OPPS

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Attorneys for Plaintiffs

DISTRICT COURT

CLARK COUNTY, NEVADA

TED R. BURKE; MICHAEL R. and LAURETTA L. KEHOE; JOHN BERTOLDO; PAUL BARNARD; EDDY KRAVETZ; JACKIE and FRED KRAVETZ; STEVE FRANKS; PAULA MARIA BARNARD; LEON GOLDEN; C.A. MURFF; GERDA FERN BILLBE; BOB and ROBYN TRESKA; MICHAEL RANDOLPH; and FREDERICK WILLIS, Plaintiffs, vs. LARRY H. HAHN, individually, and as President and Treasurer of Kokoweef, Inc., and former President and Treasurer of Explorations Incorporated of Nevada; HAHN'S WORLD OF SURPLUS, INC., a Nevada corporation; PATRICK C. CLARY, an individual; DOES 1 through 100, inclusive; Defendants, and KOKOWEEF, INC., a Nevada corporation; EXPLORATIONS INCORPORATED OF NEVADA, a dissolved corporation, Nominal Defendants.	CASE NO. A558629 DEPT: XI **PLAINTIFFS' OPPOSITION TO DEFENDANTS LARRY HAHN AND HAHN'S WORLD OF SURPLUS, INC.'S MOTION TO TRANSFER CASE TO DEPARTMENT 13** ***ORAL ARGUMENT REQUESTED***

Plaintiffs Ted R. Burke; Michael R. And Lauretta L. Kehoe; John Bertoldo; Paul Barnard; Eddy Kravetz; Jackie and Fred Kravetz; Steven Franks; Paula Maria Barnard; Leon Golden; C.A. Murff; Gerda Fern Billbe; Bob and Robyn Treska; Michael Randolph and Frederick Willis (hereinafter collectively referred to as "Plaintiffs"), by and through their undersigned counsel of record, Robertson & Vick LLP, hereby file their Opposition to Defendants Larry Hahn and Hahn's World of Surplus, Inc.'s (hereafter, the "Hahn Defendants") Motion to Transfer Case to Department 13.

This Opposition is based upon the points and authorities set forth herein, the pleadings and papers on file herein, and any oral argument requested of counsel. **Further Plaintiffs request that this matter be set for oral argument and taken off chamber calendar.**

DATED this 9th day of October, 2009.

ROBERTSON & VICK, LLP

By: _____
ALEXANDER ROBERTSON, IV
Bar No. 8642
JENNIFER L. TAYLOR
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Las Vegas, Nevada 89145

Attorneys for Plaintiffs

MEMORANDUM OF POINTS AND AUTHORITIES

I.

INTRODUCTION

Defendants' Motion is a flagrant attempt at forum shopping. Defendants' Motion is full of red herrings, misrepresentations and hyperbole, all of which should be disregarded. The truth is that the Hahn Defendants, along with their co-Defendants, nominal Defendant Kokoweef, Inc. and Defendant Patrick C. Clary, perceive and have, in fact, boasted in pleadings and correspondence about the favorable results they feel they obtained while this matter was in Department 13. Plaintiffs believe that this is the real motive behind the request for transfer.

Further, the Hahn Defendants, along with their co-counsel, have acted in concert to force this matter back to Department 13 in an end-run violation of the fundamental precept of judicial selection. This concerted attempt to manipulate the system of random assignment in an effort to be back in front of their preferred judicial department should not be countenanced. Finally, this Honorable Court should ignore Defendants' patronizing arguments that it would be "too burdensome" for Department 11 to take over this case, that the parties would be burdened by having to "educate" one of the Eighth Judicial District's bench's best jurists, and that this Honorable Court, by doing her job in overseeing a jury matter in Department 11, would be "wast[ing] judicial resources". Mot. 6:14-15.

II.

STATEMENT OF FACTS

Defendants, in their attempt to manipulate the system of random court assignment, have omitted facts or provided incorrect information. The overwhelming majority of the Motion is dedicated to a listing of every procedural item in this matter, some of which Defendants claim were only "partially ruled" upon and for which Judge Denton "opened the door to return for further proceedings". Mot. 6:10-11, 6:24-25, Segel Dec., 1:25-26. This is simply a self-serving spin on prior rulings, none of which are open, pending or with partial rulings, as represented by Defendants. See Mot. 6:24-25, Segel Dec., 1:25-26. Instead, some items have simply, as is incredibly typical in litigation, been ruled upon without prejudice.

One example of an "open ruling" cited is on Defendants' Motion To Dismiss, for which the Hahn Defendants claim Judge Denton "withheld rulings on certain aspects of said motion", and specifically, the request for Dismissal on the Fourth Cause of Action. Mot. 6:24-25, Segel Dec. 1:25-28. This statement inaccurately represents Judge Denton's Order, which states:

> "The Court is not of the view that negligent misrepresentation requires the same particularity in pleading as fraud. Therefore, the Court cannot say that the Fourth Cause of Action fails to state a claim on which relief can be granted, and the Motion is thus DENIED as to such cause of action."

See Judge Denton's January 29, 2009, Decision and Order, a true and correct copy of which is attached hereto as Exhibit "1".

Defendants also claim that Judge Denton left open the issue of the amount of a bond set pursuant to NRS 41.520(3). Segel Dec. 2:1-2. However, this has nothing, whatsoever, to do with Judge Denton's ruling on the matter, but was based upon the language of NRS 41.520(4), which permits that "the amount of the security may. . . from time to time be increased or decreased in the discretion of the Court."

Defendants' list of pleadings is similarly deceptive. First, Defendants claim that in excess of "thirty (30) substantive documents" had been filed with the Court. Mot.3:19-20. Yet, the list only delineates thirty (30) items, not in excess of thirty (30) documents, six of which are rulings from or reports of hearings held by the Court and Discovery Commissioner. Another four are related to pleading work, i.e. the filing of Complaints and Answers, and Substitution of Attorneys. Several other of the items listed are procedural filings, such as joinders, the posting of the bond by Plaintiffs and Motions related to the times set for hearings.

Additionally, Defendants omit in their recitation of procedural history, perhaps unintentionally, the reason this matter is currently pending before this Honorable Court. It is true that this case was reassigned, but it was initially reassigned to Judge Delaney, Department 25. However, immediately after the matter was reassigned to Judge Delaney, nominal Defendant Kokoweef and Defendant Patrick C. Clary filed a peremptory challenge, a true and correct copy of which is attached hereto as Exhibit "2". Only after that peremptory challenge by nominal Defendant Kokoweef and Defendant Patrick C. Clary was the matter reassigned to this Honorable Court. Defendants make a cursory mention of this fact later in their Motion, Mot. 8:5-6, but fail to indicate that this was a peremptory challenge by their co-Defendants.

Further, Plaintiffs in this case have filed a jury demand, a true and correct copy of which is attached hereto as Exhibit "3". Therefore, there will be no need for the judge, as argued and emphasized by Defendants, to weigh the veracity of witnesses from past hearings. Mot. 6:15-17.

Additionally, the Hahn Defendants have been promising to file a Motion for Summary Judgment for months and months. While counsel for the Hahn Defendants claim that their

"business and professional obligations" (Mot. 7:3-4) have prevented the filing of the Motion for Summary Judgment, written communications between counsel tell a different story. Additionally, this Motion is the first mention of an intent to seek clarification on a Decision and Order, the Notice of Entry of which was nearly nine months ago.

It appears to Plaintiffs that as soon as this matter was transferred from Judge Denton to Judge Delaney, the Hahn Defendants ceased all work on their purported Motion for Summary Judgment until such time as they could try to get this matter back in front of Judge Denton. Attached hereto as Exhibit "4" are a series of emails from July 1, 2009 and July 2, 2009 and written between counsel, in which counsel for Hahn Defendants repeatedly reiterate that their own Motion for Summary Judgment and "joinder" to Defendant Patrick C. Clary's Motion for Summary Judgement would be filed imminently. It is certainly curious, at best, that a Motion that was to be filed within one week of the attached emails, because it was "substantially complete" (See July 2, 2009, 8:02 a.m. email from Nelson Segel, Esq. to Jennifer L. Taylor, Esq., attached hereto in Ex. "4") suddenly was not filed once a new judge was assigned.

Further, trial in this matter will not be set until sometime after August 2, 2010. A true and correct copy of the Minute Order resetting the discovery deadlines and trial readiness dates in this matter is attached hereto as Exhibit "5". Therefore, this Honorable Court will have ample time to learn the file, and will have, by that time, been overseeing the matter for nearly one year.

III.

LEGAL AUTHORITY

A. DEFENDANTS' MOTION FLAGRANTLY SEEKS TO VIOLATE THE LETTER AND SPIRIT OF "RANDOM CASE ASSIGNMENT"

EDCR 1.60 provides two fundamental, unequivocal principals behind judicial assignment. First, "the chief judge shall have the authority to assign or reassign all cases pending in the district." Second, and most significantly, unless otherwise provided, "**all cases must be distributed on a random basis.**" (Emphasis added). The sole case cited by Defendants has no bearing whatsoever on this request, and the quote used is misleading. In *Las Vegas Taxpayer Accountability Committee v. City Council*, 125 Nev. 17, 208 P.3d 429 (Nev. 2009), the Nevada

Supreme Court merely commented on "judicial economy" and "efficiency" as reasons why it was ruling on both the procedural and substantive issues stemming from a dispute over the placement of a ballot measure on a municipal ballot. It provides no authority or basis for which this Court should permit Defendant to engage in egregious forum shopping and violate the spirit and letter of EDCR 1.60.

Through Defendants' Motion, and their co-defendants' prior peremptory challenge, it is abundantly clear that Defendants' sole intention is to do an end-run around this fundamental precept of judicial assignment.[1] Defendants appear to believe that they have an advantage in front of Judge Denton, and will go to any lengths to preserve that advantage. Defendants' arguments related to the myriad reasons why they believe this Honorable Court is inferior to Department 13 for handling this matter range from red herrings to misleading omissions, including the Hahn Defendants' failure to apprise this Court that this is a jury trial, despite emphasizing that a transfer must occur because this Honorable Court will be unable to judge the veracity of prior witness testimony.

Further, Defendants' Motion attempts to paint prior motions as still pending. Mot. 6:24-25. This is inaccurate. A review of the January 29, 2009 Decision and Order attached hereto as Exhibit "1" demonstrates Defendants' improper attempts to manipulate the record. Judge Denton did not withhold "rulings on certain aspects of said motion", as Defendants claim. Instead, he, in very typical fashion, denied certain portions "without prejudice" or "with leave to amend." This is hardly the same as a "partial ruling" and an implication that a ruling is still pending.

Defendants spend the vast majority of their Motion trying to bolster their argument by simply listing every event, pleading, motion, notice, and/or event in this matter. This strategy is a mere smoke screen. The number and/or type of pleadings, rulings or hearing reports listed are

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[1] Further EDCR 1.60(f) states: "No attorney or party may directly or indirectly influence or attempt to influence the clerk of the court or court staff or any officer thereof to assign a case to a particular judge. A violation of this rule is an act of contempt of court and may be punished accordingly." While, Plaintiffs do not believe that any of the Defendants have engaged in such conduct, this rule indicates the severity with which the court views attempts to manipulate the fundamental principal that cases be assigned on a random basis.

simply irrelevant, and EDCR 1.60 places no limitations on assignment or reassignment by the Chief Judge based upon complexity or volume.

Further, it appears that Defendants selectively listed events because two significant filings and facts have been utterly omitted. Specifically, Defendants fail to inform the Court that, in a concerted effort to manipulate the random assignment of judges on cases pending in this district, Defendants Kokoweef and Clary filed a Peremptory Challenge of Judge Delaney after it had been reassigned to her. After the peremptory challenge did not land Defendants back in front of Denton, they filed the instant motion. Defendants could have filed this Motion instead of the peremptory challenge, but apparently waited to see if they would be reassigned back to Denton. When that strategy failed, the Hahn Defendants filed the instant Motion.

Defendants argument related to the parties' "presentation" of the record to this Honorable Court also lacks merit. Mot. 8:25-26. Defendants must not understand the technological advances at the Clark County District Court. They claim that reassignment back to Judge Denton will benefit the parties because they will "not have to present all of the prior Court documents to Judge Gonzalez for review." Mot.8:25-26. This is another absurd red-herring. The Court will have electronic access to whichever portions of the record are deemed necessary to review any future pleadings.

While the Hahn Defendants have been talking about filing a Motion for Summary Judgment for months and months, this Motion is the first mention of an intent to seek clarification on Judge Denton's January 29, 2009 Decision and Order, attached hereto as Ex. "1", the Notice of Entry of which was nearly nine months ago. This specious argument should be utterly disregarded because the Hahn Defendants have no legal basis upon which such clarification can be sought. Such clarification cannot be sought pursuant to a motion for reconsideration under EDCR 2.24 because "such relief must be sought within ten (10) days after service of written notice of the order or judgment unless the time is shortened or enlarged by order", which has not been done in this matter. EDCR 2.24(b). Further, such relief cannot be sought under NRCP 60, because the outside time in which an order can be challenged is six (6)

months. NRCP 60(b). Therefore, Defendants' argument that they plan to seek clarification is a red herring and an utterly inappropriate attempt to create an issue where none can exist.

Additionally, granting such a manipulative request sets a dangerous precedent. Cases are regularly reassigned pursuant to EDCR 1.60, regardless of how many motions have been heard and how far along the case is. Cases are also often tried by an entirely different judge at the last moment. EDCR 1.80 mandates: "An overflow judge or judges may be selected by the chief judge when appropriate. When a district judge is not presiding at the trial of a case, that judge shall take an overflow case of any type or description which the chief judge might assign to her or him." (Emphasis added). Pursuant to EDCR 1.80, therefore, even with their preferred Judge, Defendants could suddenly find the trial of this matter pending before any of the twenty-four other judges in the Clark County District Court. Further, allowing such a slippery slope argument to prevail will only embolden other members of the bar to file similar motions whenever they are unable to use a peremptory challenge, but are dissatisfied with a reassignment.

IV.

CONCLUSION

The Hahn Defendants' Motion is a flagrant attempt at forum shopping in violation of the Eighth Judicial District Court Rules. The Hahn Defendants, along with their co-defendants', apparently believe that Department 13 will continue to provide them with the most favorable rulings, and, therefore, have acted in concert to force this matter back to Department 13. Such manipulation flies in the face of the fundamental concept behind judicial assignment, i.e. that it must be random. EDCR 1.60(a). If Defendants' case is as strong as it boasts, rulings in its favor will occur regardless of department. Accordingly, this Motion must be denied.

DATED: October 9, 2009

ROBERTSON & VICK, LLP

By: _____

ALEXANDER ROBERTSON, IV
Bar No. 8642
JENNIFER L. TAYLOR
Bar No. 5798
401 N. Buffalo Drive, Suite 202
Las Vegas, Nevada 89145
Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on the 9th day of October, 2009, I served a copy of the above and foregoing **PLAINTIFFS' OPPOSITION TO DEFENDANTS LARRY HAHN AND HAHN'S WORLD OF SURPLUS, INC.'S MOTION TO TRANSFER CASE TO DEPARTMENT 13** by depositing a copy thereof for mailing at Las Vegas, Nevada, postage prepaid, addressed to:

M. Nelson Segel, Chartered
M. Nelson Segel, Esq.
624 South 9th Street
Las Vegas, NV 89101
Telephone: (702) 385-6266
Facsimile: (702) 382-2967
Attorneys for Larry Hahn and Hahn's World of Surplus, Inc.

Patrick C. Clary, Chartered
Patrick C. Clary, Esq.
7201 West Lake Mead Boulevard
Suite 410
Las Vegas, NV 89129
Telephone: (702) 382-0813
Facsimile: (702) 382-7277
Attorneys for Kokoweef, Inc.

Monica Metoyér

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Exhibit 1

DISTRICT COURT

CLARK COUNTY, NEVADA

FILED
JAN 29 1 17 PM '09
CLERK OF THE COURT

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

Plaintiff(s),

vs.

LARRY H. HAHN, individually, and as President and Treasurer of Kokoweef, Inc., and former President and Treasurer of Explorations Incorporated of Nevada; HAHN'S WORLD OF SURPLUS, INC., a Nevada corporation; PATRICK C. CLARY, an individual;

Defendant(s).

AND ALL RELATED CLAIMS.

CASE NO. A558629-B
DEPT. NO. XIII

Date: January 12 and January 26, 2009
Time: 9:00 a.m.

DECISION AND ORDER

THIS MATTER having come before the Court on January 12, 2009 and January 26, 2009 on the motions referenced hereinbelow, and the Court, having considered the papers submitted in connection with such item(s) and heard the arguments made on behalf of the parties and then taken the matter under advisement for further consideration;

NOW, THEREFORE, the Court decides the submitted issues

MARK R. DENTON
DISTRICT JUDGE
DEPARTMENT THIRTEEN
LAS VEGAS, NV 89155

as follows:

A. Defendant Hahn's Motion to Dismiss Amended Complaint, with Joinder by Defendants Kokoweef, Inc. And Clary (1/12/09).

The Countermotion to strike the Joinder is DENIED. The Motion is GRANTED as to the First Cause of Action. According to Plaintiffs' allegations preceding the First Cause of Action, Defendants Hahn and Clary did not "issue" securities. The issuer would be the corporation. In addition, NRS 90.640 does not provide a civil remedy to anyone other than the "administrator." Thus, the First Cause of Action is DISMISSED with prejudice.

In that the Second Cause of Action does not provide particularized statements of fraud (NRCP 9(b)) regarding the respective Plaintiffs, and in that the alleged misrepresentations to Plaintiff Burke occurred after the stock purchases outlined in paragraphs 19-32 of the First Amended Complaint, the Motion is GRANTED, and the Second Cause of Action is DISMISSED.[1]

The Motion is GRANTED as to the Third Cause of Action, as it is also devoid of particularity regarding the representations made to each Plaintiff. The Third Cause of Action is thus DISMISSED.

The Court is not of the view that negligent

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[1]Paragraph 49 alleges that the fraud is found in the "making of false representations," but nothing is alleged regarding what was represented to each Plaintiff and by whom at the time each purchased securities.

MARK R. DENTON
DISTRICT JUDGE
DEPARTMENT THIRTEEN
LAS VEGAS, NV 89155

misrepresentation requires the same particularity in pleading as fraud. Therefore, the Court cannot say that the Fourth Cause of Action fails to state a claim on which relief can be granted, and the Motion is thus DENIED as to such cause of action.

The Motion is GRANTED AS TO THE Fifth Cause of Action for the reasons discussed relative to the other fraud-based causes of action, and such cause of action is DISMISSED.

The Sixth Cause of Action suffers from the same lack of particularity as the other fraud-based causes of action, and the Motion is thus GRANTED as to such cause of action, and the same is DISMISSED.

The Motion is DENIED as to the Seventh, Eighth, Ninth, and Tenth Causes of Action, as they do not fail to state claims upon which relief can be granted.[2]

B. Plaintiff's Application for TRO/Preliminary Injunction and Motion for Appointment of a Receiver. (1/12/09).

The Court has dismissed the First and Second Causes of Action which contain the predicate for Plaintiffs' effort to obtain injunctive relief and appointment of a receiver.

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[2]The Eighth and Tenth Causes of Action are the only ones that appear to be derivative. In this regard, all of the other causes of action seek monetary recovery by the Plaintiffs themselves for their own benefit; and, although the alternative remedy of rescission is sought in the Third, Fourth, Fifth, and Sixth Causes of Action, the subject corporations are named only as "Nominal Defendants."

The Court agrees with Plaintiffs that they have adequately pleaded futility of demand on the directors to sue on behalf of the corporation.

MARK R. DENTON
DISTRICT JUDGE
DEPARTMENT THIRTEEN
LAS VEGAS, NV 89155

In any event, the Court is not persuaded that the Motion, insofar as it seeks injunctive relief, has merit relative to the stock and asset issues. Shares of stock and assets have a determinable value and all of Plaintiff's causes of action regarding the stock and assets are amenable to monetary relief. Therefore, the Motion is DENIED IN PART relative to those issues.

Defendants maintain that they are not utilizing corporate funds for payment of costs of defense. The Court will accept counsel's representation to that effect and will also DENY the Motion IN PART regarding that issue, without prejudice to renewal if discovery demonstrates that corporate funds are being so used.

Even though injunctive relief is not specifically sought in connection with any of the causes of action besides the Second, the Court will proceed to entertain the Motion for injunctive relief relative to destruction or alteration of corporate records, and the same is GRANTED to that extent; and, since the Court is only enjoining something that should not be done anyway, it considers that security in the sum of $250.00 should suffice.

Again, beyond the fact that the Court has dismissed the First and Second Causes of Action, the Court does not agree that NRS 90.640 provides for appointment of a receiver at the behest of a private litigant. Instead, subsection 1 of the statute

MARK R. BENTON
DISTRICT JUDGE
DEPARTMENT THIRTEEN
LAS VEGAS, NV 89155

specifically states as a premise a "...showing by the administrator..."

Furthermore, with respect to seeking appointment of a receiver under NRS 32.010, the Court is not inclined at this juncture to appoint a general receiver that would take over operation of the business, and it is not persuaded that what Plaintiff seeks to inform himself about concerning corporate financial matters could not be obtained through discovery. Therefore, the Motion is DENIED IN PART insofar as it seeks appointment of a receiver, limited or otherwise.

C. Defendant Clary's Motion for Sanctions.

The Court is not in a position to determine whether sanctions are to be imposed until the underlying pleading purporting to assert causes of action against Defendant Clary is viable for purposes of further proceedings. In this regard, although certain causes of action have been dismissed against Defendant Clary, the Court considers a sanction motion to be premature. However, in making this ruling, the Court in no way intimates a view that there is a basis for Plaintiffs' contentions or that sanctions will not be appropriate.

Therefore, the sanction Motion is DENIED without prejudice to renewal after the viability of the remaining cause of action pleaded against Defendant Clary (the Fourth Cause of Action) is determined.

MARK R. DENTON
DISTRICT JUDGE
DEPARTMENT THIRTEEN
LAS VEGAS, NV 89155

NOW, THEREFORE, IT IS HEREBY SO ORDERED, ADJUDGED, AND DECREED.

COUNSEL FOR PLAINTIFFS IS DIRECTED TO PROVIDE PROMPT WRITTEN NOTICE OF ENTRY HEREOF.

DATED this 29th day of January, 2009.

MARK R. DENTON
DISTRICT JUDGE

CERTIFICATE

I hereby certify that on the date filed, I placed a copy of the foregoing in the attorney's folder in the Clerk's Office or mailed a copy to:

PATRICK CLARY, ESQ.

M. NELSON SEGAL, ESQ.

ROBERTSON & VICK
Attn: Jennifer L. Taylor, Esq.

LORRAINE TASHIRO
Judicial Executive Assistant
Dept. No. XIII

Exhibit 2

PATRICK C. CLARY, CHARTERED
Patrick C Clary
Nevada Bar No. 00053
City Center West, Suite 410
7201 West Lake Mead Boulevard
Las Vegas, Nevada 89128
Telephone: 702.382.0813
FAX: 702.382-7277

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

DISTRICT COURT

CLARK COUNTY, NEVADA

-oOo-

TED R. BURKE; MICHAEL R. and LAURETTA L. KEHOE; JOHN BERTOLDO; PAUL BARNARD; EDDY KRAVETZ; JACKIE & FRED KRAVETZ; STEVE FRANKS; 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, Plaintiffs, vs. LARRY H. HAHN, individually, and as President and Treasurer of Kokoweef, Inc., and former President and Treasurer of Explorations Incorporated of Nevada; HAHN'S WORLD OF SURPLUS, INC., a Nevada corporation; PATRICK C. CLARY, an individual; DOES 1 through 100, inclusive; Defendants, and KOKOWEEF, INC., a Nevada corporation; EXPLORATIONS INCORPORATED OF NEVADA, a dissolved corporation, Nominal Defendants.	CASE NO. A558629 DEPT NO. XXV BUSINESS COURT PEREMPTORY CHALLENGE

Law Offices of
PATRICK C. CLARY, CHARTERED
7201 West Lake Mead Boulevard, Suite 410
Las Vegas, Nevada 89128
Tel: 702.382.0813 - Fax: 702.382-7277

NOTICE IS HEREBY GIVEN that, pursuant to Rule 48.1 of the Nevada Supreme Court Rules, Defendant Patrick C. Clary and So-called Nominal Defendant Kokoweef, Inc. hereby exercise their peremptory challenge of The Honorable Kathleen Delaney, District Judge of the above-entitled Court, in the above-captioned case.

DATED: July 27, 2009.

PATRICK C. CLARY, CHARTERED

By 
Patrick C. Clary

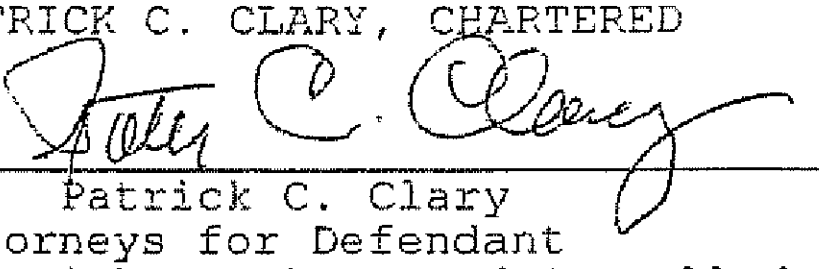
Attorneys for Defendant
Patrick C. Clary and So-called
Nominal Defendant Kokoweef, Inc.

Law Offices of
PATRICK C. CLARY, CHARTERED
7201 West Lake Mead Boulevard, Suite 410
Las Vegas, Nevada 89128
Tel: 702.382.0813 - Fax: 702.382-7277

CERTIFICATE OF SERVICE BY MAILING

The above and foregoing Peremptory Challenge 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 July 27, 2009.

PATRICK C. CLARY, CHARTERED

By 
Patrick C. Clary

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

Exhibit 3

DMJT
ALEXANDER ROBERTSON, IV
State Bar No. 8642
JENNIFER L. TAYLOR
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Attorneys for Plaintiffs

DISTRICT COURT

CLARK COUNTY, NEVADA

TED R. BURKE, MICHAEL R. and LAURETTA L. KEHOE; JOHN BERTOLDO; PAUL BARNARD; EDDY KRAVETZ; JACKIE and FRED KRAVETZ; STEVE FRANKS; PAULA MARIA BARNARD; LEON GOLDEN; C.A. MURFF; GERDA FERN BILLBE; BOB and ROBYN TRESKA; MICHAEL RANDOLPH, and FREDERICK WILLIS, Plaintiffs, vs. LARRY H. HAHN, individually, and as President and Treasurer of Kokoweef, Inc., and former President and Treasurer of Explorations Incorporated of Nevada; HAHN'S WORLD OF SURPLUS, INC., a Nevada corporation; DOES I-X, inclusive; DOE OFFICERS, DIRECTORS and PARTICIPANTS I-XX, Defendants,. and KOKOWEEF, INC, a Nevada corporation; EXPLORATIONS INCORPORATED OF NEVADA, a dissolved corporation; Nominal Defendants.	CASE NO. A558629 Dept. XIII

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DEMAND FOR JURY TRIAL

TO: CLERK OF THE ABOVE-ENTITLED COURT

PLAINTIFFS, by and through their attorneys, ROBERTSON & VICK LLP, hereby demand that a trial of the above-entitled action be heard before a jury.

DATED this 11th day of May, 2009.

ROBERTSON & VICK, LLP

By: _____

ALEXANDER ROBERTSON, IV
Nevada Bar No. 8642
JENNIFER L. TAYLOR
Nevada Bar No. 5798
401 N. Buffalo Dr., Suite 202
Las Vegas, Nevada 89145
Attorneys for Plaintiffs

ROBERTSON & VICK, LLP

5/11/09 12:21 SJG
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CERTIFICATE OF SERVICE

I hereby certify that on the 13th day of May, 2009, pursuant to the amendment of EDCR 7.26(a), I served a copy of the above and foregoing **DEMAND FOR JURY TRIAL** and by depositing a copy thereof for mailing at Las Vegas, Nevada, postage prepaid, addressed to:

M. Nelson Segel, Chartered
M. Nelson Segel, Esq.
624 South 9th Street
Las Vegas, NV 89101
Telephone: (702) 385-6266
Facsimile: (702) 382-2967
Attorneys for Larry Hahn and Hahn's World of Surplus, Inc.

Patrick C. Clary, Chartered
Patrick C. Clary, Esq.
7201 West Lake Mead Boulevard
Suite 410
Las Vegas, NV 89129
Telephone: (702) 382-0813
Facsimile: (702) 382-7277
Attorneys for Kokoweef, Inc.

Sue Glass
Sue Glass

ROBERTSON & VICK, LLP

5/11/09 11:39 SJG
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Exhibit 4

Jennifer L. Taylor

From: M Nelson Segel [nelson@nelsonsegellaw.com]
Sent: Wednesday, July 01, 2009 11:18 AM
To: Jennifer L. Taylor
Cc: 'Patrick C. Clary'
Subject: Joinder in PMSJ and new PMSJ

Jennifer:

I have been trying to get my work done so I could get Mr. Hahn's Joinder to Pat's PMSJ completed in a timely manner. Obviously, that has not happened.

I have a conference out of the office today at 3 pm and I am trying to get the work done on the Joinder. It is clear that the MSJ for Hahn's Surplus will not get done today.

Let me know what you would like to do. Obviously, the Joinder will be an issue since you will not have time to oppose it. Secondly, it is likely that Judge Denton would continue the matter to allow complete briefing. If all goes well, I should have the Surplus MSJ done. However, I am not betting the ranch on my ability to get it done by then.

I believe we should put the motion set for Monday out a few weeks. This will put the pressure on me to get my stuff done so you will have adequate time to respond. I have not discussed this with Pat or my clients; however, I believe it is in everyone's best interests.

I have a conference call at 11:30 and another one at 1:30. as I mentioned, I am supposed to leave the office before 3:00 p.m. however, getting this joinder on file is my priority.

Let me know what you would like to do.

M Nelson Segel, Esquire
624 South 9th Street
Las Vegas, Nevada 89101
Telephone (702)385-5266
Facsimile (702)382-2967

Jennifer L. Taylor

From: M Nelson Segel [nelson@nelsonsegellaw.com]
Sent: Thursday, July 02, 2009 8:02 AM
To: Jennifer L. Taylor
Cc: 'Patrick Clary'
Subject: RE: Burke, et al. v. Hahn, et al.

Jennifer:

It is my understanding that you would stipulate to the continuance of the MPSJ set for Monday if Mr. Clary prepared and served you with his Reply yesterday. He has done so. Please let me know if you are willing to continue the hearing.

I am prepared to file Mr. Hahn's Joinder by noon today. However, it will not likely be complete and may require supplementation. Therefore, it would be better for all concerned to have the document completed properly at a later time. I am in a position to file it Monday since it is substantially complete and I have no problem working on it over the weekend. Since I am also going to do a Motion for Summary Judgment related to Surplus, it would be helpful to have a few days after Monday, but I am flexible. If you need everything on file by then, I can do it.

The immediate issue is whether I need to have Mr. Hahn sign his affidavit this morning or whether I can do it at a later time. I do not arrive in the office until after 9:30. For your sake, I hope you do not read this prior to that time. If you do, I can be reached on my cell phone, 702-419-7024.

Naturally, I wish I had been able to get this done last week. However, I am pleased to say that I am slammed and working like a first year associate. This is something that I seldom do, but I cannot complain since a lot of attorneys are twiddling their thumbs!

Your continued cooperation and assistance is greatly appreciated. I look forward to hearing from you.

M Nelson Segel, Esquire
624 South 9th Street
Las Vegas, Nevada 89101
Telephone (702)385-5266
Facsimile (702)382-2967

-----Original Message-----
From: Patrick Clary [mailto:patclary@patclarylaw.com]
Sent: Wednesday, July 01, 2009 7:44 PM
To: jtaylor@rvclaw.com
Cc: nelson@nelsonsegellaw.com; Drea Parenti
Subject: Burke, et al. v. Hahn, et al.

In accordance with the request of Nelson Segel, attached is a copy of the Rely Memorandum of Points and Authorities in Support of Defendant Patrick C. Clary's Motion for Partial Summary Judgment, which will be filed with the Clerk of the District Court tomorrow morning.

Very truly yours,
Patrick C. Clary
Law Offices of Patrick C. Clary, Chartered
7201 W. Lake Mead Blvd., Suite 410
Las Vegas, Nevada 89128

Jennifer L. Taylor

From: M Nelson Segel [nelson@nelsonsegellaw.com]
Sent: Thursday, July 02, 2009 4:10 PM
To: Jennifer L. Taylor; nelson@nelsonsegellaw.com
Cc: 'Patrick Clary'
Subject: RE: Burke, et al. v. Hahn, et al.

Jennifer:

I had a thought and checked me junk mail box with my web site provider. Sure enough, your emails were in the junk mail!

I am not sure what I need to do to fix it, but will try. I also do not know why it would think your mail was junk. Looks like we are on track. Pat should be sending the letter and providing us a copy by email.

Diana and I will be spending our time on the MPSJ.

M Nelson Segel, Esquire
624 South 9th Street
Las Vegas, Nevada 89101
Telephone (702)385-5266
Facsimile (702)382-2967

-----Original Message-----
From: jtaylor@rvcdlaw.com [mailto:jtaylor@rvcdlaw.com]
Sent: Thursday, July 02, 2009 2:46 PM
To: nelson@nelsonsegellaw.com
Cc: 'Patrick Clary'
Subject: Re: Burke, et al. v. Hahn, et al.

Yes, Nelson, you correctly synthesized my request. I do not think the Court will have any heartache over this proposal. I just think Pat needs to set out what we are doing so the Court understands we are trying to get 3 hearings taken care of at once, instead of repeated hearings. Sent via BlackBerry from T-Mobile

-----Original Message-----
From: "M Nelson Segel" <nelson@nelsonsegellaw.com>
Date: Thu, 2 Jul 2009 14:29:53
To: <jtaylor@rvcdlaw.com>
Cc: 'Patrick Clary'<patclary@patclarylaw.com>
Subject: RE: Burke, et al. v. Hahn, et al.

Jennifer:

For some reason, your email never got to me. Pat forwarded it. So goes the Internet.

I am not certain that I understand the specifics of your request. This is my understanding:

Pat may contact the Court and let it know that we are continuing the hearing; A stipulation will be forwarded to the Court early next week; Instead of filing a document entitled "Joinder", we will file a separate Motion for Partial Summary Judgment on behalf of Larry Hahn; We will also file a Motion for Summary Judgment on behalf of Hahn's Surplus

next week; The two new motions will be set "in the ordinary course" resulting in the requirement that all parties timely respond unless it is agreed otherwise; and The continued date for Pat's MPSJ will be the same date as the other two motions.

If this is your request, please simply send a response, "yes". If that is received, Pat can send a letter to the Court letting it know that we have agreed to continue the hearing on Monday and a formal stipulation will be sent over.

My only concern is whether the Court will have a heartache about not having the actual continued date in the letter. Since you were an "insider", I thought you might know. If you do not believe this is an issue, no need to respond.

Hopefully, I have understood your parameters. Your cooperation is greatly appreciated. I look forward to your response.

M Nelson Segel, Esquire
624 South 9th Street
Las Vegas, Nevada 89101
Telephone (702)385-5266
Facsimile (702)382-2967

-----Original Message-----
From: Patrick Clary [mailto:patclary@patclarylaw.com]
Sent: Thursday, July 02, 2009 1:51 PM
To: nelson@nelsonsegellaw.com
Subject: FW: Burke, et al. v. Hahn, et al.

Dear Nelson: Here is the forwarded email you requested. Pat

-----Original Message-----
From: jtaylor@rvcdlaw.com [mailto:jtaylor@rvcdlaw.com]
Sent: Thursday, July 02, 2009 1:26 PM
To: nelson@nelsonsegellaw.com; jtaylor@rvclaw.com
Cc: Patrick Clary
Subject: Re: Burke, et al. v. Hahn, et al.

Nelson:
I just saw the email from Sue. I apologize, I didn't realize there was a noon deadline, although that makes sense, and I'm not really able to make calls at the moment.

As we discussed, yes, I'm willing to stipulate to continue the hearing on Pat's Motion for Summary Judgment, and it makes sense to consolidate all the hearings on one day. However, my agreement to so stipulate is predicated on the following.

As we discussed, I have serious concerns about your concept of a joinder to Pat's motion. I do not believe, as I told you, that the rules permit a joinder on any motion, let alone a dispositive motion where the facts and law may be completely different, and where I risk being prejudiced by the fact that no real dealines are set for opps and replies.

I believe what is procedurally appropriate, and what I will agree to is as follows: I will stipulate to continue the hearing on Pat's MSJ to a date in the future. You file your own msj, in lieu of a fugitive "joinder", so that we have a hearing date and, therefore, set deadlines for opps and replies. You can also file any other msj at that time. Once you have filed your motions, we stipulate to Pat's being on the same day. Then we have a set date to deal with all 3 motions, and, therefore, set dates, especially for reply briefs.

Let me know via email. Thanks.
Sent via BlackBerry from T-Mobile

Exhibit 5

Minutes

09/25/2009 9:00 AM

09/25/2009 9:00 AM

- Stipulation discussed. COMMISSIONER RECOMMENDED, 2/18/2010 trial date VACATED; discovery cutoff EXTENDED to 5/21/2010; adding parties, amended pleadings, and initial expert disclosures DUE 2/22/2010; rebuttal expert disclosures DUE 3/22/2010; dispositive motions TO BE FILED BY 6/21/2010; trial ready 8/2/2010. Ms. Taylor include dates in recommendation.

Parties Present
Return to Register of Actions