

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

\* \* \* \*

LARISA MEREORA, an individual;  
THOMAS MULKINS, an individual;  
NINA GROZAV, an individual, ION  
NEAGU, an individual; ALISA  
NEAUGU, an individual; MARIA  
REYNOLDS, an individual, NNG LLC,  
a Nevada Limited Liability Company dba  
UNIVERSAL MOTORCARS;  
UNIVERSAL MOTORCAR LLC, a  
Nevada limited liability company dba  
UNIVERSAL MOTORCARS; DOES I  
through X and ROE BUSINESS  
ENTITIES through X, inclusive,

Petitioners,

vs.

EIGHTH JUDICIAL DISTRICT COURT  
OF THE STATE OF NEVADA, CLARK  
COUNTY, AND THE HONORABLE  
NADIA KRALL,

Respondents,

And

SLC LLC, a Nevada limited liability  
company,  
Named Plaintiff in Lower Court Action,

CASE NO.: Electronically Filed  
Jul 05 2022 02:52 p.m.  
District Court Case No. A-21-835625-0  
Elizabeth A. Brown  
Clerk of Supreme Court

***Petition for Writ of Mandamus or Prohibition***

From the Eighth Judicial District Court, Family Division, Clark County  
Honorable Nadia Krall, District Court Judge

**APPENDIX**

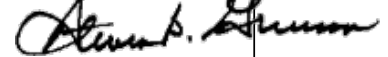
**VOL. 3**

**Bradley Hofland, Esq. (Bar #6343)**  
HOFLAND & TOMSHECK  
228 South 4th Street, 1st Floor  
Las Vegas, Nevada 89101  
702-895-6760

ATTORNEYS FOR PETITIONERS

**CHRONOLOGICAL INDEX OF APPENDIX**

<b>Description</b>	<b>Date Filed</b>	<b>Vol.</b>	<b>Page No.</b>	<b>Bate No.</b>
Plaintiff/Counter-Defendant SLC LLC's Request for Judicial Notice in Support of Opposition to Defendants/Counter- Claimants' Countermotion for Attorney's Fees and Costs	2/04/22	2	003-258	ROA000428- ROA000682



1 **RFJN**

2 **ROBERT A. RABBAT**

3 Nevada Bar #12633

4 **ENENSTEIN PHAM & GLASS**

5 11920 Southern Highlands Parkway

6 Suite 103

7 Las Vegas, Nevada 89141

8 Telephone: (702) 468-0808

9 Facsimile: (702) 920-8228

10 rrabbat@enensteinlaw.com

11 *Attorneys for Plaintiff/Counter-*

12 *Defendant SLC LLC*

9 **EIGHTH JUDICIAL DISTRICT COURT**  
10 **CLARK COUNTY, NEVADA**

11 SLC LLC, a Nevada limited liability  
12 company,

13 Plaintiff,

14 vs.

15 LARISA MEREORA, an individual, et  
16 al.,

17 Defendants.

) Case No. A-21-835625-C

) Dept. No. 4

)

) **PLAINTIFF/COUNTER-DEFENDANT**

) **SLC LLC'S REQUEST FOR**

) **JUDICIAL NOTICE IN SUPPORT OF**

) **OPPOSITION TO**

) **DEFENDANTS/COUNTER-**

) **CLAIMANTS' COUNTERMOTION**

) **FOR ATTORNEY'S FEES AND**

) **COSTS**

)

)

)

20 LARISA MEREORA, an individual, et  
21 al.,

22 Counterclaimants,

23 vs.

24 SLC LLC, a Nevada limited liability  
25 company,

26 Counterdefendants.

) [*Concurrently filed with Opposition to*  
) [*Countermotion for Attorneys' Fees and*  
) [*Costs; Declaration of Robert A. Rabbat*]

)

) **Hearing Date: March 3, 2022**

) **Time: 9:00 a.m.**

)

)

) Complaint Filed: June 2, 2021

) Trial Date: Not Set

)

)

27 **REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF**  
28 **OPPOSITION TO COUNTERMOTION**

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

1. Attached hereto as **Exhibit 5** is a true and correct copy of Defendant's Opposition To Plaintiff's Motion For Partial Summary Judgment And Countermotion For Attorney's Fees And Costs And Related Relief filed on August 2, 2019, in the matter titled *Sheikhai v. Botnari*, Case No. D-18-575686-L before the Eighth Judicial District Court, Clark County, Nevada.

3. Attached hereto as **Exhibit 7** is a true and correct copy of Defendant's Opposition To Jessica Wilde-Guzun's Motion To Intervene And Countermotion For Sanctions; To Strike Fugitive Documents; For Attorney's Fees And Costs And Related Relief (without the exhibits attached to that document) filed on March 23, 2021, in the matter titled *Sheikhai v. Botnari*, Case No. D-18-575686-L before the Eighth Judicial District Court, Clark County, Nevada.

28

1           5.       Attached hereto as **Exhibit 9** is a true and correct copy of Plaintiff's  
2 Opposition To Hamid Sheikhai's Motion To Set Aside Offer Of Judgment, Reset Trial,  
3 And Re-Open Discovery And Countermotion For Sanctions, Attorney's Fees And Costs  
4 filed on April 8, 2021, in the matter *Botnari v. Stone & Stone*, Case No. A-19-801513-P  
5 before the Eighth Judicial District Court, Clark County.

6           6.       Attached hereto as **Exhibit 10** is a true and correct copy of Plaintiff's  
7 Opposition To Defendant Hamid Sheikhai's Motion To Seal Case Records And  
8 Countermotion For Attorney's Fees And Costs filed on March 23, 2020, in the matter  
9 titled *Vitiok, LLC v. SLC, LLC, et al.*; Case No. A-19-805955-C before the Eighth Judicial  
10 District Court, Clark County.

11          7.       Attached hereto as **Exhibit 11** is a true and correct copy of Plaintiff's  
12 Opposition To Defendant Hamid Sheikhai's Motion To File Amended Answer And  
13 Counterclaim And Countermotion For Attorney's Fees And Costs filed on August 7,  
14 2020, in the matter titled *Vitiok, LLC v. SLC, LLC, et al.*; Case No. A-19-805955-C before  
15 the Eighth Judicial District Court, Clark County.

16          8.       Attached hereto as **Exhibit 12** is a true and correct copy of Plaintiff's  
17 Opposition To Hamid Sheikhai's Motion For order to show cause re contempt and  
18 Countermotion For Sanctions, Attorney's Fees And Costs filed on April 19, 2021, in the  
19 matter titled *Vitiok, LLC v. SLC, LLC, et al.*; Case No. A-19-805955-C before the Eighth  
20 Judicial District Court, Clark County.

21 ///

22  
23 ///

24  
25 ///

26  
27 ///

1           9.       Attached hereto as **Exhibit 13** is a true and correct copy of Plaintiff's  
2 Opposition To Defendants' Motion To Set Aside Offer Of Judgment, Reset Trial, And Re-  
3 Open Discovery And Countermotion For Sanctions, Attorney's Fees And Costs filed on  
4 April 20, 2021, in the matter titled *Vitiok, LLC v. SLC, LLC, et al.*; Case No. A-19-  
5 805955-C before the Eighth Judicial District Court, Clark County.

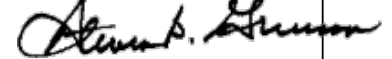
6  
7 Dated: February 4, 2022

**ENENSTEIN PHAM & GLASS**

8  
9 By: 

Robert A. Rabbat  
Nevada Bar Number 12633  
*rrabbat@enensteinlaw.com*  
11920 Southern Highlands Parkway, Suite 103  
Las Vegas, Nevada 89141  
Telephone: (702) 468-0808  
Facsimile: (702) 920-8228  
*Attorneys for Plaintiff/Counter-Defendant*  
*SLC LLC*

# **EXHIBIT 5**



**HOFLAND & TOMSHECK**  
Bradley J. Hofland, Esq.  
Nevada State Bar No. 6343  
bradh@hoflandlaw.com  
228 South Fourth Street, 1<sup>st</sup> Floor  
Las Vegas, Nevada 89101  
Telephone: (702) 895-6760  
Facsimile: (702) 731-6910  
*Attorney for Defendant,*  
*Victor Botnari*

**DISTRICT COURT, FAMILY DIVISION**

**CLARK COUNTY, NEVADA**

HAMID SHEIKHAI,

Plaintiff,

vs.

VICTOR BOTNARI,

Defendant.

CASE NO.: D-18-575686-L  
DEPT NO.: R

**DEFENDANT'S OPPOSITION TO  
PLAINTIFF'S MOTION FOR  
PARTIAL SUMMARY  
JUDGMENT AND  
COUNTERMOTION FOR  
ATTORNEY'S FEES AND COSTS  
AND RELATED RELIEF.**

Date of Hearing: September 3, 2019  
Time of Hearing: 1:30 p.m.

**ORAL ARGUMENT REQUESTED**

COMES NOW, Defendant VICTOR BOTNARI ("Victor"), by and through his attorneys, Todd M. Leventhal, Esq. of LEVENTHAL AND ASSOCIATES, and Bradley J. Hofland, Esq., of HOFLAND & TOMSHECK, and submits Defendant's Opposition to Plaintiff's Motion for Partial Summary Judgment and Defendant's countermotion for Attorney's Fees and Costs and Related Relief and respectfully requests this Court enter an Order:

1. Denying Plaintiff's motion for partial summary judgment in its entirety;
2. Awarding Victor the sum of \$5,000 for the attorney's fees and costs he has incurred having to respond to a baseless motion; and
3. Addressing any additional relief this Court deems fair and necessary.



1 This Opposition and Countermotion is made and based on the following  
2 Memorandum of Points and Authorities, the declarations and exhibits attached  
3 hereto, the papers and pleadings already filed herein, and any argument the Court  
4 may permit at hearing.

5 Dated this 2<sup>nd</sup> day of August, 2019.

6 **HOFLAND & TOMSHECK**

7  
8 By: /s/ Bradley J. Hofland

9 Bradley J. Hofland, Esq.  
10 State Bar of Nevada No. 6343  
11 228 South 4th Street, First Floor  
12 Las Vegas, Nevada 89101  
13 Telephone: (702) 895-6760  
14 *Attorneys for Plaintiff*  
15 *Victor Botnari*  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

# MEMORANDUM OF POINTS AND AUTHORITIES

## I.

### Introduction

In simple terms, the Plaintiff, Hamid Sheikhai (“Hamid”), is a shameless, yet accomplished, manipulator, who operates far outside the bounds of honor and decency. As detailed *infra*, Hamid has firmly established that honesty and truth are merely obstacles that he is free to ignore or withhold whenever they would be an impediment to the fulfillment of his ulterior motives or his own personal gain. Hamid has engaged in considerable fraudulent, tortious, and even unlawful activities, in his pursuit of financial gain. This motion for partial summary judgment is merely another attempt to mislead and manipulate *this* Court and the legal system<sup>1</sup>.

Despite Hamid’s efforts to *evade* his financial responsibilities as set forth in the Promissory Note executed between the parties, attached herewith as Exhibit “A”, which was previously recognized by this Court, the fact of the matter is ***the Promissory Note is a valid, binding, and enforceable agreement between the parties***. Hamid *conceded* this fact when he was opposing Victor’s motion to vacate the decree of annulment—and as a result, the annulment was ***not*** set aside. Of course, the fact that Hamid was in breach of the Promissory Note at the time he made those representations, and when he subsequently appeared before this Court, cannot be overlooked.

Incredulously, now that Hamid has been directed to make payments commensurate to the payments set forth in the Promissory Note, Hamid is now

---

<sup>1</sup> The papers on file show Hamid has no reservations manipulating the “system”. He first began the manipulation of the legal system as a whole by filing an ***inaccurate*** Joint Petition for Annulment in Douglas County rather than the County where all parties lived. Since then, he has continued his endeavors to manipulate the courts.

1 asking this Court to invalidate the Promissory Note that *he* admittedly prepared,  
2 that *he* admittedly signed, and that *he* affirmed to this Court that *he* intended to  
3 pay<sup>2</sup>. There is no factual or legal basis to relieve Hamid of his lawful financial  
4 obligations; his motion for partial summary judgment is disingenuous and must be  
5 denied.

## 6 II.

### 7 Statement of Facts

8 For purposes of this opposition and countermotion the facts are relatively  
9 straightforward. Hamid and Victor were married to each other on May 4, 2014.  
10 The parties' marriage was vetted through United States Citizenship and  
11 Immigration Services and recognized as a "bona fide" marriage. On March 28,  
12 2018, Hamid filed a self-serving Joint Petition for Annulment, that he had prepared  
13 and which contained inaccurate and superfluous content, in Douglas County—  
14 rather than Clark County where both parties resided. Two days later, the Decree of  
15 Annulment was entered. It is significant to note that in the Joint Petition for  
16 Annulment, despite the considerable assets accumulated and expenditures made,  
17 did not list any of those assets that were accumulated during the parties' four-year  
18 marriage. Victor's efforts to have the decree of annulment set aside were  
19 unsuccessful.

20 Approximately two months *after* the Decree of Annulment was entered, on  
21 May 27, 2018, *Hamid* prepared, executed, and notarized the "PROMISSORY  
22 NOTE SECURED BY PERSONAL ASSETS", wherein he promised to pay Victor  
23 the sum of One Million Dollars (\$1,000,000.00) subject to the terms set forth  
24 therein, and taken by Hamid "for [Hamid's] personal use and to pay off personal  
25

---

26 <sup>2</sup> See Hamid's Opposition to Victor's Motion to Vacate the Decree of Annulment  
27 and related relief, filed 10/8/2018, page 12 of 29, lines 12-15.

1 debts”. Despite his financial responsibilities, and his express and unequivocal  
2 promise, Hamid did *not* pay any sums to Victor until *ordered* by this Honorable  
3 Court on October 16, 2018. The characterization or classification of the funds  
4 Hamid subsequently paid Victor, including the \$10,000.00 monthly payments that  
5 Hamid has and is paying Victor, is deferred to the time of trial.

6 Notwithstanding, Hamid is apparently misconstruing Victor’s position that  
7 Victor’s interest or portion of the assets that were omitted from the decree of  
8 annulment *far exceeds* one million dollars (\$1,000,000.00) and that the promissory  
9 note that Hamid prepared does not divest or dispossess Victor of his interest in  
10 those omitted assets, that Hamid can unilaterally declare the document he prepared  
11 and signed, as being invalid. Hamid’s position is not only contrary to applicable  
12 precedent, it is patently absurd to suggest an obligor can unilaterally declare the  
13 financial instrument they executed to be invalid because they no longer want to be  
14 bound by its terms. If the infirm reasoning was not enough, Hamid has the audacity  
15 to ask this court to sanction his anticipatory breach.

16 Hence, the Promissory Note Hamid executed is a valid and enforceable  
17 agreement and Hamid is not entitled, nor has any legal right, to relieve himself of  
18 this liability under the guise of a purported agreement or through a motion for  
19 partial summary judgment.

### 20 **III.** **Legal Analysis**

#### 21 **A. There is no factual or legal basis that enable Defendants to** 22 **obtain a partial summary judgment.**

23 Pursuant to NRCP 56(c), the district court may only grant summary judgment  
24 when there are *no* genuine issues of material fact and one party is entitled to  
25 judgment as a matter of law.” *Posadas v. City of Reno*, 109 Nev 448, 452, 851 P.2d  
26 438, 441-42 (1993) (internal citations omitted). The burden of establishing the  
27 nonexistence of any genuine issue of fact is upon the moving party, *all* doubts are  
28

1 resolved against him, and his supporting documents, if any, are carefully  
2 scrutinized by the Court. *See Ottenheimer v. Real Estate Div. of the Nevada Dept.*  
3 *of Commerce*, 91 Nev. 338, 535 P.2d 1284 (1975); *Daugherty v. Wabash Life Ins.*  
4 *Co.*, 87 Nev. 32, 38 (1971).

5 Further, the party opposing summary judgment is entitled to have the  
6 evidence and **all** inferences therefrom accepted as true. *Jones v. First Mortgage*  
7 *Co. of Nevada*, 112 Nev. 531, 915 P.2d 883 (1996); *Johnson v. Steel*, 100 Nev. 181,  
8 182-183 (1984). “The pleadings and proof offered [must be] construed in the light  
9 most favorable to the non-moving party.” (*Ibid*). It is axiomatic that in  
10 determining whether there exists a “genuine issue as to any material fact” the trial  
11 and reviewing court must accept as true all evidence favorable to the party against  
12 whom the summary judgment motion is made and accord such party all favorable  
13 inferences that may reasonably be drawn from such evidence, *i.e.*, all evidence must  
14 be viewed in the light most favorable to such party. *Parman v. Petricciani*, 70 Nev.  
15 427, 272 P.2d 492 (1954); *Pool Water Products v. Olin Corp.*, 258 F.3d 1024 (9<sup>th</sup>  
16 Cir. 2001).

17 Consistent with this view, the Nevada Supreme Court recently rejected the  
18 “slightest doubt” standard for analyzing motions for summary judgment. *See Wood*  
19 *v. Safeway, Inc.*, 121 P.3d 1026, 1031 (Nev. 2005). In so doing, the Nevada  
20 Supreme Court adopted the “Celotex trilogy” of cases from the United States  
21 Supreme Court. (*Id.*) Thus, the proper analysis of a motion for summary judgment  
22 under Nevada law is the same as in federal courts. (*See Id.* affirmatively citing and  
23 adopting the summary judgment standards set forth in *Celotex Corp. v. Catrett*, 477  
24 U.S. 317, 106 S. Ct. 2548 (1986), *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242,  
25 106 S. Ct. 2505 (1986), and *Matsushita Electric Industrial Co. v. Zenith Radio*,  
26 475 U.S. 574, 106 S. Ct. 1348 (1986))

27 Under the *Celotex* trilogy, speculative arguments about what the facts might  
28 be no longer suffice to create a genuine issue of material fact:

1  
2 *A factual dispute is genuine when the evidence is such that a*  
3 *rational trier of fact could return a verdict for the nonmoving party.*  
4 *[Citation omitted]. Safeway, 121 P.3d at 1031. Under this standard,*  
5 *“where the record taken as a whole could not lead a rational trier of*  
6 *fact to find for the nonmoving party, there is no ‘genuine issue for*  
7 *trial.’” Id. (quoting Matsushita Electric, 475 U.S. at 586)*

8  
9 As noted above, the moving party bears the burden of informing the court of  
10 the basis for its motion, together with evidence demonstrating the absence of any  
11 genuine issue of material fact. *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986).  
12 Summary judgment may not be used as a “shortcut to resolving disputes upon facts  
13 and materials to the determination of the legal rights of the parties.” *Parman v.*  
14 *Petricciani*, 70 Nev. 427, 436 (1954). The purpose of the summary judgment rule  
15 is not to cut litigants off from their rights of a jury trial. The burden of proving the  
16 *absence* of triable facts is upon the moving party. *Butler v. Bogdanovich*, 101 Nev.  
17 449, 450 (1985).

18  
19 Moreover, at the summary judgment stage the judge’s function is *not* himself  
20 to weigh the evidence and determine the truth of the matter but to determine  
21 whether there is a genuine issue for trial. *Anderson*, 477 U.S. at 249. “Credibility  
22 determinations, the weighing of evidence, and the drawing of legitimate inferences  
23 from facts are jury functions, not those of a judge, whether he is ruling on a motion  
24 for summary judgment or for a directed verdict.” *Id.* at 256.

25  
26 Courts have universally held that the inquiry is simply whether the evidence  
27 presents a sufficient disagreement to require submission to a jury or whether it is so  
28 one-sided that one party must prevail as a matter of law. *Anderson v. Liberty*  
*Lobby, Inc.*, 477 U.S. 242, 251-52 (1986).

The evidence submitted in opposition of the underlying motion clearly  
establishes Defendant is not entitled to a partial summary judgment, but rather, it is  
the Plaintiff, who is entitled to such relief.

1           **1. Summary Judgment must be denied as a matter of law**  
2           **because there is an issue of material fact that precludes such**  
3           **a ruling.**

4           As noted above, Hamid improperly endeavors to have this Court declare the  
5           Promissory Note that *he* prepared, signed and notarized, months *after* he obtained  
6           an annulment of the parties' marriage, simply because Victor maintains he is  
7           entitled to his rightful share of the significant assets that were omitted from the  
8           Joint Petition for Annulment that was submitted to the Court.

9           The Promissory Note is a valid note that stands on its own and Hamid's  
10          promise is enforceable. The Promissory Note was not prepared or executed by the  
11          parties during their marriage. The Promissory Note did not pertain to the omitted  
12          "marital" assets of the parties. Hamid's misguided effort to have the promissory  
13          note that he prepared and executed rendered invalid because Victor remains  
14          committed to recover his rightful share of the omitted assets of the parties must fail  
15          as a matter of law.

16          Notwithstanding, despite the needless hyperbole and immaterial tangents  
17          injected by Hamid, the argument at its core is that Hamid is asking the Court to  
18          declare the promissory note *he* executed invalid; while Victor, on the other hand,  
19          contends the promissory note that Hamid executed is valid. By definition, the  
20          validity of the promissory note would constitute a material fact (which Hamid  
21          *cannot* contest since it is the very subject of his underlying motion), which by law  
22          would preclude the granting of the motion for partial summary judgment. *See*  
23          *Bellagio, LLC v. Eighth Judicial Dist. Court*, 2015 Nev. Unpub. LEXIS 841  
24          ("genuine issue of material fact precludes summary judgment").

25           **2. Summary Judgment must be denied because discovery has**  
26           **not been completed.**

27          In Hamid's motion for partial summary judgment, he improperly  
28          incorporates it into his discussion of "the rights the parties had at the time of the

1 annulment.”<sup>3</sup> The determination of the nature and extent of the rights of the parties  
2 is the very subject of the upcoming hearing—the *promissory note* that Hamid now  
3 seeks to invalidate—thereby enabling him to escape the financial responsibilities  
4 associated therewith, has nothing to do with the “rights of the parties at the time of  
5 the annulment.” Hamid is apparently hoping that the irrelevant, and inaccurate,  
6 content of his motion will cause this Court to lose focus of the very specific, and  
7 narrow issue of the underlying motion.

8 ***The promissory note is a valid, enforceable document, and is independent***  
9 ***of whatever rights the parties may have had at the time of the annulment.*** Victor  
10 has never claimed the promissory note is considered a part of the omitted assets of  
11 the parties. Victor simply points out the obvious—that the note represents a  
12 separate obligation and once the Court determines Victor’s interest in the omitted  
13 assets that Hamid has wrongfully withheld, that will establish an ***additional***, and  
14 separate obligation that Hamid must satisfy. The parties’ respective interest in the  
15 omitted assets will be determined by this Court at the conclusion of the upcoming  
16 evidentiary hearing.

17 In addition to mischaracterizing and misrepresenting Victor’s position as it  
18 pertains to the validity of the promissory note and Hamid’s financial  
19 responsibilities as a result thereof, Hamid further endeavors to improperly influence  
20 this Court by claiming their interpretation (albeit inaccurately) of the evidence  
21 “exchanged” shows the parties “did not commingle their assets or business  
22 interests.”<sup>4</sup> First, the evidence proves otherwise and will be provided at the  
23 upcoming evidentiary hearing. Second, Hamid fails to disclose the fact that  
24

---

27 <sup>3</sup> See Hamid’s underlying motion, page 1, line 27.

28 <sup>4</sup> *Id.*, page 3, line 7.



1 discovery is ongoing<sup>5</sup>. Not only is there considerable documents that will be  
2 provided Hamid pursuant to this Court's directives, Hamid is not properly  
3 responding to the discovery propounded upon him, which has necessitated the filing  
4 of Victor's motion for an Order to Show Cause, to Enforce Subpoena, and related  
5 relief. That motion is currently set to be heard on August 26, 2019 at 9:00 a.m.

6 Courts have long held that entry of summary judgment is proper only "after  
7 adequate time for discovery and upon motion, against a party who fails to make a  
8 showing sufficient to establish the existence of an element essential to that party's  
9 case, and on which that party will bear the burden of proof at trial." *Celotex Corp.*,  
10 *supra*, 477 U.S. at 322 (1986).

11 Continuing, Nevada Rule of Civil Procedure 56(f) allows the Court to refuse  
12 summary judgment, continue a hearing or "make such other order as is just" when a  
13 party opposing summary judgment demonstrates that it cannot "for reasons stated  
14 present by affidavit facts essential to justify the party's opposition." Nev. R. Civ. P.  
15 56(f); *see also Texas Partners v. Conrock Co.*, 685 F.2d 1116, 1119 (9th Cir. 1982)  
16 (reversing summary judgment where plaintiffs were not afforded opportunity to  
17 proceed with discovery). Rule 56(f) provides a device for litigants to avoid  
18 summary judgment when they have not yet had sufficient time to develop  
19 affirmative evidence. *Burlington Northern Santa Fe Ry. Co. v. The Assiniboine*, 323  
20 F.3d 767, 773 (9th Cir. 2003); *Aviation Ventures, Inc. v. Joan Morris, Inc.*, 110  
21 P.3d 59, 62-63, 121 Nev. 113 (Nev. 2005) (finding court abused its discretion by  
22 not permitting the non-movant to engage in discovery pursuant to Rule 56(f) to  
23 allow it an opportunity to marshal facts to oppose a motion for summary judgment).

24 In this case, discovery is clearly ongoing. It is significant to note that Hamid  
25 claims "there is a dearth of case law on annulments in Nevada", yet ***withholds***  
26

---

27 <sup>5</sup> Indeed, both parties have now filed motions addressing unresolved discovery  
28 issues.

1 Nevada precedent that undermines the relief he seeks of this Court. In *Williams v.*  
2 *Williams*, 120 Nev. 559, 97 P.3d 1124 (2004), the Nevada Supreme Court  
3 recognized the parties as “putative spouses” and held that the property that was  
4 acquired by the parties during their marriage that was subsequently annulled was to  
5 be divided pursuant to community property principles.

6 As noted in *Williams*, the putative spouse doctrine has two elements: (1) a  
7 proper marriage ceremony was performed, and (2) one or both of the parties had a  
8 good-faith belief that there was no impediment to the marriage and the marriage  
9 was valid and proper. *Williams* holds that good faith in entering the marriage is  
10 presumed. The party asserting lack of good faith has the burden of proving bad  
11 faith. Whether a party acted in good faith is a question of fact. *Id.*, 97 P.3d at 1128.  
12 ***Clearly, such a fact is a material fact that must be decided by this Court and***  
13 ***precludes the entry of summary judgment.***

14 In the case at bar, there is no question there was a proper marriage ceremony.  
15 Victor asserts he entered the marriage in good faith. Hamid will of course dispute  
16 that contention but he has the burden of proving bad faith and in disputing the issue  
17 Hamid raises a question of material fact. As such it is not an issue that can be  
18 resolved by summary judgment. Especially considering that Hamid faces the  
19 problems that in Victor’s INS case Hamid made statements ***under oath*** that the  
20 marriage was valid.

21 As a putative spouse Victor is entitled to the economic and status-related  
22 benefits that flow from marriage, such as his share of the community estate. Thus,  
23 all property acquired during the marriage is presumed to be community property  
24 (see NRS123.220). Thus, Hamid’s argument that title to the property acquired  
25 during the marriage should be assigned to the party in whose name it is titled or  
26 valued at the time of the annulment is inaccurate and irrelevant.

27 Continuing, Hamid’s reliance on the self-serving content of the Joint Petition  
28

1 of Annulment is misplaced. Hamid withheld from the Court the fact that he  
2 testified under oath that the marriage was valid. He withheld from the Court the  
3 fact that INS found the parties marriage to be “bona fide”. He withheld from the  
4 Court the fact that the parties had acquired and accumulated significant marital  
5 assets. Hamid withheld from the Court the reasons he was seeking an annulment  
6 and placing the misrepresentations therein. All of these facts demonstrate an intent  
7 to deceive and manipulate the Court so he could obtain an annulment.

8 Now that Victor is seeking his rightful share of the marital assets, Hamid’s  
9 actions reveal the additional intent and ulterior motives that he had in procuring an  
10 annulment. The intent and understanding of the parties is clearly relevant, and  
11 Hamid fails to recognize that he cannot profit from his own wrongdoings and  
12 would be equitably estopped from doing so. *See Chang v. Biosuccess Biotech Co.,*  
13 *Ltd.*, 76 F. Supp.3d 1022 (2014); *Jaffe v. Accredited Sur. & Cas. Co.*, 294 F.3d 584  
14 (2002); *see also Brandon v. Sherwood (In re Sann)*, (“He who seeks equity must do  
15 equity”).

16 Additionally, the authority cited by Hamid is inapposite and lends no support  
17 to Hamid’s position. Indeed, the authority cited by Hamid confirms that the “court  
18 can treat the property as community if the marriage was entered into in good faith  
19 by the party seeking relief.” It is also significant to note the *Liu*<sup>6</sup> court made a  
20 finding—*after conducting a trial and affording the parties the opportunity to*  
21 *present their case in a fair and meaningful manner*—whether the marriage was  
22 entered into in good faith or not. It did not make that determination by way of  
23 summary judgment.

24 In this case, *this Court* has *not yet made that finding*—and Hamid is  
25 desperately seeking to *prevent* this Court from hearing the evidence in this case and  
26 making such a determination because he knows it will be damning to his position,

---

27  
28 <sup>6</sup> *In re Marriage of Liu*, 197 Cal.App.3d 143, 242 Ca.Rptr. 649 (1987).

1 so he seeks a motion for partial summary judgment, despite the fact that whether  
2 Victor entered into the marriage in good faith is a material fact that has not yet been  
3 argued, evidence has not yet been presented—and discovery has not even been  
4 completed for that matter, and this Court has made no determinations or findings as  
5 it pertains to those material facts.

6 Hamid stated under oath that the parties’ marriage was valid; Hamid also  
7 stated under oath that it was not. Hamid clearly lacks credibility. Victor will  
8 establish the Joint Petition was obtained under a false premise and the evidence in  
9 this case will confirm an established pattern on the part of Hamid of fraud and  
10 manipulation.

11 Based on the foregoing, there are clearly genuine issues of fact that must be  
12 adjudicated by way of an evidentiary hearing. Consequently, Hamid’s motion for  
13 partial summary judgment must be denied.

14 **3. Hamid’s “preliminary accounting as of the Annulment**  
15 **Date” is insufficient to support a summary judgment.**

16 A portion of Hamid’s baseless motion for summary judgment includes a brief  
17 section captioned “Preliminary Accounting as of the Annulment Date.” Because by  
18 its very caption, the purported findings are “*preliminary*” and thus incomplete and  
19 not final, and thus insufficient to support any requested relief, and certainly  
20 insufficient to support a summary judgment. It is apparent that the inclusion of  
21 such self-serving argument was designed solely to improperly influence this Court.

22 As noted above, applicable case law provides that the omitted assets are to be  
23 divided equally and treated as community—and *not* restricted to the date of  
24 annulment or the manner in which the property was titled as proffered by Hamid.  
25 Secondly, discovery is still ongoing and the nature and extent of the assets, their  
26 respective contributions, and other material determinations have yet to be decided.  
27 The missing facts and information preclude an award of summary judgment.

28 Lastly, Hamid is not hoping to prevent Victor from receiving his rightful and

1 fair share of the omitted assets by seeking authorization from this Court for Wayne  
2 to utilize a prior financial obligation to satisfy a second financial obligation. Such a  
3 suggestion is patently absurd. Indeed, any indebtedness that one may owe to  
4 another cannot be offset by prior financial obligations. Hamid owes Victor one  
5 million dollars as evidenced by the Promissory Note he prepared, signed and  
6 notarized. The Court is being asked to simply distribute the omitted assets and  
7 divide the marital estate. The promissory note did not pertain to the omitted assets  
8 or Victor's interest in the marital estate.

9 **4. Victor is entitled to an award of attorney's fees**

10 The facts of this case demonstrate Hamid has no good faith or reasonable  
11 basis to declare the promissory note that he prepared, signed and notarized, and  
12 represented to this Court that he intended to satisfy. Notwithstanding, his  
13 aversion to having to provide Victor any funds whatsoever, despite his  
14 outrageous fraudulent acts implemented to divest Victor of his interest in the  
15 assets that were acquired by the parties during their marriage, resulted in his  
16 filing a baseless motion for summary judgment.

17 Quite frankly, the Promissory Note is valid, and Hamid, having previously  
18 declared to this Court the validity and enforceability of such note, fails—indeed  
19 is unable, to present any facts that would invalidate that promissory note or  
20 otherwise relieve him of the financial responsibilities associated therewith.  
21 Accordingly, his motion to evade such financial responsibility is on its face  
22 frivolous.

23 Continuing, the law that Hamid relies upon is inapposite and unpersuasive.  
24 More importantly, Hamid fails to disclose the authority from our Nevada  
25 Supreme Court that disproves his claims. Accordingly, Hamid's endeavor to  
26 have the omitted assets divided "as of the annulment date" is misplaced and  
27 contrary to applicable precedent. It is certainly not properly presented to the  
28 Court by way of summary judgment.

1 Likewise, Hamid's "preliminary" accounting was self-serving, incomplete,  
2 inaccurate, and certainly something that is not subject to a summary judgment.  
3 Hamid filed a baseless and needless motion for partial summary judgment  
4 hoping to evade his financial responsibilities and mislead this Court.

5 EDCR 7.60 provides, in relevant part:

6 (b) The court may, after notice and an opportunity to be heard, impose  
7 upon an attorney or a party any and all sanctions which may, under the  
8 facts of the case, be reasonable, including the imposition of fines, costs  
9 or attorney's fees when an attorney or a party without just cause:

10 (1) ***Presents to the court a motion or an opposition to a motion which***  
11 ***is obviously frivolous, unnecessary or unwarranted.***

12 (3) ***So multiplies the proceedings in a case as to increase costs***  
13 ***unreasonably and vexatiously.***

14 In this case, there was no factual or legal basis that would enable Hamid's  
15 change of heart or desire to escape having to fulfill his responsibilities to render the  
16 promissory note invalid.

17 Further, NRS 7.085 also provides this Court with the requisite authority to make  
18 Victor whole for the malicious and baseless litigation costs that he has incurred  
19 defending Hamid's frivolous filings. Therein, it states:

20 1. If a court finds that an attorney has:

21 (a) Filed, maintained or defended a civil action or proceeding in any  
22 court in this State and such action or defense is ***not well-grounded in***  
23 ***fact*** or is not warranted by existing law or by an argument for  
24 changing the existing law that is made in good faith; or

25 (b) ***Unreasonably and vexatiously extended a civil action or***  
26 ***proceeding before any court in this State,***

27 the court ***shall*** require the attorney personally to pay the additional  
28 costs, expenses and attorney's fees reasonably incurred because of such  
conduct.

29 ***2. The court shall liberally construe the provisions of this section in***  
30 ***favor of awarding costs, expenses and attorney's fees in all***  
31 ***appropriate situations.*** It is the intent of the Legislature that the court  
award costs, expenses and attorney's fees pursuant to this section and  
impose sanctions pursuant to Rule 11 of the Nevada Rules of Civil  
Procedure in all appropriate situations to punish for and deter

1 frivolous or vexatious claims and defenses because such claims and  
2 defenses overburden limited judicial resources, hinder the timely  
3 resolution of meritorious claims and increase the costs of engaging in  
4 business and providing professional services to the public. (emphasis  
added).

5 Thus, “NRS 7.085 allows a district court to make an attorney personally  
6 liable for the attorney fees and costs an opponent incurs when the attorney files,  
7 maintains or defends a civil action that is not well-grounded in fact or is not  
8 warranted by existing law or by a good-faith argument for changing the existing  
9 law.”<sup>7</sup>

10 NRCP 11 also enables this Court to impose sanctions if any pleading, written  
11 motion, or other paper is filed that is being filed for any improper purpose, such as  
12 to “*harass, cause unnecessary delay, or needlessly increase the cost of litigation.*”  
13 The Nevada Supreme Court, in *Watson Rounds*, held that NRCP 11 and NRS 7.085  
14 each represent a distinct, independent mechanism for sanctioning attorney  
15 misconduct. 131 Nev. at 791.

16 Moreover, in *Barney v. Mt. Rose Heating & Air Conditioning*, 192 P.3d 730,  
17 736 (2008) citing *Brunzell v. Golden Gate National Bank*, 85 Nev 345, 455 P.2d 31  
18 (1969), the Court enumerated factors that the district court should consider in  
19 awarding attorney fees, with no one factor controlling, as follows:

- 20 (1) the advocate's qualities, including ability, training, education,  
experience, professional standing, and skill;
- 21 (2) the character of the work, including its difficulty, intricacy,  
22 importance, as well as the time and skill required, the responsibility  
imposed, and the prominence and character of the Parties when  
23 affecting the importance of the litigation;
- 24 (3) the work performed, including the skill, time, and attention given  
to the work; and
- 25 (4) the result--whether the attorney was successful and what benefits  
were derived.

27 <sup>7</sup> *Watson Rounds, P.C., v. Eighth Judicial Dist. Ct. (Himelfarb & Associates)*, 131  
28 Nev. 783, 784, 358 P.3d 228, 230 (2015).

1 Victor's counsel met the factors outlined in *Brunzell*. Victor's counsel is  
2 qualified and has considerable experience, ability and training in the field of  
3 family law litigation. It is the responsibility of Victor's counsel to finalize  
4 outstanding issues to ensure the rights of Victor are preserved and that any rulings  
5 of this Court are consistent with applicable rules, statutory precedent and  
6 controlling law. Victor's counsel was attentive to work performed.

7 Accordingly, based upon the foregoing, it is not only fair, but also  
8 reasonable under the circumstances that Hamid and/or his counsel, be responsible  
9 for Victor's reasonable attorney fees and costs in the sum of \$5,000.00 pursuant to  
10 NRS §18.010, EDCR 7.60 and the holding of *Brunzell*.

11 **IV.**  
**Conclusion**

12 For the foregoing reasons, it is respectfully requested that the Court deny  
13 Hamid's motion for partial summary judgment in its entirety.

14 DATED this 2<sup>nd</sup> day of August, 2019.

15 **HOFLAND & TOMSHECK**

16 /s/ Bradley J. Hofland

17 Bradley J. Hofland, Esq.  
18 State Bar of Nevada No. 6343  
19 228 South 4<sup>th</sup> Street, First Floor  
20 Las Vegas, Nevada 89101  
21 Telephone: (702) 895-6760  
22 *Attorney for Defendant,*  
23 *Victor Botnari*  
24  
25  
26  
27  
28



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**CERTIFICATE OF SERVICE**

I hereby certify that I am an employee of Hofland & Tomsheck, that Pursuant to NRCP 5(b) and EDCR 7.26, I certify that on the 2<sup>nd</sup> day of August, 2019, I served the foregoing **DEFENDANT’S OPPOSITION TO PLAINTIFF’S MOTION FOR PARTIAL SUMMARY JUDGMENT AND COUNTERMOTION FOR ATTORNEY’S FEES AND COSTS AND RELATED RELIEF.** on the following parties by E-Service through Odyssey addressed as follows:

Todd Leventhal, Esq.  
[leventhalandassociates@gmail.com](mailto:leventhalandassociates@gmail.com)  
**LEVENTHAL & ASSOCIATES**  
*Attorneys for Defendant*

Marshal S. Willick, Esq.  
[email@willicklawgroup.com](mailto:email@willicklawgroup.com)  
Lorien K. Cole  
[lorien@willicklawgroup.com](mailto:lorien@willicklawgroup.com)  
Mallory Yeargan  
[mallory@willicklawgroup.com](mailto:mallory@willicklawgroup.com)  
**WILICK LAW GROUP**  
*Attorneys for Plaintiff*

By: /s/ Joseph Ahlin  
An Employee of Hofland & Tomsheck

# **EXHIBIT 6**

**HOFLAND & TOMSHECK**  
228 South Fourth Street, 1<sup>st</sup> Floor  
Las Vegas NV 89101  
PH: (702) 895-6760 ♦ FAX: (702) 731-6910

**LEVENTHAL & ASSOCIATES, PLLC.**

Todd M. Leventhal, Esq.  
Nevada Bar Number: 008543  
626 S. Third St.

Las Vegas, Nevada 89101  
Telephone: (702) 472-8686  
Facsimile: (702) 472-8685

**HOFLAND & TOMSHECK**

Bradley J. Hofland, Esq.  
Nevada Bar Number: 6343  
[bradh@hoflandlaw.com](mailto:bradh@hoflandlaw.com)

228 South 4<sup>th</sup> Street, 1<sup>st</sup> Floor  
Las Vegas, Nevada 89101  
Telephone: (702) 895-6760  
Facsimile: (702) 731-6910

*Attorneys for Defendant Victor Botnari*

**DISTRICT COURT, FAMILY DIVISION**

**CLARK COUNTY, NEVADA**

HAMID SHEIKHAI,

Plaintiff,

vs.

VICTOR BOTNARI,

Defendant.

CASE NO.: D-18-575686-L  
DEPT NO.: R

**DEFENDANT'S OPPOSITION TO  
PLAINTIFF'S MOTION TO  
SUSPEND MONTHLY PAYMENTS  
TO DEFENDANT AND  
COUNTERMOTION FOR  
ATTORNEY'S FEES AND COSTS  
AND RELATED RELIEF.**

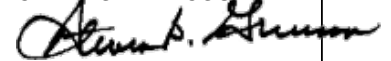
Date of Hearing: June 12, 2020  
Time of Hearing: 4:00 a.m.

**Oral Argument Not Requested**

COMES NOW, Defendant VICTOR BOTNARI ("Victor"), by and through his attorneys, Todd M. Leventhal, Esq. of LEVENTHAL AND ASSOCIATES, and Bradley J. Hofland, Esq., of HOFLAND & TOMSHECK, and submits Defendant's Opposition to Plaintiff's Motion to Suspend Monthly Payments to Defendant and Defendant's Countermotion for Attorney's Fees and Costs and Related Relief and respectfully requests this Court enter an Order:

1. Denying Plaintiff's motion in its entirety;
2. Awarding Victor the sum of \$5,000 for the attorney's fees and costs he has incurred having to respond to a baseless motion; and
3. Addressing any additional relief this Court deems fair and necessary.

Electronically Filed  
5/19/2020 4:16 PM  
Steven D. Grierson  
CLERK OF THE COURT



1  
2 This Opposition and Countermotion is made and based on the following  
3 Memorandum of Points and Authorities, the declarations and exhibits attached  
4 hereto, the papers and pleadings already filed herein, and any argument the Court  
5 may permit at hearing.

6 Dated this 19<sup>th</sup> day of May, 2020.

7 **HOFLAND & TOMSHECK**

8  
9 By: /s/ Bradley J. Hofland

10 Bradley J. Hofland, Esq.  
11 State Bar of Nevada No. 6343  
12 228 South 4th Street, First Floor  
13 Las Vegas, Nevada 89101  
14 Telephone: (702) 895-6760  
15 *Attorneys for Plaintiff*  
16 *Victor Botnari*  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1  
2 **MEMORANDUM OF POINTS AND AUTHORITIES**

3 **I.**

4 **Introduction**

5 The latest endeavor by the Plaintiff, Hamid Sheikhai (“Hamid”), and his  
6 counsel, to manipulate this Honorable Court is inexcusable, unwarranted, and  
7 unsupported by fact and legal authority. Indeed, Hamid not only openly defies  
8 court rules and mandates, he brazenly violates the duty of candor that is owed to  
9 this Court. Our Nevada Supreme Court has clearly stated that such conduct cannot  
10 be tolerated, condoned, or shielded under the guise of zealous advocacy<sup>1</sup>. The  
11 motion filed by Hamid is not only baseless, it is sanctionable and must be denied in  
12 its entirety.

13 **II.**

14 **Statement of Facts**

15 Given Hamid’s misrepresentations and omission of dispositive facts, not to  
16 mention the absence of any legal authority that supports his motion or permits the  
17 relief that he is incredulously seeking from this Court, the dispositive facts are  
18 deliberately obscured, distorted, and concealed by Hamid and his counsel. There is  
19 no dispute that Hamid prepared and executed a promissory note to Victor<sup>2</sup>.

20 Although on May 27, 2018, Hamid agreed to make \$10,000 interest only  
21 payments to Victor commencing June 15, 2018—***but Hamid failed to do make any***  
22

23  
24 <sup>1</sup> See *Thomas v. City of N. Las Vegas*, 122 Nev. 82, 127 P.3d 1057 (2006) (zeal  
25 cannot give way to unprofessionalism, noncompliance with court rules, or, most  
26 importantly, to violations of the ethical duties of candor to the courts and to  
27 opposing counsel.

28 <sup>2</sup> A copy of that promissory note (“Note”) is attached herewith as Exhibit “1” for  
this Court’s convenience and review. While Hamid strives to somehow  
characterize the note as “community property”, the note is valid and enforceable,  
and the argument is absurd.

<sup>3</sup> RFJN ISO Opposition to Countermotion -27

1 *payments until directed by this Court.* When Victor sought temporary support  
2 from this Court, the promissory note was addressed and Hamid was directed to  
3 make \$10,000 monthly payments to Victor. While Victor considered the payments  
4 to constitute “support” rather than payments Hamid was required to pay pursuant to  
5 the promissory note, Hamid has always maintained the payments were not  
6 “alimony”, not “support”, but rather, payments as required pursuant to the Note. At  
7 issue is Hamid’s desire to evade making payments he is contractually bound to  
8 make. What Hamid ignores, and hopes this Court fails to grasp, is there is no  
9 factual or legal basis that entitles him to such relief.

10 Hamid’s failure to make any payments was exposed and remedied by this  
11 Court. Hamid’s earlier attempt to avoid having to continue to make the monthly  
12 payments that he is required to pay pursuant to the Note failed<sup>3</sup>. Hence, when  
13 Hamid represents the \$10,000 monthly payment is “unclassified”, he is not being  
14 candid with this Court. With this Court Hamid is being intentionally obtuse and  
15 evasive in order to manipulate this Court and the legal system.

16 Hamid vigorously opposed the \$10,000 monthly payments as constituting  
17 “alimony” or “support” and represented to *this* Court—*and three other courts and*  
18 *judicial officers*—that the \$10,000 payments were payments on the Note and *not*  
19 support. Among the representations, made to the courts and under the penalty of  
20 perjury, are:

21 **Case A-19-801513-P (Before the Honorable Judge Joanna S. Kishner)**

22 On 12/30/2019, in Hamid’s Opposition to Plaintiff’s “Motion for Preliminary  
23 Injunction and for Order Appointing Receiver” and Defendant’s Countermotion for  
24 Attorney’s Fees and Costs, Hamid represented to the court:

25 P.2, lines 20-23:  
26

27 <sup>3</sup> Hamid opposed paying Victor any temporary support and filed a motion for  
28 partial summary judgment hoping to invalidate the Note.

<sup>4</sup> RFJN ISO Opposition to Countermotion -28

Victor “accepted a **Promissory Note** in the principal amount of \$1 million, plus interest only payments of \$10,000 per month that Hamid has paid and continues to pay to Victor. So far, Victor has collected 19 payments for a total of \$190,00 on the note.” (emphasis supplied).

P. 3, lines 20-21:

“Victor has collected \$190,000 from Hamid in interest-only payments *under the promissory note*.” (emphasis provided).

P. 9, lines 13-17, P. 10, lines 1-2:

“On May 27, 2018 Hamid executed, and Victor accepted, a Promissory Note to pay Victor \$1 million, together with interest at the rate of twelve percent (12%) per annum, commencing June 15, 2018, and calling for interest-only payments at a rate of \$10,000 per month until the principal was paid. The note indicates that as of the date of execution of the note, Victor (“the Lender” in the Promissory Note) is *not involved in any investments with Hamid* (“the Borrower” in the Promissory Note), and received the financial benefits of the Note: a principal owed of \$1,000,000 and \$10,000 per month in interest-only payments *indefinitely* until the principal payment is made.” (Emphasis original).

P.12, lines 13-16:

“*Hamid has satisfied the terms of the promissory note*, which has been documented in the family case by Hamid having paid Victor \$10,000 per month every single month; Victor’s attorney, Todd Leventhal, Esq. has signed a *Receipt of Copy* for each payment. So far, Victor has received \$190,000 in payments for payments on the note from June, 2018 to present.” (emphasis supplied).

Additionally, the footnote to that representation confirms Hamid’s insistence the payments were *not* “alimony” because it “has already been ruled an impossibility”.

P. 14, lines 21-22:

“*Hamid has honored the terms of the promissory note* and Victor has received \$190,000 so far in monthly payments.” (emphasis provided).

Page 15, lines 13-14:

“Victor has been accepting payments *under the promissory note* from Hamid at \$10,000 per month between June 2018 to present...” (emphasis provided).

1 Page 16, line 7:

2 Victor “has been paid 100% of *the monies due to him under the*  
3 *promissory note.*” (emphasis supplied).

4 Page 20, lines 19-20:

5 “*Victor has collected all sums owed to him under the promissory*  
6 *note*, for a total amount collected of \$190,000, and has received the  
7 benefit of his bargain from Hamid...” (emphasis supplied).

8 It is significant to note the Declaration by Hamid was made under penalty of  
9 perjury and it confirms and repeats the above representations.

10 **Case No. A-19-805955-C (Before the Honorable Judge Susan K.**  
11 **Johnson)**

12 In Hamid’s Motion to Consolidate Cases, Notice and a copy of which was  
13 also provided Judge Kishner on 1-3-2020, Hamid represents to both judges and  
14 both courts:

15 P. 4, lines 7-13:

16 “On May 27, 2018 Hamid executed, and Victor accepted, a Promissory  
17 Note to pay Victor \$1 million, together with interest at the rate of  
18 twelve percent (12%) per annum, commencing June 15, 2018, and  
19 calling for interest-only payments at a rate of \$10,000 per month until  
20 the principal was paid. The note indicates that as of the date of  
21 execution of the note, Victor (“the Lender” in the Promissory Note) is  
22 *not involved in any investments with Hamid* (“the Borrower” in the  
23 Promissory Note), and received the financial benefits of the Note: a  
24 principal owed of \$1,000,000 and \$10,000 per month in interest-only  
25 payments *indefinitely* until the principal payment is made.” (Emphasis  
26 original).

27 P. 4, lines 25-26:

28 “*Hamid has fully satisfied the terms of the promissory note*, which  
has been documented in the family case by Hamid having paid Victor  
\$10,000 per month every single month; Victor’s attorney, Todd  
Leventhal, Esq. has signed a *Receipt of Copy* for each payment. So  
far, Victor has received \$190,000 in payments for payments on the  
note from June, 2018 to present.” (emphasis supplied).

29 *Again, the representations were Declared under penalty of perjury by*  
30 *Hamid.*

On 12/16/2019 In Hamid’s Opposition to “Plaintiff’s Motion for



1 Preliminary Injunction” and Countermotion for Attorney’s Fees and Costs, Hamid  
2 represents to the court:

3 P. 2, lines19-22:

4 Victor “accepted a Promissory Note in the principal amount of \$1  
5 million, plus interest only payments of \$10,000 per month that ***Hamid***  
6 ***has paid and continues to pay to Victor.*** So far, Victor has collected  
7 19 payments for a total of \$190,00 on the note.” (emphasis supplied)

8 P. 4, lines 22-23, P. 5, lines1-2.

9 “On May 18, Hamid executed a Promissory Note to pay Victor \$1  
10 million, together with interest at the rate of twelve percent (12%) per  
11 annum, commencing June 15, 2018, and calling for interest only-  
12 payments at a rate of \$10,000 per month until the principal was paid.”  
13 (Attached a copy of the promissory note itself)

14 P. 9, lines 3-9:

15 “On May 27, 2018 Hamid executed, and Victor accepted, a Promissory  
16 Note to pay Victor \$1 million, together with interest at the rate of  
17 twelve percent (12%) per annum, commencing June 15, 2018, and  
18 calling for interest-only payments at a rate of \$10,000 per month until  
19 the principal was paid. The note indicates that as of the date of  
20 execution of the note, Victor (“the Lender” in the Promissory Note) is  
21 ***not involved in any investments with Hamid*** (“the Borrower” in the  
22 Promissory Note), and received the financial benefits of the Note: a  
23 principal owed of \$1,000,000 and \$10,000 per month in interest-only  
24 payments *indefinitely* until the principal payment is made.” (Emphasis  
25 original).

26 P.13, lines 8-9:

27 “***Victor has been accepting payments under the promissory note from***  
28 ***Hamid at \$10,000 per month between June 2018 to present...***”

Again, the representations were repeated and confirmed under penalty of  
perjury by Hamid.

It should be noted that Hamid’s Motion to Consolidate cases was Denied;  
Hamid’s Motion for Fees was Denied; and Hamid’s Motion to Seal Case Records  
was also Denied.

**Case No: D-18-575686-L (Before the Honorable Bill Henderson)**

10/8/2018. On October 8, 2018, in Hamid’s Opposition to Defendant’s

1 Motion to Vacate the Decree of Annulment and Allowing this Matter to Proceed as  
2 a Contested Divorce; For Exclusive Possession of the Marital Residence and  
3 Temporary Support; For a Forensic Accounting for an Award of Preliminary Fees  
4 and Costs and Related Relief and Countermotion for Attorney's Fees and Costs,  
5 Hamid represented:

6 P. 12 of 29:

7 Hamid's affidavit provides "[he] used that exact note to draw up my  
8 \$1,000,000 note for Victor Botnari at 12% interest-only payments of  
\$10,000 per month...."

9 On 11/29/2018, in Hamid's Memorandum for Hearing on Trial Viability

10 Hamid stated:

11 P. 6, lines 16-19.

12 "Hamid executed a Promissory Note to pay Victor \$1 million, together  
13 with interest at the rate of twelve percent (12%) per annum,  
14 commencing June 15, 2018, and calling for interest only payments at a  
rate of \$10,000 per month until the principal was paid." Attached  
copy of promissory note.

15 P.7, lines 3-7:

16 "The note indicates that Victor ("the Lender" in the Promissory Note)  
17 is *not involved in any investments with Hamid* ("the Borrower" in the  
18 Promissory Note), and in exchange received the financial benefits of  
19 the Note: a principal payment of \$1,000,000, and \$10,000 per month in  
interest-only payments *indefinitely* until the principal payment is  
made."

20 P.8, lines 24-25:

21 "Victor has received \$60,000 in payments under the Promissory Note  
22 to date."

23 P. 10:

24 "The Court made it *very* clear at the last hearing that it had no  
25 authority to order alimony, fees, etc., because the parties' marriage  
26 was annulled."

27 Judge Henderson actually stated the "Court can't address attorney fees,  
28 alimony, or forensics, forensic money, or money for forensic experts  
until such time that the court determines there's a basis to set it aside."

Lines 23-24:

The \$50,000 in payments from Hamid to Victor was owed

1 pursuant to the parties' Promissory Note as payments that were due at  
2 \$10,000 per month from May, 2018 to October, 2018 and had nothing  
3 to do with "support."

4 P. 12, lines 6-7:

5 "Victor has received \$60,000 in payments on the Promissory Note  
6 from Hamid through cashier's checks made out to Attorney  
7 Leventhal's office."

8 In Hamid's Motion for Partial Summary Judgment, filed 3/25/2019, Hamid  
9 filed 142 pages of Hamid seeking to have the Court declare the promissory note to  
10 be invalid and set aside; it was not<sup>4</sup>.

11 **Case No. 18-DI-0087 (Before the Honorable Thomas W. Gregory)**

12 In Hamid's Opposition to Motion to Set Aside Decree of Annulment and  
13 Countermotion for Attorney's Fees and Costs, Hamid represented to the court:

14 P.6, line 23; P.7, lines 1-2:

15 "Hamid executing a promissory note to Victor for \$1,000,00 plus  
16 interest-only payments."

17 P. 7, lines 10-14:

18 "May 28, Hamid executed the Promissory Note to pay Victor \$1  
19 million, together with interest at the rate of twelve percent (12%) per  
20 annum, commencing June 15, 2018, and calling for interest-only  
21 payments at a rate of \$10,000 per month until the principal was paid."  
22 (Attached a copy of the underlying promissory note)

23 P. 12, lines 21-22; P. 13, lines 1-2:

24 "On May 18, 2018, Hamid executed a Promissory Note to pay Victor  
25 \$1 million, together with interest at the rate of twelve percent (12%)  
26 per annum, commencing June 15, 2018, and calling for interest-only  
27 payments at a rate of \$10,000 per month until the principal was paid."

28 P. 15, lines 24-26:

---

<sup>4</sup> The Journal Entry of 11-25-2019 states Hamid's Motion for Partial Summary Judgment is RESOLVED as the Parties agree the Note was valid as to the authenticity and there were no alterations, at the time it was executed. While the subsequent Order prepared by Hamid reserves the matter, the fact remains, the note is valid and enforceable.

1 Hamid represented to the Court that Victor's claims amount to "a sum  
2 that is much *lower* than the million dollars that was agreed to *and*  
3 *remains owed to him* – plus interest – under the existing Promissory  
Note.

4 P. 17, lines 3-7:

5 "*Hamid has satisfied the terms of the promissory note*, which has  
6 been documented in Family Case Two by Hamid having paid Victor  
7 \$10,000 per month every single month; Victor's attorney, Todd  
8 Leventhal, Esq., has signed a Receipt of Copy for each payment. So  
far, Victor has received \$190,000 in *payments for payments on the*  
*note from June, 2018 to present.*" (emphasis supplied).

9 P.17, lines 25-26:

10 Victor's claim that the \$10,000 payments were "alimony" "has already  
11 been ruled an impossibility since the parties' purported marriage was  
annulled...."

12 P.29, lines 1-2:

13 "*Victor has been paid 100% of the payments on the promissory note*  
14 *and Hamid is current as of January 2020, having paid Victor a total*  
*of \$190,000.*" (emphasis provided).

15 It is painfully clear that Hamid does not consider the \$10,000 payments to be  
16 "unclassified". While Hamid took issue with the characterization of the payments  
17 as "support", leading to the Court deferring classification<sup>5</sup>, Hamid has made  
18 representations in 2018, 2019, and 2020, in four courts and before four different  
19 judges that the payments were payments on the Note.

20 Given these affirmative and unequivocal representations, made to influence  
21 and gain advantage before the various courts, Hamid is judicially estopped from  
22 now claiming otherwise. Indeed, if Hamid truly believed this Court could suspend  
23 any and all financial payments that are due pursuant to prior financial agreements  
24 and obligations because of the "worst disaster in our lifetimes", despite the absence  
25

26 <sup>5</sup> See Journal Entry of 12-3-2018; Journal Entry of 3-26-2019 noted Hamid  
27 characterized the payments he made as "payments under the note" and  
28 characterized by Victor as "Alimony."

1 of any legal authority to support such a preposterous claim, why didn't Hamid ask  
2 this Court to suspend all of his financial obligations—including mortgages, rental  
3 payments, vehicle loans, credit card obligations, and the \$400,000 promissory note  
4 that he previously disclosed to this Court which he executed with "a friend", Laila  
5 Seddiqui/Kazimi, and which he has been paying "\$4000 a month diligently, which  
6 represents a 12% interest-only payment monthly" Hamid doesn't because he is not  
7 entitled to have any such payments suspended (regardless of the "worst disaster in  
8 our lifetimes"<sup>6</sup>) and he isn't entitled to have the Note payments suspended either.

9 Hamid is estopped and legally unable to have this Court suspend payments  
10 that are due on the Note that Hamid prepared and executed, as well as any other  
11 financial obligations of Hamid. Hamid certainly had no problem—or hesitation—  
12 informing this court and others, that ***his payments were payments that were due on***  
13 ***the Note!*** Hamid does not disclose his repeated arguments and admissions because  
14 they preclude the suspension of any payments. Instead, he conceals such damning  
15 evidence and conveniently feigns uncertainty, hoping his performance will cause  
16 this Court to entertain his request to not make any payments (which is what Hamid  
17 intended from the first place and sought to avoid previously) by characterizing the  
18 payments as "support" (alimony) and suspending further payments. The request is  
19 baseless and Hamid is certainly not entitled to such relief.

20 Of course, if Hamid is claiming the \$10,000 payments were indeed  
21 "temporary support" (***which he is not***), which would be necessary in order to be  
22 subject to modification by this Court, then Hamid has unquestionably breached the  
23 promissory note. To date, he would be delinquent with twenty-four (24) payments,  
24 for a total of \$240,000, plus a corresponding penalty of fifteen percent (15%) for  
25  
26

---

27 <sup>6</sup> A characterization that is subject to dispute/debate and not globally accepted as  
28 true.

1 each payment not timely received—for an additional \$36,000 (24 x \$1500), that  
2 would necessarily be reduced to judgment (total of \$276,000).

3 Additionally, assuming judicial estoppel did not preclude Hamid from  
4 disputing the validity of the Note and the payments that have been made pursuant  
5 thereto (which it does) and Hamid now takes a position contrary to that given to  
6 four courts and four judges during three calendar years, any request for  
7 modification/suspension of a support order must be predicated upon a requisite  
8 change of circumstances. Hamid’s argument fails to demonstrate such a change of  
9 circumstances which is likewise fatal to the relief he seeks from this Court.

10 While Hamid deliberately conceals his claims and admissions tendered to the  
11 various courts under the penalty of perjury *for years*, and deliberately refuses to  
12 characterize the \$10,000 payments Hamid has been making, he cannot maintain  
13 such an evasive and equivocal position. Hamid conceals his prior representations to  
14 four judges in three other courts *that the payments are payments on the Note*,  
15 because payments on the Note, like any other financial obligation, cannot be  
16 suspended by this Court. On the other hand, Hamid doesn’t admit the payments  
17 were support payments, because while the Court retains jurisdiction to modify  
18 temporary support, such an admission subjects Hamid to perjury charges, subjects  
19 counsel to sanctions and discipline, and confirms Hamid’s breach of the Note and  
20 the corresponding liability associated therewith.

21 Like pregnancy, either you are or you are not—and concealing the fact does  
22 not change reality. Likewise, Hamid cannot have it both ways. Accordingly,  
23 Hamid’s motion lacks factual and legal support; the filing of the motion was  
24 unwarranted, filed in bad faith, and is sanctionable. There is no factual or legal  
25 basis to suspend the monthly payments to Victor.

26 As emphasized by Hamid to this Court, “I intend to pay Victor as agreed  
27 until [the promissory note] is paid off in full just like I am doing for Laila and her  
28 \$400k loan (promissory note).” Hamid must be held to his word.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**III.**  
**Legal Analysis**

**A. The violation of court rules and mandate the denial of Hamid's motion.**

Aside from the utter lack of factual and legal support for Hamid's motion, which is detailed herein, Hamid's violation of applicable court rules and mandates require the denial of his underlying motion.

First, Hamid asks this Court to "suspend monthly payments to Defendant." Obviously, despite its lack of merit, such a request involves money, and EDCR 5.506 *requires* the filing of a General Financial Disclosure Form ("FDF") with the filing of any such motion. Additionally, the FDF "*must* be filed within 2 judicial days of the filing of the motion." Hamid, however, failed to file the mandated FDF, along with the required documentation, and thus, his relief must be denied as a matter of law.

Indeed, EDCR 5.506(g) provides:

The court may construe any motion, opposition, or countermotion not supported by a timely, complete, and accurate financial disclosure as admitting that the positions asserted are *not meritorious and cause for entry of orders adverse to those positions, and as a basis for imposing sanctions*. (emphasis supplied).

Secondly, EDCR 5.502 *requires* the filing of a memorandum of points and authorities with any motion in support of "each ground thereof." "The absence of such memorandum may be construed as an admission that the motion is not meritorious, as cause for its denial or as a waiver of all grounds not so supported." Hamid violated this rule and failed to provide the Court with any legal support for the relief that he asks of this Court. Hamid's actions must be construed as an admission that his motion lacks merit and mandates its denial.

Thirdly, EDCR 5.503 mandates "points and authorities supporting each position asserted." The rule expressly provides that points and authorities "lacking

1 citation to relevant authority... *do not comply with this rule.*” The ramifications  
2 for failing to provide legal authority for the positions asserted was repeated,  
3 providing:

4 The absence or deficiency of points and authorities may be construed  
5 as an admission that the filing is *not meritorious, as cause for its*  
6 *denial*, or as a disclaimer of all positions not supported (emphasis  
supplied)<sup>7</sup>.

7 Even a cursory review of Hamid’s motion reveals and confirms the absence  
8 of reference or citation to any legal authority that supports Hamid’s request. Thus,  
9 there is no legal basis to grant the relief that Hamid is seeking from this Court.

10 Lastly, Hamid concedes he violated this Court’s directive to make the  
11 monthly payments for March, April, and May (despite lacking the factual or legal  
12 basis to do so). EDCR 5.501 requires attempted resolution prior to the filing of any  
13 motion, which is something Hamid failed to do and another rule that Hamid  
14 violated.

15 **B. Hamid has repeatedly declared under penalty of perjury**  
16 **that the monthly payments are payments on the promissory**  
17 **note that he prepared and executed, and thus, cannot be**  
**suspended by this Court.**

18 Hamid’s characterization of the monthly payments is disingenuous and a  
19 deliberate ploy to manipulate this Court. Hamid has *never* considered the \$10,000  
20 monthly payments to constitute support and, as established herein and supported by  
21 judicial records, made argument and admissions under the penalty of perjury, that  
22 the monthly payments were payments on the Note.

23 Hamid certainly did not contend the monthly payments were “unclassified”  
24 or “deferred” when he repeatedly characterized and defined his monthly payments  
25 before Judge Kisner, Judge Johnson, Judge Gregory, and this Court. Hamid  
26 remained unequivocal that *the monthly payments were payments on the Note he*

---

27  
28 <sup>7</sup> See also, EDCR 2.20.



1 *prepared and executed*, and deliberately made such representations to place him in  
2 a favorable light and influence the respective courts—*all four of them!*

3 Hamid has admitted that he has violated this Court’s order by not paying the  
4 monthly payments since February, having wrongfully withheld \$30,000 from  
5 Victor, and now has the audacity to ask this Court to condone his contempt.

6 In *Vaile v. Eighth Judicial Dist. Court*, 118 Nev. 262, 44 P.3d 506 (2002),  
7 the Nevada Supreme Court affirmed “[t]he rule of judicial estoppel is recognized in  
8 Nevada’s case law”. The *Vaile* Court further stated<sup>8</sup>:

9 according to the rule of judicial estoppel, *a party who has stated an*  
10 *oath in a prior proceeding, "as in a pleading," that a given fact is*  
11 *true, may not be allowed to deny the same fact in a subsequent*  
12 *action*. In that case, the court indicated that *one of the rule's purposes*  
13 *is to prevent parties from deliberately shifting their position to suit*  
14 *the requirements of another case concerning the same subject matter*  
15 (emphasis supplied).

16 Whether estopped from denying the monthly payments were payments on the  
17 note, because of unclean hands, the result of the repeated violations of candor owed  
18 the the various tribunals, or simply based upon the fundamental principals of  
19 fairness, Hamid’s motion to suspend the monthly payments must be denied.

20 **C. If Hamid is now claiming/conceding the monthly payments**  
21 **are “support” that is subject to modification/suspension,**  
22 **there is no factual or legal basis that would warrant the**  
23 **suspension of such payments.**

24 While this Court certainly cannot disregard Hamid’s repeated violations of  
25 court rules and the contrary positions that he took, under the penalty of perjury  
26 before this Court and three others, even if such egregious conduct did not mandate  
27 the denial of Hamid’s motion (which they clearly do), the absence of the requisite  
28 factual and legal basis to suspend the monthly payments certainly does.

---

<sup>8</sup> Citing *Sterling Builders, Inc. v. Fuhrman*,

1 NRS 125.040 is captioned “Orders for support and costs of suit *during*  
2 *pendency of action*” (emphasis supplied) and provides:

3 1. In any suit for divorce the court may, in its discretion, upon  
4 application by either party and notice to the other party, require either  
5 party to pay moneys necessary to assist the other party in  
accomplishing one or more of the following:

6 (a) To provide *temporary maintenance* for the other party;

7 (b) To provide temporary support for children of the parties; or

8 (c) To enable the other party to carry on or defend such suit.

9 2. The court may make any order affecting property of the  
10 parties, or either of them, which it may deem necessary or desirable to  
11 accomplish the purposes of this section. Such orders shall be made by  
the court only after taking into consideration the financial situation of  
each of the parties.

12 3. The court may make orders pursuant to this section  
13 concurrently with orders pursuant to NRS 125C.0055. (Emphasis  
supplied).

14 The legislature, and courts, have made it clear that to modify *support*  
15 orders—whether alimony or child support—there must be a showing of changed  
16 circumstances<sup>9</sup>. The same general rule applies to temporary spousal support  
17 orders<sup>10</sup>. However, in this case, Hamid fails to present any evidence of changed  
18 circumstances that would enable him to suspend any “support” payments.

19 Hamid is clearly of the belief that the *mere existence of the COVID 19*  
20 *pandemic* entitles him to suspend his financial obligations—the law, however,  
21 provides otherwise. Whether uncritically accepting of the scope and severity of the  
22 COVID 19 pandemic, firmly of the belief that the pandemic is deliberately and  
23 carefully orchestrated to produce personal harm and economic ruin for political  
24

25 \_\_\_\_\_  
26 <sup>9</sup> NRS 125.150(12) requires a change of 20% or more for modification of alimony;  
27 125B.145 likewise defines changed circumstances as a change of 20% or more in  
the gross monthly income of a person; *see also Rivero v. Rivero*, 125 Nev. 410, 216  
P.3d 213 (2009).

28 <sup>10</sup> *See In re Marriage of Gruen*, 191 Cal. App. 4<sup>th</sup> 627 (2011).

1 gain, power, and eventual relinquishment of personal rights and freedoms, or  
2 somewhere in between, there is no question we do not know, and are not being told,  
3 everything we need to know about COVID 19. Regardless, COVID 19, by itself  
4 does not entitle Hamid to the relief that he now seeks. To suspend “support”  
5 payments (rather than payments on the Note as repeatedly characterized by Hamid),  
6 there must be a showing of *material* changed circumstances—which Hamid fails to  
7 do.

8 Hamid’s selective and self-serving “recap” of the “Declaration of Emergency  
9 Directives” and Administrative Orders” issued by Governor Sisolak is, quite  
10 frankly, immaterial to the relief Hamid is asking of this Court. It is telling that  
11 Hamid relies on the existence of COVID 19 and the shutdown of non-essential  
12 businesses, yet admittedly *failed* to make the monthly payment to Victor even  
13 *before* the emergency directives were implemented. Clearly, COVID 19 has no  
14 bearing on Hamid’s ability to pay the monthly payments—Hamid is simply using it  
15 as an excuse; one that crumbles under scrutiny. Obviously, Hamid simply violated  
16 this Court’s order and breached the Note, and is trying to evade accountability  
17 under the shadow of COVID 19.

18 Hamid also fails to disclose to this Court that the business Hamid continues  
19 to operate as Zip Zap Auto was so profitable, he moved and set up at an entirely  
20 new location. Hamid also conceals the fact that Zip Zap Auto is an essential  
21 business and has *not* shut down during this pandemic. Hamid fails to disclose, or  
22 provide any evidence, of any layoffs since Hamid unilaterally chose to cease  
23 making any monthly payments to Victor in March. Hamid fails to disclose, or  
24 provide any evidence, of any delinquent or nonpayment of any business-related  
25 expenses and obligations. The absence of such “evidence” is because it is non-  
26 existent. Indeed, submitted herewith as Exhibit “2” is evidence confirming the  
27 continued operation, volume, and profitability of Zip Zap Auto.

28 Significantly, Hamid “claims” his “personal financial condition has

1 dramatically declined but *fails* to submit a FDF as required by rule; Hamid *fails* to  
2 submit his 3 most recent paycheck stubs as required by rule; and Hamid *fails* to  
3 disclose or provide any evidence that he is delinquent or has stopped paying *any* of  
4 his personal financial obligations and responsibilities (including the monthly  
5 payment on the other promissory note of \$4,000 that he informed this Court he  
6 faithfully makes). In other words, Hamid had no intention of honoring the  
7 promissory note, loathed being directed to make monthly payments to Victor, and  
8 hopes the Court will ignore the facts and applicable law and suspend just one  
9 monthly payment of the countless monthly payments that he has, to wit: the  
10 monthly payment due and payable to Victor. Hamid's expectations are misguided  
11 and offensive.

12 Hamid also claims his gross receipts from March to April this year is one-  
13 tenth of what they were during the same period last year—but *fails* to submit proof  
14 of what the gross receipts were and are for both periods. Hamid has the ability to  
15 determine the amount of his “income” and controls his “salary”, “draws”, “loans”  
16 and “advances”, and while Hamid fails to disclose all relevant financial  
17 information, there is no question Hamid would manipulate the books and numbers  
18 to gain an unfair advantage. In short, there is no dispute Hamid fails to present any  
19 evidence pertaining to his financial condition and ability to continue the monthly  
20 payments.

21 Not surprising, Hamid continues to pay and satisfy *all* monthly expenses,  
22 both personal and business, including salaries, rent(s), mortgage(s), promissory  
23 notes, credit/monthly/installment payments, business and household expenses, and  
24 can (and must) continue paying the monthly payment to Victor. Hamid's motion is  
25 baseless and must be denied.

1 As this Court knows, Promissory notes are valid and enforceable contracts<sup>11</sup>  
2 and represent independent financial obligations. Victor is entitled to \$10,000  
3 monthly payments pursuant to the Promissory Note that Hamid repeatedly  
4 admitted, before four courts, that he prepared and executed in favor of Victor.  
5 Respectfully, this Court has no ability to “suspend” these payments, or any other of  
6 Hamid’s monthly payments.

7 Additionally, if Hamid now admits and concedes the payments were  
8 “support” payments, his failure to demonstrate the requisite change of  
9 circumstances precludes the suspension of said payments, but such a declaration  
10 would also constitute an admission that he is in breach of the very promissory note  
11 he prepared and executed, thereby subjecting him to 24 months of arrears  
12 (\$240,000), \$36,000 in penalties (see Note), and perjury charges<sup>12</sup>.

13 Regardless, there is no factual or legal basis that warrants or enables the  
14 suspension of Hamid’s monthly payments to Victor.

15 **D. Victor is unequivocally entitled to an award of attorney’s**  
16 **fees for having to respond to Hamid’s baseless motion.**

17 The facts of this case demonstrate Hamid has no good faith or reasonable  
18 basis to file a motion to suspend the monthly payments that he has been making  
19 to Victor since this Court’s directive of October of 2018<sup>13</sup>. Notwithstanding, his  
20 aversion to having to provide Victor any funds whatsoever, Hamid made express  
21 representations to four different judges, in four different courts, that he was  
22 *making payments on the Note*, and there is no legally recognized basis that  
23 would entitle Hamid to “suspend” his payments.

---

24 <sup>11</sup> See *Mardian v. Michael & Wendy Greenberg Family Trust*, 131 Nev. 730, 359  
25 P.3d 109 (2015); *Robbie v. Blanco River LLC*, 2011 U.S. Dist. LEXIS 80551.

26 <sup>12</sup> See NRS 53.045; NRS 199; *Buckwalter v. Eighth Judicial Dist. Court*, 126 Nev.  
Adv. Rep. 21, 234 P.3d 920 (2010).

27 <sup>13</sup> This Court will recall monthly payments of \$10,000 are required under the  
28 Promissory Note Hamid prepared and executed—representing interest only  
payments. Hamid had not made any principal payments.

1 As payments on the Note, the Court is divested to “suspend” such  
2 payments. There is no provision for suspension of payments in the Note, and the  
3 Note must be recognized as being valid and enforceable just as all of Hamid’s  
4 other personal and business monthly expenses. As support payments, Hamid has  
5 the burden to prove the requisite change of circumstances—a burden he woefully  
6 failed to address, let alone overcome.

7 Hamid violated court rules, violated the duty of candor owed to this Court,  
8 and failed to provide any factual or legal basis to support his motion. Hamid’s  
9 motion is not only without merit and frivolous, it is sanctionable.

10 EDCR 7.60 provides, in relevant part:

11 (b) The court may, after notice and an opportunity to be heard, impose  
12 upon an attorney or a party any and all sanctions which may, under the  
13 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:

14 (1) ***Presents to the court a motion or an opposition to a motion which***  
***is obviously frivolous, unnecessary or unwarranted.***

15 (3) ***So multiplies the proceedings in a case as to increase costs***  
***unreasonably and vexatiously.***

16 In this case, there was no factual or legal basis that would enable Hamid’s  
17 desire to escape having to fulfill his financial responsibilities. Further, NRS 7.085  
18 also provides this Court with the requisite authority to make Victor whole for the  
19 malicious and baseless litigation costs that he has incurred defending Hamid’s  
20 frivolous filings. Therein, it states:

21 1. If a court finds that an attorney has:

22 (a) Filed, maintained or defended a civil action or proceeding in any  
23 court in this State and such action or defense is ***not well-grounded in***  
24 ***fact*** or is not warranted by existing law or by an argument for  
changing the existing law that is made in good faith; or

25 (b) ***Unreasonably and vexatiously extended a civil action or***  
26 ***proceeding before any court in this State,***

27 the court ***shall*** require the attorney personally to pay the additional  
28 costs, expenses and attorney’s fees reasonably incurred because of such  
conduct.

1       **2. The court shall liberally construe the provisions of this section in**  
2       **favor of awarding costs, expenses and attorney's fees in all**  
3       **appropriate situations.** It is the intent of the Legislature that the court  
4       award costs, expenses and attorney's fees pursuant to this section and  
5       impose sanctions pursuant to Rule 11 of the Nevada Rules of Civil  
6       Procedure in all appropriate situations to punish for and deter frivolous  
7       or vexatious claims and defenses because such claims and defenses  
      overburden limited judicial resources, hinder the timely resolution of  
      meritorious claims and increase the costs of engaging in business and  
      providing professional services to the public. (emphasis added).

8       Thus, “NRS 7.085 allows a district court to make an attorney personally  
9       liable for the attorney fees and costs an opponent incurs when the attorney files,  
10      maintains or defends a civil action that is not well-grounded in fact or is not  
11      warranted by existing law or by a good-faith argument for changing the existing  
12      law.”<sup>14</sup>

13      NRCp 11 also enables this Court to impose sanctions if any pleading, written  
14      motion, or other paper is filed that is being filed for any improper purpose, such as  
15      to “**harass, cause unnecessary delay, or needlessly increase the cost of litigation.**”  
16      The Nevada Supreme Court, in *Watson Rounds*, held that NRCp 11 and NRS 7.085  
17      each represent a distinct, independent mechanism for sanctioning attorney  
18      misconduct. 131 Nev. at 791.

19      Moreover, in *Barney v. Mt. Rose Heating & Air Conditioning*, 192 P.3d 730,  
20      736 (2008) citing *Brunzell v. Golden Gate National Bank*, 85 Nev 345, 455 P.2d 31  
21      (1969), the Court enumerated factors that the district court should consider in  
22      awarding attorney fees, with no one factor controlling, as follows:

- 23      (1) the advocate's qualities, including ability, training, education,  
24      experience, professional standing, and skill;  
25      (2) the character of the work, including its difficulty, intricacy,  
26      importance, as well as the time and skill required, the responsibility

27      

---

  
28      <sup>14</sup> *Watson Rounds, P.C., v. Eighth Judicial Dist. Ct. (Himelfarb & Associates)*, 131  
Nev. 783, 784, 358 P.3d 228, 230 (2015).

1 imposed, and the prominence and character of the Parties when  
2 affecting the importance of the litigation;  
3 (3) the work performed, including the skill, time, and attention given  
4 to the work; and  
5 (4) the result--whether the attorney was successful and what benefits  
6 were derived.

7 Victor's counsel met the factors outlined in *Brunzell*. Victor's counsel is  
8 qualified and has considerable experience, ability and training in the field of  
9 family law litigation. It is the responsibility of Victor's counsel to finalize  
10 outstanding issues to ensure the rights of Victor are preserved and that any rulings  
11 of this Court are consistent with applicable rules, statutory precedent and  
12 controlling law. Victor's counsel was attentive to work performed.

13 Accordingly, based upon the foregoing, it is not only fair, but also  
14 reasonable under the circumstances that Hamid and/or his counsel, be responsible  
15 for Victor's reasonable attorney fees and costs in the sum of \$5,000.00 pursuant to  
16 NRS §18.010, EDCR 7.60 and the holding of *Brunzell*.

#### 17 **IV.** 18 **Conclusion**

19 As repeatedly sworn to by Hamid under the penalty of perjury and  
20 represented to multiple courts, the Promissory Note Hamid prepared and executed  
21 is valid and enforceable<sup>15</sup> and Hamid is obligated to continue paying the monthly  
22 payments as provided for therein.

23 The only way this Court could "suspend" monthly payments is if it ignored  
24 Hamid's multiple violations of court rules, ignored Hamid's sworn representations  
25 that the monthly payments were payments due on the Note *he* prepared and  
26 executed, ignored the fact that Hamid has *failed* to present any evidence of changed  
27

---

28 <sup>15</sup> Unless and until the promissory note is found to be invalid, an argument Hamid  
is estopped from making and necessitates a burden Hamid cannot sustain, the Court  
has no jurisdiction to "suspend" financial obligations stemming from an  
independent contract.



1 circumstances<sup>16</sup>, and this Court finds the monthly payments to be temporary  
2 maintenance payments that are subject to modification and suspension during the  
3 pendency of this action. Of course, the Court has not made such a finding and to do  
4 so at this time would be improper.

5 Lastly, with Hamid making representations that are contrary to those made  
6 before other tribunals, with a finding the payments are “support”, Hamid confirms  
7 his breach of the Note (or alternatively, that he is in violation of the Court’s  
8 directives of making the \$10,000 monthly payments—since the monthly payment  
9 can only be credited to a Note payment or a “support” payment—it *cannot* be  
10 credited for *both*), subjects himself to the corresponding penalties, and subjects  
11 himself to perjury charges.

12 For the foregoing reasons, it is respectfully requested that the Court deny  
13 Hamid’s motion in its entirety and award Victor attorney’s fees that have been  
14 incurred addressing Hamid’s repeated violations and baseless motion.

15 DATED this 19<sup>th</sup> day of May, 2020.

16 **HOFLAND & TOMSHECK**

17 /s/ Bradley J. Hofland

18 Bradley J. Hofland, Esq.  
19 State Bar of Nevada No. 6343  
20 228 South 4<sup>th</sup> Street, First Floor  
21 Las Vegas, Nevada 89101  
22 Telephone: (702) 895-6760  
*Attorney for Defendant,*  
*Victor Botnari*

27 \_\_\_\_\_  
28 <sup>16</sup> Indeed, Hamid’s business is an essential business and there are many individuals  
and businesses that have not sustained a reduction in their pay or income.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**DECLARATION OF VICTOR BOTNARI**

I, Victor Botnari, declare under penalty of perjury under the laws of the State of Nevada that the following is true and correct.

1. I am the Defendant in the above-entitled matter. Unless otherwise stated herein, I have personal knowledge of the facts and circumstances set forth herein.

2. That I have read the foregoing opposition and countermotion and the factual averments it contains are true and correct to the best of my knowledge, except as to those matters based on information and belief, and as to those matters, I believe them to be true. Those factual averments contained in the referenced filing are incorporated here as if set forth in full.

DATED this 19<sup>th</sup> day of May, 2020.

/s/ Victor Botnari  
Victor Botnari

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that I am an employee of Hofland & Tomsheck, that Pursuant  
3 to NRCP 5(b) and EDCR 7.26, I certify that on the 19<sup>th</sup> day of May, 2020, I served  
4 the foregoing **DEFENDANT'S OPPOSITION TO PLAINTIFF'S MOTION**  
5 **TO SUSPEND MONTHLY PAYMENTS TO DEFENDANT AND**  
6 **COUNTERMOTION FOR ATTORNEY'S FEES AND COSTS AND**  
7 **RELATED RELIEF** on the following parties by E-Service through Odyssey  
8 addressed as follows:

9  
10 Marshal S. Willick, Esq.  
11 [email@willicklawgroup.com](mailto:email@willicklawgroup.com)  
12 Lorien K. Cole  
13 [lorien@willicklawgroup.com](mailto:lorien@willicklawgroup.com)  
14 Mallory Yeargan  
15 [mallory@willicklawgroup.com](mailto:mallory@willicklawgroup.com)  
16 **WILICK LAW GROUP**  
17 *Attorneys for Plaintiff*

18 By: /s/ Nikki Woulfe  
19 An Employee of Hofland & Tomsheck  
20  
21  
22  
23  
24  
25  
26  
27  
28

# **EXHIBIT 7**

LEVENTHAL & ASSOCIATES  
626 S. Third Street  
Las Vegas NV 89101  
PH: (702) 472-8686 ♦ FAX: (702) 472-8685

**LEVENTHAL & ASSOCIATES, PLLC.**

Todd M. Leventhal, Esq.  
Nevada Bar Number: 008543  
626 S. Third St.

Las Vegas, Nevada 89101  
Telephone: (702) 472-8686  
Facsimile: (702) 472-8685

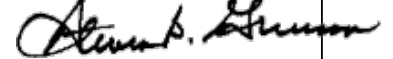
**HOFLAND & TOMSHECK**

Bradley J. Hofland, Esq.  
Nevada Bar Number: 6343  
[bradh@hoflandlaw.com](mailto:bradh@hoflandlaw.com)

228 South 4<sup>th</sup> Street, 1<sup>st</sup> Floor  
Las Vegas, Nevada 89101  
Telephone: (702) 895-6760  
Facsimile: (702) 731-6910

*Attorneys for Defendant Victor Botnari*

Electronically Filed  
3/23/2021 5:11 PM  
Steven D. Grierson  
CLERK OF THE COURT



**DISTRICT COURT, FAMILY DIVISION**

**CLARK COUNTY, NEVADA**

HAMID SHEIKHAI,

Plaintiff,

vs.

VICTOR BOTNARI,

Defendant.

CASE NO.: D-18-575686-L  
DEPT NO.: R

**ORAL ARGUMENT REQUESTED**

**DEFENDANT'S OPPOSITION TO  
JESSICA WILDE-GUZUN'S  
MOTION TO INTERVENE AND  
COUNTERMOTION FOR  
SANCTIONS; TO STRIKE  
FUGITIVE DOCUMENTS; FOR  
ATTORNEY'S FEES AND COSTS  
AND RELATED RELIEF.**

Date of Hearing: April 1, 2021  
Time of Hearing: 1:30 p.m.

COMES NOW, Defendant VICTOR BOTNARI ("Victor"), by and through his attorneys, Todd M. Leventhal, Esq. of LEVENTHAL AND ASSOCIATES, and Bradley J. Hofland, Esq., of HOFLAND & TOMSHECK, and submits Defendant's Opposition to Jessica Wilde-Guzun's Motion to Intervene and Defendant's Countermotion for Sanctions; for Attorney's Fees and Costs and Related Relief and respectfully requests this Court enter an Order:

1. Denying the motion filed by Jessica Wilde-Guzun ("Jessica"), in its entirety;
2. Striking the fugitive documents filed by Jessica from the record;



- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

## 2

## 3

4  
5  
6  
7  
8  
9  
10

11  
12  
13  
14  
15  
16  
17

20

21

22

23  
24  
25  
26

27  
28

1 It must also be noted that the newcomer Jessica is claiming an interest in  
2 assets—*none of which are part of the settlement between the parties*. Importantly,  
3 the settlement and judgment does *not* in any way change, transfer, liquidate, or  
4 change possession and ownership of any of the properties and entities in which  
5 Jessica is *claiming* an interest. Jessica clearly has ulterior motives, but lacks the  
6 ability to sustain the burden that would enable or warrant her to intervene in this  
7 now settled action.

8 While Victor understandably suspects Jessica’s sudden appearance is simply  
9 a coordinated maneuver with Hamid<sup>4</sup> designed to assist Hamid in dishonoring his  
10 offer of judgment that was *unexpectedly* accepted by Victor<sup>5</sup>, the fact Hamid has  
11 not filed an opposition to Jessica’s motion is telling and validates Victor’s  
12 suspicion. Regardless of Jessica’s role in a civil conspiracy, or not, the fact remains  
13 there is absolutely no factual or legal basis that entitles Jessica to intervene in this  
14 matter and re-open this closed case. The motion filed by Jessica is not only  
15 baseless, it is sanctionable and must be denied in its entirety.

## 16 II.

### 17 Statement of Facts

18 This Court is familiar with and fully aware, the Plaintiff, HAMID  
19 SHEIKHAI (“Hamid”) and Defendant, VICTOR BOTNARI (“Victor”) have been  
20 involved before this Court in *post-annulment* litigation<sup>6</sup> for the past 3 years. As  
21 noted above, they recently *settled* their litigation when Hamid submitted to Victor

22  
23 <sup>4</sup> A germination of a civil conspiracy—which Hamid has successfully used to his  
benefit in the past.

24 <sup>5</sup> Following Victor’s acceptance of Hamid’s Offer of Judgment, Hamid terminated  
25 the services of Mr. Willick and sought the assistance of counsel that he believes  
26 will follow his directives, however misguided or unethical they may be.  
27 Notwithstanding, Hamid is legally bound to honor his Agreement with Victor, and  
Jessica’s attempt to intervene is ineffectual and unwarranted.

28 <sup>6</sup> Involving three (3) separate and unrelated suits (Hamid was the common  
denominator in all actions) and four (4) district court judges.



1 an offer of judgment titled, “PLAINTIFF, HAMID SHEIKHAI’S SECOND  
2 OFFER OF JUDGMENT”<sup>7</sup>, which Victor accepted<sup>8</sup>.

3 Accordingly, Victor and Hamid settled the litigation between them more than  
4 two months ago. Pursuant to the settlement, the scheduled Evidentiary Hearing was  
5 vacated, the case concluded, and any claims are now moot. Inherent with any  
6 intervention is the need for an active, open, and ongoing litigation—none of which  
7 is the status of this case. In short, there is no conceivable basis to entertain  
8 Jessica’s baseless claims and sanction the shocking abuse of the legal system, and  
9 with that, the incredible waste of limited judicial resources.

10 Notably, Victor and Hamid agreed, in part, as follows:

11 “**Hamid** shall receive all assets titled in his name or affiliated  
12 with him in the form they are currently titled, and has ***no joint or***  
13 ***affiliated assets with Victor***” (Paragraph 2 of Hamid’s Second Offer of  
14 Judgment);

15 “**Victor** shall receive all assets titled in his name or affiliated  
16 with him in the form they are currently titled, and ***has no joint or***  
17 ***affiliated assets with Hamid***” (Paragraph 3 of HAMID’s Second Offer  
18 of Judgment); and

19 “Hamid shall pay Victor a one-time payment of \$1,000,001 in  
20 cash within 120 days of acceptance of this offer” (Paragraph 5 of  
21 HAMID’s Second Offer of Judgment). (Emphasis supplied).

22 Hamid’s Second Offer of Judgment and Victor’s acceptance thereof has been  
23 filed with the Court and the subject/resulting judgment is the law of this Case.  
24

---

25 <sup>7</sup> For the Court’s convenience, consideration, and review, a copy of Hamid’s  
26 Second Offer of Judgment is submitted herewith as Exhibit “A”.

27 <sup>8</sup> For the Court’s convenience, consideration, and review, a copy of Victor’s  
28 Acceptance of Hamid’s Second Offer of Judgment is submitted herewith as Exhibit  
“B”.

1 Indeed, even if Jessica were, in some alternate universe, able to present viable and  
2 plausible reasons that could otherwise conceivably support intervention, the facts  
3 and circumstances of *this* case, disallows the finding of *any* merit or legitimacy to  
4 her misguided pursuit.

5       Aside from the frivolous, improper, and sanctionable filing, Jessica's bad  
6 faith is shamelessly and further confirmed with her disclosed dishonesty. Clearly,  
7 truth was not a desideratum when Jessica crafted her false narrative, it crumbles  
8 under the most minimal of scrutiny.

9       Of note, Jessica represents that the "business and personal relationship"  
10 between her and Hamid "goes back over 20 years."<sup>9</sup> Jessica *conceals* the fact that  
11 she is Hamid's ex-spouse. Jessica and Hamid were divorced in Clark County,  
12 Nevada by a Decree of Divorce that was entered on September 9, 2012 in Case D-  
13 12-469048-Z<sup>10</sup>. Their divorce did not, however, terminate their collusion.

14       Jessica *conceals* the fact they continue to collaborate to defraud for personal  
15 gain. Proof is Jessica's own Exhibit "B" to her motion. Jessica provides (an  
16 unverified) copy of a document—a 2016 Individual Income Tax Return—that she  
17 admits she and Hamid filed with the IRS. Shockingly, review of the document  
18 confirms Hamid and Jessica filed "Married filing jointly". Having divorced in  
19 2012, and not having been married to one another in 2016 (Hamid was married to  
20 Victor at that time), the representation and filing was fraudulent and illegal<sup>11</sup>.

21       Referencing *another* unfiled Tax return, Jessica represents that she is the  
22 100% and sole owner of SLC, LLC<sup>12</sup>. However, SLC admitted that Hamid operates  
23

24  
25 <sup>9</sup> Motion to Intervene, page 3, lines 20-23.

26 <sup>10</sup> For the Court's convenience, consideration and review, a copy of the Decree of  
Divorce and Joint Petition are submitted herewith as Exhibit "C".

27 <sup>11</sup> A copy of the fraudulently filed Tax return is submitted herewith as Exhibit "D"  
for the Courts convenience.

28 <sup>12</sup> An entity that was named in a separate, unrelated, suit, Case A-19-805955-C,

1 the operations of SLC, that Hamid makes the decisions for SLC,<sup>13</sup> and although  
2 asked, never claimed Jessica had any ownership interest in SLC. Regardless,  
3 Jessica does not claim the returns were ever signed or filed, if they were—it was to  
4 defraud the IRS—if they weren’t—it was provided to mislead this Court.

5 Jessica’s greed and corresponding lack of credibility is highlighted by her  
6 claim she owns all the assets and property belonging to Vitiok—assets and property  
7 she cannot disclose, identify or even establish. In fact, Vitiok, LLC. purchased Zip  
8 Zap Auto from Hamid, but per the parties’ agreement, Zip Zap Auto remains the  
9 property of Hamid—Jessica lies. It is worth noting that Vitiok is actually “Victor”  
10 in Russian, and Jessica had absolutely nothing to do with Vitiok or any purported  
11 “assets” she suggests exist.

### 12 **III.**

#### 13 **Legal Analysis**

#### 14 **A. The violation of court rules and mandate the denial of**

#### 15 **Hamid’s motion.**

16 Aside from the utter lack of factual and legal support for Jessica’s motion,  
17 which is detailed herein, Jessica’s violation of applicable court rules and applicable  
18 precept *require* the denial of her motion.

19 First, EDCR 5.501 expressly provides “before *any* family division matter  
20 motion is filed, the movant must attempt to resolve the issues in dispute with the  
21 other party.” Jessica made no such attempt.

22 Rule and case precedent provide that a third party can only join a pending  
23 suit by filing a motion to intervene. However, in a brazen sense of entitlement and  
24 disregard of procedure and precedent, chose to file a Complaint. The filing is  
25 improper, impermissible, and must be stricken from the Record.

26  
27  
28 <sup>13</sup> SLC’s responses to Request for Admission, served 07/28/2020.

1 Further, despite Jessica’s admitted dilatory conduct, she nevertheless sought,  
2 *and inexplicably obtained*, an Order Shortening Time on an *ex parte* basis, for her  
3 motion to be heard. Respectfully, EDCR 5.514 expressly provides “an order  
4 shortening time will not be granted until after service of the underlying motion on  
5 the nonmoving parties” and “[a]n *ex parte* motion to shorten time *must* explain the  
6 need to shorten the time.”

7 While Victor submits Jessica miserably failed to “explain the need” or in any  
8 way to justify seeking to shorten the time through an *ex parte* application, it is  
9 telling that Jessica did not serve Todd Leventhal, Esq., who is designated Lead  
10 Attorney for Victor. Moreover, despite having received an order shortening time  
11 on March 18, 2021, *Jessica’s counsel has failed to serve anyone with such order!*

12 Even a cursory review of Hamid’s motion reveals and confirms the absence  
13 of reference or citation to any legal authority that supports Hamid’s request. Thus,  
14 there is no legal basis to grant the relief that Hamid is seeking from this Court.

15 Lastly, Hamid concedes he violated this Court’s directive to make the  
16 monthly payments for March, April, and May (despite lacking the factual or legal  
17 basis to do so). EDCR 5.501 requires attempted resolution prior to the filing of any  
18 motion, which is something Hamid failed to do and another rule that Hamid  
19 violated.

20 **B. Jessica is not entitled to Intervention as a matter of law.**

21 Rule 24(b)(2) of the Nevada Rules of Civil Procedure (“NRCP”) provides  
22 that “[o]n *timely motion*, the court *may* permit anyone to intervene who:

- 23 A) is given a conditional right to intervene by a state or federal  
24 statute; or  
25 (B) has a claim or defense that shares with the main action a common  
26 question of law or fact (emphasis supplied).  
27  
28

1 A district court's ruling on permissive intervention is subject to "particularly  
2 deferential" review<sup>14</sup>. Permissive intervention "is wholly discretionary with the  
3 [district] court" and even if there was a "common question of law or fact, or the  
4 requirements of Rule 24(b) are otherwise satisfied, the court may refuse to allow  
5 intervention."<sup>15</sup> Aside from the obvious fatal barriers of irrelevance and lack of  
6 merit, when exercising such discretion, the court must consider "whether the  
7 intervention will unduly delay or prejudice the adjudication of the rights of the  
8 original parties."<sup>16</sup>

9 Courts have emphasized the importance of meeting each and every  
10 requirement found in Rule 24, by unequivocally stating that the "[f]ailure to meet  
11 any one of [the] requirements is fatal to a claim of intervention...."<sup>17</sup> Both  
12 permissive interventions and interventions of right may be permitted **only** upon  
13 "**timely motion**", NRCP 24 (emphasis supplied) because "the requirement of  
14 timeliness applies whether intervention is sought as a matter of right or as a matter  
15 of discretion."<sup>18</sup> In the case at bar, there is no question Jessica's motion is  
16 untimely.

17 Courts consider four factors in assessing whether a motion to intervene is  
18 timely; not surprisingly, Jessica ignores the requirement itself and those factors,  
19 which are:

---

22 <sup>14</sup> *Hairr v. First Judicial Dist. Court*, 132 Nev. 180, 368 P.3d 1198 (2016).

23 <sup>15</sup> *Id.*, citing 7C Charles Alan Wright et al., Federal Practice and Procedure § 1913  
(3d ed. 2007)

24 <sup>16</sup> *See e.g., Taylor Communs. Group, Inc. v. Southwestern Bell Tel. Co.*, 172 F.3d  
25 385 (1999).

26 <sup>17</sup> Courts have held such when addressing intervention as a matter of right, but the  
27 requirement that the motion to intervene be timely is required under both NRCP  
24(a) and NRCP 24(b). *See Taylor, supra*.

28 <sup>18</sup> 7C Charles Alan Wright, Arthur R. Miller & Mary Kay Kane, Federal Practice  
and Procedure § 1916 at 527-28 (3d ed.2007).

- 1 (1) The length of time during which the would-be intervenor actually  
2 knew or reasonably should have known of its interest in the case  
3 before it petitioned for leave to intervene;  
4 (2) the extent of the prejudice that the existing parties to the litigation  
5 may suffer as a result of the would-be intervenor's failure to apply for  
6 intervention as soon as it knew or reasonably should have known of its  
7 interest in the case;  
8 (3) the extent of the prejudice that the would-be intervenor may suffer  
9 if intervention is denied; and  
10 (4) the existence of unusual circumstances militating either for or  
11 against a determination that the application is timely<sup>19</sup>.

12 As noted *supra*, “Failure to meet any one of these requirements is fatal to a  
13 claim of intervention as of right.”<sup>20</sup> In this case, all four factors establish Jessica’s  
14 motion is untimely, and therefore, impermissible and unwarranted.

15 The first factor weighs strongly in favor of finding the motion to intervene as  
16 being *untimely*. This case has been litigated for over three years, and the civil  
17 actions for more than two years<sup>21</sup>. Courts have found a delay of only *one* year to be  
18 “inordinate” and support for the district court’s finding of untimeliness<sup>22</sup>.

19 Here the case commenced over *three* years ago, Jessica did nothing during  
20 that time! Jessica now feigns ignorance, but nevertheless *admits* Hamid informed  
21 her that Victor was “claiming an ownership interest in Intervenor’s property” in  
22 September of 2020. Of course, Victor was *not* claiming an ownership interest in

23 <sup>19</sup> *Sommers v. Bank of America, N.A.*, 835 F.3d 509, 512 (5th Cir. 2016) (internal  
24 citation omitted);

25 <sup>20</sup> *Taylor, supra*, 172 F.3d at 387; *see also Doe v. Duncanville Indep. Sch. Dist.*,  
26 994 F.2d 160, 168 (1993) (agreeing intervention as of right was not warranted when  
27 the applicant sought to intervene two days before hearing on preliminary injunction  
28 despite having almost four months to intervene, and sought the same outcome as a  
party to the case)

<sup>21</sup> Indeed, despite claiming to be the “100% owner of SLC”, SLC was  
independently named and sued in November of **2019** in Case A-19-805955-C.;  
Jessica did nothing!

<sup>22</sup> *See Lucas v. McKeithen*, 102 F.3d 171 (1996).

1 “Intervenor’s” property, and the extensive record disproves Jessica’s self-serving,  
2 dishonest, and baseless claim.

3 The second factor likewise weighs *against* considering Jessica’s proposed  
4 intervention, *in any way*, as timely. Here, Jessica is asking to intervene in a matter  
5 that has been settled, judgment is to be entered as a matter of law<sup>23</sup>, and there is  
6 ***nothing pending*** before this Court for adjudication. Indeed, this case is essentially  
7 and effectively closed. Jessica’s maneuver isn’t an eleventh-hour<sup>24</sup> ploy—the  
8 twelfth hour has struck, and frankly, regardless of merit or the lack thereof, Jessica  
9 is too late. ***Jessica’s motion is nothing more than a calculated exercise intended***  
10 ***to disrupt a settlement reached months ago!***

11 The third factors likewise ***defeat*** any claim the subject motion was timely.  
12 As noted above, the settlement between Hamid and Victor does not involve the  
13 transfer, exchange, liquidation of any of the real properties or entities that Jessica  
14 claims an ownership interest in with Hamid, to Victor. Hamid’s offer was simply  
15 to pay Victor a sum of money and in return ***Hamid*** would keep ***everything he has***  
16 ***or controls and all litigation in which he is named is concluded***. Hence, Jessica  
17 suffers no prejudice with the denial of her motion—and she remains free to pursue  
18 any claims she has against Hamid in an independent action.

19 The fourth and final factor cements the determination that Jessica’s motion is  
20 untimely. Jessica fails to present, let alone allege, the existence of unusual  
21 circumstances militating against the determination that her motion is untimely.

22 If there was any proof to Jessica’s representations, she would have, and was  
23 obligated, to do something. Instead, Jessica did nothing! Jessica did not move, and  
24 has never moved, to intervene in either of the civil actions, and even according to  
25 ***her*** version, she waited seven (7) months (after the case settled, judgment entered,

---

26  
27 <sup>23</sup> See NRCP 68(d)(3).

28 <sup>24</sup> *Lucas, supra*, ([T]o permit intervention at the eleventh hour would have  
resulted in revisiting of issues previously addressed at length by the parties ....").

1 and on the eve of Hamid's financial obligation) before filing the instant motion.  
2 Jessica's inaction is fatal to her quest to revive this action and intervene.

3       Apparently, Jessica believes Family Court judges have a lesser command and  
4 understanding of the Rules of Civil Procedure, are not disposed to maintain the  
5 integrity of their proceedings, or simply allow litigants and others to make a  
6 mockery of the legal system, regardless of merit or consequences. It goes without  
7 saying Jessica is sorely mistaken and her expectations are misguided.

8       In sum, there is no question Jessica has been grossly dilatory and has not, by  
9 any stretch of the imagination filed a "*timely* motion." All cases involving Hamid  
10 have been litigated for years, by her own admission she has waited seven months,  
11 and this case, and all others, have now settled. There are no active, ongoing cases,  
12 and Jessica's failure to timely file (notwithstanding the absolute lack of merit to her  
13 motion) clearly precludes the relief she now seeks.

14       **C. Undue delay and unnecessary cost defeats Jessica's motion to**  
15       **Intervene.**

16       With determinations that interventions are not warranted, courts have  
17 determined that simply permitting intervention "can lead to unmanageable  
18 litigation."<sup>25</sup> As noted in *Taylor*, "analysis of "undue delay" leads to the same  
19 conclusion, leading to the court to conclude:

20       *Again, we cannot see how litigating facts that are wholly unrelated to*  
21       *the underlying litigation can be achieved without causing undue*  
22       *delay to the parties involved in the suit. In seeking to bring the*  
23       *litigation to an expeditious close, the district court did not abuse*  
24       *its discretion in denying Taylor's motion for permissive*  
25       *intervention.*<sup>26</sup>

26       It is well established that "[i]n exercising its discretion the court shall  
27 consider whether the intervention will unduly delay or prejudice the adjudication of  
28

---

<sup>25</sup> See *Taylor*, *supra*.

<sup>26</sup> *Taylor*, 172 F.3d at 389-90.



1 the rights of the original parties.”<sup>27</sup> In *Hairr*, the Nevada Supreme Court reiterated  
2 that a district court’s denial on permissive intervention based upon delay and  
3 increased costs was well within the discretion of the district court<sup>28</sup>.

4 Victor and Hamid have actively and intensely litigated for more than three  
5 years, incurring hundreds of thousands of dollars in attorney’s fees alone. Now that  
6 the parties have reached a complete settlement, Jessica incredulously expects this  
7 Court to allow her to intervene in this action to address her purported ownership  
8 interest in properties and entities that are not only *not* the subject of the parties’  
9 settlement, concerning properties and entities the subject of civil actions that have  
10 repeatedly survived Hamid’s motions to consolidate (and thus not issues that were  
11 ever before this Court<sup>29</sup>), and involving a staged controversy between her and  
12 Hamid.

13 Victor settled to end the ever-increasing cost of litigation and would be  
14 severely prejudiced if Jessica is allowed to intervene and initiate new, unrelated,  
15 and unnecessary litigation involving Victor. Again, there are no issues pending  
16 before this Court, or any court, between Victor and Hamid. Jessica’s proposed  
17 intervention would not provide any benefit to this Court, but rather produce utter  
18 chaos and undue prejudice to both parties. Consideration of all relevant factors  
19 mandate the denial of Jessica’s motion.

20  
21  
22  
23 <sup>27</sup> See, e.g., *Kuhlgert v. Mich. State Univ.*, 937 N.W.2d 716 (2019); *Hairr v. First*  
24 *Judicial Dist. Court*, 132 Nev. 180, 368 P.3d 1198 (2016).

25 <sup>28</sup> *Hairr*, 132 Nev. at 187-88.

26 <sup>29</sup> Indeed, based upon Jessica’s improperly filed and fugitive “intervention  
27 complaint”, Jessica appears to be claiming (albeit falsely) that *she* owns SLC, LLC;  
28 Stone & Stone, LLC.; Auto Care 200; Lube ‘n Latte; 360 Auto Repair; Zip Zap  
Auto; Samir, LLC.; and 2700 Somersville Rd., Antioch, CA. all of which are  
unrelated to the settlement between Victor and Hamid.

1 In closing, it must be noted that “[a] district court's ruling on permissive  
2 intervention is subject to "particularly deferential" review<sup>30</sup>. Indeed, permissive  
3 intervention "is wholly discretionary with the [district] court. . . and even though  
4 there is a common question of law or fact, or the requirements of Rule 24(b) are  
5 otherwise satisfied, the court may refuse to allow intervention."<sup>31</sup> In this case,  
6 Jessica’s motion is untimely and there is no common question of law or fact. In  
7 fact, in this matter, there is absolutely no question of law or fact between Victor and  
8 Hamid that is pending or in any way before this Court.

9 **D. Jessica’s contradictions are only exceeded by her lack of**  
10 **candor and merit.**

11 Jessica expressly informs this Court that she “is filing [her] Motion to  
12 Intervene pursuant to NRCP 24(b).”<sup>32</sup> Yet, in the very next paragraph, Jessica  
13 states she is asserting “an Intervention of Right” which is addressed in NRCP 24(a).  
14 There is no doubt Jessica’s lack of merit is manifest through contradiction and  
15 inconsistency. Regardless, as noted above, both NRCP 24(a) and NRCP 24(b)  
16 necessitate a “*timely*” motion—which is *irrefutably nonexistent* in this case.

17 It is significant to note Jessica fails to support her assertion of a “right” of  
18 intervention. This is in violation of EDCR 5.503<sup>33</sup> and such failure allows this  
19 Court to consider it as an admission that her motion is not meritorious and a cause  
20 for its denial. Consideration of the factors to be considered with a motion to  
21 intervene of right—which Jessica failed to disclose and address, confirm Jessica’s  
22 motion lacks merit.

23  
24  
25 <sup>30</sup> *United States v. City of New York*, 198 F.3d 360, 367 (2d Cir. 1999).

26 <sup>31</sup> 7C Charles Alan Wright et al., *Federal Practice and Procedure* § 1913 (3d ed.  
2007).

27 <sup>32</sup> Instant motion, page 4, line 11; NRCP 24(b) addresses Permissive Intervention.

28 <sup>33</sup> The Rule requires points and authorities for each position asserted—Jessica did  
not comply.

1 Indeed, the Nevada Supreme Court affirmed its holding that an applicant of  
2 right *must* show:

3 "(1) that it has a sufficient interest in the litigation's subject matter, (2)  
4 that it could suffer an impairment of its ability to protect that interest if  
5 it does not intervene, (3) that its interest is not adequately represented  
6 by existing parties, and (4) that its application is timely."<sup>34</sup>

7 "Determining whether an applicant has met these four requirements is within the  
8 district court's discretion."<sup>35</sup> The fact Jessica didn't even bother to identify and  
9 address the above factors, something that she is required to do, mandates the denial  
10 of her motion.

11 Continuing, Victor has no idea what Hamid has told Jessica or whether  
12 Jessica does indeed have any legally cognizable ownership interest in any of the  
13 assets she claims and identified in her presumptuous, premature, and improper  
14 Complaint and claimed by Hamid—but candidly for purposes of her motion and as  
15 it pertains to the case—*it doesn't matter!* Notably, Jessica has failed to provide  
16 actual proof of ownership (i.e., Bills of Sale, Deeds, etc).

17 More importantly, without credible proof of ownership, *Jessica has no*  
18 *interest to protect.* Conversely, even if Jessica were able to show ownership that  
19 contradicts Hamid's claims of ownership, her action would have *nothing* to do with  
20 this case and the settlement between the Hamid and Victor.

21 Notably, Jessica's Divorce Decree with Hamid does not award her any of the  
22 above-listed assets. If these assets existed at the time of the divorce, they were  
23 clearly omitted from the Decree between her and Hamid. Of course, it is too late for  
24 Jessica to reopen her Divorce Decree<sup>36</sup>. Such a request would be time barred by  
25 NRS125.150(3) and res judicata. However, if Jessica truly believes she has a claim

26 <sup>34</sup> *Hairr*, 368 P.3d at 1201 quoting *Am. Home Assurance Co.*, 122 Nev. at 1238,  
27 147 P.3d at 1126.

28 <sup>35</sup> *Id.*

<sup>36</sup> Such a request would be time barred by NRS125.150(3)

1 against Hamid and ownership to the property and entities Hamid has represented to  
2 this Court, and other courts, as belonging to and being controlled by him<sup>37</sup>, she  
3 could file an independent civil action. Regardless, attempting to drag this Court  
4 into adjudicating her untimely and unrelated claims to the annulment action  
5 between Hamid and Victor is unwarranted, improper, and impermissible.

6 It is also significant to note that Hamid failed to provide such returns in  
7 response to discovery—which casts further doubt on the credibility of the  
8 document, and/or the credibility of the parties. Regardless, the omission was  
9 deliberate and significant because the value of the assets disclosed in the 2016  
10 return is significant, and something Hamid wanted concealed from the Court and  
11 Victor. Notwithstanding, and despite it all, *all* litigation between Hamid and Victor  
12 has long been settled and there is no ongoing litigation before any court.

13 The settlement between Hamid and Victor requires nothing more than a cash  
14 payment of \$1,000,001.00 from Hamid to Victor. None of the assets Jessica is  
15 complaining affected by the settlement. Indeed, the settlement documents included  
16 with this opposition clearly indicate that Victor has no ownership interest in any of  
17 the businesses, properties or any other assets that Jessica is complaining about.

---

18  
19 <sup>37</sup> The only document Jessica offers to support her claim of ownership is an unfiled,  
20 2016 joint federal income tax return that she suggests she and Hamid filed (her  
21 Exhibit B). The tax return mentions only two assets (Stone & Stone, LLC, and,  
22 Vitiok, LLC) among those Hamid allegedly identified in her intervention  
complaint. The *unfiled* tax return also mentions Krystal Aviation, LLC, but Jessica  
makes no mention of this entity.

23 As this Court knows, the 2016 tax return is not proof of ownership. Moreover,  
24 Jessica and Hamid were divorced at the time, and thus (1) Jessica and Hamid  
25 colluded, lied, and defrauded the IRS if they actually filed the return; or (2) If the  
26 return was not filed, Jessica is now defrauding this Court, either with or without the  
27 assistance of Hamid. It would appear that Hamid's brother, Reza Sheikhai, CPA  
28 participated in the fraud because he prepared the return, and certainly was aware of  
his brother's marital status. *Jessica's unclean hands further bars any relief she is  
hoping to obtain from this Court.*

1 Victor does not care where Hamid gets the money he has promised and is legally  
2 obligated to tender; Hamid simply must fulfill his part of the bargain. In short, the  
3 settlement Victor and Hamid made **does not** require Hamid to transfer any assets to  
4 Victor. Therefore, Jessica is not a risk of losing any of the assets which she claims  
5 she owns, and if she intends to litigate her claims, it must necessarily be through a  
6 new, independent action.

7 In conclusion, as detailed above, (1) there is **no** pending or ongoing  
8 litigation; (2) Jessica's purported "interest" is **legally insufficient and patently**  
9 **irrelevant and unrelated to the domestic action they have litigated before this**  
10 **Court for the past three (3) years**; and the fact Jessica's application is **untimely** is  
11 incontrovertible. Accordingly, as established herein, being untimely, Jessica's  
12 motion cannot be granted as a matter of law, and consideration of the other  
13 applicable factors require the same determination.

14 **E. Victor is unequivocally entitled to an award of attorney's**  
15 **fees for having to respond to Hamid's baseless motion.**

16 The facts of this case firmly establish Jessica's brazen lack of candor,  
17 inexcusable disregard of court rule, and an utter lack of any factual or legal basis  
18 that would entitle her to intervene in this action. All factors that are used to  
19 support intervention lend **no support** to Jessica's endeavor. Jessica's motion is  
20 not only baseless and frivolous, it is sanctionable.

21 EDCR 7.60 provides, in relevant part:

22 (b) The court may, after notice and an opportunity to be heard, impose  
23 upon an attorney or a party any and all sanctions which may, under the  
24 facts of the case, be reasonable, including the imposition of fines, costs  
25 or attorney's fees when an attorney or a party without just cause:

26 (1) **Presents to the court a motion or an opposition to a motion which**  
27 **is obviously frivolous, unnecessary or unwarranted.**

28 (3) **So multiplies the proceedings in a case as to increase costs**  
**unreasonably and vexatiously.**

In this case, there was no factual or legal basis that would enable Jessica to  
intervene in this action. Further, NRS 7.085 also provides this Court with the

1 requisite authority to make Victor whole for the costs that he has incurred opposing  
2 Jessica's frivolous filings. Therein, it states:

3 1. If a court finds that an attorney has:

4 (a) Filed, maintained or defended a civil action or proceeding in any  
5 court in this State and such action or defense is ***not well-grounded in***  
6 ***fact*** or is ***not warranted by existing law*** or by an argument for  
changing the existing law that is made in good faith; or

7 (b) ***Unreasonably and vexatiously extended a civil action or***  
8 ***proceeding before any court in this State***, the court ***shall*** require the  
attorney personally to pay the additional costs, expenses and attorney's  
fees reasonably incurred because of such conduct.

9 ***2. The court shall liberally construe the provisions of this section in***  
10 ***favor of awarding costs, expenses and attorney's fees in all***  
11 ***appropriate situations.*** It is the intent of the Legislature that the court  
12 award costs, expenses and attorney's fees pursuant to this section and  
13 impose sanctions pursuant to Rule 11 of the Nevada Rules of Civil  
14 Procedure in all appropriate situations to punish for and deter frivolous  
15 or vexatious claims and defenses because such claims and defenses  
overburden limited judicial resources, hinder the timely resolution of  
meritorious claims and increase the costs of engaging in business and  
providing professional services to the public. (emphasis added).

16 Thus, "NRS 7.085 allows a district court to make an attorney personally  
17 liable for the attorney fees and costs an opponent incurs when the attorney files,  
18 maintains or defends a civil action that is not well-grounded in fact or is not  
19 warranted by existing law or by a good-faith argument for changing the existing  
20 law."<sup>38</sup>

21 NRCP 11 also enables this Court to impose sanctions if any pleading, written  
22 motion, or other paper is filed that is being filed for any improper purpose, such as  
23 to "***harass, cause unnecessary delay, or needlessly increase the cost of litigation.***"  
24

25  
26  
27 <sup>38</sup> *Watson Rounds, P.C., v. Eighth Judicial Dist. Ct. (Himelfarb & Associates)*, 131  
28 Nev. 783, 784, 358 P.3d 228, 230 (2015).

1 The Nevada Supreme Court, in *Watson Rounds*, held that NRCP 11 and NRS 7.085  
2 each represent a distinct, independent mechanism for sanctioning attorney  
3 misconduct. 131 Nev. at 791.

4 Moreover, in *Barney v. Mt. Rose Heating & Air Conditioning*, 192 P.3d 730,  
5 736 (2008) citing *Brunzell v. Golden Gate National Bank*, 85 Nev 345, 455 P.2d 31  
6 (1969), the Court enumerated factors that the district court should consider in  
7 awarding attorney fees, with no one factor controlling, as follows:

8 (1) the advocate's qualities, including ability, training, education,  
experience, professional standing, and skill;

9 (2) the character of the work, including its difficulty, intricacy,  
10 importance, as well as the time and skill required, the responsibility  
11 imposed, and the prominence and character of the Parties when  
affecting the importance of the litigation;

12 (3) the work performed, including the skill, time, and attention given  
to the work; and

13 (4) the result--whether the attorney was successful and what benefits  
14 were derived.

15 Victor's counsel met the factors outlined in *Brunzell*. Victor's counsel is  
16 qualified and has considerable experience, ability and training in the field of  
17 family law litigation. It is the responsibility of Victor's counsel to finalize  
18 outstanding issues to ensure the rights of Victor are preserved and that any rulings  
19 of this Court are consistent with applicable rules, statutory precedent and  
controlling law. Victor's counsel was attentive to work performed.

20 Lastly, pursuant to NRS 12.130, Jessica is required to "pay all costs  
21 incurred by the attempted intervention.

22 Accordingly, based upon the foregoing, it is not only fair, but also  
23 reasonable under the circumstances that Jessica and/or her counsel, be responsible  
24 for Victor's reasonable attorney fees and costs in the sum of \$10,000.00 pursuant  
25 to NRS §18.010, EDCR 7.60 and the holding of *Brunzell*.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**IV.**  
**Conclusion**

Despite Jessica’s contradictions and lack of candor, whether Jessica sought intervention of right (NRCP 24(a)) or permissive (NRCP 24(b))—her undertaking (whether self-serving or in collusion with Hamid) was without a doubt, *untimely* and therefore impermissible and unwarranted. Clearly, Jessica has not been candid with the Court and she certainly isn’t entitled, or deserving, to intervene in this settled matter.

It is submitted Jessica’s motion is nothing more than Hamid and Jessica abusing the legal system, disrespecting this Court, and treating litigation as a “no holds barred” game—which they strive for an unfair advantage through fraud and dishonesty. Jessica has forced Victor to needlessly expend more attorney’s fees. It must STOP and cannot be allowed to continue. Jessica’s ill-judged and unsupported quest to revive a settled case is also sanctionable.

Lastly, based upon her violation of court rule and offensive sense of entitlement, the intervention complaint that she unilaterally and impermissible filed must be stricken from the record.

For the foregoing reasons, it is respectfully requested that the Court deny Jessica’s motion in its entirety and award Victor attorney’s fees that have been incurred addressing Jessica’s repeated violations and baseless motion. Respectfully, Victor asks this Court to enter an Order:

1. Denying the motion filed by Jessica Wilde-Guzun (“Jessica”), in its entirety;
2. Striking the fugitive documents filed by Jessica from the record;
3. Awarding Victor the sum of \$10,000 for the attorney’s fees and costs he has incurred having to respond to a baseless motion; and



1 4. Addressing any additional relief this Court deems fair and necessary.

2  
3 Dated this 23<sup>rd</sup> day of March, 2021.

4 LEVENTHAL & ASSOCIATES, PLLC

5  
6 By: /s/ Todd M. Leventhal  
7 Todd M. Leventhal, Esq.  
8 Nevada Bar No. 8543  
9 626 South Third Street  
10 Las Vegas, NV 89101  
11 Telephone: (702) 472-8686  
12 *Attorneys for Defendant Victor Botnari*  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**DECLARATION OF VICTOR BOTNARI**

I, Victor Botnari, declare under penalty of perjury under the laws of the State of Nevada that the following is true and correct.

1. I am the Defendant in the above-entitled matter. Unless otherwise stated herein, I have personal knowledge of the facts and circumstances set forth herein.

2. That I have read the foregoing opposition and countermotion and the factual averments it contains are true and correct to the best of my knowledge, except as to those matters based on information and belief, and as to those matters, I believe them to be true. Those factual averments contained in the referenced filing are incorporated here as if set forth in full.

DATED this 23<sup>rd</sup> day of March, 2021.

/s/ Victor Botnari  
Victor Botnari

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**CERTIFICATE OF SERVICE**

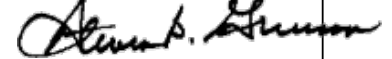
I hereby certify that I am an employee of Hofland & Tomsheck, that Pursuant to NRCP 5(b) and EDCR 7.26, I certify that on the 23<sup>rd</sup> day of March, 2021, I served the foregoing **DEFENDANT’S OPPOSITION TO JESSICA WILDE-GUZUN’S MOTION TO INTERVENE AND COUNTERMOTION FOR SANCTIONS; TO STRIKE FUGITIVE DOCUMENTS; FOR ATTORNEY’S FEES AND COSTS AND RELATED RELIEF** on the following parties by E-Service through Odyssey addressed as follows:

Joseph T. Nold, Esq.  
[noldj@cox.net](mailto:noldj@cox.net)  
*Attorney for Jessica Wilde-Guzun*

Robert A. Rabbat, Esq.  
[Rrabbat@enensteinlaw.com](mailto:Rrabbat@enensteinlaw.com)  
*Attorney for Hamid Sheikhai*

By: /s/ Nikki Warren  
An Employee of Hofland & Tomsheck

# **EXHIBIT 8**



**LEVENTHAL & ASSOCIATES, PLLC.**

Todd M. Leventhal, Esq.  
Nevada Bar Number: 008543  
626 S. Third St.

Las Vegas, Nevada 89101  
Telephone: (702) 472-8686  
Facsimile: (702) 472-8685

**HOFLAND & TOMSHECK**

Bradley J. Hofland, Esq.  
Nevada Bar Number: 6343  
[bradh@hoflandlaw.com](mailto:bradh@hoflandlaw.com)

228 South 4<sup>th</sup> Street, 1<sup>st</sup> Floor  
Las Vegas, Nevada 89101  
Telephone: (702) 895-6760  
Facsimile: (702) 731-6910

*Attorneys for Defendant Victor Botnari*

**DISTRICT COURT, FAMILY DIVISION**

**CLARK COUNTY, NEVADA**

HAMID SHEIKHAI,

Plaintiff,

vs.

VICTOR BOTNARI,

Defendant.

) CASE NO.: D-18-575686-L  
) DEPT NO.: R

**ORAL ARGUMENT REQUESTED**

**DEFENDANT'S OPPOSITION TO  
HAMID SHEIKHAI'S MOTION TO  
SET ASIDE OFFER OF  
JUDGMENT, RESET TRIAL, AND  
RE-OPEN DISCOVERY AND  
COUNTERMOTION FOR  
SANCTIONS, ATTORNEY'S FEES  
AND COSTS.**

) Date of Hearing: May 11, 2021

) Time of Hearing: 10:00 a.m.

COMES NOW, Defendant VICTOR BOTNARI ("Victor"), by and through his attorneys, Todd M. Leventhal, Esq. of LEVENTHAL AND ASSOCIATES, and Bradley J. Hofland, Esq., of HOFLAND & TOMSHECK, and submits Defendant's Opposition to the Motion to set aside Offer of Judgment, reset trial, and re-open discovery by Plaintiff Hamid Sheikhai ("Hamid") and Victor's countermotion for Sanctions, attorney's fees and costs, and respectfully requests this Court enter an Order:



- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

## 4

## 5

6  
7  
8  
9

10  
11  
12  
13  
14  
15

16  
17  
18  
19  
20  
21

23

24

25

26

27

28

1 15, 2021, Victor accepted Hamid’s Offer of Judgment<sup>4</sup>. The Offer and Acceptance  
2 was filed with the Clerk and by Court Rule, “must enter judgment accordingly”<sup>5</sup>.

3 Lastly, the fact Hamid additionally filed the *identical* motion, first before  
4 Judge Kishner in Case No. A-19-801513-P<sup>6</sup>, and then before Judge Johnson in Case  
5 A-19-805955-C<sup>7</sup>, suggests Hamid’s counsel has filed the instant motion due to  
6 extreme carelessness and a complete lack of due diligence, or alternatively, filed the  
7 frivolous motion *despite* knowing it lacked merit. Either way, the conduct is  
8 inexcusable and sanctionable.

9 Hamid knows full well what he is doing and is choosing to abuse the legal  
10 process (an actionable tort in and of itself) in an attempt to manipulate the courts to  
11 increase the cost of litigation so Victor cannot sustain his bad faith legal barrage  
12 and sanctionable actions.

13 There is no factual or legal basis and Hamid’s motion must be summarily  
14 dismissed.

15  
16  
17  
18  
19 \\\

20 \\\

21 \\\

22  
23  
24 for the Court’s convenience and review; by its terms *all* actions involving Hamid  
were settled.

25 <sup>4</sup> A copy of Victor’s *acceptance* of Hamid’s Offer of Judgment that was accepted  
26 and filed with the Clerk of the Court, as provided for by Court Rule, is submitted  
herewith as Exhibit “B”, for the Court’s convenience and review.

27 <sup>5</sup> See NRCP 68(d)(3).

28 <sup>6</sup> Submitted herewith for the Court’s consideration and comparison as Exhibit “C”.

<sup>7</sup> Submitted herewith for the Court’s consideration and comparison as Exhibit “D”.



1 II.

2 Statement of Facts

3 In short, Victor has exposed Hamid's long history of fraudulent and  
4 dishonest conduct and his use of litigation and various "legal entities" to evade  
5 accountability. Hamid lies, forges documents, forges signatures, and schemes to  
6 evade accountability and for financial gain, conduct which was recently **confirmed**  
7 by Hamid's ex-wife<sup>8</sup>. As this Court will recall, ***Hamid did not oppose or dispute***  
8 ***her claims***<sup>9</sup>.

9 Moreover, as this Court knows, in May of 2018, ***Hamid*** prepared and  
10 "***signed*** a promissory note to Victor, promising him \$1,000,000 (one million  
11 dollars) and payments of \$10,000 per month interest until the principal is paid"<sup>10</sup> in  
12 return for his assignment of his 12% interest in Stone & Stone and compensation  
13 for "any potential joint assets".<sup>11</sup> However, Hamid did ***not*** honor the promissory  
14 note; he simply wanted it to *appear* as if he was honorable. When domestic  
15 litigation was commenced and the matter was brought before the Court, Hamid was  
16 then ordered to begin making the \$10,000.00 monthly payments<sup>12</sup>. Before this  
17  
18

---

19 <sup>8</sup> Aside from the multiple instances of such conduct by Hamid, illuminated by  
20 Victor throughout the domestic matters and two unrelated civil actions, ***Hamid's***  
21 ***ex-wife, Jessica Wilde-Guzun, recently disclosed in court documents that Hamid***  
22 ***has been sending her fraudulent, altered, or forged documents for years*** in her  
motion to intervene.

23 <sup>9</sup> His failure to do so is not surprising, and was in fact ***predicted*** by Victor in his  
24 opposition to her motion to intervene, exposing her maneuver as merely a  
collaborated effort and civil conspiracy to enable Hamid to dishonor his Offer of  
Judgment and corresponding financial obligation.

25 <sup>10</sup> Hamid's statement of facts, case D-18-575686-L, filed 8/13/2019.

26 <sup>11</sup> Representations made by Hamid in Case D-18-575686-L; *see e.g.* Hamid's  
27 "Facts" in his Opposition filed 8/13/2019, Hamid's introduction, Memorandum  
filed 11/29/2018, and "Introduction" of Stone & Stone's Motion, filed 8/7/20.

28 <sup>12</sup> *See* Order from Hearing, filed 11/21/2018; Amended Order from October 16  
Hearing, filed 1/5/2019

1 Court's order in October of 2018, Hamid had not paid Victor one cent of the  
2 monthly payments required by the promissory note.

3 After the domestic litigation commenced, Judge Henderson ordered Victor to  
4 receive and Hamid to make the \$10,000.00 monthly payments<sup>13</sup>. Of course, Hamid  
5 had no intention of honoring his promise and certainly despised this Court  
6 thwarting his plan and directing Hamid to do so, so **Hamid** thereafter asked the  
7 domestic court to find the million-dollar promissory note **Hamid prepared** and  
8 signed to be invalid and set aside<sup>14</sup>. Appropriately, Hamid's maneuver was  
9 unsuccessful.

10 Thereafter, Hamid then tried to terminate/stay Hamid's obligation of having  
11 to make the payments he promised in the promissory note he prepared<sup>15</sup>. Hamid  
12 was not candid with this Court or forthright with his financial disclosures and this  
13 Court, and this Court denied his requests<sup>16</sup>. Undeterred, Hamid simply devised  
14 another ploy, this time choosing a different forum and incredulously asked Judge  
15 Kishner to allow Hamid to sue Victor for accepting the promissory note that Hamid  
16 prepared and signed, claiming that **his** million-dollar note was usurious and  
17 invalid<sup>17</sup>. This Court properly rejected and denied Hamid's request.<sup>18</sup>

18 Significantly, during the status check hearing of October 15, 2020, Victor  
19 disclosed the fact that there had never been a Notice of Entry of the December 3,  
20 2018 and thereafter, Hamid promptly filed such a Notice of Entry on that same day.  
21 In accordance with the Nevada Rules of Civil Procedure, on November 3, 2020,

22  
23  
24 <sup>13</sup> See Journal Entry, D-18-575686-L, of October 16, 2018.

25 <sup>14</sup> Hamid's motion for partial summary judgment, case D-18-575686-L.

26 <sup>15</sup> See Hamid's motion to suspend monthly payments to Victor, filed 5/5/20, case  
D-18-575686-L.

27 <sup>16</sup> See Journal entry of 6/22/20

28 <sup>17</sup> See Hamid's motion to file amended answer and counterclaim filed before **this**  
Court on 9/8/20.

<sup>18</sup> See Journal entry of October 13, 2020, in this action, case A-19-801513-P.

1 Victor filed his motion to amend or make additional findings of fact, to alter or  
2 amend the judgment, to set an Evidentiary Hearing to address Hamid's fraud, and to  
3 correct clerical errors and related relief.

4 The issues of (1) Hamid's fraud, (2) Hamid's egregious misrepresentation  
5 and manipulation of this Court, and (3) the issue of setting aside the annulment  
6 Hamid had fraudulently procured, were also briefed in Victor's Pre-Hearing Brief  
7 and thus remained the subject of the upcoming hearing.

8 Afterwards, as the January 21, 2021 hearing date between Victor and Hamid  
9 before this Court neared, Hamid promptly tendered two (2) Offers of Judgment.  
10 The first Offer of Judgment was for a one-time payment of \$800,000.00 in cash  
11 (which would cancel the million-dollar promissory note Hamid prepared and  
12 signed)<sup>19</sup>. The second Offer of Judgment, made a week later, was for a one-time  
13 payment of \$1,000,001.00 (which would cancel the million-dollar promissory note  
14 Hamid prepared and signed)<sup>20</sup>. Victor accepted the second Offer of Judgment and  
15 it was filed with the Clerk of the Court as provided for in NRCP 68.

16 Now, as the time approaches for Hamid to pay Victor the one-time million-  
17 and one-dollar payment, Hamid's desperation to avoid actually having to honor the  
18 Offer of Judgment was confirmed with equally desperate actions. First, Hamid  
19 terminated the services of his attorney that he has basically utilized since the  
20 commencement of all actions (Mr. Willick) so he could use an attorney that was  
21 unfamiliar with Hamid, unfamiliar with the history of the case, and unfamiliar with  
22 the other civil matters as well, and who would not question Hamid, his motives, the  
23 merit of his maneuvers, or more importantly, the corresponding ethical and  
24 procedural violations associated with such maneuvers.

25  
26  
27 

---

<sup>19</sup> Served on December 30, 2020.

28 <sup>20</sup> Served on January 6, 2021.

1 Thus, on March 14, 2021, Marshall Willick, Esq. was substituted out and  
2 replaced by Robert Rabbat, Esq.<sup>21</sup> The fatal flaw in Hamid’s latest scheme is the  
3 fact this Court, who is all too familiar with Hamid and the extensive litigation and  
4 issues, remains the judicial officer assigned to this matter, and will not allow Hamid  
5 to manipulate the Court or dishonor his promise and legal obligations.

6 The time for Hamid to honor his financial obligation contained in *his* Second  
7 Offer of Judgment, that was accepted by Victor, is fast approaching. However, just  
8 as with Hamid’s desire and efforts to evade his financial obligations set forth in the  
9 million-dollar promissory note *he* prepared, Hamid has absolutely no intention of  
10 honoring the million and one dollar Offer of Judgment *he* prepared. As a result,  
11 Hamid frantically launches a barrage of frivolous motions hoping that a court,  
12 indeed *any* court<sup>22</sup>, despite the procedural irregularity and impermissibility of such  
13 actions, would nevertheless ignore the facts and applicable precedent, and condone  
14 his anticipated breach.

15 The first of such motions came from Hamid’s recruitment of his ex-wife to  
16 collaborate and engage in a civil conspiracy by filing a motion to intervene in this  
17 action, that is now resolved, and for all practical intents and purposes, closed.  
18 Therein, Hamid’s ex-wife sought injunctive relief “prohibiting” Hamid from  
19 honoring the accepted Offer of Judgment. Victor expressly noted in his opposition  
20 that Jessica’s sudden appearance was simply a coordinated maneuver with Hamid<sup>23</sup>

---

22 <sup>21</sup> Substitution of Attorney filed on March 14, 2021.

23 <sup>22</sup> Indeed, as the record confirms, Hamid submitted his offers of judgment in the  
24 domestic matter (D-18-575686-L), but incredulously filed his motion to “set aside  
25 offer of judgment” (despite the fact the offer was accepted and filed with the Clerk  
26 of the Court), first in *this* Court, then the same motion in the Family Court (D-18-  
27 575686-L), and last, but not least, the very same motion in *another* civil action (A-  
19-805955-C). (A brazen misrepresentation given the fact the offer of judgment  
was accepted and filed with the Clerk of the Court).

28 <sup>23</sup> A germination of a civil conspiracy—which Hamid has successfully used to his  
benefit in the past.

1 designed to assist Hamid in his latest attempt at dishonoring his offer of judgment  
2 (that was *unexpectedly* accepted by Victor<sup>24</sup>)—a fact Hamid did not dispute!

3 Indeed, Victor predicted that the civil conspiracy between Hamid and his ex-  
4 wife would be confirmed when Hamid remained silent<sup>25</sup>. As predicted, Hamid did  
5 not file an opposition to Jessica’s motion and the fact Hamid and Jessica are simply  
6 engaging in a civil conspiracy is undeniable. This Court readily saw through  
7 Jessica and Hamid’s ruse and *denied* her motion to intervene.

8 Indeed, as noted above, although Hamid’s ex-wife claimed Hamid committed  
9 fraud, forgery, and unlawful actions, and that she the actual owner of the properties  
10 involved in the litigation, *Hamid did not file an opposition or challenge her*  
11 *claims*. Hamid didn’t even bother to respond to or dispute her claims because (1)  
12 Hamid has no intention of honoring the accepted Offer of Judgment, (2) the  
13 enlistment of his ex is merely a ruse<sup>26</sup>, which Hamid hopes will enable him to  
14 manipulate the courts and abuse the legal system, and (3) he thinks he will be able  
15 to find at least one court who condone his egregious conduct and relieve him of his  
16 lawful obligation. Respectfully, such expectation is ill-judged and sanctionable.

17 Hamid’s second motion, underscoring his bad faith and his coup d’état of is  
18 the filing a motion before this Court, (where the Offer of Judgment was made), to  
19 set aside the accepted Offer of Judgment for one million and one dollars  
20 (\$1,000,001.00), that Hamid prepared, signed, and now wants to be found as

---

21 <sup>24</sup> Following Victor’s acceptance of Hamid’s Offer of Judgment, Hamid terminated  
22 the services of Mr. Willick and sought the assistance of counsel that he believes  
23 will follow his directives, however misguided or unethical they may be.  
24 Notwithstanding, Hamid is legally bound to honor his Agreement with Victor, and  
Jessica’s attempt to intervene is ineffectual and unwarranted.

25 <sup>25</sup> See Victor’s opposition to Jessica Wilde-Guzun’s motion to intervene, case D-  
18-575686-L, filed 3/23/2021, page 4.

26 <sup>26</sup> Hamid’s ex-wife, Jessica Wilde-Guzman is Hamid’s puppet, doing and saying  
27 whatever he instructs her to do, and she filed the suit at Hamid’s direction to  
28 suggest legitimacy. However, the suit will only be maintained as long as Hamid  
believes he can derive some benefit therefrom or otherwise dismissed by attack.

1 invalid—just like Hamid sought to do with the one-million-dollar (\$1,000,000.00)  
2 promissory note he prepared and signed years ago.

3 ***Hamid has come full circle; a course maintained with dishonesty and***  
4 ***deceit. Hamid’s latest motion is just another baseless undertaking to evade***  
5 ***fulfilling his legal responsibility.***

6 Because these facts, and other dispositive facts concealed by Hamid, are fatal  
7 to the relief he now seeks from this Court, Hamid substitutes truth with a polished  
8 (after three years of rehearsing) false narrative that is devoid of truth and relevance.  
9 That is not surprising, however, because truth has never been a desideratum of  
10 Hamid’s actions. Hamid’s stratagem is designed to deflect from Hamid’s wrongful  
11 actions, conceal relevant/pertinent facts, and to mislead and/or confuse this Court—  
12 at least to such an extent so that Hamid can abuse the legal process for his personal  
13 gain.

14 With that in mind, and for the sake of brevity, there is no need to refute and  
15 disprove the false, inaccurate, and misleading “Facts” Hamid has set forth in his  
16 latest motion<sup>27</sup>; suffice it to say Victor vehemently disputes the veracity of Hamid’s  
17 claims and the evidence and applicable precedent likewise disproves Hamid’s  
18 representations<sup>28</sup>. Notwithstanding, a few of Hamid’s more egregious and dishonest  
19 statements made to this Court merit clarification and correction.

---

22 <sup>27</sup> Hamid’s “Facts” have changed over the years of litigation and is different  
23 depending on which Court he is appearing before. Of course, if this Court would  
24 like to have a comprehensive background of the facts and procedure of each case  
25 Hamid is/was involved in, Victor will gladly provide such a supplement to the  
26 Court if requested or deemed helpful.

27 <sup>28</sup> Of course, by law, a court may not assume the truth of allegations in a pleading  
28 that are contradicted by affidavit, further undermining Hamid’s position. *See Data*  
*Disc. Inc. v. Systems Tech. Assoc., Inc.*, 557 F.2d 1280 (Court of Appeals, 9<sup>th</sup>  
Circuit 1977). *See also, Taylor v. Portland Paramount Corp.*, 383 F.2d 634, 639  
(9<sup>th</sup> Cir. 1967).

1           **A. Hamid’s Background and History is False, Irrelevant, and a**  
2           **waste of this Court’s time.**

3           To begin with, Hamid’s “Facts” is a misnomer. In reality, it is a  
4 gallimaufry<sup>29</sup>, including page after page of false claims, non sequiturs, and the  
5 irrelevant—liberally laced with untrue allegations bearing no relation to the actual  
6 facts of this case, and more importantly, to the dispositive facts pertaining to  
7 Hamid’s motion.

8           The actual relevant facts in this case have largely and repeatedly been  
9 presented in prior filings (since 2018) with this Court and others—for brevity,  
10 incorporated herein by reference. In short, Hamid’s “background” and “history” is  
11 grossly untrue—and frankly, meaningless as it pertains to the motion before this  
12 Court.

13           Hamid lies when he attempts to explain a Bill of Sale to Victor when he now  
14 claims he never sold Zip Zap Auto to Victor. Shamelessly, Hamid conceals the fact  
15 that Hamid insisted on listing the sale at \$1 because *Hamid* wanted to avoid taxes  
16 and insisted Victor pay him cash for the balance of the sale. The purchase price for  
17 the business had nothing to do with Victor obtaining insurance as Hamid would like  
18 this Court to believe.

19           **B. Hamid’s characterization of “pending” litigation is grossly**  
20           **inaccurate, misleading, and irrelevant.**

21           Continuing, Hamid also misstates the “pending” litigation and conceals  
22 dispositive facts while fabricating others. First, as noted above, Hamid’s Second  
23 Offer of Judgment was accepted and has been filed with the Clerk of the Court in  
24 accordance with NRCP 68. As a result, all litigation involving Hamid was  
25 concluded and until Hamid’s latest maneuvers to evade having to honor the  
26 agreement, *nothing was pending*. Indeed, the Stipulation and order to Vacate

27  
28 <sup>29</sup> A confused jumble or medley of things, or a dish made from diced or minced  
meat, especially a hash.

1 Hearings was filed, *by Hamid*, before Judge Kishner on 1/21/21<sup>30</sup>; the same  
2 Stipulation and Order was filed, *by Hamid*, on 1/21/21 before Judge Susan Johnson  
3 in Case No. A-19-805955-C<sup>31</sup>; and again, *by Hamid* on 1/21/21 before Judge Bill  
4 Henderson in Case No. D-18-575686-L.

5 Moreover, Hamid's characterization of the litigation and decisions of the  
6 court(s) are likewise patently false. Notably, review of the record firmly disproves  
7 Hamid's representations. Whether this Court had jurisdiction, with a change of  
8 venue, to set aside a Decree of Annulment, based upon Hamid's egregious Fraud  
9 committed in the procurement of a Decree in Douglas County, was *never decided*  
10 by Judge Henderson and *remained an issue that was to be tried* at the January 21,  
11 2021 Trial/Hearing<sup>32</sup>.

12 In addition to that issue that was pending before this Court, the nature and  
13 extent of Hamid's Fraud was likewise a matter that was to be adjudicated before  
14 Judge Henderson<sup>33</sup>. These are the issues that Hamid had litigated for years to  
15 prevent this Court from adjudicating<sup>34</sup>. With no means of escaping judgment day,  
16 Hamid elected, instead, to submit Offers of Judgment.

---

17 <sup>30</sup> Review of the Stipulation and Order confirms it was submitted by Hamid, Victor,  
18 Stone & Stone, filed 1/21/21, submitted herewith as Exhibit "E".

19 <sup>31</sup> Review of the Stipulation and Order confirms it was submitted by Hamid, Victor,  
20 SLC, LLC. and Zoreh Amiryavari, filed 1/21/21, submitted herewith as Exhibit  
21 "F".

22 <sup>32</sup> See Defendant's Motion to Amend or Make Additional Findings of Fact; To  
23 Alter or Amend the Judgment; To Set Evidentiary Hearing to Address Plaintiff's  
24 Fraud; And to Correct Clerical Error(S) Of the Court; And Related Relief, filed on  
25 11/3/2020, and Defendant's Pre-Hearing Brief, Filed Per Court Directive on  
26 January 8, 2021.

27 <sup>33</sup> *Id.*

28 <sup>34</sup> *Such efforts included a gross misrepresentation of case law*, most recently, the  
Milender decision, and misplaced reliance on the fact that this Court's ruling that  
the annulment "stands", no matter how many times it is stated, is merely a  
statement of law (that until a voidable judgment is set aside, it "stands"—a  
statement that must necessarily be made by all courts, not just this one), is not, by  
any stretch of the imagination—nor reflected in the hearings in this action, an



1 These issues, and others, were not tried *because* after of Hamid making an  
2 Offer of Judgment and Victor's acceptance of Hamid's Offer of Judgment, and the  
3 resulting Stipulation and Order. Hamid's self-serving characterizations are patently  
4 false—and irrelevant. Now that Hamid is once again obligated to pay Victor in  
5 accordance with his Offer of Judgment, he wants to set aside his Offer. The law and  
6 applicable legal precedent does not allow Hamid to do so, and Hamid's ploy is  
7 baseless and done in bad faith and with unclean hands.

8 **C. Hamid violates his duty of candor, again, with his inaccurate**  
9 **and incomplete description of an unrelated and irrelevant**  
10 **matter before Judge Johnson.**

11 Hamid then ventures into the other civil action in which Hamid was/is  
12 involved, Case No. A-19-805955-C, with more insignificant claims. It is telling,  
13 however, that Hamid conceals his unsuccessful attempts to seal the case<sup>35</sup>; his  
14 unsuccessful attempts to consolidate the unrelated cases<sup>36</sup>; and that Hamid  
15 abandoned any pursuit of “third-party” actions.

16 Respectfully, what Judge Johnson did or didn't do in an unrelated case<sup>37</sup> is  
17 meaningless. Hamid's characterization is defamatory and self-serving; it is also  
18 grossly inaccurate and incomplete. Notably, Hamid fails to disclose the fact that a  
19 motion to dismiss Hamid's claim and rescinding the preliminary injunction<sup>38</sup> was  
20 pending before Judge Johnson and set to be heard on February 23, 2021. That

21 adjudication of whether this Court, with the change of venue, had jurisdiction to set  
22 aside the Decree of Annulment from Douglas County, and whether Hamid's fraud  
23 necessitated the setting aside of that Decree of Annulment. This distinction was  
24 briefed extensively (*See* Victor's Motion to Amend, to set Evidentiary Hearing, and  
25 to address Hamid's Fraud and other relief, filed 11/3/20), and no doubt led to the  
26 formation and presentation of Hamid's Offer's of Judgment.

27 <sup>35</sup> *See* Journal Entry of April 2, 2020, Case No. A-19-805955-C

28 <sup>36</sup> Hamid's motion was filed 1/3/2020 in Case No. A-19-805955-C

<sup>37</sup> Hamid's efforts to consolidate the cases were unsuccessful before this Court,  
before Judge Johnson, and before Judge Kisner.

<sup>38</sup> Filed on January 15, 2021.

1 hearing was vacated pursuant to the Stipulation and Order following Victor's  
2 acceptance of Hamid's Offer of Judgment—but significantly, *Hamid did not file*  
3 *any opposition* to the relief requested by Victor—conduct which by Court Rule  
4 may be deemed an admission Victor's motion is meritorious and a consent to  
5 granting the same<sup>39</sup>.

6 Equally important is the fact that Hamid's claims of Victor's purported  
7 actions are predicated upon a decision that was pending being set aside based upon  
8 Victor's unopposed motion, and more importantly, addresses matters and a  
9 purported decision that has not even been correctly contained or memorialized in a  
10 written decision. Hamid's counsel knows that an oral pronouncement is invalid for  
11 any purpose<sup>40</sup>.

12 **D. Hamid's claim the "other parties" were not involved is both**  
13 **false and irrelevant.**

14 While Hamid doesn't argue there is any significance to the fact that his  
15 Offers of Judgment were made and executed by and through counsel, it seems he  
16 hopes to derive some benefit from that meaningless distinction. Of course, it must  
17 be noted Hamid submitted two (2) Offers of Judgment through counsel in such  
18 manner, and then went on to file the resulting Stipulation and Order, along with a  
19 Notice of Entry of such, in the domestic action and both civil matters.

20 Continuing, Hamid offered and agreed to assume the loan on the Sun Lake  
21 Property—a loan that was in Victor's name. Specifically, Hamid's Second Offer of  
22 Judgment provides, in relevant part:

23 10. *Hamid* shall assume the loan on the Sun Lake Home property, and  
24 Victor shall cooperate to have it refinanced within 90 days from the  
25 date of acceptance of this offer.

26 <sup>39</sup> See EDCR 2.20(e).

27 <sup>40</sup> See *Rust v. Clark Cty. Sch. Dist.*, 103 Nev. 686, 747 P.2d 1380 (1987) (providing  
28 that the district court's oral pronouncement from the bench is ineffective for any  
purpose).

1 Victor agreed to Hamid’s Offer. Candidly, Hamid’s counsel at the time, Marshal  
2 Willick, is exceptionally skilled and experienced<sup>41</sup>, and all material terms were  
3 clearly stated and included in Hamid’s Second Offer of Judgment. There is *nothing*  
4 in the Second Offer of Judgment to suggest or in any way support Hamid’s  
5 representation that Hamid “was going to fund the one-time payment to [Victor]  
6 with the funds obtained through refinancing the loan on the Sun Lake Property”,  
7 and his claim is unsupported, patently false, and meaningless.

8 First of all, Victor didn’t care where Hamid got his funds and there was  
9 never any discussion pertaining to that issue. As adept Mr. Willick is with drafting,  
10 if there was a concern or a condition on where or how Hamid was to amass the  
11 \$1,000,001.00 one-time payment, it would have been included in the Offers of  
12 Judgment—but it wasn’t.

13 Secondly, equity in the Sun Lake Property is vastly insufficient to even be a  
14 viable source for the \$1,000,001.00 one-time payment, and any funds that Hamid  
15 could possibly receive from refinancing the residence wouldn’t come close to the  
16 amount of the one-time agreed upon payment<sup>42</sup>.

17 **E. Hamid brazenly lies to this Court about his “attempted”**  
18 **compliance and Victor’s purported conduct.**

19 As noted above, pursuant to the Offer of Judgment Hamid prepared and  
20 submitted, Hamid was to assume the loan and Hamid was to refinance the property,  
21 all Victor agreed to do was cooperate and vacate the Sun Lake property, which he  
22 did. Indeed, the Offer of Settlement provides, in relevant part:

---

23 <sup>41</sup> Indeed, Mr. Willick is a certified Family Law Specialist, writes, lectures, has  
24 authored many textbooks and countless articles, and was the managing editor of the  
25 first edition of the Nevada Family Law Practice Manual. Additionally, Mr. Willick  
has drafted various state and federal statutes.

26 <sup>42</sup> Indeed, Hamid *admits*, through his own notarized statement that the residence is  
27 valued at \$640,000, and the current loan is approximately \$490,000, leaving a  
28 maximum equity, before costs, of just \$150,000. Hamid is intentionally misleading  
this Court.

1 9. Victor shall vacate the Sun Lake Home property within 30 days of  
2 acceptance of this offer.

3 10. **Hamid** shall assume the loan on the Sun Lake Home property, and  
4 Victor shall cooperate to have it refinanced within 90 days from the  
date of acceptance of this offer.

5 Victor accepted Hamid's Offer of Judgment on January 15, 2021, and  
6 vacated the residence, as agreed upon, on February 11, 2021. On that date, Victor  
7 also dropped off the keys to the residence at counsel's office, and Hamid's attorney  
8 was notified on that same date the residence was vacant and the keys available to be  
9 picked up.

10 **Hamid**, on the other hand, contrary to his blatant misrepresentation to this  
11 Court, ***took no steps to assume the loan or refinance the property***. It is significant  
12 to note Hamid provides no financial records to support such effort<sup>43</sup>. Instead, he  
13 conceals the fact that Hamid intended on selling the residence to his brother, and  
14 that his brother was requesting a loan<sup>44</sup>. This fact only became known after  
15 Victor's discussion with Lawyers Title on February 4, 2021.

16 Hamid's claim he repeatedly sent to Victor and his counsel an affidavit to  
17 sign, is likewise untrue. It is telling that neither Hamid or his counsel can provide  
18 any documentation in support of his false representation. Moreover, Victor has  
19 never refused to sign any documents, but sought assurance from Hamid that Victor  
20 would not be responsible for any of the fees/costs/expenses that were referenced in  
21 said documents. This is confirmed with the email from Victor's counsel to  
22 Hamid's counsel, Mr. Willick of February 12, 2021<sup>45</sup>, and through discussions with  
23 Lawyers Title.

24  
25  
26 <sup>43</sup> For example, Hamid states his application was denied, but Hamid provides no  
such denial letter validating his claim.

27 <sup>44</sup> Of course, by the very terms of Hamid's Offer of Judgment, Victor was under no  
obligation to cooperate with any third-party.

28 <sup>45</sup> See Exhibit "G"

1 Following that email, Mr. Willick made *no attempt* to contact Victor's  
2 counsel, and notably, neither Hamid nor his counsel ever even suggested Victor  
3 was not cooperating<sup>46</sup>. Victor expressed his concern with being responsible for any  
4 costs/expenses, and was told they would send revised documents—such documents  
5 were never provided. Victor followed up with three additional calls to Lawyer's  
6 Title. Notably, Jennifer, from Lawyers Title informed Victor that *Hamid is not*  
7 *responding to her and is not cooperating with the loan and title companies*.

8 Notwithstanding, Victor executed the documents provided and has heard  
9 nothing since. Hamid's claims are false and just confirmation of the lengths Hamid  
10 will go to evade honoring his agreements.

11 Continuing, as this Court knows, all ambiguities must be construed against  
12 the drafter of the Offer of Judgment<sup>47</sup>. Hamid's reference and interpretation of  
13 paragraph 10 of the accepted Offer of Judgment is unsustainable. Quite simply, as  
14 noted above, paragraph 10 simply provides:

15 Hamid shall assume the loan on the Sun Lake Home property, and  
16 Victor shall cooperate to have it refinanced within 90 days from the  
date of acceptance of this offer.

17 Regardless of Hamid's interpretation, to wit: Whether the focus is on  
18 Victor's cooperation and per the offer's terms, he had to "cooperate" within 90  
19 days, or the focus is on the refinancing of the property, where Victor only needed to  
20 cooperate with Hamid during that 90 period for "refinancing", the reality is, Victor  
21 fully cooperated under either interpretation, and more importantly, neither  
22 "cooperation" or "refinancing" was a condition to Hamid's financial obligation to  
23 Victor.

24 \_\_\_\_\_  
25 <sup>46</sup> Hamid's doing so now is in bad faith and merely a ploy.

26 <sup>47</sup> See *Lietz, supra*; *Nusom v. Cumh Woodburn, Inc.*, 122 F.3d 830, 833 (9th Cir.  
27 1997)); *Herrington v. County of Sonoma*, 12 F.3d 901, 93 Cal. Daily Op. Service  
28 9669, 93 D.A.R. 16606, 27 Fed. R. Serv. 3d (Callaghan) 1038, 1993 U.S. App.  
LEXIS 33638 (9th Cir. 1993) (Ambiguities will be construed against offeror as  
drafting party).

1 It is also significant to note Hamid provides *no proof* that *he ever* contacted  
2 the mortgage holder or inquired about being able to “assume” Victor’s loan, and  
3 Hamid provides *no proof* that *he* contacted *any* lenders about *his* refinancing the  
4 property. The fact Hamid would expect the Court to ignore his actions is alarming.

5 Hamid ignores his bad faith and endeavors to deflect focus by falsely  
6 claiming to not know when Victor vacated the residence—Hamid’s prior counsel  
7 can readily disprove such a representation. Moreover, Hamid *now* accuses Victor  
8 of causing significant damage to the residence<sup>48</sup>, after having unfettered access to  
9 the residence since that time without making so much as a written or verbal  
10 “complaint” over the condition of the residence. That proves there is no merit to  
11 Hamid’s fabricated claim.

12 Notwithstanding, it is worth noting that *Hamid is the one who vandalized*  
13 *the residence* when he was ordered by Judge Henderson to allow Victor to occupy  
14 the residence<sup>49</sup>. In reality, Victor made major pool repairs, replaced carpet, made  
15 wall repairs, and cleaned the house and driveways that welcomed him upon his  
16 arrival. Also, Victor documented the condition of the residence when he left<sup>50</sup>, and  
17 such proof, coupled with the passage of time and Hamid’s silence, confirms that the  
18 *damage that Hamid now complains of was actually performed or orchestrated by*  
19 *Hamid*, thinking he could simply blame Victor and use that as a means of getting  
20 out of the Offer of Judgment that he made.

21 Victor has not been in the residence or seen it since he vacated it on February  
22 11, 2021. Regardless of whatever damage there *really* is, if any, whether caused by  
23

---

24  
25 <sup>48</sup> Although technically, there was no mention of Victor’s obligation pertaining to  
the residence other than simply vacating it.

26 <sup>49</sup> If requested, Victor has photos documenting and confirming Hamid’s destruction  
27 of the residence.

28 <sup>50</sup> These photos, if the Court thinks them relevant, will likewise be provided upon  
request.

1 Hamid or others under his direction, was not caused by Victor. Hamid foolishly  
2 thought he could damage the residence and get out of the agreement in the process.

3 Lastly, further proof that this baseless claim, like all others, is a frantic ploy,  
4 that he has coordinated with his ex<sup>51</sup>, hoping will evade scrutiny and reason so he  
5 can be relieved from having to abide by his agreement, is the fact that Hamid has  
6 failed and refused to make a single loan payment on the Sun Lake residence since it  
7 was vacated by Victor (no payments for the months of February, March, and April),  
8 and has also ceased making any of the \$10,000.00 monthly payments ordered by  
9 this Court long before Hamid made his offers of judgment.

10 ***This Court informed Hamid at the April 12, 2021 hearing that such***  
11 ***conduct would preclude and prevent him from seeking any relief.*** The Court's  
12 admonishment means nothing to Hamid because he obviously thinks this court  
13 either has an incredibly short memory or doesn't mean what it says. In short,  
14 Hamid simply believes he can get away with anything.

### 15 III.

#### 16 Legal Argument

##### 17 A. The Accepted Offer of Judgment is valid and enforceable.

18 Once an Offer of judgment is made, it is nonnegotiable; it is either accepted,  
19 in which case a judgement will automatically entered by clerk of court, or rejected,  
20 in which case it stands as marker by which plaintiff's results are ultimately  
21 measured<sup>52</sup>. Rule 68 uses ***threat of burden of cost in order to facilitate purpose of***  
22 ***encouraging*** pretrial settlement of litigation.<sup>53</sup>

23 Rule 68 leaves no discretion in district court to do anything other than enter  
24 judgment once offer of judgment has been accepted<sup>54</sup>; by directing that clerk "shall"

25 \_\_\_\_\_  
26 <sup>51</sup> This Court was not fooled by the coordinated ruse/civil conspiracy of Hamid and  
his ex and properly denied her motion to intervene at the hearing on April 12, 2021.

27 <sup>52</sup> *Nusom v. Cumh Woodburn, Inc.*, 122 F.3d 830, 833 (9th Cir. 1997).

28 <sup>53</sup> *Waters v. Heublein, Inc.*, 485 F. Supp. 110, 23 (N.D. Cal. 1979).

<sup>54</sup> See *Perkins v. U S West Communs.*, 138 F.3d 336 (8th Cir. 1998).

1 enter judgment after proof of offer and acceptance have been filed, explicit  
2 language of rule signifies that district court possesses no discretion to alter or  
3 modify parties' agreement<sup>55</sup>. Rule 68 offer of judgment is self-executing. Because  
4 of mandatory directive contained in Rule 68, and the court has no discretion to alter  
5 or modify parties' agreement. Indeed, the entry of Rule judgment is ministerial  
6 rather than discretionary<sup>56</sup>.

7 Furthermore, Hamid is misguided believing his Second Offer of Judgment is  
8 "proposed"; the record confirms Hamid's offer has been offered, accepted, and filed  
9 with the Clerk of the Court. In other words, much to Hamid's displeasure and best  
10 efforts to evade having to honor the agreement, the Accepted Offer of Judgment is  
11 valid and enforceable. Hamid's legal arguments are untenable and provide no  
12 avenue of escape for Hamid. Also, Hamid's characterization that *his* Offer of  
13 Judgment is invalid on its face is contrary to law and unsustainable<sup>57</sup>. In fact,  
14 Hamid's Offer of Judgment and acceptance is presumptively valid<sup>58</sup>, and Hamid's  
15 characterization is patently false and deliberately misleading.

16 As this Court knows, the usual rules for construing contracts are used to  
17 construe offers of judgment<sup>59</sup>. Additionally, as with other contracts, courts must  
18

19  
20 <sup>55</sup> See *Mallory v. Eyrich*, 922 F.2d 1273 (6th Cir. 1991).

21 <sup>56</sup> See *Webb v. James*, 147 F.3d 617 (7th Cir. 1998), reh'g, en banc, denied, 1998  
22 U.S. App. LEXIS 17723 (7th Cir. July 20, 1998).

23 <sup>57</sup> It is worth noting that Hamid also petitioned the civil court to have the million-  
24 dollar promissory note *that he prepared* to be usurious and invalid on its face.  
25 Hamid's evasive maneuver was denied, but he resurrects the tactic now that he is  
26 before a different judge. Hamid's bad faith knows no limits.

27 <sup>58</sup> See *International Union v. Ford Motor Co.*, 2006 U.S. Dist. LEXIS 70471  
28 ("Settlement embodies a bargained give and take between the litigants that  
is presumptively valid about which the Court should not substitute its judgment for  
that of the parties").

<sup>59</sup> See *Lietz v. Hansen Law Offices, PSC*, 271 P.3d 899 (2012); *Guerrero v. Cumings*, 70 F.3d 1111, 1113 (9th Cir. 1995); *May v. Anderson*, 121 Nev. 669, 119 P.3d 1254 (2005).



1 construe ambiguities in an offer of judgment against the drafter<sup>60</sup>. Despite Hamid's  
2 glaring attempts to distort and misconstrue the very Offer of Judgment that *he*  
3 prepared and extended; courts may not import one party's unexpressed, subjective  
4 intentions into the offer of judgment<sup>61</sup>. Indeed, a court must look at the parties'  
5 objective manifestations for contract formation, not their unexpressed subjective  
6 intentions, when interpreting an offer of judgment<sup>62</sup>.

7 ***1. Hamid's Offer of Judgment was valid and was accepted.***

8 Courts have long recognized Offers of Judgment to be a valuable settlement  
9 tool, which Hamid used not once, but twice—with the second Offer of Judgment  
10 being accepted and resulting in settlement. Hamid wanted litigation to stop, but  
11 clearly had no intention of honoring his Offer—just as with the promissory note  
12 that he prepared and signed “resolving” all issues, but then failed to honor it.

13 Hamid's claim *his* Offer of Judgment was invalid is, at best, an ***admission***  
14 that he knowingly generated what he considered to be an invalid document to stop  
15 all litigation and compel Victor to leave his home or alternatively, another legally  
16 unsupported position crafted to enable him to dishonor his agreement. Regardless,  
17 such bad faith and unclean hands would bar any relief that he now seeks from this  
18 Court. As noted herein, Hamid's Offer of Judgment was valid and enforceable<sup>63</sup>.

19 Hamid's reliance on *Stockton Kenworth v. Mentzer Detroit Diesel*<sup>64</sup>, is  
20 misplaced and provides no support for the relief Hamid is asking of this Court. In  
21 *Stockton* it must be noted the subject Offer of Judgment was ***not*** accepted and was  
22

23  
24 <sup>60</sup> See *Lietz, supra*; *Nusom* 122 F.3d at 833.

25 <sup>61</sup> See *Lietz, supra*.

26 <sup>62</sup> *Id.*

27 <sup>63</sup> Conduct that is in violation of NRCP 11 and because of such unclean hands,  
28 would bar Hamid from the relief he is now seeking. See *Las Vegas Fetish &  
Fantasy Halloween Ball, Inc. v. Ahern Rentals, Inc.*, 124 Nev. 272, 182 P.3d 764  
(2008)

<sup>64</sup> 101 Nev. 400, 705 P.2d 145 (1985).

1 not challenged by its drafter. Additionally, the *Stockton* Court stated “the offer  
2 must be for a definite or ascertainable amount so that the parties can be  
3 unequivocally aware of what the defendant is willing to pay for his peace.”<sup>65</sup>

4 The fact Hamid *concealed* from the Court that very “definite and  
5 ascertainable amount” that was offered confirms Hamid’s awareness that his claim  
6 lacks merit. Indeed, as set forth in Hamid’s Offer of Judgment, the definite sum  
7 was clear, unequivocal, and unconditional<sup>66</sup>. The fixed and certain amount was:

8 5. Hamid shall pay Victor a one-time payment of \$1,000,001 in cash  
9 within 120 days of acceptance of this offer.

10 That Offer was valid—and accepted.

11 Hamid incredulously expects this Court to find that because the parties  
12 agreed to other terms, in addition to the singular and isolated “offer of judgment” of  
13 a million and one dollars, that he can ignore his offer and its acceptance, or  
14 unilaterally breach or disregard any of its terms, and that somehow the Court will  
15 reward his bad faith and relieve Hamid from having to honor his accepted offer.  
16 The law does not provide Hamid such an option. The Offer of Judgment was also  
17 an Agreement between the parties, which remains valid and enforceable. 60(b)(1)  
18 was not intended to remedy effects of litigation decision that party later came to  
19 regret through subsequently-gained knowledge that corrected erroneous legal  
20 advice of counsel. *See Latshaw v. Trainer Wortham & Co.*, 452 F.3d 1097 (9th Cir.  
21 2006) [attorney’s alleged gross negligence and fraud on court by signing local  
22 counsel’s name to acceptance of offer of judgment did not provide grounds to  
23 vacate judgment].

24  
25  
26 <sup>65</sup> 101 Nev. at 404.

27 <sup>66</sup> In *Stockton*, the offer was deemed conditional because it was expressly  
28 predicated upon obtaining a “good title” despite the fact that the garageman had an  
unperfected security interest in the subject vehicle for the repairs performed.

1 Moreover, Hamid's position is contrary to the express provisions of NRCP  
2 68, which provides, in relevant part (the part which Hamid again fails to disclose to  
3 this Court or address) provides:

4 any party may serve an offer in writing to allow judgment to be taken  
5 *in accordance with its terms and conditions* (emphasis supplied).

6 Clearly, Hamid's inclusion of the other terms found in Hamid's Offer of  
7 Judgment is consistent with NRCP 68 and certainly does *not* render Hamid's Offer  
8 of Judgment invalid, or provide *him* a basis to have *his* Offer to be considered  
9 invalid.

10 Continuing, because Hamid is the one who drafted the Offer of Judgment and  
11 *if* there were any ambiguities, they would necessarily be construed against him as a  
12 matter of law. However, as noted above, Hamid's Offers of Judgment were  
13 prepared by one of the premier drafting and editing lawyers in this State. If  
14 Hamid's offer to pay \$1,000,001.00 was conditioned on anything, such condition(s)  
15 would have been clearly identified and set forth in the Offer.

16 Of course, review of the parties' agreement confirms there were *no*  
17 conditions to Hamid's offer of judgment, and the inclusion of the additional terms  
18 of the parties' agreement is consistent with a global settlement and prudent  
19 lawyering.

20 Hamid deflects focus from this fact because it is fatal to the relief he is  
21 asking of this Court. Contrary to Hamid's brazen misrepresentations, review of the  
22 agreement confirms it does *not* obligate Hamid to refinance the loan within 90  
23 days; it does *not* obligate a lender to approve refinancing of the residence; and  
24 notably, Hamid has not even attempted to secure refinancing on the residence, nor  
25 has he made any of the mortgage payments he agreed to pay. Victor agreed to  
26 cooperate to have it refinanced within 90 days, which he has done, and remains  
27 willing to do whatever is reasonably asked to assist Hamid.

28 Courts have recognized that inclusion of nonmonetary terms and

1 conditions are permissible and proper in an Offer of Judgment<sup>67</sup>. In short, Hamid's  
2 lies provide this Court no basis to set aside the parties' agreement.

3 ***2. Hamid grossly mischaracterizes his Offer of Judgment and***  
4 ***misstates the law.***

5 Confirming Hamid's frantic scramble to evade having to honor *his* Offer of  
6 Judgment ***knowing the doctrine of rescission is not applicable to Offers of***  
7 ***Judgment***<sup>68</sup>, Hamid inexplicably now characterizes his Offer of Judgment as  
8 somehow being an "unapportioned" Offer of Judgment. His doing so, however,  
9 does not make it so<sup>69</sup>. In this case, Hamid, and Hamid alone made the Second Offer  
10 of Judgment<sup>70</sup>. As defined in NRCP 68, Hamid's offer was neither made to, or by,  
11 multiple defendants or multiple plaintiffs<sup>71</sup>.

12 The legal authority cited by Hamid is not only lends no support for Hamid's  
13 baseless characterization and claims, but confirm its utter lack of merit. The case of  
14 *Parodi v. Budetti*<sup>72</sup>, expressly distinguished between an Offer of Judgment made by  
15 one party (such as this case) to those made by multiple parties (which is not this  
16 case) without indicating how much of the judgment would be paid by the ***multiple***  
17 offerors (again, not at issue in the case at bar). Moreover, the actual unapportioned  
18 offer in *Parodi* did not indicate which claims the offer was meant to settle<sup>73</sup>. In this  
19

---

20 <sup>67</sup> See *Stanford v. Rasnick*, 246 Cal. App. 4<sup>th</sup>, 1121, 201 Cal. Rptr. 3d 614 (2016);  
21 *Bank of N.Y. Mellon v. Lamplight Cottages @ Santoli Homeowners' Ass'n*, 2020  
22 Nev. App. Unpub. LEXIS 1000, 477 P.3d 1132 (2020).

23 <sup>68</sup> *Webb v. James* 147 F.3d 617 (7th Cir. 1998), reh'g, en banc, denied, 1998 U.S.  
App. LEXIS 17723 (7th Cir. July 20, 1998).

24 <sup>69</sup> Abraham Lincoln is credited for posing the question: How many legs does a dog  
25 have if you call his tail a leg? Then answering his query with the answer "Four.  
Saying that a tail is a leg doesn't make it a leg."

26 <sup>70</sup> Likewise, Hamid and Hamid alone made the First Offer of Judgment.

27 <sup>71</sup> See NRCP 68(c); *Santa Margarita Ranch, LLC v. Third judicial Dist. Court of*  
*the State*, 2014 Nev. Unpub. LEXIS 665.

28 <sup>72</sup> 115 Nev. 236, 984 P.2d 172 (1999).

<sup>73</sup> *Id.*, 115 Nev. at 240.

1 case, Hamid's offer *only* obligated Hamid and expressly referenced *all* claims. The  
2 *Parodi* decision is actually fatal to Hamid's claims and requested relief.

3 Likewise, the cases of *Morgan v. Demille*<sup>74</sup> and *Ramadanis v. Stupak*<sup>75</sup>, are  
4 not applicable, have no bearing on this matter, and are equally damning to Hamid's  
5 position (notably, they are simply the two cases cited in the *Parodi* decision  
6 distinguished above). First, both *Morgan* and *Ramadanis* have been superseded by  
7 statute<sup>76</sup>, and secondly, *Morgan* and *Ramadanis* both stood for the proposition that  
8 an unapportioned offer of judgment is invalid for the purpose of determining a  
9 prevailing party, or whether "any one party" received a less favorable result, for  
10 purposes of awarding attorney's fees<sup>77</sup>. That is clearly not at issue in this case.

11 Obviously, the accepted offer of judgment does not distinguish whether the  
12 full cash payment of \$1,000,001 is from [Hamid] or from a combination of the  
13 parties"<sup>78</sup> because no other party made an Offer of Judgment and no other party was  
14 obligated, in any way, in any amount, for any portion of the cash payment. As  
15 clearly set forth in the offer itself, "***Hamid shall pay*** Victor a one-time payment of  
16 \$1,000,001 in cash within 120 days of acceptance of this offer." Where or how  
17 Hamid intended on obtaining such funds is, quite frankly, immaterial<sup>79</sup>.

18 Additionally, while Hamid may have had an interest in the other defendants,  
19 or the fact one or more of the defendants in the civil actions in which Hamid was  
20 personally named may have benefited from Hamid's Offer of Judgment and  
21  
22

23  
24 <sup>74</sup> 106 Nev. 671, 799 P.2d 561 (1990).

25 <sup>75</sup> 104 Nev. 57, 752 P.2d 767 (1988).

26 <sup>76</sup> See *Short v. Petty*, 139 P.3d 621 (2006).

27 <sup>77</sup> See also, *Parodi*, *supra*.

28 <sup>78</sup> Hamid's motion, page 12, lines 8-9.

<sup>79</sup> Hamid may have intended on betting heavily on March Madness, or a hefty  
wager at the Craps table, but Hamid's offer certainly wouldn't have obligated  
Caesar's for his quest for funds or Hamid's obligations.

1 settlement of all his claims, is irrelevant and does not make them in any way  
2 responsible for Hamid's financial obligations.

3 Hamid's Offers of Judgment were not joint offers. It was prepared by and  
4 offered solely from Hamid. The language of the Offer of Judgment unequivocally  
5 confirms Hamid's Second Offer of Judgment was not an unapportioned joint offer,  
6 that it was not made by "multiple offerees", and Hamid's position is patently  
7 absurd. His expectation this Court would even consider such a ridiculous claim is  
8 ill-judged and disturbing.

9 **B. Hamid is unable to sustain the burden that must be met in**  
10 **order to set aside the parties' Agreement.**

11 Hamid cites NRCP 60(b), but fails to acknowledge, or consciously ignores  
12 the fact, that Rule 60(b) relief imposes a high bar for relief from a judgment<sup>80</sup>.  
13 Relief provided by Rule 60(b) is an "extraordinary" remedy, "only to be invoked  
14 upon a showing of exceptional circumstance."<sup>81</sup> Significantly, Hamid fails to  
15 disclose to the Court that Rule 60(b) relief must be predicated upon "*just terms*"<sup>82</sup>,  
16 which is a standard Hamid *cannot* sustain.

17 Hamid dishonored and tried to stop making payments on the million-dollar  
18 promissory note—relief disallowed by this Court. Hamid now wants to dishonor  
19 his million and one dollar Offer of Judgment—relief this Court cannot allow.  
20 Hamid unilaterally and impermissibly ceased making the *court ordered* \$10,000.00  
21

---

22 <sup>80</sup> *It should be noted that pursuant to the terms of Hamid's Offer of Judgment,*  
23 *Judgment has not yet been entered* (arguably making his motion premature).  
24 Relief under Rule 60(b) is at the expense of the finality of judgments; hence relief is  
25 considered "extraordinary." *See Gonzalez v. Crosby*, 545 U.S. 524, 529 (2005)  
26 (noting that Rule 60(b)'s "whole purpose is to make an exception to finality"). Rule  
60(b) is not a substitute for appeal. *Twentieth Century-Fox Film Corp. v.*  
*Dunnahoo*, 637 F.2d 1338, 1341, (9th Cir. 1981).

27 <sup>81</sup> *See Compton v. Alton S.S. Co.*, 608 F.2d 96 (1979).

28 <sup>82</sup> *See* NRCP 60(b)(which begins "[o]n motion and just terms, the court may relieve  
a party or its legal representative from a final judgment

1 monthly payments long before making his offers of judgment, has failed to make  
2 any of the mortgage payments on the residence he received pursuant to *his* offer of  
3 judgment<sup>83</sup>, and has continued not making any of the \$10,000.00 court ordered  
4 payments following the acceptance of his offer of judgment. Conduct this Court  
5 informed Hamid that would preclude any relief that he is now seeking<sup>84</sup>.

6 The relief that Hamid seeks is neither just or warranted. The fact the request  
7 is made in bad faith and predicated upon an inexcusable violation of the duty of  
8 candor that is owed this Court, makes his request more egregious and inexcusable.  
9 In short, Hamid's inability to establish a lack of unfair prejudice to Victor and  
10 exceptional circumstances mandates a complete denial of Hamid's underlying  
11 motion.<sup>85</sup>

12 ***1. Hamid's claims of mistake, inadvertence or excusable neglect are***  
13 ***fabricated and patently false.***

14 Hamid's dishonesty is further confirmed through his mischaracterization that  
15 his Offer of Judgment only settled the financial claims between Hamid and Victor.  
16 Even a cursory review of Hamid's offer disproves his statement. Indeed, the Offer  
17 expressly provides:

18 The parties agree to waive all claims they may have either personally  
19 or through their business affiliations in this and any other litigation,  
20 known or unknown, including, but not limited to, the claims in cases  
21 D-18-575686-L, A-190805955-C, and A-19-801513-P, to dismiss all  
22 claims they have in all courts against each other, or any other party  
named or implicated in the foregoing named cases, and vacate all  
pending trial and hearing dates<sup>86</sup>.

23  
24  
25 

---

<sup>83</sup> Conduct that Hamid knows will damage Victor because the loan is in Victor's  
26 name.

27 <sup>84</sup> Court's admonishment from the April 12, 2021 hearing.

28 <sup>85</sup> *See Dowell v. State Farm Fire & Cas. Auto. Ins. Co.*, 993 F.2d 46 (1993).

<sup>86</sup> Offer of Judgment, Exhibit "A", pages 2-3, lines 25-27 and 1-3 respectively.

<sup>27</sup>RFJN ISO Opposition to Countermotion -101

1 Clearly, Hamid's dishonesty knows no limits. Hamid's offer pertained to  
2 Hamid and as a matter of law, he has no standing or right to argue on behalf of  
3 other named defendants—which incidentally, have joined in the Stipulation and  
4 Order that vacated all their hearings based upon anticipated settlement between the  
5 parties. *Significantly, none of the other named defendants are seeking to have*  
6 *Hamid's Offer of Settlement and resulting acceptance, set aside.*

7 It is telling that Hamid doesn't even state whether he is seeking relief based  
8 upon mistake, inadvertence, surprise or excusable neglect—he simply collectively  
9 references the factors. However, Hamid is unable to establish the existence of any  
10 one of those factors, and none of the cases cited by Hamid stand for the proposition  
11 that mere reference to a recognized factor meets, or eliminates, the burden of  
12 having to prove such factor(s). Indeed, such a standard would be patently  
13 ridiculous.

14 Also, Hamid's attempted deflection/blame upon his prior counsel, Mr.  
15 Willick, is misguided and ill-judged. Indeed, courts have long held that neglect by  
16 Counsel, even if there was any (which in this case, there was none) to conduct any  
17 research into Rule 68 before extending the Offer of Judgment (other than reading  
18 the Rule itself), it *not* a basis for 60(b)(1) relief<sup>87</sup>.

19 Further, Hamid's wandering into Judge Johnson's case, and her purported  
20 rulings, is irrelevant and grossly misleading. By now, it is not surprising that  
21 Hamid conceals the fact that *there was no order prepared* reflecting the decision  
22 Hamid references, and additionally, Victor filed a motion for reconsideration, to  
23  
24  
25

---

26 <sup>87</sup> See *Webb v. James* 147 F.3d 617 (7th Cir. 1998), reh'g, en banc, denied, 1998  
27 U.S. App. LEXIS 17723 (7th Cir. July 20, 1998).



1 rescind the preliminary injunction, and to vacate the minute order—***which was not***  
2 ***opposed by anyone***.<sup>88</sup> Hence, Hamid’s discussion is incredibly irrelevant<sup>89</sup>.

3 In conclusion, Hamid’s suggestion Victor is not prejudiced by his actions is  
4 patently false and absurd. Victor accepted Hamid’s Second Offer of Judgment  
5 because he has been financing litigation for three years because of Hamid’s  
6 egregious fraud and tortious actions that included wrongfully taking Victor’s  
7 business and assets, and other willful torts. After delaying all trials in all matters,  
8 Hamid has returned to trying to make litigation cost prohibitive for Victor. The  
9 resulting delay and litigation would be devastating to Victor—a fact Hamid is  
10 counting on with his frivolous pursuit to set aside their agreement. The prejudice  
11 that Victor would sustain precludes Hamid from 60(b) relief.<sup>90</sup>

12 Hamid hasn’t complied with the Offer of Judgment, certainly hasn’t given  
13 Victor “an opportunity to comply”, hasn’t made a single mortgage payment that he  
14 agreed upon, and endeavors to conceal his ongoing bad faith and dishonesty with an  
15 offensive blitz<sup>91</sup>. Consideration of Hamid’s misrepresentations, unsupported  
16 conclusions, and misstatements of law, readily establishes that Hamid has not, by  
17 any stretch of the imagination, acted in good faith or attempted to comply with the  
18 terms of his Offer of Judgment (that he now claims is invalid).

---

22 <sup>88</sup> EDCR 2.20 allows the court to consider such action as an admission the motion  
23 is meritorious and a consent to granting it.

24 <sup>89</sup> Aside from irrelevance as it pertains to whether there was a mistake that  
25 warranted setting aside the parties’ agreement (which there was not, it is telling that  
26 Hamid claims he was denied “the loan required to finance the financial obligations”  
but does not produce any pertinent documents that would even remotely validate  
his untruths.

27 <sup>90</sup> See *Dowell v. State Farm Fire & Cas. Auto. Ins. Co.*, 993 F.2d 46, 48 (1993).

28 <sup>91</sup> Including the withholding of the \$10,000.00 court ordered monthly payments in  
order to financially strangle Victor.

1           **2. Hamid’s claim of “newly discovered evidence” is untrue.**

2           To be granted relief under NRCP 60(b)(2), Hamid would need to  
3 demonstrate:

4           (1) the evidence is newly discovered since the judgment was  
5 entered; (2) due diligence on the part of the movant to discover the  
6 new evidence has been exercised; (3) the evidence is not merely  
7 cumulative or impeaching; (4) the evidence is material; and (5) the  
8 evidence is such that is likely to produce a new outcome if the case  
were retried, or is such that would require the judgment to be  
amended<sup>92</sup>.

9           Moreover, these grounds “must be clearly substantiated by adequate proof”<sup>93</sup>;  
10 proof that Hamid **cannot** provide. Hamid did not discover Victor damaged the  
11 residence, because Victor did no such thing<sup>94</sup>. If the residence was damaged, it was  
12 damaged by Hamid as he did before. *See supra*. Hamid’s actions, or more  
13 importantly, his lack of actions, confirms Victor is not responsible for the damage  
14 Hamid claims, and Victor has photographs to irrefutably disprove Hamid’s claims.

15           Hamid comes nowhere close to showing “new evidence” or the “exceptional  
16 circumstances” that would, in any way, justify the “extraordinary” relief NRCP  
17 60(b) authorizes. Lastly, Victor **invites and encourages** this Court to look at the  
18 purported support of Hamid’s defamatory claim that Victor has continued to make  
19 disparaging online comments about Zip Zap Auto<sup>95</sup> because Hamid obviously  
20 doesn’t think the Court will scrutinize his “exhibits”.

21  
22           <sup>92</sup> *Boryan v. United States*, 884 F.2d 767, 771 (1989); *Jordan v. United States*, 2019  
23 U.S. Dist. LEXIS 94071, at \*1.

24           <sup>93</sup> *In re Burnley*, 988 F.2d 1, 3 (1992) (citations omitted); *Almy v. Sebelius*, 749 F.  
25 Supp. 2d 315, 338 (2010), *aff’d*, 679 F.3d 297 (2012).

26           <sup>94</sup> Even if Victor had caused damage to the residence, the parties waived all claims,  
known or unknown. Exhibit “A”, page 2, not to mention the fact Hamid did not  
27 damage the residence until **after** making his offer.

28           <sup>95</sup> As this Court knows, Hamid’s ex has confirmed Victor’s claims that Hamid  
commits fraud, forges documents, and is unethical. All of the negative reviews  
Hamid receives is attributable solely to his unethical and his poor, shoddy service.

1 Hamid’s referenced exhibits, “1-5” provide absolutely *no* support, proof, or  
2 evidence that Victor has made disparaging comments. Instead, Hamid, who has an  
3 admitted history of defrauding DMV, a long history of defrauding courts and  
4 others, and last, but not least, defrauding and cheating his customers, simply seeks  
5 to blame Victor for his customer’s dissatisfaction and disapproval of Hamid’s  
6 excessive costs and his unprofessional and inferior service. If Hamid was truly  
7 concerned with his reputation and reviews, he would cease his unethical and  
8 unprofessional business practices—something he will never do, however, because  
9 he has determined unprincipled and unscrupulous practices are far too lucrative.

10 This argument merely cements Hamid’s desperation and his misplaced belief  
11 believing this court is gullible or disinterested in following the law—after all,  
12 Hamid certainly has no intention of honoring his agreement, keeping his word, or  
13 following the law.

14 ***3. Hamid is the only party engaging in improper conduct.***

15 Clearly, there is no factual or legal basis that would enable Hamid to  
16 dishonor the Agreement that was created when Hamid’s Offer of Judgment was  
17 accepted by Victor.

18 Hamid returns to his false and unsupported claim that Victor “continued” to  
19 violate Judge Johnson’s order, but the fact Hamid didn’t bother to include any of  
20 the language from Judge Johnson’s order—and further concealed the fact that there  
21 was never an order that was prepared and there was no opposition to Victor’s  
22 motion to vacate the minute order and rescind the preliminary injunction, confirms  
23 Hamid’s reference is irrelevant, completely false, and grossly misleading<sup>96</sup>.

24  
25  
26 All of the negative reviews are from Hamid’s customers—and are in no way caused  
or made by Victor.

27 <sup>96</sup> Indeed, Hamid makes the baseless claim hoping his lie relieves him of his  
28 obligations, instead of addressing Victor’s purported “contempt”. This Court  
knows that under the circumstances of this case, any such pursuit would have been

1 While concealing the above facts from the Court, Hamid nevertheless  
2 references journal entries that are irrelevant based upon the above, and fails to  
3 provide any proof or evidence to prove, or even suggest, Victor engaged in the  
4 conduct Hamid claims other than *his* self-serving (and false) statement.

5 **C. There is no factual or legal basis to “reopen” discovery and**  
6 **“reset trial”.**

7 In closing, Hamid makes a passing request to “Reopen Discovery and Reset  
8 Trial” without even an attempt to cite any authority, let alone factual basis, that  
9 would permit, or even warrant, this Court to order discovery in this case that has  
10 been settled and will be closed once Hamid learns his shocking dishonesty and  
11 abuse of the legal process was ineffective and Hamid is directed to honor and  
12 comply with the very agreement that resulted from *his* Offer of Judgment.

13 Hamid’s half-hearted request should be summarily rejected. Indeed, EDCR  
14 2.20(c) provides that “[t]he absence of such memorandum may be construed as an  
15 admission that the motion is not meritorious, as cause for its denial or as a waiver  
16 of all grounds not so supported.” Even if such authority existed, the facts of this  
17 case defeat the application of any such authority, and Hamid’s conclusory request  
18 for discovery, devoid of detail or legal support, is insufficient to obtain such  
19 relief<sup>97</sup>.

20  
21  
22  
23  
24  
25 futile. Apparently, Hamid hopes this Court does not require truth or evidence when  
making its rulings.

26 <sup>97</sup> See *Clayton v. Nationwide Mut. Ins. Co.*, 260 F. Supp. 3d 514, 521 (2017) (“The  
27 court has no obligation to fashion arguments for a party or to further develop a  
28 party’s argument when it is wholly conclusory, unexplained, and unadorned with  
citation to legal authority.”).

1       **D. Hamid should be sanctioned and directed to reimburse Victor**  
2       **for the fees incurred bringing Hamid's dishonesty and baseless**  
3       **motion before this Court.**

4       NRS 7.085 is to be liberally construed and it provides that it is the intent of  
5       the Legislature that the court award costs, expenses, and attorney's fees, and impose  
6       Rule 11 sanctions to punish and deter frivolous motions.

7       Sanctions under NRCP 11 are also allowed. As noted by the Nevada  
8       Supreme Court in *Watson Rounds, P.C. v. Eighth Judicial Dist. Ct. (Himelfarb &*  
9       *Associates)*, 131 Nev. 783, 784, 358 P.3d 228, 230 (2015), NRCP 11 and NRS  
10      7.085 each represent a distinct, independent mechanism for sanctions.

11      Continuing, in *Barney v. Mt. Rose Heating & Air Conditioning*, 192 P.3d  
12      730, 736 (2008) citing *Brunzell v. Golden Gate National Bank*, 85 Nev 345, 455  
13      P.2d 31 (1969), the Court enumerated factors that the district court should consider  
14      in awarding attorney fees, with no one factor controlling, as follows:

15           (1) the advocate's qualities, including ability, training,  
16           education, experience, professional standing, and skill;

17           (2) the character of the work, including its difficulty, intricacy,  
18           importance, as well as the time and skill required, the responsibility  
19           imposed, and the prominence and character of the parties when  
20           affecting the importance of the litigation;

21           (3) the work performed, including the skill, time, and attention  
22           given to the work; and

23           (4) the result--whether the attorney was successful and what  
24           benefits were derived.

25      Victor has met the factors outlined in *Brunzell*. Victor's counsel is qualified  
26      and has considerable experience, ability and training in the field of civil litigation. It  
27      is the responsibility of Victor's counsel to resolve outstanding issues to ensure  
28      Victor's rights are preserved and the duty of candor that is owed to this Court is  
29      maintained. Victor's counsel was attentive to work performed.

30      Hamid's motion was baseless and Victor is entitled to an award of attorney's  
31      fees for having to respond to the factually and legally deficient motion.

1 Hamid has acted in bad faith and filed a frivolous motion wherein facts were  
2 misrepresented, no law or misstated law was cited, and the Court was deliberately  
3 misled. Hamid filed a baseless motion hoping to evade his obligation. Victor is  
4 clearly entitled to recoup the fees that he has incurred having to respond to the  
5 baseless and inaccurate motion, and clarifying, completing, and correcting Hamid's  
6 false claims and unsupported conclusions occasioned through the violation of the  
7 duty of candor that is owed to this Court.

8 Based upon the foregoing, it is not only fair, but also reasonable under the  
9 circumstances that Hamid be responsible for Victor's attorney fees and costs.

#### 10 IV.

#### 11 Conclusion

12 The law provides "[a] consent judgment should be strictly construed to  
13 preserve the bargained for position of the parties."<sup>98</sup> Based upon the above, it is  
14 clear that Hamid has cited inapplicable law, has failed to establish the facts or  
15 applicable precedent that would enable him to seek relief from this Court, not to  
16 mention the authority for this Court extend Hamid such relief. Hamid has failed to  
17 meet his burden, and the relief Victor seeks is warranted. Hence, Victor  
18 respectfully requests the Court enter an Order:

- 19 1. Denying Hamid's motion in its entirety;
- 20 2. Sanctioning Hamid and awarding Victor attorney's fees and costs for  
21 having to defend Hamid's baseless motion and respond to Hamid's  
22 baseless, defamatory, and unwarranted motion; and

23 ///

24 ///

25 ///

---

27 <sup>98</sup> *Peterson v. Corona*, 2017 Nev. App. Unpub. LEXIS 959 (2017); *Van Cleave v.*  
28 *Osborne, Jenkins & Gamboa, Chtd.*, 108 Nev. 885, 888, 840 P.2d 589, 591 (1992).

<sup>34</sup>RFJN ISO Opposition to Countermotion -108

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

3. For such other and further relief as the Court deems just and equitable.

Dated this 14<sup>th</sup> day of April, 2021.

Respectfully submitted:

/s/ Todd M. Leventhal  
TODD M. LEVENTHAL, ESQ.  
Nevada Bar No: 008543  
626 South Third Street  
Las Vegas, Nevada 89101  
(702) 472-8686 – office  
(702) 472-8685 – fax  
*Attorney for Plaintiff Victor Botmari*

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

1. I am the Defendant in the above-entitled matter. Unless otherwise stated herein, I have personal knowledge of the facts and circumstances set forth herein.

DATED this 14<sup>th</sup> day of April, 2021.

36RFJN ISO Opposition to Countermotion -110



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

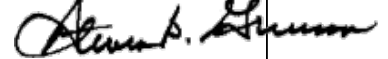
**CERTIFICATE OF SERVICE**

I hereby certify that I am an employee of Hofland & Tomsheck, that Pursuant to NRCP 5(b) and EDCR 7.26, I certify that on the 14<sup>th</sup> day of April, 2021, I served the foregoing **DEFENDANT’S OPPOSITION TO HAMID SHEIKHAI’S MOTION TO SET ASIDE OFFER OF JUDGMENT, RESET TRIAL, AND RE-OPEN DISCOVERY AND COUNTERMOTION FOR SANCTIONS, ATTORNEY’S FEES AND COSTS** on the following parties by E-Service through Odyssey addressed as follows:

Robert A. Rabbat, Esq.  
[Rrabbat@enensteinlaw.com](mailto:Rrabbat@enensteinlaw.com)  
*Attorney for Hamid Sheikhai*

By: /s/ Nikki Warren  
An Employee of Hofland & Tomsheck

# **EXHIBIT 9**



OPPO  
**LEVENTHAL & ASSOCIATES, PLLC**  
Todd M. Leventhal, Esq.  
Nevada Bar Number: 008543  
626 S. Third St.  
Las Vegas, Nevada, 89101  
Telephone: (702) 472-8686  
Facsimile: (702) 472-8685  
**HOFLAND & TOMSHECK**  
Bradley J. Hofland, Esq.  
Nevada Bar Number: 6343  
[bradh@hoflandlaw.com](mailto:bradh@hoflandlaw.com)  
228 South 4<sup>th</sup> Street, 1<sup>st</sup> Floor  
Las Vegas, Nevada 89101  
Telephones: (702) 895-6760  
Facsimile: (702) 731-6910  
*Attorneys for Plaintiff Victor Botnari*

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

VICTOR BOTNARI, an individual,  Plaintiff,  vs.  STONE AND STONE, a Nevada Limited Liability Company; HAMID SHEIKHAI, an individual; DOES I-X; and, ROE CORPORATIONS I-X, inclusive.  Defendants.	CASE NO.: A-19-801513-P DEPT. NO.: 31 <b>ORAL ARGUMENT REQUESTED</b>  <b>PLAINTIFF'S OPPOSITION TO HAMID SHEIKHAI'S MOTION TO SET ASIDE OFFER OF JUDGMENT, RESET TRIAL, AND RE-OPEN DISCOVERY AND COUNTERMOTION FOR SANCTIONS, ATTORNEY'S FEES, AND COSTS.</b>  Date of Hearing: April 27, 2021 Time of Hearing: 9:00 a.m.
---	---

COMES NOW the Plaintiff, Victor Botnari ("Victor"), by and through his attorneys, TODD M. LEVENTHAL, ESQ., with Leventhal & Associates, and Bradley J. Hofland with Hofland & Tomscheck, and submits this Opposition to the

1 Motion filed by Defendant Hamid Sheikhai (“Hamid”) to Set Aside Offer of  
2 Judgment, Reset Trial, and Re-open Discovery and Victor’s Countermotion for  
3 Sanctions, Attorney’s fees, and Costs, and respectfully requests this Honorable  
4 Court for the following relief:

- 5 1. Denying Hamid’s Motion in its entirety;
- 6 2. Awarding Victor attorney’s fees and costs for having to defend Hamid’s  
7 frivolous and patently baseless motion; and
- 8 3. For such other and further relief as the Court deems just and equitable.

9 This opposition and countermotion are made and based upon all the papers  
10 and pleadings on file herein, the points and authorities submitted herewith, and any  
11 argument received by the Court when this matter is heard.

12 Dated this 8<sup>th</sup> day of April, 2021.

13 Respectfully submitted:

14  
15 /s/ Todd M. Leventhal

16 TODD M. LEVENTHAL, ESQ.

17 Nevada Bar No: 008543

18 626 South Third Street

19 Las Vegas, Nevada 89101

20 (702) 472-8686 - office

21 (702) 472-8685 - fax

22 *Attorney for Plaintiff,*

23 *Victor Botnari.*  
24  
25  
26  
27  
28

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

2  
3

4  
5  
6  
7  
8  
9  
10  
11  
12

13  
14  
15  
16  
17  
18

19  
20  
21  
22  
23  
24

25

26

27  
28

1 to Victor *in the domestic matter*<sup>4</sup>. Nine days later, on January 15, 2021, Victor  
2 accepted Hamid’s Offer of Judgment<sup>5</sup>. The Offer and Acceptance was filed with  
3 the Clerk and by Court Rule, “must enter judgment accordingly”<sup>6</sup>.

4 Lastly, the fact Hamid filed an identical motion, this time before Judge  
5 Henderson (the case where Hamid made the offer of judgment that was accepted)  
6 confirms the impropriety and procedural irregularity of filing the instant motion  
7 before this Court, mandating its dismissal<sup>7</sup>.

8 However, the fact Hamid then afterwards filed the same motion before  
9 Judge Johnson in Case. No A-19-805955-C<sup>8</sup> suggests Hamid hasn’t a clue of what  
10 he is doing, or worse yet, knows full well what he is doing and choosing to abuse  
11 the legal process in an attempt to manipulate the courts and hoping to increase the  
12 cost of litigation so substantially that Victor cannot sustain his bad faith legal  
13 barrage—conduct that is inexcusable and sanctionable.  
14  
15  
16  
17  
18  
19  
20  
21

---

22 <sup>4</sup> A copy of Hamid’s Offer of Judgment that was accepted and filed with the Clerk  
23 of the Court, as provided for by Court Rule, is submitted herewith as Exhibit “A”,  
24 for the Court’s convenience and review; by its terms *all* actions involving Hamid  
25 were settled.

26 <sup>5</sup> A copy of Victor’s *acceptance* of Hamid’s Offer of Judgment that was accepted  
27 and filed with the Clerk of the Court, as provided for by Court Rule, is submitted  
28 herewith as Exhibit “B”, for the Court’s convenience and review.

<sup>6</sup> See NRCF 68(d)(3).

<sup>7</sup> The identical motion was filed on 3/31/2021, a copy of which is submitted  
herewith as Exhibit “C” for the Court’s convenience and comparison.

1 II.

2 Statement of Facts

3 In short, Hamid has a long history of fraudulent and dishonest conduct.  
4 Hamid lies, forges documents, forges signatures, and schemes to evade  
5 accountability and for financial gain<sup>9</sup>.

6 It is significant to note that in May of 2018, *Hamid* prepared and “*signed* a  
7 promissory note to Victor, promising him \$1,000,000 (one million dollars) and  
8 payments of \$10,000 per month interest until the principal is paid.”<sup>10</sup> However,  
9 Hamid did *not* honor the promissory note and failed to make *any* of the \$10,000.00  
10 interest only payments.  
11

12 After the domestic litigation commenced, Judge Henderson ordered Hamid  
13 to begin making the \$10,000.00 monthly payments<sup>11</sup>. Of course, Hamid had no  
14 intention of honoring his promise, certainly despised having to do so, so he  
15 thereafter asked the domestic court to find the million-dollar promissory note  
16 Hamid prepared and signed to be invalid and set aside<sup>12</sup>. Hamid’s maneuver was  
17 unsuccessful.

18 Thereafter, Hamid then tried to terminate or stay Hamid’s obligation of  
19 having to make the payments he promised in the promissory note he prepared<sup>13</sup>.  
20

21  
22 <sup>8</sup> A copy of the motion is submitted herewith as Exhibit “D” for the Court’s  
convenience and comparison.

23 <sup>9</sup> Aside from the multiple instances illuminated by Victor throughout the domestic  
24 matters and two unrelated civil actions, *Hamid’s ex-wife recently disclosed in*  
25 *court documents that Hamid has been sending her fraudulent, altered, or forged*  
*documents for years*—claims that Hamid did not dispute or oppose.

26 <sup>10</sup> Hamid’s statement of facts, case D-18-575686-L, filed 8/13/2019.

27 <sup>11</sup> See Journal Entry, D-18-575686-L, of October 16, 2018.

28 <sup>12</sup> Hamid’s motion for partial summary judgment, case D-18-575686-L.

<sup>13</sup> See Hamid’s motion to suspend monthly payments to Victor, filed 5/5/20, case  
D-18-575686-L.

1 The domestic court denied his requests<sup>14</sup>. Undeterred, Hamid devised another  
2 ploy, this time choosing a different forum and incredulously asking this Court to  
3 allow Hamid to sue Victor for accepting the promissory note that Hamid prepared  
4 and signed, claiming now that the million-dollar note was usurious and invalid<sup>15</sup>.  
5 This Court properly rejected and denied Hamid's request.<sup>16</sup>

6  
7 As the January 21, 2021 trial date between Victor and Hamid in the  
8 domestic action neared, Hamid tendered two (2) Offers of Judgment, the first for a  
9 one-time payment of \$800,000.00 in cash (which would cancel the million-dollar  
10 promissory note Hamid prepared and signed); and a second Offer of Judgment  
11 made a week later for a one-time payment of \$1,000,001.00 (which would cancel  
12 the million-dollar promissory note Hamid prepared and signed). Victor accepted  
13 the second Offer of Judgment and it was filed with the Clerk of the Court as  
14 provided for in NRCP 68.

15 As the time approaches for Hamid to pay Victor the one-time million- and  
16 one-dollar payment, Hamid's desperation to avoid actually having to honor the  
17 Offer of Judgment was confirmed with equally desperate actions. First, Hamid  
18 terminated the services of his attorney that he has utilized since the commencement  
19 of all actions so he could use an attorney that was unfamiliar with Hamid,  
20 unfamiliar with the history of the case, and unfamiliar with the other civil matters  
21 as well, and who would not question Hamid, his motives, or the merit of his  
22 maneuvers. Thus, on March 14, 2021, Marshall Willick, Esq. was substituted out  
23 and replaced by Robert Rabbat, Esq.<sup>17</sup>

25  
26 <sup>14</sup> See Journal entry of 6/22/20

27 <sup>15</sup> See Hamid's motion to file amended answer and counterclaim filed before *this*  
28 Court on 9/8/20.

<sup>16</sup> See Journal entry of October 13, 2020, in this action, case A-19-801513-P.

<sup>17</sup> Substitution of Attorney filed on March 14, 2021.



1 Hamid then recruited his ex-wife to file a motion to intervene in the  
2 domestic action seeking injunctive relief “prohibiting” Hamid from honoring the  
3 accepted Offer of Judgment. Victor noted Jessica’s sudden appearance was simply  
4 a coordinated maneuver with Hamid<sup>18</sup> designed to assist Hamid in his latest  
5 attempt at dishonoring his offer of judgment (that was *unexpectedly* accepted by  
6 Victor<sup>19</sup>), and Victor predicted that the conspiracy would be confirmed when  
7 Hamid remained silent<sup>20</sup>. As predicted, Hamid did not file an opposition to  
8 Jessica’s motion and the fact Hamid and Jessica are simply engaging in a civil  
9 conspiracy is undeniable.  
10

11 Indeed, as noted above, although Hamid’s ex-wife claimed Hamid  
12 committed fraud, forgery, and unlawful actions, and that she the actual owner of  
13 the properties involved in the litigation, ***Hamid did not file an opposition or***  
14 ***challenge her claims.*** Hamid didn’t even bother to respond to or dispute her  
15 claims because (1) Hamid has no intention of honoring the accepted Offer of  
16 Judgment, (2) the enlistment of his ex is merely a ruse, which Hamid hopes will  
17 enable him to manipulate the courts and abuse the legal system, and (3) he thinks  
18 he will be able to find at least one court who condone his egregious conduct and  
19 relieve him of his lawful obligation. Respectfully, such expectation is ill-judged  
20 and sanctionable.  
21

---

22  
23 <sup>18</sup> A germination of a civil conspiracy—which Hamid has successfully used to his  
24 benefit in the past.

25 <sup>19</sup> Following Victor’s acceptance of Hamid’s Offer of Judgment, Hamid terminated  
26 the services of Mr. Willick and sought the assistance of counsel that he believes  
27 will follow his directives, however misguided or unethical they may be.  
Notwithstanding, Hamid is legally bound to honor his Agreement with Victor, and  
Jessica’s attempt to intervene is ineffectual and unwarranted.

28 <sup>20</sup> See Victor’s opposition to Jessica Wilde-Guzun’s motion to intervene, case D-  
18-575686-L, filed 3/23/2021, page 4.

1 Hamid then underscores his bad faith with his latest coup d'état of filing a  
2 motion before this Court, and the same motion in the domestic action (where the  
3 Offer of Judgment was made), to set aside the accepted Offer of Judgment for one  
4 million and one dollars (\$1,000,001.00), that Hamid prepared, signed, and now  
5 wants to be found as invalid—just like Hamid sought to do with the one-million-  
6 dollar (\$1,000,000.00) promissory note he prepared and signed years ago.

7 *Hamid has come full circle; a course maintained with dishonesty and*  
8 *deceit. Hamid's latest motion is just another baseless undertaking to evade*  
9 *fulfilling his legal responsibility.*  
10

11 Because these facts, and other dispositive facts concealed by Hamid, are  
12 fatal to the relief he now seeks from this Court, Hamid substitutes truth with a  
13 polished (after three years of rehearsing) false narrative that is devoid of truth and  
14 relevance. That is not surprising, however, because truth has never been a  
15 desideratum of Hamid's actions. Hamid's stratagem is designed to deflect from  
16 Hamid's wrongful actions, conceal relevant/pertinent facts, and to mislead and/or  
17 confuse this Court—at least to such an extent so that Hamid can abuse the legal  
18 process for his personal gain.

19 With that in mind, and for the sake of brevity, there is no need to refute and  
20 disprove the false, inaccurate, and misleading “Facts” Hamid has set forth in his  
21 latest motion<sup>21</sup>; suffice it to say Victor vehemently disputes the veracity of  
22 Hamid's claims and the evidence and applicable precedent likewise disproves  
23

24  
25  
26 <sup>21</sup> Hamid's “Facts” have changed over the years of litigation and is different  
27 depending on which Court he is appearing before. Of course, if this Court would  
28 like to have a comprehensive background of the facts and procedure of each case  
Hamid is/was involved in, Victor will gladly provide such a supplement to the  
Court if requested or deemed helpful.

1 Hamid's representations<sup>22</sup>. Notwithstanding, a few of Hamid's more egregious and  
2 dishonest statements made to this Court merit clarification and correction.

3 **A. Hamid's Background and History is False, Irrelevant, and a**  
4 **waste of this Court's time.**

5 To begin with, Hamid's "Facts" is a misnomer. In reality, it is a  
6 gallimaufry<sup>23</sup> Victor's "statement of facts" is a gallimaufry, including page after  
7 page false claims and non sequiturs, liberally laced with untrue allegations bearing  
8 no relation to the actual facts of this case, and more importantly, to the dispositive  
9 facts pertaining to Hamid's motion.  
10

11 The actual relevant facts in this case have largely and repeatedly been  
12 presented in prior filings with this Court and others—for brevity, incorporated  
13 herein by reference. In short, Hamid's "background" and "history" is grossly  
14 untrue—and frankly, meaningless as it pertains to the motion before this Court.

15 Hamid lies when he attempts to explain a Bill of Sale to Victor when he now  
16 claims he never sold Zip Zap Auto to Victor. Shamelessly, Hamid conceals the  
17 fact that Hamid insisted on the listing of \$1 because *Hamid* wanted to avoid taxes  
18 and insisted Victor pay him cash for the balance of the sale. The purchase price for  
19 the business had nothing to do with Victor obtaining insurance as Hamid would  
20 like this Court to believe.  
21  
22  
23

---

24 <sup>22</sup> Of course, by law, a court may not assume the truth of allegations in a pleading  
25 that are contradicted by affidavit, further undermining Hamid's position. *See Data*  
26 *Disc. Inc. v. Systems Tech. Assoc., Inc.*, 557 F.2d 1280 (Court of Appeals, 9<sup>th</sup>  
27 Circuit 1977). *See also, Taylor v. Portland Paramount Corp.*, 383 F.2d 634, 639  
(9<sup>th</sup> Cir. 1967).

28 <sup>23</sup> A confused jumble or medley of things, or a dish made from diced or minced  
meat, especially a hash.

1           **B. Hamid’s characterization of “pending” litigation is grossly**  
2           **inaccurate, misleading, and irrelevant.**

3           Continuing, Hamid also misstates the “pending” litigation. First, as noted  
4 above, Hamid’s Second Offer of Judgment was accepted and has been filed with  
5 the Clerk of the Court in accordance with NRCP 68. As a result, all litigation  
6 involving Hamid was concluded and until Hamid’s latest maneuvers to evade  
7 having to honor the agreement, *nothing was pending*. Indeed, the Stipulation and  
8 order to Vacate Hearings was filed, *by Hamid*, with this Court on 1/25/21<sup>24</sup>; the  
9 same Stipulation and Order was filed, *by Hamid*, on 1/21/21 before Judge Susan  
10 Johnson in Case No. A-19-805955-C<sup>25</sup>; and again, *by Hamid* on 1/21/21 before  
11 Judge Bill Henderson in Case No. D-18-575686-L.  
12

13           Hamid’s characterization of the litigation and decisions of the court(s) is  
14 patently false. Review of the record firmly disproves Hamid’s representations.  
15 Whether Judge Henderson had jurisdiction, with a change of venue, to set aside a  
16 Decree of Annulment, based upon Hamid’s egregious Fraud committed in the  
17 procurement of a Decree in Douglas County, was *never decided* by Judge  
18 Henderson and *remained an issue that was to be tried* at the January 21, 2021  
19 Trial/Hearing<sup>26</sup>.

20           The nature and extent of Hamid’s Fraud was likewise a matter that was to be  
21 adjudicated before Judge Henderson<sup>27</sup>. These issues, and others, were not tried  
22 because of Victor’s acceptance of Hamid’s Offer of Judgment and the resulting  
23

24 \_\_\_\_\_  
25 <sup>24</sup> Review of the Stipulation and Order confirms it was submitted by Hamid,  
Victor, Stone & Stone, filed 1/21/21, submitted herewith as Exhibit “E”.

26 <sup>25</sup> Review of the Stipulation and Order confirms it was submitted by Hamid,  
27 Victor, SLC, LLC. and Zoreh Amiryavari, filed 1/21/21, submitted herewith as  
Exhibit “F”.

28 <sup>26</sup> See Defendant’s Pre-Hearing Brief, filed per Court directive on January 8, 2021.

<sup>27</sup> *Id.*

1 Stipulation and Order. Hamid’s self-serving characterizations are patently false—  
2 and irrelevant.

3  
4 **C. Hamid violates his duty of candor, again, with his inaccurate**  
5 **and incomplete description of an unrelated and irrelevant**  
6 **matter before Judge Johnson.**

7 Hamid then ventures into the other civil action in which Hamid is involved,  
8 Case No. A-19-805955-C, with more insignificant claims. It is telling, however,  
9 that Hamid conceals his unsuccessful attempts to seal the case<sup>28</sup>; his unsuccessful  
10 attempts to consolidate the unrelated cases<sup>29</sup>; and that Hamid abandoned any  
11 pursuit of “third-party” actions.

12 Respectfully, what Judge Johnson did or didn’t do in an unrelated case<sup>30</sup>.  
13 Hamid’s characterization is defamatory and self-serving. Notably, Hamid fails to  
14 disclose the fact that a motion to dismiss Hamid’s claim and rescinding the  
15 preliminary injunction<sup>31</sup> was pending before Judge Johnson and set to be heard on  
16 February 23, 2021. That hearing was vacated pursuant to the Stipulation and Order  
17 following Victor’s acceptance of Hamid’s Offer of Judgment—but significantly  
18 *Hamid did not file any opposition* to the relief requested by Victor—conduct  
19 which by Court Rule may be deemed an admission the motion is meritorious and a  
20 consent to granting the same<sup>32</sup>.

21  
22 Equally important is the fact that Hamid’s claims of Victor’s purported  
23 actions are disproven by Hamid’s failure to bring his baseless claims before the  
24 Court.

25  
26 <sup>28</sup> See Journal Entry of April 2, 2020, Case No. A-19-805955-C

27 <sup>29</sup> Hamid’s motion was filed 1/3/2020 in Case No. A-19-805955-C

28 <sup>30</sup> Hamid’s efforts to consolidate the cases were unsuccessful before this Court,  
before Judge Johnson, and before Judge Henderson.

<sup>31</sup> Filed on January 15, 2021.

1           **D. Hamid’s claim the “other parties” were not involved is both**  
2           **false and irrelevant.**

3           While Hamid doesn’t argue there is any significance to the fact that his  
4           Offers of Judgment were made and executed by and through counsel, it seems he  
5           hopes to derive some benefit from that meaningless distinction. Of course, it must  
6           be noted Hamid submitted two (2) Offers of Judgment through counsel in such  
7           manner, and then went on to file the resulting Stipulation and Order, along with a  
8           Notice of Entry of such, in the domestic action and both civil matters.  
9

10           Continuing, Hamid offered and agreed to assume the loan on the Sun Lake  
11           Property—a loan that was in Victor’s name. Specifically, Hamid’s Second Offer  
12           of Judgment provides, in relevant part:

13                 10. ***Hamid*** shall assume the loan on the Sun Lake Home property, and  
14                 Victor shall cooperate to have it refinanced within 90 days from the  
15                 date of acceptance of this offer.

16           Victor agreed to Hamid’s Offer. Candidly, Hamid’s counsel at the time, Marshal  
17           Willick, is exceptionally skilled and experienced<sup>33</sup>, and all material terms were  
18           clearly stated and included in Hamid’s Second Offer of Judgment. There is  
19           *nothing* in the Second Offer of Judgment to suggest or in any way support  
20           Hamid’s representation that Hamid “was going to fund the one-time payment to  
21           [Victor] with the funds obtained through refinancing the loan on the Sun Lake  
22           Property”, and his claim is unsupported, patently false, and meaningless.

23           First of all, Victor didn’t care where Hamid got his funds and there was  
24           never any discussion pertaining to that issue. As adept Mr. Willick is with drafting,  
25

---

26           <sup>32</sup> See EDCR 2.20(e).

27           <sup>33</sup> Indeed, Mr. Willick is a certified Family Law Specialist, writes, lectures, has  
28           authored many textbooks and countless articles, and was the managing editor of  
the first edition of the Nevada Family Law Practice Manual. Additionally, Mr.  
Willick has drafted various state and federal statutes.

1 if there was a concern or a condition on where or how Hamid was to amass the  
2 \$1,000,001.00 one-time payment, it would have been included in the Offers of  
3 Judgment—but it wasn't.

4 Secondly, equity in the Sun Lake Property is vastly insufficient to even be a  
5 viable source for the \$1,000,001.00 one-time payment, and any funds that Hamid  
6 could possibly receive from refinancing the residence wouldn't come close to the  
7 amount of the one-time agreed upon payment<sup>34</sup>.

8  
9 **E. Hamid brazenly lies to this Court about his “attempted”**  
10 **compliance and Victor’s purported conduct.**

11 As noted above, pursuant to the Offer of Judgment Hamid prepared and  
12 submitted, Hamid was to assume the loan and Hamid was to refinance the  
13 property, all Victor agreed to do was cooperate and vacate the Sun Lake property,  
14 which he did. Indeed, the Offer of Settlement provides, in relevant part:

15 9. Victor shall vacate the Sun Lake Home property within 30 days of  
16 acceptance of this offer.

17 10. *Hamid* shall assume the loan on the Sun Lake Home property, and  
18 Victor shall cooperate to have it refinanced within 90 days from the  
19 date of acceptance of this offer.

20 Victor accepted Hamid’s Offer of Judgment on January 15, 2021, and  
21 vacated the residence, as agreed upon, on February 11, 2021. On that date, Victor  
22 also dropped off the keys to the residence at counsel’s office, and Hamid’s attorney  
23 was notified on that same date the residence was vacant and the keys available to  
24 be picked up.

25  
26  
27 <sup>34</sup> Indeed, Hamid *admits*, through his own notarized statement that the residence is  
28 valued at \$640,000, and the current loan is approximately \$490,000, leaving a  
maximum equity, before costs, of just \$150,000. Hamid is intentionally  
misleading this Court.

1           **Hamid**, on the other hand, contrary to his blatant misrepresentation to this  
2 Court, ***took no steps to assume the loan or refinance the property***. It is significant  
3 to note Hamid provides no financial records to support such effort<sup>35</sup>. Instead, he  
4 conceals the fact that Hamid intended on selling the residence to his brother, and  
5 that his brother was requesting a loan<sup>36</sup>. This fact only became known after  
6 Victor's discussion with Lawyers Title on February 4, 2021.

7  
8           Hamid's claim he repeatedly sent to Victor and his counsel an affidavit to  
9 sign, is likewise untrue. It is telling that neither Hamid or his counsel can provide  
10 any documentation in support of his false representation. Moreover, Victor has  
11 never refused to sign any documents, but sought assurance from Hamid that Victor  
12 would not be responsible for any of the fees/costs/expenses that were referenced in  
13 said documents. This is confirmed with the email from Victor's counsel to  
14 Hamid's counsel, Mr. Willick of February 12, 2021<sup>37</sup>, and through discussions  
15 with Lawyers Title.

16  
17           Following that email, Mr. Willick made ***no attempt*** to contact Victor's  
18 counsel, and notably, neither Hamid nor his counsel ever even suggested Victor  
19 was not cooperating<sup>38</sup>. Victor expressed his concern with being responsible for  
20 any costs/expenses, and was told they would send revised documents—such  
21 documents were never provided. Victor followed up with three additional calls to  
22 Lawyer's Title. Notably, Jennifer, from Lawyers Title informed Victor that  
23 ***Hamid is not responding to her and is not cooperating with the loan and title***  
24

---

25 <sup>35</sup> For example, Hamid states his application was denied, but Hamid provides no  
26 such denial letter validating his claim.

27 <sup>36</sup> Of course, by the very terms of Hamid's Offer of Judgment, Victor was under no  
28 obligation to cooperate with any third-party.

<sup>37</sup> See Exhibit "G"

<sup>38</sup> Hamid's doing so now is in bad faith and merely a ploy.



1 *companies*. Hamid's claims are false and just confirmation of the lengths Hamid  
2 will go to evade honoring his agreements.

3  
4 Continuing, Hamid falsely claims to not know when Victor vacated the  
5 residence—Hamid's prior counsel can readily disprove such a representation.  
6 Moreover, Hamid *now* accuses Victor of causing significant damage to the  
7 residence<sup>39</sup>, after having unfettered access to the residence since that time without  
8 making so much as a written or verbal "complaint" over the condition of the  
9 residence. That proves there is no merit to Hamid's fabricated claim.

10 Notwithstanding, it is worth noting that *Hamid is the one who vandalized*  
11 *the residence* when he was ordered by Judge Henderson to allow Victor to occupy  
12 the residence<sup>40</sup>. In reality, Victor made major pool repairs, replaced carpet, made  
13 wall repairs, and cleaned the house and driveways that welcomed him upon his  
14 arrival. Also, Victor documented the condition of the residence when he left<sup>41</sup>, and  
15 such proof, coupled with the passage of time and Hamid's silence, confirms that  
16 the *damage that Hamid now complains of was actually performed or*  
17 *orchestrated by Hamid*, thinking he could simply blame Victor and use that as a  
18 means of getting out of the Offer of Judgment that he made.  
19

20 Victor has not been in the residence or seen it since he vacated it on  
21 February 11, 2021. Regardless of whatever damage there *really* is, if any, whether  
22 caused by Hamid or others under his direction, was not caused by Victor. Hamid  
23  
24

---

25 <sup>39</sup> Although technically, there was no mention of Victor's obligation pertaining to  
26 the residence other than simply vacating it.

27 <sup>40</sup> If requested, Victor has photos documenting and confirming Hamid's  
destruction of the residence.

28 <sup>41</sup> These photos, if the Court thinks them relevant, will likewise be provided upon  
request.

1 foolishly thought he could damage the residence and get out of the agreement in  
2 the process.

3  
4 Lastly, further proof that this baseless claim, like all others, is a frantic ploy,  
5 that he has coordinated with his ex, hoping will evade scrutiny and reason so he  
6 can be relieved from having to abide by his agreement, is the fact that Hamid has  
7 failed and refused to make a single loan payment on the Sun Lake residence since  
8 it was vacated by Victor (no payments for the months of February, March, and  
9 April).

### 10 III.

#### 11 Legal Argument

#### 12 **A. Hamid's motion is procedurally flawed and legally** 13 **impermissible.**

14 As a threshold matter, Hamid is asking this Court to improperly and  
15 impermissibly intervene, meddle, dispose of and determine, matters that are  
16 assigned to, and filed in, another district court, to wit: case number D-18-565686-L  
17 before the Honorable Judge Henderson. In *Rohlfing v. District Court*,<sup>42</sup> the  
18 Nevada Supreme Court affirmed "[t]he district courts of this state have equal and  
19 coextensive jurisdiction; therefore, *the various district courts lack jurisdiction to*  
20 *review the acts of other district courts*".

21 DCR 18(1), cited in *Rohlfing*, provides:

22 When any district judge shall have entered upon the trial or hearing of  
23 any cause, proceeding or motion, or made any ruling, order or  
24 decision therein, *no other judge shall do any act or thing in or about*  
25 *such cause, proceeding or motion, unless upon the written request*  
26 *of the judge who shall have first entered upon the trial or hearing of*  
27 *such cause, proceeding or motion* (emphasis supplied).

28  

---

<sup>42</sup> 106 Nev. 902, 906, 803 P.2d 659, 662 (1990).

1 DCR 5 provides in relevant part:

2 These rules cover the practice and procedure in all actions in the  
3 district courts of all districts where no local rule covering the same  
4 subject has been approved by the supreme court. Local rules which  
5 are approved for a particular judicial district shall be applied in each  
6 instance whether they are the same as or inconsistent with these rules.

7 EDCR 7.1(b) provides:

8 When any district judge has begun a trial or hearing of any cause,  
9 proceeding or motion, or made any ruling, order or decision therein,  
10 *no other judge may do any act or thing in or about such cause,*  
11 *proceeding or motion, unless upon the request of the judge who has*  
12 *begun the trial or hearing of such cause, proceeding or motion*  
13 *(emphasis supplied).*

14 Accordingly, Hamid is not only violating the rules of this Court, he is asking  
15 this Court to do the same. This matter is not properly before this Court and should  
16 be summarily denied.

17 **B. The Accepted Offer of Judgment is valid and enforceable.**

18 Initially, Hamid is misguided believing his Second Offer of Judgment is  
19 “proposed”—it has been offered, accepted, and filed with the Clerk of the Court.  
20 In other words, much to Hamid’s displeasure and best efforts, the Accepted Offer  
21 of Judgment is valid and enforceable. Hamid’s legal arguments are untenable and  
22 provide no avenue of escape for Hamid. Also, Hamid’s characterization that *his*  
23 Offer of Judgment is invalid on its face is contrary to law and unsustainable. In  
24 fact, Hamid’s Offer of Judgment and acceptance is presumptively valid<sup>43</sup>.  
25

26  
27 <sup>43</sup> See *International Union v. Ford Motor Co.*, 2006 U.S. Dist. LEXIS 70471  
28 (“Settlement embodies a bargained give and take between the litigants that  
is presumptively valid about which the Court should not substitute  
its judgment for that of the parties”).

1 As this Court knows, the usual rules for construing contracts are used to  
2 construe offers of judgment<sup>44</sup>. Additionally, as with other contracts, courts must  
3 construe ambiguities in an offer of judgment against the drafter<sup>45</sup>. Despite  
4 Hamid's glaring attempts to distort and misconstrue the very Offer of Judgment  
5 that he prepared and extended; courts may not import one party's unexpressed,  
6 subjective intentions into the offer of judgment<sup>46</sup>. Indeed, a court must look at the  
7 parties' objective manifestations for contract formation, not their unexpressed  
8 subjective intentions, when interpreting an offer of judgment<sup>47</sup>.

9  
10 ***1. Hamid's Offer of Judgment was valid and was accepted.***

11 Courts have long recognized Offers of Judgment to be a valuable settlement  
12 tool, which Hamid used not once, but twice—with the second Offer of Judgment  
13 being accepted and resulting in settlement. Hamid wanted litigation to stop, but  
14 clearly had no intention of honoring his Offer—just as with the promissory note  
15 that he prepared and signed “resolving” all issues, but then failed to honor it.

16 Hamid's claim *his* Offer of Judgment was invalid is, at best, an *admission*  
17 that he knowingly generated what he considered to be an invalid document to stop  
18 all litigation and compel Victor to leave his home<sup>48</sup>, or alternatively, another  
19

20  
21  
22 <sup>44</sup> See *Lietz v. Hansen Law Offices*, PSC, 271 P.3d 899 (2012); *Guerrero v.*  
23 *Cumings*, 70 F.3d 1111, 1113 (9th Cir. 1995)); *May v. Anderson*, 121 Nev. 669,  
119 P.3d 1254 (2005).

24 <sup>45</sup> See *Lietz, supra*; *Nusom v. Cumh Woodburn, Inc.*, 122 F.3d 830, 833 (9th Cir.  
1997)).

25 <sup>46</sup> See *Lietz, supra*.

26 <sup>47</sup> *Id.*

27 <sup>48</sup> Conduct that is in violation of NRCP 11 and because of such unclean hands,  
28 would bar Hamid from the relief he is now seeking. See *Las Vegas Fetish &*  
*Fantasy Halloween Ball, Inc. v. Ahern Rentals, Inc.*, 124 Nev. 272, 182 P.3d 764  
(2008)

1 legally unsupported position crafted to enable him to dishonor his agreement. As  
2 noted herein, Hamid's Offer of Judgment was valid and enforceable.

3 Hamid's reliance on *Stockton Kenworth v. Mentzer Detroit Diesel*<sup>49</sup>, is  
4 misplaced and provides no support for the relief Hamid is asking of this Court. In  
5 *Stockton* it must be noted the subject Offer of Judgment was **not** accepted and was  
6 not challenged by its drafter. Additionally, the *Stockton* Court stated "the offer  
7 must be for a definite or ascertainable amount so that the parties can be  
8 unequivocally aware of what the defendant is willing to pay for his peace."<sup>50</sup>

9  
10 The fact Hamid **concealed** from the Court that very "definite and  
11 ascertainable amount" that was offered confirms Hamid's awareness that his claim  
12 lacks merit. Indeed, as set forth in Hamid's Offer of Judgment, the definite sum  
13 was clear, unequivocal, and unconditional<sup>51</sup>. It was simply:

14 5. Hamid shall pay Victor a one-time payment of \$1,000,001 in cash  
15 within 120 days of acceptance of this offer.

16 That Offer was valid—and accepted.

17 Hamid incredulously expects this Court to find that because the parties  
18 agreed to other terms, other than a singular and isolated "offer of judgment", that  
19 he can ignore his offer and be relieved from having to honor it. Of course, Hamid  
20 ignores that fact that the Offer of Judgment was also an Agreement between the  
21 parties, which remains valid and enforceable.  
22  
23  
24  
25

---

26 <sup>49</sup> 101 Nev. 400, 705 P.2d 145 (1985).

27 <sup>50</sup> 101 Nev. at 404.

28 <sup>51</sup> In *Stockton*, the offer was deemed conditional because it was expressly  
predicated upon obtaining a "good title" despite the fact that the garageman had an  
unperfected security interest in the subject vehicle for the repairs performed.

1       Moreover, Hamid's position is contrary to the express provisions of NRCP  
2 68, which provides, in relevant part (the part which Hamid again fails to disclose to  
3 this Court or address) provides:

4           any party may serve an offer in writing to allow judgment to be taken  
5 *in accordance with its terms and conditions* (emphasis supplied).

6       Clearly, Hamid's inclusion of the other terms found in Hamid's Offer of  
7 Judgment is consistent with NRCP 68 and certainly does *not* render Hamid's Offer  
8 of Judgment invalid, or provide *him* a basis to have *his* Offer to be considered  
9 invalid.  
10

11       Continuing, because Hamid is the one who drafted the Offer of Judgment if  
12 there were any ambiguities, they would necessarily be construed against him.  
13 However, as noted above, Hamid's Offers of Judgment were prepared by one of  
14 the premier drafting and editing lawyers in this State. If Hamid's offer to pay  
15 \$1,000,001.00 was conditioned on anything, it would have been identified and set  
16 forth in the Offer.

17       Of course, review of the parties' agreement confirms there were no  
18 conditions to Hamid's offer of judgment, and the inclusion of the additional terms  
19 of the parties' agreement is consistent with a global settlement and prudent  
20 lawyering.  
21

22       Hamid deflects focus from this fact because it is fatal to the relief he is  
23 asking of this Court. Contrary to Hamid's brazen misrepresentations, review of the  
24 agreement confirms it does *not* obligate Hamid to refinance the loan within 90  
25 days; it does *not* obligate a lender to approve refinancing of the residence; and  
26 notably, Hamid has not even attempted to secure refinancing on the residence, nor  
27 has he made any of the mortgage payments he agreed to pay. Victor agreed to  
28

1 cooperate to have it refinanced within 90 days, which he has done, and remains  
2 willing to do whatever is reasonably asked to assist Hamid.

3 Courts have recognized that inclusion of nonmonetary terms and conditions  
4 are permissible and proper in an Offer of Judgment<sup>52</sup>. In short, Hamid's lies  
5 provide this Court no basis to set aside the parties' agreement.

6  
7 **2. Hamid grossly mischaracterizes his Offer of Judgment and  
misstates the law.**

8 Confirming Hamid's frantic scramble to evade having to honor *his* Offer of  
9 Judgment, Hamid inexplicably now characterizes his Offer of Judgment as  
10 somehow being an "unapportioned" Offer of Judgment. His doing so, however,  
11 does not make it so<sup>53</sup>. In this case, Hamid, and Hamid alone made the Second  
12 Offer of Judgment<sup>54</sup>. As defined in NRCP 68, Hamid's offer was neither made to,  
13 or by, multiple defendants or multiple plaintiffs<sup>55</sup>.

14  
15 The legal authority cited by Hamid is not only lends no support for Hamid's  
16 baseless characterization and claims, but confirm its utter lack of merit. The case  
17 of *Parodi v. Budetti*<sup>56</sup>, expressly distinguished between an Offer of Judgment made  
18 by one party (such as this case and valid) to those made by multiple parties (which  
19 is not this case) without indicating how much of the judgment would be paid by the  
20 **multiple** offerors (again, not at issue in the case at bar). Moreover, the actual  
21

22 <sup>52</sup> See *Stanford v. Rasnick*, 246 Cal. App. 4<sup>th</sup>, 1121, 201 Cal. Rptr. 3d 614 (2016);  
23 *Bank of N.Y. Mellon v. Lamplight Cottages @ Santoli Homeowners' Ass'n*, 2020  
Nev. App. Unpub. LEXIS 1000, 477 P.3d 1132 (2020).

24 <sup>53</sup> Abraham Lincoln is credited for posing the question: How many legs does a dog  
25 have if you call his tail a leg? Then answering his query with the answer "Four.  
26 Saying that a tail is a leg doesn't make it a leg."

<sup>54</sup> Likewise, Hamid and Hamid alone made the First Offer of Judgment.

27 <sup>55</sup> See NRCP 68(c); *Santa Margarita Ranch, LLC v. Third judicial Dist. Court of  
28 the State*, 2014 Nev. Unpub. LEXIS 665.

<sup>56</sup> 115 Nev. 236, 984 P.2d 172 (1999).

1 unapportioned offer in *Parodi* did not indicate which claims the offer was meant to  
2 settle<sup>57</sup>. In this case, Hamid’s offer expressly referenced all claims. The *Parodi*  
3 decision is actually fatal to Hamid’s claim.

4 Likewise, the cases of *Morgan v. Demille*<sup>58</sup> and *Ramadanis v. Stupak*<sup>59</sup>, are  
5 not applicable, have no bearing on this matter, and are equally damning to Hamid’s  
6 position (notably, they are simply the two cases cited in the *Parodi* decision  
7 distinguished above). First, both *Morgan* and *Ramadanis* have been superseded by  
8 statute<sup>60</sup>, and secondly, *Morgan* and *Ramadanis* both stood for the proposition that  
9 an unapportioned offer of judgment is invalid for the purpose of determining a  
10 prevailing party, or whether “any one party” received a less favorable result, for  
11 purposes of awarding attorney’s fees<sup>61</sup>. That is clearly not at issue in this case.

12 Obviously, the accepted offer of judgment does not distinguish whether the  
13 full cash payment of \$1,000,001 is from [Hamid] or from a combination of the  
14 parties”<sup>62</sup> because no other party made an Offer of Judgment and no other party  
15 was obligated, in any way, in any amount, for any portion of the cash payment. As  
16 clearly set forth in the offer itself, “***Hamid shall pay*** Victor a one-time payment of  
17 \$1,000,001 in cash within 120 days of acceptance of this offer.” Where or how  
18 Hamid intended on obtaining such funds is, quite frankly, immaterial<sup>63</sup>.

19 Additionally, while Hamid may have had an interest in the other defendants,  
20 or the fact one or more of the defendants in the civil actions in which Hamid was  
21  
22  
23  
24

---

25 <sup>57</sup> *Id.*, 115 Nev. at 240.

26 <sup>58</sup> 106 Nev. 671, 799 P.2d 561 (1990).

27 <sup>59</sup> 104 Nev. 57, 752 767 (1988).

28 <sup>60</sup> *See Short v. Petty*, 139 P.3d 621 (2006).

<sup>61</sup> *See also, Parodi, supra.*

<sup>62</sup> Hamid’s motion, page 12, lines 8-9.



1 personally named may have benefited from Hamid's Offer of Judgment and  
2 settlement of all his claims, is irrelevant and does not make them in any way  
3 responsible for Hamid's financial obligations.

4 Hamid's Offers of Judgment were not joint offers. It was prepared by and  
5 offered solely from Hamid. The language of the Offer of Judgment unequivocally  
6 confirms Hamid's Second Offer of Judgment was not an unapportioned joint offer,  
7 that it was not made by "multiple offerees", and Hamid's position is patently  
8 absurd. His expectation this Court would even consider such a ridiculous claim is  
9 ill-judged and disturbing.

11 **C. Hamid is unable to sustain the burden that must be met in**  
12 **order to set aside the parties' Agreement.**

13 Hamid cites NRCP 60(b), but fails to acknowledge, or consciously ignores  
14 the fact, that Rule 60(b) relief imposes a high bar for relief from a judgment<sup>64</sup>.  
15 Relief provided by Rule 60(b) is an "extraordinary" remedy, "only to be invoked  
16 upon a showing of exceptional circumstance."<sup>65</sup> Significantly, Hamid fails to  
17 disclose to the Court that Rule 60(b) relief must be predicated upon "*just terms*"<sup>66</sup>,  
18 which is a standard Hamid *cannot* sustain. The relief that Hamid seeks is neither  
19

---

20 <sup>63</sup> Hamid may have intended on betting heavily on March Madness, or a hefty  
21 wager at the Craps table, but Hamid's offer certainly wouldn't have obligated  
22 Caesar's for his quest for funds or Hamid's obligations.

23 <sup>64</sup> *It should be noted that pursuant to the terms of Hamid's Offer of Judgment,*  
24 *Judgment has not yet been entered* (arguably making his motion premature).  
25 Relief under Rule 60(b) is at the expense of the finality of judgments; hence relief  
26 is considered "extraordinary." *See Gonzalez v. Crosby*, 545 U.S. 524, 529 (2005)  
27 (noting that Rule 60(b)'s "whole purpose is to make an exception to finality").  
28 Rule 60(b) is not a substitute for appeal. *Twentieth Century-Fox Film Corp. v.*  
*Dunnahoo*, 637 F.2d 1338, 1341, (9th Cir. 1981).

<sup>65</sup> *See Compton v. Alton S.S. Co.*, 608 F.2d 96 (1979).

<sup>66</sup> *See* NRCP 60(b)(which begins "[o]n motion and just terms, the court may  
relieve a party or its legal representative from a final judgment

1 just or warranted. The fact the request is made in bad faith and predicated upon an  
2 inexcusable violation of the duty of candor that is owed this Court, makes his  
3 request more egregious and inexcusable.

4 Hamid's inability to establish a lack of unfair prejudice to Victor and  
5 exceptional circumstances mandates a complete denial of Hamid's underlying  
6 motion.<sup>67</sup>

7  
8 ***1. Hamid's claims of mistake, inadvertence or excusable neglect are***  
9 ***fabricated and patently false.***

10 Hamid's dishonesty is further confirmed through his mischaracterization that  
11 his Offer of Judgment only settled the financial claims between Hamid and Victor.  
12 Even a cursory review of Hamid's offer disproves his statement. Indeed, the Offer  
13 expressly provides:

14 The parties agree to waive all claims they may have either personally  
15 or through their business affiliations in this and any other litigation,  
16 known or unknown, including, but not limited to, the claims in cases  
17 D-18-575686-L, A-190805955-C, and A-19-801513-P, to dismiss all  
18 claims they have in all courts against each other, or any other party  
19 named or implicated in the foregoing named cases, and vacate all  
20 pending trial and hearing dates<sup>68</sup>.

21 Clearly, Hamid's dishonesty knows no limits. Hamid's offer pertained to  
22 Hamid and he has no standing or right to argue on behalf of other named  
23 defendants—which incidentally, have joined in the Stipulation and Order that  
24 vacated all their hearings based upon anticipated settlement between the parties.  
25 Significantly, none of the other named defendants are seeking to have Hamid's  
26 Offer of Settlement and resulting acceptance, set aside.

27 It is telling that Hamid doesn't even state whether he is seeking relief based  
28 upon mistake, inadvertence, surprise or excusable neglect—he simply collectively

---

<sup>67</sup> See *Dowell v. State Farm Fire & Cas. Auto. Ins. Co.*, 993 F.2d 46 (1993).

1 references the factors. However, Hamid is unable to establish the existence of any  
2 one of those factors, and none of the cases cited by Hamid stand for the proposition  
3 that mere reference to a recognized factor meets, or eliminates, the burden of  
4 having to prove such factor(s). Indeed, such a standard would be patently  
5 ridiculous.

6 Further, Hamid's wandering into Judge Johnson's case, and her purported  
7 rulings, is irrelevant and grossly misleading. By now, it is not surprising that  
8 Hamid conceals the fact that *there was no order prepared* reflecting the decision  
9 Hamid references, and additionally, Victor filed a motion for reconsideration, to  
10 rescind the preliminary injunction, and to vacate the minute order—*which was not*  
11 *opposed by anyone*.<sup>69</sup> Hence, Hamid's discussion is incredibly irrelevant<sup>70</sup>.

13 In conclusion, Hamid's suggestion Victor is not prejudiced by his actions is  
14 patently false and absurd. Victor accepted Hamid's Second Offer of Judgment  
15 because he has been financing litigation for three years because of Hamid's  
16 egregious fraud and tortious actions that included wrongfully taking Victor's  
17 business and assets, and other willful torts. After delaying all trials in all matters,  
18 Hamid has returned to trying to make litigation cost prohibitive for Victor. The  
19 resulting delay and litigation would be devastating to Victor—a fact Hamid is  
20

24 <sup>68</sup> Offer of Judgment, Exhibit "A", pages 2-3, lines 25-27 and 1-3 respectively.

25 <sup>69</sup> EDCR 2.20 allows the court to consider such action as an admission the motion  
is meritorious and a consent to granting it.

26 <sup>70</sup> Aside from irrelevance as it pertains to whether there was a mistake that  
27 warranted setting aside the parties' agreement (which there was not, it is telling  
28 that Hamid claims he was denied "the loan required to finance the financial  
obligations" but does not produce any pertinent documents that would even  
remotely validate his untruths.

1 counting on with his frivolous pursuit to set aside their agreement. The prejudice  
2 that Victor would sustain precludes Hamid from 60(b) relief.<sup>71</sup>

3 Hamid hasn't complied with the Offer of Judgment, certainly hasn't given  
4 Victor "an opportunity to comply", hasn't made a single mortgage payment that he  
5 agreed upon, and endeavors to conceal his ongoing bad faith and dishonesty with  
6 an offensive blitz. Consideration of Hamid's misrepresentations, unsupported  
7 conclusions, and misstatements of law, readily establishes that Hamid has not, by  
8 any stretch of the imagination, acted in good faith or attempted to comply with the  
9 terms of his Offer of Judgment (that he now claims is invalid).

11 ***2. Hamid's claim of "newly discovered evidence" is untrue.***

12 To be granted relief under NRCP 60(b)(2), Hamid would need to  
13 demonstrate:

- 14  
15 (1) the evidence is newly discovered since the judgment was entered;  
16 (2) due diligence on the part of the movant to discover the new  
17 evidence has been exercised; (3) the evidence is not merely  
18 cumulative or impeaching; (4) the evidence is material; and (5) the  
19 evidence is such that is likely to produce a new outcome if the case  
were retried, or is such that would require the judgment to be  
amended<sup>72</sup>.

20 Moreover, these grounds "must be clearly substantiated by adequate  
21 proof"<sup>73</sup>; proof that Hamid *cannot* provide. Hamid did not discover Victor  
22 damaged the residence, because Victor did no such thing<sup>74</sup>. If the residence was  
23 damaged, it was damaged by Hamid as he did before. *See supra*. Hamid's actions,  
24

25  
26 <sup>71</sup> See *Dowell v. State Farm Fire & Cas. Auto. Ins. Co.*, 993 F.2d 46, 48 (1993).

27 <sup>72</sup> *Boryan v. United States*, 884 F.2d 767, 771 (1989); *Jordan v. United States*,  
2019 U.S. Dist. LEXIS 94071, at \*1.

28 <sup>73</sup> *In re Burnley*, 988 F.2d 1, 3 (1992) (citations omitted); *Almy v. Sebelius*, 749 F.  
Supp. 2d 315, 338 (2010), *aff'd*, 679 F.3d 297 (2012).

1 or more importantly, his lack of actions, confirms Victor is not responsible for the  
2 damage Hamid claims, and Victor has photographs to irrefutably disprove Hamid's  
3 claims.

4 Hamid comes nowhere close to showing "new evidence" or the "exceptional  
5 circumstances" that would, in any way, justify the "extraordinary" relief NRCP  
6 60(b) authorizes. Lastly, Victor *invites and encourages* this Court to look at the  
7 purported support of Hamid's defamatory claim that Victor has continued to make  
8 disparaging online comments about Zip Zap Auto<sup>75</sup> because Hamid obviously  
9 doesn't think the Court will scrutinize his "exhibits".  
10

11 Hamid's referenced exhibits, "1-5" provide absolutely no support, proof, or  
12 evidence that Victor has made disparaging comments. Instead, Hamid, who has an  
13 admitted history of defrauding DMV, a long history of defrauding courts and  
14 others, and last, but not least, defrauding and cheating his customers, simply seeks  
15 to blame Victor for his customer's dissatisfaction and disapproval of Hamid's  
16 excessive costs and his unprofessional and inferior service.

17 This argument merely cements Hamid's desperation and his misplaced belief  
18 believing this court is gullible or disinterested in following the law—after all,  
19 Hamid certainly has no intention of honoring his agreement, keeping his word, or  
20 following the law.  
21

22 **3. *Hamid is the only party engaging in improper conduct.***

23 Clearly, there is no factual or legal basis that would enable Hamid to  
24 dishonor the Agreement that was created when Hamid's Offer of Judgment was  
25 accepted by Victor.  
26

---

27 <sup>74</sup> Even if Victor had caused damage to the residence, the parties waived all claims,  
28 known or unknown. Exhibit "A", page 2.

<sup>75</sup>

1 Hamid returns to his false and unsupported claim that Victor “continued” to  
2 violate Judge Johnson’s order, but the fact Hamid didn’t bother to include any of  
3 the language from Judge Johnson’s order—and further concealed the fact that there  
4 was never an order that was prepared and there was no opposition to Victor’s  
5 motion to vacate the minute order and rescind the preliminary injunction, confirms  
6 Hamid’s reference is irrelevant, completely false, and grossly misleading<sup>76</sup>.

7  
8 While concealing the above facts from the Court, Hamid nevertheless  
9 references journal entries that are irrelevant based upon the above, and fails to  
10 provide any proof or evidence to prove, or even suggest, Victor engaged in the  
11 conduct Hamid claims other than *his* self-serving (and false) statement.

12 **D. There is no factual or legal basis to “reopen” discovery and**  
13 **“reset trial”.**

14 In closing Hamid makes a passing request to “Reopen Discovery and Reset  
15 Trial” without even an attempt to cite any authority, let alone factual basis, that  
16 would permit, or even warrant, this Court to order discovery in this case that has  
17 been settled and will be closed once Hamid learns his shocking dishonesty and  
18 abuse of the legal process was ineffective and Hamid is directed to honor and  
19 comply with the very agreement that resulted from *his* Offer of Judgment.

20 Hamid’s half-hearted request should be summarily rejected. Indeed, EDCR  
21 2.20(c) provides that “[t]he absence of such memorandum may be construed as an  
22 admission that the motion is not meritorious, as cause for its denial or as a waiver  
23 of all grounds not so supported.” Even if such authority existed, the facts of this  
24 case defeat the application of any such authority, and Hamid’s conclusory request  
25

26  
27  
28 <sup>76</sup> Indeed, Hamid makes the baseless claim hoping his lie relieves him of his  
obligations, instead of addressing Victor’s purported “contempt”. This Court  
knows that under the circumstances of this case, any such pursuit would have been

1 for discovery, devoid of detail or legal support, is insufficient to obtain such  
2 relief<sup>77</sup>.

3 **E. Hamid should be sanctioned and directed to reimburse Victor**  
4 **for the fees incurred bringing Hamid's dishonesty and baseless**  
5 **motion before this Court.**

6 NRS 7.085 is to be liberally construed and provides it is the intent of the  
7 Legislature that the court award costs, expenses and attorney's fees, and impose  
8 Rule 11 sanctions to punish and deter frivolous motions.

9 Sanctions under NRCP 11 are also allowed. As noted by the Nevada  
10 Supreme Court in *Watson Rounds, P.C. v. Eighth Judicial Dist. Ct. (Himelfarb &*  
11 *Associates)*, 131 Nev. 783, 784, 358 P.3d 228, 230 (2015), NRCP 11 and NRS  
12 7.085 each represent a distinct, independent mechanism for sanctions.

13 Continuing, in *Barney v. Mt. Rose Heating & Air Conditioning*, 192 P.3d  
14 730, 736 (2008) citing *Brunzell v. Golden Gate National Bank*, 85 Nev 345, 455  
15 P.2d 31 (1969), the Court enumerated factors that the district court should consider  
16 in awarding attorney fees, with no one factor controlling, as follows:

17 (1) the advocate's qualities, including ability, training,  
18 education, experience, professional standing, and skill;

19 (2) the character of the work, including its difficulty, intricacy,  
20 importance, as well as the time and skill required, the responsibility  
21 imposed, and the prominence and character of the parties when  
22 affecting the importance of the litigation;

23 (3) the work performed, including the skill, time, and attention  
24 given to the work; and

25 futile. Apparently, Hamid hopes this Court does not require truth or evidence  
26 when making its rulings.

27 <sup>77</sup> See *Clayton v. Nationwide Mut. Ins. Co.*, 260 F. Supp. 3d 514, 521 (2017) ("The  
28 court has no obligation to fashion arguments for a party or to further develop a  
party's argument when it is wholly conclusory, unexplained, and unadorned with  
citation to legal authority.").

1 (4) the result--whether the attorney was successful and what  
2 benefits were derived.

3 Victor has met the factors outlined in Brunzell. Victor's counsel is qualified  
4 and has considerable experience, ability and training in the field of civil litigation.  
5 It is the responsibility of Victor's counsel to resolve outstanding issues to ensure  
6 Victor's rights are preserved and the duty of candor that is owed to this Court is  
7 maintained. Victor's counsel was attentive to work performed.

8 Hamid's motion was baseless and Victor is entitled to an award of attorney's  
9 fees for having to respond to the factually and legally deficient motion. Hamid has  
10 acted in bad faith and filed a frivolous motion wherein facts were misrepresented,  
11 no law or misstated law was cited, and the Court was deliberately misled. Hamid  
12 filed a baseless motion hoping to evade his obligation. Victor is clearly entitled to  
13 recoup the fees that he has incurred having to respond to the baseless and  
14 inaccurate motion, and clarifying, completing, and correcting Hamid's false claims  
15 and unsupported conclusions occasioned through the violation of the duty of  
16 candor that is owed to this Court.

17 Based upon the foregoing, it is not only fair, but also reasonable under the  
18 circumstances that Hamid be responsible for Victor's attorney fees and costs.

19 **IV.**  
20 **Conclusion**

21 The law provides "[a] consent judgment should be strictly construed to  
22 preserve the bargained for position of the parties."<sup>78</sup> Based upon the above, Hamid  
23 has not met his burden. Victor respectfully requests the Court enter an Order:

- 24 1. Denying Hamid's motion in its entirety;  
25  
26  
27

28 <sup>78</sup> *Peterson v. Corona*, 2017 Nev. App. Unpub. LEXIS 959 (2017); *Van Cleave v. Osborne, Jenkins & Gamboa, Chtd.*, 108 Nev. 885, 888, 840 P.2d 589, 591 (1992).



- 1 2. Sanctioning Hamid and awarding Victor attorney's fees and costs for  
2 having to defend Hamid's baseless motion and respond to Hamid's  
3 baseless, defamatory, and unwarranted motion; and  
4 3. For such other and further relief as the Court deems just and equitable.  
5 Dated this 8<sup>th</sup> day of April, 2021.

6 Respectfully submitted:

7 /s/ Todd M. Leventhal  
8 TODD M. LEVENTHAL, ESQ.  
9 Nevada Bar No: 008543  
10 626 South Third Street  
11 Las Vegas, Nevada 89101  
12 (702) 472-8686 – office  
13 (702) 472-8685 – fax  
14 *Attorney for Plaintiff Victor Botnari*  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

3. I have read the preceding filing, and it is true to the best of my knowledge, except those matters based on information and belief, and as to those matters, I believe them to be true. The factual averments contained in the preceding filing are incorporated herein as if set forth in full.

Executed this 8<sup>th</sup> day of April, 2021.

13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

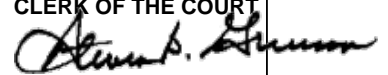
Via E-Service  
ENSTEIN PHAM & GLASS LLP  
Robert A. Rabbat, Esq.  
[rrabbat@enesteinlaw.com](mailto:rrabbat@enesteinlaw.com)  
*Attorney for Defendant Hamid Sheikhai*

*Via E-Service*  
Michael B. Lee, Esq.  
[mike@mblnv.com](mailto:mike@mblnv.com)  
1820 E. Sahara Avenue, Suite 110  
Las Vegas, NV 89104  
*Attorneys for Defendants Stone & Stone*

*Via E-Service*  
MARQUIS AURBACH COFFING  
Phillip S. Aurbach, Esq.  
[paurbach@maclaw.com](mailto:paurbach@maclaw.com)  
10001 Park Run Drive  
Las Vegas, NV 89145  
*Attorneys for Defendants Stone & Stone*

26  
27  
28

# **EXHIBIT 10**



**OPPO  
LEVENTHAL & ASSOCIATES, PLLC.**

**Todd M. Leventhal, Esq.**

Nevada Bar No: 008543

California Bar No: 223577

626 S. Third St.

Las Vegas, Nevada, 89101

(702) 472-8686 - office

(702) 472-8685 – fax

**HOFLAND & TOMSHECK**

**Bradley J. Hofland, Esq.**

Nevada Bar Number: 6343

bradh@hoflandlaw.com

228 South 4th Street, 1st Floor

Las Vegas, Nevada 89101

Telephone: (702) 895-6760

Facsimile: (702) 731-6910

Attorney for Plaintiff,

*Vitiok, LLC.*

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

VITIOK, LLC., a Nevada Limited  
Liability Company,

Plaintiff,

vs.

SLC, LLC, a Nevada Limited Liability  
Company; HAMID SHEIKHAI, an  
individual; ZOHREH AMIRY  
AVARI, an individual, DOES I-X;  
and, ROE CORPORATIONS I-X,  
inclusive.

Defendants.

CASE NO.: A-19-805955-C

DEPT. NO.: 22

PLAINTIFF'S OPPOSITION TO  
DEFENDANT HAMID SHEIKHAI'S  
MOTION TO SEAL CASE RECORDS  
AND COUNTERMOTION FOR  
ATTORNEY'S FEES AND COSTS.

ORAL ARGUMENT REQUESTED

COMES NOW the Plaintiff, Vitiok, LLC (“Vitiok”), by and through its attorneys, TODD M. LEVENTHAL, ESQ., with Leventhal & Associates, and Bradley J. Hofland with Hofland & Tomscheck, and moves this Honorable Court for the following relief:

1. Denying the relief sought by Defendant Hamid Sheikhai (“Hamid”);
2. Awarding Vitiok attorney’s fees and costs for having to defend Hamid’s baseless motion; and
3. For such other and further relief as the Court deems just and equitable.

This opposition and counter motion are made and based upon all the papers and pleadings on file herein, the points and authorities submitted herewith, and any argument received by the Court when this matter is heard.

Dated this 23<sup>rd</sup> day of March, 2020.

Respectfully submitted:

/s/ Todd M. Leventhal  
TODD M. LEVENTHAL, ESQ.  
Nevada Bar No: 008543  
626 South Third Street  
Las Vegas, Nevada 89101  
(702) 472-8686 - office  
(702) 472-8685 - fax  
Attorney for Plaintiff,  
Vitiok LLC.

## MEMORANDUM OF POINTS AND AUTHORITIES

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**I.**

**Introduction**

In a brazen disregard of applicable rules and the duty of candor that is owed this Honorable Court, Hamid endeavors to conceal his wrongdoing by manipulating this Court and the legal system, asking for relief he is not entitled. As this Court knows, the policy of this State is to make *all* court records in civil actions available to the public<sup>1</sup>. Without even alleging, let alone showing, that *any* sealing of this matter is justified by identified compelling privacy or safety interests *that outweigh the public interest* (and corresponding right) to access the court record, Hamid nevertheless seeks this Court's cooperation in *disregarding* that requisite. Hamid is unable to sustain his burden and his motion should be denied in its entirety.

**II.**

**Statement of Facts**

For purposes of this opposition, the facts are few and straightforward. The dispositive facts are set forth in the underlying Complaint in this matter, but because of Hamid's lack of candor manifest in the false narrative he presents to this Court under the guise of a "statement of facts", necessary clarification and correction will be provided to this Court.

Contrary to Hamid's self-serving characterization and misrepresentation of fact, Hamid does not own SLC, LLC. as he claims. SLC, LLC is simply an entity owned by Hamid's sister and used by him to conceal his wrongdoings. Additionally, the suit against Hamid, SLC, LLC., and Zohreh Amiry Avari, is

---

<sup>1</sup> See Supreme Court Rule PART VII, Rules Governing Sealing and Redacting Court Records ("SRCR"), Rule 1(3) Policy.

1 clearly not a “private business dispute between Victor and Hamid”<sup>2</sup>, but rather  
2 involves egregious fraudulent and other tortious acts committed against Vitiok,  
3 LLC. by Hamid, SLC, LLC., Zohreh Amiry Avari, and others. Given Hamid’s  
4 history of deception and fraud<sup>3</sup>, the public unquestionably has an interest in  
5 knowing such history.

6         Additionally, Hamid’s reference to the *purported* sealing of the dissolution  
7 proceeding is misleading, improper, and untrue. Hamid sought relief on an *ex parte*  
8 basis, pursuant to NRS 125.110, and submitted an order that (1) failed to identify  
9 and exclude those portions of the record that must remain open to public  
10 inspection<sup>4</sup>; and in fact, (2) ***did not*** seal the Family Court matter at all<sup>5</sup>.  
11 Significantly, SRCR Rule 1(4), expressly ***excludes*** dissolution proceedings from  
12 the rule governing the sealing of records, ***thereby obviating the burden of***  
13 ***overcoming a compelling interest that outweighs the public interest in access to***  
14 ***the court record***. Thus, Hamid’s maneuver in the family court is immaterial and  
15 meaningless.  
16

17         Hamid continues with his deception with misrepresentations that he  
18 substitutes as fact. Hamid suggests an ongoing business relationship, but there is  
19

---

20 <sup>2</sup> Hamid’s underlying motion, page 2, lines 17-18.

21 <sup>3</sup> For example, Hamid committed a fraud upon Victor and the Ninth Judicial  
22 District Court—such fraud was disclosed to the Ninth Judicial District Court and  
23 pending their determination on whether to remedy the fraud from their records.  
24 When Hamid was banned from the DMV, he circumvented their ban by conducting  
business under another name.

25 <sup>4</sup> NRS 125.110 expressly mandates “the pleadings, the finding of the court, any  
26 order made on motion as provided in Nevada Rules of Civil Procedure, and the  
judgment must remain “open to public inspection”.

27 <sup>5</sup>Victor will address the Family Court when he next appears before it to ensure that  
28 no portion of the dissolution proceeding is improperly sealed and excluded from  
the access of the public.



1 absolutely no truth to such an implication. *None* of the businesses that Hamid  
2 references as support for his innuendo of a continuing business relationship with  
3 Victor are owned by Hamid or Victor. Additionally, the business Hamid  
4 references as “Universal Trucking” has never existed.

5 An additional endeavor to mislead and manipulate this Court is found in  
6 Hamid’s false claim that Victor<sup>6</sup> has “attempted to injure Hamid’s businesses...”  
7 First, a review of the pleadings establishes Hamid’s claims are not supported by  
8 the pleadings on file. Secondly, Hamid does not own any of the businesses he has  
9 named in his motion. Thirdly, the allegations he now makes against Victor (rather  
10 than Vitiok) mirror the allegations that Victor has identified and detailed in a  
11 separate civil action unrelated to the instant case<sup>7</sup>. In other words, Hamid is  
12 hoping to conceal his wrongful conduct by falsely placing blame on Victor—while  
13 ignoring the fact the plaintiff is Vitiok.

14 The final attempt to deceive and/or confuse this Court is Hamid’s statement  
15 that “[t]he information contained in this case could be further misappropriated and  
16 could make any or all of the parties a target by any outside party seeking to injure  
17 them.”<sup>8</sup> Put another way, Hamid doesn’t want others to find out about his  
18 fraudulent activities and extensive wrongdoings because others that he has  
19 defrauded and harmed may seek redress as well. Of course, the desire to conceal  
20 and/or prevent others from learning of your tortious conduct is an insufficient basis  
21  
22  
23

24  
25 <sup>6</sup> Hamid seems to forget that in this civil action Victor is not a party; indeed the  
Plaintiff is Vitiok, LLC.

26 <sup>7</sup> Although unrelated to this matter, Hamid essentially cut and pasted this motion  
27 from the motion to seal that he simultaneously filed in the other civil matter.  
28 Hence, the inclusion of unrelated, albeit false, representations in the underlying  
motion.

<sup>8</sup> Hamid’s underlying motion, page 3, lines 1-2.

1 to seal the record. *In fact, such awareness is a compelling reason why Hamid's*  
2 *motion must be denied.*

3 It is also significant to note that Hamid, following the hearing on Vitiok's  
4 petition for injunctive relief, promptly *ceased* using the name Zip Zap Auto at the  
5 premises where he had wrongfully evicted Vitiok and converted its assets,  
6 including the name of Zip Zap Auto, and continued his business operations under  
7 the new name of "Quantum Mechanics." Hamid is clearly trying to distance  
8 himself from liability, but his actions will prove futile.

9 Hamid is hoping to prevent the public from learning of his egregious  
10 conduct, but Supreme Court Rule and applicable precedent does not allow him to  
11 do so. As detailed infra, Hamid's motion should be denied in its entirety.

### 12 III.

#### 13 Legal Argument

##### 14 *A. Hamid has failed to overcome the burden imposed by Supreme* 15 *Court Rule and applicable precedent to enable him to have the* 16 *case sealed.*

17 Initially, it is significant to note that Hamid is the only Defendant, indeed,  
18 the only party, that is seeking to seal the court record. Notwithstanding, even if the  
19 other Defendant joined in Hamid's request, there is no factual or legal basis that  
20 would warrant deviating from the express policy of this State and denying the  
21 public from accessing the court record, or more importantly, from learning of the  
22 Defendant's wrongdoings.

23 For legal support, Hamid simply cites selected portions of SRCR Part VII  
24 and the self-serving and untrue non sequiturs that follow such legal authority fail to  
25 present the requisite legal basis that would warrant the sealing of this case.

26 It is telling that Hamid *omits* the stated policy of the Rules Governing  
27 Sealing and Redacting of Court Records. That policy is that "[a]ll court records in  
28

1 civil actions are available to the public, except as otherwise provided in these rules  
2 or by statute.”<sup>9</sup>

3 Continuing, Hamid’s attempts to justify sealing this case miss their mark.  
4 SRCR Part VII, Rule 4, sets forth the recognized findings that must accompany the  
5 sealing of any court file, record, or portion thereof, as follows:

- 6 (a) The sealing or redaction is permitted or required by federal or  
7 state law;  
8 (b) The sealing or redaction furthers an order entered under NRCP  
9 12(f) or JCRCP 12(f) or a protective order entered under NRCP 26(c)  
10 or JCRCP 26(c);  
11 (c) The sealing or redaction furthers an order entered in accordance  
12 with federal or state laws that serve to protect the public health and  
13 safety;  
14 (d) The redaction includes only restricted personal information  
15 contained in the court record;  
16 (e) The sealing or redaction is of the confidential terms of a  
17 settlement agreement of the parties;  
18 (f) The sealing or redaction includes medical, mental health, or tax  
19 records;  
20 (g) The sealing or redaction is necessary to protect intellectual  
21 proprietary or property interests such as trade secrets as defined  
22 in NRS 600A.030(5); or  
23 (h) The sealing or redaction is justified or required by another  
24 identified compelling circumstance.

25 The “reasons” Hamid presents do not fall within the above enumerated  
26 grounds that must exist in order to seal the case. Significantly, any basis relied  
27 upon by this Court must be justified by identifying a “compelling privacy or safety  
28 interests that outweigh the public interest in access to the court record.” SRCR Part  
29 VII, Rule 4. Those reasons given and relied upon by Hamid fail to outweigh the  
30 public interest.

---

<sup>9</sup> Part VII, Rule 1(3).

1 Indeed, Hamid falsely claims sealing this case is largely a “duplicative”  
2 order considering the order he obtained in Family Court (which does not seal the  
3 Family Court matter). As noted above, dissolution matters are expressly ***excluded***  
4 from the burden that ***must*** be met in sealing civil actions. Also, this civil action is  
5 unrelated to the dissolution matter and involves different and distinct acts of  
6 wrongdoing by Hamid and others not named in the dissolution proceeding.  
7 Notably, the family court has expressly stated it will not hear the independent civil  
8 actions and Hamid’s efforts to have them consolidated have failed. Hence,  
9 Hamid’s claim of duplication is patently untrue and absurd.  
10

11 The second purported reason proffered by Hamid to seal the case is crafted  
12 through semantics and phrased as a claim “the public has no legitimate interest in  
13 the private disputes of two previously married, but annulled citizens that have  
14 ongoing business concerns.”<sup>10</sup> First, the policy of this State reflects the fact the  
15 public has a legitimate interest in civil actions—whether one of the defendants  
16 were previously married to the plaintiff is immaterial. Second, there is no ongoing  
17 business between the parties—simply ongoing civil litigation pertaining to the  
18 unrelated tortious acts of the defendants<sup>11</sup>.  
19

20 Lastly, Hamid’s concern is preventing others from learning of his fraudulent,  
21 unscrupulous, actions and seeing that civil suits have been initiated to redress his  
22 multiple wrongdoings, which may result in others similarly wronged to seek the  
23 reparation they are entitled. That is an insufficient basis to seal the records. In  
24 fact, ***allowing the public to learn of the behavior and suits against an individual***  
25 ***or individuals whose business is dependent upon the public and how they***  
26 ***conduct themselves is an interest vital to the public interest.***  
27  
28

---

<sup>10</sup> Hamid’s underlying motion, page 4, lines 27-28.

1 Hamid concludes his baseless motion with yet another lie intended to  
2 deceive and mislead this Court. Just because information may be private does not  
3 mean it is protected. Also, Hamid falsely claims “trade secrets are contained  
4 within the business records that have been submitted already...and may be  
5 submitted in subsequent filings. On that note, *there have been no trade secrets*  
6 *that have been submitted.*

7  
8 Indeed, as noted by Hamid, with the filing of his motion—the case is  
9 automatically sealed until this Court rules on the underlying motion<sup>12</sup>.  
10 Accordingly, had “trade secrets” already been filed, he could have easily included  
11 them as exhibits to his motion. The fact he did not is proof that no such “trade  
12 secrets” were provided and his use of such a term is deliberately false and used as a  
13 ruse to mislead this Court and to justify his request within one of the recognized  
14 grounds to seal a case. See Rule 4(g).

15 Should Hamid ever be concerned with a real “trade secret” that may need to  
16 be filed in the future, he can always move to have that portion of the case sealed in  
17 accordance with Part VII, Rule 3. Obviously, it would be both improper and  
18 impermissible for this Court to seal this case based upon the possibility that a  
19 “trade secret” may be filed sometime in the future. Even then, if Hamid were able  
20 to provide sufficient justification for sealing such secrets, any sealing must be  
21 limited in both scope and duration.  
22

23 Indeed, Part VII, Rule 3(6) addresses the scope and duration of an order  
24 sealing a case, or any portion thereof, and provides “[i]f the court enters an order  
25 sealing or redacting a court record, the court *shall* use the least restrictive means  
26

27 <sup>11</sup> The Defendants in this action are different than the defendants in the other  
unrelated civil action in which Hamid is named.

28 <sup>12</sup> Part VII, Rule 3(2) Access to court record while motion pending.

1 and duration.” In other words, the court must address the specific portion of the  
2 record or pleading that would otherwise merit sealing rather than sealing the case  
3 in its entirety. The Nevada Supreme Court further emphasized this requirement  
4 when it mandated that “[a] court record ***shall not be sealed*** under these rules when  
5 reasonable redaction will adequately resolve the issues before the court under  
6 subsection 4 above.”<sup>13</sup>

7  
8 Hamid has failed to adequately identify the ground(s) that would necessitate  
9 the sealing of the case, let alone any portion thereof. In addition, Hamid failed to  
10 precisely specify the documents he would like to be sealed. The reason for such  
11 failures is obvious—he lacks sufficient basis but maintains a desire to limit others  
12 from learning of his multiple disreputable wrongdoings. The Nevada Supreme  
13 Court has consistently held “[c]ourts may only seal their records or documents  
14 when the sealing is justified by identified compelling privacy or safety interests  
15 that outweigh the public interest in access to the court record.”<sup>14</sup> More  
16 importantly, “[t]his presumption favoring public access to judicial records and  
17 documents is only overcome when the party requesting the sealing of a record or  
18 document demonstrates that ‘the public right of access is outweighed by a  
19 significant competing interest.’”<sup>15</sup>

20  
21 In this case, Hamid has failed to overcome that presumption and failed  
22 provide sufficient reason—or limitation—to seal the case or any documents found  
23 within the public record and thus, his motion lacks merit and must be denied. If  
24 there ever are tax records, trade secrets, or other documentation that can justifiably

25  
26 <sup>13</sup> Part VII, Rule 3(5)(b).

27 <sup>14</sup> *Jones v. Nev. Comm’n on Judicial Discipline*, 130 Nev. Adv. Rep. 11, 318 P.3d  
1078 (2014).

28 <sup>15</sup> *Id.*; citing *Howard v. State*, 128 Nev. 736, 291 P.3d 137 (2012).

1 deny public access, then, upon proper motion, those portions, and those portions  
2 alone, must be redacted—sealing of the entire case is impermissible and improper.

3  
4 ***B. Hamid’s motion was baseless and Vitiok is entitled to an award***  
5 ***of attorney’s fees for having to respond to the factually and***  
6 ***legally deficient motion.***

7 Hamid has acted in bad faith and filed a frivolous motion wherein facts were  
8 misrepresented, Supreme Court Rules ignored, and applicable precedent  
9 disregarded. Hamid filed a baseless motion hoping to conceal his wrongdoings  
10 that have now been exposed by improperly seeking to have this Court seal this case  
11 in contravention of Supreme Court Rule Part VII. Vitiok is clearly entitled to  
12 recoup the fees that he has incurred having to respond to the baseless and  
13 inaccurate motion, and clarifying, completing, and correcting Hamid’s false claims  
14 and unsupported conclusions occasioned through the violation of the duty of  
15 candor that is owed to this Court. NRS 7.085 allows this Court to compensate  
16 Vitiok for the needless costs he has incurred responding to his meritless motion.

17 Therein, NRS 7.085 provides:

18 1. If a court finds that an attorney has:

19 (a) Filed, maintained or defended a civil action or proceeding in  
20 any court in this State and such action or defense is not well-grounded  
21 in fact or is not warranted by existing law or by an argument for  
22 changing the existing law that is made in good faith; or

23 (b) Unreasonably and vexatiously extended a civil action or  
24 proceeding before any court in this State, the court ***shall*** require the  
25 attorney personally to pay the additional costs, expenses and attorney's  
26 fees reasonably incurred because of such conduct.

27 2. The court ***shall*** liberally construe the provisions of this  
28 section in favor of awarding costs, expenses and attorney's fees in all  
appropriate situations. It is the intent of the Legislature that the court  
award costs, expenses and attorney's fees pursuant to this section and  
impose sanctions pursuant to Rule 11 of the Nevada Rules of Civil  
Procedure in all appropriate situations to punish for and deter  
frivolous or vexatious claims and defenses because such claims and

1 defenses overburden limited judicial resources, hinder the timely  
2 resolution of meritorious claims and increase the costs of engaging in  
3 business and providing professional services to the public. (Emphasis  
4 supplied).

5 Sanctions under NRCP 11 are also allowed. As noted by the Nevada  
6 Supreme Court in *Watson Rounds, P.C. v. Eighth Judicial Dist. Ct. (Himelfarb &*  
7 *Associates)*, 131 Nev. 783, 784, 358 P.3d 228, 230 (2015), NRCP 11 and NRS  
8 7.085 each represent a distinct, independent mechanism for sanctions.

9 Vitiok is also entitled to an award of attorney's fees pursuant to EDCR 7.60,  
10 and NRS 18.010. EDCR 7.60 provides in relevant part:

11 The court may, after notice and an opportunity to be heard, impose  
12 upon an attorney or a party any and all sanctions which may, under  
13 the facts of the case, be reasonable, including the imposition of fines,  
14 costs or attorney's fees when an attorney or a party without just cause:

15 (1) ***Presents to the court a motion or an opposition to a motion***  
16 ***which is obviously frivolous, unnecessary or unwarranted.***

17 (Emphasis supplied).

18 Continuing, in *Barney v. Mt. Rose Heating & Air Conditioning*, 192 P.3d  
19 730, 736 (2008) citing *Brunzell v. Golden Gate National Bank*, 85 Nev 345, 455  
20 P.2d 31 (1969), the Court enumerated factors that the district court should consider  
21 in awarding attorney fees, with no one factor controlling, as follows:

22 (1) the advocate's qualities, including ability, training,  
23 education, experience, professional standing, and skill;

24 (2) the character of the work, including its difficulty, intricacy,  
25 importance, as well as the time and skill required, the responsibility  
26 imposed, and the prominence and character of the parties when  
27 affecting the importance of the litigation;

28 (3) the work performed, including the skill, time, and attention  
29 given to the work; and

30 (4) the result--whether the attorney was successful and what  
31 benefits were derived.

32 Vitiok has met the factors outlined in *Brunzell*. Vitiok's counsel is qualified  
33 and has considerable experience, ability and training in the field of family and civil



1 litigation. It is the responsibility of Vitiok's counsel to resolve outstanding issues  
2 to ensure Vitiok's rights are preserved and the duty of candor that is owed to this  
3 Court is maintained. Vitiok's counsel was attentive to work performed.

4 Based upon the foregoing, it is not only fair, but also reasonable under the  
5 circumstances that Hamid be responsible for Vitiok's attorney fees and costs.

6  
7 **IV.**

8 **Conclusion**

9 Based upon the above, Hamid has not overcome his burden of identifying a  
10 compelling privacy or safety interests that outweigh the public interest in access to  
11 the court record. Vitiok respectfully requests the Court enter an Order:

- 12 1. Denying the relief sought by Defendant Hamid Sheikhai ("Hamid");  
13 2. Awarding Vitiok attorney's fees and costs for having to defend Hamid's  
14 baseless motion; and  
15 3. For such other and further relief as the Court deems just and equitable.  
16

17 Dated this 23<sup>rd</sup> day of March, 2020.

18 Respectfully submitted:

19  
20 /s/ Todd M. Leventhal  
21 TODD M. LEVENTHAL, ESQ.  
22 Nevada Bar No: 008543  
23 626 South Third Street  
24 Las Vegas, Nevada 89101  
25 (702) 472-8686 – office  
26 (702) 472-8685 – fax  
27 Attorney for Plaintiff,  
28 VITIOK LLC

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

2. I am the Plaintiff's attorney in the above captioned case.

I declare under penalty of perjury under the laws of the State of Nevada (NRS 53.045 and 28 U.S.C. §1746), that the foregoing is true and correct.

Executed this 23<sup>rd</sup> day of March, 2020.

/s/ Todd M. Leventhal

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

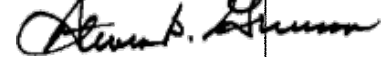
addressed to the parties below, to be served as follows:

☐ via facsimile; email and/or☐ by hand delivery to the parties listed below; and/or

■ by electronic service to all parties listed via ODYSSEY eFileN.

/s/ Emma Forte  
Employee of Leventhal and Associates,  
PLLC.

# **EXHIBIT 11**



OPPO  
TODD M. LEVENTHAL, ESQ.  
Leventhal & Associates  
Nevada Bar No: 008543  
California Bar No: 223577  
626 S. Third St.  
Las Vegas, Nevada, 89101  
(702) 472-8686 - office  
(702) 472-8685 – fax  
HOFLAND & TOMSHECK  
Bradley J. Hofland, Esq.  
Nevada Bar Number: 6343  
bradh@hoflandlaw.com  
228 South 4th Street, 1st Floor  
Las Vegas, Nevada 89101  
Telephone: (702) 895-6760  
Facsimile: (702) 731-6910  
Attorney for Plaintiff,  
*Vitiok, LLC.*

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

VITIOK, LLC., a Nevada Limited  
Liability Company,

Plaintiff,

vs.

SLC, LLC, a Nevada Limited Liability  
Company; HAMID SHEIKHAI, an  
individual; ZOHREH AMIRY  
AVARI, an individual, DOES I-X;  
and, ROE CORPORATIONS I-X,  
inclusive.

Defendants.

CASE NO.: A-19-805955-C

DEPT. NO.: 22

PLAINTIFF'S OPPOSITION TO  
DEFENDANT HAMID SHEIKHAI'S  
MOTION TO FILE AMENDED  
ANSWER AND COUNTERCLAIM  
AND COUNTERMOTION FOR  
ATTORNEY'S FEES AND COSTS.

Date of Hearing: August 25, 2020

Time of Hearing: 8:30 a.m.

ORAL ARGUMENT REQUESTED

1  
2 COMES NOW the Plaintiff, Vitiok, LLC (“Vitiok”), by and through its  
3 attorneys, TODD M. LEVENTHAL, ESQ., with Leventhal & Associates, and  
4 Bradley J. Hofland with Hofland & Tomsheck, and moves this Honorable Court  
5 for the following relief:

6 1. Denying the relief sought by Defendant ZOHREH AMIRY AVARI  
7 (“Zohreh”);

8 2. Awarding Vitiok attorney’s fees and costs for having to defend  
9 Hamid’s baseless motion; and

10 3. For such other and further relief as the Court deems just and equitable.

11 This opposition and counter motion are made and based upon all the papers  
12 and pleadings on file herein, the points and authorities submitted herewith, and any  
13 argument received by the Court when this matter is heard.  
14

15 Dated this 7<sup>th</sup> day of August, 2020.

16 Respectfully submitted:

17 /s/ Todd M. Leventhal

18 TODD M. LEVENTHAL, ESQ.

19 Nevada Bar No: 008543

20 626 South Third Street

21 Las Vegas, Nevada 89101

22 (702) 472-8686 - office

23 (702) 472-8685 - fax

24 Attorney for Plaintiff,

25 Vitiok LLC.  
26  
27  
28

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I.**

3 **Introduction**

4 As a threshold matter, Hamid recognized and conceded that leave to amend  
5 a pleading must not be given whenever there is undue delay, bad faith or a dilatory  
6 motive on the part of the movant<sup>1</sup>. The facts of this case confirm Hamid is guilty  
7 of such conduct. Thus, those very factors are fatal to the relief Hamid now seeks.  
8 Because justice does not require Hamid's Answer to be amended, his request must  
9 be summarily denied.  
10

11 **II.**

12 **Statement of Facts**

13 For purposes of this opposition, the facts are few and straightforward, and  
14 sufficiently set forth in the underlying Complaint in this matter. Notwithstanding,  
15 Hamid has used the passage of time to craft a false narrative that he now hopes will  
16 enable him to manipulate this Court and the legal system. Review of the record of  
17 this case, coupled with the facts of this case, confirms Hamid's latest endeavor  
18 lacks merit and necessitates clarification and correction.

19 As disclosed previously, Defendant Hamid Sheikhai, has a history of fraud,  
20 which resulted, among other things, in the Department of Motor Vehicles revoking  
21 his license to operate a smog repair facility<sup>2</sup>. Undeterred and unrepentant, Hamid  
22 recruited accomplices to create new entities, and with whose assistance—he can  
23 continue to defraud others. The case at hand is one of those instances.

24 By way of background, on June 1, 2014, Vitiok purchased Zip Zap Auto, an  
25 automobile repair business, from Samir LLC that was owned and operated by  
26  
27

28  

---

<sup>1</sup> Hamid's underlying motion, page 2, lines 13-15.

1 Hamid. On June 5, 2014, **Hamid** registered “Zip Zap Auto” on behalf of Vitiok as  
2 a dba of Vitiok. Thereafter, Vitiok assumed control and began operating “Zip Zap  
3 Auto” at 3230 N. Durango Road “3230 N. Durango”), Las Vegas, Nevada and  
4 Hamid no longer had any interest in, or conducted any business at or on behalf of,  
5 Zip Zap Auto.

6 On June 5, 2018, after four years of building and running the business,  
7 including the development of a stellar reputation and considerable good will,  
8 Hamid<sup>3</sup>, wrongfully and under false pretenses, evicted Vitiok from 3230 N.  
9 Durango, so that he could profit from the name and effort of Vitiok. Indeed, the  
10 following day, Hamid caused the locks on the premises to be changed, and without  
11 authority or permission, intentionally took possession and use of Vitiok’s tools,  
12 equipment, customer directory, computer data base, good will, and other assets,  
13 and began operating Vitiok’s business under the name of Zip Zap Auto at 3230 N.  
14 Durango.

15 In an attempt to conceal Hamid’s wrongful conduct, Hamid operates the day  
16 to day operations of SLC, LLC (“SLC”), a Nevada Limited Liability Company that  
17 is in the name of Hamid’s sister, defendant Zohreh Amiryavari (“Zohreh”), a  
18 licensed cosmetologist. SLC is the alter ego of Hamid and does business as Zip  
19 Zap Auto at 3230 N. Durango. The Defendants knew of Vitiok’s interest in, and  
20  
21  
22  
23

24 <sup>2</sup> Confirmed by Defendant SLS, LLC.; *see* Exhibit “1”, Responses to Request for  
25 Admissions, submitted herewith.

26 <sup>3</sup> 3230 N. Durango was placed into Stone & Stone, a Nevada Limited Liability  
27 Company, along with multiple other properties (including those owned/purchased  
28 by Victor) of which Hamid and Victor had an interest. Hamid fraudulently  
represented to Victor that he had a 90% interest in Stone & Stone. The supporting  
documentation provided by Hamid was forged and altered by Hamid. Hamid was  
the manager of Stone & Stone and caused the wrongful eviction of Vitiok.



1 entitlement to, Zip Zap Auto, and intended to harm Vitiok and gain an economic  
2 advantage in the process.

3 As the sole owner of Zip Zap Auto, Vitiok is entitled to all rights and  
4 privileges afforded it and the exclusive use of the name “Zip Zap Auto”. The  
5 defendants have conspired to defraud Vitiok. SLC, LLC as an entity solely owned  
6 by Zohreh and utilized by Zohreh and Hamid to conceal wrongdoings and evade  
7 accountability. The instant suit involves egregious fraudulent and other tortious  
8 acts committed against Vitiok, LLC. by Hamid, SLC, LLC., Zohreh Amiry Avari,  
9 and others. Significantly, the actions of Zohreh as pled in the underlying  
10 Complaint subject *her* to liability. Zohreh’s claim that her actions were solely that  
11 of a manager/member is not only disingenuous, it is also disputed by SLC, LLC.  
12 itself<sup>4</sup>.

14 It is also significant to note that Hamid has been aware of these  
15 facts/allegations long before this civil action was commenced in November of *last*  
16 year<sup>5</sup>. Significantly, the allegations Hamid now proffers in his requested  
17 amendment are inconsistent with/contrary to the position that Hamid has taken  
18 before this Court—and others<sup>6</sup>. Accordingly, aside from all the other reasons that  
19 necessitate the denial of Hamid’s motion which are detailed *infra*, Hamid is  
20 judicially estopped from now asserting a position contrary to that previously  
21 provided this Court and others.

23 <sup>4</sup> See Exhibit “2”, submitted herewith.

24 <sup>5</sup> Complaint was filed 11/22/2019.

25 <sup>6</sup> Hamid made conflicting/contrary statements in this case with his Opposition to  
26 Plaintiff’s Motion for Preliminary Injunction (12/16/2019) and Motion to  
27 Consolidate Cases (1/03/2020) in this matter, as well as in Civil Case number A-  
28 19-890513-P; Family Court matter D-18-575686-L; and before the Ninth Judicial  
District Court in Case number 18-DI-0087.

1 As detailed *infra*, Hamid’s motion should be denied in its entirety.

2 **III.**

3 **Legal Argument**

4 ***A. There are compelling reasons that require the denial of Hamid’s***  
5 ***motion to file an amended answer.***

6 Although NRCP states that a “court should freely give leave when justice so  
7 requires,” the right to amend under Rule 15 is not an absolute right—if that were  
8 the case, leave of court would not be required at all<sup>7</sup>. As shown *infra*, justice does  
9 not require, nor warrant, the amendment(s) requested by Hamid.

10 **1. Hamid is guilty of Undue Delay, Bad Faith, and Dilatory Motive.**

11 Hamid is unable to adequately explain why he waited until now, long after  
12 such an option to amend a pleading is available as a matter of course<sup>8</sup> to ask to  
13 amend his Answer. While Hamid shamelessly endeavors to mislead this Court by  
14 *suggesting* his delay was the result of “[c]ontinuing discovery and investigation”<sup>9</sup>  
15 the facts of this case, coupled with Hamid’s own admissions, prove otherwise!

16 Indeed, review of the narrative that Hamid has now created as part of his  
17 proposed pleading will demonstrate that it is contrary and conflicts with the earlier  
18 affirmative representations that Hamid made to this Court—and others<sup>10</sup>. More  
19 importantly, Hamid admits he was aware of the factual allegations (he now  
20 includes in his proposed amended answer) *in June of 2018*<sup>11</sup>; but he did nothing.  
21  
22

23  
24 

---

<sup>7</sup> See *Stephens v. Southern Nevada Music Co.*, 89 Nev. 104, 507 P.2d 138 (1973).

25 <sup>8</sup> NRCP 15.

26 <sup>9</sup> See Hamid’s underlying motion, page 2, line 5.

27 <sup>10</sup> See fn. 6, *supra*.

28 <sup>11</sup> See narrative provided in Hamid’s opposition to preliminary injunction  
(12/16/2019) (same narrative was provided to three other courts); *see also* narrative  
set forth in Hamid’s proposed amended answer.

1 The pleadings Hamid has already filed with this Court, in 2019, confirms he  
2 knew of such “facts” *in 2018*—and did nothing, and likewise did nothing *in 2019*.  
3 Despite knowing of the “facts” he, he asked this Court for enlargement of time to  
4 serve Plaintiff<sup>12</sup>. Hamid eventually prepared his answer and filed it on *December*  
5 *31, 2019*. Significantly, Hamid did not file a counterclaim against Plaintiff, nor did  
6 he move to add any parties to this litigation. Because the facts giving rise to the  
7 proposed amendments have been known to Hamid when he filed his answer, there  
8 is no good cause for his delay<sup>13</sup>.  
9

10 In fact, Plaintiff maintained the civil suits in which Hamid was a named  
11 defendant involved “the same issues, parties, and entities” and “the issues in  
12 controversy are directly related to Hamid and Victor’s respective claims in the  
13 annulment case.”<sup>14</sup> Despite lack of merit, Hamid could have amended his pleading  
14 once as a matter of course<sup>15</sup>—yet Hamid failed to do so. Notably, Hamid did  
15 nothing for the next eight (8) months.

16 It was only *after* discovery was conducted, *after* the Joint Case Conference  
17 Report and Amended Joint Case Conference Report had been filed<sup>16</sup>; *after* this  
18 Court entered its Order scheduling its mandatory Rule 16, conference, and *after*  
19 Plaintiff rejected Hamid’s settlement offer, did Hamid decide to change tactics by  
20 seeking to amend his answer, file baseless cross claims and counterclaims, and  
21

22 <sup>12</sup> Said motion was filed on 12/16/2019.

23 <sup>13</sup> See *Cerevantes v. Zimmerman*, 2019 U.S. Dist. LEXIS 39789 (2019); see also  
24 *Perfect Pearl Co. v. Majestic Pearl & Stone, Inc.*, 889 F. Supp. 2d 453 (2012) (“A  
25 party fails to show good cause when the proposed amendment rests on information  
26 that the party knew, or should have known...”; *Johnson v. Mammoth Recreations,*  
27 *Inc.*, 975 F.2d 604, 609 (9<sup>th</sup> Cir. 1992) (“carelessness is not compatible with a  
finding of diligence and offers no reason for a grant of relief.”))

28 <sup>14</sup> See e.g., Hamid’s motion to consolidate, filed 1/3/2020, page 2.

<sup>15</sup> NRCP 15(a).

<sup>16</sup> 05/26/2020 and 07/09/2020, respectively.

1 increase the parties to this litigation. Without doubt, Hamid is guilty of undue  
2 delay, bad faith, and has dilatory motives.

3 **2. Plaintiff will be prejudiced with the proposed amendment.**

4 Courts have held Amendment should *not* be allowed when doing so would  
5 delay the litigation or “expand [] the allegations beyond the scope of the initial  
6 complaint.”<sup>17</sup> In the case at bar, Plaintiff will unquestionably be prejudiced if  
7 Hamid is granted the leave he now seeks, as the proposed pleading clearly and  
8 drastically “expand[s] the allegations” at issue in this matter beyond the scope of  
9 the underlying pleadings—and beyond the very scope repeated by Hamid.  
10

11 In turn, with new issues and new parties, there will be considerable delay in  
12 the resolution of Plaintiff’s suit<sup>18</sup>. Further, if Hamid’s motion is granted, Plaintiff  
13 will have to incur the cost of retaining an expert, as well as the considerable cost  
14 that will result with the expanded discovery needed to explore the new parties and  
15 claims, which include “trade secrets”.

16 Hamid now seeks to add no less than six (6) additional parties (to this suit  
17 that he previously represented to this Court under penalty of perjury involved “the  
18 same issues, parties, and entities” and “the issues in controversy are directly related  
19 to Hamid and Victor’s respective claims in the annulment case.”) and nine (9) new  
20 and unrelated causes of action—not to mention the additional depth, diversity, and  
21 complexity of the issues and parties if Hamid’s motion is granted and each  
22 additional party files their cross and counter claims.  
23

24 Plaintiff’s prejudice is irrefutable. Hamid’s latest maneuver will necessarily  
25 extend the discovery that has now be ordered by this Court to be completed by  
26 December 7, 2020; it will also delay and remove the trial from the five-week stack  
27

---

28 <sup>17</sup> See *Lover v. District of Columbia*, 248 F.R.D. 319 (2008) (citing *Parish v. Frazier*, 195 F.3d 761(1999)).

1 commencing March 15, 2021 that has been scheduled by this Court; it will result in  
2 tremendous additional (and unnecessary) expense; and will include matters, issues,  
3 and claims, that Hamid has admittedly have nothing to do with the underlying suit.  
4 Hamid's motion is brought in bad faith and must be denied.

5 **3. Hamid's motion is not only filed in bad faith, it is sanctionable.**

6 Further, it is well-established that amendment should not be permitted if it  
7 would be futile—i.e., if the amended pleading would not survive a motion to  
8 dismiss<sup>19</sup>. A motion to amend should also be denied if it would serve to waste the  
9 Court's valuable time and resources.

10 To survive a motion to dismiss pursuant to Rule 12(b)(5), a complaint "must  
11 contain sufficient factual matter, accepted as true, to 'state a claim to relief that is  
12 plausible on its face.'"<sup>20</sup> However, as detailed herein, Hamid violates the duty of  
13 candor that is owed this Court and presents not only false and unfounded claims  
14 for relief, but ones in which he lacks standing to maintain.

15 Hamid freely and carelessly claims to be the owner of everything and  
16 ignores the legal reality that entities are afforded their own identity and standing.  
17 The evidence in this case, including documents filed with the Secretary of State,  
18 show that SLC, LLC. owned and did business under the name of "Zip Zap Auto".  
19  
20  
21  
22  
23

24 <sup>18</sup> See *Lover*, 248 F.R.D. at 322.

25 <sup>19</sup> See *In re Interbank Funding Corp. Secs. Litig.*, 629 F.3d 213, 218 (D.C. Cir.  
26 2010) ("[A] district court may properly deny a motion to amend if the amended  
27 pleading would not survive a motion to dismiss."); *Allum v. Valley Bank*, 109 Nev.  
28 280, 849 P.2d 297 (1993); see also *Halcrow Inc. v. Eighth Judicial Dist. Court*,  
129 Nev. 394, 302 P.3d 1148 (2013).

<sup>20</sup> *Ashcroft v. Iqbal*, 556 U.S. 662, 129 S. Ct. 1937, 1949 (2009) (quoting *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007)).

1 While Hamid now claims he owns 100% of SLC, LLC., the evidence proves  
2 otherwise<sup>21</sup>.

3 SLC, LLC. did business under the name of “Zip Zap Auto”, and thus “Zip  
4 Zap Auto” is given its own identity<sup>22</sup>. The “facts” now presented by Hamid clearly  
5 states the equipment, goods, “the computer and hard drive containing Zip Zap  
6 Auto’s customer list and other trade secrets”, were taken from Zip Zap Auto.  
7 Accordingly, as a threshold matter, any claim for relief for the violation of uniform  
8 trade secrets (the First Claim For Relief set forth in Hamid’s proposed amended  
9 pleading) must necessarily be brought by Zip Zap Auto or SLC, LLC—not Hamid.  
10

11 Additionally, it must be remembered that Zip Zap Auto is simply an  
12 automobile repair shop—there are no trade secrets<sup>23</sup>, and despite Hamid’s claim,  
13 he is unable to identify such existence. Moreover, the Nevada Supreme Court has  
14 already determined that a customer list is *not* a trade secret<sup>24</sup>. Hence, Hamid not  
15

16  
17 <sup>21</sup> See Exhibit “3” submitted herewith; showing Hamid’s sister, Zohreh Amiryavari  
18 has 100% interest in all profits and losses.

19 <sup>22</sup> See *Canarelli v. Eighth Judicial Dist. Court of Nev.*, 127 Nev. 808, 265 P.3d 673  
20 (2011); *LFC Mktg. Group, Inc., v. Loomis*, 116 Nev. 896, 8 P.3d 841 (2000);  
21 *Richard Matthews, Jr., Inc. v. Vaughn*, 91 Nev. 583, 540 P.2d 1062 (1975).

22 <sup>23</sup> As defined by NRS 600A.030(5), a trade secret:

23 Means information, including, without limitation, a formula, pattern,  
24 compilation, program, device, method, technique, product, system,  
25 process, design, prototype, procedure, computer programming  
26 instruction or code that:

- 27 (1) Derives independent economic value, actual or potential, from not  
28 being generally known to, and not being readily ascertainable by  
proper means by the public or any other persons who can obtain  
commercial or economic value from its disclosure or use; and  
(2) Is the subject of efforts that are reasonable under the  
circumstances to maintain its secrecy.

<sup>24</sup> See *Finkel v. Cashman Prof’l, Inc.*, 128 Nev. 68, 270 P.3d 1259 (2012).

1 only lacks standing to raise such a claim, the facts he alleges fail to state a claim  
2 upon which he can seek relief from.

3 Hamid's second proposed claim for relief (false light, disparagement,  
4 defamation, defamation per se) also pertains to alleged statements pertaining to Zip  
5 Zap Auto—the entity that must assert its own claims, and are thus improperly  
6 asserted by Hamid. Hamid improperly seeks relief through this claim for relief.

7 The third proposed claim is one of intentional interference with prospective  
8 economic advantage. The Nevada Supreme Court has held that for the tort of  
9 intentional for the tort interference with prospective economic advantage the  
10 following elements must be proved: (1) a prospective contractual relationship between  
11 the plaintiff and a third party; (2) knowledge by the defendant of  
12 the prospective relationship; (3) intent to harm the plaintiff by preventing the  
13 relationship; (4) the absence of privilege or justification by the defendant; and, (5)  
14 actual harm to the plaintiff as a result of the defendant's conduct<sup>25</sup>.

15 In this case, it is significant to note Hamid cannot present a contractual  
16 relationship between him and a third party. Neither SLC, LLC, nor Zip Zap Auto  
17 have entered into any contractual relations with Hamid, and thus, the absence of,  
18 and Hamid's inability to prove, the first element<sup>26</sup> (as well as the other elements) is  
19 fatal to the relief that he asks of this Court. Hamid improperly seeks relief through  
20 this claim for relief.  
21  
22  
23  
24  
25

26 <sup>25</sup> *Wichinsky v. Mosa*, 109 Nev. 84, 847 P.2d 727 (1993).

27 <sup>26</sup> Of course, the absence of such prospective contractual relationship likewise  
28 precludes the finding that Plaintiff (or others) knew of "the prospective  
relationship", and the corresponding "intent to harm" by preventing the  
relationship.

1 The fourth claim for relief that Hamid presents is on of civil conspiracy.  
2 However, as with the above claims, Hamid fails to recognize Zip Zap’s property  
3 and customers do not belong to him. Hamid does not have customers, and the  
4 alleged wrongdoings, pertain to Zip Zap Auto—not Hamid. Hamid improperly  
5 seeks relief through this claim for relief.

6 Continuing, Hamid’s fifth claim for relief is for conversion/trespass to  
7 chattel. However, as noted above, Hamid admits the property belonged to Zip Zap  
8 Auto. The evidence proves the property was not owed by Hamid. Therefore,  
9 Hamid lacks the ability to pursue such a claim on behalf of Zip Zap Auto or SLC,  
10 LLC. Notably, SLC has not sought such relief. Hamid improperly seeks relief  
11 through this claim for relief.

12 Hamid’s sixth “cause of action” is captioned “Restitution for Tax Liens”.  
13 As a threshold matter, restitution is not an independently recognized cause of  
14 action. Secondly, Hamid does *not* disclose whether the lien(s) were assessed  
15 against Zip Zap Auto—which would establish whether Hamid even has standing to  
16 pursue such course of action. Also, *if* the lien was truly filed against “Botnari  
17 and/or Vitiok” as claimed by Hamid<sup>27</sup>, Hamid would have no responsibility for the  
18 subject tax lien(s); the fact Hamid further admits that *he* paid the tax lien *without*  
19 objection and *without* contesting personal liability calls into question his veracity.  
20 Notwithstanding, by Hamid’s own admissions, Hamid has waived any such claim  
21 (assuming there is such a recognized claim) and is estopped from seeking  
22 restitution. Hamid improperly seeks relief through this claim for relief.

23 The seventh “cause of action” is captioned “Abuse of Process”. Once again,  
24 Hamid references the two civil matters (including the case at bar) in which he is a  
25 named defendant and again states they are an “attempt to litigate the same issues,  
26  
27  
28

---

<sup>27</sup> Hamid’s proposed amendment, page 18, lines 19-20.



1 parties, and entities in controversy in the family court case....”<sup>28</sup> However, his  
2 proposed amendment refutes his claim. Also, Hamid conceals the fact that this  
3 Court, and the others, have found his claims to lack merit and have denied his  
4 requests to consolidate.

5 Moreover, in order to establish a tortious abuse of process claim, it would be  
6 necessary for Hamid to prove (1) an ulterior purpose by the defendants other than  
7 resolving a legal dispute, and (2) a willful act in the use of the legal process not  
8 proper in the regular conduct of the proceeding<sup>29</sup>. Courts have held the “mere  
9 filing of the complaint is insufficient to establish the tort of abuse of process”<sup>30</sup>, as  
10 well as noting there is “no liability where the defendant has done nothing more  
11 than carry out the process to its authorized conclusion.”<sup>31</sup>

12 In this case, contrary to Hamid’s representations, multiple courts have  
13 already determined that the civil suits are unrelated to the family court matter and  
14 should not be consolidated. Hamid has not only failed to sufficiently state a claim  
15 upon which relief can be granted, Victor initiated suit solely because of Hamid’s  
16 fraud and wrongdoings—and based upon his ongoing conduct and refusal to  
17 compensate Plaintiff for the damage Hamid caused, litigation is not only  
18 reasonable, it is necessary. Hamid improperly seeks relief through this claim for  
19 relief.  
20

21 The Eighth cause of action set forth in Hamid’s proposed amendment is  
22 breach of the implied covenant of good faith and fair dealing pertaining to the  
23 promissory note Hamid prepared and executed for Victor—*not* Plaintiff.  
24

25  
26  
27 <sup>28</sup> Hamid’s underlying proposed amendment, page 20, lines 2-3.

28 <sup>29</sup> *Lamantia v. Redisi*, 118 Nev. 27, 38 P.3d 877 (2002).

<sup>30</sup> *Laxalt v. McClatchy*, 622 F. Supp. 737 (1985)

<sup>31</sup> Prosser on Torts, Abuse of Process §115, p. 877 (3<sup>rd</sup> ed. 1964).

1 Initially it is significant to note Hamid has argued to other courts the  
2 promissory note he prepared is *invalid*—he cannot assert a contrary position in this  
3 action<sup>32</sup>. Indeed, Hamid is judicially estopped from asserting such a claim, and the  
4 denial of Hamid’s motion protects the judiciary’s integrity<sup>33</sup>.

5 Moreover, Hamid conceals from the Court the fact that he has breached the  
6 terms of the promissory note by failing to make the payments provided for therein,  
7 and continues to violate the payment terms even after the Family Court denied his  
8 request to suspend such payments. In addition from being estopped from bringing  
9 such a claim, Hamid also has unclean hands, which further prevents him from  
10 seeking such relief<sup>34</sup>. Hamid improperly seeks relief through this claim for relief.

11 Lastly, Hamid’s final cause of action is captioned attorney’s fees and costs.  
12 However, Hamid’s claim and expected recovery is misplaced and disallowed by  
13 law. Indeed, the authority referenced by Hamid lends no support for his  
14 undertaking—the final cause of action cannot stand.

15 In *Liu v. Christopher Homes*<sup>35</sup>, the Nevada Supreme Court expressly  
16 distinguished the other case cited by Hamid, to wit: *Sandy Valley Assoc. v. Sky*  
17 *Ranch Estates Owners Ass’n*<sup>36</sup>, 117 Nev. 948 35 P.3d 964 (2001) as pertaining to  
18 slander of title, special damages and actions to clarify or remove a cloud on title to  
19 real property. This clearly is not such a case. Continuing, the *Liu* Court held:  
20

21 a party to a contract may recover from a breaching party the attorney  
22 fees that arise from the breach that caused the former party to accrue  
23 attorney fees in defending himself or herself against a third party's  
24 legal action.

25  
26 <sup>32</sup> See e.g. *NOLM, L.L.C. v. Cnty. Of Clark*, 120 Nev. 736, 100 P.3d 658 (2004).

27 <sup>33</sup> *Id.*

28 <sup>34</sup> See *Truck Ins. Exch. v. Swanson*, 124 Nev. 629, 189 P.3d 656 (2008).

<sup>35</sup> 130 Nev. 147, 321 P.3d 875 (2014).

<sup>36</sup> 117 Nev. 948, 35 P.3d 964 (2001).

1 Clearly, Hamid lacks a factual and legal basis to assert such a claim. Hamid  
2 improperly seeks relief through this claim for relief.

3 ***B. Hamid's motion was baseless and Vitiok is entitled to an award***  
4 ***of attorney's fees for having to respond to the factually and***  
5 ***legally deficient motion.***

6 Hamid has acted in bad faith and filed a frivolous motion wherein facts were  
7 misrepresented, the law misstated, and the Court was deliberately misled. Hamid  
8 filed a baseless motion and Vitiok is clearly entitled to recoup the fees that it has  
9 incurred having to respond to the baseless and inaccurate motion, for clarifying,  
10 completing, and correcting Hamid's false claims and unsupported conclusions  
11 occasioned through the violation of the duty of candor that is owed to this Court,  
12 and correcting Hamid's misstatements of law.

13  
14 NRS 7.085 allows this Court to compensate Vitiok for the needless costs he  
15 has incurred responding to his meritless motion.

16 Therein, NRS 7.085 provides:

17 1. If a court finds that an attorney has:

18 (a) Filed, maintained or defended a civil action or proceeding in  
19 any court in this State and such action or defense is not well-grounded  
20 in fact or is not warranted by existing law or by an argument for  
changing the existing law that is made in good faith; or

21 (b) Unreasonably and vexatiously extended a civil action or  
22 proceeding before any court in this State, the court ***shall*** require the  
23 attorney personally to pay the additional costs, expenses and attorney's  
fees reasonably incurred because of such conduct.

24 2. The court ***shall*** liberally construe the provisions of this  
25 section in favor of awarding costs, expenses and attorney's fees in all  
26 appropriate situations. It is the intent of the Legislature that the court  
27 award costs, expenses and attorney's fees pursuant to this section and  
28 impose sanctions pursuant to Rule 11 of the Nevada Rules of Civil  
Procedure in all appropriate situations to punish for and deter  
frivolous or vexatious claims and defenses because such claims and  
defenses overburden limited judicial resources, hinder the timely

1 resolution of meritorious claims and increase the costs of engaging in  
2 business and providing professional services to the public. (Emphasis  
3 supplied).

4 Sanctions under NRCP 11 are also allowed. As noted by the Nevada  
5 Supreme Court in *Watson Rounds, P.C. v. Eighth Judicial Dist. Ct. (Himelfarb &*  
6 *Associates)*, 131 Nev. 783, 784, 358 P.3d 228, 230 (2015), NRCP 11 and NRS  
7 7.085 each represent a distinct, independent mechanism for sanctions.

8 Vitiok is also entitled to an award of attorney's fees pursuant to EDCR 7.60,  
9 and NRS 18.010. EDCR 7.60 provides in relevant part:

10 The court may, after notice and an opportunity to be heard, impose  
11 upon an attorney or a party any and all sanctions which may, under  
12 the facts of the case, be reasonable, including the imposition of fines,  
13 costs or attorney's fees when an attorney or a party without just cause:  
14 (1) ***Presents to the court a motion or an opposition to a motion***  
15 ***which is obviously frivolous, unnecessary or unwarranted.***  
16 (Emphasis supplied).

17 Continuing, in *Barney v. Mt. Rose Heating & Air Conditioning*, 192 P.3d  
18 730, 736 (2008) citing *Brunzell v. Golden Gate National Bank*, 85 Nev 345, 455  
19 P.2d 31 (1969), the Court enumerated factors that the district court should consider  
20 in awarding attorney fees, with no one factor controlling, as follows:

- 21 (1) the advocate's qualities, including ability, training,  
22 education, experience, professional standing, and skill;
- 23 (2) the character of the work, including its difficulty, intricacy,  
24 importance, as well as the time and skill required, the responsibility  
25 imposed, and the prominence and character of the parties when  
26 affecting the importance of the litigation;
- 27 (3) the work performed, including the skill, time, and attention  
28 given to the work; and
- (4) the result--whether the attorney was successful and what  
benefits were derived.

Vitiok has met the factors outlined in *Brunzell*. Vitiok's counsel is qualified  
and has considerable experience, ability and training in the field of family and civil

1 litigation. It is the responsibility of Vitiok's counsel to resolve outstanding issues  
2 to ensure Vitiok's rights are preserved and the duty of candor that is owed to this  
3 Court is maintained. Vitiok's counsel was attentive to work performed.

4 Based upon the foregoing, it is not only fair, but also reasonable under the  
5 circumstances that Hamid be responsible for Vitiok's attorney fees and costs.

#### 6 IV.

#### 7 Conclusion

8 Hamid has known about his factual allegations, based upon his admissions,  
9 since June of 2018. Moreover, Hamid disclosed his narrative (containing such  
10 factual allegations to this Court in 2019. Nevertheless, Hamid did not file a  
11 counter or cross claim, nor did he file an amendment when he could have as a  
12 matter of course.

13 Instead, only after joint case conferences were prepared and the Court issued  
14 its Order scheduling its mandatory Rule 16, conference, and *after* Plaintiff  
15 rejected Hamid's settlement offer, did Hamid decide to change tactics by seeking  
16 to amend his answer, to file baseless cross claims and counterclaims, and to  
17 increase the parties and issues to this litigation. Without doubt, Hamid is guilty of  
18 undue delay, bad faith, and has dilatory motives.

19 Also, not only will Plaintiff be prejudiced, given the nature of the  
20 amendment, *as noted supra*, this Court should disallow it. Based upon the above,  
21 Hamid has not overcome his burden. Vitiok respectfully requests the Court enter  
22 an Order:  
23

24 1. Denying the relief sought by Defendant;

25 ///  
26 ///  
27 ///  
28 ///

- 1 2. Awarding Vitiok attorney's fees and costs for having to defend Hamid's  
2 baseless motion; and  
3 3. For such other and further relief as the Court deems just and equitable.  
4

5 Dated this 7<sup>th</sup> day of August, 2020.

6 Respectfully submitted:

7 /s/ Todd M. Leventhal  
8 TODD M. LEVENTHAL, ESQ.  
9 Nevada Bar No: 008543  
10 626 South Third Street  
11 Las Vegas, Nevada 89101  
12 (702) 472-8686 – office  
13 (702) 472-8685 – fax  
14 Attorney for Plaintiff,  
15 VITIOK LLC  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

- 11 I declare under penalty of perjury under the laws of the State of Nevada (NRS  
12 53.045 and 28 U.S.C. §1746), that the foregoing is true and correct.  
13 Executed this 7<sup>th</sup> day of August, 2020.

14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1  
2  
3  
4  
5  
6  
7  
8  
9  
0  
1  
2  
3  
4  
5  
6  
7  
8  
9  
0  
1  
2  
3  
4  
5  
6  
7  
8

*Via E-Service*  
 Marshal S. Willick, Esq.  
[email@willicklawgroup.com](mailto:email@willicklawgroup.com)  
 Lorien K. Cole, Esq.  
[lorien@willicklawgroup.com](mailto:lorien@willicklawgroup.com)  
 Mallory Yeargan  
[mallory@willicklawgroup.com](mailto:mallory@willicklawgroup.com)  
**WILLICK LAW GROUP**  
 3591 E. Bonanza Road, Suite 200  
 Las Vegas, NV 89110-2101  
*Attorneys for Defendant Hamid Sheikhai*

Via E-Service  
Michael B. Lee, Esq.  
mike@mblnv.com  
1820 E. Sahara Avenue, Suite 110  
Las Vegas, NV 89104  
*Attorneys for Defendants SLC, LLC and Zohreh Amiryavari*

By: s Nikki Woulfe  
An Employee of Leventhal & Associates



# EXHIBIT “1”

1 **REQUEST FOR ADMISSION NO. 3:** Admit that in 2013, the Nevada Department of Motor  
2 Vehicles issued a directive prohibiting Hamid from operating a smog repair facility.

3 **RESPONSE TO REQUEST FOR ADMISSION NO. 3:** Objection. The term “directive” is  
4 vague. Subject to this objection, the Nevada Department of Motor Vehicles revoked his license  
5 to operate a smog repair facility. As discovery is still continuing, Defendant retains its right to  
6 supplement this request.  
7

8 **REQUEST FOR ADMISSION NO. 4:** Admit that Hamid operates and/or oversees the day to day  
9 operations of SLC.

10 **RESPONSE TO REQUEST FOR ADMISSION NO. 4:** Admit. As discovery is still  
11 continuing, Defendant retains its right to supplement this request.  
12

13 **REQUEST FOR ADMISSION NO. 5:** Admit that Hamid operated and/or oversaw the day to day  
14 operations of Zip Zap Auto after June of 2018.

15 **RESPONSE TO REQUEST FOR ADMISSION NO. 5:** Admit. As discovery is still continuing,  
16 Defendant retains its right to supplement this request.

17 **REQUEST FOR ADMISSION NO. 6:** Admit that Hamid currently operates and/or oversees the  
18 day to day operations of Zip Zap Auto.

19 **RESPONSE TO REQUEST FOR ADMISSION NO. 6:** Admit. As discovery is still continuing,  
20 Defendant retains its right to supplement this request.  
21

22 **REQUEST FOR ADMISSION NO. 7:** Admit that you are Hamid’s alter ego.

23 **RESPONSE TO REQUEST FOR ADMISSION NO. 7:** Deny. As discovery is still continuing,  
24 Defendant retains its right to supplement this request.

25 **REQUEST FOR ADMISSION NO. 8:** Admit that on June 1, 2014, Vitiok purchased Zip Zap  
26 Auto business and its assets from Samir LLC.  
27  
28

# EXHIBIT “2”

1 **RESP**

2 Jacob A. Reynolds (10199)  
3 Christian M. Orme (10175)  
4 HUTCHISON & STEFFEN, PLLC  
5 10080 West Alta Drive, Suite 200  
6 Las Vegas, NV 89145  
7 Tel: (702) 385-2500  
8 Fax: (702) 385-2086  
9 [jreynolds@hutchlegal.com](mailto:jreynolds@hutchlegal.com)  
10 [corne@hutchlegal.com](mailto:corne@hutchlegal.com)

11 *Attorneys for Defendant SLC, LLC*

12 **DISTRICT COURT**

13 **CLARK COUNTY, NEVADA**

14 VITIOK, LLC, a Nevada Limited Liability  
15 Company,

16 Plaintiff,

17 v.

18 SLC, LLC, a Nevada Limited Liability  
19 Company; HAMID SHEIKHAI, an individual;  
20 ZOHREH AMIRYAVARI, an individual, and  
21 DOES I through X and ROE  
22 CORPORATIONS I through X, inclusive,

23 Defendants

Case No. A-19-805955-C  
Dept No. 22

24 **DEFENDANT SLC, LLC'S RESPONSES TO  
25 PLAINTIFF'S FIRST REQUEST FOR ADMISSIONS**

26 Pursuant to NRCP 36, Defendant SLC, LLC responds to Plaintiff's First Requests for

27 Admissions as follows:

28 **REQUEST FOR ADMISSION NO. 1:** Admit that Hamid is a member of SLC.

**RESPONSE TO REQUEST FOR ADMISSION NO. 1:** Deny. As discovery is still continuing,  
Defendant retains its right to supplement this request.

**REQUEST FOR ADMISSION NO. 2:** Admit that Zohreh is a manager of SLC.

**RESPONSE TO REQUEST FOR ADMISSION NO. 2:** Deny. As discovery is still continuing,  
Defendant retains its right to supplement this request.

# EXHIBIT “3”

## Operating Agreement - SLC LLC

v1 — APPROVED by all members on Oct 26, 2018 09:01:05 AM PDT

### Roles

Zohreh Amiryavari, Managing Member

### Notice:

If this Operating Agreement conflicts with any provision contained in the Articles of Organization, then the Articles of Organization shall control.

### Limitation(s) of Member Roles

None

### Business Plan

Acquire automotive repair facilities, secure a lease, equip it, provide the necessary identity and marketing, retain the services of a competent manager to staff it and run it profitably.

### Company Attributes

Nevada Business Id: NV20161240529

Term : Perpetual

Company Managed by: Members

### Business Purpose

Manage / Operate automotive repair facilities directly or through agreements with individuals / managers.

### Contributions

Zohreh Amiryavari

Monetary Contribution: \$100,000.00

### Profit and Loss

Profit Allocation		Loss Allocation	
100%	Zohreh Amiryavari	100%	Zohreh Amiryavari
100%	Total	100%	Total

### Duties and Liabilities

#### Member's personal liability for company debts or liabilities:

No member or manager is individually liable for the debts or liabilities of the LLC unless otherwise provided in the Articles of Organization or in an agreement signed by the manager or member to be charged. If such an agreement exists, it is referenced here.

Members are not individually or personally liable in any manner for the activities of the LLC.

#### Member's Duty to LLC/Member(s)/Manager(s):

The members shall each have authority to manage the LLC. Any limitation on the member's authority should be stated here:

None

#### Time Devoted

Members are not required to devote substantially all their time to the LLC.

#### Other Business

Members may have other competing business interests.

#### Member May Compete or Have Other Interests

STONE 001719

RFJN ISO Opposition to Countermotion -188

ROA000614

Nevada law allows Managers and Members to have other business interests. You may choose to restrict that right.

None

### **Breach of Fiduciary Duty**

No member or manager is liable to another member, manager or to the LLC for Breach of Fiduciary Duty, if their actions were taken "in good faith."

None

### **Financial Records and Capital Accounts**

The LLC will keep financial records in accordance with the generally accepted accounting principles applicable to LLCs established in the United States, including the designation of individual capital accounts. Responsibility for the oversight of the preparation and maintenance of these records will be designated as a role for one or more of the members, listed below:

Zohreh Amiryavari

### **Decisions and Use of this Software and Website**

Except as otherwise expressly provided in this agreement, all decisions relating to the management of the LLC will require the unanimous consent of the members of the LLC.

Except as set out below, all decisions and other actions to be taken by the members will be done through the medium of this website in accordance with its procedures for proposing and acting upon a decision.

None

Should the Nevada Secretary of State digital operating agreement website become temporarily or permanently dysfunctional or unavailable to one or more of the members, then other means of communication authorized under Nevada Law will be permitted for use by the members to take actions until the website shall again become functional and available to all members, and the latest recorded version of the Operating Agreement shall be the Members' operating agreement.

### **Final Form of Operating Agreement**

The members agree that the version available on this website will be the version of the operating agreement that will be relied upon by all members and managers as the final, binding expression of their operating agreement. The Nevada Secretary of State does not accept responsibility for any failure to maintain this website.

### **Withdrawal and Transfer of Interest**

A member may withdraw from the LLC only with the unanimous approval of the other members.

#### **Voluntary Withdrawal**

An existing member may propose a voluntary withdrawal from the LLC, which requires the approval of all of the other existing members to be effective.

A Voluntary Withdrawal will constitute a surrender of the interest back to the LLC.

#### **Involuntary withdrawal (expulsion)**

Any member of the LLC may propose the involuntary removal of another member. The proposal should describe the reasons for the proposal, including the specific lapses of the member whose removal is proposed. As with other decisions, the members, including the member whose removal is proposed, will have the opportunity to exchange their views on the matter and to vote on the removal. Because of the nature of this proposal, the requirement for unanimity will not include the member whose removal is being considered, and such person will not have a vote on this matter. This procedure is not available if the LLC has fewer than three members. If, within 30 days the proposal is accepted by all of the members other than the member in question, the member whose removal has been approved will cease to be a member of the LLC.

In the event of an involuntary withdrawal, the withdrawing member shall be entitled to the fair market value of the withdrawing member's membership interest, less any debt owed by such member to the LLC, paid by the LLC within 30 days after the notice to the member.

#### **Transfer of Interest Through Sale**

Transfer of the interest can also be made by a sale of the interest, either to a current member or to a potential new member.

Information about that proposed transfer will be provided to all of the members by the proposer, along with the terms of the transfer. The share of the transferring member will be allocated to the person(s) acquiring the membership interest. Once the proposed terms are set out, the decision whether or not to approve the transfer will be circulated for comment and decision.

If the proposal calls for a transfer to a new member and it is approved, then the new member will be invited to join, by signing up for the Nevada LLC Digital Operating Agreement service, and by accepting the invitation and the terms approved by the members. Once accepted, the new member becomes a "substituted member" and will have all of the rights, powers,

STONE 001720

RFJN ISO Opposition to Counter-motion -189

ROA000615

restrictions, and liabilities of the transferor.

If the transfer to a new member and has not been approved, then the transferee has no right to participate in the management or affairs of the company and is only entitled to receive the transferor's share of profits, compensation, or return of contributions. The transferor in this case is not released from any liability to the company.

#### **Death or Disability of a Member**

The members agree that there will be an automatic repurchase of a member's interest on the following terms when that member suffers death or disability:

The member whose death, disability or bankruptcy has been approved will cease to be a member of the LLC. The personal representative of the deceased or disabled member shall be entitled to receive a payment, in a reasonable time, from the LLC in an amount equal to the fair market value of his/her interest, less any damages caused to the business of the LLC by failures of such member to make agreed contributions of money, property, or services or by some other breach of duties to the LLC. The shares of the profit and loss of the member being bought out will be allocated among the remaining members in proportion to their then current membership interests.

#### **Amendments to the Operating Agreement or to the Articles of Organization**

A member may propose an amendment to the Operating Agreement or to the Articles of Organization, which will require unanimous approval of the members to take effect. An agreement through this medium to change the Articles only authorizes the amendment to the Articles to be filed with the agreed change. The Amendment to the Articles of Organization will still need to be filed with the Secretary of State's office to become effective.

#### **Distributions**

No member or transferee of a member's interest has a right to demand or receive a distribution in any form other than cash, without the approval of a majority of the members.

#### **Indemnification**

Although the statute allows the Operating Agreement to specify the terms under which a decision is made to indemnify a member, manager, employee or agent, this Digital format allows such a decision to be made only by a unanimous vote of the members, not including a member to be indemnified. Likewise, the decision to advance the payments or pay the expenses as incurred related to the indemnification will be made in the same manner.

#### **Member's Right to Obtain and Manager's Right to Examine Records**

All members have a right to obtain and copy records of the LLC upon reasonable request, during normal business hours, at the requesting member's expense.

#### **Approval of Interested Transactions**

Any transaction between a member or members and the LLC is prohibited unless a decision is approved by all of the disinterested Members after full disclosure of all material facts.

#### **Authority to Deal with Third Parties**

Each of the members of the LLC will have full authority to act on behalf of the LLC, and to bind it legally, in its dealings with all third parties.

#### **Dissolution and Winding Up**

The death, retirement, resignation, expulsion, bankruptcy, dissolution or disassociation of a member does not itself cause the dissolution and wind-up of the LLC. Any member may propose the dissolution of the company in accordance with the following process:

The proposal shall set forth reasons for the proposed dissolution and shall assign responsibility for carrying out 5 important steps in a successful dissolution: i) marshaling and sale or disposition of assets; ii) payment of creditors; iii) filing of final tax returns and other compliance documents; iv) distribution of remaining assets to members; and v) filing the Articles of Dissolution. It shall also set out any additional compensation to be paid to the person carrying out one or more of these steps.

The approval of all members will be necessary in order for the dissolution and winding up to go forward.

#### **Actions by Written Consent**

The members and managers may take any action requiring a meeting by written consent signed by the proportion of membership interest required to take the action.

#### **Waiver of Notice**

Any notice required by statute, the Articles of Organization, or the Operating Agreement to be given to a member or manager may be waived if a written waiver is signed by the person or persons to be notified, whether before or after the time stated in the notice.

STONE 001721

RFJN ISO Opposition to Countermotion -190

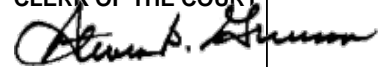
ROA000616



### **Operating Agreement Bound by Nevada Statutes**

<p> This entire operating agreement is governed by and subject to the provisions of Nevada Law, and to the extent no modification has been made by this operating agreement, the underlying provisions of Nevada Law governing LLCs will apply to the management and internal affairs of the LLC.</p>

# **EXHIBIT 12**



OPPO  
**LEVENTHAL & ASSOCIATES, PLLC**  
Todd M. Leventhal, Esq.  
Nevada Bar Number: 008543  
626 S. Third St.  
Las Vegas, Nevada, 89101  
Telephone: (702) 472-8686  
Facsimile: (702) 472-8685  
**HOFLAND & TOMSHECK**  
Bradley J. Hofland, Esq.  
Nevada Bar Number: 6343  
[bradh@hoflandlaw.com](mailto:bradh@hoflandlaw.com)  
228 South 4<sup>th</sup> Street, 1<sup>st</sup> Floor  
Las Vegas, Nevada 89101  
Telephones: (702) 895-6760  
Facsimile: (702) 731-6910  
*Attorneys for Plaintiff Victor Botnari*

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

VITIOK, LLC, a Nevada Limited Liability Company,  Plaintiff,  vs.  SLC, LLC a Nevada Limited Liability Company, et. al.,  Defendants.	CASE NO.: A-19-805955-C DEPT. NO.: 22 <b>ORAL ARGUMENT REQUESTED</b>  <b>PLAINTIFF'S OPPOSITION TO HAMID SHEIKHAI'S MOTION FOR ORDER TO SHOW CAUSE RE CONTEMPT AND COUNTERMOTION FOR SANCTIONS, ATTORNEY'S FEES, AND COSTS.</b>  Date of Hearing: May 18, 2021 Time of Hearing: 8:30 a.m.
---	--

COMES NOW the Plaintiff, Vitiok, LLC ("Vitiok"), by and through its attorneys, TODD M. LEVENTHAL, ESQ., with Leventhal & Associates, and Bradley J. Hofland with Hofland & Tomsheck, and submits this Opposition to the Motion filed by Defendant Hamid Sheikhai ("Hamid") and SLC, LLC ("SLC") for

1 Order to Show Cause re Contempt and Victor's Countermotion for Sanctions,  
2 Attorney's fees, and Costs, and respectfully requests this Honorable Court for the  
3 following relief:

- 4 1. Denying Hamid's Motion in its entirety;
- 5 2. Awarding Victor attorney's fees and costs for having to defend Hamid's  
6 frivolous and patently baseless motion; and
- 7 3. For such other and further relief as the Court deems just and equitable.

8 This opposition and countermotion are made and based upon all the papers  
9 and pleadings on file herein, the points and authorities submitted herewith, and any  
10 argument received by the Court when this matter is heard.

11 Dated this 19<sup>th</sup> day of April, 2021.

12 Respectfully submitted:

13  
14 /s/ Todd M. Leventhal

15 TODD M. LEVENTHAL, ESQ.

16 Nevada Bar No: 008543

17 626 South Third Street

18 Las Vegas, Nevada 89101

19 (702) 472-8686 - office

20 (702) 472-8685 - fax

21 *Attorney for Plaintiff,*

22 *Victor Botnari.*

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

It is significant to note that Hamid is now striving to manipulate this Court (and in the process, abuse the legal system as a whole) by ***now*** asking this Court to issue an “order to show cause re contempt” despite the irrefutable facts that (1) ***there is no written order***; (2) that a motion to reconsider and rescind the journal entry was filed and ***unopposed by Hamid***; and (3) that this matter has been resolved pursuant to the acceptance of an Offer of Judgment made by Hamid<sup>1</sup>, that was timely accepted by Victor<sup>2</sup>, and filed with the Clerk of the Court<sup>3</sup>.

The time for Hamid to honor *his* financial obligation *he* created and set forth in *his* Second Offer of Judgment, that was accepted by Victor, is rapidly approaching. However, Hamid has absolutely no intention of honoring his agreement, so he frantically launched a barrage of frivolous motions hoping that a court, indeed *any* court<sup>4</sup>, despite the procedural irregularity and impermissibility of such actions, will nevertheless ignore the facts and applicable precedent, and condone his anticipated breach.

Following those last-ditch measures, that have proven to be unsuccessful, Hamid's desperation was magnified, and more importantly, the incredible

<sup>1</sup> Submitted herewith for the Court's convenience and review as Exhibit "1".

<sup>2</sup> Submitted herewith for the Court's convenience and review as Exhibit "2".

<sup>3</sup> Filed on 3/19/21 pursuant to and consistent with NRCP 68.

<sup>4</sup> Indeed, as the record confirms, Hamid submitted his offers of judgment in the domestic matter (D-18-575686-L, but incredulously filed ***motions*** to “set aside offer of judgment” (despite the fact the offer was accepted and filed with the Clerk of the Court), ***first*** in Case A-19-801513-P (before the Honorable Joanna Kishner) (Exhibit “3”), ***then*** the same motion in the Family Court (D-18-575686-L) (before the Honorable Bill Henderson) (Exhibit “4”), and last, but not least, the very same motion in ***this*** action (A-19-805955-C) (before this Honorable Court) (Exhibit “5”).

1 disrespect he has for this Court, through the filing of the instant motion—an utterly  
2 frivolous motion before this Court asking for an order to show cause for a  
3 purported violation of a *nonexistent* order over matters that have been resolved in  
4 a case that is effectively closed pursuant to agreement of the parties.

5 It is clear that Hamid’s counsel has filed the instant motion due to extreme  
6 carelessness and a complete lack of due diligence, or alternatively, filed the  
7 frivolous motion *despite* knowing it lacked merit. Either way, the conduct is  
8 inexcusable and sanctionable. Regardless, there is no factual or legal basis and  
9 Hamid’s motion must be summarily dismissed.

## 10 II.

### 11 Statement of Facts

12 As a threshold matter, Hamid is a fraud and morally bankrupt. Hamid uses  
13 and manipulates people and believes he can do the same with this Court. Victor  
14 stood up to and confronted Hamid’s long history of fraudulent and dishonest  
15 conduct. It is significant to note that Hamid’s ex-wife has recently *confirmed* the  
16 fact that Hamid lies, forges documents, forges signatures, and schemes to evade  
17 accountability and for financial gain through filings in the domestic action and an  
18 independent civil action<sup>5</sup>.

19 Hamid’s stratagem is designed to deflect from Hamid’s procedurally flawed,  
20 legally deficient, and factually insufficient motions through the omission and  
21 distortion of the dispositive facts and utter fabrication of others, with the hopes of  
22

23  
24  
25 <sup>5</sup> Aside from the multiple instances of such conduct by Hamid, illuminated by  
26 Victor throughout the domestic matters and two unrelated civil actions, *Hamid’s*  
27 *ex-wife (Jessica Wilde-Guzun (“Ms. Guzun”)), recently disclosed in court*  
28 *documents that Hamid has been sending her fraudulent, altered, or forged*  
*documents for years*—claims that Hamid *did not* dispute or oppose. See Ms.  
Guzun’s Intervener’s Complaint, filed 3/2/21, pages 5-6 of 12, lines 26-27, 1-2,  
respectively.

1 misleading and/or confuse this Court—at least to such an extent that Hamid can  
2 abuse the legal process for his personal gain.

3 With that in mind, for the purpose of the instant motion, the facts are  
4 relatively few and straightforward—Hamid does his best to mislead. Suffice it to  
5 say Victor vehemently disputes the veracity of Hamid’s claims and the evidence  
6 and applicable precedent likewise disproves Hamid’s representations<sup>6</sup>.

7  
8 On January 7, 2021, the day after Hamid submitted his Second Offer of  
9 Judgment to Victor for the sum of \$1,000,001.00 (which was \$1 more than the  
10 promissory note that Hamid had prepared, dishonored, was court ordered to follow,  
11 disallowed by the court to terminate the monthly payments, thereafter failed to  
12 invalidate, and at issue in the domestic action) an Evidentiary Hearing was held  
13 before this Court pursuant to an application for a TPO filed by Hamid and SLC.  
14 The Court Minutes from that hearing reflect that based upon the stipulation of the  
15 parties could not disparage each other or the opposing businesses.<sup>7</sup> ***Notably,***  
16 ***neither Hamid’s or SLC’s counsel prepared an Order from that hearing.***

17 Pursuant to the Court Minutes of January 11, 2021, this Court granted the  
18 “preliminary injunction to Defendants SLC and [Hamid] “as it pertains to its client  
19 and/or customer lists *allegedly* taken” by Vitiok/Victor, and declared the  
20 clients/customers therein “are free to engage the services of *either* business”.<sup>8</sup>  
21 ***Notably, neither Hamid’s or SLC’s counsel prepared an Order from that***  
22 ***hearing.***

24  
25 <sup>6</sup> Of course, by law, a court may not assume the truth of allegations in a pleading  
26 that are contradicted by affidavit, further undermining Hamid’s position. *See Data*  
27 *Disc. Inc. v. Systems Tech. Assoc., Inc.*, 557 F.2d 1280 (Court of Appeals, 9<sup>th</sup>  
28 Circuit 1977). *See also, Taylor v. Portland Paramount Corp.*, 383 F.2d 634, 639  
(9<sup>th</sup> Cir. 1967).

<sup>7</sup> Court Minutes of January 7, 2021 submitted herewith as Exhibit “8”.

<sup>8</sup> Court Minutes of January 11, 2021 submitted herewith as Exhibit “9”.

1 On January 15, 2021, Vitiok filed his Motion for Reconsideration<sup>9</sup> asking  
2 this Court to (1) dismiss Hamid's claim for violation of Nevada's Trade Secret  
3 Act; (2) rescinding the preliminary injunction; (3) vacating the Court's Minute  
4 Order; and (4) additional relief. ***Neither SLC or Hamid filed an opposition to that***  
5 ***motion.***<sup>10</sup>

6 Thereafter, Victor accepted Hamid's Second Offer of Judgment<sup>11</sup> that was  
7 made to Victor in the above referenced domestic matter. On January 20, 2021, the  
8 parties were given notice that Vitiok's motion for reconsideration was given a  
9 hearing date of February 23, 2021. The next day, on January 21, 2021, the parties  
10 to this action filed a stipulation and order vacating all pending hearings.

11 Pursuant to the settlement agreement of the parties, all litigation ended and  
12 the cases were effectively closed. Hamid had stopped paying the ***court ordered***  
13 ***\$10,000.00*** payments stemming from the promissory note he had prepared and  
14 executed (which pursuant to the Offer of Judgment, replaced the promissory note),  
15 and has not made any payment this year at all.

16 Hamid agreed, and is obligated to pay, a one-time million- and one-dollar  
17 payment to Victor on or before May 15, 2021. After the reality of Hamid's  
18 financial responsibility and judicial awareness of his obligation sank in, Hamid  
19 frantically sought to create a path that he hoped would allow him to dishonor his  
20 agreement.  
21  
22  
23

24  
25 <sup>9</sup>Based upon the detailed legal precedent; the Court's  
26 misinterpretation/misapplication of law, the corresponding abuse of discretion, and  
27 to ensure a fair and just ruling.

28 <sup>10</sup> Aside from the merit of said motion, such inaction may be construed by this  
Court as ***an admission the motion is meritorious and a consent to granting the***  
***same.*** EDCR 2.20(e).

<sup>11</sup> See Exhibit "2".



1 Hamid's first maneuver was to have his ex-wife (who, as noted above,  
2 claims *sole ownership* of SLC and presents tax returns to confirm the claim) to file  
3 a motion to intervene in the domestic action where the Offer of Judgments were  
4 made and accepted—seeking an injunction against Hamid from honoring his Offer  
5 of Judgment and making the agreed upon one time payment. This undertaking  
6 failed!<sup>12</sup>

7  
8 Hamid's second maneuver was to file *the same* motion to set aside offer of  
9 judgment, reset trial, and re-open discovery *in every case Hamid was involved and*  
10 *named*<sup>13</sup>—hoping that if he could just catch one court that would disregard the  
11 facts and applicable precedent, he would be relieved of his financial obligation and  
12 be allowed to devote his resources so that Victor could not maintain his litigation  
13 against Hamid. With nothing to lose and everything to gain, Hamid took the  
14 gamble—a play that is not only ill-judged, but one that is sanctionable.

15 Hamid's final machination was an extension of the dishonesty and bad faith  
16 he displayed within the above referenced motions. Dependent upon fabricated  
17 “facts”, false statements, and distortion and misstatement of law, Hamid felt  
18 confident in the false narrative that he had crafted and filed the instant motion for  
19 an order to show cause. Understandably, Hamid loathes review, and Hamid's  
20 latest scheme for an order to show cause crumbles under such scrutiny. Of course,  
21 truth never is the desideratum of Hamid's filings.

22  
23 First, Hamid presents a section with a heading of “Facts”, but review of its  
24 contents confirm it is a misnomer—a compilation of incomplete, inaccurate and  
25

26  
27 <sup>12</sup> Judge Henderson heard the motion and determined there was no basis to grant  
the relief and *denied the motion*.

28 <sup>13</sup> Said cases are (1) the instant action, Case Number A-19-805955-C (where the  
motion was filed on April 6, 2021);(2) the domestic action, Case Number D-18-

1 misleading statements, and more troubling, defamatory and fabricated  
2 statements—statements which Victor vehemently disputes<sup>14</sup>. Victor has fully  
3 complied with the Offer of Judgment and the stipulation of the parties to not  
4 disparage each other or the “opposing businesses”.

5 Accordingly, if Hamid’s ploy to malign Victor and manipulate this Court  
6 into issuing an order to show cause (for actions he never did and in violation of a  
7 nonexistent order), Hamid had to fabricate evidence<sup>15</sup>. Because Hamid wants to  
8 implicate Victor, but Victor has not disparaged Hamid or “his” businesses”, Hamid  
9 (or someone at Hamid’s direction), prepared “negative” reviews<sup>16</sup>. Hamid believed  
10 that duplicating the reviews and using the names of former/current customers  
11 would be sufficient to frame Victor. Doing so actually proved his culpability.

12 As this Court no doubt knows, **anyone, using any name they want**, can post  
13 a review on Yelp, Angie’s list, or Google, at any time and for whatever reason.  
14 Thus, there is, and would not be, any benefit or reason for Victor to use the names  
15 of former/current customers if he truly wanted to, or did, leave a negative review,  
16 because nobody knows if the author really was a current/former customer.

17  
18  
19 575686-L, on March 31, 2021 (before Judge Bill Henderson); and (3) Civil action,  
20 Case Number A-19-801513-P, on March 25, 2021 (before Judge Joanna Kishner).

21 <sup>14</sup> As this Court knows, by law, a court may not assume the truth of allegations in a  
22 pleading that are contradicted by affidavit, further undermining Hamid’s ploy. *See*  
23 *Data Disc. Inc. v. Systems Tech. Assoc., Inc.*, 557 F.2d 1280 (Court of Appeals, 9<sup>th</sup>  
Circuit 1977). *See also*, *Taylor v. Portland Paramount Corp.*, 383 F.2d 634, 639  
(9<sup>th</sup> Cir. 1967).

24 <sup>15</sup> Something Hamid regularly does, as confirmed by Victor **and** Hamid’s ex-wife  
25 Jessica. More recently, Hamid prepared and submitted a false/fraudulent tax  
26 document reflecting payments to Victor that **he did not make**. See Exhibit “10”.  
27 Hamid’s failure to make his court ordered payments is set to be addressed before  
Judge Henderson.

28 <sup>16</sup> Hamid used this same tactic trying to blame Victor for damage to a residence  
Hamid caused and blamed Victor. Victor had before and after pictures disproving  
Hamid’s claim.

1 Accordingly, if Victor had actually wanted to engage in such activity, he, or  
2 anyone else, could simply make up a name and a corresponding review (positive or  
3 negative) and there would be no way to connect Victor to the review.

4 Knowing that, *Hamid* intentionally used the names of former clients,  
5 because that was the *only* way he believed he could “connect” Victor for the  
6 review(s) *Hamid* was responsible for, and create a “nexus” he hoped would not be  
7 scrutinized or discovered by the Court. It was also the only way to select a  
8 customer that would unknowingly participate in, and “validate”, Hamid’s scheme.

9 The truth is, Hamid didn’t think anyone would think or believe that *he*  
10 would place negative reviews of “his” business<sup>17</sup>, but *his* reviews are just a few  
11 among the many provided by actual customers—and more importantly, another  
12 negative review is a small price to pay if it enables him to get out of having to  
13 honor his agreement. Indeed, an independent review of Yelp confirms that Zip  
14 Zap Auto is the recipient of numerous “negative” reviews—*resulting solely from*  
15 *Hamid’s unethical business practices and his shoddy and inferior work.*  
16

17 Indeed, among those reviews (concealed by Hamid) include (1) the negative  
18 review from Chelsea L. describing Hamid falsely claiming her AC compressor had  
19 to be replaced (\$1200.00) only to learn the AC compressor was fine—and stating  
20 “[t]heir labor is ridiculously high”; (2) from Julian P., warning consumers that  
21 “they will try to up sell you (and gave her experience); (3) Robert left a second  
22 review (his first noted a “horrible experience” just four months earlier) not  
23 recommending “this place, dealt with at least 3 people and overall they just seemed  
24 unorganized and confused”; (4) from Susie S who warned “Zip Zap is horrible.  
25 They are completely dishonest. They try to pray on females thinking they don’t  
26

---

27  
28 <sup>17</sup> Which is why he believed he could get away with it and directed the filing of his  
frivolous and fraudulent motion.

1 know anything about cars. Avoid at all costs”; and (5) Stephanie C warned in  
2 February that she “wouldn’t take [her] car or truck here if it was the last place on  
3 earth”...“they are dishonest”<sup>18</sup>. Of course, Hamid conceals these from the Court.  
4 Further proof that Hamid is the one who is responsible for negative reviews is the  
5 “review” posted by Hamid’s newly recruited collaborator, his ex-wife Jessica, who  
6 posted a negative review against Victor<sup>19</sup>. It is also significant to note that  
7 Hamid’s

8  
9 Likewise, Victor had nothing to do with the purported “failed login  
10 attempts” and doesn’t know if it was the result of Hamid’s drunken activities or  
11 deliberately done to cast additional detail to Hamid’s blaming of Victor.  
12 Regardless, despite Victor’s utter lack of culpability for *Hamid’s* actions, as it  
13 pertains to the instant motion, there is no minute order or actual order that even  
14 mentions “log ins”, and Hamid’s suggestion/characterization of the “failed” login  
15 attempts as “hacking attempts” is patently absurd—and certainly not attributable to  
16 Victor.

17 Hamid then brazenly lies to this Court when claiming (albeit irrelevant to the  
18 motion at hand) that Victor “impersonated and attempted to steal Zip Zap Auto’s  
19 phone number”<sup>20</sup>. Review of the record in both this case and in the domestic  
20 action confirms that between June of 2014 and June of 2018 (when Hamid/SLC  
21 wrongfully evicted Victor) that Victor owned (per Victor)<sup>21</sup> or “operated” (per  
22

23  
24 <sup>18</sup> See Exhibit “13”, collectively submitted for this Court’s convenience and  
25 review.

26 <sup>19</sup> See Exhibit “12”.

27 <sup>20</sup> Hamid’s motion, page 4, lines 13-15. Further Hamid’s Exhibit “8” lends no  
28 support for his claim—and we now know that Hamid’s ex-wife has confirmed that  
he regularly commits fraud and forges documents, making the exhibit even more  
meaningless.

<sup>21</sup> See Exhibit “11”, Bill of Sale for Zip Zap Auto to Victor from Hamid.

1 Hamid) Zip Zap Auto. Given that irrefutable fact, it would have been impossible  
2 and futile for Victor to impersonate himself and use a number that he had been  
3 using and paying for *four* (4) years. The balance of Hamid’s narrative is sheer  
4 defamatory rhetoric and rank self-serving, unsupported, speculation.

5 In sum, there is no truth to Hamid’s claims, no factual and legal support for  
6 his maneuver, and his motion must not only be summarily denied, but sanctions  
7 must be imposed to emphasis upon Hamid that disregard of court rules, applicable  
8 precedent, and abuse of the legal system will not be tolerated.  
9

### 10 III.

#### 11 Legal Argument

##### 12 A. Hamid and SLC lack standing to file the instant action.

13 As a threshold matter, it appears Hamid and SLC have defrauded the court  
14 and both lack standing to pursue the instant action. The record confirms the  
15 entities named in this action are Vitiok, LLC (“Vitiok” or “Plaintiff”) and SLC,  
16 LLC (“SLC” or “Defendant”). SLC has *admitted* that neither Hamid or Defendant  
17 Zohreh Amir Yavari are managers of SLC<sup>22</sup>. Hamid’s ex-wife “Ms. Guzun”, who  
18 is suing Hamid in a separate action, has stated that *she* is the “100% owner of SLC  
19 LLC”<sup>23</sup>—*a claim that Hamid did not oppose or challenge*—and supported her  
20 claim with a tax document reflecting the same<sup>24</sup>. Notwithstanding, and  
21  
22  
23  
24  
25

---

26 <sup>22</sup> See SLC’s Response to Request for Admissions, submitted as Exhibit “6”,  
27 Responses 1 and 2.

28 <sup>23</sup> See Jessica’s motion to intervene in the domestic matter, filed 3/9/21, page 3,  
lines 15-19. Submitted herewith as Exhibit “7”

<sup>24</sup> *Id.*

1 inexplicably, SLC *admits* it “only follows the directives and direction given by  
2 Hamid.”<sup>25</sup>

3 More disturbing is the fact that Hamid and SLC represent to this Court that  
4 SLC owns Zip Zap Auto<sup>26</sup>, but in response to discovery propounded upon SLC,  
5 SLC declares that “SLC, LLC does not own Zip Zap Auto”.<sup>27</sup> Courts have long  
6 held “[s]tanding to sue is critical to the proper functioning of the judicial system”<sup>28</sup>  
7 and is the “requisite personal interest that must exist at the commencement of the  
8 litigation.”<sup>29</sup> Moreover, a party “may *not* proceed with an action in the absence of  
9 standing”<sup>30</sup> nor bring an action without the existence of an injury in fact<sup>31</sup>.

10 As this Court knows, “standing is a prerequisite to subject matter  
11 jurisdiction”<sup>32</sup> “When a party without standing purports to commence an action,  
12 the trial court acquires no subject-matter jurisdiction<sup>33</sup>.” It is well established that  
13

14  
15 <sup>25</sup> Exhibit “6”, Request for Admission No. 39; SLC also admitted that Hamid is the  
16 only person who receives profits or losses. (Responses to Interrogatories, Number  
17 30)

18 <sup>26</sup> See Application for TPO filed, page3, line 5, filed 10/26/20.

19 <sup>27</sup> Response to Interrogatory No. 28.

20 <sup>28</sup> *Saratoga County Chamber of Commerce v. Pataki*, 798 NE2d 1047 (2003).

21 <sup>29</sup> *Pharmacia Corp. v. Suggs*, 932 So.2d 95 (2005); *Frenchman-Cambridge*  
22 *irrigation Dist. v. Dep’t of Natural Res.*, 801 N.W.2d 253 (2011); *see also Wilson*  
23 *v. Holder*, 7 F.Supp.3d 1104 (2014).

24 <sup>30</sup> See *Ryan, Inc. v. New York State Dept. of Taxation & Fin.*, 890 NYS2d 306  
25 (2009) (emphasis provided).

26 <sup>31</sup> *Silver v. Pataki*, 755 NE2d 842 (2001); *see also Lujan v. Defenders of Wildlife*,  
27 504 U.S. 555 (1992); *Nev. Recycling & Salvage, Ltd. v. Reno Disposal Co.*, 134  
28 Nev. Adv. Rep. 55, 423 P.3d 605 (2018)

<sup>32</sup> See *Associated Builders & Contractors, Inc. v. S.F. Airports Comm’n*, 981 P.2d  
499 (1999); *see also Taylor v. Hubbell*, 188 F.2d 106 (9<sup>th</sup> Cir. 1951) (“It is  
axiomatic that [e]very court of general jurisdiction has power to determine whether  
the conditions essential to its exercise exist.” (internal quotation marks omitted)).

<sup>33</sup> *State v. Property at 2018 Rainbow Drive*, 740 So.2d 1025 (1999); *Riley v. Pate*,  
3 So. 3d 835 (2008); *Blevins v. Hillwood Office Ctr. Owners’ Ass’n*, 51 So. 3d 317  
(2010); *Citibank, N.A. v. Stein*, 199 A.3d 57 (2018).

1 standing is jurisdictional, goes to the jurisdictional core of a court's authority to  
2 adjudicate a dispute, indeed, the very power of the court to act. The lack of  
3 standing may be raised at any time<sup>34</sup>. Simply stated, standing is the right to relief  
4 in court. ***Whether a party has a private right of action goes to the jurisdictional***  
5 ***issue of standing*** and notably, the lack of standing cannot be waived and must be  
6 present in every case<sup>35</sup>.

7  
8 It is axiomatic a party must assert ***his own legal rights and interests***, and  
9 cannot rest his claim to relief on the legal rights or interests of third parties<sup>36</sup>. As  
10 noted above, the party must have an "injury in fact", recognized by courts as:

11 an actual legal stake in the matter being adjudicated—[which] ensures  
12 that the party seeking review has some concrete interest in prosecuting  
13 the action which casts the dispute in a form traditionally capable  
14 of judicial resolution. Under the injury in fact analysis standing exists  
15 when the plaintiff has sustained actual injury, meaning that he/she has  
16 an actual legal stake in the in the [sic] matter being litigated"<sup>37</sup>

17 Significantly, discovery, coupled with Hamid's conduct, suggests that SLC  
18 has not been authorized or directed by its owner/manager to even commence or

---

19 <sup>34</sup> *Landreth v. Malik*, 127 Nev. 175, 251 P.3d 163 (2011); *Ross v. Bonaventura*,  
20 2013 Nev. Unpub. LEXIS 1810;

21 <sup>35</sup> *See Baldonado v. Wynn Las Vegas, LLC*, 124 Nev. 951, 968-69, 194 P.3d 96,  
22 107 (2008) (holding that a party lacks standing to pursue declaratory relief under a  
23 statute that does not provide a private right of action); *Vaile v. Eighth Judicial Dist.*  
24 *Court*, 118 Nev. 262, 276, 44 P.3d 506, 515-16 (2002) (questions of subject matter  
25 jurisdiction can be raised for the first time on appeal); *Applera Corp. v. MP*  
26 *Biomedicals, LLC*, 93 Cal. Rptr. 3d 178, 192 (Ct. App. 2009) (standing is  
27 jurisdictional, thus lack of standing may be raised at any time); *Bund v. Safeguard*  
28 *Props. LLC*, 2018 LEXIS 180038 citing *United States v. Hays*, 515 U.S. 737  
(1995). .

<sup>36</sup> *Warth v. Seldin*, 422 U.S. 490 at 499 (1975); *see also Kane v. Johns-Manville*  
*Corp.*, 843 F.2d 636, 644 (2d Cir. 1988) (noting narrow exceptions to the general  
rule that "a litigant is restricted to asserting ***his own*** constitutional and statutory  
rights") (emphasis supplied).

1 participate in the instant motion/Hamid's latest maneuver. Lastly, the burden of  
2 establishing standing rests upon the party seeking relief<sup>38</sup>.

3 Without standing, the court lacks jurisdiction, and may take no action other  
4 than to exercise its power to dismiss the action in its entirety. Any action taken by  
5 a court lacking jurisdiction is null and void<sup>39</sup>. Indeed, "[w]hen the absence of  
6 subject matter jurisdiction is noticed by, or pointed out to, the trial court, that court  
7 has no jurisdiction to entertain further motions or pleadings in the case. It can do  
8 nothing but dismiss the action forthwith."<sup>40</sup>

9  
10 In sum, lack of standing is a fundamental flaw that requires the Court to  
11 dismiss the action fraudulently and impermissibly initiated by Hamid and joined in  
12 by SLC without permission or knowledge of its owner.

13 **B. This Court cannot make a finding of contempt based upon**  
14 **Minute Orders.**

15 Even if Hamid and/or SLC had the requisite standing to file the instant  
16 motion, the Nevada Supreme Court has made it clear they are not entitled to the  
17 relief they request of this Court, to wit: for the issuance of an order to show cause,  
18 and that there is no legal authority upon which this Court could issue such an  
19 order. Indeed, the Nevada Supreme Court unequivocally held, in *Div. of Child and*  
20 *Family Servs. v. Eighth Judicial Dist. Court*<sup>41</sup>:

21  
22 <sup>37</sup> *Society of Plastics Indus. v County of Suffolk*, 573 NE2d 1034 (1991).

23 <sup>38</sup> See e.g. *Lujan, supra*, *Bennett v. Spear*, 520 U.S. 154 (1997); *Raines v. Byrd*,  
24 521 U.S. 811 (1997).

25 <sup>39</sup> See *Rainbow Drive*, 740 So.2d at 1029.

26 <sup>40</sup> *Id.*; see also *Crutcher v. Williams*, 12 So.3d 631 (2008) ("A court is obligated to  
27 vigilantly protect against deciding cases over which it has no jurisdiction....");  
28 *Mapoles v. Wilson*, 122 So.2d 249 (1960) (limits of a court's jurisdiction are of  
"primary concern", requiring the court to address the issue sua sponte when any  
doubt exists).

<sup>41</sup> 120 Nev. 445, 92 P.3d 1239 (2004)



precedent suggests that ***an order is not effective until the district court enters it.*** "Entry" involves the filing of a signed written order with the court clerk. Before the court reduces its decision to writing, signs it, and files it with the clerk, the nature of the judicial decision is impermanent. The court remains free to reconsider the decision and issue a different written judgment. Consequently, a "court's oral pronouncement from the bench, ***the clerk's minute order***, and even an unfiled written order ***are ineffective for any purpose.***" (Citations omitted) (emphasis supplied)<sup>42</sup>

Further, as noted in *Chula v. Superior Court of Orange County*<sup>43</sup>, the California Supreme Court held a minute order reflecting contempt was erroneous, affirming:

Minute order entries of the clerk are not the orders themselves, but are merely synopses of orders made by the court, and do not determine the extent of the judicial power of the court when a formal order has been signed and filed.<sup>44</sup>

In the instant action, although the Defendants conceal the fact there was a motion to reconsider, vacate the minute order and rescind the injunctive relief entered by the Court, they concede there is no written orders that were ever prepared or signed by this Court. As a result, Defendant's are precluded, as a matter of law, from seeking and asking for an Order to Show Cause.

---

<sup>42</sup> See also *Nalder v. Eighth Judicial Dist. Court of Nev.*, 136 Nev. Adv. Rep. 24, 462 P.3d 677 (2020)

<sup>43</sup> 368 P.2d 10757 Cal. 2d 199 (1962).

<sup>44</sup> See also, *Dalton v. Dalton*, 412 So. 2d 928 (1982) ("an order does not take effect until signed and filed..."); *Lamb v. Superior Court In & For Maricopa Cty.*, 621 P.2d 906 (1980) ("[U]nil the order is in writing, signed by the court and entered by the clerk of the court, it is not effective.").

1           **C. Notwithstanding the above, Hamid is unable to sustain the**  
2           **burden needed for this Court to issue an Order to Show Cause.**

3           Victor certainly does not dispute that courts have both inherent and statutory  
4 authority to enforce orders by subsequent contempt proceedings<sup>45</sup>. Specifically,  
5 NRS 1.210(3) states that, “[e]very Court shall have power . . . [t]o compel  
6 obedience to its lawful judgments, orders and process . . .” NRS 1.210(3). See also,  
7 NRS 22 et seq. However, courts have repeatedly held *the issuance of an Order to*  
8 *Show Cause or the finding of Contempt, however, is not something that must be*  
9 *taken lightly.*

10           Indeed, civil contempt is a severe sanction. As a result, courts have long  
11 held that a party seeking a finding of contempt must present *clear and convincing*  
12 *evidence* that the alleged contemnors violated a specific and definite order of the  
13 court<sup>46</sup>. The moving party (Hamid) bears the burden of proving by clear and  
14 convincing evidence that there has been a violation of the order<sup>47</sup>. If there is *any*  
15 ground to doubt the wrongfulness of the alleged contemnor’s conduct, the moving  
16 party (Hamid) will be deemed to have *failed* to meet this burden.

17           In *Mack Manley v. Manley*, 122 Nev. 849, 138 P.3d 525 (2006), our State  
18 Supreme Court held, citing *Cunningham v. District Court*, 102 Nev. 551, 559-60,  
19 729 P.2d 1328, 1333-34 (1986). that:

20           “An order on which a judgment of contempt is based must be clear  
21 and unambiguous, and must spell out the details of compliance in  
22

23  
24 <sup>45</sup> See *City Council of Reno v. Reno Newspapers, Inc.*, 105 Nev. 886, 784 P.2d 974  
(1989); see also *All Minerals Corp. v. Kunkle*, 105 Nev. 835, 784 P.2d 2 (1989).

25 <sup>46</sup> *FTC v. Enforma Natural Prods., Inc.*, 362 F.3d 1204, 1211 (9th Cir. 2004),  
26 quoting *FTC v. Affordable Media, LLC*, 179 F.3d 1228, 1239 (9th Cir. 1999)  
27 (quoting *Stone v. City and County of San Francisco*, 968 F.2d 850, 856 n. 9 (9th  
Cir. 1992)).

28 <sup>47</sup> *Reynolds v. McInnes*, 338 F.3d 1201, 1211 (11th Cir. 2003); *Matter of Hughes v.*  
*Kameneva*, 96 A.D.3d 845, 846 946 N.Y.S.2d 211 (2012).

1 clear, specific and unambiguous terms so that the person will readily  
2 know exactly what duties or obligations are imposed on him.”.  
3 Additionally, in *Bohannon v. Eighth Judicial Dist. Court of Nev.*<sup>48</sup>, the Court  
4 held “[a] court order which does not specify the compliance details in  
5 unambiguous terms cannot form the basis for a subsequent contempt order.”<sup>49</sup> *Id.*  
6 Moreover, as noted above, in *Div. of Child & Family Servs, supra*, the Nevada  
7 Supreme Court held that district court orders had to be written, signed, and filed  
8 before they became effective” and determined the district court erred finding  
9 contempt for violating orders.

10 Continuing, in order for Hamid to show contempt he must be able to prove  
11 that: (1) Victor violated the Court Order (which he didn’t); (2) the Court order is  
12 valid and lawful (there is no Order); (3) the order is clear, definite and  
13 unambiguous (there is no Order); and (4) Victor has the ability to comply with the  
14 order (Victor cannot take down posts made by Hamid or other people)<sup>50</sup>. As noted  
15 *infra*, Hamid’s request for this Court to issue an Order to Show Cause fails.

16  
17 **D. Victor has not engaged in any contemptuous behavior.**

18 As this Court knows, there are two types of contempt, civil and criminal. As  
19 a general rule, when sanctions are imposed to benefit an adverse party (deemed  
20 coercive or compensatory sanctions) the contempt proceedings are deemed civil  
21 and are sought and imposed through civil proceedings between the original  
22 parties<sup>51</sup>.

23 <sup>48</sup> 400 P.3d 756 (2017)

24 <sup>49</sup> In *Bohannon*, the Nevada Supreme Court encouraged the entry of a written order  
25 in contempt proceedings, repeating direction previously provided in *Houston v.*  
26 *Eighth Judicial Dist. Court*, 122 Nev. 544, 553, 135 P.3d 1269, 1274 (2006),  
27 wherein they noted a “written order ‘serves valuable purposes: it facilitates our  
28 review, and it helps to ensure that the district court’s contempt power is used with  
care and circumspection.”

<sup>50</sup> See *McGregor v. Chierico*, 206 F.3d 1378, 1383 (11th Cir. 2000).

<sup>51</sup> See *United States v. Rylander*, 460 U.S. 752, 103 S. Ct. 1548 (1983).

1 When punitive sanctions are sought and imposed (in other words,  
2 unconditional sanctions not subject to purgation through compliance with an order  
3 and imposed primarily, if not solely, to vindicate the authority of the court or  
4 punish the alleged wrongdoer) are deemed criminal. If the sanction sought is  
5 punitive, as opposed to a coercive function, the alleged contempt would be  
6 considered criminal<sup>52</sup>. The United States Supreme Court has held that criminal  
7 contempt proceedings are “crime[s] in the ordinary sense.”<sup>53</sup> Accordingly, those  
8 that are accused of criminal contempts are entitled to “full criminal process” and  
9 due process protections. *Ibid.* Additionally, with criminal contempt proceedings  
10 the reasonable doubt standard of proof applies<sup>54</sup>.

11 Continuing, the elements of criminal contempt consist of “(1a) the willful  
12 (2a) disobedience toward or (1b) open (2b) disrespect for, (3) the rules or orders of  
13 a court.”<sup>55</sup> The *mens rea* element of criminal contempt has been characterized as  
14 “willful” disobedience or “open” disrespect. “Willfully,” means “with intent or  
15 intentional[,]...”[v]oluntary and intentional, but not necessarily malicious.” *Ibid.*  
16 Continuing, courts have held that “willfulness,” as an element of contempt, may be  
17 found from a knowing failure to comply with a court order<sup>56</sup>.

18 In this case, Hamid has honored Hamid’s Second Offer of Judgment as well  
19 as the stipulation of the parties and directives of this Court. Hamid has not, nor  
20 does he want/plan to. Hamid has found an accommodating attorney who is  
21 coordinating his unwarranted offensive designed to enable Hamid to defraud and  
22

23  
24 <sup>52</sup> See *Hutchison v. State*, 27 P.3d 774, 779 (Alaska App. 2001).

25 <sup>53</sup> *Young v. United States ex rel. Vuitton et Fils*, S.A. 481 U.S. 787, 795 n7, 107  
S.Ct. 2124 (1987).

26 <sup>54</sup> See *Continental Ins. Cos. V. Bayless & Roberts, Inc.*, 548 P.2d 398, 407 (Alaska  
27 1976).

28 <sup>55</sup> See *Poindexter v. Commonwealth*, 389 S.W.3d 112 (2012).

<sup>56</sup> See *Dalessio v. Kressler*, 6 A.D.3d 57, 773 N.Y.S.2d 434 (2004); see also  
*Anchorage Police & Fire Ret. Sys. v. Gallion*, 65 P.3d 876 (2003) (“[i]n order for

1 manipulate this Court and the legal system as a whole so that he can be allowed to  
2 dishonor his agreement. As established herein, Hamid's actions are in bad faith,  
3 predicated upon dishonesty, and, quite frankly, outrageous and inexcusable.

4 The Court is always required to consider the surrounding circumstances<sup>57</sup>,  
5 and in this case, those circumstances, the dispositive facts, and the applicable  
6 precedent, confirm there was no basis to file the instant motion. Continuing, there  
7 is a maxim—entrenched in our courts—that “he who seeks equity must do equity.”  
8 “When a party invokes the aid of equity, he subjects himself to the imposition of  
9 such terms as established equitable principles require...”<sup>58</sup> In *Smith v. Smith*, 68  
10 Nev. 10, 226 P.2d 279 (1951), the Nevada Supreme Court held a party who seeks  
11 equity “must come into court with clean hands.” The *Smith* Court further noted  
12 that when a court has “jurisdiction for one purpose, [it] will retain it for all  
13 purposes, legal or equitable, to the end that complete justice may be accomplished  
14 in one action...”<sup>59</sup>

15 In this action, Hamid is certainly not coming into court with clean hands. He  
16 unilaterally discontinued and has failed to comply with the Court's order to make  
17 the \$10,000.00 monthly payments, he filed fraudulent tax documents, he violated  
18 the duty of candor owed to this Court by withholding and fabricating fact and law,  
19 he has failed to make the mortgage payments on the residence he received pursuant  
20 to his Offer of Judgment, and he has damaged the residence and created negative  
21 reviews and blamed his actions on Victor. The Court is required to consider the  
22 surrounding circumstances, which in this case are fatal to the relief Hamid seeks  
23 from this Court<sup>60</sup>.

24  
25 there to be contempt it must appear that there has been a willful disregard or  
26 disobedience of the authority or orders of the court.”).

26 <sup>57</sup> See *McGregor v. Chierico*, *supra*, 206 F.3d at 1383.

27 <sup>58</sup> *Dellamonica v. Lyon County Bank Mortgage Corp.*, 58 Nev. 307, 78 P.2d 89  
(1938).

28 <sup>59</sup> 226 P.2d at 284.

<sup>60</sup> See *McGregor v. Chierico*, *supra*, 206 F.3d at 1383.

1 As detailed herein, Victor is not at fault, cannot be found in contempt, and  
2 there is no factual or legal basis for this Court to issue an Order to Show Cause.

3 **E. Hamid should be sanctioned and directed to reimburse Victor**  
4 **for the fees incurred bringing Hamid's dishonesty and baseless**  
5 **motion before this Court.**

6 NRS 7.085 is to be liberally construed and provides it is the intent of the  
7 Legislature that the court award costs, expenses and attorney's fees, and impose  
8 Rule 11 sanctions to punish and deter frivolous motions.

9 Sanctions under NRCP 11 are also allowed. As noted by the Nevada  
10 Supreme Court in *Watson Rounds, P.C. v. Eighth Judicial Dist. Ct. (Himelfarb &*  
11 *Associates*<sup>61</sup>), NRCP 11 and NRS 7.085 each represent a distinct, independent  
12 mechanism for sanctions.

13 Continuing, in *Barney v. Mt. Rose Heating & Air Conditioning*, 192 P.3d  
14 730, 736 (2008) citing *Brunzell v. Golden Gate National Bank*, 85 Nev 345, 455  
15 P.2d 31 (1969), the Court enumerated factors that the district court should consider  
16 in awarding attorney fees, with no one factor controlling, as follows:

17 (1) the advocate's qualities, including ability, training,  
18 education, experience, professional standing, and skill;

19 (2) the character of the work, including its difficulty, intricacy,  
20 importance, as well as the time and skill required, the responsibility  
21 imposed, and the prominence and character of the parties when  
affecting the importance of the litigation;

22 (3) the work performed, including the skill, time, and attention  
23 given to the work; and

24 (4) the result--whether the attorney was successful and what  
25 benefits were derived.

26 Victor has met the factors outlined in *Brunzell*. Victor's counsel is qualified  
27 and has considerable experience, ability and training in the field of civil litigation.

28 <sup>61</sup> 131 Nev. 783, 784, 358 P.3d 228, 230 (2015)

1 It is the responsibility of Victor's counsel to resolve outstanding issues to ensure  
2 Victor's rights are preserved and the duty of candor that is owed to this Court is  
3 maintained. Victor's counsel was attentive to work performed.

4 Hamid's motion was baseless and Victor is entitled to an award of attorney's  
5 fees for having to respond to the factually and legally deficient motion. Hamid has  
6 acted in bad faith and filed a frivolous motion wherein facts were misrepresented,  
7 no law or misstated law was cited, and the Court was deliberately misled. Hamid  
8 knowingly filed a fraudulent and frivolous motion. Victor is clearly entitled to  
9 recoup the fees that he has incurred having to respond to the baseless and improper  
10 motion.

11 Based upon the foregoing, it is not only fair, but also reasonable under the  
12 circumstances that Hamid be responsible for Victor's attorney fees and costs.

13 **IV.**  
14 **Conclusion**

15 The law clearly establishes the lack of merit and impropriety of Hamid's  
16 motion. Based upon the above, Hamid's conduct is inexcusable, done in bad faith,  
17 and sanctionable. Victor respectfully requests the Court enter an Order:

- 18 1. Denying Hamid's motion in its entirety;  
19 2. Sanctioning Hamid and awarding Victor attorney's fees and costs for  
20 having to defend Hamid's baseless motion and respond to Hamid's  
21 baseless, defamatory, and unwarranted motion; and  
22

23  
24  
25  
26 ///

27 ///

28 ///

1           3. For such other and further relief as the Court deems just and equitable.

2           Dated this 19<sup>th</sup> day of April, 2021.

3                               Respectfully submitted:

4                               /s/ Todd M. Leventhal

5                               TODD M. LEVENTHAL, ESQ.

6                               Nevada Bar No: 008543

7                               626 South Third Street

8                               Las Vegas, Nevada 89101

9                               (702) 472-8686 – office

10                              (702) 472-8685 – fax

11                              Attorney for Plaintiff Victor Botnari



- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

2. I am the Plaintiff in the above captioned case.

I declare under penalty of perjury under the laws of the State of Nevada (NRS 53.045 and 28 U.S.C. §1746) that the foregoing is true and correct.

/s/ Victor Botnari  
Victor Botnari

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

*Via E-Service*  
ENSTEIN PHAM & GLASS LLP  
Robert A. Rabbat, Esq.  
[rrabbat@enensteinlaw.com](mailto:rrabbat@enensteinlaw.com)  
*Attorney for Defendant Hamid Sheikhai*

By: /s/ Nikki Warren  
An Employee of Leventhal & Associates

# **EXHIBIT 13**



**LEVENTHAL & ASSOCIATES, PLLC.**

Todd M. Leventhal, Esq.  
Nevada Bar Number: 008543  
626 S. Third St.

Las Vegas, Nevada 89101  
Telephone: (702) 472-8686  
Facsimile: (702) 472-8685

**HOFLAND & TOMSHECK**

Bradley J. Hofland, Esq.  
Nevada Bar Number: 6343  
[bradh@hoflandlaw.com](mailto:bradh@hoflandlaw.com)

228 South 4<sup>th</sup> Street, 1<sup>st</sup> Floor  
Las Vegas, Nevada 89101  
Telephone: (702) 895-6760  
Facsimile: (702) 731-6910

*Attorneys for Plaintiff Vitiok, LLC.*

**DISTRICT COURT, FAMILY DIVISION**

**CLARK COUNTY, NEVADA**

VITIOK, LLC, a Nevada Limited  
Liability Company,

Plaintiff,

vs.

SLC, LLC a Nevada Limited Liability  
Company, et. al.,

Defendants.

CASE NO.: A-19-805955-C  
DEPT NO.: 22

**ORAL ARGUMENT REQUESTED**

**PLAINTIFF'S OPPOSITION TO  
DEFENDANTS' MOTION TO SET  
ASIDE OFFER OF JUDGMENT,  
RESET TRIAL, AND RE-OPEN  
DISCOVERY AND  
COUNTERMOTION FOR  
SANCTIONS, ATTORNEY'S FEES  
AND COSTS.**

Date of Hearing: May 18, 2021  
Time of Hearing: 8:30 a.m.

COMES NOW, Plaintiff Vitiok, LLC. ("Vitiok"), by and through its attorneys, Todd M. Leventhal, Esq. of LEVENTHAL AND ASSOCIATES, and Bradley J. Hofland, Esq., of HOFLAND & TOMSHECK, and submits Plaintiff's Opposition to the Motion to set aside Offer of Judgment, reset trial, and re-open discovery by Defendants Hamid Sheikhai ("Hamid"), Zohreh Amiryavari ("Zohreh"), and SLC, LLC ("SLC"), and Victor's countermotion for Sanctions, attorney's fees and costs, and respectfully requests this Court enter an Order:

1. Denying the motion filed by Defendants in its entirety;
2. Awarding Vitiok the sum of \$7,500 for the attorney's fees and costs it has incurred having to respond to a procedurally flawed, legally impermissible, and baseless motion; and
3. Addressing any additional relief this Court deems fair and necessary.

This Opposition and Counter-motion is made and based on the following Memorandum of Points and Authorities, the declarations and exhibits attached hereto, the papers and pleadings already filed herein, and any argument the Court may permit at hearing.

Dated this 20<sup>th</sup> day of April, 2021.

LEVENTHAL &amp; ASSOCIATES, PLLC

By: /s/ Todd M. Leventhal  
Todd M. Leventhal, Esq.  
Nevada Bar No. 8543  
626 South Third Street  
Las Vegas, NV 89101  
Telephone: (702) 472-8686  
*Attorneys Plaintiff Vitiok, LLC.*

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

## 4

## 5

6  
7  
8  
9  
10  
11  
12  
13  
14

15  
16  
17  
18  
19  
20

23

24

25

26  
27

28

<sup>3</sup> RFJN ISO Opposition to Countermotion -220

1 As this Court is fully aware, Hamid has been involved in litigation for *years*  
2 with Victor in three *unrelated* cases<sup>5</sup>; the only similarity and common denominator  
3 in those lawsuits is Hamid's fraudulent and tortious conduct, making him the *only*  
4 party named in *every* action. After expending hundreds of thousands of dollars in  
5 attorney fees and costs, on January 6, 2021, Hamid extended an Offer of Judgment  
6 to Victor in the domestic matter assigned to this Court<sup>6</sup>. Nine days later, on January  
7 15, 2021, Victor accepted Hamid's Offer of Judgment<sup>7</sup>. The Offer and Acceptance  
8 was filed with the Clerk and by Court Rule, "must enter judgment accordingly"<sup>8</sup>.

9 Lastly, the fact Hamid filed the *identical* motion, first before Judge Kishner  
10 in Case No. A-19-801513-P<sup>9</sup>, and then before Judge Henderson, in D-18-575686-  
11 L<sup>10</sup>, and lastly, before *this* court, confirms the impropriety and procedural  
12 irregularity of filing the instant motion before *this* Court. The improper filing  
13 further shows Hamid's counsel filed the frivolous motion before *this* court knowing  
14 it is disallowed by law and lacked merit. Either way, the conduct is inexcusable  
15 and sanctionable<sup>11</sup>.

---

17  
18 <sup>5</sup> (1) The instant action, Case No.: A-19-805955-C; (2) Case No.: A-19-801513-P  
19 (Before the Honorable Joanna Kishner), and (3) Case D-18-575686-L (Before the  
20 Honorable Bill Henderson) which also included Case D-18-575686-L (Before the  
21 Honorable Thomas W. Gregory) and part of the "D" case pursuant to a change of  
venue. Hamid's repeated attempts to have the cases consolidated were all  
unsuccessful.

22 <sup>6</sup> A copy of Hamid's Offer of Judgment that was accepted and filed with the Clerk  
23 of the Court, as provided for by Court Rule, is submitted herewith as Exhibit "2",  
for the Court's convenience and review; by its terms *all* actions involving Hamid  
were settled.

24 <sup>7</sup> A copy of Victor's *acceptance* of Hamid's Offer of Judgment that was accepted  
25 and filed with the Clerk of the Court, as provided for by Court Rule, is submitted  
herewith as Exhibit "3", for the Court's convenience and review.

26 <sup>8</sup> See NRCP 68(d)(3).

27 <sup>9</sup> Submitted herewith for the Court's consideration and comparison as Exhibit "4".

<sup>10</sup> Submitted herewith for the Court's consideration and comparison as Exhibit "5".

28 <sup>11</sup> See, e.g., NRCP Rule 11.

1 Hamid (Defendants) knows full well what he is doing and is choosing to  
2 abuse the legal process (an actionable tort in and of itself), which is just another  
3 well used stratagem he relies upon to evade the consequences of his unscrupulous  
4 conduct, this time in an attempt to manipulate the courts to increase the cost of  
5 litigation so Victor could not sustain Hamid's bad faith legal barrage that would  
6 certainly result if Hamid's sanctionable actions are not curbed by this Court.

7 Review of this Opposition and Countermotion will confirm there is no  
8 factual or legal basis and Hamid's/Defendant's motion must be summarily  
9 dismissed.

## 10 II.

### 11 Statement of Facts

12 In short, Victor has exposed Hamid's long history of fraudulent and  
13 dishonest conduct and his use of litigation and various "legal entities" to evade  
14 accountability. Hamid lies, forges documents, forges signatures, and schemes to  
15 evade accountability and for financial gain, conduct which was recently *confirmed*  
16 by Hamid's ex-wife<sup>12</sup>. It is significant to note *Hamid did not oppose or dispute her*  
17 *claims*<sup>13</sup>.

18 In May of 2018, *Hamid* prepared and "*signed* a promissory note to Victor,  
19 promising him \$1,000,000 (one million dollars) and payments of \$10,000 per  
20 month interest until the principal is paid"<sup>14</sup> in return for his assignment of his 12%

---

21 <sup>12</sup> Aside from the multiple instances of such conduct by Hamid, illuminated by  
22 Victor throughout the domestic matters and two unrelated civil actions, *Hamid's*  
23 *ex-wife, Jessica Wilde-Guzun ("Jessica"), recently disclosed in court documents*  
24 *that Hamid has been sending her fraudulent, altered, or forged documents for*  
25 *years* in her motion to intervene in the "D" case—which was heard and *denied* by  
26 Judge Henderson.

26 <sup>13</sup> His failure to do so is not surprising, and was in fact *predicted* by Victor in his  
27 opposition to her motion to intervene, exposing her maneuver as merely a  
28 collaborated effort and civil conspiracy to enable Hamid to dishonor his Offer of  
Judgment and corresponding financial obligation.

<sup>14</sup> Hamid's statement of facts, case D-18-575686-L, filed 8/13/2019.



1 interest in Stone & Stone and compensation for “any potential joint assets”.<sup>15</sup>  
2 However, Hamid did *not* honor the promissory note; he simply wanted it to *appear*  
3 as if he was honorable. When domestic litigation was commenced and the matter  
4 was brought before the Court, Hamid was then ordered to begin making the  
5 \$10,000.00 monthly payments<sup>16</sup>. Before that order in October of 2018, Hamid had  
6 not paid Victor one cent of the monthly payments Hamid promised and which were  
7 required by the promissory note he prepared.

8 After the domestic litigation commenced, Judge Henderson ordered Victor to  
9 receive and Hamid to make the \$10,000.00 monthly payments<sup>17</sup>. Of course, Hamid  
10 had no intention of honoring his promise and certainly despised this Court  
11 thwarting his plan and directing Hamid to do so, so *Hamid* thereafter asked the  
12 domestic court to find the million-dollar promissory note *Hamid prepared* and  
13 signed to be invalid and set aside<sup>18</sup>. Appropriately, Hamid’s maneuver was  
14 unsuccessful.

15 Thereafter, Hamid then tried to terminate/stay Hamid’s obligation of having  
16 to make the payments he promised in the promissory note he prepared<sup>19</sup>. Hamid  
17 was not candid with this Court or forthright with his financial disclosures Judge  
18 Henderson denied his requests<sup>20</sup>. Undeterred, Hamid simply devised another ploy,  
19 this time choosing a different forum and incredulously asked Judge Kishner to  
20 allow Hamid to sue Victor for accepting the promissory note that Hamid prepared  
21

---

22 <sup>15</sup> Representations made by Hamid in Case D-18-575686-L; *see e.g.* Hamid’s  
23 “Facts” in his Opposition filed 8/13/2019, Hamid’s introduction, Memorandum  
24 filed 11/29/2018, and “Introduction” of Stone & Stone’s Motion, filed 8/7/20.

25 <sup>16</sup> *See* Order from Hearing, filed 11/21/2018; Amended Order from October 16  
26 Hearing, filed 1/5/2019

27 <sup>17</sup> *See* Journal Entry, D-18-575686-L, of October 16, 2018.

28 <sup>18</sup> Hamid’s motion for partial summary judgment, case D-18-575686-L.

<sup>19</sup> *See* Hamid’s motion to suspend monthly payments to Victor, filed 5/5/20, case  
D-18-575686-L.

<sup>20</sup> *See* Journal entry of 6/22/20

1 and signed, claiming that *his* million-dollar note was usurious and invalid<sup>21</sup>. Judge  
2 Kishner saw through Hamid's ruse and properly rejected and denied Hamid's  
3 request.<sup>22</sup>

4 Afterwards, as the January 21, 2021 hearing date between Victor and Hamid  
5 before this Court neared, Hamid promptly tendered two (2) Offers of Judgment.  
6 The first Offer of Judgment was for a one-time payment of \$800,000.00 in cash  
7 (which would cancel the million-dollar promissory note Hamid prepared and  
8 signed)<sup>23</sup>. The second Offer of Judgment, made a week later, was for a one-time  
9 payment of \$1,000,001.00 (which would cancel the million-dollar promissory note  
10 Hamid prepared and signed)<sup>24</sup>. Victor accepted the second Offer of Judgment and  
11 it was filed with the Clerk of the Court as provided for in NRCP 68.

12 Now, as the time approaches for Hamid to pay Victor the one-time million-  
13 and one-dollar payment, Hamid's desperation to avoid actually having to honor the  
14 Offer of Judgment was confirmed with equally desperate actions. First, Hamid  
15 terminated the services of his attorney that he has basically utilized since the  
16 commencement of all actions (Mr. Willick) so he could use an attorney that was  
17 unfamiliar with Hamid, unfamiliar with the history of the case, and unfamiliar with  
18 the other civil matters as well, and who would not question Hamid, his motives, the  
19 merit of his maneuvers, or more importantly, the corresponding ethical and  
20 procedural violations associated with such maneuvers. Thus, on March 14, 2021,  
21 Marshall Willick, Esq. was substituted out and replaced by Robert Rabbat, Esq.<sup>25</sup>

22 Just as with Hamid's desire and efforts to evade his financial obligations set  
23 forth in the million-dollar promissory note *he* prepared, Hamid has absolutely no  
24

---

25 <sup>21</sup> See Hamid's motion to file amended answer and counterclaim filed before *this*  
26 Court on 9/8/20.

27 <sup>22</sup> See Journal entry of October 13, 2020, in this action, case A-19-801513-P.

28 <sup>23</sup> Served on December 30, 2020.

<sup>24</sup> Served on January 6, 2021.

<sup>25</sup> Substitution of Attorney filed on March 14, 2021.

1 intention of honoring the million and one dollar Offer of Judgment *he* prepared. As  
2 a result, Hamid frantically launches a barrage of frivolous motions hoping that a  
3 court, indeed *any* court<sup>26</sup>, despite the procedural irregularity and impermissibility of  
4 such actions, would nevertheless ignore the facts and applicable precedent, and  
5 condone his anticipated breach.

6 The first of such motions came from Hamid’s recruitment of his ex-wife to  
7 collaborate and engage in a civil conspiracy by filing a motion to intervene in the  
8 “D” action, that is now resolved, and for all practical intents and purposes, closed.  
9 Therein, Hamid’s ex-wife incredulously sought injunctive relief “prohibiting”  
10 Hamid from honoring the accepted Offer of Judgment. Victor expressly noted in his  
11 opposition that Jessica’s sudden appearance was simply a coordinated maneuver  
12 with Hamid<sup>27</sup> designed to assist Hamid in his latest attempt at dishonoring his offer  
13 of judgment (that was *unexpectedly* accepted by Victor<sup>28</sup>)—a fact Hamid did not  
14 dispute!

15 Indeed, Victor predicted that the civil conspiracy between Hamid and his ex-  
16 wife would be confirmed when Hamid remained silent<sup>29</sup>. As predicted, Hamid did  
17

---

18 <sup>26</sup> Indeed, as the record confirms, Hamid submitted his offers of judgment in the  
19 domestic matter (D-18-575686-L), but incredulously filed his motion to “set aside  
20 offer of judgment” (despite the fact the offer was accepted and filed with the Clerk  
21 of the Court), first in before Judge Kishner (A-19-801513-P), then the same motion  
22 in the Family Court (D-18-575686-L), and last, but not least, the very same motion  
23 this Court. (A brazen misrepresentation given the fact the offer of judgment was  
24 accepted and filed with the Clerk of the Court).

25 <sup>27</sup> A germination of a civil conspiracy—which Hamid has successfully used to his  
26 benefit in the past.

27 <sup>28</sup> Following Victor’s acceptance of Hamid’s Offer of Judgment, Hamid terminated  
28 the services of Mr. Willick and sought the assistance of counsel that he believes  
will follow his directives, however misguided or unethical they may be.  
Notwithstanding, Hamid is legally bound to honor his Agreement with Victor, and  
Jessica’s attempt to intervene was unwarranted, frivolous, and properly denied.

<sup>29</sup> See Victor’s opposition to Jessica Wilde-Guzun’s motion to intervene, case D-  
18-575686-L, filed 3/23/2021, page 4.

1 not file an opposition to Jessica's motion and the fact Hamid and Jessica are simply  
2 engaging in a civil conspiracy is undeniable. The Court readily saw through Jessica  
3 and Hamid's ruse and *denied* her motion to intervene.

4 Indeed, as noted above, although Hamid's ex-wife claimed Hamid committed  
5 fraud, forgery, and unlawful actions, and that she the actual owner of the properties  
6 involved in the litigation, *Hamid did not file an opposition or challenge her*  
7 *claims*. Hamid didn't even bother to respond to or dispute her claims because (1)  
8 Hamid has no intention of honoring the accepted Offer of Judgment, (2) the  
9 enlistment of his ex is/was merely a ruse<sup>30</sup>, which Hamid hoped would have  
10 enabled him to manipulate the courts and abuse the legal system, and (3) he thinks  
11 he will be able to find at least one court who condone his egregious conduct and  
12 relieve him of his lawful obligation. Respectfully, such expectation is ill-judged  
13 and sanctionable.

14 Hamid's second motion, underscoring his bad faith is the filing a motion  
15 before this Court, to set aside the accepted Offer of Judgment for one million and  
16 one dollars (\$1,000,001.00) (that was made and accepted in the "D" case, that  
17 *Hamid* prepared, signed, and now wants to be found as invalid—just like Hamid  
18 sought to do with the one-million-dollar (\$1,000,000.00) promissory note he  
19 prepared and signed years ago.

20 *Hamid has come full circle; a course maintained with dishonesty and*  
21 *deceit. Hamid's latest motion is just another baseless undertaking to evade*  
22 *fulfilling his legal responsibility.*

23 Because these facts, and other dispositive facts concealed by Hamid, are fatal  
24 to the relief he now seeks from this Court, Hamid substitutes truth with a polished  
25

---

26 <sup>30</sup> Hamid's ex-wife, Jessica Wilde-Guzman is Hamid's puppet, doing and saying  
27 whatever he instructs her to do, and she filed the suit at Hamid's direction to  
28 suggest legitimacy. However, the suit will only be maintained as long as Hamid  
believes he can derive some benefit therefrom or otherwise dismissed by attack.

1 (after three years of rehearsing) false narrative that is devoid of truth and relevance.  
2 That is not surprising, however, because truth has never been a desideratum of  
3 Hamid's actions. Hamid's stratagem is designed to deflect from Hamid's wrongful  
4 actions, conceal relevant/pertinent facts, and to mislead and/or confuse this Court—  
5 at least to such an extent so that Hamid can abuse the legal process for his personal  
6 gain.

7 With that in mind, and for the sake of brevity, there is no need to refute and  
8 disprove the false, inaccurate, and misleading "Facts" Hamid has set forth in his  
9 latest motion<sup>31</sup>; suffice it to say Victor vehemently disputes the veracity of Hamid's  
10 claims and the evidence and applicable precedent likewise disproves Hamid's  
11 representations<sup>32</sup>. Notwithstanding, a few of Hamid's more egregious and dishonest  
12 statements made to this Court merit clarification and correction.

13 **A. Hamid's Background and History is False, Irrelevant, and a**  
14 **waste of this Court's time.**

15 To begin with, Hamid's "Facts" is a misnomer. In reality, it is a  
16 gallimaufry<sup>33</sup>, including page after page of false claims, non sequiturs, and the  
17 irrelevant—liberally laced with untrue allegations bearing no relation to the actual  
18 facts of this case, and more importantly, to the dispositive facts pertaining to  
19 Hamid's motion.

---

21 <sup>31</sup> Hamid's "Facts" have changed over the years of litigation and is different  
22 depending on which Court he is appearing before. Of course, if this Court would  
23 like to have a comprehensive background of the facts and procedure of each case  
24 Hamid is/was involved in, Victor will gladly provide such a supplement to the  
25 Court if requested or deemed helpful.

26 <sup>32</sup> As this Court knows, by law, a court may not assume the truth of allegations in a  
27 pleading that are contradicted by affidavit, further undermining Hamid's position.  
28 *See Data Disc. Inc. v. Systems Tech. Assoc., Inc.*, 557 F.2d 1280 (Court of Appeals,  
9<sup>th</sup> Circuit 1977). *See also, Taylor v. Portland Paramount Corp.*, 383 F.2d 634,  
639 (9<sup>th</sup> Cir. 1967).

<sup>33</sup> A confused jumble or medley of things, or a dish made from diced or minced  
meat, especially a hash.

1 The actual relevant facts in this case have largely and repeatedly been  
2 presented in prior filings with this Court and others—for brevity, incorporated  
3 herein by reference. In short, Hamid’s “background” and “history” is grossly  
4 untrue—and frankly, meaningless as it pertains to the motion before this Court.

5 Hamid lies when he attempts to explain a Bill of Sale to Victor when he now  
6 claims he never sold Zip Zap Auto to Victor. Shamelessly, Hamid conceals the fact  
7 that Hamid insisted on listing the sale at \$1 because *Hamid* wanted to avoid taxes  
8 and insisted Victor pay him cash for the balance of the sale. The purchase price for  
9 the business had nothing to do with Victor obtaining insurance as Hamid would like  
10 this Court to believe.

11 **B. Hamid’s characterization of “pending” litigation is grossly**  
12 **inaccurate, misleading, and irrelevant.**

13 Continuing, Hamid also misstates the “pending” litigation and conceals  
14 dispositive facts while fabricating others. First, as noted above, Hamid’s Second  
15 Offer of Judgment was accepted and has been filed with the Clerk of the Court in  
16 accordance with NRCP 68. As a result, all litigation involving Hamid was  
17 concluded and until Hamid’s latest maneuvers to evade having to honor the  
18 agreement, *nothing was pending*. Indeed, the Stipulation and order to Vacate  
19 Hearings was filed, *by Hamid*, before Judge Kishner on 1/21/21<sup>34</sup>; the same  
20 Stipulation and Order was filed, *by Hamid*, on 1/21/21 before this Court in Case  
21 No. A-19-805955-C<sup>35</sup>; and again, *by Hamid* on 1/21/21 before Judge Bill  
22 Henderson in Case No. D-18-575686-L.

23 Moreover, Hamid’s characterization of the litigation and decisions of the  
24 court(s) are likewise patently false. Notably, review of the record firmly disproves  
25 Hamid’s representations. Whether Judge Henderson had jurisdiction, with a change

26 <sup>34</sup> Review of the Stipulation and Order confirms it was submitted by Hamid, Victor,  
27 Stone & Stone, filed 1/21/21, submitted herewith as Exhibit “6”.

28 <sup>35</sup> Review of the Stipulation and Order confirms it was submitted by Hamid, Victor,  
SLC, LLC. and Zoreh Amiravari, filed 1/21/21, submitted herewith as Exhibit “7”.

<sup>11</sup>RFJN ISO Opposition to Countermotion -228

1 of venue, to set aside a Decree of Annulment, based upon Hamid’s egregious Fraud  
2 committed in the procurement of a Decree in Douglas County, was *never decided*  
3 by Judge Henderson and *remained an issue that was to be tried* at the January 21,  
4 2021 Trial/Hearing<sup>36</sup>.

5 In addition to that issue that was pending before this Court, the nature and  
6 extent of Hamid’s Fraud was likewise a matter that was to be adjudicated before  
7 Judge Henderson<sup>37</sup>. These are the issues that Hamid had litigated for years to  
8 prevent this Court from adjudicating<sup>38</sup>. With no means of escaping judgment day,  
9 Hamid elected, instead, to submit Offers of Judgment.

10 These issues, and others, were not tried *because* after of Hamid making an  
11 Offer of Judgment and Victor’s acceptance of Hamid’s Offer of Judgment, and the  
12 resulting Stipulation and Order. Hamid’s self-serving characterizations are patently  
13 false—and irrelevant. Now that Hamid is once again obligated to pay Victor in  
14 accordance with his Offer of Judgment, he wants to set aside his Offer. The law and  
15  
16

---

17 <sup>36</sup> See Defendant’s Motion to Amend or Make Additional Findings of Fact; To  
18 Alter or Amend the Judgment; To Set Evidentiary Hearing to Address Plaintiff’s  
19 Fraud; And to Correct Clerical Error(S) Of the Court; And Related Relief, filed on  
20 11/3/2020, and Defendant’s Pre-Hearing Brief, Filed Per Court Directive on  
January 8, 2021.

21 <sup>37</sup> *Id.*

22 <sup>38</sup> *Such efforts included a gross misrepresentation of case law*, most recently, the  
23 *Milender* decision, and misplaced reliance on the fact that Judge Henderson noting  
24 that the annulment “stands” , no matter how many times it is stated, was merely a  
25 statement of law (that until a voidable judgment is set aside, it “stands”—a  
26 statement that must necessarily be made by all courts, not just Judge Henderson), is  
27 not, by any stretch of the imagination—nor reflected in the hearings in this action,  
28 an adjudication of whether Judge Henderson, with the change of venue, had  
jurisdiction to set aside the Decree of Annulment from Douglas County, and  
whether Hamid’s fraud necessitated the setting aside of that Decree of Annulment.  
This distinction was briefed extensively (*See* Victor’s Motion to Amend, to set  
Evidentiary Hearing, and to address Hamid’s Fraud and other relief, filed 11/3/20),  
and no doubt led to the formation and presentation of Hamid’s Offer’s of Judgment.

1 applicable legal precedent do not allow Hamid to do so, and Hamid's ploy is  
2 baseless and done in bad faith and with unclean hands.

3 **C. Hamid violates his duty of candor, again, with his inaccurate**  
4 **and incomplete description of an unrelated and irrelevant**  
5 **matter before this Court.**

6 Hamid then ventures into the other civil action in which Hamid was/is  
7 involved, to wit: this action, with more insignificant and misleading claims. It is  
8 telling, however, that Hamid conceals his unsuccessful attempts to seal the case<sup>39</sup>;  
9 his unsuccessful attempts to consolidate the unrelated cases<sup>40</sup>; and that Hamid  
10 abandoned any pursuit of "third-party" actions.

11 Respectfully, what this Court did or didn't do in an unrelated case<sup>41</sup> is  
12 meaningless. Hamid's characterization is defamatory and self-serving; it is also  
13 grossly inaccurate and incomplete. Notably, Hamid fails to disclose the fact that a  
14 motion to dismiss Hamid's claim and rescinding the preliminary injunction<sup>42</sup> was  
15 pending before *this* Court and set to be heard on February 23, 2021. That hearing  
16 was vacated pursuant to the Stipulation and Order following Victor's acceptance of  
17 Hamid's Offer of Judgment—but significantly, *Hamid did not file any opposition*  
18 to the relief requested by Victor—conduct which by Court Rule may be deemed an  
19 admission Victor's motion is meritorious and a consent to granting the same<sup>43</sup>.

20 Equally important is the fact that Hamid's claims of Victor's purported  
21 actions are predicated upon a decision that was *pending being set aside* based upon  
22 Victor's unopposed motion, and more importantly, addresses matters and a  
23 purported decision that has not even been correctly contained or memorialized in a  
24

25 <sup>39</sup> See Journal Entry of April 2, 2020, Case No. A-19-805955-C

26 <sup>40</sup> Hamid's motion was filed 1/3/2020 in Case No. A-19-805955-C

27 <sup>41</sup> Hamid's efforts to consolidate the cases were unsuccessful before this Court,  
before Judge Johnson, and before Judge Kisner.

28 <sup>42</sup> Filed on January 15, 2021.

<sup>43</sup> See EDCR 2.20(e).



1 written decision. Hamid’s counsel knows that an oral pronouncement is invalid for  
2 any purpose<sup>44</sup>.

3 **D. Hamid’s claim the “other parties” were not involved is both**  
4 **false and irrelevant.**

5 While Hamid doesn’t argue there is any significance to the fact that his  
6 Offers of Judgment were made and executed by and through counsel, it seems he  
7 hopes to derive some benefit from that meaningless distinction. Of course, it must  
8 be noted Hamid submitted two (2) Offers of Judgment through counsel in such  
9 manner, and then went on to file the resulting Stipulation and Order, along with a  
10 Notice of Entry of such, in the domestic action and both civil matters.

11 Continuing, Hamid offered and agreed to assume the loan on the Sun Lake  
12 Property—a loan that was in Victor’s name. Specifically, Hamid’s Second Offer of  
13 Judgment provides, in relevant part:

14 10. *Hamid* shall assume the loan on the Sun Lake Home property, and  
15 Victor shall cooperate to have it refinanced within 90 days from the  
date of acceptance of this offer.

16 Victor agreed to Hamid’s Offer. Candidly, Hamid’s counsel at the time, Marshal  
17 Willick, is exceptionally skilled and experienced<sup>45</sup>, and all material terms were  
18 clearly stated and included in Hamid’s Second Offer of Judgment. There is *nothing*  
19 in the Second Offer of Judgment to suggest or in any way support Hamid’s  
20 representation that Hamid “was going to fund the one-time payment to [Victor]  
21 with the funds obtained through refinancing the loan on the Sun Lake Property”,  
22 and his claim is unsupported, patently false, and meaningless.

---

24 <sup>44</sup> See *Rust v. Clark Cty. Sch. Dist.*, 103 Nev. 686, 747 P.2d 1380 (1987) (providing  
25 that the district court’s oral pronouncement from the bench is ineffective for any  
purpose).

26 <sup>45</sup> Indeed, Mr. Willick is a certified Family Law Specialist, writes, lectures, has  
27 authored many textbooks and countless articles, and was the managing editor of the  
28 first edition of the Nevada Family Law Practice Manual. Additionally, Mr. Willick  
has drafted various state and federal statutes.

1 First of all, Victor didn't care where Hamid got his funds and there was  
2 never any discussion pertaining to that issue. As adept Mr. Willick is with drafting,  
3 if there was a concern or a condition on where or how Hamid was to amass the  
4 \$1,000,001.00 one-time payment, it would have been included in the Offers of  
5 Judgment—but it wasn't.

6 Secondly, equity in the Sun Lake Property is vastly insufficient to even be a  
7 viable source for the \$1,000,001.00 one-time payment, and any funds that Hamid  
8 could possibly receive from refinancing the residence wouldn't come close to the  
9 amount of the one-time agreed upon payment<sup>46</sup>. Such truth confirms Hamid's  
10 dishonesty.

11 **E. Hamid brazenly lies to this Court about his “attempted”**  
12 **compliance and Victor’s purported conduct.**

13 As noted above, pursuant to the Offer of Judgment Hamid prepared and  
14 submitted, Hamid was to assume the loan and Hamid was to refinance the property,  
15 all Victor agreed to do was cooperate and vacate the Sun Lake property, which he  
16 did. Indeed, the Offer of Settlement provides, in relevant part:

17 9. Victor shall vacate the Sun Lake Home property within 30 days of  
acceptance of this offer.

18 10. **Hamid** shall assume the loan on the Sun Lake Home property, and  
19 Victor shall cooperate to have it refinanced within 90 days from the  
date of acceptance of this offer.

20 Victor accepted Hamid's Offer of Judgment on January 15, 2021, and  
21 vacated the residence, as agreed upon, on February 11, 2021. On that date, Victor  
22 also dropped off the keys to the residence at counsel's office, and Hamid's attorney  
23 was notified on that same date the residence was vacant and the keys available to be  
24 picked up.

---

26 <sup>46</sup> Indeed, Hamid **admits**, through his own notarized statement that the residence is  
27 valued at \$640,000, and the current loan is approximately \$490,000, leaving a  
28 maximum equity, before costs, of just \$150,000. Hamid is intentionally misleading  
this Court.

1  
2 **Hamid**, on the other hand, contrary to his blatant misrepresentation to this  
3 Court, ***took no steps to assume the loan or refinance the property***. It is significant  
4 to note Hamid provides no financial records to support such effort<sup>47</sup>. Instead, he  
5 conceals the fact that Hamid intended on selling the residence to his brother, and  
6 that his brother was requesting a loan<sup>48</sup>. This fact only became known after  
7 Victor's discussion with Lawyers Title on February 4, 2021.

8 Hamid's claim he repeatedly sent to Victor and his counsel an affidavit to  
9 sign, is likewise untrue. It is telling that neither Hamid or his counsel can provide  
10 any documentation in support of his false representation. Moreover, Victor has  
11 never refused to sign any documents, but sought assurance from Hamid that Victor  
12 would not be responsible for any of the fees/costs/expenses that were referenced in  
13 said documents. This is confirmed with the email from Victor's counsel to  
14 Hamid's counsel, Mr. Willick of February 12, 2021<sup>49</sup>, and through discussions with  
15 Lawyers Title.

16 Following that email, Mr. Willick made ***no attempt*** to contact Victor's  
17 counsel, and notably, neither Hamid nor his counsel ever even suggested Victor  
18 was not cooperating<sup>50</sup>. Victor expressed his concern with being responsible for any  
19 costs/expenses, and was told they would send revised documents—such documents  
20 were never provided. Victor followed up with three additional calls to Lawyer's  
21 Title. Notably, Jennifer, from Lawyers Title informed Victor that ***Hamid is not***  
22 ***responding to her and is not cooperating with the loan and title companies***.

23  
24  
25 <sup>47</sup> For example, Hamid states his application was denied, but Hamid provides no  
26 such denial letter validating his claim.

27 <sup>48</sup> Of course, by the very terms of Hamid's Offer of Judgment, Victor was under no  
28 obligation to cooperate with any third-party.

<sup>49</sup> See Exhibit "8"

<sup>50</sup> Hamid's doing so now is in bad faith and merely a ploy.

1  
2 Notwithstanding, Victor nevertheless executed the documents provided and  
3 has heard nothing since. Hamid's claims are false and just confirmation of the  
4 lengths Hamid will go to evade honoring his agreements.

5 Continuing, as this Court knows, all ambiguities must be construed against  
6 the drafter of the Offer of Judgment<sup>51</sup>. Hamid's reference and interpretation of  
7 paragraph 10 of the accepted Offer of Judgment is unsustainable. Quite simply, as  
8 noted above, paragraph 10 simply provides:

9 Hamid shall assume the loan on the Sun Lake Home property, and  
10 Victor shall cooperate to have it refinanced within 90 days from the  
date of acceptance of this offer.

11 Regardless of Hamid's interpretation, to wit: Whether the focus is on  
12 Victor's cooperation and per the offer's terms, he had to "cooperate" within 90  
13 days, or the focus is on the refinancing of the property, where Victor only needed to  
14 cooperate with Hamid during that 90 period for "refinancing", the reality is, Victor  
15 fully cooperated under either interpretation, and more importantly, neither  
16 "cooperation" or "refinancing" was a condition to Hamid's financial obligation to  
17 Victor.

18 It is also significant to note Hamid provides ***no proof*** that ***he ever*** contacted  
19 the mortgage holder or inquired about being able to "assume" Victor's loan, and  
20 Hamid provides ***no proof*** that ***he*** contacted ***any*** lenders about ***his*** refinancing the  
21 property. The fact Hamid would expect the Court to ignore his actions is alarming.

22 Hamid ignores his bad faith and endeavors to deflect focus by falsely  
23 claiming to not know when Victor vacated the residence—Hamid's prior counsel  
24

25  
26 <sup>51</sup> See *Lietz, supra*; *Nusom v. Cumh Woodburn, Inc.*, 122 F.3d 830, 833 (9th Cir.  
27 1997)); *Herrington v. County of Sonoma*, 12 F.3d 901, 93 Cal. Daily Op. Service  
28 9669, 93 D.A.R. 16606, 27 Fed. R. Serv. 3d (Callaghan) 1038, 1993 U.S. App.  
LEXIS 33638 (9th Cir. 1993) (Ambiguities will be construed against offeror as  
drafting party).

1  
2 can readily disprove such a representation. Moreover, Hamid **now** accuses Victor  
3 of causing significant damage to the residence<sup>52</sup>, after having unfettered access to  
4 the residence since that time without making so much as a written or verbal  
5 “complaint” over the condition of the residence. That proves there is no merit to  
6 Hamid’s fabricated claim.

7 Notwithstanding, it is worth noting that ***Hamid is the one who vandalized***  
8 ***the residence*** when he was ordered by Judge Henderson to allow Victor to occupy  
9 the residence<sup>53</sup>. In reality, Victor made major pool repairs, replaced carpet, made  
10 wall repairs, and cleaned the house and driveways that welcomed him upon his  
11 arrival. Also, Victor documented the condition of the residence when he left<sup>54</sup>, and  
12 such proof, coupled with the passage of time and Hamid’s silence, confirms that the  
13 ***damage that Hamid now complains of was actually performed or orchestrated by***  
14 ***Hamid***, thinking he could simply blame Victor and use that as a means of getting  
15 out of the Offer of Judgment that he made.

16 Victor has not been in the residence or seen it since he vacated it on February  
17 11, 2021. Regardless of whatever damage there *really* is, if any, whether caused by  
18 Hamid or others under his direction, was not caused by Victor. Hamid foolishly  
19 thought he could damage the residence and get out of the agreement in the process.

20 Lastly, further proof that this baseless claim, like all others, is a frantic ploy,  
21 that he has coordinated with his ex<sup>55</sup>, hoping will evade scrutiny and reason so he  
22 can be relieved from having to abide by his agreement, is the fact that Hamid has

---

23 <sup>52</sup> Although technically, there was no mention of Victor’s obligation pertaining to  
24 the residence other than simply vacating it.

25 <sup>53</sup> If requested, Victor has photos documenting and confirming Hamid’s destruction  
26 of the residence.

27 <sup>54</sup> These photos, if the Court thinks them relevant, will likewise be provided upon  
28 request.

<sup>55</sup> This Court was not fooled by the coordinated ruse/civil conspiracy of Hamid and  
his ex and properly denied her motion to intervene at the hearing on April 12, 2021.

1  
2 failed and refused to make a single loan payment on the Sun Lake residence since it  
3 was vacated by Victor (no payments for the months of February, March, and April),  
4 and has also ceased making any of the \$10,000.00 monthly payments ordered by  
5 this Court long before Hamid made his offers of judgment.

6 *Judge Henderson informed Hamid at the April 12, 2021 hearing that such*  
7 *conduct would preclude and prevent Hamid from seeking any relief.* Judge  
8 Henderson's admonishment means nothing to Hamid because he obviously thinks  
9 this court is either disinterested or will overlook applicable legal authority. In  
10 short, Hamid simply believes he can get away with anything.

### 11 III.

#### 12 Legal Argument

##### 13 **A. The Defendant's motion is procedurally flawed and legally** 14 **impermissible.**

15 As a threshold matter, Hamid is asking this Court to improperly and  
16 impermissibly intervene, meddle, dispose of and determine, matters that are  
17 assigned to, and filed in, another district court, to wit: case number D-18-565686-L  
18 before the Honorable Judge Henderson. In *Rohlfing v. District Court*,<sup>56</sup> the Nevada  
19 Supreme Court affirmed "[t]he district courts of this state have equal and  
20 coextensive jurisdiction; therefore, *the various district courts lack jurisdiction to*  
21 *review the acts of other district courts*".

22 DCR 18(1), cited in *Rohlfing*, provides:

23 When any district judge shall have entered upon the trial or hearing of  
24 any cause, proceeding or motion, or made any ruling, order or decision  
25 therein, *no other judge shall do any act or thing in or about such*  
26 *cause, proceeding or motion, unless upon the written request of the*  
27 *judge who shall have first entered upon the trial or hearing of such*  
28 *cause, proceeding or motion* (emphasis supplied).

---

28 <sup>56</sup> 106 Nev. 902, 906, 803 P.2d 659, 662 (1990).

1 DCR 5 provides in relevant part:

2 These rules cover the practice and procedure in all actions in the  
3 district courts of all districts where no local rule covering the same  
4 subject has been approved by the supreme court. Local rules which are  
5 approved for a particular judicial district shall be applied in each  
6 instance whether they are the same as or inconsistent with these rules.

7 EDCR 7.1(b) provides:

8 When any district judge has begun a trial or hearing of any cause,  
9 proceeding or motion, or made any ruling, order or decision therein,  
10 *no other judge may do any act or thing in or about such cause,*  
11 *proceeding or motion, unless upon the request of the judge who has*  
12 *begun the trial or hearing of such cause, proceeding or motion*  
13 (emphasis supplied).

14 Accordingly, Hamid is not only violating the rules of this Court, he is asking  
15 this Court to do the same. This matter is not properly before this Court and should  
16 be summarily denied.

17 **B. The Accepted Offer of Judgment is valid and enforceable.**

18 Once an Offer of judgment is made, it is nonnegotiable; it is either accepted,  
19 in which case a judgement will automatically entered by clerk of court, or rejected,  
20 in which case it stands as marker by which plaintiff's results are ultimately  
21 measured<sup>57</sup>. Rule 68 uses *threat of burden of cost in order to facilitate purpose of*  
22 *encouraging* pretrial settlement of litigation.<sup>58</sup>

23 Rule 68 leaves no discretion in district court to do anything other than enter  
24 judgment once offer of judgment has been accepted<sup>59</sup>; by directing that clerk "shall"  
25 enter judgment after proof of offer and acceptance have been filed, explicit  
26 language of rule signifies that district court possesses no discretion to alter or  
27 modify parties' agreement<sup>60</sup>. Rule 68 offer of judgment is self-executing. Because  
28

<sup>57</sup> *Nusom v. Cumh Woodburn, Inc.*, 122 F.3d 830, 833 (9th Cir. 1997).

<sup>58</sup> *Waters v. Heublein, Inc.*, 485 F. Supp. 110, 23 (N.D. Cal. 1979).

<sup>59</sup> See *Perkins v. U S West Communs.*, 138 F.3d 336 (8th Cir. 1998).

<sup>60</sup> See *Mallory v. Eyrich*, 922 F.2d 1273 (6th Cir. 1991).

1 of mandatory directive contained in Rule 68, and the court has no discretion to alter  
2 or modify parties' agreement. Indeed, the entry of Rule judgment is ministerial  
3 rather than discretionary<sup>61</sup>.

4 Furthermore, Hamid is misguided believing his Second Offer of Judgment is  
5 "proposed"; the record confirms Hamid's offer has been offered, accepted, and filed  
6 with the Clerk of the Court. In other words, much to Hamid's displeasure and best  
7 efforts to evade having to honor the agreement, the Accepted Offer of Judgment is  
8 valid and enforceable. Hamid's legal arguments are untenable and provide no  
9 avenue of escape for Hamid. Also, Hamid's characterization that *his* Offer of  
10 Judgment is invalid on its face is contrary to law and unsustainable<sup>62</sup>. In fact,  
11 Hamid's Offer of Judgment and acceptance is presumptively valid<sup>63</sup>, and Hamid's  
12 characterization is patently false and deliberately misleading.

13 As this Court knows, the usual rules for construing contracts are used to  
14 construe offers of judgment<sup>64</sup>. Additionally, as with other contracts, courts must  
15 construe ambiguities in an offer of judgment against the drafter<sup>65</sup>. Despite Hamid's  
16 glaring attempts to distort and misconstrue the very Offer of Judgment that *he*  
17 prepared and extended; courts may not import one party's unexpressed, subjective  
18

19  
20 <sup>61</sup> See *Webb v. James*, 147 F.3d 617 (7th Cir. 1998), reh'g, en banc, denied, 1998  
U.S. App. LEXIS 17723 (7th Cir. July 20, 1998).

21 <sup>62</sup> It is worth noting that Hamid also petitioned the civil court to have the million-  
22 dollar promissory note *that he prepared* to be usurious and invalid on its face.  
Hamid's evasive maneuver was denied, but he resurrects the tactic now that he is  
23 before a different judge. Hamid's bad faith knows no limits.

24 <sup>63</sup> See *International Union v. Ford Motor Co.*, 2006 U.S. Dist. LEXIS 70471  
("Settlement embodies a bargained give and take between the litigants that  
25 is presumptively valid about which the Court should not substitute its judgment for  
that of the parties").

26 <sup>64</sup> See *Lietz v. Hansen Law Offices, PSC*, 271 P.3d 899 (2012); *Guerrero v.*  
27 *Cumings*, 70 F.3d 1111, 1113 (9th Cir. 1995); *May v. Anderson*, 121 Nev. 669, 119  
P.3d 1254 (2005).

28 <sup>65</sup> See *Lietz, supra*; *Nusom* 122 F.3d at 833.



1 intentions into the offer of judgment<sup>66</sup>. Indeed, a court must look at the parties'  
2 objective manifestations for contract formation, not their unexpressed subjective  
3 intentions, when interpreting an offer of judgment<sup>67</sup>.

4 ***1. Hamid's Offer of Judgment was valid and was accepted.***

5 Courts have long recognized Offers of Judgment to be a valuable settlement  
6 tool, which Hamid used not once, but twice—with the second Offer of Judgment  
7 being accepted and resulting in settlement. Hamid wanted litigation to stop, but  
8 clearly had no intention of honoring his Offer—just as with the promissory note  
9 that he prepared and signed “resolving” all issues, but then failed to honor it.

10 Hamid's claim *his* Offer of Judgment was invalid is, at best, an ***admission***  
11 that he knowingly generated what he considered to be an invalid document to stop  
12 all litigation and compel Victor to leave his home or alternatively, another legally  
13 unsupported position crafted to enable him to dishonor his agreement. Regardless,  
14 such bad faith and unclean hands would bar any relief that he now seeks from this  
15 Court. As noted herein, Hamid's Offer of Judgment was valid and enforceable<sup>68</sup>.

16 Hamid's reliance on *Stockton Kenworth v. Mentzer Detroit Diesel*<sup>69</sup>, is  
17 misplaced and provides no support for the relief Hamid is asking of this Court. In  
18 *Stockton* it must be noted the subject Offer of Judgment was ***not*** accepted and was  
19 not challenged by its drafter. Additionally, the *Stockton* Court stated “the offer  
20 must be for a definite or ascertainable amount so that the parties can be  
21 unequivocally aware of what the defendant is willing to pay for his peace.”<sup>70</sup>

---

23 <sup>66</sup> See *Lietz, supra*.

24 <sup>67</sup> *Id.*

25 <sup>68</sup> Conduct that is in violation of NRC 11 and because of such unclean hands,  
26 would bar Hamid from the relief he is now seeking. See *Las Vegas Fetish &*  
27 *Fantasy Halloween Ball, Inc. v. Ahern Rentals, Inc.*, 124 Nev. 272, 182 P.3d 764  
(2008)

27 <sup>69</sup> 101 Nev. 400, 705 P.2d 145 (1985).

28 <sup>70</sup> 101 Nev. at 404.

1 The fact Hamid *concealed* from the Court that very “definite and  
2 ascertainable amount” that was offered confirms Hamid’s awareness that his claim  
3 lacks merit. Indeed, as set forth in Hamid’s Offer of Judgment, the definite sum  
4 was clear, unequivocal, and unconditional<sup>71</sup>. The fixed and certain amount was:

5 5. Hamid shall pay Victor a one-time payment of \$1,000,001 in cash  
6 within 120 days of acceptance of this offer.

7 That Offer was valid—and accepted.

8 Hamid incredulously expects this Court to find that because the parties  
9 agreed to other terms, in addition to the singular and isolated “offer of judgment” of  
10 a million and one dollars, that he can ignore his offer and its acceptance, or  
11 unilaterally breach or disregard any of its terms, and that somehow the Court will  
12 reward his bad faith and relieve Hamid from having to honor his accepted offer.  
13 The law does not provide Hamid such an option.

14 The Offer of Judgment was also an Agreement between the parties, which  
15 remains valid and enforceable. 60(b)(1) was not intended to remedy effects of  
16 litigation decision that party later came to regret through subsequently-gained  
17 knowledge that corrected erroneous legal advice of counsel (although no such  
18 advice was given in this matter)<sup>72</sup>.

19 Moreover, Hamid’s position is contrary to the express provisions of NRC  
20 68, which provides, in relevant part (the part which Hamid again fails to disclose to  
21 this Court or address) provides:

---

23 <sup>71</sup> In *Stockton*, the offer was deemed conditional because it was expressly  
24 predicated upon obtaining a “good title” despite the fact that the garageman had an  
25 unperfected security interest in the subject vehicle for the repairs performed.  
26 <sup>72</sup> See *Latshaw v. Trainer Wortham & Co.*, 452 F.3d 1097 (9th Cir. 2006)  
27 (attorney’s alleged gross negligence and fraud on court by signing local counsel’s  
28 name to acceptance of offer of judgment did not provide grounds to vacate  
judgment).

1 any party may serve an offer in writing to allow judgment to be taken  
2 *in accordance with its terms and conditions* (emphasis supplied).

3 Clearly, Hamid's inclusion of the other terms found in Hamid's Offer of  
4 Judgment is consistent with NRCP 68 and certainly does *not* render Hamid's Offer  
5 of Judgment invalid, or provide *him* a basis to have *his* Offer to be considered  
6 invalid.

7 Continuing, because Hamid is the one who drafted the Offer of Judgment and  
8 *if* there were any ambiguities, they would necessarily be construed against him as a  
9 matter of law. However, as noted above, Hamid's Offers of Judgment were  
10 prepared by one of the premier drafting and editing lawyers in this State. If  
11 Hamid's offer to pay \$1,000,001.00 was conditioned on anything, such condition(s)  
12 would have been clearly identified and set forth in the Offer.

13 Of course, review of the parties' agreement confirms there were *no*  
14 conditions to Hamid's offer of judgment, and the inclusion of the additional terms  
15 of the parties' agreement is consistent with a global settlement and prudent  
16 lawyering.

17 Hamid deflects focus from this fact because it is fatal to the relief he is  
18 asking of this Court. Contrary to Hamid's brazen misrepresentations, review of the  
19 agreement confirms it does *not* obligate Hamid to refinance the loan within 90  
20 days; it does *not* obligate a lender to approve refinancing of the residence; and  
21 notably, Hamid has not even attempted to secure refinancing on the residence, nor  
22 has he made any of the mortgage payments he agreed to pay. Victor agreed to  
23 cooperate to have it refinanced within 90 days, which he has done, and remains  
24 willing to do whatever is reasonably asked to assist Hamid.

1 Courts have recognized that inclusion of nonmonetary terms and conditions  
2 are permissible and proper in an Offer of Judgment<sup>73</sup>. In short, Hamid's lies  
3 provide this Court no basis to set aside the parties' agreement.

4 ***2. Hamid grossly mischaracterizes his Offer of Judgment and***  
5 ***misstates the law.***

6 Confirming Hamid's frantic scramble to evade having to honor *his* Offer of  
7 Judgment ***knowing the doctrine of rescission is not applicable to Offers of***  
8 ***Judgment***<sup>74</sup>, Hamid inexplicably now characterizes his Offer of Judgment as  
9 somehow being an "unapportioned" Offer of Judgment. His doing so, however,  
10 does not make it so<sup>75</sup>. In this case, Hamid, and Hamid alone made the Second Offer  
11 of Judgment<sup>76</sup>. As defined in NRCP 68, Hamid's offer was neither made to, or by,  
12 multiple defendants or multiple plaintiffs<sup>77</sup>.

13 The legal authority cited by Hamid is not only lends no support for Hamid's  
14 baseless characterization and claims, but confirm its utter lack of merit. The case of  
15 *Parodi v. Budetti*<sup>78</sup>, expressly distinguished between an Offer of Judgment made by  
16 one party (such as this case) to those made by multiple parties (which is not this  
17 case) without indicating how much of the judgment would be paid by the ***multiple***  
18 offerors (again, not at issue in the case at bar). Moreover, the actual unapportioned  
19 offer in *Parodi* did not indicate which claims the offer was meant to settle<sup>79</sup>. In this

20 <sup>73</sup> See *Stanford v. Rasnick*, 246 Cal. App. 4<sup>th</sup>, 1121, 201 Cal. Rptr. 3d 614 (2016);  
21 *Bank of N.Y. Mellon v. Lamplight Cottages @ Santoli Homeowners' Ass'n*, 2020  
22 Nev. App. Unpub. LEXIS 1000, 477 P.3d 1132 (2020).

23 <sup>74</sup> *Webb v. James* 147 F.3d 617 (7th Cir. 1998), reh'g, en banc, denied, 1998 U.S.  
App. LEXIS 17723 (7th Cir. July 20, 1998).

24 <sup>75</sup> Abraham Lincoln is credited for posing the question: How many legs does a dog  
25 have if you call his tail a leg? Then answering his query with the answer "Four.  
Saying that a tail is a leg doesn't make it a leg."

26 <sup>76</sup> Likewise, Hamid and Hamid alone made the First Offer of Judgment.

27 <sup>77</sup> See NRCP 68(c); *Santa Margarita Ranch, LLC v. Third judicial Dist. Court of*  
the State, 2014 Nev. Unpub. LEXIS 665.

28 <sup>78</sup> 115 Nev. 236, 984 P.2d 172 (1999).

<sup>79</sup> *Id.*, 115 Nev. at 240.

1 case, Hamid’s offer **only** obligated Hamid and expressly referenced **all** claims. The  
2 *Parodi* decision is actually fatal to Hamid’s claims and requested relief.

3 Likewise, the cases of *Morgan v. Demille*<sup>80</sup> and *Ramadanis v. Stupak*<sup>81</sup>, are  
4 not applicable, have no bearing on this matter, and are equally damning to Hamid’s  
5 position (notably, they are simply the two cases cited in the *Parodi* decision  
6 distinguished above). First, both *Morgan* and *Ramadanis* have been superseded by  
7 statute<sup>82</sup>, and secondly, *Morgan* and *Ramadanis* both stood for the proposition that  
8 an unapportioned offer of judgment is invalid for the purpose of determining a  
9 prevailing party, or whether “any one party” received a less favorable result, for  
10 purposes of awarding attorney’s fees<sup>83</sup>. That is clearly not at issue in this case.

11 Obviously, the accepted offer of judgment does not distinguish whether the  
12 full cash payment of \$1,000,001 is from [Hamid] or from a combination of the  
13 parties”<sup>84</sup> because no other party made an Offer of Judgment and no other party was  
14 obligated, in any way, in any amount, for any portion of the cash payment. As  
15 clearly set forth in the offer itself, “**Hamid shall pay** Victor a one-time payment of  
16 \$1,000,001 in cash within 120 days of acceptance of this offer.” Where or how  
17 Hamid intended on obtaining such funds is, quite frankly, immaterial<sup>85</sup>.

18 Additionally, while Hamid may have had an interest in the other defendants,  
19 or the fact one or more of the defendants in the civil actions in which Hamid was  
20 personally named may have benefited from Hamid’s Offer of Judgment and  
21  
22

---

23 <sup>80</sup> 106 Nev. 671, 799 P.2d 561 (1990).

24 <sup>81</sup> 104 Nev. 57, 752 767 (1988).

25 <sup>82</sup> *See Short v. Petty*, 139 P.3d 621 (2006).

26 <sup>83</sup> *See also, Parodi, supra*.

27 <sup>84</sup> Hamid’s motion, page 12, lines 8-9.

28 <sup>85</sup> Hamid may have intended on betting heavily on March Madness, or a hefty  
wager at the Craps table, but Hamid’s offer certainly wouldn’t have obligated  
Caesar’s for his quest for funds or Hamid’s obligations.

<sup>26</sup>RFJN ISO Opposition to Countermotion -243

1 settlement of all his claims, is irrelevant and does not make them in any way  
2 responsible for Hamid's financial obligations.

3 Hamid's Offers of Judgment were not joint offers. It was prepared by and  
4 offered solely from Hamid. The language of the Offer of Judgment unequivocally  
5 confirms Hamid's Second Offer of Judgment was not an unapportioned joint offer,  
6 that it was not made by "multiple offerees", and Hamid's position is patently  
7 absurd. His expectation this Court would even consider such a ridiculous claim is  
8 ill-judged and disturbing.

9 **C. Hamid is unable to sustain the burden that must be met in**  
10 **order to set aside the parties' Agreement.**

11 Hamid cites NRCP 60(b), but fails to acknowledge, or consciously ignores  
12 the fact, that Rule 60(b) relief imposes a high bar for relief from a judgment<sup>86</sup>.  
13 Relief provided by Rule 60(b) is an "extraordinary" remedy, "only to be invoked  
14 upon a showing of exceptional circumstance."<sup>87</sup> Significantly, Hamid fails to  
15 disclose to the Court that Rule 60(b) relief must be predicated upon "*just terms*"<sup>88</sup>,  
16 which is a standard Hamid *cannot* sustain.

17 Hamid dishonored and tried to stop making payments on the million-dollar  
18 promissory note—relief disallowed by this Court. Hamid now wants to dishonor  
19 his million and one dollar Offer of Judgment—relief this Court cannot allow.  
20 Hamid unilaterally and impermissibly ceased making the *court ordered* \$10,000.00  
21

---

22 <sup>86</sup> *It should be noted that pursuant to the terms of Hamid's Offer of Judgment,*  
23 *Judgment has not yet been entered* (arguably making his motion premature).  
24 Relief under Rule 60(b) is at the expense of the finality of judgments; hence relief is  
25 considered "extraordinary." *See Gonzalez v. Crosby*, 545 U.S. 524, 529 (2005)  
26 (noting that Rule 60(b)'s "whole purpose is to make an exception to finality"). Rule  
60(b) is not a substitute for appeal. *Twentieth Century-Fox Film Corp. v.*  
*Dunnahoo*, 637 F.2d 1338, 1341, (9th Cir. 1981).

27 <sup>87</sup> *See Compton v. Alton S.S. Co.*, 608 F.2d 96 (1979).

28 <sup>88</sup> *See* NRCP 60(b)(which begins "[o]n motion and just terms, the court may relieve  
a party or its legal representative from a final judgment

1 monthly payments long before making his offers of judgment, has failed to make  
2 any of the mortgage payments on the residence he received pursuant to *his* offer of  
3 judgment<sup>89</sup>, and has continued not making any of the \$10,000.00 court ordered  
4 payments following the acceptance of his offer of judgment. Conduct this Court  
5 informed Hamid that would preclude any relief that he is now seeking<sup>90</sup>.

6 The relief that Hamid seeks is neither just or warranted. The fact the request  
7 is made in bad faith and predicated upon an inexcusable violation of the duty of  
8 candor that is owed this Court, makes his request more egregious and inexcusable.  
9 In short, Hamid's inability to establish a lack of unfair prejudice to Victor and  
10 exceptional circumstances mandates a complete denial of Hamid's underlying  
11 motion.<sup>91</sup>

12 ***1. Hamid's claims of mistake, inadvertence or excusable neglect are***  
13 ***fabricated and patently false.***

14 Hamid's dishonesty is further confirmed through his mischaracterization that  
15 his Offer of Judgment only settled the financial claims between Hamid and Victor.  
16 Even a cursory review of Hamid's offer disproves his statement. Indeed, the Offer  
17 expressly provides:

18 The parties agree to waive all claims they may have either personally  
19 or through their business affiliations in this and any other litigation,  
20 known or unknown, including, but not limited to, the claims in cases  
21 D-18-575686-L, A-190805955-C, and A-19-801513-P, to dismiss all  
22 claims they have in all courts against each other, or any other party  
named or implicated in the foregoing named cases, and vacate all  
pending trial and hearing dates<sup>92</sup>.

25 <sup>89</sup> Conduct that Hamid knows will damage Victor because the loan is in Victor's  
26 name.

27 <sup>90</sup> Court's admonishment from the April 12, 2021 hearing.

28 <sup>91</sup> *See Dowell v. State Farm Fire & Cas. Auto. Ins. Co.*, 993 F.2d 46 (1993).

<sup>92</sup> Offer of Judgment, Exhibit "A", pages 2-3, lines 25-27 and 1-3 respectively.

1 Clearly, Hamid's dishonesty knows no limits. Hamid's offer pertained to  
2 Hamid and as a matter of law, he has no standing or right to argue on behalf of  
3 other named defendants—which incidentally, have joined in the Stipulation and  
4 Order that vacated all their hearings based upon anticipated settlement between the  
5 parties. *Significantly, none of the other named defendants are seeking to have*  
6 *Hamid's Offer of Settlement and resulting acceptance, set aside.*

7 It is telling that Hamid doesn't even state whether he is seeking relief based  
8 upon mistake, inadvertence, surprise or excusable neglect—he simply collectively  
9 references the factors. However, Hamid is unable to establish the existence of any  
10 one of those factors, and none of the cases cited by Hamid stand for the proposition  
11 that mere reference to a recognized factor meets, or eliminates, the burden of  
12 having to prove such factor(s). Indeed, such a standard would be patently  
13 ridiculous.

14 Also, Hamid's attempted deflection/blame upon his prior counsel, Mr.  
15 Willick, is misguided and ill-judged. Indeed, courts have long held that neglect by  
16 Counsel, even if there was any (which in this case, there was none) to conduct any  
17 research into Rule 68 before extending the Offer of Judgment (other than reading  
18 the Rule itself), it *not* a basis for 60(b)(1) relief<sup>93</sup>.

19 Further, Hamid's wandering into this action, and this Court's purported  
20 rulings, is irrelevant and grossly misleading. By now, it is not surprising that  
21 Hamid conceals the fact that *there was no order prepared* reflecting the decision  
22 Hamid references, and additionally, Victor filed a motion for reconsideration, to  
23  
24  
25

26 \_\_\_\_\_  
27 <sup>93</sup> See *Webb v. James* 147 F.3d 617 (7th Cir. 1998), reh'g, en banc, denied, 1998  
28 U.S. App. LEXIS 17723 (7th Cir. July 20, 1998).



1 rescind the preliminary injunction, and to vacate the minute order—***which was not***  
2 ***opposed by anyone***.<sup>94</sup> Hence, Hamid’s discussion is incredibly irrelevant<sup>95</sup>.

3 In conclusion, Hamid’s suggestion Victor is not prejudiced by his actions is  
4 patently false and absurd. Victor accepted Hamid’s Second Offer of Judgment  
5 because he has been financing litigation for three years because of Hamid’s  
6 egregious fraud and tortious actions that included wrongfully taking Victor’s  
7 business and assets, and other willful torts. After delaying all trials in all matters,  
8 Hamid has returned to trying to make litigation cost prohibitive for Victor. The  
9 resulting delay and litigation would be devastating to Victor—a fact Hamid is  
10 counting on with his frivolous pursuit to set aside their agreement. The prejudice  
11 that Victor would sustain precludes Hamid from 60(b) relief.<sup>96</sup>

12 Hamid hasn’t complied with the Offer of Judgment, certainly hasn’t given  
13 Victor “an opportunity to comply”, hasn’t made a single mortgage payment that he  
14 agreed upon, and endeavors to conceal his ongoing bad faith and dishonesty with an  
15 offensive blitz<sup>97</sup>. Consideration of Hamid’s misrepresentations, unsupported  
16 conclusions, and misstatements of law, readily establishes that Hamid has not, by  
17 any stretch of the imagination, acted in good faith or attempted to comply with the  
18 terms of his Offer of Judgment (that he now claims is invalid).

22 <sup>94</sup> EDCR 2.20 allows the court to consider such action as an admission the motion  
23 is meritorious and a consent to granting it.

24 <sup>95</sup> Aside from irrelevance as it pertains to whether there was a mistake that  
25 warranted setting aside the parties’ agreement (which there was not, it is telling that  
26 Hamid claims he was denied “the loan required to finance the financial obligations”  
but does not produce any pertinent documents that would even remotely validate  
his untruths.

27 <sup>96</sup> See *Dowell v. State Farm Fire & Cas. Auto. Ins. Co.*, 993 F.2d 46, 48 (1993).

28 <sup>97</sup> Including the withholding of the \$10,000.00 court ordered monthly payments in  
order to financially strangle Victor.

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

2  
3

4  
5  
6  
7  
8

9  
10  
11  
12  
13  
14

15  
16  
17  
18  
19  
20

22

23

24

25

26

27

28

1 Hamid’s referenced exhibits, “1-5” provide absolutely *no* support, proof, or  
2 evidence that Victor has made disparaging comments. Instead, Hamid, who has an  
3 admitted history of defrauding DMV, a long history of defrauding courts and  
4 others, and last, but not least, defrauding and cheating his customers, simply seeks  
5 to blame Victor for his customer’s dissatisfaction and disapproval of Hamid’s  
6 excessive costs and his unprofessional and inferior service. If Hamid was truly  
7 concerned with his reputation and reviews, he would cease his unethical and  
8 unprofessional business practices—something he will never do, however, because  
9 he has determined unprincipled and unscrupulous practices are far too lucrative.

10 This argument merely cements Hamid’s desperation and his misplaced belief  
11 believing this court is gullible or disinterested in following the law—after all,  
12 Hamid certainly has no intention of honoring his agreement, keeping his word, or  
13 following the law.

14 ***3. Hamid is the only party engaging in improper conduct.***

15 Clearly, there is no factual or legal basis that would enable Hamid to  
16 dishonor the Agreement that was created when Hamid’s Offer of Judgment was  
17 accepted by Victor.

18 Hamid returns to his false and unsupported claim that Victor “continued” to  
19 violate this Court’s order, but concealed the fact that there was never an order that  
20 was prepared and there was no opposition to Victor’s motion to vacate the minute  
21 order and rescind the preliminary injunction, confirms Hamid’s reference is  
22 irrelevant, completely false, and grossly misleading<sup>102</sup>.

23  
24 All of the negative reviews are from Hamid’s customers—and are in no way caused  
25 or made by Victor.

26 <sup>102</sup> Indeed, Hamid makes the baseless claim hoping his lie relieves him of his  
27 obligations, instead of addressing Victor’s purported “contempt”. This Court  
28 knows that under the circumstances of this case, any such pursuit would have been  
futile. Apparently, Hamid hopes this Court does not require truth or evidence when  
making its rulings.

1 While concealing the above facts from the Court, Hamid nevertheless  
2 references journal entries that are irrelevant based upon the above, and fails to  
3 provide any proof or evidence to prove, or even suggest, Victor engaged in the  
4 conduct Hamid claims other than *his* self-serving (and false) statement.

5 Lastly, Hamid also went so far as to post negative comments himself about  
6 Zip Zap Auto because Victor was honoring their stipulation, and as a result, Hamid  
7 determined the only way he could hope to have Victor found in contempt is if he  
8 was able to make it appear as if Victor was responsible. Hamid's egregious  
9 conduct and outrageous conduct was briefed in detail in Vitiok's opposition to  
10 Hamid's baseless motion for an order to show cause<sup>103</sup>.

11 **D. There is no factual or legal basis to “reopen” discovery and**  
12 **“reset trial”.**

13 In closing, Hamid makes a passing request to “Reopen Discovery and Reset  
14 Trial” without even an attempt to cite any authority, let alone factual basis, that  
15 would permit, or even warrant, this Court to order discovery in this case that has  
16 been settled and will be closed once Hamid learns his shocking dishonesty and  
17 abuse of the legal process was ineffective and Hamid is directed to honor and  
18 comply with the very agreement that resulted from *his* Offer of Judgment.

19 Hamid's half-hearted request should be summarily rejected. Indeed, EDCR  
20 2.20(c) provides that “[t]he absence of such memorandum may be construed as an  
21 admission that the motion is not meritorious, as cause for its denial or as a waiver  
22 of all grounds not so supported.” Even if such authority existed, the facts of this  
23 case defeat the application of any such authority, and Hamid's conclusory request  
24  
25  
26

---

27 <sup>103</sup> A copy of that opposition is submitted herewith as Exhibit “9” for the Court's  
28 convenience and review.

1 for discovery, devoid of detail or legal support, is insufficient to obtain such  
2 relief<sup>104</sup>.

3 **E. Hamid should be sanctioned and directed to reimburse Victor**  
4 **for the fees incurred bringing Hamid’s dishonesty and baseless**  
5 **motion before this Court.**

6 NRS 7.085 is to be liberally construed and it provides that it is the intent of  
7 the Legislature that the court award costs, expenses, and attorney’s fees, and impose  
8 Rule 11 sanctions to punish and deter frivolous motions.

9 Sanctions under NRCP 11 are also allowed. As noted by the Nevada  
10 Supreme Court in *Watson Rounds, P.C. v. Eighth Judicial Dist. Ct. (Himelfarb &*  
11 *Associates)*, 131 Nev. 783, 784, 358 P.3d 228, 230 (2015), NRCP 11 and NRS  
12 7.085 each represent a distinct, independent mechanism for sanctions.

13 Continuing, in *Barney v. Mt. Rose Heating & Air Conditioning*, 192 P.3d  
14 730, 736 (2008) citing *Brunzell v. Golden Gate National Bank*, 85 Nev 345, 455  
15 P.2d 31 (1969), the Court enumerated factors that the district court should consider  
16 in awarding attorney fees, with no one factor controlling, as follows:

17 (1) the advocate's qualities, including ability, training,  
18 education, experience, professional standing, and skill;

19 (2) the character of the work, including its difficulty, intricacy,  
20 importance, as well as the time and skill required, the responsibility  
21 imposed, and the prominence and character of the parties when  
22 affecting the importance of the litigation;

23 (3) the work performed, including the skill, time, and attention  
24 given to the work; and

25 (4) the result--whether the attorney was successful and what  
26 benefits were derived.

27 <sup>104</sup> See *Clayton v. Nationwide Mut. Ins. Co.*, 260 F. Supp. 3d 514, 521 (2017) (“The  
28 court has no obligation to fashion arguments for a party or to further develop a  
party’s argument when it is wholly conclusory, unexplained, and unadorned with  
citation to legal authority.”).

1 Victor has met the factors outlined in Brunzell. Victor's counsel is qualified  
2 and has considerable experience, ability and training in the field of civil litigation. It  
3 is the responsibility of Victor's counsel to resolve outstanding issues to ensure  
4 Victor's rights are preserved and the duty of candor that is owed to this Court is  
5 maintained. Victor's counsel was attentive to work performed.

6 Hamid's/Defendants' motion was baseless and Victor is entitled to an award  
7 of attorney's fees for having to respond to the factually and legally deficient  
8 motion. Hamid has acted in bad faith and filed a frivolous motion wherein facts  
9 were misrepresented, no law or misstated law was cited, and the Court was  
10 deliberately misled. Hamid filed a baseless motion hoping to evade his obligation.  
11 Victor is clearly entitled to recoup the fees that he has incurred having to respond to  
12 the baseless and inaccurate motion, and clarifying, completing, and correcting  
13 Hamid's false claims and unsupported conclusions occasioned through the violation  
14 of the duty of candor that is owed to this Court.

15 Based upon the foregoing, it is not only fair, but also reasonable under the  
16 circumstances that Hamid be responsible for Victor's attorney fees and costs.

#### 17 IV.

#### 18 Conclusion

19 The law provides "[a] consent judgment should be strictly construed to  
20 preserve the bargained for position of the parties."<sup>105</sup> Based upon the above, it is  
21 clear that Hamid has cited inapplicable law, has failed to establish the facts or  
22 applicable precedent that would enable him to seek relief from this Court, not to  
23 mention the authority for this Court extend Hamid such relief. Hamid has failed to  
24 meet his burden, and the relief Victor seeks is warranted. Hence, Victor  
25 respectfully requests the Court enter an Order:

---

27 <sup>105</sup> *Peterson v. Corona*, 2017 Nev. App. Unpub. LEXIS 959 (2017); *Van Cleave v.*  
28 *Osborne, Jenkins & Gamboa, Chtd.*, 108 Nev. 885, 888, 840 P.2d 589, 591 (1992).

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1. Denying Hamid’s motion in its entirety;
2. Sanctioning Hamid and awarding Victor attorney’s fees and costs for having to defend Hamid’s baseless motion and respond to Hamid’s baseless, defamatory, and unwarranted motion; and
3. For such other and further relief as the Court deems just and equitable.

Dated this 19<sup>th</sup> day of April, 2021.

Respectfully submitted:

/s/ Todd M. Leventhal  
TODD M. LEVENTHAL, ESQ.  
Nevada Bar No: 008543  
626 South Third Street  
Las Vegas, Nevada 89101  
(702) 472-8686 – office  
(702) 472-8685 – fax  
*Attorney for Plaintiff Vitiok, LLC.*

1  
2                                   **DECLARATION OF VICTOR BOTNARI**

3           I, Victor Botnari, declare under penalty of perjury under the laws of the State  
4 of Nevada that the following is true and correct.

5           1.     I am the Plaintiff in the above-entitled matter and owner of Vitiok,  
6 LLC. Unless otherwise stated herein, I have personal knowledge of the facts and  
7 circumstances set forth herein.

8           2.     That I have read the foregoing opposition and counter-motion and the  
9 factual averments it contains are true and correct to the best of my knowledge,  
10 except as to those matters based on information and belief, and as to those matters, I  
11 believe them to be true. Those factual averments contained in the referenced filing  
12 are incorporated here as if set forth in full.

13  
14           DATED this 20<sup>th</sup> day of April, 2021.

15  
16                                   /s/ Victor Botnari  
17                                   Victor Botnari  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28



1  
2 **CERTIFICATE OF SERVICE**

3 I hereby certify that I am an employee of Hofland & Tomsheck, that Pursuant  
4 to NRCP 5(b) and EDCR 7.26, I certify that on the 20<sup>th</sup> day of April, 2021, I served  
5 the foregoing **PLAINTIFF'S OPPOSITION TO DEFENDANTS' MOTION**  
6 **TO SET ASIDE OFFER OF JUDGMENT, RESET TRIAL, AND RE-OPEN**  
7 **DISCOVERY AND COUNTERMOTION FOR SANCTIONS, ATTORNEY'S**  
8 **FEES AND COSTS** on the following parties by E-Service through Odyssey  
9 addressed as follows:

10 *Via E-Service*

11 ENSTEIN PHAM & GLASS LLP

12 Robert A. Rabbat, Esq.

13 [rrabbat@enensteinlaw.com](mailto:rrabbat@enensteinlaw.com)

*Attorney for Defendant Hamid Sheikhai*

14 *Via E-Service*

15 Michael B. Lee, Esq.

16 [mike@mblnv.com](mailto:mike@mblnv.com)

17 1820 E. Sahara Avenue, Suite 110

18 Las Vegas, NV 89104

*Attorneys for Defendants SLC, LLC and Zohreh Amiryavari*

19 By: /s/ Nikki Warren

20 An Employee of Hofland & Tomsheck

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

Bradley J. Hofland, Esq.  
HOFLAND & TOMSHECK  
228 S. 4<sup>th</sup> St., 1<sup>st</sup> Floor  
Las Vegas, NV 89101  
Telephone: (702) 895-6760  
Email: bradth@hoflandlaw.com  
*Attorneys for Defendants*

15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28