

1 **2010**
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9

10 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
11 **IN AND FOR THE COUNTY OF WASHOE**

12 * * *

14 AARON L. KATZ,
15 Plaintiff,
16 vs.

Case No. CV11-01380
Dept. 7

17 INCLINE VILLAGE GENERAL
18 IMPROVEMENT DISTRICT, a General
19 Improvement District, THE PUBLIC
20 UTILITY DISTRICT OF NEVADA,
21 DOES 1-X, inclusive,
22 Defendants.

23 **MOTION FOR ATTORNEY'S FEES**

24 COMES NOW Defendant, INCLINE VILLAGE GENERAL IMPROVEMENT
25 DISTRICT (hereinafter, the "District"), by and through its Attorneys of Record, ERICKSON,
26 THORPE & SWAINSTON, LTD., THOMAS P. BEKO, ESQ., and BRENT L.
27 RYMAN, ESQ., and hereby presents the following Motion for Attorney's Fees based upon
28 NRS 18.010(2)(b), NRS 7.085 and this Court's Order of April 10, 2014.

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1 Defendant's Motion for Attorney's Fees is made and based upon all of the pleadings
2 and papers on file herein, as well as the following Memorandum of Points & Authorities and
3 the arguments of counsel to be offered at the hearing of this matter.

4 **MEMORANDUM OF POINTS & AUTHORITIES**

5 **I. BRIEF SUMMARY OF ACTION AND CURRENT MOTION**

6 This Court is familiar with this litigation, in which Plaintiff initially pursued many
7 wide-ranging theories that have since been dismissed. Although Mr. Katz pursued this
8 litigation in proper persona, he is trained as a lawyer and appears to have held an inactive
9 California bar license throughout the life of this case.¹ The parties, along with the Court,
10 have now reached the end of a five-year battle that arose solely by reason of Mr. Katz's
11 objection to paying an annual Recreational Fee of approximately \$800.00. The history of this
12 case has demonstrated time and again that Mr. Katz does not do anything easily, succinctly,
13 or in a streamlined or straightforward manner.

14 **A. Plaintiff's vexatious claims have failed in this litigation.**

15 Although he chose to move to one of the most scenic and recreational places in this
16 country, Mr. Katz does not partake in those activities that make Incline Village what it is
17 today. Because he has not availed himself of those activities, he believes he should not be
18 forced to subsidize those costs for those that do. Unfortunately for him, his views are in stark
19 contrast to those of the vast majority of the residents residing within the District who clearly
20 believe this is a very small price to pay for the vast amenities that the District affords to
21 its residents.

22 Mr. Katz therefore objects to this fee because he claims it is an unlawful tax. He
23 brought many claims pursuant to which he sought to invalidate this recreational fee. This
24 Court has, of course, disagreed. Because his views are so different from the other citizens
25 of the District, Mr. Katz has repeatedly failed to gain election to the District's board. As a

26
27 ¹. Plaintiff was convicted in 1983 on one felony count of perjury involving a personal tax
28 avoidance scheme and subsequently suspended from the practice of law for three years by the
State Bar of California. *See, In re: Aaron Lee Katz*, 1991 WL 84192 (Cal. Bar Rev. Dep't,
May 21, 1991). A true, accurate and correct copy of the referenced Opinion on Review from the
California State Bar is attached to this Motion as "Exhibit 1."

1 result, he cannot achieve his desired results through the normal political process. Therefore,
2 he has been forced to resort to the only other available option: the misuse of his skills as an
3 unlicensed attorney. Mr. Katz's actions are not motivated by a genuine desire to pursue a
4 legitimate suit regarding public policy, but rather, to disrupt the operation of the District as
5 a means of punishing it for refusing to accede to his desires.

6 The vast majority of Plaintiff's claims here were dismissed by this Court on motion.
7 The only claim not resolved via dispositive motion was a portion of Plaintiff's Twelfth cause
8 of action alleging he had requested numerous public documents and that the District has
9 "suppressed, evaded, failed and refused to produce" the requested records. That claim was
10 presented before the Court at a two-day bench trial beginning March 21, 2016, and judgment
11 was thereafter entered in Defendant's favor. Defendant has presented a Verified
12 Memorandum of Costs, and now seeks an award of attorney's fees pursuant to NRS 7.085,
13 NRS 18.010(2)(b) and in accord with a prior Order of this Court as discussed below.

14 **B. The Court has previously recognized Plaintiff's improper motivation.**

15 As an initial matter, Defendant was not able, in good conscience, to serve a formal
16 offer of judgment in this case because Plaintiff's claims were frivolous, without merit and
17 advanced solely in an attempt to harass Defendant. Consequently, Defendant is unable to
18 base this Motion for Attorney's Fees on NRCP Rule 68 or NRS 17.115. However, in this
19 case, the lack of an offer of judgment to Mr. Katz is not a basis for denial of attorney's fees
20 to Defendant. Instead, it indicates the lack of good faith underlying Plaintiff's claims, which
21 supports this request for attorney's fees pursuant to NRS 7.085 and NRS 18.010(2)(b).

22 Before proceeding to that analysis, however, Defendant requests an award of those
23 fees related to the filing of Plaintiff's since-stricken second supplemental complaint in
24 December 2013. (*See*, Order (April 10, 2014), pp. 1-3, ll. 25-27).² In issuing that Order, the
25 Court previously found that Plaintiff's Second Supplemental Amendment to his Second
26 Amended Complaint should be dismissed as a result of Plaintiff's "blatant disregard of the

27 ². A true, accurate and correct copy of this Court's Order of April 10, 2014, is attached to
28 this Motion as "Exhibit 2."

1 rules of procedure,” “conflagrant disregard for this court’s prior rulings” and “continuing
2 abuse of this court’s scant judicial resources” *Id.*, p. 2, ll. 1-3; ll. 19-20; p. 3, l. 15. In
3 so doing, the Court noted that “[p]rocedural requirements are not mere suggestions,”
4 explaining “[t]his court previously cautioned Plaintiff regarding his inability to adhere to
5 Nevada’s Rules of Civil Procedure and this court’s orders.” *Id.*, p. 1, ll. 25-26.

6 In addition to striking Plaintiff’s procedurally-inappropriate pleading, the Court
7 granted Defendants’ request for sanctions and set a hearing for May 30, 2014. *Id.*, p. 4,
8 ll. 2-5. While Defendant’s counsel was prepared to offer an accounting of the attorney’s fees
9 related to the Motion to Strike Plaintiff’s Second Supplemental Amendment to the Amended
10 Complaint, that hearing was strategically routed off track by Mr. Katz, and the Court did not
11 have time to reach the issue of sanctions. Defendant has now cataloged and requests those
12 fees as set forth in the attached Affidavit of Counsel.

13 **C. Plaintiff has demonstrated a plain pattern and practice of pursuing**
14 **meritless pro per lawsuits against public entities for impermissible**
reasons.

15 The harassing and vexatious nature of Plaintiff’s suit is evident and transparent.
16 Mr. Katz has a tortured and sinuous history of pursuing similar unsuccessful claims against
17 public entities in his own name. While the suits themselves have proved legally untenable,
18 Mr. Katz apparently uses the harassment value of such suits and threats of litigation to
19 achieve his goals. This point was explained in a December 2006 opinion piece by Editor
20 Don Frances in the *Mountain View Voice* as follows:

21 Even though he’s never scored a legal victory, at least two of his
22 lawsuits – against El Camino and West Valley-Mission – ended
23 well for Katz: The former district paid him \$200,000, the latter
\$60,000, to make his suits go away.

24 * * *

25 [Mr. Katz] is not the first lawyer to use lawsuits as personal
26 protest. But particularly when it comes to bond measures –
27 since no district can issue bonds with a lawsuit hanging over
28 them – Katz has touched a weakness which cripples our current
system, without even the merit of resolving, legally or
politically, the issues he raises.

1 So the districts are left twisting in the wind until his suits are
2 resolved, which can take any amount of time. While the bonds
3 are held up, projects are held up, costing many millions (\$140
million in the case of the El Camino Hospital). Two districts
decided that even victory wasn't worth the cost, and settled.

4 Frances, D., *What's Eating Aaron Katz*, MOUNTAIN VIEW VOICE, Dec. 15, 2006.³

5 Plaintiff's tactics in this case fit squarely within the strategy he has pursued in the
6 past. For instance, in upholding the dismissal of his case against the Mountain
7 View-Whisman School District, California's Sixth District Court of Appeal noted that
8 Mr. Katz was not the recorded owner of the real property actually relevant to the litigation.
9 *See, Katz v. Mountain View-Whisman Sch. Dist.*, 2006 WL 3293747, **2-3 (Santa Clara Sup.
10 Ct, Nov. 14, 2006).⁴ As a result, the Court found that Mr. Katz lacked standing, and also
11 expressed "concern[] that plaintiff, an inactive member of the State Bar of California, was
12 in appropriately acting as [a business entity's] representative before this court." *Id.*, *1.
13 These same actions were, of course, a predicate for dismissal of Plaintiff's claims relevant
14 to real property in this action.

15 This is also not the first time Plaintiff has had his claims dismissed for failure to
16 follow procedural rules or file in a timely manner. *See, Katz v. Campbell Union High Sch.*
17 *Dist.*, 144 Cal.App.4th 1024, 50 Cal.Rptr.3d 839 (Cal. App. Dist. 4, Nov. 14, 2006)
18 (dismissal Plaintiff's attempt to invalidate \$85 parcel tax approved by voters in high school
19 district upheld for failure to conform to requirements of California validation statutes in
20 publication of summons); *see also, Katz v. United States*, 2006 WL 2418837 (Fed. Cl.,
21 July 25, 2006) (dismissing Plaintiff's complaint for refund of income taxes as untimely and
22 barred by the statute of limitations, judgment entered in favor of United States); *Foothill-De*
23 *Anza Cmty. College Dist. v. Emerich*, 158 Cal.App.4th 11, 69 Cal.Rptr.3d 678, 27-30
24 688-690 (Cal. App. 6th, Dec. 19, 2007) (upholding dismissal of claims pursued by Mr. Katz

26 ³. A true, accurate and correct copy of this article is attached to this Motion as
27 "Exhibit 3."

28 ⁴. A true, accurate and correct copy of this unpublished opinion is attached to this Motion
as "Exhibit 4."

1 and Melvin Emerich as well as award of costs to prevailing public entity).⁵

2 **D. Plaintiff's motivation for suing the District is purely harassment.**

3 The record before the Court also demonstrates the true intent of Plaintiff's numerous
4 public records requests, which go hand-in-hand with his strategy of pursuing this case. The
5 District submits the record shows with stark clarity that Mr. Katz is not actually interested
6 in public records he continuously demands, he simply requests records which he knows
7 would be enormously burdensome to the District to produce. His requests would require
8 IVGID to sift through thousands of documents to extract information which Mr. Katz knows
9 he has no legal right to request. This Court has now ruled as much, finding in favor of
10 Defendant at the recent bench trial. However, Plaintiff's tactic continued even during that
11 trial, as the Court will see in the attached email demands to Ms. Herron the night after her
12 sworn testimony and before the Court ruled from the bench. (*See*, Exh. 6).⁶

13 Plaintiff has also demonstrated his intention to continue to pursue this litigation "in
14 the public" by immediately delivering the attached statement to IVGID's board members
15 attempting to explain away the judgment rendered against him. (*See*, Exh. 7).⁷ This
16 document was sent to the District immediately after the Court issued its decision finding
17 against Plaintiff and dismissing his final remaining claim. As the Court will see, Plaintiff
18 was obviously upset about the ruling, and went so far as to characterize IVGID staff as
19 "uneducated cheerleaders."

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21
22 ⁵. . . True, accurate and correct copies of these opinions are attached to this Motion as
23 "Exhibit 5."

24 ⁶. A true, accurate and correct email of Plaintiff's email communication to Ms. Herron,
25 sent March 21, 2016, at 10:26 p.m. – the night after the first day of the two-day bench trial – is
26 attached here to as "Exhibit 6."

27 ⁷. A true, accurate and correct copy of the "WRITTEN STATEMENT TO BE
28 ATTACHED TO AND MADE A PART OF THE WRITTEN MINUTES OF THE IVGID
BOARD OF TRUSTEES' REGULAR MARCH 30, 2016 MEETING – AGENDA ITEM C –
PUBLIC COMMENT SECTION – THE COURT'S RULING ON IVGID'S PUBLIC
RECORDS ACT REFUSALS IS A SAD, SAD DAY FOR OUR COMMUNITY," is attached
hereto as "Exhibit 7."

1 Defendant submits Plaintiff should not be permitted to engage in such harassment –
2 which has caused the District to incur substantial attorney’s fees, costs and the loss of its
3 employee time and resources – without repercussion. Based thereon, and as described in
4 greater detail below, Defendant now requests that this Court award attorney’s fees pursuant
5 to NRS 7.085 and NRS 18.010(2)(b).

6 **II. LEGAL ARGUMENT**

7 **A. IVGID’s full Attorneys’ fees are recoverable here.**

8 NRS 7.085 and NRS 18.010(2)(b) permit an award of attorney’s fees when a claim,
9 counterclaim, cross claim, third-party complaint or a defense “was brought or maintained
10 without reasonable ground or to harass the prevailing party.” NRS 18.010(2)(b); *see also*,
11 *Rodriguez v. Primadonna Co.*, 125 Nev 578, 588, 216 P.3d 793, 800 (2009); *United*
12 *Ins. Co. of Am. v. Chapman Indus.*, 120 Nev. 745, 748, 100 P.3d 664 (2004). To determine
13 whether a claim or defense was groundless when brought, a court reviews the circumstances
14 when the claim or defense was first asserted. *Barozzi v. Benna*, 112 Nev. 635, 639-640, 918
15 P.2d 301, 303-304 (1996). To determine whether a claim or defense was maintained without
16 reasonable grounds, a court must inquire whether the claim or defense was eventually
17 supported by any credible evidence. *Allianz Ins. Co. v. Gagnon*, 109 Nev. 990, 995-996, 860
18 P.2d 720, 724 (1993).⁸

19 The legislature requires the Court to liberally construe NRS 18.010(2)(b) in favor of
20 awarding attorney’s fees in all appropriate situations. *See*, NRS 7.085; NRS 18.010. The
21 legislature has expressed an intent that the Court award attorney’s fees and impose sanctions
22 under NRCP Rule 11 in all appropriate situations in order to punish and deter frivolous or
23 vexatious claims and defenses due to the burden such claims and defenses place on judicial
24 resources. *See, Trs. of Plumbers & Pipefitters Union Local 525 Health & Welfare Trust*

25 _____
26 ⁸. Defendant would note that NRS 18.010(2)(b) was revised by the legislature in 2003, as
27 the prior version permitted an award of fees only when a claim or defense was baseless when
28 brought. Plaintiff conducted no discovery in this litigation, and has demonstrated no further
basis for the maintenance of his untenable claims during the life of this litigation than when those
claims were first filed.

1 *Plan v. Developers Surety & Indem. Co.*, 120 Nev. 56, 84 P.3d 59 (2004) (suggesting the
2 portion of the 2003 amendment stating that the court “shall liberally construe the provisions
3 of this paragraph in favor of awarding attorney’s fees in all appropriate situations” also
4 applies to NRS 18.010(2)(a)). For instance, it has been held that NRS 1.230, which prohibits
5 punishment for contempt for seeking a change of judge, does not preclude an attorney’s fee
6 award for filing a frivolous disqualification motion. *See, Rivero v. Rivero*, 125 Nev. 410,
7 440-441, 216 P.3d 213, 233-234 (2009).

8 A frivolous claim is one that is baseless, *i.e.*, not well grounded in fact and warranted
9 by existing law or a good faith argument for the extension, modification, or reversal of
10 existing law, and brought by an attorney without a reasonable and competent inquiry;
11 although, the second requirement is generally not applicable to non-attorney litigants
12 proceeding in proper person. *Simonian v. Univ. & Cmty. Coll. Sys.*, 122 Nev. 187, 128 P.3d
13 1057, 1063-1065 (2006); *see also, Rodriguez*, 125 Nev. at 588, 216 P.3d at 800 (recognizing
14 that claims are groundless or frivolous if they lack credible supporting evidence). A claim
15 is groundless if it is fraudulent, especially if it is brought in bad faith, or if the allegations of
16 the complaint are not supported by any credible evidence at trial. *Allianz Ins. Co. v. Gagnon*,
17 109 Nev. 990, 995-996, 860 P.2d 720 (1993).

18 To support an award of attorney’s fees on such grounds, “there must be evidence in
19 the record supporting the proposition that the complaint was brought without reasonable
20 grounds **or to harass the other party.**” *Kahn v. Morse & Mowbray*, 1212 Nev. 464, 479,
21 117 P.3d 227, 238 (2005) (emphasis added); *see also, Bower v. Harrah’s Laughlin, Inc.*, 125
22 Nev. 470, 493, 215 P.3d 709, 726 (2009). The mere fact that a claim survives a motion to
23 dismiss does not preclude a fee award under NRS 7.085 or NRS 18.010(2)(b). *See,*
24 *Bergmann v. Boyce*, 109 Nev. 670, 674-675, 856 P.2d 560 (1993). “Determining whether
25 attorney fees should be awarded under NRS 18.010(2)(b) requires the court to inquire into
26 the actual circumstances of the case, ‘rather than a hypothetical set of facts favoring
27 plaintiff’s averments.’” *Baldonado v. Wynn Las Vegas, LLC*, 124 Nev 951, 967-968, 194
28 P.3d 96, 106-107 (2008) (citation omitted).

1 Here the actual circumstances easily support an award of attorney's fees against
2 Mr. Katz. As outlined above, Mr. Katz has demonstrated a pattern and practice of pursuing
3 such lawsuits in proper person, despite the fact he no longer possesses the license required
4 to bring such suits on behalf of others. *See, e.g., Foothill-De Anza Cmty. College Dist. v.*
5 *Emerich*, 158 Cal.App.4th 11, 69 Cal.Rptr.3d 678 (Cal. App. 6th, Jan. 11, 2008); *Katz v.*
6 *Mountain View-Whisman Sch. Dist.*, 2006 WL 3293747 (Santa Clara Sup. Ct, Nov. 14,
7 2006); *Katz v. Campbell Union High Sch. Dist.*, 144 Cal.App.4th 1024, 50 Cal.Rptr.3d 839
8 (Cal. App. Dist. 4, Nov. 14, 2006); *Katz v. United States*, 2006 WL 2418837 (Fed. Cl.,
9 July 25, 2006).

10 In accord with his past vexatious lawsuits, Mr. Katz's motivation here was plainly
11 targeted at harassing IVGID into payment of settlement funds. In fact, as noted above, this
12 Court has previously found harassment to have been Mr. Katz's motivation here:

13 Such continuing abuse of this court's scant judicial resources is
14 inexcusable. **In this litigation, Plaintiff has displayed a**
15 **history of multiple filings which has caused needless expense**
16 **to the other parties and has posed a burden on this court.**
17 *See, Molski v. Evergreen Dynasty Corp.*, 500 F.3d 1047 (9th Cir.
18 2007). While this court is ever-mindful of protecting every
19 citizen's right to access to justice, there are practical restraints,
particularly when court filings do not implicate fundamental
rights and impose needless expense to other litigants.
Plaintiff's filings call into question his motives in pursuing
this litigation. The four month delay in filing the minor
amendments appears to be a dilatory tactic designed to
prejudice the Defendants.

20 (Order (April 10, 2014), p. 3, ll. 15-24) (emphases added).

21 Mr. Katz's harassment of IVGID is not limited to the four corners of this lawsuit. As
22 the Court has learned during the various motion hearings and eventual bench trial, Mr. Katz
23 has levied many hundreds of requests for public records at Defendant in a scheme that
24 appears more targeted at inducing a technical violation of Nevada's Public Records Act than
25 obtaining any useful documents. Those tactics were not even stopped during the recent
26 bench trial, as the Court will see in the attached email demands to Ms. Herron the night after
27 her sworn testimony and before the Court ruled from the bench. (*See*, Exh. 6).

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1 In additional to this civil action, Mr. Katz's attacks on the District came in many other
2 forms including multiple complaints filed with the Nevada Commission on Ethics and
3 complaints of alleged Open Meeting Law ("OML") violations filed with the Nevada
4 Attorney General's Office. Since 2011, the District and its representatives successfully
5 defended allegations brought directly or indirectly by Mr. Katz in no less than 11 ethics
6 complaints and four OML complaints. See, RFO Nos. 11-19C, 11-21C, 11-22C, 11-24C,
7 12-72C, 12-73C, 12-74C, 13-07C, 13-08C, 13-11C, 13-39C; OML No. 13-006, 13-008,
8 13-010, 13-017. His relentless nature knows no bounds and has cost the District countless
9 hours, expense, and resources in defending administrative complaints that proved to have no
10 legal support. The District has been fighting a battle against Mr. Katz's harassing actions on
11 several different fronts and in and several different forums over the last six years.

12 Even if this Court were to find some portion of Mr. Katz's claims colorable, attorneys'
13 fees should still be awarded since the bringing of one or more colorable claims does not
14 excuse the bringing of other groundless claims. See, *Barozzi v. Benna*, 112 Nev. 635, 918
15 P.2d 301 (1996); *Bergmann v. Boyce*, 109 Nev. 670, 856 P.2d 560 (1993). And the dismissal
16 of some causes of action alleging different legal grounds for a party's claim will not preclude
17 a full award of attorney's fees if the claim is groundless. *Semenza v. Caughlin Crafted*
18 *Homes*, 111 Nev. 1089, 1095-1096, 910 P.2d 684 (1995).

19 The Court has addressed Mr. Katz's dogged and misguided persistence in the past.
20 In its Order dated October 9, 2012, the Court denied Mr. Katz's Motion for Reconsideration
21 because it failed to present new evidence or demonstrate the Court's decision was clearly
22 erroneous. Instead, in typical fashion, Mr. Katz simply rehashed his prior unsuccessful
23 arguments. (Order (Oct. 9, 2012), p. 2, ll. 16-21).⁹ As predicted by this Court, Mr. Katz's
24 filings tended to "assume the qualities of inert gas which expands to fill all available space"
25 and which did little to "enhance the quality of advocacy." (Order (Aug. 21, 2012), p. 1, ll.
26 26-28). Harassment and the misery which litigation entails were the motivating purposes

27 ⁹. A true, accurate and correct copy of this Court's Order of October 9, 2012, is attached
28 to this Motion as "Exhibit 8."

1 behind this lawsuit, easily justifying Defendant's request for reasonable attorney's fees as
2 presented herein.

3 **B. Amount of attorney's fees to be awarded.**

4 "A district court's award of attorney's fees will not be disturbed on appeal absent a
5 manifest abuse of discretion." *Bobby Berosini, Ltd. v. People for the Ethical Treatment of*
6 *Animals*, 114 Nev. 1348, 1354, 971 P.2d 383 (1998); *accord, Hornwood v. Smith's Food*
7 *King No. 1*, 107 Nev. 80, 87, 807 P.2d 208 (1991). However, the district court abuses its
8 discretion if it fails to make findings explaining the basis for the amount of its fee award
9 under NRS 18.010. *Henry Prods., Inc. v. Tarmu*, 114 Nev. 1017, 1020, 967 P.2d 444 (1998);
10 *see also, Barney v. Mt. Rose Heating & Air Conditioning*, 124 Nev. 821, 829-830, 192 P.3d
11 730, 736-737 (2008); *Schuette v. Beazer Homes Holdings Corp.*, 121 Nev. 837, 863-865, 124
12 P.3d 530, 549-550 (2005); *but see, Schwartz v. Estate of Greenspun*, 110 Nev. 1042,
13 1049-1050, 881 P.2d 638, 642-643 (1994) (holding that while explicit findings are preferred,
14 they are not required if the record clearly reflects that the district court properly considered
15 the relevant factors for a fee award on an offer of judgment).

16 After a determination is made as to whether fees and costs are to be allowed, the trial
17 court must determine the reasonable amount to be awarded for attorney's fees. The proper
18 factors to be considered in making this determination include the following: (1) the qualities
19 of the advocate, *i.e.*, his ability, training, education, experience, professional standing and
20 skill, (2) the character of the work done, *i.e.*, its difficulty, intricacy, importance, the time and
21 skill required, the responsibility imposed and the prominence and character of the parties
22 when they affect the importance of the litigation, (3) the work actually performed by the
23 lawyer, *i.e.*, the skill, time and attention given to the work; and (4) the result, *i.e.*, whether
24 the attorney was successful and what benefits were received. *Brunzell v. Golden Gate Nat'l*
25 *Bank*, 85 Nev. 345, 349-350, 455 P.2d 31, 33 (1969); *see also, Schouweiler v. Yancey Co.*,
26 101 Nev. 827, 712 P.2d 786 (1985) (addressing attorney's fees awarded under
27 NRCP Rule 68).

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1 The amount of Defendant's fee request is extremely reasonable under each part of this
2 analysis. In accord with Section VI(f) of this Court's Pretrial Order, Defendant has included
3 an Affidavit of Counsel which, along with the actual invoices submitted for payment, states
4 the requested fees, services rendered and specific fees incurred with sufficient specificity to
5 enable both Mr. Katz and the Court to review this request for fees. (See, Beko Aff.,
6 ¶¶ 2-10).¹⁰ As set forth in Mr. Beko's Affidavit, a total of \$226,466.80 in attorney's fees has
7 been incurred in the defense of this matter and should be awarded to Defendant. (Beko Aff.,
8 ¶ 10).¹¹ Of that total, \$125,892.50 was charged by this firm and \$55,503.50 by former co-
9 defense counsel Keith Loomis, Esq., who has since moved on to public service at the Storey
10 County District Attorney's office. (Beko Aff., ¶¶ 5-7).

11 In order to assist this public entity, these amounts were billed at rates that are
12 undeniably reasonable in light of the involved attorneys' vast, collective experience and
13 wealth of knowledge regarding the complicated factual and legal issues involved in the
14 defense of claims involving public entities and officials. The undersigned has been
15 practicing for almost 30 years, with the majority of his time spent litigating personal injury,
16 civil rights and governmental tort liability actions, and routinely bills for his services at rates
17 two to three times more per hour than this file depending upon the type of case involved.
18 (Beko Aff., ¶ 1). Defendant has also set forth the factors set out in *Schouwelier v. Yancy*,
19 101 Nev. 827, 712 P.2d 786 (1985), to the extent they are applicable to this request, with the
20 attached Affidavit of Counsel. (See, Pretrial Order (Nov. 7, 2011), p. 6, ll. 4-7).

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25 ¹⁰. A true, accurate and correct copy of the above-referenced Affidavit of Counsel is
26 attached to this Motion as "Exhibit 9," with additional exhibits as described therein. Should the
Court require additional information in order to properly consider this Motion, Defendant will be
happy to provide it for *in camera* review upon request.

27 ¹¹. Defendant reserves the right to request any additional fees and costs incurred in
28 defense of this matter in the event Plaintiff pursues appeal or other attempts to contest the
existing judgment in favor of Defendant.

1 As also set forth in the Affidavit of Counsel, another \$45,070.80 was charged by
2 T. Scott Brooke, Esq., the District's former official attorney who tragically passed away in
3 December 2014. The fees attributable to Mr. Brooke would not otherwise have been
4 incurred but for their necessity in defense of this litigation pursued by Mr. Katz, as calculated
5 by Mr. Brooke and set forth in his attached memorandum. (*See*, *Beko Aff.*, ¶ 9).

6 **C. At a minimum, Defendant is entitled to recover its fees related to the**
7 **successful Motion to Strike Plaintiff's Second Supplemental Amendment**
8 **to the Amended Complaint.**

9 Even if the Court were not persuaded to award all of Defendant's incurred fees,
10 Defendant would at a minimum request those fees related to the successful Motion to Strike
11 referenced in the Court's Order of April 10, 2014. As noted above, the Court found
12 sanctions appropriate at that time, and would have already issued an award of related fees
13 were the hearing on that matter not interrupted in accord with its written findings.
14 (Order (April 10, 2014), p. 2, ll. 1-3; ll. 19-20; p. 3, l. 15). The attached Affidavit of Counsel
15 demonstrates that \$4,157.50 in fees were incurred by Defendant related directly to that
16 motion as specifically referenced in the attached spreadsheet. (*See*, *Beko Aff.*, ¶ 11).
17 Defendant requests an award of those fees at this time.

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1 **III. CONCLUSION**

2 This Court has previously found that Plaintiff has engaged in “blatant disregard of the
3 rules of procedure,” “conflagrant disregard for this court’s prior rulings” and “continuing
4 abuse of this court’s scant judicial resources” (Order (April 10, 2014), p. 2, ll. 1-3;
5 ll. 19-20; p. 3, l. 15). Defendant has been forced to deal with these matters for quite some
6 time, both within and outside the confines of this five-year litigation. Plaintiff has
7 demonstrated a pattern and practice of pursuing vexatious harassing lawsuits against public
8 entities such as this District, and Plaintiff’s intention to harass the District with this
9 unsuccessful case is evident. Based on the foregoing evidence and argument, and as set forth
10 in the attached Affidavit of Counsel, Defendant requests an award of all attorney’s fees
11 incurred as a result of this litigation.

12 RESPECTFULLY SUBMITTED this 3rd day of May, 2016.

13 ERICKSON, THORPE & SWAINSTON, LTD.

14
15 By


THOMAS P. BEKO, ESQ.
BRENT L. RYMAN, ESQ.
*Attorneys for Incline Village
General Improvement District*

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19 **AFFIRMATION**
20 **(NRS 239B.030)**

21 The undersigned does hereby affirm that the preceding document does not contain the
22 social security number of any person.

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24 BRENT L. RYMAN, ESQ.
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CERTIFICATE OF SERVICE


I certify that I am an employee of ERICKSON, THORPE & SWAINSTON, LTD. and that
on this day I personally served a true and correct copy of the attached document by:

- ☒ U.S. Mail
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- ☐ Personal Service
- ☐ Messenger Service

addressed to the following:

Aaron L. Katz
P.O. Box 3022
Incline Village, NV 89450-3022

DATED this 5th day of May, 2016.


Stephanie Gubler

INDEX TO EXHIBITS

Case No: CV11-01380

Aaron Katz

vs.

Incline Village General Improvement District

MOTION FOR ATTORNEY'S FEES

Exhibit 1	Opinion on Review from the California State Bar
Exhibit 2	Court's Order of April 10, 2014
Exhibit 3	Mountain View Voice Article
Exhibit 4	Unpublished Opinion
Exhibit 5	Opinions
Exhibit 6	Plaintiff's Email Communication to Ms. Herron on March 21, 2016
Exhibit 7	Written Statement to Be Attached to and Made a Part of the Written Minutes of the Ivgid Board of Trustee's Regular March 30, 2016 Meeting-agenda Item C-public Comment Section-the Court's Ruling on Ivgid's Public Records Act Refusals Is a Sad, Sad Day for Our Community.
Exhibit 8	Court's Order of October 9, 2012
Exhibit 9	Affidavit of Counsel

FILED
Electronically
CV11-01380
2016-05-05 10:54:19 AM
Jacqueline Bryant
Clerk of the Court
Transaction # 5500686 : yvitoria

EXHIBIT 1

EXHIBIT 1

1991 WL 84192
Review Department of the
State Bar Court of California.

In the Matter of Aaron Lee KATZ,
A Member of the State Bar.

No. 83-C-14452.

May 21, 1991.

Attorneys and Law Firms

****502** Andrea Wachter, San Francisco, Cal., State Bar of California.

Marshall Warren Krause, Larkspur, Cal., for respondent.

****507 OPINION ON REVIEW**

PEARLMAN, Presiding Judge.

***1** Respondent Aaron Lee Katz was admitted to the practice of law in California in December 1973 and has no prior record of discipline. This case arises from his criminal conviction in 1983 on one count of perjury involving a personal tax avoidance scheme. He has been on interim suspension since April 1984. The hearing judge considered all of the circumstances and concluded that respondent should be suspended for three years, stayed on conditions including probation for three years and actual suspension for 18 months and until satisfactory proof of rehabilitation, fitness to practice and learning and ability in the general law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct (hereafter "Standards"). No credit was recommended for his seven years of interim suspension.

Both parties sought review: the examiner on the ground that the decision ought to have recommended disbarment; Katz on numerous grounds challenging both the findings and the length of suspension. Among other things, Katz alleged improper failure to consider his lengthy interim suspension, prejudicial delays during the disciplinary process, improper application of standard 3.2, lack of support for the hearing judge's conclusions regarding remorse, and mishandling of character testimony by three attorneys and by lay witnesses.

In addition to the briefs of the parties, one of the three attorneys who served as character witnesses filed an amicus brief in which the other two attorney witnesses subsequently joined. The brief challenged the hearing judge's findings with respect to their testimony and objected to the recommended discipline as too harsh.

Upon our independent review, we adopt the hearing judge's findings and disciplinary recommendation with a few modifications. Taking Katz's lengthy interim suspension, including the additional one year since the hearing judge entered his decision, into account, we reduce the prospective suspension to six months' actual suspension and until compliance with standard 1.4(c)(ii).

I. PROCEDURAL HISTORY

In 1976, Katz formed a corporation called Caarco, Inc.,¹ under the laws of Nevada. Katz used Caarco to hold title to two automobiles, including a 1981 Mercedes Benz registered in Oregon, and to avoid paying California motor vehicle fees and taxes. Katz was convicted in 1982 on a vehicle infraction charge and in 1983 on a perjury charge arising from his testimony in the infraction trial.² The Court of Appeal for the First Appellate District affirmed the perjury conviction in 1987.³

In the infraction trial, Katz was charged with failing to register the two automobiles in California, failing to pay registration taxes, and displaying improper license plates. (Decision by State Bar Court Hearing Department [hereafter cited as "Decision"] at p. 5; App.Ct.Opn. at p. 3.) The record indicates that Katz was convicted only for displaying improper license plates. (III Reporter's Transcript of the State Bar Court Hearing [hereafter cited as "R.T."] 368-369; II R.T. 163.)⁴ During the infraction trial, Katz testified that Caarco had a branch office at 3060 Jump Off Joe Creek Road, Sunny Valley, Oregon, and owned two vehicles used in respect to its branch office operations at the Oregon address. (App.Ct.Opn. at p. 5)

***2 **508** Although Katz was charged with multiple counts of perjury based on his testimony at the infraction trial, all but two counts were dismissed. (Dec. p. 4.) On one count, the jury found that he had not falsely testified in stating that Caarco had a branch office at 3060 Jump Off Joe Creek Road, Sunny Valley, Oregon, but found on the other count that he

had falsely testified in stating that Caarco owned two vehicles used in respect to its branch office operations in Oregon.

As a result of the perjury conviction, Katz was sentenced to serve three years in state prison, suspended on condition of serving one year in the county jail. This sentence was later modified to remove the service of one year in the county jail and to require instead the payment of a \$10,000 fine. Katz paid the fine; and in 1988, the Santa Clara County Superior Court entered an order terminating Katz's probation and expunging his conviction. (Agreed Statement of Facts at pp. 2-3.)

In the State Bar Court proceeding prompted by the perjury conviction, the hearing judge recommended three years' stayed suspension on conditions including actual prospective suspension of Katz for 18 months and until Katz has shown proof satisfactory to the State Bar Court of his rehabilitation, fitness to practice and learning and ability in the general law at a standard 1.4(c)(ii) hearing. (Decision at pp. 24-25.)

II. STATEMENT OF FACTS

In the agreed statement of facts, the examiner and the attorney for Katz stipulated that the facts surrounding Katz's perjury conviction were correctly stated in the appellate court opinion of June 9, 1987, as modified in minor ways on July 2, 1987. (Agreed Statement of Facts at pp. 2-3.) The following statement of facts is based on the facts as found by the court of appeal, except where otherwise noted.

Caarco was a shell corporation designed to avoid California use and vehicle registration taxes. During most of Caarco's existence, its only officers, directors, shareholders, and employees were Katz and his wife. (App.Ct.Opn. at p. 2.)

Katz involved Dorothy Cichon, a client whose marital dissolution he was handling at the time, in Caarco's affairs. In the infraction and perjury trials, she testified that she paid a \$1,000 retainer fee at Katz's direction to Stevens Creek Volkswagen as a deposit on a 1981 Mercedes Benz. (*Id.* at pp. 3-4.) Katz denied that Cichon had purchased the car on his behalf, but acknowledged that the receipt for her \$1,000 deposit indicated the deposit was "for and on behalf of the undersigned," who was Katz. (*Id.* at p. 13.)

Following Katz's instructions, Cichon took delivery of the 1981 Mercedes Benz in Germany, drove it in Europe,

arranged for shipment to California, collected it from the U.S. Customs Service, and turned it over to Katz. At Katz's direction, she also signed an Oregon registration application listing her address as 3060 Jump Off Joe Creek Road, Sunny Valley, Oregon, although she had never lived there. Two days before the infraction trial, she received a letter in which Katz asked her to sign a bill of sale backdated by Katz and again listing her address as 3060 Jump Off Joe Creek Road, Sunny Valley, Oregon. (*Id.* at p. 4.)

*3 At the infraction trial, California Highway Patrolman Milton Stark testified that he had received a tip from an anonymous informant, later identified as Katz's neighbor and former client Wayne Averill. Stark discovered that the 1981 Mercedes Benz, which bore the Nevada license plate "CAARCO," should have displayed the Oregon license plate "GPC301." (*Id.* at pp. 3-5.)

During the infraction trial, Katz denied that Caarco was a sham corporation. He also maintained that Caarco had a branch office in a rudimentary structure called a "pole house" at the Oregon address and that he had used the 1981 Mercedes Benz on Caarco business in California and Oregon. (*Id.* at pp. 5-6.)

Because of his testimony at the infraction trial, Katz was charged with eight counts of perjury, which were reduced to two counts by the time of trial. (Agreed Statement of Facts at pp. 1-2.) He was convicted in October 1983 on one count for falsely **509 testifying that Caarco owned two vehicles used in respect to its branch office operations in Oregon. (Perjury Verdict.)

At the perjury trial, Sue Patterson testified that she lived near the pole house on the Jump Off Joe Creek Road property, which she had previously owned, but had sold to Richard Groen, a former client of Katz. Patterson explained that the pole house had no telephone, no electricity, and no septic tank or sewer connection; that the Jump Off Joe Creek Road address was actually a bullet-ridden mailbox about 12 miles from the pole house; that the road to the pole house ran in front of her home and through two gates at its side; that the property could not be approached in a Mercedes Benz without breaking an oil pan; that she could not recall any visit by Katz to the property; and that she had never heard of Caarco or Katz until early 1982. (App.Ct.Opn. at pp. 8-9.)

In early 1982, Patterson had received a letter written by Katz's wife with his knowledge and approval. The letter stated that

Patterson, if asked about Caarco, need not cooperate with law enforcement authorities. Further, the letter urged Patterson, if she did respond to inquiries, to say that she was familiar with Caarco and that Caarco maintained an office on the Jump Off Joe Creek Road property. (*Id.* at p. 9.)

Richard Groen testified at the perjury trial that he had given Katz permission to use the pole house property, that he had gone with Katz to the property, that the property could be reached without a four-wheel drive vehicle, and that he had personally introduced Katz to Patterson. (*Id.* at 11.) Groen's wife asserted that Caarco had permission to use the pole house property and that she had informed Patterson, who was forgetful, about Caarco and Katz. (*Id.* at p. 12.)

Katz testified at the perjury trial that he used the Oregon address to minimize registration fees and use taxes, had visited the pole house property several times, had met Sue Patterson, and had discussed with her the use of the property as Caarco's mailing address. In Katz's opinion, he had conducted Caarco business in traveling to Oregon to register his vehicles and had used the vehicles in respect to the Oregon branch office. (*Id.* at p. 13.)

*4 Soon after the perjury trial began, Katz attempted to intimidate Averill, the initially anonymous police informant and a potential witness. Katz drove an automobile onto Averill's property, stopped a couple of feet from Averill, and pointed his finger at Averill in a threatening manner. In early 1982, Averill also had received three identical anonymous threatening letters which he believed Katz had sent. (*Id.* at pp. 19-21.)⁵

After his perjury conviction, Katz applied in March 1984 to become an inactive member of the State Bar. This application was given retroactive application to January 1, 1984. (III R.T. 411-412.)

On March 21, 1984, the California Supreme Court ordered that Katz be put on interim suspension pursuant to Business and Professions Code section 6102(a) and that Katz comply with rule 955 of the California Rules of Court. The effective date of the order was April 20, 1984. (Interim Suspension Order.)

At the disciplinary hearing, the examiner argued that the only issue was the level of discipline and that disbarment was appropriate under standard 3.2 because the most compelling mitigating circumstances did not clearly predominate. (I R.T.

13-14.) Respondent's counsel claimed that Katz's conduct posed "a very technical question, inappropriate for a perjury conviction"; that Katz had merely pressed "a minor matter too far"; and that he was a rehabilitated, honest man. (I R.T. 15-17.) Testimony was presented by Katz, Patrolman Stark, Katz's psychotherapist, Katz's former probation officer, the **510 superior court judge who had presided at Katz's perjury trial, three attorneys who had either represented or worked for Katz, and six lay witnesses.

The hearing judge restricted his findings of fact to the facts stipulated by the parties and set forth in the appellate court opinion. (Decision at pp. 4-8.) He concluded that the crime of which Katz was convicted involved moral turpitude, as did the facts and circumstances surrounding it. (*Id.* at p. 8.) With regards to mitigation and aggravation, the hearing judge made two findings: that bad faith, dishonesty, concealment, and overreaching surrounded Katz's conduct and that the most compelling mitigating circumstances did not predominate. (*Id.* at p. 9.) As discussed above, the hearing judge declined to impose disbarment or to give Katz any credit for several years of interim suspension. Instead, the hearing judge recommended actual suspension for 18 months and until Katz has shown proof satisfactory to the State Bar Court of his rehabilitation, fitness to practice, and learning and ability in the general law pursuant to Standard 1.4(c)(ii). (*Id.* at pp. 16-17, 21-22, 24.)

III. DISCUSSION

A. Delays During the Disciplinary Process.

Katz alleges prejudicial delays during the disciplinary process, but was not prepared to state that his case would have been stronger if no delays had occurred. Delays in disciplinary proceedings merit consideration only if they have caused specific, legally cognizable prejudice (e.g., by impairing the presentation of evidence). (*Blair v. State Bar* (1989) 49 Cal.3d 762, 774; *In re Ford* (1988) 44 Cal.3d 810, 818; *Rodgers v. State Bar* (1989) 48 Cal.3d 300, 310.) Absent any credit for time on interim suspension Katz might have been able to demonstrate prejudice from the delays, but we believe we have obviated any such potential prejudice by our recommended discipline. (See discussion *post*.)

B. Finding of Fact No. 7.

*5 Katz argues that finding of fact no. 7, which describes the infraction and perjury trials, exceeds the scope of the

hearing ordered by the California Supreme Court because it deals with matters other than simply the perjury conviction. In a conviction referral, discipline is imposed according to the gravity of the crime and the circumstances of the case. (Bus. and Prof. Code, § 6102(d).) In examining such circumstances, the court may look beyond the specific elements of a crime to the whole course of an attorney's conduct as it reflects upon the attorney's fitness to practice law. (*In re Kristovich* (1976) 18 Cal.3d 468, 472; *In re Higbie* (1972) 6 Cal.3d 562, 572.) The disciplinary hearing thus properly encompassed the whole course of Katz's conduct resulting in the perjury conviction.

Katz also alleges that he had lack of notice that matters beyond the perjury conviction were to be considered at the disciplinary hearing. The examiner, however, in his pretrial statement informed Katz that the facts and circumstances surrounding the perjury conviction would be at issue and that the record would include the transcript of the infraction trial, as well as the transcript of the perjury trial. In addition, pursuant to rule 602 of the Transitional Rules of Procedure,⁶ the hearing judge may consider evidence of facts not directly connected with the crime of which the member was convicted if such facts are material to the issues stated in the order of reference. Both the examiner's Pretrial Statement and rule 602 gave Katz sufficient notice that all relevant facts and circumstances would be considered.

Katz especially objects to the references in finding of fact number 7 of the hearing judge's decision concerning alleged mistreatment of Cichon and Averill. The finding merely incorporates stipulated facts from the appellate court's opinion. The respondent in a disciplinary proceeding must accept facts to which he has stipulated. (*Levin v. State Bar* **511 (1989) 47 Cal.3d 1140, 1143; *Inniss v. State Bar* (1978) 20 Cal.3d 552, 555.)

C. Application of Standard 3.2 to Katz's Conduct.

Katz claims that standard 3.2, which deals with the appropriate sanction for an attorney convicted of a crime involving moral turpitude, does not apply to his conduct because it did not exist when he committed perjury. (Respondent's Request for Review at p. 3.) The California Supreme Court, however, has made it clear that the standards may be applied retroactively. (*In re Aquino* (1989) 49 Cal.3d 1122, 1133-1134, fn. 5; *Kennedy v. State Bar* (1989) 48 Cal.3d 610, 617, fn. 3; *In re Ford* (1988) 44 Cal.3d 810, 816, fn. 6.)

D. Katz's Remorse.

Katz testified below that he was "very sorry" about the perjury conviction, but "probably more sorry on [sic]" himself. (III R.T. 376.) He realized that he had made a "very big mistake" and had harmed his family, clients, and the public, although he did not consider them victims. (III R.T. 389; I R.T. 48.) He believed that he did not deserve to be convicted of perjury and that certain "behavior traits" had gotten him into trouble, particularly a tendency to have "tunnel vision" and to ignore the adverse consequences of holding onto a position regardless of how right he considers the position. (I R.T. 38; III R.T. 374, 435, 439-440.) When the hearing judge suggested that Katz did not mean to say the lesson Katz had learned from his conviction was "You can't fight city Hall," Katz replied that it might be the lesson. The basic fault which Katz perceived in his conduct was that he had allowed minor matters to escalate. (III R.T. 433-434.) We have no basis for disturbing the hearing judge's findings.

*6 In *In re Aquino*, *supra*, 49 Cal.3d 1122, the Supreme Court gave similar statements of remorse little weight. After his criminal conviction, Aquino published an advertisement in a paper serving his immigrant community. The advertisement stated that Aquino was "very sorry" for the shame which he had caused his family and community and that he was "equally sorry for the embarrassment" which he had caused the legal profession. At his disciplinary hearing, Aquino expressed regret for his conduct; and his psychologist testified that although Aquino had initially viewed himself as a victim of circumstance, he had come to accept responsibility for his conduct. Nevertheless, the California Supreme Court observed that Aquino's evidence raised serious doubts about whether, when, and to what extent he had come to grips with his culpability. (*Id.* at pp. 1132-1133.)

Here, similarly, Katz failed to come to grips with his culpability in asserting that he had merely made a mistake in pressing a correct position too far. (III R.T. 374, 376.) While he claimed to respect the perjury conviction, he repeatedly testified that he was innocent of perjury. (I R.T. 38; III R.T. 439-440.) Katz acknowledged fault only for having failed to communicate clearly. (III R.T. 439-440.) At no point in the disciplinary hearing did he either concede that he had lied under oath or express regret for such lying.

Katz also failed to acknowledge the other aspects of his culpability. In seeking to avoid paying California motor vehicle taxes and fees for his automobiles he engaged in

extensive chicanery. He had his client, Dorothy Cichon, pay a retainer fee to that Oregon corporation to make it appear as though it were a car deposit. Then he directed her to lie about her address on a car registration application and asked her to sign a backdated bill of sale with the same wrong address. With his approval, his wife urged a key witness, Sue Patterson, not to cooperate with law enforcement authorities. During the perjury trial, he threatened his neighbor, Wayne Averill, a potential witness against him. Katz's actions can by no stretch of the imagination be considered a legitimate position asserting the inapplicability of the California tax laws for his use of an automobile. As the hearing judge properly observed, they showed bad faith, dishonesty, concealment, and overreaching. Such deliberate misconduct would have warranted discipline even if a jury had not convicted Katz of perjury in connection therewith.

The law does not require false penitence. (Cf. *Hall v. Comm. of Bar Examiners* (1979) 25 Cal.3d 730.) But it does require that the respondent accept responsibility for his acts and come to grips with his culpability. (*In re Aquino, supra*, 49 Cal.3d at p. 1133.)

****512 E. Testimony by Three Attorneys as Character Witnesses.**

The hearing judge described much of Katz's trial strategy as a "not well veiled attack on the conviction itself, despite some assertions to the contrary." (Decision at p. 10.) The hearing judge regarded the disciplinary hearing as the wrong forum for testimony by the three attorneys who served as character witnesses that Katz's conviction was invalid; and he stated that "the facts clearly show their opinions to be grievously, completely and utterly wrong." (*Id.* at p. 13.) The expression of such opinions by the attorneys led the hearing judge to believe that Katz's sanction "must be a strong one in order to deter such attitudes on the part of attorneys which can only generate disrespect of the public for the legal profession." (*Id.* at pp. 13-14.) Further, he suggested that the attorneys' character evidence was undercut by their view of Katz's crime. (*Id.* at p. 18.)

*7 Katz argues that the character testimony by the three attorney witnesses should not have been discounted because they expressed the opinion that Katz's perjury conviction was a mistake. Katz also objects to the hearing judge's imposing a more severe discipline because the attorneys expressed their belief in Katz's innocence. The amicus brief raises similar concerns.

The confidence of fellow attorneys may be considered in mitigation. (*In re Aquino, supra*, 49 Cal.3d at p. 1131; *In re Demergian* (1989) 48 Cal.3d 284, 296.) Because Morris, Mesirow, and Rosenblatt have all known Katz well and are aware of the circumstances prompting the disciplinary proceeding, their testimony regarding Katz's integrity and honesty deserved consideration.

William H. Morris clerked for Katz, did research about the vehicle infraction charges, and had fairly detailed knowledge of the perjury conviction. On direct examination, he testified that Katz was and is honest, that the jury in Katz's perjury trial made a mistake, and that Katz formerly suffered from hubris, but has outgrown his problems. On cross-examination, he conceded that Katz committed perjury, but contended that the conviction was probably not appropriate. (II R.T. 302, 306, 308, 310, 313.)

Charles M. Mesirow, who represented Katz in the perjury trial, expressed strong criticisms of the perjury trial and conviction on direct examination. He also stated that Katz had better judgment now than formerly, "is probably one of the more honest people that there are," poses no danger to the public, and should be reinstated. On cross-examination, he reiterated his opinion that Katz had not committed perjury. (II R.T. 199-200, 209, 210, 213.)

Philip S. Rosenblatt shared office space with Katz, represented him in the writ proceeding against the Department of Motor Vehicles, and "lived through" the perjury prosecution and conviction with him. On direct examination, he expressed the opinions that Katz would be an honest and effective attorney, poses no danger to the public, and was wrongly convicted of perjury. On questioning from the hearing judge, Rosenblatt reiterated that Katz had not committed perjury, but had a "mode of behavior" problem which has lessened. (II R.T. 151, 152, 155, 165, 167, 190, 191.)

All the attorneys criticized the perjury conviction on direct examination in accordance with respondent's strategy to attack the conviction outlined in the opening statement by Katz's counsel, who contended that Katz's conduct raised "a very technical question, inappropriate for a perjury conviction," and who expressed an intention to show that "Katz always believed he was telling the truth." (I R.T. 15-16.) In a disciplinary hearing, however, the record of a felony conviction conclusively establishes the member's guilt of the felony. (Bus. & Prof.Code, § 6101(a).) The hearing judge was

therefore correct in pointing out that it was both too late and the wrong forum to challenge the conviction.

*8 Indeed, although it is not uncommon for attorneys to focus on technicalities in all areas of the law, it is nonetheless a very shortsighted approach to the ethical obligations of attorneys. As the examiner pointed out at oral argument, a leading ethicist, Professor Josephson of the Josephson Institute for the Advancement of Ethics, in his numerous seminars and speeches, has described similar technical approaches to the body of law regulating attorneys' ethics as undermining the moral fiber of the profession. Evidence of good character does not rest on technicalities.

**513 Nevertheless, by stating that Katz's sanction must be strong precisely because three attorneys expressed their belief in Katz's innocence of perjury, the hearing judge mistakenly converted misguided testimony by the attorneys into an aggravating circumstance. Character evidence from more disinterested attorneys with knowledge of the conviction might have deserved more weight in mitigation, but we decline to assess greater discipline against the respondent on the basis of the three attorneys' testimony as to their attitude toward the conviction.

F. Testimony by Six Lay Character Witnesses.

Katz claims that the hearing judge failed to give enough credit to the character evidence presented by six lay witnesses. We disagree. Although the hearing judge was impressed by the number of witnesses, by the breadth and strength of their backgrounds, and by their vouching for Katz's character, he described their testimony as "seriously undercut because aside from the bare fact of the attestation, none of the witnesses could point to any persuasive reasons other than their acquaintanceship" for believing Katz to have good character.⁷

The hearing judge's decision does not expressly address the fact that Katz's lay witnesses lacked knowledge of the details of his conviction. The guideline which is provided by the standards is "an extraordinary demonstration of a member's good character attested to by a wide range of references" if such references are aware of the "full extent" of the member's misconduct. (Standard 1.2(e)(vi).) Applying standard 1.2(e)(vi), the California Supreme Court has discounted extensive character testimony and letters because "most of those who testified or wrote may not have been familiar with the details" of a member's misconduct. (*In re Aquino*, *supra*, 49

Cal.3d at p. 1131, emphasis added.) In Katz's case, one lay witness knew that the perjury conviction related to a vehicle registration problem; and another knew that a state policeman had gone to Oregon for evidence against Katz. (II R.T. 269, 277-278.) None of Katz's lay witnesses knew the details of his conviction. (I R.T. 114, 137-138; II R.T. 266, 268, 269, 275, 277-278, 290, 299-300.) Such lack of knowledge undermined the value of their character testimony.

G. Recommended Discipline.

(1) Hearing Judge's Analysis.

The hearing judge started his analysis with the provisions of standard 3.2, which, as indicated above, may properly be applied to facts predating its adoption. The California Supreme Court treats standard 3.2 the same way as other standards—as a guideline which it is not compelled to follow in talismanic fashion. (*In re Young* (1989) 49 Cal.3d 257, 268; declining to apply standard 3.2's prospective suspension requirement; cf. *Howard v. State Bar* (1990) 51 Cal.3d 215, 221.) The hearing judge found that Katz's conviction on one count of perjury involved moral turpitude, both inherently and in the surrounding facts and circumstances, and that compelling mitigating circumstances did not predominate. (Decision at p. 9.) He then properly proceeded to analyze the relevant case law in order to arrive at the appropriate sanction, instead of automatically applying standard 3.2 to disbar the respondent.

*9 The hearing judge distinguished various cases cited by Katz (*In re Chira* (1986) 42 Cal.3d 904; *In re Effenbeck* (1988) 44 Cal.3d 306; *In re Chernick* (1989) 49 Cal.3d 467) on the grounds that these cases did not involve perjury. (Decision at pp. 10-11.) The hearing judge also distinguished cases cited by the examiner in which the California Supreme Court imposed disbarment on attorneys who bribed witnesses. (*In re Allen* (1959) 52 Cal.2d 762; *In re Hanley* (1975) 13 Cal.3d 448.) The hearing judge observed that the "perversion of the judicial process involved in bribing witnesses appears different in character than that of perjury." (Decision at p. 14.)⁸ **514 In his analysis, the hearing judge relied in part on the Supreme Court's decision in *In re Kristovich* (1976) 18 Cal.3d 468, which was decided only one year after *In re Hanley*, *supra*. In *In re Kristovich*, *supra*, in light of compelling mitigation, the attorney received three months' suspension for two acts of perjury and preparing a false statement.

In determining the appropriate discipline, the hearing judge also looked for guidance from three other cases involving deceit: *Levin v. State Bar*, *supra*, 47 Cal.3d 1140 (six months' actual suspension for numerous dishonest acts and careless handling of client's affairs), *Olguin v. State Bar* (1980) 28 Cal.3d 195 (six months' actual suspension for abandoning a client, lying to a State Bar investigation committee, and fabricating false documents), and *Montag v. State Bar* (1982) 32 Cal.3d 721 (six months' actual suspension for perjury before a grand jury). (Decision at pp. 15-17.)

The severity of the recommended discipline below compared to that in cases such as *Montag v. State Bar*, *supra*, 32 Cal.3d 721 and *In re Kristovich*, *supra*, 18 Cal.3d 468 appears to be predicated on Katz's surrounding acts of bad faith, dishonesty, concealment, and overreaching, as well as the lack of the most compelling mitigating circumstances.

(2) Recent Cases Applying Standard 3.2.

The most recent Supreme Court decision involving standard 3.2 is *In re Leardo* (1991) 53 Cal.3d 1,⁹ in which the California Supreme Court unanimously rejected our predecessor volunteer Review Department's recommendation of disbarment, gave credit for four and one-half years' interim suspension, and imposed no prospective suspension for a drug offense as not required under the circumstances for the protection of the public, the profession or the courts. (*Id.* at p. 18.) In so ruling, the court noted: "We recognize that standard 3.2 of the State Bar Standards for Attorney Sanctions for Professional Misconduct (Rules Proc. of State Bar, div. V) provides that discipline for conviction of a crime involving moral turpitude shall be disbarment unless compelling mitigating circumstances clearly predominate; and in the latter event, discipline shall not be less than a two-year actual suspension prospective to any interim suspension, 'irrespective of mitigating circumstances.' Those standards, however, 'are simply guidelines for use by the State Bar. Whether the recommended discipline is appropriate is still a matter for our independent review.'" (*Boehme v. State Bar* (1988) 47 Cal.3d 448, 454; *Greenbaum v. State Bar* (1987) 43 Cal.3d 543, 550.) For the reasons stated herein, neither the discipline recommended by the review department nor the minimum discipline provided in standard 3.2 is appropriate. We note that the Office of Trial Counsel itself did not feel bound by the letter of this standard, because it recommended an actual suspension of one year rather than two." (*Id.* at fn. 8.)

*10 The mitigation in *In re Leardo*, *supra*, 53 Cal.3d 1, was far more compelling than here and the circumstances were unusual. In contrast, however, in four other recent criminal referral cases resulting in disbarment, the circumstances were substantially more egregious than those involved here and nonetheless caused the Court to split on the issue of appropriate discipline. (*In re Aquino*, *supra*, 49 Cal.3d 1122, *In re Lamb* (1989) 49 Cal.3d 239; *In re Rivas* (1989) 49 Cal.3d 794; and *In re Scott* (1991) 52 Cal.3d 968.)

In *In re Leardo*, *supra*, 53 Cal.3d 1, *In re Aquino*, *supra*, 49 Cal.3d 1122, *In re Lamb*, *supra*, 49 Cal.3d 239, *Rivas*, and *In re Scott*, *supra*, 52 Cal.3d 968, the Supreme Court went beyond the determinations that a crime of moral turpitude was involved to look at the nature of the crime and the magnitude of its impact on the public and the integrity of the legal system. This factual analysis in determining the propriety of disbarment is very similar to what it has done in applying the similarly worded guideline set forth in standard 2.2 for offenses involving entrusted funds or property. Thus, for example, in *Friedman v. State Bar* (1990) 50 Cal.3d 235, the Supreme Court did not impose disbarment pursuant to standard 2.2 even with aggravating **515 circumstances involving perjury, in light of other mitigating factors, including the finding as made here that apart from the charged misconduct, the respondent was found to be basically honest and unlikely to commit a similar act again. There, the Supreme Court deemed disbarment excessive in view of the prophylactic purpose of attorney discipline. (*Id.* at p. 245; cf. *Maltaman v. State Bar* (1987) 43 Cal.3d 924, 958 ["We have no evidence that a sanction short of disbarment is inadequate to deter future misconduct and protect the public"].) Here, because the relevant facts and circumstances surrounding the perjury conviction were serious, the hearing judge's recommendation of lengthy suspension, a standard 1.4(c) (ii) hearing, and a Professional Responsibility Examination requirement are clearly appropriate. Nonetheless, in light of the hearing judge's findings in mitigation and the circumstances taken as a whole, we adopt the hearing judge's conclusion that disbarment is not necessary.

We next consider the impact on the prospective aspect of the suspension recommendation of respondent's seven plus years on interim suspension, which resulted in part because he appealed his conviction and in part because of other delays.

H. Credit for Interim Suspension.

The hearing judge refused to give any credit for Katz's interim suspension because he interpreted *In re Young*, *supra*, 49

Cal.3d at p. 268 to make such credit available only on a finding of compelling mitigating factors. (Decision at pp. 21-22.) He noted that Young did not seek to promote his own self-interest or to obtain financial gain; suffered from physical, mental, and emotional exhaustion; and committed acts which were out of character and highly unlikely to recur. By contrast, Katz carefully planned his perjury and deliberately arranged a scheme for his own financial gain. (*Id.* at p. 22.)

***11** The hearing judge's interpretation of *In re Young*, *supra*, appears too restrictive. In *In re Fudge*, *supra*, 49 Cal.3d at 645, the Supreme Court gave full credit for interim suspension without expressly finding compelling mitigation, but just upon "considering all the facts and circumstances" including unexplained delay in the State Bar proceedings. Delays also permit the respondent to show in mitigation a sustained period of good conduct following the misconduct at issue. (See, e.g., *Rodgers v. State Bar*, *supra*, 48 Cal.3d at pp. 316-317.) Thus, in *In re Young*, *supra*, the California Supreme Court stressed that it balanced all relevant factors in arriving at a proper discipline. (*In re Young*, *supra*, 49 Cal.3d at p. 266.) In Young's case, these factors included an interim suspension of three years, as well as the facts and circumstances surrounding Young's crime and other significant mitigating factors. (*Id.* at p. 268.) As the Supreme Court recently stated in *In re Leardo*, *supra*, (1991) 53 Cal.3d 1, "whether a suspension be called interim or actual, of course, the effect on the attorney is the same—he is denied the right to practice his profession for the duration of the suspension." (*Id.* at p. 18.) Katz's interim suspension of nearly seven years should weigh heavily in balancing all the relevant factors of his case.

We are particularly concerned about penalizing Katz for pursuing his criminal appeal. The rationale underlying *In re Young* is that disciplinary recommendations should not "essentially penalize" a member for appealing a criminal conviction or contesting the State Bar Court's findings and recommendations. (*In re Young*, *supra*, 49 Cal.3d at p. 267.) Previously, in *In the Matter of Stamper* (State Bar Ct. July 9, 1990) 90 Cal.Daily Opn.Service ["C.D.O.S."] 90 L.A.Daily Journal App.Rep.D.A.R. 8085 [Sup.Ct. cite], we relied on *In re Young*, *supra*, in holding that "Respondent should not be penalized for his entirely proper exercise of his right to appeal by forfeiting his right to practice law for longer than would have been the case had he allowed his conviction to become final earlier." [*In the Matter of Stamper*, *supra*, 90 C.D.O.S. at p. 5415.] Where lengthy interim suspension

has occurred, the appropriate consideration in determining whether prospective suspension is necessary is whether the facts and circumstances of a particular matter require a further period of actual suspension for the protection of the public, the profession, or the courts. (*In re Leardo*, *supra*, 53 Cal.3d at p. 18.)

While we consider credit for time spent on interim suspension appropriate, we agree with the hearing judge that respondent has yet to demonstrate sufficient rehabilitation and therefore some prospective suspension is appropriate until respondent proves ****516** his entitlement to resume practice in accordance with standard 1.4(c)(ii). We also note that more than a year has expired since the hearing judge recommended a prospective period of eighteen months. Although respondent's counsel maintains that respondent is entitled to immediate reinstatement, he also recognizes the appropriateness of a 1.4(c)(ii) hearing before respondent is permitted to resume the practice of law. The examiner prefers a reinstatement proceeding because of untested concerns regarding the scope of discovery in the newly established 1.4(c)(ii) proceeding and because of the higher burden of proof in a reinstatement proceeding. However, the examiner was unable to demonstrate that the hearing judge's recommendation of a 1.4(c)(ii) proceeding could not adequately protect the public. (Cf. *Maltaman v. State Bar*, *supra*, 43 Cal.3d 924, 958.)

***12** We therefore adopt the hearing judge's findings and decision that the misconduct was worthy of lengthy actual suspension and a standard 1.4(c)(ii) hearing, at which respondent by a preponderance of the evidence must affirmatively demonstrate rehabilitation, present fitness to practice, and present learning and ability in the general law. (Rule 817.)¹⁰ We also agree with the need for his requirement of passage of the California Professional Responsibility Examination. With credit for time spent on interim suspension, and in recognition of the substantial passage of time since the hearing judge entered his order, we recommend actual prospective suspension from the effective date of the Supreme Court order for six months and until satisfaction of the standard 1.4(c)(ii) requirement. In making this recommendation, we note that an application for a standard 1.4(c)(ii) hearing may be filed no earlier than 150 days prior to the earliest date that the member's actual suspension can be terminated. (Rule 812.) Prospective suspension for six months will give the respondent a month to prepare the earliest application which may be entertained under the rules.¹¹ We further recommend that respondent be

allowed one year from the effective date of our decision to pass the California Professional Responsibility Examination. (*Segretti v. State Bar* (1976) 15 Cal.3d 878, 892.)¹²

"within one year of the effective date of this order" for "the period of his actual suspension." ¹³

IV. FORMAL RECOMMENDATION

In light of the above, it is therefore recommended to the Supreme Court that it adopt the recommendation of the hearing judge below with the following modifications: In paragraph 1, substitute "six months" for "eighteen months". In the final paragraph, add the word "California" prior to "Professional Responsibility Examination" and substitute

NORIAN and ROBBINS, JJ., concur.

Hearing Department Judge assigned by the Presiding Judge of the Review Department.

All Citations

Not Reported in Cal.Rptr., 1991 WL 84192, 1 Cal. State Bar Ct. Rptr. 502

Footnotes

- 1 Katz indicated that "Caarco" was an acronym combining the first names of his wife and himself and stood for "Carolyn and Aaron Company." (Appellate Court Opinion [hereafter cited as "App.Ct.Opn."] at p. 3, fn. 1.)
- 2 Shortly after Katz was found guilty in the infraction trial, Caarco prevailed in a mandate proceeding seeking the return of the two automobiles, which had been impounded. (App.Ct.Opn. at pp. 5-8.)
- 3 The California Supreme Court denied Katz's petition for review, but a federal habeas corpus attack on the perjury conviction was still pending by the end of September 1990. (Respondent's Brief at p. 14, fn. 3.)
- 4 Although the appellate court opinion suggests that Katz was convicted on all of the infraction charges, the uncontroverted testimony at the disciplinary hearing is to the contrary, and we rely on the testimony in the record. (See App.Ct.Opn. at p. 6.)
- 5 At the perjury trial, Katz denied threatening Averill. He asserted that Averill had hidden assets from him after previous litigation and that he had entered Averill's driveway to note the license number of an apparently new automobile, so that he might possibly obtain a writ of execution on it. (App.Ct.Opn. at p. 21.) The appellate court opinion, however, accepted the view that Katz threatened Averill. (*Id.* at p. 27.)
- 6 All further references herein to the Rules of Procedure refer to the Transitional Rules of Procedure of the State Bar.
- 7 The hearing judge observed that most of the lay witnesses were acquaintances who saw Katz only occasionally, that three knew him only through a Hawaii condominium project, and that "none could point to good works, involvement in the community, civic or career achievements, or any of the usual benchmarks for notable character or compelling mitigation." (Decision at p. 18.)
- 8 The hearing judge declined to follow three other disbarment cases cited by the examiner (*Snyder v. State Bar* (1976) 18 Cal.3d 286, *Garlow v. State Bar* (1988) 44 Cal.3d 689, and *Marquette v. State Bar* (1988) 44 Cal.3d 253) because each case involved a number of dishonest acts. (Decision at p. 14.) The facts of *Snyder v. State Bar*, *supra*, *Garlow v. State Bar*, *supra*, and *Marquette v. State Bar*, *supra*, were far more egregious than the facts of Katz's case.
- 9 Although the California Supreme Court issued its opinion in *In re Leardo*, *supra*, 53 Cal.3d 1, after oral argument in the present proceeding, we accepted posthearing briefing from the parties regarding *In re Leardo* and deferred submission of this matter to the date of the last filed posthearing brief.
- 10 Rules 810 through 826 currently govern proceedings pursuant to standard 1.4(c)(ii). Such proceedings are expedited. (Rule 810.) The member and the Office of Trial Counsel may stipulate that the member meets the conditions for the termination of the member's actual suspension. (Rule 818.) However, if the matter is contested, discovery is permitted by an order of the assigned hearing judge upon a showing of good cause. (Rule 819.)
- 11 Since the examiner has raised concerns regarding the ability of her office to determine its position with respect to respondent's resumption of practice absent information as detailed and complete as in an application for reinstatement, we recommend that respondent follow the same format in this case in presenting his initial application as someone applying for reinstatement would do. Otherwise, a discovery request from the examiner would be the appropriate means for seeking such information and would be more time consuming.

- 12 While passage of the Professional Responsibility Examination would be relevant evidence in a hearing pursuant to standard 1.4(c)(ii), it is not a condition precedent. We recognize that time constraints may not permit respondent to take and pass the Professional Responsibility Examination before the standard 1.4(c)(ii) hearing and therefore have recommended the standard period of one year for passage of such examination.
- 13 Like the hearing judge below, we do not see the necessity of an order to comply with the provisions of rule 955, California Rules of Court since respondent did so at the time of his interim suspension and has not practiced since that time.

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EXHIBIT 2

EXHIBIT 2

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6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
7 IN AND FOR THE COUNTY OF WASHOE
8

9 AARON L. KATZ,

Case No.: CV11-01380

10 Plaintiff,

Dept. No.: 7

11 vs.

12 INCLINE VILLAGE GENERAL
13 IMPROVEMENT DISTRICT, et al.,

14 Defendants.
15

ORDER

16 On January 8, 2014, Defendant (IVGID) filed a *Motion to Strike Plaintiff's*
17 *Second Supplemental Amendment to Amended Complaint*. On February 7, 2014,
18 Plaintiff filed his *Opposition*. On March 4, 2014, IVGID filed its *Reply*. This matter
19 was submitted for decision on March 5, 2014.

20 IVGID argues Plaintiff's second supplemental amendment to the amended
21 complaint should be struck from the record as untimely and for failing to adhere to
22 this court's August 7, 2013 *Order*. Plaintiff contends under his interpretation of the
23 August 7, 2013 *Order* the *Second Supplemental Amendment* complies with the
24 rulings of the court.

25 This court previously cautioned Plaintiff regarding his inability to adhere to
26 Nevada's Rules of Civil Procedure and this court's orders. Procedural requirements
27 are not mere suggestions. "[I]t is imperative that the parties follow the applicable
28 procedural rules and that they comply in a timely fashion with [court] directives."

1 *Weddell v. Stewart*, 127 Nev. Adv. Op. 58, 261 P.3d 1080, 1084 (2011). A party's
2 blatant disregard of the rules of procedure is not just troublesome; failure to abide
3 by the terms of prior court orders is cause for contempt. NRS 22.010(3).

4 Additionally, "[w]here a party seeks to amend a pleading after the pretrial
5 scheduling order's deadline for amending the pleadings has expired, the moving
6 party must satisfy the stringent 'good cause' standard under Federal Rule of Civil
7 Procedure 16(b), not the more liberal standard under Rule 15(a)." *Hernandez v.*
8 *Creative Concepts, Inc.*, 295 F.R.D. 500, 505 (D. Nev. 2013).¹ A party who fails to
9 obey a scheduling order, absent a good faith justification, may be sanctioned. NRCP
10 16(f). It under this framework, that the court considers Plaintiff's latest proposed
11 *Second Supplemental Amendment* to his *Second Amended Complaint*. An overview
12 of this litigation's journey highlights the problem Plaintiff's latest filing poses for
13 this court.

14 Let us begin: On May 4, 2011, Plaintiff filed his initial *Complaint*. On August
15 22, 2011, Plaintiff filed his *Amended Complaint*. On November, 23, 2011, Plaintiff
16 filed an *Amendment to Amended Complaint*. On July 18, 2012, Plaintiff filed a
17 *Supplemental Amendment to Amended Complaint*. On December 23, 2013, Plaintiff
18 filed a *Second Supplemental Amendment to Amended Complaint*.

19 A review of the docket reveals Plaintiff's conflagrant disregard for this court's
20 prior rulings. The *Pre-Trial Order*, filed November, 4, 2011, limited all pleadings to
21 fifteen (15) pages in length. Plaintiff has submitted numerous pleadings in
22 violation of this limitation. On May 8, 2013, this court entered a *Scheduling Order*
23 requiring all amendments to be filed by August 23, 2013. In response, Plaintiff
24 stated he would file the second supplemental amendment "when time permits."
25 *Opp'n Mot. Summ. J. p. 1, l. 17*. Plaintiff ultimately filed the second supplemental
26 amendment on December 23, 2013. Finally, in this court's August 7, 2013 *Order*,

27
28 ¹"[F]ederal decisions involving the Federal Rules of Civil Procedure provide persuasive authority
when this court examines its rules." *Nelson v. Heer*, 121 Nev. 832, 834, 122 P.3d 1252, 1253 (2006).

1 Plaintiff was permitted to amend only the 6th and 15th claims of the *Second*
2 *Amended Complaint* to include material facts regarding the 2013–2014 water and
3 sewer rates. Further, he was expressly denied permission to add a 25th Cause of
4 Action. Plaintiff has now amended the 6th and 15th causes of action to include water
5 and sewer rates for years other than 2013–2014, as well as adding the prohibited
6 25th Cause of Action well beyond the time limit set forth in this court's Order.

7 Plaintiff attempts to justify these violations by asserting that these issues are
8 a mere matter of interpretation. Specifically, he argues that nothing in the August
9 7, 2013 *Order* denied him the right to add a 25th Cause of Action. To the contrary,
10 this court expressly prohibited the addition of the 25th cause of action and limited
11 the amendment of the 6th and 15th causes of action to include *only* material facts
12 regarding the 2013–2014 water and sewer rates. There was nothing opaque about
13 this *Order*. While this court has allowed Plaintiff to amend his pleadings with
14 caution (and some concern), this Plaintiff has conflated accommodation with abuse.

15 Such continuing abuse of this court's scant judicial resources is inexcusable.
16 In this litigation, Plaintiff has displayed a history of multiple filings which has
17 caused needless expense to the other parties and has posed a burden on this court.
18 *See, Molski v. Evergreen Dynasty Corp.*, 500 F.3d 1047 (9th Cir. 2007). While this
19 court is ever-mindful of protecting every citizen's right to access to justice, there are
20 practical restraints, particularly when court filings do not implicate fundamental
21 rights and impose needless expense to other litigants. Plaintiff's filings call into
22 question his motives in pursuing this litigation. The four month delay in filing the
23 minor amendments appear to be a dilatory tactic designed to prejudice the
24 Defendants. Further, Plaintiff has not provided a good faith reason for his failure to
25 either file the amendment prior to August 23, 2013, limit filings to the required
26 page limits, or comply with this court's prior orders regarding timely filing of
27 pleadings.

28 Taking all these factors into consideration,


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IT IS HEREBY ORDERED:

Defendants' *Motion to Strike Plaintiff's Second Supplemental Amendment to Amended Complaint* is **GRANTED**.

Defendants' request for sanctions is **GRANTED**. This court will consider what sanctions, if any, are appropriate following the hearing set for May 30, 2014.

DATED this 10 day of April, 2014.



PATRICK FLANAGAN
District Judge

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I hereby certify that I am an employee of the Second Judicial District Court of the State of Nevada, County of Washoe; that on this 10 day of April, 2014, I electronically filed the following with the Clerk of the Court by using the ECF system which will send a notice of electronic filing to the following:

Thomas Beko, Esq. and Keith Loomis, Esq. for Incline Village General Improvement District;

I deposited in the Washoe County mailing system for postage and mailing with the United States Postal Service in Reno, Nevada, a true copy of the attached document addressed to:

Aaron L. Katz
P.O. Box 3022
Incline Village, NV 89450

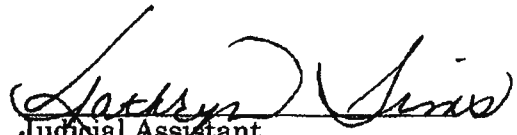

Judicial Assistant

EXHIBIT 3

EXHIBIT 3

Mountain View
VOICE

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Opinion - Friday, December 15, 2006

What's eating Aaron Katz

Saratoga lawyer may believe in what he's doing, but his methods are madness

by Don Frances

Those who've met Aaron Katz in person describe him as an average-looking man in his late 50s, slightly on the short side, slightly portly, with salt-and-pepper hair and large-rimmed glasses. In the courtroom at least, he has a manner in keeping with his e-mail persona: sarcastic and confrontational, with a tone of exasperation.

According to California State Bar records, Katz earned his law degree from Santa Clara University, and has been eligible to practice law off and on since 1973. He lives in Saratoga, but owns property around the county, including in Mountain View.

It is not clear if Katz has retired from practicing law — his member status, inactive since 2000, was reactivated only last month — but he seems to stay busy as a landlord and property manager.

In January 2004, Katz filed suit against an upcoming parcel tax measure for the Mountain View-Whisman School District (Measure J passed that March, by 69 percent), kicking off a new phase in his career as a fighter of district tax measures. He has since filed suits against the El Camino Hospital District, the West Valley-Mission Community College District, the Campbell Union High School District and, most recently, the Foothill-De Anza Community College District.

Even though he's never scored a legal victory, at least two of his lawsuits — against El Camino and West Valley-Mission — ended well for Katz: The former district paid him \$200,000, the latter \$60,000, to make his suits go away.

Katz' reasoning for his suits has always hinged on two unrelated points:

1) District tax measures are unfair and unconstitutional. This is because non-landowners (like Katz' Mountain View renters) can vote on them but don't have to pay for them, and because some landowners (like Katz) can't vote on them since they live outside the district.

2) Districts are run by greedy and incompetent officials who don't deserve any more taxpayer money.

Arguing these points with Katz is slow going when he's on the defensive, because his writing, shot through with insults and faux-legalese ("notwithstanding and insofar as your comment request is concerned ...") can get loopy. Here's an example from a May e-mail to a Voice reporter, in which he remarks on his settlement with El Camino and presages the coming fight with Foothill-De Anza:

"Insofar as your comment 'and what you think the settlements mean for voter rights' I have a question for you. Name me anyone in this community; anyone; who has come forward to do anything for voter rights? Assuming you can't come up with anyone, there aren't any voters whose rights are affected.

"Now may I suggest you make more productive use of your time examining the Foothill-De Anza Community College District's Measure C on this June's ballot? You should be running a comprehensive examination of that measure which lacks merit. ... this new tax measure has nothing to do with fixing the college and everything to do with more administrative overhead."

Katz sees corruption everywhere, and believes news entities like the *Voice* don't care to report it because we have an agenda of our own. The districts are on the make, he says, taxpayers are getting bilked, and we won't point this out because, for us, the ends justify the means.

No districts are spared Katz' gaze. In an e-mail to me last week, he ran through a long analysis meant to demonstrate that local high school districts (which rely totally on property taxes) are ill-run. The system, he wrote, "is an infrastructure which has been created to employ people, and in many instances, at obscenely high salaries."

"Now go through the same analysis for community college districts," he wrote. "Same result." He listed more districts — library, park, hospital, water, vector control — and after each of them, "same result."

Everywhere it's the same: beleaguered landowners preyed upon by insatiable local districts, who gladly take advantage of the feckless majority of non-landowning voters. The usual notion of class war is turned on its head.

As he often does, Katz ended his recent message with an ominous word of warning:

"The day is going to come when local agencies have extracted as much from landowners as they're able to extract. When that happens, they're going to turn to your non-landowning 'locals.' And just to make things fair, I hope they'll let only nonresident and non-natural person landowners vote on the proposition of whether non-landowning residents should be taxed as much as they.

"When the shoe's on the other foot, it will be very interesting to see how your story changes. I'll be watching."

From this language, you might have thought Katz was talking about something more sinister than your local vector control district. But there is no middle ground with Aaron Katz — which is probably the most salient fact driving these lawsuits.

Ends vs. means

Many people have offered me their opinion of Katz, and the main problem they have with him is not his underlying ideas. In fact, though he may not believe it, many of his critics (including me) see kernels of truth there: The tax system in California *is* unfair; many districts *can* be run more efficiently.

Katz' problem isn't just that these complaints are lost beneath all the bitterness and extremism (which they are). It's the way he goes about voicing them. He's not the first lawyer to use lawsuits as personal protest. But particularly when it comes to bond measures — since no district can issue bonds with a lawsuit hanging over them — Katz has touched a weakness which cripples our current system, without even the merit of resolving, legally or politically, the issues he raises.

So the districts are left twisting in the wind until his suits are resolved, which can take any amount of time. While the bonds are held up, projects are held up, costing many millions

(\$140 million in the case of El Camino Hospital). Two districts decided that even victory wasn't worth the cost, and settled. It remains to be seen what Foothill-De Anza will do.

Barring a visit from the Ghost of Christmas Future, it is unlikely Katz will change his mind about his methods, or anything else, anytime soon. And given the slow pace of the courts, it looks like his strategy will continue to work against districts hoping to issue bonds. This makes a legal solution untenable — but a legislative solution has never properly been explored.

I call on this region's representatives, particularly state Assembly member Sally Lieber, to look for a way to close this loophole, so that our local agencies can go about their business without a one-man cloud hanging over their heads. Maybe then we talk about fixing the tax system.

Don Frances is editor of the Mountain View Voice.

Find this article at:


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EXHIBIT 4

EXHIBIT 4

 KeyCite Red Flag - Severe Negative Treatment
Unpublished/noncitable November 14, 2006

2006 WL 3293747

Not Officially Published

(Cal. Rules of Court, Rules 8.1105 and 8.1110, 8.1115)
Only the Westlaw citation is currently available.

California Rules of Court, rule 8.1115, restricts
citation of unpublished opinions in California courts.

Court of Appeal, Sixth District, California.

Aaron L. KATZ, Plaintiff and Appellant,

v.

MOUNTAIN VIEW-WHISMAN SCHOOL
DISTRICT, Defendant and Respondent.

No. H029307.

(Santa Clara County Super. Ct. No. CV013211).

Nov. 14, 2006.

Attorneys and Law Firms

Aaron L. Katz, Tahoe City, CA, Pro Per.

John Yeh, Miller Brown & Dannis, San Francisco, CA, for
Defendant and Respondent.

Opinion

PREMO, J.

*1 Plaintiff Aaron L. Katz filed this action to invalidate a parcel tax approved by the voters of the Mountain View-Whisman School District (the District).¹ The trial court dismissed the action because plaintiff had failed to publish a summons in the form and within the time required by the validation statutes. (Code Civ. Proc., § 860 et seq.)² Plaintiff has appealed from the resulting judgment.

In the course of our review of the record, we questioned plaintiff's standing to prosecute this validation case. Indeed, the District had demurred to the complaint on that ground but the demurrer was overruled. After considering the parties' supplemental briefs, we conclude that the trial court erred in overruling the demurrer. We shall remand the matter to the trial court with instructions to vacate its order overruling the

District's demurrer, and to enter a new order sustaining the demurrer without leave to amend.

I. BACKGROUND

Plaintiff filed this case in propria persona. He is the only plaintiff. His second cause of action seeks to invalidate the District's parcel tax. But plaintiff does not live or own property within the District's boundaries. Terra Buena Townhomes, LLC, a California limited partnership (Terra Buena), owns the property. According to the complaint Terra Buena is "the owner of ten residential parcels" located within the District's boundaries and Terra Buena will be "directly and primarily affected" by the challenged tax. Plaintiff, who is a Terra Buena general partner, asserts no interest in the proceedings other than as "the authorized representative" of Terra Buena.

Plaintiff's complaint had contained two causes of action. The trial court sustained the District's demurrer to the first cause of action but overruled it as to the second, holding that, under the validation statutes, plaintiff's status as general partner of Terra Buena was sufficient to give him standing. We requested supplemental briefing on the standing question. We were also concerned that plaintiff, an inactive member of the State Bar of California,³ was inappropriately acting as Terra Buena's representative before this court. Therefore, we requested briefing on the representation issue as well.

Plaintiff responded that the District is estopped from challenging his standing since the District did not raise the issue in this court. On the merits, plaintiff contends that the relevant statutes provide for standing to "interested persons" (§ 863) and, since he has an indirect interest in the matter through his interest in the partnership, he is an interested person. He also insists that he may lawfully represent Terra Buena's interests because he is both a general partner and a limited partner of the Terra Buena partnership. The District argues that plaintiff is not an interested person and that he is not eligible to represent the partnership's interests in court. We agree with the District.

II. DISCUSSION

A. Standing

*2 We need not dwell on plaintiff's collateral estoppel argument. " 'It is elementary that a plaintiff who lacks standing cannot state a valid cause of action.' " (*McKeon v. Hastings College* (1986) 185 Cal.App.3d 877, 890.) Therefore, an objection to a plaintiff's lack of standing cannot be waived and we may consider the question on our own initiative as we have done here. "The issue of appellant's standing to sue is a threshold issue which must be resolved before this matter can be reached on its merits." (*Hernandez v. Atlantic Finance Co.* (1980) 105 Cal.App.3d 65, 71.)

Turning to the substance of the standing issue, we note that the guiding principles are well-settled. "Where as here, an action is entirely statutory and a particular statute specifies who may maintain an action, ' [i]t is ... necessary ... to bring the action in the name of the person to whom the right to sue is given by statute, regardless of any question as to the real party in interest.' " (*Black Rock etc. Dist. v. Summit etc. Co.* (1943) 56 Cal.App.2d 513, 517, quoting 20 Cal.Jur. (1925) Parties, p. 492.)" (*IBM Personal Pension Plan v. City and County of San Francisco* (2005) 131 Cal.App.4th 1291, 1302.) The pertinent statute in this action provides that "any interested person" may file an action to determine the validity of the act of a public agency. (§ 863.) The question, therefore, is whether plaintiff is an interested person.

An interested person, within the meaning of section 863, is "a citizen, resident and taxpayer" of an affected geographical territory (*Card v. Community Redevelopment Agency* (1976) 61 Cal.App.3d 570, 574-575, fn. 6) or a person who pays taxes to an affected entity (*Regus v. City of Baldwin Park* (1977) 70 Cal.App. 3d 968, 972). Plaintiff is none of these things. He argues, however, that *Citizens Against Forced Annexation v. County of Santa Clara* (1984) 153 Cal.App.3d 89 (*Citizens*) supports his contention that his indirect interest through the partnership is sufficient to give him standing. The trial court was persuaded by the argument. We are not.

Citizens was a validation action filed by an unincorporated association and several individuals. The action challenged San Jose's annexation of a number of territories. The association, Citizens Against Forced Annexation (CAFA), was made up of members who lived, owned property, or paid taxes in the affected territories or in the city, and many of the individual members were also named as plaintiffs in the action. The appeal concerned CAFA's standing to prosecute the action with respect to 10 of the territories slated for annexation. Although CAFA had members with direct interests in all 10 of the disputed territories, those individuals

were not plaintiffs since they had been joined in an amended complaint and were subsequently dismissed by the trial court. Since CAFA had been named in the original complaint it was available as a plaintiff to pursue the action as to the 10 territories. But CAFA did not directly own land, pay taxes, or vote in either the city or the annexed territories. (*Citizens, supra*, 153 Cal.App.3d at p. 100.) The appellate court held that, even so, CAFA had an indirect interest that made it an interested person within the meaning of section 863.

*3 *Citizens* observed that a validation action is an in rem proceeding. "Usually, only those with a direct interest in ownership or title are properly involved in such actions. Annexations are the assertion of a governmental power over property pursuant to a statutorily created public right to do so. No matter what his relationship to the property, one has no absolute right, based on that relationship, to prevent such annexation. Thus, the right that one is asserting by challenging the validity of an annexation is only the right to see that the government wielded its annexations power properly. In part, such a right derives from an interest of some sort in a particular territory that is being annexed. Also, it derives, in part, from an interest in the annexation procedures themselves as applied to that particular territory. In this instance, CAFA has an indirect interest in the annexed territories through its members' direct interest in them. CAFA also has a direct organizational interest in the annexation procedures, and as a result, in the validity of particular annexations.... [¶] Finally, we would be departing from a perceptible trend towards permitting associations to challenge governmental actions if, in this case, we found that *only* individuals with standing and not their association could challenge the validity of territorial annexation." (*Citizens, supra*, 153 Cal.App.3d at p. 98.) The court concluded that "CAFA's composite interest makes it an 'interested person' under section 863 of the Code of Civil Procedure." (*Ibid.*)

Plaintiff has no composite interest. And his "indirect" interest is very different than the interest the court found sufficient in the *Citizens* case. Plaintiff has no direct, beneficial interest in property within the territory since he has no beneficial interest in the partnership's property. (See *Mayer v. C.W. Driver* (2002) 98 Cal.App.4th 48, 60.) His interest is wholly derivative of the partnership's interest. Under the Corporations Code, a partner may not institute or maintain an action on behalf of a limited partnership absent compliance with conditions permitting a derivative suit. (Corp.Code, § 15702, subd. (a); see also Corp.Code, § 15526.) Plaintiff did not prosecute this as a partner's

derivative action. Furthermore, CAFA was an entity formed for the purpose of monitoring and challenging government annexations. (*Citizens*, *supra*, 153 Cal.App.3d at p. 97.) Its indirect interest was made up of the direct interests of all its members. Plaintiff's interest is some unknown fraction of his interest in the business of Terra Buena. His interest is indistinguishable from that of anyone with an interest in a business entity located within the District. Allowing associations such as CAFA to prosecute public interest cases on behalf of their individual constituents advances the public good by (among other things) facilitating access to the courts. (See *McKeon v. Hastings College*, *supra*, 185 Cal.App.3d at p. 892 [association of individuals and agencies representing low income persons had standing to challenge law school's acquisition of property that would displace such persons].) We can conceive of no public policy that would be advanced by permitting an individual with some interest in a business entity to file a validation action in his or her own name on behalf of the entity. We conclude, therefore, that plaintiff is not an interested person within the meaning of section 863. Accordingly, plaintiff has no standing to prosecute this case on his own behalf.

B. Representation of Terra Buena

*4 Not only does plaintiff lack standing, he may not lawfully represent Terra Buena's interests before this court. Although we have located no California case specifically holding that a limited partnership must appear in court through counsel, in light of the rule that nonlawyers may not appear on behalf of others, the conclusion is inescapable. (See, e.g., *Mossanen v. Monfared* (2000) 77 Cal.App.4th 1402, 1409-1410 [guardian ad litem]; *City of Downey v. Johnson* (1968) 263 Cal.App.2d 775, 779 [conservator and executor]; *Ziegler v. Nickel* (1998) 64 Cal.App.4th 545, 548 [trustee]; *Hansen v. Hansen* (2003) 114 Cal.App.4th 618, 622-623 [personal representative of decedent's estate]; *CLD Construction, Inc. v. City of San Ramon* (2004) 120 Cal.App.4th 1141, 1146 [corporations]; *Clean Air Transport Systems v. San Mateo County Transit Dist.* (1988) 198 Cal.App.3d 576, 578-579 [unincorporated associations]; see also *Lindsey v. Admiral Ins. Co.* (N.D.Cal.1992) 804 F.Supp. 47, 52 [stating that partnerships are fictitious persons and, therefore, cannot appear in propria persona].)

Plaintiff offers only *Consumers Lobby Against Monopolies v. Public Utilities Com.* (1979) 25 Cal.3d 891, in support of his assertion that nonattorneys may represent unincorporated associations. But *Consumers Lobby* concerned representation before the Public Utilities Commission. In Public Utilities Commission proceedings, the participants are not required to be licensed attorneys. (*Id.* at pp. 913-914.) This is not a Public Utilities Commission proceeding.

III. CONCLUSION

We conclude that the trial court erred in overruling the District's demurrer to the validation cause of action on the ground that plaintiff lacked standing. It has long been held that "a general demurrer for failure to state a cause of action should be sustained where the complaint may state a cause of action in someone, but not in the plaintiff." (*Klopstock v. Superior Court* (1941) 17 Cal.2d 13, 18-19.) Although judgment was ultimately entered in favor of the District we have not reviewed the judgment; we have reviewed the trial court's order overruling the demurrer. This we are permitted to do by section 906. Accordingly, we must reverse the judgment and remand with instructions to the trial court to enter a new order sustaining the District's demurrer, without leave to amend, and to enter judgment accordingly.

IV. DISPOSITION

The judgment is reversed. The matter is remanded to the trial court with instructions to vacate that portion of its order of September 10, 2004, overruling defendant's demurrer to the second cause of action under Code of Civil Procedure section 860 et seq. The court shall enter a new order sustaining the demurrer to the second cause of action, without leave to amend, and shall enter judgment accordingly. Defendant shall have its costs on appeal.

WE CONCUR: RUSHING, P.J., and ELIA, J.

All Citations

Not Reported in Cal.Rptr.3d, 2006 WL 3293747

Footnotes

- 1 Plaintiff also sued the Santa Clara County Registrar of Voters and the Santa Clara County Library District Joint Powers Authority. These parties are not parties to this appeal.
Plaintiff filed a separate, similar action against Campbell Union High School District, West Valley-Mission Community College District, and El Camino Hospital District and we have taken judicial notice of the record in that case. (*Katz v. Campbell Union High School Dist.*, case No. H028994, filed concurrently herewith.)
- 2 Further unspecified statutory references are to the Code of Civil Procedure.
- 3 Although the pleading listed plaintiff's name with a State Bar Number our research of the State Bar Web site revealed that plaintiff is not an active member of the Bar. (http://www.calbar.ca.gov/state/calbar_home.jsp> [as of Aug. 23, 2006].)

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EXHIBIT 5

EXHIBIT 5

KeyCite Yellow Flag - Negative Treatment

Disagreed With by Community Youth Athletic Center v. City of Nat. City, Cal.App. 4 Dist., January 22, 2009

144 Cal.App.4th 1024
Court of Appeal, Sixth District, California.

Aaron L. KATZ, Plaintiff and Appellant,
v.

CAMPBELL UNION HIGH SCHOOL
DISTRICT, Defendant and Respondent.

No. H028994.

Nov. 14, 2006.

Review Denied Jan. 24, 2007. *

Synopsis

Background: Plaintiff filed action to invalidate an \$85 parcel tax approved by voters in high school district. The Superior Court, Santa Clara County, Nos. CV013211 and CV034595, Kevin E. McKenney, J., dismissed action because plaintiff had failed to publish a summons that conformed to requirements of validation statutes. Plaintiff appealed.

Holdings: The Court of Appeal, Premo, J., held that:

[1] action was subject to dismissal based on failure to comply with statutory requirements for publication of summons, and

[2] plaintiff failed to establish good cause for failure to comply.

Affirmed.

West Headnotes (12)

[1] **Municipal Corporations**

↔ Judicial Supervision

The validation procedure is intended to provide a uniform mechanism for prompt resolution of the validity of a public agency's actions, assuring due process notice to all interested persons, and

settling the validity of a matter once and for all by a single lawsuit. West's Ann.Cal.C.C.P. § 860 et seq.

4 Cases that cite this headnote

[2] **Municipal Corporations**

↔ Judicial Supervision

The date specified in the summons in a reverse validation action must be a concrete date certain, not a date calculable from the language of the summons. West's Ann.Cal.C.C.P. § 861.1.

2 Cases that cite this headnote

[3] **Administrative Law and Procedure**

↔ Scope

Whether a plaintiff demonstrated good cause for failing to comply with the summons publication requirements in a reverse validation action is a question that is committed to the sound discretion of the trial court, and, accordingly, the appellate court reviews the trial court's decision on that point for abuse of discretion. West's Ann.Cal.C.C.P. §§ 861, 861.1.

5 Cases that cite this headnote

[4] **Appeal and Error**

↔ Review Dependent on Whether Questions Are of Law or of Fact

Issues on appeal that turn upon the interpretation of the validation statutes present issues of law to which the appellate court applies its independent review.

Cases that cite this headnote

[5] **Municipal Corporations**

↔ Judicial Supervision

Summons publication requirements in reverse validation action were jurisdictional. West's Ann.Cal.C.C.P. §§ 861, 861.1, 862.

5 Cases that cite this headnote

[6] **Education**

⚡ Equalization and review of assessment

Trial court could not disregard deficiencies in the published summons in reverse validation action challenging school tax, notwithstanding plaintiff's claim that all indispensable parties were actually before the court; jurisdiction over the parties did not confer jurisdiction over the matter as required. West's Ann.Cal.C.C.P. §§ 861, 861.1, 862.

1 Cases that cite this headnote

[7] **Declaratory Judgment**

⚡ Process and appearance

Declaratory Judgment

⚡ Grounds for involuntary dismissal in general

Education

⚡ Equalization and review of assessment

Plaintiff's causes of action for declaratory and injunctive relief were not distinct from his reverse validation action, in which he sought to invalidate a parcel tax approved by voters in school district, and, therefore, those causes of action were subject to dismissal based on plaintiff's failure to publish a summons in conformance with statutory requirements; plaintiff's causes of action all sought relief related to the parcel tax he claimed was invalid. West's Ann.Cal.C.C.P. §§ 861, 861.1, 862.

1 Cases that cite this headnote

[8] **Education**

⚡ Equalization and review of assessment

Plaintiff in reverse validation action challenging school tax failed to substantially comply with validation statutes based on defects in publication of the summons; summons failed to specify a date for response, and the date calculable from the language of the summons did not provide the time allowed for response. West's Ann.Cal.C.C.P. §§ 861, 861.1, 862.

See 3 Witkin, Cal. Procedure (4th ed. 1996) Actions, § 907; Cal. Jur. 3d, Administrative Law, § 649 et seq.

3 Cases that cite this headnote

[9] **Education**

⚡ Equalization and review of assessment

Trial court had no alternative but to dismiss plaintiff's reverse validation action challenging school tax, based on defective summons, after trial court concluded that plaintiff had not shown good cause for the defects. West's Ann.Cal.C.C.P. §§ 861, 861.1, 862.

2 Cases that cite this headnote

[10] **Evidence**

⚡ Records and decisions in other actions or proceedings

On appeal from dismissal of plaintiff's reverse validation action, Court of Appeal would decline plaintiff's request for judicial notice of reporter's transcript in a separate case in order to illuminate trial court's views on jurisdiction; trial court's views on jurisdiction were not pertinent to Court of Appeal's independent review of the issue.

Cases that cite this headnote

[11] **Education**

⚡ Equalization and review of assessment

Plaintiff in reverse validation action challenging school tax failed to establish good cause for his failure to comply with statutory requirements for publication of summons; plaintiff's purported good cause showing was the alleged lack of prejudice from his failure to publish the proper summons, but the alleged absence of prejudice did not supply a reason for the failure to comply with the statutes, and plaintiff offered no excuse for ignoring the settled law. West's Ann.Cal.C.C.P. §§ 861, 861.1, 862.

4 Cases that cite this headnote

[12] **Appeal and Error**

⚡ Allowance of remedy and matters of procedure in general

Process

☞ Defects and irregularities in writ or other process or notice

A mistake of law is not sufficient in itself to support a good-cause finding for publishing a defective summons, and whether a mistake of law constitutes excusable neglect presents a factual question pertaining to the nature of the misconception and the justifiability of the failure to determine the correct law; proper decision rests almost entirely in the discretion of the court below, and appellate tribunals will rarely interfere, and never unless it clearly appears that there has been a plain abuse of discretion.

1 Cases that cite this headnote

Attorneys and Law Firms

****840** Aaron L. Katz, in pro. per.

Lozano Smith P.C., Judd Jordan, Thomas R. Manniello, Devon B. Lincoln, Monterey, Attorneys for Defendant/Respondent Campbell Union High School District.

Opinion

PREMO, J.

1027** Plaintiff Aaron L. Katz filed this action to invalidate an \$85 parcel tax approved by voters in Campbell Union High School District (School District).¹ The trial court dismissed the action because plaintiff had failed to publish a summons that conformed to the requirements of the validation statutes. (*841** Code Civ. Proc., § 860 et seq.)² Plaintiff appeals from the resulting judgment.

We conclude that the trial court correctly dismissed the action because plaintiff's published summons did not specify a concrete date for response, the date calculable from the language of the summons did not provide the full amount of time required, and plaintiff did not demonstrate good cause for his failure to comply with these statutory requirements.

I. THE APPLICABLE LAW

[1] In order to place our discussion in context we begin with a summary of the applicable law. Under the validation statutes a public agency may seek ***1028** a judicial determination of

the validity of some matter, such as an ordinance, resolution, or other action taken by the agency. (§ 860.) If the agency does not seek validation within the time required, any "interested person" may file what is sometimes called a reverse validation action to test the validity of the matter. (§ 863.) The validation procedure is intended to provide a uniform mechanism for prompt resolution of the validity of a public agency's actions. (*Planning & Conservation League v. Department of Water Resources* (1998) 17 Cal.4th 264, 273, 70 Cal.Rptr.2d 635, 949 P.2d 488.) The procedure "assures due process notice to all interested persons" and settles the validity of a matter "once and for all by a single lawsuit." (*Hills for Everyone v. Local Agency Formation Com.* (1980) 105 Cal.App.3d 461, 468, 164 Cal.Rptr. 420.)

A validation action is "in the nature of a proceeding in rem." (§ 860.) The form of the summons and the manner of service are statutorily prescribed. Jurisdiction of "all interested persons" is had by publishing a summons for the time provided by Government Code section 6063. (§ 861.) The summons must contain a notice that written answers to the complaint may be filed "not later than the date specified in the summons, which date shall be 10 or more days after the completion of publication of the summons." (§ 861.1.) Jurisdiction "shall be complete after the date specified in the summons." (§ 862.) In a reverse validation action, if the interested person "fails to complete the publication ... and to file proof thereof in the action within 60 days from the filing of his complaint, the action shall be forthwith dismissed on the motion of the public agency unless good cause for such failure is shown by the interested person." (§ 863.)

II. PROCEDURAL BACKGROUND

A. The Complaint

Plaintiff's lawsuit challenges an \$85 parcel tax approved by School District voters to fund programs to "reduce class size, retain qualified teachers," and improve academics and safety at schools within the School District. The measure was approved in an election in which the phrase "qualified electors" was defined as "natural persons actually residing within [the School District's] territorial boundaries who were registered according to law with the [Registrar of Voters]." Plaintiff's objection is that although he will ultimately have to pay the tax because he owns property within the territory covered by the School District, he was not qualified to vote in the election since he did not reside within the district. Plaintiff argued that the definition of "qualified elector" unconstitutionally disenfranchised him and enfranchised non-

landowning *1029 residents who would never have to pay the tax. According to plaintiff, the phrase should have been defined as "[t]he elector who **842 owned property which would be subjected to" the new tax; "[t]he elector who directly or indirectly would pay" the new tax; and "[t]he elector who would vote to directly or indirectly tax him/herself rather than someone else."

The complaint includes three causes of action against the School District. In the first cause of action plaintiff expressly seeks to invalidate the tax under sections 860 et seq. The second cause of action requests a judicial declaration defining the phrase "qualified elector" as plaintiff proposes it should be defined and a declaration stating that, since the measure did not provide for an election among qualified electors so defined, the election approving the measure was invalid. The third cause of action requests an injunction restraining imposition of the parcel tax.

B. The Summons

Plaintiff published a summons in two different newspapers on three consecutive Fridays: February 4, 11, and 18, 2005. In pertinent part, the summons read as follows: "All persons interested in the matter described herein have *10 CALENDAR DAYS after the last day this summons is published* in which to file a written response with this court contesting the legality or validity of [the challenged tax] [a]nd to have a copy served upon plaintiff." (Italics added.) Three dates appear at the end: "02/04/2005, 02/11/2005, 02/18/2005."

C. The Summons Defects

[2] The summons contains two defects that are pertinent to this appeal. First, plaintiff's summons did not specify a concrete response date. Section 861.1 requires the summons to give notice that a response is due no later than "the date specified in the summons" and section 862 provides that jurisdiction is complete upon "the date specified in the summons." The date specified must be a concrete date certain, not a date calculable from the language of the summons. (*County of Riverside v. Superior Court* (1997) 54 Cal.App.4th 443, 451, 62 Cal.Rptr.2d 747 (*County of Riverside*).)

Second, the direction to respond within 10 days of "the last day this summons is published" did not provide the full amount of time required, which is "10 or more days *after the completion of publication of the summons*." (§ 861.1, italics added.) Plaintiff had assumed that "completion of publication" would be the last day the summons was

published. But *1030 section 861 requires the summons to be published in accordance with section 6063 of the Government Code, which in turn provides that the period of notice "commences upon the first day of publication and terminates at the end of the twenty-first day, including therein the first day." "Completion of publication" occurs when the period of notice has terminated—21 days after it began. (*Arnold v. Newhall County Water Dist.* (1970) 11 Cal.App.3d 794, 799, 96 Cal.Rptr. 894 (*Arnold*).) Since plaintiff commenced publication on February 4, 2004, publication was complete when the period of notice expired on February 24, 2005. 10 days after that would have been March 6, 2005. The instruction in the summons, to respond within 10 days of the last day of publication, would make the last day to respond February 28, 2005, nearly a week shy of the time allowed by law.

D. The Motion to Dismiss

The School District filed a motion to dismiss the entire action based upon the defects in the summons. The trial court granted the motion, holding:

"[Plaintiff] did not comply with C.C.P. §§ 861.1 and 863 in that he failed to timely complete publication of summons and failed to file proof of publication within 60 **843 days after filing of the complaint. Pursuant to C.C.P. § 863, dismissal may be avoided upon a showing of 'good cause' for the failure to comply with the statutes. Plaintiff, however, did not make such a showing.

"Plaintiff argued that if the Court were inclined to conclude that he failed to comply with the cited statutes, he should be given an opportunity to cure the defects with the publication of the summons. The Court is of the opinion that compliance with C.C.P. §§ 861.1 and 863 is a jurisdictional prerequisite to maintaining a reverse validation proceeding and that the failure to comply therewith cannot be cured as proposed by plaintiff."

III. ISSUES

Plaintiff's contentions on appeal may be summarized as follows:

- (1) The summons publication requirements are not "jurisdictional";

(2) The court must disregard deficiencies in the published summons when all indispensable parties are actually before the court;

(3) Plaintiff's causes of action for declaratory and injunctive relief were not subject to dismissal;

***1031** (4) The summons substantially complied with the statutory requirements and, in any event, the court had jurisdiction to permit plaintiff to cure any defects; and

(5) The trial court abused its discretion in finding that plaintiff had not shown good cause for the deficiencies in the summons.

IV. DISCUSSION

A. Standard of Review

[3] [4] Whether plaintiff demonstrated good cause for failing to comply with the summons publication requirements (see section IV, F, *infra*) is a question that is committed to the sound discretion of the trial court. Accordingly, we review the trial court's decision on that point for abuse of discretion. (*Card v. Community Redevelopment Agency* (1976) 61 Cal.App.3d 570, 576, 131 Cal.Rptr. 153.) The remaining issues turn upon the interpretation of the validation statutes. This, of course, presents issues of law to which we apply our independent review. (*Lazar v. Hertz Corp.* (1999) 69 Cal.App.4th 1494, 1502, 82 Cal.Rptr.2d 368.)

B. "Jurisdictional" Requirements

[5] Plaintiff first contends that the summons provisions are not "jurisdictional," by which plaintiff seems to mean that the specifics of the summons requirements may be *mandatory* but failure to comply does not deprive the trial court of jurisdiction to proceed. According to plaintiff, the requirements cannot be jurisdictional in the fundamental sense because the court has the power to overlook the defects if good cause is shown. The argument is a misstatement of the law. The court cannot *overlook* a defective summons.

As we have said, validation actions are actions in rem.³ Strictly speaking, an action "in rem" is an action "against a thing." (Black's Law Dict. (8th ed.2004) p. 809, col. 1.) Classic in rem jurisdiction is acquired by seizing the thing (usually property) and commencing proceedings for satisfaction of a claim against the property by giving "general notice to all the world" of the ****844** seizure and the

pendency of the action. (*Lee v. Silva* (1925) 197 Cal. 364, 368-369, 240 P. 1015.) Notice to all the world "suffices to make the claimants to the property parties to the action" and the resulting judgment conclusive as against all the world. (*Id.* at p. 369, 240 P. 1015.)

***1032** In a validation action the thing that is the subject of the action is the matter to be validated, i.e., the ordinance, resolution, or other action taken by the public agency. The only way for the court to acquire jurisdiction over the matter is to ensure that notice is given to all interested persons so that the resulting judgment can be conclusive as against them. (*Planning & Conservation League v. Department of Water Resources* (2000) 83 Cal.App.4th 892, 920-921, 100 Cal.Rptr.2d 173 (*Planning & Conservation League*)). Notice is provided by publishing the summons in a particular form, within a specified timeframe, and specifying a date for response. Jurisdiction is not "complete" until "after the date specified in the summons." (§ 862.) Failure to publish a summons in accordance with the statutory requirements deprives the court of jurisdiction over "all interested parties" (§ 861), which deprives the court of the power to rule upon the matter. The Legislature has given the trial court power to permit a plaintiff to cure the defect if the plaintiff can demonstrate good cause. (§ 863.) But the court cannot overlook a defective summons. Unless the plaintiff has published a summons in compliance with the statutory requirements, the court has no jurisdiction to rule upon the matter that is the subject of the action. (*Arnold, supra*, 11 Cal.App.3d at p. 801, 96 Cal.Rptr. 894.)

C. The Presence of All Indispensable Parties

[6] Plaintiff maintains that there are no parties other than those presently before the court that are indispensable to this action, implying that the trial court had the power to determine the validity of the tax notwithstanding defective publication of the summons. Incorporated in this argument are two assumptions. The first assumption is that, since the School District did not pursue its own validation action, the tax was validated with respect to claims by interested persons other than plaintiff. This is not how the statute was designed to operate. It is true that if no action is taken within the time required, the measure would be deemed valid. (*City of Ontario v. Superior Court* (1970) 2 Cal.3d 335, 341, 85 Cal.Rptr. 149, 466 P.2d 693 (*City of Ontario*)). But the validity of a matter is not decided piecemeal. That is the reason validation actions are designated as actions in rem. When any person files a validation action, the validity of the matter is decided once and for all in that action. (§ 870.)

The other assumption is that jurisdiction over all indispensable parties is sufficient to allow the case to proceed. The problem with this assumption is that jurisdiction over the parties does not confer jurisdiction over the matter, which is the issue that concerns us here. The difference was explained in *Planning & Conservation League, supra*, 83 Cal.App.4th 892, 100 Cal.Rptr.2d 173. In that case the plaintiff sought to invalidate the transfer of water supply contracts by the Department of Water Resources. Certain water contractors had successfully *1033 moved to quash service of summons upon them. Believing that the contractors were indispensable parties, the trial court granted the defendants' motion for summary adjudication of the validation cause of action. The appellate court reversed, explaining that "quashing service deprived the court of in personam jurisdiction of the water contractors; they could not be joined as parties in the validation proceedings." **845 (*Id.* at pp. 920-921, 100 Cal.Rptr.2d 173.) In a validation action, however, there are no indispensable parties beyond the public agency whose action is challenged. (*Id.* at p. 925, 100 Cal.Rptr.2d 173.) The issue of whether the court had in rem jurisdiction, however, was not resolved by the presence of the only indispensable party. (*Id.* at p. 921, 100 Cal.Rptr.2d 173.) That issue is determined by reference to the requirements of the validation statutes. Since there was no dispute that the plaintiff had published a summons as required, the trial court had jurisdiction over the matter and could proceed to adjudicate the validation cause of action regardless of the absence of the contractors. (*Id.* at p. 926, 100 Cal.Rptr.2d 173.)

In this case, it does not matter that all indispensable parties have appeared in the action. Our concern is with the court's jurisdiction over the matter to be validated.

D. The Causes of Action for Declaratory and Injunctive Relief

[7] Plaintiff next contends that the causes of action for declaratory and injunctive relief are distinct from the validation cause of action so that the trial court retained jurisdiction over them regardless of the adequacy of the summons. This argument is also unavailing.

The validation statutes apply to a matter when "any other law" authorizes their application. (§ 860.) Government Code section 50077.5, subdivision (a) mandates the use of the validation procedures in "any judicial action or proceeding to validate, attack, review, set aside, void, or annul an ordinance or resolution approved by the voters pursuant to this article on

or after January 1, 1986, that levies a special tax...." All three of plaintiff's causes of action fall squarely within the scope of this section.

Plaintiff cites *City of Ontario, supra*, 2 Cal.3d 335, 85 Cal.Rptr. 149, 466 P.2d 693, in which the Supreme Court considered an action to determine the validity of the city's plan to develop a motor speedway. The plaintiffs complained that the plan was intended for the benefit of private parties and not for the public interest. Their complaint sought three forms of relief: a declaration that the speedway scheme was invalid, an injunction to restrain further expenditure of public funds, and restitution to the city of all money paid out for unlawful purposes. (*Id.* at p. 339, 85 Cal.Rptr. 149, 466 P.2d 693.) The appellate court held that the causes of action for injunction and restitution were viable without compliance with the validation statutes because they involved matters that went beyond the validity of the *1034 challenged speedway agreement itself. To the extent plaintiffs asked for relief "unrelated to the performance of the terms of the [speedway agreement]," their failure to comply with the validation statutes was no reason to deny them their other remedies. (*Id.* at p. 344, 85 Cal.Rptr. 149, 466 P.2d 693.)

Unlike the complaint in *City of Ontario*, plaintiff's complaint does not seek relief unrelated to the parcel tax he claims is invalid. The cause of action for declaratory relief requests a declaration that the tax is invalid, combined with a request that the court supply a definition for the phrase "qualified electors." The definition that plaintiff urges is the definition that he claims would have resulted in a valid tax. Thus, the request for a judicial declaration cannot be said to go beyond a determination of the validity of the challenged matter. Plaintiff's cause of action for injunction seeks to restrain levy of the tax. This is merely a request for invalidation of the tax stated in other words.

**846 E. Substantial Compliance

[8] Plaintiff's primary argument is that his summons substantially complied with the requirements of the validation statutes, which, he claims, is sufficient for purposes of his lawsuit.⁴ Substantial compliance may be sufficient when summons is served personally, but strict compliance is usually required when it is served by publication. (*Cf. Olvera v. Olvera* (1991) 232 Cal.App.3d 32, 41, 283 Cal.Rptr. 271.) It has been held: "When jurisdiction is obtained by a prescribed form of constructive notice, the statutory conditions upon which service depends must be strictly construed; there must

be strict compliance with the mode prescribed in the statute. Conformance with the statute is deemed jurisdictional and absence thereof deprives the court in the particular action of power to render a judgment." (*Eagle Electric Mfg. Co. v. Keener* (1966) 247 Cal.App.2d 246, 250-251, 55 Cal.Rptr. 444.)

The validation cases tend to apply the strict compliance standard. In *Coachella Valley Mosquito and Vector Control Dist. v. City of Indio* (2002) 101 Cal.App.4th 12, 14, 123 Cal.Rptr.2d 551, the original complaint had been dismissed because the published summons omitted language stating: "persons who contest the legality or validity of the matter will not be *1035 subject to punitive action..." (*Id.* at p. 15, 123 Cal.Rptr.2d 551.) In *Arnold*, *supra*, 11 Cal.App.3d at page 801, 96 Cal.Rptr. 894, the date specified in the summons was two days short of the 10 days required. In both of these cases the arguably minor defects prevented the trial court from acquiring jurisdiction over the matter.

We recognize that, although *Arnold* and *Coachella Valley* appear to apply a strict compliance standard, the cases do not consistently describe the standard that way. (*County of Riverside*, *supra*, 54 Cal.App.4th at p. 450, 62 Cal.Rptr.2d 747.) Nevertheless there is no question that the summons should provide clear and accurate information about when to respond. After all, publication is the primary means of notice in a validation case. Since such actions involve matters of general public interest, "there is at least some reasonable expectation that potentially concerned parties will observe the notice and consider whether or not to take action on one side or the other." (*Ibid.*) Plaintiff's summons did not specify a date for response as required by sections 861.1 and 862, and the date calculable from the language of the summons did not provide the full time allowed for a response. Thus, we need not settle upon the appropriate standard because, by failing to clearly and accurately apprise the public of the time within which a response was due, plaintiff's summons did not substantially comply with the statutory requirements.

[9] [10] Plaintiff complains that even if the summons was defective, the trial court erred in concluding that it had no choice but to dismiss the action. It is true that the court could have allowed plaintiff to cure the defects upon a showing of good **847 cause. (§ 863.) But once the court concluded that plaintiff had not shown good cause, the court had no alternative but to dismiss the case. (*County of Riverside*, *supra*, 54 Cal.App.4th at p. 451, 62 Cal.Rptr.2d 747.)⁵

*1036 F. Good Cause

[11] [12] Finally, plaintiff argues that the trial court abused its discretion in failing to find that he had good cause for publishing a defective summons. We disagree. Plaintiff's good-cause showing was the alleged lack of prejudice from his failure to publish the proper summons and his opinion that it was published correctly. That is not good cause. "The good cause which must be shown in such a case as this 'may be equated to a good reason for a party's failure to perform that specific requirement [of the statute] from which he seeks to be excused.' [Citation.]" (*Community Redevelopment Agency v. Superior Court* (1967) 248 Cal.App.2d 164, 174, 56 Cal.Rptr. 201.) A mistake of law is not sufficient in itself to support a good-cause finding. (*Ibid.*) Whether a mistake of law constitutes excusable neglect presents a factual question pertaining to the nature of the misconception and the justifiability of the failure to determine the correct law. (*Ibid.*) The proper decision "rests almost entirely in the discretion of the court below, and appellate tribunals will rarely interfere, and never unless it clearly appears that there has been a plain abuse of discretion." (*City of Ontario*, *supra*, 2 Cal.3d at p. 347, 85 Cal.Rptr. 149, 466 P.2d 693, quoting *Miller v. Lee* (1942) 52 Cal.App.2d 10, 15, 125 P.2d 627.)

The alleged absence of prejudice does not supply a *reason* for plaintiff's failure to comply with the statutes. In any event, given that the failure involves faulty notice, resulting prejudice is impossible to assess. Plaintiff's opinion that a specific date was not necessary and that publication could be deemed complete on the last day the summons is published is simply an unjustifiable mistake of law. The "completion of publication" concept is not novel. *Arnold* confronted the same problem in 1970 and noted that the calculation had been part of Government Code section 6063 since 1959 (*Arnold*, *supra*, 11 Cal.App.3d at p. 797, fn. 2, 96 Cal.Rptr. 894; see Stats.1959, ch. 954, § 3, p. 2984). In 1997, *County of Riverside* made it clear that the summons must specify a concrete date for responding. (*County of Riverside*, *supra*, 54 Cal.App.4th at p. 451, 62 Cal.Rptr.2d 747.) Thus, the procedure was not complex or debatable. The law was on the books and readily available. (*Ibid.*) Plaintiff offered no excuse for ignoring **848 this settled law. It follows that the trial court did not abuse its discretion in concluding that plaintiff had not shown good cause for publishing a defective summons.⁶

*1037 V. DISPOSITION

The judgment is affirmed. Defendant shall have its costs on appeal.

All Citations

144 Cal.App.4th 1024, 50 Cal.Rptr.3d 839, 214 Ed. Law Rep. 390, 06 Cal. Daily Op. Serv. 10,517, 2006 Daily Journal D.A.R. 15,052

RUSHING, P.J., and ELIA, J., concur.

Footnotes

* Moreno, J., did not participate therein.

1 Plaintiff also challenged taxes imposed by West Valley–Mission Community College District and El Camino Hospital District (El Camino). These districts are no longer parties to this appeal.

2 Hereafter all unspecified statutory references are to the Code of Civil Procedure.

3 From time to time throughout his brief, plaintiff maintains that the instant action is not really a proceeding in rem, but the argument ignores section 860, which clearly states that a validation action "shall be in the nature of a proceeding in rem."

4 Plaintiff mentions section 866, which provides: "The court hearing the action shall disregard any error, irregularity, or omission which does not affect the substantial rights of the parties." Plaintiff suggests that this provision demands that the court ignore "technical" defects in the summons. Section 866 is a special standard of prejudice. In every case in which it has been cited it is applied to the matter to be validated. (See *Card v. Community Redevelopment Agency*, *supra*, 61 Cal.App.3d 570, 131 Cal.Rptr. 153; *Franklin–McKinley School Dist. v. City of San Jose* (1991) 234 Cal.App.3d 1599, 1605, 286 Cal.Rptr. 656; *De Jong v. Pasadena Unified School Dist.* (1968) 264 Cal.App.2d 877, 881, 70 Cal.Rptr. 913.) Indeed, the reference to the "court hearing the action" shows that the rule applies to the substance of the action itself, not to the sufficiency of the summons.

5 In footnote 35 of his opening brief, plaintiff asks that we take judicial notice of the reporter's transcript in a separate case in order to illuminate the trial court's views on jurisdiction. We deny the request. The trial court's views on jurisdiction are not pertinent to our independent review of the issue.

There may be other requests and possibly additional argument buried in plaintiff's footnotes. Plaintiff's opening brief contains 76 footnotes; the reply has 62; and even the footnotes have footnotes. Following the notes is almost impossible—the body of the brief refers to footnotes at the foot of the page and to notes found on other pages; most of the footnotes refer to footnotes on other pages, which, in turn, refer to other footnotes on other pages. Even if we could follow the wandering references, when so much of the discussion appears in footnotes we cannot tell what the appellant intends to assert in support of the appeal and what is included as incidental or tangential information. In reviewing an appeal, we are entitled to assistance from the parties in the form of cogent legal argument. (Cf. *Sprague v. Equifax, Inc.* (1985) 166 Cal.App.3d 1012, 1050, 213 Cal.Rptr. 69.) Plaintiff has only hindered our review. Accordingly, to the extent plaintiff has included additional issues or argument in his footnotes, we decline to consider them.

6 The School District offers alternative, substantive grounds for affirming the judgment. Since we affirm for the procedural reasons upon which the trial court relied, we do not reach the substantive issues.

2006 WL 2418837

United States Court of Federal Claims.

Aaron L. KATZ and Judith L. Miller, Plaintiffs,

v.

The UNITED STATES, Defendant.

No. 04-1790T.

July 25, 2006.

MEMORANDUM OPINION AND ORDER

VICTOR J. WOLSKI, Judge.

*1 Plaintiffs Aaron Katz and Judith Miller, a married couple acting *pro se*, have filed a claim seeking a tax refund of \$10,378 for the 1999 tax year. The government has moved to dismiss the case for failure to state a claim upon which relief can be granted, under Rule 12(b)(6) of the Rules of the United States Court of Federal Claims (RCFC). The basis for the motion is that 26 U.S.C. § 6511(b)(2)(A) limits the amount of any refund to the taxes paid within a certain period of time prior to the taxpayers' filing of a request for a refund, and that the 1999 tax year payments of the plaintiffs were made earlier than this look-back window and thus cannot be refunded. The plaintiffs have countered this motion with an argument that the government should be equitably estopped from asserting this limitations period. But because the Supreme Court has clearly held that the very tax code provision in question is not subject to equitable tolling, the government's motion must be granted.

I. BACKGROUND

In April, 2000, the plaintiffs requested and received a four-month extension of time in which to file their 1999 tax return-making the return due date August 17, 2000.¹ See Def.'s App. B at 4; Pls.' Opp. at 1. Plaintiffs' 1999 tax return was ultimately filed on October 30, 2000-seventy-four days beyond the extension-and reported a tax liability of \$10,378.² Plaintiffs paid these taxes by applying \$8,543 that had been withheld from Miller's 1999 paychecks, \$5,000 that had been submitted with the extension request, and a total of \$1,667 in estimated tax credits from an earlier period.³ See Compl. ¶ 5; see also Def.'s App. B at 4, 6.

Plaintiffs allege that on or about July 9, 2003, they discovered that they may be entitled to a refund of their 1999 taxes. Compl. ¶ 10. They claim to have called the IRS help line on that date, and to have been told by an IRS employee that they must file an amended return by December 18, 2003, to be eligible for a refund of their 1999 taxes. *Id.* Plaintiffs allege that they relied upon this representation in preparing and submitting their amended return. Compl. ¶¶ 12-16.

On October 17, 2003, the IRS received and filed an amended Form 1040X in which the plaintiffs' reported taxable income for 1999 was negative \$288,463. Def.'s App. B at 10. The adjustment in their income was due to the application of a net operating loss deduction omitted from the prior return.⁴ Plaintiffs sought a refund of \$10,378. Compl. ¶ 6; see also Def.'s App. B at 10 (amended return). On October 18, 2003, plaintiffs filed a refund claim with the Commissioner of the IRS. Compl. ¶ 18. The IRS denied the claim on October 30, 2003. The IRS determined that the claim was time-barred since the plaintiffs' 1999 taxes had been paid more than three years (plus the extension period) earlier than the date the claim was filed. See Compl. Ex. A. On December 20, 2004, plaintiffs filed a complaint in our Court, seeking a refund of their 1999 taxes. The government has moved to dismiss the complaint, under RCFC 12(b)(6), on the ground that the 1999 taxes were paid more than three years and four months prior to the filing of the amended return, and are thus no longer eligible to be refunded under 26 U.S.C. § 6511(b)(2)(A).

II. DISCUSSION

A. Statute of Limitations

*2 26 U.S.C. § 6511(a) establishes the time limits for filing a tax refund claim:

Claim for credit or refund of an overpayment of any tax imposed by this title in respect of which tax the taxpayer is required to file a return shall be filed by the taxpayer *within 3 years from the time the return was filed or 2 years from the time the tax was paid, whichever of such periods expires the later, or if no return was filed by the taxpayer, within 2 years from the time the tax was paid.*

26 U.S.C. § 6511(a) (2000) (emphasis added). Since their initial return for 1999 was filed with the IRS on October 30, 2000, see Def.'s App. B at 4, plaintiffs have satisfied this aspect of the limitations period, having filed their amended return with thirteen days to spare. See *id.* at 10 (return stamped received on Oct. 17, 2003); see also Compl. Ex. A (denial of refund stating that claim was received Oct. 17, 2003).

The problem with plaintiffs' claim is the "look-back" provision of § 6511(b)(2)(A), which states in relevant part that "the amount of the credit or refund shall not exceed the portion of the tax paid within the period, immediately preceding the filing of the claim, equal to 3 years plus the period of any extension of time for filing the return." Thus, the plaintiffs could only recover for taxes paid during the three years, four months and two days (three years plus the time of the extension, including the automatic extension when April 15 falls on a weekend, see 26 U.S.C. § 7503) before they filed their refund claim, making the relevant look-back period from October 17, 2003 to June 15, 2000. In *Baral v. United States*, 528 U.S. 431 (2000), the Supreme Court interpreted 26 U.S.C. § 6513(b)(1)-(2) as requiring that taxes previously collected (via withholding or estimated tax payments) for a particular tax year are deemed paid on April 15 of the following year, when the tax return is due and not at a later date, such as when the return is actually filed and the taxes actually assessed. *Id.* at 435-39. Thus, plaintiffs' taxes were considered "paid" on April 15, 2000, even though they did not file their 1999 return until October 30, 2000—as the tax payments consisted of Miller's withholding payments and the estimated tax credits, deemed paid on April 15, 2000, and the \$5,000 that plaintiffs submitted with their extension request, also on (or about) April 15, 2000. See Compl. ¶ 5. Plaintiffs made no payments during the look-back period, and therefore section 6511 does not allow a refund.

B. Equitable Estoppel

The section 6511 look-back period is, in effect, a window that slides forward in time until a taxpayer files his refund claim. If a taxpayer received a four-month extension, then the period is the three years and four months immediately preceding the refund claim. This window will include payments deemed made on April 15, 2000, when a refund claim is filed by August 15, 2003. A refund claim filed one month later, though, will only look back to May 15, 2000, for tax payments that are eligible to be refunded. Plaintiffs concede that by the date they filed their refund claim, the look-back period of three years, four months (and two days) no longer contained

any tax payments for the 1999 tax year. Pls.' Opp. at 2. They would have had to have filed a refund claim on or by August 17, 2003, in order for the look-back window to contain their 1999 tax payments. *Id.*

*3 Plaintiffs assert, however, that they filed when they did in reliance upon advice from the IRS help line, which they called on July 9, 2003—well in advance of the August 17, 2003 effective deadline. See Compl. ¶¶ 10-16. Plaintiffs argue that had they been given accurate advice regarding the proper look-back period, they would have filed in time and received a refund. *Id.* They conclude that because the government allegedly gave them this incorrect advice, it should be estopped from asserting a statute of limitations defense. *Id.* at ¶ 17; see also Pls.' Opp. at 3-10.

Plaintiffs' claim for equitable relief relies upon *Irwin v. Dep't of Veterans Affairs*, 498 U.S. 89 (1991). In *Irwin*, the Court took the "opportunity to adopt a more general rule to govern the applicability of equitable tolling in suits against the Government." *Id.* at 95. The Supreme Court held that "the same rebuttable presumption of equitable tolling applicable to suits against private defendants should also apply to suits against the United States. Congress, of course, may provide otherwise if it wishes to do so." *Id.* at 95-96 (emphasis added). The Court explained that "[f]ederal courts have typically extended equitable relief only sparingly," *id.* at 96, and recognized two circumstances in which tolling is allowed: "where the claimant has actively pursued his judicial remedies by filing a defective pleading during the statutory period, or where the complainant has been induced or tricked by his adversary's misconduct into allowing the filing deadline to pass." *Irwin*, 498 U.S. at 96.

Here, the plaintiffs argue that the second circumstance applies—the inaccurate information that was allegedly provided to them by the IRS help line operator tricked them into missing the refund filing deadline. See Pls.' Opp. at 10-22. But even assuming that the allegations made by plaintiffs are true⁵—that it was reasonable for plaintiffs to rely on the oral statements of an IRS employee concerning their refund filing deadline, and that the employee who gave them the wrong deadline was engaged in affirmative misconduct⁶—the plaintiffs' claim for a refund of 1999 taxes would still be time-barred. As was mentioned above, in recognizing that equitable tolling could extend to cases brought against the government, the Supreme Court pointedly observed that Congress has the power to exempt any limitations periods from such equitable concerns. *Irwin*, 498 U.S. at 96. The

Supreme Court subsequently held that in enacting section 6511, Congress did exactly that.

In *United States v. Brockamp*, 519 U.S. 347 (1997), the Supreme Court directly addressed the applicability of equitable remedies to section 6511, and unanimously determined that the statutory time limit cannot be tolled because section 6511 does not contain an implied equitable tolling provision. *Brockamp*, 519 U.S. at 348 ("Can courts toll, for nonstatutory equitable reasons, the statutory time (and related amount) limitations for filing tax refund claims set forth in § 6511 of the Internal Revenue Code of 1986? We hold that they cannot."). The Supreme Court's view of the application of equitable principles to section 6511 is clear:

*4 Section 6511's detail, its technical language, the iteration of the limitations in both procedural and substantive forms, and the explicit listing of exceptions, taken together, indicate to us that *Congress did not intend courts to read other unmentioned, open-ended, "equitable" exceptions into the statute that it wrote.* There are no counterindications. Tax law, after all, is not normally characterized by case-specific exceptions reflecting individualized equities.

Id. at 352 (emphasis added). The "substantive forms" of limitations the Supreme Court mentioned specifically included subsection (b)(2)(A). *See id.* at 351.

The plaintiff in *Brockamp* sought relief from section 6511's limitations period due to a mental disability. *Id.* at 348. The Supreme Court denied his claim, but Congress later amended the statute to specifically allow the statutory period to be tolled when a "taxpayer is unable to manage financial affairs due to disability ." 26 U.S.C. § 6511(h) (2000). Plaintiffs have made no claim of disability, and while they assert that Congress's amendment of the statute helps them by demonstrating that "Congress has now incorporated a basis for equitable tolling," Pls.' Opp. at 15, the result is quite the opposite. Congress did not invite equitable tolling by adding section 6511(h); instead, it created a mechanism for statutory tolling. A court need not resort to principles of equity jurisprudence to grant relief to those who are financially disabled as defined in § 6511(h)-such taxpayers can use the statutory text itself. *See Doe v. KPMG, LLP*, 398 F.3d 686, 689 (5th Cir.2005) ("Because Congress prefers to provide explicit tolling exceptions to the limitations periods contained in federal tax law, by implication, it does not intend courts to invoke equitable tolling to alter the plain text of the statutes at issue.").

Rather than helping the plaintiffs, Congress' decision to amend the statute after *Brockamp* significantly weakens their argument. By amending section 6511, Congress provided for one specific set of circumstances that would toll the statute of limitations. Congress considered the issue and chose to create this-and only this-exception. Congress could have used more general language, but it chose not to. By using technical language and listing specific exceptions-such as the one contained in § 6511(h)-Congress precluded the existence of unenumerated equitable exceptions. *Brockamp*, 519 U.S. at 352.

Plaintiffs attempt to distinguish *Brockamp* by arguing that the decision involved equitable tolling, whereas they are raising an issue of equitable estoppel. Pls.' Opp. at 10-14. But the plaintiffs are asking this Court to equitably estop the Government from asserting a statute of limitations defense-regardless of the label they place on the request, it amounts to equitably tolling a statute of limitations. The Federal Circuit has already definitively addressed this issue in *RHI Holdings, Inc. v. United States*, 142 F.3d 1459, 1462 (Fed.Cir.1998) (explaining that "if there is no implied equitable exception in the statute of limitations, then regardless of the facts presented, there can be no equitable tolling or estoppel"). The Circuit rejected any distinctions between estoppel and tolling, "since *Irwin* described one instance of allowing equitable tolling as 'where the complainant has been induced or tricked by his adversary's misconduct into allowing the filing deadline to pass.'" *Id.* at 1461 (quoting *Irwin*, 498 U.S. at 96).

*5 Because the Supreme Court in *Brockamp* explicitly held that section 6511 does not permit equitable tolling, it is not necessary to determine the validity of plaintiffs' argument that they reasonably relied upon the advice of the IRS help line. *RHI Holdings, Inc.*, 142 F.3d at 1463 ("[S]ince there clearly is no equitable exception in the statute, it is not necessary to decide if equitable estoppel would be enforced against the United States if an equitable exception were found in a tax refund statute of limitations."). Even if plaintiffs did rely to their detriment on advice from the IRS help line, and even if such reliance were reasonable, the statute simply does not allow this Court to grant the equitable relief plaintiffs seek. *See Brockamp*, 519 U.S. at 348.

III. CONCLUSION

In order to obtain a refund of their 1999 taxes, plaintiffs needed to file their refund claim by August 17, 2003. They missed this deadline by two months, and thus their 1999 tax payments fell outside the look-back window created by 26 U.S.C. § 6511(b)(2)(A). Because their claim is barred by the statute of limitations, they have failed to state a claim upon which relief can be granted. For the foregoing reasons, defendant's motion to dismiss is hereby **GRANTED**. The

Clerk is directed to enter judgment in favor of the United States.

IT IS SO ORDERED.

All Citations

Not Reported in Fed.Cl., 2006 WL 2418837, 98 A.F.T.R.2d 2006-5567, 2006-2 USTC P 50,496

Footnotes

- 1 August 15 fell on a Saturday that year.
- 2 Plaintiffs allege that the return was filed on October 18, 2000. Compl. ¶ 4. The government, however, produced a copy of the return that bears the plaintiffs' signatures and is dated October 26, 2000. Def.'s App. B at 7. The Government also produced an IRS record showing that the return was filed by the IRS on October 30, 2000. Although the parties differ on this point, it is not material to the outcome of this matter.
- 4 In their Complaint, plaintiffs characterize this as "a net operating loss carry back deduction pursuant to 26 U.S.C. § 172." Compl. ¶ 8. The amended return states that it was a "net operating loss carryforward." Def.'s App. B at 11.
- 3 The combined total of these payments is \$15,210, resulting in an overpayment of \$4,832, which plaintiffs requested that the IRS apply to their year 2000 estimated tax. Def. Mot. at 3; Def.'s App. B at 4. The instant suit seeks a refund of the \$10,378 paid for 1999.
- 5 When considering a motion brought under RCFC 12(b)(6), the Court accepts as true all factual allegations made by the plaintiffs and draws all reasonable inferences in a light most favorable to them. See *Scheuer v. Rhodes*, 416 U.S. 232, 236 (1974); *Perez v. United States*, 156 F.3d 1366, 1370 (Fed.Cir.1998).
- 6 Although plaintiffs do not allege misconduct in their complaint, see Compl. ¶ 13, they argue in their opposition paper that the provision of false information amounts to misconduct, see Pls.' Opp. at 20-22. Given the plaintiffs' *pro se* status, the Court will treat the complaint as if misconduct were alleged. See *Estelle v. Gamble*, 429 U.S. 97, 106 (1976); *Haines v. Kerner*, 404 U.S. 519, 521 (1972).

158 Cal.App.4th 11
Court of Appeal, Sixth District, California.

FOOTHILL-DE ANZA COMMUNITY
COLLEGE DISTRICT, Plaintiff,
Cross-Defendant and Respondent,
v.

Melvin L. EMERICH et al., Defendants,
Cross-Complainants and Appellants.

No. H031120.

Dec. 19, 2007.

Rehearing Denied Jan. 11, 2008.

Review Denied March 26, 2008. *

Synopsis

Background: Community college district filed action to validate its resolutions implementing bond measure approved by voters by vote of 65.69 percent. Opponents answered and filed cross-complaint, arguing that measure did not meet accountability provisions of Proposition 39, which required approval by 55 percent for school bonds, and therefore measure required two-thirds vote normally required for bond measures to be repaid by property taxes. The Superior Court, Santa Clara County, No. CV065060, C. Randall Schneider, J., entered judgment for district. Opponents appealed.

Holdings: The Court of Appeal, Premo, J., held that:

- [1] measure complied with accountability requirements;
- [2] limiting electorate to voters residing in district did not violate equal protection right of nonresident property owner; and
- [3] district was entitled to costs.

Affirmed.

West Headnotes (11)

[1] Education

⚡ Power to incur indebtedness; bonds

Community college district bond measure met accountability requirements of Proposition 39, and therefore needed only 55 percent vote rather than two-thirds voter approval normally required for bond measures to be repaid by property taxes; measure included requisite certification stating that district board had evaluated district's facility needs, measure adequately met constitutional requirement of annual audit notwithstanding that measure did not identify auditor, and measure clearly identified types of projects to be funded by generally listing repair or replacement of leaky roofs, wiring classrooms for computers and other technology, and installation of fire safety doors and sprinklers. West's Ann.Cal. Const. Art. 13A, § 1(b)(3).

See 9 Witkin, Summary of Cal. Law (10th ed. 2005) Taxation, §§ 128, 133 et seq.; Cal. Jur. 3d, Property Taxes, §§ 9 et seq., 294; Cal. Jur. 3d, Schools, § 122 et seq.

1 Cases that cite this headnote

[2] Appeal and Error

⚡ Review Dependent on Whether Questions Are of Law or of Fact

Determination whether community college district bond measure met accountability requirements of Proposition 39, and therefore needed only 55 percent vote, involved only question of law on which appellate court was not bound by trial court's analysis. West's Ann.Cal. Const. Art. 13A, § 1(b)(3).

Cases that cite this headnote

[3] Statutes

⚡ Construction and operation of initiated statutes

In interpreting a voter initiative, the court applies the same principles that govern construction of a statute.

Cases that cite this headnote

[4] **Education**

⚡ Power to incur indebtedness; bonds

Critical factor in assessing whether community college district bond measure's project list complied with Proposition 39, which allows school bond measures to be approved by only 55 percent of voters, is whether it allowed for meaningful approval and oversight of bond expenditures; thus, it is sufficient if list defines or identifies projects in manner that clearly apprises voters, auditors, and public oversight committees of types of projects for which money is intended to be used. West's Ann.Cal. Const. Art. 13A, § 1(b)(3).

Cases that cite this headnote

[5] **Constitutional Law**

⚡ Education

Education

⚡ Power to incur indebtedness; bonds

Limiting electorate for community college district bond measure to voters residing in district did not violate equal protection right of nonresident partner of limited partnership that owned real property in district who would be required to pay property tax; nonresident was not constitutionally qualified voter in district, and there was rational basis for limitation as residents would have greater interest in local affairs, while nonresident would be mainly interested in lower tax. U.S.C.A. Const.Amend. 14; West's Ann.Cal. Const. Art. 1, § 7(a); Art. 2, § 2; Art. 13A, § 1(b)(3).

3 Cases that cite this headnote

[6] **Education**

⚡ Costs

Award of costs to community college district that successfully brought action to validate its resolutions implementing bond measure was

not "punitive action" against parties opposing measure, and thus costs were not prohibited by statute providing that summons in a validation action state that persons who contest legality or validity of matter would not be subject to punitive action. West's Ann.Cal.C.C.P. §§ 861.1, 868.

1 Cases that cite this headnote

[7] **Costs**

⚡ Evidence as to items

Costs

⚡ Duties and proceedings of taxing officer

In ruling upon a motion to tax costs, the trial court's first determination is whether the statute expressly allows the particular item and whether it appears proper on its face; if so, the burden is on the objecting party to show the costs to be unnecessary or unreasonable. West's Ann.Cal.C.C.P. §§ 868, 1033.5.

7 Cases that cite this headnote

[8] **Costs**

⚡ Evidence as to items

Where costs are not expressly allowed by statute, the burden is on the party claiming the costs to show that the charges were reasonable and necessary. West's Ann.Cal.C.C.P. §§ 868, 1033.5.

6 Cases that cite this headnote

[9] **Appeal and Error**

⚡ Costs and Allowances

Costs

⚡ Duties and proceedings of taxing officer

Whether a cost item was reasonably necessary to the litigation presents a question of fact for the trial court and its decision is reviewed for abuse of discretion. West's Ann.Cal.C.C.P. §§ 868, 1033.5.

3 Cases that cite this headnote

[10] **Education**

✎ Costs

Community college district that successfully brought action to validate its resolutions implementing bond measure was entitled to witness fees for district's chancellor, even though he did not testify; chancellor was employee of district, rather than party to action, and chancellor was legally required to be present due to opposing parties' notice to district to produce him. West's Ann.Cal.C.C.P. § 1033.5; West's Ann.Cal.Gov.Code § 68093.

Cases that cite this headnote

[11] Costs

✎ Disbursements in general

Costs for courier or messenger fees, although not specifically enumerated as allowable costs in costs statute, may be recoverable in the trial court's discretion if reasonably necessary to the conduct of the litigation. West's Ann.Cal.C.C.P. § 1033.5.

7 Cases that cite this headnote

Attorneys and Law Firms

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****680** Gary B. Wesley, Aaron L. Katz, for Defendants/Cross-Complainants and Appellants Melvin L. Emerich, Aaron L. Katz.

PREMO, J.

***16 I. INTRODUCTION**

If a local public entity desires to issue a bond to be repaid by taxes on real property it must generally obtain approval of two-thirds of its voters. (Cal. Const. art. XIII A, § 1, subd. (b)(2).)¹ Proposition 39 reduced the approval requirement to 55 percent for bonds issued by school districts, community college districts, and county offices of education to pay for certain types of projects. The 55 percent approval applies only if the bond proposition submitted to the voters meets

the accountability requirements specified by Proposition 39. (Prop. 39, § 4, as approved by voters, Gen. Elec. (Nov. 7, 2000); art. XIII A, § 1, subd. (b)(3).)

On June 6, 2006, voters in Foothill De-Anza Community College District (District) approved a school bond proposition (Measure C) by a vote of 65.69 percent. The District promptly filed an action to validate its resolutions implementing the measure. (Code Civ. Proc., § 860 et seq.) Defendants Melvin L. Emerich and Aaron L. Katz opposed the District's action, arguing that Measure C did not meet the Proposition 39 requirements for approval by 55 percent of the voters. Since the measure had fallen short of a two-thirds vote, defendants maintained that it had not been approved. Katz also argued that the voting scheme, which excluded nonresident property owners from voting on the measure, was unconstitutional. (U.S. Const., Amend. XIV, § 1; *17 Cal. Const., art. I, § 7, subd. (a).) The trial court rejected both arguments and validated the measure. We shall affirm.

II. FACTUAL AND PROCEDURAL BACKGROUND

On February 21, 2006, the District's governing board passed a resolution calling for an election to approve the issuance of up to \$490.8 million in general obligation bonds. The bonds were to be repaid by a new ad valorem tax levied upon all nonexempt real property within the District's geographical boundaries. The registrar of voters labeled the bond proposal Measure C. The full text of the measure was included in the sample ballot and voter information pamphlet mailed to all registered voters in the District prior to the election.

On June 7, 2006, the day after Measure C was approved by 65.69 percent of voters, the District passed resolutions calling for the issuance of \$300 million in bonds. On the same day, the District filed this action to validate the issuance of the bonds called for in the resolutions.

Defendants Emerich and Katz answered and filed cross-complaints. Both defendants claimed that Measure C did not include the accountability provisions required by Proposition 39. Katz also alleged that the election scheme, which enfranchised only natural persons who resided within the District's geographical boundaries, was unconstitutional as applied to him, a nonresident who would be indirectly liable for any new taxes approved by the vote.²

****681** The trial court rejected Katz's constitutional arguments, concluding that *Neilson v. City of California*

City (2005) 133 Cal.App.4th 1296, 35 Cal.Rptr.3d 453 (*Neilson*), was dispositive. The court also concluded that, although Measure C did not set forth Proposition 39's accountability provisions verbatim, the information it did supply was sufficient. The court entered judgment for the District, validating Measure C and the District's related resolutions, and awarding costs to the District of \$1,426.81. Both defendants have appealed.

***18 III. ISSUES³**

1. Did Measure C meet the requirements of Proposition 39 such that only a 55 percent vote was required for its approval?
2. Was the District's voting scheme, which enfranchised only natural persons residing within the District's geographical boundaries, a violation of equal protection principles?
3. Did the trial court err in awarding costs to the District in light of Code of Civil Procedure section 861.1 (hereafter section 861.1), which provides that a summons in a validation action must include a notice stating that persons who contest the validity of a matter "will not be subject to punitive action"?

IV. DISCUSSION

A. Measure C Included All of Proposition 39's Accountability Requirements

1. Standard of Review

[1] [2] Defendants first argue that Measure C did not include the accountability requirements mandated by Proposition 39. The pertinent facts are not in dispute. There is no question about the contents of the bond proposal that was set forth as the "Full Text Ballot Measure" and submitted to the voters along with a sample ballot in the voter information pamphlet. Our task is to determine whether the bond proposal met the requirements of Proposition 39. Thus, our review involves only a question of law on which we are not bound by the trial court's analysis. (*Lazar v. Hertz Corp.* (1999) 69 Cal.App.4th 1494, 1502, 82 Cal.Rptr.2d 368.)

[3] To the extent our review requires interpretation of Proposition 39 or the related statutory provisions, we are guided by settled principles. "In interpreting a voter initiative, we apply the same principles that govern our construction of a statute. [Citation.] We turn first to the statutory language, *19 giving the words their ordinary meaning. [Citation.]

If the statutory language is not ambiguous, then the plain meaning of the language governs. [Citation.] If, however, the statutory language lacks clarity, we may resort to extrinsic sources, including the analyses and arguments contained in the official ballot pamphlet, and the ostensible objects to be achieved." (*People v. Lopez* (2005) 34 Cal.4th 1002, 1006, 22 Cal.Rptr.3d 869, 103 P.3d 270.)

2. Constitutional and Statutory Requirements

"The usual method of funding new school construction in California has been **682 for school districts to obtain voter approval for the issuance of general obligation bonds.... The bonds are repaid by an annual levy of an ad valorem tax on real (and certain personal) property located within the area of the district." (*San Lorenzo Valley Community Advocates for Responsible Education v. San Lorenzo Valley Unified School Dist.* (2006) 139 Cal.App.4th 1356, 1395, 44 Cal.Rptr.3d 128.) Prior to November 2000, article XIII A, section 1 provided that taxes or special assessments levied to pay the interest and redemption charges on "any bonded indebtedness for the acquisition or improvement of real property" must be approved by two-thirds of the voters voting on the proposition. Proposition 39, passed by the voters in 2000, amended article XIII A, section 1, reducing the required approval to 55 percent when the indebtedness was to be incurred by a school district, community college, or county office of education for the "construction, reconstruction, rehabilitation, or replacement of school facilities." (Prop. 39, § 4, as approved by voters, Gen. Elec. (Nov. 7, 2000); art. XIII A, § 1, subd. (b)(3).) The 55 percent standard applies "only if the proposition approved by the voters and resulting in the bonded indebtedness includes all of the following accountability requirements:

"(A) A requirement that the proceeds from the sale of the bonds be used only for the purposes specified in Article XIII A, Section 1(b)(3), and not for any other purpose, including teacher and administrator salaries and other school operating expenses.

"(B) A list of the specific school facilities projects to be funded and certification that the school district board, community college board, or county office of education has evaluated safety, class size reduction, and information technology needs in developing that list.

"(C) A requirement that the school district board, community college board, or county office of education conduct an

annual, independent performance audit *20 to ensure that the funds have been expended only on the specific projects listed.

"(D) A requirement that the school district board, community college board, or county office of education conduct an annual, independent financial audit of the proceeds from the sale of the bonds until all of those proceeds have been expended for the school facilities projects." (Art. XIII A, § 1, subd. (b)(3).)

Education Code sections 15264 through 15284 implement the initiative. Education Code section 15272 provides: "In addition to the ballot requirements of Section 15122 ... for bond measures pursuant to this chapter, the ballot shall also be printed with a statement that the board will appoint a citizens' oversight committee and conduct annual independent audits to assure that funds are spent only on school and classroom improvements and for no other purposes." Education Code section 15126 is a global savings provision: "No error, irregularity, or omission which does not affect the substantial rights of the taxpayers within the district or the electors voting at any election at which bonds of any district are authorized to be issued shall invalidate the election or any bonds authorized."

3. The Ballot

A sample ballot and voter information pamphlet was mailed to all eligible voters prior to the election. The ballot itself contained the following information:

"Foothill-De Anza College Repair/Job Training Measure: To repair/upgrade Foothill and De Anza Colleges, improve job training/university transfer,

- **683 •** Upgrade electrical, heating, ventilation systems, fire/seismic safety,
- Repair leaky roofs,
- Improve disabled access,
- Repair/expand classrooms for nurses/paramedics,
- Upgrade technology,
- Repair, construct, acquire, equip buildings, classrooms, libraries, sites, science/computer labs, shall [the District] issue \$490.8 million in bonds, at *21 legal rates, with mandatory audits, citizen oversight and no money for administrators' salaries?"

4. The Full Text Ballot Measure

The full text of Measure C, set forth in the voter information pamphlet, included the language that appeared on the ballot and also a lengthy description of the projects for which the bond revenue would be used.⁴ In pertinent part, the measure stated:

"The Board of Trustees of the [District], to be responsive to the needs of students and the community, *evaluated the District's urgent and critical facility needs, including facility maintenance, safety issues, class offerings, energy cost reduction and information and computer technology*, in developing the scope of projects to be funded, as outlined in [Facilities Master Plan, the Information Technology Strategic Plan and the Renovation Master Plan, 'as shall be amended from time to time'].... The Board conducted facilities evaluations and received public input and review in developing the scope of college facility projects to be funded, as listed in the [foregoing planning documents].... [¶] ... [¶]

"The Facilities Master Plan, the Information Technology Strategic Plan and the Renovation Master Plan are on file and available for review at the District Chancellor's Office [among other locations]." (Italics added.)

The text describes the projects planned for Foothill and De Anza Colleges and for the District as a whole. The Foothill College projects are divided into six categories: (1) "Upgrade, Maintain, Equip, and/or Replace Obsolete Classrooms, Science and Computer Labs, Library, Instructional Facilities, Sites and Utilities; Meet Demands of Changing Workforce; Improve Disabled Access," (2) "Upgrade Technology," (3) "Repair, Replace and Upgrade Electrical and Mechanical Systems to Reduce Energy Consumption and Utility Bills and Accommodate Computer Technology, Internet Access and Communications Systems, Install Solar Panels to Reduce Energy Consumption and Utility Bills," (4) "Improve Safety and Disabled Access; Remove Asbestos," (5) "Expand Classroom and Facility Capacity, Construct Science Center, Upgrade Classrooms/Labs For Nursing and Emergency Medical Services," and (6) "Improve Emergency Access and Evacuation Routes."

*22 Except for the third category on the list, each category is followed by a paragraph further explaining the projects contemplated. The explanation attached to the first category is typical. This category of projects would "provide state-of-

the-art computer technology capability for students, repair, build, upgrade and/or replace leaky roofs, decaying walls, old ceiling tiles and flooring ... wire classrooms for computers and other technology, increase energy efficiency, acquire equipment, ****684** increase safety, reduce fire hazards with alarms, smoke detectors, fire safety doors and sprinklers." The De Anza and District-wide project descriptions are similar.

Following the two-page list of projects is this paragraph: "*Fiscal accountability*. The expenditure of bond money on these projects is subject to stringent financial accountability requirements. By law, performance and financial audits will be performed annually, and all bond expenditures will be monitored by an independent citizens' oversight committee to ensure that funds are spent as promised and as specified...." (Capitalization and bold type omitted.)

5. Board Certification, Performance and Financial Audits

In order to qualify as a Proposition 39 school bond measure, the bond proposition must include a "certification" that the District board "has evaluated safety, class size reduction, and information technology needs" in developing its list of projects. (Art. XIII A, § 1, subd. (b)(3)(B).) Defendants argue that Measure C omitted this certification. Not so. The District's proposition clearly states that the District board "evaluated" the District's facility needs, "including facility maintenance, safety issues, class offerings, energy cost reduction and information and computer technology" in deciding upon the scope of the projects to be funded. Defendants do not describe what they claim was omitted. Accordingly, we reject the argument.

Proposition 39 also demands that a school bond proposal include the requirement that the District "conduct an annual, independent performance audit" and "an annual, independent financial audit." (Art. XIII A, § 1, subd. (b)(3)(C), (D).) Defendants claim the Measure C omitted these requirements. Again, we disagree. The proposition meets the constitutional requirements in that it states: "By law, performance and financial audits will be performed annually." True, the statement does not say who will perform the audits, but the Constitution does not require the District to identify the auditor. It is also true that the statement does not say that the audits will be "independent." This omission is insubstantial. The word "audit" connotes ***23** an independent inspection. (See, e.g., Concise Oxford English Dict. (11th ed.2004) p. 86, col. 1, which defines audit as "an official inspection of an organization's accounts, typically by an independent body.")

6. List of Projects

A large part of defendants' appeal is directed toward the list of projects the bond proceeds are intended to fund. Defendants claim that list of projects included in the full text ballot proposition merely sets forth categories of projects and is not specific enough to meet the requirements of Proposition 39. We must first decide what level of specificity Proposition 39 requires.

The plain language of the constitutional provision added by Proposition 39 is that the bond proposal must contain, "[a] list of the specific school facilities projects to be funded and certification that the school district board ... has evaluated safety, class size reduction, and information technology needs in developing that list." Since this language sheds no light on just how specific Proposition 39 expects the list to be, we turn to the publisher's historical note for article XIII A, section 1, which contain the purpose and intent of the Proposition 39 ballot initiative.

[4] The overall purpose of the initiative was "to prepare our children for the 21st Century, to implement class size reduction, to ensure that our children learn in a ****685** secure and safe environment, and to ensure that school districts are accountable for prudent and responsible spending for school facilities...." (Note, Deering's Ann. Cal. Const. (2007 supp.) foll. art. XIII A, § 1; see art. XIII A, § 3.) The initiative was to accomplish the first three of these purposes by allowing for a less than two-thirds approval of bond measures to fund school projects. The type of projects the initiative was intended to encourage is revealed by its requirement that school district evaluate "safety, class size reduction, and information technology needs" in developing the list of projects to present to the voters for approval. The accountability goal is achieved by requiring that, "before they vote, voters will be given a list of specific projects their bond money will be used for," and by requiring annual, independent financial and performance audits. (*Id.* at subds. (a)-(d).) In other words, the initiative was intended to make it easier to pass school bonds, the proceeds of which would be used to upgrade school facilities, reduce class size, and improve safety, and to ensure that district boards actually spent the bond proceeds on the projects the voters approved. That means that the list of projects submitted to the voters must be specific enough that the voters know what it is they are voting for and the auditors know how to evaluate the ***24** district's performance. As the trial court summarized so articulately, "The critical factor in assessing whether the project list complied with Proposition 39 is

whether it allows for meaningful approval and oversight of the bond expenditures....” Thus, if the list defines or identifies the projects in a manner that clearly apprises the voters, the auditors, and the public oversight committees of the types of projects for which the money is intended to be used, that is sufficient.

The list of projects set forth in Measure C clearly identifies the types of projects to be funded. For example, it is clear that among the projects to be funded are repair or replacement of leaky roofs, wiring classrooms for computers and other technology, and installation of fire safety doors and sprinklers. This is sufficiently specific for meaningful approval and oversight. Defendants urge a level of specificity that is impractical and unnecessary. Surely it is unnecessary to inform the voter which buildings will receive new fire safety doors or which roofs will be replaced and which will be repaired. That is minutiae that the voter has no expertise or need to consider. Furthermore, requiring such minute detail as defendants propose would be impractical. By the time the District is assured of the bond proceeds, the roof that might have been repaired may now need to be replaced; or safety and accessibility renovations may need to be revised to comply with changing regulations. It is sufficient that the District clearly identified the particular types of projects, such as roof repair or installation of safety equipment. Those are the projects the voters approved and those are the projects any overseer will look for in determining whether the District is using the bond funds as proposed.

Defendants claim that the list places no limits on the types of projects because the list allowed for future changes. Defendants also contend that the “actual” list of projects the District plans to implement with bond money is that contained in the 2006 Bond Measure Cost Summary, which was an exhaustive list of projects the District used in planning the bond proposal. Defendants maintain that this list was not available to the voters and that it includes projects that are not proper subjects of a Proposition 39 bond and projects that were not listed in the bond proposal. These arguments are beside the point. The voters approved the bond proposition that was printed in the voter information pamphlet. ****686** Any future changes would have to be consistent with the projects specified in the proposition the voters approved. In the event the District exceeds the authority granted by the voters’ approval, the Legislature has provided a separate remedy. (Ed.Code, § 15284.)

[5] Katz had argued below that the voting scheme the District used was unconstitutional as applied to him. (U.S. Const., Amend. XIV, § 1; ***25** Cal. Const., art. I, § 7, subd. (a).) Katz does not live in the District but he is the general partner of a limited partnership that owns real property in the District. The vote on Measure C was limited to registered voters residing in the District and, therefore, Katz was precluded from voting. He claimed this was an equal protection violation because he will be indirectly liable for any tax the voters approve.

Prior to trial, the District made an in limine motion, seeking exclusion of all evidence challenging the voting scheme’s validity. The trial court granted the motion, concluding that *Neilson, supra*, 133 Cal.App.4th 1296, 35 Cal.Rptr.3d 453, was dispositive of the question. Katz challenges this ruling on appeal, urging this court to disagree with *Neilson*. We agree with *Neilson* and find no error in the trial court’s ruling.

In *Neilson*, a nonresident landowner challenged a city’s flat-rate parcel tax approved by the city’s registered voters. Like Katz, Neilson claimed that excluding him from the vote was a denial of equal protection. (*Neilson, supra*, 133 Cal.App.4th at pp. 1301, 1314, 35 Cal.Rptr.3d 453.) *Neilson* noted that, in general, residency is an acceptable restriction on the franchise. (*Id.* at pp. 1314–1315, 35 Cal.Rptr.3d 453, quoting the discussion in *Hoffman v. State Bar of California* (2003) 113 Cal.App.4th 630, 644–645, 6 Cal.Rptr.3d 592.) *Neilson* also cited *Holt Civic Club v. City of Tuscaloosa* (1978) 439 U.S. 60, 99 S.Ct. 383, 58 L.Ed.2d 292 (*Holt*), in which the United States Supreme Court rejected an equal protection challenge to a city’s residency requirement by nonresidents who were subject to certain city regulations and licensing requirements. (*Neilson, supra*, 133 Cal.App.4th at p. 1315, 35 Cal.Rptr.3d 453.) In rejecting the challenge, *Holt* summarized prior cases that had found other types of voting qualifications to be unconstitutional: “The challenged statute in each case denied the franchise to individuals who were physically resident within the geographic boundaries of the governmental entity concerned. [Citations.] No decision of this Court has extended the ‘one man, one vote’ principle to individuals residing beyond the geographic confines of the governmental entity concerned, be it the State or its political subdivisions. On the contrary, our cases have uniformly recognized that a government unit may legitimately restrict the right to participate in its political processes to those who reside within its borders.” (*Holt, supra*, 439 U.S. at pp. 68–69, 99 S.Ct. 383.)

B. The Voting Scheme Was Constitutional

After reviewing *Holt* and other pertinent United States Supreme Court authority, *Neilson* rejected the plaintiff's contention that strict scrutiny should apply, concluding that strict scrutiny applied only "to protect the right to vote of those who are *otherwise qualified to vote*. Someone otherwise qualified to vote could be characterized as having a 'fundamental' interest in the right to vote, which may not be infringed absent a compelling state interest. But strict *26 scrutiny is not used to create a right to vote in nonresidents who are not otherwise qualified." (*Neilson*, **687 *supra*, 133 Cal.App.4th at p. 1315, 35 Cal.Rptr.3d 453.)

Like the plaintiff in *Neilson*, Katz is not an "otherwise qualified" voter in any District election. A person qualifies generally as a voter if he or she is a United States citizen at least 18 years of age residing in the state. (Cal. Const., art. II, § 2.) If such a person complies with the registration requirements of the Elections Code he or she "may vote at any election held *within the territory within which he or she resides* and the election is held." (Elec.Code, § 2000, italics added.) Since Katz does not reside in and is not a registered voter of the District, he is not otherwise qualified to vote there. Article XIII A, section 1, subdivision (b)(3) supports this conclusion as it applies to the District's school bond elections in that this subdivision allows for approval of school bonds "by 55 percent of the *voters of the district*." (Italics added.) Thus, the District's voting scheme did not deprive Katz of a fundamental right warranting strict scrutiny review.

Citing *California Bldg. Industry Assn. v. Governing Bd.* (1988) 206 Cal.App.3d 212, 220, 253 Cal.Rptr. 497 (*California Bldg.*), Katz argues that qualified electors are the persons who, like him, are going to actually pay the tax. Katz misreads the case. In *California Bldg.*, the electorate of a school district voted to impose a tax upon building permits issued within the district. The tax was purportedly approved pursuant to article XIII A, section 4, which provides that cities, counties and special districts, by a two-thirds vote of the electorate, may impose special taxes " 'on such district.' " (*California Bldg.*, *supra*, 206 Cal.App.3d at p. 237, 253 Cal.Rptr. 497.) The court held that the constitutional requirement that the tax be imposed " 'on such district' " meant that the voters' approval was limited to taxes they themselves would have to pay, either directly or indirectly. (*Id.* at p. 238, 253 Cal.Rptr. 497.) Allowing an electorate to approve a tax to be paid by someone else entirely, such as builders seeking permits to build within district boundaries, would make the constitutionally imposed difficulty of a two-thirds vote meaningless. (*Ibid.*) "In contrast, requiring the tax

to be imposed directly or indirectly on the electorate to whom the tax was submitted will give effect to the limitation on new taxes which the supermajority requirement seeks to insure." (*Ibid.*) *California Bldg.* did not suggest that the electorate must include every person who will be affected by the tax. The case does not alter our conclusion that Katz was not otherwise qualified to vote in the District election at issue.

Applying the rational basis test, *Neilson* concluded that the residency requirement used to define the electorate in that case did not offend equal protection principles. In so doing, the court cited a discussion from an analogous case, *Massad v. City of New London* (1993) 43 Conn.Supp. 297, 652 A.2d 531. In *Massad*, nonresidents who owned property in the city challenged a *27 residency requirement pertaining to a city-wide referendum to approve a budget and tax rate ordinance. The court determined that there was a rational basis for excluding nonresidents, which was that local residents had a greater knowledge and interest in local affairs, while nonresident property owners would mainly be interested in lower taxes. (*Neilson*, *supra*, 133 Cal.App.4th at p. 1317, 35 Cal.Rptr.3d 453, citing *Massad v. City of New London*, *supra*, 43 Conn.Supp. at p. 311, 652 A.2d at p. 538.) The same rational basis exists here. The voting scheme did not offend Katz's right to equal protection.

C. Costs

[6] Following trial the District moved for an award of costs. Defendants challenged **688 the motion and the trial court taxed some of the costs requested but allowed a total of \$1,426.81. Defendants argue that this was error. Defendants contend that the trial court erred in awarding costs against them because section 861.1 requires that the summons in a validation action "shall also state that persons who contest the legality or validity of the matter will not be subject to punitive action, such as wage garnishment or seizure of their real or personal property." Defendants claim that the cost award is "punitive action" and, therefore, it is prohibited by section 861.1. Defendants also argue that the District is estopped from seeking a judgment allowing it to garnish or seize their property since they relied to their detriment upon the advisement in the summons, which said that they would not be subject to punitive action, such as wage garnishment or seizure of their real or personal property.

We do not agree that a judgment awarding costs to a prevailing party is a "punitive action" against the loser. A cost award is not imposed as a punishment. In general, the loser in any civil action is liable for costs, notwithstanding the good

faith of his or her claim or defense. (Code Civ. Proc., § 1032, subd. (b).) A cost award does, however, result in a judgment in favor of the party to whom the costs were awarded, which presumably could be enforced by wage garnishment or other seizure mechanisms. To that extent, section 861.1 might be read to preclude an award of costs against the challenger in a validation action. If it does, it conflicts with Code of Civil Procedure section 868 (hereafter, section 868), which provides: "The costs of any proceeding or action pursuant to this chapter [Validating Proceedings] may be allowed and apportioned between the parties or taxed to the losing party in the discretion of the court." The issue, therefore, is whether an award of costs against persons who contest the validity of a matter is prohibited by section 861.1 or allowed under section 868.

The issue requires our interpretation of the law, a core judicial function to which we apply our independent review.

*28 (*McClung v. Employment Development Dept.* (2004) 34 Cal.4th 467, 470, 20 Cal.Rptr.3d 428, 99 P.3d 1015.) In so doing, we rely upon settled rules. Our fundamental task is to ascertain the intent of the Legislature. (*People v. Connor* (2004) 115 Cal.App.4th 669, 678, 9 Cal.Rptr.3d 521.) We do that by first examining the statutory language, giving the words their usual and ordinary meaning. If there is no ambiguity the plain meaning governs. (*Ibid.*) If the statutory language permits more than one reasonable interpretation, we may resort to extrinsic aids, including the rules of statutory construction and consideration of the evils to be remedied by the statutory scheme at issue, to help us select the interpretation that comports most closely with the lawmakers' intent. (*Ibid.*) "[A] specific provision should be construed with reference to the entire statutory system of which it is a part, in such a way that the various elements of the overall scheme are harmonized." (*Bowland v. Municipal Court* (1976) 18 Cal.3d 479, 489, 134 Cal.Rptr. 630, 556 P.2d 1081.) Furthermore, statutes are to be interpreted by assuming that the Legislature was aware of the existing law at the time of the enactment and to have enacted a statute in light thereof. (*People v. McGuire* (1993) 14 Cal.App.4th 687, 694, 18 Cal.Rptr.2d 12.)

Section 861.1 plainly states that the summons shall inform interested persons that they will not be subject to punitive action such as wage garnishment or seizure of their property. We have no doubt that the Legislature intended, by requiring this notice to be included in the summons, to assure interested persons that they **689 could challenge the action of a public entity without fear of incurring a liability they did

not intend. But the legislative history, of which we have taken judicial notice, provides no insight into whether the Legislature intended to immunize interested persons from having costs awarded against them in the event they lose their challenge. (See Assem. Com. on Judiciary, Rep. on Assem. Bill No.2049 (1997-1998 Reg. Sess.) Apr. 28, 1998; Sen. Judiciary Com. Rep. on Assem. Bill No.2049 (1997-1998 Reg. Sess.) July 21, 1998; Sen. Rules Com. Rep. on Assem. Bill No.2049 (1997-1998 Reg. Sess.) as amended July 29, 1998.)

Defendants cite *City of Long Beach v. Bozek* (1982) 31 Cal.3d 527, 183 Cal.Rptr. 86, 645 P.2d 137 (*Bozek*), in support of their contention that a cost award is inconsistent with a public policy of encouraging citizens to speak out about government action. *Bozek* does not support the point. *Bozek* held that governmental entities may not sue private citizens for malicious prosecution. In so holding, the Supreme Court discussed the paramount importance of protecting the constitutionally guaranteed right to petition the government for the redress of legitimate grievances (U.S. Const., First Amend.; Cal. Const., art. I, § 3) and concluded that the risk of having to defend a malicious prosecution action would chill that right. The court did not prohibit an award of costs. Indeed, the court noted there were remedies other than a malicious prosecution suit, such as Code of Civil Procedure section 128.5, which allow governmental entities to regain costs and expenses expended in defending *29 baseless claims. (*Bozek, supra*, 31 Cal.3d at pp. 537-538, 183 Cal.Rptr. 86, 645 P.2d 137.) The existence of these other remedies weighed against approving the use of a malicious prosecution action. Thus, the case does not hold that taxing costs to the individual challenging the public action is inconsistent with any public policy or constitutional right.

There is one situation where the challenger in a validation action cannot be liable for costs and that is when the action may be characterized as a challenge to an eminent domain proceeding, such as a landowner's challenge to redevelopment plans that would condemn the landowner's property. (*In re Redevelopment Plan for Bunker Hill* (1964) 61 Cal.2d 21, 70, 37 Cal.Rptr. 74, 389 P.2d 538 (*Bunker Hill*)). That rule is based upon the challenger's right to just compensation under the Fifth Amendment of the United States Constitution. (*San Francisco v. Collins* (1893) 98 Cal. 259, 262-263, 33 P. 56.) But where there is no issue of the right to take private property for public use, this rule does not apply. (Cf. *Crum v. Mt. Shasta Power Corp.* (1932) 124 Cal.App. 90, 95, 12 P.2d 134.)

Turning back to the statutes at hand, we note that section 868 was in effect in 1998 when the Legislature amended section 861.1. We presume, therefore, that the Legislature was aware when it added the no-punitive-action advisement to section 861.1 that the trial court had discretion to tax costs to the losing party under section 868. The Legislature must also have been aware of the judicially created rule preventing costs to be taxed to the challenger in certain validation proceedings. (*Bunker Hill*, *supra*, 61 Cal.2d at p. 70, 37 Cal.Rptr. 74, 389 P.2d 538.) If the Legislature had intended to extend that prohibition to all challengers in validation actions, it could have revised section 868 to do that. Since the Legislature amended section 861.1 without amending section 868, we are persuaded that the Legislature did not intend to change the plain meaning of the latter section, i.e., that the court may award costs in its discretion.

****690** [7] [8] [9] Finally, defendants argue that even if costs may properly be taxed to them, the trial court abused its discretion in awarding nonrecoverable costs. In ruling upon a motion to tax costs, the trial court's first determination is whether the statute expressly allows the particular item and whether it appears proper on its face. "If so, the burden is on the objecting party to show [the costs] to be unnecessary or unreasonable." (*Nelson v. Anderson* (1999) 72 Cal.App.4th 111, 131, 84 Cal.Rptr.2d 753.) Where costs are not expressly allowed by the statute, the burden is on the party claiming the costs to show that the charges were reasonable and necessary. (*Id.* at p. 132, 84 Cal.Rptr.2d 753.) "Whether a cost item was reasonably necessary to the litigation presents a question of fact for the trial court and its decision is reviewed for abuse of discretion." (*Ladas v. California State Auto. Assn.* (1993) 19 Cal.App.4th 761, 774, 23 Cal.Rptr.2d 810.)

[10] Defendants challenge \$140 in witness fees for the District's Vice-Chancellor Brandy and Chancellor Kanter, arguing that these witnesses were, in effect, parties, and that Kanter never actually testified. The claim is meritless. *Trussell v. City of San Diego* (1959) 172 Cal.App.2d 593, 617, 343 P.2d 65, held that, although mileage and witness fees are not allowable to parties to the action, there is no authority to deny fees to individuals "not shown to have any private interest in the litigation, merely because they are directors or employees of a corporate party." *County of Kern v. Ginn* (1983) 146 Cal.App.3d 1107, 1112-1113, 194 Cal.Rptr. 512, applied the same rationale to governmental litigants. Brandy and Kanter were not parties, they were employees of District and entitled to fees. It is immaterial that Kanter

did not actually testify. Code of Civil Procedure section 1033.5, subdivision (a)(7) provides that ordinary witness fees pursuant to section 68093 of the Government Code are recoverable as costs in a civil proceeding. Government Code section 68093 provides fees for witnesses "legally required to attend a civil action or proceeding in the superior courts." Kanter was legally required to be present due to defendants' notice to the District to produce him.

[11] Defendants challenge \$116.25 in overnight messenger fees. Costs for courier or messenger fees are not specifically enumerated as allowable costs in Code of Civil Procedure section 1033.5, subdivision (a), neither are they prohibited in subdivision (b). Thus, messenger fees may be recoverable in the trial court's discretion if "reasonably necessary to the conduct of the litigation." (Code Civ. Proc., § 1033.5, subd. (c)(2); *Ladas v. California State Auto. Assn.*, *supra*, 19 Cal.App.4th at p. 776, 23 Cal.Rptr.2d 810.) The District explained that same day messenger service fees were necessary to file its supplemental brief and a peremptory challenge to the assigned trial judge. The trial court impliedly found the fees to be necessary and reasonable and not merely incurred for convenience. The trial court did not abuse its discretion in awarding these fees.

Lastly, defendants contest \$53.40 in travel costs for Brandy's deposition. Code of Civil Procedure section 1033.5, subdivision (a)(3), specifically allows travel costs to attend depositions. Defendants claim that Brandy did not have to travel for his deposition since it was taken at his office, but travel costs would also apply to costs incurred by counsel. The trial court accepted counsel's declaration stating that the costs were reasonable and necessary. Defendants offer no basis upon which to conclude that this decision was an abuse of discretion.

****691 *31 V. DISPOSITION**

The judgment is affirmed.

WE CONCUR: RUSHING, P.J., and ELIA, J.

APPENDIX

COMPLETE TEXT OF MEASURE C

FULL TEXT BALLOT PROPOSITION
OF THE FOOTHILL-DE ANZA
COMMUNITY COLLEGE DISTRICT

BOND MEASURE ELECTION JUNE 6, 2006

Foothill-De Anza College Repair/Job Training Measure:

"To repair/upgrade Foothill and De Anza Colleges, improve job training/university transfer,

- Upgrade electrical, heating, ventilation systems, fire/seismic safety,

Bonds - Yes

PROJECTS

The Board of Trustees of the Foothill-De Anza Community College District, to be responsive to the needs of students and the community, evaluated the District's urgent and critical facility needs, including facility maintenance, safety issues, class offerings, energy cost reduction and information and computer technology, in developing the scope of projects to be funded, as outlined in both the District's Foothill College Facility Master Plan, as updated in October 2002, as amended in February 2006, and as shall be amended from time to time, and the De Anza College Facility Master Plan, as updated in October 2002, as amended in February 2006, and as shall be amended from time to time (together, the "Facilities Master Plan"), as well as the District's Information Technology Strategic Plan 2005-2010, represented to the Board on January 17, 2006, and as shall be amended from time to time. In developing the scope of projects, the faculty, staff and students have prioritized the key health and safety needs so that the most critical needs and the most urgent and basic repairs that will make both campuses clean and safe for learning are addressed. The Board conducted facilities evaluations and received public input and review in developing the scope of college facility projects to be funded, as listed in the Facilities Master Plan, the Information Technology Strategic Plan and the Renovation Master Plan. This input of faculty and community leaders concluded that if these needs were not addressed now, the problems would only get worse. **In preparing the Facilities Master Plan, the Information Technology Strategic Plan and the Renovation Master Plan, the Board of Trustees made five important determinations:**

- Repair leaky roofs,
- Improve disabled access,
- Repair/expand classrooms for nurses/paramedics,
- Upgrade technology,
- Repair, construct, acquire, equip buildings, classrooms, libraries, sites, science/computer labs, shall [the District] issue \$490.8 million in bonds, at legal rates, with mandatory audits, citizen oversight and no money for administrators' salaries?"

Bonds - No

- Foothill-De Anza Community College District must upgrade and expand inadequate facilities to address increased student demand for classes;**
- In tough economic times, both Foothill College and De Anza College must provide programs to train people who need to acquire or upgrade job skills;**
- Foothill College and De Anza College must provide affordable **692 educational opportunities, adequate facilities and classes for academic programs for students who want to transfer to four-year colleges;**
- Foothill-De Anza Community College District must upgrade classrooms and labs so that they are safe from asbestos and other hazards and meet the standards of a modern curriculum; and**
- Foothill-De Anza Community College District must upgrade its old buildings to provide energy efficient electrical systems for today's technology systems and upgrade campus lighting for increased safety and security on campus.**

The Facilities Master Plan, the Information Technology Strategic Plan and the Renovation Master Plan are on file and available for review at the District Chancellor's Office and Public Information Office, as well as at the offices of the Presidents of Foothill College and De Anza College, and include the projects listed below.

FOOTHILL COLLEGE

- **Upgrade, Maintain, Equip, and/or Replace Obsolete Classrooms, Science and Computer Labs, Library, Instructional Facilities, Sites and Utilities; Meet Demands of Changing Workforce; Improve Disabled Access:**

Upgrade buildings to include educational equipment and laboratories, provide state-of-the-art computer technology capability for students, repair, build, upgrade and/or replace leaky roofs, decaying walls, old ceiling tiles and flooring, plumbing, sewer and drainage systems, inefficient electrical systems and wiring, deteriorated restrooms, heating, ventilation and cooling systems, foundations, telecommunications systems, classrooms, lecture halls, language labs, fields, courts and grounds, science and other instructional laboratories and healthcare workforce facilities, technology center, theatre, library, administrative facilities, instructional facilities, wire classrooms for computers and other technology, increase energy efficiency, acquire equipment, increase safety, reduce fire hazards with alarms, smoke detectors, fire safety doors and sprinklers, reduce operating costs in order for more classes and job training to be offered, improve academic instruction; and meet legal requirements for disabled access.

- **Upgrade Technology:**

Provide state-of-the-art technology facilities, upgrade internet access and wireless and cable technology, build "smart classrooms" to improve technology-enhanced learning, upgrade telecommunications systems, upgrade campus-wide technology, including a new Educational Information System, replace outdated computers, replace network infrastructure equipment, and install wiring upgrades.

- **Repair, Replace and Upgrade Electrical and Mechanical Systems to Reduce Energy Consumption and Utility Bills and Accommodate Computer Technology, Internet Access and Communications Systems, Install Solar Panels to Reduce Energy Consumption and Utility Bills**

- **Improve Safety and Disabled Access**

Remove all harmful asbestos, upgrade existing fire alarms, sprinklers, smoke detectors, and fire doors. Install security systems, exterior lighting, emergency lighting, signage, door locks and fences, enhance erosion controls, repair uneven sidewalks and walkways and improve accessibility for the disabled.

- **693 • Expand Classroom and Facility Capacity, Construct Science Center, Upgrade Classrooms/Labs For Nursing and Emergency Medical Services:**

Increase permanent classroom and facility capacity for academic and job training classes, including math and health care programs, upgrade science labs, physical and health education, and applied arts and sciences facilities, upgrade campus technology and construct "smart classrooms" to improve technology-enhanced learning.

- **Improve Emergency Access and Evacuation Routes:**

Improve campus road network and surfacing, build parking structure, reduce gridlock, improve pedestrian safety and increase access for emergency vehicles.

DE ANZA COLLEGE

- **Upgrade Technology:**

Provide state-of-the-art technology facilities, upgrade internet access and wireless and cable technology, build "smart classrooms" to improve technology-enhanced learning, upgrade telecommunications systems, upgrade campus-wide technology, including a new Educational Information System, replace outdated computers, replace network infrastructure equipment, and install wiring upgrades.

- **Repair, Upgrade, Equip, and/or Replace Obsolete Classrooms, Science, Nursing, Computer and Instructional Laboratories and Other Facilities, Sites and Utilities:**

Repair, upgrade and/or replace leaky roofs, decaying walls, old ceiling tiles and flooring, plumbing, sewer and drainage systems, inefficient electrical systems and wiring, deteriorated restrooms, heating, ventilation and cooling systems, foundations,

telecommunications systems, data center, bookstore, foundations, fields and grounds, library, classrooms, lecture halls, science, engineering and other laboratories, physical and healthcare workforce education and auto technology facilities, television studio and other faculty, administrative and instructional facilities, corporation yard, and multicultural center, wire classrooms for computers and technology upgrade Campus Center, increase safety, increase energy efficiency, acquire equipment, reduce fire hazards, reduce operating costs in order for more classes and job training to be offered, improve academic instruction, and meet legal requirements for disabled access.

• Improve Emergency Access and Evacuation Routes; Improve Access for Disabled:

Improve student safety, improve campus road network to eliminate unsafe conditions, reduce gridlock, improve pedestrian safety and increase access for emergency vehicles, upgrade parking garage and parking areas, improve disabled access, add parking structure to accommodate increasing student population and reduce congestion.

• Improve Safety and Disabled Access; Remove Asbestos; Perform Seismic Upgrades:

Remove all harmful asbestos, upgrade existing gas lines, pipes, sewer system, storm drains, fire alarms, sprinklers, smoke detectors, intercoms and fire doors, Install security systems, exterior lighting, emergency lighting, signage, door locks and fences, repair uneven sidewalks and walkways, upgrade facilities for seismic safety.

• Repair, Replace and Upgrade Electrical and Mechanical Systems and Install Solar Panels to Reduce Energy Consumption and Utility Bills **694 and Accommodate Computer Technology, Internet Access and Communications Systems.

• Construct Academic Facilities to Expand Classroom and Laboratory Capacity:

Increase permanent classroom, laboratory space and facility capacity for academic and job training classes, including math, science, student support services, instructional labs, physical and health education

and applied arts and sciences, campus technology, construct "smart classrooms" for enhanced learning.

DISTRICT-WIDE PROJECTS

• Provide greater access to technology; upgrade electrical wiring, Internet access, wireless and cable technology, fiber optics and network infrastructure for computers and telecommunication systems at both Foothill College and De Anza College campuses.

• Refinance existing lease obligations.

• Acquire property for new education center to accommodate growing population and to better serve new populations in the District.

• Build data center to support new District-wide computer and technology systems and integrate with renovated central office facility.

Listed building, repair and rehabilitation projects and upgrades will be completed as needed. Each project is assumed to include its share of furniture, equipment, architectural, engineering, and similar planning costs, programs management, staff training expenses and a customary contingency for unforeseen design and construction costs. The allocation of bond proceeds will be affected by the District's receipt of State bond funds and the final costs of each project. The budget for each project is an estimate and may be affected by factors beyond the District's control. The final cost of each project will be determined as plans are finalized, construction bids are awarded and projects are completed. Based on the final costs of each project, certain of the projects described above may be delayed or may not be completed. In such case, bond money will be spent on only the most essential of the projects listed above.

FISCAL ACCOUNTABILITY. THE EXPENDITURE OF BOND MONEY ON THESE PROJECTS IS SUBJECT TO STRINGENT FINANCIAL ACCOUNTABILITY REQUIREMENTS. BY LAW, PERFORMANCE AND FINANCIAL AUDITS WILL BE PERFORMED ANNUALLY, AND ALL BOND EXPENDITURES WILL BE MONITORED BY AN INDEPENDENT CITIZENS' OVERSIGHT COMMITTEE TO ENSURE THAT FUNDS ARE SPENT AS PROMISED AND AS SPECIFIED. THE CITIZENS' OVERSIGHT COMMITTEE MUST INCLUDE, AMONG OTHERS, REPRESENTATION OF A BONA FIDE TAXPAYERS' ASSOCIATION, A BUSINESS ORGANIZATION AND A SENIOR CITIZENS' ORGANIZATION.

NO DISTRICT EMPLOYEES OR VENDORS ARE PERMITTED TO SERVE ON THE CITIZENS' OVERSIGHT COMMITTEE.

ONLY BE SPENT ON REPAIR AND IMPROVEMENT PROJECTS.

[Tax Rate Statement Omitted]

NO ADMINISTRATOR SALARIES. PROCEEDS FROM THE SALE OF THE BONDS AUTHORIZED BY THIS PROPOSITION SHALL BE USED ONLY FOR THE CONSTRUCTION, RECONSTRUCTION, REHABILITATION, ACQUISITION OR REPLACEMENT OF COLLEGE FACILITIES, INCLUDING THE FURNISHING AND EQUIPPING OF COLLEGE FACILITIES, AND NOT FOR ANY OTHER **695 PURPOSE, INCLUDING TEACHERS' AND ADMINISTRATORS' SALARIES AND OTHER OPERATING EXPENSES. BY LAW, ALL FUNDS CAN

/s/ Martha Kanter

Chancellor

Foothill-De Anza Community College District

All Citations

158 Cal.App.4th 11, 69 Cal.Rptr.3d 678, 227 Ed. Law Rep. 826, 07 Cal. Daily Op. Serv. 14,497, 2007 Daily Journal D.A.R. 18,641

Footnotes

- * Kennard, J., is of the opinion that the petition should be granted.
- 1 Further references to article XIII A are to article XIII A of the California Constitution.
- 2 Katz does not reside or pay taxes in the District. He is a general and limited partner of a limited partnership that owns real property located within the District. Nevertheless, the parties stipulated that Katz is an interested person within the meaning of the validation statutes, entitled to respond to the District's validation complaint. Emerich, on the other hand, is a resident of the District and is unquestionably an interested person. (See Code Civ. Proc., §§ 861.1, 863; *Card v. Community Redevelopment Agency* (1976) 61 Cal.App.3d 570, 574-575, fn. 6, 131 Cal.Rptr. 153; *Regus v. City of Baldwin Park* (1977) 70 Cal.App.3d 968, 972, 139 Cal.Rptr. 196.)
- 3 Defendants also argue that since the registrar of voters did not certify the election results until July 5, 2006, the bond resolutions of June 7, 2006, which are the subject of this action, were premature. As the District points out, although Emerich noted the discrepancy in a footnote in his trial brief, he did not argue the point, nor did either defendant raise the point again until now. Even now, defendants have failed to reply to the District's contention that the issue was not properly raised below. We conclude, therefore, that defendants have waived the issue.
- 4 The full text of Measure C, as contained in the voter information pamphlet, is set forth in the Appendix.

FILED
Electronically
CV11-01380
2016-05-05 10:54:19 AM
Jacqueline Bryant
Clerk of the Court
Transaction # 5500686 : yvilorla

EXHIBIT 6

EXHIBIT 6

Brent Ryman

From: Herron, Susan <Susan_Herron@ivgid.org>
Sent: Tuesday, March 22, 2016 10:24 AM
To: bryman@etsreno.com
Subject: Fwd: Records Request - Fw: Subscribe to Tahoe Quarterly and ski free - Follow Up

Hi Brent,
One would think Mr Katz would have been silent yesterday...
Thanks S

Begin forwarded message:

From: "Aaron L. Katz" <s4s@ix.netcom.com<mailto:s4s@ix.netcom.com>>
Date: March 21, 2016 at 10:26:44 PM PDT
To: "Herron,Susan" <Susan_Herron@ivgid.org<mailto: Susan_Herron@ivgid.org>>
Subject: RE: Records Request - Fw: Subscribe to Tahoe Quarterly and ski free - Follow Up
Reply-To: "Aaron L. Katz" <s4s@ix.netcom.com<mailto:s4s@ix.netcom.com>>

Thank you Susan -

However AGAIN, your response which allegedly "completes my records request in its entirety doesn't."

I didn't ask to examine budgeted advertising. And BTW, the document you produced from EXL media was never approved by the Board as media buys to be purchased. So it doesn't respond to my records request either.

In the past you have produced DP documents which evidence every piece of promotion or advertising received by DP in exchange for DP lift ticket vouchers, as well as the number of vouchers. Yet here you haven't. That's what I want to examine. "X" lift ticket vouchers were traded to vendor "Y" for whatever.

Now you've partially done this for ONE vendor; Tahoe Quarterly. But you haven't done this for every other recipient of traded/promoted lift ticket vouchers. This is what I requested, and this is what I want.

And BTW, you still haven't provided records which demonstrate how many DP lift ticket vouchers Tahoe Quarterly received for the represented advertising. There is a dollar amount for the alleged value of that advertising but nowhere does it evidence the number of lift ticket vouchers received. This too I requested and STILL, no substantive response as you know.

I want the requested records.

Your statement that "The end of the season ticket report is not yet finalized so I cannot provide the numbered tickets" is also nonresponsive. First of all, the DP season is over for media buys. Especially insofar as trading DP lift tickets for promotion/advertising is concerned, I would imagine that 95% or more of the possible trades have already taken place. So you can certainly provide documents which evidence all of them fiscal year to date, which is what I have requested.

Furthermore, I didn't designate examination of a report, per se. Just like you provided the Tahoe Quarterly invoice which evidences a trade of DP lift ticket vouchers, you can easily produce the remainder of such advertising/promotion for lift tickets. Yet you haven't. I want to examine these records.

Furthermore still, you don't need to wait for any "report." You have a chart of account number for DP lift ticket trades so all you need to do is have Gerry Eick tell you every recipient of a trade that he has assigned to IVGID's secret/internal budget and then provide the invoices which back up those trades.

This is what I asked to examine and this is what I expect will be produced.

Please confirm this is what will be forthcoming. Thank you for your cooperation. Aaron

-----Original Message-----

From: "Herron, Susan"

Sent: Mar 18, 2016 8:29 AM

To: "Aaron L. Katz"

Cc: Devon Reese , Kendra Wong , Tim Callicrate , "Hammerel, Jim" , "Horan, Phil" , Matthew Dent

Subject: RE: Records Request - Fw: Subscribe to Tahoe Quarterly and ski free - Follow Up

<o:shapedefaults v:ext="edit" spidmax="1027"></o:shapedefaults><o:shapelayout v:ext="edit"><o:idmap v:ext="edit" data="1"></o:idmap></o:shapelayout>

Aaron,

In response to 1., 2., 6., 7., 8., and 10. below I am attaching a report as of 3/4/2016 which reflects the budgeted trade proposed by EXL Media. The end of the season ticket report is not yet finalized so I cannot provide the numbered tickets but I will put a tickler on my calendar to provide this to you following the completion of the ski season.

In response to 3. below, the Board of Trustees approved the trade budget in a publicly noticed meeting.

In response to 5. below, EXL Media was paid a flat agency fee of \$34,000 as required by the contract for all advertising so there is no invoice for a commission with Tahoe Quarterly.

I believe this completes your record request in its entirety.

Susan

Susan A. Herron, CMC

Executive Assistant/District Clerk/Public Records Officer Incline Village General Improvement District

993 Southwood Boulevard, Incline Village, NV 89451

P: 775-832-1207

F: 775-832-1122

M: 775-846-6158

sah@ivgid.org<mailto:sah@ivgid.org>

<http://ivgid.org>

From: Herron, Susan

Sent: Friday, March 11, 2016 6:01 PM

To: Herron, Susan; 'Aaron L. Katz'

Cc: Devon Reese; Kendra Wong; Tim Callicrate; Hammerel, Jim; Horan, Phil; Matthew Dent

Subject: RE: Records Request - Fw: Subscribe to Tahoe Quarterly and ski free - Follow Up

Aaron,

I am attaching the EXL contract in completion of 4. below.

I am attaching PO# 16-0103 in completion of 9 and 11. below.

I am working on the rest and will be in touch with you on 3/18/2016 with another update.

Susan

Susan A. Herron, CMC

Executive Assistant/District Clerk/Public Records Officer Incline Village General Improvement District

893 Southwood Boulevard, Incline Village, NV 89451

P: 775-832-1207

F: 775-832-1122

M: 775-846-6158

sah@ivgid.org<mailto:sah@ivgid.org>
<http://ivgid.org>

From: Herron, Susan
Sent: Tuesday, March 08, 2016 1:09 PM
To: 'Aaron L. Katz'
Cc: Devon Reese; Kendra Wong; Tim Callicrate; Hammerel, Jim; Horan, Phil; Matthew Dent
Subject: RE: Records Request - Fw: Subscribe to Tahoe Quarterly and ski free - Follow Up

Aaron,

I am working on your request and will get back to you with an update by 3/11/2016.

Susan A. Herron, CMC
Executive Assistant/District Clerk/Public Records Officer Incline Village General Improvement District
893 Southwood Boulevard, Incline Village, NV 89451
P: 775-832-1207
F: 775-832-1122
M: 775-846-6158
sah@ivgid.org<mailto:sah@ivgid.org>
<http://ivgid.org>

From: Aaron L. Katz [mailto:s4s@ix.netcom.com]
Sent: Wednesday, March 02, 2016 4:00 PM
To: Herron, Susan
Cc: Devon Reese; Kendra Wong; Tim Callicrate; Hammerel, Jim; Horan, Phil; Matthew Dent
Subject: RE: Records Request - Fw: Subscribe to Tahoe Quarterly and ski free - Follow Up

So I guess you have no interest in being informally transparent with the community Susan.

So we'll do it the hard way.

This is a follow up records request.

1. You provided an invoice reflecting trade for advertising in the Tahoe Quarterly. I want to examine records which evidence each and every item traded for this advertising. Therefore if Diamond Peak lift tickets or lift ticket vouchers were traded, I would like to examine copies of those documents or other records evidencing each and every lift ticket/voucher traded. Since each has its own unique identification number, I would like to examine other records as well which evidence each uniquely identified lift ticket/voucher traded.
2. I want to examine records which evidence the dates each of the lift tickets/vouchers described above were given to Tahoe Quarterly or anyone on its behalf pursuant to this trade arrangement.
3. I want to examine records which evidence who on behalf of IVGID/Diamond Peak approved this trade. As you know IVGID has a Resolution which mandates that a writing be prepared approving all trades such as theses and the reasons therefore (it's 1619, isn't it?). I want to examine the waiver request prepared by staff pursuant which documents this trade.
4. I want to examine the current EXL Media contract with IVGID.
5. I want to examine invoicing or other records originating from EXL Media whereby IVGID was charged anything by way of commission as and for EXL Media's placement of this advertising with Tahoe Quarterly on IVGID's behalf.
6. I want to examine records which evidence every Diamond Peak daily lift ticket/voucher given to EXL Media for trade or promotional purposes to anyone. Again, these can all be identified by unique identification number; I want the numbers.
7. I want to examine records which evidence the exact form of Diamond Peak daily lift tickets/vouchers given to EXL Media for trade or promotional purposes (i.e., I want to see their terms and conditions).

8. I want to examine records which evidence everyone who received any Diamond Peak daily lift tickets/vouchers given to EXL Media for trade or promotion purposes for the current 2015-16 season, as well as the number of lift tickets/vouchers received, and for what trade or promotion.

9. I want too see records which identify the chart of account name and number assigned by IVGID to the advertising the subject of this trade.

10. I want to see records which evidence where and in what amounts the value of this advertising was/has been assigned to one or more accounting funds. What fund, what amount, as revenue, contra revenue and/or expense, and under what revenue or expense category.

11. If an IVGID purchase order for this transaction exists, I would like to examine a copy.

I am sending copies of this records request to the Board and ask it be included in the next Board packet. I want all to see what happens when staff conceals the truth as to where our Rec Fees are spent when they could be up front and honest by simply sharing the truth. Rather than the simple answer, look at what a member of the public has to do to get this information.

Thank you for your cooperation. Aaron

-----Original Message-----

From: "Aaron L. Katz"

Sent: Mar 1, 2016 4:31 PM

To: "Herron, Susan"

Subject: RE: Records Request - Fw: Subscribe to Tahoe Quarterly and ski free

Thank you Susan -

So all I received was an invoice from EXL Media which states 100% trade. No e-mails or other communications between anyone at DP or IVGID and EXL Media re the particulars and who asked for the trade, no memoranda memorializing telephone conversations re negotiations, no writings which tell me how many free lift tickets were given (only a dollar value for the advertising), no writings telling me who at DP or IVGID approved this arrangement, no documents evidencing whether EXL Media receives a commission for this trade and if so how much, etc. And yet "this completes my request in its entirety?"

So can someone please provide the missing answers or are there other records out there I believe I asked to examine that need to be examined?

How shall we proceed?

-----Original Message-----

From: "Herron, Susan"

Sent: Mar 1, 2016 3:32 PM

To: "Aaron L. Katz"

Cc: Kendra Wong , "Hammerel, Jim" , Tim Callicrate , Matthew Dent , "Horan, Phil" , Devon Reese

Subject: RE: Records Request - Fw: Subscribe to Tahoe Quarterly and ski free Aaron,

Attached is the order from EXL Media which completes your public records request in its entirety.

For the benefit of those individuals that you cc'd, the cost of the subscription is \$30 and the cost of the daily lift ticket for a picture passholder, non-holiday, is \$25.

Susan

Susan A. Herron, CMC

Executive Assistant/District Clerk/Public Records Officer Incline Village General Improvement District

393 Southwood Boulevard, Incline Village, NV 89451

P: 775-832-1207

F: 775-832-1122

M: 775-846-6158
sah@ivgid.org<mailto:sah@ivgid.org>
http://ivgid.org

From: Aaron L. Katz [mailto:s4s@ix.netcom.com]
Sent: Monday, February 29, 2016 1:29 PM
To: Herron, Susan
Cc: Kendra Wong; Hammerel, Jim; Tim Callicrate; Matthew Dent; Horan, Phil; Devon Reese
Subject: Records Request - Fw: Subscribe to Tahoe Quarterly and ski free

Hello Susan -

Another records request.

I am forwarding an e-mail sent today by the publisher of Tahoe Quarterly Magazine telling recipients that if they subscribe to Tahoe Quarterly magazine, they will be rewarded with a free adult daily lift ticket compliments of local property owners at guess where? Diamond Peak.

So I would like to examine public records which evidence negotiations for and the eventual agreed upon arrangement whereby IVGID/Diamond Peak agreed to provide these free Diamond Peak adult daily lift tickets to the publisher of Tahoe Quarterly Magazine. This request would include e-mails negotiating, letters requesting, written memoranda prepared by our public employees evidencing the substance of oral requests/telephone conversations, invoices, agreements, etc., evidencing this arrangement.

Also, if this arrangement in any manner involved EXL Media (which I'm guessing it did), I would like to examine similar public records evidencing EXL Media's involvement in this arrangement, specifically including any commissions or other compensation due to EXL Media as a result of its valuable assistance in this giveaway at local property owners' expense.

While I wait for the requested records, I am sending a copy of this e-mail to our Board members. Why?

OPEN UP YOUR EYES!

This season more than any other in Diamond Peak's history, proves that the world's tourists will come to Diamond Peak NOT when it is promoted or advertised. But rather, WHEN IT SNOWS! Since this year it has snowed, IVGID's marketing efforts for Diamond Peak have been a complete waste. I defy our "crack" marketing staff to empirically prove that any Diamond Peak business was generated because of promotion or marketing that would not have been generated because of Mother Nature.

Now I understand Diamond Peak staff might not have known of this back in November of last year, however, they sure did last Christmas. Why then an arrangement such as this? This arrangement has been and continues to be a complete and incredible waste to local property owners. We don't yet know how much of a waste, but hopefully, the requested records will reveal the full extent of the waste. Which I am predicting was a trade of lift tickets for advertising in someone else's quarterly magazine.

I suggest that in the future, if Mr. Pinkerton so enamored with Tahoe Quarterly Magazine, he simply trade advertising in the IVGID Quarterly for advertising in the Tahoe Quarterly. Then it won't cost local property owners the contra negative sales allowance revenue represented by this giveaway (and BTW Gerry Eick, how exactly is this expense which really isn't an expense reported in the public's financials?).

Please put a copy of this e-mail in the next Board packet Susan, so the public learns the truth of what goes on behind's IVGID staff's closed doors.

Thank you for your cooperation. Aaron Katz -----Forwarded Message-----
From: Tahoe Quarterly
Sent: Feb 29, 2016 11:11 AM
Subject: Subscribe to Tahoe Quarterly and ski free

TQ Subscribe & Ski - Spring 2016

View this email in your browser<<http://us1.campaign-archive2.com/?u=887d5fc40b5dad2db0ec3d465&id=e2ea15da4a&e=ef59e27a60>>

[<https://gallery.mailchimp.com/887d5fc40b5dad2db0ec3d465/images/7beb84e7-89ac-442d-ba6d-9c4764cffb5d.jpg>]<<http://jdpublishing.us1.list-manage.com/track/click?u=887d5fc40b5dad2db0ec3d465&id=35df32807a&e=ef59e27a60>>

[<https://gallery.mailchimp.com/887d5fc40b5dad2db0ec3d465/images/43d2fbde-d450-433a-a849-6992cca6dae3.jpg>]<<http://jdpublishing.us1.list-manage.com/track/click?u=887d5fc40b5dad2db0ec3d465&id=15d49d1778&e=ef59e27a60>>

While Supplies Last! Free Diamond Peak Lift Ticket with subscription to Tahoe Quarterly. Purchase a one year subscription to Tahoe Quarterly Magazine (5 issues) and receive a free 2015-16 lift ticket to Diamond Peak Ski Resort. Some restrictions apply. Click below to learn more.

Sign up now. <<http://jdpublishing.us1.list-manage2.com/track/click?u=887d5fc40b5dad2db0ec3d465&id=8aac824b5e&e=ef59e27a60>>

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[<https://cdn-images.mailchimp.com/icons/social-block-v2/gray-facebook-48.png>]<<http://jdpublishing.us1.list-manage2.com/track/click?u=887d5fc40b5dad2db0ec3d465&id=80bf255fab&e=ef59e27a60>>

Facebook<<http://jdpublishing.us1.list-manage1.com/track/click?u=887d5fc40b5dad2db0ec3d465&id=0cb16f96e8&e=ef59e27a60>>

[<https://cdn-images.mailchimp.com/icons/social-block-v2/gray-twitter-48.png>]<<http://jdpublishing.us1.list-manage.com/track/click?u=887d5fc40b5dad2db0ec3d465&id=d57a423750&e=ef59e27a60>>

Twitter<<http://jdpublishing.us1.list-manage.com/track/click?u=887d5fc40b5dad2db0ec3d465&id=c0781ccdd1&e=ef59e27a60>>

[<https://cdn-images.mailchimp.com/icons/social-block-v2/gray-link-48.png>] <<http://jdpublishing.us1.list-manage2.com/track/click?u=887d5fc40b5dad2db0ec3d465&id=686fab2e9&e=ef59e27a60>>

Website <<http://jdpublishing.us1.list-manage1.com/track/click?u=887d5fc40b5dad2db0ec3d465&id=15b4dbf968&e=ef59e27a60>>

[<https://cdn-images.mailchimp.com/icons/social-block-v2/gray-instagram-48.png>] <<http://jdpublishing.us1.list-manage1.com/track/click?u=887d5fc40b5dad2db0ec3d465&id=c66ab9ad99&e=ef59e27a60>>

Instagram <<http://jdpublishing.us1.list-manage.com/track/click?u=887d5fc40b5dad2db0ec3d465&id=38abdcaed9&e=ef59e27a60>>

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Our mailing address is:
924 Incline Way, Suite C | Incline Village, NV 89451

unsubscribe from this list <<http://jdpublishing.us1.list-manage2.com/unsubscribe?u=887d5fc40b5dad2db0ec3d465&id=cc97092086&e=ef59e27a60&c=e2ea15da4a>> update
subscription preferences <<http://jdpublishing.us1.list-manage1.com/profile?u=887d5fc40b5dad2db0ec3d465&id=cc97092086&e=ef59e27a60>>

EXHIBIT 7

EXHIBIT 7

**WRITTEN STATEMENT TO BE ATTACHED TO AND MADE A PART OF THE WRITTEN
MINUTES OF THE IVGID BOARD OF TRUSTEES' REGULAR MARCH 30, 2016
MEETING – AGENDA ITEM C – PUBLIC COMMENT SECTION – THE
COURT'S RULING ON IVGID'S PUBLIC RECORDS ACT REFUSALS
IS A SAD, SAD DAY FOR OUR COMMUNITY**

Introduction: By now I am certain that each IVGID Board member has learned that my trial to secure an order compelling the turnover of public records withheld by IVGID staff took place last week. Judgment was ordered in favor of IVGID. And I am certain staff and Mssrs. Reese and Guissano are gloating - more ammunition to add to IVGID's alleged "stellar record." And more evidence that staff uneducated cheerleaders will seize upon to opine "this was the correct decision" when they themselves know nothing about the trial nor what it really was all about. So the purpose of this written statement is to share some of the particulars because it's another sad, sad day for the public.

I Sought No Money Damages Against IVGID Nor Any Public Officer/Employee: First of all, the Board and the public should understand that I sought no money damages against anyone. This case was not about me nor extorting any sums from anyone. It was about securing an order which compelled IVGID staff to turnover public records they have concealed.

My Action Was Neither Brought in Bad Faith Nor Was it Frivolous: Second of all, the cause that went to trial was neither brought in bad faith nor was it "frivolous." In the last month or so prior to trial IVGID's attorneys filed at least three motions to have my public records cause of action dismissed. And it failed each time. Had the action been frivolous, I assure you there never would have been a trial. But there was.

My Action Consisted of 24 Exhibits Requesting Public Records: Let me share a handful of categories so you can get a feel for the types of records I sought to have produced which I alleged were concealed, together with Susan Herron's responses:

1. All records evidencing user fee discounts given at each of the public's recreational facilities to the general public - people without picture passes or punch cards. In response, Susan provided three contracts with Diamond Peak lift ticket resellers and nothing more. We all know there are many dozens if not hundreds of such discounts the majority of which no one knows other than IVGID staff.

2. All records evidencing free or discounted use of any of the public's recreational facilities given to qualified nonprofits or favored collaborators so they could make money off these facilities for themselves/their social causes of choice. The only records Susan provided were of recipients I knew about ahead of time and was able to expressly call to her attention. Meaning Susan provided essentially no records of the other dozens if not hundreds of giveaways staff regularly parse out at local property owners' expense. The Court did not even require IVGID to produce the written "fee waivers" staff is supposed to prepare pursuant to Resolution No. 1619 each time a giveaway takes place. Nor did it require IVGID to produce written reports of the dozens if not hundreds of giveaways

IVGID staff regularly gives to qualified nonprofits pursuant to Resolution No. 1701 that staff promised would be regularly reported at least once each year.

3. Access to IVGID staff's secret 200+ page internal budget Gerry Eick refuses to share even with the Board as well as other financial records evidencing the amounts and components that go into generic expense categories such as "professional services," "services and supplies" and "interfund transfers."

4. Access to IVGID's computerized document storage, data storage and point of sales systems limited to non-confidential documents, data and sales even though Susan testified staff is able to build in protections to access by creating a hierarchy of permitted access.

5. Access to the electronic file sitting on IVGID's computers containing the names and mailing addresses of each local parcel owner within IVGID's boundaries even though the file exists and according to staff contains the same records available to members of the public through the County Assessor's Office.

Do Any of You Think the Nondisclosure of These Records Was a Victory for the Public You Were Elected/Nominated to Serve? If so, you're crazy. This was a victory for IVGID staff which now emboldens them to be even more secretive and non-transparent with the public than they were before and currently are.

Here I Provide Evidence of a Single Public Records Request Which Was Refused by Staff and Yet Resulted in No Judgment That the Requested Public Records be Produced for Examination: I have attached copies of my April 1, 2011 request and Susan's April 4, 2011 response as Exhibit "A" to this written statement. Did I ask for public records? Did Susan produce them for my inspection? Was Susan's refusal a Public Records Act Violation? You be the judge!

It seems Judge Flanagan's Decision Was Founded Upon the Question "What is a Public Record?" And it seems the answer to this question came down to two basic facts.

No. 1: If the Board doesn't insist that records like these be made available to the public for examination then they're not public even though the cases hold that essentially everything staff secures is public unless expressly made confidential by a statute or case law. As long as you as a Board sit back and do nothing, letting staff play you like a violin, expect more of the same.

No. 2: Susan's lack of bad faith (even though I never made her intent an issue).

Conclusion: At the end of the day, our community has been hurt by this decision. Again, wake up, learn for yourselves, and start compelling IVGID staff to start being transparent with what really goes on behind closed doors, and at local property owners' expense.

And You Wonder Why the RFF/BFF Which Finances This Non-Transparent (Mis)Use of Our Recreational and Beach Facilities is Out of Control? I've now provided more answers.

Respectfully, Aaron Katz (Your Community Watchdog Because No One Else Seems to be Watching).

EXHIBIT "A"

s4s@ix.netcom.com

From: "Herron, Susan" <Susan_Herron@ivgid.org>
To: <s4s@ix.netcom.com>
Sent: Monday, April 04, 2011 11:48 AM
Subject: RE: Document Request Budgets
Hi Aaron,

I acknowledge receipt of your request. Unfortunately, District Staff cannot, at this time, accommodate your extensive document request. I will revisit your request on April 15, 2011 to see what we can do.

Thanks,
Susan H.

-----Original Message-----

From: s4s@ix.netcom.com [mailto:s4s@ix.netcom.com]
Sent: Friday, April 01, 2011 12:53 PM
To: Herron, Susan
Subject: RE: Document Request Budgets

Hi Susan -

We may have dealt with this issue before but in an abundance of caution, I would like the record to be absolutely clear.

We have a utility protest hearing coming up on April 13, 2011. In preparation for that hearing, I would like to examine all records, whether documentary, electronic or otherwise, and whether IVGID labels them public, internal or otherwise, that evidence the detailed breakdown and/or allocation of all expenses that make up the services and supplies and professional services entries in the 2010-11 budget for Utility Fund - Sewer [page 111] and Utility Fund - Water [page 109].

In addition I would like to examine the same records that evidence the detailed breakdown and/or allocation of all expenses that make up the services and supplies, professional services and capital outlay entries in the 2010-11 budget for the General Fund Summary [page 97].

In addition I would like to examine the same records that evidence the detailed breakdown and/or allocation of all expenses that make up the administrative charge entry on my as well as all other utility service customers' utility billings.

In addition I would like to examine the same records that evidence the total administrative service and defensible space charges billed to all utility customers.

Thanks for your cooperation. Aaron Katz

EXHIBIT 8

EXHIBIT 8

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

AARON L. KATZ,

Case No.: CV11-01380

Plaintiff,

Dept. No.: 7

vs.

INCLINE VILLAGE GENERAL
IMPROVEMENT DISTRICT, et al.,

Defendants.

ORDER

On June 21, 2012, Plaintiff, AARON KATZ, filed his *Motion to Modify November 7, 2011 Pre-Trial Order to Delete Paragraph II(c) Reference to Page Limitations in Support/Opposition/Reply of Pre-/Post-Trial Motions*. On July 5, 2012, Defendant, INCLINE VILLAGE GENERAL IMPROVEMENT DISTRICT, filed its *Opposition to Request to Delete 15 Page Limit on Motions from Pre-Trial Order*. On July 13, 2012, Plaintiff, AARON KATZ, filed his *Reply* and submitted the matter for decision.

Plaintiff seeks to modify this Court's prior Order setting page limits on pleadings filed in this matter. This Court presently finds no good cause to modify its previous Order. Of course, if there is a compelling reason justifying expanded briefing, this court will consider such a request from either party. Nevertheless, in this Court's opinion, lifting the page limitation in this case would cause the pleadings to assume the qualities of inert gas which expands to fill all available space. This outcome neither enhances the quality of advocacy nor improves this Court's

1 comprehension of the issues. Considering all arguments of counsel, Plaintiff's *Motion to Modify*
2 *November 7, 2011 Pre-Trial Order to Delete Paragraph II(c) Reference to Page Limitations in*
3 *Support/Opposition/Reply of Pre-/Post-Trial Motions* is **DENIED**.

4 DATED this 21 day of August, 2012.

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7 PATRICK FLANAGAN
8 District Judge
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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I hereby certify that I am an employee of the Second Judicial District Court of the State of Nevada, County of Washoe; that on this 21 day of August, 2012, I electronically filed the following with the Clerk of the Court by using the ECF system which will send a notice of electronic filing to the following:

Anna Penrose-Levig, Esq., Jan Cohen, Esq., and Jordan Pinjuv, Esq. for The Public Utility Commission of Nevada; and

Thomas Beko, Esq. for Incline Village General Improvement District

I deposited in the Washoe County mailing system for postage and mailing with the United States Postal Service in Reno, Nevada, a true copy of the attached document addressed to:

Aaron L. Katz
P.O. Box 3022
Incline Village, NV 89450


Judicial Assistant

FILED
Electronically
CV11-01380
2016-05-05 10:54:19 AM
Jacqueline Bryant
Clerk of the Court
Transaction # 5500686 : yvilorla

EXHIBIT 9

EXHIBIT 9

1 **AFF.**
2 THOMAS P. BEKO, ESQ. (SBN 002653)
3 BRENT L. RYMAN, ESQ. (SBN 008648)
4 ERICKSON, THORPE & SWAINSTON, LTD.
5 99 West Arroyo Street
6 Reno, Nevada 89509
7 (775) 786-3930
8 *Attorneys for Incline Village General Improvement District*

9
10 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
11 **IN AND FOR THE COUNTY OF WASHOE**
12
13

14 AARON L. KATZ,

15 Plaintiff,

16 vs.

Case No. CV11-01380

Dept. 7

17 INCLINE VILLAGE GENERAL
18 IMPROVEMENT DISTRICT, a General
19 Improvement District, THE PUBLIC
UTILITY DISTRICT OF NEVADA,
DOES 1-X, inclusive,

20 Defendants.
21 _____/

22 **AFFIDAVIT OF COUNSEL**

23 STATE OF NEVADA }
24 COUNTY OF WASHOE } ss.

25 COMES NOW, THOMAS P. BEKO, ESQ., who after first being duly sworn, deposes
26 and says under penalty of perjury:

27 ///

28 ///

1 1. I am an attorney at law duly licensed to practice before all Courts in the States
2 of Nevada and California, and am an attorney of record for Defendant INCLINE VILLAGE
3 GENERAL IMPROVEMENT DISTRICT herein. I am a shareholder and Senior Partner
4 with the firm of ERICKSON, THORPE & SWAINSTON, LTD., and have been actively
5 representing clients in litigation since my admission to the Nevada Bar in 1986. I have been
6 have been practicing for almost 30 years, with the majority of his time spent litigating
7 personal injury, civil rights and governmental tort liability actions. I graduated from the
8 University of the Pacific, McGeorge School of Law in 1986, Order of the Coif, and was a
9 member of the Traynor Honor Society. I was awarded the American Jurisprudence Award
10 in Constitutional Law by Professor Anthony Kennedy, now a U.S. Supreme Court Justice.
11 I have served on various Nevada State Bar committees, and was appointed a member of the
12 American Board of Trial Advocates in 2005. I was appointed as a Nevada Short Trial Judge
13 in 2005, and regularly serve as a *judge pro tempore* in the Second Judicial District Court.
14 I also serve on the Bench Bar Committees of the Supreme Court of the State of Nevada, and
15 the Second Judicial District Court, as well as the Second Judicial District Court's Electronic
16 Filing Committee. In 2012, I was appointed as a Master in the Americans Inns of Court for
17 Northern Nevada, and have been selected as a Nevada *Super Lawyer*, *The Best Lawyers in*
18 *America*, and *Nevada's Best Lawyers*. I routinely bills at rates two to three times more per
19 hour for my services than on this file depending upon the type of case involved. Over the
20 past four years, when considering the work performed on plaintiffs' contingency cases, my
21 effective hourly rate easily exceeds \$350.00.

22 2. I was retained to represent IVGID in my role as panel counsel for the Nevada
23 Public Agency Insurance Pool in December 2011. Work in this specific case was initially
24 undertaken on a hourly basis of \$150.00 per hour for partners and \$125.00 for associate
25 attorneys, with a rate of \$75.00 per hour for travel. Our hourly rates on this file increased by
26 approximately \$15.00 in July 2015, as reflected in the attached bills. These rates are
27 extremely reasonable in light of our firm's vast, collective experience and wealth of
28 knowledge regarding the complicated factual and legal issues involved in the defense of

1 claims involving public entities and officials.

2 3. I have reviewed our firm's billing file and invoices in this matter. In support
3 of the Motion for Attorney's Fees to which this Affidavit is attached, I have included this
4 firm's actual billing entries related to defense of this litigation pursued by Mr. Katz as
5 "Exhibit A." This Affidavit of Counsel is intended to comply with Section VI(f) of this
6 Court's Pretrial Order, requiring an outline of the requested fees, services rendered and
7 specific fees incurred with sufficient specificity to enable both Mr. Katz and the Court to
8 review this request for fees. I have redacted substantive portions of the detailed billing
9 entries in order to preserve certain obvious attorney-client privilege, work-product protection
10 and confidential defense strategy considerations in defense of this litigation. (See, Pretrial
11 Order (Nov. 7, 2011), p. 6, ll. 4-7).

12 4. This Affidavit also specifically addressed the factors set out in *Schouwelier v.*
13 *Yancy*, 101 Nev. 827, 712 P.2d 786 (1985), to the extent they are applicable to this request.
14 (See, Pretrial Order (Nov. 7, 2011), p. 6, ll. 4-7). Our firm's services were all necessary to
15 the defense of this matter, and are believed by Affiant to be reasonable. The success of our
16 efforts to defend against this litigation speaks for itself.

17 5. As set forth in the attached billing invoices, the District incurred a total of
18 \$125,892.50 in fees to Erickson, Thorpe & Swainston, Ltd., in defense of the instant
19 litigation pursued by Mr. Katz. Defendant has separately outlined the incurred costs in the
20 Verified Memorandum of Costs already on file with this Court.

21 6. In addition to the attorneys' fees incurred by my firm, the District also incurred
22 the fees charged by Keith Loomis, Esq., our co-defense counsel in this matter. Mr. Loomis
23 is an experienced attorney admitted to practice before all of the Courts in the States of
24 Nevada (1982) and California (1981), who at that time also served as panel counsel for the
25 Nevada Public Agency Insurance Pool. Mr. Loomis left private practice to take a position
26 with the Storey County District Attorney's Office in Fall 2014. I have reviewed the invoices
27 for his work in this matter prior to that time, and his actual billing entries related to defense
28 of this litigation pursued by Mr. Katz are included as "Exhibit B." I have redacted

1 substantive portions of the detailed billing entries in order to preserve certain obvious
2 attorney-client privilege, work-product protection and confidential defense strategy
3 considerations in defense of this litigation.

4 7. The fees charged by Mr. Loomis were set at the rates described in the attached
5 invoices, which represent a total amount of \$55,503.50 incurred in defense of this litigation
6 pursued by Mr. Katz. The costs incurred and advanced by Mr. Loomis were separately
7 outlined the incurred costs in the Verified Memorandum of Costs already on file with this
8 Court. Mr. Loomis's services were all necessary to the defense of this matter, and are
9 believed by Affiant to be reasonable. The success of his efforts to defend against this
10 litigation speak for themselves, and Mr. Loomis would have remained intimately involved
11 in defense of this case had he not transitioned to public service.

12 8. In addition to the attorneys' fees incurred by my firm, the District also incurred
13 the related fees charged by T. Scott Brooke, Esq., who for many years worked as the
14 District's official attorney. Tragically, Mr. Brooke passed away during the pendency of this
15 case in December 2014. Shortly before that time, on November 18, 2014, Mr. Brooke
16 prepared a memorandum that in part indicated the total amount of fees paid by the District
17 to his firm related solely to this litigation by Mr. Katz. A redacted copy of that
18 memorandum, which has been produced in this fashion in order to protect the obvious
19 attorney-client privilege attendant to the document, is attached to this Affidavit
20 as "Exhibit C."

21 9. The fees outlined by Mr. Brooke total \$45,070.80, and would not have been
22 incurred but for their necessity in defense of this litigation pursued by Mr. Katz.
23 Mr. Brooke's involvement was necessary to the defense of this matter, and the fees he
24 charged are believed by Affiant to be reasonable and necessary in his capacity of official
25 attorney for the District.

26 10. Based on the foregoing, as outlined in Defendants' Motion for Costs and Fees,
27 it is respectfully requested that a total of \$226,466.80 in attorney's fees be awarded in this
28 case. Defendant reserves the right to request any additional fees and costs incurred in

1 defense of this matter in the event Plaintiff pursues appeal or other attempts to contest the
2 existing judgment in favor of Defendant.

3 11. Even if the Court were not persuaded to award all of Defendant's incurred fees,
4 Defendant would at a minimum request those fees related to the successful Motion to Strike
5 referenced in the Court's Order of April 10, 2014. As explained in Defendant's Motion for
6 Attorney's Fees, the Court found sanctions appropriate in regard to Plaintiff's actions that
7 necessitated the Motion to Strike, and the Court would have already issued an award of
8 related fees were the hearing on that matter not interrupted. In support of that request, I have
9 reviewed our firm's billing entries from December 2013 to March 2014 to locate those tasks
10 reasonably related to Motion to Strike. My review demonstrates that \$4,157.50 in fees were
11 incurred by Defendant related directly to that motion, and I have attached a spreadsheet
12 outlining those related fees to this Affidavit as "Exhibit D." While Defendant respectfully
13 requests an award of all attorneys' fees incurred in defense of this matter as set forth above,
14 at a minimum, Defendant requests an award of the fees related to the successful Motion to
15 Strike at this time.

16 FURTHER AFFIANT SAYETH NAUGHT.

17 DATED this 3rd day of May, 2016.

18
19 

20 THOMAS P. BEKO, ESQ.

21 SUBSCRIBED AND SWORN to
22 before me this 3rd day of May, 2016.

23 
24 Notary Public



EXHIBIT A

EXHIBIT A

ERICKSON, THORPE & SWAINSTON, LTD.

ATTORNEYS AT LAW

99 WEST ARROYO STREET
RENO, NEVADA 89509

MAILING ADDRESS:
P. O. Box 3559
RENO, NEVADA 89505

TELEPHONE: 775.786.3930
FACSIMILE: 775.786.4160

INVOICE NO. [REDACTED]

Statement Date: 09/12/2012
Statement No. [REDACTED]
Account No. [REDACTED]

Katz v. IVGID
Claim No.: [REDACTED]

For all legal services rendered and costs advanced regarding the above-referenced matter.

FEES

		<u>RATE</u>	<u>HOURS</u>	
12/06/2011	TPB			
	Telephone call with Keith Loomis [.3] Telephone call to Aaron Katz [.2] Telephone call with clerk of court [.2] Telephone call with Jordan Pinjuv [.2] Telephone call to Keith Loomis [.2] Receipt and review of Plaintiff's NRCP 16.1 Case Conference Report. [.2]	150.00	1.30	195.00
12/19/2011	TPB			
	Receipt and retrieval of voice-mail from plaintiff [.2]; telephone call with counsel for PUC regarding [REDACTED] (x2) [.2]; telephone call with Plaintiff regarding the same and statement of facts (x2) [.2]; telephone call with Keith Loomis regarding [REDACTED] [.2].	150.00	0.80	120.00
12/20/2011	TPB			
	Preparation of email communication to Keith Loomis [REDACTED] [.2]	150.00	0.20	30.00
12/23/2011	TPB			
	Telephone call to Keith Loomis. [.2] Telephone call to Aaron Katz [.2]	150.00	0.40	60.00
12/27/2011	TPB			
	Telephone call with Keith Loomis [REDACTED] [REDACTED] Telephone call with Jordan Pinjuv [REDACTED]			

Statement No: [REDACTED]

Katz v. IVGID

Claim No.: [REDACTED]

			<u>RATE</u>	<u>HOURS</u>	
		Telephone call with Plaintiff [REDACTED] Telephone call with Court to schedule trial setting [.5]; Receipt, review and retrieval of Answer to Amended Complaint filed by the Public Utilities Commission [.4].	150.00	0.90	135.00
12/29/2011	TPB	Receipt, review and retrieval of lengthily Joint Case Conference Report filed by Plaintiff. [.4]	150.00	0.40	60.00
01/03/2012	TPB	Received notice of electronic filing, obtain copy of Plaintiff Amendment to Amended Complaint. [.3] Received notice of electronic filing, obtain copy of State of Nevada's Answer to Amended Complaint. [.3]	150.00	0.60	90.00
01/04/2012	TPB	Telephone call with PUC attorney [.2]; telephone call with Plaintiff [.2]; further review of Plaintiff's Case Conference Report [.2]	150.00	0.60	90.00
	TPB	Receipt and initial review of Plaintiff's lengthy First Set of Requests for Production of Documents to IVGID and calendar last day to respond [.6]; Telephone call with Keith Loomis [REDACTED] [.4]; Telephone call with Department 7 regarding setting case for trial [.2].	150.00	1.20	180.00
01/05/2012	TPB	Telephone call with Department 7 regarding trial setting (x2) [.2]; Telephone call with Keith Loomis [REDACTED] [.2]; Telephone call with Jordan Pinjuv and Plaintiff [REDACTED] [.2]; Preparation of Demand for Jury Trial and arrange for payment of the same and file with Court [.4]; Preparation of Notice to Set Case For Trial and file the same with the Court [.4]; Preparation of Application for Setting [.2]; Preparation of email to all parties with Application for Setting [.2].	150.00	1.80	270.00
01/06/2012	TPB	Arrange for conference call for trial setting [.3] Participate in trial setting conference. [.2] Telephone call with Keith Loomis re: setting dates [.2] Telephone call with PUC counsel [REDACTED] [.2] Receipt, review and analysis of e-mail communication from Company Claims Representative [REDACTED] [.2] Preparation of reply e-mail communication [.1] Receipt, review and analysis of reply from Company Claims Representative [.1] Preparation of e-mail communication to client [REDACTED] [.2]	150.00	1.50	225.00
01/10/2012	TPB	Telephone call with Scott Brooke, Esq. Preparation of memo to file re: same. [.3]	150.00	0.30	45.00

Statement No: [REDACTED]

Katz v. IVGID

Claim No.: [REDACTED]

			<u>RATE</u>	<u>HOURS</u>	
01/18/2012	TPB	Receipt, review and retrieval of Notice of Appearance of Anna M. Penrose-Levig on behalf of Commission and update file accordingly. [.2]	150.00	0.20	30.00
01/19/2012	TPB	Receipt and initial review of Motion for Summary Judgment filed by PUC with lengthy exhibits filed with Court and calendar last day to file Joinder. [.4]	150.00	0.40	60.00
01/20/2012	TPB	Receipt, review and analysis of e-mail communication from co-defendant's counsel. Review motion for summary judgment and exhibits. [.4] Receipt, review and analysis of correspondence from Scott Brooke, Esq. [.2] Telephone call to Keith Loomis [.2]	150.00	0.80	120.00
01/30/2012	TPB	Receipt, review and retrieval of Plaintiff's First Request for Admission filed with Court. [.2]	150.00	0.20	30.00
02/01/2012	TPB	Review plaintiff's discovery. Telephone call to Keith Loomis. [.3]	150.00	0.30	45.00
02/03/2012	TPB	Telephone call with Aaron Katz [.4] Begin review of discovery requests from Katz. [.3]	150.00	0.70	105.00
02/06/2012	TPB	Receipt, review and analysis of plaintiff's Request for Production of Documents and Request for Admissions. [.4] Preparation of e-mail communication to Attorney Brooke and client. [.2] Telephone call with Director of Public Works Director Pomroy (x4). Begin preparation of response to Request for Admissions. [.3] Meeting with Keith Loomis, Esq. Conference call with Public Works Director. Finalize Response to Request for Admissions [1.4] Preparation of e-mail communication to Scott Brooke [.2] Receipt, review and analysis of e-mail communication from Scott Brooke [.2]	150.00	2.70	405.00
02/07/2012	TPB	Receipt and review of letter of January 31, 2012, from Scott Brooke. [.2] Arrange for copying of all pleadings and correspondence filed in case to date [.2]; Preparation of correspondence to Mr. Brooke [REDACTED] [.2]	150.00	0.60	90.00
02/08/2012	TPB	Revise Defendant's Responses to Plaintiff's Request for Admissions - First Set [.4]; Receipt, brief initial review and retrieval of Plaintiff's Opposition to PUC's Motion for Summary Judgment with lengthy exhibits [.5]. Preparation of email communication to Plaintiff with copy of RFP's [.2].	150.00	1.10	165.00

Statement No: [REDACTED]

Katz v. IVGID
Claim No.: [REDACTED]

			<u>RATE</u>	<u>HOURS</u>	
02/09/2012	TPB	Receipt and review of email communication from Plaintiff. [2]	150.00	0.20	30.00
02/13/2012	TPB	Receipt and review of email communication from PUC's counsel regarding continuing mandatory pretrial conference and respond accordingly [2]; Telephone call with Court regarding the same and requesting new date for pretrial conference (x2) [2]; Telephone call with Aaron Katz regarding the same [2]; Preparation of Stipulation to Continue Mandatory Pretrial Conference [4]; Preparation of email communication to all parties with draft of Stipulation; Receipt of email from PUC's counsel with changes to stipulation and revise stipulation to reflect said changes [2]; Receipt, review and retrieval of Plaintiff's Additional Exhibits to Memorandum of Points and Authorities to PUC's Motion for Summary Judgment [2]	150.00	1.40	210.00
02/14/2012	TPB	Receipt and review of email communication from PUC's counsel and respond accordingly [2]; Telephone call with Judge Flanagan's chambers and leave message for plaintiff [2]; Receipt and review of email from Plaintiff with executed Stipulation and file the same with the Court [2]	150.00	0.60	90.00
02/17/2012	TPB	Receipt, review and retrieval of PUC'S Reply to MSJ and Request for Submission of the same filed by PUC [4]; Receipt and review of Request for Submission filed by Katz [2]; Receipt and review of original stipulation executed by Mr. Katz and recently filed pleadings [2].	150.00	0.80	120.00
02/23/2012	TPB	Receipt, review and analysis of e-mail communication from Keith Loomis. [2]	150.00	0.20	30.00
03/09/2012	TPB	Telephone call with Plaintiff regarding Defendant's Responses to Plaintiff's Request for Production of Documents [2]	150.00	0.20	30.00
03/12/2012	TPB	Received notice of electronic filing, obtain copy of Order requiring oral arguments on motion. Calendar same. [2]	150.00	0.20	30.00
03/13/2012	TPB	Receipt of email communication from plaintiff. Preparation of reply. [3]	150.00	0.30	45.00
03/15/2012	CFF	Telephone call to Aaron Katz re meet and confer meeting. [1]	125.00	0.10	12.50

Statement No: [REDACTED]

Katz v. IVGID
Claim No.: [REDACTED]

			<u>RATE</u>	<u>HOURS</u>	
03/16/2012	TPB	Receipt and review of email communication from Plaintiff. [2]	150.00	0.20	30.00
	CFF	Telephone call to Aaron Katz to discuss discovery meet and confer requirement [2]; follow up email re same [1]; telephone call to attorney Loomis re same [1]	125.00	0.40	50.00
03/19/2012	CFF	Attend meet and confer meeting with attorney Beko, attorney Loomis, and Katz. [6]	125.00	0.60	75.00
	TPB	Preparation for meeting. Meeting with Keith Loomis, conference call with Plaintiff. Post call meeting with Keith Loomis. [7]	150.00	0.70	105.00
03/20/2012	TPB	Telephone call with Scott Brooke. [2] Review of file. Preparation of status report to clients. [8]	150.00	1.00	150.00
03/21/2012	CFF	Begin legal research [REDACTED] [REDACTED] [1.2]; telephone call from attorney Loomis re [REDACTED] [1]	125.00	1.30	162.50
03/22/2012	CFF	Continue legal research [REDACTED] [REDACTED] [1.0]; attend pre-trial conference [1.0].	125.00	2.00	250.00
	TPB	Receipt, review and analysis of series of e-mail communications with Keith Loomis. [REDACTED] [REDACTED] Preparation for pretrial conference. Attend pretrial conference. Post conference meeting with counsel and Scott Brooke. Return to Office. [1.8]	150.00	1.80	270.00
03/29/2012	CFF	Legal research [REDACTED] [1.5]	125.00	1.50	187.50
03/30/2012	CFF	Continue legal research and review of caselaw [REDACTED] [REDACTED] [2.5]	125.00	2.50	312.50
04/02/2012	CFF	Legal research [REDACTED] [REDACTED] [1.2]	125.00	1.20	150.00
04/03/2012	CFF	Continue legal research [REDACTED] [REDACTED] [2.2]; prepare summary memo to attorney Loomis [REDACTED] [2.1].	125.00	4.30	537.50

Statement No: [REDACTED]

Katz v. IVGID
Claim No.: [REDACTED]

		<u>RATE</u>	<u>HOURS</u>	
04/10/2012	TPB			
	Receipt of Notice of Electronic Case Filing. Review Statement, Motion, Notice and Memorandum of Points and Authorities. [1.0]	150.00	1.00	150.00
04/12/2012	TPB			
	Further initial review and retrieval of Motion for Summary Judgment, Declaration of Katz in Support of Motion for Summary Judgment, lengthy Exhibits to Motion for Summary Judgment, Statement of Facts in Support of Motion for Summary Judgment, Notice of Motion for Summary Judgment and Certificate of Service of Motion for Summary Judgment all filed separately with the Court and calendar last day to file opposition [9] Arrange for production and delivery of same to Keith Loomis [2]	150.00	1.10	165.00
04/20/2012	TPB			
	Receipt, review and retrieval of Order granting PUC's Motion for Summary Judgment [4]	150.00	0.40	60.00
04/23/2012	CFF			
	Telephone calls to Aaron Katz re extension of time to oppose Motion for partial Summary Judgment [2]; telephone call to Keith Loomis [2]; legal research [2]; legal research [7]; legal research [1.5]; prepare Motion for Extension of Time [1.6]; prepare Motion for Order Shortening Time [1.0]; prepare Proposed Order Shortening Time [6]; prepare Motion to Stay Discovery and exhibits for same [2.0].	125.00	7.80	975.00
	TPB			
	Meeting with staff [REDACTED] Review and finalize Motion to Extend Time, Motion for Order Shortening Time, Motion to Stay Discovery. [1.6]	150.00	1.60	240.00
04/24/2012	CFF			
	Telephone call to Susan Johnson [REDACTED] [1]; email exchange with attorney Loomis [1].	125.00	0.20	25.00
	TPB			
	Receipt, review and retrieval of Order Shortening Time [2] Preparation of email communication to plaintiff's counsel forwarding the same for filing. [2]	150.00	0.40	60.00
04/25/2012	CFF			
	Review Opposition to Motion for Extension of Time, Declaration, and Exhibits in support filed by Katz [1.2]; prepare draft reply in Support of Motion for Extension of Time for review by attorney TPB [2.0]	125.00	3.20	400.00
	TPB			
	Receipt, review and retrieval of Order Shortening Time [2] Preparation of email communication to plaintiff forwarding			

Statement No: [REDACTED]

Katz v. IVGID

Claim No.: [REDACTED]

			<u>RATE</u>	<u>HOURS</u>	
		the same [2] Receipt, review and analysis of Plaintiff's Opposition to Motion for Extension of Time.[3] Preparation of Defendant's Reply in Support of Motion to Extend Time, electronically file same. [2.0] Telephone call with Keith Loomis [2]	150.00	2.90	435.00
04/26/2012	CFF	Legal research and review of caselaw [REDACTED] [2.1]	125.00	2.10	262.50
04/27/2012	CFF	Continue legal research and review of caselaw [REDACTED] [3.3]; prepare summary memo to attorney Loomis [REDACTED] [1.6]	125.00	4.90	612.50
05/03/2012	TPB	Telephone call with former Controller for IVGID. [2] Preparation of email communication to Keith Loomis, Esq., review response. Preparation of reply [2]	150.00	0.40	60.00
05/09/2012	CFF	Review Katz's Opposition to Motion to Stay Discovery and Declaration [1.0]; begin draft of Reply in Support of Motion to Stay Discovery [5]; email correspondence to attorney Loomis [REDACTED] [1.1].	125.00	1.60	200.00
05/10/2012	TPB	Receipt, review and analysis of email communication from client (x3) [2] Preparation of email communication to Keith Loomis, Esq. [2]	150.00	0.40	60.00
	CFF	Legal research [REDACTED] [6]; Finalize draft of Reply in Support of Motion to Stay Discovery for review by attorney Beko [1.5]	125.00	2.10	262.50
05/14/2012	TPB	Receipt, review and analysis of series of email communications with Scott Brooks. Review pleadings filed with Nevada Department of Taxation. Preparation of reply email communication. Preparation of email communication to Keith Loomis [4] Review, finalize and file Reply in Support of Motion to Stay Discovery [4]	150.00	0.80	120.00
05/15/2012	TPB	Receipt and review of Plaintiff's Motion for Order Permitting Filing of Supplemental Amendment to Amended Complaint and calendar last day to file opposition thereto [4] Receipt, review and retrieval of Request of Submission of Motion to Stay Discovery filed by Plaintiff [2] Receipt and review of email communication from Scott Brooke's office and respond accordingly [2]	150.00	0.80	120.00

Statement No: [REDACTED]

Katz v. IVGID

Claim No.: [REDACTED]

			<u>RATE</u>	<u>HOURS</u>	
05/16/2012	TPB	Receipt, review and analysis of correspondence from PUC's counsel. Review proposed order granting motion for summary judgment. [.4]	150.00	0.40	60.00
05/24/2012	TPB	Receipt of Notice of Electronic Case Filing. Review Proposed Judgment from co-defendant. [.2]	150.00	0.20	30.00
05/29/2012	TPB	Receipt, review and analysis of email communication from client. Preparation of reply [.2] Receipt, review and analysis of plaintiff's motion for leave to amend his complaint. [.2]	150.00	0.40	60.00
05/30/2012	TPB	Receipt, review and retrieval of Order Granting PUC's Motion for Summary Judgment [.4] Receipt, review and analysis of email communication from Keith Loomis [REDACTED] [.4]	150.00	0.80	120.00
05/31/2012	TPB	Receipt, review and analysis of email communication from Keith Loomis [.2] Telephone call to Keith Loomis [.2]	150.00	0.40	60.00
	TPB	Receipt, review and retrieval of Notice of Entry of Order Granting PUC's Motion for Summary Judgment [.2] Telephone call with Keith Loomis [REDACTED] [.2]	150.00	0.40	60.00
06/01/2012	TPB	Receipt and review of Request to Take Judicial Notice filed by Plaintiff [.2]	150.00	0.20	30.00
06/05/2012	TPB	Receipt, review and retrieval of IVGID's Opposition to Motion for Partial Summary Judgment and calendar last day for plaintiff to file Reply to the same [.6] Telephone call with Keith Loomis [REDACTED] [.2]	150.00	0.80	120.00
06/07/2012	CFF	Brief review of Motion for Partial Summary Judgment [.7]; Telephone call to attorney Loomis [REDACTED] [.1]	125.00	0.80	100.00
	TPB	Receipt and review of Defendant's Exhibits in Support of Opposition to Motion for Summary Judgment. [.2]	150.00	0.20	30.00
06/11/2012	CFF	Email exchange with attorney Loomis [REDACTED] [.2]	125.00	0.20	25.00
	TPB	Receipt, review and retrieval of IVGID's Motion for Partial Summary Judgment and calendar last day for plaintiff to file			

Claim No.: [REDACTED]

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Statement No: [REDACTED]

Katz v. IVGID
Claim No.: [REDACTED]

		<u>RATE</u>	<u>HOURS</u>	
	for Partial Summary Judgment. [.4]	150.00	0.40	60.00
06/21/2012				
TPB	Telephone call with Keith Loomis [REDACTED] [.2] Receipt and review of email communication from Scott Brooke [REDACTED] [.2]	150.00	0.40	60.00
06/22/2012				
CFF	Telephone call from attorney Loomis [REDACTED] [.2]; Brief review of documents recently filed by Katz, including Request to Strike, Objections to Material Facts, Motion for Order Permitting Reply, Opposition to Motion for Partial Summary Judgment, Declaration, and Motion to Modify in order to prepare Motion for Extension [.5]; prepare Motion for Extension of Time [1.2].	125.00	1.90	237.50.
TPB	Receipt, review and retrieval of Katz Reply to Opposition to MSJ [.4]; Receipt, review and retrieval of Plaintiff's Motion for Order to Permit Submission of Plaintiff's Reply in Support of MSJ Re: Central Services [.4] Receipt, review and retrieval of Katz' Motion to Strike Affidavit of Ramona Cruz [.2] Receipt, review and retrieval of Plaintiff's Objections to IVGID's Opposition to MSJ [.4] Receipt, review and retrieval of Plaintiff's Motion to Modify Pretrial Order and calendar last day to oppose [.2] Review and finalize IVGID's Motion for Extension of Time and file the same with Court. [.4]	150.00	2.00	300.00
07/02/2012				
TPB	Telephone call to Keith Loomis. [.4] For Current Services Rendered:	150.00	0.40 94.00	60.00 12,962.50

Recapitulation

<u>Timekeeper</u>	<u>Hours</u>	<u>Rate</u>	<u>TOTAL</u>
Charity F. Felts	39.20	\$125.00	\$4,900.00
Thomas P. Boko	2.10	75.00	157.50
Thomas P. Boko	52.70	150.00	7,905.00

Expenses

10/10/2011	Second Judicial District Court - Answer filing fee	213.00
01/05/2012	Second Judicial District Court - Jury Demand	320.00
02/07/2012	354 copies x .15 - copies of all pleadings for Scott Brooke	53.10
02/07/2012	A Plus Conferencing - Conference call on 1/16/12	2.27
03/23/2012	Courthouse Parking - Hearing at Second Judicial District Court	5.00
	Total Expenses	593.37
	Total Current Work	13,555.87

Statement No: [REDACTED]

[REDACTED]
Katz v. IVGID

Claim No.: [REDACTED]

Balance Due

\$13,555.87

Please Remit

\$13,555.87

Final Statement Run Totals ^9/12/2012

Statements Printed:	1
Hours:	94.00
Fees:	12,962.50
Expenses:	593.37

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INVOICE NO. [REDACTED]

Statement Date: 09/12/2012
Statement No. [REDACTED]
Account No. [REDACTED]

Katz v. IVGID
Claim No. [REDACTED]

For all legal services rendered and costs advanced regarding the above-referenced matter.

FEES

		<u>RATE</u>	<u>HOURS</u>	
07/03/2012	TPB			
	Review of IVGID's Opposition to Motion to Strike [REDACTED]			
	[REDACTED] [8]	150.00	0.80	120.00
07/09/2012	TPB			
	Receipt, review and analysis of email communication from Keith Loomis [.2] Receipt, review and analysis of email communication from Scott Brooke, Esq. [.2] Receipt, review and retrieval of Order granting IVGID's Motion for Extension of Time to Reply to Plaintiff's Opposition to IVGID's Counter motion to Dismiss [.2] Receipt, review and retrieval of Order Granting IVGID's Motion to Stay [.2] Receipt, review and retrieval of Order Granting Katz' Motion for Order to Allow Supplemental Filing [.2] Receipt of draft of IVGID's Reply to Motion for Partial Judgment and provide feedback to Keith Loomis [.2] Receipt, review and retrieval of IVGID's finalized filed Reply to Plaintiff's Opposition to IVGID's Motion for Partial Judgment [.2] Receipt of draft of IVGID's Opposition to Request for Delete 15 Page Limit and provide feedback regarding the same [.2] Receipt, review and retrieval of finalized Opposition to Request for Delete Page Limit [.2]	150.00	1.80	270.00
07/13/2012	TPB			
	Receipt, review and retrieval of Katz' Reply to Opposition to Motion to Modify [.4] Receipt, review and retrieval of			

Page 1

Statement No: [REDACTED]

Katz v. IVGID
Claim No.: [REDACTED]

		<u>RATE</u>	<u>HOURS</u>	
	Request for Submission of Motion to Modify [2] Receipt, review and retrieval of Plaintiff's Request for Submission of Motion for Leave to Modify [2]	150.00	0.80	120.00
07/17/2012	CFF			
	Review Order of Court granting Plaintiff's Motion to Permit Filing of Supplemental Amendment to Amended Complaint [2]; review and analysis of Supplemental Amendment to Amended Complaint submitted as Exhibit to Motion [1.0].	125.00	1.20	150.00
	TPB			
	Receipt, review and analysis of email communication from Scott Brooke, Esq., preparation of reply to same. [3] Series of email communications with Keith Loomis [REDACTED] [2]	150.00	0.50	75.00
07/18/2012	TPB			
	Receipt, review and retrieval of Supplemental pleadings filed by Plaintiff. [2]	150.00	0.20	30.00
07/23/2012	TPB			
	Receipt, review and analysis of Plaintiff's Request for Submission of Plaintiff's Motion to Modify Pre Trial Order re: Page Limits. [2] Receipt of Notice of Electronic Case Filing. Review Plaintiff's Request for Submission. [2]	150.00	0.40	60.00
07/27/2012	TPB			
	Receipt, review and retrieval of Request for Submission filed by Katz of IVGID's Countermotion to Dismiss. [2]	150.00	0.20	30.00
07/30/2012	CFF			
	Review Supplemental Amendment to Amended Complaint and compare to First Amended Complaint [REDACTED] [2.0]; draft answer to Supplemental Amendment to Amended Complaint [1.7]; telephone call to Dee [REDACTED] [1]; email correspondence to client [REDACTED] [2]	125.00	4.00	500.00
07/31/2012	CFF			
	Review email correspondence from client [REDACTED] [2]; review of recent resolutions and ordinances referenced in second amended complaint [REDACTED] [1.0]; revisions to answer to second amended complaint [0.8]	125.00	2.00	250.00
08/01/2012	CFF			
	Conference call with attorney Beko and Loomis [REDACTED] [4]; Revise and finalize Answer to Second Amended Complaint [1.1]	125.00	1.50	187.50
	TPB			
	Telephone call with Keith Loomis and Charity Felts [REDACTED] [2]	150.00	0.20	30.00
08/02/2012	TPB			
	Review and finalize Answer to Plaintiff's Second Amended			

Statement No: [REDACTED]

Katz v. IVGID
Claim No. [REDACTED]

		RATE	HOURS	
	Complaint. Receipt of Notice of Electronic Case Filing confirming filing. [.3]	150.00	0.30	45.00
08/10/2012	TPB Receipt of Notice of Electronic Case Filing. Review Request for Submission of Counter motion for summary judgment. [.2]	150.00	0.20	30.00
08/15/2012	TPB Receipt of Notice of Electronic Case Filing. Review Order denying plaintiff's motion to dismiss.[.2] Preparation of Notice of Entry of Order, electronically file and serve same. [.3]	150.00	0.50	75.00
08/16/2012	TPB Preparation of Notice of Entry of Order denying plaintiff's motion for summary judgment, electronically file same. [.3]	150.00	0.30	45.00
08/21/2012	TPB Receipt of Notice of Electronic Case Filing. Review Order Denying Plaintiff's Request to Expand Page limits on briefing. [.2] Preparation of notice of entry of order, file and serve same. [.3]	150.00	0.50	75.00
08/22/2012	TPB Receipt of Notice of Electronic Case Filing. Review Order Granting Cross Motion for Summary Judgment. [.4] Preparation of Notice of Entry of Order, file and serve same. [.3] Preparation of email communication to client and Company Claims Representative [.2] Telephone call to Keith Loomis, left voice mail message [.1] Telephone call with Keith Loomis [.2] Telephone call with Scott Brooke, Esq. [.2]	150.00	1.40	210.00
08/23/2012	TPB Receipt of Notice of Electronic Case Filing. Review Order denying plaintiff's additional motion to exceed page limits. Series of email communication with Keith Loomis and Scott Brooke, Esq. [.4]	150.00	0.40	60.00
08/30/2012	TPB Receipt, review and analysis of email communication from client. [REDACTED] [.2]	150.00	0.20	30.00
08/31/2012	CFF Telephone call to attorney Loomis [REDACTED] [.1]; research [REDACTED] [.4]; begin draft Motion to Strike same [.5]	125.00	1.00	125.00
	TPB Receipt, brief review and analysis of plaintiff's Motion for Reconsideration. Preparation of email communication to Keith Loomis, Esq. [.4] Receipt of voice mail message from Keith Loomis, telephone call to Keith Loomis [.2]	150.00	0.60	90.00

Statement No: [REDACTED]

Katz v. IVGID
Claim No. [REDACTED]

		<u>RATE</u>	<u>HOURS</u>	
09/04/2012				
TPB	Preparation of email communication to Keith Loomis and Scott Brooke, Esq. [.2] Receipt, review and analysis of email communication from Keith Loomis, preparation of reply. [.2] Receipt, review and analysis [REDACTED] [.2]	150.00	0.60	90.00
CFF	Continue working on Motion to Strike Motion for Reconsideration [.7]; forward same to attorney Loomis for review and comment [.1]; Revise and finalize same for filing [.5]	125.00	1.30	162.50
	For Current Services Rendered:		20.90	2,860.00

Recapitulation

<u>Timekeeper</u>	<u>Hours</u>	<u>Rate</u>	<u>TOTAL</u>
Charity F. Felts	11.00	\$125.00	\$1,375.00
Thomas P. Beko	9.90	150.00	1,485.00

Expenses

09/12/2012	137 copies x \$.10 - outgoing correspondence, pleadings, discovery, research, etc.	13.70
09/12/2012	Postage	2.95
	Total Expenses	16.65
	Total Current Work	2,876.65
	Balance Due	<u>\$2,876.65</u>
	Please Remit	<u>\$2,876.65</u>

Final Statement Run Totals 09/12/2012

Statements Printed:	1
Hours:	20.90
Fees:	2,860.00
Expenses:	16.65

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INVOICE NO. [REDACTED]

Statement Date: 07/16/2013
Statement No. [REDACTED]
Account No. [REDACTED]

Katz v. IVGID (State Court-Civil Matter)
Claim No.: [REDACTED]

For all legal services rendered and costs advanced regarding the
above-referenced matter.

FEES

			<u>RATE</u>	<u>HOURS</u>	
08/21/2012	TPB	Receipt of Notice of Electronic Case Filing. Review Order Denying Plaintiff's Request to Expand Page limits on briefing. [2] Preparation of notice of entry of order, file and serve same. [3]	150.00	0.50	75.00
09/12/2012	TPB	Receipt of Notice of Electronic Case Filing. Review Notice of filing of Motion to Strike. Calendar same. [1]	150.00	0.10	15.00
09/27/2012	CFF	Review and analysis of new pleadings filed by Katz, including: Motion to Ratify Motion for Reconsideration, Reply to Opposition to Motion for Reconsideration, Opposition to Motion to Strike, Declaration in Support of Motion for Reconsideration. [2.2]	125.00	2.20	275.00
	TPB	Receipt, review and analysis of Plaintiff's Motion for Leave to Ratify Former Filing of Motion for Reconsideration; Plaintiff's Opposition to IVGID's Motion to Strike; Plaintiff's Reply to IVGID's Opposition to Motion for Reconsideration; Request for Submission of Motion for Reconsideration; Declaration of Plaintiff. [1.3] Telephone call to plaintiff, left detailed message. [2]	150.00	1.50	225.00
09/28/2012	CFF	Draft opposition to Motion to Ratify Motion for Reconsideration; legal research [4.2]	125.00	4.20	525.00
10/03/2012	TPB	Review and finalize Reply in Support of Motion to Strike Motion for			

Katz v. IVGID (State Court-Civil Matter)
Claim No.: [REDACTED]

Statement No: [REDACTED]

			<u>RATE</u>	<u>HOURS</u>	
		Reconsideration. [.3] Review and finalize Motion to Strike Fugitive Pleading. [.2]	150.00	0.50	75.00
10/09/2012	TPB	Receipt of Notice of Electronic Case Filing. Review Order denying plaintiff's motion for reconsideration. [.2]	150.00	0.20	30.00
10/10/2012	TPB	Receipt, review and analysis of email communication from Scott Brooke, Esq. [.2]	150.00	0.20	30.00
10/11/2012	TPB	Telephone call with Scott Brooke [REDACTED] [.2] Preparation of Notice of Entry of Order, file and serve same. [.3]	150.00	0.50	75.00
10/12/2012	TPB	Lengthy telephone call with plaintiff. [.6]	150.00	0.60	90.00
10/16/2012	TPB	Lengthy telephone call with plaintiff. [.4]	150.00	0.40	60.00
10/17/2012	TPB	Lengthy telephone call with Keith Loomis, Esq. [.4] Telephone call with Aaron Katz [.4] Telephone call with Court clerk [.2] Telephone call with Loomis staff [.2] Telephone call with clerk [.2] Preparation of email communication to counsel, and Scott Brooke, Esq. [.2] Preparation of correspondence to counsel and court. [.5]	150.00	2.10	315.00
10/18/2012	TPB	Review of file. Preparation of memo re: stipulation to apply prior rulings. [.3] Telephone call to Aaron Katz. [.2] Review proposed stipulations [.2] Telephone call to Keith Loomis. [.1]	150.00	0.80	120.00
10/19/2012	TPB	Receipt, review and analysis of email communications from plaintiff's attorney. [.2] Revise stipulation for dismissal. [.2] Finalize stipulation to continue trial date. [.2] Telephone call to Scott Brooke, Esq. [.2] Telephone call to Keith Loomis [.2] Receipt of Notice of Electronic Case Filing. Review two plaintiff's pleadings, Reply in Support for entry of judgment, Request for Submission [.3]	150.00	1.30	195.00
10/20/2012	TPB	Receipt of Notice of Electronic Case Filing. Review Order denying plaintiff's motion. [.2]	150.00	0.20	30.00
10/22/2012	TPB	Receipt, review and analysis of email communication from plaintiff. Finalize the stipulation re: dismissal of the 16th Claim for Relief. [.3] Telephone call with Keith Loomis [.2] Telephone call with Scott Brooke, Esq. [.2] Receipt, review and analysis of email communication from Aaron Katz, preparation of reply. [.2] Telephone call with Keith Loomis. [.2] Preparation of email communication to Aaron Katz with revised stipulation to continue trial date. [.2]	150.00	1.50	225.00
10/24/2012	TPB	Prepare for meeting with Keith Loomis. [.3] Meeting with Keith Loomis [REDACTED] [1.0]	150.00	1.30	195.00
10/29/2012	CFF	Prepare file and documents for attorney Beko [REDACTED] [.6]; attend status conference [.6]; conference with attorneys Beko and Loomis following status conference [REDACTED] [.3]	125.00	1.40	175.00
	TPB	Telephone call with Court staff re: e-filing of stipulation. Revise			

Katz v. IVGID (State Court-Civil Matter)
Claim No.: [REDACTED]

Statement No: [REDACTED]

			<u>RATE</u>	<u>HOURS</u>	
		stipulations for actual signature. [.3] Preparation for status conference with Court. [.6] Review missing pleading (14th COA) relating solely to the Public Utility Commission. [.2] Travel to Washoe County Courthouse. Meeting with counsel. Participate in conference. Return to office. [.9]	150.00	2.00	300.00
11/01/2012	TPB	Draft, final, file Notice of Entry of Order dismissing 16th cause of action. [.3] Draft and final Notice of Entry of Order continuing trial [.2]	150.00	0.50	75.00
11/19/2012	TPB	Receipt, review and analysis of email communication from Keith Loomis. Review [REDACTED] [.5]	150.00	0.50	75.00
	CFF	Review and analysis [REDACTED] [1.0]	125.00	1.00	125.00
11/24/2012	CFF	Legal research [REDACTED] [1.1]	125.00	1.10	137.50
11/26/2012	CFF	Legal research [REDACTED] [.8]; conference call with attorneys Beko and Loomis [REDACTED] [.2]; review IVGID meeting minutes from April 2011 and April 2012 [REDACTED] [1.1]; research [REDACTED] [.3]	125.00	2.40	300.00
	TPB	Review [REDACTED] [.3] Telephone conference with Keith Loomis [REDACTED] [.3] Telephone call to client [REDACTED] [.2] Review of records [REDACTED] [.4]	150.00	1.20	180.00
11/27/2012	CFF	Legal research [REDACTED] [2.2]; review and revise [REDACTED] [1.0]; [REDACTED] [2.1]; conference call with Susan Herron [REDACTED] [.2]; review [REDACTED] [.6].	125.00	6.10	762.50
	TPB	Telephone call with Susan Herron. [REDACTED] Telephone call with Keith Loomis. [1.0]	150.00	1.00	150.00
11/28/2012	CFF	[REDACTED] [3.6]	125.00	3.60	450.00
	TPB	Receipt, review [REDACTED] [.3]	150.00	0.30	45.00
11/29/2012	CFF	[REDACTED] [3.7]	125.00	3.70	462.50

Katz v. IVGID (State Court-Civil Matter)
Claim No.: [REDACTED]

Statement No: [REDACTED]

			<u>RATE</u>	<u>HOURS</u>	
	TPB	[REDACTED] [.2]	150.00	0.20	30.00
12/03/2012	CFF	[REDACTED] [.5]	125.00	0.50	62.50
12/04/2012	TPB	Preparation of stipulation to extend time. Forward to plaintiff. [.3]	150.00	0.30	45.00
12/05/2012	TPB	Review and finalize IVGID's opening brief [REDACTED] [1.9] Preparation of email communication to attorney Loomis and client. [.2] Receipt, review and analysis of email communication [REDACTED] [.2] Receipt, review and analysis of email communication from plaintiff [.1] Receipt, review and analysis of email communication from plaintiff. Preparation of reply. [.2]	150.00	2.60	390.00
12/06/2012	TPB	Series of telephone calls with staff [REDACTED] [.3] Receipt, review and analysis of fax from plaintiff, arrange for filing of stipulation. [.2] Receipt, review and analysis of email communication from plaintiff. [.1]	150.00	0.60	90.00
12/07/2012	TPB	Receipt, review and analysis of email communication from client [.1] Series of telephone calls with staff and Keith Loomis [REDACTED] [.3]	150.00	0.40	60.00
12/10/2012	TPB	Series of telephone calls with clerk re: electronic filing. Reply to same. Receipt of Notice of Electronic Case Filing. Review electronically filed brief. [.3] Electronically file stipulation to extend time. Review confirmation of electronic filing [.1]	150.00	0.40	60.00
12/13/2012	TPB	Receipt, review and analysis of email communication from Scott Brooke. Conference with Charity Felts [REDACTED] [.3]	150.00	0.30	45.00
12/14/2012	CFF	Review and analysis of plaintiff's opening brief re standard of review [1.5]; [REDACTED] [.5]	125.00	2.00	250.00
12/17/2012	CFF	Legal research [REDACTED] [2.5]; [REDACTED] [.7]	125.00	3.20	400.00
	TPB	Review of plaintiff's opening brief on the standard of review for utility rates. [REDACTED] Telephone call to Keith Loomis. Left Voice Mail Message. [.4]	150.00	0.40	60.00
12/19/2012	CFF	Conference call with attorney Beko and Loomis [REDACTED] [.3]	125.00	0.30	37.50
	TPB	Telephone call with Keith Loomis [REDACTED] [.2] [REDACTED] [.2]	150.00	0.40	60.00
01/02/2013	CFF	[REDACTED] [3.2]	125.00	3.20	400.00

Katz v. IVGID (State Court-Civil Matter)
Claim No.: [REDACTED]

Statement No: [REDACTED]

			<u>RATE</u>	<u>HOURS</u>	
01/03/2013	TPB	Email communication with Scott Brooke [REDACTED] [REDACTED] [2]	150.00	0.20	30.00
01/04/2013	TPB	Receipt, review and analysis of email communication from Keith Loomis [REDACTED] [3]	150.00	0.30	45.00
01/05/2013	CFF	[REDACTED] [8]	125.00	0.80	100.00
01/07/2013	CFF	[REDACTED] [1.4]	125.00	1.40	175.00
	TPB	Meeting with CF [REDACTED] [3] Email communication to Keith Loomis. Review reply. Arrange for electronic filing [2] Telephone call to Scott Brooke, Esq. [1]	150.00	0.60	90.00
01/09/2013	TPB	Receipt of Notice of Electronic Case Filing. Review Plaintiff's Supplemental Pleading. [2] Receipt of Notice of Electronic Case Filing. Review Plaintiff's Memo of Costs [2] Receipt of Notice of Electronic Case Filing. Review plaintiff's Request for Submission. [1] Telephone call with Scott Brooke, Esq. [1]	150.00	0.60	90.00
01/10/2013	TPB	Receipt and review of Plaintiff's reply brief re Regarding Proper Interpretation of NRS 318.199(6); supplemental memorandum of points and authorities re judicial notice, and request for submission. [3]	150.00	0.30	45.00
01/16/2013	TPB	Receipt, review and analysis of email communication from Scott Brooke, Esq. Preparation of reply. [1]	150.00	0.10	15.00
01/17/2013	TPB	Receipt, review and analysis of correspondence from client. [REDACTED] [3]	150.00	0.30	45.00
01/18/2013	CFF	Review and Analysis of Katz's Reply Brief and Supplemental Memo [REDACTED] [1.1]	125.00	1.10	137.50
01/19/2013	TPB	Preparation of email communication to client [REDACTED] [2]	150.00	0.20	30.00
01/22/2013	TPB	Telephone call with Scott Brooke, Esq. [2]	150.00	0.20	30.00
01/23/2013	TPB	Receipt, review and analysis of email communication from Scott Brooke, Esq. Preparation of reply to same. [2]	150.00	0.20	30.00
01/25/2013	TPB	Receipt, review and analysis of Order from Court re: oral arguments. Series of telephone calls [REDACTED] Preparation of Notice to Set Hearing, service of same. [6]	150.00	0.60	90.00
01/28/2013	CFF	Travel from Reno Office to Incline Village District Offices to attend litigation meeting [1.0]; attend litigation meeting [2.0]; travel from Incline Village District Offices to Reno Office after meeting [1.0].	125.00	4.00	500.00
	TPB	Preparation for meeting [REDACTED] Travel to Incline Village. Attend meeting, return to office. [4.0] Series of email			

Statement No: [REDACTED]

Katz v. IVGID (State Court-Civil Matter)
Claim No.: [REDACTED]

			<u>RATE</u>	<u>HOURS</u>	
		communications with Katz re: setting of matter for oral argument. [.4] Telephone call with clerk of Court re: setting of hearing [.2]	150.00	4.60	690.00
01/29/2013	TPB	Series of phone calls [REDACTED] Series of email communications with plaintiff's attorney. [.3] Preparation of Notice to Set, electronically file same. [.2]	150.00	0.50	75.00
01/30/2013	TPB	Series of email communications with plaintiff. Telephone call with Attorney Loomis [REDACTED] [.3]	150.00	0.30	45.00
02/04/2013	TPB	Travel to Washoe County Courthouse. Meeting with attorney Loomis and court staff. Return to office. [.8] Preparation of email communication to client [.2]	150.00	1.00	150.00
02/05/2013	TPB	Preparation of email communication to Scott Brooke, Esq. [.2]	150.00	0.20	30.00
02/06/2013	TPB	Receipt, review and analysis of email communication [REDACTED] [REDACTED] [.1] Preparation of email communication to Company Claims Representative [.2] Preparation of email communication to client [.2]	150.00	1.60	225.00
02/11/2013	TPB	Receipt, review and analysis of lengthy letter from plaintiff to Court. [REDACTED] [.3]	150.00	0.30	45.00
02/21/2013	CFF	Review and analysis [REDACTED] [REDACTED] [.1]; begin [REDACTED] [REDACTED] [.1.5]; telephone call to Susan Herron [REDACTED] [.1]	125.00	2.70	337.50
03/21/2013	CFF	Review an analysis of Order re standard of review [.5] [REDACTED] [REDACTED] [.3]	125.00	0.80	100.00
	TPB	Receipt of Notice of Electronic Case Filing. Brief review of Order re: standard of review. [.2]	150.00	0.20	30.00
03/28/2013	CFF	Email correspondence to Susan Herron [REDACTED] [REDACTED] [.5]	125.00	0.50	62.50
	TPB	Receipt, review and analysis of email communication from attorney Brooke. Preparation of reply. [.2]	150.00	0.20	30.00
04/01/2013	CFF	Conference call with attorneys Beko, Brooke, and Loomis [REDACTED] [REDACTED] [.5]	125.00	0.50	62.50
	TPB	Telephone call with Keith Loomis [.2] Preparation of email communication to Scott Brooke, review reply [.2] Preparation of email communication to Susan Herron [REDACTED] [REDACTED] [.2] Telephone call with Susan Herron [.2] Conference call with Scott Brooke and Keith Loomis [.4] [REDACTED] [.2]	150.00	1.40	210.00

Statement No: [REDACTED]

Katz v. IVGID (State Court-Civil Matter)
Claim No.: [REDACTED]

			<u>RATE</u>	<u>HOURS</u>	
04/10/2013	CFF	Travel to Incline Village to attend Board meeting [REDACTED] [REDACTED] [1.0]. Travel from Incline Village to Reno after attending Board meeting [1.0]	62.50	2.00	125.00
	CFF	Attend Board meeting [REDACTED] [REDACTED] [3.6]; Brief meeting with clients following Board meeting [.2].	125.00	3.80	475.00
04/18/2013	TPB	Receipt, review and analysis of Agendas and minutes [REDACTED] [REDACTED] Review digital recording. Arrange for transcription [REDACTED] [3]	150.00	0.30	45.00
04/19/2013	CFF	Review agendas and minutes [REDACTED] [REDACTED] [6]	125.00	0.60	75.00
05/01/2013	TPB	Series of email communications with plaintiff re: trial setting. Cc to Keith Loomis. Review reply from Keith Loomis. [3]	150.00	0.30	45.00
05/02/2013	TPB	Receipt, review and analysis of email communication from plaintiff. Preparation of reply. [2] Receipt, review and analysis of second email communication from plaintiff [1]	150.00	0.30	45.00
05/06/2013	TPB	Receipt, review and analysis of email communication from plaintiff. Preparation of reply. [2]	150.00	0.20	30.00
05/08/2013	TPB	Travel to Washoe County Courthouse. Attend setting conference. Return to office. Preparation of notice to clients [REDACTED] [8] Telephone call with Court clerk re: existing jury demand. [2] Preparation of email communication to attorney Loomis and Scott Brooke, Esq. [2]	150.00	1.20	180.00
05/09/2013	TPB	Receipt of Notice of Electronic Case Filing. Review Scheduling Order. Calendar all dates. [3]	150.00	0.30	45.00
05/20/2013	TPB	Preparation of correspondence [REDACTED] [4]	150.00	0.40	60.00
	TPB	Receipt, review and analysis of two email communications from Scott Brooke, Esq., preparation of Reply. Receipt, review and analysis of letter from Aaron Katz. [3]	150.00	0.30	45.00
	TPB	Receipt, review and analysis of email communication from Scott Brooke, Esq. [REDACTED] [2] Receipt of Notice of Electronic Case Filing. Brief review of plaintiff's extensive Motion to Amend Complaint, points and authorities in support thereof, and affidavit. [2]	150.00	0.40	60.00
05/22/2013	OFF	Receipt review and analysis of Motion for Order Permitting Filing of Second Supplemental Amendment to Amended Complaint. [3.1]	125.00	3.10	387.50
05/23/2013	TPB	Receipt of Notice of Electronic Case Filing. Review Certificate of Service [2]	150.00	0.20	30.00

Katz v. IVGID (State Court-Civil Matter)
Claim No.: [REDACTED]

Statement No: [REDACTED]

			<u>RATE</u>	<u>HOURS</u>	
05/31/2013	TPB	Receipt, review and analysis of email communication from client [REDACTED] [1.2]	150.00	0.20	30.00
06/04/2013	CFF	Meeting with attorneys Loomis, Brooke and Boko [REDACTED] [1.1]; legal research [REDACTED] [1.1]; legal research [REDACTED] [1.0]; receipt and review of email from attorney Loomis [REDACTED] [1]	125.00	3.30	412.50
	TPB	Preparation for meeting with Keith Loomis, preparation of email communication to Scott Brooke, Esq., [REDACTED] [REDACTED] [3] Telephone call to Scott Brooke, Esq. [1] Participate in conference call with client's counsel. [REDACTED] [REDACTED] [1.1] Receipt, review and analysis of email communication from Keith Loomis [REDACTED] [REDACTED] [2]	150.00	1.40	210.00
06/05/2013	CFF	Prepare Stipulation for extension of time to oppose Motion to Amend [3]; email correspondence to Aaron Katz re same [1]	125.00	0.40	50.00
06/06/2013	CFF	Legal research [REDACTED] [REDACTED] [1.0]; legal research [REDACTED] [REDACTED] [1.1]; legal research [REDACTED] [REDACTED] [1.0]; begin draft of Opposition to Motion to Amend [8]; review [REDACTED] [REDACTED] [1.6]; Exchange email correspondence with Susan Herron [REDACTED] [REDACTED] [2] [REDACTED] [2]	125.00	5.90	737.50
06/11/2013	CFF	Receipt, review and analysis of correspondence from Mr. Katz re recent requests for review of records in aid of preparing opposition to Motion to Amend (1.2)	125.00	1.20	150.00
06/12/2013	CFF	[REDACTED] [1.4]	125.00	1.40	175.00
06/13/2013	CFF	[REDACTED] [2.5]	125.00	2.50	312.50
06/14/2013	CFF	[REDACTED] [2.7]; legal research [REDACTED] [REDACTED] [8]	125.00	3.50	437.50
06/17/2013	CFF	Email correspondence to attorney Loomis [REDACTED] [1]; [REDACTED] [1.0]	125.00	1.10	137.50
06/19/2013	CFF	[REDACTED] [3.1]; additional legal research [REDACTED] [REDACTED] [8]	125.00	3.90	487.50
06/20/2013	CFF	Receipt and review [REDACTED]			

Statement No: [REDACTED]

Katz v. IVGID (State Court-Civil Matter)
Claim No.: [REDACTED]

			<u>RATE</u>	<u>HOURS</u>	
		[1.3]; [REDACTED] [REDACTED] [3.3]; [REDACTED] [REDACTED] [5]	125.00	5.10	637.50
06/21/2013	CFF	[REDACTED] [4]; [REDACTED] [2]; [REDACTED] [2]	125.00	0.80	100.00
06/26/2013	CFF	Begin draft of Motion [REDACTED] [REDACTED] [3.6]; review supplemental documents [REDACTED] [9]	125.00	4.50	562.50
06/27/2013	CFF	[REDACTED] [REDACTED] [4.4]; legal research re [REDACTED] [REDACTED] [1.4]	125.00	5.80	725.00
06/28/2013	TPB	Receipt of email communication from Keith Loomis [REDACTED] [REDACTED] Calendar same. [2]	150.00	0.20	30.00
07/01/2013	CFF	Legal research [REDACTED] [REDACTED] [5]	125.00	0.50	62.50
07/03/2013	CFF	[REDACTED] [3.1]; legal research [REDACTED] [REDACTED] [1.2]	125.00	4.30	537.50
07/05/2013	CFF	[REDACTED] [2.5]; additional legal research [REDACTED] [1.1]	125.00	3.60	450.00
07/11/2013	CFF	Prepare Affidavits [REDACTED] [1.0]; Telephone call to Bruce Simonian [REDACTED] [2]; Telephone call to Joe Wolfe [REDACTED] [1.1]; email correspondence to former Trustee Fuller [REDACTED] [REDACTED] [2]; email correspondence to former Trustee Weinberger [REDACTED] [REDACTED] [2]; email correspondence to former Trustee Epstein [REDACTED] [2]; email correspondence to Trustee Simonian [REDACTED] [REDACTED] [2]; review and analysis of Plaintiffs' Application for Order to Exceed Page Limit [4]; review and analysis of Plaintiffs' Reply in Support of Motion to Amend [1.1]; [REDACTED] [1.0]; Legal research [REDACTED] [REDACTED] [6]	125.00	5.20	650.00
07/12/2013	CFF	Telephone call from Trustee Wolfe [REDACTED] [2]; Email correspondence to Trustee Wolfe [REDACTED] [REDACTED] [2]; exchange email correspondence with [REDACTED]			

Katz v. IVGID (State Court-Civil Matter)
Claim No.: [REDACTED]

Statement No: [REDACTED]

	<u>RATE</u>	<u>HOURS</u>	
Trustee Simonian [REDACTED] [.2]; telephone call from former			
Trustee Fuller [REDACTED] [.1]	125.00	0.70	87.50
For Current Services Rendered:		152.20	19,957.50

<u>Timekeeper</u>	<u>Hours</u>	<u>Rate</u>	<u>TOTAL</u>
Charity F. Felts	2.00	\$62.50	\$125.00
Charity F. Felts	107.90	125.00	13,487.50
Thomas P. Beko	42.30	150.00	6,345.00

Recapitulation

Expenses

01/07/2013	Postage - Service of Reply Brief	1.30
01/07/2013	28 photocopies x \$.10	2.80
04/24/2013	Pam Simon - Transcription of Utility Rate Workshop Transcripts	500.00
05/22/2013	114 copies x \$.10 - Plaintiff's Motion re: Amendment to Amended Complaint with exhibits	11.40
05/23/2013	126 copies x \$.10 - 04/13/11 Board Packet	12.60
06/21/2013	66 copies x \$.10 - Opposition to Mtn to file 2nd Supp. Amendment to Amended Complaint	6.60
06/21/2013	Postage - Service of Opposition	1.56
	Total Expenses	536.26
	Total Current Work	20,493.76
	Total Previous Billings	\$16,432.52

Payments

11/02/2012	Payment on Invoice #: [REDACTED]	-13,555.87
	Balance Due	<u>\$23,370.41</u>
	Please Remit	<u>\$23,370.41</u>

Final Statement Run Totals 07/16/2013

Statements Printed:	1
Hours:	152.20
Fees:	19,957.50
Expenses:	536.26

ERICKSON, THORPE &
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INVOICE NO. [REDACTED]

Statement Date: 08/14/2014
Statement No. [REDACTED]
Account No. [REDACTED]

Katz v. IVGID (State Court-Civil Matter)
Claim No.: [REDACTED]

For all legal services rendered and costs advanced regarding the
above-referenced matter.

FEES

			<u>RATE</u>	<u>HOURS</u>	
07/18/2013	TPB	Receipt, review and analysis of email communication from Scott Brooke. Telephone call to Scott Brooke [.3] Receipt, review and analysis of email communication from Scott Brooke [1]	150.00	0.40	60.00
07/19/2013	TPB	Receipt, review and analysis of email communication from Scott Brooke, Esq. [2]	150.00	0.20	30.00
07/20/2013	CFF	[REDACTED] [1.3]	125.00	1.30	162.50
07/22/2013	CFF	[REDACTED] [3]	125.00	0.30	37.50
	TPB	Receipt, review and analysis of Application to Exceed Page Limit [2]	150.00	0.20	30.00
07/23/2013	CFF	Revisions [REDACTED] [4]	125.00	0.40	50.00
07/24/2013	CFF	Revisions [REDACTED] [1.0]; telephone call to Ted Fuller [2]; prepare email correspondence to Fuller [REDACTED] [1]; prepare email correspondence to Wolfe [REDACTED] [1]; prepare email [REDACTED]			

Statement No: [REDACTED]

Katz v. IVGID (State Court-Civil Matter)
Claim No.: [REDACTED]

			RATE	HOURS	
		correspondence to Simonian [REDACTED] [.1]; prepare email correspondence to Epstein [REDACTED] [REDACTED] [.1]; [REDACTED] [REDACTED] [2.4]; exchange email correspondence with Susan Herron [REDACTED] [REDACTED] (0.2); [REDACTED] [REDACTED] [1.0]	125.00	5.20	650.00
07/25/2013	CFF	Exchange email correspondence with Susan Herron [REDACTED] [.1]	125.00	0.10	12.50
07/26/2013	TPB	Brief review [REDACTED] [.2]	150.00	0.20	30.00
08/07/2013	CFF	[REDACTED] [REDACTED] [.8]; review and analysis of Order re Motion to Amend [.3]	125.00	1.10	137.50
	TPB	Receipt of Notice of Electronic Case Filing. Review Order denying Plaintiff's Motion to Amend Complaint. [REDACTED] [REDACTED] [.4] Preparation of report to client's private counsel with copies to attorney Loomis [.3] [REDACTED] [.2]	150.00	0.90	135.00
08/08/2013	TPB	Preparation of Notice of Entry of Order. File and Serve same. [.2]	150.00	0.20	30.00
08/13/2013	TPB	Receipt, review and analysis [REDACTED] [REDACTED] [.2]	150.00	0.20	30.00
08/16/2013	TPB	Review pleadings re: applicable discovery/motions deadlines. [REDACTED] [.2]	150.00	0.20	30.00
08/21/2013	TPB	Telephone call with Keith Loomis [REDACTED] [.2]	150.00	0.20	30.00
08/26/2013	WWV	[REDACTED]	75.00	5.40	405.00
08/30/2013	TPB	Receipt, review and analysis of email communication from client. Preparation of reply [.2]	150.00	0.20	30.00
09/11/2013	TPB	Receipt, review and analysis of email communication from client. Preparation of reply. [.2]	150.00	0.20	30.00
09/25/2013	TPB	[REDACTED] [.2]	150.00	0.20	30.00
10/03/2013	CFF	[REDACTED] [REDACTED] [.8]	125.00	0.80	100.00
10/09/2013	CFF	[REDACTED] [1.5]	125.00	1.50	187.50
	TPB	Receipt, review and analysis of email communication from Scott Brooke. Telephone conference with Scott Brooke. [.2]	150.00	0.20	30.00
10/11/2013	TPB	[REDACTED] [.2]	150.00	0.20	30.00

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Claim No.: [REDACTED]

Statement No: [REDACTED]

			<u>RATE</u>	<u>HOURS</u>	
10/17/2013	TPB	Receipt, review and analysis of email communication from plaintiff. Preparation of reply. [.2]	150.00	0.20	30.00
10/21/2013	TPB	Receipt, review and analysis of email communication from plaintiff. Preparation of reply [.2] Receipt, review and analysis of email communication from plaintiff. Preparation of reply [.1] Receipt, review and analysis of email communication from Keith Loomis, preparation of reply [.2] [REDACTED] [5.7]	150.00	6.20	930.00
	PMB	Research [REDACTED] [.8] Research [REDACTED] [4]	150.00	1.20	180.00
10/22/2013	TPB	Meeting with CF [REDACTED] [.2] Telephone call with Keith Loomis [.2] Preparation of email communication to Scott Brooke, Esq. [.2] Telephone call with Scott Brooke. [.2] [REDACTED] Preparation of Waiver of Demand for Jury. [.4]	150.00	1.20	180.00
	CFF	Review, analysis and revisions [REDACTED] [2.5]; [REDACTED] [4.5]	125.00	7.00	875.00
10/23/2013	TPB	Telephone call with Scott Brooke, Esq. [.2] Telephone call with Keith Loomis [.2] Review pleading file [REDACTED] Preparation of Withdrawal of Demand for Jury, file and serve same [.3]	150.00	0.70	105.00
	CFF	[REDACTED] [1.2]	125.00	1.20	150.00
10/24/2013	TPB	Series of email communications with plaintiff. [.4] preparation of stipulation to continue trial date. [.4]	150.00	0.80	120.00
10/30/2013	TPB	Receipt of Notice of Electronic Case Filing. Attempt to review plaintiff's filing. [.2] Telephone call with court administrator re: conflict on trial date. [.2] Telephone call to Plaintiff. [.1]	150.00	0.50	75.00
11/01/2013	TPB	Series of email communications with plaintiff and co counsel. [.5] Preparation of Notice of Appearance of CFF to ensure electronic notice. [.2]	150.00	0.70	105.00
11/04/2013	TPB	Receipt, review and analysis of email communication from plaintiff, preparation of reply. [.2] Receipt of faxed stipulation. Execute and arrange for hand-delivery to Court due to present of Order line. [.2]	150.00	0.40	60.00
11/06/2013	TPB	Preparation of email communication with Plaintiff regarding Stipulation to continue trial, and opposition deadlines. [.2]	150.00	0.20	30.00

Katz v. IVGID (State Court-Civil Matter)
Claim No.: [REDACTED]

Statement No: [REDACTED]

			<u>RATE</u>	<u>HOURS</u>	
	BAD	Research [REDACTED] [8]	125.00	0.80	100.00
	TPB	Preparation of email communication with Plaintiff regarding Stipulation to continue trial, and opposition deadlines. [2]	150.00	0.20	30.00
11/12/2013	TPB	Series of email communications with Plaintiff. Telephone call with Court staff. Preparation of reply email communication. [4] Receipt, review and analysis of email communication from Scott Brooke, preparation of reply. [2]	150.00	0.60	90.00
11/13/2013	TPB	Preparation for meeting with Scott Brooke. Attend meeting with attorney Brooke. [REDACTED] [1.2]	150.00	1.20	180.00
	CFF	Prepare correspondence to Mr. Brooke [REDACTED] [REDACTED] [6.3]	125.00	6.30	787.50
11/14/2013	CFF	Continue preparation of correspondence to Mr. Brooke [REDACTED] [REDACTED] [1.0]	125.00	1.00	125.00
11/15/2013	TPB	Receipt, review and analysis of Motion for Summary Judgment re: appointment of receiver. Telephone call to Keith Loomis [REDACTED] [6] Conduct brief research [REDACTED] [4] Telephone call with Scott Brooke, Esq. [2] Preparation of email communication to Keith Loomis [2]	150.00	1.40	210.00
11/21/2013	TPB	Meeting with staff. [REDACTED] [3] Series of email communications with Mr. Katz [REDACTED] [4]	150.00	0.70	105.00
11/22/2013	CFF	Review files [REDACTED] [REDACTED] [6]	125.00	0.60	75.00
11/25/2013	TPB	Receipt, review and analysis of memo from staff [REDACTED] [REDACTED] [2] Receipt, review and analysis of email communication from plaintiff. Preparation of reply. [2] Preparation of Notice of Entry of Order re: continuance, service of same. [4]	150.00	0.80	120.00
	CFF	Review files [REDACTED] [REDACTED] [3.0]	125.00	3.00	375.00
	BAD	Review and analyze [REDACTED] [REDACTED] [4]	125.00	0.40	50.00
11/26/2013	TPB	Receipt, review and analysis of email communication from CF [REDACTED] [REDACTED] [2]	150.00	0.20	30.00
	CFF	Continue complete review of files [REDACTED]			

Katz v. IVGID (State Court-Civil Matter)
Claim No.: [REDACTED]

Statement No: [REDACTED]

			<u>RATE</u>	<u>HOURS</u>	
		[REDACTED] [4.6]	125.00	4.30	537.50
11/27/2013	TPB	Receipt of Notice of Electronic Case Filing (x3). Receipt, and brief review and analysis of plaintiff's Opposition to MJS, Request for Judicial Notice, and Declaration of plaintiff [3] Receipt, review and analysis of email communication from Keith Loomis [REDACTED] [2]	150.00	0.50	75.00
12/02/2013	TPB	Receipt, review and analysis of email communication from plaintiff. Receipt, review and analysis of email communication from Keith Loomis. [2]	150.00	0.20	30.00
12/06/2013	TPB	Receipt, review and analysis of email communication from plaintiff re: extension of time. Direct response to same. [2]	150.00	0.20	30.00
12/13/2013	TPB	Receipt, review and analysis of email communication from Attorney Brooke. Reply to same. [2]	150.00	0.20	30.00
12/16/2013	TPB	Series of email communications with Scott Brooke [REDACTED] [1]	150.00	0.10	15.00
12/17/2013	CFF	[REDACTED] [4.8] Legal research [REDACTED] [1.5]	125.00	6.30	787.50
12/18/2013	CFF	[REDACTED] [6] Series of emails with Mr. Katz. [1]	125.00	0.70	87.50
	TPB	Telephone call with Scott Brooke (x2), regarding ongoing issues for public records. [4] Receipt, review and analysis of email communication from Scott. Preparation of reply with second email communication to Susan Herron. [3] [REDACTED] Prepare and File Request for Submission of Motion for Partial Summary Judgment. [4]	150.00	1.10	165.00
12/19/2013	TPB	Finalize IVGID's reply in support of motion for summary judgment. Arrange for filing of same. [2] Preparation of Request for Submission, file same. [2] Receipt, review and analysis of email communication from Susan Herron. [REDACTED] Preparation of reply. [3]	150.00	0.70	105.00
12/24/2013	TPB	Receipt of Notice of Electronic Case Filing. Brief review of 3 Katz filings. [3]	150.00	0.30	45.00
12/27/2013	CFF	Review and analysis of Second Supplemental Amendment to Amended Complaint. [1.2] [REDACTED] [1.5]	125.00	2.70	337.50
12/29/2013	TPB	Receipt, review and analysis of Request for Submission of Motion. [2]	150.00	0.20	30.00

Katz v. IVGID (State Court-Civil Matter)
Claim No.: [REDACTED]

Statement No: [REDACTED]

			RATE	HOURS	
01/02/2014	TPB	Review plaintiff's newest complaint. [REDACTED] [REDACTED] [2]	150.00	0.20	30.00
	CFF	[REDACTED] [2.0]; legal research [REDACTED] [REDACTED] [1.7]; legal research [REDACTED] [1.1]	125.00	4.80	600.00
01/03/2014	CFF	[REDACTED] [REDACTED] [3.5]	125.00	3.50	437.50
01/06/2014	CFF	[REDACTED] [REDACTED] [1.7]	125.00	1.70	212.50
	TPB	[REDACTED] [REDACTED] [3]	150.00	0.30	45.00
01/07/2014	TPB	Receipt, review and analysis of email communication from Scott Brooke, Esq. Preparation of reply. [2]	150.00	0.20	30.00
01/08/2014	TPB	Conduct legal research [REDACTED] [REDACTED] [1.9] Receipt, review and analysis of email communication from client [REDACTED] Preparation of reply to same. [2] Series of email communications [REDACTED] [REDACTED] [2]	150.00	2.30	345.00
	BAD	Legal Research [REDACTED] [REDACTED] [8]	125.00	0.80	100.00
	CFF	[REDACTED] [REDACTED] [1.0]	125.00	1.00	125.00
	PMB	Continue research [REDACTED] [REDACTED] [REDACTED] [REDACTED] [8.0]	150.00	8.00	1,200.00
01/09/2014	BAD	Research [REDACTED] [REDACTED] [1.3]	125.00	1.30	162.50
	TPB	Receipt of Notice of Electronic Case Filing. [REDACTED] [REDACTED] [2]	150.00	0.20	30.00
	PMB	Continue [REDACTED] research, [REDACTED] [REDACTED] [REDACTED]			

Katz v. IVGID (State Court-Civil Matter)
Claim No.: [REDACTED]

Statement No: [REDACTED]

			<u>RATE</u>	<u>HOURS</u>	
		[REDACTED] [6.0]	150.00	6.00	900.00
01/13/2014	PMB	Continue research [REDACTED] [6.0]	150.00	6.00	900.00
01/14/2014	PMB	Draft [REDACTED] [7.0]	150.00	7.00	1,050.00
01/15/2014	PMB	Supplemental research [REDACTED] [.6]; incorporated research [REDACTED] [.2]	150.00	0.80	120.00
01/16/2014	TPB	Meeting with PMB [REDACTED] [.3]	150.00	0.30	45.00
01/24/2014	TPB	Series of email communications with plaintiff. [2]	150.00	0.20	30.00
01/27/2014	TPB	Receipt of Notice of Electronic Case Filing. Review IVGID's Objection to Declaration of Counsel. [2] Receipt, review and analysis of email communication from client [REDACTED] [2]	150.00	0.40	60.00
	PMB	Work on finalizing memorandum [REDACTED] [3.0]	150.00	3.00	450.00
01/28/2014	PMB	Supplemental research [REDACTED] [1.0]; [2.5]	150.00	3.50	525.00
	TPB	Telephone call with Scott Brooke and Dee Carey [REDACTED] [.3] Telephone call with Scott Brooke [REDACTED] [.2] Preparation of memo to file [REDACTED] [2]	150.00	0.70	105.00
01/29/2014	TPB	Receipt, review and analysis of email communication from Scott			

Katz v. IVGID (State Court-Civil Matter)
Claim No.: [REDACTED]

Statement No: [REDACTED]

			<u>RATE</u>	<u>HOURS</u>	
		Brooke's assistant [REDACTED] Preparation of reply email communication. [.4]	150.00	0.40	60.00
01/30/2014	PMB	Research [REDACTED] [REDACTED] [2.6]; research [REDACTED] [REDACTED] [4.0]	150.00	6.50	975.00
	TPB	Receipt of Notice of Electronic Case Filing. Review Order re: hearing on pending motions. [.2] Receipt, review and analysis of email communication from plaintiff, preparation of reply [.1]	150.00	0.30	45.00
02/02/2014	TPB	Receipt, review and analysis of email communication from plaintiff. [.2]	150.00	0.20	30.00
02/03/2014	TPB	Receipt, review and analysis of email communication from plaintiff. [.2] Series of telephone calls and emails [REDACTED] [.2] Receipt of Notice of Electronic Case Filing. Review Order to Set [.2]	150.00	0.60	90.00
02/04/2014	TPB	Series of email communications and telephone calls [REDACTED] [.2] Preparation of amended notice of setting, electronically file same [.3]	150.00	0.50	75.00
02/05/2014	TPB	Series of email communications [REDACTED] [.2]	150.00	0.20	30.00
02/06/2014	CFF	[REDACTED] [3.6]; legal research [REDACTED] [.6]; [REDACTED] [1.1]; research [REDACTED] [REDACTED] [1.5].	125.00	6.80	850.00
02/07/2014	CFF	Review and analysis [REDACTED] [REDACTED] [1.9]; additional legal research [REDACTED] [REDACTED] [.8]; [REDACTED] [2.0]; correspondence to Mr. Brooke's office [REDACTED] [REDACTED] [.2]	125.00	4.90	612.50
	TPB	Receipt, review and analysis of Plaintiff's points and authorities in response to Motion and Supplemental Affidavit. [.3]	150.00	0.30	45.00
02/10/2014	CFF	Attend setting with judicial assistant to set matters for oral argument. [.2]	125.00	0.20	25.00
	TPB	Telephone call with Keith Loomis [REDACTED] [.2] Conduct conference call with Court to set hearing date. [.2]	150.00	0.40	60.00
02/12/2014	CFF	[REDACTED] [1.2]; Exchange email			

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Katz v. IVGID (State Court-Civil Matter)
Claim No.: [REDACTED]

Statement No: [REDACTED]

			<u>RATE</u>	<u>HOURS</u>	
03/04/2014	TPB	[REDACTED] [2]	150.00	0.20	30.00
03/05/2014	TPB	Receipt, review and analysis of Request for Submission of Motion to Strike. [2]	150.00	0.20	30.00
03/12/2014	TPB	Series of email communications with plaintiff. [2]	150.00	0.20	30.00
03/20/2014	CFF	Exchange email correspondence with Ms. Herron [REDACTED] [2]	125.00	0.20	25.00
03/26/2014	TPB	Receipt, review and analysis of email communication from Aaron Katz. [1] Receipt, review and analysis of second email communication with response to motion to substitute, brief review of same. [4]	150.00	0.50	75.00
03/27/2014	TPB	Receipt, review and analysis of series of email communications from plaintiff. [2]	150.00	0.20	30.00
03/31/2014	CFF	Review and analysis of Opposition to Motion to Dismiss and Declaration in Support of Opposition [2.0]; review and analysis of exhibits included in support of Declaration [8]	125.00	2.80	350.00
	TPB	Receipt of Notice of Electronic Case Filing. Brief review of Plaintiff's Opposition to Motion to Dismiss or Substitute, Declaration of Aaron Katz. [2]	150.00	0.20	30.00
04/01/2014	CFF	Legal research [REDACTED] [1.6]; legal research [REDACTED] [7]; [REDACTED] [1.5]; telephone call to attorney Loomis [REDACTED] [1]; email to attorney Loomis [REDACTED] [1]	125.00	4.00	500.00
04/02/2014	TPB	Receipt, review and analysis of email communication from Court. Brief conference with Scott Brooke. Make arrangements to reset hearing on motions. Preparation of Notice of Setting, file and serve same. [4]	150.00	0.40	60.00
04/03/2014	CFF	[REDACTED] [2.0]; exchange email with client [REDACTED] [2]; email to Mr. Loomis [REDACTED] [1]	125.00	2.30	287.50
04/04/2014	TPB	Receipt, review and analysis of email communication from client. Preparation of reply to Scott Brooke, Esq. [2]	150.00	0.20	30.00
	TPB	Participate in conference with Court staff re: setting hearing. [2]	150.00	0.20	30.00
	CFF	Attend telephonic setting re resetting oral arguments [2]; email correspondence to Susan Herron [REDACTED] [1]	125.00	0.30	37.50
04/07/2014	TPB	[REDACTED] [3]	150.00	0.30	45.00

Katz v. IVGID (State Court-Civil Matter)
Claim No.: [REDACTED]

Statement No: [REDACTED]

			<u>RATE</u>	<u>HOURS</u>	
	CFF	Exchange email correspondence with Mr. Katz re Reply in support of Motion to Dismiss. [.1]	125.00	0.10	12.50
04/09/2014	TPB	Receipt of Notice of Electronic Case Filing. Review notice of filing of reply and request for submission. [.2]	150.00	0.20	30.00
04/10/2014	TPB	Receipt of Notice of Electronic Case Filing. Review Order on Motion to Strike. [.2] Preparation of email communication to attorney Brooke [REDACTED] [.2] Receipt, review and analysis of email communication from Keith Loomis, preparation of reply. [.1]	150.00	0.50	75.00
04/11/2014	TPB	Preparation of Notice of Entry of Order. File and Serve same. [.2]	150.00	0.20	30.00
05/19/2014	CFF	Review and analysis of Court Order re Hearing and Oral Arguments on May 30, 2014. [.1]	125.00	0.10	12.50
	TPB	Receipt, review and analysis of Order re: Hearing on Additional Motion. [.2]	150.00	0.20	30.00
05/28/2014	CFF	Exchange email correspondence to Susan Herron [REDACTED] [.2]; [REDACTED] [.5]; preparation for hearing on Motion for Summary Judgment [.6]; teleconference with judicial Ass't per request of Mr. Katz [.3]; email correspondence to Mr. Loomis [REDACTED] [.1]	125.00	1.70	212.50
	TPB	Series of telephone calls with Department 7 re: hearing on motions [.2]. [REDACTED] [.1]	150.00	0.30	45.00
05/29/2014	CFF	[REDACTED] [.5]; [REDACTED] [.1]; detailed review and analysis of Motion for Summary Judgment, Opposition, and Reply and prior related filings and public meeting records [REDACTED] [4.3]; teleconference with judicial Ass't per request of Mr. Katz [.3]; teleconference with Mr. Brooke re letter requesting clarification on Katz's candidacy [.3]	125.00	6.50	812.50
	TPB	Telephone call with Aaron Katz, conference call with Court re: resetting of hearing. Telephone call to Keith Loomis [REDACTED] [.4]	150.00	0.40	60.00
	TPB	Telephone call with Scott Brooke, Esq. [.2]	150.00	0.20	30.00
	TPB	Receipt, review and analysis of fax from plaintiff's attorney. Receipt, review and analysis of email communication from Scott Brooke, Esq. Review reply. [.2]	150.00	0.20	30.00
05/30/2014	CFF	Review and analysis [REDACTED]			

Katz v. IVGID (State Court-Civil Matter)
Claim No.: [REDACTED]

Statement No: [REDACTED]

			<u>RATE</u>	<u>HOURS</u>	
		[REDACTED] [1.0]; [REDACTED] [4]	125.00	1.40	175.00
06/04/2014	TPB	Receipt, review and analysis of email communication from client [REDACTED] [2] Receipt, review and analysis of email communication from Scott Brooke [REDACTED] [1]	150.00	0.30	45.00
06/18/2014	TPB	Receipt, review and analysis of Motion for Leave to File Third Supplemental Complaint, Certificate of Service, Memorandum of Points and Authorities and Declaration of Aaron Katz. [4]	150.00	0.40	60.00
06/20/2014	TPB	Receipt, review and analysis of email communication from Scott Brooke, preparation of reply. [2]	150.00	0.20	30.00
06/25/2014	CFF	[REDACTED] [3.2]; legal research [REDACTED] [3]	125.00	3.50	437.50
06/26/2014	CFF	[REDACTED] [8]	125.00	0.80	100.00
06/27/2014	CFF	[REDACTED] [2.6]; [REDACTED] [1.2]; email correspondence to attorney Loomis [REDACTED] [1]	125.00	3.90	487.50
07/01/2014	CFF	Exchange email correspondence with Scott Brooke's office [REDACTED] [2]	125.00	0.20	25.00
07/02/2014	TPB	[REDACTED] [7]	150.00	0.70	105.00
07/16/2014	CFF	Review and analysis of Reply in Support of Motion to Amend filed by Plaintiff. [1.0] Review and analysis of Reply in Support of Motion to Amend filed by Plaintiff [1.0]; legal research [REDACTED] [3]	125.00	2.30	287.50
07/17/2014	TPB	Receipt, review and analysis of Plaintiff's Reply in Support for Leave to Amend Complaint. [5]	150.00	0.50	75.00
07/21/2014	CFF	Review and analysis of Order Denying Plaintiff's Motion to file Third Supplemental Amendment. [2]	125.00	0.20	25.00
	TPB	Receipt, review and analysis of Order Denying Motion to file Third Amended Complaint. [2] Preparation of email communication to client [REDACTED] Review reply. [1]	150.00	0.30	45.00
	TPB	Preparation of Notice of Entry of Order. Electronically file same. [3]	150.00	0.30	45.00
07/23/2014	TPB	Receipt, review and analysis of email communication from Scott			

Katz v. IVGID (State Court-Civil Matter)
Claim No.: [REDACTED]

Statement No: [REDACTED]

			<u>RATE</u>	<u>HOURS</u>	
		Brooke, telephone conference with Scott Brooke. [.2]	150.00	0.20	30.00
07/24/2014	TPB	Receipt, review and analysis of email communication from Scott Brooke, preparation of reply. [.2]	150.00	0.20	30.00
08/06/2014	TPB	[REDACTED] [.2]	150.00	0.20	30.00
	TPB	Series of email communications [REDACTED] [.3]	150.00	0.30	45.00
08/07/2014	CFF	Preparation for hearing [REDACTED] [REDACTED] [2.1]; [REDACTED] [REDACTED] [.6]	125.00	2.70	337.50
08/08/2014	TPB	Final preparation for hearing on three pending motions. [REDACTED] [REDACTED] [1.1] Travel to Washoe County Courthouse. Meeting with client and Scott Brooke. Attend hearing. Post hearing meeting with client and Scott Brooke [REDACTED] [REDACTED] [2.4] Telephone call with Court clerk re: order on motions [.2]. Telephone call with court reporter re: transcript. [.2] Telephone call to plaintiff, left voice mail message. [.2]	150.00	4.10	615.00
	CFF	Attend and present oral arguments at hearing on pending motions [2.2]; meeting with Mr. Brooke and Mr. Loomis following hearing [.2]	125.00	2.40	300.00
		For Current Services Rendered:		226.50	30,027.50

Recapitulation

<u>Timekeeper</u>	<u>Hours</u>	<u>Rate</u>	<u>TOTAL</u>
Charity F. Felts	2.00	\$62.50	\$125.00
Charity F. Felts	125.40	125.00	15,675.00
Thomas P. Beko	2.00	75.00	150.00
Thomas P. Beko	46.40	150.00	6,960.00
Paul M. Bertone	42.00	150.00	6,300.00
William Weldon	5.40	75.00	405.00
Brett A. Dieffenbach	3.30	125.00	412.50

Expenses

07/16/2013	33 copies x \$.10 - correspondence and opposition to S. Brooks	3.30
07/16/2013	Postage - Correspondence and opposition to S. Brooks	2.52
08/08/2013	20 copies x \$.10 - Notice of Entry of Order	2.00
10/23/2013	1,354 copies x \$.10 - Exhibits for Motion for Partial Summary Judgment	135.40
10/24/2013	76 copies x \$.10 - File and serve Motion for Partial Summary Judgment	7.60
10/24/2013	Postage - Service of Motion for Partial Summary Judgment	2.52
10/24/2013	Second Judicial District Court - Motion for Summary Judgment filing fee	200.00
12/18/2013	40 copies - Service of Reply and Request for Submission	4.00
12/18/2013	Postage - Service of Reply and Request for Submission	1.12

Statement No: [REDACTED]

Katz v. IVGID (State Court-Civil Matter)
Claim No.: [REDACTED]

12/26/2013	476 copies - Printing of Katz's filings from electronic filing	47.60
02/13/2014	Washoe County Recorder - Certified copy of deed	7.00
02/20/2014	745 copies - documents for presentation	74.50
02/26/2014	324 copies - Motion to Dismiss and Exhibits	32.40
02/26/2014	Postage - Serve Motion to Dismiss with Exhibits	5.32
03/12/2014	A+ Conferencing - Conference call on 02/12/14	1.84
03/30/2014	104 copies - Opposition to Motion to Dismiss for Lack of Standing and Supporting Declaration	10.40
04/01/2014	28 copies - Printing of Plaintiff's Memorandum of P&As and Declaration from Eflex	2.80
05/16/2014	A+ Conferencing - Conference call on 04/04/14	1.21
05/28/2014	51 copies x \$.10 - Motion and Opposition for Hearing on 5/30/14	5.10
07/02/2014	40 copies x \$.10 - Opposition to Motion for Order Permitting filing of 3rd Supplemental Amendment to Amended Complaint	4.00
07/02/2014	Postage - Serve Opposition to Motion	1.61
07/08/2014	20 copies - Opposition to Motion for Partial Summary Judgment filed on EFlex	2.00
	Total Expenses	554.24

Total Current Work 30,581.74

Total Previous Billings \$23,370.41

Payments

09/03/2013 Payment on Invoice [REDACTED] -23,370.41

Balance Due \$30,581.74

Please Remit \$30,581.74

**ERICKSON, THORPE &
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Incline Village General Improvement
893 Southwood Blvd.
Incline Village, NV 89450

Statement Date: 04/29/2016
Statement No. [REDACTED]
Account No. [REDACTED]

Katz v. IVGID (State Court-Civil Matter)

For all legal services rendered and costs advanced regarding the
above-referenced matter.

FEEs

			<u>RATE</u>	<u>HOURS</u>	
08/11/2014	CFF	Review [REDACTED]	150.00	0.40	60.00
08/15/2014	CFF	Prepare [REDACTED]	150.00	1.00	150.00
	CFF	Revisions [REDACTED]	150.00	0.40	60.00
	CFF	Prepare [REDACTED]	150.00	1.20	180.00
	CFF	Brief legal research [REDACTED]	150.00	0.50	75.00
08/18/2014	CFF	Continue preparation [REDACTED]	150.00	1.50	225.00
	CFF	Legal research [REDACTED]	150.00	0.50	75.00
	CFF	Email correspondence to Mr. Loomis and Mr. Brooke [REDACTED]	150.00	0.10	15.00
08/19/2014	CFF	Receipt and review of comments from attorney Loomis [REDACTED]	150.00	0.60	90.00
08/21/2014	CFF	Revisions [REDACTED]	150.00	0.70	105.00

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Katz v. IVGID (State Court-Civil Matter)

Statement No: [REDACTED]

			<u>RATE</u>	<u>HOURS</u>	
	TPB	Finalize [REDACTED]	150.00	0.40	60.00
	CFF	Prepare cover letter correspondence [REDACTED]	150.00	0.20	30.00
	CFF	Prepare Notice of Proposed Order.	150.00	0.30	45.00
08/27/2014	TPB	Series of email communications with plaintiff.	150.00	0.20	30.00
	TPB	Receipt, review and analysis Order on pending motions.	150.00	0.20	30.00
08/28/2014	TPB	Preparation of notice of entry of order on motions and file same.	150.00	0.30	45.00
09/02/2014	CFF	Revision [REDACTED]	150.00	0.60	90.00
09/12/2014	CFF	Revisions [REDACTED]	150.00	0.50	75.00
	CFF	Detailed review [REDACTED]	150.00	0.80	120.00
	CFF	Legal research. [REDACTED]	150.00	1.00	150.00
	CFF	Exchange email correspondence with Mr. Herron [REDACTED]	150.00	0.20	30.00
	CFF	Review and analysis [REDACTED]	150.00	0.60	90.00
09/16/2014	TPB	Receipt, review and analysis of email communication from Scott Brooke and preparation of reply.	150.00	0.20	30.00
	TPB	Lengthy telephone call with plaintiff re: Order on motions, preparation of memo to file re: same.	150.00	0.70	105.00
	TPB	Preparation of email communication to Scott Brooke [REDACTED]	150.00	0.20	30.00
	TPB	Receipt, review and analysis of email communication from Keith Loomis.	150.00	0.10	15.00
09/17/2014	TPB	Lengthy telephone call with Aaron Katz re: motion for reconsideration and preparation of memo to file regarding same.	150.00	0.50	75.00
	TPB	Receipt, review and analysis of email communication from Scott Brooke, preparation of reply. Review response.	150.00	0.20	30.00
09/18/2014	TPB	Preparation of email communication to Aaron Katz re: dispute over order.	150.00	0.30	45.00
09/23/2014	TPB	Receipt, review and analysis of email communication from plaintiff. Preparation of reply.	150.00	0.20	30.00

Statement No: [REDACTED]

Katz v. IVGID (State Court-Civil Matter)

			<u>RATE</u>	<u>HOURS</u>	
10/03/2014	TPB	Receipt, review and analysis of email communication from Aaron Katz. Preparation of reply.	150.00	0.20	30.00
10/13/2014	CFF	Review and analysis of Motion to Correct Court's Written Order, Memo of Points and Authorities and lengthy Declaration filed in support of same	150.00	3.10	465.00
	TPB	Receipt, review and analysis of plaintiff's Motion to Correct Order, Notice of Motion and Declaration of plaintiff.	150.00	0.80	120.00
	CFF	Legal research [REDACTED]	150.00	0.70	105.00
10/14/2014	CFF	Preparation [REDACTED]	150.00	1.60	240.00
	CFF	Review and analysis [REDACTED]	150.00	1.10	165.00
	CFF	Legal research [REDACTED]	150.00	0.60	90.00
10/15/2014	CFF	Continue preparation [REDACTED]	150.00	1.30	195.00
	CFF	Legal research [REDACTED]	150.00	0.80	120.00
10/22/2014	CFF	Prepare [REDACTED]	150.00	2.20	330.00
	CFF	Conduct legal research [REDACTED]	150.00	0.80	120.00
10/23/2014	CFF	Email to Mr. Katz re: Motion to Correct.	150.00	0.10	15.00
	TPB	Meeting with CF [REDACTED]	150.00	0.20	30.00
10/24/2014	CFF	Review and analysis of email correspondence from Mr. Katz re: proposed stipulation and provide substantive response to same.	150.00	0.30	45.00
11/02/2014	TPB	Receipt, review and analysis of email communication to Aaron Katz and his response thereto.	150.00	0.20	30.00
11/03/2014	CFF	Exchange email correspondence with Mr. Katz re: stipulation and clarification	150.00	0.20	30.00
	CFF	Prepare [REDACTED]	150.00	0.60	90.00
11/04/2014	CFF	Continue preparation [REDACTED]	150.00	0.90	135.00
11/05/2014	CFF	Continue preparation [REDACTED]	150.00	0.80	120.00
11/10/2014	TPB	Detailed review of plaintiff's motion to correct order. Review and finalize [REDACTED]	150.00	1.90	285.00

Katz v. IVGID (State Court-Civil Matter)

Statement No: [REDACTED]

			RATE	HOURS	
	CFF	Review and analysis of [REDACTED]	150.00	1.00	150.00
	TPB	Final review and revision [REDACTED]	150.00	0.70	105.00
11/12/2014	TPB	Review and finalize [REDACTED]	150.00	0.50	75.00
11/13/2014	TPB	Telephone call with Bruce Simonian.	150.00	0.50	75.00
11/17/2014	CFF	Review and analysis [REDACTED]	150.00	0.70	105.00
11/18/2014	CFF	Legal research [REDACTED]	150.00	1.00	150.00
	CFF	Email correspondence to Mr. Katz re: request for response to written discovery to satisfy meet and confer requirements.	150.00	0.20	30.00
11/19/2014	CFF	Exchange email correspondence with plaintiff re: order lifting stay, motion to compel, and request for extension.	150.00	0.20	30.00
	TPB	Receipt, review and analysis of email communication from plaintiff regarding outstanding discovery requests.	150.00	0.20	30.00
12/01/2014	TPB	Receipt, review and analysis of Plaintiff's Reply Memorandum in support of motion to correct order. Review request for submission of same.	150.00	0.30	45.00
12/02/2014	CFF	Review and analysis of Plaintiff's Reply in Support of Motion to Correct Written Order and Declaration in support of Motion to Correct.	150.00	1.30	195.00
12/05/2014	CFF	Review and analysis of court's order denying plaintiff's Motion to Correct.	150.00	0.20	30.00
	TPB	Receipt and review of Order of 12/05/14 denying Plaintiff's motion to correct Order of August 8, 2014. Prepare and File Notice of Entry of Order.	150.00	0.30	45.00
	TPB	Telephone conference with Scott Brook [REDACTED]	150.00	0.30	45.00
12/08/2014	TPB	Receipt, review and analysis of Order on Motion to Vacate Order.	150.00	0.20	30.00
12/09/2014	CFF	Review email correspondence from Plaintiff re: discovery requests.	150.00	0.10	15.00
	TPB	Preparation of status report to Attorney Brooke.	150.00	0.20	30.00
	TPB	Receipt, review and analysis of reply.	150.00	0.10	15.00
	TPB	Receipt, review and analysis of email communication from Aaron Katz.	150.00	0.20	30.00

Katz v. IVGID (State Court-Civil Matter)

Statement No: [REDACTED]

			<u>RATE</u>	<u>HOURS</u>	
	TPB	Research file [REDACTED]	150.00	0.30	45.00
	TPB	Review response.	150.00	0.20	30.00
12/12/2014	TPB	Receipt, review and analysis of email communication from plaintiff. Preparation of reply.	150.00	0.20	30.00
12/17/2014	TPB	Receipt, review and analysis of Plaintiff's response to defendant's interrogatories.	150.00	0.20	30.00
	CFF	Review Plaintiff's responses to interrogatories.	150.00	0.40	60.00
	TPB	Preparation of memo to file [REDACTED]	150.00	0.20	30.00
	TPB	Telephone call with Keith Loomis [REDACTED]	150.00	0.20	30.00
	TPB	Meeting with staff [REDACTED]	150.00	0.30	45.00
12/22/2014	TPB	Receipt, review and analysis of plaintiff's response to email communication. Preparation of memo to file re: motion for summary judgment on final claim.	150.00	0.20	30.00
12/29/2014	TPB	Receipt, review and analysis of series of email communications [REDACTED]	150.00	0.30	45.00
12/30/2014	CFF	Detailed review [REDACTED]	150.00	1.30	195.00
	TPB	Receipt, review and analysis of email communication from client. Preparation of reply.	150.00	0.20	30.00
	CFF	Review prior orders [REDACTED]	150.00	1.30	195.00
	CFF	Legal research [REDACTED]	150.00	1.20	180.00
	CFF	Prepare [REDACTED]	150.00	3.20	480.00
	CFF	Prepare [REDACTED]	150.00	0.30	45.00
	CFF	Exchange email correspondence with Ms. Herron [REDACTED]	150.00	0.20	30.00
	CFF	Revisions [REDACTED]	150.00	0.50	75.00
	TPB	Review and finalize [REDACTED]	150.00	0.30	45.00
	TPB	Receipt, review and analysis of email communication from client			

Katz v. IVGID (State Court-Civil Matter)

Statement No: [REDACTED]

			RATE	HOURS	
		[REDACTED]	150.00	0.30	45.00
12/31/2014	CFF	Gather [REDACTED]	150.00	1.20	180.00
	CFF	Prepare [REDACTED]	150.00	0.80	120.00
	CFF	Finalize [REDACTED]	150.00	0.40	60.00
	TPB	Series of email communications with General Manager [REDACTED]	150.00	0.40	60.00
01/02/2015	CFF	Exchange email correspondence with Ms. Herron [REDACTED]	150.00	0.20	30.00
	TPB	Receipt, review and analysis of email communication from client. [REDACTED]	150.00	0.20	30.00
01/05/2015	CFF	Receipt and review of email correspondence from Ms. Herron [REDACTED]	150.00	0.20	30.00
01/13/2015	TPB	Receipt, review and analysis of email communication from Donna Squires [REDACTED]	150.00	0.20	30.00
01/20/2015	TPB	Receipt, review and analysis of email communication from plaintiff re: extension of time. Preparation of reply.	150.00	0.20	30.00
01/23/2015	TPB	Series of email communications with plaintiff.	150.00	0.20	30.00
	TPB	Preparation of email communication to attorney Reese.	150.00	0.10	15.00
01/28/2015	TPB	Receipt, review and analysis of email communication from attorney Reese. Preparation of reply.	150.00	0.20	30.00
01/30/2015	TPB	Receipt, review and analysis of email communication from attorney Reese.	150.00	0.10	15.00
02/04/2015	TPB	Receipt, review and analysis of email communication from attorney Reese. Telephone call to attorney Reese.	150.00	0.20	30.00
02/05/2015	TPB	Receipt, review and analysis of email communication from Devon Reese. Telephone call with Devon Reese.	150.00	0.20	30.00
	TPB	Preparation of email communication to Devon Reese, Esq., [REDACTED]	150.00	0.30	45.00
02/10/2015	TPB	Brief review and analysis of plaintiff's opposition to motion for summary judgment with declaration of counsel.	150.00	0.20	30.00
02/17/2015	CFF	Exchange email correspondence with Mr. Katz re: extension of			

Katz v. IVGID (State Court-Civil Matter)

Statement No: [REDACTED]

			<u>RATE</u>	<u>HOURS</u>	
		time to file Reply.	150.00	0.20	30.00
03/02/2015	TPB	Preparation of correspondence to IVGID general counsel [REDACTED]	150.00	0.30	45.00
03/03/2015	CFF	Review and analysis of plaintiff's Opposition to Motion for Summary Judgment re: 12th cause of action.	150.00	1.50	225.00
03/05/2015	CFF	Exchange email with plaintiff re: motion for summary judgment and reply.	150.00	0.10	15.00
03/06/2015	CFF	Review and analysis of legal authority cited by plaintiff in Opposition to Motion for Summary Judgment.	150.00	1.40	210.00
	CFF	Review and analysis of Plaintiff's lengthy Declaration in Support of Opposition to Motion for Summary Judgment.	150.00	2.70	405.00
	CFF	Legal research [REDACTED]	150.00	1.50	225.00
	CFF	Exchange email correspondence with Mr. Katz re: extension to file Reply.	150.00	0.20	30.00
03/09/2015	JH	Analysis of Plaintiff's Declaration and preparation [REDACTED]	75.00	5.10	382.50
	CFF	Email correspondence to Susan Herron [REDACTED]	150.00	0.20	30.00
	TPB	Brief review of plaintiff's opposition to motion for summary judgment (on public records claim). [REDACTED]	150.00	0.30	45.00
	CFF	Prepare outline [REDACTED]	150.00	1.50	225.00
	CFF	Legal research [REDACTED]	150.00	1.20	180.00
	CFF	Legal research [REDACTED]	150.00	1.80	270.00
	CFF	Prepare [REDACTED]	150.00	1.50	225.00
	CFF	Research [REDACTED]	150.00	1.60	240.00
03/11/2015	CFF	Additional research [REDACTED]	150.00	0.80	120.00
	TPB	Brief review [REDACTED]	150.00	0.20	30.00
	CFF	Continue draft [REDACTED]	150.00	1.00	150.00
03/16/2015	CFF	Review order issued in Clark County matter involving plaintiff			

Katz v. IVGID (State Court-Civil Matter)

Statement No: [REDACTED]

			<u>RATE</u>	<u>HOURS</u>	
		claims brought on behalf of property in the name of Katz Trust.	150.00	1.00	150.00
03/18/2015	CFF	Legislative research [REDACTED] [REDACTED]	150.00	1.00	150.00
04/06/2015	TPB	Receipt, review and analysis of Order on Motion for Summary Judgment.	150.00	0.20	30.00
04/14/2015	CFF	Extensive legal research [REDACTED] [REDACTED]	150.00	4.10	615.00
	CFF	Exchange email correspondence with Ms. Herron [REDACTED] [REDACTED]	150.00	0.10	15.00
04/15/2015	CFF	Continue extensive legal research [REDACTED] [REDACTED]	150.00	3.10	465.00
04/27/2015	CFF	Continue extensive legal research [REDACTED] [REDACTED]	150.00	3.50	525.00
04/30/2015	TPB	Receipt, review and analysis of email from plaintiff. Preparation of reply.	150.00	0.20	30.00
05/04/2015	TPB	Receipt, review and analysis of email communication from plaintiff's attorney. Preparation of reply.	150.00	0.20	30.00
05/06/2015	TPB	Receipt, review and analysis of email communication from plaintiff. Preparation of reply. Review response.	150.00	0.20	30.00
05/11/2015	CFF	Finalize legal research [REDACTED] [REDACTED]	150.00	1.30	195.00
	CFF	Legal research [REDACTED] [REDACTED]	150.00	2.80	420.00
	TPB	Prepare research memo [REDACTED] [REDACTED]	150.00	2.10	315.00
05/15/2015	CFF	Detailed legal research [REDACTED] [REDACTED]	150.00	5.10	765.00
	CFF	Continue preparation of memo [REDACTED] [REDACTED]	150.00	1.60	240.00
06/08/2015	TPB	Brief review of plaintiff's supplemental response to defendant's First Set of Interrogatories.	150.00	0.20	30.00

Katz v. IVGID (State Court-Civil Matter)

Statement No: [REDACTED]

			RATE	HOURS	
06/15/2015	CFF	Begin compilation [REDACTED]	150.00	0.80	120.00
06/18/2015	CFF	Continue [REDACTED]	125.00	1.10	137.50
06/19/2015	CFF	Continue [REDACTED]	125.00	2.20	275.00
06/22/2015	CFF	Complete [REDACTED]	125.00	3.20	400.00
06/24/2015	TPB	Receipt, review and analysis email communication from Devon Reese, Esq.	150.00	0.10	15.00
	TPB	Telephone call to Devon Reese.	150.00	0.10	15.00
	TPB	Preparation of email communication to Attorney Reese [REDACTED]	150.00	0.20	30.00
	TPB	Meeting with attorney Felts [REDACTED]	150.00	0.20	30.00
06/26/2015	CFF	Review [REDACTED]	150.00	1.00	150.00
	CFF	Email correspondence to Susan Herron [REDACTED]	150.00	0.20	30.00
07/06/2015	CFF	Exchange email with Ms. Herron [REDACTED]	165.00	0.10	16.50
07/16/2015	CFF	Exchange email correspondence with Ms. Herron [REDACTED]	165.00	0.20	33.00
08/05/2015	CFF	Review and analysis [REDACTED]	165.00	6.10	1,006.50
08/13/2015	TPB	Receipt, review and analysis of email communication from plaintiff re: trial setting. Preparation of reply	165.00	0.20	33.00
08/18/2015	TPB	Receipt, review and analysis of email communication from plaintiff's attorney. Preparation of reply.	165.00	0.20	33.00
	TPB	Arrange for time for setting conference with Court's assistant.	165.00	0.10	16.50
08/20/2015	TPB	Travel to Washoe County Courthouse. Attend trial setting. Return			

Katz v. IVGID (State Court-Civil Matter)

Statement No: [REDACTED]

			RATE	HOURS	
	to office.		165.00	0.70	115.50
	TPB Preparation of email communication to plaintiff.		165.00	0.20	33.00
	TPB Preparation of notice of trial to client.		165.00	0.20	33.00
09/17/2015	TPB Receipt, review and analysis of email communication from plaintiff. Preparation of reply.		165.00	0.20	33.00
09/21/2015	BLR Detailed conferences with TPB [REDACTED] [n/c].		165.00		0.00
	BLR Receipt, review and preliminary analysis of file [REDACTED]		165.00	2.20	363.00
10/26/2015	BLR Review [REDACTED]		165.00	3.40	561.00
	BLR Review [REDACTED] [n/c].		165.00		0.00
11/05/2015	BLR Continue detailed file review, [REDACTED]		165.00	2.60	429.00
11/19/2015	BLR [REDACTED]		165.00	3.00	495.00
11/23/2015	BLR Continue detailed work in preparation of [REDACTED]		165.00	5.40	891.00
11/24/2015	BLR Continue detailed review of all public records requests/discovery materials compiled in file to date, [REDACTED]		165.00	2.80	462.00
01/04/2016	TPB Receipt, review and analysis of email communication from attorney Reese. Preparation of reply.		165.00	0.10	16.50
01/11/2016	BLR Gather and review records responses to date, [REDACTED]		165.00	3.60	594.00
	BLR Conferences with TPB [REDACTED]				

Katz v. IVGID (State Court-Civil Matter)

Statement No: [REDACTED]

			RATE	HOURS	
		[n/c].	165.00		0.00
	TPB	Receipt, review and analysis of email communication from client's staff. Preparation of reply.	165.00	0.10	16.50
01/12/2016	BLR	Continue detailed work [REDACTED]	165.00	2.20	363.00
01/13/2016	BLR	Telephone and email conferences with IVGID records officer Susan Herron [REDACTED]	165.00	0.20	33.00
	BLR	Continue [REDACTED] it	165.00	0.80	132.00
01/18/2016	BLR	Continue [REDACTED]	165.00	2.80	462.00
01/20/2016	BLR	Continue [REDACTED]	165.00	3.60	594.00
	JH	Assist in preparing [REDACTED]	80.00	2.10	168.00
01/21/2016	BLR	Continue [REDACTED]	165.00	6.80	1,122.00
	JH	Continued assistance [REDACTED]	80.00	1.60	128.00
01/22/2016	BLR	Work in preparation [REDACTED]	165.00	2.60	429.00
	BLR	Research [REDACTED]	165.00	3.80	627.00
	BLR	Detailed conferences with TPB [REDACTED]	165.00		0.00
	JH	Assist [REDACTED]	80.00	0.80	64.00
01/23/2016	BLR	Review and analysis [REDACTED]	165.00	2.20	363.00

Katz v. IVGID (State Court-Civil Matter)

Statement No: [REDACTED]

			<u>RATE</u>	<u>HOURS</u>	
01/25/2016	BLR	Review and analysis [REDACTED]			
		[REDACTED]	165.00	3.80	627.00
	BLR	Additional work [REDACTED]	165.00	1.60	264.00
	BLR	Research [REDACTED]			
		[REDACTED]	165.00	2.00	330.00
01/26/2016	BLR	Complete preparation [REDACTED]			
		[REDACTED]	165.00	2.40	396.00
	BLR	Detailed email conferences with client [REDACTED]	165.00	0.40	66.00
	BLR	Preparation [REDACTED]	165.00	4.60	759.00
01/27/2016	BLR	Email and telephone conferences with Susan Herron [REDACTED]	165.00	0.80	132.00
	BLR	review and analysis [REDACTED]	165.00	1.00	165.00
	BLR	Detailed research [REDACTED]	165.00	4.00	660.00
01/28/2016	BLR	Additional research [REDACTED]	165.00	1.20	198.00
	BLR	Obtain withheld documents from Susan Herron [REDACTED]	165.00	0.40	66.00
	BLR	Email conferences with Herron [REDACTED]	165.00	0.40	66.00
	BLR	Compilation [REDACTED]	165.00	0.80	132.00
01/29/2016	BLR	Email conferences with client [REDACTED]			

Katz v. IVGID (State Court-Civil Matter)

Statement No: [REDACTED]

			<u>RATE</u>	<u>HOURS</u>	
		[REDACTED]	165.00	0.80	132.00
	BLR	Revision and finalization [REDACTED] [REDACTED]	165.00	2.80	462.00
	BLR	Preparation of email [REDACTED] to clients [REDACTED] [REDACTED]	165.00	0.20	33.00
02/10/2016	BLR	Receipt, review and analysis of lengthy email from Plaintiff re: status of MSJ briefing, request for additional time, etc.	165.00	0.20	33.00
	BLR	Telephone and email conferences with Plaintiff re: briefing status, preparation of fax correspondence to Plaintiff providing additional courtesy copy of briefing, additional email and telephone conferences with Plaintiff, notes to file re: same.	165.00	0.80	132.00
	BLR	Email conferences with TPB [REDACTED] [REDACTED] [n/c].	165.00		0.00
02/11/2016	BLR	Telephone and email conferences with Plaintiff re: status of briefing, suggestion of conference with court due to dispositive motion deadline, notes to file re: same.	165.00	0.40	66.00
02/12/2016	BLR	Communications with Plaintiff re: status of briefing, submission deadline and contact with Court.	165.00	0.40	66.00
02/16/2016	BLR	Various telephone conferences with Plaintiff re: request for extension of time to serve opposition brief, requirement for court submission within upcoming deadline, also conference call with Court staff re: same, setting of hearing before Court for status conference, notes to file re: same.	165.00	0.60	99.00
	BLR	Detailed conferences with TPB [REDACTED] [REDACTED] [n/c].	165.00		0.00
02/17/2016	BLR	Preparation for and representation of client during hearing before Judge Flanagan, including detailed conferences before and after hearing with Plaintiff re: motion status, potential for resolution, arguments re: production of records, etc.	165.00	1.80	297.00
	BLR	Organization of notes and documents upon return to office, [REDACTED]	165.00	0.40	66.00
	BLR	Detailed conferences with TPB [REDACTED] [REDACTED] [n/c].	165.00		0.00
02/18/2016	BLR	Receipt, review and analysis of Court's minutes following recent hearing, calendar important deadlines re: same.	165.00	0.20	33.00
02/28/2016	BLR	Receipt, review and preliminary analysis of lengthy opposition			

Katz v. IVGID (State Court-Civil Matter)

Statement No: [REDACTED]

			<u>RATE</u>	<u>HOURS</u>	
		briefing and supporting declaration filed by Plaintiff, [REDACTED]			
		[REDACTED]	165.00	3.40	561.00
	BLR	Various email conferences with client [REDACTED]			
		[REDACTED]	165.00	0.20	33.00
02/29/2016	BLR	Work in preparation [REDACTED]	165.00	2.80	462.00
03/01/2016	BLR	Detailed research [REDACTED]			
		[REDACTED]	165.00	5.80	957.00
	BLR	Detailed conferences with TPB [REDACTED]			
		[REDACTED] [n/c].	165.00		0.00
03/02/2016	BLR	Continue detailed work in preparation [REDACTED]			
		[REDACTED]	165.00	6.20	1,023.00
03/03/2016	BLR	Continue work [REDACTED]	165.00	1.20	198.00
03/04/2016	BLR	Complete [REDACTED]	165.00	3.80	627.00
	BLR	Telephone conferences with IVGID staff [REDACTED]			
		[REDACTED]	165.00	0.40	66.00
	BLR	Preparation [REDACTED]	165.00	0.20	33.00
	BLR	Email conferences with Plaintiff re: briefing, potential for resolution.	165.00	0.20	33.00
03/07/2016	BLR	Telephone conferences (x2) with Plaintiff re: upcoming issues, potential for resolution, notes to file re: same.	165.00	0.40	66.00
	BLR	Detailed conferences with TPB re: same, defense litigation strategy [n/c].	165.00		0.00
03/08/2016	BLR	Email conferences with IVGID counsel Devon Reese and Jason Guinasso [REDACTED]			
		[REDACTED]	165.00	0.40	66.00
	BLR	Preparation for pre-trial hearing, [REDACTED]			
		[REDACTED]	165.00	1.80	297.00
	BLR	Detailed telephone conference with Susan Herron [REDACTED]			
		[REDACTED]	165.00	0.40	66.00
	BLR	Telephone conference with Plaintiff Katz re: potential for resolution,			

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Statement No: 955280

			RATE	HOURS	
		status of motion and need for cooperation at trial if necessary [n/c].	165.00		0.00
03/09/2016	BLR	Preparation for pretrial hearing, [REDACTED]			
		[REDACTED]	165.00	2.00	330.00
	BLR	Attendance at pretrial hearing, meet with Court's judicial assistant and Plaintiff re: continuance of hearing due to personal issue for Court, detailed conferences with Plaintiff following same re: potential for resolution, status of motion for summary judgment and document requests.	165.00	1.20	198.00
	BLR	Preparation of email status report to all defense counsel and clients following conferences with Plaintiff.	165.00	0.20	33.00
03/10/2016	BLR	Representation of client at continued pretrial hearing before Department 7, including complete oral arguments regarding motion for summary judgment, oral motion to dismiss for failure to serve pretrial disclosures, and detailed discussion of trial matters and handling, etc., also conference with Plaintiff following same and [REDACTED]	165.00	2.20	363.00
	BLR	Receipt, review and analysis of various legal memoranda obtained by staff in order to prepare same for in camera submission as ordered by Court.	165.00	0.60	99.00
	BLR	Preparation of report to all clients and defense counsel [REDACTED]	165.00	0.40	66.00
	BLR	Compilation [REDACTED]	165.00	1.60	264.00
	BLR	Telephone conference with Plaintiff re: pretrial disclosures, also initial disclosures, etc., review file, obtain discovery requested by Plaintiff and preparation of email to Plaintiff outlining same.	165.00	0.40	66.00
	BLR	Begin preparation of [REDACTED]	165.00	2.80	462.00
	BAD	Telephone call to IVGID former counsel firm [REDACTED]	165.00	0.10	16.50
	BAD	Preparation of email correspondence to IVGID former counsel firm [REDACTED]	165.00	0.20	33.00
	BAD	Telephone call to IVGID counsel Reese Kintz and Guinasso [REDACTED]	165.00	0.20	33.00

Katz v. IVGID (State Court-Civil Matter)

Statement No: [REDACTED]

			RATE	HOURS	
03/11/2016	BLR	Receipt, review and analysis of court's written order re: summary judgment, notes to file re: same.	165.00	0.40	66.00
	BLR	Reparation of notice of entry of order.	165.00	0.20	33.00
	BLR	Preparation of notice of in camera submission, preparation of withheld documents for in camera submission to court.	165.00	1.20	198.00
	BLR	Preparation of email status report [REDACTED]	165.00	0.40	66.00
	BLR	Receipt, review and analysis of Court's minutes from pretrial conference, calendar important deadlines re: same.	165.00	0.20	33.00
	BLR	Preparation [REDACTED]	165.00	3.40	561.00
	BLR	Receipt, review and analysis of exhibit list form provided by Court Clerk, email conferences with clerk and Plaintiff re: procedure for marking exhibits, etc., calendar important deadlines re: same.	165.00	0.20	33.00
	BLR	Begin detailed trial preparation, [REDACTED]	165.00	2.00	330.00
	TPB	Receipt, review and analysis of Order from Court on motion for summary judgment.	165.00	0.20	33.00
	TPB	Review minute order from court.	165.00	0.10	16.50
	TPB	Review Notice of In Camera Submission.	165.00	0.10	16.50
03/12/2016	BLR	Preparation of [REDACTED]	165.00	3.40	561.00
03/13/2016	BLR	Detailed work [REDACTED]	165.00	3.80	627.00
03/14/2016	BLR	Detailed conferences with TPB [REDACTED] [n/c].	165.00		0.00
	BLR	Preparation for upcoming trial, [REDACTED]	165.00	2.40	396.00
	BLR	Revision [REDACTED]			

Katz v. IVGID (State Court-Civil Matter)

Statement No: [REDACTED]

		<u>RATE</u>	<u>HOURS</u>	
	[REDACTED]	165.00	0.80	132.00
	BLR Receipt, review and analysis of Plaintiff's preliminary exhibit list, [REDACTED]	165.00	0.80	132.00
	BLR Review and analysis of [REDACTED]	165.00	1.80	297.00
03/15/2016	BLR Continue detailed trial preparation, [REDACTED]	165.00	1.20	198.00
	BLR Telephone conferences with Susan Herron [REDACTED]	165.00	0.40	66.00
	BLR Preparation [REDACTED]	165.00	1.60	264.00
	BLR Email conferences with Plaintiff re: status of exhibit list, exhibit marking, etc.	165.00	0.20	33.00
	BLR Review and compilation [REDACTED]	165.00	2.20	363.00
03/16/2016	BLR Final preparation for [REDACTED]	165.00	0.80	132.00
	BLR Representation of client [REDACTED]	165.00	1.80	297.00
	BLR Review and organization of notes and documents [REDACTED]	165.00	0.80	132.00
	BLR Email conferences with Plaintiff re: exhibit list, complete preparation of exhibit list and service of same upon Plaintiff and chambers via email.	165.00	0.60	99.00
	BLR Selection of exhibits and preparation of exhibit binder of defense exhibits, awaiting addition of Plaintiff exhibits at marking.	165.00	0.60	99.00
	BLR Detailed conferences with TPB [REDACTED] [n/c].	165.00		0.00
	BLR Detailed work in preparation for trial, [REDACTED]	165.00	1.80	297.00
	BLR Travel from Reno office to IVGID offices for meeting with client [REDACTED]			

Katz v. IVGID (State Court-Civil Matter)

Statement No: [REDACTED]

		RATE	HOURS	
	[REDACTED]	82.50	0.80	66.00
	BLR Return travel from Incline Village to Reno office following same.	82.50	0.80	66.00
03/17/2016	BLR Final preparation of exhibits for marking.	165.00	0.60	99.00
	BLR Representation of client at exhibit marking, including communications with court clerk re: trial format and procedure, also conferences with Plaintiff re: trial and potential for resolution.	165.00	1.40	231.00
	BLR Receipt, review and detailed analysis of Plaintiff's trial statement and opposition to motions in limine, [REDACTED]	165.00	1.60	264.00
	BLR Receipt, review and analysis of Court's final privilege log following in camera review, [REDACTED] of court in issuing same.	165.00	0.60	99.00
	BLR Preparation of email status report to clients [REDACTED]	165.00	0.60	99.00
	BLR Preparation [REDACTED]	165.00	2.20	363.00
	BLR Continue detailed preparation for upcoming trial.	165.00	1.20	198.00
	TPB Receipt, review and analysis of plaintiff's trial statement, [REDACTED]	150.00	0.20	30.00
03/18/2016	BLR Continue preparation for trial, [REDACTED]	165.00	3.40	561.00
03/19/2016	BLR Detailed preparation for trial, [REDACTED]	165.00	2.20	363.00
	BLR Work in preparation [REDACTED]	165.00	1.40	231.00
	BLR Preparation [REDACTED]	165.00	1.20	198.00
	BLR Continued review and analysis, annotation of all exhibits for use at trial.	165.00	0.80	132.00
	BLR Receipt, review and analysis of email from Plaintiff re: contents of in camera submission, request for clarification, etc.	165.00	0.20	33.00
03/20/2016	BLR Trial preparation, [REDACTED]	165.00	8.40	1,386.00

Katz v. IVGID (State Court-Civil Matter)

Statement No: [REDACTED]

			<u>RATE</u>	<u>HOURS</u>	
	BLR	Also email conference with Plaintiff re: inquiry regarding identification of records submitted to Court for in camera review.	165.00	0.20	33.00
	TPB	Assist BR in final preparation for trial [REDACTED]	165.00	1.00	165.00
03/21/2016	BLR	Final trial preparation, meeting with client, representation of client at trial.	165.00	9.20	1,518.00
	TPB	Final preparation for bench trial [REDACTED]	165.00	0.30	49.50
	TPB	Attend portions of first day trial [REDACTED]	165.00	3.80	627.00
	TPB	Meeting with BR [REDACTED]	165.00	0.50	82.50
03/22/2016	BLR	Compilation of all notes from first day of trial, motion argument and witness testimony, detailed preparation for closing argument, [REDACTED]	165.00	3.40	561.00
	BLR	Meet with client, representation during closing argument, court's ruling, [REDACTED]	165.00	3.80	627.00
	BLR	Organization and review of all materials from trial, preparation of judgment/verdict form.	165.00	0.80	132.00
	TPB	Meeting with BLR [REDACTED]			
		Attend closing arguments and pronouncement of decision. [REDACTED]			
		Return to office.	165.00	2.40	396.00
03/23/2016	BLR	Preparation of email status report to clients [REDACTED]	165.00	0.60	99.00
	BLR	Receipt, review and analysis of Court's trial minutes, ensure accuracy, maintenance of exhibits.	165.00	0.40	66.00
	TPB	Series of email communications with client re: strategy meeting.	165.00	0.30	49.50
03/24/2016	BLR	Receipt, review and analysis of email correspondence from Plaintiff to board, [REDACTED]	165.00	0.40	66.00
	BLR	Detailed conferences with TPB [REDACTED] [n/c].	165.00		0.00

Katz v. IVGID (State Court-Civil Matter)

Statement No: [REDACTED]

			RATE	HOURS	
	BLR	Compilation of trial materials [REDACTED]			
		[REDACTED]	165.00	1.40	231.00
03/25/2016	BLR	Receipt, review and analysis of partial transcript from court's trial ruling, preparation of [REDACTED]			
		[REDACTED]	165.00	1.40	231.00
	BLR	Various email conferences with clients re: case status, etc.	165.00	0.40	66.00
	TPB	Series of email communications with clients [REDACTED]			
		[REDACTED]	165.00	0.30	49.50
03/30/2016	BLR	Research [REDACTED]			
		[REDACTED]	165.00	3.60	594.00
04/01/2016	BLR	Revision and finalization [REDACTED]			
		[REDACTED]	165.00	0.60	99.00
	BLR	Email and telephone conferences with chambers re: submission of proposed order.	165.00	0.20	33.00
	BLR	Email conferences with Plaintiff re: his stated concerns with order.	165.00	0.20	33.00
	BLR	Preparation [REDACTED]	165.00	0.60	99.00
	BLR	Representation of client during meeting [REDACTED]			
		[REDACTED]	165.00	1.20	198.00
	BLR	Detailed conferences with TPB following same [n/c].	165.00		0.00
	BLR	Travel from Reno office to IVGID offices.	82.50	0.80	66.00
	BLR	Return travel from IVGID following meeting with clients.	82.50	0.80	66.00
	TPB	Preparation for meeting with clients. Travel to IVGID. Meeting with clients. Return to office.	165.00	2.90	478.50
04/02/2016	BLR	Detailed addition research [REDACTED]	165.00	2.40	396.00
04/03/2016	BLR	Work in preparation [REDACTED]			
		[REDACTED]	165.00	1.80	297.00
04/04/2016	BLR	Detailed work in preparation [REDACTED]	165.00	2.20	363.00
	BLR	Preparation of draft verified memorandum of costs [REDACTED]			
		[REDACTED]	165.00	1.80	297.00

Katz v. IVGID (State Court-Civil Matter)

Statement No: [REDACTED]

			RATE	HOURS	
	BLR	Preparation of email status report to clients [REDACTED] [REDACTED]	165.00	0.20	33.00
04/06/2016	BLR	Email conferences with Susan Herron [REDACTED] [REDACTED]	165.00	0.80	132.00
04/08/2016	BLR	Detailed additional research [REDACTED] [REDACTED]	165.00	3.60	594.00
	BLR	Detailed conferences with TPB [REDACTED] [REDACTED] [n/c].	165.00		0.00
04/11/2016	BLR	Preparation of draft [REDACTED] [REDACTED]	165.00	4.60	759.00
04/12/2016	PMB	Assist Atty Ryman with editing, [REDACTED] [REDACTED]	165.00	1.00	165.00
	BLR	Continue detailed work in preparation [REDACTED] [REDACTED]	165.00	3.80	627.00
	BLR	Receipt, review and analysis of further materials [REDACTED] from Susan Herron, [REDACTED] [REDACTED]	165.00	0.80	132.00
	BLR	Telephone conference with Pool/Pact representative [REDACTED] [REDACTED]	165.00	0.40	66.00
04/13/2016	BLR	Continued work in preparation [REDACTED] [REDACTED]	165.00	3.40	561.00
04/14/2016	BLR	Preparation of email request for [REDACTED] documentation from client.	165.00	0.20	33.00
04/15/2016	BLR	Receipt, review and preliminary analysis of [REDACTED] [REDACTED] received from Susan Herron.	165.00	0.80	132.00
04/19/2016	BLR	Receipt, review and analysis [REDACTED] [REDACTED] [REDACTED]	165.00	1.40	231.00
04/21/2016	BLR	Preparation of revised verified memorandum of costs [REDACTED] [REDACTED]	165.00	0.80	132.00
04/22/2016	BLR	Receipt, review and analysis of Court's written order, preparation, finalization and service of notice of entry of judgment, calendar			

Katz v. IVGID (State Court-Civil Matter)

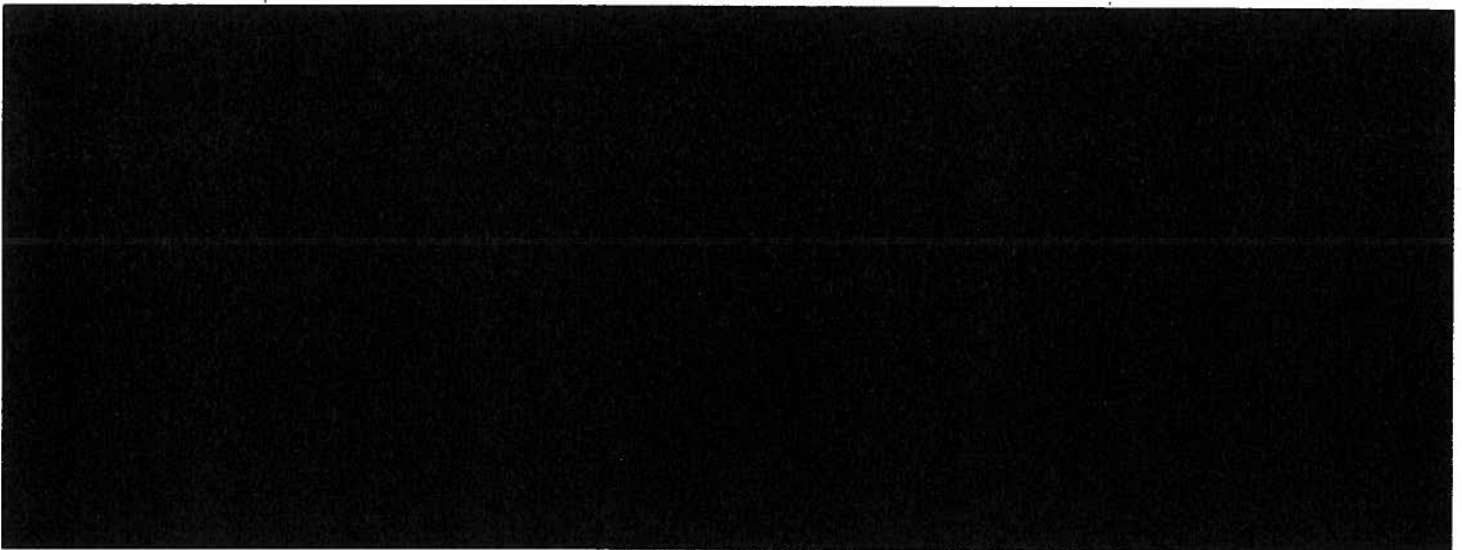
Statement No: [REDACTED]

			<u>RATE</u>	<u>HOURS</u>	
	Important deadlines related to same.		165.00	0.60	99.00
04/25/2016	BLR Preparation of email status report to all clients and defense counsel.		165.00	0.20	33.00
	For Current Services Rendered:			382.00	60,085.00

Recapitulation

<u>Timekeeper</u>	<u>Hours</u>	<u>Rate</u>	<u>TOTAL</u>
Charity F. Felts	6.50	\$125.00	\$812.50
Charity F. Felts	84.90	150.00	12,735.00
Charity F. Felts	6.40	165.00	1,056.00
Thomas P. Beko	20.40	150.00	3,060.00
Thomas P. Beko	13.90	165.00	2,293.50
Brent L. Ryman	3.20	82.50	264.00
Brent L. Ryman	235.60	165.00	38,874.00
Paul M. Bertone	1.00	165.00	165.00
Jennifer Humes	5.10	75.00	382.50
Jennifer Humes	4.50	80.00	360.00
Brett A. Dieffenbach	0.50	165.00	82.50

Expenses



Total Current Work	60,405.20
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Total Previous Billings	\$30,581.74
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Payments

09/22/2014	Payment on Invoice #: [REDACTED]	-30,581.74
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Balance Due	<u>\$60,405.20</u>
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Incline Village General Improvement

Page: 23
April 29, 2016

Katz v. IVGID (State Court-Civil Matter)

Statement No:



Please Remit

\$60,405.20

Final Statement Run Totals 04/29/2016

Statements Printed:	1
Hours:	382.00
Fees:	60,085.00
Expenses:	320.20

EXHIBIT B

EXHIBIT B

DS

LAW OFFICES OF KEITH LOOMIS

9468 Double R Blvd. Ste. A
Reno, NV 89521

Ph: (775) 853-7222

Fax: (775) 853 0860

Alternative Service Concepts
1755 E Plumb Lane Ste. 140
Reno, NV 89502

November 22, 2011

3539

RE: Kaatz v. Incline General Improvement District
Claim No. P

Bill for services provided through November 4, 2011

DATE	DESCRIPTION	FEE RATE	HOURS	AMOUNT	PERSON
Aug-30-11	Review e-mails (2) Tom Beko(.1) e-mails to Tom Beko (2)(.1) Review and analyze complaint (1.5) Review memo in [REDACTED] [REDACTED] (.6) Meet with Tom Beko (.7) Conference call with Tom Beko and Scott (1.0) on case(.5)	\$140.00	4.50 /	630.00	KLL
Aug-31-11	Further review and research [REDACTED] [REDACTED] (2.6); attend litigation meeting with Board of GID (1.3)	\$140.00	3.90 /	546.00	KLL
	Travel to and from Incline	\$70.00	1.00 /	70.00	KLL
Sep-07-11	Further research on issue of Local government budget act	\$140.00	1.00 /	140.00	KLL
Sep-15-11	Prepare for interview [REDACTED] [REDACTED] (1.5); [REDACTED] (1.9)	\$140.00	3.40 /	476.00	KL
	Travel to and from Incline GID	\$70.00	1.50 /	105.00	KL
Sep-22-11	Review of letter from Scott Brooke; T/C to Tom Beko's Office (.1)	\$140.00	0.10 /	14.00	KL
Sep-26-11	Review of e-mail and attachments from Scott Brooke	\$140.00	0.30 /	42.00	KLL

RECEIVED

Sep-30-11	Research [REDACTED]	\$140.00	2.80 /	392.00	KLL
Oct-07-11	Draft and Final of Answer	\$140.00	6.50 /	910.00	KLL
Oct-10-11	review and respond to e-mails from Erickson Thorpe offices	\$140.00	0.20 /	28.00	KLL
Oct-13-11	Review of Documents [REDACTED]	\$140.00	2.30 /	322.00	KL
Totals			27.50	\$3,675.00	

Total of fees previously billed.	\$0.00
Total of disbursements previously billed.	\$0.00
Total of payments received to date.	\$0.00

Total fees and disbursements this period	\$3,675.00
Balance owing from previous bills	\$0.00
Balance Due Now	\$3,675.00

PLEASE MAKE CHECK PAYABLE TO KEITH LOOMIS

2.5 travel time \$187.50
 25 hrs. reg time \$3,750.00

\$3,937.50
 12/13/11
 RS

RECEIVED
 DEC 7 2011

DS

LAW OFFICES OF KEITH LOOMIS

9468 Double R Blvd. Ste. A
Reno, NV 89521

Ph: (775) 853-7222

Fax: (775) 853 0860

Alternative Service Concepts
1755 E Plumb Lane Ste. 267
Reno, NV 89502

April 22, 2012

3577

RE: Kaatz v. Incline General Improvement District
Claim No. P

Bill for services provided through April 22, 2012

DATE	DESCRIPTION	FEE RATE	HOURS	AMOUNT	PERSON
Nov-29-11	Review proposed stipulated facts	\$150.00	0.50 /	75.00	KLL
Dec-02-11	review of e-mail from Tom Beko [REDACTED]	\$150.00	0.20 /	30.00	KLL
Jan-06-12	T/C to Tom Beko's Office; review of e-mail from Brittney of Tom Beko's Office; participate in conference call to set trial date (.2) update calendars.	\$150.00	0.40 /	60.00	KLL
Jan-23-12	T/C from Anna Penrose Levic of PUC	\$150.00	0.20 /	30.00	KLL
Jan-24-12	Review of Motion for Summary Judgment filed by PUC	\$150.00	0.70 /	105.00	KL
Feb-06-12	Review [REDACTED] meet with Tom Beko	\$150.00	1.80 /	270.00	KLL
Mar-19-12	Meet with Tom Beko and Charity Felts; T/C with Mr. Katz	\$150.00	0.80 /	120.00	KLL
Mar-20-12	[REDACTED]	\$150.00	2.30 /	345.00	KLL
Mar-21-12	Further work on summarization of legal issues; T/C to Charity Felts	\$150.00	4.80 /	720.00	KLL
Apr-19-12	Study of Motion for partial summary Judgment <u>60 pages</u>	\$150.00	3.20 /	480.00	KLL

RECEIVED

MAY 07 2012

asc

Apr-20-12	Further study of Motion for partial summary judgment	\$150.00	2.10 ✓	315.00	KLL
Apr-22-12	Further study of Partial Motion for Summary Judgment	\$140.00	2.40 ✓	336.00	KLL
	Totals		19.40	\$2,886.00	
	Total of fees previously billed.			\$3,937.50	
	Total of disbursements previously billed.			\$0.00	
	Total of payments received to date.			\$3,937.50	
<hr/>					
	Total fees and disbursements this period			\$2,886.00	
	Balance owing from previous bills			\$0.00	
<hr/>					
	Balance Due Now			\$2,886.00	

Handwritten notes: 129015 5/14/12 Q?

PLEASE MAKE CHECK PAYABLE TO KEITH LOOMIS

RECEIVED

MAY 07 2012

asc

LAW OFFICES OF KEITH LOOMIS

9468 Double R Blvd. Ste. A
Reno, NV 89521

Ph:(775) 853-7222

Fax:(775) 853 0860

Alternative Service Concepts
1755 E Plumb Lane Ste. 267
Reno, NV 89502

June 15, 2012

3578

RE: Kaatz v. Incline General Improvement District
Claim No. P2431102566-01

Bill for services provided through June 15, 2012

DATE	DESCRIPTION	FEE RATE	HOURS	AMOUNT	PERSON
Apr-23-12	T/C From Charity Felts (.1); Research [REDACTED] (4.9); review of Motion to extend time; to stay discovery and to shorten time (.3)	\$150.00	5.30 ✓	795.00	KLL
Apr-24-12	Research and draft [REDACTED]	\$150.00	3.80 ✓	570.00	KLL
Apr-25-12	Research and draft [REDACTED]	\$150.00	5.70 ✓	855.00	KLL
Apr-26-12	Review of opposition to motion for extension of time(.3) T/C to Brittany at Tom Boko's office (.1) reasearch and draft [REDACTED] (3.8)	\$150.00	4.20 ✓	630.00	KLL
Apr-27-12	research and draft [REDACTED]	\$150.00	5.10 ✓	765.00	KLL
	Travel to and from S. Ct. Law Library	\$75.00	1.20 ✓	90.00	KLL
Apr-29-12	Draft and research [REDACTED]	\$150.00	5.30 ✓	795.00	KLL
Apr-30-12	Draft and research [REDACTED]	\$150.00	2.30 ✓	345.00	KLL

May-02-12	Travel to and from Carson City Supreme Court Law library	\$75.00	1.40 ✓	105.00	KLL
	Draft and research [REDACTED]	\$150.00	8.20 ✓	1,230.00	KLL
May-03-12	Travel to and from Carson City Supreme court Law Library	\$75.00	1.40 ✓	105.00	KLL
	Draft and research [REDACTED]	\$150.00	4.20 ✓	630.00	KLL
May-10-12	Draft and researd [REDACTED]	\$150.00	2.50 ✓	375.00	KLL
May-11-12	travel to and from Carson City Supreme Court Law Library	\$75.00	1.40 ✓	105.00	KLL
	Draft and research [REDACTED]	\$150.00	6.30 ✓	945.00	KLL
May-12-12	Research and draft [REDACTED]	\$150.00	2.20 ✓	330.00	KLL
May-19-12	Research and draft [REDACTED]	\$150.00	2.40 ✓	360.00	KLL
May-23-12	Further research and draft [REDACTED]	\$150.00	5.30 ✓	795.00	KLL
May-25-12	T/C'S (2) Ramona Cruz (.3) [REDACTED] (.8)	\$150.00	4.70 ✓	705.00	KLL
	FURTHER RESEARCH AND DRAFT [REDACTED] (3.2)				
	[REDACTED] (4)				
May-28-12	research and draft [REDACTED]	\$150.00	3.20 ✓	480.00	KLL
May-29-12	travel to and from nevada supreme court law library	\$75.00	1.40 ✓	105.00	KLL
	research and draft [REDACTED]	\$150.00	5.30 ✓	795.00	KLL

May-30-12	Travel to and from Nevada Supreme Court Law Library	\$75.00	1.40 ✓	105.00	KLL
	research and draft of opposition to motion for summary judgment	\$150.00	6.80 ✓	1,020.00	KLL
May-31-12	Final of Opposition [REDACTED]	\$150.00	3.20 ✓	480.00	KLL
Jun-01-12	Prepare [REDACTED] Prepare Exhibit List	\$150.00	2.30 ✓	345.00	KLL
Jun-04-12	Final [REDACTED] Final of Exhibits	\$150.00	1.30 ✓	195.00	KLL
Jun-05-12	Draft [REDACTED] (2.1); T/C to Aaron Kaatz (.1)	\$150.00	2.20 ✓	330.00	KLL
Jun-08-12	travel to and from supreme court law library	\$75.00	1.40 ✓	105.00	KL
	research and draft [REDACTED]	\$150.00	4.30 ✓	645.00	KL
Jun-10-12	Research and draft [REDACTED]	\$150.00	2.30 ✓	345.00	KL
Jun-11-12	Research draft [REDACTED] (5.5) Review of second motion for partial summary judgment (1.0) Draft [REDACTED] (1.3)	\$150.00	7.80 ✓	1,170.00	KL
Jun-12-12	Final draft [REDACTED] (1.3) prepare report to Scott Brooke, Tom Beko(.4)	\$150.00	1.70 ✓	255.00	KL
Jun-13-12	prepare status report [REDACTED]	\$150.00	0.70 ✓	105.00	KLL
Jun-15-12	Final of Status report	\$150.00	0.30 ✓	45.00	KLL

Totals

118.50 \$17,055.00

Total of fees previously billed.

\$6,823.50

Total of disbursements previously billed.

\$0.00

Total of payments received to date.

\$6,823.50

Total fees and disbursements this period

\$17,055.00

Balance owing from previous bills

\$0.00

Balance Due Now

\$17,055.00
[REDACTED]**PLEASE MAKE CHECK PAYABLE TO KEITH LOOMIS**7/20/12
PS

LAW OFFICES OF KEITH LOOMIS

9468 Double R Blvd. Ste. A
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Ph:(775) 853-7222

Fax:(775) 853 0860

Alternative Service Concepts
1755 E Plumb Lane Ste. 267
Reno, NV 89502

August 10, 2012
3580

RE: Kaatz v. Incline Village General Improvement District
Claim No. P2431102566-01

Bill for services provided through June 15, 2012

DATE	DESCRIPTION	FEE RATE	HOURS	AMOUNT	PERSON
Jun-21-12	Review of all of the following: Motion to Strike portion of Affidavit of Roberta Cruz; Plaintiffs Reply Memorandum to Opposition to Motion for Partial Summary Judgment; Re Beach and Recreation Facility Fees; Objection to Statement of Material Facts and Motion to modify pretrial order	\$150.00	2.30 ✓	345.00	KLL
Jun-22-12	Further review of Katz motions and pleadings (.5) T/Cs to Charity Felts (.2) review of e-mail from Charity Felts (.1)	\$150.00	0.80 ✓	120.00	KLL
Jun-26-12	Review of new filings by Katz(.2) draft [REDACTED] (.8)	\$150.00	1.00 ✓	150.00	KL
Jun-29-12	Draft and final [REDACTED]	\$150.00	1.00 ✓	150.00	KL
Jun-30-12	Draft [REDACTED]	\$150.00	2.50 ✓	375.00	KL
Jul-01-12	Further draft [REDACTED]	\$150.00	3.20 ✓	480.00	KL

Jul-02-12

Travel to and from Supreme Court
Law Library

\$75.00

1.20

90.00

KL

research and draft

\$150.00

4.70

705.00

KL

Jul-03-12

Travel to and from Supreme Court
Law Library

\$75.00

1.20

90.00

KLL

further research and draft

\$150.00

3.50

525.00

KL

Jul-04-12

Further research and draft

\$150.00

1.80

270.00

KLL

Jul-05-12

Final (1.5) Draft and Final of

\$150.00

2.50

375.00

KLL

(0.8)
e-mail to Scott Brooke and Tom Beko
(.2)

Jul-06-12

Review of Opposition to Motion to
dismiss or countermotion for partial
summary judgment

\$150.00

1.50

225.00

KLL

Jul-07-12

Review of Opposition to Motion to
Dismiss and countermotion for partial
summary judgment and begin draft

\$150.00

5.50

825.00

KLL

Jul-18-12

Travel to and from Supreme Court
Law Library

\$75.00

1.20

90.00

KL

Research

\$150.00

3.20

480.00

KL

Jul-20-12

Travel to and from Supreme Court
Law Library

\$75.00

1.30

97.50

KL

Research Reply

\$150.00

4.10

615.00

KL

Jul-22-12

Draft

\$150.00

4.50

675.00

KL

Jul-24-12	travel to and from supreme court law library	\$75.00	1.20	90.00	KLL
	research and draft [REDACTED]	\$150.00	3.80	570.00	KLL
Jul-25-12	research and draft [REDACTED]	\$150.00	2.00	300.00	KLL
Jul-29-12	Research and Draft [REDACTED]	\$150.00	6.50	975.00	KLL
Jul-30-12	Travel to and from Supreme Court Law Library	\$75.00	1.20	90.00	KLL
	Research and draft [REDACTED]	\$150.00	5.80	870.00	KLL
Jul-31-12	research and draft [REDACTED]	\$150.00	4.90	735.00	KLL
Aug-01-12	Final [REDACTED] (.2) Review of second amended complaint (.5) Telephone conference with Tom Beko and Charity Felts (.3)	\$150.00	1.00	150.00	KLL
Totals			73.40	\$10,462.50	
Total of fees previously billed.				\$23,878.50	
Total of disbursements previously billed.				\$0.00	
Total of payments received to date,				\$23,878.50	
Total fees and disbursements this period				\$10,462.50	
Balance owing from previous bills				\$0.00	
Balance Due Now				\$10,462.50	

Handwritten: \$8,047.50 to NGLD

PLEASE MAKE CHECK PAYABLE TO KEITH LOOMIS

LAW OFFICES OF KEITH LOOMIS

9468 Double R Blvd. Ste. A
Reno, NV 89521

Ph:(775) 853-7222

Fax:(775) 853 0860

Gerry Eick
893 Southwood Blvd
Incline Village, NV 89451

November 26, 2012

3582

RE: Kaatz v. Incline Village General Improvement District
Case No. 11 CV-01380

Bill for services provided through November 20, 2012

DATE	DESCRIPTION	FEE RATE	HOURS	AMOUNT
Aug-23-12	Review of Order from Judge Flanagan and associated pleadings(1.2); T/C Tom	\$150.00	1.40	210.00
Aug-27-12	Beko; (.1)e-mail to Scott Brooke(.1) review of order of Judge Flanagan from 8-24-12	\$150.00	0.10	15.00
Aug-30-12	T/C from Charity Felts	\$150.00	0.20	30.00
Sep-04-12	E-mail from Tom Beko(1) Review of [REDACTED] (.2)	\$150.00	0.30	45.00
Sep-06-12	Review of remaining claim in amended answer	\$150.00	1.00	150.00
Sep-07-12	Further review of remaining claims in amended Answer	\$150.00	1.00	150.00
Sep-27-12	Review recent pleadings filed by Katz(.2); T/C to Charity Felts(.1)	\$150.00	0.30	45.00
Oct-16-12	T/c from Aaron Katz (.3) research [REDACTED]	\$150.00	1.30	195.00
Oct-17-12	T/C from Tom Beko (.3)	\$150.00	0.30	45.00
Oct-22-12	Review of [REDACTED] (.3) T/c Tom Beko(.2)	\$150.00	0.50	75.00
Oct-24-12	prepare for and attend hearing on Katz stipulations	\$150.00	1.50	225.00
Nov-08-12	Research [REDACTED]	\$150.00	2.50	375.00
Nov-16-12	Research and draft [REDACTED]	\$150.00	4.80	720.00
Nov-17-12	Research and draft [REDACTED]	\$150.00	2.50	375.00

Totals

17.70 \$2,655.00

DISBURSEMENTS**Disbursements****Receipts**

Jul-30-12 My Fee Herein

6,592.50

Postage

4.30

Totals

\$4.30

\$6,592.50

Payments received. Thank You.

\$0.00

Total fees and disbursements this period.

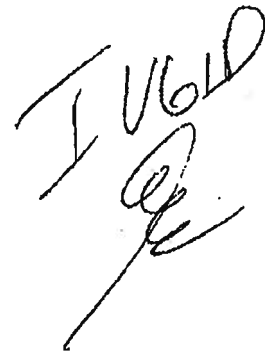
\$2,659.30

Balance owing from previous bills.

\$0.00

Balance Due Now**\$0.00**

PLEASE MAKE CHECK PAYABLE TO KEITH LOOMIS



LAW OFFICES OF KEITH LOOMIS

9468 Double R Blvd. Ste. A
Reno, NV 89521

Ph: (775) 853-7222

Fax: (775) 853 0860

Gerry Eick
893 Southwood Blvd
Incline Village, NV 89451

February 20, 2013
3587

RE: Kaatz v. Incline Village General Improvement District
Case No. 11 CV-01380

Bill for services provided through February 20, 2013

DATE	DESCRIPTION	FEE RATE	HOURS	AMOUNT
Nov-26-12	T/C's (2) Tom Beko and Charity Felts; Review [REDACTED]	\$150.00	0.70	105.00
Nov-28-12	E-mail [REDACTED] Review [REDACTED] Revise draft; [REDACTED]	\$150.00	4.50	675.00
Dec-03-12	Review 17th Claim for Relief; [REDACTED] [REDACTED]	\$150.00	1.50	225.00
Dec-05-12	Review e-mail and attachments from Tom Beko [REDACTED]	\$150.00	0.80	120.00
Dec-07-12	Review e-mail and attachments from Charity Felts [REDACTED]	\$150.00	0.40	60.00
Dec-10-12	Review of Katz brief regarding standard of review	\$150.00	1.50	225.00
Dec-12-12	Research and draft [REDACTED] [REDACTED]	\$150.00	3.60	540.00
Dec-13-12	Research and draft [REDACTED] [REDACTED]	\$150.00	2.80	420.00
Dec-19-12	Research and draft [REDACTED] [REDACTED]	\$150.00	3.50	525.00
Dec-20-12	Research and draft [REDACTED] [REDACTED]	\$150.00	1.70	255.00
Dec-21-12	Research and draft [REDACTED] [REDACTED]	\$150.00	6.80	1,020.00
Jan-02-13	Review of e-mail from Charity Felts [REDACTED]	\$150.00	0.10	15.00
Jan-04-13	Revise draft; [REDACTED] [REDACTED]	\$150.00	1.80	270.00

Jan-07-13	Review Final Draft; T/C's (2) Charity Felts	\$150.00	0.50	75.00
Jan-09-13	T/C to Charity Felts (.1); Initial draft [REDACTED]	\$150.00	1.50	225.00
Jan-10-13	Draft and research [REDACTED]	\$150.00	2.70	405.00
Jan-13-13	T/C SDcott Brooke; [REDACTED]	\$150.00	1.50	225.00
Feb-04-13	Appear at District court to set briefing issue for oral argument	\$150.00	0.50	75.00

Totals			36.40	\$5,460.00
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Nov-26-12	Retainers Carried Forward			3,933.20
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Payments received. Thank You.				\$0.00
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Total fees and disbursements this period.				\$5,460.00
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Balance owing from previous bills.				\$0.00
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Balance Due Now				\$1,526.80
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PLEASE MAKE CHECK PAYABLE TO KEITH LOOMIS

2/26/2013

[Signature]

[Signature]

LAW OFFICES OF KEITH LOOMIS

9468 Double R Blvd. Ste. A
Reno, NV 89521

Ph:(775) 853-7222

Fax:(775) 853 0860

Gerry Eick
893 Southwood Blvd
Incline Village, NV 89451

July 8, 2013
3599

RE: Kaatz v. Incline Village General Improvement District
Case No. 11 CV-01380

Bill for services provided through July 8, 2013

DATE	DESCRIPTION	FEE RATE	HOURS	AMOUNT
Mar-08-13	review of e-mails from Scott Brooke	\$150.00	0.20	30.00
Mar-11-13	participate in conference call with Tom Beko and Scott Brooke	\$150.00	1.10	165.00
Mar-21-13	Review of Order in Katz	\$150.00	0.20	30.00
Mar-28-13	Review of e-mail from Tom Beko	\$150.00	0.20	30.00
Mar-29-13	Review and send various e-mails [REDACTED]	\$150.00	0.20	30.00
Apr-01-13	Prepare for and participate in conference call with Scott Brooke Tom Beko and Charity Felts; review of e-mail from Tom Beko	\$150.00	0.80	120.00
May-06-13	review of e-mails to and from Aaron Katz Tom Beko	\$150.00	0.30	45.00
May-31-13	T/C from Charity Felts	\$150.00	0.10	15.00
Jun-03-13	Review motion to file supplemental complaint	\$150.00	2.30	345.00
	vel to and from Tom Beko's Office	\$70.00	0.50	35.00
	Meet with Tom Beko and Charity Felts; participate in conference call with Scott Brooke; T/C with Aaron Katz; e-mail to Chairty Felts	\$150.00	1.80	270.00
Jun-17-13	Travel to and from Supreme Court Law Library	\$75.00	0.80	60.00

	research and draft [REDACTED]	\$150.00	4.20	630.00
	[REDACTED]			
Jun-18-13	Travel to and from Supreme Court Law Library	\$75.00	0.80	60.00
	Research and draft [REDACTED]	\$150.00	5.40	810.00
	[REDACTED]			
Jun-19-13	Research, draft [REDACTED]	\$150.00	4.70	705.00
	[REDACTED]			
Jun-20-13	Review [REDACTED]	\$150.00	0.70	105.00
	[REDACTED]			
	Totals		24.30	\$3,485.00

Payments received. Thank You.

\$1,526.80

Total fees and disbursements this period.

\$3,485.00

Balance owing from previous bills.

\$0.00

Balance Due Now

\$3,485.00

PLEASE MAKE CHECK PAYABLE TO KEITH LOOMIS

LAW OFFICES OF KEITH LOOMIS9468 Double R Blvd. Ste. A
Reno, NV 89521

Ph: (775) 853-7222

Fax: (775) 853 0860

*ok to pay
8/11/13
12/12/2013
(TSB OK'd)*

Gerry Eick

893 Southwood Blvd
Incline Village, NV 89451

December 9, 2013

3611

*posting
date*RE: Kaatz v. Incline Village General Improvement District
Case No. 11 CV-01380

Bill for services provided through December 6, 2013

DATE	DESCRIPTION	FEE RATE	HOURS	AMOUNT
Aug-07-13	review of order addressing proposed amended complaint; review of e-mail from Tom Beko	\$150.00	0.60	90.00
Oct-21-13	Review of e-mails from Tom Beko and Aaron Katz	\$150.00	0.30	45.00
Oct-22-13	Review of e-mail from Scott Brooke; prepare audit response letter; e-mails to Tom Beko; Scott Brooke; Laura of Kafoury Armstrong	\$150.00	1.40	210.00
Oct-23-13	T/C with Tom Beko; review of e-mail by Tom Beko	\$150.00	0.20	30.00
Nov-01-13	Travel to and from Nevada Supreme Court Law Library; Research and Draft	\$150.00	6.20	930.00
Nov-02-13	Further research and draft	\$150.00	3.20	480.00
Nov-03-13	Further research and draft	\$150.00	5.50	825.00
Nov-15-13	T/C from Tom Beko (2); Research	\$150.00	2.70	405.00
Nov-25-13	e-mail to Scott Brooke T/C from Aaron Kaatz; Research	\$150.00	3.20	480.00
Nov-26-13	research internet search	\$150.00	2.40	360.00
Nov-27-13	Further research	\$150.00	3.00	450.00

Totals

28.70 \$4,305.00

DISBURSEMENTS**Disbursements****Receipts**

	Advanced Costs	200.00	
May-31-13	May Photocopies 71 @ \$.10	7.10	
Jul-31-13	July Photocopies 17 @ \$.10	1.70	
Nov-30-13	November Photocopies 225 @ \$.10	22.50	
	Totals	\$231.30	\$0.00

Payments received. Thank You.

\$3,485.00

Total fees and disbursements this period.

\$4,536.30

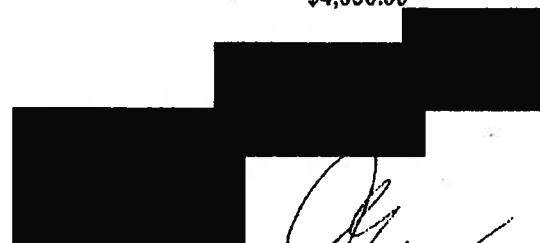
Balance-owing from previous bills.

\$0.00

Balance Due Now**\$4,536.30**

PLEASE MAKE CHECK PAYABLE TO KEITH LOOMIS

✓



A handwritten signature in black ink.

LAW OFFICES OF KEITH LOOMIS

9468 Double R Blvd. Ste. A
Reno, NV 89521

Ph:(775) 853-7222

Fax:(775) 853 0860

Gerry Eick
893 Southwood Blvd
Incline Village, NV 89451

February 7, 2014
3621

RE: Kaatz v. Incline Village General Improvement District
Case No. 11 CV-01380

Bill for services provided through February 6, 2014

DATE	DESCRIPTION	FEE RATE	HOURS	AMOUNT
Dec-26-13	Review of Katz opposition to Motion to Dismiss 17th	\$150.00	1.00	150.00
Dec-31-13	research and draft [REDACTED]	\$150.00	1.50	225.00
Jan-02-14	Travel to and from Supreme Court Law Library	\$75.00	0.70	52.50
	research and draft [REDACTED]	\$150.00	4.50	675.00
Jan-17-14	Researchy and draft [REDACTED]	\$150.00	3.80	570.00
Jan-20-14	draft [REDACTED]	\$150.00	0.50	75.00
Jan-21-14	Further research and draft [REDACTED]	\$150.00	1.80	270.00
	E-mail to Aaron Katz			
Jan-24-14	research and draft [REDACTED]	\$150.00	3.20	480.00
	Travel to and from Supreme Court Law Library	\$75.00	0.90	67.50
Jan-25-14	research and draft [REDACTED]	\$150.00	3.10	465.00
Jan-26-14	Further research and draft [REDACTED]	\$150.00	3.60	540.00
	[REDACTED]			
Jan-27-14	Final of Reply and of [REDACTED]	\$150.00	0.60	90.00
	[REDACTED]			
Totals			25.20	\$3,660.00

DISBURSEMENTS**Disbursements****Receipts**

Photocopies

71.40

Court fees

200.00

Totals

\$271.40\$0.00

Payments received. Thank You.

\$4,536.30

Total fees and disbursements this period.

\$3,931.40

Balance owing from previous bills.

\$0.00**Balance Due Now****\$3,931.40**

PLEASE MAKE CHECK PAYABLE TO KEITH LOOMIS

LAW OFFICES OF KEITH LOOMIS

9468 Double R Blvd. Ste. A
Reno, NV 89521

Ph:(775) 853-7222

Fax:(775) 853 0860

Gerry Eick

May 1, 2014

893 Southwood Blvd

3630

Incline Village, NV 89451

RE: Kaatz v. Incline Village General Improvement District
Case No. 11 CV-01380

Bill for services provided through April 30, 2014

DATE	DESCRIPTION	FEE RATE	HOURS	AMOUNT
Feb-27-14	Review of Motion to dismiss; review Katz declaration e-mail to Tom Beko and Charity Felts	\$150.00	0.70	105.00
Apr-04-14	Participate in conference call to re-set arguments in Kaatz case; Review of Opposition to Motion to Dismiss for lack of proper Party	\$150.00	0.80	120.00
Apr-10-14	Review of Order denying Motion to Amend	\$150.00	0.20	30.00
Totals			1.70	\$255.00

DISBURSEMENTS

Disbursements

Receipts

Photocopies

247.00

Totals

\$247.00

\$0.00

ok to pay
8/11/2014
5/7/2014

LAW OFFICES OF KEITH LOOMIS9468 Double R Blvd. Ste. A
Reno, NV 89521*Ok to pay
Hewon
9/23/14*

Ph:(775) 853-7222

Fax:(775) 853 0860

Gerry Eick

893 Southwood Blvd
Incline Village, NV 89451

September 12, 2014

3643

RE: Kaatz v. Incline Village General Improvement District
Case No. 11 CV-01380

Bill for services provided through September 12, 2014

DATE	DESCRIPTION	FEE RATE	HOURS	AMOUNT
Aug-06-14	Review of materials [REDACTED]	\$150.00	2.70	405.00
Aug-07-14	Review of materials [REDACTED]	\$150.00	3.20	480.00
Aug-08-14	Office preparation [REDACTED]; travel to and from courthouse; participate in argument on Motions for summary judgment; post argument meeting with Scott Brooke	\$150.00	3.10	465.00
Aug-19-14	Review [REDACTED]	\$150.00	0.50	75.00
Aug-25-14	Review of e-mails from Charity Felts and Scott Brooke; Review [REDACTED]	\$150.00	0.60	90.00
Aug-27-14	Review of Order granting motions for Partial Summary Judgment	\$150.00	0.60	90.00
Totals			10.70	\$1,605.00

DISBURSEMENTS**Disbursements****Receipts**

Photocopies

3.30

Totals

\$3.30

\$0.00

Payments received. Thank You.

\$1,005.00

Total fees and disbursements this period.

\$1,608.30

Balance owing from previous bills.

\$0.00

Balance Due Now

\$1,608.30

PLEASE MAKE CHECK PAYABLE TO KEITH LOOMIS

EXHIBIT C

EXHIBIT C

BROOKE · SHAW · ZUMPFT

ATTORNEYS AT LAW

POST OFFICE BOX 2860, MINDEN, NEVADA 89423 (775) 782-7171 FAX (775) 782-3081

MEMORANDUM

This Memo Is Protected by the Attorney Client Privilege

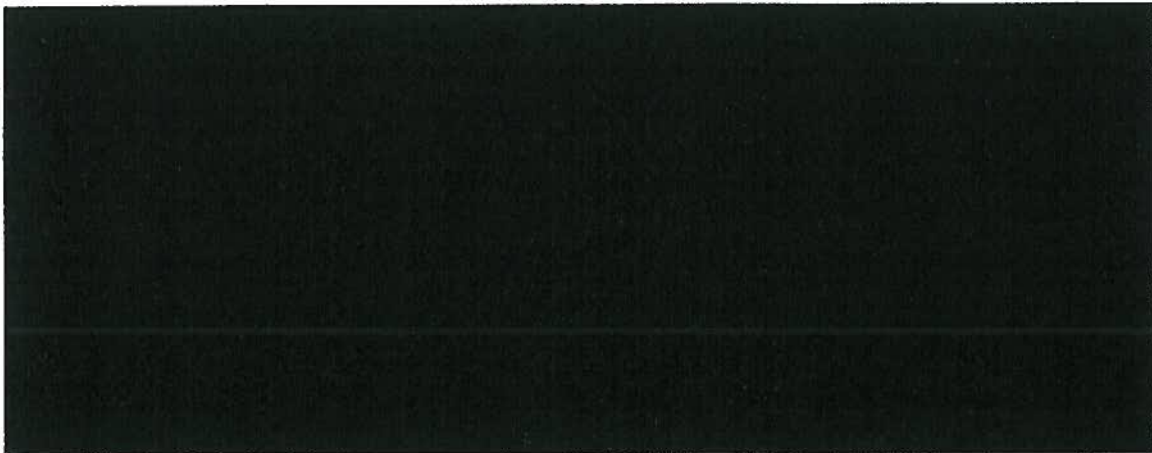
TO: Steve Pinkerton, General Manager
Incline Village General Improvement District

CC: Susan Herron, Executive Assistant
Gerry Eick, Director of Finance

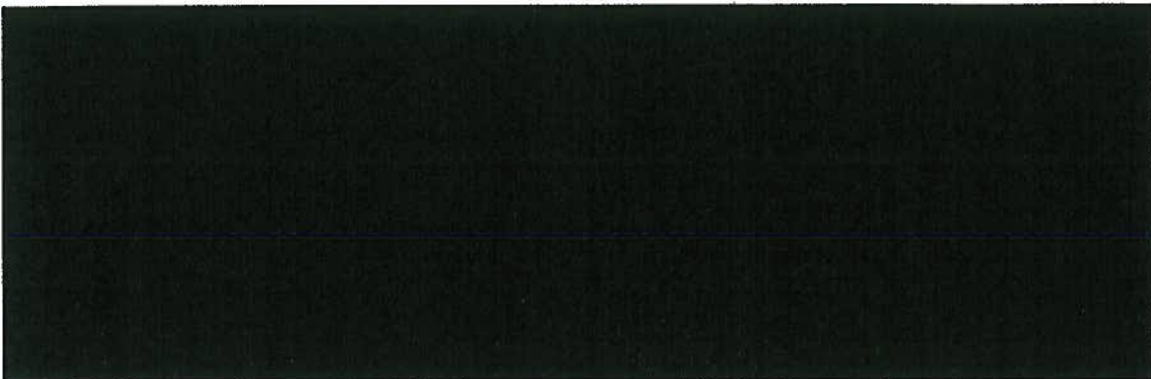
FROM: T. Scott Brooke 

DATE: 19 November 2014

REFERENCE: IVGID/Costs Related to Katz Claims



1. Katz v. IVGID



Memo to Steve Pinkerton, General Manager
19 November 2014

IVGID adv. Katz litigation costs:

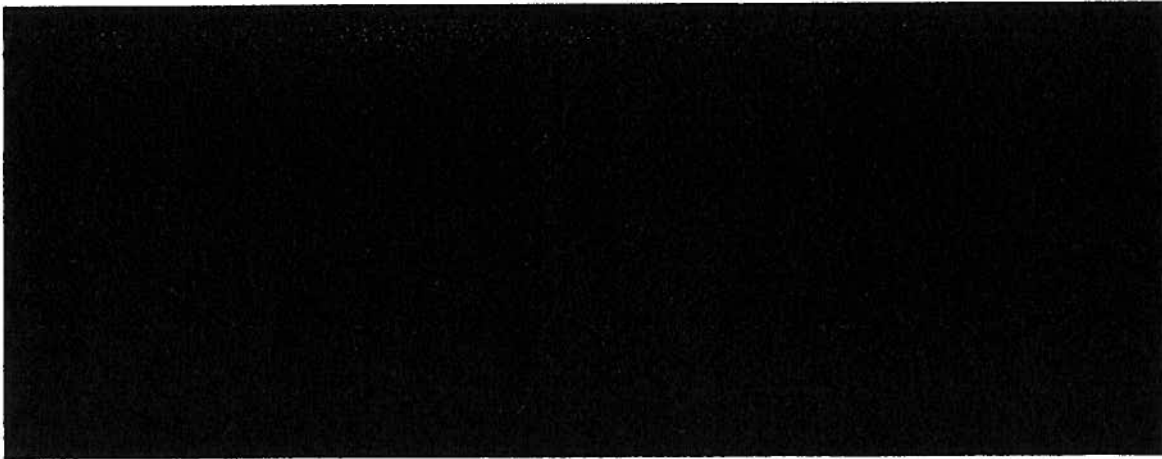
[REDACTED]

Fees paid Brooke • Shaw • Zumpft \$ 45,070.80

[REDACTED]

[REDACTED]

Memo to Steve Pinkerton, General Manager
19 November 2014



END OF MEMO

TSB/lgt

S:\LITIGATION\VOID\adv Aaron Katz\Memos\TSB to Pinkerton re Katz Bill (19 Nov 2014).doc

EXHIBIT D

EXHIBIT D

Katz v. IVGID
Case No. CV11-01380, Dept. 7

Date	Hours	Rate	Atty	Total
12/24/2013	0.3	\$ 150.00	TPB	\$ 45.00
12/27/2013	2.7	\$ 125.00	CFF	\$ 337.50
1/2/2014	0.2	\$ 150.00	TPB	\$ 30.00
1/2/2014	4.8	\$ 125.00	CFF	\$ 600.00
1/3/2014	3.5	\$ 125.00	CFF	\$ 437.50
1/6/2014	1.7	\$ 125.00	CFF	\$ 212.50
1/7/2014	0.2	\$ 150.00	TPB	\$ 30.00
1/8/2014	1.9	\$ 150.00	TPB	\$ 285.00
1/8/2014	1	\$ 125.00	CFF	\$ 125.00
1/9/2014	0.2	\$ 150.00	TPB	\$ 30.00
1/24/2014	0.2	\$ 150.00	TPB	\$ 30.00
1/30/2014	0.3	\$ 150.00	TPB	\$ 45.00
2/2/2014	0.2	\$ 150.00	TPB	\$ 30.00
2/3/2014	0.6	\$ 150.00	TPB	\$ 90.00
2/5/2014	0.2	\$ 150.00	TPB	\$ 30.00
2/7/2014	0.2	\$ 150.00	TPB	\$ 30.00
2/10/2014	0.2	\$ 125.00	CFF	\$ 25.00
2/10/2014	0.4	\$ 150.00	TPB	\$ 60.00
2/13/2014	0.1	\$ 125.00	CFF	\$ 12.50
2/20/2014	4.6	\$ 125.00	CFF	\$ 575.00
2/26/2014	1.5	\$ 125.00	CFF	\$ 187.50
2/27/2014	6.8	\$ 125.00	CFF	\$ 850.00
3/3/2014	0.4	\$ 150.00	TPB	\$ 60.00
Total Hours	32.2		Total Fees	\$ 4,157.50