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Neil J. Beller, Esq.
Nevada Bar No. 002360
NEIL J. BELLER, LTD
7408 W. Sahara Ave.
Las Vegas, Nevada 89117
(702) 368-7767
(702) 368-7720 Facsimile
Attorney for Plaintiffs

2008 JUN 23 A 11: 26

Clayton
CLERK OF THE COURT

FILE WITH
MASTER CALENDAR

DISTRICT COURT
CLARK COUNTY, NEVADA

TED R. BURKE; MICHAEL R and LAURETTA
L. KEHOE; JOHN BERTOLDO; PAUL
BARNARD; EDDY KRAVETZ; JACKIE and
FRED KRAVETZ; STEVEN FRANKS; PAULA
MARIA BARNARD; PETER 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. XIII

Plaintiffs,

vs.

RENEWED
MOTION TO STRIKE
RENEWED MOTION TO
REQUIRE SECURITY FROM
PLAINTIFFS; ORDER
SHORTENING TIME

LARRY L. 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 Nevada corporation;

Nominal Defendants.

Date of Hearing: _____

Time of Hearing: _____

COMES NOW the Plaintiffs, by and through their attorney of record, NEIL J. BELLER,
ESQ., of the law firm of NEIL J. BELLER, LTD, and moves this Court for an Order Shortening Time
for the hearing of Plaintiffs' Motion to Strike Renewed Motion to Require Security From Plaintiffs,

RECEIVED

CMC

JUN 23 2008

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

DEPARTMENT XIII
NOTICE OF HEARING
DATE 6/24/08 TIME 10:30 AM.
APPROVED BY *SK*

1 and for an order granting Plaintiff's Motion to Strike.

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

4 DATED this 9 day of June, 2008.

5 NEIL J. BELLER, LTD.

6
7
8 By: 

NEIL J. BELLER, ESQ.
Nevada Bar No. 2360
7408 W. Sahara Avenue
Las Vegas, Nevada 89117
(702)368-7767
Attorney for Plaintiffs

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12 **ORDER SHORTENING TIME**

13 It appearing to the satisfaction of the Court, and good cause appearing therefor, IT IS
14 HEREBY ORDERED that the foregoing MOTION TO STRIKE RENEWED MOTION TO
15 REQUIRE SECURITY FROM PLAINTIFFS shall be heard on the 26th day of
16 June, 2008, at the hour of 10:00 a.m. in Department XIII.

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20 DISTRICT JUDGE
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DECLARATION OF NEIL J. BELLER, ESQ.
IN SUPPORT OF ORDER SHORTENING TIME

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 in the ordinary course due to the following: 1) Plaintiffs contend Kokoweef's renewed motion to require security from Plaintiffs is not a meritorious motion, is procedurally defective, and Plaintiffs' motion to strike needs to be heard as soon as possible to eliminate the statutory stay imposed by the Defendant's renewed motion; 2) I will be going on a scheduled vacation and leaving town on June 27, 2008 and not returning until July 15, 2008, and will not be available to attend any motion hearing set in the ordinary course.

3. My paralegal made a mistake in drafting the original Declaration by inserting incorrect dates and that I would be leaving town on June 29th and not returning until July 14th. As a result of the dates listed , this Court scheduled this instant motion and Defendants motion to require security on June 27, 2008.

4. Additionally, I am in a major continuing arbitration beginning on Sunday, June 22 and continuing through Wednesday, June 25th.

5. Thus, the only date I have available to have Plaintiffs' motion heard on an order shortening time is Thursday, June 26, 2008.

6. No other attorney has knowledge of the Plaintiffs' case and it would be unjust for Plaintiffs to have them represented by another attorney at this important motions hearing.

7. This Motion needs to be heard on an order shortening time to eliminate the stay of the prosecution of this action as a result of Defendants' motion for security, which stay will permit Defendants to further their ongoing breach of fiduciary duties owed to Plaintiffs.

8. This Motion is not brought for the purpose of delay but to provide justice to the Plaintiffs.


NEIL J. BELLER, ESQ.

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3 **POINTS AND AUTHORITIES**

4 **I. PROCEDURAL BACKGROUND**

5 Based on Defendant Kokoweef's first motion to require security from Plaintiffs, this Court
6 ruled in its Decision and Order of May 28, 2008, that Kokoweef did not demonstrate by its motion
7 by "... there is no reasonable possibility that the prosecution of the cause of action alleged in the
8 complaint against the moving party will benefit the corporation..."

9 Kokoweef was granted an extension of time to file another motion.

10 **II. ARGUMENT**

11 Kokoweef's Renewed Motion to Require Security From Plaintiffs does not contain any
12 additional evidence to support its ground that "there is no reasonable possibility that the prosecution
13 of the cause of action alleged in the Plaintiffs' Complaint herein against the corporation will benefit
14 the corporation or its security holders." Page 2, lines 6-12 of Defendant's motion.

15 Defendant states its motion is based on the Points and Authorities, the previously filed
16 affidavits AND "the evidence to be adduced at the evidentiary hearing..." The renewed motion fails
17 to comply with NRCP 6 (d) which provides that when a motion is supported by affidavit, the
18 affidavit shall be served with the motion. Evidence submitted in support of a motion must be
19 presented in the motion or memorandum. State ex rel. Office of Att'y Gen., Bureau of Consumer
20 Prot. v. NOS Comm. Inc., 120 Nev 65, 84 P.3d 1052 (2004) [Where the court concluded the motion
21 was procedurally defective.]

22 Defendants renewed motion is defective because no new evidence was submitted in support
23 of the motion. Defendant cannot support its motion based on "evidence that will be adduced at the
24 evidentiary hearing." EDCR 2.20 (a) provides the absence of a memorandum of points and
25 authorities may be construed as an admission that the motion is not meritorious.

26 A motion should state the issues; state the law with respect to the issues; and explain how
27 the law, when applied to the facts presented, justifies the relief sought. Granted the renewed motion
28 states the issue (to require security from Plaintiffs) and states the law (NRS 41.520 3). However,

1 that memorandum presents no new facts that would justify any security required from Plaintiffs.

2 Because this Court did not grant Kokoweef's original motion to require security from
3 Plaintiffs, and because Kooweef's renewed motion fails to contain any additional information to
4 support the grounds upon which the motion is based, this renewed motion is not meritorious.

5 NRCP 7 (b) provides in pertinent part that a motion shall state with particularity the grounds
6 thereof and that the motion shall be signed in accordance with Rule 11.

7 NRCP 11 (b) provides in pertinent part that an attorney by signing a written motion
8 represents to the court that the motion is not being presented for any improper purpose (subsection
9 1), and that the factual contentions have evidentiary support (subsection 3).

10 Plaintiffs strongly contend that Kokoweef's renewed motion for security was filed for the
11 sole purpose of staying this action to prevent Plaintiffs from moving forward to file their motion for
12 injunctive relief. This attempt to obstruct any further litigation activity by Plaintiffs is obvious by
13 the statement made in the renewed motion. "As will be shown by evidence that will be adduced at
14 the evidentiary hearing on the foregoing Motion . . . the corporation will show that there is no
15 reasonable possibility that the prosecution of the above-captioned case will benefit the corporation
16 or its security holders..."

17 Pursuant to NRCP 11 (b)(3), Defendant fails to provide any evidentiary support of its factual
18 contentions.

19 Because Defendant Kokoweef has failed to comply with the above noted procedural rules
20 and has failed to present evidence to support its factual contentions in its renewed motion to require
21 security from Plaintiffs, its renewed motion is defective and non meritorious, and should be stricken.

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1 **III. CONCLUSION**

2 Based on the foregoing, Plaintiffs respectfully request their RENEWED MOTION TO
3 STRIKE RENEWED MOTION TO REQUIRE SECURITY FROM PLAINTIFFS and ORDER
4 SHORTENING TIME be granted.

5 DATED this 19 day of June 2008.

6 NEIL J. BELLER, LTD.

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9 By: 

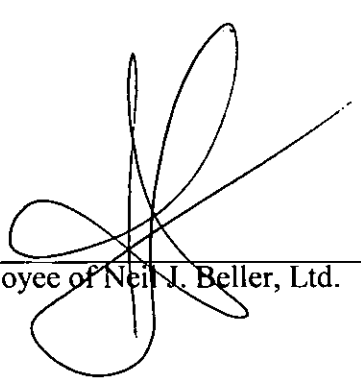
NEIL J. BELLER, ESQ.
Nevada Bar No. 2360
7408 W. Sahara Avenue
Las Vegas, Nevada 89117
(702)368-7767
Attorney for Plaintiffs

10 **CERTIFICATE OF SERVICE**

11 I HEREBY CERTIFY that on the 19 day of June, 2008, service of the foregoing
12 Plaintiffs' MOTION TO STRIKE RENEWED MOTION TO REQUIRE SECURITY FROM
13 PLAINTIFFS; ORDER SHORTENING TIME was made this date by serving via facsimile a
14 true copy of the same addressed as follows:

15 M. Nelson Segel, Chartered
16 M. Nelson Segel, Esq., NBN 000530
17 624 South 9th Street
18 Las Vegas, NV 89101
19 Attorneys for Defendant Larry Hahn and Hahn's World of Surplus, Inc.
20 Telephone: 702-385-5266
21 Fax No. : 702 - 382-2967

22 CLARY CANNON, LLP
23 Patrick C. Clary, Esq., NBN 000053
24 Curtis W. Cannon, Esq., NBN 010535
25 7201 West Lake Mead Boulevard, Suite 503
26 Las Vegas, NV 89129
27 Attorneys Defendant Kokoweef, Inc.
28 Telephone: 702-382-0813
Fax No.: 702 - 382-7277


An employee of Neil J. Beller, Ltd.