

1 **AANS**
 2 PATRICK C. CLARY, CHARTERED
 3 Patrick C Clary
 4 Nevada Bar No. 00053
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 6 7201 West Lake Mead Boulevard
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FILED

MAR 16 4 41 PM '09

E. J. Smith
 CLERK OF THE COURT

6 Attorneys for Defendant
 7 Patrick C. Clary and So-called
 8 Nominal Defendant Kokoweef, Inc.

9 **DISTRICT COURT**
 10 **CLARK COUNTY, NEVADA**

-o0o-

11 TED R. BURKE; MICHAEL R. and)
 12 LAURETTA L. KEHOE; JOHN BERTOLDO;)
 13 PAUL BARNARD; EDDY KRAVETZ; JACKIE)
 14 & FRED KRAVETZ; STEVE FRANKS;)
 15 PAULA MARIA BARNARD; PETE T. and)
 16 LISA A. FREEMAN; LEON GOLDEN;)
 17 C.A. MURFF; GERDA FERN BILLBE;)
 18 BOB and ROBYN TRESKA; MICHAEL)
 19 RANDOLPH; and FREDERICK WILLIS,)

CASE NO. A558629
 DEPT NO. XIII

Plaintiffs,

vs.

AMENDED ANSWER OF
DEFENDANT PATRICK C. CLARY

18 LARRY H. HAHN, individually, and)
 19 as President and Treasurer of)
 20 Kokoweef, Inc., and former)
 21 President and Treasurer of)
 22 Explorations Incorporated of)
 23 Nevada; HAHN'S WORLD OF SURPLUS,)
 24 INC., a Nevada corporation;)
 25 PATRICK C. CLARY, an individual;)
 26 DOES 1 through 100, inclusive;)

Defendants,

and

27 KOKOWEEF, INC., a Nevada)
 28 corporation; EXPLORATIONS)
 29 INCORPORATED OF NEVADA, a)
 30 dissolved corporation,)

Nominal Defendants.

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1 October 24, 2984 but admits the remaining allegations contained in
2 paragraph 34, admits the allegations contained in paragraph 35, admits
3 the allegations contained in paragraph 36 but denies the portion
4 thereof that reads "until the time that he transferred that office to
5 his family members, although HAHN still maintains control of that
6 corporation," denies the allegations contained in paragraphs 37, 38,
7 39, 40 and 41, admits the statement that "Plaintiffs have not made any
8 demand on the Kokoweef Board of Directors to institute this action
9 against Hahn" but denies the remaining allegations contained in
10 paragraph 42, declines to answer the allegations contained in the so-
11 called "FIRST CAUSE OF ACTION," "SECOND CAUSE OF ACTION," and THIRD
12 CAUSE OF ACTION," because they have been dismissed by the Court,
13 answering paragraph 65 repeats and realleges his answers to paragraphs
14 1-38, denies the allegations contained in paragraphs 66, 67, 68, 69,
15 70, and 71, declines to answer the allegations contained in the so-
16 called "FIFTH CAUSE OF ACTION" and "SIXTH CAUSE OF ACTION" because
17 they have been dismissed by the Court, answering paragraph 93 repeats
18 and realleges his answers to paragraphs 1-38, admits that HAHN has a
19 fiduciary duty but denies the remaining allegations contained in
20 paragraph 94, denies the allegations contained in paragraphs 95, 96,
21 and 97, answering paragraph 98 repeats and realleges his answers to
22 paragraphs 1-38, denies the allegations contained in paragraphs 99,
23 100, and 101, answering paragraph 102 repeats and realleges his
24 answers to paragraphs 1-38, denies the allegations contained in
25 paragraphs 103, 104, 105, and 106, answering paragraph 107 repeats and
26 realleges his answers to paragraphs 1-38, and denies the allegations
27 contained in paragraphs 108, 109, 110, and 111 of the Amended
28 Complaint.

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II.

It has been necessary for Defendant Clary to obtain the services of attorneys to defend this action, and, accordingly, Defendant Clary is entitled to recover from the Plaintiffs and each of them his reasonable attorneys' fees herein.

Third Defense

The damages, if any, claimed by the Plaintiffs were the result of the Plaintiffs' own actions and not those of Defendant Clary.

Fourth Defense

The Plaintiffs assumed the risk that is the basis of their claims and may not recover anything from Defendant Clary.

Fifth Defense

The Plaintiffs are estopped by their actions from recovering anything from Defendant Clary.

Sixth Defense

The Plaintiffs are guilty of fraud in making and pursuing the false and fraudulent claims against Defendant Clary set forth in the Amended Complaint.

Seventh Defense

The conduct of the Plaintiffs in and relating to this case has been and is illegal.

Eighth Defense

The Plaintiffs were guilty of laches in bringing their claims against Defendant Clary.

Ninth Defense

The Claims against Clary are barred by the statute of limitations.

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Tenth Defense

The Plaintiffs have waived any right to a claim against Defendant Clary.

Eleventh Defense

The Plaintiffs have failed to name a necessary party.

Twelfth Defense

The Plaintiffs have unclean hands and are barred from any equitable relief against Defendant Clary.

Thirteenth Defense

The damages, if any, claimed by the Plaintiffs were caused by the actions of third parties over whom Defendant Clary had no control.

Fourteenth Defense

The negligence of the Plaintiffs is greater than that of Defendant Clary, and, therefore, they may not recover anything from Defendant Clary.

Fifteenth Defense

Defendant Clary was not an issuer of any securities referred to in the Amended Complaint.

Sixteenth Defense

Defendant Clary neither made material misrepresentations or omitted material facts relating to the securities referred to in the Amended Complaint nor committed any securities fraud with respect to such securities.

Seventeenth Defense

The Plaintiffs and their counsel named Defendant Clary as an additional Defendant in the Amended Complaint for the ulterior purpose of eventually disqualifying him as counsel for so-called Nominal Defendant Kokoweef, Inc. ("Kokoweef") even though they had previously failed by a motion that was denied by the Court to disqualify him.

1 Eighteenth Defense

2 By bringing and prosecuting their claims against Defendant Clary,
3 all but one of which have been dismissed by the Court, the Plaintiffs
4 and their counsel have committed a tortious abuse of process against
5 Defendant Clary, who is entitled to recover damages from the
6 Plaintiffs and their counsel and, because of their fraud, is also
7 entitled to recover punitive damages from the Plaintiffs and their
8 counsel.

9 Nineteenth Defense

10 The Plaintiffs and their counsel committed a further tortious
11 abuse of process, for which they are also liable in damages and
12 punitive damages to Defendant Clary, when they falsely accused the
13 undersigned counsel of failing timely to file an Answer to the Amended
14 Complaint on behalf of Defendant Clary and then, without making a
15 sufficient inquiry, they wrongfully and maliciously served and filed
16 herein a "Three Day [sic] Notice of Intent to Take Default" against
17 Defendant Clary.

18 WHEREFORE, Defendant Clary prays that the Plaintiffs take nothing
19 by virtue of the Amended Complaint and that the Defendant Patrick C.
20 Clary recover from the Plaintiffs and each of them their reasonable
21 attorneys' fees herein plus costs of this action together with such
22 other and further relief as the Court may deem just and proper in the
23 premises.

24 PATRICK C. CLARY, CHARTERED

25
26 By 
Patrick C. Clary

27 Attorneys for Defendant
28 Patrick C. Clary and So-called
Nominal Defendant Kokoweef, Inc.

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CERTIFICATE OF SERVICE BY MAILING

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The above and foregoing Amended Answer of Defendant Patrick C. Clary was served on the Plaintiffs by mailing a copy thereof, first-class postage prepaid to their attorneys, Jennifer L. Taylor, Esq., Robertson & Vick, LLP, 401 North Buffalo Drive, Suite 202, Las Vegas, Nevada 89145, and was also served on Defendants Larry Hahn and Hahn's World of Surplus, Inc. by mailing a copy thereof, first-class postage prepaid, to their attorneys, M. Nelson Segel, Esq., M Nelson Segel, Chartered, 624 South 9th Street, Las Vegas, Nevada 89101, on March 16, 2009.

PATRICK C. CLARY, CHARTERED

By 
Patrick C. Clary

Attorneys for Defendant
Patrick C. Clary and So-called
Nominal Defendant Kokoweef, Inc.

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