

IN THE SUPREME COURT OF THE STATE OF NEVADA

THOMAS A. PICKENS,
INDIVIDUALLY AND AS TRUSTEE
OF THE LV BLUE TRUST,

Appellant,

vs.

DR. DANKA K. MICHAELS,
INDIVIDUALLY AND AS TRUSTEE
OF THE MICH-MICH TRUST,

Respondent;

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Elizabeth A. Brown
Clerk of Supreme Court

S.C. DOCKET NO.: 83491
D.C. Case No. D-17-560737-D

APPENDIX

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ATTORNEYS FOR APPELLANT

JOHN D. JONES, ESQ.
Nevada Bar No. 6699
JONES & LOBELLO
9950 W. Flamingo Road, #100
Las Vegas, Nevada 89147
702-318-5060

ATTORNEYS FOR RESPONDENT

Jennifer V. Abrams, Esq.
Nevada Bar No. 7575
The Abrams & Mayo Law Firm
6252 South Rainbow Blvd., #100
Las Vegas, NV 89118
702-222-4021

and

Shawn M. Goldstein, Esq.
Nevada Bar No. 9814
GOLDSTEIN FLAXMAN, PLLC
10161 Park Run Drive, Suite 150
Las Vegas, NV 89145
702-919-1919

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Plaintiff's Trial Exhibit 50 - 2015 1065 Income Tax Return for Patience One LLC	02/14/2020	XXVIII/ AA06590-06672
Plaintiff's Trial Exhibit 51 - 2016 1065 Income Tax Return for Patience One LLC	02/14/2020	XXVIII/ AA06673-06691
Plaintiff's Trial Exhibit 52 - 2008 1120 Income Tax Return for Blue Point Development LLC	02/14/2020	XXVIII/ AA06692- XXIX/ AA06759
Plaintiff's Trial Exhibit 53 - 2009 1120 Income Tax Return for Blue Point Development LLC	02/14/2020	XXIX/ AA06760-06832
Plaintiff's Trial Exhibit 54 - 2010 1120 Income Tax Return for Blue Point Development LLC	02/14/2020	XXIX/ AA06833-06862
Plaintiff's Trial Exhibit 55 - 2011 1120 Income Tax Return for Blue Point Development LLC	02/14/2020	XXIX/ AA06863-06912
Plaintiff's Trial Exhibit 56 - 2012 1120 Income Tax Return for Blue Point Development LLC	02/14/2020	XXIX/ AA06913-06930
Plaintiff's Trial Exhibit 57 - 2013 1120 Income Tax Return for Blue Point Development LLC	02/14/2020	XXIX/ AA06931-06962
Plaintiff's Trial Exhibit 58 - 2014 1120 Income Tax Return for Blue Point Development LLC	02/14/2020	XXIX/ AA06963-06998

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Plaintiff's Trial Exhibit 60 - 2016 1120 Income Tax Return for Blue Point Development LLC	02/14/2020	XXX/AA07000
Plaintiff's Trial Exhibit 63 - Wells Fargo Business Checking #9112 titled in the name of Blue Point Development 05/29/2014 through 12/31/2014	02/14/2020	XXX/AA07001- 07002
Plaintiff's Trial Exhibit 65 - Wells Fargo Business Checking #9112 titled in the name of Blue Point Development 01/01/2015 through 12/31/2015	02/14/2020	XXX/AA07003- 07006
Plaintiff's Trial Exhibit 67 - Wells Fargo Business Checking #9112 titled in the name of Blue Point Development 01/01/2016 through 12/31/2016	02/14/2020	XXX/AA07007- 07008
Plaintiff's Trial Exhibit 69 - Wells Fargo Business Checking #9112 titled in the name of Blue Point Development 01/01/2017 through 12/31/2017	02/14/2020	XXX/AA07009- 07010
Plaintiff's Trial Exhibit 70 - Wells Fargo Business Checking #9112 titled in the name of Blue Point Development 01/01/2018 through 12/31/2018	02/14/2020	XXX/AA07011
Plaintiff's Trial Exhibit 71 - Wells Fargo Business Checking #9112 titled in the name of Blue Point Development 01/01/2019 through 04/30/19	02/14/2020	XXX/AA07012- 07013
Plaintiff's Trial Exhibit 74 - Wells Fargo Checking ending 3436 titled in the names of Thomas A. Pickens and Danka K. Michaels 07/01/2014 through 12/31/14	02/14/2020	XXX/AA07014

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Plaintiff's Trial Exhibit 78 - Wells Fargo Checking ending 3436 titled in the names of Thomas A. Pickens and Danka K. Michaels 01/01/2016 through 12/31/16	02/14/2020	XXX/AA07017- 07050
Plaintiff's Trial Exhibit 79 - Wells Fargo Checking ending 3436 titled in the names of Thomas A. Pickens and Danka K. Michaels 01/01/2017 through 12/31/17	02/14/2020	XXX/AA07051
Plaintiff's Trial Exhibit 80 - Wells Fargo Checking ending 3436 titled in the names of Thomas A. Pickens and Danka K. Michaels 01/01/2018 through 04/30/18	02/14/2020	XXX/AA07052
Plaintiff's Trial Exhibit 82 - American Express Statements #72004 Thomas Pickens card #72004 Danka Michaels card #72020 12/30/10 through 12/15/11	02/14/2020	XXX/AA07053
Plaintiff's Trial Exhibit 83 - American Express Statements #72004 Thomas Pickens card #72004 Danka Michaels card #72020 12/16/11 through 12/14/12	02/14/2020	XXX/AA07054- 07057
Plaintiff's Trial Exhibit 84 - American Express Statements #72004 Thomas Pickens card #72004 Danka Michaels card #72020 12/15/12 through 12/15/13	02/14/2020	XXX/AA07058
Plaintiff's Trial Exhibit 85 - American Express Statements #72004 Thomas Pickens card #72004 Danka Michaels card #72020 12/16/13 through 12/15/14	02/14/2020	XXX/AA07059

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Plaintiff's Trial Exhibit 87 - American Express Statements #72004 Thomas Pickens card #72004 #73002 Danka Michaels card #72020 12/16/15 through 12/15/16	02/14/2020	XXX/AA07061-07092
Plaintiff's Trial Exhibit 88 - American Express Statements #72004 Thomas Pickens card #73002 Danka Michaels card #72020 12/16/16 through 12/15/17	02/14/2020	XXX/AA07093-07095
Plaintiff's Trial Exhibit 89 - American Express Statements #72004 Thomas Pickens card #73002 Danka Michaels card #72020 12/16/17 through 12/15/18	02/14/2020	XXX/AA07096-07204
Plaintiff's Trial Exhibit 90 - American Express Statements #72004 Thomas Pickens card #73002 Danka Michaels card #72020 12/16/18 through 04/14/19	02/14/2020	XXX/AA07205-07228
Plaintiff's Trial Exhibit 93 - Lowes house summary with supporting Wells Fargo Home Mortgage #9607 (PMA #3436) titled in the names of Danka Katarina Michaels and Thomas A. Pickens 07/02/14 through 07/01/2016	02/14/2020	XXX/AA07229-07230
Plaintiff's Trial Exhibit 97 - American Express Statements #63006 titled in the name of Thomas Pickens 12/08/10 through 12/08/11	02/14/2020	XXX/AA07231
Plaintiff's Trial Exhibit 98 - American Express Statements #63006 titled in the name of Thomas Pickens 12/09/11 through 12/07/12	02/14/2020	XXX/AA07232-07236

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Plaintiff's Trial Exhibit 102 - American Express Statements #63006 titled in the name of Thomas Pickens 12/09/15 through 12/08/16	02/14/2020	XXXI/AA07251-07255
Plaintiff's Trial Exhibit 103 - American Express Statements #63006 titled in the name of Thomas Pickens 12/09/16 through 12/08/17	02/14/2020	XXXI/AA07256-07258
Plaintiff's Trial Exhibit 104 - American Express Statements #63006 titled in the name of Thomas Pickens 01/08/18 through 12/07/18	02/14/2020	XXXI/AA07259
Plaintiff's Trial Exhibit 105 - American Express Statements #63006 titled in the name of Thomas Pickens 12/08/18 through 05/08/19	02/14/2020	XXXI/AA07260
Plaintiff's Trial Exhibit 106 - American Express #51001 titled in the name of Blue Point Development 12/05/12 through 12/20/13	02/14/2020	XXXI/AA07261-07262
Plaintiff's Trial Exhibit 107 - American Express #51001 titled in the name of Blue Point Development 12/21/13 through 12/19/14	02/14/2020	XXXI/AA07263
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Plaintiff’s Trial Exhibit 111 - American Express #51001 titled in the name of Blue Point Development 12/21/17 through 12/20/18	02/14/2020	XXXII/AA 07686-07687
Plaintiff’s Trial Exhibit 112 - American Express #51001 titled in the name of Blue Point Development 12/21/18 through 04/19/19	02/14/2020	XXXII/AA 07688-07689
Plaintiff’s Trial Exhibit 113 - Bank of America Bank Statements #2561 titled in the name of Blue Point Development 10/29/12 through 02/28/14	02/14/2020	XXXII/AA 07690-07691
Plaintiff’s Trial Exhibit 114 - Bank of America Bank Statements #0222 titled in the name of Patience One LLC 11/01/12 through 12/31/13	02/14/2020	XXXII/AA 07692-07693
Plaintiff’s Trial Exhibit 115 - Wells Fargo Visa #0648 titled in the name of Thomas Pickens 06/06/17 through 12/08/17	02/14/2020	XXXII/AA 07694-07695
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Plaintiff’s Trial Exhibit 119 - Wells Fargo Checking #8952 titled in the name of Thomas Pickens 01/01/19 through 04/30/19	02/14/2020	XXXII/AA 07703-07704
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Plaintiff’s Trial Exhibit 128 - Valic – Danka Michalecko statements 9/30/13, 12/31/13, and 9/30/15	02/14/2020	XXXIII/AA 07770-07772
Plaintiff’s Trial Exhibit 129 - Pinnacle Health Systems – Danka K. Michaels. Statements 9/30/13 and 12/31/13	02/14/2020	XXXIII/AA 07773-07778
Plaintiff’s Trial Exhibit 132 - Danka Michaels Pinnacle Health Systems Statement 7/1/15	02/14/2020	XXXIII/AA 07779-07780
Plaintiff’s Trial Exhibit 133 - Bank of the West – 2015 Porsche statement 12.2.14	02/14/2020	XXXIII/AA 07781-07841
Plaintiff’s Trial Exhibit 134 - Life Insurance Statement 11/25/15	02/14/2020	XXXIII/AA 07842-07849
Plaintiff’s Trial Exhibit 138 - Thomas Pickens UBS Retirement statements dated June 2017 and October-December 2017 (Supplemental Response to Request for Production No. 16.)	02/14/2020	XXXIII/AA 07850-07857
Plaintiff’s Trial Exhibit 144 - JP Morgan Statements, Danka K. Michaels IRA, August 31, 2019 through September 30, 2019	02/14/2020	XXXIII/AA 07858-07866
Plaintiff’s Trial Exhibit 146 - Plaintiff email dated April 3, 2014	02/14/2020	XXXIII/AA 07867-07919
Plaintiff’s Trial Exhibit 147 - Plaintiff email dated August 26, 2014	02/14/2020	XXXIII/AA 07920-07922
Plaintiff’s Trial Exhibit 148 - Plaintiff email dated May 22, 2013	02/14/2020	XXXIII/AA 07923-07930
Plaintiff’s Trial Exhibit 149 - Plaintiff email dated July 9, 2012	02/14/2020	XXXIII/AA 07931-07933

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Plaintiff’s Trial Exhibit 152 - Plaintiff email dated December 2, 2016	02/14/2020	XXXIII/AA 07999- XXXIV/AA 08018
Plaintiff’s Trial Exhibit 153 - Plaintiff email dated June 30, 2014	02/14/2020	XXXIV/AA 08019-08202
Plaintiff’s Trial Exhibit 154 - #002651 Emails between Dr. Michaels and R. Semonian	02/21/2020	XXXIV/AA 08203-08209
Plaintiff’s Trial Exhibit 155 – NV Prescription Monitoring Program	02/21/2020	XXXIV/AA 08210-08247
Plaintiff’s Trial Exhibit 156 – Request to appeal denial of unemployment benefits	02/21/2020	XXXIV/AA 08248
Defendant’s Trial Exhibit A – Plaintiff’s Response to Defendant’s First Request for Production of Documents and Tangible Things from Plaintiff (with certain attachments thereto)	02/14/2020	XXXIV/AA 08249
Defendant’s Trial Exhibit C – Documentation of \$450,000 loan taken by Danka K. Michaels, M.D., PC for tenant improvements	02/14/2020	XXXIV/AA 08250- XXXV/AA 08257
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Appendix of Exhibits in Support of Defendant’s Motion to Compel Discovery Responses	04/22/2019	II/AA00398-00440
Appendix of Exhibits in Support of Defendant’s Motion to Dismiss	11/29/2017	I/AA00025-00044

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Appendix of Exhibits to Plaintiff's Opposition to Defendant's Motion for Summary Judgement, to Dismiss, for Protective Order and for Attorney Fees and Countermotion 1) to Dismiss or, in the Alternative, for Summary Judgement as to Defendant's Causes of Action for Intentional Misrepresentation/Fraud; Negligent Misrepresentation; Breach of Implied Covenant of Good Faith and Fair Dealing; Promissory Estoppel; Express Agreement; Implied Agreement; and Malicious Abuse of Process; (2) for Summary Judgement Setting Aside Deeds of Real Property and Assignment of LLC Interest; and (3) for Permission to Submit Points and Authorities in Excess of 30 Pages Pursuant to EDCR 5.503(e)	08/19/2019	V/AA00763-00813
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Defendant's Trial Exhibit K – Blue Point Development account statement and record produced by Wells Fargo Bank, in response to Subpoena Duces Tecum	02/14/2020	XXXV/AA 08272
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Plaintiff's Objection to Defendant Danka K. Michaels' Memorandum of Fees and Costs	09/07/2021	XIII/AA02823-02854
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Plaintiff's Rebuttal to Defendant's Closing Argument	06/15/2021	XI/AA02489-XII/AA02524
Plaintiff's Request for the Court to Take Judicial Notice Pursuant to NRS 47.130	02/10/2020	V/AA00951-00954

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Plaintiff's Request for the Court to Take Judicial Notice Pursuant to NRS 47.130	04/23/2021	XI/AA02835-02406
Plaintiff's Request for the Court to Take Judicial Notice Pursuant to NRS 47.130	04/23/2021	XI/AA02407-02424
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Plaintiff's Response and Opposition to Defendant's Motion to Compel Discovery Responses	05/13/2019	II/AA00496-III/AA00516
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Plaintiff’s Trial Exhibit 116 - Wells Fargo Visa #0648 titled in the name of Thomas Pickens 12/09/17 through 12/07/18	02/14/2020	XXXII/AA 07696-07698
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Plaintiff’s Trial Exhibit 127 - Southwest Pension Services – Danka Michaels. Statements 09/03/2013 and 12/31/13	02/14/2020	XXXII/AA 07708- XXXIII/AA 07769
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Plaintiff’s Trial Exhibit 132 - Danka Michaels Pinnacle Health Systems Statement 7/1/15	02/14/2020	XXXIII/AA 07779-07780
Plaintiff’s Trial Exhibit 133 - Bank of the West – 2015 Porsche statement 12.2.14	02/14/2020	XXXIII/AA 07781-07841
Plaintiff’s Trial Exhibit 134 - Life Insurance Statement 11/25/15	02/14/2020	XXXIII/AA 07842-07849
Plaintiff’s Trial Exhibit 138 - Thomas Pickens UBS Retirement statements dated June 2017 and October-December 2017 (Supplemental Response to Request for Production No. 16.)	02/14/2020	XXXIII/AA 07850-07857
Plaintiff’s Trial Exhibit 14 - 2010 1040 Income Tax Return for Thomas A. Pickens	02/14/2020	XV/AA03263- 03319
Plaintiff’s Trial Exhibit 144 - JP Morgan Statements, Danka K. Michaels IRA, August 31, 2019 through September 30, 2019	02/14/2020	XXXIII/AA 07858-07866
Plaintiff’s Trial Exhibit 146 - Plaintiff email dated April 3, 2014	02/14/2020	XXXIII/AA 07867-07919
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Plaintiff’s Trial Exhibit 149 - Plaintiff email dated July 9, 2012	02/14/2020	XXXIII/AA 07931-07933
Plaintiff’s Trial Exhibit 15 - 2011 1040 Income Tax Return for Thomas A. Pickens	02/14/2020	XV/AA03320- 03372
Plaintiff’s Trial Exhibit 150 - Plaintiff email dated May 9, 2012	02/14/2020	XXXIII/AA 07934-07964

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Plaintiff's Trial Exhibit 153 - Plaintiff email dated June 30, 2014	02/14/2020	XXXIV/AA 08019-08202
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Plaintiff's Trial Exhibit 19 - 2015 1040 Income Tax Return for Thomas A. Pickens	02/14/2020	XV/AA03495- XVI/AA03543
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Plaintiff’s Trial Exhibit 4 - Nevada Prescription Monitoring Program Prescription log for Tom Pickens	02/14/2020	XIV/AA03112- 03116
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Plaintiff’s Trial Exhibit 46 - 2017 1120S Income Tax Return for Danka K. Michaels MD, PC	02/14/2020	XXV/AA005935- XXVI/AA06106
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Plaintiff’s Trial Exhibit 78 - Wells Fargo Checking ending 3436 titled in the names of Thomas A. Pickens and Danka K. Michaels 01/01/2016 through 12/31/16	02/14/2020	XXX/AA07017-07050
Plaintiff’s Trial Exhibit 79 - Wells Fargo Checking ending 3436 titled in the names of Thomas A. Pickens and Danka K. Michaels 01/01/2017 through 12/31/17	02/14/2020	XXX/AA07051
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Plaintiff’s Trial Exhibit 80 - Wells Fargo Checking ending 3436 titled in the names of Thomas A. Pickens and Danka K. Michaels 01/01/2018 through 04/30/18	02/14/2020	XXX/AA07052

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Plaintiff's Trial Exhibit 93 - Lowes house summary with supporting Wells Fargo Home Mortgage #9607 (PMA #3436) titled in the names of Danka Katarina Michaels and Thomas A. Pickens 07/02/14 through 07/01/2016	02/14/2020	XXX/AA07229-07230
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Transcript RE: Non-Jury Trial Day 4	10/28/2021	XIV/AA03008- 03040
Transcript RE: Non-Jury Trial Day 5	10/28/2021	XIV/AA03041- 03054
Trial Subpoena	01/29/2020	V/AA00906- 00909
Trial Subpoena Robert Semonian	01/28/2020	V/AA00892- 00898
Trial Subpoena Shannon L. Evans, Esq.	01/28/2020	V/AA00899- 00905

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 The following authorities give this Court discretion to extend the time for
3 Plaintiff, THOMAS PICKENS, to file supplemental Points and Authorities in
4 Opposition to Defendant's Motion for Summary Judgment, to Dismiss, for
5 Protective Order and for Attorney Fees.

6 EDCR 2.20(i) provides:

7 A memorandum of points and authorities which consists of bare
8 citations to statutes, rules, or case authority does not comply with this
9 rule and the court may decline to consider it. Supplemental briefs will
10 only be permitted if filed within the original time limitations of
11 paragraphs (a), (b), or (d), or by order of the court.

12 EDCR 2.25, entitled "Extending time" provides:

13 (a) Every motion or stipulation to extend time shall inform
14 the court of any previous extensions granted and state the reasons for
15 the extension requested. A request for extension made after the
16 expiration of the specified period shall not be granted unless the moving
17 party, attorney or other person demonstrates that the failure to act was
18 the result of excusable neglect. Immediately below the title of such
19 motion or stipulation there shall also be included a statement indicating
20 whether it is the first second, third, etc., requested extension.

21 (b) Ex parte motions for extension of time will not ordinarily
22 be granted. When, however, a certificate of counsel shows good cause
23 for the extension and a satisfactory explanation why the extension could
24 not be obtained by stipulation or on notice, the court may grant, ex
25 parte, an emergency extension for only such a limited period as may be
26 necessary to enable the moving party to apply for a further extension
27 by stipulation or upon notice, with the time for hearing shortened by the
28 court.

29 This is Plaintiff's first request to extend the time to file supplemental Points
30 and Authorities in support of his Opposition to Defendant's motion for summary

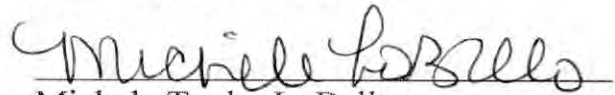
31 ///

32 ///

1 judgment. Pursuant to this Court's authority, Plaintiff respectfully requests leave to
2 file the same no later than Monday, August 19, 2019.

3 RESPECTFULLY SUBMITTED this 12th day of August, 2019.

4 **BLACK & LOBELLO**

5 

6 Michele Touby LoBello

7 Nevada Bar No. 5527

8 10777 West Twain Avenue, Suite 300

9 Las Vegas, Nevada 89135

10 Attorneys for Plaintiff,

11 THOMAS PICKENS

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of BLACK & LOBELLO and that on the 12 day of August, 2019, I caused the above and foregoing document entitled foregoing PLAINTIFF'S OPPOSITION TO DEFENDANT'S MOTION FOR SUMMARY JUDGMENT, TO DISMISS, FOR PROTECTIVE ORDER AND FOR ATTORNEY FEES AND COUNTERMOTION FOR LEAVE OF COURT TO FILE SUPPLEMENTAL POINTS AND AUTHORITIES to be served as follows:

- ☐ by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada; and
- ☒ pursuant to N.E.F.C.R. 9, to be sent via electronic service;
- ☐ pursuant to EDCR 7.26, to be sent via facsimile;
- ☒ by email to
- ☐ hand delivered

to the party or their attorney(s) listed below at the address and/or facsimile number indicated below:

Jennifer V. Abrams, Esq.
The Abrams & Mayo Law Firm
6252 South Rainbow Blvd., #100
Las Vegas, NV 89118
Email: JVAGroup@TheAbramsLawFirm.com
Attorney for Defendant

and that there is regular communication by mail between the place of mailing and the place(s) so addressed.


An Employee of Black & LoBello

MOFI

DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

Thomas A. Pickens

Plaintiff/Petitioner

v.
Danka K. Michaels

Defendant/Respondent

Case No. D-17-560737-D

Dept. J

**MOTION/OPPOSITION
FEE INFORMATION SHEET**

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

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

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

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

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

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

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

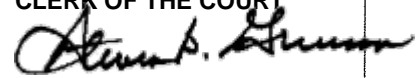
☒ \$0 ☒ \$25 ☐ \$57 ☐ \$82 ☐ \$129 ☐ \$154

Party filing Motion/Opposition: Thomas A. Pickens Date 8-12-19

Signature of Party or Preparer



AA00754



NTSO
BLACK & LOBELLO
Michele Touby LoBello, Esq.
Nevada Bar No. 5527
10777 West Twain Avenue, Suite 300
Las Vegas, Nevada 89135
Telephone No.: 702-869-8801
Facsimile No.: 702-869-2669
Email: mlobello@blacklobello.law
Attorneys for Plaintiff,
THOMAS A. PICKENS

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

THOMAS A. PICKENS,

Plaintiff

CASE NO.: D-17-560737-D
DEPT. J

vs.

DANKA K. MICHAELS,

Defendant

NOTICE OF ENTRY OF STIPULATION AND ORDER

PLEASE TAKE NOTICE that a STIPULATION AND ORDER TO
EXTEND DISCOVERY DEADLINES AND CONTINUE TRIAL (FIRST

///

///

///

///

1 REQUEST) AND ORDER CONTINUING TRIAL was duly entered in the above
2 referenced case on August 5, 2019, a copy of which is attached hereto.

3
4 DATED this 16th day of August, 2019.

5 BLACK & LOBELLO

6 

7 Michele Touby LoBello, Esq.,

8 Nevada State Bar No. 5527

9 10777 West Twain Avenue, Suite 300

10 Las Vegas, Nevada 89135

11 Attorneys for Plaintiff,

12 THOMAS A. PICKENS

CERTIFICATE OF SERVICE

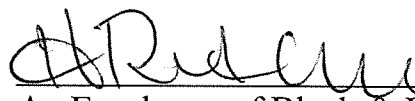
Pursuant to NRCP 5(b), I certify that I am an employee of BLACK & LOBELLO and that on the 16 day of August, 2019, I caused the above and foregoing document entitled NOTICE OF ENTRY OF STIPULATION AND ORDER to be served as follows:

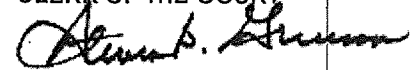
- ☐ by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada; and
- ☒ pursuant to N.E.F.C.R. 9, to be sent via electronic service;
- ☐ pursuant to EDCR 7.26, to be sent via facsimile;
- ☒ by email to
- ☐ hand delivered

to the party or their attorney(s) listed below at the address and/or facsimile number indicated below:

Jennifer V. Abrams, Esq.
The Abrams & Mayo Law Firm
6252 South Rainbow Blvd., #100
Las Vegas, NV 89118
Email: JVAGroup@TheAbramsLawFirm.com
Attorney for Defendant

and that there is regular communication by mail between the place of mailing and the place(s) so addressed.


An Employee of Black & LoBello



1 **SAO**
2 **BLACK & LOBELLO**
3 Michele Touby LoBello, Esq.
4 Nevada Bar No. 5527
5 10777 West Twain Avenue, Suite 300
6 Las Vegas, Nevada 89135
7 Telephone No.: 702-869-8801
8 Facsimile No.: 702-869-2669
9 Email: mlobello@blacklobello.law
10 Attorneys for Plaintiff,
11 **THOMAS A. PICKENS**

12 **DISTRICT COURT**
13 **FAMILY DIVISION**
14 **CLARK COUNTY, NEVADA**

15 **THOMAS A. PICKENS,**
16 Individually and as Trustee of the LV
17 Blue Trust,

18 Plaintiff

19 vs.

20 **DANKA K. MICHAELS,**
21 Individually and as Trustee of the Mich-
22 Mich Trust

23 Defendant

CASE NO.: D-17-560737-D

DEPT. J

**STIPULATION TO EXTEND
DISCOVERY DEADLINES AND
CONTINUE TRIAL
(FIRST REQUEST)
AND ORDER CONTINING TRIAL**

24 Pursuant to EDCR 7.30(f) and (h), EDCR 2.35 and EDCR 5.514(b), Plaintiff,
25 THOMAS A. PICKENS, by and through his attorneys of record, Michele Touby
26 LoBello, Esq., of the law firm Black & LoBello; and Defendant, DANKA K.
27 MICHAELS, by and through her attorneys of record, Jennifer V. Abrams, Esq., and
28 the Abrams & Mayo Law Firm, respectfully submit the following Stipulation and
Order requesting an extension of the current dates for Discovery, filing of Motions
to Amend Pleadings, and Dispositive Motions, and to continue the trial set for
September 9 and 10, 2019.

IT IS HEREBY STIPULATED the parties require additional time to conduct
discovery and to continue to attempt to resolve this matter or to prepare for and

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Las Vegas, Nevada 89135
702-869-8801 FAX: 702-869-2669

1 conduct the trial. Pursuant to the Case Management Order issued by this Court on
2 March 21, 2019, the trial of this matter is scheduled for two full days, on September
3 9 and 10, 2019. The Case Management Order further specifies Discovery deadlines,
4 as well as the dealings for filing motions to amend or dispositive motions. Finally,
5 the Case Management Order provides that for good cause, the Court may grant a
6 stipulation of the parties to continue the trial.

7 IT IS FURTHER STIPULATED the parties have agreed to extend all of these
8 deadlines, as well as the date of trial, for no less than 60 days. The parties request
9 the Court enter an Order consistent with this Stipulation as follows:

10 IT IS FURTHER STIPULATED the trial of this matter, may be continued for
11 60 days, to the Court's next available Two Full Days trial setting.

12 IT IS FURTHER STIPULATED the Court should entered the following
13 Orders concerning extended deadlines, consistent with the March 21, 2019 Case
14 Management Order:

- 15 1. Forty-five (45) days prior to trial, no additional non-expert witnesses may
16 be named.
- 17 2. Discovery closes: Twenty (20) days before trial.
- 18 3. No additional motions to amend the pleadings or add parties to the case:
19 Forty-five (45) days prior to trial.
- 20 4. No dispositive motions: Thirty (30) days prior to trial.
- 21 5. Additional Orders of the Court: Copies of Exhibits must be provided in
22 written form to the opposing party no later than ten (10) days before trial.
23 Parties are to provide three (3) sets of Exhibits in written form in binders
24 to the Court ten (10) days before trial. Exhibits must be indexed and
25 individually numbered at the bottom, right side corner.
- 26 6. A current Financial Disclosure Form must be filed and served ten (10) days
27 before trial. The three (3) most recent paystubs must be attached.
28

1 7. Pre-Trial Memorandum, Final Witness List and List of proposed Trial
2 Exhibits (NOT THE EXHIBITS) must be filed and served no later than ten
3 (10) days before Trial. The Pre-Trial Memorandum must conform with
4 EDCR 5.524.

5 8. Meet and Confer: Litigants and/or counsel must meet no later than five
6 (5) calendar days before trial to arrive at stipulations regarding the
7 admissibility and exchange of proposed exhibits, and the names and
8 addresses of all potential witnesses to be called at trial pursuant to EDCR
9 5.524.

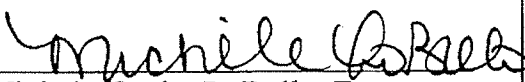
10 9. Expert witnesses: Disclosure of expert witnesses must be made pursuant
11 to NRCF 16.2(d)(5).

12 IT IS FURTHER STIPULATED all other Orders as set forth in the March 21,
13 2019 Case Management Order shall remain the Order of the Court.

14 IT IS SO STIPULATED by:

15 Dated this 31st day of July 2019.


16 BLACK & LOBELLO

17 

18 Michele Touby LoBello, Esq.
19 Nevada State Bar #5527
20 10777 West Twain Avenue, #300
21 Las Vegas, Nevada 89135
22 *Attorneys for Plaintiff*

15 Dated this 30th day of July 2019.

16 THE ABRAMS & MAYO LAW FIRM

17 

18 Jennifer V. Abrams, Esq.
19 Nevada State Bar # 7575
20 6252 South Rainbow Blvd, Suite 100
21 Las Vegas, NV 89118
22 *Attorney for Defendant*

23
24 **ORDER CONTINUING TRIAL AND**
25 **EXTENDING DISCOVERY AND RELATED DEADLINES**

26 Pursuant to the Stipulation of the parties, and good cause appearing
27 therefore, the Court hereby ORDERS as follows:
28

1 IT IS HEREBY ORDERED the trial of this matter, shall be continued for 60
2 days, to the Court's next available Two Full Day trial setting, as follows:

3 TRIAL DATE (DAY 1): February 14, ²⁰²⁰~~2019~~, at 9:00 a.m., and

4 TRIAL DATE (DAY 2): February 21, ²⁰²⁰~~2019~~, at 9:00 a.m.

5 IT IS FURTHER ORDERED, consistent with the original March 21, 2019
6 Case Management Order:

- 7 1. Forty-five (45) days prior to trial, no additional non-expert witnesses may
8 be named.
- 9 2. Discovery closes: Twenty (20) days before trial.
- 10 3. No additional motions to amend the pleadings or add parties to the case:
11 Forty-five (45) days prior to trial.
- 12 4. No dispositive motions: Thirty (30) days prior to trial.
- 13 5. Additional Orders of the Court: Copies of Exhibits must be provided in
14 written form to the opposing party no later than ten (10) days before trial.
15 Parties are to provide three (3) sets of Exhibits in written form in binders
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- 18 6. A current Financial Disclosure Form must be filed and served ten (10) days
19 before trial. The three (3) most recent paystubs must be attached.
- 20 7. Pre-Trial Memorandum, Final Witness List and List of proposed Trial
21 Exhibits (NOT THE EXHIBITS) must be filed and served no later than ten
22 (10) days before Trial. The Pre-Trial Memorandum must conform with
23 EDCR 5.524.
- 24 8. Meet and Confer: Litigants and/or counsel must meet no later than five
25 (5) calendar days before trial to arrive at stipulations regarding the
26 admissibility and exchange of proposed exhibits, and the names and
27 addresses of all potential witnesses to be called at trial pursuant to EDCR
28


BLACK & LOBELLO
10777 West Twain Avenue, Suite 300
Las Vegas, Nevada 89135
702-869-8801 FAX: 702-869-2669

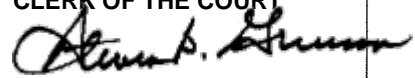
1 5.524.

2 9. Expert witnesses: Disclosure of expert witnesses must be made pursuant
3 to NRCP 16.2(d)(5).

4 IT IS FURTHER ORDERED all other Orders as set forth in the March 21,
5 2019 Case Management Order shall remain the Order of the Court.

6 IT IS SO ORDERED this 1 day of ~~July~~^{Aug} 2019.

7
8 
9 HONORABLE RENA G. HUGHES
10 DISTRICT COURT JUDGE
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1 **EXHB**

2 BLACK & LOBELLO

3 Michele Touby LoBello, Esq.

4 Nevada Bar No. 5527

5 10777 West Twain Avenue, Suite 300

6 Las Vegas, Nevada 89135

7 Telephone No.: 702-869-8801

8 Facsimile No.: 702-869-2669

9 Email: mlobello@blacklobello.law

10 Attorneys for Plaintiff,

11 THOMAS A. PICKENS

12 **DISTRICT COURT**
13 **FAMILY DIVISION**
14 **CLARK COUNTY, NEVADA**

15 THOMAS A. PICKENS,
16 Individually and as Trustee of the LV
17 Blue Trust,

CASE NO.: D-17-560737-D
DEPT. J

18 Plaintiff.

19 vs.

Date of Hearing: Sept. 11, 2019
Time of Hearing: 9:00 a.m.
Oral Argument Requested: Yes

20 DANKA K. MICHAELS,
21 Individually and as Trustee of the Mich-
22 Mich Trust,

23 Defendant.

24 **APPENDIX OF EXHIBITS TO PLAINTIFF'S OPPOSITION TO**
25 **DEFENDANT'S MOTION FOR SUMMARY JUDGMENT, TO DISMISS,**
26 **FOR PROTECTIVE ORDER**
27 **AND FOR ATTORNEY FEES**
28 **AND**
29 **COUNTERMOTION (1) TO DISMISS OR, IN THE ALTERNATIVE, FOR**
30 **SUMMARY JUDGMENT AS TO DEFENDANT'S CAUSES OF ACTION**
31 **FOR INTENTIONAL MISREPRESENTATION/FRAUD; NEGLIGENT**
32 **MISREPRESENTATION; BREACH OF IMPLIED COVENANT OF GOOD**
33 **FAITH AND FAIR DEALING; PROMISSORY ESTOPPEL; EXPRESS**
34 **AGREEMENT; IMPLIED AGREEMENT;**
35 **AND MALICIOUS ABUSE OF PROCESS;**

BLACK & LOBELLO
10777 West Twain Avenue, Suite 300
Las Vegas, Nevada 89135
702-869-8801 FAX: 702-869-2669

**(2) FOR SUMMARY JUDGMENT SETTING ASIDE DEEDS OF REAL
PROPERTY AND ASSIGNMENT OF LLC INTEREST; AND
(3) FOR PERMISSION TO SUBMIT POINTS AND AUTHORITIES IN
EXCESS OF 30 PAGES PURSUANT TO EDCR 5.503(e)**

Plaintiff, THOMAS A. PICKENS ("Tom"), by and through his attorneys of record, Michele Touby LoBello, of BLACK & LOBELLO, hereby submits the attached documents as Exhibits to his OPPOSITION TO DEFENDANT'S MOTION FOR SUMMARY JUDGMENT, TO DISMISS, FOR PROTECTIVE ORDER AND FOR ATTORNEY FEES AND COUNTERMOTION (1) TO DISMISS OR, IN THE ALTERNATIVE, FOR SUMMARY JUDGMENT AS TO DEFENDANT'S CAUSES OF ACTION FOR INTENTIONAL MISREPRESENTATION/FRAUD; NEGLIGENT MISREPRESENTATION; BREACH OF IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING; PROMISSORY ESTOPPEL; EXPRESS AGREEMENT; IMPLIED AGREEMENT; AND MALICIOUS ABUSE OF PROCESS; (2) FOR SUMMARY JUDGMENT SETTING ASIDE DEEDS OF REAL PROPERTY AND ASSIGNMENT OF LLC INTEREST; AND (3) FOR PERMISSION TO SUBMIT POINTS AND AUTHORITIES IN EXCESS OF 30 PAGES PURSUANT TO EDCR 5.503(e), filed on August 19, 2019.

1. Nevada Prescription Monitoring for Tom Pickens, Bates numbered TAP-OPP-0001 to TAP-OPP-0003.

2. Declaration Of Thomas A. Pickens In Support Of His Opposition To Defendant's Motion For Summary Judgment, To Dismiss, For Protective Order And

1 For Attorney Fees And Countermotion (1) To Dismiss Or, In The Alternative, For
2 Summary Judgment As To Defendant's Causes Of Action For Intentional
3 Misrepresentation/Fraud; Negligent Misrepresentation; Breach Of Implied
4 Covenant Of Good Faith And Fair Dealing; Promissory Estoppel; Express
5 Agreement; Implied Agreement; And Malicious Abuse Of Process; (2) For
6 Summary Judgment Setting Aside Deeds Of Real Property And Assignment Of LLC
7 Interest; And (3) For Permission To Submit Points And Authorities In Excess Of 30
8 Pages Pursuant To EDCR 5.503(e), Bates numbered TAP-OPP-0004 to TAP-OPP-
9 0012.

13 3. Photographs and marriage announcement of April 7, 2002 wedding
14 ceremony, and announcements sent thereafter, Bates numbered TAP-OPP-0013 to
15 TAP-OPP-0016.

17 4. Various Deeds, Bates numbered TAP-OPP-0017 to TAP-OPP-0032.

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5. Various email correspondence where Danka, Tom and third parties understood the parties were husband and wife, Bates numbered TAP-OPP-0033 to TAP-OPP-0045.

RESPECTFULLY SUBMITTED this 19th day of August, 2019.

BLACK & LOBELLO

Michelle Robles

Michele Touby LoBello
Nevada State Bar No. 5527
10777 West Twain Avenue, Suite 300
Las Vegas, Nevada 89135
(702) 869-8801
Attorneys for Plaintiff,
THOMAS A. PICKENS

BLACK & LOBELLO
10777 West Twain Avenue, Suite 300
Las Vegas, Nevada 89135
702-869-8801 FAX: 702-869-2669

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of BLACK & LOBELLO and that on the 19 day of August, 2019, I caused the above and foregoing document entitled foregoing APPENDIX OF EXHIBITS TO PLAINTIFF'S OPPOSITION TO DEFENDANT'S MOTION FOR SUMMARY JUDGMENT, TO DISMISS, FOR PROTECTIVE ORDER AND FOR ATTORNEY FEES AND COUNTERMOTION (1) TO DISMISS OR, IN THE ALTERNATIVE, FOR SUMMARY JUDGMENT AS TO DEFENDANT'S CAUSES OF ACTION FOR INTENTIONAL MISREPRESENTATION/FRAUD; NEGLIGENT MISREPRESENTATION; BREACH OF IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING; PROMISSORY ESTOPPEL; EXPRESS AGREEMENT; IMPLIED AGREEMENT; AND MALICIOUS ABUSE OF PROCESS; (2) FOR SUMMARY JUDGMENT SETTING ASIDE DEEDS OF REAL PROPERTY AND ASSIGNMENT OF LLC INTEREST; AND (3) FOR PERMISSION TO SUBMIT POINTS AND AUTHORITIES IN EXCESS OF 30 PAGES PURSUANT TO EDCR 5.503(e) to be served as follows:

☐ by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada; and

☒ pursuant to N.E.F.C.R. 9, to be sent via electronic service;

☐ pursuant to EDCR 7.26, to be sent via facsimile;

☒ by email to

///

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BLACK & LOBELLO

10777 West Twain Avenue, Suite 300
Las Vegas, Nevada 89135
702-869-8801 FAX: 702-869-2669

☐ hand delivered

to the party or their attorney(s) listed below at the address and/or facsimile number indicated below:

Jennifer V. Abrams, Esq.
The Abrams & Mayo Law Firm
6252 South Rainbow Blvd., #100
Las Vegas, NV 89118
Email: JVAGroup@TheAbramsLawFirm.com
Attorney for Defendant

and that there is regular communication by mail between the place of mailing and the place(s) so addressed.



An Employee of Black & LoBello



For help using the application please contact:

775-687-5694

Report Prepared: 04/23/2019

Patient Report

Date Range: 01/01/2015 – 12/31/2017

thomas pickens

Linked Records				
Name	DOB	ID	Gender	Address
THOMAS PICKENS	10/05/1956	1	male	9517 QUEEN CHARLOTTE DR LAS VEGAS NV 89145

Report Criteria

First Name: thomas, Last Name: pickens, DOB: 10/05/1956

Summary			
Summary	Opioids* (excluding buprenorphine)	Buprenorphine*	
Total Prescriptions	31 Current Qty	0.0 Current Qty	0.0
Total Private Pay	29 Current MME/day	0.0 Current mg/day	0.0
Total Prescribers	3 30 Day Avg MME/day	0.0 30 Day Avg mg/day	0.0
Total Pharmacies	2		

Prescriptions													
Filled	ID	Written	Drug	ICD-10	QTY	Days	Prescriber	Rx #	Pharmacy*	Refills	Daily Dose	Pymt Type	PMP
01/26/2017	1	01/26/2017	OXYCODONE-ACETAMINOPHEN 10-325		120.0	30	DA MIC	1374878	COSTC (8926)	0	60.0 MME	Private Pay	NV
01/26/2017	1	01/26/2017	ALPRAZOLAM 1 MG TABLET		180.0	90	DA MIC	1374916	COSTC (8926)	0		Private Pay	NV
01/26/2017	1	01/26/2017	ZOLPIDEM TARTRATE 10 MG TABLET		90.0	90	DA MIC	1374917	COSTC (8926)	0		Private Pay	NV

TAP-APP00009

Filled	ID	Written	Drug	ICD-10	QTY	Days	Prescriber	Rx #	Pharmacy*	Refills	Daily Dose	Pymt Type	PMP
08/30/2016	1	08/30/2016	OXYCODONE-ACETAMINOPHEN 10-325		120.0	30	RO CAR	1344910	COSTC (8926)	0	60.0 MME	Private Pay	NV
08/30/2016	1	08/30/2016	ALPRAZOLAM 0.5 MG TABLET		360.0	60	RO CAR	1344909	COSTC (8926)	0		Private Pay	NV
08/30/2016	1	08/30/2016	ZOLPIDEM TARTRATE 10 MG TABLET		90.0	90	RO CAR	1344911	COSTC (8926)	0		Private Pay	NV
06/21/2016	1	06/21/2016	TRAMADOL HCL 50 MG TABLET		240.0	30	RO CAR	1332716	COSTC (8926)	0	40.0 MME	Private Pay	NV
06/03/2016	1	06/03/2016	OXYCODONE-ACETAMINOPHEN 10-325		120.0	30	RO CAR	1329498	COSTC (8926)	0	60.0 MME	Private Pay	NV
06/03/2016	1	06/03/2016	ALPRAZOLAM 0.5 MG TABLET		360.0	60	RO CAR	1329513	COSTC (8926)	0		Private Pay	NV
06/03/2016	1	06/03/2016	ZOLPIDEM TARTRATE 10 MG TABLET		90.0	90	RO CAR	1329499	COSTC (8926)	0		Private Pay	NV
05/17/2016	1	05/14/2016	BUPRENORPHINE 2 MG TABLET SL		60.0	30	DA MIC	1326552	COSTC (8926)	3	4.0 mg	Private Pay	NV
03/07/2016	1	03/04/2016	ALPRAZOLAM 1 MG TABLET		180.0	60	RO CAR	1312760	COSTC (8926)	0		Private Pay	NV
03/07/2016	1	03/04/2016	ZOLPIDEM TARTRATE 10 MG TABLET		90.0	90	RO CAR	1312759	COSTC (8926)	0		Private Pay	NV
03/04/2016	1	03/04/2016	TRAMADOL HCL 50 MG TABLET		240.0	30	RO CAR	1312553	COSTC (8926)	0	40.0 MME	Private Pay	NV
03/04/2016	1	03/04/2016	OXYCODONE-ACETAMINOPHEN 10-325		120.0	30	RO CAR	1312554	COSTC (8926)	0	60.0 MME	Private Pay	NV
12/30/2015	1	12/29/2015	OXYCODONE-ACETAMINOPHEN 10-325		120.0	30	RO CAR	1299302	COSTC (8926)	0	60.0 MME	Private Pay	NV
12/29/2015	1	12/29/2015	ALPRAZOLAM 0.5 MG TABLET		360.0	60	RO CAR	1299270	COSTC (8926)	0		Private Pay	NV
12/24/2015	1	12/24/2015	ZOLPIDEM TARTRATE 10 MG TABLET		90.0	90	DA MIC	1298628	COSTC (8926)	0		Private Pay	NV
10/27/2015	1	10/27/2015	TRAMADOL HCL 50 MG TABLET		240.0	30	DA MIC	1286745	COSTC (8926)	0	40.0 MME	Private Pay	NV
09/21/2015	1	09/21/2015	ALPRAZOLAM 0.5 MG TABLET		360.0	60	DA MIC	1279705	COSTC (8926)	0		Private Pay	NV
09/21/2015	1	09/19/2015	ZOLPIDEM TARTRATE 10 MG TABLET		90.0	90	RO CAR	1279517	COSTC (8926)	0		Private Pay	NV
08/15/2015	1	08/15/2015	OXYCODONE-ACETAMINOPHEN 10-325		120.0	30	RO CAR	1273348	COSTC (8926)	0	60.0 MME	Private Pay	NV
07/15/2015	1	07/15/2015	TRAMADOL HCL 50 MG TABLET		240.0	30	RO CAR	1268128	COSTC (8926)	0	40.0 MME	Private Pay	NV
07/15/2015	1	07/15/2015	ALPRAZOLAM 0.5 MG TABLET		360.0	60	RO CAR	1268129	COSTC (8926)	0		Private Pay	NV
07/15/2015	1	07/15/2015	ZOLPIDEM TARTRATE 10 MG TABLET		90.0	90	RO CAR	1268130	COSTC (8926)	0		Private Pay	NV
05/27/2015	1	05/21/2015	OXYCODONE-ACETAMINOPHEN 10-325		120.0	30	DA MIC	1259527	COSTC (8926)	0	60.0 MME	Private Pay	NV
04/18/2015	1	04/15/2015	ZOLPIDEM TARTRATE 10 MG TABLET		90.0	90	DA MIC	1252703	COSTC (8926)	0		Private Pay	NV
04/15/2015	1	04/15/2015	TRAMADOL HCL 50 MG TABLET		240.0	30	DA MIC	1252169	COSTC (8926)	0	40.0 MME	Private Pay	NV

Filled	ID	Written	Drug	ICD-10	QTY	Days	Prescriber	Rx #	Pharmacy*	Refills	Daily Dose	Pymt Type	PMP
03/21/2015	1	03/21/2015	ZOLPIDEM TARTRATE 10 MG TABLET		30.0	30	RO CAR	4438682	VONS (4083)	3		Comm Ins	NV
02/07/2015	1	02/06/2015	OXYCODONE-ACETAMINOPHEN 10-325		120.0	30	RO CAR	2214081	VONS (4083)	0	60.0 MME	Comm Ins	NV
01/02/2015	1	01/02/2015	ALPRAZOLAM 0.5 MG TABLET		360.0	60	DA MIC	1232577	COSTC (8926)	3		Private Pay	NV

*Pharmacy is created using a combination of pharmacy name and the last four digits of the pharmacy license number.

**Per CDC guidance, the MME conversion factors prescribed or provided as part of medication-assisted treatment for opioid use disorder should not be used to benchmark against dosage thresholds meant for opioids prescribed for pain. Buprenorphine products have no agreed upon morphine equivalency and as partial opioid agonists, are not expected to be associated with overdose risk in the same dose-dependent manner as doses for full agonist opioids. MME = morphine milligram equivalents. mg = dose in milligrams*

Prescribers

Name	Address	City	State	Zip	Phone
CARILLO, ROBERTO C	3320 N BUFFALO DR	LAS VEGAS	NV	89129	7028696190
CARILLO, ROBERTO C	3320 N BUFFALO DR	LAS VEGAS	NV	89129	7028696190
MICHAELS, DANKA K	3320 N BUFFALO DR	LAS VEGAS	NV	89129	7028696190

Dispensers

Pharmacy	Address	City	State	Zip	Phone
VONS PHARMACY #1688 (4083)	820 S RAMPART BLVD	LAS VEGAS	NV	89145	7029465333
COSTCO WHOLESALE CORPORATION (8926)	801 S PAVILION CENTER DR	LAS VEGAS	NV	89144	7023522055

Disclaimer:

Report contents are based on data entered by dispensers and their staff, and may contain errors. The Board of Pharmacy recommends independent verification with dispensers when prudent or necessary. Willful disclosure of prescription information may be subject to disciplinary action, civil penalties or criminal action.

**DECLARATION OF THOMAS A. PICKENS IN SUPPORT OF HIS
OPPOSITION TO DEFENDANT’S MOTION FOR SUMMARY
JUDGMENT, TO DISMISS, FOR PROTECTIVE ORDER AND FOR
ATTORNEY FEES AND COUNTERMOTION (1) TO DISMISS OR, IN
THE ALTERNATIVE, FOR SUMMARY JUDGMENT AS TO
DEFENDANT’S CAUSES OF ACTION FOR INTENTIONAL
MISREPRESENTATION/FRAUD; NEGLIGENT MISREPRESENTATION;
BREACH OF IMPLIED COVENANT OF GOOD FAITH AND FAIR
DEALING; PROMISSORY ESTOPPEL; EXPRESS AGREEMENT;
IMPLIED AGREEMENT; AND MALICIOUS ABUSE OF PROCESS; (2)
FOR SUMMARY JUDGMENT SETTING ASIDE DEEDS OF REAL
PROPERTY AND ASSIGNMENT OF LLC INTEREST; AND (3) FOR
PERMISSION TO SUBMIT POINTS AND AUTHORITIES IN EXCESS OF
30 PAGES PURSUANT TO EDCR 5.503(e)**

I, Thomas A. Pickens, do solemnly swear to testify herein to the truth,
the whole truth and nothing but the truth, as follows:

1. I am over the age of majority and am competent to testify to the facts
contained herein.

2. I am the Plaintiff in this matter, and Trustee of the LV Blue Trust, also
a Plaintiff in this matter. I am making this Declaration in support of the
OPPOSITION TO DEFENDANT’S MOTION FOR SUMMARY JUDGMENT,
TO DISMISS, FOR PROTECTIVE ORDER AND FOR ATTORNEY FEES AND
COUNTERMOTION (1) TO DISMISS OR, IN THE ALTERNATIVE, FOR
SUMMARY JUDGMENT AS TO DEFENDANT’S CAUSES OF ACTION FOR
INTENTIONAL MISREPRESENTATION/FRAUD; NEGLIGENT
MISREPRESENTATION; BREACH OF IMPLIED COVENANT OF GOOD
FAITH AND FAIR DEALING; PROMISSORY ESTOPPEL; EXPRESS
AGREEMENT; IMPLIED AGREEMENT; AND MALICIOUS ABUSE OF
PROCESS; (2) FOR SUMMARY JUDGMENT SETTING ASIDE DEEDS OF
REAL PROPERTY AND ASSIGNMENT OF LLC INTEREST; AND (3) FOR
PERMISSION TO SUBMIT POINTS AND AUTHORITIES IN EXCESS OF 30
PAGES PURSUANT TO EDCR 5.503(e), which is being filed on my behalf this
date. I have reviewed the same, and the factual averments it contains are true and
correct to the best of my knowledge, except as to those matters based on information

1 and belief, and as to those matters, I believe them to be true. Those factual averments
2 contained in the referenced filing are incorporated here as if set forth in full.

3 3. Danka and I met in 2000, after I had been hospitalized in Las Vegas
4 and was being treated for a serious heart condition. I did not have a primary care
5 physician at the time, and my cardiologist suggested Danka should be my doctor.
6 She was a member of Summit Medical Group and an internal medicine doctor. At
7 that point, we began a doctor-patient relationship. I was treated by Danka ever since
8 until early 2017.

9 4. Unfortunately, I struggled with my heart condition throughout that
10 period of time, and there were repeated failures in my treatment between April and
11 September 2000. Something was clearly wrong, so I went for a second opinion. In
12 September, I consulted at the Cleveland Clinic, and I was advised there had been a
13 mistake made placing a stint during my treatment. Based on that evaluation, I
14 immediately underwent bypass surgery to correct the issue. I did not pursue legal
15 recourse related to the negligent service provided me while I was under the care of
16 Summit Medical Group because by that time, Danka and I were dating. I was not
17 going to sue a group where she was a member. She had also shared with me that she
18 was named as a defendant in other malpractice matters, so I knew she had other legal
19 entanglements that were weighing heavily on her. She also had recently emerged
20 from bankruptcy with her ex-husband.

21 5. After my surgery, I returned to my job. I was employed by Peck Jones,
22 a construction company, and I was working in California. I was earning
23 approximately \$100,000 per year salary. However, shortly after that, I was visiting
24 my cardiologist, and he sent me to the Emergency Room based on his examination.
25 They performed an angiogram, and I flatlined during the procedure. Thankfully I
26 was revived. I was fortunate to have made it to the ER, but I have struggled with
27 my heart since this time.

1 6. I wound up the construction project with Peck Jones in California in or
2 about 2001, and then I returned to Las Vegas and moved in with Danka in a home
3 she owned. We were very much in love and decided to marry. Before we did that,
4 we consulted my accountant, Robert Semonian, CPA, to discuss our marriage and
5 the concerns we had about Danka's pending litigation and financial exposure to
6 those creditors. After that discussion, we decided not to marry in Nevada. Danka
7 has family in Slovakia, so we planned a ceremony there in a Catholic Church, and
8 we were married with about 25 family members and friends present on April 7, 2002.
9 Prior to the wedding, we attended Pre Cana classes with a local Catholic Church.

10 7. The claim that I did not intend a legal marriage when Danka and I
11 married in Slovakia is false. I knew nothing about "intentionally" not complying
12 with the requirements for a valid marriage, or for not "registering" our paperwork.
13 I certainly never would have said this to either our tax preparer or our estate planning
14 attorney, as I would not have known of such legal requirements. I did understand
15 and agreed that creditors would have a harder time finding us if we were married
16 outside the State of Nevada, and Danka believed that as well, according to what she
17 said to me.

18 8. After we were married, we distributed marriage announcements. I
19 called Danka my wife, and she called me her husband. We lived together, and we
20 believed we were married. We acquired property as "husband and wife". This is
21 how we held ourselves out to multiple third parties. I have provided emails to prove
22 this.

23 9. Following the marriage, Danka and I shared expenses and jointly
24 acquired assets. At first, we lived in a home she had kept following her bankruptcy,
25 the Copparo home. I assisted in maintaining that home, and with capital
26 improvements, both with money I earned and my own labor as I work construction
27 by trade. Moreover, I had solid credit, and Danka did not due to her recent
28 bankruptcy.

1 10. It was at that time we decided Danka would start her own private
2 medical practice. She found space to rent for her office and set up shop in or about
3 2003 at 7373 Peak Drive, Las Vegas, Nevada. I provided services to prepare the
4 office for her practice, including many of the tenant improvements. I helped set up
5 the office systems including payroll. I did not receive a paycheck at that time for
6 my services related to the new practice, as we were married, we were sharing
7 expenses, and the point was to build wealth.

8 11. Danka and I sold her home in 2004, and we purchased our home at 9517
9 Queen Charlotte Drive, Las Vegas, Nevada 89145, on or about September 30, 2004.
10 We did use the proceeds of the sale of Danka's home to purchase our new home, but
11 the home was transferred to us from the Sellers, specifically "to Danka K. Michaels
12 and Thomas A. Pickens, wife and husband as joint tenants". We were both the
13 borrowers on the mortgage. We made mortgage payments monthly and shared all
14 related expenses.

15 12. Between approximately 2004 and 2008, I was employed with Stations
16 Casinos. In 2008, we had the fortune for me to start my own construction business,
17 Blue Point Development, LLC.

18 13. Danka and I later acquired an investment home located at 7608 Lowe,
19 Las Vegas, Nevada. Again, the home was transferred to us from the Sellers,
20 specifically "to Danka Katrina Michaels and Thomas A. Pickens, wife and husband
21 as joint tenants". This home was purchased in 2011, using funds in the amount of
22 approximately \$29,000 which did come from an account of Danka's, but which we
23 acquired jointly, and the mortgage was in both names. One of Danka's employees
24 lived there for the first few years, and the \$800 per month as paid by the tenant, Jody,
25 to Danka. We maintained the monthly mortgage using funds that I earned from my
26 company, but this didn't matter to me. I considered this a joint investment, and we
27 were able to pay off the entire \$100,000 mortgage balance within just under six
28 years.

1 14. We did file separate tax returns as single people. We did this because
2 our tax preparer, Mr. Semonian, prepared the returns we needed to file. We both
3 relied on him for tax advice, we provided him our financial information, and he
4 prepared returns for each of us. Those returns, based upon what he told me, were
5 consistent with the proper method of filing tax returns and reporting income under
6 our circumstances. We relied on his preparation of the proper return to ensure we
7 paid the right amount of taxes, maximizing the financial impact for both of us. For
8 example, we would discuss our shared expenses, and Bob would decide who should
9 deduct them, Danka or me. The majority of our mortgage payments were paid with
10 my income, but since we were married, we considered that a shared expense, and
11 Mr. Semonian would provide the mortgage interest deduction to whomever of us
12 would benefit from the deduction on the return. I understood this to be perfectly
13 legal since we had a professional tax preparer, and Danka never indicated to me that
14 she had any concern about this.

15 15. Again, I never told Mr. Semonian we were not married, nor did I ever
16 tell him we were “emotionally, but not legally married”. I thought we were legally
17 married until I learned after this case was filed that the technical requirements per
18 Slovakian law had not been met.

19 16. Danka and I also shared an estate planning attorney, Shannon Evans,
20 who was selected by Danka. Danka was the first to have her estate prepared by Ms.
21 Evans in 2010. When I set up my estate plan in 2012, I instructed that everything I
22 had would go to Danka and her son, Jakub, upon my death, since I understood Danka
23 was my wife. It has been pointed out to me during this lawsuit that estate planning
24 documents, my Trust and my will, indicate I was a single man when I signed them.
25 However, I never told Ms. Evans that. I thought we were legally married. Ms. Evans
26 also knows that we were married abroad for asset protection purposes, but I never
27 told Ms. Evan we “deliberately” did not register our Slovakian marriage certificate.

1 I believed Ms. Evans was a professional suited to carry out our wishes as husband
2 and wife, and I relied on her for that.

3 17. Our most substantial and material business investment came in 2012
4 when Danka and I purchased a building together, where both of us intended to run
5 our respective businesses. We purchased that property and titled it in the name of
6 Patience One, LLC, which we formed to hold that asset. We were both on the
7 original mortgage, and we paid approximately \$1.7 Million, and we put down 20%.
8 I would operate the LLC and maintain the operations, while running my construction
9 company. Danka was focusing on the internal medical practice and medical spa,
10 where we had or were going to purchase expensive equipment so she could perform
11 lucrative cosmetic medical procedures. This was going to be a significant source of
12 revenue for us, as we would have other tenants who would pay rent. My company
13 would do all of the construction and tenant improvements, which would save us on
14 those expenses. However, we needed funds to conduct the extensive necessary
15 tenant improvements on her 9,000 square foot office space. Therefore, we borrowed
16 \$450,000, which loan was in Danka's name, but for which I had to provide the
17 personal guarantee.

18 18. In the meantime, in 2012, I landed a lucrative contract with
19 Guggenheim Partners in New York. I completed their Las Vegas project, the
20 Wyndham, on the strip in 2014. With the completion, my company earned a \$1
21 Million bonus, and we negotiated two more lucrative contracts in Margaritaville in
22 St. Thomas, as well as the Marriot time-share on Marco Island, Florida. This
23 required me to be away from home for months at a time starting in or about 2014. I
24 was coming back and forth all the time, and I logged 400,000 on American Airlines
25 between 2014 and 2016. When in Florida or St. Thomas, I was staying in hotels
26 and eventually, the company rented a company apartment in Marco Island. We
27 were making really good money during this time, so it seemed worthwhile to
28 maintain these projects, even though it meant me being away from home for part of

1 the time. The company bought Danka a new Porsche, as a gift, and we remodeled
2 the Queen Charlotte house to the tune of approximately \$100,000. We also took
3 \$280,000 from the bonus to make improvements to the building. We needed to make
4 extensive tenant improvements for an incoming tenant which was going to be a
5 lucrative 10-year lease in 4,000 square feet of our 30,000 square foot office.

6 19. In 2014, we had to refinance the loan on the building. Danka's practice
7 was not producing to its full capacity due to billing issues and possible employee
8 dishonesty. Bank of America, our lender, was questioning the financials, and they
9 were intimating they might foreclose, even though we were making the payments.
10 We went to Wells Fargo and obtained new financing, again in both names. This
11 should have been a happy time, but it wasn't due to my health struggles, being away
12 from home, and the illness of both my parents.

13 20. Danka has been my primary physician during the years we were
14 together, and even briefly after we separated. Going back to at least 2015, and
15 earlier, Danka prescribed me medication for pain, anxiety, depression and insomnia,
16 all while I was taking required heart medication. At any given time, she prescribed
17 me Xanax, Ambien, Oxycodone and sometimes, Tramadol.

18 21. During 2015 and 2016, I was suffering from severe anxiety and
19 depression. Things at my company were not going well, as there was significant
20 infighting with the employees. My cardiologist had told me that there was nothing
21 more he could do for my ailing heart, and I had all but accepted the fact that I was
22 going to die, since my cardiovascular health was so poor. But worst of all, my
23 parents were both dying, and I lost my Mom in 2015 and my Dad in 2016. I was
24 very close to them. It was a devastating loss. In the midst of this, I lost my longtime
25 pet dog. Danka and I, although we talked or Facetimed almost every day, had grown
26 distant as a result of being physically separated for periods of time. I was lonely and
27 distraught. I met another woman, Stacy Mittlestadt, with whom I started a
28 relationship. Her father owned a condominium in Florida where we were working,

1 and that was our company condominium where I stayed while I was working in
2 Marcos Island.

3 22. During this time, I was using the narcotics Danka and her agent/Nurse
4 Practitioner, Roberto Carillo, prescribed me, daily, trying to deal with my physical
5 and mental pain. I was taking four Xanax a day, and with the loss of my parents, I
6 was mentally not functioning to my full ability. Danka was obviously aware of my
7 compromised, fragile condition. I know it was not possible for her to be with me in
8 person, and I reached out for support from Stacy. I was unfaithful to Danka, which
9 was morally wrong.

10 23. In 2016, Stacy became pregnant. She then contacted Danka on my
11 computer on Facetime and disclosed to her that we were involved in a romantic
12 relationship, and that she was pregnant with my child. Danka almost immediately
13 called me to let me know that she was aware of my affair, and she told me to get
14 back to Las Vegas immediately and get my things and move out of our house. At
15 the same time, Stacy told me she was having an abortion. This increased my remorse
16 and anxiety, since I have never had a child.

17 24. When I learned that Danka had been notified of the affair, I was filled
18 with remorse and dread. In her Motion, Danka says I was not remorseful, but only
19 upset that I had been caught. This is not accurate. I was filled with remorse, and I
20 apologized profusely and begged Danka to tell me what I needed to do to regain her
21 trust and save our marriage.

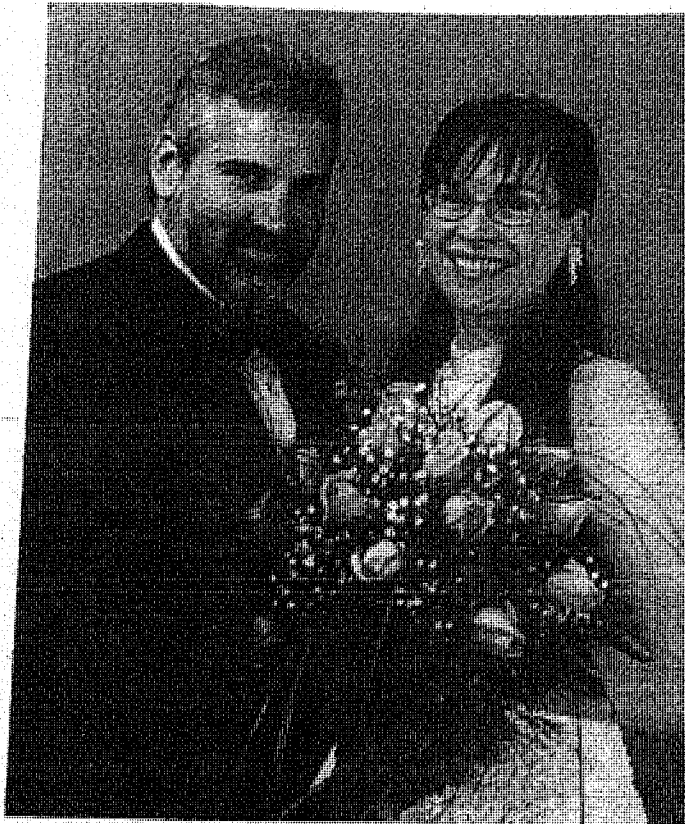
22 25. I did exactly what Danka told me to do. I came back to Las Vegas and
23 checked into a hotel. Danka told me to proceed to Shannon Evans' office as she
24 wanted me to sign some papers. As I was filled with fear and remorse, I did
25 everything she told me to do, hoping if I did that, we could save our marriage. Danka
26 had me meet her at Ms. Evans' office. I had taken the prescription medication
27 prescribed by Danka as I was doing every day at that time. I agreed to sign the
28 documents that were presented to me, consisting of deeds and an assignment

1 whereby I was transferring my interest in property to Danka. Danka told me that if
2 I did this, she would transfer my share back in a year, but that for now, this is what
3 I had to do to prove I was sorry for cheating on her. Ms. Evans heard Danka make
4 this promise. Danka even made me pay for Ms. Evans' time to draft the documents
5 I signed. I believed Ms. Evans was protecting both of us legally since she was
6 attorney for both of us in putting together our estate plans.

7 26. After this, I continued as a tenant in the building, and Danka continued
8 to prescribe me medication until early 2017. We both had Bob Semonian prepare
9 our 2016 returns as we had done every year. Thereafter, it became clear that Danka
10 and I would not reconcile when she evicted my company from the building in or
11 about August, 2017. I also learned, at about the time we filed our taxes for 2016 in
12 October 2017, from Mr. Semonian, that I was going to owe gift tax on the
13 approximately \$3 Million worth of assets I signed over to Danka on September 13,
14 2016. I was stunned. I took legal action at that point, and I filed for divorce and to
15 set aside the deeds on October 24, 2017.

16 27. I declare under penalty of perjury under the laws of the State of Nevada
17 that the foregoing is true and correct.

18
19 
20 THOMAS A. PICKENS
21
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28



*Danka & Tom
are pleased to share the news of their
marriage that took place
on April 7*2002 in Bratislava, Slovakia.*



TP0002
TAP-APR0085



TP0003
TAP-AP00084

4 -1

APN No.: 125-16-511-008

WHEN RECORDED MAIL TO:
Dr. Danka Michaels, MD
9517 Queen Charlotte
Las Vegas, NV 89145

MAIL TAX STATEMENTS TO:
Same As Above

Escrow No. 11054523-LG

Inst #: 201102280004081
Fees: \$16.00 N/C Fee: \$0.00
RPTT: \$663.00 Ex: #
02/28/2011 04:07:24 PM
Receipt #: 691199
Requestor:
TICOR TITLE OF NEVADA INC
Recorded By: SCA Pgs: 4
DEBBIE CONWAY
CLARK COUNTY RECORDER

R.P.T.T. \$ 663.00

SPACE ABOVE FOR RECORDER'S USE ONLY

GRANT, BARGAIN, SALE DEED

THIS INDENTURE WITNESSETH: That Custom Estates, LLC

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, do/does hereby Grant,
Bargain, Sell and Convey to Danka Katarina Michaels and Thomas A. Pickens, wife and
husband as joint tenants

all that real property situated in the County of Clark, State of Nevada, described as follows:

SEE EXHIBIT "A" ATTACHED HERETO AND BY REFERENCE MADE A PART HEREOF

Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in
anywise appertaining.

SEE PAGE TWO (2) FOR SIGNATURES AND NOTARY ACKNOWLEDGEMENT

TP0012

TAP-APR0083

Title No. TT05-TT11054523

LEGAL DESCRIPTION

EXHIBIT "A"

Assessor's Parcel No: 125-16-511-008

PARCEL ONE (1):

LOT THIRTY-EIGHT (38) IN BLOCK SEVEN (7) OF FINAL MAP OF ORCHARD VALLEY AT THE ELKHORN SPRINGS CLUSTER HOMES-UNIT 6, AS SHOWN BY MAP THEREOF ON FILE IN BOOK 83 OF PLATS, PAGE 90, IN THE OFFICE OF THE COUNTY RECORDER OF CLARK COUNTY, NEVADA.

RESERVING THEREFROM A NON-EXCLUSIVE EASEMENT FOR THE USE AND ENJOYMENT IN AND TO THE ASSOCIATION PROPERTY, AS SET FORTH IN THE MASTER DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND RESERVATION OF EASEMENTS FOR ELKHORN RECORDED MARCH 22, 1995, IN BOOK 950322 AS DOCUMENT NO 00346 AS THE SAME MAY FROM TIME TO TIME BE AMENDED AND/OR SUPPLEMENTED, IN THE OFFICE OF THE COUNTY RECORDER OF CLARK COUNTY, NEVADA.

PARCEL TWO (2):

A NON-EXCLUSIVE EASEMENT FOR THE USE AND ENJOYMENT IN AND TO THE ASSOCIATION PROPERTY AS SET FORTH IN THE MASTER DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND RESERVATIONS OF EASEMENTS FOR ELKHORN RECORDED ON MARCH 22, 1995 IN BOOK 950322 AS DOCUMENT NO 00346, AS THE SAME MAY FROM TIME TO TIME BE AMENDED AND/OR SUPPLEMENTED IN THE OFFICE OF THE COUNTY RECORDER OF CLARK COUNTY, NEVADA, WHICH EASEMENT IS APPURTENANT TO PARCEL ONE (1).

TP0013

TAP-APP-0013

SIGNATURES AND NOTARY ACKNOWLEDGEMENT FOR GRANT, BARGAIN, SALE DEED

Custom Estates, LLC

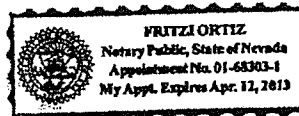
By: *Gary Fuchs, CFO*
GARY FUCHS, CFO

STATE OF NEVADA
COUNTY OF CLARK

} ss:

This instrument was acknowledged before me on, *FEBRUARY 15, 2011*
by *GARY FUCHS*

[Signature]
NOTARY PUBLIC



APPT # *01-68303-1*
EXP *4/12/2013*

TP0014

TAP-APP0089

STATE OF NEVADA
DECLARATION OF VALUE FORM

1. Assessor Parcel Number(s)

- a) 125-16-511-008
b) _____
c) _____
d) _____

2. Type of Property:

- a) ☐ Vacant Land b) ☒ Single Fam. Res
c) ☐ Condo/Twnhse d) ☒ 2-4 Plex
e) ☐ Apt. Bldg f) ☐ Comm'l/Ind'l
g) ☐ Agricultural h) ☐ Mobile Home
 ☐ Other _____

FOR RECORDER'S OPTIONAL USE ONLY

Book: _____ Page: _____
Date of Recording: _____
Notes: _____

3. a. Total Value/Sales Price of Property:

\$129,900.00

b. Deed in Lieu of Foreclosure Only (value of property)

(_____)

c. Transfer Tax Value:

\$129,900.00

d. Real Property Tax Due:

\$ 663.00

4. If Exemption Claimed:

- a. Transfer Tax Exemption per NRS 375.090, Section _____
b. Explain Reason for Exemption: _____

5. Partial Interest: Percentage being transferred: 100 %

The undersigned declares and acknowledges, under penalty of perjury, pursuant to NRS 375.060 and NRS 375.110, that the information provided is correct to the best of their information and belief, and can be supported by documentation if called upon to substantiate the information provided herein. Furthermore, the parties agree that disallowance of any claimed exemption, or other determination of additional tax due, may result in a penalty of 10% of the tax due plus interest at 1% per month. Pursuant to NRS 375.030, the Buyer and Seller shall be jointly and severally liable for any additional amount owed.

Signature [Signature] 2/28/11
Signature [Signature] 2/28/11

Capacity Buyer
Capacity Buyer

SELLER (GRANTOR) INFORMATION
(REQUIRED)

Print Name: Custom Estates, LLC

Address: 5394 S. Fort Apache
City, State, Zip: W, NV 89148

BUYER (GRANTEE) INFORMATION
(REQUIRED)

Print Name: Danka Katarina Michaels and Thomas

Address: A. Pickens 9517 Queen Charlotte
City, State, Zip: W, NV 89145

COMPANY/PERSON REQUESTING RECORDING (required if not seller or buy)

Print Name Ticor Title of Nevada, Inc. Escrow # 11054523LG

Address, City, State, Zip: 2285 Corporate Circle #130 Henderson, NV 89074

AS A PUBLIC RECORD THIS FORM MAY BE RECORDED/MICROFILMED

TP0015

TAP-APP00789

APN: 125-16-511-008

Inst #: 20161007-0000632

Fees: \$19.00 N/C Fee: \$0.00

RPTT: \$0.00 Ex: #003

10/07/2016 10:00:23 AM

Receipt #: 2895329

Requestor:

EVANS & ASSOCIATES

Recorded By: ANI Pgs: 4

DEBBIE CONWAY

CLARK COUNTY RECORDER

MAIL TAX NOTICE/BILL/
RECORDED DEED TO:

Danka K. Michaels
9517 Queen Charlotte Dr.
Las Vegas, NV 89145-8673

Space Above this Line For Recorder's Use

GRANT, BARGAIN, SALE DEED

The undersigned grantors:

Danka Katarina Michaels and Thomas A. Pickens, wife and husband as joint tenants

do hereby convey, grant, bargain, sell and warrant to the following grantees:

Danka K. Michaels, an unmarried woman and Thomas A. Pickens, an unmarried man, as joint tenants

the grantor's interest in the real property located in the County of Clark, State of Nevada described as follows:

PARCEL ONE (1):

Lot Thirty-Eight (38) in Block Seven (7) of Final Map of Orchard Valley at the Elkhorn Springs Cluster Homes - Unit 6, as shown by map thereof on file in Book 83 of Plats, Page 90, in the Office of the County Recorder of Clark County, Nevada.

Reserving therefrom a non-exclusive easement for the use and enjoyment in and to the association property, as set forth in the Master Declaration of Covenants, Conditions, Restrictions and Reservation of Easements for Elkhorn recorded March 22, 1995, in Book 950322 as Document No. 00346 as the same may from time to time be amended and/or supplemented, in the Office of the County Recorder of Clark County, Nevada.

TP0052

TAP-APP00789

PARCEL TWO (2):

A non-exclusive easement for the use and enjoyment in and to the association property as set forth in the Master Declaration of Covenants, Conditions, Restrictions and Reservation of Easements for Elkhorn recorded March 22, 1995, in Book 950322 as Document No. 00346, as same may from time to time be amended and/or supplemented in the Office of the County Recorder of Clark County, Nevada, which easement is appurtenant to Parcel One (1).

(And more commonly known as 7608 Lowe, Las Vegas, Nevada).

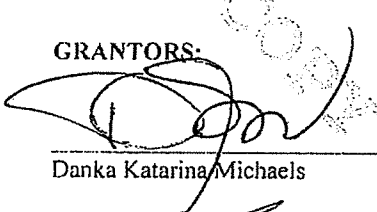
The property is conveyed with all warranties of title (subject to each encumbrance, covenant, restriction, reservation and right-of-way of record), together with each and every tenement, hereditament, and appurtenance thereof.


The grantee(s), as Trustee(s) of the above-referenced Trust, may sell, encumber, or otherwise transfer said property, or any interest therein, and no person dealing with said Trustee(s) has any duty to inquire as to the terms of the Trust, or as to the application of the proceeds from the sale, transfer, or encumbrance hereof.

The undersigned grantors, under penalties of perjury, declares that the actual consideration received for this conveyance was none.

DATED: SEP 13 2016

GRANTORS:


Danka Katarina Michaels


Thomas A. Pickens


STATE OF NEVADA)
) ss.
COUNTY OF CLARK)

On this _____ day of SEP 13 2016, personally appeared before me, a Notary Public, **Danka Katarina Michaels**, who is personally known or proved to me to be

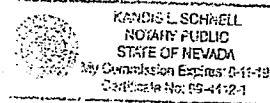
TP0053

TAP-APP-0090

the person whose name is subscribed to the above instrument and who acknowledged to me that she signed the instrument.



NOTARY PUBLIC



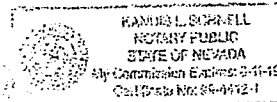
STATE OF NEVADA)
) ss.
COUNTY OF CLARK)

Kandis L. Schnell
Cert. No. 99-4412-1
Comm. Exp. 8-11-19

On this _____ day of SEP 13 2016, personally appeared before me, a Notary Public, **Thomas A. Pickens**, who is personally known or proved to me to be the person whose name is subscribed to the above instrument and who acknowledged to me that he signed the instrument.



NOTARY PUBLIC



Kandis L. Schnell
Cert. No. 99-4412-1
Comm. Exp. 8-11-19

TP0054

TAP-APP-00923

STATE OF NEVADA
DECLARATION OF VALUE

1. Assessor Parcel Number(s)

(a) 125-16-511-008
(b) _____
(c) _____
(d) _____

FOR RECORDERS OPTIONAL USE ONLY

Document Instrument #: _____
Book: _____ Page: _____
Date of Recording: _____
Notes: _____

2. Type of Property:

(a) ☐ Vacant Lot (b) ☒ Single Fam. Res
(c) ☐ Condo/Twnhse (d) ☐ 2-4 Plex
(e) ☐ Apt. Bldg (f) ☐ Comm'l/Ind'l
(g) ☐ Agricultural (h) ☐ Mobile Home
☐ Other _____

3. Total Value/Sales Price of Property

\$ _____

Deed in Lieu of Foreclosure Only (value of Property) (_____)

Transfer Tax Value \$ _____

Real Property Transfer Tax Due \$ _____

4. If Exemption Claimed:

a. Transfer Tax Exemption per NRS 375.090, Section 3 _____

b. Explain Reason for Exemption: Being recorded to correct true status of grantors

5. Partial Interest: Percentage being transferred: _____ %

The undersigned, declares and acknowledges, under penalty of perjury, pursuant to NRS 375.060 and NRS 375.110, that the information provided is correct to the best of their information and belief, and can be supported by documentation if called upon to substantiate the information provided herein. Furthermore, the parties agree that disallowance of any claimed exemption, or other determination of additional tax due, may result in a penalty of 10% of the tax due plus interest at 1% per month. Pursuant to NRS 375.030, the Buyer and Seller shall be jointly and severally liable for any additional amount owed.

Signature: [Signature] Capacity: Grantor

Signature: _____ Capacity: Grantee

SELLER (GRANTOR) INFORMATION
(Required)

BUYER (GRANTEE) INFORMATION
(Required)

Print Name: Danka K. Michaels
Address: 9517 Queen Charlotte Dr.
City: Las Vegas
State: NV Zip: 89145

Print Name: Danka K. Michaels
Address: 9517 Queen Charlotte Dr.
City: Las Vegas
State: NV Zip: 89145

Company/Person Requesting Recording (required if not seller or buyer)

Evans & Associates
7251 W. Lake Mead #530
Las Vegas, NV 89128

TP0055

TAP-APP00924

20041007-0004230

Fee: \$17.00 RPTT: \$5,094.90
N/C Fee: \$0.00

10/07/2004 14:03:13

T20040110367

Requestor:
NEVADA TITLE COMPANY

Frances Deane ARO
Clark County Recorder Pgs: 4

A.P.N.: 138-31-611-007
R.P.T.T.: \$5,094.90

Escrow #04-08-1662-SAH

Mail tax bill to and when recorded mail to:
Mr. & Mrs. Thomas A. Pickens
9517 Queen Charlotte Drive
Las Vegas, NV 89145-8673

GRANT, BARGAIN, SALE DEED

THIS INDENTURE WITNESSETH, That Bradley L. Boone and Kym E. Boone, husband and wife, as joint tenants with rights of survivorship, for a valuable consideration, the receipt of which is hereby acknowledged, do hereby Grant, Bargain, Sell and Convey to Danka K. Michaels and Thomas A. Pickens, wife and husband as joint tenants, all that real property situated in the County of Clark, State of Nevada, bounded and described as follows:

SEE LEGAL DESCRIPTION ATTACHED HERETO
AND MADE A PART HEREOF AS EXHIBIT "A".

SUBJECT TO:

1. Taxes for the current fiscal year, not delinquent, including personal property taxes of any former owner, if any;
2. Restrictions, conditions, reservations, rights, rights of way and easements now of record, if any, or any that actually exist on the property.

TOGETHER WITH all singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining.

TP0008

TAP-APR00095

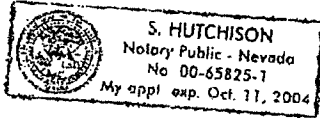
IN WITNESS WHEREOF, this instrument has been executed this 27th day of Sept, 2004

Bradley L. Boone
Bradley L. Boone

Kym E. Boone
Kym E. Boone

State of Nevada }
County of Clark } ss:

This instrument was acknowledged before me on Sept 27, 2004
by Bradley L. Boone and Kym E. Boone



[Signature]
NOTARY PUBLIC
My Commission Expires: _____

COPY

EXHIBIT "A"

PARCEL ONE (1):

LOT 73 BLOCK C OF PECCOLE WEST LOT 10- PARCEL 18-3-PHASE 1, AS SHOWN BY MAP THEREOF ON FILE IN BOOK 85, OF PLATS, PAGE 44, IN THE OFFICE OF THE COUNTY RECORDER OF CLARK COUNTY, NEVADA.

PARCEL TWO (2):

A NON-EXCLUSIVE EASEMENT FOR INGRESS, EGRESS AND PUBLIC UTILITY PURPOSES ON, OVER AND ACROSS ALL THOSE AREAS LABELED PRIVATE STREETS AND COMMON AREAS ON THE MAP REFERENCED HEREINABOVE WHICH EASEMENT IS APPURTENANT TO PARCEL ONE (1)

TP0010

TAP-APP-0093

**State of Nevada
Declaration of Value**

1. Assessor Parcel Number(s)

- a) 138-31-611-007
b) _____
c) _____
d) _____

59

2. Type of Property:

- ☐ a) Vacant Land ☒ b) Sgl. Fam. Residence
☐ c) Condo/Twnhse ☐ d) 2-4 Plex
☐ e) Apt. Bldg. ☐ f) Comm'l/Ind'l
☐ g) Agricultural ☐ h) Mobile Home
☐ i) Other _____

FOR RECORDER'S OPTIONAL USE ONLY

Document/Instrument #: _____
Book: _____ Page: _____
Date of Recording: _____
Notes: _____

3. Total Value/Sales Price of Property

\$999,000.00

Deed in Lieu of Foreclosure Only (value of property)

Transfer Tax Value:

\$999,000.00

Real Property Transfer Tax Due

\$5,094.90

4. If Exemption Claimed:

a. Transfer Tax Exemption, per NRS 375.090,
Section: _____

b. Explain Reason for
Exemption: _____

5. Partial Interest: Percentage being transferred: 100 %

The undersigned declare(s) and acknowledges, under penalty of perjury, pursuant to NRS 375.060 and NRS 375.110, that the information provided is correct to the best of their information and belief, and can be supported by documentation if called upon to substantiate the information provided herein. Furthermore, parties agree that disallowance of any claimed exemption, or other determination of additional tax due, may result in a penalty of 10% of the tax due plus interest at 1% per month. Pursuant to NRS 375.030, the Buyer and Seller shall be jointly and severally liable for any additional amount owed.

Signature: Bradley L. Booke

Capacity: GRANTOR/SELLER

Signature: [Signature] 9/30/04

Capacity: GRANTEE/BUYER

SELLER (GRANTOR) INFORMATION

BUYER (GRANTEE) INFORMATION

(REQUIRED)

Print Name: Bradley L. Booke

Print Name: Danka K. Michaels

Address: Nine Exchange Place #200

Address: 1617 Queen Charlotte Dr.

City/State/Zip: Salt Lake City, Utah 84111

City/State/Zip: Las Vegas, NV 89145

COMPANY/PERSON REQUESTING RECORDING (required if not seller or buyer)

Print Name: Nevada Title Company

Esc. #: 04-08-1662-SAH

Address: 3320 W Sahara Ave, Suite #210

City: Las Vegas

State: NV

Zip: 89102

(AS A PUBLIC RECORD THIS FORM MAY BE RECORDED/MICROFILMED)

4230

TP0011

TAP-APP00928

APN: 138-31-611-007

Inst #: 20161007-0000565
Fees: \$19.00 N/C Fee: \$0.00
RPTT: \$0.00 Ex: #003
10/07/2016 09:56:01 AM
Receipt #: 2895308
Requestor:
EVANS & ASSOCIATES
Recorded By: CDE Pgs: 4
DEBBIE CONWAY
CLARK COUNTY RECORDER

MAIL TAX NOTICE/BILL/
RECORDED DEED TO:
Danka K. Michaels
9517 Queen Charlotte Dr.
Las Vegas, NV 89145-8673

Space Above this Line For Recorder's Use

GRANT, BARGAIN, SALE DEED

The undersigned grantors:

Danka K. Michaels and Thomas A. Pickens, wife and husband as joint tenants

do hereby convey, grant, bargain, sell and warrant to the following grantees:

Danka K. Michaels, an unmarried woman and Thomas A. Pickens, an unmarried man, as joint tenants

the grantor's interest in the real property located in the County of Clark, State of Nevada described as follows:

PARCEL ONE (1):

Lot 73 Block C of Peccole West Lot 10 - Parcel 18-3-Phase 1, as shown by map thereof on file in Book 85 of Plats, Page 44, in the Office of the County Recorder of Clark County, Nevada.

PARCEL TWO (2):

A non-exclusive easement for ingress, egress and public utility purposes on, over and across all those areas labeled private streets and common areas on the map referenced hereinabove which easement is appurtenant to Parcel One (1).

TP0036

TAP-APP-00099

(And more commonly known as 9517 Queen Charlotte Drive, Las Vegas, Nevada).

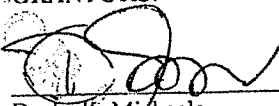
The property is conveyed with all warranties of title (subject to each encumbrance, covenant, restriction, reservation and right-of-way of record), together with each and every tenement, hereditament, and appurtenance thereof.

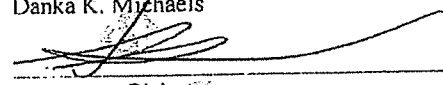
The grantee(s), as Trustee(s) of the above-referenced Trust, may sell, encumber, or otherwise transfer said property, or any interest therein, and no person dealing with said Trustee(s) has any duty to inquire as to the terms of the Trust or as to the application of the proceeds from the sale, transfer, or encumbrance hereof.

The undersigned grantors, under penalties of perjury, declares that the actual consideration received for this conveyance was none.

DATED: SEP 13 2016

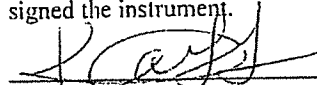
GRANTORS:

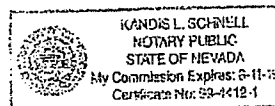

Danka K. Michaels


Thomas A. Pickens

STATE OF NEVADA)
) ss.
COUNTY OF CLARK)

On this _____ day of SEP 13 2016, personally appeared before me, a Notary Public, Danka K. Michaels, who is personally known or proved to me to be the person whose name is subscribed to the above instrument and who acknowledged to me that she signed the instrument.


NOTARY PUBLIC



Kandis L. Schnell
Comm exp 8-11-19
Cert. no. 99-4412-1

TP0037

TAP-APP0098

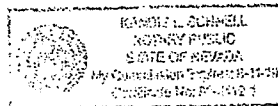
STATE OF NEVADA)
) ss.
COUNTY OF CLARK)

On this 13 day of Sept 2014, personally appeared before me, a
Notary Public, **Thomas A. Pickens**, who is personally known or proved to me to be the person
whose name is subscribed to the above instrument and who acknowledged to me that he signed
the instrument.



NOTARY PUBLIC

Kandis L. Schnell
Cert. No. 99-4412-1
Comm. Exp. 8-11-19



TP0038

TAP-APP-0099

STATE OF NEVADA
DECLARATION OF VALUE

1. Assessor Parcel Number(s)

(a) 138-31-611-007

(b) _____

(c) _____

(d) _____

FOR RECORDERS OPTIONAL USE ONLY

Document Instrument #: _____

Book: _____ Page: _____

Date of Recording: _____

Notes: _____

2. Type of Property:

(a) ☐ Vacant Lot

(b) ☒ Single Fam. Res

(c) ☐ Condo/Townhse

(d) ☐ 2-4 Plex

(e) ☐ Apt. Bldg

(f) ☐ Comm'l/Ind'l

(g) ☐ Agricultural

(h) ☐ Mobile Home

☐ Other _____

3. Total Value/Sales Price of Property

\$ _____

Deed in Lieu of Foreclosure Only (value of Property) (_____)

Transfer Tax Value \$ _____

Real Property Transfer Tax Due \$ _____

4. If Exemption Claimed:

a. Transfer Tax Exemption per NRS 375.090, Section 3 _____

b. Explain Reason for Exemption: Being recorded to correct true status of grantors

5. Partial Interest: Percentage being transferred: _____ %

The undersigned, declares and acknowledges, under penalty of perjury, pursuant to NRS 375.060 and NRS 375.110, that the information provided is correct to the best of their information and belief, and can be supported by documentation if called upon to substantiate the information provided herein. Furthermore, the parties agree that disallowance of any claimed exemption, or other determination of additional tax due, may result in a penalty of 10% of the tax due plus interest at 1% per month. Pursuant to NRS 375.030, the Buyer and Seller shall be jointly and severally liable for any additional amount owed.

Signature: [Signature] Capacity: Grantor

Signature: _____ Capacity: Grantee

SELLER (GRANTOR) INFORMATION BUYER (GRANTEE) INFORMATION
(Required) (Required)

Print Name: Danka K. Michaels
Address: 9517 Queen Charlotte Dr.
City: Las Vegas
State: NV Zip: 89145

Print Name: Danka K. Michaels
Address: 9517 Queen Charlotte Dr.
City: Las Vegas
State: NV Zip: 89145

Company/Person Requesting Recording (required if not seller or buyer)

Evans & Associates
7251 W. Lake Mead #530
Las Vegas, NV 89128

TP0039

TAP-APP-0000

From: Danka Michaels dankashen@icloud.com
Subject: Re: problem with registration
Date: November 25, 2014 at 6:07 PM
To: Clifford Rachel rachel.clifford@liebherr.com
Cc: Xoxo Pickens tpickens@msn.com

dear rachel,
thank you for the confirmation.
we are so excited to visit ireland! we have never been there!
the last 4 digits of the amex : 4290
my husband will be traveling with me : Thomas A. Pickens
I noticed my friend tamela requesting king size bed and nonsmoking room: we would prefer king size bed but it's not a must. But we really insist on non-smoking room... i forgot that smoking is still permitted in british isles.
thank you,

dkm
On Nov 25, 2014, at 7:02 AM, Clifford Rachel (KIH) wrote:

Dear Danka

We are delighted to learn that you will be joining the Ballycastle Knitting Tour to The Dunloe on 7th June 2015 and confirm receipt of your online reservation. I have also noted that you have in the meantime upgraded to a Superior Room and take this opportunity to send you a correct confirmation email, below, for your records.

You may have seen during the booking process (and in the confirmation email below), the tour description outlined that we would contact you upon receipt of your booking, to ask you for the 3 or 4 digit security code that is on the back of the credit card which you used at the time of booking (ending 2020). Thank you for supplying this code at your earliest convenience, at which time we will charge the registration deposit of €200 per person.

We look forward to hearing you and send you our best wishes from Killarney,

Kind regards

Rachel

Mrs Danka Michaels
9517 Queen Charlotte Drive
Las Vegas
NV 89129
USA

Dear Mrs Michaels

25th November 2014

Many thanks for choosing The Dunloe for your forthcoming visit to Killarney. We are looking forward to welcoming you and are pleased to confirm your reservation as follows:

Confirmation Number: 828814

The Dunloe, Killarney, Co Kerry, Ireland

Arrival Date: 7th Jun 2015

Departure Date: 13th Jun 2015

Nights: 6

TP000060

TAP-APP-00003

From: Danka Michaels dankashen@icloud.com
Subject: Re: your mail ing address
Date: December 4, 2014 at 5:48 PM
To: Ballycastle Knits victoria@ballycastleknits.com
Cc: Xoxo Pickens tpickens@msn.com, Tamela Kahle tkahle@kahlelawnv.com

hi victoria,
sorry about that. we do have different names:
danka michaels
thomas pickens
9517 queen charlotte dr
las vegas nv 89145
cell danka 702.604-0381
cell tom 702.604-0038

we are VERY excited to spend some time in ireland....

dkm

On Dec 4, 2014, at 2:30 PM, Ballycastle Knits wrote:

Hi Danka,
I somehow missed getting your mailing address in the registration process. I would like to send you a brochure for Killarney where we will be spending most of our time during our retreat. If you would please tell me your husband's first name as well, I can address the envelope properly.
We are delighted that you and the Kahles will be joining us in June. We are planning some new things for this trip. I look forward to meeting all of you.

All the best,
Victoria Healy
www.BallycastleKnits.com

TP000070

TAP-APP-000001

From: Danka Michaels <dankashen@icloud.com>
Date: August 26, 2014 at 1:23:27 PM PDT
To: Randhir S Tuli <rtuli@mdsynergy.com>
Cc: MDS Support <support@mdsynergy.com>, Christie Wanamaker
<cwanamaker@bluepointmedicalgroupiv.com>, Nicole Omph
<nomphs@bluepointmedicalgroupiv.com>, Xoxo Pickens <tpickens@msn.com>
Subject: claims

dear mr tuli,
we encountered another problem.
during routine billing procedures my biller christie found claims sent out by ME! in july
... at weird hours of the day...7 am, 1 am.... all claims from 2011 were billed in july
2014..... we printed the screen and faxed to your support team.
nobody knows my password. not even my husband!
we have no explanation, maybe you do!
dkm

From: Robert Coleman <robertc@airdesignsystemsnnv.net>
Date: October 18, 2012 at 8:07:08 AM PDT
To: Thomas Pickens <tpickens@msn.com>
Subject: RE:

I am open if you need anything.

From: Thomas Pickens [<mailto:tpickens@msn.com>]
Sent: Thursday, October 18, 2012 8:06 AM
To: Robert Coleman
Subject: Re:

What does your schedule look like today, the floor plan is done

Sent from my iPhone

On Oct 18, 2012, at 8:03 AM, "Robert Coleman" <robertc@airdesignsystemsnnv.net> wrote:

Good morning Tom do you need me to do anything on your wife's new office I know you was trying to get her in there by December.
If you need anything let me know.
Thanks
Robert

From: D.K.Michaels <dankashen@pol.net>
Date: August 14, 2012 at 12:14:03 PM PDT
To: Colleen Bevilacqua <bevivegas@cox.net>
Cc: Tom Pickens <tpickens@msn.com>
Subject: Re: Loan to Tom Pickens

C,

this is NOT a loan to mr Pickens!!! all these charges are our personal expenses that he pays for!

they have nothing to do with my business!!!!

please do not mix our personal expenses with my business expenses. that's why i do it item by item on every amex statement for you.

dkm

----- Original Message -----

From: "Colleen Bevilacqua" <bevivegas@cox.net>
To: "Tom Pickens" <tpickens@msn.com>
Cc: "D.K.Michaels" <dankashen@pol.net>
Sent: Tuesday, August 14, 2012 10:11:26 AM GMT -08:00
US/Canada Pacific
Subject: Loan to Tom Pickens

Tom,

I have attached a copy of the current file.

Colleen Ann Bevilacqua

TP000087

TAP-APP-000087

1. why do we have to use pacific AND eastern standard time within the same paragraph? ie: 2.2.; 3.5.1.
2. 3.4.1 ii - is this correct?
3. in 3.6. if agreement terminates, so does the 'due diligence period', right? shouldn't it be worded differently then?
4. in 5.3. and 7.1.6 - pls note that the seller is paying the "purchaser's broker" as well. as far as i know, they agreed on paying sun commercial 2%. - it may be that the other broker is sharing the commission?? ... we don't know the details about this == must be clarified!
5. pls explain why the \$\$ change in 9.1. and 10.4.
thank you.
d+t

----- Original Message -----

From: "Andy Glendon" <AGlendon@santoronevada.com>
To: "D.K.Michaels" <dankashen@pol.net>
Sent: Saturday, July 7, 2012 11:32:19 PM GMT -08:00
US/Canada Pacific
Subject: RE: from Danka : PSA

Danka and Tom. Attached is my proposed revision to the purchase agreement. I have incorporated just about all of the comments received from your broker. A few questions:

- 1) This is a very short due diligence period. Where are you in this process – environmental, building condition, zoning and any land use issues, etc.
- 2) Are you financing this acquisition – if so, where are you in the loan process.

Please review the attached revision and let me know if we can discuss same and the above. Once approved, I will send it to Seller's counsel for review.

ANDREW J. GLENDON, ESQ.
SANTORO WHITMIRE
10001 PARK RUN DRIVE
LAS VEGAS, NEVADA 89145
P: 702.948.8771 | F: 702.948.8773 | Direct: 702.749.5610
aglendon@santoronevada.com

Admitted in California and Nevada

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TAX OPINION DISCLAIMER

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From: D.K.Michaels [<mailto:dankashen@pol.net>]
Sent: Thursday, July 05, 2012 3:03 PM

To: Andy Glendon
Subject: Re: from Danka : PSA

thank you andy.
may we ask you to include both of our names on future correspondence? my husband and i are partners in this deal together. His name is Tom Pickens, cell # 604-0038. (just in case i won't respond and you need one of us.)
thank you.

dkkm

ps do you need the name of the LLC? does it have to be listed anywhere on our correspondence?

----- Original Message -----

From: "Andy Glendon" <AGlendon@santoronevada.com>
To: "D.K.Michaels" <dankashen@pol.net>
Sent: Thursday, July 5, 2012 9:51:28 AM GMT -08:00
US/Canada Pacific
Subject: RE: from Danka : PSA

Danka. Attached is our firm's engagement letter and accompanying policies and procedures. Please review and let me know if you have any questions. Otherwise, please sign and return the copy of the engagement letter to me at your first convenience. Thanks, Andy

ANDREW J. GLENDON, ESQ.
SANTORO WHITMIRE
10001 PARK RUN DRIVE
LAS VEGAS, NEVADA 89145
P: 702.948.8771 | F: 702.948.8773 | Direct: 702.749.5610
aglendon@santoronevada.com

Admitted in California and Nevada

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From: D.K.Michaels [<mailto:dankashen@pol.net>]
Sent: Monday, July 02, 2012 8:15 PM
To: Andy Glendon
Subject: from Danka : PSA

Danka,

I represent the owner of the Northwest Executive Center located at 3320 N. Buffalo Drive in Las Vegas, Nevada. A draft of a Purchase and Sale Agreement is attached. Please note that the attachment remains subject to the owner's review, revision and approval.

After you have an opportunity to review the attachment, please let me know if you have any questions or comments. I look forward to working with you.

Best regards,

Bill

William R. Weinberg | Attorney at Law
Quilling, Selander, Lownds, Winslett & Moser, P.C. | 2001 Bryan Street, Suite 1800, Dallas TX 75201
Direct: (214) 880-1810 | Fax: (214) 871-2111 | bweinberg@qslwm.com

From: D.K.Michaels dankashen@pol.net
Subject: 3320 Buffalo
Date: May 9, 2012 at 2:34 PM
To: kimaz, joe joe.kimaz@madisonreg.com, Pickens, Tom tpickens@msn.com



mr kimaz,

we have a favor to ask: our bank = BofA is requesting a detailed estimate for the build-out of our space. otherwise they cannot proceed with the preparation for the loan. considering that we have only 45 days after the effective date to obtain loan from the bank, we'd rather not lose time.

would it be possible for the caretaker of the property to let my husband Tom Pickens into the building to properly measure the spaces, get idea about a/c, heating etc etc ... whatever he needs to make an educated guess about the money needed?

If at all possible, can we get the plans of the building - before we sign the agreement?

we really appreciate your help,

danka + tom

TP000095
TAP-APP-000095

From: D.K.Michaels dankashen@pol.net
Subject: Re: my Doctor
Date: March 15, 2012 at 1:06 PM
To: Thomas Pickens tpickens@msn.com

I'll be happy to see him and review his medical problems.

----- Original Message -----

From: "Thomas Pickens" <tpickens@msn.com>
To: "Danka" <dankashen@pol.net>
Sent: Thursday, March 15, 2012 8:57:53 AM GMT -08:00 US/Canada Pacific
Subject: Fw: my Doctor

Sent via BlackBerry by AT&T

-----Original Message-----

From: John Chase <JChase@bomelconstruction.com>
Date: Tue, 13 Mar 2012 21:52:41
To: <tpickens@msn.com>
Subject: my Doctor

Tom,

My heart Doc is Sanjay Malhotra He is with Nevada Heart And Vascular. You thought that maybe you wife would be able to give me some guidance. He says I have a lower branch bundle. I have just finished a series of tests and he is wanting to do another Angio to see what is going on inside the heart. I had one about 1.5 years ago at that time he said everything was clear. He just finished several test and is saying my heart is at 35% capacity. He thinks I will need a Difibulator installed after the Angio. He has me on two prescriptions and his office staff seems to limp at bit, as they have screwed up some things as we have been going along. I am feeling a bit weak and am having minor effects that are starting to worry me. I am thinking another opinion might be needed before I go in for the next Angio. Can you ask your wife what she thinks I should do?

Not sure on the spelling of all the Doc terms but I think I am close enough.
Thanks I am a bit lost.

John Chase
Business Development Manager Nevada/Arizona/Utah/Washington/California
Bomel Construction Company Inc.
8195 E. Kaiser Blvd. Anaheim Hills, CA. 92808
Cel: 702-591-9053
CA Tel: 714-921-1660
NV Tel: 702-798-1660
www.bomelconstruction.com <<http://www.bomelconstruction.com>>

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TP000096

TAP-APP00840

should we just pay for the ama trip ourselves? i can just call the company and have it charged on cc. do we have a reservation # i can refer to?

----- Original Message -----

From: "PAXTOUR SLOVAKIA" <info@paxtour.sk>
To: "Danka Michaels" <dankashen@pol.net>
Cc: "Tom Pickens" <tpickens@msn.com>
Sent: Monday, November 14, 2011 8:21:44 AM GMT -08:00 US/Canada Pacific
Subject: RE: documents

Dear D+T,

we are still waiting for informations about payment by credit cards.....
When I will have it, I'll let you know and send you contract with actual
prices of fly tickets (I reserve them, but reservation is only for 24 hours)

Best regards,

Katarína Krajmerová
travel manager

PAXTOUR Slovakia s.r.o
Kúpeľná 1, 811 02 Bratislava, Slovakia
Tel.: +421 2 5443 5565
+421 917 509 811
Skype: paxtour.info
www.paxtour.sk
PAXTOUR SLOVAKIA je na Facebooku

-----Original Message-----

From: Danka Michaels [mailto:dankashen@pol.net]
Sent: Monday, November 14, 2011 12:21 AM
To: info
Cc: Tom Pickens
Subject: documents

dear miss k,
we are very happy with the flight and the timing is wonderful! thank you!!!

here are the passport # and full names:
Danka Katarína Michaels DOB Nov 26 1955 #214627017 exp Aug 2, 2015
Thomas Allen Pickens DOB Oct 5 1956 #455451538 exp June 2, 2019

my husband is not comfortable scanning passports and emailing you the documents.

we have not received the contract to sign yet.
hope, there is a reservation placed on the ama trip and the tickets...
once we have the contract signed, pls, charge the amex and let us know - the
bank usually calls if it's a big amount of money and it's a new vendor on
our account.

we are very excited about the trip - and looking forward to see you there as
well...

D+T

TP000097

TAP-APP-0043

From: Thomas Pickens tpickens@msn.com
Subject: RE:
Date: May 25, 2011 at 9:58 PM
To: rsoto@sklar-law.com



Allan
We need to add my wife to the paper work Danka Michaels MD
Thanks
Tom

Subject:
Date: Wed, 25 May 2011 13:51:30 -0700
From: rsoto@sklar-law.com
To: mhall@lawhjc.com; sjaffe@lawhjc.com; rclayton@lawhjc.com; tpickens@msn.com
CC: asklar@sklar-law.com

Hi All:

I am attaching to this email the Memorandum that I discussed with Tom that covers (hopefully completely) the questions and considerations that I want to resolve in order to draft the Articles of Organization and Operating Agreement for the new LLC.

I am also attaching an engagement letter. As you will see, we are not of course asking for any retainer and indeed I would not have ordinarily suggested that we have an engagement letter except that I want to make sure the appropriate potential multi-party representation disclosures and waivers are covered in writing. In that regard, please in particular make sure that Paragraph 4 of the Practices Description that is attached to and incorporated into the engagement letter is accurate, thus confirming my understanding that our representation in this matter is to be of all of you collectively, through the new LLC, and not of any of you individually. In any case, while I believe that everything in the engagement letter is fine, I apologize for the formality of that.

Warmest regards,

Alan

Rosie Soto
Legal Assistant

SKLAR WILLIAMS

— LLP —

LAW OFFICES
8363 West Sunset Road, Suite 300
Las Vegas, Nevada 89113
(702) 360-6000 — Fax: (702) 360-0000
E-Mail: rsoto@sklar-law.com

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From: Danka Michaels dankashen@pol.net
Subject: san diego meeting = pfizer info
Date: February 26, 2010 at 7:37 PM
To: Pickens, Tom tpickens@msn.com



----- Forwarded Message -----

From: "Renee Davis" <rdavis@lvresearch.com>
To: "Danka Michaels" <dankashen@pol.net>
Sent: Wednesday, February 24, 2010 3:29:43 PM GMT -08:00 US/Canada Pacific
Subject: Re: Invitation to attend A0081242 Investigator Meeting - US

Hi Dr. Michaels,

I have registered you for the meeting on March 11/12, 2010. Accommodations are covered by Pfizer. You have a reservation under your name for Thursday night March 11, check in time is 4:00PM. The meeting is being held at:

Hotel Del Coronado
1500 Orange Avenue
Coronado, CA 92118
T: 800-468-3533

Keep track of mileage as Pfizer will reimburse 0.50/mile. There will be expense reports available at the meeting.

Meeting Agenda:

Thursday, March 11 - 6:30PM - 9:00PM: Welcome Reception/Dinner

Friday, March 12 - 7:00AM - 8:00AM: Breakfast
8:00AM - 12:30PM: General Session
12:15PM - 1:15PM: Lunch
1:15PM - 5:30PM: General Session

I tried changing the email address to your personal email but was unsuccessful. We will utilize your personal email going forward. I listed myself as an emergency contact just to complete the lengthy registration process. I will send you the official confirmation asap. Please let me know if you have any questions or need additional information.

Thanks again.

Renee

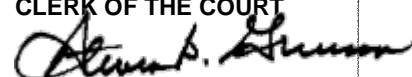
----- Original Message -----

From: Danka Michaels
To: Renee Davis
Sent: Tuesday, February 23, 2010 8:53 PM
Subject: Re: Invitation to attend A0081242 Investigator Meeting - US

thank you. i would love to be there. my husband and i will drive there - i will block my schedule for that time.
i will need help to confirm my attendance as i don't know how to get on your email and i don't know what the password is

TP000105

TAP-APP-000105



OPPC

BLACK & LOBELLO
Michele Touby LoBello, Esq.
Nevada Bar No. 5527
10777 West Twain Avenue, Suite 300
Las Vegas, Nevada 89135
Telephone No.: 702-869-8801
Facsimile No.: 702-869-2669
Email: mlobello@blacklobello.law
Attorneys for Plaintiff,
THOMAS A. PICKENS

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

THOMAS A. PICKENS,
Individually and as Trustee of the LV
Blue Trust,

Plaintiff.

vs.

DANKA K. MICHAELS,
Individually and as Trustee of the Mich-
Mich Trust,

Defendant.

CASE NO.: D-17-560737-D

DEPT. J

Date of Hearing: Sept. 11, 2019

Time of Hearing: 9:00 a.m.

Oral Argument Requested: Yes

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

**PLAINTIFF'S OPPOSITION TO DEFENDANT'S MOTION FOR
SUMMARY JUDGMENT, TO DISMISS, FOR PROTECTIVE ORDER
AND FOR ATTORNEY FEES
AND
COUNTERMOTION (1) TO DISMISS OR, IN THE ALTERNATIVE, FOR
SUMMARY JUDGMENT AS TO DEFENDANT'S CAUSES OF ACTION
FOR INTENTIONAL MISREPRESENTATION/FRAUD; NEGLIGENT
MISREPRESENTATION; BREACH OF IMPLIED COVENANT OF GOOD**

**FAITH AND FAIR DEALING; PROMISSORY ESTOPPEL; EXPRESS
AGREEMENT; IMPLIED AGREEMENT;
AND MALICIOUS ABUSE OF PROCESS;
(2) FOR SUMMARY JUDGMENT SETTING ASIDE DEEDS OF REAL
PROPERTY AND ASSIGNMENT OF LLC INTEREST; AND
(3) FOR PERMISSION TO SUBMIT POINTS AND AUTHORITIES IN
EXCESS OF 30 PAGES PURSUANT TO EDCR 5.503(e)¹**

Plaintiff, Thomas A. Pickens (“Tom”), by and through his attorneys of record, Michele Touby LoBello and the law firm of Black & LoBello hereby submits his OPPOSITION TO DEFENDANT’S MOTION FOR SUMMARY JUDGMENT, TO DISMISS, FOR PROTECTIVE ORDER AND FOR ATTORNEY FEES AND COUNTERMOTION (1) TO DISMISS OR, IN THE ALTERNATIVE, FOR SUMMARY JUDGMENT AS TO DEFENDANT’S CAUSES OF ACTION FOR INTENTIONAL MISREPRESENTATION/FRAUD; NEGLIGENT MISREPRESENTATION; BREACH OF IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING; PROMISSORY ESTOPPEL; EXPRESS AGREEMENT; IMPLIED AGREEMENT; AND MALICIOUS ABUSE OF PROCESS; (2) FOR SUMMARY JUDGMENT SETTING ASIDE DEEDS OF REAL PROPERTY AND ASSIGNMENT OF LLC INTEREST; AND (3) FOR PERMISSION TO SUBMIT POINTS AND AUTHORITIES IN EXCESS OF 30 PAGES PURSUANT TO EDCR 5.503(e).

Defendant has left out one key fact: *She was Plaintiff’s doctor*, in addition to being his wife. She owed him a fiduciary duty which she breached when she had him sign away his interest in approximately \$6 Million in assets. She did so while she was prescribing him, and he was medicated with, Oxycodone, Xanax and

¹ In her Motion, Danka nowhere briefs any request for protective order, so Tom will not respond to that request herein.

1 Ambien.² The deeds and assignments were signed as a result of Danka's undisputed
2 undue influence she asserted to obtain the property transfers to her. Moreover, Tom
3 absolutely believed the parties were legally married, and they held themselves out
4 as such to the world. Indeed, the parties took title to their most significant assets,
5 the real property, "*as husband and wife, as joint tenants*". In summary, Danka is
6 NOT entitled to any of the relief sought in her Motion. There remain numerous
7 material issues of fact as to Tom's causes of action Related to putative spouse and
8 his *Michoff* claims. However, there are no genuine issues of material fact related to
9 his request for the Court to set aside and declare null and void the deeds and
10 assignment he executed on September 13, 2016.

11 By this Motion, Tom is seeking the following specific relief:

- 12 1. Danka's Motion should be denied in all respects, including her request for
13 attorneys' fees, and any request for protective order as she has failed to
14 brief this issue.
- 15 2. Danka's remaining causes of action in her Counterclaim should be
16 reviewed and summary judgment should be entered in favor of Tom as to
17 each of those claims.
- 18 3. Tom should be granted summary judgment as to his claim to set aside the
19 Deeds and Assignment executed September 13, 2016, and they should be
20 declared null and void.
- 21 4. Tom should be permitted to proceed to trial on his remaining claims, and
22 he should be allowed to complete discovery. In the event this request is
23 granted, he will move the Court for suit fees if leave is granted, as Danka
24 is in control of the majority of assets accumulated by the parties over the
25 past 16 years.

26
27 ² See **Exhibit "1"** to accompanying Appendix of Exhibits, Nevada Prescription Monitoring for Tom
28 Pickens.

1 5. For an award of attorneys fees and costs for the necessity of defending
2 Danka's Motion and moving to adjudicate Danka's bad faith
3 counterclaims.'

4 6. For such other relief as the Court deems proper.

5 This Opposition and Countermotion are made and based upon the attached
6 Points and Authorities, the accompanying Declaration of THOMAS A. PICKENS
7 in support hereof, the Exhibits contained in the Appendix of Exhibits which is being
8 filed herewith, and any argument or evidence that the Court may entertain at the
9 hearing of the Motion and Countermotion.

10 RESPECTFULLY SUBMITTED this 19th day of August, 2019.

11 **BLACK & LOBELLO**

12
13 

14 Michele Touby LoBello

15 Nevada State Bar No. 5527

16 10777 West Twain Avenue, Suite 300

17 Las Vegas, Nevada 89135

18 (702) 869-8801

19 Attorneys for Plaintiff,

20 THOMAS A. PICKENS
21
22
23
24
25
26
27
28

NOTICE OF COUNTERMOTION

TO: ALL INTERESTED PARTIES:

YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the undersigned will bring the foregoing PLAINTIFF'S COUNTERMOTION (1) TO DISMISS OR, IN THE ALTERNATIVE, FOR SUMMARY JUDGMENT AS TO DEFENDANT'S CAUSES OF ACTION FOR INTENTIONAL MISREPRESENTATION/FRAUD; NEGLIGENT MISREPRESENTATION; BREACH OF IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING; PROMISSORY ESTOPPEL; EXPRESS AGREEMENT; IMPLIED AGREEMENT; AND MALICIOUS ABUSE OF PROCESS; (2) FOR SUMMARY JUDGMENT SETTING ASIDE DEEDS OF REAL PROPERTY AND ASSIGNMENT OF LLC INTEREST; AND (3) FOR PERMISSION TO SUBMIT POINTS AND AUTHORITIES IN EXCESS OF 30 PAGES PURSUANT TO EDCR 5.503(e) on for hearing, in the Eighth Judicial District Court, Family Division, located at 601 North Pecos Road, Las Vegas, Nevada, Department J, on the 11th day of September, 2019, at 9:00 a.m., or as soon thereafter as counsel can be heard.

BLACK & LOBELLO

Michele Touby LoBello

Nevada State Bar No. 5527

10777 West Twain Avenue, Suite 300

Las Vegas, Nevada 89135

(702) 869-8801

Attorneys for Plaintiff,

THOMAS A. PICKENS

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 In her Motion for Summary Judgment, to Dismiss and for Protective Order,
4 Defendant, DANKA K. MICHAELS (“Danka”), asks this Court to completely
5 disregard NRCP 56, not to mention Tom’s contributions to the wealth amassed by
6 Danka during the parties’ 15-year relationship. There is no doubt the parties held
7 themselves out to the world as husband and wife. had an express agreement to
8 accrue property together. There is no basis to disregard that agreement merely
9 because Tom was coerced into executing the unconscionable Deeds and Assignment
10 prepared at the direction of Danka for her sole benefit. The Deeds and Assignment
11 should be declared null and void, as set forth herein.

12 **II. FACTS**

13 All facts relevant to this Opposition and Countermotion are set forth in detail
14 in the accompanying Declaration of Thomas A. Pickens, **Exhibit “2”** to the
15 Appendix of Exhibits being filed herewith. The facts alleged in the Declaration are
16 hereby adopted by Tom by this reference.

17 For purposes of this Opposition and Countermotion, the Court should also be
18 made aware of the status of discovery. Danka has propounded extensive discovery
19 to which Tom has provided voluminous responses. Tom has provided all bank
20 records and tax returns demonstrating his financial contributions to the community,
21 and to jointly titled assets, as set forth in his Declaration. Tom has also propounded
22 written discovery on Danka. He served written Request for Production of
23 Documents on June 20, 2019. Danka, through her counsel, immediately objected to
24 the scope of requested discovery. Counsel then conducted a telephonic EDCR
25 5.5602 conference on June 26, 2019, whereby they agreed to limit the scope of the
26 requested information for the time being.

27 ///

1 On July 9, 2019, opposing counsel requested an extension of time to respond
2 to the written discovery until August 15, 2019. The lengthy requested extension was
3 granted.

4 Danka finally served her Responses to the written requests, on August 15,
5 2019, but she provided almost no information and objected to almost every Request.
6 She complains that Tom has litigated the case vexatiously, yet she has engaged in
7 these dilatory tactics in dealing with Tom both before and after this lawsuit was filed.
8 Why does one need a one-month extension to draft objections? Because Danka has
9 not participated in this litigation in good faith. She has taken advantage of her
10 husband and patient, and she believes Tom should just go away AND pay all of her
11 fees.

12 **III. LEGAL ARGUMENT**

13 **A. LEGAL STANDARD FOR SUMMARY JUDGMENT OR** 14 **DISMISSAL**

15 As Danka points out in her motion, dismissal is appropriate pursuant to NRC
16 12(b)(5) where the complainant has failed “to state a claim upon which relief can be
17 granted”. In this matter, most of Danka’s Counterclaims as set out in her March 11,
18 2019 Answer to Second Amended Complaint and Counterclaim cannot survive this
19 scrutiny (see below, in the section of this Brief entitled “*NONE OF DANKA’S*
20 *REMAINING COUNTERCLAIMS CAN SURVIVE SUMMARY JUDGMENT OR*
21 *DISMISSAL*”). This is the subject of Tom’s instant Countermotion, as this Court
22 can readily dispose of each of Danka’s causes of actions.

23 Turning to Tom’s Opposition to Danka’s Motion for Summary Judgment,
24 Tom agrees that the putative spouse and *Michoff* claims will likely require litigation
25 to trial, as the parties have varying testimony, and the evidence varies, as to each of
26 these claims. However, this Court can absolutely grant summary judgment as to
27
28

1 Tom's cause of action seeking to set aside the deeds and assignment he executed on
2 September 13, 2016.

3 A motion for summary judgment is governed by NRCP 56. Per NRCP 56, the
4 Court shall grant the motion if "the movant shows that there is no genuine dispute
5 as to any material fact and the movant is entitled to judgment as a matter of law."³

6 NRCP 56 provides:

7 (a) Motion for Summary Judgment or Partial Summary
8 Judgment. A party may move for summary judgment, identifying
9 each claim or defense — or the part of each claim or defense — on
10 which summary judgment is sought. The court shall grant summary
11 judgment if the movant shows that there is no genuine dispute as to any
12 material fact and the movant is entitled to judgment as a matter of law.
The court should state on the record the reasons for granting or denying
the motion.

13 (b) Time to File a Motion. Unless a different time is set by
14 local rule or the court orders otherwise, a party may file a motion for
15 summary judgment at any time until 30 days after the close of all
discovery.

16 (c) Procedures.

17 (1) Supporting Factual Positions. A party asserting
18 that a fact cannot be or is genuinely disputed must support the assertion
19 by:

20 (A) citing to particular parts of materials in the
21 record, including depositions, documents, electronically stored
22 information, affidavits or declarations, stipulations (including those
23 made for purposes of the motion only), admissions, interrogatory
answers, or other materials; or

24 (B) showing that the materials cited do not establish
25 the absence or presence of a genuine dispute, or that an adverse party
26 cannot produce admissible evidence to support the fact.

27
28 ³ NRCP 56 (a)

1 (2) Objection That a Fact Is Not Supported by
2 Admissible Evidence. A party may object that the material cited to
3 support or dispute a fact cannot be presented in a form that would be
admissible in evidence.

4 (3) Materials Not Cited. The court need consider only
5 the cited materials, but it may consider other materials in the record.

6 (4) Affidavits or Declarations. An affidavit or
7 declaration used to support or oppose a motion must be made on
8 personal knowledge, set out facts that would be admissible in evidence,
9 and show that the affiant or declarant is competent to testify on the
matters stated.

10 (d) When Facts Are Unavailable to the Nonmovant. If a
11 nonmovant shows by affidavit or declaration that, for specified reasons,
12 it cannot present facts essential to justify its opposition, the court may:

13 (1) defer considering the motion or deny it;

14 (2) allow time to obtain affidavits or declarations or to
15 take discovery; or

16 (3) issue any other appropriate order.

17 (e) Failing to Properly Support or Address a Fact. If a party
18 fails to properly support an assertion of fact or fails to properly address
19 another party's assertion of fact as required by Rule 56(c), the court
20 may:

21 (1) give an opportunity to properly support or address
22 the fact;

23 (2) consider the fact undisputed for purposes of the
24 motion;

25 (3) grant summary judgment if the motion and
26 supporting materials — including the facts considered undisputed —
27 show that the movant is entitled to it; or

28 (4) issue any other appropriate order.

(f) Judgment Independent of the Motion. After giving notice and a reasonable time to respond, the court may:

(1) grant summary judgment for a nonmovant;

(2) grant the motion on grounds not raised by a party; or

(3) consider summary judgment on its own after identifying for the parties material facts that may not be genuinely in dispute.

(g) Failing to Grant All the Requested Relief. If the court does not grant all the relief requested by the motion, it may enter an order stating any material fact — including an item of damages or other relief — that is not genuinely in dispute and treating the fact as established in the case.

(h) Affidavit or Declaration Submitted in Bad Faith. If satisfied that an affidavit or declaration under this rule is submitted in bad faith or solely for delay, the court — after notice and a reasonable time to respond — may order the submitting party to pay the other party the reasonable expenses, including attorney fees, it incurred as a result. An offending party or attorney may also be held in contempt or subjected to other appropriate sanctions.

A party which asserts that a fact is genuinely disputed must provide support for this position by either (1) citing to materials in the record, or (2) showing that the materials cited by the opposing party do not establish the absence or presence of a genuine dispute, or that an adverse party cannot produce admissible evidence to support the fact.⁴ An affidavit or declaration can be used to either demonstrate or contradict the presence of a genuine dispute, provided it is based on personal

///

///

///

⁴ NRCP 56 (c)(1)

1 knowledge and sets out admissible facts.⁵ Even if the Court does not grant the
2 motion for summary judgment, it may still enter an order a particular material fact
3 is not genuinely disputed and will be treated as an established fact.⁶

4 A “genuine issue” of material fact means that there is sufficient evidence in
5 favor of the non-moving party to allow a jury to return a verdict in its favor. *Wood*
6 *v. Safeway, Inc.*, 121 Nev. 724, 732, 121 P.3d 1026, 1031 (2005). Once the moving
7 party meets its burden of establishing the absence of a genuine issue of material fact,
8 the non-moving party must go beyond the pleadings and identify facts that show a
9 genuine issue for trial. *Id.* The nonmoving party “must, by affidavit or otherwise,
10 set forth specific facts demonstrating the existence of a genuine issue for trial or have
11 summary judgment entered against him” and the nonmoving party must set forth
12 these facts with evidence that goes beyond “threads of whimsy, speculation, and
13 conjecture.” *Id.* The admissibility of evidence on a motion for summary judgment
14 is subject to NRCP 43(a), and evidence that would be inadmissible at the trial of the
15 case is inadmissible on a motion for summary judgment. *Henry Products Inc. v.*
16 *Tarmu*, 114 Nev. 1017, 1018-1019, 967 P.2d 444, 445 (1998).

17 Finally, Danka’s Motion seeks this Court’s findings on substantial issues
18 which will govern the ultimate disposition of the case, but Danka has not provided
19 much requested discovery. Tom is entitled to complete the same pursuant to the
20 plain language of Rule 56 and *Harrison v. Falcon Products, Inc.*, 103 Nev. 558, 746
21 P.2d 642 (1987).

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26 ⁵ NRCP 56 (c)(4)

27 ⁶ NRCP 56 (g)

1 **B. DANKA'S MOTION FOR SUMMARY JUDGMENT OR TO**
2 **DISMISS MUST BE DENIED:**

3 **1. Tom Can and Has Demonstrated the Existence of the Parties'**
4 **Putative Marriage:**

5 As set forth in Tom's Declaration, until after this lawsuit was filed, he
6 believed the parties' 2002 wedding in Slovakia was a valid, legal marriage,
7 performed in the Catholic Church, after the parties attended Pre Cana classes. The
8 parties had approximately 25 guests, including friends and family. They sent out
9 announcements following the wedding. *See Exhibit "3"*, wedding photos and
10 announcement. Tom filed for divorce based on his understanding the marriage was
11 legal and valid. He only learned after experts were hired in this case that based upon
12 a technicality under Slovakian law that the marriage was not valid. He has conceded
13 he thus cannot divorce Danka, but he is entitled to relief under the putative spouse
14 doctrine.

15 The putative spouse doctrine is an equitable form of relief which applies to
16 the division of property upon dissolution of a putative marriage. *Williams v.*
17 *Williams*, 120 Nev. Adv. Op. 64, 97 P.3d 1124 (2004). In Nevada, a putative
18 marriage exists where (1) a marriage between parties is found to be void due to prior
19 legal impediment, and (2) the party seeking equitable relief entered the marriage
20 with a good faith belief that the marriage was legally valid. *Id.*

21 When a putative marriage is found, the civil effects of a legal marriage flow
22 to the parties. *Id.* This includes property which was acquired and held during a
23 putative marriage being treated as quasi-community property, and thus divided by
24 community property principles. *Id.* Though the issue hasn't yet been addressed in
25 Nevada, California courts have held, when considering a case where a man willfully
26 hid information about an existing marriage when entering a second marriage, that

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1 once either party is a putative spouse, the union is a putative marriage and either
2 spouse can bring a claim for community property division. *In re Marriage of Tejada*,
3 179 Cal. App. 4th 973, 982–83, 102 Cal. Rptr. 3d 361, 367–68 (2009).

4 Meeting the good faith requirement for a putative marriage requires an
5 “honest and reasonable belief that the marriage was valid at the time of the
6 ceremony.” *Williams v. Williams*, 120 Nev. 559, 565–66, 97 P.3d 1124, 1128
7 (2004). The burden of proof is on the party asserting lack of good faith (here Danka),
8 and mere suspicions of a legal impediment do not invalidate a party’s good faith
9 belief. *Id.* However, when a person receives reliable information that an
10 impediment exists, they do have a duty to investigate further and once a spouse
11 learns of the impediment, the putative marriage ends. *Id.*

12 Here, as set forth in Tom’s Declaration, he has a good faith belief the parties
13 were married. Danka claims the tax return filings and estate planning documents
14 evidence otherwise, but she fails to advise the Court that the parties acquired their
15 home and other real property “as wife and husband”. *See Exhibit “4”*, the various
16 deeds, including deeds prepared in September 2016, evidencing this fact. *See also*
17 **Exhibit “5”**, various email correspondence where Danka, Tom and third parties
18 understood the parties were husband and wife.

19 Since the test here primarily turns on the good faith element, the burden is on
20 Danka to show that good faith did not exist. Notably, Tom was not from Slovakia,
21 nor does he speak Slovakian. Danka has close ties and speaks the language. Tom
22 could not have understood the language or understood local customs. As such, even
23 of Danka understood the marriage had no legal validity, she did not explicitly inform
24 Pickens of that fact, and he had a good faith belief the parties were legally married.

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1 He understood marrying outside the State of Nevada would protect the couple's
2 assets. He did NOT ever understand, nor was he told before filing this matter, that
3 the Slovakian marriage was not technically valid. This is also important in terms of
4 the cause of action under *Michoff*.

5 Finally, as this is a motion for summary judgment, the good faith burden of
6 proof is on Danka, the moving party, and all allegations and evidence must be
7 viewed in a light most favorable to Tom. Danka's motion for summary judgment
8 must be denied as to the putative spouse claim, as well as with respect to the *Michoff*
9 claim as follows.

10 **2. Tom Can and Has Demonstrated the Existence of the Parties'**
11 **Express or Implied Contract Mandating the Application of**
12 **Community Property by Analogy:**

13 In addition to the fact that a putative marriage does exist, division of assets as
14 if they are community property should also occur where the parties held themselves
15 out as a married couple, jointly titled property in their names which specifically
16 referred to them as married, and commingled finances to a large degree.

17 Based on the evidence, it is clear the parties had either an express or implied
18 agreement to accrue property together. *Western States Constr. v. Michoff*, 108 Nev.
19 931, 840 P.2d 1220 (1992). Property acquired when such an agreement is in place
20 becomes community property by analogy or quasi-community property and is
21 divided by the Court in the same manner as regular community property. *Id.* In
22 making its determination as to the presence of a contract, the Court will look at
23 factors like pooling of assets, holding out as husband and wife, treating assets as
24 community property, and engaging in business activities together. *Gilman v.*
25 *Gilman*, 114 Nev. 416, 427, 956 P.2d 761, 767 (1998). Neither cohabitation nor a
26 romantic relationship is strictly necessary for determining the presence of an implied
27 contract. *Id.*

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1 In *Michoff*, cohabiting parties built and developed a business together based
2 on an implied agreement of coequal ownership. *Western States Constr. v. Michoff*,
3 108 Nev. 931, 840 P.2d 1220 (1992). In addition to operating the business together,
4 the couple held themselves out as husband and wife. *Id.* The Court determined that
5 even without a valid marriage, the couple's actions were sufficient to support the
6 finding of agreement to accrue property together. *Id.*

7 Similarly, in the case *Hay*, the court considered a case where a couple, without
8 attempting to legally marry, had been holding themselves out as husband and wife
9 and had "pooled all monies earned by either of them and purchased assets and
10 incurred liabilities as if they were a marital community or a general partnership."
11 *Hay v. Hay*, 100 Nev. 196, 198, 678 P.2d 672, 673 (1984). Additionally, despite no
12 marriage existing the parties' residence had been conveyed to them as "Tom and
13 Virginia Hay, Husband and Wife as Joint Tenants." *Id.* Because there was no claim
14 by either party that a legally valid marriage existed, the defendant moved to dismiss
15 for lack of failure to state a claim. The court held that the facts of the situation were
16 sufficient for the inference of an implied-in-fact contract to acquire and hold
17 property as if the parties were married or general partners. *Id.*, at 672, 674.

18 Here, Tom and Danko pooled of assets, held themselves out as husband and
19 wife, treated assets as community property, and engaged in business activities
20 together, they clearly had an implied or express contract. Again, as this is a motion
21 for summary judgment, the Court must make all reasonable inferences in favor of
22 the non-moving party, Tom.

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1 **C. DANKA’S MOTION FOR SUMMARY JUDGMENT OR TO**
2 **DISMISS TOM’S CLAIM TO SET ASIDE DEEDS AND**
3 **ASSIGNMENT MUST NOT ONLY BE DENIED, BUT SUMMARY**
4 **JUDGMENT IS PROPER ON THIS ISSUE, AND THE DEEDS AND**
5 **ASSIGNMENT MUST BE SET ASIDE AND DECLARED NULL**
6 **AND VOID:**

7 It is undisputed that Danka was Tom’s physician and prescribed him
8 medication before and after he signed away his interest in the parties’ property on
9 September 13, 2016 (*see Exhibit “1”*). Notably, Roberto Carillo is Danka’s agent
10 and employee, a Nurse Practitioner working under her direction. In all cases where
11 Danka did not issue a prescription to Tom for Oxycodone, Xanax, Tramadol or
12 Ambien, her agent signed the prescription. While Danka was Tom’s medical doctor
13 and caretaker, she directed him, demanded him, to sign the offensive deeds and
14 assignment, whereby he relinquished his legal interest in property worth no less than
15 \$6 Million. There is no doubt Danka exerted undue influence over Tom as his
16 physician and wife.

17 The defense of undue influence, and the presumption it occurred, is raised by
18 either (1) showing the existence of a fiduciary or confidential relationship, or (2)
19 showing that Tom lacked “mental vigor” and was therefore unable to protect
20 himself. A showing of either of either a fiduciary relationship or lack of “mental
21 vigor”, shifts the burden of proof to Danka, requiring her to demonstrate a lack of
22 undue influence by clear and convincing evidence.

23 A fiduciary relationship existed between Danka and Tom. The Nevada
24 Supreme Court has held that a presumption of undue influence arises when a
25 fiduciary relationship exists and the fiduciary benefits from the questioned
26 transaction. *In re Estate of Bethurem*, 129 Nev. 869, 874, 313 P.3d 237, 241 (2013).
27 A fiduciary relationship is deemed to exist when one party is bound to act for the
28 benefit of the other party and such a relationship imposes a duty of utmost good
faith. *Hoopes v. Hammargren*, 102 Nev. 425, 431, 725 P.2d 238, 242 (1986). The

1 essence of a fiduciary or confidential relationship is that the parties do not deal on
2 equal terms, since the person who accepts the trust and confidence of the other party
3 is in a superior position to exert influence over the dependent party. *Id.*

4 Nevada has recognized that the physician-patient relationship is “fiduciary in
5 nature.” *Massey v. Litton*, 99 Nev. 723, 728, 669 P.2d 248, 252 (1983). Further, a
6 fiduciary relationship arises from the existence of the marriage itself (or putative
7 marriage in the current matter). *Williams v. Waldman*, 108 Nev. 466, 472, 836 P.2d
8 614, 618 (1992). Once a fiduciary relationship has been established, the
9 presumption of undue influence by a beneficiary exists and must be overcome by
10 clear and convincing evidence. *In re Estate of Bethurem*, 129 Nev. 869, 874, 313
11 P.3d 237, 241 (2013).

12 There is further a presumption of undue influence when donor lacks “mental
13 vigor”. Undue influence can also be proven without using a fiduciary relationship
14 to raise the presumption of undue influence. When a party transfers a gift, the
15 alleged gift will be presumed secured by undue influence where the alleged donor
16 is lacking in such “mental vigor” as to enable him to protect himself against
17 imposition even though his mental weakness is not such as to justify his being
18 regarded as totally incapacitated. *Ross v. Giacomo*, 97 Nev. 550, 556, 635 P.2d
19 298, 302 (1981). The burden of proof then shifts to the alleged donee to prove by
20 clear and satisfactory evidence that the gift was freely and voluntarily made by the
21 donor. *Id.*

22
23 In absence of any presumption (fiduciary relationship or lack of mental vigor),
24 undue influence must be demonstrated by a preponderance of the evidence. *In re*
25 *Estate of Bethurem*, 129 Nev. 869, 876, 313 P.3d 237, 242 (2013).

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1 In this case, the Court must hold that Danka is presumed to have exerted undue
2 influence on Tom in obtaining his signature on the deeds and assignment. Thus, the
3 burden is on Danka to overcome the presumption by clear and convincing evidence.
4 Nothing in the record can meet that rigorous standard.

5 The Court has specifically held that a physician has a fiduciary duty to their
6 patients. Therefore, since Tom has established, he was in fact being treated by
7 Danka, the presumption of undue influence is clear.

8 It is also important that Tom clearly lacked the “mental vigor” to protect
9 himself against Danka’s imposition when she demanded the property transfers.
10 Because he was heavily medicated and undergoing extreme stress, Tom was unable
11 to protect himself despite not being totally incapacitated. In particular, due to the
12 large number of medications Tom was taking, and the fact that Danka was the
13 prescribing physician, the Court should grant summary judgment on this request for
14 relief in Tom’s Second Amended Complaint.

15 **D. NONE OF DANKA’S REMAINING COUNTERCLAIMS CAN**
16 **SURVIVE SUMMARY JUDGMENT OR DISMISSAL:⁷**

17 Each of Danka’s remaining Counterclaims is addressed in this Section, and
18 the Court should enter Summary Judgment that none of the following causes of
19 action are viable.

20 **1. Intentional Misrepresentation/Fraud:**

21 To prove this cause of action, Danka must demonstrate the following
22 elements: (1) Tom made a false representation; (2) Tom knew or believed that the
23 representation was false; (3) Tom intended to induce Danka to act or refrain from
24 acting based on the representation; (4) Danka justifiably relied on the representation;
25 and (5) Danka sustained damages as a result. *See Blanchard v Blanchard*, 108, Nev.

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27 ⁷ Danka’s first Counterclaim is for declaratory judgment that the parties are not now and were never legally
28 married. Subject to Tom’s claims for relief as a putative spouse and under *Michoff*, Tom has conceded the
marriage in Slovakia was not technically legal.

1 908, 839 P.2d 1320 (1992); *Barmettler v Reno Air, Inc.*, 114 Nev. 441, 956 P.2d
2 1382 (1998) (this tort applies only to commercial, business transactions).

3 Danka has the burden of proof of each and every element by clear and
4 convincing evidence. Where an essential element is absent, the un/disputed facts as
5 to other elements are rendered immaterial and summary judgment is proper.
6 *Barmettler v Reno Air, Inc.*, 114 Nev. 441, 956 P.2d 1382 (1998); *Bulbman, Inc. v.*
7 *Nevada Bell*, 108 Nev. 105, 825 P.2d 588 (1992). Moreover, Danka must
8 demonstrate suffering some physical manifestation of emotional distress. *Bestinger*
9 *v. D.R. Horton, Inc.*, 232 P.3d 433 (Nev. 2010).

10 Finally, to survive summary judgment as to this claim, the circumstances that
11 must be detailed in complaint alleging fraud include averments to *TIME, PLACE,*
12 *IDENTITY OF PARTIES and NATURE OF FRAUD OR MISTAKE, MALICE,*
13 *INTENT, KNOWLEDGE,* and other conditions of the mind of a person may be
14 averred generally. *Brown v. Kellar*, 97 Nev. 582, 636 P.2d 874 (1981). Danka's
15 Counterclaim, on its face, fails to meet this mandate. Summary judgment is
16 appropriate, or dismissal on that ground.

17 2. Negligent Misrepresentation:

18 To succeed on this cause of action, Danka must prove: (1) that Tom supplied
19 information while in the course of his business, profession or employment, or any
20 other transaction in which he had a pecuniary interest; (2) the information must have
21 been false; (3) the information must have been supplied for the guidance of Danka
22 in her business transactions; (4) Tom must have failed to exercise reasonable care or
23 competence in obtaining or communicating the information; (5) Danka must have
24 justifiably relied upon the information by taking action or refraining from it; and (6)
25 as a result of his reliance upon the accuracy of the information, Danka must have
26 sustained damage. *Barmettler v. Reno Air, Inc.*, 114 Nev. 441, 449, 956 P.2d 1382,
27 1387 (1998). The claimant, here Danka, has the burden of proving each and every
28

1 element of his fraudulent misrepresentation claim by clear and convincing evidence.
2 *Id.* at 446-447.

3 “[w]here an essential element of a claim for relief is absent, the facts, disputed
4 or otherwise, as to other elements are rendered immaterial and summary judgment
5 is proper.” *Bulbman Inc. v. Nevada Bell*, 108 Nev. 105, 110–11, 825 P.2d 588, 592
6 (1992); *Lubbe v. Barba*, 91 Nev. 596, 599, 540 P.2d 115, 117 (1975).

7 In this matter, Danka cannot prove these elements. Tom did not ever supply
8 false information to Danka. The opposite is true. Danka never denied the validity
9 of the parties’ marriage until she decided she no longer wanted to remain in the
10 marriage, and after she induced Tom to transfer the bulk of the estate the parties’
11 accumulated over 14 years to her.

12 3. Breach of Implied Covenant of Good Faith and Fair Dealing:

13 This cause of action is based on well-settled law that an implied covenant of
14 good faith and fair dealing exists in every Nevada contract, and this essentially
15 forbids arbitrary, unfair acts by one party that disadvantage the other. Where a
16 defendant deliberately contravenes the intention and spirit of the contract, that
17 defendant can incur liability for breach of the implied covenant of good faith and
18 fair dealing. *Perry v. Jordan*, 111 Nev. 943, 900 P.2d 335 (1995); *Hilton Hotels v.*
19 *Butch Lewis Prod’s.*, 107 Nev. 226, 808 P.2d 919 (1991).

20 Nevada law also provides for a tortious breach of the implied covenant of
21 good faith and fair dealing. For Danka to prove Tom breached that covenant in the
22 parties’ contract, Danka must prove: (1) the parties must have entered a contract; (2)
23 Tom owed a duty of good faith to Danka arising from the contract; (3) a special
24 element of reliance or fiduciary duty existed between Tom and Danka where Tom
25 was in a superior or entrusted position; (4) Tom breached the duty of good faith by
26 engaging in misconduct; and (5) Danka suffered damages as a result of that breach.
27 *Great Amer. Ins. Co. v. Gen. Builders, Inc.*, 113 Nev 346, 934 P.2d (1997).
28

1 As set forth herein above, Tom was under Danka's care, and he was being
2 prescribed multiple narcotic medications during the period in question, by Danka.
3 As such, Danka can never prevail on this cause of action.

4 **4. Promissory Estoppel:**

5 To prevail on this cause of action, and for Tom to be estopped claiming his
6 execution of the deeds and assignment were improper, Danka must prove: (1) that
7 Tom was advised of the true facts; (2) Tom must have intended that his conduct
8 would be acted upon or must so act that Danka had the right to believe it was so
9 intended;(3) Danka must have been ignorant of the true facts, and (4) Danka relied
10 on the conduct of Tom, to her detriment. *Torres v. Nev. Direct Ins. Co.*, 131 Nev,
11 531, 353 P.3d 1203 (2015).

12 Again, since Danka had a fiduciary duty to Tom as his physician, it is not
13 possible for her to even assert this claim. Tom understood the parties were married
14 legally, and that Danka would sign his interest back to him in one year. It was Tom
15 who relied on Danka's representations. It was Tom who had no idea the Slovakian
16 wedding was not technically a legal marriage.

17 **5. Express Agreement/Implied Agreement:**

18 Danka argues the parties had an express and/or implied agreement not to pool
19 their assets and finances. This flies in the face the evidence showing that other than
20 the tax and estate planning documents, Danka and Tom held themselves out as
21 husband wife, acquired property together as husband and wife, relied on each other
22 to help pay expenses and to help qualify for financing.

23 As set forth above, Tom's *Michoff* claim is based upon the parties express
24 and/or implied contract which governed the parties' dealings for at least 14 years.
25 The *Hay* decision is important:

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1 In *Warren v. Warren*, 94 Nev. 309, 579 P.2d 772 (1978), the
2 Court “addressed the issue of the property rights of unmarried
3 cohabitants. There, the lower court held that appellant Sybil Warren
4 had failed to prove the existence of an alleged agreement to pool funds
5 or form a partnership with her cohabitant. Although we merely affirmed
6 the lower court's findings, our opinion implied that her allegations were
7 sufficient to state a cause of action. In *Warren*, we cited language from
8 *Marvin v. Marvin*, 18 Cal.3d 660, 134 Cal.Rptr. 815, 557 P.2d 106
9 (1976), in which it was held that: “The courts should enforce express
10 contracts between nonmarital partners except to the extent that the
11 contract is explicitly founded on the consideration of meretricious
12 sexual services. . . In the absence of an express contract, the courts
13 should inquire into the conduct of the parties to determine whether that
14 conduct demonstrates an implied contract, agreement of partnership or
15 joint venture, or some other tacit understanding between the parties.
16 The courts may also employ the doctrine of quantum meruit, or
17 equitable remedies such as constructive or resulting trusts, when
18 warranted by the facts of the case.”

19 We agree that the remedies set forth in *Marvin* are available to
20 unmarried cohabitants. Unmarried persons who are living together have
21 the same rights to lawfully contract with each other regarding their
22 property as do other unmarried individuals. Their agreement may be
23 express or implied, as alleged in the instant case, from the conduct of
24 the parties. Although they may not, of course, contract for meretricious
25 sexual services, they may expect that courts will protect their
26 reasonable expectations with respect to transactions concerning
27 property rights. Each case should be assessed on its own merits with
28 consideration given to the purpose, duration and stability of the
relationship and the expectations of the parties. *See Omer v. Omer*, 11
Wash.App. 386, 523 P.2d 957, 960–961 (1974). Where it is alleged, as
it was in the instant case, and proven that there was an agreement to
acquire and hold property as if the couple was married, the community
property laws of the state will apply by analogy.

We hasten to point out that Nevada does not recognize common
law marriage. NRS 122.010. We recognize that the state has a strong
public policy interest in encouraging legal marriage. We do not,
however, believe that policy is well served by allowing one participant
in a meretricious relationship to abscond with the bulk of the couple's
acquisitions.

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2 Having concluded that appellant has stated a cause of action, we
3 turn to the question of whether summary judgment was proper. It is
4 axiomatic that summary judgment is only appropriate when the
5 pleadings and papers on file show that there is no genuine issue of fact,
6 and that the moving party is entitled to judgment as a matter of law.
7 *Nehls v. Leonard*, 97 Nev. 325, 328, 630 P.2d 258, 260 (1981).
8 "Summary judgment is only proper where it is clear what the truth. . ."
9 *Barney's Club v. Chartrand*, 98 Nev. 615, 616, 655 P.2d 999, 1000
10 (1982). Finally, for purposes of review, all evidence in appellant's favor
11 will be accepted as true. *Bowyer v. Davidson*, 94 Nev. 718, 720, 584
12 P.2d 686, 687 (1978).

13 Appellant, by her pleadings and affidavit, has put into issue the
14 ownership of the various items of property acquired by the parties
15 during their lengthy relationship. If appellant's allegations regarding
16 the parties' agreement are accepted as true, a review of the record makes
17 it apparent that this issue has not been resolved by the papers and
18 pleadings on file. Respondent admitted in his affidavit in support of
19 summary judgment that title to the property is held as appellant alleged
20 and that he changed title to the vehicles into his name alone without
21 giving her notice. The fact that he agrees with appellant's allegations
22 as to how title is held, however, does not mean that there is no question
23 of material fact left to determine. Respondent's admissions do not
24 clarify the question at issue in this case since title is not conclusive as
25 to ownership. Because the question of appellant's interest in the subject
26 properties is the material issue of fact in this case, and because it
27 remains undetermined, summary judgment was improperly granted.
28

21 Danka's express and implied contract theories in no way can support a holding
22 that the parties intended NOT to jointly share income and expenses and acquire
23 assets. And as set forth above, the deeds and assignment are presumptively invalid
24 where Danka exerted undue influence in obtaining Tom's signature on them.
25 Summary judgment against Danka on these two causes of action is proper.

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1 **6. Malicious Abuse of Process:**

2 To succeed on her abuse of process claim, Danka must prove: (1) an ulterior
3 purpose by Tom other than resolving a legal dispute; and (2) a willful act in the use
4 of the legal process not proper in the regular conduct of the proceeding. *See Posadas*
5 *v. City of Reno*, 109 Nev. 448, 457, 851 P.2d 438, 444-45 (1993); *La Mantia v.*
6 *Redisi*, 118 Nev. 27, 38 P.3d 877 (2002). Abuse of process differs from malicious
7 prosecution in that the gist of the tort is not commencing an action or causing process
8 to issue without justification, but misusing, or misapplying process justified in itself
9 for an end other than that which it was designed to accomplish. *Id.* Danka cannot
10 point to any ulterior purpose of Tom other than resolving this legal dispute. This is
11 perhaps the most far-fetched of Danka's counterclaims, and summary judgment in
12 favor of Tom is appropriate.

13 **E. TOM IS ENTITLED TO HIS FEES FOR THE NECESSITY OF**
14 **DEFENDING DANKA'S MOTION AND FOR THE NECESSITY**
15 **OF BRINGING HIS COUNTERMOTION:**

16 Danka's instant Motion reeks of bad faith where she never discloses the fact
17 that she was Tom's doctor, that she was prescribing him multiple narcotic
18 medications when she had him sign the deeds and assignment, and where she fails
19 to mention the deeds which reflected the parties held property titled as "wife and
20 husband". She has been evasive in discovery (that will be handled before the
21 Discovery Commissioner if a meet and confer does not result in satisfactory
22 resolution). Her filing without allowing Tom to conduct meaningful discovery is
23 just more evidence of her bad faith tactics.

24 Danka's actions waste this Court's valuable resources and needlessly cost
25 Tom time and money. A party who has so shamelessly costs the opposing party
26 excessive, unnecessary attorneys' fees and costs, must be stopped. Tom is therefore
27 requesting an award of attorneys' fees for the necessity of filing this Opposition and
28 Counter-motion.

1 There are multiple authorities for this Court to award attorneys' fees. NRS
2 18.010(2)(b) provides that the Court may award attorneys' fees to the prevailing
3 party in such circumstances. Pursuant to NRS 18.010, this Court should liberally
4 construe the provisions of NRS 18.010 "in favor of awarding attorney's fees in all
5 appropriate situations." Danka's flagrant failure to provide this Court with all of the
6 relevant evidence demonstrates that an award of attorneys' fees is appropriate.
7 Attorneys' fees are also appropriate pursuant to EDCR 7.60(b)(3) and (5) where
8 Danka is multiplying these proceedings so as "to increase costs unreasonably and
9 vexatiously".

10 Where an attorney in a family law case requests fees, the Nevada Supreme
11 Court has held that the Court must consider several factors in determining the
12 reasonable value of the services provided. Those factors referred to as the *Brunzell*
13 factors are: (1) *The Qualities of the Advocate*: to include training, ability, education,
14 experience, professional standing and skill; (2) *The Character of the Work to be*
15 *Done*: to include difficulty, importance, time and skill required, the responsibility
16 imposed on the prominence and character of the parties where they affect the
17 importance of the litigation; (3) *The Work Actually Performed by the Lawyer*: to
18 include the actual skill, time and attention given to the work; (4) *The Result*
19 *Obtained*. See Brunzell v. Golden Gate National Bank, 85 Nev. 345, 455 P.2d 31
20 (1969). The Court should give equal weight to each of the Brunzell factors. Miller
21 v. Wilfong, 121 Nev. 119 (2005).

22 1. The quality, experience, and ability of the lawyers performing the
23 services are certainly commensurate with the requests being made. Michele LoBello
24 received her bachelor's degree from Arizona State University after serving as intern
25 to the Honorable John McCain, United States Senator. Upon obtaining her Juris
26 Doctor from Creighton University School of Law, she served as law clerk to the
27 Honorable Steven Jones. She was admitted to practice with the State Bar of Nevada
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1 in 1994, and she has practiced family law almost exclusively ever since. She has
2 practiced before the State and Supreme Courts of Nevada, as well as before the
3 United States District Court, District of Nevada, and the United States Court of
4 Appeals for the Ninth Circuit. She is a member of the Nevada State Bar Association,
5 Clark County Bar Association and the American Trial Lawyers Association. She is
6 an AV Preeminent rated attorney amongst peer reviews, the highest level of
7 professional excellence. She has been noted in Who's Who Among American
8 Lawyers, Super Lawyers, one of Desert Companion's Top Lawyers, and she was
9 recognized as one of Southern Nevada's Legal Elite for 2015 by Nevada Business
10 Magazine. She has also served as a Court Appointed Special Advocate, and she
11 devotes significant time to representing *pro bono* clients through the Southern
12 Nevada Legal Aid's Children's Attorney Project.

13 2. The rates Tom has been charged for services are as follows:

14 Partners: \$500 per hour. Associate attorneys charge \$300-350 per hour. Law
15 clerks charge \$150 per hour. These rates are more than reasonable in light of the
16 legal experience of the attorneys involved and the demands of defending this matter.

17 4. Character of Work: The complexity of the work involved is evident in
18 this Opposition and will also be detailed in the supporting invoices. The work being
19 provided in this matter is performed competently and zealously, with a goal of
20 achieving results consistent with the law.

21 In view of the foregoing, the Court should issue an award of attorneys' fees
22 and costs to TOM upon review of the invoices to be provided at the September 11,
23 2019 hearing.

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III: CONCLUSION:

Tom respectfully requests the Court deny Danka's Motion: enter Orders granting summary judgment in his favor that Danka cannot maintain or succeed on any of her remaining counterclaims; grant summary judgment as to his cause of action related to declaring the Deeds and Assignment executed September 13, 2019 null and void; and order the case to proceed only on Tom's remaining causes of action.

RESPECTFULLY SUBMITTED this 19th day of August, 2019.

BLACK & LOBELLO



Michele Touby LoBello

Nevada Bar No. 5527

10777 West Twain Avenue, Suite 300

Las Vegas, Nevada 89135

Attorneys for Plaintiff,

THOMAS PICKENS

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of BLACK & LOBELLO and that on the 19 day of August, 2019, I caused the above and foregoing document entitled foregoing PLAINTIFF'S OPPOSITION TO DEFENDANT'S OPPOSITION TO DEFENDANT'S MOTION FOR SUMMARY JUDGMENT, TO DISMISS, FOR PROTECTIVE ORDER AND FOR ATTORNEY FEES AND COUNTERMOTION (1) TO DISMISS OR, IN THE ALTERNATIVE, FOR SUMMARY JUDGMENT AS TO DEFENDANT'S CAUSES OF ACTION FOR INTENTIONAL MISREPRESENTATION/FRAUD; NEGLIGENT MISREPRESENTATION; BREACH OF IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING; PROMISSORY ESTOPPEL; EXPRESS AGREEMENT; IMPLIED AGREEMENT; AND MALICIOUS ABUSE OF PROCESS; (2) FOR SUMMARY JUDGMENT SETTING ASIDE DEEDS OF REAL PROPERTY AND ASSIGNMENT OF LLC INTEREST; AND (3) FOR PERMISSION TO SUBMIT POINTS AND AUTHORITIES IN EXCESS OF 30 PAGES PURSUANT TO EDCR 5.503(e) to be served as follows:

- ☐ by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada; and
- ☒ pursuant to N.E.F.C.R. 9, to be sent via electronic service;
- ☐ pursuant to EDCR 7.26, to be sent via facsimile;
- ☒ by email to
- ☐ hand delivered

to the party or their attorney(s) listed below at the address and/or facsimile number indicated below:

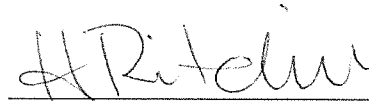
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Jennifer V. Abrams, Esq.
The Abrams & Mayo Law Firm
6252 South Rainbow Blvd., #100
Las Vegas, NV 89118
Email: JVAGroup@TheAbramsLawFirm.com
Attorney for Defendant

and that there is regular communication by mail between the place of mailing and the place(s) so addressed.



An Employee of Black & LoBello

MOFI

DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

Thomas A. Pickens

Plaintiff/Petitioner

v.

Danka K. Michaels

Defendant/Respondent

Case No. D-17-560737-D

Dept. S

**MOTION/OPPOSITION
FEE INFORMATION SHEET**

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

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

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

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

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

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

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

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

Party filing Motion/Opposition: Thomas A. Pickens

Date 8-19-19

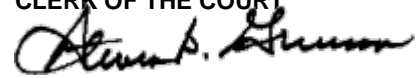
Signature of Party or Preparer



AA00843

DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA
DECLARATION OF SERVICE

Electronically Filed
9/5/2019 2:04 PM
Steven D. Grierson
CLERK OF THE COURT



THOMAS A. PICKENS

Case No :D-17-560737

Plaintiff/Petitioner,

vs.

DANKA K. MICHAELS

Defendant/Respondent,

STATE OF NEVADA
COUNTY OF CLARK

ss.:

SUBPOENA, NOTICE OF TAKING DEPOSITION Received by NOW! Services, Inc. on 08/30/2019 with instructions to serve **SHANNON L. EVANS c/o Evans & Associates** at **2400 S. Cimarron Road, Suite 140, Las Vegas, NV89117**.

I, **Mike Nettles**, being duly sworn says: That at all times herein affiant was and is a citizen of the United States, over 18 years of age, not a party to or interested in the proceeding in which this affidavit is made.

I am authorized to serve this process in the circuit/county it was served in.

On **09/03/2019** at **10:45 AM**, I served the within **SUBPOENA, NOTICE OF TAKING DEPOSITION** on **SHANNON L. EVANS c/o Evans & Associates** at **2400 S. Cimarron Road, Suite 140, Las Vegas, NV89117** in the manner indicated below:

SUITABLE AGE: By delivering thereat a true copy of each to **Taylor Murphy, Authorized Employee** authorized to accept service on behalf of **SHANNON L. EVANS c/o Evans & Associates**, a person of suitable age and discretion. Said premises is **SHANNON L. EVANS c/o Evans & Associates's** usual place of business within the state.

A description of the Recipient, or other person served on behalf of the Recipient is as follows:

Sex	Color of skin/race	Color of hair	Age	Height	Weight
Female	Caucasian	Light Brown	30's	5'05	170
Other Features:					

I declare under penalty of perjury under the laws of the State of Nevada that the foregoing is true and correct.

Executed this 3 of September, 2019.

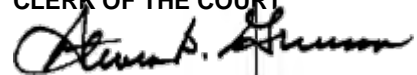
No Notary is required per NRS 53.045.



31149

X Mike Nettles
Mike Nettles
License#: 1361
NOW! Services, Inc.
3210 W. Charleston Blvd., Ste. 3
Las Vegas, NV89102
(702) 669-7378
Atty File#:

AA00844



1 **EXH**

Jennifer V. Abrams, Esq.
Nevada State Bar Number: 7575
THE ABRAMS & MAYO LAW FIRM
6252 South Rainbow Blvd., Suite 100
Las Vegas, Nevada 89118
Tel: (702) 222-4021
Fax: (702) 248-9750
Email: JVAGroup@TheAbramsLawFirm.com
Attorney for Defendant

Eighth Judicial District Court
Family Division
Clark County, Nevada

8 THOMAS A. PICKENS, individually,) Case No.: D-17-560737-D
and as trustee of the LV Blue Trust,)

9 Plaintiff,)
10)
11)

vs.)

11 DANKA K. MICHAELS,)
12 individually, and as trustee of the)
13 Mich-Mich Trust,)

Defendant.)
14)

Department: J

Date of Hearing: 9/11/2019

Time of Hearing: 9:00 a.m.

15 **APPENDIX OF EXHIBITS IN SUPPORT OF**
16 **REPLY TO OPPOSITION TO DEFENDANT'S MOTION FOR**
17 **SUMMARY JUDGMENT, TO DISMISS, FOR PROTECTIVE**
18 **ORDER AND FOR ATTORNEY FEES**

AND

19 **OPPOSITION TO COUNTERMOTION (1) TO DISMISS OR, IN**
20 **THE ALTERNATIVE, FOR SUMMARY JUDGMENT AS TO**
21 **DEFENDANT'S CAUSES OF ACTION FOR INTENTIONAL**
MISREPRESENTATION/FRAUD; NEGLIGENT
MISREPRESENTATION; BREACH OF IMPLIED COVENANT
OF GOOD FAITH AND FAIR DEALING; PROMISSORY
ESTOPPEL; EXPRESS AGREEMENT; IMPLIED AGREEMENT;
AND MALICIOUS ABUSE OF PROCESS; (2) FOR SUMMARY

**JUDGMENT SETTING ASIDE DEEDS OF REAL PROPERTY
AND ASSIGNMENT OF LLC INTEREST; AND (3) FOR
PERMISSION TO SUBMIT POINTS AND AUTHORITIES IN
EXCESS OF 30 PAGES PURSUANT TO EDCR 5.503(e)**

Exhibit	Description
T	Excerpt from Tom's deposition
U	The first page from Blue Point Development's 2015 Income Tax Return
V	The first page from Blue Point Development's 2016 Income Tax Return
W	Excerpt from Tom's deposition
X	Declaration of Robert Semonian in Support of Motion for Summary Judgment

DATED Friday, September 06, 2019.

Respectfully Submitted,

THE ABRAMS & MAYO LAW FIRM

/s/ Jennifer V. Abrams, Esq.

Jennifer V. Abrams, Esq.

Nevada State Bar Number: 7575

6252 South Rainbow Blvd., Suite 100

Las Vegas, Nevada 89118

Attorney for Defendant

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021

EXHIBIT T

EXHIBIT T

EXHIBIT T

1 sums of money; correct?

2 A. Correct.

3 Q. Including a \$1 million bonus; correct?

4 A. Correct. And --

5 Q. Did you sign Blue Point Development over to

6 Danka?

7 A. She didn't -- she didn't ask that --

8 Q. Yes or no?

9 A. No.

10 Q. You did not sign Blue Point Development --

11 A. No.

12 Q. -- over to Danka? You had a 401(k) that had

13 over \$200,000 in it.

14 Did you sign that over to Danka?

15 A. No.

16 Q. You kept that; correct?

17 A. No. No. I -- that was -- that was money that
18 was used to start my life over again.

19 Q. Okay. You kept that money.

20 A. Yes.

21 Q. Correct?

22 A. If she wanted it, I would have gave it to her.

23 Q. So, if I'm understanding your testimony today
24 correctly, everything is somebody else's fault.

25 A. No. No, but --

EXHIBIT U

EXHIBIT U

EXHIBIT U

Form 1120

Department of the Treasury
Internal Revenue Service

U.S. Corporation Income Tax Return

For calendar year 2015 or tax year beginning , 2015, ending , 20

OMB No. 1545-0123

2015

Information about Form 1120 and its separate instructions is at www.irs.gov/form1120.

A Check if:

- 1a Consolidated return (attach Form 851) ☐
- b Life/nonlife consolidated return ☐
- 2 Personal holding co. (attach Sch. PH) ☐
- 3 Personal service corp. (see instructions) ☐
- 4 Schedule M-3 attached ☐

TYPE
OR
PRINT

Name

BLUE POINT DEVELOPMENT INC

Number, street, and room or suite no. If a P.O. box, see instructions.

STE 208

3320 N BUFFALO DR

City or town, state, or province, country and ZIP or foreign postal code

LAS VEGAS

NV 89129

B Employer identification number

26-3541207

C Date incorporated

09-23-2008

D Total assets (see instructions)

\$ 76,502

E Check if: (1) Initial return (2) Final return (3) Name change (4) Address change

Income

1a	Gross receipts or sales	1a	1,682,322
b	Returns and allowances	1b	
c	Balance. Subtract line 1b from line 1a	1c	1,682,322
2	Cost of goods sold (attach Form 1125-A)	2	455,998
3	Gross profit. Subtract line 2 from line 1c	3	1,226,324
4	Dividends (Schedule C, line 19)	4	
5	Interest	5	
6	Gross rents	6	
7	Gross royalties	7	
8	Capital gain net income (attach Schedule D (Form 1120))	8	
9	Net gain or (loss) from Form 4797, Part II, line 17 (attach Form 4797)	9	
10	Other income (see instructions - attach statement)	10	
11	Total income. Add lines 3 through 10	11	1,226,324

Deductions (See instructions for limitations on deductions.)

12	Compensation of officers (see instructions - attach Form 1125-E)	12	173,077
13	Salaries and wages (less employment credits)	13	693,019
14	Repairs and maintenance	14	90
15	Bad debts	15	
16	Rents	16	33,301
17	Taxes and licenses	17	84,798
18	Interest	18	4,910
19	Charitable contributions	19	
20	Depreciation from Form 4562 not claimed on Form 1125-A or elsewhere on return (attach Form 4562)	20	39,300
21	Depletion	21	
22	Advertising	22	
23	Pension, profit-sharing, etc., plans	23	
24	Employee benefit programs	24	58,128
25	Domestic production activities deduction (attach Form 8903)	25	
26	Other deductions (attach statement)	26	150,773
27	Total deductions. Add lines 12 through 26	27	1,237,396
28	Taxable income before net operating loss deduction and special deductions. Subtract line 27 from line 11	28	(11,072)
29a	Net operating loss deduction (see instructions)	29a	
b	Special deductions (Schedule C, line 20)	29b	
c	Add lines 29a and 29b	29c	

Tax, Refundable Credits, & Payments

30	Taxable income. Subtract line 29c from line 28 (see instructions)	30	(11,072)
31	Total tax (Schedule J, Part I, line 11)	31	0
32	Total payments and refundable credits (Schedule J, Part II, line 21)	32	
33	Estimated tax penalty (see instructions). Check if Form 2220 is attached <input type="checkbox"/>	33	
34	Amount owed. If line 32 is smaller than the total of lines 31 and 33, enter amount owed	34	
35	Overpayment. If line 32 is larger than the total of lines 31 and 33, enter amount overpaid	35	
36	Enter amount from line 35 you want: Credited to 2016 estimated tax <input type="checkbox"/> Refunded <input type="checkbox"/>	36	

Sign Here

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

THOMAS PICKENS

Signature of officer

Date

PRESIDENT

Title

May the IRS discuss this return with the preparer shown below (see instructions)? ☐ Yes ☒ No

Paid Preparer Use Only

Print/Type preparer's name

ROBERT S SEMONIAN CPA

Preparer's signature

Date

09-16-2018

Check ☒ if

self-employed

PTIN

P00391972

Firm's name

ROBERT S SEMONIAN CPA

Firm's EIN

95-4514704

Firm's address

PO BOX 5605

Phone no.

Ventura CA 93005

(805) 659-5344

For Paperwork Reduction Act Notice, see separate instructions.

Form 1120 (2015)

EEA

AA00851

EXHIBIT V

EXHIBIT V

EXHIBIT V

Form 1120

Department of the Treasury
Internal Revenue Service

U.S. Corporation Income Tax Return

For calendar year 2016 or tax year beginning , 2016, ending , 20

OMB No. 1545-0123

2016

Information about Form 1120 and its separate instructions is at www.irs.gov/form1120.

A Check if:

1a Consolidated return
(attach Form 851) ☐b Life/nonlife consoli-
dated return ☐2 Personal holding co.
(attach Sch. PH) ☐3 Personal service corp.
(see instructions) ☐4 Schedule M-3 attached ☐TYPE
OR
PRINT

Name

BLUE POINT DEVELOPMENT INC

Number, street, and room or suite no. If a P.O. box, see instructions.

4514 BLUE MESA WAY

City or town, state, or province, country and ZIP or foreign postal code

LAS VEGAS

NV

89129

B Employer identification number

26-3541207

C Date incorporated

09-23-2008

D Total assets (see instructions)

\$ 162,996

E Check if: (1) ☐ Initial return (2) ☐ Final return (3) ☐ Name change (4) ☒ Address change

Income	1a	Gross receipts or sales	1a	1,423,259
	b	Returns and allowances	1b	
	c	Balance. Subtract line 1b from line 1a	1c	1,423,259
	2	Cost of goods sold (attach Form 1125-A)	2	257,120
	3	Gross profit. Subtract line 2 from line 1c	3	1,166,139
	4	Dividends (Schedule C, line 19)	4	
	5	Interest	5	
	6	Gross rents	6	
	7	Gross royalties	7	
	8	Capital gain net income (attach Schedule D (Form 1120))	8	
	Deductions (See instructions for limitations on deductions.)	9	Net gain or (loss) from Form 4797, Part II, line 17 (attach Form 4797)	9
10		Other income (see instructions - attach statement)	10	
11		Total income. Add lines 3 through 10	11	1,166,139
12		Compensation of officers (see instructions - attach Form 1125-E)	12	190,000
13		Salaries and wages (less employment credits)	13	539,197
14		Repairs and maintenance	14	5,482
15		Bad debts	15	
16		Rents	16	53,285
17		Taxes and licenses	17	56,267
18		Interest	18	
19		Charitable contributions	19	
20		Depreciation from Form 4562 not claimed on Form 1125-A or elsewhere on return (attach Form 4562)	20	77,469
21		Depletion	21	
22		Advertising	22	
23		Pension, profit-sharing, etc., plans	23	
24		Employee benefit programs	24	64,810
25		Domestic production activities deduction (attach Form 8903)	25	
26		Other deductions (attach statement)	26	127,821
27		Total deductions. Add lines 12 through 26	27	1,114,331
Tax, Refundable Credits, & Payments	28	Taxable income before net operating loss deduction and special deductions. Subtract line 27 from line 11	28	51,808
	29a	Net operating loss deduction (see instructions)	29a	11,072
	b	Special deductions (Schedule C, line 20)	29b	
	c	Add lines 29a and 29b	29c	11,072
	30	Taxable income. Subtract line 29c from line 28. See instructions	30	40,736
	31	Total tax (Schedule J, Part I, line 11)	31	6,110
	32	Total payments and refundable credits (Schedule J, Part II, line 21)	32	
	33	Estimated tax penalty. See instructions. Check if Form 2220 is attached <input type="checkbox"/>	33	
	34	Amount owed. If line 32 is smaller than the total of lines 31 and 33, enter amount owed	34	6,110
	35	Overpayment. If line 32 is larger than the total of lines 31 and 33, enter amount overpaid	35	
36	Enter amount from line 35 you want: Credited to 2017 estimated tax <input checked="" type="checkbox"/> Refunded <input type="checkbox"/>	36		

Sign Here

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

THOMAS PICKENS

Signature of officer

Date

PRESIDENT

Title

May the IRS discuss this return
with the preparer shown below?
See instructions. ☐ Yes ☒ NoPaid
Preparer
Use Only

Print/Type preparer's name

ROBERT S SEMONIAN CPA

Preparer's signature

Date

09-16-2018

Check ☒ if

self-employed

PTIN

P00391972

Firm's name ROBERT S SEMONIAN CPA

Firm's EIN 95-4514704

Firm's address PO BOX 5605

Phone no.

(805) 659-5344

Ventura CA 93005

For Paperwork Reduction Act Notice, see separate instructions.

Form 1120 (2016)

EEA

AA00853

EXHIBIT W

EXHIBIT W

EXHIBIT W

1 A. I make -- never mind.

2 Q. Go ahead. I am not going to stop you.

3 A. The company actually is going to be closed
4 down.

5 Q. With regards to the Queen Charlotte Drive
6 property, do you agree that Danka put the down payment
7 for that property?

8 A. Absolutely.

9 Q. On the Lowes (phonetic) property, do you agree
10 that Danka put down the down payment for that
11 property?

12 A. Absolutely.

13 Q. What did -- are you making any claims to any
14 equity in Queen Charlotte?

15 A. Well, I think there is claims in loss on Queen
16 Chard -- Charlotte, to tell you the truth. We bought
17 it for nine point -- or 999,000. Because they took
18 the golf course out, the equity in that house probably
19 dropped. So, I don't even know if it's worth any
20 money. I don't have a clue.

21 I'm not trying to steal her house, and I don't
22 really -- I -- again, I'm trying to be fair, and I
23 don't want to -- that's all I care about. I'm not
24 asking her to give up a house or sell the house or any
25 of that stuff.

1 Q. Would it be fair to say that there is no
2 equity in Queen Charlotte that you are --

3 A. I don't --

4 Q. -- seeking?

5 A. What's that?

6 Q. Is it fair to say that you are not seeking any
7 portion of any equity in the Queen Charlotte Drive
8 property?

9 A. I -- I'm going to leave that open. I mean,
10 I -- I made payments. Even though she put money in my
11 account, I also made payments when she didn't put
12 my -- money in my account. And I also -- I mean --
13 so, if you looked at most of the payments, they came
14 from my checkbook.

15 So, it's one of those things. Again, she put
16 money into it.

17 Q. How much did she put down into that?

18 A. Three -- she put 200,000.

19 Q. Okay. And then didn't she also cash out a
20 savings and put that into Queen Charlotte as well?

21 A. Unt-uh, not that I know. Why would she do
22 that? And I also put -- I -- I remodeled Queen
23 Charlotte in 2015.

24 Q. Didn't Danka have a house prior to Queen
25 Charlotte that she sold?

1 A. Yes.

2 Q. And then she used the proceeds from the sale
3 of that house --

4 A. Yes.

5 Q. -- towards Queen Charlotte?

6 A. Did -- did -- was the house improved when I
7 moved in with her in Queen -- or into Copparo
8 (phonetic)? The answer is yes. Was the economy good?
9 She made -- I think she got paid 326,000 for the house
10 during good times. And I think she bought it for like
11 a hundred and -- I don't know, something.

12 So, the economy was good. We did some
13 improvements on it. She sold the house. She put
14 200,000 down -- down on Queen Charlotte. I agree a
15 hundred percent. I'm not denying that.

16 Q. Okay. How much equity do you think Queen
17 Charlotte has today?

18 A. If it's got 200,000, it would be lucky.

19 Q. Okay. So, would you agree that she put
20 200,000 down; if it has 200,000 of equity, that would
21 belong to her, regardless of anything that occurred
22 after?

23 A. I'm not trying to take that money. I'm
24 telling you guys that now.

25 Q. Okay.

EXHIBIT X

EXHIBIT X

EXHIBIT X

1 **DECL**

Jennifer V. Abrams, Esq.
2 Nevada State Bar Number: 7575
THE ABRAMS & MAYO LAW FIRM
3 6252 South Rainbow Blvd., Suite 100
Las Vegas, Nevada 89118
4 Tel: (702) 222-4021
Fax: (702) 248-9750
5 Email: jvagroup@theabramslawfirm.com
Attorney for Defendant

6
Eighth Judicial District Court
7 Family Division
Clark County, Nevada
8

9 THOMAS A. PICKENS, individually,) Case No.: D-17-560737-D
and as trustee of the LV Blue Trust,)

10 Plaintiff,)
11)
12)

vs.)
13)
14)

DANKA K. MICHAELS,)
13 individually, and as trustee of the)
Mich-Mich Trust,)

14 Defendant.)
15

16 **DECLARATION OF ROBERT SEMONIAN**

17 **IN SUPPORT OF**

18 **MOTION FOR SUMMARY JUDGMENT**

19 1. I, Robert Semonian, declare under penalty of perjury under
20 the law of the State of Nevada, pursuant to NRS 53.045, that the
21 foregoing is true and correct.

1 2. I am above the age of majority and I am competent to testify
2 to the facts contained in this declaration.

3 3. I am a Certified Public Accountant ("CPA") and have been
4 licensed in the State of California for approximately thirty-nine (39)
5 years since 1980.

6 4. I understand from a joint telephone conference I had with
7 Attorney Abrams and Attorney LoBello that there was a concern Tom
8 would owe gift taxes as a result of the transfers of property that occurred
9 between him and Danka in 2016.

10 5. I had previously discussed this matter with counsel. Under
11 the Internal Revenue Code, the estate threshold in 2016 was
12 \$5,450,000.00 so there would likely not be any tax assessed. Although it
13 could be argued that even though no tax would be assessed, a portion of
14 Tom's lifetime estate exclusion would be used, this would only be true
15 for the amount that Tom actually gifted to Danka. In other words, if, as I
16 have been informed, Danka had all rights under the law to the equity in
17 the properties and Tom merely removed his name from title to her
18 properties, then Tom wouldn't even be using a portion of his lifetime
19 estate exclusion because no actual gift was transferred to Danka.
20 Therefore, if he simply removed his name from title to property to which
21

1 Danka had all legal rights, he would have no gift tax obligation and no
2 portion of his lifetime estate exclusion would be used.

3 Dated this 26 day of August, 2019.

4 
ROBERT SEMONIAN

5

6

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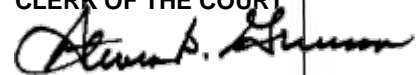
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1 **ROPP**

Jennifer V. Abrams, Esq.

2 Nevada State Bar Number: 7575

THE ABRAMS & MAYO LAW FIRM

3 6252 South Rainbow Blvd., Suite 100

Las Vegas, Nevada 89118

4 Tel: (702) 222-4021

Fax: (702) 248-9750

5 Email: JVAGroup@TheAbramsLawFirm.com

Attorney for Defendant

Eighth Judicial District Court

Family Division

Clark County, Nevada

8 THOMAS A. PICKENS, individually,) Case No.: D-17-560737-D
9 and as trustee of the LV Blue Trust,)

10 Plaintiff,)

11 vs.)

12 DANKA K. MICHAELS,
13 individually, and as trustee of the
Mich-Mich Trust,)

14 Defendant.)

Department: J

Date of Hearing: 9/11/2019

Time of Hearing: 9:00 a.m.

15 **REPLY TO OPPOSITION TO DEFENDANT'S MOTION FOR**
16 **SUMMARY JUDGMENT, TO DISMISS, FOR PROTECTIVE**
ORDER AND FOR ATTORNEY FEES

AND

17 **OPPOSITION TO COUNTERMOTION (1) TO DISMISS OR, IN**
18 **THE ALTERNATIVE, FOR SUMMARY JUDGMENT AS TO**
DEFENDANT'S CAUSES OF ACTION FOR INTENTIONAL
19 **MISREPRESENTATION/FRAUD; NEGLIGENT**
MISREPRESENTATION; BREACH OF IMPLIED COVENANT
20 **OF GOOD FAITH AND FAIR DEALING; PROMISSORY**
ESTOPPEL; EXPRESS AGREEMENT; IMPLIED AGREEMENT;
21 **AND MALICIOUS ABUSE OF PROCESS; (2) FOR SUMMARY**
JUDGMENT SETTING ASIDE DEEDS OF REAL PROPERTY

1 **AND ASSIGNMENT OF LLC INTEREST; AND (3) FOR**
2 **PERMISSION TO SUBMIT POINTS AND AUTHORITIES IN**
3 **EXCESS OF 30 PAGES PURSUANT TO EDCR 5.503(e)**

4 **COMES NOW** Defendant, Danka K. Michaels, by and through
5 her attorney of record, Jennifer V. Abrams, Esq., of The Abrams & Mayo
6 Law Firm, and hereby submits her *Reply to Opposition to Defendant's*
7 *Motion for Summary Judgment, To Dismiss, For Protective Order And*
8 *for Attorney Fees and Opposition to Countermotion (1) To Dismiss or,*
9 *in the Alternative, For Summary Judgment as to Defendant's Causes of*
10 *Action for Intentional Misrepresentation/Fraud; Negligent*
11 *Misrepresentation; Breach of Implied Covenant of Good Faith and Fair*
12 *Dealing; Promissory Estoppel; Express Agreement; Implied*
13 *Agreement; And Malicious Abuse of Process; (2) For Summary*
14 *Judgment Setting Aside Deeds of Real Property and Assignment of LLC*
15 *Interest; And (3) For Permission to Submit Points and Authorities in*
16 *Excess of 30 Pages Pursuant to EDCR 5.503(e).*

17 ///

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **1. Tom cannot prove a putative marriage existed - time**
3 **and time again the parties acknowledged that they were not**
4 **legally married.**

5 Each of the parties has consistently represented to the United
6 States Federal Government Treasury / Internal Revenue Service on their
7 respective tax returns – under penalties of perjury - that they are single,
8 unmarried individuals. This affirmation of their marital status, under
9 penalty of perjury, was made year, after year, after year, by each of them
10 for nearly a decade and a half. They also acknowledged that they were
11 unmarried / single in their respective trusts, their respective wills, and
12 they even completed the “estate planning questionnaire, **single**
13 **individual.**”¹ Tom purchased property as a “single man” and applied
14 for a mortgage as “unmarried.” Furthermore, two neutral third-party
15 professionals testified that both parties informed them that they were
16 not legally married.² There is no doubt that Tom understood throughout
17 the relationship that the parties were not legally married.

18 ///

19
20

¹ (Emphasis Added)

21 ² Please see Declaration of Shannon Evans, Esq. attached to Danka’s Motion as Exhibit F and Declaration of Robert Semonian attached to Danka’s Motion as Exhibit H.

1 After the parties split up for good and divided their jointly titled
2 assets in accordance with their agreement in 2016, both parties went
3 their separate ways. They understood that they did not need a divorce
4 because they were not legally married.³ It wasn't until Tom received
5 information that he could potentially be responsible for gift taxes related
6 to effectuating the agreed upon transfer of property that he pursued this
7 action against Danka.⁴

8 **2. There is no evidence of any implied or express**
9 **agreement to pool assets. The opposite is true – there is**
10 **evidence that the parties maintained separate businesses,**
11 **separate earnings, and separate accounts.**

12 Tom admits that he earned a \$1Million bonus in 2014 and his
13 business was earning millions of dollars between 2014 and 2016.⁵
14 Danka doesn't know what he did with the money, she had no access to it,
15 and she didn't receive the benefit of it. He was spending it freely with his
16 new lover in Florida. He spent his money traveling and even vacationing
17 without Danka, he furnished his girlfriend's condo and even helped her

18 ³ Tom was divorced twice before, so he would have been familiar with the legal
process of a divorce.

19 ⁴ Please see Exhibit R attached to Danka's Motion.

20 ⁵ Please see excerpt from Tom's deposition attached hereto as Exhibit T, the first
21 page from Blue Point Development's 2015 and 2016 Income Tax Returns attached
hereto as Exhibits U and V, as well as Exhibits D and E attached to Danka's Motion.

1 fix it up. This is not “pooling of assets.” Instead, it evidences the exact
2 opposite – that there was no pooling of assets between Danka and Tom.

3 Regardless, when the parties permanently separated in 2016, Tom
4 received one hundred percent of his multi-million dollar business (for
5 which Danka gave him the seed money), Blue Point Development, and
6 one hundred percent of his retirement account with \$200,000 therein.⁶
7 Although Danka had helped Tom grow these assets, she did not receive
8 any interest in them. Danka took her assets, Tom took his, and the
9 jointly titled assets were distributed in accordance with the person who
10 primarily funded them.

11 **3. Danka and Tom barely had a relationship for years**
12 **before they permanently separated in 2016.**

13 It is undisputed that the relationship between Danka and Tom
14 took the form of “roommates” rather than a couple, beginning in 2004.
15 By 2015, Tom was living in Florida with his lover and earning millions of
16 dollars operating his own construction business, which he did not share
17 with Danka. Tom and Danka were not married, they knew they were not
18 married, their personal relationship had been disintegrating for years
19 and they had only seen each other twice in 2016, before the parties
20 completely cut their ties. Tom can hardly argue that a fiduciary

21 ⁶ As acknowledged by Tom in Exhibit T.

1 relationship existed between them in 2016. Danka, who was living in Las
2 Vegas and was busy running her medical practice, had no more influence
3 over him than he did over her. Tom was a sixty (60) year old man with a
4 lifetime of experience, he was not an 8-year-old child over whom Danka
5 could exert "undue influence" from across the continental United States.

6 Tom also argues that Danka had a fiduciary duty to Tom because
7 she was his physician. Of course, physicians have certain fiduciary duties
8 towards their patients related to the medical care they provide to those
9 patients. Physicians' fiduciary duties towards their patients have nothing
10 to do with real estate.

11 By then, the parties had drifted so far apart, they really did not
12 have much of a relationship anymore, as evidenced by Tom's
13 establishment of a years' long intimate relationship with another
14 woman. In fact, Tom was home maybe twice that year before the parties
15 signed paperwork in September 2016 and one of those times Tom was
16 dog sitting while Danka was vacationing. Tom admitted during his
17 deposition that the relationship between him and Danka became more
18 like roommates as early as 2004.

19 Danka readily admits that she and Tom often referred to one
20 another as "husband" and "wife" for convenience, particularly when they
21 traveled together and in social settings with friends and family. Such

1 references were convenient and did not change the fact that they filed
2 separate tax returns, maintained separate accounts, held individual
3 (unmarried) trusts, etc. It is disingenuous for Tom to argue that the title
4 to property "as husband and wife" somehow suggests that the parties
5 legitimately thought they were married when Tom purchased property
6 in May 2017 as a single, unmarried man. He filed this case in October
7 2017 and falsely alleges in his Opposition at page 12, lines 4 – 7:

8 As set forth in Tom's Declaration, until after this
9 lawsuit was filed, he believed the parties' 2002 wedding in
10 Slovakia was a valid, legal marriage, performed in the
11 Catholic Church, after the parties attended Pre Cana classes.

11 **4. Tom is alleging that the medication he had been**
12 **taking for over a decade only bound itself to the receptors in**
13 **his brain that control deeds to real property, and only in**
14 **October 2016.**

15 As a preliminary matter, Danka's nurse practitioner prescribed
16 refills of medication to Tom on August 30, 2016. The next refills he
17 obtained from Danka occurred on January 26, 2017. Danka didn't know
18 about Tom's girlfriend on August 30, 2016. She didn't learn that Tom's
19 girlfriend was pregnant until September 8, 2016. Thus, Tom cannot
20 possibly argue in good faith that the refills he obtained from the nurse
21 practitioner on August 30, 2016 (or January 26, 2017, for that matter),

1 had anything to do with an attempt to get Tom to sign over deeds or
2 transfer documents or constituted any form of breach of fiduciary duty.

3 At his deposition, Tom falsely asserted that he “signed away
4 everything” to Danka, something he alleged “no one in their right mind”
5 would do. When asked about whether or not he actually signed away
6 “everything” to Danka, he admitted that he did not, he admitted that he
7 kept the multi-million-dollar business, Blue Point Development, and the
8 401K with a balance of over \$200,000. These are just two (2) of the
9 several valuable assets he kept. He also admitted that Danka paid the
10 approximately \$215,000 down payment for the Queen Charlotte
11 property from the sales proceeds of a home she owned before they met.
12 He also admitted that Danka paid the down payment for the purchase of
13 the Lowes property.⁷

14 Then Tom alleged that he “wasn’t in his right mind” because his
15 parents died and his pregnant girlfriend decided to get an abortion. Tom
16 was sixty (60) years old when he signed the Deeds, his father and mother
17 had passed away about a year earlier. While it is understandable that
18 people undergo grief and distress with the loss of their parents, it
19 certainly doesn’t put anyone “out of their right mind,” especially not a
20 sixty (60) year-old man running a multi-million-dollar construction

21 ⁷ See Exhibit W.

1 company, a year later. If that was the case, anyone could weasel their
2 way out of otherwise legitimate and binding contracts for months or
3 years after their parents pass away. The fact that his pregnant girlfriend
4 decided to have an abortion is likewise no excuse - presumably Tom
5 understood the risk of pregnancy when he engaged in sexual acts with
6 his girlfriend. Again, the law does not provide for any exclusion or
7 exception to the enforcement of legitimate binding contracts for "my-
8 girlfriend-decided-to-get-an-abortion" any more than "my-parents-died-
9 a-year-ago" excuse-making.

10 Alas, Tom has now changed his story again. He alleges in his
11 opposition that he was incapable of knowing what he was doing because
12 he was taking medication prescribed by Danka.

13 Danka never left out the fact that she was Tom's doctor. That's how
14 they met, as explained in Danka's first Motion to Dismiss and her recent
15 Motion for Summary Judgment.

16 Tom had been taking those same prescriptions during the duration
17 of the parties' relationship. The majority of his prescriptions were to
18 treat his high blood pressure and he was prescribed pain medication as
19 needed. During his deposition, Tom acknowledged that he was still on
20 medications to treat his heart, cholesterol and gout.

21 ///

1 Given that Tom was taking the same medications for decades, how
2 is it that the medication didn't impact his ability to execute contracts for
3 work, estate planning documents, tax returns, deeds to hold property
4 jointly with Danka, or a deed and mortgage to hold property by himself
5 as a "single, unmarried man," but **only** affected his ability to execute
6 real estate deeds and transfer documents in September 2016? Tom was
7 taking those same medications while he was perfectly capable of
8 negotiating, contracting, managing and performing multi-million-dollar
9 construction projects, and of courting and engaging a new lover while
10 hiding this information from and misleading Danka for two (2) years.
11 Are we to believe that the medication Tom was taking **only** bound itself
12 to the receptors in Tom's brain that control deeds to real property and
13 **only** in September 2016? Perhaps the laws of pharmacology cease to
14 exist in Tom's brain! Were these "magic medications?"⁸

15 / / /

16 / / /

17 / / /

18 ⁸ From Twentieth Century Fox. (1992). *My Cousin Vinny*. Retrieved from
19 <https://www.imdb.com/title/tt0104952>.

20 Are we to believe that boiling water soaks into a grit faster in your
21 kitchen than on any place of the face of the Earth? . . . Well perhaps the
 laws of physics cease to exist on your stove! Were these magic grits? I
 mean, did you buy them from the same guy who sold Jack his
 beanstalk beans?

1 **5. Tom knew exactly what he was doing when he**
2 **signed the Deeds.**

3 Tom voluntarily offered to fly to Las Vegas from Florida, he
4 purchased his own plane ticket, he packed his bags, he went to the
5 airport, he had lots of hours on the plane to think about where he was
6 going and what he was doing. Danka didn't even pick him up from the
7 airport. Tom found alternate transportation, he found a place to stay in
8 Las Vegas, and he found his way to Shannon Evans' office. Attorney
9 Evans explained the potential conflict to both parties and they both
10 signed conflict waivers. Attorney Evans explained the effect of the deeds
11 and transfer documents and answered any questions. Tom knew exactly
12 what he was doing when he chose to execute the deeds and transfer
13 documents. Tom then paid Attorney Evans for her services.

14 At his deposition, however, Tom refused to accept responsibility
15 for any of his own actions. He claimed to be out of his right mind, he
16 claimed that Danka "made" him pay Attorney Evans, he even blamed the
17 undersigned for **his** failure to seek replacement counsel for months after
18 Attorney Lemcke's withdrawal. He blamed the accountant for his tax
19 filings and he blamed Attorney Evans and Danka for his signing of the
20 deeds and transfer documents. In other words, even though he complied
21 with the terms of his agreement for over a year by moving his stuff out,

1 paying rent at the office, etc., now he is claiming that everything was
2 forced upon him and someone else's fault.

3 **6. The parties had a binding and fair deal in 2016 to**
4 **divide their jointly titled assets.**

5 When Danka and Tom began their relationship, Tom brought debt
6 with him. Danka paid off credit card debt to the tune of approximately
7 \$23,000 in Tom's ex-wife's name. Danka purchased Tom a new
8 wardrobe and put \$20,000 down on a new car when his vehicle broke
9 down.

10 Tom was not continuously employed during the parties'
11 relationship. He had two separate years of unemployment early in the
12 relationship. Danka supported him. Danka also transferred \$28,000 to
13 Tom with which to start his own company.

14 Eventually, Tom's business was established and grew to the point
15 that he completed a job for the UFC, which led to another big job. Tom
16 received a \$1 million dollar bonus in addition to his \$50,000 per month
17 revenue. Tom took that business as part of the equitable division agreed
18 to by the parties.

19 Not only did Danka pay towards the house mortgage, she also paid
20 Tom an employee salary of \$2,000 per month from her business during
21 their relationship and she funded Tom's 401k, which had a balance of

1 approximately \$216,000 in September 2016. Tom took the 401k as part
2 of the equitable division agreed to by the parties. Considering that
3 Danka funded the majority of the the real properties and Tom was more
4 than compensated for any contributions he may have made, it was
5 absolutely fair for Tom to sign over title of the three properties in
6 question to Danka upon their separation and Tom knows it. The deal
7 was fair, and the parties abided by it.

8 Tom's assertion that he transferred \$6 Million of assets to Danka is
9 false. There were three properties transferred:

- 10 1. It is undisputed that the Queen Charlotte home was purchased
11 for \$999,000 with a mortgage of \$799,200 and that the down
12 payment originated from Danka's sole and separate "pre-
13 relationship" property. In other words, as far as the Queen
14 Charlotte property is concerned, Tom transferred nothing of
15 **his** to Danka.
- 16 2. It is undisputed that the Lowe property was purchased for
17 \$129,000 with a mortgage of \$103,000. The down payment was
18 paid by Danka. See escrow documents for the Lowe Avenue
19 rental property attached as Exhibit M to Danka's Motion.
- 20 3. The building was purchased for \$1.7 Million with a mortgage of
21 approximately \$1.5 Million. Again, the down payment

1 originated primarily from Danka's earnings.

2 Based on the foregoing undisputed figures, this Court should take issue
3 with Tom's blatantly false representation that he transferred
4 "approximately \$6 Million in assets" to Danka. At best (assuming
5 mortgage paydowns and appreciation), there was \$1 Million of equity
6 transferred to Danka. That's just the amount of the **bonus** Tom received
7 in a **single year** from the multi-million-dollar construction business
8 (initially funded by Danka) that **he** took in the division and that he did
9 not share with Danka.

10 The Court should note that the reasoning behind Tom filing this
11 case is his belief that he is responsible for taxes as the result of the
12 transfer of assets in 2016. However, Robert Semonian has explained to
13 counsel that Tom will not likely be responsible for any taxes.
14 Specifically, in his recent Declaration,⁹ Mr. Semonian states:

15 I had previously discussed this matter with counsel. Under
16 the Internal Revenue Code, the estate threshold in 2016 was
17 \$5,450,000.00 so there would likely not be any tax assessed.
18 Although it could be argued that even though no tax would
19 be assessed, a portion of Tom's lifetime estate exclusion
20 would be used, this would only be true for the amount that
 Tom actually gifted to Danka. In other words, if, as I have
 been informed, Danka had all rights under the law to the
 equity in the properties and Tom merely removed his name
 from title to her properties, then Tom wouldn't even be using
 a portion of his lifetime estate exclusion because no actual

21 ⁹ Please see Exhibit X.

1 gift was transferred to Danka. Therefore, if he simply
2 removed his name from title to property to which Danka had
all legal rights, he would have no gift tax obligation and no
portion of his lifetime estate exclusion would be used.

3
4 Based upon the fact that Danka largely funded the real properties in
5 question, and the transfer was simply to remove Tom's name from title,
6 Tom should not be responsible for any estate taxes resulting from same.
7 Even if the IRS disagreed and wanted to apply taxes toward the
8 transaction, Tom would need to exceed the estate threshold of
9 \$5,450,000 before taxes would be assessed.

10 **7. Danka has disclosed over 2,900 pages of documents**
11 **in this case.**

12 While Tom's counsel makes an issue of Danka's discovery
13 responses, she fails to inform the court that Danka has disclosed over
14 2,900 pages of documents in this case. Specifically, Danka has
15 subpoenaed and disclosed escrow files, years' worth of tax returns and
16 tax related documents, and the parties' estate planning and related
17 documents. Because such extensive records were already disclosed,
18 Danka was able to reference the prior disclosures in her discovery
19 responses.

20 Further, if Tom's argument that the parties had "pooled their
21 assets" was true, he should have access to all joint accounts, all joint

1 assets, and all joint debts. The fact that he claims there are bank
2 statements or documents to which he does not have access defies his
3 argument of asset pooling.

4 **OPPOSITION TO COUNTERCLAIM FOR SUMMARY**
5 **JUDGMENT OR DISMISSAL**

6 Tom's counterclaim relies on the presumption that Danka has not
7 alleged or cannot prove that Tom made false representations and that
8 Tom knew or believed that the representations were false. Given the
9 number, magnitude, and extent of material false representations by Tom
10 that have been evidenced in Danka's motion and in this reply, Tom
11 cannot possibly prevail on his frivolous countermotion for summary
12 judgment. In the interest of judicial economy, these issues will not be
13 briefed further unless specifically directed by this Court.

14 **CONCLUSION**

15 There is no genuine issue of material fact. The parties were never
16 married, they acknowledged year, after year, after year, that they were
17 not married. The parties did not pool their assets. When they
18 permanently terminated their relationship, they agreed to an equitable
19 division of their jointly titled assets and voluntarily and knowingly
20 followed through with the division. Tom paid rent to Danka and ratified
21 every aspect of their agreement for over a year before he frivolously filed

1 for "divorce." He has set forth no set of fact that are sufficient to set aside
2 the deeds and transfer documents or to find that the parties were
3 pooling assets.

4 Based on the aforementioned facts, law and analysis, the Court
5 should grant the relief requested in Defendant's Motion in its entirety
6 and Tom's Complaint should be dismissed with prejudice.

7 DATED Friday, September 06, 2019.

8 Respectfully Submitted,

9 THE ABRAMS & MAYO LAW FIRM

10 /s/ Jennifer V. Abrams, Esq.

Jennifer V. Abrams, Esq.

11 Nevada State Bar Number: 7575

12 6252 South Rainbow Blvd., Suite 100

Las Vegas, Nevada 89118

13 Attorney for Defendant
14
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1 **CERTIFICATE OF SERVICE**

2 I hereby certify that the foregoing *Reply to Opposition to*
3 *Defendant's Motion for Summary Judgment, To Dismiss, For*
4 *Protective Order And for Attorney Fees and Opposition to*
5 *Countermotion (1) To Dismiss or, in the Alternative, For Summary*
6 *Judgment as to Defendant's Causes of Action for Intentional*
7 *Misrepresentation/Fraud; Negligent Misrepresentation; Breach of*
8 *Implied Covenant of Good Faith and Fair Dealing; Promissory*
9 *Estoppel; Express Agreement; Implied Agreement; And Malicious*
10 *Abuse of Process; (2) For Summary Judgment Setting Aside Deeds of*
11 *Real Property and Assignment of LLC Interest; And (3) For Permission*
12 *to Submit Points and Authorities in Excess of 30 Pages Pursuant to*
13 *EDCR 5.503(e)* was filed electronically with the Eighth Judicial District
14 Court in the above-entitled matter, on Friday, September 06, 2019.
15 Electronic service of the foregoing document shall be made in
16 accordance with the Master Service List, pursuant to NEFCR 9, as
17 follows:

18 Michele T. LoBello, Esq.
19 Attorney for Plaintiff

20 /s/ Stephanie Stolz
An Employee of The Abrams & Mayo Law Firm

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Divorce - Complaint**COURT MINUTES**

September 10, 2019

D-17-560737-D Thomas A. Pickens, Plaintiff
vs.
Danka K. Michaels, Defendant.

September 10, 2019 2:45 PM Minute Order

HEARD BY: Hughes, Rena G.**COURTROOM:** Courtroom 04**COURT CLERK:** Tiffany Skaggs**PARTIES:**

Danka Michaels, Defendant, Counter Claimant, not present Jennifer Abrams, Attorney, not present
Thomas Pickens, Plaintiff, Counter Defendant, not present Michele Lobello, Attorney, not present

JOURNAL ENTRIES

- Minute Order
D-17-560737-D
Pickens v Pickens

NRCP 1 and EDCR 1.10 state that the procedure in district courts shall be administered to secure efficient, speedy, and inexpensive determinations in every action. Pursuant to EDCR 2.23(c) and 5.501(b), this Court can consider a motion and issue a decision on the papers at any time without a hearing. Further, pursuant to EDCR 2.20(c), this Court can grant the requested relief if there is no opposition timely filed.

On 8/1/19 Defendant filed a Motion for Summary Judgment, to Dismiss, for Protective Order and for Attorney s Fees. On August 19, 2019 Plaintiff filed an Opposition and Countermotion (1) to Dismiss or, in the Alternative, for Summary Judgment as to W s Causes of Action for Intentional

PRINT DATE:	09/10/2019	Page 1 of 2	Minutes Date:	September 10, 2019
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Notice: Journal entries are prepared by the courtroom clerk and are not the official record of the Court.

AA00880

Misrepresentation/Fraud; Negligent Misrepresentation; Breach of Implied Covenant of Good Faith and Fair Dealing; Promissory Estoppel; Express Agreement; Implied Agreement; and Malicious Abuse of Process; (2) for Summary Judgment Setting Aside Deeds of Real Property and Assignment of LLC Interest; and (3) for Permission to Submit Points and Authorities In Excess of 30 Pages Pursuant to EDCR 5.503(e). On September 6, 2019 Defendant filed a Reply to Opposition and an Opposition to Plaintiff s Countermotion.

This Court has read and considered the current underlying pleadings in this matter. Prior to the case being reassigned to Department J, Judge Marquis ruled on the issues raised in the parties motions/countermotions (although brought under NRCP 59) (See Order entered March 12, 2018) Judge Marquis ruled that genuine issues of material fact exist to preclude summary judgment on the issue of the validity of the marriage and on the community or separate nature of the properties and assets. This Court will not reconsider or reverse Judge Marquis decision. The September 11, 2019 hearing on Defendant s Motion and Plaintiff s Opposition and Countermotion is off calendar.

The matter is set for trial on February 14 and 21, 2020. If the parties anticipate needing additional time, they shall submit a Stipulation and Order to the Court as soon as possible, detailing how much time will be required for trial.

Clerk's note, a copy, of today's minute order was mailed, to the parties, at the addresses, on file.

FUTURE HEARINGS:

February 14, 2020 9:00 AM Non-Jury Trial
Courtroom 04
Hughes, Rena G.
Skaggs, Tiffany

February 21, 2020 9:00 AM Non-Jury Trial
Courtroom 04
Hughes, Rena G.
Skaggs, Tiffany

PRINT DATE:	09/10/2019	Page 2 of 2	Minutes Date:	September 10, 2019
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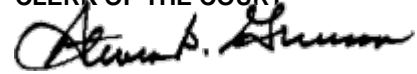
Notice: Journal entries are prepared by the courtroom clerk and are not the official record of the Court.

AA00881

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

DECLARATION OF SERVICE

Electronically Filed
11/1/2019 10:37 AM
Steven D. Grierson
CLERK OF THE COURT



THOMAS A. PICKENS

Case No :D-17-560737

Plaintiff/Petitioner,

vs.

DANKA K. MICHAELS

Defendant/Respondent,

STATE OF NEVADA
COUNTY OF CLARK ss.:

SUBPOENA DUCES TECUM, NOTICE OF TAKING DEPOSITION OF CUSTODIAN OF RECORDS FOR SUMMIT MEDICAL GROUP Received by NOW! Services, Inc. on 10/07/2019 with instructions to serve **SUMMIT MEDICAL GROUP, LLC, Custodian of Records c/o Shivesh Kumar at 11035 Lavender Hill Drive, Ste. 160-435, Las Vegas, NV89135.**

I, **Mike Nettles**, being duly sworn says: That at all times herein affiant was and is a citizen of the United States, over 18 years of age, not a party to or interested in the proceeding in which this affidavit is made.

I am authorized to serve this process in the circuit/county it was served in.

On 10/08/2019 at 3:45 PM, I served the within **SUBPOENA DUCES TECUM, NOTICE OF TAKING DEPOSITION OF CUSTODIAN OF RECORDS FOR SUMMIT MEDICAL GROUP** on **SUMMIT MEDICAL GROUP, LLC, Custodian of Records c/o Shivesh Kumar at 11035 Lavender Hill Drive, Ste. 160-435, Las Vegas, NV89135** in the manner indicated below:

SUITABLE AGE: By delivering thereat a true copy of each to **Hanna, Authorized Employee** authorized to accept service on behalf of **SUMMIT MEDICAL GROUP, LLC, Custodian of Records c/o Shivesh Kumar**, a person of suitable age and discretion. Said premises is **SUMMIT MEDICAL GROUP, LLC, Custodian of Records c/o Shivesh Kumar's** usual place of business within the state.

A description of the Recipient, or other person served on behalf of the Recipient is as follows:

Sex	Color of skin/race	Color of hair	Age	Height	Weight
Female	Asian	Black	30's	5'05	130
Other Features:					

I declare under penalty of perjury under the laws of the State of Nevada that the foregoing is true and correct.

Executed this 9 of October, 2019.

No Notary is required per NRS 53.045.

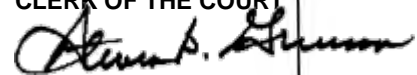


32283

X Mike Nettles

Mike Nettles
License#: 1361
NOW! Services, Inc.
3210 W. Charleston Blvd., Ste. 3
Las Vegas, NV89102
(702) 669-7378
Atty File#:

AA00882



1 **NTTD**

Jennifer V. Abrams, Esq.

2 Nevada State Bar Number: 7575

THE ABRAMS & MAYO LAW FIRM

3 6252 South Rainbow Blvd., Suite 100

Las Vegas, Nevada 89118

4 Tel: (702) 222-4021

Fax: (702) 248-9750

5 Email: JVAGroup@TheAbramsLawFirm.com

Attorney for Defendant

Eighth Judicial District Court

Family Division

Clark County, Nevada

8 THOMAS A. PICKENS, individually,) Case No.: D-17-560737-D
and as trustee of the LV Blue Trust,)

9 Plaintiff,)

10 vs.)

11 DANKA K. MICHAELS,)
12 individually, and as trustee of the)
Mich-Mich Trust,)

13 Defendant.)

14 **NOTICE OF TAKING CUSTODIAN OF RECORDS DEPOSITION**
15 **AND**
16 **SEVEN DAY NOTICE OF INTENT TO SERVE SUBPOENA**
DUCES TECUM

17 TO: THOMAS A. PICKENS, Plaintiff;

18 TO: MICHELE T. LOBELLO, ESQ., 10777 West Twain Avenue, Suite
19 300, Las Vegas, Nevada 89135, Attorney for Plaintiff;

20 PLEASE TAKE NOTICE that Defendant, Danka K. Michaels,

21 pursuant to NRCP 45(a)(4)(A) hereby states her intent to serve a

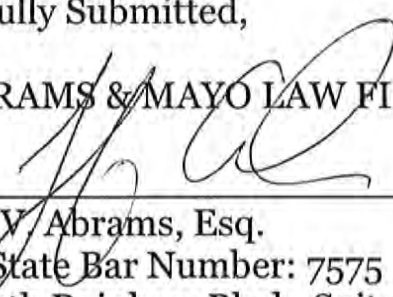
1 Subpoena Duces Tecum on the entities listed herein.

2 PLEASE TAKE NOTICE that at 8:00 a.m. on January 6, 2020, at
3 the office of THE ABRAMS & MAYO LAW FIRM, 6252 South Rainbow
4 Blvd., Suite 100, Las Vegas, Nevada 89118, the Defendant in the above-
5 entitled action will take the deposition of CUSTODIAN OF RECORDS
6 FOR WELLS FARGO BANK, NATIONAL ASSOCIATION upon oral
7 examination, pursuant to Rule 26 of the Nevada Rules of Civil
8 Procedure, before a Notary Public, or before some other officer
9 authorized by law to administer oaths. Oral examination will continue
10 from day to day until completed.

11 DATED Monday, December 09, 2019.

12 Respectfully Submitted,

13 THE ABRAMS & MAYO LAW FIRM

14 
15 _____
16 Jennifer V. Abrams, Esq.
17 Nevada State Bar Number: 7575
18 6252 South Rainbow Blvd., Suite 100
19 Las Vegas, Nevada 89118
20 Attorney for Defendant
21

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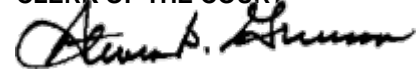
Michele T. LoBello, Esq.
Attorney for Plaintiff

Chad

An Employee of The Abrams & Mayo Law Firm

**DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA
DECLARATION OF SERVICE**

Electronically Filed
12/20/2019 1:48 PM
Steven D. Grierson
CLERK OF THE COURT


THOMAS A. PICKENS

Case No :D-17-560737

Plaintiff/Petitioner,

vs.

DANKA K. MICHAELS

Defendant/Respondent,

STATE OF NEVADA
COUNTY OF CLARK

ss.:

SUBPOENA DUCES TECUM; NOTICE OF TAKING CUSTODIAN OF RECORDS DEPOSITION AND SEVEN DAY NOTICE OF INTENT TO SERVE SUBPOENA DUCES TECUM Received by NOW! Services, Inc. on 12/17/2019 with instructions to serve **WELLS FARGO BANK, NATIONAL ASSOCIATION** at **4016 S. Rainbow Blvd., Las Vegas, NV89103.**

I, **Mike Nettles**, being duly sworn says: That at all times herein affiant was and is a citizen of the United States, over 18 years of age, not a party to or interested in the proceeding in which this affidavit is made.

I am authorized to serve this process in the circuit/county it was served in.

On 12/18/2019 at 3:55 PM, I served the within **SUBPOENA DUCES TECUM; NOTICE OF TAKING CUSTODIAN OF RECORDS DEPOSITION AND SEVEN DAY NOTICE OF INTENT TO SERVE SUBPOENA DUCES TECUM** on **WELLS FARGO BANK, NATIONAL ASSOCIATION** at **4016 S. Rainbow Blvd., Las Vegas, NV89103** in the manner indicated below:

SUITABLE AGE: By delivering thereat a true copy of each to **Marisol Perales, Authorized Employee** authorized to accept service on behalf of **WELLS FARGO BANK, NATIONAL ASSOCIATION**, a person of suitable age and discretion. Said premises is **WELLS FARGO BANK, NATIONAL ASSOCIATION's** usual place of business within the state.

A description of the Recipient, or other person served on behalf of the Recipient is as follows:

Sex	Color of skin/race	Color of hair	Age	Height	Weight
Female	Caucasian	Brown	40's	5'07	170
Other Features:					

I declare under penalty of perjury under the laws of the State of Nevada that the foregoing is true and correct.

Executed this 19 of December, 2019.

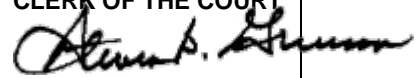
No Notary is required per NRS 53.045.

X Mike Nettles
Mike Nettles
License#: 1361
NOW! Services, Inc.
3210 W. Charleston Blvd., Ste. 3
Las Vegas, NV89102
(702) 669-7378
Atty File#:



33865

AA00886



WTLT

Jennifer V. Abrams, Esq.
Nevada State Bar Number: 7575
THE ABRAMS & MAYO LAW FIRM
6252 South Rainbow Blvd., Suite 100
Las Vegas, Nevada 89118
Tel: (702) 222-4021
Fax: (702) 248-9750
Email: JVAGroup@TheAbramsLawFirm.com
Attorney for Defendant

Eighth Judicial District Court
Family Division
Clark County, Nevada

THOMAS A. PICKENS, individually,) Case No.: D-17-560737-D
and as trustee of the LV Blue Trust,)

Plaintiff,

vs.

DANKA K. MICHAELS,
individually, and as trustee of the
Mich-Mich Trust,

Defendant.

Department: J

DEFENDANT'S SECOND SUPPLEMENTAL WITNESS LIST

(NON-EXPERT)

TO: THOMAS A. PICKENS, Plaintiff;

TO: MICHELE T. LOBELLO, ESQ., 10777 West Twain Avenue, Suite
300, Las Vegas, Nevada 89135, Attorney for Plaintiff;

COMES NOW the Defendant, Danka K. Michaels, by and
through her attorney of record, Jennifer V. Abrams, Esq., of The

1 Abrams & Mayo Law Firm, and hereby submits her Second
2 Supplemental Witness List.

- 3 1. Danka K. Michaels, Defendant
4 c/o Jennifer V. Abrams, Esq.
5 The Abrams & Mayo Law Firm
6 6252 South Rainbow Blvd., Suite 100
7 Las Vegas, Nevada 89118

8 Ms. Michaels will testify regarding the facts and
9 circumstances of the relationship.

- 10 2. Thomas A. Pickens, Plaintiff
11 c/o Michele T. Lobello, Esq.
12 Black & Lobello
13 10777 West Twain Avenue, Suite 300
14 Las Vegas, Nevada 89135

15 Mr. Pickens will testify regarding the facts and
16 circumstances of the relationship.

- 17 3. Robert Semonian
18 The Semonian Group, Inc.
19 3230 S. Valley View Blvd., Suite 110
20 Las Vegas, Nevada 89102
21 Tel: (805) 659-5344

Mr. Semonian will testify regarding the facts and
circumstances of the parties' tax returns.

4. Shannon Evans, Esq.
Evans & Associates
2400 S. Cimarron Road, Suite 140
Las Vegas, Nevada 89117
Tel: (702) 699-7333

Ms. Evans will testify as to the facts and circumstances of
the parties' estate planning/trust documents.

///

- 1 5. Todd Kilde
2 1621 Country Road
 Fergus, Minnesota 56537
- 3 Mr. Kilde will testify as to his knowledge of parties'
4 relationship, Plaintiff's financial schemes and his affair.
- 5 6. Sarah Nicora
6 153 Santiago Ave.
 Redwood City, California 94061
- 7 Ms. Nicora will testify as to her knowledge of the parties'
8 relationship, her time as Plaintiff's assistant and the secrets
 Plaintiff made her keep during her employment.
- 9 7. Art Zargaryan
10 6426 Cameron Park Street
 Las Vegas, Nevada 89166
- 11 Mr. Zargaryan will testify as to his knowledge of the parties'
12 relationship and Plaintiff's arrest in Florida.
- 13 8. Rich Wolf
14 4575 Dean Martian Drive, #2307
 Las Vegas, Nevada 89103
- 15 Mr. Wolf will testify as to his knowledge of the parties'
16 relationship and Plaintiff's arrest in Florida.
- 17 9. Sheila Mazzeo
18 11640 N. 27th Street, #C307
 Phoenix, Arizona 85028
- 19 Ms. Mazzeo will testify as to her knowledge of the parties'
20 relationship.
- 21 10. Tamela Kahle
 9549 Verde Park Circle
 Las Vegas, Nevada 89129

21 / / /

Ms. Kahle will testify as to her knowledge of the parties' relationship.

11. Scott Hatcher
9549 Verde Park Circle
Las Vegas, Nevada 89129

Mr. Hatcher will testify as to his knowledge of the parties' relationship.

12. Jennifer Quinn
1633 Plata Pico Drive
Las Vegas, Nevada 89128

Ms. Quinn will testify as to her knowledge of the parties' relationship.

13. Shannon Newman
7608 Lowe Ave.
Las Vegas, Nevada 89131

Ms. Newman will testify as to her knowledge of the parties' relationship.

14. Dara Lesmeister
8985 Catfish Stream Ave.
Las Vegas, Nevada 89178

Ms. Lesmeister will testify as to her knowledge of the parties' relationship.

15. **Roberto C. Carillo, F.N.P.**
3320 N. Buffalo Drive, Suite 106
Las Vegas, Nevada 89129

Mr. Carillo is a nurse practitioner that provided treatment to Mr. Pickens and will testify regarding same.

16. Any and all witnesses relied upon by the Plaintiff, which are properly disclosed.

1 17. Any and all rebuttal witnesses as necessary.

2 Defendant reserves the right to supplement this list as additional
3 information and witnesses become available.

4 DATED: Friday, December 27, 2019.

5

Respectfully Submitted,

6

THE ABRAMS & MAYO LAW FIRM

7

/s/ Jennifer V. Abrams, Esq.

8

Jennifer V. Abrams, Esq.

9

Nevada State Bar Number: 7575

10

6252 South Rainbow Blvd., Suite 100

11

Las Vegas, Nevada 89118

12

Attorney for Defendant

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14

CERTIFICATE OF SERVICE

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I hereby certify that the foregoing DEFENDANT'S SECOND
SUPPLEMENTAL WITNESS LIST (NON-EXPERT) was filed
electronically with the Eighth Judicial District Court in the above-
entitled matter on Friday, December 27, 2019. Electronic service of the
foregoing document shall be made in accordance with the Master
Service List, pursuant to NEFCR 9, as follows:

18

Michele T. LoBello, Esq.

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Attorney for Plaintiff

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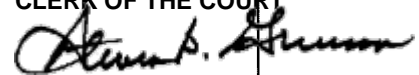
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/s/ Chantel Wade

An Employee of The Abrams & Mayo Law Firm



SUB
Jennifer V. Abrams, Esq.
Nevada State Bar Number: 7575
THE ABRAMS & MAYO LAW FIRM
6252 South Rainbow Blvd., Suite 100
Las Vegas, Nevada 89118
Tel: (702) 222-4021
Fax: (702) 248-9750
Email: JVAGroup@theabramslawfirm.com
Attorney for Defendant

Eighth Judicial District Court
Family Division
Clark County, Nevada

THOMAS A. PICKENS,)	Case No.: D-17-560737-D
individually, and as trustee of the)	
LV Blue Trust,)	Department: J
)	
Plaintiff,)	Date of Trial: 2/21/2020
)	(Day 2 of Trial)
vs.)	
)	Time of Trial: 9:00 a.m.
DANKA K. MICHAELS,)	
individually, and as trustee of the)	
Mich-Mich Trust,)	
)	
Defendant.)	

TRIAL SUBPOENA

THE STATE OF NEVADA SENDS GREETINGS TO:

Robert Semonian
8861 W. Sahara Avenue, Suite 220
Las Vegas, Nevada 89117

YOU ARE HEREBY COMMANDED, that all and singular,
business and excuses being set aside, you appear at Family Court for your

1 testimony on the 21st day of February, 2020, at the hour of 11:00 a.m., at
2 601 North Pecos Road, Las Vegas, Nevada 89101, Department J,
3 Courtroom 4.

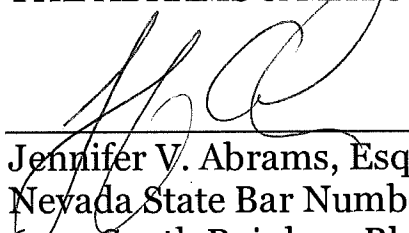
4 If you fail to attend, you will be deemed guilty of contempt of Court
5 and liable to pay all losses and damages caused by your failure to appear
6 and in addition forfeit one hundred dollars (\$100.00). You are under
7 subpoena to appear until you are released by the Court. Please see Exhibit
8 A attached hereto for information regarding the rights of the person
9 subject to this Subpoena.

10 Pursuant to N.R.C.P 45(a)(3), this Subpoena is being issued by
11 Jennifer V. Abrams, Esq., attorney at law, authorized to practice law in
12 the State of Nevada, as an officer of the Court and on behalf of the Court.

13 DATED Tuesday, January 28, 2020.

14 Respectfully Submitted,

15 THE ABRAMS & MAYO LAW FIRM

16
17 
18 Jennifer V. Abrams, Esq.
19 Nevada State Bar Number: 7575
20 6252 South Rainbow Blvd., Suite 100
21 Las Vegas, Nevada 89118
Attorney for Defendant

1 **EXHIBIT A**

2 **NEVADA RULES OF CIVIL PROCEDURE**

3 **Rule 45 (c) Protection of Persons Subject to Subpoena.**

4 (1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney
5 responsible for issuing and serving a subpoena must take reasonable steps
6 to avoid imposing undue burden or expense on a person subject to the
7 subpoena. The court that issued the subpoena must enforce this duty and
8 may impose an appropriate sanction — which may include lost earnings
9 and reasonable attorney fees — on a party or attorney who fails to comply.

10 (2) Command to Produce Materials or Permit Inspection.

11 (A) Appearance Not Required.

12 (i) A person commanded to produce documents,
13 electronically stored information, or tangible things, or to permit
14 the inspection of premises, need not appear in person at the place
15 of production or inspection unless also commanded to appear for a
16 deposition, hearing, or trial.

17 (ii) If documents, electronically stored information, or
18 tangible things are produced to the party that issued the subpoena
19 without an appearance at the place of production, that party must,
20 unless otherwise stipulated by the parties or ordered by the court,
21 promptly copy or electronically reproduce the documents or
information, photograph any tangible items not subject to copying,
and serve these items on every other party. The party that issued the
subpoena may also serve a statement of the reasonable cost of
copying, reproducing, or photographing, which a party receiving the
copies, reproductions, or photographs must promptly pay. If a party
disputes the cost, then the court, on motion, must determine the
reasonable cost of copying the documents or information, or
photographing the tangible items.

(B) Objections. A person commanded to produce documents,
electronically stored information, or tangible things, or to permit
the inspection of premises, or a person claiming a proprietary
interest in the subpoenaed documents, information, tangible
things, or premises to be inspected, may serve on the party or
attorney designated in the subpoena a written objection to

1 inspecting, copying, testing, or sampling any or all of the materials
2 or to inspecting the premises — or to producing electronically stored
3 information in the form or forms requested. The person making the
objection must serve it before the earlier of the time specified for
compliance or 14 days after the subpoena is served. If an objection
is made:

4 (i) the party serving the subpoena is not entitled to inspect,
5 copy, test, or sample the materials or tangible things or to inspect
the premises except by order of the court that issued the subpoena;

6 (ii) on notice to the parties, the objecting person, and the
7 person commanded to produce or permit inspection, the party
serving the subpoena may move the court that issued the subpoena
for an order compelling production or inspection; and

8 (iii) if the court enters an order compelling production or
9 inspection, the order must protect the person commanded to
produce or permit inspection from significant expense resulting
from compliance.

10 (3) Quashing or Modifying a Subpoena.

11 (A) When Required. On timely motion, the court that issued a
subpoena must quash or modify the subpoena if it:

12 (i) fails to allow reasonable time for compliance;

13 (ii) requires a person to travel to a place more than 100 miles
from the place where that person resides, is employed, or regularly
transacts business in person, unless the person is commanded to
14 attend trial within Nevada;

15 (iii) requires disclosure of privileged or other protected
matter and no exception or waiver applies; or

16 (iv) subjects a person to an undue burden.

17 (B) When Permitted. On timely motion, the court that issued a
subpoena may quash or modify the subpoena if it requires
disclosing:

18 (i) a trade secret or other confidential research, development,
or commercial information; or

19 (ii) an unretained expert's opinion or information that does
20 not describe specific occurrences in dispute and results from the
expert's study that was not requested by a party.

1 (C) Specifying Conditions as an Alternative. In the circumstances
2 described in Rule 45(c)(3)(B), the court may, instead of quashing or
modifying a subpoena, order an appearance or production under
specified conditions if the party serving the subpoena:

3 (i) shows a substantial need for the testimony or material that
cannot be otherwise met without undue hardship; and

4 (ii) ensures that the subpoenaed person will be reasonably
compensated.

5 **(d) Duties in Responding to Subpoena.**

6 (1) Producing Documents or Electronically Stored Information. These
7 procedures apply to producing documents or electronically stored
information:

8 (A) Documents. A person responding to a subpoena to produce
9 documents must produce them as they are kept in the ordinary
course of business or must organize and label them to correspond
10 to the categories in the demand.

11 (B) Form for Producing Electronically Stored Information Not
Specified. If a subpoena does not specify a form for producing
12 electronically stored information, the person responding must
produce it in a form or forms in which it is ordinarily maintained or
13 in a reasonably usable form or forms.

14 (C) Electronically Stored Information Produced in Only One Form.
The person responding need not produce the same electronically
15 stored information in more than one form.

16 (D) Inaccessible Electronically Stored Information. The person
responding need not provide discovery of electronically stored
17 information from sources that the person identifies as not
reasonably accessible because of undue burden or cost. On motion
18 to compel discovery or for a protective order, the person responding
must show that the information is not reasonably accessible because
19 of undue burden or cost. If that showing is made, the court may
nonetheless order discovery from such sources if the requesting
20 party shows good cause, considering the limitations of Rule
26(b)(2)(C). The court may specify conditions for the discovery.

1 (2) Claiming Privilege or Protection.

2 (A) Information Withheld. A person withholding subpoenaed
3 information under a claim that it is privileged or subject to
protection as trial-preparation material must:

4 (i) expressly make the claim; and

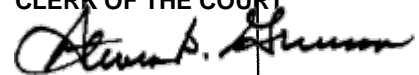
5 (ii) describe the nature of the withheld documents,
6 communications, or tangible things in a manner that, without
7 revealing information itself privileged or protected, will
8 enable the parties to assess the claim.

9 (B) Information Produced. If information produced in response
10 to a subpoena is subject to a claim of privilege or of protection as
11 trial-preparation material, the person making the claim may notify
12 any party that received the information of the claim and the basis
13 for it. After being notified, a party must promptly return, sequester,
14 or destroy the specified information and any copies it has; must not
15 use or disclose the information until the claim is resolved; must take
16 reasonable steps to retrieve the information if the party disclosed it
17 before being notified; and may promptly present the information
18 under seal to the court for a determination of the claim. The person
19 who produced the information must preserve the information until
20 the claim is resolved.
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Michele T. LoBello, Esq.
Attorney for Plaintiff

/s/ Chantel Wade
An Employee of The Abrams & Mayo Law Firm



SUB
Jennifer V. Abrams, Esq.
Nevada State Bar Number: 7575
THE ABRAMS & MAYO LAW FIRM
6252 South Rainbow Blvd., Suite 100
Las Vegas, Nevada 89118
Tel: (702) 222-4021
Fax: (702) 248-9750
Email: JVAGroup@theabramslawfirm.com
Attorney for Defendant

Eighth Judicial District Court
Family Division
Clark County, Nevada

THOMAS A. PICKENS,)	Case No.: D-17-560737-D
individually, and as trustee of the)	
LV Blue Trust,)	Department: J
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Plaintiff,)	Date of Trial: 2/21/2020
)	(Day 2 of Trial)
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)	Time of Trial: 9:00 a.m.
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Mich-Mich Trust,)	
)	
Defendant.)	

TRIAL SUBPOENA

THE STATE OF NEVADA SENDS GREETINGS TO:

Shannon L. Evans, Esq.
2400 S. Cimarron Road, Suite 140
Las Vegas, Nevada 89117

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business and excuses being set aside, you appear at Family Court for your

1 testimony on the 21st day of February, 2020, at the hour of 9:00 a.m., at
2 601 North Pecos Road, Las Vegas, Nevada 89101, Department J,
3 Courtroom 4.

4 If you fail to attend, you will be deemed guilty of contempt of Court
5 and liable to pay all losses and damages caused by your failure to appear
6 and in addition forfeit one hundred dollars (\$100.00). You are under
7 subpoena to appear until you are released by the Court. Please see Exhibit
8 A attached hereto for information regarding the rights of the person
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10 Pursuant to N.R.C.P 45(a)(3), this Subpoena is being issued by
11 Jennifer V. Abrams, Esq., attorney at law, authorized to practice law in
12 the State of Nevada, as an officer of the Court and on behalf of the Court.

13 DATED Tuesday, January 28, 2020.

14 Respectfully Submitted,

15 THE ABRAMS & MAYO LAW FIRM

16 
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18 Jennifer V. Abrams, Esq.
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20 6252 South Rainbow Blvd., Suite 100
21 Las Vegas, Nevada 89118
Attorney for Defendant

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7 subpoena. The court that issued the subpoena must enforce this duty and
8 may impose an appropriate sanction — which may include lost earnings
9 and reasonable attorney fees — on a party or attorney who fails to comply.

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13 electronically stored information, or tangible things, or to permit
14 the inspection of premises, need not appear in person at the place
15 of production or inspection unless also commanded to appear for a
16 deposition, hearing, or trial.

17 (ii) If documents, electronically stored information, or
18 tangible things are produced to the party that issued the subpoena
19 without an appearance at the place of production, that party must,
20 unless otherwise stipulated by the parties or ordered by the court,
21 promptly copy or electronically reproduce the documents or
information, photograph any tangible items not subject to copying,
and serve these items on every other party. The party that issued the
subpoena may also serve a statement of the reasonable cost of
copying, reproducing, or photographing, which a party receiving the
copies, reproductions, or photographs must promptly pay. If a party
disputes the cost, then the court, on motion, must determine the
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the inspection of premises, or a person claiming a proprietary
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attorney designated in the subpoena a written objection to

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serving the subpoena may move the court that issued the subpoena
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13 (ii) requires a person to travel to a place more than 100 miles
from the place where that person resides, is employed, or regularly
transacts business in person, unless the person is commanded to
14 attend trial within Nevada;

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matter and no exception or waiver applies; or

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20 party shows good cause, considering the limitations of Rule
26(b)(2)(C). The court may specify conditions for the discovery.

21

1 (2) Claiming Privilege or Protection.

2 (A) Information Withheld. A person withholding subpoenaed
3 information under a claim that it is privileged or subject to
protection as trial-preparation material must:

4 (i) expressly make the claim; and

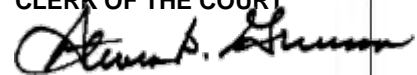
5 (ii) describe the nature of the withheld documents,
communications, or tangible things in a manner that, without
6 revealing information itself privileged or protected, will
enable the parties to assess the claim.

7 (B) Information Produced. If information produced in response
to a subpoena is subject to a claim of privilege or of protection as
8 trial-preparation material, the person making the claim may notify
any party that received the information of the claim and the basis
for it. After being notified, a party must promptly return, sequester,
9 or destroy the specified information and any copies it has; must not
use or disclose the information until the claim is resolved; must take
10 reasonable steps to retrieve the information if the party disclosed it
before being notified; and may promptly present the information
11 under seal to the court for a determination of the claim. The person
who produced the information must preserve the information until
the claim is resolved.

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Michele T. LoBello, Esq.
Attorney for Plaintiff

/s/ Chantel Wade
An Employee of The Abrams & Mayo Law Firm



1 **SUBP**

2 **BLACK & LOBELLO**
3 Michele Touby LoBello, Esq.
4 Nevada Bar No. 5527
5 10777 West Twain Avenue, Suite 300
6 Las Vegas, Nevada 89135
7 Telephone No.: 702-869-8801
8 Facsimile No.: 702-869-2669
9 Email: mlobello@blacklobello.law
10 Attorneys for Plaintiff,
11 **THOMAS A. PICKENS**

12 **DISTRICT COURT**
13 **FAMILY DIVISION**
14 **CLARK COUNTY, NEVADA**

15 **THOMAS A. PICKENS,**
16
17 Plaintiff

CASE NO.: D-17-560737-D
DEPT. J

18 vs.

TRIAL SUBPOENA

19 **DANKA K. MICHAELS,**
20
21 Defendant

Date of Trial: February 14, 2020

TRIAL SUBPOENA

22 **The State of Nevada Sends Greetings to:**

23 **SHANNON L. EVANS**
24 Evans & Associates
25 2400 South Cimarron Road, Suite 140
26 Las Vegas, Nevada 89117

27 **YOU ARE HEREBY COMMANDED**, all and singular, business and
28 excuses set aside, to appear and attend on the 14th day of February, 2020, at the
hour of 10:30 a.m., in Department J of the Eighth Judicial District Court, Family
Division, of Clark County, Nevada. This Trial Subpoena shall remain in full force
and effect if the trial is continued to a later date. The address where you are
required to appear is the Family Courts & Services Center, 601 North Pecos Road,
Las Vegas, Nevada, Department G.

1 If you fail to attend, you will be deemed guilty of contempt of Court and
2 liable to pay all losses and damages caused by your failure to appear and in
3 addition forfeit One Hundred Dollars (\$100.00).

4 Pursuant to N.R.C.P. 45(a)(3), this Subpoena is being issued by Michele
5 Touby LoBello, attorney at law, authorized to practice law in the State of Nevada,
6 as an officer of the Court and on behalf of the Court.

7 Date this 25TH day of January, 2020.

8 Issuing Officer of the Court:

9 **BLACK & LOBELLO**

10
11 

12 Michele Touby LoBello

13 Nevada Bar No. 5527

14 10777 West Twain Avenue, Suite 300

15 Las Vegas, Nevada 89135

16 (702) 869-8801

17 Attorneys for Plaintiff,

18 THOMAS A. PICKENS
19
20
21
22
23
24
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27
28

EXHIBIT "A"
NEVADA RULES OF CIVIL PROCEDURE

Rule 45

(c) Protection of Persons Subject to Subpoena.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

(i) fails to allow reasonable time for compliance;

(ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or

(iv) subjects a person to undue burden.

(B) If a subpoena

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party.

the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) Duties in Responding to Subpoena.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

AFFIDAVIT OF SERVICE

STATE OF NEVADA)
) ss:
COUNTY OF Clark)

_____, being duly sworn says:

That at all times herein affiant was and is a citizen of the United States, over 18 years of age, not a party to or interested in the proceeding in which this affidavit is made. That affiant received ____ copy(ies) of the Trial Subpoena to SHANNON EVANS, on the ____ day of January, 2020 and served the same on the ____ day of _____, 2020 by delivering a copy to _____ at (state address) _____.

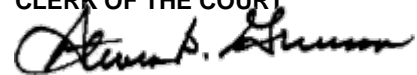
Signature of person making service

SUBSCRIBED AND SWORN to before me
this ____ day of _____, 2020.

NOTARY PUBLIC in and for said
County and State

DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA
DECLARATION OF SERVICE

Electronically Filed
2/4/2020 2:47 PM
Steven D. Grierson
CLERK OF THE COURT



THOMAS A. PICKENS

Case No :D-17-560737

Plaintiff/Petitioner,

vs.

DANKA K. MICHAELS

Defendant/Respondent,

STATE OF NEVADA
COUNTY OF CLARK ss.:

TRIAL SUBPOENA; \$25.00 CHECK Received by NOW! Services, Inc. on 01/30/2020 with instructions to serve SHANNON L. EVANS at 2400 S. Cimarron Rd. Suite 140, Las Vegas, NV89117.

I, **Mike Nettles**, being duly sworn says: That at all times herein affiant was and is a citizen of the United States, over 18 years of age, not a party to or interested in the proceeding in which this affidavit is made.

I am authorized to serve this process in the circuit/county it was served in.

On 02/03/2020 at 4:31 PM, I served the within **TRIAL SUBPOENA; \$25.00 CHECK** on SHANNON L. EVANS at 2400 S. Cimarron Rd. Suite 140, Las Vegas, NV89117 in the manner indicated below:

SUITABLE AGE: By delivering thereat a true copy of each to **Kanois L. Schnell, Authorized Employee** authorized to accept service on behalf of SHANNON L. EVANS, a person of suitable age and discretion. Said premises is SHANNON L. EVANS's usual place of business within the state.

A description of the Recipient, or other person served on behalf of the Recipient is as follows:

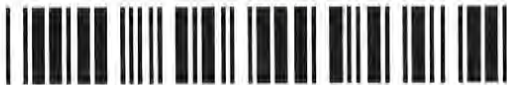
Sex	Color of skin/race	Color of hair	Age	Height	Weight
Female	Caucasian	Light Brown	50's	5'05	150
Other Features:					

I declare under penalty of perjury under the laws of the State of Nevada that the foregoing is true and correct.

Executed this 4 of February, 2020.

No Notary is required per NRS 53.045.

X Mike Nettles
Mike Nettles
License#: 1361
NOW! Services, Inc.
3210 W. Charleston Blvd., Ste. 3
Las Vegas, NV89102
(702) 669-7378
Atty File#:

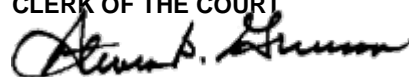


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DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA
DECLARATION OF SERVICE

Electronically Filed
2/5/2020 3:05 PM
Steven D. Grierson
CLERK OF THE COURT



THOMAS A. PICKENS

Case No :D-17-560737

Plaintiff/Petitioner,

vs.

DANKA K. MICHAELS

Defendant/Respondent,

STATE OF NEVADA
COUNTY OF CLARK

ss.:

TRIAL SUBPOENA Received by NOW! Services, Inc. on 01/30/2020 with instructions to serve **SHANON L. EVANS** at **Evans & Associates, 2400 South Cimarron Rd. Suite 140, Las Vegas, NV89117**.

I, **Mike Nettles**, being duly sworn says: That at all times herein affiant was and is a citizen of the United States, over 18 years of age, not a party to or interested in the proceeding in which this affidavit is made.

I am authorized to serve this process in the circuit/county it was served in.

On 02/03/2020 at 4:30 PM, I served the within **TRIAL SUBPOENA** on **SHANON L. EVANS** at **Evans & Associates, 2400 South Cimarron Rd. Suite 140, Las Vegas, NV89117** in the manner indicated below:

SUITABLE AGE: By delivering thereat a true copy of each to **Kanois L. Schnell, Authorized Employee** authorized to accept service on behalf of **SHANON L. EVANS**, a person of suitable age and discretion. Said premises is **SHANON L. EVANS's** usual place of business within the state.

A description of the Recipient, or other person served on behalf of the Recipient is as follows:

Sex	Color of skin/race	Color of hair	Age	Height	Weight
Female	Caucasian	Light Brown	50's	5'05	150
Other Features:					

I declare under penalty of perjury under the laws of the State of Nevada that the foregoing is true and correct.

Executed this 4 of February, 2020.

No Notary is required per NRS 53.045.

X Mike Nettles
Mike Nettles
License#: 1361
NOW! Services, Inc.
3210 W. Charleston Blvd., Ste. 3
Las Vegas, NV89102
(702) 669-7378
Atty File#:



34757

AA00911

Steven D. Grierson

BLACK & LOBELLO
10777 West Twain Avenue, Suite 300
Las Vegas, Nevada 89135
702-869-8801 FAX: 702-869-2669

1 **SAO**
2 **BLACK & LOBELLO**
3 **Michele Touby LoBello, Esq.**
4 **Nevada Bar No. 5527**
5 **10777 West Twain Avenue, Suite 300**
6 **Las Vegas, Nevada 89135**
7 **Telephone No.: 702-869-8801**
8 **Facsimile No.: 702-869-2669**
9 **Email: mlobello@blacklobello.law**
10 **Attorneys for Plaintiff,**
11 **THOMAS A. PICKENS**

8 **DISTRICT COURT**
9 **FAMILY DIVISION**
10 **CLARK COUNTY, NEVADA**

11 **THOMAS A. PICKENS,**
12 **Individually and as Trustee of the LV**
13 **Blue Trust,**

14 **Plaintiff**

15 **vs.**

16 **DANKA K. MICHAELS,**
17 **Individually and as Trustee of the Mich-**
18 **Mich Trust**

19 **Defendant**

CASE NO.: D-17-560737-D
DEPT. J

DATES OF TRIAL: 2-14-2020 &
2-21-2020

20 **STIPULATION AND ORDER TO EXTEND FILING OF PRE-TRIAL**
21 **MEMORANDUM AND TRIAL EXHIBITS**

22 **IT IS HEREBY STIPULATED AND ORDERED** that based upon the
23 agreement between Plaintiff, THOMAS A. PICKENS, by and through his attorneys,
24 Michele Touby LoBello and the law firm of BLACK & LOBELLO, and Defendant,
25 DANKA K. MICHAELS, by and through her attorneys, Jennifer V. Abrams and the

26 **///**

27 **///**

28 **///**

BLACK & LOBELLO
10777 West Twain Avenue, Suite 300
Las Vegas, Nevada 89135
702-869-8801 FAX: 702-869-2669

1 ABRAMS & MAYO LAW FIRM, the parties shall submit their respective Pre-Trial
2 Memorandum and Trial Exhibits no later than Thursday, February 6, 2020.

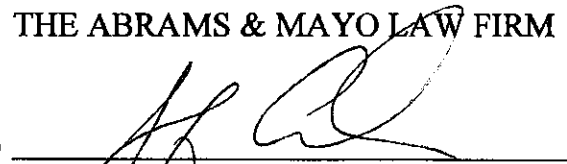
3 Dated this 3rd day of February, 2020. Dated this 3rd day of February, 2020.

4 BLACK & LOBELLO

THE ABRAMS & MAYO LAW FIRM

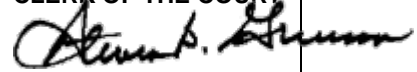
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7 Michele Touby LoBello, Esq.
8 Nevada State Bar #5527
9 10777 West Twain Avenue, #300
10 Las Vegas, Nevada 89135
11 *Attorneys for Plaintiff*


12 Jennifer V. Abrams, Esq.
13 Nevada State Bar # 7575
14 6252 South Rainbow Blvd, Suite 100
15 Las Vegas, NV 89118
16 *Attorney for Defendant*

17
18 IT IS SO ORDERED this 4 day of February, 2020.


19 HONORABLE RENA G. HUGHES
20 DISTRICT COURT JUDGE 



PMEM

Jennifer V. Abrams, Esq.
Nevada State Bar Number: 7575
THE ABRAMS & MAYO LAW FIRM
6252 South Rainbow Blvd., Suite 100
Las Vegas, Nevada 89118
Tel: (702) 222-4021
Fax: (702) 248-9750
Email: JVAGroup@TheAbramsLawFirm.com
Attorney for Defendant

Eighth Judicial District Court
Family Division
Clark County, Nevada

THOMAS A. PICKENS, individually,)	Case No.: D-17-560737-D
and as trustee of the LV Blue Trust,)	Department: J
)	
Plaintiff,)	
)	Dates of Trial: February 14, 2020
vs.)	February 21, 2020
)	
DANKA K. MICHAELS,)	Time of Trial: 9:00 a.m.
individually, and as trustee of the)	
Mich-Mich Trust,)	
)	
Defendant.)	

DEFENDANT'S PRE-TRIAL MEMORANDUM

I. STATEMENTS OF FACTS

A. NAMES AND AGES OF THE PARTIES:

1. Plaintiff, THOMAS A. PICKENS, age 63.
2. Defendant, DANKA K. MICHAELS, age 64.

///

1 **B. DATE OF MARRIAGE;**

- 2 1. Not Applicable – parties were not legally married.
- 3 2. Date of filing for “divorce” and to set aside deeds:
- 4 October 24, 2017, amended on March 22, 2018 to
- 5 add putative spouse and meretricious relationship
- 6 claims, and amended on October 15, 2018 to
- 7 remove claim for divorce.

8 **C. RESOLVED ISSUES, INCLUDING AGREED**

9 **RESOLUTION:**

10 It is anticipated that the parties will agree to the following terms:

- 11 1. The parties were never legally married. This
- 12 resolves Defendant’s Counterclaim for declaratory
- 13 relief under NRS 122.
- 14 2. The State of Nevada, County of Clark, has
- 15 jurisdiction over these proceedings.

16 **D. STATEMENT OF UNRESOLVED ISSUES:**

- 17 1. Plaintiff’s request for equitable relief under the
- 18 putative spouse doctrine;
- 19 2. Plaintiff’s request for equitable relief pursuant to
- 20 express and/or implied agreement to hold property as
- 21 if the parties were married under *Michoff*;

- 1 3. Plaintiff's request to set aside deeds of real property
2 and assignment of L.L.C. interest;
- 3 4. An award of attorney fees to Defendant pursuant to
4 the Order After Hearing of September 10, 2018, and
- 5 5. Each party's request for attorney's fees.

6 **II. CHILD CUSTODY**

7 Not Applicable.

8 **III. CHILD SUPPORT**

9 Not Applicable.

10 **IV. SPOUSAL SUPPORT**

11 **A. IS SPOUSAL SUPPORT REQUESTED AND IF**
12 **SO, PERMANENT OR REHABILITATIVE?**

13 "Alimony is wholly a creature of statute," entirely unknown to
14 either the common law or ecclesiastical law.¹ The statute, NRS 125.150,
15 authorizes the court to award alimony to a **spouse** in granting a
16 **divorce**.² There is no other statutory authority for alimony – alimony

17
18 ¹ *Rodriguez v. Rodriguez*, 116 Nev. 993, 13 P.3d 415 (2000); *Freeman v. Freeman*, 79 Nev. 33, 378 P.2d 264, 265 (1963)

19 ² NRS 125.150(1). Further, NRS 125.150(5) provides: "In the event of the death
20 of either party or the subsequent remarriage of the spouse to whom specified
21 periodic payments were to be made, all the payments **required by the decree**
must cease, unless it was otherwise ordered by the court." NRS 125.150(7) provides:
"If **a decree of divorce**, or an agreement between the parties which was **ratified,
adopted or approved in a decree of divorce**, provides for specified periodic
payments of alimony, the decree or agreement is not subject to modification by the
court as to accrued payments. . .".

1 can only exist if ordered by a court in a decree of divorce and even then,
2 only to a spouse, not to an ex-spouse; If alimony was not ordered in the
3 original divorce judgment, there is no jurisdiction to award alimony
4 thereafter.³ Even in *Williams v. Williams*,⁴ where the parties both
5 believed in good faith that they were legally married, the Nevada
6 Supreme Court rejected the putative spouse doctrine as a basis of
7 awarding equitable spousal support in that annulment action “[b]ecause
8 Nevada’s annulment statutes do not provide for an award of support
9 upon annulment.”

10 It is undisputed that the parties herein were never legally married.
11 It is undisputed that this is not an action for annulment. Thus, there is
12 no statutory authority for an award of spousal support in this case.

13 **B. WHAT IS THE AMOUNT AND DURATION OF**
14 **THE SPOUSAL SUPPORT REQUESTED?**

15 Please see above.

16 **C. WHAT FACTORS SHOULD THE COURT**
17 **CONSIDER IN ESTABLISHING THE AMOUNT**
18 **OF SUPPORT OR IN DENYING OR LIMITING**
19 **THE AMOUNT OF SUPPORT REQUESTED.**

20 ³ *Cavell v. Cavell*, 90 Nev. 334, 526 P.2d 330 (1974); *Freeman v. Freeman*, 79
21 Nev. 33, 378 P.2d 264, 265 (1963)

⁴ 120 Nev. 559 (2004).

1 Not Applicable.

2 **V. PROPERTY AND DEBTS**

3 These parties were never married to each other. They met when
4 Danka was working as a physician and Tom came in for chest pain. Tom
5 pursued Danka and they started dating. Tom had two prior marriages
6 and divorces and Danka had one prior marriage and divorce. While they
7 were both looking for companionship, they both agreed that they did not
8 want to remarry. After Tom moved in with Danka, he expressed to her
9 that he didn't want to be called "boyfriend" indefinitely in their social
10 circles. They decided to have a commitment ceremony, without a legal
11 marriage. They did so in Bratislava, Slovakia on April 7, 2002 when they
12 traveled there to celebrate Danka's brother's birthday.

13 Danka came to the relationship with separate property assets and
14 steady income. Tom has no formal educational degrees or licenses. He
15 came to the relationship with no assets, debt, and very inconsistent
16 income.

17 Their intimacy ended very early in the relationship, in or about
18 2004. They continued to live together, with each maintaining separate
19 accounts and separate assets but they also had a joint account. Danka
20 assisted Tom financially for the majority of the relationship.

21 During the relationship, three properties were acquired. The

1 Queen Charlotte property was purchased with the proceeds from the sale
2 of Danka's separate property home. The Lowe rental property was
3 purchased with a down payment from Danka's separate savings, and an
4 office building on Buffalo was purchased from Danka's savings. Both
5 parties' names were on title to the properties and mortgages were in
6 both names. However, each party's individual estate planning
7 documents provided that Danka's son, Jakub, and her grandson, Lukas,
8 were to be the beneficiaries.

9 The parties grew apart for years. By 2014, the relationship was
10 significantly deteriorating. Tom was spending more and more time
11 outside of Nevada. By 2016, Danka is only aware of Tom being in Las
12 Vegas twice.

13 In the fall of 2016, Danka received a message from a woman
14 named Stacey, indicating that she was pregnant with Tom's child.
15 Stacey informed Danka that she and Tom had been living together for
16 two years, which is why Tom hadn't been coming home much between
17 2014 and 2016. Danka confronted Tom, who was upset about having
18 been caught, but was not apologetic at all.

19 Danka informed Tom that he needed to officially move out of her
20 house. Neither party filed for divorce because they were not married.
21 Instead, they agreed to divide the assets and debts and go their separate

1 ways. They contacted their estate planning attorney, Shannon Evans,
2 Esq. to assist them.

3 Attorney Evans met with both parties. She explained the potential
4 conflict and each party signed a conflict waiver. Attorney Evans'
5 understood from the parties that they were dividing jointly titled assets
6 equitably, and by agreement, based upon who substantially paid for the
7 asset.⁵ The paperwork was reviewed and executed in Attorney Evans'
8 office. **Tom** paid Attorney Evans for her services.

9 Tom kept the retirement account funded by Danka with a balance
10 of over \$200,000 as well as the construction business Danka helped him
11 establish, Blue Point Development. Danka kept her medical practice, her
12 accounts, and the Queensridge, Lowe, and Buffalo (office building)
13 properties, because she substantially paid for them.

14 Both Danka and Tom operated their businesses out of the office
15 building that was transferred to Danka. Prior to the transfer, Tom had
16 collected rents and controlled the rental account. After the division of
17 assets and transfer of ownership in late 2016, Danka opened a new
18 operating account for the office building rental income. Tom not only
19 gave up control of the rental income from the property, he also paid rent
20 to Danka for his use of space in her building.

21 ⁵ See Declaration of Shannon Evans, Esq. and Waiver of Conflict.

1 Also in late 2016, the parties closed their joint account(s) and Tom
2 terminated Danka's use of his American Express credit card that Danka
3 was authorized to use. Tom packed up his belongings and moved his
4 belongings out of Danka's home. Tom and Danka completely terminated
5 their relationship as of the end of 2016 except that Tom was paying rent
6 to Danka for use of the office space in her building.

7 Both parties relied on the finality of their division of assets in late
8 2016. Tom purchased a home in May 2017 as "a single individual."⁶
9 Danka invested money into the properties for repairs and maintenance
10 and worked towards paying down the mortgages and refinancing.

11 This case was initiated on October 24, 2017 with Tom's filing of a
12 Complaint for Divorce against a woman with whom he **knew** was never
13 married. Tom's complaint was ultimately amended twice, after Danka
14 incurred thousands of dollars in attorney and expert fees to prove the
15 falsity of Tom's allegations and as his counsel was convinced that Tom's
16 representations lacked merit.

17 "Unmarried persons who are living together have the same rights
18 to lawfully contract with each other regarding their property as do other
19 unmarried individuals. Their agreement may be express or implied . . .
20 from the conduct of the parties. Although they may not, of course,

21 ⁶ See Grant, Bargain, Sale Deed.

1 contract for meretricious sexual services, they may expect that courts
2 will protect their reasonable expectations with respect to transactions
3 concerning property rights.”⁷ The parties entered into a lawful and
4 enforceable, fully executed contract as to the division of their jointly
5 titled assets. Tom has admitted that he voluntarily signed the documents
6 in 2016 to transfer the three properties to Danka. He flew from Florida
7 to Nevada to sign the documents and even paid for Ms. Evans’ time in
8 preparing the documents. Tom has acknowledged that Ms. Evans
9 prepared the paperwork that was asked of her by both parties. Both
10 parties voluntarily signed a Waiver of Conflict. Their transactions
11 regarding property rights should be enforced and not disturbed.

12 The enforcement of an ***unwritten*** agreement between spouses
13 was upheld by the Nevada Supreme Court in *Phung v. Doan*.⁸ Here, the
14 transfer documents were in writing, signed, and notarized.

15 Additionally, Tom has acknowledged that the funds used to
16 purchase the properties came from Danka. He confirmed that he took
17 the retirement account valued at over \$200,000 and that he took the
18 business, Blue Point Development. He also testified during his

19 ⁷ *Hay v. Hay*, 100 Nev. 196 (1984).

20 ⁸ Nevada Supreme Court docket no. 69030, Order Affirming in Part,
21 Dismissing in Part, Reversing in Part, and Remanding (Unpublished Disposition
May 10, 2018)

1 deposition that he is not seeking an interest in Danka's medical practice,
2 even though he made such a claim in this Second Amended Complaint.
3 In sum, there is no basis to set aside the fully executed agreement of the
4 parties or the transfer documents for the three properties in question. In
5 *Anderson v. Anderson*,⁹ the parties divided a sum of cash into two
6 accounts. The trial court described this division as a "final division of
7 these funds." The wife received \$56,000 more than the husband
8 received. Husband appealed. The Nevada Supreme Court affirmed,
9 finding the unequal division was supported by husband getting a more
10 valuable car, receiving twice as much in Social Security, and having
11 moved in with his girlfriend so he had no rental expense. The Court
12 made no decision as to whether a written agreement was necessary
13 although the same result could be obtained by estoppel.¹⁰ Here, the
14 parties were not even married. Danka relied on the fully executed
15 transfers made in 2016. It should not now be disrupted.

16 **VI. ATTORNEY'S FEES**

17 Tom filed this action without a legitimate legal basis. Danka has
18 expended upwards of \$80,000 in attorney fees and costs thus far during
19 these twenty-seven (27) months of litigation. Danka should be awarded a

20 ⁹ 107 Nev. 570, 816 P.2d 463 (1991).

21 ¹⁰ See also *Cartan v. David*, 18 Nev. 310 (1884) (once an agreement is fully executed, the rights of the parties become fixed).

1 judgment against Tom for her attorney fees and costs.

2 It is submitted that an assessment of fees is appropriate here, since
3 Tom has obviously, and deliberately, requested relief to which he is not
4 entitled. He filed a series of fraudulent complaints **knowing** that the
5 parties were never legally married and had already divided their assets
6 in 2016. Given the foregoing, an award of fees is called for under EDCR
7 7.60(b):

8 (b) The Court may, after notice and an opportunity to be
9 heard, impose upon an attorney or a party any and all sanctions
10 which may, under the facts of the case, be reasonable, including
the imposition of fines, costs or attorney's fees when an
attorney or a party without just cause:

11

(3) So multiplies the proceedings in a case as to
increase costs unreasonably and vexatiously.

12 (4) Fails or refuses to comply with these rules

13 Accordingly, Danka should be awarded the entirety of the fees and
14 costs she has been compelled to respond to an action that should never
15 have been filed. Danka requests an award of fees sufficient to make her
16 whole and to allow her to receive the benefit of the parties' agreement
17 without this unnecessary expenditure of funds to enforce it.

18 In evaluating requests for reimbursement of fees and costs, the
19 District Court must evaluate the *Brunzell Factors*¹¹:

20 1. *The Qualities of the Advocate*: his ability, his training,

21 ¹¹ *Brunzell v. Golden Gate National Bank*, 85 Nev. 345, 349, 455 P.2d 31, 33 (1969)

- 1 education, experience, professional standing and skill.
- 2 2. *The Character of the Work to be Done*: its difficulty, its
- 3 intricacy, its importance, time and skill required, the
- 4 responsibility imposed and the prominence and character of
- 5 the parties where they affect the importance of the litigation.
- 6 3. *The Work Actually Performed by the Lawyer*: the skill, time
- 7 and attention given to the work.
- 8 4. *The Result*: whether the attorney was successful and what
- 9 benefits were derived.

10 Each of these factors should be given consideration, and no one element
11 should predominate or be given undue weight. *Miller v. Wilfong*, 121
12 Nev. 619, 119 P.3d 727 (2005).

13 The *Brunzell Factors* apply to this case as follows:

14 Attorney Jennifer V. Abrams graduated magna cum laude in
15 the top 4% of her law school class. She is a member in good
16 standing of the State Bar of Nevada, Clark County Bar Association,
17 American Bar Association, American Association for Justice,
18 which is formerly the Association of Trial Lawyers of America, the
19 State Bar of California and the Louisiana State Bar (both inactive).
20 Although Attorney Abrams is admitted to practice law in three
21 states, she chooses to dedicate herself exclusively to Las Vegas
divorce and family law matters. Attorney Abrams served as a
member of the State Bar of Nevada Family Law Executive Council
for five (5) years and was the Treasurer for the section for four (4)
of those years. She is Certified by the State Bar of Nevada as a
Family Law Specialist and is a peer-reviewed and certified Fellow
of the American Academy of Matrimonial Lawyers. She was
appointed by the Nevada Supreme Court to the Family Law Rules
Committee. She has contributed as an author and editor to several
State Bar publications, including, the Family Practice Manual
(second edition) and she created the Detailed Financial Disclosure
Form for high asset and complex divorce cases which has been
adopted for new cases filed after January 1, 2013. See ADKT 476.
She was on the committee that re-wrote Section 5 of the Eighth
Judicial District Court Rules and she re-drafted Nevada Rule of

1 Civil Procedure 16.2 and 16.205.

2 Stephanie Stolz is the current Firm Administrator / Lead
3 Certified Paralegal and began her legal career at The Abrams Law
4 Firm nine years ago. She started at the receptionist position in
5 May 2004. While working full-time for the firm, she
6 simultaneously completed the Paralegal Studies Program with
7 special emphasis in Nevada Practices and Procedures, Contract
8 Law, and Family Law from the University of Nevada Las Vegas. In
9 2005 she was promoted to a Certified Paralegal position. In 2006
10 she achieved the role of Lead Certified Paralegal. Stephanie was
11 promoted to the role of Firm Administrator in 2010. In addition to
12 her Lead Certified Paralegal duties, she is responsible for
13 numerous areas of the firm's business operations including
14 accounting and vendor relationships. Stephanie is also certified
15 through NALA.

16 2. *The Character of the Work to be Done:* The facts and
17 circumstances surrounding the filing of this Memorandum are fully
18 incorporated herein by reference. Attorney Abrams has diligently
19 reviewed the applicable law, explored the relevant facts and has properly
20 applied one to the other.

21 3. *The Work Actually Performed by the Lawyer:* Work is still
ongoing regarding these issues. Thus, redacted billing statements will be
provided prior to the hearing on this matter. It is of note that Danko has
incurred approximately \$80,000 in fees and costs to date in this action.

4. *The Result:* It is anticipated that given the clear and
convincing evidence that this Court lack jurisdiction and that this case
should be dismissed that the outcome of this Trial will be favorable to

1 Danka.

2 The work actually performed is detailed on the billing summaries,
3 which will be filed under separate cover before the hearing on this
4 matter, consistent with the requirements under *Love*.

5 Under either set of rules (the Rule 11 based NRS 18.010, or the
6 Family Law line of cases), we believe that an award of fees in the full
7 amount incurred is warranted in this instance.

8 Furthermore, Danka reserves the right to request attorney's fees
9 based upon NRCP 68 and the Offers of Judgment served upon Tom by
10 and through his attorney.

11 **VII. LIST OF WITNESSES**

- 12 1. Danka K. Michaels, Defendant
13 c/o Jennifer V. Abrams, Esq.
14 The Abrams & Mayo Law Firm
6252 South Rainbow Blvd., Suite 100
Las Vegas, Nevada 89118

15 Dr. Michaels will testify regarding the facts and
16 circumstances of the relationship.

- 17 2. Thomas A. Pickens, Plaintiff
18 c/o Michele T. Lobello, Esq.
Black & Lobello
10777 West Twain Avenue, Suite 300
19 Las Vegas, Nevada 89135

20 Mr. Pickens will testify regarding the facts and circumstances
of the relationship.

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3. Robert Semonian
The Semonian Group, Inc.
3230 S. Valley View Blvd., Suite 110
Las Vegas, Nevada 89102
Tel: (805) 659-5344

Mr. Semonian will testify regarding the facts and circumstances of the parties' tax returns.

4. Shannon Evans, Esq.
Evans & Associates
2400 S. Cimarron Road, Suite 140
Las Vegas, Nevada 89117
Tel: (702) 699-7333

Ms. Evans will testify as to the facts and circumstances of the parties' estate planning/trust documents.

5. Todd Kilde
1621 Country Road
Fergus, Minnesota 56537

Mr. Kilde will testify as to his knowledge of parties' relationship, Plaintiff's financial schemes and his affair.

6. Sarah Nicora
153 Santiago Ave.
Redwood City, California 94061

Ms. Nicora will testify as to her knowledge of the parties' relationship, her time as Plaintiff's assistant and the secrets Plaintiff made her keep during her employment.

7. Art Zargaryan
6426 Cameron Park Street
Las Vegas, Nevada 89166

Mr. Zargaryan will testify as to his knowledge of the parties' relationship and Plaintiff's arrest in Florida.

///

1
2 8. Rich Wolf
3 4575 Dean Martian Drive, #2307
4 Las Vegas, Nevada 89103

5
6 Mr. Wolf will testify as to his knowledge of the parties'
7 relationship and Plaintiff's arrest in Florida.

8
9 9. Sheila Mazzeo
10 11640 N. 27th Street, #C307
11 Phoenix, Arizona 85028

12
13 Ms. Mazzeo will testify as to her knowledge of the parties'
14 relationship.

15
16 10. Tamela Kahle
17 9549 Verde Park Circle
18 Las Vegas, Nevada 89129

19
20 Ms. Kahle will testify as to her knowledge of the parties'
21 relationship.

12 11. Scott Hatcher
13 9549 Verde Park Circle
14 Las Vegas, Nevada 89129

15
16 Mr. Hatcher will testify as to his knowledge of the parties'
17 relationship.

18
19 12. Jennifer Quinn
20 1633 Plata Pico Drive
21 Las Vegas, Nevada 89128

Ms. Quinn will testify as to her knowledge of the parties'
relationship.

19 13. Shannon Newman
20 7608 Lowe Ave.
21 Las Vegas, Nevada 89131

Ms. Newman will testify as to her knowledge of the parties' relationship.

14. Dara Lesmeister
8985 Catfish Stream Ave.
Las Vegas, Nevada 89178

Ms. Lesmeister will testify as to her knowledge of the parties' relationship.

15. Roberto C. Carillo, F.N.P.
3320 N. Buffalo Drive, Suite 106
Las Vegas, Nevada 89129

Mr. Carillo is a nurse practitioner that provided treatment to Mr. Pickens and will testify regarding same.

16. Any and all witnesses relied upon by the Plaintiff, which are properly disclosed.

17. Any and all rebuttal witnesses as necessary.

VIII. LIST OF EXHIBITS (For a complete list, please see Defendants Trial Exhibit List submitted with Defendant's Trial Notebooks)

1. Declaration of Robert Semonian;
2. Declaration of Shannon Evans, Esq.;
3. Documents in Response to Subpoena from Equity Title, LLC;
4. Partial Transcript of Bench Trial on April 20, 2018;
5. Documents in response to Subpoena from First American Title Company;
6. Documents in response to Subpoena from Shannon L. Evans of Evans & Associates;

- 1 7. Documents in response to Subpoena from Ticor Title;
- 2 8. Second set of documents in response to Subpoena and
- 3 Authorization from Evans & Associates;
- 4 9. Documents in Response to Subpoena and Authorization
- 5 from The Semonian Group, Inc.;
- 6 10. Wells Fargo loan billing statement dated November 4, 2016;
- 7 11. Declaration of Robert Semonian in Support of Motion for
- 8 Summary Judgment;
- 9 12. Plaintiff's prior Decree of Divorce filed June 26, 2001;
- 10 13. Plaintiff's Social Security Statement;
- 11 14. Records produced by Wells Fargo Bank, National
- 12 Association, in response to Subpoena Duces Tecum
- 13 15. Plaintiff's Financial Disclosure Form;
- 14 16. Defendant's Financial Disclosure Form;
- 15 17. All documents produced by Defendant in discovery;
- 16 18. All pleadings on file herein by Defendant;
- 17 19. Any and all documents admitted into evidence by the
- 18 Plaintiff;
- 19 20. Any and all rebuttal documents; and
- 20 21. Deposition transcript of Plaintiff's deposition.

21 / / /

1 **IX. LENGTH OF TRIAL**

2 Two (2) full days.

3 DATED: Friday, February 07, 2020.

4 Respectfully Submitted,

5 THE ABRAMS & MAYO LAW FIRM

6 /s/ Jennifer V. Abrams, Esq.

7 Jennifer V. Abrams, Esq.

8 Nevada State Bar Number: 7575

6252 South Rainbow Blvd., Suite 100

Las Vegas, Nevada 89118

Attorney for Defendant

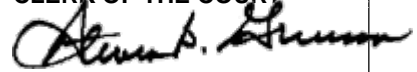
10 **CERTIFICATE OF SERVICE**

11 I hereby certify that the foregoing DEFENDANT'S PRE-TRIAL
12 MEMORANDUM was filed electronically with the Eighth Judicial
13 District Court in the above-entitled matter on Friday, February 07,
14 2020. Electronic service of the foregoing document shall be made in
15 accordance with the Master Service List, pursuant to NEFCR 9, as
16 follows:

17 Michele T. LoBello, Esq.
18 Attorney for Plaintiff

19 /s/ Chantel Wade

20 An Employee of The Abrams & Mayo Law Firm

**PMEM**

BLACK & LOBELLO
 Michele Touby LoBello, Esq.
 Nevada Bar No. 5527
 John D. Jones, Esq.
 Nevada Bar No. 6699
 10777 West Twain Avenue, Suite 300
 Las Vegas, Nevada 89135
 Telephone No.: 702-869-8801
 Facsimile No.: 702-869-2669
 Email: mlobello@blacklobello.law
 Attorneys for Plaintiff,
 THOMAS A. PICKENS

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

THOMAS A. PICKENS,
 Individually and as Trustee of the LV
 Blue Trust,

Plaintiff/Counterdefendant.

vs.

DANKA K. MICHAELS,
 Individually and as Trustee of the Mich-
 Mich Trust,

Defendant/Counterclaimant;

and related Counterclaims.

CASE NO.: D-17-560737-D

DEPT. J

**Dates of Trial: February 14, 2020 &
 February 21, 2020**

Time of Trial: 9:00 a.m.

PLAINTIFF THOMAS PICKEN'S PRETRIAL MEMORANDUM

Plaintiff, Thomas A. Pickens ("Tom"), by and through his attorneys of record, Michele Touby LoBello, John D. Jones and the law firm of Black & LoBello hereby submits his Pretrial Memorandum in accordance with EDCR 5.525. Counsel have not participated in a pretrial conference although, upon information and belief,

undersigned counsel has reached out to Defendant's counsel to discuss coming to agreements on Exhibits, and counsel intend to participate in an EDCR 5.524(a) Pre-Trial Conference, and prior to the trial. As such, counsel will meet and confer regarding any and all possible stipulations a regarding trial issues and exhibits. Any such agreements will be disclosed to the Court as soon hereafter as possible.

I.

STATEMENT OF ESSENTIAL FACTS

A. Names and ages of the parties:

THOMAS A. PICKENS, Plaintiff, DOB: October 5, 1956, age 63 ("Tom").

DANKA MICHAELS, Defendant, DOB: November 26, 1955, age 64 ("Danka").

B. Date Community Property Should Apply by Analogy/Date of Wedding in Slovakia:

April 7, 2002, in Bratislava, Slovakia. (17 years and 10 months).

C. Minor Children:

None.

D. Applicable Pleadings for Trial:

1. Tom's Second Amended Complaint for Equitable Relief under (1) the Putative Spouse Doctrine, and (2) Pursuant to the Express and/or Implied Agreement to Hold Property as if the Parties were Married under *Michoff*; and to Set Aside of Deeds of Real Property and Assignment of L.L.C. Interest filed October 15, 2018.

2. Danka's Answer to Second Amended Complaint for Equitable Relief under (1) the Putative Spouse Doctrine, and (2) Pursuant to the Express and/or Implied Agreement to Hold Property as if the Parties were Married under *Michoff*; and to Set Aside of Deeds of Real Property and Assignment of L.L.C. Interest; Affirmative Defenses and Counterclaim filed November 19, 2018.

///

3. Tom's Reply to Defendant's Counterclaim (and Affirmative Defenses)
filed December 12, 2018.

D. Resolved Issues, including agreed resolution:

Jurisdiction: The parties do not dispute jurisdiction.

E. Statement of Unresolved Issues:

1. Should this Court apply the equitable principles espoused in *Western States Constr. and Max Michoff v. Lois Michoff*, 108 Nev. 931, 840 P.2d 1220 (1992), and uphold Nevada's public policy interest encouraging legally consummated marriages and discouraging one participant in meretricious relationship to abscond with bulk of couple's acquisitions?

Tom asks this Court to apply community property law by analogy as set forth in N.R.S. 123.220, and in accordance with *Michoff*. Unmarried cohabiting adults may agree to hold property that they acquire as though it were community property. Adults who voluntarily live together and hold themselves out as Husband and Wife "may agree to pool their earnings and to hold all property acquired during the relationship in accord with the law governing community property." *Id.*

2. Should this Court alternatively or concurrently apply the putative spouse doctrine and accordingly apply community property concepts as established in *Williams v. Williams*, 97 P.3d 1124, 120 Nev. 559 (2004)?

Toms participated in a marriage ceremony in Bratislava, Slovakia on April 7, 2002, with the honest and reasonable belief that this was a valid and binding marriage ceremony, that there was no impediment to the marriage or the performance of that ceremony, and that he and Danka were legally married at that ceremony.

3. Should this Court set aside Deeds transferring Tom's interest in real property to Danka, as well as an Assignment of Tom's L.L.C. interest to Danka, given the transfers were inequitable and contrary to Nevada law?

1 As Danka was Tom's physician and prescribed him medication before and
2 after Danka demanded Tom to sign away his interest in the parties' property,
3 whereby he relinquished his legal interest in millions of dollars of property, Danka
4 exerted undue influence over Tom as his physician and wife. The transfers were
5 performed when Tom was under duress and without independent legal
6 representation. In this case, the Court must hold that Danka is presumed to have
7 exerted undue influence on Tom in obtaining his signature on the deeds and
8 assignment.

9 **4. The Court should deny Danka's Counterclaims as follows:**

10 **a. Declaratory Relief:**

11 Danka has asserted that Tom is falsely representing to this Court that the
12 parties held themselves out as husband and wife, is falsely representing his belief in
13 the validity of the parties' 2002 marriage ceremony, and that he is falsely asserting
14 an interest in community property. She asks this Court, pursuant to NRS 122, to
15 declare that the parties were never legally married in Slovakia. The logic of this
16 claim does not follow. Tom absolutely believed the marriage in Slovakia, where
17 Danka was born and raised, and where she lived until relocating to the U.S. in 1985
18 or 1986, was valid and legal, up until the time he filed his Complaint for Divorce in
19 this matter. Following the filing, experts were retained, and thereafter, he learned
20 that Danka never registered the marriage in Slovakia. He had an absolute good faith
21 belief in the validity of the Slovakian ceremony and marriage when he filed this
22 Complaint. He amended his Complaint, in good faith, upon learning the marriage
23 was not legally valid in Slovakia, so the issue of divorce and legal marriage is not
24 before the Court. Danka should stipulate this claim is no longer viable, as Tom has
25 amended his Complaint. Moreover, he did not misrepresent the fact the parties held
26 themselves out as husband and wife. The deeds and other evidence at trial will prove
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1 that they in fact were known socially as husband and wife, as this was Danka's
2 preference.

3 **b. Intentional Misrepresentation/Fraud:**

4 Danka cannot prove by clear and convincing evidence her representations set
5 forth in this cause of action. Tom's testimony at trial (and Danka's, if she is
6 consistent with her deposition) will prove Tom believe the parties were legally
7 married in Slovakia, that for asset protection purposes, they filed taxes separately,
8 but that outside of their personal financial advisors, they held themselves out to the
9 world as husband and wife because they were married. Danka will not be able to
10 prove that Tom knew or believed that the representation was false and that he
11 intended to induce Danka to act or refrain from acting based on any such
12 representation. Most importantly, it is Tom, not Danka, who sustained damages in
13 the loss of millions in quasi-community and jointly owned property.

14 **c. Negligent Misrepresentation:**

15 Again, Danka cannot succeed on this cause of action, where Tom has never
16 supplied false information to any party regarding Danka's business and where it is
17 Tom, not Danka, who has sustained damages. Danka will not be able to prove the
18 specific elements of this cause of action.

19 **d. Breach of Implied Covenant of Good Faith and Fair Dealing:**

20 This cause of action is based on well-settled law that an implied covenant of
21 good faith and fair dealing exists in every Nevada contract, and this essentially
22 forbids arbitrary, unfair acts by one party that disadvantage the other. The only party
23 in this matter who engaged in unfair acts that disadvantaged the other party was
24 Danka. Moreover, Danka will never prove Tom was in a superior position where
25 she was his physician at all times relevant to this matter, up to and after she coerced
26 him to sign away his rights to millions in property.

27 ///

1 **e. Promissory Estoppel:**

2 Danka cannot prevail on this cause of action, and for Tom to be estopped
3 claiming his execution of the deeds and assignment were improper, Danka must
4 prove, among other elements, that she was ignorant of the true facts and thus relied
5 on the conduct of Tom, to her detriment. Since Danka had a fiduciary duty to Tom
6 as his physician, it is not possible for her to even assert this claim. Tom understood
7 the parties were married legally, and that when he signed the Deeds and Assignment
8 transferring millions to Danka, she would sign his interest back to him in one year.
9 It was Tom who relied on Danka's representations. It was Tom who had no idea the
10 Slovakian wedding was not technically a legal marriage.

11 **f. Express Agreement/Implied Agreement:**

12 Danka argues the parties had an express and/or implied agreement not to pool
13 their assets and finances. This flies in the face the evidence showing that other than
14 the tax and estate planning documents, Danka and Tom held themselves out as
15 husband wife, acquired property together as husband and wife, relied on each other
16 to help pay expenses and to help qualify for financing. Tom's *Michoff* claim is based
17 upon the parties express and/or implied contract which governed the parties'
18 dealings for at least 14 years. Danka's express and implied contract theories in no
19 way can support a holding that the parties intended NOT to jointly share income and
20 expenses and acquire assets.

21 **g. Malicious Abuse of Process:**

22 To succeed on her abuse of process claim, Danka must prove: (1) an ulterior
23 purpose by Tom other than resolving a legal dispute; and (2) a willful act in the use
24 of the legal process not proper in the regular conduct of the proceeding. Abuse of
25 process differs from malicious prosecution in that the gist of the tort is not
26 commencing an action or causing process to issue without justification, but
27 misusing, or misapplying process justified in itself for an end other than that which
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1 it was designed to accomplish. Danka cannot point to any ulterior purpose of Tom
2 other than resolving this legal dispute.

3 **5. The Court Should Order an Equitable division of Quasi-**
4 **Community/Joint Property and Debt:** The Court must also determine the
5 appropriate identification and characterization of the property and debt of the parties,
6 as well as an equitable and appropriate division of the party's quasi-community and
7 joint property and debts. Tom has all along understood the Court's ruling on division
8 of assets is contingent on the rulings related to his claims for the Court to apply
9 community property by analogy. His resources have been limited since he was
10 coerced to sign the offensive Deeds and Assignment. He did not have the financial
11 wherewithal to hire experts to value Danka's medical practice, the LLC which owns
12 a building the parties acquired together, now the two homes the parties purchased
13 since their wedding almost 18 years ago. Discovery in this matter languished for
14 two years, and Tom has not been provided evidence of the current value of many of
15 the assets in Danka's possession.

16 Tom has never asked for alimony, never demanded 50% of a net estate
17 consisting of everything owned by both parties, even though legally he could. He is
18 asking the Court to award him the value of the major assets the parties acquired
19 together as follows:

- 20 a. **One-half of the net value of Patience One, LLC, whose primary**
21 **asset is the real property located at 3320 North Buffalo Drive, Las**
22 **Vegas, Nevada 89129.** This property, an office building, is a nearly
23 30,000 square foot property purchased by the parties in 2012. When
24 the property was appraised for purposes of financing in 2014, it was
25 valued at \$3.8 Million. Since that time, the building has been fully
26 leased. Thus, it is likely worth no less than \$5 Million and subject to a
27 mortgage of \$1.2 Million. The investment generates approximately
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1 \$45,000 per month income, and the mortgage payment is \$8,800 per
2 month. It is possible that a valuation of the business Patience One, LLC
3 would result in a higher valuation figure.

4 b. **One-half of the net value of the real property located at 9517 Queen**
5 **Charlotte Drive, Las Vegas, Nevada 89145.** The parties purchased
6 this home as their primary residence on October 7, 2004. They took
7 title as husband and wife, and both were on the mortgage. The current
8 fair market value is approximately \$820,000, although Danka has made
9 \$200,000 in capital improvements to the house since the parties
10 separated in September 2016. The mortgage balance is approximately
11 \$560,000. Accordingly, the equity in the property is at least \$260,000.

12 c. **One-half of the net value of the real property located at 7608 Lowe**
13 **Avenue, Las Vegas, Nevada.** The parties purchased this home as an
14 investment on February 28, 2011 for approximately \$130,000. They
15 took title as husband and wife, and both were on the mortgage. The
16 entire mortgage was paid off prior to separation. The current fair
17 market value is approximately \$250,000. Accordingly, this rental is a
18 source of income to Danka, over and above the income from Patience
19 One, LLC and her medical practice, also started following marriage.

20 d. **One-Half of the Net Value of Danka's 401k, subject to offset for the**
21 **net value of Tom's current residence:** At the time of the 2002
22 wedding, Tom believes Danka had approximately \$50,000 in her
23 retirement account. However, she testified at her deposition that she
24 did not start her 401k until approximately two years after she started
25 her medical practice, which occurred in 2003. Danka has not provided
26 any evidence to demonstrate the value of any retirement assets in 2002.
27 Currently, her JP Morgan IRA is worth \$420,000. She has not provided
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1 statements for her other retirement assets. She testified her medical
2 practice had a 401k, and Tom has produced proof of Danka's medical
3 practice pension demonstrating a value of \$315,000 as of December
4 2013. She also has investment accounts with Pinnacle and Valic which
5 had a combined value of approximately \$136,000 in 2013. Tom, too,
6 had a 401k as an employee of Danka's medical practice. It was worth
7 approximately \$200,000 at the time of the parties' separation. He was
8 forced to liquidate the account, and to pay the associated tax, to start
9 his life over following the separation. He utilized these funds to
10 purchase his current residence located at 4514 Blue Mesa Way, Las
11 Vegas, Nevada, in May 2017. He paid \$590,000 for the home, and used
12 the 401k liquidated proceeds to make the down payment. He currently
13 owes \$460,000 on the mortgage, and he believes the property is worth
14 approximately \$700,000. Tom would ask for a net equal division of the
15 total value of these assets.

- 16 e. **Blue Point Development and Danka Michaels, M.D.:** Tom would
17 ask for a net equal division of the total value of these assets.

18 Depending on the Court's ruling as to the request to apply community
19 property by analogy, the Court should maintain jurisdiction to ensure that the assets
20 identified above are valued and a net equal division is accomplished.

21 Finally, Tom is not seeking alimony. He merely wants an equitable share of
22 the estate the parties built during the marriage. The evidence will show Danka earns
23 far more than Tom, but he is not asking for future support.

24 6. **Attorneys' fees and costs:** Tom is seeking an award of attorneys' fees
25 and costs in an amount to be proved at trial, or post-trial if the Court requires the
26 submission of Affidavits of Counsel and Memoranda Regarding Attorneys' Fees and
27 Costs.
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II.

LIST OF WITNESSES

Tom intends to call the parties, Shannon Evans, and any witnesses identified in each party's disclosure of witnesses.

III.

LIST OF EXHIBITS

Tom's Exhibits are as follows:

EX.	DOCUMENT
1.	Photographs of the parties' wedding on April 7, 2002 and announcement
2.	Litterae Matrimoniales (Marriage Certificate) of Thomas Pickens and Danka Katarina Oltusova dated April 7, 2002
3.	Medical Records for Tom Pickens produced by Danka Michaels, his physician
4.	Nevada Prescription Monitoring Program Prescription log for Tom Pickens
5.	Chain of Title with Applicable Deeds for 9517 Queen Charlotte Drive, Las Vegas, Nevada 89145
6.	Chain of Title with Applicable Deeds for 7608 Lowe Avenue, Las Vegas, Nevada 89131
7.	Affidavit of Custodian of Records and file from First American Title Company—purchase of 9517 Queen Charlotte Drive, Las Vegas, Nevada 89145 on October 7, 2004
8.	Certificate of Custodian of Records for Ticor Title of Nevada—purchase of 7608 Lowe Avenue, Las Vegas, Nevada 89131 on February 28, 2011
9.	2005 1040 Income Tax Return for Thomas A. Pickens
10.	2006 1040 Income Tax Return for Thomas A. Pickens
11.	2007 1040 Income Tax Return for Thomas A. Pickens
12.	2008 1040 Income Tax Return for Thomas A. Pickens
13.	2009 1040 Income Tax Return for Thomas A. Pickens
14.	2010 1040 Income Tax Return for Thomas A. Pickens
15.	2011 1040 Income Tax Return for Thomas A. Pickens
16.	2012 1040 Income Tax Return for Thomas A. Pickens
17.	2013 1040 Income Tax Return for Thomas A. Pickens

EX.	DOCUMENT
18.	2014 1040 Income Tax Return for Thomas A. Pickens
19.	2015 1040 Income Tax Return for Thomas A. Pickens
20.	2016 1040 Income Tax Return for Thomas A. Pickens
21.	2005 1040 Income Tax Return for Danka Michaels
22.	2006 1040 Income Tax Return for Danka Michaels
23.	2007 1040 Income Tax Return for Danka Michaels
24.	2008 1040 Income Tax Return for Danka Michaels
25.	2009 1040 Income Tax Return for Danka Michaels
26.	2010 1040 Income Tax Return for Danka Michaels
27.	2011 1040 Income Tax Return for Danka Michaels
28.	2012 1040 Income Tax Return for Danka Michaels
29.	2013 1040 Income Tax Return for Danka Michaels
30.	2014 1040 Income Tax Return for Danka Michaels
31.	2015 1040 Income Tax Return for Danka Michaels
32.	2016 1040 Income Tax Return for Danka Michaels
33.	2017 1040 Income Tax Return for Danka Michaels - MISSING
34.	2005 1120S Income Tax Return for Danka K. Michaels MD, PC - MISSING
35.	2006 1120S Income Tax Return for Danka K. Michaels MD, PC
36.	2007 1120S Income Tax Return for Danka K. Michaels MD, PC
37.	2008 1120S Income Tax Return for Danka K. Michaels MD, PC
38.	2009 1120S Income Tax Return for Danka K. Michaels MD, PC
39.	2010 1120S Income Tax Return for Danka K. Michaels MD, PC
40.	2011 1120S Income Tax Return for Danka K. Michaels MD, PC
41.	2012 1120S Income Tax Return for Danka K. Michaels MD, PC
42.	2013 1120S Income Tax Return for Danka K. Michaels MD, PC
43.	2014 1120S Income Tax Return for Danka K. Michaels MD, PC
44.	2015 1120S Income Tax Return for Danka K. Michaels MD, PC
45.	2016 1120S Income Tax Return for Danka K. Michaels MD, PC
46.	2017 1120S Income Tax Return for Danka K. Michaels MD, PC
47.	2012 1065 Income Tax Return for Patience One LLC
48.	2013 1065 Income Tax Return for Patience One LLC
49.	2014 1065 Income Tax Return for Patience One LLC
50.	2015 1065 Income Tax Return for Patience One LLC
51.	2016 1065 Income Tax Return for Patience One LLC
52.	2008 1120 Income Tax Return for Blue Point Development LLC
53.	2009 1120 Income Tax Return for Blue Point Development LLC
54.	2010 1120 Income Tax Return for Blue Point Development LLC

EX.	DOCUMENT
55.	2011 1120 Income Tax Return for Blue Point Development LLC
56.	2012 1120 Income Tax Return for Blue Point Development LLC
57.	2013 1120 Income Tax Return for Blue Point Development LLC
58.	2014 1120 Income Tax Return for Blue Point Development LLC
59.	2015 1120 Income Tax Return for Blue Point Development LLC
60.	2016 1120 Income Tax Return for Blue Point Development LLC
61.	Blue Point Development Summary of Rental Recap –January 2014 through December 2017
62.	Blue Point Development Rental Recap –2014
63.	Wells Fargo Business Checking #9112 titled in the name of Blue Point Development 05/29/2014 through 12/31/2014
64.	Blue Point Development Rental Recap –2015
65.	Wells Fargo Business Checking #9112 titled in the name of Blue Point Development 01/01/2015 through 12/31/2015
66.	Blue Point Development Rental Recap –2016
67.	Wells Fargo Business Checking #9112 titled in the name of Blue Point Development 01/01/2016 through 12/31/2016
68.	Blue Point Development Rental Recap –2017
69.	Wells Fargo Business Checking #9112 titled in the name of Blue Point Development 01/01/2017 through 12/31/2017
70.	Wells Fargo Business Checking #9112 titled in the name of Blue Point Development 01/01/2018 through 12/31/2018
71.	Wells Fargo Business Checking #9112 titled in the name of Blue Point Development 01/01/2019 through 04/30/19
72.	Summary re payment of home expenses January 2014 through 2016 - Wells Fargo #3436
73.	Summary re payment of home expenses 2014
74.	Wells Fargo Checking ending 3436 titled in the names of Thomas A. Pickens and Danka K. Michaels 07/01/2014 through 12/31/14
75.	Summary re payment of home expenses 2015
76.	Wells Fargo Checking ending 3436 titled in the names of Thomas A. Pickens and Danka K. Michaels 01/01/2015 through 12/31/15
77.	Summary re payment of home expenses 2016
78.	Wells Fargo Checking ending 3436 titled in the names of Thomas A. Pickens and Danka K. Michaels 01/01/2016 through 12/31/16

EX.	DOCUMENT
79.	Wells Fargo Checking ending 3436 titled in the names of Thomas A. Pickens and Danka K. Michaels 01/01/2017 through 12/31/17
80.	Wells Fargo Checking ending 3436 titled in the names of Thomas A. Pickens and Danka K. Michaels 01/01/2018 through 04/30/18
81.	American Express Summary of spending December 2010 through December 2016 and Recap
82.	American Express Statements #72004 Thomas Pickens card #72004 Danka Michaels card #72020 12/30/10 through 12/15/11
83.	American Express Statements #72004 Thomas Pickens card #72004 Danka Michaels card #72020 12/16/11 through 12/14/12
84.	American Express Statements #72004 Thomas Pickens card #72004 Danka Michaels card #72020 12/15/12 through 12/15/13
85.	American Express Statements #72004 Thomas Pickens card #72004 Danka Michaels card #72020 12/16/13 through 12/15/14
86.	American Express Statements #72004 Thomas Pickens card #72004 Danka Michaels card #72020 12/16/14 through 12/15/15
87.	American Express Statements #72004 Thomas Pickens card #72004 #73002 Danka Michaels card #72020 12/16/15 through 12/15/16
88.	American Express Statements #72004 Thomas Pickens card #73002 Danka Michaels card #72020 12/16/16 through 12/15/17
89.	American Express Statements #72004 Thomas Pickens card #73002 Danka Michaels card #72020 12/16/17 through 12/15/18
90.	American Express Statements #72004 Thomas Pickens card #73002 Danka Michaels card #72020 12/16/18 through 04/14/19
91.	Patience One, LLC 2015 Tax documents
92.	Lowes house renovation summary, photographs and documents

EX.	DOCUMENT
93.	Lowes house summary with supporting Wells Fargo Home Mortgage #9607 (PMA #3436) titled in the names of Danka Katarina Michaels and Thomas A. Pickens 07/02/14 through 07/01/2016
94.	Queen Charlotte Summary – Wells Fargo Joint Checking #3436
95.	Summary of vehicle expenses
96.	Nevada Title Company documents re Patience One 7/3/14
97.	American Express Statements #63006 titled in the name of Thomas Pickens 12/08/10 through 12/08/11
98.	American Express Statements #63006 titled in the name of Thomas Pickens 12/09/11 through 12/07/12
99.	American Express Statements #63006 titled in the name of Thomas Pickens 12/08/12 through 12/08/13
100.	American Express Statements #63006 titled in the name of Thomas Pickens 12/09/13 through 12/08/14
101.	American Express Statements #63006 titled in the name of Thomas Pickens 12/09/14 through 12/08/15
102.	American Express Statements #63006 titled in the name of Thomas Pickens 12/09/15 through 12/08/16
103.	American Express Statements #63006 titled in the name of Thomas Pickens 12/09/16 through 12/08/17
104.	American Express Statements #63006 titled in the name of Thomas Pickens 01/08/18 through 12/07/18
105.	American Express Statements #63006 titled in the name of Thomas Pickens 12/08/18 through 05/08/19
106.	American Express #51001 titled in the name of Blue Point Development 12/05/12 through 12/20/13
107.	American Express #51001 titled in the name of Blue Point Development 12/21/13 through 12/19/14
108.	American Express #51001 titled in the name of Blue Point Development 12/20/14 through 12/20/15
109.	American Express #51001 titled in the name of Blue Point Development 12/21/15 through 12/20/16
110.	American Express #51001 titled in the name of Blue Point Development 12/21/16 through 12/20/17
111.	American Express #51001 titled in the name of Blue Point Development 12/21/17 through 12/20/18
112.	American Express #51001 titled in the name of Blue Point Development 12/21/18 through 04/19/19

EX.	DOCUMENT
113.	Bank of America Bank Statements #2561 titled in the name of Blue Point Development 10/29/12 through 02/28/14
114.	Bank of America Bank Statements #0222 titled in the name of Patience One LLC 11/01/12 through 12/31/13
115.	Wells Fargo Visa #0648 titled in the name of Thomas Pickens 06/06/17 through 12/08/17
116.	Wells Fargo Visa #0648 titled in the name of Thomas Pickens 12/09/17 through 12/07/18
117.	Wells Fargo Visa #0648 titled in the name of Thomas Pickens 12/08/18 through 05/08/19
118.	Wells Fargo Checking #8952 titled in the name of Thomas Pickens 10/16/18 through 12/31/18
119.	Wells Fargo Checking #8952 titled in the name of Thomas Pickens 01/01/19 through 04/30/19
120.	Emails from Robert Semonian file July 7, 2016 through August 29, 2018
121.	Robert Semonian, Accountant's Compilation Report dated June 29, 2016
122.	Robert Semonian, Accountant's Compilation Report dated May 15, 2017
123.	Text Messages between Plaintiff and Robert Semonian from 04/13/2017 to 12/31/2018
124.	Emails re marital status
125.	Land Rover Financial Group statement 12/13/13 – 01/12/14
126.	Lexus Statement – 12/24/13
127.	Southwest Pension Services – Danka Michaels. Statements 09/03/2013 and 12/31/13
128.	Valic – Danka Michalecko statements 9/30/13, 12/31/13, and 9/30/15
129.	Pinnacle Health Systems – Danka K. Michaels. Statements 9/30/13 and 12/31/13
130.	Danka Michaels, M.D. General Ledger dated July 2015
131.	Danka Michaels M.D. Profit & Loss dated July 2015
132.	Danka Michaels UBS Statement 12/2015
133.	Danka Michaels Pinnacle Health Systems Statement 7/1/15
134.	Bank of the West – 2015 Porsche statement 12.2.14
135.	Life Insurance Statement 11/25/15
136.	Thomas Pickens UBS Retirement statement February 2016
137.	Text message from Thomas Pickens to Jakub with bail bond card and invoice, September 2017
138.	Thomas Pickens UBS Retirement statements dated June 2017 and October-December 2017 (Supplemental Response to Request for Production No. 16.)

EX.	DOCUMENT
139.	Documents from the file produced by Shannon Evans related to the September 2016 transactions
140.	Email from Robert Semonian to Tom Pickens dated August 2, 2018
141.	Various emails related to joint business ventures
142.	Email from Danka to Tom dated September 27, 2017
143.	Emails between Danka and Monika Subertova dated January 2015
144.	JP Morgan Statements, Danka K. Michaels IRA, August 31, 2019 through September 30, 2019
145.	Email from Paul Lemcke to Jennifer Abrams dated July 24, 2018

Undersigned counsel will endeavor to confer with opposing counsel prior to trial to determine stipulations as to admissibility of all proposed Exhibits. Moreover, Tom reserves the right to offer any evidence obtained by either party through discovery, as well as rebuttal evidence.

IV.

UNUSUAL LEGAL OR FACTUAL ISSUES PRESENTED

Tom would propose that he be permitted to present evidence at this trial in two phases: Phase one, which could be conducted on Day One (February 14, 2020), should consist of evidence to determine his claims seeking a ruling on his request to set aside the Deeds and Assignment and to apply community property by analogy. Phase two can be conducted following the Court's ruling on these claims, on Day Two (February 21, 2020) and would allow him to present evidence of quasi-community and joint property and debt, as well as the proposed equitable division of the same, as well as his request for attorneys' fees.

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V.

LENGTH OF TRIAL

Two (2) full days.

RESPECTFULLY SUBMITTED this 7th day of February, 2020.

BLACK & LOBELLO



Michele Touby LoBello

Nevada Bar No. 5527

10777 West Twain Avenue, Suite 300

Las Vegas, Nevada 89135

Attorneys for Plaintiff,

THOMAS PICKENS

CERTIFICATE OF SERVICE

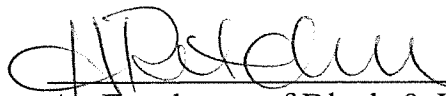
Pursuant to NRCP 5(b), I certify that I am an employee of BLACK & LOBELLO and that on the 27th day of February, 2020, I caused the above and foregoing document entitled foregoing PLAINTIFF THOMAS PICKEN'S PRETRIAL MEMORANDUM to be served as follows:

- ☐ by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada; and
- ☒ pursuant to N.E.F.C.R. 9, to be sent via electronic service;
- ☐ pursuant to EDCR 7.26, to be sent via facsimile;
- ☒ by email to
- ☐ hand delivered

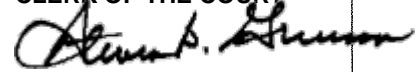
to the party or their attorney(s) listed below at the address and/or facsimile number indicated below:

Jennifer V. Abrams, Esq.
The Abrams & Mayo Law Firm
6252 South Rainbow Blvd., #100
Las Vegas, NV 89118
Email: JVAGroup@TheAbramsLawFirm.com
Attorney for Defendant

and that there is regular communication by mail between the place of mailing and the place(s) so addressed.



An Employee of Black & LoBello



REQT
BLACK & LOBELLO
Michele Touby LoBello, Esq.
Nevada Bar No. 5527
John D. Jones, Esq.
Nevada Bar No. 6699
10777 West Twain Avenue, Suite 300
Las Vegas, Nevada 89135
Telephone No.: 702-869-8801
Facsimile No.: 702-869-2669
Email: mlobello@blacklobello.law
Attorneys for Plaintiff,
THOMAS A. PICKENS

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

THOMAS A. PICKENS,
Individually and as Trustee of the LV
Blue Trust,

Plaintiff/Counterdefendant.

vs.

DANKA K. MICHAELS,
Individually and as Trustee of the Mich-
Mich Trust,

Defendant/Counterclaimant;

and related Counterclaims.

CASE NO.: D-17-560737-D

DEPT. J

**Dates of Trial: February 14, 2020 &
February 21, 2020**

Time of Trial: 9:00 a.m.

**PLAINTIFF'S REQUEST FOR THE COURT
TO TAKE JUDICIAL NOTICE PURSUANT TO NRS 47.130**

Plaintiff, Thomas A. Pickens ("Tom"), by and through his attorneys of record, Michele Touby LoBello, John D. Jones and the law firm of Black & LoBello hereby requests this Court take judicial notice of the following documents filed in the same or another court, specifically:

1. Eighth Judicial District Court, Clark County, Case No. A-19-795025-C, styled *Bluepoint Development, Plaintiff(s) vs. Patience One, LLC, Defendant(s)*.
2. Las Vegas Justice Court, Case No. 18C003465, styled *Bluepoint Development, Plaintiff(s) vs. Patience One, LLC, Defendant(s)*.
3. United States Bankruptcy Court, District of Nevada, Case No. 96-31245-gwz, styled *IN RE: DANKA KATERINA MICHALECKO* (Chapter 7).

Pursuant to NRS 47.130, this Court may take judicial notice of facts generally known within the territorial jurisdiction of the trial court or capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned, so that the fact is not subject to reasonable dispute. The existence of the cases filed in the above Courts, and the pleadings and filings therein, are such matters that subject to judicial notice. “Although the existence of a document be judicially noticeable, the truth of the statements contained in the documents and its proper interpretation are not subject to judicial notice if those matters are reasonably disputable.” *Fremont Indemnity Company v. Fremont General Corporation*, 148 Cal.App.4th 97, 113 (Ct. App. Cal. 2007) (citing *Taylor v. Charter Medical Corp.*, 162 F.3d 827, 829-30 (5th Circuit, 1998, “The Second, Eighth and Eleventh Circuits have held that even though a Court May take judicial notice of a document filed in another court. . .to establish the fact of such litigation and related findings, a court cannot take judicial notice of the factual findings of another court.”)).

Neither party here too can reasonably dispute the fact that a pleading or document has been filed in any of the above reference cases, or the fact that the cases themselves have been filed and exist.

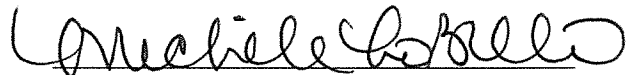
This request in no way is asking the Court to take judicial notice as to the truth of statements contained in any of the documents or pleadings on file in the above cases, but rather to find as fact the existence of the cases and the existence of the filings and pleadings in each case. *Joslin v. H.A.S. Ins. Brokerage*, 184 Cal.App.3d 369, 374, 228 Cal.Rptr. 878 (1986), which holds, “Taking judicial notice of a

1 document is not the same as accepting the truth of its contents or accepting a
2 particular interpretation of its meaning.” *See also Middlebrook-Anderson Co. v.*
3 *Southwest Sav. & Loan Assn.*, 18 Cal.App.3d 1023, 1038, 96 Cal.Rptr. 338 (1971).

4 NRS 47.150 provides that a judge or court may take judicial notice, whether
5 requested or not, and a judge or court shall take judicial notice if requested by a party
6 and supplied with the necessary information. NRS 47.160 provides, “A party is
7 entitled upon timely request to an opportunity to be heard as to the propriety of taking
8 judicial notice and the tenor of the matter to be noticed.” As to timing, NRS 47.170
9 provides: “Judicial notice may be taken at any stage of the proceeding prior to
10 submission to the court or jury.”

11 RESPECTFULLY SUBMITTED this 10th day of February, 2020.

12
13 BLACK & LOBELLO

14 

15 Michele Touby LoBello

16 Nevada Bar No. 5527

17 10777 West Twain Avenue, Suite 300

18 Las Vegas, Nevada 89135

19 Attorneys for Plaintiff,

20 THOMAS PICKENS
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of BLACK & LOBELLO and that on the 10 day of February, 2020, I caused the above and foregoing document entitled foregoing PLAINTIFF'S REQUEST FOR THE COURT TO TAKE JUDICIAL NOTICE PURSUANT TO NRS 47.130 to be served as follows:

- ☐ by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada; and
- ☒ pursuant to N.E.F.C.R. 9, to be sent via electronic service;
- ☐ pursuant to EDCR 7.26, to be sent via facsimile;
- ☒ by email to
- ☐ hand delivered

to the party or their attorney(s) listed below at the address and/or facsimile number indicated below:

Jennifer V. Abrams, Esq.
The Abrams & Mayo Law Firm
6252 South Rainbow Blvd., #100
Las Vegas, NV 89118
Email: JVAGroup@TheAbramsLawFirm.com
Attorney for Defendant

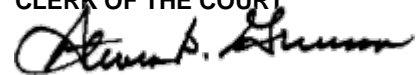
and that there is regular communication by mail between the place of mailing and the place(s) so addressed.


An Employee of Black & LoBello

MISC

Name: Michele Touby LoBello
Nevada State Bar No. 5527
Address: Black & LoBello
10777 W. Twain Avenue, #300
Las Vegas, NV 89135
Phone: 702-869-8801
Email: mlobello@blacklobello.law
Attorney for Plaintiff, Thomas A. Pickens

Electronically Filed
2/11/2020 2:32 PM
Steven D. Grierson
CLERK OF THE COURT



Eighth Judicial District Court
Clark County, Nevada

THOMAS A. PICKENS, Plaintiff, vs. DANKA K. MICHAELS, Defendant.	Case No. D-17-560737-D Dept. J
--	---

PLAINTIFF THOMAS PICKEN'S GENERAL FINANCIAL DISCLOSURE FORM-TRIAL

A. Personal Information:

1. What is your full name (*first, middle, last*) Thomas Allen Pickens
2. How old are you? 63
3. What is your date of birth 10/05/1956
4. What is your highest level of education? High school plus 6 years junior/college; no Degree

B. Employment Information:

1. Are you currently employed/ **self-employed**? (☒ check one)

☒ Yes

☒ Yes If yes, complete the table below. Attached an additional page if needed.

1. Are you disabled? (☒ check one)

☒ No

☐ Yes

If yes, what is your level of disability? _____

What agency certified you disabled? _____

Date of Hire	Employer Name	Job Title	Work Schedule (days)	Work Schedule (shift times)
2008	Blue Point Development	Construction Management	M - F	6:00 a.m.-7:00 pm

What is the nature of your disability? _____

C. Prior Employment: If you are unemployed or have been working at your current job for less than 2 years, complete the following information.

Prior Employer: _____ Date of Hire: _____ Date of Termination: _____
Reason for Leaving: _____

Monthly Personal Income Schedule

A. Year-to-date Income.

As of the pay period ending _____ my gross year to date pay is _____

B. Determine your Gross Monthly Income.

Hourly Wage

	×		=		×	52 Weeks	=		÷	12 Months	=	
Hourly Wage		Number of hours worked per week		Weekly Income				Annual Income				Gross Monthly Income

Annual Salary

	÷	12 Months	=	
Annual Income				Gross Monthly Income

C. Other Sources of Income. See Page 3, income from self-employment.

Source of Income	Frequency	Amount	12 Month Average
Annuity or Trust Income			
Bonuses			
Car, Housing, or Other allowance: Moorefield provides housing when I am working in California			
Commissions or Tips:			
Net Rental Income:			
Overtime Pay			
Pension/Retirement:			
Social Security Income (SSI):			
Social Security Disability (SSD):			
Spousal Support			
Workman's Compensation			
Other: Moorefield pays my health insurance			
Total Other Income Received			

D. Monthly Deductions

	Type of Deduction	Amount
1.	Court Ordered Child Support	
2.	Federal Health Savings Plan	
3.	Federal Income Tax	
4.	Health Insurance	
5.	Life, Disability, or Other Insurance Premiums	
6.	Medicare	
7.	Other: (Type of Deduction)	
8.	Retirement, Pension, IRA, or 401(k)	
9.	Savings	
10.	Social Security	
11.	Union Dues	
Total Monthly Deductions (Lines 1-11)		

Business/Self-Employment Income & Expense Schedule

A. Business Income:

What is your average gross monthly income/revenue from self-employment or businesses? **\$12,000**

B. Business Expenses: Attach an additional page if needed. (2019 taxes not completed)

Type of Business Expense	Frequency	Amount	12 Month Average
Advertising			
Car and truck used for business			\$1,900
Business Entertainment/Travel			\$1,000
Insurance			\$208
Legal and professional			\$225
Mortgage or Rent (home office)			\$600
Other: Vehicle registration			\$166
Repairs and maintenance			\$100
Supplies/Internet			\$260
Taxes and licenses			\$67
Utilities-Phone			\$200

Personal Expense Schedule (Monthly)

- A. Fill in the table with the amount of money **you** spend each month on the following expenses and check whether you pay the expense for you, for the other party, or for both of you.

Expense	Monthly Amount I Pay	For Me <input type="checkbox"/>	Other Party <input type="checkbox"/>	For Both <input type="checkbox"/>
Alimony Spousal Support				
Auto Insurance (paid by business)				
Car Loan/Lease/Registration (paid by business)				
Cell Phone (paid by business)				
Child Support				
Clothing, Shoes, Etc.	\$100.00			
Credit Card Payments	\$1,700.00			
Dry Cleaning				
Electric	\$600.00			
Food (groceries, incidentals & restaurants)	\$1,000.00			
Fuel (paid by business)				
Gas (for home)	\$150.00			
Health Insurance				
HOA	\$400.00			
Home Insurance (in mortgage)				
Cleaning Help				
Internet/Cable (bundle)	\$190.00			
Lawn Care	\$25.00			
Membership Fees				
Mortgage/Rent/Lease (Paid in part by business)	\$2,000.00			
Pest Control	\$65.00			
Pets	\$200.00			
Pool Service	\$25.00			
Property Taxes				
Security				
Sewer/Trash	\$42.00			
Student Loans				
Unreimbursed Medical Expense	\$200.00			
Water	\$350.00			
Other: Personal Care	\$50.00			
Total Monthly Expenses	\$7,097.00			

Personal Expense Schedule

Household Information

Fill in the table below with the name and date of birth of each child, the person the child is living with, and whether the child is from this relationship. Attached a separate sheet if needed.

	Child's Name	Child's DOB	Whom is this child living with?	Is this child from this relationship?	Has this child been certified as special needs/disabled?
1 st					
2 nd					
3 rd					
4 th					

- A. Fill in the table below with the amount of money you spend each month on the following expenses for each child.

Type of Expense	1 st Child	2 nd Child	3 rd Child	4 th Child
Cellular Phone				
Child Care				
Clothing				
Education (Uniforms)				
Entertainment				
Extracurricular & Sports				
Health Insurance (if not deducted from pay)				
Summer Camp/Programs				
Transportation Costs for Visitation				
Unreimbursed Medical Expenses				
Vehicle				
Other: Christmas/B-days/haircuts				
Total Monthly Expenses				

- B. Fill in the table below with the names, ages, and the amount of money contributed by all persons living in the home over the age of eighteen. If more than 4 adult household members attached a separate sheet.

Name	Age	Person's Relationship to You (i.e. sister, friend, cousin, etc...)	Monthly Contribution
Stacie Mittelstadt	40	Girlfriend	-0-

Personal Asset and Debt Chart

A. Complete this chart by listing all of your assets, the value of each, the amount owed on each, and whose name the asset or debt is under. If more than 15 assets, attach a separate sheet.

Line #	Description of Asset and Debt Thereon	Gross Value ¹		Total Amount Owed		Net Value	Whose Name is on the Account? ²
1.	9517 Queen Charlotte	\$820,000		\$560,000		\$260,000	Danka
2.	7608 Lowe Avenue	\$250,000		-0-		\$250,000	Danka
3.	4514 Blue Mesa Way	\$700,000		\$460,000		\$240,000	Tom
4.	Patience One, LLC ³	Unknown		Unknown		Unknown	Patience One, LLC/Danka
5.	Blue Point Dev. Inc.	Unknown	-		=	Unknown	Tom
6.	Danka Michaels, MD/ Blue Point Medical Spa	Unknown	-	Unknown	=	Unknown	Danka
7.	JP Morgan IRA 6373	\$415,000				\$415,000	Danka
8.	Life Insurance 9859 (death benefit \$1 Mil)	\$215,000	-		=	\$215,000	Danka
9.	Pinnacle Health Retirement 8700	\$112,000	-		=	\$112,000	Danka
10.	UBS Rollover IRA ⁴	\$550,000	-		=	\$550,000	Danka
11.	DM MD PC Pension (Southwest) ⁵	\$255,000	-		=	\$255,000	Danka
12.	Danka's Valic ⁶	\$28,000	-		=	\$28,000	Danka
Total Value of Assets (add lines 1-15)		Unknown	-	Unknown	=	Unknown	

B. Complete this chart by listing all of your unsecured debt, the amount owed on each account, and whose name the debt is under. If more than 5 unsecured debts, attach a separate sheet.

Line	Description of Credit Card/Unsecured Debt	Total Amount owed	Whose Name is on the Account?
1.	AMEX 3002	Paid off monthly	Tom Pickens
2.	WELLS FARGO VISA 0648	\$29,000.00	Tom Pickens
3.	AMEX 1001	Paid off monthly	Tom Pickens/BPD
4.	AMEX 3006	\$39,000.00	Tom Pickens
5.	David Winterton	\$42,018.43.	Bluepoint Development/Tom Pickens
Total Unsecured Debt (add lines 1-5)		\$110,018.43	

¹ No appraisals of real property or business valuations have been performed pending ruling on Tom's Second Amended Complaint.

² Tom seeks in this matter to set aside Deeds and Assignment of LLC interest as to three assets.

³ Owns office building located at 3320 North Buffalo Drive, Las Vegas, Nevada 89129.

⁴ This is value in 2015. All statements have **not** been provided, and as such, today's value is unknown.

⁵ This is value in 2013. All statements have **not** been provided, and as such, today's value is unknown.

⁶ This is value in 2013. All statements have **not** been provided, and as such, today's value is unknown.

CERTIFICATION

Attorney Information: Complete the following sentences:

1. I (*have*/*have not*) retained an attorney for this case.
2. As of the date of today, the attorney has been paid a total of \$40,309.00 on my behalf. I paid my former attorney approximately \$50,000.
3. I have a credit with my attorney in the amount of \$_____.
4. I currently owe my attorney a total of \$71,043.
5. I owe my prior attorney a total of \$_____.

IMPORTANT: Read the following paragraphs carefully and initial each one.


_____ I swear or affirm under penalty of perjury that I have read and followed all instructions in completing this Financial Disclosure Form. I understand that, by my signature, I guarantee the truthfulness of the information on this Form. I also understand that if I knowingly make false statements, I may be subject to punishment, including contempt of court.

_____ I have attached a copy of my 3 most recent pay stubs to this form.

_____ I have attached a copy of my most recent YTD income statement/P&L statement to this form, if self-employed.

_____ I have not attached a copy of my pay stubs to this form because I am currently unemployed.

_____ I have not attached financials or a tax return as the current information has not been prepared by my accountant, Bruce Gardiner.


Signature

2/9/2020
Date

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of BLACK & LOBELLO and that on the 10th day of February, 2020, I caused the above and foregoing document entitled **PLAINTIFF THOMAS PICKEN'S GENERAL FINANCIAL DISCLOSURE FORM-TRIAL**, to be served as follows:

- ☐ by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada; and
- ☒ pursuant to N.E.F.C.R. 9, to be sent via electronic service;
- ☐ pursuant to EDCR 7.26, to be sent via facsimile;
- ☒ by email to
- ☐ hand delivered

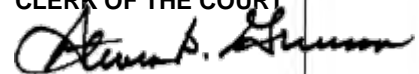
to the party or their attorney(s) listed below at the address and/or facsimile number indicated below:

Jennifer V. Abrams, Esq.
Abrams & Mayo
6252 S. Rainbow Blvd., Suite 100
Las Vegas, NV 89118
Attorney for Defendant Danka K. Michaels

and that there is regular communication by mail between the place of mailing and the place(s) so addressed.



An Employee of Black & LoBello



1 **ROC**

Jennifer V. Abrams, Esq.

2 Nevada State Bar Number: 7575

THE ABRAMS & MAYO LAW FIRM

3 6252 South Rainbow Blvd., Suite 100
Las Vegas, Nevada 89118

4 Tel: (702) 222-4021

Fax: (702) 248-9750

5 Email: JVAGroup@theabramslawfirm.com

Attorney for Defendant

Eighth Judicial District Court
Family Division
Clark County, Nevada

9 THOMAS A. PICKENS, individually,) Case No.: D-17-560737-D
and as trustee of the LV Blue Trust,)

10 Plaintiff,)

11 vs.)

12 DANKA K. MICHAELS,)
13 individually, and as trustee of the)
Mich-Mich Trust,)

14 Defendant.)

Department: J

15 **RECEIPT OF COPY**

16 I hereby acknowledge receipt of Defendant, Danka K. Michael's
17 Trial exhibit notebook.

18 Dated this 10 day of February, 2020.

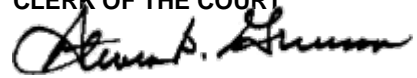
19 
20 An employee of BLACK & LOBELLO
10777 W. Twain Ave., Suite 300
Las Vegas, Nevada 89135
21 Attorney for Plaintiff

AA00963

FDF

Jennifer V. Abrams, Esq.
 Nevada State Bar Number: 7575
 6252 South Rainbow Boulevard, Suite 100
 Las Vegas, Nevada 89118
 Phone: (702) 222-4021
 Email: JVAGroup@theabramslawfirm.com
 Attorney for Defendant

Electronically Filed
 2/13/2020 5:21 PM
 Steven D. Grierson
 CLERK OF THE COURT



Eighth Judicial District Court
 Family Division
 Clark County, Nevada

<u>THOMAS A. PICKENS,</u> Plaintiff, vs. <u>DANKA K. MICHAELS,</u> Defendant.	Case No. <u>D-17-560737-D</u> Dept. <u>J</u>
--	---

GENERAL FINANCIAL DISCLOSURE FORM

A. Personal Information:

- What is your full name? (*first, middle, last*) Danka Katrina Michaels
- How old are you? 64
- What is your date of birth? 11/26/1955
- What is your highest level of education? M.D.

B. Employment Information:

- Are you currently employed/ self-employed? (☒ *check one*)
☐ No
☒ Yes If yes, complete the table below. Attached an additional page if needed.

Date of Hire	Employer Name	Job Title	Work Schedule (days)	Work Schedule (shift times)
June 2003	Danka K. Michaels, MD, Prof Corp	Owner	Monday – Saturday	Varies / 8 – 12 hours

- Are you disabled? (☒ *check one*)

☒ No

☐ Yes

If yes, what is your level of disability? _____

What agency certified you disabled? _____

What is the nature of your disability? _____

C. Prior Employment: If you are unemployed or have been working at your current job for less than 2 years, complete the following information.

Prior Employer: _____ Date of Hire: _____ Date of Termination: _____
 Reason for Leaving: _____

Monthly Personal Income Schedule

A. Year-to-date Income.

As of the pay period ending 12/31/2019 my gross year to date pay is \$146,000.00.

B. Determine your Gross Monthly Income.

Hourly Wage

	×		=		×	52 Weeks	=		÷	12 Months	=	
Hourly Wage		Number of hours worked per week		Weekly Income				Annual Income				Gross Monthly Income

Annual Salary

\$146,000	÷	12 Months	=	\$12,166.67
Annual Income				Gross Monthly Income

C. Other Sources of Income.

Source of Income	Frequency	Amount	12 Month Average
Annuity or Trust Income			
Bonuses	Annual	Varies	Varies
Car, Housing, or Other allowance:			
Commissions or Tips:			
Net Rental Income:	Monthly	\$966.67	\$966.67
Overtime Pay			
Pension/Retirement:			
Social Security Income (SSI):			
Social Security Disability (SSD):			
Spousal Support			
Child Support			
Workman's Compensation			
Other:			
Total Average Other Income Received			\$966.67

Total Average Gross Monthly Income (add totals from B and C above)	\$13,133.34
--	-------------

D. Monthly Deductions

	Type of Deduction	Amount
1.	Court Ordered Child Support (automatically deducted from paycheck)	
2.	Federal Health Savings Plan	
3.	Federal Income Tax	\$2,660.96
4.	Health Insurance Amount for you: _____ For Opposing Party: _____ For your Child(ren): _____	
5.	Life, Disability, or Other Insurance Premiums	
6.	Medicare	\$176.42
7.	Retirement, Pension, IRA, or 401(k)	
8.	Savings	
9.	Social Security (Based upon cap for 2019)	\$686.65
10.	Union Dues	
11.	Other: (Type of Deduction)	
Total Monthly Deductions (Lines 1-11)		\$3,524.03

Business/Self-Employment Income & Expense Schedule*

A. Business Income:

What is your average gross (pre-tax) monthly income/revenue from self-employment or businesses?
\$ \$163,578.12

B. Business Expenses: Attach an additional page if needed.

Type of Business Expense	Frequency	Amount	12 Month Average
Advertising	Annual	\$98,928.08	\$8,334.81
Insurance	Annual	\$151,910.15	\$12,659.18
Commissions, wages or fees	Annual	\$598,561.05	\$49,880.09
Legal / Lab / Outside Services	Annual	\$233,374.43	\$19,447.87
Supplies	Annual	\$346,657.62	\$28,888.14
Repairs & Maintenance	Annual	\$123,309.16	\$10,275.76
Mortgage or Rent	Annual	\$103,200	\$8,600.00
Utilities	Annual	\$90,106.27	7,508.86
Leasing / Loans	Annual	\$165,652.28	\$13,804.36
Janitorial	Annual	\$41,590	\$3,465.83
Merchant Services / Fees	Annual	\$48,635.16	\$4,052.93
Security	Annual	\$47,751.48	\$3,979.29
Other:	Monthly	\$37,017.06	\$37,017.06
Total Average Business Expenses			\$207,914.18

* Also, see attached spreadsheets.

Personal Expense Schedule (Monthly)

A. Fill in the table with the amount of money **you** spend each month on the following expenses and check whether you pay the expense for you, for the other party, or for both of you.

Expense	Monthly Amount I Pay	For Me <input type="checkbox"/>	Other Party <input type="checkbox"/>	For Both <input type="checkbox"/>
Alimony/Spousal Support				
Auto Insurance	\$234.10	X		
Car Loan/Lease Payment				
Cell Phone	\$200.00	X		
Child Support (not deducted from pay)				
Clothing, Shoes, Etc...	\$100.00	X		
Credit Card Payments (minimum due)	\$500.00	X		
Dry Cleaning				
Electric	\$600.00	X		
Food (groceries & restaurants)	\$500.00	X		
Fuel	\$120.00	X		
Gas (for home)	\$28.00	X		
Health Insurance (not deducted from pay)	\$800.00	X		
HOA	\$400.00	X		
Home Insurance (if not included in mortgage)	\$178.08	X		
Home Phone				
Internet/Cable	\$79.99	X		
Lawn Care	\$221.00	X		
Membership Fees				
Mortgage/Rent/Lease	\$3,467.00	X		
Pest Control	\$85.00	X		
Pets	\$200.00	X		
Pool Service				
Property Taxes (if not included in mortgage)				
Security				
Sewer				
Student Loans				
Unreimbursed Medical Expense	\$723.00	X		
Water	\$ 150.00	X		
Other: <u>Child's expense from page five</u>	\$1,260.00	X		
Total Monthly Expenses	\$9,846.17			

Household Information

- A. Fill in the table below with the name and date of birth of each child, the person the child is living with, and whether the child is from this relationship. Attached a separate sheet if needed.

	Child's Name	Child's DOB	Whom is this child living with?	Is this child from this relationship?	Has this child been certified as special needs/disabled?
1 st	Lukas Michaels (grandchild)	9/1/07	Both parents	No	No
2 nd					
3 rd					
4 th					

- B. Fill in the table below with the amount of money you spend each month on the following expenses for each child.

Type of Expense	1 st Child	2 nd Child	3 rd Child	4 th Child
Cellular Phone				
Child Care				
Clothing				
Education	\$1,260.00			
Entertainment				
Extracurricular & Sports				
Health Insurance (if not deducted from pay)				
Summer Camp/Programs				
Transportation Costs for Visitation				
Unreimbursed Medical Expenses				
Vehicle				
Other:				
Total Monthly Expenses	\$1,260.00			

- C. Fill in the table below with the names, ages, and the amount of money contributed by all persons living in the home over the age of eighteen. If more than 4 adult household members attached a separate sheet.

Name	Age	Person's Relationship to You (i.e. sister, friend, cousin, etc...)	Monthly Contribution

Personal Asset and Debt Chart

A. Complete this chart by listing all of your assets, the value of each, the amount owed on each, and whose name the asset or debt is under. If more than 15 assets, attach a separate sheet.

Line	Description of Asset and Debt Thereon	Gross Value		Total Amount Owed		Net Value	Whose Name is on the Account? You, Your Spouse/Domestic Partner or Both
1.	9517 Queen Charlotte Drive Las Vegas, Nevada 89145	\$830,000.00	-	\$567,000.00	=	\$263,000.00	Danka
2.	7608 Lowe Avenue Las Vegas, Nevada 89131	\$271,000.00	-	\$0.00	=	\$271,000.00	Mich-Mich Trust
3.	Patience One, LLC	\$4,274,408.00	-	\$1,338,000.00	=	\$2,936,408.00	Mich-Mich-Trust
4.	Capital One savings	\$265,647.00	-	\$0.00	=	\$265,647.00	Danka
5.	Chase IRA	\$420,882.00	-	\$0.00	=	\$420,882.00	Danka
6.	VALIC / AIG IRA	\$40,101.00	-	\$0.00	=	\$40,101.00	Danka
7.	Pinnacle Health Systems	\$168,096.00	-	\$0.00	=	\$168,096.00	Danka
8.	Danka K. Michaels, M.D., Prof. Corp., DBA Bluepoint Medical	\$	-	\$	=	\$	Danka
9.	Chase checking 3315	\$45,524.00	-	\$0.00	=	\$45,524.00	Danka
10.	Chase savings 7516	\$50,355.00	-	\$0.00	=	\$50,355.00	Danka
11.	Life insurance policy		-		=	\$	Danka
12.	2015 Porsche Cayenne	\$63,665.00	-	\$0.00	=	\$63,665.00	Danka
13.		\$	-	\$	=	\$	
14.		\$	-	\$	=	\$	
15.		\$	-	\$	=	\$	
Total Value of Assets (add lines 1-15)		\$6,429,678.00	-	\$1,905,000.00	=	\$4,524,678.00	

B. Complete this chart by listing all of your unsecured debt, the amount owed on each account, and whose name the debt is under. If more than 5 unsecured debts, attach a separate sheet.

Line #	Description of Credit Card or Other Unsecured Debt	Total Amount owed	Whose Name is on the Account? You, Your Spouse/Domestic Partner or Both
1.	Chase Sapphire	\$50,760.00	Danka
2.		\$	
3.		\$	
4.		\$	
5.		\$	
Total Unsecured Debt (add lines 1-6)		\$50,760.00	

CERTIFICATION

Attorney Information: Complete the following sentences:

1. I (have/have not) have retained an attorney for this case.
2. As of the date of today, the attorney has been paid a total of \$ 82,972.69 (with \$77,972.69 being applied toward fees and costs and \$5,000 in trust) on my behalf.
3. I have a credit with my attorney in the amount of \$ 5,000.00.
4. I currently owe my attorney a total of \$ _____.
5. I owe my prior attorney a total of \$ _____.

IMPORTANT: Read the following paragraphs carefully and initial each one.

DKM I swear or affirm under penalty of perjury that I have read and followed all instructions in completing this Financial Disclosure Form. I understand that, by my signature, I guarantee the truthfulness of the information on this Form. I also understand that if I knowingly make false statements I may be subject to punishment, including contempt of court.

DKM I have attached a copy of my 3 most recent pay stubs to this form.

DKM I have attached a copy of my most recent YTD income statement/P&L statement to this form, if self-employed.

 I have not attached a copy of my pay stubs to this form because I am currently unemployed.


Signature

2-13-20
Date

CERTIFICATE OF SERVICE

I hereby declare under the penalty of perjury of the State of Nevada that the following is true and correct:

That on (date) February 13, 2020, service of the General Financial Disclosure Form was made to the following interested parties in the following manner:

☐ Via 1st Class U.S. Mail, postage fully prepaid addressed as follows:

☒ Via Electronic Service, in accordance with the Master Service List, pursuant to NEFCR 9, to:

Michele T. LoBello, Esq.

☐ Via Facsimile and/or Email Pursuant to the Consent of Service by Electronic Means on file herein

to: _____

Executed on the 13th day of February, 2020.

Stephanie S. S.
Signature

Company Code Loc/Dept Number Page
R7 / G4Q 22386033 01/ 3897481 1 of 1
Danka K Michaels M D Prof Corp
3320 N Buffalo Dr Ste 106
Las Vegas, NV 89129

Earnings Statement



Period Starting: 12/02/2019
Period Ending: 12/15/2019
Pay Date: 12/20/2019

Taxable Marital Status: Single
Exemptions/Allowances: Tax Override:
Federal: 0 Federal:
State: 0 State:
Local: 0 Local:
Social Security Number: XXX-XX-XXXX

Danka K Michaels
3320 N Buffalo Dr #106
Las Vegas, NV 89129

Earnings	rate	hours/units	this period	year to date
Regular		80.00	4000.00	146000.00
Gross Pay			\$4,000.00	\$146,000.00

Other Benefits and Information	this period	year to date
Total Hours Worked	80.00	1520.00

Statutory Deductions	this period	year to date
Federal Income	-700.87	31931.56
Social Security	0.00	8239.80
Medicare	-58.00	2117.00
Net Pay	\$3,241.13	

Deposits account number	transit/ABA	amount
XXXXXXXX3315	XXXXXXXXXX	1944.68
XXXXXXXX7516	XXXXXXXXXX	1296.45

Your federal taxable wages this period are \$4,000.00

Danka K Michaels M D Prof Corp
3320 N Buffalo Dr Ste 106
Las Vegas, NV 89129

Pay Date: 12/20/2019

Deposited to the account	account number	transit/ABA	amount
Checking DirectDeposit	XXXXXXXX8815	XXXXXXXXXX	1944.68
Savings DirectDeposit	XXXXXXXX7516	XXXXXXXXXX	1296.45

THIS IS NOT A CHECK

Danka K Michaels
3320 N Buffalo Dr #106
Las Vegas, NV 89129

AA00972

Company Code Loc/Dept Number Page
R77G4Q 22386033 01/ 3929088 1 of 1
Danka K Michaels M D Prof Corp
3320 N Buffalo Dr Ste 106
Las Vegas, NV 89129

Earnings Statement



Period Starting: 12/16/2019
Period Ending: 12/29/2019
Pay Date: 01/03/2020

Taxable Marital Status: Single
Exemptions/Allowances: Tax Override:
Federal: 0 Federal:
State: 0 State:
Local: 0 Local:
Social Security Number: XXX-XX-XXXX

Danka K Michaels
3320 N Buffalo Dr #106
Las Vegas, NV 89129

Earnings	rate	hours/units	this period	year to date
Regular		80.00	4000.00	4000.00
Gross Pay			\$4,000.00	\$4,000.00

Other Benefits and Information	this period	year to date
Total Hours Worked	80.00	80.00

Statutory Deductions	this period	year to date
Federal Income	-697.21	697.21
Social Security	-248.00	248.00
Medicare	-58.00	58.00
Net Pay	\$2,996.79	

Deposits	account number	transit/ABA	amount
XXXXXX3315	XXXXXXXXXX	1798.07	
XXXXXX7516	XXXXXXXXXX	1198.72	

Your federal taxable wages this period are \$4,000.00

Danka K Michaels M D Prof Corp
3320 N Buffalo Dr Ste 106
Las Vegas, NV 89129

Pay Date: 01/03/2020

Deposited to the account
Checking DirectDeposit
Savings DirectDeposit

account number	transit/ABA	amount
XXXXXX3315	XXXXXXXXXX	1798.07
XXXXXX7516	XXXXXXXXXX	1198.72

Danka K Michaels
3320 N Buffalo Dr #106
Las Vegas, NV 89129

THIS IS NOT A CHECK

AA00973

Company Code Loc/Dept Number Page
R7 / G4Q 22386033 01/ 3952728 1 of 1
Danka K Michaels M D Prof Corp
3320 N Buffalo Dr Ste 106
Las Vegas, NV 89129

Earnings Statement



Period Starting: 12/30/2019
Period Ending: 01/12/2020
Pay Date: 01/17/2020

Taxable Marital Status: Single
Exemptions/Allowances: Tax Override:
Federal: 0 Federal:
State: 0 State:
Local: 0 Local:
Social Security Number: XXX-XX-XXXX

Danka K Michaels
3320 N Buffalo Dr #106
Las Vegas, NV 89129

Earnings	rate	hours/units	this period	year to date
Regular		80.00	5000.00	9000.00
Gross Pay			\$5,000.00	\$9,000.00

Other Benefits and Information	this period	year to date
Total Hours Worked	80.00	160.00

Statutory Deductions	this period	year to date
Federal Income	-937.21	1634.42
Social Security	-310.00	558.00
Medicare	-72.50	130.50
Net Pay	\$3,680.29	

Deposits account number	transit/ABA	amount
XXXXXXXX3315	XXXXXXXXXX	2208.17
XXXXXXXX7516	XXXXXXXXXX	1472.12

Your federal taxable wages this period are \$5,000.00

Danka K Michaels M D Prof Corp
3320 N Buffalo Dr Ste 106
Las Vegas, NV 89129

Pay Date: 01/17/2020

Deposited to the account	account number	transit/ABA	amount
Checking DirectDeposit	XXXXXXXX8815	XXXXXXXXXX	2208.17
Savings DirectDeposit	XXXXXXXX7516	XXXXXXXXXX	1472.12

Danka K Michaels
3320 N Buffalo Dr #106
Las Vegas, NV 89129

THIS IS NOT A CHECK

AA00974

Patience One LLC				
Tax ID	45-5302432			

Rent Roll				\$ 408,527.98
------------------	--	--	--	----------------------

Payroll				\$ -
----------------	--	--	--	-------------

Expenses				\$ 378,296.83
-----------------	--	--	--	----------------------

25000 - Leasehold Improvement				\$ 96,315.91
		Interest Payment - Loan	\$ 56,239.81	
		Principal Payment - Loan	\$ 28,650.17	
		Refiance Fees	\$ 11,425.93	
70300 - Printing and Reproduction				\$ -
		Check Order	\$ -	
		Vista Print	\$ -	
70600 - Utilities				\$ 47,132.57
		Republic Services - Garbage	\$ 9,713.05	
		Las Vegas Water District	\$ 12,084.68	
		Century Link	\$ 600.00	
		City of Las Vegas - Sewer	\$ 8,085.88	
		Southwest Gas	\$ 2,559.21	
		NV Energy	\$ 14,089.75	
70700 - Janitorial Expense				\$ 41,590.00
		Alley Thompson House Cleaner	\$ -	
		AmandaParotte First - Interior Cleaning	\$ -	
		Annie Polhammer	\$ -	
		Las Vegas Towel & Tissue	\$ -	
		Quick Clean Maids	\$ -	
		Service Max	\$ -	
		Vicky Squeaky Cleaning	\$ 41,590.00	
70800 - Security				\$ 47,751.48
		TSI Monitoring	\$ 2,077.48	
		All Purpose Security	\$ 45,504.00	
		Safe and Secure Alarms	\$ 170.00	
71100 - Taxes and Licenses				\$ 30,667.29
		Clark County Treasure - Property Tax	\$ 29,917.29	
		NV SOS Portal	\$ -	
		Evans Associates Resident Agent Fee	\$ 400.00	
		NV Secretary of State - Business License	\$ 350.00	
71206 - General Liability Insurance				\$ 10,486.65
		Aspen Insurance	\$ -	
		The Hartford	\$ 3,913.15	
		Travelers Insurance	\$ 6,573.50	
72000 - Management Fees				\$ 1,089.61
		Resort Management Sperry Vanness -	\$ 1,089.61	
		Direct Deposit Return	\$ -	
			\$ -	
75005 - Software Expense				\$ 390.00
		Intuit (Quickbooks)	\$ -	
		Autodesk	\$ 390.00	
			\$ -	
75100 - Repairs & Maintenance				\$ 100,390.68
		Ace Fire	\$ 845.00	
		Air Design Systems	\$ 4,976.05	
		AC Plus	\$ 2,050.00	
		Alavina Services - Gardening	\$ -	
		American Lock and Key	\$ 2,309.50	
		Gorilla Marketing Signs	\$ 3,700.00	
		Bright Nights	\$ -	
		Bulwark Exterminating	\$ 4,334.90	
		CertaPro Painters	\$ 1,500.00	

	Chip;n-dale Landscaping	\$	5,180.00	
	Dave Miller - Handyman	\$	2,550.00	
	Davey Tree Company	\$	-	
	Desert Home Electric, inc	\$	3,061.97	
	DX Graphics Vinyl	\$	-	
	Emergency Restoration	\$	2,560.39	
	Fowler Electric	\$	294.49	
	Insignia Signs	\$	1,544.88	
	Home Depot	\$	-	
	G & B Fence	\$	-	
	Las Vegas Best Tree Service	\$	700.00	
	KMS Landscaping	\$	54,000.00	
	MAC Roofing	\$	-	
	NLS Ground Management	\$	6,686.60	
	NV Carpet Care	\$	-	
	One Hour Electric	\$	-	
	PMJ Home Repair	\$	-	
	State of NV Mechanical	\$	-	
	Soebbing Flooring Es Design	\$	-	
	Two Guys and a Squeegee	\$	-	
	TMG Tech Consulting	\$	-	
	Todays Classroom	\$	-	
	The Home Depot	\$	-	
	Vegas Valley Plumbing	\$	1,207.50	
	WJ Borgholt - Plumber	\$	884.50	
	Vortex Door Industries	\$	2,004.90	
	Vegas Pro Electric	\$	-	
75200 - Vehicle Maintenance		\$	-	\$ -
	US Bank - Cadillac Payment	\$	-	
	Car maintenance	\$	-	
		\$	-	
75300 - Building Inspections				\$ 2,482.64
	Thyssenkrupp - Elevator Inspection	\$	2,482.64	
	Nevada Mechanical Compliance	\$	-	
	ATIS Elevator Inspection	\$	-	
75400 - Transfers		\$	-	\$ -
	Bank of the West Transfer	\$	-	
	Mortgage	\$	-	
	Business Elite Card-Control	\$	-	
75500 - Lawyers / Lawsuits				
	Greaves			
	Rocket Reporters, LLC			
	The Abrams Law Firm			
	Marquis Aurbach Coffin			

Total				\$ 30,231.15
--------------	--	--	--	--------------

Danka K Michaels MD Professional Corp.		
---	--	--

Tax ID 56-2371654

2019

Revenue		\$ 1,554,409.45
----------------	--	------------------------

Payroll		\$ 598,561.05
----------------	--	----------------------

Expenses		\$ 1,078,136.61
-----------------	--	------------------------

136000 - Payroll Advance		\$ -
	\$ -	
25000 - Leasehold Improvement		\$ 29,570.41
TI Loan - Medical	\$ 29,570.41	
41001 - Refund		\$ 989.77
Medical Refund Checks to Insurance Companies	\$ 478.29	
Spa Refund	\$ 511.48	
Gift Card Refund	\$ -	
51000 - Merchant Service Fees		\$ 42,346.02
BofA Merchant Svcs DES:Interchn - Medical	\$ 3,740.00	
SYNCHRONY BANK MTOT DEP	\$ 2,513.79	
Chase Saphire Annual Membership	\$ 450.00	
5/3 BANKCARD SYS COMB	\$ 636.00	
MERCHANT BANKCD DEPOSIT	\$ 3,579.69	
BofA Merchant Svcs DES:Discount - Medical	\$ 1,172.92	
BofA Merchant Svcs DES:FEE - Medical	\$ 91.00	
Remote Deposit Monthly Fee	\$ 1,205.00	
BofA Adjustment / Correction of Posted Item	\$ 1,659.66	
Chase Monthly Service Charges	\$ 356.00	
TransFirst LLC DES: Discount ID	\$ 4,315.48	
Transfirst / PRI DES: OVER DRAFT	\$ 18.19	
TransFirst / PRI DES: PreAuth Dr	\$ -	
Vantiv	\$ 4,484.08	
AMEX Des: Collection ID	\$ 1,064.60	
CC Interest Charges	\$ 17,059.61	
51100 - Products Costs		\$ 246,592.79
Cornerstone Wellness - Medical	\$ 8,927.75	
McKesson Specialty Care Dist Corp	\$ 71,369.43	
Bella Medical Products - Spa	\$ 3,054.47	
Allergan	\$ 49,627.70	
Dermastart	\$ 3,330.14	
Envy Medical	\$ 2,038.71	
Fasica Blaster - ADB Innovations	\$ -	
Biopelle	\$ 6,352.20	
Maxey Management	\$ 630.00	
Jane Iredale	\$ -	
Jan Marini Skin Research	\$ 24,891.06	
Intraceuticals	\$ 1,956.90	
SkinBetter Science	\$ 1,785.00	
Merz Aesthetics	\$ 22,780.90	
Medical Purchasing Res - Micro Pen	\$ 890.00	

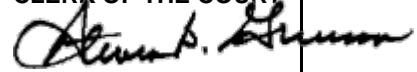
AA00977

	Topix	\$	2,927.20	
	Sentient Lasers	\$	-	
	Photonic Services	\$	-	
	Eclipse Aesthetics	\$	3,969.10	
	ZO Skin Health	\$	16,553.89	
	Young Blood Cosmet	\$	6,222.23	
	All Posters	\$	530.43	
	Carestream Medical LTD	\$	-	
	Venus Concept	\$	18,124.23	
	Airgas West	\$	631.45	
65005	- Payroll Taxes - State			\$ 2,370.32
	Employment Security Division	\$	-	
	ADP Tax	\$	2,370.32	
	MBT Modified Business Tax	\$	-	
66000	- Payroll Service Fees			\$ 2,929.05
	ADP Fees - Medical	\$	2,314.91	
	Payroll Service DES: Fee	\$	614.14	
67000	- Billing Expense			\$ 19,352.58
	MD Synergy Solutions, LLC - Medical	\$	1,200.00	
	AAPC Medical Coding	\$	-	
	Eclinical Works	\$	18,152.58	
70100	- Dues and Subscriptions			\$ 929.00
	Instant DX / On Call Data	\$	-	
	Uptodate subscription - Medical	\$	929.00	
70200	- Postage and Delivery			\$ 2,543.71
	Stamps.com - medical	\$	403.76	
	Fed Ex	\$	20.00	
	USPS Postage - Medical	\$	2,119.95	
70300	- Printing and Reproduction			\$ 1,257.06
	Check Order	\$	-	
	Uprise Company (Business Cards) - Medical	\$	433.64	
	Uprise Company (Business Cards) - Spa	\$	60.26	
	Sunrise Printing & Mailing	\$	763.16	
70400	- Office Supplies			\$ 25,761.43
	Staples Advantage	\$	12,512.97	
	Air Delights	\$	163.82	
	Apple Store	\$	1,599.93	
	A-1 Office Machine	\$	-	
	PDP Products	\$	-	
	Family Readers SVC	\$	-	
	Office Depot	\$	970.13	
	Costco	\$	-	
	Silver Springs Water	\$	158.00	
	PC Laptop	\$	54.06	
	Welch Allyn	\$	418.00	
	Amazon - Spa	\$	5,071.27	
	Amazon - Medical	\$	4,813.25	
70410	- Medical / Spa Supplies			\$ 31,223.82
	McKesson Medical Surgical	\$	21,345.13	
	Endymed Medical - Medical	\$	-	
	Laser Concepts	\$	797.86	
	Plasma Pen	\$	6,785.00	
	In Factor Medical LLC	\$	1,215.83	

	Universal Companies	\$	-
	Vitality Medical Inc	\$	-
	Henry Schein	\$	-
	Well Care Compounding - Spa	\$	1,080.00
70420 - Leasing Service		\$	39,765.96
	Leaseing Service: Lease Rent (Radio Frequency Machine)	\$	-
	Ascentium Capital Auth Payment (Ultherapy)	\$	28,795.08
	Ascentium Capital Auth Payment (Emsculpt & vanquish)	\$	1,048.00
	Venus Concepts	\$	9,922.88
	Leaseing Service: Lease Rent (Ultherapy Machine)	\$	-
70500 - Telephone / Cable Internet		\$	32,505.54
	ApLV	\$	2,028.79
	AT&T Mobility	\$	4,863.62
	Cox Business	\$	25,613.13
70600 - Utilities		\$	10,468.16
	NV Energy - Medical	\$	7,464.01
	NV Energy - Spa	\$	3,004.15
70700 - Janitorial Expense		\$	-
	Vicki's Squeaky Clean House Cleaning Svc - Medical	\$	-
	Las Vegas Towel & Tissue - Medical	\$	-
70800 - Security		\$	-
	TSI Monitoring	\$	-
	Vegas Pro	\$	-
70900 - Photo Copying		\$	5,628.48
	LeaseDirect RPD Payment / De Lage Landen - Medical	\$	-
	Wells Fargo PDP Copier	\$	5,628.48
	Supply Shipping Company	\$	-
71000 - Rent Expense		\$	103,200.00
	Patience One - Medical	\$	103,200.00
71100 - Taxes and Licenses		\$	11,280.36
	Clark County Assessor	\$	-
	City of Las Vegas - Business License	\$	1,550.00
	Nevada Division of Public and Behavioral Health	\$	480.00
	DEA Registration	\$	731.00
	Nevada State Board of Medicine	\$	760.00
	Department of Taxation - Sales / Use Tax	\$	7,759.36
	Board of Physicians	\$	-
71200 - Insurance		\$	2,117.00
	NSO / Healthcare Malpins - Liability Insurance - Medical	\$	2,117.00
71201 - Health Insurance		\$	61,044.50
	Sierra Health and Life	\$	60,689.72
	All-State	\$	354.78
71202 - Medical Malpractice		\$	22,105.39
	Premier Physicians Insurance	\$	-
	Coverys Pro Insurance	\$	22,105.39
	Miscellaneous Fees	\$	-
71204 - Workers Comp Insurance		\$	7,791.00
	The Hartford - Medical	\$	7,791.00
71205 - Life Insurance		\$	-
	Miscellaneous Fees	\$	-
	Guardian Life	\$	-
71206 - General Liability Insurance		\$	6,417.96
	Guardian Berkshire	\$	6,417.96

72000 - Advertising and Promotions		\$ 98,928.08
mailchimp - Spa	\$ 629.97	
Albertsons	\$ -	
Google Services	\$ 20,475.26	
ADROLL	\$ 1,036.69	
Beasley Media Group	\$ 1,910.00	
Frederick	\$ 2,302.19	
Food For Office	\$ 9,024.12	
Conference		
Facebook Services	\$ 3,138.49	
Indeed	\$ 257.55	
Media Display - EOS	\$ 1,400.00	
RealSelf, Inc	\$ -	
Lamar - Billboard	\$ 23,750.00	
Innovare Medical Media	\$ 10,710.00	
Las Vegas Party Rentals - Spa	\$ -	
Lees Discont Liquor	\$ 500.37	
Monsoon Media	\$ 6,829.23	
Monsoon Media - Medical	\$ -	
Yelp Business	\$ 12,071.06	
Vistaprint USA - SPA	\$ 3,312.82	
Party USA #1	\$ 1,580.33	
72100 - Legal and Professional Fees		\$ 124,039.35
Assured Document Destruction - Medical	\$ 1,070.59	
The Semonian Group	\$ 950.00	
Evans & Associates	\$ 400.00	
The Abrams Law Firm	\$ 83,574.92	
Marquis Aurbach Coffin	\$ 38,043.84	
The Walls Law Firm	\$ -	
Reisman & Jorokar	\$ -	
72200 - Outside Services		\$ -
Dr. Pachova Commissions	\$ -	
One Stop Recruiting	\$ -	
72201 - Laboratory		\$ 3,217.83
Assurity Labs	\$ 450.00	
Gohear - Medical	\$ -	
Quest Diagnostics - Medical	\$ 2,767.83	
72202 - Nerve Conduction Studies		\$ 12,125.00
MCL NeroDiagnostic - Medical	\$ 12,125.00	
72203 - Ultrasound		\$ 90,420.00
TeleDiagnosys LLC - Medical	\$ 15,825.00	
Luna Diagnostic	\$ 16,925.00	
Sonic Imaging - Medical	\$ 57,670.00	
75005 - Software Expense		\$ 13,368.75
Navicure, Inc. - Medical - Waystatr	\$ 1,896.00	
Adobe Creative Cloud	\$ 635.88	
BlueBeam Software	\$ -	
Dropbox	\$ 99.00	
Pandora	\$ 179.88	
Microsoft Office 365	\$ 119.88	
Go Daddy Domain	\$ 60.68	
Microsoft Office	\$ 2,830.43	

	PDF Filler	\$	72.00	
	WP Engine	\$	550.00	
	Intuit Payment - Medical	\$	1,590.00	
	booker software - Spa	\$	5,335.00	
75100	- Repairs & Maintenance			\$ 22,918.48
	Air Design Systems	\$	-	
	IT Guy - SRCG	\$	22,918.48	
	Appliance Repair Service	\$	-	
	American Lock & Key	\$	-	
	Unknown			
	Unknown	\$	-	
	Unknown	\$	-	
75200	- Vehicle Maintenance			\$ 4,928.81
	Gas and Car Maintenance	\$	4,928.81	
	DMV	\$	-	



NNOP

Jennifer V. Abrams, Esq.
Nevada State Bar Number: 7575
THE ABRAMS & MAYO LAW FIRM
6252 South Rainbow Blvd., Suite 100
Las Vegas, Nevada 89118
Tel: (702) 222-4021
Fax: (702) 248-9750
Email: jvagroup@theabramslawfirm.com
Attorney for Defendant

Eighth Judicial District Court
Family Division
Clark County, Nevada

THOMAS A. PICKENS, individually,) Case No.: D-17-560737-D
and as trustee of the LV Blue Trust,)

Plaintiff,)

vs.)

DANKA K. MICHAELS, individually,)
and as trustee of the Mich-Mich)
Trust,)

Defendant.)

**NOTICE OF NON-OPPOSITION TO
PLAINTIFF'S REQUEST FOR THE COURT TO TAKE JUDICIAL
NOTICE PURSUANT TO NRS 47.130**

PLEASE TAKE NOTICE that the Defendant, Danka K. Michaels,
does not oppose Plaintiff's Request for the Court to take Judicial Notice
Pursuant to NRS 47.130. In fact, Defendant, Danka K. Michaels,

1 specifically would like the Court to take judicial notice of the partial
2 transcript of the bench trial dated April 20, 2018 in the matter of
3 *Bluepoint Development, Inc. v. Patience One, LLC*, Case Number:
4 18C003465, which is attached hereto as Exhibit A.

5 DATED Thursday, February 13, 2020.

6 Respectfully Submitted,

7 THE ABRAMS & MAYO LAW FIRM

8 /s/ Jennifer V. Abrams, Esq.

Jennifer V. Abrams, Esq.

9 Nevada State Bar Number: 7575

10 6252 South Rainbow Blvd., Suite 100

Las Vegas, Nevada 89118

11 Attorney for Defendant

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Michele T. LoBello, Esq.
Attorney for Plaintiff

/s/ Chantel Wade
An Employee of The Abrams & Mayo Law Firm

EXHIBIT A

EXHIBIT A

EXHIBIT A

Bluepoint Development, Inc. vs Patience One, LLC

Partial Transcript of

BENCH TRIAL

April 20, 2018



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AA00986

Bench Trial
Bluepoint Development, Inc. vs Patience One, LLC

1 IN THE JUSTICE COURT OF LAS VEGAS TOWNSHIP
2 COUNTY OF CLARK, STATE OF NEVADA
3 BLUEPOINT DEVELOPMENT INC.;
4 a Nevada Corporation,
5 Plaintiff,
6 vs.
7 PATIENCE ONE, LLC, a Nevada Case No.: 8C003465
8 Limited Liability Company; Dept. No.: LVJC 6
9 DOES I-X inclusive; ROE
10 CORPORATIONS XI-X, inclusive,
11 Defendant.
12 _____/
13 ///

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REPORTER'S PARTIAL TRANSCRIPT OF BENCH TRIAL
BEFORE THE HONORABLE PATRICK N. CHAPIN

TESTIMONY OF THOMAS A. PICKENS

DECISION OF THE COURT

Friday, April 20, 2018
Las Vegas, Nevada

Reported by: Barbara Kulish, CCR #247, RPR

PATIENCE ONE, LLC, a Nevada
Limited Liability Company;
DOES I-X inclusive; ROE
CORPORATIONS XI-X, inclusive,

Counterclaimant,

vs.

BLUEPOINT DEVELOPMENT INC.;
a Nevada Corporation;
Thomas Allen Pickens, an
individual,

Counterdefendants.

1 APPEARANCES:

2

3 For the Plaintiff/Counterdefendant:

4 DAVID J. WINTERTON, ESQ.
5 1140 North Town Center Dr.
6 Suite 120
7 Las Vegas, Nevada 89144
8 702-363-0317
9 david@davidwinterton.com

10 For the Defendant/Counterclaimant:

11 AVECE M. HIGBEE, ESQ.
12 MICHAEL MAUPIN, ESQ.
13 MARQUIS AURBACH COFFING
14 10001 Park Run Drive
15 Las Vegas, Nevada 89145
16 702-382-0711
17 ahigbee@maclaw.com
18 mmaupin@maclaw.com

19 Also Present:

20 Thomas A. Pickens
21 Danka K. Michaels, MD
22 Jakub Michalecko
23
24
25

INDEX

WITNESSES

Plaintiff's	Direct	Cross	Redirect	Recross
THOMAS A. PICKENS	7	123	188, 221	216

EXHIBITS

Plaintiffs'	Marked for Identification	Offered	Admitted
(Other Plaintiff Exhibits were introduced, offered and/or admitted on 4/12/18)			

2 - Sun Property Management Records	90	192	194
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Defendant's			
(Other Defendant's Exhibits were introduced, offered and/or admitted on 4/12/18)			

L - Assignment and Assumption of Membership Interests	127/133	133	134
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DECISION OF THE COURT

1 LAS VEGAS, NEVADA; APRIL 20, 2018

2 10:39 A.M.

3 -000-

4
5 (PARTIAL BENCH TRIAL TRANSCRIPT
6 TESTIMONY OF THOMAS A. PICKENS)

7
8 THE COURT: Call your next witness.

9 MR. WINTERTON: Tom Pickens.

10 To let you know too, he's got, the witness,
11 a copy of everything you have there; they have a copy.

12 THE COURT: Well --

13 MR. WINTERTON: So I can give it to the
14 clerk, and the clerk can take it over, but it's the
15 exact same thing.

16 THE COURT: Well, what does he have there?
17 He has some binders too, I see. I want him only to
18 bring whatever you're --

19 MR. WINTERTON: Just the copies of the
20 exhibits.

21 THE COURT: Would you let Ms. Higbee see
22 it, please.

23 Ms. Higbee, I would like you to see that.
24 You can have a seat, Mr. Pickens.
25 Before you do that, just stand and raise

1 your right hand to be sworn in by the clerk.

2

3 THOMAS PICKENS,

4 having been first duly sworn, was

5 examined and testified as follows:

6

7 THE CLERK: Please state your name for the
8 record.

9 THE WITNESS: Thomas Pickens.

10 THE CLERK: Please spell your last name.

11 THE WITNESS: P-i-c-k-e-n-s.

12 THE COURT: Have a seat, sir.

13 What is your address, sir?

14 THE WITNESS: 4514 Blue Mesa Way.

15 THE COURT: Is that Las Vegas?

16 THE WITNESS: Las Vegas, I'm sorry. 89129.

17 THE COURT: Thank you, sir.

18 Hold on. Wait until defense is ready.

19 Do you have the -- okay. Why don't you --

20 are you going to have Mr. Pickens refer to those in his
21 testimony?

22 MR. WINTERTON: These exhibits?

23 THE COURT: Yes.

24 MR. WINTERTON: Yes.

25 THE COURT: Let's do this. Marshall, would

1 you please just put those on the witness stand for now.

2 Did you look at them, are they okay?

3 MS. HIGBEE: They look the same. We just
4 looked at the front page.

5 THE COURT: Where is it at?

6 MS. HIGBEE: Right there.

7 THE COURT: Oh. I didn't see them. I'm
8 sorry. I was looking at yours and thinking he didn't
9 have them. I'm sorry.

10 Okay. Mr. Winterton, your witness.

11 MR. WINTERTON: Thank you, your Honor.

12

13 DIRECT EXAMINATION

14 BY MR. WINTERTON:

15 Q. Mr. Pickens, what is your occupation?

16 A. I'm a construction manager/owner's rep for
17 commercial projects.

18 Q. Okay. And what exactly is BluePoint
19 Development?

20 A. It's a company that was -- I opened it in
21 2008 to help owners manage their construction projects.
22 I work for various companies. I watch their budgets, I
23 take care of their schedules. Pretty much everything
24 has to do with money on a project I took care of.

25 Q. Okay. And there came a point in time where

1 you became interested in a building on, I believe,
2 Buffalo?

3 A. Correct.

4 Q. And I wonder if you can tell us a little
5 bit about that.

6 A. In the end of 2012 we were looking for a
7 building because Dr. Michaels was thinking of
8 expanding -- or my wife was thinking about expanding,
9 so we ended up buying a -- we were looking for a
10 building for almost a year, and maybe several years.

11 We ended up finding the 3320 North Buffalo
12 building. And we ended up putting an offer in on it,
13 and the offer was accepted. We took possession around
14 late September, first of November.

15 THE COURT: Of what year?

16 THE WITNESS: 2012.

17 BY MR. WINTERTON:

18 Q. So in around September of 2012. And who --
19 did you use an entity to acquire the building?

20 A. Yes. We formed Patience One, LLC. My wife
21 owned 50 percent, I owned 50 percent of the building --
22 or the LLC, I'm sorry.

23 Q. Okay. And did you get a loan for that?

24 A. Yes, we did.

25 MS. HIGBEE: Objection, your Honor. What's

1 the relevance of this towards a rent credit?

2 THE COURT: Overruled.

3 THE WITNESS: Yes, we did, through Bank of
4 America.

5 BY MR. WINTERTON:

6 Q. Okay. And did you also open up a bank
7 account for Patience One?

8 A. Yes.

9 Q. And was it a joint bank account?

10 A. Yes. There was two signers. Dr. Michaels
11 and myself were signers on that account.

12 Q. So she has complete access to that,
13 correct?

14 A. Absolutely.

15 Q. And you have complete access?

16 A. Absolutely.

17 Q. Now, after you acquired that, who occupied
18 the building in September of 2012?

19 A. There was three tenants in there at that
20 point: Prudential, LaSpaluto, and American Bride.

21 I'm not sure of the name of it, but it was
22 the bride magazine that was in town for a while.

23 Q. And did they put down security deposits?

24 A. They all had security deposits down.

25 The Prudential, their security deposit --

1 again, I'm not looking at numbers, I'm just going to
2 guess -- it was like \$5500, which when they terminated
3 their lease, they agreed to not take their security
4 deposit back, and we have a letter stating that.

5 The bridal magazine, they actually were
6 given their deposit back. And LaSpaluto is still in
7 the building, so their deposit is still there, and it's
8 like 1200 bucks.

9 THE COURT: How much was the bridal
10 deposit?

11 THE WITNESS: It was like 4,099, something
12 like that. Again, it's close. I don't remember
13 because it's not in front of me.

14 BY MR. WINTERTON:

15 Q. So you never did -- you were here at the
16 last hearing, and it was testified that there was
17 probably security deposits of \$25,000?

18 A. Yeah.

19 Q. Was there ever \$25,000 security deposits?

20 A. Never.

21 Just so we all know, my space, there wasn't
22 a security deposit required. Her medical practice,
23 there wasn't a security deposit required.

24 Q. Okay. Now, when she moved in, what year
25 did she move in?

1 A. She moved approximately in February of
2 2013, because there was a build-out process going in
3 her space.

4 Q. Okay. And did she take just one suite,
5 multiple suites?

6 A. Multiple suites. I mean, she took
7 basically all but 6,000 square feet of the first floor,
8 which there was 15,000 -- she took like 8,000-some
9 square feet.

10 Q. Okay.

11 THE COURT: How many floors?

12 THE WITNESS: There's two floors.

13 THE COURT: Did she occupy both floors, her
14 practice?

15 THE WITNESS: No, just the first floor.
16 She had 8,000, almost 9,000 square feet on the first
17 floor. Almost 15,000 on each floor.

18 BY MR. WINTERTON:

19 Q. And she had suites 103, 104, 105, 106?

20 A. Yes.

21 Q. And at that point in time, did she put down
22 a security deposit?

23 A. No.

24 Q. So all that space was being occupied, and
25 no security deposit?

1 A. Right. Correct.

2 Q. Also, you were not required -- were there
3 other tenants that eventually came into the building?

4 A. Yes.

5 Q. And can you tell us what tenants?

6 A. We had a ortho -- well, a foot doctor who
7 came in. She was -- she put -- her rent was like 1700
8 a month. She actually ended up leaving after a certain
9 period of time.

10 Again, I don't have that information in
11 front of me. Her deposit was -- she actually left
12 because she was back of her rent, and so she left
13 without taking her deposit back.

14 THE COURT: How much was that deposit?

15 THE WITNESS: 1700 bucks, thereabout.

16 BY MR. WINTERTON:

17 Q. Let's go to the time where there was a
18 transition, which would be around, I guess, October of
19 2016.

20 A. Okay.

21 Q. What tenants were in there, and what were
22 the security deposits at that time?

23 A. The tenants, is there any --

24 Your Honor, can I get rent-rolls from my
25 pack over there?

1 THE COURT: That's up to your counsel.

2 MS. HIGBEE: That we haven't seen?

3 THE WITNESS: You have the rent-rolls. I
4 mean, you have them just as well as I do.

5 MS. HIGBEE: They aren't here in evidence.

6 THE WITNESS: Okay. Never mind.

7 THE COURT: Is that part of what's being
8 disclosed today?

9 MR. WINTERTON: No, it's not in that pack.

10 MR. MAUPIN: Your Honor, we have never seen
11 one single rent-roll.

12 MR. WINTERTON: Wow, they don't have a
13 rent-roll. His client testified they had a rent-roll.
14 And we're talking about --

15 MS. HIGBEE: From the time we took over.

16 MR. WINTERTON: That's what we're
17 testifying about.

18 MS. HIGBEE: How does he know?

19 THE COURT: Mr. Pickens, move on. We'll
20 address it if we need to.

21 THE WITNESS: 2016 -- again, I'm going to
22 guess -- the foot doctor --

23 MS. HIGBEE: Exactly. He's guessing.
24 That's my point. We don't have the documents, and he's
25 up here testifying that's a guess. That's not

1 testimony. That's insufficient.

2 MR. WINTERTON: Your Honor, I have a right
3 to submit the documents to him to refresh his
4 recollection. I'm not asking it be admitted into
5 evidence.

6 THE COURT: You do.

7 MR. WINTERTON: So may I approach?

8 THE COURT: Yes, you may.

9 MR. WINTERTON: Just your rent-roll.

10 THE WITNESS: Yeah, I know.

11 MR. WINTERTON: Do you want a copy?

12 THE WITNESS: Do you want a copy?

13 THE COURT: Yeah, I would like one if you
14 have one.

15 THE WITNESS: Yeah, I do.

16 BY MR. WINTERTON:

17 Q. Mr. Pickens, did you create this document?

18 A. Yes.

19 Q. Does this -- from your review of the
20 records, does this accurately reflect the tenants at
21 the time of, that were in the building?

22 THE COURT: Are we looking as of 4/20/15?

23 THE WITNESS: No, there's a 5/16 there
24 also, sir.

25 THE COURT: Which one are we looking at? I