

IN THE SUPREME COURT OF THE STATE OF NEVADA

Supreme Court Case No.

JOSEPH A. GUTIERREZ, Esq., STEVEN G. KNAUSS, Esq., JASON R. MAIER, Esq., and MAIER GUTIERREZ & ASSOCIATES, Electronically Filed
Feb 26 2024 08:22 AM
Elizabeth A. Brown
Clerk of Supreme Court

Petitioners

vs.

The Eighth Judicial District Court of the State of Nevada,
and the Honorable Susan Johnson,

Respondents,

and

RENE SHERIDAN,
An individual,

Real Parties in Interest

**APPENDIX TO PETITION FOR WRIT OF MANDAMUS
VOLUME I OF IV**

Submitted By:

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Joseph A. Gutierrez, Esq., Steven G. Knauss, Esq., Jason R. Maier, Esq., and
Maier Gutierrez & Associates

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I	App 0001-0021	8/31/20	Complaint for Legal Malpractice
I	App 0022-0024	8/16/22	Order Granting in Part and Denying in Part Defendants' Motion to Dismiss, and Denying Plaintiff's Motion to Strike
I	App 0025-0038	8/22/23	Defendants' Motion for Summary Judgment
I	App 0039-0154	8/22/23	Appendix Volume I of II – Defendants' Motion for Summary Judgment
II	App 0155-0263	8/22/23	Appendix Volume II of II – Defendants' Motion for Summary Judgment
III	App 0264-0349	9/07/23	Plaintiff's Opposition to Defendants' Motion for Summary Judgment
III	App 0350-0371	9/26/23	Plaintiff's Declaration in Support of Opposition to Defendants' Motion for Summary Judgment
IV	App 0372-0381	9/28/23	Defendants' Reply In Support of Motion for Summary Judgment
IV	App 0382-0389	10/14/23	Order on Defendants' Motion to Strike 1) Plaintiff's Untimely Opposition to Defendants' Motion for Summary Judgment; and 2) Improper Supplement to Initial Expert Disclosures; and Defendants' Motion for Summary Judgment
IV	App 0390-0438	11/09/23	Defendants' Motion for Summary Judgment Based on Plaintiff's Failure to Provide Damages Computation, or Alternatively, for Rule 37 Sanctions
IV	App 0439-0444	11/28/23	Plaintiff's Opposition to Defendants' Motion for Summary Judgment Based on Plaintiff's Failure to

			Provide Damages Computation, or Alternatively, for Rule 37 Sanctions
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IV	App 0465-0469	1/12/24	Order Denying (1) Plaintiff's Motion to Alter or Amend Order; (2) Plaintiff's Motion for Partial Summary Judgment; (3) Defendant's Motion for Summary Judgment or Alternatively for Rule 37 Sanctions; and (4) Defendants' Motion for Summary Judgment Filed August 22, 2023
IV	App 0470-0510	1/24/24	December 14, 2023 Recorder's Transcript of Hearing Re: Plaintiff's Motion for Summary Judgment

CERTIFICATE OF SERVICE

Pursuant to N.R.A.P 25(b), I certify that I am an employee of LIPSON NEILSON P.C., and that on this 23rd day of February, 2024, I served a true and correct copy of the foregoing **APPENDIX TO PETITION FOR WRIT OF MANDAMUS – VOLUME I OF IV** via the Court’s EFLEX system and by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada to the addressees listed below:

Michael R. Mushkin, Esq. L. Joe Coppedge, Esq. MUSHKIN & COPPEDGE 6070 S. Eastern Avenue, Suite 270 <i>Attorneys for Real Party in Interest, Rene Sheridan</i>	Honorable Susan Johnson Eighth Judicial District Court Department 22 200 Lewis Ave Las Vegas, NV 89101
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/s/ Juan Cerezo

An Employee of LIPSON NEILSON P.C.

CODE
Rene Sheridan
23823 Malibu Road, #50-364
Malibu, CA 90265
Tel: 310-422-9944
In Pro Per

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

RENE SHERIDAN, an individual,
Plaintiff,

v.

Case No.:

JOSEPH A. GUTIERREZ, an individual;
STEVEN G. KNAUSS, an individual;
JASON R. MAIER, and individual;
MAIER GUTIERREZ & ASSOCIATES;
a Domestic Professional LLC, and
DOES I-XX, inclusive, and XYZ
CORPORATIONS I-XX, inclusive,
Defendants.

Dept. No.:

COMPLAINT FOR LEGAL MALPRACTICE

COMES NOW, Plaintiff, RENE SHERIDAN, (hereafter "Plaintiff" or "Sheridan") in pro
per, for causes of action do hereby files her Complaint and avers and alleges as follows:

I. PARTIES, JURISDICTION & VENUE

1. Plaintiff SHERIDAN is, and at all relevant times was, a resident of California.

2. Defendant JOSEPH A. GUTIERREZ (“Defendants/Gutierrez”), an individual and attorney at MAIER GUTIERREZ & ASSOCIATES who was hired to represent Plaintiff Sheridan.

It is believed that at all relevant times, Defendant Gutierrez is a resident of Nevada.

3. Defendant STEVEN G. KNAUSS (“Defendants/Knauss”), an individual and attorney at MAIER GUTIERREZ & ASSOCIATES who was hired to represent Plaintiff Sheridan.

It is believed that at all relevant times, Defendant Knauss is a resident of Nevada.

4. Defendant JASON R. MAIER, (“Defendants/Maier”) an individual and attorney at MAIER GUTIERREZ & ASSOCIATES who was hired to represent Plaintiff Sheridan. It is believed that at all relevant times, Defendant Maier is a resident of Nevada.

5. Defendant MAIER GUTIERREZ & ASSOCIATES (“Defendants/MGA”) a Nevada Professional Limited Liability Company doing business in Nevada of which the PLLC was hired to represent Plaintiff Sheridan with their principal place of business at 8816 Spanish Ridge Avenue, Las Vegas, Nevada.

6. The true names and capacities, whether individual, corporate, associate, partnership, professional association, joint venture or otherwise of defendants denominated DOES 1-10 are unknown to the Plaintiff who, therefore, sues these defendants by fictitious names. Each of these defendants is liable for the actions or omissions of Defendants by operation of law under agency principles. The Plaintiff will ask leave of the Court to amend the Complaint to insert the true names and capacities of DOES 1-10, inclusive, when the same have been determined, and to join such defendants in this action by operation of NRCP 10(a) and *Nurenberger Hercules-Werke GMBH v. Viresrek*, 107 Nev. 873, 822 P.2d 1100 (1991).

7. At all times relevant to the allegations of this Complaint, each of the Defendants names, including DOES 1-10, were agents of the other remaining Defendants and were acting with actual or apparent authority in the conduct alleged.

8. Each of the Defendants were acting in concert with each other and were the agents and employees of each other and were acting within the course and scope of their employment when they knowingly and intentionally caused injury to Plaintiff.

9. Each of the Defendants is jointly and severally liable for the damages to Plaintiff as hereinafter more particularly alleged.

10. Every act or omission of the Defendants and their agents and employees, whether or not within the scope of their agency, was ratified by the other remaining individual, corporate, joint venture or partnership defendants.

11. At all times material to the allegations in this Complaint, Defendants Gutierrez, Knauss and Maier were an employees, shareholders or members of MGA, which is legally and vicariously responsible by operation of law for their actions or omissions.

12. This litigation involves the negligence and legal malpractice of the Defendants in the legal representation of Plaintiff during business and settlement negotiations.

13. Plaintiff brings this action in Nevada against Defendants and is informed and believes and hereon alleges that all Defendants reside in or are incorporated under the law of the State of Nevada and at which all times pertinent hereto, were and still are conducting business and entered into contracts in Nevada, all in relation to the claims herein.

14. Jurisdiction and venue are proper herein because Defendants conducted business with Plaintiff in the State of Nevada, and Plaintiff's claims are in excess of \$15,000.00.

II. GENERAL ALLEGATIONS

15. Plaintiff hired the Defendants to represent her and her company, GoRock, LLC in regard to a business dispute involving the theft of Plaintiff's intellectual property rights and half ownership of the production of a motion picture, as well as a filing with the Nevada Secretary of State in

1 which Plaintiff's name was fraudulently removed from the business representing the movie
2 production.

3 16. The Court granted limited jurisdictional discovery to the Plaintiff just prior to
4 Plaintiff initially hiring the Defendants. Plaintiff hired the Defendants to assist with a Rule 16
5 Conference and the ongoing litigation. The Rule 16 Conference was ordered by the Court to
6 establish discovery parameters. Plaintiff's business colleague and investor, Patrick Cannon,
7 attended the Conference, but was precluded from speaking on Plaintiff's behalf. Plaintiff believed
8 that Defendant Gutierrez, the senior attorney would be appearing on Plaintiff's behalf for the Rule
9 16 Conference. Instead, Gutierrez sent his woefully inexperienced associate, Steven Knauss.
10 Knauss stated that this was his first Rule 16 Conference and had appeared in his **gym clothes**.
11 Plaintiff's business colleague Patrick Cannon, who was at the Conference, was shocked at Knauss'
12 unprofessionalism.
13

14 During the conference Cannon was not allowed into chambers while Knauss advocated
15 against Plaintiff's interests. Knauss argued that Plaintiff didn't want or need any discovery which
16 was the entire reason Plaintiff sought the Rule 16 Conference in the first place. Knauss' argument
17 was completely contradictory to the efforts to get the conference granted, let alone to then dismiss
18 the discovery requests during the conference (Exhibit 1). Knauss argued against Plaintiff's interests
19 based upon his belief that opposing counsel was "severe," that his error was "benign" and that
20 Knauss would try to fix his error later. The error was never fixed by Knauss or MGA to Plaintiff's
21 detriment.
22

23 17. Shortly after the Rule 16 Conference, opposing counsel in that case was instructed
24 by the Court to file an Order memorializing the findings after hearing. However, the Order
25 contained a material error which changed the entire meaning in the Court's findings. MGA did not
26 catch the error, but only at Plaintiff's insistence did they reluctantly file a motion to correct the
27
28

1 error. During the hearing, the Court specifically asked Knauss if the incorrect Order was submitted
2 by Plaintiff's counsel. Knauss responded "Correct," which was completely false. The error was
3 purposefully filed by opposing counsel to harm Plaintiff by changing the locale to California and
4 not Nevada, which was the correct location. It was a deliberate fabrication that would give the Court
5 the false impression that Plaintiff's had an interest in a California LLC, which would remove the
6 illegal conversion claim from the Nevada jurisdiction.
7

8 Knauss knew the Defendant's counsel Gallagher was the one who deliberately and
9 purposefully filed the incorrect Order, not Plaintiff. Yet Knauss stated on the record that the error
10 was a clerical one, and that Plaintiff was the one who filed the incorrect Order. Knauss knew this
11 was completely false yet still stated in open court that the Plaintiff's had filed the Order, even after
12 Plaintiff's presented to Knauss the irrefutable evidence that the opposing attorney, in direct defiance
13 of the Court's direction, filed the fraudulent Order. Even the Court commented that the Order didn't
14 make sense, yet Knauss didn't seek sanctions against opposing counsel at the request of Plaintiff.
15 This demonstrates the negligent representation of Knauss of Plaintiff's interests in failing to set the
16 record straight, implicating Plaintiff in the error, and by further absolving Gallagher (opposing
17 counsel in the underlying case) of her misconduct (Exhibit 2). This negligence caused Plaintiff
18 financial harm in having to litigate this issue as MGA failed to catch the error initially, necessitating
19 the filing of the motion at Plaintiff's insistence. MGA failed in not seeking sanctions or attorney's
20 fees for Gallagher's false assertion.
21
22

23 18. Knauss' misconduct was also demonstrated by his practice of altering Plaintiff's
24 Declarations after Plaintiff had signed them. Plaintiff would review the Declarations presented by
25 MGA, sign them and then believed they would be filed as is. Plaintiff only became aware of the
26 damaging changes made by Knauss after Plaintiff had ok'd the version she signed and saw the
27 version that were then filed. These fraudulent alterations were made by Knauss and often altered the
28

1 entire meaning of the Plaintiff's factual position and argument in direct contradiction to her interests
2 (Exhibit 3). Plaintiff began to believe that Knauss was working with opposing counsel Gallagher to
3 allow opposing counsel to re-write the Declarations before filing to harm Plaintiff's legal position.
4 Knauss further altered discovery requests contrary to the information and requests provided by
5 Plaintiff, directly in opposition to Plaintiff's legal position. These negligent and fraudulent actions
6 further caused direct harm to Plaintiff.
7

8 19. Defendants had previously failed to acquire any of the necessary and relevant
9 discovery, including the highly relevant company records, despite Plaintiff's insistence.

10 20. Defendants allowed the underlying case's Defendant Rudolf Sedlak, to file a
11 renewed Motion to Dismiss on jurisdictional grounds. This led to an appeal with the Nevada
12 Supreme Court and the case was then assigned to a mandatory Nevada Supreme Court Settlement
13 Program.
14

15 21. It was Court ordered that attendance by all parties was mandatory. During the
16 Settlement Conference, Defendant Gutierrez maintained and asserted for over 2 hours to Plaintiff
17 that Defendant Sedlak was present in the other room. Sedlak in fact was not present contrary to the
18 assertions made by Gutierrez. Sedlak made himself unreachable and the Settlement Judge attempted
19 to contact Sedlak to no avail. Sedlak's willful failure to attend the mandatory settlement conference
20 was in direct violation of NRAP 16(e)(3).
21

22 22. Plaintiff adamantly wanted sanctions to be sought against Sedlak. Gutierrez insisted
23 that Plaintiff accept an unauthorized substitute for Sedlak. Gutierrez then offered Plaintiff a
24 reduction in her total legal bill in exchange for Plaintiffs continued participation in the Settlement
25 Conference. Gutierrez then argued against sanctions for Sedlak and went so far as to object to
26 Sedlak's violation entirely by accepting an unauthorized substitute for Sedlak, knowing that the
27 substitute did not have authority to make any decision on the part of the underlying Defendants.
28

1 23. The parties then proceeded with an 8.5-hour Settlement Conference in which a loose
2 list of terms to be included and formalized in a final settlement agreement were agreed upon. The
3 parties would disagree on a number of the terms, but the parties did agree that the Confidentiality
4 Clause of the Agreement was an essential term of the Agreement and any disclosure by either side
5 would constitute a material breach (Exhibit 4).
6

7 24. The parties further agreed that the payment terms of the Material Terms were to be
8 strictly confidential and the parties and their respective counsel would not disclose the facts or
9 contents of the Agreement.

10 25. The Defendants in that case took the draft Settlement Agreement, signed the material
11 terms and filed with the Court to enforce the terms based upon MGA's actions in failing to assert
12 that the settlement agreement was not finalized, was an agreement to negotiate and in no way was a
13 meeting of the minds.
14

15 26. Plaintiff insisted that MGA correct their error in allowing opposing counsel to file
16 the draft settlement agreement which was not finalized in any way and of which Plaintiff was not in
17 agreement. MGA failed to again correct this fraudulent filing by Defendants and was only allowed
18 to file a limited Opposition in regard to the Defendant's subsequent filing to enforce.

19 Within the limited Opposition, Defendant Gutierrez included an unredacted email from
20 Knauss and Gallagher which included the material terms of the Agreement, including settlement
21 amounts and the exact funding terms in direct breach and violation of the Confidentiality Clause of
22 the Agreement.
23

24 27. Defendant Gutierrez sent an email to Plaintiff stating that after going through the
25 limited opposition to the motion to enforce the settlement that was filed on Plaintiff's behalf, MGA
26 had made the material mistake of not redacting the settlement amounts contained in the emails as
27 Plaintiff's Exhibit 5 of the Limited Opposition previously filed (Exhibit 5).
28

1 28. Opposing counsel then duplicated the entire unredacted email exchange provided by
2 Knauss and Gutierrez and filed it with the Court as well. Both filed unredacted versions remained
3 with the Court and as public record for over 45 days. At no time did Gutierrez or Gallagher alert the
4 Court to the unredacted version to correct the error. In fact, Plaintiff only became aware that the
5 unredacted version had been filed when a colleague had informed Plaintiff of the confidential terms
6 after reading it off the Court's docket.
7

8 29. Once Plaintiff became aware of the damaging disclosure, Plaintiff confronted
9 Gutierrez about the blatant malpractice and negligence. Only then did Gutierrez admit to Plaintiff
10 that he would be unable to prosecute a breach of the terms by the opposing counsel, as he had just
11 learned that he was the one in fact who filed the unredacted terms. Gutierrez further went on to state
12 that he takes full responsibility for this mistake and is intent on correcting it (Exhibit 6). However,
13 his only intent on correcting was to try to have the document redacted or in the alternative, to have
14 the parties stipulate to refile with the proper redactions 45 days after being on the public record.
15

16 30. Due to his negligence and the negligence of MGA, Defendant Gutierrez was unable
17 to take the position and argue on the behalf of Plaintiff that the Defendants in that case breached the
18 confidentiality portion of the Material Terms agreement, because Defendant Gutierrez himself took
19 that argument away by being the initiating breaching party. This was extremely damaging to
20 Plaintiff and her position in the litigation. In fact, Gutierrez's negligence completely destroyed any
21 argument Plaintiff may have had in regard to her argument and position.
22

23 31. With the only viable argument removed by Gutierrez's negligence, Gutierrez's only
24 focus was then to argue the merits of the opposition to enforce the settlement agreement by
25 attacking terms which were not the main concern of Plaintiff. Instead, MGA through their
26 negligence included the settlement amounts in the Settlement Agreement.
27

28 32. This was a complete breach of the confidentiality agreement signed by all parties and

1 a negligent breach by Plaintiff's attorney. By providing the settlement terms in a publicly filed
2 document, Plaintiff was settling for a fraction of her interest on the belief that those sums would
3 remain confidential. They were not. This negligence was extremely harmful to the value of
4 Plaintiff's professional services as a producer. It further shows that Plaintiff could be deemed
5 untrustworthy and unprofessional by providing material terms of a contract in a public forum. This
6 negligence has damaged Plaintiff's reputation, her professionalism and her financial position for
7 future endeavors.

9 33. Due to the negligence of MGA, Defendant Gutierrez left the Plaintiff in the
10 vulnerable position of being unable to argue from the position of being a non-breaching party. Now,
11 due to his negligence, Plaintiff had become a breaching party. This is in addition to the opposing
12 party also having breached the material terms by filing a Reply to the limited Opposition with the
13 unredacted terms and settlement sums as provided by Defendant Gutierrez.

15 34. Plaintiff filed an appeal with the Nevada Supreme Court in opposition to the one-
16 sided settlement agreement terms which damaged Plaintiff (Exhibit 7).

17 35. The breach by Defendant Gutierrez was so egregious that the Nevada Supreme Court
18 made note of it in its Affirmance.

19 36. The Supreme Court issued an Opinion in which the Court stated, "We further
20 disagree with Sheridan's argument that she was excused from any obligation under the settlement
21 due to a breach of the agreement's confidentiality provision. Sheridan's own counsel breached that
22 provision. Cf. Lange v. Hickman, 92 Nev. 41, 43, 544 P.2d 1208, 1209 (1976). ("[An] attorney's
23 neglect is imputed to his client, and the client is held responsible for it."). The appropriate relief for
24 any harm caused by that breach, therefore, is a malpractice action against Sheridan's former
25 counsel, not the district court to invalidate the settlement agreement. (The client's recourse is an
26 action for malpractice")." (Exhibit 8- see pages 5-6)

1 37. Further, by this breach, MGA made Plaintiff a breaching party and removing
2 Plaintiff's ability to seek recourse. The Defendants in the underlying case stated on the record that
3 they were also a breaching party by including the email with the material terms in their Reply brief.
4 However, due to Plaintiff's counsel being the initiating breaching party, Plaintiff's ability to seek
5 any recourse was completely removed (Exhibit 9).
6

7 39. The damage done to Plaintiff's professional reputation and value was, and will
8 always be, devastating to Plaintiff's career. Plaintiff only agreed to a fraction of the value of
9 Plaintiff's half ownership of the production of the motion picture under the terms of the Agreement.
10 Defendants not only devalued the professional status of the Plaintiff, but also the value of the
11 production itself.
12

13 40. The Settlement Agreement that was being drafted by Gutierrez and opposing counsel
14 provided for terms that were contrary to Plaintiff's interests. Gutierrez provided for a bizarre
15 admission of Plaintiff's guilt, and indemnification clause that only indemnifies the underlying
16 case's Defendants and not Plaintiff, and a defamation clause that opens the Plaintiff to unlimited
17 and meritless lawsuits and provides an incentive to do so (Exhibit 7). Further, the Settlement
18 Agreement was structured to where the underlying Defendant was able to make a small initial
19 payment, but the main payment wasn't due for 60 days. This made it easy for the underlying
20 Defendant to default on the payment, which they have done (Exhibit 10). Plaintiff cannot see how
21 Gutierrez, Knauss and MGA advocated for Plaintiff's interests in the creation of the one-sided
22 settlement agreement, which was detrimental to Defendant's client, the Plaintiff. In fact, it is clear
23 that Defendants actively worked against Plaintiff's interests and the case was dismissed (Exhibit
24 11).
25

26 41. Based upon the numerous and ongoing errors, Plaintiff fired MGA as her counsel of
27 record on October 29, 2018 due to the ongoing negligence and failure to adequately represent her,
28

1 and in fact, had been actively working against Plaintiff's interests. Interestingly, MGA filed that
2 same day a Lien for Attorney's Fees and Judgment. This further harmed Plaintiff by precluding her
3 from obtaining further investment monies for other creative projects and negatively affected
4 Plaintiff's credit worthiness. This demonstrates Defendant's fraudulent intent to gain unearned
5 attorney's fees for work that was not competently completed (Exhibit 12).
6

7 42. Plaintiff has suffered damages in excess of \$15,000.

8 43. Plaintiff is informed, believes and hereon allege that he above actions of all named
9 Defendants are continuous.

10 **III. CAUSES OF ACTION**

11 **FIRST CLAIM FOR RELIEF**
12 **Professional Negligence**
13 **All Defendants**

14 1. Plaintiff realleges the allegations contained in the other paragraphs of this Complaint
15 and incorporates them by reference as if fully set forth here.

16 2. A legal malpractice action under Nevada law requires an attorney- client
17 relationship, a duty owed to the client by the attorney, breach of that duty, and the breach is the
18 actual and proximate cause of the client's damages, *Kahn v. Morse & Mowbray*, 121 Nev. 464, 477,
19 117 P.3d 227, 236 (2005).

20 3. An attorney/client relationship existed between Plaintiff and the Defendants. In their
21 representation of the Plaintiff, the Defendants had a duty to exercise that degree of skill and
22 competence consistent with the standard of care of attorneys practicing law in the State of Nevada.
23 The Defendants negligently disclosed sensitive information, including the financial terms without
24 redactions during the settlement negotiations in direct breach of the actual Settlement Agreement.
25 This negligence also removed Plaintiff's ability to argue from a non-breaching party standpoint and
26 placed Plaintiff in a highly disadvantaged position. This negligence removed any recourse Plaintiff
27
28

1 may have had as she was no longer a non-breaching party. In fact, the negligence of Defendants has
2 damaged Plaintiff throughout their entire representation of Plaintiff (Exhibit 13).

3 4. Defendants breached their duty to Plaintiff to exercise reasonable care and are liable
4 for the damages incurred as a consequence.

5 5. As a direct and proximate result of the professional negligence of the Defendants, the
6 Plaintiff has suffered the following damages:
7

- 8 a. Fees paid to the Defendants for services which had no value,
9 b. Costs incurred in the underlying litigation,
10 c. Fees paid to prosecute an unsuccessful appeal to the Nevada Supreme Court,
11 d. Loss in excess of \$15,000.00, greater than the minimum jurisdictional
12 amount of this court to be proved at the time of trial.
13
14 e. Punitive damages for the willful, fraudulent and malicious conduct of
15 Defendants.

16 **SECOND CLAIM FOR RELIEF**
17 **Breach of Contract**
18 **All Defendants**

19 1. Plaintiff realleges the allegations contained in the other paragraphs of this Complaint
20 and incorporates them by reference as if fully set forth here.

21 2. Plaintiff and Defendants entered into a valid and existing contract for legal services
22 to be provided by the Defendants;

23 3. Plaintiff has performed all of her obligations and satisfied all of the conditions under
24 the contract, and/or her performance and conditions were excused;

25 4. Defendants breached the terms of the contract by failing to exercise that degree of
26 skill and competence consistent with the standard of care of attorneys practicing law in the State of
27 Nevada by releasing the terms of the settlement negotiations in breach of the Settlement Agreement,
28

1 in addition to the ongoing negligent representation as set forth above.

2 6. Defendants breached their duty to Plaintiff to exercise reasonable care and
3 are liable for the damages incurred as a consequence.

4 7. As a direct and proximate result of the breach of contract by the Defendants, the
5 Plaintiff has suffered the following damages:

- 6 a. Fees paid to the Defendants for services which had no value,
7 b. Costs incurred in the underlying litigation,
8 c. Fees paid to prosecute an unsuccessful appeal to the Nevada Supreme Court,
9 d. Loss in excess of \$15,000.00, greater than the minimum jurisdictional
10 amount of this court to be proved at the time of trial.
11 e. Punitive damages for the willful, fraudulent and malicious conduct of
12 Defendants.
13
14

15 **THIRD CLAIM FOR RELIEF**
16 **(Quasi-Contract / Equitable Contract / Detrimental Reliance)**
17 **All Defendants**

18 1. Plaintiff realleges the allegations contained in the other paragraphs of this Complaint
19 and incorporates them by reference as if fully set forth here;

20 2. Defendants are contractually obligated to Plaintiff. The contractual obligations are
21 based upon the underlying agreements between the Defendants and Plaintiff, and principles of
22 equity and representations made by the Defendants;

23 3. Plaintiff relied upon the Defendants' representations and trusted the Defendants to
24 provide adequate and competent legal representation;

25 6. Defendants were informed of, and in fact knew of, Plaintiff's reliance upon their
26 representations;

27 7. Based on these facts, equitable or quasi-contracts existed between the Plaintiff and
28

1 the Defendants;

2 8. Defendants, however, have failed to perform their obligations;

3 9. These failures constitute material breaches of their agreements;

4 10. Plaintiff has performed all of her obligations and satisfied all conditions under the
5 contracts, and/or his performance and conditions, under the contracts, were excused;
6

7 11. As a direct and proximate result of Defendants' wrongful conduct, Plaintiff has been
8 harmed.

9 12. In addition, as a direct, proximate and necessary result of Defendant's wrongful
10 conduct, Plaintiff has been forced to incur costs and fees and thus Plaintiff seeks an award of said
11 costs and fees as damages pursuant to statute, decisional law, common law and this Court's inherent
12 powers;
13

14 13. As a direct and proximate result of the breach of contract by the Defendants, the
15 Plaintiff has suffered the following damages:

- 16 a. Fees paid to the Defendants for services which had no value,
17 b. Costs incurred in the underlying litigation,
18 c. Fees paid to prosecute an unsuccessful appeal to the Nevada Supreme Court,
19 d. Loss in excess of \$15,000.00, greater than the minimum jurisdictional
20 amount of this court to be proved at the time of trial.
21
22 e. Punitive damages for the willful, fraudulent and malicious conduct of
23 Defendants.

24
25 **FOURTH CLAIM FOR RELIEF**
26 **(Breach of the Implied Covenant of Good Faith and Fair Dealing)**
All Defendants

27 1. Plaintiff realleges the allegations contained in the other paragraphs of this Complaint
28

1 and incorporates them by reference as if fully set forth here;

2 2. As alleged herein, Plaintiff entered into one or more contracts with Defendants;

3 3. Under the terms of the contracts, Defendants were obligated to provide competent
4 legal representation to Plaintiff;

5 4. Every contract in Nevada has implied into it, a covenant that the parties thereto will
6 act in the spirit of good faith and fair dealing;

7 5. Defendants have breached this covenant by intentionally making false and
8 misleading statements to Plaintiff, and for their other wrongful actions as alleged in this Complaint.

9 6. In addition, as a direct, proximate and necessary result of Defendant's wrongful
10 conduct, Plaintiff has been forced to incur costs and fees and thus Plaintiff seeks an award of said
11 costs and fees as damages pursuant to statute, decisional law, common law and this Court's inherent
12 powers;

13 7. As a direct and proximate result of the breach of contract by the Defendants, the
14 Plaintiff has suffered the following damages:

- 15 a. Fees paid to the Defendants for services which had no value,
16 b. Costs incurred in the underlying litigation,
17 c. Fees paid to prosecute an unsuccessful appeal to the Nevada Supreme Court,
18 d. Loss in excess of \$15,000.00, greater than the minimum jurisdictional
19 amount of this court to be proved at the time of trial.
20 e. Punitive damages for the willful, fraudulent and malicious conduct of
21 Defendants.
22

23
24
25 **FIFTH CLAIM FOR RELIEF**
26 **(Vicarious Liability)**
27 **All Defendants**

28 1. Plaintiff realleges the allegations contained in the other paragraphs of this Complaint

1 and incorporates them by reference as if fully set forth here;

2 2. At all times relevant, Defendants Gutierrez, Defendant Knauss and Defendant Maier,
3 were employees of the Defendant MGA, a Nevada Professional Corporation. As a consequence,
4 Defendant MGA is vicariously liable by operation of law for the actions and omissions of
5 Defendants Gutierrez, Defendant Knauss and Defendant Maier.
6

7 3. An attorney/client relationship existed between Plaintiff and the Defendants. In their
8 representation of the Plaintiff, the Defendants had a duty to exercise that degree of skill and
9 competence consistent with the standard of care of attorneys practicing law in the State of Nevada.

10 4. Defendants breached their duty to Plaintiff to exercise reasonable care and MGA is
11 liable for the damages incurred as a consequence.

12 8. As a direct and proximate result of the professional negligence of the Defendants, the
13 Plaintiff has suffered the following damages:
14

- 15 a. Fees paid to the Defendants for services which had no value,
- 16 b. Costs incurred in the underlying litigation,
- 17 c. Fees paid to prosecute an unsuccessful appeal to the Nevada Supreme Court,
- 18 d. Loss in excess of \$15,000.00, greater than the minimum jurisdictional
19 amount of this court to be proved at the time of trial.
- 20 e. Punitive damages for the willful, fraudulent and malicious conduct of
21 Defendants.
22

23 **SIXTH CLAIM FOR RELIEF**
24 **(Fraud)**
25 **Defendant Gutierrez and MGA**

26 1. Plaintiff realleges the allegations contained in the other paragraphs of this Complaint
27 and incorporates them by reference as if fully set forth here;

28 2. Defendants advertised and presented themselves as skilled and competent attorneys

1 who would aggressively represent their clients' interests. However, most of Plaintiff's case was
2 handled by interns and support staff who had neither the training nor education to properly handle a
3 complex business litigation and these staff members were not licensed attorneys.

4 3. The control and management of cases by non-lawyer support staff is the business
5 model and practice of the Defendant. This is done to inflate bills without the requisite legal work
6 being completed by a skilled licensed attorney. The staff, including assistants and Knauss were
7 inadequately supervised by the Defendant Gutierrez and lacked the skill, training and competence to
8 practice law in place of Gutierrez. Defendant Gutierrez would routinely refer to Knauss as the
9 "newbee from Legal Zoom" and was fresh out of law school with very little high-level litigation
10 practice. In fact, Knauss had never attended a Rule 16 Conference before and showed up in his gym
11 clothes.
12

13 4. Gutierrez routinely had interns, with zero law experience, doing complex litigation
14 work with no supervision and charging as if they were licensed attorneys at the firm.
15

16 5. Through his law office management practices, Defendant Gutierrez consciously and
17 deliberately created a risk that the clients in his office would receive substandard legal care from
18 employees not licensed to practice law. This was fraud by deception and concealment.
19

20 6. Plaintiff relied upon the representations, express and implied, by Defendant
21 Gutierrez that her case would be competently and skillfully managed and resolved. It was not and
22 Plaintiff suffered the damages alleged above as a result.

23 7. The conduct of Defendant Gutierrez was in conscious disregard for the probable
24 harmful consequences of his actions and omissions; therefore, the Defendants should suffer punitive
25 damages for the sake of example and by way of punishment.

26 8. As a direct and proximate result of the professional negligence of the Defendants, the
27 Plaintiff has suffered the following damages:
28

- a. Fees paid to the Defendants for services which had no value,
- b. Costs incurred in the underlying litigation,
- c. Fees paid to prosecute an unsuccessful appeal to the Nevada Supreme Court,
- d. Loss in excess of \$15,000.00, greater than the minimum jurisdictional amount of this court to be proved at the time of trial.
- e. Punitive damages for the willful, fraudulent and malicious conduct of Defendants.

WHEREFORE, the Plaintiff prays for judgment against Defendants for:

1. For general, special, exemplary and punitive damages sustained by the Plaintiff in a sum in excess of \$15,000.00, jointly and severally, or as the Court may see fit, together with interest on that amount, until paid;
2. Reasonable costs and fees;
3. Such other and further relief as the court may deem just and proper.

Pursuant to NRS 239B.030, the undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

DATED this 31st day of August, 2020.

/s/ Rene Sheridan
Rene Sheridan
23823 Malibu Road, #50-364
Malibu, CA 90265
Tel: 310-422-9944
In Pro Per

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VERIFICATION

I, the undersigned, hereby declare:

I am the Plaintiff in the above-entitled action. I have read the foregoing COMPLAINT and know the contents thereof; that the same is true of my own knowledge, except as to those matters which are therein stated on information and belief, and as to those matters, I believe them to be true.

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

DATED this 28 day of August 2020.

Rene Sheridan

Rene Sheridan

SUBSCRIBED and sworn to
before me this _____ day of _____, 2020

Notary Public

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

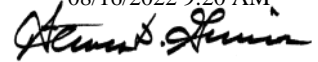
STATE OF CALIFORNIA, COUNTY OF Los Angeles
Subscribed and sworn to (or affirmed) before me on this 28 day of Aug, 2020 by Rene Sheridan
proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.
Kelly Charpenet
(Signature of Notary)



List of Exhibits

Ex. No.: Description

1. Knauss – Rule 16 Conference
2. Transcript Knauss affirmation of Gallagher’s error
3. Declaration’s changed by Knauss
4. Material Terms Agreement
5. Court filing which included the unredacted email with amounts by MGA
6. Email from MGA admitting the material breach and error
7. Appellants Supplemental Information – Nevada Supreme Court Filing
8. Order of Affirmance- Nevada Supreme Court
9. Gallagher’s statement of breach based upon MGA’s initial breach
10. Notice of Default
11. Order of Dismissal
12. Lien for Attorney’s Fees- MGA
13. Declaration by Patrick Cannon


CLERK OF THE COURT

ORDR

LIPSON NEILSON P.C.
JOSEPH P. GARIN, ESQ.
Nevada Bar No. 6653
JONATHAN K. WONG, ESQ.
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jwong@lipsonneilson.com

Attorneys for Defendants

DISTRICT COURT
CLARK COUNTY, NEVADA

* * *

RENE SHERIDAN, an individual	)	Case No: A-21-838187-C
	)	Dept. No.: 22
Plaintiff,)	
vs.)	
	)	ORDER GRANTING IN PART AND
JOSEPH A. GUTIERREZ, Esq.	)	DENYING IN PART DEFENDANTS'
STEVEN G. KNAUSS, Esq.	)	MOTION TO DISMISS, AND DENYING
JASON R. MAIER, Esq.	)	PLAINTIFF'S MOTION TO STRIKE
MAIER GUTIERREZ & ASSOCIATES)	
)	
Defendants.)	
_____)	

This matter came before the Court for hearing on August 4, 2022, on Defendants MAIER GUTIERREZ & ASSOCIATES, JOSEPH GUTIERREZ, ESQ., STEVEN KNAUSS, ESQ., AND JASON MAIER, ESQ.'s (collectively, "Defendants") Motion to Dismiss, as well as Plaintiff's Motion to Strike Defendants' Motion to Dismiss ("Motion to Strike"). Having considered the record, the briefs submitted in support of and in opposition to the Motion to Dismiss and Plaintiff's Motion to Strike, and the oral argument of the parties, and being fully informed in the premises, the Court hereby ORDERS as follows:

Defendants' Motion to Dismiss is GRANTED in part and DENIED in part. The Court GRANTS the Motion to Dismiss as to Plaintiff's Second Cause of Action (Breach of Contract), Third Cause of Action (Quasi-Contract/Detrimental Reliance), ~~Fourth Cause of Action (Breach of the Implied Covenant of Good Faith and Fair Dealing), Fifth Cause of~~ ^{and Fourth}

~~Action (Vicarious Liability), and Sixth Cause of Action (Fraud).~~ Based on the allegations in Plaintiff's Complaint, these causes of action all stem from and are predicated on the attorney-client relationship between Plaintiff and Defendants in the case *Sheridan v. Goff*, A-17-756902-B. As such, they are displaced by Plaintiff's cause of action for Professional Negligence. See *Stalk v. Mushkin*, 199 P.3d 838, 843 (2009).

The Court further GRANTS Defendants' Motion to Dismiss as to Plaintiff's prayer for punitive damages.

Defendants' Motion to Dismiss is DENIED as to Plaintiff's First Cause of Action (Professional Negligence). Plaintiff has pled sufficient facts supporting this cause of action to survive dismissal under Rule 12(b)(5). The Court notes that, although it is not dismissing Plaintiff's Professional Negligence cause of action at this time, expert testimony will be required to support this cause of action, as the alleged malpractice here is not "so obvious that it may be determined by the court as a matter of law or is within the ordinary knowledge and experience of laymen." *Allyn v. McDonald*, 112 Nev. 68, 71, 910 P.2d 263, 266 (1996).

Plaintiff's Motion to Strike is DENIED.

IT IS SO ORDERED.

Dated this 16th day of August, 2022



DC8 E32 B92E F09E

Susan Johnson

Deputy District Court Judge

Respectfully Submitted by:

LIPSON NEILSON P.C.

By: /s/ Jonathan Wong

JOSEPH P. GARIN, ESQ. (6653)
JONATHAN K. WONG, ESQ. (13621)
9900 Covington Cross Drive, Suite 120
Las Vegas, Nevada 89144
Attorneys for Defendants

Approved for Content

DID NOT APPROVE

Rene Sheridan
23823 Malibu Road, #50-364
Malibu, CA 90265

In Pro Per

1 **CSERV**

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

5
6 Rene Sheridan, Plaintiff(s)

CASE NO: A-21-838187-C

7 vs.

DEPT. NO. Department 22

8 Joseph Gutierrez, ESQ,
9 Defendant(s)

10
11 **AUTOMATED CERTIFICATE OF SERVICE**

12 This automated certificate of service was generated by the Eighth Judicial District
13 Court. The foregoing Order 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: 8/16/2022

15 Charity Johnson

cmj@mgalaw.com

16 Jason Maier

jrm@mgalaw.com

17 Joseph Gutierrez

jag@mgalaw.com

18 Joseph Garin

jgarin@lipsonneilson.com

19 Kimberly Glad

kglad@lipsonneilson.com

20 Jonathan Wong

jwong@lipsonneilson.com

21 RENE SHERIDAN

RSHERIDAN34@AOL.COM

22 PATRICK CANNON

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MSJD

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Attorneys for Defendants

DISTRICT COURT
CLARK COUNTY, NEVADA

* * *

RENE SHERIDAN, an individual

Plaintiff,

vs.

JOSEPH A. GUTIERREZ, Esq.

STEVEN G. KNAUSS, Esq.

JASON R. MAIER, Esq.

MAIER GUTIERREZ & ASSOCIATES

Defendants.

) Case No: A-21-838187-C

) Dept. No.: 22

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**DEFENDANTS' MOTION FOR
 SUMMARY JUDGMENT**

HEARING REQUESTED

COME NOW, Defendants MAIER GUTIERREZ & ASSOCIATES, JOSEPH GUTIERREZ, ESQ., STEVEN KNAUSS, ESQ., AND JASON MAIER, ESQ. (collectively, "Defendants"), by and through their counsel of record, LIPSON NEILSON P.C., and hereby file their Motion for Summary Judgment ("Motion"). This Motion is based upon the pleadings, papers, and records on file herein, the following memorandum of points and authorities, and any oral argument that this Court may entertain.

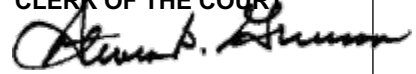
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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiff Rene Sheridan (hereinafter "Plaintiff") presently has a sole cause of action for legal malpractice against Defendants, based on an attenuated theory of breach, causation, and damages. Her burden to prevail is a significant one, as under Nevada law, she is required to satisfy the case-within-a-case standard; that is to say, but-for Defendants' alleged malpractice, she would have obtained a more favorable result in the underlying matter. In its Order Granting in Part Defendants' Motion to Dismiss, entered on or around August 17, 2022, this Court specifically ruled that Plaintiff would need expert testimony to survive summary judgment. The expert disclosure deadlines have since passed, and while Plaintiff has complied with this requirement in **form**, a review of her initial expert disclosures reveals that she has utterly failed to comply with the requirement in **substance**, rendering such experts insufficient to overcome summary judgment.

Plaintiff disclosed four experts: 1) Matthew Fortado, Esq.; 2) Patrick Cannon; 3) Steven Istock; and 4) Bennett J. Wasserman, Esq. All of these are procedurally deficient in some form: Fortado does not include a rate sheet, CV, and list of cases in which he has served as an expert, while Wasserman does not have a rate sheet, or (critically) even a report. Istock's one-page report is focused solely on the issue of damages, and he similarly has no rate sheet, CV, and list of prior cases. Finally, Patrick Cannon is not even an expert, but merely a non-party lay witness; not only does he not have a CV, rate sheet, and list of cases, he does not even have a proper report, but rather a declaration dated January 2019, over four (4) years ago.

Plaintiff's purported experts have substantive deficiencies as well. For instance, Fortado only sets forth conclusory assertions about breach, and fails to address causation and damages. Instead, his report assumes these elements, and thereon concludes that Defendants are liable for legal malpractice. Similarly, Istock sets forth unsupported conclusions that the Senior Moment Movie would have performed better with Plaintiff's industry connections and expertise, and that the poor sales of the film were caused by the

1 unredacted e-mail. In Nevada, the conclusory statements of experts are not sufficient to
2 overcome summary judgment. Plaintiff is therefore unable to rely on the unsubstantiated and
3 conclusory reports of her experts to establish the elements of her cause of action for
4 malpractice. In light of this, as well as this Court's express admonition that Plaintiff would
5 need expert support to survive summary judgment, Defendants are entitled to summary
6 judgment in their favor on Plaintiff's cause of action for legal malpractice.

7 **II. UNDISPUTED FACTS**

8 There are no genuine disputes as to the following facts:

9 In the Underlying Case, the Parties reach a settlement and agree upon material terms,
10 Plaintiff thereafter refuses to follow through, and the Court ultimately sanctions Plaintiff for
11 her conduct and grants the opposing side's Motion to Enforce Settlement:

12 1. In the underlying matter *Sheridan v. Goff et al*, case no. A-17-756902-B (the
13 "Underlying Case"), Plaintiff retained Defendants to represent her after her prior counsel
14 withdrew from the case.

15 2. Thereafter, one of the defendants, Rudolf Sedlak, successfully filed a motion
16 to be dismissed from the case for lack of personal jurisdiction.

17 3. Plaintiff appealed this ruling, and the Nevada Supreme Court referred the
18 appeal to the Supreme Court Settlement Program.

19 4. The parties negotiated a global settlement and agreed on a set of material
20 terms, which were agreed upon and signed by all parties, including Plaintiff. See **Exhibit**
21 **"A,"** Material Terms sheet.

22 5. At some point thereafter, Plaintiff decided she no longer wanted to settle – at
23 least not on the material terms previously agreed upon and signed by all parties – and
24 would not agree to a settlement agreement based on those terms, causing Goff's counsel
25 to ultimately file a motion to enforce settlement on October 16, 2018 (the "Motion to
26 Enforce"). See **Exhibit "B"**, Motion to Enforce.

27 6. Defendants filed a Limited Opposition to the Motion to Enforce on October
28 24, 2018 (the "Limited Opposition"). See **Exhibit "C"**, Limited Opposition to Motion to
Enforce.

1 7. The Limited Opposition, including exhibits, was 42 pages, and on page 41 of
2 the document, an e-mail between Defendants and Kristin Gallagher (counsel for the
3 underlying defendants) containing a reference to the settlement amount was inadvertently
4 left unredacted when the document was filed. *Id.*

5 8. Defendants realized this mistake by October 28, 2018, and Gutierrez
6 informed Plaintiff about the same as well as his plan to have the Limited Opposition sealed
7 or stricken, as well as Gallagher's reply brief that also included the unredacted e-mail.
8 See **Exhibit "D,"** e-mail from Joseph Gutierrez to Rene Sheridan.

9 9. At the October 29, 2018 hearing on the Motion to Enforce, Plaintiff
10 terminated Defendants, and Gutierrez made an oral motion to withdraw, which the Court
11 granted. See **Exhibit "E,"** Transcript of October 29, 2018 Hearing, at 7:4-7.

12 10. At the October 29, 2018 hearing, Gallagher advised that she did not view
13 the unredacted e-mail as a breach of the confidentiality clause, and expressed a
14 willingness to have the filings redacted as needed to remedy the issue. *Id.* at 4:21-5:3.

15 11. Due to Plaintiff terminating Defendants, the Court continued the hearing to
16 December 3, 2018, to allow Plaintiff time to find new counsel.

17 12. On December 3, 2018, the Court heard the continued Motion to Enforce,
18 wherein the Limited Opposition and Gallagher's Reply were sealed. Plaintiff did not have
19 new counsel. See **Exhibit "F,"** Transcript of December 3, 2018 Hearing.

20 13. On December 6, 2018, the Court published a minute order granting the
21 Motion to Enforce, stating that "the issue before the Court is not whether an agreement
22 was reached, but whether Plaintiffs should follow through with the same," and that
23 "Plaintiffs['] obstinance in following through has been unreasonable." See **Exhibit "G,"**
24 Minute Order Dated December 6, 2018.

25 14. In addition to noting Plaintiff's unreasonableness in refusing to follow
26 through with the settlement, the Court also sanctioned her in the amount of \$2,500.00 for
27 necessitating the Motion to Enforce. *Id.*

28 ///

1 Plaintiff unsuccessfully appeals; the Appellate Courts clarify that the language from the
2 order of affirmance should not be taken to imply that Plaintiff has a valid malpractice case
3 against Defendants:

4 15. Plaintiff thereafter unsuccessfully appealed the ruling, and the Nevada
5 Supreme Court issued an Order of Affirmance on March 18, 2020 (the "Order of
6 Affirmance"). The Order of Affirmance contained dicta that noted "[w]e further disagree
7 with Sheridan's argument that she was excused from any obligation under the settlement
8 due to a breach of the agreement" because "Sheridan's own counsel breached that
9 provision" and "[t]he appropriate relief for any harm caused by that breach, therefore, is a
10 malpractice action against Sheridan's former counsel, not for the district court to invalidate
11 the settlement agreement." See **Exhibit "H"**, Supreme Court Order of Affirmance.

12 16. In a December 29, 2021 order affirming the district court's award of fees
13 and costs in the course of the instant action, the Nevada Court of Appeals clarified that
14 this language in the Order of Affirmance should not be misconstrued as a finding that
15 Defendants committed actionable malpractice, and that "contrary to Sheridan's arguments
16 on appeal, the supreme court's statement in the prior matter cannot provide a reasonable
17 basis for a complaint that otherwise failed to sufficiently plead all essential elements of her
18 claims." See **Exhibit "I,"** December 29, 2021 Order.

19 In the instant litigation, all of Plaintiff's claims are dismissed except her legal malpractice
20 claim, and this Court admonishes Plaintiff that she will need expert support to survive
21 summary judgment:

22 17. On August 31, 2020, Plaintiff filed a Complaint in Washoe County against
23 Defendants, asserting causes of action for 1) Professional Negligence, 2) Breach of
24 Contract; 3) Quasi-Contract/Equitable Contract/Detrimental Reliance; 4) Breach of the
25 Implied Covenant of Good Faith and Fair Dealing; 5) Vicarious Liability; and 6) Fraud. The
26 case was opened under case number CV20-01353 and assigned to Department 10.

27 18. On December 4, 2020, Defendants filed a Motion to Dismiss the Complaint
28 under NRCP 12(b)(5). The Washoe Court granted the Motion to Dismiss in part, granting
it as to Plaintiff's claims for Fraud and Vicarious Liability. See **Exhibit "J,"** Judge
Sigurdson Order.

1 19. On March 19, 2021, Defendants filed a Motion to Transfer Venue back to
2 Clark County, which the Washoe Court granted on July 12, 2021.

3 20. Following transfer of the case back to Clark County, Defendants filed a
4 Motion to Dismiss on July 27, 2021, arguing that pursuant to *Stalk v. Mushkin*, 199 P.3d
5 838 (2009), Plaintiff's remaining causes of action all arose from the attorney-client
6 relationship and were thus displaced by her claim for professional negligence (the "MTD").
7 The MTD also sought dismissal of the professional negligence claim for failure to state a
8 claim.

9 21. After a series of setbacks and department transfers, Defendant's MTD was
10 finally heard by this Court on August 4, 2022, wherein this Court granted the MTD as to all
11 causes of action except for professional negligence. In its Order, this Court noted that
12 "although it is not dismissing Plaintiff's Professional Negligence cause of action at this
13 time, expert testimony will be required to support this cause of action, as the alleged
14 malpractice here is not 'so obvious that it may be determined by the court as a matter of
15 law or is within the ordinary knowledge and experience of laymen.'" See August 4, 2022
16 Order, on docket with the Court.

17 22. On July 10, 2023, Plaintiff disclosed her Initial Expert Disclosures, wherein
18 she designated four experts: 1) Matthew Fortado, Esq.; 2) Patrick Cannon; 3) Steven
19 Istock; and 4) Bennett J. Wasserman, Esq. See **Exhibit "K"**, Plaintiff's Initial Expert
20 Disclosure.

21 23. On August 11, 2023, the Rebuttal Experts deadline passed, and Plaintiff did
22 not produce any rebuttal expert reports.¹ Defendants produced a rebuttal report by Rob
23 Bare in response to the initial report of Matthew Fortado.

24 With the initial experts deadline having passed on July 13, 2023, and with Plaintiff's
25 expert disclosures being so deficient such that they cannot overcome summary judgment,

26 _____
27 ¹ Plaintiff served "Plaintiff's Rebuttal Re: Defendant's Statements and Expert Witness Testimony" on
28 August 10, 2023. However, this "rebuttal" did not contain any actual expert reports, but rather was
a statement by Plaintiff herself taking issue with certain findings in the initial report of Defendants'
expert, Rob Bare. As such, it is not a proper disclosure of rebuttal experts under NRCP 16.1.

1 Defendants now move this honorable Court for summary judgment on Plaintiff's remaining
2 cause of action for professional negligence.

3 III. LEGAL ARGUMENT

4 A. Legal Standard

5 "Summary judgment is appropriate under NRCP 56 when the pleadings,
6 depositions, answers to interrogatories, admissions, and affidavits, if any, that are properly
7 before the court demonstrate that no genuine issue of material fact exists, and the moving
8 party is entitled to judgment as a matter of law." *Wood v. Safeway, Inc.*, 121 Nev. 724,
9 731, 121 P.3d 1026, 1031 (2005). To survive a motion for summary judgment, the non-
10 moving party "may not rest upon the mere allegations or denials of [its] pleadings,"
11 *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986), nor may it simply show there is
12 some metaphysical doubt as to the material facts. *Matsushita Elec. Indus. Co.*, 475 U.S.
13 574, 586 (1986).² Rather, it is the non-moving party's burden to "come forward with
14 specific facts showing that there is a genuine issue for trial." *Id.* at 587; see also *Wood v.*
15 *Safeway, Inc.*, 121 Nev. at 724, 731, 121 P.3d 1026, 1031(2005), citing *Pegasus v. Reno*
16 *Newspapers, Inc.*, 118 Nev. 706, 713, 57 P.3d 82 (2002).

17 A dispute will only preclude the entry of summary judgment if it could affect the
18 outcome of the suit under governing law. A factual dispute is genuine when the evidence
19 is such that a rational trier of fact could return a verdict for the non-moving party. *Wood v.*
20 *Safeway, Inc.*, *supra*, 121 Nev. at 731, 121 P.3d at 1031. In evaluating summary
21 judgment, a court views all facts and draws all inferences in a light most favorable to the
22 non-moving party. *Id.*

23 If there are no genuine issues of fact, the movant's burden is not evidentiary
24 because the facts are not disputed. Rather, the court has the obligation to resolve the legal
25

26 ² This Court may also consider federal courts' interpretations of the corresponding federal rules
27 because the "Nevada Rules of Civil Procedure are based in large part upon their federal
28 counterparts." *Executive Mgmt., Ltd. v. Tigor Title Ins. Co.*, 118 Nev. 46, 53, 38 P.3d 872, 876
(2002); *Moseley v. Eighth Judicial Dist. Court ex rel. Cnty. of Clark*, 124 Nev. 654, 663, 188 P.3d
1136, 1142 (2008).

dispute between the parties as a matter of law. *Gulf Ins. Co. v. First Bank*, 2009 WL 1953444 *2 (E.D.Cal.2009) (citing *Asuncion v. Dist. Dir. of U.S. Immigration & Naturalization Serv.*, 427 F.2d 523, 524 (9th Cir.1970)). There are no genuine issues of fact remaining here for purposes of the instant Motion. Summary judgment must be granted as a matter of law.

B. Plaintiff's Initial Expert Disclosure is Insufficient to Defeat Summary Judgment

Plaintiff's Initial Expert Disclosures cannot overcome summary judgment because, as set forth in detail below, they are both procedurally and substantively deficient.

1. Plaintiff's Initial Expert Disclosure is Procedurally Deficient

Under NRCP 16.1, "a party must disclose to the other parties the identity of any witness it may use at trial to present evidence under NRS 50.275, 50.285, and 50.305." See NRCP 16.1(a)(2)(A). The disclosure "must be accompanied by a written report – prepared and signed by the witness – if the witness is one retained or specially employed to provide expert testimony in the case or one whose duties as the party's employee regularly involve giving expert testimony." NRCP 16.1(a)(2)(B). The report must contain the following:

- (i) a complete statement of all opinions the witness will express, and the basis and reasons for them;
- (ii) the facts or data considered by the witness in forming them;
- (iii) any exhibits that will be used to summarize or support them;
- (iv) the witness's qualifications, including a list of all publications authored in the previous ten years;
- (v) a list of all other cases in which, during the previous four years, the witness testified as an expert at trial or by deposition; and
- (vi) a statement of the compensation to be paid for the study and testimony in the case.

See NRCP 16.1(a)(2)(B)(i)-(vi). None of Plaintiff's disclosed experts comply fully with these requirements.

For Mr. Fortado, Plaintiff disclosed a report, but failed to include Fortado's qualifications, a list of all other cases in which, during the previous four years, Fortado

1 testified as an expert at trial or by deposition, and a statement of the compensation paid
2 for Fortado's testimony in the case. See **Exhibit "K."**

3 Patrick Cannon is not even an expert but merely a lay witness, and as can be seen
4 from the transcripts of the October 29, 2018 hearing on the Motion to Enforce, he has
5 improperly attempted to insert himself into the proceedings and advocate on Plaintiff's
6 behalf since the Underlying Case. Regardless, even if *arguendo* he could be ascribed
7 some area of expertise, Plaintiff's disclosure does not specify what this is, nor does she
8 include for him a report, his qualifications, "including a list of all publications authored in
9 the previous ten years," a list of all other cases that he has testified in as an expert over
10 the past four years, and a statement of the compensation he is receiving for being an
11 "expert." *Id.*

12 As with Mr. Fortado, Mr. Istock also only has a bare-bones report without a list of
13 qualifications, a list of cases in which he has testified as an expert over the past four
14 years, and a rate sheet setting forth the compensation he received for his work. *Id.*

15 Finally, Mr. Wasserman does not even have a report, and is also missing a rate
16 sheet. The only document Plaintiff disclosed as to Mr. Wasserman is his CV. *Id.* Given
17 that this CV is readily available for download by the public and is one of the first search
18 results one will see if searching for "Bennett Wasserman" on Google, it is questionable
19 whether Plaintiff even actually retained Mr. Wasserman, rather than simply downloading
20 his CV and tacking it on to her Initial Expert Disclosures in some misguided attempt to
21 bolster the same.

22 Because none of Plaintiff's disclosed experts comply with the procedural
23 requirements of NRCP 16.1(a)(2), she technically does not have any properly disclosed
24 experts to support her case. Though this alone warrants summary judgment against her,
25 the substantive deficiencies outlined in the following section demonstrate that, even if
26 properly disclosed, Plaintiff's experts would not be able to overcome summary judgment
27 against her.

28 ///

2. Plaintiff's Initial Expert Disclosure is Substantively Deficient

An expert report "must not be sketchy, vague or preliminary in nature." *Great Am. Ins. Co. v. Vegas Constr. Co.*, 2007 U.S. Dist. LEXIS 60709, at *8 (D. Nev. Aug. 15, 2007).³ "Expert reports must include 'how' and 'why' the expert reached a particular result, not merely the expert's conclusory opinions . . . [because] . . . an expert who supplies only an ultimate conclusion with no analysis supplies nothing of value to the judicial process." *Id.* (brackets in original). "[A]n expert's report that does nothing to substantiate this opinion is worthless, and therefore inadmissible." *Id.* "An expert's 'conclusory allegations' do not defeat summary judgment where the record clearly rebuts the inference the expert suggests." *Harris v. Gates*, 1998 U.S. App. LEXIS 10663, at *8 (9th Cir. May 26, 1998). Both the reports of Mr. Fortado and Mr. Istock contain mere "conclusory allegations" that supply "nothing of value to the judicial process."

Matthew Fortado's Report:

Mr. Fortado's report consists of three main points: 1) the inadvertent non-redaction in the e-mail discussing settlement terms; 2) the timing of the Satisfaction of Judgment; and 3) miscellaneous allegations regarding Defendants' conduct set forth in the Complaint. For each of these, Fortado outright assumes causation and damages, and only superficially addresses breach of duty. For instance, on the main point (the unredacted e-mail exhibit), he claims that it was a "deviation from the standard of care for Defendant(s) to publish the payment terms of the Confidential Settlement Agreement," and that it is his "professional opinion" that the same "constituted legal malpractice." See **Exhibit "K."** Mr. Fortado offers little to no analysis to support these conclusions, referencing only unilateral assertions by Plaintiff as well as the dicta from the Nevada Supreme Court's March 2020 Order of Affirmance. *Id.* Mr. Fortado does not even acknowledge, much less address, pleadings and documents from the Underlying Case that specifically undermine

³ Federal cases interpreting the Federal Rules of Civil Procedure "are strong persuasive authority, because the Nevada Rules of Civil Procedure are based in large part upon their federal counterparts." *Exec. Mgmt. v. Ticor Title Ins. Co.*, 118 Nev. 46, 53, 38 P.3d 872, 876 (2002).

1 this support.⁴ For instance, in its December 29, 2021 order affirming an award of fees and
2 costs in Defendants' favor, the Nevada Court of Appeals specifically addressed the
3 aforementioned dicta in the Supreme Court's Order of Affirmance, and clarified that this
4 language should not be misconstrued as a finding that Defendants committed actionable
5 malpractice, and that "contrary to Sheridan's arguments on appeal, the supreme court's
6 statement in the prior matter cannot provide a reasonable basis for a complaint that
7 otherwise failed to sufficiently plead all essential elements of her claims." See **Exhibit**
8 **"I."**

9 Nor does Fortado seem to have considered that Judge Denton granted Defendants'
10 Motion to Adjudicate Attorney's Lien, wherein he specifically found that "MGA's skill, time
11 and attention given to this case was above average." See **Exhibit "L."** Judge Denton
12 made that finding with full awareness of Plaintiff's allegations regarding MGA's alleged
13 breach of the confidentiality clause, as Plaintiff previously brought the same to the court's
14 attention during the hearings on the underlying defendants' Motion to Enforce Settlement.
15 See **Exhibits "E" and "F."**

16 It is against this backdrop that Fortado must explain how the inadvertent disclosure
17 amounts to a breach of duty, which he fails to do. Because the record from the Underlying
18 Case clearly rebuts Fortado's conclusory opinion about breach of duty, the same is
19 insufficient to overcome summary judgment. See *Harris*, 1998 U.S. App. LEXIS 10663 at
20 *8 ("An expert's conclusory allegations do not defeat summary judgment where the record
21 clearly rebuts the inference the expert suggests.").

22 Fortado's analysis as to the peripheral issues is similarly lacking. For instance,
23 regarding the attorney's lien issue, he provides a citation to NRS 17.200 and states that
24 there "is no explanation in the materials I reviewed for a delay of 706 days in filing the
25

26 ⁴ Puzzlingly, Mr. Fortado's report states that he "reviewed the pleadings and exhibits in the
27 referenced case; in Clark County Case #A-17-756902-B" as well as the documents from the instant
28 litigation, yet his report fails to discuss or even mention key documents from the same. By contrast,
Defendants' expert, Rob Bare, reviewed these same pleadings and documents, yet was able to
offer a comprehensive and robust analysis as to why there is no breach, causation, or damages.
See Rob Bare Expert Report, attached hereto as **Exhibit "M."**

1 Satisfaction of Judgment.” See **Exhibit “K.”** He then states that an “attorney continues to
2 have a duty of good faith to the former client, in addition to the statutory duty,” but nowhere
3 does he provide any authority for the suggestion that 706 days is improper, **nor does he**
4 **state that Defendants actually breached any such duty.** Fortado does not even cite to
5 any applicable authority supporting the supposed “duty of good faith” he espouses.
6 Moreover, there is nothing on causation and damages beyond conclusory statements that
7 “Plaintiff’s credit would be adversely affected by the continued public record of a judgment”
8 and that the “continued public record would also impact her business and personal
9 prospects.” *Id.* Not only are these unsupported conclusions, they are uncertain ones at
10 that, as he only talks theoretically about what “would” happen.

11 Finally, on the point on the miscellaneous allegations (making misrepresentations to
12 the court, altering Plaintiff’s declarations, altering discovery responses, etc.), Fortado
13 states that, assuming that the sworn statements of Plaintiff and non-party (and non-expert)
14 Patrick Cannon are true, the conduct of Defendants “would also deviate from the standard
15 of care required of an attorney” and that “[s]uch conduct would have resulted in damages
16 to Plaintiff.” *Id.* Again, Fortado does not provide any analysis for breach, assumes
17 causation, and states conclusorily that this conduct would have resulted in some sort of
18 unspecified damages to Plaintiff.

19 Given the lack of any meaningful analysis in Fortado’s report, Plaintiff is unable to
20 rely on the same to defeat summary judgment. *Harris*, 1998 U.S. App. LEXIS 10663 at *8.

21 **Steven Istock’s Report:**

22 Steven Istock’s one-page report is similarly lacking in substance.⁵ He correctly
23 notes the abysmal performance of the film *Senior Moment* at the box office, but then
24 conclusorily attributes this to “the fact that production was wrested from Ms. Sheridan’s
25

26 ⁵ Istock is not an attorney, and his opinion is focused solely on the issue of damages. As such,
27 even if *arguendo* this Court were to find that his opinions are satisfactory, Istock’s report would still
28 not be sufficient to defeat summary judgment, as Istock does not – and cannot – opine on standard
of care, breach of duty, and causation. Defendants simply address his report here to be thorough,
as he is the only other expert of Plaintiff’s who actually prepared a report.

50% ownership and control,” and that the film’s potential “was further damaged by the absence of Ms. Sheridan’s expertise and industry professional relationships.” See **Exhibit “K.”** There is no analysis of why this is so, and what particular expertise and professional relationships of Plaintiff’s would have facilitated a better result. Istock then concludes that the inadvertent disclosure “reduced the operating revenue of this film by several hundred thousand dollars at least.” *Id.* Again, no analysis whatsoever is provided for this conclusion. These are all mere conclusory opinions that offer no value to the judicial process, and cannot be used to defeat summary judgment. *Harris v. Gates*, 1998 U.S. App. LEXIS 10663, at *8 (9th Cir. May 26, 1998).

IV. CONCLUSION

None of Plaintiff’s initial experts were properly disclosed procedurally, and they fail to offer any value substantively as they contain nothing but conclusory statements. Additionally, Plaintiff did not disclose any rebuttal expert report addressing the initial report of Defendants’ expert Rob Bare. As such, Plaintiff’s initial expert disclosure is insufficient to defeat summary judgment, and Defendants respectfully request that this Court grant them summary judgment on Plaintiff’s sole cause of action for professional negligence/legal malpractice in accordance with its August 17, 2022 Order.

DATED this 22nd day of August, 2023.

LIPSON NEILSON P.C.

/s/ Jonathan K. Wong
By: _____
JOSEPH P. GARIN, ESQ.
Nevada Bar No. 6653
JONATHAN K. WONG, ESQ.
Nevada Bar No. 13621
9900 Covington Cross Drive, Suite 120
Las Vegas, Nevada 89144
(702) 382-1500
Attorneys for Defendants

CERTIFICATE OF SERVICE

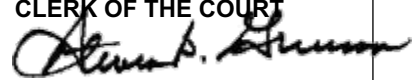
Pursuant to NRCP 5(b) and Administrative Order 14-2, I certify that on the 22nd day of August, 2023, I electronically served the foregoing **DEFENDANTS' MOTION FOR SUMMARY JUDGMENT** to the following parties utilizing the Court's E-File/ServeNV System:

Rene Sheridan
23823 Malibu Rd., #50-364
Malibu, CA 90265
(310) 422-9944
rsheridan34@aol.com

Pro Per Plaintiff

/s/ Michele Stones

An Employee of LIPSON NEILSON P.C.



APEN

LIPSON NEILSON P.C.
JOSEPH P. GARIN, ESQ.
Nevada Bar No. 6653
JONATHAN K. WONG, ESQ.
Nevada Bar No. 13621
9900 Covington Cross Drive, Suite 120
Las Vegas, Nevada 89144
Phone: (702) 382-1500
Fax: (702) 382-1512
jgarin@lipsonneilson.com
jwong@lipsonneilson.com

Attorneys for Defendants

**DISTRICT COURT
CLARK COUNTY, NEVADA**

* * *

RENE SHERIDAN, an individual	)	Case No: A-21-838187-C
	)	Dept. No.: 22
Plaintiff,)	
vs.)	
	)	APPENDIX OF EXHIBITS TO
JOSEPH A. GUTIERREZ, Esq.	)	DEFENDANTS' MOTION FOR
STEVEN G. KNAUSS, Esq.	)	SUMMARY JUDGMENT
JASON R. MAIER, Esq.)	
MAIER GUTIERREZ & ASSOCIATES	)	VOLUME I OF II
)	
Defendants.)	
_____)	

Defendants JOSEPH A. GUTIERREZ, STEVEN G. KNAUSS, JASON R. MAIER,
and MAIER GUTIERREZ & ASSOCIATES, by and through their counsel of record. Lipson
Neilson P.C., hereby submit their Appendix of Exhibits to Defendants' Motion for
Summary Judgment:

Exhibit	Description	Bates No.
VOLUME I		
A	Material Terms sheet	MSJ 001-002
B	Motion to Enforce	MSJ 003-016
C	Limited Opposition to Motion to Enforce	MSJ 017-059
D	October 28, 2018 email from Joseph Gutierrez to Rene Sheridan	MSJ 060-061
E	Transcript of October 29, 2018 Hearing	MSJ 062-074
F	Transcript of December 3, 2018 Hearing	MSJ 075-092
G	Minute Order Dated December 6, 2018	MSJ 093-094

H	Supreme Court Order of Affirmance	MSJ 095-101
I	December 29, 2021 Order	MSJ 102-106
J	Judge Sigurdson Order	MSJ 107-113
VOLUME II		
K	Plaintiff's Initial Expert Disclosure	MSJ 114-172
L	Judgment on Attorney Lien	MSJ 173-177
M	Defendants' Disclosure of Initial Experts - Rob Bare Expert Report	MSJ 178-219

DATED this 22nd day of August, 2023.

LIPSON NEILSON P.C.

/s/ Jonathan K. Wong

By: _____

JOSEPH P. GARIN, ESQ.
Nevada Bar No. 6653
JONATHAN K. WONG, ESQ.
Nevada Bar No. 13621
9900 Covington Cross Drive, Suite 120
Las Vegas, Nevada 89144
(702) 382-1500
Attorneys for Defendants

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b) and Administrative Order 14-2, I certify that on the 22nd day of August, 2023, I electronically served the foregoing **APPENDIX OF EXHIBITS TO DEFENDANTS' MOTION FOR SUMMARY JUDGMENT (VOLUME I OF II)** to the following parties utilizing the Court's E-File/ServeNV System:

Rene Sheridan
23823 Malibu Rd., #50-364
Malibu, CA 90265
(310) 422-9944
rsheridan34@aol.com

Pro Per Plaintiff

/s/ Michele Stones
An Employee of LIPSON NEILSON P.C.

EXHIBIT A

The parties have agreed to the following material terms to be formalized in a settlement agreement:

██████████ total settlement payment to be paid by SMM, LLC with the following payment schedule:

- ██████████ to be paid upon all parties' execution of the settlement agreement
- ██████████ ("Final Payment") to be paid within 60 days of all parties' execution of the settlement agreement

Defendants waive the \$11,217.88 payment of costs owed to defendants by plaintiffs;

At the time the settlement agreement is executed, Plaintiffs will execute and deliver to defendants' counsel a stipulation of dismissal with prejudice all claims against defendants prior to SMM, LLC's final payment of ██████████;

At the time the settlement agreement is executed, Plaintiffs will execute and deliver to defendants' counsel a stipulation of dismissal of their appeal against Rudolf Sedlak prior to SMM, LLC's Final Payment;

Defendants will submit the stipulations of dismissal on the same date the Final Payment is remitted to Plaintiffs;

The settlement agreement shall contain a 30-day notice and period to cure any failure of SMM to pay the Final Payment within 60 days of all parties' execution of the settlement agreement;

Within 5 calendar dates of all parties' execution of the settlement agreement, Plaintiffs shall withdraw their NV SOS complaint and agree not to further prosecute;

Full release by Plaintiffs of all claims and worldwide media rights related to or arising from the project that were, could be or could have been asserted;

Non-disparagement/defamation clause;

Confidentiality clause;

Gina Goff and Goff Productions, LLC will waive any rights in and to the following film projects: ██████████

██████████
██████████

Plaintiffs waive all rights in and to the following projects: ██████████

██████████
██████████

Subject to Final Settlement Agreement that includes indemnification

For Plaintiffs: 

For Defendants: 

EXHIBIT B

MENF

Kristen T. Gallagher (NSBN 9561)
Amanda C. Yen (NSBN 9726)
McDONALD CARANO LLP
2300 W. Sahara Ave, Suite 1200
Las Vegas, NV 89102
Telephone: 702.873.4100
Facsimile: 702.873.9966
kgallagher@mcdonaldcarano.com
ayen@mcdonaldcarano.com

*Attorneys for Rudolf Sedlak
Gina Goff, Goff Productions, LLC and
Senior Moment Movie, LLC*

DEPARTMENT XIII
NOTICE OF HEARING
DATE 10/29/18 TIME 9:00 AM
APPROVED BY [Signature]

**DISTRICT COURT
CLARK COUNTY, NEVADA**

RENE SHERIDAN, an individual; and
GOROCK, LLC, a Delaware limited liability
company,

Plaintiffs,

v.

GINA GOFF, an individual; GOFF
PRODUCTIONS, LLC, a California limited
liability company, SENIOR MOMENT MOVIE,
LLC, a California limited liability company;
RUDOLF SEDLAK, an individual; DOES I-X,
inclusive; and ROE CORPORATIONS I-X,
inclusive,

Defendants.

AND RELATED COUNTERCLAIMS.

CASE NO.: A-17-756902-B

DEPT. NO.: XIII

**MOTION TO ENFORCE SETTLEMENT
AGREEMENT ON ORDER
SHORTENING TIME**

OST Hearing Date:
OST Hearing Time:

Defendants Gina Goff, Goff Productions, LLC and Senior Moment Movie, LLC
("SMM") and dismissed defendant Rudolf Sedlak¹ (collectively the "Settling Parties") file this
Motion to enforce the parties' non-contingent agreement to settle this case, the Appeal and
Plaintiffs' Secretary of State complaints. The Parties² participated in a global settlement

¹ On June 6, 2018, the court dismissed Rudolph Sedlak from the action based on lack of
personal jurisdiction. See June 6, 2018 Order. Plaintiffs Rene Sheridan and GoRock, LLC
(collectively "Plaintiffs") appealed the dismissal in Case Appeal No. 76132 ("Appeal").

² "Parties" refers to both the Settling Parties and Plaintiffs.

MSJ 004

App 0045

1 conference through the Nevada Supreme Court settlement program and, after seven hours of
2 negotiation, agreed to be bound to material terms (the "Material Terms") to globally settle all
3 disputes between the Parties. Over a month after the August 30, 2018 settlement conference, the
4 final agreement still has not been signed and Plaintiffs are attempting to re-negotiate the
5 Material Terms and alter their consideration in the settlement agreement. Among other things,
6 but most concerning, Plaintiffs are attempting to (i) re-negotiate the settlement payment plan;
7 (ii) re-negotiate the terms of the dismissal of this action and the Appeal; (iii) refuse to withdraw
8 their Nevada Secretary of State complaint made against Mr. Sedlak; (iv) alter the agreed-upon
9 timing to withdraw the other Nevada Secretary of State complaints; (v) alter Plaintiffs' remedy
10 for a breach of the payment terms; and (vi) exclude language regarding a global settlement. For
11 these reasons, and those set forth below, the Settling Parties respectfully request the Court grant
12 this Motion and compel Plaintiffs to perform pursuant to the agreed-upon Material Terms.

13 In addition, because Plaintiffs, without just cause, have multiplied these proceedings and
14 increased costs unreasonably and vexatiously, this Court should impose sanctions pursuant to
15 EDCR 7.60(b).

16 This Motion and request for an Order Shortening Time is supported by the following
17 Memorandum of Points and Authorities, the exhibits attached hereto, the Declaration of Kristen
18 T. Gallagher, and the arguments entertained by the Court at any hearing on this matter.

19 DATED this 15th day of October, 2018.

20 McDONALD CARANO LLP

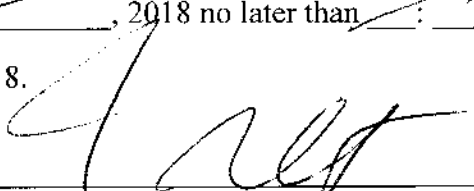
21
22 By: /s/ Kristen T. Gallagher
Kristen T. Gallagher (NSBN 9561)
Amanda C. Yen (NSBN 9726)
23 2300 W. Sahara Ave, Suite 1200
Las Vegas, NV 89102

24
25 *Attorneys for Attorneys for defendants Gina Goff,*
Goff Productions, LLC and Senior
26 *Moment Movie, LLC*
27
28

1 **ORDER SHORTENING TIME**

2 Upon good cause shown, please take notice that the hearing before the above-entitled
3 Court on the **MOTION TO ENFORCE SETTLEMENT AGREEMENT ON ORDER**
4 **SHORTENING TIME** is shortened to the 29th day of October, 2018, at 9: 00
5 0 a.m., or as soon thereafter as counsel may be heard. Any opposition to this Motion must be
6 filed and served by the day of , 2018 no later than : p.m.

7 DATED this 15th day of October, 2018.

8 
9 DISTRICT COURT JUDGE

10 Submitted By:

11 McDONALD CARANO LLP

12
13 By: /s/ Kristen T. Gallagher
14 Kristen T. Gallagher (NSBN 9561)
15 Amanda C. Yen (NSBN 9726)
2300 W. Sahara Ave, Suite 1200
Las Vegas, NV 89102

16 *Attorneys for Attorneys for defendants Gina Goff,*
17 *Goff Productions, LLC and Senior*
18 *Moment Movie, LLC*

19
20 **DECLARATION OF KRISTEN T. GALLAGHER**

21 I, Kristen T. Gallagher, after being sworn, declares as follows:

22 1. I am an attorney licensed to practice law in the State of Nevada, and am a partner
23 in the law firm of McDonald Carano LLP. I am over the age of 18 years and a resident of Clark
24 County, Nevada. I make this declaration based upon personal knowledge, except where stated
25 to be upon information and belief, and as to that information, I believe it to be true. If called
26 upon to testify as to the contents of this declaration, I am legally competent to do so in a court of
27 law.
28

2. This declaration is made in support of the Motion to Enforce Settlement Agreement on Order Shortening Time.

3. On June 6, 2018, this Court dismissed Rudolph Sedlak from the action for lack of personal jurisdiction. Plaintiffs appealed the dismissal and the Nevada Supreme Court referred the Appeal to the Nevada Supreme Court Settlement Program.

4. On August 30, 2018, Mr. Segel held the settlement conference. In attendance was (i) Gina Goff, as the representative for the Settling Parties; (ii) counsel for the Settling Parties, me and Ms. Yen; (iii) plaintiff Rene Sheridan; (iv) a third-party in attendance on the Plaintiffs' side, Patrick Cannon; and (v) Plaintiffs' counsel, Joey Gutierrez. Mr. Sedlak, who is elderly, has health problems and successfully brought a motion to dismiss because Nevada did not have personal jurisdiction over him was not in attendance. Instead, I, Ms. Yen and Ms. Goff attended the settlement conference and had full authority to settle all disputes between the parties.

5. The Parties negotiated a global settlement from 10:00 a.m. to approximately 5:00 p.m. At the end of the day, the Parties arrived at the Material Terms, which were agreed upon by all Parties and signed by Ms. Sheridan on behalf of Plaintiffs and Ms. Goff on behalf of the Settling Parties. Because the settlement agreement is to be treated as confidential, a redacted copy of the agreed-upon Material Terms is attached hereto as **Exhibit A**.

6. After the Parties reached an agreement on the settlement payment, Mr. Segel held an attorneys' only settlement session. The main purpose was to discuss potential remedies should a party breach the settlement agreement. During this session, Mr. Gutierrez argued that should the Settling Parties not meet their payment obligations, Plaintiffs' remedy would be to proceed with the underlying lawsuit.

7. In response, I suggested that the sole remedy would be to sue on a breach of the settlement agreement. Mr. Gutierrez refused this offer. Accordingly, we agreed that the Parties would not stipulate to dismiss this action and the Appeal until receipt of the final settlement payment. And, moreover, that Plaintiffs' sole remedy for any breach by the Settling Parties with

1 respect to a payment default would be to declare the settlement agreement void and for Plaintiffs
2 to proceed with the underlying litigation.

3 8. On September 5, 2018, Mr. Knauss provided us with a draft settlement
4 agreement. It did not contain certain material terms, nor did it contain several boilerplate
5 provisions. It also altered Plaintiffs' remedy for non-payment.

6 9. On September 11, 2018, I updated Mr. Knauss and informed him that we had
7 made edits to Plaintiffs' draft and were waiting to hear from the Settling Parties regarding the
8 revisions.

9 10. On September 13, 2018, Ms. Yen forwarded our redlines to Mr. Knauss.

10 11. On September 21, 2018, Mr. Knauss provided additional edits to the settlement
11 agreement, but not in redline. Because Plaintiffs did not redline their edits, we did a comparison
12 document to identify the changes. A copy of the September 21 Redlined Settlement Agreement
13 with Comments ("Sept. 21 Settlement Agreement – Redlines/Comments") will be provided as
14 **Exhibit B** to the court for an *in-camera* review. Copies will also be brought to the hearing on
15 this matter.

16 12. Plaintiffs' redlines omitted several material terms, boilerplate terms and appeared
17 to be a re-negotiation of certain material terms. Most importantly, Plaintiffs' draft altered (i) the
18 settlement payment plan; (ii) the terms of the dismissal of this action and the Appeal; (iii)
19 Plaintiffs' agreement to withdraw their Nevada Secretary of State complaint made against Mr.
20 Sedlak; (iv) their agreed-upon timing to withdraw the other Nevada Secretary of State
21 complaints; (v) Plaintiffs' remedy for non-payment; and (vi) language regarding a global
22 settlement. *Compare* Material Terms, **Exhibit A** with Sept. 21 Settlement Agreement –
23 Redlines/Comments, **Exhibit B**.

24 13. Because the settlement agreement was contrary to the agreed-upon Material
25 Terms, on September 26, 2018, we provided comments to the changes to facilitate a discussion
26 between counsel. *See* Sept. 21 Settlement Agreement – Redlines/Comments, **Exhibit B**. I asked
27 Mr. Knauss for a time to discuss the comments and changes on September 27, 2018.
28

1 14. On September 28, 2018, Mr. Knauss called me. He stated that he would no
2 longer be working on the settlement agreement and that I would need to speak with Mr.
3 Gutierrez. Accordingly, on October 1, 2018, I reached out to Mr. Gutierrez to discuss Plaintiffs'
4 changes.

5 15. On October 2, 2018, I, Ms. Yen, Mr. Knauss and Mr. Gutierrez conducted a
6 status call on the settlement agreement.

7 16. In sum, Mr. Gutierrez represented that Plaintiffs did not believe that the Settling
8 Parties would meet their payment obligations and that due to this belief, Plaintiffs wanted a
9 different payment plan than previously agreed. Mr. Gutierrez claimed that Settlement Judge
10 Nelson Segel stated on August 30 that SMM did not yet have the funds for the settlement
11 payment.

12 17. I noted that Mr. Segel's statement is not evidence of SMM's intention,
13 particularly when the Settling Parties agreed to the payment amount, schedule and remaining
14 material terms. Moreover, I confirmed that the Settling Parties had every intention to meet their
15 contractual obligations, including the payment as dictated by the Material Terms agreement.³ I
16 also noted that Plaintiffs' revisions were seeking more than what the Parties originally agreed,
17 and that Plaintiffs were unreasonably disputing boilerplate settlement terms.

18 18. Despite providing confirmation that the Settling Parties would meet their
19 obligations, Mr. Gutierrez continued to press the issue arguing that the full payment should be
20 made on the date of execution. He did not respond to my questions regarding the other changes
21 to the Material Terms – such as the alteration of the withdrawal of the Secretary of State
22 complaints or the exclusion of boilerplate plate terms.

23
24
25
26 ³ The Material Terms states that SMM will pay Plaintiffs a certain amount on the date of
27 the execution of the settlement agreement. *See* Material Terms, **Exhibit A**. The final payment
28 and remaining balance would then be paid 60 days from the date of execution. *Id.* The first
payment is less than 2% of the total settlement payment; however, it should be noted that Mr.
Sedlak is waiving his awarded costs in the total amount of \$11,217.88, which Plaintiffs never
paid.

1 19. Mr. Gutierrez would not substantially discuss any term other than the payment
2 term and argued that the Settling Parties could resolve everything if they just paid the settlement
3 payment up front, which is contrary to the Material Terms.

4 20. Because Mr. Gutierrez would not move from his position or address the plain fact
5 that his client signed the Material Terms, I stated that we would file the instant motion.

6 21. A copy of the Settling Parties' proposed final settlement agreement will be
7 provided to the Court as **Exhibit C** for *in-camera* review. Copies will also be brought to the
8 hearing on this matter.

9 22. This Motion is being brought on shortened time because it has been over a month
10 since the Parties reached a settlement and the Settling Parties deserve a resolution of all
11 outstanding disputes.

12 23. This Declaration is made in good faith and not for the purpose of delay.

13 I declare under penalty of perjury under the laws of the State of Nevada that the
14 foregoing is true and correct.

15 Executed on: October 15, 2018.

16
17 
18 KRISTEN T. GALLAGHER

MEMORANDUM OF POINTS AND AUTHORITIES

I. FACTUAL BACKGROUND⁴

On August 30, 2018, the Parties participated in the Nevada Supreme Court Settlement Program hearing. In attendance was (i) Gina Goff, as the representative for the Settling Parties; (ii) counsel for the Settling Parties; (iii) plaintiff Rene Sheridan; (iv) a third-party in attendance on the Plaintiffs' side, Patrick Cannon; and (v) Plaintiffs' counsel. The Parties negotiated a global settlement for over seven hours. Once the Parties reached an agreement as to the settlement payment terms, counsel for the Parties held an attorney-only session. During the session, counsel for Plaintiffs argued that Plaintiffs would not settle the matter unless the remedy for any failure by the Settling Parties to meet its payment obligations would be to proceed with the underlying litigation. Counsel for the Parties thus agreed to engage in a simultaneous submission of the stipulation of dismissal of the Appeal and of this action on the same date the final settlement payment was received.

After the attorney session, counsel drafted the Material Terms, which were further negotiated to include an indemnification provision. *See* Material Terms, **Exhibit A**. Ms. Sheridan signed the Material Terms on behalf of Plaintiffs and Ms. Goff signed on behalf of the Settling Parties. *Id.*

On September 5, 2018, Plaintiffs' counsel provided the Settling Parties' counsel with a draft settlement agreement. It did not contain certain material terms, nor did it contain several boilerplate provisions. It also altered Plaintiffs' remedy for a breach of the payment. On September 13, 2018, Settling Parties' counsel forwarded redlines to Plaintiffs' counsel. On September 21, 2018, Plaintiffs' counsel provided additional edits to the settlement agreement. *See* Sept. 21 Settlement Agreement – Redlines/Comments, **Exhibit B**.

Plaintiffs' redlines again omitted several material terms. *Id.* In addition, the edits omitted and/or altered boilerplate terms and appeared to be a re-negotiation of certain material terms. Most importantly, Plaintiffs' draft altered (i) the settlement payment plan; (ii) the terms

⁴ All facts are supported by the Declaration of Kristen T. Gallagher and the attached exhibits. Citations to Ms. Gallagher's declaration have been omitted for brevity purposes.

1 of the dismissal of this action and the Appeal; (iii) Plaintiffs' agreement to withdraw their
2 Nevada Secretary of State complaint made against Mr. Sedlak; (iv) their agreed-upon timing to
3 withdraw the other Nevada Secretary of State complaints; (v) Plaintiffs' remedy for any breach
4 of the payment terms; and (vi) language regarding a global settlement. *Compare* Material
5 Terms, **Exhibit A** with Sept. 21 Settlement Agreement – Redlines/Comments, **Exhibit B**.

6 Because the settlement agreement was contrary to the agreed-upon Material Terms, on
7 September 26, 2018, the Settling Parties' counsel provided comments to the changes to facilitate
8 a discussion. *See* Sept. 21 Settlement Agreement – Redlines/Comments, **Exhibit B**. On October
9 2, 2018, counsel for the Parties conducted a status call on the settlement agreement. In sum,
10 Plaintiffs' counsel represented that Plaintiffs did not believe that SMM would meet their
11 payment obligations and that due to this belief, Plaintiffs were seeking reassurance through the
12 settlement agreement and wanted a different payment plan than previously agreed.

13 The Material Terms states that SMM would pay Plaintiffs a certain amount on the date of
14 the execution of the settlement agreement. *See* Material Terms, **Exhibit A**. The final payment
15 and remaining balance would then be paid 60 days from the date of execution. *Id.* Between the
16 date of the execution and the payment of the final balance, Plaintiffs agreed to withdraw their
17 Nevada Secretary of State complaints. *Id.* Based on Plaintiffs' counsel's representations and
18 Plaintiffs' recent changes, Plaintiffs are attempting to re-negotiate these terms.

19 In response to Plaintiffs' attempt to re-negotiate the settlement terms, the Settling
20 Parties' counsel confirmed that SMM and the other Settling Parties intend to comply with the
21 Material Terms. Despite this confirmation, Plaintiffs' counsel continued to press the issue
22 arguing that the full payment should be made on the date of execution. Counsel did not respond
23 to the Settling Parties' counsels' questions regarding the other changes to the Material Terms or
24 the exclusion of boilerplate terms. Accordingly, the Settling Parties were forced to file the
25 instant Motion.

26 ...

27 ...

28 ...

II. LEGAL ARGUMENT

A. The Material Terms Agreement Is An Enforceable Contract And Plaintiffs Must Be Compelled To Perform Pursuant To The Agreement.

The Parties executed an unambiguous and enforceable agreement settling all claims in this action, the Appeal and withdrawing the Nevada Secretary of State complaints filed by Plaintiffs. *See* Material Terms, **Exhibit A**. The Material Terms contains all essential/material terms. *Id.* Despite negotiating for over seven hours and signing the Material Terms, Plaintiffs are now attempting to re-negotiate the material terms, ignore other material terms and refusing to agree to boilerplate⁵ settlement agreement terms.

A settlement agreement is a contract and as such, “its construction and enforcement are governed by principles of contract law.” *See May v. Anderson*, 121 Nev. 668, 672, 119 P.3d 1254, 1257 (2005). “A contract can be formed. . .when the parties have agreed to the material terms, even though the contract’s exact language is not finalized until later.” *Id.* In *May*, the parties reached a global settlement agreement with the respective parties that called for the release of all claims against driver and a covenant not to sue in exchange for payment of full insurance proceeds to the parties. *Id.* at 671, 119 P.3d at 1256. Once the parties reached the informal agreement, the driver’s attorney sent a formal release document to each party for signature. *Id.* One party refused to sign. *Id.* The court, in finding that the settlement agreement was enforceable, noted that all the essential terms of the agreement had been agreed upon and that counsel was authorized to negotiate on his client’s behalf. *Id.* at 674, 119 P.3d at 1258-59. As a result, “[t]he fact that the Mays refused to sign the proposed draft release document is inconsequential to the enforcement of the documented settlement agreement. The district court was able to determine what was required of the respective parties under the release terms of the

⁵ The inclusion of boilerplate terms is standard in a formalized settlement agreement. *See Loppert v. WindsorTech, Inc.*, 865 A.2d 1282, 1289 (Del. Ch. 2004) (“Obviously, the formal document was going to have additional, boilerplate terms. . .”); *Evans v. T-Mobile USA, Inc.*, 2-17 WL 661797 at *2 (E.D. Tex. 2017) (“[S]tandard settlement terms” include waiver of claims, non-disparagement, cooperation, no admission of claims, indemnification, knowing and voluntary agreement, no reliance and entire agreement.); *Platcher v. Health Professionals, Ltd.*, 549 F.Supp.2d 1040, 1047 (C.D.Ill. 2008) (“Boilerplate clauses concerning release and no admission of fault should, of course, be included in a settlement agreement. . .”)

1 settlement agreement and properly compelled compliance.” *Id.* at 674-75, 119 P.3d at 1259.

2 Here the Material Terms agreement is an enforceable contract. The Material Terms was
3 negotiated in a settlement conference with the Plaintiffs and their counsel. The negotiations
4 took place over seven hours and Ms. Sheridan signed the Material Terms on behalf of the
5 Plaintiffs.

6 The Nevada Supreme Court has noted that the essential terms of a release vary “with the
7 nature and complexity of the case and must, therefore, be determined on a case-by-case basis.”
8 *May*, 121 Nev. at 673, 119 P.3d at 1258. Although there is no set definition of what constitutes
9 an essential release term, they “are an important reason why a party enters into a settlement
10 agreement.” *Id.* at 674, 119 P.3d at 1258. There can be no doubt, in reviewing the Material
11 Terms agreement, that the essential terms are included. *See* Material Terms, **Exhibit A**. The
12 Material Terms agreement is not a vague, bare-bones document, but sets out the settlement
13 payment amount, timing of the payment, timing of dismissal of this litigation, the Appeal and
14 the withdrawal of the Nevada Secretary of State complaints and other specific terms. *Id.*
15 Because the Material Terms agreement contains the essential release terms and the duties of the
16 respective parties are clear, the Material Terms agreement is a binding and enforceable contract.
17 Accordingly, this Court should grant this Motion, enforce the Material Terms and compel
18 Plaintiffs’ performance.

19 **B. Plaintiffs Are Subject To Sanctions.**

20 EDCR 7.60(b)(3) states:

21 The court may, after notice and an opportunity to be heard, impose upon
22 an attorney or a party any and all sanctions which may, under the facts of the case,
23 be reasonable, including the imposition of fines, costs or attorney’s fees when an
24 attorney or a party without just cause:

25 * * *

26 (3) So multiplies the proceedings in a case as to increase costs unreasonably and
27 vexatiously.

28 EDCR 7.60(b)(3).

The Parties reached a settlement and resolved this litigation, the Appeal and the Nevada
Secretary of State complaints. In fact, counsel negotiated the settlement for over seven hours,

1 culminating in the Material Terms agreement. Despite engaging in a settlement conference on
2 August 30, 2018 and reaching a settlement agreement, Plaintiffs have unreasonably and
3 vexatiously failed and refused to uphold the Material Terms and their obligations.

4 This case should be fully resolved, the final settlement agreement signed and the time
5 running for the final settlement payment. Instead, based on Plaintiffs' conduct, the settlement
6 agreement has not been executed, Plaintiffs have not received the first settlement payment,
7 Plaintiffs have not withdrawn the Nevada Secretary of State complaints and the Parties are yet
8 again in front of this Court. Sanctions are warranted.

9 **III. CONCLUSION**

10 For the foregoing reasons, the Settling Parties respectfully requests the Court grant the
11 Motion, compel Plaintiffs to perform their obligations under the Material Terms agreement, and
12 require Plaintiffs to pay the reasonable costs and fees associated with bringing this Motion.

13 DATED this 15th day of October, 2018.

14 McDONALD CARANO LLP

15 By: /s/ Kristen T. Gallagher
16 Kristen T. Gallagher (NSBN 9561)
17 Amanda C. Yen (NSBN 9726)
2300 W. Sahara Ave, Suite 1200
Las Vegas, NV 89102

18 *Attorneys for Attorneys for defendants Gina Goff,*
19 *Goff Productions, LLC and Senior*
20 *Moment Movie, LLC*
21
22
23
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1 **CERTIFICATE OF SERVICE**

2 I HEREBY CERTIFY that I am an employee of McDonald Carano LLP, and that on or
3 about the 16th day of October, 2018, a true and correct copy of the foregoing **MOTION TO**
4 **ENFORCE SETTLEMENT AGREEMENT ON ORDER SHORTENING TIME** was
5 electronically served with the Clerk of the Court via the Clark County District Court Electronic
6 Filing Program which will provide copies to all counsel of record registered to receive such
7 electronic notification on the following:

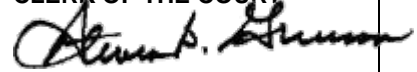
8
9 Joseph A. Gutierrez, Esq.
Steven G. Knauss, Esq.
MAIER GUTIERREZ & ASSOCIATES
10 8816 Spanish Ridge Avenue
Las Vegas, Nevada 89148
11 Telephone: (702) 629-7900
Facsimile: (702) 629-7925
12 E-mail: jag@mgalaw.com
sgk@mgalaw.com

13 *Attorneys for plaintiffs*

14
15 /s/ Marianne Carter
16 An employee of McDonald Carano LLP
17
18
19
20
21
22
23

24 4831-9482-3543, v. 1
25
26
27
28

EXHIBIT C



OPPM

JOSEPH A. GUTIERREZ, ESQ.

Nevada Bar No. 9046

STEVEN G. KNAUSS, ESQ.

Nevada Bar No. 12242

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sgk@mgalaw.com

Attorneys for Plaintiffs/Counter-Defendants
Rene Sheridan and GoRock LLC

DISTRICT COURT

CLARK COUNTY, NEVADA

RENE SHERIDAN, an individual; and GOROCK,
LLC, a Delaware limited liability company,

Plaintiffs,

vs.

GINA GOFF, an individual; GOFF
PRODUCTIONS, LLC, a California limited
liability company, SENIOR MOMENT MOVIE,
LLC, a California limited liability company;
RUDOLF SEDLAK, an individual; DOES I-X,
inclusive; and ROE CORPORATIONS I-X,
inclusive,

Defendants.

AND RELATED COUNTERCLAIMS.

Case No.: A-17-756902-B

Dept. No.: XIII

**PLAINTIFFS' LIMITED OPPOSITION
TO DEFENDANTS' MOTION TO
ENFORCE SETTLEMENT AGREEMENT
ON ORDER SHORTENING TIME**

Hearing Date: October 29, 2018

Hearing Time: 9:00 a.m.

Plaintiffs, Rene Sheridan and GoRock, LLC (collectively "Plaintiffs"), by and through their attorneys of record, the law firm MAIER GUTIERREZ & ASSOCIATES, hereby files this limited opposition to Defendants' motion to enforce the settlement agreement reached in this case.

///

///

This limited opposition is made and based upon the following memorandum of points and authorities, the pleadings, the exhibits attached hereto, and papers on file herein, and any oral argument at the time of the hearing.

DATED this 24th day of October, 2018.

Respectfully submitted,

MAIER GUTIERREZ & ASSOCIATES

/s/ *Joseph Gutierrez*

JOSEPH A. GUTIERREZ, ESQ.

Nevada Bar No. 9046

STEVEN G. KNAUSS, ESQ.

Nevada Bar No. 12242

*Attorneys for Plaintiffs Rene Sheridan and
GoRock, LLC*

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 The court is familiar with the litigation history of this case, thus only the facts relevant to the
4 instant opposition will be stated herein.

5 On August 30, 2018, the parties participated in an all-day mandatory settlement conference
6 with Nevada Supreme Court Settlement Judge Nelson Segal. This settlement conference was ordered
7 by the Nevada Supreme Court as part of the appeal filed by Plaintiffs to the order granting Respondent
8 Rudy Sedlak's ("Respondent" or "Sedlak") motion to dismiss.

9 During the settlement conference, a meeting of the minds was reached and the parties in
10 attendance, Defendant Gina Goff and Plaintiff Rene Sheridan, executed a single page framework with
11 the material terms of the settlement in this case ("Material Terms"). *See* Material Terms, attached as
12 **Exhibit "1."**

13 One week later, Plaintiff sent an 8-page draft Settlement Agreement ("Agreement") filling in
14 the gaps of the Material Terms and adding boilerplate language. Approximately one week after receipt
15 of the initial draft, Defendants'/Respondent's counsel returned a drastically redlined version of the
16 Agreement. In this redlined version, revisions were made to, among other terms, the (1) recitals, (2)
17 payment default terms, (3) timing of Plaintiffs' dismissal obligations, (4) fee waivers, (5) release
18 terms, (6) confidentiality, (7) non-disparagement, (8) indemnifications, (9) covenants not to sue, and
19 (10) governing law.

20 Plaintiffs sent counterproposals to Defendants'/Respondent's draft on September 24, 2018, not
21 with redlines but with a Word document detailing a side-by-side comparison of the changes made.
22 Two days later, Defendants'/Respondent's counsel sent a PDF with added highlighted comments with
23 explanations and additional counter-proposals. *See* Working Draft of Settlement Agreement, attached
24 as **Exhibit "2."**

25 With the complexity of the supplemental terms increasing, and the disputes failing to be
26 resolved, counsel for both parties conducted a status call on October 2, 2018. *See* Declaration of
27 Joseph A. Gutierrez, Esq. attached as **Exhibit "3."**

28 On this call, *Defendants'/Respondent's counsel could not provide assurance*

1 *Defendants/Respondent had the funds to pay the second of two payments satisfying the material*
2 *terms of the settlement, where the second payment constitutes more than 98% of the total settlement*
3 *funds in this case. Id.*

4 This fact, combined with the changes proposed by Defendants/Respondent would leave open
5 the following scenario: Defendants/Respondent first pays Plaintiffs less than 2% of the balance owed
6 per the settlement; next Plaintiffs completely perform all of their obligations in dismissing the state
7 and agency actions, as well as their appeal; then Defendants/Respondent default on making the second
8 payment of the 98% balance.

9 In this scenario, and if subject to Defendants'/Respondent's proposed settlement terms,
10 Plaintiffs would have little recourse to collect the full balance of the settlement. The enormous
11 disparity between the first and second payments to Plaintiffs, combined with
12 Defendants'/Respondent's counsel's unwillingness to represent that Defendants/Respondent has
13 marshaled sufficient funds to fully satisfy the settlement agreement, requires court intervention.

14 However, this opposition is limited insomuch as both sides concede that most of the
15 fundamental terms of a settlement were agreed upon. In fact, it is the final material term of
16 indemnification, which needs to be resolved along with the ancillary terms that are at still at issue here,
17 which could be remedied by a second settlement hearing with Settlement Judge Nelson Segal.

18 **II. LEGAL ARGUMENT**

19 **A. RESPONDENT RUDOLF SEDLAK VIOLATED RULES OF APPELLATE PROCEDURE BY** 20 **FAILING TO APPEAR IN PERSON AT THE SETTLEMENT HEARING.**

21 Settlement Judge Nelson Segal required the attendance of all parties at the settlement hearing
22 on August 30, 2018. *See* letters and emails from Nelson Segal, Esq. to all parties, attached as **Exhibit**
23 **"4."** Further, NRAP 16(e)(3) states "counsel for all parties *and their clients* must attend the
24 conference."

25 An appeal was pending in this case regarding the order to dismiss former defendant Rudolf
26 Sedlak due to a lack of personal jurisdiction. In that appeal, just like the trial court action, Respondent
27 Sedlak is represented by current Defendants' counsel. Even the Material Terms include a specific
28 provision requiring Plaintiffs to drop their appeal against the Respondent, Rudolf Sedlak. Thus, at the

1 time of the settlement conference, Respondent Sedlak was still very much a party to this case and an
2 essential party to the mandatory settlement conference.

3 Yet, Respondent failed to appear at the settlement hearing in violation of both Nelson Segal's
4 order, as well as the requirements under NRAP 16(e)(3). *See Ex. 4.* The lack of attendance by
5 Respondent presumes both he and Defendants were acting with bad faith at the outset of the settlement
6 conference.

7 Secondly, the conspicuous omission and redlining of Respondent from drafts of the
8 Settlement Agreement raises legitimate concern as to whether Defendants' even obtained his
9 settlement authority to settle this case and the appeal for the agreed upon terms. The most common
10 cause of a failed mediation is the absence of parties who can authorize the actual agreed upon monetary
11 settlement. Due to his absence, Plaintiffs have no confirmation that the settlement in this case was
12 authorized, thus leaving the door open for Respondent to later dispute the terms agreed upon by the
13 parties who were present.

14 Absent Respondent's written authority to agree to, and to be bound by, the obligations
15 necessary to dispose of the case, there is an absence of good faith.

16 Should this court determine that parties must return to a settlement hearing in front of
17 Settlement Judge Segal to fill in the gaps of the Material Terms, Plaintiffs respectfully insist on the
18 presence of Respondent Rudolf Sedlak.

19 Plaintiffs have requested that Defendants return to a half day mandatory settlement conference
20 with Nelson Segal, Esq. to resolve these two outstanding issues (indemnification and default on
21 payment), however, Plaintiffs have received no response from Defendants so far. *See* email from
22 Plaintiff's counsel to Defendants' counsel regarding returning to a half day mandatory settlement
23 conference with Nelson Segal, Esq. attached as **Exhibit "5."**

24 **B. THE CRITICAL TERMS OF THE SETTLEMENT ARE THOSE REGARDING DEFAULT OF**
25 **PAYMENT AND INDEMNIFICATION.**

26 Of most concern to Plaintiffs are the terms surrounding consequences should
27 Defendants/Respondent breach the Material Terms and fail to pay the remaining 98% balance of the
28 settlement. Plaintiffs' objections would be quelled, and its fears would be allayed, with a framework

1 of terms defining the exact remedies and consequences should Defendants/Respondent breach their
2 contractual obligations after Plaintiffs fulfill all of theirs. However, through repeated rejection of
3 written terms, as well as during the status call on October 2, 2018, Defendants/Respondent are clearly
4 reluctant to add terms that would unequivocally establish those safeguards.

5 As a practical matter, the date of the hearing on Defendants/Sedlak' Motion, ***October 29, 2018,***
6 ***will have been exactly 60 days past the Settlement Hearing,*** this is the same amount of time requested
7 by Defendants/Respondent to satisfy the full payment of the settlement amount.

8 If Defendants/Respondent had participated in settlement in good faith, then they should have
9 the full settlement amount ready to tender to Plaintiff, and there would be no need to even have two
10 payments to satisfy the settlement. Defendants'/Respondent's counsel could easily hold the settlement
11 funds in trust until the final terms are signed. However, this seems unlikely given
12 Defendants'/Respondent's counsel's reluctance to provide any assurances that there is an ability to
13 pay the settlement.

14 **C. THE INDEMNITY PROVISIONS ARE ALSO CRITICAL DUE TO GRAHAM MCCLUSKY'S**
15 **RECENT IMPLICATION IN CRIMINAL SOLICITATION.**

16 Defendants'/Respondent's counsel's redlines have narrowed their indemnification of Plaintiff
17 to only those actions taken against Senior Moment Movie, LLC, and even then, only with regard to
18 Plaintiff's ownership interests therein. This is problematic because the financing for this film has been
19 anything but transparent, and the individuals involved in its production, have undertaken suspicious,
20 and likely, criminal activity.

21 For example, Graham McClusky was a partner/producer involved in the underlying film
22 production. But, irrespective of his title, it is clear Mr. McClusky participated in the production of the
23 Senior Moment film in some capacity. However, as recently as one month ago, video surfaced of Mr.
24 McClusky attempting to solicit underage girls for sex.¹

25 The veracity of the claims made in the video are irrelevant, however, what is concerning to
26

27
28 ¹ <https://www.facebook.com/groups/184874478783004/permalink/317979818805802/>
https://www.reddit.com/r/Bellingham/comments/9ik9qw/video_bellingham_resident_graham_mcclusky_accused/

1 Plaintiffs is that other individuals connected to the production of the underlying film are demonstrating
2 exposure to civil liability. With that in mind, Plaintiffs revisions to the indemnity clause to include all
3 Defendants and Respondent Sedlak, would be essential.

4 **D. GIVEN THE CLEAR VIOLATIONS OF NRAP 16(E)(3), SANCTIONS AGAINST DEFENDANT ARE**
5 **APPROPRIATE.**

6 As argued above, the final payment of the settlement under the Material Terms without default
7 by Defendants/Respondent, would toll on the date of the hearing on this motion. However,
8 Defendants'/Respondent's counsel not only refused to confirm Rudolf Sedlak's attendance
9 beforehand, but she failed to offer any evidence that Respondent Sedlak authorized Defendant Gina
10 Goff to be his proxy, spokesperson, and signatory. Accordingly, Plaintiffs demand sanctions and
11 attorney fees necessitating this Opposition as well as Plaintiffs' counsel's presence at the hearing on
12 this Motion.

13 **III. CONCLUSION**

14 Accordingly, Defendants/Respondents' Motion to Enforce Settlement on Order Shortening
15 Time should be denied. This Court should award Plaintiffs monetary sanctions against Defendants
16 for filing their Motion to Enforce Settlement that was brought in bad faith and without supporting
17 facts.

18 DATED this 24th day of October, 2018.

19 Respectfully submitted,

20 **MAIER GUTIERREZ & ASSOCIATES**

21 /s/ Joseph Gutierrez

22 JOSEPH A. GUTIERREZ, ESQ.

23 Nevada Bar No. 9046

24 STEVEN G. KNAUSS, ESQ.

25 Nevada Bar No. 12242

26 *Attorneys for Plaintiffs Rene Sheridan and*
27 *GoRock, LLC*
28

1 **CERTIFICATE OF SERVICE**

2 Pursuant to Administrative Order 14-2, a copy of **PLAINTIFFS' LIMITED OPPOSITION**
3 **TO DEFENDANTS/SEDLAK' MOTION TO ENFORCE SETTLEMENT AGREEMENT ON**
4 **ORDER SHORTENING TIME** was electronically filed on the 24th day of October, 2018 and
5 served through the Notice of Electronic Filing automatically generated by the Court's facilities to
6 those parties listed on the Court's Master Service List or by depositing a true and correct copy of
7 the same, enclosed in a sealed envelope upon which first class postage was fully prepaid, in the U.S.
8 Mail at Las Vegas, Nevada, addressed as follows (*Note: All Parties Not Registered Pursuant to*
9 *Administrative Order 14-2 Have Been Served By Mail.*):

10
11 Kristen T. Gallagher, Esq.
Amanda C. Yen, Esq.
MCDONALD CARANO, LLP
12 2300 W. Sahara Avenue, Suite 1200
Las Vegas, Nevada 89102
13 *Attorneys for Defendants/Sedlak Gina Goff, Goff Production, LLC,*
14 *Senior Moment Movie, LLC, and Rudolf Sedlak*

15 /s/ Natalie Vazquez
16 An Employee of MAIER GUTIERREZ & ASSOCIATES
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EXHIBIT 1

EXHIBIT 1

The parties have agreed to the following material terms to be formalized in a settlement agreement:

██████████ total settlement payment to be paid by SMM, LLC with the following payment schedule:

- ██████████ to be paid upon all parties' execution of the settlement agreement
- ██████████ ("Final Payment") to be paid within 60 days of all parties' execution of the settlement agreement

Defendants waive the \$11,217.88 payment of costs owed to defendants by plaintiffs;

At the time the settlement agreement is executed, Plaintiffs will execute and deliver to defendants' counsel a stipulation of dismissal with prejudice all claims against defendants prior to SMM, LLC's final payment of ██████████;

At the time the settlement agreement is executed, Plaintiffs will execute and deliver to defendants' counsel a stipulation of dismissal of their appeal against Rudolf Sedlak prior to SMM, LLC's Final Payment;

Defendants will submit the stipulations of dismissal on the same date the Final Payment is remitted to Plaintiffs;

The settlement agreement shall contain a 30-day notice and period to cure any failure of SMM to pay the Final Payment within 60 days of all parties' execution of the settlement agreement;

Within 5 calendar dates of all parties' execution of the settlement agreement, Plaintiffs shall withdraw their NV SOS complaint and agree not to further prosecute;

Full release by Plaintiffs of all claims and worldwide media rights related to or arising from the project that were, could be or could have been asserted;

Non-disparagement/defamation clause;

Confidentiality clause;

Gina Goff and Goff Productions, LLC will waive any rights in and to the following film projects: ██████████

██████████
██████████

Plaintiffs waive all rights in and to the following projects: ██████████

██████████
██████████

Subject to Final Settlement Agreement that includes indemnification

For Plaintiffs: 

For Defendants: 

EXHIBIT 2

EXHIBIT 2

CONFIDENTIAL SETTLEMENT AGREEMENT AND MUTUAL RELEASE OF CLAIMS

This Confidential Settlement Agreement and Mutual Release of Claims (the “*Agreement*”) is made and entered into on the last day (the “*Effective Date*”) set forth on the signature page by Rene Sheridan, an individual (“*Sheridan*”), GoRock, LLC, a Delaware limited liability company (“*GoRock*”), Gina Goff, an individual (“*Goff*”), Goff Productions, LLC, a California limited liability company (“*Goff Productions*”), Senior Moment Movie, LLC, a California limited liability company initially organized as a Nevada ~~limited liability company and currently in good standing as a California~~ limited liability company (“*SMM*”), and Rudolf Sedlak, an individual, (“*Sedlak*”). (each a “*Party*” ~~and, for purposes of this Agreement, only,~~ together the “*Parties*”), for the purpose of resolving by compromise settlement, all claims, liabilities, and disputes between the Parties.

WHEREAS, the Parties are involved in litigation related generally to the production of the *Senior Moment* film, as more specifically alleged in Sheridan’s First Amended Complaint and Goff, Goff Productions and SMM’s Counterclaim filed in the Eighth Judicial District Court of Clark County, Nevada, in Case Number A-17-756902-B, Rene Sheridan, et al. v. Gina Goff, et al. (the “*Litigation*”);

WHEREAS, GoRock and Sheridan appealed the district court’s Order Granting Renewed Motion to Dismiss Plaintiffs’ Amended Complaint Against Rudolf Sedlak for Lack of Personal Jurisdiction with the Nevada Supreme Court, currently pending as Case No. 76132 (the “*Appeal*”);

WHEREAS, Sheridan submitted to the Nevada Secretary of State a complaint pursuant to NRS 225.084 against Sedlak on September 22, 2017 (the “*Sedlak Secretary of State Complaint*”), wherein Sheridan cites Nevada Secretary of State code, in that Goff and Sedlak filed a fraudulent and altered record containing a false statement of material fact, filed in bad faith in violation of the laws of Nevada, pursuant to NRS 225.084;

WHEREAS, Sheridan submitted to the Nevada Secretary of State a complaint pursuant to NRS 225.084 against Goff doing business as Goff Productions, LLC on September 22, 2017 (the “*Goff Secretary of State Complaint*”);

WHEREAS, Sheridan submitted to the Nevada Secretary of State a complaint pursuant to NRS 225.084 against SMM on September 22, 2017 (the “*SMM Secretary of State Complaint*”);

WHEREAS, the Parties, without in any way conceding fault or the validity or sufficiency of any claim or contention by any of the Parties, now desire, upon receipt of Final Payment by GoRock as defined below, to fully compromise, finally settle, and fully release all claims, disputes and differences between them, including all those related to the Litigation, ~~Appeal, the Sedlak Secretary of State Complaint, the Goff Secretary of State Complaint and the SMM Secretary of State Complaint;~~

WHEREAS, on August 30, 2018, the Parties executed an agreement identifying material terms to be incorporated in this Agreement and which, by this reference, is incorporated herein as if set forth in full to this Agreement. Said material terms are appended hereto as ***Exhibit "A";***

WHEREAS, this Agreement reflects a compromise and settlement of the Parties' respective claims without concession of fault of any Party, or concession by any Party of the validity of any of the settled claims, and neither Party shall be deemed to have prevailed as to those claims or to have been a prevailing party in the Litigation, ~~Appeal, the Sedlak Secretary of State Complaint, the Goff Secretary of State Complaint or the SMM Secretary of State Complaint;~~ and

NOW, THEREFORE, in consideration of the facts, acknowledgements, agreements, release and promises contained in this Agreement, and for other good and valuable consideration, the receipt of which is acknowledged by each Party hereto, the Parties promise and agree as follows:

SECTION 1. EFFECTIVE DATE AND PAYMENTS

1.1 Effective Date. The Effective Date of this Agreement shall be the date that the last Party hereto executes this Agreement ~~unless otherwise agreed in writing by all parties, but no~~ later than September 28, 2018, and in compliance with Judge Nelson Segel's directive as well as the Parties agreement.

1.2 Payments. On the Effective Date, of this Agreement and in consideration for settlement of this matter and the Parties' respective obligations set forth herein, SMM will pay to GoRock and its counsel, Maier Gutierrez & Associates, the sum of [REDACTED] (the "**Initial Payment**"). Within sixty (60) calendar days of the Effective Date, SMM will pay to GoRock and its counsel, Maier Gutierrez & Associates, the sum of [REDACTED] (the "**Final Payment**").

1.3 Payment Default. A Default will be deemed to exist when either the Initial Payment or the Final Payment is not paid on or before the dates and events set forth in Section 1.2. A defaulting party shall have the right to cure the default within thirty (30) calendar days from receipt of a written notice of default. If a default is not timely cured, the non-defaulting party shall be entitled to ~~declare this Agreement void and proceed with the Litigation and Appeal.~~ exercise rights under this Agreement, including the right to sue for breach of this Agreement and the recovery of all attorneys' fees and expenses accrued in the underlining litigation. The non-defaulting party shall further have the right to indemnification for expenses including attorneys' fees, incurred even if the breach is timely cured.

SECTION 2. DISMISSAL OF LITIGATION/COMPLAINTS

2.1 Litigation Dismissal. ~~On the Effective Date~~ Upon receipt of the Final Payment and subsequent clearance of funds, Sheridan and GoRock ("**Plaintiffs**") will execute and deliver to counsel for Goff, Goff Productions, SMM and Sedlak ("**Defendants**") and Sedlak, a signed stipulation to dismiss with prejudice all claims in the Litigation. The stipulation to dismiss shall

also dismiss all counterclaims. The stipulation to dismiss the Litigation is appended hereto as **Exhibit "B."** Counsel for Defendants and Sedlak may not file said stipulation to dismiss the Litigation until GoRock receives the Final Payment as defined in Section 1.2.

2.2 Appeal Dismissal. ~~On~~ Upon receipt of the ~~Effective Date~~ Final Payment, Plaintiffs will execute and deliver to counsel for Defendants and Sedlak, a signed stipulation to dismiss the Appeal against Sedlak (Nevada Supreme Court Case No. 76132) ("**Appeal**"). The stipulation to dismiss the Appeal is appended hereto as **Exhibit "C."** Counsel for Defendants and Sedlak may not file said stipulation to dismiss the Appeal until GoRock receives the Final Payment as defined in Section 1.2.

2.3 Filing of Stipulations to Dismiss. Defendants and Sedlak may submit the stipulations of dismissal for both the Litigation and the Appeal to the appropriate court on the same date the funds paid to GoRock as Final Payment ~~is~~ are both received by GoRock and cleared by GoRock's bank.

2.4 Nevada Secretary of State Complaints. ~~Within five (5) calendar days~~ Subsequent to Plaintiffs receipt of the ~~Effective Date~~ Final Payment, Plaintiffs shall ~~(i) withdraw the Sedlak~~ their complaint filed against Defendants with the Nevada Secretary of State Complaint, the Goff Secretary of State Complaint and the SMM Secretary of State Complaint; ~~(ii) regarding SSM, and Plaintiffs shall~~ discontinue further prosecutorial action; ~~and (iii) immediately provide Defendants' counsel notice of the withdrawals.~~

SECTION 3. FEE WAIVERS

3.1 Waiver of Court Ordered Fees. Sedlak hereby waives the payment by Plaintiffs of Eleven Thousand Two Hundred Seventeen Dollars and Eighty-Eight Cents (\$11,217.88) as ordered by the Court on August 9, 2018 in the Litigation ~~as payment for Sedlak's costs related to the Order Granting Renewed Motion to Dismiss Plaintiffs' Amended Complaint Against Rudolf Sedlak for Lack of Personal Jurisdiction.~~

3.2 Litigation Expenses. Inclusive of the fees defined in Section 3.1, the Parties each agree to bear their own fees and costs related to the Litigation, Appeal, Sedlak Secretary of State Complaint, the Goff Secretary of State Complaint, the SMM Secretary of State Complaint and this Agreement ~~and~~ further agree to not seek reimbursement or award of any fees and costs from each other unless this Agreement is breached.

SECTION 4. MUTUAL RELEASE

4.1 Mutual Release of Claims. Upon receipt of the Final Payment by SMM and except for the respective rights and obligations of the Parties created by this Agreement, each Party, on behalf of itself and its respective past, present and future owners, shareholders, investors, parents, subsidiaries, predecessors, successors, assigns, divisions, units, officers, directors, employees, contractors, agents, attorneys, representatives, heirs, executors, or any other party claiming rights by, through, or under each Party, irrevocably and unconditionally releases and discharges each other Party and their members, parent companies, affiliated entities and subsidiaries, as well as their successors, assigns, and/or their shareholders, investors, officers,

directors, managers, partners, employees, representatives, heirs, executors, administrators, families, agents, accountants, trustees, and legal counsel, and each of them, in all capacities, including individually, from and against any and all claims, allegations, counterclaims, demands, causes of action, damages, losses, debts, obligations, suits, costs, expenses, fees (including, but not limited to, attorneys' fees and expert witness fees), and liabilities of any kind whatsoever, upon any legal or equitable theory of any jurisdiction, whether known, unknown, contractual, tortious, common law, statutory, federal, state, local, or otherwise, in the United States and throughout the world, whether known or unknown, whether ripe or not ripe, whether asserted or unasserted, whether absolute or contingent, whether accrued or unaccrued, whether liquidated or unliquidated, and whether due or to become due, which any Party has or may have had since the beginning of time, by reason of any matter, cause, or thing whatsoever arising out of or relating to the Litigation, ~~Appeal, the Sedlak Secretary of State Complaint, the Goff Secretary of State Complaint, the SMM Secretary of State Complaint and/or the settlement conference and this Agreement, or any facts, events or conduct that was actually alleged, or that may or could have been alleged, related to the Litigation, the Appeal, the Sedlak Secretary of State Complaint, the Goff Secretary of State Complaint, the SMM Secretary of State Complaint and/or the settlement conference and this Agreement~~ or the Appeal.

4.2 Representations and Warranties. ~~The Parties represent and warrant that each Party, on behalf of itself and its respective past, present and future owners, shareholders, investors, parents, subsidiaries, predecessors, successors, assigns, divisions, units, officers, directors, employees, contractors, agents, attorneys, representatives, heirs, executors, or any other party claiming rights by, through, or under each Party, has made no assignment or transfer of any rights, claims, allegations, counterclaims, demands, causes of action, damages, losses, debts, obligations, suits, costs, expenses, fees (including, but not limited to, attorneys' fees and expert witness fees), and/or liabilities of any kind whatsoever, upon any legal or equitable theory of any jurisdiction, whether known, unknown, contractual, tortious, common law, statutory, federal, state, local, or otherwise, in the United States and throughout the world, whether known or unknown, whether ripe or not ripe, whether asserted or unasserted, whether absolute or contingent, whether accrued or unaccrued, whether liquidated or unliquidated, and whether due or to become due, which any Party has or may have had since the beginning of time, by reason of any matter, cause, or thing whatsoever arising out of or relating to the Litigation, Appeal, the Sedlak Secretary of State Complaint, the Goff Secretary of State Complaint, the SMM Secretary of State Complaint and/or the settlement conference and this Agreement, or any facts, events or conduct that was actually alleged, or that may or could have been alleged, related to the Litigation, the Appeal, the Sedlak Secretary of State Complaint, the Goff Secretary of State Complaint, the SMM Secretary of State Complaint and/or the settlement conference and this Agreement to any third party.~~

SECTION 5. CONFIDENTIALITY

5.1 Confidentiality. The terms of this Agreement are strictly confidential and the Parties and their respective counsel shall not disclose the facts or contents of this Agreement except if: (i) ordered by a court; (ii) in response to a subpoena, order or other request for information received from any government agency or self-regulatory organization; (iii) otherwise required by law; (iv) necessary for disclosures to the parties' affiliates, lawyers, employees,

partners, tax advisors, and/or accountants; or (v) necessary to carry out and/or enforce the terms of this Agreement. In the event that disclosure is made to the persons identified in (i)-(v), the Party making the disclosure must advise the third-party to whom disclosure is made of the existence and requirements of this confidentiality provision and shall request that the person to whom disclosure is to be made be bound by the confidentiality requirements herein. Should any Party be subject to subpoena, the scope of which directs disclosure, the recipient of such subpoena shall immediately notify the other Parties and also shall timely seek a protective order from the issuing court, protecting the confidentiality of this Agreement. The confidentiality of this Agreement is an essential term and any unauthorized disclosure by any Party and/or its agent shall constitute a breach of this Agreement by such party. The Parties understand and agree that money damages would not be a sufficient remedy for any breach of this Section of this Agreement, and any Party not in breach of the obligations set forth in this Section, shall be entitled to seek injunctive or other equitable relief to remedy or forestall any such breach or threatened breach. Such remedy shall not be deemed to be the exclusive remedy for any breach of this Agreement but shall be in addition to all other rights and remedies available at law or in equity.

SECTION 6. NON-DISPARAGEMENT

6.1 Non-Disparagement. Each Party, from the ~~Effective Date forward~~ date of Plaintiffs receipt of the Final Payment, shall not make any disparaging statements about any other Party, nor shall they make any statements attacking the reputation, veracity, capabilities, professionalism or workmanship of the other Parties to any third party, including on any blog, online social network and/or on any other website, whether the identity of the person making such disparaging remarks is revealed or such comments are made anonymously. The Parties further agree that they will not take any action or participate in any individual or concerted activities involving any communications, oral or written, electronic, or in hard copy, whether on the internet or other electronic media, with any person or entity that would disparage or injure the reputation or discourage or interfere with the business of another Party. This provision includes, without limitation, the agreement of the Parties not to instigate or voluntarily participate in any third parties' attempts to sue, claim, or otherwise make demand upon another Party based on the claims released in Section 4.1 above. ~~In the event of a breach of any of the foregoing obligations contained in this paragraph, the Party adjudicated to be in breach shall pay to the other Party, as liquidated damages, ten thousand dollars (\$10,000.00) and shall be responsible for any other damage sustained by the non-breaching Party.~~

SECTION 7. FILM PROJECT WAIVERS

7.1 Defendants' Waivers. Goff and Goff Productions hereby waive any rights in and to the following projects, including any and all successor names: [REDACTED]

7.2 Plaintiffs' Waivers. Plaintiffs hereby waive all rights in and to the following projects, including any and all successor names: [REDACTED]

All projects for which Plaintiffs ~~further waive all claims, rights, including worldwide media rights, waive their ownership, investor, and/or member interest in and to "Senior Moment" and/or SMM that were, could be or could have been asserted including, but not limited to, claims against third parties. Upon the Effective Date, Plaintiffs shall not make any claim and/or statement to any third party as to Plaintiffs' prior and/or current status as a member in SMM, such waivers are limited exclusively to Plaintiffs rights, and are therefore not inclusive of any partnership, co-owner, or other similar joint membership rights which cannot be waived by the Parties to this Agreement.~~

SECTION 8. INDEMNIFICATION

8.1 Defendant Indemnification. ~~SMM Defendants and Sedlak, and each of them, shall indemnify Plaintiffs against, defend and hold them harmless Sheridan and GoRock from, any expense (including attorney's any and all claims, demands, actions, causes of action, suits, proceedings, damages, liability, costs and expenses of every nature whatsoever, including attorneys' fees), judgment, fine and amount paid in settlement arising out of any threatened, pending, or completed action, suit or proceeding related to Plaintiffs' alleged membership interest in SMM or other involvement in SMM, whether as an owner, partner, director, officer, employee, trustee, or agent. SMM and costs, which arise from or relate to any claim and/or assertion from third parties in regards to Sheridan and GoRock. Defendants and Sedlak, shall also advance reasonable expenses (including attorneys' fees) incurred by the Plaintiffs in defending any civil, criminal, administrative, or investigative action, suit, or proceeding related to Plaintiffs' alleged membership interest in SMM or other involvement in SMM, whether by reason of being a member or as an owner, partner, director, officer, employee, trustee, or agent. SMM's indemnification obligations as identified herein are not intended to extend to, and do not extend to, those expenses (including attorney's fees), judgments, fines and amounts paid in settlement arising out of any threatened, pending, or completed action, suit or proceeding related to Plaintiffs' alleged membership interest in SMM or other involvement in SMM, whether as an owner, partner, director, officer, employee, trustee, or agent that arose out of Plaintiffs' own acts, omissions, representations and/or warranties.~~

8.2 Plaintiffs Indemnification. Plaintiffs, and each of them, shall indemnify, defend and hold harmless Goff, Goff Productions and SMM from any and all claims, demands, actions, causes of action, suits, proceedings, damages, liabilities, costs and expenses of every nature whatsoever, including attorneys' fees and costs, which arise from or relate to any claim ~~and/or assertion from third parties~~ in which Goff, Goff Productions and SMM may be involved by reason of Plaintiffs' acts, omissions, representations, and/or warranties related to "Senior Moment" and/or Plaintiffs' ownership, investment, or member interest in SMM. ~~The Plaintiffs, and each of them, shall also advance expenses (including attorneys' fees) incurred by the Goff, Goff Productions and SMM in defending any civil, criminal, administrative, or investigative action, suit, or proceeding in which Goff, Goff Productions and SMM may be involved by reason of Plaintiffs' acts, omissions, representations, and/or warranties related to "Senior Moment" and/or Plaintiffs' ownership, investment, or member interest in SMM.~~

SECTION 9. ADDITIONAL PROVISIONS

9.1 Denial of Liability. Neither this Agreement nor anything in this Agreement shall be construed as an admission by any Party or by any other person or entity of any fault or any liability to any other Party or to any other person or entity.

9.2 Covenant Not to Sue. Upon the Effective Date, Plaintiffs, on behalf of themselves and their respective past, present and future owners, shareholders, investors, parents, subsidiaries, predecessors, successors, assigns, divisions, units, officers, directors, employees, contractors, agents, attorneys, representatives, heirs, executors, or any other party claiming rights by, through, or under each Party, covenant not to sue **Defendants**, or to instigate, initiate, or pursue against any **Defendant and/or third party**, any manner of judicial, arbitral, or administrative proceeding on its or their own behalf or in a representative capacity related in any manner to “Senior Moment” and/or SMM.

9.3 Integration. This Agreement and the exhibits attached hereto constitutes the final and complete agreement between Plaintiffs, on the one hand, and Defendants **and Sedlak**, on the other hand, with regard to the subject matter of the Litigation, **Appeal, the Sedlak Secretary of State Complaint, the Goff Secretary of State Complaint and the SMM Secretary of State Complaint, and Appeal.** All prior written and oral negotiations, representations, agreements, and warranties related to or pertaining to this Agreement and the subject matter of this Agreement, are superseded by and merged into this Agreement.

9.4 Modification of Agreement. No amendment, alteration, or modification to any of the provisions of this Agreement shall be valid unless made in writing and signed by all Parties to be bound.

9.5 Interpretation. The Parties have had the opportunity to negotiate the terms of this Agreement, and no Party shall be deemed the drafter of all or any portion of this Agreement for purposes of interpretation. The terms of this Agreement shall be binding and shall be strictly construed in any proceeding relating or pertaining to this Agreement. Without affecting the obligations of the Parties otherwise expressed, the term “shall” when used in connection with any act or obligation to be undertaken means an affirmative obligation. The term “including” shall mean “including but not limited to.” All terms shall be construed in the masculine or feminine and in plural or singular as required by the context in which the term is used.

9.6 Headings. The headings hereof are inserted merely for convenience and shall not be used to construe or modify the terms of this Agreement in any respect.

9.7 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Nevada, without regard to its conflict or choice of law provisions. **Any action to enforce this Agreement shall be brought in state court in the County of Clark, State of Nevada.** To the extent that conflict or choice of law provisions would otherwise apply to any underlying dispute, no Party is waiving the application of those conflict or choice of law provisions in connection with that dispute by selecting the laws of the State of Nevada as being applicable to any action to enforce this Agreement.

9.8 Enforcement; Legal Fees. If any legal proceeding is instituted by any Party to enforce the terms of this Agreement, the prevailing Party shall be entitled to recover reasonable attorneys' fees and costs incurred in connection with such proceeding.

9.9 Severability. If any one or more of the provisions of this Agreement is held to be invalid, illegal, or unenforceable in any respect, the other provisions shall remain in full force and effect. Any provision deemed invalid, illegal, or unenforceable because its scope is considered excessive shall be modified only to the minimum extent necessary to render the provision valid, legal, and enforceable.

9.10 Counterparts. This Agreement may be executed in counterparts and electronically, each of which shall be deemed an original agreement and all of which shall be deemed a single instrument.

9.11 Successors and Assigns. This Agreement shall bind, and inure to the benefit of, the respective successors and assigns of each of the Parties. The Parties warrant that each of them has the authority to enter into and bind herself, himself or itself to this Agreement. All Parties hereby agree that the confidentiality provisions of this Agreement shall not terminate, and all parties shall remain bound hereby.

9.12 Waiver. The waiver of a breach hereunder may be effected only by a writing signed by the Party waiving the breach and shall not constitute, or be held to be, a waiver of any other or subsequent breach or to affect in any way the effectiveness of the provision in question.

9.13 Notices. Any demand, notice, report, request, or other communication required or permitted to be given under this Agreement shall be in writing and, unless otherwise provided herein, shall be deemed sufficiently given when actually delivered in person (including delivery by commercial services such as messengers) or when mailed by express, registered, or certified mail (postage prepaid) directed as follows or to such other names and addresses as may be specified from time to time in a written notice given by such party in accordance with this subsection:

If addressed to RENE SHERIDAN:

Rene Sheridan
~~Address Lines Unknown~~
~~City State ZIP~~
[29201 Heathercliff Rd.](#)
[Malibu, CA. 90265](#)
Email: ~~unknown~~ rsheridan34@aol.com

with a copy to:

Joseph A. Gutierrez
Maier Gutierrez & Associates
8816 Spanish Ridge Ave.
Las Vegas, NV 89148

Email: jag@mgalaw.com
Fax: (702) 629-7925

If addressed to GOROCK, LLC:

GoRock, LLC
~~Address Lines Unknown~~
~~City State ZIP~~
[2711 Centerville Rd., Suite #400](#)
[Wilmington, DE 19808](#)
Email: ~~unknown~~-gorock34@aol.com

with a copy to:

Joseph A. Gutierrez
Maier Gutierrez & Associates
8816 Spanish Ridge Ave.
Las Vegas, NV 89148
Email: jag@mgalaw.com
Fax: (702) 629-7925

If addressed to SENIOR MOMENT MOVIE, LLC:.

Gina G. Goff
8491 Sunset Blvd., Suite 1000
West Hollywood, California 90069

with a copy to:

Kristen T. Gallagher, Esq.
Amanda C. Yen, Esq.
McDonald Carano LLP
2300 W. Sahara Ave., #1200
Las Vegas, NV 89102
Email: kgallagher@mcdonaldcarano.com
Email: ayen@mcdonaldcarano.com
Fax: (702) 873-9966

If addressed to GINA GOFF:

Gina G. Goff
8491 Sunset Blvd., Suite 1000
West Hollywood, California 90069

with a copy to:

Kristen T. Gallagher, Esq.
Amanda C. Yen, Esq.
McDonald Carano LLP
2300 W. Sahara Ave., #1200
Las Vegas, NV 89102
Email: kgallagher@mcdonaldcarano.com
email: ayen@mcdonaldcarano.com
Fax: (702) 873-9966

If addressed to GOFF PRODUCTIONS, LLC:

Gina G. Goff
8491 Sunset Blvd., Suite 1000
West Hollywood, California 90069

with a copy to:

Kristen T. Gallagher, Esq.
Amanda C. Yen, Esq.
McDonald Carano LLP
2300 W. Sahara Ave., #1200
Las Vegas, NV 89102
Email: kgallagher@mcdonaldcarano.com
Email: ayen@mcdonaldcarano.com
Fax: (702) 873-9966

If addressed to RUDOLF SEDLAK:

Rudolf Sedlak
285 Elmwood St.
Mountain View, California 94043

with a copy to:

Kristen T. Gallagher, Esq.
Amanda C. Yen, Esq.
McDonald Carano LLP
2300 W. Sahara Ave., #1200
Las Vegas, NV 89102
Email: kgallagher@mcdonaldcarano.com
email: ayen@mcdonaldcarano.com
Fax: (702) 873-9966

9.14 Advice of Legal Counsel. Each Party has had the opportunity to obtain the advice of legal, accounting, and other professional advisers regarding the language in this Agreement. No Party has relied on legal counsel for another Party, and no legal counsel or other adviser for a Party shall have any duty or obligation to another Party. Each Party has read and understands this Agreement and is executing this Agreement as the Party's free act and without duress.

IN WITNESS WHEREOF, THE PARTIES HERETO HAVE CAUSED THIS DOCUMENT TO BE EXECUTED ON THE LAST DAY SET FORTH BELOW:

GoRock, LLC,
a Delaware limited liability company

SENIOR MOMENT MOVIE, LLC
a California limited liability company

By: Rene Sheridan Patrick Cannon

By: Gina Goff Productions

Title: Managing Member Agent

Its: Managing Member

Date: _____

RENE SHERIDAN,
individually

Date: _____

Date: _____

GINA GOFF,
individually

Date: _____

GOFF PRODUCTIONS, LLC
a California limited liability company

By: Gina Goff

Its: Managing Member

Date: _____

RUDOLF SEDLAK,
individually

Date: _____

EXHIBIT “A”

EXHIBIT “B”

EXHIBIT “C”

EXHIBIT 3

EXHIBIT 3

1 **OPPM**

JOSEPH A. GUTIERREZ, ESQ.

2 Nevada Bar No. 9046

STEVEN G. KNAUSS, ESQ.

3 Nevada Bar No. 12242

MAIER GUTIERREZ & ASSOCIATES

4 8816 Spanish Ridge Avenue

Las Vegas, Nevada 89148

5 Telephone: 702.629.7900

Facsimile: 702.629.7925

6 E-mail: jag@mgalaw.com
sgk@mgalaw.com

7
8 *Attorneys for Plaintiffs/Counter-Defendants*
Rene Sheridan and GoRock LLC

9
10 **DISTRICT COURT**

11 **CLARK COUNTY, NEVADA**

12 RENE SHERIDAN, an individual; and GOROCK,
13 LLC, a Delaware limited liability company,

14 Plaintiffs,

15 vs.

16 GINA GOFF, an individual; GOFF
17 PRODUCTIONS, LLC, a California limited
liability company, SENIOR MOMENT MOVIE,
18 LLC, a California limited liability company;
RUDOLF SEDLAK, an individual; DOES I-X,
19 inclusive; and ROE CORPORATIONS I-X,
20 inclusive,

21 Defendants.

22 AND RELATED COUNTERCLAIMS.
23

Case No.: A-17-756902-B

Dept. No.: XIII

**DECLARATION OF COUNSEL IN
SUPPORT OF PLAINTIFFS'
OPPOSITION TO MOTION TO
ENFORCE SETTLEMENT AGREEMENT
ON ORDER SHORTENING TIME**

24 I, JOSEPH A. GUTIERREZ, ESQ., hereby declare as follows:

25 1. I am an attorney licensed to practice law in the State of Nevada and a partner with the
26 law office of MAIER GUTIERREZ & ASSOCIATES, counsel for Plaintiffs.

27 2. I am over the age of eighteen (18) and I have personal knowledge of all matters set
28 forth herein. If called to do so, I would competently and truthfully testify to all matters set forth herein,

MSJ 044

1 except for those matters stated to be based upon information and belief.

2 3. I make this declaration in support of Plaintiffs' Opposition to Defendants' Motion to
3 Enforce Settlement Agreement on Order Shortening Time ("Defendant's Motion").

4 4. On August 30, 2018, I was present to both parties' agreement and execution of the
5 material terms of the settlement agreement in this case.

6 5. After contested edits and counterproposals to the long form Settlement Agreement, I
7 participated in a status call with opposing counsel, Kristen T. Gallagher, Esq., on October 2, 2018, to
8 discuss the remaining issues of the settlement.

9 6. During this call, Ms. Gallagher refused to confirm that her clients had sufficient funds,
10 or could even obtain sufficient funds, to pay the full amount due per the terms of the settlement
11 agreement.

12 7. Ms. Gallagher represented that her clients' ability to pay was irrelevant, and Plaintiffs
13 lack of confidence in Defendants' ability to pay was insufficient grounds for any accommodations in
14 the Settlement Agreement or modification to any of the terms therein.

15 8. On October 23, 2018, I sent an email to Ms. Gallagher requesting resolution of these
16 issues by a returning to a half-day settlement session with Nelson Segal, Esq., with all parties present
17 and splitting any costs, so that the parties' positions on the disputed terms can be discussed, negotiated,
18 and agreed upon.

19 9. I declare under the penalty of perjury under the laws of the United States of America
20 that the foregoing is true and correct to the best of my knowledge, information and belief.

21 DATED this 24th day of October, 2018.

22
23 /s/ Joseph A. Gutierrez, Esq.
24 JOSEPH A. GUTIERREZ, ESQ.
25
26
27
28

EXHIBIT 4

EXHIBIT 4

M NELSON SEGEL
SUPREME COURT SETTLEMENT JUDGE
6440 SKY POINTE DRIVE, SUITE 140-238
LAS VEGAS, NEVADA 89131

TELEPHONE (702) 385-5266
EMAIL: mediator@nelsonsegel.com

July 16, 2018

VIA EMAIL

Joseph Gutierrez, Esquire
Steven Knauss, Esquire
Maier Gutierrez & Associates
8816 Spanish Ridge Avenue
Las Vegas, Nevada 89148

Amanda Yen, Esquire
Kristen Gallagher, Esquire
McDonald Carano
2300 West Sahara Avenue
Suite 1200
Las Vegas, Nevada 89102

Re: *Sheridan v. Sedlak*
Supreme Court Case No. 76132

Dear Counsel:

This letter is being sent to memorialize the recent discussion regarding the mandatory settlement conference pursuant to NRAP 16. Said conference will be held at the offices of Advanced Resolution Management located at **6980 South Cimarron Road, Suite 201, Las Vegas, Nevada 89113** on **August 30, 2018, commencing at the hour of 10:00 a.m.** It is scheduled to continue until a resolution is reached or the Settlement Judge determines that an impasse has been reached and the case cannot be settled. This could result in the meeting continuing past 5:00 p.m., although not likely.

An essential element of a settlement conference is good faith participation. This does not mean that you will be expected to compromise any position you have or that you will be required to settle the case on terms or conditions that are not agreeable to the parties. The Settlement Judge has no power or authority to compel settlement. The only authority given to the Settlement Judge is the right to require participation in the settlement conference and to report a settlement or failure to settle.

A necessary part of a successful settlement conference is the participation by the affected party and the complete authority to settle the case. If an insurance company, or other third party payor, is

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App 0088

Joseph Gutierrez, Esquire
Steven Knauss, Esquire
Amanda Yen, Esquire
Kristen Gallagher, Esquire
July 16, 2018
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involved, the Settlement Judge will require that the representative present have authority up to the limits of liability. This is essential even though the insurance company or third party payor has made a determination prior to the commencement of the settlement conference that a certain amount is the limit it is willing to contribute to a resolution of the case. A successful settlement conference usually results in one, or both, of the parties modifying their pre-settlement conference positions to reach a resolution of the case.

It is essential that the parties be at the settlement conference, have the ability to resolve the case and not need to contact a third party who is not present. The absence of a decision maker is not conducive to a resolution and requests to convene without the decision maker will rarely be granted.

The documents requested herein shall be delivered to the Settlement Judge by email or mailed to the Settlement Judge's address set forth above for receipt no later than **August 27, 2018**. Hand delivery in a sealed envelope may be done by delivery to Advanced Resolution Management's offices.

NRAP 16 requires the following be contained in the Confidential Settlement Statement:

1. The relevant facts;
2. The issues on appeal;
3. The arguments supporting the party's position on appeal;
4. The weakest points of the party's position on appeal;
5. The settlement proposal that the party believes would be fair or would be willing to make in order to conclude the matter; and
6. All matters which, in counsel's professional opinion, may assist the Settlement Judge in conducting the settlement conference.

In an effort to provide the Settlement Judge with the information and background required by NRAP 16, the Settlement Judge would request that you include the following information as part of your settlement statement:

1. A concise summary of the evidence that supports your theory of the case, including information documenting your damages claims.
2. A discussion of the strongest points in your case, both legal and factual, *and a frank discussion of the weakest points as well*. A candid evaluation of the merits of your

MSJ 048

case is essential.

3. A further discussion of the strongest and weakest points in your opponents' case, but only if they are more than simply the converse of the weakest and strongest points in your case.
4. A brief history of settlement discussions, if any, which details the demands and offers which have been made, and the reasons they have been rejected.
5. The settlement proposal that you would honestly be willing to make in order to conclude this matter and stop the expense of litigation.

The settlement statement should be sent by email or delivered to the Advance Resolution Management's office in an envelope clearly marked "Contains Confidential Settlement Statement" unless submitted by email. Any documents that a party believes will assist the Settlement Judge in understanding the case, or the position of the parties, should be included.

The purpose of the settlement statement is to assist the Settlement Judge in preparing for, and conducting, the settlement conference. In order to facilitate a meaningful conference, your *utmost candor* in responding to the questions is required.

Many of the settlement conference statements that have been reviewed deny any weak points in the submitting party's case and deny any strengths in their opponent's case. While this may be true in a limited number of cases, it is more likely that such a response is less than candid. Part of the settlement conference process will deal with these issues and making sure both parties have their eyes open to what may happen before the Supreme Court if the settlement conference is not successful. The confidentiality of each statement will be strictly maintained and following the conference, the statements and any documents provided to the Settlement Judge will be destroyed.

The Settlement Judge wants to make sure that you, and your client(s), understand the settlement conference process. While the process is called a "settlement conference", it is now defined as a mediation. Many mediators utilize a group discussion at the beginning of the conference with all parties present. The Settlement Judge does not believe that joint sessions are desirable. Therefore, the settlement conference will begin with individual caucuses.

The caucus will consist of the attorney, client(s) and Settlement Judge. At this time, the participation of the client(s) is/are essential to a successful resolution of the case. All information disclosed in the caucus is confidential and will not be disclosed to the other parties unless the Settlement Judge is specifically authorized to do so. An open and frank discussion of the issues is essential to a

Joseph Gutierrez, Esquire
Steven Knauss, Esquire
Amanda Yen, Esquire
Kristen Gallagher, Esquire
July 16, 2018
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successful settlement conference.

If the Settlement Judge determines, or a party's attorney believes it will be of value, a joint session may take place with all of the parties. It is desirable to have the parties speak in a joint session as well as the attorneys. However, the Settlement Judge does not have the authority to make the parties speak and will not override the attorney's instruction to the client(s) to not speak. This could be an impediment to the settlement process, but the Settlement Judge has no desire to interfere with the attorney/client relationship or the attorneys' opinion as to the best method of representing their respective client(s).

The final and most important aspect of the settlement conference is that the attorneys and parties understand the Settlement Judge is not a decision maker. The Settlement Judge's sole role is to act as a neutral party who can utilize skills and training to facilitate the parties reaching an agreement that resolves the matter. No settlement can be reached unless each of the parties agree to the terms and conditions of any settlement. The Settlement Judge has no authority to require settlement and will not act as an advocate for any of the parties.

This letter should assist you in preparing for the Settlement Conference and will enable you to prepare your client(s) for what will take place.

The Settlement Judge will explain the process to the parties at the initial conference and answer any questions that are raised about the process. If either of the attorneys has any further questions regarding the process or issues with their case, the Settlement Judge will be available to discuss the process or issue. Please remember that *ex parte* contact is not prohibited and counsel may contact the Settlement Judge regarding any issue that may arise prior to the settlement conference.

Very truly yours,

/s/ M Nelson Segel

Supreme Court Settlement Judge

MNS:bc

Steven Knauss

From: Nelson Segel <mediator@nelsonsegel.com>
Sent: Monday, August 27, 2018 1:58 PM
To: Natalie Vazquez
Cc: Steven Knauss; Joseph Gutierrez
Subject: RE: Sheridan v. Sedlak (Case No. 76132)

Counsel:

I have glanced at the Settlement Statement.

The words suggested that Ms. Sheridan may not be in attendance. I believe this will be an issue. From what I have reviewed, and that includes documents provided to me by the Supreme Court, possibly documents from the District Court and my brief review of your Settlement Statement, I believe her presence is necessary.

Please confirm that Ms. Sheridan will be present. If there is a potential for her to not be here for the Settlement Conference, I need to understand why. This may be best handled in a telephone call.

Thank you.

M Nelson Segel, Settlement Judge
6440 Sky Pointe Dr., Ste 140-238
Las Vegas, Nevada 89131
Telephone 702-385-5266

This email message is a confidential communication that may contain information that is privileged, attorney work product and exempt from disclosure under the law. If the recipient of this message is not the party to whom it is addressed, please immediately notify the sender at (702)385-5266 (collect) and delete this e-mail message and any attachments from your workstation or network mail system.

From: Natalie Vazquez [mailto:ndv@mgalaw.com]
Sent: Monday, August 27, 2018 12:16 PM
To: mediator@nelsonsegel.com
Cc: Steven Knauss; Joseph Gutierrez
Subject: Sheridan v. Sedlak (Case No. 76132)

Judge Segal,

Attached is appellants' confidential settlement statement in the above-referenced matter.

Thank you,

Natalie D. Vazquez | Paralegal
MAIER GUTIERREZ & ASSOCIATES
8816 Spanish Ridge Avenue
Las Vegas, Nevada 89148
Tel: 702.629.7900 | Fax: 702.629.7925
ndv@mgalaw.com | www.mgalaw.com

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Steven Knauss

From: Nelson Segel <mediator@nelsonsegel.com>
Sent: Monday, July 16, 2018 9:38 AM
To: Joseph Gutierrez
Cc: Steven Knauss; Natalie Vazquez
Subject: RE: Sheridan v. Sedlak; Appeal 76132

Counsel:

Right now, only Monday and Friday are available for full days. Since we are talking about a global resolution, I think we need to reserve sufficient time.

The ladies were adamant that they wanted a settlement conference sooner than later. They were also somewhat optimistic that resolution could take place.

We will see how they respond to the September dates. If it is negative, your client should reconsider her availability since resolution appears feasible in this matter.

Any questions, please feel free to contact me.

M Nelson Segel, Settlement Judge
6440 Sky Pointe Dr., Ste 140-238
Las Vegas, Nevada 89131
Telephone 702-385-5266

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From: Joseph Gutierrez [mailto:jag@mgalaw.com]
Sent: Monday, July 16, 2018 7:35 AM
To: Nelson Segel; 'Amanda Yen'
Cc: 'Kristen T. Gallagher'; Steven Knauss; Natalie Vazquez
Subject: RE: Sheridan v. Sedlak; Appeal 76132

Thank you for the follow up.

I just heard back from my client and the earliest that she is available is during the week of September 10th.

I am free that entire week as well.

Let us know if the week of Sept. 10th will work for setting this settlement conference.

Thanks,

Joseph A. Gutierrez
MAIER GUTIERREZ & ASSOCIATES
8816 Spanish Ridge Avenue
Las Vegas, Nevada 89148
Tel: 702.629.7900 | Fax: 702.629.7925
jag@mgalaw.com | www.mgalaw.com

From: Nelson Segel [<mailto:mediator@nelsonsegel.com>]
Sent: Thursday, July 12, 2018 3:18 PM
To: 'Amanda Yen' <ayen@mcdonaldcarano.com>
Cc: 'Kristen T. Gallagher' <kgallagher@mcdonaldcarano.com>; Joseph Gutierrez <jag@mgalaw.com>; Steven Knauss <sgk@mgalaw.com>
Subject: RE: Sheridan v. Sedlak; Appeal 76132

Thank you for the notification.

Ms.Yen:

While *ex parte* contact is fine, and encouraged, it would have been helpful to copy Appellant's counsel to coordinate a date.

I have taken the liberty to add them to this reply as I don't consider this a "confidential" communication that would have required your prior consent.

As soon as Appellant's counsel advises of dates, I will sent out the notice.

Thank you.

M Nelson Segel, Settlement Judge
6440 Sky Pointe Dr., Ste 140-238
Las Vegas, Nevada 89131
Telephone 702-385-5266

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From: Amanda Yen [<mailto:ayen@mcdonaldcarano.com>]
Sent: Thursday, July 12, 2018 9:36 AM
To: 'Nelson Segel'
Cc: Kristen T. Gallagher
Subject: Sheridan v. Sedlak; Appeal 76132

Settlement Judge Segel,

Respondent's counsel and client representative are available August 23, 28, 29 or 30 for the settlement conference in the above matter.

Thanks, Amanda

Amanda C. Yen | Partner

McDONALD CARANO

2300 West Sahara Avenue | Suite 1200

Las Vegas, NV 89102

P: 702.873.4100 | **F:** 702.873.9966

BIO | **WEBSITE** | **V-CARD** | **LINKEDIN**

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EXHIBIT 5

EXHIBIT 5

Steven Knauss

From: Joseph Gutierrez
Sent: Tuesday, October 23, 2018 10:47 AM
To: 'Kristen T. Gallagher'; Steven Knauss; Amanda Yen
Subject: RE: Sheridan v Goff -- Settlement Discussion

Kristen,

We have reviewed your motion to enforce the settlement and we are preparing our limited opposition and counter-motion for sanctions to be filed by tomorrow.

In an effort to resolve this dispute before having to appear before Judge Denton on this issue, let us know if your clients would be willing to sit for a half day settlement conference with Judge Segal to resolve the outstanding issues in the settlement agreement.

We would require that all parties appear at the second settlement conference in order to effectively resolve the remaining dispute. Both sides would split the costs for a half day session.

We would be willing to continue the pending hearing on your motion before Judge Denton two weeks so we could get this second MSC completed.

Let us know your position on this proposal..

Thanks,

Joseph A. Gutierrez
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8816 Spanish Ridge Avenue
Las Vegas, Nevada 89148
Tel: 702.629.7900 | Fax: 702.629.7925
jag@mgalaw.com | www.mgalaw.com

From: Kristen T. Gallagher [mailto:kgallagher@mcdonaldcarano.com]
Sent: Tuesday, October 02, 2018 3:31 PM
To: Joseph Gutierrez <jag@mgalaw.com>; Steven Knauss <sgk@mgalaw.com>; Amanda Yen <ayen@mcdonaldcarano.com>
Subject: RE: Sheridan v Goff -- Settlement Discussion

We disagree with your characterization and substance of the discussion. We will provide an appropriate declaration to the Court as may be necessary due to your client's attempt to renegotiate the agreed-upon settlement terms.

Kristen T. Gallagher | Partner

McDONALD CARANO

P: 702.873.4100 | E: kgallagher@mcdonaldcarano.com

From: Joseph Gutierrez <jag@mgalaw.com>
Sent: Tuesday, October 2, 2018 3:05 PM
To: Steven Knauss <sgk@mgalaw.com>; Amanda Yen <ayen@mcdonaldcarano.com>; Kristen T. Gallagher <kgallagher@mcdonaldcarano.com>
Subject: RE: Sheridan v Goff -- Settlement Discussion

I will also add that many of the disagreements stem from what will occur in the event of a breach by Defendants for non-payment of the settlement.

I proposed wording the agreement for a lump sum payment at the time of the fully executed agreement, however, you declined that option.

We are at an impasse on the terms regarding indemnity, remedies for breach of the settlement agreement, and when dismissal of the case/SOS complaint will be completed.

Joseph A. Gutierrez
MAIER GUTIERREZ & ASSOCIATES
8816 Spanish Ridge Avenue
Las Vegas, Nevada 89148
Tel: 702.629.7900 | Fax: 702.629.7925
jag@mgalaw.com | www.mgalaw.com

From: Steven Knauss
Sent: Tuesday, October 02, 2018 3:00 PM
To: Amanda Yen <ayen@mcdonaldcarano.com>; Kristen T. Gallagher <kgallagher@mcdonaldcarano.com>
Cc: Joseph Gutierrez <jag@mgalaw.com>
Subject: Sheridan v Goff -- Settlement Discussion

Quick recap of our discussion today:

- Material terms have been agreed upon by both parties.
- However, the current conflict rests with contingencies in between the first payment of \$5k and the final payment of \$280k (to be made 60 days after execution of the settlement). With 98% of the balance still owed to Plaintiffs, Defendants are looking for Plaintiffs to fully perform all their contractual obligations.
- Defendants can provide no assurance they have funds available to pay the final payment. As a result, Plaintiffs have no confidence Defendants will fulfill their final payment obligation after Plaintiffs dismiss/withdraw their claims.
- Defendants state they will comply with the material terms of the agreement. Any assurances or security is unnecessary.
- With parties at an impasse, Defendants will file a motion to enforce.

Steven G. Knauss | Associate
MAIER GUTIERREZ & ASSOCIATES
8816 Spanish Ridge Avenue
Las Vegas, Nevada 89148
Tel: 702.629.7900 | Fax: 702.629.7925

MSJ 058

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EXHIBIT D

-----Original Message-----

From: Joseph Gutierrez <jag@mgalaw.com>

To: hotopix <hotopix@gmail.com>; rsheridan34 <rsheridan34@aol.com>

Sent: Sun, Oct 28, 2018 10:22 am

Subject: RE: Notes on Motion and oral argument

Rene/Patrick,

After going through our *filed* limited opposition to the motion to enforce settlement, I realized that our office made the mistake of not redacting the settlement amounts contained in the emails attached as Exhibit 5 to our opposition brief that was ultimately used as Exhibit A to the Defendants' reply brief.

I take full responsibility for this mistake and I intend on correcting it as follows:

1. File the attached motion to redact Exhibit 5 and Defendants' Exhibit A tomorrow morning (or put a stipulation on the record if Defendants agree to file redacted versions of this document).
2. As an alternative to the motion (or stipulation if Defendants will stipulate), is for me to request orally tomorrow that that Judge Denton strike both the opposition and reply from the record, and allow both parties to refile them with proper redactions.

Given that the filing of this unredacted exhibit was my mistake, I cannot take to position in court tomorrow that Defendants breached the confidentiality portion of the Material Terms agreement by refiling the unredacted email exhibit in support of their reply brief.

Defendants are not taking the position that this filing was a breach of any kind on your part, as their reply is still focusing on confirming the settlement agreement based on the Material Terms document.

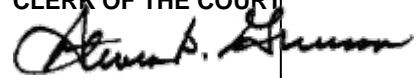
Therefore, my focus tomorrow will be to argue the merits of the opposition to the enforce settlement agreement by attacking Sedlak's failure to appear to the MSC, Defendants' failure to comply with the material terms of indemnity and payment, and requesting sanctions for Sedlak's failure to appear.

I am in the office for the next few hours if you want to discuss.

If not, I will plan on seeing you tomorrow morning at 7am at the Tuscany to drive you to court and prepare for the hearing.

Joseph A. Gutierrez
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jag@mgalaw.com | www.mgalaw.com

EXHIBIT E



1 **RTRAN**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5 GOROCK LLC,)
6 Plaintiff(s),)
7 vs.) Case No. A-17-756902-B
8) DEPT. XIII
9 GINA GOFF,)
10 Defendant(s).)

11
12 BEFORE THE HONORABLE MARK R. DENTON,
13 DISTRICT COURT JUDGE

14 MONDAY, OCTOBER 29, 2018

15 **TRANSCRIPT OF PROCEEDINGS RE:**
16 **DEFENDANT'S MOTION TO ENFORCE SETTLEMENT AGREEMENT**
17 **ON ORDER SHORTENING TIME**

18
19 **APPEARANCES:**

20 For the Plaintiff(s): JOSEPH A. GUTIERREZ, ESQ.

21 For the Defendant(s): KRISTEN T. GALLAGHER, ESQ.

22 Also Present:
23 Patrick Cannon, Gorock Representative
24 Rene Sheridan, Plaintiff

25 RECORDED BY: SANDRA PRUCHNIC, COURT RECORDER

1 **LAS VEGAS, NEVADA, MONDAY, OCTOBER 29, 2018**

2 [Proceedings commenced at 10:45 a.m.]

3
4 THE COURT: All right. On page 22, *Gorock LLC vs. Gina*
5 *Goff*.

6 MS. GALLAGHER: Good morning, Your Honor. Kristen
7 Gallagher with McDonald Carano on behalf of Fefendants.

8 MR. GUTIERREZ: Good morning, Your Honor. Joseph
9 Gutierrez on behalf of the plaintiffs. With me is Rene Sheridan and
10 Patrick Cannon.

11 MS. SHERIDAN: Good morning, Your Honor.

12 THE COURT: And?

13 MR. GUTIERREZ: Patrick Cannon on behalf of Gorock.

14 MR. CANNON: Your Honor, I'm -- I'm here representing -- on
15 behalf of Gorock LLC, and also I have a colleague, Ms. Rene Sheridan,
16 who is a plaintiff here. And with your permission, I'd like to address the
17 Court sometime.

18 THE COURT: No, I have received -- I'll make counsel aware
19 of the fact that I've received something from the plaintiff, a letter.

20 MR. CANNON: I have copy for the defendants, as well.

21 MR. GUTIERREZ: Your Honor, for the record, I -- I'm
22 requesting a 30-day continuance at today's hearing, Your Honor. So I'm
23 going to file it.

24 THE COURT: A how many day?

25 MR. GUTIERREZ: I'm sorry?

1 THE COURT: How many day continuance?

2 MR. GUTIERREZ: 30 days so I can file a Motion to Withdraw
3 and OST. I'd actually like to file it in open court. I also have to file it with
4 the Supreme Court, given the pending appeal. But there's been a
5 fundamental difference on how this case needs to be litigated, it's all I'll
6 say, in that I have to file a Motion to Withdraw. I spoke to counsel about
7 it this morning. And it's a position I have to take, Your Honor. My clients
8 are free to find new counsel. I want to give them time to find new
9 counsel. But it's something I have to get on file. I'll let counsel speak to
10 the objection and then I'll --

11 MS. GALLAGHER: Good morning, Your Honor.

12 We did speak this morning, counsel and I, briefly. I don't
13 have -- it sounds like you have a document that's been delivered to
14 chambers. I don't have a copy of that. I would obviously object on an ex
15 parte communication. I'm unaware of what that document --

16 MR. CANNON: I'm sorry, Your Honor.

17 Here you go.

18 MS. GALLAGHER: So I'll -- I'll look at that in a moment.

19 THE COURT: Well, just take a look at it first, because I don't
20 even know what the issue is.

21 MS. GALLAGHER: Well, generally, my discussion with
22 Mr. Gutierrez was -- my understanding is that Plaintiffs had a dispute
23 over an e-mail chain that may have -- that did indicate the amount that --
24 of the settlement. And it was attached to their papers when they filed it.

25 So my understanding is that there's a claim that there's a

1 breach of the agreement. My statement to opposing counsel was I didn't
2 see it that way, that any inadvertent production could be easily remedied
3 by a request for the clerk to substitute with a redacted version. I didn't
4 see it in the same light that perhaps the plaintiffs -- and I want to impose
5 another objection, Your Honor.

6 Mr. Cannon, by all accounts, is not a representative of Gorock,
7 he's not a member, at least that's what we uncovered during the case. I
8 don't know if something has changed. The person that should be
9 addressing the Court would be Ms. Sheridan. Mr. Cannon doesn't have
10 an interest in this case that we're aware of. There was never a
11 certificate of interested parties that was filed that identified him. So I
12 think generally speaking, it's inappropriate for him to be addressing the
13 Court anyway.

14 And what I told Mr. Gutierrez this morning is that if, indeed,
15 that couldn't be resolved with his clients based on a statement or a
16 redaction of that document that was filed inadvertently, my
17 understanding is, by Mr. Gutierrez's office, and if he did, indeed, need to
18 withdraw today, that I wouldn't object to the situation that has been
19 created by his client. And that I understand his professional obligation
20 under the rules, when circumstances arise, that he's permitted to
21 withdraw with agreement by the Court.

22 But what I wanted to do today is express that we believe that
23 this situation is just being created as another red herring, Your Honor, by
24 the plaintiff's own conduct. We have an enforceable settlement
25 agreement. We're now two months out from this settlement conference.

1 We believe it should be enforced on the terms and in the manner that we
2 stated in our papers. And we just think that this kind of a -- a
3 self-created diversion to try and avoid enforcement of this agreement.

4 The issue that they raised with the document that had, down
5 below in a chain, the amount of the settlement, really is of no
6 consequence to them, Your Honor. It's my client who's paying any
7 money and we would be the ones that would be prejudiced, if you will,
8 by any inadvertent disclosure. We've taken the position, like I indicated,
9 that a redaction on the record quickly would remedy any -- any situation.

10 So I'm happy to go forward with the Motion to Enforce today. I
11 would -- really, what I'd like to see is Your Honor grant the motion,
12 because we do have an enforceable settlement agreement. If Plaintiffs
13 then seek to want to address anything else with the Court after that
14 granting, certainly they're inclined to do that. But this resolves the case,
15 Your Honor, both at this level and at the Nevada Supreme Court. And
16 we would ask that Your Honor grant -- grant the motion.

17 THE COURT: Well, the threshold issue here has to do with
18 what I understand is Ms. Sheridan's termination of Mr. Gutierrez as her
19 attorney. Right? That's the threshold issue here. That's the way I'm --
20 that's what I understood this to be, this letter. I didn't -- I haven't really
21 had a chance to go through all this stuff.

22 MS. GALLAGHER: Oh, I'm -- I was looking at the
23 attachments that look to be exactly to our Motion to Enforce. And my --

24 THE COURT: Yeah. But --

25 MS. GALLAGHER: -- understanding, so --

1 THE COURT: -- but basically what she's saying is --
2 MS. GALLAGHER: -- let me look here quickly.
3 THE COURT: Read the first paragraph.
4 MS. GALLAGHER: So the concern in the first paragraph is
5 this confidentiality clause, which I believe I just addressed.
6 THE COURT: Well, that's what I was understanding this to
7 be, having to do with Ms. Sheridan terminating the services of
8 Mr. Gutierrez; is that right, Ms. Sheridan?
9 MS. SHERIDAN: Yes.
10 MR. CANNON: That's correct.
11 MS. SHERIDAN: Yes, Your Honor.
12 MR. CANNON: That's correct, Your Honor.
13 THE COURT: So Mr. Sheridan's -- I'm sorry, Mr. Gutierrez is
14 in a pretty -- a sad situation relative to the fact that he's -- his client
15 doesn't want him to represent her anymore. So -- so he's not --
16 MS. GALLAGHER: And I acknowledge that, Your Honor. I
17 understand the position that Mr. Gutierrez is in. I'm just -- what I would
18 like to do is just reiterate our position, that we feel it's unfortunate that
19 yet again we have a situation. If you remember, this is very similar to
20 what happened with Mr. Albright. We had a withdrawal, we had that sort
21 of discussion. And then it ended up delaying the case, you know, quite
22 a bit.
23 My client settled the case at a resolution at the Nevada
24 Supreme Court. But I understand the circumstances and so I just
25 wanted to make the record on behalf of Defendants and understand that

1 Your Honor will address it accordingly. If there is any extension,
2 because we do have a company, any continuance, rather, of this Motion
3 to Enforce, I would --

4 THE COURT: Let me ask you this, Ms. Sheridan, do you
5 have any objection to Mr. Gutierrez withdrawing as counsel?

6 MS. SHERIDAN: No. We've -- we've requested him to
7 withdraw.

8 THE COURT: Okay.

9 MS. SHERIDAN: There was -- there's basically -- I can read --

10 THE COURT: Mr. Gutierrez?

11 MS. SHERIDAN: -- some of my statement into the record,
12 Your Honor, if you'd like me to.

13 THE COURT: No, I don't want you to read your statement --

14 MS. SHERIDAN: There's --

15 THE COURT: -- into the record.

16 MS. SHERIDAN: There are breach of a material term.

17 MR. GUTIERREZ: For the record, Your Honor, then, they
18 have, obviously, no objection. I can prepare the order to be sent to
19 chambers today with the last of the matters and everything else for both
20 Gorock --

21 THE COURT: Okay. So --

22 MR. GUTIERREZ: -- and Ms. Sheridan.

23 THE COURT: There's no objection to me considering a
24 Motion to Withdraw right now, right, Ms. Sheridan?

25 MR. CANNON: Withdraw. Withdraw.

1 MS. SHERIDAN: Yes, no, we've -- yes.

2 MR. CANNON: Now, I would like to address the Court.

3 There's some information this Court needs that hasn't --

4 THE COURT: I don't really want to get into it right now.

5 Mr. Gutierrez is withdrawing --

6 MR. CANNON: Okay. All right.

7 THE COURT: -- I grant that motion.

8 MR. CANNON: All right, Your Honor.

9 THE COURT: What I'll do is I'll -- I'll postpone this, say, two

10 weeks.

11 MS. GALLAGHER: That's fair.

12 MS. SHERIDAN: I would -- I request 30 days to get new

13 counsel.

14 THE COURT: Two weeks.

15 MS. SHERIDAN: We -- we would like --

16 THE COURT: Two weeks.

17 MS. SHERIDAN: -- we would like to get --

18 THE COURT: Two weeks. It's been continued two weeks,

19 okay, on the -- on the motion.

20 MS. SHERIDAN: Okay. We'd -- we'd like --

21 THE COURT: Okay?

22 MS. SHERIDAN: Well, I'd like to address --

23 THE COURT: I've made my -- I've made my -- I've granted

24 the Motion to Withdraw. The -- the hearing on the Motion to Enforce

25 Settlement will be held in two weeks.

1 What's that day?

2 THE CLERK: November 13th, 9:00 a.m.

3 THE COURT: Okay.

4 MS. SHERIDAN: We wanted to request rescheduling another

5 conference with Segel -- with Judge Segel.

6 THE COURT: No, I'm sorry. I think I -- my determination -- I'll

7 hear from you on the 13th of November.

8 What day of the week is that?

9 THE CLERK: Tuesday.

10 THE COURT: Okay.

11 MS. SHERIDAN: Okay. I -- excuse me, Your Honor --

12 MR. CANNON: We could dispose of this case, Your Honor,

13 by another trip to Judge Segel's office. And the last trip to Judge Segel's

14 office, Mr. Sedlak, who was --

15 THE COURT: All right. Thank you. Next case.

16 MS. SHERIDAN: Excuse me, Judge. Excuse me, Your

17 Honor.

18 MS. GALLAGHER: Thank you, Your Honor.

19 THE COURT: Provide an order to me, please, Mr. Gutierrez.

20 MS. SHERIDAN: Your Honor -- Your Honor, excuse me, I will

21 be out of -- I'm going to be out of town on preplans on November 13th.

22 That date does not work for me.

23 THE COURT: Mr. Gutierrez, step back in.

24 MS. SHERIDAN: That date does not work for me, please.

25 THE COURT: What day are you going out of town?

1 MS. SHERIDAN: I believe I get back toward the end of that
2 week or the following.

3 THE COURT: What day are you leaving?

4 MS. SHERIDAN: I believe it's the 10th. I don't have my
5 calendar. But I believe I get back in --

6 MS. GALLAGHER: I can be available on the 8th, Your Honor.

7 MS. SHERIDAN: -- toward the 20th. I believe I get back in
8 around the 20th.

9 THE COURT: All right. Let's do it the 8th, before you leave.

10 MS. SHERIDAN: The 8th?

11 THE COURT: Uh-huh.

12 MS. SHERIDAN: The 8th I -- I will not be available. I'm going
13 to be -- I'm out of town.

14 THE COURT: Okay. Well, be back here on the 8th.

15 MS. SHERIDAN: I mean, no, I won't -- I'm not -- I'm traveling.
16 I'm not -- I won't be back until the 20th.

17 THE COURT: I just asked you when you were leaving and
18 you said you aren't leaving until what day?

19 MS. SHERIDAN: No, I -- I've got two different trips planned
20 back to back. I'm in New York and then I'm back. And I -- they're
21 already preplanned. I believe I get back -- without looking at my
22 calendar, sometime around the 18th, 19th, 20th, somewhere in that
23 block of time. I have to look and see which is the weekend. It was
24 somewhere in that -- somewhere in that block of time is when I get back
25 into -- so I could be available that first Monday.

1 THE COURT: That's a problem. Monday the 19th, is that
2 what you're saying?

3 MS. SHERIDAN: Monday the 19th would be fine.

4 THE COURT: I think that's not a good day for me, right?

5 MS. SHERIDAN: Tuesday the 20th?

6 THE COURT: Okay. Let me see here. Well, I -- I'm not going
7 to set this way out. I -- want to -- I need to -- I think the defendant --

8 MS. SHERIDAN: Yeah, I would like to try to schedule it --

9 THE COURT: The defendant --

10 MS. SHERIDAN: -- with Judge Segel --

11 THE COURT: May I speak?

12 MS. SHERIDAN: No, please.

13 THE COURT: The defendant is entitled to have her motion
14 heard. Okay. Counsel. Okay.

15 MS. SHERIDAN: Yes.

16 THE COURT: And I'm passing this because of your
17 termination of Mr. Gutierrez. Okay?

18 MS. SHERIDAN: Well, this -- this -- Your Honor, just so you
19 understand, both of these attorneys have filed -- they've breached a
20 material term of this agreement.

21 THE COURT: Yeah. All right.

22 MS. SHERIDAN: We can't enforce an agreement that's been
23 breached --

24 THE COURT: Okay. Thank you.

25 MS. SHERIDAN: -- by one of the -- with the material terms.

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THE COURT: So let's see here.

MS. SHERIDAN: This is not -- this is unfortunate. I flew in here this morning, because they did not bring this to your attention.

THE COURT: What do I have on the 20th?

MS. SHERIDAN: I'm here to bring this to your attention.

THE COURT: I'm in a trial, right, supposedly?

I could hear it at 9:00 on the 20th.

MS. SHERIDAN: 9:00 on the 20th. Thank you, Your Honor.

THE COURT: Okay? Is that okay?

MR. CANNON: Thank you, Your Honor. That works.

THE COURT: That's not a motions day. I think I have jury trial, be in trial, but I'll go ahead and hear this first.

MS. SHERIDAN: Thank you very much.

MS. GALLAGHER: I appreciate that, Your Honor.

MR. CANNON: Thank you, Your Honor.

MS. SHERIDAN: Thank you, your Honor.

MR. GUTIERREZ: Thank you, Your Honor.

[Proceedings concluded at 10:56 a.m.]

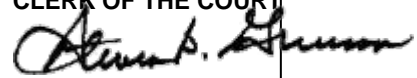
///

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



Shawna Ortega, CET*562

EXHIBIT F



1 **RTRAN**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5 GOROCK LLC,)
6 Plaintiff(s),)
7 vs.) Case No. A-17-756902-B
8) DEPT. XIII
9 GINA GOFF,)
10 Defendant(s).)

11
12 BEFORE THE HONORABLE MARK R. DENTON,
13 DISTRICT COURT JUDGE

14 MONDAY, DECEMBER 3, 2018

15
16 **TRANSCRIPT OF PROCEEDINGS RE:**
17 **MOTION TO ENFORCE**

18
19 **APPEARANCES:**

20 For the Plaintiff(s): RENE SHERIDAN, PRO SE
21 For the Defendant(s): KRISTEN T. GALLAGHER, ESQ.

22 Also Present:
23 Patrick Cannon, Gorock Representative

24
25 RECORDED BY: SANDRA PRUCHNIC, COURT RECORDER

1 **LAS VEGAS, NEVADA, MONDAY, DECEMBER 3, 2018**

2 [Proceedings commenced at 9:03 a.m.]

3
4 THE COURT: Page 5, *Gorock LLC vs. Gina Goff*.

5 MS. GALLAGHER: Good morning, Your Honor. Kristen
6 Gallagher on behalf of the defendants.

7 MS. SHERIDAN: Good morning, Your Honor. Rene
8 Sheridan.

9 MR. CANNON: Patrick Cannon, Your Honor.

10 THE COURT: Okay. It's Motion to Enforce.

11 MS. GALLAGHER: Correct, Your Honor. If you'll recall, we
12 were here approximately a month ago. And at the time, Plaintiff's
13 counsel withdrew and so Your Honor continued to -- to provide Plaintiffs
14 an opportunity to get counsel, because one of -- one of the plaintiffs is
15 an entity, and so they'll need counsel to go forward. I don't see anybody
16 here who may be counsel. So I'll just lodge an objection in advance of
17 any argument outside the scope of the Motion to Enforce, which was
18 done when Plaintiffs were represented by counsel at a Nevada Supreme
19 Court settlement conference, Your Honor.

20 THE COURT: Well, Ms. Sheridan can represent herself,
21 right?

22 MS. GALLAGHER: She can, Your Honor, but not with respect
23 to the entity.

24 THE COURT: Right. Uh-huh.

25 MS. GALLAGHER: But with respect to this Motion to Enforce,

1 like I indicated, they had counsel at the Nevada Supreme Court
2 settlement conference, so they were represented. And what Defendants
3 are looking to do is simply enforce the material terms that were reached
4 during a seven-plus hour conference. We provided the Court a redacted
5 copy of those material terms, keeping private the amount and some
6 other terms that are not for the public domain, Your Honor.

7 We also provided the Court the background on what kind of
8 led up to this dispute. Basically, Plaintiffs are trying to renegotiate the
9 terms. Nothing could be more obvious than that, based on the
10 document that they filed just in advance of the hearing, a supplement to
11 the earlier limited opposition, which they set forth now new terms that
12 they wish the Court would enforce or have proposed those terms, they
13 want to go back to a settlement conference. Your Honor, the -- the law
14 is clear in this state that material terms, once reached, mean that the
15 agreement can be enforced.

16 I'd also like to point out a document that Plaintiffs filed that
17 makes this even more clear than it already was, which is their Exhibit F,
18 an exchange they had with their counsel at the time, and identifying that
19 yes, Your Honor could enforce the material terms, because he identifies
20 that -- acknowledges to his client that these terms were agreed upon
21 and they are material terms that represent the parties' agreement.
22 There's also a statement by Plaintiff's former counsel that --
23 acknowledging that they did agree to these terms.

24 So, Your Honor, we have provided you the red lines of -- of
25 kind of the back and forth, and we've also presented you I believe with a

1 clean copy of the document that we believe represents the material
2 terms.

3 What I'd like to do is after -- hopefully you will grant the
4 motion, and I have that document here. If you're inclined to grant it,
5 what I'd like to do is have Plaintiffs sign that today. We've had a history
6 here that we -- we would like to have that happen in the court so that we
7 can finalize this agreement, Your Honor, put this case to bed as it should
8 have been back in August, Your Honor.

9 THE COURT: Okay.

10 MS. GALLAGHER: Thank you.

11 THE COURT: Thank you.

12 MS. SHERIDAN: Good morning.

13 THE COURT: Ms. Sheridan?

14 MS. SHERIDAN: Yes. Good morning, Your Honor. I'm not a
15 public speaker, so I'm a little shy with -- uncomfortable doing this.

16 But the first thing I would like to do, Your Honor, is to thank
17 you for granting the continuance that allowed myself and Mr. Cannon the
18 opportunity to give the aid and comfort to our friends and business
19 associates that have been devastated by the tragedy in Malibu caused
20 by the Woolsey Fire.

21 As you're aware, I do not live in Las Vegas, Nevada, nor
22 Nevada. And this has been a long one and a half years seeking justice
23 as the victim of the theft of my intellectual property and the destruction of
24 it by the defendants that was financed by Mr. Sedlak. What I'd like to
25 accomplish today, with your help and assistance, Your Honor, the three

1 things, if possible. Have this Court void the initial material terms as
2 written, as those material terms have been deliberately violated and
3 breached by both the defendant's attorney, Kristen Gallagher, and the
4 plaintiff's former attorney, Joseph Gutierrez.

5 The supplemental opposition I have filed in this court outlines
6 the illegal disclosure of the confidential payment terms and collusion
7 between the aforementioned attorneys, as well as providing the Court
8 with a partial list of the damage these disclosures have done and will do
9 to myself and my professional reputation.

10 It is my understanding that under Nevada law, I cannot be
11 forced to perform a contract agreement or understanding that has been
12 breached. It is only just that the terms of confidentiality agreed by both
13 the plaintiffs and the defendants that would cover this violation,
14 articulated in Section 5 of the confidentiality settlement agreement and
15 mutual release of claims, be enforced, as with or without a settlement
16 agreement.

17 The penalties of sanctions, fees, expenses, and injunctive
18 relief still very much apply. I would like to address those sanctions due
19 the plaintiffs from the attorneys that committed this violation of the most
20 essential confidential term -- confidentiality term, the disclosure of the
21 settlement payment amounts.

22 In order to bring an end to this endless nightmare created
23 solely by the defendants, I would like the Court to also address the
24 reasonable terms acceptable to the plaintiffs that have been presented
25 to the Court and Defendant's counsel by the plaintiffs under

1 supplemental opposition Exhibit G. The plaintiffs desire a settlement,
2 but should not be expected under the current conditions of mistrust
3 created by these guilty attorneys to agree any terms that could open the
4 plaintiffs to yet another violation of agreements or trust. For this reason,
5 we wish to employ the services of a trusted third party to hold the
6 dismissals and perform any duties that were prescribed to the
7 defendant's attorney prior to the deliberate violation of my inherent right
8 of the confidentiality, a violation that was deliberate --

9 THE COURT: I don't think that the monetary terms have
10 been --

11 MS. SHERIDAN: -- and meant to harm me.

12 THE COURT: They haven't been made part of the public
13 record, have they?

14 MS. SHERIDAN: Yeah, they have. They filed -- they filed --
15 Kristen Gallagher and Joe Gutierrez filed an unredacted version and
16 made it part of the public record. Then they tried to conceal it from the
17 Court --

18 THE COURT: What I -- what I'm seeing here is a redacted
19 version here on the record.

20 MS. SHERIDAN: No. They filed one that's not redacted.

21 MR. CANNON: No. No, Your Honor.

22 MS. GALLAGHER: Your Honor, if I may address --

23 THE COURT: Sir --

24 MS. SHERIDAN: That's not serious.

25 THE COURT: -- sir, who are -- who are you?

1 MR. CANNON: I'm sorry. I'm sorry.
2 THE COURT: Who are you?
3 MR. CANNON: I'm Patrick Cannon for the --
4 THE COURT: You're not a party to this case, are you?
5 MS. SHERIDAN: He's party, Gorock.
6 MS. GALLAGHER: No, he isn't.
7 MS. SHERIDAN: He's a colleague of mine with Gorock.
8 THE COURT: So you're not a party --
9 MS. GALLAGHER: He is not.
10 THE COURT: -- individually, right?
11 MS. SHERIDAN: Gorock. Party --
12 THE COURT: You're not a party individually, right?
13 MR. CANNON: No, I'm sorry.
14 THE COURT: So you can't speak. Okay. The entity has to
15 hire an attorney --
16 MR. CANNON: I'm sorry, Your Honor.
17 THE COURT: -- an entity can't appear in proper person.
18 MR. CANNON: I understand, Your Honor.
19 THE COURT: Okay.
20 MR. CANNON: I understand.
21 THE COURT: Very well.
22 MS. GALLAGHER: Your Honor, if I may address --
23 THE COURT: All right.
24 MS. GALLAGHER: -- what Ms. Sheridan has indicated. Her
25 prior counsel, in their limited opposition that they filed, they appended an

1 e-mail chain among counsel relating to the settlement. And in that,
2 Mr. Gutierrez confided in me -- not confided -- called me and told me
3 that he -- his office made the mistake of not redacting certain information
4 in that e-mail.

5 So during that conversation, I said to him, Well, the simple fix
6 is to come to the Court -- because he called me the morning of the
7 hearing -- come to the Court and ask for it to be redacted and have it be
8 withdrawn. Your Honor is well familiar that that happens among parties
9 all the time and Mr. Gutierrez said it was an inadvertent filing by his
10 office.

11 MS. SHERIDAN: Kristen Gallagher also filed it on the public
12 record intentionally and then tried to conceal it from the Court.

13 MS. GALLAGHER: If you could let me finish, ma'am.

14 MS. SHERIDAN: And, Your Honor, once -- once the financial
15 terms are put on a public record, it's -- it's an incurable breach.

16 MS. GALLAGHER: So then in -- in our reply, Mr. Gutierrez
17 had not appended the full chain of that e-mail, so our office filed the rest
18 of that e-mail chain that included what had previously been filed.

19 And so our discussion was, let's go to court and let's present
20 an offer of a stipulation and order for redaction meeting, you know, the
21 different requirements that are required under the Supreme Court rule
22 for confidentiality to be able to redact something. And Mr. Gutierrez
23 indicated to me that he had offered that to Ms. Sheridan, and she had
24 declined that, Your Honor.

25 And so what we have here is Plaintiffs taking advantage of an

1 inadvertence of their former counsel by filing something and trying to
2 make hay with it, I suppose, and trying to renegotiate material terms that
3 had already been agreed upon.

4 THE COURT: Because the item that you filed, the Motion to
5 Enforce, has redactions.

6 MS. GALLAGHER: Correct, Your Honor. And we -- and we
7 submitted things that came --

8 MS. SHERIDAN: No, she filed a reply that did not have the
9 redactions. She filed the financial terms on the record. She tried to
10 conceal it.

11 THE COURT: Okay.

12 MR. CANNON: It's so ridiculous.

13 THE COURT: Want to --

14 MS. GALLAGHER: Judge --

15 THE COURT: -- finish up here? Go ahead. Wrap up your
16 argument.

17 MS. SHERIDAN: She filed -- she also violated the material
18 terms of confidentiality. And that's an essential material term, the
19 confidentiality, and filed the financial terms of that agreement, which
20 caused me enormous harm, to put what I was being -- what my numbers
21 were on -- producing -- it's permanent harm to my professional --

22 THE COURT: Okay.

23 MS. SHERIDAN: -- record.

24 THE COURT: Anything else?

25 MS. SHERIDAN: It's been very damaging what they did.

1 THE COURT: Okay.

2 MS. SHERIDAN: Then they tried to conceal it. No, no, they --
3 they filed -- yeah, and there was no reason to tack that e-mail on. It
4 didn't support anybody's argument. They just tacked it on disclosing the
5 most important -- the financial terms of a confidential settlement
6 agreement. They violated it. And that was bad enough; then they tried
7 to conceal it from the Court. And sanctions are warranted.

8 THE COURT: Okay. Anything else?

9 MS. SHERIDAN: Just what we put in the confidentiality. If
10 you -- if you can look on the section -- what -- what they had suggested if
11 there was ever a breach of any of the material terms, like confidentiality,
12 like what Gallagher and Gutierrez, filing the financial terms on a public
13 record, what they suggested would there be injunctive relief and
14 sanctions, fees, and expenses. So I ask for the more severe sanctions
15 to be warranted. And there's ample evidence that this was done in -- it
16 was orchestrated in collusion, because they tried to conceal it from me
17 and then still try to enforce -- still try to enforce something that they know
18 a material term has been violated.

19 THE COURT: I'm looking at that reply to the opposition and
20 it's redacted.

21 MS. SHERIDAN: No, it's not redacted.

22 MR. CANNON: No, it's not.

23 THE COURT: What I'm looking at is.

24 MS. SHERIDAN: It's not redacted.

25 THE COURT: The one that's in Odyssey is redacted.

1 MS. SHERIDAN: They might have -- they've been, like, taking
2 out pages and changing things. It's not redacted.

3 THE COURT: No, it's redacted. It's Exhibit B, right?

4 MS. SHERIDAN: No, it's not redacted.

5 MS. GALLAGHER: The actual agreement, Your Honor, is
6 redacted. That is correct.

7 THE COURT: Uh-huh.

8 MS. GALLAGHER: What Ms. Sheridan is referring to is
9 there's an e-mail and in the discussions, Mr. Knauss, who was former
10 counsel, had done a recap of the material terms and so it is in --

11 MS. SHERIDAN: Disclosed.

12 MS. GALLAGHER: It is --

13 MS. SHERIDAN: On the public record. The financial terms
14 are disclosed, which is a serious violation, a serious violation and breach
15 of a material terms.

16 MS. GALLAGHER: So that was --

17 MS. SHERIDAN: That's very damaging.

18 MS. GALLAGHER: Your Honor, it was done by her counsel.

19 MS. SHERIDAN: And you.

20 MS. GALLAGHER: Her counsel --

21 THE COURT: Did you file something with the reply --

22 MS. GALLAGHER: So the reply -- we appended the rest of
23 the e-mail chain and it did have that.

24 MS. SHERIDAN: Yes.

25 MS. GALLAGHER: So when Mr. --

1 THE COURT: So what?

2 MS. GALLAGHER: When Mr. Gutierrez called me to tell me
3 what had happened from his office, inadvertent filing, I said -- like I said
4 earlier, Your Honor, I offered that we come to the Court about an hour
5 later and -- and ask for it to be redacted and/or --

6 THE COURT: Which item is it?

7 MS. GALLAGHER: -- sealed.

8 MS. SHERIDAN: Financial terms.

9 THE COURT: Which -- just which exhibit is it so I can --

10 MS. GALLAGHER: Sure. Let me --

11 THE COURT: I'll redact it now if it's --

12 MS. GALLAGHER: Let me find that quickly, Your Honor.

13 So to Plaintiff's limited opposition, it is Exhibit 5. So that's --

14 MR. CANNON: Exhibit D.

15 MS. GALLAGHER: -- that's where it first appeared. Plaintiff's
16 limited opposition, Exhibit 5.

17 THE COURT: Okay. So if it --

18 MS. GALLAGHER: And then in my -- in our reply --

19 MS. SHERIDAN: Exhibit A and Exhibit B are the two
20 documents.

21 MS. GALLAGHER: Exhibit A, Exhibit B is the redacted
22 settlement agreement. Exhibit A to the reply. And our discussions
23 included an agreement that we could come and easily resolve the
24 matter, Your Honor. But again, Mr. Gutierrez --

25 THE COURT: Okay.

1 MS. GALLAGHER: -- communicated to me that that offer was
2 rejected by Ms. Sheridan.

3 And I will note, she continues to put this information in the
4 public record herself.

5 THE COURT: Yeah.

6 MS. GALLAGHER: So it doesn't seem to be --

7 THE COURT: So the item in Exhibit A that you're referencing
8 is -- it's Exhibit A to your reply to the opposition, right?

9 MS. GALLAGHER: Correct.

10 THE COURT: And the item is --

11 MS. GALLAGHER: If you look at the end of the --

12 THE COURT: It's the e-mail that's -- it's the e-mail that's
13 dated October 2nd, 2018, from Steven Knauss to --

14 MS. GALLAGHER: Yes.

15 THE COURT: -- Amanda Yen; is that correct?

16 MS. GALLAGHER: Correct.

17 THE COURT: Okay. That figure there will -- I'm not going to
18 state what it is, will be redacted. It's ordered to be redacted.

19 You got that --

20 MS. SHERIDAN: It's already -- the damage done. I mean --

21 THE COURT: Well, okay. I've ordered it to be redacted --

22 MS. SHERIDAN: The financial terms are -- the financial terms
23 have already --

24 THE COURT: Okay. Is there anything else?

25 MS. SHERIDAN: -- been put on the public --

1 THE COURT: Is there anything else, ma'am?

2 MS. SHERIDAN: Yeah, the financial -- it's already been a
3 serious violation and breach. The material terms have been --

4 THE COURT: Okay. Thank you. You want to -- anything
5 else to say?

6 MS. SHERIDAN: Serious damage.

7 THE COURT: Anything else to say about this?

8 MS. GALLAGHER: Your Honor, I think the record is clear,
9 there -- there was no --

10 THE COURT: The matter stands submitted.

11 MS. GALLAGHER: -- collusion.

12 MS. SHERIDAN: It was meant to harm me.

13 THE COURT: I'm not going to order -- I'm going to take it
14 under advisement. I'm going to review it. If I grant the motion, then I
15 think there are provisions that -- that permit you to seek an order that
16 references and -- and, in effect --

17 MS. GALLAGHER: Effectuates the --

18 THE COURT: -- states the settlement terms, okay, in the form
19 of an order, I believe. Right?

20 MS. GALLAGHER: I believe so, Your Honor.

21 THE COURT: In other words, the order could require it to be
22 signed, but if it's not, I think there are means by which the settlement
23 terms can be effectuated.

24 MS. GALLAGHER: I agree, Your Honor.

25 MS. SHERIDAN: This -- this is what they have --

1 MS. GALLAGHER: If I may also --

2 MS. SHERIDAN: -- inserted with language with confidentiality.

3 THE COURT: I also want the record to reflect that -- maybe
4 it's already in the record, but the -- in the Supreme Court of the state of
5 Nevada, in the matter that was on appeal and apparently is still there,
6 I'm -- I'll quote from it:

7 Pursuant to NRAP 16, the settlement judge has filed a report
8 with this Court indicating that the parties have agreed to a
9 settlement. Accordingly, appellants shall have 90 days from the date
10 of this order to file a stipulation or Motion to Dismiss this appeal or
11 otherwise inform this Court of the status of this appeal. Failure to
12 comply with this order in a timely manner may result in the dismissal
13 of this appeal as abandoned. It is so ordered.

14 Okay. So we have an order that does reflect the settlement
15 that was --

16 MS. SHERIDAN: Well, the settlement -- they -- they violated
17 and breached the material terms of an agreement.

18 THE COURT: Okay.

19 MS. SHERIDAN: And the confidentiality, I could read from
20 what they had put in with the language, injunctive relief, sanctions,
21 damages, and fees. So I would like to address the sanctions. Because
22 they -- they clearly violated and breached the material terms --

23 THE COURT: Okay.

24 MS. SHERIDAN: -- and damaged me. Severe sanctions
25 should be warranted.

1 THE COURT: But there was an agreement.
2 MS. SHERIDAN: There was an agreement --
3 THE COURT: Right?
4 MS. SHERIDAN: -- to agree. Well, she's here saying --
5 THE COURT: So if you think it's been violated --
6 MS. SHERIDAN: -- she -- here's --
7 THE COURT: -- then that's something else to consider.
8 MS. SHERIDAN: She's here saying she wants to enforce an
9 agreement she violated.
10 THE COURT: Okay.
11 MS. SHERIDAN: And I've been damaged by it.
12 THE COURT: All right. Thank you.
13 MS. GALLAGHER: Your Honor --
14 THE COURT: Matter stands submitted.
15 MS. GALLAGHER: The only other request that we have is
16 sanctions, attorneys' fees, and reasonable costs in connection with
17 having to move to enforce the settlement agreement, Your Honor. My
18 client has been trying to enforce this since August. And as part of under
19 advisement, we'd ask that you consider that as well, it was part of our
20 motion.
21 MS. SHERIDAN: And I would like to read under confidentiality
22 what she has in the agreement that she's seeking to enforce:
23 The existence and terms of this agreement are strictly
24 confidential and the parties and their respective counsel shall not
25 disclose the facts or contents of this agreement. Further stating the

1 parties understand and agree that money damages would not be
2 sufficient remedy for any breach of this section of this agreement
3 and any party not in breach of the obligation set forth in this section
4 shall be entitled to seek injunctive or other equitable relief to remedy
5 or forestall --

6 THE COURT: Okay.

7 MS. SHERIDAN: -- any such breach or threatened breach.

8 A hearing was held, that was clearly --

9 THE COURT: Okay. Thank you.

10 MS. SHERIDAN: So sanctions -- and if you are -- if you are
11 going to have an order, I'd like it certified so we can appeal it. Because
12 sanctions should be warranted, these guys should be -- there's ample
13 evidence of collusion and sanctions are certainly for violating material
14 terms and then trying to conceal it on the record should be definitely
15 addressed by the State Bar also.

16 THE COURT: Okay. Thank you very much.

17 MS. SHERIDAN: Thank you.

18 [Proceeding concluded at 9:20 a.m.]

19 ///

20
21 ATTEST: I do hereby certify that I have truly and correctly transcribed
22 the audio/video proceedings in the above-entitled case to the best of my
23 ability.

24 

25 Shawna Ortega, CET*562

EXHIBIT G

A-17-756902-B

**DISTRICT COURT
CLARK COUNTY, NEVADA**

NRS Chapters 78-89

COURT MINUTES

December 06, 2018

A-17-756902-B Gorock LLC, Plaintiff(s)
vs.
Gina Goff, Defendant(s)

December 06, 2018 1:30 PM Minute Order

HEARD BY: Denton, Mark R.

COURTROOM: Chambers

COURT CLERK: Madalyn Kearney

JOURNAL ENTRIES

HAVING further reviewed the subject of Defendants Motion to Enforce Settlement Agreement coming before the Court on December 3, 2018, and it appearing that a settlement agreement was reached during the Supreme Court settlement conference, and it further appearing that the issue before the Court is not whether there was an agreement reached, but whether Plaintiffs should follow through with the same, and if further appearing that the material terms and reasonable boilerplate terms are as characterized by Defendants in briefing and argument and that Plaintiffs obstinance in following through has been unreasonable, the Court GRANTS the subject Motion and will order that the amount payable by Defendants under the agreement will be reduced by \$2,500.00 on account of the need for Defendants to resort to the Court to finalize the agreement.

Counsel for Defendants is directed to submit a proposed order consistent with this ruling providing for Plaintiffs prompt execution of the agreement or, in the absence thereof, entry of judgment reflecting the terms.

IT IS SO ORDERED.

CLERK'S NOTE: A copy of this minute order was sent via mail to Rene Sheridan (29201 Heathercliff Rd. Malibu, CA 90265) and via fax to Kristen Gallagher, Esq. (702-873-9966) /mk 12/6/18

PRINT DATE: 12/06/2018

Page 1 of 1

Minutes Date: December 06, 2018

MSJ 094

App 0135

EXHIBIT H

IN THE SUPREME COURT OF THE STATE OF NEVADA

RENE SHERIDAN, AN INDIVIDUAL;
AND GOROCK, LLC, A DELAWARE
LIMITED LIABILITY COMPANY,
Appellants,

vs.

RUDOLF SEDLAK, AN INDIVIDUAL,
Respondent.

No. 76132

RENE SHERIDAN, AN INDIVIDUAL,
Appellant,

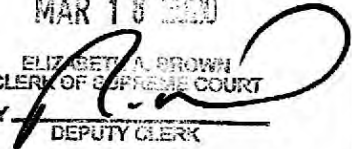
vs.

GINA G. GOFF, AN INDIVIDUAL;
GOFF PRODUCTIONS, LLC, A
CALIFORNIA LIMITED LIABILITY
COMPANY; SENIOR MOMENT MOVIE,
LLC, A CALIFORNIA LIMITED
LIABILITY COMPANY; RUDOLF
SEDLAK, AN INDIVIDUAL; MAIER
GUTIERREZ & ASSOCIATES; AND
ALBRIGHT, STODDARD, WARNICK &
ALBRIGHT,
Respondents.

No. 78631

FILED

MAR 18 2000

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

These are consolidated pro se appeals from district court orders dismissing a party due to a lack of personal jurisdiction certified as final under NRCP 54(b) and dismissing the complaint with prejudice in a tort action. Eighth Judicial District Court, Clark County; Mark R. Denton, Judge.¹

¹Having considered the pro se brief filed by appellant, we conclude that a response is not necessary, NRAP 46A(c), and that oral argument is

Appellant Rene Sheridan² filed a complaint against respondents alleging various causes of action stemming from the parties' agreement to produce a movie. After ordering limited jurisdictional discovery, the district court dismissed respondent Rudolf Sedlak for lack of personal jurisdiction. Sheridan appealed (Docket No. 76132) and the case was assigned to the NRAP 16 settlement program, at which time the parties reached a global settlement. After the settlement conference, the parties continued to disagree about certain terms of the settlement and respondents ultimately filed a motion to enforce. The district court granted the motion and ordered Sheridan to sign the settlement agreement. When Sheridan refused, the district court entered judgment reflecting the terms of the settlement agreement and dismissed Sheridan's remaining claims. Sheridan also appealed that decision (Docket No. 78631), and we consolidated the cases for resolution.

Sheridan first argues that the district court erred by dismissing Sedlak because it failed to make several evidentiary inferences in her favor.

not warranted, NRAP 34(f)(3). This appeal therefore has been decided based on the pro se brief and the record. *Id.*

²Appellant GoRock, LLC, did not file a brief in these consolidated actions, and Sheridan cannot present arguments on GoRock's behalf as she is not a licensed attorney. See *State v. Stu's Bail Bonds*, 115 Nev. 436, 436 n.1, 991 P.2d 469, 470 n.1 (1999) (noting that "business entities are not permitted to appear, or file documents, in proper person"). This order therefore does not consider any challenges GoRock may have had to the appealed orders. And, because Sheridan does not challenge any of the orders awarding relief to respondents Maier Gutierrez & Associates and Albright, Stoddard, Warnick & Albright, Sheridan's former counsel, all references to "respondents" in this order do not include those parties.

Reviewing de novo, *Fulbright & Jaworski, LLP v. Eighth Judicial District Court*, 131 Nev. 30, 35, 342 P.3d 997, 1001 (2015), we disagree. Because the district court conducted a full evidentiary hearing on the issue of personal jurisdiction, Sheridan had the burden to prove personal jurisdiction by a preponderance of the evidence, and her evidence was not entitled to the presumptions of credibility that would otherwise apply. *See Trump v. Eighth Judicial Dist. Court*, 109 Nev. 687, 693-94, 857 P.2d 740, 744-46 (1993) (providing that, when the district court holds an evidentiary hearing on personal jurisdiction, the burden is on the plaintiff and that “the plaintiff’s evidence does not receive the same presumption of credibility”).

Furthermore, the district court correctly found that it lacked specific personal jurisdiction over Sedlak.³ The operative complaint included no allegations that would subject Sedlak, a California resident, to specific personal jurisdiction in Nevada. *See id.* at 699-700, 857 P.2d at 748 (holding that specific personal jurisdiction may be exercised against a nonresident defendant only where the defendant purposefully avails himself of the forum state’s privileges or protections or affirmatively directs conduct toward the forum state). And our review of the record shows that Sheridan did not present any evidence supporting her argument that the district court could properly exercise personal jurisdiction over Sedlak, despite the district court giving her ample opportunity to do so.⁴ *See id.*; *see*

³Sheridan conceded below that the district court did not have general jurisdiction over Sedlak.

⁴We also reject Sheridan’s argument that the district court abused its discretion regarding application of NRCP 56(f) (2018); that rule only applies

also *Catholic Diocese v. John Doe* 119, 131 Nev. 246, 249, 349 P.3d 518, 520 (2015) (explaining that this court will “defer to the district court’s findings of fact if they are supported by substantial evidence”). We also reject Sheridan’s argument that personal jurisdiction existed because Sedlak’s agent had the requisite contacts with Nevada—all of the purported agent’s actions occurred outside of Nevada and were directed toward non-Nevada residents. See *Trump*, 109 Nev. at 694, 857 P.2d at 745 (holding that an agent’s contacts with the forum state are attributable to its principal).⁵ Finally, no adverse inference was warranted based on Sedlak’s admission that he deleted emails because Sheridan failed to prove that Sedlak had any obligation to preserve evidence when he deleted the emails. See *Bass-Davis v. Davis*, 122 Nev. 442, 450, 134 P.3d 103, 108 (2006) (“[W]hen presented with a spoliation allegation, the threshold question should be whether the

to motions for summary judgment, not dismissals. Even if it applied, Sheridan did not make the necessary showing under that rule to warrant the district court granting her relief. See NRCP 56(f) (requiring an affidavit from the party opposing the motion explaining why the party is unable to present facts essential to justify its opposition).

⁵To the extent Sheridan argues that the district court had personal jurisdiction over Sedlak on a conspiracy theory of jurisdiction, we reject that argument. None of the alleged acts in furtherance of the conspiracy occurred in or were directed at Nevada or its residents, and Sedlak himself did not affirmatively direct any action toward a Nevada resident. See *Tricarichi v. Coop. Rabobank, U.A.*, 135 Nev. 87, 95-96, 440 P.3d 645, 654 (2019) (holding that for the conspiracy theory of personal jurisdiction to apply, co-conspirators’ acts are “sufficient to meet minimum contacts with the forum,” and “co-conspirators reasonably expected at the time of entering into the conspiracy that they would be subject to jurisdiction in the forum state”).


alleged spoliator was under any obligation to preserve the missing or destroyed evidence.”).

Sheridan next challenges the dismissal of her remaining claims, first arguing that the district court improperly relied on its previous grant of respondents’ motion to enforce the settlement agreement as the basis for dismissal. As to any challenge to the order granting the motion to enforce the settlement agreement, we disagree that the district court committed clear error in granting that motion because the record shows that the parties reached a settlement by agreeing to material terms at a settlement conference and that Sheridan failed to sign the settlement agreement when ordered, and Sheridan has not demonstrated that any of the additional terms on which the parties disagreed constituted material terms to the agreement. *See May v. Anderson*, 121 Nev. 668, 672-73, 119 P.3d 1254, 1257 (2005) (holding that this court will not reverse a district court’s finding that a settlement contract exists unless clearly erroneous or not based on substantial evidence, and further holding that a settlement agreement is enforceable “when the parties have agreed to the material terms, even though the contract’s exact language is not finalized until later”).

We further disagree with Sheridan’s argument that she was excused from any obligation under the settlement due to a breach of the agreement’s confidentiality provision. Sheridan’s own counsel breached that provision. *Cf. Lange v. Hickman*, 92 Nev. 41, 43, 544 P.2d 1208, 1209 (1976) (“[An] attorney’s neglect is imputed to his client, and the client is held responsible for it.”). The appropriate relief for any harm caused by that breach, therefore, is a malpractice action against Sheridan’s former counsel, not for the district court to invalidate the settlement agreement. *See id.*

("The client's recourse is an action for malpractice."). Because we have rejected all of Sheridan's bases for overturning the district court's dismissal order, and because dismissal is an appropriate means of compelling Sheridan's compliance with the parties' settlement agreement, *see May*, 121 Nev. at 674-75, 119 P.3d at 1259 (affirming the district court's dismissal of an action where the district court ascertained the terms of the settlement agreement and compelled compliance with the agreement following a party's noncompliance by dismissing the action), we necessarily

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Pickering


_____, J.
Gibbons


_____, J.
Silver

cc: Hon. Mark R. Denton, District Judge
M. Nelson Segel, Settlement Judge
Rene Sheridan
McDonald Carano LLP/Las Vegas
Maier Gutierrez & Associates
Albright Stoddard Warnick & Albright
Eighth District Court Clerk

EXHIBIT I

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

RENE SHERIDAN, AN INDIVIDUAL,
Appellant,
vs.
JOSEPH A. GUTIERREZ, ESQ.;
STEVEN G. KNAUSS, ESQ.; JASON R.
MAIER, ESQ.; AND MAIER
GUTIERREZ & ASSOCIATES,
Respondents.

No. 82104-COA

FILED

DEC 29 2021

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

ORDER OF AFFIRMANCE

Rene Sheridan appeals from a post-judgment district court order awarding attorney fees and costs in a legal malpractice action. Eighth Judicial District Court, Clark County; James Crockett, Judge.

Sheridan filed a complaint against respondents for, among other things, legal malpractice in connection with their representation of her in a prior matter. Upon respondents' motion and over Sheridan's opposition, the district court entered an order summarily concluding that Sheridan "d[id] not plead any factual assertions that would support any cognizable claim for relief against [respondents]," and it dismissed the complaint under NRCP 12(b)(5) without prejudice and without leave to amend. Respondents subsequently filed a motion for attorney fees and costs, arguing that Sheridan brought her claims without reasonable ground and to harass respondents. The district court agreed and, considering all of the factors set forth in *Brunzell v. Golden Gate National Bank*, 85 Nev. 345, 349, 455 P.2d 31, 33 (1969), for determining a reasonable amount of fees, entered an order awarding respondents \$4,426.00 in attorney fees under

MSJ 103

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NRS 18.010(2)(b), in addition to \$329.39 in costs. Sheridan now appeals from that order.

We review a district court's award of attorney fees and costs for an abuse of discretion.¹ *Frazier v. Drake*, 131 Nev. 632, 637, 357 P.3d 365, 369 (Ct. App. 2015). A district court may award attorney fees to a prevailing defendant when it finds that the plaintiff "brought or maintained [her claims] without reasonable ground or to harass the prevailing party."² NRS 18.010(2)(b).

On appeal, Sheridan essentially argues that the district court abused its discretion in awarding fees under NRS 18.010(2)(b) for two reasons: (1) our supreme court supposedly acknowledged that Sheridan has a viable claim for legal malpractice against respondents in its order resolving an appeal in that prior matter, and (2) Sheridan refiled her claims in the Second Judicial District Court after the underlying dismissal, and

¹The district court's order did not set forth any grounds in support of the costs award, but respondents argued for costs under NRS 18.020(3), which allows costs as a matter of course to the prevailing party "[i]n an action for the recovery of money or damages, where the plaintiff seeks to recover more than \$2,500," and Sheridan sought in excess of \$50,000 in her complaint. Moreover, because Sheridan fails to challenge the district court's decision on this point, the issue is waived, *see Powell v. Liberty Mut. Fire Ins. Co.*, 127 Nev. 156, 161 n.3, 252 P.3d 668, 672 n.3 (2011) (providing that issues not raised on appeal are deemed waived), and we necessarily affirm the costs award.

²We note that neither this court nor our supreme court has specifically determined whether a defendant may be a prevailing party entitled to attorney fees under a fee-shifting statute where, as here, the plaintiff's complaint was dismissed without prejudice. But because Sheridan fails to set forth any argument on this point, the issue is waived, *see Powell*, 127 Nev. at 161 n.3, 252 P.3d at 672 n.3, and we assume for purposes of our disposition that respondents were prevailing parties below.

the judge in that case refused to dismiss them under NRCP 12(b)(5) or find that they were brought without reasonable ground.

With respect to the former, Sheridan misconstrues the supreme court's order. She contends the order shows that respondents committed actionable malpractice by violating a confidentiality provision in the settlement agreement she reached with the defendants in that case. But in the order, the supreme court simply concluded that respondents' breach of that provision did not excuse Sheridan from any obligation under the agreement and that "[t]he appropriate relief for *any harm caused by that breach*, therefore, is a malpractice action against [respondents], not for the district court to invalidate the settlement agreement." *Sheridan v. Sedlak*, Nos. 76132, 78631, 2020 WL 1357978, at *2 (Nev. Mar. 18, 2020) (Order of Affirmance) (emphasis added). And in this matter, respondents successfully argued to the district court that Sheridan failed to sufficiently allege that respondents proximately caused her to suffer any actual harm as a result of the breach. *See Semenza v. Nev. Med. Liab. Ins. Co.*, 104 Nev. 666, 667-68, 765 P.2d 184, 185 (1988) (providing that a plaintiff must show that the attorney's breach proximately caused her to incur damages). Thus, contrary to Sheridan's arguments on appeal, the supreme court's statement in the prior matter cannot provide a reasonable basis for a complaint that otherwise failed to sufficiently plead all essential elements of her claims.

With respect to the Second Judicial District Court's refusal to dismiss Sheridan's new complaint in a separate case under NRCP 12(b)(5), we are not persuaded that the district court's fee award in this case amounted to an abuse of discretion simply because another district court judge declined to dismiss an action raising similar claims. "An abuse of discretion occurs when *no reasonable judge* could reach a similar conclusion

under the same circumstances," *Leavitt v. Siems*, 130 Nev. 503, 509, 330 P.3d 1, 5 (2014), not when a judge in a later matter merely reaches a different conclusion under materially similar circumstances.³

Because Sheridan fails to demonstrate that the district court abused its discretion in determining that her complaint in this matter was brought without reasonable ground, we affirm the award of attorney fees and costs.

It is so ORDERED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Chief Judge, Eighth Judicial District Court
Eighth Judicial District Court, Department 24
Rene Sheridan
Lipson Neilson P.C.
Eighth District Court Clerk

³Although unnecessary to our disposition, we further note that a copy of Sheridan's complaint in the Second Judicial District Court does not appear in the record on appeal, and we therefore cannot even discern the extent to which the complaint in that matter asserts the same or similar allegations to those raised in this action.

EXHIBIT J

1 **3370**

2
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5
6 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
7 **IN AND FOR THE COUNTY OF WASHOE**
8

9 RENE SHERIDAN,
10 Plaintiff,

Case No.: CV20-01353

Dept. No.: 10

11 vs.

12 JOSEPH A. GUTIERREZ, ET AL.,
13 Defendants.
14

15
16 **ORDER**

17 Presently before the Court is Defendants MAIER GUTIERREZ & ASSOCIATES,
18 JOSEPH GUTIERREZ, ESQ., STEVEN KNAUSS, ESQ., AND JASON MAIER, ESQ.'s
19 ("Defendants") Motion to Dismiss Pursuant to NRCP 12(b)(5). Defendants filed the Motion
20 to Dismiss on December 4, 2020. On December 17, Plaintiff RENE SHERIDAN ("Plaintiff")
21 filed an Opposition to the Motion to Dismiss. On December 18, Defendants filed an Errata
22 to the Motion to Dismiss. On December 23, 2020, Defendants filed a Reply in support of the
23 Motion to Dismiss, followed by a Request for Submission.

24 Also pending before the Court is Defendants' Motion for Sanctions, filed on
25 December 14, 2020. On December 27, 2020, Plaintiff filed an Opposition to the Motion for
26 Sanctions. On January 4, 2021, Defendants filed a Reply in support of the Motion for
27 Sanctions, along with a Request for Submission.
28

1 **I. Discussion**

2 NRCP 12(b)(5) provides that a claim may be dismissed for “failure to state a claim
3 upon which relief can be granted.” A complaint should be dismissed for failure to state a
4 claim only if it appears beyond a doubt that plaintiff could prove no set of facts which, if true,
5 would entitle plaintiff to relief. *Buzz Stew, LLC v. N. Las Vegas*, 124 Nev. 224, 228, 181 P.3d
6 670, 672 (Nev. 2008). In reviewing a motion to dismiss, the court “must construe the
7 pleadings liberally and accept all factual allegations in the complaint as true.” *Blackjack*
8 *Bonding v. Las Vegas Municipal Court*, 116 Nev. 1213, 1217 14 P.3d 1275, 1278 (Nev.
9 2000) (citing *Simpson v. Mars, Inc.*, 113 Nev. 188, 190, 929 P.2d 966, 967 (Nev. 1997)).

10 In the Complaint for Legal Malpractice, filed on August 31, 2020, Plaintiff alleges six
11 causes of action: (1) professional negligence, (2) breach of contract, (3) quasi-
12 contract/equitable contract/detrimental reliance, (4) breach of the implied covenant of good
13 faith and fair dealing, (5) vicarious liability, and (6) fraud. The Court will review each cause
14 of action in turn.

15
16 **a. First Cause of Action - Professional Negligence**

17 To establish a claim of legal malpractice, a plaintiff must demonstrate (1) the
18 existence of an attorney-client relationship, (2) a duty owed to the client by the attorney, (3)
19 a breach of that duty, and (4) the breach proximately caused the plaintiff’s damages. See,
20 e.g., *Kahn v. Morse & Mowbray*, 121 Nev. 464, 477, 117 P.3d 227, 236 (Nev. 2005).

21 Plaintiff alleges she hired Defendants to represent her and her company, GoRock,
22 LLC, in a business dispute. Complaint 3:24-28. Plaintiff makes many factual allegations,
23 alleging Defendants took various actions during her representation that caused Plaintiff
24 financial harm and harm to Plaintiff’s professional reputation. See Complaint 3-11.

25 In accepting the Complaint’s factual allegations as true, for the purposes of ruling on
26 the Motion to Dismiss, the Court finds Plaintiff has sufficiently pled the first cause of action
27 for professional negligence; the Court will not dismiss this cause of action.
28

1 **b. Second Cause of Action - Breach of Contract**

2 To establish a claim for breach of contract, a plaintiff must show that a valid contract
3 exists, defendant breached the contract, and defendant's breach proximately caused
4 plaintiff's damages. *See, e.g., Hilton Hotels Corp. v. Butch Lewis Prods., Inc.*, 107 Nev. 226,
5 808 P.2d 919 (Nev. 1991). Causation is an essential element of a claim for breach of
6 contract. "If the damage of which the promisee complains would not have been avoided by
7 the promisor's not breaking his promise, the breach cannot give rise to damages." *Clark*
8 *County School Dist. v. Richardson Const., Inc.*, 123 Nev. 382, 396, 168 P.3d 87, 96 (Nev.
9 2007) (quoting *Wisconsin Knife Works v. Nat'l Metal Crafters*, 781 F.2d 1280, 1289 (7th Cir.
10 1986)).

11 For the same underlying factual allegations made for the first cause of action, the
12 Court finds Plaintiff has sufficiently pled the second cause of action for breach of contract;
13 the Court will not dismiss the cause of action.

14 **c. Third Cause of Action - Quasi-Contract/Equitable Contract/Detrimental**
15 **Reliance**

16 "The essential elements of quasi contract are a benefit conferred on the defendant
17 by the plaintiff, appreciation by the defendant of such benefit, and acceptance and retention
18 by the defendant of such benefit under circumstances such that it would be inequitable for
19 him to retain the benefit without payment of the value thereof." *Unionamerica Mtg. v.*
20 *McDonald*, 97 Nev. 210, 212, 626 P.2d 1272, 1273 (Nev. 1981).

21 For the same underlying factual allegations made for the first cause of action, the
22 Court finds Plaintiff has sufficiently pled the third cause of action for breach of quasi-contract;
23 the Court will not dismiss this cause of action.

24 **d. Fourth Cause of Action - Breach of Implied Covenant of Good Faith and**
25 **Fair Dealing**

26 "It is well established that all contracts impose upon the parties an implied covenant
27 of good faith and fair dealing." *Nelson v. Heer*, 123 Nev. 217, 226, 163 P.3d 420, 427 (Nev.
28

1 2007). A party breaches the covenant when it performs in a manner that is unfaithful to the
2 contract's purpose, and thus, denies the other party's justified expectations. *Perry v. Jordan*,
3 111 Nev. 943, 948, 900 P.2d 335, 338 (Nev. 1995). Reasonable expectations are
4 "determined by the various factors and special circumstances that shape these
5 expectations." *Id.* (quoting *Hilton Hotels Corp. v. Butch Lewis Prods., Inc.*, 107 Nev. 226,
6 234, 808 P.2d 919, 924 (Nev. 1991)).

7 For the same underlying factual allegations made for the first cause of action, the
8 Court finds Plaintiff has sufficiently pled the fourth cause of action for breach of implied
9 covenant of good faith and fair dealing; the Court will not dismiss this cause of action.

10 **e. Fifth Cause of Action - Vicarious Liability**

11 Vicarious liability is not an independent cause of action, but rather a theory of
12 assigning liability. See *Okeke v. Biomat USA, Inc.*, 927 F.Supp.2d 1021, 1028-29 (D. Nev.
13 2013) (granting motion to dismiss claim for vicarious liability on these grounds).

14 The Court will dismiss Plaintiff's fifth cause of action for vicarious liability.

15 **f. Sixth Cause of Action - Fraud**

16 To establish a claim for fraudulent misrepresentation, a plaintiff must show "(1) [a]
17 false representation made by the defendant; (2) defendant's knowledge or belief that its
18 representation was false or that defendant has an insufficient basis of information for making
19 the representation; (3) defendant intended to induce plaintiff to act or refrain from acting
20 upon the misrepresentation; and (4) damage to the plaintiff as a result of the underlying
21 misrepresentation." *Bartmettler v. Reno Air, Inc.*, 114 Nev. 441, 447, 956 P.2d 1382, 1386
22 (Nev. 1998).

23 Plaintiff has failed to provide factual allegations to support a fraud cause of action.
24 Plaintiff fails to factually and specifically allege any false representation made by Defendant
25 Gutierrez, and subsequently has failed to provide any factual allegations that would support
26 elements (2) through (4) listed above. The Court will dismiss Plaintiff's sixth cause of action
27 for fraud.
28

1 **II. Conclusion**

2 Based on the foregoing,

3 IT IS HEREBY ORDERED Defendants' Motion to Dismiss is DENIED in part and
4 GRANTED in part. The Court orders Plaintiff's fifth (vicarious liability) and sixth (fraud)
5 causes of action DISMISSED. The Court will not dismiss Plaintiff's remaining causes of
6 action.

7 Because the Court finds Plaintiff has sufficiently pled, the Court does not find the
8 Complaint to be frivolous or filed with the intent to harass, delay, or increase litigation costs.
9 Therefore,

10 IT IS FURTHER ORDERED Defendant's Motion for Sanctions is DENIED.

11 IT IS SO ORDERED.

12 DATED this 10th day of March, 2021.
13
14

15 
16
17 DISTRICT JUDGE

1 **CERTIFICATE OF SERVICE**

2 CASE NO.: CV20-01353

3 I certify that I am an employee of the SECOND JUDICIAL DISTRICT COURT OF
4 THE STATE OF NEVADA, COUNTY OF WASHOE; that on the 10th day of March, 2021, I
5 electronically filed the foregoing **ORDER** with the Clerk of the Court by using the ECF
6 system.

7 I further certify that I transmitted a true and correct copy of the foregoing document
8 by the method(s) noted below:

9
10 **Electronically filed with the Clerk of the Court by using the ECF system which will**
11 **send a notice of electronic filing to the following:**

12 JOSEPH GARIN, ESQ. for MAIER GUTIERREZ & ASSOCIATES et al

13 RENE SHERIDAN
14

15
16 **Deposited in the Washoe County mailing system for postage and mailing with the**
17 **United States Postal Service in Reno, Nevada: [NONE]**

18
19 /s/ Michael Decker
20 JUDICIAL ASSISTANT
21
22
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