

CLERK OF THE COURT

1 **OPPS**
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6 Attorneys for Plaintiffs

7
8 DISTRICT COURT
9 CLARK COUNTY, NEVADA

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

15 Plaintiffs,

16 vs.

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

21 Defendants,

22 and

23 KOKOWEEF, INC., a Nevada corporation;
24 EXPLORATIONS INCORPORATED OF
NEVADA, a dissolved corporation,

25 Nominal Defendants.
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) CASE NO. A558629

) DEPT: XIII

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) **OPPOSITION TO DEFENDANTS**
) **PATRICK C. CLARY'S AND**
) **KOKOWEEF, INC.'S FUGITIVE**
) **JOINDER TO DEFENDANTS LARRY**
) **HAHN'S AND HAHN'S WORLD OF**
) **SURPLUS, INC'S MOTION TO**
) **TRANSFER CASE TO DEPARTMENT**
) **13, AND REQUEST TO STRIKE SAME**

1 Plaintiffs Ted R. Burke; Michael R. And Laretta L. Kehoe; John Bertoldo; Paul Barnard;
2 Eddy Kravetz; Jackie and Fred Kravetz; Steven Franks; Paula Maria Barnard; Peter T. And Lisa
3 A. Freeman; Leon Golden; C.A. Murff; Gerda Fern Billbe; Bob and Robyn Treska; Michael
4 Randolph and Frederick Willis (hereinafter collectively referred to as "Plaintiffs"), by and
5 through their undersigned counsel of record, Robertson & Vick LLP, hereby opposes Defendants
6 Patrick C. Clary's and Kokoweef, Inc.'s Fugitive Joinder to Defendants Larry Hahn's and Hahn's
7 World of Surplus, Inc's (hereafter the "Hahn Defendants") Motion to Transfer Case to
8 Department 13, and Requests the same by Stricken by this Court.

9 The following Opposition is made and based upon the pleadings and papers on file
10 herein, the Points and Authorities in the underlying Application, the prior arguments of counsel
11 and any oral argument requested of counsel.

12 DATED this 27th day of October, 2009.

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ROBERTSON & VICK, LLP

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By:

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 I.

3 **THE SO-CALLED JOINDER IS UNTIMELY AND SHOULD BE DISREGARDED**

4 Quite simply, Defendants Clary's and Kokoweef's so-called Joinder to the Hahn
5 Defendants' Motion to Transfer Case to Department 13 is a fugitive reply brief masquerading as
6 an untimely joinder, and which, regardless of its designation must be stricken and utterly
7 disregarded by this Court.

8 Pursuant to EDCR 2.20(b), Defendants Clary and Kokoweef were obligated to file any
9 so-called joinder within five (5) days from service of the motion. Specifically, EDCR 2.20(b)
10 states: "Within 5 days after service of the motion, a nonmoving party may file written joinder
11 thereto."

12 The underlying Motion was filed on or about September 22, 2009. However, Defendants
13 Clary and Kokoweef did not file their so-called Joinder until October 16, 2009, approximately
14 twenty-four days after the initial motion was filed, and a full seven (7) days after Plaintiffs'
15 October 9, 2009 Opposition was filed. And, what was filed was not even a joinder, but simply a
16 fugitive filing in an attempt to coordinate with the Hahn Defendants Reply to Plaintiffs'
17 Opposition to the transfer of this case.

18 Defendants Clary and Kokoweef failed to adhere to the deadline set out in EDCR 2.20(b)
19 and, therefore, this Court should disregard and strike their so-called Joinder in its entirety. Such
20 a flagrant attempt to file a fugitive document should not be countenanced, and it should be
21 disregard by this Court.¹

22 To the extent the Court does consider Clary's untimely and fugitive joinder, it still lacks
23 merit and should be disregarded, despite Defendants Clary's and Kokoweef's inappropriate
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25 ¹ This strategy seems to be a standard operating procedure for attorney Patrick C. Clary. This very same
26 strategy was employed by Clary in Clark County District Court Case No. 571568 pending in front of Judge Williams.
27 A Motion to Dismiss was filed on June 8, 2009, and the Opposition to the Motion to Dismiss was filed on June 22,
28 2009. Clary then waited to file a joinder on behalf of his client until June 30, 2009, twenty-two days after the
Motion had been filed and a full eight days after the Opposition had been filed. Apparently, Clary believes that rules
and deadlines simply don't apply to him and that he can file a document at any time, title it as a joinder, and receive
the Court's blessing for the consideration of the same.

1 argument and conclusion that the Hahn Defendants’ motion to transfer this case is “meritorious”
2 and should be granted. As detailed in Plaintiffs’ Opposition to the Hahn Defendants’ underlying
3 Motion, and as further set forth below, the relief sought by Defendants in trying to force this
4 matter back to their preferred jurist, has no merit whatsoever.

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II.

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THE SO-CALLED JOINDER DISREGARDS THE FUNDAMENTAL PRINCIPLE OF
JUDICIAL ASSIGNMENT

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9 Defendants Clary’s and Kokoweef’s so-called Joinder utterly fails to address the inviolate
10 principal of judicial selection, i.e. “all cases must be distributed on a random basis.” EDCR 1.60.
11 An even more incredible, and unsupported, argument by counsel for Clary and Kokoweef is that
12 the mere fact that Plaintiffs Opposed the Hahn Defendants’ Motion amounts to forum shopping.
13 Joinder 4:4-7. Such an unsupported and novel argument should be utterly disregarded by this
14 Court. Tahoe Village Realty v. DeSmet, 95 Nev. 131, 590 P.2d 1158 (Nev. 1979).

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16 The balance of the so-called Joinder addresses the claim that “it is undeniable that certain
17 of Judge Denton’s prior rulings will be revisited” (Joinder 3:11-12). Yet, the two orders cited
18 have already been addressed by Plaintiffs in their Opposition to the Hahn Defendants’ Motion
19 and add nothing new of substance to Defendants efforts to move this matter back to their
20 preferred forum.

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CONCLUSION

22 Plaintiffs request that the Court strike Defendants Clary’s and Kokoweef’s untimely
23 joinder to the Hahn Defendants Motion to Transfer. To the extent the Court is inclined to

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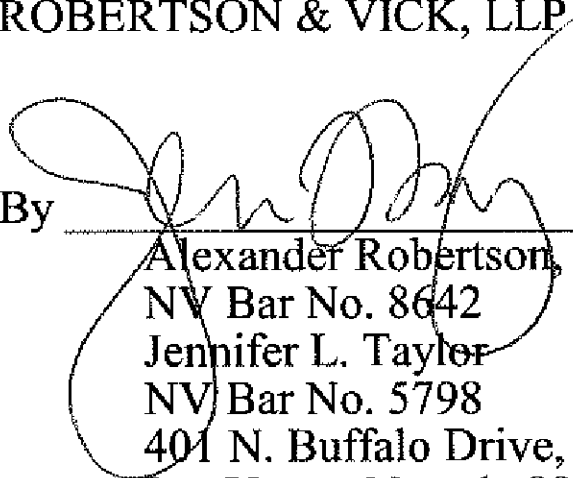
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& VICK, LLP

1 consider this untimely, so-called Joinder, the substance lacks merit, continues to engage in the
2 same misdirection as the Reply of the Hahn Defendants and should be denied.

3 Dated: October 27, 2009

4 ROBERTSON & VICK, LLP

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6 By



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CERTIFICATE OF SERVICE

I hereby certify that on the 27th day of October, 2009, I served a copy of the above and foregoing **OPPOSITION TO DEFENDANTS PATRICK C. CLARY'S AND KOKOWEEF, INC.'S FUGITIVE JOINDER TO DEFENDANTS LARRY HAHN'S AND HAHN'S WORLD OF SURPLUS, INC.'S MOTION TO TRANSFER CASE TO DEPARTMENT 13, AND REQUEST TO STRIKE SAME** by depositing a copy thereof for mailing at Las Vegas, Nevada, postage prepaid, addressed to:

M. Nelson Segel, Chartered
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624 South 9th Street
Las Vegas, NV 89101
Telephone: (702) 385-6266
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**Attorneys for Larry Hahn and
Hahn's World of Surplus, Inc.**

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Monica Metoyer