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E. J. [Signature]
CLERK OF THE COURT

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DISTRICT COURT OF NEVADA
COUNTY OF CLARK

TED R. BURKE; MICHAEL R and LAURETTA
L. KEHOE; JOHN BERTOLDO; PAUL
BERNARD; 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,

CASE NO. A558629
DEPT. XIII

Plaintiffs,

vs.

LARRY L. HAHN, individually, and as President
of 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

DATE: 12/8/08
TIME: 9:00 a.m.

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

Nominal Defendants.

RECEIVED

DEC 26

REPLY TO PLAINTIFFS' OPPOSITION TO DEFENDANTS LARRY HAHN AND
HAHN'S WORLD OF SURPLUS, INC.'S MOTION TO DISMISS AMENDED
VERIFIED DERIVATIVE COMPLAINT

CLERK OF THE COURT

Defendants Larry Hahn ("HAHN") and Hahn's World of Surplus, Inc. ("SURPLUS")(HAHN

1 and SURPLUS sometimes collectively referred to herein as "HAHN DEFENDANTS") hereby
2 respond to the Opposition filed by Plaintiffs to HAHN DEFENDANTS' Motion to Dismiss
3 Amended Verified Derivative Complaint.

4 **POINTS AND AUTHORITIES**

5 PLAINTIFFS' NEW "FACTS" SHOULD BE DISREGARDED AND THE COURT SHOULD
6 MAKE A DETERMINATION OF THE SUFFICIENCY OF THE AMENDED COMPLAINT
7 BASED UPON THE PLEADING ONLY

8 In response to HAHN DEFENDANTS Motion to Dismiss ("MOTION"), Plaintiffs have
9 filed an Opposition containing over nine (9) pages of "facts" to educate the Court on why the
10 MOTION should be denied. They also set forth additional "facts" throughout the Opposition. It
11 should be noted that these purported "facts" are not supported by competent evidence, e.g. an
12 affidavit. Additionally, the inclusion of all of these facts make it clear that the allegations set forth
13 in the so-called Amended Verified Derivative Complaint ("AMENDED COMPLAINT") are
14 insufficient to support the purported "causes of action."

15 As set forth in the MOTION, it was brought pursuant to Rule 12(b)(5) of the Nevada Rules
16 of Civil Procedure ("NRC") for Plaintiffs' "failure to state a claim upon which relief can be
17 granted." NRC 12(b)(5) provides:

18 (b) How Presented. Every defense, in law or fact, to a claim for relief in any
19 pleading, whether a claim, counterclaim, cross-claim, or third-party claim, shall be
20 asserted in the responsive pleading thereto if one is required, except that the
21 following defenses may at the option of the pleader be made by motion: . . . (5)
22 failure to state a claim upon which relief can be granted, . . . A motion making any
23 of these defenses shall be made before pleading if a further pleading is permitted. No
24 defense or objection is waived by being joined with one or more other defenses or
25 objections in a responsive pleading or motion. . . . **If, on a motion asserting the
26 defense numbered (5) to dismiss for failure of the pleading to state a claim upon
27 which relief can be granted, matters outside the pleading are presented to and
28 not excluded by the court, the motion shall be treated as one for summary
judgment and disposed of as provided in Rule 56, and all parties shall be given
reasonable opportunity to present all material made pertinent to such a motion
by Rule 56. (Emphasis added).**

25 Plaintiffs, in their effort to convince this Court that they had adequately plead their cause of action,
26 attached various documents to their Opposition. The HAHN DEFENDANTS believe the Court
27 **must** exclude all of the Exhibits to the Opposition to properly treat the MOTION as a motion to
28 dismiss.

1 In the event the Plaintiffs are attempting to treat the MOTION as one for summary
2 judgement, subsection (e) of NRCP 56 discusses the requirements of affidavits and provides, in
3 pertinent part, as follows:

4 Supporting and opposing affidavits shall be made on personal knowledge, shall set
5 forth such facts as would be admissible in evidence, and shall show affirmatively that
6 the affiant is competent to testify to the matters stated therein. Sworn or certified
copies of all papers or parts thereof referred to in an affidavit shall be attached thereto
or served therewith.

7 Numerous affidavits have been attached to the Opposition. None of them state that they are made
8 upon the personal knowledge of the affiant, nor that the affiant is competent to testify to the matters
9 set forth therein. Additionally, many of the paragraphs of the affidavits are argument, not "facts as
10 would be admissible in evidence."

11 The Supreme Court stated in *Saka v. Sahara-Nevada Corp.*, 92 Nev. 703, 558 P.2d 535
12 (1976), at page 705:

13 The requirements of NRCP 56(e) are clearly stated. It is not sufficient that pleadings
14 be supported by affidavits alleging specific facts; these facts must be made upon the
15 affiant's personal knowledge, and there must be an affirmative showing of his
competency to testify to them.

16 Finally, numerous emails and other documents have been attached as purported evidence. However,
17 none of them are properly authenticated; therefore, they are not admissible for the purpose of ruling
18 on a summary judgment. Additionally, they are not proper as part of a motion to dismiss and should
19 be disregarded by the Court in addressing the propriety of the MOTION.¹

20 THE COURT SHOULD IGNORE PLAINTIFFS' ATTEMPT TO OBFUSCATE THE ISSUES

21 The AMENDED COMPLAINT must stand on its face or be dismissed. The MOTION was
22 filed on two basic bases. The first was the failure of Plaintiffs to properly commence, and plead a
23 derivative action. The second was the failure of Plaintiffs to adequately plead a claim for securities
24 fraud and failure to name necessary parties.

25 . . .

26

27 ¹ The HAHN DEFENDANTS are prepared to address the purported "facts", and exhibits, set forth by Plaintiffs in their Opposition.
28 However, they do not believe it is necessary, or proper, since the motion before the Court is a Motion to Dismiss, not Motion for Summary
Judgment. Additionally, the purported "facts" are not properly before the Court and the HAHN DEFENDANTS should not have the additional
burden of addressing those issues.

1 **DERIVATIVE ACTION ISSUES**

2 FUTILITY OF DEMAND UPON THE BOARD OF DIRECTORS
3 WAS NOT SUFFICIENTLY ALLEGED

4 A derivative action is brought by shareholders on behalf of, and for the benefit of, the
5 corporation. Plaintiffs do not dispute this concept. The first issue raised by the HAHN
6 DEFENDANTS was whether Plaintiffs had provided sufficient allegations in the AMENDED
7 COMPLAINT to excuse demand upon the board of directors ("B of D") of Kokoweef, Inc.
8 ("KOKOWEEF"). There is no dispute that they made no attempt to obtain approval of the B of D.
9 Plaintiffs' defense of their failure to obtain approval of the B of D in the Opposition is to allege
10 additional "facts" that they claim support their position of futility. However, they do not address the
11 fact that the pleadings, on their face and which must be taken as true, failed to show that futility
12 existed! Nothing has been presented, via the language of the AMENDED COMPLAINT, to refute
13 the position of the HAHN DEFENDANTS that futility is not properly alleged.

14 PLAINTIFFS SEEKING DAMAGES AND RESCISSION OF ISSUANCE OF STOCK
15 CANNOT REPRESENT ALL SHAREHOLDERS

16 The HAHN DEFENDANTS stated that the Plaintiffs are not the proper parties to bring
17 derivative due to the allegations contained in the AMENDED COMPLAINT. The language of the
18 AMENDED COMPLAINT says the Plaintiffs want damages for the purported securities laws
19 violations. They also request rescission of their "purchases" of the stock of KOKOWEEF. These
20 are not claims for the benefit of KOKOWEEF. They are claims that must be against KOKOWEEF.
21 There can be no other interpretation of the language of the AMENDED COMPLAINT.

22 THE AMENDED COMPLAINT SEEKS DAMAGES FOR THE NAMED PLAINTIFFS ONLY

23 Plaintiffs state, at page 16, commencing on line 20:

24 Defendants further claim that Plaintiffs' prayer for relief and manner of pleading
25 indicates that the Plaintiffs are not acting for the benefit of the corporation. As has
26 been described above, this is simply not the case, and Defendants have provided no
27 legal authority in support of this claim.

27 Plaintiffs are correct that the MOTION does not set forth any points and authorities to support the
28 argument that the "prayer" seeks relief for the Plaintiffs only. That was due to the belief that this was

1 such a basic concept of pleading, that no one would question its propriety. A simple reading of the
2 plain words of the prayer make it clear that the relief sought is for the benefit of the Plaintiffs only.
3 In an effort to satisfy the argument of Plaintiffs, NRCP 8(a) provides:

4 Claims for Relief. A pleading which sets forth a claim for relief, whether an original
5 claim, counterclaim, cross-claim, or third-party claim, shall contain (1) a short and
6 plain statement of the claim showing that the pleader is entitled to relief, and (2) a
7 **demand for judgment for the relief the pleader seeks.** (Emphasis added).

8 The “demand for judgment for relief the pleader seeks” is the “wherefore clause” contained at the
9 end of the AMENDED COMPLAINT. It states, “**Plaintiffs** pray for judgment and relief **against**
10 **Defendants** as follows.” (Emphasis added). Plaintiffs are seeking damages for their benefit, not
11 KOKOWEEF, or any other shareholder of KOKOWEEF! While Plaintiffs argue that the “fruits of
12 the litigation will be for the benefit of Kokoweef,” that is not what is set forth in the AMENDED
13 COMPLAINT. The “prayer” of the Original Complaint stated, “Plaintiffs, **on behalf of EIN and**
14 **Kokoweef**, pray for judgment as follows” then seeks restitution and disgorgement from the HAHN
15 DEFENDANTS. (Emphasis added). Since this is a Motion to Dismiss, we must take the language
16 of the AMENDED COMPLAINT as true. The language of the “wherefore clause” is clear. A
17 comparison of the prayer of the Original Complaint with that of the AMENDED COMPLAINT,
18 shows that the Plaintiffs changed their position of purportedly seeking damages from the HAHN
19 DEFENDANTS for the benefit of KOKOWEEF, to an action for damages for themselves. No other
20 interpretation of the “wherefore clause” is reasonable.

21 THE AMENDED COMPLAINT IS NOT PLEAD
22 FOR THE BENEFIT OF ALL SHAREHOLDERS OF KOKOWEEF

23 In an effort to support their argument that they are proper representatives to commence a
24 derivative action, the Plaintiffs suggest they are acting on behalf of all of the shareholders of
25 KOKOWEEF. They stated, on page 15, line 1:

26 . . . in regard to Defendants’ argument that Plaintiffs’ interests are different than the
27 other Kokoweef shareholders, Defendants fail to appreciate that no direct cause of
28 action has been alleged by Plaintiffs against the corporation. Plaintiffs have prayed
29 for rescission, because the **Defendants illegally issued Kokoweef stock** to ALL
30 shareholders, not just the Plaintiffs. (Emphasis added).

31 However, there is no such allegation contained in the AMENDED COMPLAINT! As set forth in

1 the section below that addresses Plaintiffs argument that a corporation cannot be considered an
2 "issuer" of its own securities, an argument that is frivolous and ignores the basic principles of
3 corporation law and formation. Other arguments of Plaintiffs regarding the "purpose" of the
4 AMENDED COMPLAINT address securities laws issues and are addressed below.

5 **SECURITIES CLAIMS ISSUES**

6 PLAINTIFFS HAVE NOT ASSERTED FACTS WITH REQUIRED SPECIFICITY 7 TO SUPPORT THEIR CLAIMS

8 HAHN DEFENDANTS set forth in their MOTION, adequate points and authorities to show
9 the Court that Plaintiffs did not adequately allege a cause of action for a violation pursuant to NRS
10 §90.660. The Court must make a determination whether the allegations set forth in the AMENDED
11 COMPLAINT are adequate to satisfy the pleading requirements of NRCP 9 and NRS §90.660.

12 It is clear that the Opposition attempts to justify the propriety of the AMENDED
13 COMPLAINT by adding purported "facts" or referring to language that is not contained in the
14 document. This is inappropriate for a Motion to Dismiss.

15 One example is the argument of Plaintiffs set forth at page 23, line 1:

16 Further, Plaintiffs have made no "direct action" claims against the corporation, only
17 derivative claims. Moving parties again mistakenly assume Plaintiffs seek monetary
18 damages in this action. However, a careful reading of the FAC makes clear that this
19 is a derivative action only. The prayer for rescission of the stock purchased by
20 Plaintiff is merely a remedy for the illegal sale of the stock. Plaintiffs desire to keep
21 their ownership interests in the corporation, but want no part of illegally issued
22 securities. **The remedy the shareholders seek is for all of the illegally issued
23 shares to be rescinded, and then reissued,** only after properly registering the stock,
24 or qualifying for an exemption, with both the SEC and State of Nevada. (Emphasis
25 added).

22 Since there is no language of this nature in the AMENDED COMPLAINT, the HAHN
23 DEFENDANTS are confused again! The confusion is based upon the request in the "wherefore
24 clause" for "rescission", not for shares to be "rescinded, and then reissued."

25 If the HAHN DEFENDANTS understand the language of the AMENDED COMPLAINT,
26 it states that the Plaintiffs, not all of the shareholders of KOKOWEEF, are entitled to rescission
27 based upon the failure of the HAHN DEFENDANTS, and CLARY, to inform the shareholders of
28 EIN that the exchange for shares of KOKOWEEF will eliminate their possible cause of action

1 against EIN, the HAHN DEFENDANTS and CLARY, for the purported illegal issuance of stock in
2 EIN. There is no specific allegation of what was said, what should have been said and what was the
3 truth, to support the claim.

4 A SHAREHOLDER WHO HAS BEEN DEFRAUDED MAY OBTAIN
5 A RETURN OF THEIR INVESTMENT UPON RETURN OF THE SHARES

6 The AMENDED COMPLAINT seeks relief under NRS §90.660, based upon the omission
7 about the reorganization.

8 NRS §90.660, provides, in pertinent part:

9 NRS 90.660 Civil liability.

10 1. A person who offers or sells a security in violation of any of the following
11 provisions:

12 ...

13 (b) NRS 90.460; (Registration)

14 ...

15 (d) Subsection 2 of NRS 90.570; (Fraud in sale)

16 is liable to the person purchasing the security. **Upon tender** of the security, the
17 purchaser may recover the consideration paid for the security and interest at the legal
18 rate of this State from the date of payment, costs and reasonable attorney's fees, less
the amount of income received on the security. (Emphasis added).

19 Under NRS §90.660, the **sole** remedy is rescission. Furthermore, it requires the "tender" of the
20 security. While the language of the statute does not specify to whom the tender is to be made, the
21 HAHN DEFENDANTS believe it is clear that KOKOWEEF would be the "person" who would
22 receive the stock and be responsible for the payment. The question of whether KOKOWEEF can
23 be considered an "issuer" under Chapter 90 of Nevada Revised Statutes is addressed below.

24 This is shown in NRS §90.680. Under said section, relief may **not** be obtained under
25 subsection 1 of NRS §90.660 for claims brought based upon a violation of NRS §90.570 if an offer
26 to repurchase the security and pay, upon delivery of the security, the purchase price and interest, less
27 any income received. The only difference in the two sections is that an injured party is entitled to
28 attorneys' fees if an action is commenced to obtain the rescission.

1 As Plaintiffs point out, NRS §90.255 provides ““Issuer” means a person who issues or
2 proposes to issue a security.” They cite NRS §90.265 which says in toto, “Person” **includes** a
3 government, governmental agency or political subdivision of a government.” (Emphasis added).
4 Plaintiffs then argue that a corporation cannot be an “issuer” of a security because there is no such
5 specific definition in Chapter 90 of NRS.

6 While HAHN DEFENDANTS believes this basic principle of law and should not need to
7 be further discussed, they have provided the “legal support” to show that only KOKOWEEF can be
8 the issuer of the common stock of KOKOWEEF.

9 On page 2, line 12, the AMENDED COMPLAINT states,

10 This lawsuit involves a scheme among the Defendants through which Plaintiffs were
11 fraudulently induced into purchasing shares of corporate stock in a gold mine
investment. . . .

12 On page 3, line 7, the AMENDED COMPLAINT states:

13 Plaintiffs are informed and believe, and thereon allege, that over the past twenty five
14 (25) years, Defendants, HAHN and DOES I through 50, inclusive, solicited the sale
15 of securities in EIN and KOKOWEEF as part of a scheme to defraud Plaintiffs and
other investors. . .

16 Based upon these allegations, it appears the securities that are being referred to are shares of common
17 stock of KOKOWEEF.

18 NRS §78.035 sets forth the requirements for articles of incorporation to form a Nevada
19 corporation and provides in subsection 3:

20 The articles of incorporation must set forth:

21 3. The number of shares the corporation is authorized to issue and, if more than one
22 class or series of stock is authorized, the classes, the series and **the number of**
23 **shares of each class or series which the corporation is authorized to issue**, unless
24 the articles authorize the board of directors to fix and determine in a resolution the
classes, series and numbers of each class or series as provided in NRS 78.195 and
78.196. (Emphasis added).

25 This shows that under Nevada law, shares of stock in a corporation are “issue[d]” by the corporation.

26 Under section 2 of the Securities Act of 1933, 15 U.S.C. 77(b) et seq., certain terms are

27 ...

28 ...

1 defined and provide in pertinent part:

2 (a) Definitions

3 When used in this subchapter, unless the context otherwise requires—

4 (1) The term “security” means any note, stock, treasury stock, security future, bond,
5 debenture, evidence of indebtedness, certificate of interest or participation in any
profit-sharing agreement . . . ;

6 (2) The term “person” means an individual, a corporation, a partnership, an
7 association, a joint-stock company, a trust, any unincorporated organization, or a
8 government or political subdivision thereof. As used in this paragraph the term
“trust” shall include only a trust where the interest or interests of the beneficiary or
beneficiaries are evidenced by a security;

9 . . .

10 (4) The term “issuer” means every person who issues or proposes to issue any
security . . .

11 While Nevada does not specifically define what entities may be considered “persons” for the purpose
12 of being an “issuer”, NRS §78.035(3), a review of the federal securities laws, and basic knowledge
13 of corporations should enable the Court to reach the conclusion that KOKOWEEF was the issuer
14 of its common stock. As such, it would be a necessary party to this action. Any relief obtained,
15 whether it is rescission as provided for in NRS §90.660, or to “rescind and then reissue” shares as
16 argued by Plaintiffs, would have to be against KOKOWEEF. If KOKOWEEF is not a real party to
17 the case, no relief can be obtained against it.

18 NRS §90.460 DOES NOT PROVIDE A RIGHT TO PLAINTIFFS
19 TO ENFORCE ITS PROVISIONS

20 HAHN DEFENDANTS asserted in the MOTION that Plaintiffs had no right to seek relief
21 under NRS §90.460 and that actions under it were limited to the Administrator. In an attempt to
22 rebut this position, Plaintiffs cite NRS §90.660, which provides for civil liability for various
23 violations of NRS Chapter 90. HAHN Defendants do not dispute that a plaintiffs, under appropriate
24 circumstances, and having properly plead the claim, could seek relief under NRS §90.660. There
25 is no dispute that a violation of NRS §90.460 can be a basis for civil liability under NRS §90.660.
26 However, this is different than having a claim for relief under NRS §90.460.

27 PLAINTIFFS ARE NOT ENTITLED TO INJUNCTIVE RELIEF

28 The AMENDED COMPLAINT alleges the right to an injunction under NRS §90.640. As

1 set forth herein, there is no basis for a private right to an injunction under Chapter 90 of NRS. Based
2 upon statutory construction, there is no basis for interpreting Chapter 90 to allow a private right of
3 action under NRS §90.640. These concepts are discussed in detail below to show that Plaintiffs have
4 no right to an injunction based upon the AMENDED COMPLAINT.

5 Plaintiffs make a circuitous argument to support a right to proceed for injunctive relief under
6 NRS §90.640. This language is contained on page 26, commencing on line 14. It is short, so HAHN
7 DEFENDANTS have set it forth herein:

8 However, a reading of the entire "Enforcement and Civil Liability" Chapter, i.e.
9 NRS 90.615-90.700, indicates that neither enforcement, nor the types of available
remedies are limited to the "Administrator."

10 First, NRS 90.670 contemplates actions by private parties by allowing a
11 "person" to sue under NRS 90.660 (Quote in original pleading). Additionally, NRS
90.700(2) provides:

12 The rights and remedies provided by this chapter are in addition to
13 any other rights or remedies that may exist at law or in equity but this
chapter does not create any claim for relief not specified in NRS
14 90.620 to 90.690, inclusive.

15 The statement by Plaintiffs regarding the language of NRS §90.670, which they failed to
16 quote, is misleading at best! Said section provides:

17 NRS 90.670 Statute of limitations. A person may not sue under NRS 90.660 unless
18 suit is brought within the earliest of 2 years after the discovery of the violation, 2
years after discovery should have been made by the exercise of reasonable care, or
19 5 years after the act, omission or transaction constituting the violation.

20 This section is specific. It only considers a private right of action under NRS §90.660. Additionally,
21 the language of NRS §90.700(2) is limitation language, not expanding. The words, "this chapter
22 does not create any claim for relief not specified in NRS 90.620 to 90.690" clearly limit the scope
23 of NRS Chapter 90.

24 Basic statutory construction was discussed in *Charlie Brown Construction Company, Inc.*
25 *v. City of Boulder City*, 106 Nev. 497, 797 P.2d 946 (1990) commencing at page 502:

26 It is elementary that statutes, or in this case municipal enactments, must be construed
27 as a whole and not be read in a way that would render words or phrases superfluous
or make a provision nugatory. *People of California v. Tahoe Regional Planning*
28 *Agency*, 766 F.2d 1308, 1314 (9th Cir.1985); *People v. Craft*, 41 Cal.3d 554, 224
Cal.Rptr. 626, 629, 715 P.2d 585, 588 (1986). And, there is a presumption that every

1 word, phrase and provision in the enactment has meaning. *Alaska Transp. Com'n*
2 *v. Airpac, Inc.*, 685 P.2d 1248, 1253 (Alaska 1984).

3 Accordingly, this court has generally declined to use judicial construction to alter the
4 meaning of clearly expressed enactments. In the case of *In re Walter's Estate*, 60
5 Nev. 172, 183-84, 104 P.2d 968, 973 (1940), we held, quoting from *State v. Jepsen*,
6 46 Nev. 193, 196, 209 P. 501, 502 (1922):

7 **Where the language of a statute is plain and unambiguous, and its meaning**
8 **clear and unmistakable, there is no room for construction, and the courts are**
9 **not permitted to search for its meaning beyond the statute itself (Emphasis**
10 **added).**

11 Since Plaintiffs cannot obtain an injunction under NRS §90.640 and have not alleged a right under
12 NRS §33.010 or NRCP 65 in the AMENDED COMPLAINT, the Court should dismiss this claim.

13 CONCLUSION

14 The AMENDED COMPLAINT sets forth eight purported claims for relief based upon the
15 violation of Chapter 90 of Nevada Revised Statutes due to the alleged improper issuance of common
16 stock of KOKOWEEF. The AMENDED COMPLAINT, which the Court must take as true, seeks
17 recovery for Plaintiffs only. Unlike the original complaint which was seeking recovery for
18 KOKOWEEF, the AMENDED COMPLAINT has eliminated KOKOWEEF from the prayer. The
19 only conclusion the Court can reach is that the present action is a securities case, by the Plaintiffs,
20 for the Plaintiffs, against all of the defendants. Additionally, KOKOWEEF is not a “nominal” party,
21 but a real party. Without KOKOWEEF as a defendant, the Court does not have authority to order
22 rescission!

23 HAHN DEFENDANTS have provided the Court with adequate points and authorities to
24 support their position that the Plaintiffs may not proceed with a securities claim due to their failure
25 to set forth adequate facts, the failure to include KOKOWEEF as a real party defendant and the
26 failure to name BURKE as a defendant, in his capacity as a director of KOKOWEEF who approved
27 the reorganization, as well as the other directors. For these reasons, the claims for relief based upon
28 securities fraud must be dismissed.

The last two claims for relief purport to be part of a derivative action by Plaintiffs for the
benefit of KOKOWEEF. However, the prayer does not seek recovery for KOKOWEEF.

1 Additionally, the allegations of wrongful conduct by HAHN DEFENDANTS has been removed from
2 the AMENDED COMPLAINT. There is no demand for disgorgement.

3 The final issue is standing of the Plaintiffs. In a derivative action, the Plaintiffs are simply
4 acting on behalf of the corporation which failed to take action after a demand was made to do so.
5 In this case, no demand, nor a justification for not making a demand, took place. Also, the Plaintiffs
6 are seeking damages for their benefit, not that of KOKOWEEF. Therefore, they have a conflict
7 between their interests and the interests of the other shareholders. This conflict prevents them from
8 acting on behalf of the shareholders in a derivative suit.

9 Based upon the foregoing, the Court should dismiss the AMENDED COMPLAINT.

10 DATED this 3rd day of December, 2008.

11 M NELSON SEGEL, CHARTERED

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14 By _____
M NELSON SEGEL, ESQUIRE
Attorneys for Defendants Larry Hahn and
Hahn's World of Surplus, Inc.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the ____ day of December, 2008, he served a copy of the REPLY TO PLAINTIFFS' OPPOSITION TO DEFENDANTS LARRY HAHN AND HAHN'S WORLD OF SURPLUS, INC.'S MOTION TO DISMISS AMENDED VERIFIED DERIVATIVE COMPLAINT by causing true and correct copies to be placed in the United States Mail, postage fully prepaid thereon and addressed as follows:

Jennifer Taylor, Esquire ROBERTSON & VICK, LLP. 401 North Buffalo Drive, Suite 202 Las Vegas, Nevada 89145 <i>Facsimile Number (702) 247-6227</i>	Patrick Clary, Esquire 7201 West Lake Mead Drive, Suite 410 Las Vegas, Nevada 89128 <i>Facsimile Number (702) 382-7277</i>
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The undersigned further certifies that on said date, he further faxed copies of above referenced document to the counsel listed above at their last known facsimile numbers.

By  _____
An employee of M NELSON SEGEL, CHARTERED