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4 (702) 368-7767  
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5 Attorney for Plaintiffs

2008 APR 29 A 9:00

*Clary Cannon*  
CLERK OF THE COURT

DISTRICT COURT  
CLARK COUNTY, NEVADA  
FILE WITH  
MASTER CALENDAR

RECEIVED  
APR 29 2008  
CLERK OF THE COURT

LAW OFFICES  
NEIL J. BELLER, LTD.  
A PROFESSIONAL CORPORATION  
7408 WEST SAHARA AVENUE  
LAS VEGAS, NEVADA 89117  
AREA CODE 702-368-7767

9 TED R. BURKE; MICHAEL R and LAURETTA )  
L. KEHOE; JOHN BERTOLDO; PAUL )  
10 BARNARD; EDDY KRAVETZ; JACKIE and )  
FRED KRAVETZ; STEVEN FRANKS; PAULA )  
11 MARIA BARNARD; PETER T. and LISA A )  
FREEMAN; LEON GOLDEN; C.A. MURFF; )  
2 GERDA FERN BILLBE; BOB and ROBYN )  
TRESKA; MICHAEL RANDOLPH, and )  
3 FREDERICK WILLIS, )  
4 )  
5 Plaintiffs, )  
6 vs. )  
7 LARRY L. HAHN, individually, and as President )  
and Treasurer of Kokoweeff, Inc., and former )  
8 President and Treasurer of Explorations )  
Incorporated of Nevada; HAHN'S WORLD OF )  
9 SURPLUS, INC., a Nevada corporation; DOES )  
I - X, inclusive; DOE OFFICERS, DIRECTORS )  
10 and PARTICIPANTS I - XX, )  
11 )  
12 Defendants, )  
13 )  
14 and )  
15 KOKOWEEFF, INC., a Nevada corporation; )  
EXPLORATIONS INCORPORATED OF )  
16 NEVADA, a dissolved Nevada corporation; )  
17 )  
18 Nominal Defendants. )  
19 )  
20 )  
21 )  
22 )  
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25 )

Case No. A558629  
Dept. XIII

MOTION TO DISQUALIFY  
LAW FIRM OF CLARY  
CANNON, LLP, OR IN THE  
ALTERNATIVE, MOTION TO  
DISQUALIFY PATRICK C.  
CLARY, ESQ., AND  
ORDER SHORTENING TIME

Exempt from Arbitration  
(Shareholders Derivative Action-  
Equitable Relief)

Date of Hearing: \_\_\_\_\_

Time of Hearing: \_\_\_\_\_

26 COMES NOW the Plaintiffs, by and through their attorney of record, NEIL J. BELLER,  
27 ESQ., of the law firm of NEIL J. BELLER, LTD, and moves this Court for an Order Shortening  
28 Time, and pursuant to Nevada Rules of Professional Conduct for an Order Disqualifying the Law

3  
DEPARTMENT XIII  
NOTICE OF HEARING  
DATE 5/12/08 TIME 9:00 AM  
APPROVED BY *dx*



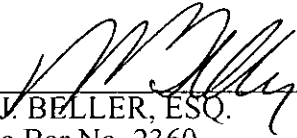
1 Firm of Clary Cannon LLP, or in the alternative, for an Order Disqualifying Patrick C. Clary, Esq.  
2 from representation of Nominal Defendant, Kokoweef, Inc.

3 This Motion is made and based on the pleadings and papers on file herein, the Points and  
4 Authorities, the attached Affidavits, and Exhibits, and any argument of counsel at the time of the  
5 hearing of this motion.

6 This Motion is being filed concurrently with Plaintiffs' Motion to Strike Motion to Require  
7 Security from Plaintiffs.

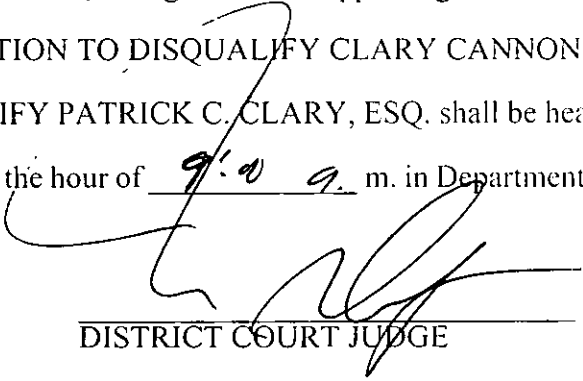
8 DATED this 28 day of April, 2008.

9  
10 NEIL J. BELLER, LTD.

11 By:   
12 NEIL J. BELLER, ESQ.  
13 Nevada Bar No. 2360  
14 7408 W. Sahara Avenue  
15 Las Vegas, Nevada 89117  
16 (702)368-7767  
17 Attorney for Plaintiffs

18 **ORDER SHORTENING TIME**

19 It appearing to the satisfaction of the Court, and good cause appearing therefor, IT IS  
20 HEREBY ORDERED that the foregoing MOTION TO DISQUALIFY CLARY CANNON LLP,  
21 or in the alternative, MOTION TO DISQUALIFY PATRICK C. CLARY, ESQ. shall be heard on  
22 the 12<sup>th</sup> day of May, 2008, at the hour of 9:00 a. m. in Department XIII.

23   
24  
25  
26  
27  
28 DISTRICT COURT JUDGE

g

**AFFIDAVIT OF NEIL J. BELLER, ESQ.  
IN SUPPORT OF ORDER SHORTENING TIME**

STATE OF NEVADA            )  
  ) ss:  
COUNTY OF CLARK         )

NEIL J. BELLER, ESQ., being first duly sworn, states that:

1. I am an attorney duly licensed to practice law in the State of Nevada and counsel for Plaintiffs and I have personal knowledge of the matters in this action except for those matters stated upon information and belief, and as to those matter, I believe them to be true.

2. There is insufficient time to hear this motion prior to the hearing date set for May 19, 2008 for Nominal Defendant Kokoweef's Motion to Require Security from Plaintiffs submitted by Patrick C. Clary, Esq.

3. Based on the information obtained from Plaintiffs and from the attached Transcript of the September 19, 2007 meeting (Exhibit 1 to Motion) regarding Mr. Clary's knowledge of the activities of both Nominal Defendants EIN and Kokoweef, Inc., Plaintiffs will be naming Mr. Clary not only as a witness, but it is anticipated he will be named as a Defendant in this action.

4. The anticipated testimony of Mr. Clary does not relate to an uncontested issue; nor will it relate to the nature or value of legal services rendered in this case.

5. The anticipated testimony of Mr. Clary relates to his close relationship with Defendant Larry Hahn and the allegations being brought by the Plaintiffs against Mr. Hahn.

6. Because Mr. Clary will be named as a witness and the probability of his being named as a Defendant, pursuant to NRPC 3.7, he should be disqualified from representation of the Nominal Defendant Kokoweef, Inc. in this action.

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1 2908 East Lake Mead Blvd., North Las Vegas, Nevada and it would be exchanged for a new  
2 Kokoweef stock certificate. A copy of the letter is attached as **Exhibit 1** and incorporated herein  
3 by reference.

#### 4 **B. Shareholders' Request for Audit**

5 Sometime in June, 2007, Burke and several other shareholders became aware of the  
6 existence of the By-Laws of Kokoweef and had reason to believe that Kokoweef's operating  
7 procedures as a mining operation were in conflict with several areas of the By-Laws. Burke inquired  
8 of Hahn whether or not an annual audit of Kokoweef's books had ever been done. Hahn objected  
9 to the audit subject being discussed. Burke made repeated efforts to request that Hahn produce the  
10 books for an audit to no avail. When Plaintiffs finally received the corporate books, the audi  
11 was confined to include only the Kokoweef books and only for a period of eight months.

#### 12 **C. Meeting of September 19, 2007**

13 On September 18, 2007, Burke was invited to attend a meeting with Hahn, corporate counsel,  
14 and an investor that was a friend of Hahn's. What occurred at that meeting pertaining to corporate  
15 counsel, Patrick C. Clary is summarized as follows:

16 When the question was asked as to why Kokoweef was formed, the answer was that it was  
17 for cleaning up the securities violations of EIN. Page 11, lines 5 - 19 of the Transcript of the  
18 September 18, 2007 meeting attached as **Exhibit 2** and incorporated herein by reference. Corporate  
19 counsel stated that probably 90% of the securities transactions weren't conducted lawfully in EIN,  
20 but the statute of limitations had run. ( Page 20, lines 20 to page 21, line 3 of Transcript.) Burke  
21 then suggested he might go to the SEC to report what he believed to be improper operations.  
22 Derogatory comments were made regarding the SEC by corporate counsel, and that the idea of going  
23 to the SEC was insane. (Page line 9 - page 13, line 20 of the Transcript) Corporate counsel stated  
24 they did a Rule 504 Regulation D because the stock that was exchanged isn't worth more than a  
25 million dollars to the aggregate in a 12 month period and this was done subsequent to the  
26 reorganization and also they had to find a state exemption and they are limited to 25 Nevada  
27 residents. (Page 24, line 19 - page 25, line 14 of the Transcript.) Corporate counsel stated they  
28 need to do some clean up work on the out of state ones, but that most states have an exemption for

1 isolated transactions. (Page 26, line 11 - 23 of the Transcript.) Hahn stated they have 1200  
2 shareholders. Corporate counsel said Nevada had an exemption for reorganizations and that is what  
3 he filed. The discussion then turned to shareholders suing the corporation and its officers and  
4 directors for securities fraud. Corporate counsel stated that would be an uphill battle because of the  
5 provision in the agreement with the shareholders that they acknowledge they have complied with  
6 the securities rules. (Page 27, line 5 - page 28, line 3 of the Transcript.)

7 Burke expressed concern that something may be in the books that may be found and would  
8 result in being sued. The answer given was that if something is wrong it would be corrected or make  
9 it go away. That is being done for Kokoweef and the statute of limitations has expired for EIN.  
10 Burke was told that his only concern would be for the past two years. (Page 30, line 12 - page 31,  
11 line 23 of the Transcript.)

12 The discussion turned to the matter of money being collected under Kokoweef and that  
13 representations were made that the money was used for investment and it was actually used for  
14 something else. When they were taking money in for Kokoweef, they were also taking in money  
15 for EIN and Burke was concerned of the EIN transactions and that's why he wants the EIN books.  
16 (Page 34, line 9 - page 37, line 19 of the Transcript.)

#### 17 **D. Sale of Unregistered Securities**

18 During the time period of October 1984 and November 2007, when EIN was a corporation  
19 in good standing with the State of Nevada and was the corporation conducting mining explorations  
20 and seeking investors to purchase stock in EIN, based on information and belief, Defendant Hahn  
21 was engaged, directly and indirectly in the offer and sale of securities to the general public in  
22 Nevada (and other states) in violation of the Nevada and other state statutes, if any, regarding the  
23 registering of securities.

24 Based on the summary of the September 19, 2007 meeting provided above and the attached  
25 Transcript of the meeting among Plaintiff Burke, Defendant Hahn, corporate counsel Patrick C.  
26 Clary, and other officers, it is obvious that corporate counsel Clary was aware of these securities  
27 sales.

28 ///

1 **E. Failure to Give Notice to All Directors**

2 The Complaint in this matter was filed on March 7, 2008 and served on Larry Hahn on March  
3 12, 2008, Sometime after mid-March, Defendant Hahn sent a letter to certain stockholders advising  
4 of the filing of the complaint against him and his business and stated:

5 ...I am asking you to join with other stockholders representing not  
6 less than two-thirds of the issued and outstanding shares of the  
7 common stock of Kokoweef to remove summarily the directors of  
8 Kokoweef who instigated these damaging actions, whereon a special  
9 meeting of the board of directors will be held to deal with these  
10 matters.

11 A copy of Defendant Hahn's letter is attached as **Exhibit 3** and incorporated herein by  
12 reference.

13 None of the Plaintiffs in this instant action who were Directors were notified of this special  
14 board meeting. At a board meeting unknown to Plaintiffs, Directors Ted R. Burke, Michael R.  
15 Kehoe, and Richard V. Dutchik were removed as directors of Kokoweef.

16 Then, on April 12, 2008 corporate counsel, Patrick C. Clary, faxed a memo to Director Gary  
17 Hewitt advising of a special meeting of the Board of Directors set for April 14, 2008, at his office  
18 and included a waiver of notice which began: "We, the undersigned, being all of the remaining  
19 directors of KOKOWEEF, INC. . . ." The signature lines were for the remaining four directors,  
20 once of which was Larry Hahn. A copy of Mr. Clary's fax is attached as **Exhibit 4** and incorporated  
21 herein by reference.

22 **II. ARGUMENT**

23 Nevada Rule of Professional Conduct 3.7 provides:

24 (a) A lawyer shall not act as advocate at a trial in which the lawyer  
25 is likely to be a necessary witness unless:

26 (1) The testimony relates to an uncontested issue;

27 (2) The testimony relates to the nature and value of legal services  
28 rendered in the case; or

(3) Disqualification of the lawyer would work substantial hardship  
on the client.

(b) A lawyer may act as advocate in a trial in which another lawyer  
in the lawyer's firm is likely to be called as a witness unless  
precluded from doing so by Rule 1.7 or Rule 1.9.

Mr. Clary has been the counsel for EIN and now for Kokoweef. He has intimate knowledge  
of the ongoing activities of both entities from the time they were formed. As is evident from the

1 reading of the Transcript of the September 19, 2007 meeting, not only will Mr. Clary be called as  
2 a necessary witness in the trial of this matter, but the probability exists Mr. Clary will be named as  
3 a Defendant.

4         Additionally, his involvement in calling a special meeting of the remaining board of directors  
5 after the three directors, being Plaintiffs in this litigation, were removed without notice, creates an  
6 appearance of close involvement regarding the allegations stated against Defendant Hahn in the  
7 Complaint.

8         For these reasons, Mr. Clary will positively be called as a witness and based on his apparent  
9 close involvement in the recent actions taken by Defendant Hahn, Plaintiffs anticipate he will be  
10 named as a Defendant in this action.

11         The testimony sought from Mr. Clary does not relate to an uncontested issue, nor the nature  
12 and value of legal services rendered in this matter. His disqualification and/or that of his law firm  
13 will not work any substantial hardship on the Kokoweef corporation because it has been named only  
14 as a Nominal Defendant and no claims for relief have been alleged against it. This action is only  
15 in the initial stages of litigation and no Defendant has yet filed an answer.

16         The issue here is more than the possibility of Mr. Clary being a witness in this action. He  
17 is a witness to some of the facts alleged in Plaintiffs' Complaint.

18         Where the public defender allegedly witnessed events relating to a statement made by  
19 petitioner to the police, the court determined SCR 185 authorized the withdrawal of the public  
20 defender. Koza v. Eighth Judicial District Court ex rel., 99 Nev. 535, 665 P.2d 244 (1983). NRCP  
21 3.7 is similar to the former Supreme Court Rule 185.

22         Thus, as a result of Mr. Clary's intimate knowledge and the high probability he will be  
23 named as a Defendant in this matter, pursuant to NRPC 3.7, he should not act as advocate  
24 representing the nominal Defendant Kokoweef, Inc., in this matter. Additionally, because it is  
25 anticipated he will be named as a defendant, and not just a witness, the firm of Clary Cannon LLP  
26 should also be disqualified.

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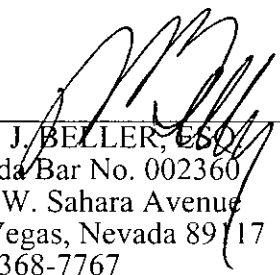
**III. CONCLUSION**

Based on the foregoing, Plaintiffs respectfully request their MOTION TO DISQUALIFY LAW FIRM OF CLARY CANNON LLP, or in the alternative, MOTION TO DISQUALIFY PATRICK C. CLARY, ESQ., AND ORDER SHORTENING TIME be granted.

DATED this 28 day of April, 2008.

NEIL J. BELLER, LTD.

By: \_\_\_\_\_

  
NEIL J. BELLER, ESQ.  
Nevada Bar No. 002360  
7408 W. Sahara Avenue  
Las Vegas, Nevada 89117  
(702)368-7767  
Attorney for Plaintiffs

1 CERTIFICATE OF SERVICE

2 I HEREBY CERTIFY that on the 2 day of April, 2008, service of the foregoing Plaintiffs'  
3 MOTION TO DISQUALIFY LAW FIRM OF CLARY CANNON, LLP, OR IN THE  
4 ALTERNATIVE MOTION TO DISQUALIFY PATRICK C. CLARY, ESQ., AND ORDER  
5 SHORTENING TIME , was made this date by depositing a true copy of the same for mailing, first  
6 class mail, postage pre-paid, at Las Vegas, Nevada addressed as follows:

7  
8 M. Nelson Segel, Chartered  
9 M. Nelson Segel, Esq.  
10 NBN 000530  
11 624 South 9<sup>th</sup> Street  
12 Las Vegas, NV 89101  
13 Attorneys for Defendant Larry Hahn  
14 and Hahn's World of Surplus, Inc.  
15 Telephone: 702-385-5266

16  
17 CLARY CANNON, LLP  
18 Patrick C. Clary, Esq.  
19 NBN 000053  
20 Curtis W. Cannon, Esq.  
21 NBN 010535  
22 7201 West Lake Mead Boulevard, Suite 503  
23 Las Vegas, NV 89129  
24 Attorneys Defendant Kokoweef, Inc.  
25 Telephone: 702-382-0813  
26  
27  
28

  
An employee of Neil J. Beller, Ltd.