

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

EDGEWORTH FAMILY TRUST; AND  
AMERICAN GRATING, LLC,

APPELLANTS,

VS.

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

RESPONDENTS.

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Supreme Court Case No. 86676  
Dist. Ct. Case No. A-18-767242-C  
Consolidated with A-16-738444-C

**EDGEWORTH APPELLANTS' APPENDIX TO  
OPENING BRIEF**

**VOLUME IV  
BATES AA0627-AA0832**

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***EDGEWORTH FAMILY TRUST, ET AL. vs.  
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2021-06-18	Notice of Entry of Order of Decision & Order Denying Plaintiffs' Renewed Motion for Reconsideration of Third Amended Decision and Order on Motion to Adjudicate Lien and Denying Simon's Counter Motion to Adjudicate Lien on Remand	VI	AA1086-1093
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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

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

26 **THIRD 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 and 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  
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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  
14                   collection, or upon which a suit or other action has been instituted.

15           Nev. Rev. Stat. 18.015.

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

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

7 1. Quality of the Advocate

8 Brunzell expands on the “qualities of the advocate” factor and mentions such items as  
9 training, skill and education of the advocate. Mr. Simon has been an active Nevada trial attorney for  
10 over two decades. He has several 7-figure trial verdicts and settlements to his credit. Craig  
11 Drummond Esq. testified that he considers Mr. Simon a top 1% trial lawyer and he associates Mr.  
12 Simon in on cases that are complex and of significant value. Michael Nunez Esq. testified that Mr.  
13 Simon’s work on this case was extremely impressive. William Kemp Esq. testified that Mr. Simon’s  
14 work product and results are exceptional.

15 2. The Character of the Work to be Done

16 The character of the work done in this case is complex. There were multiple parties,  
17 multiple claims, and many interrelated issues. Affirmative claims by the Edgeworths covered the  
18 gamut from product liability to negligence. The many issues involved manufacturing, engineering,  
19 fraud, and a full understanding of how to work up and present the liability and damages. Mr. Kemp  
20 testified that the quality and quantity of the work was exceptional for a products liability case against  
21 a world-wide manufacturer that is experienced in litigating case. Mr. Kemp further testified that the  
22 Law Office of Danny Simon retained multiple experts to secure the necessary opinions to prove the  
23 case. The continued aggressive representation, of Mr. Simon, in prosecuting the case that was a  
24 substantial factor in achieving the exceptional results.

25 3. The Work Actually Performed

26 Mr. Simon was aggressive in litigating this case. In addition to filing several motions,  
27 numerous court appearances, and deposition; his office uncovered several other activations, that  
28

1 caused possible other floods. While the Court finds that Mr. Edgeworth was extensively involved  
2 and helpful in this aspect of the case, the Court disagrees that it was his work alone that led to the  
3 other activations being uncovered and the result that was achieved in this case. Since Mr.  
4 Edgeworth is not a lawyer, it is impossible that it was his work alone that led to the filing of motions  
5 and the litigation that allowed this case to develop into a \$6 million settlement. All of the work by  
6 the Law Office of Daniel Simon led to the ultimate result in this case.

7 4. The Result Obtained

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

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

21  
22 (a) A lawyer shall not make an agreement for, charge, or collect an  
23 unreasonable fee or an unreasonable amount for expenses. The factors to be  
24 considered in determining the reasonableness of a fee include the following:

25 (1) The time and labor required, the novelty and difficulty of the  
26 questions involved, and the skill requisite to perform the legal service  
27 properly;

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

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

(4) The amount involved and the results obtained;

1 (5) The time limitations imposed by the client or by the  
2 circumstances;

3 (6) The nature and length of the professional relationship with the  
4 client;

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

7 (8) Whether the fee is fixed or contingent.

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

9 (b) The scope of the representation and the basis or rate of the fee and  
10 expenses for which the client will be responsible shall be communicated to the  
11 client, preferably in writing, before or within a reasonable time after  
12 commencing the representation, except when the lawyer will charge a  
13 regularly represented client on the same basis or rate. Any changes in the  
14 basis or rate of the fee or expenses shall also be communicated to the client.

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

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

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

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

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

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

Upon conclusion of a contingent fee matter, the lawyer shall provide the client  
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.

NRCP 1.5.

The Court finds that under the Brunzell factors, Mr. Simon was an exceptional advocate for  
the Edgeworths, the character of the work was complex, the work actually performed was extremely

1 significant, and the work yielded a phenomenal result for the Edgeworths. All of the Brunzell  
2 factors justify a reasonable fee under NRPC 1.5.

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

7 Instead, the Court must determine the amount of a reasonable fee. In determining this  
8 amount of a reasonable fee, the Court must consider the work that the Law Office continued to  
9 provide on the Edgeworth's case, even after the constructive discharge. The record is clear that the  
10 Edgeworths were ready to sign and settle the Lange claim for \$25,000 but Simon kept working on  
11 the case and making changes to the settlement agreement. This resulted in the Edgeworth's  
12 recovering an additional \$75,000 from Lange plumbing. Further, the Law Office of Daniel Simon  
13 continued to work on the Viking settlement until it was finalized in December of 2017, and the  
14 checks were issued on December 18, 2017. Mr. Simon continued to personally work with Mr.  
15 Vannah to attempt to get the checks endorsed by the Edgeworths, and this lasted into the 2018 year.  
16 The record is clear that the efforts exerted by the Law Office of Daniel Simon and Mr. Simon  
17 himself were continuing, even after the constructive discharge. In considering the reasonable value  
18 of these services, under quantum meruit, the Court is considering the previous \$550 per hour fee  
19 from the implied fee agreement, the Brunzell factors, and additional work performed after the  
20 constructive discharge. As such, the COURT FINDS that the Law Office of Daniel Simon is  
21 entitled to a reasonable fee in the amount of \$200,000, from November 30, 2017 to the conclusion of  
22 this case.

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1 **CSERV**

2  
3 DISTRICT COURT  
CLARK COUNTY, NEVADA

4  
5  
6 Edgeworth Family Trust,  
Plaintiff(s)

CASE NO: A-18-767242-C

7 vs.

DEPT. NO. Department 10

8  
9 Daniel Simon, Defendant(s)

10  
11 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 4/19/2021

15 Peter Christiansen

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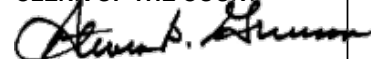
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3	James Christensen	jim@jchristensenlaw.com
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11 Attorneys for Plaintiffs  
12 Edgeworth Family Trust and  
13 American Grating, LLC

14 DISTRICT COURT  
15 CLARK COUNTY, NEVADA

16 EDGEWORTH FAMILY TRUST; ) Case No: A-16-738444-C  
17 AMERICAN GRATING, LLC, ) Dept. No: X

18 Plaintiffs,

19 v.

20 LANGE PLUMBING, LLC  
21 ET AL.,

22 Defendants.

23 EDGEWORTH FAMILY TRUST; ) Case No: A-18-767242-C  
24 AMERICAN GRATING, LLC, ) Dept. No. X

25 Plaintiffs,

26 v.

27 DANIEL S. SIMON, AT AL.,

28 Defendants.

) PLAINTIFFS' RENEWED  
) MOTION FOR  
) RECONSIDERATION OF  
) THIRD-AMENDED DECISION  
) AND ORDER GRANTING IN  
) PART AND DENYING IN PART  
) SIMON'S MOTION FOR  
) ATTORNEYS FEES AND

) COSTS, and MOTION FOR  
) RECONSIDERATION OF  
) THIRD AMENDED DECISION  
) AND ORDER ON MOTION TO  
) ADJUDICATE LIEN  
)  
) HEARING REQUESTED  
)

Plaintiffs Edgeworth Family Trust and American Grating, LLC (hereafter collectively referred to as "Edgeworths") respectfully move for reconsideration of this Court's Third Amended Decision and Order on Motion to Adjudicate Lien (hereafter "Third Lien Order"), which does not adhere to the instructions on remand, as more fully described below. The Edgeworths also renew their motion to reconsider the Court's Amended Decision and Order Granting in Part and Denying in Part Simon's Motion for Attorney's Fees and Costs (the "Fees Order") to conform to the actual cost amount.

This matter returns to the Court on remand for a limited purpose. The Supreme Court vacated this Court's prior order "awarding [Simon] \$50,000 in attorney's fees and \$200,000 in *quantum meruit* and remand[ed] for further findings regarding the basis for the awards." The Supreme Court's remittitur that returned this matter to the Court for further proceedings issued on April 13, 2021. However, the Court *sua sponte*, and without explanation (or jurisdiction), entered a Second Amended Decision and Order on Motion to Adjudicate Lien (hereafter "Second Lien Order") on March 16, 2021. At the same time, the Court also entered an Amended Order on Simon's motion for attorney's fees and costs. These Orders prompted the Edgeworths to file a Motion for Reconsideration on March 30, 2021.

The following day, the clerk of the Court issued a notice of hearing, for April 15, 2021, which deprived the Edgeworths of the right to reply to

1 Simon's opposition to reconsideration filed on April 13. Scheduling the  
2 hearing was altogether unnecessary and inappropriate because jurisdiction  
3 had not been returned to the Court when the incomplete briefing on  
4 reconsideration was in progress and the minute order issued from the  
5 Court's chambers. Nonetheless, on April 19, 2021, the Court issued a Third  
6 Lien Order; the Court has not issued an updated Order on the attorney fee  
7 issue since regaining jurisdiction.

8 For the reasons set out in detail below, reconsideration of both of April  
9 19, 2021 Third Lien Order and the March 16, 2021 Amended Decision and  
10 Order Granting in Part and Denying in Part Simon's Motion for Attorney's  
11 Fees and Costs (hereafter the "Attorney Fee Order") is appropriate.

12 This Motion is based on the papers and pleadings on file, the  
13 declaration of Rosa Solis-Rainey and exhibits submitted therewith, and any  
14 argument the Court may consider, which the Edgeworths respectfully  
15 request.

16 **MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF**  
17 **RENEWED MOTION FOR RECONSIDERATION**

18 This case has a long and tortured history that will not be reiterated  
19 except as necessary to address the narrow issues presented in this motion.  
20 The time and effort expended to obtain a full and fair accounting of the fees  
21 and costs claimed by Simon, in whom the Edgeworths misplaced their trust,  
22 has been unnecessarily increased due to his failure to keep adequate  
23 accurate billing records, and promptly bill the Edgeworths. His omission to  
24 keep and produce proper billing records has allowed him to overreach for  
25 much more in fees than were agreed to by the Edgeworths.

26 ***A. RELEVANT FACTS***

27 The underlying litigation brought by the Edgeworths against Lange  
28 Plumbing, LLC, the Viking Corporation, Supply Network Inc., dba Viking

1 Supplynet. Daniel Simon represented the Edgeworths. From April 10, 2016  
2 to September 18, 2017, his firm billed the Edgeworths \$368,588.70 in  
3 attorney's fees, and \$114,864.39 in costs. The bills were based on *Simon's*  
4 requested hourly rate of \$550 and \$275 for his associates.

5 Through mediation, the Edgeworths on November 15, 2017 agreed to  
6 settle their claims against the Viking parties for \$6 million in exchange for  
7 full dismissals. With these principal terms agreed-upon, all that remained  
8 as to this portion of the case was to memorialize the settlement. Two days  
9 later, however, Simon pressed the Edgeworths to renegotiate the basis of his  
10 compensation structure from the hourly rates that had been confirmed and  
11 paid under the parties' course of conduct, to one with contingent fee features  
12 that would yield him more than a \$1M bonus. To coerce them into  
13 acquiescing to his demands for more money, Simon threatened that the  
14 settlement with Viking would fall apart because he claimed there remained  
15 *many terms to still be negotiated*. Simon left for vacation in Peru shortly  
16 thereafter, but made numerous calls to the Edgeworths from Peru to  
17 pressure them into paying his desired but unagreed fees.

18 On November 27, 2017, Simon sent the Edgeworths a letter proposing  
19 an agreement that would essentially provide him a bonus of over \$1M. Ex.  
20 HH. Angela Edgeworth responded and asked Simon to provide her a copy  
21 of the draft settlement document so that she could have her long-time  
22 business lawyer review it. Ex. AA. Simon responded that he had not  
23 received it, which was not true. *Id.* at 3:50 p.m. Since the principal terms for  
24 settlement had been agreed to at the November 15 mediation and there  
25 appeared to be urgency on all sides in finalizing the agreement, Mrs.  
26 Edgeworth pressed Simon for the draft agreement. He responded that "Due  
27 to the holiday they were probably not able to start on it. I will reach out to  
28 lawyers tomorrow and get a status." *Id.* at 4.58 p.m. In his earlier letter, he

1 claimed that "*there [wa]s a lot of work left to be done* [to finalize the  
2 settlement] and even hinted he might derail the agreement by not signing  
3 off on "confidentiality provisions," likely required by Viking, which he  
4 suggested "could expose [Simon] to future litigation." Ex HH at 0049. Mrs.  
5 Edgeworth *again* pressed for settlement details, but Simon did not respond.  
6 Ex. AA at 5:32 p.m.

7       Notwithstanding his denials to the contrary, the record suggests that  
8 Simon had a draft of the settlement agreement by November 21, 2017. Ex.  
9 BB (email exchange between counsel for Viking suggesting issues had arisen  
10 regarding confidentiality and disparagement provisions; because these are  
11 provisions Simon said Viking wanted, such issues could have been raised  
12 only by Simon). Because of Simon's coercive tactics with respect to revising  
13 his compensation structure and his refusal to provide the draft agreement to  
14 Mrs. Edgeworth and his hourly bill, the Edgeworths retained other counsel  
15 on November 29, Robert Vannah, to work with Simon to finalize the  
16 agreements.<sup>1</sup> Ex. CC.

17       Simon provided the Edgeworth's with a draft of the settlement  
18 agreement, *for the first time*, at 8:39 a.m. on November 30. Ex. DD.  
19 Approximately an hour later, Vannah sent Simon a fax notifying him that  
20 the Edgeworths had retained him to assist in finalizing the settlement. Ex.  
21 CC. About eight hours later (at 5:31 pm) Simon sent a "final" version of the  
22 settlement agreement with terms he claimed to have negotiated that day. Ex.  
23 EE. In that same email, he also reported that he had re-negotiated the Lange  
24  
25

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26       <sup>1</sup> Without waiver of any rights, the Edgeworths accept that the Court  
27 has found that the circumstances leading up to and retaining other counsel  
28 were a constructive discharge of Simon, notwithstanding that he remained  
counsel of record.

1 Plumbing settlement amount, and acknowledged receipt of instructions to  
2 settle the Lange claim. *Id.*

3 On November 30, 2017, Simon also filed a Notice of Attorney Lien  
4 against the Viking settlement claiming \$80,326.86 in outstanding costs. *See*  
5 Ex. L to 3/30/21 Mot. for Recon. He filed an Amended Lien on January 2,  
6 claiming costs of \$76,535.93<sup>2</sup> and attorney fees totaling \$2,345,450 less  
7 payments received, for a net of \$1,977,843.80 due in fees, presumably based  
8 on a contingent fee agreement that the Edgeworths had rejected. *See* Ex. M  
9 to 3/30/21 Mot. for Recon. The Viking settlement was signed the next day,  
10 December 1. Ex. N to 3/30/21 Mot. for Recon. The Edgeworths asked  
11 Simon to agree to the Lange terms at the same time. Ex. EE.

12 On December 12, 2017, Viking notified Simon that it had inadvertently  
13 overlooked the *certified check* provision in the settlement agreement, but  
14 provided they could obtain the stipulation to dismiss, they had *regular*  
15 *checks* cut and available for exchange that day in order to allow time for the  
16 payment to clear by the agreed-upon date. Ex. FF. Simon ***did not*** notify the  
17 Edgeworths of this option. On December 18, 2017, Simon notified Vannah,  
18 the Edgeworths other counsel, that he had received the checks, but did not  
19 disclose the checks were not certified, as required by the settlement  
20 agreement. The parties disagreed on how the checks should be handled and  
21 ultimately deposited them in an account that required the signatures of both  
22 Vannah and Simon. The portion of the Viking money in excess of Simon's  
23 claimed lien was paid to the Edgeworths. The settlement agreement with  
24

25  
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27 <sup>2</sup> The Court acknowledged that the Edgeworths promptly paid the  
28 outstanding costs claimed by Simon as soon as he provided invoices  
substantiating costs. *See* Nov. 19, 2018 Decision and Order on Motion to  
Adjudicate Lien at 17:12-13 ("there are no outstanding costs remaining  
owed").



1 Lange Plumbing was slow-played until February 5, 2018, when it was  
2 signed. *See* Ex. O to 3/30/21 Mot. for Recon.

3 Due to the manner in which the settlement was handled, and the  
4 attempted extortion of additional fees from them, the Edgeworths initiated  
5 litigation against Simon on January 4, 2018. The Court ultimately dismissed  
6 their claim for conversion and awarded fees and costs under NRS  
7 18.010(2)(b) to Simon in the amount of \$5,000 for the claimed expert fee to  
8 David Clark; and \$50,000 in fees for Simon's lawyer for defending the  
9 conversion action. In his opposition to the Motion for Reconsideration,  
10 Simon acknowledges that David Clark's expert fee was only \$2,520. *See*  
11 April 13, 2021 Opp'n to Mot to Reconsider at 19:24.

12 Despite repeatedly claiming to the Edgeworths that a bill for actual  
13 time spent would exceed the amount fees claimed in his lien, Simon refused  
14 to provide billing records for fees he claimed were outstanding. Instead, he  
15 moved to adjudicate the lien, and in support offered a "super bill" alleging  
16 that between May 27, 2016 and January 8, 2018, his firm provided a total of  
17 1,650.60 hours in legal services (866.20 hours Simon; 762.60 for Farrell; and  
18 21.80 for Miller) for a grand total of \$692,120 in fees. Ex. II Excerpts of  
19 "super bill." Included among Simon's hours is a single undated entry for  
20 137.80 hours (or \$75,790 in fees) with the line entry explanation of "Review  
21 all Emails concerning service of all pleadings (679 emails)." *See* Ex. II at  
22 SIMONEH0000240 (last entry before totals).

23 The Court held an evidentiary hearing with respect to the lien and  
24 concluded that the accuracy of the "super bill" provided by Simon could *not*  
25 be established. *See* Nov. 19, 2018 Decision and Order on Motion to  
26 Adjudicate Lien at 14:19-27 (pointing to testimony that the "'super bill' was  
27 not necessarily accurate" because it was created after the fact); at 15:5 – 9  
28 ("The court reviewed the billings of the 'super bill' in comparison to the

1 previous bills and determined that it was necessary to discount the items  
2 that has not been previously billed for; such as text messages, reviews with  
3 the court reporter, and reviewing, downloading, and saving documents  
4 because the Court is uncertain of the accuracy of the 'super bill'); at 15:19  
5 ("This argument does not persuade the court of the accuracy of the 'super  
6 bill.>"). The Court determined that for the period from September 19 to  
7 November 29, 2017 (which Simon had not billed despite requests from the  
8 Edgeworths to do so), Simon was owed \$284,982.50. *Id.* at 17:3-4.  
9 Notwithstanding that this amount did **not** reflect the "discounting" that the  
10 Court said was required, or the fact the work was not well substantiated in  
11 the invoices, the Edgeworths accepted this finding.

12 With respect to services performed from after the date the Court  
13 determined Simon was constructively discharged, the Court awarded Simon  
14 \$200,000, without providing any detail to show how that amount was  
15 determined. Nov. 19, 2018 Decision and Order on Motion to Adjudicate  
16 Lien at 21:18. The Court confirmed that the case was "not a contingent fee  
17 case, and the Court is not awarding a contingency fee." *Id.* at 21. In  
18 justifying the amount, the basis of which is never explained, the Court  
19 discusses the *Brunzell* factors, but does so only in the context of *pre-*  
20 *constructive discharge work*.

21 The Edgeworths appealed the amount awarded Simon in *quantum*  
22 *meruit*, as well as the fees and costs awarded under NRS 18.010. Although  
23 the Supreme Court affirmed the \$5,000 cost award, it did so because it  
24 believed that 'the cost award [was] supported by an invoice and  
25 memorandum of costs,' (Dec. 30, 2020 Nev. Sup. Ct. Order at 9, last  
26 sentence) which Simon's recent briefing confirms was inaccurate. David  
27 Clark's charged only \$2,520 for his work as an expert.  
28

1 With respect to the fees awarded, both under NRS and under  
2 *quantum meruit*, the Nevada Supreme Court held that the \$50,000 attorney  
3 fee award "lacks support" because the Order awarding the fees did not  
4 demonstrate that the *Brunzell* factors were even considered. *Id.* at 8-9. With  
5 respect to the \$200,000 award, the Supreme Court held that the Court erred  
6 in making the award "without making findings regarding the work Simon  
7 performed after the constructive discharge." *Id.* at 4. The Supreme Court  
8 emphasized that the proper measure of recovery is the "reasonable value of  
9 [the] services." *Id.* at 5 (citations omitted). And the Court went on to say  
10 that in determining the reasonable value, the Court must consider the  
11 *Brunzell* factors. *Id.* The Supreme Court said:

12 While the district court stated that it was applying the *Brunzell*  
13 factors for work performed only after the constructive discharge, much of  
14 its analysis focused on Simon's work throughout the litigation. Those  
15 findings, referencing *work performed before the constructive discharge*,  
16 for which Simon had already been compensated under the terms of the  
17 implied contract, *cannot form the basis of a quantum meruit award*. . . .  
Accordingly, we vacate the district court's grant of \$200,000 in *quantum*  
*meruit* and remand for the district court to make findings regarding the  
basis of its award.

18 *Id.* at 5 (emphasis added). The Court's latest Order does not satisfy the  
19 Supreme Court mandate. It merely repeats the same inadequate *Brunzell*  
20 analysis. *See* Third Lien Order at 19-20; and compare it with the identical  
21 analysis on pages 18-19 of the November 19, 2018 Order that was the subject  
22 of the appeal.

23 The only evidence in the record of work Simon claims to have  
24 performed post-discharge is set forth in the "super bill"; the accuracy of  
25 which the Court has acknowledged is questionable, at best. *See* Excerpts  
26 Showing Post-Discharge Portions of "super bill" Ex. JJ and KK. The work  
27  
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described in these billings includes one hearing<sup>3</sup> and several administrative tasks, including over seven hours of Mr. Simon's time post discharge to open the bank account for deposit of the Viking settlement checks. Ex. LL at 3 (entries in green on Jan 2, 3 4, 5 and 8, 2018). Even crediting the time outlined in his "super bill," applying the *Brunzell* factors to that work does not justify the bonus payment the Court awarded him.

***B. STANDARD FOR RECONSIDERATION***

A party may seek reconsideration within 14 days after service of written notice of the order. E.D.C.R. 2.24. Reconsideration is appropriate when the Court has misapprehended or overlooked important facts when making its decision, *Matter of Ross*, 99 Nev. 657, 659, 668 P.2d 1089, 1091 (1983), when new evidence is presented, or when the decision is "clearly erroneous." *Masonry and Tile Contractors Ass'n of Southern Nevada v. Jolley, Urga & Wirth, Ltd.*, 113 Nev. 737, 741, 941 P.2d 486, 489 (1997). Here, this motion for reconsideration of the Court's Third Lien Order, entered on April 19, 2021, is timely brought. The Order is clearly erroneous because it does not comply with the mandate returned from the Nevada Supreme Court. The Order also followed briefing that was cut short due to the early hearing setting when the Court lacked jurisdiction.

The Amended Order on the attorney fee issue, was entered on March 16, 2021, nearly one month before the Nevada Supreme Court returned jurisdiction of this case to the district court. It is thus *void ab initio* because it was entered without jurisdiction, but it also warrants reconsideration because the cost award was entered based on an incorrect amount

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<sup>3</sup> A hearing on Viking's Motion for Good Faith Settlement is listed on the "super bill" for December 12, 2017. See Ex. JJ at 77. The hearing was necessary only because the Lange settlement was not promptly finalized. See Ex. N to 3/30/21 Mot. for Recon. at 2, Section III.D.

1 presented, which Defendants now acknowledge in their April 13 opposition  
2 to the earlier motion for reconsideration.

3  
4 ***C. RECONSIDERATION OF THE COSTS AWARDED IN THE***  
5 ***AMENDED ATTORNEY FEES AND COSTS MOTION IS***  
6 ***WARRANTED.***

7 This Court entered its Amended Order attorney's fees and costs on  
8 March 16, 2021. Jurisdiction was not returned to the district court until April  
9 13, 2021. The Amended Order awarded Simon's counsel some of the  
10 attorney fees and costs in claimed to have been incurred in defense of the  
11 conversion cause of action. The claimed costs of \$5,000 were for expert fees  
12 paid to David Clark. The Edgeworths appealed this award on the basis that  
13 the costs were not necessarily incurred. Although the Nevada Supreme  
14 affirmed the \$5,000 cost award, it did so because it believed that "the cost  
15 award [was] supported by an invoice and memorandum of costs." Dec. 30,  
16 2020 Nev. Sup. Ct. Order at 9, last sentence. Given the confirmation by  
17 Simon that the \$5,000 was actually the retainer amount, which was not  
18 exhausted, it is appropriate to remit the amount of the cost award to the  
19 actual cost (\$2,520) incurred.

20 ***D. THE BASIS FOR THE QUANTUM MERUIT ALLOWED BY THE***  
21 ***COURT REMAINS UNSUPPORTED, AND, IN FACT, CANNOT BE***  
22 ***SUPPORTED.***

23 The Third Amended Decision on the lien matter suffers from the same  
24 defects as those in the prior amended order considered by the Nevada  
25 Supreme Court. The Supreme Court found that the district court had not  
26 provided an adequate basis to support how it came up with a \$200,000  
27 award for Simon's post-constructive termination services, and pointed out  
28 that to the extent the *Brunzell* analysis was done, it relied on pre-termination  
work, *which has been compensated* under the contract.

1 According to the record and Simon's own testimony, the settlement  
2 terms in the underlying dispute with Viking were agreed on by November  
3 15, 2017. By Simon's unequivocal testimony in response to questions from  
4 the Court, the Viking Settlement Agreement was finished *before* November  
5 30. Ex. GG at 15-17.

6 Notwithstanding that he finished the settlement agreement  
7 negotiations on November, 27, 2017, when Mrs. Edgeworth requested drafts  
8 of the agreement that same day, Simon claimed he had not yet seen any  
9 drafts of the settlement agreement. And despite his later testimony that he  
10 was completely done hammering out the agreement on November 27, 2017,  
11 he did not share any versions of the settlement agreement with the  
12 Edgeworths until November 30th, ignoring their request for all drafts. The  
13 draft he initially presented them (with terms he unequivocally testified he  
14 had negotiated out) was sent shortly before he was notified the Edgeworths  
15 had hired Vannah to help finalize the agreement. At the close of day on  
16 November 30, he sent Vannah the final draft, which he acknowledged to the  
17 Court he finished negotiating three days prior yet misrepresented to Vannah  
18 and the Edgeworths that he had negotiated it that day. Ex. EE.

19 Notwithstanding the gamesmanship in sharing the settlement  
20 agreement while seeking a new fee arrangement, it is reasonable to conclude  
21 that Simon's testimony to the Court is accurate: *all negotiations were*  
22 *complete by November 27*, and little, if anything, of substance remained to  
23 be done *after* the claimed notice of termination to obtain the payment and  
24 dismiss the Viking claims. This conclusion is supported by the fact the  
25 Viking Settlement Agreement was in fact executed the next day, December  
26 1. A review of the billing entries offered by Simon for the post-discharge  
27 period confirm that negligible substantive work was performed by him with  
28 regard to the Viking claims.

1 Likewise, according to Simon's own evidence, the negotiation of the  
2 Lange Plumbing settlement terms were done by November 30, 2017,  
3 although the agreement memorializing these terms was inexplicably not  
4 presented to the Edgeworths for signature until February 5, 2018. The actual  
5 agreement eventually signed demonstrates that it was final by early  
6 December 2017. *See* Ex O at 1 (on line 2 of page 1, Mr. Edgeworth had to  
7 interlineate the earlier date contemplated when he signed the agreement; it  
8 said ". . . Agreement . . . is entered on December \_\_, 2017"); (on page 2, at  
9 subsections "a." to "c." agreement called for document exchanges by end of  
10 December, payment by end of January, and dismissal within 10 days of  
11 payment, demonstrating the agreement it was prepared in December). To  
12 the extent this agreement was slow-played by Simon to support his  
13 contention that much work remained, the fact is that the basic terms were  
14 agreed on or before November 30 and *no substantive work remained* to  
15 finalize it.

16 Little else of substance remained. And although Simon claims *never*  
17 to work on an hourly basis, he billed the Edgeworths on an hourly basis,  
18 and they paid him as they had agreed. The Court found that they had no  
19 reason to believe that was not the fee agreement since Simon had not  
20 memorialized the terms of the engagement, as he should have if it were  
21 otherwise. He also billed them for the substantial costs, which the Court  
22 found they promptly paid. Having so determined the basis for payment to  
23 Simon, the best evidence before the Court of the "reasonable value" of the  
24 *quantum meruit* services is Simon's own billings, which outline the work  
25 performed, albeit inadequately. This would be consistent with the  
26 compensation structure confirmed by the parties' course of conduct.  
27 Although the Court has consistently called into question the accuracy of the  
28 "super bill" Simon created to justify his exorbitant lien, the Court

1 nonetheless accepted the "super bill" for purpose of establishing the hours  
2 Simon claimed for work between September 19, 2017 through November 29,  
3 2017, and for which she awarded Simon over \$284K, without the  
4 discounting the Court itself recognized was required. The Edgeworths  
5 accepted this determination, and intend to pay that amount from the  
6 moneys being held.

7       There is no reason for the Court to now reject the "super bill" for  
8 evaluating the work performed post-discharge. For the period starting  
9 November 30 to the end of his lien, Simon's "super bill" lists a total of 71.10  
10 hours (51.85 hours for Simon; and 19.25 for his associate). Using the hourly  
11 rates established Simon himself and confirmed by the parties' course of  
12 conduct, that number of hours translates to \$33,811.25 in fees at his agreed  
13 rates. If the work on that listing were justifiable, it would be reasonable  
14 under a *Brunzell* analysis, but the Court's award of \$200,000 is *more than six*  
15 *times* that amount. No reason is given in the Third Lien Order as to how  
16 that amount was computed or supported under a *Brunzell* analysis. The  
17 Court's decision, in fact, does not specifically discuss the nature of the post-  
18 termination work. The Court's *entire discussion* of the *Brunzell* factors is  
19 based on pre-termination work covered by the prior invoices and the Court's  
20 pre-termination computation. This is the same deficiency the Nevada  
21 Supreme Court found with the appealed order.

22       Furthermore, much of the claimed work was not justified as having  
23 been done for the benefit of the Edgeworths. It is also not work requiring  
24 ...  
25 ...  
26 ...  
27 ...  
28



1 special skill. A rough summary of the post-discharge work "billed" is  
2 depicted in the table below:

SUMMARY OF POST-DISCHARGE WORK BILLED BY SIMON LAW	
Admin tasks re Lange Settlement	21.55
Admin tasks re Viking Settlement, including one hearing	26.65
Preparation of Attorney Lien	4.85
Opening Bank Account & Depositing Settlement Checks	7.25
Undetermined - not sufficient description	10.80

3  
4  
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9  
10 None of this work justifies the bonus awarded. A consolidated listing  
11 of the hours Simon's firm billed post-termination is attached hereto as  
12 Exhibit LL. The descriptions and information in Exhibit LL were taken  
13 directly from the "super bill" produced by Simon, the relevant excerpts of  
14 which are attached hereto as Exhibits JJ and KK. A substantial portion of  
15 Simon's bill for post-termination work does not provide adequate  
16 descriptions to enable informed evaluations of work performed.  
17 Furthermore, the Edgeworths' ability to challenge the validity of the work  
18 Simon claims to have performed is also limited because Simon has refused  
19 repeated demands to turn over their entire file to them.<sup>4</sup> While the Court is  
20 free to determine the reasonable value of the services provided, it needs to  
21 identify the bases on which it is valuing it to show that the amount is  
22 reasonable under *Brunzell*. Billing over seven hours to set up a simple local

23  
24  
25  
26  
27  
28  
<sup>4</sup> Simon claims to have turned over the file to the Edgeworths. However, the file he produced does not include drafts of the settlement agreements; is stripped of all email attachments, all emails discussing the Edgeworths settlements with third-parties, expert reports, and email and other communications with experts, opposing counsel. In view of this Court's finding that Simon was discharged, and the affirmance of that determination, it cannot be reasonably disputed that the Edgeworths are fully entitled to their full client file, as set forth in NRS 7.055, and demand is hereby made again for the Edgeworths' *complete* file.

1 bank account with two signers and deposit two checks, for example, is not  
2 facially reasonable under *Brunzell*. See Ex. LL, entries coded in green.  
3 Likewise, billing the Edgeworths 4.60 hours for the preparation of Simon's  
4 own attorney lien was of no benefit to the Edgeworths and therefore not  
5 facially reasonable. *Id.*, entries coded in pink. And even if the Court  
6 determined the hours were justified, a reasonable rate for that work must be  
7 explained.

8 The Court's basis for the *quantum meruit* award remains deficient, for  
9 the same reasons the Supreme Court found it lacking in the first instance. It  
10 should be corrected consistent with the mandate. On the basis of the record  
11 before the Court, the Court's \$200,000 *quantum meruit* award would not be  
12 correct.

13 ***E. THE COURT INADVERTENTLY INCLUDED PAID COSTS IN THE***  
14 ***OUTSTANDING AMOUNT DUE.***

15 The Court's Third Lien Order also contains a scrivener's error to the  
16 tune of \$71,594.93. Consistent with its prior Orders recognizing that the  
17 Edgeworths had paid all outstanding costs, the Court on page 18 of the  
18 Third Lien Order acknowledged all costs have been paid. However, on  
19 page 23 of the Third Lien Order, the Court inadvertently added the  
20 \$71,594.93 to the amount due. That error should be corrected, and any  
21 judgment entered on the lien claim should exclude any amount for costs  
22 because the costs have been paid.

23 ***F. CONCLUSION***

24 Because the Court's latest order does not comply with the mandate  
25 returned by the Nevada Supreme Court, it should be reconsidered. The  
26 basis for the *quantum meruit* award should be fully disclosed, and its  
27 reasonableness under the *Brunzell* analysis should be examined in light only  
28 of the post-termination work. Taking Simon's own "super bill" for guidance,  
that would come out to \$33,811.25.

1 The \$71,594.93 scrivener error resulting from the inadvertent inclusion  
2 of costs already paid should be corrected, and the prior \$5,000 awarded on  
3 the attorney's fees and costs motion, which was upheld only because it was  
4 believed to be the amount incurred, should be remitted to the amount of  
5 actual costs incurred, \$2,520.

6 MORRIS LAW GROUP

7  
8 By: /s/ STEVE MORRIS

9 Steve Morris, Bar No. 1543  
10 Rosa Solis-Rainey, Bar No. 7921  
11 801 S. Rancho Dr., Ste. B4  
12 Las Vegas, Nevada 89106

13 Attorneys for Plaintiffs  
14 Edgeworth Family Trust and  
15 American Grating, LLC  
16  
17  
18  
19  
20  
21  
22  
23  
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25  
26  
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CERTIFICATE OF SERVICE

Pursuant to Nev. R. Civ. P. 5(b) and NEFCR 9, I certify that I am an employee of MORRIS LAW GROUP, and that I caused the following to be served via the Court's mandatory e-filing and service system to those persons designated by the parties in the E-Service Master list for the above-referenced matter: PLAINTIFFS' RENEWED MOTION FOR RECONSIDERATION OF THIRD-AMENDED DECISION AND ORDER GRANTING IN PART AND DENYING IN PART SIMON'S MOTION FOR ATTORNEYS FEES AND COSTS, and MOTION FOR RECONSIDERATION OF THIRD AMENDED DECISION AND ORDER ON MOTION TO ADJUDICATE LIEN

DATED this 3<sup>rd</sup> day of May, 2021.

By: /s/ TRACI K. BAEZ  
An employee of Morris Law Group

**DECLARATION OF ROSA SOLIS-RAINEY IN SUPPORT OF PLAINTIFFS'  
RENEWED MOTION FOR RECONSIDERATION OF THIRD-AMENDED  
DECISION AND ORDER GRANTING IN PART AND DENYING IN PART  
SIMON'S MOTION FOR ATTORNEYS FEES AND COSTS, and MOTION FOR  
RECONSIDERATION OF THIRD AMENDED DECISION AND ORDER ON  
MOTION TO ADJUDICATE LIEN**

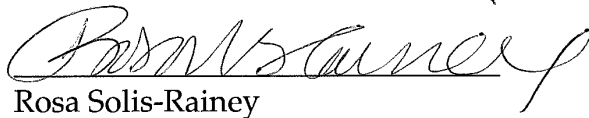
I, Rosa Solis-Rainey, declare as follows:

1. I am an attorney and counsel of record in this matter in this matter and competent to testify as to the following matters.
2. I have reviewed documents on file with the Court and state the following based on this review.
3. Attached as Exhibit AA is a November 27, 2017 email thread between Angela Edgeworth and Daniel Simon. I was informed and believe the email thread begun at 2:26 p.m. when Simon sent an email with a letter and proposed retainer agreement setting forth his desired compensation.
4. Attached as Exhibit BB is a November 21, 2017 email exchange between counsel for Viking, suggesting there are issues with some of the proposed terms.
5. Attached as Exhibit CC is a November 30, 2017 facsimile from Vannah to Simon transmitting a November 29, 2017 Letter of Direction from the Edgeworths.
6. Attached as Exhibit DD is a November 30, 2017 8:39 a.m. email from Simon to the Edgeworths with the Viking Settlement Agreement.
7. Attached as Exhibit EE is a November 30, 2017 5:31 p.m. email from Simon to the Edgeworths and counsel with the final Viking Settlement Agreement.
8. Attached as Exhibit FF is a December 12, 2017 a.m. email from Viking's counsel to Simon offering to exchange the checks for the stipulation to dismiss.

9. Attached as Exhibit GG are excerpts from Day 4 of the Evidentiary Hearing conducted in this matter on 8/30/18.
10. Attached as Exhibit HH is a November 27, 2017 letter sent by Simon to the Edgeworths outlining his desired compensation, and including a proposed retainer agreement.
11. Attached as Exhibit II are excerpts of Simon's "super bill" – it was broken into parts based on the billing attorney, thus the totals were added to determine the total attorneys fees billed, which came to \$692,120.00.
12. Attached as Exhibit JJ are the portions of the "super bill" showing "post-discharge" entries for Daniel Simon, who billed a total of 51.85 hours at \$550 per hour, or \$28,517.50 in attorney fees.
13. Attached as Exhibit KK are the portions of the "super bill" showing "post-discharge" entries for Ashley Ferrel, who billed a total of 19.25 hours at \$275 per hour, or \$5,293.75 in attorney fees. The third biller on the file, Mr. Miller, had no "post-discharge" entries. Mr. Simon and Ms. Ferrell collectively billed 71.10 hours for \$33,811.25 in fees.
14. Attached as Exhibit LL is a demonstrative I compiled taking the entries from Exhibits JJ and KK into one spreadsheet so that I could add them, and compile a breakdown by the estimated purpose, as set forth in the document.

I declare the foregoing under penalty of perjury under the laws of the State of Nevada.

Dated his 3<sup>th</sup> day of May, 2021.

  
Rosa Solis-Rainey

# EXHIBIT AA

11/27/17 EMAIL THREAD BETWEEN  
ANGELA EDGEWORTH & DANIEL  
SIMON

---

**From:** Angela Edgeworth <angela.edgeworth@pediped.com>  
**Sent:** Monday, November 27, 2017 3:20 PM  
**To:** Daniel Simon  
**Cc:** Brian Edgeworth (brian@pediped.com)  
**Subject:** Re: Edgeworth v. Viking, et al

Danny,

As you know, Brian is out of town and in China at the moment. I will need a couple of days to discuss this with him. We will be glad to meet once he is back.

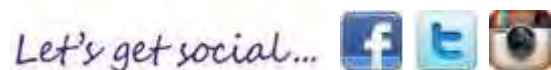
We would need to have our attorney look at this agreement before we sign.

In the meantime, please send us the Viking Agreement immediately, so we review it.

Angela Edgeworth



Angela Edgeworth  
D 702.352.2585 | T 702.567.0311 | F 702.567.0319  
1191 Center Point Drive | Henderson, NV 89074  
[angela.edgeworth@pediped.com](mailto:angela.edgeworth@pediped.com) | [www.pediped.com](http://www.pediped.com)



On Mon, Nov 27, 2017 at 2:26 PM, Daniel Simon <[dan@simonlawlv.com](mailto:dan@simonlawlv.com)> wrote:

Please review and advise me of your position at your earliest possible convenience. If you would like to discuss, please call me anytime. Thanks



---

**From:** Daniel Simon <dan@simonlawlv.com>  
**Sent:** Monday, November 27, 2017 3:50 PM  
**To:** Angela Edgeworth  
**Cc:** Brian Edgeworth (brian@pediped.com)  
**Subject:** RE: Edgeworth v. Viking, et al

I have not received the Viking agreement. When I receive I will forward. Let me know as soon as you can. Thanks

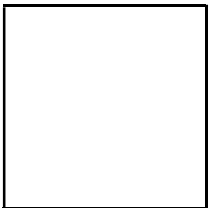
**From:** Angela Edgeworth [mailto:angela.edgeworth@pediped.com]  
**Sent:** Monday, November 27, 2017 3:20 PM  
**To:** Daniel Simon <dan@simonlawlv.com>  
**Cc:** Brian Edgeworth (brian@pediped.com) <brian@pediped.com>  
**Subject:** Re: Edgeworth v. Viking, et al

Danny,

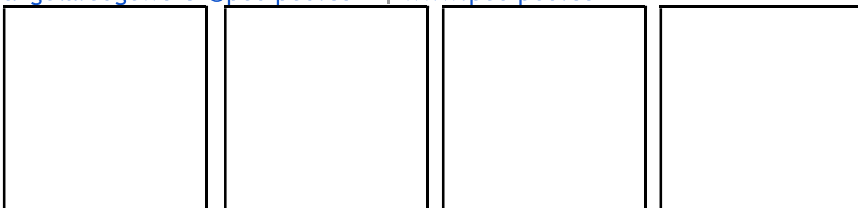
As you know, Brian is out of town and in China at the moment. I will need a couple of days to discuss this with him. We will be glad to meet once he is back.  
We would need to have our attorney look at this agreement before we sign.

In the meantime, please send us the Viking Agreement immediately, so we review it.

Angela Edgeworth



Angela Edgeworth  
D 702.352.2585 | T 702.567.0311 | F 702.567.0319  
1191 Center Point Drive | Henderson, NV 89074  
[angela.edgeworth@pediped.com](mailto:angela.edgeworth@pediped.com) | [www.pediped.com](http://www.pediped.com)



On Mon, Nov 27, 2017 at 2:26 PM, Daniel Simon <[dan@simonlawlv.com](mailto:dan@simonlawlv.com)> wrote:

Please review and advise me of your position at your earliest possible convenience. If you would like to discuss, please call me anytime. Thanks

---

**From:** Angela Edgeworth <angela.edgeworth@pediped.com>  
**Sent:** Monday, November 27, 2017 4:14 PM  
**To:** Daniel Simon  
**Cc:** Brian Edgeworth (brian@pediped.com)  
**Subject:** Re: Edgeworth v. Viking, et al

Did you agree to the settlement? Why have they not sent it yet and when is it coming? Please clarify.

---

**From:** Daniel Simon <dan@simonlawlv.com>  
**Sent:** Monday, November 27, 2017 4:58 PM  
**To:** Angela Edgeworth  
**Cc:** Brian Edgeworth (brian@pediped.com)  
**Subject:** Re: Edgeworth v. Viking, et al

It appears that you have a lot of questions about the process which is one reason I wanted to meet with you. If you would like to come to the office or call me tomorrow I will be happy to explain everything in detail. My Letter also explains the status of the settlement and what needs to be done. Due to the holiday they probably were not able to start on it. I will reach out to lawyers tomorrow and get a status. I am also happy to speak to your attorney as well. Let me know. Thx

On Nov 27, 2017, at 4:14 PM, Angela Edgeworth <[angela.edgeworth@pediped.com](mailto:angela.edgeworth@pediped.com)> wrote:

Did you agree to the settlement? Why have they not sent it yet and when is it coming? Please clarify.

---

**From:** Angela Edgeworth <angela.edgeworth@pediped.com>  
**Sent:** Monday, November 27, 2017 5:32 PM  
**To:** Daniel Simon  
**Cc:** Brian Edgeworth (brian@pediped.com)  
**Subject:** Re: Edgeworth v. Viking, et al

I do have questions about the process, and am quite confused. I had no idea we were on anything but an hourly contract with you until our last meeting.

I am glad to meet once Brian gets back unless you think it's urgent and we meet right away.

If the contract is not drawn yet, we still have some time to hash things out.

I want a complete understanding of what has transpired so I can consult my attorney. I do not believe I need to have her involved at this time.

Please let me know what the terms of the settlement are to your knowledge at this point if they are not detailed in your letter. Please send over whatever documentation you have or tell us what they verbally committed to. Otherwise, I will review the letter in detail and get back to you in a couple days.

In the meantime, I trust we are still progressing with Lange et al and any other immediate concerns that should be addressed.

As I mentioned at our last meeting, we should still be progressing as originally planned. I would hate to see a delay for any reason. Until we see an agreement, no agreement exists. Please let me know if there are any upcoming delays that you can foresee.

I think everyone has been busy over the holidays and has not had a lot of time to process everything.

To confirm, you have not yet agreed to the settlement. Is this correct?

Angela

On Mon, Nov 27, 2017 at 4:58 PM Daniel Simon <[dan@simonlawlv.com](mailto:dan@simonlawlv.com)> wrote:

It appears that you have a lot of questions about the process which is one reason I wanted to meet with you. If you would like to come to the office or call me tomorrow I will be happy to explain everything in detail. My Letter also explains the status of the settlement and what needs to be done. Due to the holiday they probably were not able to start on it. I will reach out to lawyers tomorrow and get a status. I am also happy to speak to your attorney as well. Let me know. Thx

On Nov 27, 2017, at 4:14 PM, Angela Edgeworth <[angela.edgeworth@pediped.com](mailto:angela.edgeworth@pediped.com)> wrote:

Did you agree to the settlement? Why have they not sent it yet and when is it coming? Please clarify.

--

Angela

# EXHIBIT BB

11/21/17 EMAIL BETWEEN VIKING  
COUNSEL RE ISSUES ON DRAFT  
SETTLEMENT AGREEMENT

**From:** Janet Pancoast  
**To:** [dpolsenberg@lrrc.com](mailto:dpolsenberg@lrrc.com)  
**Cc:** [Jessica Rogers; robinson \(robinson@mmrs-law.com\)](mailto:Jessica.Rogers@mmrs-law.com)  
**Subject:** Edgeworth - REL DRAFT Edgeworth Draft Release to DP  
**Date:** Tuesday, November 21, 2017 10:53:56 AM  
**Attachments:** [REL DRAFT Edgeworth Draft Release to DP.docx](#)

---

Dan –

Attached is the draft Release. I highlighted the “Confidentiality” and “No Disparagment” clauses on pages 4 and 5.

As we discussed, at this time, I’ll ignore the letter regarding the Motions in Limine.

Please send me a copy of anything you get confirming this settlement in writing.

Thanks,

Janet C. Pancoast, Esq.  
Dir: 702.562.7616  
Cell: 702.325.7876

\*\*\*\*\* PLEASE NOTE \*\*\*\*\*

This message, along with any attachments, is for the designated recipient(s) only and may contain privileged, proprietary, or otherwise confidential information. If this message has reached you in error, kindly destroy it without review and notify the sender immediately. Any other use of such misdirected e-mail by you is prohibited. Where allowed by local law, electronic communications with Zurich and its affiliates, including e-mail and instant messaging (including content), may be scanned for the purposes of information security and assessment of internal compliance with company policy.

## SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (hereinafter the "Agreement"), by and between Plaintiffs EDGEWORTH FAMILY TRUST and its Trustees Brian Edgeworth & Angela Edgeworth, AMERICAN GRATING, LLC, and its managers Brian Edgeworth & Angela Edgeworth (hereinafter "PLAINTIFFS"), Defendants THE VIKING CORPORATION, SUPPLYNETWORK, INC. & VIKING GROUP, INC. (hereinafter "VIKING") for damages sustained by PLAINTIFFS arising from an incident that occurred on or about April 10, 2016, at a residential property located at 645 Saint Croix Street, Henderson, Nevada (Clark County), wherein Plaintiff alleges damages were sustained due to an unanticipated activation of a sprinkler head (hereinafter "INCIDENT"). The foregoing parties are hereinafter collectively referred to as "SETTLING PARTIES."

### I. RECITALS

A. On June 14, 2016, a Complaint was filed by Plaintiff Edgeworth Family Trust, in the State of Nevada, County of Clark, Case Number A-16-738444-C against Defendants LANGE PLUMBING, LLC and VIKING AUTOMATIC SPRINKLER CO. On August 24, 2016, an amended Complaint was filed against Defendants LANGE PLUMBING, LLC, THE VIKING CORPORATION, SUPPLYNETWORK, INC. On March 7, 2017, a Second Amended Complaint was filed adding Plaintiff AMERICAN GRATING, LLC as a Plaintiff against Defendants LANGE PLUMBING, LLC, THE VIKING CORPORATION, SUPPLYNETWORK, INC. On November 1, 2017, an Order was entered permitting PLAINTIFFS to VIKING GROUP, INC. as a Defendant (hereinafter "SUBJECT ACTION").

B. The SETTLING PARTIES, after extensive, arms-length negotiations, have reached a complete and final settlement of the PLAINTIFFS claims against VIKING, and warrant that they are presently the sole and exclusive owners of their respective claims, demands, causes of action, controversies, obligations or liabilities as set forth in the SUBJECT ACTION and that no other party has any right, title, or interest whatsoever in said causes of action and other matters referred to therein, and that there has been no assignment, transfer, conveyance, or other disposition by them of any said causes of action and other matters referred to therein; and

C. The SETTLING PARTIES now wish to settle any and all claims, known and unknown, and dismiss with prejudice the entire SUBJECT ACTION as between the SETTLING PARTIES. The SETTLING PARTIES to this Agreement have settled and compromised their disputes and differences, based upon, and subject to, the terms and conditions which are further set forth herein.

### II. DEFINITIONS

A. "SETTLING PARTIES" shall mean, collectively, all of the following individuals and entities, and each of them:

//

B. "PLAINTIFFS" shall mean EDGEWORTH FAMILY TRUST and its Trustees Brian Edgeworth & Angela Edgeworth, AMERICAN GRATING, LLC, and its managers Brian Edgeworth & Angela Edgeworth, as Trustees, Managers, individually, and their past, present and future agents, partners, associates, joint venturers, creditors, predecessors, successors, heirs, assigns, insurers, representatives and attorneys, and all persons acting by or in concert with each other.

C. "VIKING" shall mean THE VIKING CORPORATION, SUPPLYNETWORK, INC. & VIKING GROUP, INC., and all their respective related legal entities, employees, affiliates, agents, partners, associates, joint venturers, parents, subsidiaries, sister corporations, directors, officers, stockholders, owners, employers, employees, predecessors, successors, heirs, assigns, insurers, bonding companies, representatives and attorneys, and all persons acting in concert with them, or any of them.

D. "CLAIM" or "CLAIMS" shall refer to any and all claims, demands, liabilities, damages, complaints, causes of action, intentional or negligent acts, intentional or negligent omissions, misrepresentations, distress, attorneys' fees, investigative costs and any other actionable omissions, conduct or damage of every kind in nature whatsoever, whether seen or unforeseen, whether known or unknown, alleged or which could have at any time been alleged or asserted between the SETTLING PARTIES in the SUBJECT ACTION.

E. The "SUBJECT ACTION" refers to the litigation arising from the Complaints filed by PLAINTIFFS in the Eighth Judicial District Court, County of Clark, Case Number A-16-738444-C, State of Nevada, with respect to and between PLAINTIFFS and DEFENDANTS.

### **III. SETTLEMENTTERMS**

A. The total settlement amount for PLAINTFFS EDGEWORTH FAMILY TRUST & AMERICAN GRATING, LLC is Six Million Dollars and Zero-Cents (\$6,000,000).

B. This Settlement is contingent upon Court approving a Motion for Good Faith Settlement pursuant to Nevada Revised Statute 17.245, and dismissing any claims being asserted against the Viking by Lange Plumbing, LLC.

D. The settlement funds will be held in trust until completion of all necessary paperwork, including a Voluntary Dismissal of the SUBJECT ACTION with Prejudice.

E. The SETTLING PARTIES agree to bear their own attorneys' fees and costs.

### **IV. AGREEMENT**

A. In consideration of the mutual assurances, warranties, covenants and promises set forth herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, each of the SETTLING PARTIES agree with every other SETTLING PARTY hereto to perform each of the terms and conditions stated herein, and to abide by the terms of this Agreement.



B. Each of the SETTLING PARTIES warrant to each other the truth and correctness of the foregoing recitals, which are incorporated in this paragraph by reference.

C. As a material part of this Agreement, except as otherwise provided herein, all claims held by and between the SETTLING PARTIES relating to the SUBJECT ACTION, including, but not limited to, those for property damage, stigma damages, remediation costs, repair costs, diminution in value, punitive damages, shall be dismissed, with prejudice, including any and all claims for attorneys' fees and costs of litigation. This shall include, but is not limited to, any and all claims asserted by PLAINTIFFS or which could have at any time been alleged or asserted against VIKING, by way of PLAINTIFFS Complaint and any amendments thereto.

## **V. RELEASE**

A. In consideration of the settlement payment and promises described herein, PLAINTIFFS, on behalf of their insurers, agents, successors, administrators, personal representatives, heirs and assigns do hereby release and forever discharge VIKING and any of VIKING's affiliates, as well as its insurers, all respective officers, employees and assigns, agents, successors, administrators, heirs and assigns, predecessors, subsidiaries, attorneys and representatives as to any and all demands, claims, assignments, contracts, covenants, actions, suits, causes of action, costs, expenses, attorneys' fees, damages, losses, controversies, judgments, orders and liabilities of whatsoever kind and nature, at equity or otherwise, whether now known or unknown, suspected or unsuspected, and whether or not concealed or hidden, which have existed or may have existed, or which do exist, or which hereafter can, shall, or may exist between the SETTLING PARTIES with respect to the SUBJECT ACTION, including, but not limited to, the generality of the foregoing, any and all claims which were or might have been, or which could have been, alleged in the litigation with regard to the SUBJECT ACTION.

B. It is the intention of the SETTLING PARTIES hereto that this AGREEMENT shall be effective as a bar to all claims, with respect to the INCIDENT that PLAINTIFFS may have against DEFENDANTS, their affiliates, and any other entity that was involved in the INCIDENT, of whatsoever character, nature and kind, known or unknown, suspected or unsuspected, and whether or not concealed or hidden, herein above specified to be so barred; and in furtherance of this intention, PLAINTIFFS and their related persons and entities expressly, knowingly and voluntarily waive any and all rights which they do not know or suspect to exist in their favor with regard to the INCIDENT at the time of executing this AGREEMENT.

C. SETTLING PARTIES hereto expressly agree that this AGREEMENT shall be given full force and effect in accordance with each and all of its expressed terms and provisions, relating to unknown and unsuspected claims, demands, causes of action, if any, between PLAINTIFF and DEFENDANTS, with respect to the INCIDENT, to the same effect as those terms and provisions relating to any other claims, demands and causes of action herein above specified. This AGREEMENT applies as between PLAINTIFFS and VIKING and their related persons and entities.

D. PLAINTIFFS represent their counsel of record has explained the effect of a release of any and all claims, known or 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 represents that they understand and acknowledges 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.

E. PLAINTIFF hereby agrees to indemnify and hold harmless VIKING and their insurers to include from, against and in connection with, any liens of any type whatsoever pertaining to the SUBJECT ACTION including, but not necessarily limited to attorneys' liens, mechanics liens, expert liens and/or subrogation claims.

## **VI. GOOD FAITH SETTLEMENT**

PLAINTIFFS and VIKING agree and stipulate that the settlement herein is made in good faith pursuant to the provisions of Nevada Revised Statute 17.245.

## **VII. DISMISSAL**

The SETTLING PARTIES agree to execute any and all necessary papers to effectuate dismissal of the claims in the SUBJECT ACTION. Each party shall bear its own attorneys' fees and costs associated with prosecuting and/or defending this matter. Concurrently with the execution of this Settlement Agreement, and receipt of the settlement funds, counsel for PLAINTIFF shall provide a copy to VIKING and file a fully executed Dismissal with Prejudice of the Complaints.

## **VIII. MISCELLANEOUS**

### **A. COMPROMISE:**

This AGREEMENT is the compromise of doubtful and disputed claims and nothing contained herein is to be construed as an admission of liability on the part of the SETTLING PARTIES, or any of them, by whom liability is expressly denied, or as an admission of any absence of liability on the part of the SETTLING PARTIES, or any of them.

### **B. CONFIDENTIALITY:**

This Agreement, and all terms and conditions set forth therein, shall remain confidential and the SETTLING PARTIES and their counsel agree not to make any statement to anyone, including the press, regarding the terms of their settlement except to the extent that it may be disclosed to their respective attorneys, consultants, auditors, accountants or insurance carriers, or as any Party may hereafter be required to by law or in response to a properly issued subpoena for other court process or order, or as necessary to enforce the terms of this

Agreement or in connection with the proceedings in the Action as either Party may deem appropriate.

C. SATISFACTION OF LIENS:

PLAINTIFFS do herein specifically further agree to satisfy all liens, claims and subrogation rights of any contractor incurred as a result of the SUBJECT ACTION and to hold harmless and indemnify VIKING and their affiliates, insurers, employees, agents, successors, administrators, personal representatives, heirs and assigns from and against all said liens, claims and subrogation rights of any construction or repair services and material providers.

D. NO DISPARAGEMENT:

The SETTLING PARTIES agree that they shall make no disparaging or defamatory statements, either verbally or in writing, and shall not otherwise make, endorse, publicize or circulate to any person or entity, any statements or remarks that can reasonably be construed as disparaging or defamatory, regarding PLAINTIFF or VIKING.

E. GOVERNING LAW:

This Agreement shall be governed by, construed and enforced in accordance with the laws of the State of Nevada.

F. TERMS OF SETTLEMENT AGREEMENT AND RELEASE INTERDEPENDENT:

It is further agreed by the SETTLING PARTIES that all portions and sections of this Settlement Agreement and Release are interdependent and necessary to the voluntary settlement of the aforementioned litigation.

G. INDIVIDUAL AND PARTNERSHIP AUTHORITY:

Any individual signing this Agreement on behalf of another individual, a corporation, a limited liability company or partnership, represents or warrants that he/she has full authority to do so.

H. GENDER AND TENSE:

Whenever required by the context hereof, the singular shall be deemed to include the plural, and the plural shall be deemed to include the singular, and the masculine and feminine and neuter gender shall be deemed to include the other.

I. ENTIRE AGREEMENT:

This Agreement constitutes the entire Agreement between the SETTLING PARTIES hereto pertaining to the subject matter hereof, and fully supersedes any and all prior understandings, representations, warranties and agreements between the SETTLING PARTIES hereto, or any of them, pertaining to the subject matter hereof, and may be modified only by written agreement signed by all of the SETTLING PARTIES hereto.

J. INDEPENDENT ADVICE OF COUNSEL:

The SETTLING PARTIES hereto, and each of them, represent and declare that in executing this AGREEMENT, they rely solely upon their own judgment, belief and knowledge, and the advice and recommendations of their own independently selected counsel.

K. VOLUNTARY AGREEMENT:

The SETTLING PARTIES hereto, and each of them, further represent and declare that they have carefully read this Agreement and know the contents thereof, and that they have signed the same freely and voluntarily.

L. ADMISSIBILITY OF AGREEMENT:

In an action or proceeding related to this Agreement, the SETTLING PARTIES stipulate that a fully executed copy of this Agreement may be admissible to the same extent as the original Agreement.

M. COUNTERPARTS:

This Agreement may be executed in one or more counterparts, each of which shall constitute a duplicate original. A facsimile or other non-original signatures shall still create a binding and enforceable agreement.

IN WITNESS WHEREOF the SETTLING PARTIES agree hereto and this Agreement is executed as of the date and year noted below.

On behalf of The Edge worth Family Trust & American Grating, LLC

DATED this \_\_\_\_ day of \_\_\_\_\_, 2017      DATED this \_\_\_\_ day of \_\_\_\_\_, 2017

\_\_\_\_\_  
BRIAN EDGEWORTH as Trustee of  
The Edge worth Family Trust &  
Manager of American Grating, LLC

\_\_\_\_\_  
ANGELA EDGEWORTH as Trustee of  
The Edge worth Family Trust &  
Manager of American Grating, LLC

APPROVED AS TO FORM AND CONTENT:

Dated this \_\_\_\_ day of \_\_\_\_\_, 2017.

SIMON LAW

\_\_\_\_\_  
Daniel S. Simon, Esq.  
810 South Casino Center Blvd.  
Las Vegas, NV 89101  
Attorney for Plaintiffs

# EXHIBIT CC

11/30/17 FAX FROM VANNAH TO  
SIMON RE EDGEWORTHS' 11/29/17  
LETTER OF DIRECTION

November 29, 2017

**VIA FACSIMILE: (702) 364-1655**

Daniel S. Simon, Esq.  
LAW OFFICE OF DANIEL S. SIMON  
810 S. Casino Center Blvd.  
Las Vegas, Nevada 89101

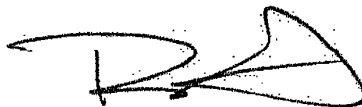
RE: Letter of Direction

Dear Mr. Simon:

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

Thank you for your understanding and compliance with the terms of this letter.

Sincerely,

A handwritten signature in black ink, appearing to be 'B. Edgeworth', with a stylized, sweeping flourish at the end.

Brian Edgeworth

**FAX****Date:** 11/30/2017**Pages including cover sheet:**

2

<b>To:</b>	
<b>Phone</b>	
<b>Fax Number</b>	(702) 364-1655

<b>From:</b>	Jessie Romero
	Vannah & Vannah
	400 S. 7th Street
	Las Vegas
	NV 89101
<b>Phone</b>	(702) 369-4161 * 302
<b>Fax Number</b>	(702) 369-0104

**NOTE:**

L0DS000865

AA0688

# EXHIBIT DD

11/30/17 8:39 A.M. EMAIL FROM SIMON  
TO EDGEWORTHS WITH VIKING  
SETTLEMENT AGREEMENT



**brian@pediped.com**

---

**From:** Daniel Simon <dan@simonlawlv.com>  
**Sent:** Thursday, November 30, 2017 8:39 AM  
**To:** Brian Edgeworth; angela.edgeworth@pediped.com  
**Subject:** Settlement  
**Attachments:** Edgeworth -- Settlement Agreement (redline v. 2).docx; ATT00001.txt

Attached is the proposed settlement release. Please review and advise when you can come in to discuss. I am available today anytime from 11-1pm to meet with you at my office. Thx

## SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (hereinafter the "Agreement"), by and between Plaintiffs EDGEWORTH FAMILY TRUST and its Trustees Brian Edgeworth & Angela Edgeworth, AMERICAN GRATING, LLC, and its managers Brian Edgeworth & Angela Edgeworth (hereinafter "PLAINTIFFS"), Defendants THE VIKING CORPORATION, SUPPLY NETWORK, INC. & VIKING GROUP, INC. (hereinafter "VIKING") for damages sustained by PLAINTIFFS arising from an incident that occurred on or about April 10, 2016, at a residential property located at 645 Saint Croix Street, Henderson, Nevada (Clark County), wherein Plaintiff alleges damages were sustained due to an unanticipated activation of a sprinkler head (hereinafter "INCIDENT"). The foregoing parties are hereinafter collectively referred to as "SETTLING PARTIES."

### I. RECITALS

A. On June 14, 2016, a Complaint was filed by Plaintiff Edgeworth Family Trust, in the State of Nevada, County of Clark, Case Number A-16-738444-C against Defendants LANGE PLUMBING, LLC and VIKING AUTOMATIC SPRINKLER CO. On August 24, 2016, an amended Complaint was filed against Defendants LANGE PLUMBING, LLC, THE VIKING CORPORATION, SUPPLY NETWORK, INC. On March 7, 2017, a Second Amended Complaint was filed adding Plaintiff AMERICAN GRATING, LLC as a Plaintiff against Defendants LANGE PLUMBING, LLC, THE VIKING CORPORATION, SUPPLY NETWORK, INC. On November 1, 2017, an Order was entered permitting PLAINTIFFS to VIKING GROUP, INC. as a Defendant (hereinafter "SUBJECT ACTION").

B. The SETTLING PARTIES now wish to settle any and all claims, known and unknown, and dismiss with prejudice the entire SUBJECT ACTION as between the SETTLING PARTIES. The SETTLING PARTIES to this Agreement have settled and compromised their disputes and differences, based upon, and subject to, the terms and conditions which are further set forth herein.

### II. DEFINITIONS

A. "SETTLING PARTIES" shall mean, collectively, all of the following individuals and entities, and each of them:

B. "PLAINTIFFS" shall mean EDGEWORTH FAMILY TRUST and its Trustees Brian Edgeworth & Angela Edgeworth, AMERICAN GRATING, LLC, and its managers Brian Edgeworth & Angela Edgeworth, as Trustees, Managers, individually, and their past, present and future agents, partners, associates, joint venturers, creditors, predecessors, successors, heirs, assigns, insurers, representatives and attorneys, and all persons acting by or in concert with each other.

B. "VIKING" shall mean THE VIKING CORPORATION, SUPPLY NETWORK, INC. & VIKING GROUP, INC., and all their respective related legal entities, employees, affiliates, agents, partners, associates, joint venturers, parents, subsidiaries, sister corporations, directors, officers, stockholders, owners, employers, employees, predecessors, successors, heirs,

assigns, insurers, bonding companies, representatives and attorneys, and all persons acting in concert with them, or any of them.

C. "CLAIM" or "CLAIMS" shall refer to any and all claims, demands, liabilities, damages, complaints, causes of action, intentional or negligent acts, intentional or negligent omissions, misrepresentations, distress, attorneys' fees, investigative costs and any other actionable omissions, conduct or damage of every kind in nature whatsoever, whether seen or unforeseen, whether known or unknown, alleged or which could have at any time been alleged or asserted between the SETTLING PARTIES relating in any way to the SUBJECT ACTION.

D. The "SUBJECT ACTION" refers to the litigation arising from the Complaints filed by PLAINTIFFS in the Eighth Judicial District Court, County of Clark, Case Number A-16-738444-C, State of Nevada, with respect to and between PLAINTIFFS and DEFENDANTS.

### III. SETTLEMENT TERMS

A. VIKING will pay PLAINTIFFS Six Million Dollars and Zero-Cents (\$6,000,000) by December 21, 2017. The \$6,000,000 settlement proceeds shall be delivered via a certified check made payable to the "EDGEWORTH FAMILY TRUST and its Trustees Brian Edgeworth & Angela Edgeworth; and AMERICAN GRATING, LLC; and Law Office of Daniel S. Simon."

B. PLAINTIFFS will execute a stipulation to dismiss all of their claims against the VIKING entities with prejudice, which will state that each party is to bear its own fees and costs. PLAINTIFFS will provide an executed copy of the stipulation to VIKING upon receipt of a certified check.

C. PLAINTIFFS agree to fully release any and all claims against the VIKING entities (as defined below § IV.C). The RELEASE included in this document (§ V) shall become effective and binding on PLAINTIFFS upon their receipt of the \$6,000,000 settlement funds.

D. This settlement is based upon a mutual acceptance of a Mediator's proposal which makes this settlement subject to the District Court approving a Motion for Good Faith Settlement pursuant to NRS 17.245, dismissing any claims against the Viking entities by Lange Plumbing, LLC.

E. The SETTLING PARTIES will bear their own attorneys' fees and costs.

### IV. AGREEMENT

A. In consideration of the mutual assurances, warranties, covenants and promises set forth herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, each of the SETTLING PARTIES agree with every other SETTLING PARTY hereto to perform each of the terms and conditions stated herein, and to abide by the terms of this Agreement.

B. Each of the SETTLING PARTIES warrant to each other the truth and correctness of the foregoing recitals, which are incorporated in this paragraph by reference.

C. As a material part of this Agreement, except as otherwise provided herein, all claims held by and between the SETTLING PARTIES relating to the SUBJECT ACTION, including, but not limited to, those for property damage, stigma damages, remediation costs, repair costs, diminution in value, punitive damages, shall be dismissed, with prejudice, including any and all claims for attorneys' fees and costs of litigation. This shall include, but is not limited to, any and all claims asserted by PLAINTIFFS or which could have at any time been alleged or asserted against VIKING, by way of PLAINTIFFS Complaint and any amendments thereto.

## V. RELEASE

A. In consideration of the settlement payment and promises described herein, PLAINTIFFS, on behalf of their insurers, agents, successors, administrators, personal representatives, heirs and assigns do hereby release and forever discharge VIKING and any of VIKING's affiliates, as well as its insurers, all respective officers, employees and assigns, agents, successors, administrators, heirs and assigns, predecessors, subsidiaries, attorneys and representatives as to any and all demands, claims, assignments, contracts, covenants, actions, suits, causes of action, costs, expenses, attorneys' fees, damages, losses, controversies, judgments, orders and liabilities of whatsoever kind and nature, at equity or otherwise, whether now known or unknown, suspected or unsuspected, and whether or not concealed or hidden, which have existed or may have existed, or which do exist, or which hereafter can, shall, or may exist between the SETTLING PARTIES with respect to the SUBJECT ACTION, including, but not limited to, the generality of the foregoing, any and all claims which were or might have been, or which could have been, alleged in the litigation with regard to the SUBJECT ACTION.

B. It is the intention of the SETTLING PARTIES hereto that this AGREEMENT shall be effective as a bar to all claims, with respect to the INCIDENT that PLAINTIFFS may have against DEFENDANTS, their affiliates, and any other entity that was involved in the INCIDENT, of whatsoever character, nature and kind, known or unknown, suspected or unsuspected, and whether or not concealed or hidden, herein above specified to be so barred; and in furtherance of this intention, PLAINTIFFS and their related persons and entities expressly, knowingly and voluntarily waive any and all rights which they do not know or suspect to exist in their favor with regard to the INCIDENT at the time of executing this AGREEMENT.

C. SETTLING PARTIES hereto expressly agree that this AGREEMENT shall be given full force and effect in accordance with each and all of its expressed terms and provisions, relating to unknown and unsuspected claims, demands, causes of action, if any, between PLAINTIFF and DEFENDANTS, with respect to the INCIDENT, to the same effect as those terms and provisions relating to any other claims, demands and causes of action herein above specified. This AGREEMENT applies as between PLAINTIFFS and VIKING and their related persons and entities.

D. PLAINTIFFS represent their counsel of record has explained the effect of a release of any and all claims, known or 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.

#### **VI. GOOD FAITH SETTLEMENT**

PLAINTIFFS and VIKING each warrant that they enter this settlement in good faith, pursuant to the provisions of NRS 17.245.

#### **VIII. MISCELLANEOUS**

##### **A. COMPROMISE:**

This AGREEMENT is the compromise of doubtful and disputed claims and nothing contained herein is to be construed as an admission of liability on the part of the SETTLING PARTIES, or any of them, by whom liability is expressly denied, or as an admission of any absence of liability on the part of the SETTLING PARTIES, or any of them.

##### **B. CONFIDENTIALITY:**

The amount of this Agreement shall remain confidential and the SETTLING PARTIES and their counsel (Daniel Simon) agree not to make any statement to anyone, including the press, regarding the amount of this settlement except to the extent that it may be disclosed to their respective attorneys, consultants, auditors, accountants or insurance carriers, or as any Party may hereafter be required to by law or in response to a properly issued subpoena for other court process or order, or as necessary to enforce the terms of this Agreement or in connection with the proceedings in the Action as either Party may deem appropriate.

##### **C. SATISFACTION OF LIENS:**

1. PLAINTIFFS warrant that they are presently the sole and exclusive owners of their respective claims, demands, causes of action, controversies, obligations or liabilities as set forth in the SUBJECT ACTION and that no other party has any right, title, or interest whatsoever in said causes of action and other matters referred to therein, and that there has been no assignment, transfer, conveyance, or other disposition by them of any said causes of action and other matters referred to therein.

2. PLAINTIFFS do herein specifically further agree to satisfy all liens, claims and subrogation rights of any contractor incurred as a result of the SUBJECT ACTION and to hold harmless and indemnify VIKING and their affiliates, insurers, employees, agents, successors, administrators, personal representatives, heirs and assigns from and against, and in connection with, any liens of any type whatsoever pertaining to the SUBJECT ACTION including, but not necessarily limited to attorneys' liens, mechanics liens, expert liens and/or subrogation claims.

**D. GOVERNING LAW:**

This Agreement shall be governed by, construed and enforced in accordance with the laws of the State of Nevada.

**E. INDIVIDUAL AND PARTNERSHIP AUTHORITY:**

Any individual signing this Agreement on behalf of another individual, a corporation, a limited liability company or partnership, represents or warrants that he/she has full authority to do so.

**F. GENDER AND TENSE:**

Whenever required by the context hereof, the singular shall be deemed to include the plural, and the plural shall be deemed to include the singular, and the masculine and feminine and neuter gender shall be deemed to include the other.

**G. ENTIRE AGREEMENT:**

This Agreement constitutes the entire Agreement between the SETTLING PARTIES hereto pertaining to the subject matter hereof, and fully supersedes any and all prior understandings, representations, warranties and agreements between the SETTLING PARTIES hereto, or any of them, pertaining to the subject matter hereof, and may be modified only by written agreement signed by all of the SETTLING PARTIES hereto.

**H. INDEPENDENT ADVICE OF COUNSEL:**

The SETTLING PARTIES hereto, and each of them, represent and declare that in executing this AGREEMENT, they rely solely upon their own judgment, belief and knowledge, and the advice and recommendations of their own independently selected counsel.

**I. VOLUNTARY AGREEMENT:**

The SETTLING PARTIES hereto, and each of them, further represent and declare that they have carefully read this Agreement and know the contents thereof, and that they have signed the same freely and voluntarily.

**J. ADMISSIBILITY OF AGREEMENT:**

In an action or proceeding related to this Agreement, the SETTLING PARTIES stipulate that a fully executed copy of this Agreement may be admissible to the same extent as the original Agreement.

**K. COUNTERPARTS:**

This Agreement may be executed in one or more counterparts, each of which shall constitute a duplicate original. A facsimile or other non-original signatures shall still create a binding and enforceable agreement.

IN WITNESS WHEREOF the SETTLING PARTIES agree hereto and this Agreement is executed as of the date and year noted below.

On behalf of The Edge worth Family Trust & American Grating, LLC

DATED this \_\_\_\_ day of \_\_\_\_\_, 2017      DATED this \_\_\_\_ day of \_\_\_\_\_, 2017

\_\_\_\_\_  
BRIAN EDGEWORTH as Trustee of  
The Edge worth Family Trust &  
Manager of American Grating, LLC

\_\_\_\_\_  
ANGELA EDGEWORTH as Trustee of  
The Edge worth Family Trust &  
Manager of American Grating, LLC

Agreeing to bind himself to the confidentiality obligation set forth in Section VIII.B..

Dated this \_\_\_\_ day of \_\_\_\_\_, 2017.

SIMON LAW

\_\_\_\_\_  
Daniel S. Simon, Esq.  
810 South Casino Center Blvd.  
Las Vegas, NV 89101  
Attorney for Plaintiffs

On behalf of The Viking Corporation, Supply Network, Inc. and Viking Group, Inc.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
SCOTT MARTORANO  
Vice President-Warranty Managment

# EXHIBIT EE

11/30/17 5:31 P.M. EMAIL FROM SIMON  
TO EDGEWORTHS AND COUNSEL  
WITH FINAL VIKING SETTLEMENT  
AGREEMENT



**brian@pediped.com**

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**From:** Daniel Simon <dan@simonlawlv.com>  
**Sent:** Thursday, November 30, 2017 5:31 PM  
**To:** jgreene@vannahlaw.com  
**Cc:** Brian Edgeworth; angela.edgeworth@pediped.com; Daniel Simon  
**Subject:** Edgeworth -- Settlement Agreement  
**Attachments:** Settlement Release Final.pdf

Please find attached the final settlement agreement. Please have clients sign as soon as possible to avoid any delay in processing payment. This shall also confirm that your office is advising them about the effects of the release and representing them to finalize settlement through my office.

Also, I first received a call from you this morning advising the clients wanted to sign the initial draft of the settlement agreement "as is." Since this time, I spent substantial time negotiating more beneficial terms to protect the clients. Specifically, I was able to get the Defendants to agree to omit the Confidentiality provision, provide a mutual release and allow the opportunity to avoid a good faith determination from the court if the clients resolve the Lange claims, providing Lange will dismiss its claims against Viking. Just so we are clear, your office did not ask for these substantial additional beneficial terms to protect the clients.

Additionally, this morning you asked me to approach Lange to accept the \$25,000 offer from the mediation. Since this time, I was able to secure a \$100,000 offer less all money Lange is claiming they are owed. Lange would then dismiss their Claims against Viking allowing the client to avoid the motion for determination of good faith settlement as part of the settlement. Please advise if the clients want me to move forward to finalize the settlement with Lange pursuant to these terms.

Please have the clients sign the release and return originals to my office to avoid delays in payment and finalizing this matter.

Thank You!

## SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (hereinafter the "Agreement"), by and between Plaintiffs EDGEWORTH FAMILY TRUST and its Trustees Brian Edgeworth & Angela Edgeworth, AMERICAN GRATING, LLC, and its managers Brian Edgeworth & Angela Edgeworth, Defendants THE VIKING CORPORATION, SUPPLY NETWORK, INC. & VIKING GROUP, INC. for damages sustained by PLAINTIFFS arising from an incident that occurred on or about April 10, 2016, at a residential property located at 645 Saint Croix Street, Henderson, Nevada (Clark County), wherein Plaintiff alleges damages were sustained due to an unanticipated activation of a sprinkler head (hereinafter "INCIDENT"). The foregoing parties are hereinafter collectively referred to as "SETTLING PARTIES."

### I. RECITALS

A. On June 14, 2016, a Complaint was filed by Plaintiff Edgeworth Family Trust, in the State of Nevada, County of Clark, Case Number A-16-738444-C against Defendants LANGE PLUMBING, LLC and VIKING AUTOMATIC SPRINKLER CO. On August 24, 2016, an amended Complaint was filed against Defendants LANGE PLUMBING, LLC, THE VIKING CORPORATION, SUPPLY NETWORK, INC. On March 7, 2017, a Second Amended Complaint was filed adding Plaintiff AMERICAN GRATING, LLC as a Plaintiff against Defendants LANGE PLUMBING, LLC, THE VIKING CORPORATION, SUPPLY NETWORK, INC. On November 1, 2017, an Order was entered permitting PLAINTIFFS to VIKING GROUP, INC. as a Defendant (hereinafter "SUBJECT ACTION").

B. The SETTLING PARTIES now wish to settle any and all claims, known and unknown, and dismiss with prejudice the entire SUBJECT ACTION as between the SETTLING PARTIES. The SETTLING PARTIES to this Agreement have settled and compromised their disputes and differences, based upon, and subject to, the terms and conditions which are further set forth herein.

### II. DEFINITIONS

A. "SETTLING PARTIES" shall mean, collectively, all of the following individuals and entities, and each of them:

B. "PLAINTIFFS" shall mean EDGEWORTH FAMILY TRUST and its Trustees Brian Edgeworth & Angela Edgeworth, AMERICAN GRATING, LLC, and its managers Brian Edgeworth & Angela Edgeworth, as Trustees, Managers, individually, and their past, present and future agents, partners, associates, joint venturers, creditors, predecessors, successors, heirs, assigns, insurers, representatives and attorneys, and all persons acting by or in concert with each other.

C. "VIKING ENTITIES" shall mean THE VIKING CORPORATION, SUPPLY NETWORK, INC. & VIKING GROUP, INC., and VIKING GROUP, INC. (the "VIKING ENTITIES") and all their respective related legal entities, employees, affiliates, agents, partners, associates, joint venturers, parents, subsidiaries, sister corporations, directors, officers, stockholders, owners,

employers, employees, predecessors, successors, heirs, assigns, insurers, bonding companies, representatives and attorneys, and all persons acting in concert with them, or any of them.

D. "CLAIM" or "CLAIMS" shall refer to any and all claims, demands, liabilities, damages, complaints, causes of action, intentional or negligent acts, intentional or negligent omissions, misrepresentations, distress, attorneys' fees, investigative costs and any other actionable omissions, conduct or damage of every kind in nature whatsoever, whether seen or unforeseen, whether known or unknown, alleged or which could have at any time been alleged or asserted between the SETTLING PARTIES relating in any way to the SUBJECT ACTION.

E. The "SUBJECT ACTION" refers to the litigation arising from the Complaints filed by PLAINTIFFS in the Eighth Judicial District Court, County of Clark, Case Number A-16-738444-C, State of Nevada, with respect to and between PLAINTIFFS and DEFENDANTS.

### **III. SETTLEMENT TERMS**

A. The VIKING ENTITIES will pay PLAINTIFFS Six Million Dollars and Zero-Cents (\$6,000,000) within 20 days of PLAINTIFFS' execution of this AGREEMENT, assuming resolution of the condition set out in § III.D below. The \$6,000,000 settlement proceeds shall be delivered via a certified check made payable to the "EDGEWORTH FAMILY TRUST and its Trustees Brian Edgeworth & Angela Edgeworth; AMERICAN GRATING, LLC; and Law Office of Daniel S. Simon."

B. PLAINTIFFS will execute a stipulation to dismiss all of their claims against the VIKING ENTITIES with prejudice, which will state that each party is to bear its own fees and costs. PLAINTIFFS will provide an executed copy of the stipulation to the VIKING ENTITIES upon receipt of a certified check.

C. PLAINTIFFS agree to fully release any and all claims against the VIKING ENTITIES (as defined below § IV.C). The RELEASE included in this document (§ V) shall become effective and binding on PLAINTIFFS upon their receipt of the \$6,000,000 settlement funds.

D. This settlement is based upon a mutual acceptance of a Mediator's proposal which makes this settlement subject to the District Court approving a Motion for Good Faith Settlement pursuant to NRS 17.245, dismissing any claims against the VIKING ENTITIES by Lange Plumbing, LLC. Alternatively, this condition would be satisfied in the event that Lange Plumbing, LLC voluntarily dismisses all claims with prejudice against the VIKING ENTITIES and executes a full release of all claims, known or unknown.

E. The SETTLING PARTIES will bear their own attorneys' fees and costs.

### **IV. AGREEMENT**

A. In consideration of the mutual assurances, warranties, covenants and promises set forth herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, each of the SETTLING PARTIES agree with every other SETTLING PARTY

hereto to perform each of the terms and conditions stated herein, and to abide by the terms of this Agreement.

B. Each of the SETTLING PARTIES warrant to each other the truth and correctness of the foregoing recitals, which are incorporated in this paragraph by reference.

C. As a material part of this Agreement, except as otherwise provided herein, all claims held by and between the SETTLING PARTIES relating to the SUBJECT ACTION, including, but not limited to, those for property damage, stigma damages, remediation costs, repair costs, diminution in value, punitive damages, shall be dismissed, with prejudice, including any and all claims for attorneys' fees and costs of litigation. This shall include, but is not limited to, any and all claims asserted by PLAINTIFFS or which could have at any time been alleged or asserted against the VIKING ENTITIES, by way of PLAINTIFFS Complaint and any amendments thereto.

#### **V. MUTUAL RELEASE**

A. In consideration of the settlement payment and promises described herein, PLAINTIFFS, on behalf of their insurers, agents, successors, administrators, personal representatives, attorneys, heirs and assigns do hereby release and forever discharge the VIKING ENTITIES and any of its affiliates, as well as its insurers, all respective officers, employees and assigns, agents, attorneys, successors, administrators, heirs and assigns, predecessors, subsidiaries, attorneys and representatives as to any and all demands, claims, assignments, contracts, covenants, actions, suits, causes of action, costs, expenses, attorneys' fees, damages, losses, controversies, judgments, orders and liabilities of whatsoever kind and nature, at equity or otherwise, whether now known or unknown, suspected or unsuspected, and whether or not concealed or hidden, which have existed or may have existed, or which do exist, or which hereafter can, shall, or may exist between the SETTLING PARTIES with respect to the SUBJECT ACTION, including, but not limited to, the generality of the foregoing, any and all claims which were or might have been, or which could have been, alleged in the litigation with regard to the SUBJECT ACTION.

B. Reciprocally, in consideration of the settlement payment and promises described herein, the VIKING ENTITIES, on behalf of their insurers, agents, successors, administrators, personal representatives, attorneys, heirs and assigns do hereby release and forever discharge PLAINTIFFS and any of PLAINTIFFS' affiliates, as well as its insurers, all respective officers, employees and assigns, agents, attorneys, successors, administrators, heirs and assigns, predecessors, subsidiaries, attorneys and representatives as to any and all demands, claims, assignments, contracts, covenants, actions, suits, causes of action, costs, expenses, attorneys' fees, damages, losses, controversies, judgments, orders and liabilities of whatsoever kind and nature, at equity or otherwise, whether now known or unknown, suspected or unsuspected, and whether or not concealed or hidden, which have existed or may have existed, or which do exist, or which hereafter can, shall, or may exist between the SETTLING PARTIES with respect to the SUBJECT ACTION, including, but not limited to, the generality of the foregoing, any and all claims which were or might have been, or which could have been, alleged in the litigation with regard to the SUBJECT ACTION. C. This AGREEMENT shall be effective as a bar to all claims, relating to or arising from the INCIDENT or the SUBJECT ACTION, which PLAINTIFFS may

have against the VIKING ENTITIES, their affiliates, insurers, attorneys, or any other entity that was involved in the INCIDENT or SUBJECT ACTION, of whatsoever character, nature and kind, known or unknown, suspected or unsuspected, and whether or not concealed or hidden, herein above specified to be so barred; and in furtherance of this intention, PLAINTIFFS and their related persons and entities expressly, knowingly and voluntarily waive any and all rights which they do not know or suspect to exist in their favor with regard to the INCIDENT or the SUBJECT ACTION at the time of executing this AGREEMENT.

C. Reciprocally, this AGREEMENT shall be effective as a bar to all claims, relating to or arising from the INCIDENT or the SUBJECT ACTION, which the VIKING ENTITIES may have against PLAINTIFFS, their affiliates, insurers, attorneys, or any other entity that was involved in the INCIDENT or SUBJECT ACTION, of whatsoever character, nature and kind, known or unknown, suspected or unsuspected, and whether or not concealed or hidden, herein above specified to be so barred; and in furtherance of this intention, the VIKING ENTITIES and their related persons and entities expressly, knowingly and voluntarily waive any and all rights which they do not know or suspect to exist in their favor with regard to the INCIDENT or the SUBJECT ACTION at the time of executing this AGREEMENT.

D. SETTLING PARTIES hereto expressly agree that this AGREEMENT shall be given full force and effect in accordance with each and all of its expressed terms and provisions, relating to unknown and unsuspected claims, demands, causes of action, if any, between PLAINTIFF and DEFENDANTS, with respect to the INCIDENT, to the same effect as those terms and provisions relating to any other claims, demands and causes of action herein above specified. This AGREEMENT applies as between PLAINTIFFS and the VIKING ENTITIES and their related persons and entities.

E. PLAINTIFFS represent that their independent counsel, Robert Vannah, Esq. and John Greene, Esq., of the law firm Vannah & Vannah has explained the effect of this AGREEMENT and their release of any and all claims, known or 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.

#### **VI. GOOD FAITH SETTLEMENT**

PLAINTIFFS and the VIKING ENTITIES each warrant that they enter this settlement in good faith, pursuant to the provisions of NRS 17.245.

## **VIII. MISCELLANEOUS**

### **A. COMPROMISE:**

This AGREEMENT is the compromise of doubtful and disputed claims and nothing contained herein is to be construed as an admission of liability on the part of the SETTLING PARTIES, or any of them, by whom liability is expressly denied, or as an admission of any absence of liability on the part of the SETTLING PARTIES, or any of them.

### **B. SATISFACTION OF LIENS:**

1. PLAINTIFFS warrant that they are presently the sole and exclusive owners of their respective claims, demands, causes of action, controversies, obligations or liabilities as set forth in the SUBJECT ACTION and that no other party has any right, title, or interest whatsoever in said causes of action and other matters referred to therein, and that there has been no assignment, transfer, conveyance, or other disposition by them of any said causes of action and other matters referred to therein.

2. PLAINTIFFS do herein specifically further agree to satisfy all liens, claims and subrogation rights of any contractor incurred as a result of the SUBJECT ACTION and to hold harmless and indemnify the VIKING ENTITIES and their affiliates, insurers, employees, agents, successors, administrators, personal representatives, heirs and assigns from and against, and in connection with, any liens of any type whatsoever pertaining to the SUBJECT ACTION including, but not necessarily limited to attorneys' liens, mechanics liens, expert liens and/or subrogation claims.

### **C. GOVERNING LAW:**

This Agreement shall be governed by, construed and enforced in accordance with the laws of the State of Nevada.

### **D. INDIVIDUAL AND PARTNERSHIP AUTHORITY:**

Any individual signing this Agreement on behalf of another individual, a corporation, a limited liability company or partnership, represents or warrants that he/she has full authority to do so.

### **E. GENDER AND TENSE:**

Whenever required by the context hereof, the singular shall be deemed to include the plural, and the plural shall be deemed to include the singular, and the masculine and feminine and neuter gender shall be deemed to include the other.

### **F. ENTIRE AGREEMENT:**

This Agreement constitutes the entire Agreement between the SETTLING PARTIES hereto pertaining to the subject matter hereof, and fully supersedes any and all prior understandings, representations, warranties and agreements between the SETTLING PARTIES

hereto, or any of them, pertaining to the subject matter hereof, and may be modified only by written agreement signed by all of the SETTLING PARTIES hereto.

**G. INDEPENDENT ADVICE OF COUNSEL:**

The SETTLING PARTIES hereto, and each of them, represent and declare that in executing this AGREEMENT, they rely solely upon their own judgment, belief and knowledge, and the advice and recommendations of their own independently selected counsel. For PLAINTIFFS, that independent attorney is Robert Vannah, Esq. and John Greene, Esq., of the law firm Vannah & Vannah.

**H. VOLUNTARY AGREEMENT:**

The SETTLING PARTIES hereto, and each of them, further represent and declare that they have carefully read this Agreement and know the contents thereof, and that they have signed the same freely and voluntarily.

**I. ADMISSIBILITY OF AGREEMENT:**

In an action or proceeding related to this Agreement, the SETTLING PARTIES stipulate that a fully executed copy of this Agreement may be admissible to the same extent as the original Agreement.

**J. COUNTERPARTS:**

This Agreement may be executed in one or more counterparts, each of which shall constitute a duplicate original. A facsimile or other non-original signatures shall still create a binding and enforceable agreement.

IN WITNESS WHEREOF the SETTLING PARTIES agree hereto and this Agreement is executed as of the date and year noted below.

On behalf of The Edgeworth Family Trust & American Grating, LLC

DATED this \_\_\_\_ day of \_\_\_\_\_, 2017    DATED this \_\_\_\_ day of \_\_\_\_\_, 2017

\_\_\_\_\_  
BRIAN EDGEWORTH as Trustee of  
The Edge worth Family Trust &  
Manager of American Grating, LLC

\_\_\_\_\_  
ANGELA EDGEWORTH as Trustee of  
The Edge worth Family Trust &  
Manager of American Grating, LLC

On behalf of The Viking Corporation, Supply Network, Inc. and Viking Group, Inc.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
SCOTT MARTORANO  
Vice President-Warranty Managment



# EXHIBIT FF

12/12/17 EMAIL FROM VIKING  
COUNSEL TO SIMON OFFERING  
CHECKS FOR DISMISSAL

**From:** Janet Pancoast  
**To:** Daniel Simon (dan@simonlawlv.com); Henried, Joel D. (JHenried@lrrc.com)  
**Cc:** Jessica Rogers  
**Subject:** Edgeworth - Checks -  
**Date:** Tuesday, December 12, 2017 11:51:13 AM  
**Attachments:** [201712121048.pdf](#)  
[SPT 171212 Edgeworth SAO to Dismiss - Plaintiff.pdf](#)

---

Danny –

I was using the Plaintiff's release to prepare a release for Giberti and came across the provision that required "certified checks." I was not aware of that provision and neither was the claims representative. I have the checks (attached) and am willing to give them to you in exchange for the signed stipulation for dismissal. However, there multiple parties that will delay the final entry of a joint stipulation for dismissal. Hence, to give me sufficient comfort level to release these checks, I request that you sign the attached stipulation for dismissal which is *only* for Plaintiff's claims against the Viking entities. Additionally, I ask that you sign the Stipulation for a Global Dismissal I emailed earlier. That way, I can file the dismissal with the Plaintiffs now and release the checks so that you can get the check in the bank and they can be cleared by 12/21/17. Getting the checks re-issued will take longer and the claims representative is not even sure if he can issue a certified check.

Hence, if you want to pick up these checks. Please sign **both** stipulations. Thanks.

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

Dir: 702.562.7616

Cell: 702.325.7876

Fax: 702.233.9665

janet.pancoast@zurichna.com

\*\*\*\*\* PLEASE NOTE \*\*\*\*\*

This message, along with any attachments, is for the designated recipient(s) only and may contain privileged, proprietary, or otherwise confidential information. If this message has reached you in error, kindly destroy it without review and notify the sender immediately. Any other use of such misdirected e-mail by you is prohibited. Where allowed by local law, electronic communications with Zurich and its affiliates, including e-mail and instant messaging (including content), may be scanned for the purposes of information security and assessment of internal compliance with company policy.

AA0707

1 **STP**  
2 JANET C. PANCOAST, ESQ.  
3 Nevada Bar No. 5090  
4 CISNEROS & MARIAS  
5 1160 N. Town Center Dr., Suite 130  
6 Las Vegas, NV 89144  
7 Tel: (702) 233-9660  
8 Fax: (702) 233-9665  
9 janet.pancoast@zurichna.com  
10 *in Association with*  
11 S. Seth Kershaw, Esq.  
12 State Bar No. 10639  
13 MEYERS MCCONNELL REISZ SIDERMAN P.C.  
14 11620 Wilshire Blvd., Suite 800  
15 Los Angeles, CA 90025  
16 Tel: 1-310-312-0772  
17 Fax: 1-310-312-0656  
18 kershaw@mmrs-law.com

19 Attorneys for Defendant/Cross-Defendant  
20 Cross-Claimant/Third Party Plaintiffs  
21 The Viking Corporation & Supply Network, Inc.  
22 d/b/a Viking Supplynet

23 **DISTRICT COURT**

24 **CLARK COUNTY, NEVADA**

25 EDGEWORTH FAMILY TRUST, and ) **CASE NO.: A-16-738444-C**  
26 AMERICAN GRATING, LLC )  
27 Plaintiffs, ) **DEPT. NO.: X**

28 vs. )

29 LANGE PLUMBING, LLC; THE VIKING )  
30 CORPORATION, a Michigan corporation; )  
31 SUPPLY NETWORK, INC. d/b/a VIKING )  
32 SUPPLYNET, a Michigan corporation; and )  
33 DOES I through V and ROE CORPORATIONS )  
34 VI through X, inclusive, )  
35 Defendants. )

**STIPULATION FOR DISMISSAL  
WITH PREJUDICE OF PLAINTIFFS  
CLAIMS AGAINST VIKING  
ENTITIES**

36 *Edge worth Family Trust v. Lange Plumbing, LLC, et. al. Case No. A-16-738444-*  
37 *Stipulation and Order for Dismissal of Viking Entities by Plaintiffs*

1	LANGE PLUMBING, LLC,	)
	Cross-Claimant,	)
2		)
	vs.	)
3		)
4	THE VIKING CORPORATION, a Michigan	)
	corporation; SUPPLY NETWORK, INC. d/b/a	)
5	VIKING SUPPLYNET, a Michigan corporation;	)
	and DOES I through V and ROE	)
6	CORPORATIONS VI through X, inclusive.	)
	Cross-Defendants	)
7	<hr/>	
8	THE VIKING CORPORATION, a Michigan	)
	corporation; SUPPLY NETWORK, INC. d/b/a	)
9	VIKING SUPPLYNET, a Michigan corporation	)
	LANGE PLUMBING, LLC,	)
10	Counter-Claimant,	)
		)
11	vs.	)
		)
12	LANGE PLUMBING, LLC, and DOES I through	)
	V and ROE CORPORATIONS VI through X,	)
13	inclusive.	)
	Counter-Defendant	)
14	<hr/>	
15	THE VIKING CORPORATION, a Michigan	)
	corporation; SUPPLY NETWORK, INC. d/b/a	)
16	VIKING SUPPLYNET, a Michigan corporation,	)
	Defendants/Third Party Plaintiffs,	)
17		)
	v.	)
18		)
19	GIBERTI CONSTRUCTION, LLC, a Nevada	)
	Limited Liability Company and DOES I through	)
20	V and ROE CORPORATIONS VI through X,	)
	inclusive,	)
21	Third Party Defendant.	)

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*Edge worth Family Trust v. Lange Plumbing, LLC, et. al.* Case No. A-16-738444-  
Stipulation and Order for Dismissal of Viking Entities by Plaintiffs

1	GIBERTI CONSTRUCTION, LLC, a Nevada	)
	Limited Liability Company,	)
2		)
	Counter-Claimant	)
3		)
	v.	)
4		)
	THE VIKING CORPORATION, a Michigan	)
5	corporation; SUPPLY NETWORK, INC. d/b/a	)
6	VIKING SUPPLYNET, a Michigan corporation,	)
		)
7	Counter-Defendant.	)
8	GIBERTI CONSTRUCTION, LLC, a Nevada	)
	Limited Liability Company,	)
9		)
	Cross-Claimant	)
10		)
	v.	)
11		)
	LANGE PLUMBING, LLC, and DOES I through	)
12	V and ROE CORPORATIONS VI through X,	)
13	inclusive.	)
		)
14	Cross-Defendant.	)

15 COMES NOW, PLAINTIFFS EDGEWORTH FAMILY TRUST & AMERICAN  
16 GRATING, LLC by and through their attorney of record Daniel Simon, Esq. of SIMON LAW;  
17 DEFENDANTS/CROSS-DEFENDANTS/CROSS-CLAIMANTS THE VIKING CORPORATION  
18 & SUPPLY NETWORK, INC. d/b/a VIKING SUPPLYNET by and through their attorney of record,  
19 Janet C. Pancoast, Esq. of the law firm of CISNEROS & MARIAS, in association with counsel of  
20 MEYERS MCCONNELL REISZ SIDERMAN P.C. and LEWIS ROCA ROTHGERBER  
21 CHRISTIE, LLP; hereby stipulate that:

22 All claims asserted in any and all Complaints filed herein by PLAINTIFFS EDGEWORTH  
23 FAMILY TRUST & AMERICAN GRATING, LLC and each and every cause of action alleged  
24

25  
26 *Edge worth Family Trust v. Lange Plumbing, LLC, et. al.* Case No. A-16-738444-  
27 Stipulation and Order for Dismissal of Viking Entities by Plaintiffs

1 therein against THE VIKING CORPORATION & SUPPLY NETWORK, INC. d/b/a VIKING  
2 SUPPLYNET and VIKING GROUP, shall be dismissed with prejudice.

3 Each party shall bear their own fees and costs.

4 Dated this \_\_\_\_ day of December, 2017.

Dated this \_\_\_\_ day of December, 2017.

5 SIMON LAW

CISNEROS & MARIAS

6  
7 Daniel S. Simon, Esq.  
8 810 South Casino Center Blvd.  
9 Las Vegas, NV 89101  
Attorney for Plaintiff

Janet C. Pancoast, Esq.  
1160 Town Center Drive, Suite 130  
Las Vegas, Nevada 89144

*In Association with and with the agreement of*  
MEYERS REISZ SIDERMAN P.C. &  
LEWIS ROCA ROTHGERBER CHRISTIE,  
LLP  
*Attorneys for Viking Defendants*

13 **ORDER**

14 Based on the Stipulation of the parties and good cause appearing, it is:

15  
16 HEREBY ORDERED that all claims asserted in any and all Complaints filed herein by  
17 PLAINTIFFS EDGEWORTH FAMILY TRUST & AMERICAN GRATING, LLC and each and  
18 every cause of action alleged therein against THE VIKING CORPORATION & SUPPLY  
19 NETWORK, INC. d/b/a VIKING SUPPLYNET and VIKING GROUP, shall be dismissed with  
20 prejudice. Each party shall bear their own fees and costs.

21 Dated this \_\_\_\_ day of \_\_\_\_\_, 2017

22  
23  
24 \_\_\_\_\_  
DISTRICT COURT JUDGE

25 //

26 *Edge worth Family Trust v. Lange Plumbing, LLC, et. al.* Case No. A-16-738444-  
27 Stipulation and Order for Dismissal of Viking Entities by Plaintiffs

Submitted by:

CISNEROS & MARIAS

BY:

Janet C. Pancoast, Esq.  
1160 N. Town Center Drive, Suite 130  
Las Vegas, NV 89144  
*Attorneys for Viking Defendants*

***Edge worth Family Trust v. Lange Plumbing, LLC, et. al.*** Case No. A-16-738444-  
Stipulation and Order for Dismissal of Viking Entities by Plaintiffs

# EXHIBIT GG

08/30/18 EXCERPTS OF TRANSCRIPT OF  
DAY 4 OF EVIDENTIARY HEARING





1 RTRAN

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4  
5 DISTRICT COURT  
6 CLARK COUNTY, NEVADA

7 EDGEWORTH FAMILY TRUST;  
8 AMERICAN GRATING, LLC,

9 Plaintiffs,

10 vs.

11 LANGE PLUMBING, LLC, ET AL.,

12 Defendants.

CASE#: A-16-738444-C

DEPT. X

13 EDGEWORTH FAMILY TRUST;  
14 AMERICAN GRATING, LLC,

15 Plaintiffs,

16 vs.

17 DANIEL S. SIMON, ET AL.,

18 Defendants.

CASE#: A-18-767242-C  
DEPT. X

19 BEFORE THE HONORABLE TIERRA JONES, DISTRICT COURT JUDGE  
THURSDAY, AUGUST 30, 2018

20 **RECORDER'S TRANSCRIPT OF EVIDENTIARY HEARING - DAY 4**

21 APPEARANCES:

22 For the Plaintiff:

ROBERT D. VANNAH, ESQ.  
JOHN B. GREENE, ESQ.

24 For the Defendant:

JAMES R. CHRISTENSEN, ESQ.  
PETER S. CHRISTIANSEN, ESQ.

25 RECORDED BY: VICTORIA BOYD, COURT RECORDER

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WILLIAM KEMP

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1 A Correct.

2 Q Okay. There was a Settlement Agreement between  
3 Edgeworth Family Trust, American Grating, LLC, and Viking?

4 A Yes.

5 Q That's Office Exhibit Number 5. This is the lead page, which  
6 is bate -- I believe the Bate is 36; do you see that?

7 A Yes.

8 Q Now, on page 4 of the release, which is bates number 39 of  
9 Exhibit 5, there's a paragraph E. Obviously, that paragraph mentions  
10 Vannah and Vannah as attorneys for the Edgeworth's; fair to say?

11 A Yes. Can you show me the date of this release? I think it's  
12 December 1st, but I just want to confirm.

13 Q On page 42 of Exhibit 5 -- I'm sorry, bate 42 of Exhibit 5, I  
14 can show you the dates that both Brian and Angela signed the release,  
15 December 1 of 2017; is that correct?

16 A Yes.

17 Q So after that -- and that's after the date you felt -- after the  
18 date that you felt you had been fired, correct?

19 A Yeah. So, if I can just explain briefly. I get back on 9-20 -- or  
20 11-27. I am basically negotiating, not torpedoing any settlement, not  
21 making any threats. I'm basically getting this release where they omitted  
22 the confidentiality clause and preserved the Lange claim, and I get the  
23 Edgeworths, which is a very uncommon term, as a mutual release  
24 because this case was so contentious, all right?

25 And Mr. Edgeworth was I'm going to use the word scared,

1 nervous, you know, whatever you want to use, he was very nervous that  
2 Viking was ultimately going to come after him if they had some type of  
3 opportunity. So that's why the confidentiality clause was not a good  
4 idea, and we wanted to preserve the Lange claim, as well, and I got a  
5 mutual release, I think, for them, on or about 11-27.

6 THE COURT: And you got the mutual release on 11-27?

7 THE WITNESS: Right in that range, yeah. It was -- it was  
8 before I got the Letter of Direction, and I was out of the case.

9 BY MR. CHRISTENSEN:

10 Q Did Mr. -- a Viking sprinkler flooded Mr. Edgeworth's house  
11 that he was building as an investment, and he thought Viking was going  
12 to sue him?

13 A If they had -- if they had some type of basis, they probably  
14 would have.

15 Q Okay. Now, you did reach out to Mr. Edgeworth on  
16 December 5?

17 THE COURT: Okay, and I'm sorry, Mr. Christensen, before  
18 you move on, on December 1, when that Settlement Agreement is  
19 signed, the one that's Exhibit 5, how did you -- when's the first time you  
20 saw that document?

21 THE WITNESS: That was a prior one that was proposed.

22 THE COURT: That had the confidentiality and all that?

23 THE WITNESS: Yeah, it had all of that.

24 THE COURT: Okay.

25 THE WITNESS: And so, you know, the Edgeworth's were



1 pressing me, right. There's an email from -- while Brian's in -- well,  
2 Brian's in China, unavailable, no phone calls, no emails with me. He now  
3 has Angela stepping up, typing all these emails, saying hey, where's the  
4 Viking Settlement Release, where is it, where is it, where is it, get it to us.  
5 And I just got back in town from a vacation over Thanksgiving.

6 So right when I get back there was probably the, you know,  
7 proposed release. And so, I went over to the office with Mr. Henriod,  
8 who was Viking counsel, and I have a great relationship with him, and  
9 we basically just hammered out the terms of the release right there. And  
10 then I was done, I was out of it.

11 THE COURT: Okay. But you hammered out the terms of the  
12 release of that final agreement?

13 THE WITNESS: Before I was fired, yeah.

14 THE COURT: Okay. So, this is before 11-30?

15 THE WITNESS: Yes.

16 THE COURT: And then were you present when the  
17 Edgeworth's signed that document?

18 THE WITNESS: Nope.

19 THE COURT: Okay. So, when did you see the signed copy?

20 THE WITNESS: When Mr. Vannah's office delivered it to me  
21 to then forward it to Viking counsel.

22 THE COURT: But you received it from Vannah's office?

23 THE WITNESS: Correct.

24 THE COURT: Okay.

25 THE WITNESS: And just one other note. I didn't explain any

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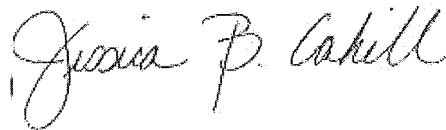
MR. VANNAH: Thank you.

THE COURT: No problem.

MR. VANNAH: That's been great.

[Proceedings adjourned at 4:16 p.m.]

ATTEST: I do hereby certify that I have truly and correctly transcribed the audio-visual recording of the proceeding in the above entitled case to the best of my ability.



---

Maukele Transcribers, LLC  
Jessica B. Cahill, Transcriber, CER/CET-708

# EXHIBIT HH

11/27/17 LETTER FROM SIMON TO  
EDGEWORTHS RE DESIRED  
COMPENSATION AGREEMENT

LAW OFFICE OF  
**DANIEL S. SIMON**  
A PROFESSIONAL CORPORATION  
810 SOUTH CASINO CENTER BOULEVARD  
LAS VEGAS, NEVADA 89101

TELEPHONE (702)364-1650

FACSIMILE (702)364-1655

November 27, 2017

Pursuant to your request, please find attached herewith the agreement I would like signed, as well as the proposed settlement breakdown, if a final settlement is reached with the Viking entities. The following is to merely clarify our relationship that has evolved during my representation so you are not confused with my position.

**I helped you with your case and went above and beyond for you because I considered you close friends and treated you like family**

As you know, when you first asked me to look at the case, I did not want to take it as I did not want to lose money. You already met with Mr. Marquis who wanted a 50k retainer and told you it would be a very expensive case. If Mr. Marquis did the work I did, I have no doubt his billing statements would reflect 2 million or more. I never asked you for a retainer and the initial work was merely helping you. As you know, you received excellent advice from the beginning to the end. It started out writing letters hoping to get Kinsale to pay your claim. They didn't. Then this resulted in us filing a lawsuit.

As the case progressed, it became apparent that this was going to be a hard fight against both Lange and Viking who never offered a single dollar until the recent mediations. The document production in this case was extremely voluminous as you know and caused my office to spend endless late night and weekend hours to push this case through the system and keep the current trial date.

As you are aware, we asked John to get involved in this case to help you. The loss of value report was sought to try and get a favorable negotiation position. His report was created based on my lawyering and John's willingness to look at the information I secured to support his position. As you know, no other appraiser was willing to go above and beyond as they believed the cost of repairs did not create a loss. As you know, John's opinion greatly increased the value of this case. Please do not think that he was paid a fee so he had to give us the report. His fee was very nominal in light of the value of his report and he stepped up to help you because of us and our close relationship. Securing all of the other experts and working with them to finalize their opinions were damaging to the defense was a tremendous factor in securing the proposed settlement amount. These experts were involved because of my contacts. When I was able to retain Mr. Pomerantz and work with him to finalize his opinions, his report was also a major factor. There are very few lawyer's in town that would approach the case the way I did to get the results I did for you. Feel free to call Mr. Hale or any other lawyer or judge in town to verify this. Every time I went to court I argued for you as if you were a family member taking the arguments against you personal. I made every effort to protect you and your family during the process. I

0046

AA0721



was an exceptional advocate for you. It is my reputation with the judiciary who know my integrity, as well as my history of big verdicts that persuaded the defense to pay such a big number. It is also because my office stopped working on other cases and devoted the office to your case filing numerous emergency motions that resulted in very successful rulings. My office was available virtually all of the time responding to you immediately. No other lawyer would give you this attention. I have already been complimented by many lawyers in this case as to how amazing the lawyering was including Marks lawyer who told me it was a pleasure watching me work the way I set up the case and secured the court rulings. Feel free to call him. The defense lawyers in this case have complimented me as well, which says a lot. My work in my motions and the rulings as an exceptional advocate and the relationships I have and my reputation is why they are paying this much. The settlement offer is more than you ever anticipated as you were willing to take 4-4.5 at the first mediation and you wanted the mediator's proposal to be 5 million when I advised for the 6 million. One major reason they are likely willing to pay the exceptional result of six million is that the insurance company factored in my standard fee of 40% (2.4 million) because both the mediator and the defense have to presume the attorney's fees so it could get settled. Mr. Hale and Zurich both know my usual attorney's fees. This was not a typical contract case your other hourly Lawyers would handle. This was a major fight with a world-wide corporation and you did not get billed as your other hourly lawyers would have billed you. This would have forced you to lay out substantially more money throughout the entire process. Simply, we went above and beyond for you.

**I have lost money working on your case.**

As you know, when I was working on your case I was not working on many other cases at my standard fee and I told you many times that I can't work hourly because I would be losing too much money. I felt it was always our understanding that my fee would be fair in light of the work performed and how the case turned out. I do not represent clients on an hourly basis and I have told this to you many times.

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### **Value of my Services**

The attached agreement reflects a greatly reduced sum for the value of my services that I normally charge in every case. I always expected to be compensated for the value of my services and not lose money to help you. I was troubled at your statements that you paid me hourly and you now want to just pay me hourly when you always knew this was not the situation. When I brought this to your attention you acknowledged you understood this was not just an hourly fee case and you were just playing devil's advocate. As you know, if I really treated your case as only an hourly case, I would have included all of the work my staff performed and billed you at a full hourly fee in 30 day increments and not advance so much money in costs. I would have had you sign just an hourly contract retainer just as Mr. Pomerantz had you sign. I never did this because I trusted you would fairly compensate me for the value of my services depending on the outcome. In the few statements I did send you I did not include all of the time for my staff time or my time, and did not bill you as any other firm would have. The reason is that this was not just an hourly billing situation. We have had many discussions about this as I helped you through a very difficult case that evolved and changed to a hotly contested case demanding full attention. I am a trial attorney that did tremendous work, and I expect as you would, to be paid for the value of my service. I did not have you sign my initial standard retainer as I treated you like family to help you with your situation.

### **Billing Statements**

I did produce billing statements, but these statements were never to be considered full payment as these statements do not remotely contain the full time myself or my office has actually spent. You have acknowledged many times that you know these statements do not represent all of my time as I do not represent clients on an hourly basis. In case you do not recall, when we were at the San Diego Airport, you told me that a regular firm billing you would likely be 3x my bills at the time. This was in August. When I started filing my motions to compel and received the rulings for Viking to produce the information, the case then got substantially more demanding. We have had many discussions that I was losing money but instead of us figuring out a fair fee arrangement, I did continue with the case in good faith because of our relationship focusing on winning and trusted that you would fairly compensate me at the end. I gave you several examples of why I was losing money hourly because my standard fee of 40% on all of my other cases produced hourly rates 3-10 times the hourly rates you were provided. Additionally, just some of the time not included in the billing statement is many phone calls to you at all hours of the day, review and responses of endless emails with attachments from you and others, discussions with experts, substantial review the filings in this case and much more are not contained in the bills. I also spent substantial time securing representation for Mark Giberti when he was sued. My office continued to spend an exorbitant amount of time since March and have diligently litigated this case having my office virtually focus solely on your case. The hourly fees in the billing statements are much lower than my true hourly billing. These bills were generated for several reasons. A few reasons for the billing statements is that you wanted to justify your loans and use the bills to establish damages against Lange under the contract, and this is the why all of my time was not included and why I expected to be paid fairly as we worked through the case.

I am sure you will acknowledge the exceptional work, the quality of my advocacy, and services performed were above and beyond. My services in every case I handle are valued based on results not an hourly fee. I realize that I didn't have you sign a contingency fee agreement and am not asserting a contingency fee, but always expected the value of my services would be paid so I would not lose money. If you are going to hold me to an hourly arrangement then I will have to review the entire file for my time spent from the beginning to include all time for me and my staff at my full hourly rates to avoid an unjust outcome.

### **How I handle cases**

I want you to have a full understanding as to how my office works in every other case I am handling so you can understand my position and the value of my services and the favorable outcome to you.

My standard fee is 40% for a litigated case. I have told you this many times. That is what I get in every case, especially when achieving an outcome like this. When the outcome is successful and the client gets more and I will take my full fee. I reduce if the outcome is not as expected to make sure the client shares fairly. In this case, you received more than you ever anticipated from the outset of this case. I realize I do not have a contract in place for percentages and I am not trying to enforce one, but this merely shows you what I lost by taking your case and given the outcome of your case, and what a value you are receiving. Again, I have over 5 other big cases that have been put on the back burner to handle your case. The discovery period in these cases were continued several times for me to focus on your case. If I knew you were going to try and treat me unfairly by merely asserting we had an hourly agreement after doing an exceptional work with an exceptional result, I wouldn't have continued. The reason is I would lose too much money. I would hope it was never your intention to cause me hardship and lose money when helping you achieve such an exceptional result. I realize I did not have you sign a fee agreement because I trusted you, but I did not have you sign an hourly agreement either.

### **Finalizing the settlement**

There is also a lot of work left to be done. As you know, the language to the settlement must be very specific to protect everyone. This will need to be negotiated. If this cannot be achieved, there is no settlement. The Defendant will require I sign the confidentiality provisions, which could expose me to future litigation. Depending on the language, I may not be comfortable doing this as I never agreed to sign off on releases. Even if the language in the settlement agreement is worked out, there are motions to approve the settlement, which will be strongly opposed by Lange. If the Court does not grant the motion, then there is no settlement. If there is an approved settlement and Viking does not pay timely, then further motions to enforce must be filed.

Presently, there are many things on calendar that I need to address. We have the following depositions: Mr. Carnahan, Mr. Garelli, Crane Pomerantz, Kevin Hastings, Gerald Zamiski, and the UL deposition in Chicago. We have the Court hearings for Zurich's motions for protective order, our motion to de-designate the documents as confidential, our motion to make Mr. Pomerantz an initial expert, as well as the summary judgment motions involving Lange, who has

recently filed a counter motion and responses need to be filed. Simply, there is a substantial amount of work that still needs to be addressed. Since you knew of all of the pending matters on calendar, it is unfortunate that you were obligated to go to China during a very crucial week to attempt to finalize the case. When I asked if you would be available to speak if necessary, you told me that you are unavailable to discuss matters over the phone. This week was very important to make decisions to try and finalize a settlement.

I understand that the way I am looking at it may be different than the way your business mind looks at things. However, I explained my standard fees and how I work many times to you and the amount in the attached agreement is beyond fair to you in light of the exceptional results. It is much less than the reasonable value of my services. I realize that because you did not sign my retainer that you may be in a position to take advantage of the situation. However, I believe I will be able to justify the attorney fee in the attached agreement in any later proceeding as any court will look to ensure I was fairly compensated for the work performed and the exceptional result achieved.

I really want us to get this breakdown right because I want you to feel like this is remarkable outcome while at the same time I don't want to feel I didn't lose out too much. Given what we have been through and what I have done, I would hope you would not want me to lose money, especially in light of the fact that I have achieved a result much greater than your expectations ever were in this case. The attached agreement should certainly achieve this objective for you, which is an incredible reduction from the true value of my services.

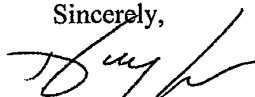
### Conclusion

If you are agreeable to the attached agreement, please sign both so I can proceed to attempt to finalize the agreement. I know you both have thought a lot about your position and likely consulted other lawyers and can make this decision fairly quick. We have had several conversations regarding this issue. I have thought about it a lot and this the lowest amount I can accept. I have always felt that it was our understanding that that this was not a typical contract lawyer case, and that I was not a typical contract lawyer. In light of the substantial work performed and the exceptional results achieved, the fee is extremely fair and reasonable.

If you are not agreeable, then I cannot continue to lose money to help you. I will need to consider all options available to me.

Please let me know your decisions as to how to proceed as soon as possible.

Sincerely,



Daniel S. Simon

The Law Office of Daniel S. Simon  
810 S. Casino Center Blvd.  
Las Vegas, Nevada 89101  
702-364-1650 Fax: 702-364-1655

## **RETAINER AGREEMENT**

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THAT Brian Edgeworth and Angela Edgeworth on behalf of Edgeworth Family Trust and American Grating have retained and does by this instrument retain the Law Offices of Daniel S. Simon, as his/her attorneys; said attorneys to handle on his/her behalf, all claims for damages arising out of and resulting from an incident on or about April 9, 2016 involving the flood caused by a failed sprinkler head, which clients now have, and which might hereafter accrue against Viking Corporation, Viking Group and Viking Supply Net, for damages arising out of said incident to Brian Edgeworth and Angela Edgeworth on behalf of Edgeworth Family Trust and American Grating that the parties have respectively agreed as follows:

1. THE FEE FOR LEGAL SERVICES SHALL BE IN THE SUM OF 1,500,000 for services rendered to date. This sum includes all past billing statements, the substantial time that is not included in past billing statements, the current outstanding billing statements and any further billing statements that may accrue to finalize and secure the settlement with the Viking Entities only. Any future services performed prosecuting Lange Plumbing will be determined by a separate agreement. However, all past services performed prosecuting Lange Plumbing will be included in the above fee. The above sum will be reduced by all payments already made toward the attorneys fees. If for some reason, the settlement cannot be finalized with the Viking Entities, this agreement shall be void as it only contemplates a reasonable fee for services performed and to finalize the settlement agreement.

2. ALL COSTS, INCLUDING ARBITRATION COSTS, COSTS OF OBTAINING EXPERTS TO ANALYZE AND EVALUATE THE CAUSE OF THE ACCIDENT, COSTS OF EXPERT TESTIMONY, COSTS OF WITNESS FEES, TRAVEL COSTS, DEPOSITION COSTS, COURT COSTS, AND ALL COSTS OF LITIGATION, INCLUDING LONG DISTANCE PHONE CALLS, COPYING EXPENSES, REGARDLESS OF THE OUTCOME, ARE TO BE PAID BY THE CLIENT, AND IF ANY OF THEM SHALL HAVE BEEN ADVANCED BY THE ATTORNEY, HE SHALL BE REIMBURSED FOR THE

The Law Office of Daniel S. Simon  
810 S. Casino Center Blvd.  
Las Vegas, Nevada 89101  
702-364-1650 Fax: 702-364-1655

1 SAME. THE ATTORNEY IS AUTHORIZED TO PAY ANY OF SAID  
2 EXPENSES OUT OF THE SHARE OF THE SETTLEMENT ACCRUING TO  
3 THE CLIENT.

4 SIGNED this \_\_\_\_ day of \_\_\_\_\_, 2017.  
5

6 LAW OFFICES OF DANIEL S. SIMON Brian Edgeworth on behalf of Edgeworth Family  
7 Trust and American Grating  
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9 Angela Edgeworth on behalf of Edgeworth Family  
10 Trust and American Grating  
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LAW OFFICE OF  
**DANIEL S. SIMON**  
A PROFESSIONAL CORPORATION  
810 SOUTH CASINO CENTER BOULEVARD  
LAS VEGAS, NEVADA 89101

TELEPHONE (702)364-1650

FACSIMILE (702)364-1655

**SETTLEMENT BREAKDOWN**

Date: November 27, 2017

Re: EFT AND AMERICAN GRATING v. ALL VIKING ENTITIES

Settlement	\$ 6,000,000.00
Attorney's Fees	1,114,000.00 (1,500,000 Less payments made of 367,606.25)
Costs	80,000.00 ( 200,000 Less payments made of 118,846.84)

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**Balance to Clients** **\$ 4,806,000.00**

Clients hereby agree to the above distribution from the settlement proceeds if a settlement is finally reached and finalized. The costs may be adjusted depending on the actual costs incurred and paid. A final accounting will be made at the time of final distribution.

Dated this \_\_\_\_ day of November, 2017.

\_\_\_\_\_  
**Brian Edgeworth on behalf of Edgeworth Family  
Trust and American Grating**

\_\_\_\_\_  
**Angela Edgeworth on behalf of Edgeworth Family  
Trust and American Grating**

0053

**AA0728**

# EXHIBIT II

## EXCERPTS FROM SIMON "SUPER BILL"

Bates SIMONEH0000240 (Daniel Simon - 866.20 hrs. @ \$550/hr)	\$476,410.00
Bates SIMONEH0000342 (Ashley Ferrel – 762.60 hrs. @ \$275/hr)	209,715.00
Bates SIMONEH0000344 (Benjamin Miller- 21.80 hrs. @ \$275/hr)	5,995.00
TOTAL FEES BILLED	\$692,120.00



**INVOICE FOR DANIEL S. SIMON**  
***EDGEWORTH v. LANGE, ET AL.***

<b>Date</b>	<b>Description</b>	<b>Time</b>
5/27/16	Email Chain with Client Re: Representation	.25
5/28/16	Email Chain with Client Re: Client Meeting	.40
5/31/16	Receive, Review and Analyze Email From Client	.40
6/1/16	Receive, Review and Analyze Email From Client	.40
6/2/16	Receive, Review and Analyze Email From Client	.40
6/2/16	Email Chain with Client	.40
6/3/16	Email Chain with Client with Attachment	.50
6/3/16	Email Chain From Client with Website Attachment	.40
6/3/16	Receive, Review and Analyze Email from Viking and to Client	.40
6/5/16	Email Chain with Client	.40
6/10/16	Email Chain with Client	.75
6/13/16	Draft and Send Email to Client	.25
6/14/16	Receive, Review and Analyze Email from Client	.25
6/22/16	Email Chain with Client	.40
7/11/16	Email Chain with AD, SC, SR; Re: Representation of Lange	.25
7/12/16 - 7/13/16	Email Chain with Client	1.25
7/14/16	Receive, Review and Analyze Email from Client	.25
7/14/16	Receive, Review and Analyze Email from Viking, Forward to Client with Attachments; Receive, Review and Analyze Response from Client; Review File; Email Chain with Client	1.75
7/18/16	Receive, Review and Analyze Email from Client with Attachment	.75
7/19/16	Email Chain with Client	.50
7/19/16	Draft and Send Email to AD; Re: SAO Amend Complaint	.25

1/3/18	T/C 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	1.50
1/4/18	Email E. Nunez releases again per her request	.25
1/5/18	Email from S. Guiindy and response	.25
1/5/18	Email from Nunez	.15
1/5/18	Review Court filing of MGFS Lange	.25
1/8/18	T/C 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
	Review all Emails concerning service of all pleadings (679 emails)	135.80
	<b>Total Hours</b>	<b>866.20</b>
	<b>Total Fees at \$550 per hour</b>	<b>\$476,410.00</b>

**INVOICE FOR ASHLEY M. FERREL**  
**EDGEWORTH v. LANGE PLUMBING, ET AL.**

DATE	DESCRIPTION	TIME
12.20.16	Review, Download & Save Defendants the Viking Corporation and Supply Network, Inc.'s Substitution of Counsel	0.30
1.4.17	Review, Download & Save Joint Case Conference Report	0.30
1.6.17	Email to DSS re Lange K inserts added to MSJ	0.15
1.9.17	Review email from DSS re phone call to Pancoast	0.15
1.9.17	Review, Download & Save Defendant The Viking Corporation and Supply Network , Inc.'s Demand for Prior Pleadings and Discovery	0.30
1.10.17	Review, Download & Save Plaintiffs Response to Defendants The Viking Corporation and Supply Network Inc.'s Demand for Prior Pleadings and Discovery	0.30
1.11.17	Review email from DSS re making small changes to MSJ	0.15
1.13.17	Review, Download & Save Plaintiffs Motion for Summary Judgment	0.30
1.17.17	Review email from DSS re preparing written discovery and depo notices	0.15
1.17.17	Review email from DSS to Pancoast re moving MSJ hearing and Opp date	0.15
1.18.17	Review, Download & Save Defendant The Viking Corporation and Supply Network, Inc.'s Opposition to Plaintiff's Motion for Summary Judgment	0.30
1.19.17	Email chain with DSS re Viking's Opposition to MSJ	0.50
1.20.17	Email chain with DSS re Stackiewicz case	0.15
1.20.17	Review, Download & Save Notice of Video Deposition of Shelli Lange	0.30
1.20.17	Review, Download & Save Subpoena for Shelli Lange	0.30
1.20.17	Review, Download & Save Notice of Video Deposition Bernie Lange	0.30
1.20.17	Review, Download & Save Subpoena for Bernie Lange	0.30
1.20.17	Review, Download & Save Notice of Video Deposition of Tracey Garvey	0.30
1.20.17	Review, Download & Save Subpoena for Tracy Garvey	0.30

**INVOICE FOR ASHLEY M. FERREL**  
**EDGEWORTH v. LANGE PLUMBING, ET AL.**

12.8.17	Review, Download & Save Lange Plumbing 14 <sup>th</sup> Supp to 16.1ECC List of Witnesses and Docs	0.30
12/11/17	Discussion with DSS re client's release of claims	0.20
12.11.17	Review email from DSS re Lange's 15 <sup>th</sup> ECC Supplement and response	0.25
12.11.17	Review email from DSS re Lange's 15 <sup>th</sup> ECC Supplement and response	0.25
12/12/17	Review Order granting Giberti Motion for Good Faith Settlement and discussion with DSS	0.25
12.12.17	Review, Download & Save Ltr. To Discovery Commissioner Bulla Re. Settlement	0.30
12.13.17	Review, Download & Save NEO Granting Third Party Def. Giberti Construction LLC Motion for Good Faith Settlement	0.30
1/2/18	Draft Notice of Amended Attorney Lien, serve and prepare & send all liens certified mail return receipt requested	1.5
<b>TOTAL HOURS x \$275 per hour (reduced)</b>		<b>762.6</b>
<b>TOTAL FEES</b>		<b>\$209,715.00</b>

**INVOICE FOR BENJAMIN J. MILLER**  
***EDGEWORTH v. LANGE, ET AL.***

<b>Date</b>	<b>Description</b>	<b>Time</b>
8/16/17	Research and review prior cases and brief bank for written discovery on punitive damages	0.75
8/16/17	Send interoffice email regarding punitive damage discovery from other cases	0.25
8/17/17	Research and review licensing standards and regulations from California Board of Professional Engineers, Land Surveyors and Geologists for possible use in upcoming expert depositions	1.5
8/30/17	Send interoffice email regarding punitive damages written discovery from other cases	0.25
11/6/17	Draft email regarding case research for diminution in value damages to include in additional research for memoranda on admissibility	0.35
11/13/17	Draft interoffice email regarding summary of memo on admissibility of litigation conduct as bad faith at trial	0.30
11/16/17	Receipt and read interoffice email regarding instruction to prepare draft response regarding admissibility of litigation conduct as bad faith	0.25
11/16/17	Send response interoffice email confirming instruction to prepare draft response regarding admissibility of litigation conduct as bad faith	0.25
11/6/17	Research Nevada case law regarding cost of repair damages and diminution in value damages	0.75
11/6/17	Research case law of surrounding jurisdictions regarding cost of repair damages and diminution in value damages	1.5
11/6/17	Research various law review articles, restatements of law, jury instructions and other legal authorities regarding cost of repair damages and diminution in value damages	1.25
11/6/17	Draft email regarding case research for diminution in value damages to include in additional research for memoranda on admissibility	0.35

11/8/17	Prepare memo regarding cost of repair damages and diminution in value damages	2.0
11/9/17	Discussion with DSS re: Memo	0.5
11/13/17	Research Nevada law regarding admissibility of litigation conduct for bad faith	0.5
11/13/17	Research case law of surrounding jurisdictions regarding admissibility of litigation conduct for bad faith	3.25
11/13/17	Research various law review articles and other legal authorities regarding admissibility of litigation conduct for bad faith	1.75
11/13/17	Prepare memo regarding admissibility of litigation conduct for bad faith	1.75
11/13/17	Draft email regarding summary of memo on admissibility of litigation conduct as bad faith at trial	0.30
11/14/17	Research Contract Validity within NRS Chapter 624 and Nevada case law for summary judgment briefing	2.75
11/16/17	Confer regarding recoverable damages within breach of contract vs. products liability	0.75
11/16/17	Receipt and read interoffice email regarding instruction to prepare draft response regarding admissibility of litigation conduct as bad faith	0.25
11/16/17	Send response interoffice email confirming instruction to prepare draft response regarding admissibility of litigation conduct as bad faith	0.25
	<b>Total Hours x's \$275 per hour (reduced)</b>	<b>21.8</b>
	<b>Total Fees</b>	<b>\$5,995.00</b>

# EXHIBIT JJ

EXCERPTS FROM "SUPER BILL" WITH  
SIMON POST-DISCHARGE ENTRIES

**INVOICE FOR DANIEL S. SIMON**  
***EDGEWORTH v. LANGE, ET AL.***

<b>Date</b>	<b>Description</b>	<b>Time</b>
5/27/16	Email Chain with Client Re: Representation	.25
5/28/16	Email Chain with Client Re: Client Meeting	.40
5/31/16	Receive, Review and Analyze Email From Client	.40
6/1/16	Receive, Review and Analyze Email From Client	.40
6/2/16	Receive, Review and Analyze Email From Client	.40
6/2/16	Email Chain with Client	.40
6/3/16	Email Chain with Client with Attachment	.50
6/3/16	Email Chain From Client with Website Attachment	.40
6/3/16	Receive, Review and Analyze Email from Viking and to Client	.40
6/5/16	Email Chain with Client	.40
6/10/16	Email Chain with Client	.75
6/13/16	Draft and Send Email to Client	.25
6/14/16	Receive, Review and Analyze Email from Client	.25
6/22/16	Email Chain with Client	.40
7/11/16	Email Chain with AD, SC, SR; Re: Representation of Lange	.25
7/12/16 - 7/13/16	Email Chain with Client	1.25
7/14/16	Receive, Review and Analyze Email from Client	.25
7/14/16	Receive, Review and Analyze Email from Viking, Forward to Client with Attachments; Receive, Review and Analyze Response from Client; Review File; Email Chain with Client	1.75
7/18/16	Receive, Review and Analyze Email from Client with Attachment	.75
7/19/16	Email Chain with Client	.50
7/19/16	Draft and Send Email to AD; Re: SAO Amend Complaint	.25



11/11/17	Email Chain with Client with Attachment; Review and Analyze Mediator Proposal	.50
11/13/17	Draft and send email with attachments to AF	.15
11/13/17	Review Viking Motion for MSC and Stay all Rulings; Discussion with AF; Review Letter to DC Bulla; Telephone Conference with Floyd Hale; Telephone Conference with J. Olivas Re: Deposition	2.25
11/13/17	Email chain with AF re complaint filed against Harold Rodgers	.25
11/13/17	Draft and send email to AF re research re privilege log and confidentiality issues and review AF response	.75
11/13/17	Draft and send email to AF re supplementing Pomerantz opinion letter	.15
11/13/17	Email chain with AF re expert depositions noticed by Viking	.15
11/13/17	Prepare for 11/14/17 Hearings	2.25
11/13/17	Review Pomerantz Report and Produce; Discussion with Pomerantz; Discussion with Charles Rego from UL and Client	2.75
11/13/17	Receive, Review and Analyze Email From JO; Re: Additional Emails	.25
11/13/17	Email Chain with AF/CP with Attachments Re: Henderson	.15
11/13/17	Email from CP with Opinion letter	.75
11/13/17	Receive, Review and Analyze Email from Client	.15
11/13/17	Receive, Review and Analyze Email from Client; Discussion with Client	.25
11/13/17	Email Chain with Client with Attachment	.50
11/13/17	Draft and Send Email to Client	.15
11/13/17	Email Chain with Client	.15
11/13/17	Email Chain with Client	.50
11/13/17	Receive, Review and Analyze Email from Client	.15
11/13/17	Draft and Send Email to Client with Attachment	.15

11/13/17	Receive, Review and Analyze Email from Client	.25
11/13/17	Call with Client	.50
11/13/17	Call with Client	.25
11/14/17	Call with AMF	.10
11/14/17	Call with Client	.15
11/14/17	Call with Client	.10
11/14/17	Call with Client	.10
11/13/17	Email Chain with Client	.40
11/14/17	Email Chain with JP, AF, TP; Re: Inspection of Documents	.25
11/14/17	Email Chain with D. Holloman, JP, KR, JM; Re: Hale Settlement Matters	.25
11/14/17	Attend Hearings on MSJ; Review File with Client; Review Research; Prepare Emails to Pancoast Re: Depositions and Discovery Responses; Discussion with Attorney Olgivie Re: Retention; Email to Parker; Discussion with AF; Review Plaintiffs' 14 <sup>th</sup> ECC Supplement; Review files	7.5
11/14/17	Draft and Send Email to Ogilvie with Attachments	.75
11/14/17	Telephone Call with Ogilvie Regarding Retention	.50
11/15/17	Review cases re: validity of contract under NRS 624; discussion with AF and BM	2.75
11/15/17	Review research re: admissibility of litigation conduct; discussion with BJM	.75
11/15/17	Discussion with BJM re: recoverable damages w/ breach of contract vs. product liability	.75
11/15/17	Receive, Review and Analyze Email from Client	.15
11/15/17	Receive, Review and Analyze Email from Client	.25
11/15/17	Receive, Review and Analyze Email from Client with Link	.40
11/15/17	Call with Client	.25
11/15/17	Call with Client	.50

11/15/17	Call with Client	.25
11/15/17	Call with Client	.10
11/15/17	Call with Client	.10
11/15/17	Call with Client	.75
11/16/17	Call with Client	.25
11/16/17	Call with Client	.25
11/16/17	Call with AMF	.15
11/16/17	Call with Client	.15
11/16/17	Call with Client	.10
11/17/17	Call with Client	.15
11/17/17	Call with Teddy Parker	.10
11/17/17	Call with Teddy Parker	.10
11/17/17	Call with Client	.50
11/17/17	Call with Client	.25
11/17/17	Call with Teddy Parker	.10
11/17/17	Call with Teddy Parker	.15
11/17/17	Call with Teddy Parker	.15
11/17/17	Call with Client	.65
11/17/17	Call with Client	.15
11/17/17	Email Chain with EC, JP, AF, MN, TP, KR; Re: Olivas Deposition	.15
11/17/17	Draft and Send Email to Ogilvie with Links	.25
11/17/17	Prepare and Attend Hearings	4.5
11/17/17	Several discussions with clients from office	.50
11/17/17	Receive, Review and Analyze Email from Client with Link	.40
11/17/17	Receive, Review and Analyze Email from L. Rotert; Pomerantz Bill	.15
11/18/17	Draft and Send Email to Client with Links	.15

11/18/17	Email Chain with JP, AF, TP, BP, JH, KR; Re: MIL Meeting. Discovery with AF.	.50
11/20/17	Email chain with AF re outstanding expert bills	.25
11/20/17	Email chain with AF re meet and confer for MILS and hearing for Giberti's MGFS	.25
11/20/17	Email chain with AF re Knez letter and threat of motion to file protective order in CA for Rodgers and Rene Stone depositions	.25
11/20/17	Email Chain with Ogilvie and AF; Re: Permit App	.25
11/20/17	Receive, Review and Analyze Email from Client; Forward to AF	.15
11/21/17	Receive, Review and Analyze Email from Client	.25
11/21/17	Call with Client	.10
11/22/17	Draft and send email to AF re recent list of damages and review AF response	.15
11/22/17	Email Chain with Ogilvie, AF with Attachments; Re: Lange Supp Brief	.15
11/22/17	Draft and send email to AF re sending Lange responses brief to Ogilvie and review AF response	.15
11/22/17	Review notices of vacating deposition of Rene Stone and Harold Rodgers	.50
11/22/17	Review Lange's 12 <sup>th</sup> ECC Supplement	.25
11/24/17	Review correspondence from Dalacas	.25
11/24/17	Review email filings and depo emails	1.50
11/25/17	Call with Client	.10
11/25/17	Call with Client	.10
11/25/17	Call with Client	.15
11/26/17	Review Lange Discovery responses and attachments	1.50
11/27/17	T/C with J. Olivas re deposition	.35
11/27/17	Review hearing transcript from 11/14/17 hearing	1.50

11/27/17	T/C with T. Parker and Henriod (x3)	.75
11/27/17	Conference call with T. Parker, J. Pancoast and JEA to continue hearings; Emails	1.0
11/27/17	Receive, Review and Analyze Email From JO; Re: Final Invoice	.25
11/27/17	T/C's with Teddy Parker	.65
11/27/17	Email Chain with JP, TP, AF, KR, DP, JH; Re: MIL / Expert Depositions	.50
11/27/17	Email Chain with Bess White, TP, JP; Re: Edgeworth MOT for Summary Judgement	.35
11/27/17	Receive, Review and Analyze Email from Client	.15
11/27/17	Draft and Send Email to Client	.15
11/27/17	Receive, Review and Analyze Email from Client	.15
11/27/17	Draft and Send Email to Client	.25
11/27/17	Receive, Review and Analyze Email from Client	.25
11/27/17	Draft and send email to AF re Carnahan depo and review AF response	.15
11/28/17	Email Chain with JP, AF, KR, JH; Re: Outstanding Discovery	.15
11/28/17	Email Chain with EN, JP, KR, DP; Re: Letter from Parker	.50
11/28/17	Review Lange letter (11/28/17), analyze; discussion with AF	1.25
11/28/17	Review Amended Notice of Carnahan Depo	.25
11/28/17	Conference call with Judge Bulla chambers w/ Pancoast to reset December 1 <sup>st</sup> hearings to December 20 <sup>th</sup> and call with Pancoast separately	.50
11/28/17	Review notices of vacating depositions	.50
11/28/17	Email Chain with Ogilvie to Discuss Case	.15
11/29/17	Receive and analyze email from Ogilvie	1.50
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	1.50
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	2.50
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 Oligilvie re: contractors license legal arguments and response email to Oligilvie; Discussion with AF	1.50
11/29/17	Draft reply to Lange's Supplemental Opposition to Plaintiffs' MSJ	2.75
11/29/17	Discussions w/ J. Henriod re moving hearings and settlement	.65
11/29/17	T/C with T. Parker	.50
11/29/17	Draft letter to Parker	.50
11/30/17	Review release; T/C J. Greene; T/C T. Parker; revise release	1.25
11/30/17	Call with Teddy Parker	.15
11/30/17	Call with Teddy Parker	.15
11/30/17	Call with Teddy Parker	.10
11/30/17	Call with AMF	.25
11/30/17	Call with Teddy Parker	.15
11/30/17	Call with AMF	.10
11/30/17	Call with AMF	.10
11/30/17	Call with AMF	.20
11/30/17	Call with AMF	.10
11/30/17	Review file for Lange bills, T/C to Parker re: settlement	.75
11/30/17	Negotiate release w/ Henriod (his office)	3.50
11/30/17	Conversation w/ Green; draft email, send release	.75
11/30/17	Receive and review letter dated 11-30-17	.25

11/30/17	Received and reviewed Lange letter (11-29-17) regarding scheduling discovery; Discussion with AF	.75
11/30/17 & 12/2/17	Email chain with AF re attorney lien	.15
12/1/17	Email Chain with JP, AF, DP, JH, MB, KR; Re: Discovery Motions	.15
12/1/17	Receive and review release email to Defendant	.75
12/1/17	Receive and review release email from Pancoast & discussion with AF	.50
12/1/17	Review Viking's 19 <sup>th</sup> ECC Supplement	.25
12/4/17	Received and reviewed DCRR; L/M 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 13 <sup>th</sup> 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	T/C 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 14 <sup>th</sup> 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; T/C 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
12/11/17	Review/ Analyze Lange 15 <sup>th</sup> ECC Supplement	.50
12/11/17	T/C Parker & Pancoast; Email from T. Parker; Email from Crt	.75
12/11/17	Review client's release of claims; emails to J. Greene; Discussions with AF	.50
12/11/17	Draft and send email to AF re Lange's 15 <sup>th</sup> ECC Supplement and review AF response	.25
12/12/17	Draft and send email to AF re Stip to Dismiss and review AF response	.15
12/12/17	Attend hearing on Viking Motion for Good Faith Settlement	1.75
12/6/17- 12/12/17	Messages; Returned messages; discussions with Floyd Hale	.50
12/12/17	Email from J. Pancoast; Received/Reviewed/Analyze stip to dismiss; order on Good faith settlement; discussion with AF	1.25
12/12/17	Received letter from Pancoast to DC Bulla; Pancoast email re checks and signing stips	.50
12/14/17	Review both stips to dismiss; send to J. Pancoast; T/C to M. Nunez; Review email from J. Pancoast	.50
12/15/17	Review email from T.Ure; T/C to J. Pancoast re 2 <sup>nd</sup> stip to dismiss and arrange pick up of settlement checks	.50
12/18/17	Pick up settlement checks; exchange for stip; contact Vannah's office re signature	1.50
12/18/17	T/C and emails to J. Greene re checks; T/C to Pomerantz office re bill; emails; review bills from Pomerantz	1.0



12/18/17	Received, reviewed and analyze email from B. Vannah	.50
12/19/17	Emails to B. Vannah and J. Greene re checks	.25
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
12/20/17	Request return of sprinklers from Volmer Grey	.25
12/20/17	Receive and review draft Motion for Good Faith Settlement; Lange release for \$100k and release for \$22k	1.50
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	T/C with S. Guidy at Bank of Nevada	.50

1/3/18	T/C 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	1.50
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	T/C 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
	Review all Emails concerning service of all pleadings (679 emails)	135.80
	<b>Total Hours</b>	<b>866.20</b>
	<b>Total Fees at \$550 per hour</b>	<b>\$476,410.00</b>

# EXHIBIT KK

EXCERPTS FROM "SUPER BILL" WITH  
FERREL POST-DISCHARGE ENTRIES

**INVOICE FOR ASHLEY M. FERREL**  
***EDGEWORTH v. LANGE PLUMBING, ET AL.***

11/27/17	Draft and serve notice to vacate deposition of Anthasia Dalacas	0.25
11/28/17	Draft and serve amended deposition notice and subpoena for Robert Carnahan	0.25
11/28/17	Review Letter from Lange and discussion with DSS	0.75
11.28.17	Review, Download & Save Subpoena Duces Tecum for Robert Carnahan PE	0.30
11.28.17	Review, Download & Save Amended Notice of Continued Video Deposition of Robert Carnahan P.E. Duces Tecum	0.30
11.29.17	Review, Download & Save Defendants The Viking Corporation and Supply Network, Inc.'s 19 <sup>th</sup> Supplemental NRCP 16.1 Disclosure	0.30
11.29.17	Review, Download & Save Correspondence to Counsel, dated November 29, 2017	0.30
11/29/17	Review Olgilvie response to Lange's Supplement to MSJ; Discussion with DSS re Reply	0.50
11.29.17	Review email from DSS re drafting reply to Lange's supplemental Opposition	1.50
11.29.17	Review email from DSS re drafting notice of attorney lien	0.15
11.29.17	Review email from DSS re letter from Pancoast to Simon	0.15
11.29.17	Email to Pancoast re hearing dates I front of DC Bulla in light of negotiations	0.15
11.30.17	Email to George Olgilvie instructing him to stop working on the case	0.15
11.30.17	Review, Download & Save Letter to Counsel	0.30
11.30.17	Review, Download & Save Correspondence to Discovery Commissioner Bulla regarding Hearings	0.30
11/30/17	Review Viking's 19 <sup>th</sup> ECC Supplement	1.0
11/30/17	Review Letter from Lange regarding discovery scheduling and discussion with DSS	0.75
11.30.17 & 12.2.17	Email chain with DSS re attorney lien	0.15
12/1/17	Draft Notice of Attorney Lien, serve and prepare & send all liens certified mail return receipt requested	2.5
12.1.17	Review, Download & Save Lange Plumbing Verification to Rogs	0.30

**INVOICE FOR ASHLEY M. FERREL**  
**EDGEWORTH v. LANGE PLUMBING, ET AL.**

12.1.17	Review, Download & Save Notice of Attorney Lien	0.30
12/1/17	Review Release from Viking and discussion with DSS re release	0.50
12/4/17	Draft and serve notice to vacate deposition of UL Laboratories	0.25
12/4/17	Review Lange written discovery responses	1.5
12/4/17	Discussion with DSS re scheduling and status of case	0.40
12.4.17	Review, Download & Save Notice Vacating the 2 <sup>nd</sup> Amended Video Depo of NRCP30(b) (6) Designees of Underwriters Laboratories	0.30
12.4.17	Review, Download & Save Discovery Commissioners Report and Recommendations	0.30
12.5.17	Email chain with UL re vacating depo	0.15
12/6/17	Review Lange's 13 <sup>th</sup> ECC Disclosure	2.5
12.6.17	Review email from DSS re notice to vacate Caranahan depo	0.15
12/6/17	Draft and serve Notice to Vacate Robert Carnahan Deposition	0.50
12/6/17	TC with Judge Jones law clerk rehearing scheduling; Discussion with DSS	0.50
12.6.17	Review, Download & Save Service Only – Lange Plumbing 13 <sup>th</sup> Supp to NRCP 16.1 ECC	0.30
12.6.17	Review, Download & Save Service Only – Notice of Vacating the Continued Video Depo of Robert Carnahan	0.30
12.7.17	Review, Download & Save MDGF- Def The Viking Corporation & Supply Network MGF Settlement & Request for OST	0.30
12/8/17	Review Viking Motion for Good Faith Settlement, Analyze and discussion with DSS	0.75
12/8/17	Review Lange's 14 <sup>th</sup> and 15 <sup>th</sup> ECC Disclosure	0.50
12.8.17	Email chain with DSS re Order Granting Giberti MGFS	0.15
12/8/17	Review Stipulation to Dismiss from Viking and discussion with DSS	0.50
12.8.17	Review, Download & Save Lange Plumbing 15 <sup>th</sup> Supplement to 16.1 ECC List Witnesses and Docs	0.30

**INVOICE FOR ASHLEY M. FERREL**  
**EDGEWORTH v. LANGE PLUMBING, ET AL.**

12.8.17	Review, Download & Save Lange Plumbing 14 <sup>th</sup> Supp to 16.1ECC List of Witnesses and Docs	0.30
12/11/17	Discussion with DSS re client's release of claims	0.20
12.11.17	Review email from DSS re Lange's 15 <sup>th</sup> ECC Supplement and response	0.25
12.11.17	Review email from DSS re Lange's 15 <sup>th</sup> ECC Supplement and response	0.25
12/12/17	Review Order granting Giberti Motion for Good Faith Settlement and discussion with DSS	0.25
12.12.17	Review, Download & Save Ltr. To Discovery Commissioner Bulla Re. Settlement	0.30
12.13.17	Review, Download & Save NEO Granting Third Party Def. Giberti Construction LLC Motion for Good Faith Settlement	0.30
1/2/18	Draft Notice of Amended Attorney Lien, serve and prepare & send all liens certified mail return receipt requested	1.5
<b>TOTAL HOURS x \$275 per hour (reduced)</b>		<b>762.6</b>
<b>TOTAL FEES</b>		<b>\$209,715.00</b>

# EXHIBIT LL

DEMONSTRATIVE OF POST-  
DISCHARGE BILLING BY SIMON AND  
FERREL, WITH BREAKDOWN OF HOURS  
BY ESTIMATED PURPOSE

**POST-DISCHARGE BILLING FROM SIMON LAW (billing information taken from Ex. JJ and KK)**

DSS	11/30/2017	Review release; T/C.J. Greene; T/C T. Parker; revise release	1.25
DSS	11/30/2017	Call with Teddy Parker	0.15
DSS	11/30/2017	Call with Teddy Parker	0.15
DSS	11/30/2017	Call with Teddy Parker	0.10
DSS	11/30/2017	Call with AMIF	0.25
DSS	11/30/2017	Call with Teddy Parker	0.15
DSS	11/30/2017	Call with AMIF	0.10
DSS	11/30/2017	Call with AMIF	0.10
DSS	11/30/2017	Call with AMIF	0.20
DSS	11/30/2017	Call with AMIF	0.10
DSS	11/30/2017	Review file for Lange bills, T/C to Parker re: settlement	0.75
DSS	11/30/2017	Negotiate release w/Henriod (his office)	3.50
DSS	11/30/2017	Conversation w/Green; draft email, send release	0.75
DSS	11/30/2017	Receive and review letter dated 11-30-17	0.25
DSS	11/30/2017	Received and reviewed Lange letter (11-29-17) regarding scheduling discovery; Discussion with AF	0.75
11/30/2017 &			
DSS	12/2/2017	Email chain with AF re attorney lien	0.15
DSS	12/1/2017	Email Chain with JP, AF, DP, JH, MB, KR; Re: Discovery Motions	0.15
DSS	12/1/2017	Receive and review release email to Defendant	0.75
DSS	12/1/2017	Receive and review release email from Pancoast & discussion with AF	0.50
DSS	12/1/2017	Review Viking's 19th ECC Supplement	0.25
DSS	12/4/2017	Received and reviewed DCRR; L/M for Green/Vannah	0.75
DSS	12/4/2017	Review notice vacating UL Depos	0.25
DSS	12/4/2017	Discussion with AF	0.40
DSS	12/5/2017	T/c with John Green; Email from John Green; Discussion with staff	0.40
DSS	12/5/2017	Review subpoena to Dalacas	0.25
DSS	12/5/2017	Emails to client and John Greene messages	0.50
DSS	12/5/2017	Draft and Send Email to Client and Response	0.15
DSS	12/5/2017	Draft and send email to AF re notice to vacate Caranahan depo	0.15
DSS	12/6/2017	Review file and gather materials requested by Vannah; email from John Greene	2.25
DSS	12/6/2017	Email from AF re evidentiary hearing from Judge Jones law clerk and discussion with AF	0.50
DSS	12/6/2017	Review notice of vacating depo of Carnahan	0.35
DSS	12/6/2017	Receive and review email from Janet Pancoast; discussion with AF; response, forward to Vannah	0.35



**POST-DISCHARGE BILLING FROM SIMON LAW (billing information taken from Ex. JJ and KK)**

DSS	12/6/2017	Received and reviewed Lange's 13th ECC Supplement	0.50
DSS	12/6/2017	Email Chain with JP, AF; Re: Carnahan Deposition	0.15
DSS	12/7/2017	Email Chain with JP, AF, TP, KR, JM, JH, DP, SM; Re: Evidentiary Hearing	0.35
DSS	12/7/2017	T/C with Vannah	0.50
DSS	12/7/2017	Draft and revise letter; Review of file to Vannah w/ attachment	1.75
DSS	12/8/2017	Received and reviewed Lange 14th ECC Supplement	1.25
DSS	12/8/2017	Review Motion for Good faith settlement; discussion with AF	0.75
DSS	12/8/2017	Received and review order granting Giberti Motion for Good Faith Settlement; T/C with Parker	0.50
DSS	12/8/2017	Email chain with AF re Order Granting Giberti MGFS	0.15
DSS	12/11/2017	Email from Zamiski; Response email	0.15
DSS	12/11/2017	Review/ Analyze Lange 15th ECC Supplement	0.50
DSS	12/11/2017	T/C Parker & Pancoast; Email from T Parker; Email from Crt	0.75
DSS	12/11/2017	Review client's release of claims; email to J. Green Discussion with AF	0.50
DSS	12/11/2017	Draft and send email to AF re Lange's 15th ECC Supplement and review AF response	0.25
DSS	12/12/2017	Draft and send email to AF re Stip to Dismiss and review AF response	0.15
DSS	12/12/2017	<b>Attend hearing on Viking Motion for Good Faith Settlement</b>	1.75
	12/6/2017-		
DSS	12/12/2017	Messages; Returned messages; discussions with Floyd Hale	0.50
		Email from J. Pancoast; Received/Reviewed/ Analyze stip to dismiss order on Good faith settlement; discussion with	
DSS	12/12/2017	AF	1.25
DSS	12/12/2017	Received letter from Pancoast to DC Bulla; Pancoast email re checks and signing stips	0.50
DSS	12/14/2017	Review both stips to dismiss; send to J. Pancoast; T/C to M. Nunez; Review mail from J. Pancoast	0.50
DSS	12/15/2017	Review email from T.Ure; T/C to J. Pancoast re 2nd stip to dismiss and arrange pick up of settlement checks	0.50
DSS	12/18/2017	Pick up settlement checks; exchange for stip; contact Vannah's office re signature	1.50
DSS	12/18/2017	T/C and emails to J. Greene re checks; T/C to Pomerantz office re bill; emails; review bills from Pomerantz	1.00
DSS	12/18/2017	Received, reviewed and analyze email from B. Vannah	0.50
DSS	12/19/2017	Emails to B. Vannah and J. Greene re checks	0.25
		Received and review email from B. Vannah to J. Christensen; Received and review email from J. Christensen and	
DSS	12/19/2017	response from B. Vannah	0.25
	12/20/2017	Request return of sprinklers from Volmer Grey .25	0.25

**POST-DISCHARGE BILLING FROM SIMON LAW (billing information taken from Ex. JJ and KK)**

DSS	12/20/2017	Receive and review draft Motion for Good Faith Settlement; Lange release for 100k and release for \$22k	1.50
DSS	12/21/2017	Review emails from Pancoast and Parker; revise joint motion for good faith settlement and send back to Parker	0.75
DSS	12/21/2017	Receive, review and analyze email from B. Vannah (3:21pm)	0.50
DSS	12/21/2017	Received, reviewed and analyzed email from B. Vannah (10:45pm)	0.50
DSS	12/26/2017	Receive, review and analyze email from J. Christensen to B. Vannah (10:45am)	0.25
DSS	12/26/2017	Receive, review and analyze email from B. Vannah (12:18pm)	0.75
DSS	12/26/2017	Receive, review and analyze email from J. Christensen	0.25
DSS	12/27/2017	Receive, review and analyze email from JC w/e letter attached	0.75
DSS	12/28/2017	Receive, review and analyze email from B. Vannah (3:07pm)	0.75
DSS	12/28/2017	Receive, review and analyze email from B. Vannah (2:03pm)	0.25
DSS	12/28/2017	Receive, review and analyze email from B. Vannah (4: 17am)	0.75
DSS	12/29/2017	Received and reviewed email re joint motion and revised joint motion	0.40
DSS	1/2/2018	Revise Lange release and send back to T. Parker	0.75
DSS	1/2/2018	Received/reviewed Viking stip to dismiss	0.35
DSS	1/2/2018	Received/reviewed email from J. Pancoast and T. Parker	0.35
DSS	1/2/2018	Received/reviewed and analyzed letters from Zurich re settlement checks	0.25
	1/2/2018	Received, reviewed and analyzed email from J. Greene (3:45pm)	0.25
DSS	1/2/2018	T/C with S. Guidy at Bank of Nevada	0.50
DSS	1/3/2018	T/C w/ S. Guidy at Bank of Nevada; Received, reviewed and analyzed email with attachments	0.75
DSS	1/3/2018	Analyze, review schedule and additional emails from S. Guidy	0.50
		Analyze, receive and send emails to S. Guidy at Bank of Nevada; Review emails from J. Christensen and bank, J.	
DSS	1/4/2018	Greene	0.75
DSS	1/4/2018	Email from T. Parker (E Nunez) re Joint MGFS, sign and return to T. Parker	0.50
DSS	1/4/2018	Email to T. Parker and E. Nunez regarding revisions to release	0.50
DSS	1/4/2018	Travel to Bank of Nevada for bank account requested by client	1.50
DSS	1/4/2018	Email E. Nunez releases again per her request	0.25
DSS	1/5/2018	Email from S. Guidy and response	0.25
DSS	1/5/2018	Email from Nunez	0.15
DSS	1/5/2018	Review Court filing of MGFS Lange	0.25
DSS	1/8/2018	T/C with S. Guidy; receive, review and analyze letter from Vannah	0.50
DSS	1/8/2018	Travel to Bank of Nevada 2x re Trust deposit	2.50

POST-DISCHARGE BILLING FROM SIMON LAW (billing information taken from Ex. JJ and KK)		
AMF	11/30/2017 Email to George Ogilvie instructing him to stop working on the case	0.15
AMF	11/30/2017 Review, Download & Save Letter to Counsel	0.30
AMF	11/30/2017 Review, Download & Save Correspondence to Discovery Commissioner Bulla regarding Hearings	0.30
AMF	11/30/2017 Review Viking's 19th ECC Supplement	1.00
AMF	11/30/2017 Review Letter from Lange regarding discovery scheduling and discussion with DSS	0.75
	11/30/2017-	
AMF	12/2/2017 Email chain with DSS re attorney lien	0.15
AMF	12/1/2017 Draft Notice of Attorney Lien, serve and prepare & send all liens certified mail return receipt requested	2.50
AMF	12/1/2017 Review, Download & Save Lange Plumbing Verification to Rogs	0.30
AMF	12/1/2017 Review, Download & Save notice of Attorney Lien	0.30
AMF	12/1/2017 Review Release from Viking and discussion with DSS re release	0.50
AMF	12/4/2017 Draft and serve notice to vacate deposition of UL Laboratories	0.25
AMF	12/4/2017 Review Lange written discovery responses	1.50
AMF	12/4/2017 Discussion with DSS re scheduling and status of case	0.40
	Review, Download & Save Notice Vacating the 2nd Amended Video Depo of NRCP30(b) (6) Designees of	
AMF	12/4/2017 Underwriters Laboratories	0.30
AMF	12/4/2017 Review, Download & Save Discovery Commissioners Report and Recommendations	0.30
AMF	12/5/2017 Email chain with UL re vacating depo	0.15
AMF	12/6/2017 Review Lange's 13th ECC Disclosure	2.50
AMF	12/6/2017 Review email from DSS re notice to vacate Caranahan depo	0.15
AMF	12/6/2017 Draft and serve Notice to Vacate Robert Carnahan Deposition	0.50
AMF	12/6/2017 TC with Judge Jones law clerk rehearing scheduling; Discussion with DSS	0.50
AMF	12/6/2017 Review, Download & Save Service Only -- Lange Plumbing 13th Supp to NRCP 16.1 ECC	0.30
AMF	12/6/2017 Review, Download & Save Service Only -- Notice of Vacating the Continued Video Depo of Robert Carnahan	0.30
AMF	12/7/2017 Review, Download & Save MDGF- Def The Viking Corporation & Supply Network MGF Settlement & Request for OST	0.30
AMF	12/8/2017 Review Viking Motion for Good Faith Settlement, Analyz and discussion with DSS	0.75
AMF	12/8/2017 Review Lange's 14th and 15th ECC Disclosure	0.50
AMF	12/8/2017 Email Chain with DSS re Order Granting Giberti MGFS	0.15
AMF	12/8/2017 Review Stipulation to Dismiss from Viking and Discussion with DSS	0.50
AMF	12/8/2017 Review, Download & Save Lange Plumbing 15th Supplement to 16.1 ECC List Witnesses and Docs	0.30

POST-DISCHARGE BILLING FROM SIMON LAW (billing information taken from Ex. JJ and KK)			
AMF	12/8/2017	Review, Download & Save Lange Plumbing 14th Supp to 16,1 ECC List of Witnesses and Docs	0.30
AMF	12/11/2017	Discussion with DSS re client's release of claims	0.20
AMF	12/11/2017	Review email from DSS re Lange's 15th ECC Supplement and response	0.25
AMF	12/11/2017	Review email from DSS re Lange's 15th ECC Supplement and response	0.25
AMF	12/12/2017	Review Order granting Giberti Motion for Good Faith Settlement and discussion with DSS	0.25
AMF	12/12/2017	Review, Download & Save Ltr. To Discovery Commissioner Bulla Re. Settlement	0.30
AMF	12/13/2017	Review, Download & Save NEO Granting Third Party Def. Giberti Construction LLC Motion for Good Faith Settlement	0.30
AMF	1/8/2018	Draft Notice of Amended Attorney Lien, serve and prepare & send all liens certified mail return receipt requested	1.50
DSS		HOURS BILLED FOR DANIEL S. SIMON @ \$550 RATE	51.85
AMF		HOURS BILLED FOR ASHLEY M. FERRELL @ \$275 RATE	19.25
		TOTAL HOURS BILLED	71.10
		SIMON FEES	28517.50
		FERRELL FEES	5293.75
		TOTAL POST-DISCHARGE FEES	33811.25
		<b>SUMMARY OF POST-DISCHARGE WORK BILLED BY SIMON LAW</b>	
		Admin tasks re Lange Settlement	21.55
		Admin tasks re Viking Settlement, including one hearing (1)	26.65
		Preparation of Attorney Lien	4.85
		Opening Bank Account & Depositing Settlement Checks	7.25
		Undetermined - not sufficient description	10.80
			71.10
		(1) For purpose of estimating category, all T/C with Vannah were added to this category.	

Alvin P. Linn

Attorneys for Defendant  
Edgeworth Family Trust and  
American Grating, LLC

Defendants.

) EDGEWORTHS' MOTION  
) FOR ORDER RELEASING  
) CLIENT FUNDS AND  
) REQUIRING THE  
) PRODUCTION OF  
) COMPLETE CLIENT FILE  
)  
) HEARING REQUESTED

Defendants Edgeworth Family Trust and American Grating, LLC (collectively referred to as "Edgeworths") respectfully move this Court for an order releasing the Edgeworths' settlement funds now being held in a Bank of Nevada Account, requiring the signatures of Robert Vannah and Daniel Simon for release, into the Morris Law Group Trust account, and ordering the release of over \$1.5M in the account that is not reasonably in dispute. The Edgeworths further move for an Order requiring Simon to produce their complete client file to them or, at a minimum, deposit the complete client file with the Court, as he said he would do nearly a year ago.

This Motion is based on the papers and pleadings on file, the declaration of Rosa Solis-Rainey and any argument the Court may consider on this matter.

**MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF  
MOTION FOR RELEASE OF FUNDS AND MOTION FOR PRODUCTION  
OF COMPLETE CLIENT FILE**

The Court is aware of the facts of this case; thus, only those facts necessary to address the narrow issues presented by this motion will be summarized.

**I. *RELEVANT FACTS***

On November 30, 2017, Daniel Simon filed an attorney charging lien against settlement proceeds due to the Edgeworths for \$80,326.86 in costs that were "continuing to accrue." Ex. A. On January 2, 2018, he amended his lien, reducing the costs claimed to be accruing to \$76,535.93<sup>1</sup> and attorney fees totaling \$2,345,450 less payments received from the Edgeworths, for a net of \$1,977,843.80. *See* Ex. B. On January 8, 2018, the Viking settlement

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<sup>1</sup> Simon again reduced the cost amount later, and the Edgeworths paid the costs, as the Court acknowledged. *See* Nov. 19, 2018 Decision and Order on Motion to Adjudicate Lien at 17:12-13 ("there are no outstanding costs remaining owed").

1 proceeds were deposited into a bank account that requires dual signatures  
2 for release, Mr. Simon's and Robert Vannah's, whom the Edgeworths had  
3 retained to help Simon finish finalizing the settlement. Settlement funds in  
4 excess of those that would satisfy Simon's claimed lien were released to the  
5 Edgeworths. Today, however, more than \$2M remains in that account, of  
6 which no more than \$537,502.50 would completely satisfy the amount this  
7 Court and the Nevada Supreme Court has ruled would pay Simon *all* he  
8 would be entitled to *if* the Edgeworths' pending motion to reconsider this  
9 Court's Third Amended Decision and Order is denied. Mr. Vannah has  
10 confirmed he will sign to transfer the funds now; Mr. Simon would not  
11 agree to the transfer or release of any funds to avoid this motion practice  
12 and judicial intervention. *See* Exs. C and D.

13 With respect to the case file, the Edgeworths requested in 2017 that  
14 Simon provide them with all documentation he had regarding the Viking  
15 settlement discussions. Ex. E. In response, he provided two settlement drafts  
16 on November 30, 2017. Ex. DD and EE to 5/3/21 Mot. for Recon. In 2018,  
17 Simon also provided the Edgeworths' "original file," but it was not complete  
18 and only included selected portions of the file. Ex. F. When the Edgeworths  
19 realized the file was incomplete, their counsel served Simon's counsel with a  
20 notice of intent to bring a motion to compel the production of the complete  
21 file under NRS 7.055(2). Ex. G. After much back and forth addressing  
22 Simon's alleged obstacles to producing the file, his office sent Mr.  
23 Edgeworth the file, minus "protected confidential material" and promised to  
24 deposit the balance of the file with the Court, which he did not do. Ex. H,  
25 May 27, 2020 Exchanges; *see also* Exs. 2 – 4 to Pl.'s Opp'n to Mot. for Recon.  
26 The files he did produce were on a portable hard drive; the files were  
27 disorganized and often indecipherable, which made review very difficult  
28 and time consuming. Solis-Rainey Decl. ¶6.

1 Because the file was still not complete, Edgeworths' counsel raised the  
2 deficiencies in a telephone call to Simon's counsel, James Christensen. Solis-  
3 Rainey Decl. ¶ 9. Mr. Christensen asked that a list of items identified as  
4 missing be provided so he could discuss it with Mr. Simon. *Id.* As he  
5 requested, a letter outlining the deficiencies noted thus far was sent to Mr.  
6 Christensen on May 4, 2021. Ex. I. Among the deficiencies noted in the  
7 allegedly "complete" file produced in 2020 was email produced between  
8 Simon and opposing counsel or other third parties that had been stripped of  
9 the referenced attachments. The file also did not include correspondence,  
10 including email, with third parties regarding the settlement of the Viking  
11 and Lange Plumbing claims. Also missing were earlier drafts of the  
12 settlement agreements with Viking and Lange, complete communications to  
13 and from the experts, including expert reports, if any, as well as research  
14 memos (and much of the research) prepared on behalf of the Edgeworths.  
15 *Id.*

16 In response to the letter he requested, Mr. Christensen resurrected the  
17 same excuses raised by Simon's other counsel in 2020 for not producing the  
18 file. Ex. J. These included the claimed retaining lien on the file and alleged  
19 confidentiality issues for which he provided no substantiation, both excuses  
20 raised and presumably resolved when Simon tendered the allegedly  
21 complete, but in fact incomplete, file in 2020. Nevada law requires Mr.  
22 Simon, a terminated attorney, to turn over the *complete* client file. His prior  
23 productions of incomplete files suggest that the excuses offered for failure to  
24 produce his complete file show gamesmanship to frustrate the Edgeworths  
25 that is indicated by the folder Simon named "Finger for Edgeworth" in the  
26 incomplete file he provided in 2020. Ex. K. The record also demonstrates  
27 that when seeking to substantiate his "super bill," Simon and his office spent  
28 extensive time going through what his associate described as a "huge" client



1 file, much of which was in paper form; with extensive email. *See, e.g.*, Ex. L  
2 at 106, 108, 109, 111-12. During the August 29, 2018 hearing, in fact, Simon's  
3 office claimed that all billed entries describing email "ha[d] all been  
4 produced." Ex. L. at 197. Complete email is among the items missing from  
5 the file Simon produced. *See* Ex. J.

## 6 II. *LEGAL STANDARD*

7 This Court found that Simon was discharged November 29, 2017, and  
8 that he was entitled to the reasonable value of his services after he was  
9 discharged, *from November 30 forward*. That decision has been appealed  
10 and affirmed by the Nevada Supreme Court. In its December 30, 2020 Order  
11 the Supreme Court said:

12 . . . .

13 [w]e conclude that the district court acted within its sound  
14 discretion by finding that the Edgeworths constructively  
15 discharged Simon on November 29, 2017.

16 Although we conclude that the district court correctly  
17 found that Simon was entitled to quantum meruit for work done  
18 after the constructive discharge . . . we agree with the  
19 Edgeworths that the district court abused its discretion by  
20 awarding \$200,000 in quantum meruit without making findings  
regarding the work Simon performed after the constructive  
discharge.

21 12/30/20 Order, Nev. Sup. Ct. Case Nos. 77678/76176 *rehearing denied*)  
22 (emphasis added and citations omitted). Simon challenged the amount  
23 awarded to him in a writ proceeding in the Supreme Court, which was  
24 consolidated with two other then-pending cases for most of the appellate  
25 proceedings. It was deconsolidated for disposition on December 28, and on  
26 December 30, 2020, the Supreme Court issued an Order denying the writ  
27 petition as moot, because the issues had been adjudicated in the Court's  
28 substantive order issued that same day in which this Court's award of  
\$200,000 in *quantum meruit* was vacated and the case remanded for further

1 proceedings on the basis for awarding the \$200,000. 12/30/20 Order, Nev.  
2 Sup. Ct. 79821 (writ).

3 The Edgeworths did not challenge the roughly \$285K in fees the  
4 district court awarded for the period of September 19 to November 29, 2017.  
5 *Id.* at 2-3, and at n.3. The Supreme Court Order irrevocably establishes the  
6 law of the case and now controls in this Court. The law of the case doctrine  
7 prevents Simon from rearguing that he is entitled to more than the  
8 reasonable value of the limited services he provided *from November 30,*  
9 *2017 forward.* *Hsu v. County of Clark*, 123 Nev. 625, 629-30, 173 P.3d 724,  
10 728 (2007) ("[w]hen an appellate court states a principle or rule of law  
11 necessary to a decision, the principle or rule becomes the law of the case and  
12 must be followed throughout its subsequent progress, both in the lower  
13 court and upon subsequent appeal.")

14 With respect to Simon's client file, NRS 7.055 requires that "an attorney  
15 who has been discharged . . . upon demand and payment of the fee due  
16 from the client, immediately deliver to the client all papers, documents,  
17 pleadings and items of tangible personal property which belong to or were  
18 prepared for that client." The statute goes on to say that "if there is doubt as  
19 to the ownership" of any portions of the file, it may be deposited with the  
20 clerk of the court, which Simon said he would do, but did not.

### 21 **III. ARGUMENT**

#### 22 **A. The Client's Funds Should be Released to Them.**

23 The Supreme Court remanded this case to this Court for a limited  
24 purpose: to explain the basis for the \$200K *quantum meruit* award, and its  
25 reasonableness.<sup>2</sup> In an effort to avoid this motion, the Edgeworths proposed  
26 to Simon that the account at Bank of Nevada be transferred to Morris Law

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27 <sup>2</sup> The remand also required that the Court evaluate the reasonableness  
28 of the fees granted under NRS 18.010(2)(b), but that amount is not in issue in  
this Motion, and the fees will be satisfied from the proceeds once released.

1 Group's Trust Account, and that all *uncontested* amounts be paid at once to  
2 Simon and/or his counsel. The contested amount would be maintained in  
3 the Morris Law Group Trust account, and the balance disbursed to the  
4 Edgeworths. Simon refused this proposal, taking the position that if the  
5 Edgeworths could maintain the *quantum meruit* amount was less than  
6 awarded by the Court, he could take the position that he is owed more than  
7 \$200,000. This position is not credible under the law of the case. Simon was  
8 given a full opportunity to adjudicate the amount owed to him; his claim  
9 that he is entitled to \$2.4M in fees (less payments received) has been  
10 considered and rejected by this Court and affirmed by the Supreme Court.  
11 He has presented a list of the services performed between November 30  
12 forward, and he cannot now reopen or enlarge the *quantum meruit* amount  
13 or period as he wishes to do. With his compensation issues conclusively  
14 decided but for the limited post-discharge period, Simon has no legitimate  
15 excuse for holding over \$2M of the Edgeworths' funds hostage. His belief  
16 that he was entitled to nearly \$2M that he alleged in his charging lien filed  
17 on January 2, 2018 has been conclusively rejected. He cannot, as a matter of  
18 law, reasonably maintain that he is entitled to more than the \$252,520 for  
19 attorney fees, costs, and *quantum meruit* that the Supreme Court directed  
20 this Court to justify would be reasonable.

21 Simon's repeated claims that the money is being held pursuant to  
22 orders of this Court are not substantiated by the record. *See* Ex. M, Excerpts  
23 of Simon's Opp'n to Edgeworths' Special Mot. to Dismiss in Case No. A-19-  
24 807433-C at 11:20-21 (stating that "disputed funds remain held in trust . . .  
25 because *the Court ordered that the money should not be distributed*  
26 pending *appeal*." (emphasis added)); at 27:22-23 ("Following the hearing,  
27 Judge Jones *ordered the funds remain in the account* after the Edgeworths  
28 *appealed* to the Supreme Court." (emphasis added)); *see also* Ex. N Excerpts

1 of Simon's Opp'n to Vannah's NRCP 12(b)(5) Mot. to Dismiss at 13:9-10  
2 ("Only the disputed funds remain in the special trust account. *Simon is*  
3 *following the District Court order* to keep the disputed funds safe pending  
4 appeal."). The Edgeworths' former counsel brought a motion to release the  
5 funds, *after* the appeal was noticed but *before* it was heard. Correctly,  
6 however, this Court found that "the Court does not have jurisdiction as this  
7 case has been appealed . . ." 2/5/19 Min. Order. Though the minute order  
8 instructed plaintiff's counsel prepare the order and submit it to opposing  
9 counsel for review, and then to the Court, there is no record that instruction  
10 was followed. A disposition due to lack of jurisdiction is not an instruction  
11 to withhold all of the funds in the account following appeal, as Simon  
12 claims. In any event, the appeal has been decided and remand has been  
13 issued with regard to not all that is held in trust, but only \$252,520 of those  
14 funds.

15 Furthermore, Simon's insistence on unilaterally withholding over \$2M  
16 from the settlement proceeds was inconsistent with NRS 18.015(1), which  
17 permits a charging lien, but only in "the amount of any fee **which has been**  
18 **agreed upon** by the attorney and client." NRS 18.015(1)(b)<sup>3</sup>; *see also, Hoff v.*  
19 *Walters*, 129 Nev. 1122 (2013) (unpublished) (recognizing statute sets the  
20 limit on amount of charging lien). Simon knew at the time he asserted the  
21 lien that the fees he claimed were disputed, and he knew the time spent on  
22 the file, and the hourly rates that had been established for his firm's work.  
23 At most, Simon should have asserted a lien only for an amount equal to the  
24 hours he billed at the rate that he requested and applied throughout his  
25 relationship with the Edgeworths.

26  
27 <sup>3</sup> NRS 18.015(1)(b) in its entirety says "A lien pursuant to subsection 1  
28 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 Even if Simon legitimately believed that the amount of his lien "was  
2 the reasonable fee for the services," once the Court determined that Simon  
3 was not entitled to a contingency or flat fee, and that he was entitled to  
4 approximately \$485,000 in fees, Simon should have immediately released  
5 the balance of the settlement proceeds that Simon encumbered to the client.  
6 Nothing in NRS 18.015(1)(b) permits a lawyer to withhold more of the  
7 client's funds than what was agreed for fees and costs, and certainly not  
8 more than the Court determined a lien was worth. This is especially true  
9 when the dispute over the amount owed arises because of the attorney's  
10 own failure to communicate the basis or rate of his compensation "to the  
11 client, preferably in writing, before or within a reasonable time after  
12 commencing the representation." RPC 1.5.

13 The approximately \$285K based on the implied contract at the hourly  
14 rates he requested for work performed on or prior to November 29, 2017 has  
15 been accepted and is not in issue, as the Supreme Court recognized. The  
16 \$200K in *quantum meruit* for the reasonable value of the limited post-  
17 discharge services provided is all that remains in issue.

18 The Edgeworths have sought reconsideration of the *quantum meruit*  
19 award because they do not understand the basis for it, and because it does  
20 not comport with the Supreme Court's mandate. Given the finality of the  
21 findings that Simon is not entitled to a contingency fee, or a \$1M+ flat fee, it  
22 is unreasonable for him to maintain that the amount held in trust (more than  
23 \$2M) should be held as security for what **at most** is \$200,000 in issue. Please  
24 remember that the reasonable value of the services Simon provided, post-  
25 discharge, based on his own records, is less than \$34,000. He should not be  
26 allowed to hold approximately \$1.5M hostage.

1           **B. The Edgeworths are Entitled to Their Complete Client File.**

2           Like he is doing with the trust funds on deposit, Simon continues to  
3 hold the Edgeworths' *complete* file<sup>4</sup> hostage. The Edgeworths have  
4 requested missing portions of their file since 2017. *See* Ex. E. The missing  
5 information from the file was requested in 2018 and Simon produced  
6 *portions* of it. *See* F. Although Simon disputes the earlier request date, he  
7 cannot dispute that the Edgeworths made clear and unambiguous demands  
8 for their *complete* file by May 17, 2020. Ex. G.

9           Simon previously told this Court that the file had been produced.  
10 4/13/21 Opp'n to Mot. for Reconsid. at 6 (under the heading "The  
11 Edgeworths have the case file," they go on to say: "In 2020, a different  
12 Edgeworth lawyer asked for the file and the file was given directly to Brian  
13 Edgeworth as requested."). This representation to the Court was made in the  
14 context of the Edgeworths' contention that they did not have their *complete*  
15 *file*. *See* 3/30/21 Mot. for Recon. at 14. Following the 2020 demands for the  
16 complete file, Simon again threw up obstacles to its production, claiming the  
17 existence of a retaining lien (which he knew was secured many times over  
18 by the amount of the settlement funds still tied up due to his refusal to  
19 release the account) and demanding that counsel sign a protective order in  
20 place in the underlying case. *See* Ex. G (re retaining lien); Ex. H at 3 (re  
21 protective order issue). The Edgeworths' counsel properly reminded Simon  
22 that the clients were already bound by the protective order and entitled to  
23 receive their complete file, without counsel needing to sign the protective  
24

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25           <sup>4</sup> The 2020 exchanges concerning the file acknowledged that "internal  
26 emails based on relevancy, work product privilege and proportionality" had  
27 been withheld. *See* Ex. P. Without waiving any objections or rights  
28 regarding those "internal" emails, that should nonetheless be preserved in  
light of defamation litigation initiated by Simon, the strictly internal emails  
are not the subject of this Motion.

1 order. Ex. H. Ultimately, Simon's counsel agreed to produce the file, sans the  
2 "confidential material" from third-parties, and agreed he would deposit "the  
3 balance of the file with the Clerk." Ex. H at 3. While an electronic drive with  
4 a portion of the file was sent to Mr. Edgeworth, there is no indication in the  
5 record that the rest of the file was deposited with the court clerk.

6 When Edgeworths' counsel again demanded the file pursuant to NRS  
7 7.055, Ex. I, Mr. Christensen claimed it had been previously produced, and  
8 when informed that significant gaps remained, he asked for a list of what  
9 was believed to be missing. Ex. J. Simon's response to the latest demand for  
10 the file confirms that despite his contention that the mostly-complete file  
11 had been produced, is simply not true. *Id.* Simon's counsel again raises the  
12 false retaining lien and confidentiality issues raised and addressed, and  
13 presumably resolved, in 2020. Ex. H.

14 The retaining lien issue should be a non-starter given that Simon  
15 refuses to sign off on releasing the \$2M+ funds that he is essentially now  
16 controlling (Mr. Vannah has unequivocally agreed to sign off on the transfer  
17 of the funds), despite the Edgeworths' offer to settle all undisputed balances  
18 owed to him, and maintain the contested portion in trust. Simon is more  
19 than adequately secured. He cannot legitimately use that excuse to withhold  
20 the file. Simon resurrected contention that confidentiality issues that were  
21 resolved nearly one year ago when he produced portions of the file also do  
22 not support withholding it. The Edgeworths are bound by the  
23 confidentiality terms in the underlying litigation, and they are entitled to  
24 their complete client file, especially since Simon has sued them in a separate  
25 lawsuit. Simon has offered no legitimate reason for continuing withholding  
26 the Edgeworth's complete file; the Court should order it to be produced, at  
27 once, consistent with NRS 7.055.  
28

1 IV. CONCLUSION

2 For the foregoing reasons, the Edgeworths respectfully ask that the  
3 Court issue an order requiring Simon to sign off to transfer the withheld  
4 settlement trust funds into the Morris Law Group Trust Account, and  
5 thereafter authorize Morris Law Group to hold \$537,502.50 in the Trust  
6 Account to disburse as set forth below, and to release the remainder of the  
7 settlement funds to the Edgeworths:

8 (1) \$284,982.50 to Simon as fees for the period between September 19  
9 and November 29, 2017;

10 (2) \$52,520 to Simon for attorney's fees (\$50,000) and costs (\$2,520)  
11 awarded under NRS 18.010(2)(b);

12 (3) At least \$200,000 to be maintained in Trust pending a final  
13 disposition on the amount Simon is due under *quantum meruit*.

14 The Edgeworths further request pursuant to NRS 7.055, that the Court  
15 order Simon to turn over their complete client file to them; understanding  
16 they will remain bound by the confidentiality order for the duration stated  
17 therein.

18 MORRIS LAW GROUP

19 By: /s/ STEVE MORRIS

20 Steve Morris, Bar No. 1543  
21 Rosa Solis-Rainey, Bar No. 7921  
22 801 S. Rancho Dr., Ste. B4  
Las Vegas, Nevada 89106

23 Attorneys for Defendants  
24 Edgeworth Family Trust and  
25 American Grating, LLC  
26  
27  
28



**CERTIFICATE OF SERVICE**

Pursuant to Nev. R. Civ. P. 5(b) and NEFCR 9, I certify that I am an employee of MORRIS LAW GROUP, and that I caused the following to be served via the Court's mandatory e-filing and service system to those persons designated by the parties in the E-Service Master list for the above-referenced matter: **EDGEWORTHS' MOTION FOR ORDER RELEASING CLIENT FUNDS AND REQUIRING THE PRODUCTION OF COMPLETE CLIENT FILE**

DATED this 13th day of May, 2021.

By: /s/ TRACI K. BAEZ  
An employee of Morris Law Group

**DECLARATION OF ROSA SOLIS-RAINEY IN SUPPORT OF EDGEWORTHS'  
MOTION FOR ORDER RELEASING CLIENT FUNDS AND REQUIRING THE  
PRODUCTION OF COMPLETE CLIENT FILE**

I, Rosa Solis-Rainey, declare as follows:

1. I am an attorney and counsel of record in this matter in this matter and competent to testify as to the following matters.
2. In hopes of avoiding the need for judicial intervention, on May 3, 2021, I spoke with Robert Vannah to confirm he was agreeable to signing off on the transfer of the Edgeworths' settlement funds, and disbursement of the undisputed portion of the funds. He confirmed he is prepared to sign off at any time.
3. That same day, I sent Daniel Simon and Jim Christensen, his lawyer, a request that the funds in the Bank of Nevada account set up to hold the funds claimed under Mr. Simon's lien in 2018 be transferred to my firm's trust account, and agree that undisputed amounts be immediately disbursed to Mr. Simon and/or Mr. Christensen, that disputed amounts continue to be held in our Trust account, and that the rest be disbursed to the Edgeworths. A true and correct copy of that letter is attached hereto as Exhibit C.
4. Mr. Christiansen responded with a letter, a copy of which is attached here as Exhibit D.
5. I am informed and believe that the Edgeworths have still not received their complete client file from Simon, though portions were produced in 2018 and in 2020.
6. I am informed and believe that the portions of the file received were disorganized and often indecipherable, which made review very difficult and time consuming.
7. On May 4, I called Mr. Christiansen to discuss the request to release the

funds, and to clarify I understood my obligation not to discuss matters with represented parties and had not spoken with Simon, but simply emailed my 5/3/21 letter to both of them in the interest of efficiency. With respect to the request to transfer the funds, he confirmed he had no objection to transferring the money into my firm's Trust account, but would confirm that with his client. His response to my proposal was that if the Edgeworths could claim that the amount due under *quantum meruit* was less than the Court ordered, then he could claim it was more, and he therefore considered all the funds to be disputed.

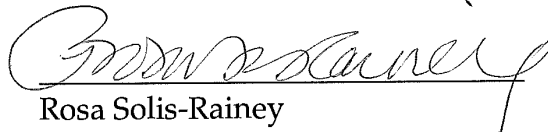
8. We discussed the reasonableness of that position given the Court's decision that Simon was *not* entitled to a contingency or flat fee, and save a couple narrow issues, those findings had been affirmed by the Supreme Court. I pointed out that the only disputed issue remaining were the scrivener errors and the basis and reasonableness of the amount awarded for work performed from November 30 forward. We could not reach agreement, but he said he would respond regarding the transfer of the funds. I have not received a response on that issue.
9. On that same call, I raised the incompleteness of the client file produced to the Edgeworths, and he stated the believed it had all been produced. I described some of the content that was missing, and he asked that I send him a list, which he would review with his client. Exhibit I is a true and correct copy of the letter I sent requesting release of the entire client file.
10. Exhibit J is his response to that request, reiterating the same excuses raised by Simon's team in 2020, which I believed had been resolved since the exchanges say the client file minus documents marked confidential would be produced, and the rest deposited with the court.
11. I sent a follow-up email responding to Mr. Christensen's letter on May 11,

2021, a true and correct copy is attached hereto as Exhibit O.

12. Exhibits A, B, E, G-H, L-N and P are true and correct copies, or excerpts thereof, of documents from the Court record, which I obtained from the court files.
13. I am informed and believe that Exhibit F is a copy of the receipt Simon asked Vannah & Vannah to sign when he produced a portion of the file in 2018.
14. I am informed and believe that Exhibit K is a screen print of the folders in the hard-drive Simon's office provided to Mr. Edgeworth as the client file in 2020.

I declare the foregoing under penalty of perjury under the laws of the State of Nevada.

Dated this 13<sup>th</sup> day of May, 2021.

  
Rosa Solis-Rainey

# **EXHIBIT A**

Simon's Notice of Attorney's Lien Filed on  
11/30/2017

---



SIMON LAW  
810 S. Casino Center Blvd.  
Las Vegas, Nevada 89101  
702-364-1650 Fax: 702-364-1655

ATLN  
DANIEL S. SIMON, ESQ.  
Nevada Bar No. 4750  
ASHLEY M. FERREL, ESQ.  
Nevada Bar No. 12207  
810 S. Casino Center Blvd.  
Las Vegas, Nevada 89101  
Telephone (702) 364-1650  
lawyers@simonlawlv.com  
*Attorneys for Plaintiffs*

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

EDGEWORTH FAMILY TRUST; and  
AMERICAN GRATING, LLC.;

Plaintiffs,

vs.

CASE NO.: A-16-738444-C  
DEPT. NO.: X

LANGE PLUMBING, L.L.C.;  
THE VIKING CORPORATION,  
a Michigan corporation;  
SUPPLY NETWORK, INC., dba VIKING  
SUPPLYNET, a Michigan corporation;  
and DOES I through V and ROE  
CORPORATIONS VI through X, inclusive,

Defendants.

**NOTICE OF ATTORNEY'S LIEN**

**NOTICE IS HEREBY GIVEN** that the Law Office of Daniel S. Simon, a Professional Corporation, rendered legal services to EDGEWORTH FAMILY TRUST and AMERICAN GRATING, LLC., for the period of May 1, 2016, to the present, in connection with the above-entitled matter resulting from the April 10, 2016, sprinkler failure and massive flood that caused substantial damage to the Edgeworth residence located at 645 Saint Croix Street, Henderson, Nevada 89012.

That the undersigned claims a lien, pursuant to N.R.S. 18.015, to any verdict, judgment, or decree entered and to any money which is recovered by settlement or otherwise and/or on account of the suit filed, or any other action, from the time of service of this notice. This lien arises from the services which the Law Office of Daniel S. Simon has rendered for the client, along with court costs and out-of-pocket costs advanced by the Law Office of Daniel S. Simon in an amount to be

SIMON LAW  
810 S. Casino Center Blvd.  
Las Vegas, Nevada 89101  
702-364-1650 Fax: 702-364-1655

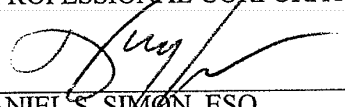
1 determined.

2 The Law Office of Daniel S. Simon claims a lien for a reasonable fee for the services rendered  
3 by the Law Office of Daniel S. Simon on any settlement funds, plus outstanding court costs and out-  
4 of-pocket costs currently in the amount of \$80,326.86 and which are continuing to accrue, as  
5 advanced by the Law Office of Daniel S. Simon in an amount to be determined upon final resolution.  
6 The above amount remains due, owing and unpaid, for which amount, plus interest at the legal rate,  
7 lien is claimed.

8 This lien, pursuant to N.R.S. 18.015(3), attaches to any verdict, judgment, or decree entered  
9 and to any money which is recovered by settlement or otherwise and/or on account of the suit filed,  
10 or any other action, from the time of service of this notice.

11 Dated this 30<sup>th</sup> day of November, 2017.

12 THE LAW OFFICE OF DANIEL S. SIMON,  
13 A PROFESSIONAL CORPORATION

14   
15 DANIEL S. SIMON, ESQ.  
16 Nevada Bar No. 4750  
17 ASHLEY M. FERREL, ESQ.  
18 Nevada Bar No. 12207  
19 SIMON LAW  
20 810 South Casino Center Blvd.  
21 Las Vegas, Nevada 89101  
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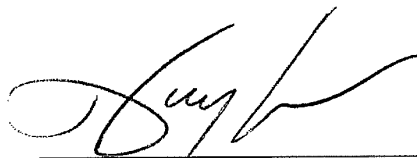
SIMON LAW  
810 S. Casino Center Blvd.  
Las Vegas, Nevada 89101  
702-364-1650 Fax: 702-364-1655

1 STATE OF NEVADA )  
2 ) ss.  
3 COUNTY OF CLARK )

4 DANIEL S. SIMON, being first duly sworn, deposes and says:

5 That he is the attorney who has at all times represented EDGEWORTH FAMILY TRUST and  
6 AMERICAN GRATING, LLC., as counsel from May 1, 2016, until present, in its claims for damages  
7 resulting from the April 16, 2016, sprinkler failure that caused substantial damage to the Edgeworth  
8 residence located at 645 Saint Croix Street, Henderson, Nevada.

9 That he is owed for attorney's fees for a reasonable fee for the services which have been  
10 rendered for the client, plus outstanding court costs and out-of-pocket costs, currently in the amount  
11 of \$80,326.86, and which are continuing to accrue, as advanced by the Law Office of Daniel S. Simon  
12 in an amount to be determined upon final resolution of any verdict, judgment, or decree entered and  
13 to any money which is recovered by settlement or otherwise and/or on account of the suit filed, or any  
14 other action, from the time of service of this notice. That he has read the foregoing Notice of  
15 Attorney's Lien; knows the contents thereof, and that the same is true of his own knowledge, except  
16 as to those matters therein stated on information and belief, and as to those matters, he believes them  
17 to be true.

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DANIEL S. SIMON

23 SUBSCRIBED AND SWORN  
24 before me this 30 day of November, 2017

26  
27  
28  
  
Notary Public



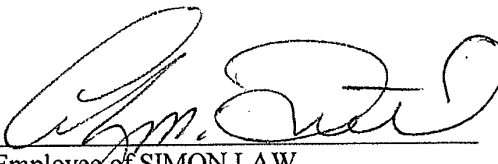


SIMON LAW  
810 S. Casino Center Blvd.  
Las Vegas, Nevada 89101  
702-364-1650 Fax: 702-364-1655

**CERTIFICATE OF MAIL**

I hereby certify that on this 30<sup>th</sup> day of November, 2017, I served a copy, via Certified Mail, Return Receipt Requested, of the foregoing **NOTICE OF ATTORNEY'S LIEN** on all interested parties by placing same in a sealed envelope, with first class postage fully prepaid thereon, and depositing in the U. S. Mail, addressed as follows:

Brian and Angela Edgeworth  
645 Saint Croix Street  
Henderson, Nevada 89012

  
An Employee of SIMON LAW

SIMON LAW  
810 S. Casino Center Blvd.  
Las Vegas, Nevada 89101  
702-364-1650 Fax: 702-364-1655

**CERTIFICATE OF E-SERVICE & U.S. MAIL**

Pursuant to NEFCR 9, NRCP 5(b) and EDCR 7.26, I certify that on this 30<sup>th</sup> day of November, 2017, I served the foregoing **NOTICE OF ATTORNEY'S LIEN** on the following parties by electronic transmission through the Wiznet system and also via Certified Mail- Return

Receipt Requested:

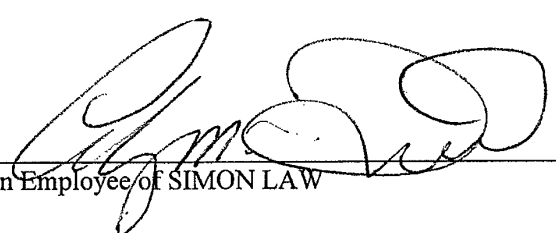
Theodore Parker, III, Esq.  
PARKER NELSON & ASSOCIATES  
2460 Professional Court, Ste. 200  
Las Vegas, NV 89128  
*Attorney for Defendant*  
*Lange Plumbing, LLC*

Michael J. Nunez, Esq.  
MURCHISON & CUMMING, LLP  
350 S. Rampart Blvd., Ste. 320  
Las Vegas, NV 89145  
*Attorney for Third Party Defendant*  
*Giberti Construction, LLC*

Janet C. Pancoast, Esq.  
CISNEROS & MARIAS  
1160 N. Town Center Dr., Suite 130  
Las Vegas, NV 89144  
*Attorney for Defendant*  
*The Viking Corporation and*  
*Supply Network, Inc. dba Viking Supplynet*

Randolph P. Sinnott, Esq.  
SINNOTT, PUEBLA, CAMPAGNE  
& CURET, APLC  
550 S. Hope Street, Ste. 2350  
Los Angeles, CA 90071  
*Attorney for Zurich American Insurance Co.*

Angela Bullock  
Kinsale Insurance Company  
2221 Edward Holland Drive, Ste. 600  
Richmond, VA 23230  
*Senior Claims Examiner for*  
*Kinsale Insurance Company*

  
An Employee of SIMON LAW

# **EXHIBIT B**

Notice of Simon's Amended Attorney's Lien

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Filed on 1/2/2018



SIMON LAW  
810 S. Casino Center Blvd.  
Las Vegas, Nevada 89101  
702-364-1650 Fax: 702-364-1655

1 ATLN  
2 DANIEL S. SIMON, ESQ.  
3 Nevada Bar No. 4750  
4 ASHLEY M. FERREL, ESQ.  
5 Nevada Bar No. 12207  
6 810 S. Casino Center Blvd.  
7 Las Vegas, Nevada 89101  
8 Telephone (702) 364-1650  
9 lawyers@simonlawlv.com  
10 Attorneys for Plaintiffs

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**DISTRICT COURT  
CLARK COUNTY, NEVADA**

EDGEWORTH FAMILY TRUST; and  
AMERICAN GRATING, LLC.;

Plaintiffs,

vs.

CASE NO.: A-16-738444-C  
DEPT. NO.: X

LANGE PLUMBING, L.L.C.;  
THE VIKING CORPORATION,  
a Michigan corporation;  
SUPPLY NETWORK, INC., dba VIKING  
SUPPLYNET, a Michigan corporation;  
and DOES I through V and ROE  
CORPORATIONS VI through X, inclusive,

Defendants.

**NOTICE OF AMENDED ATTORNEY'S LIEN**

**NOTICE IS HEREBY GIVEN** that the Law Office of Daniel S. Simon, a Professional Corporation, rendered legal services to EDGEWORTH FAMILY TRUST and AMERICAN GRATING, LLC., for the period of May 1, 2016, to the present, in connection with the above-entitled matter resulting from the April 10, 2016, sprinkler failure and massive flood that caused substantial damage to the Edgeworth residence located at 645 Saint Croix Street, Henderson, Nevada 89012.

That the undersigned claims a total lien, in the amount of \$2,345,450.00, less payments made in the sum of \$367,606.25 for a final lien for attorney's fees in the sum of \$1,977,843.80, pursuant to N.R.S. 18.015, to any verdict, judgment, or decree entered and to any money which is recovered by settlement or otherwise and/or on account of the suit filed, or any other action, from the time of service of this notice. This lien arises from the services which the Law Office of Daniel S. Simon has

SIMON LAW  
810 S. Casino Center Blvd.  
Las Vegas, Nevada 89101  
702-364-1650 Fax: 702-364-1655

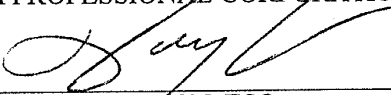
1 rendered for the client, along with court costs and out-of-pocket costs advanced by the Law Office  
2 of Daniel S. Simon in the sum of \$76,535.93, which remains outstanding.

3 The Law Office of Daniel S. Simon claims a lien in the above amount, which is a reasonable  
4 fee for the services rendered by the Law Office of Daniel S. Simon on any settlement funds, plus  
5 outstanding court costs and out-of-pocket costs currently in the amount of \$76,535.93, and which are  
6 continuing to accrue, as advanced by the Law Office of Daniel S. Simon in an amount to be  
7 determined upon final resolution. The above amount remains due, owing and unpaid, for which  
8 amount, plus interest at the legal rate, lien is claimed.

9 This lien, pursuant to N.R.S. 18.015(3), attaches to any verdict, judgment, or decree entered  
10 and to any money which is recovered by settlement or otherwise and/or on account of the suit filed,  
11 or any other action, from the time of service of this notice.

12 Dated this 2<sup>nd</sup> day of January, 2018.

13 THE LAW OFFICE OF DANIEL S. SIMON,  
14 A PROFESSIONAL CORPORATION

15 

16 DANIEL S. SIMON, ESQ.  
17 Nevada Bar No. 4750  
18 ASHLEY M. FERREL, ESQ.  
19 Nevada Bar No. 12207  
20 810 South Casino Center Blvd.  
21 Las Vegas, Nevada 89101  
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SIMON LAW  
810 S. Casino Center Blvd.  
Las Vegas, Nevada 89101  
702-364-1650 Fax: 702-364-1655

**CERTIFICATE OF E-SERVICE & U.S. MAIL**

Pursuant to NEFCR 9, NRCP 5(b) and EDCR 7.26, I certify that on this 2<sup>nd</sup> day of January, 2018, I served the foregoing **NOTICE OF AMENDED ATTORNEY'S LIEN** on the following parties by electronic transmission through the Wiznet system and also via Certified Mail- Return

Receipt Requested:


Theodore Parker, III, Esq.  
PARKER NELSON & ASSOCIATES  
2460 Professional Court, Ste. 200  
Las Vegas, NV 89128  
*Attorney for Defendant*  
*Lange Plumbing, LLC*

Michael J. Nunez, Esq.  
MURCHISON & CUMMING, LLP  
350 S. Rampart Blvd., Ste. 320  
Las Vegas, NV 89145  
*Attorney for Third Party Defendant*  
*Giberti Construction, LLC*

Janet C. Pancoast, Esq.  
CISNEROS & MARIAS  
1160 N. Town Center Dr., Suite 130  
Las Vegas, NV 89144  
*Attorney for Defendant*  
*The Viking Corporation and*  
*Supply Network, Inc. dba Viking Supplynet*

Randolph P. Sinnott, Esq.  
SINNOTT, PUEBLA, CAMPAGNE  
& CURET, APLC  
550 S. Hope Street, Ste. 2350  
Los Angeles, CA 90071  
*Attorney for Zurich American Insurance Co.*

Angela Bullock  
Kinsale Insurance Company  
2221 Edward Holland Drive, Ste. 600  
Richmond, VA 23230  
*Senior Claims Examiner for*  
*Kinsale Insurance Company*

  
An Employee of SIMON LAW

SIMON LAW  
810 S. Casino Center Blvd.  
Las Vegas, Nevada 89101  
702-364-1650 Fax: 702-364-1655

**CERTIFICATE OF U.S. MAIL**

I hereby certify that on this 2<sup>nd</sup> day of January, 2018, I served a copy, via Certified Mail, Return Receipt Requested, of the foregoing **NOTICE OF AMENDED ATTORNEY'S LIEN** on all interested parties by placing same in a sealed envelope, with first class postage fully prepaid thereon, and depositing in the U. S. Mail, addressed as follows:

Brian and Angela Edgeworth  
645 Saint Croix Street  
Henderson, Nevada 89012

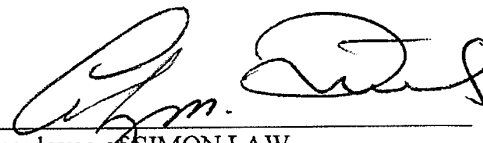
American Grating  
1191 Center point Drive, Ste. A  
Henderson, NV 89074

Edgeworth Family Trust  
645 Saint Croix Street  
Henderson, Nevada 89012

Robert Vannah, Esq.  
VANNAH & VANNAH  
400 South Seventh Street, Ste. 400  
Las Vegas, NV 89101

Bob Paine  
Zurich North American Insurance Company  
10 S. Riverside Plz.  
Chicago, IL 60606  
*Claims Adjustor for*  
*Zurich North American Insurance Company*

Joel Henriod, Esq.  
Lewis Roca Rothgerber Christie  
3993 Howard Hughes Parkway, Ste. 600  
Las Vegas, NV 89169  
*The Viking Corporation and*  
*Supply Network, Inc. dba Viking Supplynet*

  
An Employee of SIMON LAW

# EXHIBIT C

Correspondence dated May 3, 2021 to Daniel S.  
Simon from Rosa Solis-Rainey



**MORRIS LAW GROUP**  
ATTORNEYS AT LAW

801 S. RANCHO DR., STE. B4  
LAS VEGAS, NV 89106  
TELEPHONE: 702/474-9400  
FACSIMILE: 702/474-9422  
WEBSITE: WWW.MORRISLAWGROUP.COM

May 3, 2021

VIA EMAIL: [dan@simonlawlv.com](mailto:dan@simonlawlv.com)  
Daniel S. Simon, Esq.  
810 S. Casino Center Blvd.  
Las Vegas, NV 89101

Re: *Eighth Judicial District Court Case No. A-16-738444-C,*  
*Consolidated with A-18-767242-C*

Dear Mr. Simon:

As you are aware, we have been retained to represent the Edgeworth Family Trust, and American Grating, LLC in the above-referenced consolidated cases 6-738444-C and, you were involved in.

Since the Court has determined that you are not entitled to the amounts claimed in your Amended Attorney Lien, we ask that you cooperate with us for the orderly closing of the joint account you and Mr. Vannah established for the portion of my clients' settlement funds that you unsuccessfully claimed in your lien. Without waiving any rights as to the propriety of the amount you may be entitled to, we propose having the full amount in Judge Jones' Third Amended Decision and Order on Motion to Adjudicate Lien transferred to our firm's Trust Account, which is also held at Bank of Nevada, so that the portion of the funds to which the Edgeworths are entitled may be released to them. We would, of course, retain at least the \$556,577.43 that remains at issue until the lien dispute is finally adjudicated. I have confirmed that Mr. Vannah is prepared to sign off to release the funds as proposed.

Please let me know by close of business Wednesday, May 5, 2021 if you will agree to this proposal. Otherwise, we will take this matter up with the Court. If you have any questions or wish to discuss, please do not hesitate to contact me.

Sincerely,

  
Rosa Solis-Rainey

cc: James R. Christensen (via email [jim@christensenlaw.com](mailto:jim@christensenlaw.com))  
Robert Vannah (via email: [rvannah@vannahlaw.com](mailto:rvannah@vannahlaw.com))

AA0786

# EXHIBIT D

Correspondence dated May 4, 2021 to Rosa  
Solis-Rainey from James R. Christensen

---

James R. Christensen Esq.  
601 S. 6<sup>th</sup> Street  
Las Vegas, NV 89101  
Ph: (702)272-0406 Fax: (702)272-0415  
E-mail: jim@jchristensenlaw.com

May 4, 2021

*Via E-Serve*

Rosa Solis-Rainey  
Morris Law Group  
801 S. Rancho Drive Suite B4  
Las Vegas, NV 89106

---

Re: Edgeworth v. Viking and related matters

Dear Ms. Solis-Rainey:

As you are aware, I represent Mr. Simon and the law firm regarding the fee dispute with the Edgeworths. As you are also aware, in Nevada an attorney may not directly contact a represented party. In the future, please direct all communication to my office and/or the Law Office of Peter Christiansen. Do not contact my client directly.

I disagree with the characterization of the current state of the fee dispute contained in your letter. Also, the foundation of the stated deadline for the requested agreement was not presented. That said, as I informed Mr. Vannah over 1,200 days ago, my client is open to a collaborative dialogue to end the fee dispute.

If you are willing to engage in a collaborative discussion, please give me a call.

Sincerely,

JAMES R. CHRISTENSEN, P.C.

*/s/ James R. Christensen*

**JAMES R. CHRISTENSEN**

JRC/dmc

cc: Client(s)

# **EXHIBIT E**

Email dated November 27, 2017 from Angela  
Edgeworth to Daniel Simon

---

---

**From:** Angela Edgeworth <angela.edgeworth@pediped.com>  
**Sent:** Monday, November 27, 2017 5:32 PM  
**To:** Daniel Simon  
**Cc:** Brian Edgeworth (brian@pediped.com)  
**Subject:** Re: Edgeworth v. Viking, et al

I do have questions about the process, and am quite confused. I had no idea we were on anything but an hourly contract with you until our last meeting.

I am glad to meet once Brian gets back unless you think it's urgent and we meet right away.

If the contract is not drawn yet, we still have some time to hash things out.

I want a complete understanding of what has transpired so I can consult my attorney. I do not believe I need to have her involved at this time.

Please let me know what the terms of the settlement are to your knowledge at this point if they are not detailed in your letter. Please send over whatever documentation you have or tell us what they verbally committed to. Otherwise, I will review the letter in detail and get back to you in a couple days.

In the meantime, I trust we are still progressing with Lange et al and any other immediate concerns that should be addressed.

As I mentioned at our last meeting, we should still be progressing as originally planned. I would hate to see a delay for any reason. Until we see an agreement, no agreement exists. Please let me know if there are any upcoming delays that you can foresee.

I think everyone has been busy over the holidays and has not had a lot of time to process everything.

To confirm, you have not yet agreed to the settlement. Is this correct?

Angela

On Mon, Nov 27, 2017 at 4:58 PM Daniel Simon <dan@simonlawlv.com> wrote:

It appears that you have a lot of questions about the process which is one reason I wanted to meet with you. If you would like to come to the office or call me tomorrow I will be happy to explain everything in detail. My Letter also explains the status of the settlement and what needs to be done. Due to the holiday they probably were not able to start on it. I will reach out to lawyers tomorrow and get a status. I am also happy to speak to your attorney as well. Let me know. Thx

On Nov 27, 2017, at 4:14 PM, Angela Edgeworth <angela.edgeworth@pediped.com> wrote:

Did you agree to the settlement? Why have they not sent it yet and when is it coming? Please clarify.

Angela

# **EXHIBIT F**

Simon's Receipt of Original File Produced to  
Vannah , June 10, 2019

---

SIMON LAW  
810 S. Casino Center Blvd.  
Las Vegas, Nevada 89101  
702-364-1650 Fax: 702-364-1655

**RECEIPT OF ORIGINAL FILE**

I, Austin Thewes & Jordan Lukow, of Vannah & Vannah, hereby acknowledge receipt of a copy of the original file of Edgeworth Family Trust, American Grating and Giberti Construction from SIMON LAW that includes the following:

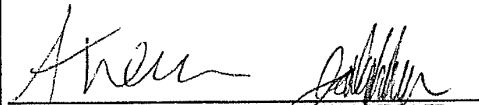
- Edgeworth Custom Residence Blue prints/ plans
- One cabinet door
- Box of 74 Sprinkler pieces returned from Vollmer Grey
- Box of 102 Sprinkler pieces returned from Vollmer Grey
- Partial box of Viking Fusible Link Freedom Residential Concealed pendent
- Edgeworth Residence Giberti File in Clear Plastic Box, which includes the following:
  - Henderson Inspection History
  - Folders labeled: Pictures, Invoices, Academy Store, ASE, C & M Doors, Barefoot Pools, Carono WRG, Clark County, Herman Pools, Hybar, Instant Jungle, Julie, Hen Docs, MacDonald Highlands, Miscellaneous, Ossi's Iron, Pictures, Purvis, S2 Designs, Southwest Specialties, Acme Elevator, Tiberti, Custom Health, Dean Roofing, Deck Systems of NV, Desert Eagle, Edgeworths, EPOCH Surveying, Ferguson, G&G Systems, Homtronic, Impulse, Ja Cesare, K&M, Pre Lim Notices, New Energy Works, Old World Cabinetry, Pacific Masonry, Proposals, Prowest Steel, Superior Moulding, Target, Terracon, Utilities
- Clear Box Containing the following:
  - Two Taylor Thermostat in clear plastic folder
  - Bills and supporting documents for 645 Saint Croix clipped
  - Redwell with cost basis & supporting docs
  - Clear plastic folder labeled Lange/ Kinsale Report Lange C.O.A. Inspection Notes,
  - Incorrect Invoices for American Grating
  - Logs for Time after Loss



SIMON LAW  
810 S. Casino Center Blvd.  
Las Vegas, Nevada 89101  
702-364-1650 Fax: 702-364-1655

- Clear plastic Folder labeled "645 Saint Croix- Water Damage Invoices and Estimates to Immediately Repair"
- ADP payroll report from ADP for Mark Giberti
- Bank Account statement showing deposit & transfers and copy of check
- Clear Plastic Folder with documentation for HOA fees, prop. Taxes, and construction fines
- Chicago Title Folder with Listing Docs
- Gavin Ernstone Folder
- Shapiro & Sher Group Folder
- Holo Discovery Box containing the following:
  - Clear folder with SD drive labeled photos and movies
  - Copy of photos from 2016-06-13
  - Copy of Henderson Inspection History and Fire Permits
  - Edgeworth Fire Sprinkler Replacement Daily Log In Sheet
  - Folders Labeled: Lange File, Lange Plumbing, 645 Water Damage Quotes, COH, Artesia, Classic Framing & Dry, Mark's Sprinkler Emails, 645 Saint Croix, Rafael, State Insulation, RFI's, Silverado Mech

Dated this 10 day of June, 2019.

  
**Employee of VANNAH & VANNAH**  
400 South Seventh Street  
Las Vegas, Nevada 891011

# EXHIBIT G

Email dated May 17, 2020 from Kendelea  
Works to Patricia Lee

---

**Ashley Ferrel**

---


**From:** Kendelea Works <kworks@christiansenlaw.com>  
**Sent:** Sunday, May 17, 2020 4:24 PM  
**To:** Patricia Lee  
**Cc:** Peter S. Christiansen; Jonathan Crain  
**Subject:** Simon v. Edgeworth et al: underlying client file  
**Attachments:** Edgeworth Stipulated Protective Order.pdf; ATT00001.txt

Patricia,

We are in receipt of your Notice of Intent to Bring Motion to Compel Production of Legal File Per NRS 7.055(2). Please note that because the client has not paid for the services rendered, a retaining lien exists under the law. Additionally, the 16.1 conference in this case has not taken place (to date, no Defendant has filed an answer) and thus, Plaintiffs are not yet obligated to produce any documents in the instant litigation. That aside, we are nevertheless willing to work with you and produce the file. Simon Law has expended substantial time getting the file ready and because it is so large, they had to purchase an external hard drive. However, it has come to our attention there exists information in the file that is subject to a protective order that must be addressed prior to disclosure. Please find attached the protective order for the underlying litigation with Viking and Lange. Specifically, please review the notice provision requiring that we notify the underlying defendants of any production of these materials prior to releasing the subject documents. The fact that you are not bound by the protective order, of course, raises concerns. If you have any input on addressing these matters in a professional manner, please let us know at your earliest convenience.

# **EXHIBIT H**

May 27, 2020 Email Exchanges between Patricia  
Lee and Peter S. Christiansen



**From:** Patricia Lee <PLee@hutchlegal.com>  
**Subject:** RE: Simon v. Edgeworth et al: underlying client file  
**Date:** May 27, 2020 at 2:37:51 PM PDT  
**To:** "Peter S. Christiansen" <pete@christiansenlaw.com>  
**Cc:** Jonathan Crain <jcrain@christiansenlaw.com>, Kendelee Works  
<kworks@christiansenlaw.com>

Mr. Christiansen: We will inform our client that their attorney file, sans documents clearly marked "Confidential," should be received by them shortly. It is my understanding that the "action" to which the Protective Order pertains is the underlying products defect action, not the unrelated attorneys' lien matter which involves different parties and different issues. It is therefore perplexing that you still consider the litigation to which the Protective Order clearly applies, to still be "ongoing." In any event, I appreciate your office finally agreeing to turn over those parts of the file that are not deemed "Confidential," (which is what I suggested at the outset when initially confronted with the "Protective Order") and depositing the balance



with the Court. As for my comment, "I'm not refusing anything," it was not an agreement that I would sign a blanket protective order with language subjecting my firm to liability. If you read the rest of my email, it was actually me that was trying to seek clarification about your firm's position with respect to the Edgeworths' legal file (which was to be produced by the 14<sup>th</sup> per the agreement of the parties).

As for my demands and threats, they are neither baseless nor "threatening." It is your firm's actions that have triggered the need for repeated extra-judicial intervention by my firm. Indeed, right out of the gate your firm, after waiting 3 months to serve a complaint, ran to court with your "hair on fire" demanding that my clients turn over all of their personal electronic devices for full imaging by a third party, with absolutely zero explanation as to the "emergency" or any explanation as to why extraordinary protocols were even warranted. When I asked about it during our call, you retorted that "this was not the time nor place to discuss these issues." When presented with a different preservation protocol, that still contemplated full imaging of "all" electronic devices, I followed up with a series of clarifying questions, which have gone unanswered by your firm to date.

Next, your firm files a completely untenable opposition to Ms. Carteen's routine *pro hac vice* application, which I tried to resolve with your associate outside of the need for further motion practice, which attempts were solidly rebuffed by your office.

Finally, the simple act of providing a former client with his or her file has somehow become unnecessarily complicated by the introduction of a "Protective Order" which your office insisted that my firm execute prior to the production of the same. The Edgeworths are absolutely entitled to their legal file without the need to propound discovery. Thank you for finally agreeing to send it.

It is clear that your office is taking a scorched earth approach to this litigation in an attempt to inflate costs and wage a war of attrition. Mr. Simon, who is likely the author of many if not all of the pleadings and papers being generated on your end, has the luxury of being an attorney and can therefore better manage and control costs

on his end, and use his abilities to vexatiously multiply the proceedings to the material detriment of my clients.

As I have stated from the first time that you and I spoke on the phone, it is always my goal to work cooperatively with opposing counsel so long as doing so does not prejudice my client. Reciprocally, I would expect the same professionalism on the other end. Thanks Peter.

Best regards,

**From:** Peter S. Christiansen [<mailto:pete@christiansenlaw.com>]  
**Sent:** Wednesday, May 27, 2020 12:57 PM  
**To:** Patricia Lee <[PLee@hutchlegal.com](mailto:PLee@hutchlegal.com)>  
**Cc:** Jonathan Crain <[jcrain@christiansenlaw.com](mailto:jcrain@christiansenlaw.com)>; Kendelea Works <[kworks@christiansenlaw.com](mailto:kworks@christiansenlaw.com)>  
**Subject:** Re: Simon v. Edgeworth et al: underlying client file

Ms. Lee:

Your erratic and inconsistent emails make responding rationally difficult. You first demanded we turn the Edgeworth file over to you ASAP and followed with a series of threats. When we agreed to turn over the file but noted there was a protective order in place you responded that because your client is bound by the order there should be no issue providing you with the entire file, including the confidential protected material. We then pointed out that use of the confidential material was limited to the underlying litigation and counsel of record in that particular case, which you were not. You then stated you were not refusing to "sign anything," seemingly indicating you would sign the Acknowledgement and agreement to be bound. When we sent the Stip for you to sign you then pivoted and DEMANDED we send the entire file to the Edgeworths via mail b/c your office is observing covid protocol (which is funny in light of your ridiculous timed demands for the file forcing my office to work).

While we are willing to provide the Edgeworth's with their file (despite that discovery has not yet begun and there remains a charging lien in place), my client is bound by a protective order which it has become apparent you are attempting to circumvent (perhaps in an attempt to conjure up another baseless counterclaim or frivolous accusations against my client). Further, you stated that it was your understanding that the underlying dispute has been concluded for some time and you are unclear what documents we would have in our possession that would be deemed "protected." Your understanding is incorrect. Pursuant to the protective order, these documents are only supposed to be destroyed within 60 days of the final



disposition of the "action." Since the fee dispute litigation is ongoing, these documents have not been destroyed.

As a result, we will mail the Edgeworths the file without the protected confidential material. If you want to sign the Acknowledgment and agree to be bound, we will produce the entire file. Short of that, we intend to deposit the balance of the file with the clerk and seek the court's guidance as to how to proceed. That will of course require input from counsel for both Lange and Viking (Mr. Parker and Mr. Henriod).

Lastly, please refrain from any further baseless demands, threats and personal attacks in this matter. We prefer to proceed professionally so that we may all litigate this case on the merits.

Thanks,

PSC

Peter S. Christiansen, Esq.  
Christiansen Law Offices  
810 S. Casino Center Boulevard  
Las Vegas, NV 89101  
Phone (702) 240-7979  
Fax (866) 412-6992

This email is intended only for the use of the individual or entity to which it is addressed, and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If the reader of this email is not the intended recipient, or the employee or agent responsible for delivering the email to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited.

---

**From:** Patricia Lee <PLee@hutchlegal.com>  
**Sent:** Wednesday, May 27, 2020 8:52 AM  
**To:** Kendelea Works  
**Cc:** Peter S. Christiansen; Jonathan Crain  
**Subject:** Re: Simon v. Edgeworth et al: underlying client file

Please confirm that you have mailed the Edgeworth's legal file.

Best regards,

Sent from my iPhone



On May 22, 2020, at 3:40 PM, Kendelee Works  
<[kworks@christiansenlaw.com](mailto:kworks@christiansenlaw.com)> wrote:

The file is ready for pick-up by the Edgeworth's. Please sign and return the Acknowledgment sent this morning prior to having the file picked up so that we may release it without any concerns for our respective clients. The file can be picked up any time before 5:00 p.m. at 810 S. Casino Center Blvd, Las Vegas, Nevada 89101.

Please note that Simon Law has retained internal emails based on relevancy, work product privilege and proportionality. Additionally, at the request of Mr. Parker, the Lange Plumbing Tax Returns are not being produced. If you have additional concerns, you may reach me on my cell anytime: (702) 672-8756.

---

On May 22, 2020, at 10:28 AM, Patricia Lee  
<[PLee@hutchlegal.com](mailto:PLee@hutchlegal.com)> wrote:

I'm not refusing anything. I'm asking you to please produce my clients' file to them as requested over a month ago. Also, as you know, Lisa is not yet counsel of record on this matter so I'm not sure why you need her signature.

So, to be clear, you will produce the entirety of my clients' legal file today, if I sign the protective order? Alternatively, I would expect that you could produce the non-"confidential" portions of their file without any issues, either way. Thanks!

Best regards,

**From:** Kendelee Works  
[<mailto:kworks@christiansenlaw.com>]  
**Sent:** Friday, May 22, 2020 10:15 AM  
**To:** Patricia Lee <[PLee@hutchlegal.com](mailto:PLee@hutchlegal.com)>

# **EXHIBIT I**

May 4, 2021 Letter from Rosa Solis-Rainey to  
James R. Christensen regarding Production of  
Complete Client File

**MORRIS LAW GROUP**  
ATTORNEYS AT LAW

801 S. RANCHO DR., STE. B4  
LAS VEGAS, NV 89106  
TELEPHONE: 702/474-9400  
FACSIMILE: 702/474-9422  
WEBSITE: WWW.MORRISLAWGROUP.COM

May 4, 2021

VIA EMAIL: [jim@jchristensenlaw.com](mailto:jim@jchristensenlaw.com)  
James R. Christensen  
601 S. 6<sup>th</sup> Street  
Las Vegas, NV 89101

Re: *Eighth Judicial District Court Case No. A-16-738444-C*

Dear Jim:

As discussed in our call, please consider this formal demand, pursuant to NRS 7.055, that your client provide mine with the complete client file in the above-referenced case. I understand Mr. Simon (or someone on his behalf) previously provided portions of the file to Mr. Edgeworth, however, the file provided is incomplete.

Among the items missing are all attachments to emails included in the production, all correspondence, including email, with third-parties regarding the settlement of the Viking and Lange Plumbing claims, other drafts of the settlement agreements, communications regarding experts, including the expert reports themselves, all research conducted and/or research memos prepared on behalf of and paid by my clients.

NRS 7.055 is unambiguous that an attorney must, "upon demand and payment of the fee due from the client, deliver to the client all papers, documents, pleadings, and items of tangible personal property which belong to *or were prepared for that client.*"

If you have any questions or need additional information, please do not hesitate to contact me.

Sincerely,

  
Rosa Solis-Rainey

# EXHIBIT J

May 7, 2021 Letter from James R. Christensen to  
Rosa Solis-Rainey regarding Production of  
Edgeworth File

James R. Christensen Esq.  
601 S. 6<sup>th</sup> Street  
Las Vegas, NV 89101  
Ph: (702)272-0406 Fax: (702)272-0415  
E-mail: jim@jchristensenlaw.com

May 7, 2021

*Via E-Mail*

Rosa Solis-Rainey  
Morris Law Group  
801 S. Rancho Drive Suite B4  
Las Vegas, NV 89106  
rsr@morrislawgroup.com

Re: Edgeworth v. Viking and related matters

Dear Ms. Solis-Rainey:

Thank you for your letter of May 4, 2021, concerning the case file. At the outset, it is doubtful that NRS 7.055 applies because the full fee has not yet been paid, and recent motion practice may further delay payment of the fee. That said, as discussed last year, my client is willing to reasonably comply within the bounds of the law, which has been done.

There was a good deal of discussion last year regarding the impact of a non-disclosure agreement (NDA) on providing discovery information and expert reports which relied upon, cited to, and incorporated discovery subject to the NDA. I was not involved in the file production last year, but I have reviewed the correspondence. A fair reading seems to be that the NDA counterparties reaffirmed their position, the Edgeworths and their counsel declined to be bound by the NDA, and as a result it was agreed that items subject to an NDA would not be provided. If there has been a change in position on being bound by an NDA, or if you want to discuss the prior agreement, please let me know.

I need some clarification on the email attachment request. There are thousands of emails. Many emails repeat the same attachment in a forward or a reply. Further, it is believed that all the attachments have been provided, although multiple copies have not been provided each as a specific attachment to a particular email. For example, please review the first motion for reconsideration filed this year and the opposition. Your client argued that a stipulation and order attached to an email had been intentionally withheld. Of course, the argument was groundless. The stipulation and order had been signed by the court and was a matter of public record and is in the file produced. At some point, reasonableness and proportionality must be considered. Perhaps if you could provide some specificity.

I will confer with my client on the research and draft settlement agreements and get back to you.

Lastly, the file is quite large, I would be surprised if no gaps existed.

I will speak with my client and provide a further response per above next week. Please clarify your NDA position and provide some specificity to the attachment request.

I believe that covers all the areas raised. If not, please let me know.

Sincerely,

JAMES R. CHRISTENSEN, P.C.

*/s/ James R. Christensen*

**JAMES R. CHRISTENSEN**

JRC/dmc  
cc: Client(s)

# **EXHIBIT K**

Screen Print of Content of File Produced by  
Simon to Edgeworth

Portable Drive (D:) > Edgeworth, Brian				
Search Edgeworth, Brian				
Name	Date modified	Type	Size	
1st Ac Off test by lvey	5/26/2020 12:08 PM	File folder		
attorney lien	5/26/2020 12:08 PM	File folder		
city of henderson COR business	5/26/2020 12:08 PM	File folder		
Correspondence	5/26/2020 2:53 PM	File folder		
Damages	5/26/2020 12:08 PM	File folder		
def discovery responses	5/26/2020 12:08 PM	File folder		
Def ecc & supp	5/26/2020 12:10 PM	File folder		
def not of depos	5/26/2020 12:10 PM	File folder		
Depositions	5/26/2020 12:13 PM	File folder		
discovery to defendants	5/26/2020 12:13 PM	File folder		
docs received from client	5/26/2020 12:13 PM	File folder		
Emails	5/26/2020 12:13 PM	File folder		
EXHIBITS	5/26/2020 12:13 PM	File folder		
EXPERT DISCLOSURES	5/26/2020 12:13 PM	File folder		
Finger for Edgeworth	5/26/2020 12:17 PM	File folder		
Hearing Transcripts	5/26/2020 12:17 PM	File folder		
Hourly Logs & Summary	5/26/2020 12:17 PM	File folder		
Invoices to Client	5/26/2020 12:18 PM	File folder		
lange discovery to viking	5/26/2020 12:18 PM	File folder		
Lange Videos--	5/26/2020 12:18 PM	File folder		
Mediation	5/26/2020 12:18 PM	File folder		
Misc	5/26/2020 12:18 PM	File folder		
Motions	5/26/2020 12:20 PM	File folder		
notice of compliance	5/26/2020 12:20 PM	File folder		
Notice of Depos	5/26/2020 12:20 PM	File folder		
objections	5/26/2020 12:20 PM	File folder		
OJ	5/26/2020 12:20 PM	File folder		
orders	5/26/2020 12:20 PM	File folder		
Photos	5/26/2020 12:20 PM	File folder		
plaintiffs discovery responses	5/26/2020 12:21 PM	File folder		
plaintiffs ecc & supps	5/26/2020 12:22 PM	File folder		
PLEADINGS	5/26/2020 12:22 PM	File folder		
privilege log	5/26/2020 12:22 PM	File folder		
Research	5/26/2020 12:22 PM	File folder		
Settlement	5/26/2020 12:22 PM	File folder		
Thorpe & FSS Case Dockets	5/26/2020 12:22 PM	File folder		
Trial Prep	5/26/2020 12:22 PM	File folder		
Viking Discovery to Lange	5/26/2020 12:22 PM	File folder		
Viking SupplyNet Warehouse Inspection ...	5/26/2020 12:22 PM	File folder		
Viking v. Harold Rodgers Case	5/26/2020 12:22 PM	File folder		
Executed Receipt of Original File	5/25/2020 7:22 PM	Adobe Acrobat D...	672 KB	



# **EXHIBIT L**

Excerpts of 8/29/2018 Evidentiary Hearing

---



1 RTRAN

2  
3  
4  
5 DISTRICT COURT

6 CLARK COUNTY, NEVADA

7 EDGEWORTH FAMILY TRUST;  
8 AMERICAN GRATING, LLC, <

9 Plaintiffs,

10 vs.

11 LANGE PLUMBING, LLC, ET AL.,

Defendants.

CASE#: A-16-738444-C

DEPT. X

12  
13 EDGEWORTH FAMILY TRUST;  
14 AMERICAN GRATING, LLC,

15 Plaintiffs,

16 vs.

17 DANIEL S. SIMON, ET AL.,

18 Defendants.

CASE#: A-18-767242-C

DEPT. X

19 BEFORE THE HONORABLE TIERRA JONES, DISTRICT COURT JUDGE  
20 WEDNESDAY, AUGUST 29, 2018

21 **RECORDER'S TRANSCRIPT OF EVIDENTIARY HEARING - DAY 3**

22 APPEARANCES:

23 For the Plaintiff:

ROBERT D. VANNAH, ESQ.  
JOHN B. GREENE, ESQ.

24 For the Defendant:

JAMES R. CHRISTENSEN, ESQ.  
PETER S. CHRISTIANSEN, ESQ.

25 RECORDED BY: VICTORIA BOYD, COURT RECORDER

1 damages. Plus, I'm not a great biller. I don't have any billing software. I  
2 don't know, you know -- and so I mean, I didn't think to really bill that  
3 way. That was just when I was putting together the substantial stuff.

4 Q Was there an office effort to bill on this file?

5 A No, sir. Not at that time.

6 Q To your knowledge, have any paralegals ever billed any time  
7 in this file?

8 A No.

9 Q Any assistants?

10 A No.

11 Q Were you involved in the document management of this  
12 case?

13 A Yes, sir, I was.

14 Q Do you have an understanding of the size of the file and the  
15 documents produced?

16 A Yes. It was huge.

17 MR. CHRISTIANSEN: Your Honor, I'd like to bring in a  
18 demonstrative piece of evidence --

19 THE COURT: Okay, which is?

20 MR. CHRISTIANSEN: -- for the Court's --

21 MR. GREENE: It would be nice if we could have seen it first.

22 MR. CHRISTIANSEN: It's going to be very technical and hard  
23 to understand.

24 MR. GREENE: Generally, before you show exhibits to  
25 witnesses, you show them to either side, don't you?

1 MR. VANNAH: No surprises.  
2 MR. CHRISTIANSEN: Is this your witness, Mr. Greene?  
3 MR. GREENE: Yeah. No, we have terrible way about each  
4 other, apparently.  
5 MR. CHRISTIANSEN: I've noticed.  
6 MR. VANNAH: I didn't know.  
7 MR. CHRISTIANSEN: [Indiscernible].  
8 MR. VANNAH: I can understand that.  
9 MR. CHRISTIANSEN: It's not that.  
10 MR. VANNAH: Whatever.  
11 MR. CHRISTIANSEN: I know.  
12 THE COURT: And what is this, Mr. Christiansen that requires  
13 four people to hold the door open? So, now I'm nervous.  
14 MR. VANNAH: It's a big bulletin.  
15 MR. CHRISTIANSEN: It's some boxes, Your Honor.  
16 MR. VANNAH: Oh my God.  
17 MR. CHRISTIANSEN: It's boxes.  
18 MR. VANNAH: If somebody gets a bad back out of all this,  
19 I'm not responsible.  
20 THE COURT: I'm not liable either, Mr. Vannah.  
21 MR. VANNAH: Oh my gosh. Are we filming this?  
22 MR. CHRISTIANSEN: We're building a wall. It's like a  
23 concert I went to once, a long time ago.  
24 THE COURT: Oh, my goodness.  
25 MR. CHRISTIANSEN: While the folks are bringing in the

1 boxes --

2 BY MR. CHRISTENSEN:

3 Q Ms. Ferrel, while the folks are bringing in the boxes --

4 A Yes, sir.

5 Q -- how many documents were produced in discovery in the

6 Edgeworth case?

7 A Just discovery alone were 122,458 pages.

8 Q Did you do any research into how many pieces of paper fit

9 into a standard bankers box?

10 A Yeah, 5,000 pieces of paper.

11 Q So, do the math for us and round up, if you would, how

12 many banker's boxes of paper was that equal to?

13 A It's 24.5, so 122,458 divided by 5,000 is 24 -- approximately

14 24.5 boxes. So, 24.5 boxes just in the production.

15 Q So, that would be 25 boxes?

16 A Twenty-five boxes. Yes, sir.

17 Q Okay. We're not quite there yet. Did you have the lovely

18 opportunity to look at all those pieces of paper?

19 A Yes, sir.

20 Q Now, the boxes that we're, I guess, still bringing in, would

21 that include the pleadings that were filed in the case?

22 A No, sir.

23 Q Motions?

24 A No, sir.

25 Q Depositions?

1 A No, sir.

2 Q Exhibits attached to depositions?

3 A No, sir.

4 Q Research?

5 A No, sir.

6 Q And of course, the emails, we know were in a whole bunch of

7 additional boxes behind those?

8 A Yes, sir.

9 Q Okay. So that would be in addition to the 25 boxes?

10 A Yeah, that's just the discovery produced in the case.

11 Q I'd like to talk a little bit about the timesheets that were

12 submitted during the adjudication process.

13 A Okay.

14 Q I think we've been calling them superbills today.

15 A Yes, sir.

16 Q Okay.

17 A I understand what you're talking about.

18 Q All right. Those are exhibits 13, 14, and 15?

19 A Yes. I believe so, yes.

20 Q Did you have a role in the creation of those --

21 A Yes, sir.

22 Q -- timesheets?

23 A Yes.

24 Q What was your role?

25 A Well, I did all of mine, and then I also helped with Mr.

1 Simon's.

2 Q I think there was an allegation that you all sat around a  
3 conference table and dreamed up the numbers contained in the  
4 timesheets; is that true?

5 A No, sir. We did not do that.

6 MR. VANNAH: I'm going to object to that. I don't remember,  
7 and I'm pretty good at reading, but I don't remember anybody saying  
8 anybody sat around a conference table and dreamed up anything. Can  
9 we just come up with crap like that with no background? Can we not do  
10 that?

11 THE COURT: Well, I mean, I don't recall that, Mr.  
12 Christiansen, anybody saying that.

13 MR. VANNAH: Yeah. If you want to show me where I ever  
14 alleged in a pleading that you guys sat around the table holding hands,  
15 praying, and coming up with a time out of the blue, I'd like to see that.

16 MR. CHRISTIANSEN: I will provide it.

17 MR. VANNAH: Okay. Well we'll --

18 MR. CHRISTIANSEN: Tomorrow.

19 MR. VANNAH: Maybe Mr. Simon can --

20 MR. CHRISTIANSEN: I didn't anticipate your standing up and  
21 contradicting that, but we'll give it to him.

22 THE COURT: Okay.

23 MR. CHRISTIANSEN: We'll provide it.

24 THE COURT: Okay.

25 MR. VANNAH: All right.



1 BY MR. CHRISTIANSEN:

2 Q So, what went into your timesheets?

3 A What went into my -- the superbill timesheets?

4 Q Correct.

5 A So, basically, we billed -- so, I guess you could kind of split it  
6 up into two things. From September 19th, so like September 20th, I think  
7 it is, through when we stopped working on the case, which mine is  
8 sometime in January 2018. That was all hours that we were working on  
9 the case. Everything before that -- and I'm just talking about mine. I  
10 don't know if I clarified that. All of mine before that, we went back to  
11 May of -- I didn't start working the case until May, until January, except  
12 for that one December 20th, 2016 date. In January from that point to  
13 September 19th, all of those bills were emails, and telephone calls, and  
14 downloads -- WIZnet downloads, that I did that I had not billed for  
15 previously. And --

16 Q Was that a time consuming process?

17 A Yes, sir. I had to go through all of the emails.

18 THE COURT: Okay. I'm sorry, Mr. Christiansen. I have a  
19 question. So, your bills, in this superbill --

20 THE WITNESS: Yes, ma'am.

21 THE COURT: -- everything from January of 2017 to  
22 September 19th of 2017, is for emails, telephone calls, and WIZnet  
23 downloads that you hadn't previously billed for?

24 THE WITNESS: Yes, ma'am.

25 THE COURT: Okay. And that's what's included in this



1 superbill?

2 THE WITNESS: Yeah. And I believe if you look at mine,  
3 that's all that's in there are telephone calls for my cell phone --

4 THE COURT: Okay.

5 THE WITNESS: -- and WIZnet downloads, and also emails.

6 THE COURT: But from September 20th to January 2018,  
7 that's the hours you worked on this case?

8 THE WITNESS: Well, that's the hours I worked on this case,  
9 including -- but I also incorporated in my downloads, also my emails,  
10 and my telephone calls in there, as well.

11 THE COURT: So, that's in that calculation --

12 THE WITNESS: Yes, ma'am.

13 THE COURT: -- on the superbill? Okay.

14 BY MR. CHRISTIANSEN:

15 Q Do the timesheets capture all the work?

16 A No. So, the timesheets -- when we had to go back and do it  
17 for this adjudication process, we had to show -- because it's my  
18 understanding we had to show the Court how much work we did on the  
19 file, and so we went back, and we only put entries on there that we could  
20 support with documentation.

21 So, that's why the emails were added, that's why the cell phone  
22 records were added, and that's also why the WIZnet filings were added,  
23 as well. And so, basically -- and because we had a hard document. If we  
24 didn't have a hard document, we didn't capture it on the bill. We didn't  
25 put it on there. Any discussions with Mr. Simon that I had, you know, 10

1 Q Or 9/15?

2 A Or 9/15, yes, sir.

3 Q Okay. But you weren't in the habit of ignoring WIZnet filings

4 on the case?

5 A I could not ignore WIZnet filings, that is correct.

6 Q Okay. And on the entries that describe emails, those have all

7 been produced, right?

8 A Yes.

9 Q Anybody can go look them up themselves and confirm that

10 they occurred?

11 A Yes, sir.

12 Q Okay. All right. Thank you.

13 A Thank you.

14 THE COURT: Mr. Vannah, do you have any recross?

15 MR. VANNAH: No.

16 THE COURT: No. Okay. This witness may be excused. Ms.

17 Ferrell, thank you very much for being here.

18 THE WITNESS: Thank you.

19 THE COURT: Mr. Christiansen, and I hate to do this to you

20 guys, but I'm going to ask you to put Mr. Simon up today in the interest

21 in making sure we finish tomorrow.

22 MR. CHRISTENSEN: We can get started.

23 THE COURT: I mean --

24 MR. VANNAH: Judge, can we have a two-minute bathroom

25 break?

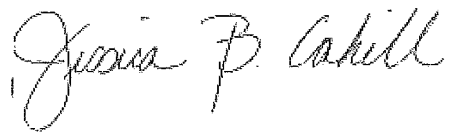
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MR. VANNAH: Thank you, Your Honor.

THE COURT: Thank you.

[Proceedings concluded at 4:29 p.m.]

ATTEST: I do hereby certify that I have truly and correctly transcribed the audio-visual recording of the proceeding in the above entitled case to the best of my ability.



Maukele Transcribers, LLC  
Jessica B. Cahill, Transcriber, CER/CET-708

# **EXHIBIT M**

Excerpts from Plaintiffs' Opposition to  
Edgeworth Defendants' Special Anti-SLAPP  
Motion to Dismiss Plaintiffs' Amended  
Complaint Pursuant to NRS 41.637



OPPS  
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DISTRICT COURT  
CLARK COUNTY, NEVADA

LAW OFFICE OF DANIEL S. SIMON, A  
PROFESSIONAL CORPORATION;  
DANIEL S. SIMON;

Plaintiffs,

vs.

EDGEWORTH FAMILY TRUST;  
AMERICAN GRATING, LLC; BRIAN  
EDGEWORTH AND ANGELA  
EDGEWORTH, INDIVIDUALLY, AS  
HUSBAND AND WIFE; ROBERT DARBY  
VANNAH, ESQ.; JOHN BUCHANAN  
GREENE, ESQ.; and ROBERT D.  
VANNAH, CHTD. d/b/a VANNAH &  
VANNAH, and DOES I through V and ROE  
CORPORATIONS VI through X, inclusive,

Defendants.

CASE NO.: A-19-807433-C  
DEPT NO.: XXIV

HEARING DATE: OCTOBER 1, 2020  
HEARING TIME: 9:00 A.M.

**PLAINTIFFS' OPPOSITION TO  
EDGEWORTH DEFENDANTS'  
SPECIAL ANTI-SLAPP MOTION TO  
DISMISS PLAINTIFFS' AMENDED  
COMPLAINT PURSUANT  
TO NRS 41.637**

The Plaintiffs, by and through undersigned counsel, hereby submit their Opposition to the Edgeworth Defendants' Special Motion to Dismiss Plaintiffs' Amended Complaint Pursuant to NRS 41.637.<sup>1</sup>

<sup>1</sup>During the hearing on August 13, 2020, the Court ordered all matters off calendar and issued a new briefing schedule for the parties to file the appropriate motions, oppositions and replies addressing Plaintiffs' Amended Complaint.



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1 Edgeworths did not want this then why did they sue Simon for conversion? Why oppose prompt  
2 adjudication of the lien based on the frivolous conversion complaint? Why ask for all of the  
3 money in the conversion suit when they all admitted they always knew they owed Simon money?  
4 Why make up a story about an express oral contract? Why make up stories about theft, blackmail  
5 and conversion? Why appeal the adjudication order? Why testify under oath that that you sued  
6 Simon for conversion to punish him for stealing, converting their money? Why did the Vannah  
7 attorneys place their stated subjective beliefs of conversion over the objective conclusion that  
8 conversion did not exist under the facts of this case. *See*, Declaration of James Christensen,  
9 attached hereto as **Exhibit 11**.

11 It was Simon that did not want any of this. He wanted to get paid a fair fee for the work  
12 actually performed. He was owed money. He did what is encouraged by the State Bar of Nevada  
13 - file a statutory lien. Despite being fired, Simon still protected the client's interests, for which  
14 Judge Jones applauded him. *See*, **Exhibit 2** at 19:19-20:1. Simon simply requested prompt  
15 adjudication of his lawful lien and fought for it over Defendants objection. Simon presented  
16 experts to support his lien and his conduct. *See*, ¶24 of Simon Amended Complaint.

19 Simon did not file a notice of appeal until Defendants forced his hand by appealing first.  
20 The disputed funds remain held in trust not because Simon unilaterally refuses to release the  
21 money, but because the Court ordered that the money should not be distributed pending appeal.  
22 Simon encouraged pursuit of a slam dunk multi-million dollar claim against the plumber for  
23 attorney's fees and costs, which the Edgeworths abandoned in their zeal to punish Simon.

25 The Edgeworths are simply not the victims they have been incredibly portraying. After  
26 all, they have admittedly been made more than whole with the receipt of nearly \$4 million (for a  
27 \$500,000 property damage claim). Their greed and the relentless quest to avoid paying their  
28

1 Edgeworth for filing the conversion lawsuit, which was to punish for stealing, converting their  
2 money. *See, Exhibit 8* at 142:21-25.

3 **E. AT A MINIMUM, SIMON SHOULD BE ALLOWED TO CONDUCT**  
4 **DISCOVERY**

5 The Vannah attorneys and Edgeworth's cannot demonstrate good faith in order to survive  
6 the first prong of the anti-SLAPP analysis. A bad faith lawsuit to punish a lawyer is not a good  
7 faith communication. Undeniably, their statements were not truthful and all Defendants who were  
8 at the bank were very aware of the falsity thereof when continuing with the wild accusations  
9 supporting the conversion claim. Simon did not **wrongfully** control the funds. Simon never  
10 touched the funds. Simon only filed a lawful attorney lien. *See, Exhibits 18 and 19*. The lien was  
11 always supported by substantial evidence. *See, Exhibit 9*. The lack of good faith is demonstrated  
12 by the mere fact Vannah/Edgeworth never challenged the enforceability of the lien, never  
13 disputed Will Kemp or David Clark or that the lien was somehow improper because of the amount  
14 that they agreed and invited as the undisputed amount. Mr. Simon was not paid in full and did not  
15 steal, extort or blackmail anyone. The changing reasons for the Edgeworth Complaint also  
16 confirms the lack of good faith.<sup>13</sup> Asserting **ex-post facto**, new conversion theories long after the  
17 evidentiary hearing does not rescue the lack of good faith and knowing falsehoods at the time the  
18 Edgeworth Complaints were filed and maintained. The Court needs to focus on the facts that  
19 existed at the time the complaint and amended complaint were filed. Following the hearing, Judge  
20 Jones ordered the funds remain in the account after Edgeworths appealed to the Supreme Court.  
21  
22  
23  
24

25  
26 <sup>13</sup> Vannah, in a sworn affidavit, states: "When Mr. Simon continued to exercise dominion and control over an  
27 unreasonable amount of the settlement proceeds, litigation was filed and served including a complaint and an  
28 amended complaint." *See, Vannah's Affidavit* at 5:24-27, attached as **Exhibit A** to Vannah's Anti-SLAPP Motion.  
Edgeworth repeats this false statement. *See, Brian Edgeworth's Affidavit* at 16:17-19, attached as **Exhibit A** to  
Edgeworth Motion to Dismiss: Anti-SLAPP. Vannah and Edgeworth both knew the proceeds had not even been  
received when the initial lawsuit was filed on January 4, 2018.

# EXHIBIT N

Excerpts from Plaintiffs' Opposition to  
Defendants Robert Darby Vannah, Esq., John  
Buchanan Greene, Esq., and Robert D. Vannah,  
Chtd. d/b/a Vannah & Vannah's Motion to  
Dismiss Plaintiffs' Amended Complaint





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HEARING DATE: OCTOBER 1, 2020  
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**PLAINTIFFS' OPPOSITION TO  
DEFENDANTS ROBERT DARBY  
VANNAH, ESQ., JOHN BUCHANAN  
GREENE, ESQ., and ROBERT D.  
VANNAH, CHTD. d/b/a VANNAH &  
VANNAH'S MOTION TO DISMISS  
PLAINTIFFS' AMENDED  
COMPLAINT**

The Plaintiffs, by and through undersigned counsel, hereby submit their Opposition to the instant Motion to Dismiss Plaintiffs' Amended Complaint and Motion in the Alternative for a More Definite Statement.<sup>1</sup> This Opposition is made and based on all the pleadings and papers on

<sup>1</sup>During the hearing on August 13, 2020, the Court ordered all matters off calendar and issued a new briefing schedule for the parties to file the appropriate motions, oppositions and replies addressing Plaintiffs' Amended Complaint.

1 Motion to Release Funds at 6:7-9, attached hereto as **Exhibit 33**. On December 31, 2018, Mr.  
2 James Christensen sent a letter again asking Vannah and Greene to stop the false accusations of  
3 theft and conversion, pointing out that the motion for an order to release funds repeats the  
4 conversion claim. *See*, December 31, 2018 Letter, attached hereto as **Exhibit 34**. The motion was  
5 denied because the Vannah/Edgeworth team had already appealed the adjudication order to the  
6 Nevada Supreme Court. Simon also filed a writ petition challenging the Court's decision to award  
7 less than the full amount of the lien.  
8

9 Only the disputed funds remain in the special trust account. Simon is following the District  
10 Court order to keep the disputed funds safe pending appeal. Yet, the Vannah/Edgeworth team  
11 continue to argue conversion and maintain the unethical lawyer theme in all of their briefing,  
12 including those to the Nevada Supreme Court. Defendants' conduct extends well beyond the mere  
13 filing of the complaint. *See*, ¶¶35-42 of Amended Complaint.  
14

### 15 **III. ARGUMENT**

16 Defendants seek dismissal erroneously contending that: (1) the common law litigation  
17 privilege bars the claims; (2) the claims are barred by Nevada's anti-SLAPP statute; and (3) the  
18 claims are premature and not ripe. Defendants motion is without merit because neither the  
19 litigation privilege nor the anti-SLAPP statute insulates a litigant from liability for bringing false  
20 claims made in bad faith. The court in the underlying action already determined Defendants did  
21 not act in good faith and an appeal does not impact the finality of that decision for purposes of  
22 issue preclusion.  
23

#### 24 **A. STANDARD OF REVIEW**

25 The standard of review for dismissal under NRCP 12(b)(5) is rigorous, as the court must  
26 construe the pleading liberally and draw every fair inference in favor of the nonmoving party.  
27  
28

# EXHIBIT O

May 11, 2021 Email from Rosa-Solis Rainey to  
Jim Christensen in Response to his letter dated  
5/7/2021

## Rosa Solis-Rainey

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**From:** Rosa Solis-Rainey  
**Sent:** Tuesday, May 11, 2021 10:31 AM  
**To:** 'jim@jchristensenlaw.com'  
**Cc:** Steve Morris  
**Subject:** Edgeworth Matter - Response to your letter dated 5/7/21

Jim:

I am in receipt of your response dated May 7, 2021. As I mentioned when we spoke and in my letter, Mr. Edgeworth was provided a part of his file but the file was by no means complete. The excuses raised in your letter for not producing the complete file are ones that were discussed ad nauseam in 2020, and since the files were ultimately produced to Mr. Edgeworth, were presumably abandoned or resolved. I do not see any benefit to either of our clients in rehashing those arguments. This includes the fees outstanding, which you know your client is fully secured for given the \$2M+ still held, essentially under his control.

Your letter references an NDA, but one is not included either in your letter or in the 2020 exchanges your letter directs me to. In either case, Ms. Lee properly responded to that issue when she reminded the sender that the Edgeworths are already parties to the confidentiality provisions, and confidentiality was therefore not an excuse for withholding the file. My position on that excuse for withholding the file is the same. You're welcome to send me a copy of the NDA you referenced, but I don't see that as a legitimate obstacle to avoid production. Point of fact, you produced the file (incomplete as it was) to Mr. Edgeworth without further signatures on the protective order, thus confirming that the confidentiality argument was resolved to everyone's satisfaction.

In any event, the Edgeworths are not seeking tax returns or proprietary company information from Viking or Lange, though I do believe it should be preserved. To the extent confidentiality is your client's excuse for withholding any part of the file, he should schedule the documents withheld on a log and deposit that portion of the file with the Court so that we can adequately challenge the propriety of him withholding those documents. Note that the email exchanges from last year indicate Mr. Christianssen said he would deposit the challenged portions of the file with the Court last year, but there is no indication in the record the deposit was made.

With respect to your request for clarification, I expect that all email exchanges pertaining to the litigation would be produced in their complete form, including attachments. That is not difficult task if the files were properly maintained, and the complete email with attachments is what would have been captured if you transferred the email onto the production drive from the custodians' email (i.e., it takes more work to remove attachments). As I told you on the phone, the representation in 2020 was that the complete file being produced would not include the strictly internal emails, and the Edgeworths accepted that for the time being. I did not raise internal email among the "missing" portions of the file because of that prior agreement, though I expect that your client will honor his obligation to preserve that internal email along with all other communications, as they may be discoverable in the subsequent litigation he commenced.

With respect to the settlement agreements, the only drafts I am aware your clients produced regarding the Viking settlement are the two drafts produced on November 30, 2017 and the copy ultimately signed. With respect to the Lange settlement, I am aware of a draft sent in early December 2017, which appears to be the draft ultimately signed. No email regarding the settlement discussions was produced.

Unrelated to the file but an open item nonetheless, you said you would get back to me regarding your client's position on transferring the money into our Trust Account, and have not yet done so. Please provide me a response on that issue. Also, you mentioned that the writ somehow left open the question of the quantum meruit period. Note that on

page 4 of the Supreme Court's Order on the appeal, it specifically affirmed the quantum meruit period as following the constructive discharge of November 29. Attempts to enlarge that period now are barred by the law of the case, so the only open question is the reasonable value of the November 30, 2017 forward services. I do not believe you can reasonably claim that is the \$2M+ your client is tying up by refusing the release the funds.

If you still have questions, please contact me. I would prefer to resolve the issue promptly and without judicial intervention, but if that is not possible, we will proceed with a motion.

Rosa Solis-Rainey

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*This e-mail is sent by a law firm and contains information that may be privileged and confidential. If you are not the intended recipient, please delete the e-mail and notify us immediately.*

# EXHIBIT P

May 22, 2020 Email from Kendelee Works to  
Patricia Lee re Edgeworths' Client File

Edgeworth. Otherwise, please have it mailed via carrier to Mr. Edgeworth and send us the bill for such delivery. Thank you.

Best regards,

**From:** Kendelea Works [mailto:kworks@christiansenlaw.com]  
**Sent:** Friday, May 22, 2020 3:40 PM  
**To:** Patricia Lee <PLee@hutchlegal.com>  
**Cc:** Peter S. Christiansen <pete@christiansenlaw.com>; Jonathan Crain <jcrain@christiansenlaw.com>  
**Subject:** Re: Simon v. Edgeworth et al: underlying client file

The file is ready for pick-up by the Edgeworth's. Please sign and return the Acknowledgment sent this morning prior to having the file picked up so that we may release it without any concerns for our respective clients. The file can be picked up any time before 5:00 p.m. at 810 S. Casino Center Blvd, Las Vegas, Nevada 89101.

Please note that Simon Law has retained internal emails based on relevancy, work product privilege and proportionality. Additionally, at the request of Mr. Parker, the Lange Plumbing Tax Returns are not being produced. If you have additional concerns, you may reach me on my cell anytime: (702) 672-8756.

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On May 22, 2020, at 10:28 AM, Patricia Lee <PLee@hutchlegal.com> wrote:

I'm not refusing anything. I'm asking you to please produce my clients' file to them as requested over a month ago. Also, as you know, Lisa is not yet counsel of record on this matter so I'm not sure why you need her signature.

So, to be clear, you will produce the entirety of my clients' legal file today, if I sign the protective order? Alternatively, I would expect that you could produce the non-"confidential" portions of their file without any issues, either way. Thanks!

Best regards,

**From:** Kendelea Works [mailto:kworks@christiansenlaw.com]  
**Sent:** Friday, May 22, 2020 10:15 AM  
**To:** Patricia Lee <PLee@hutchlegal.com>  
**Cc:** Peter S. Christiansen <pete@christiansenlaw.com>; Jonathan Crain <jcrain@christiansenlaw.com>  
**Subject:** Re: Simon v. Edgeworth et al: underlying client file

## CERTIFICATE OF SERVICE

I certify that I am an employee of MORRIS LAW GROUP; I am familiar with the firm's practice of collection and processing documents for mailing; that, in accordance therewith, I caused the following document to be e-served via the Supreme Court's electronic service process. I hereby certify that on the 4<sup>th</sup> day of December, 2023, a true and correct copy of the foregoing **EDGEWORTH APPELLANTS' APPENDIX TO OPENING BRIEF (VOLUME IV)** was served by the following method(s):

☒ Supreme Court's EFlex Electronic Filing System

Peter S. Christiansen  
Kendele L. Works  
CHRISTIANSEN LAW OFFICE  
810 S. Casino Center Blvd., Ste 104  
Las Vegas, NV 89101

and

James R. Christensen  
JAMES R. CHRISTENSEN PC  
601 S. 6th Street  
Las Vegas NV 89101

*Attorneys for Respondent Law Office  
of Daniel S. Simon, A Professional  
Corporation; and Daniel S. Simon*

DATED this 4th day of DECEMBER, 2023.

By: /s/ CATHY SIMICICH