER - Transaction 7841718 - Approved By: NOREVIEW : 04-20-2020:11:28:39

61 4/20/2020 - NEF - Proof of Electronic Service

Additional Text: Transaction 7841721 - Approved By: NOREVIEW : 04-20-2020:11:29:36

62 4/20/2020 - 3860 - Request for Submission

Additional Text: Transaction 7842053 - Approved By: NOREVIEW : 04-20-2020:13:43:00
DOCUMENT TITLE: MOTION FOR DISCOVERY SANCTIONS FILED 4-1-2020
PARTY SUBMITTING: DANE ANDERSON ESQ
DATE SUBMITTED: 4-20-2020
SUBMITTED BY: YV
DATE RECEIVED JUDGE OFFICE:

63 4/20/2020 - NEF - Proof of Electronic Service

Additional Text: Transaction 7842055 - Approved By: NOREVIEW : 04-20-2020:13:43:56

64 4/20/2020 - 2185 - Mtn for Sanctions

Additional Text: Transaction 7842166 - Approved By: CSULEZIC : 04-20-2020:14:24:24

65 4/20/2020 - NEF - Proof of Electronic Service

Additional Text: Transaction 7842243 - Approved By: NOREVIEW : 04-20-2020:14:25:40

66 4/21/2020 - A120 - Exemption from Arbitration

Additional Text: Transaction 7844844 - Approved By: NOREVIEW : 04-21-2020:16:51:37

67 4/21/2020 - NEF - Proof of Electronic Service

Additional Text: Transaction 7844848 - Approved By: NOREVIEW : 04-21-2020:16:52:38

68 4/22/2020 - 3696 - Pre-Trial Order

Additional Text: Transaction 7845782 - Approved By: NOREVIEW : 04-22-2020:12:26:15

69 4/22/2020 - NEF - Proof of Electronic Service

Additional Text: Transaction 7845785 - Approved By: NOREVIEW : 04-22-2020:12:27:11

70 5/14/2020 - 2645 - Opposition to Mtn ...

Additional Text: PLAINTIFFS' OPPOSITION TO DEFENDANT'S MOTION FOR SANCTIONS - Transaction 7878297 - Approved By: BBLOUGH : 05-15-2020:08:14:25

71 5/15/2020 - NEF - Proof of Electronic Service

Additional Text: Transaction 7878434 - Approved By: NOREVIEW : 05-15-2020:08:15:24

72 5/18/2020 - 3795 - Reply...

Additional Text: Reply in Support of Motion for Sanctions Pursuant to NRCP 37(b)(1) - Transaction 7882116 - Approved By: SACORDAG : 05-18-2020:15:29:19

73 5/18/2020 - 3860 - Request for Submission

Additional Text: Transaction 7882116 - Approved By: SACORDAG : 05-18-2020:15:29:19
DOCUMENT TITLE: Motion for Sanctions Pursuant to NRCP 37(b)(1)
PARTY SUBMITTING: DANE ANDERSON, ESQ
DATE SUBMITTED: 05/18/2020
SUBMITTED BY: SJA
DATE RECEIVED JUDGE OFFICE:

74 5/18/2020 - NEF - Proof of Electronic Service

Additional Text: Transaction 7882130 - Approved By: NOREVIEW : 05-18-2020:15:30:26

75 6/10/2020 - 1945 - Master's Recommendation/Ord

Additional Text: RECOMMENDATION FOR ORDER - Transaction 7919122 - Approved By: NOREVIEW : 06-10-2020:15:45:24

76 6/10/2020 - S200 - Request for Submission Complet

No additional text exists for this entry.

77 6/10/2020 - NEF - Proof of Electronic Service

Additional Text: Transaction 7919129 - Approved By: NOREVIEW : 06-10-2020:15:46:17

78 6/10/2020 - S200 - Request for Submission Complet

Additional Text: Motion for Sanctions Pursuant to NRCP 37(b)(1) - addressed in Commissioner Ayres recommentation

79 6/22/2020 - 1520 - Declaration

Additional Text: DECLARATION OF DANE W. ANDERSON REGARDING EXPENSES TO BE REIMBURSED BY DEFENDANTS Transaction 7937253 - Approved By: NOREVIEW : 06-22-2020:15:52:25

80 6/22/2020 - NEF - Proof of Electronic Service

Additional Text: Transaction 7937259 - Approved By: NOREVIEW : 06-22-2020:15:53:25

81 6/25/2020 - 2520 - Notice of Appearance

Additional Text: NOTICE OF APPEARANCE: BRONAGH KELLY ESQ / DEFT RTC - Transaction 7943730 - Approved By: YVILORIA : 06-25-2020:15:51:52

82 6/25/2020 - NEF - Proof of Electronic Service

Additional Text: Transaction 7943783 - Approved By: NOREVIEW : 06-25-2020:15:52:56

83 6/30/2020 - 2690 - Ord Affirming Master Recommend

Additional Text: CONFIRMING ORDER - Transaction 7949738 - Approved By: NOREVIEW : 06-30-2020:14:37:22

84 6/30/2020 - NEF - Proof of Electronic Service

Additional Text: Transaction 7949742 - Approved By: NOREVIEW : 06-30-2020:14:38:22

85 6/30/2020 - 3347 - Ord to Set

Additional Text: FILE NOTICE TO SET WITHIN 14 DAYS - Transaction 7949756 - Approved By: NOREVIEW : 06-30-2020:14:42:22

86 6/30/2020 - NEF - Proof of Electronic Service

Additional Text: Transaction 7949759 - Approved By: NOREVIEW : 06-30-2020:14:43:24

87 6/30/2020 - 2645 - Opposition to Mtn ...

Additional Text: PLAINTIFFS' NOTICE ON INTENT TO FILE OPPOSITION TO DEFENDANT'S STATEMENT OF CLAIMED COSTS AND FEES - Transaction 7950620 - Approved By: BBLOUGH : 07-01-2020:08:04:16

88 7/1/2020 - NEF - Proof of Electronic Service

Additional Text: Transaction 7950707 - Approved By: NOREVIEW : 07-01-2020:08:05:19

89 7/6/2020 - 3880 - Response...

Additional Text: PLAINTIFFS' RESPONSE TO DECLARATION OF DANE W. ANDERSON REGARDING EXPENSES TO BE REIMBURSED BY DEFENDANTS - Transaction 7956088 - Approved By: CSULEZIC : 07-06-2020:13:14:26

90 7/6/2020 - NEF - Proof of Electronic Service

Additional Text: Transaction 7956170 - Approved By: NOREVIEW : 07-06-2020:13:15:29

91 7/13/2020 - 3795 - Reply...

Additional Text: RTC'S REPLY TO PLAINTIFFS' RESPONSE TO DECLARATION OF DANE W. ANDERSON REGARDING EXPENSES TO BE REIMBURSED BY DEFENDANTS - Transaction 7966844 - Approved By: CSULEZIC : 07-13-2020:10:35:15

92 7/13/2020 - NEF - Proof of Electronic Service

Additional Text: Transaction 7966896 - Approved By: NOREVIEW : 07-13-2020:10:37:23

93 7/13/2020 - 1250E - Application for Setting eFile

Additional Text: JURY TRIAL 8/9/21, PTC 7/9/21, ESC 9/29/2020 - Transaction 7968101 - Approved By: NOREVIEW : 07-13-2020:15:19:03

94 7/13/2020 - NEF - Proof of Electronic Service

Additional Text: Transaction 7968106 - Approved By: NOREVIEW : 07-13-2020:15:20:01

95 7/14/2020 - JF - **First Day Jury Fees Deposit

Additional Text: Transaction 7969228 - Approved By: CSULEZIC : 07-14-2020:11:14:53

96 7/14/2020 - PAYRC - **Payment Receipted

Additional Text: A Payment of $320.00 was made on receipt DCDC660960.

97 7/14/2020 - NEF - Proof of Electronic Service

Additional Text: Transaction 7969547 - Approved By: NOREVIEW : 07-14-2020:11:15:59

98 7/16/2020 - 3860 - Request for Submission

Additional Text: Transaction 7973986 - Approved By: NOREVIEW : 07-16-2020:10:54:20
DOCUMENT TITLE: DECLARATION OF DANE W. ANDERSON REGARDING EXPENSES TO BE REIMBURSED BY DEFENDANTS [SIC] (NO ORDER PROVIDED)
PARTY SUBMITTING: DANE ANDERSON, ESQ
DATE SUBMITTED: JULY 16, 2020
SUBMITTED BY: BBLOUGH
DATE RECEIVED JUDGE OFFICE:

99 7/16/2020 - NEF - Proof of Electronic Service

Additional Text: Transaction 7973990 - Approved By: NOREVIEW : 07-16-2020:10:57:14

100 7/21/2020 - 4105 - Supplemental ...

Additional Text: Declaration of Dane W. Anderson Re Expenses to be Reimbursed by Plaintiffs - Transaction 7981140 - Approved By: NOREVIEW : 07-21-2020:13:53:26

101 7/21/2020 - NEF - Proof of Electronic Service

Additional Text: Transaction 7981142 - Approved By: NOREVIEW : 07-21-2020:13:54:25

102 7/21/2020 - 2245 - Mtn in Limine

Additional Text: MOTION IN LIMINE TO PRECLUDE PLAINTIFFS FROM OFFERING DOCUMENTS NOT PRODUCED TO RTC ON OR BEFORE JUNE 30, 2020 Transaction 7981600 - Approved By: NOREVIEW : 07-21-2020:15:44:48

103 7/21/2020 - NEF - Proof of Electronic Service

Additional Text: Transaction 7981603 - Approved By: NOREVIEW : 07-21-2020:15:45:56

104 7/27/2020 - 3880 - Response...

Additional Text: PLAINTIFFS' RESPONSE TO THE SUPPLEMENTAL DECLARATION OF DANE W. ANDERSON REGARDING EXPENSES TO BE REIMBURSED BY PLAINTIFFS - Transaction 7990157 - Approved By: BBLOUGH : 07-27-2020:16:04:48

105 7/27/2020 - NEF - Proof of Electronic Service

Additional Text: Transaction 7990313 - Approved By: NOREVIEW : 07-27-2020:16:05:43

106 7/29/2020 - 3790 - Reply to/in Opposition

Additional Text: RTC'S REPLY TO PLAINTIFFS' RESPONSE TO THE SUPPLEMENTAL DECLARATION OF DANE W. ANDERSON REGARDING EXPENSES TO BE REIMBURSED BY DEFENDANTS - Transaction 7993047 - Approved By: BBLOUGH : 07-29-2020:09:01:45

107 7/29/2020 - NEF - Proof of Electronic Service

Additional Text: Transaction 7993075 - Approved By: NOREVIEW : 07-29-2020:09:03:59

108 8/5/2020 - 3370 - Order ...

Additional Text: ORDER REGARDING DECLARATIONS OF EXPENSES - Transaction 8004713 - Approved By: NOREVIEW : 08-05-2020:13:15:39

109 8/5/2020 - NEF - Proof of Electronic Service

Additional Text: Transaction 8004719 - Approved By: NOREVIEW : 08-05-2020:13:16:50

110 8/5/2020 - S200 - Request for Submission Complet

Additional Text: DECLARATION OF DANE W. ANDERSON REGARDING EXPENSES TO BE REIMBURSED BY DEFENDANTS [SIC]

111 8/6/2020 - 2540 - Notice of Entry of Ord

Additional Text: Transaction 8007281 - Approved By: NOREVIEW : 08-06-2020:14:19:59

112 8/6/2020 - NEF - Proof of Electronic Service

Additional Text: Transaction 8007284 - Approved By: NOREVIEW : 08-06-2020:14:20:58

113 8/6/2020 - 3860 - Request for Submission

Additional Text: Transaction 8007357 - Approved By: NOREVIEW : 08-06-2020:14:39:17
DOCUMENT TITLE: MOTION IN LIMINE TO PRECLUDE PLAINTIFFS FROM OFFERING DOCUMENTS NOT PRODUCED TO RTC ON OR BEFORE JUNE 30, 2020 FILED 7-21-2020
PARTY SUBMITTING: DANE ANDERSON ESQ
DATE SUBMITTED: 8-6-2020
SUBMITTED BY: YV
DATE RECEIVED JUDGE OFFICE:

114 8/6/2020 - NEF - Proof of Electronic Service

Additional Text: Transaction 8007365 - Approved By: NOREVIEW : 08-06-2020:14:42:14

115 8/19/2020 - 3060 - Ord Granting Mtn ...

Additional Text: IN LIMINE TO PRECLUDE OFFERING DOCUMENTS NOT PRODUCED TO RTC ON OR BEFORE JUNE 30, 2020 - Transaction 8027856 - Approved By: NOREVIEW : 08-19-2020:16:17:27

116 8/19/2020 - S200 - Request for Submission Complet

Additional Text: MOTION IN LIMINE TO PRECLUDE PLAINTIFFS FROM OFFERING DOCUMENTS NOT PRODUCED TO RTC ON OR BEFORE JUNE 30, 2020 FILED 7-21-2020

117 8/19/2020 - NEF - Proof of Electronic Service

Additional Text: Transaction 8027859 - Approved By: NOREVIEW : 08-19-2020:16:18:19

118 8/20/2020 - 2540 - Notice of Entry of Ord

Additional Text: Transaction 8029028 - Approved By: NOREVIEW : 08-20-2020:10:48:18

119 8/20/2020 - NEF - Proof of Electronic Service

Additional Text: Transaction 8029035 - Approved By: NOREVIEW : 08-20-2020:10:49:18

120 9/23/2020 - 1580 - Demand for Jury

Additional Text: DFX: FEE PAID 7/14/2020 - DEMAND FOR JURY TRIAL - Transaction 8082710 - Approved By: YVILORIA : 09-23-2020:15:23:50

121 9/23/2020 - NEF - Proof of Electronic Service

Additional Text: Transaction 8082810 - Approved By: NOREVIEW : 09-23-2020:15:24:45

122 9/30/2020 - MIN - ***Minutes

Additional Text: 9/29/20 CASE MANAGEMENT CONFERENCE (ESC) - Transaction 8093137 - Approved By: NOREVIEW : 09-30-2020:13:15:06

123 9/30/2020 - NEF - Proof of Electronic Service

Additional Text: Transaction 8093157 - Approved By: NOREVIEW : 09-30-2020:13:16:42

124 10/8/2020 - 4050 - Stipulation ...

Additional Text: STIPULATION FOR ENTRY OF SCHEDULING ORDER Transaction 8107608 - Approved By: NOREVIEW : 10-08-2020:16:48:52

125 10/8/2020 - NEF - Proof of Electronic Service

Additional Text: Transaction 8107613 - Approved By: NOREVIEW : 10-08-2020:16:49:54

126 10/12/2020 - 3915 - Scheduling Order

Additional Text: AMENDED STIPULATED SCHEDULING ORDER - Transaction 8111324 - Approved By: NOREVIEW : 10-12-2020:14:33:51

127 10/12/2020 - NEF - Proof of Electronic Service

Additional Text: Transaction 8111336 - Approved By: NOREVIEW : 10-12-2020:14:35:05

128 1/19/2021 - 2185 - Mtn for Sanctions

Additional Text: MOTION FOR SANCTIONS PURSUANT TO NRCP 16.1(e) - Transaction 8252375 - Approved By: YVILORIA : 01-19-2021:13:32:09

129 1/19/2021 - NEF - Proof of Electronic Service

Additional Text: Transaction 8252396 - Approved By: NOREVIEW : 01-19-2021:13:32:53

130 2/18/2021 - 2645 - Opposition to Mtn ...

Additional Text: for Sanctions - Transaction 8302448 - Approved By: AZAMORA : 02-19-2021:08:03:57

131 2/19/2021 - NEF - Proof of Electronic Service

Additional Text: Transaction 8302524 - Approved By: NOREVIEW : 02-19-2021:08:04:52

132 2/25/2021 - 3795 - Reply...

Additional Text: RTC'S REPLY IN SUPPORT OF MOTION FOR SANCTIONS PURSUANT TO NRCP 16.1(c) - Transaction 8313712 - Approved By: YVILORIA : 02-25-2021:13:41:01

133 2/25/2021 - 3860 - Request for Submission

Additional Text: Transaction 8313712 - Approved By: YVILORIA : 02-25-2021:13:41:01
DOCUMENT TITLE: MOTION FOR SANCTIONS PURSUANT TO NRCP 16.1(c) FILED JAN 19, 2021
PARTY SUBMITTING: DANE ANDERSON ESQ
DATE SUBMITTED: 2-25-21
SUBMITTED BY: YV
DATE RECEIVED JUDGE OFFICE:

134 2/25/2021 - NEF - Proof of Electronic Service

Additional Text: Transaction 8313882 - Approved By: NOREVIEW : 02-25-2021:13:41:56

135 3/9/2021 - 2200 - Mtn for Summary Judgment

Additional Text: Transaction 8332645 - Approved By: SACORDAG : 03-09-2021:11:42:40

136 3/9/2021 - NEF - Proof of Electronic Service

Additional Text: Transaction 8332701 - Approved By: NOREVIEW : 03-09-2021:11:43:35

137 3/9/2021 - 2245 - Mtn in Limine

Additional Text: MOTION IN LIMINE TO PRECLUDE PLAINTIFFS FROM PRESENTING EVIDENCE PURSUANT TO NRS 50.275, 50.285 AND 50.305 Transaction 8333168 - Approved By: NOREVIEW : 03-09-2021:13:55:47

138 3/9/2021 - 2245 - Mtn in Limine

Additional Text: MOTION IN LIMINE TO EXCLUDE EVIDENCE OF DAMAGES - Transaction 8333168 - Approved By: NOREVIEW : 03-09-2021:13:55:47

139 3/9/2021 - NEF - Proof of Electronic Service

Additional Text: Transaction 8333171 - Approved By: NOREVIEW : 03-09-2021:13:56:47

140 3/11/2021 - 1250E - Application for Setting eFile

Additional Text: 90 DAY STATUS HEARING 5/26/21 - Transaction 8337959 - Approved By: NOREVIEW : 03-11-2021:13:33:42

141 3/11/2021 - NEF - Proof of Electronic Service

Additional Text: Transaction 8337966 - Approved By: NOREVIEW : 03-11-2021:13:34:39

142 3/25/2021 - 2842 - Ord Denying Motion

Additional Text: FOR SANCTIONS - Transaction 8361465 - Approved By: NOREVIEW : 03-25-2021:14:57:03

143 3/25/2021 - NEF - Proof of Electronic Service

Additional Text: Transaction 8361474 - Approved By: NOREVIEW : 03-25-2021:14:58:20

144 3/25/2021 - S200 - Request for Submission Complet

Additional Text: MOTION FOR SANCTIONS PURSUANT TO NRCP 16.1(c) FILED JAN 19, 2021 - DENIED WITH F/U HEARING ON 4/27/21 AT 2:00

145 4/2/2021 - 2645 - Opposition to Mtn ...

Additional Text: PLAINTIFFS' OPPOSITION TO DEFENDANTS' MOTION FOR SUMMARY JUDGMENT - Transaction 8376225 - Approved By: YVILORIA : 04-02-2021:16:49:13

146 4/2/2021 - 2645 - Opposition to Mtn ...

Additional Text: PLAINTIFFS' OPPOSITION TO DEFENDANTS' MOTION IN LIMINE TO EXCLUDE EVIDENCE OF DAMAGES - Transaction 8376231 - Approved By: YVILORIA : 04-02-2021:16:50:21

147 4/2/2021 - 2645 - Opposition to Mtn ...

Additional Text: PLAINTIFFS' OPPOSITION TO DEFENDANT'S MOTION IN LIMINE TO EXCLUDE EVIDENCE PURSUANT TO NRS 50.275, 50.285, AND 50.305 - Transaction 8376236 - Approved By: YVILORIA : 04-02-2021:16:57:05

148 4/2/2021 - NEF - Proof of Electronic Service

Additional Text: Transaction 8376238 - Approved By: NOREVIEW : 04-02-2021:16:51:28

149 4/2/2021 - NEF - Proof of Electronic Service

Additional Text: Transaction 8376239 - Approved By: NOREVIEW : 04-02-2021:16:51:38

150 4/2/2021 - NEF - Proof of Electronic Service

Additional Text: Transaction 8376255 - Approved By: NOREVIEW : 04-02-2021:16:57:48

151 4/2/2021 - 2645 - Opposition to Mtn ...

Additional Text: PLAINTIFFS' OPPOSITION TO DEFENDANT'S MOTION IN LIMINE TO EXCLUDE EVIDENCE PURSUANT TO NRS 50.275, - Transaction 8376273 - Approved By: AZAMORA : 04-05-2021:08:00:57

152 4/5/2021 - NEF - Proof of Electronic Service

Additional Text: Transaction 8376615 - Approved By: NOREVIEW : 04-05-2021:08:03:40

153 4/27/2021 - 3795 - Reply...

Additional Text: in Support of Motion in Limine to Preclude Plaintiffs From Presengint Evidence Pursuant to NRS 50.275, 50.285 and 50.305 - Transaction 8416238 - Approved By: NMASON : 04-28-2021:08:17:57

154 4/27/2021 - 3795 - Reply...

Additional Text: in Support of Motion in Limine to Exclude Evidence of Damages - Transaction 8416263 - Approved By: NMASON : 04-28-2021:08:23:22

155 4/28/2021 - NEF - Proof of Electronic Service

Additional Text: Transaction 8416550 - Approved By: NOREVIEW : 04-28-2021:08:18:55

156 4/28/2021 - NEF - Proof of Electronic Service

Additional Text: Transaction 8416561 - Approved By: NOREVIEW : 04-28-2021:08:24:48

157 4/28/2021 - 3860 - Request for Submission

Additional Text: - Transaction 8417512 - Approved By: NOREVIEW : 04-28-2021:11:56:20
DOCUMENT TITLE: REPLY IN SUPPORT OF MOTION IN LIMINE TO PRECLUDE PLAINTIFFS FROM PRESENTING EVIDENCE PURSUANT TO NRS 50.275, 50.285 AND 50.305 FILED APRIL 27, 2021
PARTY SUBMITTING: DANE ANDERSON ESQ
DATE SUBMITTED: 4-28-21
SUBMITTED BY: YV
DATE RECEIVED JUDGE OFFICE:

158 4/28/2021 - 3860 - Request for Submission

Additional Text: - Transaction 8417518 - Approved By: NOREVIEW : 04-28-2021:11:56:59
DOCUMENT TITLE: REPLY IN SUPPORT OF MOTION IN LIMINE TO EXCLUDE EVIDENCE OF DAMAGES FILED APRIL 27, 2021
PARTY SUBMITTING: DANE ANDERSON ESQ
DATE SUBMITTED: 4-28-21
SUBMITTED BY: YV
DATE RECEIVED JUDGE OFFICE:

159 4/28/2021 - NEF - Proof of Electronic Service

Additional Text: Transaction 8417520 - Approved By: NOREVIEW : 04-28-2021:11:57:22

160 4/28/2021 - NEF - Proof of Electronic Service

Additional Text: Transaction 8417525 - Approved By: NOREVIEW : 04-28-2021:11:57:59

161 4/28/2021 - 3242 - Ord Setting Hearing

Additional Text: RESETTING ORAL ARGUMENTS TO MAY 12, 2021 AT 2:00 P.M. - Transaction 8419081 - Approved By: NOREVIEW : 04-28-2021:16:52:07

162 4/28/2021 - NEF - Proof of Electronic Service

Additional Text: Transaction 8419086 - Approved By: NOREVIEW : 04-28-2021:16:52:57

163 4/29/2021 - 3795 - Reply...

Additional Text: REPLY IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT - Transaction 8420046 - Approved By: CSULEZIC : 04-29-2021:11:10:27

164 4/29/2021 - 3860 - Request for Submission

Additional Text: - Transaction 8420046 - Approved By: CSULEZIC : 04-29-2021:11:10:27
DOCUMENT TITLE: MOTION FOR SUMMARY JUDGMENT FILED 3/09/2021
PARTY SUBMITTING: DANE ANDERSON ESQ
DATE SUBMITTED: 4/29/2021
SUBMITTED BY: CS
DATE RECEIVED JUDGE OFFICE:

165 4/29/2021 - NEF - Proof of Electronic Service

Additional Text: Transaction 8420097 - Approved By: NOREVIEW : 04-29-2021:11:11:25

166 5/6/2021 - MIN - ***Minutes

Additional Text: 4/27/2021 - STATUS HRG - Transaction 8430816 - Approved By: NOREVIEW : 05-06-2021:09:46:10

167 5/6/2021 - NEF - Proof of Electronic Service

Additional Text: Transaction 8430821 - Approved By: NOREVIEW : 05-06-2021:09:48:46

168 5/12/2021 - MIN - ***Minutes

Additional Text: 5/12/2021 - ORAL ARGUMENTS - Transaction 8441847 - Approved By: NOREVIEW : 05-12-2021:15:58:51

169 5/12/2021 - NEF - Proof of Electronic Service

Additional Text: Transaction 8441850 - Approved By: NOREVIEW : 05-12-2021:15:59:41

170 5/12/2021 - 4185 - Transcript

Additional Text: Transaction 8442136 - Approved By: NOREVIEW : 05-12-2021:17:28:01

171 5/12/2021 - NEF - Proof of Electronic Service

Additional Text: Transaction 8442137 - Approved By: NOREVIEW : 05-12-2021:17:28:51

172 5/13/2021 - 2610 - Notice ...

Additional Text: NOTICE OF INTENT TO FILE MOTION - Transaction 8444437 - Approved By: YVILORIA : 05-13-2021:16:57:04

173 5/13/2021 - NEF - Proof of Electronic Service

Additional Text: Transaction 8444451 - Approved By: NOREVIEW : 05-13-2021:16:58:00

174 5/24/2021 - 3880 - Response...

Additional Text: RESPONSE TO NOTICE OF INTENT TO FILE MOTION - Transaction 8461146 - Approved By: YVILORIA : 05-24-2021:16:33:28

175 5/24/2021 - NEF - Proof of Electronic Service

Additional Text: Transaction 8461319 - Approved By: NOREVIEW : 05-24-2021:16:34:14

176 5/25/2021 - 3366 - Ord Vacating

Additional Text: 90-DAY STATUS HEARING - Transaction 8462543 - Approved By: NOREVIEW : 05-25-2021:12:07:06

177 5/25/2021 - NEF - Proof of Electronic Service

Additional Text: Transaction 8462553 - Approved By: NOREVIEW : 05-25-2021:12:08:09

178 6/1/2021 - 3795 - Reply...

Additional Text: DFX: NO EXHIBITS ATTACHED - PLAINTIFFS' MOTION FOR RECONSIDERATION AND REHEARING OF, OR, IN THE ALTERNATIVE, MOTION TO SET ASIDE THIS COURT'S ORDER PURSUANT TO NRCP 60(b)(1) and (6) - Transaction 8473201 - Approved By: CSULEZIC : 06-02-2021:08:38:51

179 6/2/2021 - NEF - Proof of Electronic Service

Additional Text: Transaction 8473561 - Approved By: NOREVIEW : 06-02-2021:08:41:45

180 6/2/2021 - 3795 - Reply...

Additional Text: FIRST ERRATA TO PLAINTIFFS' MOTION FOR RECONSIDERATION AND REHEARING OF, OR, IN THE ALTERNATIVE, MOTION TO SET ASIDE THIS COURT'S ORDER PURSUANT TO NRCP 60(b)(1) and (6) - Transaction 8474224 - Approved By: CSULEZIC : 06-02-2021:11:46:29

181 6/2/2021 - NEF - Proof of Electronic Service

Additional Text: Transaction 8474522 - Approved By: NOREVIEW : 06-02-2021:11:47:36

182 6/2/2021 - 3242 - Ord Setting Hearing

Additional Text: ORAL ARGUMENT 6/8/21 AT 10:00 A.M. - Transaction 8474916 - Approved By: NOREVIEW : 06-02-2021:13:42:12

183 6/2/2021 - NEF - Proof of Electronic Service

Additional Text: Transaction 8474919 - Approved By: NOREVIEW : 06-02-2021:13:43:04

184 6/7/2021 - 2645 - Opposition to Mtn ...

Additional Text: OPPOSITION TO MOTION FOR RECONSIDERATION AND REHEARING OF, OR IN THE ALTERNATIVE, MOTION TO SET ASIDE THIS COURT'S ORDER PURSUANT TO NRCP 60(b)(1) and (6) [INCLUDING THE "FIRST" AND ANY OTHER "ERRATAS" THAT MAY BE FILED] - Transaction 8483047 - Approved By: YVILORIA : 06-07-2021:16:15:41

185 6/7/2021 - NEF - Proof of Electronic Service

Additional Text: Transaction 8483070 - Approved By: NOREVIEW : 06-07-2021:16:16:37

186 6/8/2021 - 4105 - Supplemental ...

Additional Text: Exhibit to Motion for Reconsideration - Transaction 8483818 - Approved By: NOREVIEW : 06-08-2021:09:24:18

187 6/8/2021 - NEF - Proof of Electronic Service

Additional Text: Transaction 8483825 - Approved By: NOREVIEW : 06-08-2021:09:25:16

188 6/8/2021 - MIN - ***Minutes

Additional Text: 6/8/2021 - ORAL ARGUMENTS - Transaction 8484485 - Approved By: NOREVIEW : 06-08-2021:11:43:19

189 6/8/2021 - NEF - Proof of Electronic Service

Additional Text: Transaction 8484488 - Approved By: NOREVIEW : 06-08-2021:11:44:18

190 6/9/2021 - 3095 - Ord Grant Summary Judgment

Additional Text: ORDER GRANTING SUMMARY JUDGMENT AFTER SUPPLEMENTAL ARGUMENTS - Transaction 8487964 - Approved By: NOREVIEW : 06-09-2021:15:49:25

191 6/9/2021 - S200 - Request for Submission Complet

Additional Text: ORDER GRANTING SUMMARY JUDGMENT AFTER SUPPLEMENTAL ARGUMENTS FILED JUNE 9, 2021

192 6/9/2021 - S200 - Request for Submission Complet

Additional Text: ORDER GRANTING SUMMARY JUDGMENT AFTER SUPPLMENTAL ARGUMENTS FILED JUNE 9, 2021

193 6/9/2021 - S200 - Request for Submission Complet

Additional Text: ORDER GRANTING SUMMARY JUDGMENT AFTER SUPPLEMENTAL ARGUMENTS FILED JUNE 9, 2021

194 6/9/2021 - NEF - Proof of Electronic Service

Additional Text: Transaction 8487974 - Approved By: NOREVIEW : 06-09-2021:15:50:41

195 6/10/2021 - 2535 - Notice of Entry of Judgment

Additional Text: Notice of Entry of Order Granting Summary Judgment - Transaction 8490380 - Approved By: NOREVIEW : 06-10-2021:16:32:14

196 6/10/2021 - NEF - Proof of Electronic Service

Additional Text: Transaction 8490383 - Approved By: NOREVIEW : 06-10-2021:16:35:07

197 6/15/2021 - 1950 - Memorandum of Costs

Additional Text: Transaction 8495869 - Approved By: NOREVIEW : 06-15-2021:11:29:13

198 6/15/2021 - 1520 - Declaration

Additional Text: of Dane W. Anderson in Support of Memorandum of Costs - Transaction 8495884 - Approved By: NOREVIEW : 06-15-2021:11:33:01

199 6/15/2021 - NEF - Proof of Electronic Service

Additional Text: Transaction 8495874 - Approved By: NOREVIEW : 06-15-2021:11:30:12

200 6/15/2021 - NEF - Proof of Electronic Service

Additional Text: Transaction 8495888 - Approved By: NOREVIEW : 06-15-2021:11:33:52

201 6/29/2021 - 2010 - Mtn for Attorney's Fee

Additional Text: Transaction 8517765 - Approved By: NOREVIEW : 06-29-2021:11:34:40

202 6/29/2021 - 1520 - Declaration

Additional Text: in Support of Motion for Fees - Transaction 8517765 - Approved By: NOREVIEW : 06-29-2021:11:34:40

203 6/29/2021 - NEF - Proof of Electronic Service

Additional Text: Transaction 8517775 - Approved By: NOREVIEW : 06-29-2021:11:35:57

204 7/9/2021 - 2515 - Notice of Appeal Supreme Court

Additional Text: DFX: FILER HAVING ISSUES WITH CREDIT CARD, WILL SEND $24.00 AND $500.00 BY MAIL - NOTICE OF APPEAL - Transaction 8536470 - Approved By: YVILORIA : 07-09-2021:16:08:10

205 7/9/2021 - 1310 - Case Appeal Statement

Additional Text: Transaction 8536470 - Approved By: YVILORIA : 07-09-2021:16:08:10

206 7/9/2021 - NEF - Proof of Electronic Service

Additional Text: Transaction 8536481 - Approved By: NOREVIEW : 07-09-2021:16:09:17

207 7/9/2021 - 4113 - District Ct Deficiency Notice

Additional Text: NOTICE OF APPEAL DEFICIENCY NOTICE - FILING FEES - Transaction 8536561 - Approved By: NOREVIEW : 07-09-2021:16:36:55

208 7/9/2021 - 1350 - Certificate of Clerk

Additional Text: CERTIFICATE OF CLERK AND TRANSMITTAL - NOTICE OF APPEAL - Transaction 8536561 - Approved By: NOREVIEW : 07-09-2021:16:36:55

209 7/9/2021 - NEF - Proof of Electronic Service

Additional Text: Transaction 8536564 - Approved By: NOREVIEW : 07-09-2021:16:37:55

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Alicia L. Lerud
Clerk of the Court
Transaction # 8487964

3095

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an individual; AND SONNIA ILIESCU, an individual, Plaintiffs, v. THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1 – 40, inclusive, Defendants.	Case No.: CV19-00459 Dept. No.: 15

ORDER GRANTING SUMMARY JUDGMENT AFTER SUPPLEMENTAL ARGUMENTS

Before the Court is RTC's Motion for Summary Judgment. RTC filed the motion on March 29, 2021. Plaintiffs filed their opposition brief on April 2, 2021. RTC filed its reply brief on April 29, 2021, and the matter was submitted for the Court's decision. The Court scheduled oral argument for May 12, 2020, at which it heard argument from RTC's counsel. Plaintiffs' counsel did not appear at oral argument. At the conclusion of oral arguments this Court orally pronounced that it would grant summary judgment and deny the pending motions in limine as moot; it directed RTC's Counsel, Dane Anderson Esq., to prepare and submit the

order.

On May 13, 2021 Plaintiffs filed a notice of intent to file motion to request a rehearing on RTC's Motion for Summary Judgment because "Plaintiffs were denied, inter alia, their Constitutional right to appear and be heard" due to "a technical error, oversight, mistake and/or inadvertence relating. . . to the Zoom platform and its operation." See May 13, 2021 Notice. RTC filed a response on May 24, 2021, arguing a rehearing is not proper and plaintiffs were provided proper notice and an opportunity to be heard and further fail to demonstrate how their participation would have yielded different results. Thereafter, Plaintiffs filed a motion for reconsideration and hearing or alternative motion to set aside order, to which the RTC filed an opposition on June 7, 2021. This Court allowed supplemental arguments on June 8, 2021, and the parties have been fully heard. This Court now orders as follows:

PROCEDURAL BACKGROUND

1. Plaintiffs filed this action on February 27, 2019. Their complaint asserted twelve claims for relief: (1) injunctive relief; (2) breach of contract; (3) breach of the implied covenant of good faith and fair dealing; (4) breach of fiduciary duty/breach of trust; (5) declaratory relief; (6) waste; (7) conversion; (8) trespass; (9) civil conspiracy; (10) negligence; (11) elder abuse; and (12) intentional and/or negligent infliction of emotional distress/tort of outrage. Plaintiffs' claims were all based on the RTC's alleged improper use of the parking lot on Plaintiffs' property at 642 E. 4th Street in Reno. Plaintiffs alleged damages to the parking lot, personal injuries (including emotional distress, anxiety and depression) and also sought punitive damages against RTC.

2. Plaintiffs failed to timely serve process pursuant to NRCP 4(d), causing this Court to enter an Order To Show Cause on July 1, 2019. In response, Plaintiffs filed a Motion

For Extension Of Time in which Plaintiffs' counsel cited certain health issues as the reason service had not been timely accomplished. This became a recurring explanation for Plaintiffs' procedural failures throughout the case. The Court granted Plaintiffs' motion but also noted that RTC, as a government entity, is easy to serve and gave Plaintiffs ten days to do so.

3. After being served, RTC file a motion to dismiss certain claims. While that motion was pending, the parties filed a Stipulation To Conduct Discovery Prior To Holding The NRCP 16.1 Conference And Prior To Filing The Joint Case Conference Report. The stipulation was based on Plaintiffs' ages and allegations in the complaint regarding Plaintiffs' medical issues. Significantly, the stipulation allowed *both* parties to conduct early discovery. The Court granted the stipulation on November 18, 2019.

4. Pursuant to the stipulation and order for early discovery, RTC served written requests for production on Plaintiffs, including requests seeking information regarding Plaintiffs' alleged damages—both damages to the parking lot as well as alleged personal injury and emotional distress damages. In response to these requests, Plaintiffs indicated they did not wish to disclose their medical records. Therefore, on December 6, 2019, the parties entered into a Stipulation For Entry Of Order Dismissing Certain Plaintiffs' Claims For Relief And Damages With Prejudice. By way of that stipulation, Plaintiffs expressly stated they no longer wished to pursue any damages for emotional distress or personal injury and had decided to limit their compensatory damages solely to the property damage to their parking lot. Plaintiffs agreed to dismiss with prejudice their claim for intentional and/or negligent infliction of emotional distress as well as any claims for damages other than those specifically related to their parking lot and punitive damages. Plaintiffs acknowledged that RTC was relying on that agreement by withdrawing its discovery requests relating to Plaintiffs' medical records and treating physicians.

5. On December 10, 2019, the Court entered its Order Granting Stipulation For Entry Of Order Dismissing Certain Of Plaintiffs' Claims For Relief And Damages With Prejudice. That order specifically adopted the parties' agreement that Plaintiffs' compensatory damages would be limited to alleged damage to the parking lot, and that any damages for emotional distress or personal injury were dismissed with prejudice.

6. Shortly thereafter, the Court ordered Plaintiffs to file an amended complaint consistent with the parties' stipulation. Plaintiffs filed their Amended Complaint on January 21, 2020, asserting eleven claims for relief: (1) injunctive relief; (2) breach of contract; (3) contractual breach of the implied covenant of good faith and fair dealing; (4) breach of fiduciary duty/breach of trust; (5) declaratory relief; (6) waste; (7) conversion; (8) trespass; (9) civil conspiracy; (10) negligence; (11) tortious breach of the implied covenant of good faith and fair dealing.

7. On January 30, 2020, RTC filed a Supplemental Motion To Dismiss. After briefing, the Court entered an Order Granting Motion To Dismiss on March 20, 2020, dismissing Plaintiffs' claims for injunctive relief, breach of fiduciary duty/breach of trust, waste, conversion and tortious breach of the implied covenant of good faith and fair dealing. The Court denied RTC's motion to dismiss the civil conspiracy claim, noting the pre-trial resolution of that claim, if any, could only be considered through a motion for summary judgment after appropriate discovery is conducted. Thus, the case proceeded on Plaintiffs' claims for breach of contract, contractual breach of the implied covenant of good faith and fair dealing, declaratory relief, trespass, civil conspiracy, and negligence.

8. On January 20, 2020, RTC filed a Motion To Compel because Plaintiffs had failed to serve responses to RTC's requests for production of documents pursuant to NRCP 34 and the parties' stipulation for early discovery. Plaintiffs did not respond to that motion and,

on April 20, 2020, the Court entered a Confirming Order approving the Master's Recommendation For Order that Plaintiffs produce responses, including responsive documents within their possession, custody or control, no later than April 17, 2020 and that Plaintiffs pay RTC $1,000 as a sanction for their discovery failures.

9. On March 23, 2020, RTC filed its Answer to First Amended Complaint. Thereafter, Plaintiffs failed to schedule an early case conference and failed to file a case conference report. This failure will be addressed further below.

10. On April 1, 2020, RTC filed a Motion For Discovery Sanctions based on Plaintiffs' failure to appear at their properly noticed depositions and other discovery failures. On April 20, 2020, RTC filed a Motion For Sanctions Pursuant To NRCP 37(b)(1) based on Plaintiffs failure to comply with the Court's April 20, 2020 Confirming Order. Among other things, the Court ordered Plaintiffs to produce documents responsive to RTC's requests for production no later than June 30, 2020. The Court further ordered RTC to submit a declaration setting forth RTC's reasonable expenses incurred in connection with the discovery motions. After briefing, the Court ordered Plaintiffs to pay $10,684.90 to RTC in sanctions for their discovery failures.

11. On July 21, 2020, RTC filed a Motion In Limine To Preclude Plaintiffs From Offering Documents Not Produced To RTC On Or Before June 30, 2020. Plaintiffs did not oppose this motion and, on August 19, 2020, the Court entered an order granting it.

12. On October 12, 2020, the Court entered an Order Granting Stipulated Scheduling Order. Among other deadlines, the Court ordered that the deadline to make expert disclosures was February 26, 2021, and the deadline to disclose rebuttal experts was March 29, 2021. The Court noted the NRCP 16.1 case conference had not been held and nothing in the scheduling order should be construed as a waiver of RTC's rights under the August 19,

2020 Order granting RTC's motion in limine.

13. On January 19, 2021, RTC filed a Motion For Sanctions Pursuant To NRCP 16.1(e), seeking dismissal of this case due to Plaintiffs' failure to hold an early case conference pursuant to NRCP 16.1 and consequent failure to file a case conference report. Following briefing, the Court entered an Order Denying Motion For Sanctions on March 25, 2021. The Court denied the requested sanction of dismissal because it wanted to decide the case on its merits, but it noted Plaintiffs' repeated failure to prosecute their case. The Court ordered the parties to conduct an NRCP 16(b) conference and also ordered the parties to appear before the Court for a status hearing on April 27, 2020.

14. On March 9, 2021, RTC filed its Motion For Summary Judgment, along with two motions in limine: (1) Motion In Limine To Preclude Plaintiffs From Presenting Evidence Pursuant To NRS 50.275, 50.285 and 50.305 ("Motion In Limine Re Experts"); and (2) Motion In Limine To Exclude Evidence Of Damages. The Motion In Limine Re Experts was based on Plaintiffs' failure to timely disclose any expert witnesses. The Motion In Limine To Exclude Evidence Of Damages was based on Plaintiffs' failure to provide a computation of damages pursuant to NRCP 16.1(a)(1) and their failure to provide any documentation to support their damages claim. Those motions in limine are pending and will be denied as moot in light of the Court's ruling on the Motion for Summary Judgment.

15. Plaintiffs filed their opposition briefs on April 2, 2021. The primary theme of these oppositions was that the Court's March 25, 2021 Order Denying Motion For Sanctions was a "reset" of this case excusing Plaintiffs from their repeated procedural failures.

16. On April 27, 2021, the Court held a status conference, at which Plaintiffs' counsel asserted the parties' stipulation for early discovery somehow restricted Plaintiffs from conducting discovery in this case. As discussed below, the Court finds this assertion to be

unsupported by the documents of record. Following the hearing, the Court set oral arguments on RTC's Motion For Summary Judgment for May 12, 2021 at 2:00 p.m.

FINDINGS OF FACT

17. In entering the December 6, 2019, Stipulation For Entry Of Order Dismissing Certain Plaintiffs' Claims For Relief And Damages With Prejudice, which the Court granted by its Order of December 10, 2019, Plaintiffs expressly waived, with prejudice, any claim for compensatory damages other than compensation for physical damage to the parking lot.

18. Plaintiffs failed to timely disclose an expert witness on any subject, including Plaintiffs' alleged damages. This Court concludes expert evidence is necessary to determine causation, scope of repair, diminishment in value, and damages. As a result, Plaintiffs have no expert evidence as to the cost to repair the parking lot or the loss of value to the property based on the alleged damage to the parking lot. Plaintiffs are not qualified to provide such evidence and were not designated to provide such testimony.

19. Plaintiffs have not conducted discovery necessary to prosecute their case.

20. The October 30, 2019 Stipulation To Conduct Discovery Prior To Holding The NRCP 16.1 Conference And Prior To Filing The Joint Case Conference Report expressly allowed *both* parties to conduct discovery. Nothing in that Stipulation or the November 18, 2019 Order granting the Stipulation, restricted Plaintiffs' right or ability to conduct discovery. The Court does not find that RTC or its counsel in any way precluded Plaintiffs from prosecuting their case.

21. In opposing summary judgment, Plaintiffs presented no declarations or any other admissible evidence to support their claims. The documents Plaintiffs submitted to the Court suffer from several evidentiary infirmities.

22. There is no admissible evidence supporting each of the elements of Plaintiffs'

claims.

23. There is no admissible evidence of Plaintiffs' alleged damages.

24. The Court's March 25, 2021 Order Denying Motion For Sanctions was not a "reset" of the entire case. The Court simply wished to avoid imposing case ending sanctions based solely on Plaintiffs' failure to hold an early case conference. That Order was not intended to, and did not, relieve Plaintiffs of any other procedural failures in this case. Contrary to Plaintiffs' suggestion, the March 25, 2021 order did not override or supersede the Court's August 19, 2020 Order Granting Motion In Limine To Preclude Plaintiffs From Offering Documents Not Produced To RTC On Or Before June 30, 2020.

CONCLUSIONS OF LAW

25. Summary judgment is appropriate and "shall be rendered forthwith" when the pleadings and other evidence on file demonstrate that no "genuine issue as to any material fact [remains] and that the moving party is entitled to a judgment as a matter of law." *Wood v. Safeway, Inc.*, 121 Nev. 724, 729, 121 P.3d 1026, 1029 (2005).

26. In opposing summary judgment, the nonmoving party "must, by affidavit or otherwise, set forth specific facts demonstrating the existence of a genuine issue for trial or have summary judgment entered against him." *Id.*, 121 Nev. at 732, 121 P.3d at 1031. "Evidence introduced in...opposition to a motion for summary judgment must be admissible evidence." *Collins v. Union Fed. Savings & Loan*, 99 Nev. 284, 302, 662 P.2d 610, 621 (1983), citing NRCP 56(e).

27. Summary judgment serves an important role in promoting sound judicial economy. Courts should not hesitate to discourage litigation in instances where claims are deficient of evidentiary support and are based on little more than the complainants' conclusory allegations and accusations. *Boesiger v. Desert Appraisals, LLC*, 135 Nev. 192,

193, 444 P.3d 436, 438 (2019). In doing so, courts avoid the unwarranted consumption of public and private resources. *Id.*, 135 Nev. at 194, 444 P.3d at 438.

28. Here, the Court concludes that RTC is entitled to summary judgment on all of Plaintiffs' remaining claims: (1) breach of contract; (2) contractual breach of the implied covenant of good faith and fair dealing; (3) civil conspiracy; (4) trespass; (5) negligence; and (6) declaratory relief. Each is addressed in turn.

29. "Basic contract principles require, for an enforceable contract, an offer and acceptance, meeting of the minds and consideration." *Certified Fire Prot. Inc. v. Precision Construction, Inc.*, 128 Nev. 371, 378, 283 P.3d 250, 255 (2012). "A meeting of the minds exists when the parties have agreed upon the contract's essential terms." *Id.* There is no evidence supporting any of these elements, nor is there any evidence of Plaintiffs' alleged damages. Plaintiffs' breach of contract claim fails.

30. A claim for breach of the implied covenant of good faith and fair dealing requires the plaintiff to prove the existence of a contract. *Perry v. Jordan*, 111 Nev. 943, 900 P.2d 335 (1995). Plaintiffs have failed to prove the existence of a contract with RTC and have provided no evidence of damages. Therefore, Plaintiffs' claim for breach of the implied covenant of good faith and fair dealing fails.

31. A civil conspiracy claim exists when a combination of two or more persons who, by some concerted action, intend to accomplish some unlawful objective for the purpose of harming another and resulting in damages. *Collins*, *supra*, 99 Nev. at 303, 662 P.2d at 622. To succeed on a civil conspiracy claim, a plaintiff must prove both an agreement between tortfeasors and that the conduct of each defendant is tortious. *GES, Inc. v. Corbitt*, 117 Nev. 265, 271, 21 P.3d 11, 15 (2001). Here, there is no evidence of the existence or identity of any alleged co-conspirator, no evidence of any agreement between RTC and anyone else, and no

evidence of Plaintiffs' alleged damages. As noted above, there is no evidence of the cost of repair or loss of value based on the alleged damage to the parking lot and Plaintiffs have waived all other damages by way of the December 6, 2019 stipulation. Plaintiffs' civil conspiracy claim fails.

32. To prove trespass, the claimant must show that the defendant invaded the claimant's real property. *Lied v. County of Clark*, 94 Nev. 275, 279, 579 P.2d 171, 173-174 (1978). A plaintiff may recover compensatory, nominal, and/or punitive damages under a trespass claim. *See True v. Bosch,* 73 Nev. 270, 317 P.2d 1089 (1957) (compensatory damages to property); *Land Baron Invs., Inc. v. Bonnie Springs Family Ltd. P'ship*, 131 Nev. 686, 700, 356 P.3d 511, 521 (2015) (plaintiff asserting a trespass claim may recover damages for annoyance and discomfort). Here, Plaintiffs waived any damages other than compensatory damages for the physical damage to the parking lot and punitive damages. Therefore, they cannot recover nominal damages or general damages for annoyance, discomfort, emotional distress, anxiety or depression. There is no evidence of cost of repair or loss of value based on the alleged physical damage. There is also no evidence that would support an award of punitive damages.

33. To establish a negligence claim, a plaintiff must demonstrate: (1) that defendant owed plaintiff a duty of care; (2) that defendant breached that duty; (3) the breach was the legal cause of plaintiff's injuries; and (4) plaintiff sustained damages. *Scialabba v. Brandise Construction Co.*, 112 Nev. 965, 921 P.2d 928 (1996). Here, Plaintiffs have failed to present any evidence identifying the duty RTC allegedly owed them, nor have they presented any evidence of damages. Plaintiffs' negligence claim fails.

34. Plaintiffs' declaratory relief claim also fails. Plaintiffs sought a declaration that (1) RTC failed to perform under the "RTC-Trust agreement" or its "condemnation

activities"; (2) Plaintiffs are the sole and exclusive owners of their "Property" at 642 E. 4th St. in Reno; (3) RTC has no right, title or interest in the Property and no right to use the Property; (4) RTC "knowingly and wrongfully used the Remaining Property" without paying compensation to Plaintiffs; and (5) RTC wrongfully parked its vehicles on the Remaining Property, causing extensive damage in callous disregard of the law. First, there is no evidence of any contract between RTC and Plaintiffs and any issue involving RTC's "condemnation activities" was already adjudicated in the previous condemnation action between the parties. Second, while Plaintiffs own "the Property," they own it subject to RTC's valid and existing easements established by way of the prior condemnation action between the parties. Third, RTC has the rights, title and interest in the easements on the Property acquired by way of that condemnation action and for which Plaintiffs received just compensation. Finally, there is no evidence of Plaintiffs' damages and no evidence RTC "callously disregarded" the law. Plaintiffs' claim for declaratory relief fails.

36. In sum, there is no admissible evidence to support Plaintiffs' claims. All of Plaintiffs' remaining claims are dismissed. No genuine issues remain as to any material facts. RTC is entitled to judgment as a matter of law on all of Plaintiffs' claims.

Based on the foregoing and with good cause appearing,

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IT IS HEREBY ORDERED that RTC's Motion for Summary Judgment is GRANTED. The Court denies as moot RTC's pending Motion In Limine To Preclude Plaintiffs From Presenting Evidence Pursuant To NRS 50.275, 50.285 and 50.305 and the Motion In Limine To Exclude Evidence Of Damages. The jury trial currently set for August 9, 2021 is vacated.

Dated this 9th day of June, 2021.

DISTRICT JUDGE

F I L E D
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Alicia L. Lerud
Clerk of the Court
Transaction # 8490380

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Dane W. Anderson, Esq.
Nevada Bar No. 6883
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Attorneys for Defendant, the Regional Transportation Commission of Washoe County

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an individual; AND SONNIA ILIESCU, an individual, Plaintiffs, v. THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1 – 40, inclusive, Defendants.	Case No.: CV19-00459 Dept. No.: 15

NOTICE OF ENTRY OF ORDER GRANTING SUMMARY JUDGMENT

TO: ALL INTERESTED PARTIES:

PLEASE TAKE NOTICE that an Order Granting Summary Judgment After Supplemental Arguments was entered in the above-entitled action on June 9, 2021, by this Court. A copy of the Order is attached hereto as **Exhibit 1.**

/ / /

Affirmation pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding Notice of Entry of Order Granting Summary Judgment does not contain any personal information.

Dated: June 10, 2021

WOODBURN AND WEDGE

By: */s/ Dane W. Anderson*
Dane W. Anderson, Esq.
Nevada Bar No. 6883
Bronagh M. Kelly, Esq.
Nevada Bar No. 14555

Attorneys for Defendant
The Regional Transportation
Commission of Washoe County

Woodburn and Wedge
6100 Neil Road, Suite 500
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TABLE OF EXHIBITS

Exhibit	No. of Pages (*Including Exhibit Sheet*)	Exhibit No.
Order Granting Summary Judgment After Supplemental Arguments filed June 9, 2021	13	1

Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, NV 89511
775-688-3000

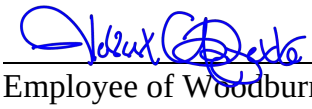
CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Woodburn and Wedge and that on this date, I caused to be sent via electronic delivery through the Court's E-flex system a true and correct copy of the **NOTICE OF ENTRY OF ORDER GRANTING SUMMARY JUDGMENT** to:

MICHAEL J. MORRISON, ESQ.
1495 Ridgeview Dr., #220
Reno, Nevada 89519
venturelawusa@gmail.com

Attorneys for Plaintiffs

DATED: June 10, 2021



Employee of Woodburn and Wedge

Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, NV 89511
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Alicia L. Lerud
Clerk of the Court
Transaction # 8490380

EXHIBIT “1”

EXHIBIT “1”

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Clerk of the Court
Transaction # 8487964

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IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an individual; AND SONNIA ILIESCU, an individual, Plaintiffs, v. THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1 – 40, inclusive, Defendants.	Case No.: CV19-00459 Dept. No.: 15

ORDER GRANTING SUMMARY JUDGMENT AFTER SUPPLEMENTAL ARGUMENTS

Before the Court is RTC's Motion for Summary Judgment. RTC filed the motion on March 29, 2021. Plaintiffs filed their opposition brief on April 2, 2021. RTC filed its reply brief on April 29, 2021, and the matter was submitted for the Court's decision. The Court scheduled oral argument for May 12, 2020, at which it heard argument from RTC's counsel. Plaintiffs' counsel did not appear at oral argument. At the conclusion of oral arguments this Court orally pronounced that it would grant summary judgment and deny the pending motions in limine as moot; it directed RTC's Counsel, Dane Anderson Esq., to prepare and submit the

order.

On May 13, 2021 Plaintiffs filed a notice of intent to file motion to request a rehearing on RTC's Motion for Summary Judgment because "Plaintiffs were denied, inter alia, their Constitutional right to appear and be heard" due to "a technical error, oversight, mistake and/or inadvertence relating. . . to the Zoom platform and its operation." See May 13, 2021 Notice. RTC filed a response on May 24, 2021, arguing a rehearing is not proper and plaintiffs were provided proper notice and an opportunity to be heard and further fail to demonstrate how their participation would have yielded different results. Thereafter, Plaintiffs filed a motion for reconsideration and hearing or alternative motion to set aside order, to which the RTC filed an opposition on June 7, 2021. This Court allowed supplemental arguments on June 8, 2021, and the parties have been fully heard. This Court now orders as follows:

PROCEDURAL BACKGROUND

1. Plaintiffs filed this action on February 27, 2019. Their complaint asserted twelve claims for relief: (1) injunctive relief; (2) breach of contract; (3) breach of the implied covenant of good faith and fair dealing; (4) breach of fiduciary duty/breach of trust; (5) declaratory relief; (6) waste; (7) conversion; (8) trespass; (9) civil conspiracy; (10) negligence; (11) elder abuse; and (12) intentional and/or negligent infliction of emotional distress/tort of outrage. Plaintiffs' claims were all based on the RTC's alleged improper use of the parking lot on Plaintiffs' property at 642 E. 4th Street in Reno. Plaintiffs alleged damages to the parking lot, personal injuries (including emotional distress, anxiety and depression) and also sought punitive damages against RTC.

2. Plaintiffs failed to timely serve process pursuant to NRCP 4(d), causing this Court to enter an Order To Show Cause on July 1, 2019. In response, Plaintiffs filed a Motion

For Extension Of Time in which Plaintiffs' counsel cited certain health issues as the reason service had not been timely accomplished. This became a recurring explanation for Plaintiffs' procedural failures throughout the case. The Court granted Plaintiffs' motion but also noted that RTC, as a government entity, is easy to serve and gave Plaintiffs ten days to do so.

3. After being served, RTC file a motion to dismiss certain claims. While that motion was pending, the parties filed a Stipulation To Conduct Discovery Prior To Holding The NRCP 16.1 Conference And Prior To Filing The Joint Case Conference Report. The stipulation was based on Plaintiffs' ages and allegations in the complaint regarding Plaintiffs' medical issues. Significantly, the stipulation allowed *both* parties to conduct early discovery. The Court granted the stipulation on November 18, 2019.

4. Pursuant to the stipulation and order for early discovery, RTC served written requests for production on Plaintiffs, including requests seeking information regarding Plaintiffs' alleged damages—both damages to the parking lot as well as alleged personal injury and emotional distress damages. In response to these requests, Plaintiffs indicated they did not wish to disclose their medical records. Therefore, on December 6, 2019, the parties entered into a Stipulation For Entry Of Order Dismissing Certain Plaintiffs' Claims For Relief And Damages With Prejudice. By way of that stipulation, Plaintiffs expressly stated they no longer wished to pursue any damages for emotional distress or personal injury and had decided to limit their compensatory damages solely to the property damage to their parking lot. Plaintiffs agreed to dismiss with prejudice their claim for intentional and/or negligent infliction of emotional distress as well as any claims for damages other than those specifically related to their parking lot and punitive damages. Plaintiffs acknowledged that RTC was relying on that agreement by withdrawing its discovery requests relating to Plaintiffs' medical records and treating physicians.

5. On December 10, 2019, the Court entered its Order Granting Stipulation For Entry Of Order Dismissing Certain Of Plaintiffs' Claims For Relief And Damages With Prejudice. That order specifically adopted the parties' agreement that Plaintiffs' compensatory damages would be limited to alleged damage to the parking lot, and that any damages for emotional distress or personal injury were dismissed with prejudice.

6. Shortly thereafter, the Court ordered Plaintiffs to file an amended complaint consistent with the parties' stipulation. Plaintiffs filed their Amended Complaint on January 21, 2020, asserting eleven claims for relief: (1) injunctive relief; (2) breach of contract; (3) contractual breach of the implied covenant of good faith and fair dealing; (4) breach of fiduciary duty/breach of trust; (5) declaratory relief; (6) waste; (7) conversion; (8) trespass; (9) civil conspiracy; (10) negligence; (11) tortious breach of the implied covenant of good faith and fair dealing.

7. On January 30, 2020, RTC filed a Supplemental Motion To Dismiss. After briefing, the Court entered an Order Granting Motion To Dismiss on March 20, 2020, dismissing Plaintiffs' claims for injunctive relief, breach of fiduciary duty/breach of trust, waste, conversion and tortious breach of the implied covenant of good faith and fair dealing. The Court denied RTC's motion to dismiss the civil conspiracy claim, noting the pre-trial resolution of that claim, if any, could only be considered through a motion for summary judgment after appropriate discovery is conducted. Thus, the case proceeded on Plaintiffs' claims for breach of contract, contractual breach of the implied covenant of good faith and fair dealing, declaratory relief, trespass, civil conspiracy, and negligence.

8. On January 20, 2020, RTC filed a Motion To Compel because Plaintiffs had failed to serve responses to RTC's requests for production of documents pursuant to NRCP 34 and the parties' stipulation for early discovery. Plaintiffs did not respond to that motion and,

on April 20, 2020, the Court entered a Confirming Order approving the Master's Recommendation For Order that Plaintiffs produce responses, including responsive documents within their possession, custody or control, no later than April 17, 2020 and that Plaintiffs pay RTC $1,000 as a sanction for their discovery failures.

9. On March 23, 2020, RTC filed its Answer to First Amended Complaint. Thereafter, Plaintiffs failed to schedule an early case conference and failed to file a case conference report. This failure will be addressed further below.

10. On April 1, 2020, RTC filed a Motion For Discovery Sanctions based on Plaintiffs' failure to appear at their properly noticed depositions and other discovery failures. On April 20, 2020, RTC filed a Motion For Sanctions Pursuant To NRCP 37(b)(1) based on Plaintiffs failure to comply with the Court's April 20, 2020 Confirming Order. Among other things, the Court ordered Plaintiffs to produce documents responsive to RTC's requests for production no later than June 30, 2020. The Court further ordered RTC to submit a declaration setting forth RTC's reasonable expenses incurred in connection with the discovery motions. After briefing, the Court ordered Plaintiffs to pay $10,684.90 to RTC in sanctions for their discovery failures.

11. On July 21, 2020, RTC filed a Motion In Limine To Preclude Plaintiffs From Offering Documents Not Produced To RTC On Or Before June 30, 2020. Plaintiffs did not oppose this motion and, on August 19, 2020, the Court entered an order granting it.

12. On October 12, 2020, the Court entered an Order Granting Stipulated Scheduling Order. Among other deadlines, the Court ordered that the deadline to make expert disclosures was February 26, 2021, and the deadline to disclose rebuttal experts was March 29, 2021. The Court noted the NRCP 16.1 case conference had not been held and nothing in the scheduling order should be construed as a waiver of RTC's rights under the August 19,

2020 Order granting RTC's motion in limine.

13. On January 19, 2021, RTC filed a Motion For Sanctions Pursuant To NRCP 16.1(e), seeking dismissal of this case due to Plaintiffs' failure to hold an early case conference pursuant to NRCP 16.1 and consequent failure to file a case conference report. Following briefing, the Court entered an Order Denying Motion For Sanctions on March 25, 2021. The Court denied the requested sanction of dismissal because it wanted to decide the case on its merits, but it noted Plaintiffs' repeated failure to prosecute their case. The Court ordered the parties to conduct an NRCP 16(b) conference and also ordered the parties to appear before the Court for a status hearing on April 27, 2020.

14. On March 9, 2021, RTC filed its Motion For Summary Judgment, along with two motions in limine: (1) Motion In Limine To Preclude Plaintiffs From Presenting Evidence Pursuant To NRS 50.275, 50.285 and 50.305 ("Motion In Limine Re Experts"); and (2) Motion In Limine To Exclude Evidence Of Damages. The Motion In Limine Re Experts was based on Plaintiffs' failure to timely disclose any expert witnesses. The Motion In Limine To Exclude Evidence Of Damages was based on Plaintiffs' failure to provide a computation of damages pursuant to NRCP 16.1(a)(1) and their failure to provide any documentation to support their damages claim. Those motions in limine are pending and will be denied as moot in light of the Court's ruling on the Motion for Summary Judgment.

15. Plaintiffs filed their opposition briefs on April 2, 2021. The primary theme of these oppositions was that the Court's March 25, 2021 Order Denying Motion For Sanctions was a "reset" of this case excusing Plaintiffs from their repeated procedural failures.

16. On April 27, 2021, the Court held a status conference, at which Plaintiffs' counsel asserted the parties' stipulation for early discovery somehow restricted Plaintiffs from conducting discovery in this case. As discussed below, the Court finds this assertion to be

unsupported by the documents of record. Following the hearing, the Court set oral arguments on RTC's Motion For Summary Judgment for May 12, 2021 at 2:00 p.m.

FINDINGS OF FACT

17. In entering the December 6, 2019, Stipulation For Entry Of Order Dismissing Certain Plaintiffs' Claims For Relief And Damages With Prejudice, which the Court granted by its Order of December 10, 2019, Plaintiffs expressly waived, with prejudice, any claim for compensatory damages other than compensation for physical damage to the parking lot.

18. Plaintiffs failed to timely disclose an expert witness on any subject, including Plaintiffs' alleged damages. This Court concludes expert evidence is necessary to determine causation, scope of repair, diminishment in value, and damages. As a result, Plaintiffs have no expert evidence as to the cost to repair the parking lot or the loss of value to the property based on the alleged damage to the parking lot. Plaintiffs are not qualified to provide such evidence and were not designated to provide such testimony.

19. Plaintiffs have not conducted discovery necessary to prosecute their case.

20. The October 30, 2019 Stipulation To Conduct Discovery Prior To Holding The NRCP 16.1 Conference And Prior To Filing The Joint Case Conference Report expressly allowed *both* parties to conduct discovery. Nothing in that Stipulation or the November 18, 2019 Order granting the Stipulation, restricted Plaintiffs' right or ability to conduct discovery. The Court does not find that RTC or its counsel in any way precluded Plaintiffs from prosecuting their case.

21. In opposing summary judgment, Plaintiffs presented no declarations or any other admissible evidence to support their claims. The documents Plaintiffs submitted to the Court suffer from several evidentiary infirmities.

22. There is no admissible evidence supporting each of the elements of Plaintiffs'

claims.

23. There is no admissible evidence of Plaintiffs' alleged damages.

24. The Court's March 25, 2021 Order Denying Motion For Sanctions was not a "reset" of the entire case. The Court simply wished to avoid imposing case ending sanctions based solely on Plaintiffs' failure to hold an early case conference. That Order was not intended to, and did not, relieve Plaintiffs of any other procedural failures in this case. Contrary to Plaintiffs' suggestion, the March 25, 2021 order did not override or supersede the Court's August 19, 2020 Order Granting Motion In Limine To Preclude Plaintiffs From Offering Documents Not Produced To RTC On Or Before June 30, 2020.

CONCLUSIONS OF LAW

25. Summary judgment is appropriate and "shall be rendered forthwith" when the pleadings and other evidence on file demonstrate that no "genuine issue as to any material fact [remains] and that the moving party is entitled to a judgment as a matter of law." *Wood v. Safeway, Inc.*, 121 Nev. 724, 729, 121 P.3d 1026, 1029 (2005).

26. In opposing summary judgment, the nonmoving party "must, by affidavit or otherwise, set forth specific facts demonstrating the existence of a genuine issue for trial or have summary judgment entered against him." *Id.*, 121 Nev. at 732, 121 P.3d at 1031. "Evidence introduced in...opposition to a motion for summary judgment must be admissible evidence." *Collins v. Union Fed. Savings & Loan*, 99 Nev. 284, 302, 662 P.2d 610, 621 (1983), citing NRCP 56(e).

27. Summary judgment serves an important role in promoting sound judicial economy. Courts should not hesitate to discourage litigation in instances where claims are deficient of evidentiary support and are based on little more than the complainants' conclusory allegations and accusations. *Boesiger v. Desert Appraisals, LLC*, 135 Nev. 192,

193, 444 P.3d 436, 438 (2019). In doing so, courts avoid the unwarranted consumption of public and private resources. *Id.*, 135 Nev. at 194, 444 P.3d at 438.

28. Here, the Court concludes that RTC is entitled to summary judgment on all of Plaintiffs' remaining claims: (1) breach of contract; (2) contractual breach of the implied covenant of good faith and fair dealing; (3) civil conspiracy; (4) trespass; (5) negligence; and (6) declaratory relief. Each is addressed in turn.

29. "Basic contract principles require, for an enforceable contract, an offer and acceptance, meeting of the minds and consideration." *Certified Fire Prot. Inc. v. Precision Construction, Inc.*, 128 Nev. 371, 378, 283 P.3d 250, 255 (2012). "A meeting of the minds exists when the parties have agreed upon the contract's essential terms." *Id.* There is no evidence supporting any of these elements, nor is there any evidence of Plaintiffs' alleged damages. Plaintiffs' breach of contract claim fails.

30. A claim for breach of the implied covenant of good faith and fair dealing requires the plaintiff to prove the existence of a contract. *Perry v. Jordan*, 111 Nev. 943, 900 P.2d 335 (1995). Plaintiffs have failed to prove the existence of a contract with RTC and have provided no evidence of damages. Therefore, Plaintiffs' claim for breach of the implied covenant of good faith and fair dealing fails.

31. A civil conspiracy claim exists when a combination of two or more persons who, by some concerted action, intend to accomplish some unlawful objective for the purpose of harming another and resulting in damages. *Collins*, *supra*, 99 Nev. at 303, 662 P.2d at 622. To succeed on a civil conspiracy claim, a plaintiff must prove both an agreement between tortfeasors and that the conduct of each defendant is tortious. *GES, Inc. v. Corbitt*, 117 Nev. 265, 271, 21 P.3d 11, 15 (2001). Here, there is no evidence of the existence or identity of any alleged co-conspirator, no evidence of any agreement between RTC and anyone else, and no

evidence of Plaintiffs' alleged damages. As noted above, there is no evidence of the cost of repair or loss of value based on the alleged damage to the parking lot and Plaintiffs have waived all other damages by way of the December 6, 2019 stipulation. Plaintiffs' civil conspiracy claim fails.

32. To prove trespass, the claimant must show that the defendant invaded the claimant's real property. *Lied v. County of Clark*, 94 Nev. 275, 279, 579 P.2d 171, 173-174 (1978). A plaintiff may recover compensatory, nominal, and/or punitive damages under a trespass claim. *See True v. Bosch,* 73 Nev. 270, 317 P.2d 1089 (1957) (compensatory damages to property); *Land Baron Invs., Inc. v. Bonnie Springs Family Ltd. P'ship*, 131 Nev. 686, 700, 356 P.3d 511, 521 (2015) (plaintiff asserting a trespass claim may recover damages for annoyance and discomfort). Here, Plaintiffs waived any damages other than compensatory damages for the physical damage to the parking lot and punitive damages. Therefore, they cannot recover nominal damages or general damages for annoyance, discomfort, emotional distress, anxiety or depression. There is no evidence of cost of repair or loss of value based on the alleged physical damage. There is also no evidence that would support an award of punitive damages.

33. To establish a negligence claim, a plaintiff must demonstrate: (1) that defendant owed plaintiff a duty of care; (2) that defendant breached that duty; (3) the breach was the legal cause of plaintiff's injuries; and (4) plaintiff sustained damages. *Scialabba v. Brandise Construction Co.*, 112 Nev. 965, 921 P.2d 928 (1996). Here, Plaintiffs have failed to present any evidence identifying the duty RTC allegedly owed them, nor have they presented any evidence of damages. Plaintiffs' negligence claim fails.

34. Plaintiffs' declaratory relief claim also fails. Plaintiffs sought a declaration that (1) RTC failed to perform under the "RTC-Trust agreement" or its "condemnation

activities"; (2) Plaintiffs are the sole and exclusive owners of their "Property" at 642 E. 4th St. in Reno; (3) RTC has no right, title or interest in the Property and no right to use the Property; (4) RTC "knowingly and wrongfully used the Remaining Property" without paying compensation to Plaintiffs; and (5) RTC wrongfully parked its vehicles on the Remaining Property, causing extensive damage in callous disregard of the law. First, there is no evidence of any contract between RTC and Plaintiffs and any issue involving RTC's "condemnation activities" was already adjudicated in the previous condemnation action between the parties. Second, while Plaintiffs own "the Property," they own it subject to RTC's valid and existing easements established by way of the prior condemnation action between the parties. Third, RTC has the rights, title and interest in the easements on the Property acquired by way of that condemnation action and for which Plaintiffs received just compensation. Finally, there is no evidence of Plaintiffs' damages and no evidence RTC "callously disregarded" the law. Plaintiffs' claim for declaratory relief fails.

36. In sum, there is no admissible evidence to support Plaintiffs' claims. All of Plaintiffs' remaining claims are dismissed. No genuine issues remain as to any material facts. RTC is entitled to judgment as a matter of law on all of Plaintiffs' claims.

Based on the foregoing and with good cause appearing,

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IT IS HEREBY ORDERED that RTC's Motion for Summary Judgment is GRANTED. The Court denies as moot RTC's pending Motion In Limine To Preclude Plaintiffs From Presenting Evidence Pursuant To NRS 50.275, 50.285 and 50.305 and the Motion In Limine To Exclude Evidence Of Damages. The jury trial currently set for August 9, 2021 is vacated.

Dated this 9th day of June, 2021.

DISTRICT JUDGE

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Jacqueline Bryant
Clerk of the Court
Transaction # 8093137

CASE NO. CV19-00459 JOHN ILIESCU, JR. ET. AL VS. RTC WASHOE CO

DATE, JUDGE OFFICERS OF COURT PRESENT	APPEARANCES-HEARING	CONTINUED TO
9/29/20 HONORABLE DAVID A. HARDY Dept. No. 15 A. Dick (Clerk) L. Shaw (Reporter) ZOOM WEBINAR	CASE MANAGEMENT CONFERENCE Michael Morrison, Esq. represented Plaintiffs John Iliescu and Sonnia Iliescu who were not present. Dane Anderson, Esq. represented Defendant Regional Transportation Commission and a representative was not present. *Pursuant to the national and local COVID-19 emergency response that caused temporary closure of the courthouse located at 75 Court Street in Reno, Washoe County, NV, this hearing was conducted remotely. This Court and all participants appeared electronically via Zoom Webinar. This Court was physically located in Washoe County, NV.*	July 9, 2021 10:00 a.m. Pretrial Conference Aug. 9, 2021 1:00 p.m. Jury Trial (5 days)

4:35 p.m. – Court convened, via Zoom Webinar, with counsel present.
ATTY Anderson addressed and advised CT Defendant agreed to take Plaintiffs' depositions via Zoom and also agreed to extend the deposition date(s) approximately 2 months. Counsel further advised last week opposing counsel provided a proposed scheduling order for review; however, there is a dispute requiring this Court's assistance between the parties regarding 16.1 disclosures before entering a scheduling order in this case.
ATTY Morrison addressed CT referenced this Court's order granting Defendant's MIL precluding Plaintiffs from offering documents not produced to RTC prior to 6/30/20.
COURT stated it would expect Plaintiffs to seek leave if deemed appropriate; further, it was its intention for a 16.1 conference to commence and other discovery to commence.
ATTY Anderson indicated discovery should be properly conducted, the problem being there has not been a 16.1 conference, and it is the Plaintiffs' obligation to move this case forward. Counsel further indicated Plaintiffs should submit a proposed scheduling order to D15 staff.
ATTY Morrison indicated D15's JA previously provided a proposed scheduling order template for counsels' use and did not object to providing said order to D15 staff. Counsel further indicated parties are open to settlement discussions.
COURT ORDERED: No later than Tuesday, 10/6, counsel Anderson shall respond to counsel Morrison regarding the previously provided proposed scheduling order. Further, no later

than Thursday, 10/8, counsel Morrison shall submit to D15 staff said proposed order.
COURT stated at counsel Anderson's discretion he may include reservation language in the proposed scheduling order regarding this Court's Order Granting Defendant's MIL entered 8/19/20.
COURT ORDERED: Matter continued for pretrial conference and trial by jury.
Court stood in recess.

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Alicia L. Lerud
Clerk of the Court
Transaction # 8430816

CASE NO. CV19-00459 **JOHN ILIESCU JR. ETAL VS. RTC WASHOE COUNTY**

DATE, JUDGE OFFICERS OF COURT PRESENT — APPEARANCES-HEARING

4/27/2021
HONORABLE DAVID A. HARDY
DEPT. NO. 15
M. Merkouris (Clerk)
N. Alexander (Reporter)
Zoom Webinar

STATUS HEARING

2:00 p.m. – Court convened via Zoom.
Michael Morrison, Esq., was present on behalf of Plaintiffs John & Sonnia Iliescu.
Dane Anderson, Esq., was present on behalf of Defendant RTC Washoe County.

Pursuant to the national and local COVID-19 emergency response that caused temporary closure of the courthouse located at 75 Court Street in Reno, Washoe County, Nevada, this hearing was conducted remotely. This Court and all participants appeared electronically via Zoom Webinar. This Court was physically located in Washoe County, Nevada.

COURT reviewed the procedural history of the case; the pending motions and issues in the case; and the Order Denying Motion for Sanctions filed on March 25, 2021.
Counsel Morrison responded to the Court regarding the March 25th Order, noting that they have held a 16.1 conference and discussed some of the issues raised by the Court. Counsel Morrison further gave the Court information regarding the case, discovery issues, and lack of cooperation from counsel Anderson, noting that he is at a bit of a loss and of course the Defendants are ready for trial because they were allowed to get everything they needed and he has been foreclosed on getting what he needs; and he further indicated that he believes the March 25th Order got the case back on track, and he requested that the Court give the Plaintiffs consideration in this unusual situation where the Defendants were permitted to get everything they needed, and he has been foreclosed from doing anything.
COURT questioned counsel Morrison regarding the damage to the property.
Counsel Morrison indicated that there is damage to the surface of the asphalt due to RTC's heavy trucks being parked there, and the Plaintiffs have asked RTC to move them. Counsel Morrison further advised the Court that Mr. Iliescu has consulted repair specialists and had people out to look at the damage, however the damage continues today; and he further indicated that Mr. Iliescu has determined that the repairs could be done and would be expensive, however stating that number today would be inappropriate.
COURT questioned counsel Morrison regarding how he has disclosed to the Defendants his method for calculating market value loss.
Counsel Morrison indicated that expert opinions have been provided to the Defendants, but it was not timely, and that is why the Defendants are trying to keep that evidence out. Counsel Morrison further indicated that it is not that the Defendants did not know about the expert opinion, however RTC does not think the damage is their problem, and there will be evidence that RTC parked their vehicles and all other trucks from surrounding properties on Mr. Iliescu's property, noting that Mr. Iliescu has photos of the lot when it was clean and unmarked prior to RTC using it.
COURT advised respective counsel that he paused when he heard that counsel Morrison did not want to disclose the cost of the repairs, noting that the purpose of discovery and pretrial disclosures is to tell the Defendants what the cost would be to repair the property.

CASE NO. CV19-00459 **JOHN ILIESCU JR. ETAL VS. RTC WASHOE COUNTY**

DATE, JUDGE OFFICERS OF COURT PRESENT

Pg. 2

APPEARANCES-HEARING

4/27/2021
HONORABLE DAVID A. HARDY
DEPT. NO. 15
M. Merkouris (Clerk)
N. Alexander (Reporter)
Zoom Webinar

STATUS HEARING

Counsel Morrison advised the Court that he did have a conversation with counsel Anderson today regarding the bids, noting that they range from $40k to $70k just to restore the property.

Upon questioning by the Court regarding the how the Plaintiffs are doing, counsel Morrison indicated that they are feeling better, however they are still not doing very good.

At this point in the hearing, the Court took a very brief recess.

Counsel Anderson responded to counsel Morrison, noting that first and foremost he wishes the Iliescu's the best, and he is sorry to hear they have had health problems.

Counsel Anderson further indicated that if the parking lot can be repaired, there is no loss of value; he believes Apex gave an estimate for repairs, but it has not been disclosed yet; and he has received no appraisals other than what is in the file.

Upon questioning by the Court, counsel Anderson indicated that his clients do not acknowledge that they damaged the lot, and they would testify at trial that the parking lot was damaged before they started using it.

Counsel Anderson further advised the Court that this is a cost of repair to a parking lot case, but this not how it was pled, and the Complaint contains scorched earth claims; he agrees with counsel Morrison that the Plaintiffs should be leading this case; he became concerned that the Plaintiffs may not be able to testify at trial and that is why he requested early discovery; and he further gave the Court information regarding delays in the case, noting that stipulation went both ways and he never stopped counsel Morrison from obtaining discovery. Counsel Anderson further indicated that he resents the accusation that he has somehow hamstrung the Plaintiffs from getting the discovery they need, and he is at a loss as to why they would accuse him of perpetuating some scheme to stop them from obtaining discovery, noting that they have access to the lot and people who can evaluate the damage; he has filed a procedurally appropriate motion regarding the Plaintiffs' failure to comply with discovery deadlines and he would welcome oral arguments on the Motion for Summary Judgment.

Upon questioning by the Court, counsel Anderson gave the Court information regarding the 16.1 conference and he summarized the discovery that has occurred to date, noting the Plaintiffs have not disclosed their damages or provided an expert report, and he is not obligated to prove their case for them.

COURT questioned counsel Morrison regarding his argument that discovery still needs to be conducted, and that the Motion for Summary Judgment is premature.

Counsel Morrison gave the Court information regarding what discovery is still needed, and he replied to counsel Anderson.

Counsel Anderson further responded.

COURT advised respective counsel that oral arguments should be set, and discussion ensued regarding an acceptable date and time.

CASE NO. CV19-00459 **JOHN ILIESCU JR. ETAL VS. RTC WASHOE COUNTY**

DATE, JUDGE OFFICERS OF COURT PRESENT	APPEARANCES-HEARING
4/27/2021 HONORABLE DAVID A. HARDY DEPT. NO. 15 M. Merkouris (Clerk) N. Alexander (Reporter) **Zoom Webinar**	**STATUS HEARING** **COURT ORDERED:** Oral arguments on the Motion for Summary Judgment (filed March 9, 2021) shall be set for May 6, 2021 at 9:30 a.m. (2 hours). **COURT** directed counsel Anderson to have the reply filed by close of business this Friday, April 30, 2021. **COURT** noted that the hearing will be set for 2 hours only, and he gave counsel information regarding what their arguments should be focused on. 3:09 p.m. – Court adjourned.

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Alicia L. Lerud
Clerk of the Court
Transaction # 8441847

CASE NO. CV19-00459 **JOHN ILIESCU JR. ETAL VS. RTC WASHOE COUNTY**

DATE, JUDGE OFFICERS OF COURT PRESENT | APPEARANCES-HEARING

5/12/2021
HONORABLE DAVID A. HARDY
DEPT. NO. 15
M. Merkouris (Clerk)
T. Amundson (Reporter)
Zoom Webinar

ORAL ARGUMENTS

2:03 p.m. – Court convened via Zoom.
Plaintiffs' counsel, Michael Morrison, Esq., was not present.
Dane Anderson, Esq., and Bronagh Kelly, Esq., were present on behalf of Defendant RTC Washoe County.

Pursuant to the national and local COVID-19 emergency response that caused temporary closure of the courthouse located at 75 Court Street in Reno, Washoe County, Nevada, this hearing was conducted remotely. This Court and all participants appeared electronically via Zoom Webinar. This Court was physically located in Washoe County, Nevada.

COURT noted that this is the time set to address the Motion for Summary Judgment, filed March 9, 2021, and counsel Morrison is not present.
COURT reviewed the case and Motion for Summary Judgment, giving counsel Anderson some of his preliminary thoughts on the matter.
Counsel Anderson advised the Court that even though counsel Morrison is not present, he will not argue that the claims have been abandoned and he would like to proceed on the merits of the Motion for Summary Judgment.
Counsel Anderson presented argument in support of the Motion for Summary Judgment. Counsel Anderson further gave the Court information regarding the early discovery conducted in this case, noting it was bilateral, and he in no way prevented counsel Morrison from conducing discovery or proving his case; and he further argued that RTC is entitled to summary judgment on all claims.
Discussion ensued between the Court and counsel Anderson regarding the Motion for Summary Judgment and the stipulation regarding discovery and abandonment of some of the claims.
COURT set forth findings of facts and conclusions of law.
COURT GRANTED the Motion for Summary Judgment, filed March 9, 2021; counsel Anderson shall prepare the order.
Counsel Anderson inquired about the two pending Motions in Limine.
COURT DENIED the two pending Motions in Limine as moot.
3:05 p.m. – Court adjourned.

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Alicia L. Lerud
Clerk of the Court
Transaction # 8484485

CASE NO. CV19-00459 **JOHN ILIESCU JR. ETAL VS. RTC WASHOE COUNTY**

DATE, JUDGE OFFICERS OF COURT PRESENT	APPEARANCES-HEARING
6/8/2021 HONORABLE DAVID A. HARDY DEPT. NO. 15 M. Merkouris (Clerk) S. Koetting (Reporter) **Zoom Webinar**	**ORAL ARGUMENTS ON MOTION FOR RECONSIDERATION** 10:05 a.m. – Court convened via Zoom. Michael Morrison, Esq., was present on behalf of Plaintiffs John & Sonnia Iliescu. Dane Anderson, Esq., and Bronagh Kelly, Esq., were present on behalf of Defendant RTC Washoe County. *Pursuant to the national and local COVID-19 emergency response that caused temporary closure of the courthouse located at 75 Court Street in Reno, Washoe County, Nevada, this hearing was conducted remotely. This Court and all participants appeared electronically via Zoom Webinar. This Court was physically located in Washoe County, Nevada.* **COURT** noted that this is the time set to address the Plaintiffs' Motion for Reconsideration and Rehearing of, or, in the Alternative, Motion to Set Aside This Court's Order Pursuant to NRCP 60(b)(1) and (6), filed June 1, 2021, however if counsel Morrison was unable to join the Zoom Webinar on May 12, 2021, this Court will accept that representation and will allow him to present argument in opposition of the Motion for Summary Judgment. Counsel Anderson indicated that he has no reason to doubt counsel Morrison's representation that he unsuccessfully attempted to join the Zoom Webinar on May 12, 2021 and has no objection to the Court allowing him to present argument on the Motion for Summary Judgment. **COURT ORDERED:** Counsel Morrison's Motion for Reconsideration is GRANTED, and he may present argument on the Motion for Summary Judgment. Counsel Morrison advised the Court that he was prepared to argue the Motion for Reconsideration this morning, and he would request a brief recess to allow him to gather his documents on the Motion for Summary Judgment. 10:10 a.m. – Court stood in recess. 10:15 a.m. – Court reconvened. Counsel Morrison presented argument in opposition of the Motion for Summary Judgment, filed March 9, 2021. Counsel Anderson lodged a continuing objection to counsel Morrison arguing and testifying to facts not in evidence. **COURT** noted counsel Anderson's objection, and allowed counsel Morrison to continue. Counsel Morrison further presented argument in opposition of the Motion for Summary Judgment. Counsel Anderson responded; and he further argued in support of the Motion for Summary Judgment. Counsel Morrison replied; and he presented further argument in opposition of the Motion for Summary Judgment. **COURT ORDERED:** Matter taken under advisement; the Court will speak through a written order. 11:32 a.m. – Court adjourned.

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Alicia L. Lerud
Clerk of the Court
Transaction # 8536561

Code 1350

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

JOHN ILIESCU, JR. AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR. an individual and SONNIA ILIESCU, an individual,

Plaintiffs,

vs.

THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20, and DOES 1 through 40 inclusive,

Defendants.

_____/

Case No. CV19-00459

Dept. No. 15

CERTIFICATE OF CLERK AND TRANSMITTAL – NOTICE OF APPEAL

I certify that I am an employee of the Second Judicial District Court of the State of Nevada, County of Washoe; that on the 9th day of July, 2021, I electronically filed the Notice of Appeal in the above entitled matter to the Nevada Supreme Court.

I further certify that the transmitted record is a true and correct copy of the original pleadings on file with the Second Judicial District Court.

Dated this 9th day of July, 2021.

Alicia Lerud, Interim
Clerk of the Court
By /s/Y.VILORIA
Y.VILORIA
Deputy Clerk

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Clerk of the Court
Transaction # 8536561

Code 4132

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

JOHN ILIESCU, JR. AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR. an individual and SONNIA ILIESCU, an individual,

Plaintiffs,

vs.

THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20, and DOES 1 through 40 inclusive,

Defendants.

_____/

Case No. CV19-00459

Dept. No. 15

NOTICE OF APPEAL DEFICIENCY

TO: Clerk of the Court, Nevada Supreme Court,
and All Parties or their Respective Counsel of Record:

On July 9th, 2021, Attorney D. Chris Albright, Esq. for Plaintiffs, filed a Notice of Appeal with the Court. Attorney Albright was unable to include the Twenty-Four Dollar (24.00) Notice of Appeal filing fee and the Five Hundred Dollar ($500.00) Appeal Bond fee due to technical issues with e-filing and the Two Hundred Fifty Dollar ($250.00) Supreme Court filing fee due to the public closure of the Second Judicial District Court Administrative Order 2021-05(A).

Pursuant to NRAP 3(a)(3), on July 9th, 2021, the Notice of Appeal will be filed with the Nevada Supreme Court. By copy of this notice. Attorney Albright was notified by electronic mail of the deficiency. (A notice to pay will be issued once the Notice of Appeal is filed in by the Nevada Supreme Court.)

Dated this 9th day of July, 2021.

Alicia Lerud, Interim
Clerk of the Court
By: /s/Y.VILORIA
Y.VILORIA
Deputy Clerk

CERTIFICATE OF SERVICE

CASE NO. CV19-00459

I certify that I am an employee of the Second Judicial District Court of the State of Nevada, County Of Washoe; that on the 9th day of July, 2021, I electronically filed the Notice of Appeal Deficiency with the Clerk of the Court by using the ECF system.

I further certify that I transmitted a true and correct copy of the foregoing document by the method(s) noted below:

Electronically filed with the Clerk of the Court by using the ECF system which will send a notice of electronic filing to the following:

MICHAEL MORRISON, ESQ. for JOHN ILIESCU & SONNIA ILIESCU, TRUSTEES, JOHN JR. ILIESCU

D. ALBRIGHT, ESQ. for JOHN ILIESCU & SONNIA ILIESCU, TRUSTEES et al

DANE ANDERSON, ESQ. for THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY

BRONAGH KELLY, ESQ. for THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY

/s/Y.V.ILORIA
Y.VILORIA
Deputy Clerk

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Alicia L. Lerud
Clerk of the Court
Transaction # 8595894 : yviloria

2645
MICHAEL J. MORRISON, ESQ.
Nevada State Bar No. 1665
1495 Ridgeview Dr., #220
Reno, Nevada 89519
(775) 827-6300

Attorney for Plaintiffs

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

* * * * *

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU, JR. AND SONNIA ILIESCU 1992 FAMILY TRUST, Plaintiff, vs. THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; AND DOES 1-40, Defendants.	CASE NO. CV19-00459 DEPT. NO. 15 **PLAINTIFFS' OPPOSITION TO DEFENDANT'S MOTION FOR ATTORNEY FEES AND FOR ENTRY OF JUDGMENT FOR ATTORNEY FEES AND COSTS**

COME NOW JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU, JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., individually; and SONNIA ILIESCUE, individually (collectively, "the Iliescu Plaintiffs"), by and through their attorney, Michael J. Morrison, Esq., the Defendant's motion for attorney fees and for entry of judgment for attorney fees and costs, as follows:

/ / /

/ / /

SUPPORTING POINTS AND AUTHORITIES

I. OVERVIEW

In February 2019, the Iliescu Plaintiffs sued Defendant The Regional Transportation Commission of Washoe County ("the RTC") for, among other injuries, the damage the RTC caused to the Iliescu's property. *See* February 27, 2019, Complaint; *see also,* January 21, 2020, First Amended Complaint (excluding some claims raised in the initial complaint).[1] The Iliescu Plaintiffs own real property over which the RTC exercised eminent domain for the construction of the Fourth Street/Prater RTC project ("the Project") and damaged the Iliescu's property during construction on the Project. First Amended Complaint at 2-4. The Iliescu Plaintiffs sought to recover for the damage to the property, the costs to restore the property, the loss of the property's market value, their loss of use of the property, and other related damages. *Id.* at 4-18. On March 20, 2020, this Court dismissed additional claims the Iliescu Plaintiffs' asserted in their First Amended Complaint, but permitted this case to proceed on the Iliescu Plaintiffs' contract-based, declaratory relief, trespass, civil conspiracy, and negligence claims.

Following the resolution of discovery disputes taken up by the RTC and the Iliescu's frustrated efforts to pursue their case in the midst of the COVID-19 pandemic[2], the RTC moved this Court for summary judgment on the Iliescue Plaintiffs' remaining claims. On June 9, 2021, this Court granted the RTC's motion and vacated the trial in this matter. The RTC now moves this Court for an order awarding it the attorney's fees it incurred in this case in the amount of more than $101,000 (minus the

[1] The Iliescu Plaintiffs' First Amended Complaint was a result of this Court's December 2019 Order on the Parties' stipulation to dismiss certain claims asserted in the initial complaint.

[2] The substantial difficulties and unprecedented obstacles that the Iliescu Plaintiffs and their counsel faced in pursuing the Iliescu Plaintiffs' claims against the RTC in the midst of the COVID-19 pandemic are well documented in this case.

nearly $12,000 sanction previously imposed on the Iliescu Plaintiffs). The basis on which this Court granted RTC's motion for summary judgment, however, does not warrant the award to RTC of its attorney's fees. Even if it did, the RTC's request is for an amount that is unreasonable and excessive. Therefore, the RTC's request should be denied.

II. ARGUMENT

NRS 18.010(2), the basis on which the RTC seeks to recover its attorney's fees, states that this Court ***may*** allow the prevailing party to recover its attorney's fees when, without regard to the recovery sought, "…the court *finds that the claim…of the opposing party was* ***brought or maintained without reasonable ground or to harass the prevailing party.***" While it is generally within this Court's discretion to determine a reasonable amount of attorney fee under a statute or rule, it must evaluate those fees under the factors stated in *Brunzell v. Golden Gate Nat'l Bank,* 85 Nev. 345, 349, 455 P.2d 31, 33 (1969) ("the Brunzell factors"). *See Miller v. Wilfong,* 121 Nev. 619, 623, 119 P.3d 727, 730 (Nev. 2005). Those factors include the qualities of the advocate, the character and difficulty of the work performed, the work actually performed by the attorney, and the result obtained. *Brunzell, supra.* While there is no dispute that counsel for the RTC is a reputable and experienced attorney and that he prevailed on summary judgment on behalf of the RTC in this case, there has been no finding that the Iliescu Plaintiffs brought or maintained this case without reasonable ground or to harass RTC. Thus, there is no legal basis on which this Court can award RTC the attorney's fees it incurred in this case. Be that as it may, the amount that the RTC seeks to recover for its attorney's fees is unreasonable and excessive given the nature and scope of the work RTC's counsel actually undertook in this case. There was nothing extraordinary, novel, or difficult about either the claims that the Iliescu Plaintiffs asserted or the bases on which RTC defended against them that would justify the amount of time and fees that RTC's counsel charged. Thus, the RTC is not entitled to recover the attorney's

fees it incurred in this case. To the extent that it is, it should be in an amount that is reasonable and commensurate with the work that was actually done.

A. The basis on which this Court granted Summary Judgment in RTC's favor does not warrant an award to RTC of the attorney's fees it incurred in this case.

When the Iliescu Plaintiffs filed their complaint in this case, the existence of the corona virus was unknown. Just after they filed their first amended complaint that reflected the parties' stipulation to dismiss certain claims and stated the claims on which the Iliescu Plaintiffs would proceed, and at a time when this case was in its procedural infancy, the COVID-19 pandemic was about to impact the entire world and bring it to a halt. Indeed, the Iliescu Plaintiffs could not have anticipated impact the pandemic would have on their case. As was fully explained in responding to RTC's discovery motions, and incorporated here by reference, the Iliescu Plaintiffs and their counsel were among those who were at high risk for and especially susceptible to serious illness or death if infected with the corona virus. The Iliescu Plaintiffs are elderly and infirm, and counsel for the Iliescu Plaintiffs was, and continues to be, medically compromised from significant injuries he suffered soon after this case was filed. To that end, and as a result of the COVID-19 "lock down," the Iliescu Plaintiffs and their counsel were not unable to meet in person to meaningfully discuss and review documents and information pertinent to this case, counsel for the Iliescu Plaintiffs was unable to access his office and his computer and case files for a significant period of time, and the Iliescu Plaintiffs struggled to be able to appear to be deposed. Indeed, the COVID-19 crises significantly impacted this case and the Iliescu Plaintiffs efforts to prosecute it. While the Iliescu Plaintiffs timely responded to RTC's request for production of documents with some of their supporting evidence in this case and indicated they would follow with additional documents and information to support their claims (*see* Exhibits 1 and 2 to RTC's July 21, 2020, Motion in Limine), what ultimately resulted was RTC's successful request that the Iliescu Plaintiffs be precluded

from producing any evidence: (1) that was not provided on or before June 30, 2020 (*see* RTC's July 21, 2020, Motion in Limine); and (2) of the amount of their damages (*see* RTC's March 9, 2021, Motions in Limine re damages and expert witness testimony). Indeed, those motions addressed only timing issues related to discovery deadlines.

On its face, NRS 18.010(2) only permits this Court, *in its discretion,* to award RTC its attorney's fees if it *finds* that the Iliescu Plaintiffs brought or maintained their case without reasonable grounds or to harass RTC. A claim is without reasonable ground if there is no *credible* evidence to support it. *Capanna v. Orth,* 134 Nev. 888, 895, 432 P.3d 726, 734 (2018) (addressing NRS 18.010(2)(b)); *see also Rodriguez v. Primadonna Co.*, 125 Nev. 578, 588, 216 P.3d 793, 800 (2009) (equating a groundless claim with one that is frivolous). To that end, whether a party acted on reasonable grounds *depends on the actual circumstances of the case*. *Bergmann v. Boyce,* 109 Nev. 670, 675, 856 P.2d 560, 563 (1993), superseded by statute on other grounds as stated in *In re DISH Network Derivative Litig.,* 133 Nev. 438, 451 n.6, 401 P.3d. 1081, 1093 n.6 (2017). In this case, RTC never asserted, and this Court did not find, that the Iliescu Plaintiffs brought or maintained their claims without reasonable grounds, or that their claims were frivolous and/or not supported by *credible* evidence – evidence that is worthy of belief (*see* Black's Law Dictionary (5th ed. 1979)). Rather, the basis on which RTC sought, and this Court granted, summary judgment is because there was not *admissible* evidence – evidence that is allowed to be admitted at trial (*Id.*). – to support the Iliescu Plaintiffs' claims.[3] As stated above, that admissibility went to timing issues related to discovery deadlines, not to the credibility of the evidence the Iliescu Plaintiffs produced and intended to produce. Rather, it was the actual and extraordinary circumstances of this case – both external (global pandemic and medically compromised plaintiffs and counsel) and internal (technical) case-driven – that substantially hindered the Iliescu Plaintiffs' ability to present the full extent of their

[3] By reciting the basis on which the RTC based, and this Court granted, summary judgment, the Iliescu Plaintiffs do not concede that basis or their objection to it.

evidence supporting their claims against the RTC. Thus, because this Court did not make the requisite finding to determine whether, in its discretion, it would award RTC the attorney's fees it incurred in this case, there is no basis on which the RTC is entitled to recover its attorney's fees.

B. Even if NRS 18.010(2) permitted the RTC to recover its attorney's fees, the amount that the RTC seeks is unreasonable and excessive.

In support of the RTC's request for attorney's fees of more than $101,000 (less the nearly $12,000 sanction the Iliescu Plaintiffs paid), counsel for the RTC (Dane W. Anderson) – a very experienced and able trial attorney – characterized the work for which those fees were billed to be "difficult and complicated" due to the Iliescu Plaintiffs' varied contract, tort, and equitable claims and what was required to respond to them. *See* June 29, 2021, Declaration of Dane W. Anderson at 2, ¶ 6. Mr. Anderson, however, substantially overstates nature and complexity of this case and the work that was required and undertaken for it. The handful of motion dialogs initiated by the RTC in this case clearly illustrate the extent to which RTC's attorney's fees request far exceeds what it reasonable, as follows:

In response to the Iliescu Plaintiffs' initial complaint, the RTC filed an eight (8) page motion to dismiss, the substance of which was six (6) pages. *See* RTC's September 25, 2019, Motion to Dismiss. In those six substantive pages, the RTC briefly cited to the well-known standard that governs motions to dismiss, and generally made a brief and mostly conclusory challenges to each claim. For those six substantive pages that represented a very standard response to a complaint, there are *thirty five hours* of billing entries over nearly two full months related and/or attributable to that motion, as follows:

- 8/9/2019 – 1.2 hrs: Counsel for the RTC, among other things[4], reviewed the rules related to the time line for a response to the complaint and defensive motions.

[4] For many the billing entries provided in Exhibit 1 to Dane W. Anderson's June 29, 2021, Declaration in support of RTC's request for attorney's fees, it is difficult to ascertain

- 8/10/2019 – 2.5 hrs: In addition to reviewing a prior Iliescu file regarding claims (presumably in the Iliescu Plaintiffs' complaint), counsel for the RTC continued the review of claims and research regarding possible motion for relief.

- 8/12/2019 – .3 hrs: In addition to drafting a letter to counsel for the Iliescu Plaintiffs, counsel for the RTC again reviewed the rule regarding the due date for the response to the motion.

- 8/20/2019 – 1.4 hrs: Counsel for the RTC continued his analysis of the complaint and possible response.

- 8/30/2019 – 1.8 hrs: Counsel for the RTC continued work on the response to the complaint.

- 9/10/2019 – .9 hrs: Counsel for the RTC conferenced about and continued work on the response to the complaint.

- 9/12/2019 – 3.4 hrs: Counsel for the RTC researched issues related to and worked on the motion to dismiss.

- 9/16/2019 – 2 hrs: Counsel for the RTC researched issues related to and worked on the motion to dismiss.

- 9/17/2019 – 5.2 hrs: Counsel for the RTC researched issues related to and worked on the motion to dismiss.

- 9/18/2019 – 3.8 hrs: Counsel for the RTC continued working on the motion to dismiss and met with his clients regarding the same.

- 9/19/2019 – 4.5 hrs: Counsel for the RTC continued to work on the motion to dismiss, along with reviewing documents and other materials from client regarding the case and conferenced with an associate regarding research issues.

- 9/20/2019 – .7 hrs: Counsel for the RTC continued work on the motion to dismiss and legal authority it cites.

- 9/24/2019 – 2.5 hrs: Counsel for the RTC finished drafting the motion to dismiss and sent emails to clients regarding the same.

- 9/24/2019 – 2.5 hrs Another attorney in the office of counsel for the RTC reviewed the motion to dismiss and its legal authority.

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how much time was devoted to a particular task, as counsel for the RTC tends to combine numerous different and often unrelated tasks into one billing entry and assigns a single amount of time to all of the tasks.

- 9/25/2019 – 2.2 hrs Among other things (related to discovery), counsel for the RTC revised the motion to dismiss, did a final review and filed.

Counsel for the RTC billed more than 13.5 hours for RTC's seven (7) page November 12, 2019, reply in support of its motion to dismiss, the substance of which was five pages that cited to and relied on established and very well known authority:

- 11/7/2019 – .7 hrs: Another attorney in RTC's counsel's office reviewed the Iliescu Plaintiffs' opposition to the motion to dismiss.
- 11/7/2019 – 3.2 hrs: Counsel for the RTC reviewed the opposition to the motion to dismiss, researched issues raised in the opposition, and began working on the reply.
- 11/11/2019 – 7.5 hrs: Counsel for the RTC finished drafting the reply in support of RTC's motion to dismiss and research issues regarding the same.
- 11/12/2019 – 1.3 hrs: Another attorney in RTC's counsel's office reviewed the reply and the legal authority it cited.
- 11/12/2019 -- .6 hrs: Counsel for the RTC conducted additional research, revised the reply in support of the motion to dismiss, made a final review and edited.

The billing for some of the RTC motions that followed (those that do not include what has previously been addressed in reference to RTC's motion for sanctions and supporting declaration) are similarly unreasonable and excessive:

- Counsel for the RTC billed a total of about 14 hours related to RTC's supplemental motion to dismiss:
    - Nearly 8 hours were related or attributable to RTC's January 30, 2020, Supplemental Motion to Dismiss, the substance of which was just over 4 pages and repeated the same arguments that were raised in RTC's initial motion to dismiss. *See* Exhibit 1 to Dane W. Anderson's Declaration in Support of RTC's motion for attorney's fees, billing entries for 1/27/2020 (4.8 hrs, which included an email to counsel for the Iliescu Plaintiffs – *see,* footnote 4, *supra*) and 1/28/2020 (2.8 hours for another attorney in RTC's counsel's office to review the supplemental motion to dismiss).
    - More than 6 hours were related or attributable to RTC's February 13, 2020, reply in support of its supplemental motion to dismiss, which is also comprised of 4 substantive pages that are based on and/or repeat some of what was raised in their November 12, 2019, Reply. *Id.,* billing entries for 2/10/2020 (1.5 hrs), 2/11/2020 (2/3 hrs), 2/12/2020

(2 hrs for another attorney in RTC's counsel's office to review the reply), and 2/13/2020 (.5 hrs).

- Counsel for the RTC billed about 6 hours related or attributable to RTC's February 20, 2020, Motion to Compel, which was less than two substantive pages and four exhibits of existing materials. *Id.,* billing entries for 2/3/2020 (1.5 hrs), 2/5/2020 (.5 hrs), 2/6/2020 (.5 hrs), and 2/20/2020 (3.4 hours, among other discovery tasks – *see,* footnote 4, *supra*).

- In January 2021, counsel for the RTC billed a total of about 21 hours related to its January 19, 2021, motion for sanctions:

    - Nearly 10 hours were billed for the motion for sanctions (identified in the billing as a motion to dismiss for failure to prosecute), the substantive portion of which was three (3) pages. *Id.*, billing entries for 1/13/2021 (2.3 hrs), 1/14/2021 (2.2 hrs) and 1/15/2021 (5.2 hrs).

    - More than 11 hours were billed for the reply in support of the motion for sanctions, the substantive portion of which was 7 pages. *Id.,* billing entries for 2/23/2021 (3.3 hrs), 2/24/2021 (4.3 hrs), 2/25/2021 (1.2 hrs), and 2/25/2021 (2.4 hrs).

- The billing for RTC's March 9, 2021, two motions in limine (regarding damages and expert witnesses), each of which was essentially one (1) page, are inextricably intertwined with RTC's counsel's billing for RTC's motion for summary judgment (*see* footnote 4, *supra*). *Id.,* at billing entries for 3/7/2021 (2.4 hrs), 3/8/2021 (4.4 hrs), and 3/9/2021 (2.9 hrs). Those entries will be addressed in the Iliescu Plaintiffs' challenge to RTC's counsel's billing for the motion for summary judgment, *infra.*

Finally, and subject to the potential overlap caused by RTC's counsel's billing entry practices as identified in footnote 4, *supra,* counsel for the RTC billed about 70 hours that are related and/or attributable to RTC's motion for summary judgment (the substantive portion of which is seven (7) pages and repeats argument and authority that was raised in the two motions to dismiss discussed above) and the reply (the substantive portion of which is five (5) pages, and revisits previously-asserted arguments and authority), as follows:

- 1/13/2021 – 2.3 hrs: Among other tasks (*see* footnote 4, *supra*), counsel for the RTC conducted research for a possible Motion for Summary Judgment.

- 1/26/2021 – 3 hrs: Counsel for the RTC continued working on the MSJ

- 1/27/2021 – 2.3 hrs: Counsel for the RTC continued working on the MSJ

- 1/28/2021 – 3.5 hrs: Among other tasks (*see* footnote 4, supra), counsel for the RTC continued to work on the MSJ

- 2/1/2021 – 1.5 hrs: Among other tasks (*see* footnote 4, supra), counsel for the RTC worked on the MSJ
- 2/5/2021 – 1.2 hrs: Counsel for the RTC worked on the MSJ
- 2/8/2021 – 2.7 hrs: Among other tasks (*see* footnote 4, supra), counsel for the RTC continued to work on the MSJ.
- 2/25/2021 – 2.4 hrs: Among other tasks (*see* footnote 4, supra), counsel for the RTC continued to work on the MSJ.
- 3/7/2021 – 2.4 hrs: Counsel for the RTC worked on the MSJ
- 3/8/2021 – 4.4 hrs: Among other tasks (*see* footnote 4, *supra*), counsel for the RTC finished drafting the MSJ
- 3/8/2021 – 2.5 hrs: Another attorney in RTC's counsel's office reviewed the MSJ
- 3/9/2021 – 2.9 hrs: Among other tasks (*see* footnote 4, *supra*), counsel for the RTC conferenced with RTC regarding the MSJ and then revised and finalized it.
- 4/20/2021 – 3 hrs: Counsel for the RTC reviewed the oppositions to the MSJ and motions in limine and begin reply brief.
- 4/8/2021 – 2.5 hrs: Among other tasks (*see,* footnote 4, *supra*), counsel for the RTC worked on RTC's replies to the MSJ and motions in limine.
- 4/27/2021 – 3.5 hrs: Among other tasks (*see,* footnote 4, *supra*), counsel for the RTC worked on finishing RTC's replies to the MSJ and motions in limine.
- 4/28/2021 – 4 hrs: Counsel for the RTC finished drafting the reply in support of the MSJ
- 4/29/2021 – 1 hr: Counsel for the RTC revised and finalized the reply in support of RTC's MSJ.
- 5/10/2021 – 2.3 hrs: Counsel for the RTC reviewed the file in preparation for the summary judgment hearing.
- 5/11/2021 – 3.8 hrs: Counsel for the RTC finished review of the file and began preparing for the summary judgment hearing.
- 5/12/2021 – 3.5 hrs: Counsel for the RTC finished preparing for and attended the summary judgment hearing.
- 5/12/2021 – 2.1 hrs: Another attorney in RTC's counsel's office conducted research related to summary judgment and appeared at oral argument (two billing entries, .7 hrs and 1.4 hrs, respectively)

- 5/18/2021 – 2.8 hrs: Counsel for the RTC worked on the proposed order granting summary judgment.
- 5/19/2021 – 3.3 hrs: Counsel for the RTC continued work on the summary judgment order.
- 5/19/2021 - .8 hrs: Another attorney in RTC's counsel's office billed for research related to summary judgment.
- 5/20/2021 – 2.3 hrs: Another attorney in RTC's counsel's office reviewed the transcript from oral argument at summary judgment hearing and reviewed/revised summary judgment order.
- 5/20/2021 – 3.5 hrs: Counsel for the RTC finished drafting proposed order granting summary judgment.

Indeed, that for which counsel for the RTC has billed just for tasks that have yielded a tangible product[5] illustrate time and charges that are far in excess for what is reasonable in reference to this case based upon the relatively simple nature, content, and length of the documents to which those billing entries pertain, and especially considering: (1) the generally repetitive nature of the legal and factual arguments that are throughout the RTC's motion practice in this case; and (2) RTC's counsel's vast and lengthy experience as a trial attorney with Woodburn and Wedge, a well-established and respected local law firm. Pursuant to *Brunzell, supra,* under no circumstances should RTC be awarded an amount for attorney's fees that is based on billing and charges that are excessive, unreasonable, and so far out of proportion to the relatively small amount of work that was actually done in this litigated case.

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[5] There are a number of other billing entries that call may call their reasonableness or validity into question, but that do not necessarily have a tangible product by which to measure the time attributed to them. For instance, the billing entries for 7/21/2020 (3.5 hrs) and 8/26/2020 (2 hrs) highlight what is addressed in footnote 4, *supra* – multiple tasks that are assigned a single amount of time. The billing entry for 2/20/2020 is for 1.2 hours to review a motion for summary judgment despite that there is no reference to a motion for summary judgment having been drafted prior to that billing entry. The two entries on 3/20/2020 for counsel for the RTC and another attorney in RTC's counsel's office for a total of 5.3 hours (subject to what is addressed in footnote 4, *supra*) appear to be duplicative. And, there appear to be duplicate entries on 4/21/2020 and 4/22/2020 for "reviewing exemption from arbitration."

III. CONCLUSION

Based on the foregoing, the Iliescu Plaintiffs respectfully request that this Court deny RTC's request for more than $101,000 in attorney's fees (less the nearly $12,000 in sanctions assessed against the Iliescu Plaintiffs) and for the entry of a judgment for attorney's fees as not permitted by NRS 18.010(2) under the circumstances of this case, and otherwise as unreasonable and excessive. Should this Court determine that an award of attorney's fees is permitted under NRS 18.010(2) and exercises its discretion to enter an award of attorney's fees in RTC's favor, the Iliescu Plaintiffs request that any such amount be reasonable under the circumstances of and the actual nature of the work undertaken in this case, consistent with *Brunzell, supra*.

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the document to which this Affirmation is attached does not contain the social security number of any person.

DATED this13th day of August, 2021.

/s/ Michael J. Morrison
Michael J. Morrison, Esq.
Nevada State Bar No. 1665
1495 Ridgeview Dr., #220
Reno, Nevada 89519
(775) 827-6300
Attorney for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on this date I personally caused to be served a true copy of the foregoing PLAINTIFFS' OPPOSITION TO DEFENDANT'S MOTION FOR ATTORNEY FEES AND FOR ENTRY OF JUDGMENT FOR ATTORNEY FEES AND COSTS indicated and addressed to the following:

Dane W. Anderson, Esq.
WOODBURN AND WEDGE
6100 Neil Road, Suite 500
Reno, Nevada 89511

____ Via U.S. Mail
____ Via Overnight Mail
____ Via Hand Delivery
____ Via Facsimile
XX Via ECF

DATED this 14th day of August, 2021.

/s/ Michael J. Morrison

F I L E D
Electronically
CV19-00459
2021-08-23 11:31:13 AM
Alicia L. Lerud
Clerk of the Court
Transaction # 8608634 : yviloria

3795
Dane W. Anderson, Esq.
Nevada Bar No. 6883
Bronagh M. Kelly, Esq.
Nevada Bar No. 14555
WOODBURN AND WEDGE
6100 Neil Road, Suite 500
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Telephone: 775-688-3000
Facsimile: 775-688-3088
danderson@woodburnandwedge.com
bkelly@woodburnandwedge.com

Attorneys for Defendant, the Regional Transportation Commission of Washoe County

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an individual; AND SONNIA ILIESCU, an individual, Plaintiffs, v. THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1 – 40, inclusive, Defendants.	Case No.: CV19-00459 Dept. No.: 15

REPLY IN SUPPORT OF MOTION FOR ATTORNEY FEES AND FOR ENTRY OF JUDGMENT FOR ATTORNEY FEES AND COSTS

Defendant THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY ("RTC") submits the following reply in support of its Motion For Attorney Fees

And For Entry Of Judgment For Attorney Fees And Costs filed on June 29, 2021, and in response to Plaintiffs' opposition brief filed on August 14, 2021.[1]

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

In opposing RTC's motion for attorney fees,[2] Plaintiffs argue that (1) the Court has not found that Plaintiffs' claims were not supported by credible evidence and (2) even if the Court makes such a finding, the amount RTC seeks is unreasonable. Each is addressed in turn as follows.

II. THERE IS NO CREDIBLE EVIDENCE SUPPORTING PLAINTIFFS' CLAIMS.

RTC acknowledges that the Court has not *yet* made a specific finding that Plaintiffs presented no credible evidence in support of their claims. Courts are prohibited from determining the credibility of evidence in deciding a summary judgment motion. Pegasus v. Reno Newspapers, Inc., 118 Nev. 706, 714, 57 P.3d 82, 87 (2002). Thus, there has not yet been an opportunity for the Court to make such a finding. By way of its motion, that is one of the findings RTC asks the Court to make in awarding RTC attorney fees.

The Nevada Supreme Court has held that, "[f]or purposes of NRS 18.010(2)(b), a claim is frivolous or groundless if there is no credible evidence to support it." *Rodriguez v. Primadonna Co.*, 125 Nev. 578, 588, 216 P.3d 793, 800 (2009). In other words, the issue of credibility for purposes of NRS 18.010(2)(b) does not arise until a motion seeking fees under that statute is filed. *Capanna v. Orth*, 134 Nev. 888, 895, 432 P.3d 726, 734 (2018). Therefore, the absence of a prior specific finding regarding credibility does not preclude an award of fees under NRS 18.010(2)(b). The Court can make that finding in an order granting RTC's motion.

[1] RTC granted Plaintiffs several courtesy extensions of time to respond to the motion. Plaintiffs had roughly 6 weeks to oppose RTC's motion.

[2] Plaintiffs do not oppose RTC's request for entry of judgment awarding costs in the amount of $3,647.35 and did not file a motion to retax costs in response to RTC's Verified Memorandum of Costs. This amount, along with an award of reasonable attorney fees, should be reduced to judgment in favor of RTC.

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In granting RTC summary judgment, the Court concluded there was no admissible evidence to support Plaintiffs' claims. *See* Order Granting Summary Judgment After Supplementary Proceedings, filed June 9, 2021, ¶ 36. In reaching that conclusion, the Court made several other findings regarding the utter lack of evidence supporting Plaintiffs' claims. With respect to Plaintiffs' contract-based claims, the Court found "[t]here is no evidence supporting any of these elements, nor is there any evidence of Plaintiffs' alleged damages." *Id*., ¶ 29-30 (emphasis added). With respect to Plaintiffs' civil conspiracy claim, the Court found "[t]here is no evidence of the existence or identity of any alleged co-conspirator, no evidence of any agreement between RTC and anyone else, and no evidence of Plaintiffs' alleged damages." *Id.*, ¶ 31 (emphasis added). With respect to Plaintiffs' claim of trespass, the Court found "[t]here is no evidence of cost of repair or loss of value based on the alleged physical damage" to the parking lot" and "no evidence that would support an award of punitive damages." *Id.*, ¶ 32 (emphasis added). With respect to Plaintiffs' negligence claim, the Court found that "Plaintiffs have failed to present any evidence identifying the duty RTC allegedly owed them, nor have they presented any evidence of damages. *Id.*, ¶ 33 (emphasis added). The Court likewise found there is no evidence supporting Plaintiffs' declaratory relief claim. *Id.*, ¶ 34.

Inherent in the Court's repeated findings that Plaintiffs presented *no evidence* to support their claims is the fact that there is no *credible* evidence. In their opposition, Plaintiffs make no effort to identify any credible evidence that supported their claims—that's because there is no such evidence. Instead, Plaintiffs argue—again without offering the Court any evidence—that the COVID pandemic prevented them from prosecuting their lawsuit. Opposition at 4:5-23. This Court has already rejected this excuse, noting that while COVID made litigating cases more complicated, it did not prevent parties from prosecuting and defending cases. *See* Transcript of Proceedings, Oral Arguments on MSJ, May 12, 2021 at 35:19-36:2. *See* **Exhibit 1**, attached. COVID is simply not a valid excuse for Plaintiffs' failure to submit any credible evidence of their claims, especially when Plaintiffs argue that RTC has overstated the nature and complexity of the case. Opposition at 6:12-14. If this

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were such a simple case, Plaintiffs should have had little difficulty providing evidence to support their claims.

Plaintiffs chose to file this lawsuit and, in over two years of litigation, failed to produce any credible evidence supporting their numerous claims. The Nevada Supreme Court has held that a claim is brought or maintained without reasonable grounds if there is no credible evidence to support it. While an award of fees under NRS 18.010(2)(b) is discretionary, that statute requires courts to "liberally construe" its provisions "in favor of awarding attorney's fees in all appropriate situations." The statute expressly states the Legislature's intent to punish for and deter frivolous claims because of the negative impact such claims have on the judiciary, the public and the parties themselves. Plaintiffs' claims in this case are the very type of claims the Legislature had in mind in enacting NRS 18.010(2)(b). RTC requests that the Court follow the statutory mandate and liberally construe the provisions of NRS 18.010(2)(b) to award RTC its reasonable attorney fees incurred in defending against this frivolous lawsuit. As discussed below, the fees RTC incurred and which RTC asks the Court to award are reasonable considering the work actually performed to respond to Plaintiffs' numerous claims and which was necessary to achieve a complete victory in this case.

III. THE FEES RTC SEEKS ARE REASONABLE.

Plaintiffs argue that any award of fees should be in a reasonable amount under the circumstances of this case. Opposition at 12:8-10. RTC agrees with Plaintiffs—that is the law. This Court has wide discretion to award attorney fees, tempered only by reason and fairness. *Haley v. Dist. Ct.*, 128 Nev. 171, 178, 273 P.3d 855, 860 (Nev. 2012). In determining the amount of fees to award, the court is not limited to one specific approach; its analysis may begin with any method rationally designed to calculate a reasonable amount, including those based on a "lodestar" amount, so long as the requested amount is reviewed in light of the factors set forth in *Brunzell v. Golden Gate National Bank*." Id.; *Shuette v. Bezer Homes Holdings Corp.*, 121 Nev. 837, 864, 124 P.3d 530, 549 (2005). The "*Brunzell* factors" to determine the reasonableness of attorneys' fees are: (1) the qualities of the attorney, (2) the

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character of the work to be done, (3) the actual work performed by the attorney, and (4) the case's result. *Id.*

Plaintiffs do not (and cannot) dispute the result RTC obtained and graciously laud the qualities of RTC's counsel. Opposition at 3:3, 6:9. However, Plaintiffs argue that the amount of fees RTC seeks to recover is "unreasonable and excessive given the nature and scope of the work RTC's counsel actually undertook in this case." Opposition 3:23-24. Plaintiffs argue that RTC's fee request "far exceeds what is reasonable" and dispute RTC's characterization as difficult and complicated. *Id.* at 6:8-14.

However, Plaintiffs fail to suggest to the Court what amount would be reasonable under the circumstances of this case. They criticize the undersigned's billing practices but offer the Court no suggestion as to what amount of time would have been reasonable to bill for various tasks. They suggest that this case was "relatively simple" (even though they failed to produce any evidence to support their claims) and focus their attention on a handful of documents RTC prepared and filed but ignore the amount of work that went into this case because of their frivolous claims and dilatory tactics.

Plaintiffs chose to file this suit and to assert very serious allegations against RTC, including accusations of intentional tortious wrongdoing resulting in personal injuries for which Plaintiffs sought punitive damages against RTC. Plaintiffs asserted a truckload of claims against RTC, many of which were dismissed only after successive motions to dismiss. Plaintiffs repeatedly failed to appear at deposition, cancelling at the last minute after the undersigned had prepared for them. They failed to comply with other discovery requests, necessitating motions to compel and motions for sanctions. They failed to appear at scheduled hearings, requiring RTC's counsel to prepare twice for what should have been only one hearing. Plaintiffs filed a motion for reconsideration, requiring RTC to prepare additional briefing. The record is replete with work RTC had to do in responding to Plaintiff's frivolous lawsuit.

Plaintiffs do not argue that the work RTC's counsel performed was unnecessary. They simply make the conclusory allegation that it took RTC's counsel too long to complete

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those necessary tasks. Yet they offer the Court no suggestion as to what amount they believe to be reasonable. RTC won the case, and much work was obviously done to achieve that result. RTC maintains that the amount sought is reasonable, but this Court has the discretion to award whatever amount it deems appropriate under the circumstances of this case.

IV. UPDATED CALCULATION OF FEES

At the time RTC's motion was filed, the invoices for June and July time were unavailable. Attached hereto as **Exhibit 2** are the invoices for those months and are offered as a supplement to the undersigned's previously filed declaration. The total additional amount incurred through July 2021 is $12,026.66. As the Court will see, most of the time was spent responding to Plaintiffs' motion for reconsideration, which was prompted by Plaintiffs' failure to appear at the initial oral argument on summary judgment. RTC then had to prepare (again) for another oral argument on summary judgment to accommodate Plaintiffs' failure to appear at the initial hearing. RTC then prepared its memorandum of costs and its motion for attorney fees. Most of the time incurred in July was related to Plaintiffs' requests for extensions of time to oppose RTC's motion for attorney fees as well as issues involving Plaintiffs' appeal.

Therefore, RTC should be awarded a total amount of $113,446.68, less the $11,684.90 already imposed against Plaintiffs as sanctions, for a total net award of **$101,761.78**.

V. CONCLUSION

RTC should be awarded its reasonable attorney fees. The amount incurred through July is $113,446.68. RTC should be awarded that amount, less the $11,684.90 already awarded to RTC as sanctions. RTC requests that the net fee award of **$101,761.78** along with an award of costs in the amount of **$3,647.35** (which Plaintiffs did not timely dispute), be reduced to a judgment against Plaintiffs.

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AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the above-entitled document filed in this matter does not contain any personal information.

Dated this 23rd day of August, 2021.

/s/ Dane W. Anderson
DANE W. ANDERSON

Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, NV 89511
775-688-3000

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Woodburn and Wedge and that on this date, I caused to be sent via electronic delivery through the Court's E-flex system a true and correct copy of the **REPLY IN SUPPORT OF MOTION FOR ATTORNEY FEES AND FOR ENTRY OF JUDGMENT FOR ATTORNEY FEES AND COSTS** to:

MICHAEL J. MORRISON, ESQ.
1495 Ridgeview Dr., #220
Reno, Nevada 89519
venturelawusa@gmail.com

Attorneys for Plaintiffs

DATED: August 23, 2021

*/s/ Caitlin Pagni*_____
Employee of Woodburn and Wedge

Woodburn and Wedge
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775-688-3000

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Transaction # 8608728 : csulezic

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Nevada Bar No. 6883
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Attorneys for Defendant, the Regional Transportation Commission of Washoe County

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an individual; AND SONNIA ILIESCU, an individual, Plaintiffs, v. THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1 – 40, inclusive, Defendants.	Case No.: CV19-00459 Dept. No.: 15

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AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the above-entitled document filed in this matter does not contain any personal information.

Dated this 23rd day of August, 2021.

/s/ Dane W. Anderson
DANE W. ANDERSON

Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, NV 89511
775-688-3000

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Woodburn and Wedge and that on this date, I caused to be sent via electronic delivery through the Court's E-flex system a true and correct copy of the **REPLY IN SUPPORT OF MOTION FOR ATTORNEY FEES AND FOR ENTRY OF JUDGMENT FOR ATTORNEY FEES AND COSTS** to:

MICHAEL J. MORRISON, ESQ.
1495 Ridgeview Dr., #220
Reno, Nevada 89519
venturelawusa@gmail.com

Attorneys for Plaintiffs

DATED: August 23, 2021

*/s/ Caitlin Pagni*_____
Employee of Woodburn and Wedge

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Alicia L. Lerud
Clerk of the Court
Transaction # 8608728 : csulezic

EXHIBIT 1

EXHIBIT 1

4185

IN THE SECOND JUDICIAL DISTRICT COURT

STATE OF NEVADA, COUNTY OF WASHOE

THE HONORABLE DAVID HARDY, DISTRICT JUDGE

JOHN ILIESCU, JR.

Plaintiff,

vs.

RTC WASHOE COUNTY,

Defendant.

_____/

Department No. 15

Case CV19-00459

Pages 1 to 42, inclusive.

TRANSCRIPT OF PROCEEDINGS
ORAL ARGUMENTS ON MSJ
Wednesday, May 12, 2021

A P P E A R A N C E S:

FOR RTC: DAN ANDERSON, ESQ.
BRONAGH KELLY, ESQ.
WOODBURN & WEDGE
6100 Neil Road, Suite 500
Reno, NV

REPORTED via Zoom BY: Christina Amundson, CCR #641
Litigation Services 323.3411

truth but the words we use to describe the truth are very important. This case has not been prosecuted but neither the defendant nor the court have created that fact.

And I think that any review of my order should include at least a reference, an invitation to review the case as a larger whole and you'll have to summarize some of the events of this case that lead us to today.

The order should also formally state that this court's March 25th order was not a reset of the entire case but, instead, was the court's attempt to offer a lifeline in lieu of a technical non-merit-based dismissal. Your holistic and longitudinal description of this case must include the order in limine that was entered on August 19th, because it reflects the type of problems that have been in this case.

I don't know the extent to which Mr. Morrison has been personally ill. There is some signal to that, and overshadowing this entire case has been COVID. But the fact is COVID has not stopped the prosecution and defense of cases. It's made the prosecution and defense more complicated

but litigation can continue and in this case it did not.

I think that the order should make specific reference to the stipulation and the types of damages that the plaintiffs waived when they specifically identified damage to the parking lot, which can only come in one of two ways, cost of repair or loss of value. The order should reflect some of your concerns, and in this I ask you to not be a zealous advocate but just simply be true to the file, and that is that nothing prohibited Plaintiffs from pursuing discovery because there was an early start to discovery. I agree with you that the discovery right was mutual. The order should reflect the de minimus or nonexistent discovery efforts that Plaintiffs have made and all of that as the predicate to the substantive order, which is as follows:

The nonmoving party when confronted with a motion for summary judgment has a rule-based duty to offer declarations or admissible evidence in opposition to the motion for summary judgment, and there is no such declaration or admissible evidence tendered in this case.

F I L E D
Electronically
CV19-00459
2021-08-23 11:50:00 AM
Alicia L. Lerud
Clerk of the Court
Transaction # 8608728 : csulezic

EXHIBIT 2

EXHIBIT 2

Woodburn and Wedge
ATTORNEYS AND COUNSELORS AT LAW
6100 Neil Road, Suite 500
P.O. Box 2311
Reno, Nevada 89505
http://www.woodburnandwedge.com

Telephone: (775) 688-3000

Fax: (775) 688-3088

Regional Transportation Commission
2050 Villanova Drive
PO Box 30002
Reno, NV 89520

July 13, 2021
Invoice #: 445283
Resp. Atty: DEF
Client: 010487
Matter: 000160
Page: 1

RE: adv. John Iliescu, Jr. and Sonnia Iliescu, et al.
RTC Purchase Order No 0034136 - Project No 8131087

For Professional Services Rendered Through June 30, 2021

Federal Tax I.D. No.: 88-0104505

SERVICES

Date	Person	Description of Services	Hours	Amount
06/01/2021	DWA	Review docket re status of briefing and Iliescu's response to RTC's opposition to motion for reconsideration; Email regarding same.	0.3	$97.50
06/02/2021	DEF	Review motion for reconsideration and related documentation; Research NRCP 60 and related caselaw.	2.0	$650.00
06/02/2021	DWA	Review Iliescu's motion for reconsideration and errata thereto; Numerous emails regarding setting hearing on same; Conference call with client re same; Research regarding Rule 60 and requests for relief from judgment; Conference with associate re additional research; Begin work on opposition brief to meet Court ordered deadline before hearing on June 8, 2021.	4.5	$1,462.50
06/07/2021	DWA	Finish drafting opposition to motion for reconsideration; Continue preparing for hearing.	4.2	$1,365.00
06/08/2021	DWA	Finish preparing for hearing on motion for reconsideration; Review supplement submitted by Iliescu; Attend hearing on motion for reconsideration; Telephone conferences with client and Dale Ferguson regarding same; Emails regarding possible motions for attorney fees and costs.	4.2	$1,365.00
06/09/2021	DEF	Review order granting summary judgment after supplemental arguments; Review select legal authority cited in order; Telephone conference with Dane W. Anderson; Review email; Review authority re fees and costs.	2.5	$812.50
06/09/2021	DWA	Review Court's order granting summary judgment after supplemental arguments and email to client regarding same.	0.5	$162.50
06/10/2021	DWA	Work on memorandum of costs and attorney fee issues.	1.2	$390.00
06/11/2021	DWA	Work on declaration in support of memorandum of costs.	0.5	$162.50

SERVICES

Date	Person	Description of Services	Hours	Amount
06/15/2021	DWA	Work on memorandum of costs and declaration in support thereof; Finalize and file same; Telephone conference with client regarding motion for attorney fees; Emails with client regarding motion for attorney fees.	2.2	$715.00
06/23/2021	DWA	Draft motion for attorney fees.	4.0	$1,300.00
06/24/2021	DEF	Review and revise motion for attorneys' fees and related documentation; Telephone conferences with Dane W. Anderson.	2.5	$812.50
06/24/2021	DWA	Revise motion for attorney fees and email to client and Dale Ferguson re same; Draft declaration in support of motion; Telephone conference and emails regarding calculations of amounts owed and credit for prior sanctions paid by Iliescu.	2.0	$650.00
06/29/2021	DEF	Review and revise final version of Motion for attorneys fees and related documentation; Telephone conferences with Dane W. Anderson.	1.3	$422.50
06/29/2021	DWA	Review redline revisions to motion for attorney fees; Telephone call with Dale Ferguson re same.	0.5	$162.50
		Total Professional Services	32.4	$10,530.00

DISBURSEMENTS

Date	Description of Disbursements	Amount
06/04/2021	Sunshine Reporting & Litigation Services- - Original and Certified Copy of transcript of Status Hearing	$424.16
	Total Disbursements	$424.16

Total Services	$10,530.00	
Total Disbursements	$424.16	
Total Current Charges		$10,954.16
Previous Balance		$15,068.15
Less Payments		*'$15,068.15)*
PAY THIS AMOUNT		**$10,954.16**

Woodburn and Wedge
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Regional Transportation Commission
2050 Villanova Drive
PO Box 30002
Reno, NV 89520

August 11, 2021
Invoice #: 446075
Resp. Atty: DEF
Client: 010487
Matter: 000160
Page: 1

RE: adv. John Iliescu, Jr. and Sonnia Iliescu, et al.
RTC Purchase Order No 0034923 - Project No 8131087

For Professional Services Rendered Through July 31, 2021

Federal Tax I.D. No.: 88-0104505

SERVICES

Date	Person	Description of Services	Hours	Amount
07/07/2021	DWA	Telephone conference with Mike Morrison regarding his request for an extension to oppose attorney fees; Review appeal deadline and conference with Dale Ferguson re strategy.	0.4	$130.00
07/12/2021	DWA	Email exchange with client regarding same and next steps.	0.4	$130.00
07/26/2021	DWA	Telephone conference with Mike Morrison re motion for attorney fees; Email to Brian Stewart and Dale Ferguson re same; Draft email to Mike Morrison granting final extension of time to respond; Review correspondence from Jonathan Andrews (assigned mediator) and both call and email him regarding timing to file settlement conference statements and pending motion; Review response requiring settlement conference statements by August 5, 2021; Begin review of file re same.	2.5	$812.50
		Total Professional Services	3.3	$1,072.50

Total Services	$1,072.50	
Total Current Charges		$1,072.50
Previous Balance		$10,954.16
Less Payments		*($10,954.16)*
PAY THIS AMOUNT		**$1,072.50**

FILED
Electronically
CV19-00459
2021-10-18 09:29:40 AM
Alicia L. Lerud
Clerk of the Court
Transaction # 8701865

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU, JR. AND SONNIA ILIESCU 1992 FAMILY TRUST,

Plaintiff,

vs.

THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; AND DOES 1-40,

Defendants.

_____/

Case No. CV19-00459

Dept. No. 15

ORDER GRANTING ATTORNEY'S FEES AND ENTRY OF JUDGMENT

Before this Court is Defendant Regional Transportation Commission of Washoe County's (RTC) opposed Motion for Attorney Fees and for Entry of Judgment for Attorney Fees and Costs. This Court has reviewed the moving papers, record, and relevant authorities.

The procedural history of this case is well-documented. Throughout the proceedings, this Court responded to Plaintiffs' procedural failures through various orders, including sanctions and summary judgment because Plaintiffs provided insufficient admissible evidence during pre-trial discovery. RTC now requests an award of attorney's fees under NRS 18.010(2)(b), arguing the action was groundless and frivolous

due to Plaintiffs' number and nature of claims, actions causing delay, and failure to produce evidence. RTC also requests an award of costs.

Upon review of the relevant papers, this Court must determine 1) the propriety of an award under NRS chapter 18, 2) the reasonable and just amount to award, and 3) whether costs should be awarded.

From this Court's experience with this case, it appears Plaintiffs sincerely believe they were harmed by RTC during the time RTC enjoyed a temporary construction easement over their property. But upon filing this complaint, they had a burden to prove the condition of the parking lot before RTC's arrival, the condition after RTC's departure, the scope of the harm allegedly caused by RTC, and the value of any damages. Plaintiffs failed to provide any expert witness or other evidence other than their own anecdotal observations to support these necessary elements. Thus, this Court finds an award of attorney's fees is warranted for all claims. However, under its broad discretion in determining the amount of fees to award, this Court finds a lesser amount than requested is reasonable and just under the circumstances. Finally, this Court finds an award of full costs is appropriate.

RTC asserts an award of attorney's fees for all work in this matter is appropriate under NRS 18.010(2)(b), which allows a court to grant an award where it finds a claim:

> [W]as brought or maintained without reasonable ground or to harass the prevailing party. The court shall liberally construe the provisions of this paragraph in favor of awarding attorney's fees in all appropriate situations. It is the intent of the Legislature that the court award attorney's fees pursuant to this paragraph and impose sanctions pursuant to Rule 11 of the Nevada Rules of Civil Procedure in all appropriate situations to punish for and deter frivolous or vexatious claims and defenses because such claims and defenses overburden limited judicial resources, hinder the timely resolution of meritorious claims and increase the costs of engaging in business and providing professional services to the public.

NRS 18.010(2)(b).

This statute is an exception to the general rule that a prevailing party is not entitled to attorney's fees. See Smith v. Crown Financial Services, 111 Nev. 277, 890 P.2d 769 (1995) (analyzing the American and English rules regarding attorney's fees and their intersection with Nevada Law). While this Court will "liberally construe" the statute to grant fees when appropriate, the statute does not provide mandatory attorney's fees as fully requested, leaving the amount of fees to the court's discretion. Schmidt v. Washoe Cty., 124 Nev. 1506, 238 P.3d 852 (2008).

The ultimate inquiry is whether the proceedings were initiated or defended with "improper motives or without reasonable grounds." Bobby Berosini, Ltd. v. People for the Ethical Treatment of Animals, 114 Nev. 1348, 1354, 971 P.2d 383, 387 (1998). "A claim is frivolous or groundless if there is no credible evidence to support it." Rodriguez v. Primadonna Co., LLC, 125 Nev. 578, 588, 216 P.3d 793, 800 (2009).

The analysis for awarding fees under the statute after its 2003 amendment adding a ban on "maintaining" groundless claims is not limited to evidence presented at trial or whether a claim was frivolous at the time it was raised. S. Nevada Chinese Wkly. v. Chinese Am. Chamber of Com. of Nevada, 126 Nev. 757, 367 P.3d 821 (2010). The statute's current form also encourages a fee award when a party brings a large number of claims "hoping one would stick." Id.

The statute contemplates specific claims. Thus, courts may separate claims maintained without credible evidence from other viable claims when analyzing a request for attorney's fees. See Capanna v. Orth, 134 Nev. 888, 896, 432 P.3d 726, 734 (2018); see also Bergmann v. Boyce, 109 Nev. 670, 675–76, 856 P.2d 560, 563 (1993), superseded by statute on other grounds as stated in In re DISH Network Derivative Litig., 401 P.3d 1081, 1093 n.6 (Nev. 2017).

Here, RTC is the prevailing party on all claims through dismissal or summary judgment. See 145 E. Harmon II Tr. v. Residences at MGM Grand - Tower A Owners' Ass'n, 136 Nev. 115, 120, 460 P.3d 455, 459 (2020) (explaining prevailing party status, including that voluntary dismissal with prejudice generally means a defendant

"prevailed" for purposes of fees, but courts should consider the circumstances of dismissal).

As this Court did not make direct findings of fact that any claims were frivolous or unreasonably maintained, Plaintiffs' failure to present evidence at the summary judgment stage is not a *de facto* determination that fees are warranted. Rivero v. Rivero, 125 Nev. 410, 441, 216 P.3d 213, 234 (2009); see also Schmidt, 124 Nev. 1506. However, Plaintiffs' failure would justify this Court in making such a finding of fact and awarding attorney's fees. TMX, Inc. v. Volk, 448 P.3d 574 (Nev. 2019).

This Court granted summary judgment only after a prolonged discovery period where this Court intervened on several occasions, reminded Plaintiffs to produce discovery, ordered a discovery schedule, imposed sanctions for delays and failures to meet deadlines, and held hearings. Despite ample time and opportunity to either produce evidence or suffer summary adjudication, Plaintiffs failed to provide support for the remaining claims' essential facts, some of which were central to the entire original complaint.

Plaintiffs filed a complaint with twelve claims involving RTC harming their parking lot, and then failed to provide evidence of the condition of the parking lot before or after the alleged misconduct, any action RTC took to cause the alleged damages, or evidence of costs of repair or loss of value. Plaintiffs filed a complaint involving a contract, and then failed to provide evidence of its terms. As this Court explained when granting summary judgment, Plaintiffs claimed damages and then did not provide a single expert witness necessary to explain liability or analyze damages. Though Plaintiffs no longer had the burden to support dismissed claims at the summary judgment stage, they had both the opportunity and burden to provide evidence for their remaining claims that would have also been essential to the original claims. Thus, Plaintiffs' entire complaint may be "groundless" under the evidence analysis.

Plaintiffs' delays and procedural behavior in this matter further justify an award under the statute's liberal application. Plaintiffs brought twelve claims, including claims

their alleged facts did not support. Despite not wishing to disclose their own medical records, Plaintiffs brought claims relating to their mental health that required such disclosures. Under their own explanations of external hardships causing delays and procedural failures, Plaintiffs at some point should have known they could not adequately prosecute their case. Instead, they repeatedly missed deadlines and only participated in proceedings primarily when objecting to RTC's motions or requesting more time to perform. Thus, RTC incurred extra fees while Plaintiffs extended and delayed proceedings, doing enough to maintain their claims without the apparent ability to produce evidence for them. The length of time and number of delays and failures are especially egregious. Thus, Plaintiffs maintained their claims with at least a level of unreasonableness. Under the statute and in the interest of fairness, the circumstances warrant awarding attorney's fees to RTC.

However, this Court has broad discretion to determine the amount of attorney's fees, to be "'tempered only by reason and fairness." Albios v. Horizon Communities, Inc., 122 Nev. 409, 427, 132 P.3d 1022, 1034 (2006). This Court's approach in setting the amount of fees considers what is reasonable and fair, the language and purpose of the statute, and RTC's counsel's memoranda "in light of the Brunzell" factors. Id; see also Logan v. Abe, 131 Nev. 260, 266, 350 P.3d 1139, 1143 (2015).

As explained above, NRS 18.010(2)(b) is the exception to the general rule that parties pay their own fees. Fees are justified under that statute. However, this Court also finds some aspects of this case do not fully conform to the purposes underlying the statute. Thus, this Court considers what amount of fees most reasonably provides an exception to the general rule. This Court concludes that requiring Plaintiffs to pay attorney's fees for all work performed would be unreasonable insofar as Plaintiffs did not act with the type of frivolous or vexatious intent the award is meant to "punish for and deter." NRS 18.010(2)(b).

Plaintiffs did not appear to maintain the action *for the purpose* of harassing RTC. This statutory language implies a *mens rea*, i.e., a knowing course of conduct in which

litigation is the tool to effect harassment of an opposing party. There is a distinction, both theoretical and actual, between intentionally harassing an opposing party and engaging in harassing conduct during litigation. Plaintiffs unduly subjected RTC to hardship because of repeated delays, but the record does not suggest any intentional harassment.

For instance, though Plaintiffs stipulated to dismiss tort claims rather than provide their medical records, they did so only four months after service, less than a month after the start of discovery, and prior to any papers or hearings on those claims. See Arellano v. Iglesias, 468 P.3d 375 (Nev. 2020); see also In re 12067 Oakland Hills, Las Vegas, Nevada 89141, 134 Nev. 799, 803, 435 P.3d 672, 676 (Nev. App. 2018). Plaintiffs appear to have dismissed the claims in good faith rather than attempt to frivolously maintain them. See In re 12067 Oakland Hills, 134 Nev. 799 at 804.

Ultimately, the record suggests Plaintiffs believe they were damaged by RTC. Plaintiffs brought and maintained their case with the apparent hopes of obtaining relief, but ultimately failed to meet pre-trial procedural requirements. Plaintiffs repeatedly blame medical complications and the Covid pandemic for these failures. This Court acknowledges these hardships and notes they exacerbated communication challenges between Plaintiffs and their attorney. But this Court has previously made substantial accommodations because of the pandemic. While Plaintiffs ultimately failed to provide the evidence required, and therefore will pay attorney's fees under the statute, this Court is not persuaded that no evidence exists to support the Plaintiffs' perception of viable claims. The lack of sufficient evidence is a justifying factor for granting fees but not mandatory under the statute and within the context of the entire record.

Thus, Plaintiffs appear to have a good faith bases for their claims, but their counsel failed to produce discovery or dismiss the action if discovery would be impossible due to hardship. A "civil litigant is bound by the acts or omissions of its voluntarily chosen attorney." Huckabay Props. v. NC Auto Parts, 130 Nev. 196, 198, 322 P.3d 429, 430 (2014). Plaintiffs are responsible for counsel's actions or omissions as their own actions or omissions by imputation. Lange v. Hickman, 92 Nev. 41, 43, 544 P.2d 1208, 1209 (1976);

Id. at 204; Pioneer Inv. Servs. Co. v. Brunswick Assocs. Ltd. P'ship, 507 U.S. 380, 396, 113 S. Ct. 1489, 1499, 123 L. Ed. 2d 74 (1993). Plaintiffs are responsible for delays and failure to produce discovery, whether or not through the fault of counsel.[1] Though these hardships do not relieve Plaintiffs' responsibility for fees, they are a feature of Plaintiffs' procedural failures that, as opposed to bad faith, resulted in dismissal and summary judgment.

The last mitigating factor is that this Court has already ordered sanctions and a case-ending order to punish the exact failures at issue in this analysis. This Court agrees with RTC that the award should be reduced by the amount of sanctions already awarded. This Court also considers to what extent its orders in this matter have already punished Plaintiffs for their delays and failure to provide evidence.

Finally, this Court weighs these considerations with the four Brunzell factors: "(1) the qualities of the advocate . . . (2) the character of the work to be done . . . (3) the work actually performed by the lawyer: . . . [and] (4) the result." Brunzell v. Golden Gate Nat. Bank, 85 Nev. 345, 349, 455 P.2d 31, 33 (1969).

For the first factor, Plaintiffs concede RTC's counsel are well-respected, highly skilled, and experienced attorneys. Indeed, this Court notes the reduction of fees is in no way related to the exemplary work of RTC's counsel or the outcomes they obtained in this matter.

Second, the character of the work was fairly complicated given the circumstances. The claims themselves may not have been complicated, but the number of claims complicated counsel's work.

Third, counsel provided memoranda adequately detailing the hourly work performed. While Plaintiffs argue the reported hours for some tasks are disproportionate to the papers produced and the complexity of the claims, this Court finds the hours to be reasonable given the number of claims, allegations, hearings, motions, and possible defenses involved. This Court is also unpersuaded that the number of pages produced is disproportionate to the time reported given the subject matter. The quality of the pages is

[1] This Court does not intend to make any statements, and no inferences should be made, regarding any future disagreements between Plaintiffs and their attorney.

of more importance than the quantity. RTC wrote successful motions to dismiss, motions for summary judgment, and other filings. This was consistently high-quality work despite the ambiguities and uncertainties arising from Plaintiffs' sporadic participation and communications.

Fourth, RTC's counsel prevailed against all claims through three different avenues: stipulation to voluntary dismissal with prejudice, involuntary dismissal, and summary judgment.

This Court concludes an award of $61,057.07 for attorney's fees is justified upon review of the memorandum and Brunzell factors. This calculation reflects a 40% reduction of requested fees as reasonable and fair under the facts of this case. See Logan, 131 Nev. 260 at 266; Haley v. Dist. Ct., 128 Nev. 171, 178, 273 P.3d 855, 860 (2012).

This Court concludes RTC's memorandum of costs to be adequate to show costs are reasonable, necessary, and actually incurred under NRS 18.110. Katz v. Incline Vill. Gen. Improvement Dist., 452 P.3d 411 (Nev. 2019), cert. denied, 141 S. Ct. 253, 208 L. Ed. 2d 26 (2020). Costs are awarded in this case under NRS 18.020(3).

IT IS HEREBY ORDERED AND ADJUDGED that judgment shall be entered in favor of RTC and against Plaintiffs in the amount of $3,647.35 as costs, with interest accruing thereon at the statutory rate, and $61,057.07 in attorney's fees.

IT IS SO ORDERED.

Dated: October 18, 2021.

David A. Hardy
District Court Judge

CERTIFICATE OF MAILING

Pursuant to NRCP 5(b), I certify that I am an employee of the Second Judicial District Court of the State of Nevada, County of Washoe; that on this ____ day of October, 2021, I deposited in the County mailing system for postage and mailing with the United States Postal Service in Reno, Nevada, a true copy of the attached document addressed to:

CERTIFICATE OF ELECTRONIC SERVICE

I hereby certify that I am an employee of the Second Judicial District Court of the State of Nevada, in and for the County of Washoe; that on the 18 day of October, 2021, I electronically filed the foregoing with the Clerk of the Court by using the ECF system which will send a notice of electronic filing to the following:

MICHAEL MORRISON, ESQ.
DANE ANDERSON, ESQ.
BRONAGH KELLY, ESQ.
D. ALBRIGHT, ESQ.

Sheila Mansfield
Judicial Assistant

FILED
Electronically
CV19-00459
2021-10-18 11:28:20 AM
Alicia L. Lerud
Clerk of the Court
Transaction # 8702337

2540
Dane W. Anderson, Esq.
Nevada Bar No. 6883
Bronagh M. Kelly, Esq.
Nevada Bar No. 14555
WOODBURN AND WEDGE
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Reno, Nevada 89511
Telephone: 775-688-3000
Facsimile: 775-688-3088
danderson@woodburnandwedge.com
bkelly@woodburnandwedge.com

Attorneys for Defendant, the Regional Transportation Commission of Washoe County

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an individual; AND SONNIA ILIESCU, an individual, Plaintiffs, v. THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1 – 40, inclusive, Defendants.	Case No.: CV19-00459 Dept. No.: 15

NOTICE OF ENTRY OF ORDER

TO: ALL INTERESTED PARTIES:

PLEASE TAKE NOTICE that an Order Granting Attorney's Fees and Entry of Judgment was entered in the above-entitled action on October 18, 2021, by this Court. A copy of the Order is attached hereto as **Exhibit 1**.

///

///

Affirmation pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding Notice of Entry of Order does not contain the personal information of any person.

Dated: October 18, 2021

WOODBURN AND WEDGE

By: /s/ Dane W. Anderson, Esq.
Nevada Bar No. 6883
Bronagh M. Kelly, Esq.
Nevada Bar No. 14555

Attorneys for Defendant
The Regional Transportation
Commission of Washoe County

Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, NV 89511
775-688-3000

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Woodburn and Wedge and that on this date, I caused to be sent via electronic delivery through the Court's E-flex system a true and correct copy of the **NOTICE OF ENTRY OF ORDER** to:

MICHAEL J. MORRISON, ESQ.
1495 Ridgeview Dr., #220
Reno, Nevada 89519
venturelawusa@gmail.com

Attorneys for Plaintiffs

DATED: October 18, 2021.

/s/ Caitlin Pagni
Employee of Woodburn and Wedge

Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, NV 89511
775-688-3000

F I L E D
Electronically
CV19-00459
2021-10-18 11:28:20 AM
Alicia L. Lerud
Clerk of the Court
Transaction #8709837

EXHIBIT 1

EXHIBIT 1

FILED
Electronically
CV19-00459
2021-10-18 09:29:40 AM
Alicia L. Lerud
Clerk of the Court
Transaction # 8701865

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU, JR. AND SONNIA ILIESCU 1992 FAMILY TRUST,

Plaintiff,

vs.

THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; AND DOES 1-40,

Defendants.

_____/

Case No. CV19-00459

Dept. No. 15

ORDER GRANTING ATTORNEY'S FEES AND ENTRY OF JUDGMENT

Before this Court is Defendant Regional Transportation Commission of Washoe County's (RTC) opposed Motion for Attorney Fees and for Entry of Judgment for Attorney Fees and Costs. This Court has reviewed the moving papers, record, and relevant authorities.

The procedural history of this case is well-documented. Throughout the proceedings, this Court responded to Plaintiffs' procedural failures through various orders, including sanctions and summary judgment because Plaintiffs provided insufficient admissible evidence during pre-trial discovery. RTC now requests an award of attorney's fees under NRS 18.010(2)(b), arguing the action was groundless and frivolous

due to Plaintiffs' number and nature of claims, actions causing delay, and failure to produce evidence. RTC also requests an award of costs.

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> [W]as brought or maintained without reasonable ground or to harass the prevailing party. The court shall liberally construe the provisions of this paragraph in favor of awarding attorney's fees in all appropriate situations. It is the intent of the Legislature that the court award attorney's fees pursuant to this paragraph and impose sanctions pursuant to Rule 11 of the Nevada Rules of Civil Procedure in all appropriate situations to punish for and deter frivolous or vexatious claims and defenses because such claims and defenses overburden limited judicial resources, hinder the timely resolution of meritorious claims and increase the costs of engaging in business and providing professional services to the public.

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The ultimate inquiry is whether the proceedings were initiated or defended with "improper motives or without reasonable grounds." Bobby Berosini, Ltd. v. People for the Ethical Treatment of Animals, 114 Nev. 1348, 1354, 971 P.2d 383, 387 (1998). "A claim is frivolous or groundless if there is no credible evidence to support it." Rodriguez v. Primadonna Co., LLC, 125 Nev. 578, 588, 216 P.3d 793, 800 (2009).

The analysis for awarding fees under the statute after its 2003 amendment adding a ban on "maintaining" groundless claims is not limited to evidence presented at trial or whether a claim was frivolous at the time it was raised. S. Nevada Chinese Wkly. v. Chinese Am. Chamber of Com. of Nevada, 126 Nev. 757, 367 P.3d 821 (2010). The statute's current form also encourages a fee award when a party brings a large number of claims "hoping one would stick." Id.

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Here, RTC is the prevailing party on all claims through dismissal or summary judgment. See 145 E. Harmon II Tr. v. Residences at MGM Grand - Tower A Owners' Ass'n, 136 Nev. 115, 120, 460 P.3d 455, 459 (2020) (explaining prevailing party status, including that voluntary dismissal with prejudice generally means a defendant

"prevailed" for purposes of fees, but courts should consider the circumstances of dismissal).

As this Court did not make direct findings of fact that any claims were frivolous or unreasonably maintained, Plaintiffs' failure to present evidence at the summary judgment stage is not a *de facto* determination that fees are warranted. Rivero v. Rivero, 125 Nev. 410, 441, 216 P.3d 213, 234 (2009); see also Schmidt, 124 Nev. 1506. However, Plaintiffs' failure would justify this Court in making such a finding of fact and awarding attorney's fees. TMX, Inc. v. Volk, 448 P.3d 574 (Nev. 2019).

This Court granted summary judgment only after a prolonged discovery period where this Court intervened on several occasions, reminded Plaintiffs to produce discovery, ordered a discovery schedule, imposed sanctions for delays and failures to meet deadlines, and held hearings. Despite ample time and opportunity to either produce evidence or suffer summary adjudication, Plaintiffs failed to provide support for the remaining claims' essential facts, some of which were central to the entire original complaint.

Plaintiffs filed a complaint with twelve claims involving RTC harming their parking lot, and then failed to provide evidence of the condition of the parking lot before or after the alleged misconduct, any action RTC took to cause the alleged damages, or evidence of costs of repair or loss of value. Plaintiffs filed a complaint involving a contract, and then failed to provide evidence of its terms. As this Court explained when granting summary judgment, Plaintiffs claimed damages and then did not provide a single expert witness necessary to explain liability or analyze damages. Though Plaintiffs no longer had the burden to support dismissed claims at the summary judgment stage, they had both the opportunity and burden to provide evidence for their remaining claims that would have also been essential to the original claims. Thus, Plaintiffs' entire complaint may be "groundless" under the evidence analysis.

Plaintiffs' delays and procedural behavior in this matter further justify an award under the statute's liberal application. Plaintiffs brought twelve claims, including claims

their alleged facts did not support. Despite not wishing to disclose their own medical records, Plaintiffs brought claims relating to their mental health that required such disclosures. Under their own explanations of external hardships causing delays and procedural failures, Plaintiffs at some point should have known they could not adequately prosecute their case. Instead, they repeatedly missed deadlines and only participated in proceedings primarily when objecting to RTC's motions or requesting more time to perform. Thus, RTC incurred extra fees while Plaintiffs extended and delayed proceedings, doing enough to maintain their claims without the apparent ability to produce evidence for them. The length of time and number of delays and failures are especially egregious. Thus, Plaintiffs maintained their claims with at least a level of unreasonableness. Under the statute and in the interest of fairness, the circumstances warrant awarding attorney's fees to RTC.

However, this Court has broad discretion to determine the amount of attorney's fees, to be "'tempered only by reason and fairness." Albios v. Horizon Communities, Inc., 122 Nev. 409, 427, 132 P.3d 1022, 1034 (2006). This Court's approach in setting the amount of fees considers what is reasonable and fair, the language and purpose of the statute, and RTC's counsel's memoranda "in light of the Brunzell" factors. Id; see also Logan v. Abe, 131 Nev. 260, 266, 350 P.3d 1139, 1143 (2015).

As explained above, NRS 18.010(2)(b) is the exception to the general rule that parties pay their own fees. Fees are justified under that statute. However, this Court also finds some aspects of this case do not fully conform to the purposes underlying the statute. Thus, this Court considers what amount of fees most reasonably provides an exception to the general rule. This Court concludes that requiring Plaintiffs to pay attorney's fees for all work performed would be unreasonable insofar as Plaintiffs did not act with the type of frivolous or vexatious intent the award is meant to "punish for and deter." NRS 18.010(2)(b).

Plaintiffs did not appear to maintain the action *for the purpose* of harassing RTC. This statutory language implies a *mens rea*, i.e., a knowing course of conduct in which

litigation is the tool to effect harassment of an opposing party. There is a distinction, both theoretical and actual, between intentionally harassing an opposing party and engaging in harassing conduct during litigation. Plaintiffs unduly subjected RTC to hardship because of repeated delays, but the record does not suggest any intentional harassment.

For instance, though Plaintiffs stipulated to dismiss tort claims rather than provide their medical records, they did so only four months after service, less than a month after the start of discovery, and prior to any papers or hearings on those claims. See Arellano v. Iglesias, 468 P.3d 375 (Nev. 2020); see also In re 12067 Oakland Hills, Las Vegas, Nevada 89141, 134 Nev. 799, 803, 435 P.3d 672, 676 (Nev. App. 2018). Plaintiffs appear to have dismissed the claims in good faith rather than attempt to frivolously maintain them. See In re 12067 Oakland Hills, 134 Nev. 799 at 804.

Ultimately, the record suggests Plaintiffs believe they were damaged by RTC. Plaintiffs brought and maintained their case with the apparent hopes of obtaining relief, but ultimately failed to meet pre-trial procedural requirements. Plaintiffs repeatedly blame medical complications and the Covid pandemic for these failures. This Court acknowledges these hardships and notes they exacerbated communication challenges between Plaintiffs and their attorney. But this Court has previously made substantial accommodations because of the pandemic. While Plaintiffs ultimately failed to provide the evidence required, and therefore will pay attorney's fees under the statute, this Court is not persuaded that no evidence exists to support the Plaintiffs' perception of viable claims. The lack of sufficient evidence is a justifying factor for granting fees but not mandatory under the statute and within the context of the entire record.

Thus, Plaintiffs appear to have a good faith bases for their claims, but their counsel failed to produce discovery or dismiss the action if discovery would be impossible due to hardship. A "civil litigant is bound by the acts or omissions of its voluntarily chosen attorney." Huckabay Props. v. NC Auto Parts, 130 Nev. 196, 198, 322 P.3d 429, 430 (2014). Plaintiffs are responsible for counsel's actions or omissions as their own actions or omissions by imputation. Lange v. Hickman, 92 Nev. 41, 43, 544 P.2d 1208, 1209 (1976);

Id. at 204; Pioneer Inv. Servs. Co. v. Brunswick Assocs. Ltd. P'ship, 507 U.S. 380, 396, 113 S. Ct. 1489, 1499, 123 L. Ed. 2d 74 (1993). Plaintiffs are responsible for delays and failure to produce discovery, whether or not through the fault of counsel.[1] Though these hardships do not relieve Plaintiffs' responsibility for fees, they are a feature of Plaintiffs' procedural failures that, as opposed to bad faith, resulted in dismissal and summary judgment.

The last mitigating factor is that this Court has already ordered sanctions and a case-ending order to punish the exact failures at issue in this analysis. This Court agrees with RTC that the award should be reduced by the amount of sanctions already awarded. This Court also considers to what extent its orders in this matter have already punished Plaintiffs for their delays and failure to provide evidence.

Finally, this Court weighs these considerations with the four Brunzell factors: "(1) the qualities of the advocate . . . (2) the character of the work to be done . . . (3) the work actually performed by the lawyer: . . . [and] (4) the result." Brunzell v. Golden Gate Nat. Bank, 85 Nev. 345, 349, 455 P.2d 31, 33 (1969).

For the first factor, Plaintiffs concede RTC's counsel are well-respected, highly skilled, and experienced attorneys. Indeed, this Court notes the reduction of fees is in no way related to the exemplary work of RTC's counsel or the outcomes they obtained in this matter.

Second, the character of the work was fairly complicated given the circumstances. The claims themselves may not have been complicated, but the number of claims complicated counsel's work.

Third, counsel provided memoranda adequately detailing the hourly work performed. While Plaintiffs argue the reported hours for some tasks are disproportionate to the papers produced and the complexity of the claims, this Court finds the hours to be reasonable given the number of claims, allegations, hearings, motions, and possible defenses involved. This Court is also unpersuaded that the number of pages produced is disproportionate to the time reported given the subject matter. The quality of the pages is

[1] This Court does not intend to make any statements, and no inferences should be made, regarding any future disagreements between Plaintiffs and their attorney.

of more importance than the quantity. RTC wrote successful motions to dismiss, motions for summary judgment, and other filings. This was consistently high-quality work despite the ambiguities and uncertainties arising from Plaintiffs' sporadic participation and communications.

Fourth, RTC's counsel prevailed against all claims through three different avenues: stipulation to voluntary dismissal with prejudice, involuntary dismissal, and summary judgment.

This Court concludes an award of $61,057.07 for attorney's fees is justified upon review of the memorandum and Brunzell factors. This calculation reflects a 40% reduction of requested fees as reasonable and fair under the facts of this case. See Logan, 131 Nev. 260 at 266; Haley v. Dist. Ct., 128 Nev. 171, 178, 273 P.3d 855, 860 (2012).

This Court concludes RTC's memorandum of costs to be adequate to show costs are reasonable, necessary, and actually incurred under NRS 18.110. Katz v. Incline Vill. Gen. Improvement Dist., 452 P.3d 411 (Nev. 2019), cert. denied, 141 S. Ct. 253, 208 L. Ed. 2d 26 (2020). Costs are awarded in this case under NRS 18.020(3).

IT IS HEREBY ORDERED AND ADJUDGED that judgment shall be entered in favor of RTC and against Plaintiffs in the amount of $3,647.35 as costs, with interest accruing thereon at the statutory rate, and $61,057.07 in attorney's fees.

IT IS SO ORDERED.

Dated: October 18, 2021.

David A. Hardy
District Court Judge

CERTIFICATE OF MAILING

Pursuant to NRCP 5(b), I certify that I am an employee of the Second Judicial District Court of the State of Nevada, County of Washoe; that on this ____ day of October, 2021, I deposited in the County mailing system for postage and mailing with the United States Postal Service in Reno, Nevada, a true copy of the attached document addressed to:

CERTIFICATE OF ELECTRONIC SERVICE

I hereby certify that I am an employee of the Second Judicial District Court of the State of Nevada, in and for the County of Washoe; that on the 18 day of October, 2021, I electronically filed the foregoing with the Clerk of the Court by using the ECF system which will send a notice of electronic filing to the following:

MICHAEL MORRISON, ESQ.
DANE ANDERSON, ESQ.
BRONAGH KELLY, ESQ.
D. ALBRIGHT, ESQ.

Sheila Mansfield
Judicial Assistant

FILED
Electronically
CV19-00459
2021-10-21 10:46:28 AM
Alicia L. Lerud
Clerk of the Court
Transaction # 8709785

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IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an individual; and SONNIA ILIESCU, an individual,

Plaintiffs,

v.

THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1 through 40 inclusive,

Defendants.

WASHOE COUNTY DISTRICT COURT
CASE NO. CV19-00459

(Supreme Court Case No. 83212)

AMENDED
NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN that Plaintiffs, JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an individual; and SONNIA ILIESCU, an individual, hereby appeal to the Supreme Court of the State of Nevada from the following rulings, orders, judgments, and decisions entered herein:

A. The "Order Granting Summary Judgment After Supplemental Arguments" entered in favor of Defendant, The Regional Transportation Commission of Washoe

County [Washoe County Clerk Transaction #8487964] on June 9, 2021, Notice of Entry of which Order was entered on June 10, 2021 [Transaction #8490380].[1]

B. "Order Granting Attorney's Fees and Entry of Judgment" in favor of Defendant, The Regional Transportation Commission of Washoe County [Washoe County Clerk Transaction #8701865] entered on October 18, 2021, which Order and Judgment awarded costs and attorney's fees to the Respondent, Notice of Entry of which Order was entered on October 18, 2021 [Transaction #8702337].

AFFIRMATION

The undersigned does hereby affirm that the preceding document filed in the Second Judicial District Court does not contain the social security number of any person.

DATED this 21st day of October, 2021.

ALBRIGHT, STODDARD, WARNICK & ALBRIGHT

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[1] Said Order was previously timely appealed by and via that certain Notice of Appeal entered herein on July 9, 2021 [Transaction #8536470]. The present Amended Notice of Appeal is filed in order to also appeal the subsequent attorney's fees award and judgment entered later.

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CERTIFICATE OF SERVICE

I hereby certify that I am an employee of ALBRIGHT, STODDARD, WARNICK & ALBRIGHT and that on the 21st day of October, 2021, I served a true and correct copy of the foregoing **AMENDED NOTICE OF APPEAL** upon all counsel of record by electronically serving the document using the Court's electronic filing system:

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An employee of Albright, Stoddard, Warnick & Albright