

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 27 2022 02:16 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

**AMENDED APPENDIX**

**VOL. 7**

**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>
Appendix of Exhibits in Support of Defendants' Reply to "Plaintiff/Counter-Defendant SLC LLC's Memorandum of Points and Authorities in Opposition to Defendants / Counter-Claimants Motion for Summary Judgment; and Request for Attorneys' Fees for Defending Improper Rule Request for Sanctions" (Part 2 – pages 251 to 342 of the document)	4/21/22	7	004-095	ROA001438-ROA001529
Plaintiff/Counter-Defendant SLC LLC's Motion to Strike Defendants /Counter-Claimants Improper New Reply Evidence	4/25/22	7	096-101	ROA001530-ROA001535
Plaintiff/Counter-Defendant SLC LLC's Evidentiary Objections to Declaration of Bradley Hofland Filed in Support of Defendants / Counter-Claimants Reply in Support of Motion for Summary Judgment	4/25/22	7	102-109	ROA001536-ROA001543
Minute Order	4/27/22	7	110-112	ROA001544-ROA001546
Order Denying Defendants/Counter-Claimants' Motion for Summary Judgment	6/21/22	7	113-125	ROA001547-ROA001559
Notice of Entry of Order Denying Defendants/Counter-	6/22/22	7	126-142	ROA001560-ROA001576

Claimant's Motion for Summary Judgment				
---	--	--	--	--

**HOFLAND AND TOMSHECK**  
228 S. 4<sup>th</sup> Street, 1<sup>st</sup> Floor  
Las Vegas, Nevada 89101  
702-895-6760 • Fax 702-731-6910

IN THE SUPREME COURT  
OF THE STATE OF NEVADA

VICTOR BOTNARI,  
  
Appellant,  
  
vs.  
  
HAMID SHEIKHAI,  
  
Respondent.

) Case No: 81336  
) Electronically Filed  
) Nov 03 2020 04:02 p.m.  
) District Court Elizabeth A. Brown  
) Clerk of Supreme Court

**NOTICE OF WITHDRAWAL OF APPEAL**

Victor Botnari, appellant named above, hereby moves to voluntarily withdraw the appeal mentioned above.

I Bradley J. Hofland, Esq., as counsel for the appellant, explained and informed Victor Botnari of the legal effects and consequences of this voluntary withdrawal of this appeal, including that Victor Botnari cannot hereafter seek to reinstate this appeal and that any issues that were or could have been brought in this appeal are forever waived. Having been so informed, Victor Botnari hereby consents to a voluntary dismissal of the above-mentioned appeal.

//

//



1 VERIFICATION

2 I recognize that pursuant to N.R.A.P. 3C I am responsible for filing  
3 a notice of withdrawal of appeal and that the Supreme Court of Nevada  
4 may sanction an attorney for failing to file such a notice. I therefore certify  
5 that the information provided in this notice of withdrawal of appeal is  
6 true and complete to the best of my knowledge, information and belief.

7  
8 DATED this 3<sup>rd</sup> day of November, 2020.

9 HOFLAND AND TOMSHECK

10  
11 By: /s/ Bradley J. Hofland

12 BRADLEY J. HOFLAND, ESQ.

13 Nevada Bar No. 006343

14 228 S. 4<sup>th</sup> Street, 1<sup>st</sup> Floor

15 Las Vegas, Nevada 89101

16 Attorneys for Appellant  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**HOFLAND AND TOMSHECK**  
228 S. 4<sup>th</sup> Street, 1<sup>st</sup> Floor  
Las Vegas, Nevada 89101  
702-895-6760 • Fax 702-731-6910

**CERTIFICATE OF SERVICE**

I hereby certify that I am an employee of HOFLAND AND TOMSHECK and that on the 3<sup>rd</sup> day of November, 2020, service of a true and correct copy of the foregoing NOTICE OF WITHDRAWAL OF APPEAL was filed through Eflex electronic filing system. Electronic notification will be sent to the following:

Marshal S. Willick, Esq.  
Bradley J. Hofland, Esq.  
Todd Leventhal, Esq.

*/s/ Nikki Woulfe*

-----  
Nikki Woulfe

# EXHIBIT K

DEF000428

ROA001441



624 S.10th Street  
Las Vegas, NV 89101  
voice (702) 477-0021  
fax (702) 868-8321  
www.acceleratedescrow.com

**SELLER'S CLOSING STATEMENT**  
Estimated

Escrow Number: 13-00013-RQ  
Escrow Officer: Ronald K. Quinn  
Buyer: Jens, Inc.  
Seller: Samir LLC  
Business Name: Zip Zap Auto  
Property: 3230 N Durango, Las Vegas, NV 89129

Date: 03/25/2013 - 2:12:28PM  
Closing Date:

DESCRIPTION	DEBITS	CREDITS
<b>TOTAL CONSIDERATION</b>		275,000.00
<b>PRORATIONS/ADJUSTMENTS:</b>		
Personal Property County Taxes @ 198.76 per 1 year(s) 3/28/2013 to 6/30/2013		51.73
March Rents @ 3,545.10 per 1 month(s) 3/28/2013 to 3/31/2013		466.20
Security Deposit		3,000.00
<b>COMMISSION(S):</b>		
Selling Broker: First Choice Business Brokers	26,500.00	
Broker Doc Fee	300.00	
<b>ESCROW CHARGES TO: Accelerated Escrow</b>		
Escrow Fee Escrow Fee	800.00	
UCC Search	110.00	
Federal Express Fee		
Wire Fee		
UCC Financing Statement	50.00	
<b>LENDER CHARGES</b>		
New to Samir LLC:	75,000.00	
<b>TAXES:</b>		
Miscellaneous Tax to: Nevada Department of Taxation Tax Agreement		
Miscellaneous Tax to: DETR Tax Agreement		
<b>BALANCE DUE YOU</b>	175,757.93	
<b>TOTALS</b>	278,517.93	278,517.93

Samir LLC

  
Sami H Sheikhal, Managing Member

THIS IS AN ESTIMATED STATEMENT and is governed by the terms and conditions regarding "Accounting & Statements" as contained in the General Provisions of your Escrow Instructions. YOUR SIGNATURE ABOVE INDICATES ACCEPTANCE OF SAME.

DEF000429  
ROA001442

**ASSET PURCHASE AGREEMENT- NV (131)**

Including Schedule of Warranties and Representations, Earnest Money Receipt and Instructions to Escrow.  
Ted Geary and/or Assigned

whether one or more), hereby agree to purchase from: Samir, LLC, Samir Sheikhai, Managing Member ("BUYER," or assignee,  
("SELLER,"

whether one or more), upon the terms and conditions set forth, the below described assets used in connection with the business ("BUSINESS") known as:

Zip Zap Auto

Listing # \_\_\_\_\_

Located at: 3230 N. Durango, Las Vegas, NV 89129

1. The Total Purchase Price will be: \$ 300,000 US. Dollars, and will be payable as follows:

2. \$ 30,000

Receipt of Earnest Money Deposit (EMD) is acknowledged, payable to First American Title  
who is instructed to hold the money in trust until closing or other termination of this Agreement. Any check accepted is  
subject to collection. The check will be held uncashed until acceptance of this Agreement and all amendments. Upon the  
acceptance of this Agreement and any amendments, the EMD will be deposited into a trust or escrow account unless  
otherwise directed. Buyer represents that the funds will be available when the check is deposited.

PLUS

3. \$ \_\_\_\_\_

A Seller Carry Note, payable in \_\_\_\_\_ monthly payments including \_\_\_\_\_ % interest per annum.

The first payment will be due and payable 30 days or ☐ \_\_\_\_\_ days after the closing, with the interest accruing 1 day

or ☐ \_\_\_\_\_ days from the closing. A late fee of 10% or ☐ \_\_\_\_\_ % of the payment will be charged if the payment

is not received within 15 days or ☐ \_\_\_\_\_ days of the due date.

The approximate monthly payment amount will be \$ \_\_\_\_\_.

The security for the Seller Carry Note is a UCC lien as described in Item #10 below. The note may be prepaid without a  
penalty and is assumable with Seller's consent, which shall not be unreasonably withheld. Escrow is hereby instructed by  
Buyer and Seller to prepare a security agreement and promissory note that is personally guaranteed by Buyer.

4. PLUS  
\$ 250,000 (See Addendum #1)

Additional Funds:

☐ Balloon payment(s): \_\_\_\_\_

☐ Assumption of Seller debt: \_\_\_\_\_

☐ Other: \_\_\_\_\_

5. \$ \_\_\_\_\_

Payable by Buyer to the closing entity by cashiers check, bank wire or bank draft on or before the closing date.

6. \$ 300,000

TOTAL PURCHASE PRICE: (2+3+4+5)

(This may be referred to as "Selling or Listed Price in the Listing Agreement. This amount does NOT include closing costs,  
prorations, deposits or other fees and costs associated with the purchase.)

7. DEFINITIONS "Escrow" is defined as any non related third party that will act as the closing entity for this transaction. "Buyer" applies to the undersigned and any partnership,  
corporation, individual, or other entity with which the undersigned is affiliated. First Choice Business Brokers Las Vegas 101 is hereby referred to as (FCBB).

8. NOTE ADJUSTMENTS: The difference between any indebtedness to be assumed and the Total Purchase Price above is approximate. Any difference at closing between the  
estimated and actual balances of any notes to be assumed will be reflected in the cash at closing so that the Total Purchase Price is as stated above. If a Seller Carry Note is created  
plus assumption of existing notes, any difference at closing between the estimated and actual balances of the existing notes plus the cash at closing, will be reflected in the Seller Carry  
Note (not in the down payment).

9. INVENTORY OF GOODS: It is agreed that the on-hand inventory of marketable goods at the Seller's cost will be approximately \$ 60,000

on the closing date. An itemized physical inventory will be taken by the Buyer and the Seller prior to the closing. Any increase or decrease (check one) ☒ WILL ☐ WILL NOT,  
correspondingly adjust the total purchase price. If an adjustment is to be made, it will be reflected in the Seller Carry Note, if any, payable to the Seller or reflected in the Total Purchase  
Price if there is no Seller Carry Note. All costs incurred to perform the inventory count will be paid equally by Buyer and Seller

10. SECURITY: If the Seller is to provide financing for the Buyer, unless otherwise noted, the Buyer will give the Seller a lien on all assets of the business. The security for the lien will  
consist of, but not limited to, all equipment, fixtures, improvements owned or used by the Seller in the business being purchased by the Buyer. At or prior to the transfer and/or closing of  
the sale, the Buyer will deliver and execute at Buyer's own expense, such security documents (including evidence of corporate authority), UCC-1 form, a Promissory Note and Security  
Agreement executed by the Buyers for the Seller Carry Note. Such note and Security Agreements will be subject to any existing liens described herein. The UCC-1 form may be filed to  
record a lien in favor of the Seller. If a lien on real property is included in the security, the escrow company (or the closing entity), is hereby instructed to prepare and record such lien  
against the property, unless otherwise instructed in writing by Buyer and Seller. If the security for the Seller Carry Note includes real property or mixed collateral, Buyer and Seller

Buyer Initials (    ) Buyer Initials ( )

Page 1 of 9

Seller Initials (    ) Seller Initials ( )  
131NV 11222011

DEF000430  
ROA001443

are cautioned that such collateral may be subject to complex rules and court decisions under State law. Buyer and Seller are strongly cautioned to consult legal counsel in connection with the securing and enforcement of such obligations.

11. **CREATION OF ANOTHER ENTITY BY THE BUYER:** Buyers may elect to create another entity (e.g., corporation, partnership or LLC). This Agreement may be assigned to the entity and the Buyer will cause the entity (to the extent permitted by law), to assume the same. The Buyer will continue to be personally liable and personally guarantee for the performance of this Agreement and the payment of any unpaid balances owed to the Seller notwithstanding such assignment and assumption.

12. **BUYER'S DUTIES:** If Buyer is to assume any existing encumbrance, advertising, contractual agreements, loan or equipment lease(s), then Seller will, prior to closing this sale, provide the Buyer and FCBB with all details of the encumbrances, including copies of loans, lease agreements, balance owing and payment schedules. If Buyer is to assume any lease and/or loan, Buyer agrees to immediately make application to assume such leases and/or loans. Buyer agrees to assume the named Seller liabilities. NA

The Buyer agrees to hold the Seller harmless and indemnify the Seller in the event that any Buyer assumed encumbrance, note or liability is unpaid and payments are demanded from the Seller. Unless specifically exempted from this Agreement Buyer agrees to assume existing contracted service and advertising agreements.

13. **PRORATIONS/ADJUSTMENTS:** Buyer and Seller agree to adjust and pro-rate (based on a 30 day month) all usual items to the date of closing including but not limited to: Payroll, Vacation Pay, Deposits, Taxes, Rents, Assumed Equipment Lease and Assumed Notes. Such adjustments will be reflected in the Seller's net proceeds and/or any Seller Carry Note, if applicable, payable to the Seller hereunder. All items of income and expense relating to the Business up to midnight of the day prior to closing will be for the Seller's account, and all items of income and expense from and after the day of closing will be for the Buyer's account. The Buyer will arrange to have the utilities transferred to Buyer and will be responsible for new deposits to those utilities. Any other Seller deposits will be the property of the Seller and will not be assumed by Buyer unless otherwise stated. Unless otherwise stated all accounts payable accrued up to the closing date will be the responsibility of the Seller and all accounts receivables accrued up to the closing date will be the property of the Seller. All customers deposits in the custody of the Seller for work or services not yet completed or merchandise not delivered will be the property of the Buyer. Unless otherwise noted, all work in progress will be prorated as agreed to by Buyer and Seller. All deposits that are transferred by the Seller to the Buyer will NOT affect the Total Purchase Price.

14. **INSURANCE/ LICENSES:** The Buyer will obtain, at Buyer's cost, insurance as required by any Lessor. The Buyer may assume Seller's existing insurance policy and any Seller's prepaid premium will be prorated. Prior to the transfer of the Business, Buyer will apply for and be solely responsible for obtaining all required licenses to operate the Business after the closing of the transaction. Unless specifically stated, Buyer knows of no reason why any license to operate the Business should be denied him/her/it. Further, Buyer agrees that all required licensing and permit information provided to all governmental licensing agencies will be true and accurate. If a "Seller Carry Note" is created, the Buyer will name the Seller as an additional "Loss Payee" for the amount financed in an appropriate insurance policy.

15. **ESCROWFEES:** The purchase shall be consummated through an Escrow company or Transfer agent. The escrow account shall be opened with the Buyer's EMD within ONE (1) business day of acceptance of this offer unless otherwise directed by the parties. Buyer and Seller each agree to pay one half of all Transactional Fees, Escrow Fees or Transfer Fees relating to the sale and transfer of the assets of the business. In the event of cancellation of escrow or this transaction, Buyer and Seller agree that the Escrow Company or Transfer Agent may deduct investigative fees from the earnest money deposit. Buyer and Seller agree to each pay one half of FCBB'S Record Storage Fee of \$600.00. The escrow/closing entity company shall search for liens, lawsuits and tax indebtedness owing by the Seller. Should any dispute arise regarding the release of earnest money funds Buyer agrees to hold FCBB harmless and look only to the Seller. The Business shall be owned in the manner designated per the Buyer's instructions. **THE MANNER OF TAKING TITLE AND THE FORM OF OWNERSHIP OF THE BUSINESS MAY HAVE SIGNIFICANT LEGAL AND TAX CONSEQUENCES. BUYER AGREES TO CONSULT AN APPROPRIATE PROFESSIONAL FOR ADVICE.**

16. **NON APPROVAL BY BUYER:** If any stated contingency contained within this Agreement required by the Buyer is not met, Buyer may elect not to proceed with the purchase and all earnest deposits (minus any investigative fees), will be returned to the Buyer forthwith and this Agreement will be considered cancelled with no liability to Buyer, FCBB and Seller.

16 A. **EARNEST MONEY DEPOSIT ESCROW RELEASE INSTRUCTIONS:** Seller irrevocably agrees that in the event that the Buyer does not release any contingency (including lease approval and/or reviewing the books and records of the Business), and requests a cancellation of this Agreement, Sellers hereby irrevocably authorizes the named Escrow Company (Item # 2), to release such funds to the Buyer without additional Seller signatures. Seller irrevocably releases FCBB, it's Agents and the Named Escrow Company, from all liability regarding the release of funds to the Buyer.

17. **DISPUTES:** All mediation or arbitration shall be governed by the existing or appropriate State Law of the State where the First Choice Business Brokers Las Vegas 101 (FCBB), office is located.

A. **MEDIATION:** Buyer and Seller agree to mediate any dispute or claim arising between them out of this Agreement, or any resulting transaction before resorting to arbitration or court action. Mediation fees, if any, shall be divided equally among the parties involved. If, for any dispute or claim this paragraph applies, any party commences an action without first attempting to resolve the matter through mediation, or refuses to mediate after a request has been made, then that party shall not be entitled to recover attorney fees, even if they would otherwise be available to that party in any such action.


B. **ARBITRATION/LITIGATION:** In the event of any dispute subsequent to the closing of this sale between the Buyer and Seller or FCBB regarding this Agreement and/or sale/purchase, the parties agree that upon the election and choice of Buyer or Seller or FCBB that the dispute will be submitted to binding and conclusive arbitration. The right of appeal is hereby waived. Arbitration fees will be split equally between all participating parties. During arbitration, any party may be represented by legal counsel with each party responsible for their own legal fees and costs, unless expressly stated otherwise in the terms contained in this Agreement. The right of appeal of any arbitration decision is hereby waived. In the event that no party elects to pursue arbitration and litigation before a civil court is initiated, the right to a jury trial is expressly waived by Buyer, Seller, and FCBB. During litigation, any party may be represented by legal counsel with each party responsible for their own legal fees and costs, unless expressly stated otherwise in the terms contained in this Agreement.

C. Buyer and Seller agree to mediate and arbitrate disputes or claims involving either or both FCBB and other Brokers, provided either or both FCBB and other involved Brokers shall have agreed to such mediation or arbitration prior to, or within a reasonable time after, the dispute or claim is presented to Brokers. Any election by either or both FCBB and other involved Brokers to participate in mediation or arbitration shall not result in FCBB and other Brokers being deemed parties to the Agreement.


18. **BENEFICIARY/COMMISSIONS:** Buyer and Seller agree that FCBB is specifically a party to this agreement in regards to matters connected with the payment of commissions only and further agree that FCBB is an intended third party beneficiary of this Agreement. Buyer and Seller agree that no changes shall be made by the Buyer, Seller or Escrow Holder with respect to time of payment, amount of payment or the conditions for payment of FCBB'S commission without the written consent of FCBB.

19. **BUYER'S DEFAULT:**

A. **SELLER'S REMEDIES AND RIGHTS:** Subject to the express written contingencies contained within this Agreement, if the Buyer should fail, for any reason other than the fault of the Seller, to close this sale and to complete the purchase on the closing date, Seller may retain, the Earnest Money Deposit less any escrow fees. All monies deposited in an escrow or trust account that are forfeited to the Seller will be divided equally between FCBB and the Seller. The Seller will also have the right, in addition to retaining the Earnest Money Deposit, to enforce this Agreement by any legal or equitable remedies, including, but not limited to, a suit for specific performance and/or by an action for damages for the Buyer's breach of the contract. The Seller will be entitled, but not limited to, recovery of Seller's loss of bargain, to the Seller's consequential damages and to its liability for FCBB'S commissions. The foregoing remedies of the Seller are subject to Seller's payment of FCBB'S commissions hereunder. If in the event of the Buyer's default, and if the Seller agrees to accept an amount of money as Liquidated Damages, then such amount of money must be at least equal to

Buyer Initials  Buyer Initials ( )

Page 2 of 9

Seller Initials  Seller Initials ( )  
131NV 11222011

DEF000431  
ROA001444

Ten (10%) percent of the agreed upon and accepted Purchase Price for such liquidated damages. If the Seller agrees to accept the Earnest Money Deposit as liquidated damages, then upon presentation of proof of default to the closing entity, the Buyer's signature shall not be required by the closing entity to release such funds.

- B. **FCBB'S REMEDIES AND RIGHTS:** If the Buyer defaults, breaches, or anticipatorily repudiates this Agreement, regardless of whether Seller also defaults, breaches, or anticipatorily repudiates the terms of this Agreement, Buyer agrees that Buyer will immediately pay FCBB the amount of the lost Commission plus any and all collection legal fees and expenses, upon demand without any obligation of FCBB's part to first, or ever, exhaust any and all legal remedies against Seller. All monies deposited in an escrow, trust account or funds that are forfeited to the Seller as liquidated damages, judicial order or settlement will be divided equally between FCBB and the Seller. FCBB will receive its portion at the time the funds are disbursed. The amount paid to FCBB from these funds will not exceed the amount of commission due to FCBB had the purchase transaction been completed. If Buyer does default, Buyer irrevocably agrees and instructs escrow, without demand or further signatures, to pay to FCBB an amount equal to FCBB's commission as it's liquidated damages, less any amount received by FCBB from the Seller's liquidated damages, judicial order or settlement at the time of disbursement due to default. In the event that funds are forfeited to the Seller and the forfeited funds are insufficient for FCBB to recover the full amount of FCBB's fees, then the Buyer irrevocably agrees to immediately pay to FCBB the amount of money to cover the Commission deficiency upon demand, plus 18% interest per annum (or the maximum interest rate allowed by State law), from the agreed upon closing date of this transaction, including without limitation, all costs, disbursements, attorney's fees and costs, and Court fees incurred by FCBB in enforcing Buyer's obligation to pay said Commission in the event of Buyer's Default.

20. **SELLER'S DEFAULT:**

- A. **BUYER'S REMEDIES AND RIGHTS:** If the Seller after acceptance of this Agreement, should default for any reason, or cause a default whereby the Buyer is unable through no fault of the Buyer to purchase the Business, the Seller will be responsible to the Buyer for all costs and damages incurred by the Buyer for Buyer's investigation and any other costs related to the purchase of the Business. The Buyer will be entitled to require the Seller to complete the purchase and sale of the Business. Should the Seller withdraw from this Agreement without the express written approval of the Buyer, the Buyer will have the right to enforce this Agreement by any legal or equitable remedies including a suit for specific performance and/or breach of the contract.
- B. **FCBB'S REMEDIES AND RIGHTS:** In the event of Seller's default, the Seller will, within three (3), business days of default, breach, or anticipatory repudiation of this Agreement, pay to FCBB the full amount of the commission owing as if the sale of the business had been consummated. The Seller will pay and agrees to reimburse FCBB, upon demand, all expenses incurred by FCBB in the collection of said commission, plus 18% interest per annum (or the maximum interest rate allowed by law), from the agreed upon closing date of this transaction, including without limitation, all costs, disbursements, attorney's fees and costs, and Court fees incurred by FCBB in enforcing Seller's obligation to pay said Commission in the event of Seller's Default.

21. **MUTUAL RESCISSION:** Mutual rescission of this Agreement by the Buyer and Seller will not relieve said parties of their obligations to FCBB to pay its Commission. In the event that Buyer and Seller mutually rescind the Agreement both Buyer and Seller shall immediately become jointly and severally liable for the entire Commission amount due and owing to FCBB and shall pay it immediately to FCBB.

22. **ITEMS INCLUDED IN THE PURCHASE:** With the exception of cash, or cash equivalents on deposit in any financial institution, and any assets specifically excluded, included in this purchase, but not restricted to: the Seller's information required by the Buyer to operate the business: all of the machinery, furniture, fixtures, leasehold improvements, transferable government licenses and permits, business equipment, all customer/client lists (including all confidential and detailed information), any and all rights held by the Seller in the Business Trade Name(s), fictitious business names, all Trademarks, all Patents, Logos, copyrights, intellectual rights, telephone numbers, fax telephone numbers, E-mail addresses, URL addresses, vendor lists, catalogs, goodwill, agreements not to compete, franchise agreements, distribution rights, employee lists and information, computer and customer software, customer deposits and Web Sites of "The Business Named in this Agreement". The Seller hereby waives any rights thereto, and will not, after the closing, make use of such names, addresses and telephone numbers, directly or indirectly. The Seller will file the appropriate documents with the County Clerk to release the fictitious name to

the Buyer. The Seller warrants to the Buyer that the Seller has ownership of these rights. The Seller's Accounts Receivable (Check one) ☐ ARE ☒ ARE NOT included in the purchase. If included in the purchase, the approximate amount of the Seller's Accounts Receivable is \$ \_\_\_\_\_.

23. **ASSET LIQUIDATION SALE ONLY:** ☐ If checked, this is an asset liquidation sale only as per the attached List of Equipment. Buyer is purchasing these business assets only with no representations made as to gross revenue or net profit of the Business.

24. **REAL PROPERTY LEASE:** This Agreement is subject to and conditioned upon the Buyer receiving: (check all that apply):

- ☐ An assignment of the existing lease in its present form including all attachments and exhibits.
- ☒ A new lease with the Seller's landlord, on terms and conditions acceptable to Buyer to become effective concurrently with the Close of Escrow. Application shall be made within 48 hours of due diligence release.
- ☐ An option to extend the Seller's present lease for an additional \_\_\_\_\_ years on terms acceptable to Buyer, Seller and Landlord.
- ☐ A sublease with Seller on terms acceptable to Buyer, to become effective concurrently with the Close of Escrow.
- ☐ Home Based Business.

Buyer and Seller are advised that such all lease agreements will require notice and approval by the Landlord. The Seller agrees to cooperate with the Buyer in obtaining Landlord approval. Regardless of the type of lease, the Buyer agrees to immediately make such application to the Landlord. Buyer and Seller will solely be responsible for the completion of any lease agreement with the Landlord. The Seller will provide the Buyer and FCBB with a copy of the current lease immediately after acceptance of this Agreement. The Buyer, during and as part of his/her due diligence will review any existing lease to be assumed. Unless otherwise stated herein, the lease will be deemed approved by the end of the due diligence period unless the Buyer (prior to the end of the due diligence period), notifies the Seller and FCBB in writing, of Buyer's intent to not approve the existing lease for assumption. The Buyer and the Seller agree to share equally the cost of any Lease Assignment or Sublease transfer fees. The Buyer will, at close of Escrow pay to Seller, in addition to purchase price, any assumed rent or security deposit with the landlord of the leased property, plus pro-rated prepaid monthly rent. The approximate amount of the rent/security deposit is \$ NA. Buyer and Seller authorize FCBB and/or its agents to act on Buyer's and Seller's behalf to negotiate a new lease and collect any fee if paid for such services.

25. **LIABILITY:** Buyer and Seller hereby agrees that FCBB, its agents, employees, officers and directors liability, not limited to but including errors, omissions, negligence etc is limited to 50% (fifty percent) the actual commission received by FCBB.

Buyer Initials ( TS ) Buyer Initials ( )

Page 3 of 9

Seller Initials ( TS ) Seller Initials ( )  
131NV 11222011

DEF000432  
ROA001445

26. SERVICE PROVIDERS: If FCBB refers the Buyer or Seller to persons, vendors, experts, tax professionals, legal professionals, or service or product providers (Providers), FCBB does NOT guarantee the performance and/or quality of performance of any such Providers. Buyer and Seller may independently select ANY providers of their own choosing.

27. BUSINESS OPERATIONS & PREMISES: Until possession is transferred, the Seller agrees to operate the Business in its ordinary course without material change and to maintain the Business premises including heating, cooling, plumbing and electrical systems, built-in fixtures, together with all other equipment and assets included in this sale in working order. Seller agrees to maintain and leave the premises in a clean, orderly condition. The Seller further agrees to maintain all insurance policies in force and comply with all required government regulations until the close of the escrow or completion of the transaction.

28. CONDITION OF EQUIPMENT: All equipment included in this sale is being purchased on an "as is" basis without warranty of merchantability or fitness for any particular purpose. At the closing of this sale, all equipment will be in working condition, (except as noted to the Buyer in writing), and the Seller, at its sole expense and at the Buyer's option, will on or prior to the closing date, repair or replace any equipment not in working condition. A list of all included equipment will be furnished by the Seller to the Buyer and FCBB immediately after acceptance of this offer. Prior to the closing of the transaction, Buyer (at Buyer's option), may inspect the included equipment and will provide the Seller and FCBB, in writing, of Buyer's non acceptance of any equipment. Buyer may inspect all included vehicles at buyer's costs. If the Buyer desires to obtain an independent appraisal of the business equipment, the appraisal shall be completed (at Buyer's cost), within the due diligence period, unless otherwise stated.

29. ZONING/LICENSES: The Seller warrants that the Business has the appropriate licenses, permits and zoning required to operate the Business. LICENSES: If transfer of a liquor or other restricted license is included in this sale, Seller shall assist Buyer to comply with all pertinent State Laws or Regulations concerning transfer.

30. DUE DILIGENCE: This purchase is contingent upon Buyer reviewing and accepting the existing lease (if lease is to be assumed), financial and other information from the Seller. The Seller shall, within See Contingency #35 ( ) of acceptance of this Agreement, deliver to the Buyer the requested financial records, all leases (including the lease on the real property where the business is located), to be assumed and other information as requested.

The Buyer shall, within See Contingency #35 ( ) of receipt of these records and information perform his/her due diligence and either accept and approve or reject these records and information (the "Due Diligence Period"). Acceptance shall be deemed as a release of this contingency to provide said documents and information.

WAIVER OF CONTINGENCIES: Unless prior to such expiry dates the Buyer notifies the Seller or FCBB in writing of its intention not to waive such condition(s) and if the Buyer in writing, fails to cancel this Agreement during the Due Diligence Period it is agreed that the Buyer will have unilaterally waived all conditions and contingencies and waived the right to cancel the Agreement without penalty. Neither the Buyer nor the Seller will be reimbursed for any expenses incurred in conjunction with due diligence.

31. EFFECT OF BUYER'S REMOVAL OF CONTINGENCIES: If Buyer removes, in writing, any contingency or cancellation rights, unless otherwise specified in a separate written agreement between Buyer and Seller, Buyer shall have conclusively be deemed to have (1) completed all Buyer investigations, review of reports, other applicable information and disclosures pertaining to that contingency or cancellation right; (2) elected to proceed with the transaction and; (3) assumed all liability, responsibility and expense for repairs and corrections pertaining to that contingency or cancellation right, or for inability to obtain financing.

32. RELIANCE & DUE DILIGENCE: Buyer agrees, affirms and understands that he/she is relying solely on the Buyer's own inspection and due diligence of the Business, the Assets being purchased, the financial statements of the business, the representations of the Seller with regards to the prior operating history of the Business and the value of the assets being purchased in making this offer. Buyer further agrees that the Buyer's offer is made on the Buyer's examination of the business and the Buyer's ability to operate this business and not solely on the Seller's past performance. The Buyer further agrees that he/she will or has examined the books and financial records of the Seller or employed a professional auditor to perform such examination. If the income and profits quoted (either written or verbally), by the Seller do not agree with those actual records (including Federal Tax returns) and the Buyer continues and concludes this transaction, it is agreed that the Buyer has investigated the records to his/her own satisfaction without ANY reliance upon FCBB or FCBB'S agents, employees or owners. Buyer and Seller agree to act diligently and in good faith to complete and release all contingencies in a timely manner.

33. DOCUMENTS REQUESTED BY THE BUYER TO COMPLETE AN INDEPENDENT INVESTIGATION: The requested documents are (check all that apply):

☐ Profit & Loss (Income Statements) for the period \_\_\_\_\_ to \_\_\_\_\_.

☐ Federal tax returns for the period \_\_\_\_\_ to \_\_\_\_\_.

☐ Sales Tax Returns for the years \_\_\_\_\_ to \_\_\_\_\_.

☐ If included in the purchase, a list of aging of Account Receivables to be included (check one) \_\_\_\_\_ YES \_\_\_\_\_ NO.

Other documents requested to complete independent investigation by Buyer include the following:

Financial documents that prove stated gross and net income to buyer's satisfaction.

The Buyer hereby acknowledges that he/she has received the following documents as of the date of the signing of this Agreement:

34. BUYER'S WAIVER: Buyer elects NOT to request any financial records from the Seller **BUYER'S INITIALS** XX **SELLER'S INITIALS** XX

Buyer Initials (Signature) Buyer Initials ( )

Page 4 of 9

Seller Initials (Signature) Seller Initials ( )  
131NV 11222011

DEF000433  
ROA001446



35. CONTINGENCIES: This purchase is contingent upon the following checked items only (please check those items that this contract is contingent on only):

- ☐ Buyer obtaining financing. Buyer will provide the Seller with a loan commitment within \_\_\_\_\_ days after acceptance of this offer. Buyer hereby authorizes lender to provide information and documentation to First Choice regarding the status of such loan request.
- ☐ Buyer applying for and approval of available licenses and/or permits that are required to operate the Business. Buyer will apply for such licenses/permits within \_\_\_\_\_ days of Seller's acceptance of this Offer OR within \_\_\_\_\_ days of the execution of the Due Diligence Release. This contingency does NOT include or apply to licenses and permits that are issued ONLY after the close of escrow.
- ☐ Buyer obtaining information regarding: \_\_\_\_\_ Which shall be completed by the following date: \_\_\_\_\_
- ☒ Buyer receiving Seller's accounts (also known as client lists) which shall be completed within the due diligence period specified above in Item # 30. At Seller's discretion, these accounts and/or client lists will NOT include any contact information until after the close of escrow. Which shall be completed by the following date: Agreeable to buyer and seller

Contingencies continued:

- ☒ All equipment in working condition.
- ☒ Due diligence schedule to be negotiated by buyer and seller
- ☐ \_\_\_\_\_
- ☐ \_\_\_\_\_

36. ☐ SEE ATTACHED ADDENDUM TO THIS AGREEMENT # \_\_\_\_\_

37. FINANCIAL INFORMATION: The Seller warrants that any financial information provided to the Buyer by the Seller or FCBB, is a true, correct and fair and accurate presentation of the results of the operations of the Business. Seller represents that the books and records are the actual records maintained by the Seller and that copies of any forms claimed to have been filed with the appropriate governmental agency, are the true copies of such filed forms.

38. BUSINESS INFORMATION PROVIDED TO THE BUYER: The Buyer agrees that ALL information provided to the Buyer by FCBB was provided to FCBB by the Seller. The Buyer acknowledges that FCBB has not performed an independent investigation of the Business and has not verified and will not verify the representations of the Seller, the Business nor of any of the information provided by the Seller and FCBB does not warrant the accuracy or completeness of same. Should any such representations be untrue, the Buyer again affirms, understands, and agrees to look solely to the Seller for any loss or damage resulting thereof as Buyer has already contractually agreed to do in executing and entering into Buyer Confidentiality, Non-Disclosure Acknowledgment and Agreement dated 6-22-10 and fully incorporated herein by reference. The Buyer once again affirms, understands, and agrees to hold FCBB harmless against any and all claims, liability, damages, attorney fees, losses arising from any misrepresentation or breach from the Seller, from any incorrect information supplied by the Seller and any facts concerning the Business not disclosed by the Seller, including without limitation, any facts known to the Seller or FCBB or reasonably should have been known to the Seller or FCBB relating to adverse conditions of Business as Buyer has already contractually agreed to do in executing and entering into Buyer Confidentiality, Non-Disclosure Acknowledgment and Agreement dated 6-22-10 and fully incorporated herein by reference. The Buyer will hold FCBB harmless against any claims or litigation, including any damages, liability, costs and attorneys' fees with respect thereto, resulting from FCBB's communication to the Buyer of any of the said information and/or data furnished by the Seller as Buyer has already contractually agreed to do in executing and entering into Buyer Confidentiality, Non-Disclosure Acknowledgment and Agreement dated 6-22-10 and fully incorporated herein by reference. The Buyer agrees not to institute any claim for any losses or damages against FCBB arising from the misrepresentations of the Seller as Buyer has already contractually agreed to do in executing and entering into Buyer Confidentiality, Non-Disclosure Acknowledgment and Agreement dated 6-22-10 and fully incorporated herein by reference. Should the Buyer institute any claim for losses or damages against FCBB, FCBB will be entitled to recover its legal fees and disbursements and will also be entitled to all costs, expenses and legal fees and disbursements to be expended in defending any such legal action regardless of which party prevails. All parties waive their right to a jury trial.

39. COVENANTS: Other than in the normal course of business, between the date of this Agreement and the closing, Seller shall not convey, pledge, lease, mortgage, grant a security interest in, create any indebtedness or make any commitment for or encumber any asset included in this sale

40. INDEMNIFICATION AND TAXES: The Seller agrees to indemnify the Buyer and will hold and save harmless the Buyer from and against all debts, claims, actions or causes of action, losses, damages (including legal fees and disbursements) now existing or that may arise from or grow out of the Seller's past operation and ownership of the Business or the assets related thereto, either directly or indirectly. The Buyer will have the right to offset any debts or obligations incurred by the Seller relating to the operation of the Business which have been paid by the Buyer against any monies owed by the Buyer to the Seller. The Buyer will give Seller reasonable notice that Buyer intends to deduct said payments made from Buyer's payment to Seller from any existing Seller Carry Note. The Buyer agrees to indemnify, defend and hold the Seller harmless from any debts or legal actions against the Seller that the Buyer incurs as a result of the Buyer purchasing the Named Business. The Seller further agrees to hold the Buyer harmless, defend and to reimburse the Buyer for any Successors Liability regardless of any State Law or Regulation to the contrary.

The Seller expressly agrees that Seller is responsible for any unpaid taxes owing to any governmental agency including any taxes that were either not collected or not billed at the completion of the sale, transfer and/or the closing of the escrow and Seller personally guarantees payment of same. The Seller warrants that he/she and the Business are not in default to any taxing agency unless noted. If required by any law or regulation, the Buyer or the Seller shall pay any sales or use tax payable as a result of the sale and if required shall deliver to Escrow Holder any clearance documents available from the appropriate Taxation Department.

Buyer Initials AB Buyer Initials ( )

Page 5 of 9

Seller Initials AB Seller Initials ( )  
131NV 11222011

DEF000434  
ROA001447

41. TITLE: Except as to any encumbrance that is to be assumed or taken subject to, the Seller warrants that it has good and marketable title, free and clear of all liens and encumbrances. Unless stated herein, all existing encumbrances on the business assets will be paid in full by the Seller on or before the closing of this sale.

42. POSSESSION/BUSINESS OPERATION DOCUMENTS: Possession of the Business will be given to the Buyer upon the closing of the transaction or escrow. Seller shall deliver the business along with entrance keys, alarm codes and necessary passwords for all computer and web sites etc. At or prior to the closing of this sale, the Seller will deliver to the Buyer all employee records, customer records, all other documents and information pertinent to the operation of the Business. These records will include originals or copies of all documents necessary to conduct business with suppliers and customers/clients of the Business.

43. CLOSING DOCUMENTS: The Seller will deliver to the Buyer at the closing any Transfer of Land documents, Bill of Sale, Assignment of Lease and such other documents (including evidence of corporate authority), as reasonably required by the Buyer in connection with this sale. The Buyer and Seller agree on or prior to closing to execute and deliver to FCBB a valid and binding release and indemnification for FCBB.

44. TOTAL PURCHASE PRICE ADJUSTMENT: Should the SELLER agree to sell any portion of the inventory or the Accounts Receivable to the BUYER and reduce the Selling Price by such action, then the Selling Price, for the purpose of calculating FCBB'S Fee will be based upon the Sales Price prior to the reduction or the Asking Price, whichever is higher.

45. LOSS/DAMAGE: Any loss or damage to the Business premises, or any of the improvements, systems, equipment or other assets included in this sale at any time prior to the closing of this sale, the risk will be upon the Seller. If destruction or material damage occurs prior to the close of escrow, then upon demand of the Buyer, any deposit made by the Buyer shall be returned forthwith and this Agreement shall be terminated. Immediately from and after the closing of escrow all risk or loss of damage will be upon the Buyer.

46. SURVIVAL: All warranties, representations and covenants will be repeated on the closing date and will not merge in but will survive the closing of this sale.

47. EXCLUDED ASSETS: No assets are to be excluded from the sale except as provided in any attached Schedule. Buyer may, at Buyer's option and cost, photograph or video the Business equipment and inventory after acceptance of this Agreement.

48. FAMILIARIZATION: The Seller, or his/her designated employee/designated person, without additional compensation, ☒ WILL ☐ WILL NOT consult, familiarize and acquaint the Buyer with all material aspects of the Business from the date of closing of this sale for a period of 30 days during normal business hours. The training by the Seller will be waived if the Business named herein is a franchise and training will be completed by the Franchisor. Seller shall not be responsible for training Buyer in the basics of operating a business of the type being purchased pursuant to this Agreement, but only to alert Buyer to the nuances, as determined by the Seller, of operating this type of business. NOTE TO BUYER: If you are not familiar or trained in this type of business, (Note: YOU ARE STRONGLY ADVISED TO SEEK TRAINING.) In the event that Seller agrees to provide familiarization to the Buyer, Buyer agrees, affirms and understands that FCBB has no authority, responsibility, or liability to ensure that Buyer receives adequate or sufficient familiarization, or any familiarization at all.

49. PERSONAL GUARANTEES/TIME IS OF THE ESSENCE: Buyer and Seller personally guarantee performance of this Agreement, and any Seller Carry Back Note and financing arrangement as set forth and all addendums or amendments to this Agreement. If Seller and/or Buyer is a corporate entity, Seller and Buyer agree that all officers, directors and/or members of the corporate entity, currently or in the future, personally guarantee performance of this Agreement. Seller and Buyer further agree that all officers, directors and/or members of the corporate entity, currently or in the future, personally guarantee performance under any Seller Carry Back Note, all financing arrangements and/or any addendum or amendment to this Agreement. Buyer and Seller agree that time will be of the essence in the completion of this Agreement.

50. ADVERTISING: Buyer and Seller agree to allow FCBB to advertise and announce that FCBB facilitated the sale of the business.

51. FRANCHISE: If the Business named herein is a Franchise, the Buyer agrees to immediately apply for and obtain Franchisor approval to purchase the franchise and pay Franchise transfer fees. Buyer agrees to attend the next available franchise training offered by the Franchisor. Unless otherwise stated, the cost of the Franchisee training (if any) will be the responsibility of the Buyer. (Franchise Addendum is attached and made a part of this Agreement).

52. NO LITIGATION, VIOLATIONS OR DISPUTES: The Seller warrants to the Buyer that there is no litigation, no violations, no notices, no investigations, no disputes or proceedings pending to the Seller's knowledge against or relating to the Business or the sold assets (except as disclosed to the Buyer in written form), nor does the Seller know or have reasonable grounds to know of any basis of any such action or governmental investigation relative to the Business or other sold assets. The Seller warrants to Buyer that there is no default under any contract to be assumed by the Buyer. If prior to close of escrow, Seller receives or becomes aware of such notices; Seller will immediately inform the Buyer in writing. The Buyer & Seller warrant that they have not withheld any information, either directly or indirectly, that would materially affect their ability to close this sale, as per this Agreement.

53. COVENANT NOT TO COMPETE: As a material part of the consideration of this Agreement, the Seller and All Principal Owners of "The Business Named in this Agreement", agree not to compete, directly nor indirectly in any manner, nor engage in THE SAME TYPE OR SIMILAR BUSINESS THAT IS BEING SOLD, nor aid nor assist anyone else, except the Buyer, to do so. Seller further agrees not to solicit in any manner any employee, any account of the Business, nor have any interests, directly or indirectly, in such a business, except as an employee of the Buyer, for a period of Five (5) consecutive years within Five (5) miles from the current location of the Business from the date of closing of this sale.) OR within \_\_\_\_\_ location (Except where exempted by a Franchise Agreement) so long as the Buyer or Buyer's successor-in-interest is operating the Business in the said area. Seller agrees upon completion of the purchase transaction that Seller will NOT interfere with the Buyer's business operation nor solicit any employees nor accounts of the business. This paragraph shall not apply to other existing like/kind businesses already owned and/or operating by the Seller.

54. AUTHORITY: The Buyer and the Seller each warrant to the other that they respectively have the full power and authority to enter into this Agreement, are not under the jurisdiction of a Federal Bankruptcy Court and able to conclude the transaction described herein and no contract or agreement to which either the Buyer or the Seller is party to prevents either of them from concluding the transaction described herein nor is the consent of any government authority or third party required.

55. HEADINGS/TITLES: All parties to this Agreement understand that the Heading/Titles of each item are for informational purposes only and shall not affect the interpretation or construction of the provision.

56. FACSIMILES, DELIVERY & COPIES: Buyer and Seller agree that this Agreement may be signed in counterparts and faxed, and electronic signatures may be considered as originals for all purposes. Each party waives the necessity of providing the original copy of this Agreement to bind the other. Delivery of all instruments or documents associated with this Agreement shall be delivered to the Agent for the Seller or Buyer. This Agreement may be signed by the parties on more than one copy, which, when taken together, each signed copy shall read as one complete Agreement.

57. BINDING EFFECT: Upon execution by all parties, this Agreement will be absolutely binding and fully enforceable upon the parties and will bind and inure to the benefit of their successors, assignees, personal representatives, heirs and legatees of the parties hereto.

Buyer Initials (   b   ) Buyer Initials (       )

Page 6 of 9

Seller Initials (   AD   ) Seller Initials (       )  
131NV 11222011

DEF000435  
ROA001448

58. JURISDICTION GOVERNING LAW & SEVERABILITY: Any litigation or disputes concerning this Agreement, its construction, terms and performance will be governed by and interpreted and enforced within the Judicial Courts of Clark County Nevada USA applicable therein. Buyer and Seller specifically waive their rights to change this jurisdiction even if this waiver conflicts with other State laws.

In the event that any of the provision, or portions, of this Agreement are held to be unenforceable or invalid by any court of competent jurisdiction or Arbitrator, the validity of the remaining provisions, or portions hereof, will not be affected thereby and effect will be given to the intent manifested by the provisions, or portions thereof, held to be enforceable and valid. In the event of litigation arising from this agreement or the purchase/sale of the named business, Buyer and Seller hereby agree to waive any and all rights to a jury trial. In any action brought by the Seller and/or the Buyer against each other to enforce any rights arising under this Agreement, the party prevailing in such action will be entitled to recover its legal fees and disbursements and will also be entitled to all costs, expenses and legal fees and disbursements to be expended in collecting the amounts owing.

59. NOTICES: All notices or other communications regarding this Agreement will be delivered to the address, fax number and/or email address of the Buyer and Seller on file in the offices of FCBB and copies will concurrently be delivered to FCBB at its business address.

60. ENTIRE AGREEMENT: This Agreement and any Addenda constitute the entire Agreement and understanding of the parties regarding its subject matter and cannot be modified except in writing executed by all parties and supersede all previous Agreements. There are no expressed or implied warranties, representations or covenants relating to this transaction except as expressly set forth or incorporated herein. Any representations which are not in writing and part of this Agreement will not be binding upon the parties. All parties agree that in the event of any conflict between this agreement and any other documents relating to this transaction, this agreement shall be the controlling document.

61. EQUAL OPPORTUNITY: This Business is sold in compliance with Federal, State and local anti-discrimination laws.

62. RECEIPT OF THIS AGREEMENT: The Buyer and Seller each acknowledge having fully read and understood and having received a true copy of this document.

63. MISC: This Agreement therefore has been provided as an accommodation to the Buyer and the Seller and it shall be deemed to have been jointly prepared by the parties. Any uncertainty or ambiguity existing in it shall not be interpreted against any party including FCBB, but rather shall be interpreted according to the rules generally governing the interpretation of contracts. If this agreement contains any errors, omissions, transpositions, typographical or other errors, the author, agent and FCBB shall be held harmless by all parties. The preprinted portion of this Agreement has been prepared by First Choice Business Brokers, Inc. No representation is made as to the legal validity or adequacy of any provision or tax consequences thereof. For legal or tax advice Buyer(s) and Seller(s) agree to contact their attorney or tax advisor.

64. ADVICE AND RISK: Buyer and Seller certify that neither FCBB nor FCBB'S agents have expressed any legal, financial, or tax or other opinion relating to tax, financial, or legal liability arising from the sale of the assets of the Business. By the signing of this Agreement, Buyer and Seller each warrant to FCBB that they have been counseled by competent counsel and have obtained and relied upon their own legal and accounting advice and that FCBB and FCBB'S agents and officers will not be further concerned with same. The Buyer confirms that upon entering into this Agreement, the Buyer has been made aware and understands the inherent risks involved in the purchasing of a business and lack of guarantees and agrees that the Seller cannot guarantee the success of the Buyer's method of operating the Business. The Buyer understands that the success of the Business being purchased, of which the Seller has no control, is dependent upon the Buyer's skills in operating the Business and not just the past performance of the Seller. BUYER AND SELLER ARE STRONGLY ADVISED TO CONSULT APPROPRIATE LEGAL, TAX ACCOUNTING OR OTHER PROFESSIONALS REGARDING THIS AGREEMENT.

65. ASSET ALLOCATION: Asset allocation will be determined jointly by Buyer and Seller outside of the closing of this transaction or as required by any State or Federal Regulation. The determination of asset allocation is NOT a condition precedent, condition subsequent or a contingency upon which formation of a legally binding and enforceable Agreement is based or a contingency of this Agreement or any right FCBB has to its Commission hereunder. Buyer and Seller agree that they have formed a binding legal contract with execution of this Agreement regardless of whether the parties agree on future asset allocation.

66. POTENTIALLY COMPETING BUYERS AND SELLERS: Buyer and Seller each acknowledge receipt of a disclosure of the possibility of multiple representations by FCBB representing that principal. This disclosure may be part of a listing agreement, buyer-broker agreement or separate document. Buyer understands that FCBB representing Buyer may also represent other potential buyers, who may consider, make offers on or ultimately acquire the Business. Seller understands that FCBB representing Seller may also represent other Sellers with competing businesses of interest to this Buyer.

67. SCOPE OF FCBB DUTY: Buyer and Seller acknowledge and agree that (a) FCBB does NOT decide what price a Buyer should pay a Seller or the amount that a Seller should accept; (b) FCBB does NOT perform any independent investigation on the Business, its value, the Buyer's ability to buy, or the Seller's ability to sell, and; (c) Buyer and Seller will seek legal, tax, insurance, title and other assistance from appropriate professionals.

68. REPRESENTATION: The Buyer warrants and agrees that, unless noted in this Agreement, First Choice Business Brokers Las Vegas 101 ("Broker") is the sole procuring cause in this transaction and the Buyer further warrants and agrees that if another broker makes any claim for Buyer representation and part of the commission in this transaction, then it will be the sole responsibility of the Buyer to satisfy such claim separate and apart from this transaction. Seller is responsible for payment of commissions to First Choice Business Brokers Las Vegas 101, unless otherwise provided herein. CONFIRMATION OF REPRESENTATION: The Broker and agents in this transaction are:

Buyer's Agent(s) Printed Name(s): David Chabaut

Buyer's Broker, Company Name & Address: Jeffrey Nyman, First Choice Business Brokers Las Vegas 101, 5420 W. Sahara, # 200, Las Vegas, NV 89146. 702-368-2500 / FAX: 702-368-3173

Seller's Agent(s) Printed Name(s): David Chabaut

Seller's Broker, Company Name & Address: Jeffrey Nyman, First Choice Business Brokers Las Vegas 101 5420 W. Sahara, # 200, Las Vegas, NV 89146. 702-368-2500 / FAX: 702-368-3173.

69. ENVIRONMENTAL HAZARD CONSULTATION: Buyer and Seller acknowledge: (i) Federal, state and local legislation impose liability upon existing and former owners and users of real property, in applicable situations, for certain legislatively defined, environmentally hazardous substances; (ii) FCBB has/have made no representation concerning the applicability of any such law to this transaction or to Buyer or to Seller, except as otherwise indicated in this Agreement; (iii) FCBB has/have made representation concerning the existence, testing discovery, location and evaluation of, and risks posed by, environmentally hazardous substances, if any, located on or potentially affecting the Business; and (iv) Buyer and Seller are each advised to consult with technical and legal experts concerning the existence, testing, discovery, location and evaluation of, and risks posed by, environmentally hazardous substances, if any, located on or potentially affecting the Business.

70. AMERICANS WITH DISABILITIES ACT: The Americans with Disabilities Act "ADA" prohibits discrimination against individuals with disabilities. The ADA affects almost all commercial facilities and public accommodations. Residential properties are not typically covered by the ADA, but may be governed by its provisions if used for certain purposes. The ADA can require, among other things, that buildings be made readily accessible to the disabled. Different requirements apply to new construction, alterations to existing buildings, and removal of barriers in existing buildings. Compliance with the ADA may require significant costs. Monetary and injunctive remedies may be incurred if the Business is not in compliance. A real estate broker does not have the technical expertise to determine whether a building is in compliance with ADA requirements, or to advise a principal on those requirements. Buyer and Seller are advised to contact an attorney, contractor, architect, engineer or other qualified professional of Buyer or Seller's own choosing to determine to what degree, if any, the ADA impacts that principal or this transaction.

71. CLOSING DATE: The undersigned hereby agree to execute any and all documents necessary to affect a closing of this sale. The closing date for this sale will be on or before the: 1st day of November, 2012 or such other date as the parties may later agree upon in writing. If the closing date is a weekend or holiday, then the closing shall be on the next business day.

Buyer Initials (B) Buyer Initials ( )

Page 7 of 9

Seller Initials (S) Seller Initials ( )  
131NV 11222011

DEF000436  
ROA001449

72. EXPIRATION OF OFFER: The Buyer's offer will be open for the Seller's acceptance only:  
UNTIL the hour of 8:00 on the 20th day of September 2012

73. An AGENT/BROKER MAY NOT SIGN for any party to this Agreement unless the Buyer and/or Seller has executed a POWER OF ATTORNEY permitting this action. This is a LEGALLY BINDING CONTRACT. Read it Carefully Before Signing. If You Do Not Fully Understand It, Legal and Financial Advice Should Be Obtained Before Signing. Buyer(s) has relied on his/her own judgment in entering into this Agreement and NOT the information and statements of FCBB, its agents, officers or employees. Upon Seller's Acceptance, Buyer agrees to be bound by each provision of this agreement, and all signed addenda, disclosures and attachments, if any.

Dated this 20th day of September 2012

Time: 5:00 am / pm Time Zone: PDT-22-10

FIRST CHOICE BUSINESS BROKERS LAS VEGAS 101

David Cleebaut  
Duly Authorized Agent

Agent's Printed Name

X Ted Geary

Buyer's Printed Name

X

Buyer's Printed Name

Email: tgeary@navoratech.com

Home: 928-444-2273

Cell: 775-233-0348

FAX:

Home Address: 9005 Meadows #821

City: Reno

State: NV

Zip: 89521

74. The Seller's response (Check one only).

According to Nevada Administrative Code: 645.632, The Seller is required By Law to respond in any event (Check one only).

☒ COUNTER OFFER: Seller accepts the terms of this Agreement subject to the attached COUNTER OFFER #1 dated: 10.12.12

☐ REJECTION: As required under NAC 645.632, Seller hereby informs Buyer the offer presented herein is NOT accepted.

Seller's signature(s):

☐ ACCEPTANCE: I/We the Seller(s) accept this Asset Purchase Agreement in its entirety and agree to sell the assets of the Named Business in accordance with all the terms and conditions stated herein without exception.

SELLER'S ACCEPTANCE & AGREEMENT

75. SELLER'S ACKNOWLEDGMENT: The Seller acknowledges that FCBB has made no representations of the Buyer concerning the history, net worth, financial representations, creditworthiness, ability to repay any Seller Financing or ability of the Buyer to complete this transaction or of the Buyer's ability to operate the Business. Seller agrees to rely solely on the Buyer's representation to Seller and FCBB.

76. FCBB'S COMMISSIONS: The commission earned by FCBB for the sale of the Business will be paid by the Seller (unless otherwise agreed to by all parties and/or unless Buyer defaults on this Agreement as set forth above or on Buyer's duties and obligations under Buyer Confidentiality, Non-Disclosure Acknowledgment and Agreement dated 9-22-10 and fully incorporated herein by reference). The Seller irrevocably assigns to FCBB out of all sums now or which may become due and payable to the Seller by virtue of this Agreement and the Listing Agreement, an amount equal to the commission payable by the Seller to FCBB. All commissions owed to FCBB, regardless of whether it is owed for the sale of the business, land, improvements on the land or for leasing arrangements, will be fully earned at the time of acceptance of this Agreement with Amendments, if any, by the Seller. Payment is due to FCBB the earlier of (a) the escrow closing; (b) property transfer; (c) upon Buyer possession of the property; (d) upon transfer of any of the assets of the business, or (e) upon a Disposition of the Business as set forth and defined in the Listing Agreement, executed by Seller dated 12-2-11 and fully incorporated herein by reference. If none of the foregoing occurs, payment is due to FCBB upon demand. In the absence of a formal closing, the Seller authorizes the Buyer to pay such amounts directly to FCBB at the earlier of the items stated in this section. Should shares be issued as part of the purchase price, FCBB may also accept such shares as a portion of the total commission. Such shares will be issued at Founder's share price. If the Seller after acceptance of this Agreement, should default for any reason, or cause a default whereby the Buyer is unable through no fault of the Buyer to purchase the Business, the Seller will immediately pay to FCBB the amount of commission as stated in the acceptance of this offer. The Seller agrees to pay for all expenses incurred by FCBB in the collection of commissions, including without limitation, attorneys' fees, court fees, all costs, disbursements and expenses incurred by FCBB in enforcing Seller's obligation to pay said commission. The Seller hereby instructs the escrow company or other closing entity, to pay all such commissions to FCBB as a condition precedent of closing and irrevocably orders the escrow company or other closing entity to pay to FCBB, as the first item of closing, said amount of commission from Seller's proceeds. No further instruction with regards to commission payment shall be required from any escrow holder.

77. COMMISSION: Seller agrees to pay FIRST CHOICE BUSINESS BROKERS LAS VEGAS 101 a commission in the amount of as stated in the Listing Agreement dated: 12-2-11 which is fully earned upon acceptance of this agreement.

78. LEASING COMMISSION: In the event that the Seller owns the real property where the Business is located and the Buyer has agreed to lease such property, Seller agrees to pay FIRST CHOICE BUSINESS BROKERS LAS VEGAS 101, a Leasing Commission as stated in the Listing Agreement dated: 12-2-11 and shall be based upon: months lease, ("Lease Period") and is payable upon the closing of the sale or Buyer's possession, whichever is first.

Buyer Initials ( ) Buyer Initials ( )

Page 8 of 9

Seller Initials ( ) Seller Initials ( )  
131NV 11222011

DEF000437  
ROA001450

This is a Legally Binding Contract, Read it Carefully Before Signing. If You Do Not Fully Understand It, Legal and Financial Advice Should Be Obtained Before Signing. Seller has relied on his/her own judgment in entering into this Agreement.  
ALL TERMS, CONDITIONS WARRANTIES AND REPRESENTATIONS ARE HEREBY APPROVED AND ACCEPTED, (Contingent only upon those items expressly set forth in this Agreement).

DATED AND ACCEPTED on this 12<sup>th</sup> day of October, 2012 at 8 am/pm, Time Zone DDT.

Sam Shekhar  
Seller's Printed Name

Seller's Printed Name

[Signature]  
Signature

Signature

6130 Tara Av LV NV 89146  
Home Address (No P.O. Boxes) City State Zip

FIRST CHOICE BUSINESS BROKERS LAS VEGAS 101

[Signature]  
FCBB Duly Authorized Agent Signature

David Clark  
Agent Printed Name

Should this Agreement be transmitted electronically or by any other method and if any original part or portion of this Agreement is altered WITHOUT the personal written approval and consent of FCBB, then First Choice Business Brokers Las Vegas 101 shall have the option and right NOT to present the offer to the Seller. WARNING: This form is protected under the Copyright laws of the United States and any duplication, unauthorized use of any part or whole of this Agreement without the prior written consent of First Choice Business Brokers Las Vegas 101 will subject the user to legal action including a suit for copyright violation, infringement and damages.

Buyer Initials [Signature] Buyer Initials ( )

Page 9 of 9

Seller Initials [Signature] Seller Initials ( )  
131NV 11222011

DEF000438  
ROA001451



5420 W. Sahara, Suite 200  
Las Vegas, NV 89146 [www.fcbbiv.com](http://www.fcbbiv.com)  
Office: 702-368-2500 FAX: 702-368-3173

**COUNTER OFFER # TO THE ASSET PURCHASE AGREEMENT (138)**

That is dated: 10 12, 20 12 Between  
Ted Geary and/or assigned (BUYER) AND  
Samir LLC / Samir Sheikh, Managing Member (SELLER)

With regard to the sale and purchase of the business assets known as:

Business Name: Zip Zap Auto

Address: 3230 N. Durango LV NV 89129

The ☐ SELLER ☐ BUYER expressly accepts the above referenced Asset Purchase Agreement including all Addenda, Amendments, and Counter Offers with the following changes:

Total Price to be \$ 300,000

\* 100,000 at close

2 year note at 6%, monthly payments approximately \$ 7,307.43

\* 35,000 balloon payment, 4 months from close

No prepayment penalty

Buyer will wire earnest money in the amount of \$ 30,000 to First American Title within 24 hours of signed agreement

Expiration of original offer extended to this day 10/12/12

☐ Continued on Page # \_\_\_\_\_ to this Counter Offer.

**RIGHT TO ACCEPT OTHER OFFERS:** SELLER reserves the right to accept any other offer prior to BUYER'S acceptance of this Counter Offer and SELLER'S Agent being so advised in writing. All other terms and conditions shall remain the same.

The above Counter Offer, dated this 12<sup>th</sup> day of October, 2012, is open for written acceptance on or before the hour of 6:00 a.m. on the 19<sup>th</sup> day of October, 2012

☒ Seller(s) ☐ Buyer(s) Signature: [Signature] Date: 10-12-12 Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Agent: David Clendenen (First Choice Business Brokers, Duly Authorized Agent) Signature: [Signature] Date: 10-12-12

**ACCEPTANCE**

☐ This Counter Offer and all attached Continuation Pages are accepted and SUBJECT TO COUNTER OFFER # \_\_\_\_\_

Dated and Accepted this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at the hour of \_\_\_\_\_:\_\_\_\_\_.m.

☐ Seller(s) ☐ Buyer(s) Signature: \_\_\_\_\_ Date: \_\_\_\_\_ Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Agent: \_\_\_\_\_ (First Choice Business Brokers, Duly Authorized Agent) Signature: \_\_\_\_\_ Date: \_\_\_\_\_

138NV 02082010

DEF000439  
ROA001452

# EXHIBIT L

DEF000440

ROA001453



**DECLARATION OF HAMID SHEIKHAI**

HAMID SHEIKHAI, being first duly sworn, deposes and says that he has personal knowledge and is competent to testify to the facts below. The facts stated herein are true to the best of my own personal knowledge, except for those facts stated upon information and belief, and as to those facts, I believe them to be true.

1. I have personal knowledge related to the annulment between Victor Botnari ("Bontari") and me, and as it relates to my asset, Zip Zap Auto.

2. On March 28, 2018, Mr. Botnari and I filed a joint petition for annulment ("Petition") in the Ninth Judicial District Court, District of Nevada ("Douglas County"). The Petition attached as **Exhibit A** is a true and correct copy. Therein, Mr. Botnari provided a verification for the Petition ("Verification"), under the penalty of perjury that the Petition was accurate.

3. Mr. Botnari misrepresented and concealed to me that he only married me for the purpose of obtaining a green card.

4. Mr. Botnari falsely represented to me that he desired to get married because he was in love and wanted to maintain a traditional marital relationship by residing together and performing all matrimonial duties of a spouse. I would not have married him if I did not know that he was only marrying me for a green card and to get access to my assets.

5. Mr. Botnari further specifically promised and represented that he was not marrying me solely to gain United States citizenship or a green card.

6. Mr. Botnari withheld and misrepresented the intention to only marry for a green card and withheld the fraudulent intent to evade immigration laws and commit marriage fraud, so as to induce me to marry him. I believe that Mr. Botnari had no intention of maintaining a marital relationship, but rather intended to leave once he obtained a green card. This lead to us getting an annulment.

7. I moved to Las Vegas in March of 2011 and opened Zip Zap Auto where he hired Mr. Botnari as a mechanic.

////



1           8.       I added Victor's name to all my assets based on Mr. Botnari's statement it would  
2 strengthen his immigration case so we could stay together. Thereafter, we filed for Mr. Botnari's  
3 green card based on this marriage in October 2014. Mr. Botnari said he was not to take any of  
4 my assets. However, that is not how it has worked out and it has cost me a lot of money.

5           9.       In March of 2018, Mr. Botnari admitted he married me solely for money and  
6 immigration benefits.

7           10.      There was a failure of consideration related to Mr. Botnari's acquisition of Zip  
8 Zap Auto. Mr. Botnari had no right to make any claims against my assets accumulated during  
9 the sham marriage as I relied upon his representations that we were putting assets in his name for  
10 immigration purposes, not to facilitate a real transfer.

11          11.      As to the transfer orchestrated by Mr. Botnari to support his immigration petition,  
12 we executed a Bill of Sale ("Bill of Sale") on June 1, 2014. However, the Bill of Sale was only  
13 for \$1.00, illustrating the lack of consideration and to facilitate Mr. Botnari's continuing scheme  
14 to defraud the United States and Immigration. As admitted by Mr. Botnari, I only executed this  
15 document to help Mr. Botnari's immigration case and to help him obtain insurance, and always  
16 understood that Mr. Botnari was not going to make a claim on this asset.

17          12.      In March 2013, I sold Zip Zap Auto to Jens, Inc. for \$300,000. A true and correct  
18 copy of the asset purchase agreement is attached as **Exhibit L**.

19          13.      In March 2014, I purchased Zip Zap Auto back from Jens, Inc., including the  
20 name "Zip Zap" for \$50,000 in cash and forgiving the note Jens, Inc. had made for \$125,000.00.

21          14.      On April 1, 2014, following my buy-back of Zip Zap Auto, I appointed Mr.  
22 Botnari as manager of Zip Zap Auto. To help Mr. Botnari obtain insurance under the Vitiok  
23 LLC DBA Zip Zap Auto name, we agreed that we would use documents that these companies  
24 would require, but we never intended for any such ownership transfer to occur.

25          15.      In May 2014, I helped Mr. Botnari set up Vitiok, LLC ("Vitiok") by setting up  
26 bank accounts, submitting a fictitious business name application and allowing Vitiok to use the  
27 "Zip Zap Auto" name for business purposes.

28        ////

1           16.     The purpose of my aid in setting up Vitiok was so that Mr. Botnari and Vitiok  
2     could obtain a Department of Motor Vehicles ("DMV") Garage and Smog Station licenses to  
3     increase revenue of Zip Zap Auto.

4           17.     I had a Smog Technician licenses in 2013, but it was revoked following a series of  
5     errors made by Mr. Botnari who was improperly using my Smog Technician License  
6     username/password.

7           18.     Despite allowing Vitiok to use the Zip Zap Auto name, I retained 100%  
8     ownership and control of all equipment, miscellaneous assets, and intellectual property  
9     pertaining to Zip Zap Auto.

10          19.     In particular, as the sale to Jens, Inc. showed that a reasonable value for the  
11     company was \$300,000, any such document showing nominal fees of \$1 or \$10 were indicative  
12     that there was no consideration for any such alleged transaction purported to transfer any  
13     ownership and/or equity to Mr. Botnari and/or Vitiok, LLC.

14          20.     Mr. Botnari used his special relationship with me to obtain my trust and  
15     confidence. In doing so, my intent was to help Mr. Botnari related to the immigration issues  
16     specified above and to obtain insurance relative to the operation of Zip Zap as a manager, not as  
17     an owner.

18          21.     I never transferred any intellectual property, domain names, Yelp, google  
19     accounts, utilities or equipment and inventory, FF&E, etc. as the Parties understood that I would  
20     retain ownership of Zip Zap.

21          22.     On May 4, 2018, following the annulment of my and Mr. Botnari's marriage, Mr.  
22     Botnari and extinguished any interest he had in any of my business affiliations, including Zip  
23     Zap Auto, and transferred them back to me.

24     ////

25     ////

26     ////

27     ////

28     ////

**MICHAEL B. LEE, P.C.**  
1820 E. SAHARA AVE., SUITE 110  
LAS VEGAS, NEVADA 89104  
TEL -- (702) 477.7030; FAX -- (702) 477.0096

1           23.     However, Mr. Botnari, by and through Vitiok, now makes false claims of  
2 ownership to Zip Zap Auto despite his admissions in the Petition that it was always my property.

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

5           FURTHER DECLARANT SAYETH NAUGHT

6           DATED this 4 day of December, 2020.

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

HAMID SHEIKHAI

# EXHIBIT M

DEF000445

ROA001458

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

**IN THE EIGHTH JUDICIAL 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 AMIRYAVARI, an individual and  
DOES I through X and ROE  
CORPORATIONS I through X, inclusive,

Defendants.

HAMID SHEIKHAI, individually,

Counterclaimant,

v.

VITIOK, LLC, a Nevada Limited Liability  
Company,

Counter-Defendant.

HAMID SHEIKHAI, individually,

Crossclaimant,

v.

VICTOR BOTNARI, an individual; LARISA  
MEREORA, an individual; THOMAS  
MULKINS, an individual; NINA GROZAV,  
an individual; ION NEAGU, an individual;  
ALISA NEAGU, an individual; NNG, LLC  
dba UNIVERSAL MOTORCARS; and DOES  
I through X, inclusive; and ROE BUSINESS  
ENTITIES I through X, inclusive,

Cross-Defendant.

CASE NO.: A-19-805955-C  
DEPT. NO.: XXII

**DEFENDANT'S ANSWER,**  
**COUNTERCLAIM, AND CROSS CLAIM**

HAMID SHEIKHAI ("Defendant" or "Sheikhai"), by and through his counsel of record,  
WILLOCK LAW GROUP, hereby files his Answer ("Answer") to Plaintiff VITIOK LLC ("Vitiok")

1 or "Plaintiff") Complaint as follows:

2 **ANSWER**

3 **THE PARTIES**

4 1. Responding to Paragraphs 1, 2, 4, 5, 6, 8, 14, and 15 of the Complaint, Defendants lack  
5 sufficient information or belief to enable them to either admit or deny allegations contained in  
6 said Paragraph, and based thereon, Defendants deny the allegations contained therein.

7 2. Responding to Paragraphs 3, 7, 9, and 10 of the Complaint, Defendants admit the  
8 allegations contained therein.

9 3. Responding to Paragraphs 11, 12, 13, 16, and 17 of the Complaint, Defendants deny the  
10 allegations contained in said Paragraph.

11 **I.**

12 **FIRST CLAIM FOR RELIEF**

13 **(Unjust Enrichment)**

14 4. Answering Paragraphs 18-26 of the Complaint, these answering Defendants repeat and  
15 incorporate by reference each and every claim, allegation, and denial contained in the answers to  
16 Paragraphs 1-17 as fully set forth herein.

17 5. Answering Paragraphs 18-26, Defendants deny the allegations contained in said  
18 Paragraphs.

19 **II.**

20 **SECOND CLAIM FOR RELIEF**

21 **(Intentional Interference with Economic Interest)**

22 6. Answering paragraphs 27-37 of the Complaint, these answering Defendants repeat and  
23 incorporate by reference each and every claim, allegation, and denial contained in the answers to  
24 paragraphs 1-26 as fully set forth herein.

25 7. Answering Paragraphs 27-37, Defendants deny the allegations contained in said  
26 Paragraphs.

27 **III.**

28 **THIRD CLAIM FOR RELIEF**

1 **(Civil Conspiracy)**

2 8. Answering paragraphs 38-42 of the Complaint, these answering Defendants repeat and  
3 incorporate by reference each and every claim, allegation, and denial contained in the answers to  
4 paragraphs 1-37 as fully set forth herein.

5 9. Answering Paragraphs 38-42, Defendants deny the allegations contained in said  
6 Paragraphs.

7 **IV.**

8 **FOURTH CLAIM FOR RELIEF**

9 **(Injunction)**

10 10. Answering paragraphs 43-49 of the Complaint, these answering Defendants repeat and  
11 incorporate by reference each and every claim, allegation, and denial contained in the answers to  
12 paragraphs 1-42 as fully set forth herein.

13 11. Answering Paragraphs 43-49, Defendants deny the allegations contained in said  
14 Paragraphs.

15 **V.**

16 **FIFTH CLAIM FOR RELIEF**

17 **(Declaratory Relief)**

18 12. Answering paragraphs 50-57 of the Complaint, these answering Defendants repeat and  
19 incorporate by reference each and every claim, allegation, and denial contained in the answers to  
20 paragraphs 1-49 as fully set forth herein.

21 13. Answering Paragraphs 50-57, Defendants deny the allegations contained in said  
22 Paragraphs.

23 **VI.**

24 **SIXTH CLAIM FOR RELIEF**

25 **(Accounting)**

26 14. Answering paragraphs 58-62 of the Complaint, these answering Defendants repeat and  
27 incorporate by reference each and every claim, allegation, and denial contained in the answers to  
28 paragraphs 1-57 as fully set forth herein.

1 15. Answering Paragraphs 102-115, Defendants specifically and generally deny the  
2 allegations contained in said Paragraphs.

3 **AFFIRMATIVE DEFENSES**

4 1. The Plaintiff is barred from seeking recovery in this action by virtue of Plaintiff's own  
5 unclean hands.

6 2. At all times, the Plaintiff could have, by the exercise of reasonable diligence, limited the  
7 Plaintiff's damages, if any, as a result of the act, transactions, and/or omissions alleged in the  
8 Complaint. The Plaintiff failed or refused to do so, which constitutes a failure to mitigate  
9 damages.

10 3. The Plaintiff is barred from asserting each and every of the purported causes of action  
11 contained in the Complaint by reason of the Plaintiff's waiver.

12 4. The Plaintiff is guilty of unreasonable delay in bringing this action against the  
13 Defendants which delay has caused prejudice to Defendants and, therefore, the Plaintiff's  
14 Complaint is barred by the equitable doctrine of laches.

15 5. Plaintiff, for valuable consideration, released and forever discharged Defendants from  
16 any and all liability to Plaintiff for any and all claims of Plaintiff against Defendants arising out  
17 of the subject transaction and/or occurrence which is the subject matter of Plaintiff's causes of  
18 action herein.

19 6. The Plaintiff's Complaint is barred by accord and satisfaction.

20 7. The Plaintiff's Complaint is barred by the doctrine of judicial estoppel, res judicata  
21 and/or collateral estoppel.

22 8. The Plaintiff's Complaint is barred by claim or issue preclusion.

23 9. The Plaintiff's relief is barred by mutual mistake.

24 10. The relief sought by the Plaintiff would constitute unjust enrichment.

25 11. Defendants allege that the Complaint and each and every cause of action therein is barred  
26 by NRS Section 111.220 namely the Statute of Frauds, and the statute of limitations contained in  
27 NRS 11.207.

28 12. Plaintiff failed to act in good faith in complying with its obligation under the law and its



1 contract(s) with Defendants and/or third parties.

2 13. The standards of conduct that Plaintiff seeks to impose against Defendants are not lawful.

3 14. Plaintiff's Complaint is barred because any actions taken by Defendants were proper,  
4 legitimate, and based upon good faith and were not motivated by hatred or ill-will or with the  
5 deliberate intent to injure Plaintiff.

6 15. These answering Defendants allege that the allegations contained in the Complaint failed  
7 to state a cause of action against these answering Defendant upon which relief can be granted.

8 16. These answering Defendants allege that this Court lacks jurisdiction to consider the  
9 claims of the Plaintiff and further alleges that this Court lacks jurisdiction to consider this action

10 17. That it has been necessary for these answering Defendants to employ the services of an  
11 attorney to defend this action and a reasonable sum should be allowed these answering  
12 Defendants for attorney's fees, together with costs expended in this action.

13 18. Pursuant to NRCP 11, all possible affirmative defenses may not have been alleged herein  
14 insofar as sufficient facts were not available after reasonable inquiry upon the filing of this  
15 Answer, and therefore, these answering Defendants reserve the right to amend the Answer to  
16 allege additional affirmative defenses if subsequent investigation so warrants.

17 **COUNTERCLAIM AND CROSS-CLAIM FOR DAMAGES**

18 **AND DEMAND FOR JURY TRIAL**

19 Plaintiff HAMIDSHEIKHAI ("SHEIKHAI"), by and through his counsel of record,  
20 WILICK LAW GROUP, hereby counterclaims against Counterdefendant VITIOK, LLC ("Vitiok"),  
21 and crossclaims against VICTOR BOTNARI ("Botnari"), LARISA MEREORA ("Mereora"),  
22 THOMAS MULKINS ("Mulkins"), NINA GROZAV ("GROZAV"), ION NEAGU  
23 ("NEAGU"), ALISA NEAGU, and NNG, LLC dba UNIVERSALMOTORCARS ("Universal  
24 Motorcars") (collectively referred to as "Counterdefendants") as follows:

25 **DEMAND FOR JURY TRIAL**

26 1. Sheikhai demands a jury trial.

27 **JURISDICTIONAL AND PARTY ALLEGATIONS**

28 2. The District Courts of Nevada has subject matter jurisdiction over this matter

1 because this action concerns issues of Nevada law.

2 3. The District Courts of Nevada have jurisdiction over this matter pursuant to Nev.  
3 Const. art. VI, § 6, as this Court has original jurisdiction in all cases not assigned to the justices'  
4 courts.

5 4. The District Courts of Nevada have subject matter jurisdiction over this matter  
6 pursuant to Nevada Revised Statute § 4.370(1), as the matter in controversy exceeds \$15,000,  
7 exclusive of attorney's fees, interest, and costs.

8 5. The District Courts of Clark County have personal jurisdiction of  
9 Plaintiff/Counterdefendant Botnari because at all times relevant he is and was a resident of Clark  
10 County.

11 6. Upon information and belief, the District Courts of Clark County have personal  
12 jurisdiction of Counterdefendant Mereora because, at all times relevant, she is and was a resident  
13 of Clark County.

14 7. Upon information and belief, the District Courts of Clark County have personal  
15 jurisdiction of Counterdefendant Mulkins because, at all times relevant, he is and was a resident  
16 of Clark County.

17 8. Upon information and belief, the District Courts of Clark County have personal  
18 jurisdiction of Counterdefendant Grozav because, at all times relevant, she is and was a resident  
19 of Clark County.

20 9. Upon information and belief, the District Courts of Clark County have personal  
21 jurisdiction of Counterdefendants Neagu and Alisa Neagu because, at all times relevant, he and  
22 she were and are residents of Clark County.

23 10. The District Courts of Clark County have personal jurisdiction of  
24 Plaintiff/Counterdefendant Vitiok because it is a licensed Nevada limited liability company  
25 doing business in Clark County, Nevada.

26 11. The District Courts of Clark County have personal jurisdiction of Defendant  
27 Universal Motorcars because it is a licensed Nevada limited liability company doing business in  
28 Clark County, Nevada.

12. The District Courts of Clark County have personal jurisdiction of SHEIKHAI because at all times relevant he is and was a resident of Clark County.

13. At all times relevant, SHEIKHAI is an individual who entered into an agreement with Counterdefendants for activity in Clark County, Nevada. As such, this Honorable Court has in rem jurisdiction over this matter.

#### **DOES AND ROSE ALLEGATIONS**

14. SHEIKHAI is informed and believes, and therefore alleges, that the true names and capacities, whether individual, corporate, associate or otherwise of DOES 1 through 10 and ROE CORPORATIONS 1 through 10 are unknown. SHEIKHAI sues them by these fictitious names. Counterdefendants designated as DOES are responsible in some manner and are responsible for the events and happenings described in SHEIKHAI's Counterclaim that proximately caused damages to SHEIKHAI as alleged herein.

15. SHEIKHAI is informed and believes that Defendant designated as a ROE CORPORATION is likewise responsible in some manner for the events and happenings described in the Complaint which proximately caused the damages to SHEIKHAI as alleged herein. SHEIKHAI is informed and believes that Defendant designated as DOES and ROE CORPORATIONS in some way are related to this action. SHEIKHAI will ask leave of Court to amend the Complaint to insert the true names and capacities of DOES and ROE CORPORATIONS and state appropriate charging allegations, when that information has been ascertained.

#### **GENERAL ALLEGATIONS**

16. SHEIKHAI established the "Zip Zap Auto" name in 1999 at 3405 Clayton Rd., Concord, CA 94519. SHEIKHAI sold this business in 2009, prior to moving Las Vegas, and years before ever meeting Plaintiff/Counterdefendant Botnari.

17. In 2011, SHEIKHAI moved to Las Vegas, NV and started a new Zip Zap Auto in February 2011, located at 3230 N. Durango Dr., Las Vegas, NV 89129 ("Zip Zap Auto").

18. SHEIKHAI met Mr. Botnari in 2011 after SHEIKHAI's ex-wife called SHEIKHAI to ask if he could give Mr. Botnari a job at one of his auto shops.

1           19.     SHEIKHAI's ex-wife explained that Victor Botnari was an immigrant from  
2 Moldova who was homeless and jobless that feared being deported based on a failed immigration  
3 petition.

4           20.     SHEIKHAI empathized with Mr. Botnari's situation as SHEIKHAI is an  
5 immigrant from Iran who came to the United States, worked hard, and became a successful  
6 businessman.

7           21.     Mr. Botnari began working for SHEIKHAI in 2011 and seemed to be a good  
8 employee, quickly gaining SHEIKHAI's trust.

9           22.     In March 2013, SHEIKHAI sold Zip Zap Auto to Jens, Inc. for \$300,000.

10          23.     In March 2014, SHEIKHAI purchased Zip Zap Auto back from Jens, Inc.,  
11 including the name "Zip Zap" for \$50,000 in cash and forgiving the note Jens, Inc. had made for  
12 \$125,000.00.

13          24.     On April 1, 2014, following SHEIKHAI's buy-back of Zip Zap Auto, SHEIKHAI  
14 appointed Mr. Botnari as manager of Zip Zap Auto. To help Mr. Botnari obtain insurance under  
15 the Vitiok LLC DBA Zip Zap Auto name, we agreed that we would use documents that these  
16 companies would require, but we never intended for any such ownership transfer to occur.

17          25.     From about April 2014 to May 2018, Vitiok leased the Zip Zap Auto commercial  
18 building from SHEIKHAI for \$10,000.00 per month, which Mr. Botnari paid until May 2018.

19          26.     On May 4, 2014, SHEIKHAI and BOTNARI were married in Nevada; however,  
20 the marriage was never consummated and was ultimately annulled on March 31, 2018.

21          27.     On March 28, 2018, SHEIKHAI and BOTNARI filed a joint petition for  
22 annulment ("Petition") in the Ninth Judicial District Court, District of Nevada ("Douglas  
23 County"). Therein, BOTNARI provided a verification for the Petition ("Verification"), under  
24 the penalty of perjury that the Petition was accurate. *Id.* at HS004323. These facts are supported  
25 by the Verification and the Petition. References to BOTNARI and SHEIKHAI below are  
26 maintained as originally drafted in the Petition.

27          28.     "VICTOR BOTNARI misrepresented and concealed that he only married  
28 HAMID SHEIKHAI for the purpose of obtaining a green card."

1           29.     “VICTOR BOTNARI falsely represented to HAMID SHEIKHAI that he desired  
2 to get married because he was in love and wanted to maintain a traditional marital relationship by  
3 residing together and performing all matrimonial duties of a spouse.”

4           30.     “VICTOR BOTNARI further specifically promised and represented that he was  
5 not marrying solely to gain United States citizenship or a green card.”

6           31.     “VICTOR BOTNARI withheld and misrepresented the intention to only marry for  
7 a green card and withheld the fraudulent intent to evade immigration laws and commit marriage  
8 fraud, so as to induce HAMID SHEIKHAI to marry him. HAMID SHEIKHAI believes VICTOR  
9 BOTNARI had no intention of maintaining a marital relationship, but rather intended to leave  
10 once he obtained a green card. HAMID SHEIKHAI would not have entered into the marriage  
11 except for the misrepresentations of the spouse.”

12          32.     “Hamid moved to Las Vegas in March of 2011 and opened a new automotive  
13 repair business [Zip Zap Auto] where he hired Victor as a mechanic.”

14          33.     “Sometime later Victor was finally ready to marry Hamid and said it didn’t matter  
15 what his family or other people in his country would think anymore. They got married on May 4,  
16 2014.”

17          34.     “In July of 2014 the parties were in the process of buying a home together and  
18 Hamid learned Victor was in deportation proceedings. Hamid has no idea and this led to a lot of  
19 things he had not been told to by Victor and he felt deceived.”

20          35.     “Hamid later learned Victor filed for a green card in November of 2013 based on  
21 his marriage to Gina and it was denied based on fraud and in February 2014 he was placed in  
22 removal proceedings. Hamid learned Victor was served a Notice to Appear for removal  
23 proceedings on April 30, 2014, only a few days before the marriage.” Victor “has filed for  
24 appeals, dismissals and continuances with Immigration but has not been successful due to his  
25 previous fraudulent marriage with Gina.”

26          36.     Hamid “added Victor’s name to all Hamid’s assets which Victor said would  
27 strengthen his immigration case so they could stay together and to be able to conduct business  
28 for one another. They then filed for Victor’s green card based on this marriage in October 2014.

1 He said it was not to take anything that wasn't his. However, that is not how it has worked out  
2 and it has cost Hamid a lot of money."

3 37. Victor "has been a consistent part of Hamid's business life but not with good  
4 intentions there either. He has taken the profits and burdened Hamid with the losses."

5 38. "In January of 2017 Victor filed for another visa as an abused spouse by Hamid,  
6 but Hamid did not know about it until later. He submitted falsified evidence including using  
7 Photoshop to alter a prescription bottle to make it look like Hamid was on medication, which he  
8 wasn't on. Everything was too much to ignore and Hamid confronted Victor in March of 2018  
9 and he admitted he married solely for money and immigration benefits. He admitted adultery  
10 and confirmed all Hamid's suspicions about his bad character."

11 39. "Hamid would not have married Victor if he knew he was needing a green card  
12 and was only marrying to gain access to his money."

13 40. Victor fraudulently induced Hamid into marrying him for a green card, which  
14 made him guilty of fraud.

15 41. There was a failure of consideration related to Victor's acquisition of Hamid's  
16 assets. Victor had no right to make any claims against Hamid's assets accumulated during the  
17 sham marriage.

18 42. As to the transfer of Hamid's assets to Victor, the parties executed a Bill of Sale  
19 ("Bill of Sale") on June 1, 2014. The Bill of Sale was only for \$1.00, illustrating the lack of  
20 consideration and to facilitate BOTNARI's continuing scheme to defraud the United States and  
21 Immigration. Hamid understood that Victor was not going to make a claim on this asset.

22 43. The factual allegations admitted by BOTNARI in the Petition were true.

23 44. There are not community assets and/or debts between SHEIKHAI and  
24 BOTNARI.

25 45. "Each party shall have affirmed to them as their sole and separate property, the  
26 property they brought to the union as individuals."

27 46. Following the marriage, SHEIKHAI purchased the real property 2964 Sun Lake  
28 Dr., Las Vegas, NV 89128 ("Sun Lake Property"), which SHEIKHAI also paid to have

1 completely furnished.

2 47. Mr. Botnari moved into the Sun Lake Property, but told SHEIKHAI that his  
3 culture would not allow SHEIKHAI to live with him. Instead, Mr. Botnari's girlfriend and  
4 coworker/employee, Counterdefendant Mereora, moved in with Mr. Botnari at the Sun Lake  
5 Property.

6 48. In May 2014, SHEIKHAI helped Mr. Botnari set up Vitiok, LLC ("Vitiok") by  
7 setting up bank accounts, submitting a fictitious business name application and allowing Vitiok  
8 to use the "Zip Zap Auto" name for business purposes.

9 49. The purpose of SHEIKHAI's aid in setting up Vitiok was so that Mr. Botnari and  
10 Vitiok could obtain a Department of Motor Vehicles ("DMV") Garage and Smog Station  
11 licenses to increase revenue of Zip Zap Auto.

12 50. SHEIKHAI had a Smog Technician licenses in 2013, but it was revoked  
13 following a series of errors made by Mr. Botnari who was improperly using SHEIKHAI's Smog  
14 Technician License username/password.

15 51. Despite allowing Vitiok to use the Zip Zap Auto name, SHEIKHAI retained  
16 100% ownership and control of all equipment, miscellaneous assets, and intellectual property  
17 pertaining to Zip Zap Auto.

18 52. In particular, as the sale to Jens, Inc. showed that a reasonable value for the  
19 company was \$300,000, any such document showing nominal fees of \$1 or \$10 were indicative  
20 that there was no consideration for any such alleged transaction purported to transfer any  
21 ownership and/or equity to Mr. Botnari and/or Vitiok, LLC.

22 53. Mr. Botnari used his special relationship with me to obtain SHEIKHAI's trust and  
23 confidence. In doing so, SHEIKHAI's intent was to help Mr. Botnari obtain insurance relative to  
24 the operation of Zip Zap as a manager, not as an owner.

25 54. SHEIKHAI never transferred any intellectual property, domain names, Yelp,  
26 google accounts, utilities or equipment and inventory, FF&E, etc. as the Parties understood that  
27 SHEIKHAI would retain ownership of Zip Zap.

28 55. On May 4, 2018, following the annulment of SHEIKHAI's and Mr. Botnari's

1 marriage, Mr. Botnari transferred all of his assets and extinguished any interest he had in any of  
2 SHEIKHAI's business affiliations, including Zip Zap Auto, to SHEIKHAI.

3 56. On May 27, 2018, SHEIKHAI executed, and Mr. Botnari accepted, a Promissory  
4 Note to pay Mr. Botnari \$1 Million, together with interest at a rate of 12% per annum,  
5 commencing June 15, 2018, and calling for interest-only payments at a rate of \$10,000.00 per  
6 month until the principal was paid ("Promissory Note").

7 57. The Promissory Note is governed by the Laws of California.

8 58. The Promissory Note has an interest rate of 12% ("Interest Rate").

9 59. To date, Mr. Sheikhai has paid Mr. Botnari \$210,000 in interest ("Interest Paid").

10 60. Following the execution of the Promissory Note, Mr. Botnari and SHEIKHAI  
11 agreed that, by May 31, 2018, Mr. Botnari would go to the DMV to file a change in management  
12 and close out his license at the DMV Emissions Lab for the Smog Station part of Zip Zap Auto.

13 61. Despite the agreement, Mr. Botnari purposefully avoided SHEIKHAI during the  
14 last week of May 2018.

15 62. On May 31, 2018, Mr. Botnari had his friend and key employee,  
16 Counterdefendant Mereora, tell SHEIKHAI that Mr. Botnari was in Los Angeles, CA awaiting a  
17 flight to Moldova.

18 63. On June 1, 2018, Mr. Botnari messaged SHEIKHAI to say that he did not file the  
19 change in management or close out his Smog Station license as agreed, and that he was at the  
20 airport in Los Angeles awaiting his flight to Moldova.

21 64. However, Mr. Botnari was not in Los Angeles as advised, nor did he travel back  
22 to Moldova. Rather, Mr. Botnari never left Las Vegas between May 27, 2018 and June 5, 2018.

23 65. On June 5, 2018, after not receiving any contact from Mr. Botnari, SHEIKHAI  
24 prepared and filed eviction notices for abandonment of the three properties for which Mr.  
25 Botnari had keys, but were owned by SHEIKHAI, including: Zip Zap Auto and the Sun Lake  
26 Property.

27 66. On June 6, 2018, SHEIKHAI went to serve the evictions papers, but upon arrival,  
28 Counterdefendants Mereora, Mulkins, and/or Neagu, along with other employees of Mr. Botnari,



1 were packing up and removing equipment from Zip Zap Auto, including, but not limited to: Zip  
2 Zap Auto's computer and hard drive containing Zip Zap Auto's customer list and other trade  
3 secrets.

4 67. Similarly, Counterdefendants Mereora, Mulkins, and/or Neagu also removed the  
5 furniture and furnishings from the Sun Lake Property, claiming those items to be Mr. Botnari's  
6 property.

7 68. Counterdefendants Mereora, Mulkins, and Neagu were all employees of Mr.  
8 Botnari, and acting under his control and direction, at the time the equipment, goods, and other  
9 items were removed from Zip Zap Auto.

10 69. Counterdefendants Mereora, Mulkins, and Neagu were all employees of Mr.  
11 Botnari, and acting under his control and direction, at the time the furniture and other furnishings  
12 were removed from the Sun Lake Property.

13 70. On or about June 6, 2018, Counterdefendant Mereora voluntarily handed  
14 SHEIKHAI the keys to Zip Zap Auto and the Sun Lake Property.

15 71. Unbeknownst to SHEIKHAI, in early May 2018, Mr. Botnari gave his girlfriend,  
16 Counterdefendant Nina Grozav, \$130,000.00 in cash to purchase and open a competitor auto  
17 shop, "Universal Motorcars."

18 72. Upon information and belief, although Ms. Grozav was listed as a "manager" of  
19 Universal Motorcars, Mr. Botnari had control of Universal Motorcars and handled the day-to-day  
20 operation of the business.

21 73. The other listed manager for Universal Motorcars is Alisa Neagu who, upon  
22 information and belief, has a familial relationship with Counterdefendant Ion Neagu.

23 74. The equipment stolen from Zip Zap Auto was taken by Counterdefendants  
24 Botnari, Mereora, Mulkins, and Neagu to Universal Motorcars, including the computer hard  
25 drive containing Zip Zap Auto's customer list and other trade secrets. Counterdefendants then  
26 made unsolicited calls to Zip Zap Auto's customers to disparage and defame Zip Zap Auto while  
27 promoting Mr. Botnari's competing business.

28 75. The equipment that was not stolen from Zip Zap Auto's premises by

1 Counterdefendants but left behind was in a state of disrepair and required replacement by  
2 SHEIKHAI upon his resuming control of Zip Zap Auto.

3 76. SHEIKHAI spent about \$75,000.00 replacing or repairing the equipment  
4 damaged/stolen from Zip Zap Auto by Counterdefendants.

5 77. On or about June 6, 2018, SHEIKHAI resumed control of Zip Zap Auto, which  
6 included using the name, equipment and premises that had previously been leased by Mr. Botnari  
7 and Vitiok.

8 78. Upon resuming control of Zip Zap Auto, SHEIKHAI discovered that Mr. Botnari  
9 had been keeping two sets of books, hiding roughly half of the gross sales by backdating repair  
10 orders.

11 79. Mr. Botnari and Vitiok were audited and assessed over \$104,000.00 in back taxes  
12 by the Nevada Department of Taxation.

13 80. Mr. Botnari paid only \$40,000.00 of the back-taxes and requested that  
14 SHEIKHAI loan him \$40,000 by paying writing a check directly to Nevada Department of  
15 Taxation.

16 81. Mr. Botnari then disappeared without paying the remainder of the tax obligation  
17 or repaying SHEIKHAI the \$40,000.00 paid on Mr. Botnari's and Vitiok's behalf.

18 82. In order for SHEIKHAI to resume control of Zip Zap Auto, SHEIKHAI was  
19 forced to cure Mr. Botnari and Vitiok's remaining tax obligation of roughly \$24,000.00.

20 **FIRST CLAIM FOR RELIEF**

21 **(Violation of Uniform Trade Secret Act NRS 600A)**

22 83. Hamid repeats and realleges the allegations in Paragraphs 1 through 82, inclusive,  
23 as if fully set forth at this point and incorporates them herein by reference in support of this cause  
24 of action.

25 84. In 1999, Hamid established the trade name "Zip Zap Auto" in Concord,  
26 California.

27 85. In 2011, Hamid moved to Las Vegas, Nevada and opened a new Zip Zap Auto  
28 located at 3230 N. Durango Dr., Las Vegas, NV 89129.

1           86.     Although Hamid sold Zip Zap Auto in March 2013, Hamid re-purchased the  
2 business a year later in March 2014, including the name Zip Zap Auto.

3           87.     Hamid had an agreement with Mr. Botnari, that Mr. Botnari's business, Vitiok,  
4 LLC, which Hamid helped Mr. Botnari create, could lease the Zip Zap Auto premises and utilize  
5 the name Zip Zap Auto.

6           88.     Mr. Botnari and Vitiok understood that this agreement was a strictly a lease  
7 agreement and that Hamid retained 100% ownership and control of all equipment, miscellaneous  
8 assets, and intellectual property pertaining to Zip Zap Auto.

9           89.     Mr. Botnari's understanding of the aforementioned agreement was confirmed by  
10 his payment of \$10,000.00 per month to Hamid between April 2014 and May 2018, the same  
11 time Mr. Botnari and Vitiok were utilizing the Zip Zap Auto location, equipment, and trade  
12 name.

13          90.     Upon abandoning Zip Zap Auto, Mr. Botnari and Vitiok's employees Mereora,  
14 Mulkins and/or Neagu removed the computer and hard drive from Zip Zap Auto, which  
15 contained Zip Zap Auto's customer list.

16          91.     Zip Zap Auto's customer list is confidential and has independent economic value  
17 for not being generally known, and not being readily ascertainable by proper means by the public  
18 or any other persons who could obtain commercial or economic value from their disclosure or  
19 use.

20          92.     Hamid took adequate measures to maintain the customer list as trade secret not  
21 readily available for use by others.

22          93.     Mr. Botnari and Vitiok intentionally, and with reason to believe that their actions  
23 would cause injury to Hamid, misappropriated and exploited the trade secret information through  
24 use, disclosure, or non-disclosure of the use of the trade secret for Counterdefendants' own use  
25 and personal gain.

26          94.     Mr. Botnari's and Vitiok's misappropriation of Zip Zap Auto's customer list is  
27 wrongful because they knew of their duty not to disclose/abscond with the customer list, but did  
28 so anyway.

1           95.     Mr. Botnari's and Vitiok's misappropriation of Zip Zap auto's customer list was  
2 willfully and intentionally done to interfere and harm Hamid's business, as well as to obtain an  
3 unfair competitive advantage for Counterdefendants.

4           96.     As a direct and proximate result of the foregoing, Hamid has been damaged in an  
5 amount in excess of \$15,000, said amount to be determined at trial.

6           97.     Based on the intentional, willful, and malicious conduct of Mr. Botnari and  
7 Vitiok, punitive damages should be awarded at the discretion of the court.

8           98.     In order to prosecute this action, Hamid had to retain attorneys to represent him,  
9 and he is entitled to fair and reasonable attorneys' fees associated with protecting his rights.

## 10                               **SECOND CLAIM FOR RELIEF**

### 11                               **(False Light, Disparagement, Defamation, Defamation Per Se)**

12           99.     Hamid repeats and realleges the allegations in Paragraphs 1 through 98, inclusive,  
13 as if fully set forth at this point and incorporates them herein by reference in support of this cause  
14 of action.

15           100.    "A statement is defamatory when, under any reasonable definition[,] such charges  
16 would tend to lower the subject in the estimation of the community and to excite derogatory  
17 opinions against him and to hold him up to contempt." See *Posadas v. City of Reno*, 109 Nev.  
18 448, 453, 851 P.2d 438, 442 (1993) (quotation marks and citation omitted).

19           101.    "[I]f the defamatory communication imputes a 'person's lack of fitness for trade,  
20 business, or profession, 'or tends to injure the Hamid in his or her business, it is deemed  
21 defamation per se and damages are presumed. "See *Clark Cnty. Sch. Dist. v. Virtual Educ.*  
22 *Software, Inc.*, 125 Nev. 374, 385, 213 P.3d 496, 503 (2009).

23           102.    Whether a statement constitutes fact or opinion is determined by assessing  
24 "whether a reasonable person would be likely to understand the remark as an expression of the  
25 source's opinion or as a statement of existing fact. "See *Lubin v. Kunin*, 117 Nev. 107, 112, 17  
26 P.3d 422, 426 (2001) (quotation marks and citation omitted).

27           103.    Although a statement of opinion is not actionable, a mixed-type statement— e.g.,  
28 a statement of opinion that implies the existence of undisclosed, defamatory facts— is

1 actionable. Id. at 113, 17 P.3d at 426.

2 104. Mr. Botnari and his employees, on behalf of Vitiok, called Zip Zap Auto  
3 customers, from the customer list stolen from the Zip Zap auto hard drive, and made defamatory  
4 and disparaging claims against Zip Zap Auto and Hamid with the intent to siphon those  
5 customers from Zip Zap Auto and to Mr. Botnari's competing venture, Universal Motorcars.

6 105. Mr. Botnari and his employees, on behalf of Vitiok, made the false and  
7 disparaging statements to interfere with the good will associated with Hamid in the automotive  
8 repair industry.

9 106. Hamid did not consent to Counterdefendant's actions.

10 107. The actions of Counterdefendants alleged here invaded Hamid's right of privacy  
11 by placing him in a false light before the general public, his customers, and his competitors.

12 108. The comments and statements made concerned Hamid and his business.

13 109. The comments and statements made by Counterdefendants were untrue, false, and  
14 defamatory, and Counterdefendants asserted them as matters of fact and in a way that constituted  
15 defamation per se.

16 110. No privilege exists related to the statements and comments made by  
17 Counterdefendants.

18 111. As a direct and proximate result of the foregoing, Hamid has been damaged in an  
19 amount in excess of \$15,000, said amount to be determined at trial.

20 112. Based on the intentional, willful, and malicious behavior of Counterdefendants,  
21 and each of them, punitive damages should be awarded at the discretion of the court.

22 113. In order to prosecute this action, Hamid had to retain attorneys to represent him,  
23 and he is entitled to fair and reasonable attorneys' fees associated with protecting his rights.

### 24 **THIRD CLAIM FOR RELIEF**

#### 25 **(Intentional Interference with Prospective Economic Advantage)**

26 114. Hamid repeats and realleges the allegations in Paragraphs 1 through 113,  
27 inclusive, as if fully set forth at this point and incorporates them herein by reference in support of  
28 this cause of action.

115. Counterdefendants and employees, on behalf of Vitiok, called Zip Zap Auto customers, from the customer list stolen from the Zip Zap auto hard drive, and made defamatory and disparaging claims against Zip Zap Auto with the intent to siphon those customers from Zip Zap Auto and to Mr. Botnari's competing venture, Universal Motorcars.

116. Counterdefendants' acts were intended or designed to disrupt Hamid's business to gain a prospective economic advantage.

117. Counterdefendants' actions have disrupted or were intended to disrupt Hamid's business by, among other things, diverting customers away from him.

118. Counterdefendants have no legal right, privilege, or justification for their conduct.

119. As a direct and proximate result of the foregoing, Hamid has been damaged, and will continue to suffer damages, in an amount in excess of \$15,000, said amount to be determined at trial.

120. In order to prosecute this action, Hamid had to retain attorneys to represent him, and he is entitled to fair and reasonable attorneys' fees associated with protecting his rights.

#### FOURTH CLAIM FOR RELIEF

**(Civil Conspiracy)**

121. Hamid repeats and realleges the allegations in Paragraphs 1 through 120, inclusive, as if fully set forth at this point and incorporates them herein by reference.

122. “Actionable civil conspiracy arises where two or more persons undertake some concerted action with the intent ‘to accomplish an unlawful objective for the purpose of harming another, ‘and damage results. “See *Guilfoyle v. Olde Monmouth Stock Transfer Co.*, 130 Nev. 801, 813, 335 P.3d 190, 198 (2014) (quoting *Consol. Generator–Nevada, Inc. v. Cummins Engine Co.*, 114 Nev. 1304, 1311, 971 P.2d 1251, 1256 (1998)).

123. Even if “an act done by an individual is not actionable because justified by his rights, such act becomes actionable when done in pursuance of a combination of persons actuated by malicious motives, and not having the same justification as the individual. “See *Eikelberger v. Tolotti*, 96Nev. 525, 527-28, 611 P.2d 1086, 1088 (1980).

124. Counterdefendants, entered into a conspiracy with each other, and potentially

1 others, to defame, disparage, and otherwise interfere with Hamid's business.

2 125. Counterdefendants, acted in concert to steal equipment owned by Hamid, and to  
3 steal Hamid's customer list.

4 126. In furtherance of the conspiracy, Counterdefendants contacted Hamid's  
5 customers, using the stolen customer list, to defame, disparage, and hold Hamid in a false light in  
6 front of his customers.

7 127. As a direct and proximate result of the foregoing, Hamid has been damaged in  
8 excess of \$15,000.00, not including interest, attorneys' fees, and costs, the exact amount to be  
9 determined at trial.

10 128. In order to prosecute this action, Hamid had to retain attorneys to represent it, and  
11 it is entitled to fair and reasonable attorneys' fees associated with protecting those rights.

12 **FIFTH CLAIM FOR RELIEF**

13 **(Conversion/Trespass to Chattel)**

14 129. Hamid repeats and realleges the allegations set forth in paragraphs 1 through 128  
15 above, as if fully set forth herein and incorporates them herein by reference in support of this  
16 cause of action.

17 130. At all times relevant, Hamid was the sole owner of all equipment contained inside  
18 Zip Zap Auto.

19 131. At no time were Counterdefendants the legal or equitable owner of any of the  
20 equipment contained inside Zip Zap Auto.

21 132. Similarly, at no time were Counterdefendants the legal or equitable owner of the  
22 furniture and furnishings attached to, or kept inside of, the Sun Lake Property.

23 133. Counterdefendants intentionally disposed of, destroyed, ruined, damaged,  
24 absconded with, spoiled, and otherwise converted the equipment from Zip Zap Auto for the  
25 benefit of themselves and Counterdefendant Vitiok, and in derogation of Hamid's rights to the  
26 same.

27 134. Counterdefendants intentionally disposed of, destroyed, ruined, damaged,  
28 absconded with, spoiled, and otherwise converted the furniture and furnishing from the Sun Lake

1 Property for their own benefit, and in derogation of Hamid's rights to the same.

2 135. As a direct and proximate result of the foregoing, Hamid has been damaged in an  
3 amount in excess of \$15,000, said amount to be determined at trial.

4 136. In order to prosecute this action, Hamid had to retain attorneys to represent him,  
5 and he is entitled to fair and reasonable attorneys' fees associated with protecting his rights.

## 6 **SIXTH CAUSE OF ACTION**

### 7 **(Restitution for Tax Liens)**

8 137. Hamid repeats and realleges the allegations in Paragraphs 1 through 136,  
9 inclusive, as if fully set forth at this point and incorporates them herein by reference in support of  
10 this cause of action.

11 138. Counterdefendants Botnari and Vitiok's illegal and improper conduct in  
12 underreporting their sales and use tax caused a tax lien in the approximate amount of  
13 \$104,000.00 to be filed against Botnari and/or Vitiok.

14 139. Counterdefendant Botnari acknowledged the tax lien as his sole responsibility and  
15 obligation by paying a portion of the tax lien.

16 140. Counterdefendant Botnari further acknowledged the tax lien as his sole  
17 responsibility and obligation by requesting a loan from Hamid to pay a portion of the tax lien.

18 141. Counterdefendants Botnari and Vitiok failed to pay the entire amount of the tax  
19 lien.

20 142. As a result, Hamid was assessed to pay the remainder of the tax lien following the  
21 \$40,000.00 payment by Mr. Botnari and subsequent \$40,000.00 payment by Hamid.

22 143. In total, Hamid paid the approximate sum of \$64,000.00 in satisfaction of the tax  
23 lien.

24 144. Mr. Botnari has not repaid Hamid either the \$40,000.00 loaned to him, or the  
25 additional \$24,000.00 that Hamid was forced to incur.

26 145. Counterdefendants Botnari and Vitiok received a benefit by way of Hamid's  
27 payment of the tax lien.

28 146. Counterdefendants Botnari and Vitiok accepted and retained the benefit under



1 circumstances that would be inequitable for Counterdefendants Botnari and Vitiok to retain the  
2 benefit without payment of value for the same.

3 147. Counterdefendants Botnari and Vitiok's retention of the benefit is to the  
4 derogation of Hamid's rights in equity.

5 148. As a direct and proximate result of the foregoing, Hamid has been damaged in an  
6 amount in excess of \$15,000, said amount to be determined at trial.

7 149. In order to prosecute this action, Hamid had to retain attorneys to represent him,  
8 and he is entitled to fair and reasonable attorneys' fees associated with protecting his rights.

### 9 SEVENTH CAUSE OF ACTION

#### 10 (Abuse of Process)

11 150. Hamid repeats and realleges the allegations in Paragraphs 1 through 149,  
12 inclusive, as if fully set forth at this point and incorporates them herein by reference in support of  
13 this cause of action.

14 151. On November 22, 2019, Counterdefendant Vitiok filed a complaint for damages  
15 against Hamid personally, among other individuals and entities affiliated with Hamid, in case  
16 number A-19-805955-C.

17 152. Also, on November 22, 2019, Counterdefendant Botnari filed a complaint for  
18 damages against Hamid personally, among other individuals and entities affiliated with Hamid,  
19 in case number A-19-801513-P.

20 153. Both of the aforementioned cases filed on November 22, 2019, attempt to litigate  
21 the same issues, parties, and entities already in controversy in the family court case number D-  
22 18-575686-L, which had been in litigation for a year and a half prior to filing of the  
23 aforementioned complaints.

24 154. The aforementioned complaints not only lacked legal merit, but were already the  
25 subject of litigation between the parties.

26 155. Counterdefendants' Botnari and Vitiok's purpose in filing the aforementioned  
27 complaints was to harass Hamid and deplete his funds so that he could not afford to defend the  
28 family law case and, in an effort, to have Hamid default on the promissory note between Hamid

1 and Mr. Botnari.

2 156. Mr. Botnari's admissions in the Petition illustrate abuse of process.

3 157. Mr. Botnari verified, under the penalty of perjury, that he knowingly defrauded  
4 Mr. Sheikhai into marrying him for the purposes of a green card.

5 158. He admitted that in furtherance of this scheme to defraud both Mr. Sheikhai and  
6 ICE, he manipulated Mr. Sheikhai into "add[ing] Victor's name to all Hamid's assets which  
7 Victor said would strengthen his immigration case . . . , [although] [h]e said it was not to take  
8 anything that wasn't his. However, that is not how it has worked out and it has cost Hamid a lot  
9 of money." One such asset is Zip Zap Auto, the principle issue in this dispute.

10 159. As to Zip Zap, Mr. Botnari admitted that "Hamid moved to Las Vegas in March  
11 of 2011 and opened a new automotive repair business [Zip Zap Auto] where he hired Victor as a  
12 mechanic." Thus, no dispute exists that the purpose of this was to facilitate Mr. Botnari's fraud  
13 on ICE related to the sham marriage, not to actually transfer the property to him.

14 160. Moreover, Mr. Botnari also admitted that there was no consideration for the  
15 alleged transfer since he fraudulently induced Mr. Sheikhai into marrying him for a green card,  
16 which made him guilty of fraud.

17 161. Notably, the underlying transaction purportedly transferring Zip Zap to Mr.  
18 Botnari was for \$1, Ex. D, although the actual fair market price for the business was \$278,517.93  
19 as evidenced by the actual sale of it on March 25, 2013. At all times relevant, Mr. Botnari  
20 admitted that Mr. Sheikhai always understood that Mr. Botnari was not going to make a claim on  
21 this asset.

22 162. These undisputed facts illustrate that the alleged facts asserted in the Complaint  
23 are violative of Rule 11. The Complaint falsely asserts that "[o]n June 1, 2014, Vitiok purchased  
24 Zip Zap Auto business and its assets from Samir LLC that was owned and operated by Mr.  
25 Sheikhai." This allegation is the principle allegation upon which all the claims in the Complaint  
26 rest upon.

27 163. Concerningly, Plaintiff's counsel was acutely aware that the Complaint he filed  
28 directly contradicted the Petition despite actual knowledge of Mr. Botnari's admissions therein.

164. As a direct and proximate result of the foregoing, Hamid has been damaged in an amount in excess of \$15,000, said amount to be determined at trial.

165. In order to prosecute this action, Hamid had to retain attorneys to represent him, and he is entitled to fair and reasonable attorneys' fees associated with protecting his rights.

## EIGHTH CAUSE OF ACTION

**(Breach of the Implied Covenant of Good Faith and Fair Dealing –Promissory Note)**

166. Hamid repeats and realleges the allegations in Paragraphs 1 through 165, inclusive, as if fully set forth at this point and incorporates them herein by reference in support of this cause of action.

167. Hamid and Mr. Botnari were parties to a contract, i.e. the Promissory Note.

168. Under the Promissory Note, Mr. Botnari owed a duty of good faith and fair dealing to Hamid.

169. Mr. Botnari breached that duty by filing cases A-19-805955-C and A-19-801513-P against Hamid, not for any legitimate purpose, but to drain Hamid's funds in an attempt to force Hamid to default on his payments to Mr. Botnari under the Promissory Note.

170. Both of the aforementioned cases filed on November 22, 2019, attempt to litigate the same issues, parties, and entities already in controversy in the family court case number D-18-575686-L, which had been in litigation for a year and a half prior to filing of the aforementioned complaints.

171. The aforementioned complaints not only lacked legal merit, but were already the subject of litigation between the parties.

172. As a direct and proximate result of the foregoing, Hamid has been damaged in an amount in excess of \$15,000, said amount to be determined at trial.

173. In order to prosecute this action, Hamid had to retain attorneys to represent him, and he is entitled to fair and reasonable attorneys' fees associated with protecting his rights.

### NINTH CAUSE OF ACTION

**(Rescission - Unilateral Mistake)**

174. Sheikhai repeats and realleges its allegations in Paragraphs 1 through 173,

1 inclusive, as if fully set forth at this point and incorporates them herein by reference.

2 175. Sheikhai repeats and realleges its allegations in Paragraphs 17 through 37,  
3 inclusive, as if fully set forth at this point and incorporates them herein by reference related to  
4 the factual allegations for this cause of action.

5 176. At the time the parties entered into any agreements related to Zip Zap, purportedly  
6 represented by Vitiok, LLC and/or Mr. BOTNARI to be a "Bill of Sale" dated June 1, 2014  
7 between Samir, LLC d/b/a Zip Zap Auto and Vitiok, LLC, these Parties never intended for any  
8 transfer of ownership to occur.

9 177. At the time SHEIKHAI agreed to permit MR. BOTNARI manage Zip Zap, he  
10 was under the reasonable assumption that the MR. BOTNARI would be working as a manager  
11 only. Similarly, he was under the reasonable assumption that if he entered into any documents,  
12 the sole purpose would be to help MR. BOTNARI obtain insurance through VITIOK, LLC.  
13 There was never any understanding that SHEIKHAI, by and through Samir, LLC, would be  
14 giving up any ownership rights in Zip Zap.

15 178. The Parties understood that SHEIKHAI held all ownership rights in Zip Zap as  
16 SHEIKAHAI never transferred any intellectual property, domain names, Yelp, google accounts,  
17 utilities or equipment and inventory, FF&E, etc. to MR. BOTNARI and/or VITIOK, LLC.

18 179. Any misunderstanding related to the alleged ownership of Mr. Botnari and/or  
19 VITIOK, LLC was caused by MR. BOTNARI , who induced the misunderstanding based on his  
20 special relationship with SHEIKHAI. Notably, MR. BOTNARI later utilized this special  
21 relationship to induce SHEIKHAI into a fraud marriage, which MR. BOTNARI compelled  
22 SHEIKHAI into submitting a petition to the United States Department of Homeland Security,  
23 Customs and Immigration Services ("CIS"), so that MR. BOTNARI could obtain legal status in  
24 the United States.

25 180. CIS denied the petition based on a finding of a history of fraud marriages utilized  
26 by MR. BOTNARI, which included the fraud marriage to SHEIKHAI.

27 181. MR. BOTNARI and SHEIKHAI had a special relationship. This relationship had  
28 "a special element of reliance" where SHEIKHAI trusted MR. BOTNARI. SHEIKHAI was

1 never aware that MR. BOTNARI would try to defraud him and take advantage of a mistake  
2 whereby SHEIKHAI would agree to sell Zip Zap to MR. BOTNARI for less than \$10.

3 182. The sale to Jens, Inc. illustrates that the fair market price for the sale of Zip Zap  
4 would have been at least \$300,000.00, not \$1.

5 183. MR. BOTNARI was actively working against Sheikhai's interest despite multiple  
6 representations to the contrary.

7 184. Any agreements purporting to sell Zip Zap to MR. BOTNARI are void and  
8 subject to rescission based on the mistake of SHEIKHAI in understanding the Agreement as  
9 misrepresented by MR. BOTNARI. *Home Savers, Inc. v. United Sec. Co.*, 103 Nev. 357, 358-  
10 59, 741 P.2d 1355, 1356-57 (1987).

11 185. SHEIKHAI placed MR. BOTNARI on notice of the rescission.

12 186. When the falsities of any agreements purporting to sell Zip Zap to MR.  
13 BOTNARI came to light, they had a material and adverse effect on any agreements purporting  
14 to sell Zip Zap to MR. BOTNARI.

15 187. SHEIKHAI did not bear the risk of these mistaken beliefs.

16 188. The effect of these mistakes renders enforcement of the Agreement  
17 unconscionable.

18 189. MR. BOTNARI and VITIOK, LLC knew of and caused the mistake based on the  
19 representations MR. BOTNARI made.

20 190. Such unilateral mistakes provide grounds for rescission of any agreements  
21 purporting to sell Zip Zap to MR. BOTNARI .

22 191. In order to prosecute this action, Sheikhai had to retain attorneys to represent him,  
23 and he is entitled to fair and reasonable attorneys' fees associated with protecting his rights.

24 **TENTH CLAIM FOR RELIEF**

25 **(Rescission - Mutual Mistake)**

26 192. Sheikhai repeats and realleges its allegations in Paragraphs 1 through 191,  
27 inclusive, as if fully set forth at this point and incorporates them herein by reference.

28 193. Sheikhai repeats and realleges its allegations in Paragraphs 17 through 37,

1 inclusive, as if fully set forth at this point and incorporates them herein by reference related to  
2 the factual allegations for this cause of action.

3 194. Sheikhai repeats and realleges its allegations in Paragraphs 66 through 74,  
4 inclusive, as if fully set forth at this point and incorporates them herein by reference related to  
5 the factual allegations for this cause of action.

6 195. When the falsity of this assumption came to light, it had a material adverse effect  
7 on any agreements purporting to sell Zip Zap to MR. BOTNARI .

8 196. SHEIKHAI did not bear the risk of the mistaken assumption.

9 197. Such material mistake provides grounds for rescission of any agreements  
10 purporting to sell Zip Zap to MR. BOTNARI .

11 198. In order to prosecute this action, Sheikhai had to retain attorneys to represent him,  
12 and he is entitled to fair and reasonable attorneys' fees associated with protecting his rights.

13 **ELEVENTH CLAIM FOR RELIEF**

14 **(Rescission – Failure of Consideration)**

15 199. Sheikhai repeats and realleges its allegations in Paragraphs 1 through 198,  
16 inclusive, as if fully set forth at this point and incorporates them herein by reference.

17 200. Sheikhai repeats and realleges its allegations in Paragraphs 17 through 37,  
18 inclusive, as if fully set forth at this point and incorporates them herein by reference related to  
19 the factual allegations for this cause of action.

20 201. Sheikhai repeats and realleges its allegations in Paragraphs 66 through 74,  
21 inclusive, as if fully set forth at this point and incorporates them herein by reference related to  
22 the factual allegations for this cause of action.

23 202. The fair market value of Zip Zap was at least \$300,000 in 2014.

24 203. The alleged sale of Zip Zap to MR. BOTNARI and/or VITIOK, LLC was  
25 purportedly \$1.

26 204. There was a lack of consideration for any alleged sale of Zip Zap to MR.  
27 BOTNARI and/or VITIOK, LLC.

28 205. As such, rescission of any agreements purporting to sell Zip Zap to MR.

1 BOTNARI is appropriate based on the failure of consideration.

2 206. In order to prosecute this action, Sheikhai had to retain attorneys to represent him,  
3 and he is entitled to fair and reasonable attorneys' fees associated with protecting his rights.

4 **TWELFH CLAIM FOR RELIEF**

5 **(Rescission – Fraud in the Inducement)**

6 207. Sheikhai repeats and realleges its allegations in Paragraphs 1 through 206,  
7 inclusive, as if fully set forth at this point and incorporates them herein by reference.

8 208. Sheikhai repeats and realleges its allegations in Paragraphs 17 through 37,  
9 inclusive, as if fully set forth at this point and incorporates them herein by reference related to  
10 the factual allegations for this cause of action.

11 209. Sheikhai repeats and realleges its allegations in Paragraphs 66 through 74,  
12 inclusive, as if fully set forth at this point and incorporates them herein by reference related to  
13 the factual allegations for this cause of action.

14 210. MR. BOTNARI knew these representations were false, or had knowledge that HE  
15 did not have sufficient basis to make the representations, but made them anyway.

16 211. MR. BOTNARI knowingly made these misrepresentations with the intent to  
17 induce SHEIKHAI into entering any agreements purporting to sell Zip Zap to MR. BOTNARI  
18 and take advantage of its mistakenly belief that any agreements purporting to sell Zip Zap to  
19 MR. BOTNARI.

20 212. MR. BOTNARI knowingly made these misrepresentations with the intent to  
21 induce SHEIKHAI into entering any agreements purporting to sell Zip Zap to MR. BOTNARI  
22 for \$1 based on SHEIKHAI's belief that he was only facilitating MR. BOTNARI in obtaining  
23 insurance.

24 213. SHEIKHAI justifiably relied on upon the misrepresentations based on MR.  
25 BOTNARI's actions and communications.

26 214. SHEIKHAI relied to his detriment on MR. BOTNARI's misrepresentations.

27 215. In order to prosecute this action, Sheikhai had to retain attorneys to represent him,  
28 and he is entitled to fair and reasonable attorneys' fees associated with protecting his rights.

- 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

3  
4

5  
6  
7  
8  
9  
10

11  
1213  
14

15  
16  
17

18  
19

20

21

22

23

24

25  
26

27

28



1 immediacy and reality to warrant the issuance of a declaratory judgment.

2 227. The Interest Rate is usurious under Article XV, section 1, subsection 1 of the  
3 California Constitution.

4 228. Counterclaimant is entitled to treble the Interest Payments he has made.

5 229. Accordingly, Counterclaimant requests a declaratory judgment as to the  
6 Promissory Note that:

7 a. The Interest Rate violates Article XV, section 1, subsection 1 of the  
8 California Constitution.

9 b. The Interest Payments by Counterclaimant reduced the principle of the  
10 Promissory Note by \$210,000 or whatever payments Mr. Sheikhai has  
11 tender for the Promissory Note, which will be offered at the time of trial.

12 c. CA Civil Code 1916-2 eliminates all the interest on the Promissory Note.

13 d. Counter-Defendant is liable for treble damages in the amount of \$630,000,  
14 or whatever the offered amount is shown at the time of trial, under CA  
15 Civil Code 1916-3.

16 e. The principle of the Promissory Note is \$1 Million - \$210,000 (Interest  
17 Payments) - \$630,000 (CA Civil Code 1916-3) – any additional Interest  
18 Payments x 3 = \$160,000.00.

19 f. Mr. Sheikhai's payments under the Promissory Note will be \$10,000 per  
20 month, until the principle is \$0.00.

21 230. Additionally, Defendants also seek a declaration that:

22 1. On March 28, 2018, Mr. Botnari filed a joint petition for  
23 annulment in the Ninth Judicial District Court, District of  
24 Nevada ("Douglas County"). Therein, Mr. Botnari  
provided a verification for the Petition ("Verification"),  
under the penalty of perjury that the Petition was accurate.

25 2. Mr. Botnari misrepresented and concealed that he only  
26 married Mr. Sheikhai for the purpose of obtaining a green  
27 card and falsely represented to Mr. Sheikhai that he desired  
28 to get married because he was in love and wanted to  
maintain a traditional marital relationship by residing  
together and performing all matrimonial duties of a spouse.  
Mr. Botnari further specifically promised and represented

1 that he was not marrying solely to gain United States  
2 citizenship or a green card.

- 3 3. Mr. Botnari withheld and misrepresented the intention to  
4 only marry for a green card and withheld the fraudulent  
5 intent to evade immigration laws and commit marriage  
6 fraud, so as to induce Mr. Sheikhai to marry him. Mr.  
7 Sheikhai believed Mr. Botnari had no intention of  
8 maintaining a marital relationship, but rather intended to  
9 leave once he obtained a green card. Mr. Sheikhai would  
10 not have entered into the marriage except for the  
11 misrepresentations of the spouse.
- 12 4. Mr. Sheikhai moved to Las Vegas in March of 2011 and  
13 opened a new automotive repair business, Zip Zap Auto,  
14 where he hired Mr. Botnari as a mechanic. Sometime later  
15 Mr. Botnari was finally ready to marry Mr. Sheikhai and  
16 said it didn't matter what his family or other people in his  
17 country would think anymore. They got married on May 4,  
18 2014. In July of 2014 the parties were in the process of  
19 buying a home together and Mr. Sheikhai learned Mr.  
20 Botnari was in deportation proceedings. Mr. Sheikhai has  
21 no idea and this led to a lot of things he had not been told to  
22 by Mr. Botnari and he felt deceived.
- 23 5. Mr. Sheikhai later learned Mr. Botnari filed for a green  
24 card in November of 2013 based on his marriage to Gina  
25 and it was denied based on fraud and in February 2014 he  
26 was placed in removal proceedings. Mr. Sheikhai learned  
27 Mr. Botnari was served a Notice to Appear for removal  
28 proceedings on April 30, 2014, only a few days before the  
marriage. Mr. Botnari has filed for appeals, dismissals and  
continuances with Immigration but has not been successful  
due to his previous fraudulent marriage with Gina.
6. Mr. Sheikhai added Mr. Botnari's name to all Mr.  
Sheikhai's assets which Mr. Botnari said would strengthen  
his immigration case so they could stay together and to be  
able to conduct business for one another. They then filed  
for Mr. Botnari's green card based on this marriage in  
October 2014. Mr. Botnari said it was not to take anything  
that was not his; however, that is not how it has worked out  
and it has cost Mr. Sheikhai a lot of money. Mr. Botnari  
has been a consistent part of Mr. Sheikhai's business life  
but not with good intentions there either. He has taken the  
profits and burdened Mr. Sheikhai with the losses.
7. In January of 2017 Mr. Botnari filed for another visa as an  
abused spouse by Mr. Sheikhai, but Mr. Sheikhai did not  
know about it until later. He submitted falsified evidence  
including using Photoshop to alter a prescription bottle to  
make it look like Mr. Sheikhai was on medication, which  
he was not on. Everything was too much to ignore and Mr.  
Sheikhai confronted Mr. Botnari in March of 2018 and he  
admitted he married solely for money and immigration

benefits. He admitted adultery and confirmed all Mr. Sheikhai's suspicions about his bad character. Mr. Sheikhai would not have married Mr. Botnari if he knew he was needing a green card and was only marrying to gain access to his money.

8. Mr. Botnari fraudulently induced Mr. Sheikhai into marrying him for a green card, which made him guilty of fraud.
9. There was a failure of consideration related to Mr. Botnari's acquisition of Mr. Sheikhai's assets, Zip Zap Auto.
10. Mr. Botnari had no right to make any claims against Mr. Sheikhai's assets accumulated during the sham marriage.
11. As to the transfer of Mr. Sheikhai's assets to Mr. Botnari, the parties executed a Bill of Sale ("Bill of Sale") on June 1, 2014. The Bill of Sale was only for \$1.00, illustrating the lack of consideration and to facilitate Mr. Botnari's continuing scheme to defraud the United States and ICE. Mr. Sheikhai understood that Mr. Botnari was not going to make a claim on this asset.
12. Mr. Botnari filed the Petition and Verification with Douglas County. In reliance of both, Douglas County issued an annulment of the marriage between Mr. Sheikhai and Mr. Botnari. Therein, Mr. Botnari: (1) is the same party who took two positions related to an ownership right in Mr. Sheikhai's assets, including Zip Zap Auto; (2) the positions were taken in a judicial proceedings; (3) Mr. Botnari successful in asserting the first position (i.e., Douglas County adopted the position and issued a Decree; (4) the two positions are totally inconsistent; and (5) the first position was not taken as a result of ignorance, fraud, or mistake. As such, Mr. Botnari is estopped from denying that he has no interest in Mr. Sheikhai's assets, which include Zip Zap Auto.
13. Mr. Botnari committed perjury related to his Immigration Petition.
14. Mr. Botnari is barred from denying the Admissions in the Petition. *La-Tex Partn. v. Deters*, 893 P.2d 361, 365 (Nev. 1995) (citing *Wagner v. Carex Investigations & Sec. Inc.*, 93 Nev. 627, 632, 572 P.2d 921, 924 (1977)).
15. The Decree is a valid and final judgment on a claim precludes this instant action related to Vitiok's claim of ownership in Zip Zap Auto. *Univ. of Nev. v. Tarkanian*, 110 Nev. 581, 879 P.2d 1180, 1191 (1994). (1) Mr. Botnari, the owner of Vitiok, and Mr. Sheikhai are the same parties or their privities are the same as in the Douglas County action and this one. (2) The Decree was

1 the final judgment with proper jurisdiction of the Parties.  
2 (3) This action is based on the same claims (ownership of  
3 Mr. Sheikhai's assets, or Zip Zap Auto, or any part of them  
4 that were or could have been brought in the Douglas  
5 County case. (4) The issue was actually and necessarily  
6 litigated. Thus, "claim preclusion embraces all grounds of  
7 recovery that were asserted in a suit, as well as those that  
8 could have been asserted, and thus has a broader reach than  
9 collateral estoppel." *Tarkanian*, 879 P.2d at 1192 (citations  
10 omitted).

- 11 16. Mr. Botnari's Admissions are fatal to the claims for: (1)  
12 Unjust Enrichment; (2) Intentional Interference with  
13 Economic Interest; (3) Civil Conspiracy; (4) Injunction; (5)  
14 Declaratory Relief; and (6) Accounting.

15 231. Mr. Sheikhai was required to retain the services of counsel to prosecute this  
16 matter and, accordingly, are entitled to an award of their reasonable costs and attorney's fees.

17 232. Counterclaimant pleads attorneys' fees and costs as a special cause of action to  
18 preserve the remedy to attorneys' fees and costs as required by *Liu v. Christopher Homes, LLC*,  
19 321 P.3d 875 (2014); *Sandy Valley Assoc. v. Sky Ranch Estates Owners Ass'n*, 117 Nev. 948,  
20 956, 35 P.3d 964, 969 (2001).

### 21 **PRAYERS FOR RELIEF**

22 WHEREFORE, SHEIKHAI prays for judgment against Counterdefendants, jointly and  
23 severally, as follows:

- 24 1. For damages related to Violation of Uniform Trade Secret Act (NRS 600A) as  
25 stated above;
- 26 2. For damages related to False Light, Disparagement, Defamation, and Defamation  
27 Per Se as requested above;
- 28 3. For damages related to Intentional Interference with Prospective Economic  
Advantage as stated above;
4. For damages related to Civil Conspiracy as stated above;
5. For damages related to Conversion/Trespass to Chattel as stated above;
6. For Restitution of Tax Liens as stated above;
7. For damages related to Abuse of Process as stated above;
8. For damages related to Breach of the Implied Covenant of Good Faith and Fair

1 Dealing as stated above;

2 9. For a finding that Counterdefendants Botnari, Mereora, Mulkins, Gozrav, Neagu,  
3 Vitiok, and Universal Motorcars are all alter egos of one another and engaged in civil  
4 conspiracy;

5 10. For Rescission of any agreements purporting to sell Zip Zap to MR. BOTNARI;

6 11. For damages related to Violation of Article XV, section 1, subsection 1 of the  
7 California Constitution as stated above;

8 12. For damages related to CA Civil Code 1916-2 as requested above;

9 13. For damages related to CA Civil Code 1916-3 as stated above;

10 14. For Declaratory relief as stated above;

11 15. Sheikhai claims it has incurred attorneys' fees as foreseeable damages arising  
12 from tortious conduct; as such, these fees are considered special damages and must be pleaded as  
13 special damages pursuant to Nevada Rule of Civil Procedure 9(g). *International Indus. v. United*  
14 *Mtg. Co.*, 96 Nev. 150, 606 P.2d 163 (1980) (failure to plead damages precluded recovery); *City*  
15 *of Las Vegas v. Cragin Industries*, 86 Nev. 933, 478 P.2d 585 (1970) (fees not properly pleaded  
16 in the complaint); *Brown v. Jones*, 5 Nev. 374 (1870) (complaint must allege with distinctness  
17 fees resulting only from dissolution of injunction). Sheikhai specially pleads for attorneys' fees  
18 to meet the requirements set forth by the Nevada Supreme Court. *Young v. Nevada Title Co.*,  
19 103 Nev. 436, 438, 744 P.2d 902, 903 (1987). The attorneys' fees are the natural and proximate  
20 consequence of the injurious conduct specified herein. *Peterson v. Wiesner*, 62 Nev. 184, 146  
21 P.2d 789 (1944) (failure to distinguish fees incurred in wrongful attachment action from fees  
22 incurred in collateral criminal case resulted in denial of fees as damages). It has been necessary  
23 for Sheikhai to retain the services of an attorney to prosecute this action, and Sheikhai should  
24 therefore be entitled to an award of reasonable attorney's fees and costs;

25 16. For exemplary damages;

26 17. For such other and further relief as the Court may deem just and proper.

27 18. For punitive damages;

28 19. Interest; and

20. For such other and further relief as this Court may deem just and proper under the circumstances.

## CONCLUSION

**WHEREFORE**, these answering Defendants demand judgment that Plaintiff / Counterdefendant takes nothing by way of the Complaint on file herein, for all relief requested in Hamid's Counterclaim and Cross-claims, and that these answering Defendants be awarded reasonable attorney's fees.

**DATED** this 26th day of October, 2020

WILLICK LAW GROUP

/s/ Marshal S. Willick  
MARSHAL S. WILLICK, ESQ.  
Nevada Bar No. 2515  
3591 E. Bonanza Road, Suite 200  
Las Vegas, Nevada 89110-2101  
(702)438-4100; Fax (702)438-5311  
Attorneys for HAMID SHEIKHAI

# EXHIBIT N

DEF000480

ROA001493

1 **LEVENTHAL & ASSOCIATES, PLLC.**

2 Todd M. Leventhal, Esq.  
3 Nevada Bar Number: 008543

4 626 S. Third St.  
5 Las Vegas, Nevada 89101  
6 Telephone: (702) 472-8686  
7 Facsimile: (702) 472-8685

8 **HOFLAND & TOMSHECK**

9 Bradley J. Hofland, Esq.  
10 Nevada Bar Number: 6343  
11 228 South 4<sup>th</sup> Street, 1<sup>st</sup> Floor  
12 Las Vegas, Nevada 89101  
13 Telephone: (702) 895-6760  
14 Facsimile: (702) 731-6910

15 **DOUGLAS CRAWFORD LAW**

16 Douglas C. Crawford, Esq.  
17 Nevada Bar Number: 181  
18 501 S. 7th Street  
19 Las Vegas, Nevada 89101  
20 Telephone: (702) 383-0090  
21 Facsimile: (702) 333-4667  
22 *Attorneys for Plaintiff, Vitiok, LLC.*

23 **DISTRICT COURT**  
24 **CLARK COUNTY, NEVADA**

25 26 27 28	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  <b>STIPULATION AND ORDER REGARDING DISCOVERY DEADLINES AND TRIAL (FIRST REQUEST)</b>
----------------------	--	--



1 Plaintiff Victor Botnari by and through his attorneys Leventhal &  
2 Associates, PLLC and Hofland & Tomsheck and Defendants SLC, LLC and  
3 Zohreh Amiryavai by and through their attorneys Michael B. Lee, P.C. and  
4 Defendant Hamid Sheikhai by and through his attorneys Willick Law Group do  
5 hereby stipulate and agree as follows:

6 1. Plaintiff filed his Complaint against Defendants on November 22,  
7 2019.

8 2. Defendant Hamid Sheikhai filed his Answer on December 31, 2019.

9 3. Defendant SLC, LLC filed its Answer on December 31, 2019.

10 4. Defendant Sohreh Amiryavari filed her Answer on September 24,  
11 2020.

12 5. The Amended Joint Case Conference Report was filed on July 9,  
13 2020.

14 6. The Scheduling Order and Order Setting Non-Jury Trial was filed on  
15 July 29, 2020.

16 7. Discovery closes on December 7, 2020.

17 8. Motion to amend pleadings or add parties (without a further court  
18 order) due on September 8, 2020.

19 9. Expert disclosures due on September 8, 2020.

20 10. Rebuttal expert disclosures due on October 5, 2020.

21 11. Dispositive motions due on January 4, 2021.

22 12. Motions in Limine due on January 19, 2021.

23 **I. DISCOVERY COMPLETED**

24 The Parties have exchanged NRCP 16.1 disclosures and written discovery.  
25 Plaintiff and Defendant Hamid Sheikhai have disclosed expert witnesses.

26 **II. DISCOVERY REMAINING TO BE COMPLETED**

27 Depositions, disclosure of experts, depositions of expert and fact witnesses,  
28 and possibly additional written discovery.

1 **III. REASONS FOR EXTENDING DISCOVERY**

2 Additional time is requested to allow the Parties an enlarged opportunity to  
3 engage in dialogue regarding resolution of the case short of further protracted  
4 litigation. Additional time is also necessary for expert reports and depositions of  
5 the parties, experts and fact witnesses.

6 **IV. PROPOSED SCHEDULE FOR COMPLETING DISCOVERY**

7 Close of Discovery: April 29, 2021

8 Date to file motion to amend pleadings or add parties (without a further  
9 court order): January 29, 2021

10 Expert Witness Initial Reports: January 29, 2021

11 Expert Rebuttal Reports: February 5, 2021

12 Date to file dispositive motions: May 31, 2021

13 Date to file Motions in Limine: June 14, 2021

14 **V. CURRENT BENCH TRIAL DATE**

15 The Bench Trial is currently set for March 15, 2021. The Parties have  
16 agreed to continue the upcoming trial for 120 days.

17 The Parties are entering into this Stipulation in good faith and not for the  
18 purpose of any delay.

19 **IT IS HEREBY FURTHER STIPULATED AND AGREED AND**  
20 **THEREFORE ORDERED** that close of discovery is on or before April 29, 2021.

21 **IT IS HEREBY FURTHER STIPULATED AND AGREED AND**  
22 **THEREFORE ORDERED** that all parties shall file motion to amend pleadings  
23 or add parties on or before January 29, 2021.

24 **IT IS HEREBY FURTHER STIPULATED AND AGREED AND**  
25 **THEREFORE ORDERED** that Expert Witness initial reports are due on or  
26 before January 29, 2021.

**IT IS HEREBY FURTHER STIPULATED AND AGREED AND THEREFORE ORDERED** that Expert Witness rebuttal reports are due on or before February 5, 2021.

**IT IS HEREBY FURTHER STIPULATED AND AGREED AND THEREFORE ORDERED** that all parties shall file dispositive motions on or before May 31, 2021.

**IT IS HEREBY FURTHER STIPULATED AND AGREED AND THEREFORE ORDERED** that all Motions in Limine must be filed no later than June 14, 2021.

**IT IS HEREBY FURTHER STIPULATED AND AGREED AND THEREFORE ORDERED** that the Bench Trial is set for \_\_\_\_\_, 2021 at 8:30 a.m. in Department XXII (22) at the Regional Justice Center, located at 200 Lewis Avenue, Las Vegas, NV 89101 with the Pre-Trial Conference/Calendar Call set for \_\_\_\_\_, 2021 at 9:00 a.m.

**IT IS SO ORDERED** this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

**DISTRICT COURT JUDGE**

DATED this 9<sup>th</sup> day of November, 2020      DATED this 9<sup>th</sup> day of November, 2020

LEVENTHAL & ASSOCIATES

MICHAEL B. LEE, P.C.

By: Todd Leventhal, Esq.  
Nevada Bar No. 8543  
626 South Third Street  
Las Vegas, NV 89101

By: /s/ Michael B. Lee  
Michael Lee, Esq.  
Nevada Bar No. 10122  
1820 E. Sahara Avenue, Suite 110  
Las Vegas, Nevada 89104  
*Attorneys for Defendants SLC, LLC  
and Zohreh Amiryavari*

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

HOFLAND & TOMSHECK

By: /s/ Bradley J. Hofland  
Bradley J. Hofland, Esq.  
Nevada Bar No. 6343  
228 South 4<sup>th</sup> Street, First Floor  
Las Vegas, NV 89101

DOUGLAS CRAWFORD LAW

By: /s/ Douglas C. Crawford  
Douglas C. Crawford, Esq.  
Nevada Bar No. 181  
501 S. 7<sup>th</sup> Street  
Las Vegas, NV 89101

*Attorneys for Plaintiff, Vitiok, LLC*

DATED 5<sup>th</sup> day of November, 2020

THE WILLICK LAW GROUP

By: /s/ Marshal Willick  
Marshal Willick, Esq.  
Nevada Bar No. 2515  
3591 E. Bonanza, Suite 200  
Las Vegas, Nevada 89110  
*Attorneys for Defendant,  
Hamid Sheikhai*

# EXHIBIT “K”

**REGISTER OF ACTIONS**[CASE No. A-19-805955-C](#)**Vitiok LLC, Plaintiff(s) vs. SLC, LLC, Defendant(s)**§  
§  
§  
§  
§  
§  
§Case Type: **Other Civil Matters**Date Filed: **11/22/2019**Location: **Department 22**Cross-Reference Case Number: **A805955**

---

**PARTY INFORMATION**

---

**Lead Attorneys****Defendant SLC, LLC****Robert A. Rabbat**  
*Retained*  
702-468-0808(W)**Plaintiff Vitiok LLC****Todd M. Leventhal**  
*Retained*  
702-472-8686(W)

---

**EVENTS & ORDERS OF THE COURT**

---

01/07/2021 | [All Pending Motions](#) (9:00 AM) (Judicial Officer Johnson, Susan)**Minutes**

01/07/2021 9:00 AM

- EVIDENTIARY HEARING: MR. SHEIKHAI'S MOTION FOR PRELIMINARY INJUNCTION Court advised counsel they needed to use full captions so it could keep track of the parties; further advised the following Cross Defendants needed to be removed from the case: Larisa Mereora, Thomas Mulkins, Nina Grozav, Ion Neagu, Alisa Neagu, and NNG, LLC Openings statements by Ms. Cole and Mr. Crawford. Colloquy regarding disparagement; stipulation made that neither party shall disparage the other or their respective businesses. Hamid Sheikhai SWORN and TESTIFIED. Exhibits presented (see worksheet). Arguments by Mr. Crawford in support of additional witness testimony and exhibit supplementation; requested a 3-week continuance. Arguments by Ms. Cole in opposition to a continuance. COURT ORDERED, Motion for Preliminary Injunction DENIED with respect to taking the posts off; if in his possession, Mr. Botnari to give Mr. Sheikhai a copy of the customer list; counsel to compose a joint letter to send to all customers advising that Mr. Botnari owned Universal Motors and Mr. Sheikhai owned Zip Zap Auto and the customers could go to either company for service; parties could not disparage each other or the opposing businesses. Court advised it wanted to be made aware of any future bad reviews. Ms. Cole expressed her concern regarding the letter being marketing for

**DEF000486****ROA001500**

another business that customers could use. Mr. Crawford to prepare the order; opposing counsel to review as to form and content. PLAINTIFF'S MOTION TO DISMISS DEFENDANT'S COUNTERCLAIM AND CROSS CLAIMS Court expressed its inclinations. Prior rulings reviewed. COURT ORDERED, Motion GRANTED IN PART as to cause of action 6; DENIED IN PART as to causes of action 2, 3, 4, 5, 7, and 8; 1st cause of action UNDER ADVISEMENT. COURT FURTHER ORDERED, jury demand STRICKEN. Mr. Crawford to prepare the order; opposing counsel to review as to form and content. DEFENDANT'S MOTION FOR SUMMARY JUDGMENT, OR IN THE ALTERNATIVE, PARTIAL SUMMARY JUDGMENT, LEAVE TO AMEND, AND FOR STAY...PLAINTIFF'S OPPOSITION TO DEFENDANTS' MOTION FOR SUMMARY JUDGMENT, OR IN THE ALTERNATIVE, PARTIAL SUMMARY JUDGMENT, LEAVE TO AMEND, AND FOR STAY AND COUNTERMOTION FOR ATTORNEY'S FEES AND COSTS Arguments by Mr. Willick and Mr. Crawford regarding whether or not there were genuine issues of material fact. COURT ORDERED, Motion DENIED; stay DENIED; suggested more discovery be done. Mr. Crawford to prepare the order; opposing counsel to review as to form and content.

[Parties Present](#)[Return to Register of Actions](#)

DEF000487

ROA001501

# EXHIBIT “L”



1 but with the understanding that you're going to lay some  
2 foundation for it through either this witness or other  
3 witnesses, but -- I mean, guys, I'm giving you guys some  
4 leniency here. It's kind of like a bench trial type of thing.  
5 It's not a jury trial; jury's not here and I can -- I can  
6 filter through this stuff; okay?

7 Ms. Cole.

8 MS. COLE: Thank you.

9 BY MS. COLE:

10 Q What -- how do you know that Victor -- well, let's go  
11 back to the economic value of the customers. The simple fact  
12 that it was removed from you, did that harm you financially?

13 A Yes, because I had to recover that information and  
14 set up a new server and link it to our workstations.

15 Q Have you ever been -- has the customer list ever been  
16 returned to you from Victor or any --

17 A No, it has not.

18 Q -- one that he works with?

19 A No, he has not.

20 Q How do you know that Victor contacted customers on  
21 that list?

22 A Because Thomas Mulkins worked for him and Larisa  
23 Mereora left messages for those customers who came to me saying  
24 they're getting called by Victor's friends and family telling  
25 us that there's a new business to move to that business, and

1 that is ultimately a triable issue in this case, every one.

2 MS. COLE: Well, and I want to say --

3 THE COURT: Okay. Okay. Whoa. Whoa. Let me ask  
4 you --

5 Ms. Cole, I'm going to ask you this. Other than  
6 Mr. Sheikhai, what other evidence were you going to produce in  
7 support of your motion for preliminary injunction?

8 MS. COLE: That -- that was it. Just my client.

9 THE COURT: Okay. Let me just tell you what my  
10 thoughts are after that; okay. And maybe we can short circuit  
11 this. Okay.

12 There is still concerns about the, you know, the  
13 customer list given what Mr. Crawford has indicated that  
14 they -- he's got an offer of proof on and basically who owns it  
15 and so forth; okay. The -- now, we've already taken care of  
16 the second issue that you raised, and I said look, everybody's  
17 going to play nice in the sandbox. We're not going to  
18 disparage each other anymore; okay.

19 The third issue was the bad reviews; okay. I'll tell  
20 you what my concern is if this is all the evidence that's being  
21 presented. A, I did not hear any evidence about how -- that  
22 Mr. Sheikhai's business actually -- that he actually suffered a  
23 loss in his business, SLC, LLC, that they lost money in the  
24 business because of these bad reviews.

25 Now I'm looking here, while there were a few bad

# EXHIBIT “M”

1 THE COURT: That's okay.

2 BY MS. COLE:

3 Q How long did Jenz, Inc., own Zip Zap Auto after you  
4 sold it in March of 2013?

5 A Just under one year.

6 Q Did you have any ownership interests in any of the  
7 assets in Zip Zap Auto during that time?

8 A I've had ownership of this since I created the  
9 business in 2011.

10 Q Okay. What about the building that the Zip Zap Auto  
11 was run from?

12 A The building, I purchased it in April of 2013 after I  
13 sold the business to Dan Jenz.

14 Q Okay. How much did you sell the business for in  
15 March of 2013?

16 A For \$300,000.

17 Q And what did you do with that money?

18 A Well, I received \$175,000 down payment. I carried a  
19 note for 125. I used the 175 down payment to put a down  
20 payment to purchase the real estate.

21 Q And you purchased the real -- who did you purchase  
22 the real estate from?

23 A From the Penrod Family Trust. That was the owners.

24 Q Did you then lease the Zip Zap Auto building?

25 A Yes, then I rented it out to Dan Jenz.

JD Reporting, Inc.

1 for my son and daughter, and it was held in trust, but actually  
2 not trust, an LLC.

3 Q What type of LLC is Stone and Stone?

4 A It's a holding company for real estate.

5 MS. COLE: Move to admit Exhibit Z.

6 THE COURT: Any objection?

7 MS. COLE: Yes? No?

8 THE CLERK: Mr. Crawford is muted.

9 MR. CRAWFORD: I'm trying to unmute. No objection,  
10 Your Honor.

11 THE COURT: Okay. Exhibit Z is admitted. Although,  
12 didn't I already admit that?

13 THE COURT RECORDER: I have P and G.

14 THE COURT: Okay. Exhibit Z as in zebra is admitted.

15 (DEFENDANT'S Exhibit No. Z admitted.)

16 BY MS. COLE:

17 Q When you repurchased Zip Zap, what did you purchase?  
18 Tell me all of the -- the assets that were repurchased if you  
19 can describe them.

20 A Yeah. I purchased back the Zip Zap Auto domain at  
21 Yelp and Google. I purchased all the equipment, all the  
22 inventory, the computer data base with the client list and the  
23 point of sale, cam jobs, all furniture, fixtures, equipment  
24 that was on the premises and all the signage.

25 Q What type of documents were executed to show this

1 BY MS. COLE:

2 Q After the annulment -- well, around the time the  
3 annulment was entered, did you and Victor discuss your  
4 finances, the two of you?

5 A Yes.

6 Q Did you discuss settling out your financial  
7 interests, mutual financial interests if you had any?

8 MR. CRAWFORD: Objection. This has to do with  
9 settlement negotiations that are not admissible in this case.

10 MS. COLE: What? This is -- this is from 2018.

11 MR. CRAWFORD: Well, it's -- if the Court is still  
12 considering these issues, I don't want the Court to be -- the  
13 Court's to hear this stuff.

14 (Multiple parties speaking)

15 THE COURT: Wait. Wait. Okay. Guys, you're talking  
16 over each other. Stop it.

17 Now, Number 1, Ms. Cole, what do the settlement  
18 negotiations have to do with your request for a preliminary  
19 injunction?

20 MS. COLE: Well, the -- as I said in the beginning,  
21 Your Honor, the reason why I'm laying all this foundation is to  
22 explain because of the responses I've received from the other  
23 side that my client had full control and ownership over Zip Zap  
24 Auto. This is the nucleus of their agreement to part ways.  
25 There's no other way for me to establish that my client had

1 really just a manager or an employee of this business; right?  
2 He was an actual owner?

3 THE WITNESS: He was an independent contractor under  
4 a management agreement, working as a manager to operate that  
5 business on my behalf.

6 THE COURT: Okay. And so these employees were hired  
7 then under his -- his management -- his tax ID and his company.  
8 I assume there's a company or he -- I mean, or something;  
9 right?

10 MS. COLE: It's Vitiok.

11 THE WITNESS: Yes, Vitiok, LLC.

12 THE COURT: Okay. And you weren't an owner at that  
13 point?

14 THE WITNESS: I was -- I owned the building. I owned  
15 the equipment. I owned the inventory, and I provided some of  
16 the employees in the beginning to get him jump started. I put  
17 him in charge of managing that business as a turnkey operation.  
18 He gives me a fixed payment so I don't have to worry about how  
19 much business he conducts. If he owes any taxes or anything he  
20 would be liable for it. It's just a way for me to run the shop  
21 without having to be there every single day. 18 other stores  
22 that I've set up that I need to manage, and I cannot be in more  
23 than one place at a time.

24 THE COURT: Okay. Got it.

25 Continue, Ms. Cole.

# EXHIBIT “N”



1 Q Okay. Did you maintain control over the website and  
2 other sites relating to Zip Zap?

3 A Yes. I maintained all the intellectual property. I  
4 paid for the websites and all the domains; I have multiple  
5 domains. I kept the Google and Yelp, and I never relinquished  
6 ownership of that to anyone.

7 Q Turn to Exhibit KK, it's two Ks.

8 A Okay.

9 Q What does this exhibit show?

10 A This is showing payments that I made through my  
11 GoDaddy website for all the domains that I own including Zip  
12 Zap Auto.

13 Q Where did you get -- did you produce this document?

14 A Yes, I did.

15 Q Where did you get it?

16 A I printed it off my bank statements and off the  
17 GoDaddy website.

18 MS. COLE: Move to admit Exhibit KK.

19 THE COURT: Any objection?

20 MR. CRAWFORD: Strenuous objection. There is nothing  
21 in this exhibit that shows a connection to Zip Zap. There is a  
22 generic record of payment for alleged domain names held by the  
23 defendant, but there's no specific mention of Zip Zap, and this  
24 is apparently some conglomeration. They give him -- even if --  
25 if accepted as totally true, could conceivably give him

# EXHIBIT “O”

1 Q Were you able to resume full control of Zip Zap Auto?

2 A Yes, I did. I put (indiscernible), one of my  
3 employees as manager in a similar capacity to Victor to run the  
4 business.

5 Q Were you able to eventually get those licenses  
6 transferred?

7 A Yes, I did.

8 Q Was it -- was the process the same had Victor gone  
9 down to the DMV and done what he said he was going to do?

10 A It took more time to do it. It would have been so  
11 much easier if he had closed out his license.

12 Q Could you reopen -- how did you reopen Zip Zap Auto  
13 as far as the business formation documents?

14 A I set it up on the SLC, LLC.

15 Q Who owns SLC, LLC?

16 A I do as the sole owner.

17 Q Let's talk about Vitiok. So when you resolved your  
18 financials, who owned Vitiok?

19 A At the time we resolved the financials, it was just  
20 Victor Botnari.

21 Q Is there anyone else that's -- that owned or owns  
22 Vitiok to your knowledge?

23 A I was the only one that previously owned it, but I  
24 removed myself when Victor was audited for failure to pay sales  
25 taxes.

# EXHIBIT “P”

1 It's my ideas. It's my way of managing.

2 The client list is also crucial. If we got people  
3 that waste time and encourage the better clients, and I show  
4 that to my employees how to differentiate between those.

5 Q Was the customer list one of the items that was taken  
6 by the employees that you discussed that were loading up the  
7 U-Haul?

8 A Yes, they took the entire server, the whole computer  
9 with the database.

10 Q Is it your position that Victor has no interest in Zip  
11 Zap Auto, abandoned Zip Zap Auto and had no right to continue  
12 control of Zip Zap Auto?

13 A Yes. As you see in the emails, he left Friday, June  
14 1st, 2018. This is the following week, his employees are  
15 removing items from the business.

16 Q Was his removal of the customer list wrongful?

17 A Absolutely.

18 Q Did it harm you?

19 A Yes, it did because he called my customers and bad  
20 mouthed me, and he was encouraging to go to his new competing  
21 business, it's called Universal Motor Cars in (video  
22 interference).

23 MR. CRAWFORD: Objection. Move to strike. Hearsay,  
24 and lack of foundation.

25 THE COURT: Okay. Number 1, I'm going to overrule,

1 using full captions. So make sure you use a full caption in  
2 this department because that's the only way I can keep track of  
3 the parties. In fact, I even noted that there was an error in  
4 our court record because we still listed several people as  
5 cross-defendants when by the amended cross-claim and  
6 counterclaim which was filed October 26 of 2020, there's only  
7 one, quote, unquote, cross-defendant and he's not really a  
8 cross-defendant; he's a third-party defendant because you can't  
9 have somebody a cross-defendant unless they were a defendant in  
10 the primary action. So we need to have that amended.

11 I -- we've got the primary action. We should have  
12 the counterclaim, and then we should have a third-party action;  
13 okay. So --

14 And then we need to make sure that, Ms. Clerk, that  
15 Larisa Mereora, Mulkins -- Thomas Mulkins, Nina Grozav, Ion  
16 Neagu, Alisa Neagu and NNG, LLC are not listed as  
17 cross-defendants in the case. Okay.

18 So we're having some angst there, but at least Mike,  
19 my law clerk, has provided me what should be the full caption  
20 here. Okay. I have read your papers.

21 Who wants to go first?

22 MR. CRAWFORD: On which motion, Your Honor?

23 THE COURT: Well, it gets down to who wants to go  
24 first. We've got plaintiff's motion to dismiss, defendant's  
25 counterclaim and cross-claims. We've got defendant's motion

# EXHIBIT “Q”

**SODW**

ROBERT A. RABBAT

Nevada Bar Number 12633

Email: [rrabbat@enensteinlaw.com](mailto:rrabbat@enensteinlaw.com)

**ENENSTEIN PHAM & GLASS LLP**

11920 Southern Highlands Parkway, Suite 103

Las Vegas, Nevada 89141

Telephone: (702) 468-0808

Facsimile: (702) 920-8228

Attorneys for Defendants Hamid Sheikhai,

Zohreh Amiryavari and SLC, LLC and Counter Claimant/

Cross Claimant, Hamid Sheikhai

**EIGHTH JUDICIAL 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 AMIRYAVARI, an  
individual and DOES I through X and ROE  
CORPORATIONS I through X, inclusive,

Defendants.

Case No. A-19-805955-C  
DEPT. NO.: XXII

**STIPULATION FOR DISMISSAL OF  
ACTION**

HAMID SHEIKHAI, individually,

Counterclaimant,  
vs.

VITIOK, LLC, a Nevada Limited Liability  
Company; and VICTOR BOTNARI, an  
individual,

Counter-Defendants.

**STIPULATION FOR DISMISSAL OF ACTION**

Case Number: A-19-805955-C

DEF000005  
ROA001518



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

**STIPULATION FOR DISMISSAL OF ACTION**

Pursuant to NRCP 41(a)(2), Defendant/Counter-Claimant/Cross-Claimant Hamid Sheikhai, Defendants Zohreh Amiryavari and SLC LLC, Counter-Defendant Victor Botnari, and Plaintiff/Counter-Defendant Vitiok, LLC (collectively, the “Parties”), by and through their counsel of record, hereby stipulate and agree to dismiss this action, including all claims, cross-claims, and counterclaims, with prejudice. Each party will bear her/his/its own attorneys’ fees and costs.


The Parties further stipulate and agree that all orders, including without limitation any preliminary injunction, entered in the above-captioned matter are vacated and will not survive dismissal of the above-captioned matter.

///

1 All trial and hearing dates have previously been vacated pursuant to the Notice of Settlement  
2 filed the Parties.

3 Dated this \_\_\_\_ day of May, 2021.

4 **ENENSTEIN PHAM & GLASS LLP**

5  
6   
7 By: \_\_\_\_\_  
8 Robert A. Rabbat, Esq.  
9 Nevada Bar Number: 12633  
10 11920 Southern Highlands Pkwy.,  
11 Suite 103  
12 Las Vegas, Nevada 89141  
13 Telephone: (702) 468-0808  
14 Email: rrabbat@enensteinlaw.com

15 *Attorneys for Defendants SLC LLC, Hamid*  
16 *Sheikhai, and Zohreh Amiryavari and*  
17 *Cross/Counterclaimant Hamid Sheikhai*

18 **HOFLAND & TOMSHEK**

19 By: /s/ Bradley J. Hofland  
20 Bradley J. Hofland, Esq.  
21 Nevada Bar No. 6343  
22 228 S. 4<sup>th</sup> Street, 1<sup>st</sup> Floor  
23 Las Vegas, NV 89101  
24 Telephone: (702) 895-6760

25 **LEVENTHAL & ASSOCIATES**

26 By: /s/ Todd M. Leventhal  
27 Todd M. Leventhal, Esq.  
28 Nevada Bar No. 008543  
626 S. 3<sup>rd</sup> Street  
Las Vegas, NV 89101  
Telephone: (702) 472-8686

29 **DOUGLAS CRAWFORD LAW**

30 By: /s/ Douglas Crawford  
31 Douglas Crawford, Esq.  
32 Nevada Bar No. 181  
33 501 S. 7<sup>th</sup> Street  
34 Las Vegas, NV 89101  
35 Telephone: (702) 383-0090  
36 *Attorneys for Plaintiff/Cross-Defendant*  
37 *Vitiok, LLC and Cross-Defendant Victor*  
38 *Botnari*

1 **ORDER**

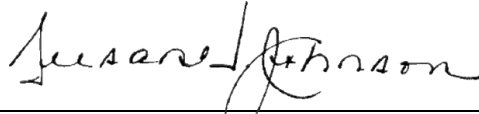
2 Based on the above stipulation and good cause appearing:

3 IT IS ORDERED that the above-captioned matter, including all claims, cross-claims, and  
4 counterclaims, is dismissed with prejudice with each party to bear her/his/its own attorneys' fees  
5 and costs.

6 IT IS FURTHER ORDERED that all orders entered into the above-captioned matter,  
7 including without limitation any preliminary injunction, are hereby vacated and shall not survive  
8 dismissal of the above-captioned matter.

9 Dated this 21st day of May, 2021.

**Dated this 21st day of May, 2021**



DISTRICT COURT JUDGE

12  
13 Respectfully submitted by:

**D6A 178 5266 55B7  
Susan Johnson  
District Court Judge**

14  
15 **ENENSTEIN PHAM & GLASS LLP**

16  
17 By: 

18 Robert A. Rabbat, Esq.  
19 Nevada Bar Number: 12633  
20 11920 Southern Highlands Pkwy., Suite 103  
21 Las Vegas, Nevada 89141  
22 Telephone: (702) 468-0808  
23 Email: rrabbat@enensteinlaw.com

24 *Attorneys for Defendants SLC LLC, Hamid Sheikhai,*  
25 *and Zohreh Amiryavari and Cross/Counterclaimant Hamid Sheikhai*

## Michelle Choto

---

**From:** Brad Hofland <BradH@hoflandlaw.com>  
**Sent:** Thursday, May 20, 2021 12:13 PM  
**To:** Leventhal and Associates; Debbie Hicks  
**Cc:** Robert Rabbat; Douglas C. Crawford, Esq.; Matt Rosene; Michelle Choto  
**Subject:** RE: A-19-805955-C - SODW - Vitiok, LLC v. SLC, LLC, et al.

You have my approval as well.

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  
Facsimile (702) 731-6910

*Hofland & Tomsheck*

ATTORNEYS AND COUNSELORS AT LAW

**NOTICE:** The above information is for the sole use of the intended recipient and contains information belonging to Hofland & Tomsheck, which is confidential and may be legally privileged. If you are not the intended recipient, or believe that you have received this communication in error, you are hereby notified that any printing, copying, distribution, use or taking of any action in reliance on the contents of this e-mail information is strictly prohibited. If you have received this e-mail in error, please immediately (1) notify the sender by reply e-mail; (2) call our office at (702) 895-6760 to inform the sender of the error; and (3) destroy all copies of the original message, including ones on your computer system and all drives.

In accordance with Internal Revenue Service Circular 230, we advise you that if this e-mail contains any tax advice, such tax advice was not intended or written to be used and it cannot be used, by any taxpayer for the purpose of avoiding penalties that may be imposed on the taxpayer.

---

**From:** Leventhal and Associates <leventhalandassociates@gmail.com>  
**Sent:** Thursday, May 20, 2021 12:12 PM  
**To:** Debbie Hicks <debbie@douglascrawfordlaw.com>  
**Cc:** Robert Rabbat <rrabbat@enensteinlaw.com>; Brad Hofland <BradH@hoflandlaw.com>; Douglas C. Crawford, Esq. <doug@douglascrawfordlaw.com>; Matt Rosene <mrosene@enensteinlaw.com>; Michelle Choto <MChoto@enensteinlaw.com>  
**Subject:** Re: A-19-805955-C - SODW - Vitiok, LLC v. SLC, LLC, et al.

Todd has approved to affix his electronic signature.

Thank You,

**Erika Lopez Valdez**

Assistant to Todd M Leventhal, Esq.  
Leventhal and Associates, PLLC

626 S. 3rd Street  
Las Vegas, NV 89101

On Thu, May 20, 2021 at 11:55 AM Debbie Hicks <[debbie@douglascrawfordlaw.com](mailto:debbie@douglascrawfordlaw.com)> wrote:

Mr. Crawford confirms that you can affix his electronic signature.

Thank you,



**Debbie Hicks**

Office Manager

501 S. 7<sup>th</sup> Street

Las Vegas, NV 89101

[Douglas Crawford Law](http://DouglasCrawfordLaw.com)

(702) 383-0090



The information contained in this electronic mail is confidential information. This information may be attorney/client privileged and is intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, copying, or retransmission of this message is in violation of 18 U.S.C. 2511(1) of the ECPA and is strictly prohibited. If you have received the message in error, please notify the sender immediately.

Thank you

---

**From:** Robert Rabbat <[rrabbat@enensteinlaw.com](mailto:rrabbat@enensteinlaw.com)>

**Sent:** Thursday, May 20, 2021 11:46 AM

**To:** Brad Hofland <[BradH@hoflandlaw.com](mailto:BradH@hoflandlaw.com)>; Douglas C. Crawford, Esq. <[doug@douglascrawfordlaw.com](mailto:doug@douglascrawfordlaw.com)>; Leventhal and Associates <[leventhalandassociates@gmail.com](mailto:leventhalandassociates@gmail.com)>

**Cc:** Matt Rosene <[mrosene@enensteinlaw.com](mailto:mrosene@enensteinlaw.com)>; Michelle Choto <[MChoto@enensteinlaw.com](mailto:MChoto@enensteinlaw.com)>

**Subject:** RE: A-19-805955-C - SODW - Vitiok, LLC v. SLC, LLC, et al.

Dear Counsel,

In light of the Court's email below, we prepared the attached revised SAO for dismissal.

Mr. Hofland/Mr. Leventhal, please confirm we can include your signatures per your prior authorization attached to the SAO.

Mr. Crawford, please confirm we can use your signature page from the prior version of the order submitted (also included in the PDF attached here).

Best,

Robert A. Rabbat, Esq.

Enenstein Pham & Glass LLP



---

**From:** DC22Inbox <[DC22Inbox@clarkcountycourts.us](mailto:DC22Inbox@clarkcountycourts.us)>

**Sent:** Wednesday, May 19, 2021 4:40 PM

**To:** Michelle Choto <[MChoto@enensteinlaw.com](mailto:MChoto@enensteinlaw.com)>

**Cc:** Robert Rabbat <[rrabbat@enensteinlaw.com](mailto:rrabbat@enensteinlaw.com)>; [bradh@hoflandlaw.com](mailto:bradh@hoflandlaw.com); [leventhalandassociates@gmail.com](mailto:leventhalandassociates@gmail.com); [doug@douglascrawfordlaw.com](mailto:doug@douglascrawfordlaw.com)

**Subject:** RE: A-19-805955-C - SODW - Vitiok, LLC v. SLC, LLC, et al.

Good afternoon,

The proposed order could not be processed because of the following reasons:

1. Incomplete Caption.

- Please provide a full caption. "AND RELATED CROSS-ACTIONS" is not a full caption.

2. Incorrect file name.

- Please ensure that the file name being submitted matches the title of the document. **Please rename the file name to "Stipulation for Dismissal of Action.pdf"**

Thank you,

**Jackson Wong**

Law Clerk to the Honorable Susan Johnson

Eighth Judicial District Court – Dept XXII

Clark County – Regional Justice Center

Tel: (702) 671-0551

Fax: (702) 671-0571

---

**From:** Michelle Choto [<mailto:MChoto@enensteinlaw.com>]

**Sent:** Wednesday, May 19, 2021 3:53 PM

**To:** DC22Inbox

**Cc:** Robert Rabbat; [bradh@hoflandlaw.com](mailto:bradh@hoflandlaw.com); [leventhalandassociates@gmail.com](mailto:leventhalandassociates@gmail.com); [doug@douglascrawfordlaw.com](mailto:doug@douglascrawfordlaw.com)

**Subject:** A-19-805955-C - SODW - Vitiok, LLC v. SLC, LLC, et al.

[NOTICE: This message originated outside of Eighth Judicial District Court -- DO NOT CLICK on links or open attachments unless you are sure the content is safe.]

Good morning,

Please see attached Stipulation and Order to Dismiss Action pertaining to the above matter.

Thank you,

*Michelle Choto*

Legal Assistant to

Robert A. Rabbat, Esq.

Daniel R. Gutenplan, Esq.

Jesse K. Bolling, Esq.

Enenstein Pham & Glass



Las Vegas Office

11920 Southern Highlands Pkwy., Ste. 103

Las Vegas, Nevada 89141

Tel.: 702.468.0808

Fax: 702.920.8228

Los Angeles Office

12121 Wilshire Blvd., Ste. 600

Los Angeles, California 90025

Tel.: 310.899.2070

Fax: 310.496.1930

[www.ensteinlaw.com](http://www.ensteinlaw.com)

**CONFIDENTIALITY NOTICE:**

This email and any attachments contain information from the law firm of Enenstein Pham and Glass



and may contain information that is proprietary, privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient, you are hereby notified that any viewing, copying, disclosure, distribution or use of this information is prohibited and may be subject to legal restriction or sanction. If you receive this email in error, please immediately notify the sender, by email or telephone, of any unintended recipients and delete the original message without making any copies. Opinions, conclusions, and other information contained in this message that do not relate to the official business of Enenstein Pham & Glass shall be understood as neither given nor endorsed by Enenstein Pham & Glass.

1 **CSERV**

2  
3 DISTRICT COURT  
4 CLARK COUNTY, NEVADA

5  
6 Vitiok LLC, Plaintiff(s)

CASE NO: A-19-805955-C

7 vs.

DEPT. NO. Department 22

8 SLC, LLC, Defendant(s)

9  
10 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 5/21/2021

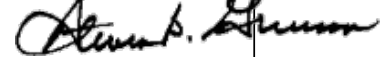
15 Robert Rabbat	rrabbat@enensteinlaw.com
16 Debbie Hicks	debbie@douglascrawfordlaw.com
17 Douglas Crawford	doug@douglascrawfordlaw.com
18 Bradley Hofland	Bradh@hoflandlaw.com
19 Michael Matthis	matthis@mblnv.com
20 Todd Leventhal	Leventhalandassociates@gmail.com
21 Maribel Godinez	Maribel@toddleventhal.com
22 Michael Lee	mike@mblnv.com
23 Dina DeSousa Cabral	DinaD@hoflandlaw.com
24 Leilanny Espinoza	Leilanny@douglascrawfordlaw.com
25 Nikki Woulfe	clerk@hoflandlaw.com

26  
27  
28

DEF000015  
ROA001528

1	Victor Botnari	12vb34@protonmail.com
2		
3	Anna Stein	bhassistant@hoflandlaw.com
4	Gary Segal	gary@douglascrawfordlaw.com
5	Elana Cordero	elana@douglascrawfordlaw.com
6	Maria Lopez	maria@douglascrawfordlaw.com
7	Meredith Simmons	meredith@douglascrawfordlaw.com
8	Genova Lucatero	Genova@douglascrawfordlaw.com
9		
10	Matt Rosene	mrosene@enensteinlaw.com
11	Talia Rybak	trybak@enensteinlaw.com
12	Lisa Feinstein	lfeinstein@enensteinlaw.com
13	Michelle Choto	mchoto@enensteinlaw.com

14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28



**MSTR**

Robert A. Rabbat, Esq.

Nevada Bar No. 12633

Matthew W. Rosene

California Bar No. 294158 (*pro hac vice* application pending)

**ENENSTEIN PHAM & GLASS**

11920 Southern Highlands Pkwy., Suite 103

Las Vegas, Nevada 89141

Telephone: (702) 468-0808

Facsimile: (702) 920-8228

Email: rrabbat@enensteinlaw.com

Email: mrosene@enensteinlaw.com

*Attorneys for Plaintiff/Counter-Defendant*

**SLC LLC**

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

SLC LLC, a Nevada limited liability  
company,

Plaintiff,

vs.

LARISA MEREORA, an individual, et  
al.,

Defendants.

) Case No. A-21-835625-C

) Dept. No. 4

)

) **PLAINTIFF/COUNTER-DEFENDANT**

) **SLC LLC'S MOTION TO STRIKE**

) **DEFENDANTS / COUNTER-**

) **CLAIMANTS IMPROPER NEW**

) **REPLY EVIDENCE**

)

)

) [*Concurrently filed with Evidentiary*

) *Objections to Declaration of Bradley*

) *Hofland*]

)

LARISA MEREORA, and individual, et  
al.,

Counterclaimants,

vs.

SLC LLC, a Nevada limited liability  
company,

Counterdefendant.

) Request that the Instant Motion to Strike be  
) Heard with the Subject Motion For  
) Summary Judgment at the Following Date,  
) Time, and Location:

)

) Date: April 28, 2022

) Time: 9:00 AM

) Location: RJC Courtroom 03C  
) Regional Justice Center  
) 200 Lewis Ave.  
) Las Vegas, NV 89101

)

)

)

**PLAINTIFF'S MOTION TO STRIKE DEFENDANTS'  
IMPROPER NEW REPLY EVIDENCE**

1 Plaintiff SLC LLC ("SLC") will and here by does moves the Court for an Order to  
2 strike defendants Larisa Mereora, Nina Grozav, Ion Neagu, Maria Reynolds, Alisa Neagu,  
3 NNG LLC and Universal Motorcar LLC (collectively, "Defendants") new evidence  
4 presented with Defendants' Reply in Support of the Motion for Summary Judgment  
5 ("Reply") on the grounds that Defendants' new evidence is improperly presented with  
6 Defendants' reply papers in support of their Rule 56 Motion for Summary Judgment and  
7 deprives plaintiff SLC LLC of the opportunity to respond to the new evidence. *See*  
8 *Provenz v. Miller*, 102 F.3d 1478, 1483 (9th Cir. 1996); *Tovar v. United States Postal*  
9 *Service*, 3 F.3d 1271, 1273 n. 3 (9th Cir.1993); *Pacquiao v. Mayweather*, No. 2:09-CV-  
10 2448-LRH-RJJ, 2010 WL 3271961, at \*1 (D. Nev. Aug. 13, 2010); *see also* NRPC 12(f).

11 Plaintiff SLC LLC respectfully requests that the instant Motion to Strike be heard  
12 at the April 28, 2022, 9:00 a.m. hearing on Defendants' Motion for Summary Judgment  
13 because the instant Motion to Strike concerns whether the hearing on the Motion for  
14 Summary Judgment may proceed on the scheduled date, or what evidence may be  
15 considered in deciding the Motion for Summary Judgment.

16 This Motion to Strike is based on the following Memorandum of Points and  
17 Authorities, the papers and pleadings already on file in the above-captioned matter, and  
18 any argument the Court permit.

19 Respectfully submitted.

20 Dated: April 25, 2022

**ENENSTEIN PHAM & GLASS**

21  
22 By: 

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

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Defendants/counter-claimants' ("Defendants") filed an Appendix of Evidence  
4 ("Appendix") with their Reply in Support of the Motion for Summary Judgment ("Reply")  
5 that improperly contains over two hundred fifty pages of new evidence that cannot be  
6 considered without providing plaintiff / counter-respondent SLC LLC ("SLC") an  
7 opportunity to respond. Thus, the new evidence should be stricken or SLC should be given  
8 the opportunity to file a responsive pleading that addresses the new evidence.

9 **II. RELEVANT FACTS**

10 On March 14, 2022, Defendants filed a Motion for Summary Judgment ("Motion")  
11 seeking summary disposition of all claims in the SLC's Complaint. Also on March 14,  
12 2022, Defendants filed an Appendix of Exhibits in Support of the Motion ("Motion  
13 Appendix"). On March 28, 2022, SLC filed an Opposition to the Motion ("Opposition").

14 On April 21, 2022, Defendants filed a Reply ("Reply") in support of their March  
15 14, 2022 Motion for Summary Judgment ("Motion"). Also on April 21, 2022, Defendants  
16 filed an Appendix of Exhibits in Support of the Reply ("Reply Appendix"). The Appendix  
17 contains seventeen exhibits, labeled A – Q. The Reply Appendix contains five exhibits  
18 that were also attached to the Motion Appendix; specifically, Exhibits A – D, and Q of the  
19 Reply Appendix also were exhibits to the Motion Appendix. The Reply Appendix  
20 contains twelve exhibits that Defendants did not previously present in support of the  
21 Motion; specifically, Exhibits E – P to the Reply Appendix were not included in the  
22 Motion Appendix and were only presented after SLC filed its Opposition.

23 **III. ARGUMENT**

24 "[T]o the extent that a party raises a new argument or proffers new evidence and  
25 information in a reply brief, that argument or evidence is improper because the opposing  
26 party is deprived of an opportunity to respond. *Tovar v. United States Postal Service*, 3  
27 F.3d 1271, 1273 n. 3 (9th Cir.1993). Therefore, the court cannot consider new evidence  
28 provided in a reply when the other party does not have an opportunity to respond to the

1 evidence. *Provenz v. Miller*, 102 F.3d 1478, 1483 (9th Cir.1996).” *Pacquiao v.*  
2 *Mayweather*, No. 2:09-CV-2448-LRH-RJJ, 2010 WL 3271961, at \*1 (D. Nev. Aug. 13,  
3 2010) (also citing NRCP 12(f) for striking certain matters from pleadings).

4 In *Tovar v. United States Postal Service*, 3 F.3d 1271, 1273 (9th Cir.1993),  
5 defendant “moved to strike [plaintiff’s] reply brief, arguing that the new information was  
6 outside the record and that including it in a reply brief deprived the [defendant] of an  
7 opportunity to respond.” There, the court found that to “the extent that the brief presents  
8 new information, it is improper” and ruled that specific “portions of the brief are ordered  
9 stricken.” *Id.*

10 In *Provenz v. Miller*, 102 F.3d 1478, 1483 (9th Cir. 1996), the Ninth Circuit  
11 “agree[d] with the Seventh Circuit, which held that ‘[w]here new evidence is presented in  
12 a reply to a motion for summary judgment, the district court should not consider the new  
13 evidence without giving the [non-]movant an opportunity to respond.’ *Black v. TIC Inv.*  
14 *Corp.*, 900 F.2d 112, 116 (7th Cir.1990).” There, the court found that allowing a party to  
15 “submit ‘new’ evidence in their reply without affording [the other party] an opportunity to  
16 respond ... would be unfair.” *Id.*

17 Here, Defendants seek to introduce twelve new exhibits in their Reply Appendix  
18 that consist of over two hundred fifty pages. Allowing Defendants to introduce and rely on  
19 this evidence without providing SLC the opportunity to respond would be “unfair.”  
20 *Provenz*, 102 F.3d at 1483.

21 Consequently, if SLC is not given the opportunity to respond to the new evidence  
22 in the Reply Appendix, the evidence and all references to it in the Reply should be  
23 stricken. Below is a list of the new exhibits and the references to them in the Reply:

24 Reply Appendix Exhibits E and F: referenced at p. 12:1-11 and fn. 40

25 Reply Appendix Exhibit G: referenced at p. 15:19-20 and fn. 54

26 Reply Appendix Exhibit H: referenced at p. 15:21-16:3 and fn. 55, and p. 20:9-12

27 Reply Appendix Exhibit I: referenced at p. 16:8-9 and fn. 56

28 Reply Appendix Exhibit J: referenced at p. 16:9-11 and fn. 57

1 Reply Appendix Exhibit K: referenced at p. 16:12-17 and fn. 58  
2 Reply Appendix Exhibit L: referenced at 10:1-2, and fn. 27.  
3 Reply Appendix Exhibit M: referenced at 10:8-4 and fn. 32  
4 Reply Appendix Exhibit N: referenced at 10:14-16 and fn. 33  
5 Reply Appendix Exhibit O: referenced at 11:1 and fn. 34  
6 Reply Appendix Exhibit P: referenced at 11:3-4 and fn. 36, p. 17:3-10 and fn. 61  
7 and fn. 62.

8 **IV. CONCLUSION**

9 Defendants' attempt to introduce new evidence in the Reply is improper and  
10 deprives SLC of the opportunity to respond. Consequently, the new evidence in the Reply  
11 Appendix should be stricken or SLC should be given an opportunity to respond to that  
12 new evidence before the hearing on the Motion. SLC respectfully requests that the Court  
13 grant this Motion to Strike and either strike the Exhibits E – P attached to Defendants'  
14 Reply Appendix or, in the alternative, continue the hearing on the Motion and allow SLC  
15 the opportunity to respond to the new evidence before the Court hears the merits of the  
16 Motion.

17  
18 Dated: April 25, 2022

**ENENSTEIN PHAM & GLASS**

19  
20 By: 

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



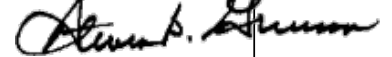
1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**CERTIFICATE OF SERVICE**

Pursuant to Nev.R.Civ.P. 5(b), I hereby certify that on April 25, 2022 I served a true and correct copy of the foregoing **PLAINTIFF/COUNTER-DEFENDANT SLC LLC’S MOTION TO STRIKE DEFENDANTS / COUNTER-CLAIMANTS IMPROPER NEW REPLY EVIDENCE**, served electronically via the court’s e-filing system Odyssey eFileNV, including the following interested parties named below:

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: bradh@hoflandlaw.com  
*Attorneys for Defendants*

/s/Lauren A. Verbanik  
Lauren Verbanik, *Paralegal*



**OBJ**

Robert A. Rabbat, Esq.  
Nevada Bar No. 12633  
Matthew W. Rosene  
California Bar No. 294158 (*pro hac vice* application pending)  
ENENSTEIN PHAM & GLASS  
11920 Southern Highlands Pkwy., Suite 103  
Las Vegas, Nevada 89141  
Telephone: (702) 468-0808  
Facsimile: (702) 920-8228  
Email: rrabbat@enensteinlaw.com  
Email: mrosene@enensteinlaw.com  
*Attorneys for Plaintiff/Counter-Defendant*  
*SLC LLC*

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

SLC LLC, a Nevada limited liability company,	)	Case No. A-21-835625-C
	)	Dept. No. 4
	)	
Plaintiff,	)	<b>PLAINTIFF/COUNTER-DEFENDANT</b>
vs.	)	<b>SLC LLC'S EVIDENTIARY</b>
	)	<b>OBJECTIONS TO DECLARATION OF</b>
LARISA MEREORA, an individual, et al.,	)	<b>BRADLEY HOF LAND FILED IN</b>
	)	<b>SUPPORT OF DEFENDANTS /</b>
Defendants.	)	<b>COUNTER-CLAIMANTS REPLY IN</b>
	)	<b>SUPPORT OF MOTION FOR</b>
	)	<b>SUMMARY JUDGMENT</b>

LARISA MEREORA, and individual, et al.,	)	<i>[Concurrently filed with Motion to Strike Improper New Reply Evidence]</i>
	)	

Counterclaimants,	)	Date: April 28, 2022
	)	Time: 9:00 AM
vs.	)	Location: RJC Courtroom 03C
	)	Regional Justice Center
	)	200 Lewis Ave.
SLC LLC, a Nevada limited liability company,	)	Las Vegas, NV 89101
	)	
Counterdefendant.	)	

**PLAINTIFF'S EVIDENTIARY OBJECTIONS TO HOF LAND DECLARATION FILED  
IN SUPPORT OF REPLY ISO MOTION FOR SUMMARY JUDGMENT**

Plaintiff/counter-defendant SLC LLC (“SLC”) respectfully submits the following objections to the Declaration of Bradley J. Hofland, submitted in support of defendants/counter-claimants’ Motion for Summary Judgment. SLC respectfully requests that the Court sustain the evidentiary objections and strike the evidence referenced below, which fails to meet the required standard of admissibility.

<b>Objected-to Portion of DECLARATION OF BRADLEY J. HOFLAND</b>	<b>Grounds for Objection</b>	<b>ORDER</b>
¶ 6 “Attached and Marked as Exhibit “E” in the Appendix of Exhibits are true and correct copies of the SilverFlume Nevada Business Entity information for Samir LLC.”	<b>Not Supported by Admissible Evidence. Nev. R. Civ. P. 56(c)(2).  Lacks Foundation. NRS 52.015  Lacks Personal Knowledge/ Speculation. NRS 52.025.</b>	Sustained ___ Overruled ___  Sustained ___ Overruled ___  Sustained ___ Overruled ___
¶ 7 “Attached and Marked as Exhibit “F” in the Appendix of Exhibits are true and correct copies of the SilverFlume Nevada Business Entity information for SLC LLC.”	<b>Not Supported by Admissible Evidence. Nev. R. Civ. P. 56(c)(2).  Lacks Foundation. NRS 52.015  Lacks Personal Knowledge/ Speculation. NRS 52.025.</b>	Sustained ___ Overruled ___  Sustained ___ Overruled ___  Sustained ___ Overruled ___
¶ 8 “Attached and Marked as Exhibit “G” in the Appendix of Exhibits are true and correct	<b>Not Supported by Admissible Evidence. Nev. R. Civ. P. 56(c)(2).</b>	Sustained ___ Overruled ___

<b>Objected-to Portion of DECLARATION OF BRADLEY J. HOFLAND</b>	<b>Grounds for Objection</b>	<b>ORDER</b>
copies of the Order Granting Defendant's Motion for Leave to Amend the Answer and Counterclaim filed in Case No. A-19-805955-C on October 10, 2020"	<b>Lacks Foundation. NRS 52.015</b>  <b>Lacks Personal Knowledge/ Speculation. NRS 52.025.</b>	Sustained __ Overruled __  Sustained __ Overruled __
¶ 9 "Attached and Marked as Exhibit "H" in the Appendix of Exhibits are true and correct copies of the Complaint for Damages and Demand for Jury Trial; Defendant Hamid Sheikhai's Answer, Counterclaim, and Cross Claims, and Demand for Jury Trial filed in Case No. A-19-805955-C on October 22, 2020."	<b>Not Supported by Admissible Evidence. Nev. R. Civ. P. 56(c)(2).</b>  <b>Lacks Foundation. NRS 52.015</b>  <b>Lacks Personal Knowledge/ Speculation. NRS 52.025.</b>	Sustained __ Overruled __  Sustained __ Overruled __  Sustained __ Overruled __
¶ 10 "Attached and Marked as Exhibit "I" in the Appendix of Exhibits are true and correct copies of the Plaintiff's Motion to Dismiss Defendant's Counterclaim and Cross Claims filed in Case No. A-19-805955-	<b>Not Supported by Admissible Evidence. Nev. R. Civ. P. 56(c)(2).</b>  <b>Lacks Foundation. NRS 52.015</b>	Sustained __ Overruled __  Sustained __ Overruled __

<b>Objected-to Portion of DECLARATION OF BRADLEY J. HOFLAND</b>	<b>Grounds for Objection</b>	<b>ORDER</b>
C on November 24, 2022 “	<b>Lacks Personal Knowledge/ Speculation. NRS 52.025.</b>	Sustained __ Overruled __
¶ 11 “Attached and Marked as Exhibit “J” in the Appendix of Exhibits are true and correct copies of the Defendant’s Motion for Summary Judgment or in the Alternative, Partial Summary Judgment, Leave Amend, and for Stay filed in Case No. A-19-805955-C on December 4, 2020.”	<b>Not Supported by Admissible Evidence. Nev. R. Civ. P. 56(c)(2).  Lacks Foundation. NRS 52.015  Lacks Personal Knowledge/ Speculation. NRS 52.025.</b>	Sustained __ Overruled __  Sustained __ Overruled __  Sustained __ Overruled __
¶ 12 “Attached and Marked as Exhibit “K” in the Appendix of Exhibits are true and correct copies of the Court Mins from January 7, 2021.”	<b>Not Supported by Admissible Evidence. Nev. R. Civ. P. 56(c)(2).  Lacks Foundation. NRS 52.015  Lacks Personal Knowledge/ Speculation. NRS 52.025.</b>	Sustained __ Overrule __  Sustained __ Overruled __  Sustained __ Overruled __
¶ 13 “Attached and Marked as Exhibit “L” in the Appendix of Exhibits are true and correct copies of the cited provisions contained in Page(s) 88 and	<b>Not Supported by Admissible Evidence. Nev. R. Civ. P. 56(c)(2).  Lacks Foundation. NRS 52.015</b>	Sustained __ Overruled __  Sustained __ Overruled __

<b>Objected-to Portion of DECLARATION OF BRADLEY J. HOFLAND</b>	<b>Grounds for Objection</b>	<b>ORDER</b>
135 of the Transcript from the January 7, 2021 Hearing in Case No. A-19-805955-C	<b>Lacks Personal Knowledge/ Speculation. NRS 52.025.</b>  <b>Best Evidence Rule</b> The purported document is incomplete.	Sustained __ Overruled __  Sustained __ Overruled __
¶ 14 “Attached and Marked as Exhibit “M” in the Appendix of Exhibits are true and correct copies of the cited provisions contained in Page(s) 27, 29, and 52 of the Transcript from the January 7, 2021 Hearing in Case No. A-19-805955-C.	<b>Not Supported by Admissible Evidence. Nev. R. Civ. P. 56(c)(2).</b>  <b>Lacks Foundation. NRS 52.015</b>  <b>Lacks Personal Knowledge/ Speculation. NRS 52.025.</b>  <b>Best Evidence Rule</b> The purported document is incomplete.	Sustained __ Overruled __  Sustained __ Overrule __  Sustained __ Overruled __  Sustained __ Overruled __
¶ 15 “Attached and Marked as Exhibit “N” in the Appendix of Exhibits are true and correct copies of the cited provisions contained in Page 42 of the Transcript from the January 7, 2021 Hearing in Case No. A-19-805955-C.”	<b>Not Supported by Admissible Evidence. Nev. R. Civ. P. 56(c)(2).</b>  <b>Lacks Foundation. NRS 52.015</b>  <b>Lacks Personal Knowledge/ Speculation. NRS 52.025.</b>	Sustained __ Overruled __  Sustained __ Overruled __  Sustained __ Overruled __

<b>Objected-to Portion of DECLARATION OF BRADLEY J. HOFLAND</b>	<b>Grounds for Objection</b>	<b>ORDER</b>
	<b>Best Evidence Rule</b> The purported document is incomplete.	Sustained __ Overruled __
¶ 16 “Attached and Marked as Exhibit “O” in the Appendix of Exhibits are true and correct copies of the cited provisions contained in Page 79 of the Transcript from the January 7, 2021 Hearing in Case No. A-19-805955-C.”	<b>Not Supported by Admissible Evidence. Nev. R. Civ. P. 56(c)(2).</b>  <b>Lacks Foundation. NRS 52.015</b>  <b>Lacks Personal Knowledge/ Speculation. NRS 52.025.</b>  <b>Best Evidence Rule</b> The purported document is incomplete.	Sustained __ Overruled __  Sustained __ Overruled __  Sustained __ Overruled __  Sustained __ Overruled __
///	///	///
///	///	///
///	///	///
///	///	///

Objected-to Portion of DECLARATION OF BRADLEY J. HOFLAND	Grounds for Objection	ORDER
<p>¶ 17</p> <p>“Attached and Marked as Exhibit “P” in the Appendix of Exhibits are true and correct copies of the cited provisions contained in Page 87 and 5 of the Transcript from the January 7, 2021 Hearing in Case No. A-19-805955-C.”</p>	<p><b>Not Supported by Admissible Evidence. Nev. R. Civ. P. 56(c)(2).</b></p> <p><b>Lacks Foundation. NRS 52.015</b></p> <p><b>Lacks Personal Knowledge/ Speculation. NRS 52.025.</b></p> <p><b>Best Evidence Rule</b></p> <p>The purported document is incomplete.</p>	<p>Sustained __</p> <p>Overruled __</p> <p>Sustained __</p> <p>Overruled __</p> <p>Sustained __</p> <p>Overruled __</p> <p>Sustained __</p> <p>Overruled __</p>

Dated: April 25, 2022

**ENENSTEIN PHAM & GLASS**

By: \_\_\_\_\_

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

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

[Skip to Main Content](#) [Logout](#) [My Account](#) [My Cases](#) [Search Menu](#) [New Calendar](#) [Search Refine](#) [Search Close](#)

Location : All Courts   Images Help

## REGISTER OF ACTIONS

**CASE No. A-21-835625-C**

**SLC LLC, Plaintiff(s) vs. Larisa Mereora, Defendant(s)**

~~~~~

Case Type: **Other Tort**

Date Filed: **06/02/2021**

Location: **Department 4**

Cross-Reference Case Number: **A835625**

## PARTY INFORMATION

| Case Name         |                                                                     | Lead Attorneys                                                  |
|-------------------|---------------------------------------------------------------------|-----------------------------------------------------------------|
| Counter Claimant  | Grozav, Nina                                                        | <b>Bradley J. Hofland</b><br><i>Retained</i><br>702-895-6760(W) |
| Counter Claimant  | Mereora, Larisa                                                     | <b>Bradley J. Hofland</b><br><i>Retained</i><br>702-895-6760(W) |
| Counter Claimant  | Neagu, Ion                                                          | <b>Bradley J. Hofland</b><br><i>Retained</i><br>702-895-6760(W) |
| Counter Claimant  | NNG, LLC <i>Doing Business As</i> Universal Motorcars               | <b>Bradley J. Hofland</b><br><i>Retained</i><br>702-895-6760(W) |
| Counter Claimant  | Reynolds, Maria                                                     | <b>Bradley J. Hofland</b><br><i>Retained</i><br>702-895-6760(W) |
| Counter Claimant  | Universal Motorcar LLC <i>Doing Business As</i> Universal Motorcars | <b>Bradley J. Hofland</b><br><i>Retained</i><br>702-895-6760(W) |
| Counter Defendant | SLC LLC                                                             | <b>Robert A. Rabbat</b><br><i>Retained</i><br>702-468-0808(W)   |
| Defendant         | Grozav, Nina                                                        | <b>Bradley J. Hofland</b><br><i>Retained</i><br>702-895-6760(W) |
| Defendant         | Mereora, Larisa                                                     | <b>Bradley J. Hofland</b><br><i>Retained</i><br>702-895-6760(W) |
| Defendant         | Mulkins, Thomas                                                     |                                                                 |
| Defendant         | Neagu, Alisa                                                        | <b>Bradley J. Hofland</b><br><i>Retained</i><br>702-895-6760(W) |
| Defendant         | Neagu, Ion                                                          | <b>Bradley J. Hofland</b><br><i>Retained</i><br>702-895-6760(W) |
| Defendant         | NNG, LLC <i>Doing Business As</i> Universal Motorcars               | <b>Bradley J. Hofland</b><br><i>Retained</i><br>702-895-6760(W) |

ROA001544

|                  |                                                                                              |                                                                 |
|------------------|----------------------------------------------------------------------------------------------|-----------------------------------------------------------------|
| <b>Defendant</b> | <b>Reynolds, Maria</b>                                                                       | <b>Bradley J. Hofland</b><br><i>Retained</i><br>702-895-6760(W) |
| <b>Defendant</b> | <b>Universal Motorcar LLC <i>Doing Business</i><br/>As Universal Motorcars</b>               | <b>Bradley J. Hofland</b><br><i>Retained</i><br>702-895-6760(W) |
| <b>Other</b>     | <b>Verbanik, Lauren</b><br>11920 Southern Highlands Pkwy<br>Suite 103<br>Las Vegas, NV 89141 | <b>Robert A. Rabbat</b><br><i>Retained</i><br>702-468-0808(W)   |
| <b>Plaintiff</b> | <b>SLC LLC</b>                                                                               | <b>Robert A. Rabbat</b><br><i>Retained</i><br>702-468-0808(W)   |

---

**EVENTS & ORDERS OF THE COURT**


---

04/27/2022 [Minute Order](#) (3:00 AM) (Judicial Officer Krall, Nadia)

**Minutes**

04/27/2022 3:00 AM

- NRCP 1 and NRCP 1.10 state that the procedures in district court shall be administered to secure efficient, just and inexpensive determinations in every action and proceeding. Pursuant to EDCR 2.23(c), the judge may consider the motion on its merits at any time with or without oral argument, and grant or deny it. Defendants' Motion for Summary Judgment filed on 3/14/2022; Defendants' Appendix of Exhibits in Support of Defendants' Motion for Summary Judgment filed on 3/14/2022; Plaintiff/Counter-Defendant SLC, LLC's Memorandum of Points and Authorities in Opposition to Defendants/Counter-claimants' Motion for Summary Judgment; and Request for Attorneys' Fees for Defending Improper Rule 11 Request for Sanctions filed on 3/28/2022; Declaration of Hamid Sheikhai in Support of Plaintiff/Counter-Defendant SLC, LLC's Opposition to Defendants' Motion for Summary Judgment; and Request for Award of Reasonable Expenses Including Attorneys' Fees filed on 3/28/2022; Declaration of Robert A. Rabbat in Support of Plaintiff/Counter-Defendant SLC, LLC's Opposition to Motion for Summary Judgment; and Request for Attorneys' Fees for Defending Improper Rule 11 Request for Sanctions filed on 3/28/2022; Plaintiff/Counter-Defendant SLC LLC's Request for Judicial Notice in Support of Opposition to Defendant/Counter-Claimants Motion for Summary Judgment; and Request for Attorneys' Fees for Defending Improper Rule 11 Request for Sanctions filed on 3/28/2022; Plaintiff /Counter-Defendant SLC LLC's Evidentiary Objections to Declaration of Bradley Hofland filed in Support of Defendants/Counter-Claimants' Motion for Summary Judgment filed on 3/28/2022; Defendants' Reply to "Plaintiff/Counter-Defendant SLC LLC's Memorandum of Points and Authorities in Opposition to Defendants/Counter-claimants' Motion for Summary Judgment; and Request for Attorneys' Fees for Defending Improper Rule Request for Sanctions" filed on 4/21/2022; Appendix of Exhibits in Support of Defendants' Reply to "Plaintiff/Counter-Defendant SLC LLC's Memorandum of Points and Authorities in Opposition to Defendants/Counter-claimants' Motion for Summary Judgment; and Request for Attorneys' Fees for Defending Improper Rule Request for Sanctions" filed on 4/21/2022; Plaintiff/Counter-Defendant SLC LLC's Motion to Strike Defendants/Counter-Claimants' Improper New Reply Evidence filed on 4/25/2022; Plaintiff/Counter-Defendant SLC LLC's Evidentiary Objections to Declaration of Bradley Hofland filed in Support of Defendants/Counter-Claimants' Reply in Support of Motion for Summary Judgment filed on 4/25/2022. The Court reviewed all of the pleadings and attached exhibits regarding the pleadings on file. COURT ORDERED, Defendants' Motion for Summary Judgment filed on 3/14/2022; Defendants' Appendix of Exhibits in Support of Defendants' Motion for Summary Judgment filed on 3/14/2022 is DENIED. COURT FURTHER ORDERED, Plaintiff/Counter-Defendant SLC, LLC's Request for Attorneys' Fees for Defending Improper Rule 11 Request for Sanctions filed on 3/28/2022 is DENIED. COURT FURTHER ORDERED, counsel for Plaintiff/Counter-Defendant SLC, LLC to draft and circulate a proposed order for opposing counsel's signature prior to submitting it to the Department 4 inbox for the Judge's review and signature within fourteen (14) days and distribute a filed copy to all parties involved in this matter. COURT FURTHER ORDERED, counsel for Plaintiff/Counter-Defendant SLC, LLC to include Findings of Fact and Conclusions of Law based upon the

ROA001545

6/10/22, 1:32 PM

<https://www.clarkcountycourts.us/Secure/CaseDetail.aspx?CaseID=12136287&HearingID=208488240&SingleViewMode=Minutes>

Memorandum of Points and Authorities set forth in Plaintiff/Counter-Defendant SLC, LLC's pleadings. COURT FURTHER ORDERED, Defendants' Motion for Summary Judgment filed on 3/14/2022; Defendants' Appendix of Exhibits in Support of Defendants' Motion for Summary Judgment filed on 3/14/2022 and scheduled for hearing on 4/28/2022 at 9:00 A.M. is VACATED. CLERK'S NOTE: This minute order was electronically served by Courtroom Clerk, Pharan Burchfield, to all registered parties for Odyssey File & Serve.//pb/4/27/22.

[Return to Register of Actions](#)

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

SLC LLC, a Nevada limited liability company,  
Plaintiff,  
vs.  
LARISA MEREORA, an individual, et al.,  
Defendants.

Case No. A-21-835625-C  
Dept. No. 4  
**[PROPOSED] ORDER DENYING  
DEFENDANTS/COUNTER-  
CLAIMANTS' MOTION FOR  
SUMMARY JUDGMENT**

LARISA MEREORA, and individual, et al.,  
Counterclaimants,  
vs.  
SLC LLC, a Nevada limited liability company,  
Counterdefendant.

**[PROPOSED] ORDER**

Defendants and counter-claimants Larisa Mereora, Nina Grozav, Ion Neagu, Maria Reynolds, Alisa Neagu, NNG LLC and Universal Motorcar LLC's (collectively, "Defendants") Motion for Summary Judgment ("Motion") having come before this Court on the merits and upon consideration of plaintiff and counter-defendant SLC LLC's ("SLC") Opposition to the Motion, Defendants' Reply in Support of the Motion, SLC's Motion to Strike and Evidentiary Objections, the Memorandum of Points and Authorities filed therewith, the exhibits attached thereto, all the pleadings and papers on file with this Court, and good cause appearing, this Court makes the following findings of fact, conclusions of law, and orders that the Motion be denied in its entirety:

**I. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

**A. The Standard for Summary Judgment**

1. In order to succeed on a motion for summary judgment, there must be "no genuine issues as to any material fact" and the moving party must show that it "is entitled to judgment as a matter of law."<sup>1</sup>

2. A "genuine issue of material fact is one where the evidence is such that a reasonable jury could return a verdict for the non-moving party. [Citation.] The pleadings and proof offered at the district court are construed in the light most favorable to the non-moving party."<sup>2</sup>

3. "The party moving for summary judgment bears the initial burden of production to show the absence of a genuine issue of material fact."<sup>3</sup> The evidence provided in support of a motion for summary judgment must be admissible.<sup>4</sup> Admissibility requires "authentication or identification" and personal knowledge.<sup>5</sup>

<sup>1</sup> NRCP 56(a); *Posadas v. City of Reno*, 109 Nev. 448, 452, 851 P.2d 438, 441-42 (1993).

<sup>2</sup> *Riley v. OPP IX, L.P.*, 112 Nev. 826, 830, 919 P.2d 1071, 1074 (1996).

<sup>3</sup> *Cuzze v. Univ. & Cmty. Coll. Sys. of Nev.*, 123 Nev. 598, 602, 172 P.3d 131, 134 (2007).

<sup>4</sup> Nev. R. Civ. P. 56(c)(2).

<sup>5</sup> NRS 52.015; NRS 52.025.

1           **B.     SLC has Standing to Bring the Claims in the Complaint**

2           4.     “The question of standing concerns whether the party seeking relief has a  
3 sufficient interest in the litigation. [Citations.] ... The primary purpose of this standing  
4 inquiry is to ensure the litigant will vigorously and effectively present his or her case  
5 against an adverse party. [Citation.]”<sup>6</sup>

6           5.     “A ‘real party in interest’ under NRCP 17(a) is one who possesses the right  
7 to enforce the claim and has a significant interest in the litigation. [Citation.] The question  
8 of standing is similar; it also focuses on the party seeking adjudication rather than on the  
9 issues sought to be adjudicated.”<sup>7</sup> “A party enjoys standing to bring his complaint into  
10 court if his stake in the resolution of that complaint assumes the proportions necessary to  
11 ensure that he will vigorously present his case. [Citation.] ... [W]e must determine  
12 standing by a measure of the ‘intensity of the plaintiff’s claim to justice.’ [Citation.]”<sup>8</sup>

13          6.     Further, the “court may not dismiss an action for failure to prosecute in the  
14 name of the real party in interest until, after an objection, a reasonable time has been  
15 allowed for the real party in interest to ratify, join, or be substituted into the action. After  
16 ratification, joinder, or substitution, the action proceeds as if it had been originally  
17 commenced by the real party in interest.”<sup>9</sup>

18          7.     In the instant case, SLC enjoys standing because it has a significant stake in  
19 the resolution of this case. First, Hamid Sheikhai (“Sheikhai”) established the “Zip Zap  
20 Auto” name in 1999 in California, and opened a Las Vegas location in 2011. Zip Zap was  
21 registered as the Fictitious Firm Name for an entity that Sheikhai created, Samir, LLC  
22 and, later, registered as the Fictitious Firm Name for SLC. Sheikhai was and is the sole  
23 owner of SLC. As such, SLC has sufficient interest in the litigation.

24  
25  
26 <sup>6</sup> *Schwartz v. Lopez*, 132 Nev. 732, 743, 382 P.3d 886, 894 (2016).

27 <sup>7</sup> *Szilagyi v. Testa*, 99 Nev. 834, 838, 673 P.2d 495, 498 (1983), citing *Harman v. City &*  
*Cty. of San Francisco*, 7 Cal. 3d 150, 159, 496 P.2d 1248, 1254 (1972).

28 <sup>8</sup> *Harman*, 7 Cal. 3d at 159.

<sup>9</sup> Nev. R. Civ. P. 17(a)(3).

1           **C. Defendants Were Not Parties to or Third-Party Beneficiaries of the**  
2           **Stipulated Settlement that Resolved Prior Cases Involving Sheikhai and SLC**

3           8. From March 2018 through September 2019, Sheikhai and Victor Botnari  
4 (“Botnari”) filed several lawsuits against each other, both individually and on behalf of  
5 various entities, including Case Nos. A-19-0805955-C (“Vitiok Case”), D-18-575686-L,  
6 and A-19-801513-P (collectively, “Sheikhai Cases”).

7           9. Defendants were not named as parties at the beginning of any of the  
8 Sheikhai Cases and Sheikhai’s request for leave to assert claims against Defendants in the  
9 Vitiok Case was denied; therefore, none of the Defendants was ever a party to any of the  
10 Sheikhai Cases.

11          10. The parties to the Sheikhai Cases executed a Stipulated Settlement resolving  
12 the Sheikhai Cases and filed a Stipulation for Dismissal of Action regarding the Sheikhai  
13 Cases. Defendants were not parties to or third-party beneficiaries of the Stipulated  
14 Settlement that resolved the Sheikhai Cases.

15          11. Thus, claims against Defendants were not dismissed or resolved through any  
16 of the Sheikhai Cases, nor are they barred by the Stipulated Settlement or the Stipulation  
17 for Dismissal of Action.

18           **D. Defendants Failed to Provide Evidence that They are Entitled to**  
19           **Judgment as a Matter of Law on Any of SLC’s Claims**

20           SLC’s First Claim for Misappropriation of Trade Secrets

21          12. The elements of a misappropriation of trade secrets claim include: “(1) a  
22 valuable trade secret; (2) misappropriation of the trade secret. . . ; and (3) the requirement  
23 that the misappropriation be wrongful because it was made in breach of an express or  
24 implied contract or by a party with a duty not to disclose.”<sup>10</sup>

25          13. “Improper means” for the purposes of a misappropriation of trade secrets  
26 claim includes theft.<sup>11</sup>

27  
28 <sup>10</sup> *Frantz v. Johnson*, 116 Nev. 455, 466, 999 P.2d 351, 358 (2000) (footnotes omitted).

<sup>11</sup> NRS 600A.030.



14. Zip Zap Auto is the fictitious firm name for SLC. Defendants bear the initial burden of production to show the absence of a genuine issue of material fact and must do so with admissible evidence, but Defendants failed to present evidence that the trade secret at issue in the Complaint does not belong to SLC.<sup>12</sup>

15. Similarly, Defendants failed to present evidence that Defendants did not obtain by theft the trade secret at issue in the Complaint.<sup>13</sup>

#### SLC's Second Claim for Deceptive Trade Practices

16. Defendants bear the initial burden of production to show the absence of a genuine issue of material fact and must do so with admissible evidence, but Defendants did not present evidence that SLC lacks standing to assert the claim for deceptive trade practices.<sup>14</sup> Similarly, Defendants did not present evidence that defeats any of the elements of the deceptive trade practices claim.<sup>15</sup>

17. Defendants' conclusory allegations are insufficient to warrant summary judgment on SLC's claim for deceptive trade practices.<sup>16</sup>

#### SLC's Third Claim for Defamation

18. The elements of a defamation claim are: "(1) A false and defamatory statement; (2) Unprivileged publication to a third person; (3) Fault, amounting to at least negligence; and (4) Actual or presumed damages."<sup>17</sup>

19. Defendants bear the initial burden of production to show the absence of a genuine issue of material fact and must do so with admissible evidence, but Defendants did not present evidence that SLC lacks standing to assert the claim for defamation.<sup>18</sup>

<sup>12</sup> See *Cuzze*, 123 Nev. at 602; see also Nev. R. Civ. P. 56(c)(2) (evidence in support of motion for summary judgment must be admissible); NRS 52.015 (requiring "authentication or identification" for evidence to be admissible); NRS 52.025 (requiring personal knowledge for authentication or identification of evidence).

<sup>13</sup> See *Cuzze*, 123 Nev. at 602; Nev. R. Civ. P. 56(c)(2); NRS 52.015; NRS 52.025.

<sup>14</sup> See *Cuzze*, 123 Nev. at 602; Nev. R. Civ. P. 56(c)(2); NRS 52.015; NRS 52.025.

<sup>15</sup> See *Cuzze*, 123 Nev. at 602; Nev. R. Civ. P. 56(c)(2); NRS 52.015; NRS 52.025.

<sup>16</sup> See *Cuzze*, 123 Nev. at 602; Nev. R. Civ. P. 56(c)(2); NRS 52.015; NRS 52.025.

<sup>17</sup> *Pope v. Motel 6*, 121 Nev. 307, 315, 114 P.3d 277 (2005) (citation omitted).

<sup>18</sup> See *Cuzze*, 123 Nev. at 602; Nev. R. Civ. P. 56(c)(2); NRS 52.015; NRS 52.025.

1 Similarly, Defendants did not present evidence that defeats any of the elements of the  
2 defamation claim.<sup>19</sup>

3 20. Defendants' conclusory allegations are insufficient to warrant summary  
4 judgment for SLC's claim for defamation.<sup>20</sup>

5 SLC's Fourth Claim for Interference with Prospective Economic Advantage

6 21. "The following elements must be proven to establish the tort of interference  
7 with prospective business advantage:

8 (1) a prospective contractual relationship between the plaintiff and a third  
9 party; (2) the defendant's knowledge of this prospective relationship;  
10 (3) the intent to harm the plaintiff by preventing the relationship; (4) the  
11 absence of privilege or justification by the defendant; and, (5) actual harm  
to the plaintiff as a result of the defendant's conduct."<sup>21</sup>

12 22. Defendants bear the initial burden of production to show the absence of a  
13 genuine issue of material fact and must do so with admissible evidence, but Defendants  
14 did not present evidence that SLC lacks standing to assert the claim for interference with  
15 prospective economic advantage.<sup>22</sup> Similarly, Defendants did not present evidence that  
16 defeats the elements of the claim for interference with prospective economic advantage.<sup>23</sup>

17 SLC's Fifth Claim for Civil Conspiracy

18 23. Civil conspiracy "consists of a combination of two or more persons who, by  
19 some concerted action, intend to accomplish an unlawful objective for the purpose of  
20 harming another, and damage results from the act or acts."<sup>24</sup> A claim for civil conspiracy

21  
22  
23 <sup>19</sup> See *Cuzze*, 123 Nev. at 602; Nev. R. Civ. P. 56(c)(2); NRS 52.015; NRS 52.025.

24 <sup>20</sup> See *Cuzze*, 123 Nev. at 602; Nev. R. Civ. P. 56(c)(2); NRS 52.015; NRS 52.025.

25 <sup>21</sup> *Consol. Generator-Nevada, Inc. v. Cummins Engine Co.*, 114 Nev. 1304, 1311, 971  
26 P.2d 1251, 1255 (1998) (internal quotation marks and citations omitted).

27 <sup>22</sup> See *Cuzze*, 123 Nev. at 602; Nev. R. Civ. P. 56(c)(2); NRS 52.015; NRS 52.025.

28 <sup>23</sup> See *Cuzze*, 123 Nev. at 602; Nev. R. Civ. P. 56(c)(2); NRS 52.015; NRS 52.025.

<sup>24</sup> *Consolidated-Generator Nevada*, 971 P.2d at 1256 (internal quotation marks and  
citations omitted).

1 requires (1) the commission of an underlying tort and (2) an agreement between the  
2 defendants to commit that tort.<sup>25</sup>

3       24. Defendants bear the initial burden of production to show the absence of a  
4 genuine issue of material fact and must do so with admissible evidence, but Defendants  
5 did not present evidence that SLC lacks standing to assert the claim for interference with  
6 prospective economic advantage, civil conspiracy, and conversion / trespass to chattel.<sup>26</sup>  
7 Similarly, Defendants did not present evidence that defeats any of the elements of the  
8 claims for interference with prospective economic advantage, civil conspiracy, and  
9 conversion / trespass to chattel.<sup>27</sup>

10 SLC's Sixth Claim for Conversion / Trespass to Chattel

11       25. "The elements of conversion are (1) the plaintiff's ownership or right to  
12 possession of the property; (2) the defendant's conversion by wrongful act inconsistent  
13 with the property rights of the plaintiff; and (3) damages."<sup>28</sup>

14       26. Defendants bear the initial burden of production to show the absence of a  
15 genuine issue of material fact and must do so with admissible evidence, but Defendants  
16 did not present evidence that SLC lacks standing to assert the claim for conversion /  
17 trespass to chattel.<sup>29</sup> Similarly, Defendants did not present evidence that defeats any of the  
18 elements of the claim for conversion / trespass to chattel.<sup>30</sup>

19 SLC's Seventh Claim for Unjust Enrichment

20       27. "Unjust enrichment exists when the plaintiff confers a benefit on the  
21 defendant, the defendant appreciates such benefit, and there is acceptance and retention by  
22

23  
24 <sup>25</sup> *Lalitag v. Money First Fin. Servs., Inc.*, No. 2:09-cv-02268-LRH-RJJ, 2010 WL  
2925875, at \*2 (D. Nev. July 20, 2010) (citing *GES, Inc. v. Corbitt*, 21 P.3d 11, 15 (Nev.  
2001)).

25 <sup>26</sup> *See Cuzze*, 123 Nev. at 602; Nev. R. Civ. P. 56(c)(2); NRS 52.015; NRS 52.025.

26 <sup>27</sup> *See Cuzze*, 123 Nev. at 602; Nev. R. Civ. P. 56(c)(2); NRS 52.015; NRS 52.025.

27 <sup>28</sup> *In re Emery*, 317 F.3d 1064, 1069 (9th Cir. 2003).

28 <sup>29</sup> *See Cuzze*, 123 Nev. at 602; Nev. R. Civ. P. 56(c)(2); NRS 52.015; NRS 52.025.

<sup>30</sup> *See Cuzze*, 123 Nev. at 602; Nev. R. Civ. P. 56(c)(2); NRS 52.015; NRS 52.025.

1 the defendant of such benefit under circumstances such that it would be inequitable for  
2 him to retain the benefit without payment of the value thereof.”<sup>31</sup>

3 28. “[B]enefit’ in the unjust enrichment context can include services beneficial  
4 to or at the request of the other, denotes any form of advantage, and is not confined to  
5 retention of money or property. ... [T]he basis of recovery on quantum meruit ... is that a  
6 party has received from another a benefit which is unjust for him to retain without paying  
7 for it.”<sup>32</sup>

8 29. Defendants bear the initial burden of production to show the absence of a  
9 genuine issue of material fact and must do so with admissible evidence, but Defendants  
10 did not present evidence that SLC lacks standing to assert the claim for unjust  
11 enrichment.<sup>33</sup> Similarly, Defendants did not present evidence that defeats any of the  
12 elements of the claim for unjust enrichment.<sup>34</sup>

13 30. Further, Nevada law does not require dealings between the parties for a  
14 claim for unjust enrichment to stand; rather, the defendant must benefit from any form of  
15 advantage.<sup>35</sup> Here, Defendants do not provide any evidence clearing them of the  
16 allegations in the Complaint that Defendants, or any of them, took or used the confidential  
17 customer list, or made false statements about SLC d/b/a Zip Zap Auto, or benefited from  
18 any wrongdoing.

19 **E. Defendants’ Abuse of Process Claim is Based on Disputed Facts**

20 31. “The two elements required to establish the tort of abuse of process are:  
21 (1) an ulterior purpose by the defendants other than resolving a legal dispute, and (2) a  
22 willful act in the use of the legal process not proper in the regular conduct of the  
23 proceeding.”<sup>36</sup>

24 <sup>31</sup> *Certified Fire Prot. Inc. v. Precision Constr.*, 128 Nev. 371, 381–82, 283 P.3d 250,  
25 257–58 (2012) (internal quotation marks and citations omitted).

26 <sup>32</sup> *Id.* (internal quotation marks and citations omitted).

27 <sup>33</sup> *See Cuzze*, 123 Nev. at 602; Nev. R. Civ. P. 56(c)(2); NRS 52.015; NRS 52.025.

28 <sup>34</sup> *See Cuzze*, 123 Nev. at 602; Nev. R. Civ. P. 56(c)(2); NRS 52.015; NRS 52.025.

<sup>35</sup> *Certified Fire Prot.*, 128 Nev. at 382.

<sup>36</sup> *Kovacs v. Acosta*, 106 Nev. 57, 59, 787 P.2d 368, 369 (1990).

1           32. Defendants did not present evidence supporting the elements of the  
2 counterclaim for abuse of process.<sup>37</sup> Defendants conclusory allegations regarding  
3 Defendants supposedly being parties to the Sheikhai Cases or to the Stipulated Settlement  
4 are insufficient because summary judgment is only appropriate where the moving party  
5 can show that there cannot be or is not any genuine dispute as to any material facts.<sup>38</sup>  
6 Thus, Defendants are not entitled to summary judgment of the Counterclaim.

7           **F. Neither Defendants nor SLC is Entitled to Recover Attorneys' Fees**  
8           **Based on the Outcome of the Motion**

9           33. A court “may award to the prevailing party the reasonable expenses,  
10 including attorney fees, incurred for presenting or opposing the [Rule 11] motion” for  
11 sanctions.<sup>39</sup>

12           34. “A motion for sanctions must be made separately from any other motion.”<sup>40</sup>  
13 “The motion must be served ... but it must not be filed or be presented to the court” until  
14 the movant provides a “21 days” safe harbor period to withdraw or correct the purportedly  
15 offending pleading.<sup>41</sup>

16           35. A Court “may award to the prevailing party the reasonable expenses,  
17 including attorney fees, incurred for ... opposing the motion” seeking Rule 11 sanctions.<sup>42</sup>

18           36. Here, Defendants failed to follow any of the procedural requirements for  
19 sanctions under Rule 11. Defendants included the request for Rule 11 sanctions at the end  
20 of the Motion and did not file a separate motion for Rule 11 sanctions. Nor did Defendants  
21 provide any safe harbor period to SLC.

22           37. Neither Defendants nor SLC may recover sanctions or fees under Nev. R.  
23 Civ. P. 11.

24 \_\_\_\_\_  
25 <sup>37</sup> See *Cuzze*, 123 Nev. at 602; Nev. R. Civ. P. 56(c)(2); NRS 52.015; NRS 52.025.

26 <sup>38</sup> Nev. R. Civ. P. 56(c)(2).

27 <sup>39</sup> Nev. R. Civ. P., Rule 11(c)(2).

28 <sup>40</sup> *Id.*

<sup>41</sup> *Id.*

<sup>42</sup> *Id.*

1 **II. ORDER**

2 Given the above outlined findings, this Court hereby ORDERS:

- 3 1. the Motion is DENIED in its entirety;  
4 2. SLC's request for attorneys' fees is DENIED.

5 **IT IS SO ORDERED**

6 DATED this \_\_\_\_ day of May 2022.

7 Dated this 21st day of June, 2022

8 

9 Submitted by:

10 **ENENSTEIN PHAM & GLASS**

1F8 57E 7011 B395  
Nadia Krall  
District Court Judge

11  
12 By: 

13 Robert A. Rabbat  
14 Nevada Bar Number 12633  
15 *rrabbat@enensteinlaw.com*  
16 11920 Southern Highlands Pkwy., Suite 103  
17 Las Vegas, Nevada 89141  
18 Telephone: (702) 468-0808  
19 Facsimile: (702) 920-8228  
20 *Attorneys for Plaintiff/Counter-Defendant SLC LLC*

21 Approved as to **FORM ONLY**:

22 **HOFLAND & TOMSHECK**

23 By: /s/ Bradley J. Hofland  
24 Bradley J. Hofland, Esq.  
25 Nevada Bar Number: 6343  
26 *bradh@hoflandlaw.com*  
27 228 South 4th Street, 1st Floor  
28 Las Vegas, Nevada 89101  
Telephones: (702) 895-6760  
Facsimile: (702) 731-6910  
*Attorneys for Defendants/Counter-Claimants*

## Lauren Verbanik

---

**From:** Brad Hofland <BradH@hoflandlaw.com>  
**Sent:** Wednesday, May 11, 2022 2:26 PM  
**To:** Matt Rosene  
**Cc:** Robert Rabbat; Lauren Verbanik; Clerk  
**Subject:** RE: SLC v. Mereora et al. - Draft Proposed Order

In follow up to our conversation, I reviewed the proposed order and consent to my electronic signature being added as to agreeing to form - only.

As I am not aware of what findings the Court relied upon in issuing its order denying our motion, I unable to direct you to remove any particular finding and thus I cannot agree to its content.

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  
Facsimile (702) 731-6910

*Hofland & Tomsheck*

ATTORNEYS AND COUNSELORS AT LAW

**NOTICE:** The above information is for the sole use of the intended recipient and contains information belonging to Hofland & Tomsheck, which is confidential and may be legally privileged. If you are not the intended recipient, or believe that you have received this communication in error, you are hereby notified that any printing, copying, distribution, use or taking of any action in reliance on the contents of this e-mail information is strictly prohibited. If you have received this e-mail in error, please immediately (1) notify the sender by reply e-mail; (2) call our office at (702) 895-6760 to inform the sender of the error; and (3) destroy all copies of the original message, including ones on your computer system and all drives.

In accordance with Internal Revenue Service Circular 230, we advise you that if this e-mail contains any tax advice, such tax advice was not intended or written to be used and it cannot be used, by any taxpayer for the purpose of avoiding penalties that may be imposed on the taxpayer.

---

**From:** Matt Rosene <mrosene@enensteinlaw.com>  
**Sent:** Tuesday, May 10, 2022 1:25 PM  
**To:** Brad Hofland <BradH@hoflandlaw.com>  
**Cc:** Robert Rabbat <rrabbat@enensteinlaw.com>; Lauren Verbanik <lverbanik@enensteinlaw.com>  
**Subject:** RE: SLC v. Mereora et al. - Draft Proposed Order

Counsel,

Following up on the draft proposed order. As you know, it's due tomorrow. Please let us know whether you approve or have any suggested edits.

Best,

Matt

**Matthew W. Rosene, Esq.**  
Enenstein Pham & Glass LLP

---

**From:** Matt Rosene  
**Sent:** Friday, May 6, 2022 11:38 AM  
**To:** [bradh@hoflandlaw.com](mailto:bradh@hoflandlaw.com)  
**Cc:** Robert Rabbat <[rrabbat@enensteinlaw.com](mailto:rrabbat@enensteinlaw.com)>; Lauren Verbanik <[lverbanik@enensteinlaw.com](mailto:lverbanik@enensteinlaw.com)>  
**Subject:** SLC v. Mereora et al. - Draft Proposed Order

Counsel,

Find attached the draft Proposed Order on defendants' motion for summary judgment. As you know, the court instructed plaintiff to draft and circulate a proposed order for your signature. Please provide approval and permission to include your "/s/" signature, or return a revised version with your suggested edits tracked in redline.

Best,

Matt

**Matthew W. Rosene, Esq.**  
Enenstein Pham & Glass LLP



**Orange County Office**  
650 Town Center Drive  
Suite 840  
Costa Mesa, CA 92626  
Tel: 714.292.0262  
Fax: 714.464.4770

**Los Angeles Office**  
12121 Wilshire Blvd.  
Suite 600  
Los Angeles, CA 90025  
Tel: 310-899-2070  
Fax: 310-496-1930  
[mrosene@enensteinlaw.com](mailto:mrosene@enensteinlaw.com)  
[www.enensteinlaw.com](http://www.enensteinlaw.com)

This email and any attachments contain information from the law firm of ENENSTEIN PHAM & GLASS, which may be confidential and/or privileged. The information is intended to be for the use of the individual or entity named on this email. If you are not the intended recipient, be aware that any disclosure, copying, distribution or use of the contents of this email is prohibited. If you receive this email in error, please notify us by reply email immediately so that we can arrange for the retrieval of the original documents at no cost to you.



1 **CSERV**

2  
3 DISTRICT COURT  
CLARK COUNTY, NEVADA

4  
5  
6 SLC LLC, Plaintiff(s)

CASE NO: A-21-835625-C

7 vs.

DEPT. NO. Department 4

8 Larisa Mereora, Defendant(s)

9  
10 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 6/21/2022

15 Bradley Hofland

Bradh@hoflandlaw.com

16 Nikki Woulfe

clerk@hoflandlaw.com

17 Anna Stein

bhassistant@hoflandlaw.com

18 Robert Rabbat

rrabbat@enensteinlaw.com

19 Lauren Verbanik

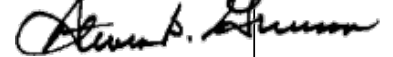
lverbanik@enensteinlaw.com

20 Matthew Rosene

mrosene@enensteinlaw.com

21 Victor Botnari

botnari\_victor@yahoo.com



1 **NEOJ**  
2 Robert A. Rabbat, Esq.  
3 Nevada Bar No. 12633  
4 ENENSTEIN PHAM & GLASS  
5 11920 Southern Highlands Pkwy., Suite 103  
6 Las Vegas, Nevada 89141  
7 Telephone: (702) 468-0808  
8 Facsimile: (702) 920-8228  
9 Email: rrabbat@enensteinlaw.com  
10 *Attorneys for Plaintiff/Counter-Defendant*  
11 *SLC LLC*

8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

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

SLC LLC, a Nevada limited liability company, ) Case No. A-21-835625-C  
) Dept. No. 4  
)

Plaintiff,

vs.

LARISA MEREORA, an individual, et al.,

Defendants.

LARISA MEREORA, and individual, et al.,

Counterclaimants,

vs.

SLC LLC, a Nevada limited liability company,

Counterdefendant.

**NOTICE OF ENTRY OF ORDER  
DENYING DEFENDANTS/COUNTER-  
CLAIMANTS' MOTION FOR  
SUMMARY JUDGMENT**

**NOTICE OF ENTRY OF ORDER DENYING DEFENDANTS/COUNTER-  
CLAIMANTS' MOTION FOR SUMMARY JUDGMENT**

1        **NOTICE OF ENTRY OF ORDER DENYING DEFENDANTS/COUNTER-**  
2        **CLAIMANTS' MOTION FOR SUMMARY JUDGMENT**

3        TO:    ALL INTERESTED PARTIES AND THEIR COUNSEL OF RECORD.

4        PLEASE TAKE NOTICE that on the 21st day of June 2022, an Order Denying  
5        Defendants/Counter-Claimants' Motion for Summary Judgment was entered in the above-  
6        captioned matter, a copy of which is attached hereto as Exhibit A.

7  
8        Dated: June 22, 2022

**ENENSTEIN PHAM & GLASS**

9  
10       By: 

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

# **EXHIBIT A**

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

SLC LLC, a Nevada limited liability company,  
Plaintiff,  
vs.  
LARISA MEREORA, an individual, et al.,  
Defendants.  
  
LARISA MEREORA, and individual, et al.,  
Counterclaimants,  
vs.  
SLC LLC, a Nevada limited liability company,  
Counterdefendant.

**[PROPOSED] ORDER**

1 Defendants and counter-claimants Larisa Mereora, Nina Grozav, Ion Neagu, Maria  
2 Reynolds, Alisa Neagu, NNG LLC and Universal Motorcar LLC's (collectively,  
3 "Defendants") Motion for Summary Judgment ("Motion") having come before this Court  
4 on the merits and upon consideration of plaintiff and counter-defendant SLC LLC's  
5 ("SLC") Opposition to the Motion, Defendants' Reply in Support of the Motion, SLC's  
6 Motion to Strike and Evidentiary Objections, the Memorandum of Points and Authorities  
7 filed therewith, the exhibits attached thereto, all the pleadings and papers on file with this  
8 Court, and good cause appearing, this Court makes the following findings of fact,  
9 conclusions of law, and orders that the Motion be denied in its entirety:

10 **I. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

11 **A. The Standard for Summary Judgment**

12 1. In order to succeed on a motion for summary judgment, there must be "no  
13 genuine issues as to any material fact" and the moving party must show that it "is entitled  
14 to judgment as a matter of law."<sup>1</sup>

15 2. A "genuine issue of material fact is one where the evidence is such that a  
16 reasonable jury could return a verdict for the non-moving party. [Citation.] The pleadings  
17 and proof offered at the district court are construed in the light most favorable to the non-  
18 moving party."<sup>2</sup>

19 3. "The party moving for summary judgment bears the initial burden of  
20 production to show the absence of a genuine issue of material fact."<sup>3</sup> The evidence  
21 provided in support of a motion for summary judgment must be admissible.<sup>4</sup> Admissibility  
22 requires "authentication or identification" and personal knowledge.<sup>5</sup>

23  
24  
25 <sup>1</sup> NRCP 56(a); *Posadas v. City of Reno*, 109 Nev. 448, 452, 851 P.2d 438, 441-42 (1993).

26 <sup>2</sup> *Riley v. OPP IX, L.P.*, 112 Nev. 826, 830, 919 P.2d 1071, 1074 (1996).

27 <sup>3</sup> *Cuzze v. Univ. & Cmty. Coll. Sys. of Nev.*, 123 Nev. 598, 602, 172 P.3d 131, 134 (2007).

28 <sup>4</sup> Nev. R. Civ. P. 56(c)(2).

<sup>5</sup> NRS 52.015; NRS 52.025.

1           **B.     SLC has Standing to Bring the Claims in the Complaint**

2           4.     “The question of standing concerns whether the party seeking relief has a  
3 sufficient interest in the litigation. [Citations.] ... The primary purpose of this standing  
4 inquiry is to ensure the litigant will vigorously and effectively present his or her case  
5 against an adverse party. [Citation.]”<sup>6</sup>

6           5.     “A ‘real party in interest’ under NRCP 17(a) is one who possesses the right  
7 to enforce the claim and has a significant interest in the litigation. [Citation.] The question  
8 of standing is similar; it also focuses on the party seeking adjudication rather than on the  
9 issues sought to be adjudicated.”<sup>7</sup> “A party enjoys standing to bring his complaint into  
10 court if his stake in the resolution of that complaint assumes the proportions necessary to  
11 ensure that he will vigorously present his case. [Citation.] ... [W]e must determine  
12 standing by a measure of the ‘intensity of the plaintiff’s claim to justice.’ [Citation.]”<sup>8</sup>

13          6.     Further, the “court may not dismiss an action for failure to prosecute in the  
14 name of the real party in interest until, after an objection, a reasonable time has been  
15 allowed for the real party in interest to ratify, join, or be substituted into the action. After  
16 ratification, joinder, or substitution, the action proceeds as if it had been originally  
17 commenced by the real party in interest.”<sup>9</sup>

18          7.     In the instant case, SLC enjoys standing because it has a significant stake in  
19 the resolution of this case. First, Hamid Sheikhai (“Sheikhai”) established the “Zip Zap  
20 Auto” name in 1999 in California, and opened a Las Vegas location in 2011. Zip Zap was  
21 registered as the Fictitious Firm Name for an entity that Sheikhai created, Samir, LLC  
22 and, later, registered as the Fictitious Firm Name for SLC. Sheikhai was and is the sole  
23 owner of SLC. As such, SLC has sufficient interest in the litigation.

24  
25  
26 <sup>6</sup> *Schwartz v. Lopez*, 132 Nev. 732, 743, 382 P.3d 886, 894 (2016).

27 <sup>7</sup> *Szilagyi v. Testa*, 99 Nev. 834, 838, 673 P.2d 495, 498 (1983), citing *Harman v. City &*  
*Cty. of San Francisco*, 7 Cal. 3d 150, 159, 496 P.2d 1248, 1254 (1972).

28 <sup>8</sup> *Harman*, 7 Cal. 3d at 159.

<sup>9</sup> Nev. R. Civ. P. 17(a)(3).

1           **C. Defendants Were Not Parties to or Third-Party Beneficiaries of the**  
2           **Stipulated Settlement that Resolved Prior Cases Involving Sheikhai and SLC**

3           8. From March 2018 through September 2019, Sheikhai and Victor Botnari  
4 (“Botnari”) filed several lawsuits against each other, both individually and on behalf of  
5 various entities, including Case Nos. A-19-0805955-C (“Vitiok Case”), D-18-575686-L,  
6 and A-19-801513-P (collectively, “Sheikhai Cases”).

7           9. Defendants were not named as parties at the beginning of any of the  
8 Sheikhai Cases and Sheikhai’s request for leave to assert claims against Defendants in the  
9 Vitiok Case was denied; therefore, none of the Defendants was ever a party to any of the  
10 Sheikhai Cases.

11          10. The parties to the Sheikhai Cases executed a Stipulated Settlement resolving  
12 the Sheikhai Cases and filed a Stipulation for Dismissal of Action regarding the Sheikhai  
13 Cases. Defendants were not parties to or third-party beneficiaries of the Stipulated  
14 Settlement that resolved the Sheikhai Cases.

15          11. Thus, claims against Defendants were not dismissed or resolved through any  
16 of the Sheikhai Cases, nor are they barred by the Stipulated Settlement or the Stipulation  
17 for Dismissal of Action.

18           **D. Defendants Failed to Provide Evidence that They are Entitled to**  
19           **Judgment as a Matter of Law on Any of SLC’s Claims**

20           SLC’s First Claim for Misappropriation of Trade Secrets

21          12. The elements of a misappropriation of trade secrets claim include: “(1) a  
22 valuable trade secret; (2) misappropriation of the trade secret. . . ; and (3) the requirement  
23 that the misappropriation be wrongful because it was made in breach of an express or  
24 implied contract or by a party with a duty not to disclose.”<sup>10</sup>

25          13. “Improper means” for the purposes of a misappropriation of trade secrets  
26 claim includes theft.<sup>11</sup>

27  
28 <sup>10</sup> *Frantz v. Johnson*, 116 Nev. 455, 466, 999 P.2d 351, 358 (2000) (footnotes omitted).

<sup>11</sup> NRS 600A.030.



14. Zip Zap Auto is the fictitious firm name for SLC. Defendants bear the initial burden of production to show the absence of a genuine issue of material fact and must do so with admissible evidence, but Defendants failed to present evidence that the trade secret at issue in the Complaint does not belong to SLC.<sup>12</sup>

15. Similarly, Defendants failed to present evidence that Defendants did not obtain by theft the trade secret at issue in the Complaint.<sup>13</sup>

#### SLC's Second Claim for Deceptive Trade Practices

16. Defendants bear the initial burden of production to show the absence of a genuine issue of material fact and must do so with admissible evidence, but Defendants did not present evidence that SLC lacks standing to assert the claim for deceptive trade practices.<sup>14</sup> Similarly, Defendants did not present evidence that defeats any of the elements of the deceptive trade practices claim.<sup>15</sup>

17. Defendants' conclusory allegations are insufficient to warrant summary judgment on SLC's claim for deceptive trade practices.<sup>16</sup>

#### SLC's Third Claim for Defamation

18. The elements of a defamation claim are: "(1) A false and defamatory statement; (2) Unprivileged publication to a third person; (3) Fault, amounting to at least negligence; and (4) Actual or presumed damages."<sup>17</sup>

19. Defendants bear the initial burden of production to show the absence of a genuine issue of material fact and must do so with admissible evidence, but Defendants did not present evidence that SLC lacks standing to assert the claim for defamation.<sup>18</sup>

<sup>12</sup> See *Cuzze*, 123 Nev. at 602; see also Nev. R. Civ. P. 56(c)(2) (evidence in support of motion for summary judgment must be admissible); NRS 52.015 (requiring "authentication or identification" for evidence to be admissible); NRS 52.025 (requiring personal knowledge for authentication or identification of evidence).

<sup>13</sup> See *Cuzze*, 123 Nev. at 602; Nev. R. Civ. P. 56(c)(2); NRS 52.015; NRS 52.025.

<sup>14</sup> See *Cuzze*, 123 Nev. at 602; Nev. R. Civ. P. 56(c)(2); NRS 52.015; NRS 52.025.

<sup>15</sup> See *Cuzze*, 123 Nev. at 602; Nev. R. Civ. P. 56(c)(2); NRS 52.015; NRS 52.025.

<sup>16</sup> See *Cuzze*, 123 Nev. at 602; Nev. R. Civ. P. 56(c)(2); NRS 52.015; NRS 52.025.

<sup>17</sup> *Pope v. Motel 6*, 121 Nev. 307, 315, 114 P.3d 277 (2005) (citation omitted).

<sup>18</sup> See *Cuzze*, 123 Nev. at 602; Nev. R. Civ. P. 56(c)(2); NRS 52.015; NRS 52.025.

1 Similarly, Defendants did not present evidence that defeats any of the elements of the  
2 defamation claim.<sup>19</sup>

3 20. Defendants' conclusory allegations are insufficient to warrant summary  
4 judgment for SLC's claim for defamation.<sup>20</sup>

5 SLC's Fourth Claim for Interference with Prospective Economic Advantage

6 21. "The following elements must be proven to establish the tort of interference  
7 with prospective business advantage:

8 (1) a prospective contractual relationship between the plaintiff and a third  
9 party; (2) the defendant's knowledge of this prospective relationship;  
10 (3) the intent to harm the plaintiff by preventing the relationship; (4) the  
11 absence of privilege or justification by the defendant; and, (5) actual harm  
to the plaintiff as a result of the defendant's conduct."<sup>21</sup>

12 22. Defendants bear the initial burden of production to show the absence of a  
13 genuine issue of material fact and must do so with admissible evidence, but Defendants  
14 did not present evidence that SLC lacks standing to assert the claim for interference with  
15 prospective economic advantage.<sup>22</sup> Similarly, Defendants did not present evidence that  
16 defeats the elements of the claim for interference with prospective economic advantage.<sup>23</sup>

17 SLC's Fifth Claim for Civil Conspiracy

18 23. Civil conspiracy "consists of a combination of two or more persons who, by  
19 some concerted action, intend to accomplish an unlawful objective for the purpose of  
20 harming another, and damage results from the act or acts."<sup>24</sup> A claim for civil conspiracy

21  
22  
23 <sup>19</sup> See *Cuzze*, 123 Nev. at 602; Nev. R. Civ. P. 56(c)(2); NRS 52.015; NRS 52.025.

24 <sup>20</sup> See *Cuzze*, 123 Nev. at 602; Nev. R. Civ. P. 56(c)(2); NRS 52.015; NRS 52.025.

25 <sup>21</sup> *Consol. Generator-Nevada, Inc. v. Cummins Engine Co.*, 114 Nev. 1304, 1311, 971  
26 P.2d 1251, 1255 (1998) (internal quotation marks and citations omitted).

27 <sup>22</sup> See *Cuzze*, 123 Nev. at 602; Nev. R. Civ. P. 56(c)(2); NRS 52.015; NRS 52.025.

28 <sup>23</sup> See *Cuzze*, 123 Nev. at 602; Nev. R. Civ. P. 56(c)(2); NRS 52.015; NRS 52.025.

<sup>24</sup> *Consolidated-Generator Nevada*, 971 P.2d at 1256 (internal quotation marks and  
citations omitted).

1 requires (1) the commission of an underlying tort and (2) an agreement between the  
2 defendants to commit that tort.<sup>25</sup>

3       24. Defendants bear the initial burden of production to show the absence of a  
4 genuine issue of material fact and must do so with admissible evidence, but Defendants  
5 did not present evidence that SLC lacks standing to assert the claim for interference with  
6 prospective economic advantage, civil conspiracy, and conversion / trespass to chattel.<sup>26</sup>  
7 Similarly, Defendants did not present evidence that defeats any of the elements of the  
8 claims for interference with prospective economic advantage, civil conspiracy, and  
9 conversion / trespass to chattel.<sup>27</sup>

10 SLC's Sixth Claim for Conversion / Trespass to Chattel

11       25. "The elements of conversion are (1) the plaintiff's ownership or right to  
12 possession of the property; (2) the defendant's conversion by wrongful act inconsistent  
13 with the property rights of the plaintiff; and (3) damages."<sup>28</sup>

14       26. Defendants bear the initial burden of production to show the absence of a  
15 genuine issue of material fact and must do so with admissible evidence, but Defendants  
16 did not present evidence that SLC lacks standing to assert the claim for conversion /  
17 trespass to chattel.<sup>29</sup> Similarly, Defendants did not present evidence that defeats any of the  
18 elements of the claim for conversion / trespass to chattel.<sup>30</sup>

19 SLC's Seventh Claim for Unjust Enrichment

20       27. "Unjust enrichment exists when the plaintiff confers a benefit on the  
21 defendant, the defendant appreciates such benefit, and there is acceptance and retention by  
22

---

23 <sup>25</sup> *Lalitag v. Money First Fin. Servs., Inc.*, No. 2:09-cv-02268-LRH-RJJ, 2010 WL  
24 2925875, at \*2 (D. Nev. July 20, 2010) (citing *GES, Inc. v. Corbitt*, 21 P.3d 11, 15 (Nev.  
25 2001)).

26 <sup>26</sup> See *Cuzze*, 123 Nev. at 602; Nev. R. Civ. P. 56(c)(2); NRS 52.015; NRS 52.025.

27 <sup>27</sup> See *Cuzze*, 123 Nev. at 602; Nev. R. Civ. P. 56(c)(2); NRS 52.015; NRS 52.025.

28 <sup>28</sup> *In re Emery*, 317 F.3d 1064, 1069 (9th Cir. 2003).

<sup>29</sup> See *Cuzze*, 123 Nev. at 602; Nev. R. Civ. P. 56(c)(2); NRS 52.015; NRS 52.025.

<sup>30</sup> See *Cuzze*, 123 Nev. at 602; Nev. R. Civ. P. 56(c)(2); NRS 52.015; NRS 52.025.

1 the defendant of such benefit under circumstances such that it would be inequitable for  
2 him to retain the benefit without payment of the value thereof.”<sup>31</sup>

3 28. “[B]enefit’ in the unjust enrichment context can include services beneficial  
4 to or at the request of the other, denotes any form of advantage, and is not confined to  
5 retention of money or property. ... [T]he basis of recovery on quantum meruit ... is that a  
6 party has received from another a benefit which is unjust for him to retain without paying  
7 for it.”<sup>32</sup>

8 29. Defendants bear the initial burden of production to show the absence of a  
9 genuine issue of material fact and must do so with admissible evidence, but Defendants  
10 did not present evidence that SLC lacks standing to assert the claim for unjust  
11 enrichment.<sup>33</sup> Similarly, Defendants did not present evidence that defeats any of the  
12 elements of the claim for unjust enrichment.<sup>34</sup>

13 30. Further, Nevada law does not require dealings between the parties for a  
14 claim for unjust enrichment to stand; rather, the defendant must benefit from any form of  
15 advantage.<sup>35</sup> Here, Defendants do not provide any evidence clearing them of the  
16 allegations in the Complaint that Defendants, or any of them, took or used the confidential  
17 customer list, or made false statements about SLC d/b/a Zip Zap Auto, or benefited from  
18 any wrongdoing.

19 **E. Defendants’ Abuse of Process Claim is Based on Disputed Facts**

20 31. “The two elements required to establish the tort of abuse of process are:  
21 (1) an ulterior purpose by the defendants other than resolving a legal dispute, and (2) a  
22 willful act in the use of the legal process not proper in the regular conduct of the  
23 proceeding.”<sup>36</sup>

24 <sup>31</sup> *Certified Fire Prot. Inc. v. Precision Constr.*, 128 Nev. 371, 381–82, 283 P.3d 250,  
25 257–58 (2012) (internal quotation marks and citations omitted).

26 <sup>32</sup> *Id.* (internal quotation marks and citations omitted).

27 <sup>33</sup> *See Cuzze*, 123 Nev. at 602; Nev. R. Civ. P. 56(c)(2); NRS 52.015; NRS 52.025.

28 <sup>34</sup> *See Cuzze*, 123 Nev. at 602; Nev. R. Civ. P. 56(c)(2); NRS 52.015; NRS 52.025.

<sup>35</sup> *Certified Fire Prot.*, 128 Nev. at 382.

<sup>36</sup> *Kovacs v. Acosta*, 106 Nev. 57, 59, 787 P.2d 368, 369 (1990).

1           32. Defendants did not present evidence supporting the elements of the  
2 counterclaim for abuse of process.<sup>37</sup> Defendants conclusory allegations regarding  
3 Defendants supposedly being parties to the Sheikhai Cases or to the Stipulated Settlement  
4 are insufficient because summary judgment is only appropriate where the moving party  
5 can show that there cannot be or is not any genuine dispute as to any material facts.<sup>38</sup>  
6 Thus, Defendants are not entitled to summary judgment of the Counterclaim.

7           **F. Neither Defendants nor SLC is Entitled to Recover Attorneys' Fees**  
8           **Based on the Outcome of the Motion**

9           33. A court “may award to the prevailing party the reasonable expenses,  
10 including attorney fees, incurred for presenting or opposing the [Rule 11] motion” for  
11 sanctions.<sup>39</sup>

12           34. “A motion for sanctions must be made separately from any other motion.”<sup>40</sup>  
13 “The motion must be served ... but it must not be filed or be presented to the court” until  
14 the movant provides a “21 days” safe harbor period to withdraw or correct the purportedly  
15 offending pleading.<sup>41</sup>

16           35. A Court “may award to the prevailing party the reasonable expenses,  
17 including attorney fees, incurred for ... opposing the motion” seeking Rule 11 sanctions.<sup>42</sup>

18           36. Here, Defendants failed to follow any of the procedural requirements for  
19 sanctions under Rule 11. Defendants included the request for Rule 11 sanctions at the end  
20 of the Motion and did not file a separate motion for Rule 11 sanctions. Nor did Defendants  
21 provide any safe harbor period to SLC.

22           37. Neither Defendants nor SLC may recover sanctions or fees under Nev. R.  
23 Civ. P. 11.

24 \_\_\_\_\_  
25 <sup>37</sup> See *Cuzze*, 123 Nev. at 602; Nev. R. Civ. P. 56(c)(2); NRS 52.015; NRS 52.025.

26 <sup>38</sup> Nev. R. Civ. P. 56(c)(2).

27 <sup>39</sup> Nev. R. Civ. P., Rule 11(c)(2).

28 <sup>40</sup> *Id.*

<sup>41</sup> *Id.*

<sup>42</sup> *Id.*

1 **II. ORDER**

2 Given the above outlined findings, this Court hereby ORDERS:

- 3 1. the Motion is DENIED in its entirety;  
4 2. SLC's request for attorneys' fees is DENIED.

5 **IT IS SO ORDERED**

6 DATED this \_\_\_\_ day of May 2022.

7 Dated this 21st day of June, 2022

8 

9 Submitted by:

10 **ENENSTEIN PHAM & GLASS**

1F8 57E 7011 B395  
Nadia Krall  
District Court Judge

11  
12 By: 

13 Robert A. Rabbat  
14 Nevada Bar Number 12633  
15 *rrabbat@enensteinlaw.com*  
16 11920 Southern Highlands Pkwy., Suite 103  
17 Las Vegas, Nevada 89141  
18 Telephone: (702) 468-0808  
19 Facsimile: (702) 920-8228  
20 *Attorneys for Plaintiff/Counter-Defendant SLC LLC*

21 Approved as to **FORM ONLY**:

22 **HOFLAND & TOMSHECK**

23 By: /s/ Bradley J. Hofland  
24 Bradley J. Hofland, Esq.  
25 Nevada Bar Number: 6343  
26 *bradh@hoflandlaw.com*  
27 228 South 4th Street, 1st Floor  
28 Las Vegas, Nevada 89101  
Telephones: (702) 895-6760  
Facsimile: (702) 731-6910  
*Attorneys for Defendants/Counter-Claimants*

## Lauren Verbanik

---

**From:** Brad Hofland <BradH@hoflandlaw.com>  
**Sent:** Wednesday, May 11, 2022 2:26 PM  
**To:** Matt Rosene  
**Cc:** Robert Rabbat; Lauren Verbanik; Clerk  
**Subject:** RE: SLC v. Mereora et al. - Draft Proposed Order

In follow up to our conversation, I reviewed the proposed order and consent to my electronic signature being added as to agreeing to form - only.

As I am not aware of what findings the Court relied upon in issuing its order denying our motion, I unable to direct you to remove any particular finding and thus I cannot agree to its content.

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  
Facsimile (702) 731-6910

*Hofland & Tomsheck*

ATTORNEYS AND COUNSELORS AT LAW

**NOTICE:** The above information is for the sole use of the intended recipient and contains information belonging to Hofland & Tomsheck, which is confidential and may be legally privileged. If you are not the intended recipient, or believe that you have received this communication in error, you are hereby notified that any printing, copying, distribution, use or taking of any action in reliance on the contents of this e-mail information is strictly prohibited. If you have received this e-mail in error, please immediately (1) notify the sender by reply e-mail; (2) call our office at (702) 895-6760 to inform the sender of the error; and (3) destroy all copies of the original message, including ones on your computer system and all drives.

In accordance with Internal Revenue Service Circular 230, we advise you that if this e-mail contains any tax advice, such tax advice was not intended or written to be used and it cannot be used, by any taxpayer for the purpose of avoiding penalties that may be imposed on the taxpayer.

---

**From:** Matt Rosene <mrosene@enensteinlaw.com>  
**Sent:** Tuesday, May 10, 2022 1:25 PM  
**To:** Brad Hofland <BradH@hoflandlaw.com>  
**Cc:** Robert Rabbat <rrabbat@enensteinlaw.com>; Lauren Verbanik <lverbanik@enensteinlaw.com>  
**Subject:** RE: SLC v. Mereora et al. - Draft Proposed Order

Counsel,

Following up on the draft proposed order. As you know, it's due tomorrow. Please let us know whether you approve or have any suggested edits.

Best,

Matt

**Matthew W. Rosene, Esq.**  
Enenstein Pham & Glass LLP

---

**From:** Matt Rosene  
**Sent:** Friday, May 6, 2022 11:38 AM  
**To:** [bradh@hoflandlaw.com](mailto:bradh@hoflandlaw.com)  
**Cc:** Robert Rabbat <[rrabbat@enensteinlaw.com](mailto:rrabbat@enensteinlaw.com)>; Lauren Verbanik <[lverbanik@enensteinlaw.com](mailto:lverbanik@enensteinlaw.com)>  
**Subject:** SLC v. Mereora et al. - Draft Proposed Order

Counsel,

Find attached the draft Proposed Order on defendants' motion for summary judgment. As you know, the court instructed plaintiff to draft and circulate a proposed order for your signature. Please provide approval and permission to include your "/s/" signature, or return a revised version with your suggested edits tracked in redline.

Best,

Matt

**Matthew W. Rosene, Esq.**  
Enenstein Pham & Glass LLP



**Orange County Office**  
650 Town Center Drive  
Suite 840  
Costa Mesa, CA 92626  
Tel: 714.292.0262  
Fax: 714.464.4770

**Los Angeles Office**  
12121 Wilshire Blvd.  
Suite 600  
Los Angeles, CA 90025  
Tel: 310-899-2070  
Fax: 310-496-1930  
[mrosene@enensteinlaw.com](mailto:mrosene@enensteinlaw.com)  
[www.enensteinlaw.com](http://www.enensteinlaw.com)

This email and any attachments contain information from the law firm of ENENSTEIN PHAM & GLASS, which may be confidential and/or privileged. The information is intended to be for the use of the individual or entity named on this email. If you are not the intended recipient, be aware that any disclosure, copying, distribution or use of the contents of this email is prohibited. If you receive this email in error, please notify us by reply email immediately so that we can arrange for the retrieval of the original documents at no cost to you.



1 **CSERV**

2  
3 DISTRICT COURT  
CLARK COUNTY, NEVADA

4  
5  
6 SLC LLC, Plaintiff(s)

CASE NO: A-21-835625-C

7 vs.

DEPT. NO. Department 4

8 Larisa Mereora, Defendant(s)

9  
10 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 6/21/2022

15 Bradley Hofland

Bradh@hoflandlaw.com

16 Nikki Woulfe

clerk@hoflandlaw.com

17 Anna Stein

bhassistant@hoflandlaw.com

18 Robert Rabbat

rrabbat@enensteinlaw.com

19 Lauren Verbanik

lverbanik@enensteinlaw.com

20 Matthew Rosene

mrosene@enensteinlaw.com

21 Victor Botnari

botnari\_victor@yahoo.com

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**

Pursuant to Nev.R.Civ.P. 5(b), I hereby certify that on June 22, 2022, I served a true and correct copy of the foregoing **NOTICE OF ENTRY OF ORDER DENYING DEFENDANTS/COUNTER-CLAIMANTS' MOTION FOR SUMMARY JUDGMENT** electronically via the court's e-filing system Odyssey eFileNV, including the following interested parties named below:

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: bradh@hoflandlaw.com  
*Attorneys for Defendants*

/s/Lauren A. Verbanik  
Lauren Verbanik, *Paralegal*