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

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12 TED R. BURKE; MICHAEL R and LAURETTA L. ) CASE NO. A558629  
13 KEHOE; JOHN BERTOLDO; PAUL BERNARD; ) DEPT. NO. XIII  
EDDY KRAVETZ; JACKIE and FRED KRAVETZ; )  
14 STEVEN FRANKS; PAULA MARIA BARNARD; ) DEFENDANT KOKOWEEF, INC.'S  
PETE T. and LISA A. FREEMAN; LEON ) OPPOSITION TO PLAINTIFFS'  
15 GOLDEN; C.A. MURFF; GERDA FERN BILLBE; ) (1)MOTION TO STRIKE  
BOB and ROBYN TRESKA; MICHAEL RANDOLPH, ) RENEWED MOTION TO REQUIRE  
16 and FREDERICK WILLIS, ) SECURITY FROM PLAINTIFFS  
AND (2) EX PARTE MOTION  
17 Plaintiffs, ) FOR ORDER SHORTENING TIME  
THEREON -AND- DEFENDANT  
18 vs. ) KOKOWEEF, INC.'S COUNTER-  
MOTION FOR SANCTIONS  
19 LARRY L. HAHN, individually, and as )  
President of and Treasurer of Kokoweef, )  
20 Inc., and former President and ) DATE OF HEARING: 7/14/08  
Treasurer of Explorations Incorporated ) TIME OF HEARING: 9:00 a.m.  
21 of Nevada; HAHN'S WORLD OF SURPLUS, )  
INC., a Nevada corporation; DOES I-X, )  
22 inclusive; DOE OFFICERS, DIRECTORS and )  
PARTICIPANTS I-XX, )  
23 Defendants, )  
24 and )  
25 KOKOWEEF, INC., a Nevada corporation; )  
26 EXPLORATIONS INCORPORATED OF NEVADA, a )  
dissolved Nevada corporation; )  
27 Nominal Defendants. )  
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I.

OPPOSITION TO THE FRIVOLOUS MOTIONS

A. Introduction

Defendant Kokoweef, Inc. opposes the Plaintiff's (1) MOTION TO STRIKE RENEWED MOTION TO REQUIRE SECURITY FROM PLAINTIFFS AND (2) *EX PARTE* MOTION FOR ORDER SHORTENING TIME THEREON on the ground that both said Motions are frivolous, unnecessary and unwarranted ("the Frivolous Motions").

At this Court's last hearing held on June 10, 2008 in the above-captioned case, the Court denied what was essentially the same motion to strike Defendant's Kokoweef, Inc.'s original Motion to Require Security from Plaintiffs filed herein on April 11, 2008. The Court also ruled at the same hearing against Defendants' motion to conduct discovery on the issues on whether the Plaintiffs should be required to provide security, which discovery request the Plaintiffs had opposed, and instead ruled that, if and when the security motion was refiled, an evidentiary hearing on those issues would be scheduled.

Accordingly, on June 12, 2008, Defendant Kokoweef, Inc. filed its Renewed Motion to Require Security from Plaintiffs, and on this date, June 16, 2008, Defendant Kokoweef, Inc. also submitted to the Court its *Ex Parte* Motion for Order Shortening Time for Evidentiary Hearing on Renewed Motion to Require Security from Plaintiffs, together with a proposed Order Shortening Time, a copy of which is attached hereto as Exhibit 1 and incorporated herein by this reference.

Instead of preparing the proposed Order containing the Court's rulings at the aforesaid June 10, 2008 hearing and submitting the same to counsel for the Defendants as directed by the Court at the hearing, the Plaintiffs prepared and apparently submitted to the Court the

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1 Frivolous Motions.

2 B. The Plaintiffs' Counsel's Declaration

3 In the Declaration in support of the *Ex Parte* Motion for Order  
4 Shortening Time, the Plaintiffs' counsel states that "[t]here is  
5 insufficient time to hear this motion [to strike] in the ordinary  
6 course due to the following: 1) Plaintiffs contend Kokoweef's renewed  
7 motion to require security from Plaintiffs is not a meritorious  
8 motion, is procedurally defective, and Plaintiffs' motion to strike  
9 needs to be heard as soon as possible to eliminate the statutory stay  
10 imposed by the Defendant's renewed motion. . . ." To the contrary, the  
11 Court already ruled that the security motion was not without merit on  
12 its face and not procedurally defective and that Defendant Kokoweef,  
13 Inc. was entitled to refile the motion and thereby entitled to the  
14 stay provided by statute.

15 Plaintiffs' counsel goes on the argue as follows: "2)  
16 [Plaintiffs' counsel] will be going on a scheduled vacation and  
17 leaving town on June 29, 2008 and not returning until July 14, 2008,  
18 and will not be available to attend any motion hearing set in the  
19 ordinary course." Again, to the contrary, the hearing on the renewed  
20 motion has already been set in the ordinary course for July 14, 2008  
21 at 9:00 a.m., when Plaintiffs' counsel will have returned as stated;  
22 however, it is doubtful that the evidentiary hearing which the Court  
23 indicated it would schedule would be set for a date earlier than that.

24 Finally, Plaintiffs' counsel's allegation in his Declaration that  
25 the "stay will permit Defendants to further their ongoing breach of  
26 fiduciary duties owed to Plaintiffs" is another of the continuing bare  
27 allegations that such counsel has uttered in open Court, which the  
28 Court has already disregarded, because they are not relevant to the

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1 issues brought before the Court in the motions heard and are, in any  
2 event, unsupported by any credible evidence.

3 C. The Plaintiffs' Points and Authorities and Argument

4 The Plaintiffs' technical arguments under Rule 6(d), 7(b), and  
5 11(b) of the Nevada Rules of Civil Procedure and EDCR 2.20 are  
6 inapplicable here, where the Court has already ruled that no discovery  
7 will be allowed on the renewed motion (to which discovery Plaintiffs'  
8 counsel objected and its objection were apparently sustained) and that  
9 the renewed motion would be decided after an evidentiary hearing  
10 rather than affidavits and other evidence submitted or to be submitted  
11 in writing. Under the existing rulings of the Court on these issues,  
12 the parties and their counsel should be preparing for the evidentiary  
13 hearing rather than filing and arguing over additional motions  
14 especially the Frivolous Motions, which are truly "frivolous,  
15 unnecessary and unwarranted." Rule 7.60(b)(1) of the Eighth Judicial  
16 District Court Rules.

17 D. Conclusion

18 For the foregoing reasons, the Plaintiffs' Motion to Strike  
19 Defendant's Kokoweef, Inc.'s Renewed Motion to Require Security from  
20 Plaintiffs should be denied, and the *Ex Parte* Motion for Order  
21 Shortening Time on the Motion to Strike should also be denied.

22 II.

23 COUNTER-MOTION FOR SANCTIONS

24 Defendant Kokoweef, Inc., pursuant to Rule 2.20(c) of the Eighth  
25 Judicial District Court Rules, moves the Court for an award of  
26 sanctions in favor of Defendant Kokoweef, Inc. and against the  
27 Plaintiffs and their counsel, for violation of Rule 7.60(b) of the  
28 Eighth Judicial District Court Rules, which states, in pertinent part,

1 as follows:

2 (b) The Court may, after notice and an opportunity to be  
3 heard, impose upon an attorney or a party any and all sanctions  
4 which may, under the facts of the case, be reasonable, including  
the imposition of fines, costs or attorney's fees when an  
attorney or a party without just cause:

5 (1) Presents to the Court a **motion** or an opposition to a  
6 motion **which is obviously frivolous, unnecessary or unwarranted**  
. . . .

7 (3) So **multiplies the proceedings in a case as to increase**  
8 **costs unreasonably and vexatiously.** . . .

9 (4) **Fails or refuses to comply with any order of a judge of**  
10 **the court.**

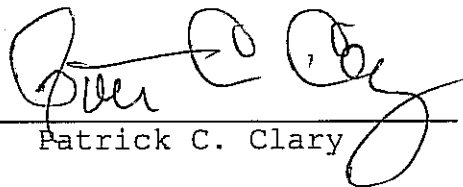
11 (Emphasis supplied.)

12 Based upon the rulings and proceedings conducted at the hearing  
13 in this case on June 10, 2008, the Plaintiffs and their counsel knew  
14 or should have known that the filing and prosecution of the Frivolous  
15 Motions would be in violation of the above-quoted provisions of an  
important rule of this Court.

16 For the reasons stated above, and because this situation is  
17 precisely one for which the above-quoted rule was adopted in this  
18 District, the foregoing Counter-motion for Sanctions should be granted  
19 by the Court.

20 Respectfully submitted,

21 CLARY CANNON LLP

22  
23 By   
Patrick C. Clary

24 Attorneys for Defendant Kokoweef, Inc.  
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8 **DISTRICT COURT**  
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13 KEHOE; JOHN BERTOLDO; PAUL BERNARD; ) DEPT. NO. XIII  
14 EDDY KRAVETZ; JACKIE and FRED KRAVETZ; )  
15 STEVEN FRANKS; PAULA MARIA BARNARD; ) **EX PARTE MOTION FOR ORDER**  
16 PETE T. and LISA A. FREEMAN; LEON ) **SHORTENING TIME FOR**  
17 GOLDEN; C.A. MURFF; GERDA FERN BILLBE; ) **EVIDENTIARY HEARING ON**  
18 BOB and ROBYN TRESKA; MICHAEL RANDOLPH, ) **RENEWED MOTION TO REQUIRE**  
19 and FREDERICK WILLIS, ) **SECURITY FROM PLAINTIFFS**

20 Plaintiffs, )

21 vs. )

22 LARRY L. HAHN, individually, and as )  
23 President of and Treasurer of Kokoweef, )  
24 Inc., and former President and )  
25 Treasurer of Explorations Incorporated )  
26 of Nevada; HAHN'S WORLD OF SURPLUS, )  
27 INC., a Nevada corporation; DOES I-X, )  
28 inclusive; DOE OFFICERS, DIRECTORS and )  
PARTICIPANTS I-XX, )

29 Defendants, )

30 and )

31 KOKOWEEF, INC., a Nevada corporation; )  
32 EXPLORATIONS INCORPORATED OF NEVADA, a )  
33 dissolved Nevada corporation; )

34 Nominal Defendants. )

DATE OF HEARING: \_\_\_\_\_  
TIME OF HEARING: \_\_\_\_\_

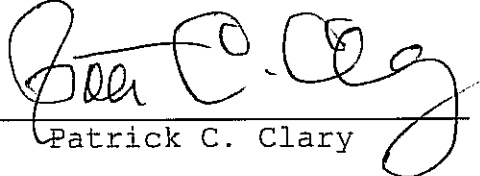
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1 Defendant Kokoweef, Inc. moves the Court for an *Ex Parte* Order  
2 Shortening Time for the evidentiary hearing on its Renewed Motion to  
3 Require Security from Plaintiffs filed herein on June 12, 2008 ("the  
4 Subject Motion" on the ground that, at the hearing in the above-  
5 captioned case on June 10, 2008, the Court indicated that it would set  
6 an evidentiary hearing on the Subject Motion upon an Order Shortening  
7 Time.

8 This *Ex Parte* Motion is made and based upon all the pleadings and  
9 documents on file herein, the Memorandum of Points and Authorities in  
10 support hereof, and the Declaration of Patrick C. Clary attached  
11 hereto as Exhibit A.

12 DATED: June 16, 2008.

13 CLARY CANNON LLP

14  
15 By   
16 Patrick C. Clary

17 Attorneys for Defendant Kokoweef, Inc.

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MEMORANDUM OF POINTS AND AUTHORITIES


This Motion is made pursuant to Rule 2.26 of the Eighth Judicial District Court Rules.

As appears from the Declaration of Patrick C. Clary attached hereto as Exhibit 1, at the hearing in the above-captioned case on June 10, 2008, the Court indicated that it would set an evidentiary hearing on Defendant Kokoweef, Inc.'s Renewed Motion to Require Security from Plaintiffs ("the Subject Motion"), if and when filed, and which was filed on June 12, 2008, upon an Order Shortening Time.

Accordingly, the Court should enter the within Order Shortening Time and set the evidentiary hearing on the Subject Motion for a date convenient to the Court.

Respectfully submitted,

CLARY CANNON LLP

By   
Patrick C. Clary

Attorneys for Defendant Kokoweef, Inc.

ORDER SHORTENING TIME

Upon consideration of the above and foregoing *Ex Parte* Motion for Order Shortening Time, and good cause appearing, it is hereby

ORDERED that Defendant Kokoweef, Inc.'s Renewed Motion to Require Security from Plaintiffs, filed herein on June 12, 2008, be, and the same hereby is, set down for an evidentiary hearing before this Court on the \_\_\_\_ day of \_\_\_\_\_, 2008, at the hour of \_\_\_\_\_. M.

DATED this \_\_\_\_ day of June, 2008.

\_\_\_\_\_  
DISTRICT JUDGE

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DECLARATION OF PATRICK C. CLARY

I, PATRICK C. CLARY, hereby declare under penalty of perjury as follows:

1. I am one of the attorneys for Defendant Kokoweef, Inc. in the above-captioned case, and I make this Declaration in support of the *Ex Parte* Motion for Order shortening Time for Evidentiary Hearing on Renewed Motion to Require Security from Plaintiffs, to which this Affidavit is attached.

2. At the hearing in the above-captioned case on June 10, 2008, the Court indicated that it would set an evidentiary hearing, upon an Order Shortening Time, on Defendant Kokoweef, Inc.'s Renewed Motion to Require Security from Plaintiffs, if and when filed. The said Renewed Motion to Require Security from Plaintiffs was filed by Defendant Kokoweef, Inc. on June 12, 2008, at which time Master Calendar Clerk set a hearing date for July 14, 2008, at 9:00 a.m., but that hearing date was only for oral argument and, therefore, not the evidentiary hearing that the Court indicated that it wanted to schedule.

3. Because the undersigned counsel is scheduled to be on the east coast during the period of July 15-23 and, therefore, would respectfully request that the evidentiary hearing not be set on a date that is during that period.

Executed at Las Vegas, Nevada, on June 16, 2008.

  
\_\_\_\_\_  
PATRICK C. CLARY