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Clerk of Supreme Court

**ANOA**

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*Attorneys for Plaintiff Michael Tricarichi*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

MICHAEL A. TRICARICHI,	)	CASE NO. A-16-735910-B
	)	DEPT NO. XXXI
Plaintiff,	)	
	)	
v.	)	<b>PLAINTIFF'S AMENDED</b>
	)	<b>NOTICE OF APPEAL</b>
PRICEWATERHOUSECOOPERS LLP,	)	
	)	
Defendant.	)	
	)	

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Notice is hereby given that Plaintiff Michael Tricarichi hereby appeals to the Supreme

///

///

1 Court of Nevada from the final judgment issued on February 9, 2023, and entered in this action  
2 on February 22, 2023.

3 Dated: March 24, 2023.

SPERLING & SLATER, LLC

4 By: /s/ Ariel C. Johnson  
5 Brenoch R. Wirthlin  
6 Ariel C. Johnson  
7 HUTCHISON & STEFFEN, PLLC  
8 10080 West Alta Drive, Suite 200  
9 Las Vegas, NV 89145

10 Scott F. Hessell (*Pro Hac Vice*)  
11 Blake Sercye (*Pro Hac Vice*)  
12 55 West Monroe, Suite 3200  
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14 *Attorneys for Plaintiff Michael A. Tricarichi*  
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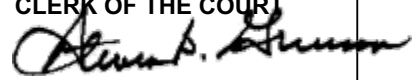
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**CERTIFICATE OF SERVICE**

Pursuant to NRCP 5(b), I certify that I am an employee of Hutchison & Steffen, PLLC and that on this 24<sup>th</sup> day of March, 2023, I caused the above and foregoing documents entitled **PLAINTIFF’S AMENDED NOTICE OF APPEAL** to be served through the Court's mandatory electronic service system, per EDCR 8.02, upon the following:

**ALL PARTIES ON THE E-SERVICE LIST**

/s/ Madelyn B. Carnate-Peralta  
An employee of Hutchison & Steffen, LLC



**ACAS**

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*Attorneys for Plaintiff Michael Tricarichi*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

MICHAEL A. TRICARICHI,	)	CASE NO. A-16-735910-B
	)	DEPT NO. XXXI
Plaintiff,	)	
	)	
v.	)	<b>PLAINTIFF'S AMENDED CASE</b>
	)	<b>APPEAL STATEMENT</b>
PRICEWATERHOUSECOOPERS LLP,	)	
	)	
Defendant.	)	

**1. NAME OF APPELLANT FILING THIS CASE APPEAL STATEMENT**

Michael Tricarichi

**2. JUDGE ISSUING THE DECISION JUDGMENT, OR ORDER APPEALED FROM**

The Honorable Joanna Kishner

3. **NAME OF EACH APPELLANT AND THE NAME AND ADDRESS OF COUNSEL  
FOR EACH APPELLANT**

a. **Appellant:**

Michael Tricarichi

b. **Appellant's Counsel:**

Brenoch R. Wirthlin (NV Bar No. 10282)  
Ariel C. Johnson (NV Bar No. 13357)  
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bsercye@sperling-law.com

4. **NAME OF RESPONDENT AND ADDRESS OF APPELLATE COUNSEL FOR  
RESPONDENT**

**Respondent:**

PricewaterhouseCoopers, LLP ("PwC")

**Respondent's Counsel:**

Patrick Byrne, Esq. (NV Bar No. 7636)  
Bradley T. Austin, Esq. (NV Bar No. 13064)  
SNELL & WILMER L.L.P.  
3883 Howard Hughes Parkway, Suite 1100  
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Christopher D. Landgraff, Esq. (Admitted *Pro Hac Vice*)  
Katharine A. Roin, Esq. (Admitted *Pro Hac Vice*)  
Alexandra R. Genord, Esq. (Admitted *Pro Hac Vice*)  
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alexandra.genord@bartlitbeck.com

Sundee K. (Rob) Addy, Esq. (Admitted *Pro Hac Vice*)  
Daniel C. Taylor, Esq. (Admitted *Pro Hac Vice*)  
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daniel.taylor@bartlitbeck.com

5. **WHETHER COUNSEL LISTED ABOVE IS NOT LICENSED TO PRACTICE  
LAW IN NEVADA**

The following counsel listed above is admitted to practice law in Nevada:

Appellant's Counsel:

Mark A. Hutchison (NV Bar No. 4639)  
Brenoch R. Wirthlin (NV Bar No. 10282)  
Ariel C. Johnson (NV Bar No. 13357)  
(HUTCHISON & STEFFEN, PLLC)

Respondent's Counsel:

Patrick Byrne, Esq. (NV Bar No. 7636)  
Bradley T. Austin, Esq. (NV Bar No. 13064)  
(SNELL & WILMER L.L.P.)

The following counsel listed above are not admitted to practice law in Nevada but have  
been admitted pro hac vice.

Appellant's Counsel<sup>1</sup>:

Scott F. Hessell (Admitted *Pro Hac Vice*)

---

<sup>1</sup> Pursuant NRAP 3(f)(3)(E), the Orders Admitting to Practice each of Appellant's two (2) non-Nevada-licensed counsel are attached hereto as Exhibit 1 (Scott Hessell) and Exhibit 2 (Blake Sercye).

Blake Sercye (Admitted *Pro Hac Vice*)  
(SPERLING & SLATER, LLC)

Respondent's Counsel<sup>2</sup>:

Mark L. Levine, Esq. (Admitted *Pro Hac Vice*)  
Christopher D. Landgraff, Esq. (Admitted *Pro Hac Vice*)  
Katharine A. Roin, Esq. (Admitted *Pro Hac Vice*)  
Alexandra R. Genord, Esq. (Admitted *Pro Hac Vice*)  
Sundeep K. (Rob) Addy, Esq. (Admitted *Pro Hac Vice*)  
Daniel C. Taylor, Esq. (Admitted *Pro Hac Vice*)  
(BARTLIT BECK LLP)

**6. WHETHER APPELLANT IS REPRESENTED BY APPOINTED OR RETAINED COUNSEL IN THE DISTRICT COURT**

Michael Tricarichi was represented by retained counsel in the District Court.

**7. WHETHER APPELLANT IS REPRESENTED BY APPOINTED OR RETAINED COUNSEL ON APPEAL**

Michael Tricarichi is represented by retained counsel on appeal.

**8. WHETHER APPELLANT IS GRANTED LEAVE TO PROCEED IN FORMA PAUPERIS, AND THE DATE OF ENTRY OF THE DISTRICT COURT ORDER GRANTING SUCH LEAVE**

Michael Tricarichi has not moved for leave to proceed in forma pauperis.

**9. DATE THE PROCEEDINGS COMMENCED IN DISTRICT COURT**

April 29, 2016.

**10. BRIEF DESCRIPTION OF THE NATURE OF THE ACTION AND RESULT**

Michael Tricarichi sued PwC for accounting malpractice relating to the 2003 stock sale of his company, Westside Cellular ("Westside"). Before the sale, Westside had received a large settlement payment to resolve antitrust litigation, and as part of the settlement, Tricarichi agreed to exit his company from the cellular-phone business. Tricarichi thus considered options, including a stock sale through an intermediary (or "Midco") transaction, which was proposed to

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<sup>2</sup> Pursuant to NRAP 3(f)(3)(E), the Orders Granting Motions to Associate all six (6) of Respondent's non-Nevada-licensed counsel and admit them to practice in Nevada in this case are attached hereto as Exhibit 3 (admitting Chris Landgraff, Mark Levine, and David Taylor), Exhibit 4 (admitting Katharine Roin), Exhibit 5 (admitting Alexandra Genord), and Exhibit 6 (admitting Sundeep "Rob" Addy).

1 him as a tax-efficient solution that would avoid double taxation of the settlement payment.  
2 Because Tricarichi is not sophisticated in tax-related matters, he engaged PwC to evaluate the  
3 proposed Midco transaction, and he relied on PwC's tax expertise in deciding whether to proceed.

4 But despite investigating the financial condition of the purchasing entity, PwC did not  
5 advise Tricarichi that the purchasing entity lacked sufficient funds to cover its warranty of  
6 Westside's 2003 tax liability. And despite the proposed transaction's substantial similarity to the  
7 intermediary transactions listed in an IRS notice as abusive tax shelters, PwC did not tell  
8 Tricarichi about that substantial similarity or otherwise warn him that the proposed transaction  
9 would be deemed abusive. To the contrary, PwC advised Tricarichi that the proposed transaction  
10 *was not* substantially similar to the transactions listed in the IRS notice and that, even if the IRS  
11 was to disallow the purchasing entity's attempt to offset Westside's large taxable gain, Tricarichi  
12 would not be exposed to transferee liability. In short, rather than advising Tricarichi not to proceed  
13 with the transaction, PwC advised there was no reason not to proceed.

14  
15 After relying on PwC's advice and closing the transaction, Tricarichi had no way of  
16 knowing that the advice he received was negligent. PwC concealed its negligence from Tricarichi,  
17 and the IRS did not begin auditing Westside's 2003 income tax return until 2008. That audit was  
18 not completed until February 2009 and the IRS did not finalize its transferee report until August  
19 2009. After Tricarichi objected to that report, the IRS and Tricarichi tried to resolve their  
20 disagreement until early 2012. And throughout the entire process of the audit and the subsequent  
21 negotiations, PwC kept its malpractice concealed from Tricarichi, even as he continued to rely on  
22 PwC's advice. It was not until June 2012, after the negotiations between the IRS and Tricarichi  
23 ended, that the IRS sent a notice of transferee liability to Tricarichi—who then entered into a  
24 series of tolling agreements with PwC, retroactive to January 2011, under which PwC agreed to  
25 waive any defense based on the expiration of the statute of limitations during the tolling period.  
26  
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1 Tricarichi commenced this action on April 29, 2016. The District Court (Judge Elizabeth  
2 Gonzalez) granted summary judgment to PwC on October 24, 2018, finding that Tricarichi should  
3 have known about PwC's malpractice when he learned about the IRS audit of Westside in 2008  
4 and, thus, that the statute of limitations expired on Tricarichi's claims in 2010. But Judge  
5 Gonzalez recognized that Tricarichi could plead claims related to the transaction arising in 2008  
6 against PwC, to the extent Tricarichi had such claims. On March 26, 2019, the Court granted  
7 Tricarichi leave to file an amended complaint. Tricarichi filed his amended complaint on April 1,  
8 2019, asserting that PwC committed accounting malpractice by failing to advise him about the  
9 risks of his transaction despite being required to do so by IRS notice issued in 2008 and accounting  
10 duties.  
11

12 On November 13, 2020, PwC filed a motion for summary judgment and motion to strike  
13 Tricarichi's jury demand. PwC asserted that Tricarichi's jury demand was forbidden by a rider  
14 attached to his engagement letter with PwC. But Tricarichi maintained that he never received the  
15 rider containing the purported jury trial waiver and that he was not otherwise bound by the waiver  
16 as a matter of law. On January 5, 2021, Judge Gonzalez denied PwC's motion to strike Plaintiff's  
17 jury demand. On mandamus, Judge Joanna Kishner, who replaced Judge Gonzalez, entered an  
18 April 29, 2022, order ruling that Plaintiff was bound by a jury trial waiver under the factors  
19 identified in *Lowe Enters. Residential Partners, L.P. v. Eighth Judicial Dist. Court*, 118 Nev. 92  
20 (2002).  
21

22 The matter proceeded to trial on Plaintiff's amended complaint. The district court, in its  
23 Findings of Fact and Conclusions of Law and Judgment, entered on February 22, 2023, ruled in  
24 favor of PwC at trial.  
25

26 Plaintiff seeks to appeal the district court's: (1) October 24, 2018 summary judgment  
27 ruling, and any related rulings, that claims arising from the services PwC provided to Plaintiff in  
28 2003 are time barred, and (2) April 29, 2022 ruling that Plaintiff was bound by a jury trial waiver

under the factors identified in *Lowe Enters. Residential Partners, L.P. v. Eighth Judicial Dist. Court*, 118 Nev. 92 (2002).

11. **PREVIOUS APPEAL OR WRIT PROCEEDING**

One Appeal and one Writ proceeding occurred in this case, as follows:

**SUPREME COURT NO. 73175**, with the following caption:

MICHAEL A. TRICARICHI,

*Appellant,*

v.

COOPERATIVE RABOBANK, U.A. UTRECHT-AMERICA FINANCE CO.; AND  
SEYFARTH SHAW LLP,

*Respondents.*

**SUPREME COURT NO. 82371**, captioned as follows:

PRICEWATERHOUSECOOPERS LLP,

*Petitioner,*

v.

THE EIGHTH JUDICIAL DISTRICT COURT, IN AND FOR THE COUNTY OF  
CLARK, STATE OF NEVADA, AND THE HONORABLE ELIZABETH  
GONZALEZ,

*Respondents,*

and

MICHAEL A. TRICARICHI,

*Real party in interest.*

12. **CHILD CUSTODY OR VISITATION**

This appeal does not concern child custody or visitation.

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///

13. **POSSIBILITY OF SETTLEMENT**

Possible.

Dated: March 24, 2023.

SPERLING & SLATER, LLC

By: /s/ Ariel C. Johnson

Brenoch R. Wirthlin (10282)

Ariel C. Johnson (13357)

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*Attorneys for Plaintiff Michael A. Tricarichi*

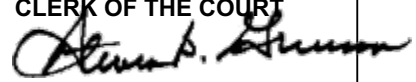
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**CERTIFICATE OF SERVICE**

Pursuant to NRCP 5(b), I certify that I am an employee of Hutchison & Steffen, PLLC and that on this 24<sup>th</sup> day of March, 2023, I caused the above and foregoing documents entitled **PLAINTIFF’S AMENDED CASE APPEAL STATEMENT** to be served through the Court's mandatory electronic service system, per EDCR 8.02, upon the following:

**ALL PARTIES ON THE E-SERVICE LIST**

/s/ Madelyn B. Carnate-Peralta  
An employee of Hutchison & Steffen, LLC



**ERR**

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*Attorneys for Plaintiff Michael Tricarichi*

DISTRICT COURT

CLARK COUNTY, NEVADA

MICHAEL A. TRICARICHI,	)	CASE NO. A-16-735910-B
	)	DEPT NO. XXXI
Plaintiff,	)	
	)	
v.	)	<b>ERRATA TO PLAINTIFF'S</b>
	)	<b>AMENDED CASE APPEAL</b>
PRICEWATERHOUSECOOPERS LLP,	)	<b>STATEMENT</b>
	)	
Defendant.	)	

Plaintiff Michael Tricarichi ("Plaintiff") hereby submits this Errata to Plaintiff's Amended Case Appeal Statement which contains Exhibits 1 through 6 (the "Exhibits"). These same Exhibits were attached to Plaintiff's original Case Appeal Statement filed on March 23, 2023, but, due to a clerical error, were inadvertently left out of Plaintiff's **Amended** Case Appeal Statement

1 filed on March 24, 2023. Plaintiff hereby incorporates and provides these Exhibits as part of this  
2 Errata.

3 Dated: March 24, 2023.

SPERLING & SLATER, LLC

4 By: /s/ Ariel C. Johnson

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7 Scott F. Hessell (Pro Hac Vice)  
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Chicago, IL 60603

10 *Attorneys for Plaintiff Michael A. Tricarichi*

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**CERTIFICATE OF SERVICE**

Pursuant to NRCP 5(b), I certify that I am an employee of Hutchison & Steffen, PLLC and that on this 24<sup>th</sup> day of March, 2023, I caused the above and foregoing documents entitled **ERRATA TO PLAINTIFF’S AMENDED CASE APPEAL STATEMENT** to be served through the Court's mandatory electronic service system, per EDCR 8.02, upon the following:

**ALL PARTIES ON THE E-SERVICE LIST**

/s/ Madelyn B. Carnate-Peralta  
An employee of Hutchison & Steffen, LLC

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EXHIBIT PAGE ONLY

## EXHIBIT 1

HUTCHISON & STEFFEN  
A PROFESSIONAL LLC



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Todd L. Moody (5430)  
Todd W. Prall (9154)  
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*Attorneys for Plaintiff*

CLARK COUNTY, NEVADA

V.

Defendants.

CASE NO. A-16-735910-B  
DEPT NO. XV

## ORDER ADMITTING TO PRACTICE

///

HUTCHISON &amp; STEFFEN

A PROFESSIONAL LLC

PECCOLE PROFESSIONAL PARK  
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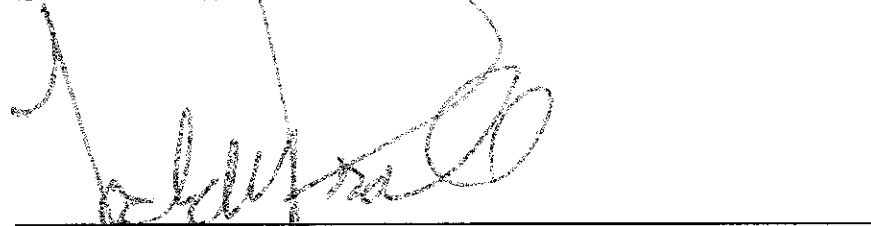
Scott F. Hessel, Esq. having filed his Motion To Associate counsel under Nevada Supreme Court Rule 42, together with a Verified Application for Association of Counsel, a Certificate of Good Standing for the State of Chicago, and the State Bar of Nevada Statement; said application having been noticed, no objections having been made, and the Court being fully apprised in the premises, and good cause appearing, it is hereby

ORDERED, that said application is hereby granted, and Scott F. Hessel, Esq. is hereby admitted to practice in the above entitled Court for the purpose of the above entitled matter only.

DATED this 18<sup>th</sup> day of July, 2016

  
DISTRICT COURT JUDGE

SUBMITTED BY:



Mark A. Hutchison  
Todd L. Moody  
Todd W. Prall  
10080 West Alta Drive, Suite 200  
Las Vegas, NV 89145

Scott F. Hessel  
Thomas D. Brooks  
(Pro Hac Vice Application Pending)  
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Chicago, IL 60603

*Attorneys for Plaintiff*

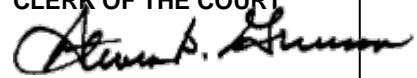
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EXHIBIT PAGE ONLY

## EXHIBIT 2

HUTCHISON & STEFFEN

---

A PROFESSIONAL LLC



**ORAP**

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Todd W. Prall (9154)  
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[tdbrooks@sperling-law.com](mailto:tdbrooks@sperling-law.com)

*Attorneys for Plaintiff*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

MICHAEL A. TRICARICHI,	)	CASE NO. A-16-735910-B
	)	DEPT NO. XI
Plaintiff,	)	
	)	
v.	)	<b>ORDER ADMITTING TO</b>
	)	<b>PRACTICE</b>
PRICEWATERHOUSECOOPERS, LLP,	)	
COÖPERATIEVE RABOBANK U.A.,	)	
UTRECHT-AMERICA FINANCE CO.,	)	
SEYFARTH SHAW LLP and GRAHAM R.	)	
TAYLOR,	)	
	)	
Defendants.	)	
_____	)	

Blake Phillip Sercye, Esq. having filed his Motion to Associate counsel under Nevada  
Supreme Court Rule 42, together with a Verified Application for Association of Counsel, a

1 Certificate of Good Standing for the State of Illinois, and the State Bar of Nevada Statement;  
2 said application having been noticed, no objections having been made, and the Court being fully  
3 apprised in the premises, and good cause appearing, it is hereby

4 ORDERED, that said application is hereby granted, and Blake Phillip Sercye, Esq. is  
5 hereby admitted to practice in the above entitled Court for the purpose of the above entitled  
6 matter only.  
7

8 By accepting this admission, Counsel agrees to submit to jurisdiction and appear without  
9 subpoena for any proceedings required by the Court which relate to Counsel's conduct in this  
10 matter including motions, depositions, and evidentiary hearings. SCR 42(13)(a).

11 DATED this 21st day of July, 2020.  
12

13   
14 DISTRICT COURT JUDGE  
15

16 SUBMITTED BY:

17  
18 /s/ Todd W. Prall  
19 Mark A. Hutchison (4639)  
Todd W. Prall (9154)  
20 HUTCHISON & STEFFEN, PLLC  
10080 West Alta Drive, Suite 200  
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22 Scott F. Hessel  
23 Thomas D. Brooks  
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25 Chicago, IL 60603

26 *Attorneys for Plaintiff*  
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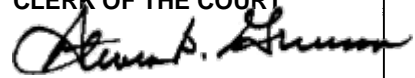
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## EXHIBIT 3

HUTCHISON & STEFFEN

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A PROFESSIONAL LLC



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*Attorneys for Defendant PricewaterhouseCoopers LLP*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

MICHAEL A. TRICARICHI,

Plaintiff,

v.

PRICewaterhouseCOOPERS LLP,  
COÖPERATIEVE RABOBANK U.A.,  
UTRECHT-AMERICA FINANCE CO.,  
SEYFARTH SHAW LLP and GRAHAM R.  
TAYLOR,

Defendants.

Case No. A-16-735910-B

Dept. No.: XI

**ORDER GRANTING DEFENDANT'S  
MOTIONS TO ASSOCIATE COUNSEL**

Defendants' Motions to Associate Counsel, having come before the court, the Court having reviewed the papers and pleadings on file herein, and without oral argument, finds as follows:


IT IS HEREBY ORDERED pursuant to EDCR 2.20(e) and EDCR 2.23(c), Defendant's Motions to Associate Daniel Charles Taylor, Esq., Krista Perry, Esq., Mark Levine, Esq., and Chris Landgraff, Esq. as Counsel are GRANTED.

By accepting this admission, Counsel agrees to submit to jurisdiction and appear without subpoena for any proceedings required by the Court which relate to Counsel's conduct in this matter including motions, depositions, and evidentiary hearings. SCR 42(13)(a).

DATED this 19 of September, 2019.

  
DISTRICT COURT JUDGE

Submitted by:

 #13075  
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*Attorneys for Defendant PricewaterhouseCoopers LLP*

4847-4387-2420



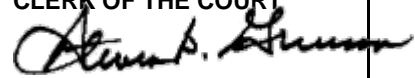
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## EXHIBIT 4

HUTCHISON & STEFFEN

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*Attorneys for Defendant PricewaterhouseCoopers LLP*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

MICHAEL A. TRICARICHI,  
  
Plaintiff,

v.

PRICEWATERHOUSECOOPERS LLP,  
COÖPERATIEVE RABOBANK U.A.,  
UTRECHT-AMERICA FINANCE CO.,  
SEYFARTH SHAW LLP and GRAHAM R.  
TAYLOR,  
  
Defendants.

Case No. A-16-735910-B

Dept. No.: XI

**ORDER GRANTING DEFENDANT'S  
MOTION TO ASSOCIATE COUNSEL**

Defendant's Motions to Associate Counsel, having come before the court, the Court having reviewed the papers and pleadings on file herein, and without oral argument, finds as follows:

IT IS HEREBY ORDERED that, pursuant to EDCR 2.20(e) and EDCR 2.23(c), Defendant's Motion to Associate Katharine Roin, Esq. as Counsel is GRANTED.

By accepting this admission, Counsel agrees to submit to jurisdiction and appear without subpoena for any proceedings required by the Court which relate to Counsel's conduct in this matter including motions, depositions, and evidentiary hearings. SCR 42(13)(a).

DATED this 6th of November, 2020.

  
DISTRICT COURT JUDGE

Submitted by:

/s/ Bradley Austin

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4841-7277-0001

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## EXHIBIT 5

HUTCHISON & STEFFEN

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*Attorneys for Defendant*  
*PricewaterhouseCoopers LLP*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

MICHAEL A. TRICARICHI,  
  
Plaintiff,

vs.

PRICEWATERHOUSECOOPERS LLP,  
  
Defendant.

CASE NO.: A-16-735910-B  
DEPT. NO.: XXXI

**ORDER GRANTING MOTION TO  
ASSOCIATE ALEXANDRA GENORD, ESQ.  
AS COUNSEL**

Alexandra Genord, Esq., having filed her Motion to Associate Counsel, together with her Verified Application for Association of Counsel under Nevada Supreme Court Rule 42, Certificate of Good Standing from the State of Illinois, and the State Bar of Nevada Statement;

Said Motion having been noticed and served on Plaintiff, no opposition having been made, the decision on said Motion being advanced at the request of PricewaterhouseCoopers LLP's ("PwC") counsel and pursuant to EDCR 2.23, and for good cause appearing:

**IT IS HEREBY ORDERED** that PwC's Motion to Associate Counsel is hereby **GRANTED**.

**IT IS HEREBY FURTHER ORDERED** that Alexandra Genord, Esq. is admitted to practice in the above-entitled Court for purposes of the above-entitled matter only. By accepting this admission, Counsel agrees to submit to the jurisdiction and appear without subpoena for any proceedings required by the Court which relate to Counsel's conduct in this matter including motions, depositions, evidentiary hearings, and trial. SCR 42(13)(a).

Dated this 1st day of November, 2022



F4A 077 D3FB 50B2  
Joanna S. Kishner  
District Court Judge

Respectfully submitted by:  
SNELL & WILMER L.L.P.

By: /s/ Bradley Austin  
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5 *PricewaterhouseCoopers LLP*

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7 4856-2182-4060  
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1 **CSERV**

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3 DISTRICT COURT  
CLARK COUNTY, NEVADA

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6 Michael Tricarichi, Plaintiff(s)

CASE NO: A-16-735910-B

7 vs.

DEPT. NO. Department 31

8 PricewaterhouseCoopers LLP,  
9 Defendant(s)

10  
11 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 11/1/2022

15 Brad Austin .

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18 Jeanne Forrest .

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19 Lyndsey Luxford .

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20 Maddy Carnate-Peralta .

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21 Patrick Byrne .

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22 Scott F. Hessell .

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23 Thomas D. Brooks .

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24 Todd Prall .

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25 Tom Brooks

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## EXHIBIT 6

HUTCHISON & STEFFEN

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A PROFESSIONAL LLC

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*Attorneys for Defendant*  
*PricewaterhouseCoopers LLP*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

MICHAEL A. TRICARICHI,  
  
Plaintiff,

vs.

PRICEWATERHOUSECOOPERS LLP,  
  
Defendant.

CASE NO.: A-16-735910-B  
DEPT. NO.: XXXI

**ORDER GRANTING MOTION TO  
ASSOCIATE SUNDEEP ADDY, ESQ. AS  
COUNSEL**

Sundee Addy, Esq., having filed his Motion to Associate Counsel, together with his Verified Application for Association of Counsel under Nevada Supreme Court Rule 42, Certificates of Good Standing from the State of Colorado and the State of Texas, and the State Bar of Nevada Statement;

Said Motion having been noticed and served on Plaintiff, no opposition having been made, the decision on said Motion being advanced at the request of PricewaterhouseCoopers LLP's ("PwC") counsel and pursuant to EDCR 2.23, and for good cause appearing:

**IT IS HEREBY ORDERED** that PwC's Motion to Associate Counsel is hereby **GRANTED**.

**IT IS HEREBY FURTHER ORDERED** that Sundee Addy, Esq. is admitted to practice in the above-entitled Court for purposes of the above-entitled matter only. By accepting this admission, Counsel agrees to submit to the jurisdiction and appear without subpoena for any proceedings required by the Court which relate to Counsel's conduct in this matter including motions, depositions, evidentiary hearings, and trial. SCR 42(13)(a).

Dated this 1st day of November, 2022



**10B E12 0F97 EA2B**  
**Joanna S. Kishner**  
**District Court Judge**

Respectfully submitted by:  
SNELL & WILMER L.L.P.

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5 *PricewaterhouseCoopers LLP*

6 4871-1748-6652  
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1 **CSERV**

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3 DISTRICT COURT  
CLARK COUNTY, NEVADA

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5		
6	Michael Tricarichi, Plaintiff(s)	CASE NO: A-16-735910-B
7	vs.	DEPT. NO. Department 31
8	PricewaterhouseCoopers LLP,	
9	Defendant(s)	

10  
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13 Court. The foregoing Order Granting Motion was served via the court's electronic eFile  
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## EIGHTH JUDICIAL DISTRICT COURT

**CASE SUMMARY****CASE NO. A-16-735910-B**

**Michael Tricarichi, Plaintiff(s)**  
**vs.**  
**PricewaterhouseCoopers LLP, Defendant(s)**

§  
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Location: **Department 31**  
 Judicial Officer: **Kishner, Joanna S.**  
 Filed on: **04/29/2016**  
 Case Number History:  
 Cross-Reference Case Number: **A735910**  
 Supreme Court No.: **73175**

**CASE INFORMATION****Statistical Closures**

02/09/2023 Judgment Reached (bench trial)  
 11/01/2018 Summary Judgment

Case Type: **Other Business Court Matters**

Case Status: **02/09/2023 Closed**

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

Case Number A-16-735910-B  
 Court Department 31  
 Date Assigned 09/07/2021  
 Judicial Officer Kishner, Joanna S.

**PARTY INFORMATION****Plaintiff****Tricarichi, Michael A.***Lead Attorneys*

**Hutchison, Mark A**  
*Retained*  
 702-385-2500(W)

**Defendant**

**Cooperatieve Rabobank U A**  
 Removed: 04/11/2022  
 Inactive

**Cooperatieve Rabobank UA**  
 Removed: 02/08/2017  
 Dismissed

**PricewaterhouseCoopers LLP**

**Byrne, Patrick G.**  
*Retained*  
 702-784-5200(W)

**Seyfarth Shaw LLP**  
 Removed: 05/31/2019  
 Inactive


**Taylor, Graham R**  
 Removed: 04/11/2022  
 Inactive

**Utrecht-America Finance Co**  
 Removed: 02/08/2017  
 Dismissed

**Utrect-America Finance Co**  
 Removed: 04/11/2022  
 Inactive

**DATE****EVENTS & ORDERS OF THE COURT****INDEX****EVENTS**













04/29/2016

 Complaint (Business Court)
















# CASE SUMMARY

CASE NO. A-16-735910-B

	<p>Filed By: Plaintiff Tricarichi, Michael A.  <i>[1] Complaint</i></p>
04/29/2016	Other Tort Case
05/17/2016	<p> Demand for Jury Trial            Filed By: Plaintiff Tricarichi, Michael A.  <i>[3] Demand for Jury Trial</i></p>
05/17/2016	<p> Notice            Filed By: Plaintiff Tricarichi, Michael A.  <i>[2] Notice of Acceptance of Service of Defendant Seyfarth Shaw LLP</i></p>
06/08/2016	<p> Affidavit of Service            Filed By: Plaintiff Tricarichi, Michael A.  <i>[4] Summons</i></p>
06/16/2016	<p> Motion to Associate Counsel            Filed By: Plaintiff Tricarichi, Michael A.  <i>[5] Motion To Associate Counsel</i></p>
06/16/2016	<p> Motion to Associate Counsel            Filed By: Plaintiff Tricarichi, Michael A.  <i>[6] Motion To Associate Counsel</i></p>
07/05/2016	<p> Motion to Dismiss            Filed By: Defendant Seyfarth Shaw LLP  <i>[8] Motion to Dismiss for Lack of Jurisdiction on Behalf of Defendant Seyfarth Shaw LLP</i></p>
07/05/2016	<p> Initial Appearance Fee Disclosure            Filed By: Defendant Seyfarth Shaw LLP  <i>[9] Initial Appearance Fee Disclosure</i></p>
07/05/2016	<p> Certificate of Mailing            Filed By: Plaintiff Tricarichi, Michael A.  <i>[7] Certificate of Mailing</i></p>
07/06/2016	<p> Notice of Hearing            Filed By: Defendant Seyfarth Shaw LLP  <i>[10] Notice of Hearing on Motion to Dismiss for Lack of Jurisdiction on Behalf of Defendant Seyfarth Shaw LLP</i></p>
07/11/2016	<p> Motion to Dismiss            Filed By: Defendant PricewaterhouseCoopers LLP  <i>[11] PricewaterhouseCoopers LLP's Motion to Dismiss</i></p>
07/11/2016	<p> Request for Judicial Notice            Filed By: Defendant PricewaterhouseCoopers LLP  <i>[12] Request for Judicial Notice in Support of Defendant PricewaterhouseCoopers LLP's Motion to Dismiss</i></p>
07/12/2016	<p> Certificate of Service            Filed by: Defendant PricewaterhouseCoopers LLP  <i>[13] Supplemental Certificate of Service</i></p>

# CASE SUMMARY

CASE NO. A-16-735910-B

07/21/2016	 Motion to Associate Counsel Filed By: Defendant PricewaterhouseCoopers LLP <i>[16] Motion to Associate Counsel Winston P. Hsiao</i>
07/21/2016	 Motion to Associate Counsel Filed By: Defendant PricewaterhouseCoopers LLP <i>[17] Motion to Associate Counsel Peter B. Morrison</i>
07/21/2016	 Order Admitting to Practice Filed By: Plaintiff Tricarichi, Michael A. <i>[14] Order Admitting to Practice</i>
07/21/2016	 Order Admitting to Practice Filed By: Plaintiff Tricarichi, Michael A. <i>[15] Order Admitting to Practice</i>
07/22/2016	 Notice of Entry of Order Filed By: Plaintiff Tricarichi, Michael A. <i>[18] Notice of Entry of Order Admitting to Practice</i>
07/22/2016	 Notice of Entry of Order Filed By: Plaintiff Tricarichi, Michael A. <i>[19] Notice of Entry of Order Admitting to Practice</i>
07/28/2016	 Acceptance of Service Filed By: Plaintiff Tricarichi, Michael A. <i>[20] Acceptance of Service of Complaint &amp; Summons</i>
07/29/2016	 Stipulation and Order Filed by: Plaintiff Tricarichi, Michael A. <i>[21] Stipulation and Order to Extend Time for Plaintiff Responses to Motions to Dismiss Filed by PricewaterhouseCoopers, LLP and Seyfarth Shaw LLP, and to Continue Hearing on Both Motions to Dismiss</i>
07/29/2016	 Notice of Entry of Stipulation and Order Filed By: Plaintiff Tricarichi, Michael A. <i>[22] Notice of Entry of Stipulation and Order to Extend Time for Plaintiff Responses to Motions to Dismiss Filed by PricewaterhouseCoopers, LLP and Seyfarth Shaw LLP, and to Continue Hearing on Both Motions to Dismiss</i>
08/10/2016	 Notice of Non Opposition Filed By: Defendant PricewaterhouseCoopers LLP <i>[23] Notice of Non-Opposition to Motions to Associate Counsel</i>
08/24/2016	 Order Granting Motion Filed By: Defendant PricewaterhouseCoopers LLP <i>[24] Order Granting Motion to Associate Winston P. Hsiao, Esq. as Counsel</i>
08/24/2016	 Order Granting Motion Filed By: Defendant PricewaterhouseCoopers LLP <i>[25] Order Granting Motion to Associate Peter B. Morrison, Esq. as Counsel</i>
08/25/2016	 Notice of Entry of Order Filed By: Defendant PricewaterhouseCoopers LLP

# CASE SUMMARY

CASE NO. A-16-735910-B

	<i>[26] Notice of Entry of Order Granting Motion to Associate Peter B. Morrison, Esq. as Counsel</i>
08/25/2016	 Notice of Entry of Order Filed By: Defendant PricewaterhouseCoopers LLP <i>[27] Notice of Entry of Order Granting Motion to Associate Winston P. Hsiao, Esq. as Counsel</i>
08/26/2016	 Appendix Filed By: Plaintiff Tricarichi, Michael A. <i>[34] Appendix of Exhibits in Support of Plaintiff's Opposition to Defendant Seyfarth Shaw's Motion to Dismiss for Lack of Jurisdiction</i>
08/26/2016	 Affidavit in Support Filed By: Plaintiff Tricarichi, Michael A. <i>[31] Affidavit of Thomas D. Brooks in Support of Plaintiff's Opposition to Defendant Seyfarth Shaw's Motion to Dismiss for Lack of Jurisdiction</i>
08/26/2016	 Affidavit in Support Filed By: Plaintiff Tricarichi, Michael A. <i>[32] Affidavit of Michael A. Tricarichi in Support of Plaintiff's Opposition to Defendant Seyfarth Shaw's Motion to Dismiss for Lack of Jurisdiction</i>
08/26/2016	 Acceptance of Service Filed By: Plaintiff Tricarichi, Michael A. <i>[28] Acceptance of Service</i>
08/26/2016	 Opposition to Motion Filed By: Plaintiff Tricarichi, Michael A. <i>[30] Plaintiff's Opposition to Defendant Pricewaterhouse Coopers, LLP's Motion to Dismiss</i>
08/26/2016	 Opposition Filed By: Plaintiff Tricarichi, Michael A. <i>[29] Plaintiff's Opposition to Defendant Pricewaterhouse Coopers, LLP's Request for Judicial Notice</i>
08/26/2016	 Opposition to Motion Filed By: Plaintiff Tricarichi, Michael A. <i>[33] Plaintiff's Opposition to Defendant Seyfarth Shaw's Motion to Dismiss for Lack of Jurisdiction</i>
08/30/2016	 Errata Filed By: Plaintiff Tricarichi, Michael A. <i>[35] Errata to Appendix of Exhibits in Support of Plaintiff's Opposition to Defendant Seyfarth Shaw's Motion to Dismiss for Lack of Jurisdiction</i>
09/28/2016	 Reply in Support Filed By: Defendant Seyfarth Shaw LLP <i>[36] Reply in Support of Motion to Dismiss for Lack of Jurisdiction on Behalf of Defendant Seyfarth Shaw LLP</i>
09/28/2016	 Reply in Support Filed By: Defendant PricewaterhouseCoopers LLP <i>[37] PWC's Reply in Support of Request for Judicial Notice in Support of Defendant PricewaterhouseCoopers LLP's Motion to Dismiss</i>











# CASE SUMMARY

CASE NO. A-16-735910-B

09/28/2016	 Reply in Support Filed By: Defendant PricewaterhouseCoopers LLP <i>[38] PricewaterhouseCoopers LLP's Reply in Support of the Motion to Dismiss</i>
09/29/2016	 Stipulation and Order Filed by: Defendant PricewaterhouseCoopers LLP <i>[39] Stipulation and Order to Continue Hearing on Motions to Dismiss</i>
09/30/2016	 Notice of Entry of Stipulation and Order Filed By: Defendant PricewaterhouseCoopers LLP <i>[40] Notice of Entry of Stipulation and Order to Continue Hearing on Motions to Dismiss</i>
10/19/2016	 Motion to Dismiss Filed By: Defendant Cooperatieve Rabobank UA <i>[41] Motion to Dismiss</i>
10/19/2016	 Affidavit Filed By: Defendant Cooperatieve Rabobank UA <i>[42] Affidavit of Geert Christiaan Kortlandt in Support of Cooperatieve Rabobank U.A. and Utrecht-America Finance Co.'s Motion to Dismiss</i>
10/19/2016	 Affidavit Filed By: Defendant Cooperatieve Rabobank UA <i>[43] Affidavit of Dan R. Waite in Support of Cooperatieve Rabobank U.A. and Utrecht-America Finance Co.'s Motion to Dismiss</i>
10/19/2016	 Appendix Filed By: Defendant Cooperatieve Rabobank UA <i>[44] Appendix of Exhibits in Support of Dan R. Waite's Affidavit to Cooperatieve Rabobank U.A. and Utrecht-America Finance co., Seyfarth Shaw LLP's Motion to Dismiss</i>
10/19/2016	 Request for Judicial Notice Filed By: Defendant Cooperatieve Rabobank UA <i>[45] Cooperatieve Rabobank U.A. and Utrecht-America Finance Co.'s Request for Judicial Notice in Support of Motion to Dismiss</i>
10/20/2016	 Initial Appearance Fee Disclosure Filed By: Defendant Cooperatieve Rabobank UA <i>[46] Initial Appearance Fee Disclosure (NRS Chapter 19)</i>
10/20/2016	 Motion to Associate Counsel Filed By: Defendant Cooperatieve Rabobank UA <i>[47] Motion to Associate Counsel (Christopher Paparella, Esq.)</i>
10/26/2016	 Joinder To Motion Filed By: Defendant Seyfarth Shaw LLP <i>[48] Seyfarth Shaw's Joinder in Defendants Cooperative Rabobank U.A. and Utrecht American Finance Company's Motion to Dismiss</i>
10/26/2016	 Joinder To Motion Filed By: Defendant Seyfarth Shaw LLP <i>[49] Seyfarth Shaw's Joinder in Defendant Pricewaterhousecoopers LLP's Motion to Dismiss</i>
11/14/2016	 Opposition













# CASE SUMMARY

CASE NO. A-16-735910-B

	<p>Filed By: Plaintiff Tricarichi, Michael A.  <i>[50] Plaintiff's Supplemental Opposition to Defendant Pricewaterhouse Coopers, LLP's Motion to Dismiss</i></p>
11/17/2016	<p> Stipulation and Order            Filed by: Plaintiff Tricarichi, Michael A.  <i>[51] Stipulation and Order to Extend Time for Plaintiff to Respond to Motion to Dismiss Filed by Cooperatieve Rabobank U.A. and Utrecht-America Finance Co., and to Continue the Hearing Set on the Motion to Dismiss</i></p>
11/18/2016	<p> Notice of Entry of Stipulation and Order            Filed By: Plaintiff Tricarichi, Michael A.  <i>[52] Notice of Entry of Stipulation and Order to Extend Time for Plaintiff to Respond to Motion to Dismiss Filed by Cooperatieve Rabobank U.A. and Utrecht-America Finance Co., and to Continue the Hearing Set on the Motion to Dismiss</i></p>
11/28/2016	<p> Transcript of Proceedings  <i>[53] Transcript of Proceedings All Pending Motions November 16, 2016</i></p>
11/30/2016	<p> Stipulation and Order            Filed by: Plaintiff Tricarichi, Michael A.  <i>[54] Stipulation and Order to Extend Time for Plaintiff to Respond to Motion to Dismiss Filed by Cooperatieve Rabobank U.A. and Utrecht-America Finance Co. (Second Request)</i></p>
12/05/2016	<p> Notice of Entry of Stipulation and Order            Filed By: Plaintiff Tricarichi, Michael A.  <i>[55] Notice of Entry of Stipulation and Order to Extend Time for Plaintiff to Respond to Motion to Dismiss Filed by Cooperatieve Rabobank U.A. and Utrecht-America Finance Co. (Second Request)</i></p>
12/05/2016	<p> Order Granting Motion            Filed By: Defendant Cooperatieve Rabobank UA  <i>[56] Order Granting Cooperatieve Rabobank, U.A., and Utrecht-America Finance Company's Motion to Associate Counsel (Christopher M. Paparella, Esq.)</i></p>
12/06/2016	<p> Notice of Entry            Filed By: Defendant Cooperatieve Rabobank UA  <i>[57] Notice of Entry of Order Granting Cooperatieve Rabobank, U.A., and Utrecht-America Finance Company's Motion to Associate Counsel (Christopher M. Paparella, Esq.)</i></p>
12/07/2016	<p> Opposition to Motion to Dismiss            Filed By: Plaintiff Tricarichi, Michael A.  <i>[60] Plaintiff's (1) Opposition to Defendants Rabobank and Utrecht's Motion to Dismiss, and (2) Counter-Motion for Leave to Take Jurisdictional Discovery</i></p>
12/07/2016	<p> Affidavit in Support            Filed By: Plaintiff Tricarichi, Michael A.  <i>[58] Affidavit of Thomas D. Brooks in Support of Plaintiff's (1) Opposition to Defendants Rabobank and Utrecht's Motion to Dismiss, and (2) Counter-Motion for Leave to Take Jurisdictional Discovery</i></p>
12/07/2016	<p> Affidavit in Support            Filed By: Plaintiff Tricarichi, Michael A.  <i>[59] Affidavit of Michael A. Tricarichi in Support of Plaintiff's (1) Opposition to Defendants Rabobank and Utrecht's Motion to Dismiss, and (2) Counter-Motion for Leave to Take Jurisdictional Discovery</i></p>

# CASE SUMMARY

CASE NO. A-16-735910-B

12/07/2016	 Appendix Filed By: Plaintiff Tricarichi, Michael A. <i>[61] Appendix of Exhibits in Support of Plaintiff's (1) Opposition to Defendants Rabobank and Utrecht's Motion to Dismiss, and (2) Counter-Motion for Leave to Take Jurisdictional Discovery</i>
12/12/2016	 Order Denying Motion Filed By: Plaintiff Tricarichi, Michael A. <i>[62] Order Regarding Defendant Pricewaterhousecoopers LLP's Motion to Dismiss Based on Statute Limitations and Collateral Estoppel</i>
12/13/2016	 Notice of Entry of Stipulation and Order Filed By: Plaintiff Tricarichi, Michael A. <i>[63] Notice of Entry of Order Regarding Defendant Pricewaterhouse Coopers, LLP's Motion to Dismiss Based on Statute Limitations and Collateral Estoppel</i>
12/23/2016	 Order Granting Motion Filed By: Defendant Seyfarth Shaw LLP <i>[64] Order Granting Motion to Dismiss the Complaint Against Seyfarth Shaw LLP for Lack of Jurisdiction</i>
12/28/2016	 Notice of Entry of Order Filed By: Defendant Seyfarth Shaw LLP <i>[65] Notice of Entry of Order</i>
01/13/2017	 Reply in Support Filed By: Defendant Cooperatieve Rabobank UA <i>[66] Reply in Support of Motion to Dismiss</i>
01/17/2017	 Answer to Complaint Filed by: Defendant PricewaterhouseCoopers LLP <i>[67] PricewaterhouseCoopers LLP's Answer to Complaint</i>
01/26/2017	 Transcript of Proceedings <i>[68] Transcript of Proceedings Defendant's Motion to Dismiss; Seyearth Shaw's Joinder in Defendants' Motion to Dismiss January 18, 2017</i>
01/27/2017	 Business Court Order <i>[69] Business Court Order</i>
02/07/2017	 Arbitration File <i>[70] Arbitration File</i>
02/08/2017	 Order Granting Motion Filed By: Defendant Cooperatieve Rabobank UA <i>[71] Order Granting Motion To Dismiss the Complaint Against Cooperatieve Rabobank U.A. and Utrecht-America Finance Co. for Lack of Personal Jurisdiction and Denying Remainder of Motion as Moot</i>
02/09/2017	 Notice of Entry of Order Filed By: Defendant Cooperatieve Rabobank UA <i>[72] Notice of Entry of Order Granting Motion to Dismiss The Complaint Against Cooperatieve Rabobank U.A. and Utrecht-America Finance Company for Lack of Personal Jurisdiction and Denying Remainder of Motion as Moot</i>

# CASE SUMMARY

CASE NO. A-16-735910-B

02/14/2017	 Notice of Entry of Stipulation and Order Filed By: Defendant PricewaterhouseCoopers LLP <i>[74] Notice of Entry of Stipulation and Order to Continue Mandatory Rule 16 Conference</i>
02/14/2017	 Stipulation and Order Filed by: Defendant PricewaterhouseCoopers LLP <i>[73] Stipulation and Order to Continue Mandatory Rule 16 Conference</i>
02/27/2017	 Notice of Service Party: Defendant PricewaterhouseCoopers LLP <i>[76] PricewaterhouseCoopers LLP's Notice of Serving NRCP 16.1(a) Initial Disclosures</i>
02/27/2017	 Notice Filed By: Plaintiff Tricarichi, Michael A. <i>[75] Plaintiff's Notice of Serving NRCP 16.1(A)(1) Initial Disclosures</i>
03/06/2017	 Motion for Summary Judgment Filed By: Defendant PricewaterhouseCoopers LLP <i>[77] PricewaterhouseCoopers LLP's Motion for Summary Judgment</i>
03/14/2017	 Motion Filed By: Plaintiff Tricarichi, Michael A. <i>[78] Plaintiff's Motion for Rule 54(B) Certification</i>
03/15/2017	 Notice of Motion Filed By: Plaintiff Tricarichi, Michael A. <i>[79] Notice of Motion re: Plaintiff's Motion for Rule 54(B) Certification</i>
03/16/2017	 Stipulation and Order Filed by: Plaintiff Tricarichi, Michael A. <i>[80] Stipulation and Order to Extend Time for Plaintiff's Response to Motion for Summary Judgment Filed by PricewaterhouseCoopers LLP and to Continue Hearing on Motion</i>
03/17/2017	 Notice of Entry of Stipulation and Order Filed By: Plaintiff Tricarichi, Michael A. <i>[81] Notice of Entry of Stipulation and Order to Extend Time for Plaintiff's Response to Motion for Summary Judgment Filed by PricewaterhouseCoopers LLP and to Continue Hearing on Motion</i>
03/20/2017	 Joint Case Conference Report Filed By: Plaintiff Tricarichi, Michael A. <i>[82] Joint Case Conference Report</i>
03/21/2017	 Business Court Order <i>[83] Business Court Scheduling Order and Order Setting Civil Jury Trial, Pre-Trial Conference and Calendar Call</i>
03/22/2017	 Stipulation and Order Filed by: Defendant PricewaterhouseCoopers LLP <i>[84] Stipulation and Order Governing the Production and Exchange of Confidential Information</i>
03/23/2017	 Notice of Entry of Stipulation and Order Filed By: Defendant PricewaterhouseCoopers LLP

# CASE SUMMARY

CASE NO. A-16-735910-B

*[85] Notice of Entry of Stipulation and Order Governing the Production and Exchange of Confidential Information*

03/29/2017



Opposition to Motion

Filed By: Defendant Seyfarth Shaw LLP

*[86] Opposition to Motion for 54(b) Certification [Seyfarth Shaw LLP]*

04/10/2017



Affidavit

Filed By: Plaintiff Tricarichi, Michael A.

*[88] Affidavit of Michael A. Tricarichi in Support of Plaintiff's Opposition to Defendant Pricewaterhouse Coopers LLP's Motion for Summary Judgment*

04/10/2017



Affidavit

Filed By: Plaintiff Tricarichi, Michael A.

*[89] Affidavit of Thomas D. Brooks in Support of Plaintiff's Opposition to Defendant Pricewaterhouse Coopers LLP's Motion for Summary Judgment*

04/10/2017



Opposition

Filed By: Plaintiff Tricarichi, Michael A.

*[90] Plaintiff's Opposition to Defendant Pricewaterhouse Coopers LLP's Motion for Summary Judgment*

04/10/2017



Appendix

Filed By: Plaintiff Tricarichi, Michael A.

*[87] Appendix of Exhibits in Support of Plaintiff's Opposition to Defendant Pricewaterhouse Coopers LLP's Motion for Summary Judgment*

04/11/2017



Reply in Support

Filed By: Plaintiff Tricarichi, Michael A.

*[91] Reply in Support of Plaintiff's Motion for Rule 54(B) Certification*

04/14/2017



Stipulation and Order

Filed by: Defendant PricewaterhouseCoopers LLP

*[92] Stipulation and Order*

04/17/2017



Notice of Entry of Stipulation and Order

Filed By: Defendant PricewaterhouseCoopers LLP

*[93] Notice of Entry of Stipulation and Order*

04/26/2017



Reply in Support

Filed By: Defendant PricewaterhouseCoopers LLP

*[94] PricewaterhouseCoopers LLP's Reply in Support of Motion for Summary Judgment*

05/01/2017



Order

Filed By: Plaintiff Tricarichi, Michael A.

*[95] Order Granting Plaintiff's Motion for Rule 54(B) Certification*

05/02/2017



Notice of Entry of Stipulation and Order

Filed By: Plaintiff Tricarichi, Michael A.

*[96] Notice of Entry of Order Granting Plaintiff's Motion for Rule 54(B) Certification*

05/25/2017



Notice of Appeal

Filed By: Plaintiff Tricarichi, Michael A.

*[97] Notice of Appeal*



# CASE SUMMARY

CASE NO. A-16-735910-B

05/25/2017	 Case Appeal Statement Filed By: Plaintiff Tricarichi, Michael A. <i>[98] Case Appeal Statement</i>
05/30/2017	 Notice of Filing Cost Bond Filed By: Plaintiff Tricarichi, Michael A. <i>[99] Notice of Filing Cost Bond</i>
05/31/2017	 Order Denying Filed By: Plaintiff Tricarichi, Michael A. <i>[100] Order Regarding Defendant PricewaterhouseCoopers LLP's Motion for Summary Judgment</i>
06/05/2017	 Notice of Entry of Order Filed By: Plaintiff Tricarichi, Michael A. <i>[101] Notice of Entry of Order Regarding Defendant PricewaterhouseCoopers LLP's Motion for Summary Judgment</i>
06/09/2017	 Notice of Change of Address Filed By: Defendant Seyfarth Shaw LLP <i>[102] Notice of Change of Firm Address</i>
02/21/2018	 Stipulation and Order Filed by: Plaintiff Tricarichi, Michael A. <i>[103] Stipulation and Order to Amend Schedule (First Request)</i>
02/23/2018	 Notice of Entry of Stipulation and Order Filed By: Plaintiff Tricarichi, Michael A. <i>[104] Notice of Entry of Stipulation and Order to Amend Schedule</i>
03/02/2018	 Stipulation and Order Filed by: Defendant PricewaterhouseCoopers LLP <i>[105] Stipulation to Move Hearing Date on Motion for Summary Judgment</i>
03/02/2018	 Notice of Entry Filed By: Defendant PricewaterhouseCoopers LLP <i>[106] Notice of Entry of Stipulation to Move Hearing Date on Motion for Summary Judgment</i>
06/14/2018	 Motion for Summary Judgment Filed By: Defendant PricewaterhouseCoopers LLP <i>[107] Pricewaterhouse Coopers LLP's Renewed Motion for Summary Judgment Following Limited Rule 56(f) Discovery</i>
07/02/2018	Case Reassigned to Department 11 <i>Reassigned From Judge Hardy - Dept 15</i>
07/12/2018	 Stipulation and Order Filed by: Plaintiff Tricarichi, Michael A. <i>[108] Stipulation and Order to Amend Schedule on Renewed Motion for Summary Judgment</i>
07/12/2018	 Notice of Entry of Stipulation and Order Filed By: Plaintiff Tricarichi, Michael A. <i>[109] Notice of Entry of Stipulation and Order to Amend Schedule on Renewed Motion for Summary Judgment</i>









# CASE SUMMARY

CASE NO. A-16-735910-B

07/30/2018	 Certificate of Mailing Filed By: Plaintiff Tricarichi, Michael A. <i>[110] Certificate of Service Regarding (1) Opposition to Renewed Summary Judgment Motion and (2) Supporting Appendix to Opposition</i>
07/30/2018	 Affidavit Filed By: Plaintiff Tricarichi, Michael A. <i>[111] Affidavit of Thomas D. Brooks in Support of Plaintiff's Opposition to Pricewaterhouse Coopers LLP's Renewed Motion for Summary Judgment Following Limited Rule 56(f) Discovery</i>
07/31/2018	 Appendix <i>[112] UNSEALED per Order 11/14/18 Appendix of Exhibits In Support of Plaintiff's Opposition to Defendant Pricewaterhouse Coopers LLP'S Renewed Motion for Summary Judgment Following Limited Rule 56(f) Discovery</i>
08/01/2018	 Opposition <i>[113] UNSEALED per Order 11/14/18 Plaintiff's Opposition to Defendant Pricewaterhouse Coopers LLP's Renewed Motion for Summary Judgment Following Limited Rule 56(f) Discovery</i>
08/29/2018	 Reply in Support <i>[114] Pricewaterhousecoopers, LLP's Reply in Support of Renewed Motion for Summary Judgment Following Limited Rule 56(f) Discovery</i>
09/21/2018	 Motion for Leave to File <i>[115] (10/1/18 Withdrawn) Motion for Leave to File under Seal (1) Opposition to Renewed Summary Judgment Motion and (2) Supporting Appendix to Opposition</i>
09/26/2018	 Transcript of Proceedings <i>[116] Transcript of Proceedings: Further Hearing on Motion for Summary Judgment</i>
10/01/2018	 Notice of Withdrawal of Motion Filed By: Plaintiff Tricarichi, Michael A. <i>[117] Notice of Withdrawal of Motion for Leave to File Under Seal (1) Opposition to Renewed Summary Judgement Motion and (2) Supporting Appendix to Opposition</i>
10/01/2018	 Affidavit Filed By: Plaintiff Tricarichi, Michael A. <i>[118] Affidavit of Thomas D. Brooks in Support of Plaintiff's Opposition to Defendant PricewaterhouseCoopers LLP's Renewed Motion for Summary Judgment Following Limited Rule 56(f) Discovery</i>
10/24/2018	 Order Granting Summary Judgment Filed By: Defendant PricewaterhouseCoopers LLP <i>[119] Order Granting Summary Judgment</i>
10/24/2018	 Notice of Entry Filed By: Defendant PricewaterhouseCoopers LLP <i>[120] Notice of Entry of Order Granting Summary Judgment</i>
10/31/2018	 Order to Statistically Close Case <i>[121] Civil Order to Statistically Close Case</i>
11/01/2018	 Memorandum

# CASE SUMMARY

CASE NO. A-16-735910-B

	<p>Filed By: Defendant PricewaterhouseCoopers LLP  <i>[122] Pricewaterhousecoopers LLP's Verified Memorandum of Costs</i></p>
11/01/2018	<p> Appendix            Filed By: Defendant PricewaterhouseCoopers LLP  <i>[123] Appendix of Exhibits in Support of Pricewaterhousecoopers LLP's Verified Memorandum of Costs</i></p>
11/08/2018	<p> Stipulation and Order            Filed by: Defendant PricewaterhouseCoopers LLP  <i>[124] Stipulation and Order re: PwC's Memorandum of Costs</i></p>
11/14/2018	<p> Stipulation and Order            Filed by: Plaintiff Tricarichi, Michael A.  <i>[125] Stipulation and Order to Unseal Documents</i></p>
11/14/2018	<p> Notice of Entry of Stipulation and Order            Filed By: Plaintiff Tricarichi, Michael A.  <i>[126] Notice of Entry of Stipulation and Order to Unseal Documents</i></p>
11/21/2018	<p> Stipulation and Order            Filed by: Plaintiff Tricarichi, Michael A.  <i>[127] Stipulation and Order to Extend Time for Plaintiff's Motion for Leave to File Amended Complaint and To Set Briefing Schedule on Motion</i></p>
11/26/2018	<p> Notice of Entry of Stipulation and Order            Filed By: Plaintiff Tricarichi, Michael A.  <i>[128] Notice of Entry of Stipulation and Order to Extend Time for Plaintiff's Motion for Leave to File Amended Complaint, and To Set Briefing Schedule on Motion</i></p>
12/10/2018	<p> Motion for Leave to File            Party: Plaintiff Tricarichi, Michael A.  <i>[129] Motion for Leave to File Amended Complaint</i></p>
12/28/2018	<p> Stipulation            Filed by: Defendant PricewaterhouseCoopers LLP  <i>[130] Stipulation to Move Hearing Date on Motion for Leave to File Amended Complaint and Request for Oral Argument</i></p>
12/28/2018	<p> Notice of Entry of Order            Filed By: Defendant PricewaterhouseCoopers LLP  <i>[131] Notice of Entry of Order Granting Stipulation to Move Hearing Date on Motion for Leave to File Amended Complaint and Request for Oral Argument</i></p>
01/18/2019	<p> Opposition to Motion            Filed By: Defendant PricewaterhouseCoopers LLP  <i>[132] PricewaterhouseCoopers LLP's Opposition to Plaintiff's Motion for Leave to File Amended Complaint</i></p>
02/15/2019	<p> Reply in Support            Filed By: Plaintiff Tricarichi, Michael A.  <i>[133] Plaintiff's Reply in Support of Motion for Leave to File Amended Complaint</i></p>
02/15/2019	<p> Affidavit in Support            Filed By: Plaintiff Tricarichi, Michael A.</p>

# CASE SUMMARY

CASE NO. A-16-735910-B

*[134] Affidavit of Thomas D. Brooks in Support of Plaintiff's Reply in Support of Motion for Leave to File Amended Complaint*

02/15/2019



Appendix

Filed By: Plaintiff Tricarichi, Michael A.

*[135] Appendix of Exhibits in Support of Plaintiff's Reply in Support of Motion for Leave to File Amended Complaint - Volume 1*

02/15/2019



Appendix

Filed By: Plaintiff Tricarichi, Michael A.

*[136] Appendix of Exhibits in Support of Plaintiff's Reply in Support of Motion for Leave to File Amended Complaint - Volume 2*

03/22/2019



Transcript of Proceedings

*[137] Transcript of Proceedings: Hearing on Motion for Leave to file Amended Complaint*

03/26/2019



Order

Filed By: Plaintiff Tricarichi, Michael A.

*[138] Order Granting Motion for Leave to File Amended Complaint*

03/27/2019



Notice of Entry of Order

Filed By: Plaintiff Tricarichi, Michael A.

*[139] Notice of Entry of Order Granting Motion for Leave to File Amended Complaint*

04/01/2019



Amended Complaint

Filed By: Plaintiff Tricarichi, Michael A.

*[140] Amended Complaint (Jury Demand Stricken per Order 4/27/22)*

04/29/2019



Motion to Dismiss

Filed By: Defendant PricewaterhouseCoopers LLP

*[141] PricewaterhouseCoopers LLP's Motion to Dismiss Amended Complaint*

04/29/2019



Clerk's Notice of Hearing

*[142] Notice of Hearing*

05/29/2019



Opposition

Filed By: Plaintiff Tricarichi, Michael A.

*[143] Plaintiff's Opposition to Motion to Dismiss Amended Complaint*

05/31/2019



NV Supreme Court Clerks Certificate/Judgment - Affirmed

*[144] Nevada Supreme Court Clerk's Certificate/Remittitur Judgment - Affirmed*

06/04/2019



Exhibits

Filed By: Plaintiff Tricarichi, Michael A.

*[145] Exhibits to Plaintiff's Opposition to Motion to Dismiss Amended Complaint*

06/17/2019



Reply in Support

Filed By: Defendant PricewaterhouseCoopers LLP

*[146] Pricewaterhousecoopers LLP's Reply in Support of Motion to Dismiss Amended Complaint*

07/09/2019

















Transcript of Proceedings

*[147] Transcript of Proceedings: Hearing on Defendant PWC's Motion to Dismiss Amended Complaint*

# CASE SUMMARY

CASE NO. A-16-735910-B

07/30/2019	 Order Denying Motion Filed By: Plaintiff Tricarichi, Michael A. <i>[148] Order Denying PricewaterhouseCoopers LLP's Motion to Dismiss Amended Complaint</i>
07/30/2019	 Motion to Associate Counsel Filed By: Defendant PricewaterhouseCoopers LLP <i>[149] Motion to Associate Chris Landgraff, Esq. as Counsel</i>
07/30/2019	 Motion to Associate Counsel Filed By: Defendant PricewaterhouseCoopers LLP <i>[150] Motion to Associate Daniel Charles Taylor, Esq. as Counsel</i>
07/30/2019	 Motion to Associate Counsel Filed By: Defendant PricewaterhouseCoopers LLP <i>[151] Motion to Associate Krista Perry, Esq. as Counsel</i>
07/30/2019	 Motion to Associate Counsel Filed By: Defendant PricewaterhouseCoopers LLP <i>[152] Motion to Associate Mark Levine, Esq. as Counsel</i>
07/31/2019	 Clerk's Notice of Hearing <i>[153] Notice of Hearing</i>
07/31/2019	 Clerk's Notice of Hearing <i>[154] Notice of Hearing</i>
07/31/2019	 Clerk's Notice of Hearing <i>[155] Notice of Hearing</i>
07/31/2019	 Clerk's Notice of Hearing <i>[156] Notice of Hearing</i>
07/31/2019	 Notice of Entry of Order Filed By: Plaintiff Tricarichi, Michael A. <i>[157] Notice of Entry of Order Denying Pricewaterhousecoopers LLP's Motion to Dismiss Amended Complaint</i>
08/06/2019	 Notice of Withdrawal of Attorney Filed by: Defendant PricewaterhouseCoopers LLP <i>[158] Notice of Withdrawal of Peter B. Morrison and Winston P. Hsiao as Counsel</i>
08/12/2019	 Answer to Amended Complaint Filed By: Defendant PricewaterhouseCoopers LLP <i>[159] PricewaterhouseCoopers LLP's Answer to Amended Complaint</i>
08/20/2019	 Business Court Order <i>[160] Business Court Order</i>
09/19/2019	 Scheduling and Trial Order <i>[161] Business Court Scheduling Order and Order Setting Civil Jury Trial, Pre-Trial Conference and Calendar Call</i>

# CASE SUMMARY

CASE NO. A-16-735910-B

09/19/2019	 Order Granting Motion Filed By: Defendant PricewaterhouseCoopers LLP <i>[162] Order Granting Defendant's Motions to Associate Counsel</i>
09/20/2019	 Notice of Entry of Order Filed By: Defendant PricewaterhouseCoopers LLP <i>[163] Notice of Entry of Order Granting Defendant's Motions to Associate Counsel</i>
10/23/2019	 Application for Issuance of Commission to Take Deposition <i>[164] Application for Issuance of Commission to Serve a Subpoena Duces Tecum Outside the State of Nevada on Anthony Tricarichi</i>
10/23/2019	 Application for Issuance of Commission to Take Deposition <i>[165] Application for Issuance of Commission to Serve a Subpoena Duces Tecum Outside the State of Nevada on Carla Tricarichi</i>
10/23/2019	 Application for Issuance of Commission to Take Deposition Party: Defendant PricewaterhouseCoopers LLP <i>[166] Application for Issuance of Commission to Serve a Subpoena Duces Tecum Outside the State of Nevada on James Tricarichi</i>
10/23/2019	 Commission Issued Filed by: Defendant PricewaterhouseCoopers LLP <i>[167] Commission to Serve a Subpoena Duces Tecum Outside the State of Nevada on Carla Tricarichi</i>
10/23/2019	 Commission Issued Filed by: Defendant PricewaterhouseCoopers LLP <i>[168] Commission to Serve a Subpoena Duces Tecum Outside the State of Nevada on Anthony Tricarichi</i>
10/23/2019	 Commission Issued Filed by: Defendant PricewaterhouseCoopers LLP <i>[169] Commission to Serve a Subpoena Duces Tecum Outside the State of Nevada on James Tricarichi</i>
11/04/2019	 Application for Issuance of Commission to Take Deposition Party: Defendant PricewaterhouseCoopers LLP <i>[170] Application for Issuance of Commission to Serve a Subpoena Duces Tecum Outside the State of Nevada for Records of Levin &amp; Associates Co., L.P.A.</i>
11/04/2019	 Commission to Take Deposition Outside the State of Nevada Filed By: Defendant PricewaterhouseCoopers LLP <i>[171] Commission to Serve a Subpoena Duces Tecum Outside the State of Nevada for Records of Levin &amp; Associates Co., L.P.A.</i>
11/07/2019	 Commission Issued Filed by: Defendant PricewaterhouseCoopers LLP <i>[172] Commission to Serve a Subpoena Duces Tecum Outside the State of Nevada for Records of Levin &amp; Associates Co., L.P.A.</i>
01/13/2020	 Application for Issuance of Commission to Take Deposition Party: Defendant PricewaterhouseCoopers LLP <i>[173] Application for Issuance of Commission to Serve a Subpoena Outside the State of Nevada on Michael Desmond</i>

# CASE SUMMARY

CASE NO. A-16-735910-B

01/13/2020



Commission Issued

Filed by: Defendant PricewaterhouseCoopers LLP

*[174] Commission to Serve a Subpoena Outside the State of Nevada on Michael Desmond*

02/17/2020



Application for Issuance of Commission to Take Deposition

Party: Defendant PricewaterhouseCoopers LLP

*[175] Application for Issuance of Commission to Serve a Subpoena Outside the State of Nevada on Glenn Miller*

02/17/2020



Application for Issuance of Commission to Take Deposition

*[176] Application for Issuance of Commission to Serve a Subpoena Outside the State of Nevada on Carla Tricarichi*

02/17/2020



Commission Issued

Filed by: Defendant PricewaterhouseCoopers LLP

*[178] Commission to Serve a Subpoena Outside the State of Nevada on Glenn Miller*

02/17/2020



Commission Issued

Filed by: Defendant PricewaterhouseCoopers LLP

*[179] Commission to Serve a Subpoena Outside the State of Nevada on Carla Tricarichi*

02/18/2020



Application for Issuance of Commission to Take Deposition

Party: Defendant PricewaterhouseCoopers LLP

*[177] Application for Issuance of Commission to Serve a Subpoena Outside the State of Nevada on Craig Bell*

02/18/2020



Commission Issued

Filed by: Defendant PricewaterhouseCoopers LLP

*[180] Commission to Serve a Subpoena Outside the State of Nevada on Craig Bell*

02/21/2020



Application for Issuance of Commission to Take Deposition

Party: Defendant PricewaterhouseCoopers LLP

*[181] Application for Issuance of Commission to Serve a Subpoena Outside the State of Nevada on Andrew Mason*

02/21/2020



Application for Issuance of Commission to Take Deposition

Party: Defendant PricewaterhouseCoopers LLP

*[182] Application for Issuance of Commission to Serve a Subpoena Outside the State of Nevada on Donald Corb*

02/21/2020



Application for Issuance of Commission to Take Deposition

Party: Defendant PricewaterhouseCoopers LLP

*[183] Application for Issuance of Commission to Serve a Subpoena Outside the State of Nevada on James Tricarichi*

02/21/2020



Application for Issuance of Commission to Take Deposition

Party: Defendant PricewaterhouseCoopers LLP

*[184] Application for Issuance of Commission to Serve a Subpoena Outside the State of Nevada on Richard Corn*

02/21/2020






Application for Issuance of Commission to Take Deposition

Party: Defendant PricewaterhouseCoopers LLP

*[185] Application for Issuance of Commission to Serve a Subpoena Outside the State of Nevada on Randy Hart*

# CASE SUMMARY

CASE NO. A-16-735910-B

02/21/2020	 Commission Issued Filed by: Defendant PricewaterhouseCoopers LLP <i>[188] Commission to Serve a Subpoena Outside the State of Nevada on Andrew Mason</i>
02/21/2020	 Commission Issued Filed by: Defendant PricewaterhouseCoopers LLP <i>[189] Commission to Serve a Subpoena Outside the State of Nevada on Donald Korb</i>
02/21/2020	 Commission Issued Filed by: Defendant PricewaterhouseCoopers LLP <i>[190] Commission to Serve a Subpoena Outside the State of Nevada on James Tricarichi</i>
02/21/2020	 Commission Issued Filed by: Defendant PricewaterhouseCoopers LLP <i>[191] Commission to Serve a Subpoena Outside the State of Nevada on Richard Corn</i>
02/21/2020	 Commission Issued Filed by: Defendant PricewaterhouseCoopers LLP <i>[192] Commission to Serve a Subpoena Outside the State of Nevada on Randy Hart</i>
02/24/2020	 Motion to Compel Filed By: Defendant PricewaterhouseCoopers LLP <i>[186] PricewaterhouseCoopers LLP's Motion to Compel</i>
02/24/2020	 Appendix Filed By: Defendant PricewaterhouseCoopers LLP <i>[187] Appendix of Exhibit to PricewaterhouseCoopers LLP's Motion to Compel</i>
02/25/2020	 Clerk's Notice of Hearing <i>[193] Notice of Hearing</i>
03/09/2020	 Opposition to Motion Filed By: Plaintiff Tricarichi, Michael A. <i>[194] Plaintiff Michael Tricarichi's Opposition to Defendant's Motion to Compel</i>
03/23/2020	 Reply in Support Filed By: Defendant PricewaterhouseCoopers LLP <i>[195] PricewaterhouseCoopers LLP's Reply in Support of its Motion to Compel</i>
03/25/2020	 Notice Filed By: Defendant PricewaterhouseCoopers LLP <i>[196] Notice of Telephonic Hearing for PricewaterhouseCoopers, LLP's Motion to Compel</i>
03/26/2020	 Stipulation and Order Filed by: Plaintiff Tricarichi, Michael A. <i>[197] Stipulation and Order Re Application of NRCP 41(e)(2)(B)</i>
03/26/2020	 Amended Notice Filed By: Defendant PricewaterhouseCoopers LLP <i>[198] Amended Notice of Telephonic Hearing for PricewaterhouseCoopers, LLP's Motion to Compel</i>
03/31/2020	














# CASE SUMMARY

CASE NO. A-16-735910-B

	 Notice of Entry of Stipulation and Order Filed By: Plaintiff Tricarichi, Michael A. <i>[199] Notice of Entry of Stipulation and Order re Application of NRCP 41(e)(2)(B)</i>
04/04/2020	 Transcript of Proceedings <i>[200] Transcript of Proceedings: Hearing on Motion to Compel</i>
04/08/2020	 Stipulation and Order Filed by: Plaintiff Tricarichi, Michael A. <i>[201] Stipulation and Order Re Revised Scheduling Order</i>
04/08/2020	 Notice of Entry of Stipulation and Order Filed By: Plaintiff Tricarichi, Michael A. <i>[202] Notice of Entry of Stipulation and Order re Revised Scheduling Order</i>
04/16/2020	 Status Report Filed By: Defendant PricewaterhouseCoopers LLP <i>[203] Status Report re: PricewaterhouseCoopers LLP's Motion to Compel</i>
04/23/2020	 Motion to Seal/Redact Records Filed By: Defendant PricewaterhouseCoopers LLP <i>[204] Motion to File Under Seal Exhibits 21-24 to PricewaterhouseCoopers LLP's Motion to Compel Production of Financial Information</i>
04/23/2020	 Motion to Compel Filed By: Defendant PricewaterhouseCoopers LLP <i>[205] PricewaterhouseCoopers LLP's Motion to Compel Production of Financial Information</i>
04/23/2020	 Appendix <i>[206] Appendix of Exhibits to PricewaterhouseCoopers LLP's Motion to Compel Production of Financial Information</i>
04/23/2020	 Filed Under Seal Filed By: Defendant PricewaterhouseCoopers LLP <i>[207] SEALED per Order 6/9/20 Sealed Exhibits to PricewaterhouseCoopers LLP's Motion to Compel Production of Financial Information</i>
04/24/2020	 Clerk's Notice of Hearing <i>[208] Notice of Hearing</i>
04/27/2020	 Clerk's Notice of Nonconforming Document <i>[209] Clerk's Notice of Nonconforming Document</i>
04/27/2020	 Notice of Hearing Filed By: Defendant PricewaterhouseCoopers LLP <i>[210] Notice of Request for Hearing for PricewaterhouseCoopers, LLP's Motion to Compel Production of Financial Information</i>
04/28/2020	 Clerk's Notice of Nonconforming Document and Curative Action <i>[211] Clerk's Notice of Curative Action</i>
04/28/2020	 Clerk's Notice of Hearing <i>[212] Notice of Hearing</i>














# CASE SUMMARY

CASE NO. A-16-735910-B

04/29/2020	 Filed Under Seal Filed By: Plaintiff Tricarichi, Michael A. <i>[213] SEALED PER MINUTE ORDER 7/17/20 Plaintiff Michael Tricarichi's Motion to Compel</i>
04/29/2020	 Filed Under Seal <i>[214] Plaintiff Michael Tricarichi's De-Designation Motion (UnRedacted Original Document)</i>
04/29/2020	 Redacted Version <i>[243] Redacted version of Plaintiff Michael Tricarichi's De-Designation Motion per Order 8/14/20</i>
04/30/2020	 Clerk's Notice of Hearing <i>[215] Notice of Hearing</i>
05/01/2020	 Clerk's Notice of Hearing <i>[216] Notice of Hearing</i>
05/01/2020	 Clerk's Notice of Hearing <i>[217] Notice of Hearing</i>
05/07/2020	 Opposition to Motion Filed By: Plaintiff Tricarichi, Michael A. <i>[218] Plaintiff Michael Tricarichi's Opposition to Defendant's Motion to Compel Production of Financial Information</i>
05/13/2020	 Opposition to Motion Filed By: Defendant PricewaterhouseCoopers LLP <i>[219] PricewaterhouseCoopers LLP's Opposition to Plaintiff Michael Tricarichi's De-Designation Motion</i>
05/13/2020	 Opposition to Motion Filed By: Defendant PricewaterhouseCoopers LLP <i>[220] PricewaterhouseCoopers LLP's Opposition to Plaintiff Michael Tricarichi's Motion to Compel</i>
05/13/2020	 Appendix Filed By: Defendant PricewaterhouseCoopers LLP <i>[221] Appendix of Exhibits to PricewaterhouseCoopers LLP's Opposition to Plaintiff Michael Tricarichi's Motion to Compel</i>
05/19/2020	 Errata Filed By: Defendant PricewaterhouseCoopers LLP <i>[222] Errata</i>
05/25/2020	 Reply in Support Filed By: Defendant PricewaterhouseCoopers LLP <i>[223] PricewaterhouseCoopers LLP's Reply in Support of its Motion to Compel Production of Financial Information</i>
05/26/2020	 Reply in Support Filed By: Plaintiff Tricarichi, Michael A. <i>[224] Plaintiff Michael Triarichi's Reply in Support of Motion to De-Designate</i>


# CASE SUMMARY

CASE NO. A-16-735910-B

05/27/2020	 Reply in Support Filed By: Plaintiff Tricarichi, Michael A. <i>[225] Plaintiff Michael Tricarichi's Reply in Support of Motion to Compel</i>
06/01/2020	 Stipulation and Order Filed by: Plaintiff Tricarichi, Michael A. <i>[226] Stipulation and Order Re Revised Scheduling Order (Second Request)</i>
06/09/2020	 Order Granting Motion <i>[227] Order Granting PriceWaterhouseCoopers, LLP's Motion to File Under Seal Exhibits 21-24 to PriceWaterhouseCoopers, LLP's Motion to Compel Production of Financial Information</i>
06/09/2020	 Motion to Associate Counsel Filed By: Plaintiff Tricarichi, Michael A. <i>[228] Motion to Associate Counsel</i>
06/09/2020	 Notice of Entry of Order Filed By: Defendant PricewaterhouseCoopers LLP <i>[229] Notice of Entry of Order Granting PricewaterhouseCoopers LLP's Motion to File Under Seal Exhibits 21-24 to PricewaterhouseCoopers LLP's Motion to Compel Production of Financial Information</i>
06/10/2020	 Motion to Seal/Redact Records Filed By: Defendant PricewaterhouseCoopers LLP <i>[230] Motion to Seal Exhibits O, P and Q to Plaintiff Michael Tricarichi's Motion to Compel and Redact Excerpts of These Documents in the Motion</i>
06/10/2020	 Clerk's Notice of Hearing <i>[231] Notice of Hearing</i>
06/11/2020	 Clerk's Notice of Hearing <i>[232] Notice of Hearing</i>
06/12/2020	 Scheduling and Trial Order <i>[233] 2nd Amended Business Court Scheduling Order and Order Setting Civil Jury Trial, Pretrial Conference, and Calendar Call</i>
06/16/2020	 Order <i>[234] Order (1) Granting In Part and Denying In Part Defendant Pricewaterhousecoopers, LLP's Motion to Compel Production of Financial Information; (2) Granting In Part and Denying In Part Plaintiff Michael Tricarichi's Motion to Compel; and (3) Denying Plaintiff Michael Tricarichi's De-designation Motion</i>
06/19/2020	 Notice of Entry of Order Filed By: Defendant PricewaterhouseCoopers LLP <i>[235] Notice of Entry of Order (1) Granting in Part and Denying in Part Defendant PWC s Motion to Compel Production of Financial Information; (2) Granting in Part and Denying in Part Plaintiff s Motion to Compel; and (3) Denying Plaintiff s De-Designation Motion</i>
06/26/2020	 Notice of Withdrawal of Attorney Filed by: Defendant PricewaterhouseCoopers LLP <i>[236] Notice of Withdrawal of Krista J. Perry as Counsel</i>
06/30/2020	 Motion to Seal/Redact Records

# CASE SUMMARY

CASE NO. A-16-735910-B

	<p>Filed By: Defendant PricewaterhouseCoopers LLP  <i>[237] Motion to Seal and Redact Exhibit E to Plaintiff Michael Tricarichi's De-Designation Motion</i></p>
07/01/2020	<p> Clerk's Notice of Hearing  <i>[238] Notice of Hearing</i></p>
07/06/2020	<p> Notice  <p>Filed By: Defendant PricewaterhouseCoopers LLP  <i>[239] Notice of Parties' Stipulation Regarding Protocol for Remote Depositions</i></p></p>
07/21/2020	<p> Order Admitting to Practice  <p>Filed By: Plaintiff Tricarichi, Michael A.  <i>[240] Order Admitting to Practice - Sercye</i></p></p>
07/28/2020	<p> Notice of Entry of Order  <p>Filed By: Plaintiff Tricarichi, Michael A.  <i>[241] Notice of Entry of Order Admitting to Practice</i></p></p>
08/14/2020	<p> Order to Seal  <p>Filed By: Defendant PricewaterhouseCoopers LLP  <i>[242] Order Granting Defendant's Motion to Seal and Redact Exhibit E to Plaintiff Michael Tricarichi's De-Designation Motion</i></p></p>
08/14/2020	<p> Notice of Entry of Order  <p>Filed By: Defendant PricewaterhouseCoopers LLP  <i>[244] Notice of Entry of Order Granting Defendant's Motion to Seal and Redact Exhibit E to Plaintiff Michael Tricarichi's De-Designation Motion</i></p></p>
08/25/2020	<p> Stipulation and Order  <p>Filed by: Defendant PricewaterhouseCoopers LLP  <i>[245] Stipulation and Order to Issue Subpoena</i></p></p>
08/25/2020	<p> Stipulation and Order  <p>Filed by: Plaintiff Tricarichi, Michael A.  <i>[246] Stipulation and Order to Issue Deposition Subpoenas</i></p></p>
08/26/2020	<p> Notice of Entry of Stipulation and Order  <p>Filed By: Defendant PricewaterhouseCoopers LLP  <i>[247] Notice of Entry of Stipulation and Order to Issue Subpoena</i></p></p>
08/26/2020	<p> Notice of Entry of Stipulation and Order  <p>Filed By: Plaintiff Tricarichi, Michael A.  <i>[248] Notice of Entry of Stipulation and Order to Issue Deposition Subpoenas</i></p></p>
09/11/2020	<p> Affidavit of Service  <p>Filed By: Plaintiff Tricarichi, Michael A.  <i>[249] Affidavit of Service [Mark Boyer]</i></p></p>
09/15/2020	<p> Affidavit of Service  <p>Filed By: Plaintiff Tricarichi, Michael A.  <i>[250] Affidavit of Service [Rochelle Hodes]</i></p></p>
10/02/2020	<p> Motion to Associate Counsel</p>

# CASE SUMMARY

CASE NO. A-16-735910-B

	<p>Filed By: Defendant PricewaterhouseCoopers LLP  <i>[251] Motion to Associate Katharine Roin, Esq. as Counsel</i></p>
10/05/2020	<p> Clerk's Notice of Hearing  <i>[252] Notice of Hearing</i></p>
11/07/2020	<p> Order  <i>[253] Order Granting Defendant s Motion to Associate Counsel</i></p>
11/09/2020	<p> Notice of Entry of Order  <p>Filed By: Defendant PricewaterhouseCoopers LLP  <i>[254] Notice of Entry of Order Granting Defendant's Motion to Associate Counsel</i></p> </p>
11/13/2020	<p> Motion in Limine  <p>Filed By: Defendant PricewaterhouseCoopers LLP  <i>[255] PricewaterhouseCoopers LLP's Motion in Limine No. 1 to Exclude Certain Opinions of Plaintiff's Expert Craig Greene</i></p> </p>
11/13/2020	<p> Motion in Limine  <p>Filed By: Defendant PricewaterhouseCoopers LLP  <i>[256] PricewaterhouseCoopers LLP's Motion in Limine No. 2 to Exclude Testimony Related to PWC's 2003 Advice</i></p> </p>
11/13/2020	<p> Motion in Limine  <p>Filed By: Defendant PricewaterhouseCoopers LLP  <i>[257] PricewaterhouseCoopers LLP's Motion in Limine No. 3 to Exclude Testimony Regarding PWC's Alleged Conflict of Interest</i></p> </p>
11/13/2020	<p> Motion in Limine  <p>Filed By: Defendant PricewaterhouseCoopers LLP  <i>[258] PricewaterhouseCoopers LLP's Motion in Limine No. 4 to Exclude Testimony Related to PWC's Advice to Other Clients</i></p> </p>
11/13/2020	<p> Appendix  <p>Filed By: Defendant PricewaterhouseCoopers LLP  <i>[259] Appendix of Exhibits in Support of PricewaterhouseCoopers LLP's Motions in Limine Nos. 1-4</i></p> </p>
11/13/2020	<p> Motion for Summary Judgment  <p>Filed By: Defendant PricewaterhouseCoopers LLP  <i>[260] PricewaterhouseCoopers LLP's Motion for Summary Judgment and Motion to Strike Jury Demand</i></p> </p>
11/13/2020	<p> Appendix  <p>Filed By: Defendant PricewaterhouseCoopers LLP  <i>[261] Appendix of Exhibits in Support of PricewaterhouseCoopers LLPs Motion for Summary Judgment and Motion to Strike Jury Demand (Volume 1 of 4)</i></p> </p>
11/13/2020	<p> Appendix  <p>Filed By: Defendant PricewaterhouseCoopers LLP  <i>[262] Appendix of Exhibits in Support of PricewaterhouseCoopers LLPs Motion for Summary Judgment and Motion to Strike Jury Demand (Volume 2 of 4)</i></p> </p>
11/13/2020	<p> Appendix  <p>Filed By: Defendant PricewaterhouseCoopers LLP</p> </p>

# CASE SUMMARY

CASE NO. A-16-735910-B

[263] Appendix of Exhibits in Support of PricewaterhouseCoopers LLPs Motion for Summary Judgment and Motion to Strike Jury Demand (Volume 3 of 4)

11/13/2020



Appendix

Filed By: Defendant PricewaterhouseCoopers LLP

[264] Appendix of Exhibits in Support of PricewaterhouseCoopers LLPs Motion for Summary Judgment and Motion to Strike Jury Demand (Volume 4 of 4)

11/13/2020



Motion in Limine

Filed By: Plaintiff Tricarichi, Michael A.

[265] Plaintiff Michael Tricarichi's Motion in Limine No. 1 to Bar References to the Prior Convictions of James Tricarichi

11/13/2020



Motion in Limine

Filed By: Plaintiff Tricarichi, Michael A.

[266] Plaintiff Michael Tricarichi's Motion in Limine No. 2 to Exclude the Opinions of Kenneth Harris

11/13/2020



Motion in Limine

Filed By: Plaintiff Tricarichi, Michael A.

[267] Plaintiff Michael Tricarichi's Motion in Limine No. 3 to Bar Purported Mitigation Evidence

11/16/2020



Clerk's Notice of Hearing

[268] Notice of Hearing

11/16/2020



Clerk's Notice of Hearing

[269] Notice of Hearing

11/16/2020



Clerk's Notice of Hearing

[270] Notice of Hearing

11/24/2020



Stipulation and Order

Filed by: Plaintiff Tricarichi, Michael A.

[271] Stipulation and Order to Extend Time for Plaintiff to Respond to Pricewaterhousecoopers LLP s Motion for Summary Judgment and Motion to Strike Jury Demand

11/24/2020



Notice of Entry of Stipulation and Order

Filed By: Plaintiff Tricarichi, Michael A.

[272] Notice of Entry of Stipulation and Order to Extend Time for Plaintiff to Respond to Pricewaterhousecoopers LLP's Motion for Summary Judgment and Motion to Strike Jury Demand

11/30/2020



Opposition to Motion in Limine

Filed By: Plaintiff Tricarichi, Michael A.

[273] Plaintiff Michael Tricarichi's Opposition to Defendant's Motion in Limine No. 1 Related to Plaintiff's Expert Greene

11/30/2020



Opposition to Motion in Limine

Filed By: Plaintiff Tricarichi, Michael A.

[274] Plaintiff Michael Tricarichi's Opposition to Defendant's Motions in Limine Nos. 2, 3, 4

11/30/2020



Opposition to Motion in Limine

Filed By: Defendant PricewaterhouseCoopers LLP

# CASE SUMMARY

CASE NO. A-16-735910-B

*[275] PricewaterhouseCoopers LLP's Opposition to Plaintiff Michael Tricarichi's Motion in Limine No. 1 to Bar References to the Prior Convictions of James Tricarichi*

11/30/2020



Opposition to Motion in Limine

Filed By: Defendant PricewaterhouseCoopers LLP

*[276] PricewaterhouseCoopers LLP's Opposition to Plaintiff Michael Tricarichi's Motion in Limine No. 2 to Exclude the Opinions of Kenneth Harris*

11/30/2020



Opposition to Motion in Limine

Filed By: Defendant PricewaterhouseCoopers LLP

*[277] PricewaterhouseCoopers LLP's Opposition to Plaintiff Michael Tricarichi's Motion in Limine No. 3 to Exclude Mitigation Evidence*

11/30/2020



Appendix

Filed By: Defendant PricewaterhouseCoopers LLP

*[278] Appendix of Exhibits in Support of PricewaterhouseCoopers LLP's Oppositions to Plaintiff Michael Tricarichi's Motions in Limine Nos. 1-3*

12/04/2020



Opposition to Motion

Filed By: Plaintiff Tricarichi, Michael A.

*[279] Plaintiff Michael Tricarichi's Opposition to Defendant's Motion for Summary Judgment*

12/04/2020



Appendix

Filed By: Plaintiff Tricarichi, Michael A.

*[280] Appendix of Exhibits in Support of Plaintiff Michael Tricarichi's Opposition to Defendant's Motion for Summary Judgment*

12/04/2020



Mandatory Pretrial Disclosure

Party: Defendant PricewaterhouseCoopers LLP

*[281] PricewaterhouseCoopers LLP's Pre-Trial Disclosure Pursuant to NRCP 16.1(a)(3)*

12/04/2020



Joint Pre-Trial Memorandum

Filed By: Plaintiff Tricarichi, Michael A.

*[282] Joint Pretrial Memorandum*

12/08/2020



Scheduling and Trial Order

*[283] 3rd Amended Order Setting Civil Jury Trial, Calendar Call and Pre-Trial Conference*

12/11/2020



Reply in Support

Filed By: Plaintiff Tricarichi, Michael A.

*[284] Plaintiff Michael Tricarichi's Reply in Support of Motion in Limine No. 1 to Bar References to the Prior Convictions of James Tricarichi*

12/11/2020



Reply in Support

Filed By: Plaintiff Tricarichi, Michael A.

*[285] Plaintiff Michael Tricarichi's Reply in Support of Motion in Limine No. 3 to Bar Purported Mitigation Evidence*

12/11/2020



Reply in Support

Filed By: Plaintiff Tricarichi, Michael A.

*[286] Plaintiff Michael Tricarichi's Reply in Support of Motion in Limine No. 2 to Exclude the Opinions of Kenneth Harris*

12/14/2020



Reply in Support

*[287] PricewaterhouseCoopers LLP's Reply in Further Support of its Motion in Limine No. 1*

# CASE SUMMARY

CASE NO. A-16-735910-B

*to Exclude Certain Opinions of Plaintiff's Expert Craig Greene*

12/14/2020	 Reply in Support Filed By: Defendant PricewaterhouseCoopers LLP <i>[288] PricewaterhouseCoopers LLP's Reply in Further Support of its Motions in Limine Nos. 2, 3, and 4 to Exclude Evidence Relating to Dismissed Claims</i>
12/14/2020	 Reply in Support Filed By: Defendant PricewaterhouseCoopers LLP <i>[289] Defendant PricewaterhouseCoopers LLP's Reply in Support of its Motion for Summary Judgment</i>
12/14/2020	 Appendix Filed By: Defendant PricewaterhouseCoopers LLP <i>[290] Supplemental Appendix of Exhibits in Support of Defendant PricewaterhouseCoopers LLP's Reply in Support of its Motion for Summary Judgment</i>
12/30/2020	 Order Filed By: Defendant PricewaterhouseCoopers LLP <i>[291] Order Regarding Motions in Limine</i>
12/30/2020	 Notice of Entry of Order Filed By: Defendant PricewaterhouseCoopers LLP <i>[292] Notice of Entry of Order Regarding Motions in Limine</i>
01/23/2021	 Order Shortening Time Filed By: Defendant PricewaterhouseCoopers LLP <i>[295] Pricewaterhousecoopers LLP s Motion to Stay Trial Pending Writ Review on an Order Shortening Time</i>
01/27/2021	 Opposition to Motion Filed By: Plaintiff Tricarichi, Michael A. <i>[296] Plaintiff Michael Tricarichi's Opposition to Defendant's Motion to Stay Trial Pending Writ Review</i>
01/28/2021	 Reply in Support Filed By: Defendant PricewaterhouseCoopers LLP <i>[297] PricewaterhouseCoopers LLP's Reply in Support of Motion to Stay Trial Pending Writ Review on an Order Shortening Time</i>
02/06/2021	 Order Filed By: Plaintiff Tricarichi, Michael A. <i>[298] Order Denying Without Prejudice Defendant Pricewaterhousecoopers LLP'S Motion to Stay Trial Pending Writ Review</i>
02/09/2021	 Notice of Entry of Order Filed By: Plaintiff Tricarichi, Michael A. <i>[299] Notice of Entry of Order Denying Without Prejudice Defendant PricewaterhouseCoopers LLP's Motion to Stay Trial Pending Writ Review</i>
02/09/2021	 Notice of Appearance Party: Plaintiff Tricarichi, Michael A. <i>[300] Notice of Appearance</i>
02/12/2021	 Joint Pre-Trial Memorandum



# CASE SUMMARY

CASE NO. A-16-735910-B

	<p>Filed By: Plaintiff Tricarichi, Michael A.  <i>[301] Joint Pretrial Memorandum</i></p>
02/23/2021	<p> Scheduling and Trial Order  <i>[302] 4th Amended Order Setting Civil Jury Trial, Calendar Call and Pre-Trial Conference 06-28-21</i></p>
03/16/2021	<p> Notice            Filed By: Defendant PricewaterhouseCoopers LLP  <i>[303] Notice of Nevada Supreme Court's Order Directing Answer and Granting Stay</i></p>
05/05/2021	<p> Motion to Continue Trial            Filed By: Defendant PricewaterhouseCoopers LLP  <i>[304] Pricewaterhousecoopers LLP's Motion to Vacate or Continue Trial on an Order Shortening Time</i></p>
05/11/2021	<p> Order            Filed By: Defendant PricewaterhouseCoopers LLP  <i>[305] Order Granting PricewaterhouseCooper LLP's Motion to Vacate or Continue Trial on an Order Shortening Time</i></p>
05/11/2021	<p> Notice of Entry of Order            Filed By: Defendant PricewaterhouseCoopers LLP  <i>[306] Notice of Entry of Order Granting PricewaterhouseCooper LLP's Motion to Vacate or Continue Trial on an Order Shortening Time</i></p>
06/21/2021	<p> Status Report            Filed By: Defendant PricewaterhouseCoopers LLP  <i>[307] Joint Status Report re: PricewaterhouseCoopers LLP's Petition for Writ of Mandamus</i></p>
09/07/2021	<p>Case Reassigned to Department 31  <i>From Judge Elizabeth Gonzalez to Judge Joanna Kishner</i></p>
09/22/2021	<p> Status Report            Filed By: Defendant PricewaterhouseCoopers LLP  <i>[308] Joint Status Report re: PricewaterhouseCoopers LLP's Petition for Writ of Mandamus</i></p>
11/18/2021	<p> Status Report            Filed By: Defendant PricewaterhouseCoopers LLP  <i>[309] Joint Status Report Re: PricewaterhouseCoopers LLP's Petition for Writ of Mandamus</i></p>
11/18/2021	<p> Errata            Filed By: Defendant PricewaterhouseCoopers LLP  <i>[310] Errata to Joint Status Report Re: PricewaterhouseCoopers LLP's Petition for Writ of Mandamus</i></p>
11/19/2021	<p> Notice of Hearing  <i>[311] Notice of Hearing Regarding Trial Setting</i></p>
12/06/2021	<p> Memorandum  <i>[312] Court's Memo RE: Remote Appearance Information for DECEMBER 9, 2021, Hearing            **PLEASE REVIEW IN ITS ENTIRETY**</i></p>
12/14/2021	<p> Notice            Filed By: Defendant PricewaterhouseCoopers LLP</p>

# CASE SUMMARY

CASE NO. A-16-735910-B

*[313] Joint Notice of Availability for Evidentiary Hearing*

12/27/2021



Recorders Transcript of Hearing

*[314] Transcript of Proceedings: Hearing Re Trial Setting: Notice of Lieu of Remittitur of the Supreme Court's Decision and Order was Filed on October 21, 2021 -- 12-9-21*

03/16/2022



Order Shortening Time

*[315] PriceWaterHouseCoopers, LLP's Motion to Quash Subpoena on Order Shortening Time*

03/17/2022



Temporary Seal Pending Court Approval

Filed By: Defendant PricewaterhouseCoopers LLP

*[316] Exhibit 3 to PricewaterhouseCoopers LLP's Motion to Quash Subpoena on an Order Shortening Time*

03/21/2022



Opposition to Motion

Filed By: Plaintiff Tricarichi, Michael A.

*[317] Plaintiff Tricarichi's Opposition to Pricewaterhouse Coopers' Motion to Quash Subpoena*

03/22/2022



Memorandum

*[318] Court's Memo RE: Remote Appearance Information for MARCH 24, 2022, Hearing  
\*\*PLEASE REVIEW IN ITS ENTIRETY\*\**

03/22/2022



Reply in Support

Filed By: Defendant PricewaterhouseCoopers LLP

*[319] PricewaterhouseCoopers LLP's Reply in Support of its Motion to Quash Subpoena on an Order Shortening Tme*

03/23/2022



Brief

Filed By: Plaintiff Tricarichi, Michael A.

*[320] Plaintiff Michael Tricarichi's Evidentiary Hearing Memorandum*

03/23/2022



Brief

Filed By: Defendant PricewaterhouseCoopers LLP

*[321] Defendant PricewaterhouseCoopers LLP's Pre-Hearing Brief*

03/24/2022



Errata

Filed By: Defendant PricewaterhouseCoopers LLP

*[322] Errata to Defendant PricewaterhouseCoopers LLP's Pre-Hearing Brief*

03/24/2022



Amended

Filed By: Plaintiff Tricarichi, Michael A.

*[323] Plaintiff Michael Tricarichi's Amended Evidentiary Hearing Memorandum*

03/25/2022



Recorders Transcript of Hearing

*[324] Transcript of Proceedings: PricewaterhouseCoopers, LLP's Motion to Quash Subpoena on Order Shortening Time -- 3-24-22*

03/28/2022



Memorandum

*[325] Court's Memo RE: Remote Appearance Information for MARCH 30, 2022, Hearing  
\*\*PLEASE REVIEW IN ITS ENTIRETY\*\**

03/28/2022



Order Shortening Time

*[326] Defendant Pricewaterhousecoopers, LLP's Motion to Strike Plaintiff Michael Tricarichi's New Argument that the Contract is Unenforceable on Order Shortening Time*

# CASE SUMMARY

CASE NO. A-16-735910-B

03/28/2022	 Notice of Entry of Order Filed By: Defendant PricewaterhouseCoopers LLP <i>[327] Notice of Entry of Order Shortening Time Regarding Defendant PricewaterhouseCoopers LLP s Motion to Strike Plaintiff Michael Tricarichi s New Argument that the Contract is Unenforceable</i>
03/29/2022	 Opposition to Motion Filed By: Plaintiff Tricarichi, Michael A. <i>[328] Plaintiff Michael Tricarichi's Opposition to Defendant PricewaterhouseCoopers, LLP's Motion to Strike</i>
03/31/2022	 Transcript of Proceedings <i>[329] Transcript of Proceedings: Evidentiary Hearing; Defendant PricewaterhouseCoopers, LLP's Motion to Strike Plaintiff Michael Tricarichi's New Argument That the Contract is Unenforceable on Order Shortening Time -- 3-30-22</i>
04/06/2022	 Order Granting Motion <i>[330] Order Granting PriceWaterHouseCoopers, LLP's Motion to Quash Subpoena on Order Shortening Time</i>
04/07/2022	 Notice of Entry of Order Filed By: Defendant PricewaterhouseCoopers LLP <i>[331] Notice of Entry of Order Granting PricewaterhouseCoopers LLP s Motion to Quash Subpoena on an Order Shortening Time</i>
04/11/2022	 Stipulation and Order Filed by: Plaintiff Tricarichi, Michael A. <i>[332] Stipulation and Order to Amend Case Caption</i>
04/11/2022	 Notice of Entry of Stipulation and Order Filed By: Plaintiff Tricarichi, Michael A. <i>[333] Notice of Entry of Stipulation and Order to Amend Case Caption</i>
04/14/2022	 Order Denying Filed By: Defendant PricewaterhouseCoopers LLP <i>[334] Order Denying Defendant PricewaterhouseCoopers LLP's Motion for Summary Judgment and Motion to Limit Damages</i>
04/14/2022	 Notice of Entry of Order Filed By: Defendant PricewaterhouseCoopers LLP <i>[335] Notice of Entry of Order Denying Defendant PricewaterhouseCoopers LLP's Motion for Summary Judgment and Motion to Limit Damages</i>
04/27/2022	 Findings of Fact, Conclusions of Law and Order <i>[336] Findings of Fact, Conclusions of Law, and Order Granting PWC's Motion to Strike Jury Demand</i>
04/28/2022	 Motion for Partial Summary Judgment Filed By: Defendant PricewaterhouseCoopers LLP <i>[337] PricewaterhouseCoopers LLP's Renewed Motion for Partial Summary Judgment</i>
04/28/2022	 Appendix Filed By: Defendant PricewaterhouseCoopers LLP <i>[338] Appendix of Exhibits in Support of PricewaterhouseCoopers LLP's Renewed Motion for</i>

# CASE SUMMARY

CASE NO. A-16-735910-B

*Partial Summary Judgment (Volume 1 of 3)*

04/28/2022



Appendix

Filed By: Defendant PricewaterhouseCoopers LLP

*[339] Appendix of Exhibits in Support of PricewaterhouseCoopers LLP's Renewed Motion for Partial Summary Judgment (Volume 2 of 3)*

04/28/2022



Appendix

Filed By: Defendant PricewaterhouseCoopers LLP

*[340] Appendix of Exhibits in Support of PricewaterhouseCoopers LLP's Renewed Motion for Partial Summary Judgment (Volume 3 of 3)*

04/29/2022



Notice of Entry of Stipulation and Order

Filed By: Defendant PricewaterhouseCoopers LLP

*[341] Notice of Entry of Findings of Fact, Conclusions of Law, and Order Granting PWC's Motion to Strike Jury Demand*

05/06/2022



Amended Order Setting Civil Non-Jury Trial

*[342] AMENDED ORDER SETTING CIVIL JURY TRIAL, PRE-TRIAL/TRIAL SETTING CONFERENCE, and CALENDAR CALL/FINAL PRE-TRIAL CONFERENCE*

05/09/2022



Amended Order Setting Civil Non-Jury Trial

*[343] AMENDED ORDER SETTING CIVIL NON-JURY TRIAL, PRE-TRIAL/TRIAL SETTING CONFERENCE, and CALENDAR CALL/FINAL PRE-TRIAL CONFERENCE*

05/12/2022



Stipulation and Order

*[344] Stipulation and Order to Extend Briefing Schedule Deadlines for Defendant PWC's Motion for Partial Summary Judgment*

05/12/2022



Notice of Entry of Stipulation and Order

Filed By: Plaintiff Tricarichi, Michael A.

*[345] NOTICE OF ENTRY OF ORDER*

05/19/2022



Opposition to Motion

Filed By: Plaintiff Tricarichi, Michael A.

*[346] PLAINTIFF MICHAEL TRICARICHIS OPPOSITION TO PWCS29 RENEWED MOTION FOR PARTIAL SUMMARY JUDGMENT*

05/19/2022



Appendix

Filed By: Plaintiff Tricarichi, Michael A.

*[347] APPENDIX OF EXHIBITS TO PLAINTIFF MICHAEL TRICARICHIS OPPOSITION TO PWCS RENEWED MOTION FOR PARTIAL SUMMARY JUDGMENT [VOLUME 1]*

05/19/2022



Appendix

Filed By: Plaintiff Tricarichi, Michael A.

*[348] APPENDIX OF EXHIBITS TO PLAINTIFF MICHAEL TRICARICHIS OPPOSITION TO PWCS RENEWED MOTION FOR PARTIAL SUMMARY JUDGMENT [VOLUME 2]*

06/01/2022



Audiovisual Transmission Equipment Appearance Request

Party: Defendant PricewaterhouseCoopers LLP

*[349] Notice of Intent to Appear by Simultaneous Audiovisual Transmission Equipment*

06/02/2022



Reply in Support

Filed By: Defendant PricewaterhouseCoopers LLP

*[350] PricewaterhouseCoopers LLP's Reply in Support of its Renewed Motion for Partial*

# CASE SUMMARY

CASE NO. A-16-735910-B

## Summary Judgment

06/07/2022	 Audiovisual Transmission Equipment Appearance Request Party: Plaintiff Tricarichi, Michael A. <i>[351] Notice of Intent to Appear By Simultaneous Audiovisual Transmission Equipment</i>
06/07/2022	 Memorandum <i>[352] Court's Memo RE: Remote Appearance Information for JUNE 9, 2022, Hearing</i> <b>**PLEASE REVIEW IN ITS ENTIRETY**</b>
06/13/2022	 Court Recorders Invoice for Transcript <i>[353]</i>
06/13/2022	 Recorders Transcript of Hearing <i>[354] Transcript Re: Pricewaterhousecoopers. LLP's Renewed Motion for Partial Summary Judgment, June 9, 2022</i>
06/13/2022	 Notice of Withdrawal of Attorney Filed by: Plaintiff Tricarichi, Michael A. <i>[355] Notice of Withdrawal of Counsel</i>
06/16/2022	 Order Denying Motion Filed By: Plaintiff Tricarichi, Michael A. <i>[356] Order Denying Defendant PriceWaterhouseCoopers LLP's Renewed Motion for Partial Summary Judgement</i>
06/16/2022	 Notice of Entry of Order Filed By: Plaintiff Tricarichi, Michael A. <i>[357] Notice of Entry of Order Denying Defendant PricewaterhouseCoopers LLP's Renewed Motion for Partial Summary Judgement</i>
08/30/2022	 Audiovisual Transmission Equipment Appearance Request Party: Plaintiff Tricarichi, Michael A. <i>[358] Notice of Intent to Appear By Simultaneous Audiovisual Transmission Equipment</i>
08/31/2022	 Notice of Intent Filed By: Defendant PricewaterhouseCoopers LLP <i>[359] Defendant's Notice of Intent to Appear by Simultaneous Audiovisual Transmission Equipment</i>
09/07/2022	 Memorandum <i>[360] Court's Memo RE: Remote Appearance Information for SEPTEMBER 8, 2022, Pre-Trial Conference</i> <b>**PLEASE REVIEW IN ITS ENTIRETY**</b>
09/30/2022	 Mandatory Pretrial Disclosure Party: Defendant PricewaterhouseCoopers LLP <i>[361] PricewaterhouseCoopers LLP's Pre-Trial Disclosure Pursuant to NRCP 16.1(a)(3)</i>
09/30/2022	 Mandatory Pretrial Disclosure Party: Plaintiff Tricarichi, Michael A. <i>[362] Plaintiff Michael A. Tricarichi's Pre-Trial Disclosure Pursuant to NRCP 16.1(a)(3)</i>
10/14/2022	 Joint Pre-Trial Memorandum Filed By: Plaintiff Tricarichi, Michael A.

# CASE SUMMARY

CASE NO. A-16-735910-B

*[363] Joint Pre-Trial Memorandum*

10/19/2022



Audiovisual Transmission Equipment Appearance Request

Party: Defendant PricewaterhouseCoopers LLP

*[364] Defendant's Notice of Intent to Appear by Simultaneous Audiovisual Transmission Equipment*

10/24/2022



Objection

Filed By: Defendant PricewaterhouseCoopers LLP

*[366] Michael Tricarichi's and PricewaterhouseCoopers LLP's Revised Exhibit Objections*

10/24/2022



Court Recorders Invoice for Transcript

*[367] Transcript/Recording Fee 9/8/22 & 10/21/22*

10/24/2022



Recorders Transcript of Hearing

*[368] Transcript of Hearing Re: Pre Trial Conference*

10/24/2022



Recorders Transcript of Hearing

*[369] Transcript of Hearing Re: Calendar Call*

10/24/2022



Motion for Leave to File

*[370] PLAINTIFFS MOTION FOR LEAVE TO FILE UNDER SEAL PLAINTIFFS MOTION FOR DISCOVERY SANCTIONS ON ORDER SHORTENING TIME*

10/26/2022



Supplement

Filed by: Defendant PricewaterhouseCoopers LLP

*[371] PricewaterhouseCoopers LLP's Supplement to Joint Pre-Trial Memorandum*

10/26/2022



Opposition to Motion

Filed By: Defendant PricewaterhouseCoopers LLP

*[372] PricewaterhouseCoopers LLP's Opposition to Michael Tricarichis Motion for Discovery Sanctions*

10/27/2022



Trial Brief

Filed By: Defendant PricewaterhouseCoopers LLP

*[373] PricewaterhouseCoopers LLP's Trial Brief*

10/27/2022



Motion to Associate Counsel

Filed By: Defendant PricewaterhouseCoopers LLP

*[374] Motion to Associate Alexandra Genord, Esq. as Counsel*

10/27/2022



Motion to Associate Counsel

Filed By: Defendant PricewaterhouseCoopers LLP

*[375] Motion to Associate Sundeep Addy, Esq. as Counsel*

10/27/2022



Clerk's Notice of Hearing

*[376] Clerk's Notice of Hearing*

10/28/2022



Motion to Strike

Filed By: Defendant PricewaterhouseCoopers LLP

*[377] PricewaterhouseCoopers LLP's Motion to Strike on Order Shortening Time*

10/31/2022
















Stipulation and Order

*[378] Michael Tricarichi's And Pricewaterhousecoopers LLP's Revised Joint Trial Stipulation*

# CASE SUMMARY

CASE NO. A-16-735910-B

















*And Order*

10/31/2022	 Notice of Entry of Stipulation and Order Filed By: Defendant PricewaterhouseCoopers LLP <i>[379] Notice of Entry of Michael Tricarichi's and PricewaterhouseCoopers LLP's Revised Joint Trial Stipulation and Order</i>
10/31/2022	 Clerk's Notice of Hearing <i>[380] Notice of Hearing</i>
10/31/2022	 Clerk's Notice of Hearing <i>[381] Notice of Hearing</i>
10/31/2022	Motion <i>[382] Plaintiff's Motion for Discovery Sanctions on an Order Shortening Time Filed Under Seal Hearing Requested</i>
10/31/2022	 Redacted Version <i>[414] Redacted version of Motion to remove and seal Exhibit 11 per Order 12/8/22</i>
10/31/2022	 Filed Under Seal <i>[415] Sealed Exhibit 11</i>
11/01/2022	 Order Granting Motion Filed By: Defendant PricewaterhouseCoopers LLP <i>[383] Order Granting Motion to Associate Alexandra Genord Esq. as Counsel</i>
11/01/2022	 Order Granting Motion Filed By: Defendant PricewaterhouseCoopers LLP <i>[384] Order Granting Motion to Associate Sundeep Addy, Esq as Counsel</i>
11/01/2022	 Notice of Entry of Order Filed By: Defendant PricewaterhouseCoopers LLP <i>[385] Notice of Entry of Order Granting Motion to Associate Alexandra Genord, Esq. as Counsel</i>
11/01/2022	 Notice of Entry of Order Filed By: Defendant PricewaterhouseCoopers LLP <i>[386] Notice of Entry of Order Granting Motion to Associate Sundeep Addy, Esq. as Counsel</i>
11/01/2022	 Opposition to Motion Filed By: Plaintiff Tricarichi, Michael A. <i>[387] Plaintiff Michael Tricarichi's Opposition to Defendant's Motion to Strike</i>
11/01/2022	 Errata Filed By: Plaintiff Tricarichi, Michael A. <i>[388] Errata to Plaintiff Michael Tricarichi's Opposition to Defendant's Motion to Strike</i>
11/02/2022	 Order Shortening Time <i>[389] PriceWaterHouseCoopers, LLP's Motion to Strike on Order Shortening Time</i>
11/02/2022	 Notice of Entry of Order Filed By: Defendant PricewaterhouseCoopers LLP <i>[390] Notice of Entry of Order Shortening Time re: PricewaterhouseCoopers LLPs Motion to</i>

# CASE SUMMARY

CASE NO. A-16-735910-B

*Strike on Order Shortening Time*

11/09/2022	 Stipulation and Order <i>[391] Stipulation and Order RE: Deposition Designations of Randy Hart and Donald Korb</i>
11/09/2022	 Notice of Entry of Stipulation and Order Filed By: Defendant PricewaterhouseCoopers LLP <i>[392] Notice of Entry of Stipulation and Order re: Deposition Designations of Randy Hart and Donald Korb</i>
11/14/2022	 Court Recorders Invoice for Transcript <i>[393] Trial Recording Fees - Johnson</i>
11/14/2022	 Court Recorders Invoice for Transcript <i>[394] Trial Recording Fees - Austin</i>
11/16/2022	 Clerk's Notice of Nonconforming Document <i>[395] Clerk's Notice of Nonconforming Document</i>
11/18/2022	 Recorders Transcript of Hearing <i>[396] Recorder's Transcript of Bench Trial - Day 1 -- 10-31-22</i>
11/18/2022	 Recorders Transcript of Hearing <i>[397] Recorder's Transcript of Bench Trial - Day 2 -- 11-1-22</i>
11/18/2022	 Recorders Transcript of Hearing <i>[398] Recorder's Transcript of Bench Trial - Day 3 -- 11-2-22</i>
11/18/2022	 Recorders Transcript of Hearing <i>[399] Recorder's Transcript of Bench Trial - Day 4 -- 11-3-22</i>
11/18/2022	 Recorders Transcript of Hearing <i>[400] Recorder's Transcript of Bench Trial - Day 5 -- 11-4-22</i>
11/18/2022	 Recorders Transcript of Hearing <i>[401] Recorder's Transcript of Bench Trial - Day 6 -- 11-7-22</i>
11/18/2022	 Recorders Transcript of Hearing <i>[402] Recorder's Transcript of Bench Trial - Day 7 -- 11-8-22</i>
11/18/2022	 Recorders Transcript of Hearing <i>[403] Recorder's Transcript of Bench Trial - Day 8 - Volume 1 -- 11-9-22</i>
11/18/2022	 Recorders Transcript of Hearing <i>[404] Recorder's Transcript of Bench Trial - Day 8 - Video Deposition Excerpts for Donald Korb and Randy Hart - Volume 2 -- 11-9-22</i>
11/18/2022	 Recorders Transcript of Hearing <i>[405] Recorder's Transcript of Bench Trial - Day 9 -- 11-10-22</i>
11/21/2022	 Clerk's Notice of Nonconforming Document and Curative Action <i>[406] Clerk's Notice of Curative Action</i>



# CASE SUMMARY

CASE NO. A-16-735910-B

11/21/2022	 Order Granting Motion <i>[407] Order Granting PWC's Motion to Strike Michael Tricarichi's Updated Damages Computation on Order Shortening Time</i>
11/21/2022	 Audiovisual Transmission Equipment Appearance Request Party: Defendant PricewaterhouseCoopers LLP <i>[408] Defendant's Notice of Intent to Appear by Simultaneous Audiovisual Transmission Equipment</i>
11/21/2022	 Notice of Entry of Order Filed By: Defendant PricewaterhouseCoopers LLP <i>[409] Notice of Entry of Order Granting PwC's Motion to Strike Michael Tricarichi's Updated Damages Computation on Order Shortening Time</i>
11/21/2022	 Audiovisual Transmission Equipment Appearance Request Party: Plaintiff Tricarichi, Michael A. <i>[410] Notice Of Intent To Appear By Simultaneous Audiovisual Transmission Equipment</i>
11/23/2022	 Memorandum <i>[411] Court's Memo RE: Remote Appearance Information for NOVEMBER 29, 2022, Hearing **PLEASE REVIEW IN ITS ENTIRETY**</i>
12/08/2022	 Order Granting Motion <i>[412] Order Granting In Part Plaintiff Michael Tricarichi's Motion for Discovery Sanctions and Mmotion for Leave to File Under Seal</i>
12/08/2022	 Notice of Entry of Order Filed By: Plaintiff Tricarichi, Michael A. <i>[413] Notice Of Entry Of Order Granting In Part Plaintiff Michael Tricarichis Motion For Discovery Sanctions And Motion For Leave To File Under Seal</i>
02/09/2023	 Findings of Fact, Conclusions of Law and Judgment <i>[416] Findings Of Fact And Conclusions Of Law And Judgment</i>
02/14/2023	 Memorandum of Costs and Disbursements Filed By: Defendant PricewaterhouseCoopers LLP <i>[417] PricewaterhouseCoopers LLP's Verified Memorandum of Costs</i>
02/14/2023	 Appendix Filed By: Defendant PricewaterhouseCoopers LLP <i>[418] Appendix of Exhibits to PricewaterhouseCoopers LLP's Verified Memorandum of Costs</i>
02/15/2023	 Stipulation and Order Filed by: Defendant PricewaterhouseCoopers LLP <i>[419] Stipulation and Order to Extend Time to File a Memorandum of Costs and a Motion to Retax (First Request)</i>
02/22/2023	 Notice of Entry of Judgment Filed By: Defendant PricewaterhouseCoopers LLP <i>[420] Notice of Entry of Findings of Fact and Conclusions of Law and Judgment</i>
02/22/2023	 Notice of Entry of Stipulation and Order Filed By: Defendant PricewaterhouseCoopers LLP <i>[421] Notice of Entry of Stipulation and Order to Extend Time to File Memorandum of Costs</i>

# CASE SUMMARY

CASE NO. A-16-735910-B

*and Motion to Retax*

02/24/2023



Memorandum of Costs and Disbursements

Filed By: Defendant PricewaterhouseCoopers LLP

*[422] PricewaterhouseCoopers LLP's Amended Verified Memorandum of Costs*

02/24/2023



Appendix

Filed By: Defendant PricewaterhouseCoopers LLP

*[423] Appendix of Exhibits to PricewaterhouseCoopers LLP's Amended Verified Memorandum of Costs*

03/10/2023



Motion to Retax

Filed By: Plaintiff Tricarichi, Michael A.

*[424] Tricarichis Motion To Retax And Settle Pwcs Amended Verified Memorandum Of Costs*

03/12/2023



Clerk's Notice of Hearing

*[425] Notice of Hearing*

03/15/2023



Motion to Seal/Redact Records

Filed By: Defendant PricewaterhouseCoopers LLP

*[426] PricewaterhouseCoopers LLP's Motion to Seal Exhibits 5 and 6 to Motion for Attorneys' Fees and Costs*

03/15/2023



Motion for Attorney Fees and Costs

Filed By: Defendant PricewaterhouseCoopers LLP

*[427] PricewaterhouseCoopers LLP's Motion for Attorneys' Fees and Costs*

03/15/2023



Appendix

Filed By: Defendant PricewaterhouseCoopers LLP

*[428] Appendix of Exhibits to PricewaterhouseCoopers LLP's Motion for Attorneys' Fees and Costs*

03/15/2023



Temporary Seal Pending Court Approval

Filed By: Defendant PricewaterhouseCoopers LLP

*[429] Exhibits 5 and 6 to PricewaterhouseCoopers LLP's Motion for Attorneys' Fees and Costs*

03/16/2023



Clerk's Notice of Hearing

Party: Defendant PricewaterhouseCoopers LLP

*[430] Notice of Hearing*

03/16/2023



Clerk's Notice of Hearing

Party: Defendant PricewaterhouseCoopers LLP

*[431] Notice of Hearing*

03/21/2023



Stipulation and Order

Filed by: Defendant PricewaterhouseCoopers LLP

*[432] Stipulation and Order to Consolidate Hearings and Extend Briefing (First Request)*

03/21/2023



Notice of Entry of Stipulation and Order

Filed By: Defendant PricewaterhouseCoopers LLP

*[433] Notice of Entry of Stipulation and Order to Consolidate Hearings and Extend Briefing*







03/23/2023



Notice of Appeal

# CASE SUMMARY

CASE NO. A-16-735910-B

	<p>Filed By: Plaintiff Tricarichi, Michael A.  <i>[434] Plaintiff's Notice of Appeal</i></p>
03/23/2023	<p> Case Appeal Statement            Filed By: Plaintiff Tricarichi, Michael A.  <i>[435] Plaintiff's Case Appeal Statement</i></p>
03/24/2023	<p> Amended Notice of Appeal            Party: Plaintiff Tricarichi, Michael A.  <i>[436] Plaintiff's Amended Notice of Appeal</i></p>
03/24/2023	<p> Amended Case Appeal Statement            Party: Plaintiff Tricarichi, Michael A.  <i>[437] Plaintiff's Amended Case Appeal Statement</i></p>
03/24/2023	<p> Errata            Filed By: Plaintiff Tricarichi, Michael A.  <i>[438] Errata to Plaintiff's Amended Case Appeal Statement</i></p>
	<p><b><u>DISPOSITIONS</u></b></p>
12/23/2016	<p><b>Order of Dismissal</b> (Judicial Officer: Hardy, Joe)            Debtors: Michael A. Tricarichi (Plaintiff)            Creditors: Seyfarth Shaw LLP (Defendant)            Judgment: 12/23/2016, Docketed: 12/30/2016</p>
02/08/2017	<p><b>Order of Dismissal Without Prejudice</b> (Judicial Officer: Hardy, Joe)            Debtors: Michael A. Tricarichi (Plaintiff)            Creditors: Cooperatieve Rabobank UA (Defendant), Utrechit-America Finance Co (Defendant)            Judgment: 02/08/2017, Docketed: 02/15/2017</p>
10/24/2018	<p><b>Summary Judgment</b> (Judicial Officer: Gonzalez, Elizabeth)            Debtors: Michael A. Tricarichi (Plaintiff)            Creditors: PricewaterhouseCoopers LLP (Defendant)            Judgment: 10/24/2018, Docketed: 10/24/2018            Comment: Certain Claims</p>
05/31/2019	<p><b>Clerk's Certificate</b> (Judicial Officer: Gonzalez, Elizabeth)            Debtors: Michael A. Tricarichi (Plaintiff)            Creditors: Seyfarth Shaw LLP (Defendant), Cooperatieve Rabobank U A (Defendant), Utrechit-America Finance Co (Defendant)            Judgment: 05/31/2019, Docketed: 06/07/2019            Comment: Supreme Court No. 73175 Appeal Affirmed</p>
02/09/2023	<p><b>Judgment</b> (Judicial Officer: Kishner, Joanna S.)            Debtors: Michael A. Tricarichi (Plaintiff)            Creditors: PricewaterhouseCoopers LLP (Defendant)            Judgment: 02/09/2023, Docketed: 02/10/2023</p>
	<p><b><u>HEARINGS</u></b></p>
07/18/2016	<p> <b>Motion to Associate Counsel</b> (3:00 AM) (Judicial Officer: Hardy, Joe)  <i>Plaintiff's Motion to Associate Counsel</i>            Minute Order - No Hearing Held;</p>
07/18/2016	<p> <b>Motion to Associate Counsel</b> (3:00 AM) (Judicial Officer: Hardy, Joe)  <i>Plaintiff's Motion to Associate Counsel</i>            Minute Order - No Hearing Held;            Journal Entry Details:</p>

**CASE SUMMARY****CASE NO. A-16-735910-B**

*COURT ORDERED, Plaintiff's Motion to Associate Counsel for Scott F. Hessell, Esq. is hereby GRANTED as unopposed, pursuant to EDCR 2.20(e), and is GRANTED on the merits, pursuant to Rule 42 of the Supreme Court Rules. CLERK'S NOTE: A copy of this minute order was e-mailed to: Mark A. Hutchison, Esq. [mhutchison@hutchlegal.com], Todd L. Moody, Esq. [tmoody@hutchlegal.com], Todd Prall, Esq. [tprall@hutchlegal.com], Scott Hessell, Esq. [shessell@sperling-law.com], Thomas D. Brooks, Esq. [tbrooks@sperling-law.com], and Steve L. Morris, Esq. [sm@morrislawgroup.com]. (KD 7/18/16);*

08/22/2016

**Motion to Associate Counsel** (3:00 AM) (Judicial Officer: Hardy, Joe)

*Defendant, PricewaterhouseCoopers, LLP's Motion to Associate Counsel Winston P. Hsiao*  
Minute Order - No Hearing Held;

Journal Entry Details:

*COURT ORDERED, Defendant PricewaterhouseCoopers, LLP's Motion to Associate Counsel Winston P. Hsiao is hereby GRANTED as unopposed, pursuant to EDCR 2.20(e), and is GRANTED on the merits, pursuant to Rule 42 of the Supreme Court Rules. CLERK'S NOTE: A copy of this minute order was e-mailed to: Patrick Byrne, Esq. [pbyrne@swlaw.com], Sherry Ly, Esq. [sly@swlaw.com], Peter B. Morrison, Esq. [peter.morrison@skadden.com], Winston P. Hsiao, Esq. [winston.hsiao@skadden.com], Mark A. Hutchison, Esq. [mhutchison@hutchlegal.com], Todd L. Moody, Esq. [tmoody@hutchlegal.com], Todd W. Prall, Esq. [tprall@hutchlegal.com], Scott F. Hessell, Esq. [shessell@sperling-law.com], Thomas D. Brooks, Esq. [tbrooks@sperling-law.com], Steve Morris, Esq. [sm@morrislawgroup.com], and Tyan M. Lower, Esq. [rml@morrislawgroup.com]. (KD 8/22/16);*

08/22/2016

**Motion to Associate Counsel** (3:00 AM) (Judicial Officer: Hardy, Joe)

*Defendant, PricewaterhouseCoopers, LLP's Motion to Associate Counsel Peter B. Morrison*  
Minute Order - No Hearing Held;

Journal Entry Details:

*COURT ORDERED, Defendant PricewaterhouseCoopers, LLP's Motion to Associate Counsel Peter B. Morrison is hereby GRANTED as unopposed, pursuant to EDCR 2.20(e), and is GRANTED on the merits, pursuant to Rule 42 of the Supreme Court Rules. CLERK'S NOTE: A copy of this minute order was e-mailed to: Patrick Byrne, Esq. [pbyrne@swlaw.com], Sherry Ly, Esq. [sly@swlaw.com], Peter B. Morrison, Esq. [peter.morrison@skadden.com], Winston P. Hsiao, Esq. [winston.hsiao@skadden.com], Mark A. Hutchison, Esq. [mhutchison@hutchlegal.com], Todd L. Moody, Esq. [tmoody@hutchlegal.com], Todd W. Prall, Esq. [tprall@hutchlegal.com], Scott F. Hessell, Esq. [shessell@sperling-law.com], Thomas D. Brooks, Esq. [tbrooks@sperling-law.com], Steve Morris, Esq. [sm@morrislawgroup.com], and Ryan M. Lower, Esq. [rml@morrislawgroup.com]. (KD 8/22/16);*

11/16/2016

**Motion to Dismiss** (9:00 AM) (Judicial Officer: Hardy, Joe)

*Motion to Dismiss for Lack of Jurisdiction on Behalf of Defendant Seyfarth Shaw LLP*

Motion Granted;

11/16/2016

**Motion to Dismiss** (9:00 AM) (Judicial Officer: Hardy, Joe)

*PricewaterhouseCoopers LLP's Motion to Dismiss*

Motion Denied;

11/16/2016

**CANCELED Joinder** (9:00 AM) (Judicial Officer: Hardy, Joe)

*Vacated - Duplicate Entry*

*Seyfarth Shaw's Joinder in Defendants Coperative Rabobank U.A. and Utrecht American Finance Company's Motion to Dismiss*

11/16/2016

**All Pending Motions** (9:00 AM) (Judicial Officer: Hardy, Joe)**MINUTES**

Matter Heard;

Journal Entry Details:

*MOTION TO DISMISS FOR LACK OF JURISDICTION ON BEHALF OF DEFENDANT SEYFARTH SHAW LLP Mr. Morris argued in support of the Motion, stating that Defendant Seyfarth was not a resident of Nevada, and did not conduct systematic or continuous business in Nevada; therefore, this Court could not have general jurisdiction over Defendant Seyfarth.*

**CASE SUMMARY****CASE NO. A-16-735910-B**

As to specific jurisdiction, Mr. Morris argued that Defendant Seyfarth had not purposefully availed itself of Nevada law, nor had its director acted or undertaken acts in this jurisdiction; therefore, specific jurisdiction could not be conferred on Defendant Seyfarth. Mr. Hutchison argued in opposition, stating that conspirators outside of Nevada that caused injury in Nevada, must answer for those injuries within the state. Additionally, Mr. Hutchison argued that Seyfarth had appeared in Nevada, and the totality of those contacts demonstrated general jurisdiction. **COURT ORDERED Motion GRANTED, FINDING the following:** (1) Plaintiff had not made a prima facie showing of personal jurisdiction as it related to Defendant Seyfarth Shaw; (2) the alleged contacts contained within Plaintiff's Affidavits and Declarations were insufficient, and did not confer specific jurisdiction, nor did they confer general jurisdiction on Defendant Seyfarth; (3) to the extent that the Davis case remained good law (which was questionable), the facts in the instant case were distinguishable from the limited facts in said case, and the facts in the Davis case would not apply to the circumstances alleged in the instant case, even under the prima facie standard; (4) the *Walden v. Fiore* case, the *Daimler AG v. Bauman*, and the *Viega GmbH v. Eighth Judicial District Court* case were controlling and instructive, as set forth in Defendant Seyfarth's briefs; (5) the Court agreed with Defendant Seyfarth's arguments on page 6 of the Motion, that Plaintiff had not set forth enough facts to establish personal jurisdiction over Seyfarth; (6) the Court agreed with Defendant Seyfarth's arguments contained in section B of the Motion, that Defendant Seyfarth was a non-resident of Nevada; therefore, Defendant Seyfarth was not subject to general jurisdiction, even under the prima facie standard; (7) the Court agreed with the arguments contained in subsection B of the Reply to the instant Motion; (8) the Court agreed with the arguments contained on page 9 of the Reply, wherein it was argued that Defendant Seyfarth's only connection to this litigation was an opinion letter he sent to Millennium Recovery Fund, which did not confer specific or general jurisdiction on Defendant Seyfarth; and (9) given the lack of satisfaction of the prima facie requirement, any alternative requests for relief were hereby **DENIED** for the reasons set forth in the *Viega* case. Mr. Morris to prepare the Order and forward it to opposing counsel for approval as to form and content.

**PRICEWATERHOUSECOOPERS LLP'S MOTION TO DISMISS** Mr. Morrison argued in support of the Motion, stating that the claims against PricewaterhouseCoopers had fatal flaws and were time barred. Additionally, Mr. Morrison argued that there was no question New York law applied, and that the contract had been entered into in bad faith. Mr. Hessell argued in opposition, stating that Plaintiff's allegations had been pled sufficiently in order to put Defendant on notice of the misrepresentations that occurred in 2003, and between 2005 and 2011. Alternatively, if the Court did not find Plaintiff's claims had been sufficiently pled, Mr. Hessell requested leave to file amended pleadings. **COURT ORDERED Motion DENIED WITHOUT PREJUDICE, FINDING the following:** (1) under the Motion to Dismiss standard, it was not appropriate to dismiss the claims at this time; and (2) the claims had been sufficiently stated under Nevada law. Mr. Hessell to prepare the Order and forward it to opposing counsel for approval as to form and content. **SEYFARTH SHAW'S JOINDER IN DEFENDANTS COOPERATIVE RABOBANK U.A. AND UTRECHT AMERICAN FINANCE COMPANY'S MOTION TO DISMISS COURT ORDERED Joinder VACATED**, as it was already set for hearing on January 18, 2017, at 9:00 AM.;

11/21/2016

**Motion to Associate Counsel (3:00 AM) (Judicial Officer: Hardy, Joe)**

*Defendants, Utrecht-America Finance Co and Cooperatieve Rabobank, UA's Motion to Associate Counsel (Christopher Paparella, Esq.)*

Minute Order - No Hearing Held;

Journal Entry Details:

**COURT ORDERED**, Defendants, Utrecht-America Finance Co. and Cooperative Rabobank, UA s Motion to Associate Counsel (Christopher Paparella, Esq.) is hereby **GRANTED** as unopposed, pursuant to EDCR 2.20(e), and is **GRANTED** on the merits, pursuant to Rule 42 of the Supreme Court Rules. **CLERK'S NOTE:** A copy of this minute order was e-mailed to: Dan R. Waite, Esq. [dwaite@lrrc.com], Chris Paparella, Esq.

[chris.paparella@hugheshubbard.com], Mark A. Hutchison, Esq.

[mhutchison@hutchlegal.com], Todd L. Moody, Esq. [tmoody@hutchlegal.com], Todd W.

Prall, Esq. [tprall@hutchlegal.com], Scott F. Hessell, Esq. [shessell@sperling-law.com],

Thomas D. Brooks, Esq. [tbrooks@sperling-law.com], Patrick Byrne, Esq.

[pbyrne@swlaw.com], Sherry Ly, Esq. [sly@swlaw.com], Peter B. Morrison, Esq.

[peter.morrison@skadden.com], Winston P. Hsiao, Esq. [winston.hsiao@skadden.com], Steve

Morris, Esq. [sm@morrisslawgroup.com], and Ryan M. Lower, Esq.

[rml@morrisslawgroup.com]. (KD 11/22/16);

01/18/2017

**Motion to Dismiss (9:00 AM) (Judicial Officer: Hardy, Joe)**

Events: 10/19/2016 Motion to Dismiss

# CASE SUMMARY

CASE NO. A-16-735910-B

*Defendants' Motion to Dismiss*  
Granted in Part;

01/18/2017

**Joinder** (9:00 AM) (Judicial Officer: Hardy, Joe)  
*Seyfarth Shaw's Joinder in Defendants Coperative Rabobank U.A. and Utrecht American Finance Company's Motion to Dismiss*  
Granted in Part;

01/18/2017

 **All Pending Motions** (9:00 AM) (Judicial Officer: Hardy, Joe)


## MINUTES

Matter Heard;

Journal Entry Details:

**DEFENDANTS' MOTION TO DISMISS...SEYFARTH SHAW'S JOINDER IN DEFENDANTS COOPERATIVE RABOBANK U.A. AND UTRECHT AMERICAN FINANCE COMPANY'S MOTION TO DISMISS** Mr. Paparella argued in support of the Motions, stating that none of the contacts between Mr. Tricarichi, Rabobank, and Utrecht took place in Nevada; therefore, personal jurisdiction could not be established over those Defendants. Additionally, Mr. Paparella argued that Plaintiff should not be permitted to conduct jurisdictional discovery, as they had not made a prima facie case of jurisdiction over Utrecht and Rabobank. Mr. Brooks argued in opposition, stating that Defendants Utrecht and Rabobank purposefully availed themselves of Nevada law, and citing the three elements for determining specific personal jurisdiction, as set forth in the Fulbright Jaworski v. Eighth Judicial District Court case. **COURT ORDERED** Defendant's Motion to Dismiss and Seyfarth Shaw's Joinder were hereby **GRANTED IN PART** as to the lack of personal jurisdiction over the movants, for all of the reasons set forth in the Motion and Reply; Motion and Joinder **DENIED IN PART WITHOUT PREJUDICE AS MOOT** as to the remainder of the requested relief, given the lack of personal jurisdiction. The Court noted that it had considered all of the exhibits in making its determination, including granting a request for judicial notice, the **COURT FOUND** the following: (1) under the Fulbright & Jaworski v. Eighth Jud. Dist. Ct. case, as well as the Affinity Network case, Plaintiff had not made a prima facie showing of personal jurisdiction over the moving defendants in Nevada; (2) due to the lack of a prima facie showing of personal jurisdiction, Plaintiff's request for jurisdictional discovery, there was no basis to grant Plaintiff's request for jurisdictional discovery; (3) the mere fact that Plaintiff was a Nevada resident, and that the moving Defendants were aware that Plaintiff was a Nevada resident, was not enough to establish personal jurisdiction over the moving Defendants; (4) the moving Defendants had not purposefully availed themselves of Nevada law, and the causes of action did not arise out of the movants Nevada related activities; and (5) exercise of personal jurisdiction over the moving Defendants would not be reasonable in the instant case. Mr. Prall to prepare the Order and forward it to opposing counsel for approval as to form and content.;

03/06/2017

 **Mandatory Rule 16 Conference** (10:30 AM) (Judicial Officer: Hardy, Joe)

02/27/2017 Continued to 03/06/2017 - At the Request of Counsel - Tricarichi, Michael A.; PricewaterhouseCoopers LLP

Matter Heard;

Journal Entry Details:

Upon Court's inquiry, Mr. Brooks advised that the parties had done their initial disclosures, including identifying witnesses, and describing the documents to be produced. Regarding discovery deadlines, Mr. Brooks represented that the parties had discussed allowing twelve (12) months for factual discovery, and an additional four (4) months for experts. Mr. Morrison affirmed Mr. Brooks' representations, noting that the parties disagreed on when the initial twelve (12) months should begin to run; it was Defendant's position that the twelve months should not begin to run until such time as a decision was made on PricewaterhouseCoopers' Motion for Summary Judgment. Mr. Brooks represented that it was Plaintiff's position that discovery should begin immediately. **COURT ORDERED** that the time period for discovery would begin immediately, despite the pending Motion for Summary Judgment, and **SET** the following **DISCOVERY DEADLINES**: (1) the close of factual discovery would be March 6, 2018; (2) the close of expert discovery would be July 6, 2018; and (3) the Joint Case Conference Report (JCCR) would be **DUE** by March 20, 2018, including details on the four months of expert discovery. Mr. Brooks to prepare the first draft of the JCCR, and forward it to all counsel for review. The Court noted that it would resolve any disputes regarding the JCCR. **COURT FURTHER ORDERED** a trial date was hereby **SET**. A Trial Order would issue. Upon Court's inquiry, Mr. Brooks stated that Plaintiff had filed a Jury Demand. In the

# CASE SUMMARY

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event that a Jury Demand had not been properly filed, and if any party wished to do so, COURT ORDERED that the deadline for filing said demand would be March 13, 2017. Regarding a settlement conference, both parties felt it was too early in the case to participate in settlement discussions. Counsel indicated that they did not require ESI protocols, nor did they require the appointment of a Special Master. Mr. Morrison stated that there were issues with jurisdiction that needed to be resolved, and Defendant was unaware of Plaintiff's intentions. Mr. Brooks advised that Plaintiff would likely be seeking 54(b) Certification as to the two dismissals, which should not affect the remainder of the case. The COURT DIRECTED the parties to move forward with the case, noting that it would deal with the 54(b) Certification issue when it arose. Mr. Morrison stated that the instant case arose from a decision made by the Tax Court, which found that Plaintiff was liable; that decision was now on appeal with the 9th Circuit, and if the decision was overturned, the instant case would be moot. Based upon the decisions made in similar cases, Mr. Brooks argued that the instant case should not be stayed pending a decision by the 9th Circuit. Upon Court's inquiry, Mr. Brooks stated that he did not believe the instant case would be entirely moot, in the event that the Tax Court's decision was reversed. The COURT ADVISED counsel to submit the appropriate written briefing, if it wished for the Court to consider a stay. 9/17/18 8:30 AM PRE TRIAL CONFERENCE 10/3/18 8:30 AM CALENDAR CALL 10/8/18 10:30 AM JURY TRIAL ;

04/18/2017



**Motion** (9:00 AM) (Judicial Officer: Hardy, Joe)

*Plaintiff's Motion for Rule 54(B) Certification*

Motion Granted;

Journal Entry Details:

Also present: J.P. Hendricks, Esq. on behalf of dismissed Defendant Seyfarth Shaw; Daniel Waite, Esq. on behalf of dismissed Defendants Cooperatieve Rabobank and Utrecht-America Finance Co. Mr. Wall argued in support of the Motion, stating that the Opposition was frivolous, and there was no time limit on bringing a Motion for 54(b) Certification. Additionally, Mr. Wall argued that the matter was certifiable, and the Court had discretion as to whether or not certification was appropriate. Mr. Hendricks argued in opposition, stating that a Motion to certify an appeal must be filed within thirty days, and Plaintiff failed to meet that deadline. Upon Court's inquiry, Mr. Hendricks stated that his client was dismissed, and he wished for the dismissal to be final. COURT ORDERED the instant Motion was hereby GRANTED in its entirety for all of the reasons set forth in the Motion and Reply, FINDING the following: (1) Defendant Seyfarth Shaw had been dismissed, and they wished for the dismissal to be final; (2) the only way to ensure final dismissal was through Rule 54(b) Certification; (3) the untimeliness issue raised by Seyfarth Shaw was not accurate under Nevada law; (4) alternatively, even if Seyfarth Shaw's timeliness argument were accurate, the instant Motion was timely given the circumstances. Mr. Wall to prepare the Order and forward it to opposing counsel for approval as to form and content.;

05/10/2017



**Motion for Summary Judgment** (9:00 AM) (Judicial Officer: Hardy, Joe)

*PricewaterhouseCoopers LLP's Motion for Summary Judgment*

04/06/2017 Continued to 05/03/2017 - Stipulation and Order - Tricarichi, Michael A.; PricewaterhouseCoopers LLP; Taylor, Graham R

05/03/2017 Continued to 05/10/2017 - Stipulation and Order - Tricarichi, Michael A.; PricewaterhouseCoopers LLP

## MINUTES

Denied Without Prejudice;

Journal Entry Details:

Upon Court's inquiry regarding what had changed since its denial of the Motion to Dismiss in November of 2016, Mr. Morrison advised that the parties exchanged initial disclosures, and Plaintiff had done full discovery in connection with the taxes issue. Regarding the instant Motion, Mr. Morrison argued that the advice was given in August of 2003; therefore, the claims were time barred by August of 2006 under New York law. Additionally, Mr. Morrison argued that there was no dispute that New York law applied in the instant case, as all three of the factors set forth in the Mardian v. Greenberg Family Trust case had been satisfied. Mr. Hessell argued in opposition, stating that, although some discovery had been conducted, there had not been any direct discovery with the Defendants. Furthermore, Mr. Hessell argued there was nothing to show that the parties had negotiated for a New York choice of law, and the provision in the agreement did not contain the New York statute of limitations. Based upon the request for NRCP 56(f) relief, COURT ORDERED the instant Motion was hereby DENIED WITHOUT PREJUDICE, FINDING the following: (1) the record currently before the Court did not allow it to determine whether genuine issues of material fact existed, or not. The COURT FURTHER ORDERED that the request for NRCP 56(f) relief was hereby GRANTED,


# CASE SUMMARY


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*FINDING that such relief was appropriate as set forth in paragraph 10 of Michael Tricarichi's Affidavit, filed on April 10, 2017. In the even of any discovery disputes, the parties would first be REQUIRED to meet and confer in good faith, prior to raising the issue before the Court. Mr. Hessel to prepare the Order and forward to opposing counsel for approval as to form and content.;*

08/13/2018 **CANCELED Status Check** (9:30 AM) (Judicial Officer: Hardy, Joe)  
*Vacated - per Stipulation and Order*

09/17/2018 **CANCELED Pre Trial Conference** (8:30 AM) (Judicial Officer: Hardy, Joe)  
*Vacated - per Stipulation and Order*


09/21/2018  **Minute Order** (2:38 PM) (Judicial Officer: Gonzalez, Elizabeth)  
*Minute Order Re: Review of Par 17 of the Order Governing Production and Exchange of Confidential Information Filed on March 22, 2017*  
Minute Order - No Hearing Held; Minute Order Re: Review of Par 17 of the Order Governing Production and Exchange of Confidential Information Filed on March 22, 2017  
Journal Entry Details:  
*The Court has reviewed par 17 of the Order Governing Production and Exchange of Confidential Information filed 3/22/17. That Order, in the Court s view, does not permit the parties to file motions under seal without compliance with SRCR 3. Accordingly the Plaintiff is ordered to Immediately file a motion in compliance with SRCR 3 to seal the opposition filed 8/1/18 and the Appendix filed 7/31/18. CLERK S NOTE: This Minute Order was electronically served by Courtroom Clerk, April Watkins, to all registered parties for Odyssey File & serve. aw;*

09/24/2018  **Hearing** (9:00 AM) (Judicial Officer: Gonzalez, Elizabeth)  
*Further Hearing: Motion for Summary Judgment*  
08/22/2018 Continued to 09/06/2018 - Stipulation and Order - Tricarichi, Michael A.; PricewaterhouseCoopers LLP  
  
S&O filed 7/12/18  
Matter Heard; Further Hearing: Motion for Summary Judgment  
Journal Entry Details:  
*Also present, Peter Morrison, Esq., co-counsel, for Defendants and Jeffrey L. Eskin, general counsel of Pricewater. Mr. Byrne argued in support of motion and stated this case has to do with a dispute over tax advice that was given over 30 years ago. Mr. Hessel addressed the sealing of the brief pursuant to a confidentiality stipulation. There being no opposition, Mr. Hessel advised he would file it by the end of the day. Court so noted. Following arguments by counsel in support of their respective positions, COURT ORDERED, Motion for Summary Judgment GRANTED IN PART. COURT ADVISED, regardless of what law applies, given the IRS investigation and statutory interpretation the period is two years after discovery ended. Therefore, the statute of limitations expired prior to the January 2011 execution of the tolling agreement. However, if counsel believes he has a subsequent retention that may have a different statute of limitations, counsel may amend pleading. Mr. Byrne to prepare Order. ;*

10/03/2018 **CANCELED Calendar Call** (8:30 AM) (Judicial Officer: Hardy, Joe)  
*Vacated - per Stipulation and Order*

10/08/2018 **CANCELED Jury Trial** (10:30 AM) (Judicial Officer: Hardy, Joe)  
*Vacated - per Stipulation and Order*

10/29/2018 **CANCELED Motion to Seal/Redact Records** (9:00 AM) (Judicial Officer: Gonzalez, Elizabeth)  
*Vacated - per Judge*  
*Motion for Leave to File Under Seal (1) Opposition to Renewed Summary Judgment Motion and (2) Supporting Appendix to Opposition*

03/18/2019  **Motion for Leave** (9:00 AM) (Judicial Officer: Gonzalez, Elizabeth)  
*Motion for Leave to File Amended Complaint*  
Granted; amendment to be filed in 5 days.  
Journal Entry Details:

*APPEARANCES CONTINUED: Attorney Zachary Faigen of the Law Firm of Skadden, Arps,*



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*Slate, Meagher & Flom for the Defendant Pricewaterhouse Coopers, LLP. Mr. Brooks argued in support of the motion, noting rule 15 and rule 16, that disputes should be decided on the merits, especially since new facts have arisen and that if the motion is denied the prejudice to Mr. Tricarichi will be severe. Mr. Byrne argued the proposed amendment fails on the threshold requirement of new retention, fails to clear the procedural hurdles of 16(b) and 16 (a), and fails on substance; the failure to disclose does not create a separate claim; the new claims are time barred for the same reason the old claims were. Following further argument by Mr. Brooks, COURT ORDERED, while the Court certainly understands Defendant's issues related to futility the Court is loath to deny Plaintiff's motion to amend and without giving them the opportunity to face the motion to dismiss. Plaintiff to FILE amendment within 5 days. All of this will be addressed in the motion to dismiss stage.;*

07/08/2019



**Motion to Dismiss** (9:00 AM) (Judicial Officer: Gonzalez, Elizabeth)

*PricewaterhouseCoopers LLP's Motion to Dismiss Amended Complaint*

## MINUTES

Denied;

Journal Entry Details:

*Following arguments by Mr. Byrne and Mr. Hassell regarding omission claim, COURT ORDERED, motion DENIED. There is a properly alleged breach of duty by failing to disclose new information from the IRS that impacts the prior tax advice; whether on a factual basis counsel can support that claim is a different issue. Counsel may renew the factual issue at some point in time. Upon Court's inquiry, Mr. Byrne stated Defendant will answer within 10 days but the tricky part is that the amended complaint includes all prior allegations and dismissed claims. Mr. Byrne asked if they can have 3 weeks to answer as they need time to confer with Plaintiff's counsel. COURT stated he can, and ORDERED, matter SET for status check on the chambers calendar in 2 weeks. 7-26-19 CHAMBERS STATUS CHECK: ANSWER;*

## SCHEDULED HEARINGS



**Status Check** (07/26/2019 at 3:00 AM) (Judicial Officer: Gonzalez, Elizabeth)

**07/26/2019, 08/02/2019, 08/16/2019**

*Status Check: Answer*

07/26/2019



**Status Check** (3:00 AM) (Judicial Officer: Gonzalez, Elizabeth)

**07/26/2019, 08/02/2019, 08/16/2019**

*Status Check: Answer*

Matter Continued;

Matter Continued;

Minute Order - No Hearing Held; Supplemental Rule 16 conference to be set.

Journal Entry Details:

*Court notes answer filed August 12, 2019. Judicial Executive Assistant to SET Supplemental Rule 16 conference. 9-6-19 CHAMBERS MOTION TO ASSOCIATE CHRIS LANDGRAFF, ESQ. AS COUNSEL... ..MOTION TO ASSOCIATE KRISTA PERRY, ESQ. AS COUNSEL... ..MOTION TO ASSOCIATE MARK LEVINE, ESQ. AS COUNSEL... ..MOTION TO ASSOCIATE DANIEL CHARLES TAYLOR ESQ CLERK'S NOTE: A copy of this minute order was distributed via Odyssey File and Serve. / dr 8-19-19;*

Matter Continued;

Matter Continued;

Minute Order - No Hearing Held; Supplemental Rule 16 conference to be set.

Journal Entry Details:

*COURT NOTED no answer filed, and ORDERED, matter CONTINUED for 2 weeks. 8-16-19 CHAMBERS STATUS CHECK: ANSWER 9-6-19 CHAMBERS MOTION TO ASSOCIATE CHRIS LANDGRAFF, ESQ. AS COUNSEL... ..MOTION TO ASSOCIATE KRISTA PERRY, ESQ. AS COUNSEL... ..MOTION TO ASSOCIATE MARK LEVINE, ESQ. AS COUNSEL... ..MOTION TO ASSOCIATE DANIEL CHARLES TAYLOR ESQ CLERK'S NOTE: A copy of this minute order was distributed via Odyssey File and Serve. / dr 8-5-19 ;*

Matter Continued;

Matter Continued;

Minute Order - No Hearing Held; Supplemental Rule 16 conference to be set.



Journal Entry Details:

*COURT NOTED, no answer filed, ORDERED, matter CONTINUED for one week. 8-2-19 CHAMBERS STATUS CHECK: ANSWER CLERK'S NOTE: A copy of this minute order was*

# CASE SUMMARY

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*distributed via Odyssey File and Serve. / dr 7-26-19;*

09/06/2019	<p><b>Motion to Associate Counsel</b> (3:00 AM) (Judicial Officer: Gonzalez, Elizabeth)</p> <p>Events: 07/30/2019 Motion to Associate Counsel</p> <p><i>Motion to Associate Chris Landgraff, Esq. as Counsel</i></p> <p>Granted;</p>
09/06/2019	<p><b>Motion to Associate Counsel</b> (3:00 AM) (Judicial Officer: Gonzalez, Elizabeth)</p> <p>Events: 07/30/2019 Motion to Associate Counsel</p> <p><i>Motion to Associate Krista Perry, Esq. as Counsel</i></p> <p>Granted;</p>
09/06/2019	<p><b>Motion to Associate Counsel</b> (3:00 AM) (Judicial Officer: Gonzalez, Elizabeth)</p> <p>Events: 07/30/2019 Motion to Associate Counsel</p> <p><i>Motion to Associate Mark Levine, Esq. as Counsel</i></p> <p>Granted;</p>
09/06/2019	<p><b>Motion to Associate Counsel</b> (3:00 AM) (Judicial Officer: Gonzalez, Elizabeth)</p> <p><i>Motion to Associate Daniel Charles Taylor Esq</i></p> <p>Granted;</p>
09/06/2019	<p> <b>All Pending Motions</b> (3:00 AM) (Judicial Officer: Gonzalez, Elizabeth)</p> <p>Minute Order - No Hearing Held;</p> <p>Journal Entry Details:</p> <p><i>MOTION TO ASSOCIATE CHRIS LANDGRAFF, ESQ. AS COUNSEL... ..MOTION TO ASSOCIATE KRISTA PERRY, ESQ. AS COUNSEL... ..MOTION TO ASSOCIATE MARK LEVINE, ESQ. AS COUNSEL... ..MOTION TO ASSOCIATE DANIEL CHARLES TAYLOR ESQ Upon review of the papers and pleadings on file in this Matter, as proper service has been provided, this Court notes no opposition has been filed. Accordingly, pursuant to EDCR 2.20(e) the Motions to Associate (Taylor, Levine, Landgraf, and Perry) are deemed unopposed. Therefore, good cause appearing, COURT ORDERED, motion is GRANTED. By accepting this admission, Counsel agrees to submit to jurisdiction and appear without subpoena for any proceedings required by the Court which relate to Counsel's conduct in this matter including motions, depositions, and evidentiary hearings. SCR 42(13)(a). Moving Counsel is to prepare and submit an order within ten (10) days and distribute a filed copy to all parties involved in this matter. 9-9-19 9:00 AM MANDATORY RULE 16 CONFERENCE CLERK'S NOTE: A copy of this minute order was distributed via Odyssey File and Serve. / dr 9-6-19;</i></p>
09/09/2019	<p> <b>Mandatory Rule 16 Conference</b> (9:00 AM) (Judicial Officer: Gonzalez, Elizabeth)</p> <p>Trial Date Set; written stipulation under 41(e) to be submitted</p> <p>Journal Entry Details:</p> <p><i>APPEARANCES CONTINUED: Attorney Daniel Taylor and Attorney Chris Landgraff, Pro Hac Vice Admitted, for the Defendant. COURT ORDERED, today is the parties' Joint Case Conference and the filing of the Joint Case Conference Report (JCCR) WAIVED. Mr. Prall advised the parties have conferred and would request through April 1, 2020 for fact discovery and May 1st for experts. Mr. Byrne stated the Defense is in agreement with the schedule, including motions being due by July 1st. Court noted this case would be 5 years old before getting a trial set. Upon Court's inquiry, Mr. Byrne advised the parties have not entered into a stipulation under 41(e). COURT TRAILED the matter for the parties to negotiate a stipulation and put it on the record. Matter RECALLED. Mr. Byrne stated that to the extent the schedule they agreed on exceeds the 5-year rule, which would be after April 29, 2021, they would STIPULATE to waive the 5-year rule; they do not think it will, but it depends on what the Court sets; also, one of the issues here is whether this will be a jury trial or bench trial; they believe this should be a bench trial although the Plaintiffs do not. COURT DIRECTED the parties to do a written stipulation that includes the 41(e) stipulation; the stipulation must specifically delineate any periods of stay during which the parties were unable to bring the case to trial and if they are generally extending for a period of time. Because of the historical nature of the motion to dismiss practice and prior visit to the Supreme Court, the Court APPROVES the parties' proposed schedule with reservations and GRANTS fact discovery through the end of March: Motions to amend pleadings or add parties TO BE FILED within 30 days; Initial expert disclosures where a party bears the burden of proof DUE by April 17, 2020; Rebuttal expert disclosures where a party does not bear the burden of proof DUE by</i></p>

# CASE SUMMARY

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May 22, 2020; Discovery cut-off SET for June 26, 2020; Dispositive motions and motions in limine TO BE FILED by July 17, 2020; Matter SET for trial on the stack beginning on September 8, 2020. Jury DEMANDED. Trial Setting Order will ISSUE. Counsel advised they do not need an ESI Protocol or Protective Order. Both sides further advised they do not have any issues with the Rule on 10 depositions per side, not including custodians of records, the 7-hour limit per deposition, and no issues with the locations.;

03/24/2020



**Minute Order** (8:00 AM) (Judicial Officer: Gonzalez, Elizabeth)

Minute Order Continuing PricewaterhouseCoopers LLP's Motion to Compel for Telephonic Hearing

Minute Order - No Hearing Held;

Journal Entry Details:

COURT ORDERED, PricewaterhouseCoopers LLP's Motion to Compel scheduled for Monday, March 30, 2020 is CONTINUED for telephonic hearing on Tuesday, March 31, 2020 at 9:00 am. CLERK'S NOTE: A copy of this minute order was distributed via Odyssey File and Serve. / dr 3-25-20;

03/31/2020



**Motion to Compel** (9:00 AM) (Judicial Officer: Gonzalez, Elizabeth)

PricewaterhouseCoopers LLP's Motion to Compel

## MINUTES

Granted;

Journal Entry Details:

APPEARANCES CONTINUED: Attorney Blake Sercye, Pro Hac Vice pending, for the Plaintiff. All parties appeared by telephone. Following arguments by counsel, COURT ORDERED, the course of litigation or discovery has been focusing on Plaintiff's knowledge, and the Court is not imputing counsel's knowledge to the Plaintiff unless it was otherwise disclosed to the Plaintiff; the lawyers are not required to provide their opinion work product unless it was disclosed to the Plaintiff either in writing or orally; however, the description provided on the privilege log of legal strategy and legal analysis does not assist the Court in resolving the issue as to whether something falls within the issue of the at issue waiver and limited waiver that exists here; discussions of issues contained in the limited waiver NEED TO ALL BE PRODUCED; the privilege log needs to be supplemented with regards to the subject matter regarding legal strategy and legal analysis, and the Court needs to do an in camera review of the approximately 22 documents to the Plaintiff from counsel that have been withheld because counsel do not think they are part of the limited waiver. Colloquy regarding providing documents to be reviewed in camera via an FTP site. Court noted it has previously had issues with FTP sites and the matter will be discussed. With regards to the supplemental privilege log, Mr. Hessell advised they can get it done in the next week. COURT ORDERED, matter SET for status check on the chambers calendar in 2 weeks (April 17, 2020). Mr. Byrne to FILE a status report after getting the privilege log to see if he thinks the Court needs to do an in camera review. Mr. Hessell further advised the parties have a request to adjust expert disclosures. Court directed the parties to do a stipulation. Mr. Hessell stated they will do one via email and submit it. 4-17-20 CHAMBERS STATUS CHECK: SUPPLEMENTAL PRIVILEGE LOG 6-29-20 9:00 AM STATUS CHECK: TRIAL READINESS 8-13-20 9:15 AM PRE TRIAL CONFERENCE 9-1-20 9:30 AM CALENDAR CALL 9-8-20 1:30 PM JURY TRIAL;

## SCHEDULED HEARINGS



**Status Check** (04/17/2020 at 3:00 AM) (Judicial Officer: Gonzalez, Elizabeth)

Status Check: Supplemental Privilege Log

04/17/2020



**Status Check** (3:00 AM) (Judicial Officer: Gonzalez, Elizabeth)

Status Check: Supplemental Privilege Log

Minute Order - No Hearing Held; in camera review to be conducted

Journal Entry Details:

Court reviewed status report filed April 16, 2020. The Court will conduct an in camera review of the 19 identified documents. Plaintiff to SUBMIT the supplemental privilege logs in Excel or Word, a players list, and the documents (redacted and unredacted version) on a thumb drive by mail. The Court will conduct the in camera review, rule by minute order and place the thumb drive in the vault as a sealed exhibit. 6-29-20 9:00 AM STATUS CHECK: TRIAL READINESS 8-13-20 9:15 AM PRE TRIAL CONFERENCE 9-1-20 9:30 AM CALENDAR CALL 9-8-20 1:30 PM JURY TRIAL CLERK'S NOTE: A copy of this minute order was distributed via electronic

# CASE SUMMARY

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mail. / dr 4-20-20;

05/06/2020



**Minute Order** (8:00 AM) (Judicial Officer: Gonzalez, Elizabeth)

*Minute Order: In Camera Review*

Minute Order - No Hearing Held;

Journal Entry Details:

*The Court has MARKED the communication from Counsel as Court's Exhibit 1 and the USB drive with the documents reviewed in camera as Court's Exhibit 2. Court's Exhibit 2 is SEALED as it contains privileged information. The Court notes the documents submitted do not match the paper copy of the privilege log submitted. Based upon the Court's review of the in camera documents, the objections are SUSTAINED to the only items included on the USB drive: REL 16833, REL 16833.0001, REL 16828, REL 16863, REL 16857, REL 16849, REL 16849.0001, REL 16843, REL 16843.0001, REL 16769, REL 16769.0001, The remainder of the items listed on the privilege log were not included for review. If further documents are intended to be reviewed, counsel to resubmit. CLERK'S NOTE: A copy of this minute order was distributed via Odyssey File and Serve. / dr 5-6-20;*

05/15/2020



**Minute Order** (8:52 AM) (Judicial Officer: Gonzalez, Elizabeth)

*Minute Order: Communications to the Court*

Minute Order - No Hearing Held;

Journal Entry Details:

*Counsel is reminded not to communicate to the Court by letter. If additional information needs to be supplied, a conference call or status report is appropriate. CLERK'S NOTE: A copy of this minute order was distributed via Odyssey File and Serve. / dr 5-15-20;*

05/29/2020



**Motion** (3:00 AM) (Judicial Officer: Gonzalez, Elizabeth)

*Motion to File Under Seal Exhibits 21-24 to PricewaterhouseCoopers LLP's Motion to Compel Production of Financial Information*

Granted;

Journal Entry Details:

*Upon review of the papers and pleadings on file in this Matter, as proper service has been provided, this Court notes no opposition has been filed. Accordingly, pursuant to EDCR 2.20 (e), the motion to seal is deemed unopposed. As the proposed sealing and redaction is narrowly tailored to protect sensitive financial information, good cause appearing, COURT ORDERED, motion is GRANTED. Moving Counsel is to prepare and submit an order within ten (10) days and distribute a filed copy to all parties involved in this matter. 6-1-20 9:00 AM PLAINTIFF MICHAEL TRICARICHI'S DE-DESIGNATION MOTION ...PRICEWATERHOUSECOOPERS LLP'S MOTION TO COMPEL PRODUCTION OF FINANCIAL INFORMATION... ..PLAINTIFF MICHAEL TRICARICHI'S MOTION TO COMPEL 6-29-20 9:00 AM STATUS CHECK: TRIAL READINESS 8-13-20 9:15 AM PRE TRIAL CONFERENCE 9-1-20 9:30 AM CALENDAR CALL 9-8-20 1:30 PM JURY TRIAL CLERK'S NOTE: A copy of this minute order was distributed via Odyssey File and Serve. / dr 5-29-20;*

06/01/2020

**Motion to Compel** (9:00 AM) (Judicial Officer: Gonzalez, Elizabeth)

*PricewaterhouseCoopers LLP's Motion to Compel Production of Financial Information*

Granted in Part;

06/01/2020

**CANCELED Motion to Compel** (9:00 AM) (Judicial Officer: Gonzalez, Elizabeth)

*Vacated - On in Error*

*PricewaterhouseCoopers LLP's Motion to Compel Production of Financial Information*

06/01/2020

**Motion to Compel** (9:00 AM) (Judicial Officer: Gonzalez, Elizabeth)

*Plaintiff Michael Tricarichi's Motion to Compel*

Granted in Part;

06/01/2020

**Motion** (9:00 AM) (Judicial Officer: Gonzalez, Elizabeth)

*Events: 04/29/2020 Filed Under Seal*

*Plaintiff Michael Tricarichi's De-Designation Motion*

Denied;

**CASE SUMMARY****CASE NO. A-16-735910-B**

06/01/2020

**All Pending Motions (9:00 AM)** (Judicial Officer: Gonzalez, Elizabeth)

Minute Order - No Hearing Held;

Journal Entry Details:

*Pursuant to Administrative Order 20-01, the Court decides this matter without the necessity of oral argument. PRICEWATERHOUSECOOPERS LLP'S MOTION TO COMPEL PRODUCTION OF FINANCIAL INFORMATION: The Court, having reviewed PricewaterhouseCoopers' Motion to Compel and the related briefing and being fully informed, GRANTS the motion IN PART. Tricarichi to PRODUCE information related to the disposition of funds from the transaction as well as the settlement agreement. As the asset summaries do not exist, Tricarichi is not required to create them. This information should be produced in response to supplemental answers to interrogatories 13 and 14. Counsel for PricewaterhouseCoopers is directed to submit a proposed order approved by opposing counsel consistent with the foregoing within ten (10) days and distribute a filed copy to all parties involved in this matter. Such order should set forth a synopsis of the supporting reasons proffered to the Court in briefing. This Decision sets forth the Court's intended disposition on the subject but anticipates further order of the Court to make such disposition effective as an order. PLAINTIFF MICHAEL TRICARICHI'S MOTION TO COMPEL: The Court, having reviewed Tricarichi's Motion to compel and the related briefing and being fully informed, GRANTS the motion IN PART. PricewaterhouseCoopers is to CERTIFY that it has produced a substantially similar document to version 8. The remaining portions of the motion are denied. Counsel for PricewaterhouseCoopers is directed to submit a proposed order approved by opposing counsel consistent with the foregoing within ten (10) days and distribute a filed copy to all parties involved in this matter. Such order should set forth a synopsis of the supporting reasons proffered to the Court in briefing. This Decision sets forth the Court's intended disposition on the subject but anticipates further order of the Court to make such disposition effective as an order. PLAINTIFF MICHAEL TRICARICHI'S DE-DESIGNATION MOTION: The Court, having reviewed Tricarichi's Dedesignation Motion and the related briefing and being fully informed, DENIES the motion. Initially the Court notes that Tricarichi failed to file a motion to file under seal and the documents filed April 29, 2020 were inappropriately sealed by the Clerk. Given the nature of the documents the temporary seal currently in place is EXTENDED until June 12, 2020. PricewaterhouseCoopers to FILE a motion to redact the motion and/or file exhibits under seal if it deems appropriate by June 11, 2020. The information sought to be dedesignated relate to other transactions and clients for which the designation is appropriate. Counsel for PricewaterhouseCoopers is directed to submit a proposed order approved by opposing counsel consistent with the foregoing within ten (10) days and distribute a filed copy to all parties involved in this matter. Such order should set forth a synopsis of the supporting reasons proffered to the Court in briefing. This Decision sets forth the Court's intended disposition on the subject but anticipates further order of the Court to make such disposition effective as an order. CLERK'S NOTE: A copy of this minute order was distributed via Odyssey File and Serve. / dr 6-1-20;*

06/15/2020

**Minute Order (8:31 AM)** (Judicial Officer: Gonzalez, Elizabeth)

Minute Order Unsealing Motion

Minute Order - No Hearing Held;

Journal Entry Details:

*The Court, having not received any motion to redact or file under seal from Price WaterhouseCoopers as directed in the June 1, 2020 minute order, UNSEALS the dedesignation motion filed April 29, 2020. CLERK'S NOTE: A copy of this minute order was distributed via Odyssey File and Serve. / dr 6-17-20 ;*

06/29/2020

**Status Check: Trial Readiness (9:00 AM)** (Judicial Officer: Gonzalez, Elizabeth)

Matter Heard;

Journal Entry Details:

*Counsel advised this status check was in place prior to the scheduling order which extended their schedule. Court so noted, and bid the parties goodbye and wished them well. Mr. Austin added that there was a motion to seal filed June 10, and, as part of the Court's ruling, the Court requested that they file a motion, which they did, and it was unopposed; the Court then issued the June 16 minute order; he spoke with the Clerk about the minute order perhaps having been issued in error. Court explained it was not. Mr. Austin stated he believes they did attach a proposed version. Court noted it was not clear to the Court what was being asked; if counsel wishes to file a motion to de-designate the Court will be happy to work with the Clerk's Office to temporarily seal the document. 7-10-20 CHAMBERS PLAINTIFF'S MOTION TO ASSOCIATE COUNSEL 7-17-20 CHAMBERS DEFENDANT'S MOTION TO SEAL EXHIBITS O, P, AND Q TO PLAINTIFF MICHAEL TRICARICHI'S MOTION TO COMPEL AND*

# CASE SUMMARY

CASE NO. A-16-735910-B

REDACT EXCERPTS OF THESE DOCUMENTS IN THE MOTION 10-5-20 9:00 AM  
STATUS CHECK: TRIAL READINESS 12-10-20 9:15 AM PRE TRIAL CONFERENCE 12-22-  
20 9:30 AM CALENDAR CALL 1-4-21 1:30 PM JURY TRIAL;

07/10/2020



**Motion to Associate Counsel** (3:00 AM) (Judicial Officer: Gonzalez, Elizabeth)

*Plaintiff's Motion to Associate Counsel*

Granted;

Journal Entry Details:

*Upon review of the papers and pleadings on file in this Matter, as proper service has been provided, this Court notes no opposition has been filed. Accordingly, pursuant to EDCR 2.20 (e) the Motion to Associate (Sercye) is deemed unopposed. Therefore, good cause appearing, COURT ORDERED, motion is GRANTED. By accepting this admission, Counsel agrees to submit to jurisdiction and appear without subpoena for any proceedings required by the Court which relate to Counsel's conduct in this matter including motions, depositions, and evidentiary hearings. SCR 42(13)(a). Moving Counsel is to prepare and submit an order within ten (10) days and distribute a filed copy to all parties involved in this matter. CLERK'S NOTE: A copy of this minute order was distributed via Odyssey File and Serve. / dr 7-13-20;*

07/17/2020



**Motion to Seal/Redact Records** (3:00 AM) (Judicial Officer: Gonzalez, Elizabeth)

*Defendant's Motion to Seal Exhibits O, P and Q to Plaintiff Michael Tricarichi's Motion to Compel and Redact Excerpts of These Documents in the Motion*

Granted;

Journal Entry Details:

*Upon review of the papers and pleadings on file in this Matter, as proper service has been provided, this Court notes no opposition has been filed. Accordingly, pursuant to EDCR 2.20 (e), the motion to seal is deemed unopposed. As the proposed sealing and redaction is narrowly tailored to protect confidential information, good cause appearing, COURT ORDERED, motion is GRANTED. The proposed redacted motion to compel is approved and may be filed. The original motion to compel filed April 29, 2020 will remain sealed along with Exhibits O, P & Q of the motions. Moving Counsel is to prepare and submit an order within ten (10) days and distribute a filed copy to all parties involved in this matter. CLERK'S NOTE: A copy of this minute order was distributed via Odyssey File and Serve. / dr 7-17-20;*

08/03/2020



**Motion to Seal/Redact Records** (9:00 AM) (Judicial Officer: Gonzalez, Elizabeth)

*Defendant's Motion to Seal and Redact Exhibit E to Plaintiff Michael Tricarichi's De-Designation Motion*

Granted;

Journal Entry Details:

*Pursuant to Administrative Order 20-01, the Court decides this matter without the necessity of oral argument. Upon review of the papers and pleadings on file in this Matter, as proper service has been provided, this Court notes no opposition has been filed. Accordingly, pursuant to EDCR 2.20(e), the motion to seal Exhibit E to the Tricarichi declaration in support of the de-designation motion is deemed unopposed. As the proposed sealing and redaction is narrowly tailored to protect sensitive commercial and confidential information, good cause appearing, COURT ORDERED, motion is GRANTED. Moving Counsel is to prepare and submit an order within ten (10) days, submit the proposed redacted versions to the Clerk's Office and distribute a filed copy to all parties involved in this matter. 10-5-20 9:00 AM STATUS CHECK TRIAL READINESS 12-10-20 9:15 AM PRE TRIAL CONFERENCE 12-22-20 9:30 AM CALENDAR CALL 1-4-21 1:30 PM JURY TRIAL CLERK'S NOTE: A copy of this minute order was distributed via Odyssey File and Serve. / dr 8-3-20;*

08/13/2020

**CANCELED Pre Trial Conference** (9:15 AM) (Judicial Officer: Gonzalez, Elizabeth)

*Vacated - per Judge*

09/01/2020

**CANCELED Calendar Call** (9:30 AM) (Judicial Officer: Gonzalez, Elizabeth)

*Vacated - per Judge*

09/08/2020

**CANCELED Jury Trial** (1:30 PM) (Judicial Officer: Gonzalez, Elizabeth)

*Vacated - per Judge*

10/05/2020



**Status Check: Trial Readiness** (9:00 AM) (Judicial Officer: Gonzalez, Elizabeth)

*Matter Heard;*

# CASE SUMMARY

CASE NO. A-16-735910-B

**Journal Entry Details:**

*Parties appeared by telephone. Mr. Hessell advised that over the last several months the parties completed all but one of the depositions; that last one is supposed to happen this Friday, so he would say they are doing pretty well and all discovery matters will be resolved; dispositive motions and motions in limine are forthcoming. Upon Court's inquiry, Mr. Hessell stated that assuming all the motions are denied trial will take 5 to 7 days, at least from the Plaintiff's perspective. Mr. Byrne advised that a motion to determine whether this matter is subject to a jury will also be forthcoming, but right now it is currently scheduled as a jury trial. Mr. Byrne further noted that he knows this matter is set on the January 4th trial stack, but it is his understanding that the courts are currently prioritizing criminal trials. COURT NOTED that it appears that criminal trials are also reaching resolutions. 12-10-20 9:15 AM PRE TRIAL CONFERENCE 12-22-20 9:30 AM CALENDAR CALL 1-4-21 1:30 PM JURY TRIAL;*

11/05/2020



**Motion to Associate Counsel** (3:00 AM) (Judicial Officer: Gonzalez, Elizabeth)

*Motion to Associate Katharine Roin, Esq. as Counsel*

Granted;

**Journal Entry Details:**

*Matter advanced from November 6, 2020. Upon review of the papers and pleadings on file in this Matter, as proper service has been provided, this Court notes no opposition has been filed. Accordingly, pursuant to EDCR 2.20(e) the Motion to Associate (Roin) is deemed unopposed. Therefore, good cause appearing, COURT ORDERED, motion is GRANTED. By accepting this admission, Counsel agrees to submit to jurisdiction and appear without subpoena for any proceedings required by the Court which relate to Counsel's conduct in this matter including motions, depositions, and evidentiary hearings. SCR 42(13)(a). Moving Counsel is to prepare and submit an order within ten (10) days and distribute a filed copy to all parties involved in this matter. 12-10-20 9:15 AM PRE TRIAL CONFERENCE 12-22-20 9:30 AM CALENDAR CALL 1-4-21 1:30 PM JURY TRIAL CLERK'S NOTE: A copy of this minute order was distributed via Odyssey File and Serve and via electronic mail. / dr 11-5-20;*

12/07/2020



**Minute Order** (8:00 AM) (Judicial Officer: Gonzalez, Elizabeth)

*Minute Order Vacating December 10, 2020 Pre-Trial Conference*

Minute Order - No Hearing Held;

**Journal Entry Details:**

*COURT ORDERED, based upon the current public health emergency, the jury trial on January 4, 2021 stack is moved to the stack beginning on March 15, 2021. New trial setting order with dates for Pre Trial Conference, Calendar Call and Trial will ISSUE. CLERK'S NOTE: A copy of this minute order was distributed via Odyssey File and Serve. / dr 12-7-20;*

12/10/2020

**CANCELED Pre Trial Conference** (9:15 AM) (Judicial Officer: Gonzalez, Elizabeth)

*Vacated - per Judge*

12/21/2020

**Motion in Limine** (9:00 AM) (Judicial Officer: Gonzalez, Elizabeth)

*PricewaterhouseCoopers LLP's Motion in Limine No. 1 to Exclude Certain Opinions of Plaintiff's Expert Craig Greene*

Denied;

12/21/2020

**Motion in Limine** (9:00 AM) (Judicial Officer: Gonzalez, Elizabeth)

*PricewaterhouseCoopers LLP's Motion in Limine No. 2 to Exclude Testimony Related to PWC's 2003 Advice*

Denied;

12/21/2020

**Motion in Limine** (9:00 AM) (Judicial Officer: Gonzalez, Elizabeth)

*PricewaterhouseCoopers LLP's Motion in Limine No. 3 to Exclude Testimony Regarding PWC's Alleged Conflict of Interest*

Denied;

12/21/2020

**Motion in Limine** (9:00 AM) (Judicial Officer: Gonzalez, Elizabeth)

*PricewaterhouseCoopers LLP's Motion in Limine No. 4 to Exclude Testimony Related to PWC's Advice to Other Clients*

Denied;

# CASE SUMMARY

CASE NO. A-16-735910-B




12/21/2020	<p><b>Motion for Summary Judgment</b> (9:00 AM) (Judicial Officer: Gonzalez, Elizabeth)  <i>PricewaterhouseCoopers LLP's Motion for Summary Judgment and Motion to Strike Jury Demand</i>  Denied;</p>
12/21/2020	<p><b>Motion in Limine</b> (9:00 AM) (Judicial Officer: Gonzalez, Elizabeth)  <i>Plaintiff Michael Tricarichi's Motion in Limine No. 1 to Bar References to the Prior Convictions of James Tricarichi</i>  Granted in Part;</p>
12/21/2020	<p><b>Motion in Limine</b> (9:00 AM) (Judicial Officer: Gonzalez, Elizabeth)  <i>Plaintiff Michael Tricarichi's Motion in Limine No. 2 to Exclude the Opinions of Kenneth Harris</i>  Denied;</p>
12/21/2020	<p><b>Motion in Limine</b> (9:00 AM) (Judicial Officer: Gonzalez, Elizabeth)  <i>Plaintiff Michael Tricarichi's Motion in Limine No. 3 to Bar Purported Mitigation Evidence</i>  Denied;</p>
12/21/2020	<p> <b>All Pending Motions</b> (9:00 AM) (Judicial Officer: Gonzalez, Elizabeth)  Minute Order - No Hearing Held;  Journal Entry Details:</p> <p><i>Pursuant to Administrative Order 20-01, the Court decides this matter without the necessity of oral argument. PRICEWATERHOUSECOOPERS LLP'S MOTION FOR SUMMARY JUDGMENT AND MOTION TO STRIKE JURY DEMAND: The Court, having reviewed the motion for summary judgement / motion to strike jury demand and the related briefing and being fully informed, DENIES the motion. Genuine issues of material fact preclude the requested relief. As there is no rider that is signed or initialed by Plaintiff waiving the jury trial or agreeing to the limitation of damages, the Court declines to grant relief on those issues. Counsel for Plaintiff is directed to submit a proposed order approved by opposing counsel consistent with the foregoing within ten (10) days and distribute a filed copy to all parties involved in this matter. Such order should set forth a synopsis of the supporting reasons proffered to the Court in briefing. This Decision sets forth the Court's intended disposition on the subject but anticipates further order of the Court to make such disposition effective as an order. The Court, having reviewed the following motions in limine and the related briefing and being fully informed: PRICEWATERHOUSECOOPERS LLP S MOTION IN LIMINE NO. 1 TO EXCLUDE CERTAIN OPINIONS OF PLAINTIFF S EXPERT CRAIG GREENE is DENIED. The issues go to the weight to be given his testimony by the fact finder. PRICEWATERHOUSECOOPERS LLP S MOTION IN LIMINE NO. 2 TO EXCLUDE TESTIMONY RELATED TO PWC S 2003 ADVICE is DENIED. The original advice is central to a determination of the remaining claims. PRICEWATERHOUSECOOPERS LLP S MOTION IN LIMINE NO. 3 TO EXCLUDE TESTIMONY REGARDING PWC S ALLEGED CONFLICT OF INTEREST is DENIED. The receipt of the referral fee is relevant to the remaining claims. PRICEWATERHOUSECOOPERS LLP S MOTION IN LIMINE NO. 4 TO EXCLUDE TESTIMONY RELATED TO PWC S ADVICE TO OTHER CLIENTS is DENIED. The advice given is relevant and unlikely to confuse the jury. Counsel for Plaintiff is directed to submit a proposed order approved by opposing counsel consistent with the foregoing within ten (10) days and distribute a filed copy to all parties involved in this matter. Such order should set forth a synopsis of the supporting reasons proffered to the Court in briefing. PLAINTIFF MICHAEL TRICARICHI S MOTION IN LIMINE NO. 1 TO BAR REFERENCES TO THE PRIOR CONVICTIONS OF JAMES TRICARICHI is GRANTED IN PART. As the DUI conviction is a misdemeanor, it is excluded. The other convictions may be used for impeachment during cross-examination of the witness James Tricarichi only. PLAINTIFF MICHAEL TRICARICHI S MOTION IN LIMINE NO. 2 TO EXCLUDE THE OPINIONS OF KENNETH HARRIS is denied. The issues go to the weight to be given his testimony by the fact finder. PLAINTIFF MICHAEL TRICARICHI S MOTION IN LIMINE NO. 3 TO BAR PURPORTED MITIGATION EVIDENCE is denied. The issues go to the weight to be given his testimony by the fact finder. Counsel for Defendant tis directed to submit a proposed order approved by opposing counsel consistent with the foregoing within ten (10) days and distribute a filed copy to all parties involved in this matter. Such order should set forth a synopsis of the supporting reasons proffered to the Court in briefing. Parties may agree to submit a single order for all motions in limine. Counsel are required to notify any witnesses of these rulings. This Decision sets forth the Court's intended disposition on the subject but anticipates further order of the Court to make such disposition effective as an order. 2-18-21 9:15 AM PRE TRIAL</i></p>



# CASE SUMMARY

CASE NO. A-16-735910-B



CONFERENCE 3-9-21 9:30 AM CALENDAR CALL 3-15-21 1:30 PM JURY TRIAL CLERK'S  
NOTE: A copy of this minute order was distributed via Odyssey File and Serve. / dr 12-21-20;

12/22/2020	<b>CANCELED Calendar Call</b> (9:00 AM) (Judicial Officer: Gonzalez, Elizabeth) <i>Vacated - per Judge</i>
01/04/2021	<b>CANCELED Jury Trial</b> (1:30 PM) (Judicial Officer: Gonzalez, Elizabeth) <i>Vacated - per Judge</i>
01/29/2021	 <b>Motion to Stay</b> (3:00 AM) (Judicial Officer: Gonzalez, Elizabeth) <i>Pricewaterhousecoopers LLP s Motion to Stay Trial Pending Writ Review on an Order Shortening Time</i> Denied Without Prejudice; Journal Entry Details: <i>The Court, having reviewed the Motion to Stay and the related briefing and being fully informed, DENIES the motion WITHOUT PREJUDICE. The petition was filed January 23, 2021; the Nevada Supreme Court has not ordered a response to the petition. There does not appear at this time to be a likelihood of success or that the matter will be mooted if not decided. Issues related to trial scheduling will be addressed at the Pre Trial Conference on February 18, 2021. Counsel for Plaintiff is directed to submit a proposed order approved by opposing counsel consistent with the foregoing within ten (10) days and distribute a filed copy to all parties involved in this matter. Such order should set forth a synopsis of the supporting reasons proffered to the Court in briefing. This Decision sets forth the Court's intended disposition on the subject but anticipates further order of the Court to make such disposition effective as an order. 2-18-21 9:15 AM PRE TRIAL CONFERENCE 3-9-21 9:30 AM CALENDAR CALL 3-15-21 1:30 PM JURY TRIAL CLERK'S NOTE: A copy of this minute order was distributed via Odyssey File and Serve. / dr 2-1-21;</i>
02/18/2021	 <b>Pre Trial Conference</b> (9:15 AM) (Judicial Officer: Gonzalez, Elizabeth) Matter Heard; Journal Entry Details: <i>Parties appeared by telephone. Mr. Byrne advised that given their witnesses and experts he does not think they can be done in less than 8 days, best case scenario. Court noted that the age of this case would qualify for trial at the Convention Center but not the length of the trial. Court further noted a pending motion to stay. Mr. Byrne advised they are ready but simply need guidance from the Nevada Supreme Court on their writ. Court inquired whether the Nevada Supreme Court has ordered a response. Mr. Byrne stated they have not, and, upon further inquiry, advised that a June trial date would work for the Defendants. Mr. Hessell stated the Plaintiffs would prefer April if 8 days can be accommodated then. Court stated it does not think it can be. Mr. Byrne advised they would like a real date because they have got all out-of-state witnesses, which would involve scheduling hotels and travel; he is not really interested in an aggressive April setting. Court noted that if this case is placed on the June stack it would be the oldest case on that stack. Mr. Hessell noted they would also be the oldest case in May. Court stated that they would not be, as there is one case in May that is older. COURT ORDERED, jury trial VACATED and RESET on the stack beginning on June 28, 2021, because the Court cannot accommodate a trial of this length at the Convention Center; new trial setting order will ISSUE, which will only have the dates for Calendar Call and the Pre Trial Conference. 6-3-21 9:15 AM PRE TRIAL CONFERENCE 6-22-21 9:30 AM CALENDAR CALL 6-28-21 1:30 PM JURY TRIAL;</i>
03/09/2021	<b>CANCELED Calendar Call</b> (9:30 AM) (Judicial Officer: Gonzalez, Elizabeth) <i>Vacated</i>
03/15/2021	<b>CANCELED Jury Trial</b> (1:30 PM) (Judicial Officer: Gonzalez, Elizabeth) <i>Vacated</i>
05/10/2021	 <b>Motion to Vacate</b> (9:00 AM) (Judicial Officer: Gonzalez, Elizabeth) <i>Princewaterhousecoopers LLP's Motion to Vacate or Continue Trial on an Order Shortening Time</i> Granted; Journal Entry Details: <i>Court Noted, the current issue with picking a jury and the limited amount of juries that can be</i>

EIGHTH JUDICIAL DISTRICT COURT

**CASE SUMMARY**

**CASE NO. A-16-735910-B**

	<p><i>picked each week. Court Further Noted, priority is being given to the cases with 5- year rule problems and this case does not have an issue despite the age of the case. Following argument and statements by counsel, COURT ORDERED motion GRANTED, matter set for Status Check on June 18th; parties to submit a Status Report the day before the hearing to indicate if they have heard anything further from the Supreme Court. COURT FURTHER ORDERED, the case will be reset on the next stack once the Supreme Court Rules one way or the other. 6/18/21 (CHAMBERS) Status Check;</i></p>
05/10/2021	<p><b>CANCELED Motion to Continue</b> (9:00 AM) (Judicial Officer: Gonzalez, Elizabeth)  <i>Vacated - On in Error</i>  <i>Pricewaterhousecoopers LLP s Motion to Vacate or Continue Trial on an Order Shortening Time</i></p>
06/03/2021	<p><b>CANCELED Pre Trial Conference</b> (9:15 AM) (Judicial Officer: Gonzalez, Elizabeth)  <i>Vacated - per Stipulation and Order</i></p>
06/18/2021	<p> <b>Status Check</b> (3:00 AM) (Judicial Officer: Kishner, Joanna S.)  <b>06/18/2021, 07/02/2021, 09/24/2021</b>  <i>Status Check Re. Stay</i>  Matter Continued;  Matter Continued;  Minute Order - No Hearing Held;  Pursuant to the Joint Status Report filed and Notice of Hearing being issued  Journal Entry Details:  <i>On July 2, 2021, the Court reviewed the status and stay, reviewed the Status Report from June 21, 2021, and requested a Status Report on the stay by September 24, 2021. On September 24, 2021, the Court reviewed the Joint Status Report. A status check is set for November 19, 2021 on the Court s Chamber s calendar. CLERK'S NOTE: This minute order was electronically served by Courtroom Clerk, Natalie Ortega, to all registered parties for Odyssey File &amp; Serve and/or served via facsimile. ndo10/07/21;</i>  Matter Continued;  Matter Continued;  Minute Order - No Hearing Held;  Pursuant to the Joint Status Report filed and Notice of Hearing being issued  Journal Entry Details:  <i>Court reviewed 6/21/21 status report; Court ORDERED, Status Check regarding Stay in 12 weeks. STATUS CHECK: Stay 09/24/2021 Chambers CLERK S NOTE: A copy of this minute order was distributed via Odyssey File and Serve. - vg/7/2/21;</i>  Matter Continued;  Matter Continued;  Minute Order - No Hearing Held;  Pursuant to the Joint Status Report filed and Notice of Hearing being issued  Journal Entry Details:  <i>Court found, no status report provided by counsel; matter CONTINUED two weeks. STATUS CHECK Re. STAY: 07/02/2021 Chambers CLERK S NOTE: A copy of this minute order was distributed via Odyssey File and Serve. - vg/6/18/21;</i></p>
06/22/2021	<p><b>CANCELED Calendar Call</b> (9:30 AM) (Judicial Officer: Gonzalez, Elizabeth)  <i>Vacated - per Stipulation and Order</i></p>
06/28/2021	<p><b>CANCELED Jury Trial</b> (1:30 PM) (Judicial Officer: Gonzalez, Elizabeth)  <i>Vacated - per Stipulation and Order</i></p>
12/09/2021	<p> <b>Hearing</b> (8:30 AM) (Judicial Officer: Kishner, Joanna S.)  <i>Hearing Re Trial Setting: Notice of Lieu of Remittitur of the Supreme Court s Decision and Order was filed on October 26, 2021</i>  Matter Heard;  Journal Entry Details:    <i>Court noted in this case it shows there are other parties, but no attorneys. Mr. Hessell stated the only remaining parties were plaintiff and PricewaterhouseCoopers. Court advised counsel to correct the caption so it reflects correctly in Odyssey. Colloquy regarding procedural</i></p>

# CASE SUMMARY

CASE NO. A-16-735910-B

history. Mr. Byrne believes the more efficient way to proceed was to refile both the Motion for Summary Judgment regarding the limitation of liability and then the Motion to Strike the jury trial waive. Court referenced and reviewed the January 5, 2021 order denying PriewaterhouseCoopers s Motion for Summary Judgment and Motion to Strike the jury demand. Arguments by counsel whether Tricarichi knowingly and voluntarily agreed to the jury trial waiver and whether to conduct an evidentiary hearing. COURT ORDERED, Order dated January 5, 2021, document 293, is STRICKEN pursuant to the Writ issued by the Nevada Supreme Court, dated September 30, 2021, as well as Order dated October 26. COURT FURTHER ORDERED, Notice of Entry of order, DATED 1/20/212, Document 294, STRICKEN. COURT ORDERED, matter SET for hearing; hearing estimated to last one hour, 30 minutes each side. Counsel to submit a joint letter to the Court with four proposed dates by December 16 at 4:30 p.m. ;

02/25/2022



**Status Check** (10:00 AM) (Judicial Officer: Kishner, Joanna S.)

Matter Heard;

Journal Entry Details:

Upon Court's inquiry, Counsel requested a one (1) hour Evidentiary hearing on either March 29th or 30th. Colloquy regarding scheduling and briefing. Court ORDERED, Evidentiary Hearing SET and Briefs DUE by end of business on March 23, 2022. 3/30/22 8:30 AM EVIDENTIARY HEARING ;

03/24/2022



**Motion to Quash** (8:30 AM) (Judicial Officer: Kishner, Joanna S.)

[315] PriceWaterHouseCoopers, LLP's Motion to Quash Subpoena on Order Shortening Time Granted;

Journal Entry Details:

Upon Court's inquiry, Mr. Hessell stated Defendants Seyfarth, Taylor, Cooperatieve Rabobank UA and Utrecht-America Finance Co. have been dismissed. Court stated its inclination and noted the Court set the Evidentiary Hearing as a result of the Writ granted from the Supreme Court. Court questioned what the parties were intending to present at the Evidentiary Hearing if no witnesses were to attend. Mr. Taylor asserted Defendant did not intend to bring witnesses to the Evidentiary hearing. Furthermore, the subpoena had several defects and should be quashed. Mr. Taylor stated he does not believe there are any PWC employees within the Court's subpoena range who have any knowledge relevant to the case considering the engagement was based in Ohio. Therefore, compelling a witness would be burdensome on the Court and PWC. Colloquy regarding Rule 45 subpoena, failure to include mileage fees in the subpoena and two (2) additional defective subpoenas. Mr. Hessell stated PWC does not want the Court to have the benefit of a live witness to testify on the subjects for which the Supreme Court remanded the case to the Court. Furthermore, a subsequent subpoena was served to correct the defect regarding fees and Mr. Tricarichi would be present at the Evidentiary Hearing. Colloquy regarding 30 (b)(6) witness and violation of EDCR 2.27 as to the briefs. Court stated its Findings and ORDERED motion GRANTED; subpoena QUASHED as a result of unpaid fees. The Court to evaluate at the Evidentiary Hearing whether parties have complied with the mandated, Court Ordered Evidentiary Hearing requirements. COURT DIRECTED Defense to prepare the Order with detailed Findings of Fact and Conclusions of Law, circulate to opposing counsel, and submit to the Court pursuant to EDCR 7.21 and the current Administrative Orders. ;

03/30/2022

**Evidentiary Hearing** (8:30 AM) (Judicial Officer: Kishner, Joanna S.)

Matter Heard;

03/30/2022

**Motion to Strike** (8:30 AM) (Judicial Officer: Kishner, Joanna S.)

Defendant Pricewaterhousecoopers, LLP's Motion to Strike Plaintiff Michael Tricarichi's New Argument that the Contract is Unenforceable on Order Shortening Time

03/30/2022



**All Pending Motions** (8:30 AM) (Judicial Officer: Kishner, Joanna S.)

Matter Heard;

Journal Entry Details:

Also present Kelly Dove, Richard Stovsky, Michael Kennedy and Geoff Ezgar. Court cites recent NV Sup Ct decision from 3/24/22 Canarelli v. Eighth Jud Dist Ct, 138 Nev Adv Op (2022) and returns the box of exhibits delivered to the Court marked confidential. Upon Court's inquiry, Mr. Byrne stated the documents provided to the Court were inadvertently marked privileged and confidential. Colloquy regarding non-compliance with EDCR 2.27, Defendant's Errata to Brief DOC 322 and Plaintiff's Amended Brief DOC 323. Counsel

**CASE SUMMARY****CASE NO. A-16-735910-B**

confirmed compliance with the Court's rules would be followed and requested the Court consider the briefs and address sanctions after the hearing. Neither party waived the burden proof, however, they agreed to call Mr. Stovsky and Mr. Tricarichi. Testimony and Exhibits presented (see worksheets). Colloquy regarding Lowe factors, Engagement Letter, Rider and Jury Waiver. Court stated its inclination and gave a tentative ruling noting the Motion to Strike was not necessary considering the Court had a specific Order granting Petition for Writ of Mandamus which directed the Court to narrow the scope of outstanding issue(s). Court gave alternative bases for its ruling and FOUND Plaintiff did not demonstrate the waiver was not entered into knowingly, voluntarily and intentionally and therefore, the jury waiver was enforceable. COURT DIRECTED Defense to prepare the Order with detailed Findings of Fact and Conclusions of Law, circulate to opposing counsel, and submit to the Court pursuant to EDCR 7.21 and the current Administrative Orders. Mr. Austin requested and the Court GRANTED an extension for thirty (30) days to submit the Order. Court noted the Writ required the Court to strike the portion of the Summary Judgment Order addressing the jury trial and therefore a carve-out was required. Court DIRECTED Counsel to submit to the JEA proposed dates for trial with three (3) different months and to copy all parties. Upon Court's inquiry, Mr. Bryne requested to make a voluntary donation to a 501(c)(3) organization and to attend a CLE in lieu of sanctions for noncompliance with EDCR 2.27. Court DIRECTED parties to provide a letter to Court requesting either an evidentiary hearing or to make a voluntary donation and attend a CLE.;

06/09/2022

**Motion for Partial Summary Judgment (8:30 AM)** (Judicial Officer: Kishner, Joanna S.)

Pricewaterhousecoopers LLP's Renewed Motion for Partial Summary Judgment

Pursuant to correspondence from counsel requesting continuance

Denied Without Prejudice;

Journal Entry Details:

Upon Court's inquiry, Mr. Levine addressed if the limitation of liability provision applied to Tricarichi's claim. Mr. Levine stated Mr. Tricarichi said during summary judgment briefing the claim arose from services originally performed by PWC. That admission was evidence the claim being made now, about not updating, related to those services. Colloquy regarding gross negligence. Mr. Levine stated gross negligence was pled in the earlier claim that was dismissed on statute of limitation grounds, however, when the new claim was raised, it did not plead gross negligence. Furthermore, the only pending claim left (Count 3) was just for negligence as to PWC. Mr. Tricarichi had plenty of time to amend his complaint to raise gross negligence, however, the time to amend passed. Additionally, there was no reason to spend a lot of court time and attention when there was no evidence to what a reasonable factfinder could find for gross negligence. Mr. Hessell outlined the procedural history that led to Count 3. Mr. Hessell stated Count 3 referenced the alternative allegation of either gross negligence or negligence and provided a brief history of the case. Colloquy regarding limitation clause, recoverable damages, procedural attack and engagement agreement. Mr. Hessell further stated there are issues of fact and the bench trial in a few months would remain the same whether the damage limitation clause was put in or not. Defendant failed to articulate any way in which they would be prejudiced or that the case would have proceeded differently if gross was added before the negligence count in Count 3. Counsel confirmed the operative complaint was the Amended Complaint filed on 4/1/19 and Nevada procedures govern the case, however, substantively it should be New York. Colloquy regarding language in Amended Complaint and contract provision. Court stated its Findings and ORDERED Motion DENIED WITHOUT PREJUDICE; movant had not met initial burden. COURT DIRECTED Mr. Hessell to prepare the Order with detailed Findings of Fact and Conclusions of Law, circulate to opposing counsel, and submit to the Court pursuant to EDCR 7.21 and the current Administrative Orders.;

09/08/2022

**Pre Trial Conference (10:15 AM)** (Judicial Officer: Kishner, Joanna S.)



Trial Date Set;

Journal Entry Details:

Michael English and Geoff Ezgar observed. Upon Court's inquiry, Counsel agreed the bench trial should take approximately eight (8) days rather than the previously requested ten (10). In regards to an October 31, 2022 trial date, Mr. Landgraff stated Defendant was ready for trial, however five (5) out of their six (6) witnesses were out of state and might need to be called out of order. Mr. Hessell did not object to calling witnesses out of order if need be and requested consecutive days for trial rather than splitting them up. Mr. Hessell further stated the exhibits should not exceed 1,000 pages and were all in PDF format. Mr. Landgraff also requested consecutive trial days and concurred exhibits should not exceed 1,000 pages. Court ORDERED trial date SET. 10/21/22 8:30 A.M. CALENDAR CALL 10/31/22 to 12/10/22 BENCH TRIAL (with the caveat 11/04/22 would be dark or a partial day);

# CASE SUMMARY

CASE NO. A-16-735910-B

09/27/2022	<b>CANCELED Calendar Call</b> (9:00 AM) (Judicial Officer: Kishner, Joanna S.) <i>Vacated</i>
10/10/2022	<b>CANCELED Jury Trial</b> (9:00 AM) (Judicial Officer: Kishner, Joanna S.) <i>Vacated</i>
10/21/2022	 <b>Calendar Call</b> (8:30 AM) (Judicial Officer: Kishner, Joanna S.) Matter Heard; Journal Entry Details: <i>Colloquy regarding objections to deposition designations and trial exhibits. Court referenced instructions pursuant to the trial order and non-compliance. Court RECESSED and RECALLED the matter for the parties to try and come to an agreement. Counsel stipulated pursuant to EDCR 7.50 to withdrawal all objections to deposition designation and all objections to trial exhibits with the exception of five (5) for each party. Counsel to provide Findings and Fact Conclusions of Law (two days before trial) and a revised exhibit list setting forth the exhibits objected to. Court NOTED it could not rule on what it had not seen and did not require the parties to waive objections. Colloquy regarding Order Shortening Time on Motion for Sanctions, Motion for Sanctions filed on 10/20/22 and confidential documents. Mr. Austen provided the Court with original deposition transcripts and noted he would provide the Court with a list of depositions no later than 4:00 p.m. today. Mr. Landgraff stated Defendant would submit a Joint Trial Stipulation with changes and confirmed the one filed could be returned. Counsel requested the Court strike the Motion for Sanctions filed on 10/20/22 in order to ensure exhibits were filed under seal. Court ORDERED Motion for Sanctions STRICKEN (DOC 365), however, Defense Counsel's opposition still due. Court NOTED the Order Shortening Time would be returned and Counsel would need to resubmit under temporary seal. Defendant requested to use Real Time. Court ORDERED Real Time request DENIED. Counsel agreed to 40 minute opening statements each side and noted demonstrative exhibits would be utilized. CLERK'S NOTE: Court inadvertently referenced 10/10/22 as the filing date for the Motion for Sanctions instead of 10/20/22. ;</i>
10/31/2022	<b>Motion to Associate Counsel</b> (8:30 AM) (Judicial Officer: Kishner, Joanna S.) Events: 10/27/2022 Motion to Associate Counsel <i>Defendant PricewaterhouseCoopers LLP's Motion to Associate Alexandra Genord, Esq. as Counsel</i> Granted;
10/31/2022	<b>Motion to Associate Counsel</b> (8:30 AM) (Judicial Officer: Kishner, Joanna S.) Events: 10/27/2022 Motion to Associate Counsel <i>Defendant PricewaterhouseCoopers LLP's Motion to Associate Sundeep Addy, Esq. as Counsel</i> Granted;
10/31/2022	 <b>Bench Trial - FIRM</b> (9:00 AM) (Judicial Officer: Kishner, Joanna S.) <b>10/31/2022-11/04/2022, 11/07/2022-11/10/2022</b> Trial Continues; Trial Continues; Trial Continues; Trial Continues; Trial Continues; Trial Continues; Trial Continues; Trial Continues; Trial Continues; Decision Pending; Journal Entry Details: <i>Upon Court's inquiry, Hessel requested to update the Findings of Fact and Conclusions of Law based on the evidence discovered during trial and Landgraff requested to have the Court rule today. Court ORDERED request to update the Findings of Fact and Conclusions ("FFCL") GRANTED. Counsel to discuss and try to reach an agreement. Testimony and exhibits presented (see worksheets). Defendant RESTED its case and chief and Plaintiff its rebuttal. Closing arguments by counsel. Counsel confirmed there was not a fraud claim and the only claim that remained was count three (3) from the Amended Complaint. Colloquy regarding scope and breath of the Amended FFCL. Counsel requested 30 days to submit the</i>

# CASE SUMMARY

CASE NO. A-16-735910-B

FFCL. Court ORDERED FFCL due by 4:00 p.m. pacific time on 12/09/22 via word version to Department 31's JEA and copy opposing counsel.;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Decision Pending;

Journal Entry Details:

Colloquy regarding timeframe and discussion of damages with witness Craig Greene. Court RECESSED and RECALLED the matter for Counsel to discuss a possible resolution. Counsel agreed to withdraw the objection and only ask Greene one (1) question on damages.

Testimony and exhibits presented (see worksheets). Deposition of Timothy Craig Greene was PUBLISHED and FILED IN OPEN COURT. Counsel read exhibits to be admitted pertaining to Greene's testimony, Korb and Hart's video depositions not played in Court, however, added to the transcript and exhibits not referenced yet but seeking preadmission. Colloquy regarding Plaintiff's request to pre-admit exhibits 43, 56 and 83 not referenced yet in testimony. Hessell stated he would withdraw his request for the pre-admission of these three (3) exhibits considering the exhibits would be introduced with the next witnesses. Plaintiff RESTED its case in chief. Colloquy regarding Defendant's demonstrative exhibits. Hessell stated the slide-show highlighted material not appropriate for the expert and was the subject matter for the Court's decision. Levine state the slide-show was a summary and Harris was Defendant's initial and expert witness. Court stated its Findings and ORDERED objection OVERRULED WITH CAVEAT. Court NOTED foundation to be laid and Nevada Rules for demonstrative exhibits followed. Furthermore, the Court would look at the slide-show as to the designation of the witness in a rebuttal expert witness context. Testimony and exhibits presented (see worksheets). Colloquy regarding Findings of Facts Conclusion of Law. Landgraff stated Defendant would like a ruling from the bench and Hessell stated he would like to confer with his client. Court to address the matter tomorrow. Per the Stipulation and Order Re:

Disposition Designations of Randy Hart and Donald Korb filed on November 9, 2022 (Doc 391) and Notice of Entry thereof also filed on November 9, 2022 (Doc392) the depositions would be entered into the trial transcript on November 9, 2022 as if they had been played in open Court. 11/10/22 9:30 A.M. CONTINUED: BENCH TRIAL;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Decision Pending;

Journal Entry Details:

Upon Court's inquiry, Counsel stipulated that the video deposition of Jim Tricarichi, Michael Desmond, and Michael Boyer played in open Court on November 7, 2022 would be typed into the record and noted the parties designations were deciphered by blue and red ink. Counsel to address future video depositions at a later time and provided word versions of the deposition designations to the Court Recorder. Landgraff stated a new colleague might observe via blue jeans tomorrow and/or Thursday. Levine stated Dellinger would be called by Defendant out of order. Hessell noted Plaintiff kept the case open even though witnesses were called out of order. Testimony and exhibits presented (see worksheets). Colloquy regarding Plaintiff's slide presentation. Sercye stated Plaintiff worked to resolve objections to the slides, however, disagreed with the objection on timing of displaying the slides. Levine stated the slides were being displayed in a leading fashion. Court SUSTAINED Defendant's objection and referenced Nevada's rules on demonstrative exhibits. Testimony and exhibits presented (see worksheets). Colloquy regarding joint depositions designation transcripts. Counsel stipulated pursuant to EDCR 7.50 that Donald Korb and Randy Hart's joint deposition designation transcripts would be incorporated into the trial transcript as if they were read at the end of the day. Levine noted Korb's deposition would fall under Plaintiff's case in chief and Hart's under Defendant. Roin listed exhibits referenced in Miller's deposition and cross referenced them with trial exhibits noting a Court's Exhibit listing cross references would be provided. Video deposition of Glenn Miller played. Genord stated pursuant to EDCR 7.50, the parties reached an agreement

# CASE SUMMARY

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whereby the two (2) awards granted in Plaintiff's Motion for Sanctions [382] and Defendant's Motion to Strike [377] would offset one another and Counsel withdrew their requests for fees and costs. Court DIRECTED Counsel to memorialize the stipulations in writing. 11/09/22 8:30 A.M. CONTINUED: BENCH TRIAL;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Decision Pending;

Journal Entry Details:

*Per the agreement of the parties at the prior hearing, Landgraff proceeded to conduct a voir dire on Stovsky and presented objections to the admission of Exhibit 72. Hessell provided a response and argued for the admission of Exhibit 72. Court stated its Findings and ORDERED the admission of Exhibit 72 DENIED due to authenticity, hearsay and relevancy. Court did not address the late disclosure objection. Testimony and exhibits presented (see worksheets).*

*Levine stated due to medical issues, Dellinger needed to be called out of order, would likely be called tomorrow morning and an additional break might be needed. Hessell did not object. Court addressed the exclusionary rule as to the new individuals in the courtroom and Counsel confirmed individuals were subject to the parties previous stipulation. Colloquy regarding Exhibit 100 and handwriting on page three (3) of the Exhibit. Following arguments by Counsel, Court ORDERED Exhibit 100 admitted for limited purpose. Court to consider Stovsky's statements, beliefs and position as to what was said as to Plaintiff in light of different testimony received by Plaintiff. Court taking weight into account. Video deposition designation of Michael Boyer played. Admitted exhibits read into the record. Colloquy regarding Plaintiff's demonstrative exhibits. Levine stated the demonstrative exhibits were produced last night and Defendant objected to 13 out of the 24 slides; 3 of which included undisclosed expert opinions. Mr. Sercye stated the purpose of the demonstrative exhibits were to act as an aid in Greene's testimony. Slide five (5) to Plaintiff's demonstrative exhibit presented to the Court for review. Mr. Levine stated the slide shown would aid in leading the witness's testimony. Court stated its Findings and ORDERED objection to Plaintiff's demonstrative exhibit SUSTAINED. After discussing the matter with opposing counsel, Hessell stated Plaintiff would work out issues with the presentation tonight. Levine concurred. Video deposition designations of Jim Tricarichi and Michael Desmond played. Colloquy regarding the three (3) video depositions played in lieu of live testimony today and whether or not the testimony would be transcribed in the trial transcripts. Counsel to discuss tonight and address the issue tomorrow as well as closing arguments and whether or not future video depositions should be submitted as court exhibits and not played.;*

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Decision Pending;

Journal Entry Details:

*Testimony and exhibits presented (see worksheets). Colloquy regarding exhibits referenced in Stovsky's deposition which were not trial exhibits. Counsel agreed to argue objections to the admission of Exhibit 72 on Monday, November 7, 2022. 11/07/22 9:00 A.M. CONTINUED:*

**BENCH TRIAL;**

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Decision Pending;

Journal Entry Details:

# CASE SUMMARY

CASE NO. A-16-735910-B

Testimony and exhibits presented (see worksheets). Colloquy regarding Exhibit 183. Court NOTED it may limit contents, however, granted its admission and reserved a carveout for statements. Colloquy regarding Exhibit 100 (with or without handwriting). Court did not modify its previous ruling on 10/31/22 admitting Exhibit 100 with caveat. As to the Motion to Strike on OST, Pro Hac Vice Counsel Addy stated Plaintiff attempted to include damages five (5) days before trial and included two (2) new damage categories (Statutory Interest on Law Firm Fees and Additional Interest Through Trial). Addy further stated Plaintiff's conduct was a violation of NRCP 16.1(a)(2), 26(e) and 16.1(a)(3), disclosures must be at least 30 days before trial and Plaintiff requested an additional \$8 million dollars in interest on Tricarichi's underlying tax and penalty assessment. Furthermore, Defendant would be the only prejudiced party, the time to take depositions was over and Defendant's expert did not have an opportunity to review and make similar calculations. Colloquy regarding expert reports, dates of submittal and NRCP 37(c). Mr. Sercye stated Defendant was not prejudiced, the additional 10 million dollars in damages related to damages previously disclosed and Defendant was entitled to prejudgment interest under NY law. Mr. Sercye further stated there was good cause for the late disclosure of damages and if the Court did find prejudice, there were other remedies, including taking the deposition of Greene. Court referenced Pizzaro-Ortega, stated its Findings and ORDERED Motion to Strike GRANTED noting non-compliance with the rules, the matter could have been addressed earlier, was first disclosed in less than 30 days and Greene's deposition during trial was not a reasonable or feasible alternative. Court did not find a sanction component. Testimony and exhibits presented (see worksheets). Deposition of Richard Stovsky was PUBLISHED and FILED IN OPEN COURT. 11/4/22 1:15 P.M. CONTINUED: BENCH TRIAL;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Decision Pending;

Journal Entry Details:

Testimony and exhibits presented (see worksheets). Mr. Hessell confirmed Exhibit 30 and 136 were identical with the exception of notations on Exhibit 136. Mr. Hessell stated the parties stipulated that Plaintiff's Counsel would not elaborate on the engagement agreement issues so long as Defendant agreed to not waive Plaintiff's challenges as to those issues. Mr. Landgraff agreed the parties did not need to re-litigate the Court's decisions. Court DIRECTED Counsel to discuss the matter after/during the lunch break and provide a written stipulation pursuant to EDCR 7.50. Said stipulation was read and placed on the record. Court notified the parties a recent submittal would be returned and need to be resubmitted without a file stamp. Testimony and exhibits presented (see worksheets). Deposition of Michael A. Tricarichi was PUBLISHED and FILED IN OPEN COURT. Colloquy regarding Exhibit 103. Counsel agreed to admit the first 30 pages of Exhibit 103 (1-134) as Exhibit 103A (103.0 - 103.30) in paper format over the hearsay objection for which Plaintiff preserved its right. Counsel requested to have the Motion to Strike heard tomorrow after lunch. 11/03/22 9:45 A.M. CONTINUED: BENCH TRIAL 11/03/22 MOTION TO STRIKE;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Decision Pending;

Journal Entry Details:

Mr. Hessell provided paper copies of Exhibits 84-89 with the revised Exhibit List to the Court Clerk. Opening statements by counsel. Testimony and exhibits presented (see worksheets). Deposition of Timothy John Lohnes was PUBLISHED and FILED IN OPEN COURT. Counsel stipulated pursuant to EDCR 7.50 that exhibits referenced during witness testimony would be admitted at the end of that witness's testimony. 11/02/22 8:30 A.M. CONTINUED: BENCH TRIAL;

Trial Continues;

Trial Continues;



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Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Decision Pending;

Journal Entry Details:

*Representative from Bartlit Beck also present. Colloquy regarding Motions to Associate Counsel filed on 10/27/22 without a judicial day's notice and chronology of issues for the Court to address. Mr. Landgraft stated proposed Pro Hac Vice counsel would not be arguing this morning, however, might be arguing later in the week. Mr. Hessell stated the Defendant produced client forms and documents that were linked in client form materials. Colloquy regarding Defendant's Motion to Strike on OST. Mr. Hessell stated the matter pertained to testimony given by the damages expert. Mr. Levine stated they anticipated the damages expert would testify on Thursday whereby proposed Pro Hac Vice Counsel might be called to argue. Mr. Hessell requested to argue the motion orally. Court ORDERED Plaintiff's nonobligatory response due by 4:00 p.m. on November 1, 2022 with courtesy copy to the Court. Motion to be heard on November 3, 2022. Colloquy regarding Stipulation and final Orders for the Court's signature. Upon Court's inquiry, Mr. Hessell stated PricewaterhouseCoopers, LLP (PWC) recently uncovered client engagement and client acceptance forms and policy links thereto which should have been produced in the Tax Court case or early in this case. Mr. Hessell requested a corporate rep declaration ensuring all documents were produced. Colloquy regarding chronology of the case, prejudice and relief seeking. Ms. Roin stated PWC and the parties agreed to search terms long ago and documents were produced according to the agreement. The paper documents scanned in 2003 contained handwritten information and for that reason, the current technology in 2017 missed the documents. The documents were discovered on October 19, 2022 and Plaintiff was immediately alerted. Defendant's counsel reviewed all 544 documents in the folder to ensure nothing else was missed. Ms. Roin stated Defendant did not object to add documents as Exhibits 84-89. Colloquy regarding JCCR, 16.1 and scope of documents. Ms. Roin asserted Defendant agreed the documents should have been produced in 2017, however, their omission was an unintentional mistake without willful intent and immediately remedied. Counsel agreed to admit Exhibits 84-89 via paper format although untimely. Mr. Hessell agreed to add Exhibit 84-89 to the Exhibit List. Court ORDERED Plaintiff's Motion for Sanctions GRANTED as to monetary sanctions. Counsel agreed to meet and confer as to an agreed upon amount. Court DEFERRED and would revisit issue if harm materialized. Deposition left open for the Court to revisit noting no sufficient basis at this time. Colloquy regarding objected to exhibits. Court ORDERED Exhibit 57 not admitted, Exhibit 100 admitted (Court not taking position if true or not) and deferred as to the remaining. Counsel did not agree to use tax court transcripts and exhibits for any purpose. Opening statements by counsel. Testimony and exhibits presented (see worksheets). Counsel requested to advance and grant the Motions to Associate Counsel. COURT ORDERED, Motions ADVANCED and GRANTED as unopposed pursuant to EDCR 2.20 and 2.23. 11/01/22 10:15 A.M. CONTINUED: BENCH TRIAL 11/03/22 10:00 A.M. DEFENDANT'S MOTION TO STRIKE ON ORDER SHORTENING TIME ;*

11/03/2022	<b>Motion to Strike</b> (10:00 AM) (Judicial Officer: Kishner, Joanna S.) Events: 10/28/2022 Motion to Strike <i>PricewaterhouseCoopers LLP's Motion to Strike on Order Shortening Time</i>
12/01/2022	<b>CANCELED Motion for Leave</b> (8:30 AM) (Judicial Officer: Kishner, Joanna S.) <i>Vacated - per Attorney or Pro Per</i> <i>Plaintiff's Motion for Leave to File Under Seal Plaintiff's Motion for Discovery Sanctions on Order Shortening Time</i>
05/02/2023	<b>Motion to Retax</b> (10:00 AM) (Judicial Officer: Kishner, Joanna S.) <i>Tricarichis Motion To Retax And Settle Pwcs Amended Verified Memorandum Of Costs</i>
05/02/2023	<b>Motion to Seal/Redact Records</b> (10:00 AM) (Judicial Officer: Kishner, Joanna S.) Events: 03/15/2023 Motion to Seal/Redact Records <i>PricewaterhouseCoopers LLP's Motion to Seal Exhibits 5 and 6 to Motion for Attorneys' Fees and Costs</i>
05/02/2023	<b>Motion for Attorney Fees and Costs</b> (10:00 AM) (Judicial Officer: Kishner, Joanna S.)

**CASE SUMMARY****CASE NO. A-16-735910-B**

Events: 03/15/2023 Motion for Attorney Fees and Costs

*PricewaterhouseCoopers LLP's Motion for Attorneys' Fees and Costs*

DATE	FINANCIAL INFORMATION
	<b>Defendant</b> Cooperatieve Rabobank UA Total Charges 1,525.00 Total Payments and Credits 1,525.00 <b>Balance Due as of 3/27/2023 0.00</b>
	<b>Defendant</b> Seyfarth Shaw LLP Total Charges 1,483.00 Total Payments and Credits 1,483.00 <b>Balance Due as of 3/27/2023 0.00</b>
	<b>Defendant</b> Utrechit-America Finance Co Total Charges 30.00 Total Payments and Credits 30.00 <b>Balance Due as of 3/27/2023 0.00</b>
	<b>Defendant</b> PricewaterhouseCoopers LLP Total Charges 3,386.00 Total Payments and Credits 3,386.00 <b>Balance Due as of 3/27/2023 0.00</b>
	<b>Plaintiff</b> Tricarichi, Michael A. Total Charges 2,568.50 Total Payments and Credits 2,568.50 <b>Balance Due as of 3/27/2023 0.00</b>
	<b>Plaintiff</b> Tricarichi, Michael A. Appeal Bond Balance as of 3/27/2023 <b>500.00</b>

# BUSINESS COURT CIVIL COVER SHEET A-16-735910-B

Clark County, Nevada

XV

Case No. \_\_\_\_\_  
(Assigned by Clerk's Office)

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

Plaintiff(s) (name/address/phone): MICHAEL A. TRICARICHI	Defendant(s) (name/address/phone): PRICEWATERHOUSE COOPERS, LLP, et al.
Attorney (name/address/phone): Mark A. Hutchison, Esq., Todd L. Moody, Todd W. Prall Hutchison & Steffen, LLC, 10080 W. Alta Drive, Suite 200, Las Vegas, NV 89145, Tel: 702-385-2500	Attorney (name/address/phone):

## II. Nature of Controversy (Please check the applicable boxes for both the civil case type and business court case type)

☐ Arbitration Requested

Civil Case Filing Types		Business Court Filing Types		
<b>Real Property</b> <b>Landlord/Tenant</b> <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Other Landlord/Tenant <b>Title to Property</b> <input type="checkbox"/> Judicial Foreclosure <input type="checkbox"/> Other Title to Property <b>Other Real Property</b> <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property	<b>Torts</b> <b>Negligence</b> <input type="checkbox"/> Auto <input type="checkbox"/> Premises Liability <input type="checkbox"/> Other Negligence <b>Malpractice</b> <input type="checkbox"/> Medical/Dental <input type="checkbox"/> Legal <input type="checkbox"/> Accounting <input type="checkbox"/> Other Malpractice <b>Other Torts</b> <input type="checkbox"/> Product Liability <input checked="" type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Employment Tort <input type="checkbox"/> Insurance Tort <input type="checkbox"/> Other Tort	<b>CLARK COUNTY BUSINESS COURT</b> <input type="checkbox"/> NRS Chapters 78-89 <input type="checkbox"/> Commodities (NRS 91) <input type="checkbox"/> Securities (NRS 90) <input type="checkbox"/> Mergers (NRS 92A) <input type="checkbox"/> Uniform Commercial Code (NRS 104) <input type="checkbox"/> Purchase/Sale of Stock, Assets, or Real Estate <input type="checkbox"/> Trademark or Trade Name (NRS 600) <input type="checkbox"/> Enhanced Case Management <input checked="" type="checkbox"/> Other Business Court Matters		
<b>Construction Defect &amp; Contract</b> <b>Construction Defect</b> <input type="checkbox"/> Chapter 40 <input type="checkbox"/> Other Construction Defect <b>Contract Case</b> <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Building and Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Collection of Accounts <input type="checkbox"/> Employment Contract <input type="checkbox"/> Other Contract	<b>Civil Writs</b> <input type="checkbox"/> Writ of Habeas Corpus <input type="checkbox"/> Writ of Mandamus <input type="checkbox"/> Writ of Quo Warrant <input type="checkbox"/> Writ of Prohibition <input type="checkbox"/> Other Civil Writ	<b>WASHOE COUNTY BUSINESS COURT</b> <input type="checkbox"/> NRS Chapters 78-88 <input type="checkbox"/> Commodities (NRS 91) <input type="checkbox"/> Securities (NRS 90) <input type="checkbox"/> Investments (NRS 104 Art.8) <input type="checkbox"/> Deceptive Trade Practices (NRS 598) <input type="checkbox"/> Trademark/Trade Name (NRS 600) <input type="checkbox"/> Trade Secrets (NRS 600A) <input type="checkbox"/> Enhanced Case Management <input type="checkbox"/> Other Business Court Matters		
<b>Judicial Review/Appeal/Other Civil Filing</b> <table style="width: 100%;"> <tr> <td style="width: 50%;"> <b>Judicial Review</b>  <input type="checkbox"/> Foreclosure Mediation Case  <b>Appeal Other</b>  <input type="checkbox"/> Appeal from Lower Court                         </td> <td style="width: 50%;"> <b>Other Civil Filing</b>  <input type="checkbox"/> Foreign Judgment  <input type="checkbox"/> Other Civil Matters                         </td> </tr> </table>		<b>Judicial Review</b> <input type="checkbox"/> Foreclosure Mediation Case <b>Appeal Other</b> <input type="checkbox"/> Appeal from Lower Court	<b>Other Civil Filing</b> <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Other Civil Matters	
<b>Judicial Review</b> <input type="checkbox"/> Foreclosure Mediation Case <b>Appeal Other</b> <input type="checkbox"/> Appeal from Lower Court	<b>Other Civil Filing</b> <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Other Civil Matters			

29<sup>th</sup> Apr 2016  
Date

\_\_\_\_\_  
Signature of initiating party or representative

1 **FFCL**

2  
3 **DISTRICT COURT**  
4 **CLARK COUNTY, NEVADA**  
5

6 **MICHAEL A. TRICARICHI,**  
7  
8 **Plaintiff,**

**CASE NO.: A-16-735910-B**

**DEPT. NO.: XXXI**

9  
10 **vs.**

**FINDINGS OF FACT AND CONCLUSIONS  
OF LAW AND JUDGMENT**

11  
12 **PRICEWATERHOUSECOOPERS LLP,**  
13 **Defendant.**

14  
15 This matter came on for a Bench Trial before the Honorable Judge Joanna  
16 S. Kishner, Department XXXI, commencing October 31, 2022, and the trial  
17 concluded November 10, 2022. Appearing for Plaintiff Michael Tricarichi was  
18 Ariel C. Johnson, Esq. of HUTCHISON & STEFFEN, PLLC., along with pro hac  
19 vice counsel, Scott F. Hessell, Esq. and Blake Sercye, Esq. of SPERLING &  
20 SLATER, P.C. Appearing for Defendant PricewaterhouseCoopers, LLP. ("PwC")  
21 was Patrick G. Byrne, Esq. and Bradley T. Austin, Esq. of SNELL & WILMER,  
22 LLP, along with pro hac vice counsel, Mark L. Levine, Esq., Christopher D.  
23 Landgraff, Esq., Katharine A. Roin, Esq., of BARTLIT BECK, LLP. The Court,  
24 having heard the testimony of the witnesses, having reviewed the trial exhibits  
25 and evidence, and having heard arguments of counsel finds and orders as  
26 follows:  
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## **FINDINGS OF FACT**

### **I. Introduction and Relevant Parties**

1. This case arises from a 2003 transaction, in which Plaintiff Michael Tricarichi ("Tricarichi") sold his shares of his wholly-owned business, Westside Cellular ("Westside") to Fortrend International LLC ("Fortrend") for approximately \$34.9 million (the "Westside Transaction"). Tricarichi retained Defendant PriceWaterHouseCoopers, LLP ("PwC"), among others, to provide tax services related to the sale.<sup>1</sup>

2. The IRS later audited Westside's 2003 tax return and sought to collect Westside's unpaid taxes from Tricarichi. The Tax Court ultimately ordered Tricarichi to pay roughly \$21 million in additional taxes and penalties, plus interest. Ex.<sup>2</sup> 66, Tricarichi Tax Court Memo at 068.

3. In 2016, Tricarichi filed this lawsuit against PwC, alleging that PwC was negligent in providing tax advice in 2003. Dkt. 1, Compl. ¶¶ 81–96. The Court granted Summary Judgment for PwC on that claim - on statute of limitations grounds. Dkt. 119, Order Granting Summ. J. at 3. Tricarichi then amended his Complaint to allege that PwC was separately negligent *five years later* for, among other things, failing to advise him in 2008 about IRS Notice 2008-111, which was issued in December 2008. Dkt. 140, Am. Compl. ¶¶ 115–121. Tricarichi set forth that *inter alia* if PwC had told him about Notice 2008-111, he could have avoided years of litigation with the IRS. *Id.* ¶ 121.

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<sup>1</sup> While the background facts of this case have been extensively cited not only in at least two appellate decisions and in the Order in the Motion for Summary Judgment, the Court reiterates the relevant background facts as set forth in the trial to the extent they do not conflict with the law of the case.

<sup>2</sup> "Ex." refers to exhibits admitted into evidence at trial. "TT" (followed by the corresponding day of trial) refers to the trial transcripts, which are filed as docket numbers 396–405.

1           4.       At trial, Tricarichi sought to recover the interest that has accrued  
2 on his tax deficiency between early 2009 and 2018 as well as attorney's fees  
3 and other costs he incurred litigating against the IRS (approximately \$3 million)  
4 — a total of approximately \$18 million.  
5

## 6           **II.       The Westside Transaction**

7           5.       In April and May of 2003, Westside received approximately \$65  
8 million in settlement proceeds from antitrust claims brought in Ohio. Ex. 66 at  
9 007. The Record reflects that Tricarichi knew he would face substantial tax  
10 liability on the settlement - both at the corporate level, and as a shareholder of  
11 Westside and began looking for ways to minimize his tax burden. *Id.* Tricarichi's  
12 brother, James, made an introduction to a company called Fortrend in early  
13 2003, who told Tricarichi that it would purchase his Westside stock and offset the  
14 taxable gain with losses, thereby eliminating Westside's corporate income tax  
15 liability. *Id.* at 008. Tricarichi set forth that the amount after payment of legal fees  
16 and employee bonuses, Westside was left with approximately \$40 million. Nov. 2,  
17 2022, Trial Tr. 89:11-16; Trial Ex. 66 at 011. Regardless of whether the net  
18 amount was \$65 million or \$40 million for purposes of the claims at issue in the  
19 present litigation the analysis is the same.  
20  
21

22           6.       Tricarichi retained his long-time attorneys at Hahn Loeser & Parks,  
23 LLP ("Hahn Loeser") to oversee all aspects of the transaction, including  
24 structuring it, drafting the deal documents, and providing advice on how Tricarichi  
25 could minimize his tax burden. TT8 (Vol. 2) 9, 12–13 (Hart Dep. 56:14–20,  
26 93:24–94:5).  
27  
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1           7.       Hahn Loeser corporate and tax attorney Jeff Folkman, among  
2 others, had authority to act on behalf of Tricarichi and acted as his agent in  
3 various matters with respect to the Westside Transaction. See, e.g., Ex. 127,  
4 Email from J. Folkman at 001; TT3 89:7–90:20 (Tricarichi).

5           8.       Ultimately, Tricarichi sold his shares of Westside to Nob Hill  
6 Holdings, Inc., a Fortrend affiliate, for approximately \$35 million. The transaction  
7 closed on September 9, 2003. Ex. 66 at 016, 023.

8           **III.     PwC’s Engagement**

9           9.       Tricarichi separately hired PwC to evaluate the tax implications of  
10 the proposed Westside Transaction. TT4 142:10–13 (Stovsky). Tricarichi used  
11 his brother James as a “conduit” during his dealings with PwC. TT3 143:7–15,  
12 175:25–176:3. Tricarichi’s brother, James, was an accountant.

13          10.       Tricarichi signed a written Engagement Agreement with PwC  
14 dated April 10, 2003. Ex. 100. The Engagement Agreement consisted of an  
15 Engagement Letter which incorporated an attached document entitled “Terms of  
16 Engagement to Provide Tax Services.” These documents, collectively,  
17 comprised the agreement between the parties. See *PricewaterhouseCoopers*  
18 *LLP v. Eighth Jud. Dist. Court*, No. 82371, 2021 WL 4492128, at \*1 (Nev. Sept.  
19 30, 2021).

20          11.       As this Court has found previously, Tricarichi received both the  
21 Engagement Letter and the Terms of Engagement, and the Engagement  
22 Agreement was a valid and binding contract. See Dkt. 336, Order Granting  
23 PwC’s Mot. to Strike Jury Demand ¶ 33.<sup>3</sup>

24          12.       The Engagement Agreement specified that PwC would provide  
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27 <sup>3</sup> The instant Court was assigned the case in 2021 after certain decisions, which are law of the  
28 case, had been made by the Honorable Elizabeth Gonzalez (ret.)

1 “tax research and evaluation services” for the Westside Transaction. Ex. 100 at  
2 001. The Engagement Letter, thus, set forth specific parameters regarding the  
3 scope of the engagement rather than an open ended engagement.

4 13. Section 7 of the Terms of Engagement contained a limitation-of-  
5 liability clause, which states in relevant part:

6 IN NO EVENT, UNLESS IT HAS BEEN FINALLY DETERMINED  
7 THAT [PwC] WAS GROSSLY NEGLIGENT OR ACTED  
8 WILLFULLY OR FRAUDULENTLY, SHALL [PwC] BE LIABLE TO  
9 THE CLIENT OR ANY OF ITS OFFICERS, DIRECTORS,  
10 EMPLOYEES OR SHAREHOLDERS OR TO ANY OTHER THIRD  
11 PARTY, WHETHER A CLAIM BE IN TORT, CONTRACT OR  
OTHERWISE FOR ANY AMOUNT IN EXCESS OF THE TOTAL  
PROFESSIONAL FEE PAID BY YOU TO US UNDER THIS  
AGREEMENT FOR THE PARTICULAR SERVICE TO WHICH  
SUCH CLAIM RELATES.

12 *Id.* at 007.

13 14. Section 3 of the Engagement Agreement advised that

14 Tax laws and regulations are subject to change at any  
15 time, and such changes may be retroactive in effect  
16 and may be applicable to advice given or other  
services rendered before their effective dates. *[PwC]*  
*do[es] not assume responsibility for such changes*  
*occurring after the date we have completed our*  
*services.*

17 *Id.* at 006.

18 15. Section 10 of the Engagement Agreement specified that it will be  
19 governed by the laws of the State of New York. *Id.* at 007.

20 16. It was undisputed that several PwC tax professionals worked on  
21 the Engagement, including Richard Stovsky, the Cleveland-based engagement  
22 partner; Tim Lohnes, a partner in the corporate M&A group in the national office  
23 in Washington DC; as well as partners Don Rocen and Ray Turk.

24 17. The PwC team performed a number of services pursuant to the  
25 Engagment Agreement's terms, including analyzing draft agreements,  
26 researching potential tax issues, discussing applicability of Treasury Notices,  
27 and suggesting deal terms to protect Tricarichi (including indemnity protections  
28



1 and insurance).

2 18. PwC memorialized parts of its advice to Tricarichi in a memo  
3 referred to at trial as the “Stovsky Memo,” which Stovsky updated periodically  
4 after having conversations with other PwC partners, as well as with Tricarichi or  
5 his advisors. Ex. 2. PwC also kept a file with notes and other communications  
6 that it contended were relevant to its analysis. See, e.g., Ex. 1.

7 19. PwC primarily investigated two topics for Tricarichi: (1) whether the  
8 Westside Transaction was reportable to the IRS as a so-called “Midco”  
9 transaction under IRS Notice 2001-16; and (2) whether Tricarichi could be held  
10 liable for Westside’s taxes, including under a transferee liability theory. *Id.* at  
11 002–004.<sup>4</sup>

12 20. As to the first question, Stovsky advised Tricarichi that the  
13 transaction “more likely than not” would not be reportable to the IRS as an  
14 intermediary or Midco transaction under IRS Notice 2001-16. *Id.* at 001, 004;  
15 TT4 158:1–7.

16 21. As to the second question, Stovsky similarly advised Tricarichi that  
17 the transaction “more likely than not” would be “respected” by the IRS; and thus,  
18 that Tricarichi would not be held liable for Westside’s taxes under transferee  
19 liability. Ex. 2 at 001–003; TT4 154:3–6.

20 22. Based on the testimony of various witnesses for PwC, the “more  
21 likely than not” qualifier to PwC’s advice is a standard tax industry term that  
22 meant, consistent with its plain language, there was at least a 50.1% chance of  
23 prevailing (up to 70% or 75%); or conversely, a 49.9% chance of losing. TT8  
24 (Vol. 1) 250:5-9 (Harris); *id.* 60:10–19 (Greene); see also TT1 154:5–20  
25

26  
27 <sup>4</sup> Although the parties disputed the depth of Midco experience the tax professionals at PwC had  
28 in 2003, that dispute need not be resolved given the Summary Judgment ruling.

1 (Lohnes); TT6 143:2–18 (Boyer). That specific interpretation of “more likely  
2 than not” was not set forth in any written communication sent to Tricarichi or his  
3 representatives.

4 23. Based on evidence provided, Stovsky, either directly or through  
5 conversations with Tricarichi’s representatives, also suggested that Tricarichi  
6 take out an insurance policy for any potential tax liability or transferee liability.  
7 Tricarichi did not follow this advice. Ex. 110, Handwritten Notes. TT6 23:18–  
8 25:10.

9 24. PwC billed Tricarichi \$48,552.00 for the Engagement, which  
10 Tricarichi paid in full. See Ex. 3, PwC Invoices.

11 25. PwC issued its last invoice on October 29, 2003, for services  
12 rendered through September 30, 2003. *Id.* at 006. After that, PwC did not enter  
13 into any Engagement Letter to perform any paid services for Tricarichi or  
14 Westside. While it was undisputed that there was no monetary compensation  
15 provided after the \$48,552.00 was paid in full by the end of 2003, and there was  
16 no written Engagement Letter signed by Tricarichi in 2003, it was disputed  
17 between the parties as to whether there was an implied client relationship due to  
18 there being either an ongoing obligation to notify Tricarichi of new IRS bulletins  
19 or rulings, or the fact that there were communications between PwC and  
20 Tricarichi or his agents after 2003 relating to the IRS issues that arose regarding  
21 the Westside Transaction.

22 26. While there was evidence that PwC reviewed IRS bulletins and  
23 information relating to Midco transactions after providing Tricarichi its advice,  
24 Plaintiff did not meet his burden to show that conduct created an affirmative duty  
25 on behalf of PwC towards Tricarichi for claims that were not already precluded  
26 by the Summary Judgment Motion.

27 27. For example, in approximately, November 2003, at Mr. Stovsky’s  
28

1 request, Mr. Lohnes reviewed an updated IRS list of prohibited transactions to  
2 see if the Westside Midco Transaction, or a similar transaction, was listed. Trial  
3 Ex. 32. Mr. Lohnes concluded that the November 2003 list “contain[ed] no  
4 items that would impact [Westside’s] transaction, other than the items we  
5 discussed previously, namely the midco listed transaction.” *Id.* at 001.

6 28. In addition, it was undisputed that PwC or its attorneys and  
7 Tricarichi (or his attorneys) had contact after Tricarichi’s IRS dispute began. It  
8 was disputed at trial, however, whether these communications were to provide  
9 general assistance such as providing copies of documents or whether they  
10 related to the retention of professional accounting services. *E.g.*, Ex. 7, Email  
11 from S. Marcus to S. Dillon.

12 29. At trial, PwC witnesses consistently testified that by 2008, they did  
13 not consider Tricarichi to be a current client, and that he did not have an  
14 ongoing relationship with PwC after 2003. TT2 110:24–111:6 (Lohnes); TT3  
15 31:21–32:3 (Lohnes); TT5 100:15–16 (Stovsky). Tricarichi, likewise, confirmed  
16 that he never engaged PwC at any point after 2003, and did not have any  
17 ongoing relationship after that time. Indeed, it was shown that while Tricarichi’s  
18 brother, James, had some interactions with PwC, and so did Tricarichi’s lawyers,  
19 there was no evidence that Tricarichi retained PwC’s services utilizing a similar  
20 process involving a written Engagement Letter and payment of fees as he had  
21 in 2003. Additionally, the 2003 Engagement Letter, on its face, did not set forth  
22 there was an ongoing relationship; but, instead, was limited to the scope of  
23 services provided and paid for. Further, no additional funds were paid by  
24 Tricarichi, or anyone on his behalf, to PwC for any type of accounting services  
25 on behalf of Tricarichi, or involving any interest held by Tricarichi. TT3 162:25–  
26 163:5; 164:25–165:5 (Tricarichi).

27 30. In light of the foregoing specific facts and evidence presented at  
28

1 trial, the Court finds that Tricarichi ceased being a PwC client as of October,  
2 2003 when the services pursuant to the specific Engagement Agreement were  
3 completed and the final bill sent. By 2008, Tricarichi was a former client of  
4 PwC's and had no ongoing professional relationship with the firm.

5 31. The next issue for the Court to determine is whether, in light of  
6 Tricarichi's status as a former client and/or given the interactions between PwC  
7 and either Tricarichi, his agents, his counsel and/or the IRS, PwC created a  
8 relationship with Tricarichi that subjects it to liability pursuant to the claims in the  
9 Amended Complaint. The Court sets forth the various issues raised by  
10 Tricarichi below.

11 **IV. PwC's Prior Experience with Midco Transactions Do Not**  
12 **Provide a Basis for Liability Against PwC in the Instant Case**

13 32. Tricarichi alleged that PwC's advice and/or involvement with other  
14 Midco transactions demonstrated that it knew or had reason to know that the  
15 advice it provided to Tricarichi was inaccurate or inconsistent; and thus, he  
16 should prevail on his Amended Complaint. In support of that contention,  
17 Tricarichi provided argument and/or evidence that advice provided in what was  
18 referred to as the "Enbridge Matter" and the "Marshall Matter" was contrary or  
19 different that the advice he received. PwC disputed both the allegations as well  
20 as the applicability of both matters.

21 **A. The Enbridge Matter**

22 33. It was undisputed that the Enbridge matter arose in 1999 (prior to  
23 the issuance of Notice 2001-16) and involved the purchase of shares from the  
24 Bishop Group, Ltd. by Midcoast Energy Resources (which later came to be  
25 known as Enbridge). Ex. 156, Enbridge Op. at 001-004. PwC (through its  
26 Houston office) gave tax advice to Midcoast in the transaction. *Id.* at 002.

27 34. While the Enbridge matter involved a purported Midco transaction,  
28

1 the Court finds numerous differences between it and the instant case. First,  
2 there were four parties (including an intermediary entity) to the Enbridge  
3 transaction, while the Westside Transaction only involved three parties and  
4 lacked an intermediary entity. *Id.* at 002–004.

5 35. Second, the Westside Transaction also did not include a target  
6 corporation with built-in gain assets or a purchaser seeking to achieve a step-up  
7 in the tax basis of such assets, as was the case in Enbridge. TT8 (Vol. 1) 196:8–  
8 14 (Harris).

9 36. Third, the Enbridge transaction did not involve questions of  
10 transferee liability. *Id.* 195:22–196:7 (Harris).

11 37. Thus, the evidence presented to this Court demonstrated that  
12 there were differences between the two transactions as to not only their  
13 structure, but also their timing *vis a vis* applicable IRS rules and regulations. In  
14 addition, the Federal District Court's decision in *Enbridge* was published and  
15 generally available to the public as of March 2008, including to Tricarichi and his  
16 counsel. See, *Enbridge Energy Co. v. United States*, 553 F. Supp. 2d 716 (S.D.  
17 Tex. 2008). Specifically to the case at bar, there was a memo from R. Corn to  
18 Plaintiff Tricarichi which demonstrated that Tricarichi was advised on the  
19 differences between Enbridge and the Westside Transaction so Tricarichi could  
20 not have relied on any failure of PwC to provide him information about Enbridge  
21 when his own counsel set forth that it was distinguishable from his case. Ex.  
22 169, Memo from R. Corn to M. Tricarichi at 003–004.

#### 23 24 **B. The Marshall Matter**

25 38. In addition to Enbridge, Tricarichi also contended that PwC failed  
26 to disclose that it had any prior relationship with Fortrend and any of its prior  
27 transactions. The evidence presented to the Court set forth that the Marshall  
28

1 matter involved the family shareholders of a C corporation who sold their shares  
2 to a Fortrend affiliate to minimize their tax liability from an expected litigation  
3 settlement. Ex. 56, Marshall Tax Court Op. at 001–003. PwC (through its  
4 Portland office) advised John Marshall not to proceed with the transaction and  
5 stated that it would not consult or provide advice on the transaction. *Id.* at 004–  
6 005. The transaction closed in March 2003. *Id.* at 007.

7       39. As with the Enbridge matter, the Court finds numerous differences  
8 between the Marshall matter and the instant case. The Marshalls undertook an  
9 integrated transaction with significant non-cash built-in gain assets (as opposed  
10 to none in the Westside Transaction), and the nature of this transaction  
11 presented greater risks of transferee liability than the Westside Transaction. TT8  
12 (Vol. 1) 199:3–12 (Harris). Given the differences in the matters, Tricarichi did  
13 not meet his burden to show that PwC has liability to him for failing to disclose  
14 or take into account the advice given in that transaction.

15       **V. Tricarichi's Tax Dispute with the IRS and IRS Notice 2008-11**

16       40. In his Amended Complaint, Tricarichi alleges that his claims are  
17 not time barred based on a tolling agreement and instead PwC is liable for his  
18 damages and interest because of what PwC did and did not do regarding IRS  
19 Notice 2008-11. The gravamen of Tricarichi's claims are his contention that:  
20 had PwC informed Mr. Tricarichi of the problems with its advice regarding the  
21 Westside Midco Transaction and the resulting error on Mr. Tricarichi's tax  
22 return(s), Mr. Tricarichi would have been able to amend his return(s), avoid  
23 interest on taxes and penalties, avoid litigation with the IRS, and thereby avoid  
24 related legal fees and expenses. Nov. 2, 2022, Trial Tr. 124:12-126:6.

25       41. PwC contended in its defense *inter alia* that: 1. All of Tricarichi's  
26 claims are barred by statute of limitations; 2. Neither its 2003 advice, nor its  
27 internal review of the 2008 Notice, which it did not advise Tricarichi it reviewed  
28

1 in 2008, did not fall below the standard of care based on the information  
2 available and the risk factor it placed on its advice even with a retrospective  
3 view of the 2008 Notice provisions; 3. Tricarichi hired experienced tax lawyers  
4 who he relied upon in making his decisions and those lawyers provided similar  
5 advice and analysis as PwC did; 4. There was no client relationship after 2003  
6 and thus no duty was owed in 2008 or later; and 5. Tricarichi's damages are due  
7 to his own conduct including not settling with the IRS.

8 42. It was undisputed that on December 1, 2008, the IRS issued  
9 Notice 2008-111, entitled "Guidance on Intermediary Transaction Tax Shelters."  
10 The impact and obligations relating to that Notice were disputed at trial. Ex. 44.

11 43. The plain language of the Notice itself sets forth that the purpose  
12 of Notice 2008-111 was to "clarif[y]" the agency's prior notice on Midco  
13 transactions, IRS Notice 2001-16. *Id.* at 003.

14 44. Specifically, Notice 2008-111 advised taxpayers that a transaction  
15 would be treated as an "Intermediary Transaction" if: (1) a person engages in  
16 that transaction pursuant to a "Plan" (as defined in the Notice); (2) the  
17 transaction contains each of four objective components described in the Notice;  
18 and, (3) no safe harbor exception applies. *Id.*

19 45. In so doing, PwC and others interpreted the Notice to mean that  
20 the IRS narrowed the scope of Notice 2001-16. TT6 137:17–138:4 (Boyer); TT8  
21 (Vol. 1) 182:23–183:1 (Harris).

22 46. Notice 2008-111 addressed only *reportability* of transactions to the  
23 IRS, not *liability* under the tax laws. Ex. 44 at 003. The Notice did "not affect the  
24 legal determination of whether a person's treatment of the transaction [was]  
25 proper or whether such person [was] liable, at law or in equity, as a transferee of  
26 property in respect of the unpaid tax obligation . . . ." *Id.*

27 47. After the IRS issued Notice 2008-111, Lohnes responded in an  
28

1 internal email to a question from Stovsky: "I read through the Notice and agree  
2 with your assessment that it shouldn't change any of our prior analysis." Ex.  
3 159, Lohnes Email to Stovsky. Stovsky testified that his receiving the IRS  
4 subpoena to PwC relating to the Westside Transaction led him to communicate  
5 with Lohnes about the Notice. TT6 67:9–13.

6 48. It was undisputed that the IRS began auditing Westside's 2003 tax  
7 return in August 2005, and it interviewed Tricarichi in connection with that audit  
8 in 2007. Ex. 144, IRS Notice of Audit to Westside Cellular. PwC was not  
9 involved with the preparation of Westside's 2003 return.

10 49. On January 22, 2008—roughly ten months before issuing Notice  
11 2008-111—the IRS sent Tricarichi an Information Document Request ("IDR")  
12 seeking documents related to the Westside Transaction. Ex. 150. The IDR  
13 advised Tricarichi that he may be liable for all or part of Westside's tax liability.  
14 *Id.* at 001, See also, Order on Summary Judgment.

15 50. The IRS also issued a summons to PwC on January 29, 2008,  
16 seeking documents related to the Westside Transaction. Ex. 152. On February  
17 22, 2008, PwC responded to the summons, on its own behalf. In so doing, PwC  
18 provided documents and set forth its contention that it had not provided any  
19 services to Tricarichi since 2003. Ex. 155. Tricarichi was not billed for any of  
20 these activities. See Ex. 3.

21 51. The IRS determined that as a result of the Westside transaction  
22 the company owed an additional \$15.2 million in taxes and \$6 million in  
23 penalties for 2003. Ex. 66 at 027. In a draft transferee report sent to Tricarichi  
24 on February 3, 2009, the IRS sought payment of Westside's outstanding tax  
25 liability from Tricarichi. Ex. 161 at 003–025.

26 52. After receiving the draft transferee report, Tricarichi recruited  
27 highly experienced tax counsel to advise him.  
28



1           53. Among those who Tricarichi hired were Glenn Miller and Michael  
2 Desmond of Bingham McCutcheon. Miller has practiced tax law for  
3 approximately 30 years. TT7 185:6–8. Desmond is a tax lawyer with over 25  
4 years of experience, including being employed at the DOJ's Tax Division. TT6  
5 169:15–170:1. After his work for Tricarichi, Desmond later served as IRS Chief  
6 Counsel. *Id.* 170:18–171:13.

7           54. Tricarichi also hired a team of lawyers at Sullivan & Cromwell, led  
8 by Don Korb, a senior tax lawyer who, at the time of his deposition in 2020, had  
9 been practicing tax law for over 45 years. TT8 (Vol. 2) 28 (Korb Dep. 15:25–  
10 16:4). Korb's experience included serving as Chief Counsel of the IRS from  
11 2004 to 2008. *Id.* at 28–29 (Korb Dep. 18:13–15, 19:23–20:1).

12           55. As his trial with the IRS in the Tax Court approached, Tricarichi  
13 also hired several lawyers at McGuire Woods, led by one of its partners, Craig  
14 Bell. TT6 182:24–183:10 (Desmond).

15           56. While representing their client before the IRS and consistent with  
16 PwC's prior assessment, Tricarichi's lawyers repeatedly argued that under the  
17 standards set forth by Notice 2008-111, the Westside Transaction was not an  
18 intermediary transaction. *See, e.g.*, Ex. 102, 4/29/09 Response to Draft Protest  
19 Letter at 006–010; Ex. 103A, 10/9/09 Formal Protest Letter at 012–016; Ex.  
20 183, 10/27/10 Appeals Conference Presentation at 002–003, 010–012; Ex. 197,  
21 3/18/11 Korb Letter to IRS at 003–004.

22           57. Each of the communications cited above contained lengthy  
23 explanations of Notice 2008-111, by individuals separate from PwC including  
24 tax lawyers, and they all set forth a similar opinion that Lohnes had provided  
25 internally to Stovsky---i.e. that the 2008 Notice did not apply to the Westside  
26 Transaction. *See id.* For example, the admitted exhibits included a March 2011  
27 communication from one of Tricarichi's lawyers in the tax proceedings, Korb,  
28

1 wherein he contended that “pursuant to the clear and unambiguous language  
2 of Notice 2008-111, the sale of West Side Cellular stock is neither an  
3 intermediary transaction *nor* substantially similar to an intermediary transaction.  
4 *We see no basis on which this conclusion can be challenged.*” Ex. 197 at 004  
5 (emphasis added); see *also* Ex. 183 at 002–003, 010–012.

6 58. The evidence established that Tricarichi’s lawyers and the IRS  
7 also undertook efforts to settle the case. For example, in October 2010, the IRS  
8 indicated it would be willing to settle the claim for roughly \$14.5 million. Ex. 186,  
9 Email from D. Korb to M. Tricarichi; Ex. 187, Tricarichi’s Baseline Case  
10 Calculation at 005; TT6 177:3–9 (Desmond). Tricarichi did not accept this offer.

11 59. On December 6, 2010, Tricarichi’s lawyers at Sullivan & Crowell  
12 sent a “decision tree” analysis to the IRS, which purported to calculate the IRS’s  
13 chances of success at trial as a means of estimating the settlement value of the  
14 case. Ex. 190, Email from A. Mason to P. Szpalik at 002. Tricarichi’s lawyers  
15 took the position that the IRS had only a 17 percent (17%) chance of  
16 establishing liability for Tricarichi and an 83 percent (83%) chance of failing to  
17 make such a showing. *Id.*

18 60. At trial, Tricarichi confirmed that as of December 2010, he  
19 understood that he had an 83 percent (83%) chance of winning his case against  
20 the IRS based on the decision tree presented by his lawyers and which PwC  
21 had no part in creating or editing. TT4 75:19–25.

22 61. On December 8, 2010, the IRS sent a new settlement offer of  
23 approximately \$16.1 million. Ex. 192, Email from R. Corn to D. Korb; Ex. 193,  
24 IRS Settlement Computation at 001. Tricarichi did not accept this offer.

25 62. The IRS made another settlement offer in August 2011 of  
26 approximately \$12.4 million. Ex. 201, Facsimile from P. Szpalik to D. Korb at  
27 002. Tricarichi did not accept this offer.

1           63.     Tricarichi did not settle his IRS case. Tricarichi testified that he did  
2 not have the ability to settle for the amount that was being sought. TT4 30:23–  
3 31:1; *id.* 74:12–14; *id.* 86:11–13. Tricarichi's lawyers also testified that he was  
4 not interested in considering settlement offers in the double-digit millions. TT6  
5 198:2–17 (Desmond).

6           64.     On June 25, 2012, the IRS issued a formal “Notice of Liability,”  
7 asserting that Tricarichi owed \$15,186,570 in income tax and underpayment  
8 penalties of \$6,012,777 (for a total of approximately \$21.2 million) for the  
9 Westside Transaction. Ex. 210. Tricarichi petitioned the Tax Court for review  
10 shortly thereafter. Ex. 66.

11           65.     On May 30, 2014, Tricarichi rejected his lawyers' suggestion that  
12 he might consider making a settlement offer to the IRS saying, “I don't want to  
13 give the irs (sic) the impression that we think our case is weak, which I don't  
14 believe it is.” Ex. 228, Email from M. Tricarichi to M. Desmond.

15           66.     In their arguments to the Tax Court, Tricarichi's lawyers continued  
16 to argue that the Westside Transaction was not an intermediary transaction and  
17 did not satisfy Notice 2008-111. *See, e.g.*, Ex. 225, Tricarichi's Tax Court Cross-  
18 Motion in Limine at 005.

19           67.     The Tax Court held a four-day trial on Tricarichi's petition in June  
20 2014. After the trial, but before the Tax Court issued its decision in August 2014,  
21 the IRS proposed settling the case for roughly \$13.7 million. Ex. 231, Email from  
22 M. Desmond to M. Tricarichi; Ex. 232, Draft Settlement Discussion Framework;  
23 TT6 201:18–202:3 (Desmond).

24           68.     There was no settlement. Ex. 234, Email from M. Tricarichi to  
25 M. Desmond.

26           69.     The Tax Court issued its opinion on October 14, 2015, upholding  
27 the IRS's Notice of Liability and ruling for the government on all issues. Ex. 66 at  
28

1 005. Tricarichi's subsequent appeals were unsuccessful. *Tricarichi v. Comm'r of*  
2 *Internal Revenue*, 752 F. App'x 455, 456 (9th Cir. 2018), cert. denied, 140 S. Ct.  
3 38 (2019).

4 70. The evidence showed that PwC provided the information required  
5 by the IRS or requested by Tricarichi and his agents or lawyers, regarding the  
6 tax dispute and/or tax trials. There was no evidence that Tricarichi hired PwC to  
7 perform any professional services for him relating to the tax dispute and/or tax  
8 trials.

9 71. The Record further shows that while PwC did not contact Tricarichi  
10 before or after Lohnes reviewed the 2008 Notice at Stovsky's request, Tricarichi  
11 was familiar with Notice 2008-111 and was repeatedly advised as to its content  
12 and applicability by the attorneys he hired.

13 72. For example, Tricarichi reviewed drafts of the April 29, 2009, and  
14 October 9, 2009, letters to the IRS, both of which contained detailed discussions  
15 of Notice 2008-111. TT7 189:1–18, 190:6-22 (discussing Ex. 102); Ex. 103A at  
16 030. In fact, Tricarichi signed the October 9, 2009, letter himself, attesting under  
17 penalty of perjury that he had “examined this protest, including any  
18 accompanying documents,” and that the “facts presented in this protest are true,  
19 correct, and complete.” *Id.*

20 73. Tricarichi's attorneys also testified that they advised him on Notice  
21 2008-11 specifically, and Midco transactions generally, both orally and in writing.  
22 TT7 189:19–190:2, 193:5–15 (Miller).

23 74. For example, in October 2009, Korb sent a memo to Tricarichi and  
24 his personal attorney Randy Hart, advising them that the Westside transaction  
25 was “quite different” from the type of transaction described in Notice 2008-111.  
26 Ex. 165 at 003. Tricarichi also reviewed settlement presentations to the IRS that  
27 discussed Notice 2008-111 and the reasons it did not apply to the Westside  
28

1 Transaction. Ex. 174; Ex. 182.

2 75. The Court, therefore, finds that Tricarichi was aware of Notice  
3 2008-111 and his counsel's interpretation of its applicability to the Westside  
4 Transaction at least as of April 29, 2009. There was also evidence that during  
5 the months and years that followed, his lawyers continued to advise him  
6 repeatedly that in their opinion, and/or they had a strong argument to present to  
7 a court, that the requirements of Notice 2008-111 were not met. This is the  
8 same conclusion that PwC reached when it reviewed Notice 2008-111 shortly  
9 after its issuance. See Ex. 159.

10 76. The preponderance of the evidence also shows that Tricarichi was  
11 aware, or should have been aware, of the existence and contents of the Stovsky  
12 memo no later than 2009. At trial, Tricarichi testified at one point that he first  
13 saw a copy of the memo when PwC invited him and his lawyer, Randy Hart, to  
14 review a box of documents it was planning to send to the IRS in response to a  
15 summons it received regarding the Westside Transaction. TT4 7:21–23; see  
16 *also* TT5 89:23–90:2, 90:21-91:1 (Stovsky); TT6 62:19–63:12 (Stovsky). This  
17 meeting occurred in February 2008. See Ex. 155; TT6 62:11–25 (Stovsky). At  
18 another point during his testimony, he stated that he was unsure whether he  
19 saw the Stovsky memo in 2008. TT3. 122:14–19

20 77. Even if Tricarichi did not read the memo at the time he and Mr.  
21 Hart were to review the documents to be sent to the IRS, that same memo was  
22 cited by the IRS. Specifically, in February and August 2009, the IRS cited the  
23 Stovsky memo and described its contents to Tricarichi in the draft and final  
24 transferee reports that it issued. Ex. 161 at 009; Ex. 163 at 010. Further, in  
25 September 2009, PwC sent Tricarichi a copy of the files it had provided to the  
26 IRS, which included the Stovsky Memo. Ex. 51 at 001. Additionally, in October  
27 2009, Sullivan & Cromwell billed Tricarichi, in part, for reviewing the Stovsky  
28

1 Memo. Ex. 168 at 002. Thus, even though Tricarichi stated at one point that he  
2 never heard the phrase “more likely than not” before trial, (TT3 107:17–21) and  
3 provided different recollections of when and/or whether he read or was made  
4 aware of the contents of the Stovsky memo, the evidence demonstrates that  
5 given the number of other witnesses and documents, Tricarichi reasonably  
6 should be viewed as being on notice of the contents of the Stovsky memo.

7  
8 **VI. Procedural History of Tricarichi’s Dispute with PwC**

9 78. On January 14, 2011, Joel Levin, an attorney for Tricarichi, sent  
10 Stovsky a letter in which he stated that “it is [Tricarichi’s] position that this multi-  
11 million dollar potential tax liability [for the Westside Transaction] lies at the feet  
12 of PwC for failing to provide him competent services, advice and counsel with  
13 respect to the subject stock sale to Fortrend, particularly concerning the  
14 potential tax consequences.” Ex. 205 at 002.

15 79. In April 2016, Tricarichi filed a Complaint against PwC in the  
16 Eighth Judicial District alleging that PwC’s 2003 advice on the Westside  
17 Transaction was negligent. Dkt. 1 ¶¶ 37–40, 81–96.

18 80. On October 22, 2018, the Court granted Summary Judgment in  
19 PwC’s favor, holding that the statute of limitations barred any claims based on  
20 PwC’s 2003 advice. Dkt. 119 at 2. The Court entered Judgment in favor of PwC  
21 “regarding any and all claims arising from the services PwC provided Tricarichi  
22 in 2003.” *Id.* at 3.

23 81. Tricarichi filed an Amended Complaint in which he added a claim  
24 for negligence based on PwC’s alleged failure to tell him about Notice 2008-111.  
25 Dkt. 140 ¶¶ 116–17. Tricarichi alleged that if PwC had told him about Notice  
26 2008-111, he would have immediately stopped litigating against the IRS and  
27 paid the tax deficiency. *Id.* ¶ 119.

28 82. In the meantime, Tricarichi pursued a professional negligence

1 claim against his attorneys at Hahn Loeser, alleging that they committed  
2 malpractice by advising him to enter into the Westside Transaction. After a  
3 mediation in September 2012, Tricarichi and Hahn Loeser settled their dispute  
4 for \$4 million before any litigation was filed. Ex. 217, Letter from J. Levin to N.  
5 Schwartz; Ex. 218, Confidential Settlement Agreement at 003 (¶ 5).

## 6 **VII. Standards of Professional Care**

7 83. The primary source of professional responsibility standards for  
8 CPA tax practitioners during the time at issue in this case were standards  
9 promulgated by the American Institute of Certified Public Accountants ("AICPA").

10 84. In fact, the Engagement Agreement between PwC and Tricarichi  
11 specified that all services were to be performed "in accordance with the AICPA's  
12 Statements on Standards for Tax Services." Ex. 100 at 007 (Section 7).

13 85. Both Nevada (where Tricarichi was located) and Ohio (where PwC  
14 dispensed its advice) adopted the AICPA professional standards, at least in part,  
15 to govern accountants licensed to practice. Nev. Admin. Code §§ 628.0060-5(a)  
16 & (d), 628.500; Ohio Admin. Code § 4701-9-09.

17 86. AICPA Rule 201 provides that a CPA tax practitioner must exercise  
18 professional competence and due care, which depends on the scope of the  
19 practitioner's engagement under the particular facts and circumstances. Ex. 4,  
20 AICPA Professional Standards.

21 87. The AICPA has defined the standard of care, and competence in  
22 the context of tax planning advice and tax return preparation, in a series of  
23 documents known as the Statements on Standards for Tax Services, or SSTs.  
24 Ex. 106, Statements on Standards for Tax Services 1–8 (Aug. 2000).

25 88. SSTS No. 6 is entitled "Knowledge of Error: Return Preparation."  
26 This standard addresses situations in which an accountant (or "member")  
27 discovers either an error in a previously filed return or the taxpayer's failure to  
28

1 file a return in the past. *Id.* at 027.

2 89. SSTS No. 6 states that “[a] member should inform the taxpayer  
3 promptly upon becoming aware of an error in a previously filed return or upon  
4 becoming aware of a taxpayer’s failure to file a required return.” *Id.* (§ 3).

5 90. An “error” under SSTS No. 6 is any position that has less than a  
6 one-in-three chance of success. Ex. 106 at 027 (§ 1); *id.* at 008 (§ 2(a)), *id.* at  
7 011 (Interpretation 1-1); Ex. 149 at 046, IRS Circular 230 (Section 10.34),  
8 Definition D1; TT8 (Vol. 1) 191:17–25 (Harris).

9 91. The “Explanation” section of SSTS No. 6 clarifies that its  
10 obligations exist only when the accountant is continuing to represent the client.  
11 Both Paragraphs 5 and 9 of SSTS No. 6 refer to telling the “taxpayer” (client)  
12 about the error if the member became aware of it “[w]hile performing services  
13 for a taxpayer.” Ex. 106 at 028–029 (§§ 5, 9); TT7 32:16–33:12 (Dellinger).

14 92. Paragraph 6 of the same section discusses “whether to continue a  
15 professional or employment relationship with the taxpayer” if the taxpayer does  
16 not correct the error. Ex. 106 at 028 (§ 6). This, again, presupposes an existing  
17 client relationship, a point upon which both PwC’s and Tricarichi’s experts  
18 agreed. TT7 30:22–31:11 (Dellinger); TT8 (Vol. 1) 36:21–37:7 (Greene).

19 93. Nothing in the text of SSTS No. 6 imposes any obligations on an  
20 accountant with respect to a former client. Trial testimony established that such  
21 an open-ended obligation on accountants to their former clients would pose  
22 enormous practical difficulties. TT7 33:13–22 (Dellinger); *see also* TT8 (Vol. 1)  
23 38:19–22 (Greene).

24 94. SSTS No. 8 is entitled “Form and Content of Advice to Taxpayers.”  
25 It addresses the “circumstances in which a member has a responsibility to  
26 communicate with a taxpayer when subsequent developments affect advice  
27 previously provided.” Ex. 106 at 033 (§ 1).



1           95. The standard states: “[a] member has no obligation to  
2 communicate with a taxpayer when subsequent developments affect advice  
3 previously provided with respect to significant matters, except while assisting a  
4 taxpayer in implementing procedures or plans associated with the advice  
5 provided or when a member undertakes this obligation by specific agreement.”  
6 *Id.* (¶ 4).

7           96. The “Explanation” section of the standard further specifies that “a  
8 member cannot be expected to communicate subsequent developments that  
9 affect such advice unless the member undertakes this obligation by specific  
10 agreement with the taxpayer.” *Id.* at 034 (¶ 9).

11           97. Finally, the standard notes that taxpayers should be informed that  
12 any advice rendered reflects professional judgment based on an existing  
13 situation, and that later developments could affect earlier advice. It further  
14 instructs that “Members may use precautionary language to the effect that their  
15 advice is based on facts as stated and authorities are subject to change.” *Id.* at  
16 035 (¶ 10). PwC included such language in its Engagement Agreement. See  
17 FOF ¶ 14, *supra*.

#### 18 19           **VIII. Tricarichi’s Claimed Damages and PwC’s Mitigation Defense**

20           98. Tricarichi seeks, as damages, the legal fees incurred in his IRS  
21 litigation, and the interest on his unpaid taxes and penalties that accrued from  
22 January 1, 2009, through November 13, 2018. Specifically, in this case Tricarichi  
23 contends that PwC is liable to him for \$3,180,143.03 in legal fees and costs, and  
24 \$14,937,400.18 in interest owed to the IRS.

25           99. As one of its defenses, PwC contended through its expert that the  
26 damages asserted are too high and do not reflect appropriate mitigation. PwC  
27 contended that had Tricarichi set aside the money he potentially owed the IRS  
28

1 and invested it in stock funds, bond funds, real estate funds, or some  
2 combination of these, he could have enjoyed rates of return on the funds he  
3 kept from the IRS significantly higher than the three-to-six percent interest rates  
4 charged by the IRS during the same period. TT7 132:5–140:8 (Leaunae).

## 6 **CONCLUSIONS OF LAW**

### 8 **I. Elements of Tricarichi's Cause of Action (Count III)**

9 100. Tricarichi tried a single claim of professional negligence (Count III  
10 of his Amended Complaint) to the Court. Dkt. 140 ¶¶ 115–121. Count III  
11 focuses only on whether the issuance of Notice 2008-111 in December 2008  
12 gave rise to any duty to Tricarichi that PwC breached. *Id.*<sup>5</sup>

13 101. Despite the narrow focus of Count III, some of the evidence at trial  
14 focused on what was contended to be negligent acts and omissions that  
15 occurred in 2003, when PwC originally rendered its advice, or earlier despite the  
16 Court's prior Summary Judgment ruling, which barred as untimely "any and all  
17 claims arising from the services PwC provided Plaintiff in 2003." Dkt. 191 at 3.  
18 Given the time and effort spent on the providing the detailed history of the case,  
19 and given the extensive procedural history including appeals and multiple  
20 proceedings in other courts, the Court has included historical facts and  
21 testimony for clarity of the record. By incorporating a fuller factual background,  
22 the Court is not sua sponte altering or amending any prior judgment or ruling as  
23 they remain law of the case. See, e.g. *Recontrust Co. v. Zhang*, 130 Nev. 1, 7–  
24 8 (2014) ("[A] court involved in later phases of a lawsuit should not re-open

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25  
26 <sup>5</sup> The Amended Complaint also contains Counts I and II against PwC, both of which were  
27 included only for preservation purposes after the Court dismissed them on Summary Judgment in  
28 2018. Dkt. 140 n.1. Counts I and II were not tried to the Court, nor was any other claim in the  
Amended Complaint apart from Count III. TT9 167:25–168:23.

1 questions decided (*i.e.*, established as law of the case) by that court or a higher  
2 one in earlier phases”) (quotation omitted); see *a/so* Dkt. 234 at 4.

3 102. The elements of a cause of action in tort for professional  
4 negligence are:

5 (1) the duty of the professional to use such skill,  
6 prudence, and diligence as other members of his  
7 profession commonly possess and exercise; (2) the  
8 breach of that duty; (3) a proximate causal connection  
between the negligent conduct and the resulting  
injury, and (4) actual loss or damage resulting from  
the professional’s negligence.

9 *Sorenson v. Pavlokowski*, 94 Nev. 440, 443, 581 P.2d 851, 853 (Nev. 1978).

10 103. As set forth in more detail below, at trial, Tricarichi failed to meet  
11 his burden of proof on all four elements.

12  
13 **II. First Element: PwC Did Not Owe Tricarichi a Duty of Care in 2008**

14 104. The Court concludes that PwC did not owe any duty to Tricarichi,  
15 who ceased being a client in 2003, such that PwC should have updated its  
16 previously-provided advice in 2008, after Notice 2008-111 issued. See  
17 *Rodriguez v. Primadonna Co., LLC*, 125 Nev. 578, 584, 216 P.3d 793, 798 (Nev.  
18 2009) (existence of duty is a matter of law for the Court to decide).

19 105. Under the AICPA’s SSTs No. 8, a member does not have any  
20 obligation to communicate with a taxpayer about subsequent developments,  
21 except “while assisting the taxpayer in implementing procedures or plans  
22 associated with the advice provided or when the member undertakes this  
23 obligation by specific agreement.” Ex. 106 at 033.

24 106. At trial, Tricarichi argued that the first exception (“while  
25 implementing plans or procedures”) was satisfied because PwC provided  
26 comments on the stock purchase agreement between Westside and Nob Hill in  
27 2003, which he claimed created a continuing obligation for PwC to update him  
28

1 on subsequent developments in 2008. TT9 112:13–24.

2 107. The Court disagrees. By its plain language, the exception only  
3 applies “while” the member is assisting the taxpayer in implementing  
4 procedures. TT9 81:17–84:1 (Harris); TT7 67:2–68:5 (Dellinger). Even if  
5 providing comments on the agreement counted as “implementing” Tricarichi’s  
6 plan in 2003 (a question that the Court need not reach here), it is undisputed  
7 that those efforts ceased in 2003. By 2008, PwC was not performing any work  
8 for Tricarichi.

9 108. As to the second exception, in the present case there was a  
10 specific Engagement Letter signed by Tricarichi. PwC’s Engagement Letter,  
11 consistent with SSTS No. 8, specifically disclaimed any ongoing obligation for  
12 changes to the tax laws after services were rendered. Ex. 100 at 006 (Section  
13 3); Ex. 106 at 006. Further, there was no contention that Tricarichi was not  
14 aware of the terms of the Engagement Letter as he even made comments on  
15 the Engagement Letter which he signed.

16 109. Tricarichi also pointed to Paragraphs 6 and 7 of SSTS No. 8,  
17 which discusses when a member may consider providing advice in written, as  
18 opposed to oral, form. TT8 (Vol. 1) 10:13–14:11 (Greene); Ex. 106 at 034. In  
19 the present case, there was disputed testimony about whether there was a  
20 specific discussion about obtaining the information orally or in writing or if  
21 Tricarichi knew that he could have requested the opinions to be set forth in  
22 writing. Regardless of whether there was a difference between the parties  
23 whether any discussion took place or not, and even if the Court were to credit  
24 Tricarichi’s view, the language of Paragraphs 6 and 7 of SSTS No. 8 is what the  
25 Court focuses on to determine if the first prong of the cause of action is met. As  
26 the plain language of the provision sets forth that the decision regarding the  
27 form of advice is left to the “professional judgement” of the member, the Court  
28

1 cannot find that it imposes any affirmative duty on members to provide written  
2 advice. Instead, the Court reads the language as setting forth situations when  
3 written advice may be preferable. TT8 (Vol. 1) 208:10–25 (Harris).

4 110. Thus, the Court concludes that Tricarichi did not meet his burden  
5 to demonstrate in the present case that the standards set forth in SSTS No. 8  
6 gave rise to any duty of care on the part of PwC to Tricarichi.

7 111. SSTS No. 6, likewise, does not create any duty to Tricarichi. The  
8 Court has already found that SSTS No. 6 is limited to circumstances involving  
9 awareness of an error on a tax return when an accountant is performing  
10 services for a *current* client. Here, PwC was no longer performing services for  
11 Tricarichi in 2008. At trial, even Tricarichi's expert would not commit to imposing  
12 a duty on PwC under these circumstances. TT8 (Vol. 1) 38:19–22 (“[Q.] Let’s  
13 say there were no services being provided to Mr. Tricarichi by PwC in 2008, in  
14 that circumstance would PwC have a duty to disclose an error to a former client,  
15 under SSTS 6? A. Perhaps not.”).

16 112. PwC’s later, occasional, contact with Tricarichi and his lawyers,  
17 while responding to IRS subpoenas for documents in 2008 and later for  
18 testimony in 2013 and 2014, does not constitute performing services for  
19 Tricarichi. PwC was required by law to respond to IRS subpoenas on its own  
20 behalf. Tricarichi concede that he did not seek to engage PwC, and PwC did  
21 not invoice Tricarichi for time spent responding to the IRS subpoenas or  
22 testifying at his Tax Court trial.

23 113. Relying on internal PwC policies and a single practice guide  
24 published by the AICPA, Tricarichi also asserted at trial that PwC had a duty to  
25 maintain a written file documenting how it reached its conclusions about Notice  
26 2008-111. TT7 106:1–14, 109:7–19 (Greene); Ex. 22; Ex. 88.

27 114. While the Court took into account both the policies and the  
28

1 practice guide, it cannot find that either of these created a duty that meets the  
2 criteria necessary for a professional negligence tort. Furthermore, the practice  
3 guide is not authoritative literature and describes only “best practices”; it does  
4 not impose requirements on all accountants. TT8 (Vol. 1) 88:1–23 (Greene).  
5 Indeed, it would be Tricarichi’s burden to establish that a failure to follow internal  
6 policies or the terms of a practice guide creates a duty under Nevada law but he  
7 did not provide any case law to the Court to support that contention. Instead,  
8 the only case cited by either party was outside the jurisdiction and it provided  
9 that a company’s internal standards are distinct from, and can be more rigorous  
10 than, external duties imposed under the law. See, *In re Conticommodity Servs.,*  
11 *Inc. Sec. Litig.*, No. MDL 644, 1988 WL 56172, at \*1–2 (N.D. Ill. May 25, 1988).<sup>6</sup>

12 115. Based on the above reasons, the Court concludes, as a matter of  
13 law, that PwC did not owe any duty of care to Tricarichi, its former client.  
14 Accordingly, Tricarichi has failed to establish the first element of his claim.  
15 While the failure to meet all elements of a cause of action would allow Judgment  
16 in favor of PwC, the Court addresses each of the other elements as well.

17  
18 **III. Second Element: Even if PwC Owed a Duty to Tricarichi, PwC**  
19 **Did Not Breach That Duty**

20 116. Even if PwC owed a duty to update its former client, the Court  
21 concludes that based on the evidence, Tricarichi has failed to prove that PwC  
22 breached its duty.  
23  
24

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25 <sup>6</sup> Plaintiff Tricarichi did cite a one case from a federal District Court in Nevada, *Garner v. Bank of*  
26 *Am. Corp.*, 2014 WL 1945142 at \*7–8 (D. Nev. May 13, 2014). That case, however, is inapposite  
27 as it discusses generally that a duty can arise from a special relationship but does not address  
28 the specific issues raised in this case.

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3           **A.     Failure to Disclose Notice 2008-111 to Tricarichi Was Not**  
4           **a Breach Because Tricarichi Did Not Meet His Burden to**  
5           **Show that the Notice Rendered PwC's Prior Advice**  
6           **Erroneous**

7           117. Assuming *arguendo* that SSTS No. 6 did create a duty to  
8           Tricarichi, that duty could only be breached if Notice 2008-111 made PwC aware  
9           of an "error" in a previously filed return. Ex. 106 at 027 (§ 3). It did not.

10          118. First, it is undisputed that PwC was not aware of any error on a  
11          previously filed tax return as a result of Notice 2008-111. Tricarichi contends,  
12          instead, that PwC should have been aware of an error because it should have  
13          interpreted the 2008 Notice as invalidating or being contrary in some respect to  
14          the advice given by PwC in 2003. The evidence presented by Tricarichi was  
15          that the IRS's position that Tricarichi owed taxes as a result of the Westside  
16          transaction was upheld by the tax court, and then the appellate court; and by  
17          implication, PwC should have known that Tricarichi would not prevail in either of  
18          those courts. The challenge with that argument is that it is flawed and not  
19          supported by the facts. First, there was no evidence that the IRS relied on  
20          Notice 2008-111, which came out in December 2008, to commence its audit of  
21          the Westside transaction, which began in 2005 about three years before the  
22          Notice came out. Further, on January 22, 2008 - roughly ten months before  
23          issuing Notice 2008-11 was sent to Tricarichi - he had already received an  
24          Information Document Request ("IDR") from the IRS seeking documents related  
25          to the Westside Transaction. The IDR advised Tricarichi that he may be liable  
26          for all or part of Westside's tax liability. Ex. 150. Thus, even if Notice 2008-111  
27          did more than narrow the circumstances in which a transaction would be  
28          reportable, as was contended by PwC and others, Tricarichi did not meet his  
burden to show that PwC breached its duty within the statute of limitations time

1 frame by failing to update him as there was no evidence that PwC knew that  
2 such a Notice would come out in until it actually came out and by that time the  
3 IRS had already begun its audit and he had already received the IDR.

4 119. To the extent that Tricarichi also claims that he would have  
5 modified his tax returns and taken other actions after December 1, 2008, if PwC  
6 had informed him that Notice 2008-111 impacted the merits of the IRS's position  
7 on the audit they had already commenced in 2005, that contention was also not  
8 established by the evidence. Instead the evidence showed that even after he  
9 had various opportunities to resolve his tax dispute and had the benefit of  
10 several legal tax professionals advising him, he chose not to settle the tax  
11 dispute.

12 120. PwC further contended that pursuant to Notice 2008–111, a  
13 transaction is treated as a Midco transaction if: (1) a person engages in that  
14 transaction pursuant to a “Plan” (as defined in the notice); and (2) the  
15 transaction contains each of four objective components described in the Notice.  
16 Ex. 44 at 003.

17 121. There was no dispute that the term “Plan” is defined in Section 2  
18 of the Notice, and it must include the disposition of Built-in Gain Assets. *Id.* at  
19 003-004. “Built-in Gain Assets” is, in turn, defined as an asset “the sale of which  
20 would result on taxable gain.” *Id.*

21 122. The undisputed evidence at trial—from fact and expert witnesses  
22 called by *both* parties (including Tricarichi himself)—was that Westside did not  
23 have any Built-in Gain Assets at the time of the transaction, and that the  
24 Westside Transaction did not involve the sale of any Built-in Gain Assets. TT2  
25 95:16–18 (Lohnes); TT4 63:5–10 (Tricarichi) (referring to Ex. 182 at 003); TT8  
26 (Vol. 1) 76:20–22 (Greene); *Id.* 191:11–16 (Harris); TT7 200:3–23 (Miller). The  
27 theory espoused in questioning by Tricarichi's counsel, that the release of the  
28



1 claims in the lawsuit constituted Built-In Gain Assets, was not supported by a  
2 single witness or any evidence in the case.

3 123. At the time of the transaction, Westside had only cash in its bank  
4 accounts from the lawsuit settlement with the cell phone carriers, which was  
5 considered ordinary income, not taxable gain from the sale of a Built-in Gain  
6 Asset, and reported that way on Westside's tax return. TT2 47:12–22 (Lohnes);  
7 TT8 (Vol. 1) 76:17–19 (Greene); *Id.* 259:11–21 (Harris); *see also Nahey v.*  
8 *Comm'r*, 111 T.C. 256, 261–65 (1998) (holding that settlement of lawsuits “does  
9 not constitute a sale or exchange” and thus would be treated as ordinary  
10 income, not capital gain).

11 124. Thus, given the language of the Notice and how was interpreted  
12 by others on behalf of Tricarichi, PwC did not fall below the standard of care by  
13 reviewing Notice 2008-111 and making the determination that it did not change  
14 the firm's prior analysis that, “more likely than not”, the transaction was not  
15 reportable. Ex. 45, Lohnes Email to Stovsky.

16 125. Tricarichi argued at trial that Lohnes or Stovsky should have  
17 consulted one of the designated “Subject Matter Experts,” or SMEs, at PwC  
18 before reaching this conclusion. This argument, however, had no evidentiary  
19 support. Tricarichi claimed at trial that it was the failure of PwC to inform him  
20 that Notice 2008-111 impacted his personal liability to the IRS as a transferee.  
21 Whether PwC had a SME involved or not is irrelevant. It was uncontested that  
22 PwC (via Stovsky) did not believe there was any information to provide Tricarichi  
23 based on Notice 2008-111. Stovsky was Tricarichi's relationship tax  
24 professional at PwC who, in the past, had communicated what he thought  
25 should be communicated to Tricarichi. Whether Stovsky communicated  
26 internally with only Lohnes, or also with others such as a SME, prior to making  
27 that determination, it was PwC's decision, via a tax partner, not to provide  
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1 Tricarichi with any analysis of Notice 2008-111, and whether that decision does  
2 or does not meet the standard of professional negligence, is the issue before  
3 the Court. The issue is not a speculation of whether if Stovsky or Lohnes  
4 reached out to a SME would that SME give the same or a different opinion and  
5 if so what would have happened. Tricarichi's claim and PwC's defenses are  
6 based on what actually occurred - not speculation of what could have occurred  
7 with a different set of facts.

8 126. In addition, in the present case, Tricarichi did not establish that the  
9 individuals at PwC who provided the advice in 2003 were not qualified to  
10 provide the advice. PwC did provide evidence that Lohnes had prior expertise  
11 in Midco transactions, even though he could not recall names of specific matters  
12 he worked on. TT3 4:21–5:20 (Lohnes). Second, the directory of SMEs was not  
13 an exhaustive list of people at PwC with knowledge about particular  
14 transactions, but rather that it served merely as a contact list for people outside  
15 of Lohnes' group (Washington National Tax Service). TT2 115:2–116:10  
16 (Lohnes). Finally, a designated SME on Midco transactions, Mark Boyer,  
17 testified that Lohnes had a level of expertise in Midco transactions similar to his  
18 own. TT6 140:15–141:12.

19 127. Another reason that PwC's advice in 2003 was not in "error" was  
20 because it rendered its advice with a "more likely than not" confidence level.  
21 That allows for up to a 49.9 percent (49.9%) likelihood of the result going the  
22 other way. Thus, even if IRS 2008-111 did expand, rather than narrow, the  
23 reportability standard (and it did not), that would not render earlier advice given  
24 with a "more likely than not" standard erroneous.

25 128. As noted above, an "error" under SSTS No. 6 means that the  
26 member advised the taxpayer to take a position with less than a 1-in-3 chance  
27 of success. No one testified that as a result of Notice 2008-111, PwC's original  
28

1 advice on reportability had such a low confidence level.

2 129. In evaluating the breach element, the Court also has to look at  
3 what the other professionals Tricarichi hired advised him with in relation to  
4 Notice 2008-111 and its applicability to his risk of liability to the IRS. Both the  
5 internal communications, provided as exhibits, as well as the arguments  
6 presented to the various courts by Tricarichi's legal tax attorneys as noted  
7 herein, were consistent with the advice provided by PwC. See, also Ex. 165. In  
8 addition, there was testimony that practitioners before the IRS and the Tax Court  
9 must have a "good faith basis" in their positions—the same type of "good faith  
10 basis" that is required under SSTs No. 1 when determining whether a position is  
11 erroneous. TT8 (Vol. 1) 235:3–25, 237:21–238:16 (Harris); TT6 184:9–12  
12 (Desmond).

13 130. Therefore, even if PwC had a duty to update Tricarichi about an  
14 "error" in its prior advice on whether the transaction was now "reportable"  
15 pursuant to Notice 2008-111, based on evidence presented as to the language  
16 of the provision as well as the other advice Tricarichi received consistent with  
17 PwC's own internal analysis, Tricarichi has failed to show that there was a  
18 breach of any asserted duty.  
19

20 **B. PwC Did Not Breach Any Duty to Provide Advice in**  
21 **Writing or to Maintain Written Documentation**

22 131. As discussed above, PwC did not have any affirmative duty to put  
23 its advice in writing, either in 2003 or at any point after. But, even if such a duty  
24 existed, it would not have been breached in 2008 when Lohnes and Stovsky  
25 reviewed Notice 2008-111 for its applicability to the Westside Transaction.

26 132. Any duty to provide advice in writing presupposes, as a matter of  
27 logic, that some sort of advice is being provided to a client. That was not the  
28 case in 2008. Tricarichi neither sought a tax engagement from PwC to receive

1 any advice from PwC in 2008, nor was he provided any tax advice from PwC in  
2 2008. TT3 162:21–163:5; TT8 (Vol. 1) 113:5–7 (Greene). Thus, it would have  
3 been impossible for PwC to breach any hypothetical duty to provide advice in  
4 writing to Tricarichi at that time. TT8 (Vol. 1) 114:18–25 (Greene).

5  
6 **C. Failure to Disclose PwC’s Prior Involvement in the**  
7 **Enbridge and Marshall Transactions Was Not a Breach**  
8 **of Any Duty**

9 133. Tricarichi also contends that Notice 2008-111 should have  
10 prompted PwC to disclose its prior advice and the outcomes in the Enbridge and  
11 Marshall transactions, and that its failure to do so was a negligent omission.

12 134. The Court disagrees. PwC’s involvement with Marshall and  
13 Enbridge occurred long before the December 2008 issuance of Notice  
14 2008-111, and the “independent duty” that Tricarichi claims came about at that  
15 time as a result of the issuance of that Notice. PwC rendered its advice in the  
16 Marshall case in 2003, and its involvement with Enbridge was in 1999.<sup>7</sup>

17 135. Moreover, as the Court has found above, both the Enbridge and  
18 Marshall transactions were substantially distinct from the Westside Transaction,  
19 and there is no reason to believe that PwC’s work in those two matters rendered  
20 their advice to Tricarichi any more or less correct.

21 136. Furthermore, the evidence at trial showed that PwC would not  
22 have been able to disclose the specific details of these engagements with  
23 Tricarichi because of its confidentiality obligations. TT3 35:23–36:7 (Lohnes);  
24 TT8 (Vol. 1) 199:17–23 (Harris); *id.* 102:14–103:4 (Greene).

25 137. Thus, the Court concludes as a matter of law that the failure to  
26 disclose details of the Enbridge or Marshall transactions does not constitute a

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27 <sup>7</sup> As noted above, the Court’s 2018 Summary Judgment ruling on statute of limitations bars  
28 Tricarichi’s allegations regarding Marshall and Enbridge.

1 breach of any duty of care that PwC owed to Tricarichi.  
2

3 **IV. Third Element: Tricarichi Has Not Proven Causation**

4 138. To prevail on his claim, Tricarichi must prove a “proximate causal  
5 connection between the negligent conduct and resulting injury.” *Boesiger v.*  
6 *Desert Appraisals, LLC*, 135 Nev. 192, 194–95, 444 P.3d 436, 439 (Nev. 2019).

7 139. Tricarichi asserts that PwC’s alleged negligence (*i.e.*, failing to  
8 advise him about Notice 2008-111) caused his alleged injury (the \$14,937,400 in  
9 interest that accrued after Notice 2008-111 was issued and the \$3,180,143 in  
10 attorney’s fees he spent litigating against the IRS).

11 140. The Court disagrees and concludes that Tricarichi has failed to  
12 establish causation for four independent reasons.

13 141. First, the record is clear that Tricarichi and his team of tax lawyers  
14 were aware of Notice 2008-111 and its implications shortly after the Notice  
15 issued as set forth above. The Court has already found that Tricarichi was  
16 aware of Notice 2008-111 and its applicability to the Westside Transaction no  
17 later than 2009; and further, that Tricarichi’s attorneys repeatedly advised him  
18 thereafter throughout the course of his litigation with the IRS regarding whether  
19 the requirements of Notice 2008-111 were met or not.

20 142. Thus, Tricarichi’s causation arguments rest on the supposition that  
21 he would have abandoned his IRS litigation and immediately settled with the  
22 government if only PwC had added a contrary voice to the chorus of  
23 distinguished tax advisors—which included both former and future IRS Chief  
24 Counsels—who were advising Tricarichi that the requirements of Notice  
25 2008-111 were not satisfied. While Tricarichi argued that it would have made a  
26 difference in his decisions, he failed to meet his evidentiary burden.

27 143. To the contrary, Tricarichi’s lawyers at Sullivan & Cromwell advised  
28

1 him that the IRS did not need to rely on Notice 2008-111 to win, and that their  
2 argument was “a bit of a red herring.” Ex. 165 at 003. And when asked at trial if  
3 he knew in 2009 that Notice 2008-111 was a red herring, Tricarichi replied: “The  
4 arguments that they’re using in 2008-111 -- again, I’m not a tax expert and I  
5 keep saying that over and over again. But I can read. Okay? This is not why we  
6 lost the [Tax Court] case. It has nothing to do with why we lost the case.” TT3  
7 224:19–23 (Tricarichi) (emphasis added). The Court has to take Tricarichi’s own  
8 testimony into account in evaluating every element of his claim. Giving  
9 Tricarichi the benefit of the doubt that his words could be viewed out of context,  
10 the weight of the rest of the evidence shows that there were too many  
11 intervening causes which prevent holding PwC liable for Tricarichi’s asserted  
12 damages.

13 144. Second, the chronology of the case demonstrates that Notice  
14 2008-11 could not have prevented the audit which later resulted in the liability  
15 determination. Specifically, Tricarichi did not show that disclosure of Notice  
16 2008-111 would have made any difference to the rulings of the Courts as to his  
17 liability because the Notice, on its face, relates only to reportability of  
18 transactions and not a taxpayer’s underlying liability: The language of the  
19 Notice sets forth it: “does not affect the legal determination of whether a  
20 person’s treatment of the transaction is proper or whether such person is liable,  
21 at law or in equity, as a transferee of property in respect of the unpaid tax  
22 obligation . . . .” Ex. 44 at 003.

23 145. Importantly, in the present case, the chronology of facts shows  
24 that the IRS had been examining/auditing the Westside Transaction for about  
25 three years before Notice 2008-111 issued. The IRS began its audit of the 2003  
26 Westside tax return in 2005, interviewed Tricarichi regarding that audit in 2007,  
27 and issued an Information Document Request to Tricarichi in 2008, all before  
28

1 the issuance of Notice 2008-111. Thus, even if PwC had informed Tricarichi that  
2 2008-111 would require Tricarichi to report the Westside transaction, there was  
3 no evidence presented how that would have changed the IRS determination  
4 based on the audit that he was liable as a transferee in the instant case since  
5 the audit had already progressed for three years prior to the Notice being  
6 promulgated and the IRS had already informed him that it was seeking the  
7 underpayment from his as a transferee.

8 146. The third reason, Tricarichi cannot meet the causation prong of his  
9 professional negligence claim is that there is no credible evidence to support his  
10 contention that if PwC had notified him regarding Notice 2008-111, he would  
11 have amended his taxes and settled the case with the IRS in December 2008;  
12 and thus, he would not have incurred any of the attorney fees or interest  
13 damages he is seeking in the present case. Specifically, his transferee liability  
14 stems from the taxes filed by various entities as a result of the Westside  
15 transaction, and he did not present any evidence how he could amend the  
16 relevant filings in 2008 or 2009 at no cost, and that as a result, the IRS would  
17 not pursue him for transferee liability. There was no evidence from any IRS  
18 witness or anyone else that the outcome described was possible.

19 147. Additionally, the evidence presented demonstrated that he had  
20 several opportunities to settle the case with the IRS and minimize fees and  
21 interest but he chose not to do so. As set forth in the Findings above, these  
22 opportunities to settle the case came about after he was advised by  
23 experienced tax counsel as to liability and the impact of 2008-111. While the  
24 reason Tricarichi chose not to resolve the matter with the IRS was disputed,  
25 PwC asserted that the communications between Tricarichi and his tax counsel  
26 show he did not have the funds or felt the offers to settle were too high, and the  
27 Record was devoid of any exhibit where Tricarichi contended that he did not  
28

1 settle due to the advice provided by PwC in 2003. Instead, the only testimony in  
2 support of that contention is Tricarichi's own testimony which the Court has to  
3 weigh in contrast with the other testimony by his tax lawyers and the various  
4 exhibits that were introduced which are not in accord with his testimony. In so  
5 doing, the Court finds that Tricarichi did not meet his burden to show that PwC's  
6 action or inaction relating to Notice 2008-111 meets the causation element of is  
7 claim.

8 148. Thus, Tricarichi has failed to provide the level of evidence  
9 necessary to support the notion that even had PwC advised Tricarichi about  
10 Notice 2008-111 when it issued, Tricarichi could have or would have settled with  
11 the IRS thereby avoiding the interest and legal fees he now seeks as damages.

12 149. Fourth, to the extent that Tricarichi's claim is that PwC was  
13 negligent in 2008 because it did not advise him at that time of the contents of  
14 the Stovsky Memo (as opposed to Notice 2008-111 itself), causation is still  
15 defeated because the record is clear that Tricarichi was made aware of either  
16 the existence or contents (or both) of the Stovsky memo on at least five  
17 separate occasions in 2008 and 2009, either by PwC itself, the IRS, or his  
18 attorneys. TT4 at 7:21-25; Ex. 161 at 009; Ex. 163 at 010; Ex. 164 at 001; Ex.  
19 168 at 002.

## 20 21 **V. Fourth Element: Damages**

22 150. As the Court has found that Tricarichi, independently, has not met  
23 his burden on any of the first three elements of a cause of action for  
24 Professional Negligence, the Court need not, and determines it would not be  
25 appropriate, to address the damages element.

## 26 **VI. Basis of PwC's Affirmative Defenses**

27 151. PwC tried four of its affirmative defenses to the Court: statute of  
28



1 limitations (second affirmative defense), failure to mitigate damages (fourteenth  
2 affirmative defense), offset/contribution (fifteenth affirmative defense), and  
3 limitation of liability (sixteenth affirmative defense).

4 152. Consistent with the Court's determination that Tricarichi failed to  
5 meet his burden on the elements of his cause of action for Professional  
6 Negligence, the Court will only address the Second Affirmative Defense relating  
7 to statute of limitations.<sup>8</sup>

8 153. Under Nevada law, an action for professional malpractice must be  
9 brought two years from discovery or four years from the alleged malpractice,  
10 whichever occurs earlier. NRS § 11.2075(1).

11 154. Under New York law—the governing law identified in the  
12 Engagement Agreement—the statute of limitations is three years from the  
13 alleged malpractice. See *Ackerman v. Price Waterhouse*, 644 N.E.2d 1009,  
14 1011 (N.Y. 1994) (citing New York CPLR § 214).

15 155. Under either, the limitation period of Tricarichi's claim is untimely.

16 156. PwC's alleged acts of negligence related to Notice 2008-111  
17 occurred in December 2008 or January 2009, shortly after it issued. Thus,  
18 under New York law, the statute of limitations would have expired at the latest in  
19 January 2013. Tricarichi did not file suit in this case until April 29, 2016, making  
20 his claim untimely.

21 157. The outcome is no different if the Court applies Nevada law. The  
22 Court found above that Tricarichi was subjectively aware of Notice 2008-111 at  
23 least as of April 29, 2009. Thus, the Court concludes, for limitations purposes,  
24

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25 <sup>8</sup> As set forth above, the Court found that the first three elements of his cause of action were not  
26 met for independent reasons. Thus, the Court found that there was not a basis to address the  
27 damages element of his cause of action. Consistent therewith, the Court finds no basis to  
28 address the other three affirmative defenses which are based on if there was a finding that  
damages were appropriate - there was not.

1 that the latest date that Tricarichi knew or should have known about his claim  
2 was April 29, 2009.

3 158. Under N.R.S. 11.2075(1)(a), Tricarichi's action would have needed  
4 to be commenced no later than April 29, 2011 (two years from discovery). And  
5 under N.R.S. 11.2075(1)(b), the action needed to be commenced by January,  
6 2013 (four years from the alleged malpractice). However, the statute specifies  
7 that the earlier of the two dates controls; thus, for limitations purposes, the latest  
8 date that Tricarichi could have filed his claim is April 29, 2011. He filed his claim  
9 five years too late, on April 29, 2016.<sup>9</sup>

10 159. At trial, Tricarichi failed to introduce any evidence of a tolling  
11 agreement, and expressly declined to do so when the Court inquired about such  
12 an agreement immediately prior to closings. TT9 100:7–20 (“MR. HESSELL:  
13 Yeah. No, we don’t need to -- We don’t need that”) (referring to proposed Exhibit  
14 83). Furthermore, Tricarichi failed to include any proposed pre-trial findings or  
15 conclusions of law on statute of limitations. As such, Tricarichi has waived any  
16 argument that the limitations period was tolled by agreement or otherwise.<sup>10</sup>  
17 *Nev. Yellow Cab Corp. v. Eighth Jud. Dist. Ct. ex rel. Cnty. of Clark*, 123 Nev. 44,  
18 49, 152 P.3d 737, 740 (Nev. 2007).

19 160. Instead, Tricarichi's counsel claimed in his closing argument  
20 rebuttal, that the inclusion of a tolling agreement - as an exhibit to a brief in  
21 opposition to an earlier Summary Judgment Motion - relieved him of any  
22 obligation to introduce it as evidence at trial. The Court disagrees. See *Garcia*  
23 *v. Shapiro*, 515 P.3d 345, (Nev. App. 2022) (“Regardless, motions, statements  
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25 <sup>9</sup> In utilizing the January date, the this Court is providing Tricarichi the longer time frame as it is  
26 taking into account the Levin letter (Ex. 205).

27 <sup>10</sup> Tricarichi's failure to disclose any proposed findings of fact or conclusions of law regarding  
28 statute of limitations, likewise waives any argument that he is entitled to statutory tolling under  
N.R.S. 11.2075(2).

1 and allegations within them, and exhibits attached to them do not necessarily  
2 constitute evidence.”) (citing EDCR 5.205(g) (“Exhibits [to motions] may be  
3 deemed offers of proof but shall not be considered substantive evidence until  
4 admitted.”)); cf. NRAP 28(e) (party raising evidentiary issue on appeal must  
5 identify where in the record “evidence was identified, offered, and received or  
6 rejected”); see also *Town of Gorham v. Duchaine*, 224 A.3d 241, 244 (Me. 2020)  
7 (“[S]imply attaching documents to a motion is not the equivalent of properly  
8 introducing or admitting them as evidence. Documents attached to motions are  
9 not part of the record and therefore cannot be considered evidence in the record  
10 on appeal.”) (Collecting state cases).

11 161. Thus, under either the three-year statute of limitations in New  
12 York, or the two-year statute of limitations in Nevada, Tricarichi’s claim is time-  
13 barred<sup>11</sup>.

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26 <sup>11</sup> As set forth herein, the Court finds that PwC’s Statute of Limitations defense was met. The fact  
27 that Tricarichi’s claim is barred by the Statute of Limitations is an independent basis upon which  
28 Judgment for PwC is to be entered in addition to basis that Tricarichi did not meet his burden to  
establish all four elements of his professional negligence claim.

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IT IS HEREBY FURTHER ORDERED, ADJUDGED, and DECREED that  
any request for fees and costs shall be handled via separate timely-filed Motion.

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1 **CSERV**

2  
3 DISTRICT COURT  
CLARK COUNTY, NEVADA

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5		
6	Michael Tricarichi, Plaintiff(s)	CASE NO: A-16-735910-B
7	vs.	DEPT. NO. Department 31
8	PricewaterhouseCoopers LLP,	
9	Defendant(s)	

10  
11 **AUTOMATED CERTIFICATE OF SERVICE**

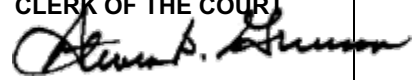
12 This automated certificate of service was generated by the Eighth Judicial District  
13 Court. The foregoing Findings of Fact, Conclusions of Law and Judgment was served via the  
14 court's electronic eFile system to all recipients registered for e-Service on the above entitled  
case as listed below:

15 Service Date: 2/9/2023

16	Brad Austin .	baustin@swlaw.com
17	Docket .	DOCKET_LAS@swlaw.com
18	Gaylene Kim .	gkim@swlaw.com
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**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

MICHAEL A. TRICARICHI,  
  
Plaintiff,

vs.

PRICEWATERHOUSECOOPERS LLP,  
  
Defendant.

CASE NO.: A-16-735910-B  
DEPT. NO.: XXXI

**NOTICE OF ENTRY OF FINDINGS OF  
FACT AND CONCLUSIONS OF LAW AND  
JUDGMENT**

1 PLEASE TAKE NOTICE that the *Findings of Fact and Conclusions of Law and Judgment*  
2 was entered in the above-captioned matter on February 9, 2023, a copy of which is attached hereto  
3 as Exhibit 1.

4 Dated: February 22, 2023

SNELL & WILMER L.L.P.

6 By: /s/ Bradley Austin

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**CERTIFICATE OF SERVICE**

I, the undersigned, declare under penalty of perjury, that I am over the age of eighteen (18) years, and I am not a party to, nor interested in, this action. On February 22, 2023, I caused to be served a true and correct copy of the foregoing **NOTICE OF ENTRY OF FINDINGS OF FACT AND CONCLUSIONS OF LAW AND JUDGMENT** upon the following by the method indicated:

☐

**BY E-MAIL:** by transmitting via e-mail the document(s) listed above to the e-mail addresses set forth below and/or included on the Court's Service List for the above-referenced case.

☐

**BY U.S. MAIL:** by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Las Vegas, Nevada addressed as set forth below.

☐

**BY OVERNIGHT MAIL:** by causing document(s) to be picked up by an overnight delivery service company for delivery to the addressee(s) on the next business day.

☐

**BY PERSONAL DELIVERY:** by causing personal delivery via messenger service of the document(s) listed above to the person(s) at the address(es) set forth below.

☒

**BY ELECTRONIC SUBMISSION:** submitted to the above-entitled Court for electronic filing and service upon the Court's Service List for the above-referenced case.

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4886-1991-5088

# **EXHIBIT 1**

1 **FFCL**

2  
3 **DISTRICT COURT**  
4 **CLARK COUNTY, NEVADA**  
5

6 **MICHAEL A. TRICARICHI,**  
7  
8 **Plaintiff,**

**CASE NO.: A-16-735910-B**

**DEPT. NO.: XXXI**

9  
10 **vs.**

**FINDINGS OF FACT AND CONCLUSIONS  
OF LAW AND JUDGMENT**

11  
12 **PRICEWATERHOUSECOOPERS LLP,**  
13 **Defendant.**

14  
15 This matter came on for a Bench Trial before the Honorable Judge Joanna  
16 S. Kishner, Department XXXI, commencing October 31, 2022, and the trial  
17 concluded November 10, 2022. Appearing for Plaintiff Michael Tricarichi was  
18 Ariel C. Johnson, Esq. of HUTCHISON & STEFFEN, PLLC., along with pro hac  
19 vice counsel, Scott F. Hessell, Esq. and Blake Sercye, Esq. of SPERLING &  
20 SLATER, P.C. Appearing for Defendant PricewaterhouseCoopers, LLP. ("PwC")  
21 was Patrick G. Byrne, Esq. and Bradley T. Austin, Esq. of SNELL & WILMER,  
22 LLP, along with pro hac vice counsel, Mark L. Levine, Esq., Christopher D.  
23 Landgraff, Esq., Katharine A. Roin, Esq., of BARTLIT BECK, LLP. The Court,  
24 having heard the testimony of the witnesses, having reviewed the trial exhibits  
25 and evidence, and having heard arguments of counsel finds and orders as  
26 follows:  
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## **FINDINGS OF FACT**

### **I. Introduction and Relevant Parties**

1. This case arises from a 2003 transaction, in which Plaintiff Michael Tricarichi ("Tricarichi") sold his shares of his wholly-owned business, Westside Cellular ("Westside") to Fortrend International LLC ("Fortrend") for approximately \$34.9 million (the "Westside Transaction"). Tricarichi retained Defendant PriceWaterHouseCoopers, LLP ("PwC"), among others, to provide tax services related to the sale.<sup>1</sup>

2. The IRS later audited Westside's 2003 tax return and sought to collect Westside's unpaid taxes from Tricarichi. The Tax Court ultimately ordered Tricarichi to pay roughly \$21 million in additional taxes and penalties, plus interest. Ex.<sup>2</sup> 66, Tricarichi Tax Court Memo at 068.

3. In 2016, Tricarichi filed this lawsuit against PwC, alleging that PwC was negligent in providing tax advice in 2003. Dkt. 1, Compl. ¶¶ 81–96. The Court granted Summary Judgment for PwC on that claim - on statute of limitations grounds. Dkt. 119, Order Granting Summ. J. at 3. Tricarichi then amended his Complaint to allege that PwC was separately negligent *five years later* for, among other things, failing to advise him in 2008 about IRS Notice 2008-111, which was issued in December 2008. Dkt. 140, Am. Compl. ¶¶ 115–121. Tricarichi set forth that *inter alia* if PwC had told him about Notice 2008-111, he could have avoided years of litigation with the IRS. *Id.* ¶ 121.

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<sup>1</sup> While the background facts of this case have been extensively cited not only in at least two appellate decisions and in the Order in the Motion for Summary Judgment, the Court reiterates the relevant background facts as set forth in the trial to the extent they do not conflict with the law of the case.

<sup>2</sup> "Ex." refers to exhibits admitted into evidence at trial. "TT" (followed by the corresponding day of trial) refers to the trial transcripts, which are filed as docket numbers 396–405.

1           4.       At trial, Tricarichi sought to recover the interest that has accrued  
2 on his tax deficiency between early 2009 and 2018 as well as attorney's fees  
3 and other costs he incurred litigating against the IRS (approximately \$3 million)  
4 — a total of approximately \$18 million.  
5

## 6           **II.       The Westside Transaction**

7           5.       In April and May of 2003, Westside received approximately \$65  
8 million in settlement proceeds from antitrust claims brought in Ohio. Ex. 66 at  
9 007. The Record reflects that Tricarichi knew he would face substantial tax  
10 liability on the settlement - both at the corporate level, and as a shareholder of  
11 Westside and began looking for ways to minimize his tax burden. *Id.* Tricarichi's  
12 brother, James, made an introduction to a company called Fortrend in early  
13 2003, who told Tricarichi that it would purchase his Westside stock and offset the  
14 taxable gain with losses, thereby eliminating Westside's corporate income tax  
15 liability. *Id.* at 008. Tricarichi set forth that the amount after payment of legal fees  
16 and employee bonuses, Westside was left with approximately \$40 million. Nov. 2,  
17 2022, Trial Tr. 89:11-16; Trial Ex. 66 at 011. Regardless of whether the net  
18 amount was \$65 million or \$40 million for purposes of the claims at issue in the  
19 present litigation the analysis is the same.  
20  
21

22           6.       Tricarichi retained his long-time attorneys at Hahn Loeser & Parks,  
23 LLP ("Hahn Loeser") to oversee all aspects of the transaction, including  
24 structuring it, drafting the deal documents, and providing advice on how Tricarichi  
25 could minimize his tax burden. TT8 (Vol. 2) 9, 12–13 (Hart Dep. 56:14–20,  
26 93:24–94:5).  
27  
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1           7.       Hahn Loeser corporate and tax attorney Jeff Folkman, among  
2 others, had authority to act on behalf of Tricarichi and acted as his agent in  
3 various matters with respect to the Westside Transaction. See, e.g., Ex. 127,  
4 Email from J. Folkman at 001; TT3 89:7–90:20 (Tricarichi).

5           8.       Ultimately, Tricarichi sold his shares of Westside to Nob Hill  
6 Holdings, Inc., a Fortrend affiliate, for approximately \$35 million. The transaction  
7 closed on September 9, 2003. Ex. 66 at 016, 023.

### 8           **III.     PwC’s Engagement**

9           9.       Tricarichi separately hired PwC to evaluate the tax implications of  
10 the proposed Westside Transaction. TT4 142:10–13 (Stovsky). Tricarichi used  
11 his brother James as a “conduit” during his dealings with PwC. TT3 143:7–15,  
12 175:25–176:3. Tricarichi’s brother, James, was an accountant.

13          10.       Tricarichi signed a written Engagement Agreement with PwC  
14 dated April 10, 2003. Ex. 100. The Engagement Agreement consisted of an  
15 Engagement Letter which incorporated an attached document entitled “Terms of  
16 Engagement to Provide Tax Services.” These documents, collectively,  
17 comprised the agreement between the parties. See *PricewaterhouseCoopers*  
18 *LLP v. Eighth Jud. Dist. Court*, No. 82371, 2021 WL 4492128, at \*1 (Nev. Sept.  
19 30, 2021).

20          11.       As this Court has found previously, Tricarichi received both the  
21 Engagement Letter and the Terms of Engagement, and the Engagement  
22 Agreement was a valid and binding contract. See Dkt. 336, Order Granting  
23 PwC’s Mot. to Strike Jury Demand ¶ 33.<sup>3</sup>

24          12.       The Engagement Agreement specified that PwC would provide  
25  
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27 <sup>3</sup> The instant Court was assigned the case in 2021 after certain decisions, which are law of the  
28 case, had been made by the Honorable Elizabeth Gonzalez (ret.)

1 “tax research and evaluation services” for the Westside Transaction. Ex. 100 at  
2 001. The Engagement Letter, thus, set forth specific parameters regarding the  
3 scope of the engagement rather than an open ended engagement.

4 13. Section 7 of the Terms of Engagement contained a limitation-of-  
5 liability clause, which states in relevant part:

6 IN NO EVENT, UNLESS IT HAS BEEN FINALLY DETERMINED  
7 THAT [PwC] WAS GROSSLY NEGLIGENT OR ACTED  
8 WILLFULLY OR FRAUDULENTLY, SHALL [PwC] BE LIABLE TO  
9 THE CLIENT OR ANY OF ITS OFFICERS, DIRECTORS,  
10 EMPLOYEES OR SHAREHOLDERS OR TO ANY OTHER THIRD  
11 PARTY, WHETHER A CLAIM BE IN TORT, CONTRACT OR  
OTHERWISE FOR ANY AMOUNT IN EXCESS OF THE TOTAL  
PROFESSIONAL FEE PAID BY YOU TO US UNDER THIS  
AGREEMENT FOR THE PARTICULAR SERVICE TO WHICH  
SUCH CLAIM RELATES.

12 *Id.* at 007.

13 14. Section 3 of the Engagement Agreement advised that

14 Tax laws and regulations are subject to change at any  
15 time, and such changes may be retroactive in effect  
16 and may be applicable to advice given or other  
services rendered before their effective dates. *[PwC]*  
*do[es] not assume responsibility for such changes*  
*occurring after the date we have completed our*  
*services.*

17 *Id.* at 006.

18 15. Section 10 of the Engagement Agreement specified that it will be  
19 governed by the laws of the State of New York. *Id.* at 007.

20 16. It was undisputed that several PwC tax professionals worked on  
21 the Engagement, including Richard Stovsky, the Cleveland-based engagement  
22 partner; Tim Lohnes, a partner in the corporate M&A group in the national office  
23 in Washington DC; as well as partners Don Rocen and Ray Turk.

24 17. The PwC team performed a number of services pursuant to the  
25 Engagment Agreement's terms, including analyzing draft agreements,  
26 researching potential tax issues, discussing applicability of Treasury Notices,  
27 and suggesting deal terms to protect Tricarichi (including indemnity protections  
28

1 and insurance).

2 18. PwC memorialized parts of its advice to Tricarichi in a memo  
3 referred to at trial as the “Stovsky Memo,” which Stovsky updated periodically  
4 after having conversations with other PwC partners, as well as with Tricarichi or  
5 his advisors. Ex. 2. PwC also kept a file with notes and other communications  
6 that it contended were relevant to its analysis. See, e.g., Ex. 1.

7 19. PwC primarily investigated two topics for Tricarichi: (1) whether the  
8 Westside Transaction was reportable to the IRS as a so-called “Midco”  
9 transaction under IRS Notice 2001-16; and (2) whether Tricarichi could be held  
10 liable for Westside’s taxes, including under a transferee liability theory. *Id.* at  
11 002–004.<sup>4</sup>

12 20. As to the first question, Stovsky advised Tricarichi that the  
13 transaction “more likely than not” would not be reportable to the IRS as an  
14 intermediary or Midco transaction under IRS Notice 2001-16. *Id.* at 001, 004;  
15 TT4 158:1–7.

16 21. As to the second question, Stovsky similarly advised Tricarichi that  
17 the transaction “more likely than not” would be “respected” by the IRS; and thus,  
18 that Tricarichi would not be held liable for Westside’s taxes under transferee  
19 liability. Ex. 2 at 001–003; TT4 154:3–6.

20 22. Based on the testimony of various witnesses for PwC, the “more  
21 likely than not” qualifier to PwC’s advice is a standard tax industry term that  
22 meant, consistent with its plain language, there was at least a 50.1% chance of  
23 prevailing (up to 70% or 75%); or conversely, a 49.9% chance of losing. TT8  
24 (Vol. 1) 250:5-9 (Harris); *id.* 60:10–19 (Greene); see also TT1 154:5–20  
25

26  
27 <sup>4</sup> Although the parties disputed the depth of Midco experience the tax professionals at PwC had  
28 in 2003, that dispute need not be resolved given the Summary Judgment ruling.



1 (Lohnes); TT6 143:2–18 (Boyer). That specific interpretation of “more likely  
2 than not” was not set forth in any written communication sent to Tricarichi or his  
3 representatives.

4 23. Based on evidence provided, Stovsky, either directly or through  
5 conversations with Tricarichi’s representatives, also suggested that Tricarichi  
6 take out an insurance policy for any potential tax liability or transferee liability.  
7 Tricarichi did not follow this advice. Ex. 110, Handwritten Notes. TT6 23:18–  
8 25:10.

9 24. PwC billed Tricarichi \$48,552.00 for the Engagement, which  
10 Tricarichi paid in full. See Ex. 3, PwC Invoices.

11 25. PwC issued its last invoice on October 29, 2003, for services  
12 rendered through September 30, 2003. *Id.* at 006. After that, PwC did not enter  
13 into any Engagement Letter to perform any paid services for Tricarichi or  
14 Westside. While it was undisputed that there was no monetary compensation  
15 provided after the \$48,552.00 was paid in full by the end of 2003, and there was  
16 no written Engagement Letter signed by Tricarichi in 2003, it was disputed  
17 between the parties as to whether there was an implied client relationship due to  
18 there being either an ongoing obligation to notify Tricarichi of new IRS bulletins  
19 or rulings, or the fact that there were communications between PwC and  
20 Tricarichi or his agents after 2003 relating to the IRS issues that arose regarding  
21 the Westside Transaction.

22 26. While there was evidence that PwC reviewed IRS bulletins and  
23 information relating to Midco transactions after providing Tricarichi its advice,  
24 Plaintiff did not meet his burden to show that conduct created an affirmative duty  
25 on behalf of PwC towards Tricarichi for claims that were not already precluded  
26 by the Summary Judgment Motion.

27 27. For example, in approximately, November 2003, at Mr. Stovsky’s  
28

1 request, Mr. Lohnes reviewed an updated IRS list of prohibited transactions to  
2 see if the Westside Midco Transaction, or a similar transaction, was listed. Trial  
3 Ex. 32. Mr. Lohnes concluded that the November 2003 list “contain[ed] no  
4 items that would impact [Westside’s] transaction, other than the items we  
5 discussed previously, namely the midco listed transaction.” *Id.* at 001.

6 28. In addition, it was undisputed that PwC or its attorneys and  
7 Tricarichi (or his attorneys) had contact after Tricarichi’s IRS dispute began. It  
8 was disputed at trial, however, whether these communications were to provide  
9 general assistance such as providing copies of documents or whether they  
10 related to the retention of professional accounting services. *E.g.*, Ex. 7, Email  
11 from S. Marcus to S. Dillon.

12 29. At trial, PwC witnesses consistently testified that by 2008, they did  
13 not consider Tricarichi to be a current client, and that he did not have an  
14 ongoing relationship with PwC after 2003. TT2 110:24–111:6 (Lohnes); TT3  
15 31:21–32:3 (Lohnes); TT5 100:15–16 (Stovsky). Tricarichi, likewise, confirmed  
16 that he never engaged PwC at any point after 2003, and did not have any  
17 ongoing relationship after that time. Indeed, it was shown that while Tricarichi’s  
18 brother, James, had some interactions with PwC, and so did Tricarichi’s lawyers,  
19 there was no evidence that Tricarichi retained PwC’s services utilizing a similar  
20 process involving a written Engagement Letter and payment of fees as he had  
21 in 2003. Additionally, the 2003 Engagement Letter, on its face, did not set forth  
22 there was an ongoing relationship; but, instead, was limited to the scope of  
23 services provided and paid for. Further, no additional funds were paid by  
24 Tricarichi, or anyone on his behalf, to PwC for any type of accounting services  
25 on behalf of Tricarichi, or involving any interest held by Tricarichi. TT3 162:25–  
26 163:5; 164:25–165:5 (Tricarichi).

27 30. In light of the foregoing specific facts and evidence presented at  
28

1 trial, the Court finds that Tricarichi ceased being a PwC client as of October,  
2 2003 when the services pursuant to the specific Engagement Agreement were  
3 completed and the final bill sent. By 2008, Tricarichi was a former client of  
4 PwC's and had no ongoing professional relationship with the firm.

5 31. The next issue for the Court to determine is whether, in light of  
6 Tricarichi's status as a former client and/or given the interactions between PwC  
7 and either Tricarichi, his agents, his counsel and/or the IRS, PwC created a  
8 relationship with Tricarichi that subjects it to liability pursuant to the claims in the  
9 Amended Complaint. The Court sets forth the various issues raised by  
10 Tricarichi below.

11 **IV. PwC's Prior Experience with Midco Transactions Do Not**  
12 **Provide a Basis for Liability Against PwC in the Instant Case**

13 32. Tricarichi alleged that PwC's advice and/or involvement with other  
14 Midco transactions demonstrated that it knew or had reason to know that the  
15 advice it provided to Tricarichi was inaccurate or inconsistent; and thus, he  
16 should prevail on his Amended Complaint. In support of that contention,  
17 Tricarichi provided argument and/or evidence that advice provided in what was  
18 referred to as the "Enbridge Matter" and the "Marshall Matter" was contrary or  
19 different that the advice he received. PwC disputed both the allegations as well  
20 as the applicability of both matters.

21 **A. The Enbridge Matter**

22 33. It was undisputed that the Enbridge matter arose in 1999 (prior to  
23 the issuance of Notice 2001-16) and involved the purchase of shares from the  
24 Bishop Group, Ltd. by Midcoast Energy Resources (which later came to be  
25 known as Enbridge). Ex. 156, Enbridge Op. at 001-004. PwC (through its  
26 Houston office) gave tax advice to Midcoast in the transaction. *Id.* at 002.

27 34. While the Enbridge matter involved a purported Midco transaction,  
28

1 the Court finds numerous differences between it and the instant case. First,  
2 there were four parties (including an intermediary entity) to the Enbridge  
3 transaction, while the Westside Transaction only involved three parties and  
4 lacked an intermediary entity. *Id.* at 002–004.

5 35. Second, the Westside Transaction also did not include a target  
6 corporation with built-in gain assets or a purchaser seeking to achieve a step-up  
7 in the tax basis of such assets, as was the case in Enbridge. TT8 (Vol. 1) 196:8–  
8 14 (Harris).

9 36. Third, the Enbridge transaction did not involve questions of  
10 transferee liability. *Id.* 195:22–196:7 (Harris).

11 37. Thus, the evidence presented to this Court demonstrated that  
12 there were differences between the two transactions as to not only their  
13 structure, but also their timing *vis a vis* applicable IRS rules and regulations. In  
14 addition, the Federal District Court's decision in *Enbridge* was published and  
15 generally available to the public as of March 2008, including to Tricarichi and his  
16 counsel. See, *Enbridge Energy Co. v. United States*, 553 F. Supp. 2d 716 (S.D.  
17 Tex. 2008). Specifically to the case at bar, there was a memo from R. Corn to  
18 Plaintiff Tricarichi which demonstrated that Tricarichi was advised on the  
19 differences between Enbridge and the Westside Transaction so Tricarichi could  
20 not have relied on any failure of PwC to provide him information about Enbridge  
21 when his own counsel set forth that it was distinguishable from his case. Ex.  
22 169, Memo from R. Corn to M. Tricarichi at 003–004.

#### 23 24 **B. The Marshall Matter**

25 38. In addition to Enbridge, Tricarichi also contended that PwC failed  
26 to disclose that it had any prior relationship with Fortrend and any of its prior  
27 transactions. The evidence presented to the Court set forth that the Marshall  
28

1 matter involved the family shareholders of a C corporation who sold their shares  
2 to a Fortrend affiliate to minimize their tax liability from an expected litigation  
3 settlement. Ex. 56, Marshall Tax Court Op. at 001–003. PwC (through its  
4 Portland office) advised John Marshall not to proceed with the transaction and  
5 stated that it would not consult or provide advice on the transaction. *Id.* at 004–  
6 005. The transaction closed in March 2003. *Id.* at 007.

7       39. As with the Enbridge matter, the Court finds numerous differences  
8 between the Marshall matter and the instant case. The Marshalls undertook an  
9 integrated transaction with significant non-cash built-in gain assets (as opposed  
10 to none in the Westside Transaction), and the nature of this transaction  
11 presented greater risks of transferee liability than the Westside Transaction. TT8  
12 (Vol. 1) 199:3–12 (Harris). Given the differences in the matters, Tricarichi did  
13 not meet his burden to show that PwC has liability to him for failing to disclose  
14 or take into account the advice given in that transaction.

15       **V. Tricarichi's Tax Dispute with the IRS and IRS Notice 2008-11**

16       40. In his Amended Complaint, Tricarichi alleges that his claims are  
17 not time barred based on a tolling agreement and instead PwC is liable for his  
18 damages and interest because of what PwC did and did not do regarding IRS  
19 Notice 2008-11. The gravamen of Tricarichi's claims are his contention that:  
20 had PwC informed Mr. Tricarichi of the problems with its advice regarding the  
21 Westside Midco Transaction and the resulting error on Mr. Tricarichi's tax  
22 return(s), Mr. Tricarichi would have been able to amend his return(s), avoid  
23 interest on taxes and penalties, avoid litigation with the IRS, and thereby avoid  
24 related legal fees and expenses. Nov. 2, 2022, Trial Tr. 124:12-126:6.

25       41. PwC contended in its defense *inter alia* that: 1. All of Tricarichi's  
26 claims are barred by statute of limitations; 2. Neither its 2003 advice, nor its  
27 internal review of the 2008 Notice, which it did not advise Tricarichi it reviewed  
28

1 in 2008, did not fall below the standard of care based on the information  
2 available and the risk factor it placed on its advice even with a retrospective  
3 view of the 2008 Notice provisions; 3. Tricarichi hired experienced tax lawyers  
4 who he relied upon in making his decisions and those lawyers provided similar  
5 advice and analysis as PwC did; 4. There was no client relationship after 2003  
6 and thus no duty was owed in 2008 or later; and 5. Tricarichi's damages are due  
7 to his own conduct including not settling with the IRS.

8 42. It was undisputed that on December 1, 2008, the IRS issued  
9 Notice 2008-111, entitled "Guidance on Intermediary Transaction Tax Shelters."  
10 The impact and obligations relating to that Notice were disputed at trial. Ex. 44.

11 43. The plain language of the Notice itself sets forth that the purpose  
12 of Notice 2008-111 was to "clarif[y]" the agency's prior notice on Midco  
13 transactions, IRS Notice 2001-16. *Id.* at 003.

14 44. Specifically, Notice 2008-111 advised taxpayers that a transaction  
15 would be treated as an "Intermediary Transaction" if: (1) a person engages in  
16 that transaction pursuant to a "Plan" (as defined in the Notice); (2) the  
17 transaction contains each of four objective components described in the Notice;  
18 and, (3) no safe harbor exception applies. *Id.*

19 45. In so doing, PwC and others interpreted the Notice to mean that  
20 the IRS narrowed the scope of Notice 2001-16. TT6 137:17–138:4 (Boyer); TT8  
21 (Vol. 1) 182:23–183:1 (Harris).

22 46. Notice 2008-111 addressed only *reportability* of transactions to the  
23 IRS, not *liability* under the tax laws. Ex. 44 at 003. The Notice did "not affect the  
24 legal determination of whether a person's treatment of the transaction [was]  
25 proper or whether such person [was] liable, at law or in equity, as a transferee of  
26 property in respect of the unpaid tax obligation . . . ." *Id.*

27 47. After the IRS issued Notice 2008-111, Lohnes responded in an  
28

1 internal email to a question from Stovsky: "I read through the Notice and agree  
2 with your assessment that it shouldn't change any of our prior analysis." Ex.  
3 159, Lohnes Email to Stovsky. Stovsky testified that his receiving the IRS  
4 subpoena to PwC relating to the Westside Transaction led him to communicate  
5 with Lohnes about the Notice. TT6 67:9–13.

6 48. It was undisputed that the IRS began auditing Westside's 2003 tax  
7 return in August 2005, and it interviewed Tricarichi in connection with that audit  
8 in 2007. Ex. 144, IRS Notice of Audit to Westside Cellular. PwC was not  
9 involved with the preparation of Westside's 2003 return.

10 49. On January 22, 2008—roughly ten months before issuing Notice  
11 2008-111—the IRS sent Tricarichi an Information Document Request ("IDR")  
12 seeking documents related to the Westside Transaction. Ex. 150. The IDR  
13 advised Tricarichi that he may be liable for all or part of Westside's tax liability.  
14 *Id.* at 001, See also, Order on Summary Judgment.

15 50. The IRS also issued a summons to PwC on January 29, 2008,  
16 seeking documents related to the Westside Transaction. Ex. 152. On February  
17 22, 2008, PwC responded to the summons, on its own behalf. In so doing, PwC  
18 provided documents and set forth its contention that it had not provided any  
19 services to Tricarichi since 2003. Ex. 155. Tricarichi was not billed for any of  
20 these activities. See Ex. 3.

21 51. The IRS determined that as a result of the Westside transaction  
22 the company owed an additional \$15.2 million in taxes and \$6 million in  
23 penalties for 2003. Ex. 66 at 027. In a draft transferee report sent to Tricarichi  
24 on February 3, 2009, the IRS sought payment of Westside's outstanding tax  
25 liability from Tricarichi. Ex. 161 at 003–025.

26 52. After receiving the draft transferee report, Tricarichi recruited  
27 highly experienced tax counsel to advise him.  
28

1           53. Among those who Tricarichi hired were Glenn Miller and Michael  
2 Desmond of Bingham McCutcheon. Miller has practiced tax law for  
3 approximately 30 years. TT7 185:6–8. Desmond is a tax lawyer with over 25  
4 years of experience, including being employed at the DOJ's Tax Division. TT6  
5 169:15–170:1. After his work for Tricarichi, Desmond later served as IRS Chief  
6 Counsel. *Id.* 170:18–171:13.

7           54. Tricarichi also hired a team of lawyers at Sullivan & Cromwell, led  
8 by Don Korb, a senior tax lawyer who, at the time of his deposition in 2020, had  
9 been practicing tax law for over 45 years. TT8 (Vol. 2) 28 (Korb Dep. 15:25–  
10 16:4). Korb's experience included serving as Chief Counsel of the IRS from  
11 2004 to 2008. *Id.* at 28–29 (Korb Dep. 18:13–15, 19:23–20:1).

12           55. As his trial with the IRS in the Tax Court approached, Tricarichi  
13 also hired several lawyers at McGuire Woods, led by one of its partners, Craig  
14 Bell. TT6 182:24–183:10 (Desmond).

15           56. While representing their client before the IRS and consistent with  
16 PwC's prior assessment, Tricarichi's lawyers repeatedly argued that under the  
17 standards set forth by Notice 2008-111, the Westside Transaction was not an  
18 intermediary transaction. *See, e.g.*, Ex. 102, 4/29/09 Response to Draft Protest  
19 Letter at 006–010; Ex. 103A, 10/9/09 Formal Protest Letter at 012–016; Ex.  
20 183, 10/27/10 Appeals Conference Presentation at 002–003, 010–012; Ex. 197,  
21 3/18/11 Korb Letter to IRS at 003–004.

22           57. Each of the communications cited above contained lengthy  
23 explanations of Notice 2008-111, by individuals separate from PwC including  
24 tax lawyers, and they all set forth a similar opinion that Lohnes had provided  
25 internally to Stovsky---i.e. that the 2008 Notice did not apply to the Westside  
26 Transaction. *See id.* For example, the admitted exhibits included a March 2011  
27 communication from one of Tricarichi's lawyers in the tax proceedings, Korb,  
28



1 wherein he contended that “pursuant to the clear and unambiguous language  
2 of Notice 2008-111, the sale of West Side Cellular stock is neither an  
3 intermediary transaction *nor* substantially similar to an intermediary transaction.  
4 *We see no basis on which this conclusion can be challenged.*” Ex. 197 at 004  
5 (emphasis added); see *also* Ex. 183 at 002–003, 010–012.

6 58. The evidence established that Tricarichi’s lawyers and the IRS  
7 also undertook efforts to settle the case. For example, in October 2010, the IRS  
8 indicated it would be willing to settle the claim for roughly \$14.5 million. Ex. 186,  
9 Email from D. Korb to M. Tricarichi; Ex. 187, Tricarichi’s Baseline Case  
10 Calculation at 005; TT6 177:3–9 (Desmond). Tricarichi did not accept this offer.

11 59. On December 6, 2010, Tricarichi’s lawyers at Sullivan & Crowell  
12 sent a “decision tree” analysis to the IRS, which purported to calculate the IRS’s  
13 chances of success at trial as a means of estimating the settlement value of the  
14 case. Ex. 190, Email from A. Mason to P. Szpalik at 002. Tricarichi’s lawyers  
15 took the position that the IRS had only a 17 percent (17%) chance of  
16 establishing liability for Tricarichi and an 83 percent (83%) chance of failing to  
17 make such a showing. *Id.*

18 60. At trial, Tricarichi confirmed that as of December 2010, he  
19 understood that he had an 83 percent (83%) chance of winning his case against  
20 the IRS based on the decision tree presented by his lawyers and which PwC  
21 had no part in creating or editing. TT4 75:19–25.

22 61. On December 8, 2010, the IRS sent a new settlement offer of  
23 approximately \$16.1 million. Ex. 192, Email from R. Corn to D. Korb; Ex. 193,  
24 IRS Settlement Computation at 001. Tricarichi did not accept this offer.

25 62. The IRS made another settlement offer in August 2011 of  
26 approximately \$12.4 million. Ex. 201, Facsimile from P. Szpalik to D. Korb at  
27 002. Tricarichi did not accept this offer.

1           63.     Tricarichi did not settle his IRS case. Tricarichi testified that he did  
2 not have the ability to settle for the amount that was being sought. TT4 30:23–  
3 31:1; *id.* 74:12–14; *id.* 86:11–13. Tricarichi's lawyers also testified that he was  
4 not interested in considering settlement offers in the double-digit millions. TT6  
5 198:2–17 (Desmond).

6           64.     On June 25, 2012, the IRS issued a formal "Notice of Liability,"  
7 asserting that Tricarichi owed \$15,186,570 in income tax and underpayment  
8 penalties of \$6,012,777 (for a total of approximately \$21.2 million) for the  
9 Westside Transaction. Ex. 210. Tricarichi petitioned the Tax Court for review  
10 shortly thereafter. Ex. 66.

11           65.     On May 30, 2014, Tricarichi rejected his lawyers' suggestion that  
12 he might consider making a settlement offer to the IRS saying, "I don't want to  
13 give the irs (sic) the impression that we think our case is weak, which I don't  
14 believe it is." Ex. 228, Email from M. Tricarichi to M. Desmond.

15           66.     In their arguments to the Tax Court, Tricarichi's lawyers continued  
16 to argue that the Westside Transaction was not an intermediary transaction and  
17 did not satisfy Notice 2008-111. *See, e.g.*, Ex. 225, Tricarichi's Tax Court Cross-  
18 Motion in Limine at 005.

19           67.     The Tax Court held a four-day trial on Tricarichi's petition in June  
20 2014. After the trial, but before the Tax Court issued its decision in August 2014,  
21 the IRS proposed settling the case for roughly \$13.7 million. Ex. 231, Email from  
22 M. Desmond to M. Tricarichi; Ex. 232, Draft Settlement Discussion Framework;  
23 TT6 201:18–202:3 (Desmond).

24           68.     There was no settlement. Ex. 234, Email from M. Tricarichi to  
25 M. Desmond.

26           69.     The Tax Court issued its opinion on October 14, 2015, upholding  
27 the IRS's Notice of Liability and ruling for the government on all issues. Ex. 66 at  
28

1 005. Tricarichi's subsequent appeals were unsuccessful. *Tricarichi v. Comm'r of*  
2 *Internal Revenue*, 752 F. App'x 455, 456 (9th Cir. 2018), cert. denied, 140 S. Ct.  
3 38 (2019).

4 70. The evidence showed that PwC provided the information required  
5 by the IRS or requested by Tricarichi and his agents or lawyers, regarding the  
6 tax dispute and/or tax trials. There was no evidence that Tricarichi hired PwC to  
7 perform any professional services for him relating to the tax dispute and/or tax  
8 trials.

9 71. The Record further shows that while PwC did not contact Tricarichi  
10 before or after Lohnes reviewed the 2008 Notice at Stovsky's request, Tricarichi  
11 was familiar with Notice 2008-111 and was repeatedly advised as to its content  
12 and applicability by the attorneys he hired.

13 72. For example, Tricarichi reviewed drafts of the April 29, 2009, and  
14 October 9, 2009, letters to the IRS, both of which contained detailed discussions  
15 of Notice 2008-111. TT7 189:1–18, 190:6-22 (discussing Ex. 102); Ex. 103A at  
16 030. In fact, Tricarichi signed the October 9, 2009, letter himself, attesting under  
17 penalty of perjury that he had “examined this protest, including any  
18 accompanying documents,” and that the “facts presented in this protest are true,  
19 correct, and complete.” *Id.*

20 73. Tricarichi's attorneys also testified that they advised him on Notice  
21 2008-11 specifically, and Midco transactions generally, both orally and in writing.  
22 TT7 189:19–190:2, 193:5–15 (Miller).

23 74. For example, in October 2009, Korb sent a memo to Tricarichi and  
24 his personal attorney Randy Hart, advising them that the Westside transaction  
25 was “quite different” from the type of transaction described in Notice 2008-111.  
26 Ex. 165 at 003. Tricarichi also reviewed settlement presentations to the IRS that  
27 discussed Notice 2008-111 and the reasons it did not apply to the Westside  
28

1 Transaction. Ex. 174; Ex. 182.

2 75. The Court, therefore, finds that Tricarichi was aware of Notice  
3 2008-111 and his counsel's interpretation of its applicability to the Westside  
4 Transaction at least as of April 29, 2009. There was also evidence that during  
5 the months and years that followed, his lawyers continued to advise him  
6 repeatedly that in their opinion, and/or they had a strong argument to present to  
7 a court, that the requirements of Notice 2008-111 were not met. This is the  
8 same conclusion that PwC reached when it reviewed Notice 2008-111 shortly  
9 after its issuance. See Ex. 159.

10 76. The preponderance of the evidence also shows that Tricarichi was  
11 aware, or should have been aware, of the existence and contents of the Stovsky  
12 memo no later than 2009. At trial, Tricarichi testified at one point that he first  
13 saw a copy of the memo when PwC invited him and his lawyer, Randy Hart, to  
14 review a box of documents it was planning to send to the IRS in response to a  
15 summons it received regarding the Westside Transaction. TT4 7:21–23; see  
16 *also* TT5 89:23–90:2, 90:21-91:1 (Stovsky); TT6 62:19–63:12 (Stovsky). This  
17 meeting occurred in February 2008. See Ex. 155; TT6 62:11–25 (Stovsky). At  
18 another point during his testimony, he stated that he was unsure whether he  
19 saw the Stovsky memo in 2008. TT3. 122:14–19

20 77. Even if Tricarichi did not read the memo at the time he and Mr.  
21 Hart were to review the documents to be sent to the IRS, that same memo was  
22 cited by the IRS. Specifically, in February and August 2009, the IRS cited the  
23 Stovsky memo and described its contents to Tricarichi in the draft and final  
24 transferee reports that it issued. Ex. 161 at 009; Ex. 163 at 010. Further, in  
25 September 2009, PwC sent Tricarichi a copy of the files it had provided to the  
26 IRS, which included the Stovsky Memo. Ex. 51 at 001. Additionally, in October  
27 2009, Sullivan & Cromwell billed Tricarichi, in part, for reviewing the Stovsky  
28

1 Memo. Ex. 168 at 002. Thus, even though Tricarichi stated at one point that he  
2 never heard the phrase “more likely than not” before trial, (TT3 107:17–21) and  
3 provided different recollections of when and/or whether he read or was made  
4 aware of the contents of the Stovsky memo, the evidence demonstrates that  
5 given the number of other witnesses and documents, Tricarichi reasonably  
6 should be viewed as being on notice of the contents of the Stovsky memo.

7  
8 **VI. Procedural History of Tricarichi’s Dispute with PwC**

9 78. On January 14, 2011, Joel Levin, an attorney for Tricarichi, sent  
10 Stovsky a letter in which he stated that “it is [Tricarichi’s] position that this multi-  
11 million dollar potential tax liability [for the Westside Transaction] lies at the feet  
12 of PwC for failing to provide him competent services, advice and counsel with  
13 respect to the subject stock sale to Fortrend, particularly concerning the  
14 potential tax consequences.” Ex. 205 at 002.

15 79. In April 2016, Tricarichi filed a Complaint against PwC in the  
16 Eighth Judicial District alleging that PwC’s 2003 advice on the Westside  
17 Transaction was negligent. Dkt. 1 ¶¶ 37–40, 81–96.

18 80. On October 22, 2018, the Court granted Summary Judgment in  
19 PwC’s favor, holding that the statute of limitations barred any claims based on  
20 PwC’s 2003 advice. Dkt. 119 at 2. The Court entered Judgment in favor of PwC  
21 “regarding any and all claims arising from the services PwC provided Tricarichi  
22 in 2003.” *Id.* at 3.

23 81. Tricarichi filed an Amended Complaint in which he added a claim  
24 for negligence based on PwC’s alleged failure to tell him about Notice 2008-111.  
25 Dkt. 140 ¶¶ 116–17. Tricarichi alleged that if PwC had told him about Notice  
26 2008-111, he would have immediately stopped litigating against the IRS and  
27 paid the tax deficiency. *Id.* ¶ 119.

28 82. In the meantime, Tricarichi pursued a professional negligence

1 claim against his attorneys at Hahn Loeser, alleging that they committed  
2 malpractice by advising him to enter into the Westside Transaction. After a  
3 mediation in September 2012, Tricarichi and Hahn Loeser settled their dispute  
4 for \$4 million before any litigation was filed. Ex. 217, Letter from J. Levin to N.  
5 Schwartz; Ex. 218, Confidential Settlement Agreement at 003 (¶ 5).

## 6 **VII. Standards of Professional Care**

7 83. The primary source of professional responsibility standards for  
8 CPA tax practitioners during the time at issue in this case were standards  
9 promulgated by the American Institute of Certified Public Accountants ("AICPA").

10 84. In fact, the Engagement Agreement between PwC and Tricarichi  
11 specified that all services were to be performed "in accordance with the AICPA's  
12 Statements on Standards for Tax Services." Ex. 100 at 007 (Section 7).

13 85. Both Nevada (where Tricarichi was located) and Ohio (where PwC  
14 dispensed its advice) adopted the AICPA professional standards, at least in part,  
15 to govern accountants licensed to practice. Nev. Admin. Code §§ 628.0060-5(a)  
16 & (d), 628.500; Ohio Admin. Code § 4701-9-09.

17 86. AICPA Rule 201 provides that a CPA tax practitioner must exercise  
18 professional competence and due care, which depends on the scope of the  
19 practitioner's engagement under the particular facts and circumstances. Ex. 4,  
20 AICPA Professional Standards.

21 87. The AICPA has defined the standard of care, and competence in  
22 the context of tax planning advice and tax return preparation, in a series of  
23 documents known as the Statements on Standards for Tax Services, or SSTs.  
24 Ex. 106, Statements on Standards for Tax Services 1–8 (Aug. 2000).

25 88. SSTS No. 6 is entitled "Knowledge of Error: Return Preparation."  
26 This standard addresses situations in which an accountant (or "member")  
27 discovers either an error in a previously filed return or the taxpayer's failure to  
28

1 file a return in the past. *Id.* at 027.

2 89. SSTS No. 6 states that “[a] member should inform the taxpayer  
3 promptly upon becoming aware of an error in a previously filed return or upon  
4 becoming aware of a taxpayer’s failure to file a required return.” *Id.* (§ 3).

5 90. An “error” under SSTS No. 6 is any position that has less than a  
6 one-in-three chance of success. Ex. 106 at 027 (§ 1); *id.* at 008 (§ 2(a)), *id.* at  
7 011 (Interpretation 1-1); Ex. 149 at 046, IRS Circular 230 (Section 10.34),  
8 Definition D1; TT8 (Vol. 1) 191:17–25 (Harris).

9 91. The “Explanation” section of SSTS No. 6 clarifies that its  
10 obligations exist only when the accountant is continuing to represent the client.  
11 Both Paragraphs 5 and 9 of SSTS No. 6 refer to telling the “taxpayer” (client)  
12 about the error if the member became aware of it “[w]hile performing services  
13 for a taxpayer.” Ex. 106 at 028–029 (§§ 5, 9); TT7 32:16–33:12 (Dellinger).

14 92. Paragraph 6 of the same section discusses “whether to continue a  
15 professional or employment relationship with the taxpayer” if the taxpayer does  
16 not correct the error. Ex. 106 at 028 (§ 6). This, again, presupposes an existing  
17 client relationship, a point upon which both PwC’s and Tricarichi’s experts  
18 agreed. TT7 30:22–31:11 (Dellinger); TT8 (Vol. 1) 36:21–37:7 (Greene).

19 93. Nothing in the text of SSTS No. 6 imposes any obligations on an  
20 accountant with respect to a former client. Trial testimony established that such  
21 an open-ended obligation on accountants to their former clients would pose  
22 enormous practical difficulties. TT7 33:13–22 (Dellinger); *see also* TT8 (Vol. 1)  
23 38:19–22 (Greene).

24 94. SSTS No. 8 is entitled “Form and Content of Advice to Taxpayers.”  
25 It addresses the “circumstances in which a member has a responsibility to  
26 communicate with a taxpayer when subsequent developments affect advice  
27 previously provided.” Ex. 106 at 033 (§ 1).

28

1           95. The standard states: “[a] member has no obligation to  
2 communicate with a taxpayer when subsequent developments affect advice  
3 previously provided with respect to significant matters, except while assisting a  
4 taxpayer in implementing procedures or plans associated with the advice  
5 provided or when a member undertakes this obligation by specific agreement.”  
6 *Id.* (¶ 4).

7           96. The “Explanation” section of the standard further specifies that “a  
8 member cannot be expected to communicate subsequent developments that  
9 affect such advice unless the member undertakes this obligation by specific  
10 agreement with the taxpayer.” *Id.* at 034 (¶ 9).

11           97. Finally, the standard notes that taxpayers should be informed that  
12 any advice rendered reflects professional judgment based on an existing  
13 situation, and that later developments could affect earlier advice. It further  
14 instructs that “Members may use precautionary language to the effect that their  
15 advice is based on facts as stated and authorities are subject to change.” *Id.* at  
16 035 (¶ 10). PwC included such language in its Engagement Agreement. See  
17 FOF ¶ 14, *supra*.

#### 18 19           **VIII. Tricarichi’s Claimed Damages and PwC’s Mitigation Defense**

20           98. Tricarichi seeks, as damages, the legal fees incurred in his IRS  
21 litigation, and the interest on his unpaid taxes and penalties that accrued from  
22 January 1, 2009, through November 13, 2018. Specifically, in this case Tricarichi  
23 contends that PwC is liable to him for \$3,180,143.03 in legal fees and costs, and  
24 \$14,937,400.18 in interest owed to the IRS.

25           99. As one of its defenses, PwC contended through its expert that the  
26 damages asserted are too high and do not reflect appropriate mitigation. PwC  
27 contended that had Tricarichi set aside the money he potentially owed the IRS  
28



1 and invested it in stock funds, bond funds, real estate funds, or some  
2 combination of these, he could have enjoyed rates of return on the funds he  
3 kept from the IRS significantly higher than the three-to-six percent interest rates  
4 charged by the IRS during the same period. TT7 132:5–140:8 (Leaunae).

## 6 **CONCLUSIONS OF LAW**

### 8 **I. Elements of Tricarichi's Cause of Action (Count III)**

9 100. Tricarichi tried a single claim of professional negligence (Count III  
10 of his Amended Complaint) to the Court. Dkt. 140 ¶¶ 115–121. Count III  
11 focuses only on whether the issuance of Notice 2008-111 in December 2008  
12 gave rise to any duty to Tricarichi that PwC breached. *Id.*<sup>5</sup>

13 101. Despite the narrow focus of Count III, some of the evidence at trial  
14 focused on what was contended to be negligent acts and omissions that  
15 occurred in 2003, when PwC originally rendered its advice, or earlier despite the  
16 Court's prior Summary Judgment ruling, which barred as untimely "any and all  
17 claims arising from the services PwC provided Plaintiff in 2003." Dkt. 191 at 3.  
18 Given the time and effort spent on the providing the detailed history of the case,  
19 and given the extensive procedural history including appeals and multiple  
20 proceedings in other courts, the Court has included historical facts and  
21 testimony for clarity of the record. By incorporating a fuller factual background,  
22 the Court is not sua sponte altering or amending any prior judgment or ruling as  
23 they remain law of the case. See, e.g. *Recontrust Co. v. Zhang*, 130 Nev. 1, 7–  
24 8 (2014) ("[A] court involved in later phases of a lawsuit should not re-open

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25  
26 <sup>5</sup> The Amended Complaint also contains Counts I and II against PwC, both of which were  
27 included only for preservation purposes after the Court dismissed them on Summary Judgment in  
28 2018. Dkt. 140 n.1. Counts I and II were not tried to the Court, nor was any other claim in the  
Amended Complaint apart from Count III. TT9 167:25–168:23.

1 questions decided (*i.e.*, established as law of the case) by that court or a higher  
2 one in earlier phases”) (quotation omitted); see *a/so* Dkt. 234 at 4.

3 102. The elements of a cause of action in tort for professional  
4 negligence are:

5 (1) the duty of the professional to use such skill,  
6 prudence, and diligence as other members of his  
7 profession commonly possess and exercise; (2) the  
8 breach of that duty; (3) a proximate causal connection  
between the negligent conduct and the resulting  
injury, and (4) actual loss or damage resulting from  
the professional’s negligence.

9 *Sorenson v. Pavlokowski*, 94 Nev. 440, 443, 581 P.2d 851, 853 (Nev. 1978).

10 103. As set forth in more detail below, at trial, Tricarichi failed to meet  
11 his burden of proof on all four elements.

12  
13 **II. First Element: PwC Did Not Owe Tricarichi a Duty of Care in 2008**

14 104. The Court concludes that PwC did not owe any duty to Tricarichi,  
15 who ceased being a client in 2003, such that PwC should have updated its  
16 previously-provided advice in 2008, after Notice 2008-111 issued. See  
17 *Rodriguez v. Primadonna Co., LLC*, 125 Nev. 578, 584, 216 P.3d 793, 798 (Nev.  
18 2009) (existence of duty is a matter of law for the Court to decide).

19 105. Under the AICPA’s SSTs No. 8, a member does not have any  
20 obligation to communicate with a taxpayer about subsequent developments,  
21 except “while assisting the taxpayer in implementing procedures or plans  
22 associated with the advice provided or when the member undertakes this  
23 obligation by specific agreement.” Ex. 106 at 033.

24 106. At trial, Tricarichi argued that the first exception (“while  
25 implementing plans or procedures”) was satisfied because PwC provided  
26 comments on the stock purchase agreement between Westside and Nob Hill in  
27 2003, which he claimed created a continuing obligation for PwC to update him  
28

1 on subsequent developments in 2008. TT9 112:13–24.

2 107. The Court disagrees. By its plain language, the exception only  
3 applies “while” the member is assisting the taxpayer in implementing  
4 procedures. TT9 81:17–84:1 (Harris); TT7 67:2–68:5 (Dellinger). Even if  
5 providing comments on the agreement counted as “implementing” Tricarichi’s  
6 plan in 2003 (a question that the Court need not reach here), it is undisputed  
7 that those efforts ceased in 2003. By 2008, PwC was not performing any work  
8 for Tricarichi.

9 108. As to the second exception, in the present case there was a  
10 specific Engagement Letter signed by Tricarichi. PwC’s Engagement Letter,  
11 consistent with SSTS No. 8, specifically disclaimed any ongoing obligation for  
12 changes to the tax laws after services were rendered. Ex. 100 at 006 (Section  
13 3); Ex. 106 at 006. Further, there was no contention that Tricarichi was not  
14 aware of the terms of the Engagement Letter as he even made comments on  
15 the Engagement Letter which he signed.

16 109. Tricarichi also pointed to Paragraphs 6 and 7 of SSTS No. 8,  
17 which discusses when a member may consider providing advice in written, as  
18 opposed to oral, form. TT8 (Vol. 1) 10:13–14:11 (Greene); Ex. 106 at 034. In  
19 the present case, there was disputed testimony about whether there was a  
20 specific discussion about obtaining the information orally or in writing or if  
21 Tricarichi knew that he could have requested the opinions to be set forth in  
22 writing. Regardless of whether there was a difference between the parties  
23 whether any discussion took place or not, and even if the Court were to credit  
24 Tricarichi’s view, the language of Paragraphs 6 and 7 of SSTS No. 8 is what the  
25 Court focuses on to determine if the first prong of the cause of action is met. As  
26 the plain language of the provision sets forth that the decision regarding the  
27 form of advice is left to the “professional judgement” of the member, the Court  
28

1 cannot find that it imposes any affirmative duty on members to provide written  
2 advice. Instead, the Court reads the language as setting forth situations when  
3 written advice may be preferable. TT8 (Vol. 1) 208:10–25 (Harris).

4 110. Thus, the Court concludes that Tricarichi did not meet his burden  
5 to demonstrate in the present case that the standards set forth in SSTS No. 8  
6 gave rise to any duty of care on the part of PwC to Tricarichi.

7 111. SSTS No. 6, likewise, does not create any duty to Tricarichi. The  
8 Court has already found that SSTS No. 6 is limited to circumstances involving  
9 awareness of an error on a tax return when an accountant is performing  
10 services for a *current* client. Here, PwC was no longer performing services for  
11 Tricarichi in 2008. At trial, even Tricarichi's expert would not commit to imposing  
12 a duty on PwC under these circumstances. TT8 (Vol. 1) 38:19–22 (“[Q.] Let’s  
13 say there were no services being provided to Mr. Tricarichi by PwC in 2008, in  
14 that circumstance would PwC have a duty to disclose an error to a former client,  
15 under SSTS 6? A. Perhaps not.”).

16 112. PwC’s later, occasional, contact with Tricarichi and his lawyers,  
17 while responding to IRS subpoenas for documents in 2008 and later for  
18 testimony in 2013 and 2014, does not constitute performing services for  
19 Tricarichi. PwC was required by law to respond to IRS subpoenas on its own  
20 behalf. Tricarichi concede that he did not seek to engage PwC, and PwC did  
21 not invoice Tricarichi for time spent responding to the IRS subpoenas or  
22 testifying at his Tax Court trial.

23 113. Relying on internal PwC policies and a single practice guide  
24 published by the AICPA, Tricarichi also asserted at trial that PwC had a duty to  
25 maintain a written file documenting how it reached its conclusions about Notice  
26 2008-111. TT7 106:1–14, 109:7–19 (Greene); Ex. 22; Ex. 88.

27 114. While the Court took into account both the policies and the  
28

1 practice guide, it cannot find that either of these created a duty that meets the  
2 criteria necessary for a professional negligence tort. Furthermore, the practice  
3 guide is not authoritative literature and describes only “best practices”; it does  
4 not impose requirements on all accountants. TT8 (Vol. 1) 88:1–23 (Greene).  
5 Indeed, it would be Tricarichi’s burden to establish that a failure to follow internal  
6 policies or the terms of a practice guide creates a duty under Nevada law but he  
7 did not provide any case law to the Court to support that contention. Instead,  
8 the only case cited by either party was outside the jurisdiction and it provided  
9 that a company’s internal standards are distinct from, and can be more rigorous  
10 than, external duties imposed under the law. See, *In re Conticommodity Servs.,*  
11 *Inc. Sec. Litig.*, No. MDL 644, 1988 WL 56172, at \*1–2 (N.D. Ill. May 25, 1988).<sup>6</sup>

12 115. Based on the above reasons, the Court concludes, as a matter of  
13 law, that PwC did not owe any duty of care to Tricarichi, its former client.  
14 Accordingly, Tricarichi has failed to establish the first element of his claim.  
15 While the failure to meet all elements of a cause of action would allow Judgment  
16 in favor of PwC, the Court addresses each of the other elements as well.

17  
18 **III. Second Element: Even if PwC Owed a Duty to Tricarichi, PwC**  
19 **Did Not Breach That Duty**

20 116. Even if PwC owed a duty to update its former client, the Court  
21 concludes that based on the evidence, Tricarichi has failed to prove that PwC  
22 breached its duty.  
23  
24

---

25 <sup>6</sup> Plaintiff Tricarichi did cite a one case from a federal District Court in Nevada, *Garner v. Bank of*  
26 *Am. Corp.*, 2014 WL 1945142 at \*7–8 (D. Nev. May 13, 2014). That case, however, is inapposite  
27 as it discusses generally that a duty can arise from a special relationship but does not address  
28 the specific issues raised in this case.

1  
2  
3           **A.     Failure to Disclose Notice 2008-111 to Tricarichi Was Not**  
4           **a Breach Because Tricarichi Did Not Meet His Burden to**  
5           **Show that the Notice Rendered PwC's Prior Advice**  
6           **Erroneous**

7           117. Assuming *arguendo* that SSTS No. 6 did create a duty to  
8           Tricarichi, that duty could only be breached if Notice 2008-111 made PwC aware  
9           of an "error" in a previously filed return. Ex. 106 at 027 (¶ 3). It did not.

10          118. First, it is undisputed that PwC was not aware of any error on a  
11          previously filed tax return as a result of Notice 2008-111. Tricarichi contends,  
12          instead, that PwC should have been aware of an error because it should have  
13          interpreted the 2008 Notice as invalidating or being contrary in some respect to  
14          the advice given by PwC in 2003. The evidence presented by Tricarichi was  
15          that the IRS's position that Tricarichi owed taxes as a result of the Westside  
16          transaction was upheld by the tax court, and then the appellate court; and by  
17          implication, PwC should have known that Tricarichi would not prevail in either of  
18          those courts. The challenge with that argument is that it is flawed and not  
19          supported by the facts. First, there was no evidence that the IRS relied on  
20          Notice 2008-111, which came out in December 2008, to commence its audit of  
21          the Westside transaction, which began in 2005 about three years before the  
22          Notice came out. Further, on January 22, 2008 - roughly ten months before  
23          issuing Notice 2008-11 was sent to Tricarichi - he had already received an  
24          Information Document Request ("IDR") from the IRS seeking documents related  
25          to the Westside Transaction. The IDR advised Tricarichi that he may be liable  
26          for all or part of Westside's tax liability. Ex. 150. Thus, even if Notice 2008-111  
27          did more than narrow the circumstances in which a transaction would be  
28          reportable, as was contended by PwC and others, Tricarichi did not meet his  
burden to show that PwC breached its duty within the statute of limitations time

1 frame by failing to update him as there was no evidence that PwC knew that  
2 such a Notice would come out in until it actually came out and by that time the  
3 IRS had already begun its audit and he had already received the IDR.

4 119. To the extent that Tricarichi also claims that he would have  
5 modified his tax returns and taken other actions after December 1, 2008, if PwC  
6 had informed him that Notice 2008-111 impacted the merits of the IRS's position  
7 on the audit they had already commenced in 2005, that contention was also not  
8 established by the evidence. Instead the evidence showed that even after he  
9 had various opportunities to resolve his tax dispute and had the benefit of  
10 several legal tax professionals advising him, he chose not to settle the tax  
11 dispute.

12 120. PwC further contended that pursuant to Notice 2008–111, a  
13 transaction is treated as a Midco transaction if: (1) a person engages in that  
14 transaction pursuant to a “Plan” (as defined in the notice); and (2) the  
15 transaction contains each of four objective components described in the Notice.  
16 Ex. 44 at 003.

17 121. There was no dispute that the term “Plan” is defined in Section 2  
18 of the Notice, and it must include the disposition of Built-in Gain Assets. *Id.* at  
19 003-004. “Built-in Gain Assets” is, in turn, defined as an asset “the sale of which  
20 would result on taxable gain.” *Id.*

21 122. The undisputed evidence at trial—from fact and expert witnesses  
22 called by *both* parties (including Tricarichi himself)—was that Westside did not  
23 have any Built-in Gain Assets at the time of the transaction, and that the  
24 Westside Transaction did not involve the sale of any Built-in Gain Assets. TT2  
25 95:16–18 (Lohnes); TT4 63:5–10 (Tricarichi) (referring to Ex. 182 at 003); TT8  
26 (Vol. 1) 76:20–22 (Greene); *Id.* 191:11–16 (Harris); TT7 200:3–23 (Miller). The  
27 theory espoused in questioning by Tricarichi's counsel, that the release of the  
28

1 claims in the lawsuit constituted Built-In Gain Assets, was not supported by a  
2 single witness or any evidence in the case.

3 123. At the time of the transaction, Westside had only cash in its bank  
4 accounts from the lawsuit settlement with the cell phone carriers, which was  
5 considered ordinary income, not taxable gain from the sale of a Built-in Gain  
6 Asset, and reported that way on Westside's tax return. TT2 47:12–22 (Lohnes);  
7 TT8 (Vol. 1) 76:17–19 (Greene); *Id.* 259:11–21 (Harris); *see also Nahey v.*  
8 *Comm'r*, 111 T.C. 256, 261–65 (1998) (holding that settlement of lawsuits “does  
9 not constitute a sale or exchange” and thus would be treated as ordinary  
10 income, not capital gain).

11 124. Thus, given the language of the Notice and how was interpreted  
12 by others on behalf of Tricarichi, PwC did not fall below the standard of care by  
13 reviewing Notice 2008-111 and making the determination that it did not change  
14 the firm's prior analysis that, “more likely than not”, the transaction was not  
15 reportable. Ex. 45, Lohnes Email to Stovsky.

16 125. Tricarichi argued at trial that Lohnes or Stovsky should have  
17 consulted one of the designated “Subject Matter Experts,” or SMEs, at PwC  
18 before reaching this conclusion. This argument, however, had no evidentiary  
19 support. Tricarichi claimed at trial that it was the failure of PwC to inform him  
20 that Notice 2008-111 impacted his personal liability to the IRS as a transferee.  
21 Whether PwC had a SME involved or not is irrelevant. It was uncontested that  
22 PwC (via Stovsky) did not believe there was any information to provide Tricarichi  
23 based on Notice 2008-111. Stovsky was Tricarichi's relationship tax  
24 professional at PwC who, in the past, had communicated what he thought  
25 should be communicated to Tricarichi. Whether Stovsky communicated  
26 internally with only Lohnes, or also with others such as a SME, prior to making  
27 that determination, it was PwC's decision, via a tax partner, not to provide  
28



1 Tricarichi with any analysis of Notice 2008-111, and whether that decision does  
2 or does not meet the standard of professional negligence, is the issue before  
3 the Court. The issue is not a speculation of whether if Stovsky or Lohnes  
4 reached out to a SME would that SME give the same or a different opinion and  
5 if so what would have happened. Tricarichi's claim and PwC's defenses are  
6 based on what actually occurred - not speculation of what could have occurred  
7 with a different set of facts.

8 126. In addition, in the present case, Tricarichi did not establish that the  
9 individuals at PwC who provided the advice in 2003 were not qualified to  
10 provide the advice. PwC did provide evidence that Lohnes had prior expertise  
11 in Midco transactions, even though he could not recall names of specific matters  
12 he worked on. TT3 4:21–5:20 (Lohnes). Second, the directory of SMEs was not  
13 an exhaustive list of people at PwC with knowledge about particular  
14 transactions, but rather that it served merely as a contact list for people outside  
15 of Lohnes' group (Washington National Tax Service). TT2 115:2–116:10  
16 (Lohnes). Finally, a designated SME on Midco transactions, Mark Boyer,  
17 testified that Lohnes had a level of expertise in Midco transactions similar to his  
18 own. TT6 140:15–141:12.

19 127. Another reason that PwC's advice in 2003 was not in "error" was  
20 because it rendered its advice with a "more likely than not" confidence level.  
21 That allows for up to a 49.9 percent (49.9%) likelihood of the result going the  
22 other way. Thus, even if IRS 2008-111 did expand, rather than narrow, the  
23 reportability standard (and it did not), that would not render earlier advice given  
24 with a "more likely than not" standard erroneous.

25 128. As noted above, an "error" under SSTS No. 6 means that the  
26 member advised the taxpayer to take a position with less than a 1-in-3 chance  
27 of success. No one testified that as a result of Notice 2008-111, PwC's original  
28

1 advice on reportability had such a low confidence level.

2 129. In evaluating the breach element, the Court also has to look at  
3 what the other professionals Tricarichi hired advised him with in relation to  
4 Notice 2008-111 and its applicability to his risk of liability to the IRS. Both the  
5 internal communications, provided as exhibits, as well as the arguments  
6 presented to the various courts by Tricarichi's legal tax attorneys as noted  
7 herein, were consistent with the advice provided by PwC. See, also Ex. 165. In  
8 addition, there was testimony that practitioners before the IRS and the Tax Court  
9 must have a "good faith basis" in their positions—the same type of "good faith  
10 basis" that is required under SSTs No. 1 when determining whether a position is  
11 erroneous. TT8 (Vol. 1) 235:3–25, 237:21–238:16 (Harris); TT6 184:9–12  
12 (Desmond).

13 130. Therefore, even if PwC had a duty to update Tricarichi about an  
14 "error" in its prior advice on whether the transaction was now "reportable"  
15 pursuant to Notice 2008-111, based on evidence presented as to the language  
16 of the provision as well as the other advice Tricarichi received consistent with  
17 PwC's own internal analysis, Tricarichi has failed to show that there was a  
18 breach of any asserted duty.

19  
20 **B. PwC Did Not Breach Any Duty to Provide Advice in**  
21 **Writing or to Maintain Written Documentation**

22 131. As discussed above, PwC did not have any affirmative duty to put  
23 its advice in writing, either in 2003 or at any point after. But, even if such a duty  
24 existed, it would not have been breached in 2008 when Lohnes and Stovsky  
25 reviewed Notice 2008-111 for its applicability to the Westside Transaction.

26 132. Any duty to provide advice in writing presupposes, as a matter of  
27 logic, that some sort of advice is being provided to a client. That was not the  
28 case in 2008. Tricarichi neither sought a tax engagement from PwC to receive

1 any advice from PwC in 2008, nor was he provided any tax advice from PwC in  
2 2008. TT3 162:21–163:5; TT8 (Vol. 1) 113:5–7 (Greene). Thus, it would have  
3 been impossible for PwC to breach any hypothetical duty to provide advice in  
4 writing to Tricarichi at that time. TT8 (Vol. 1) 114:18–25 (Greene).

5  
6 **C. Failure to Disclose PwC’s Prior Involvement in the**  
7 **Enbridge and Marshall Transactions Was Not a Breach**  
8 **of Any Duty**

9 133. Tricarichi also contends that Notice 2008-111 should have  
10 prompted PwC to disclose its prior advice and the outcomes in the Enbridge and  
11 Marshall transactions, and that its failure to do so was a negligent omission.

12 134. The Court disagrees. PwC’s involvement with Marshall and  
13 Enbridge occurred long before the December 2008 issuance of Notice  
14 2008-111, and the “independent duty” that Tricarichi claims came about at that  
15 time as a result of the issuance of that Notice. PwC rendered its advice in the  
16 Marshall case in 2003, and its involvement with Enbridge was in 1999.<sup>7</sup>

17 135. Moreover, as the Court has found above, both the Enbridge and  
18 Marshall transactions were substantially distinct from the Westside Transaction,  
19 and there is no reason to believe that PwC’s work in those two matters rendered  
20 their advice to Tricarichi any more or less correct.

21 136. Furthermore, the evidence at trial showed that PwC would not  
22 have been able to disclose the specific details of these engagements with  
23 Tricarichi because of its confidentiality obligations. TT3 35:23–36:7 (Lohnes);  
24 TT8 (Vol. 1) 199:17–23 (Harris); *id.* 102:14–103:4 (Greene).

25 137. Thus, the Court concludes as a matter of law that the failure to  
26 disclose details of the Enbridge or Marshall transactions does not constitute a

27 <sup>7</sup> As noted above, the Court’s 2018 Summary Judgment ruling on statute of limitations bars  
28 Tricarichi’s allegations regarding Marshall and Enbridge.

1 breach of any duty of care that PwC owed to Tricarichi.  
2

3 **IV. Third Element: Tricarichi Has Not Proven Causation**

4 138. To prevail on his claim, Tricarichi must prove a “proximate causal  
5 connection between the negligent conduct and resulting injury.” *Boesiger v.*  
6 *Desert Appraisals, LLC*, 135 Nev. 192, 194–95, 444 P.3d 436, 439 (Nev. 2019).

7 139. Tricarichi asserts that PwC’s alleged negligence (*i.e.*, failing to  
8 advise him about Notice 2008-111) caused his alleged injury (the \$14,937,400 in  
9 interest that accrued after Notice 2008-111 was issued and the \$3,180,143 in  
10 attorney’s fees he spent litigating against the IRS).

11 140. The Court disagrees and concludes that Tricarichi has failed to  
12 establish causation for four independent reasons.

13 141. First, the record is clear that Tricarichi and his team of tax lawyers  
14 were aware of Notice 2008-111 and its implications shortly after the Notice  
15 issued as set forth above. The Court has already found that Tricarichi was  
16 aware of Notice 2008-111 and its applicability to the Westside Transaction no  
17 later than 2009; and further, that Tricarichi’s attorneys repeatedly advised him  
18 thereafter throughout the course of his litigation with the IRS regarding whether  
19 the requirements of Notice 2008-111 were met or not.

20 142. Thus, Tricarichi’s causation arguments rest on the supposition that  
21 he would have abandoned his IRS litigation and immediately settled with the  
22 government if only PwC had added a contrary voice to the chorus of  
23 distinguished tax advisors—which included both former and future IRS Chief  
24 Counsels—who were advising Tricarichi that the requirements of Notice  
25 2008-111 were not satisfied. While Tricarichi argued that it would have made a  
26 difference in his decisions, he failed to meet his evidentiary burden.

27 143. To the contrary, Tricarichi’s lawyers at Sullivan & Cromwell advised  
28

1 him that the IRS did not need to rely on Notice 2008-111 to win, and that their  
2 argument was “a bit of a red herring.” Ex. 165 at 003. And when asked at trial if  
3 he knew in 2009 that Notice 2008-111 was a red herring, Tricarichi replied: “The  
4 arguments that they’re using in 2008-111 -- again, I’m not a tax expert and I  
5 keep saying that over and over again. But I can read. Okay? This is not why we  
6 lost the [Tax Court] case. It has nothing to do with why we lost the case.” TT3  
7 224:19–23 (Tricarichi) (emphasis added). The Court has to take Tricarichi’s own  
8 testimony into account in evaluating every element of his claim. Giving  
9 Tricarichi the benefit of the doubt that his words could be viewed out of context,  
10 the weight of the rest of the evidence shows that there were too many  
11 intervening causes which prevent holding PwC liable for Tricarichi’s asserted  
12 damages.

13 144. Second, the chronology of the case demonstrates that Notice  
14 2008-11 could not have prevented the audit which later resulted in the liability  
15 determination. Specifically, Tricarichi did not show that disclosure of Notice  
16 2008-111 would have made any difference to the rulings of the Courts as to his  
17 liability because the Notice, on its face, relates only to reportability of  
18 transactions and not a taxpayer’s underlying liability: The language of the  
19 Notice sets forth it: “does not affect the legal determination of whether a  
20 person’s treatment of the transaction is proper or whether such person is liable,  
21 at law or in equity, as a transferee of property in respect of the unpaid tax  
22 obligation . . . .” Ex. 44 at 003.

23 145. Importantly, in the present case, the chronology of facts shows  
24 that the IRS had been examining/auditing the Westside Transaction for about  
25 three years before Notice 2008-111 issued. The IRS began its audit of the 2003  
26 Westside tax return in 2005, interviewed Tricarichi regarding that audit in 2007,  
27 and issued an Information Document Request to Tricarichi in 2008, all before  
28

1 the issuance of Notice 2008-111. Thus, even if PwC had informed Tricarichi that  
2 2008-111 would require Tricarichi to report the Westside transaction, there was  
3 no evidence presented how that would have changed the IRS determination  
4 based on the audit that he was liable as a transferee in the instant case since  
5 the audit had already progressed for three years prior to the Notice being  
6 promulgated and the IRS had already informed him that it was seeking the  
7 underpayment from his as a transferee.

8 146. The third reason, Tricarichi cannot meet the causation prong of his  
9 professional negligence claim is that there is no credible evidence to support his  
10 contention that if PwC had notified him regarding Notice 2008-111, he would  
11 have amended his taxes and settled the case with the IRS in December 2008;  
12 and thus, he would not have incurred any of the attorney fees or interest  
13 damages he is seeking in the present case. Specifically, his transferee liability  
14 stems from the taxes filed by various entities as a result of the Westside  
15 transaction, and he did not present any evidence how he could amend the  
16 relevant filings in 2008 or 2009 at no cost, and that as a result, the IRS would  
17 not pursue him for transferee liability. There was no evidence from any IRS  
18 witness or anyone else that the outcome described was possible.

19 147. Additionally, the evidence presented demonstrated that he had  
20 several opportunities to settle the case with the IRS and minimize fees and  
21 interest but he chose not to do so. As set forth in the Findings above, these  
22 opportunities to settle the case came about after he was advised by  
23 experienced tax counsel as to liability and the impact of 2008-111. While the  
24 reason Tricarichi chose not to resolve the matter with the IRS was disputed,  
25 PwC asserted that the communications between Tricarichi and his tax counsel  
26 show he did not have the funds or felt the offers to settle were too high, and the  
27 Record was devoid of any exhibit where Tricarichi contended that he did not  
28

1 settle due to the advice provided by PwC in 2003. Instead, the only testimony in  
2 support of that contention is Tricarichi's own testimony which the Court has to  
3 weigh in contrast with the other testimony by his tax lawyers and the various  
4 exhibits that were introduced which are not in accord with his testimony. In so  
5 doing, the Court finds that Tricarichi did not meet his burden to show that PwC's  
6 action or inaction relating to Notice 2008-111 meets the causation element of is  
7 claim.

8 148. Thus, Tricarichi has failed to provide the level of evidence  
9 necessary to support the notion that even had PwC advised Tricarichi about  
10 Notice 2008-111 when it issued, Tricarichi could have or would have settled with  
11 the IRS thereby avoiding the interest and legal fees he now seeks as damages.

12 149. Fourth, to the extent that Tricarichi's claim is that PwC was  
13 negligent in 2008 because it did not advise him at that time of the contents of  
14 the Stovsky Memo (as opposed to Notice 2008-111 itself), causation is still  
15 defeated because the record is clear that Tricarichi was made aware of either  
16 the existence or contents (or both) of the Stovsky memo on at least five  
17 separate occasions in 2008 and 2009, either by PwC itself, the IRS, or his  
18 attorneys. TT4 at 7:21-25; Ex. 161 at 009; Ex. 163 at 010; Ex. 164 at 001; Ex.  
19 168 at 002.

## 20 21 **V. Fourth Element: Damages**

22 150. As the Court has found that Tricarichi, independently, has not met  
23 his burden on any of the first three elements of a cause of action for  
24 Professional Negligence, the Court need not, and determines it would not be  
25 appropriate, to address the damages element.

## 26 **VI. Basis of PwC's Affirmative Defenses**

27 151. PwC tried four of its affirmative defenses to the Court: statute of  
28

1 limitations (second affirmative defense), failure to mitigate damages (fourteenth  
2 affirmative defense), offset/contribution (fifteenth affirmative defense), and  
3 limitation of liability (sixteenth affirmative defense).

4 152. Consistent with the Court's determination that Tricarichi failed to  
5 meet his burden on the elements of his cause of action for Professional  
6 Negligence, the Court will only address the Second Affirmative Defense relating  
7 to statute of limitations.<sup>8</sup>

8 153. Under Nevada law, an action for professional malpractice must be  
9 brought two years from discovery or four years from the alleged malpractice,  
10 whichever occurs earlier. NRS § 11.2075(1).

11 154. Under New York law—the governing law identified in the  
12 Engagement Agreement—the statute of limitations is three years from the  
13 alleged malpractice. See *Ackerman v. Price Waterhouse*, 644 N.E.2d 1009,  
14 1011 (N.Y. 1994) (citing New York CPLR § 214).

15 155. Under either, the limitation period of Tricarichi's claim is untimely.

16 156. PwC's alleged acts of negligence related to Notice 2008-111  
17 occurred in December 2008 or January 2009, shortly after it issued. Thus,  
18 under New York law, the statute of limitations would have expired at the latest in  
19 January 2013. Tricarichi did not file suit in this case until April 29, 2016, making  
20 his claim untimely.

21 157. The outcome is no different if the Court applies Nevada law. The  
22 Court found above that Tricarichi was subjectively aware of Notice 2008-111 at  
23 least as of April 29, 2009. Thus, the Court concludes, for limitations purposes,  
24

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25 <sup>8</sup> As set forth above, the Court found that the first three elements of his cause of action were not  
26 met for independent reasons. Thus, the Court found that there was not a basis to address the  
27 damages element of his cause of action. Consistent therewith, the Court finds no basis to  
28 address the other three affirmative defenses which are based on if there was a finding that  
damages were appropriate - there was not.



1 that the latest date that Tricarichi knew or should have known about his claim  
2 was April 29, 2009.

3 158. Under N.R.S. 11.2075(1)(a), Tricarichi's action would have needed  
4 to be commenced no later than April 29, 2011 (two years from discovery). And  
5 under N.R.S. 11.2075(1)(b), the action needed to be commenced by January,  
6 2013 (four years from the alleged malpractice). However, the statute specifies  
7 that the earlier of the two dates controls; thus, for limitations purposes, the latest  
8 date that Tricarichi could have filed his claim is April 29, 2011. He filed his claim  
9 five years too late, on April 29, 2016.<sup>9</sup>

10 159. At trial, Tricarichi failed to introduce any evidence of a tolling  
11 agreement, and expressly declined to do so when the Court inquired about such  
12 an agreement immediately prior to closings. TT9 100:7–20 (“MR. HESSELL:  
13 Yeah. No, we don’t need to -- We don’t need that”) (referring to proposed Exhibit  
14 83). Furthermore, Tricarichi failed to include any proposed pre-trial findings or  
15 conclusions of law on statute of limitations. As such, Tricarichi has waived any  
16 argument that the limitations period was tolled by agreement or otherwise.<sup>10</sup>  
17 *Nev. Yellow Cab Corp. v. Eighth Jud. Dist. Ct. ex rel. Cnty. of Clark*, 123 Nev. 44,  
18 49, 152 P.3d 737, 740 (Nev. 2007).

19 160. Instead, Tricarichi's counsel claimed in his closing argument  
20 rebuttal, that the inclusion of a tolling agreement - as an exhibit to a brief in  
21 opposition to an earlier Summary Judgment Motion - relieved him of any  
22 obligation to introduce it as evidence at trial. The Court disagrees. See *Garcia*  
23 *v. Shapiro*, 515 P.3d 345, (Nev. App. 2022) (“Regardless, motions, statements  
24

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25 <sup>9</sup> In utilizing the January date, the this Court is providing Tricarichi the longer time frame as it is  
26 taking into account the Levin letter (Ex. 205).

27 <sup>10</sup> Tricarichi's failure to disclose any proposed findings of fact or conclusions of law regarding  
28 statute of limitations, likewise waives any argument that he is entitled to statutory tolling under  
N.R.S. 11.2075(2).

1 and allegations within them, and exhibits attached to them do not necessarily  
2 constitute evidence.”) (citing EDCR 5.205(g) (“Exhibits [to motions] may be  
3 deemed offers of proof but shall not be considered substantive evidence until  
4 admitted.”)); cf. NRAP 28(e) (party raising evidentiary issue on appeal must  
5 identify where in the record “evidence was identified, offered, and received or  
6 rejected”); see also *Town of Gorham v. Duchaine*, 224 A.3d 241, 244 (Me. 2020)  
7 (“[S]imply attaching documents to a motion is not the equivalent of properly  
8 introducing or admitting them as evidence. Documents attached to motions are  
9 not part of the record and therefore cannot be considered evidence in the record  
10 on appeal.”) (Collecting state cases).

11 161. Thus, under either the three-year statute of limitations in New  
12 York, or the two-year statute of limitations in Nevada, Tricarichi’s claim is time-  
13 barred<sup>11</sup>.

14 ///

15 ///

16 ///

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26 <sup>11</sup> As set forth herein, the Court finds that PwC’s Statute of Limitations defense was met. The fact  
27 that Tricarichi’s claim is barred by the Statute of Limitations is an independent basis upon which  
28 Judgment for PwC is to be entered in addition to basis that Tricarichi did not meet his burden to  
establish all four elements of his professional negligence claim.

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IT IS HEREBY FURTHER ORDERED, ADJUDGED, and DECREED that any request for fees and costs shall be handled via separate timely-filed Motion.

Counsel for Defendant PwC is directed pursuant to NRCP 58 (b) and (e) to file and serve Notice of Entry of this Findings of Fact, Conclusions of Law, and Judgment within fourteen (14) days hereof.

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**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Business Court Matters**

**COURT MINUTES**

**July 18, 2016**

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A-16-735910-B	Michael Tricarichi, Plaintiff(s) vs. PricewaterhouseCoopers LLP, Defendant(s)
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<b>July 18, 2016</b>	<b>3:00 AM</b>	<b>Motion to Associate Counsel</b>
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**HEARD BY:** Hardy, Joe

**COURTROOM:** Phoenix Building Courtroom -  
11th Floor

**COURT CLERK:** Kristin Duncan

**RECORDER:**

**REPORTER:**

**PARTIES**

**PRESENT:**

**JOURNAL ENTRIES**

- COURT ORDERED, Plaintiff s Motion to Associate Counsel for Scott F. Hessell, Esq. is hereby GRANTED as unopposed, pursuant to EDCR 2.20(e), and is GRANTED on the merits, pursuant to Rule 42 of the Supreme Court Rules.

CLERK'S NOTE: A copy of this minute order was e-mailed to: Mark A. Hutchison, Esq. [mhutchison@hutchlegal.com], Todd L. Moody, Esq. [tmoody@hutchlegal.com], Todd Prall, Esq. [tprall@hutchlegal.com], Scott Hessell, Esq. [shessell@sperling-law.com], Thomas D. Brooks, Esq. [tbrooks@sperling-law.com], and Steve L. Morris, Esq. [sm@morrislawgroup.com]. (KD 7/18/16)

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Business Court Matters**

**COURT MINUTES**

**August 22, 2016**

---

A-16-735910-B      Michael Tricarichi, Plaintiff(s)  
vs.  
PricewaterhouseCoopers LLP, Defendant(s)

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**August 22, 2016      3:00 AM      Motion to Associate  
Counsel**

**HEARD BY:** Hardy, Joe

**COURTROOM:** Phoenix Building Courtroom -  
11th Floor

**COURT CLERK:** Kristin Duncan

**RECORDER:**

**REPORTER:**

**PARTIES**

**PRESENT:**

**JOURNAL ENTRIES**

- COURT ORDERED, Defendant Pricewaterhousecoopers, LLP s Motion to Associate Counsel Winston P. Hsiao is hereby GRANTED as unopposed, pursuant to EDCR 2.20(e), and is GRANTED on the merits, pursuant to Rule 42 of the Supreme Court Rules.

CLERK'S NOTE: A copy of this minute order was e-mailed to: Patrick Byrne, Esq. [pbyrne@swlaw.com], Sherry Ly, Esq. [sly@swlaw.com], Peter B. Morrison, Esq. [peter.morrison@skadden.com], Winston P. Hsiao, Esq. [winston.hsiao@skadden.com], Mark A. Hutchison, Esq. [mhutchison@hutchlegal.com], Todd L. Moody, Esq. [tmoody@hutchlegal.com], Todd W. Prall, Esq. [tprall@hutchlegel.com], Scott F. Hessell, Esq. [shessell@sperling-law.com], Thomas D. Brooks, Esq. [tbrooks@sperling-law.com], Steve Morris, Esq. [sm@morrislawgroup.com], and Tyan M. Lower, Esq. [rml@morrislawgroup.com]. (KD 8/22/16)

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Business Court Matters**

**COURT MINUTES**

**August 22, 2016**

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A-16-735910-B      Michael Tricarichi, Plaintiff(s)  
vs.  
PricewaterhouseCoopers LLP, Defendant(s)

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**August 22, 2016      3:00 AM      Motion to Associate  
Counsel**

**HEARD BY:** Hardy, Joe

**COURTROOM:** Phoenix Building Courtroom -  
11th Floor

**COURT CLERK:** Kristin Duncan

**RECORDER:**

**REPORTER:**

**PARTIES**

**PRESENT:**

**JOURNAL ENTRIES**

- COURT ORDERED, Defendant Pricewaterhousecoopers, LLP s Motion to Associate Counsel Peter B. Morrison is hereby GRANTED as unopposed, pursuant to EDCR 2.20(e), and is GRANTED on the merits, pursuant to Rule 42 of the Supreme Court Rules.

CLERK'S NOTE: A copy of this minute order was e-mailed to: Patrick Byrne, Esq. [pbyrne@swlaw.com], Sherry Ly, Esq. [sly@swlaw.com], Peter B. Morrison, Esq. [peter.morrison@skadden.com], Winston P. Hsiao, Esq. [winston.hsiao@skadden.com], Mark A. Hutchison, Esq. [mhutchison@hutchlegal.com], Todd L. Moody, Esq. [tmoody@hutchlegal.com], Todd W. Prall, Esq. [tprall@hutchlegel.com], Scott F. Hessell, Esq. [shessell@sperling-law.com], Thomas D. Brooks, Esq. [tbrooks@sperling-law.com], Steve Morris, Esq. [sm@morrislawgroup.com], and Ryan M. Lower, Esq. [rml@morrislawgroup.com]. (KD 8/22/16)

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Business Court Matters**

**COURT MINUTES**

**November 16, 2016**

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A-16-735910-B      Michael Tricarichi, Plaintiff(s)  
vs.  
PricewaterhouseCoopers LLP, Defendant(s)

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**November 16, 2016      9:00 AM      All Pending Motions**

**HEARD BY:** Hardy, Joe      **COURTROOM:** Phoenix Building Courtroom -  
11th Floor

**COURT CLERK:** Kristin Duncan

**RECORDER:** Matt Yarbrough

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Brooks, Thomas D.	Attorney
	Gordon, Richard C.	Attorney
	Hessell, Scott F.	Attorney
	Hsiao, Winston P.	Attorney
	Hutchison, Mark A	Attorney
	Morris, Steve L.	Attorney
	Morrison, Peter B.	Attorney
	Tricarichi, Michael A.	Plaintiff
	Waite, Dan R	Attorney

**JOURNAL ENTRIES**

- MOTION TO DISMISS FOR LACK OF JURISDICTION ON BEHALF OF DEFENDANT SEYFARTH SHAW LLP

Mr. Morris argued in support of the Motion, stating that Defendant Seyfarth was not a resident of Nevada, and did not conduct systematic or continuous business in Nevada; therefore, this Court could not have general jurisdiction over Defendant Seyfarth. As to specific jurisdiction, Mr. Morris argued that Defendant Seyfarth had not purposefully availed itself of Nevada law, nor had its director acted or undertaken acts in this jurisdiction; therefore, specific jurisdiction could not be conferred on Defendant Seyfarth. Mr. Hutchison argued in opposition, stating that conspirators

outside of Nevada that caused injury in Nevada, must answer for those injuries within the state. Additionally, Mr. Hutchison argued that Seyfarth had appeared in Nevada, and the totality of those contacts demonstrated general jurisdiction. COURT ORDERED Motion GRANTED, FINDING the following: (1) Plaintiff had not made a prima facie showing of personal jurisdiction as it related to Defendant Seyfarth Shaw; (2) the alleged contacts contained within Plaintiff's Affidavits and Declarations were insufficient, and did not confer specific jurisdiction, nor did they confer general jurisdiction on Defendant Seyfarth; (3) to the extent that the Davis case remained good law (which was questionable), the facts in the instant case were distinguishable from the limited facts in said case, and the facts in the Davis case would not apply to the circumstances alleged in the instant case, even under the prima facie standard; (4) the Walden v. Fiore case, the Daimler AG v. Bauman, and the Viega GmbH v. Eighth Judicial District Court case were controlling and instructive, as set forth in Defendant Seyfarth's briefs; (5) the Court agreed with Defendant Seyfarth's arguments on page 6 of the Motion, that Plaintiff had not set forth enough facts to establish personal jurisdiction over Seyfarth; (6) the Court agreed with Defendant Seyfarth's arguments contained in section B of the Motion, that Defendant Seyfarth was a non-resident of Nevada; therefore, Defendant Seyfarth was not subject to general jurisdiction, even under the prima facie standard; (7) the Court agreed with the arguments contained in subsection B of the Reply to the instant Motion; (8) the Court agreed with the arguments contained on page 9 of the Reply, wherein it was argued that Defendant Seyfarth's only connection to this litigation was an opinion letter he sent to Millennium Recovery Fund, which did not confer specific or general jurisdiction on Defendant Seyfarth; and (9) given the lack of satisfaction of the prima facie requirement, any alternative requests for relief were hereby DENIED for the reasons set forth in the Viega case.

Mr. Morris to prepare the Order and forward it to opposing counsel for approval as to form and content.

#### PRICEWATERHOUSECOOPERS LLP'S MOTION TO DISMISS

Mr. Morrison argued in support of the Motion, stating that the claims against PricewaterhouseCoopers had fatal flaws and were time barred. Additionally, Mr. Morrison argued that there was no question New York law applied, and that the contract had been entered into in bad faith. Mr. Hessell argued in opposition, stating that Plaintiff's allegations had been pled sufficiently in order to put Defendant on notice of the misrepresentations that occurred in 2003, and between 2005 and 2011. Alternatively, if the Court did not find Plaintiff's claims had been sufficiently pled, Mr. Hessell requested leave to file amended pleadings. COURT ORDERED Motion DENIED WITHOUT PREJUDICE, FINDING the following: (1) under the Motion to Dismiss standard, it was not appropriate to dismiss the claims at this time; and (2) the claims had been sufficiently stated under Nevada law. Mr. Hessell to prepare the Order and forward it to opposing counsel for approval as to form and content.

#### SEYFARTH SHAW'S JOINDER IN DEFENDANTS COOPERATIVE RABOBANK U.A. AND



UTRECHT AMERICAN FINANCE COMPANY'S MOTION TO DISMISS

COURT ORDERED Joinder VACATED, as it was already set for hearing on January 18, 2017, at 9:00 AM.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Business Court Matters**

**COURT MINUTES**

**November 21, 2016**

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A-16-735910-B	Michael Tricarichi, Plaintiff(s)
	vs.
	PricewaterhouseCoopers LLP, Defendant(s)

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<b>November 21, 2016</b>	<b>3:00 AM</b>	<b>Motion to Associate Counsel</b>
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**HEARD BY:** Hardy, Joe

**COURTROOM:** Phoenix Building Courtroom -  
11th Floor

**COURT CLERK:** Kristin Duncan

**RECORDER:**

**REPORTER:**

**PARTIES**

**PRESENT:**

**JOURNAL ENTRIES**

- COURT ORDERED, Defendants, Utrecht-America Finance Co. and Cooperative Rabobank, UA s Motion to Associate Counsel (Christopher Paparella, Esq.) is hereby GRANTED as unopposed, pursuant to EDCR 2.20(e), and is GRANTED on the merits, pursuant to Rule 42 of the Supreme Court Rules.

CLERK'S NOTE: A copy of this minute order was e-mailed to: Dan R. Waite, Esq. [dwaite@lrrc.com], Chris Paparella, Esq. [chris.paparella@hugheshubbard.com], Mark A. Hutchison, Esq. [mhuthcison@hutchlegal.com], Todd L. Moody, Esq. [tmoody@hutchlegal.com], Todd W. Prall, Esq. [tprall@hutchlegal.com], Scott F. Hessell, Esq. [shessell@sperling-law.com], Thomas D. Brooks, Esq. [tbrooks@sperling-law.com], Patrick Byrne, Esq. [pbyrne@swlaw.com], Sherry Ly, Esq. [sly@swlaw.com], Peter B. Morrison, Esq. [peter.morrison@skadden.com], Winston P. Hsiao, Esq. [winston.hsiao@skadden.com], Steve Morris, Esq. [sm@morrislawgroup.com], and Ryan M. Lower, Esq. [rml@morrislawgroup.com]. (KD 11/22/16)

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Business Court Matters**

**COURT MINUTES**

**January 18, 2017**

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A-16-735910-B      Michael Tricarichi, Plaintiff(s)  
vs.  
PricewaterhouseCoopers LLP, Defendant(s)

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**January 18, 2017      9:00 AM      All Pending Motions**

**HEARD BY:** Hardy, Joe      **COURTROOM:** RJC Courtroom 03H

**COURT CLERK:** Kristin Duncan

**RECORDER:** Matt Yarbrough

**REPORTER:**

**PARTIES**

**PRESENT:**      Brooks, Thomas D.      Attorney  
Paparella, Christopher M.      Attorney  
Prall, Todd      Attorney  
Waite, Dan R      Attorney

**JOURNAL ENTRIES**

- DEFENDANTS' MOTION TO DISMISS...SEYFARTH SHAW'S JOINDER IN DEFENDANTS COOPERATIVE RABOBANK U.A. AND UTRECHT AMERICAN FINANCE COMPANY'S MOTION TO DISMISS

Mr. Paparella argued in support of the Motions, stating that none of the contacts between Mr. Tricarichi, Rabobank, and Utrecht took place in Nevada; therefore, personal jurisdiction could not be established over those Defendants. Additionally, Mr. Paparella argued that Plaintiff should not be permitted to conduct jurisdictional discovery, as they had not made a prima facie case of jurisdiction over Utrecht and Rabobank. Mr. Brooks argued in opposition, stating that Defendants Utrecht and Rabobank purposefully availed themselves of Nevada law, and citing the three elements for determining specific personal jurisdiction, as set forth in the Fulbright Jaworski v. Eighth Judicial District Court case. COURT ORDERED Defendant's Motion to Dismiss and Seyfarth Shaw's Joinder were hereby GRANTED IN PART as to the lack of personal jurisdiction over the movants, for all of the reasons set forth in the Motion and Reply; Motion and Joinder DENIED IN PART WITHOUT PREJUDICE AS MOOT as to the remainder of the requested relief, given the lack of personal

jurisdiction. The Court noted that it had considered all of the exhibits in making its determination, including granting a request for judicial notice, the COURT FOUND the following: (1) under the Fulbright & Jaworski v. Eighth Jud. Dist. Ct. case, as well as the Affinity Network case, Plaintiff had not made a prima facie showing of personal jurisdiction over the moving defendants in Nevada; (2) due to the lack of a prima facie showing of personal jurisdiction, Plaintiff's request for jurisdictional discovery, there was no basis to grant Plaintiff's request for jurisdictional discovery; (3) the mere fact that Plaintiff was a Nevada resident, and that the moving Defendants were aware that Plaintiff was a Nevada resident, was not enough to establish personal jurisdiction over the moving Defendants; (4) the moving Defendants had not purposefully availed themselves of Nevada law, and the causes of action did not arise out of the movants Nevada related activities; and (5) exercise of personal jurisdiction over the moving Defendants would not be reasonable in the instant case. Mr. Prall to prepare the Order and forward it to opposing counsel for approval as to form and content.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Business Court Matters****COURT MINUTES****March 06, 2017**

A-16-735910-B      Michael Tricarichi, Plaintiff(s)  
                                  vs.  
                                  PricewaterhouseCoopers LLP, Defendant(s)

**March 06, 2017      10:30 AM      Mandatory Rule 16  
                                                                                  Conference**

**HEARD BY:** Hardy, Joe**COURTROOM:** RJC Courtroom 03H**COURT CLERK:** Kristin Duncan**RECORDER:** Matt Yarbrough**REPORTER:****PARTIES**

<b>PRESENT:</b>	Brooks, Thomas D.	Attorney
	Byrne, Patrick G.	Attorney
	Hsiao, Winston P.	Attorney
	Morrison, Peter B.	Attorney
	Prall, Todd	Attorney

**JOURNAL ENTRIES**

- Upon Court's inquiry, Mr. Brooks advised that the parties had done their initial disclosures, including identifying witnesses, and describing the documents to be produced. Regarding discovery deadlines, Mr. Brooks represented that the parties had discussed allowing twelve (12) months for factual discovery, and an additional four (4) months for experts. Mr. Morrison affirmed Mr. Brooks' representations, noting that the parties disagreed on when the initial twelve (12) months should begin to run; it was Defendant's position that the twelve months should not begin to run until such time as a decision was made on PricewaterhouseCoopers' Motion for Summary Judgment. Mr. Brooks represented that it was Plaintiff's position that discovery should begin immediately. COURT ORDERED that the time period for discovery would begin immediately, despite the pending Motion for Summary Judgment, and SET the following DISCOVERY DEADLINES: (1) the close of factual discovery would be March 6, 2018; (2) the close of expert discovery would be July 6, 2018; and (3) the Joint Case Conference Report (JCCR) would be DUE by March 20, 2018, including details on the four months of expert discovery. Mr. Brooks to prepare the first draft of the JCCR, and forward it to all

counsel for review. The Court noted that it would resolve any disputes regarding the JCCR. COURT FURTHER ORDERED a trial date was hereby SET. A Trial Order would issue. Upon Court's inquiry, Mr. Brooks stated that Plaintiff had filed a Jury Demand. In the event that a Jury Demand had not been properly filed, and if any party wished to do so, COURT ORDERED that the deadline for filing said demand would be March 13, 2017. Regarding a settlement conference, both parties felt it was too early in the case to participate in settlement discussions. Counsel indicated that they did not require ESI protocols, nor did they require the appointment of a Special Master.

Mr. Morrison stated that there were issues with jurisdiction that needed to be resolved, and Defendant was unaware of Plaintiff's intentions. Mr. Brooks advised that Plaintiff would likely be seeking 54(b) Certification as to the two dismissals, which should not affect the remainder of the case. The COURT DIRECTED the parties to move forward with the case, noting that it would deal with the 54(b) Certification issue when it arose.

Mr. Morrison stated that the instant case arose from a decision made by the Tax Court, which found that Plaintiff was liable; that decision was now on appeal with the 9th Circuit, and if the decision was overturned, the instant case would be moot. Based upon the decisions made in similar cases, Mr. Brooks argued that the instant case should not be stayed pending a decision by the 9th Circuit. Upon Court's inquiry, Mr. Brooks stated that he did not believe the instant case would be entirely moot, in the event that the Tax Court's decision was reversed. The COURT ADVISED counsel to submit the appropriate written briefing, if it wished for the Court to consider a stay.

9/17/18 8:30 AM PRE TRIAL CONFERENCE

10/3/18 8:30 AM CALENDAR CALL

10/8/18 10:30 AM JURY TRIAL

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

Other Business Court Matters

COURT MINUTES

April 18, 2017

A-16-735910-B      Michael Tricarichi, Plaintiff(s)  
vs.  
PricewaterhouseCoopers LLP, Defendant(s)

**April 18, 2017      9:00 AM      Motion**

**HEARD BY:** Hardy, Joe      **COURTROOM:** RJC Courtroom 03H

**COURT CLERK:** Kristin Duncan

**RECORDER:** Matt Yarbrough

**REPORTER:**

**PARTIES**

**PRESENT:**      Austin, Bradley      Attorney  
Wall, Michael K.      Attorney

**JOURNAL ENTRIES**

- Also present: J.P. Hendricks, Esq. on behalf of dismissed Defendant Seyfarth Shaw; Daniel Waite, Esq. on behalf of dismissed Defendants Cooperatieve Rabobank and Utrecht-America Finance Co.

Mr. Wall argued in support of the Motion, stating that the Opposition was frivolous, and there was no time limit on bringing a Motion for 54(b) Certification. Additionally, Mr. Wall argued that the matter was certifiable, and the Court had discretion as to whether or not certification was appropriate. Mr. Hendricks argued in opposition, stating that a Motion to certify an appeal must be filed within thirty days, and Plaintiff failed to meet that deadline. Upon Court's inquiry, Mr. Hendricks stated that his client was dismissed, and he wished for the dismissal to be final. COURT ORDERED the instant Motion was hereby GRANTED in its entirety for all of the reasons set forth in the Motion and Reply, FINDING the following: (1) Defendant Seyfarth Shaw had been dismissed, and they wished for the dismissal to be final; (2) the only way to ensure final dismissal was through Rule 54(b) Certification; (3) the untimeliness issue raised by Seyfarth Shaw was not accurate under Nevada law; (4) alternatively, even if Seyfarth Shaw's timeliness argument were accurate, the instant Motion was timely given the circumstances. Mr. Wall to prepare the Order and forward it to opposing counsel for approval as to form and content.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Business Court Matters****COURT MINUTES****May 10, 2017**

A-16-735910-B      Michael Tricarichi, Plaintiff(s)  
                                  vs.  
                                  PricewaterhouseCoopers LLP, Defendant(s)

**May 10, 2017      9:00 AM      Motion for Summary  
                                                                                  Judgment**

**HEARD BY:** Hardy, Joe**COURTROOM:** RJC Courtroom 03H**COURT CLERK:** Kristin Duncan**RECORDER:** Matt Yarbrough**REPORTER:****PARTIES**

<b>PRESENT:</b>	Byrne, Patrick G.	Attorney
	Hessell, Scott F.	Attorney
	Hsiao, Winston P.	Attorney
	Moody, Todd L	Attorney
	Morrison, Peter B.	Attorney

**JOURNAL ENTRIES**

- Upon Court's inquiry regarding what had changed since its denial of the Motion to Dismiss in November of 2016, Mr. Morrison advised that the parties exchanged initial disclosures, and Plaintiff had done full discovery in connection with the taxes issue. Regarding the instant Motion, Mr. Morrison argued that the advice was given in August of 2003; therefore, the claims were time barred by August of 2006 under New York law. Additionally, Mr. Morrison argued that there was no dispute that New York law applied in the instant case, as all three of the factors set forth in the Mardian v. Greenberg Family Trust case had been satisfied. Mr. Hessell argued in opposition, stating that, although some discovery had been conducted, there had not been any direct discovery with the Defendants. Furthermore, Mr. Hessell argued there was nothing to show that the parties had negotiated for a New York choice of law, and the provision in the agreement did not contain the New York statute of limitations. Based upon the request for NRCP 56(f) relief, COURT ORDERED the instant Motion was hereby DENIED WITHOUT PREJUDICE, FINDING the following: (1) the record currently before the Court did not allow it to determine whether genuine issues of material fact



existed, or not.

The COURT FURTHER ORDERED that the request for NRCP 56(f) relief was hereby GRANTED, FINDING that such relief was appropriate as set forth in paragraph 10 of Michael Tricharichi's Affidavit, filed on April 10, 2017. In the even of any discovery disputes, the parties would first be REQUIRED to meet and confer in good faith, prior to raising the issue before the Court.

Mr. Hessel to prepare the Order and forward to opposing counsel for approval as to form and content.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Business Court Matters**

**COURT MINUTES**

**September 21, 2018**

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A-16-735910-B      Michael Tricarichi, Plaintiff(s)  
vs.  
PricewaterhouseCoopers LLP, Defendant(s)

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**September 21, 2018      2:38 PM      Minute Order**

**Minute Order Re:  
Review of Par 17 of  
the Order Governing  
Production and  
Exchange of  
Confidential  
Information Filed on  
March 22, 2017**

**HEARD BY:** Gonzalez, Elizabeth

**COURTROOM:** Chambers

**COURT CLERK:** April Watkins

**RECORDER:**

**REPORTER:**

**PARTIES**

**PRESENT:**

**JOURNAL ENTRIES**

- The Court has reviewed par 17 of the Order Governing Production and Exchange of Confidential Information filed 3/22/17. That Order, in the Court s view, does not permit the parties to file motions under seal without compliance with SRCR 3. Accordingly the Plaintiff is ordered to Immediately file a motion in compliance with SRCR 3 to seal the opposition filed 8/1/18 and the Appendix filed 7/31/18.

CLERK S NOTE: This Minute Order was electronically served by Courtroom Clerk, April Watkins, to all registered parties for Odyssey File & serve. aw

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

Other Business Court Matters

COURT MINUTES

September 24, 2018

A-16-735910-B      Michael Tricarichi, Plaintiff(s)  
vs.  
PricewaterhouseCoopers LLP, Defendant(s)

**September 24, 2018      9:00 AM      Hearing      Further Hearing:  
Motion for Summary  
Judgment**

**HEARD BY:** Gonzalez, Elizabeth**COURTROOM:** RJC Courtroom 03E**COURT CLERK:** Louisa Garcia**RECORDER:** Jill Hawkins**REPORTER:****PARTIES**

<b>PRESENT:</b>	Byrne, Patrick G.	Attorney
	Hessell, Scott F.	Attorney
	Hutchison, Mark A	Attorney
	Tricarichi, Michael A.	Plaintiff

**JOURNAL ENTRIES**

- Also present, Peter Morrison, Esq., co-counsel, for Defendants and Jeffrey L. Eskin, general counsel of Pricewater.

Mr. Byrne argued in support of motion and stated this case has to do with a dispute over tax advice that was given over 30 years ago. Mr. Hessell addressed the sealing of the brief pursuant to a confidentiality stipulation. There being no opposition, Mr. Hessell advised he would file it by the end of the day. Court so noted. Following arguments by counsel in support of their respective positions, COURT ORDERED, Motion for Summary Judgment GRANTED IN PART. COURT ADVISED, regardless of what law applies, given the IRS investigation and statutory interpretation the period is two years after discovery ended. Therefore, the statute of limitations expired prior to the January 2011 execution of the tolling agreement. However, if counsel believes he has a subsequent retention that may have a different statute of limitations, counsel may amend pleading. Mr. Byrne to prepare Order.





**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Business Court Matters**

**COURT MINUTES**

**July 08, 2019**

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A-16-735910-B      Michael Tricarichi, Plaintiff(s)  
vs.  
PricewaterhouseCoopers LLP, Defendant(s)

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**July 08, 2019      9:00 AM      Motion to Dismiss**

**HEARD BY:** Gonzalez, Elizabeth      **COURTROOM:** RJC Courtroom 03E

**COURT CLERK:** Dulce Romea

**RECORDER:** Jill Hawkins

**REPORTER:**

**PARTIES**

**PRESENT:**      Byrne, Patrick G.      Attorney  
Hessell, Scott F.      Attorney  
Morrison, Peter B.      Attorney

**JOURNAL ENTRIES**

- Following arguments by Mr. Byrne and Mr. Hassell regarding omission claim, COURT ORDERED, motion DENIED. There is a properly alleged breach of duty by failing to disclose new information from the IRS that impacts the prior tax advice; whether on a factual basis counsel can support that claim is a different issue. Counsel may renew the factual issue at some point in time.

Upon Court's inquiry, Mr. Byrne stated Defendant will answer within 10 days but the tricky part is that the amended complaint includes all prior allegations and dismissed claims. Mr. Byrne asked if they can have 3 weeks to answer as they need time to confer with Plaintiff's counsel. COURT stated he can, and ORDERED, matter SET for status check on the chambers calendar in 2 weeks.

7-26-19      CHAMBERS      STATUS CHECK: ANSWER

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Business Court Matters**

**COURT MINUTES**

**July 26, 2019**

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A-16-735910-B      Michael Tricarichi, Plaintiff(s)  
vs.  
PricewaterhouseCoopers LLP, Defendant(s)

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**July 26, 2019      3:00 AM      Status Check**

**HEARD BY:** Gonzalez, Elizabeth      **COURTROOM:** Chambers

**COURT CLERK:** Dulce Romea

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- COURT NOTED, no answer filed, ORDERED, matter CONTINUED for one week.

8-2-19      CHAMBERS      STATUS CHECK: ANSWER

CLERK'S NOTE: A copy of this minute order was distributed via Odyssey File and Serve. / dr 7-26-19

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Business Court Matters**

**COURT MINUTES**

**August 02, 2019**

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A-16-735910-B      Michael Tricarichi, Plaintiff(s)  
vs.  
PricewaterhouseCoopers LLP, Defendant(s)

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**August 02, 2019      3:00 AM      Status Check**

**HEARD BY:** Gonzalez, Elizabeth      **COURTROOM:** Chambers

**COURT CLERK:** Dulce Romea

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- COURT NOTED no answer filed, and ORDERED, matter CONTINUED for 2 weeks.

8-16-19      CHAMBERS      STATUS CHECK: ANSWER

9-6-19      CHAMBERS      MOTION TO ASSOCIATE CHRIS LANDGRAFF, ESQ. AS  
COUNSEL...

...MOTION TO ASSOCIATE KRISTA PERRY, ESQ. AS COUNSEL...

...MOTION TO ASSOCIATE MARK LEVINE, ESQ. AS COUNSEL...

...MOTION TO ASSOCIATE DANIEL CHARLES TAYLOR ESQ

CLERK'S NOTE: A copy of this minute order was distributed via Odyssey File and Serve. / dr 8-5-19



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

Other Business Court Matters

COURT MINUTES

August 16, 2019

A-16-735910-B      Michael Tricarichi, Plaintiff(s)  
vs.  
PricewaterhouseCoopers LLP, Defendant(s)

**August 16, 2019      3:00 AM      Status Check      Supplemental Rule  
16 conference to be  
set.**

**HEARD BY:** Gonzalez, Elizabeth**COURTROOM:** Chambers**COURT CLERK:** Dulce Romea**RECORDER:****REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- Court notes answer filed August 12, 2019. Judicial Executive Assistant to SET Supplemental Rule 16 conference.

9-6-19      CHAMBERS      MOTION TO ASSOCIATE CHRIS LANDGRAFF, ESQ. AS  
COUNSEL...  
...MOTION TO ASSOCIATE KRISTA PERRY, ESQ. AS COUNSEL...  
...MOTION TO ASSOCIATE MARK LEVINE, ESQ. AS COUNSEL...  
...MOTION TO ASSOCIATE DANIEL CHARLES TAYLOR ESQ

CLERK'S NOTE: A copy of this minute order was distributed via Odyssey File and Serve. / dr 8-19-19

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Business Court Matters**

**COURT MINUTES**

**September 06, 2019**

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A-16-735910-B      Michael Tricarichi, Plaintiff(s)  
vs.  
PricewaterhouseCoopers LLP, Defendant(s)

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**September 06, 2019      3:00 AM      All Pending Motions**

**HEARD BY:** Gonzalez, Elizabeth      **COURTROOM:** Chambers

**COURT CLERK:** Dulce Romea

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- MOTION TO ASSOCIATE CHRIS LANDGRAFF, ESQ. AS COUNSEL...  
...MOTION TO ASSOCIATE KRISTA PERRY, ESQ. AS COUNSEL...  
...MOTION TO ASSOCIATE MARK LEVINE, ESQ. AS COUNSEL...  
...MOTION TO ASSOCIATE DANIEL CHARLES TAYLOR ESQ

Upon review of the papers and pleadings on file in this Matter, as proper service has been provided, this Court notes no opposition has been filed. Accordingly, pursuant to EDCR 2.20(e) the Motions to Associate (Taylor, Levine, Landgraf, and Perry) are deemed unopposed. Therefore, good cause appearing, COURT ORDERED, motion is GRANTED. By accepting this admission, Counsel agrees to submit to jurisdiction and appear without subpoena for any proceedings required by the Court which relate to Counsel's conduct in this matter including motions, depositions, and evidentiary hearings. SCR 42(13)(a). Moving Counsel is to prepare and submit an order within ten (10) days and distribute a filed copy to all parties involved in this matter.

9-9-19      9:00 AM      MANDATORY RULE 16 CONFERENCE

CLERK'S NOTE: A copy of this minute order was distributed via Odyssey File and Serve. / dr 9-6-19



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

Other Business Court Matters

COURT MINUTES

September 09, 2019

A-16-735910-B      Michael Tricarichi, Plaintiff(s)  
vs.  
PricewaterhouseCoopers LLP, Defendant(s)

**September 09, 2019      9:00 AM      Mandatory Rule 16  
Conference      written stipulation  
under 41(e) to be  
submitted**

**HEARD BY:** Gonzalez, Elizabeth**COURTROOM:** RJC Courtroom 03E**COURT CLERK:** Dulce Romea**RECORDER:** Jill Hawkins**REPORTER:****PARTIES**

<b>PRESENT:</b>	Byrne, Patrick G.	Attorney
	Hessell, Scott F.	Attorney
	Prall, Todd	Attorney

**JOURNAL ENTRIES**

- APPEARANCES CONTINUED: Attorney Daniel Taylor and Attorney Chris Landgraff, Pro Hac Vice Admitted, for the Defendant.

COURT ORDERED, today is the parties' Joint Case Conference and the filing of the Joint Case Conference Report (JCCR) WAIVED. Mr. Prall advised the parties have conferred and would request through April 1, 2020 for fact discovery and May 1st for experts. Mr. Byrne stated the Defense is in agreement with the schedule, including motions being due by July 1st. Court noted this case would be 5 years old before getting a trial set. Upon Court's inquiry, Mr. Byrne advised the parties have not entered into a stipulation under 41(e). COURT TRAILED the matter for the parties to negotiate a stipulation and put it on the record.

Matter RECALLED. Mr. Byrne stated that to the extent the schedule they agreed on exceeds the 5-year rule, which would be after April 29, 2021, they would STIPULATE to waive the 5-year rule; they do not think it will, but it depends on what the Court sets; also, one of the issues here is whether this

will be a jury trial or bench trial; they believe this should be a bench trial although the Plaintiffs do not. COURT DIRECTED the parties to do a written stipulation that includes the 41(e) stipulation; the stipulation must specifically delineate any periods of stay during which the parties were unable to bring the case to trial and if they are generally extending for a period of time. Because of the historical nature of the motion to dismiss practice and prior visit to the Supreme Court, the Court APPROVES the parties' proposed schedule with reservations and GRANTS fact discovery through the end of March:

Motions to amend pleadings or add parties TO BE FILED within 30 days;

Initial expert disclosures where a party bears the burden of proof DUE by April 17, 2020;

Rebuttal expert disclosures where a party does not bear the burden of proof DUE by May 22, 2020;

Discovery cut-off SET for June 26, 2020;

Dispositive motions and motions in limine TO BE FILED by July 17, 2020;

Matter SET for trial on the stack beginning on September 8, 2020. Jury DEMANDED.

Trial Setting Order will ISSUE.

Counsel advised they do not need an ESI Protocol or Protective Order.

Both sides further advised they do not have any issues with the Rule on 10 depositions per side, not including custodians of records, the 7-hour limit per deposition, and no issues with the locations.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Business Court Matters**

**COURT MINUTES**

**March 24, 2020**

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A-16-735910-B      Michael Tricarichi, Plaintiff(s)  
vs.  
PricewaterhouseCoopers LLP, Defendant(s)

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**March 24, 2020      8:00 AM      Minute Order**

**HEARD BY:** Gonzalez, Elizabeth      **COURTROOM:** Chambers

**COURT CLERK:** Dulce Romea

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- COURT ORDERED, PricewaterhouseCoopers LLP's Motion to Compel scheduled for Monday, March 30, 2020 is CONTINUED for telephonic hearing on Tuesday, March 31, 2020 at 9:00 am.

CLERK'S NOTE: A copy of this minute order was distributed via Odyssey File and Serve. / dr 3-25-20

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Business Court Matters**

**COURT MINUTES**

**March 31, 2020**

---

A-16-735910-B      Michael Tricarichi, Plaintiff(s)  
vs.  
PricewaterhouseCoopers LLP, Defendant(s)

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**March 31, 2020      9:00 AM      Motion to Compel**

**HEARD BY:** Gonzalez, Elizabeth      **COURTROOM:** RJC Courtroom 03E

**COURT CLERK:** Dulce Romea

**RECORDER:** Jill Hawkins

**REPORTER:**

**PARTIES**

**PRESENT:**      Byrne, Patrick G.      Attorney  
Hessell, Scott F.      Attorney  
Landgraff, Chris      Attorney  
Prall, Todd      Attorney  
Taylor, Daniel Charles      Attorney

**JOURNAL ENTRIES**

- APPEARANCES CONTINUED: Attorney Blake Sercye, Pro Hac Vice pending, for the Plaintiff.

All parties appeared by telephone.

Following arguments by counsel, COURT ORDERED, the course of litigation or discovery has been focusing on Plaintiff's knowledge, and the Court is not imputating counsel's knowledge to the Plaintiff unless it was otherwise disclosed to the Plaintiff; the lawyers are not required to provide their opinion work product unless it was disclosed to the Plaintiff either in writing or orally; however, the description provided on the privilege log of legal strategy and legal analysis does not assist the Court in resolving the issue as to whether something falls within the issue of the at issue waiver and limited waiver that exists here; discussions of issues contained in the limited waiver **NEED TO ALL BE PRODUCED**; the privilege log needs to be supplemented with regards to the subject matter regarding legal strategy and legal analysis, and the Court needs to do an in camera review of the approximately 22 documents to the Plaintiff from counsel that have been withheld

because counsel do not think they are part of the limited waiver. Colloquy regarding providing documents to be reviewed in camera via an FTP site. Court noted it has previously had issues with FTP sites and the matter will be discussed.

With regards to the supplemental privilege log, Mr. Hessell advised they can get it done in the next week. COURT ORDERED, matter SET for status check on the chambers calendar in 2 weeks (April 17, 2020). Mr. Byrne to FILE a status report after getting the privilege log to see if he thinks the Court needs to do an in camera review.

Mr. Hessell further advised the parties have a request to adjust expert disclosures. Court directed the parties to do a stipulation. Mr. Hessell stated they will do one via email and submit it.

4-17-20	CHAMBERS	STATUS CHECK: SUPPLEMENTAL PRIVILEGE LOG
6-29-20	9:00 AM	STATUS CHECK: TRIAL READINESS
8-13-20	9:15 AM	PRE TRIAL CONFERENCE
9-1-20	9:30 AM	CALENDAR CALL
9-8-20	1:30 PM	JURY TRIAL



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Business Court Matters****COURT MINUTES****April 17, 2020**

A-16-735910-B      Michael Tricarichi, Plaintiff(s)  
                                  vs.  
                                  PricewaterhouseCoopers LLP, Defendant(s)

**April 17, 2020      3:00 AM      Status Check      in camera review to  
                                                                                          be conducted**

**HEARD BY:** Gonzalez, Elizabeth**COURTROOM:** Chambers**COURT CLERK:** Dulce Romea**RECORDER:****REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- Court reviewed status report filed April 16, 2020. The Court will conduct an in camera review of the 19 identified documents. Plaintiff to SUBMIT the supplemental privilege logs in Excel or Word, a players list, and the documents (redacted and unredacted version) on a thumb drive by mail. The Court will conduct the in camera review, rule by minute order and place the thumb drive in the vault as a sealed exhibit.

6-29-20	9:00 AM	STATUS CHECK: TRIAL READINESS
8-13-20	9:15 AM	PRE TRIAL CONFERENCE
9-1-20	9:30 AM	CALENDAR CALL
9-8-20	1:30 PM	JURY TRIAL

CLERK'S NOTE: A copy of this minute order was distributed via electronic mail. / dr 4-20-20

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Business Court Matters**

**COURT MINUTES**

**May 06, 2020**

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A-16-735910-B      Michael Tricarichi, Plaintiff(s)  
vs.  
PricewaterhouseCoopers LLP, Defendant(s)

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**May 06, 2020**

**8:00 AM**

**Minute Order**

**HEARD BY:** Gonzalez, Elizabeth

**COURTROOM:** Chambers

**COURT CLERK:** Dulce Romea

**RECORDER:**

**REPORTER:**

**PARTIES**

**PRESENT:**

**JOURNAL ENTRIES**

- The Court has MARKED the communication from Counsel as Court's Exhibit 1 and the USB drive with the documents reviewed in camera as Court's Exhibit 2. Court's Exhibit 2 is SEALED as it contains privileged information. The Court notes the documents submitted do not match the paper copy of the privilege log submitted.

Based upon the Court's review of the in camera documents, the objections are SUSTAINED to the only items included on the USB drive:

REL 16833, REL 16833.0001, REL 16828, REL 16863, REL 16857, REL 16849, REL 16849.0001, REL 16843, REL 16843.0001, REL 16769, REL 16769.0001,

The remainder of the items listed on the privilege log were not included for review. If further documents are intended to be reviewed, counsel to resubmit.

CLERK'S NOTE: A copy of this minute order was distributed via Odyssey File and Serve. / dr 5-6-20

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Business Court Matters**

**COURT MINUTES**

**May 15, 2020**

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A-16-735910-B      Michael Tricarichi, Plaintiff(s)  
vs.  
PricewaterhouseCoopers LLP, Defendant(s)

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**May 15, 2020**

**8:52 AM**

**Minute Order**

**HEARD BY:** Gonzalez, Elizabeth

**COURTROOM:** Chambers

**COURT CLERK:** Dulce Romea

**RECORDER:**

**REPORTER:**

**PARTIES**

**PRESENT:**

**JOURNAL ENTRIES**

- Counsel is reminded not to communicate to the Court by letter. If additional information needs to be supplied, a conference call or status report is appropriate.

CLERK'S NOTE: A copy of this minute order was distributed via Odyssey File and Serve. / dr 5-15-20

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Business Court Matters****COURT MINUTES****May 29, 2020**

A-16-735910-B      Michael Tricarichi, Plaintiff(s)  
                                  vs.  
                                  PricewaterhouseCoopers LLP, Defendant(s)

**May 29, 2020****3:00 AM****Motion****HEARD BY:** Gonzalez, Elizabeth**COURTROOM:** Chambers**COURT CLERK:** Dulce Romea**RECORDER:****REPORTER:****PARTIES****PRESENT:**

**JOURNAL ENTRIES**

- Upon review of the papers and pleadings on file in this Matter, as proper service has been provided, this Court notes no opposition has been filed. Accordingly, pursuant to EDCR 2.20(e), the motion to seal is deemed unopposed. As the proposed sealing and redaction is narrowly tailored to protect sensitive financial information, good cause appearing, COURT ORDERED, motion is GRANTED. Moving Counsel is to prepare and submit an order within ten (10) days and distribute a filed copy to all parties involved in this matter.

6-1-20      9:00 AM      PLAINTIFF MICHAEL TRICARICHI'S DE-DESIGNATION MOTION  
 ...PRICEWATERHOUSECOOPERS LLP'S MOTION TO COMPEL PRODUCTION OF FINANCIAL  
 INFORMATION...  
 ...PLAINTIFF MICHAEL TRICARICHI'S MOTION TO COMPEL

6-29-20      9:00 AM      STATUS CHECK: TRIAL READINESS

8-13-20      9:15 AM      PRE TRIAL CONFERENCE

9-1-20      9:30 AM      CALENDAR CALL

9-8-20            1:30 PM            JURY TRIAL

CLERK'S NOTE: A copy of this minute order was distributed via Odyssey File and Serve. / dr 5-29-20

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Business Court Matters****COURT MINUTES****June 01, 2020**

A-16-735910-B      Michael Tricarichi, Plaintiff(s)  
                                  vs.  
                                  PricewaterhouseCoopers LLP, Defendant(s)

**June 01, 2020      9:00 AM      All Pending Motions**

**HEARD BY:** Gonzalez, Elizabeth      **COURTROOM:** RJC Courtroom 03E

**COURT CLERK:** Dulce Romea

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- Pursuant to Administrative Order 20-01, the Court decides this matter without the necessity of oral argument.

PRICEWATERHOUSECOOPERS LLP'S MOTION TO COMPEL PRODUCTION OF FINANCIAL INFORMATION: The Court, having reviewed PricewaterhouseCoopers' Motion to Compel and the related briefing and being fully informed, GRANTS the motion IN PART. Tricarichi to PRODUCE information related to the disposition of funds from the transaction as well as the settlement agreement. As the asset summaries do not exist, Tricarichi is not required to create them. This information should be produced in response to supplemental answers to interrogatories 13 and 14. Counsel for PricewaterhouseCoopers is directed to submit a proposed order approved by opposing counsel consistent with the foregoing within ten (10) days and distribute a filed copy to all parties involved in this matter. Such order should set forth a synopsis of the supporting reasons proffered to the Court in briefing. This Decision sets forth the Court's intended disposition on the subject but anticipates further order of the Court to make such disposition effective as an order.

PLAINTIFF MICHAEL TRICARICHI'S MOTION TO COMPEL: The Court, having reviewed Tricarichi's Motion to compel and the related briefing and being fully informed, GRANTS the motion IN PART. PricewaterhouseCoopers is to CERTIFY that it has produced a substantially similar

document to version 8. The remaining portions of the motion are denied. Counsel for PricewaterhouseCoopers is directed to submit a proposed order approved by opposing counsel consistent with the foregoing within ten (10) days and distribute a filed copy to all parties involved in this matter. Such order should set forth a synopsis of the supporting reasons proffered to the Court in briefing. This Decision sets forth the Court's intended disposition on the subject but anticipates further order of the Court to make such disposition effective as an order.

PLAINTIFF MICHAEL TRICARICHI'S DE-DESIGNATION MOTION: The Court, having reviewed Tricarichi's Dedeignation Motion and the related briefing and being fully informed, DENIES the motion. Initially the Court notes that Tricarichi failed to file a motion to file under seal and the documents filed April 29, 2020 were inappropriately sealed by the Clerk. Given the nature of the documents the temporary seal currently in place is EXTENDED until June 12, 2020. PricewaterhouseCoopers to FILE a motion to redact the motion and/or file exhibits under seal if it deems appropriate by June 11, 2020. The information sought to be dedesignated relate to other transactions and clients for which the designation is appropriate. Counsel for PricewaterhouseCoopers is directed to submit a proposed order approved by opposing counsel consistent with the foregoing within ten (10) days and distribute a filed copy to all parties involved in this matter. Such order should set forth a synopsis of the supporting reasons proffered to the Court in briefing. This Decision sets forth the Court's intended disposition on the subject but anticipates further order of the Court to make such disposition effective as an order.

CLERK'S NOTE: A copy of this minute order was distributed via Odyssey File and Serve. / dr 6-1-20

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Business Court Matters**

**COURT MINUTES**

**June 15, 2020**

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A-16-735910-B      Michael Tricarichi, Plaintiff(s)  
vs.  
PricewaterhouseCoopers LLP, Defendant(s)

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**June 15, 2020**

**8:31 AM**

**Minute Order**

**HEARD BY:** Gonzalez, Elizabeth

**COURTROOM:** Chambers

**COURT CLERK:** Dulce Romea

**RECORDER:**

**REPORTER:**

**PARTIES**

**PRESENT:**

**JOURNAL ENTRIES**

- The Court, having not received any motion to redact or file under seal from Price WaterhouseCoopers as directed in the June 1, 2020 minute order, UNSEALS the dedesignation motion filed April 29, 2020.

CLERK'S NOTE: A copy of this minute order was distributed via Odyssey File and Serve. / dr 6-17-20



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

Other Business Court Matters

COURT MINUTES

June 29, 2020

A-16-735910-B      Michael Tricarichi, Plaintiff(s)  
vs.  
PricewaterhouseCoopers LLP, Defendant(s)

**June 29, 2020      9:00 AM      Status Check: Trial  
Readiness**

**HEARD BY:** Gonzalez, Elizabeth**COURTROOM:** RJC Courtroom 03E**COURT CLERK:** Dulce Romea**RECORDER:** Jill Hawkins**REPORTER:****PARTIES**

<b>PRESENT:</b>	Austin, Bradley	Attorney
	Hessell, Scott F.	Attorney
	Landgraff, Chris	Attorney
	Prall, Todd	Attorney

**JOURNAL ENTRIES**

- Counsel advised this status check was in place prior to the scheduling order which extended their schedule. Court so noted, and bid the parties goodbye and wished them well. Mr. Austin added that there was a motion to seal filed June 10, and, as part of the Court's ruling, the Court requested that they file a motion, which they did, and it was unopposed; the Court then issued the June 16 minute order; he spoke with the Clerk about the minute order perhaps having been issued in error. Court explained it was not. Mr. Austin stated he believes they did attach a proposed version. Court noted it was not clear to the Court what was being asked; if counsel wishes to file a motion to de-designate the Court will be happy to work with the Clerk's Office to temporarily seal the document.

7-10-20      CHAMBERS      PLAINTIFF'S MOTION TO ASSOCIATE COUNSEL

7-17-20      CHAMBERS      DEFENDANT'S MOTION TO SEAL EXHIBITS O, P, AND Q  
TO PLAINTIFF MICHAEL TRICARICHI'S MOTION TO COMPEL AND REDACT EXCERPTS OF  
THESE DOCUMENTS IN THE MOTION

10-5-20	9:00 AM	STATUS CHECK: TRIAL READINESS
12-10-20	9:15 AM	PRE TRIAL CONFERENCE
12-22-20	9:30 AM	CALENDAR CALL
1-4-21	1:30 PM	JURY TRIAL

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Business Court Matters**

**COURT MINUTES**

**July 10, 2020**

---

A-16-735910-B      Michael Tricarichi, Plaintiff(s)  
vs.  
PricewaterhouseCoopers LLP, Defendant(s)

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**July 10, 2020      3:00 AM      Motion to Associate  
Counsel**

**HEARD BY:** Gonzalez, Elizabeth

**COURTROOM:** Chambers

**COURT CLERK:** Dulce Romea

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- Upon review of the papers and pleadings on file in this Matter, as proper service has been provided, this Court notes no opposition has been filed. Accordingly, pursuant to EDCR 2.20(e) the Motion to Associate (Sercye) is deemed unopposed. Therefore, good cause appearing, COURT ORDERED, motion is GRANTED. By accepting this admission, Counsel agrees to submit to jurisdiction and appear without subpoena for any proceedings required by the Court which relate to Counsel's conduct in this matter including motions, depositions, and evidentiary hearings. SCR 42(13)(a). Moving Counsel is to prepare and submit an order within ten (10) days and distribute a filed copy to all parties involved in this matter.

CLERK'S NOTE: A copy of this minute order was distributed via Odyssey File and Serve. / dr 7-13-20

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

Other Business Court Matters

COURT MINUTES

July 17, 2020

A-16-735910-B      Michael Tricarichi, Plaintiff(s)  
vs.  
PricewaterhouseCoopers LLP, Defendant(s)

July 17, 2020      3:00 AM      **Motion to Seal/Redact  
Records**

HEARD BY: Gonzalez, Elizabeth

COURTROOM: Chambers

COURT CLERK: Dulce Romea

RECORDER:

REPORTER:

PARTIES

PRESENT:

**JOURNAL ENTRIES**

- Upon review of the papers and pleadings on file in this Matter, as proper service has been provided, this Court notes no opposition has been filed. Accordingly, pursuant to EDCR 2.20(e), the motion to seal is deemed unopposed. As the proposed sealing and redaction is narrowly tailored to protect confidential information, good cause appearing, COURT ORDERED, motion is GRANTED. The proposed redacted motion to compel is approved and may be filed. The original motion to compel filed April 29, 2020 will remain sealed along with Exhibits O, P & Q of the motions. Moving Counsel is to prepare and submit an order within ten (10) days and distribute a filed copy to all parties involved in this matter.

CLERK'S NOTE: A copy of this minute order was distributed via Odyssey File and Serve. / dr 7-17-20

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

Other Business Court Matters

COURT MINUTES

August 03, 2020

A-16-735910-B      Michael Tricarichi, Plaintiff(s)  
vs.  
PricewaterhouseCoopers LLP, Defendant(s)

**August 03, 2020      9:00 AM      Motion to Seal/Redact  
Records**

**HEARD BY:** Gonzalez, Elizabeth**COURTROOM:** RJC Courtroom 03E**COURT CLERK:** Dulce Romea**RECORDER:****REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- Pursuant to Administrative Order 20-01, the Court decides this matter without the necessity of oral argument. Upon review of the papers and pleadings on file in this Matter, as proper service has been provided, this Court notes no opposition has been filed. Accordingly, pursuant to EDCR 2.20(e), the motion to seal Exhibit E to the Tricarichi declaration in support of the de-designation motion is deemed unopposed. As the proposed sealing and redaction is narrowly tailored to protect sensitive commercial and confidential information, good cause appearing, COURT ORDERED, motion is GRANTED. Moving Counsel is to prepare and submit an order within ten (10) days, submit the proposed redacted versions to the Clerk's Office and distribute a filed copy to all parties involved in this matter.

10-5-20	9:00 AM	STATUS CHECK TRIAL READINESS
12-10-20	9:15 AM	PRE TRIAL CONFERENCE
12-22-20	9:30 AM	CALENDAR CALL
1-4-21	1:30 PM	JURY TRIAL

CLERK'S NOTE: A copy of this minute order was distributed via Odyssey File and Serve. / dr 8-3-20



**A-16-735910-B**

12-22-20      9:30 AM      CALENDAR CALL

1-4-21      1:30 PM      JURY TRIAL



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Business Court Matters**

**COURT MINUTES**

**November 05, 2020**

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A-16-735910-B      Michael Tricarichi, Plaintiff(s)  
vs.  
PricewaterhouseCoopers LLP, Defendant(s)

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**November 05, 2020      3:00 AM      Motion to Associate  
Counsel**

**HEARD BY:** Gonzalez, Elizabeth

**COURTROOM:** Chambers

**COURT CLERK:** Dulce Romea

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- Matter advanced from November 6, 2020.

Upon review of the papers and pleadings on file in this Matter, as proper service has been provided, this Court notes no opposition has been filed. Accordingly, pursuant to EDCR 2.20(e) the Motion to Associate (Roin) is deemed unopposed. Therefore, good cause appearing, COURT ORDERED, motion is GRANTED. By accepting this admission, Counsel agrees to submit to jurisdiction and appear without subpoena for any proceedings required by the Court which relate to Counsel's conduct in this matter including motions, depositions, and evidentiary hearings. SCR 42(13)(a). Moving Counsel is to prepare and submit an order within ten (10) days and distribute a filed copy to all parties involved in this matter.

12-10-20      9:15 AM      PRE TRIAL CONFERENCE

12-22-20      9:30 AM      CALENDAR CALL

1-4-21      1:30 PM      JURY TRIAL

CLERK'S NOTE: A copy of this minute order was distributed via Odyssey File and Serve and via electronic mail. / dr 11-5-20

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Business Court Matters**

**COURT MINUTES**

**December 07, 2020**

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A-16-735910-B      Michael Tricarichi, Plaintiff(s)  
vs.  
PricewaterhouseCoopers LLP, Defendant(s)

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**December 07, 2020      8:00 AM      Minute Order**

**HEARD BY:** Gonzalez, Elizabeth

**COURTROOM:** Chambers

**COURT CLERK:** Dulce Romea

**RECORDER:**

**REPORTER:**

**PARTIES**

**PRESENT:**

**JOURNAL ENTRIES**

- COURT ORDERED, based upon the current public health emergency, the jury trial on January 4, 2021 stack is moved to the stack beginning on March 15, 2021. New trial setting order with dates for Pre Trial Conference, Calendar Call and Trial will ISSUE.

CLERK'S NOTE: A copy of this minute order was distributed via Odyssey File and Serve. / dr 12-7-20

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Business Court Matters**

**COURT MINUTES**

**December 21, 2020**

---

A-16-735910-B      Michael Tricarichi, Plaintiff(s)  
vs.  
PricewaterhouseCoopers LLP, Defendant(s)

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**December 21, 2020      9:00 AM      All Pending Motions**

**HEARD BY:** Gonzalez, Elizabeth      **COURTROOM:** RJC Courtroom 03E

**COURT CLERK:** Dulce Romea

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- Pursuant to Administrative Order 20-01, the Court decides this matter without the necessity of oral argument.

**PRICEWATERHOUSECOOPERS LLP'S MOTION FOR SUMMARY JUDGMENT AND MOTION TO STRIKE JURY DEMAND:**

The Court, having reviewed the motion for summary judgement / motion to strike jury demand and the related briefing and being fully informed, DENIES the motion. Genuine issues of material fact preclude the requested relief. As there is no rider that is signed or initialed by Plaintiff waiving the jury trial or agreeing to the limitation of damages, the Court declines to grant relief on those issues. Counsel for Plaintiff is directed to submit a proposed order approved by opposing counsel consistent with the foregoing within ten (10) days and distribute a filed copy to all parties involved in this matter. Such order should set forth a synopsis of the supporting reasons proffered to the Court in briefing. This Decision sets forth the Court's intended disposition on the subject but anticipates further order of the Court to make such disposition effective as an order.

The Court, having reviewed the following motions in limine and the related briefing and being fully informed:

PRICEWATERHOUSECOOPERS LLP S MOTION IN LIMINE NO. 1 TO EXCLUDE CERTAIN OPINIONS OF PLAINTIFF S EXPERT CRAIG GREENE is DENIED. The issues go to the weight to be given his testimony by the fact finder.

PRICEWATERHOUSECOOPERS LLP S MOTION IN LIMINE NO. 2 TO EXCLUDE TESTIMONY RELATED TO PWC S 2003 ADVICE is DENIED. The original advice is central to a determination of the remaining claims.

PRICEWATERHOUSECOOPERS LLP S MOTION IN LIMINE NO. 3 TO EXCLUDE TESTIMONY REGARDING PWC S ALLEGED CONFLICT OF INTEREST is DENIED. The receipt of the referral fee is relevant to the remaining claims.

PRICEWATERHOUSECOOPERS LLP S MOTION IN LIMINE NO. 4 TO EXCLUDE TESTIMONY RELATED TO PWC S ADVICE TO OTHER CLIENTS is DENIED. The advice given is relevant and unlikely to confuse the jury.

Counsel for Plaintiff is directed to submit a proposed order approved by opposing counsel consistent with the foregoing within ten (10) days and distribute a filed copy to all parties involved in this matter. Such order should set forth a synopsis of the supporting reasons proffered to the Court in briefing.

PLAINTIFF MICHAEL TRICARICHI S MOTION IN LIMINE NO. 1 TO BAR REFERENCES TO THE PRIOR CONVICTIONS OF JAMES TRICARICHI is GRANTED IN PART. As the DUI conviction is a misdemeanor, it is excluded. The other convictions may be used for impeachment during cross-examination of the witness James Tricarchi only.

PLAINTIFF MICHAEL TRICARICHI S MOTION IN LIMINE NO. 2 TO EXCLUDE THE OPINIONS OF KENNETH HARRIS is denied. The issues go to the weight to be given his testimony by the fact finder.

PLAINTIFF MICHAEL TRICARICHI S MOTION IN LIMINE NO. 3 TO BAR PURPORTED MITIGATION EVIDENCE is denied. The issues go to the weight to be given his testimony by the fact finder.

Counsel for Defendant is directed to submit a proposed order approved by opposing counsel consistent with the foregoing within ten (10) days and distribute a filed copy to all parties involved in this matter. Such order should set forth a synopsis of the supporting reasons proffered to the Court in briefing.

Parties may agree to submit a single order for all motions in limine. Counsel are required to notify any witnesses of these rulings. This Decision sets forth the Court's intended disposition on the subject but anticipates further order of the Court to make such disposition effective as an order.

2-18-21            9:15 AM            PRE TRIAL CONFERENCE

3-9-21            9:30 AM            CALENDAR CALL

3-15-21           1:30 PM            JURY TRIAL

CLERK'S NOTE: A copy of this minute order was distributed via Odyssey File and Serve. / dr 12-21-20

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Business Court Matters****COURT MINUTES****January 29, 2021**

A-16-735910-B      Michael Tricarichi, Plaintiff(s)  
                                  vs.  
                                  PricewaterhouseCoopers LLP, Defendant(s)

**January 29, 2021      3:00 AM      Motion to Stay**

**HEARD BY:** Gonzalez, Elizabeth**COURTROOM:** Chambers**COURT CLERK:** Dulce Romea**RECORDER:****REPORTER:****PARTIES****PRESENT:**

**JOURNAL ENTRIES**

- The Court, having reviewed the Motion to Stay and the related briefing and being fully informed, DENIES the motion WITHOUT PREJUDICE. The petition was filed January 23, 2021; the Nevada Supreme Court has not ordered a response to the petition. There does not appear at this time to be a likelihood of success or that the matter will be mooted if not decided. Issues related to trial scheduling will be addressed at the Pre Trial Conference on February 18, 2021. Counsel for Plaintiff is directed to submit a proposed order approved by opposing counsel consistent with the foregoing within ten (10) days and distribute a filed copy to all parties involved in this matter. Such order should set forth a synopsis of the supporting reasons proffered to the Court in briefing. This Decision sets forth the Court's intended disposition on the subject but anticipates further order of the Court to make such disposition effective as an order.

2-18-21      9:15 AM      PRE TRIAL CONFERENCE

3-9-21      9:30 AM      CALENDAR CALL

3-15-21      1:30 PM      JURY TRIAL

CLERK'S NOTE: A copy of this minute order was distributed via Odyssey File and Serve. / dr 2-1-21





**DISTRICT COURT  
CLARK COUNTY, NEVADA**

Other Business Court Matters

COURT MINUTES

February 18, 2021

A-16-735910-B      Michael Tricarichi, Plaintiff(s)  
                                  vs.  
                                  PricewaterhouseCoopers LLP, Defendant(s)

**February 18, 2021      9:15 AM      Pre Trial Conference**

**HEARD BY:** Gonzalez, Elizabeth      **COURTROOM:** RJC Courtroom 03E

**COURT CLERK:** Dulce Romea

**RECORDER:** Jill Hawkins

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Byrne, Patrick G.	Attorney
	Hessell, Scott F.	Attorney
	Landgraff, Chris	Attorney
	Levine, Mark L.	Attorney
	Prall, Todd	Attorney

**JOURNAL ENTRIES**

- Parties appeared by telephone.

Mr. Byrne advised that given their witnesses and experts he does not think they can be done in less than 8 days, best case scenario. Court noted that the age of this case would qualify for trial at the Convention Center but not the length of the trial. Court further noted a pending motion to stay. Mr. Byrne advised they are ready but simply need guidance from the Nevada Supreme Court on their writ. Court inquired whether the Nevada Supreme Court has ordered a response. Mr. Byrne stated they have not, and, upon further inquiry, advised that a June trial date would work for the Defendants. Mr. Hessell stated the Plaintiffs would prefer April if 8 days can be accommodated then. Court stated it does not think it can be. Mr. Byrne advised they would like a real date because they have got all out-of-state witnesses, which would involve scheduling hotels and travel; he is not really interested in an aggressive April setting. Court noted that if this case is placed on the June stack it would be the oldest case on that stack. Mr. Hessell noted they would also be the oldest case in May. Court stated that they would not be, as there is one case in May that is older.

COURT ORDERED, jury trial VACATED and RESET on the stack beginning on June 28, 2021, because the Court cannot accommodate a trial of this length at the Convention Center; new trial setting order will ISSUE, which will only have the dates for Calendar Call and the Pre Trial Conference.

6-3-21        9:15 AM        PRE TRIAL CONFERENCE

6-22-21       9:30 AM        CALENDAR CALL

6-28-21       1:30 PM        JURY TRIAL

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Business Court Matters**

**COURT MINUTES**

**May 10, 2021**

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A-16-735910-B	Michael Tricarichi, Plaintiff(s) vs. PricewaterhouseCoopers LLP, Defendant(s)
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**May 10, 2021                      9:00 AM                      Motion to Vacate**

**HEARD BY:** Gonzalez, Elizabeth                      **COURTROOM:** RJC Courtroom 03C

**COURT CLERK:** Michelle Jones

**RECORDER:** Jill Hawkins

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Byrne, Patrick G.	Attorney
	Hessell, Scott F.	Attorney
	Landgraff, Chris	Attorney
	Prall, Todd	Attorney

**JOURNAL ENTRIES**

- Court Noted, the current issue with picking a jury and the limited amount of juries that can be picked each week. Court Further Noted, priority is being given to the cases with 5- year rule problems and this case does not have an issue despite the age of the case. Following argument and statements by counsel, COURT ORDERED motion GRANTED, matter set for Status Check on June 18th; parties to submit a Status Report the day before the hearing to indicate if they have heard anything further from the Supreme Court. COURT FURTHER ORDERED, the case will be reset on the next stack once the Supreme Court Rules one way or the other.

6/18/21 (CHAMBERS) Status Check

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Business Court Matters**

**COURT MINUTES**

**June 18, 2021**

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A-16-735910-B      Michael Tricarichi, Plaintiff(s)  
vs.  
PricewaterhouseCoopers LLP, Defendant(s)

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**June 18, 2021      3:00 AM      Status Check**

**HEARD BY:** Gonzalez, Elizabeth

**COURTROOM:** Chambers

**COURT CLERK:** Valeria Guerra

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- Court found, no status report provided by counsel; matter CONTINUED two weeks.

STATUS CHECK Re. STAY: 07/02/2021 Chambers

CLERK S NOTE: A copy of this minute order was distributed via Odyssey File and Serve. -  
vg//6/18/21

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Business Court Matters**

**COURT MINUTES**

**July 02, 2021**

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A-16-735910-B      Michael Tricarichi, Plaintiff(s)  
vs.  
PricewaterhouseCoopers LLP, Defendant(s)

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**July 02, 2021      3:00 AM      Status Check**

**HEARD BY:** Gonzalez, Elizabeth      **COURTROOM:** Chambers

**COURT CLERK:** Valeria Guerra

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- Court reviewed 6/21/21 status report; Court ORDERED, Status Check regarding Stay in 12 weeks.

STATUS CHECK: Stay    09/24/2021 Chambers

CLERK S NOTE: A copy of this minute order was distributed via Odyssey File and Serve. -  
vg//7/2/21

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Business Court Matters**

**COURT MINUTES**

**September 24, 2021**

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A-16-735910-B      Michael Tricarichi, Plaintiff(s)  
vs.  
PricewaterhouseCoopers LLP, Defendant(s)

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**September 24, 2021      3:00 AM      Status Check**

**HEARD BY:** Kishner, Joanna S.

**COURTROOM:** Chambers

**COURT CLERK:** Natalie Ortega

**RECORDER:**

**REPORTER:**

**PARTIES**

**PRESENT:**

**JOURNAL ENTRIES**

- On July 2, 2021, the Court reviewed the status and stay, reviewed the Status Report from June 21, 2021, and requested a Status Report on the stay by September 24, 2021. On September 24, 2021, the Court reviewed the Joint Status Report. A status check is set for November 19, 2021 on the Court's Chamber's calendar.

CLERK'S NOTE: This minute order was electronically served by Courtroom Clerk, Natalie Ortega, to all registered parties for Odyssey File & Serve and/or served via facsimile. ndo10/07/21

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Business Court Matters****COURT MINUTES****December 09, 2021**

A-16-735910-B      Michael Tricarichi, Plaintiff(s)  
                                  vs.  
                                  PricewaterhouseCoopers LLP, Defendant(s)

**December 09, 2021      8:30 AM      Hearing**

**HEARD BY:** Kishner, Joanna S.**COURTROOM:** RJC Courtroom 16B**COURT CLERK:** Louisa Garcia**RECORDER:** Lara Corcoran**REPORTER:****PARTIES**

<b>PRESENT:</b>	Byrne, Patrick G.	Attorney
	Hessell, Scott F.	Attorney
	Levine, Mark L.	Attorney
	Prall, Todd	Attorney

**JOURNAL ENTRIES**

- Court noted in this case it shows there are other parties, but no attorneys. Mr. Hessell stated the only remaining parties were plaintiff and PricewaterhouseCoopers. Court advised counsel to correct the caption so it reflects correctly in Odyssey. Colloquy regarding procedural history. Mr. Byrne believes the more efficient way to proceed was to refile both the Motion for Summary Judgment regarding the limitation of liability and then the Motion to Strike the jury trial waive. Court referenced and reviewed the January 5, 2021 order denying PriewaterhouseCoopers s Motion for Summary Judgment and Motion to Strike the jury demand. Arguments by counsel whether Tricarichi knowingly and voluntarily agreed to the jury trial waiver and whether to conduct an evidentiary hearing. COURT ORDERED, Order dated January 5, 2021, document 293, is STRICKEN pursuant to the Writ issued by the Nevada Supreme Court, dated September 30, 2021, as well as Order dated October 26. COURT FURTHER ORDERED, Notice of Entry of order, DATED 1/20/212, Document 294, STRICKEN. COURT ORDERED, matter SET for hearing; hearing estimated to last one hour, 30 minutes each side. Counsel to submit a joint letter to the Court with four proposed dates by December 16 at 4:30 p.m.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Business Court Matters**

**COURT MINUTES**

**February 25, 2022**

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A-16-735910-B      Michael Tricarichi, Plaintiff(s)  
vs.  
PricewaterhouseCoopers LLP, Defendant(s)

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**February 25, 2022      10:00 AM      Status Check**

**HEARD BY:** Kishner, Joanna S.      **COURTROOM:** RJC Courtroom 16B

**COURT CLERK:** Stephanie Rapel

**RECORDER:** Lara Corcoran

**REPORTER:**

**PARTIES**

**PRESENT:**      Austin, Bradley      Attorney  
Prall, Todd      Attorney

**JOURNAL ENTRIES**

- Upon Court's inquiry, Counsel requested a one (1) hour Evidentiary hearing on either March 29th or 30th. Colloquy regarding scheduling and briefing. Court ORDERED, Evidentiary Hearing SET and Briefs DUE by end of business on March 23, 2022.

3/30/22 8:30 AM EVIDENTIARY HEARING



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

Other Business Court Matters

COURT MINUTES

March 24, 2022

A-16-735910-B      Michael Tricarichi, Plaintiff(s)  
vs.  
PricewaterhouseCoopers LLP, Defendant(s)

**March 24, 2022      8:30 AM      Motion to Quash**

HEARD BY: Kishner, Joanna S.

COURTROOM: RJC Courtroom 16B

COURT CLERK: Stephanie Rapel

RECORDER: Lara Corcoran

REPORTER:

**PARTIES**

<b>PRESENT:</b>	Byrne, Patrick G.	Attorney
	Hessell, Scott F.	Attorney
	Johnson, Ariel Clark	Attorney
	Taylor, Daniel Charles	Attorney

**JOURNAL ENTRIES**

- Upon Court's inquiry, Mr. Hessell stated Defendants Seyfarth, Taylor, Cooperative Rabobank UA and Utrecht-America Finance Co. have been dismissed. Court stated its inclination and noted the Court set the Evidentiary Hearing as a result of the Writ granted from the Supreme Court. Court questioned what the parties were intending to present at the Evidentiary Hearing if no witnesses were to attend. Mr. Taylor asserted Defendant did not intend to bring witnesses to the Evidentiary hearing. Furthermore, the subpoena had several defects and should be quashed. Mr. Taylor stated he does not believe there are any PWC employees within the Court's subpoena range who have any knowledge relevant to the case considering the engagement was based in Ohio. Therefore, compelling a witness would be burdensome on the Court and PWC. Colloquy regarding Rule 45 subpoena, failure to include mileage fees in the subpoena and two (2) additional defective subpoenas. Mr. Hessell stated PWC does not want the Court to have the benefit of a live witness to testify on the subjects for which the Supreme Court remanded the case to the Court. Furthermore, a subsequent subpoena was served to correct the defect regarding fees and Mr. Tricarichi would be present at the Evidentiary Hearing. Colloquy regarding 30 (b)(6) witness and violation of EDCR 2.27 as to the briefs. Court stated its Findings and ORDERED motion GRANTED; subpoena QUASHED as a result

of unpaid fees. The Court to evaluate at the Evidentiary Hearing whether parties have complied with the mandated, Court Ordered Evidentiary Hearing requirements. COURT DIRECTED Defense to prepare the Order with detailed Findings of Fact and Conclusions of Law, circulate to opposing counsel, and submit to the Court pursuant to EDCR 7.21 and the current Administrative Orders.



after the hearing. Neither party waived the burden proof, however, they agreed to call Mr. Stovsky and Mr. Tricarichi.

Testimony and Exhibits presented (see worksheets).

Colloquy regarding Lowe factors, Engagement Letter, Rider and Jury Waiver. Court stated its inclination and gave a tentative ruling noting the Motion to Strike was not necessary considering the Court had a specific Order granting Petition for Writ of Mandamus which directed the Court to narrow the scope of outstanding issue(s). Court gave alternative bases for its ruling and FOUND Plaintiff did not demonstrate the waiver was not entered into knowingly, voluntarily and intentionally and therefore, the jury waiver was enforceable. COURT DIRECTED Defense to prepare the Order with detailed Findings of Fact and Conclusions of Law, circulate to opposing counsel, and submit to the Court pursuant to EDCR 7.21 and the current Administrative Orders. Mr. Austin requested and the Court GRANTED an extension for thirty (30) days to submit the Order. Court noted the Writ required the Court to strike the portion of the Summary Judgment Order addressing the jury trial and therefore a carve-out was required. Court DIRECTED Counsel to submit to the JEA proposed dates for trial with three (3) different months and to copy all parties. Upon Court's inquiry, Mr. Bryne requested to make a voluntary donation to a 501(c)(3) organization and to attend a CLE in lieu of sanctions for noncompliance with EDCR 2.27. Court DIRECTED parties to provide a letter to Court requesting either an evidentiary hearing or to make a voluntary donation and attend a CLE.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

Other Business Court Matters

COURT MINUTES

June 09, 2022

A-16-735910-B      Michael Tricarichi, Plaintiff(s)  
vs.  
PricewaterhouseCoopers LLP, Defendant(s)

June 09, 2022      8:30 AM      **Motion for Partial  
Summary Judgment**

HEARD BY: Kishner, Joanna S.

COURTROOM: RJC Courtroom 16B

COURT CLERK: Stephanie Rapel

RECORDER: Lara Corcoran

REPORTER:

**PARTIES**

<b>PRESENT:</b>	Austin, Bradley	Attorney
	Hessell, Scott F.	Attorney
	Johnson, Ariel Clark	Attorney
	Landgraff, Chris	Attorney
	Levine, Mark L.	Attorney
	Roin, Katharine A	Attorney
	Taylor, Daniel Charles	Attorney

**JOURNAL ENTRIES**

- Upon Court's inquiry, Mr. Levine addressed if the limitation of liability provision applied to Tricarichi's claim. Mr. Levine stated Mr. Tricarichi said during summary judgment briefing the claim arose from services originally performed by PWC. That admission was evidence the claim being made now, about not updating, related to those services. Colloquy regarding gross negligence. Mr. Levine stated gross negligence was pled in the earlier claim that was dismissed on statute of limitation grounds, however, when the new claim was raised, it did not plead gross negligence. Furthermore, the only pending claim left (Count 3) was just for negligence as to PWC. Mr. Tricarichi had plenty of time to amend his complaint to raise gross negligence, however, the time to amend passed. Additionally, there was no reason to spend a lot of court time and attention when there was no evidence to what a reasonable factfinder could find for gross negligence. Mr. Hessell outlined the procedural history that led to Count 3. Mr. Hessell stated Count 3 referenced the alternative

allegation of either gross negligence or negligence and provided a brief history of the case. Colloquy regarding limitation clause, recoverable damages, procedural attack and engagement agreement. Mr. Hessell further stated there are issues of fact and the bench trial in a few months would remain the same whether the damage limitation clause was put in or not. Defendant failed to articulate any way in which they would be prejudiced or that the case would have proceeded differently if gross was added before the negligence count in Count 3. Counsel confirmed the operative complaint was the Amended Complaint filed on 4/1/19 and Nevada procedures govern the case, however, substantively it should be New York. Colloquy regarding language in Amended Complaint and contract provision. Court stated its Findings and ORDERED Motion DENIED WITHOUT PREJUDICE; movant had not met initial burden. COURT DIRECTED Mr. Hessell to prepare the Order with detailed Findings of Fact and Conclusions of Law, circulate to opposing counsel, and submit to the Court pursuant to EDCR 7.21 and the current Administrative Orders.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Business Court Matters**

**COURT MINUTES**

**September 08, 2022**

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A-16-735910-B      Michael Tricarichi, Plaintiff(s)  
vs.  
PricewaterhouseCoopers LLP, Defendant(s)

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**September 08, 2022      10:15 AM      Pre Trial Conference**

**HEARD BY:** Kishner, Joanna S.

**COURTROOM:** RJC Courtroom 16B

**COURT CLERK:** Stephanie Rapel

**RECORDER:** Lara Corcoran

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Byrne, Patrick G.	Attorney
	Hessell, Scott F.	Attorney
	Johnson, Ariel Clark	Attorney
	Landgraff, Chris	Attorney
	Levine, Mark L.	Attorney
	Roin, Katharine A	Attorney
	Sercye, Blake P	Attorney

**JOURNAL ENTRIES**

- Michael English and Geoff Ezgar observed.

Upon Court's inquiry, Counsel agreed the bench trial should take approximately eight (8) days rather than the previously requested ten (10). In regards to an October 31, 2022 trial date, Mr. Landgraff stated Defendant was ready for trial, however five (5) out of their six (6) witnesses were out of state and might need to be called out of order. Mr. Hessell did not object to calling witnesses out of order if need be and requested consecutive days for trial rather than splitting them up. Mr. Hessell further stated the exhibits should not exceed 1,000 pages and were all in PDF format. Mr. Landgraff also requested consecutive trial days and concurred exhibits should not exceed 1,000 pages. Court ORDERED trial date SET.

10/21/22 8:30 A.M. CALENDAR CALL

10/31/22 to 12/10/22 BENCH TRIAL (with the caveat 11/04/22 would be dark or a partial day)



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Business Court Matters****COURT MINUTES****October 21, 2022**

A-16-735910-B      Michael Tricarichi, Plaintiff(s)  
                                  vs.  
                                  PricewaterhouseCoopers LLP, Defendant(s)

**October 21, 2022      8:30 AM      Calendar Call**

**HEARD BY:** Kishner, Joanna S.      **COURTROOM:** RJC Courtroom 16B

**COURT CLERK:** Stephanie Rapel

**RECORDER:** Lara Corcoran

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Austin, Bradley	Attorney
	Johnson, Ariel Clark	Attorney
	Landgraff, Chris	Attorney
	Levine, Mark L.	Attorney
	Roin, Katharine A	Attorney
	Sercye, Blake P	Attorney

**JOURNAL ENTRIES**

- Colloquy regarding objections to deposition designations and trial exhibits. Court referenced instructions pursuant to the trial order and non-compliance. Court RECESSED and RECALLED the matter for the parties to try and come to an agreement. Counsel stipulated pursuant to EDCR 7.50 to withdrawal all objections to deposition designation and all objections to trial exhibits with the exception of five (5) for each party. Counsel to provide Findings and Fact Conclusions of Law (two days before trial) and a revised exhibit list setting forth the exhibits objected to. Court NOTED it could not rule on what it had not seen and did not require the parties to waive objections. Colloquy regarding Order Shortening Time on Motion for Sanctions, Motion for Sanctions filed on 10/20/22 and confidential documents. Mr. Austen provided the Court with original deposition transcripts and noted he would provide the Court with a list of depositions no later than 4:00 p.m. today. Mr. Landgraff stated Defendant would submit a Joint Trial Stipulation with changes and confirmed the one filed could be returned. Counsel requested the Court strike the Motion for Sanctions filed on 10/20/22 in order to ensure exhibits were filed under seal. Court ORDERED Motion for Sanctions

STRICKEN (DOC 365), however, Defense Counsel's opposition still due. Court NOTED the Order Shortening Time would be returned and Counsel would need to resubmit under temporary seal. Defendant requested to use Real Time. Court ORDERED Real Time request DENIED. Counsel agreed to 40 minute opening statements each side and noted demonstrative exhibits would be utilized.

CLERK'S NOTE: Court inadvertently referenced 10/10/22 as the filing date for the Motion for Sanctions instead of 10/20/22.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Business Court Matters****COURT MINUTES****October 31, 2022**

A-16-735910-B      Michael Tricarichi, Plaintiff(s)  
                                  vs.  
                                  PricewaterhouseCoopers LLP, Defendant(s)

**October 31, 2022      9:00 AM      Bench Trial - FIRM**

**HEARD BY:** Kishner, Joanna S.**COURTROOM:** RJC Courtroom 16B**COURT CLERK:** Stephanie Rapel**RECORDER:** Lara Corcoran**REPORTER:****PARTIES**

<b>PRESENT:</b>	Austin, Bradley	Attorney
	Byrne, Patrick G.	Attorney
	Hessell, Scott F.	Attorney
	Johnson, Ariel Clark	Attorney
	Landgraff, Chris	Attorney
	Levine, Mark L.	Attorney
	Roin, Katharine A	Attorney
	Sercye, Blake P	Attorney

**JOURNAL ENTRIES**

- Representative from Bartlit Beck also present. Colloquy regarding Motions to Associate Counsel filed on 10/27/22 without a judicial day's notice and chronology of issues for the Court to address. Mr. Landgraff stated proposed Pro Hac Vice counsel would not be arguing this morning, however, might be arguing later in the week. Mr. Hessell stated the Defendant produced client forms and documents that were linked in client form materials. Colloquy regarding Defendant's Motion to Strike on OST. Mr. Hessell stated the matter pertained to testimony given by the damages expert. Mr. Levine stated they anticipated the damages expert would testify on Thursday whereby proposed Pro Hac Vice Counsel might be called to argue. Mr. Hessell requested to argue the motion orally. Court ORDERED Plaintiff's nonobligatory response due by 4:00 p.m. on November 1, 2022 with courtesy copy to the Court. Motion to be heard on November 3, 2022. Colloquy regarding Stipulation and final Orders for the Court's signature.

Upon Court's inquiry, Mr. Hessell stated PricewaterhouseCoopers, LLP (PWC) recently uncovered client engagement and client acceptance forms and policy links thereto which should have been produced in the Tax Court case or early in this case. Mr. Hessell requested a corporate rep declaration ensuring all documents were produced. Colloquy regarding chronology of the case, prejudice and relief seeking. Ms. Roin stated PWC and the parties agreed to search terms long ago and documents were produced according to the agreement. The paper documents scanned in 2003 contained handwritten information and for that reason, the current technology in 2017 missed the documents. The documents were discovered on October 19, 2022 and Plaintiff was immediately alerted. Defendant's counsel reviewed all 544 documents in the folder to ensure nothing else was missed. Ms. Roin stated Defendant did not object to add documents as Exhibits 84-89. Colloquy regarding JCCR, 16.1 and scope of documents. Ms. Roin asserted Defendant agreed the documents should have been produced in 2017, however, their omission was an unintentional mistake without willful intent and immediately remedied. Counsel agreed to admit Exhibits 84-89 via paper format although untimely. Mr. Hessell agreed to add Exhibit 84-89 to the Exhibit List. Court ORDERED Plaintiff's Motion for Sanctions GRANTED as to monetary sanctions. Counsel agreed to meet and confer as to an agreed upon amount. Court DEFERRED and would revisit issue if harm materialized. Deposition left open for the Court to revisit noting no sufficient basis at this time.

Colloquy regarding objected to exhibits. Court ORDERED Exhibit 57 not admitted, Exhibit 100 admitted (Court not taking position if true or not) and deferred as to the remaining. Counsel did not agree to use tax court transcripts and exhibits for any purpose.

Opening statements by counsel. Testimony and exhibits presented (see worksheets). Counsel requested to advance and grant the Motions to Associate Counsel. COURT ORDERED, Motions ADVANCED and GRANTED as unopposed pursuant to EDCR 2.20 and 2.23.

11/01/22 10:15 A.M. CONTINUED: BENCH TRIAL

11/03/22 10:00 A.M. DEFENDANT'S MOTION TO STRIKE ON ORDER SHORTENING TIME

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

## Other Business Court Matters

## COURT MINUTES

November 01, 2022

A-16-735910-B      Michael Tricarichi, Plaintiff(s)  
vs.  
PricewaterhouseCoopers LLP, Defendant(s)

**November 01, 2022      10:15 AM      Bench Trial - FIRM**

**HEARD BY:** Kishner, Joanna S.

**COURTROOM:** RJC Courtroom 16B

**COURT CLERK:** Stephanie Rapel

**RECORDER:** Lara Corcoran

**REPORTER:**

## PARTIES

<b>PRESENT:</b>	Austin, Bradley	Attorney
	Byrne, Patrick G.	Attorney
	Hessell, Scott F.	Attorney
	Johnson, Ariel Clark	Attorney
	Landgraff, Chris	Attorney
	Levine, Mark L.	Attorney
	Roin, Katharine A	Attorney
	Sercye, Blake P	Attorney

## JOURNAL ENTRIES

- Mr. Hessell provided paper copies of Exhibits 84-89 with the revised Exhibit List to the Court Clerk. Opening statements by counsel. Testimony and exhibits presented (see worksheets). Deposition of Timothy John Lohnes was PUBLISHED and FILED IN OPEN COURT. Counsel stipulated pursuant to EDCR 7.50 that exhibits referenced during witness testimony would be admitted at the end of that witness's testimony.

11/02/22 8:30 A.M. CONTINUED: BENCH TRIAL

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Business Court Matters****COURT MINUTES****November 02, 2022**

A-16-735910-B      Michael Tricarichi, Plaintiff(s)  
                                  vs.  
                                  PricewaterhouseCoopers LLP, Defendant(s)

**November 02, 2022      8:30 AM      Bench Trial - FIRM**

**HEARD BY:** Kishner, Joanna S.**COURTROOM:** RJC Courtroom 16B**COURT CLERK:** Stephanie Rapel**RECORDER:** Lara Corcoran**REPORTER:****PARTIES**

<b>PRESENT:</b>	Austin, Bradley	Attorney
	Byrne, Patrick G.	Attorney
	Hessell, Scott F.	Attorney
	Johnson, Ariel Clark	Attorney
	Landgraff, Chris	Attorney
	Levine, Mark L.	Attorney
	Roin, Katharine A	Attorney
	Sercye, Blake P	Attorney

**JOURNAL ENTRIES**

- Testimony and exhibits presented (see worksheets). Mr. Hessell confirmed Exhibit 30 and 136 were identical with the exception of notations on Exhibit 136. Mr. Hessell stated the parties stipulated that Plaintiff's Counsel would not elaborate on the engagement agreement issues so long as Defendant agreed to not waive Plaintiff's challenges as to those issues. Mr. Landgraff agreed the parties did not need to re-litigate the Court's decisions. Court DIRECTED Counsel to discuss the matter after/during the lunch break and provide a written stipulation pursuant to EDCR 7.50. Said stipulation was read and placed on the record. Court notified the parties a recent submittal would be returned and need to be resubmitted without a file stamp. Testimony and exhibits presented (see worksheets). Deposition of Michael A. Tricarichi was PUBLISHED and FILED IN OPEN COURT. Colloquy regarding Exhibit 103. Counsel agreed to admit the first 30 pages of Exhibit 103 (1-134) as Exhibit 103A (103.0 - 103.30) in paper format over the hearsay objection for which Plaintiff preserved

its right. Counsel requested to have the Motion to Strike heard tomorrow after lunch.

11/03/22 9:45 A.M. CONTINUED: BENCH TRIAL

11/03/22 MOTION TO STRIKE

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Business Court Matters****COURT MINUTES****November 03, 2022**

A-16-735910-B      Michael Tricarichi, Plaintiff(s)  
                                  vs.  
                                  PricewaterhouseCoopers LLP, Defendant(s)

**November 03, 2022      9:45 AM      Bench Trial - FIRM**

**HEARD BY:** Kishner, Joanna S.      **COURTROOM:** RJC Courtroom 16B

**COURT CLERK:** Stephanie Rapel

**RECORDER:** Lara Corcoran

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Austin, Bradley	Attorney
	Byrne, Patrick G.	Attorney
	Hessell, Scott F.	Attorney
	Johnson, Ariel Clark	Attorney
	Landgraff, Chris	Attorney
	Levine, Mark L.	Attorney
	Roin, Katharine A	Attorney
	Sercye, Blake P	Attorney

**JOURNAL ENTRIES**

- Testimony and exhibits presented (see worksheets). Colloquy regarding Exhibit 183. Court NOTED it may limit contents, however, granted its admission and reserved a carveout for statements. Colloquy regarding Exhibit 100 (with or without handwriting). Court did not modify its previous ruling on 10/31/22 admitting Exhibit 100 with caveat. As to the Motion to Strike on OST, Pro Hac Vice Counsel Addy stated Plaintiff attempted to include damages five (5) days before trial and included two (2) new damage categories (Statutory Interest on Law Firm Fees and Additional Interest Through Trial). Addy further stated Plaintiff's conduct was a violation of NRCP 16.1(a)(2), 26(e) and 16.1(a)(3), disclosures must be at least 30 days before trial and Plaintiff requested an additional \$8 million dollars in interest on Tricarichi's underlying tax and penalty assessment. Furthermore, Defendant would be the only prejudiced party, the time to take depositions was over and Defendant's expert did not have an opportunity to review and make similar calculations. Colloquy



regarding expert reports, dates of submittal and NRCP 37(c). Mr. Sercye stated Defendant was not prejudiced, the additional 10 million dollars in damages related to damages previously disclosed and Defendant was entitled to prejudgment interest under NY law. Mr. Sercye further stated there was good cause for the late disclosure of damages and if the Court did find prejudice, there were other remedies, including taking the deposition of Greene. Court referenced Pizzaro-Ortega, stated its Findings and ORDERED Motion to Strike GRANTED noting non-compliance with the rules, the matter could have been addressed earlier, was first disclosed in less than 30 days and Greene's deposition during trial was not a reasonable or feasible alternative. Court did not find a sanction component. Testimony and exhibits presented (see worksheets). Deposition of Richard Stovsky was PUBLISHED and FILED IN OPEN COURT.

11/4/22 1:15 P.M. CONTINUED: BENCH TRIAL

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Business Court Matters**

**COURT MINUTES**

**November 04, 2022**

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A-16-735910-B      Michael Tricarichi, Plaintiff(s)  
vs.  
PricewaterhouseCoopers LLP, Defendant(s)

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**November 04, 2022      1:15 PM      Bench Trial - FIRM**

**HEARD BY:** Kishner, Joanna S.

**COURTROOM:** RJC Courtroom 16B

**COURT CLERK:** Stephanie Rapel

**RECORDER:** Lara Corcoran

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Austin, Bradley	Attorney
	Byrne, Patrick G.	Attorney
	Hessell, Scott F.	Attorney
	Johnson, Ariel Clark	Attorney
	Landgraff, Chris	Attorney
	Levine, Mark L.	Attorney
	Roin, Katharine A	Attorney
	Sercye, Blake P	Attorney

**JOURNAL ENTRIES**

- Testimony and exhibits presented (see worksheets). Colloquy regarding exhibits referenced in Stovsky's deposition which were not trial exhibits. Counsel agreed to argue objections to the admission of Exhibit 72 on Monday, November 7, 2022.

11/07/22 9:00 A.M. CONTINUED: BENCH TRIAL

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Business Court Matters****COURT MINUTES****November 07, 2022**

A-16-735910-B      Michael Tricarichi, Plaintiff(s)  
                                  vs.  
                                  PricewaterhouseCoopers LLP, Defendant(s)

**November 07, 2022      9:00 AM      Bench Trial - FIRM**

**HEARD BY:** Kishner, Joanna S.      **COURTROOM:** RJC Courtroom 16B

**COURT CLERK:** Stephanie Rapel

**RECORDER:** Lara Corcoran

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Austin, Bradley	Attorney
	Byrne, Patrick G.	Attorney
	Hessell, Scott F.	Attorney
	Johnson, Ariel Clark	Attorney
	Landgraff, Chris	Attorney
	Levine, Mark L.	Attorney
	Roin, Katharine A	Attorney
	Sercye, Blake P	Attorney

**JOURNAL ENTRIES**

- Per the agreement of the parties at the prior hearing, Landgraff proceeded to conduct a voir dire on Stovsky and presented objections to the admission of Exhibit 72. Hessell provided a response and argued for the admission of Exhibit 72. Court stated its Findings and ORDERED the admission of Exhibit 72 DENIED due to authenticity, hearsay and relevancy. Court did not address the late disclosure objection. Testimony and exhibits presented (see worksheets). Levine stated due to medical issues, Dellinger needed to be called out of order, would likely be called tomorrow morning and an additional break might be needed. Hessell did not object. Court addressed the exclusionary rule as to the new individuals in the courtroom and Counsel confirmed individuals were subject to the parties previous stipulation. Colloquy regarding Exhibit 100 and handwriting on page three (3) of the Exhibit. Following arguments by Counsel, Court ORDERED Exhibit 100 admitted for limited purpose. Court to consider Stovsky's statements, beliefs and position as to what was said as to

Plaintiff in light of different testimony received by Plaintiff. Court taking weight into account. Video deposition designation of Michael Boyer played. Admitted exhibits read into the record. Colloquy regarding Plaintiff's demonstrative exhibits. Levine stated the demonstrative exhibits were produced last night and Defendant objected to 13 out of the 24 slides; 3 of which included undisclosed expert opinions. Mr. Sercye stated the purpose of the demonstrative exhibits were to act as an aid in Greene's testimony. Slide five (5) to Plaintiff's demonstrative exhibit presented to the Court for review. Mr. Levine stated the slide shown would aid in leading the witness's testimony. Court stated its Findings and ORDERED objection to Plaintiff's demonstrative exhibit SUSTAINED. After discussing the matter with opposing counsel, Hessel stated Plaintiff would work out issues with the presentation tonight. Levine concurred. Video deposition designations of Jim Tricarichi and Michael Desmond played. Colloquy regarding the three (3) video depositions played in lieu of live testimony today and whether or not the testimony would be transcribed in the trial transcripts. Counsel to discuss tonight and address the issue tomorrow as well as closing arguments and whether or not future video depositions should be submitted as court exhibits and not played.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Business Court Matters****COURT MINUTES****November 08, 2022**

A-16-735910-B      Michael Tricarichi, Plaintiff(s)  
                                  vs.  
                                  PricewaterhouseCoopers LLP, Defendant(s)

**November 08, 2022      9:45 AM      Bench Trial - FIRM**

**HEARD BY:** Kishner, Joanna S.      **COURTROOM:** RJC Courtroom 16B

**COURT CLERK:** Stephanie Rapel

**RECORDER:** Lara Corcoran

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Addy, Sundeep Kumar	Attorney
	Austin, Bradley	Attorney
	Hessell, Scott F.	Attorney
	Johnson, Ariel Clark	Attorney
	Landgraff, Chris	Attorney
	Levine, Mark L.	Attorney
	Roin, Katharine A	Attorney
	Sercye, Blake P	Attorney
	Tricarichi, Michael A.	Plaintiff

**JOURNAL ENTRIES**

- Upon Court's inquiry, Counsel stipulated that the video deposition of Jim Tricarichi, Michael Desmond, and Michael Boyer played in open Court on November 7, 2022 would be typed into the record and noted the parties designations were deciphered by blue and red ink. Counsel to address future video depositions at a later time and provided word versions of the deposition designations to the Court Recorder. Landgraff stated a new colleague might observe via blue jeans tomorrow and/or Thursday. Levine stated Dellinger would be called by Defendant out of order. Hessell noted Plaintiff kept the case open even though witnesses were called out of order. Testimony and exhibits presented (see worksheets). Colloquy regarding Plaintiff's slide presentation. Sercye stated Plaintiff worked to resolve objections to the slides, however, disagreed with the objection on timing of displaying the slides. Levine stated the slides were being displayed in a leading fashion. Court

SUSTAINED Defendant's objection and referenced Nevada's rules on demonstrative exhibits. Testimony and exhibits presented (see worksheets). Colloquy regarding joint depositions designation transcripts. Counsel stipulated pursuant to EDCR 7.50 that Donald Korb and Randy Hart's joint deposition designation transcripts would be incorporated into the trial transcript as if they were read at the end of the day. Levine noted Korb's deposition would fall under Plaintiff's case in chief and Hart's under Defendant. Roin listed exhibits referenced in Miller's deposition and cross referenced them with trial exhibits noting a Court's Exhibit listing cross references would be provided. Video deposition of Glenn Miller played. Genord stated pursuant to EDCR 7.50, the parties reached an agreement whereby the two (2) awards granted in Plaintiff's Motion for Sanctions [382] and Defendant's Motion to Strike [377] would offset one another and Counsel withdrew their requests for fees and costs. Court DIRECTED Counsel to memorialize the stipulations in writing.

11/09/22 8:30 A.M. CONTINUED: BENCH TRIAL

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

Other Business Court Matters

COURT MINUTES

November 09, 2022

A-16-735910-B      Michael Tricarichi, Plaintiff(s)  
vs.  
PricewaterhouseCoopers LLP, Defendant(s)

**November 09, 2022      8:30 AM      Bench Trial - FIRM**

HEARD BY: Kishner, Joanna S.

COURTROOM: RJC Courtroom 16B

COURT CLERK: Stephanie Rapel

RECORDER: Lara Corcoran

REPORTER:

**PARTIES**

<b>PRESENT:</b>	Austin, Bradley	Attorney
	Byrne, Patrick G.	Attorney
	Hessell, Scott F.	Attorney
	Johnson, Ariel Clark	Attorney
	Landgraff, Chris	Attorney
	Levine, Mark L.	Attorney
	Roin, Katharine A	Attorney
	Sercye, Blake P	Attorney

**JOURNAL ENTRIES**

- Colloquy regarding timeframe and discussion of damages with witness Craig Greene. Court RECESSED and RECALLED the matter for Counsel to discuss a possible resolution. Counsel agreed to withdraw the objection and only ask Greene one (1) question on damages. Testimony and exhibits presented (see worksheets). Deposition of Timothy Craig Greene was PUBLISHED and FILED IN OPEN COURT. Counsel read exhibits to be admitted pertaining to Greene's testimony, Korb and Hart's video depositions not played in Court, however, added to the transcript and exhibits not referenced yet but seeking preadmission. Colloquy regarding Plaintiff's request to pre-admit exhibits 43, 56 and 83 not referenced yet in testimony. Hessell stated he would withdraw his request for the pre-admission of these three (3) exhibits considering the exhibits would be introduced with the next witnesses. Plaintiff RESTED its case in chief. Colloquy regarding Defendant's demonstrative exhibits. Hessell stated the slide-show

highlighted material not appropriate for the expert and was the subject matter for the Court's decision. Levine state the slide-show was a summary and Harris was Defendant's initial and expert witness. Court stated its Findings and ORDERED objection OVERRULED WITH CAVEAT. Court NOTED foundation to be laid and Nevada Rules for demonstrative exhibits followed. Furthermore, the Court would look at the slide-show as to the designation of the witness in a rebuttal expert witness context. Testimony and exhibits presented (see worksheets). Colloquy regarding Findings of Facts Conclusion of Law. Landgraff stated Defendant would like a ruling from the bench and Hessel stated he would like to confer with his client. Court to address the matter tomorrow. Per the Stipulation and Order Re: Disposition Designations of Randy Hart and Donald Korb filed on November 9, 2022 (Doc 391) and Notice of Entry thereof also filed on November 9, 2022 (Doc392) the depositions would be entered into the trial transcript on November 9, 2022 as if they had been played in open Court.

11/10/22 9:30 A.M. CONTINUED: BENCH TRIAL





## EXHIBIT(S) LIST

Case No.: **A-16-735910-B**

Hearing Date:

MAY 6, 2020 - MINUTE  
ORDER

Dept. No.: **XI**

Judge: HON. ELIZABETH GONZALEZ

**Court Clerk: DULCE ROMEA**

Recorder: N/A

**Counsel for Plaintiff:**

**Counsel for Defendant:**

Plaintiff: **MICHAEL TRICARICHI**

**Defendant:**

**PRICEWATERSHOUSECOOPERS LLP**

## HEARING BEFORE THE COURT

## COURT'S EXHIBITS

[illegible]

## EXHIBIT(S) LIST

Case No.: **A735910**

Hearing 3/30/2022

Dept. No.: 31

Date:

Judge: Kishner

Plaintiff: Michael Tricarichi

Court Clerk: Stephanie Rapel

Recorder: Lara Corcoran

**Counsel for Plaintiff:**

Scott Hessel,

**VS.**

Blake Seruyc, Ariel Johnson

Defendant: PricewaterhouseCoopers LLP

Counsel for Defendant:

Patrick Byrne,

Mark Levine, Bradley Austin, Chris Landgraff, Daniel Taylor, Katharine Rein

## HEARING BEFORE THE COURT

## Defendant's EXHIBITS

[illegible]

Joint Exhibits

CASE NO:

A-16-735910-B

DEPT NO:

XXXX

MICHAEL A. TRICARICHI

PLAINTIFF

PRICEWATERHOUSECOOPERS LLP

DEFENDANT

TRIAL DATE:

October 31, 2022

JUDGE:

Hon. Joanna Kishner

CLERK:

REPORTER:

JURY FEES:

COUNSEL FOR PLAINTIFF:

COUNSEL FOR DEFENDANT:

HUTCHISON & STEFFEN, LLC  
SPERLING & SLATER, P.C.  
SNELL & WILMER L.L.P.  
BARTLIT BECK LLP

# EXHIBIT LIST

Exhibit Number	Identif. of Device or Traditional (putv)	Description of Exhibit	Alphanumeric Designation on Exh.	Stipulated Yes / No	Date Offered	Objection	Date Admitted
001.pdf	Joint Exhibits Drive 1 (Golden) Joint Exhibits Drive 2 (Working)	Handwritten Notes	PwC200000002-PwC200000082	Yes	11/7/22		11/7/22
002.pdf	Joint Exhibits Drive 1 (Golden) Joint Exhibits Drive 2 (Working)	4/13/2003 Memo from Stovsky to Tricarichi regarding Potential Transaction for Westside Cellular (with marginalia)	TRICAR-NV00046619-TRICAR-NV00046630	Yes	10/31/22		10/31/22
003.pdf	Joint Exhibits Drive 1 (Golden) Joint Exhibits Drive 2 (Working)	PwC Invoice for services through 4/30/2003	TRICAR-NV0007532-TRICAR-NV0007537	Yes	11/3/22		11/3/22
004.pdf	Joint Exhibits Drive 1 (Golden) Joint Exhibits Drive 2 (Working)	6/1/2008 AICPA Code of Professional Conduct and Bylaws		Yes	11/9/22		11/9/22
005.pdf	Joint Exhibits Drive 1 (Golden) Joint Exhibits Drive 2 (Working)	11/15/2003 Email from Stovsky to J. Tricarichi attaching outstanding invoices	PWC-WS 1220-PWC-WS 1222	Yes	11/7/22		11/7/22
006.pdf	Joint Exhibits Drive 1 (Golden) Joint Exhibits Drive 2 (Working)	2/25/2009 Notice of Deficiency from the IRS to West Side Cellular	TRICAR-NV0060339-TRICAR-NV0060349	Yes			
007.pdf	Joint Exhibits Drive 1 (Golden) Joint Exhibits Drive 2 (Working)	7/16/2013 Email from Markus to Dillon re documents that PwC sent to the IRS	TRICAR-NV0034417-TRICAR-NV0034418	Yes	11/7/22	11/7/22	11/7/22



Exhibit Number	Identif. of Device	Description of Exhibit	Alphanumeric Designation of Exch.	Stipulated Yes/No	Date Offered	Current Objections	Objection	Date Admitted
030.pdf	Tricarichi Device 1 (Golden)	Timothy Lohnes Email to Ray Turk (cc David Cook, Richard Slovsky) re RE: Stock Purchase Agreement for West	PwC-002828	NO	11/2/22			11/2/22
031.pdf	Tricarichi Device 2 (Working)	Richard Slovsky Email to Timothy Lohnes re RE: Updated list of "listed transactions" (Notice 2003-76)	TRICAR-NV0003502	NO	11/2/22			11/2/22
032.pdf	Tricarichi Device 1 (Golden)	Richard Slovsky Email to Timothy Lohnes (cc Richard Slovsky) re RE: Updated list of "listed transactions" (Notice 2003-76)	TRICAR-NV0003536	NO	11/2/22			11/2/22
033.pdf	Tricarichi Device 2 (Working)	IRS Form 1120: US Corporate Income Tax Return for Westside Cellular	TRICAR-NV0001902	NO				
034.pdf	Tricarichi Device 1 (Golden)	Alan Fox Letter to Stephen R. Lenarowicz re Summons Served on October 8, 2002 on PricewaterhouseCoopers LLP	PwC-001365	NO	11/7/22			11/7/22
035.pdf	Tricarichi Device 2 (Working)	Paolo Clemens, "From Tax Q&RM: AICPA Statement on Standards for Tax Services (SSTS) No. 6, Knowledge of	PwC-030643	NO				
036.pdf	Tricarichi Device 1 (Golden)	Timothy Lohnes Email to Richard Slovsky re RE: FW: IRS issues new Listed Transaction - Please read	PwC-001768	NO	11/2/22			11/2/22
037.pdf	Tricarichi Device 2 (Working)	Opinion: Enbridge Energy Co., Inc. v. U.S.	TRICAR-NV0067154	NO				
038.pdf	Tricarichi Device 1 (Golden)	Gary Cesnik Email to Elaine Church (cc tax core qm) re RE: US District Court concludes that Midco	PwC-008492	NO	11/7/22			11/7/22
039.pdf	Tricarichi Device 2 (Working)	Joe Realmuto Email to Pat Pellervo re RE: Today's WSI - Midco transactions	PwC-031276	NO	11/9/22			11/9/22
040.pdf	Tricarichi Device 1 (Golden)	Corina Trainer Email to Mark Boyer (cc Joe Realmuto) re Midco Cases	PwC-048279	NO				
041.pdf	Tricarichi Device 2 (Working)	Mark Boyer WTS Meeting Outline: "Midco Transaction Updated based on Enbridge Energy and Notice 2008-20	PwC-028534	NO	11/9/22			11/9/22
042.pdf	Tricarichi Device 1 (Golden)	Derek Cain Email to Rochelle Hodes re RE: FW: Notice 2008-20 Info, attaching Information	PwC-018371	NO				
043.pdf	Tricarichi Device 2 (Working)	Rochelle Hodes Email to Gary Cesnik, Carl Duyck, Elizabeth Case (cc David Andres, Elaine Church) re Midco-notice	PwC-008661	NO				

Exhibit Number	Identif. of Device	Description of Exhibit	Alphanumeric Designation of Exch.	Stipulated Yes/No	Date Offered	Current Objections	Objection	Date Admitted
044.pdf	Tricarichi Device 1 (Golden) Tricarichi Device 2 (Working)	Knowledge Gateway Guidance on Intermediary Transaction Tax Shelters (Notice 2008-111)	PwC-001372	NO	11/2/22			11/2/22
045.pdf	Tricarichi Device 1 (Golden) Tricarichi Device 2 (Working)	Tim Lohnes Email to Richard Stovsky re notice	PwC-001371	NO	11/2/22			11/2/22
046.pdf	Tricarichi Device 1 (Golden) Tricarichi Device 2 (Working)	Rochelle Hodes Email to David Andres, Derek Cain, Mark Boyer (cc Elaine Church) re summary	PwC-008727	NO	11/7/20			11/7/22
047.pdf	Tricarichi Device 1 (Golden) Tricarichi Device 2 (Working)	Rochelle Hodes Email to Mark Boyer (cc David Andres, Derek Cain, Elizabeth Case, Horacio Sobol, Timothy	PwC-022642	NO				
048.pdf	Tricarichi Device 1 (Golden) Tricarichi Device 2 (Working)	IRS Notice of Deficiency to West Side Cellular, Inc.	TIRICAR-NV0001962	NO	11/9/22			11/9/22
049.pdf	Tricarichi Device 1 (Golden) Tricarichi Device 2 (Working)	Elaine Church Email to Rochelle Hodes (cc Adam Handler) re RE: Tax Shelter	PwC-024369	NO	11/9/22			11/9/22
050.pdf	Tricarichi Device 1 (Golden) Tricarichi Device 2 (Working)	IRS Letter to Glenn Miller re Michael Tricarichi	TIRICAR-NV0073218	NO				
051.pdf	Tricarichi Device 1 (Golden) Tricarichi Device 2 (Working)	Richard Stovsky Letter to Michael Tricarichi re Requested Relevant Materials	PwC-002481	NO	11/3/22			11/3/22
052.pdf	Tricarichi Device 1 (Golden) Tricarichi Device 2 (Working)	Monte Jackel Email to Monte Jackel (bcc Timothy Lohnes) re Mideo Enbridge 5th Circuit, attaching 5th Circuit Opinion	PwC-001415	NO				
053.pdf	Tricarichi Device 1 (Golden) Tricarichi Device 2 (Working)	Ken Bussey Email to Michael Kliegman, Mark Boyer, Sean Phells, Timothy Kelly re Pending Cases in the U.S. Tax	PwC-030058	NO				
054.pdf	Tricarichi Device 1 (Golden) Tricarichi Device 2 (Working)	Karen Lohnes Email to Mark Boyer (cc Elizabeth Amoni, Jeffrey Maddrey) re RE: FW: Reportable	PwC-030101	NO				
055.pdf	Tricarichi Device 1 (Golden) Tricarichi Device 2 (Working)	Westside Cellular Inc. Interest and Penalty Report	TIRICAR-NV0079519	NO				
056.pdf	Tricarichi Device 1 (Golden) Tricarichi Device 2 (Working)	Tax Court Memo: Estate of Marshall v. Commissioner of Internal Revenue	N/A	NO	11/10/22			11/10/22

Exhibit Number	Identif. of Device	Description of Exhibit	Alphanumeric Designation of Exch.	Stipulated Yes/No	Date Offered	Current Objections	Objection	Date Admitted
057.pdf	Tricarichi Device 1 (Golden) Tricarichi Device 2 (Working)	Fortrend International LLC Brochure	TRICAR- NV0007693	NO	10/12/22	NRS 51.065 - hearsay NRS 48.025(2) - irrelevant NRS 48.035(2) - undue delay, waste of time	Yes	Not admitted
058.pdf	Tricarichi Device 1 (Golden) Tricarichi Device 2 (Working)	AICPA Statement on Standards for Tax Services (SSTS) No. 6, Knowledge of Error: Return Preparation	PwC-030632	NO				
059.pdf	Tricarichi Device 1 (Golden) Tricarichi Device 2 (Working)	Examination of Multiple Parties in Intermediary Transaction Tax Shelters as Described in Notice 2001-16	PwC-005064	NO				
061.pdf	Tricarichi Device 1 (Golden) Tricarichi Device 2 (Working)	Stuart Finkel Email to RTDA Network re FW: Listed Transactions Summaries	PwC-009061	NO				
062.pdf	Tricarichi Device 1 (Golden) Tricarichi Device 2 (Working)	Thomas Palmisano Email to Mike Morris and Mark Thompson re [redacted] tax shelter/reportable transaction	PwC-032312	NO				
063.pdf	Tricarichi Device 1 (Golden) Tricarichi Device 2 (Working)	Brandon Mark Email to Shelley Penaloza re Urgent Copies Needed	PwC-034238	NO				
064.pdf	Tricarichi Device 1 (Golden) Tricarichi Device 2 (Working)	Compliance Issues With Respect to the New Tax Shelter Disclosure Regime	PwC-034239	NO				
066.pdf	Tricarichi Device 1 (Golden) Tricarichi Device 2 (Working)	Tax Court Memo: Michael Tricarichi v. Commissioner of Internal Revenue	TRICAR- NV0005624	NO	11/2/22			11/2/22 -
067.pdf	Tricarichi Device 1 (Golden) Tricarichi Device 2 (Working)	Rachel Hodes Email to Mark Boyer re RE: FW: notice 2008-20-Midco Modification, attaching checklist and	PwC-029042	NO				
068.pdf	Tricarichi Device 1 (Golden) Tricarichi Device 2 (Working)	Fortrend PwC \$950,000 Fee	N/A	NO	10/12/22	NRS 52.015 - authenticity NRS 51.065 - hearsay NRS 48.025(2) - irrelevant NRS 48.035(2) - undue delay, waste of time	Yes	



Exhibit Number	Identif. of Device	Description of Exhibit	Alphanumeric Designation of Exch.	Stipulated Yes/No	Date Offered	Current Objections	Objection	Date Admitted
069.pdf	Tricarichi Device 1 (Golden) Tricarichi Device 2 (Working)	PwC A/R Client Receipts	PwC-363	NO	10/31/22 11/4/22	NRS 52.015 - authenticity NRS 51.065 - hearsay NRS 48.025(2) - irrelevant NRS 48.035(2) - undue delay, waste of time	Yes - 10/31/22 Withdrawn 11.4.22	
070.pdf	Tricarichi Device 1 (Golden) Tricarichi Device 2 (Working)	PwC - Marshall Checklist	N/A	NO				
071.pdf	Tricarichi Device 1 (Golden) Tricarichi Device 2 (Working)	IRS Warning on "intermediary transactions" (Notice 2001-16)	PwC-030616	NO				
072.pdf	Tricarichi Device 1 (Golden) Tricarichi Device 2 (Working)	PwC-Fortrend Engagement Letter re Bishop Pipeline Company	N/A	NO	11/7/22	NRS 52.015 - authenticity NRS 51.065 - hearsay NRS 48.025(2) - irrelevant NRS 48.035(2) - undue delay, waste of time	11/7/22 Denied	
073.pdf	Tricarichi Device 1 (Golden) Tricarichi Device 2 (Working)	Email from Stephen Markus to Candace Williams re Deposition attaching "Additional Documents from Materials attached to August 2, 2013 email from Markus to Williams	PwC-001335	NO				
074.pdf	Tricarichi Device 1 (Golden) Tricarichi Device 2 (Working)	Email from Elaine Church to "tax core qrm" with subject line "Text of this afternoon's IRS release re: Service's 13, 2006 email from Church to "tax core qrm"	PwC-006174	NO				
075.pdf	Tricarichi Device 1 (Golden) Tricarichi Device 2 (Working)	Materials attached to August 2, 2013 email from Markus to Williams	PwC-000000(T ricarichi)	NO				
076.pdf	Tricarichi Device 1 (Golden) Tricarichi Device 2 (Working)	IRS release re: Service's 13, 2006 email from Church to "tax core qrm"	PwC-006175	NO				
077.pdf	Tricarichi Device 1 (Golden) Tricarichi Device 2 (Working)	Email from Sheri Dillon to Stephen Markus and others with subject line "proposed Tim Lohmes deposition"	TRICAR- NV0113178	NO				
078.pdf	Tricarichi Device 1 (Golden) Tricarichi Device 2 (Working)	Email from Stephen Markus to Sheri Dillon and others with subject line "RE: proposed Tim Lohmes deposition"	TRICAR- NV0113184	NO	11/2/22			11/2/22 -

Ken

Exhibit Number	Identif. of Device	Description of Exhibit	Alphanumeric Designation of Exh.	Stipulated Yes/No	Date Offered	Current Objections	Objection	Date Admitted
079.pdf	Tricarichi Device 1 (Golden) Tricarichi Device 2 (Working)	2003 Marshall 1040 filing by PwC with Reportable Transaction Disclosure Statement	N/A	NO				
080.pdf	Tricarichi Device 1 (Golden) Tricarichi Device 2 (Working)	Trial transcript from Estate of Marshall v. Commissioner of Internal Revenue	N/A	NO		Not listed as trial witness in pretrial filing NRS 51.065 – hearsay NRS 48.025(2) – irrelevant NRS 48.035(2) – undue delay, waste of time		
081.pdf	Tricarichi Device 1 (Golden) Tricarichi Device 2 (Working)	Email chain between Pat Pellerio and John Dempsey re Tricarichi transaction inquiries	N/A	NO				
082.pdf	Tricarichi Device 1 (Golden) Tricarichi Device 2 (Working)	Deposition of Patricia Pellerio from Estate of Marshall v. Commissioner of Internal Revenue	N/A	NO				
083.pdf	Tricarichi Device 1 (Golden) Tricarichi Device 2 (Working)	October 23, 2015 Tolling Agreement from Joel Levin to PwC	N/A	NO				
084.pdf	N/A	May 5, 2003 New Client Code	PwC-049335	NO	10/31/22		NO	Hard Copy
085.pdf	N/A	Tax Engagement Check List	PwC-049339	NO	10/31/22		NO	
086.pdf	N/A	February 6, 2003 Global TLS	PwC-049543	NO	10/31/22		NO	
087.pdf	N/A	November 6, 2000 Global	PwC-049547	NO	10/31/22		NO	
088.pdf	N/A	May 13, 2003 Global TLS	PwC-049561	NO	10-31-22		NO	
089.pdf	N/A	November 6, 2000 Global	PwC-049601	NO	10-31-22		NO	

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CASE NO.	A-16-735910-B	TRIAL DATE:	October 31, 2022
DEPT NO.	XOXI	JUDGE:	Hon. Joanna Kushner
	MICHAEL A. TRICARICHI	CLERK:	
		REPORTER:	
		JURY FEES:	
		COUNSEL FOR PLAINTIFF:	HUTCHISON & STEFFEN, LLC SPERLING & SLATER, P.C.
		COUNSEL FOR DEFENDANT:	SNELL & WILMER L.L.P. BARTLIT BECK LLP
100.pdf	PwC Drive 1 (Golden)	Alphanumeric Designation on Exh.	TRICAR-NV0117243-TRICAR-NV0117250
101.pdf	PwC Drive 2 (Working)	Stipulated Yes / No	No
102.pdf	PwC Drive 1 (Golden)	Date Offered	10/31/22
103.pdf	PwC Drive 2 (Working)	Current Objection	Hearsay Caveat
104.pdf	PwC Drive 1 (Golden)	Objection	10/31/22
105.pdf	PwC Drive 2 (Working)	Date Admitted	10/31/22
106.pdf	PwC Drive 1 (Golden)		Deter
108.pdf	PwC Drive 2 (Working)		
109.pdf	PwC Drive 1 (Golden)		
110.pdf	PwC Drive 2 (Working)		
111.pdf	PwC Drive 1 (Golden)		
112.pdf	PwC Drive 2 (Working)		
113.pdf	PwC Drive 1 (Golden)		
114.pdf	PwC Drive 2 (Working)		
115.pdf	PwC Drive 1 (Golden)		
116.pdf	PwC Drive 2 (Working)		
117.pdf	PwC Drive 1 (Golden)		

Exhibit Number	Identif. of Device or Traditional (part)	Description of Exhibit	Alphanumeric Designation on Exh.	Stipulated Yes / No	Date Offered	Current Objection	Objection	Date Admitted
118.pdf	PwC Drive 1 (Golden) PwC Drive 2 (Working)	4/13/2003 Memo from Stovsky to Tricarichi regarding Potential Transaction for Westside Cellular (with marginalia and redactions)	PwC-049330-PwC-049334	No				
119.pdf	PwC Drive 1 (Golden) PwC Drive 2 (Working)	4/14/2003 Email from Thronson to Stovsky regarding Proposed Transaction	PwC-002537-PwC-002538	No	11/2/22			11/2/22
120.pdf	PwC Drive 1 (Golden) PwC Drive 2 (Working)	Handwritten Notes	PwC-001237-PwC-001238	No				
121.pdf	PwC Drive 1 (Golden) PwC Drive 2 (Working)	5/8/2003 Email from Klink to J. Tricarichi regarding Request for Further Information regarding Cellnet	TRICAR-NV0125513-TRICAR-NV0125513	No				
122.pdf	PwC Drive 1 (Golden) PwC Drive 2 (Working)	5/27/2008 Email from Hodes to Boyer attaching Notice 2008-20 Maiden Modification	PwC-008615-PwC-008624	No				
123.pdf	PwC Drive 1 (Golden) PwC Drive 2 (Working)	Handwritten Notes	PwC-001239-PwC-001240	No				
124.pdf	PwC Drive 1 (Golden) PwC Drive 2 (Working)	7/13/2003 email from Block to J. Tricarichi, et al. regarding Steve Block Fortrend International	TRICAR-NV0120961-TRICAR-NV0120961	No				
126.pdf	PwC Drive 1 (Golden) PwC Drive 2 (Working)	7/22/2003 Letter Agreement from Nob Hill to M. Tricarichi regarding Purchase of All of the Stock of Westside Cellular	PwC-000728-PwC-000733	No	11/2/22			11/2/22
127.pdf	PwC Drive 1 (Golden) PwC Drive 2 (Working)	7/23/2003 Email from Folkman to Hart regarding Cellnet Issues	HL 00270-HL 00271	No	11/9/22			11/9/22
128.pdf	PwC Drive 1 (Golden) PwC Drive 2 (Working)	8/12/2003 Draft Stock Purchase Agreement between M. Tricarichi and Nob Hill (with marginalia)	PwC-000734-PwC-000771	No	11/2/22			11/2/22
129.pdf	PwC Drive 1 (Golden) PwC Drive 2 (Working)	8/13/2003 Email from J. Tricarichi to M. Tricarichi attaching Closing Checklist for Stock Purchase Agreement	TRICAR-NV0109749-TRICAR-NV0109752	No				
130.pdf	PwC Drive 1 (Golden) PwC Drive 2 (Working)	8/13/2003 Email from Hart to Folkman regarding Fortrend Agreement	TRICAR-NV0015336-TRICAR-NV0015336	No				
131.pdf	PwC Drive 1 (Golden) PwC Drive 2 (Working)	8/14/2002 Email from Lohnes to Stovsky regarding Westside	PwC-002574-PwC-002575	No	11/2/22			11/2/22
132.pdf	PwC Drive 1 (Golden) PwC Drive 2 (Working)	8/15/2003 Email from Stovsky to Lohnes regarding Westside	TRICAR-NV0007354-TRICAR-NV0007355	No	11/2/22			11/2/22
133.pdf	PwC Drive 1 (Golden) PwC Drive 2 (Working)	8/19/2003 Email from J. Tricarichi to Turk attaching Sales Calculation Spreadsheet	TRICAR-NV0001668-TRICAR-NV0001699	No				
134.pdf	PwC Drive 1 (Golden) PwC Drive 2 (Working)	8/21/2003 Email from Turk to Stovsky regarding Stock Purchase Agreement for West Side Cellular by Nob Hill Holdings	PwC-002619-PwC-002620	No	11/2/22			11/2/22
135.pdf	PwC Drive 1 (Golden) PwC Drive 2 (Working)	8/21/2003 Email from Folkman to M. Tricarichi attaching redlined version of Stock Purchase Agreement from Klink	TRICAR-NV0100723-TRICAR-NV0100767	No				
136.pdf	PwC Drive 1 (Golden) PwC Drive 2 (Working)	8/25/2003 Email from Lohnes to Turk regarding Stock Purchase Agreement for West Side Cellular by Nob Hill Holdings	TRICAR-NV0030549-TRICAR-NV0030551	No	11/2/22			11/2/22
137.pdf	PwC Drive 1 (Golden) PwC Drive 2 (Working)	8/28/2003 Email from Hart to M. Tricarichi, Folkman, and J. Tricarichi regarding Fortrend	TRICAR-NV0031289-TRICAR-NV0031289	No				
138.pdf	PwC Drive 1 (Golden) PwC Drive 2 (Working)	9/9/2003 Executed Stock Purchase Agreement between Nob Hill Holdings, Inc. and Michael Tricarichi	TRICAR-NV0016097-TRICAR-NV0016215	No				
139.pdf	PwC Drive 1 (Golden) PwC Drive 2 (Working)	9/9/2003 Letter from Hahn Loeser & Parks to McNabola regarding Sale of All of the Issued and Outstanding Shares of West Side Cellular, Inc.	TRICAR-NV0108508-TRICAR-NV0108512	No				
140.pdf	PwC Drive 1 (Golden) PwC Drive 2 (Working)	9/10/2003 Executed Agreement and Plan of Merger between West Side Cellular, Inc. and Nob Hill Holdings, Inc.	TRICAR-NV0028814-TRICAR-NV0028819	No				
142.pdf	PwC Drive 1 (Golden) PwC Drive 2 (Working)	10/31/2003 Invoice from Hahn Loeser & Parks to Tricarichi for Tax Planning services regarding VCI Communications	TRICAR-NV0001343-TRICAR-NV0001361	No				
143.pdf	PwC Drive 1 (Golden) PwC Drive 2 (Working)	9/30/2004 Letter from Miller to IRS regarding West Side Cellular protest of certain findings of the Taxpayer Advocate Service	TRICAR-NV0060495-TRICAR-NV0060507	No	11/3/22			11/3/22
144.pdf	PwC Drive 1 (Golden) PwC Drive 2 (Working)	8/10/2005 Letter from IRS to West Side Cellular regarding 2003 Tax Audit	TRICAR-NV0008130-TRICAR-NV0008139	No	11/9/22			11/9/22
145.pdf	PwC Drive 1 (Golden) PwC Drive 2 (Working)	9/22/2005 Letter from IRS to Dick attaching material under the provisions of Power of Attorney	TRICAR-NV0008109-TRICAR-NV0008129	No				
146.pdf	PwC Drive 1 (Golden) PwC Drive 2 (Working)	5/14/2007 Email from Hart to Conn regarding West Side Cellular	TRICAR-NV0007970-TRICAR-NV0007970	No	11/9/22			11/9/22

Exhibit Number	Identif of Device or Traditional (put v)	Description of Exhibit	Alphanumeric Designation on Exh.	Stipulated Yes / No	Date Offered	Current Objection	Objection	Date Admitted
147.pdf	PwC Drive 1 (Golden)	6/21/2007 Letter from Hart to the IRS regarding M. Tricarichi Subpoena for West Side Cellular	TRICAR-NV0024216-TRICAR-NV0024216	No	11/9/22			11/9/22
149.pdf	PwC Drive 2 (Working)	9/26/2007 Treasury Department Circular No. 230 regarding Regulations Governing the Practice of Attorneys, Certified Public Accountants.		No	11/9/22			11/9/22
150.pdf	PwC Drive 1 (Golden)	1/22/2008 Letter from the IRS to M. Tricarichi regarding outstanding tax liability	TRICAR-NV0121454-TRICAR-NV0121458	No	11/3/22			11/3/22
151.pdf	PwC Drive 2 (Working)	Chicago Board of Exchange Volatility Index from 2008-2010		No				
152.pdf	PwC Drive 1 (Golden)	1/29/2008 Letter from the IRS to Stovsky attaching a summons regarding West Side Cellular	PwC-002501-PwC-002510	No	11/7/22			11/7/22
153.pdf	PwC Drive 2 (Working)	1/29/2008 Letter from the IRS to West Side Cellular attaching an examination report	TRICAR-NV0026505-TRICAR-NV0026509	No				
154.pdf	PwC Drive 1 (Golden)	2/21/2008 Fax from Hart to the IRS attaching Michael A. Tricarichi Information Document Request		No				
155.pdf	PwC Drive 2 (Working)	2/22/2008 Letter from Stovsky to the IRS enclosing records requested per the summons	PwC-001324-PwC-001334	No	11/7/22			11/7/22
156.pdf	PwC Drive 1 (Golden)	3/31/2008 Opinion in the <i>Enbridge Energy v. U.S.</i> (Case No. H-06-657, S.D. TX)	TRICAR-NV0104867-TRICAR-NV0104879	No	11/9/22			11/9/22
157.pdf	PwC Drive 2 (Working)	5/30/2008 Email from Hodes to Duyek, et al. regarding Milton Notice 2008-20 Independence Implications	PwC-008669-PwC-008679	No				
158.pdf	PwC Drive 1 (Golden)	6/4/2008 Email from Hodes to Duyek, et al. regarding Treasury Official Says IRS to Issue Guidance for Intermediary Transaction Shelters Notice	PwC-008690-PwC-008691	No				
159.pdf	PwC Drive 2 (Working)	12/2/2008 Email from Lohnes to Stovsky regarding attached Notice 2008-11	PwC-001371-PwC-001382	No	11/7/22			11/7/22
160.pdf	PwC Drive 1 (Golden)	December 2008 Charles Schwab Statement to Tricarichi	TRICAR-NV0135357-TRICAR-NV0135366	No				
161.pdf	PwC Drive 2 (Working)	2/3/2009 Letter from the IRS to M. Tricarichi regarding outstanding tax liability	TRICAR-NV0067021-TRICAR-NV0067070	No	11/3/22			11/3/22
162.pdf	PwC Drive 1 (Golden)	8/11/2009 Letter from the IRS to Miller attaching material under the provisions of Power of Attorney	TRICAR-NV0093619-TRICAR-NV0093643	No	11/8/22			11/8/22
163.pdf	PwC Drive 2 (Working)	8/11/2009 Letter from the IRS to M. Tricarichi attaching the Transferee Report and Waiver Form	TRICAR-NV0093753-TRICAR-NV0093812	No	11/3/22			11/3/22
164.pdf	PwC Drive 1 (Golden)	9/17/2009 Letter from Stovsky to M. Tricarichi regarding materials sent to the IRS in February 2008	TRICAR-NV0034081-TRICAR-NV0034081	No				
165.pdf	PwC Drive 2 (Working)	10/8/2009 Memo from Korb, et al. to M. Tricarichi and Hart regarding West Side Cellular	TRICAR-NV0135479-TRICAR-NV0135488	No	11/3/22			11/3/22
167.pdf	PwC Drive 1 (Golden)	10/15/2009 Letter from Levin to Oscar regarding Michael Tricarichi	TRICAR-NV0092842-TRICAR-NV0092844	No				
168.pdf	PwC Drive 2 (Working)	10/28/2009 Invoice from Sullivan & Cromwell to M. Tricarichi	TRICAR-NV0053561-TRICAR-NV0053563	No	11/3/22			11/3/22
169.pdf	PwC Drive 1 (Golden)	11/16/2009 Memo from Corn to M. Tricarichi and Hart regarding U.S. Court of Appeals for the Fifth Circuit Disregards Form of Intermediary Transaction	TRICAR-NV0135451-TRICAR-NV0135454	No	11/3/22			11/3/22
170.pdf	PwC Drive 2 (Working)	1/27/2010 Email with redactions from Miller to M. Tricarichi regarding Don Korb	TRICAR-NV0131227-TRICAR-NV0131227	No				
171.pdf	PwC Drive 1 (Golden)	4/23/2010 Email from Korb to M. Tricarichi and Hart regarding Meeting in D.C.	TRICAR-NV0131186-TRICAR-NV0131186	No	11/9/22			11/9/22
174.pdf	PwC Drive 2 (Working)	6/9/2010 Email from Korb to M. Tricarichi, et al. attaching Draft slides for Appeals Presentation	TRICAR-NV0123530-TRICAR-NV0123589	No	11/9/22			11/9/22
175.pdf	PwC Drive 1 (Golden)	9/13/2010 Tricarichi Appeals Notebook	TRICAR-NV0133950-TRICAR-NV0134287	No	11/9/22			11/9/22
178.pdf	PwC Drive 2 (Working)	9/14/2010 Email from Korb to M. Tricarichi and Hart regarding IRS Appeals Conference Binder	TRICAR-NV0137027-TRICAR-NV0137028	No				
179.pdf	PwC Drive 1 (Golden)	9/16/2010 Email from Korb to M. Tricarichi regarding IRS Appeals Conference Binder	TRICAR-NV0123433-TRICAR-NV0123435	No	11/9/22			11/9/22

Ex List

Exhibit Number	Identif. of Device or Traditional (pvt)	Description of Exhibit	Alphanumeric Designation on Exh.	Stipulated Yes / No	Date Offered	Current Objection	Objection	Date Admitted
180.pdf	PwC Drive 1 (Golden)	9/17/2010 Letter from Korb to M. Tricarichi enclosing IRS Appeals Conference binder	TRICAR-NV0104721-TRICAR-NV0104724	No	11/9/22			11/9/22
181.pdf	PwC Drive 2 (Working)	10/21/2010 Email from Desmond to Mason regarding 10-27 conference T. case with redactions	TRICAR-NV0105301-TRICAR-NV0105302	No	11/7/22			11/7/22
182.pdf	PwC Drive 1 (Golden)	10/22/2010 Email from Corn to Desmond, et al. regarding IRS Appeals Presentation	TRICAR-NV0122486-TRICAR-NV0122561	No	11/3/22			11/3/22
183.pdf	PwC Drive 2 (Working)	10/26/2010 Email from Corn to Szpakik attaching 10-27 Conference Slides	ADMIN_TR100910-ADMIN_TR100930	No	11/3/22	Subject to NRS 48.105	OT reserves case out	11/3/22
184.pdf	PwC Drive 1 (Golden)	10/28/2010 Draft of Tricarichi's Baseline Case from Sullivan & Cronwell	TRICAR-NV0073765-TRICAR-NV0073769	No				
185.pdf	PwC Drive 2 (Working)	10/28/2010 Email from Corn to Miller, et al. transcript of Tricarichi Interview with the IRS	TRICAR-NV0073770-TRICAR-NV0073773	No				
186.pdf	PwC Drive 1 (Golden)	10/29/2010 Email from Korb to M. Tricarichi and Hart regarding Settlement Calculations	TRICAR-NV0073912-TRICAR-NV0073912	No	11/7/22			11/7/22
187.pdf	PwC Drive 2 (Working)	10/29/2010 Tricarichi's Baseline Case	TRICAR-NV0073913-TRICAR-NV0073920	No	11/7/22			11/7/22
188.pdf	PwC Drive 1 (Golden)	11/1/2010 Email from M. Tricarichi to Levin, et al. regarding IRS Settlement Meeting	TRICAR-NV0126038-TRICAR-NV0126038	No	11/3/22			11/3/22
189.pdf	PwC Drive 2 (Working)	1/2/2010 Email from Korb to M. Tricarichi and Hart regarding Mason's follow up call with the IRS Appeals Officer	TRICAR-NV0130745-TRICAR-NV0130745	No	11/9/22			11/9/22
190.pdf	PwC Drive 1 (Golden)	12/6/2010 Email from Mason to Szpakik regarding Decision Tree analysis	TRICAR-NV0026453-TRICAR-NV0026454	No	11/3/22			11/3/22
191.pdf	PwC Drive 2 (Working)	12/6/2010 Email from Korb to M. Tricarichi and Hart regarding Decision Tree	TRICAR-NV0130733-TRICAR-NV0130734	No	11/3/22			11/3/22
192.pdf	PwC Drive 1 (Golden)	12/8/2010 Email from Corn to Korb, et al. regarding IRS appeals team conference call	TRICAR-NV0073889-TRICAR-NV0073889	No	11/7/22			11/7/22
193.pdf	PwC Drive 2 (Working)	12/8/2010 Fax from the IRS attaching Settlement Computation	TRICAR-NV0073890-TRICAR-NV0073900	No	11/7/22			11/7/22
194.pdf	PwC Drive 1 (Golden)	1/28/2011 Email from Hart to M. Tricarichi regarding mediation	TRICAR-NV0122406-TRICAR-NV0122406	No				
195.pdf	PwC Drive 2 (Working)	3/8/2011 Fax from the IRS to Corn and Mason attaching the Rebuttal to the Taxpayer's Protest	TRICAR-NV0073598-TRICAR-NV0073614	No	11/8/22			11/8/22
196.pdf	PwC Drive 1 (Golden)	3/16/2011 Email from M. Tricarichi to Hart attaching Starnes Opinion (T.C. Memo 2011-63)	TRICAR-NV0126004-TRICAR-NV0126037	No	11/8/22			11/8/22
197.pdf	PwC Drive 2 (Working)	3/19/2011 Letter from Korb to Szpakik regarding West Side Cellular tax returns and "Midco" characterization	TRICAR-NV0073703-TRICAR-NV0073706	No	11/9/22			11/9/22
198.pdf	PwC Drive 1 (Golden)	3/18/2011 Email from Corn to M. Tricarichi and Hart regarding another Tax Court case involving "Midco"	TRICAR-NV0122341-TRICAR-NV0122342	No				
199.pdf	PwC Drive 2 (Working)	8/8/2011 Email from Surma to M. Tricarichi regarding Outstanding S&C Invoices	TRICAR-NV0122283-TRICAR-NV0122285	No				
200.pdf	PwC Drive 1 (Golden)	8/26/2011 Email from Korb to M. Tricarichi, et al. regarding Telephone Conference with the IRS Appeals Officer	TRICAR-NV0122279-TRICAR-NV0122279	No	11/9/22			11/9/22
201.pdf	PwC Drive 2 (Working)	8/29/2011 Fax from the IRS to Korb attaching Proposed Settlement Computation	ADMIN_TR101034-ADMIN_TR101035	No	11/3/22			11/3/22
202.pdf	PwC Drive 1 (Golden)	8/29/2011 Email from Korb to M. Tricarichi regarding Proposed Settlement Computation	TRICAR-NV0122276-TRICAR-NV0122276	No	11/3/22			11/3/22
203.pdf	PwC Drive 2 (Working)	9/1/2011 Email from Korb to M. Tricarichi regarding Telephone Call with IRS Appeals Officer	TRICAR-NV0130570-TRICAR-NV0130570	No	11/3/22			11/3/22
204.pdf	PwC Drive 1 (Golden)	10/11/2011 Email from Miller to M. Tricarichi regarding proceeding to litigation	TRICAR-NV0122259-TRICAR-NV0122259	No				
205.pdf	PwC Drive 2 (Working)	1/14/2011 Letter from Levin to Slovsky regarding tolling agreement	PwC-002477-PwC-002479	No	11/9/22			11/9/22
206.pdf	PwC Drive 1 (Golden)	2/10/2012 Letter from the IRS to Korb regarding resolution of dispute	TRICAR-NV0027027-TRICAR-NV0027027	No				
207.pdf	PwC Drive 2 (Working)	3/2/2012 Email from Miller to M. Tricarichi attaching Stone Transferee opinion (T.C. Memo 2012-57)	TRICAR-NV0122168-TRICAR-NV0122194	No	11/8/22			11/8/22



Exhibit Number	Identif. of Device or Traditional (pt/v)	Description of Exhibit	Alphanumeric Designation on Exh	Stipulated Yes / No	Date Offered	Current Objection	Objection	Date Admitted
208.pdf	PwC Drive 1 (Golden)	4/24/2012 Email from C. Tricarichi to M. Tricarichi forwarding email from Levin (Redacted)	TRICAR-NV0135428-TRICAR-NV0135429	No				
209.pdf	PwC Drive 2 (Working)	5/15/2012 Transferee Report	TRICAR-NV0010387-TRICAR-NV0010416	No				
210.pdf	PwC Drive 1 (Golden)	6/25/2012 Notice of Liability from the IRS to M. Tricarichi	TRICAR-NV0027037-TRICAR-NV0027046	No	11/3/22			11/3/22
211.pdf	PwC Drive 2 (Working)	6/25/2012 IRS Interest and Penalty Detail Report for West Side Cellular	TRICAR-NV0079519-TRICAR-NV0079525	No				
212.pdf	PwC Drive 1 (Golden)	6/25/2012 Corporate Interest Statement from the IRS to Westside Cellular	TRICAR-NV0053280-TRICAR-NV0053286	No				
213.pdf	PwC Drive 2 (Working)	Handwritten Notes		No	11/7/22	Hearsay as to referenced conversations with Michael Tricarichi or James Tricarichi	11/7/22	
214.pdf	PwC Drive 1 (Golden)	7/5/2012 Email from Miller to M. Tricarichi regarding call to discuss tax case	TRICAR-NV0130486-TRICAR-NV0130487	No	11/8/22		Denied w/o prejudice	11/9/22
215.pdf	PwC Drive 2 (Working)	8/17/2012 Email from Levin to M. Tricarichi regarding summary of comments on the case	TRICAR-NV0137281-TRICAR-NV0137283	No				
217.pdf	PwC Drive 1 (Golden)	9/10/2012 Letter from Levin to Schwartz regarding Response to Mediation Submission	TRICAR-NV0132671-TRICAR-NV0132676	No	11/3/22			11/3/22
218.pdf	PwC Drive 2 (Working)	9/13/2012 Confidential Settlement Agreement, General Release and Waiver of Rights between Hahn Loeser & Parks, Michael Tricarichi, Barbara Tricarichi and VCI Communications (Executed)	TRICAR-NV0133592-TRICAR-NV0133599	No	11/3/22			11/3/22
219.pdf	PwC Drive 1 (Golden)	7/16/2013 Letter from Markus to Dillon enclosing documents that PwC sent to the IRS	TRICAR-NV0113240-TRICAR-NV0113250	No				
220.pdf	PwC Drive 2 (Working)	8/2/2013 email from Markus to Williams regarding Additional Documents from PwC regarding Tricarichi Engagement	PwC-0011335-PwC-001349	No				
221.pdf	PwC Drive 1 (Golden)	8/6/2013 Deposition Transcript of James Tricarichi (Tax Court No. 23630-12)	TRICAR-NV0033281-TRICAR-NV0033356	No				
222.pdf	PwC Drive 2 (Working)	8/13/2013 Email from Desmond to M. Tricarichi regarding Tax Case Update	TRICAR-NV0129165-TRICAR-NV0129165	No				
223.pdf	PwC Drive 1 (Golden)	12/6/2013 Deposition Transcript of Jeffrey Folkman (Tax Court No. 23630-12)	TRICAR-NV0028060-TRICAR-NV0028119	No				
224.pdf	PwC Drive 2 (Working)	5/17/2014 Email from M. Tricarichi to Desmond regarding Tax Case Update	TRICAR-NV0125152-TRICAR-NV0125152	No				
225.pdf	PwC Drive 1 (Golden)	5/19/2014 Cross-Motion in Limine to Exclude from Trial Any Evidence or Argument that the Stock Purchase Transaction at Issue is an "Intermediary Transaction Tax Shelter" Within the Meaning of IRS Notice 2001-16 and IRS Notice 2008-20 (Tax Case No. 23630-12)	TRICAR-NV0077953-TRICAR-NV0077959	No	11/7/22			11/7/22
226.pdf	PwC Drive 2 (Working)	5/28/2014 Petral Memorandum (Tax Court Case No. 23630-12)	TRICAR-NV0072136-TRICAR-NV0072191	No				
227.pdf	PwC Drive 1 (Golden)	5/29/2014 Email from Desmond to M. Tricarichi regarding Favorable Tax Court Decision Issued Today	TRICAR-NV0047745-TRICAR-NV0047745	No	11/7/22			11/7/22
228.pdf	PwC Drive 2 (Working)	5/31/2014 Email from Tricarichi to Desmond regarding Tax Case	TRICAR-NV0125151-TRICAR-NV0125151	No	11/3/22			11/3/22
229.pdf	PwC Drive 1 (Golden)	RESERVED		No				
230.pdf	PwC Drive 2 (Working)	8/23/2014 Email from Hart to M. Tricarichi regarding Tricarichi Post Trial Brief	TRICAR-NV0118871-TRICAR-NV0118873	No				
231.pdf	PwC Drive 1 (Golden)	8/27/2014 Email from Desmond to M. Tricarichi regarding IRS Settlement Offer	TRICAR-NV0051662-TRICAR-NV0051662	No	11/7/22			11/7/22
232.pdf	PwC Drive 2 (Working)	8/28/2014 Settlement Discussion Framework	TRICAR-NV0118866-TRICAR-NV0118866	No	11/3/22			11/3/22
233.pdf	PwC Drive 1 (Golden)	8/29/2014 Email from Michael Desmond to Michael Tricarichi, Randy Hart, Craig Bell, and Bradley Riddlehoover regarding IRS Settlement Discussion	TRICAR-NV0118865-TRICAR-NV0118865	No	11/3/22			11/3/22

Ex List

Exhibit Number	Identif. of Device or Traditional (purv)	Description of Exhibit	Alphanumeric Designation on Exh.	Stipulated Yes / No	Date Offered	Current Objection	Objection	Date Admitted
234.pdf	PwC Drive 1 (Golden)	9/3/2014 Email from M. Tricarichi to Desmond regarding Friday Call on IRS Settlement Offer	TRICAR-NV0131553-TRICAR-NV0131553	No	11/3/22			11/8/22
235.pdf	PwC Drive 1 (Golden)	9/4/2014 Email from M. Tricarichi to Hart regarding IRS Settlement Offer	TRICAR-NV0131552-TRICAR-NV0131552	No				
236.pdf	PwC Drive 2 (Working)	9/26/2014 Petitioner's Opening Brief (Tax Court No. 23620-12)	TRICAR-NV0078758-TRICAR-NV0078889	No	11/7/22			11/7/22
237.pdf	PwC Drive 1 (Golden)	9/29/2014 Email from Desmond to M. Tricarichi regarding IRS's Opening Brief	TRICAR-NV0118403-TRICAR-NV0118403	No	11/7/22			11/7/22
238.pdf	PwC Drive 2 (Working)	10/15/2014 Email from Desmond to M. Tricarichi regarding Response to IRS's Proposed Findings of Fact	TRICAR-NV0118300-TRICAR-NV0118300	No	11/7/22			11/7/22
239.pdf	PwC Drive 1 (Golden)	11/10/2014 Simultaneous Answering Brief (Tax Court No. 23630-12)		No	11/7/22			11/7/22
240.pdf	PwC Drive 1 (Golden)	12/12/2014 Trial Testimony of Dan Mendelson (Tax Court, Nos. 27241-11, 28661-11 and 28782-11)	MARSH0098109-MARSH0098169	No				
241.pdf	PwC Drive 2 (Working)	6/9/2015 Email from Desmond to M. Tricarichi regarding Ninth Circuit Transferee Case	TRICAR-NV0052634-TRICAR-NV0052634	No				
242.pdf	PwC Drive 1 (Golden)	10/14/2015 Tax Court Opinion (T.C. Memo 2015-201)		No				
243.pdf	PwC Drive 1 (Golden)	12/22/2015 Assessment Against Transferee or Fiduciary from the IRS to Tricarichi	TRICAR-NV0055278-TRICAR-NV0055278	No				
244.pdf	PwC Drive 1 (Golden)	1/12/2016 Email from M. Tricarichi to Desmond regarding additional case law	TRICAR-NV0124956-TRICAR-NV0124958	No				
245.pdf	PwC Drive 1 (Golden)	1/14/2016 Email from Desmond to M. Tricarichi regarding S&C Settlement Scenarios	TRICAR-NV0127209-TRICAR-NV0127209	No				
246.pdf	PwC Drive 2 (Working)	2/18/2016 Computation for Entry of Decision (Tax Court No. 23630-12)	TRICAR-NV0005426-TRICAR-NV0005432	No				
249.pdf	PwC Drive 1 (Golden)	7/18/2016 Supplemental Memorandum Opinion (Tax Court No. 23630-12)	TRICAR-NV0072889-TRICAR-NV0072904	No				
252.pdf	PwC Drive 1 (Golden)	11/29/2016 Email from Desmond to M. Tricarichi regarding Mediation Order	TRICAR-NV0126732-TRICAR-NV0126732	No	11/3/22			11/3/22
253.pdf	PwC Drive 2 (Working)	12/2/2016 Email from Desmond to the IRS regarding mediation process	TRICAR-NV0126731-TRICAR-NV0126731	No				
254.pdf	PwC Drive 1 (Golden)	1/13/2017 Appellant's Brief (U.S. Court of Appeals, No. 16-73418)	TRICAR-NV0005767-TRICAR-NV0005843	No				
255.pdf	PwC Drive 2 (Working)	3/9/2017 Judgment (Court of Appeals of Ohio, Case No. 104615)		No				
256.pdf	PwC Drive 1 (Golden)	Handwritten Notes	PwC-001236-PwC-001236	No				
257.pdf	PwC Drive 1 (Golden)	ABA Formal Opinion No. 481 - A Lawyer's Duty to Inform a Current or Former Client of the Lawyer's Material Error		No				
258.pdf	PwC Drive 2 (Working)	11/13/2018 Opinion from the U.S. Court of Appeals for the Ninth Circuit regarding <i>Tricarichi v. Commissioner of Internal Revenue</i> (No. 16-73418)	TRICAR-NV0110091-TRICAR-NV0110100	No				
259.pdf	PwC Drive 1 (Golden)	1/1/2019 Tricarichi Joint Assets and Liabilities	TRICAR-NV0124093-TRICAR-NV0124097	No				
260.pdf	PwC Drive 2 (Working)	6/27/2019 Curriculum Vitae of Arthur (Kip) Dellinger		No				
264.pdf	PwC Drive 1 (Golden)	10/10/2019 Michael Tricarichi's Response to PwC's First Set of Interrogatories		No				
265.pdf	PwC Drive 2 (Working)	Plaintiff's Response to PwC's Second Set of Interrogatories		No				
266.pdf	PwC Drive 1 (Golden)	IRC 6621 Table of Underpayment Rates from January 1, 1990 - December 31, 2020		No				
267.pdf	PwC Drive 1 (Golden)	5/2020 Curriculum Vitae of Kenneth Harris		No				
268.pdf	PwC Drive 2 (Working)	5/2020 Curriculum Vitae of Joseph Leauanae		No				
103A	1031-10330	Paper copy of Ex 103 1st 30 pgs		No	11/2/24	Hearsey		11/2/22



Exhibit Number	Identif. of Device or Traditional (part)	Description of Exhibit	Alphanumeric Designation on Exh.	Stipulated Yes / No	Date Offered	Current Objection	Objection	Date Admitted
270.pdf	PwC Drive 1 (Golden)	Real Estate Experience of Randy Hart and Michael Tricarichi	TRICAR-NV0123995-TRICAR-NV0123995	No				
271.pdf	PwC Drive 2 (Working)	Donald Korb biography from Sullivan & Cromwell website		No	11/9/22			11/9/22
272.pdf	PwC Drive 2 (Working)	IRS Treasury Regulation § 1.6664-2, Underpayment		No				
273.pdf	PwC Drive 1 (Golden)	PDF of Excel prepared by Lenuanae regarding Schwab Checks		No				
274.pdf	PwC Drive 2 (Working)	8/30/2007 Affidavit of Michael Tricarichi (Case No. 06 CV 2231)	PET_LIT004207-PET_LIT004210	No				
275.pdf	PwC Drive 1 (Golden)	11/30/2007 Transcript of Taxpayer Interview of Michael Tricarichi	TRICAR-NV0073774-TRICAR-NV0073876	No				
276.pdf	PwC Drive 2 (Working)	10/17/2013 Unsworn Declaration of Michael A. Tricarichi in Support of Petitioner's Motion for Summary Judgment (Tax Court No. 23630-12)	TRICAR-NV0004005-TRICAR-NV0004215	No				
277.pdf	PwC Drive 1 (Golden)	10/21/2013 Unsworn Declaration of Michael A. Tricarichi in Support of Petitioner's Motion for Summary Judgment (Tax Court No. 23630-12)	TRICAR-NV0058266-TRICAR-NV0058274	No				
278.pdf	PwC Drive 2 (Working)	6/9/2014 Trial Testimony of Michael Tricarichi (Tax Court No. 23630-12)		No				
279.pdf	PwC Drive 1 (Golden)	6/10/2014 Trial Testimony of Randy Hart (Tax Court No. 23630-12)		No				
280.pdf	PwC Drive 2 (Working)	Affidavit of Michael A. Tricarichi in Support of Plaintiff's Opposition to Defendant PricewaterhouseCoopers LLP's Motion for Summary Judgment		No				
281.pdf	PwC Drive 1 (Golden)	5/26/2020 Expert Report & Exhibits of Craig Greene		No				
282.pdf	PwC Drive 2 (Working)	Curriculum Vitae of Craig Greene		No				
283.pdf	PwC Drive 1 (Golden)	Deposition and Trial Testimony of Craig Greene in the Past Four Years		No				
284.pdf	PwC Drive 2 (Working)	7/24/2020 Rebuttal Expert Report of Craig Greene		No				
290.pdf	PwC Drive 1 (Golden)	Interpretation No. 1-2, "Tax Planning," of Statement on Standards for Tax Services No. 1, <i>Tax Returns Positions</i>		No				
291.pdf	PwC Drive 2 (Working)	Draft Stock Purchase Agreement with Stovsky handwritten notes	PwC-000655-PwC-000702	No	11/7/22			11/7/22
292.pdf	PwC Drive 1 (Golden)	7/15/2022 Curriculum Vitae for Arthur "Kip" Dellinger		No				
293.pdf	PwC Drive 2 (Working)	U.S. Tax Court Petition		No				
294.pdf	PwC Drive 1 (Golden)	8/21/2003 Email from Turk to Stovsky attaching draft Stock Purchase Agreement for West Side Cellular by Nob Hill Holdings	PwC-0000668-PwC-000117	No				
295.pdf	PwC Drive 2 (Working)	8/23/2003 Email from Turk to Stovsky attaching draft Stock Purchase Agreement for West Side Cellular by Nob Hill Holdings	PwC-000218-PwC-000267	No				
296.pdf	PwC Drive 1 (Golden)	8/12/2003 Draft Stock Purchase Agreement between Nob Hill Holdings and M. Tricarichi	PwC-000611-PwC-000654	No	11/7/22			11/7/22
297.pdf	PwC Drive 2 (Working)	8/11/2003 Draft Stock Purchase Agreement between Nob Hill Holdings and M. Tricarichi	PwC-000772-PwC-000826	No				
298.pdf	PwC Drive 1 (Golden)	8/29/2003 Email from Folkman to Klink attaching Revised Stock Purchase Agreement between Nob Hill Holdings and M. Tricarichi	PwC-001079-PwC-001176	No	11/7/22			11/7/22

# Certification of Copy

State of Nevada }  
County of Clark } SS:

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

PLAINTIFF'S AMENDED NOTICE OF APPEAL; PLAINTIFF'S AMENDED CASE APPEAL STATEMENT; ERRATA TO PLAINTIFF'S AMENDED CASE APPEAL STATEMENT; DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; FINDINGS OF FACT AND CONCLUSIONS OF LAW AND JUDGMENT; NOTICE OF ENTRY OF FINDINGS OF FACT AND CONCLUSIONS OF LAW AND JUDGMENT; DISTRICT COURT MINUTES; EXHIBITS LIST

MICHAEL A. TRICARICHI,

Plaintiff(s),

vs.

PRICEWATERHOUSECOOPERS LLP,

Defendant(s),


Case No: A-16-735910-B

Dept No: XXXI

now on file and of record in this office.

**IN WITNESS THEREOF**, I have hereunto  
Set my hand and Affixed the seal of the  
Court at my office, Las Vegas, Nevada  
This 27 day of March 2023.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk

