

1 **IN THE COURT OF APPEALS OF THE STATE OF NEVADA**

2
3 ROCHELLE MEZZANO,

4 Appellant,

5 vs.

6 JOHN TOWNLEY,

7 Respondent.

No.: 87863-COA

MOTION FOR EXCESS PAGES

Electronically Filed
Feb 12 2024 05:26 PM
Elizabeth A. Brown
Clerk of Supreme Court

8 Appellant, Rochelle Mezzano, by and through her counsel, F. Peter James,
9 Esq., who hereby moves this Honorable Court for permission to file a Reply to
10 Respondent's Opposition to Motion to Stay that exceeds the applicable page limit
11 or type-volume limit.

12 **DECLARATION OF F. PETER JAMES, ESQ.**

13 I, F. Peter James, Esq., hereby declare and state under penalty of perjury
14 as follows:

- 15 1. I am a member in good standing of the State Bar of Nevada.
- 16 2. I am counsel for Appellant in the above-entitled matter.
- 17 3. I have personal knowledge of the facts contained in this declaration, save
18 those stated upon information and belief, and, as to those matters, I believe
19 them to be true.

1 4. I am competent and willing to testify in a court of law as to the facts
2 contained herein.

3 5. The sheer number of issues raised, and allegations made warrants a longer
4 reply. Appellant has attempted to reduce the reply to comply with page
5 limitations. Appellant would not be able to respond to all arguments raised
6 in five pages.

7 6. I am requesting ten pages to reply to Respondent's Opposition to Motion
8 to Stay. This

9 /s/ *F. Peter James*

December 28, 2023

10 F. PETER JAMES, ESQ.

DATE

11 **POINTS AND AUTHORITIES**

12 The court should permit Appellant to file a reply that exceeds the
13 applicable page limit or type-volume limit.

14 Requests for relief must be made by motion absent another way prescribed
15 by rule. *See* NRAP 27(a)(1). While disfavored, the Court has the authority to
16 granted a motion to file a brief that exceeds the applicable page limit or type-
17 volume limit upon a showing of diligence and good cause. *See* NRAP
18 32(a)(7)(D).
19
20

1 Respondent filed an opposition that raised too many issues to respond to
2 in just five pages. The opposition included claims that were not directly related
3 to the four considerations taken into account when deciding to issue a stay. These
4 claims had to be responded to in addition to Respondent's responses to the NRAP
5 8(c) factors. Respondent also filed a supporting declaration that had to be
6 responded to, as it was related to the Opposition to the Motion to Stay.

7 With so many arguments raised outside of the direct NRAP 8(c) factors, it
8 is impossible for Appellant to respond in just five pages. Appellant believes that
9 it is imperative that a stay be granted. A full reply is necessary for the Court of
10 Appeals to render an informed decision.

11 **CONCLUSION**

12 Based on the foregoing, the Court should permit Appellant to file a reply
13 that exceeds the applicable page limit or type-volume limit.

14 Dated this 12th day of February, 2024

15 /s/ *F. Peter James*

16 LAW OFFICES OF F. PETER JAMES

F. Peter James, Esq.

17 Nevada Bar No. 10091

3821 W. Charleston Blvd., Suite 250

18 Las Vegas, Nevada 89102

702-256-0087

19 Counsel for Appellant

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20

Alexander Morey, Esq.
Counsel for Respondent

1 **IN THE COURT OF APPEALS OF THE STATE OF NEVADA**

2
3 ROCHELLE MEZZANO,

4 Appellant,

5 vs.

6 JOHN TOWNLEY,

7 Respondent.

No.: 87863-COA

**REPLY TO OPPOSITION TO
MOTION TO STAY**

8 COMES NOW Appellant, Rochelle Mezzano, by and through her counsel,
9 F. Peter James, Esq., who hereby replies to Respondent's Opposition to
10 Appellant's Motion to Stay and requests this Honorable Court to stay the Decree
11 of Divorce pending appeal.

12 This Reply is made and based on the papers and pleadings on file herein,
13 the attached points and authorities, the attached affidavit(s) / declaration(s), the
14 filed exhibit(s), and upon any oral argument the Court will entertain.

15 **POINTS AND AUTHORITIES**

16 Pending the outcome of the appeal, the Court should stay the orders
17 relating to property delineated in the Decree of Divorce.

18 **Timeliness**

19 Respondent argues that Appellant's Motion to Stay is untimely. Appellant
20 disagrees.

1 Appellant filed a Motion to Stay in the district court on January 25, 2024.
2 The need for *ex parte* relief was not apparent at the time the Motion to Stay was
3 filed. The eviction hearing was not set until after the Motion to Stay was filed.

4 Per WDCR 43(3)(b), *ex parte* motions are to be resolved within 14 days of
5 filing. This provided that even if Appellant had initially filed the Motion to Stay
6 on an *ex parte* basis, there was no guarantee that it would be resolved until
7 February 14, 2024. The eviction hearing was set for February 8, 2024.

8 Appellant moved for relief in the appellate court to ensure the matter was
9 addressed prior to the eviction hearing. It was not practical to file an *ex parte*
10 request and wait to see if the district court would hear it prior to the eviction
11 hearing. That would have caused undue delay in the event it was not resolved,
12 and Appellant had to request relief in the appellate court. Since obtaining a
13 temporary stay from the Court of Appeals, Appellant has also asked for *ex parte*
14 relief on her Motion to Stay in the district court.

15 There was no unreasonable delay in filing the Motion to Stay. Appellant
16 had been preparing a Motion to Stay to be filed in the district court prior to
17 Respondent filing an eviction action. The Motion to Stay was filed in the
18 appellate court as soon as reasonably practicable. Appellant's counsel did not
19 get immediate notice that an eviction hearing had been set. Moreover, there was
20

1 an illness going through counsel's office, which created delays as staff were out
2 sick.

3 As such, requesting relief in the appellate court was justified and timely.

4 **Respondent's Supplemental Declaration**

5 Respondent has filed a declaration in support of his opposition. Appellant
6 denies his claims as to 855 Atlas Court. Moreover, these claims are irrelevant.
7 John did not testify about 855 Atlas Court at trial. He relied on a discovery
8 sanction to establish the character of the property.

9 Respondent claims that he was forced to collect social security early
10 because he believed that Appellant would interfere with his employment. He
11 never claims that Appellant actually did anything to impact his employment
12 during the litigation. If she had, there would have been remedies available to
13 Respondent. Collecting social security early was Respondent's choice.
14 Moreover, the proposed stay would have no impact on this as John has already
15 elected to collect early.

16 Respondent alleges that Appellant bought two homes while a financial
17 restraining order was in place. This is not relevant to the stay as Respondent has
18 not appealed. Moreover, both parties purchased and sold real property in the
19 ordinary course of business. That aside, one home was titled in Appellant's name
20 after the default divorce was granted and before the Supreme Court overturned

1 the default divorce. Another home was titled in Wife's name while a financial
2 restraining order was in place. However, no evidence was introduced showing
3 that she made a financial contribution to the property.

4 Appellant denies that accusation that she is weaponizing the legal system.
5 She is appealing property determinations that she believes to be erroneous. The
6 law permits her to do this. She is requesting a stay to protect the property at issue
7 so that it can be properly adjudicated if she prevails on appeal. Husband's desire
8 to "move on" does not outweigh Appellant's need to protect this property pending
9 appeal.

10 The parties are divorced. Respondent is free to work if he so chooses. He
11 can remarry and purchase property using funds from his personal bank accounts
12 that are not at issue. No one is stopping him from moving on.

13 **Whether the object of the appeal will be defeated if the stay or injunction is**
14 **denied**

15 Respondent does not deny that the object of the appeal would be defeated
16 if the stay is denied. Instead, he argues that she only wants a stay to delay final
17 resolution. This allegation is unfounded. With properties of significant value at
18 issue and Respondent moving to enforce the Decree so quickly, it is completely
19 reasonable for Appellant to request the stay.

20 As such, this factor weighs in favor of a stay.

1 **Whether the appellant / petitioner will suffer irreparable or serious injury**
2 **if the stay or injunction is denied**

3 Respondent alleges that Appellant will not suffer any meaningful harm if
4 the stay is denied because she has had four years to reasonably address this case
5 and failed to do so. This statement does not address any of the arguments
6 Appellant has made stating that she will suffer irreparable harm if the stay is
7 denied.

8 It is unclear by Respondent is addressing the Yellowstone property.
9 Respondent will be irreparably harmed if Husband is free to sell 3120 Achilles
10 Drive (which includes 855 Atlas Court). If Rochelle prevails on appeal and
11 Respondent has sold the property, she will lose the unique character of the
12 property as well as any profits from said sale. Appellant will also lose her rental
13 income if the stay is denied as he is actively seeking to evict Appellant's tenants
14 so that he can proceed with selling the property.

15 Respondent also fails to address the harm that will ensue if the equalization
16 payment of \$740,647.00 is not stayed pending Appeal. Appellant has been
17 ordered to sign a Deed of Trust and a promissory note against the properties she
18 was awarded in the Divorce to secure payment. Payment is due by May 10, 2024.
19 If payment is not made, Respondent will be permitted to sell property that Wife
20 was awarded in the divorce to collect on the judgment. The equalization payment

1 has been calculated based upon property awards that are being appealed. This
2 amount will change if Appellant prevails on any issue. If a stay is denied as to
3 the equalization payment, Appellant is at risk of losing other real property that
4 she has been awarded and she may ultimately become homeless.

5 As such, this weighs in favor of a stay.

6 **Whether respondent / real party in interest will suffer irreparable or serious**
7 **injury if the stay or injunction is granted**

8 Respondent will not suffer irreparable harm if the stay is granted. He fails
9 to adequately state what loss he may suffer if a stay is granted. He merely argues
10 that a stay is not fair and that he should be permitted to manage the contested
11 property as he pleases.

12 First, Respondent has other rental properties not at issue. These generate
13 income for Respondent. He can raise rents on these properties if he so chooses.
14 There is no need for him to manage or sell the specific properties at issue when
15 he has other options.

16 Second, Respondent did not collect rents or manage the contested property
17 prior to the divorce. Appellant did collect rent and manage the contested property
18 prior to the divorce. Respondent is not losing any opportunities, nor is he at risk
19 of any loss. A stay would not permit either party to act in a manner that would
20

1 result in the property losing value. There is no harm in the Court ordering for the
2 parties to maintain the status quo that they did prior to the entry of the decree.

3 As such, this weighs in favor of a stay.

4 **Whether movant is likely to prevail on the merits in the appeal**

5 Respondent suggests that Appellant is unlikely to prevail on appeal as she
6 did not make the appropriate arguments to the trial court. With all due respect,
7 that will be for the appellate court to decide.

8 Respondent mentions that a Motion for Summary Judgment was granted.
9 Appellant does not deny this. However, the partial summary judgment did not
10 resolve all issues. It acknowledged the existence of a prenuptial agreement, and
11 confirmed that all financial accounts in the sole name of either party was separate
12 property. (*See* Order filed April 14, 2023 at 3:2-19). It also denied Appellant's
13 claims for relief two through six, and claims set forth in paragraphs 11-13 of
14 Appellant's first claim for relief. These were non-divorce claims. (*Id.* at 17:12).
15 The relief granted by the Court here is irrelevant to the real property awards that
16 are being appealed.

17 Respondent declares that Appellant is barred from arguing that property
18 that was titled into a different name following the default (which was
19 subsequently set aside by the Supreme Court) needed to be converted back to its
20 original title prior to the default to determine the true character. The judgment

1 that permitted Respondent to change the title of any property was rendered void
2 for a lack of service. This argument is not barred as the district court's failure to
3 consider the titles of property prior to the voided default disregards the Supreme
4 Court order filed October 27, 2021 in case no. 81379.

5 The characterization of the Achilles property is not barred. It was
6 determined to be community property based upon a discovery sanction.
7 However, there was a prenuptial agreement admitted into evidence specifically
8 stating that the Achilles property was Appellant's separate property. (*See*
9 Exhibits at 32). A discovery sanction does not stand in the light of evidence to
10 the contrary. As to Respondent's argument that the property was transmuted,
11 Respondent's exhibit 2 was not admitted into evidence during trial, nor was this
12 argument made at trial. Moreover, the Decree provides the decision was made
13 solely on the discovery sanction.

14 "When the district court enters a default as a discovery sanction, the
15 nonoffending party still has an obligation to present sufficient evidence to
16 establish a prima facie case, and the court may conduct a prove-up hearing to
17 determine, among other things, the amount of damages to be awarded for each
18 claim, and although the typical divorce case does not involve a claim for
19 damages, an evidentiary hearing may be necessary to take factual evidence and
20 decide the issues in accordance with the relevant law." *See Blanco v. Blanco*,

1 129 Nev. 723, 311 P.3d 1170 (2013). Sanction must relate to the claims at issue
2 in the violated discovery order and must be supported by an explanation of the
3 pertinent factors guiding such determination. *See Blanco v. Blanco*, 129 Nev.
4 723, 311 P.3d 1170 (2013).

5 Requests for admissions were deemed admitted due to Appellant's failure
6 to respond. However, evidence was introduced at trial that contradicted the
7 admission. There is no justification for a discovery sanction to be implemented
8 when evidence was presented showing that the default admission was incorrect.

9 The characterization of the Yellowstone properties is not barred. At trial,
10 deeds were admitted into evidence for the properties. These deeds provided that
11 Appellant had purchased the properties as a single, unmarried woman. Again, a
12 default admission due to failure to respond to requests for admissions do not
13 override clear evidence to the contrary.

14 The cash on hand argument is not barred. The case file has a record of
15 Respondent's counsel sending a letter to Appellant stating that the \$125,000.00
16 was her separate property because Respondent moved other funds. (*See Exhibits*
17 *at 34*). Again, clear evidence cannot be ignored simply because a discovery
18 sanction was entered.

Ultimately, the appellate court will determine if Appellant's claims are meritorious. However, Appellant still believes that Respondent's position will not be adopted on appeal.

CONCLUSION

Based on the foregoing, the Court should grant a stay of the orders concerning assets and debts delineated in the Decree of Divorce.

Dated this 12th day of February, 2024

/s/ *F. Peter James*

LAW OFFICES OF F. PETER JAMES

F. Peter James, Esq.

Nevada Bar No. 10091

3821 W. Charleston Blvd., Suite 250

Las Vegas, Nevada 89102

702-256-0087

Counsel for Appellant

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20

2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20

- 4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20

13
14
15
16
17
18
19
20

15
16
17
18
19
20

16
17
18
19
20

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20

Alexander Morey, Esq.
Counsel for Respondent

1 **IN THE COURT OF APPEALS OF THE STATE OF NEVADA**

2
3 ROCHELLE MEZZANO,

4 Appellant,

5 vs.

6 JOHN TOWNLEY,

7 Respondent.

No.: 87863-COA

**EXHIBITS IN SUPPORT OF
MOTION TO STAY**

8 The attached exhibits are brought in support of Appellant's Motion to Stay.

9 **TABLE OF EXHIBITS**

Exhibit Description	Page Number
Trial exhibit list	1
Prenuptial Agreement admitted at trial as Exhibit C	4
Exhibit to Motion filed March 3, 2020, regarding \$125,000 cash on hand being labeled as separate property by Respondent's counsel	34

15 Dated this 12th day of February, 2024

16 /s/ *F. Peter James*

17 _____
LAW OFFICES OF F. PETER JAMES

18 F. Peter James, Esq.

19 Nevada Bar No. 10091

3821 W. Charleston Blvd., Suite 250

Las Vegas, Nevada 89102

702-256-0087

20 Counsel for Appellant

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20

Alexander Morey, Esq.
Counsel for Respondent

Exhibits					
Title: *SEALED* JOHN TOWNLEY VS. ROCHELLE MEZZANO					
PLAINTIFF: JOHN TOWNLEY			ATTY: ALEXANDER MOREY, ESQ.		
DEFENDANT: ROCHELLE MEZZANO			ATTY: Pro per		
Case No: DV19-01564		Dept. No: 13	Clerk: K. Brunsvold	Date: 11/2/2023-11/3/2023	
Exhibit No.	Party	Description	Marked	Offered	Admitted
A	Plaintiff	Marital Balance Sheet	11/2/2023	11/2/2023	11/2/2023 demonstrative exhibit
B	Plaintiff	Plaintiff's First Set of Requests for Admissions to Defendant	11/2/2023	11/2/2023	11/2/2023
C	Plaintiff	Prenuptial Agreement	11/2/2023	11/2/2023	11/2/2023
D	Plaintiff	Heritage Bank of Nevada Personal Checking Account x5457 One Nevada Personal Savings X0000 One Nevada Personal Checking x0008 Optum Bank x7669 HAS account Gold (Held in Goldmoney account) Bonds Meadows Bank x1656 IRA Fidelity x6512 Citi Costco Visa x7943 Capital One Cabela's x3252 Wells Fargo Visa x3206	11/2/2023	11/2/2023	11/2/2023
E	Plaintiff	Rochelle Mezzano's FDF filed 8/25/22	11/2/2023	11/2/2023	11/2/2023
F	Plaintiff	Rochelle Mezzano's FDF filed 3/22/20	11/2/2023	11/2/2023	11/2/2023
G	Plaintiff	1708 London Circle Note dated 7/29/11	11/2/2023	11/2/2023	11/2/2023
H	Plaintiff	105 Yellowstone Drive Grant, Bargain and Sale Deed dated 8/26/21	11/2/2023	11/2/2023	11/2/2023
I	Plaintiff	125 Yellowstone Drive Grant, Bargain, Sale Deed dated 1/26/23	11/2/2023	11/2/2023	11/2/2023

Exhibits

Title: ***SEALED* JOHN TOWNLEY VS. ROCHELLE MEZZANO**

PLAINTIFF: **JOHN TOWNLEY**

ATTY: **ALEXANDER MOREY, ESQ.**

DEFENDANT: **ROCHELLE MEZZANO**

ATTY: **Pro per**

Case No: **DV19-01564**

Dept. No: **13**

Clerk: **K. Brunsvold**

Date: **11/2/2023-11/3/2023**

Exhibit No.	Party	Description	Marked	Offered	Admitted
J	Plaintiff	145 Redstone Lakeview Mortgage x9537 Statement 3120 Achilles Chase Mortgage x4846 Statement 1532 F Street Mr. Cooper Mortgage x0201 Statement	11/2/2023	11/2/2023	11/2/2023
K	Plaintiff	145 Redstone Drive Appraisal	11/2/2023	11/2/2023	11/2/2023
L	Plaintiff	735 Aesop Court Appraisal	11/2/2023	11/2/2023	11/2/2023
M	Plaintiff	3120 Achilles Dr. Appraisal	11/2/2023	11/2/2023	11/2/2023
N	Plaintiff	670 Valley Road Appraisal	11/2/2023	11/2/2023	11/2/2023
O	Plaintiff	1532 F Street Appraisal	11/2/2023	11/2/2023	11/2/2023

**PLAINTIFF'S EXHIBITS
TOWNLEY V. MEZZANO
DV19-01564**

November 2, 2023

Exhibit Letter	Description	Marked	Offered	Admitted
A	Marital Balance Sheet			
B	Plaintiff's First Set of Requests for Admissions to Defendant			
C	Prenuptial Agreement			
D	Heritage Bank of Nevada Personal Checking Account x5457 One Nevada Personal Savings x0000 One Nevada Personal Checking x0008 Optum Bank x7669 HSA account Gold (Held in Goldmoney account) Bonds Meadows Bank x1656 IRA Fidelity x6512 Citi Costco Visa x7943 Capital One Cabela's x3252 Wells Fargo Visa x3206			
E	Rochelle Mezzano's FDF filed 8/25/22			
F	Rochelle Mezzano's FDF filed 03/22/20			
G	1708 London Circle Note dated 7/29/11			
H	105 Yellowstone Drive Grant, Bargain and Sale Deed dated 8/26/21			
I	125 Yellowstone Drive Grant, Bargain, Sale Deed dated 1/26/23			
J	145 Redstone Lakeview Mortgage x9537 Statement 3120 Achilles Chase Mortgage x4846 Statement 1532 F Street Mr. Cooper Mortgage x0201 Statement			

No. DV19-01504
TOWNLEY
vs.

MEZZANO
PHF Ex. C

Admitted: 11/2, 2023
ALICIA L. LERUD, CLERK

By [Signature]
Deputy

PRENUPTIAL AGREEMENT

THIS AGREEMENT is made this 10 day of September, 1999, between ROCHELLE MEZZANO, (hereinafter referred to as ROCHELLE), and JOHN TOWNLEY (hereinafter referred to as JOHN).

RECITALS

This Agreement is made with reference to the following:

A. The parties enter into this Prenuptial Agreement, in contemplation and in consideration of their anticipated marriage, for the purpose of defining their respective rights regarding their pre-marital and post-marital property, acquisitions and rights.

B. It is the specific purpose and intent of the parties, and their reason for entering into this Prenuptial Agreement, to specify the manner that they believe is fair and equitable for them to deal with spousal support and to deal with assets and obligations acquired, owned or used during marriage and to establish the method for determining their respective rights in said assets, and the manner of allocating them, in the event of the unanticipated termination of this marriage or the distribution of the assets for any other reason including, but not limited to, the death of either party without there being a specific testamentary plan established by written Will, Trust, or other testamentary or inter vivos disposition.

C. Each party acknowledges and represents to the other, for the other to rely upon in entering into this Prenuptial Agreement, that she/he considers the execution of this Agreement a material inducement and consideration for her/his actual entry into the marital relationship so that she/he can avoid any potential future uncertainties and disagreements with regard to her/his rights and obligations with regard to spousal support and the property matters covered by this Agreement.

D. To the extent that this Agreement provides for the handling, allocation, valuation or

Rdm

JA

distribution of assets in a manner other than that which is presently or hereafter provided by the law in the state where the parties may then be living, it is the intent and specific desire of each party that the terms and provisions of this Agreement shall control and be absolutely binding upon him/her.

E. Rochelle and John are residents of the State of Nevada and it is the intent of the parties that their primary place of residence shall continue to be the State of Nevada.

F. There are no children of this relationship. Both parties have previously been married, but neither has children from his or her former marriages.

G. John owns property and debts standing in his name, the nature and extent of which has been disclosed to Rochelle. Rochelle acknowledges and warrants that she has not played a role in the accumulation of John's property as of the date of this Agreement.

H. Rochelle owns property and debts standing in her name, the nature and extent of which has been disclosed to John. John acknowledges and warrants that he has not played a role in the accumulation of Rochelle's property as of the date of this Agreement.

I. The parties believe that this Agreement will enhance and encourage a harmonious marital relationship between them and will enable them to avoid any financial conflict or controversy in the future with respect to the matters covered by this Agreement. The parties desire to define their financial rights and responsibilities, insofar as these can be foreseen. Each party accepts the provisions of this Agreement in full discharge and satisfaction of any and all property, spousal support, marital rights, and rights to share in the estate of the other, which either may or would otherwise have as a result of their marriage.

NOW, THEREFORE, for and in consideration of the foregoing, the mutual promises and covenants contained herein, the forthcoming marriage of the parties to each other, and other good and valuable consideration, the parties covenant and agree as set forth below.

Edm

5-1

I. FINANCIAL DISCLOSURE

A simple balance sheet of Rochelle's assets and liabilities is attached to this Agreement and is incorporated herein by this reference as Exhibit "A". While Rochelle does not represent her balance sheet to be a precise delineation of her assets and liabilities, it constitutes substantially all of her material assets and liabilities as of the date thereof.

A simple balance sheet of John's assets and liabilities is attached to this Agreement and is incorporated herein by this reference as Exhibit "B". While John does not represent his balance sheet to be a precise delineation of his assets and liabilities, it constitutes substantially all of his material assets and liabilities as of the date thereof.

Each party represents to the other that he or she has, to the best of his/her knowledge, disclosed to the other his or her financial situation, including without limitation, his/her respective property and debts by the representations contained herein, subject only to the caveat that the values set forth on the balance sheets are not necessarily based on appraisals. Each party acknowledges that the other may own property which may have been inadvertently excluded from his or her balance sheet.

Each party warrants that each has made a fair and reasonable disclosure of his/her property and obligations and that neither is aware of any material omission of his/her assets or obligations. Each party represents and warrants that he/she has been provided with all requested information of the other concerning his or her assets, liabilities, income and other financial circumstances and that each has provided to the other requested information concerning his or her assets, liabilities, income and other financial circumstances. Each party has carefully considered the information requested and the information contained in the attached balance sheets and enters into this Agreement of his or her own volition and as a result of his or her own free judgment and decision. Each party has been

Edm

57.

afforded ample opportunity to inquire and to investigate further the financial circumstances of the other prior to the execution of this Agreement. After being afforded such opportunity, each party expressly waives his or her right to further inquiry, discovery and investigation, fully cognizant of his or her rights to the disclosure of the property and financial obligations of the other prior to the execution of this Agreement.

Each party acknowledges that each has the right to full disclosure by the other and each hereby voluntarily and expressly waives any right to disclosure of the property or financial obligations and condition of the other party beyond the disclosures requested or provided.

II. SEPARATE PROPERTY

Each of the parties acknowledges and agrees that the property described hereafter shall be and shall forever remain the separate property of the owning/acquiring party:

A. General Provisions

1. All property, whether acquired before or after marriage, not specifically defined below as community or jointly owned property, shall be the separate property of the acquiring/owning party.

2. Each party shall be the sole and exclusive owner of his or her separate property and shall have the sole and exclusive right to dispose of any and all of her/his separate property during his or her lifetime, by inter vivos or testamentary transfer, or by any and all other dispositions, and shall have the sole and exclusive right to encumber, pledge or hypothecate the same, without any interference by or joinder of the other party, and in such manner as shall be deemed in the owning party's sole discretion as if the parties' forthcoming marriage had not taken place.

3. Neither party shall seek to become a legal or beneficial owner of all or any interest in the other's separate property. In the event of an action for divorce, annulment, legal

Edm

J.J.

separation or separate maintenance, each party shall look solely to the assets owned by the community, or the parties jointly, for payment of the value of any community or joint interest acquired, as set forth herein, and not to the separate property of either party.

4. Each party hereby relinquishes all right, claim or interest whether actual, inchoate, or contingent, in law or in equity, in the separate property now owned or hereafter acquired by the other party.

5. Rochelle and John each acknowledge and understand that, except for this Agreement, the salary, bonuses, benefits, income, earnings, increases, accumulations, appreciation and the like attributable to the services, skills and efforts of either party during the marriage may be or would be, in the absence of this Agreement, community property or apportionable between the community and separate interests of the parties, and that by this Agreement, such salary, bonuses, benefits, earnings, income, increases, accumulations, appreciation and the like shall be separate property of the acquiring party. The parties each acknowledge their understanding that, except for this Agreement, the laws of other countries or states could or would provide that each party could or would have marital or other property rights in the earnings and property of the other which the parties do not have under this Agreement.

6. Except as set forth herein, or absent some other agreement signed by both parties, neither party shall be entitled to any fees nor shall either party acquire any community or other property interest in the separate property of the other party as a result of rendering management or other services with regard to the separate property of the other party, or upon any other basis or premise whatsoever. The parties acknowledge their understanding that, except for this Agreement, any community between them could or would have a claim on, or right to, some or all of the income, profits, appreciation or assets derived from the time, work or efforts of one party in the investment

RLM

J.T.

or management of the separate property of either party, and any such claim or right is hereby expressly waived by each party.

Each party may devote all or part of his or her time, work and efforts to the investment and management of his or her separate property or the property of another or to performing services, as an officer, director, partner, trustee, fiduciary or employee, for a corporation, partnership, trust or other entity in which said party or another owns as separate property, a beneficial or equity interest, with or without being compensated for said services, to the preclusion of the creation of any property other than separate property, such as marital, community or quasi-community property. Each party understands that, except for this Agreement, any community between them could or might have a claim on, or right to, some or all of the income, profits, appreciation or assets derived from the time, work or efforts of a party in the investment or management of or performance of services for his or her own separate property or that of another, including without limitation an entity in which the party or another owns as separate property a beneficial or equity interest, and any such claim or right is hereby expressly waived by each of them.

B. Separate Property of Rochelle

Rochelle shall have as her sole and separate property, without claim or interest of John:

1. All property of every kind, character and description, whether real, personal or mixed, tangible or intangible, of whatsoever nature and wheresoever situated, belonging to Rochelle at the commencement of the marriage, including but not limited to property she acquired while the parties cohabited prior to marriage, as more particularly described in Exhibit "A," together with the rents, issues and profits thereof, and all property acquired by Rochelle after marriage by gift, devise, bequest, inheritance, or by an award of personal injury damages, together with the rents, issues and profits thereof;

Rdm

J-T.

2. All property acquired by Rochelle out of the proceeds, earnings, accumulations or income, whether earned or unearned, from her separate property or attributable to appreciation in the value of said property, whether the enhancement is due to market conditions, or to the services, skills or efforts of either party;

3. All income, interest, earnings, bonuses, salaries, stock, options, accumulations, reinvestments and dividends from Rochelle's separate property whether the enhancement is due to market conditions, or to the work, services, skills or efforts of either party;

4. All interests in any asset, property, business, sole proprietorship, partnership, corporation, joint venture, trust or other entity Rochelle now owns or hereafter acquires, but for the business known as "What Goes Around . . .", including all issued and outstanding stock and options, including the value of all assets now owned or acquired by Rochelle or by any asset, property, business, partnership, corporation, joint venture, trust or other entity owned by Rochelle in the future, whether real, personal or mixed, tangible or intangible, including goodwill;

5. All proceeds, rents, issues and profits, and all increases and appreciation in the value of any real or personal property, assets, businesses, sole proprietorships, partnerships, corporations, joint ventures, trusts or other entities or interests, including stock, options, assets and goodwill, Rochelle now owns or may acquire, whether the enhancement is due to market conditions, or to the work, services, skills or efforts of either party;

6. All income, salary, bonuses, dividends, benefits, stock, options, accumulations, earnings, and acquisitions that result from Rochelle's personal services, skill, effort and work, and from all businesses, sole proprietorships, partnerships, corporations, joint ventures, trusts, property, assets, or other entities and investments or investments Rochelle now owns or may own in the future, together with all property acquired or income, accumulations, interest, appreciation, earnings, good

Edm

J-T.

will and the like derived therefrom;

7. Any employee profit sharing plan, pension plan, retirement plan, Keogh Plan, 401k, Individual Retirement Account, or other type of deferred income plan, defined benefit plan, or the like (collectively called the "Plan") owned by Rochelle as of the date of the parties' marriage or at any time thereafter, including all pre and post-marriage contributions, accumulations, earnings, income, appreciation, interest, rents, issues and profits and increases in value.

a. John hereby expressly waives all of his rights and interests which may now or hereafter exist in the Plan(s) of Rochelle, including but not limited to pre-retirement and joint survivor annuities or to be a participant or beneficiary in the Plans of Rochelle, or to require his consent with respect to any right, option, distribution or benefit which Rochelle may now or hereafter have or choose to exercise. It is the essence of this Agreement that after the marriage of the parties and upon the request of Rochelle, John, without charge, shall reaffirm the foregoing and provide such papers and documents properly executed and acknowledged to carry out and implement the foregoing. Notwithstanding the foregoing, in the event that Rochelle shall hereafter expressly designate John as a participant or beneficiary in any of the Plans under the provisions of the Plans, said designation shall control;

8. All funds in bank accounts, savings accounts, credit union accounts, certificates of deposit, brokerage accounts, stocks, mutual funds, money market accounts or other deposits or investments of any type or nature existing in Rochelle's separate name whether before or after marriage and all funds deposited after marriage into any account in Rochelle's separate name;

C. Separate Property of John

John shall have as his sole and separate property, without claim or interest of Rochelle:

1. All property of every kind, character and description, whether real, personal

Rdm

5-1

or mixed, tangible or intangible, of whatsoever nature and wheresoever situated, belonging to John at the commencement of the marriage, including but not limited to property he acquired while the parties cohabited prior to marriage, as more particularly described in Exhibit "B," together with the rents, issues and profits thereof, and all property acquired by John after marriage by gift, devise, bequest, inheritance, or by an award of personal injury damages, together with the rents, issues and profits thereof;

2. All property acquired by John out of the proceeds, earnings, accumulations or income, whether earned or unearned, from his separate property or attributable to appreciation in the value of said property, whether the enhancement is due to market conditions, or to the services, skills or efforts of either party;

3. All income, interest, earnings, bonuses, salaries, stock, options, accumulations, reinvestments and dividends from John's separate property whether the enhancement is due to market conditions, or to the work, services, skills or efforts of either party;

4. All interests in any asset, property, business, sole proprietorship, partnership, corporation, joint venture, trust or other entity John now owns or hereafter acquires, including all issued and outstanding stock and options, including the value of all assets now owned or acquired by John or by any asset, property, business, partnership, corporation, joint venture, trust or other entity owned by John in the future, whether real, personal or mixed, tangible or intangible, including goodwill;

5. All proceeds, rents, issues and profits, and all increases and appreciation in the value of any real or personal property, assets, businesses, sole proprietorships, partnerships, corporations, joint ventures, trusts or other entities or interests, including stock, options, assets and goodwill, John now owns or may acquire, whether the enhancement is due to market conditions, or

Edm

to the work, services, skills or efforts of either party;

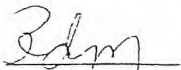
6. All income, salary, bonuses, dividends, benefits, stock, options, accumulations, earnings, and acquisitions that result from John's personal services, skill, effort and work, and from all businesses, sole proprietorships, partnerships, corporations, joint ventures, trusts, property, assets, or other entities and investments or investments John now owns or may own in the future, together with all property acquired or income, accumulations, interest, appreciation, earnings, good will and the like derived therefrom;

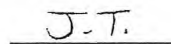
7. Any employee profit sharing plan, pension plan, retirement plan, Keogh Plan, 401k, Individual Retirement Account, or other type of deferred income plan, defined benefit plan, or the like (collectively called the "Plan") owned by John as of the date of the parties' marriage or at any time thereafter, including all pre and post-marriage contributions, accumulations, earnings, income, appreciation, interest, rents, issues and profits and increases in value.

a. Rochelle hereby expressly waives all of her rights and interests which may now or hereafter exist in the Plan(s) of John including but not limited to pre-retirement and joint survivor annuities or to be a participant or beneficiary in the Plans of John, or to require her consent with respect to any right, option, distribution or benefit which John may now or hereafter have or choose to exercise. It is the essence of this Agreement that after the marriage of the parties and upon the request of John, Rochelle, without charge, shall reaffirm the foregoing and provide such papers and documents properly executed and acknowledged to carry out and implement the foregoing.

Notwithstanding the foregoing, in the event that John shall hereafter expressly designate Rochelle as a participant or beneficiary in any of the Plans under the provisions of the Plans, said designation shall control;

8. All funds in bank accounts, savings accounts, credit union accounts, certificates





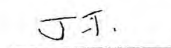
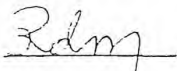
of deposit, brokerage accounts, stocks, mutual funds, money market accounts or other deposits or investments of any type or nature existing in John's separate name whether before or after marriage and all funds deposited after marriage into any account in John's separate name;

9. John is a beneficiary of the Townley Family Trust. Under the terms of the trust, John has the right to receive certain trust income. All right, title and interest in and to said trust and all income and receipts therefrom shall be John's separate property. The parties acknowledge and agree that any increase or appreciation in the value of the trust principal, whether the enhancement is due to market conditions, or to John's work, services, skills or efforts, by the terms of the trust belong to the trust and shall not become the separate or community property of either party. Likewise, any estate taxes arising from creation or distribution of said trust shall be paid from the Townley Family Trust, or from John's separate property, and shall not be a charge upon the community

III. COMMUNITY, MARITAL AND MUTUALLY OWNED PROPERTY

A. Except as otherwise provided herein, the parties intend by this Agreement to acquire no community property (unless title to property acquired after marriage is specifically taken as community property or joint tenancy property with right of survivorship) during their marriage and that all property acquired during marriage shall be owned by the acquiring party or the person contributing the acquisition funds, as more fully set forth in Paragraph II., above.

B. Neither Nevada's nor any other jurisdiction's community property or quasi-community property laws shall apply to alter, amend, abridge, transmute or in any respect change property which is the separate property of either party, or the income or proceeds thereof, under the terms of this Agreement so as to cause any such property, income or proceeds to be deemed to be other than separate property. No law of any other country or state relating to marital property rights (including



without limitation any right to equitable division of marital assets) shall apply to give either party any property rights other than those provided in this Agreement.

C. If, during marriage, the parties establish one or more accounts in their joint or mutual names, any funds deposited into such account(s) shall be owned jointly or mutually by the parties, unless otherwise agreed in a writing signed by both parties.

D. It is the parties' intention that, following their marriage, they will occupy Rochelle's home located at 3120 Achilles Drive, Reno, Nevada. Following their marriage, any equity or appreciation thereafter acquired or accumulated in 3120 Achilles Drive shall be community property. Following their marriage, any payments made towards the purchase, trust deed, taxes, insurance premiums, improvements, maintenance or repair of 3120 Achilles Drive, Reno, Nevada from the separate property of either party shall be deemed gifts to the community and there shall be no right of reimbursement.

IV. PAYMENT OF EXPENSES, DEBTS AND LIABILITIES

A. The parties agree to establish a joint account (hereafter "joint account") for the payment of their mutual living expenses (defined below) and for acquisition of community property. Each will contribute an equal amount, in amounts and at intervals as funds are necessary to meet the parties' mutual living expenses.

1. All funds contained in a joint account and all property purchased with monies from the joint account shall be community property of the parties, subject to equal division between them in the event of entry of a decree of divorce, annulment, legal separation or separate maintenance.

2. Both parties shall have equal authority to write checks on and make withdrawals from the joint account. It is understood and agreed that in the event of the death of one of the parties

Edm

J-T

during the marriage, any and all monies held in the joint account shall be the sole and separate property of the survivor. In the event that a decree of divorce, annulment, legal separation or separate maintenance is entered by a court of competent jurisdiction, the joint account shall be divided equally between the parties.

3. "Living expenses" of the parties shall include: payment of the Achilles Drive mortgage, or payment of any mortgage on any subsequent property purchased by the parties and intended as their joint residence; payment of the line of credit against the Achilles Drive home; utilities; food; household supplies; household furnishings; security/alarm service; telephone; laundry and dry cleaning; medical and dental expenses; medical, life, accident, health and auto insurance; gasoline, automobile repair and maintenance; entertainment; travel; and joint gifts to third persons.

While the parties remain married and are residing together in the same residence, each will be responsible for payment of his/her personal expenses such as clothing, jewelry, shoes, gifts, incidentals, grooming, personal items and the like.

Neither party shall be liable, from his or her separate property, for the necessary expenses, including food, shelter or medical care, of the other. This agreement is specifically intended to exempt the parties from the application of NRS 123.090 and 123.110.

B. Any funds deposited into an account titled in the names of both parties in any type of financial institution, regardless of the source of such funds, shall be deemed to be community property. Any assets purchased solely from funds from such accounts shall be community property.

C. From time to time, the parties may purchase real or personal property using both separate and community funds. At the time of any such purchase, the parties shall designate by written instrument signed by both parties, the separate and community interests in such property. If no such written designation is made, the property so purchased shall be deemed to be community

Bdm

J.T.

property. Provided, however, that in the event that one party inadvertently uses community property to purchase an asset expressly held as that party's separate property, he or she shall have the right to reimburse the community the amount of community funds utilized, together without interest thereon and upon reimbursement, such asset shall be the sole and separate property of the acquiring party.

D. Unless otherwise agreed by the parties in writing, any community funds deposited into the separate property account of either party shall become the separate property of the owner of the account and shall not convert or transmute any account in which placed or asset therewith purchased to community property.

E. With the exception of the first mortgage and the present unpaid balance on the available credit line against 3120 Achilles Drive, Reno, Nevada; debts contracted by each party prior to marriage or during marriage shall be paid by the party who shall have contracted the same from his or her separate property. Each party shall indemnify, defend and hold the other harmless from the same.

F. Any past, present or future debt, obligation or liability of any separate property, asset, business, sole proprietorship, partnership, corporation, joint venture, trust or other entity or interest either party now or in the future owns, shall remain the sole and separate obligation of the separate asset or of the party who owns the business. Each party shall indemnify, defend and hold the other free and harmless from the same.

G. Any loan transaction entered by one or both parties after marriage pertaining to, for the benefit of or secured by a party's separate property shall be that party's separate property loan and the loan proceeds and any assets purchased therewith shall be the separate property of the party whose separate property is benefitted or affected by the loan. Each party shall indemnify, defend and hold the other free and harmless from the same.

Edm

J-T.

H. All debts, obligations, taxes, assessments and expenses at any time incurred, arising, existing or relating to the acquisition, holding, disposition, operation, maintenance, improvement, management or administration of separate property, shall be the sole responsibility of the owner of the separate property. Each party shall indemnify, defend and hold the other free and harmless from the same.

I. Notwithstanding the foregoing paragraph, either party may voluntarily contribute toward the payment of the separate liabilities of the other. However, such payment shall not constitute an assumption of such liabilities by the contributing party, nor shall such payment constitute an admission of liability therefor by the contributing party. The use of any separate property of a party to discharge any obligation of the other party, whether or not such obligation could have been discharged by the use of the other party's separate property, will not alter, amend, abridge, transmute or otherwise change the separate nature of the separate property from which the obligation is discharged. Any such payments shall be deemed a gift to the other and the paying party shall not be entitled to reimbursement for such expenditure(s) of his/her separate property.

J. Nothing in this Agreement shall preclude a party from making loans to the other party, which loan would be a separate debt of the borrowing party and a separate asset of the lending party.

V. TAX RETURNS

A. The election, if any, of the parties to file a joint federal or state income tax return rather than separate returns shall not constitute a creation of any community property, quasi community property or of any other rights or interests in contravention of this Agreement.

B. If the parties file a joint federal or state income tax return for any year, each party will endeavor to pay all income tax, costs, charges, expenses, liabilities, deductions and obligations of any nature, attributable to his or separate income or to his or her separate property and each will be

Rdm

J-T

entitled to any refund for overpayment of such taxes. The payment by one party of any separate income tax of the other party shall be deemed a gift to the benefitting party and the paying party will not be entitled to reimbursement.

C. Each party shall indemnify, defend and hold the other harmless from all tax liability, including penalties, interest, fees and assessments, attributable to his or her separate income or to the disallowance of deductions relating to any separate income, or the exclusion of separate income from any joint income tax return filed during the marriage.

VI. TRANSMUTATION

Except as otherwise provided herein, property or interests now owned or hereafter acquired by the parties, which by the terms of this Agreement is classified as the separate property of one of them, can become the separate property of the other or community, quasi-community, marital, joint or mutually owned property only by a written instrument executed by the party whose separate property is thereby reclassified.

The parties agree that occasionally they may use expressions such as "our property" or "our house" when referring to property that is by the terms of this Agreement separate property. Such expressions shall not in any way change the separate character of property, nor shall it constitute a transmutation of separate property or income into the separate property of the other or into community, quasi-community, marital, joint or mutually owned property.

VII. CHILDREN

This Agreement does not purport to address or resolve any rights or obligations of the parties regarding the support or custody of any children the parties may have, the issue of their marriage.

VIII. DISCLOSURE OF INCOME

The parties have each disclosed their respective incomes to the other and each party

Rdm

J.T.

represents that he or she is familiar with the income of the other and waives any further disclosure.

IX. TERMINATION OF MARRIAGE

A. Upon the termination of the parties' marriage, whether by the death of one of them or by entry of a decree of divorce or annulment or upon entry of a decree of separate maintenance, each party shall receive his or her separate property and debts as defined and one-half of community, mutually owned property and debts herein and shall indemnify, defend and hold the harmless therefrom. During the pendency of a divorce or action for separate maintenance or annulment, neither party will take any action to cancel or change the beneficiary of any insurance coverage including life, health, or automobile coverage. In the event of a divorce, decree of separate maintenance, or annulment, the parties will endeavor to work together to allocate their community property and debts to avoid a forced sale of any asset.

B. While the parties look forward to and hope and expect to enjoy a long, happy and lasting marriage, terminated only by the death of one of them, they also recognize the present day reality of the possibility that their marriage might be terminated by way of divorce, dissolution, annulment or other action, or that a decree of separate maintenance or legal separation may be entered during the lifetimes of both parties. The parties acknowledge and agree that resolution of as many financial aspects as possible in advance may well promote the happiness and harmony of their marriage.

Therefore, in the event of termination of marriage during the lifetime of both parties, by way of divorce, dissolution, annulment or the institution by either party of any action for separation or support, regardless of which party may initiate such action and regardless of the jurisdiction, venue or location of such courts; each party hereby waives, releases and relinquishes any and all right which either may acquire by virtue of their marriage to any spousal support, pendente lite support, separate

Edm

J J.

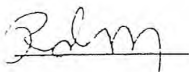
maintenance, alimony, preliminary allowances or attorney's fees from the other spouse, or to any other court-ordered compensation or support intended to act as or supplant alimony or spousal support. Each party specifically waives his or her right to seek or receive spousal support, pendente lite support, separate maintenance, alimony, preliminary allowances or attorney's fees from the other party, or to any other court-ordered compensation or support intended to act as or supplant alimony or spousal support, absolutely, unconditionally and irrevocably, regardless of his or her future condition of health or his or her financial status.

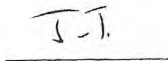
C. It is the intent of each party that the waiver of spousal support contained herein shall be interpreted under, and pursuant to, the laws of the State of Nevada, as those laws exist at the time of the execution of this Agreement.

D. Each party recognizes that there is the potential for the terms and provisions of this section of their Agreement, or some portion hereof, not to be enforced by a court. However, each party does hereby agree that she/he shall not initiate any proceeding against the other for the collection of any spousal support, or any kind of financial assistance from the other, except that which is specifically provided herein, in the event of the unanticipated termination of their marital relationship and that she/he shall be enjoined and restrained by any court from attempting to do so upon the request of the other party.

E. In the event this section of the Agreement, or any part thereof, shall be deemed unenforceable by a court, that portion determined to be unenforceable shall be severed from all other portions of this Agreement and the then remaining portions of this Agreement shall be fully enforceable and binding upon each party.

F. If either party should secure a decree of divorce, annulment, legal separation or separate maintenance from the other, the parties agree that the terms of this Agreement shall





constitute full settlement, satisfaction and discharge of any and all property rights, marital rights, spousal support rights, liabilities and obligations that may arise from the marital relationship and each party covenants and agrees with the other to accept the terms and provisions of this Agreement in full and final settlement, satisfaction and discharge of any property rights, marital rights, liabilities and obligations that may arise as a result of the marriage and in lieu of any other rights, claims or causes of action that they might have had against the other absent this Agreement.

X. DISPOSITION OF PROPERTY

A. Each party may dispose of his or her separate property during his or her lifetime or by Will or otherwise, free from any claim of the other party, as if their marital relationship had never existed, unless the other is named as a beneficiary by way of Will, Codicil, Trust or other dispositive document executed after the date of marriage. Nothing contained herein shall constitute a waiver by either party of any gift, bequest, legacy or devise which the other party may choose to make to him or her by Will, Codicil, Trust, insurance policy or other dispositive document.

B. Each party hereby waives any and all right to the estate or any interest in the estate of the other for family allowances, probate homestead, rights of dower, curtsy or any statutory substitutes therefor, the right to declare a homestead in the separate property of the other, or the right of election to take against the Will of the other.

C. Each party specifically and without limitation waives all rights he or she may have:

1. To be appointed as the personal representative of the other's estate;
2. To take the statutory share of an omitted spouse in the property of the other;
3. To have exempt property set aside from the property of the other;
4. To receive property that would pass from the other by intestate succession;

ZLM

57.

5. To have an estate set aside under the law of California, Nevada or any other applicable jurisdiction.

D. Nothing in this Agreement shall preclude a party from making gifts to the other, provided that no such gift shall be deemed to constitute an alteration or amendment of this Agreement, to create any obligation on the part of any party hereto or to alter, amend, abridge, transmute or otherwise change the nature of any property other than that which is specifically and expressly transferred by way of such gift.

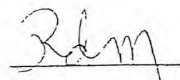
E. Nothing in this Agreement shall preclude the parties from entering into business, partnership or joint venture or other similar relationship with one another, provided that there is a written agreement covering any such business, partnership or joint venture signed by both parties.

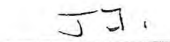
F. The parties agree that no gift from one party to the other nor their entering into a business, partnership or joint venture or other similar relationship with each other shall be interpreted as a revocation or modification of this Agreement.

G. No amount of use, permissive or otherwise, of the separate property of one party by the other will in any way alter, amend, abridge, transmute or otherwise change the separate nature of said property.

XL GENERAL WAIVER OF RIGHTS AND PREMARITAL COHABITATION CLAIMS

Each party hereby waives any claim, cause of action or remedy, known or unknown, that such party may have arising out of their relationship or marriage, together with any rights he/she may have acquired during their period of premarital cohabitation, including, but not limited to any and all rights arising from *Western States Construction Inc. v. Michoff*, 108 Nev. 931, 840 P.2d 1220 (1992), its forbearers and progeny and from *Marvin v. Marvin*, 18 Cal.3d 660, 134 Cal. Rptr. 815 (1976), its forbearers and progeny, except such rights as are created by this Agreement.





XII. CONSIDERATION FOR AGREEMENT

The consideration for this Agreement is the contemplated marriage of the parties and the mutual promises, covenants and agreements contained herein.

XIII. EFFECTIVE DATE OF AGREEMENT

This Agreement shall become effective on the date the marriage contemplated by the parties is solemnized.

XIV. OTHERS BOUND

This Agreement, is binding on, and inures to the benefit of the respective legatees, devisees, heirs, executors, administrators, assigns, successors in interest of the parties, and their legal representatives.

XV. APPLICABLE LAW

This Agreement shall be governed by, and construed in accordance with the laws of the State of Nevada. This is a binding choice of law. The parties acknowledge and agree that they will be bound by this Agreement, regardless of any amendments, revisions or repeal of existing case law and statutes which may occur in the future.

XVI. NO WAIVER OF FUTURE BREACHES

No waiver of the breach of any of the terms or provisions of this Agreement shall be a waiver of any preceding or succeeding breach.

XVII. INTEGRATION AND SEVERABILITY

This Agreement contains all of the covenants and agreements between the parties relating in any manner to the subject matter hereof. There are no promises, terms, conditions, or obligations other than those contained herein. This Agreement shall supersede all previous communications, representations, or agreements, either verbal or written, between the parties hereto. No

Edm

JT

representation, promise, inducement, understanding or anything of any nature whatsoever, made, stated, or represented, on behalf of either, whether orally or in writing, has induced either party to enter into this Agreement.

Should any paragraph or provision or a portion of this Agreement be held illegal, invalid or void, it shall be deleted from this Agreement and this Agreement shall be read as though such paragraph, provision or portion was not present and the remaining agreement shall subsist and continue in full force and effect.

XVIII. CONSTRUCTION AND INTERPRETATION

The rule requiring construction or interpretation against the drafter of a document is waived. This document shall be deemed as if it were drafted by both the parties in a mutual effort.

XIX. GENDER AND NUMBER

Whenever used in this Agreement and as required by context, the single number shall include the plural, the plural shall include the singular, and the masculine gender shall include the feminine and neuter genders, and vice versa.

XX. DUPLICATE ORIGINALS

The parties may execute this Agreement in duplicate originals.

XXI. ATTORNEY'S FEES

A. Rochelle agrees to pay her attorney's fees and costs incurred in the negotiation and execution of this Agreement; but for any revisions requested by John or his counsel. John agrees to pay his attorney's fees and costs incurred in the negotiation and execution of the Agreement.

B. Each party does hereby waive, for himself/herself, the right to seek or claim any attorney's fees or costs of litigation from the other party in the event of any litigation concerning this Agreement, unless and until, **and only upon the condition of**, a favorable determination of the

R.M.

J.F.

position asserted by the fee and cost seeking party **first being made** by the court in her/his favor.

C. In the event either party attacks or seeks to impair or invalidate this Agreement, or any provision hereof, no application shall be made to any court for a pendente-lite award of attorneys' fees or litigation costs until the court actually decides the issue pertaining to this Agreement in favor of that party.

D. Each party acknowledges that the waiver of the right to seek pendente lite attorneys' fees and litigation costs may be a material deviation from the existing law, but notwithstanding, it is his/her express intent, desire and agreement to waive such right.

E. In any action arising hereunder or any separate action pertaining to the validity of this Agreement, the prevailing party shall be awarded reasonable attorney's fees and costs.

XXII. CAPTIONS

Paragraph titles or captions contained herein are inserted as a matter of convenience and for reference and in no way define, limit, extend or describe the scope of this Agreement or any provision hereof.

XXIII. PROTOCOL AS TO EXECUTION OF DOCUMENTS

The parties shall promptly make, execute and deliver any instruments, papers, documents, deeds, agreements, contracts or things as the parties shall require for the purpose of giving full effect to this Agreement, and to the covenants and provisions made in this Agreement, including but not limited to the following:

A. Any and all deeds, quitclaims, or assignments, or other documents conveying all right, title and interest in and to vehicles, realty and other property described in the documents to be executed by the parties.

B. Such other and further documents as may be necessary for the intents, objectives,

RLM

JJ

designs and requirements of this agreement, or other collateral, documents, agreements or contracts executed as part of this agreement.

XXIV. CONFIDENTIALITY

Except as is necessary between the parties and their respective attorneys or any court or arbitrator having jurisdiction over the parties and the subject matter hereof, or for the determination of any tax liability or issue pertaining to any tax return of the party making such disclosure, or as is required by any gaming or liquor licensing agency having jurisdiction over either party, neither party nor his or her representatives may disclose to a third party, the terms and conditions contained in this Agreement, nor any information pertaining in any way to the income, wealth, finances, assets and liabilities of the other party.

XXV. ADVICE OF COUNSEL

Each party is represented by counsel of his or her own choice in the negotiation, preparation and execution of this Agreement. Each party recites and agrees that each has had the opportunity to confer with counsel as he or she saw fit and that counsel for each is independent, representing only his or her client.

XXVI. AMENDMENT IN WRITING

The parties may not alter, amend, modify or terminate this Agreement except by an instrument in writing signed by each of the parties.

XXVII. AFFIRMATION OF FAIRNESS

A. Each party acknowledges and agrees that this Agreement has been negotiated at arms length and that each has been absolutely free to accept or reject the provisions of this Agreement without coercion or fear of the response of the other party. The proximity of the parties' planned wedding date, September 12, 1999, has not caused either any undue pressure or duress in the

22m

J.T.

negotiation, preparation and execution of this Agreement. Each party warrants and represents to the other that if he/she were unsatisfied with any term or provision hereof, that he/she would not sign this Agreement notwithstanding the presently existing wedding plans as he/she believes that if any term or provision of this Agreement had been unsatisfactory to him/her that he/she would have resolved that term in a satisfactory manner with the other without in any way interfering with, or delaying, their presently planned wedding.

B. Neither party has made any promises or warranties nor sought to advise, guide, direct, control or pressure the other into accepting the terms of this Agreement. In entering into this Agreement, neither party has relied upon the trust or confidence which he or she may repose in the other.

C. Each party further acknowledges that the terms of this Agreement were devised, proposed, discussed and implemented prior to actual execution and that this Agreement was not hastily contrived as an afterthought, but reflects the desire of the parties to fully and clearly understand and limit their respective rights and obligations to the other which would otherwise accompany the institution of marriage. The parties further acknowledge that any marriage has always been conditioned on the successful and acceptable negotiation of the terms of this Agreement, and that either is free, to the moment of marriage, to withdraw.

D. Each party has carefully read this Agreement and is completely aware, not only of its contents, but also of its legal effect. Each party declares this Agreement is made voluntarily of his or her own volition, free from any duress or coercion, for his or her own motives and with the full knowledge of each and every term hereof and the consequences and legal effect thereof. By signing and execution hereof, each party agrees this Agreement is made at his or her individual mutual request and after full and thoughtful consideration.

Rdm

25

J.T.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands the date and year first above written.

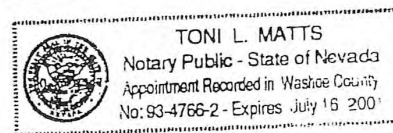
Rochelle Mezzano
ROCHELLE MEZZANO

JOHN TOWNLEY
JOHN TOWNLEY

STATE OF NEVADA)
 : ss
COUNTY OF WASHOE)

On this 9 day of September, 1999, personally appeared before me, a Notary Public, John Townley, who acknowledged to me that he executed the within document and that he did so freely, voluntarily and for the uses and purposes therein described.

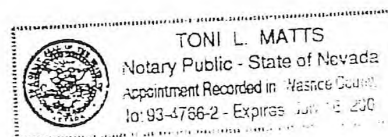
[Signature]
Notary Public



STATE OF NEVADA)
 : ss
COUNTY OF WASHOE)

On this 10 day of September, 1999, personally appeared before me, a Notary Public, Rochelle Mezzano, who acknowledged to me that she executed the within document and that she did so freely, voluntarily and for the uses and purposes therein described.

[Signature]
Notary Public

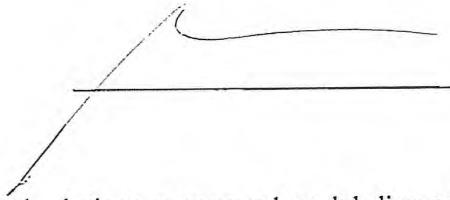


Rdm

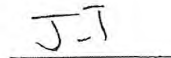
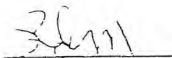
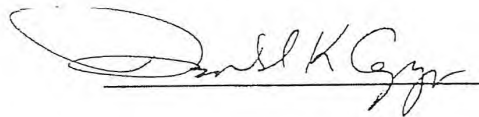
JS

ATTORNEYS' CERTIFICATIONS

The undersigned hereby certifies that she is an attorney at law, duly licensed to practice in the State of Nevada; that she has been employed by Rochelle Mezzano, one of the parties to the foregoing Prenuptial Agreement; that she has advised and consulted with Rochelle Mezzano with respect to her and John Townley's rights and has fully explained to her the legal significance of the foregoing Agreement and the effect which it has upon her rights otherwise obtaining as a matter of law; that Rochelle Mezzano, after being fully advised by the undersigned, acknowledged to the undersigned that she understood fully the terms of the foregoing Agreement and the legal effect thereof, and that she executed the same freely and voluntarily; and that the undersigned has no reason to believe that Rochelle Mezzano did not understand fully such terms and effects or that she did not freely and voluntarily execute said agreement.



The undersigned hereby certifies that he is an attorney at law, duly licensed to practice in the State of Nevada; that he has been employed by John Townley, one of the parties to the foregoing Prenuptial Agreement; that he has advised and consulted with John Townley with respect to his and Rochelle Mezzano's rights and has fully explained to him the legal significance of the foregoing Agreement and the effect which it has upon his rights otherwise obtaining as a matter of law; that John Townley, after being fully advised by the undersigned, acknowledged to the undersigned that he understood fully the terms of the foregoing agreement and the legal effect thereof, and that he executed the same freely and voluntarily; and that the undersigned has no reason to believe that John Townley did not understand fully such terms and effects or that he did not freely and voluntarily execute said agreement.



SCHEDULE A

SEPARATE PROPERTY AND DEBTS OF ROCHELLE MEZZANO

1. That real property commonly described as 3120 Achilles Drive, Reno, Nevada, presently valued at \$190,000; against which there is a first mortgage with a present balance of \$107,206, and a credit line with indebtedness of \$7,500.
2. A duplex, 400 and 410 Claremont Street, Reno, Nevada. The current value of said property is approximately \$150,000, with indebtedness of \$67,400.
3. Any interest in and to that real property located on Brycewood, Sacramento, California.
4. Her IGT Profit Sharing/401k account, and Employee Stock Purchase Plan or any successor thereto, cumulatively valued at approximately \$35,000, with all future options, contributions, accumulations and accretions to said account.
5. Her U.S. Bank savings account, currently valued at \$2,500, and any successor accounts.
6. Her Roth IRA currently valued at \$2,000.
7. The "Pirates of Profit" account or interest, with all earnings and accumulations, currently valued at \$3,000.
8. That jewelry now maintained in a safe deposit box, currently valued at approximately \$150,000. Any jewelry which may subsequently be acquired by Rochelle.
9. Her initial investment in that sole proprietorship: "What Goes Around . . .", of which Rochelle and John shall be co-owners.
10. Her 1990 Toyota and her 1990 GMC van, or any replacement vehicle acquired by Rochelle in her separate name or with her separate credit.
11. Her household furnishings, including the Corian dining room table and chairs, and three gold plated glass topped living room tables.
12. The Hanna Barbara original artwork.
13. Her shot glass collection and Beanie Baby collection.
14. Her mink coat.

RM

JJ.

SCHEDULE B

SEPARATE PROPERTY AND DEBTS OF JOHN TOWNLEY

1. His Mission Tortilla Distributorship, valued between \$10,000 and \$20,000; with all equipment, inventory and assets associated therewith, valued at approximately \$5,000 to \$10,000; and any appreciation in value to said distributorship, whether due to John's efforts and labor, or any other cause.
2. That real property described as 540 Stockade Drive, Sun Valley, Nevada, currently valued at approximately \$110,000, with indebtedness thereon of \$72,000.
3. His Norwest Bank savings account, with a current balance of \$2,000, or any successor accounts.
4. His interest in the Townley Family Trust, with any income or distribution from the Trust.
5. Any assets held by or distributed to John from the Victorian Motors Corporation.
6. His 1971 Toyota Corolla and 1984 Honda motorcycle.
7. His shop equipment and tools.
8. The Fred Boyce "Trout Stamp" print.

iam

J.J.

FILED
Electronically
DV19-01564
2020-03-03 04:01:20 PM
Jacqueline Bryant
Clerk of the Court
Transaction # 7772427 : jbye

EXHIBIT 1

SILVERMAN
KATTELMAN
SPRINGGATE, Chtd.

Gary R. Silverman*
Michael V. Kattelman
John P. Springgate
Alexander C. Morey
Benjamin E. Albers
Kenton C. Karrasch

silverman@sks-reno.com
mvk@sks-reno.com
springgate@sks-reno.com
amorey@sks-reno.com
ben@sks-reno.com
karrasch@sks-reno.com

500 Damonte Ranch Parkway, Suite 675 – Reno, Nevada 89521
(775) 322-3223 Fax (775) 322-3649

www.sks-reno.com

September 11, 2019
Via U.S. Mail

Rochelle Mezzano
735 Aesop Ct.
Reno, NV 89512

RE: Marriage of Townley and Mezzano

Dear Ms. Mezzano:

Your husband, John Townley, hired us to help him through a divorce. After much deliberation, John has decided he cannot remain married. He has directed us to secure a divorce and a fair division of your and his property and debts as quickly and inexpensively as possible. John's hope is that you and he can avoid a protracted, contentious, messy, and expensive divorce. He would rather you and he keep your money than pay lawyers. Although John does not speak for you, he suspects you share his view. We find that early settlement negotiations are the best way to reduce the duration and expense of a divorce. We ask you meet with us to participate in negotiations within the next two weeks. Delay will not be tolerated.

John provided you a rough financial statement and three possible divisions of assets some time ago. We have included copies of those documents with this letter for your ease of reference. You did not respond to John. When we meet to discuss settlement, bring proposals for the division of your and John's assets and debts. We expect you will be willing to take either side of any proposal you make—you must be willing to take what you offer to John.

Before September 20, 2019, we must have a written response to this letter promising you will meet with us to discuss settlement within two weeks. John has honored your requests for delay for nearly a year. He is unwilling to delay longer. If you will not promptly engage in meaningful settlement negotiations that move you and John toward divorce, you force him to engage the court to create a timeline and force your marriage to an end. Therefore, if we do not receive your written response before September 20, 2019, John has directed us to file for divorce on September 20, 2019, which we will do.

*Fellow of the American Academy of Matrimonial Lawyers.

Before that meeting, please provide us with a copy of any prenuptial agreement you claim is in effect between you and John and the location of the original document.

As a matter of recordkeeping, John has transferred the \$50,000 you requested to continue a remodel of your home. In exchange for that \$50,000 and the \$125,000 held in the safe in your home, John has transferred \$175,000 to himself. Moving forward, rather than fiddle with accountings, the \$175,000 in your control is your separate property and the \$175,000 in John's control is his separate property.

We look forward to hearing from your lawyer and scheduling a date to meet and discuss settlement. If you do not hire a lawyer—a choice we strongly advise against—we will work directly with you. In any discussions with us, you must keep in mind we are not your lawyers; we do not represent you; we represent John; and we advocate for John's interests.

You may reach us at 775-322-3223, by email at the addresses on the first page, and by mail to 500 Damonte Ranch Pkwy., Ste. 675, Reno, Nevada 89521. Contact us promptly. Delay will not be tolerated. We will file for divorce on September 20, 2019, if we do not have your promise to engage in meaningful settlement negotiations within two weeks.

Respectfully,

SILVERMAN KATTELMAN SPRINGGATE, CHTD.

A handwritten signature in black ink, appearing to read 'Alexander Morey', with a stylized, flowing script.

ALEXANDER MOREY

ACM:tm
cc: client