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Elizabeth A. Brown
Clerk of Supreme Court

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Attorney for Gabriel J. Daley

**DISTRICT COURT
CLARK COUNT OF NEVADA**

ENCORE GROUP OF PROFESSIONALS, LLC,)	Case No.: A-16-735644-C
)	Dept. No. V
Plaintiff,)	
)	
vs.)	
)	
GABRIEL J. DALEY, DOES I through X)	
and ROES CORPORATIONS XI through XX,)	
inclusive,)	
)	
Defendants.)	
_____)	
ALL RELATED CLAIMS)	
_____)	

NOTICE OF APPEAL

TO: ENCORE GROUP OF PROFESSIONALS, LLC;
TO: KENT P. WOODS, ESQ., Counsel for Encore Group of Professionals, LLC;
TO: ENCORE GROUP OF CALIFORNIA, LLC, Third Party Defendant;
TO: ENCORE GROUP OF NEVADA, LLC, Third Party Defendant;
TO: ENCORE GROUP OF TEXAS, LLC, Third Party Defendant;
TO: ENCORE GROUP OF HAWAII, LLC, Third Party Defendant;
TO: JOHN D. & TERRI L. JACKSON TRUST u/d/a 10/31/2016, Third Party Defendant;
TO: JOHN JACKSON, Third Party Defendant;
TO: TERRI JACKSON, Third Party Defendant;
TO: SYLO MANAGEMENT LLC, Counsel for Third Party Defendants,
TO: PHILIP R. EMERSON, ESQ., Counsel for Third Party Defendants,

NOTICE IS HEREBY GIVEN that Gabriel J. Daley, Appellant above-named hereby
appeals to the Nevada Supreme Court to reverse the final ruling of the Eighth Judicial District

1 Court, Judge Veronica Barisich in the final judgment dated April 17, 2022, and notice of entry was
2 filed on April 20, 2022.

3 DATED this 16th day of May, 2022.

4 LAW OFFICE OF TIMOTHY P. THOMAS, LLC

5
6 */s/ Timothy P. Thomas*

7 Timothy P. Thomas, Esq.
8 1771 E. Flamingo Rd., Suite 212B
9 Las Vegas, NV 89121
10 *Counsel for Appellants.*
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Kent P. Woods, Esq.
Woods Erickson & Whitaker, LLP
1349 W. Galleria Drive, Suite 200
Henderson, NV., 89014

/s/ *Lainey Hare*
EMPLOYEE OF
LAW OFFICE OF TIMOTHY P. THOMAS, LLC

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY**CASE NO. A-16-735644-C**

Encore Group of Professionals, Plaintiff(s)
vs.
Gabriel Daley, Defendant(s)

§
§
§
§
§

Location: **Department 5**
 Judicial Officer: **Barisich, Veronica M.**
 Filed on: **04/26/2016**
 Case Number History:
 Cross-Reference Case Number: **A735644**

CASE INFORMATIONCase Type: **Other Contract**

Case
Status: **04/26/2016 Open**

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

Case Number	A-16-735644-C
Court	Department 5
Date Assigned	01/04/2021
Judicial Officer	Barisich, Veronica M.

PARTY INFORMATION

Plaintiff	Encore Group of Professionals	<i>Lead Attorneys</i> Woods, Kent P. <i>Retained</i> 702-433-9696(W)
Defendant	Daley, Gabriel J	Thomas, Timothy P <i>Retained</i> 702-227-0011(W)
Counter Claimant	Daley, Gabriel J	Thomas, Timothy P <i>Retained</i> 702-227-0011(W)
Counter Defendant	Encore Group of Professionals	Woods, Kent P. <i>Retained</i> 702-433-9696(W)
Third Party Defendant	Encore Group of California LLC	Emerson, Phillip R <i>Retained</i> 7023849444(W)
	Encore Group of Hawaii LLC	Emerson, Phillip R <i>Retained</i> 7023849444(W)
	Encore Group of Nevada LLC	Emerson, Phillip R <i>Retained</i> 7023849444(W)
	Encore Group of Texas LLC	Emerson, Phillip R <i>Retained</i> 7023849444(W)
	Jackson, John D	Emerson, Phillip R <i>Retained</i> 7023849444(W)
	Jackson, John D. Removed: 06/06/2017	

CASE SUMMARY**CASE NO. A-16-735644-C**

Data Entry Error

Jackson, Terri L.**Emerson, Phillip R***Retained*

7023849444(W)

John D. & Terri L. Jackson Trust u/d/a 10/31/2016**Emerson, Phillip R***Retained*










7023849444(W)

Sylo Management LLC**Emerson, Phillip R***Retained*

7023849444(W)













**Third Party
Plaintiff****Daley, Gabriel J****Thomas, Timothy P***Retained*

702-227-0011(W)

DATE	EVENTS & ORDERS OF THE COURT	INDEX
	<u>EVENTS</u>	
04/26/2016	 Complaint Filed By: Counter Defendant Encore Group of Professionals <i>[1] Complaint</i>	
04/26/2016	 Initial Appearance Fee Disclosure Filed By: Counter Defendant Encore Group of Professionals <i>[2] Initial Appearance Fee Disclosure</i>	
04/28/2016	 Summons Filed by: Counter Defendant Encore Group of Professionals <i>[3] Summons-Civil</i>	
05/18/2016	 Affidavit of Service Filed By: Counter Defendant Encore Group of Professionals <i>[4] Affidavit of Service</i>	
05/19/2016	 Initial Appearance Fee Disclosure Filed By: Third Party Plaintiff Daley, Gabriel J <i>[6] Initial Appearance Fee Disclosure</i>	
05/19/2016	 Answer and Counterclaim Filed By: Third Party Plaintiff Daley, Gabriel J <i>[5] Answer to Complaint, Affirmative Defenses, and Counterclaim</i>	
05/25/2016	 Certificate of Mailing Filed By: Third Party Plaintiff Daley, Gabriel J <i>[7] Certificate of Mailing</i>	
06/13/2016	 Summons Filed by: Third Party Plaintiff Daley, Gabriel J <i>[8] Summons</i>	
06/14/2016	 Reply to Counterclaim Filed by: Counter Defendant Encore Group of Professionals <i>[9] Reply to Counterclaim</i>	
06/23/2016		

CASE SUMMARY

CASE NO. A-16-735644-C

	 Answer to Third Party Complaint Filed By: Third Party Defendant Jackson, John D <i>[10] Third-Party Defendant, John D. Jackson's Answer to Third-Party Complaint</i>
06/23/2016	 Initial Appearance Fee Disclosure Filed By: Third Party Defendant Jackson, John D <i>[11] Initial Appearance Fee Disclosure</i>
06/30/2016	 Notice Filed By: Third Party Plaintiff Daley, Gabriel J <i>[12] Notice of Unavailability of Counsel</i>
07/25/2016	 Receipt of Copy Filed by: Third Party Plaintiff Daley, Gabriel J <i>[13] Receipt of Copy</i>
07/25/2016	 Receipt of Copy Filed by: Third Party Plaintiff Daley, Gabriel J <i>[14] Receipt of Copy</i>
07/29/2016	 Demand for Jury Trial Filed By: Third Party Defendant Jackson, John D <i>[15] demand for Jury Trial</i>
08/12/2016	 Motion to Dismiss Filed By: Third Party Plaintiff Daley, Gabriel J <i>[16] Defendant/Counterclaimant Gabriel J. Daley's Motion to Dismiss Plaintiff's Causes of Action Relating to Employment Agreement Pursuant to NRCP 12(b)</i>
08/15/2016	 Notice of Hearing <i>[17] Notice of Hearing</i>
08/15/2016	 Certificate of Mailing Filed By: Counter Defendant Encore Group of Professionals <i>[18] Certificate of Mailing</i>
08/17/2016	 Certificate of Mailing Filed By: Third Party Plaintiff Daley, Gabriel J <i>[19] Certificate of Service</i>
08/23/2016	 Joint Case Conference Report Filed By: Third Party Defendant Jackson, John D <i>[20] Joint Case Conference Report</i>
08/26/2016	 Reply to Counterclaim Filed by: Counter Defendant Encore Group of Professionals <i>[21] Plaintiff/Counterdefendant's Opposition o Defendant/CounterClaimant Gabriel J Daley's Motion to Dismiss Plaintiff's Causes of Action Relating to Employment Agreement Pursuant to NRCP 12(b) and Counter Motion to Dismiss Second Third and Fourth Counterclaims or Alternative for Summary Judgment</i>
08/29/2016	 Initial Appearance Fee Disclosure Filed By: Counter Defendant Encore Group of Professionals <i>[22] Initial Appearance Fee Disclosure</i>

CASE SUMMARY

CASE NO. A-16-735644-C

08/31/2016



Joinder

Filed By: Third Party Defendant Jackson, John D
[23] Third Party Defendant John D Jackson's Joinder to Plaintiff/Counter Defendant's Opposition to Defendant/Counter Claimant Gabriel J Daley's Motion to Dismiss Plaintiff's Cause of Action Relating to Employment Agreement Pursuant to NRCP 12(b) and Counter Motion to Dismiss Second, Third and Fourth Counterclaims or Alternatively for Summary Judgment

09/01/2016



Initial Appearance Fee Disclosure

Filed By: Third Party Defendant Jackson, John D
[24] Initial Appearance Fee Disclosure

09/07/2016



Reply to Opposition

Filed by: Third Party Plaintiff Daley, Gabriel J
[25] Defendant/Counterclaimant Gabriel J. Daley's Reply to Opposition to Motion to Dismiss Plaintiff's Causes of Action Relating to Employment Agreement Pursuant to NRCP 12(b)

09/09/2016



Opposition

Filed By: Third Party Plaintiff Daley, Gabriel J
[26] Defendant/Counterclaimant Gabriel J. Daley's Opposition to Plaintiff's Countermotion to Dismiss Second, Third, and Fourth Counterclaims, or Alternatively for Summary Judgment

09/13/2016



Reply to Counterclaim

Filed by: Counter Defendant Encore Group of Professionals
[27] Plaintiff's Reply to Defendant/Counterclaimant Gabriel J. Daley's Opposition to Plaintiff's Countermotion to Dismiss Second, Third, and Fourth Counterclaims, or, Alternatively, For Summary Judgment

10/10/2016



Scheduling Order

[28] Scheduling Order

10/12/2016



Order Setting Civil Jury Trial, Pre-Trial, and Calendar Call

[29] Order Setting Civil Jury Trial, Pretrial Conference, and Calendar Call

11/28/2016



Order Denying Motion

Filed By: Third Party Plaintiff Daley, Gabriel J
[30] Order from September 14, 2016 Hearing

12/07/2016



Notice of Entry of Order

Filed By: Third Party Plaintiff Daley, Gabriel J
[31] Notice of Entry of Order for Order from September 14, 2016 Hearing

01/02/2017

Case Reassigned to Department 29
Case reassigned from Judge Susan Scann Dept 29

03/31/2017



Motion to Dismiss

Filed By: Third Party Plaintiff Daley, Gabriel J
[32] Defendant/Counterclaimant Gabriel J. Daley's Renewed Motion to Dismiss Plaintiff's Causes of Actions Relating to Employment Agreement Pursuant to NRCP 12(b), and Motion to Dismiss Plaintiff's Cause of Action of Tortious Interference with Contractual Relationship, and Motion to Amend, and Motion to Disqualify Counsel

04/18/2017



Motion for Leave to File

Party: Counter Defendant Encore Group of Professionals
[33] Motion For Leave To File Amended Complaint

CASE SUMMARY

CASE NO. A-16-735644-C

04/18/2017



Opposition to Motion

Filed By: Counter Defendant Encore Group of Professionals

[34] Plaintiff/Counterdefendant's Opposition To Defendant/Counter-Claimant Gabriel J. Daley's Renewed Motion To Dismiss Plaintiff's Causes Of Actions Relating To Employment Agreement Pursuant to NRCP 12(b), Motion To Dismiss Plaintiff's Cause Of Action Of Tortious Interference With Contractual Relationship And Motion To Amend And Motion To Disqualify Counsel

05/02/2017



Opposition

Filed By: Third Party Plaintiff Daley, Gabriel J

[35] Defendant/Counterclaimant Gabriel J. Daley's Opposition to Plaintiff's Motion to Amend

05/03/2017



Reply to Opposition

Filed by: Third Party Plaintiff Daley, Gabriel J

[36] Defendant/Counterclaimant Gabriel J. Daley's Reply to Plaintiff's Opposition to Daley's Motion

05/05/2017



Stipulation and Order to Extend Discovery Deadlines

Filed By: Third Party Plaintiff Daley, Gabriel J

[37] Stipulation and Order for Extension of Discovery (First Request)

05/09/2017



Amended Order Setting Jury Trial

[38] Amended Order Setting Civil Jury Trial

05/17/2017



Reply to Opposition

Filed by: Counter Defendant Encore Group of Professionals

[39] Plaintiff's Reply to Defendant/ Counterclaimant Gabriel J. Dailey's Opposition to Plaintiff's Motion for Leave to File Amended Complaint

05/19/2017



Joinder To Motion

[40] Third-Party Defendant, John D. Jackson's Joinder to Encore Group of Professionals Motion For Leave to File Amended Complaint

05/23/2017



Notice of Entry of Order

Filed By: Third Party Plaintiff Daley, Gabriel J

[41] Notice of Entry of Order for Stipulation and Order Extension of Discovery (First Request)

05/30/2017



Order

Filed By: Counter Defendant Encore Group of Professionals

[42] Order on Defendant/Counterclaimant Gabriel J.Daley's Renewed Motion to Dismiss Plaintiff's Causes of Actions Relating to Employment Agreement Pursuant to NRCP 12(b), Motion to Dismiss Plaintiff's Cause of Action of Tortious Interference with Contractual Relationship and Motion to Amend and Motion to Disqualify Counsel

05/31/2017



Notice of Entry of Order

Filed By: Counter Defendant Encore Group of Professionals

[43] Notice of Entry of Order

06/02/2017



Order Granting Motion

Filed By: Counter Defendant Encore Group of Professionals

[44] Order Granting Motion For Leave To File Amended Complaint

06/05/2017



Notice of Entry of Order

CASE SUMMARY

CASE NO. A-16-735644-C

Filed By: Counter Defendant Encore Group of Professionals
[45] Notice of Entry of Order

06/06/2017



Answer and Counterclaim

Filed By: Third Party Plaintiff Daley, Gabriel J

[46] Answer to Complaint, Affirmative Defenses, and Amended Counterclaim and Amended Third Party Complaint

06/07/2017



First Amended Complaint

Filed By: Counter Defendant Encore Group of Professionals

[47] First Amended Complaint

06/07/2017



Answer and Counterclaim

Filed By: Third Party Plaintiff Daley, Gabriel J

[48] Answer to Complaint, Affirmative Defenses, and Amended Counterclaim and Amended Third Party Complaint

06/09/2017



Certificate of Service

Filed by: Third Party Plaintiff Daley, Gabriel J

[49] Certificate of Service

06/15/2017



Summons Electronically Issued - Service Pending

Party: Third Party Plaintiff Daley, Gabriel J

[50] Summons

06/15/2017



Summons Electronically Issued - Service Pending

Party: Third Party Plaintiff Daley, Gabriel J

[51] Summons for Sylo Management LLC

06/15/2017



Summons Electronically Issued - Service Pending

Party: Third Party Plaintiff Daley, Gabriel J

[52] Summons for Encore Group of Hawaii, LLC

06/15/2017



Summons Electronically Issued - Service Pending

Party: Third Party Plaintiff Daley, Gabriel J

[53] Summons for Encore Group of Nevada

06/15/2017



Summons Electronically Issued - Service Pending

Party: Third Party Plaintiff Daley, Gabriel J

[54] Summons for Encore Group of California

06/15/2017



Summons Electronically Issued - Service Pending

Party: Third Party Plaintiff Daley, Gabriel J

[55] Summons for Encore Group of Texas

06/16/2017



Motion to Compel

Filed By: Third Party Plaintiff Daley, Gabriel J

[56] Defendant Gabriel Daley's Motion to Compel Discovery

06/19/2017



Reply to Counterclaim

Filed by: Counter Defendant Encore Group of Professionals

[57] Reply to Amended Counterclaim

06/26/2017



Answer to Amended Complaint

CASE SUMMARY

CASE NO. A-16-735644-C

Filed By: Third Party Plaintiff Daley, Gabriel J
[58] Defendant Gabriel Daley's Answer to Plaintiff's First Amended Complaint and Affirmative Defenses

06/26/2017



Initial Appearance Fee Disclosure

Filed By: Third Party Plaintiff Daley, Gabriel J
[59] Initial Appearance Fee Disclosure

06/27/2017



Stipulation and Order to Extend Discovery Deadlines

Filed By: Third Party Plaintiff Daley, Gabriel J
[60] Stipulation an Order for Extension of Discovery (Second Request)

07/05/2017



Opposition to Motion

Filed By: Counter Defendant Encore Group of Professionals
[61] Plaintiff's Oppostion to Defendant's Motion to Compel Discovery

07/07/2017



Answer to Counterclaim

[62] Third Party Defendants' Answer to Counterclaim

07/12/2017



Notice of Entry of Order

Filed By: Third Party Plaintiff Daley, Gabriel J
[63] Notice of Entry of Stipulation and Order for Extension of Discovery (Second Request)

07/12/2017



Reply to Opposition

Filed by: Third Party Plaintiff Daley, Gabriel J
[64] Defendant/Counterclaimant Gabriel J. Daley's Reply to Plaintiff's Opposition to Defendant Daley's Motion to Compel Discovery

08/01/2017



Recorders Transcript of Hearing

[65] Recorders Transcript of Proceedings - Defendant Gabriel Daley's Motion to Compel Discovery - heard on July 19, 2017

08/12/2017



Summons

[66] Summons

08/12/2017



Summons

[67] Summons

08/18/2017



Motion

Filed By: Third Party Defendant Jackson, John D
[68] Motion for Court Ordered Settlement Conference

08/21/2017



Summons

Filed by: Third Party Plaintiff Daley, Gabriel J
[69] Summons

08/21/2017



Summons

Filed by: Third Party Plaintiff Daley, Gabriel J
[70] Summons

08/21/2017



Summons

Filed by: Third Party Plaintiff Daley, Gabriel J
[71] Summons

CASE SUMMARY

CASE NO. A-16-735644-C

08/21/2017	 Notice of Motion Filed By: Third Party Defendant Jackson, John D <i>[72] Notice of Motion</i>
08/31/2017	 Opposition Filed By: Third Party Plaintiff Daley, Gabriel J <i>[73] Defendant/Counterclaimant Gabriel J. Daley's Limited Opposition to Motion for Court Ordered Settlement Conference Pursuant to NRCP 16(a)(5)</i>
09/05/2017	 Joinder To Motion Filed By: Counter Defendant Encore Group of Professionals <i>[74] Plaintiff/CounterDefendant's Joinder to Motion for Court Ordered Settlement Conference Pursuant to NRCP 16(a)(5)</i>
09/05/2017	 Motion for Protective Order Filed By: Counter Defendant Encore Group of Professionals <i>[75] Plaintiff/CounterDefendant's Motion for Limited Protective Order</i>
09/12/2017	 Joinder Filed By: Third Party Defendant Sylo Management LLC; Third Party Defendant Encore Group of Hawaii LLC; Third Party Defendant Encore Group of California LLC; Third Party Defendant Encore Group of Nevada LLC; Third Party Defendant Encore Group of Texas LLC; Third Party Defendant John D. & Terri L. Jackson Trust u/d/a 10/31/2016 <i>[76] Third Party Defendants' Joinder to Plaintiff/Counterdefendnat's Motion for Limited Protective Order</i>
09/13/2017	 Initial Appearance Fee Disclosure Filed By: Third Party Defendant Encore Group of Hawaii LLC; Third Party Defendant Encore Group of California LLC; Third Party Defendant Encore Group of Nevada LLC; Third Party Defendant Encore Group of Texas LLC; Third Party Defendant John D. & Terri L. Jackson Trust u/d/a 10/31/2016 <i>[77] Initial Appearance Fee Disclosure</i>
09/15/2017	 Motion for Protective Order Filed By: Counter Defendant Encore Group of Professionals <i>[78] Plaintiff/CounterDefendant's Motion for Limited Protective Order</i>
09/15/2017	 Notice of Entry of Order Filed By: Counter Defendant Encore Group of Professionals <i>[79] Notice of Entry of Order For Plaintiff/CounterDefendant's Motion for Limited Protective Order</i>
09/18/2017	 Opposition Filed By: Third Party Plaintiff Daley, Gabriel J <i>[80] Defendant/Counterclaimant Gabriel J. Daley's Opposition to Plaintiff/Counterdefendant's Motion for Limited Protective Order</i>
10/06/2017	 Discovery Commissioners Report and Recommendations Filed By: Third Party Plaintiff Daley, Gabriel J <i>[81] Discovery Commissioner's Report and Recommendations</i>
10/11/2017	 Notice of Entry Filed By: Third Party Plaintiff Daley, Gabriel J <i>[82] Notice of Entry of Order for Discovery Commissioner's Report and Recommendations</i>
11/17/2017	 Statement

CASE SUMMARY

CASE NO. A-16-735644-C

Filed by: Counter Defendant Encore Group of Professionals
[83] Statement of Undisputed Facts in Support of Plaintiff's Motion For Summary Judgment on Plaintiff's Seventh Cause of Action and Defendant's Second, Third, and Fourth Counterclaims

11/17/2017



Motion for Summary Judgment

Filed By: Counter Defendant Encore Group of Professionals
[84] Plaintiff's Motion for Summary Judgment on Plaintiff's Seventh Cause of Action and Defendant's Second, Third, and Fourth Counterclaims

11/27/2017



Discovery Commissioners Report and Recommendations

Filed By: Third Party Plaintiff Daley, Gabriel J
[85] Discovery Commissioner's Report and Recommendations

12/12/2017



Notice of Entry of Order

Filed By: Third Party Plaintiff Daley, Gabriel J
[86] Notice of Entry of Order for Discovery Commissioner's' Report and Recommendations

12/13/2017



Stipulation and Order

Filed by: Third Party Plaintiff Daley, Gabriel J
[87] Stipulation and Order for Continue Hearing

12/22/2017



Opposition to Motion For Summary Judgment

Filed By: Third Party Plaintiff Daley, Gabriel J
[88] Defendant/Counterclaimant Gabriel J. Daley's Opposition to Plaintiff's Motion for Summary Judgment

12/22/2017



Opposition to Motion

Filed By: Third Party Plaintiff Daley, Gabriel J
[89] Part II Defendant/Counterclaimant Gabriel J. Daley's Opposition to Plaintiff Motion for Summary Judgment

01/09/2018



Stipulation and Order to Extend Discovery Deadlines

Filed By: Third Party Plaintiff Daley, Gabriel J
[90] Stipulation and Order for Extension of Discovery (Third Request)

01/09/2018



Notice of Entry of Order

Filed By: Third Party Plaintiff Daley, Gabriel J
[91] Notice of Entry of Order for Stipulation and Order to Continue Hearing

01/18/2018



Order Setting Civil Jury Trial

[92] Second Amended Order Setting Civil Jury Trial

01/25/2018



Reply to Opposition

Filed by: Counter Defendant Encore Group of Professionals
[93] Plaintiff's Reply to Defendant/Counterclaimant Gabriel J. Daley's Opposition to Plaintiff's Motion for Summary Judgment on Plaintiff's Seventh Cause of Action and Defendant's Second, Third, and Fourth Counterclaims

02/15/2018



Motion to Withdraw As Counsel

[94] Motion to Withdraw as Attorney of Record for Defendant/Counterclaimant Gabriel J. Daley and Ex-Parte Application for Order Shortening Time

02/15/2018













Certificate of Service

[95] Certificate of Service

CASE SUMMARY

CASE NO. A-16-735644-C

02/20/2018	 Recorders Transcript of Hearing <i>[96] Recorders Transcript of Hearing All Pending Motions 1/31/18</i>
02/20/2018	 Order Filed By: Counter Defendant Encore Group of Professionals <i>[97] Order on Plaintiff's Motion for Summary Judgment on Plaintiff's Seventh Cause of Action and Defendant's Second, Third, and Fourth Counterclaims</i>
02/23/2018	 Notice of Entry of Order Filed By: Counter Defendant Encore Group of Professionals <i>[98] Notice of Entry of Order on Plaintiff's Motion for Summary Judgment on Plaintiff's Seventh Cause of Action and Defendant's Second, Third, and Fourth Counterclaims</i>
02/26/2018	 Substitution of Attorney Filed by: Third Party Plaintiff Daley, Gabriel J <i>[99] Substitution of Attorney</i>
04/26/2018	 Stipulation and Order Filed by: Third Party Plaintiff Daley, Gabriel J <i>[100] Stipulation and Order for Extension of Discovery</i>
04/28/2018	 Substitution of Attorney Filed by: Counter Defendant Encore Group of Professionals <i>[101] Notice of Substitution of Counsel for Encore Group of Professionals LLC</i>
05/10/2018	 Notice <i>[102] Notice of Scheduling Settlement Conference</i>
07/02/2018	Case Reassigned to Department 18 <i>Reassigned From Judge Jones - Dept 29</i>
08/10/2018	 Amended Order Setting Jury Trial <i>[103] Amended Order Setting Jury Trial</i>
08/15/2018	 Declaration <i>[104] Declaration of Timothy P. Thomas in Support of Motion to reopen Discovery to allow defendant Gabriel Daley to Designate and Expert</i>
08/15/2018	 Motion Filed By: Third Party Plaintiff Daley, Gabriel J <i>[105] Motion to Reopen Discovery to Allow Defendant Gabriel Daley to Designate and Expert</i>
08/22/2018	 Declaration Filed By: Counter Defendant Encore Group of Professionals <i>[106] Declaration of Kent P. Woods in Support of Opposition to Defendant's Motion to Reopen Discovery to Allow Defendant Gabriel Daley to Designate an Expert</i>
08/22/2018	 Opposition to Motion Filed By: Counter Defendant Encore Group of Professionals <i>[107] Opposition to Defendant's Motion to Reopen Discovery to Allow Defendant Gabriel Daley to Designate an Expert</i>
09/05/2018	 Reply in Support

CASE SUMMARY

CASE NO. A-16-735644-C

[108] Reply in Support of Motion to Reopen Discovery to Allow Defendant Gabriel Daley to Designate an Expert

11/30/2018



Initial Expert Disclosure

[109] Defendant / Third Party Plaintiff's Initial Expert Witness Disclosure

01/07/2019

Case Reassigned to Department 9

Judicial Reassignment - From Judge Bailus to Vacant, DC9

01/14/2019



Notice of Rescheduling

[110] Notice of Rescheduling of Hearings

02/08/2019



Motion to Continue

[111] Motion to Continue Discovery

02/08/2019



Receipt of Copy

Filed by: Third Party Defendant Jackson, John D

[112] Receipt of Copy

02/19/2019



Recorders Transcript of Hearing

[113] Recorder's Transcript of Hearing Re: Pretrial Conference

03/28/2019



Order Granting Motion

[114] Order Granting Motion to Continue Discovery

03/29/2019



Notice of Entry of Order

[115] Notice of Entry of Order of Order Granting Motion to Continue Discovery

04/29/2019

Case Reassigned to Department 8

Judicial Reassignment to Department 8 - Vacant DC8 Judge

06/07/2019



Notice of Motion

[116] Notice of Motion and Defendant's Motion for Partial Summary Judgment

06/07/2019



Declaration

[117] Declaration of Gabriel J. Daley

06/10/2019



Clerk's Notice of Hearing

[118] Notice of Hearing

06/21/2019



Notice of Rescheduling of Hearing

[119] Notice of Rescheduling of Time of Hearing

06/21/2019



Notice of Rescheduling of Hearing

[120] Amended Notice of Rescheduling of Time of Hearing

06/24/2019



Notice of Rescheduling of Hearing

[121] Notice of Rescheduling Hearing

07/05/2019



Countermotion For Partial Summary Judgment






Filed by: Counter Defendant Encore Group of Professionals

[122] Limited Opposition to Defendant's Motion for Partial Summary Judgment and Counter-Motion for Partial Summary Judgment as to the Defendant's Second, Third, Fourth, Fifth, and

CASE SUMMARY

CASE NO. A-16-735644-C

Sixth Counterclaims

07/05/2019	 Statement Filed by: Counter Defendant Encore Group of Professionals <i>[123] Statement of Undisputed Fact in Support of Plaintiff's Counter-Motion</i>
07/09/2019	 Notice of Rescheduling of Hearing <i>[124] Notice of Rescheduling Hearing</i>
07/18/2019	 Reply to Motion <i>[125] Defendant's Reply in Support f Defendant's Motion for Partial Summary Judgment and Opposition to Plaintiff's Motion for Partial Summary Judgment on Defendant's Second, Third, Fourth , Fifth, and Sixth Counter Claims</i>
07/22/2019	 Reply in Support Filed By: Counter Defendant Encore Group of Professionals <i>[126] Reply in Support of Counter-Motion for Partial Summary Judgment as to Defendant's Second, Third, and Fourht Counterclaims</i>
08/14/2019	 Decision and Order <i>[127] Order on Defendant/ Counter claimant Gabriel J. Daley's Motion for Partial Summary Judgment and Plaintiff's Countermotion for Partial Summary Judgment as to defendant's Second, Third, Fourth, Fifth and Sixth Counterclaims</i>
08/28/2019	 Order Filed By: Third Party Plaintiff Daley, Gabriel J <i>[128] Order on Defendant/Counter-claimant Gabriel J. Daley's Motion for Partial Summary Judgment and Plaintiff's Countermotion for Partial Summary Judgment as to Defendant's Second, Third, Fourth, Fifth and Sixth Counterclaims</i>
08/28/2019	 Notice of Entry Filed By: Third Party Plaintiff Daley, Gabriel J <i>[129] Notice of Entry</i>
09/30/2019	Administrative Reassignment - Judicial Officer Change <i>From Vacant DC8 to Judge Trevor L. Atkin</i>
11/19/2019	 Supplemental 16.1 Early Case Conference <i>[130] Defendant-counterclaimant Ninth Supplemental Disclosure Pursuant 16.1</i>
01/03/2020	 Motion in Limine Filed By: Third Party Plaintiff Daley, Gabriel J <i>[131] Motion in Limine Re: Defendants Termination and Notice of Motion</i>
01/06/2020	 Clerk's Notice of Hearing <i>[132] Notice of Hearing</i>
01/13/2020	 Opposition and Countermotion Filed By: Counter Defendant Encore Group of Professionals <i>[133] Opposition to Defendant's Motion in Limine Re: Defendant's Rermination and Plaintiff's Countermotion in Limine</i>
01/21/2020	 Reply <i>[134] Reply in Support of Defendant's Motion in Limine Re: Defendant's Termination and Opposition to Plaintiff's Countermotion in Limine</i>

CASE SUMMARY

CASE NO. A-16-735644-C

01/21/2020	 Declaration <i>[135] Declaration of Gabriel Daley of Motion in Limine RE: Defendant's Termination</i>
01/21/2020	 Declaration <i>[136] Amended Declaration of Gabriel Daley In Support of Motion in Limine</i>
01/23/2020	 Notice of Motion Filed By: Third Party Plaintiff Daley, Gabriel J <i>[137] Notice of Motion</i>
01/24/2020	 Clerk's Notice of Hearing <i>[138] Notice of Hearing</i>
01/30/2020	 Clerk's Notice of Nonconforming Document <i>[139] Clerk's Notice of Nonconforming Document</i>
01/30/2020	 Clerk's Notice of Nonconforming Document <i>[140] Clerk's Notice of Nonconforming Document</i>
02/03/2020	 Opposition to Motion in Limine Filed By: Counter Defendant Encore Group of Professionals <i>[141] Opposition to Defendant's Motion in Limine Re; Home Office Support Agreement</i>
02/07/2020	 Stipulation and Order Filed by: Counter Defendant Encore Group of Professionals <i>[142] stipulation and order</i>
02/14/2020	 Pre-Trial Disclosure Party: Third Party Defendant Jackson, John D <i>[143] Plaintiffs/Counter Defendants/Third-Party Defendants John D. Jackson and Encore Group of Professionals, LLC's Joint Pre-Trial Disclosure Statement Pursuant to NRCP 16.1 (A)(3)(C)</i>
02/19/2020	 Reply in Support Filed By: Counter Defendant Encore Group of Professionals <i>[144] Reply in Support of Plaintiff's Countermotion in Limine</i>
02/26/2020	 Pre-trial Memorandum Filed by: Counter Defendant Encore Group of Professionals; Third Party Defendant Jackson, John D <i>[145] Plaintiffs/Counter-Defendnts/Third-Party Defendants John D. Jackson adn Encore Group of Professionals, LLC's Joint Pre-Trial Memorandum</i>
02/27/2020	 Disclosure of Documents and Witnesses Pursuant to NRCP 16.1 <i>[146] Defendant /Third Party Plaintiff's Pre-Trial Disclosure Statement</i>
03/06/2020	 Proposed Voir Dire Questions Filed By: Third Party Defendant Jackson, John D <i>[147] Proposed Voir Dire</i>
03/24/2020	 Stipulation and Order Filed by: Third Party Plaintiff Daley, Gabriel J <i>[148] Stipulation and Order</i>










CASE SUMMARY

CASE NO. A-16-735644-C

04/08/2020	 Order Filed By: Counter Defendant Encore Group of Professionals <i>[149] Order on Defendant's Motion in Limine RE: Defendant's Termination; Plaintiff's Counter-motion in Limine; and Defendant's Motion in Limine RE: Home Office Support Agreement</i>
07/08/2020	 Filing Fee Remittance <i>[150] Partial Summary Judgment</i>
08/06/2020	 Amended Order Setting Jury Trial <i>[151] Amended Order Setting Civil Jury Trial</i>
12/07/2020	 Supplement <i>[152] Request to Supplement Discovery</i>
01/04/2021	Case Reassigned to Department 5 <i>Judicial Reassignment to Judge Veronica M. Barisich</i>
01/25/2021	 Order Setting Civil Jury Trial, Pre-Trial, and Calendar Call <i>[153] Order Setting Civil Jury Trial, Pretrial, and Calendar Call</i>
01/26/2021	 Motion to Compel Filed By: Third Party Plaintiff Daley, Gabriel J <i>[154] Motion to Compel Supplemental Discovery of Financial Records</i>
01/28/2021	 Clerk's Notice of Hearing <i>[155] Notice of Hearing</i>
02/08/2021	 Opposition to Motion to Compel Filed By: Counter Defendant Encore Group of Professionals <i>[156] Opposition to Defendant's Motion to Compel Supplemental Discovery of Financial Records</i>
02/23/2021	 Notice of Change of Hearing <i>[157] Notice of Change of Hearing</i>
04/21/2021	 Order Setting Civil Jury Trial, Pre-Trial, and Calendar Call <i>[158] Order Setting Civil Jury Trial, Pretrial, and Calendar Call</i>
07/28/2021	 Notice of Hearing <i>[159] Instructions for BlueJeans VideoConferencing</i>
08/04/2021	 Order Setting Civil Jury Trial, Pre-Trial, and Calendar Call <i>[160] Order Setting Civil Jury Trial, Pretrial, and Calendar Call</i>
09/01/2021	 Notice of Hearing <i>[161] Instructions for BlueJeans VideoConferencing</i>
09/08/2021	 Order Setting Civil Jury Trial, Pre-Trial, and Calendar Call <i>[162] Order Setting Civil Jury Trial, Pretrial, and Calendar Call</i>
11/12/2021	 Notice of Hearing

CASE SUMMARY

CASE NO. A-16-735644-C

	<i>[163] Instructions for BlueJeans VideoConferencing</i>
12/17/2021	 Notice of Hearing <i>[164] Instructions for BlueJeans VideoConferencing</i>
01/09/2022	 Trial Memorandum Filed by: Counter Defendant Encore Group of Professionals <i>[165] Plaintiff's and Third-Party Defendants' Joint Rule 7.27 Trial Memorandum</i>
01/11/2022	 Jury List <i>[166] Jury List</i>
02/11/2022	 Notice of Hearing <i>[167] Instructions for BlueJeans VideoConferencing</i>
02/14/2022	 Notice of Motion Filed By: Counter Defendant Encore Group of Professionals <i>[168] Notice of Motion</i>
02/14/2022	 Motion to Enforce Filed By: Counter Defendant Encore Group of Professionals <i>[169] Plaintiff and Third Party Defendants' Joint Motion to Enforce Settlement Agreement and for Fees and Costs</i>
02/15/2022	 Notice of Motion Filed By: Counter Defendant Encore Group of Professionals <i>[170] Notice of Motion to Enforce Settlement Agreement</i>
02/15/2022	 Recorders Transcript of Hearing Party: Counter Defendant Encore Group of Professionals <i>[171] Recorders Transcript of Hearing Re: 01.12.2022 - Jury Trial - Day 3</i>
02/15/2022	 Clerk's Notice of Hearing <i>[172] Notice of Hearing</i>
02/16/2022	 Exhibits Filed By: Counter Defendant Encore Group of Professionals <i>[173] Exhibit A Motion to Enforce Settlement Agreement</i>
02/18/2022	 Clerk's Notice of Nonconforming Document <i>[174] Clerk's Notice of Nonconforming Document</i>
03/01/2022	 Opposition <i>[175] Defendant's Opposition to Plaintiff's Motion to Enforce Settlement Agreement and for Fees and Costs</i>
03/03/2022	 Amended Filed By: Third Party Plaintiff Daley, Gabriel J <i>[176] Defendant's Amended Opposition to Plaintiff's Motion to Enforce Settlement Agreement and for Fees and Costs</i>
03/03/2022	 Declaration Filed By: Third Party Plaintiff Daley, Gabriel J <i>[177] Declaration of Gabriel J. Daley in Support of Opposition to Plaintiff's Motion to</i>

CASE SUMMARY

CASE NO. A-16-735644-C

Enforce Settlement Agreement and for Fees and Cost

03/07/2022



Reply in Support

Filed By: Counter Defendant Encore Group of Professionals

[178] Reply in Support of Motion to Enforce Settlement Agreement and for Fees and Costs

03/18/2022



Notice of Hearing

[179] Instructions for BlueJeans VideoConferencing

04/17/2022



Order Granting Motion

Filed By: Counter Defendant Encore Group of Professionals

[180] Order Granting in Part and Denying in Part the Plaintiff and Third Party Defendants' Joint Motion to Enforce Settlement Agreement and for Fees and Costs

04/20/2022



Notice of Entry

Filed By: Counter Defendant Encore Group of Professionals

[181] Notice of Entry of Order

05/16/2022



Notice of Appeal

Filed By: Third Party Plaintiff Daley, Gabriel J

[182] Notice of Appeal

DISPOSITIONS

05/30/2017

Order of Dismissal With Prejudice (Judicial Officer: Jones, David M)

Debtors: Encore Group of Professionals (Plaintiff)

Creditors: Gabriel J Daley (Defendant)

Judgment: 05/30/2017, Docketed: 05/31/2017

Comment: Certain Causes

02/20/2018

Summary Judgment (Judicial Officer: Jones, David M)

Debtors: Gabriel J Daley (Defendant)

Creditors: Encore Group of Professionals (Plaintiff)

Judgment: 02/20/2018, Docketed: 02/21/2018

08/28/2019

Summary Judgment (Judicial Officer: Vacant, DC 8)

Debtors: Encore Group of Professionals (Counter Defendant)

Creditors: Gabriel J Daley (Counter Claimant)

Judgment: 08/28/2019, Docketed: 08/28/2019

Comment: Certain Claim

HEARINGS

09/14/2016



All Pending Motions (9:00 AM) (Judicial Officer: Bonaventure, Joseph T.)

Matter Heard;

Journal Entry Details:

Defendant/Counterclaimant Gabriel J. Daley's Motion to Dismiss Plaintiff's Causes of Action Relating to Employment Agreement Pursuant to NRCP 12(b)...Plaintiff/Counterdefendant's Opposition to Defendant/CounterClaimant Gabriel J Daley's Motion to Dismiss Plaintiff's Causes of Action Relating to Employment Agreement Pursuant to NRCP 12(b) and Counter Motion to Dismiss Second Third and Fourth Counterclaims or Alternative for Summary Judgment...Third Party Defendant John D Jackson's Joinder to Plaintiff/Counter Defendant's Opposition to Defendant/Counter Claimant Gabriel J Daley's Motion to Dismiss Plaintiff's Cause of Action Relating to Employment Agreement Pursuant to NRCP 12(b) and Counter Motion to Dismiss Second, Third and Fourth Counterclaims or Alternatively for Summary Judgment Arguments by counsel regarding the merits of the motion. COURT ORDERED, Motions DENIED. ;

09/14/2016

Motion to Dismiss (9:30 AM) (Judicial Officer: Bonaventure, Joseph T.)

Events: 08/12/2016 Motion to Dismiss

CASE SUMMARY

CASE NO. A-16-735644-C

Defendant/Counterclaimant Gabriel J. Daley's Motion to Dismiss Plaintiff's Causes of Action Relating to Employment Agreement Pursuant to NRCP 12(b)

09/14/2016

Opposition and Countermotion (9:30 AM) (Judicial Officer: Bonaventure, Joseph T.)

Events: 08/26/2016 Reply to Counterclaim

Plaintiff/Counterdefendant's Opposition o Defendant/CounterClaimant Gabriel J Daley's Motion to Dismiss Plaintiff's Causes of Action Relating to Employment Agreement Pursuant to NRCP 12(b) and Counter Motion to Dismiss Second Third and Fourth Counterclaims or Alternative for Summary Judgment

09/14/2016

Joinder (9:30 AM) (Judicial Officer: Bonaventure, Joseph T.)

Third Party Defendant John D Jackson's Joinder to Plaintiff/Counter Defendant's Opposition to Defendant/Counter Claimant Gabriel J Daley's Motion to Dismiss Plaintiff's Cause of Action Relating to Employment Agreement Pursuant to NRCP 12(b) and Counter Motion to Dismiss Second, Third and Fourth Counterclaims or Alternatively for Summary Judgment

05/08/2017



Motion to Dismiss (9:30 AM) (Judicial Officer: Jones, David M)

Defendant/Counterclaimant Gabriel J. Daley's Renewed Motion to Dismiss Plaintiff's Causes of Actions Relating to Employment Agreement Pursuant to NRCP 12(b), and Motion to Dismiss Plaintiff's Cause of Action of Tortious Interference with Contractual Relationship, and Motion to Amend, and Motion to Disqualify Counsel

Denied in Part; Defendant/Counterclaimant Gabriel J. Daley's Renewed Motion to Dismiss Plaintiff's Causes of Actions Relating to Employment Agreement Pursuant to NRCP 12(b), and Motion to Dismiss Plaintiff's Cause of Action of Tortious Interference with Contractual Relationship, and Motion to Amend, and Motion to Disqualify Counsel

Journal Entry Details:

Arguments by counsel. COURT FINDS no good cause for reconsidering motion to dismiss and motion will be considered by this court as a motion for summary judgment; COURT ORDERED, Defendant/Counterclaimant Gabriel J. Daley's Renewed Motion to Dismiss Plaintiff's Causes of Actions Relating to Employment Agreement Pursuant to NRCP 12(b) is DENIED; Motion for Summary Judgment is CONTINUED and decision is STAYED until the end of discovery when counsel may renew at that time, if appropriate. COURT ORDERED, Motion to Dismiss Plaintiff's Cause of Action of Tortious Interference with Contractual Relationship, 7th cause of action is GRANTED. COURT admonished counsel regarding pleadings and ORDERED, Motion to Amend Answer to Add Counterclaim, Third Party Complaint is GRANTED. COURT ORDERED, Motion to Disqualify Counsel is DENIED. Mr. Woods to prepare the order within 10 days and distribute a filed copy to all parties involved in this matter.;

05/22/2017

Motion to Amend Complaint (3:00 AM) (Judicial Officer: Jones, David M)

Motion For Leave To File Amended Complaint

Granted;

Journal Entry Details:

COURT ORDERS, Motion to Amend Complaint to add parties is GRANTED. Mr. Woods to prepare the order within 10 days and distribute a filed copy to all parties involved in this matter. CLERK'S NOTE: The above minute order has been distributed to: Woods Erickson & Whitaker LLP(@); and Accelerated Law Group (noldj@cox.net.) ac CLERK'S NOTE: Minutes incomplete: DO NOT PRINT! DO NOT DISTRIBUTE!;

07/19/2017



Motion to Compel (9:00 AM) (Judicial Officer: Bulla, Bonnie)

Defendant Gabriel Daley's Motion to Compel Discovery

Granted; Defendant Gabriel Daley's Motion to Compel Discovery



Journal Entry Details:

Mr. Emerson checked in before court, but Mr. Woods stated he had to leave and the Motion doesn't affect him. COMMISSIONER RECOMMENDED, Mr. Emerson is excused. Computation of damages is less than \$200,000, and Mr. Nold was concerned about attorney fees. QuickBooks were altered, and Mr. Nold requested the View Audit Log. The Quickbooks file belongs to Encore Group, and Mr. Emerson wasn't asked to produce anything per Mr. Woods. Arguments by counsel. Mr. Nold requested limited access set forth in Exhibit F. Mr. Nold added six new parties, and the Motion to Amend was Granted. Mr. Nold's client had a 25 percent ownership interest in Company and was paid dividends (COO of Company). Commissioner is not satisfied with answers provided by Mr. Woods. COMMISSIONER RECOMMENDED, motion is GRANTED within parameters; provide hard copies or give

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY

CASE NO. A-16-735644-C

	<p>access to View Audit Log for Quickbooks for June 2014 to the present. Mr. Woods agreed to Request 2 (employees, who they worked for, and what they did), but argument to Request 3 (delineating Quickbooks). Colloquy re: tax returns. COMMISSIONER RECOMMENDED. provide Request 2, Request 3 is GRANTED within parameters for non-Encore business affiliations on payments made outside of Encore's businesses. COMMISSIONER RECOMMENDED, Mr. Nold's Request for Fees is DENIED as there was a good faith dispute. Mr. Nold to prepare the Report and Recommendations, and Mr. Woods and Mr. Emerson to approve as to form and content. A proper report must be timely submitted within 10 days of the hearing. Otherwise, counsel will pay a contribution.;</p>
08/21/2017	<p>CANCELED Status Check: Discovery (9:30 AM) (Judicial Officer: Jones, David M) <i>Vacated - per Stipulation and Order</i></p>
09/14/2017	<p>CANCELED Status Check: Compliance (3:00 AM) (Judicial Officer: Bulla, Bonnie) <i>Vacated - per Commissioner</i></p>
09/20/2017	<p> Motion for Protective Order (10:00 AM) (Judicial Officer: Bulla, Bonnie) <i>Plaintiff/ Counter defeneant's Motion for Limited Protective Order</i> Denied; Plaintiff/ Counter defeneant's Motion for Limited Protective Order Journal Entry Details: <i>Due to numerous Defts, discovery was served, and counsel request a stay on discovery until after the Settlement Conference. Arguments by counsel. COMMISSIONER RECOMMENDED, motion is DENIED; answer discovery before the Settlement Conference, and counsel have 45 days from today to comply with discovery. Mr. Nold to prepare the Report and Recommendations, and counsel to approve as to form and content. A proper report must be timely submitted within 10 days of the hearing. Otherwise, counsel will pay a contribution.;</i></p>
09/25/2017	<p>Motion (9:00 AM) (Judicial Officer: Jones, David M) Events: 08/21/2017 Notice of Motion <i>Third Party Defendant John Jackson's Motion for Court Ordered Settlement Conference</i> Granted;</p>
09/25/2017	<p>Joinder (9:00 AM) (Judicial Officer: Jones, David M) <i>Plaintiff/CounterDefendant's Joinder to Motion for Court Ordered Settlement Conference Pursuant to NRCP 16(a)(5)</i> Matter Heard;</p>
09/25/2017	<p> All Pending Motions (9:00 AM) (Judicial Officer: Jones, David M) Matter Heard; Journal Entry Details: <i>Michael Warhola, Esq. also present on behalf of Defendant. THIRD PARTY DEFENDANT JOHN JACKSON'S MOTION FOR COURT ORDERED SETTLEMENT CONFERENCE...PLAINTIFF/COUNTERDEFENDANTS' JOINDER TO MOTION FOR COURT ORDERED SETTLEMENT CONFERENCE PURSUANT TO NRCP 16 (A) (5) Mr. Emerson stated there is outstanding discovery but won't get in the way of meaningful settlement talks. Mr. Warhola noted they need discovery to determine damages calculations. Mr. Woods noted audit logs have been provided. Further arguments by Counsel. COURT ORDERED, motion GRANTED and noted it looks like Counsel need to bring the documents in order to figure out the damages.;</i></p>
10/04/2017	<p>CANCELED Pre Trial Conference (10:30 AM) (Judicial Officer: Jones, David M) <i>Vacated - per Stipulation and Order</i></p>
10/11/2017	<p>CANCELED Joinder (9:00 AM) (Judicial Officer: Bulla, Bonnie) <i>Vacated - On In Error</i> <i>Third Party Defendant's Joinder to Plaintiff/Counter Defendant's Motion for Limited Protective Order</i></p>
10/18/2017	<p>CANCELED Calendar Call (10:30 AM) (Judicial Officer: Jones, David M) <i>Vacated - per Stipulation and Order</i></p>
10/23/2017	<p>CANCELED Jury Trial (9:00 AM) (Judicial Officer: Jones, David M)</p>

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY




CASE NO. A-16-735644-C

	<i>Vacated - per Stipulation and Order</i>
11/16/2017	CANCELED Status Check: Compliance (3:00 AM) (Judicial Officer: Bulla, Bonnie) <i>Vacated - per Commissioner</i>
01/17/2018	 Status Check (10:30 AM) (Judicial Officer: Jones, David M) Matter Heard; Journal Entry Details: <i>Court noted the absence of Plaintiff's counsel. Mr. Nold indicated he has a Stipulation and Order that was just signed by the Court agreeing to continue discovery until 04/18/18. Pursuant to the representations of counsel, COURT ORDERED trial dates VACATED and RESET to the September 10, 2018 trial stack. ;</i>
01/29/2018	CANCELED Pre Trial Conference (10:30 AM) (Judicial Officer: Jones, David M) <i>Vacated - Superseding Order</i>
01/31/2018	 Motion for Summary Judgment (9:00 AM) (Judicial Officer: Jones, David M) <i>Plaintiff's Motion for Summary Judgment on Plaintiff's Seventh Cause of Action and Defendant's Second, Third, and Fourth Counterclaims</i> Denied in Part; Plaintiff's Motion for Summary Judgment on Plaintiff's Seventh Cause of Action and Defendant's Second, Third, and Fourth Counterclaims Journal Entry Details: <i>Arguments by counsel in support of their respective relief. Court stated its findings and ORDERED as follows: As to conversion replevin regarding the truck, computer and phone, COURT ORDERED, items to be returned within thirty (30) days. The Defendant can no longer utilize these materials if he is no longer an employee of the company. Court advised the parties will deal with the value or lack thereof or the loss at the end. As to alter ego, Mr. Nold requested a 56(f) continuance as they still do not have QuickBooks. He bought a new version of Quickbooks at his own expense and put it on a laptop, and he has still not been able to access it. Upon Court's inquiry, Mr. Nold stated he was scheduled to meet with counsel on Friday and if he does not have it on Friday he will file a Motion to Compel by Monday. Court instructed counsel he has forty-five (45) days to provide the information. COURT ADVISED it was going to deny the Motion at this time based upon 56(f) relief. As to breach of contract and unjust enrichment, COURT ORDERED, ruling held in ABEYANCE for the forty-five (45) day period in which counsel is being granted the 56(f) relief. Court advised if counsel cannot prove alter ego he will lose breach of contract and unjust enrichment. Mr. Woods to prepare the Order. ;</i>
02/07/2018	CANCELED Calendar Call (10:30 AM) (Judicial Officer: Jones, David M) <i>Vacated - Superseding Order</i>
02/12/2018	CANCELED Jury Trial (10:30 AM) (Judicial Officer: Jones, David M) <i>Vacated - Superseding Order</i>
03/21/2018	CANCELED Hearing (9:00 AM) (Judicial Officer: Jones, David M) <i>Vacated</i> <i>Joseph T. Nold, Esq. of the Accelerated Law Group's Motion to Withdraw as Attorney of Record for Defendant / Counterclaimant Gabriel J. Daley and Ex-Parte Application for Order Shoterning Time</i>
06/18/2018	 Settlement Conference (10:30 AM) Not Settled; Journal Entry Details: <i>This matter came on for a Settlement Conference before Judge Bixler. Unfortunately, the parties were unable to resolve their differences, and consequently, the case did not settle. This matter will be referred back to the originating department for further proceedings.;</i>
08/13/2018	CANCELED Status Check (10:30 AM) (Judicial Officer: Jones, David M) <i>Vacated - Case Reassigned</i>
08/27/2018	CANCELED Pre Trial Conference (10:30 AM) (Judicial Officer: Jones, David M)

EIGHTH JUDICIAL DISTRICT COURT




CASE SUMMARY

CASE NO. A-16-735644-C

	<i>Vacated - Case Reassigned</i>
09/05/2018	CANCELED Calendar Call (10:30 AM) (Judicial Officer: Jones, David M) <i>Vacated - Case Reassigned</i>
09/10/2018	CANCELED Jury Trial (1:00 PM) (Judicial Officer: Jones, David M) <i>Vacated - Case Reassigned</i>
09/19/2018	 Motion (9:00 AM) (Judicial Officer: Bulla, Bonnie) <i>Motion to Reopen Discovery to Allow Defendant Gabriel Daley to Designate and Expert Granted; Motion to Reopen Discovery to Allow Defendant Gabriel Daley to Designate an Expert</i> Journal Entry Details: <i>COMMISSIONER FINDS good cause shown and excusable neglect and RECOMMENDED, Gabe Daley's Motion to Reopen Discovery to Allow Defendant Gabriel Daley to Designate ONE (1) Additional Expert is GRANTED. Plaintiff's fees for deposition of expert, including transcript cost will be borne by Defendant. COMMISSIONER RECOMMENDED, discovery cutoff is 01/30/19; and initial expert disclosures DUE 11/30/18; rebuttal expert disclosures DUE 12/28/18; dispositive motions TO BE FILED BY 02/15/19. Jury Trial date STANDS. Mr. Thomas to prepare the Report and Recommendations, and Mr. Woods to approve as to form and content. A proper report must be timely submitted within 10 days of the hearing. Otherwise, counsel will pay a contribution. 11/15/18 (CHAMBERS) Status Check: Compliance (DCRR);</i>
11/15/2018	CANCELED Status Check: Compliance (3:00 AM) (Judicial Officer: Bulla, Bonnie) <i>Vacated - per Commissioner</i> <i>Status Check: Compliance / DCRR</i>
02/12/2019	Pre Trial Conference (8:30 AM) (Judicial Officer: Thompson, Charles) <i>Vacated and Reset;</i>
02/12/2019	Motion to Continue (8:30 AM) (Judicial Officer: Thompson, Charles) <i>Motion to Continue Discovery</i> <i>Granted;</i>
02/12/2019	 All Pending Motions (8:30 AM) (Judicial Officer: Thompson, Charles) <i>Matter Heard;</i> Journal Entry Details: <i>PRE TRIAL CONFERENCE ... MOTION TO CONTINUE DISCOVERY Mr. Emerson argued for a continuance, noting they are working on taking depositions. Further, Mr. Emerson advised they had agreed to do the depositions tomorrow, however, received a call on January 28th or 29th from defense counsel indicating they no longer want to waive the deposition. Mr. Emerson advised they then immediately filed a Motion to Continue to allow time to finish the depositions. Colloquy regarding the close of discovery and trial date. COURT ORDERED, discovery EXTENDED through 3/26/19 by stipulation; trial date VACATED and RESET. 7/9/19 8:30 AM PRE TRIAL CONFERENCE 8/5/19 8:30 AM CALENDAR CALL 8/12/19 10:00 AM JURY TRIAL ;</i>
03/18/2019	CANCELED Calendar Call (8:30 AM) (Judicial Officer: Barker, David) <i>Vacated - per Judge</i>
03/25/2019	CANCELED Jury Trial (9:00 AM) (Judicial Officer: Thompson, Charles) <i>Vacated - per Judge</i>
07/09/2019	 Pre Trial Conference (9:00 AM) (Judicial Officer: Vacant, DC 8) <i>Minute Order - No Hearing Held;</i> Journal Entry Details: <i>Trial dates VACATED and RESET. Defendant's Motion for Partial Summary Judgement and Plaintiff's Limited Opposition to Defendant's Motion for Partial Summary Judgment and Counter-Motion for Plaintiff's Summary Judgement as to Defendant's Second, Third, Fourth, Fifth and Sixth Counter Claims CONTINUED. 7/24/19 8:30 AM DEFENDANT'S MOTION</i>





CASE SUMMARY

CASE NO. A-16-735644-C

	<p>FOR PARTIAL SUMMARY JUDGEMENT PLAINTIFF'S LIMITED OPPOSITION TO DEFENDANT'S MOTION FOR PARTIAL SUMMARY JUDGMENT AND COUNTER-MOTION FOR PLAINTIFF'S SUMMARY JUDGEMENT AS TO DEFENDANT'S SECOND, THIRD, FOURTH, FIFTH AND SIXTH COUNTER CLAIMS 9/17/19 8:30 AM PRETRIAL CONFERENCE 10/14/19 8:30 AM CALENDAR CALL 10/21/19 9:00 AM JURY TRIAL STACK CLERK'S NOTE: A copy of the above Minute Order was distributed to the following: Phillip Emmerson, Esq. (receptionist@emersonlawgroup.com) and Kent Wood, Esq. (kent@kwoodslaw.com).//lk;</p>
07/24/2019	<p>Motion for Partial Summary Judgment (8:30 AM) (Judicial Officer: Barker, David) <i>Notice of Motion</i> Granted in Part;</p>
07/24/2019	<p>Opposition and Countermotion (8:30 AM) (Judicial Officer: Barker, David) <i>Limited Opposition to Defendant's Motion for Partial Summary Judgment and Counter-Motion for Partial Summary Judgment as to Defendant's Second, Third, Fourth, Fifth, and Sixth Counterclaim</i> Denied in Part;</p>
07/24/2019	<p> All Pending Motions (8:30 AM) (Judicial Officer: Barker, David) Matter Heard; Journal Entry Details: <i>DEFENDANT'S MOTION FOR PARTIAL SUMMARY JUDGMENT...LIMITED OPPOSITION TO DEFENDANT'S MOTION FOR PARTIAL SUMMARY JUDGMENT AND COUNTER-MOTION FOR PARTIAL SUMMARY JUDGMENT AS TO DEFENDANT'S SECOND, THIRD, FOURTH, FIFTH, AND SIXTH COUNTERCLAIM</i> Kristen Malloy, Esq. present for Third Party Defendant. Upon Court's inquiry, Mr. Thomas indicated parties conceded to grant Summary Judgment as to the following causes of action: Breach of Contract, Injunctive Relief and Replevin. Upon Court's inquiry, Mr. Woods advised there was already an Order granting Summary Judgment on the issue of Replevin. Mr. Thomas advised the statements by counsel concluded his Summary Motion and moved for attorneys fees. Plaintiff advised their Countermotion for Partial Summary judgment was for Summary Judgment of causes of action 2 through 6. Arguments by Mr. Woods and Mr. Thomas on the merits of Plaintiff's Countermotion for limited summary motion with regard to the following causes of action: Alter Ego, Contracts, Breach of Implied Convenience, Unjust Enrichment and Breach of Fiduciary Duty. COURT ORDERED, Motion for Partial Summary Judgement GRANTED IN PART and DENIED IN PART; GRANTED as to Breach of Fiduciary Duty and DENIED as to Alter Ego, Contracts, Breach of Implied Convenience and Unjust Enrichment. Court FINDS there are genuine issues of material fact. COURT FURTHER ORDERED, Defendant's oral request for attorney's fees DENIED. Court reminded counsel of their trial dates and noted a new presiding judge would be appointed to department 8 within the next month.;</p>
08/05/2019	<p>CANCELED Calendar Call (8:30 AM) (Judicial Officer: Vacant, DC 9) <i>Vacated - per Secretary</i></p>
08/12/2019	<p>CANCELED Jury Trial (9:00 AM) (Judicial Officer: Vacant, DC 8) <i>Vacated - per Secretary</i></p>
09/17/2019	<p> Pre Trial Conference (8:30 AM) (Judicial Officer: Cherry, Michael A.) Matter Heard; Journal Entry Details: <i>Parties announced not ready for trial due to scheduling conflict with DC 30. COURT ORDERED, TRIAL VACATED & RESET. 1-07-20 8:30 AM PRE TRIAL CONFERENCE 2-03-20 8:30 AM CALENDAR CALL 2-10-20 9:00 AM JURY TRIAL;</i></p>
10/14/2019	<p>CANCELED Calendar Call (8:30 AM) (Judicial Officer: Thompson, Charles) <i>Vacated - per Judge</i></p>
10/21/2019	<p>CANCELED Jury Trial (9:00 AM) (Judicial Officer: Vacant, DC 8) <i>Vacated - per Judge</i></p>
01/07/2020	<p> Pre Trial Conference (8:30 AM) (Judicial Officer: Atkin, Trevor)</p>






CASE SUMMARY

CASE NO. A-16-735644-C

	<p>Matter Heard; Journal Entry Details: <i>Parties advised ready. No conflicts noted on stack. Further, counsel advised the matter may resolve prior to trial. Court so noted. Parties to advise chamber if the matter settles and the trial can be vacated at that time.;</i></p>
02/25/2020	<p>Motion in Limine (9:00 AM) (Judicial Officer: Atkin, Trevor) <i>Defendant's Motion in Limine Re: Defendants Termination and Notice of Motion</i> Denied; Defendant's Motion in Limine Re: Defendants Termination</p>
02/25/2020	<p>Opposition and Countermotion (9:00 AM) (Judicial Officer: Atkin, Trevor) <i>Plaintiff's Opposition to Defendant's Motion in Limine Re: Defendant's Termination and Plaintiff's Countermotion in Limine</i> Granted; Plaintiff's Opposition to Defendant's Motion in Limine Re: Defendant's Termination and Plaintiff's Countermotions in Limine</p>
02/25/2020	<p>Motion in Limine (9:00 AM) (Judicial Officer: Atkin, Trevor) <i>Defendant's Notice of Motion - Motion in Limine Re Home Office Support Agreement</i></p> <p>MINUTES Granted; Defendant's Motion in Limine Re Home Office Support Agreement</p> <p>SCHEDULED HEARINGS  All Pending Motions (02/25/2020 at 9:00 AM) (Judicial Officer: Atkin, Trevor)</p>
02/25/2020	<p> All Pending Motions (9:00 AM) (Judicial Officer: Atkin, Trevor) Deferred Ruling; Journal Entry Details: <i>Defendant's Motion in Limine Re Home Office Support Agreement ... Defendant's Motion in Limine Re: Defendants Termination ... Plaintiff's Opposition to Defendant's Motion in Limine Re: Defendant's Termination and Plaintiff's Countermotions in Limine COURT ORDERED, Defendant's Motion in Limine Re Home Office Support Agreement is GRANTED. COURT ORDERED Defendant's Motion in Limine Re: Defendants Termination is DENIED. COURT ORDERED, Plaintiff's Opposition to Defendant's Motion in Limine Re: Defendant's Termination and Plaintiff's Countermotions in Limine is GRANTED as to termination. as to Plaintiff's Motion in Limine regarding valuation; and, as to Ms. Mercier's opinion of the same, COURT ORDERED, Motion is DENIED. Court notes a proper foundation must be laid at time of Witness testimony.;</i></p>
03/09/2020	<p> Calendar Call (8:30 AM) (Judicial Officer: Atkin, Trevor)</p> <p>MINUTES Reset; Journal Entry Details: <i>Mr. Emerson noted issues regarding their main expert going out of town the two weeks they had thought to set the trial and the tax expert will be busy with taxes during this tax season. COURT ORDERED, Trial VACATED and RESET. Upon inquiry, Counsel noted 8 to 10 trial days. 03/17/2020 8:30 AM CALENDAR CALL 04/27/2020 9:00 AM JURY TRIAL (FIRM SETTING) CLERK'S NOTE: Minute Order completed by K. Thomas by way of JAVS. kt 03/25/2020.;</i></p> <p>SCHEDULED HEARINGS CANCELED Jury Trial (03/16/2020 at 9:00 AM) (Judicial Officer: Atkin, Trevor) <i>Vacated - per Judge</i> CANCELED Pre Trial Conference (03/17/2020 at 8:30 AM) (Judicial Officer: Atkin, Trevor) <i>Vacated - per Judge</i> <i>Pre Trial Conference - FIRM</i>  Calendar Call (04/13/2020 at 8:30 AM) (Judicial Officer: Atkin, Trevor) <i>Calendar Call - FIRM</i> CANCELED Jury Trial - FIRM (04/27/2020 at 9:00 AM) (Judicial Officer: Atkin, Trevor) <i>Vacated - per Judge</i></p>

CASE SUMMARY

CASE NO. A-16-735644-C

03/16/2020	CANCELED Jury Trial (9:00 AM) (Judicial Officer: Atkin, Trevor) <i>Vacated - per Judge</i>
03/17/2020	CANCELED Pre Trial Conference (8:30 AM) (Judicial Officer: Atkin, Trevor) <i>Vacated - per Judge</i> <i>Pre Trial Conference - FIRM</i>
04/01/2020	 Minute Order (3:00 AM) (Judicial Officer: Delaney, Kathleen E.) <i>Minute Order Re-Setting Settlement Conference</i> Minute Order - No Hearing Held; Journal Entry Details: <i>Minute Order Re-Setting Settlement Conference Due to concerns about the COVID-19 virus and the ability to conduct a meaningful, in-person mediation, Court and counsel for the parties determined the best course of action is for the Settlement Conference to be rescheduled. Following a conference call with counsel on April 1, 2020 at 10:00 a.m. and a review of schedules, COURT ORDERED the current Settlement Conference date of April 1, 2020 at 1:30 p.m. VACATED. COURT FURTHER ORDERED matter re-set for Settlement Conference on Friday, April 17, 2020 at 9:30 a.m.. COURT NOTED the Settlement Conference is likely to be re-set again, in the event the current trial date is continued, but the Court wanted to reserve a date for the Parties just in case. Counsel is requested to communicate with the Court, in the event trial is continued, to provide a new, agreed upon date for the Settlement Conference to proceed, and the Court will re-set the matter accordingly. CLERK'S NOTE: A copy of this minute order was electronically served on all parties and their counsel through the Court s electronic filing system. / sb 04/01/20;</i>
04/01/2020	 Settlement Conference (1:30 PM) (Judicial Officer: Delaney, Kathleen E.) MINUTES Vacate; Journal Entry Details: <i>COURT ORDERED, matter VACATED and RESET, pursuant to the Court's Chamber Minute Order ISSUED 04/01/20.;</i> SCHEDULED HEARINGS CANCELED Settlement Conference (04/17/2020 at 9:30 AM) (Judicial Officer: Delaney, Kathleen E.) <i>Vacated - per Judge</i>  Minute Order (04/01/2020 at 3:00 AM) (Judicial Officer: Delaney, Kathleen E.) <i>Minute Order Re-Setting Settlement Conference</i>
04/08/2020	 Minute Order (3:00 PM) (Judicial Officer: Atkin, Trevor) <i>4/13 BlueJeans Notice</i> Minute Order - No Hearing Held; 4/13 BlueJeans Notice Journal Entry Details: <i>Department 8 Request to Appear Telephonically Pursuant to Administrative Order 20-10, Department 8 will temporarily request all matters be heard via telephone conference ONLY. We will NOT be utilizing video conferencing. The court has set up an appearance through BlueJeans, which can accommodate multiple callers at no cost to participants. To use BlueJeans, please call in prior to the hearing at 1-888-748-9073. To connect to your hearing, simply input the assigned meeting ID number provided immediately below, followed by #. Your Meeting ID: 377 484 549 For your hearing, PLEASE observe the following protocol: Place your telephone on mute while waiting for your matter/case to be called. Do not place the conference on hold as it may play wait/hold music to others. Identify yourself before speaking each time as a record is being made. Please be mindful of sounds of rustling of papers or coughing.;</i>
04/13/2020	 Calendar Call (8:30 AM) (Judicial Officer: Atkin, Trevor) <i>Calendar Call - FIRM</i> MINUTES Reset;

CASE SUMMARY

CASE NO. A-16-735644-C

Journal Entry Details:

Court notes Mr. Emerson not present for hearing. Upon Court's inquiry, counsel indicated no objection to the new trial dates. Based upon current Administrative Order in effect and the Governor's Emergency Directive, COURT FINDS any time constraints are tolled and ORDERS, TRIAL VACATED AND RESET. 08/04/20 @ 8:30 a.m. Pretrial Conference 08/31/20 @ 8:30 a.m. Calendar Call 09/08/20 @ 9:00 a.m. Jury Trial;

SCHEDULED HEARINGS

CANCELED Jury Trial - FIRM (04/27/2020 at 9:00 AM) (Judicial Officer: Atkin, Trevor)
Vacated - per Judge



Pre Trial Conference (08/04/2020 at 8:30 AM) (Judicial Officer: Atkin, Trevor)

CANCELED Calendar Call (08/31/2020 at 8:30 AM) (Judicial Officer: Atkin, Trevor)

Vacated - per Judge

CANCELED Jury Trial (09/08/2020 at 9:00 AM) (Judicial Officer: Atkin, Trevor)

Vacated - per Judge

04/16/2020



Minute Order (3:00 AM) (Judicial Officer: Delaney, Kathleen E.)

Minute Order Vacating Settlement Conference

Minute Order - No Hearing Held;

Journal Entry Details:

Minute Order Vacating Settlement Conference Due to concerns about the COVID-19 virus and the ability to have a meaningful settlement conference without all persons appearing in-person, Court and counsel for the parties determined the best course of action is for the pending Business Court Settlement Conference to be rescheduled. Parties are advised to confer with each other and their clients and provide the Court with at least 2 agreed-upon future date for the Settlement Conference to be re-set. In the interim, COURT ORDERED the Settlement Conference currently scheduled for Friday, April 17, 2020 at 9:30 a.m. is VACATED CLERKS NOTE: A copy of this minute order served on all parties and their counsel through the Court's electronic filing system. /sb 04/16/20;

04/16/2020

CANCELED Minute Order (3:00 AM) (Judicial Officer: Delaney, Kathleen E.)

Vacated - Duplicate Entry

04/17/2020

CANCELED Settlement Conference (9:30 AM) (Judicial Officer: Delaney, Kathleen E.)

Vacated - per Judge

04/27/2020

CANCELED Jury Trial - FIRM (9:00 AM) (Judicial Officer: Atkin, Trevor)

Vacated - per Judge

06/05/2020



Minute Order (3:00 AM) (Judicial Officer: Delaney, Kathleen E.)

Minute Order Re-Setting Settlement Conference

MINUTES

Minute Order - No Hearing Held;


Journal Entry Details:

Minute Order Re-Setting Settlement Conference Court having previously continued the Settlement Conference set for Friday April 17, 2020 due to concerns about the COVID-19 virus and the ability to have a meaningful settlement conference without all persons appearing in-person; counsel for the parties having confirmed availability for all parties and their counsel on Friday, June 18, 2020; and good cause appearing, COURT ORDERED the Settlement Conference is hereby re-set for Thursday, June 18, 2020 at 9:30 a.m. Counsel for the parties are further advised that the Court's Administrative Order 20-17 indicates a strong preference for settlement conferences to be conducted by alternative means, as proceeding in-person would require preparation of a social distancing plan and the wearing of masks at all times. See AO 20-17 at 14:16-20. For this reason, the Court is requesting counsel for the parties to submit their Confidential Settlement Conference Statements no later than 3:00 p.m. on Monday, June 15, 2020 and to include therein the telephone number and email address for each participant, which the Court may use to facilitate alternative appearances. After having the opportunity to review the confidential briefings, the Court will confirm either by conference call or further minute order issued no later than the morning of Wednesday June 17, 2020 what method of alternative appearance is preferred. CLERK'S NOTE: Copy of this minute order to be served on all parties and counsel through the Court's electronic filing system. / sb 06/05/20;


CASE SUMMARY

CASE NO. A-16-735644-C

SCHEDULED HEARINGS

 **Settlement Conference** (06/18/2020 at 9:30 AM) (Judicial Officer: Delaney, Kathleen E.)

06/18/2020


 **Settlement Conference** (9:30 AM) (Judicial Officer: Delaney, Kathleen E.)

Not Settled;

Journal Entry Details:

Settlement Conference Not Successful The above-referenced matter came on for a telephonic settlement conference with Judge Kathleen Delaney on Thursday, June 18, 2020 at 9:30 a.m. Plaintiff/Counter-Defendant/Third-Party Defendant, Encore Group of Professionals, LLC, was represented by attorney of record, Kent P. Woods, Esq., and corporate representative, John D. Jackson. Defendant/Counter-Claimant/Third-Party Plaintiff, Gabriel J. Daley, was present and represented by Timothy P. Thomas, Esq. And, the remaining Third-Party Defendants were represented by Philip R. Emerson, Esq. Unfortunately, after many hours of discussion the parties remained too far apart to reach settlement, but it is expected that additional informal efforts to reach resolution will take place. The matter is referred back to the originating department for further proceedings in the normal course. ;

07/30/2020

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

BLUEJEANS NOTICE for DEPT. 8 PRE-TRIAL CONFERENCES AUGUST 4, 2020, AT 8:30 AM

Minute Order - No Hearing Held;

Journal Entry Details:

BLUEJEANS NOTICE for DEPT. 8 PRE-TRIAL CONFERENCES AUGUST 4, 2020, AT 8:30 AM Department 8 Request to Appear Telephonically All participants MUST check in with the moderator at 8:30 AM Pursuant to Administrative Order 20-10, Department 8 will temporarily request all matters be heard via telephone conference ONLY. We will NOT be utilizing video conferencing. The court has set up an appearance through BlueJeans, which can accommodate multiple callers at no cost to participants. To use BlueJeans, please call in prior to the hearing at 1-888-748-9073. To connect to your hearing, simply input the assigned meeting ID number provided immediately below, followed by #. Your Meeting ID: 700 258 758 (NOTE: The meeting number will be different for each day's court session.) For your hearing, PLEASE observe the following protocol: Place your telephone on mute while waiting for your matter/case to be called. Do not place the conference on hold as it may play wait/hold music to others. Identify yourself before speaking each time as a record is being made. Please be mindful of sounds of rustling of papers or coughing.;

08/04/2020

 **Pre Trial Conference** (8:30 AM) (Judicial Officer: Atkin, Trevor)

MINUTES

Reset;

Journal Entry Details:

Upon Court's inquiry, counsel advised parties participated in good faith but casae did not settle, however, there is a possibility that may change in the future. Court so noted. Pursuant to the current extended District Court Administrative Orders regarding case management during the current pandemic; and, Governor's Executive Order, TRIAL VACATED and RESET. 12/01/20 8:30 a.m. Pretrial Conference 12/28/20 8:30 a.m. Calendar Call 01/04/21 9:00 a.m. Jury Trial;


SCHEDULED HEARINGS

CANCELED Calendar Call (08/31/2020 at 8:30 AM) (Judicial Officer: Atkin, Trevor)

Vacated - per Judge

CANCELED Jury Trial (09/08/2020 at 9:00 AM) (Judicial Officer: Atkin, Trevor)

Vacated - per Judge

 **Pre Trial Conference** (12/01/2020 at 8:30 AM) (Judicial Officer: Atkin, Trevor)

CANCELED Calendar Call (12/28/2020 at 8:30 AM) (Judicial Officer: Atkin, Trevor)

Vacated - per Judge

CANCELED Jury Trial (01/04/2021 at 9:00 AM) (Judicial Officer: Atkin, Trevor)

Vacated - per Judge





08/31/2020

CANCELED Calendar Call (8:30 AM) (Judicial Officer: Atkin, Trevor)

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY

CASE NO. A-16-735644-C


	<i>Vacated - per Judge</i>
09/08/2020	CANCELED Jury Trial (9:00 AM) (Judicial Officer: Atkin, Trevor) <i>Vacated - per Judge</i>
11/23/2020	 At Request of Court (3:00 AM) (Judicial Officer: Atkin, Trevor) <i>December 1, 2020 BlueJeans Notice for Department 8 Pre Trial Conference</i> Minute Order - No Hearing Held; Journal Entry Details: <i>BlueJeans Notice for DEPT. 8 PRE-TRIAL CONFERENCES on DEC. 1, 2020, at 8:30 a.m. Department 8 Request to Appear Telephonically Pursuant to Administrative Order 20-10, Department 8 will temporarily request all matters be heard via telephone conference ONLY. We will NOT be utilizing video conferencing. The court has set up an appearance through BlueJeans, which can accommodate multiple callers at no cost to participants. To use BlueJeans, please call in prior to the hearing at 1-888-748-9073. To connect to your hearing, simply input the assigned meeting ID number provided immediately below, followed by #. Your Meeting ID: 550 450 779 (NOTE: The meeting number will be different for each day's court session.) For your hearing, PLEASE observe the following protocol: Place your telephone on mute while waiting for your matter/case to be called. Do not place the conference on hold as it may play wait/hold music to others. Identify yourself before speaking each time as a record is being made. Please be mindful of sounds of rustling of papers or coughing.;</i>
12/01/2020	 Pre Trial Conference (8:30 AM) (Judicial Officer: Atkin, Trevor) MINUTES Reset; Journal Entry Details: <i>COURT FINDS based on the current Administrative Order and AO 20 - 17 and ORDERED, TRIAL VACATED AND RESET. 04/20/21 8:30 a.m. Pre Trial Conference 05/17/21 8:30 a.m. Calendar Call 05/24/21 9:00 a.m. Jury Trial;</i> SCHEDULED HEARINGS CANCELED Calendar Call (12/28/2020 at 8:30 AM) (Judicial Officer: Atkin, Trevor) <i>Vacated - per Judge</i> CANCELED Jury Trial (01/04/2021 at 9:00 AM) (Judicial Officer: Atkin, Trevor) <i>Vacated - per Judge</i> CANCELED Jury Trial (05/24/2021 at 9:00 AM) (Judicial Officer: Atkin, Trevor) <i>Vacated - Superseding Order</i>  Pre Trial Conference (04/20/2021 at 11:00 AM) (Judicial Officer: Barisich, Veronica M.) CANCELED Calendar Call (05/17/2021 at 8:30 AM) (Judicial Officer: Barisich, Veronica M.) <i>Vacated - Superseding Order</i>
12/28/2020	CANCELED Calendar Call (8:30 AM) (Judicial Officer: Atkin, Trevor) <i>Vacated - per Judge</i>
01/04/2021	CANCELED Jury Trial (9:00 AM) (Judicial Officer: Atkin, Trevor) <i>Vacated - per Judge</i>
02/25/2021	 Minute Order (3:00 AM) (Judicial Officer: Barisich, Veronica M.) Minute Order - No Hearing Held; Journal Entry Details: <i>Department 5 Formal Request to Appear REMOTELY for the March 2, 2021, hearing calendar. Please double check the docket for your start time. Please be advised that due to the COVID-19 pandemic, Department 5 will continue to conduct Court hearings REMOTELY using the Blue Jeans Video Conferencing system. You have the choice to appear either by phone or computer/video. Meeting ID: 979 802 354 Meeting URL: https://bluejeans.com/979802354 To connect by phone dial 1-408-419-1715 and enter the meeting ID followed by # To connect by computer if you do NOT have the app, copy the URL link into a web browser. Google Chrome is preferred but not required. Once you are on the BlueJeans website click on Join with Browser which is located on the bottom of the page.</i>


CASE SUMMARY

CASE NO. A-16-735644-C

Follow the instructions and prompts given by BlueJeans. You may also download the Blue Jeans app and join the meeting by entering the meeting ID PLEASE NOTE the following protocol each participant will be required to follow: Place your phone on MUTE while waiting for your matter to be called. Do NOT place the call on hold since some phones may play wait/hold music. Please do NOT use speaker phone as it causes a loud echo/ringing noise. Please state your name each time you speak so that the court recorder can capture a clear record. We encourage you to visit the Bluejeans.com website to get familiar with the Blue Jeans phone/videoconferencing system before your hearing. If your hearing gets continued to a different date after you have already received this minute order please note a new minute order will issue with a different meeting ID since the ID number changes with each meeting/hearing. Please be patient if you call in and we are in the middle of oral argument from a previous case. Your case should be called shortly. Again, please keep your phone or computer mic on MUTE until your case is called. ;

03/02/2021 **CANCELED Motion to Compel** (9:00 AM) (Judicial Officer: Barisich, Veronica M.)
Vacated - per Judge
Defendant's Motion to Compel Supplemental Discovery of Financial Records

04/14/2021  **Minute Order** (1:35 PM) (Judicial Officer: Barisich, Veronica M.)
 Minute Order - No Hearing Held;
 Journal Entry Details:
Department 5 s Formal Request to Appear REMOTELY for the April 20, 2021, Pretrial Conference calendar. Please double check the docket for your start time. Please be advised that due to the COVID-19 pandemic, Department 5 will continue to conduct Court hearings REMOTELY using the Blue Jeans Video Conferencing system. You have the choice to appear either by phone or computer/video. Meeting ID: 383 033 203 Meeting URL: <https://bluejeans.com/383033203> To connect by phone dial 1-408-419-1715 and enter the meeting ID followed by # To connect by computer if you do NOT have the app, copy the URL link into a web browser. Google Chrome is preferred but not required. Once you are on the BlueJeans website click on Join with Browser which is located on the bottom of the page. Follow the instructions and prompts given by BlueJeans. You may also download the Blue Jeans app and join the meeting by entering the meeting ID PLEASE NOTE the following protocol each participant will be required to follow: Place your phone on MUTE while waiting for your matter to be called. Do NOT place the call on hold since some phones may play wait/hold music. Please do NOT use speaker phone as it causes a loud echo/ringing noise. Please state your name each time you speak so that the court recorder can capture a clear record. We encourage you to visit the Bluejeans.com website to get familiar with the Blue Jeans phone/videoconferencing system before your hearing. If your hearing gets continued to a different date after you have already received this minute order please note a new minute order will issue with a different meeting ID since the ID number changes with each meeting/hearing. Please be patient if you call in and we are in the middle of oral argument from a previous case. Your case should be called shortly. Again, please keep your phone or computer mic on MUTE until your case is called. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Jennifer Lott, to all registered parties for Odyssey File & Serve. jl ;






04/20/2021  **Pre Trial Conference** (11:00 AM) (Judicial Officer: Barisich, Veronica M.)
 Matter Heard;
 Journal Entry Details:
Court stated the Motion in Limines were heard and the parties participated in a settlement conference; however, the settlement conference was unsuccessful. Upon Court's inquiry, Mr. Woods announced the Plaintiff is ready; however, since his expert witnesses are tax accountants and given the new May 15, 2021 tax deadline his witnesses may not be available. Mr. Thomas announced the Defendant is ready for trial and concurred with Mr. Woods' assessment regarding expert witnesses availability. Mr. Emerson advised he has a conflict with the current trial setting and requested the trial be moved to the next stack. Mr. Woods and Mr. Thomas had no objection. COURT ORDERED, trial dates VACATED and RESET. Counsel to prepare and submit a Stipulation to extend the five (5) year rule. 08/03/21 11:00 AM PRE-TRIAL CONFERENCE 08/30/21 08:30 AM CALENDAR CALL 09/07/21 09:00 AM JURY TRIAL;

05/17/2021 **CANCELED Calendar Call** (8:30 AM) (Judicial Officer: Barisich, Veronica M.)
Vacated - Superseding Order

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY

CASE NO. A-16-735644-C

05/24/2021	CANCELED Jury Trial (9:00 AM) (Judicial Officer: Atkin, Trevor) <i>Vacated - Superseding Order</i>
08/03/2021	 Pre Trial Conference (11:00 AM) (Judicial Officer: Barisich, Veronica M.) Trial Date Set; Journal Entry Details: <i>Mr. Emerson advised the party are planning on going forward with trial; however, he had two (2) other cases set for the September 7, 2021 trial stack before Judge Holthus and Judge Kishner and requested a continuance to another trial stack. Mr. Thomas advised his client is eager to move forward with the matter. Colloquy regarding scheduling issues. COURT ORDERED, trial dates VACATED and RESET. 09/07/21 11:00 AM PRE-TRIAL CONFERENCE 10/04/21 08:30 AM CALENDAR CALL 10/11/21 09:00 JURY TRIAL;</i>
08/30/2021	CANCELED Calendar Call (8:30 AM) (Judicial Officer: Barisich, Veronica M.) <i>Vacated - per Judge</i>
09/07/2021	CANCELED Jury Trial (9:00 AM) (Judicial Officer: Barisich, Veronica M.) <i>Vacated - per Judge</i>
09/07/2021	 Pre Trial Conference (11:00 AM) (Judicial Officer: Barisich, Veronica M.) Trial Date Set; Journal Entry Details: <i>Upon Court's inquiry, counsel announced ready for trial and advised the parties would require 12-15 days for trial. Colloquy regarding scheduling issues. COURT ORDERED, trial dates VACATED and RESET. Trial Order TO ISSUE. 11/16/21 11:00 AM PRE TRIAL CONFERENCE 12/21/21 11:00 AM CALENDAR CALL 01/10/22 09:00 AM JURY TRIAL - FIRM 01/11/22 09:00 AM JURY TRIAL - FIRM 01/12/22 09:00 AM JURY TRIAL - FIRM 01/13/22 09:00 AM JURY TRIAL - FIRM 01/14/22 09:00 AM JURY TRIAL - FIRM 01/18/22 09:00 AM JURY TRIAL - FIRM 01/19/22 09:00 AM JURY TRIAL - FIRM 01/20/22 09:00 AM JURY TRIAL - FIRM 01/21/22 09:00 AM JURY TRIAL - FIRM 01/24/22 09:00 AM JURY TRIAL - FIRM 01/25/22 09:00 AM JURY TRIAL - FIRM 01/26/22 09:00 AM JURY TRIAL - FIRM;</i>
10/04/2021	CANCELED Calendar Call (8:30 AM) (Judicial Officer: Barisich, Veronica M.) <i>Vacated</i>
10/11/2021	CANCELED Jury Trial (9:00 AM) (Judicial Officer: Barisich, Veronica M.) <i>Vacated</i>
11/16/2021	 Pre Trial Conference (11:00 AM) (Judicial Officer: Barisich, Veronica M.) Matter Heard; Journal Entry Details: <i>Mr. Thomas announced ready for trial and advised the parties continue to work toward settlement of the matter. Court stated that as of January 2022 jury selection will begin on the Monday of jury trial. Upon Court's inquiry, parties confirmed 12-15 days for trial and 2 days for jury selection. COURT ORDERED, trial dates STAND.;</i>
12/21/2021	 Calendar Call (11:00 AM) (Judicial Officer: Barisich, Veronica M.) Matter Heard; Journal Entry Details: <i>Upon Court's inquiry, counsel announced ready and confirmed the number of days for trial and jury selection. Court stated a pretrial meeting will be held prior to trial and upon further inquiry, counsel advised of their availability. Further, Court stated the Department's Trial Guideline would be provided to the parties. Colloquy regarding exhibits, jury notebooks, verdict forms, jury instructions and exhibits. Court stated the parties would discuss additional procedures for trial and ORDERED, pretrial meeting SET. 01-06-22 11:00 AM PRETRIAL MEETING;</i>
01/06/2022	 Hearing (11:00 AM) (Judicial Officer: Barisich, Veronica M.) Matter Heard;

CASE SUMMARY

CASE NO. A-16-735644-C

Journal Entry Details:

Colloquy regarding trial scheduling issues.;

01/10/2022



Jury Trial - FIRM (10:00 AM) (Judicial Officer: Barisich, Veronica M.)

01/10/2022-01/12/2022

Case Settled

Trial Continues;

Matter Settled;

Trial Continues;

Case Settled

Case Settled

Case Settled

Case Settled

Case Settled

Case Settled

Case Settled

Case Settled

Duplicate

Case Settled

Case Settled

Case Settled

Journal Entry Details:

OUTSIDE THE PRESENCE OF THE JURY: Mr. Emerson made a record regarding Defendant's Motion in Limine related to the unemployment application and benefits received by the Defendant. Further, Mr. Emerson advised the Court ruled that none of the findings and conclusions were to be disclosed to the jury as it would be prejudicial to the Defendant.

Additionally, Mr. Emerson advised Plaintiff may use the information as to state of mind during cross or direct examination, it would not make any disclosure regarding whether Defendant's unemployment benefits. Mr. Thomas concurred that it was his understanding that any of the appeal's determinations or rulings regarding payment of unemployment benefits would be disclosed; however, the transcripts could be used for impeachment purposes. Colloquy regarding trial scheduling issues. JURY PRESENT: Opening Statements by Mr. Emerson.

OUTSIDE THE PRESENCE OF THE JURY: Court stated that one of the jurors indicated that he may know someone previously employed by Oracle in California and now employed for Encore in Phoenix. Court and counsel's canvassed Juror #239. After canvassing Juror #239, it was determined that Encore in Phoenix is not related to the Counter Defendants and Third Party Defendants in this matter. JURY PRESENT: Opening Statement by Mr. Emerson continued. Opening Statement by Mr. Thomas. COURT ORDERED, jury trial CONTINUED.

CONTINUED TO: 01-12-22 10:30 AM;

Case Settled

Trial Continues;

Matter Settled;

Trial Continues;

Case Settled

Case Settled

Case Settled

Case Settled

Case Settled

Case Settled

Case Settled

Case Settled

Duplicate

Case Settled

Case Settled

Case Settled

Journal Entry Details:

OUTSIDE THE PRESENCE OF THE JURY: Court stated it was informed the parties have reached a settlement. Mr. Woods placed the terms of the settlement on the records. Defendant will execute a promissory note in favor of the Plaintiff and Third Party Defendants in the amount of the fees and costs since inception of the case to date, and will relinquish and disclaim any further interest in the Plaintiff or any of its affiliates. The amount of and the terms of the Promissory Note will be negotiated between the parties following this hearing, but substantially Defendant will pay \$25,000 before the end of the year and the remainder of the

CASE SUMMARY

CASE NO. A-16-735644-C

Promissory Note will be forgiven at that time. Mr. Thomas concurred to Mr. Woods' representations regarding the terms of the settlement. COURT ORDERED, status check SET regarding settlement documents. JURY PRESENT: Court stated the parties reached a settlement agreement, and thanked and excused the jury. 02-15-22 10:00 AM STATUS CHECK: SETTLEMENT DOCUMENT;

Case Settled
Trial Continues;
Matter Settled;
Trial Continues;
Case Settled
Case Settled
Case Settled
Case Settled
Case Settled
Case Settled
Case Settled
Duplicate
Case Settled
Case Settled
Case Settled

Journal Entry Details:

OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY: Colloquy regarding voire dire, juror selection and trial scheduling. PROSPECTIVE JURY PRESENT: Introduction. Roll call by Clerk and Voire Dire Oath administered. Voire Dire conducted. Jury selected and sworn. COURT ORDERED, jury trial CONTINUED. CONTINUED TO: 01-11-22 10:00 AM;

02/15/2022



Status Check (10:00 AM) (Judicial Officer: Barisich, Veronica M.)

Status Check: Settlement Documents

Matter Heard;

Journal Entry Details:

Upon Court's inquiry regarding the status of the settlement documents, Mr. Wood advised the parties have been unable to document the settlement placed on the record at the close of trial since it appears the Defendant has had second thoughts. Further, Mr. Wood advised the Plaintiff filed a Motion to Enforce Settlement on February 14, 2022. Mr. Thomas advised that all counsel have attempted to work out the issues; however, the parties were unable to document the agreement as stated in Court and will need to move forward with the Motion to Enforce Settlement. Court stated it would review the Motion and move forward with the subsequent action.;

03/22/2022

Motion to Enforce (9:00 AM) (Judicial Officer: Barisich, Veronica M.)

Events: 02/14/2022 Motion to Enforce

02/15/2022 Notice of Motion

Plaintiff and Third Party Defendants' Joint Motion to Enforce Settlement Agreement and for Fees and Costs

Granted in Part;

03/22/2022



All Pending Motions (9:00 AM) (Judicial Officer: Barisich, Veronica M.)

Matter Heard;

Journal Entry Details:

Mr. Wood argued that the record of the settlement agreement speaks for itself and stated the terms of the settlement agreement. Further, Mr. Wood argued that based on the settlement terms, Plaintiff presented to the Defendant the Settlement Agreement and Promissory Note; however, Plaintiff argued there were issues related to tax consequences although Defendant did not reserve any tax consequences related to the Settlement Agreement. Mr. Thomas argued that record reflected that the terms of the Settlement Agreement were substantially agreed to and terms would be negotiated. Further, Mr. Thomas argued that there was a basis for a Settlement Agreement not an actual Settlement Agreement. Additionally, the tax contingencies related to the Settlement Agreement are significant. COURT ORDERED, matter taken UNDER ADVISEMENT; a Minute Order WILL ISSUE.;

03/31/2022



Minute Order (3:00 AM) (Judicial Officer: Barisich, Veronica M.)

CASE SUMMARY**CASE NO. A-16-735644-C**

Minute Order - No Hearing Held;

Journal Entry Details:

*This matter came before the Court on Plaintiff and Third Party Defendants' Joint Motion to Enforce Settlement Agreement and for Fees and Costs. After hearing the oral arguments, the Court took the matter UNDER ADVISEMENT. After carefully considering the evidence and arguments submitted, and good cause appearing, the COURT FINDS and ORDERS as follows: The jury trial began on January 10, 2022. On January 12, 2022, after the jury was selected and the counsels made their respective opening statements, the counsels indicated that they reached a settlement and the terms were placed on the record. Plaintiff's counsel stated the terms of the settlement as follows: (1) Defendant will execute a promissory note in favor of the Plaintiff. The amount of the note is to be the attorney's fees and costs Plaintiff and Third Party Defendants incurred from the inception of the case to date (January 12, 2022). (2) Defendant will relinquish and disclaim any interest in Plaintiff or its affiliates. (3) Amount of the promissory note and the terms will be negotiated following the hearing. (4) If Defendant pays \$25,000 before the end of 2022, the remainder of the promissory note will be forgiven. Defendant's counsel then stated that "we agree those are the terms". The Court then set a status check about 30 days out for the submission of the settlement documents. The jury was then summoned to thank them for their service and to inform them a resolution was reached. The jury was then dismissed. However, settlement documents were not submitted to date. Instead, Plaintiff and Third Party Defendants filed the instant joint motion to enforce settlement agreement and for fees and costs, which Defendant opposed. Under Nevada law, a settlement agreement is a contract, and therefore governed by basic contract principles such as an offer and acceptance, meeting of the minds, and consideration. *May v. Anderson*, 121 Nev. 668, 672, 119 P.3d 1254, 1257 (2005). In determining whether a contract has been sufficiently formed, preliminary negotiations do not constitute a binding contract unless the parties have agreed to all material terms. *Id.* In a case of a settlement agreement, a court cannot compel compliance when material terms remain uncertain. *Id.* Release terms, by their nature, are generally held to be material to any settlement agreement. *Id.* When the parties are in dispute regarding the terms of the release, then there is no settlement agreement. *Id.* However, even though parties can agree upon the settlement amount and negotiated over many of its terms, a settlement agreement is still not enforceable if the scope of the release terms remained unresolved. *Id.* at 674, 1258 (citing to *Bontigao v. Villanova University*, 786 F.Supp 513, 515-16 (E.D.Pa.1992)). Therefore, there is no "meeting of the minds" when the parties have not agreed upon the settlement agreement's essential terms. See *Certified Fire Prot. Inc. v. Precision Constr.*, 283 P.3d 250, 255, 128 Nev. Op. 35 (Aug. 9, 2012) ("A meeting of the minds exists when the parties have agreed upon the contract's essential terms."). As to the settlement terms what were not written down, but put on the record during a hearing, such settlement is enforceable. *Grisham v. Grisham*, 128 Nev. 679, 686, 289 P.3d 230, 235 (2012). While recorded testimony has no signature, a signature's only purpose is authentication, and this is amply supplied in the case of an admission in court. *Id.* Mistake of fact occurs when a person understands the facts to be other than they are. *General Motors v. Jackson*, 111 Nev. 1026, 1032, 900 P.2d 345, 349 (1995). Mutual mistake occurs when both parties, at the time of contract, share a misconception about a vital fact upon which they based their bargain. *Id.* Under general principles of contract law, unilateral mistake is not a ground for rescission unless the other party knows or has reason to know of the mistake. *Id.*; *Oh v. Wilson*, 112 Nev. 38, 40, 910 P.2d 276, 278 (1996) ("Unilateral mistake may be basis for rescission of agreement only if the other party had reason to know of mistake or if other party's fault caused the mistake.") "Courts have consistently held that one is bound by any document one signs in spite of any ignorance of the document's content, providing there has been no misrepresentation." *Yee v. Weiss*, 110 Nev. 657, 662, 877 P.2d 510, 513 (1994). In *Yee*, the Nevada Supreme Court cited to the Restatement (Second) of Contracts 172 (1981): A recipient's fault in not knowing or discovering the facts before making the contract does not make his reliance unjustified unless it amounts to a failure to act in good faith and in accordance with reasonable standards of fair dealing. The *Yee* Court then states, "the comments to 172 note that if the recipient should have discovered the falsity by making a cursory examination, his reliance is clearly not justified and he is not entitled to relief; he is expected to use his senses and not rely blindly on the maker's assertions." *Id.* Promissory estoppel can be used as "consideration substitute" to support release of liability under a guaranty contract. *Pink v. Busch*, 100 Nev. 684, 689, 691 P.2d 456, 459 (1984). To establish promissory estoppel, four elements must exist: party to be estopped must be apprised of true facts, he must intend that his conduct shall be acted upon or must so act that party asserting estoppel has right to believe it was so intended, party asserting estoppel must be ignorant of true state of facts, and he must have relied to his detriment upon conduct of party to be estopped. *Id.* Contract interpretation is a question of law. *Redrock Valley Ranch LLC v. Washoe County*, 127 Nev. 451, 460, 254 P.3d 641, 647 (2011). Public Policy favors the settlement of disputes and thus, stipulations should not be easily set aside. *Id.* at 460, 648. The Court FINDS and CONCLUDES that there was a binding settlement agreement that was entered on record on January 12, 2022. All material terms were provided,*

CASE SUMMARY**CASE NO. A-16-735644-C**

which are as follows: (1) Defendant will execute a promissory note in favor of the Plaintiff. The amount of the note is equal to the attorney's fees and costs that Plaintiff and Third Party Defendants incurred from the inception of the case to date (January 12, 2022). (2) Defendant will relinquish and disclaim any interest in Plaintiff or its affiliates. (3) Amount of the promissory note and the terms will be negotiated by the parties following the hearing. (4) If Defendant pays \$25,000 before the end of 2022, the remainder of the promissory note will be forgiven. The Court FINDS and CONCLUDES that although Defendant argues that there are missing material terms, the Court cannot agree. At the hearing, Defendant did condition his acceptance of the terms with review with his tax attorney or accountant before giving his final approval. Although Defendant argues that the parties never agreed to when the \$25,000 payment being due by the end of 2022, this is contradicted by the transcript of the hearing. Terms of the promissory note, specifically regarding the maturity date and interest rate are indeed not put on the record and the parties were to negotiate the terms after the hearing. However, under NRS 99.040(1), if the parties were unable to agree on the interest rate, the interest rate would be set as the prime rate plus 2%. Defendant failed to show to the Court why the lack of agreement on the maturity date on the promissory note is material, especially given that if \$25,000 is paid before the end of 2022, remaining amount on the promissory note will be waived. The Court FINDS and CONCLUDES that Defendant failed to show that there was mutual or unilateral mistake regarding whether the settlement agreement was conditional. Specifically, Defendant argues that he believed that the settlement agreement was conditioned on him reviewing the terms with his tax attorney or accountant before final approval and that the parties did not agree to \$25,000 payment being due by the end of 2022. However, again, the due date of \$25,000 payment is clearly set forth in the transcript. At best, this is a unilateral mistake by Defendant, which is not a ground for rescission unless Defendant can prove that Plaintiff and/or its counsel knew of this mistake and misrepresented it to the Court. Defendant failed to make any showing to the Court that the opposing parties and their counsel were aware of this mistake and misrepresented it to the Court. The transcript is clear and the terms put on the record must be enforced. Furthermore, there was no evidence that settlement agreement presented on the record is not final and Defendant still had to review the terms with his tax attorney or accountant before giving his final approval. Furthermore, although Defendant alleges subsequent agreement that modified the material terms of the agreement, this allegation is not supported by any affidavit or other evidence. The Court FINDS and CONCLUDES that the settlement agreement that was put on the record on January 12, 2022 was a binding, final agreement. If the Court, and the parties and their counsel, believed otherwise, the jury would not have been dismissed and the jury trial be adjourned. Defendant cites to AO 22-02, which was announced on January 13, 2022, for the proposition that the jury trial would have to be suspended. Even if Defendant's interpretation is correct, the parties and their counsels, and the Court, were unaware of this administrative order when the settlement agreement terms were negotiated and put on the record on January 12, 2022. Thus, Defendant's argument as to AO 22-20 is a red herring. The Court FINDS and CONCLUDES that promissory estoppel is applicable because Defendant was apprised of the true facts. If there were some conditions that were negotiated, but were inadvertently not revealed to the Court, Defendant was certainly aware of the missing terms before the settlement terms were put on the record. Defendant intended that his conduct is to be acted upon. The emails exchanged subsequently to the hearing by the parties' respective counsels show that the parties were acting to complete the settlement terms that were put on the record i.e. the terms of the promissory note. There was no showing that other parties or their counsels were aware of any purported missing conditions. Plaintiff and Third Party Defendants relied to their detriment upon Defendant's conduct because they agreed to settle their case instead pushing forward with litigation. The Court FINDS and CONCLUDES that as to request for attorney's fees and costs, although the motion to enforce settlement agreement is granted, Defendant presented at least a genuine dispute over whether certain terms were material. Thus, the case does not fall under EDCR 7.60 and no finding that Defendant acted unreasonably, frivolously, or that the opposition was obviously frivolous, unnecessary or unwarranted shall be made. However, the parties and their respective counsels must work together to complete the terms of their settlement agreement regarding the promissory note. If any party fails to work in good faith to complete the settlement agreement, an appropriate motion can be filed and the Court will determine if sanctions are warranted. The Court ORDERS that motion shall be GRANTED in part, DENIED in part. Motion to enforce settlement agreement shall be GRANTED. Motion for fees and costs shall be DENIED. Counsel for Plaintiff or Third Party Defendants is directed to submit a proposed Order consistent with this Minute Order and the submitted briefing. Counsel may add language to further supplement the proposed Order in accordance with the Court's findings and any submitted arguments. Defendant's counsel is to review and countersign as to form and content. Counsel is directed to have the proposed Order submitted to chambers within 14 days consistent with AO 21-04 and EDCR 7.21. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Carolyn Jackson, to all registered parties for Odyssey File & Serve. /cj 03/31/21;

CASE SUMMARY**CASE NO. A-16-735644-C**

DATE

FINANCIAL INFORMATION

Third Party Plaintiff Daley, Gabriel J

Total Charges 826.00

Total Payments and Credits 826.00

Balance Due as of 5/18/2022 0.00**Counter Defendant** Encore Group of Professionals

Total Charges 870.00

Total Payments and Credits 870.00

Balance Due as of 5/18/2022 0.00**Third Party Defendant** Jackson, John D

Total Charges 423.00

Total Payments and Credits 423.00

Balance Due as of 5/18/2022 0.00**Third Party Defendant** Sylo Management LLC

Total Charges 373.00

Total Payments and Credits 373.00

Balance Due as of 5/18/2022 0.00

DISTRICT COURT CIVIL COVER SHEET

Clark County, Nevada

A- 16- 735644- C

XXI X

Case No. _____

(Assigned by Clerk's Office)

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

Plaintiff(s) (name/address/phone):	Defendant(s) (name/address/phone):
ENCORE GROUP OF PROFESSIONALS, LLC	GABRIEL J. DALEY
1349 GALLERIA DRIVE, SUITE 200	400 WINDMERE CIRCLE
HENDERSON, NEVADA 89014	CORINTH, TEXAS 76210-2761
702-433-9696	
Attorney (name/address/phone):	Attorney (name/address/phone):
KENT P. WOODS, ESQ.	
1349 GALLERIA DRIVE, SUITE 200	
HENDERSON, NEVADA 89014	

II. Nature of Controversy (please select the one most applicable filing type below)**Civil Case Filing Types**

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

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

4/25/2016

Date

Signature of initiating party or representative

See other side for family-related case filings.

Heather S. Linn
CLERK OF THE COURT

OGM (CIV)

KENT P. WOODS, ESQ.
Nevada Bar No. 12306
LAW OFFICE OF KENT P. WOODS LLC
197 E. California Ave. #300
Las Vegas, NV 89104
Telephone: 702-703-1540
Email: kent@kwoodslaw.com
Attorney for Plaintiff

DISTRICT COURT

CLARK COUNTY, NEVADA

ENCORE GROUP OF PROFESSIONALS, LLC,

Plaintiff,

vs.

GABRIEL J. DALEY, DOES I through X AND
ROE CORPORATIONS XI through XX, inclusive,

Defendants.

AND RELATED CLAIMS

Case No.: A-16-735644-C

Dept. No.: V

**ORDER GRANTING IN PART AND DENYING IN PART THE PLAINTIFF'S AND
THIRD-PARTY DEFENDANTS' JOINT MOTION TO ENFORCE SETTLEMENT
AGREEMENT AND FOR FEES AND COSTS**

Plaintiff ENCORE GROUP OF PROFESSIONALS LLC ("Plaintiff") and Third-Party Defendants JOHN D. JACKSON, THE JOHN D. AND TERRI L. JACKSON FAMILY TRUST, ENCORE GROUP OF CALIFORNIA LLLP, ENCORE GROUP OF NEVADA LLC, ENCORE GROUP OF HAWAII LLC, and ENCORE GROUP OF TEXAS LLC (collectively, the "Third Party Defendants" and together with the Plaintiff, the "Movant") having filed for this Court's consideration a Joint Motion to Enforce Settlement Agreement and for Fees and Costs (the "Motion"), and the Court clerk having set March 22, 2022, for the hearing thereon before the Court, notice thereof having been given to the Defendant thereof, and the Court having reviewed

1 the evidence submitted by the parties and having considered the papers and pleadings on file and
2 the argument made by the parties, and good cause appearing therefor,

3 **THE COURT FINDS AND CONCLUDES**, as follows:

4 A. A valid, binding, and final settlement agreement was entered on the record before the
5 Court on January 12, 2022, the material terms of which were as follows: (1) Defendant
6 will execute a promissory note in favor of the Plaintiff in an amount equal to the
7 attorneys' fees and costs that Plaintiff and Third-Party Defendants incurred from
8 inception of the case to January 12, 2022; (2) Defendant will relinquish and disclaim
9 any interest in Plaintiff or its affiliates; (3) the amount of the promissory note and the
10 terms will be negotiated by the parties following the hearing; and (4) provided that the
11 Defendant pays \$25,000 before December 31, 2022, the remainder of the promissory
12 note will be forgiven.

13 B. The Defendant did not make a sufficient showing as to the existence of a condition to
14 the settlement agreement or that the agreement as set forth on the record failed to
15 contain material terms such that enforcement would be improper. Likewise, the
16 Defendant did not make a sufficient showing of mutual mistake in order to prevent
17 enforcement of the agreement.

18 C. The Movants made a sufficient showing that the Defendant is bound by promissory
19 estoppel to complete the settlement agreement because he intended that his words and
20 conduct at the January 12, 2022, hearing be acted upon. The Defendant failed to put
21 forth any evidence that the parties or their counsel were aware of missing conditions or
22 terms in the agreement, and the Movants relied to their detriment on the Defendant's
23 conduct.

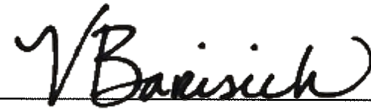
24 D. The Defendant presented a genuine dispute as to whether certain terms of the agreement
25 were material; accordingly, EDCR 7.60 does not support an award of attorney fees or
26 costs in favor of the Movants.

27 **ACCORDINGLY, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED**, as
28 follows:

- 1 A. The Motion filed with the Court is GRANTED IN PART AND DENIED IN PART, as
2 noted below.
- 3 B. The Movants' request for an order enforcing the settlement agreement placed on the
4 Court's record at the January 12, 2022, hearing is GRANTED. The Parties are to
5 directed enter into final settlement agreements consistent with the contract reflected on
6 the record of the January 12, 2022 hearing, to wit (a) that the Defendant will execute a
7 promissory note in favor of the Plaintiff in an amount equal to the Plaintiff's and Third
8 Party Defendants' accumulated fees and costs from inception of the case through
9 January 12, 2022; (b) provided that \$25,000 is paid to the Plaintiff on or before
10 December 31, 2022, the remaining balance of the promissory note will be forgiven; and
11 (c) the Defendant will surrender and/or disclaim any interest in the Defendant or the
12 Third-Party Defendants or their affiliates. All other terms of the settlement documents
13 shall be negotiated in good faith between the parties using commercially reasonable
14 terms.
- 15 C. The Movants' request for an award of attorney fees and costs related to bringing the
16 Motion is DENIED. In the event that any party is unwilling to negotiate the final
17 settlement documents in good faith, the parties may submit a motion for attorney fees
18 and costs at that time.

19
20 SO ORDERED

Dated this 17th day of April, 2022

21
22 

23 DISTRICT COURT JUDGE
24 C08 CF8 78CB CD04
25 Veronica M. Barisich
26 District Court Judge
27
28

1 Submitted by:

2 LAW OFFICE OF KENT P. WOODS LLC

3
4 By: /s/ Kent P. Woods

5 KENT P. WOODS, ESQ.

6 Nevada Bar No. 12306

7 197 E. California Ave. #300

8 Las Vegas, NV 89104

9 (702) 703-1540

10 kent@kwoodslaw.com

11 *Attorney for Plaintiff*

12
13 EMERSON LAW GROUP

14 By: /s/ Phillip R. Emerson

15 Phillip R. Emerson

16 Nevada Bar No. 5940

17 1055 Whitney Ranch Blvd.

18 Henderson, NV 89014

19 *Attorney for Third-Party Defendants*

20
21 Approved as to form and content:

22 LAW OFFICE OF TIMOTHY P. THOMAS LLC

23 By: /s/ Timothy P. Thomas

24 Timothy P. Thomas, Esq.

25 Nevada Bar No. 5148

26 1771 E. Flamingo Road, Suite 212-B

27 Las Vegas, NV 89119

28 *Attorney for Defendant*

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

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5
6 Encore Group of Professionals,
Plaintiff(s)

CASE NO: A-16-735644-C

7 vs.

DEPT. NO. Department 5

8
9 Gabriel Daley, Defendant(s)

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11 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 4/17/2022

15 Joseph Nold noldj@cox.net

16 Janet Terrazas algparalegal@cox.net

17 Phillip Emerson receptionist@emersonlawgroup.com

18 Phillip Emerson emersonlawgroup@gmail.com

19 "Joseph T. Nold, Esq. " . noldj@cox.net

20 "Kent P. Woods, Esq." . kwoods@woodserickson.com

21 Anna M. Reber . areber@woodserickson.com

22 Fileclerk . emersonlawgroup@gmail.com

23 Lori Cruz . ual@cox.net

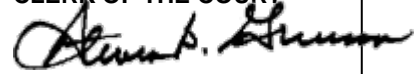
24 Receptionist . receptionist@emersonlawgroup.com

25 Phillip Emerson emersonlawgroup@gmail.com

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Liz Ali	liz@tthomaslaw.com
Timothy Thomas	tthomas@tthomaslaw.com
Gabriel Daley	gjdaley@gmail.com
Kent Woods	kent@kwoodslaw.com
Gabriel Daley	gabriel@gandgdaley.com



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Email: kent@kwoodslaw.com
Attorney for Plaintiff

DISTRICT COURT

CLARK COUNTY, NEVADA

ENCORE GROUP OF PROFESSIONALS, LLC,

Plaintiff,

vs.

GABRIEL J. DALEY, DOES I through X AND
ROE CORPORATIONS XI through XX, inclusive,

Defendants.

AND RELATED CLAIMS

Case No.: A-16-735644-C

Dept. No.: V

NOTICE OF ENTRY OF ORDER

PLEASE TAKE NOTICE that on April 17, 2022, the above-entitled Court entered its Order Granting in Part and Denying in Part the Plaintiff's and Third-Party Defendants' Joint Motion to Enforce Settlement Agreement and for Fees and Costs, a full and complete copy of which is attached to this Notice.

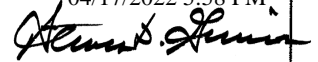
DATED this 20th day of April, 2022.

LAW OFFICE OF KENT P. WOODS LLC

By: /s/ Kent P. Woods
KENT P. WOODS, ESQ.
Nevada Bar No. 12306
197 E. California Ave. #300

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Las Vegas, NV 89104
(702) 703-1540
kent@kwoodslaw.com
*Attorney for Plaintiff Encore Group of
Professionals LLC*


CLERK OF THE COURT

OGM (CIV)

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Email: kent@kwoodslaw.com
Attorney for Plaintiff

DISTRICT COURT

CLARK COUNTY, NEVADA

ENCORE GROUP OF PROFESSIONALS, LLC,

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GABRIEL J. DALEY, DOES I through X AND
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Defendants.

AND RELATED CLAIMS

Case No.: A-16-735644-C

Dept. No.: V

**ORDER GRANTING IN PART AND DENYING IN PART THE PLAINTIFF'S AND
THIRD-PARTY DEFENDANTS' JOINT MOTION TO ENFORCE SETTLEMENT
AGREEMENT AND FOR FEES AND COSTS**

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1 the evidence submitted by the parties and having considered the papers and pleadings on file and
2 the argument made by the parties, and good cause appearing therefor,

3 **THE COURT FINDS AND CONCLUDES**, as follows:

4 A. A valid, binding, and final settlement agreement was entered on the record before the
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10 terms will be negotiated by the parties following the hearing; and (4) provided that the
11 Defendant pays \$25,000 before December 31, 2022, the remainder of the promissory
12 note will be forgiven.

13 B. The Defendant did not make a sufficient showing as to the existence of a condition to
14 the settlement agreement or that the agreement as set forth on the record failed to
15 contain material terms such that enforcement would be improper. Likewise, the
16 Defendant did not make a sufficient showing of mutual mistake in order to prevent
17 enforcement of the agreement.

18 C. The Movants made a sufficient showing that the Defendant is bound by promissory
19 estoppel to complete the settlement agreement because he intended that his words and
20 conduct at the January 12, 2022, hearing be acted upon. The Defendant failed to put
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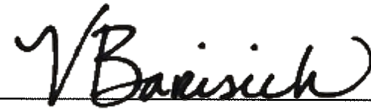
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- 15 C. The Movants' request for an award of attorney fees and costs related to bringing the
16 Motion is DENIED. In the event that any party is unwilling to negotiate the final
17 settlement documents in good faith, the parties may submit a motion for attorney fees
18 and costs at that time.

19
20 SO ORDERED

Dated this 17th day of April, 2022

21
22 

23 DISTRICT COURT JUDGE
24 C08 CF8 78CB CD04
25 Veronica M. Barisich
26 District Court Judge
27
28

1 Submitted by:

2 LAW OFFICE OF KENT P. WOODS LLC

3
4 By: /s/ Kent P. Woods

5 KENT P. WOODS, ESQ.

6 Nevada Bar No. 12306

197 E. California Ave. #300

Las Vegas, NV 89104

(702) 703-1540

kent@kwoodslaw.com

Attorney for Plaintiff

9
10 EMERSON LAW GROUP

11 By: /s/ Phillip R. Emerson

12 Phillip R. Emerson

13 Nevada Bar No. 5940

1055 Whitney Ranch Blvd.

Henderson, NV 89014

Attorney for Third-Party Defendants

15
16 Approved as to form and content:

17 LAW OFFICE OF TIMOTHY P. THOMAS LLC

18
19 By: /s/ Timothy P. Thomas

20 Timothy P. Thomas, Esq.

21 Nevada Bar No. 5148

1771 E. Flamingo Road, Suite 212-B

Las Vegas, NV 89119

Attorney for Defendant

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Contract

COURT MINUTES

September 14, 2016

A-16-735644-C Encore Group of Professionals, Plaintiff(s)
vs.
Gabriel Daley, Defendant(s)

September 14, 2016 9:00 AM All Pending Motions

HEARD BY: Bonaventure, Joseph T. **COURTROOM:** RJC Courtroom 03F

COURT CLERK: Natalie Ortega

RECORDER:

REPORTER:

PARTIES

PRESENT: Cisneros, Pedro D. Attorney
Nold, Joseph T. Attorney
Woods, Kent P. Attorney

JOURNAL ENTRIES

- Defendant/Counterclaimant Gabriel J. Daley's Motion to Dismiss Plaintiff's Causes of Action Relating to Employment Agreement Pursuant to NRCP 12(b)...Plaintiff/Counterdefendant's Opposition to Defendant/CounterClaimant Gabriel J Daley's Motion to Dismiss Plaintiff's Causes of Action Relating to Employment Agreement Pursuant to NRCP 12(b) and Counter Motion to Dismiss Second Third and Fourth Counterclaims or Alternative for Summary Judgment...Third Party Defendant John D Jackson's Joinder to Plaintiff/Counter Defendant's Opposition to Defendant/Counter Claimant Gabriel J Daley's Motion to Dismiss Plaintiff's Cause of Action Relating to Employment Agreement Pursuant to NRCP 12(b) and Counter Motion to Dismiss Second, Third and Fourth Counterclaims or Alternatively for Summary Judgment

Arguments by counsel regarding the merits of the motion. COURT ORDERED, Motions DENIED.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Contract

COURT MINUTES

May 08, 2017

A-16-735644-C Encore Group of Professionals, Plaintiff(s)
vs.
Gabriel Daley, Defendant(s)

May 08, 2017	9:30 AM	Motion to Dismiss	Defendant/Counterclaimant Gabriel J. Daley's Renewed Motion to Dismiss Plaintiff's Causes of Actions Relating to Employment Agreement Pursuant to NRCP 12(b), and Motion to Dismiss Plaintiff's Cause of Action of Tortious Interference with Contractual Relationship, and Motion to Amend, and Motion to Disqualify Counsel
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HEARD BY: Jones, David M

COURTROOM: RJC Courtroom 03B

COURT CLERK: Alan Castle

RECORDER: Melissa Delgado-Murphy

REPORTER:

PARTIES

PRESENT:	Emerson, Phillip R	Attorney
	Nold, Joseph T.	Attorney
	Woods, Kent P.	Attorney

JOURNAL ENTRIES

PRINT DATE: 05/18/2022

Page 2 of 62

Minutes Date: September 14, 2016

- Arguments by counsel. COURT FINDS no good cause for reconsidering motion to dismiss and motion will be considered by this court as a motion for summary judgment; COURT ORDERED, Defendant/Counterclaimant Gabriel J. Daley's Renewed Motion to Dismiss Plaintiff's Causes of Actions Relating to Employment Agreement Pursuant to NRCP 12(b) is DENIED; Motion for Summary Judgment is CONTINUED and decision is STAYED until the end of discovery when counsel may renew at that time, if appropriate.

COURT ORDERED, Motion to Dismiss Plaintiff's Cause of Action of Tortious Interference with Contractual Relationship, 7th cause of action is GRANTED.

COURT admonished counsel regarding pleadings and ORDERED, Motion to Amend Answer to Add Counterclaim, Third Party Complaint is GRANTED.

COURT ORDERED, Motion to Disqualify Counsel is DENIED.

Mr. Woods to prepare the order within 10 days and distribute a filed copy to all parties involved in this matter.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Contract

COURT MINUTES

May 22, 2017

A-16-735644-C	Encore Group of Professionals, Plaintiff(s) vs. Gabriel Daley, Defendant(s)
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May 22, 2017	3:00 AM	Motion to Amend Complaint
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HEARD BY: Jones, David M	COURTROOM: Chambers
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COURT CLERK:	Alan Castle Michelle Jones Haly Pannullo
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RECORDER:	Melissa Delgado-Murphy
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REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- COURT ORDERS, Motion to Amend Complaint to add parties is GRANTED. Mr. Woods to prepare the order within 10 days and distribute a filed copy to all parties involved in this matter.

CLERK'S NOTE: The above minute order has been distributed to: Woods Erickson & Whitaker LLP(@); and Accelerated Law Group (noldj@cox.net.) ac

CLERK'S NOTE: Minutes incomplete: DO NOT PRINT! DO NOT DISTRIBUTE!

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Contract**COURT MINUTES****July 19, 2017**

A-16-735644-C Encore Group of Professionals, Plaintiff(s)
vs.
Gabriel Daley, Defendant(s)

July 19, 2017 9:00 AM Motion to Compel Defendant Gabriel Daley's Motion to Compel Discovery

HEARD BY: Bulla, Bonnie**COURTROOM:** RJC Level 5 Hearing Room**COURT CLERK:** Jennifer Lott**RECORDER:** Francesca Haak**REPORTER:****PARTIES**

PRESENT: Nold, Joseph T. Attorney
 Woods, Kent P. Attorney

JOURNAL ENTRIES

- Mr. Emerson checked in before court, but Mr. Woods stated he had to leave and the Motion doesn't affect him. COMMISSIONER RECOMMENDED, Mr. Emerson is excused. Computation of damages is less than \$200,000, and Mr. Nold was concerned about attorney fees. QuickBooks were altered, and Mr. Nold requested the View Audit Log. The Quickbooks file belongs to Encore Group, and Mr. Emerson wasn't asked to produce anything per Mr. Woods. Arguments by counsel. Mr. Nold requested limited access set forth in Exhibit F. Mr. Nold added six new parties, and the Motion to Amend was Granted. Mr. Nold's client had a 25 percent ownership interest in Company and was paid dividends (COO of Company). Commissioner is not satisfied with answers provided by Mr. Woods.

COMMISSIONER RECOMMENDED, motion is GRANTED within parameters; provide hard copies or give access to View Audit Log for Quickbooks for June 2014 to the present. Mr. Woods agreed to Request 2 (employees, who they worked for, and what they did), but argument to Request 3 (delineating Quickbooks).

Colloquy re: tax returns. COMMISSIONER RECOMMENDED. provide Request 2, Request 3 is GRANTED within parameters for non-Encore business affiliations on payments made outside of Encore's businesses. COMMISSIONER RECOMMENDED, Mr. Nold's Request for Fees is DENIED as there was a good faith dispute. Mr. Nold to prepare the Report and Recommendations, and Mr. Woods and Mr. Emerson to approve as to form and content. A proper report must be timely submitted within 10 days of the hearing. Otherwise, counsel will pay a contribution.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Contract**COURT MINUTES****September 20, 2017**

A-16-735644-C Encore Group of Professionals, Plaintiff(s)
vs.
Gabriel Daley, Defendant(s)

September 20, 2017	10:00 AM	Motion for Protective Order	Plaintiff/ Counter defendant's Motion for Limited Protective Order
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HEARD BY: Bulla, Bonnie**COURTROOM:** RJC Level 5 Hearing Room**COURT CLERK:** Jennifer Lott**RECORDER:** Francesca Haak**REPORTER:****PARTIES**

PRESENT:	Emerson, Phillip R	Attorney
	Nold, Joseph T.	Attorney
	Woods, Kent P.	Attorney

JOURNAL ENTRIES

- Due to numerous Defts, discovery was served, and counsel request a stay on discovery until after the Settlement Conference. Arguments by counsel. COMMISSIONER RECOMMENDED, motion is DENIED; answer discovery before the Settlement Conference, and counsel have 45 days from today to comply with discovery. Mr. Nold to prepare the Report and Recommendations, and counsel to approve as to form and content. A proper report must be timely submitted within 10 days of the hearing. Otherwise, counsel will pay a contribution.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Contract

COURT MINUTES

September 25, 2017

A-16-735644-C Encore Group of Professionals, Plaintiff(s)
vs.
Gabriel Daley, Defendant(s)

September 25, 2017 9:00 AM All Pending Motions

HEARD BY: Jones, David M **COURTROOM:** RJC Courtroom 03B

COURT CLERK: Katrina Hernandez

RECORDER: Sandra Pruchnic

REPORTER:

PARTIES

PRESENT: Emerson, Phillip R Attorney
Woods, Kent P. Attorney

JOURNAL ENTRIES

- Michael Warhola, Esq. also present on behalf of Defendant.

THIRD PARTY DEFENDANT JOHN JACKSON'S MOTION FOR COURT ORDERED SETTLEMENT CONFERENCE...PLAINTIFF/COUNTERDEFENDANTS' JOINDER TO MOTION FOR COURT ORDERED SETTLEMENT CONFERENCE PURSUANT TO NRCP 16 (A) (5)

Mr. Emerson stated there is outstanding discovery but won't get in the way of meaningful settlement talks. Mr. Warhola noted they need discovery to determine damages calculations. Mr. Woods noted audit logs have been provided. Further arguments by Counsel. COURT ORDERED, motion GRANTED and noted it looks like Counsel need to bring the documents in order to figure out the damages.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Contract

COURT MINUTES

January 17, 2018

A-16-735644-C Encore Group of Professionals, Plaintiff(s)
vs.
Gabriel Daley, Defendant(s)

January 17, 2018 10:30 AM Status Check

HEARD BY: Jones, David M **COURTROOM:** RJC Courtroom 03B

COURT CLERK: Aja Brown
Kimberly Estala
Vanessa Medina

RECORDER: Melissa Delgado-Murphy

REPORTER:

PARTIES

PRESENT: Cisneros, Pedro D. Attorney
Nold, Joseph T. Attorney

JOURNAL ENTRIES

- Court noted the absence of Plaintiff's counsel. Mr. Nold indicated he has a Stipulation and Order that was just signed by the Court agreeing to continue discovery until 04/18/18. Pursuant to the representations of counsel, COURT ORDERED trial dates VACATED and RESET to the September 10, 2018 trial stack.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Contract**COURT MINUTES****January 31, 2018**

A-16-735644-C Encore Group of Professionals, Plaintiff(s)
vs.
Gabriel Daley, Defendant(s)

January 31, 2018	9:00 AM	Motion for Summary Judgment	Plaintiff's Motion for Summary Judgment on Plaintiff's Seventh Cause of Action and Defendant's Second, Third, and Fourth Counterclaims
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HEARD BY: Jones, David M**COURTROOM:** RJC Courtroom 03B**COURT CLERK:** Louisa Garcia**RECORDER:** Melissa Delgado-Murphy**REPORTER:****PARTIES**

PRESENT:	Emerson, Phillip R	Attorney
	Nold, Joseph T.	Attorney
	Woods, Kent P.	Attorney

JOURNAL ENTRIES

- Arguments by counsel in support of their respective relief. Court stated its findings and ORDERED as follows: As to conversion replevin regarding the truck, computer and phone, COURT ORDERED, items to be returned within thirty (30) days. The Defendant can no longer utilize these materials if he is no longer an employee of the company. Court advised the parties will deal with the value or lack thereof or the loss at the end. As to alter ego, Mr. Nold requested a 56(f) continuance as they still do not have QuickBooks. He bought a new version of Quickbooks at his own expense and put it on a laptop, and he has still not been able to access it. Upon Court's inquiry, Mr. Nold stated he was scheduled to meet with counsel on Friday and if he does not have it on Friday he will file a Motion to Compel by Monday. Court instructed counsel he has forty-five (45) days to provide the information. COURT ADVISED it was going to deny the Motion at this time based upon 56(f) relief. As to breach

of contract and unjust enrichment, COURT ORDERED, ruling held in ABEYANCE for the forty-five (45) day period in which counsel is being granted the 56(f) relief. Court advised if counsel cannot prove alter ego he will lose breach of contract and unjust enrichment. Mr. Woods to prepare the Order.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Contract

COURT MINUTES

June 18, 2018

A-16-735644-C	Encore Group of Professionals, Plaintiff(s) vs. Gabriel Daley, Defendant(s)
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June 18, 2018

10:30 AM

Settlement Conference

HEARD BY:

COURTROOM: No Location

COURT CLERK:

RECORDER:

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- This matter came on for a Settlement Conference before Judge Bixler. Unfortunately, the parties were unable to resolve their differences, and consequently, the case did not settle. This matter will be referred back to the originating department for further proceedings.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Contract**COURT MINUTES****September 19, 2018**

A-16-735644-C Encore Group of Professionals, Plaintiff(s)
vs.
Gabriel Daley, Defendant(s)

September 19, 2018	9:00 AM	Motion	Motion to Reopen Discovery to Allow Defendant Gabriel Daley to Designate an Expert
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HEARD BY: Bulla, Bonnie**COURTROOM:** RJC Level 5 Hearing Room**COURT CLERK:** Alan Castle**RECORDER:** Francesca Haak**REPORTER:****PARTIES**

PRESENT:	Thomas, Timothy P	Attorney
	Woods, Kent P.	Attorney

JOURNAL ENTRIES

- COMMISSIONER FINDS good cause shown and excusable neglect and RECOMMENDED, Gabe Daley's Motion to Reopen Discovery to Allow Defendant Gabriel Daley to Designate ONE (1) Additional Expert is GRANTED. Plaintiff's fees for deposition of expert, including transcript cost will be borne by Defendant. COMMISSIONER RECOMMENDED, discovery cutoff is 01/30/19; and initial expert disclosures DUE 11/30/18; rebuttal expert disclosures DUE 12/28/18; dispositive motions TO BE FILED BY 02/15/19. Jury Trial date STANDS. Mr. Thomas to prepare the Report and Recommendations, and Mr. Woods to approve as to form and content. A proper report must be timely submitted within 10 days of the hearing. Otherwise, counsel will pay a contribution.

11/15/18 (CHAMBERS) Status Check: Compliance (DCRR)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Contract

COURT MINUTES

February 12, 2019

A-16-735644-C Encore Group of Professionals, Plaintiff(s)
vs.
Gabriel Daley, Defendant(s)

February 12, 2019 8:30 AM All Pending Motions

HEARD BY: Thompson, Charles **COURTROOM:** Phoenix Building 11th Floor
110

COURT CLERK:
Athena Trujillo

RECORDER: Robin Page

REPORTER:

PARTIES

PRESENT: Emerson, Phillip R Attorney
Woods, Kent P. Attorney

JOURNAL ENTRIES

- PRE TRIAL CONFERENCE ... MOTION TO CONTINUE DISCOVERY

Mr. Emerson argued for a continuance, noting they are working on taking depositions. Further, Mr. Emerson advised they had agreed to do the depositions tomorrow, however, received a call on January 28th or 29th from defense counsel indicating they no longer want to waive the deposition. Mr. Emerson advised they then immediately filed a Motion to Continue to allow time to finish the depositions. Colloquy regarding the close of discovery and trial date. COURT ORDERED, discovery EXTENDED through 3/26/19 by stipulation; trial date VACATED and RESET.

7/9/19 8:30 AM PRE TRIAL CONFERENCE

8/5/19 8:30 AM CALENDAR CALL

8/12/19 10:00 AM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Contract

COURT MINUTES

July 09, 2019

A-16-735644-C Encore Group of Professionals, Plaintiff(s)
vs.
Gabriel Daley, Defendant(s)

July 09, 2019 9:00 AM Pre Trial Conference

HEARD BY: Vacant, DC 8 **COURTROOM:** Chambers

COURT CLERK: Lauren Kidd

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Trial dates VACATED and RESET. Defendant's Motion for Partial Summary Judgement and Plaintiff's Limited Opposition to Defendant's Motion for Partial Summary Judgment and Counter-Motion for Plaintiff's Summary Judgement as to Defendant's Second, Third, Fourth, Fifth and Sixth Counter Claims CONTINUED.

7/24/19 8:30 AM DEFENDANT'S MOTION FOR PARTIAL SUMMARY JUDGEMENT
PLAINTIFF'S LIMITED OPPOSITION TO DEFENDANT'S MOTION FOR PARTIAL SUMMARY
JUDGMENT AND COUNTER-MOTION FOR PLAINTIFF'S SUMMARY JUDGEMENT AS TO
DEFENDANT'S SECOND, THIRD, FOURTH, FIFTH AND SIXTH COUNTER CLAIMS

9/17/19 8:30 AM PRETRIAL CONFERENCE

10/14/19 8:30 AM CALENDAR CALL

10/21/19 9:00 AM JURY TRIAL STACK

CLERK'S NOTE: A copy of the above Minute Order was distributed to the following: Phillip
Emmerson, Esq. (receptionist@emersonlawgroup.com) and Kent Wood, Esq.

(kent@kwoodslaw.com).//lk

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Contract

COURT MINUTES

July 24, 2019

A-16-735644-C Encore Group of Professionals, Plaintiff(s)
vs.
Gabriel Daley, Defendant(s)

July 24, 2019

8:30 AM

All Pending Motions

HEARD BY: Barker, David

COURTROOM: Phoenix Building 11th Floor
110

COURT CLERK: Lauren Kidd

RECORDER: Patti Slattery

REPORTER:

PARTIES

PRESENT:	Daley, Gabriel J	Defendant
		Counter Claimant
		Third Party Plaintiff
	Thomas, Timothy P	Attorney
	Woods, Kent P.	Attorney

JOURNAL ENTRIES

- DEFENDANT'S MOTION FOR PARTIAL SUMMARY JUDGMENT...LIMITED OPPOSITION TO DEFENDANT'S MOTION FOR PARTIAL SUMMARY JUDGMENT AND COUNTER-MOTION FOR PARTIAL SUMMARY JUDGMENT AS TO DEFENDANT'S SECOND, THIRD, FOURTH, FIFTH, AND SIXTH COUNTERCLAIM

Kristen Malloy, Esq. present for Third Party Defendant.

Upon Court's inquiry, Mr. Thomas indicated parties conceded to grant Summary Judgment as to the following causes of action: Breach of Contract, Injunctive Relief and Replevin. Upon Court's inquiry, Mr. Woods advised there was already an Order granting Summary Judgement on the issue of Replevin. Mr. Thomas advised the statements by counsel concluded his Summary Motion and moved for attorneys fees. Plaintiff advised their Countermotion for Partial Summary judgment was for Summary Judgment of causes of action 2 through 6. Arguments by Mr. Woods and Mr. Thomas

on the merits of Plaintiff's Countermotion for limited summary motion with regard to the following causes of action: Alter Ego, Contracts, Breach of Implied Convenience, Unjust Enrichment and Breach of Fiduciary Duty. COURT ORDERED, Motion for Partial Summary Judgement GRANTED IN PART and DENIED IN PART; GRANTED as to Breach of Fiduciary Duty and DENIED as to Alter Ego, Contracts, Breach of Implied Convenience and Unjust Enrichment. Court FINDS there are genuine issues of material fact. COURT FURTHER ORDERED, Defendant's oral request for attorney's fees DENIED. Court reminded counsel of their trial dates and noted a new presiding judge would be appointed to department 8 within the next month.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Contract

COURT MINUTES

September 17, 2019

A-16-735644-C Encore Group of Professionals, Plaintiff(s)
vs.
Gabriel Daley, Defendant(s)

September 17, 2019 8:30 AM Pre Trial Conference

HEARD BY: Vacant, DC 8; Cherry, Michael A. **COURTROOM:** Phoenix Building 11th Floor
110

COURT CLERK: Phyllis Irby

RECORDER: Paula Walsh

REPORTER:

PARTIES

PRESENT: Emerson, Phillip R Attorney
 Thomas, Timothy P Attorney
 Woods, Kent P. Attorney

JOURNAL ENTRIES

- Parties announced not ready for trial due to scheduling conflict with DC 30. COURT ORDERED,
TRIAL VACATED & RESET.

1-07-20 8:30 AM PRE TRIAL CONFERENCE

2-03-20 8:30 AM CALENDAR CALL

2-10-20 9:00 AM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Contract

COURT MINUTES

January 07, 2020

A-16-735644-C Encore Group of Professionals, Plaintiff(s)
vs.
Gabriel Daley, Defendant(s)

January 07, 2020 8:30 AM Pre Trial Conference

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

COURT CLERK: Alan Castle

RECORDER: Jessica Kirkpatrick

REPORTER:

PARTIES

PRESENT: Cisneros, Pedro D. Attorney
 Smith, Luke B. Attorney
 Thomas, Timothy P Attorney
 Woods, Kent P. Attorney

JOURNAL ENTRIES

- Parties advised ready. No conflicts noted on stack. Further, counsel advised the matter may resolve prior to trial. Court so noted. Parties to advise chamber if the matter settles and the trial can be vacated at that time.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Contract

COURT MINUTES

February 25, 2020

A-16-735644-C Encore Group of Professionals, Plaintiff(s)
vs.
Gabriel Daley, Defendant(s)

February 25, 2020 9:00 AM All Pending Motions

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

COURT CLERK: Alan Castle

RECORDER: Jessica Kirkpatrick

REPORTER:

PARTIES

PRESENT:	Emerson, Phillip R	Attorney
	Smith, Luke B.	Attorney
	Thomas, Timothy P	Attorney
	Woods, Kent P.	Attorney

JOURNAL ENTRIES

- Defendant's Motion in Limine Re Home Office Support Agreement ... Defendant's Motion in Limine Re: Defendants Termination ... Plaintiff's Opposition to Defendant's Motion in Limine Re: Defendant's Termination and Plaintiff's Countermotions in Limine

COURT ORDERED, Defendant's Motion in Limine Re Home Office Support Agreement is GRANTED.

COURT ORDERED Defendant's Motion in Limine Re: Defendants Termination is DENIED.

COURT ORDERED, Plaintiff's Opposition to Defendant's Motion in Limine Re: Defendant's Termination and Plaintiff's Countermotions in Limine is GRANTED as to termination.

as to Plaintiff's Motion in Limine regarding valuation; and, as to Ms. Mercier's opinion of the same, COURT ORDERED, Motion is DENIED. Court notes a proper foundation must be laid at time of Witness testimony.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Contract

COURT MINUTES

March 09, 2020

A-16-735644-C Encore Group of Professionals, Plaintiff(s)
vs.
Gabriel Daley, Defendant(s)

March 09, 2020 8:30 AM Calendar Call

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

COURT CLERK: Alan Castle

RECORDER: Jessica Kirkpatrick

REPORTER:

PARTIES

PRESENT: Emerson, Phillip R Attorney
Thomas, Timothy P Attorney
Woods, Kent P. Attorney

JOURNAL ENTRIES

- Mr. Emerson noted issues regarding their main expert going out of town the two weeks they had thought to set the trial and the tax expert will be busy with taxes during this tax season. COURT ORDERED, Trial VACATED and RESET. Upon inquiry, Counsel noted 8 to 10 trial days.

03/17/2020 8:30 AM CALENDAR CALL

04/27/2020 9:00 AM JURY TRIAL (FIRM SETTING)

CLERK'S NOTE: Minute Order completed by K. Thomas by way of JAVS. kt 03/25/2020.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Contract**COURT MINUTES****April 01, 2020**

A-16-735644-C Encore Group of Professionals, Plaintiff(s)
vs.
Gabriel Daley, Defendant(s)

April 01, 2020 3:00 AM Minute Order

HEARD BY: Delaney, Kathleen E.**COURTROOM:** RJC Courtroom 15B**COURT CLERK:** Shelley Boyle**RECORDER:****REPORTER:**

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Minute Order Re-Setting Settlement Conference

Due to concerns about the COVID-19 virus and the ability to conduct a meaningful, in-person mediation, Court and counsel for the parties determined the best course of action is for the Settlement Conference to be rescheduled. Following a conference call with counsel on April 1, 2020 at 10:00 a.m. and a review of schedules, COURT ORDERED the current Settlement Conference date of April 1, 2020 at 1:30 p.m. VACATED.

COURT FURTHER ORDERED matter re-set for Settlement Conference on Friday, April 17, 2020 at 9:30 a.m.. COURT NOTED the Settlement Conference is likely to be re-set again, in the event the current trial date is continued, but the Court wanted to reserve a date for the Parties just in case. Counsel is requested to communicate with the Court, in the event trial is continued, to provide a new, agreed upon date for the Settlement Conference to proceed, and the Court will re-set the matter accordingly.

CLERK'S NOTE: A copy of this minute order was electronically served on all parties and their counsel through the Court's electronic filing system. / sb 04/01/20

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Contract

COURT MINUTES

April 01, 2020

A-16-735644-C Encore Group of Professionals, Plaintiff(s)
vs.
Gabriel Daley, Defendant(s)

April 01, 2020

1:30 PM

Settlement Conference

HEARD BY: Delaney, Kathleen E.

COURTROOM: RJC Courtroom 03F

COURT CLERK: Shelley Boyle

RECORDER:

REPORTER: Sharon Howard

PARTIES

PRESENT:

JOURNAL ENTRIES

- COURT ORDERED, matter VACATED and RESET, pursuant to the Court's Chamber Minute Order ISSUED 04/01/20.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Contract

COURT MINUTES

April 08, 2020

A-16-735644-C Encore Group of Professionals, Plaintiff(s)
vs.
Gabriel Daley, Defendant(s)

April 08, 2020

3:00 PM

Minute Order

4/13 BlueJeans Notice

HEARD BY: Atkin, Trevor

COURTROOM: Chambers

COURT CLERK: Alan Castle

RECORDER:

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Department 8 Request to Appear Telephonically

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

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

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

Your Meeting ID: 377 484 549

For your hearing, PLEASE observe the following protocol:

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

Please be mindful of sounds of rustling of papers or coughing.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Contract

COURT MINUTES

April 13, 2020

A-16-735644-C Encore Group of Professionals, Plaintiff(s)
vs.
Gabriel Daley, Defendant(s)

April 13, 2020 8:30 AM Calendar Call

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

COURT CLERK: Alan Castle

RECORDER: Jessica Kirkpatrick

REPORTER:

PARTIES

PRESENT: Thomas, Timothy P Attorney
 Woods, Kent P. Attorney

JOURNAL ENTRIES

- Court notes Mr. Emerson not present for hearing. Upon Court's inquiry, counsel indicated no objection to the new trial dates. Based upon current Administrative Order in effect and the Governor's Emergency Directive, COURT FINDS any time constraints are tolled and ORDERS, TRIAL VACATED AND RESET.

08/04/20 @ 8:30 a.m. Pretrial Conference

08/31/20 @ 8:30 a.m. Calendar Call

09/08/20 @ 9:00 a.m. Jury Trial

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Contract

COURT MINUTES

April 16, 2020

A-16-735644-C	Encore Group of Professionals, Plaintiff(s) vs. Gabriel Daley, Defendant(s)
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April 16, 2020

3:00 AM

Minute Order

HEARD BY: Delaney, Kathleen E.

COURTROOM: RJC Courtroom 15B

COURT CLERK: Nylasia Packer

RECORDER:

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Minute Order Vacating Settlement Conference

Due to concerns about the COVID-19 virus and the ability to have a meaningful settlement conference without all persons appearing in-person, Court and counsel for the parties determined the best course of action is for the pending Business Court Settlement Conference to be rescheduled. Parties are advised to confer with each other and their clients and provide the Court with at least 2 agreed-upon future date for the Settlement Conference to be re-set. In the interim, COURT ORDERED the Settlement Conference currently scheduled for Friday, April 17, 2020 at 9:30 a.m. is VACATED

CLERKS NOTE: A copy of this minute order served on all parties and their counsel through the Court s electronic filing system. /sb 04/16/20

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Contract

COURT MINUTES

June 05, 2020

A-16-735644-C Encore Group of Professionals, Plaintiff(s)
vs.
Gabriel Daley, Defendant(s)

June 05, 2020 3:00 AM Minute Order

HEARD BY: Delaney, Kathleen E. **COURTROOM:** RJC Courtroom 15B

COURT CLERK: Shelley Boyle

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Minute Order Re-Setting Settlement Conference

Court having previously continued the Settlement Conference set for Friday April 17, 2020 due to concerns about the COVID-19 virus and the ability to have a meaningful settlement conference without all persons appearing in-person; counsel for the parties having confirmed availability for all parties and their counsel on Friday, June 18, 2020; and good cause appearing, COURT ORDERED the Settlement Conference is hereby re-set for Thursday, June 18, 2020 at 9:30 a.m. Counsel for the parties are further advised that the Court's Administrative Order 20-17 indicates a strong preference for settlement conferences to be conducted by alternative means, as proceeding in-person would require preparation of a social distancing plan and the wearing of masks at all times. See AO 20-17 at 14:16-20. For this reason, the Court is requesting counsel for the parties to submit their Confidential Settlement Conference Statements no later than 3:00 p.m. on Monday, June 15, 2020 and to include therein the telephone number and email address for each participant, which the Court may use to facilitate alternative appearances. After having the opportunity to review the confidential briefings, the Court will confirm either by conference call or further minute order issued no later than the morning of Wednesday June 17, 2020 what method of alternative appearance is preferred.

CLERK S NOTE: Copy of this minute order to be served on all parties and counsel through the Court

s electronic filing system. / sb 06/05/20

**DISTRICT COURT
CLARK COUNTY, NEVADA****Other Contract****COURT MINUTES****June 18, 2020**

A-16-735644-C	Encore Group of Professionals, Plaintiff(s) vs. Gabriel Daley, Defendant(s)
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June 18, 2020**9:30 AM****Settlement Conference****HEARD BY:** Delaney, Kathleen E.**COURTROOM:** RJC Courtroom 15B**COURT CLERK:** Shelley Boyle**RECORDER:****REPORTER:** Robert Cangemi**PARTIES****PRESENT:****JOURNAL ENTRIES**

- Settlement Conference Not Successful

The above-referenced matter came on for a telephonic settlement conference with Judge Kathleen Delaney on Thursday, June 18, 2020 at 9:30 a.m. Plaintiff/Counter-Defendant/Third-Party Defendant, Encore Group of Professionals, LLC, was represented by attorney of record, Kent P. Woods, Esq., and corporate representative, John D. Jackson. Defendant/Counter-Claimant/Third-Party Plaintiff, Gabriel J. Daley, was present and represented by Timothy P. Thomas, Esq. And, the remaining Third-Party Defendants were represented by Philip R. Emerson, Esq. Unfortunately, after many hours of discussion the parties remained too far apart to reach settlement, but it is expected that additional informal efforts to reach resolution will take place. The matter is referred back to the originating department for further proceedings in the normal course.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Contract

COURT MINUTES

July 30, 2020

A-16-735644-C Encore Group of Professionals, Plaintiff(s)
vs.
Gabriel Daley, Defendant(s)

July 30, 2020

3:00 AM

Minute Order

HEARD BY: Atkin, Trevor

COURTROOM: Chambers

COURT CLERK: Alan Castle

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- BLUEJEANS NOTICE for DEPT. 8 PRE-TRIAL CONFERENCES AUGUST 4, 2020, AT 8:30 AM

Department 8 Request to Appear Telephonically

All participants MUST check in with the moderator at 8:30 AM

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

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

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

Your Meeting ID: 700 258 758 (NOTE: The meeting number will be different for each day's court session.)

For your hearing, PLEASE observe the following protocol:

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

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Contract

COURT MINUTES

November 23, 2020

A-16-735644-C Encore Group of Professionals, Plaintiff(s)
vs.
Gabriel Daley, Defendant(s)

November 23, 2020 3:00 AM At Request of Court

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

COURT CLERK: Alan Castle

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- BlueJeans Notice for DEPT. 8 PRE-TRIAL CONFERENCES on DEC. 1, 2020, at 8:30 a.m.

Department 8 Request to Appear Telephonically

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

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

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

Your Meeting ID: 550 450 779 (NOTE: The meeting number will be different for each day's court session.)

For your hearing, PLEASE observe the following protocol:

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

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Contract

COURT MINUTES

December 01, 2020

A-16-735644-C Encore Group of Professionals, Plaintiff(s)
vs.
Gabriel Daley, Defendant(s)

December 01, 2020 8:30 AM Pre Trial Conference

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

COURT CLERK: Alan Castle

RECORDER: Jessica Kirkpatrick

REPORTER:

PARTIES

PRESENT: Emerson, Phillip R Attorney
 Thomas, Timothy P Attorney
 Woods, Kent P. Attorney

JOURNAL ENTRIES

- COURT FINDS based on the current Administrative Order and AO 20 - 17 and ORDERED, TRIAL VACATED AND RESET.

04/20/21 8:30 a.m. Pre Trial Conference

05/17/21 8:30 a.m. Calendar Call

05/24/21 9:00 a.m. Jury Trial

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Contract

COURT MINUTES

February 25, 2021

A-16-735644-C Encore Group of Professionals, Plaintiff(s)
vs.
Gabriel Daley, Defendant(s)

February 25, 2021 3:00 AM Minute Order

HEARD BY: Barisich, Veronica M. **COURTROOM:** Phoenix Building 11th Floor
110

COURT CLERK: Alice Jacobson

RECORDER: Christine Erickson

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Department 5 Formal Request to Appear REMOTELY for the March 2, 2021, hearing calendar.
Please double check the docket for your start time.

Please be advised that due to the COVID-19 pandemic, Department 5 will continue to conduct Court hearings REMOTELY using the Blue Jeans Video Conferencing system. You have the choice to appear either by phone or computer/video.

Meeting ID: 979 802 354

Meeting URL: <https://bluejeans.com/979802354>

To connect by phone dial 1-408-419-1715 and enter the meeting ID followed by #

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

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

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

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

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

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

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

We encourage you to visit the [Bluejeans.com](https://bluejeans.com) website to get familiar with the Blue Jeans phone/videoconferencing system before your hearing.

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

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

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Contract

COURT MINUTES

April 14, 2021

A-16-735644-C Encore Group of Professionals, Plaintiff(s)
vs.
Gabriel Daley, Defendant(s)

April 14, 2021

1:35 PM

Minute Order

HEARD BY: Barisich, Veronica M.

COURTROOM: Phoenix Building 11th Floor
110

COURT CLERK: Jennifer Lott

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Department 5 s Formal Request to Appear REMOTELY for the April 20, 2021, Pretrial Conference calendar. Please double check the docket for your start time.

Please be advised that due to the COVID-19 pandemic, Department 5 will continue to conduct Court hearings REMOTELY using the Blue Jeans Video Conferencing system. You have the choice to appear either by phone or computer/video.

Meeting ID: 383 033 203

Meeting URL: <https://bluejeans.com/383033203>

To connect by phone dial 1-408-419-1715 and enter the meeting ID followed by #

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

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

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

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

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

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

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

We encourage you to visit the [Bluejeans.com](https://bluejeans.com) website to get familiar with the Blue Jeans phone/videoconferencing system before your hearing.

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

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

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Jennifer Lott, to all registered parties for Odyssey File & Serve. jl

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Contract

COURT MINUTES

April 20, 2021

A-16-735644-C Encore Group of Professionals, Plaintiff(s)
vs.
Gabriel Daley, Defendant(s)

April 20, 2021 11:00 AM Pre Trial Conference

HEARD BY: Barisich, Veronica M. **COURTROOM:** Phoenix Building 11th Floor
110

COURT CLERK: Carolyn Jackson

RECORDER: Toshiana Pierson

REPORTER:

PARTIES

PRESENT: Emerson, Phillip R Attorney
Thomas, Timothy P Attorney
Woods, Kent P. Attorney

JOURNAL ENTRIES

- Court stated the Motion in Limines were heard and the parties participated in a settlement conference; however, the settlement conference was unsuccessful. Upon Court's inquiry, Mr. Woods announced the Plaintiff is ready; however, since his expert witnesses are tax accountants and given the new May 15, 2021 tax deadline his witnesses may not be available. Mr. Thomas announced the Defendant is ready for trial and concurred with Mr. Woods' assessment regarding expert witnesses availability. Mr. Emerson advised he has a conflict with the current trial setting and requested the trial be moved to the next stack. Mr. Woods and Mr. Thomas had no objection. COURT ORDERED, trial dates VACATED and RESET. Counsel to prepare and submit a Stipulation to extend the five (5) year rule.

08/03/21 11:00 AM PRE-TRIAL CONFERENCE

08/30/21 08:30 AM CALENDAR CALL

09/07/21 09:00 AM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Contract

COURT MINUTES

August 03, 2021

A-16-735644-C Encore Group of Professionals, Plaintiff(s)
vs.
Gabriel Daley, Defendant(s)

August 03, 2021 11:00 AM Pre Trial Conference

HEARD BY: Barisich, Veronica M. **COURTROOM:** Phoenix Building 11th Floor
110

COURT CLERK: Carolyn Jackson

RECORDER: Christine Erickson

REPORTER:

PARTIES

PRESENT: Emerson, Phillip R Attorney
Thomas, Timothy P Attorney

JOURNAL ENTRIES

- Mr. Emerson advised the party are planning on going forward with trial; however, he had two (2) other cases set for the September 7, 2021 trial stack before Judge Holthus and Judge Kishner and requested a continuance to another trial stack. Mr. Thomas advised his client is eager to move forward with the matter. Colloquy regarding scheduling issues. COURT ORDERED, trial dates VACATED and RESET.

09/07/21 11:00 AM PRE-TRIAL CONFERENCE

10/04/21 08:30 AM CALENDAR CALL

10/11/21 09:00 JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Contract

COURT MINUTES

September 07, 2021

A-16-735644-C Encore Group of Professionals, Plaintiff(s)
vs.
Gabriel Daley, Defendant(s)

September 07, 2021 11:00 AM Pre Trial Conference

HEARD BY: Barisich, Veronica M. **COURTROOM:** Phoenix Building 11th Floor
110

COURT CLERK: Carolyn Jackson

RECORDER: Christine Erickson

REPORTER:

PARTIES

PRESENT: Emerson, Phillip R Attorney
Thomas, Timothy P Attorney
Woods, Kent P. Attorney

JOURNAL ENTRIES

- Upon Court's inquiry, counsel announced ready for trial and advised the parties would require 12-15 days for trial. Colloquy regarding scheduling issues. COURT ORDERED, trial dates VACATED and RESET. Trial Order TO ISSUE.

11/16/21 11:00 AM PRE TRIAL CONFERENCE

12/21/21 11:00 AM CALENDAR CALL

01/10/22 09:00 AM JURY TRIAL - FIRM

01/11/22 09:00 AM JURY TRIAL - FIRM

01/12/22 09:00 AM JURY TRIAL - FIRM

01/13/22 09:00 AM JURY TRIAL - FIRM

01/14/22 09:00 AM JURY TRIAL - FIRM

01/18/22 09:00 AM JURY TRIAL - FIRM

01/19/22 09:00 AM JURY TRIAL - FIRM

01/20/22 09:00 AM JURY TRIAL - FIRM

01/21/22 09:00 AM JURY TRIAL - FIRM

01/24/22 09:00 AM JURY TRIAL - FIRM

01/25/22 09:00 AM JURY TRIAL - FIRM

01/26/22 09:00 AM JURY TRIAL - FIRM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Contract

COURT MINUTES

November 16, 2021

A-16-735644-C Encore Group of Professionals, Plaintiff(s)
vs.
Gabriel Daley, Defendant(s)

November 16, 2021 11:00 AM Pre Trial Conference

HEARD BY: Barisich, Veronica M. **COURTROOM:** Phoenix Building 11th Floor
110

COURT CLERK: Carolyn Jackson

RECORDER: Christine Erickson

REPORTER:

PARTIES

PRESENT: Emerson, Phillip R Attorney
Thomas, Timothy P Attorney
Woods, Kent P. Attorney

JOURNAL ENTRIES

- Mr. Thomas announced ready for trial and advised the parties continue to work toward settlement of the matter. Court stated that as of January 2022 jury selection will begin on the Monday of jury trial. Upon Court's inquiry, parties confirmed 12-15 days for trial and 2 days for jury selection.
COURT ORDERED, trial dates STAND.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Contract

COURT MINUTES

December 21, 2021

A-16-735644-C Encore Group of Professionals, Plaintiff(s)
vs.
Gabriel Daley, Defendant(s)

December 21, 2021 11:00 AM Calendar Call

HEARD BY: Barisich, Veronica M. **COURTROOM:** Phoenix Building 11th Floor
110

COURT CLERK: Carolyn Jackson

RECORDER: Christine Erickson

REPORTER:

PARTIES

PRESENT: Emerson, Phillip R Attorney
Thomas, Timothy P Attorney
Woods, Kent P. Attorney

JOURNAL ENTRIES

- Upon Court's inquiry, counsel announced ready and confirmed the number of days for trial and jury selection. Court stated a pretrial meeting will be held prior to trial and upon further inquiry, counsel advised of their availability. Further, Court stated the Department's Trial Guideline would be provided to the parties. Colloquy regarding exhibits, jury notebooks, verdict forms, jury instructions and exhibits. Court stated the parties would discuss additional procedures for trial and ORDERED, pretrial meeting SET.

01-06-22 11:00 AM PRETRIAL MEETING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Contract

COURT MINUTES

January 06, 2022

A-16-735644-C Encore Group of Professionals, Plaintiff(s)
vs.
Gabriel Daley, Defendant(s)

January 06, 2022 11:00 AM Hearing

HEARD BY: Barisich, Veronica M. **COURTROOM:** Phoenix Building 11th Floor
110

COURT CLERK: Carolyn Jackson

RECORDER: Christine Erickson

REPORTER:

PARTIES

PRESENT: Emerson, Phillip R Attorney
Thomas, Timothy P Attorney

JOURNAL ENTRIES

- Colloquy regarding trial scheduling issues.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Contract

COURT MINUTES

January 10, 2022

A-16-735644-C Encore Group of Professionals, Plaintiff(s)
vs.
Gabriel Daley, Defendant(s)

January 10, 2022 10:00 AM Jury Trial - FIRM

HEARD BY: Barisich, Veronica M. **COURTROOM:** Phoenix Building 11th Floor
110

COURT CLERK: Carolyn Jackson

RECORDER: Deloris Scott

REPORTER:

PARTIES

PRESENT:	Cisneros, Pedro D.	Attorney
	Daley, Gabriel J	Defendant
		Counter Claimant
		Third Party Plaintiff
	Emerson, Phillip R	Attorney
	Jackson, John D	Third Party Defendant
	Thomas, Timothy P	Attorney

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY:
Colloquy regarding voire dire, juror selection and trial scheduling.

PROSPECTIVE JURY PRESENT:
Introduction. Roll call by Clerk and Voire Dire Oath administered. Voire Dire conducted. Jury selected and sworn.

COURT ORDERED, jury trial CONTINUED.

CONTINUED TO: 01-11-22 10:00 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Contract

COURT MINUTES

January 11, 2022

A-16-735644-C Encore Group of Professionals, Plaintiff(s)
vs.
Gabriel Daley, Defendant(s)

January 11, 2022 10:00 AM Jury Trial - FIRM

HEARD BY: Barisich, Veronica M. **COURTROOM:** Phoenix Building 11th Floor
110

COURT CLERK: Carolyn Jackson

RECORDER: Kimberly Estala

REPORTER:

PARTIES

PRESENT:	Cisneros, Pedro D.	Attorney
	Daley, Gabriel J	Defendant
		Counter Claimant
		Third Party Plaintiff
	Emerson, Phillip R	Attorney
	Jackson, John D	Third Party Defendant
	Thomas, Timothy P	Attorney

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE JURY:

Mr. Emerson made a record regarding Defendant's Motion in Limine related to the unemployment application and benefits received by the Defendant. Further, Mr. Emerson advised the Court ruled that none of the findings and conclusions were to be disclosed to the jury as it would be prejudicial to the Defendant. Additionally, Mr. Emerson advised Plaintiff may use the information as to state of mind during cross or direct examination, it would not make any disclosure regarding whether Defendant's unemployment benefits. Mr. Thomas concurred that it was his understanding that any of the appeal's determinations or rulings regarding payment of unemployment benefits would be disclosed; however, the transcripts could be used for impeachment purposes.

Colloquy regarding trial scheduling issues.

JURY PRESENT:

Opening Statements by Mr. Emerson.

OUTSIDE THE PRESENCE OF THE JURY:

Court stated that one of the jurors indicated that he may know someone previously employed by Oracle in California and now employed for Encore in Phoenix. Court and counsel's canvassed Juror #239. After canvassing Juror #239, it was determined that Encore in Phoenix is not related to the Counter Defendants and Third Party Defendants in this matter.

JURY PRESENT:

Opening Statement by Mr. Emerson continued. Opening Statement by Mr. Thomas.

COURT ORDERED, jury trial CONTINUED.

CONTINUED TO: 01-12-22 10:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Contract**COURT MINUTES****January 12, 2022**

A-16-735644-C Encore Group of Professionals, Plaintiff(s)
vs.
Gabriel Daley, Defendant(s)

January 12, 2022 10:30 AM Jury Trial - FIRM

HEARD BY: Barisich, Veronica M. **COURTROOM:** Phoenix Building 11th Floor
110

COURT CLERK: Carolyn Jackson

RECORDER: Jill Hawkins

REPORTER:

PARTIES

PRESENT:	Cisneros, Pedro D. Daley, Gabriel J	Attorney Defendant Counter Claimant Third Party Plaintiff
	Emerson, Phillip R Jackson, John D Thomas, Timothy P	Attorney Third Party Defendant Attorney

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE JURY:

Court stated it was informed the parties have reached a settlement. Mr. Woods placed the terms of the settlement on the records. Defendant will execute a promissory note in favor of the Plaintiff and Third Party Defendants in the amount of the fees and costs since inception of the case to date, and will relinquish and disclaim any further interest in the Plaintiff or any of its affiliates. The amount of and the terms of the Promissory Note will be negotiated between the parties following this hearing, but substantially Defendant will pay \$25,000 before the end of the year and the remainder of the Promissory Note will be forgiven at that time. Mr. Thomas concurred to Mr. Woods' representations regarding the terms of the settlement. COURT ORDERED, status check SET regarding settlement documents.

JURY PRESENT:

Court stated the parties reached a settlement agreement, and thanked and excused the jury.

02-15-22 10:00 AM STATUS CHECK: SETTLEMENT DOCUMENT

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Contract

COURT MINUTES

February 15, 2022

A-16-735644-C Encore Group of Professionals, Plaintiff(s)
vs.
Gabriel Daley, Defendant(s)

February 15, 2022 10:00 AM Status Check

HEARD BY: Barisich, Veronica M. **COURTROOM:** Phoenix Building 11th Floor
110

COURT CLERK: Carolyn Jackson

RECORDER: Christine Erickson

REPORTER:

PARTIES

PRESENT: Emerson, Phillip R Attorney
Thomas, Timothy P Attorney
Woods, Kent P. Attorney

JOURNAL ENTRIES

- Upon Court's inquiry regarding the status of the settlement documents, Mr. Wood advised the parties have been unable to document the settlement placed on the record at the close of trial since it appears the Defendant has had second thoughts. Further, Mr. Wood advised the Plaintiff filed a Motion to Enforce Settlement on February 14, 2022. Mr. Thomas advised that all counsel have attempted to work out the issues; however, the parties were unable to document the agreement as stated in Court and will need to move forward with the Motion to Enforce Settlement. Court stated it would review the Motion and move forward with the subsequent action.

However, settlement documents were not submitted to date. Instead, Plaintiff and Third Party Defendants filed the instant joint motion to enforce settlement agreement and for fees and costs, which Defendant opposed.

Under Nevada law, a settlement agreement is a contract, and therefore governed by basic contract principles such as an offer and acceptance, meeting of the minds, and consideration. *May v. Anderson*, 121 Nev. 668, 672, 119 P.3d 1254, 1257 (2005). In determining whether a contract has been sufficiently formed, preliminary negotiations do not constitute a binding contract unless the parties have agreed to all material terms. *Id.* In a case of a settlement agreement, a court cannot compel compliance when material terms remain uncertain. *Id.* Release terms, by their nature, are generally held to be material to any settlement agreement. *Id.* When the parties are in dispute regarding the terms of the release, then there is no settlement agreement. *Id.* However, even though parties can agree upon the settlement amount and negotiated over many of its terms, a settlement agreement is still not enforceable if the scope of the release terms remained unresolved. *Id.* at 674, 1258 (citing to *Bontigao v. Villanova University*, 786 F.Supp 513, 515-16 (E.D.Pa.1992)). Therefore, there is no "meeting of the minds" when the parties have not agreed upon the settlement agreement's essential terms. See *Certified Fire Prot. Inc. v. Precision Constr.*, 283 P.3d 250, 255, 128 Nev. Op. 35 (Aug. 9, 2012) ("A meeting of the minds exists when the parties have agreed upon the contract's essential terms."). As to the settlement terms what were not written down, but put on the record during a hearing, such settlement is enforceable. *Grisham v. Grisham*, 128 Nev. 679, 686, 289 P.3d 230, 235 (2012). While recorded testimony has no signature, a signature's only purpose is authentication, and this is amply supplied in the case of an admission in court. *Id.*

Mistake of fact occurs when a person understands the facts to be other than they are. *General Motors v. Jackson*, 111 Nev. 1026, 1032, 900 P.2d 345, 349 (1995). Mutual mistake occurs when both parties, at the time of contract, share a misconception about a vital fact upon which they based their bargain. *Id.* Under general principles of contract law, unilateral mistake is not a ground for rescission unless the other party knows or has reason to know of the mistake. *Id.*; *Oh v. Wilson*, 112 Nev. 38, 40, 910 P.2d 276, 278 (1996) ("Unilateral mistake may be basis for rescission of agreement only if the other party had reason to know of mistake or if other party's fault caused the mistake.")

"Courts have consistently held that one is bound by any document one signs in spite of any ignorance of the document's content, providing there has been no misrepresentation." *Yee v. Weiss*, 110 Nev. 657, 662, 877 P.2d 510, 513 (1994). In *Yee*, the Nevada Supreme Court cited to the Restatement (Second) of Contracts 172 (1981):

A recipient's fault in not knowing or discovering the facts before making the contract does not make his reliance unjustified unless it amounts to a failure to act in good faith and in accordance with reasonable standards of fair dealing.

The *Yee* Court then states, "the comments to 172 note that if the recipient should have discovered the falsity by making a cursory examination, his reliance is clearly not justified and he is not entitled to relief; he is expected to use his senses and not rely blindly on the maker's assertions." *Id.*

Promissory estoppel can be used as "consideration substitute" to support release of liability under a guaranty contract. *Pink v. Busch*, 100 Nev. 684, 689, 691 P.2d 456, 459 (1984). To establish promissory estoppel, four elements must exist: party to be estopped must be apprised of true facts, he must intend that his conduct shall be acted upon or must so act that party asserting estoppel has right to believe it was so intended, party asserting estoppel must be ignorant of true state of facts, and he must have relied to his detriment upon conduct of party to be estopped. *Id.*

Contract interpretation is a question of law. *Redrock Valley Ranch LLC v. Washoe County*, 127 Nev. 451, 460, 254 P.3d 641, 647 (2011). Public Policy favors the settlement of disputes and thus, stipulations should not be easily set aside. *Id.* at 460, 648.

The Court FINDS and CONCLUDES that there was a binding settlement agreement that was entered on record on January 12, 2022. All material terms were provided, which are as follows: (1) Defendant will executed a promissory note in favor of the Plaintiff. The amount of the note is equal to the attorney's fees and costs that Plaintiff and Third Party Defendants incurred from the inception of the case to date (January 12, 2022). (2) Defendant will relinquish and disclaim any interest in Plaintiff or its affiliates. (3) Amount of the promissory note and the terms will be negotiated by the parties following the hearing. (4) If Defendant pays \$25,000 before the end of 2022, the remainder of the promissory note will be forgiven.

The Court FINDS and CONCLUDES that although Defendant argues that there are missing material terms, the Court cannot agree. At the hearing, Defendant did condition his acceptance of the terms with review with his tax attorney or accountant before giving his final approval. Although Defendant argues that the parties never agreed to when the \$25,000 payment being due by the end of 2022, this is contradicted by the transcript of the hearing. Terms of the promissory note, specifically regarding the maturity date and interest rate are indeed not put on the record and the parties were to negotiate the terms after the hearing. However, under NRS 99.040(1), if the parties were unable to agree on the interest rate, the interest rate would be set as the prime rate plus 2%. Defendant failed to show to the Court why the lack of agreement on the maturity date on the promissory note is material, especially given that if \$25,000 is paid before the end of 2022, remaining amount on the promissory note will be waived.

The Court FINDS and CONCLUDES that Defendant failed to show that there was mutual or unilateral mistake regarding whether the settlement agreement was conditional. Specifically, Defendant argues that he believed that the settlement agreement was conditioned on him reviewing the terms with his tax attorney or accountant before final approval and that the parties did not agree to \$25,000 payment being due by the end of 2022. However, again, the due date of \$25,000 payment is clearly set forth in the transcript. At best, this is a unilateral mistake by Defendant, which is not a ground for rescission unless Defendant can prove that Plaintiff and/or its counsel knew of this mistake and misrepresented it to the Court. Defendant failed to make any showing to the Court that the opposing parties and their counsel were aware of this mistake and misrepresented it to the Court. The transcript is clear and the terms put on the record must be enforced. Furthermore, there was no

evidence that settlement agreement presented on the record is not final and Defendant still had to review the terms with this tax attorney or accountant before giving his final approval. Furthermore, although Defendant alleges subsequent agreement that modified the material terms of the agreement, this allegation is not supported by any affidavit or other evidence.

The Court FINDS and CONCLUDES that the settlement agreement that was put on the record on January 12, 2022 was a binding, final agreement. If the Court, and the parties and their counsel, believed otherwise, the jury would not have been dismissed and the jury trial be adjourned. Defendant cites to AO 22-02, which was announced on January 13, 2022, for the proposition that the jury trial would have to be suspended. Even if Defendant's interpretation is correct, the parties and their counsels, and the Court, were unaware of this administrative order when the settlement agreement terms were negotiated and put on the record on January 12, 2022. Thus, Defendant's argument as to AO 22-20 is a red herring.

The Court FINDS and CONCLUDES that promissory estoppel is applicable because Defendant was apprised of the true facts. If there were some conditions that were negotiated, but were inadvertently not revealed to the Court, Defendant was certainly aware of the missing terms before the settlement terms were put on the record. Defendant intended that his conduct is to be acted upon. The emails exchanged subsequently to the hearing by the parties' respective counsels show that the parties were acting to complete the settlement terms that were put on the record i.e. the terms of the promissory note. There was no showing that other parties or their counsels were aware of any purported missing conditions. Plaintiff and Third Party Defendants relied to their detriment upon Defendant's conduct because they agreed to settle their case instead pushing forward with litigation.

The Court FINDS and CONCLUDES that as to request for attorney's fees and costs, although the motion to enforce settlement agreement is granted, Defendant presented at least a genuine dispute over whether certain terms were material. Thus, the case does not fall under EDCR 7.60 and no finding that Defendant acted unreasonably, frivolously, or that the opposition was obviously frivolous, unnecessary or unwarranted shall be made. However, the parties and their respective counsels must work together to complete the terms of their settlement agreement regarding the promissory note. If any party fails to work in good faith to complete the settlement agreement, an appropriate motion can be filed and the Court will determine if sanctions are warranted.

The Court ORDERS that motion shall be GRANTED in part, DENIED in part. Motion to enforce settlement agreement shall be GRANTED. Motion for fees and costs shall be DENIED.

Counsel for Plaintiff or Third Party Defendants' is directed to submit a proposed Order consistent with this Minute Order and the submitted briefing. Counsel may add language to further supplement the proposed Order in accordance with the Court's findings and any submitted arguments. Defendant's counsel is to review and countersign as to form and content. Counsel is directed to have the proposed Order submitted to chambers within 14 days consistent with AO 21-04 and EDCR 7.21.

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Carolyn Jackson, to all registered parties for Odyssey File & Serve. /cj 03/31/21



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

TIMOTHY P. THOMAS, ESQ.
1771 E. FLAMINGO RD., B-212
LAS VEGAS, NV 89119

DATE: May 18, 2022
CASE: A-16-735644-C

RE CASE: ENCORE GROUP OF PROFESSIONALS, LLC vs. GABRIEL J. DALEY

NOTICE OF APPEAL FILED: May 16, 2022

YOUR APPEAL HAS BEEN SENT TO THE SUPREME COURT.

PLEASE NOTE: DOCUMENTS NOT TRANSMITTED HAVE BEEN MARKED:

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

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

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

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

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

Certification of Copy

State of Nevada }
County of Clark } SS:

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

NOTICE OF APPEAL; DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; ORDER GRANTING IN PART AND DENYING IN PART THE PLAINTIFF'S AND THIRD-PARTY DEFENDANTS' JOINT MOTION TO ENFORCE SETTLEMENT AGREEMENT AND FOR FEES AND COSTS; NOTICE OF ENTRY OF ORDER; DISTRICT COURT MINUTES; NOTICE OF DEFICIENCY

ENCORE GROUP OF PROFESSIONALS,
LLC,

Plaintiff(s),

vs.

GABRIEL J. DALEY,

Defendant(s),


Case No: A-16-735644-C

Dept No: V

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto
Set my hand and Affixed the seal of the
Court at my office, Las Vegas, Nevada
This 18 day of May 2022.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk