

IN THE SUPREME COURT OF THE STATE OF NEVADA

EDGEWORTH FAMILY TRUST; AND  
AMERICAN GRATING, LLC,

PETITIONERS

VS.

CLARK COUNTY DISTRICT COURT,  
THE HONORABLE TIERRA XX JONES,  
DISTRICT JUDGE, DEPT. 10,

Respondents,

DANIEL S. SIMON; THE LAW OFFICE  
OF DANIEL S. SIMON,

Real Parties in Interest.

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Elizabeth A. Brown  
Clerk of Supreme Court

Case No. \_\_\_\_\_

Dist. Ct. Case No. A-16-738444-C  
Consolidated with A-18-767242-C

**APPENDIX IN SUPPORT OF EDGEWORTHS'  
PETITION FOR A WRIT OF MANDAMUS TO COMPEL THE DISTRICT  
COURT TO ENTER A QUANTUM MERUIT ORDER AS TWICE  
PREVIOUSLY ORDERED BY THIS COURT BUT DISREGARDED BY THE  
DISTRICT COURT**

**VOLUME III  
P00366 – P00429**

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***EDGEWORTH FAMILY TRUST, ET AL. vs.***  
***DANIEL S. SIMON; THE LAW OFFICE OF DANIEL S. SIMON***  
**SUPREME COURT CASE NO. \_\_\_\_\_.**

**PETITIONERS' APPENDIX**

**CHRONOLOGICAL INDEX**

<b>DATE</b>	<b>DOCUMENT TITLE</b>	<b>VOL</b>	<b>BATES NOS.</b>
2018-01-02	Amended Lien	I	P00001 – 04
2018-11-19	Decision and Order on Motion to Adjudicate Lien	I	P00005 – 27
2020-12-30	Order Affirming in Part, Vacating in Part and Remanding	I	P00028 – 42
2021-03-16	Second Amended Decision and Order on Motion to Adjudicate Lien	I	P00043 – 67
2021-04-13	Nevada Supreme Court Clerk's Certificate Judgment Affirmed	I	P00068 – 84
2021-04-19	Third Amended Decision and Order on Motion to Adjudicate Lien	I	P00085 - 109
2021-05-03	Plaintiffs' Renewed Motion for Reconsideration of Third-Amended Decision and Order Granting in Part and Denying in Part Simon's Motion for Attorney's Fees and Costs, and Motion for Reconsideration of Third Amended Decision and Order on Motion to Adjudicate Lien	I	P00110 – 215
2021-05-13	Edgeworths' Motion For Order Releasing Client Funds And Requiring Production Of File	II	P00216 - 290
2021-05-20	Opposition to Edgeworths' Motion For Order Releasing Client Funds And Requiring Production Of File	II	P00291 – 339
2021-05-21	Reply ISO Edgeworths' Motion For Order Releasing Client Funds And Requiring Production Of File	II	P00340 - 359
2022-09-16	Order on Edgeworths' Writ Petition (Case No. 84159)	II	P00360 -365

***EDGEWORTH FAMILY TRUST, ET AL. vs.  
DANIEL S. SIMON; THE LAW OFFICE OF DANIEL S. SIMON  
SUPREME COURT CASE NO. \_\_\_\_\_.***

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<b>DATE</b>	<b>DOCUMENT TITLE</b>	<b>VOL</b>	<b>BATES NOS.</b>
2022-09-16	Order Vacating Judgment and Remanding (Case No. 83258-83260)	III	P00366 - 370
2022-09-27	Fourth Amended Decision & Order to Adjudicate Lien	III	P00371 - 396
2022-09-27	Order to Release Edgeworth File	III	P00397 - 400
2022-12-15	Remittitur (signed and filed)	III	P00401 - 404
2023-02-09	Simon's Motion for Adjudication Following Remand	III	P00405 - 429
2023-02-23	Edgeworths' Response to Motion for Adjudication Following Remand	IV	P00430 - 702
2023-03-14	Reply ISO Motion for Adjudication Following Remand	V	P00703 - 770
2023-03-28	Fifth Amended Decision and Order on Motion to Adjudicate Lien	V	P00771 - 801
2023-04-24	Notice of Entry of Fifth Amended Decision and Order on Motion to Adjudicate Lien	V	P00802 - 834

***EDGEWORTH FAMILY TRUST, ET AL. vs.***  
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**ALPHABETICAL INDEX**

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2018-01-02	Amended Lien	I	P00001 – 04
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2021-05-13	Edgeworths' Motion For Order Releasing Client Funds And Requiring Production Of File	II	P00216 - 290
2023-03-28	Fifth Amended Decision and Order on Motion to Adjudicate Lien	V	P00771 - 801
2022-09-27	Fourth Amended Decision & Order to Adjudicate Lien	III	P00371 - 396
2021-04-13	Nevada Supreme Court Clerk's Certificate Judgment Affirmed	I	P00068 – 84
2023-04-24	Notice of Entry of Fifth Amended Decision and Order on Motion to Adjudicate Lien	V	P00802 - 834
2021-05-20	Opposition to Edgeworths' Motion For Order Releasing Client Funds And Requiring Production Of File	II	P00291 – 339
2020-12-30	Order Affirming in Part, Vacating in Part and Remanding	I	P00028 – 42
2022-09-16	Order on Edgeworths' Writ Petition (Case No. 84159)	II	P00360 -365
2022-09-27	Order to Release Edgeworth File	III	P00397 - 400
2022-09-16	Order Vacating Judgment and Remanding (Case No. 83258-83260)	III	P00366 - 370

***EDGEWORTH FAMILY TRUST, ET AL. vs.  
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2021-04-19	Third Amended Decision and Order on Motion to Adjudicate Lien	I	P00085 - 109

IN THE SUPREME COURT OF THE STATE OF NEVADA

EDGEWORTH FAMILY TRUST; AND  
AMERICAN GRATING, LLC,  
Appellants,

vs.

DANIEL S. SIMON; AND THE LAW  
OFFICE OF DANIEL S. SIMON, A  
PROFESSIONAL CORPORATION,  
D/B/A SIMON LAW,

Respondents.

EDGEWORTH FAMILY TRUST; AND  
AMERICAN GRATING, LLC,  
Appellants,

vs.

DANIEL S. SIMON; AND THE LAW  
OFFICE OF DANIEL S. SIMON, A  
PROFESSIONAL CORPORATION,  
D/B/A SIMON LAW,

Respondents.

No. 83258

**FILED**

SEP 16 2022

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

No. 83260

**ORDER VACATING JUDGMENT AND REMANDING**

These consolidated appeals challenge the district court's adjudication of an attorney lien and award of quantum meruit fees. Eighth Judicial District Court, Clark County; Tierra Danielle Jones, Judge.

We previously issued an order between the same parties based on the same issue, which is whether the district court's award of \$200,000 in quantum meruit to respondent Daniel Simon was reasonable. *See Edgeworth Family Tr. v. Simon*, Nos. 77678/78176, 2020 WL 7828800, at \*2 (Nev. Dec. 30, 2020) (Order Affirming in Part, Vacating in Part and Remanding). In our order, we vacated the district court's award, concluding that the district court's order was unclear with respect to whether the award

was properly limited to solely the work Simon completed after he was constructively discharged by appellants Edgeworth Family Trust and American Grating, LLC (collectively, the Edgeworths). *Id.* Accordingly, we vacated the award, remanded the issue to the district court to make specific factual findings regarding what work Simon completed after his constructive discharge, and instructed the district court that any quantum meruit award should only compensate Simon for services provided post-discharge. *Id.* On remand, the district court again awarded Simon \$200,000 in quantum meruit fees.

The Edgeworths argue that the district court erred by failing to comply with our previous order on remand. They contend that the district court failed to make specific findings reflecting that its award was limited to the work Simon completed after he was constructively discharged by the Edgeworths. We agree.

Although “[w]e review an award of attorney fees for an abuse of discretion,” *Logan v. Abe*, 131 Nev. 260, 266, 350 P.3d 1139, 1143 (2015), we review de novo “[w]hether the district court has complied with our mandate on remand,” *State Eng’r v. Eureka County*, 133 Nev. 557, 559, 402 P.3d 1249, 1251 (2017). When this court remands a case, “the district court must proceed in accordance with the mandate and the law of the case as established on appeal.” *Id.* (internal quotation marks omitted). Further, a disposition from this court serves as mandatory authority in subsequent stages of the case. *See* NRAP 36(c)(2).

As stated, we previously vacated the district court’s award of quantum meruit fees to Simon because the order did not make specific findings that its award was limited to services Simon provided post-discharge. *Edgeworth Family Tr.*, 2020 WL 7828800, at \*2. Specific factual findings regarding what work Simon completed pre-discharge versus post-

discharge is critical because a quantum meruit award can only properly compensate Simon for the services he provided post-discharge. *Id.*


Turning to the district court's post-remand order, we conclude that the district court's order suffers from the same flaw as its previous order—the order does not make specific findings that clearly reflect that the quantum meruit award is limited to only services Simon provided post-discharge. Specifically, the district court's quantum meruit award is premised on the work Simon performed relating to the Edgeworths' settlement agreements. However, the district court's order notes that Simon began working on those settlement agreements before he was discharged. Thus, while Simon's work on the settlement agreements may consist of work he did both pre- and post-discharge, the district court's order does not make clear, nor include any specific findings of fact, that demonstrate that the quantum meruit fee is limited only to Simon's post-discharge services relating to the settlements. Further, the district court does not make any other findings of fact regarding work Simon completed post-discharge that would otherwise support the quantum meruit fee. For these reasons, it remains unclear whether the award of \$200,000 in quantum meruit fees is reasonably limited only to the services Simon provided post-discharge. The district court therefore erred by failing to comply with our previous order which was mandatory authority. Thus, we again vacate the district court's award of \$200,000 in quantum meruit fees.

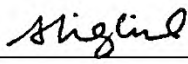
Insofar as the Edgeworths argue that we should award Simon \$34,000 in quantum meruit fees based on Simon's billing statement that purportedly shows that he completed 71 hours of post-discharge work, we decline to do so. The district court found that the billing statement may not accurately reflect Simon's post-discharge work. Further, we decline to make factual findings on appeal. *See Ryan's Express Transp. Servs., Inc. v.*

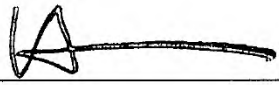


*Amador Stage Lines, Inc.*, 128 Nev. 289, 299, 279 P.3d 166, 172 (2012) (“An appellate court is not particularly well-suited to make factual determinations in the first instance.”). Because we will not make factual findings in the first instance, we also decline Simon’s invitation to affirm the district court’s order on the ground that the record supports an award of \$200,000 in quantum meruit fees. Because no new findings were made on remand explaining the basis for such an award, we remain unable to determine whether \$200,000 was a reasonable quantum meruit fee for Simon’s post-discharge work.

Accordingly, we ORDER the judgment of the district court VACATED AND REMAND this matter to the district court for proceedings consistent with this order. We further instruct the district court to make specific and express findings as to what work Simon completed after he was constructively discharged and limit its quantum meruit fee to those findings.

 J.  
Hardesty

 J.  
Stiglich

 J.  
Herndon

cc: Hon. Tierra Danielle Jones, District Judge  
Morris Law Group  
James R. Christensen  
Christiansen Trial Lawyers  
Eighth District Court Clerk

1 **ORD**

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

6 EDGEWORTH FAMILY TRUST; and  
7 AMERICAN GRATING, LLC,

8 Plaintiffs,

9 vs.

10 LANGE PLUMBING, LLC; THE VIKING  
11 CORPORATION, a Michigan Corporation;  
12 SUPPLY NETWORK, INC., dba VIKING  
13 SUPPLYNET, a Michigan Corporation; and  
14 DOES 1 through 5; and, ROE entities 6 through  
15 10;

16 Defendants.

17 EDGEWORTH FAMILY TRUST; and  
18 AMERICAN GRATING, LLC,

19 Plaintiffs,

20 vs.

21 DANIEL S. SIMON; THE LAW OFFICE OF  
22 DANIEL S. SIMON, a Professional Corporation  
23 d/b/a SIMON LAW; DOES 1 through 10; and,  
24 ROE entities 1 through 10;

25 Defendants.

CASE NO.: A-18-767242-C

DEPT NO.: X

**Consolidated with**

CASE NO.: A-16-738444-C

DEPT NO.: X

**FOURTH AMENDED DECISION AND**  
**ORDER ON MOTION TO ADJUDICATE**  
**LIEN**

26 **FOURTH AMENDED DECISION AND ORDER ON MOTION TO**  
27 **ADJUDICATE LIEN**

28 This case came on for an evidentiary hearing August 27-30, 2018 and concluded on  
September 18, 2018, in the Eighth Judicial District Court, Clark County, Nevada, the Honorable  
Tierra Jones presiding. Defendants and movant, Daniel Simon and Law Office of Daniel S. Simon  
d/b/a Simon Law ("Defendants" or "Law Office" or "Simon" or "Mr. Simon") having appeared in

1 person and by and through their attorneys of record, Peter S. Christiansen, Esq. and James  
2 Christensen, Esq. and Plaintiff Edgeworth Family Trust and American Grating, (“Plaintiff” or  
3 “Edgeworths”) having appeared through Brian and Angela Edgeworth, and by and through their  
4 attorneys of record, the law firm of Vannah and Vannah, Chtd. Robert Vannah, Esq. and John  
5 Greene, Esq. The Court having considered the evidence, arguments of counsel and being fully  
6 advised of the matters herein, the **COURT FINDS:**

### 7 8 **FINDINGS OF FACT**

9 1. The Court finds that the Law Office of Daniel S. Simon represented the Plaintiffs,  
10 Edgeworth Family Trust and American Grating in the case entitled Edgeworth Family Trust and  
11 American Grating v. Viking, et al., case number A-16-738444-C. The representation commenced on  
12 May 27, 2016 when Brian Edgeworth and Daniel Simon Esq. met at Starbucks. This representation  
13 originally began as a favor between friends and there was no discussion of fees, at this point. Mr.  
14 Simon and his wife were close family friends with Brian and Angela Edgeworth.

15 2. The case involved a complex products liability issue.

16 3. On April 10, 2016, a house the Edgeworths were building as a speculation home  
17 suffered a flood. The house was still under construction and the flood caused a delay. The  
18 Edgeworths did not carry loss insurance if a flood occurred and the plumbing company and  
19 manufacturer refused to pay for the property damage. A fire sprinkler installed by the plumber, and  
20 within the plumber’s scope of work, caused the flood; however, the plumber asserted the fire  
21 sprinkler was defective and refused to repair or to pay for repairs. The manufacturer of the sprinkler,  
22 Viking, et al., also denied any wrongdoing.

23 4. In May of 2016, Mr. Simon agreed to help his friend with the flood claim and to send  
24 a few letters. The parties initially hoped that Simon drafting a few letters to the responsible parties  
25 could resolve the matter. Simon wrote the letters to the responsible parties, but the matter did not  
26 resolve. Since the matter was not resolved, a lawsuit had to be filed.

27 5. On June 14, 2016, a complaint was filed in the case of Edgeworth Family Trust; and  
28

1 American Grating LLC vs. Lange Plumbing, LLC; the Viking Corporation; Supply Network Inc.,  
2 dba Viking Supplynet, in case number A-18-738444-C. The cost of repairs was approximately  
3 \$500,000. One of the elements of the Edgeworth's damages against Lange Plumbing LLC ("Lange")  
4 in the litigation was for reimbursement of the fees and costs that were paid by the Edgeworths.

5 6. On August 9, 2017, Mr. Simon and Brian Edgeworth traveled to San Diego to meet  
6 with an expert. As they were in the airport waiting for a return flight, they discussed the case, and  
7 had some discussion about payments and financials. No express fee agreement was reached during  
8 the meeting. On August 22, 2017, Brian Edgeworth sent an email to Simon entitled "Contingency."  
9 It reads as follows:

10 We never really had a structured discussion about how this might be done.  
11 I am more than happy to keep paying hourly but if we are going for punitive  
12 we should probably explore a hybrid of hourly on the claim and then some  
13 other structure that incents both of us to win an go after the appeal that these  
14 scumbags will file etc.  
15 Obviously that could not have been done earlier since who would have  
16 thought this case would meet the hurdle of punitive at the start.  
17 I could also swing hourly for the whole case (unless I am off what this is  
18 going to cost). I would likely borrow another \$450K from Margaret in 250  
19 and 200 increments and then either I could use one of the house sales for cash  
20 or if things get really bad, I still have a couple million in bitcoin I could sell.  
21 I doubt we will get Kinsale to settle for enough to really finance this since I  
22 would have to pay the first \$750,000 or so back to Colin and Margaret and  
23 why would Kinsale settle for \$1MM when their exposure is only \$1MM?

24 (Def. Exhibit 27).

25 7. During the litigation, Simon sent four (4) invoices to the Edgeworths. The first  
26 invoice was sent on December 2, 2016, seven (7) months after the original meeting at Starbucks.  
27 This invoice indicated that it was for attorney's fees and costs through November 11, 2016. (Def.  
28 Exhibit 8). The total of this invoice was \$42,564.95 and was billed at a "reduced" rate of \$550 per  
hour. Id. The invoice was paid by the Edgeworths on December 16, 2016.

8. On April 7, 2017 a second invoice was sent to the Edgeworths for attorney's fees and  
costs through April 4, 2017 for a total of \$46,620.69, and was billed at a "reduced" rate of \$550 per

1 hour. (Def. Exhibit 9). This invoice was paid by the Edgeworths on May 3, 2017. There was no  
2 indication on the first two invoices if the services were those of Mr. Simon or his associates; but the  
3 bills indicated an hourly rate of \$550.00 per hour.

4 9. A third invoice was sent to the Edgeworths on July 28, 2017 for attorney's fees and  
5 costs through July 28, 2017 totaling of \$142,080.20. (Def. Exhibit 10). This bill identified services  
6 of Daniel Simon Esq. for a "reduced" rate of \$550 per hour totaling \$104,021.20; and services of  
7 Ashley Ferrel Esq. for a "reduced" rate of \$275 per hour totaling \$37,959.00. Id. This invoice was  
8 paid by the Edgeworths on August 16, 2017.

9 10. The fourth invoice was sent to the Edgeworths on September 19, 2017 in an amount  
10 of \$255,186.25 for attorney's fees and costs; with \$191,317.50 being calculated at a "reduced" rate  
11 of \$550 per hour for Daniel Simon Esq., \$60,981.25 being calculated at a "reduced" rate of \$275 per  
12 hour for Ashley Ferrel Esq., and \$2,887.50 being calculated at a "reduced" rate of \$275 per hour for  
13 Benjamin Miller Esq. (Def. Exhibit 11). This invoice was paid by the Edgeworths on September  
14 25, 2017.

15 11. The amount of attorney's fees in the four (4) invoices was \$367,606.25, and  
16 \$118,846.84 in costs; for a total of \$486,453.09.<sup>1</sup> These monies were paid to Daniel Simon Esq. and  
17 never returned to the Edgeworths. The Edgeworths secured very high interest loans to pay fees and  
18 costs to Simon. They made Simon aware of this fact.

19 12. Between June 2016 and December 2017, there was a tremendous amount of work  
20 done in the litigation of this case. There were several motions and oppositions filed, several  
21 depositions taken, and several hearings held in the case.

22 13. On the evening of November 15, 2017, the Edgeworth's received the first settlement  
23 offer for their claims against the Viking Corporation ("Viking"). However, the claims were not  
24 settled until on or about December 1, 2017.

25 14. Also on November 15, 2017, Brian Edgeworth sent an email to Simon asking for the  
26

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27 <sup>1</sup> \$265,677.50 in attorney's fees for the services of Daniel Simon; \$99,041.25 for the services of Ashley Ferrel; and  
28 \$2,887.50 for the services of Benjamin Miller.

1 open invoice. The email stated: "I know I have an open invoice that you were going to give me at  
2 mediation a couple weeks ago and then did not leave with me. Could someone in your office send  
3 Peter (copied here) any invoices that are unpaid please?" (Def. Exhibit 38).

4 15. On November 17, 2017, Simon scheduled an appointment for the Edgeworths to  
5 come to his office to discuss the litigation.

6 16. On November 27, 2017, Simon sent a letter with an attached retainer agreement,  
7 stating that the fee for legal services would be \$1,500,000 for services rendered to date. (Plaintiff's  
8 Exhibit 4).

9 17. On November 29, 2017, the Edgeworths met with the Law Office of Vannah &  
10 Vannah and signed a retainer agreement. (Def. Exhibit 90). On this date, they ceased all  
11 communications with Mr. Simon.

12 18. On the morning of November 30, 2017, Simon received a letter advising him that the  
13 Edgeworths had retained the Vannah Law Firm to assist in the litigation with the Viking entities,  
14 et.al. The letter read as follows:

15 "Please let this letter serve to advise you that I've retained Robert D. Vannah,  
16 Esq. and John B. Greene, Esq., of Vannah & Vannah to assist in the litigation  
17 with the Viking entities, et.al. I'm instructing you to cooperate with them in  
18 every regard concerning the litigation and any settlement. I'm also instructing  
19 you to give them complete access to the file and allow them to review  
20 whatever documents they request to review. Finally, I direct you to allow  
21 them to participate without limitation in any proceeding concerning our case,  
22 whether it be at depositions, court hearings, discussions, etc."

21 (Def. Exhibit 43).

22 19. On the same morning, Simon received, through the Vannah Law Firm, the  
23 Edgeworth's consent to settle their claims against Lange Plumbing LLC for \$25,000.

24 20. Also on this date, the Law Office of Danny Simon filed an attorney's lien for the  
25 reasonable value of its services pursuant to NRS 18.015. (Def. Exhibit 3). On January 2, 2018, the  
26 Law Office filed an amended attorney's lien for the sum of \$2,345,450, less payments made in the  
27 sum of \$367,606.25, for a net lien in the sum of \$1,977,843.80. This lien includes court costs and  
28

1 out-of-pocket costs advanced by the Law Office of Daniel S. Simon in the sum of \$76,535.93.

2 21. Mr. Edgeworth alleges that the fee agreement with Simon was only for an hourly  
3 express agreement of \$550 an hour; and that the agreement for \$550 an hour was made at the outset  
4 of the case. Mr. Simon alleges that he worked on the case always believing he would receive the  
5 reasonable value of his services when the case concluded. There is a dispute over the reasonable fee  
6 due to the Law Office of Danny Simon.

7 22. The parties agree that an express written contract was never formed.

8 23. On December 7, 2017, the Edgeworths signed Consent to Settle their claims against  
9 Lange Plumbing LLC for \$100,000.

10 24. On January 4, 2018, the Edgeworth Family Trust filed a lawsuit against Simon in  
11 Edgeworth Family Trust; American Grating LLC vs. Daniel S. Simon, the Law Office of Daniel S.  
12 Simon, a Professional Corporation, case number A-18-767242-C.

13 25. On January 24, 2018, the Law Office of Danny Simon filed a Motion to Adjudicate  
14 Lien with an attached invoice for legal services rendered. The amount of the invoice was  
15 \$692,120.00. The Court set an evidentiary hearing to adjudicate the lien.

16 26. On November 19, 2018, the Court entered a Decision and Order on Motion to  
17 Adjudicate Lien.

18 27. On December 7, 2018, the Edgeworths filed a Notice of Appeal.

19 28. On February 8, 2019, the Court entered a Decision and Order Granting in Part and  
20 Denying in Part, Simon's Motion for Attorney's Fees and Costs.

21 29. On February 15, 2019, the Edgeworths filed a second Notice of Appeal and Simon  
22 filed a cross appeal, and Simon filed a writ petition on October 17, 2019.

23 30. On December 30, 2020, the Supreme Court issued an order affirming this Court's  
24 findings in most respects.

25 31. On January 15, 2021, the Edgeworths filed a Petition for Rehearing.

26 32. On March 16, 2021, this Court issued a Second Amended Decision and Order on  
27 Motion to Adjudicate Lien.



1 33. On March 18, 2021, the Nevada Supreme Court denied the Motion for Rehearing.

2  
3  
4 **CONCLUSION OF LAW**

5 **The Law Office Appropriately Asserted A Charging Lien Which Must Be Adjudicated By The**

6 **Court**

7 An attorney may obtain payment for work on a case by use of an attorney lien. Here, the  
8 Law Office of Daniel Simon may use a charging lien to obtain payment for work on case A-16-  
9 738444-C under NRS 18.015.

10 NRS 18.015(1)(a) states:

11 1. An attorney at law shall have a lien:

12 (a) Upon any claim, demand or cause of action, including any claim for unliquidated  
13 damages, which has been placed in the attorney's hands by a client for suit or  
collection, or upon which a suit or other action has been instituted.

14 Nev. Rev. Stat. 18.015.

15 The Court finds that the lien filed by the Law Office of Daniel Simon, in case A-16-738444-C,  
16 complies with NRS 18.015(1)(a). The Law Office perfected the charging lien pursuant to NRS  
17 18.015(3), by serving the Edgeworths as set forth in the statute. The Law Office charging lien was  
18 perfected before settlement funds generated from A-16-738444-C of \$6,100,000.00 were deposited,  
19 thus the charging lien attached to the settlement funds. Nev. Rev. Stat. 18.015(4)(a); Golightly &  
20 Vannah, PLLC v. TJ Allen LLC, 373 P.3d 103, at 105 (Nev. 2016). The Law Office's charging lien  
21 is enforceable in form.

22 The Court has personal jurisdiction over the Law Office and the Plaintiffs in A-16-738444-C.  
23 Argentina Consolidated Mining Co., v. Jolley, Urga, Wirth, Woodbury & Standish, 216 P.3d 779 at  
24 782-83 (Nev. 2009). The Court has subject matter jurisdiction over adjudication of the Law Office's  
25 charging lien. Argentina, 216 P.3d at 783. The Law Office filed a motion requesting adjudication  
26 under NRS 18.015, thus the Court must adjudicate the lien.

1 *Fee Agreement*

2 It is undisputed that no express written fee agreement was formed. The Court finds that there  
3 was no express oral fee agreement formed between the parties. An express oral agreement is  
4 formed when all important terms are agreed upon. *See, Loma Linda University v. Eckenweiler*, 469  
5 P.2d 54 (Nev. 1970) (*no oral contract was formed, despite negotiation, when important terms were*  
6 *not agreed upon and when the parties contemplated a written agreement*). The Court finds that the  
7 payment terms are essential to the formation of an express oral contract to provide legal services on  
8 an hourly basis.

9 Here, the testimony from the evidentiary hearing does not indicate, with any degree of  
10 certainty, that there was an express oral fee agreement formed on or about June of 2016. Despite  
11 Brian Edgeworth's affidavits and testimony; the emails between himself and Danny Simon,  
12 regarding punitive damages and a possible contingency fee, indicate that no express oral fee  
13 agreement was formed at the meeting on June 10, 2016. Specifically in Brian Edgeworth's August  
14 22, 2017 email, titled "Contingency," he writes:

15  
16 "We never really had a structured discussion about how this might be done. I  
17 am more than happy to keep paying hourly but if we are going for punitive we  
18 should probably explore a hybrid of hourly on the claim and then some other  
19 structure that incents both of us to win an go after the appeal that these  
20 scumbags will file etc. Obviously that could not have been done earlier since  
21 who would have thought this case would meet the hurdle of punitive at the  
22 start. I could also swing hourly for the whole case (unless I am off what this  
23 is going to cost). I would likely borrow another \$450K from Margaret in 250  
24 and 200 increments and then either I could use one of the house sales for cash  
or if things get really bad, I still have a couple million in bitcoin I could sell. I  
doubt we will get Kinsale to settle for enough to really finance this since I  
would have to pay the first \$750,000 or so back to Colin and Margaret and  
why would Kinsale settle for \$1MM when their exposure is only \$1MM?"

25 (Def. Exhibit 27).

26 It is undisputed that when the flood issue arose, all parties were under the impression that Simon  
27 would be helping out the Edgeworths, as a favor.

1 The Court finds that an implied fee agreement was formed between the parties on December  
2 2, 2016, when Simon sent the first invoice to the Edgeworths, billing his services at \$550 per hour,  
3 and the Edgeworths paid the invoice. On July 28, 2017 an addition to the implied contract was  
4 created with a fee of \$275 per hour for Simon's associates. Simon testified that he never told the  
5 Edgeworths not to pay the bills, though he testified that from the outset he only wanted to "trigger  
6 coverage". When Simon repeatedly billed the Edgeworths at \$550 per hour for his services, and  
7 \$275 an hour for the services of his associates; and the Edgeworths paid those invoices, an implied  
8 fee agreement was formed between the parties. The implied fee agreement was for \$550 per hour  
9 for the services of Daniel Simon Esq. and \$275 per hour for the services of his associates.

### 10 11 *Constructive Discharge*

12 Constructive discharge of an attorney may occur under several circumstances, such as:

- 13 • Refusal to communicate with an attorney creates constructive discharge. Rosenberg v.  
14 Calderon Automation, 1986 Ohio App. LEXIS 5460 (Jan. 31, 1986).
- 15 • Refusal to pay an attorney creates constructive discharge. *See e.g.*, Christian v. All Persons  
16 Claiming Any Right, 962 F. Supp. 676 (U.S. Dist. V.I. 1997).
- 17 • Suing an attorney creates constructive discharge. *See* Tao v. Probate Court for the Northeast  
18 Dist. #26, 2015 Conn. Super. LEXIS 3146, \*13-14, (Dec. 14, 2015). *See also* Maples v.  
19 Thomas, 565 U.S. 266 (2012); Harris v. State, 2017 Nev. LEXIS 111; and Guerrero v. State,  
20 2017 Nev. Unpubl. LEXIS 472.
- 21 • Taking actions that preventing effective representation creates constructive discharge.  
22 McNair v. Commonwealth, 37 Va. App. 687, 697-98 (Va. 2002).

23 Here, the Court finds that the Edgeworths constructively discharged Simon as their lawyer on  
24 November 29, 2017. The Edgeworths assert that because Simon has not been expressly terminated,  
25 has not withdrawn, and is still technically their attorney of record; there cannot be a termination.  
26 The Court disagrees.

27 On November 29, 2017, the Edgeworths met with the Law Firm of Vannah and Vannah and  
28 signed a retainer agreement. The retainer agreement was for representation on the Viking settlement  
agreement and the Lange claims. (Def. Exhibit 90). This is the exact litigation that Simon was

1 representing the Edgeworths on. This fee agreement also allowed Vannah and Vannah to do all  
2 things without a compromise. Id. The retainer agreement specifically states:

3  
4 Client retains Attorneys to represent him as his Attorneys regarding  
5 Edgeworth Family Trust and AMERICAN GRATING V. ALL VIKING  
6 ENTITIES and all damages including, but not limited to, all claims in this  
7 matter and empowers them to do all things to effect a compromise in said  
8 matter, or to institute such legal action as may be advisable in their judgment,  
9 and agrees to pay them for their services, on the following conditions:

- 10 a) ...  
11 b) ...  
12 c) Client agrees that his attorneys will work to consummate a settlement of  
13 \$6,000,000 from the Viking entities and any settlement amount agreed to be  
14 paid by the Lange entity. Client also agrees that attorneys will work to reach  
15 an agreement amongst the parties to resolve all claims in the Lange and  
16 Viking litigation.

17 Id.

18 This agreement was in place at the time of the settlement of the Viking and Lange claims. Mr.  
19 Simon had already begun negotiating the terms of the settlement agreement with Viking during the  
20 week of November 27, 2017 prior to Mr. Vannah's involvement. These negotiated terms were put  
21 into a final release signed by the Edgeworths and Mr. Vannah's office on December 1, 2017. (Def.  
22 Exhibit 5). Mr. Simon's name is not contained in the release; Mr. Vannah's firm is expressly  
23 identified as the firm that solely advised the clients about the settlement. The actual language in the  
24 settlement agreement, for the Viking claims, states:

25 PLAINTIFFS represent that their independent counsel, Robert Vannah, Esq.  
26 and John Greene, Esq., of the law firm Vannah & Vannah has explained the  
27 effect of this AGREEMENT and their release of any and all claims, known or  
28 unknown and, based upon that explanation and their independent judgment by  
the reading of this Agreement, PLAINTIFFS understand and acknowledge the  
legal significance and the consequences of the claims being released by this  
Agreement. PLAINTIFFS further represent that they understand and  
acknowledge the legal significance and consequences of a release of unknown  
claims against the SETTLING PARTIES set forth in, or arising from, the  
INCIDENT and hereby assume full responsibility for any injuries, damages,  
losses or liabilities that hereafter may occur with respect to the matters  
released by this Agreement.

1 Id.

2 Also, Simon was not present for the signing of these settlement documents and never explained any  
3 of the terms to the Edgeworths. He sent the settlement documents to the Law Office of Vannah and  
4 Vannah and received them back with the signatures of the Edgeworths.

5 Further, the Edgeworths did not personally speak with Simon after November 25, 2017.  
6 Though there were email communications between the Edgeworths and Simon, they did not verbally  
7 speak to him and were not seeking legal advice from him. In an email dated December 5, 2017,  
8 Simon is requesting Brian Edgeworth return a call to him about the case, and Brian Edgeworth  
9 responds to the email saying, “please give John Greene at Vannah and Vannah a call if you need  
10 anything done on the case. I am sure they can handle it.” (Def. Exhibit 80). At this time, the claim  
11 against Lange Plumbing had not been settled. The evidence indicates that Simon was actively  
12 working on this claim, but he had no communication with the Edgeworths and was not advising  
13 them on the claim against Lange Plumbing. Specifically, Brian Edgeworth testified that Robert  
14 Vannah Esq. told them what Simon said about the Lange claims and it was established that the Law  
15 Firm of Vannah and Vannah provided advice to the Edgeworths regarding the Lange claim. Simon  
16 and the Law Firm of Vannah and Vannah gave different advice on the Lange claim, and the  
17 Edgeworths followed the advice of the Law Firm of Vannah and Vannah to settle the Lange claim.  
18 The Law Firm of Vannah and Vannah drafted the consent to settle for the claims against Lange  
19 Plumbing (Def. Exhibit 47). This consent to settle was inconsistent with the advice of Simon. Mr.  
20 Simon never signed off on any of the releases for the Lange settlement.

21 Further demonstrating a constructive discharge of Simon is the email from Robert Vannah  
22 Esq. to James Christensen Esq. dated December 26, 2017, which states: “They have lost all faith and  
23 trust in Mr. Simon. Therefore, they will not sign the checks to be deposited into his trust account.  
24 Quite frankly, they are fearful that he will steal the money.” (Def. Exhibit 48). Then on January 4,  
25 2018, the Edgeworth’s filed a lawsuit against Simon in Edgeworth Family Trust; American Grating,  
26 LLC vs. Daniel S. Simon; the Law Office of Daniel S. Simon, a Professional Corporation d/b/a  
27 Simon Law, case number A-18-767242-C. Then, on January 9, 2018, Robert Vannah Esq. sent an  
28

1 email to James Christensen Esq. stating, "I guess he could move to withdraw. However, that  
2 doesn't seem in his best interests." (Def. Exhibit 53).

3 The Court recognizes that Simon still has not withdrawn as counsel of record on A-16-  
4 738444-C, the Law Firm of Vannah and Vannah has never substituted in as counsel of record, the  
5 Edgeworths have never explicitly told Simon that he was fired, Simon sent the November 27, 2018  
6 letter indicating that the Edgeworth's could consult with other attorneys on the fee agreement (that  
7 was attached to the letter), and that Simon continued to work on the case after the November 29,  
8 2017 date. The court further recognizes that it is always a client's decision of whether or not to  
9 accept a settlement offer. However the issue is constructive discharge and nothing about the fact  
10 that Mr. Simon has never officially withdrawn from the case indicates that he was not constructively  
11 discharged. His November 27, 2017 letter invited the Edgeworth's to consult with other attorneys  
12 on the fee agreement, not the claims against Viking or Lange. His clients were not communicating  
13 with him, making it impossible to advise them on pending legal issues, such as the settlements with  
14 Lange and Viking. It is clear that there was a breakdown in attorney-client relationship preventing  
15  
16 Simon from effectively representing the clients. The Court finds that Danny Simon was  
17 constructively discharged by the Edgeworths on November 29, 2017.

18  
19 **Adjudication of the Lien and Determination of the Law Office Fee**

20 NRS 18.015 states:

- 21 1. An attorney at law shall have a lien:  
22 (a) Upon any claim, demand or cause of action, including any claim for  
23 unliquidated damages, which has been placed in the attorney's hands by a  
24 client for suit or collection, or upon which a suit or other action has been  
25 instituted.  
26 (b) In any civil action, upon any file or other property properly left in the  
27 possession of the attorney by a client.  
28 2. A lien pursuant to subsection 1 is for the amount of any fee which has  
been agreed upon by the attorney and client. In the absence of an agreement,  
the lien is for a reasonable fee for the services which the attorney has rendered  
for the client.

1           3. An attorney perfects a lien described in subsection 1 by serving notice  
2 in writing, in person or by certified mail, return receipt requested, upon his or  
3 her client and, if applicable, upon the party against whom the client has a  
4 cause of action, claiming the lien and stating the amount of the lien.

5           4. A lien pursuant to:

6           (a) Paragraph (a) of subsection 1 attaches to any verdict, judgment or  
7 decree entered and to any money or property which is recovered on account of  
8 the suit or other action; and

9           (b) Paragraph (b) of subsection 1 attaches to any file or other property  
10 properly left in the possession of the attorney by his or her client, including,  
11 without limitation, copies of the attorney's file if the original documents  
12 received from the client have been returned to the client, and authorizes the  
13 attorney to retain any such file or property until such time as an adjudication  
14 is made pursuant to subsection 6, from the time of service of the notices  
15 required by this section.

16           5. A lien pursuant to paragraph (b) of subsection 1 must not be  
17 construed as inconsistent with the attorney's professional responsibilities to  
18 the client.

19           6. On motion filed by an attorney having a lien under this section, the  
20 attorney's client or any party who has been served with notice of the lien, the  
21 court shall, after 5 days' notice to all interested parties, adjudicate the rights of  
22 the attorney, client or other parties and enforce the lien.

23           7. Collection of attorney's fees by a lien under this section may be  
24 utilized with, after or independently of any other method of collection.

25 Nev. Rev. Stat. 18.015.

26 NRS 18.015(2) matches Nevada contract law. If there is an express contract, then the contract terms  
27 are applied. Here, there was no express contract for the fee amount, however there was an implied  
28 contract when Simon began to bill the Edgeworths for fees in the amount of \$550 per hour for his  
services, and \$275 per hour for the services of his associates. This contract was in effect until  
November 29, 2017, when he was constructively discharged from representing the Edgeworths.  
After he was constructively discharged, under NRS 18.015(2) and Nevada contract law, Simon is  
due a reasonable fee- that is, quantum meruit.

### *Implied Contract*

On December 2, 2016, an implied contract for fees was created. The implied fee was \$550  
an hour for the services of Mr. Simon. On July 28, 2017 an addition to the implied contract was

1 created with a fee of \$275 per hour for the services of Simon's associates. This implied contract was  
2 created when invoices were sent to the Edgeworths, and they paid the invoices.

3 The invoices that were sent to the Edgeworths indicate that they were for costs and attorney's  
4 fees, and these invoices were paid by the Edgeworths. Though the invoice says that the fees were  
5 reduced, there is no evidence that establishes that there was any discussion with the Edgeworths as  
6 to how much of a reduction was being taken, and that the invoices did not need to be paid. There is  
7 no indication that the Edgeworths knew about the amount of the reduction and acknowledged that  
8 the full amount would be due at a later date. Simon testified that Brian Edgeworth chose to pay the  
9 bills to give credibility to his actual damages, above his property damage loss. However, as the  
10 lawyer/counselor, Simon did not prevent Brian Edgeworth from paying the bill or in any way refund  
11 the money, or memorialize this or any understanding in writing.

12 Simon produced evidence of the claims for damages for his fees and costs pursuant to NRCP  
13 16.1 disclosures and computation of damages; and these amounts include the four invoices that were  
14 paid in full and there was never any indication given that anything less than all the fees had been  
15 produced. During the deposition of Brian Edgeworth it was suggested, by Simon, that all of the fees  
16 had been disclosed. Further, Simon argues that the delay in the billing coincides with the timing of  
17 the NRCP 16.1 disclosures, however the billing does not distinguish or in any way indicate that the  
18 sole purpose was for the Lange Plumbing LLC claim. Since there is no contract, the Court must  
19 look to the actions of the parties to demonstrate the parties' understanding. Here, the actions of the  
20 parties are that Simon sent invoices to the Edgeworths, they paid the invoices, and Simon Law  
21 Office retained the payments, indicating an implied contract was formed between the parties. The  
22 Court find that the Law Office of Daniel Simon should be paid under the implied contract until the  
23 date they were constructively discharged, November 29, 2017.

24  
25 ***Amount of Fees Owed Under Implied Contract***

26 The Edgeworths were billed, and paid for services through September 19, 2017. There is  
27 some testimony that an invoice was requested for services after that date, but there is no evidence  
28



1 that any invoice was paid by the Edgeworths. Since the Court has found that an implied contract for  
2 fees was formed, the Court must now determine what amount of fees and costs are owed from  
3 September 19, 2017 to the constructive discharge date of November 29, 2017. In doing so, the  
4 Court must consider the testimony from the witnesses at the evidentiary hearing, the submitted  
5 billings, the attached lien, and all other evidence provided regarding the services provided during  
6 this time.

7 At the evidentiary hearing, Ashley Ferrel Esq. testified that some of the items in the billing  
8 that was prepared with the lien “super bill,” are not necessarily accurate as the Law Office went back  
9 and attempted to create a bill for work that had been done over a year before. She testified that they  
10 added in .3 hours for each Wiznet filing that was reviewed and emailed and .15 hours for every  
11 email that was read and responded to. She testified that the dates were not exact, they just used the  
12 dates for which the documents were filed, and not necessarily the dates in which the work was  
13 performed. Further, there are billed items included in the “super bill” that was not previously billed  
14 to the Edgeworths, though the items are alleged to have occurred prior to or during the invoice  
15 billing period previously submitted to the Edgeworths. The testimony at the evidentiary hearing  
16 indicated that there were no phone calls included in the billings that were submitted to the  
17 Edgeworths.

18 This attempt to recreate billing and supplement/increase previously billed work makes it  
19 unclear to the Court as to the accuracy of this “recreated” billing, since so much time had elapsed  
20 between the actual work and the billing. The court reviewed the billings of the “super bill” in  
21 comparison to the previous bills and determined that it was necessary to discount the items that had  
22 not been previously billed for; such as text messages, reviews with the court reporter, and reviewing,  
23 downloading, and saving documents because the Court is uncertain of the accuracy of the “super  
24 bill.”

25 Simon argues that he has no billing software in his office and that he has never billed a client  
26 on an hourly basis, but his actions in this case are contrary. Also, Simon argues that the Edgeworths,  
27 in this case, were billed hourly because the Lange contract had a provision for attorney’s fees;  
28

1 however, as the Court previously found, when the Edgeworths paid the invoices it was not made  
2 clear to them that the billings were only for the Lange contract and that they did not need to be paid.  
3 Also, there was no indication on the invoices that the work was only for the Lange claims, and not  
4 the Viking claims. Ms. Ferrel testified that the billings were only for substantial items, without  
5 emails or calls, understanding that those items may be billed separately; but again the evidence does  
6 not demonstrate that this information was relayed to the Edgeworths as the bills were being paid.  
7 This argument does not persuade the court of the accuracy of the “super bill”.

8 The amount of attorney’s fees and costs for the period beginning in June of 2016 to  
9 December 2, 2016 is \$42,564.95. This amount is based upon the invoice from December 2, 2016  
10 which appears to indicate that it began with the initial meeting with the client, leading the court to  
11 determine that this is the beginning of the relationship. This invoice also states it is for attorney’s  
12 fees and costs through November 11, 2016, but the last hourly charge is December 2, 2016. This  
13 amount has already been paid by the Edgeworths on December 16, 2016.<sup>2</sup>

14 The amount of the attorney’s fees and costs for the period beginning on December 5, 2016 to  
15 April 4, 2017 is \$46,620.69. This amount is based upon the invoice from April 7, 2017. This  
16 amount has already been paid by the Edgeworths on May 3, 2017.

17 The amount of attorney’s fees for the period of April 5, 2017 to July 28, 2017, for the  
18 services of Daniel Simon Esq. is \$72,077.50. The amount of attorney’s fees for this period for  
19 Ashley Ferrel Esq. is \$38,060.00. The amount of costs outstanding for this period is \$31,943.70.  
20 This amount totals \$142,081.20 and is based upon the invoice from July 28, 2017. This amount has  
21 been paid by the Edgeworths on August 16, 2017.<sup>3</sup>

22 The amount of attorney’s fees for the period of July 31, 2017 to September 19, 2017, for the  
23 services of Daniel Simon Esq. is \$119,762.50. The amount of attorney’s fees for this period for  
24 Ashley Ferrel Esq. is \$60,981.25. The amount of attorney’s fees for this period for Benjamin Miller  
25

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26  
27 <sup>2</sup>There are no billing amounts from December 2 to December 4, 2016.

28 <sup>3</sup> There are no billings from July 28 to July 30, 2017.

1 Esq. is \$2,887.50. The amount of costs outstanding for this period is \$71,555.00. This amount  
2 totals \$255,186.25 and is based upon the invoice from September 19, 2017. This amount has been  
3 paid by the Edgeworths on September 25, 2017.

4 From September 19, 2017 to November 29, 2017, the Court must determine the amount of  
5 attorney fees owed to the Law Office of Daniel Simon.<sup>4</sup> For the services of Daniel Simon Esq., the  
6 total amount of hours billed are 340.05. At a rate of \$550 per hour, the total attorney's fees owed to  
7 the Law Office for the work of Daniel Simon Esq. is \$187,027.50. For the services of Ashley Ferrel  
8 Esq., the total amount of hours billed are 337.15. At a rate of \$275 per hour, the total attorney's fees  
9 owed to the Law Office for the work of Ashley Ferrel Esq. from September 19, 2017 to November  
10 29, 2017 is \$92,716.25.<sup>5</sup> For the services of Benjamin Miller Esq., the total amount of hours billed  
11 are 19.05. At a rate of \$275 per hour, the total attorney's fees owed to the Law Office for the work  
12 of Benjamin Miller Esq. from September 19, 2017 to November 29, 2017 is \$5,238.75.<sup>6</sup>

13 The Court notes that though there was never a fee agreement made with Ashley Ferrel Esq.  
14 or Benjamin Miller Esq., however, their fees were included on the last two invoices that were paid  
15 by the Edgeworths, so the implied fee agreement applies to their work as well.

16 The Court finds that the total amount owed to the Law Office of Daniel Simon for the period  
17 of September 19, 2017 to November 29, 2017 is \$284,982.50.

#### 18 *Costs Owed*

19  
20 The Court finds that the Law Office of Daniel Simon is not owed any monies for outstanding  
21 costs of the litigation in Edgeworth Family Trust; and American Grating, LLC vs. Lange Plumbing,  
22 LLC; The Viking Corporation; Supply Network, Inc. dba Viking Supplynet in case number A-16-  
23 738444-C. The attorney lien asserted by Simon, in January of 2018, originally sought  
24 reimbursement for advances costs of \$71,594.93. The amount sought for advanced costs was later  
25

26 <sup>4</sup> There are no billings for October 8<sup>th</sup>, October 28-29, and November 5<sup>th</sup>.

27 <sup>5</sup> There is no billing for the October 7-8, October 22, October 28-29, November 4, November 11-12, November 18-19,  
November 21, and November 23-26.

28 <sup>6</sup> There is no billing from September 19, 2017 to November 5, 2017.

1 changed to \$68,844.93. In March of 2018, the Edgeworths paid the outstanding advanced costs, so  
2 the Court finds that there no outstanding costs remaining owed to the Law Office of Daniel Simon.

### 3 4 *Quantum Meruit*

5 When a lawyer is discharged by the client, the lawyer is no longer compensated under the  
6 discharged/breached/repudiated contract, but is paid based on quantum meruit. *See e.g. Golightly v.*  
7 *Gassner*, 281 P.3d 1176 (Nev. 2009) (*unreported*) (*discharged contingency attorney paid by*  
8 *quantum meruit rather than by contingency fee pursuant to agreement with client*); citing, *Gordon v.*  
9 *Stewart*, 324 P.3d 234 (1958) (*attorney paid in quantum meruit after client breach of agreement*);  
10 and, *Cooke v. Gove*, 114 P.2d 87 (Nev. 1941) (*fees awarded in quantum meruit when there was no*  
11 *contingency agreement*). Here, Simon was constructively discharged by the Edgeworths on  
12 November 29, 2017. The constructive discharge terminated the implied contract for fees. William  
13 Kemp Esq. testified as an expert witness and stated that if there is no contract, then the proper award  
14 is quantum meruit. The Court finds that the Law Office of Daniel Simon is owed attorney's fees  
15 under quantum meruit from November 29, 2017, after the constructive discharge, to the conclusion  
16 of the Law Office's work on this case.

17 In determining the amount of fees to be awarded under quantum meruit, the Court has wide  
18 discretion on the method of calculation of attorney fee, to be "tempered only by reason and  
19 fairness". *Albios v. Horizon Communities, Inc.*, 132 P.3d 1022 (Nev. 2006). The law only requires  
20 that the court calculate a reasonable fee. *Shuette v. Beazer Homes Holding Corp.*, 124 P.3d 530  
21 (Nev. 2005). Whatever method of calculation is used by the Court, the amount of the attorney fee  
22 must be reasonable under the *Brunzell* factors. *Id.* The Court should enter written findings of the  
23 reasonableness of the fee under the *Brunzell* factors. *Argentina Consolidated Mining Co., v. Jolley,*  
24 *Urga, Wirth, Woodbury Standish*, 216 P.3d 779, at fn2 (Nev. 2009). *Brunzell* provides that  
25 "[w]hile hourly time schedules are helpful in establishing the value of counsel services, other factors  
26 may be equally significant. *Brunzell v. Golden Gate National Bank*, 455 P.2d 31 (Nev. 1969).

27 The *Brunzell* factors are: (1) the qualities of the advocate; (2) the character of the work to be  
28

1 done; (3) the work actually performed; and (4) the result obtained. Id. However, in this case the  
2 Court notes that the majority of the work in this case was complete before the date of the  
3 constructive discharge, and the Court is applying the Brunzell factors for the period commencing  
4 after the constructive discharge.

5 In considering the Brunzell factors, the Court looks at all of the evidence presented in the  
6 case, the testimony at the evidentiary hearing, and the litigation involved in the case. In this case, the  
7 evidence presented indicates that, after the constructive discharge, Simon received consent from the  
8 Edgeworths, through the Vannah Law Firm, to settle their claims against Lange Plumbing LLC for  
9 \$25,000. Simon continued to work with the attorneys for Lange Plumbing LLC to settle the claims  
10 for more than \$25,000, and ultimately ended up settling the claims for \$100,000. The record  
11 indicates that on December 5, 2017, Simon attempted an email to contact Brian Edgeworth  
12 regarding settling of the Lange case, as he was continuing to have discussions with Lange's counsel,  
13 regarding settling of the claims. However, Simon was told to contact Vannah's office as the  
14 Edgeworths were refusing his attempts to communicate. He then, reached out to Vannah's office and  
15 continued to work with Vannah's office to settle the Viking and the Lange claims. On December 7,  
16 2017, Sion sent a letter advising Mr. Vannah regarding the Lange claim. Simon had advised the  
17 Edgeworths on settling of the Lange claim, but they ignored his advice and followed the advice of  
18 the Vannah & Vannah. Upon settlement of all the claims, the Edgeworths made the unusual request  
19 to open a new trust account with Mr. Vannah as the signer to deposit the Viking settlement proceeds.  
20 Mr. Simon complied with the request. Further, there were continued representations from the  
21 Edgeworths and the Vannah Law Firm that Simon had not been terminated from representation of  
22 the Edgeworths, and no motion to withdraw was filed in this case.

23  
24 *1. Quality of the Advocate*

25 Brunzell expands on the "qualities of the advocate" factor and mentions such items as  
26 training, skill and education of the advocate. Mr. Simon has been an active Nevada trial attorney for  
27 over two decades. He has several 7-figure trial verdicts and settlements to his credit. Craig  
28

1 Drummond Esq. testified that he considers Mr. Simon a top 1% trial lawyer and he associates Mr.  
2 Simon in on cases that are complex and of significant value. Michael Nunez Esq. testified that Mr.  
3 Simon's work on this case was extremely impressive. William Kemp Esq. testified that Mr. Simon's  
4 work product and results are exceptional.

5  
6 2. The Character of the Work to be Done

7 The character of the work done in this case is complex. This case was a very complex  
8 products liability case, from the beginning. After the constructive discharge of Simon, the  
9 complications in the case continued. The continued aggressive representation of Mr. Simon, in  
10 prosecuting the case was a substantial factor in achieving the exceptional results. Even after the  
11 constructive termination, Simon continued to work on the case. At one point, Simon said that he was  
12 not going to abandon the case, and he didn't abandon the case. The lack of communication with the  
13 Edgeworths made continuation of the case difficult, but Simon continued to work on the case and  
14 ended up reaching a resolution beneficial to the Edgeworths.

15  
16 3. The Work Actually Performed

17 Mr. Simon was aggressive in litigating this case. Since Mr. Edgeworth is not a lawyer, it is  
18 impossible that it was his work alone that led to the settlement of the Viking and Lange claims, for a  
19 substantial sum, in the instant case. The Lange claims were settled for four times the original offer,  
20 because Simon continued to work on the case. He continued to make efforts to communicate with  
21 the Edgeworths and even followed their requests to communicate with Vannah's office. He also  
22 agreed to their request of opening a trust account, though in an unusual fashion. All of the work by  
23 the Law Office of Daniel Simon led to the ultimate result in this case, and a substantial result for the  
24 Edgeworths.

25  
26 4. The Result Obtained

27 The result was impressive. This began as a \$500,000 insurance claim and ended up settling  
28

1 for over \$6,000,000. Mr. Simon was also able to recover an additional \$100,000 from Lange  
2 Plumbing LLC. Mr. Vannah indicated to Simon that the Edgeworths were ready so sign and settle  
3 the Lange Claim for \$25,000 but Simon kept working on the case and making changes to the  
4 settlement agreement. This ultimately led to a larger settlement for the Edgeworths. Recognition is  
5 due to Mr. Simon for placing the Edgeworths in a great position to recover a greater amount from  
6 Lange. Mr. Kemp testified that this was the most important factor and that the result was incredible.  
7 Mr. Kemp also testified that he has never heard of a \$6 million settlement with a \$500,000 damage  
8 case. Further, in the Consent to Settle, on the Lange claims, the Edgeworth's acknowledge that they  
9 were made more than whole with the settlement with the Viking entities.

10 In determining the amount of attorney's fees owed to the Law Firm of Daniel Simon, the  
11 Court also considers the factors set forth in Nevada Rules of Professional Conduct – Rule 1.5(a)  
12 which states:

13  
14 (a) A lawyer shall not make an agreement for, charge, or collect an  
15 unreasonable fee or an unreasonable amount for expenses. The factors to be  
16 considered in determining the reasonableness of a fee include the following:

17 (1) The time and labor required, the novelty and difficulty of the  
18 questions involved, and the skill requisite to perform the legal service  
19 properly;

20 (2) The likelihood, if apparent to the client, that the acceptance of the  
21 particular employment will preclude other employment by the lawyer;

22 (3) The fee customarily charged in the locality for similar legal  
23 services;

24 (4) The amount involved and the results obtained;

25 (5) The time limitations imposed by the client or by the  
26 circumstances;

27 (6) The nature and length of the professional relationship with the  
28 client;

(7) The experience, reputation, and ability of the lawyer or lawyers  
performing the services; and

(8) Whether the fee is fixed or contingent.

NRCP 1.5. However, the Court must also consider the remainder of Rule 1.5 which goes on to state:

(b) The scope of the representation and the basis or rate of the fee and  
expenses for which the client will be responsible shall be communicated to the  
client, preferably in writing, before or within a reasonable time after

1 commencing the representation, except when the lawyer will charge a  
2 regularly represented client on the same basis or rate. Any changes in the  
basis or rate of the fee or expenses shall also be communicated to the client.

3 (c) A fee may be contingent on the outcome of the matter for which the  
4 service is rendered, except in a matter in which a contingent fee is prohibited  
5 by paragraph (d) or other law. A contingent fee agreement shall be in writing,  
signed by the client, and shall state, in boldface type that is at least as large as  
the largest type used in the contingent fee agreement:

6 (1) The method by which the fee is to be determined, including the  
percentage or percentages that shall accrue to the lawyer in the event of  
7 settlement, trial or appeal;

8 (2) Whether litigation and other expenses are to be deducted from the  
recovery, and whether such expenses are to be deducted before or after the  
contingent fee is calculated;

9 (3) Whether the client is liable for expenses regardless of outcome;

10 (4) That, in the event of a loss, the client may be liable for the  
opposing party's attorney fees, and will be liable for the opposing party's  
11 costs as required by law; and

12 (5) That a suit brought solely to harass or to coerce a settlement may  
result in liability for malicious prosecution or abuse of process.

13 Upon conclusion of a contingent fee matter, the lawyer shall provide the client  
14 with a written statement stating the outcome of the matter and, if there is a  
recovery, showing the remittance to the client and the method of its  
determination.

15  
16 NRCP 1.5.

17 The Court finds that under the Brunzell factors, Mr. Simon was an exceptional advocate for  
18 the Edgeworths, the character of the work was complex, the work actually performed was extremely  
19 significant, and the work yielded a phenomenal result for the Edgeworths. All of the Brunzell  
20 factors justify a reasonable fee under NRPC 1.5.

21 However, the Court must also consider the fact that the evidence suggests that the basis or  
22 rate of the fee and expenses for which the client will be responsible were never communicated to the  
23 client, within a reasonable time after commencing the representation. Further, this is not a  
24 contingent fee case, and the Court is not awarding a contingency fee.

25 Instead, the Court must determine the amount of a reasonable fee. In determining this  
26 amount of a reasonable fee, the Court must consider the work that the Law Office continued to  
27 provide on the Edgeworth's case, even after the constructive discharge. The record is clear that the  
28



1 Edgeworths were ready to sign and settle the Lange claim for \$25,000 but Simon kept working on  
2 the case and making changes to the settlement agreement. This resulted in the Edgeworth's  
3 recovering an additional \$75,000 from Lange plumbing. Further, the Law Office of Daniel Simon  
4 continued to work on the Viking settlement until it was finalized in December of 2017, and the  
5 checks were issued on December 18, 2017. Mr. Simon continued to personally work with Mr.  
6 Vannah to attempt to get the checks endorsed by the Edgeworths, and this lasted into the 2018 year.  
7 The record is clear that the efforts exerted by the Law Office of Daniel Simon and Mr. Simon  
8 himself were continuing, even after the constructive discharge. Though the previous agreement  
9 between Simon and the Edgeworths was for \$550 per hour, the Court must take into consideration  
10 that the Edgeworths' fee agreement with Vannah & Vannah was for \$925 per hour.

11 In considering the reasonable value of these services, under quantum meruit, the Court is  
12 considering the previous \$550 per hour fee from the implied fee agreement, the fee for the Vannah  
13 & Vannah Law Firm, the Brunzell factors, and additional work performed after the constructive  
14 discharge. As such, the COURT FINDS that the Law Office of Daniel Simon is entitled to a  
15 reasonable fee in the amount of \$200,000, from November 29, 2017 to the conclusion of this case.

### 16 17 CONCLUSION

18 The Court finds that the Law Office of Daniel Simon properly filed and perfected the  
19 charging lien pursuant to NRS 18.015(3) and the Court must adjudicate the lien. The Court further  
20 finds that there was an implied agreement for a fee of \$550 per hour between Mr. Simon and the  
21 Edgeworths once Simon started billing Edgeworth for this amount, and the bills were paid. The  
22 Court further finds that on November 29, 2017, the Edgeworth's constructively discharged Mr.  
23 Simon as their attorney, when they ceased following his advice and refused to communicate with  
24 him about their litigation. The Court further finds that Mr. Simon was compensated at the implied  
25 agreement rate of \$550 per hour for his services, and \$275 per hour for his associates; up and until  
26 the last billing of September 19, 2017. For the period from September 19, 2017 to November 29,  
27 2017, the Court finds that Mr. Simon is entitled to his implied agreement fee of \$550 an hour, and  
28

1 \$275 an hour for his associates, for a total amount of \$284,982.50. For the period after November  
2 29, 2017, the Court finds that the Law Office of Daniel Simon properly perfected their lien and is  
3 entitled to a reasonable fee for the services the office rendered for the Edgeworths, after being  
4 constructively discharged, under quantum meruit, in an amount of \$200,000. The Court further  
5 finds that the Law Office of Daniel Simon is entitled to costs in the amount of \$71,594.93.  
6

7 **ORDER**

8 It is hereby ordered, adjudged, and decreed, that the Motion to Adjudicate the Attorneys Lien  
9 of the Law Office of Daniel S. Simon is hereby granted and that the reasonable fee due to the Law  
10 Office of Daniel Simon is \$556,577.43, which includes outstanding costs.

11 IT IS SO ORDERED.

Dated this 27th day of September, 2022

12  
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14   
DISTRICT COURT JUDGE

15  
16 4AA 825 C06C AB5C  
17 Tierra Jones  
18 District Court Judge  
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1 **CSERV**

2  
3 DISTRICT COURT  
CLARK COUNTY, NEVADA

4  
5  
6 Edgeworth Family Trust,  
Plaintiff(s)

CASE NO: A-16-738444-C

7 vs.

DEPT. NO. Department 10

8  
9 Lange Plumbing, L.L.C.,  
Defendant(s)

10  
11 **AUTOMATED CERTIFICATE OF SERVICE**

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

15 Service Date: 9/27/2022

16 Daniel Simon .	lawyers@simonlawlv.com
17 Rhonda Onorato .	ronorato@rlattorneys.com
18 Mariella Dumbrique	mdumbrique@blacklobello.law
19 Michael Nunez	mnunez@murchisonlaw.com
20 Tyler Ure	ngarcia@murchisonlaw.com
21 Nicole Garcia	ngarcia@murchisonlaw.com
22 James Christensen	jim@jchristensenlaw.com
23 John Greene	jgreene@vannahlaw.com
24 James Christensen	jim@jchristensenlaw.com
25 Michael Nunez	mnunez@murchisonlaw.com

1	Daniel Simon	dan@danielsimonlaw.com
2		
3	Gary Call	gcall@rlattorneys.com
4	J. Graf	Rgraf@blacklobello.law
5	Robert Vannah	rvannah@vannahlaw.com
6	Christopher Page	chrispage@vannahlaw.com
7	Steve Morris	sm@morrislawgroup.com
8	Rosa Solis-Rainey	rsr@morrislawgroup.com
9	Traci Baez	tkb@morrislawgroup.com
10		
11	Gabriela Mercado	gm@morrislawgroup.com
12	Zeairah Marable	zmarable@vannahlaw.com
13	Laysha Guerrero	lguerrero@vannahlaw.com

14  
15 If indicated below, a copy of the above mentioned filings were also served by mail  
16 via United States Postal Service, postage prepaid, to the parties listed below at their last  
known addresses on 9/28/2022

17	Theodore Parker	2460 Professional CT STE 200
18		Las Vegas, NV, 89128

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1 **ORD**

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

6 EDGEWORTH FAMILY TRUST; and  
7 AMERICAN GRATING, LLC,

8 Plaintiffs,

9 vs.

CASE NO.: A-16-738444-C

DEPT NO.: X

10 LANGE PLUMBING, LLC; THE VIKING  
11 CORPORATION, a Michigan Corporation;  
12 SUPPLY NETWORK, INC., dba VIKING  
13 SUPPLYNET, a Michigan Corporation; and  
DOES 1 through 5; and, ROE entities 6 through  
10;

14 Defendants.

**Consolidated with**

CASE NO.: A-18-767242-C

DEPT NO.: X

15 EDGEWORTH FAMILY TRUST; and  
16 AMERICAN GRATING, LLC,

17 Plaintiffs,

18 vs.

19 DANIEL S. SIMON; THE LAW OFFICE OF  
20 DANIEL S. SIMON, a Professional Corporation  
d/b/a SIMON LAW; DOES 1 through 10; and,  
ROE entities 1 through 10;

21 Defendants.

**ORDER TO RELEASE TO THE  
EDGEWORTHS THEIR COMPLETE  
CLIENT FILE**

22 **ORDER TO RELEASE TO THE EDGEWORTHS THEIR COMPLETE CLIENT FILE**

23 Pursuant to the Nevada Supreme Court's Writ of Mandamus, issued on September 16, 2022,  
24 the Court hereby ORDERS Defendants Daniel Simon and the Law Office of Daniel S. Simon d/b/a  
25 Simon Law ("Simon") to release to the Edgeworth's the complete client file for case A-16-738444-  
26 C.  
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IT IS FURTHER ORDERED that the complete client file shall be produced to the Edgeworths within 14 days of the entry of this Order.

Dated this 27th day of September, 2022



DISTRICT COURT JUDGE

3DA 090 7E16 4CD0  
Tierra Jones  
District Court Judge

1 **CSERV**

2  
3 DISTRICT COURT  
CLARK COUNTY, NEVADA

4  
5  
6 Edgeworth Family Trust,  
Plaintiff(s)

CASE NO: A-16-738444-C

7 vs.

DEPT. NO. Department 10

8  
9 Lange Plumbing, L.L.C.,  
Defendant(s)

10  
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16 Daniel Simon .	lawyers@simonlawlv.com
17 Rhonda Onorato .	ronorato@rlattorneys.com
18 Mariella Dumbrique	mdumbrique@blacklobello.law
19 Michael Nunez	mnunez@murchisonlaw.com
20 Tyler Ure	ngarcia@murchisonlaw.com
21 Nicole Garcia	ngarcia@murchisonlaw.com
22 James Christensen	jim@jchristensenlaw.com
23 John Greene	jgreene@vannahlaw.com
24 James Christensen	jim@jchristensenlaw.com
25 Michael Nunez	mnunez@murchisonlaw.com

1	Daniel Simon	dan@danielsimonlaw.com
2		
3	Gary Call	gcall@rlattorneys.com
4	J. Graf	Rgraf@blacklobello.law
5	Robert Vannah	rvannah@vannahlaw.com
6	Christopher Page	chrispage@vannahlaw.com
7	Steve Morris	sm@morrislawgroup.com
8	Rosa Solis-Rainey	rsr@morrislawgroup.com
9	Traci Baez	tkb@morrislawgroup.com
10		
11	Gabriela Mercado	gm@morrislawgroup.com
12	Zeairah Marable	zmarable@vannahlaw.com
13	Laysha Guerrero	lguerrero@vannahlaw.com

14  
15 If indicated below, a copy of the above mentioned filings were also served by mail  
16 via United States Postal Service, postage prepaid, to the parties listed below at their last  
known addresses on 9/28/2022

17	Theodore Parker	2460 Professional CT STE 200
18		Las Vegas, NV, 89128

19  
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IN THE SUPREME COURT OF THE STATE OF NEVADA

EDGEWORTH FAMILY TRUST; AND  
AMERICAN GRATING, LLC,  
Appellants,  
vs.  
DANIEL S. SIMON; AND THE LAW OFFICE  
OF DANIEL S. SIMON, A PROFESSIONAL  
CORPORATION, D/B/A SIMON LAW,  
Respondents.

EDGEWORTH FAMILY TRUST; AND  
AMERICAN GRATING, LLC,  
Appellants,  
vs.  
DANIEL S. SIMON; AND THE LAW OFFICE  
OF DANIEL S. SIMON, A PROFESSIONAL  
CORPORATION, D/B/A SIMON LAW,  
Respondents.

Supreme Court No. 83258/83260

District Court Case No. A738444 1A767242

FILED

DEC 15 2022

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY D. Smith  
DEPUTY CLERK

REMITTITUR

TO: Steven D. Grierson, Eighth District Court Clerk

Pursuant to the rules of this court, enclosed are the following:

Certified copy of Judgment and Opinion/Order.  
Receipt for Remittitur.

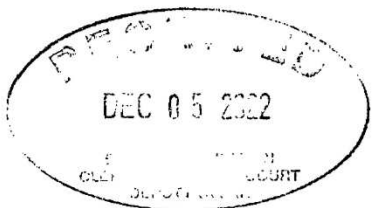
DATE: November 28, 2022

Elizabeth A. Brown, Clerk of Court

By: Brittany Cowden  
Administrative Assistant

cc (without enclosures):

Hon. Tierra Danielle Jones, District Judge  
Morris Law Group  
Christiansen Trial Lawyers  
James R. Christensen  
Steven D. Grierson, Eighth District Court Clerk



RECEIPT FOR REMITTITUR

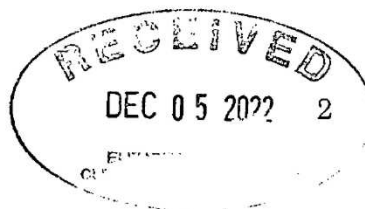
Received of Elizabeth A. Brown, Clerk of the Supreme Court of the State of Nevada, the  
REMITTITUR issued in the above-entitled cause, on NOV 29 2022.

Deputy

Heather McGowan  
District Court Clerk

RECEIVED  
APPEALS  
NOV 29 2022

CLERK OF THE COURT



22-36962

P00402

**IN THE SUPREME COURT OF THE STATE OF NEVADA**

EDGEWORTH FAMILY TRUST; AND  
AMERICAN GRATING, LLC,  
Appellants,  
vs.  
DANIEL S. SIMON; AND THE LAW OFFICE  
OF DANIEL S. SIMON, A PROFESSIONAL  
CORPORATION, D/B/A SIMON LAW,  
Respondents.

---

**Supreme Court No. 83258/83260**  
District Court Case No. A738444

EDGEWORTH FAMILY TRUST; AND  
AMERICAN GRATING, LLC,  
Appellants,  
vs.  
DANIEL S. SIMON; AND THE LAW OFFICE  
OF DANIEL S. SIMON, A PROFESSIONAL  
CORPORATION, D/B/A SIMON LAW,  
Respondents.

**CLERK'S CERTIFICATE**

STATE OF NEVADA, ss.

I, Elizabeth A. Brown, the duly appointed and qualified Clerk of the Supreme Court of the State of Nevada, do hereby certify that the following is a full, true and correct copy of the Judgment in this matter.

**JUDGMENT**

The court being fully advised in the premises and the law, it is now ordered, adjudged and decreed, as follows:

“ORDER the judgement of the district court VACATED AND REMAND this matter to the district court for proceedings consistent with this order.”

Judgment, as quoted above, entered this 16<sup>th</sup> day of September, 2022.

The court being fully advised in the premises and the law, it is now ordered, adjudged and decreed, as follows:

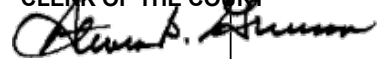
“Rehearing Denied.”

Judgment, as quoted above, entered this 31<sup>st</sup> day of October, 2022.

IN WITNESS WHEREOF, I have subscribed  
my name and affixed the seal of the Supreme  
Court at my Office in Carson City, Nevada this  
November 28, 2022.

Elizabeth A. Brown, Supreme Court Clerk

By: Brittany Cowden  
Administrative Assistant



James R. Christensen Esq.  
Nevada Bar No. 3861  
JAMES R. CHRISTENSEN PC  
601 S. 6<sup>th</sup> Street  
Las Vegas NV 89101  
(702) 272-0406  
jim@jchristensenlaw.com  
Attorney for SIMON

Eighth Judicial District Court

District of Nevada

EDGEWORTH FAMILY TRUST, and  
AMERICAN GRATING, LLC  
Plaintiffs,

vs.

LANGE PLUMBING, LLC; THE  
VIKING CORPORATION, a Michigan  
corporation; SUPPLY NETWORK,  
INC., dba VIKING SUPPLY NET, a  
Michigan Corporation; and DOES 1  
through 5 and ROE entities 6 through  
10;

Defendants.

Case No. A-16-738444-C  
Dept No. 10

**MOTION FOR ADJUDICATION  
FOLLOWING REMAND**

(Hearing Requested)

Notice of Intent to Appear Via  
Simultaneous Audio Visual  
Transmission Equipment

**I. Introduction**

The Supreme Court issued a decision on the Edgeworths' limited appeal and vacated the portion of this Court's Adjudication Order which granted fees to Simon under *quantum meruit*. The Supreme Court remanded the case to this Court for further findings on the amount of fees due Simon under *quantum meruit* and then the Supreme Court denied

1 Simon's Writ Petition seeking additional fees under *quantum meruit* as  
2 moot, based on its earlier remand decision. While this Court responded to  
3 the decision on appeal with a new Adjudication Order, this Court's Order  
4 predated the Remitter and Notice in Lieu of Remittitur issued by the  
5 Supreme Court. Accordingly, Simon files this motion, respectfully  
6 requesting this Court again address the matter of *quantum meruit*. Further,  
7 Simon submits that the Court is not limited to its prior award and that the  
8 information and arguments set forth herein support an increased *quantum*  
9 *meruit* award.  
10

11  
12 The following motion only addresses this Court's finding of *quantum*  
13 *meruit* due Simon for work done after discharge which was challenged on  
14 appeal by the Edgeworths. Based on the appellate decisions to date, it  
15 appears that Simon will need to pursue a broader *quantum meruit* award  
16 via Writ.  
17

## 18 **II. Relevant Procedure**

19 The facts and procedure of this case are well known to this Court.  
20 Therefore, only the latest events relevant to this motion are listed below.  
21

22 On September 16, 2022, the Supreme Court decided the  
23 Edgeworths' appeal and issued an Order Vacating Judgment and  
24 Remanding.  
25

1           On September 27, 2022, this Court issued the Fourth Adjudication  
2 Order.

3           On October 31, 2022, the Supreme Court denied the Edgeworths'  
4 request to rehear their appeal.

5           On November 16, 2022, the Supreme Court denied Simon's Writ  
6 Petition as moot.

7           On November 29, 2022, this Court received the Receipt for Remittitur  
8 regarding the Edgeworths' Appeal.  
9

10           On December 15, 2022, the Remittitur for the Edgeworths' Appeal  
11 was filed by the Clerk of the Supreme Court.  
12

13           On December 20, 2022, the Supreme Court denied Simon's request  
14 to rehear the Simon Writ Petition.  
15

16           On January 17, 2023, the Supreme Court issued a Notice in Lieu of  
17 Remittitur regarding the Simon Writ Petition.

18 **III.   The Court's *Quantum Meruit* Fee Award**

19           The September of 2022 Supreme Court decision instructed the  
20 district court to provide specific and express findings regarding the  
21 *quantum meruit* award of fees to Simon. This Court's Fourth Adjudication  
22  
23  
24  
25

Order contained additional language regarding the issue. *In addition*,

Simon offers the following:

On November 29, 2017, Simon was constructively discharged by the Edgeworths. (*E.g.*, Adjudication Order of 4.19.21 at 12:16-17.)

On January 24, 2018, Simon filed a motion to adjudicate the Simon attorney lien. Time sheets were attached to the motion. January 8, 2018, was the last date work was noted on the time sheets. (Simon Adjudication Motion of 1.24.18 at Ex. 19.)

The following work occurred on or after November 19, 2017, as noted on the time sheets:

Daniel S. Simon

11/29/17	Receive and analyze email from Ogilvie	1.5
11/29/17	Email Chain with EN, JP, TP; Re: Letter from Parker	.50
11/29/17	Email Chain with JP, AF; Re: Discovery Motions	.15
11/29/17	Draft and send email to AF re drafting reply to Lange's supplemental Opposition	1.5
11/29/17	Draft and send email to AF re drafting notice of attorney lien	.15
11/29/17	Draft and send email to AF re letter from Pancoast to Simon	.15
11/29/17	Review and analyze Lange's supplemental brief	2.5
11/29/17	Email from client Angela Edgeworth	.15
11/29/17	Email response to client Angela Edgeworth	.25
11/29/17	Review and analyze email from Ogilvie re: contractor's license legal arguments and response email to Ogilvie; Discussion with AF	1.5



1	11/29/17	Draft reply to Lange's Supplemental Opposition to Plaintiffs' MSJ	2.75
2	11/29/17	Discussions w/ J. Henriod re moving hearings and settlement	.65
3	11/29/17	TIC with T. Parker	.50
4	11/29/17	Draft letter to Parker	.50
5	11/30/17	Review release; TIC J. Greene; TIC T. Parker; revise release	1.25
6	11/30/17	Call with Teddy Parker	.15
7	11/30/17	Call with Teddy Parker	.15
8	11/30/17	Call with Teddy Parker	.10
9	11/30/17	Call with AMF	.25
10	11/30/17	Call with Teddy Parker	.15
11	11/30/17	Call with AMF	.10
12	11/30/17	Call with AMF	.10
13	11/30/17	Call with AMF	.20
14	11/30/17	Call with AMF	.10
15	11/30/17	Review file for Lange bills, TIC to Parker re: settlement	.75
16	11/30/17	Negotiate release w/ Henriod (his office)	3.5
17	11/30/17	Conversation w/ Green; draft email, send release	.75
18	11/30/17	Receive and review letter dated 11-30-17	.25
19	11/30/17	Received and reviewed Lange letter (11-29-17) regarding scheduling discovery; Discussion with AF	.75
20	11/30/17 & 12/2/17	Email chain with AF re attorney lien	.15
21	12/1/17	Email Chain with JP, AF, DP, JH, MB, KR; Re: Discovery Motions	.15
22	12/1/17	Receive and review release email to Defendant	.75
23	12/1/17	Receive and review release email from Pancoast & discussion with AF	.50
24	12/1/17	Review Viking's 19th ECC Supplement	.25
25			

12/4/17	Received and reviewed DCRR; LIM for Green/Vannah	.75
12/4/17	Review notice vacating UL Depos	.25
12/4/17	Discussion with AF	.40
12/5/17	T/c with John Green; Email from John Green; Discussion with staff	.40
12/5/17	Review subpoena to Dalacas	.25
12/5/17	Emails to client and John Greene messages	.50
12/5/17	Draft and Send Email to Client and Response	.15
12/6/17	Draft and send email to AF re notice to vacate Caranahan depo	.15
12/6/17	Review file and gather materials requested by Vannah; email from John Greene	2.25
12/6/17	Email from AF re evidentiary hearing from Judge Jones law clerk and discussion with AF	.50
12/6/17	Review notice of vacating depo of Carnahan	.35
12/6/17	Receive and review email from Janet Pancoast; discussion with AF; response; forward to Vannah	.35
12/6/17	Received and reviewed Lange's 13th ECC Supplement	.50
12/6/17	Email Chain with JP, AF; Re: Carnahan Deposition	.15
12/7/17	Email Chain with JP, AF, TP, KR, JM, JH, DP, SM; Re: Evidentiary Hearing	.35
12/7/17	TIC with Vannah	.50
12/7/17	Draft and revise letter; Review of file to Vannah w/ attachment	1.75
12/8/17	Received and reviewed Lange 14th ECC Supplement	1.25
12/8/17	Review Motion for Good faith settlement; discussion with AF	.75
12/8/17	Received and review order granting Giberti Motion for Good Faith Settlement; TIC with Parker	.50
12/8/17	Email chain with AF re Order Granting Giberti MGFS	.15
12/11/17	Email from Zamiski; Response email	.15

1	12/11/17	Review/ Analyze Lange 15th ECC Supplement	.50
2	12/11/17	TIC Parker & Pancoast; Email from T. Parker; Email from Crt	.75
3	12/11/17	Review client's release of claims; emails to J. Greene; Discussions with AF	.50
4	12/11/17	Draft and send email to AF re Lange's 15th ECC Supplement and review AF response	.25
5	12/12/17	Draft and send email to AF re Stip to Dismiss and review AF response	.15
6	12/12/17	Attend hearing on Viking Motion for Good Faith Settlement	1.75
7	12/6/17-12/12/17	Messages; Returned messages; discussions with Floyd Hale	.50
8	12/12/17	Email from J. Pancoast; Received/Reviewed/Analyze Stip to dismiss; order on Good faith settlement; discussion with AF	1.25
9	12/12/17	Received letter from Pancoast to DC Bulla; Pancoast email re checks and signing stips	.50
10	12/14/17	Review both stips to dismiss; send to J. Pancoast; TIC to M. Nunez; Review email from J. Pancoast	.50
11	12/15/17	Review email from T. Ure; TIC to J. Pancoast re 2nd stip to dismiss and arrange pick up of settlement checks	.50
12	12/18/17	Pick up settlement checks; exchange for stip; contact Vannah' s office re signature	1.5
13	12/18/17	T/C and emails to J. Greene re checks; TIC to Pomerantz office re bill; emails; review bills from Pomerantz	1.0
14	12/18/17	Received, reviewed and analyze email from B. Vannah	.50
15	12/19/17	Emails to B. Vannah and J. Greene re checks	.25
16	12/19/17	Received and review email from B. Vannah to J. Christensen; Received and review email from J. Christensen and response from B. Vannah	.25
17	12/20/17	Request return of sprinklers from Volmer Grey	.25
18	12/20/17	Receive and review draft Motion for Good Faith Settlement; Lange release for \$100k and release for \$22k	1.5
19			
20			
21			
22			
23			
24			
25			

12/21/17	Review emails from Pancoast and Parker; revise joint motion for good faith settlement and send back to Parker	.75
12/21/17	Receive, review and analyze email from B. Vannah (3:21pm)	.50
12/23/17	Received, reviewed and analyzed email from B. Vannah (10:45pm)	.50
12/26/17	Receive, review and analyze email from J. Christensen to B. Vannah (10:46am)	.25
12/26/17	Receive, review and analyze email from B. Vannah (12:18pm)	.75
12/26/17	Receive, review and analyze email from J. Christensen	.25
12/27/17	Receive, review and analyze email from JC w/e letter attached	.75
12/28/17	Receive, review and analyze email from B. Vannah (3:07pm)	.75
12/28/17	Receive, review and analyze email from B. Vannah (2:03pm)	.25
12/28/17	Receive, review and analyze email from B. Vannah (4:17am)	.75
12/29/17	Received and reviewed email re joint motion and revised joint motion	.40
1/2/18	Revise Lange release and send back to T. Parker	.75
1/2/18	Received/reviewed Viking stip to dismiss	.35
1/2/18	Received/reviewed email from J. Pancoast and T. Parker	.35
1/2/18	Received/reviewed and analyzed letters from Zurich re settlement checks	.25
1/2/18	Received, reviewed and analyzed email from J. Greene (3:45pm)	.25
1/2/18	TIC with S. Guindy at Bank of Nevada	.50
1/3/18	TIC w/ S. Guindy at Bank of Nevada; Received, reviewed and analyzed email with attachments	.75
1/3/18	Analyze, review schedule and additional emails from S. Guindy	.50

1/4/18	Analyze, receive and send emails to S. Guindy at Bank of Nevada; Review Emails from J. Christensen and Bank , J. Greene	.75
1/4/18	Email from T. Parker (E Nunez) re Joint MGFS, sign and return to T. Parker	.50
1/4/18	Email to T. Parker and E. Nunez regarding revisions to release	.50
1/4/18	Travel to Bank of Nevada for bank account requested by client	1.5
1/4/18	Email E. Nunez releases again per her request	.25
1/5/18	Email from S. Guindy and response	.25
1/5/18	Email from Nunez	.15
1/5/18	Review Court filing of MGFS Lange	.25
1/8/18	TIC with S. Guindy; receive, review and analyze letter from Vannah	.50
1/8/18	Travel to Bank of Nevada 2x re Trust deposit	2.5

Ashley M. Ferrel

11/29.17	Review, Download & Save Defendants The Viking Corporation and Supply Network, Inc.'s 19 <sup>th</sup> Supplemental NRCP 16.1 Disclosure	.30
11/29/17	Review, Download & Save Correspondence to Counsel, dated November 29, 2017	.30
11/29/17	Review Ogilvie response to Lange's Supplement to MSJ; Discussion with DSS re Reply	.50
11/29/17	Review email from DSS re drafting reply to Lange's supplemental Opposition	1.5
11/29/17	Review email from DSS re drafting notice of attorney lien	.15
11/29/17	Review email from DSS re letter from Pancoast to Simon	.15
11.29.17	Email to Pancoast re hearing dates I front of DC Bulla in light of negotiations	.15

1	11/30/17	Email to George Ogilvie instructing him to stop working on the case	.15
2	11/30/17	Review, Download & Save Letter to Counsel	.30
3	11/30/17	Review, Download & Save Correspondence to Discovery Commissioner Bulla regarding Hearings	.30
4	11/30/17	Review Viking's 19th ECC Supplement	1.0
5	11/30/17	Review Letter from Lange regarding discovery scheduling and discussion with DSS	.75
6	11/30/17 & 12/2/17	Email chain with DSS re attorney lien	.15
7	12/1/17	Draft Notice of Attorney Lien, serve and prepare & send all liens certified mail return receipt requested	2.5
8	12/1/17	Review, Download & Save Lange Plumbing Verification to Rogs	.30
9	12/1/17	Review, Download & Save Notice of Attorney Lien	.30
10	12/1/17	Review Release from Viking and discussion with DSS re release	.50
11	12/4/17	Draft and serve notice to vacate deposition of UL Laboratories	.25
12	12/4/17	Review Lange written discovery responses	1.5
13	12/4/17	Discussion with DSS re scheduling and status of case	.40
14	12/4/17	Review, Download & Save Notice Vacating the 2 <sup>nd</sup> Amended Video Depo of NRCP30(b) (6) Designees of Underwriters Laboratories	.30
15	12/4/17	Review, Download & Save Discovery Commissioners Report and Recommendations	.30
16	12/5/17	Email chain with UL re vacating depo	.15
17	12/6/17	Review Lange's I 3u1 ECC Disclosure	2.5
18	12/6/17	Review email from DSS re notice to vacate Caranahan depo	.15
19	12/6/17	Draft and serve Notice to Vacate Robert Carnahan Deposition	.50
20	12/6/17	TC with Judge Jones law clerk rehearing scheduling; Discussion with DSS	.50

12/6/17	Review, Download & Save Service Only- Lange Plumbing 13 <sup>th</sup> Supp to NRCP 16.1 ECC	.30
12/6/17	Review, Download & Save Service Only - Notice of Vacating the Continued Video Depo of Robert Carnahan	.30
12/7/17	Review, Download & Save MDGF- Def The Viking Corporation & Supply Network MGF Settlement & Request for OST	.30
12/8/17	Review Viking Motion for Good Faith Settlement, Analyze and discussion with DSS	.75
12/8/17	Review Lange's 14 <sup>th</sup> and 15 <sup>th</sup> ECC Disclosure	.50
12/8/17	Email chain with DSS re Order Granting Giberti MGFS	.15
12/8/17	Review Stipulation to Dismiss from Viking and discussion with DSS	.50
12/8/17	Review, Download & Save Lange Plumbing 15 <sup>th</sup> Supplement to 16.1 ECC List Witnesses and Docs	.30
12/8/17	Review, Download & Save Lange Plumbing 14 <sup>th</sup> Supp to 16.1 ECC List of Witnesses and Docs	.30
12/11/17	Discussion with DSS re client's release of claims	.20
12/11/17	Review email from DSS re Lange's 15 <sup>th</sup> ECC Supplement and response	.25
12/11/17	Review email from DSS re Lange's 15 <sup>th</sup> ECC Supplement and response	.25
12/12/17	Review Order granting Giberti Motion for Good Faith Settlement and discussion with DSS	.25
12/12/17	Review, Download & Save Ltr. To Discovery Commissioner Bulla Re. Settlement	.30

12/13/17	Review, Download & Save NEO Granting Third Party Def. Giberti Construction LLC Motion for Good Faith Settlement	.30
1/2/18	Draft Notice of Amended Attorney Lien, serve and prepare & send all liens certified mail return receipt requested	1.5

(Defendants' evidentiary hearing exhibits 13 & 14.)

The Simon time sheets did not capture all the effort expended on behalf of the Edgeworths through January 8, 2018. (See, e.g., August 29, 2018, transcript at 109-126 & 192-193.) For example, Simon also performed the following work through January 8, 2018:

11.29.17 Exchanged emails with Joel Henriod regarding resolution.

11.30.17 Emailed a proposed release to the client.

11.30.17 Exchanged emails with Joel Henriod regarding resolution.

(Ex. 1.)

There is substantial evidence that Simon continued to work on behalf of the Edgeworths after the last date on the time sheets of January 8, 2018. On February 6, 2018, Simon appeared before the Court and was actively engaged in effectuating the settlement and helping his former clients. (See, *generally*, February 6, 2018, hearing transcript.)

The February 6 transcript shows that at the hearing the defense attorneys did not turn to Vannah but instead relied upon Simon. Simon did



1 not refuse to assist his former friends and clients - *who had frivolously sued*  
2 *him for conversion to punish him* - rather, Simon upheld the highest  
3 standards of the profession and helped. (Transcript of 2.6.2018 hearing.) In  
4 addition to the hearing appearance, the transcript reflects that Simon was  
5 working on behalf of the Edgeworths outside the presence of the Court.  
6 (E.g., 2.6.2018 transcript at 6:15, "MS PANCOAST: -- Mr. Simon's  
7 facilitating wrapping this up.")  
8

9 On February 20, 2018, Simon again appeared before the Court. On  
10 February 20, 2018, Simon addressed the district court regarding the status  
11 of resolution and discussed ongoing efforts to resolve the case which were  
12 taking place outside the presence of this Court. The transcript confirms that  
13 three months after retention to resolve the case, Vannah continued to deny  
14 any knowledge or involvement and most matters were still being handled  
15 by Simon:  
16  
17

18 THE COURT: Mr. Vannah?

19 MR. SIMON: --that they'll sign that.  
20

21 MR. VANNAH: Why do we have to have anything on form and  
22 content? That is not required, it's for the lawyers to sign.

23 MR. SIMON: Then if --

24 MR. VANNAH: -- I'm asking that question.

25 MR. SIMON: -- he's ok with that, then I'm fine with that.

1 MR. VANNAH: *If you take out the form and content, I don't know*  
2 *anything about the case, and I want -- I don't know anything about the*  
3 *case -- I mean, we're not involved in a case. You understand that,*  
4 *Teddy?* (Italics added.)

5 (2.20.2018 hearing transcript at 3:15-25. Italics added.)

6 In addition to court appearances Simon did the following work after  
7 January 8, 2018:

8 1.17.2018 Drafted an email to Teddy Parker regarding release  
9 language

10 1.19.2018 Reviewed an email string from Janet Pancoast and sent  
11 replies regarding the upcoming hearing schedule.

12 1.19.2018 Contacted the Court regarding the upcoming hearing  
13 schedule

14 1.20.2018 Reviewed email from J. Pancoast regarding the upcoming  
15 hearing schedule

16 1.22.2018 Reviewed email from T. Parker regarding the upcoming  
17 hearing schedule

18 1.22.2018 Reviewed an email from the Court regarding the  
19 upcoming hearing schedule

20 1.25.2018 Reviewed an email from J. Pancoast<sup>1</sup>

21 2.18.2018 Reviewed an email from J. Pancoast regarding check  
22 exchange and the stipulation to dismiss.

23  
24 <sup>1</sup> Ms. Pancoast wrote: "I just read the Motion to Adjudicate the attorney lien.  
25 But for your determination, Edgeworths would have significantly less in  
their pocket." (Ex. 2.)

1 2.20.2018 Reviewed an email from J. Pancoast regarding hearing  
2 attendance and the Court's reply (Includes Vannah)

3 3.8.2018 Reviewed an email from E. Nunez regarding a proposed  
4 order for good faith settlement.

5 3.8.2018 Reviewed email and replied to an email from E. Nunez  
6 regarding the proposed order for the motion for good faith settlement  
7 and releases.

8 3.12.2018 Reviewed emails from E. Nunez regarding the order for  
9 good faith settlement and reply

10 3.12.2018 Reviewed emails with R. Vannah regarding the order for  
11 good faith settlement

12 3.12.2018 Reviewed emails from J. Pancoast regarding the order for  
13 good faith settlement

14 3.16.2018 Reviewed group emails (including Vannah) and reply  
15 regarding the order for good faith settlement.

16 On 1.22.2018 Ashley Ferrell sent an email to the Court requesting a  
17 change to the upcoming hearing schedule as agreed upon by  
18 counsel.

19 (Ex. 1.)

20 The communications listed above involve the Vannah firm only where  
21 specifically noted. It is significant that scheduling and the process of  
22 drafting and submission of orders and releases went almost exclusively  
23 through Simon and did not include Vannah, and that the work extended into  
24 March of 2018, months after Simon's discharge on November 29, 2017.  
25

1 The work performed by Simon after discharge was of substantial  
2 value. Simon acted to protect the interests of his former clients, even after  
3 being frivolously sued, by addressing the details of resolution of their  
4 complex case. Finalizing resolution of a complex case that settled in the  
5 aggregate for more than Six Million Dollars has a substantial value.  
6

7 Simon's work went beyond finalizing resolution, for example,  
8 following discharge Simon negotiated better terms with Lange. The former  
9 client and new counsel instructed Simon to settle with Lange for  
10 \$25,000.00; however, Simon was able to negotiate a larger settlement for  
11 \$100,000.00. Simon's post discharge negotiation also removed a  
12 confidentiality clause from the Lange settlement agreement. Removal of a  
13 confidentiality clause has value not just because a confidentiality clause  
14 can create future liability, but also because such clauses can have tax  
15 consequences. *See, e.g., Amos v. Commissioner of Internal Revenue*,  
16 2003 WL 22839795 (U.S.T.C. 2003)(40% of a settlement paid by Dennis  
17 Rodman following a kicking incident during an NBA game pursuant to a  
18 settlement agreement which contained a confidentiality clause found to be  
19 taxable as a payment for confidentiality).  
20  
21  
22

23 Notably, the Edgeworths admitted to the value of Simon's post-  
24 discharge work. On January 4, 2018, the Edgeworths frivolously sued  
25

1 Simon for conversion. Following service of the frivolous complaint,  
2 replacement counsel Robert Vannah directed/threatened Simon via email  
3 to continue working for the Edgeworths. Vannah stated that Simon's  
4 withdrawal would result in the Edgeworths spending "lots more money to  
5 bring someone else up to speed". (Defendants' evidentiary hearing exhibit  
6 53.) As Vannah & Greene billed the Edgeworths at \$925.00 an hour,  
7 Vannah's email demonstrates that Simon provided a substantial monetary  
8 savings to the Edgeworths post discharge. Saving a client money is a  
9 benefit which may be considered in reaching a reasonable fee. See,  
10 *Crockett & Myers v. Napier, Fitzgerald & Kirby*, 664 F.3d 282 (9<sup>th</sup>. Cir.  
11 2011)(*Crockett & Myers II*)(the court considered fee savings as a factor to  
12 consider in reaching a *quantum meruit* award). Further, the  
13 contemporaneous assertion of Vannah regarding the value of Simon's  
14 services to resolve the case contradicts the current Edgeworth *post hoc*  
15 claim that Simon's post discharge work was of little value.

16 Further, Simon was integral to finalizing resolution as evidenced by  
17 the hearings of February 6 and 20, 2018. The transcripts reveal that Simon  
18 was the attorney that the defense turned to for resolution of the  
19 Edgeworths' case and that Simon provided material and substantial  
20 assistance. And, again, the record and the Edgeworths' first substitute  
21  
22  
23  
24  
25

1 attorney contradict the current *post hoc* claim that resolution of a complex  
2 case is simple or of little value.

3 Finally, as late as August 8, 2019, the Edgeworths argued to the  
4 Supreme Court that Simon was still their attorney. (Appellants' Opening  
5 Brief filed 8.8.2019 at 25-26.) Accordingly, there is no basis for the  
6 Edgeworths to argue that consideration of Simon's work which forms the  
7 basis of the *quantum meruit* award should be limited to work that occurred  
8 on or before January 8, 2018. Simon submits the work continued into  
9 March of 2018, and the Edgeworths contended on appeal in 2019 that  
10 Simon was still their lawyer as late as 2019.  
11  
12

#### 13 **IV. Conclusion**

14 The foregoing pages of this motion provide additional information  
15 regarding Simon's post discharge work which can be added to an  
16 Adjudication Order to further demonstrate the sound foundation upon which  
17 this Court's *quantum meruit* award is based. There is ample foundation for  
18 the Court's previous post discharge *quantum meruit* award of \$200,000.00.  
19  
20  
21  
22  
23  
24  
25

1 Further, in the discretion of this Court, there is also support for an  
2 upward adjustment of the *quantum meruit* award for post discharge work.

3 DATED this 9<sup>th</sup> day of February 2023.

4  
5 /s/James R. Christensen  
6 James R. Christensen Esq.  
7 Nevada Bar No. 3861  
8 James R. Christensen PC  
9 601 S. Sixth Street  
10 Las Vegas NV 89101  
11 (702) 272-0406  
12 (702) 272-0415 fax  
13 jim@jchristensenlaw.com  
14 Attorney for LAW OFFICE OF  
15 DANIEL S. SIMON, P.C.

11 **CERTIFICATE OF SERVICE**

12 I CERTIFY SERVICE of MOTION FOR ADJUDICATION  
13 FOLLOWING REMAND was made by electronic service (via Odyssey) this  
14 9<sup>th</sup> day of February 2023, to all parties currently shown on the Court's E-  
15 Service List.  
16

17  
18 /s/ Dawn Christensen  
19 an employee of  
20  
21  
22  
23  
24  
25

# **EXHIBIT 1**



### **Declaration of Counsel Re: Fees**

1. I, Daniel S. Simon, make this declaration of my own personal knowledge and under the penalty of perjury pursuant to NRS 53.045.

2. I am over the age of 18 years and have personal knowledge of the facts stated herein, except for those stated upon information and belief, and as to those matters, I believe them to be true. I am competent to testify as to the facts stated herein in a court of law and will so testify if called upon.

3. I am an attorney duly licensed to practice law in the State of Nevada. I

4. I and my firm performed work needed to finalize the releases and other documents required to resolve the Edgeworths' complex litigation beyond that which is noted on the time sheets or is apparent from the hearing transcripts including the following:

11.29.2017 Exchanged emails with Joel Henriod regarding resolution

11.30.2017 Emailed a proposed release to the client

11.30.2017 Exchanged emails with Joel Henriod regarding resolution

1.17.2018 Drafted an email to Teddy Parker regarding release language

1.19.2018 Reviewed an email string from Janet Pancoast and sent replies regarding the upcoming hearing schedule

1.19.2018 Contacted the Court regarding the upcoming hearing schedule

1.20.2018 Reviewed email from J. Pancoast regarding the upcoming hearing schedule

1.22.2018 Reviewed email from T. Parker regarding the upcoming hearing schedule

1.22.2018 Reviewed an email from the Court regarding the upcoming hearing schedule

1.25.2018 Reviewed an email from J. Pancoast

2.18.2018 Reviewed an email from J. Pancoast regarding check exchange and the stipulation to dismiss.

2.20.2018 Reviewed an email from J. Pancoast regarding hearing attendance and the Court's reply (Includes Vannah)

3.8.2018 Reviewed an email from E. Nunez regarding a proposed order for good faith settlement.

3.8.2018 Reviewed email and replied to an email from E. Nunez regarding the proposed order for motion for good faith settlement and releases

3.12.2018 Reviewed emails from E. Nunez regarding the order for good faith settlement and reply

3.12.2018 Reviewed emails with R. Vannah regarding the order for good faith settlement

3.12.2018 Reviewed emails from J. Pancoast regarding the order for good faith settlement

3.16.2018 Reviewed group emails (including Vannah) and reply regarding the order for good faith settlement

On 1.22.2018 Ashley Ferrell sent an email to the Court requesting a change to the upcoming hearing schedule as agreed upon by counsel.

I also performed substantive work achieving a settlement of 100k instead of the 25k settlement the Edgeworths gave authority for only a few days prior. I also spent time providing more substantive work reviewing and revising releases with Lange Plumbing that omitted valuable confidentiality clauses in favor the Edgeworth's, and separately omitted a non-disparagement clause protecting the Edgeworth's even more, along with other favorable terms. These releases were then reviewed by the Vannah lawyers, who secured signatures. Settlement checks were then obtained so the Edgeworth's could receive their money immediately.

I declare under penalty of perjury that the foregoing is true and correct to the best of my information and belief.

DATED this 9<sup>th</sup> day of February, 2023.

---

DANIEL S. SIMON

## **EXHIBIT 2**

**Daniel Simon**

---

**From:** Janet Pancoast <janet.pancoast@zurichna.com>  
**Sent:** Thursday, January 25, 2018 9:06 PM  
**To:** Daniel Simon  
**Subject:** Edgeworth -

Danny –

I just read the Motion to Adjudicate the attorney lien. But for your determination, Edgeworths would have significantly less in their pocket. If I can be of any assistance to you, let me know.

Good luck.

Janet C. Pancoast, Esq.  
**CISNEROS & MARIAS**  
(Not a Partnership – Employee of Zurich American Insurance Company)  
1160 No. Town Center Dr., Suite 130  
Las Vegas, NV 89144  
Off: 702.233.9660  
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janet.pancoast@zurichna.com

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