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Ann L. Quinn
CLERK OF THE COURT

1 MEX
2 PATRICK C. CLARY, CHARTERED
3 Patrick C Clary
4 Nevada Bar No. 0053
5 8670 West Cheyenne Avenue
6 Suite 120
7 Las Vegas, Nevada 89129
8 Telephone: 702.382.0813
9 FAX: 702.382-7277
10 Attorneys for So-called Nominal
11 Defendant Kokoweef, Inc. and
12 Defendant Patrick C. Clary
13
14

DISTRICT COURT

CLARK COUNTY, NEVADA

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

CASE NO. A558629
DEPT NO. XI

SO-CALLED NOMINAL DEFENDANT
KOKOWEEF, INC., 'S MOTION FOR
APPROVAL OF LATE-PRODUCED
NEWLY DISCOVERED EVIDENCE
AND EX PARTE MOTION FOR ORDER
SHORTENING TIME FOR HEARING

15 Plaintiffs,

16 vs.

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

DATE OF HEARING:
TIME OF HEARING:

25 Defendants,

26 and

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

Nominal Defendants.

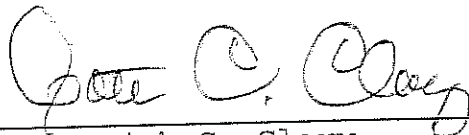
1 So-called Nominal Defendant Kokoweef, Inc. ("Kokoweef") moves the
2 Court for an Order approving its production to the Plaintiffs of the
3 newly discovered evidence and accompanying new documentation
4 consisting of Kokoweef's financial transactions for 2009, all of which
5 was produced on by Kokoweef on March 29, 2011, instead of the deadline
6 date of March 18, 2011, on the ground that good cause exists for the
7 Court to grant such approval, which is also in the interests of
8 justice.

9 Kokoweef also moves the Court for an *Ex Parte* Order Shortening
10 Time for the hearing on the foregoing Motion.

11 The foregoing Motion for Approval of Late-produced Newly
12 Discovered Evidence ("the Subject Motion") is made and based on all
13 the pleadings and documents on file herein, the Memorandum of Points
14 and Authorities in support hereof, and the Affidavit of Larry L. Hahn
15 and Patrick C. Clary attached hereto as Exhibits A and B,
16 respectively, and incorporated herein by this reference.

17 DATED: April 7, 2011.

18 PATRICK C. CLARY, CHARTERED

19
20 By 
Patrick C. Clary

21 Attorneys for So-called Nominal
22 Defendant Kokoweef, Inc. and
23 Defendant Patrick C. Clary
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1 ORDER SHORTENING TIME

2 Good cause appearing, it is hereby
3 ORDERED that the time for the hearing on the above and foregoing
4 Motion for Approval of Late-produced Newly Discovered Evidence be, and
5 it hereby is, shortened to the 26 day of April, 2011, at the hour
6 of 9:00 A. M.

7 DATED this 11 day of April, 2011.

8 ELIZABETH G. GONZALEZ

9
10 DISTRICT JUDGE

11 MEMORANDUM OF POINTS AND AUTHORITIES

12 The Subject Motion, in which Kokoweef essentially is seeking a
13 further enlargement of extension of time, is made pursuant to and in
14 accordance with Rule 6(b) of the Nevada Rules of Civil Procedure and
15 Rule 2.25 of the Eighth Judicial District Court Rules.

16 The Affidavit of Larry L. Hahn, which is attached hereto as
17 Exhibit A and incorporated herein by this reference, sets forth facts
18 demonstrating the set of circumstances which occurred that resulted
19 in Kokoweef's inability to produce to the Plaintiffs the documentation
20 in question before March 29, 2011, some eleven days late. Kokoweef
21 respectfully submit that those fact show not only good cause why the
22 Subject Motion should be granted but also that the Plaintiffs and
23 their forensics expert will benefit from the good efforts of Kokoweef
24 requiring the additional 11-day period.

25 The Affidavit of Patrick C. Clary attached hereto as Exhibit B
26 and incorporated herein by this reference shows, pursuant to Rule 2.34
27 of the Eighth Judicial District Court rules, the efforts that were
28 made to meet and confer with the Plaintiffs' counsel regarding the

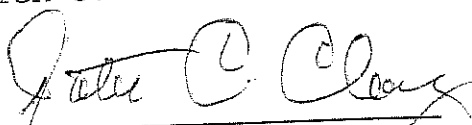
1 subject matter of the Subject Motion albeit without success.

2 Moreover, under the facts and circumstances presented herein, the
3 interests of justice will best be served in this case by the Court's
4 approving Kokoweef's late production not only of the newly discovered
5 evidence but of the Kokoweef accounting transactions for 2009.

6 For the foregoing reasons, the Subject Motion should be granted
7 by the Court.

8 Respectfully submitted,

9 PATRICK C. CLARY, CHARTERED

10 By 
11 Patrick C. Clary

12 Attorneys for So-called Nominal
13 Defendant Kokoweef, Inc. and
14 Defendant Patrick C. Clary
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EXHIBIT A

AFFIDAVIT OF LARRY L. HAHN

STATE OF NEVADA)
): ss.
COUNTY OF CLARK)

I, LARRY L. HAHN, having been first duly sworn, upon my oath, depose and state as follows:

1. I am the President, Treasurer, a director, and the largest stockholder of Kokoweef, Inc., a Nevada corporation ("Kokoweef"), which is named as a "Nominal Defendant" in the above-captioned case.

2. I make this Affidavit in support of So-called Nominal Defendant Kokoweef, Inc.'s Motion for Approval of Late-produced Newly Discovered Evidence, to which this Affidavit is attached as Exhibit A.

3. The so-called "newly discovered evidence" was actually electronically lost evidence. From discussing this with the persons who actually did the work in putting together extensive production of previous documentation in compliance with the production requests by the Plaintiffs, the best explanation that I can give of why the so-called "newly discovered evidence" was electronically lost is as follows: the volume of electronic images that were utilized during the process was huge; what probably happened was that the original image in many instances was inadvertently replaced by the scanning software due to configuration issues; basically, the software most likely reset the counter to zero at some point and replaced the original files. Therefore, documents that were previously saved were apparently saved over and replaced.

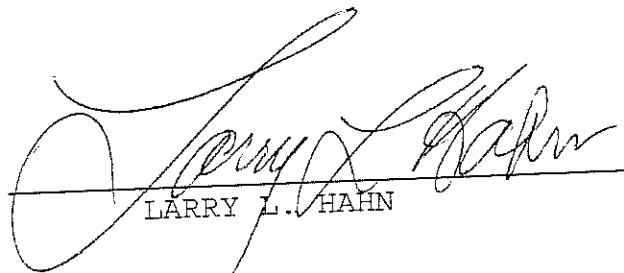
4. At the last hearing held in this case on February 24, 2011, the Court granted Kokoweef an additional three weeks to and including March 18, 2011 to produce the so-called "newly discovered evidence" plus the additional Kokoweef documentation for 2009, which was also agreed to be produced. Kokoweef's volunteer staff consisting sometimes of as many as six people promptly went right to work to copy the so-called "newly discovered evidence" on a computer disc." The first thing that they had to do was compare the documentation that had been previously produced with the hard copies of the so-called "newly discovered evidence." Then, they sorted the documents by the transaction or payment type and matched them back to the original checks. They also prepared spreadsheets summaries detailing the transactional support for checks with multiple receipts. Then they scanned the documents. At that point, they attempted to extract and bate-stamp only the so-called "newly discovered evidence." The staff became mired in the details of multiple copies of previously produced evidence and the illegible condition of the aged receipts. Therefore, this process took considerably more time than was originally estimated.

5. By the deadline date of March 18, 2011, the staff scanned all of the transactions, but did not have time to extract and bate-stamp the so-called "newly discovered evidence. Accordingly, only the so-called "newly discovered evidence," the accuracy of which had been verified, consisted of the records of Explorations of Nevada Incorporated ("EIN"), and the disc containing that documentation was

served on the Plaintiffs' counsel by mail on the deadline date.

6. After meeting with counsel, the staff and I concluded that the most expedient method to complete the production of all of the so-called "newly discovered evidence" was to rebate-stamp all of the underlying documentation which had previously been produced along with the so-called "newly discovered evidence." The same methodology was used to produce the Kokoweef 2009 documentation. It is noteworthy that this new methodology has made it much easier for the Plaintiff's forensic accounting expert to correct and supplement his previous report. However, using the new methodology and working seven days a week and 10-12 a day, to complete the job it took the staff until Tuesday, March 29, 2011, on which date the disc containing all of the so-called "newly discovered evidence" plus the Kokoweef 2009 documentation along with the supporting documentation bate-stamped in order was delivered to the Plaintiffs' counsel.

7. Particularly from my personal observations, I verily believe that the staff completed the tasks assigned to them to do accurately as quickly as it was physically possible to do. It should be noted that, when the Plaintiffs' representatives were preparing to go through and copy the business records requested to be produced by Defendant Hahn's World of Surplus, Inc., they had estimated that it would take at least three weeks. In truth and in fact, it actually took three months!


LARRY L. HAHN

SUBSCRIBED AND SWORN TO before me on April 6, 2011.

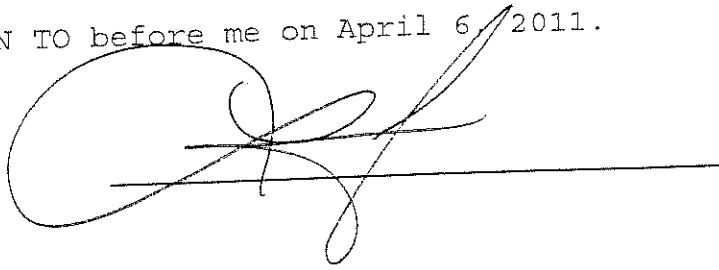
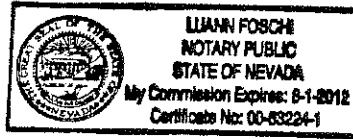
A handwritten signature in black ink, consisting of a large, stylized initial 'L' followed by several loops and a long horizontal stroke extending to the right.

EXHIBIT B

AFFIDAVIT OF PATRICK C. CLARY

STATE OF NEVADA)
): ss.
COUNTY OF CLARK)

I, PATRICK C. CLARY, having been first duly sworn, upon my oath, depose and state as follows:

1. I am the sole officer, director and stockholder of Patrick C. Clary, Chartered, a Nevada professional corporation, which is counsel for so-called Nominal Defendant Kokoweef, Inc., a Nevada corporation ("Kokoweef") and for Defendant Patrick C. Clary.

2. I make this Affidavit in support of So-called Nominal Defendant Kokoweef, Inc.'s Motion for Approval of Late-produced Newly Discovered Evidence ("the Subject Motion"), to which this Affidavit is attached as Exhibit B.

3. Attached hereto as Exhibit 1 is a copy of an email that I sent to Plaintiffs' counsel, Jennifer L. Taylor ("Ms. Taylor"), on March 16, 2011, seeking an extension of time to produce the newly discovered evidence until March 22, 2011.

4. Attached hereto as Exhibit 2 is copy of an email I received from Ms. Taylor immediately in response to Exhibit 1 hereto.

5. Attached hereto as Exhibit 3 is a further response from Ms. Taylor received the same day notwithstanding Exhibit 2 hereto, on March 26 2011, declining the extension but granting one additional day to and including March 28, 2011.

6. Attached hereto as Exhibit 4 is a copy of a letter delivered to Ms. Taylor from me, together with the two discs referred to

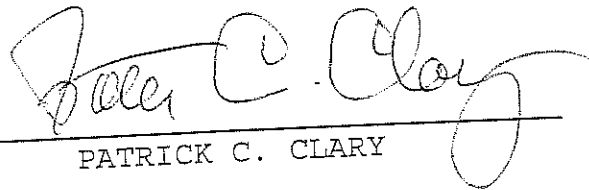
therein. The letter is self-explanatory.

7. Attached hereto as Exhibit 5 is a copy of an email that I sent to Ms. Taylor yesterday, requesting a response to Exhibit 4 hereto, which had not been forthcoming.

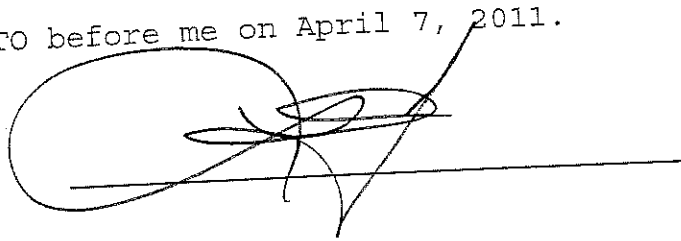
8. Attached hereto as Exhibit 6 is reply from Ms. Taylor to Exhibit 5 hereto, which is also self-explanatory.

9. The documents that were produced late to the Plaintiffs are critical to the issues in this case, and the matter of their being accepted needs to be resolved at the earliest possible date so that this litigation can proceed as presently scheduled. Therefore the foregoing *Ex Parte* Motion for Order Shortening Time for the hearing on the Subject Motion should be granted by the Court.

10. Finally, I also urge the Court, in the interests of justice, to grant the Subject Motion.


PATRICK C. CLARY

SUBSCRIBED AND SWORN TO before me on April 7, 2011.



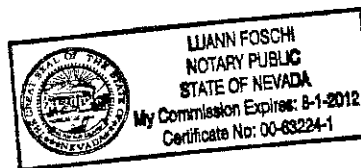


EXHIBIT 1

Patrick C. Clary

From: Patrick C. Clary [patclary@patclarylaw.com]
Sent: Wednesday, March 16, 2011 3:52 PM
To: 'Jennifer L. Taylor'
Cc: 'nelson@nelsonsegellaw.com'; 'luann@patclarylaw.com'
Subject: Burke, et al. v. Hahn, et al.

Dear Jennifer:

Nelson Segel and I had a conference earlier this afternoon with the crew working over at Kokoweef's office regarding completion of the copying, scanning, and burning on discs of the newly discovered evidence that is due tomorrow. Given the elimination of duplicates and the organization of the documentation, it has just been impossible for the people who have been working on this since two weeks before the February 24th hearing and since then seven days a week twelve hours a day to complete the job by the close of business tomorrow. The estimate of three weeks made at the hearing just was not enough time. In order to give me a day to review the documentation before it is submitted to you, will you stipulate that the time be extended until the close of business on next Tuesday?

Sincerely,

Pat Clary
Law Offices of Patrick C. Clary, Chartered
8670 West Cheyenne Avenue, Suite 120
Las Vegas, Nevada 89129
Telephone: 702.382.0813
FAX: 702.382.7277
patclary@patclarylaw.com

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EXHIBIT 2

Patrick C. Clary

From: Jennifer L. Taylor [jtaylor@RVCDLAW.COM]
Sent: Wednesday, March 16, 2011 3:52 PM
To: patclary@patclarylaw.com
Subject: Out of Office AutoReply: Burke, et al. v. Hahn, et al.

Please be advised that I am out of the office today, March 16 - 17, 2011, and I will have limited or no access to emails. I will respond to any emails upon my return to the office on March 18, 2011. If this is an emergency, please contact my assistant, Melissa Taamai, at 247-4661. Thank you.

EXHIBIT 3

Patrick C. Clary

From: Jennifer L. Taylor [jtaylor@RVCDLAW.COM]
Sent: Wednesday, March 16, 2011 3:56 PM
To: patclary@patclarylaw.com
Cc: nelson@nelsonsegellaw.com; luann@patclarylaw.com
Subject: RE: Burke, et al. v. Hahn, et al.

Counsel:

No, I'm very sorry, but I cannot stipulate to a delay of that long. The issue of these documents and the need to copy them was first raised on February 3, 2011. You have had, therefore, six weeks to pull this together. I will stipulate to close of business Friday, March 18, 2011; no longer. That gives you 48 hours to get everything finalized.

Sincerely,
Jennifer L. Taylor
Robertson & Associates, LLP
401 N. Buffalo Dr., Suite 202
Las Vegas, NV 89145

Office Phone (702) 247-4661
Direct E-mail address: jtaylor@rvcdlaw.com

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

From: Patrick C. Clary [mailto:patclary@patclarylaw.com]
Sent: Wednesday, March 16, 2011 3:52 PM
To: Jennifer L. Taylor
Cc: nelson@nelsonsegellaw.com; luann@patclarylaw.com
Subject: Burke, et al. v. Hahn, et al.

Dear Jennifer:

Nelson Segel and I had a conference earlier this afternoon with the crew working over at Kokoweef's office regarding completion of the copying, scanning, and burning on discs of the newly discovered evidence that is due tomorrow. Given the elimination of duplicates and the organization of the documentation, it has just been impossible for the people who have been working on this since two weeks before the February 24th hearing and since then seven days a week twelve hours a day to complete the job by the close of business tomorrow. The estimate of three weeks made at the hearing just was not enough time. In order to give me a day to review the documentation before it is submitted to you, will you stipulate that the time be extended until the close of business on next Tuesday?

Sincerely,

Pat Clary
Law Offices of Patrick C. Clary, Chartered
8670 West Cheyenne Avenue, Suite 120
Las Vegas, Nevada 89129
Telephone: 702.382.0813
FAX: 702.382.7277

patclary@patclarylaw.com

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EXHIBIT 4

LAW OFFICES OF
PATRICK C. CLARY, CHARTERED
A PROFESSIONAL CORPORATION
8670 WEST CHEYENNE AVENUE
SUITE 120
LAS VEGAS, NEVADA 89129

March 29, 2011

TELEPHONE: 702.382.0813
FAX: 702.382.7277
EMAIL: PATCLARY@PATCLARYLAW.COM
WWW.PATCLARYLAW.COM
Delivered by Messenger

BRANCH OFFICE
543 PLUMAS STREET
RENO, NEVADA 89509
TELEPHONE: 775.348.0099
FAX: 775.348.1738

Jennifer L. Taylor, Esq.
Robertson & Vick, LLP
401 North Buffalo Drive, Suite 202
Las Vegas, Nevada 89145

Re: Burke, et al. v. Hahn, et al.


Dear Jennifer:

There was served by mail (before 12:00 midnight at the main Post Office on East Sunset Road here in Las Vegas) on Friday, March 18, 2011, the date to which you agreed that the deadline would be extended for Kokoweef, Inc. ("Kokoweef") to produce the newly discovered evidence which was the major subject of the last hearing, a computer disc containing transactions for the periods indicated for Explorations, Incorporated of Nevada ("EIN") only, because that was all that could be completed by that date. The data contained on that disc consisted of data previously provided with bate stamps together with the newly discovered evidence without bate stamps so that you and your expert, Mr. Stringham, could differentiate between the two sets of documents.

Upon reflection thereafter, it was determined that it would be preferable to organize the documentation so that new old documents and the newly discovered documents were set forth together for each transaction, with bate stamps on both sets of documents, to make it much easier for Mr. Stringham to review and supplement his report. Unfortunately, however, this took considerable additional time beyond the deadline and was finally completed last night. Accordingly, for your convenience, I am delivering herewith to you two duplicate discs, one for you and one for Mr. Stringham, containing all transactions during the applicable dates for both EIN and Kokoweef.

Please advise me forthwith whether you will accept the enclosed disc without further controversy as to the deadline with the understanding that we are perfectly willing to extend the time for Mr. Stringham to supplement his report for the equivalent twelve-day period. If not, I plan to file an appropriate motion with the Court.

Sincerely yours,


Patrick C. Clary

PCC:bhc
Enclosure
cc: M Nelson Segel, Esq.
Mr. Larry Hahn

EXHIBIT 5

Patrick C. Clary

From: Patrick C. Clary [patclary@patclarylaw.com]
Sent: Wednesday, April 06, 2011 4:45 PM
To: 'Jennifer L. Taylor'
Cc: 'nelson@nelsonsegellaw.com'
Subject: Burke, et al. v. Hahn, et al.
Attachments: Taylor10.pdf

Dear Jennifer:

On Tuesday, March 29, 2011, I caused to be delivered to you the disc containing, *inter alia*, the newly discovered evidence together with my letter to you of that date, a copy of which is attached. I have received no response whatsoever from you as requested in the last paragraph of my letter, and, of course, you have already stated that you will not talk to either Nelson Segel or me on the telephone.

Please be advised that, if I do not hear from you by noontime tomorrow, I intend to file the appropriate motion with the Court referred to in my letter.

Sincerely,

Pat Clary
Law Offices of Patrick C. Clary, Chartered
8670 West Cheyenne Avenue, Suite 120
Las Vegas, Nevada 89129
Telephone: 702.382.0813
FAX: 702.382.7277
patclary@patclarylaw.com

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EXHIBIT 6

Patrick C. Clary

From: Jennifer L. Taylor [jtaylor@RVCDLAW.COM]
Sent: Thursday, April 07, 2011 12:02 PM
To: patclary@patclarylaw.com
Cc: nelson@nelsonsegellaw.com
Subject: RE: Burke, et al. v. Hahn, et al.

Counsel:

I am in receipt of your demand for a response regarding your request that your untimely, improperly disclosed documents be accepted "without further controversy" or you will file the "appropriate motion". First, what "motion" do you anticipate filing? Second, we are currently in the process of reviewing your untimely, improperly disclosed documents and we will provide you with a response to these documents and your letter by Monday, April 11, 2011 at noon.

Sincerely,
Jennifer L. Taylor
401 N. Buffalo Dr., Suite 202
Las Vegas, NV 89145

Office Phone (702) 247-4661
Direct E-mail address: jtaylor@rvcdlaw.com

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

From: Patrick C. Clary [<mailto:patclary@patclarylaw.com>]
Sent: Wednesday, April 06, 2011 4:45 PM
To: Jennifer L. Taylor
Cc: nelson@nelsonsegellaw.com
Subject: Burke, et al. v. Hahn, et al.

Dear Jennifer:

On Tuesday, March 29, 2011, I caused to be delivered to you the disc containing, *inter alia*, the newly discovered evidence together with my letter to you of that date, a copy of which is attached. I have received no response whatsoever from you as requested in the last paragraph of my letter, and, of course, you have already stated that you will not talk to either Nelson Segel or me on the telephone.

Please be advised that, if I do not hear from you by noontime tomorrow, I intend to file the appropriate motion with the Court referred to in my letter.

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