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Attorneys for Plaintiff ANDREA COLLIER, as
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DISTRICT COURT
CLARK COUNTY, NEVADA

ANDREA COLLIER, as trustee of the JACT
TRUST,

Plaintiff,

v.

PENNIE MOSSETT-PUHEK, individually;
ANTHEM HIGHLANDS COMMUNITY
ASSOCIATION, a Nevada Non-Profit Corporation;
DOES I through X and ROE BUSINESS
ENTITIES I through X, inclusive,

Defendants.

Case No.: A-22-852032-C
Dept.: 8

**PLAINTIFF ANDREA COLLIER'S
OPPOSITION TO MOTION TO DISMISS,
OR ALTERNATIVELY, MOTION FOR
SUMMARY JUDGMENT AND
COUNTERMOTION FOR LEAVE TO
AMEND**

Status Hearing: August 17, 2023
Hearing Time: 10:00 a.m.

COMES NOW Plaintiff ANDREA COLLIER, as trustee of the JACT TRUST ("Plaintiff" or "Collier"), by and through her counsel of record, Timothy Elson, Esq., of The Law Offices of Timothy Elson, PLLC, and hereby submits her Opposition to Defendant Pennie Mossett-Puhek's ("Mossett-Puhek") Motion to Dismiss, or Alternatively, Motion for Summary Judgment and Countermotion for Leave to Amend.

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1 This Opposition and Countermotion are made and based upon the pleadings and papers on
2 file in this matter, the following Memorandum of Points and Authorities, the Declaration of Andrea
3 Collier, the Declaration of Timothy Elson, Esq., the entire records in this case, and upon such oral
4 argument and testimony as the Court may entertain at the hearing on this Motion.

5 DATED: August 4, 2023

Respectfully Submitted,

6 THE LAW OFFICES OF TIMOTHY ELSON

7
8 By: /s/ Timothy P. Elson

9 Timothy P. Elson, Esq.

10 Nevada State Bar # 11559

8965 S. Eastern Ave., Suite 382

11 Las Vegas, Nevada 89123

12 Attorneys for Plaintiff ANDREA COLLIER, as trustee of
13 the JACT TRUST
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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Collier owns real property located within Defendant Anthem Highlands Community Association (“Anthem”). Defendant Pennie Mossett-Puhek (“Mossett-Puhek”) was the President of the executive board of Anthem or otherwise served on the executive board at all times material this action. Collier alleges that Mossett-Puhek and Anthem targeted, harassed, or otherwise bullied Collier with various fines after Collier’s friendship with Mossett-Puhek soured. Doc ID# 1. Collier further alleges that the enforcement actions taken by Anthem lack a substantive basis or otherwise procedurally failed to comply with Nevada law, whether Chapter 116 of the Nevada Revised States or Anthem’s governing documents.

Prior to initiating this action, Collier filed a claim with the Nevada Real Estate Division (“NRED”), thereby complying with NRS 38.310. While Mossett-Puhek was not named as a respondent, Collier was not required to do so given the claims alleged against her. Collier’s claims against Mossett-Puhek do not arise from the governing documents. Second, NRED does not want individual board members named for various procedural and administrative reasons. NRED treats individual board members as falling under the HOA umbrella. Third, substantial compliance occurred with NRS 38.310 given that Mossett-Puhek personally attended the mediation and the parties discussed settlement pertaining to claims against Mossett-Puhek, thereby complying with the intent of the statute (Mossett-Puhek also suffered no prejudice, an issue on which she bears the burden of proof).

Nonetheless, to avoid judicial intervention on this issue, within days of being served with the instant Motion, Collier initiated a second claim with NRED, directly naming Mossett-Puhek. However, Mossett-Puhek (individually as well as via her husband) indisputably evaded service. NRED then determined that Collier properly participated in the NRED action, and provided Collier the right to initiate litigation (to the extent the right didn’t previously exist). Despite these good faith efforts, Mossett-Puhek still denies that Collier completed the NRED process.

Lastly, Collier seeks to file an Amended Complaint in this action. Collier seeks to plead additional causes of action against Mossett-Puhek (as well as supplementing her affidavit on NRED). Collier also seeks to add the community manager (Carmen Eassa – “Eassa”) and management

1 company (“TerraWest”) as parties to this case. Recent discovery revealed Eassa and TerraWest fell
2 far below the standard of care as to the duties they indisputably owe to the Anthem Community.

3 Collier respectfully requests that this Court deny the instant Motion (whether as a motion to
4 dismiss or motion for summary judgment) and grant the Countermotion for leave to amend.

5 **II. STATEMENT OF PROCEDURAL HISTORY AS IT PERTAINS NRED.**

6 **A. The First NRED Claim.**

7 1. On September 1, 2021, *i.e.*, nearly two years ago and prior to initiating this lawsuit,
8 Collier submitted an Alternative Dispute Resolution (“ADR”) Claim with the Nevada Real Estate
9 Division (“NRED”) pertaining to Anthem Highlands. **Exhibit 3.**

10 2. At the time Collier submitted the ADR Claim, Collier understood that NRED did not
11 require individual board members to be named if the HOA is named as a respondent, given that board
12 members acted in the course and scope of their authority under the HOA. **Exhibit 1, ¶ 2.**

13 3. On January 7, 2022, the Parties attended the mediation via NRED. **Exhibit 1, ¶ 3.**
14 Mossett-Puhek personally attended the mediation. *Id.* Anthem and Mossett-Puhek were represented
15 by Patrick Orme, Esq., of Boyack, Orme, Anthony, and McKiever. *Id.* During the mediation, the
16 Parties merged into a single meeting room. *Id.* Therein, Collier discussed with Mossett-Puhek that
17 Collier intended to make individual claims against Mossett-Puhek in litigation if the matter did not
18 resolve. *Id.* Without discussing the settlement details, Collier also expressly made settlement offers
19 to Mossett-Puhek regarding the individual claims against Mossett-Puhek, offering to resolve those
20 claims. *Id.* These settlement discussions were separate and distinct from any settlement conversations
21 with Anthem. *Id.* That is, to the extent Mossett-Puhek needed to be separately named, the Parties
22 substantially complied and completed the exact same process that would have occurred if Mossett-
23 Puhek had been separately named.

24 4. On May 3, 2022, Collier filed her Complaint in this action. Doc ID# 1. Collier named
25 Mossett-Puhek as a defendant in the initial Complaint. *Id.* In her Declaration, Collier confirmed that
26 she mediated the matter, discussed issues relating to the “oleanders, paint scheme, flagpole, and the
27 ongoing harassment by Anthem and Mossett-Puhek.” *Id.* (last page following prayer for relief).

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1 5. On May 31, 2022, Mossett-Puhek, along with Anthem, filed an Answer. Doc ID# 5.
2 Mr. Boyack, who specializes in HOA law, never raised any issue with NRS 38.310. *Id.* Defendants
3 were represented by the same firm that represented Defendants at the mediation. *Id.* Despite raising
4 23 other affirmative defenses, Defendants did not raise NRS 38.310 as an affirmative defense.¹ *Id.*

5 6. Throughout this case, Collier has repeatedly made good faith efforts to discuss
6 resolution. Collier sent detailed written correspondence to Defendants on June 9, 2023 memorializing
7 these efforts. **Exhibit 4** (redacting details of the settlement offers). Therein, Collier confirms that
8 Collier requested that the parties attend mediation on at least four occasions between September 27,
9 2022 and June 9, 2023, which Defendants rejected on each occasion. *Id.*²

10 **B. The Second NRED Claim.**

11 7. On March 14, 2023, a substitution of counsel was filed wherein the firm Freeman
12 Mathis & Gary, LLP, substituted out Mr. Boyack and his firm. Doc ID# 19.

13 8. On May 18, 2023, Mossett-Puhek filed the instant Motion. Doc ID# 24. Therein,
14 Mossett-Puhek acknowledges in her Declaration that she personally attended the NRED Mediation,
15 claiming it was in her official capacity rather than her individual capacity. *Id.*, Exhibit C, ¶ 3.³

16 9. On May 24, 2023, Collier, via her counsel, again confirmed with NRED that it does
17 not require board members to be separately listed as respondents (to the extent NRED even applied to
18 these claims).⁴ **Exhibit 2**, ¶ 3. Mr. Elson spoke to Ms. Galvin,⁵ who is the ADR Facilitator for NRED.
19 *Id.* Ms. Galvin confirmed that individual board members do not need to be separately listed and
20 individual board members are considered named as part of the HOA given their active role as board
21

22 ¹ Defense counsel knew that Collier complied with NRS 38.310, otherwise Mr. Boyack certainly would have raised the
23 issue given his expertise in HOA law.

24 ² The letter dated June 9, 2023, was the fourth request, which Defendants also rejected. **Exhibit 4**. The rejection to
25 attend a mediation makes the instant Motion even more disingenuous.

26 ³ (“At no point have I participated in any mediation or other alternative dispute resolution process with respect to the
27 claims Andrea Collier (“Plaintiff”) has asserted against me in my individual capacity in the above-captioned case.”).

28 ⁴ To the extent that deposition testimony is required directly from Ms. Galvin, Collier respectfully requests Rule 56(d)
relief to obtain testimony from Ms. Galvin to confirm the facts set forth herein and NRED’s policies and procedures.

⁵ In the Motion, Mossett-Puhek attached the NRED ADR Process Overview (Exhibit B to the Motion), which states that
the Division may assist a party. *Id.*, p. 6. It states as follows:

 Division staff can assist the parties in understanding the process and forms used in ADR. The Division cannot
provide legal advice or determine whether or not the governing documents have been violated, or the
enforceability of a specific provision. The staff facilitates the process
Id. Collier has followed NRED’s guidelines and advice on the process at all times.

1 members within the HOA. *Id.* Ms. Galvin confirmed that listing individual board members creates
2 additional complications for claimants, respondents, and NRED. *Id.* Ms. Galvin indicated that NRED
3 is supposed to act as an informal process to help create dispute resolution. *Id.* By requiring that
4 individual board members be listed, it increases administrative work, as well as work on the parties.
5 *Id.* For example, Ms. Galvin expressed concerns about the claimant having to serve each board
6 member if they are listed separately, creating complications and additional costs. *Id.* In addition, Ms.
7 Galvin indicated that board members would be required to submit fees each time they are named,
8 thereby unnecessarily increasing fees to the board members and HOAs. *Id.* A party is only entitled
9 to one fee subsidy per fiscal year. *Id.* This means that board members would possibly be paying
10 significant sums of money out of pocket and/or HOAs would be paying multiple fees out of its own
11 pocket per ADR claim if board members tendered the fee to the HOA, which reduces the potential
12 benefit of the ADR process.

13 10. On May 25, 2023, to help negate the need for judicial intervention, Collier determined
14 it would best serve everyone's interests to submit an additional ADR Claim to NRED that specifically
15 names Mossett-Puhek as a respondent to attempt to resolve the issue. **Exhibit 1**, ¶ 4. On May 25,
16 2023, Collier submitted a Second NRED Claim. **Exhibit 5**.

17 11. In the following days, the Parties discussed the Second NRED Claim, as well as other
18 scheduling issues in the case. **Exhibit 2**, ¶ 4. During these conversation, the Parties agreed to
19 reschedule depositions given scheduling conflicts and continue out the hearing date and briefing on
20 the instant Motion given that Collier filed the Second NRED Claim. *Id.* In calculating the new hearing
21 date, the Parties attempted to calculate the time it would take to complete the NRED process. *Id.*
22 Collier specifically discussed with Mossett-Puhek that any attempts to delay the NRED proceedings
23 (expressly mentioning evading serve as an example) would create the need to adjust these dates. *Id.*
24 Mossett-Puhek agreed, and assured Collier that no such gamesmanship would occur. *Id.* Mossett-
25 Puhek also expressly indicated that counsel was not authorized to accept service and she would need
26 to be personally served. *Id.* Mossett-Puhek also did not notify Collier of any conflicts, such as
27 vacations, that would affect service or the NRED process. *Id.*

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1 **C. Service Attempted Related To The Second NRED Claim.**

2 12. On June 1, 2023, at 7:48 p.m., Junes Legal Service attempted its first service attempt.
3 The process server spoke to a 12-year-old that said parents weren't home.⁶ **Exhibit 6.** As such, service
4 could not occur, not even substitute service. *Id.*

5 13. On June 2, 2023, Junes Legal Service attempted its second service attempt. *Id.* No
6 answer occurred at the door. *Id.*

7 14. On June 4, 2023, Junes Legal Service attempted its third service attempt. **Exhibit 7.**
8 This time, the garage door was open to the residence. *Id.* The process server encountered two men
9 standing at the end of the driveway. *Id.* The server spoke to a man with white hair, who stated he was
10 the neighbor "Mike" who is taking care of the property. *Id.* He told the process server that the
11 occupants were in Portugal until July 1, 2023. *Id.* The process server photographed the men. *Id.*

12 15. On June 5, 2023, completely surprised by the news, Collier emailed Mossett-Puhek's
13 counsel, discussing that the "vacations" were not previously disclosed. **Exhibit 8** (also requesting Mr.
14 Noack accept service). Collier mentioned these issues seemed odd, especially with a child at the house
15 days earlier. *Id.* Collier did not receive a response to this email at this time. *Id.*; **Exhibit 2, ¶ 7.**

16 16. On June 6, 2023, after not receiving any response, Collier again emailed Mossett-
17 Puhek's counsel, informing him that Collier understood his client (or at least her husband) was in town
18 as Collier witnessed their vehicle leaving and entering the neighborhood. *Id.*; **Exhibit 1, ¶ 5.**

19 17. On June 8, 2023, Collier saw Mossett-Puhek's husband in Albertson's, discussing with
20 the butcher how he was planning on grilling up filets for his wife at their house for Game 3 of the
21 Stanley Cup that night. **Exhibit 1, ¶ 6.** This was even more puzzling given the service issues to date.
22 Collier emailed a copy of the picture she took. *Id.*; **Exhibit 9.** The process server also emailed copies
23 of pictures she took on June 4, 2023. *Id.*; **Exhibit 10.** The identity was confirmed. **Exhibit 7.**
24 *Mossett-Puhek's husband outright lied to the process server to avoid substitute service, which would*
25 *have been completed on June 4, 2023.*

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⁶ To this day, Collier finds it odd that a 12-year-old was home alone.

1 18. Later that same day, on June 8, 2023, at 5:30 p.m. (given that the puck was scheduled
 2 to drop around 5:15 p.m.), the process server attempted service again for a full 30 minutes. **Exhibit**
 3 **7.** The process server knocked on the door and the garage. *Id.* Mossett-Puhek refused to answer the
 4 door. *Id.* The kitchen light was on when the process server first arrived. *Id.* Mossett-Puhek and her
 5 husband turned off the light during the service attempt. *Id.* That is, they were home as activity
 6 occurred inside the home (just as the husband told the butcher earlier that day). *Id.* The process server
 7 testified as follows: “Subject is clearly avoiding service.” *Id.*

8 19. On June 9, 2023, Mossett-Puhek’s counsel responded to the prior email, indicating he
 9 had emailed his client and that “[he was] not aware that Ms. Mossett-Puhek [was] traveling throughout
 10 the month of June and don’t understand that to be the case.” **Exhibit 8.** Collier understands Mr.
 11 Noack was not aware of the service attempts on June 8, 2023, at the time he sent this email.

12 **D. Completion Of The Second NRED Claim.**

13 20. NRED’s claim form identifies the service requirements. **Exhibit 5**, p. 3 (stating “**How**
 14 **service must be made:**”) (emphasis in original). NRED largely follows NRCP 4, as it relates to service
 15 on a Nevada Corporation, Non-Nevada Corporation, and an individual. *Id.* However, NRED does
 16 not require service if adequate service efforts were made for a party to comply with NRS 38.310 or be
 17 permitted to move forward with litigation. *Id.* Otherwise, parties may not ever be permitted to move
 18 forward with litigation. The claim form states as follows:

19 If all the above are not possible because of the absence from the state or inability to locate the
 20 respondent: An Affidavit of Due Diligence can be provided to the Division. If the Division
 21 determines adequate efforts were made to serve the respondent(s), the Division will provide a
 22 letter to the claimants acknowledging their unsuccessful efforts to participate in the ADR
 23 program.

24 “Service by Publication” is not a valid form of service for the ADR Program.

25 *Id.* (emphasis in original removed; emphasis then added).

26 21. Collier clearly made adequate service efforts. On June 4, 2023, Collier would have
 27 completed service by substitute service on her husband. **Exhibit 7.** This fact is uncontroverted. On
 28 June 8, 2023, Collier would have completed service on Mossett-Puhek had Mossett-Puhek not avoided
 service. *Id.* In addition, Collier made two other service attempts at the Property. *Id.*

1 22. On June 9, 2023, Collier spoke to Ms. Galvin, who confirmed that NRED only required
2 good faith attempts to serve a party to complete the NRED process. **Exhibit 2, ¶ 9.** Collier provided
3 Ms. Galvin a copy of the Affidavit of Attempted Service (**Exhibit 7**). *Id.*

4 23. On June 12, 2023, NRED issued Collier a letter indicating that NRED determined that
5 Collier made adequate efforts to serve and that Collier participated in the NRED action. **Exhibit 11;**
6 **Exhibit 2, ¶ 10.** NRED closed out the claim. *Id.*

7 24. On June 20, 2023, after having received no additional correspondence from Mossett-
8 Puhek, Collier emailed Mossett-Puhek, explaining that Collier completed the NRED process. **Exhibit**
9 **12; Exhibit 2, ¶ 11.**

10 25. On June 21, 2023, Collier again followed up with Mossett-Puhek. **Exhibit 13.** For the
11 first time since June 9, 2023, Mossett-Puhek responding, requesting a copy of the NRED letter, which
12 Collier provided. **Exhibits 12 and 13.**

13 26. On June 26, 2023, Collier orally spoke to Mossett-Puhek's counsel at the deposition of
14 Shirley Breeden regarding these issues. **Exhibit 2, ¶ 13.** Mr. Noack was unable to provide a
15 substantive response at that time. *Id.* This was disappointing given that Mossett-Puhek had not
16 substantively responded to these issues despite Collier first raising them on June 5, 2023. *Id.* Mr.
17 Elson expressly discussed with Mr. Noack that he should be prepared to address whether the NRED
18 process was completed (which it was); whether Mossett-Puhek would move out the hearing date and
19 opposition deadline given the agreements and prior gamesmanship with service; whether NRED
20 would even reopen the claim, given that it was completed; whether Mossett-Puhek would withdraw
21 the motion if the parties reopened the NRED process; and whether Mossett-Puhek would accept
22 electronic service or allow counsel to be served. *Id.*

23 27. Thereafter, the Parties engaged in additional in person and oral meet and confers, as well
24 as emails and letters attempting to resolve the dispute. **Exhibit 2, ¶¶ 14-20; Exhibits 14-19.** The
25 Parties could not resolve their disputes. Mossett-Puhek also continued to argue that the NRED process
26 had not been completed. **Exhibit 19.** Mossett-Puhek also confirmed she would not continue the
27 opposition deadline, the hearing, or otherwise work with Collier to resolve the pending issues. *Id.*
28 Absent the parties working together, Collier could not agree to reopen the NRED matter, thereby

1 placing herself in a worse position given that she already completed the process. **Exhibit 2**, ¶ 19.

2 28. During these additional efforts (set forth in more detail in **Exhibit 2**, ¶¶ 14-20), on July
3 10, 2023, Collier contacted NRED to again verify Collier's understanding of the process. **Exhibit 2**,
4 ¶ 16. NRED again confirmed that Collier completed the statutory process in good faith and Collier
5 had the right to move forward with legal action. *Id.* NRED confirmed that the language sent in the
6 prior letter was standard language that NRED utilized when a party completes the process. *Id.* As
7 such, Collier confirmed the conversation with an email. *Id.*; **Exhibit 15**.

8 29. On July 14, 2023, Collier received correspondence from Mossett-Puhek. **Exhibit 17**.
9 Therein, Mossett-Puhek provided proof of an airline ticket, which confirmed Mossett-Puhek was in
10 town when the process server attempted service on June 8, 2023. *Id.*; *c.f.* **Exhibit 8** (never previously
11 discussing with counsel that Mossett-Puhek was unavailable at any time in May or June); **Exhibit 2**,
12 ¶ 4 (same).

13 **E. NRED Action Regarding Eassa and TerraWest.**

14 30. At the Status Hearing on July 13, 2023, the Parties discussed the discovery deadlines.
15 Collier informed the Court she planned to move to add the community manager (Eassa) and the
16 management company (TerraWest) as parties to this action given recent deposition testimony. Collier
17 also discussed that out of an abundance of caution, she planned to move forward with an NRED action
18 involving Eassa and TerraWest to avoid similar argument that Mossett-Puhek raised.

19 31. At the Status Hearing, the Court held that Collier should move forward with submitting
20 the motion for leave to amend even if the NRED claim needed to be submitted, as the Court would
21 address those issues at the upcoming hearing on the instant Motion. The Court further held that
22 submitting the motion for leave to amend would preserve Collier's rights under the current deadlines,
23 and the Court would address any continuances relating the procedural deadlines at the upcoming
24 hearing on the instant Motion.

25 32. On July 26, 2023, Collier submitted the Third NRED Action, involving Eassa and
26 TerraWest. This matter is still being processed by NRED.

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1 **III. STATEMENT OF FACTS**

2 **A. Facts Regarding Collier and Mossett-Puhek.**

3 1. On December 31, 2015, Collier purchased the Property, which is a single-family, two
4 story residence that is approximately 2,462 square feet on 0.17 acres. Doc ID# 1, ¶ 9. Collier takes
5 great pride in maintaining the Property at all times, as well as the surrounding neighborhood. *Id.*

6 2. For years, Collier never had any issues with Anthem. *Id.*, ¶ 10. Collier did not receive
7 any notices of any alleged violations from Anthem given that her Property was properly maintained.
8 *Id.*

9 3. Collier eventually noticed a decline in the Anthem Community, becoming extremely
10 frustrated with the increase in crime, unkept landscaping, improper parking related to commercial
11 vehicles and inoperable vehicles. *Id.*, ¶¶ 11-12. As a result of her frustration, in June 2020, Collier
12 took action and reached out to Mossett-Puhek, who had recently been elected to Anthem's board of
13 directors. Collier offered her support. *Id.*

14 4. Thereafter and over the next seven to eight months, Collier and Mossett-Puhek became
15 friends and worked together to address issues within Anthem. *Id.*, ¶¶ 11-21. Collier and Mossett-
16 Puhek socialized at a Dinner Party (hosted by Collier), ate at expensive restaurants (paid for by
17 Collier), and otherwise continued to develop a friendship. *Id.*, ¶¶ 11-21. The facts pertaining to these
18 issues are set forth in detail in the Complaint. *Id.*

19 5. Around March 2021, Collier decided to open the lines of communication directly with
20 the management company, speaking to Ms. Eassa of TerraWest. *Id.*, ¶ 20. Ms. Eassa informed Collier
21 this was the first she was hearing of many of Collier's concerns, which surprised Collier given the
22 assurances that Mossett-Puhek had internally addressed these issues. *Id.*

23 6. This enraged Mossett-Puhek. *Id.*, ¶ 21. Collier's relationship drastically changed. *Id.*
24 Mossett-Puhek no longer conversed with Collier in a friendly manner. *Id.* Instead, significant
25 animosity appeared to exist from Mossett-Puhek toward Collier. *Id.*

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1 **B. Collier Was Improperly Targeted Regarding Her Oleanders.**

2 7. Almost immediately after Collier’s relationship with Mossett-Puhek soured, Collier
3 became the subject of an unfair and intense investigation by Mossett-Puhek and Anthem. *Id.*, ¶ 22.
4 That is, Mossett-Puhek utilized her power to inappropriately target Collier. *Id.*

5 8. Collier was first improperly targeted for some oleander bushes in her front yard,
6 oleanders that had been present on the property for years. *See, generally, id., see also Exhibit 1, ¶ 8.*
7 In fact, Mossett-Puhek drove by the oleanders multiple times a day every time she entered and exited
8 the community for years, but did nothing until after Collier and her relationship soured. **Exhibit 20**,
9 Response No. 9 (confirming Collier’s property was part of Mossett-Puhek’s ingress and egress route
10 in and out of the Anthem Community); *see also* Doc ID# 1, ¶ 23 (confirming the first notice was not
11 sent until April 12, 2021). The same would also be true for any inspection that occurred by the
12 management company.⁷

13 9. In March 2021, Mossett-Puhek even reported the matter to Henderson Code
14 Enforcement, attempting to get Collier fined by the City of Henderson. Doc ID# 1, Exhibit A, Exhibit
15 2 (letter from Henderson Code Enforcement); **Exhibit 21**, 23:10-17 (Jason Esau, the Code
16 Enforcement Officer, confirming that Mossett-Puhek made the initial complaint).

17 9. To work with Anthem and be a good neighbor, Collier agreed to trim her oleander
18 bushes to 24”, which ensured that no line of sight issues existed. *See, e.g.,* Doc ID# 1, Exhibit A (letter
19 confirming Collier took these steps); *id.*, Exhibit A, Exhibit 1 (a photograph of the oleanders after
20 Collier trimmed back the same); *id.*, Exhibit C (another photograph, which clearly shows any
21 oncoming vehicle would be visible above the oleanders as portions of the street are visible).

22 10. Ultimately, Collier was never in violation of any code provision regarding her oleander
23 bushes. **Exhibit 22**. Eventually, the matter was escalated (by Mossett-Puhek) to Henderson Traffic
24 Engineering, which is a department that Henderson Code Enforcement consults or is otherwise
25 referred to on certain traffic related matters. **Exhibit 21**, 18:6 – 19:14, 40:18 – 41:11, 45:25 – 47:1.
26 Henderson Traffic Engineering issued the following report:

27 _____
28 ⁷ From a procedural standpoint, fines were never even proper as Anthem failed to provide reasonable notice to Collier
after discovering the alleged violations related to the oleanders. 116.31031(4)(b) (requiring the HOA to pursue the
violation within a “reasonable time after the discovery”).

The sight visibility guidelines that are mentioned in your concern are used at intersections that do not have an all-way stop controlled or signal. Intersections such as two-way stop controlled and or roundabouts must meet sight visibility requirements since the vehicles that are stopped must be able to see oncoming traffic a specific distance down the roadway to be able to gauge when it is appropriate for them to continue through the intersection. Since the intersection of Culloden and Crathes is an all-way stop controlled intersection where all approaches must come to a stop, the sight visibility is different. The line of sight for this type of intersection is from the drivers eye to the first car at the stop sign at all approaches. During our field visit we made sure that when stopped at every approach, the stop sign and vehicles at the stop sign were visible. The bushes in question do hinder the line of sight for any approach. It should be noted that when sitting at the approach on Crathes, the stop sign for eastbound Culloden was blocked by trees. We respectfully request that the HOA have their landscaping company trim the tree so the approach on Crathes can see that that leg of the intersection does have a stop sign.

Exhibit 22.

This report is crucial for a few reasons. First, Henderson Traffic Engineering conclusively determined that Collier complied with all required code provisions. *Id.* Second, Henderson Traffic Engineering determined that the oleanders were never out of compliance (even before they were trimmed), as Anthem was referring to code provisions that did not apply at a controlled intersection. *Id.* Third, Henderson Traffic Engineering instead reprimanded Anthem, requesting trimming of their trees as their Anthem's landscaping (not Collier's) was out of compliance with the code. *Id.*

11. Even at the time Anthem improperly fined Collier, Mr. Esau unequivocally testified that Collier was in compliance and he did not even need to contact Henderson Traffic Engineering given that no sight visibility issues and/or violations existed. **Exhibit 21**, 26:11 – 30:10. However, this was still not good enough for Mossett-Puhek, who started attacking Mr. Esau's competency. Mr. Esau testified as follows:

Q. After December 2021 -- or during this time frame, do you recall receiving additional calls from Pennie Mossett-Puhek, the individual with the HOA?

A. I believe it was around this time when I closed -- shortly after I closed this case that I did have a -- I did receive a call from Pennie.

Q. Do you recall Pennie becoming upset with you and telling you that you didn't know how to do your job?

A. Yes.

///

1 Q. · Do you recall Pennie stating to you that you didn't know the code and she, essentially,
 2 knew the code better than you?

3 A. · Something to that extent. · Yes.

4 *Id.*, 30:1-14.

5 12. Ultimately, after Collier initiated this action and given the evidence obtained to date,
 6 Anthem withdrew the improper fines for the oleanders. **Exhibit 23**, Response No. 9 (confirming that
 7 the fines related to the oleanders have now been removed); *c.f. id.*, Response No 5 (confusingly still
 8 claiming that the oleanders present a view obstruction in direct contradiction to the removal of the
 9 fines and the City of Henderson).

10 13. Collier is a prevailing party as it relates to the oleander bushes given that the fines have
 11 been removed related to the oleander bushes. **Exhibit 23**, Response No. 9.

12 C. **Members Of The Executive Board Have Confirmed Mossett-Puhek's Targeting**
 13 **Behavior.**

14 14. Ms. Breeden served on the executive board at the time Collier was fined pertaining to
 15 her oleanders. **Exhibit 24**, 13:9-18. Ms. Breeden retired from the Clark County School District after
 16 31 years of service as the Director of Hiring and Recruitment of Support Staff Personnel. *Id.*, 10:17 –
 17 11:8. She then served as a Nevada State Senator from 2008 to 2012. *Id.*

18 15. Ms. Breeden objected to Mossett-Puhek's approach as it related to Collier and the
 19 oleanders, believing Anthem should work with Collier. *Id.*, 19:3 – 21:7. Ms. Breeden confirmed that
 20 Mossett-Puhek proposed the fine amount and this was an abnormal fine amount. *Id.* In fact, when
 21 Ms. Breeden discussed the fine amount with Mossett-Puhek during the executive meeting related to
 22 the oleanders, Mossett-Puhek discussed that the matter with Collier was personal. *Id.* Ms. Breeden
 23 testified as follows:

24 Q. · When you discussed this fine amount with Pennie did Pennie ever discuss anything with
 25 you personal as it related to Andrea?

26 A. · One of my questions to Pennie at the time was how can you justify that large of a fine for
 27 planting an oleander, and she mentioned she didn't ask permission, oleanders aren't on the list,
 28 it was on Anthem Highlands' property and it was a safety issue. And then she stated at one
time -- the verbiage could be different, but she eluded to Ms. Collier working against her when
she was up for a reelection.

Q. · So did this seem personal to Pennie?

....

A. · I -- it just came at the end. It was a comment she made at the end.

Q. · At the end about how Ms. Collier had worked against her during a time when Pennie was seeking to get elected to the board? ·

A. · That was my understanding.

Id., 21:8 – 22:3.

16. Ms. Breeden further testified that Mossett-Puhek essentially controlled the board and ran meetings in an appalling manner. She testified as follows:

Q. · What was it like to serve on the board?

MR. NOACK: · Objection. · Overbroad, vague.

A. · Awful.

Q. · Why is that?

MR. NOACK: · Same objection.

A. · The first few months I sat on the board Pennie was the president and I was appalled and ashamed at how she conducted the meetings and how she treated people. I have never sat on a board throughout my career with the district or with serving in the senate where people were treated so rudely. Then it changed when Sydney Woo became president.

....

Q. · Would Pennie ever interrupt you?

A. · Yes.

Q. · Would she ever cut you off or act in other rude ways toward you?

A. · It was Pennie's way or the highway, but I still asked questions. · I felt as though it was my duty.

Id., 31:9 – 33:17 (also testifying that “Pennie ran every meeting when she was president . . .”) (emphasis added)

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1 17. In fact, at the end of her deposition, Ms. Breeden asked on her own initiative if she
2 could make a statement for the record, testifying as follows:

3 Q. I have no further questions.

4 A. May I make a statement?

5 Q. Sure.

6 A. I never witnessed Pennie do anything illegal, but I do believe that she's a bully and people
7 are intimidated by her.

8 *Id.*, 81:25 – 82:4; *see also id.*, 73:11 – 74:19 (Breeden testifying she was afraid of retaliation when she
9 left the executive board by Mossett-Puhek – not the board generally but specifically Mossett-Puhek –
and in fact, she started to receive violation notices after she left the executive board).

10 18. Making matters worse, Sydney Woo, another executive board member at the time
11 Collier was fined for the oleanders, confirmed Mossett-Puhek's conduct. Mr. Woo testified that
12 Mossett-Puhek planned to engage in conduct to drive up Collier's attorneys' fees and costs. **Exhibit**
13 **25**, 72:22 – 73:15 (testifying that "Ms. Puhek's comment was something to the effect of, She's going
14 to drag it out and run up the bill" and that Mr. Woo associated that with the fine amount so it would
15 "run[] up the legal bill so that it would hurt [Collier]").

16 19. Mr. Woo confirmed that Mossett-Puhek controlled the process, including the
17 inspection process. *Id.*, 51:8-16 (confirming that Mossett-Puhek would conduct the inspections, taking
18 the inspector with her, which is not how Mr. Woo acted when he was president); 100:20-23
19 (confirming that Mossett-Puhek would give the instructions to the inspectors to look for violations);
20 71:25 – 72:5 (confirming that Mossett-Puhek came up with the fine amount for Collier); 68:20 – 69:21
21 (Mossett-Puhek conducted the executive session meeting in an unfair manner and that Mossett-Puhek
22 made the presentation to the executive board as to why Collier should be fined for the oleanders);
23 103:9 – 104:16 (confirming the way Anthem and Mossett-Puhek handled Collier was an
24 "embarrassment" and "handled poorly") (emphasis added); 81:2-17 (confirming that "Ms. Puhek did
25 whatever she wanted to." regardless of whether the board provided authorization).

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D. Collier Was Improperly Targeted Regarding Her Paint Scheme.

20. The paint scheme violation was also part of the targeting effort. Collier set forth detailed allegations pertaining to the paint scheme. Doc ID# 1, ¶ 27. No issue with the paint scheme was raised until after Collier and Mossett-Puhek's relationship soured. *See, generally, id.* Even then, Collier attempted to resolve the paint scheme in an amicable manner, offering to repaint the house if provided time to do so. *Id.*, ¶ 31. However, none of this matter, and Mossett-Puhek pushed forward with the paint scheme violation, failing to even disclose this information to the executive board (discussed in more detail above and below).

21. Making matters worse, Mr. Woo admitted the paint scheme issues are a disaster and a problem. **Exhibit 25**, 97:12 – 102:19. Sherwin-Williams apparently didn't carry over the same color schemes and many of the original color schemes didn't carry over. *Id.* Mr. Woo even received a violation letter, which he eventually was able to clear up over the paint schemes. *Id.* However, many homeowners are having issues with the paint schemes given the technical issues with Sherin-Williams. *Id.* To date, Anthem has not provided any evidence that the paint schemes were appropriately disclosed or otherwise refuted Collier's allegations regarding the same.

E. Collier Was Improperly Targeted Regarding Her Flag Pole, Which Occurred At The Same Time As The First NRED Mediation.

22. Collier also pled detailed factual allegations regarding the flag pole violations, which Anthem alleged only after Collier brought the First NRED Claim, *i.e.*, another direct retaliation. Doc ID#1, ¶¶ 48-55. Ultimately, Anthem rejected Collier's ARC submission regarding the flagpole. *Id.* The flagpole was installed in 2017, roughly four years before Anthem issued the courtesy notice. *See, supra*, f.n. 7; *see also Exhibit 1*, ¶ 8. In addition, given the number of issues with Collier's Property, *i.e.*, the oleanders and paint schemes, it is disingenuous for Anthem to alleged it didn't notice the flagpole prior to November 1, 2021.

23. In an effort to appease Anthem, Collier even obtained a building permit for the flagpole, despite no requirement existing that she do so for her flagpole. **Exhibit 26**. Despite this, Anthem still alleges that Collier is in violation for her flagpole for no other reason than Collier did not submit an ARC when in fact she did in January 2022. **Exhibit 23**; *c.f.* Doc ID# 1, ¶ 53. Making matters worse,

1 Anthem confirmed that Collier was the first person it ever targeted regarding flagpoles. **Exhibit 23**,
 2 Response No. 10.⁸ This violation is also absurd.

3 **F. Numerous Procedural And Substantive Violations Exist.**

4 24. Numerous procedural and substantive violations exist regarding how Anthem conducts
 5 itself. Prior to the executive session taking place as it related to the oleanders, Collier sent detail
 6 correspondence detailing these procedural violations. Doc ID# 1, Exhibit A (outlining procedural
 7 violations related to NRS 116.31031(4)(b)(1)(II), NRS 116.31065, and other procedural violations);
 8 *see also, supra*, f.n. 7. At the executive session meeting, Collier was not provided a fair and reasonable
 9 opportunity to present her defense at the violation hearing. *See, e.g.*, Doc ID# 1, ¶ 35. Recently,
 10 Collier deposed board members who confirmed these procedural and substantive deficiencies.

11 Mr. Woo - **Exhibit 25** 67:2-23 (confirming that the way Mossett-Puhek conducted the
 12 executive session meeting related to Collier's oleanders was an embarrassment and not
 13 properly handled); *id.*, 68:2-19 (confirming that he has never seen the correspondence (Doc
 14 ID# 1, Exhibit A) that Collier sent prior to the executive session meeting); *id.*, 80:13 – 81:17
 15 (confirming that courtesy notice regarding the whistleblower email to legal counsel on June
 16 10, 2021, was not authorized by board action; *c.f.* Doc ID# 1, ¶¶ 36-37); *id.*, 83:7-23
 17 (confirming that Mossett-Puhek acted without board approval as it relates to the preservation
 18 of evidence requests and communications related thereto; *c.f.*, Doc ID# 1, ¶ 42); *id.*, 92:14 –
 19 93:2 and 95:17 – 97:6 (discussing that Mossett-Puhek and Eassa did not present
 20 communications to the executive board that should have been presented during the violation
 21 hearing as it related to the paint scheme, as well as that the meeting minutes don't reference
 22 the communications or that the extension request was made; also describing how Anthem
 23 handled violation hearings as "helter skelter" as no real consistent process existed); 88:16 –
 24 89:20 (confirming that the emails sent by Mossett-Puhek regarding the paint violation were
 25 not a board action).

26 Ms. Breeden – **Exhibit 24** 17::2 – 19:21 (confirming that Mossett-Puhek conducted the
 27 executive session meeting in an inappropriate manner and that she thought the fine amount
 28 proposed by Mossett-Puhek was ludicrous); 26:15 – 27:4 (confirming that she has never seen
 the correspondence (Doc ID# 1, Exhibit A)); 27:11 – 31:1 (confirming that she never saw the
 whistle blower email to the community manager or legal counsel regarding Mossett-Puhek's
 conduct at the executive session and that she was not aware of any board action to send a
 courtesy notice regarding the whistler blower email); 42:7-17 (confirming that the board never
 approved emails send by Mossett-Puhek regarding the oleanders); 37:21 – 38:8 (confirming
 that the she was never asked to preserve evidence and did not recall the preservation of
 evidence letter); 41:8 – 21 (confirming that Mossett-Puhek's emails were regarding the
 preservation letter were not authorized by the board).

⁸ The fact that Mr. Marks also received a courtesy notice is suspect as Collier understands that Mr. Marks received such a notice only after Mossett-Puhek learned that Mr. Marks and Collier are acquaintances. **Exhibit 1**, ¶ 10.

1 The procedural issues in how the executive session meeting was conducted (which was
2 condoned and permitted by Eassa), as well as the failure by both Mossett-Puhek and Eassa to provide
3 Collier's correspondence to the executive board, demonstrates the severity of the procedural due
4 process violations, above and beyond all other procedural issues.

5 **G. Conflicts Of Interest Exist That Weren't Disclosed To The Community.**

6 25. To this day, Mossett-Puhek is permitted to run afoul of the professional standards due
7 to personal relationships with Eassa and Mr. Boyack, none of which were properly disclosed to the
8 Anthem Community. **Exhibit 25**, 84:4 – 85:16 (confirming that no disclosure regarding Mossett-
9 Puhek's prior relationship with Mr. Boyack and/or Eassa were disclosed to the Anthem Community,
10 and it was Mossett-Puhek who put both agenda items on the calendar to replace the prior general
11 counsel and prior management company); **Exhibit 27** (no disclosure in the meeting minutes from
12 TerraWest and/or Boyack, Orme, Anthony, and McKiever at the time the board retained them);
13 **Exhibit 28** (no disclosure in Mossett-Puhek's candidate statement when she ran for reelection in
14 Spring 2021⁹ regarding her relationship with these vendors); NAC 116A.330(2)-(3) (requiring
15 disclosures for affiliations or personal relationships with members of the executive board and/or
16 vendors, such as Boyack, Orme, Anthony and McKiever); NRS 116.31034(9) (requiring disclosures
17 by candidates of their professional relationships).

18 26. Mossett-Puhek ensured that her friends (Eassa and Mr. Boyack) were hired by Anthem.
19 Once hired, Mossett-Puhek could act with impunity as management and legal counsel would not
20 prevent her from bullying those that stood in her way.

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28 ⁹ This timing coincides with the testimony from Ms. Breeden on the reelection and the executive session meeting, both occurring in the first part of 2021.

1 **H. Mossett-Puhek Has A History Of Engaging In Abusive Behavior.**

2 Mossett-Puhek has a history of engaging in abusive conduct. Collier is aware of at least two
3 prior occasions where persons sought *temporary protective orders* (“TPOs”) in HOA settings *against*
4 *Mossett-Puhek for threatening and abusive conduct*. See, e.g., **Exhibit 30** (a TPO submitted by a prior
5 community manager given the threatening and abusive conduct by Mossett-Puhek toward the
6 community manager). In fact, around 2015, *NRED brought charges against Mossett-Puhek* (as well
7 as Anthem and other board members) *for making disparaging remarks that attacked another*
8 *homeowner during her official role on the executive board*. **Exhibit 31**. Mossett-Puhek’s terrorizing
9 conduct has been ongoing for over a decade. Collier and the Anthem Community cannot continue to
10 endure this suffering. This conduct must come to an end.

11 **IV. LEGAL ARGUMENT**

12 **A. Collier’s Claims, At Least In Part, Do Not Arise From The CC&Rs.**

13 Collier’s claims, at least in part, do not arise from the CC&Rs. As such, a complete dismissal
14 of Mossett-Puhek from this action is improper as a matter of law. To the extent claims do arise out of
15 the CC&Rs, Collier completed the NRED process with the Second NRED Action (discussed below).
16 To the extent this Court finds otherwise (and does not find substantial compliance, which also
17 occurred), Collier respectfully requests leave to complete the NRED process as it relates to those
18 claims.

19 **1. Legal Standard Re Submitting Claims To NRED.**

20 On September 23, 2021, the Nevada Supreme Court issued *Saticoy Bay, LLC, Series 9720*
21 *Hitching Rail v. Peccole Ranch Community Association*, 137 Nev. 516, 495 P.3d 492 (2021)
22 abrogating *Hamm v. Arrowcreek Homeowners' Association*, 124 Nev. 290, 183 P.3d 895 (2008) and
23 *McKnight Family, LLP v. Adept Management Services, Inc.*, 129 Nev. 610, 310 P.3d 555 (2013). The
24 Nevada Supreme Court altered the analysis as it pertains to the requirement to submit claims to NRED.
25 *Saticoy Bay, LLC, Series 9720 Hitching Rail*, 137 Nev. at 521-22, 495 P.3d at 497-98. The Nevada
26 Supreme Court held as follows:

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28 ///

Accordingly, we clarify that, under NRS 38.310, a claim does not relate to the CC&Rs unless deciding the claim *requires* interpreting, applying, or enforcing the CC&Rs. See *id.* at 295-96, 183 P.3d at 900. This interpretation does not significantly narrow the statute's scope or redefine the broad phrase "relating to."⁴ A district court tasked, even in part, with resolving a claim through interpreting, applying, or enforcing CC&Rs would necessarily consider those CC&Rs. Given the policy justification expressed in *Hamm*, the statute certainly does not encompass every claim where a decision-maker might, in passing, look at the CC&Rs or a claim with a passing connection to the CC&Rs. Rather, the statute's function is to prevent a court from having to insert itself into the weeds of HOA CC&R disputes, unless the parties have already tried and failed to resolve the dispute through mediation. Therefore, only in disputes where the claim itself requires—not where the facts surrounding the claim merely involve—the interpretation, application, or enforcement CC&Rs, does the claim relate to the CC&Rs for the purposes of NRS 38.310.

Id. (italics in original; underling added; underline and italics added).

After abrogating *Hamm* and *McKnight*, the Nevada Supreme Court went on to analyze each specific claim. As it relates to each claim, the Nevada Supreme Court held as follows:

Intentional and Negligent Misrepresentation:

Saticoy Bay first claimed intentional or, alternatively, negligent misrepresentation by the HOA and the HOA trustee. Saticoy Bay argued that respondents did not disclose BANA's attempt to satisfy the superpriority lien because they did not want prospective purchasers like Saticoy Bay to know that the property might be subject to the first deed of trust. Of course, the sale happened because the homeowner did not pay HOA fees due, which are required in the HOA's CC&Rs. Thus, the claim's factual background *involved* the CC&Rs. But mere involvement is not enough to make a claim fall within the statute. The claim hinges on an allegation that respondents breached a duty they owed to Saticoy Bay before Saticoy Bay purchased the property, i.e., to disclose BANA's tender offer. The duty supposed by this claim originated in common law, not the CC&Rs

Id., 137 Nev. at 522-23, 495 P.3d at 499 (italics in original; underline and italics added).

Statutory Violation of NRS 116.1113:

Saticoy Bay next claimed a violation of NRS 116.1113's duty of good faith. This claim, too, is dependent on a pre-purchase nondisclosure which would not require analysis of the CC&Rs. This claim has nothing to do with the foreclosure sale authority or any duties under the CC&Rs.

Id., 137 Nev. at 523, 495 P.3d at 499.

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1 Conspiracy:

2 Saticoy Bay next claimed conspiracy, alleging that the HOA and HOA trustee conspired to
3 commit the wrongs alleged in its first two claims. As with those claims, the alleged conspiracy
4 does not require looking to the CC&Rs for resolution, and respondents have not shown that
5 this claim involved interpreting, applying, or enforcing the CC&Rs.

6 *Id.*

7 Statutory Violation of Chapter 113:

8 Lastly, Saticoy Bay claimed that NRS Chapter 113's requirements applied to HOA foreclosure
9 sale disclosures and that NRS Chapter 113 required the HOA to submit a real property
10 disclosure form disclosing "defects," which would include a preexisting deed of trust. This
11 claim does not involve a duty arising from the CC&Rs or any other provision of the CC&Rs.
12 As noted above, statutory requirements themselves are not CC&Rs and do not trigger the
13 limitations of NRS 38.310 unless they require interpretation, application, or enforcement of
14 CC&Rs.

15 *Id.*, 137 Nev. at 524, 495 P.3d at 499 (emphasis added).

16 Here, Collier's claims, at least in part, do not arise out of the CC&Rs. Collier addresses each
17 cause of action.

18 **2. Collier's Claim For Breach Of The CC&Rs Is Properly Before This Court.**

19 Notably, Collier's Second Cause of Action for Breach of the CC&Rs is properly before this
20 Court. It is only pled against Anthem. Doc ID# 1. Collier completed the NRED process with Anthem,
21 a fact that is not disputed amongst the Parties. *Id.* This is important as claims arising from the CC&Rs
22 are properly before this Court. Anthem is a party to the CC&Rs, not Mossett-Puhek.

23 **3. Collier's Claim For Violation Of Nevada Law And Nevada Statutes Are**
24 **Properly Before This Court.**

25 In her First Cause of Action, the crux of Collier's allegations arises from Chapter 116 of the
26 Nevada Revised Statutes. Doc ID# 1, ¶¶ 61-68. Collier explicitly references two statutes: NRS
27 116.31183 and NRS 116.31184, which prohibit an HOA and its executive board from taking
28 retaliatory actions, making threats, or otherwise engaging in harassment against a unit owner. *Id.* Just
like NRS 116.3116 (and the common law violations) in *Saticoy Bay*, this is a statutory violation that
does not arise from the CC&Rs. This cause of action requires the finder of fact to analyze whether
the HOA and its executive board took retaliatory action, made threats, or otherwise harassed Collier.
That is, it does not evaluate whether or not a violation of the CC&Rs occurred, which would be

governed by the second cause of action that is properly before this Court.

The finder of fact must analyze whether retaliatory steps were taken, as well as evaluate the motivation for the retaliatory steps. Even if violations existed of the CC&Rs, an HOA and the board cannot retaliate, harass, or otherwise threaten homeowners to pursue some ulterior motive or personal vendetta. That is, an HOA and its board cannot single out homeowners. NRS 116.31065(5) (requiring that rules be uniformly enforced); NRS 116.3102(3)-(4) (preventing arbitrary or capricious enforcement). An HOA must follow other procedure requirements to enforce fines.¹⁰ Whether or not a violation existed does not matter if the HOA and the board are pursuing the violation for a nefarious purpose, which NRS 116.31183 and NRS 116.31184 expressly prohibit.¹¹ The crux of this allegation relates to the nefarious purpose, not whether or not a violation existed (which is covered by the Second Cause of Action). This cause of action also arises from statute, not the CC&Rs.

It is immaterial that this cause of action may involve the CC&Rs, just as the Nevada Supreme Court held in *Saticoy Bay*. Mossett-Puhek appears to evaluate the wrong standard, which was abrogated by *Saticoy Bay*. The finder of fact may review or the cause of action may otherwise involve the CC&Rs without first being required to mediate. *Saticoy Bay, LLC, Series 9720 Hitching Rail*, 137 Nev. at 521-22, 495 P.3d at 497-98. The function of NRS 38.310 was to prevent a court from “insert[ing] itself into the weeds of HOA CC&R disputes” without first mediating the dispute (a requirement that has already been fulfilled with Anthem). *Id.* The causes of action for statutory violations are properly before this Court.

4. Collier’s Claims For Breach Of Fiduciary Duty Are Properly Before This Court.

Breach of fiduciary duty is typically a common law cause of action. *Frantz v. Johnson*, 116 Nev. 455, 999 P.2d 351 (2000) (discussing that the seven causes of action were common law claims, which included breach of fiduciary duty); *Apollo Capital Fund, LLC v. Roth Capital Partners, LLC*, 158 Cal.App.4th 226 (Cal.Ct.App. 2007) (discussing breach of fiduciary duty as a common law claim).

¹⁰ See, e.g., NRS 116.31031(4)(b) (requiring the HOA to pursue the violation within a “reasonable time after the discovery”); NRS 116.31031 (setting forth other procedural requirements regarding notice and due process).

¹¹ These types of harassment issues are so serious that the legislature enacted NAC 116.405 to help establish guidelines for NRED in determining whether or not a member of the executive board performed his fiduciary duties.

Here, in addition to raising it as a common law cause of action, Collier also statutorily raises it given that NRS 116.3103 expressly mandates that the executive board act as fiduciaries. *See also* NAC 116.405 (listing factors on whether or not a member of the executive board performed their required statutory duties). This cause of action does not arise from the CC&Rs.

The trier of fact also need not reference the CC&Rs to resolve this cause of action (although violations of the CC&Rs are properly before this Court). That is, Collier can demonstrate that Mossett-Puhek violated her fiduciary duties, *e.g.*, the duties of loyalty, competency, and care, without discussing violations of the CC&Rs (even those these are properly before the Court). This cause of action is properly before the Court.

5. Collier's Claim For Breach Of The Covenant Of Good Faith And Fair Dealing Is Also Properly Before The Court.

“The implied covenant of good faith and fair dealing is a common-law duty applicable in all contracts.” *Torres v. Nev. Direct Ins. Co.*, 131 Nev. 531, 541, 353 P.3d 1203, 1210 (2015). Here, this claim does not arise from the CC&Rs but common law. A party breaches the covenant when it performs in a manner that is unfaithful to the contract's purpose, and thus, denies the other party's justified expectations. *Perry v. Jordan*, 111 Nev. 943, 948, 900 P.2d 335, 338 (1995).¹² In situations where the terms of a contract are literally complied with, the covenant is breached when “one party to the contract deliberately countervenes the intention and spirit of the contract.” *Hilton*, 107 Nev. at 232, 808 P.2d at 922-23. Ultimately, however, the central question in determining whether the covenant was breached is whether the party acted in bad faith. *See Geysen v. Securitas Sec. Servs. USA, Inc.*, 142 A.3d 227, 237-38 (Conn. 2016) (using conduct that constitutes “bad faith” as an excluder for what constitutes “good faith”); *see also* Robert S. Summers, The General Duty of Good Faith—Its Recognition and Conceptualization, 67 Cornell L. Rev. 810, 819-20 (1982).

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¹² Reasonable expectations are “determined by the various factors and special circumstances that shape these expectations.” *Id.* (quoting *Hilton Hotels Corp. v. Butch Lewis Prods., Inc.*, 107 Nev. 226, 234, 808 P.2d 919, 924 (1991)). Whether a party did not act in good faith is typically a factual question for the jury. *Consol. Generator-Nev., Inc. v. Cummins Engine Co., Inc.*, 114 Nev. 1304, 1312, 971 P.2d 1251, 1256 (1998).

1 Here, just like the other causes of action against Mossett-Puhek, this cause of action also does
2 not arise from the CC&Rs but common law. The claims pertaining to the violations of the CC&Rs
3 are properly before this Court, given the mediation as it pertains to Anthem. This cause of action goes
4 beyond the terms of the contract and looks to the intent of the parties and whether the parties acted in
5 bad faith. It does not necessarily matter if the terms of the contract are complied with, as intent is the
6 focus. As such, this cause of action is also properly before the Court.

7 **6. The Declaratory Relief Cause Of Action Is Also Properly Before The**
8 **Court.**

9 For the same reasons, the Declaratory Relief cause of action is properly before the Court. The
10 declaratory request is based in statute and looks to declare that other statutory and common-law
11 violations occurred. To the extent it involves direct claims with the CC&Rs, it involves those direct
12 issues as it pertains to Anthem only. To the extent this was not clear, as Collier uses the word
13 Defendants, Collier will agree to limit the declaratory relief claims as otherwise set forth herein.

14 **B. To The Extent The Claims Arise Out Of The CC&Rs, Collier Has Now Completed**
15 **The NRED Process.**

16 As discussed at length above, the Second NRED Claim names Mossett-Puhek as a respondent,
17 setting aside any doubt that Collier complied with NRS 38.310. Even though her and her husband
18 indisputably evaded service (frustrating the NRED process), Mossett-Puhek argues that Collier did
19 not complete the NRED process because a mediation did not occur. **Exhibit 19** (“Mrs. Mossett-
20 Puhek’s position remains that Plaintiff Andrea Collier has not completed the NRED ADR process
21 since no NRED mediation has occurred”) (emphasis removed). However, NRED does not require that
22 a mediation occur as NRED cannot force parties to mediate or otherwise participate in the process.

23 For example, the first step in the process is a claimant submitting a claim. Collier indisputably
24 complied with this step, naming Mossett-Puhek as a respondent. **Exhibit 5**. The second step is
25 service. Doc ID# 24, Exhibit B, p. 4. Setting aside the second step for now, the third step is the
26 respondent filing an answer, which the respondent has 30 days to do upon service. *Id.* After
27 respondent files an answer, the mediator is appointed, who then conducts the mediation. *Id.*

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1 This process can break down at several points. For example, once a respondent is served, there
 2 is no enforcement mechanism if the respondent does not file an answer. *See, generally*, Doc ID# 24,
 3 Exhibit B. There is no enforcement mechanism if a respondent files an answer and then doesn't
 4 participate in the mediation program. *Id.* While the claimant is required to submit a claim as a
 5 precursor to litigation, the process is largely voluntary as it relates to the respondent. NRED has no
 6 authority to penalize a respondent that does not properly participate in the process. There is no avenue
 7 to obtain a default judgment or sanctions, like one would obtain in a civil lawsuit. As such, Mossett-
 8 Puhek's position is erroneous as a matter of law that a mediation must occur for compliance to occur.

9 NRED also acknowledges in the Process Overview that breakdowns can occur during service.
 10 For example, when a party evades service in civil litigation, remedies exist under NRCP 4.4 that permit
 11 service by alternative means, such as service by registered mail, service by publication, or any other
 12 route that ensures that a party's due process rights are not violated. Given the purpose of ADR via
 13 NRED, NRED does not require that a claimant complete actual service if the claimant shows good
 14 faith attempts. The claim form states as follows:

15 If all the above are not possible because of the absence from the state or inability to locate the
 16 respondent: An Affidavit of Due Diligence can be provided to the Division. *If the Division*
 17 *determines adequate efforts were made to serve the respondent(s), the Division will provide a*
 18 *letter to the claimants acknowledging their unsuccessful efforts to participate in the ADR*
 19 *program.*

20 "Service by Publication" is not a valid form of service for the ADR Program.

21 **Exhibit 5**, p. 3 (emphasis in original removed; emphasis then added).

22 First and foremost, any due process rights have been fulfilled. Mossett-Puhek has known of
 23 this process since the outset. She refused to cooperate in good faith, purposely escalating costs by
 24 refusing to accept serve by electronic means or allowing her counsel to accept service. **Exhibit 2**, ¶ 4
 25 (discussing that Mossett-Puhek rejected this approach); *c.f.* NRCP 4.1 (permitting a party to seek
 26 waivers to avoid unnecessary expense, which also is not possible under NRED). She apparently did
 27 not even notify counsel that she was going to be out of the country when service attempts first
 28 occurred. *See, e.g.*, **Exhibit 8**. Her husband then outright lied to the process server, avoiding substitute
 service that otherwise would have occurred. **Exhibit 7**. Both Mossett-Puhek and her husband then

1 refused to open the door at a time when they were both home and activity occurred in the house. *Id.*
 2 This is exactly why NRED issued a letter acknowledging that adequate service attempts were made.

3 **Exhibit 11.**

4 Not only should this Court not tolerate this type of abusive conduct (which quite frankly is
 5 grounds for sanctions),¹³ Collier respectfully requests that this Court adhere to the standards adopted
 6 by NRED in determining that Collier completed the process by making good faith attempts to resolve
 7 this matter.¹⁴ Collier completed the NRED process as Mossett-Puhek indisputably avoided service.
 8 If a party is evading service, a mediation is clearly not going to be effective, especially given the
 9 repeated attempts by Collier to resolve these disputes. **Exhibit 4** (discussing that Collier raised private
 10 mediation on at least four occasions since the lawsuit has been initiated, excluding the time the parties
 11 actually mediated). As such, Collier respectfully requests that the instant Motion be denied.

12 **C. At A Minimum, Substantial Compliance Occurred Given These Specific Facts.**

13 **1. Legal Standard For Substantial Compliance.**

14 On May 18, 2023, the Nevada Supreme Court reaffirmed the standard for substantial
 15 compliance in *Wishengrad v. Carrington Mortgage Services*, 529 P.3d 880, 139 Nev. Adv. Op. 13
 16 (2023).¹⁵ In *Wishengrad*, the appellants alleged that the respondent (a mortgagor) did not comply with
 17 NRS 40.437(2) as the mortgagor did not submit a copy of the complaint to Home Means Nevada, Inc.
 18 or otherwise include the separate document attached to the complaint that contained required contact
 19 information for various entities (such as counseling services). *Wishengrad*, 529 P.3d at 886-87. The
 20 Nevada Supreme Court held that while a technical violation occurred, the mortgagor provided this
 21 information to respondents during the judicial foreclosure process. *Id.* Consequently, no prejudice
 22 occurred to the Wishengrads. *Id.*

24 ¹³ See, e.g., NRS 18.010, NRS 7.085, EDCR 7.60, and NRCPC 11. Collier does not seek sanctions against counsel.

25 ¹⁴ *Holt v. Reg'l Tr. Servs. Corp.*, 127 Nev. 886, 891, 266 P.3d 602, 605 (2011) (holding that res judicata may apply in
 26 administrative proceedings); see also *Britton v. City of N. Las Vegas*, 106 Nev. 690, 692, 799 P.2d 568, 569 (1990) (“It is
 a well-settled rule of law that res judicata may apply to administrative proceedings.”).

27 ¹⁵ See also *Leyva v. Nat'l Default Servicing Corp.*, 127 Nev. 470, 476, 255 P.3d 1275, 1278-79 (2011) (“Where the
 28 purpose of the notice requirements is fulfilled, but not necessarily in a manner technically compliant with all of the terms
 of the statute, this Court has found such substantial compliance to satisfy the statute.” (internal quotation marks
 omitted)); *Schleining v. Cap One, Inc.*, 130 Nev. 323, 330, 326 P.3d 4, 8 (2014) (finding in the context of notice
 requirements that “substantial compliance is sufficient where actual notice occurs and there is no prejudice to the party
 entitled to notice”).

1 **2. Collier Substantially Complied With NRS 38.310.**

2 Collier substantially complied with NRS 38.310. First and foremost, Mossett-Puhek cannot
 3 demonstrate any actual prejudice. Mossett-Puhek attended the mediation regarding the First NRED
 4 Claim, even discussing settlement regarding the claims directly against her. **Exhibit 1**, ¶ 3; **Exhibit**
 5 **4**. Mossett-Puhek refused to participate in good faith in the Second NRED Claim. *See, e.g.*, **Exhibit**
 6 **7**. Beyond that, Collier is willing to attend a mediation and/or a mandatory settlement conference,
 7 which Collier has made painstakingly clear throughout this litigation. **Exhibit 4**. Collier is not the
 8 party unnecessarily driving up costs, which Mossett-Puhek told other members of the executive board
 9 she intended to do. **Exhibit 25**, 72:22 – 73:15.

10 Mossett-Puhek is aware of the ability to engage in ADR to resolve this matter. If the true
 11 purpose of the instant Motion is to resolve this matter, Mossett-Puhek would have agreed to mediate
 12 the case when Collier offered on four occasions to do. Collier will even consent to this Court ordering
 13 the parties to a mandatory settlement conference, which quite frankly, is more appropriate as all parties
 14 (such as Anthem) will attend and any resolution likely requires all parties to attend.

15 **V. COUNTERMOTION FOR LEAVE TO AMEND IS APPROPRIATE**

16 **A. Legal Standard.**

17 Good cause exists to allow Collier to file Amended Complaint. Nevada Rule of Civil
 18 Procedure 15 generally governs amendments of pleadings. NRCP 15(b) provides, in pertinent part:

19 (b) **Other Amendments.** In all other cases, a party may amend its
 20 pleading only with the opposing party’s written consent or the court’s
 leave. *The court should freely give leave when justice so requires.*

21 *See* NRCP 15(b) (bold in original; underline and italics is added).¹⁶

22 ¹⁶ The trial court possesses the sound discretion to permit a party to amend its pleading. *Stephens v. Southern Nevada*
 23 *Music Co.*, 89 Nev. 104, 105, 507 P.2d 138, 139 (1973). However, NRCP 15 requires the trial court allow a party leave
 24 to amend when justice so requires. *Adamson v. Bowker*, 85 Nev. 115, 121, 450 P.2d 796, 800 (1969). The Nevada
 25 Supreme Court has cited, with favor, the United States Supreme Court’s view of Rule 15(a): “Rule 15(a) declares that
 26 leave to amend ‘shall be freely given when justice so requires;’ this mandate is to be heeded.” *Id.*, at 121, 800 (quoting
 27 *Foman v. Davis*, 371 U.S. 178, 182, 83 S. Ct. 227, 230 (1962)). In *Foman*, the Court held that a trial court should
 28 consider the following four factors when determining whether or not to grant leave to amend pleadings: (1) undue delay;
 (2) bad faith or dilatory motive; (3) futility of amendment; or (4) prejudice to the opposing party. *Foman v. Davis*, 371
 U.S. 178, 182, 83 S. Ct. 227, 230 (1962). “Not all of the factors merit equal weight. As [the Ninth Circuit] and [other
 circuits] have held, it is the consideration of prejudice to the opposing party that carries the greatest weight.” *Eminence*
Capital, LLC v. Aspeon, Inc., 316 F.3d 1048, 1052 (9th Cir. 2003). The party opposing the amendment “bears the
 burden of showing prejudice.” *DCD Programs, Ltd. v. Leighton*, 833 F.2d 183, 186-87 (9th Cir.1987). “Absent
 prejudice, or a strong showing of any of the remaining *Foman* factors, there exists a presumption under Rule 15(a) in
 favor of granting leave to amend.” *Eminence Capital*, 316 F.3d at 1052.

1 **B. Good Cause Exists To Allow The Proposed Amendment Regarding Mossett-**
2 **Puhek.**

3 Good cause exists to allow Collier to file the Amended Complaint (**Exhibit 32**) as it relates to
4 Mossett-Puhek. First, Collier completed the NRED process as it relates to Mossett-Puhek. Collier
5 should be permitted to amend her pleading to definitely state so. Second, Collier should be permitted
6 to name additional causes of action against Mossett-Puhek. Collier continues to discover evidence
7 that support such claims, which largely occurred at the depositions of Breeden and Woo in late June
8 2023. No prejudice will result in the additional causes of action, such as conspiracy. Furthermore, to
9 the extent Collier did not complete the NRED process, Collier should still be permitted to include
10 these causes of action as they fall outside the purview of NRS 38.310.

11 **C. Collier Is Willing To Reopen The NRED Process To The Extent This Court Finds**
12 **Such Steps Are Required And This Court Should Continue Any Ruling On The**
13 **Motion And Countermotion Until It Is Completed.**

14 To the extent this Court would orders Collier to reopen the NRED Process and complete the
15 mediation, Collier is more than willing to do so (although it makes more sense for the parties to discuss
16 resolution with Anthem present). However, Collier respectfully requests that this Court stay any ruling
17 on the Motion and Countermotion until it is completed. No prejudice will result to Mossett-Puhek
18 with this approach.

19 **D. Good Cause Exists To Allow The Amendment As It Relates To Eassa And**
20 **TerraWest.**

21 Good cause exists to allow the amendment (**Exhibit 32**) as it relates to Eassa and TerraWest,
22 both of which have engaged in actionable conduct. The community manager and management
23 company clearly failed to fulfill their obligations to Collier and the Anthem Community, thereby
24 resulting in this litigation. Collier is entitled to pursue these claims.

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1 To the extent these claims are required to be submitted to NRED, which they aren't for the
2 same reasons analyzed above, Collier has already submitted the Third NRED Claim as it relates to
3 Eassa and TerraWest. **Exhibit 29**. After discussing these issues at the Status Check on July 13, 2023,
4 this Court ordered Collier to proceed to file the motion for leave to amend prior to completing the
5 NRED process so the Court could better evaluate these issues. As such, Collier respectfully requests
6 appropriate judicial relief, such as continuing any hearing on these issues until after Collier completes
7 the NRED process as it relates to Eassa and TerraWest. Alternatively, Collier respectfully requests
8 that the deadline for leave to amend be continued.

9 **VI. OTHER PROCEDURAL ISSUES**

10 At the Status Hearing on July 13, 2023, the Court indicated that other procedural issues would
11 be addressed at this hearing, including continuing out all discovery deadlines. The Court indicated
12 that at a minimum the initial expert disclosure deadline would be continued and that no party need to
13 designate experts at this time. Collier still maintains that good cause exists to continue out all
14 discovery deadlines should be continued, including the deadline for leave to amend.

15 Given the nefarious conduct, this case is a complicated web of deceit. Collier is untangling
16 this conduct, attempting to determine who is involved and their culpability. This type of conduct has
17 gone on far too long in Anthem, especially given the prior investigations by NRED. The bullying,
18 harassment, and retaliatory conduct needs to end. Collier would like to complete discovery before
19 determining whether other people are involved, *e.g.*, the depositions of Eassa and Mossett-Puhek.

20 ///

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1 **VII. CONCLUSION**

2 Based on the foregoing, Collier respectfully requests that this Court deny the instant Motion.
3 Collier properly mediated the claims governed by NRED, *i.e.*, those pertaining to violations of the
4 CC&Rs in the First NRED Claim. To the extent Collier did not, Collier properly submitted those
5 claims through the NRED process in the Second NRED Claim. At a minimum, substantial compliance
6 occurred. Good cause also exists to grant Collier's Countermotion for leave to amend (**Exhibit 32**) as
7 set forth herein. Collier also respectfully requests any and all other appropriate relief related to the
8 instant Motion, this Opposition, and the Countermotion.

9
10 DATED: August 4, 2023

Respectfully Submitted,

11 THE LAW OFFICES OF TIMOTHY ELSON

12
13 By: /s/ Timothy P. Elson

14 Timothy P. Elson, Esq.

15 Nevada State Bar # 11559

16 8965 S. Eastern Ave., Suite 382

17 Las Vegas, Nevada 89123

18 Attorneys for Plaintiff ANDREA COLLIER, as trustee of
19 the JACT TRUST
20
21
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28

CERTIFICATE OF SERVICE

The undersigned, an employee of the law firm of The Law Offices of Timothy Elson, hereby further certifies that on August 4, 2023, he served a copy of the foregoing **PLAINTIFF ANDREA COLLIER'S OPPOSITION TO MOTION TO DISMISS, OR ALTERNATIVELY, MOTION FOR SUMMARY JUDGMENT AND COUNTERMOTION FOR LEAVE TO AMEND** by electronic service through the Regional Justice Center for Clark County, Nevada's ECF System:

Edward D. Boyack, Esq.
Boyack Orme Anthony & McKiever
7432 W. Sahara Ave., Suite 101
Las Vegas, NV 89117
Counsel for Defendant Anthem Highlands Community Association

Michael Edwards, Esq.
Freeman Mathis & Gary, LLP
3993 Howard Hughes Parkway, Suite 100
Las Vegas, NV 89169
Counsel for Defendant Pennie Mossett-Puhek

/s/ Erin L. Wood
An employee of
The Law Offices of Timothy Elson

EXHIBIT 1

1 Timothy P. Elson, Esq.
 Nevada State Bar # 11559
 2 **THE LAW OFFICES OF TIMOTHY ELSON**
 8965 S. Eastern Ave., Suite 382
 3 Las Vegas, Nevada 89123
 Tim@ElsonLawOffices.com
 4 (702) 874-8600

5 Attorneys for Plaintiff ANDREA COLLIER, as
 trustee of the JACT TRUST

6 **DISTRICT COURT**
 7
CLARK COUNTY, NEVADA
 8

9
 10 ANDREA COLLIER, as trustee of the JACT
 TRUST,

11 Plaintiff,

12 v.

13 PENNIE MOSSETT-PUHEK, individually;
 ANTHEM HIGHLANDS COMMUNITY
 ASSOCIATION, a Nevada Non-Profit Corporation;
 14 DOES I through X and ROE BUSINESS
 ENTITIES I through X, inclusive,

15 Defendants.
 16

Case No.: A-22-852032-C
 Dept.: 8

DECLARATION OF ANDREA COLLIER

17 I, Andrea Collier, do declare, affirm, and state as follows:

18 1. I am the named plaintiff in this action. I am the trustee of the JACT Trust. I am
 19 competent to testify to the matters set forth in this Declaration, and will do so if called upon. Unless
 20 otherwise noted herein, I have personal knowledge of the matters stated herein, and if called upon
 21 could and would testify competently thereto.

22 2. On September 1, 2021, at the time I submitted the ADR Claim to NRED, I
 23 understood that NRED did not require individual board members to be named if the HOA is named
 24 as a respondent, given that board members acted in the course and scope of their authority under the
 25 HOA. A true and correct copy of the ADR Claim that I submitted to NRED is attached hereto as
 26 **Exhibit 3.**

27 3. On January 7, 2022, I attended the mediation via NRED. Anthem was also present as
 28 members of the executive board attended, as well as Ms. Eassa of TerraWest. Mossett-Puhek attend

1 the mediation. Anthem and Mossett-Puhek were represented by Patrick Orme, Esq., of Boyack,
2 Orme, Anthony, and McKiever. During the mediation, the Parties merged into a single meeting
3 room. Therein, I (along with my attorney) discussed with Mossett-Puhek that I intended to make
4 individual claims against Mossett-Puhek in litigation if the matter did not resolve. Without
5 discussing the settlement details, I (either individually or via my counsel) also expressly made
6 settlement offers to Mossett-Puhek regarding the individual claims against Mossett-Puhek, offering
7 to resolve those claims. These settlement discussions were separate and distinct from any settlement
8 conversations with Anthem.

9 4. On May 25, 2023, to help negate the need for judicial intervention, I determined it
10 would best serve everyone's interests to submit an additional ADR Claim to NRED that specifically
11 names Mossett-Puhek as a respondent to attempt to resolve the issue. I submitted the Second NRED
12 Claim that same day, a true and correct copy of which is attached hereto as **Exhibit 5**.

13 5. On or around June 5, 2023, I learned that Mossett-Puhek and her husband were
14 allegedly out of town. However, I did not believe this to be true as I witnessed their vehicle leaving
15 the neighborhood during this same timeframe, *i.e.*, the prior weekend.

16 6. On June 8, 2023, I saw Mossett-Puhek's husband in Albertson's, discussing with the
17 butcher how he was planning on grilling up filets for his wife at their house for Game 3 of the
18 Stanley Cup that night. I took a picture of Mossett-Puhek's husband, a true and correct copy of
19 which is attached hereto as **Exhibit 9**.

20 7. The oleanders at issue in this litigation have been planted in the front yard for several
21 years before I received the first courtesy notice from Anthem. In fact, the oleanders had been
22 present on the Property even before they were moved to the side of the front yard.

23 8. The same is also true of the flagpole, which was installed in my front yard by a
24 licensed contractor several years before (around 2017) I received the first courtesy notice from
25 Anthem.

26 9. After Anthem rejected by ARC submission for the flagpole, I obtained a building
27 permit from the City of Henderson pertaining to it (true and correct copies of these records are
28 attached hereto as **Exhibit 26**).

11. This Declaration is being made in good faith, and not for the purposes of delay or harassment.

FURTHER, AFFIANT SAYETH NAUGHT:

3

EXHIBIT 2

Timothy P. Elson, Esq.
Nevada State Bar # 11559
THE LAW OFFICES OF TIMOTHY ELSON
8965 S. Eastern Ave., Suite 382
Las Vegas, Nevada 89123
Tim@ElsonLawOffices.com
(702) 874-8600

Attorneys for Plaintiff ANDREA COLLIER, as
trustee of the JACT TRUST

DISTRICT COURT
CLARK COUNTY, NEVADA

ANDREA COLLIER, as trustee of the JACT
TRUST,

Plaintiff,

v.

PENNIE MOSSETT-PUHEK, individually;
ANTHEM HIGHLANDS COMMUNITY
ASSOCIATION, a Nevada Non-Profit Corporation;
DOES I through X and ROE BUSINESS
ENTITIES I through X, inclusive,

Defendants.

Case No.: A-22-852032-C
Dept.: 8

**DECLARATION OF TIMOTHY ELSON
ESQ.**

I, Timothy Elson, Esq., do declare, affirm, and state as follows:

1. I am an attorney at THE LAW OFFICES OF TIMOTHY ELSON, PLLC, and am
duly licensed in the State of Nevada. I am competent to testify to the matters set forth in this
Declaration, and will do so if called upon. Unless otherwise noted herein, I have personal
knowledge of the matters stated herein, and if called upon could and would testify competently
thereto. I am an attorney of record representing Plaintiff ANDREA COLLIER, as trustee of the
JACT TRUST, in the subject lawsuit.

2. Throughout this case, I (on behalf of Collier) have made repeated good faith efforts to
discuss resolution. On June 9, 2023, I sent detailed written correspondence to Defendants
memorializing these efforts, a true and correct copy of which is attached hereto as **Exhibit 4**
(redacting details of the settlement offers).

3. On May 24, 2023, I called Rhonda Galvin, who is the ADR Facilitator for NRED. I

1 confirmed with Ms. Galvin that NRED does not require board members to be separately listed as
2 respondents. We discussed that individual board members do not need to be separately listed and
3 individual board members are considered named as part of the HOA given their active role as board
4 members within the HOA. We discussed that listing individual board members creates additional
5 complications for claimants, respondents, and NRED. We discussed that NRED is supposed to act
6 as an informal process to help create dispute resolution. Ms. Galvin confirmed that by requiring
7 individual board members to be listed, it increases administrative work, as well as work on the
8 parties. For example, Ms. Galvin expressed concerns about the claimant having to serve each board
9 member if they are listed separately, creating complications and additional costs. In addition, we
10 discussed that board members would be required to submit fees each time they are named, thereby
11 unnecessarily increasing fees to the board members and HOAs. A party is only entitled to one fee
12 subsidy per fiscal year.

13 4. In the following days, I discussed the Second NRED Claim with Derek Noack, Esq.,
14 counsel for Mossett-Puhek. We also discussed other scheduling issues in the case. During these
15 conversation, the Parties agreed to reschedule depositions given scheduling conflicts and continue
16 out the hearing date and briefing on the instant Motion given that Collier filed the Second NRED
17 Claim. In calculating the new hearing date, Mr. Noack and I attempted to calculate the time it would
18 take to complete the NRED process. I specifically discussed with Mossett-Puhek that any attempts
19 to delay the NRED proceedings (expressly mentioning evading serve as an example) would create
20 the need to adjust these dates. Mr. Noack understood and agreed, and indicated he did not foresee
21 any such gamesmanship as Mr. Noack and I wanted to work together to resolve these issues. Mr.
22 Noack indicated he did not have authority to accept service. Mr. Noack indicated his client would
23 need to be personally served. We did not discuss any conflicts, such as vacations, that would affect
24 service or the NRED process.

25 5. On June 2, 2023, I received an email from Junes Legal Service, Inc., discussing
26 service efforts of Mossett-Puhek, a true and correct copy of which is attached hereto as **Exhibit 6**.

27 6. I received an Affidavit of Attempts from Junes Legal Service, Inc. on or about June 8,
28 2023, a true and correct copy of which is attached hereto as **Exhibit 7**.

1 7. On June 5, 2023, I emailed Derek Noack, Esq., a true and correct copy of this email is
2 attached hereto as **Exhibit 8**. I did not receive a response from Mr. Noack until several days later on
3 June 9, 2023.

4 8. On June 8, 2023, I received an email from Junes Legal Service, Inc., containing
5 photographs that the process server took. A true and correct copy of this email is attached hereto as
6 **Exhibit 10**.

7 9. On June 9, 2023, I spoke to Ms. Galvin, who confirmed that NRED only required good
8 faith attempts to serve a party to complete the NRED process. I emailed Ms. Galvin a copy of the
9 Affidavit of Attempted Service (**Exhibit 7**).

10 10. Shortly after June 12, 2023, I received a letter from NRED dated June 12, 2023, a true
11 and correct copy of which is attached hereto as **Exhibit 11**. Given the conversation with Ms. Galvin,
12 I understood this to mean that NRED determined that Collier made adequate efforts to serve and that
13 Collier participated in the NRED action. As a result, NRED closed out the claim.

14 11. On June 20, 2023, I followed up with Mr. Noack. I had not received any additional
15 correspondence from Mr. Noack (at least on this issue, as we may have corresponded on other issues).
16 A true and correct copy of this email is attached hereto as **Exhibit 12**.

17 12. On June 21, 2023, I again followed up with Mr. Noack. A true and correct copy of this
18 email is attached hereto as **Exhibit 13**.

19 13. On June 26, 2023, I orally spoke to Mr. Noack at the deposition of Shirley Breeden
20 regarding these issues. Mr. Noack was unable to provide a substantive response at that time as he was
21 still evaluating these issues and conferring internally. I had yet to receive a substantive response, even
22 though I raised the issue on June 5, 2023. I expressly discussed with Mr. Noack that the parties should
23 reach agreements on whether the NRED process was completed (which it was); whether Mossett-
24 Puhek would move out the hearing date and opposition deadline given the agreements and her
25 gamesmanship with service; whether NRED would even reopen the claim, given that it was completed;
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1 whether Mossett-Puhek would withdraw the motion if the parties reopened the NRED process; and
2 whether Mossett-Puhek would accept electronic service or allow counsel to be served.

3 14. On June 28, 2023, I again spoke to Mr. Noack at the deposition of Sydney Woo
4 regarding these issues. Mr. Noack was again unable to provide a substantive response at that time,
5 but promised a response by the end of the week. Mr. Elson informed Mr. Noack that he would be
6 traveling out of the country and out of the office for the upcoming holiday and hoped the parties would
7 have already taken steps to address these issues.
8

9 15. On June 30, 2023, I received a letter from Mr. Noack, a true and correct copy of which
10 is attached hereto as **Exhibit 14**. Mossett-Puhek disputed that the Parties completed the process. *Id.*
11 Mossett-Puhek agreed to be served if Collier attempted service again, but still refused to accept
12 electronic service or allow counsel to be served. *Id.* In addition, Mossett-Puhek did not address the
13 other procedural concerns. *Id.*
14

15 16. On July 10, 2023 (after I returned from the holidays), I contacted Ms. Galvin to again
16 verify my understanding of the process. Ms. Galvin again confirmed that Collier completed the
17 statutory process in good faith and Collier had the right to move forward with legal action. Ms. Galvin
18 confirmed that the language sent in the prior letter was standard language that NRED utilized when a
19 party completes the process. As such, I confirmed the conversation with an email, a true and correct
20 copy of which is attached hereto as **Exhibit 15**.
21

22 17. On July 13, 2023, the Parties attended a status check before this Court. Following the
23 status check and given representations made during the status check, I emailed Mr. Noack, a true and
24 correct copy of which is attached hereto as **Exhibit 16**. At no point did I knowingly attempt to have
25 the process server engage in service attempts when Mossett-Puhek was out of town. I also wanted to
26 clarify issues pertaining to service and Mossett-Puhek's vacation. I again raised the issues of
27 continuing the opposition deadline, hearing date, and other procedural issues given the various timing
28 issues with NRED.

1 18. On July 14, 2023, I received a response from Mr. Noack, a true and correct copy of
2 which is attached hereto as **Exhibit 17**. Therein, Mossett-Puhek provided proof of an airline ticket,
3 which confirmed Mossett-Puhek was in town when the process server attempted service on June 8,
4 2023. *Id.*; *c.f.* **Exhibit 8** (never previously discussing with counsel that Mossett-Puhek was
5 unavailable at any time in May or June); **Exhibit 2**, ¶ 4 (same). Mossett-Puhek again did not discuss
6 or otherwise address the procedural issues pertaining to this Motion and reopening the NRED claim,
7 to the extent it was possible to do so.

9 19. On July 18, 2023, I conducted an oral meet and confer pertaining to another discovery
10 issue in the case with Mr. Noack, as well as Mr. Boyack. During the oral meet and confer, I addressed
11 the NRED matter with Mr. Noack. Mr. Noack did not have authority to reach any agreements
12 pertaining to the procedural issues pertaining to this Motion and reopening the NRED claim, to the
13 extent it was possible to do so. I explained at length that the parties could not complete the NRED
14 process within the current timeframe, Collier would still incur unnecessary fees and costs in opposing
15 this motion, and that the parties should work together to resolve these concerns. I also explained that
16 Collier could not agree to reopen a process that had already been completed (thereby placing Collier
17 in a worse position) absent appropriate agreements to resolve this issue once and for all. No
18 agreements were reached. I confirmed this conversation with an email, a true and correct copy of
19 which is attached hereto as **Exhibit 18**.

22 20. On July 20, 2023, I received written correspondence from Mr. Noack, a true and correct
23 copy of which is attached hereto as **Exhibit 19**. Mossett-Puhek confirmed that Mossett-Puhek would
24 not continue the opposition deadline, the hearing, or otherwise work with Collier to resolve the
25 pending issues. *Id.* Mossett-Puhek also continued to argue that the NRED process had not been
26 completed. *Id.*

27 21. A true and correct copy of Defendant, Pennie Mossett-Puhek's Response To Plaintiff's
28 First Set Of Interrogatories that were produced in this action are attached hereto as **Exhibit 20**.

22. A true and correct copy of Jason Esau's deposition transcript is attached hereto as **Exhibit 21**.

23. A true and correct copy of an excerpt of the records request that I received from the City of Henderson as part of this litigation is attached hereto as **Exhibit 22**.

24. A true and correct copy of Anthem Highlands Community Association's Response To Plaintiff Andrea Collier's First Set Of Interrogatories that were produced in this action are attached hereto as **Exhibit 23**.

25. A true and correct copy of Shirley Breeden's deposition transcript is attached hereto as **Exhibit 24**.

26. A true and correct copy of Sydney Woo's deposition transcript is attached hereto as **Exhibit 25**.

27. True and correct copies of meeting minutes that I received from Ms. Eassa are attached hereto as **Exhibit 27**.

28. A true and correct copy of Mossett-Puhek's candidate statement that I received from Ms. Eassa is attached hereto as **Exhibit 28**.

29. A true and correct copy of the Third NRED Claim regarding Eassa and TerraWest is attached hereto as **Exhibit 29**.

30. A true and correct copy of the TPO application produced by FSR in response to a subpoena duces tecum is attached hereto as **Exhibit 30**.

31. A true and correct copy of the Reply to Respondent Pennie Puhek's Opposition to Motion for Summary Judgment and Opposition to Request for Time to Conduct Discovery per NRC 56(f) filed in Case Nos. 2015-291 is attached hereto as **Exhibit 31**.

///

///

I declare under penalty of perjury under the laws of the State of Nevada that the foregoing is true and correct.

~~/s/ Timothy Elson~~
TIMOTHY ELSON, ESQ.

EXHIBIT 3

STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY – REAL ESTATE DIVISION
OFFICE OF THE OMBUDSMAN FOR COMMON-INTEREST COMMUNITIES AND CONDOMINIUM HOTELS
3300 West Sahara Avenue, Suite 350, Las Vegas, Nevada 89102
(702) 486-4480 / Toll free: (877) 829-9907 / Fax: (702) 486-4520
E-mail: CICombudsman@red.nv.gov / <http://red.nv.gov>

ALTERNATIVE DISPUTE RESOLUTION (ADR) CLAIM FORM

Date: 09/01/21

Signature of Claimant: _____

TRUSTEE

***Only one claimant per claim form is allowed for tracking purposes.**

Claimant: J A C T TRUST

**If individual, provide full name as it appears with the assessor's office in order to verify that you are a Unit Owner. If an Association, provide COMPLETE Association name as it appears on the [Secretary of State's website](#).*

Law Firm and Attorney (if applicable): The Law Offices of Timothy Elson

Please provide the name of the law firm and the name of the attorney. An attorney is not required.

Mailing Address: 8965 S. Eastern Ave. # 382

Street and number, city, state, and zip code

Phone Number: (702) 874-8600 Fax Number: _____ Email Address: Tim@elsonlawoffices.com

Respondent: Anthem Highlands Community Association

**If individual, provide full name. If an Association, provide COMPLETE Association name as it appears on the [Secretary of State's website](#).
Please list only one party. Attach an Additional Respondent Form 520B if there is more than one Respondent.*

Mailing Address: 6655 S. Cimarron Rd., Suite 200, Las Vegas, NV 89113

Street and number, city, state, and zip code

Phone Number: 702-362-6262 Fax Number: _____ Email Address: ceassa@terrawest.com

PLEASE SELECT YOUR METHOD OF RESOLUTION: ☒ Mediation ☐ Referee Program*

**Claims involving multiple parties may be excluded from the Referee Program.*

***If all parties agree to the Referee Program, the cost will be fully subsidized by the Division, if funds are available.*

☐ Yes ☒ No Has the above-listed Claimant filed an Intervention Affidavit (Form 530) regarding the same or similar issues? *If yes, provide the file number(s):* _____

INITIAL

AC

I have read and agree to the policies stated in the ADR Overview (Form 523).

**INITIAL IF
APPLICABLE**

I acknowledge that if an Intervention Affidavit (Form 530) has been filed with the Division based upon the same issues, by filing an ADR claim; the Division will not move forward with investigating the Intervention Affidavit pursuant to NAC 116.630.

AC

If the Referee Program is selected, and the Respondent chooses Mediation, the claim will default to mediation.

For office use only

RECEIVED SEP 24 2021

Receipt Number: _____

Claim Number: 22-048

Date Received: _____

Address of unit related to this claim: 2822 Culloden Ave. Henderson, Nevada 89044

- Your explanation must start below. You may attach additional pages, if more space is needed. Please, do not write "SEE ATTACHMENT" in the space below IT IS NOT ACCEPTABLE.
- If this claim is being filed based on a referral from the Intervention process, please ensure that you explain the issue below. Do not refer to your original complaint.

The allegations include, but are not limited to, the following: 1) the HOA issued violation notices and ultimately fined the unit for alleged violations of Sections 4.1.4 and 4.3 of the CC&Rs; 2) Ms. Collier disputes these violations and fines, on both a procedural and substantive basis; and 3) Ms. Collier also alleges that the HOA is engaging in targeting and retaliatory conduct due to complaints that Ms. Collier made about the governance of the community, which includes, but is not limited to, unequal enforcement of the CC&Rs, thereby entitling her to legal and equitable relief.

IDENTIFY THE SECTION OF GOVERNING DOCUMENTS PERTAINING TO THE DISPUTE:

This matter includes, but is not limited to, the following provisions: CC&R 4.1.4 and CC&R 4.3.

In order for the claim to be considered filed, the following must be submitted, if applicable.

Please indicate that you acknowledge and will follow through with completing each of the items below. Initial that the following steps have been completed:

INITIAL

AC

Forms:

One (1) Original Claim Form (Form 520)

Two (2) copies of the Claim Form and supporting documents

- *Supporting documents may be provided directly to the Mediator or Referee one assigned and need not be provided with this Claim Form. Should you choose to submit your documents, you must supply one (1) original set and two (2) copies of the supporting documents.*

AC

NONREFUNDABLE Filing Fee of \$50.00 payable to "NRED" in the form of:

- Cash (exact change; please do not mail cash)
- Check
- Money Order

AC

I acknowledge that the Subsidy Application will ONLY be accepted and reviewed prior to the claim being assigned to a Mediator or Referee.

**INITIAL IF
APPLICABLE**

AC

ADR Subsidy Application for Mediation (Form 668). Subsidy is awarded based on the following:
For a Unit Owner, once during each fiscal year of the State for each unit owned.

For an Association, once during each fiscal year of the State for each unit located within each individual association. Association must be "in good standing" with Secretary of State and Office of the Ombudsman.

I acknowledge that the Claimant will **NOT** be applying for Subsidy for this claim.

SERVING THE CLAIM

Please be advised, the Claimant will be responsible to have the Respondent(s) served within **45 days** from the date the Division processes the Claimant's 520 claim form. The packet will contain instructions on how to serve the claim.

The packet that the Claimant will receive in the mail will contain:

- A claim opening letter (keep this letter for your records).
- A receipt for **the non-refundable** \$50.00 filing fee (keep for your records).
- Affidavit of Services Form
 - This form must be filled out by the person that serves the claim.
 - The form **MUST** be notarized and returned to the Division within 10 days of the claim being served.
 - The packet cannot be served by anyone associated with the claim.

The following items from the packet are required to be served:

- ADR Overview, Form 523
- Copy of the claim that was processed, Form 520
- A blank Response, Form 521
- A blank Subsidy Application, Form 668
- *If the Claimant listed more than one Respondent on the Claim Form (520). The Claimant will be responsible to make copies of the packet, so that each Respondent can be served.*
- *One (1) Affidavit of Service will have to be notarized and submitted for each Respondent listed on the Claim Form (520/520B).*
- *Pursuant to NAC 38.350(2)(a) – The Affidavit of Service MUST be submitted to the Division within 10 days of being served.*

INITIAL

AC

I acknowledge that all forms listed above will be served pursuant to NRS 38.320.

AC

I acknowledge that if the claim is not served within the timeframe set forth by Nevada Administrative Code (NAC) 38.350 (1), the claim will be closed.

AC

I acknowledge if the Affidavit of Service (AOS) is not submitted to the Division within the timeframe set forth by Nevada Administrative Code (NAC) 38.350 (2)(a), the Division has the authority to close the claim.

How service must be made:

- **Service on a Nevada Corporation:** Service shall be made upon the president or other corporate head, secretary, cashier, managing agent or resident agent. However, if this is not possible, then upon the Secretary of State in the manner described in Rule 4 of the Nevada Rules of Civil Procedure.
- **Service on a Non-Nevada Corporation:** Service shall be made upon the agent designated for service of process, in Nevada, or its managing agent, business agent, cashier, or secretary within this State. However, if this is not possible, then upon the Secretary of State in the manner described in Rule 4 of the Nevada Rules of Civil Procedure.
- **In all other cases (except service upon a person of unsound mind, or upon a city, town or county):** Service shall be made upon the respondent personally, or by leaving copies at his dwelling house or usual place of abode with some person of suitable age and discretion then residing therein, or by delivering a copy of the summons and complaint to an agent authorized by appointment or by law to receive service of process.
- **If all the above are not possible because of the absence from the state or inability to locate the respondent: An Affidavit of Due Diligence can be provided to the Division. If the Division determines adequate efforts were made to serve the respondent(s), the Division will provide a letter to the claimants acknowledging their unsuccessful efforts to participate in the ADR program.**

"Service by Publication" is not a valid form of service for the ADR Program.

The following is a listing of the Mediators and Referees for the Alternative Dispute Resolution program. Before making your selection, you may view the resumes of the Mediators and Referees, and their location availability.

- If the parties do not agree on the selection of Mediator or Referee, the Division will assign a Mediator/Referee at random.
- *This is a requirement, please indicate the Mediator/Referee by initialing next to the party selected.*

SOUTHERN NEVADA

MEDIATOR LISTING

- ☐ Dee Newell, JD
- ☐ Donald E. Lowrey, Esq.
- ☐ Ira David, Esq.
- ☐ Malcolm Doctors
- ☒ Phillip A. Silvestri, Esq.

REFEREE LISTING

- ☐ Donald E. Lowrey, Esq.

NORTHERN NEVADA

MEDIATOR LISTING

- ☐ Paul H. Lambole, Esq.
- ☐ Michael Matuska, Esq.

REFEREE LISTING

- ☐ Paul H. Lambole, Esq.
- ☐ Michael Matuska, Esq.

Once a claim has been received and processed by the Division an opening packet will be mailed out to the mailing address provided on page 1 of this form. This packet will include instructions on the next step in this process (serving the claim).

Submit the required forms and documents to:

**Nevada Real Estate Division
ADR Facilitator
3300 West Sahara Avenue, Ste. 350
Las Vegas, NV 89102**

EXHIBIT 4



THE LAW OFFICES OF
TIMOTHY ELSON

702-874-8600
tim@elsonlawoffices.com
8965 S Eastern Ave. #382
Las Vegas, NV 89123
elsonlawoffices.com

June 9, 2023

VIA ELECTRONIC SERVICE

Ted Boyack, Esq.
Boyack, Orme, Anthony
7432 W. Sahara Avenue, Suite 101
Las Vegas, NV 89117
ted@boyacklaw.com

Michael Edwards, Esq.
Derek Noack, Esq.
Freeman Mathis & Gary, LLP
3993 Howard Hughes Parkway, Suite 100
Las Vegas, NV 89169
Michael.Edwards@fmglaw.com
Derek.Noack@fmglaw.com

**Re: Collier v. Mossett-Puhek et al.
Clark County Case No. A-22-852032-C**

Dear Counsel:

This letter serves to further memorialize our efforts to resolve this dispute without unnecessarily incurring attorneys' fees and costs. This is important to ensure that everyone appreciates that moving forward with litigation in this matter was not a choice but forced upon Plaintiff given the actions of your respective clients in this matter. Memorializing this in writing will help ensure that everyone appreciates our position in any post-judgment motion practice for attorneys' fees and costs, even if we don't prevail in this case. This is also important given the inappropriate allegations raised at the hearing on March 16, 2023.

Our client has engaged in reasonable conduct to attempt to resolve this matter with all parties at every step of the way. This has been memorialized in emails, both before the executive session hearing and following the executive session hearing. At a minimum, our client is already a prevailing party on the issue of the oleanders,¹ which is the first issue that arose between the Parties. In fact, City of Henderson has conclusively held that no violation exists or ever existed as

¹ The fact that Anthem removed the fines is further proof that Ms. Collier is a prevailing party, as the fines were only removed as a result of Ms. Collier moving forward with litigation.

June 9, 2023

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it relates to the oleanders.² P01116. Initiating this action, as well as Claim No. 22-048 before the Nevada Real Estate Division, was required to address issues pertaining to the oleanders.³

At no point have Defendants engaged Ms. Collier in a reasonable dialogue to resolve these issues, which has required Ms. Collier to continue to move forward with this case and incur additional fees. Most recently, on March 29, 2023, we sent written correspondence to Defendants inviting them to attend a mediation. Since then, we have orally discussed with both Mr. Boyack and Mr. Noack about attending a mediation. We understand Defendants rejected this approach.

Defendants have similarly rejected prior approaches. For example, immediately following Mr. Esau's deposition on September 27, 2022, I requested that Mr. Boyack substantively discuss this matter with us, given Mr. Esau's testimony as well as the records we received from the City of Henderson (we provided Mr. Boyack hard copies at that time). As part of those discussions, we specifically requested that Defendants agree to attend a mediation in this case. Defendants rejected this approach in September and October 2022. I also raised the possibility with Mr. Boyack about attending a mediation on different occasions following Mr. Esau's deposition as Ms. Collier moved forward with written discovery and Defendants worked on responses. Defendants rejected this approach then as well.

From the outset, Defendants forced Plaintiff to pursue legal action. For example, on May 25, 2021, Plaintiff reached out to Mr. Boyack to address the escalation of issues between Plaintiff and Defendants. Plaintiff, through her counsel, stated as follows:

We should discuss this issue when you have time. We've worked well together in the past and imagine we will do so again. This is getting out of control. I know you have a prior relationship with both Carmen and Pennie, given that they both worked for you, but this isn't proper communication between an HOA and a unit owner. It is clear that the Board is literally picking a fight for no apparent reason, as I trust that the Board doesn't act with this with all of its unit owners. Let me know when you have time to discuss so that we can attempt to deescalate this situation and resolve everyone's concerns.

Rather than work with Plaintiff to resolve the issues, Defendants (without following proper procedure) sent a notice of violation letter to Plaintiff that Anthem would fine Plaintiff for Mr.

² Mr. Esau confirmed at his deposition that Henderson Code Enforcement did not believe that any violation existed at the time of the executive session. This also should have been apparent to Defendants given that Henderson Code Enforcement did not take any corrective action after engaging in dialogue with Ms. Collier. All of this was explained at length to Defendants in correspondence prior to initiating fines against Ms. Collier. P00220 – P00225.

³ Ms. Collier will also prevail on issues related to the painting and flagpoles given the various substantive and procedural deficiencies related thereto. We are happy to address these in more detail, as the parties should have could have worked together to resolve these differences if Defendants had participated in this matter in good faith.

June 9, 2023

Page 3

Boyack's billing given Plaintiff's communications with him, attempting to discourage any further contact.⁴ Mr. Boyack never responded to a single email sent by Plaintiff.

We encountered this same resistance at the mediation before Nevada Real Estate Division, which was personally attended by Ms. Mossett-Puhek. At that time, we made offers to Ms. Mossett-Puhek to resolve claims against her personally, which she rejected.⁵ We also made offers to Anthem, which were rejected.⁶ Immediately following the mediation, *i.e.*, on January 12, 2022, Anthem's current counsel (the firm of Boyack, Orme, and Anthony, which was also general counsel at the time), informed us that Anthem disengaged its services and that all future correspondence should be directed to the board. That is, rather than continue to work with Ms. Collier to resolve the matter or any alleged violation issues, Anthem terminated its counsel on this issue.

This same conduct continued following the mediation, which necessitated legal action following the NRED matter. For example, on February 8, 2022, Plaintiff received correspondence from Defendants. Despite Plaintiff being required to initiate the NRED action, as well as this litigation, Defendants took the position that it would not pay any sum of money to Plaintiff, whether to compensate her for attorneys' fees or otherwise. P00305-P00306. In fact, Defendants argued as follows: it is the association's position that the fees were incurred voluntary and the association has no obligation of reimbursement. PP305.

As it relates to the right to attorneys' fees, Defendants' position was erroneous as a matter of law. Article 11 of the CC&Rs permits a prevailing party to recover its attorneys fees. P00146, Section 11.1.2; *see also* NRS 116.4117(6) (also permitting an award of attorneys' fees for statutory violations and/or violations of the governing documents). Defendants clearly owed and still owe an obligation of reimbursement to Plaintiff, which continues to increase as this matter moves forward.

To the extent Defendants wish to attend a mediation to resolve this matter, Plaintiff is willing to do so. In fact, Plaintiff finds it ironic that Defendants have continually refused to attend a mediation in this case yet demanded that Ms. Collier submit this matter to another mediation through NRED,⁷ which Plaintiff finds are usually less successful than private mediation. This letter should also not be construed as a sign of weakness, as Ms. Collier is committed to continuing

⁴ This Notice was sent the day after the executive session. Mr. Boyack was copied on emails pertaining to the inappropriate conduct that occurred at the executive session.

⁵ Those offers involved [REDACTED]

⁶ Those offers included [REDACTED]

⁷ Ms. Mossett-Puhek avoided service as it relates to this NRED action, which was thoroughly documented by the process server in her affidavit of due diligence.

THE LAW OFFICES OF TIMOTHY ELSON

June 9, 2023

Page 4

to prosecute her case and prove Defendants' improper conduct. With that said, Ms. Collier wanted to memorialize one last time her repeated and reasonable efforts to resolve this case.

To the extent that either party wishes to discuss resolution, especially given that Ms. Collier's fees continue to increase as a result of Defendants' repeated refusals to discuss resolution, all of which she is entitled to recover, Ms. Collier is happy to do so. We trust that your respective clients have been informed of the exclusions and reservations of rights related to the policy. The longer this matter transpires without good faith efforts to resolve the case, the more difficult it will be to resolve if and when Defendants choose to discuss resolution of the same.

Sincerely,

/s/ Timothy Elson

Timothy Elson
of THE LAW OFFICES OF TIMOTHY ELSON, PLLC

EXHIBIT 5

STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY – REAL ESTATE DIVISION
OFFICE OF THE OMBUDSMAN FOR COMMON-INTEREST COMMUNITIES AND CONDOMINIUM HOTELS
3300 West Sahara Avenue, Suite 350, Las Vegas, Nevada 89102
(702) 486-4480 / Toll free: (877) 829-9907 / Fax: (702) 486-4520
E-mail: CICombudsman@red.nv.gov / <http://red.nv.gov>

ALTERNATIVE DISPUTE RESOLUTION (ADR) CLAIM FORM

Date: 5/25/23 Signature of Claimant: _____

***Only one claimant per claim form is allowed for tracking purposes.**

Claimant: Andrea M. Collier

**If individual, provide full name as it appears with the assessor's office in order to verify that you are a Unit Owner. If an Association, provide COMPLETE Association name as it appears on the [Secretary of State's website](#).*

Law Firm and Attorney (if applicable): The Law Offices of Timothy Elson
Please provide the name of the law firm and the name of the attorney. An attorney is not required.

Mailing Address: 8965 S. Eastern Ave. # 382, Las Vegas, NV 89123
Street and number, city, state, and zip code

Phone Number: (702) 874-8600 Fax Number: _____ Email Address: Tim@elsonlawoffices.com

Respondent: Pennie Mossett-Puhek

**If individual, provide full name. If an Association, provide COMPLETE Association name as it appears on the [Secretary of State's website](#).*

Please list only one party. Attach an Additional Respondent Form 520B if there is more than one Respondent.

Mailing Address: 2740 Kildrummie St, Henderson, NV 89044
Street and number, city, state, and zip code

Phone Number: _____ Fax Number: _____ Email Address: _____

PLEASE SELECT YOUR METHOD OF RESOLUTION: ☒ Mediation ☐ Referee Program*

**Claims involving multiple parties may be excluded from the Referee Program.*

***If all parties agree to the Referee Program, the cost will be fully subsidized by the Division, if funds are available.*

☐ Yes ☒ No Has the above-listed Claimant filed an Intervention Affidavit (Form 530) regarding the same or similar issues? ***If yes, provide the file number(s):*** _____

INITIAL

AC

I have read and agree to the policies stated in the ADR Overview (Form 523).

**INITIAL IF
APPLICABLE**

I acknowledge that if an Intervention Affidavit (Form 530) has been filed with the Division based upon the same issues, by filing an ADR claim; the Division will not move forward with investigating the Intervention Affidavit pursuant to NAC 116.630.

If the Referee Program is selected, and the Respondent chooses Mediation, the claim will default to mediation.

For office use only

Receipt Number: _____ Claim Number: _____ Date Received: _____

Address of unit related to this claim: 2822 Culloden Ave. Henderson, Nevada 89044

- Your explanation must start below. You may attach additional pages, if more space is needed. Please, do not write “SEE ATTACHMENT” in the space below IT IS NOT ACCEPTABLE.
- If this claim is being filed based on a referral from the Intervention process, please ensure that you explain the issue below. Do not refer to your original complaint.

The allegations include, but are not limited to, the following: Mossett-Puhek engaged in conduct in violations of NRS 116.31183 and NRS 116.31184; Mossett-Puhek breached her fiduciary duties by engaging in the course of conduct; Mossett-Puhek breached the covenant of good faith and fair dealing by engaging in the course of conduct; and that Mossett-Puhek otherwise violated Nevada law, which Collier reserves her right to address at the mediation or in a legal action.

IDENTIFY THE SECTION OF GOVERNING DOCUMENTS PERTAINING TO THE DISPUTE:

The following sections may apply, but do not necessarily include and are not necessarily limited to: CC&R 4.1.4 and CC&R 4.3.

In order for the claim to be considered filed, the following must be submitted, if applicable.

Please indicate that you acknowledge and will follow through with completing each of the items below. Initial that the following steps have been completed:

<u>INITIAL</u> AC	Forms: One (1) Original Claim Form (Form 520) Two (2) copies of the Claim Form and supporting documents • <i>Supporting documents may be provided directly to the Mediator or Referee once assigned and are not required with this Claim Form. Should you choose to submit your documents, you must submit three (3) copies of the supporting documents.</i>
AC	<u>NONREFUNDABLE</u> Filing Fee of \$50.00 payable to “NRED” in the form of: • Cash (exact change; please do not mail cash) • Check • Money Order
AC	I acknowledge that the Subsidy Application will ONLY be accepted and reviewed prior to the claim being assigned to a Mediator or Referee.
<u>INITIAL IF APPLICABLE</u> AC	ADR Subsidy Application for Mediation (Form 668). Subsidy is awarded based on the following: <i>For a Unit Owner</i> , once during each fiscal year of the State for each unit owned. <i>For an Association</i> , once during each fiscal year of the State for each unit located within each individual association. Association must be “in good standing” with Secretary of State and Office of the Ombudsman.
	I acknowledge that the Claimant will <u>NOT</u> be applying for Subsidy for this claim.

SERVING THE CLAIM

Please be advised, the Claimant will be responsible to have the Respondent(s) served within **45 days** from the date the Division processes the Claimant's 520 claim form. The packet will contain instructions on how to serve the claim.

The packet that the Claimant will receive in the mail will contain:

- A claim opening letter (keep this letter for your records).
- A receipt for **the non-refundable** \$50.00 filing fee (keep for your records).
- Affidavit of Services Form
 - This form must be filled out by the person that serves the claim.
 - The form **MUST** be notarized and returned to the Division within 10 days of the claim being served.
 - The packet cannot be served by anyone associated with the claim.

The following items from the packet are required to be served:

- ADR Overview, Form 523
- Copy of the claim that was processed, Form 520
- A blank Response, Form 521
- A blank Subsidy Application, Form 668
- *If the Claimant listed more than one Respondent on the Claim Form (520). The Claimant will be responsible to make copies of the packet, so that each Respondent can be served.*
- *One (1) Affidavit of Service will have to be notarized and submitted for each Respondent listed on the Claim Form (520/520B).*
- *Pursuant to NAC 38.350(2)(a) – The Affidavit of Service **MUST** be submitted to the Division within 10 days of being served.*

INITIAL

AC

I acknowledge that all forms listed above will be served pursuant to NRS 38.320.

AC

I acknowledge that if the claim is not served within the timeframe set forth by Nevada Administrative Code (NAC) 38.350 (1), the claim will be closed.

AC

I acknowledge if the Affidavit of Service (AOS) is not submitted to the Division within the timeframe set forth by Nevada Administrative Code (NAC) 38.350 (2)(a), the Division has the authority to close the claim.

How service must be made:

- **Service on a Nevada Corporation:** Service shall be made upon the president or other corporate head, secretary, cashier, managing agent or resident agent. However, if this is not possible, then upon the Secretary of State in the manner described in Rule 4 of the Nevada Rules of Civil Procedure.
- **Service on a Non-Nevada Corporation:** Service shall be made upon the agent designated for service of process, in Nevada, or its managing agent, business agent, cashier, or secretary within this State. However, if this is not possible, then upon the Secretary of State in the manner described in Rule 4 of the Nevada Rules of Civil Procedure.
- **In all other cases (except service upon a person of unsound mind, or upon a city, town or county):** Service shall be made upon the respondent personally, or by leaving copies at his dwelling house or usual place of abode with some person of suitable age and discretion then residing therein, or by delivering a copy of the summons and complaint to an agent authorized by appointment or by law to receive service of process.
- **If all the above are not possible because of the absence from the state or inability to locate the respondent: An Affidavit of Due Diligence can be provided to the Division. If the Division determines adequate efforts were made to serve the respondent(s), the Division will provide a letter to the claimants acknowledging their unsuccessful efforts to participate in the ADR program.**

"Service by Publication" is not a valid form of service for the ADR Program.

The following is a listing of the Mediators and Referees for the Alternative Dispute Resolution program. Before making your selection, you [may view the resumes of the Mediators and Referees, and their location availability](#).

- If the parties do not agree on the selection of Mediator or Referee, the Division will assign a Mediator/Referee at random.
- ***This is a requirement, please indicate the Mediator/Referee by initialing next to the party selected.***

SOUTHERN NEVADA

MEDIATOR LISTING

- ☐ Barbara Fenster*
- ☐ Dee Newell, JD*
- ☐ Donald E. Lowrey, Esq.*
- ☐ Eric Dobberstein, Esq.*
- ☐ Henry Melton*
- ☐ Janet Trost, Esq.*
- ☐ Malcolm Doctors*
- ☒ Phillip A. Silvestri, Esq.*

REFEREE LISTING

- ☐ Donald E. Lowrey, Esq.*
- ☐ Janet Trost, Esq.*

NORTHERN NEVADA

MEDIATOR LISTING

- ☐ Paul H. Lamboley, Esq.

REFEREE LISTING

- ☐ Paul H. Lamboley, Esq.

* *Mediator/Referee available for virtual proceedings for Northern Nevada residents.*

Once a claim has been received and processed by the Division an opening packet will be mailed out to the mailing address provided on page 1 of this form. This packet will include instructions on the next step in this process (serving the claim).

Submit the required forms and documents to:

**Nevada Real Estate Division
ADR Facilitator
3300 West Sahara Avenue, Ste. 350
Las Vegas, NV 89102**

EXHIBIT 6



Tim Elson <tim@elsonlawoffices.com>

RE: FW: New Email Chain starting 5/30/23

Junes Process <process@juneslegal.com>

Fri, Jun 2, 2023 at 3:58 PM

To: Tim Elson <tim@elsonlawoffices.com>

[Attempted \(But unable to serve\)](#)

2023-06-01 19:48:00

SPOKE TO A 12-YEAR-OLD SAID PARENTS WENT HOME. LEFT MY INFO STILL KNOCKED ON THE FRONT DOOR THIS PROPERTIES DEEP INSPIRADA PASS THE M CASINO

[Attempted \(But unable to serve\)](#)

2023-06-02 08:27:00

NO CARS IN DRIVEWAY KNOCKED NO ANSWER, RANG DOORBELL. NO ONE HOME.

Junes Legal Service, Inc.

630 S. 10th St. #B
Las Vegas, NV 89101
702-579-6300 ph
702-259-6249 fx
juneslegal.com
NV - Process Servers License # 1068
CAPPS, NAPPS, LV Chamber of Commerce

Celebrating our 50th year in business!

From: Junes Process
Sent: Thursday, June 01, 2023 12:24 PM
To: Tim Elson <tim@elsonlawoffices.com>
Subject: RE: FW: New Email Chain starting 5/30/23

Oh yes, all my servers come in tomorrow and it will be out for attempts this weekend.

Rebecca

Junes Legal Service, Inc.

630 S. 10th St. #B
Las Vegas, NV 89101
702-579-6300 ph
702-259-6249 fx
juneslegal.com
NV - Process Servers License # 1068
CAPPS, NAPPS, LV Chamber of Commerce

EXHIBIT 7

AFAS		PHONE NUMBER 702.874.8600		FOR COURT USE ONLY	
ATTORNEY OR PARTY WITHOUT ATTORNEY (NAME AND ADDRESS)		REFERENCE NUMBER			
L/O TIMOTHY ELSON					
8965 S EASTERN AVE, STE 382 LAS VEGAS, NV 89123					
NAME OF COURT, JUDICIAL DISTRICT OR BRANCH COURT, IF ANY, AND POST OFFICE AND STREET ADDRESS					
SHORT NAME OF CASE JACT TRUST-ANDREA COLLIER TRUSTEE v. PENNIE MOSSETT-PUHECK					
AFFIDAVIT OF ATTEMPTS		DATE/TIME		DEPT/DIV	CASE NUMBER 23-139

I am and was on the dates herein mentioned over the age of eighteen years and not a party to this action;

I received the following documents:

ADR PACKET

After due search, careful inquiry and diligent attempts at the following address(es), I have been unable to effect service of said process on:

Name: PENNIE MOSSETT-PUHECK

Address(es): 2740 Kildrummie Street
Henderson, NV 89044

Process is being returned without service for the following reason(s):

2023-06-01 19:48:00 Attempted (But unable to serve) KNOCKED ON THE FRONT DOOR, NO ANSWER, NO MOVEMENT.

2023-06-02 08:27:00 Attempted (But unable to serve) NO CARS IN DRIVEWAY KNOCKED NO ANSWER, RANG DOORBELL. NO ONE HOME.

2023-06-04 17:38:00 Attempted (But unable to serve) GARAGE WAS OPEN WHEN SERVER PULLED UP. TWO MEN STANDING AT END OF DRIVEWAY. SERVER SPOKE TO A MAN WITH WHITE HAIR WHO STATED HE WAS THE NEIGHBOR NAMED MIKE WHO IS TAKING CARE OF THE PROPERTY. HE STATED THE OCCUPANTS ARE IN PORTUGAL UNTIL JULY 1ST. PHOTOS OF THE MEN WERE TAKEN.

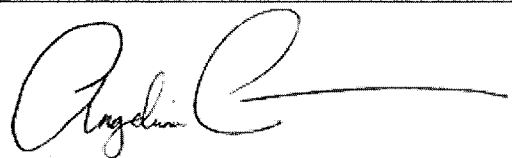
**IT WAS LATER DETERMINED BY PHOTO OF SUBJECT'S HUSBAND PROVIDED TO SERVER THAT THE MAN SERVER SPOKE TO WAS IN FACT SUBJECT'S HUSBAND AND THAT HE DELIBERATELY LIED TO SERVER.

2023-06-08 17:30:00 Unable to serve/return SERVER KNOCKED AND RANG RING DOORBELL. KNOCKED ON GARAGE AND CALLED OUT. SERVER KNOCKED FOR FULL 30 MINUTES. KITCHEN LIGHT WAS ON WHEN SERVER BEGAN KNOCKING AND OCCUPANTS TURNED IT OFF WHILE SERVER WAS KNOCKING. REFUSED TO OPEN DOOR. SUBJECT IS CLEARLY AVOIDING SERVICE. PER CLARK COUNTY ASSESSOR PUHEK THOMAS J FAMILY TRUST; PUHEK, THOMAS J TRS.

Pursuant to NRS 53.045

I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

EXECUTED this 08 day of Jun, 2023.



ANGELINA CARNEY
R-2022-01347

EXHIBIT 8



Tim Elson <tim@elsonlawoffices.com>

Re: Collier / Mossett-Puhek

Derek Noack <Derek.Noack@fmglaw.com>

Fri, Jun 9, 2023 at 11:47 AM

To: Tim Elson <tim@elsonlawoffices.com>

Tim:

I've received your messages, relayed them, and am working on getting the further information from my client on the issues you communicated. I am not aware that Ms. Mossett-Puhek is traveling throughout the month of June and don't understand that to be the case. I will followup with her with your concerns and get back to you with a response when I am able.

-Derek

On Jun 6, 2023, at 12:07 PM, Tim Elson <tim@elsonlawoffices.com> wrote:

Caution: This email originated from outside of the FMG organization. **Do not click links or open attachments** unless you recognize the sender and know the content is safe.

As clarification, I referred to your client as clients. I did so as Ms. Collier witnessed Ms. Mossett-Puhek and her husband entering and leaving the community. I understand you only represent Ms. Mossett-Puhek. Again, please confirm when we can expect a substantive response on these issues.

Best,

Tim Elson

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On Tue, Jun 6, 2023 at 12:05 PM Tim Elson <tim@elsonlawoffices.com> wrote:

Derek,

I did not receive a response from you on the below. Now I am learning that your clients were in town this weekend at the time the prior service attempts were made, as my client confirmed that she saw them leaving and entering the community. This only makes it seem more likely that she attempted to evade service attempts by having a 10 year old answer the door (who likely was not left home alone). Did your client leave town? If so, when? When can I expect a response on the balance of the email? I'd like to get this issue straightened out asap to determine any next steps.

Best,

Tim Elson

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On Mon, Jun 5, 2023 at 2:06 PM Tim Elson <tim@elsonlawoffices.com> wrote:

Derek,

I received some disappointing news from the process server as it relates to Ms. Mossett-Puhek. We've been informed from neighbors that your client is in Portugal until July 1, 2023. In the spirit of working out issues pursuant to our prior conversations, we suggest you revisit with your client on either your office accepting service or her accepting service via email. This would have been important information for your end to disclose when discussing timing issues on the hearing and the extensions. I'm assuming you were unaware of this.

When we discussed timing, we specifically discussed that issues with service would be a basis for additional time as it relates to the hearing. It's even more odd that the notes from the process server indicate that a 10 year old boy answered the door last week at a service attempt. I'm trying to figure out details on that because if true, it appears your client may have attempted to dodge service before departing for Portugal (although I'm not sure your client even has a 10 year old child).

Please let us know how you wish to proceed. I trust we will continue to work together to resolve these issues without the need for judicial intervention. I'm around if you want to discuss.

Best,

Tim Elson

<LawOfficesTE.png>

(702) 874-8600

tim@elsonlawoffices.com
elsonlawoffices.com

8965 S. Eastern Ave., #382
Las Vegas, NV 89123

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THE LAW OFFICES OF
TIMOTHY ELSON

LawOfficesTE.png
10K

EXHIBIT 9

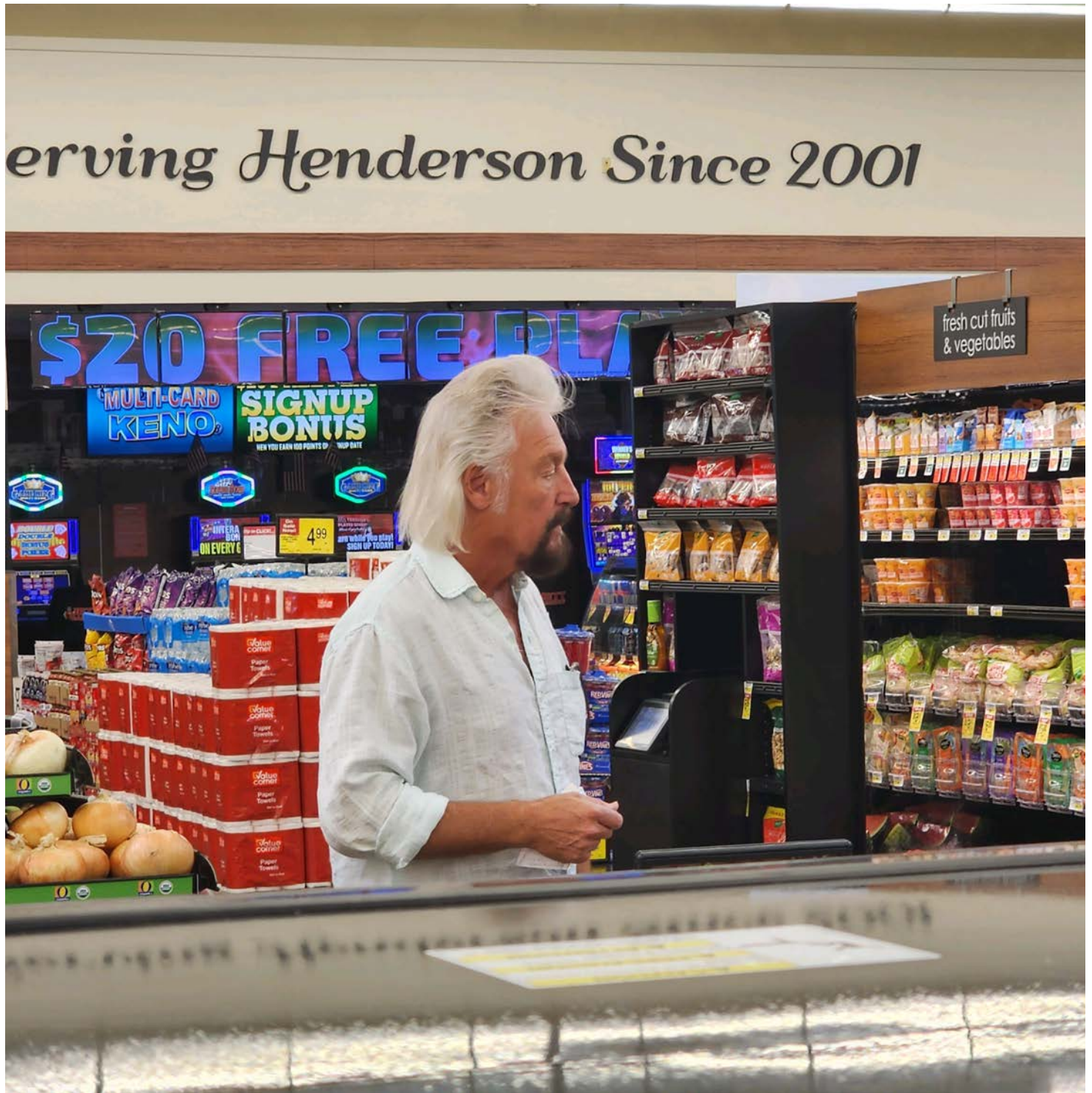


EXHIBIT 10



Tim Elson <tim@elsonlawoffices.com>

FW: PENNIE MOSSETT-PUHECK

Junes Process <process@juneslegal.com>

Thu, Jun 8, 2023 at 12:39 PM

To: Tim Elson <tim@elsonlawoffices.com>

Tim – these are the pics my server took. She said the guy with the white hair on the right is the one who said he was the “neighbor taking care of house and that they were in Portugal” – is he the husband?

Rebecca

Junes Legal Service, Inc.

630 S. 10th St. #B

Las Vegas, NV 89101

702-579-6300 ph

702-259-6249 fx

juneslegal.com

NV - Process Servers License # 1068

CAPPS, NAPPS, LV Chamber of Commerce

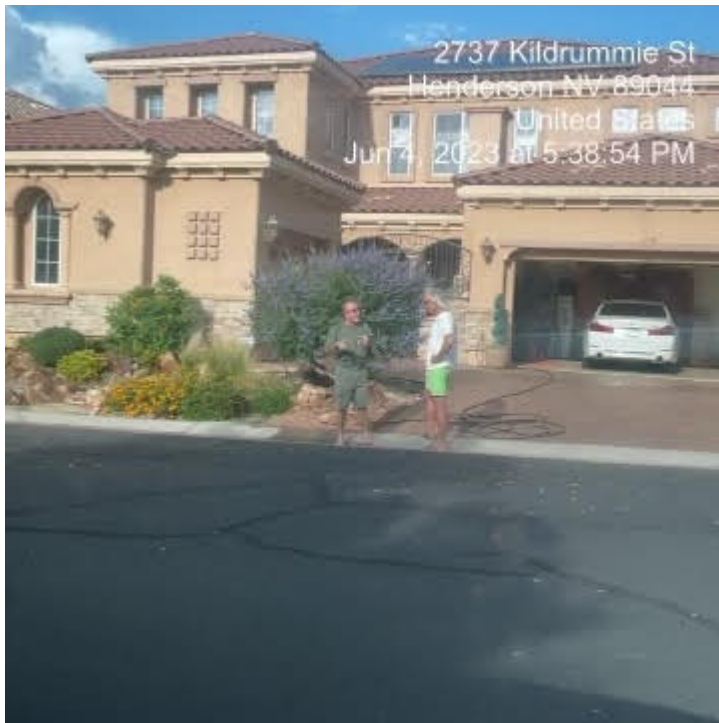
Celebrating our 50th year in business!

From: Rebecca Godwin <rebeccadgodwin@gmail.com>

Sent: Thursday, June 08, 2023 12:38 PM

To: Junes Process <process@juneslegal.com>

Subject:



Rebecca
949-547-8130

EXHIBIT 11

JOE LOMBARDO
Governor



STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
REAL ESTATE DIVISION

COMMON-INTEREST COMMUNITIES AND
CONDOMINIUM HOTELS PROGRAM

CICombudsman@red.nv.gov

<http://www.red.nv.gov>

TERRY REYNOLDS
Director

SHARATH CHANDRA
Administrator

CHARVEZ FOGER
Deputy Administrator

JASON O. WYATT
Ombudsman

June 12, 2023

J A C T TRUST - ANDREA COLLIER TRUSTEE
C/O THE LAW OFFICES OF TIMOTHY ELSON
8965 S EASTERN AVE STE 382
LAS VEGAS, NV 89123

RE: ADR Control #: 23-139

Claimant(s): J A C T TRUST - ANDREA COLLIER TRUSTEE

Respondent(s): PENNIE MOSSETT-PUHECK

Dear J A C T TRUST - ANDREA COLLIER TRUSTEE:

According to the Real Estate Division's records, the above noted Alternative Dispute Resolution (ADR) claim was filed on MAY 25, 2023.

The Claimant has been unable to serve the Respondent with the ADR claim documents, an Affidavit of Due Diligence has been submitted to the Division. Please be advised, this claim is now closed.

Sincerely,

Rhonda Galvin

Rhonda Galvin
ADR Facilitator

/

EXHIBIT 12



Tim Elson <tim@elsonlawoffices.com>

Re: Collier**Tim Elson** <tim@elsonlawoffices.com>

Wed, Jun 21, 2023 at 12:22 PM

To: Derek Noack <Derek.Noack@fmglaw.com>

Cc: Ted Boyack <ted@boyacklaw.com>, Michael Edwards <Michael.Edwards@fmglaw.com>, Laurie Moreno <Laurie.Moreno@fmglaw.com>

Derek,

Absolutely. Attached is the letter from NRED indicating that the process is complete and closed. We have complied with our obligations.

Furthermore, we don't agree with your characterization of the Affidavit of Attempted Service.

Best,

Tim Elson

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On Wed, Jun 21, 2023 at 12:16 PM Derek Noack <Derek.Noack@fmglaw.com> wrote:

Tim:

Please share for our consideration the NRED notice that you referenced below. It appears from your process server's affidavit that Dr. Thomas Puhek may have been observed near the residence, but I do not see anything regarding Mrs. Mossett-Puhek. I do understand it is your position that you are not conceding a NRED mediation is required prior to bringing a lawsuit personally against Mrs. Mossett-Puhek, which we disagree on. But, if you have documentation that the NRED process has somehow been completed by attempted service, then please do provide this to us.

Thank you,

Derek Noack**Attorney****Freeman Mathis & Gary, LLP****3993 Howard Hughes Parkway | Suite 100 | Las Vegas, NV 89169****D: 725-258-7324 | C: 725-202-5379****Derek.Noack@fmglaw.com** |

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[Please read this important notice and confidentiality statement](#)

From: Tim Elson <tim@elsonlawoffices.com>
Sent: Tuesday, June 20, 2023 12:48 PM
To: Derek Noack <Derek.Noack@fmglaw.com>; Ted Boyack <ted@boyacklaw.com>
Subject: Collier

Caution: This email originated from outside of the FMG organization. **Do not click links or open attachments** unless you recognize the sender and know the content is safe.

Derek,

Do you have time to discuss? NRED sent us a notice that we completed the process given the affidavit of due diligence on the service attempts on Pennie. I just want to go over next steps from here, as it seems appropriate for us to amend the complaint to include a statement that the process has been completed as it relates to Pennie. It then seems appropriate for us to vacate the pending motion.

As some background, NRED doesn't require a party to be served (or be served in an alternative manner) if they are avoiding service, given that it is just the administrative process prior to initiating a lawsuit. Instead, they provide you notice that you completed the process and essentially have the right to sue.

Attached is the affidavit of attempted service for your review. We learned they were in town (which you also confirmed) when Ms. Collier saw Mr. Mossett at Whole Foods on 6/8. She overheard him tell the butcher he was picking up filets to grill for Game 3 of the Stanley Cup that night, which is also how we knew they would be home for service. The activity at the house witnessed by the server confirms the same. This should also provide further context to you as to why we believed they were in Portugal given that her husband directly lied to the process server. I really hope we can put this issue behind us without further judicial involvement.

Just to avoid any argument to the alternative, we are not conceding that NRED is even required given the claims alleged (whether in whole or in party). It was and still is our goal to resolve this issue in an amicable manner, which is why we initiated and completed the process.

Best,

Tim Elson



THE LAW OFFICES OF
TIMOTHY ELSON

(702) 874-8600

tim@elsonlawoffices.com

elsonlawoffices.com

8965 S. Eastern Ave., #382

Las Vegas, NV 89123

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 **230612 Letter from NRED.pdf**
39K

EXHIBIT 13



Tim Elson <tim@elsonlawoffices.com>

Re: Collier**Tim Elson** <tim@elsonlawoffices.com>

Wed, Jun 21, 2023 at 12:08 PM

To: Derek Noack <Derek.Noack@fmglaw.com>, Ted Boyack <ted@boyacklaw.com>

Derek,

I am following up with you again on this issue. We last received an email from you on this issue on 6/9/23, wherein you last stated:

I've received your messages, relayed them, and am working on getting the further information from my client on the issues you communicated. I am not aware that Ms. Mossett-Puhek is traveling throughout the month of June and don't understand that to be the case. I will followup with her with your concerns and get back to you with a response when I am able.

Following 6/9/23, you did not send us a single email or otherwise reach out, despite us attempting to contact you both in writing and orally several times leading up to that communication. I don't understand why you are not actively communicating with us on this issue. We need to discuss this issue this week so our office knows how to proceed. If we can't reach agreements on the issue, which is fine, we will simply proceed as we deem fit, which will likely require immediate action with the court on orders shortening time. We trust the court would want us to work together to resolve these issues before taking such steps.

Best,

Tim Elson

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On Tue, Jun 20, 2023 at 2:13 PM Tim Elson <tim@elsonlawoffices.com> wrote:

Derek - it was Albertsons, not Whole Foods. Just a minor correction.

Best,

Tim Elson

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On Tue, Jun 20, 2023 at 12:48 PM Tim Elson <tim@elsonlawoffices.com> wrote:

Derek,

Do you have time to discuss? NRED sent us a notice that we completed the process given the affidavit of due diligence on the service attempts on Pennie. I just want to go over next steps from here, as it seems appropriate for us to amend the complaint to include a statement that the process has been completed as it relates to Pennie. It then seems appropriate for us to vacate the pending motion.

As some background, NRED doesn't require a party to be served (or be served in an alternative manner) if they are avoiding service, given that it is just the administrative process prior to initiating a lawsuit. Instead, they provide you notice that you completed the process and essentially have the right to sue.

Attached is the affidavit of attempted service for your review. We learned they were in town (which you also confirmed) when Ms. Collier saw Mr. Mossett at Whole Foods on 6/8. She overheard him tell the butcher he was picking up filets to grill for Game 3 of the Stanley Cup that night, which is also how we knew they would be home for service. The activity at the house witnessed by the server confirms the same. This should also provide further context to you as to why we believed they were in Portugal given that her husband directly lied to the process server. I really hope we can put this issue behind us without further judicial involvement.

Just to avoid any argument to the alternative, we are not conceding that NRED is even required given the claims alleged (whether in whole or in party). It was and still is our goal to resolve this issue in an amicable manner, which is why we initiated and completed the process.

Best,

Tim Elson



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Las Vegas, NV 89123

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EXHIBIT 14



Freeman
Mathis & Gary LLP

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Michael M. Edwards

D: 725.217.1563

C: 702.210.0718

Michael.Edwards@fmglaw.com

Derek R. Noack

D: 725.258.7324

C: 725.202.5379

Derek.Noack@fmglaw.com

June 30, 2023

J A C T Trust c/o Tim Elson
The Law Offices of Timothy Elson
8965 S. Eastern Ave. Ste. 382
Las Vegas, NV 89123
tim@elsonlawoffices.com

**Re: Andrea Collier v. Pennie Mossett-Puhek et al.
Eighth Judicial District Court, State of Nevada, County of Clark
Case Number: A-22-852032-C
Our File Number: 17807-104440**

RE: NRED ADR CLAIM SERVICE AND MRS. MOSSETT-PUHEK'S AVAILABILITY

Dear Mr. Elson:

Please allow this correspondence to serve as Mrs. Mossett-Puhek's position with respect to the prior attempted service by your client, J A C T Trust, of the Nevada Real Estate Division ("NRED") Alternative Dispute Resolution ("ADR") claim documents, including her forthcoming availability to accept service of the ADR claim documents. This letter shall also advise you of Mrs. Mossett-Puhek's availability for an upcoming deposition in the Collier v. Anthem Owner's Association matter.

Mrs. Mossett-Puhek has been informed your client's NRED ADR claim was previously filed on May 25, 2023. Mrs. Mossett-Puhek is further informed of a process server's failed attempts to serve Mrs. Mossett-Puhek between the dates of June 1 and June 8, 2023. These service attempts were not completed in good faith. It is Mrs. Mossett-Puhek's understanding that Anthem's counsel had advised of Mrs. Mossett-Puhek's unavailability until mid-June of 2023. Further, the process server's affidavit indicated the process server herself received a communication on the third attempted service date that Mrs. Mossett-Puhek was unavailable as she was engaged in pre-paid travel out of the country. Nevertheless, the process server indicated further service attempts were continued to be made at Mrs. Mossett-Puhek's residence during the next few days without success.

www.fmglaw.com

J A C T Trust c/o Tim Elson

June 30, 2023

Page 2

Mrs. Mossett-Puhek has not presently been served with the NRED ADR claim documents. The timeframe of the 45-day window allowed for service of the ADR documents has not expired.

Thus, although the hasty affidavit of the process server appears to have already been provided to NRED, it is Mrs. Mossett-Puhek's position the closure of the May 25, 2023 NRED ADR claim was premature. The narrow timeframe of serviced attempts during the period your process server was made aware that Mrs. Mossett-Puhek was unavailable has prevented her from being served and the ability to otherwise respond. Mrs. Mossett-Puhek therefore disagrees with your stated position that the J A C T Trust has already complied with the NRED ADR obligations.

In an effort to effectively complete service of the NRED ADR claim documents, please take note that Mrs. Mossett-Puhek will be available at her residence on Mondays-Thursdays between 5:00 and 6:00 P.M. starting July 3, 2023 to accept service of same. Kindly confirm when your process server will effectuate service so I may advise Mrs. Mossett-Puhek in advance to avoid any further issue.

Additionally, with respect to Mrs. Mossett-Puhek's availability for deposition in the ongoing Collier v. Anthem matter, please take note of Mrs. Mossett-Puhek's absence from August 11 to September 20, 2023.

Respectfully,

FREEMAN MATHIS & GARY, LLP

/s/ Derek Noack

Michael M. Edwards

Derek R. Noack

EXHIBIT 15



Tim Elson <tim@elsonlawoffices.com>

JAC Trust / Collier; 23-139

Tim Elson <tim@elsonlawoffices.com>
To: Rhonda Galvin <rgalvin@red.nv.gov>

Mon, Jul 10, 2023 at 5:00 PM

Ms. Galvin,

Thank you for the call just now. On June 12, 2023, NRED issued a letter closing this matter given the affidavit of due diligence as it relates to service. I appreciate the confirmation that you provided just now, just as we discussed before when discussing the service issues. We understand that we have completed in good faith the statutory process that is required (to the extent it ever applied to this case) and that we have the right to move forward with legal action in this case (to the extent such a right did not previously exist).

If our understanding is not correct, please let me know. Otherwise, we hope you have a wonderful evening.

Best,

Tim Elson



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TIMOTHY ELSON

(702) 874-8600
tim@elsonlawoffices.com
elsonlawoffices.com

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Las Vegas, NV 89123

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EXHIBIT 16



Tim Elson <tim@elsonlawoffices.com>

Collier v. Mossett-Puhek et al.

Tim Elson <tim@elsonlawoffices.com>
To: Derek Noack <Derek.Noack@fmglaw.com>

Thu, Jul 13, 2023 at 10:20 AM

Mr. Noack,

Please provide the exact dates that your client was out of town in June 2013. Please also provide proof of the same. Your comments in court did not conform to my understanding of our prior conversations. As such, I would like to confirm this issue with documentation (such as an airline ticket). Note, the request for documentation only applies if in fact you allege your client (and/or her husband) was out of town when service was attempted.

Also, given the hearing today, we continue to request that we move out the hearing on the motion for summary judgment / motion to dismiss, as well as any briefing deadlines associated with this issue. You did not address this issue in your letter dated June 30, 2023, despite us requesting that you do so earlier that week (you also did not contact NRED to see if NRED would even reopen the claim, which we also discussed).

We would much rather work together to solve these issues, especially as it seems the remedy is for us to complete the NRED program (to the extent it applies and we haven't already done so). If we do not hear back from you in the next few days, we will march forward with the motion for leave to amend, which we will likely file on an order shortening time so any hearing and/or briefing can occur before the deadlines associated with the motion for summary judgment / motion to dismiss. It seems like the parties should be working together (which could include your office accepting service, especially given the prior gamesmanship as it relates to service).

Best,

Tim Elson



THE LAW OFFICES OF
TIMOTHY ELSON

(702) 874-8600
tim@elsonlawoffices.com
elsonlawoffices.com

8965 S. Eastern Ave., #382
Las Vegas, NV 89123

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EXHIBIT 17



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Mathis & Gary LLP

3993 Howard Hughes Parkway
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Las Vegas, NV 89169
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Michael M. Edwards
D: 725.217.1563
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Michael.Edwards@fmglaw.com

Derek R. Noack
D: 725.258.7324
C: 725.202.5379
Derek.Noack@fmglaw.com

July 14, 2023

J A C T Trust c/o Tim Elson
The Law Offices of Timothy Elson
8965 S. Eastern Ave. Ste. 382
Las Vegas, NV 89123
tim@elsonlawoffices.com

**Re: Andrea Collier v. Pennie Mossett-Puhek et al.
Eighth Judicial District Court, State of Nevada, County of Clark
Case Number: A-22-852032-C
Our File Number: 17807-104440**

RE: NRED ADR CLAIM SERVICE

Dear Mr. Elson:

Please allow this correspondence to serve as Mrs. Mossett-Puhek's further response to your July 13, 2023 inquiry by email regarding her physical unavailability in early June, 2023 due to a pre-planned trip to Portugal. This letter shall also serve to advise you that Mrs. Mossett-Puhek will agree to allow our office to accept service of the NRED ADR Claim Form on her behalf, but intends to participate in the NRED alternative dispute resolution process without the services of our office.

As an initial matter, I do not appreciate the tones and insinuations of "gamesmanship" within your telephone calls and email correspondences to me and our office. Such accusations with respect to my client and our office are made without any support and based on speculation from either you or your client. It is unprofessional and must stop now. I have continued to speak to you with respect and I anticipate the same level of respect from you moving forward as well.

With respect to Mrs. Mossett-Puhek's unavailability, please find a copy of her airline confirmation and eTicket from United Airlines proving she was out of the country in Portugal from May 23rd, 2023 to June 5th, 2023.

Additionally with respect to NRED, contrary to your statement in your email, I have contacted NRED previously on two occasions via telephone message requesting information with respect to the NRED claim filed from J A C T Trust on Ms. Collier's behalf. I have not received

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any return communications from NRED, but will let you know when I do. I am anticipating since it is your client's claim, they will likely need to hear from you to either re-open or re-start the required NRED ADR process.

In an effort to effectively complete service of the NRED ADR claim documents, as stated above, Mrs. Mossett-Puhek has now authorized our office to accept service of the NRED claim documents though she intends on going through the actual process without our representation. Mrs. Mossett-Puhek previously was not allowing our office to accept service in an effort to keep the attorney fees incurred by the Anthem Owners' Association as low as possible as they were in the process of an insurance renewal. However, that process is now completed and Mrs. Mossett-Puhek has now authorized our office to accept such service.

Additionally, with respect to Mrs. Mossett-Puhek's availability for deposition in the ongoing Collier v. Anthem matter, I would like to remind you to please take note of Mrs. Mossett-Puhek's absence from August 11 to September 20, 2023. Kindly schedule her deposition at a time either before or after those dates. Please also provide us with Ms. Collier's forthcoming availability for deposition so we may set this at a convenient time for her as well.

Sincerely,

FREEMAN MATHIS & GARY, LLP

/s/ Derek Noack
Michael M. Edwards
Derek R. Noack

Enc.

Laurie Moreno

From: Derek Noack
Sent: Friday, July 14, 2023 4:40 PM
To: Laurie Moreno
Subject: FW: Collier: eTicket Itinerary and Receipt for Confirmation B44YXY



Fri, Jul 14, 2023

Thank you for choosing United.

A receipt of your purchase is shown below. Please retain this email receipt for your records.

Get ready for your trip: [Visit the Travel-Ready Center](#), your one-stop digital assistant, to find out about important travel requirements specific to your trip.

Confirmation Number:

B44YXY

Flight 1 of 6 UA1322

Class: United First (P)

Tue, May 23, 2023

03:09 PM

Las Vegas, NV, US (LAS)

Tue, May 23, 2023

06:05 PM

Denver, CO, US (DEN)

Flight 2 of 6 UA262

Class: United Polaris business (P)

Tue, May 23, 2023

08:20 PM

Denver, CO, US (DEN)

Wed, May 24, 2023

12:20 PM

London, GB (LHR)

Flight 3 of 6 UA6872

Class: Economy (B)

Wed, May 24, 2023

01:45 PM

Wed, May 24, 2023

04:25 PM

London, GB (LHR)

Lisbon, PT (LIS)

Flight Operated by TAP Portugal.

If this is an originating flight on your itinerary, please check in at the TAP AIR PORTUGAL ticket counter.

Flight 4 of 6 UA6865

Class: Economy (B)

Mon, Jun 05, 2023

10:05 AM

Lisbon, PT (LIS)

Mon, Jun 05, 2023

12:45 PM

London, GB (LHR)

Flight Operated by TAP Portugal.

If this is an originating flight on your itinerary, please check in at the TAP AIR PORTUGAL ticket counter.

Flight 5 of 6 UA263

Class: United Polaris business (P)

Mon, Jun 05, 2023

02:50 PM

London, GB (LHR)

Mon, Jun 05, 2023

05:30 PM

Denver, CO, US (DEN)

Flight 6 of 6 UA655

Class: United First (P)

Mon, Jun 05, 2023

07:29 PM

Denver, CO, US (DEN)

Mon, Jun 05, 2023

08:28 PM

Las Vegas, NV, US (LAS)

Traveler Details

MOSSETTPUHEK/PENNIE

eTicket number: **0162468288918**

Frequent Flyer: **UA-XXXXX847**
Member

Seats: **LAS-DEN**
03A

DEN-LHR 06L

LHR-LIS -----

LIS-LHR -----

LHR-DEN 02L

DEN-LAS 03A

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EXHIBIT 18



Tim Elson <tim@elsonlawoffices.com>

Collier**Tim Elson** <tim@elsonlawoffices.com>

Tue, Jul 18, 2023 at 11:56 AM

To: Derek Noack <Derek.Noack@fmglaw.com>, Ted Boyack <ted@boyacklaw.com>

Derek,

Thank you for the call earlier today. As we discussed, I do not have authority to reopen the NRED matter, given that we already completed the same. While I understand that you indicated that you are now in a position to accept service, this does not change that we completed the NRED matter and it is closed.

As part of our dialogue, we discussed at length whether or not your client would be willing to continue out the motion and our opposition while we complete the NRED process. You indicated several times that you had no such authority. This is problematic for a variety of reasons, as even if we reopened the NRED matter and served Ms. Mossett-Puhek today, her answer in the NRED matter would not be due until after our opposition and the NRED matter would likely not be completed until after the hearing date. You also have indicated multiple times that you have no authority to resolve the pending motion even if we complete the NRED process, further complicating issues in this respect. We've now discussed these issues with you at length on multiple occasions with no long-term resolution being reached.

If you would like to reconsider your position on these issues, we can certainly discuss with our client reopening the NRED process (a process we've already completed). Otherwise, we are prepared to move forward with appropriate motion practice on these issues, which we likely need to do anyway to address issues with the community manager. Thank you.

Best,

Tim Elson

**THE LAW OFFICES OF
TIMOTHY ELSON**

(702) 874-8600

tim@elsonlawoffices.com
elsonlawoffices.com8965 S. Eastern Ave., #382
Las Vegas, NV 89123

CAUTION: PRIVILEGED AND/OR CONFIDENTIAL COMMUNICATION

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EXHIBIT 19



Freeman
Mathis & Gary LLP

3993 Howard Hughes Parkway
Suite 100
Las Vegas, NV 89169
www.fmglaw.com

Michael M. Edwards
D: 725.217.1563
C: 702.210.0718
Michael.Edwards@fmglaw.com

Derek R. Noack
D: 725.258.7324
C: 725.202.5379
Derek.Noack@fmglaw.com

July 20, 2023

J A C T Trust c/o Tim Elson
The Law Offices of Timothy Elson
8965 S. Eastern Ave. Ste. 382
Las Vegas, NV 89123
tim@elsonlawoffices.com

Re: Andrea Collier v. Pennie Mossett-Puhek et al.
Eighth Judicial District Court, State of Nevada, County of Clark
Case Number: A-22-852032-C
Our File Number: 17807-104440

RE: ADDITIONAL RESPONSE TO PLAINTIFF REGARDING POSITION ON NRED

Tim:

Please allow this correspondence to serve as Mrs. Mossett-Puhek's additional response to your July 18, 2023 email regarding her position on the NRED process. This letter also follows up our previous letters on behalf of Mrs. Mossett-Puhek dated June 30, 2023 and July 14, 2023 which each addressed the NRED issues. Mrs. Mossett-Puhek's position remains that Plaintiff Andrea Collier has not completed the NRED ADR process since no NRED mediation has occurred. Mrs. Mossett-Puhek thus still disagrees with your client's stated position that the premature closure of the NRED process following the unsuccessful service attempts on Mrs. Mossett-Puhek constitutes any sort of "completion" of the required process.

To briefly recap our communications, you were previously advised Mrs. Mossett-Puhek would be out of the country traveling in late May/early June, 2023, the time you attempted to complete service. Our office then advised you on June 30, 2023 of Mrs. Mossett-Puhek's availability to accept service of the NRED paperwork in her home anytime on Mondays-Thursdays from 5:00-6:00pm. Thereafter, to make it even easier for your client, on July 14, 2023 following our discussion after the most recent Court status conference, I advised you in writing that my office was also now authorized by Mrs. Mossett-Puhek to accept service of the NRED paperwork.



Freeman
Mathis & Gary LLP

To date, I am not aware of any further efforts by you or your client to complete service of the NRED paperwork. Indeed, your July 18, 2023 email correspondence appears to indicate your position that the NRED process was somehow already completed. Your position is incorrect.

During our meet and confer phone call regarding your request for confirmation as to whether or not a reservation of rights letter exists from Mrs. Mossett-Puhek's insurance carrier, you asked me to immediately agree to once again continue out the opposition and hearing date for Mrs. Mossett-Puhek's motion to dismiss while you complete the NRED process. You also asked me whether I would agree in advance to withdraw Mrs. Mossett-Puhek's motion once the NRED process is completed. Since you continually communicate to me that you believe you have already completed the NRED process (which we very clearly disagree on) my response was that I needed to discuss these issues with my client after you finally provide the required NRED paperwork before I would be authorized by her to extend any motion/hearing dates or agree to withdraw the pending motion to dismiss. We already provided you an extension of time to oppose the motion.

The issue is not complicated. Your client is required to go through the NRED ADR process and has presently failed to do so. When your client re-opens the required NRED ADR process with Mrs. Mossett-Puhek, my office will still accept service of the required paperwork. If you still believe you already completed the NRED process based on the failed service attempts which we have explained and provided evidence (including Mrs. Mossett-Puhek's plane ticket to Portugal) in support of the reasons for Mrs. Mossett-Puhek's travel, then please oppose my client's motion.

Further, with respect to NRED, as I have communicated previously, I have contacted NRED requesting information with respect to the NRED claim filed from J A C T Trust on Ms. Collier's behalf. My office also passed on our prior correspondence to Rhonda Galvin, the ADR Facilitator for NRED, which established and explained Mrs. Mossett-Puhek's unavailability during the prior service attempts. It should not be a challenge for Ms. Collier to re-open the NRED claim.

Regarding Mrs. Mossett-Puhek's availability for deposition in the ongoing Collier v. Anthem matter, I remind you again to please take note of Mrs. Mossett-Puhek's unavailability from August 11 to October 2, 2023 due to pre-planned medical care. Please also note Mrs. Mossett-Puhek's unavailability due to travel on October 14-22, 2023. Kindly schedule her deposition at a time convenient with those dates.

Finally, this correspondence shall confirm that the Philadelphia insurance adjuster has communicated to us that no formal Reservation of Rights letter exists with respect to this case.

Sincerely,

FREEMAN MATHIS & GARY, LLP

/s/ Derek Noack

Michael M. Edwards

Derek R. Noack

EXHIBIT 20

RSPN
MICHAEL M. EDWARDS
Nevada Bar No. 6281
DEREK R. NOACK, ESQ.
Nevada Bar No. 15074
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Tel.: 725.258.7360
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Michael.Edwards@fmglaw.com
Derek.Noack@fmglaw.com
Attorneys for Defendant
Pennie Mossett-Puhek

DISTRICT COURT
CLARK COUNTY, NEVADA

ANDREA COLLIER, as trustee of the JACT
TRUST,

Plaintiff,

vs.

PENNIE MOSSETT-PUHEK, individually;
ANTHEM HIGHLANDS COMMUNITY
ASSOCIATION, a Nevada Non-Profit
Corporation; DOES I through X and ROE
BUSINESS ENTITIES I through X, inclusive,

Defendants.

Case No.: A-22-852032-C
Dept. No.: 8

**DEFENDANT, PENNIE MOSSETT-
PUHEK'S RESPONSE TO PLAINTIFF'S
FIRST SET OF INTERROGATORIES**

Defendant, PENNIE MOSSETT-PUHEK, by and through her counsel of record, the law
firm FREEMAN MATHIS & GARY LLP, hereby responds to Plaintiff, Andrea Collier's First
Set of Interrogatories.

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1 deposition. All such objections and grounds are reserved and may be interposed at the time of trial.
2 In responding to these Requests, Defendant does not waive any proper objection to the use or
3 introduction into evidence of its Responses or information provided therein.

4 This Preliminary Statement is incorporated by reference into each Response contained
5 herein.

6 **GENERAL OBJECTIONS**

7 Each Response contained herein is subject to the following General Objections. These
8 General Objections form a part of each Response and are set forth herein to avoid duplication and
9 repetition caused by restating them in each Response. These General Objections may be
10 specifically interposed for the purpose of clarity in Response to an individual Request. However,
11 the failure to specifically incorporate the General Objection in a particular Response should not be
12 construed as a waiver of the objection.

13 A. Defendant objects to the Requests to the extent they require Defendant to obtain and
14 produce information and documents from persons over whom she has no control. Defendant
15 responds to the Requests only on behalf of itself.

16 B. Defendant objects to the Requests to the extent that they are vague, ambiguous, or
17 otherwise lack sufficient precision to permit a Response.

18 C. Defendant objects to the Requests to the extent that they call for the disclosure of
19 information that would reveal trade secrets or other confidential research, development,
20 commercial or proprietary information, or information that may be protected by a right of privacy
21 under either the United States Constitution, Article 1 of the Constitution of the State of Nevada or
22 any other applicable law. Defendant reserves the right to produce such non-privileged, responsive
23 information only pursuant to a protective order duly entered by the court appropriately limiting the
24 control, use and disposition of such information.

25 D. Defendant objects to the Requests to the extent they seek information that is neither
26 relevant to the subject matter of this action, nor reasonably calculated to lead to the discovery of
27 admissible evidence.

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1 E. Defendant objects to the Requests to the extent that they seek information and
2 documents that are publicly available, more readily and more appropriately collected from sources
3 other than Defendant, and/or more practically obtained through other methods.

4 F. Defendant objects to the Requests to the extent that they are overbroad and unduly
5 burdensome.

6 G. Defendant objects to the Requests to the extent they may be construed to request
7 disclosure of information prepared in anticipation of litigation; that constitutes attorney work
8 product; that discloses the mental impressions, conclusions, opinions or legal theories of any
9 attorneys for Defendant; that contain privileged attorney-client communications; or that are
10 otherwise protected from disclosure under applicable privileges, laws or rules. Defendant will not
11 provide any such privileged or protected information. Inadvertent disclosure of any such
12 information shall not constitute a waiver of any privilege or any other ground for objecting to
13 discovery with respect to such information. Nor shall such inadvertent production or disclosure
14 waive the right of Defendant to object to the use of any such information during this action or in
15 any other subsequent proceeding.

16 H. Defendant objects to the Requests to the extent they are ambiguous or excessive as
17 to time frames and thus are overbroad.

18 I. Defendant objects to the Requests to the extent that they attempt to impose
19 obligations on Defendant other than those imposed or authorized by applicable law or rule.
20 Defendant further objects to the Requests to the extent that obtaining the information and compiling
21 documents responsive to these Interrogatories would impose a vexatious and undue burden on
22 Defendant, and thus the Requests are oppressive and/or are merely intended to harass.

23 **INTERROGATORY NO. 1:**

24 Please state the basis as to why you were reprimanded, disciplined, or no longer permitted
25 to post on NextDoor.

26 **RESPONSES TO INTERROGATORY NO. 1:**

27 OBJECTION. Mossett-Puhek objects to this Interrogatory on the grounds that it is
28 overbroad in scope of time. Mossett-Puhek further objects to this Interrogatory on the grounds it

1 is compound. Mossett-Puhek also objects to this Interrogatory on the grounds that it is vague and
2 ambiguous as drafted, especially as to the terms “reprimanded” and “disciplined”. Mossett-Puhek
3 further objects to this Interrogatory on the grounds that it lacks foundation as to Mossett-Puhek.
4 Mossett-Puhek objects to this Interrogatory on the grounds that it seeks irrelevant information and
5 is not reasonably calculated to lead to admissible evidence. Mossett-Puhek further objects to this
6 Interrogatory on the grounds that it constitutes harassment. Mossett-Puhek also objects to this
7 Interrogatory on the grounds it assumes facts not in evidence.

8 Notwithstanding and without waiving the foregoing objections, Mossett-Puhek responds to
9 this Interrogatory as follows: Based on information presently known to me, I have never been
10 “reprimanded” or “disciplined” by Nextdoor. At some point in time, I was unable to log in to the
11 site and then at some later point in time I was allowed to log back in.

12 **INTERROGATORY NO. 2:**

13 Set forth in detail your relationship with any persons currently employed with or previously
14 employed within the last ten (10) years by Boyack Orme & Anthony.

15 **RESPONSES TO INTERROGATORY NO. 2:**

16 OBJECTION. Mossett-Puhek objects to this Interrogatory on the grounds that it is
17 overbroad in scope of time. Mossett-Puhek objects to this Interrogatory on the grounds that it seeks
18 irrelevant information and is not reasonably calculated to lead to admissible evidence. Mossett-
19 Puhek further objects to this Interrogatory on the grounds that it violates Mossett-Puhek’s and non-
20 parties’ rights to privacy.

21 Notwithstanding and without waiving the foregoing objections, Mossett-Puhek responds to
22 this Interrogatory as follows: I have a professional working relationship with Ted Boyack, who is
23 legal counsel for Anthem. I also previously requested Mr. Boyack’s firms’ services for a personal
24 matter relating to a Nextdoor posting that I believed to be libelous and defamatory to myself.
25 Anthem’s current part-time manager, Carmen Eassa, also used to work for Mr. Boyack. My
26 relationship with Mr. Boyack is of a professional nature regarding the management of Anthem.

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1 **INTERROGATORY NO. 3:**

2 Set forth in detail your relationship with any persons currently employed with or previously
3 employed within the last ten (10) years by K.G.D.O. Holding Company, LLC d/b/a Terra West
4 Management Services.

5 **RESPONSES TO INTERROGATORY NO. 3:**

6 OBJECTION. Mossett-Puhek objects to this Interrogatory on the grounds that it is
7 overbroad in scope of time. Mossett-Puhek objects to this Interrogatory on the grounds that it seeks
8 irrelevant information and is not reasonably calculated to lead to admissible evidence. Mossett-
9 Puhek further objects to this Interrogatory on the grounds that it violates Mossett-Puhek's and non-
10 parties' rights to privacy.

11 Notwithstanding and without waiving the foregoing objections, Mossett-Puhek responds to
12 this Interrogatory as follows: I have a professional working relationship with Anthem's part-time
13 manager Carmen Eassa of Terra West. I may at times interact with other various staff of Terra West
14 solely regarding the management of Anthem.

15 **INTERROGATORY NO. 4:**

16 Please state the basis for all complaints YOU have filed with the Nevada Real Estate Division
17 and/or the Ombudsman, such as Intervention Affidavits (Form 530).

18 **RESPONSES TO INTERROGATORY NO. 4:**

19 OBJECTION. Mossett-Puhek objects to this Interrogatory on the grounds that it is
20 overbroad in scope of time. Mossett-Puhek further objects to this Interrogatory on the grounds it is
21 compound. Mossett-Puhek also objects to this Interrogatory on the grounds that it is vague and
22 ambiguous as drafted, especially as to the terms "complaints" and "intervention affidavits". Mossett-
23 Puhek further objects to this Interrogatory on the grounds that it lacks foundation as to Mossett-
24 Puhek. Mossett-Puhek objects to this Interrogatory on the grounds that it seeks irrelevant
25 information and is not reasonably calculated to lead to admissible evidence. Mossett-Puhek further
26 objects to this Interrogatory on the grounds that it constitutes harassment. Mossett-Puhek also
27 objects to this Interrogatory on the grounds it assumes facts not in evidence.

28 ///

1 Notwithstanding and without waiving the foregoing objections, Mossett-Puhek responds to
2 this Interrogatory as follows: Upon information and belief at the present time, I do not recall filing
3 any intervention affidavits or other complaints with the Nevada Real Estate Division. Plaintiffs'
4 subpoena to the Nevada Real Estate Division would be able to obtain any documents, if they exist.

5 **INTERROGATORY NO. 5:**

6 Please state the basis for all complaints that have been filed against YOU with the Nevada
7 Real Estate Division and/or the Ombudsman, such as Intervention Affidavits (Form 530).

8 **RESPONSES TO INTERROGATORY NO. 5:**

9 OBJECTION. Mossett-Puhek objects to this Interrogatory on the grounds that it is
10 overbroad in scope of time. Mossett-Puhek further objects to this Interrogatory on the grounds it is
11 compound. Mossett-Puhek also objects to this Interrogatory on the grounds that it is vague and
12 ambiguous as drafted, especially as to the terms "complaints" and "intervention affidavits". Mossett-
13 Puhek further objects to this Interrogatory on the grounds that it lacks foundation as to Mossett-
14 Puhek. Mossett-Puhek objects to this Interrogatory on the grounds that it seeks irrelevant
15 information and is not reasonably calculated to lead to admissible evidence. Mossett-Puhek further
16 objects to this Interrogatory on the grounds that it constitutes harassment. Mossett-Puhek also
17 objects to this Interrogatory on the grounds it assumes facts not in evidence.

18 Notwithstanding and without waiving the foregoing objections, Mossett-Puhek responds to
19 this Interrogatory as follows: Upon information and belief at the present time, I am aware of only
20 two complaints. One filed by former board member Mark West in December 2019 and the other by
21 former board member Robert Stern in January 2015. I do not recall the basis for the complaint with
22 Mark West and do not possess the documentation of that complaint. The basis for the complaint by
23 Robert Stern was a Nextdoor posting and my stated opinion about Mr. Stern's new book that nobody
24 should buy it. I do not possess any documentation of that complaint. Plaintiffs' subpoena to the
25 Nevada Real Estate Division would be able to obtain any documents, if they exist.

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1 **INTERROGATORY NO. 6:**

2 Please state in detail the nature of your personal relationship with COLLIER and when it
3 ended. A complete answer will identify dates as to when the personal relationship began and ended,
4 as well as the basis for it ending.

5 **RESPONSES TO INTERROGATORY NO. 6:**

6 OBJECTION. Mossett-Puhek objects to this Interrogatory on the grounds that it is
7 overbroad as to scope and as to time. Mossett-Puhek further objects to this Interrogatory on the
8 grounds it is compound.

9 Notwithstanding and without waiving the foregoing objections, Mossett-Puhek responds to
10 this Interrogatory as follows: I do not consider my relationship with COLLIER to have ever been
11 personal. In my role in the Anthem board as president, I previously encouraged members of the
12 neighborhoods to become community liaisons for the purpose of assisting in reporting compliance
13 issues to the Anthem board and management. Ms. Collier contacted me through Anthem
14 management in the summer of 2020 and requested to assist in bringing compliance matters to the
15 attention of the Anthem board for possible action. On two occasions, myself and others met with
16 Ms. Collier. Once at her home and once at a restaurant. Due to concerns of Ms. Collier's motives
17 and actions regarding her neighbors, I sought the advice of association legal counsel and ultimately
18 ceased all contact with Ms. Collier. My last contact with Ms. Collier was in March 2021.

19 **INTERROGATORY NO. 7:**

20 Please state in detail the nature of your personal relationship with COLLIER and when it
21 ended. A complete answer will identify dates as to when the personal relationship began and ended,
22 as well as the basis for it ending.

23 **RESPONSES TO INTERROGATORY NO. 7:**

24 OBJECTION. Mossett-Puhek objects to this Interrogatory on the grounds that it is
25 overbroad as to scope and as to time. Mossett-Puhek further objects to this Interrogatory on the
26 grounds it is compound. Mossett-Puhek also objects to this Interrogatory on the grounds it is
27 duplicative as it has been asked and answered (See Interrogatory No. 6).

28 ///

1 Notwithstanding and without waiving the foregoing objections, Mossett-Puhek responds to
2 this Interrogatory as follows: See response in Interrogatory No.6.

3 **INTERROGATORY NO. 8:**

4 Since 2015, identify each and every time YOU inspected the PROPERTY. A complete
5 answer will identify the date of the inspection and for what purpose the inspection occurred.

6 **RESPONSES TO INTERROGATORY NO. 8:**

7 OBJECTION. Mossett-Puhek objects to this Interrogatory on the grounds that it is
8 overbroad in scope with respect to time. Mossett-Puhek further objects to this Interrogatory on the
9 grounds it is compound. Mossett-Puhek also objects to this Interrogatory on the grounds that it is
10 vague and ambiguous as drafted, especially as to the term “inspected”. Mossett-Puhek further
11 objects to this Interrogatory on the grounds that it lacks foundation as to Mossett-Puhek.

12 Notwithstanding and without waiving the foregoing objections, Mossett-Puhek responds to
13 this Interrogatory as follows: Ms. Collier’s property can be seen as I exit and enter my community,
14 which I have done consistently as a resident. I do not recall specifically the dates, but I have taken
15 photos of the plant material on Ms. Collier’s property in my role on behalf of Anthem. The purpose
16 of the photos was to show that the plant material was not being maintained in a height that that
17 would avoid site visibility concerns as referenced in Anthem’s architectural guidelines for
18 compliance purposes.

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1 **INTERROGATORY NO. 9:**

2 Please state the route of travel YOU take through ANTHEM to arrive at YOUR unit. A
3 complete answer will identify the streets you take and direction of travel as it relates to your ingress
4 and egress.

5 **RESPONSES TO INTERROGATORY NO. 9:**

6 Bicentennial via Anthem Highlands Drive, to Crathes, to Culloden. Left on Culloden to the
7 entrance of Earlstone.

8 DATED this 31st day of March 2023.

9 FREEMAN MATHIS & GARY, LLP

10 /s/Michael M. Edwards

11 MICHAEL M. EDWARDS ESQ.

12 Nevada Bar No. 6281

13 DEREK R. NOACK, ESQ.

14 Nevada Bar No. 15074

15 3993 Howard Hughes Pkwy., Suite 100

16 Las Vegas, Nevada 89169

17 *Attorney for Defendant PENNIE MOSSETT-*
18 *PUHEK*

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PROOF OF SERVICE
Andrea Collier v. Pennie Mossett-Puhek, et al.
Case No.: A-22-852032-C

The undersigned does hereby declare that I am over the age of eighteen (18) years and not a party to the within entitled action. I am employed by Freeman Mathis and Gary LLP. 550 South Hope Street, Suite 2200, Los Angeles, CA 90071. I am readily familiar with Freeman Mathis and Gary LLP's practice for collection and processing of documents for delivery by way of the service indicated below.

On March 31, 2023 I served the following document(s):

**DEFENDANT, PENNIE MOSSETT-PUHEK'S RESPONSE TO
PLAINTIFF'S FIRST SET OF INTERROGATORIES**

on the interested party(ies) in this action as follows:

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X By Electronic Service. Pursuant to Administrative Order 14-2 and Rule 9 of the NEFCR, I caused said documents(s) to be transmitted to the person(s) identified in the E-Service List for this captioned case in Odyssey E-File & Serve of the Eighth Judicial District Court, County of Clark, State of Nevada. A service transmission report reported service as complete and a copy of the service transmission report will be maintained with the document(s) in this office.

By Mail. By placing said document(s) in an envelope or package for collection and mailing, addressed to the person(s) at the address(es) listed above, following our ordinary business practices. I am readily familiar with the firm's practice for collection and processing of mail. Under that practice, on the same day that mail is placed for collection and mailing, it is deposited in the ordinary course of business with the U.S. Postal Service, in a sealed envelope or package with the postage fully prepaid.

I declare under penalty of perjury under the laws of the State of Nevada that the foregoing is true and correct.

/s/Laurie Moreno
An employee of Freeman Mathis and Gary LLP

EXHIBIT 21

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DISTRICT COURT
CLARK COUNTY, NEVADA

ANDREA COLLIER, as trustee of the
JACT TRUST,

Plaintiff,

vs. No. A-22-852032-C

PENNIE MOSSETT-PUHEK,
individually; ANTHEM HIGHLANDS
COMMUNITY ASSOCIATION, a Nevada
Non-Profit Corporation; DOES I
through X and ROE BUSINESS
ENTITIES I through X, inclusive,

Defendants.

_____/

DEPOSITION OF JASON ESAU
Taken on September 27, 2022

At 1:15 p.m.

At 8965 South Eastern Avenue, Suite 382

Las Vegas, Nevada

Reported by: Linda Horton Sprague, CCR 466
Job No. 50936, Firm No. 061F

2 1 APPEARANCES: 2 3 For the Plaintiff: 4 Timothy P. Elson, Esq. The Law Offices of Timothy Elson 5 8965 South Eastern Avenue Suite 382 6 Las Vegas, Nevada 89123 (702) 874-8600 tim@elsonlawoffices.com 7 8 9 For the Defendants: 10 Edward D. Boyack, Esq. Boyack, Orme, Anthony & McKiever 11 7432 West Sahara Avenue Suite 101 12 Las Vegas, Nevada 89117 (702) 562-3415 ted@boyacklaw.com 13 14 15 For the Deponent: 16 Amanda B. Kern, Esq. City of Henderson 17 240 Water Street P.O. Box 95050 18 MSC 144 Henderson, Nevada 89015 19 (702) 267-1288 amanda.kern@cityofhenderson.com 20 21 Also Present: 22 Andrea Collier 23 24 25	4 1 DEPOSITION OF JASON ESAU 2 September 27, 2022 3 4 (Prior to the commencement of the deposition, 5 all of the parties present agreed to waive statements 6 by the court reporter pursuant to Rules 30(b)(5)(A) and 7 30(b)(5)(C) of the NRCF/FRCP.) 8 9 JASON ESAU 10 was called as a witness and, having been first duly 11 sworn, testified as follows: 12 13 EXAMINATION 14 BY MR. ELSON: 15 Q. Good afternoon, Mr. Esau. My name is Tim 16 Elson. And I represent Ms. Collier in this matter. 17 Before we begin this deposition, what is 18 your legal name? 19 A. Jason Esau, E-s-a-u. 20 Q. Have you ever been sworn to tell the truth 21 before? 22 A. No. This is my first time. 23 Q. Okay. Well, let me explain the basic rules 24 of a deposition so there's no confusion here today. 25 Do you understand you are under oath today
3 1 INDEX OF EXAMINATION 2 3 JASON ESAU 4 Page 5 EXAMINATION 6 By Mr. Elson 4 7 By Mr. Boyack 41 8 9 10 INDEX TO EXHIBITS 11 12 Number Description Page 13 1 Photocopy of Case #CE-21-503 20 Closed 14 15 2 Photocopy of Notice of 23 Violation & Order to Correct 16 3 Color laser photograph 25 17 4 Photocopy of Case 27 #CE-21-3076. Closed 18 19 5 Color laser photographs 35 20 21 22 23 24 25	5 1 and that this is the same oath you would take as if 2 you were before a judge and jury? 3 A. Yes. 4 Q. And you understand that anything you say 5 here today carries the same penalty of perjury as if 6 you were before a judge and jury? 7 A. Yes. 8 Q. Have you consumed any alcohol in the last 12 9 hours? 10 A. No. 11 Q. Have you consumed any prescription or 12 non-prescription medication that will affect your 13 ability to give me your best testimony here today? 14 A. No. 15 Q. Is there any reason why this deposition 16 cannot go forward today? 17 A. No. 18 Q. Okay. One of the basic rules of a 19 deposition is that only one person can speak at a 20 time. The reason why is we have a court reporter here 21 who is taking down everything that we say. 22 So I'll do my best to wait for you to finish 23 answering the question before I ask another. And I'd 24 ask you to wait for me to finish asking it before you 25 start answering. Is that fair?

6 1 A. Fair. 2 Q. Sometimes in ordinary language we do things 3 like "uh-huhs" or "huh-uhs" or nodding our head yes or 4 no. And while that's very normal in everyday 5 language, it sometimes makes it difficult to create a 6 clean and accurate record. 7 So, from time to time, I may say "Is that a 8 'yes'?" "Is that a 'no'?" I'm not doing that to be 9 rude. I'm just trying to create a clean and accurate 10 record. Is that fair? 11 A. Understood. 12 Q. Okay. I don't want you to guess today. But 13 I am entitled to your best estimate. 14 Do you understand the difference between a 15 guess and an estimate? 16 A. Yes. 17 Q. Your testimony will come in a type of book 18 format. You will have the opportunity to review it 19 and make any changes that you wish to make. Please be 20 cautious that if you make a material change, or any 21 change, somebody may comment or opine as to whether or 22 not you were telling the truth at one time or another. 23 So it's very important that we get your best testimony 24 here today. 25 Do you understand?	8 1 Q. And where did you attend high school? 2 A. In Giessen, G-i-e-s-s-e-n, Germany. 3 Q. You may, at times, get a spelling test 4 today. 5 Did you attend any college or any vocational 6 training after high school? 7 A. No. 8 Q. It sounds like you spent some time in 9 Germany. 10 When did you first move to the United 11 States? 12 A. In '81. 13 Q. Where did you move when you first moved to 14 the United States? 15 A. From American Samoa to Hawaii. S-a-m-o-a. 16 Q. When did you first move to Las Vegas? 17 A. 1993. I want to say late October. 18 Q. And have you lived in Las Vegas since then? 19 A. Henderson mostly. Yes. 20 Q. And the only reason I'm asking is you 21 mentioned you spent time in Germany. Your English 22 sounds like it's your primary language. 23 Is English your primary language? 24 A. It's my second language. 25 Q. Okay. You seem to be speaking it just fine
7 1 A. Yes. 2 Q. Okay. If you don't understand my question, 3 please let me know. And I'll rephrase it as many 4 times as necessary. Please be cautious that if you do 5 answer a question, everyone will have the right to 6 presume you understood the question before you 7 answered. Is that fair? 8 A. Yes. 9 Q. Okay. If you need to take a break, just go 10 ahead and ask. We can go off the record. You can 11 stretch your legs. Use the restroom. Whatever you 12 need to do. The only thing that I ask is that you 13 answer any question that's pending before you before 14 we take a break. Is that fair? 15 A. Okay. 16 Q. Do you have any questions before we start? 17 A. No. 18 Q. Jason, I'm going to start -- may I call you 19 Jason? 20 A. Sure. 21 Q. I'm going to start by going over some of 22 your education and background. 23 Can you tell me what's the highest level of 24 education that you've completed. 25 A. High school.	9 1 here today. 2 Do you have any issues with communicating in 3 English? 4 I just want to make sure we're speaking in a 5 language in which you would consider yourself fluent 6 and that you understand everything that's transpiring 7 here today. 8 A. English is fine. 9 Q. Okay. Any other schooling or vocational 10 training that you can think of -- 11 A. No. 12 Q. -- that we haven't talked about? 13 Okay. Let's talk a little bit about your 14 employment background. 15 Where are you currently employed? 16 A. With the City of Henderson. 17 Q. And how long have you been with the City of 18 Henderson? 19 A. Since November of 2005. 20 Q. What position do you currently hold with the 21 City of Henderson? 22 A. I am a code enforcement officer. 23 Q. And how long have you been with Code 24 Enforcement? 25 A. April 1st, 2013.

10 1 Q. What did you do for the City of Henderson 2 before Code Enforcement? 3 A. I worked for the Utilities Department as a 4 meter services specialist. 5 Q. Do you have a specific position within 6 Henderson Code Enforcement? Title? 7 A. Just -- I'm just -- I'm a code enforcement 8 officer. I'm one of many. 9 Q. Okay. About how many code enforcements 10 would you estimate work for the City of Henderson? 11 A. How many code enforcement officers? 12 Q. That's correct. 13 A. I believe we have seven right now. Seven. 14 Q. And I'm sure it varies from time to time as 15 people transition in and out. 16 But is it your understanding that that 17 number is, roughly, seven since you've started with 18 Code Enforcement? 19 A. Well, that's what it is currently. 20 Q. Okay. 21 A. Yeah. It could change, you know. 22 Q. Prior to working with Henderson Code 23 Enforcement as a code enforcement officer, did you 24 have any experience with reviewing or interpreting or 25 understanding code?	12 1 Q. When were you born? And where were you 2 born? 3 A. November 4th, 1974. In American Samoa. 4 Q. Jason, I'm not trying to be rude. I ask 5 this question of every witness I've ever deposed. 6 Have you ever been convicted of a felony? 7 A. No. 8 Q. Have you ever been convicted of a crime of 9 moral turpitude -- that is, involving one of deceit or 10 dishonesty? 11 A. No. 12 Q. What did you do to prepare for your 13 deposition here today? 14 A. I reviewed my case that was in -- in our 15 system. Just looked over it. 16 Q. And about how many pages would you say your 17 cases were in your system? 18 A. Well, it's on the computer. It's -- I don't 19 know exactly how many pages. I would guess maybe 20 three pages. 21 Q. I'll be showing you some documents. 22 A. Okay. 23 Q. And when I do, I'll ask you if those were 24 the documents -- 25 A. Okay.
11 1 A. In Utilities, yes. 2 Q. And what experience did you have with it in 3 Utilities? 4 A. We -- so we installed all the new water 5 meters for new construction for the City of Henderson. 6 And they had to meet certain codes before we were able 7 to install those water meters, for example. 8 I also worked in the Water Waste Division of 9 Utilities, where we enforced the water conservation 10 section of the Utilities Municipal Code. 11 Q. And so would it be fair to say that in those 12 positions you would review various code provisions and 13 determine whether or not compliance had occurred? 14 A. Correct. 15 Q. Prior to working with the City of 16 Henderson -- can you just give me a general idea of 17 any other types of employment that you've had in your 18 lifetime. 19 A. I worked in construction for a couple years. 20 I was a -- I worked at a golf course. I worked for 21 the MGM Grand Hotel Casino for a few years when they 22 first opened back in the mid '90s in their retail 23 merchandising division. 24 But, yeah, I have held a lot of different 25 jobs.	13 1 Q. -- you reviewed. 2 Maybe that's the easiest way to clean that 3 up. 4 I imagine you met with your attorney. I 5 don't want to know what you and your attorney talked 6 about. 7 A. Uh-huh. 8 Q. But did you meet with your attorney -- 9 A. Yes. 10 Q. -- before the deposition? 11 How many times did you meet with your 12 attorney? 13 A. Just once. 14 Q. And how long did that meeting last? 15 A. Fifteen minutes maybe. 16 Q. Fifteen as in 1-5? 17 A. Yes. 18 That's an approximate. I wasn't keeping 19 track of the time. 20 Q. I understand. 21 Other than the case file notes, were there 22 any other documents that you reviewed to prepare for 23 your deposition? 24 A. No. 25 Q. We're here today to talk about a lawsuit

14 1 involving Ms. Andrea Collier and her HOA, Anthem 2 Highlands, regarding some oleander bushes that are on 3 Ms. Collier's property. 4 Have you ever reviewed any of the legal 5 documents associated with this lawsuit? 6 A. No. Just, you know, the subpoena for the 7 deposition is the only thing I saw. 8 Q. Before we start talking about specifics with 9 Ms. Collier and those oleander bushes -- and I 10 understand you're familiar with those oleander bushes. 11 Correct? 12 A. Correct. 13 Q. Okay. I want to talk just a little more 14 generally about protocol within the Code Enforcement 15 Division. 16 When Henderson Code Enforcement receives a 17 complaint -- can you tell me, generally, how that 18 process works and what happens. 19 A. It gets assigned to one of the several code 20 enforcement officers that we have on staff. And we 21 respond to the cases as quickly as we can. We 22 document what the violation, if -- you know, with 23 photographs. And then we'll make notes into our case. 24 And then we make a determination of whether or not a 25 violation exists.	16 1 Or, you know, again, as I stated earlier, 2 monetary fines is also another option that the City 3 has -- to assess fines against the homeowner. 4 Q. So it sounds like fines can be issued. And 5 if fines -- the City believes that fines aren't enough 6 of a coercive measure to cause the homeowner to come 7 into compliance or if the violation is serious enough 8 the City will just correct it itself with the vendor? 9 A. It depends. As far as sending in a 10 vendor -- it depends on what the violation is. 11 You know, if it entails us entering onto the 12 person's property and, you know, either removing 13 something from their property or -- you know, that -- 14 that could sometimes, you know, lead us to assessing 15 fines versus an abatement. 16 An abatement would usually, you know, 17 involve violations, like litter, for example, where, 18 you know, there's garbage or litter that needs to be 19 disposed of. Or if it's in the right-of-way and not 20 necessarily on private property. 21 But the notice does give the homeowner 22 the -- it lets them know that the City has a couple of 23 different, you know, options in the enforcement 24 process to move forward. 25 Q. What types of notes do you typically keep
15 1 And then we either close out the case, or we 2 go forward with the enforcement process. 3 Q. And when you say "go forward with the 4 enforcement process," what does that mean? 5 A. So, we would issue a -- what's called a 6 Notice of Violation. That's the document that we're 7 required to issue to the property owner that's 8 involved. 9 Q. And if the homeowner doesn't, then, come 10 into compliance, what happens then? 11 A. So the next step would be what's called a 12 Notice to Abate. It basically notifies the homeowner 13 that -- that they're being reminded that there's a 14 violation that hasn't been corrected. 15 And then it lists the different options that 16 the City has as far as either having the violation 17 abated by the City via a third-party vendor or an 18 option to issue fines for non-compliance. 19 Q. And just so I can understand what you mean 20 by "abate" -- does that, in lay person terms, 21 essentially mean "correct"? 22 A. Yes. Basically to -- to have somebody come 23 in and correct the violation. Or if the homeowner 24 corrects it on their own, then we would close the 25 case.	17 1 within the system? 2 A. So photographic evidence of -- of the 3 subject of the complaint. And we will also make notes 4 in the case. Just general notes as far as what we've 5 observed, whether we've determined that there's a 6 violation and whether we've issued a notice or not. 7 Q. Do you ever confer with your supervisor 8 about certain violations? 9 A. At times, yes. 10 Q. And who was your supervisor in 2021? 11 A. Ian Massey. 12 Q. Is Mr. Massey still your supervisor to this 13 day? 14 A. Yes. 15 Q. If a complainant is abusive or combative, is 16 that a reason you would speak with your supervisor? 17 A. I have brought it up to him sometimes when 18 that happens in -- yes. It -- it's not something we 19 do all time because, in my line of work, we -- we 20 don't get treated very nicely most times. So -- 21 Q. Well, I'm sorry to hear that. Sometimes it 22 happens in my line of work as well. So you have my 23 sympathy in that regard. 24 Is there ever a time that you would not just 25 confer with your supervisor, but refer the matter over

18	1 to Mr. Massey to deal directly with the complainant? 2 A. At times, yes. 3 Q. And is one of the reasons you would do that 4 when a complainant is abusive or combative? 5 A. It can be. Yeah. 6 Q. Are you familiar with the Division Henderson 7 Engineering? 8 A. Henderson Engineering. 9 Q. I've heard there's a department called the 10 Engineering Department with the City of Henderson. 11 Have you heard of that department? 12 A. We have engineers in multiple departments of 13 the City. 14 Q. Are there engineers that work with the Code 15 Enforcement Division? 16 A. We don't have an engineer in our division. 17 At times, if we have to consult with subject 18 matter experts in other departments, they could 19 possibly have engineers that -- that would be 20 consulted by Code Enforcement. 21 Q. Is one of those departments Traffic? 22 A. Traffic Engineering. Yes. 23 Q. And are matters ever referred over to 24 Traffic Engineering? 25 A. Occasionally, we will consult with our City	20	1 (Exhibit 1 was marked for 2 identification.) 3 BY MR. ELSON: 4 Q. Jason, I'm showing you what's been marked as 5 Exhibit 1. 6 Do you recognize this document? 7 A. Yes. 8 Q. Is this one of the documents that -- one of 9 the case documents that you were talking about that 10 you reviewed to prepare for your deposition? 11 A. Yes. 12 Q. So I'm looking at the top of the first page. 13 It states: 14 Created on March 2nd, 2021, by James Dwyer. 15 Do you see that? 16 A. Yes. 17 Q. Okay. What does the date March 2nd, 2021, 18 refer to? 19 A. The date that the case was created. 20 Q. And who is James Dwyer? 21 A. He's a fellow code enforcement officer. 22 Q. And then next to it, it states: 23 Closed on May 12th, 2021, by Jason Esau. 24 You're Jason; correct? 25 A. Correct.
19	1 traffic engineer in his office. 2 Q. And what would be one of the reasons why you 3 would consult with Traffic Engineering? 4 A. So they -- the traffic engineer is the 5 subject matter expert when it comes to, you know, 6 traffic issues. And anytime there's cases that are 7 complaints that could affect traffic -- traffic 8 obstructions or traffic flow, stoplights, street 9 signs, stop signs, matters such as those is when we 10 would consult with them. 11 Q. Before consulting with Traffic Engineering, 12 do you typically discuss things with your supervisor 13 before that point? 14 A. Correct. 15 Q. If a complainant is abusive or combative, is 16 that a reason why you might refer a matter over to 17 Traffic Engineering? 18 A. Not necessarily just because they're being 19 abusive or combative. Many times someone would 20 request it. Or if it's something that we need some 21 clarification on, we need a professional determination 22 to be made by that subject matter expert, then we 23 would -- that's when we would consult with them. 24 MR. ELSON: May we mark this Exhibit 25 number 1.	21	1 Q. And what does May 12th, 2021, refer to? 2 A. So that would be the date I closed the case 3 within our system. 4 Q. Is there a specific reason why Mr. Dwyer 5 would have referred this over to you as to him 6 personally keeping it? 7 A. I think he just -- he might have just taken 8 the complaint. 9 There's a note on page 2 that documents 10 the -- the receipt of the complaint. So that's -- 11 that's how I presume the -- his name -- he created the 12 case. So his name is logged. 13 And under the notes -- the first note said 14 that, you know, I received a complaint on the phone 15 from, you know, so on and so forth. 16 Q. So after a complaint is taken in, matters 17 are then assigned to a specific code enforcement 18 officer; is that correct? 19 A. Correct. 20 Q. And how -- well, strike that. 21 Who selects to whom the matter is assigned? 22 A. So at this particular time, in 2021, we were 23 assigned within the City by geographic areas. And I 24 was one of two code enforcement officers that was 25 assigned to what we refer to as the west -- West

22 1 Henderson, which this particular neighborhood is 2 included in that West Henderson area. 3 Q. Who was the other code enforcement officer 4 that was assigned to West Henderson? 5 A. Kami Beckwith. 6 Q. Could you spell Kami's name for the record. 7 A. Sure. K-a-m-i. Beckwith, B-e-c-k-w-i-t-h. 8 Q. Do you confer with Ms. Beckwith when 9 evaluating complaints within the west area? 10 A. We confer with each other at times with all 11 of the code enforcement officers within the office. 12 Q. Do you remember discussing the complaint 13 pertaining to Ms. Collier's residence with 14 Ms. Beckwith? 15 A. No. I don't recall. 16 Q. Is that because it didn't occur? Or because 17 you just don't remember one way or the other? 18 A. I'm positive it didn't occur. 19 The majority of cases we kind of just handle 20 on our own. And, you know, it's -- conferring with 21 each other is -- or with one another in the office is 22 something that happens sometimes but not -- not 23 necessarily a majority of the time. 24 Q. Understood. 25 So you mentioned some notes on the second	24 1 A. It is a Notice of Violation in order to 2 correct. 3 Q. It's dated March 3rd, 2021; is that correct? 4 A. Correct. 5 Q. And it references case number CE-21-503; is 6 that correct? 7 A. Correct. 8 Q. And that's the same case number on 9 Exhibit 1; is that correct? 10 A. Correct. 11 Q. And on the second page, I see your name. 12 Jason Esau. 13 Is that correct? 14 A. Yes. 15 Q. Who prepared this letter? 16 A. I did. 17 Q. And on it, I see that you mention -- right 18 after the first paragraph, there's a table. It looks 19 like there's only one violation. So there's only one 20 row within that table. 21 And you mention a municipal code, a 22 description, and then a resolution associated with 23 that; is that correct? 24 A. Correct. 25 Q. And the resolution states:
23 1 page. The first note states: 2 Received a complaint over the phone from the 3 HOA board member, who states the address at 4 2822 Culloden planted oleander bushes that are 5 obstructing driver's view of traffic when turning 6 right at the stop sign. States they have had issues 7 with people running the stop sign because of this. 8 Did I read that correctly? 9 A. Yes. 10 Q. Did you come to learn who the board member 11 was that made this initial complaint to Mr. Dwyer? 12 A. At this point, I didn't know who the 13 complainant was. 14 Q. Did you eventually learn who it was? 15 A. I did find out who the complainant was. 16 Q. And who was that? 17 A. It was -- Pennie is what I came to find out. 18 (Exhibit 2 was marked for 19 identification.) 20 BY MR. ELSON: 21 Q. Okay. I've handed you what's been marked as 22 Exhibit 2. 23 Have you seen Exhibit 2 before, Jason? 24 A. Yes. 25 Q. And what is Exhibit 2?	25 1 The oleanders in the front yard shall be 2 trimmed or removed to provide adequate line of sight 3 visibility at the intersection, with a maximum height 4 of 24 inches. 5 Did I read that correctly? 6 A. Yes. 7 Q. So it was -- at the time you issued this on 8 March 3rd, 2021, it was your understanding that the 9 oleanders had to be cut to a height of 24 inches; is 10 that correct? 11 A. Correct. 12 (Exhibit 3 was marked for 13 identification.) 14 BY MR. ELSON: 15 Q. Are you aware if the oleanders were cut back 16 by Ms. Collier to 24 inches? 17 A. I'm sorry. Can you repeat the question. 18 Q. Do you know if Ms. Collier cut the oleanders 19 back to 24 inches as you indicated your letter? 20 A. They -- eventually they were. Yes. 21 MR. ELSON: Can you hand him Exhibit 3 now. 22 BY MR. ELSON: 23 Q. Jason, you've been handed what's been marked 24 as Exhibit 3. I don't know that you've ever seen this 25 specific photograph before.

26 1 But do you recognize the area within the 2 photograph? 3 A. Yes, I do. 4 Q. Is this the corner that's at issue in case 5 number 21-503? 6 A. Yes. 7 Q. And I see some oleander bushes in this 8 picture. 9 Are those the oleander bushes at issue? 10 A. Yes. 11 Q. And this is a photograph showing that the 12 oleander bushes were cut back to 24 inches; is that 13 correct? 14 A. It appears that it is. Yes. 15 Q. Prior to closing case number CE-21-503, did 16 you reinspect the property to verify that the 17 oleanders were cut back to 24 inches? 18 A. Prior to closing the case, I believe I did. 19 I believe I did. 20 Q. And so at that point in time, you understood 21 that the violation had been corrected and closed the 22 case; is that correct? 23 A. Yes. I understood it was -- it was a closed 24 matter. 25 Q. And there was no notice of abatement issue;	28 1 Q. And so December 13th, 2021, would have been 2 the date that another complaint was received; is that 3 correct? 4 A. On December 13th when Daniel created -- it 5 looks like Daniel created the case on that date. 6 Q. If I look at the notes -- and this time 7 there's only one note. It states: 8 Pennie states that this is still a line of 9 sight issue from the bush at this house. She is 10 wanting clarification if it is a violation or not. 11 And did I read that correctly? 12 A. Yes. 13 Q. And then underneath that, there's a date, 14 December 13th, 2021; is that correct? 15 A. Correct. 16 Q. And then looking back at the first page. 17 It states that it was closed on 18 December 21st, 2021, by Jason Esau. 19 And that would be the date that you closed 20 out this matter; is that correct? 21 A. Correct. 22 Q. And then looking at the first page, toward 23 the bottom. It says: 24 Inspection note. Initial inspection. The 25 oleanders in question have been trimmed since we last
27 1 is that correct? 2 A. As far as I recall, the only notice that was 3 issued was the notice -- the original Notice of 4 Violation, dated March 3rd, 2021. 5 Q. So, as you sit here today, it's your 6 understanding that there was no notice of abatement; 7 correct? 8 A. Correct. 9 Q. And there were no fines issued either; is 10 that correct? 11 A. That's correct. 12 (Exhibit 4 was marked for 13 identification.) 14 BY MR. ELSON: 15 Q. Jason, you've been handed what's been marked 16 as Exhibit 4. 17 Do you recognize this document? 18 A. Yes. 19 Q. And what is Exhibit 4? 20 A. It looks like another separate case for 21 the -- for the same property. 22 Q. And at the top, it states it was created on 23 December 13th, 2021, by Daniel Steklasa; is that 24 correct? 25 A. Correct.	29 1 had a case for this property. I did not observe any 2 line of sight obstruction at this intersection. No 3 violation. Case closed. 4 Did I read that correctly? 5 A. Yes. 6 Q. And above that, it states: 7 Verification inspection completed on 8 December 21st, 2021. 9 Did I read that correctly? 10 A. Correct. 11 Q. So that would have been the date that you 12 conducted an inspection of the property; is that 13 correct? 14 A. Yes. 15 Q. And when you went out to the property, you 16 inspected it, and you had determined that no violation 17 existed at that time; is that correct? 18 A. Yes. 19 Q. At that time, you didn't involve Traffic 20 Engineering; is that correct? On December 21st, 2021. 21 A. That's correct. 22 Q. It seemed pretty clear to you that no 23 violation had existed and that was why you didn't 24 involve Traffic Engineering; is that correct? 25 A. Correct.

30 1 Q. After December 2021 -- or during this time 2 frame, do you recall receiving additional calls from 3 Pennie Mossett-Puhek, the individual with the HOA? 4 A. I believe it was around this time when I 5 closed -- shortly after I closed this case that I did 6 have a -- I did receive a call from Pennie. 7 Q. Do you recall Pennie becoming upset with you 8 and telling you that you didn't know how to do your 9 job? 10 A. Yes. 11 Q. Do you recall Pennie stating to you that you 12 didn't know the code and she, essentially, knew the 13 code better than you? 14 A. Something to that extent. Yes. 15 Q. Is there something specific that you recall 16 about the phone call with Pennie, or the phone calls 17 with Pennie, that -- because I don't want to put words 18 in your mouth, Jason. 19 How would you describe those calls with 20 Pennie? 21 A. She was just questioning whether the 22 oleanders needed to be removed or not. She was 23 insisting that the code states that they needed to be 24 removed. 25 Q. And when you told her that they didn't need	32 1 A. I'm not sure about that. You'd have to ask 2 him. 3 Q. All right. Do you recall referring Pennie 4 to Traffic Engineering? 5 A. I never referred her to Traffic Engineering. 6 I know I brought it up with my supervisor, 7 Mr. Massey, to see if -- if it was possible to have 8 a -- I believe I did that on the -- when the first -- 9 on the first complaint prior to us closing it out. I 10 did ask to see if we could get a professional 11 determination by our traffic engineer's office. 12 Q. Let's take a look back at Exhibit 1. 13 Looking at the bottom of Exhibit 1. It states: 14 Called and spoke with property manager, 15 Andrea, who requested we send a Notice of Violation so 16 she can forward to their attorneys. They have been 17 having issues with the HOA. 18 Did I read that correctly? 19 A. Yes. 20 Q. Was it Ms. Collier who requested the Notice 21 of Violation? 22 A. I issued the Notice of Violation. And we -- 23 we sent it out via certified mail and regular 24 first-class mail. 25 When I reached out to Andrea, it's -- it's
31 1 to be removed, how did she respond to you at that 2 time? 3 A. She responded that she disagreed with me and 4 that I didn't know, quote, unquote, my own code. 5 Q. Do you recall discussing with Mr. Massey at 6 that time that Pennie had become combative with you? 7 A. I can't remember if I mentioned the 8 conversation to Mr. Massey at that time. It did come 9 up later, for sure. I -- because we -- we did speak 10 about it later. 11 Q. What do you mean? When did you speak about 12 it later? 13 A. So I had mentioned to him that we had gotten 14 a second complaint since the initial one was -- was 15 closed. 16 So he -- I just remember him asking me, 17 well, why -- how did we get the complaint? What was 18 it about? So I was just giving him the information 19 that it -- it was the same complainant and she 20 disagreed with our determination on whether or not a 21 violation existed. 22 Q. Do you recall referring Pennie to speak to 23 Mr. Massey directly? 24 A. I don't recall referring her to Mr. Massey. 25 Q. Do you know if she did speak to Mr. Massey?	33 1 common for me to try to reach out to -- to violators, 2 if you will, via telephone to make sure because 3 sometimes mail doesn't always get there in a timely 4 manner. 5 So she requested a copy of the Notice of 6 Violation, if I recall correctly. 7 Q. So she was just requesting that one be sent 8 by e-mail, for example? 9 A. I believe she wanted me to send her an 10 e-mail copy of it. 11 Q. Okay. 12 A. Correct. 13 Q. Okay. And it states here that she wanted to 14 forward it to her attorney and that they had been 15 having issues with the HOA. 16 Do you recall discussing with Ms. Collier 17 any issues with her HOA? 18 A. I recall that she had mentioned that she -- 19 as I wrote in the notes there -- that she has been 20 having issues with the HOA. 21 Q. Do you recall Ms. Collier discussing with 22 you that she had been harassed by Ms. -- by Pennie 23 Mossett-Puhek? 24 A. I believe she did mention that to me during 25 our phone conversation.

34 1 Q. And during your calls with Pennie, do you 2 recall discussing any other view obstructions within 3 the Anthem HOA? 4 A. So I recall having one phone conversation 5 with Pennie. And it wasn't a phone call that I 6 initiated. It was a phone call that she made, I 7 believe, to our office. And it was transferred to me. 8 So during that one phone call that I had 9 with her, we only discussed those oleanders for this 10 particular property. 11 Q. Because you were handling the Anthem 12 Highlands area and had been dealing with Pennie, would 13 you have been assigned any other view obstructions 14 within Anthem or any other complaints from Pennie at 15 this time period? 16 A. At this time, between myself, 17 Officer Beckwith, it's -- yes, it's possible that I 18 would have been assigned other obstructions or any 19 other violations. 20 Q. So during the call with Pennie, she didn't 21 mention any other view obstructions within Anthem; is 22 that correct? 23 A. I don't recall her mentioning any other 24 violations. 25 Q. As you sit here today, do you recall any	36 1 now that you've seen the photographs. 2 Do you recall receiving any complaints 3 regarding any of these other intersections within 4 Anthem Highlands? 5 A. I did receive some photographs from 6 Ms. Collier of different intersections. 7 Q. And that was in response to the case 8 number 21-503, in which a complaint was opened against 9 Ms. Collier; correct? 10 A. Correct. I believe so. Yeah. 11 Q. So no one opened complaints regarding any of 12 these other intersections, Ms. Collier just sent them 13 over as a response to the Notice of Violation she 14 received; is that correct? 15 A. I'm not aware of whether cases were opened 16 or not. 17 Q. No cases regarding these intersections were 18 ever assigned to you; is that correct? 19 A. I'm not aware of any of them being assigned 20 to me. No. 21 Q. Okay. And looking at the photograph that's 22 been marked as Exhibit 3. And let's take the first 23 page of Exhibit 5. 24 A. Okay. 25 Q. And would you agree with me that first page
35 1 other violations for view obstructions within Anthem 2 that you have been assigned within the last year or 3 two? 4 A. At that particular time, I cannot recall. 5 It's -- it's uncommon for us to get those 6 types of violations -- or complaints for those types 7 of violations in the Anthem area, I should say. 8 Anthem is pretty big. 9 Q. And because it's uncommon, it sounds like 10 something that you would remember if it had been 11 assigned to you. Is that fair? 12 A. Yes. It does help me remember because 13 they're far and few in between. 14 Q. And you don't remember any such complaints; 15 correct? 16 A. I don't recall from that particular time. 17 (Exhibit 5 was marked for 18 identification.) 19 BY MR. ELSON: 20 Q. Jason, I'm handing you what's been marked as 21 Exhibit 5. And I'll represent to you that these are 22 some photographs of some different intersections 23 within the Anthem community that were taken in 2021. 24 And just to be clear -- I know that I've 25 asked you this a couple times. But I'll just ask you	37 1 of Exhibit 5 presents a bigger view obstruction than 2 Exhibit 3? 3 A. It's -- they're taken at different angles. 4 You know, no two intersections are -- are exactly 5 alike. So I -- I can't make a determination on 6 whether or not one obstruction exists or is worse than 7 the other or it doesn't exist at all. 8 Q. Okay. Looking at the bushes in the first 9 page of Exhibit 5, would you agree with me that they 10 look taller than 24 inches? 11 Correct? 12 A. In the photograph, yes, they do look taller 13 than 24 inches. 14 Q. Looking at the second photograph of 15 Exhibit 5. The top of it. It references 16 2856 Kinknockie. 17 Do you agree with me that the vegetation in 18 this second photograph looks taller than 24 inches? 19 Is that correct? 20 A. They appear to be taller than 24 inches. 21 Q. Are you able to opine -- looking at 22 Exhibit 3 and the second page -- whether or not you 23 think that the photograph with 2856 Kinknockie on it 24 presents a greater view obstruction than what's in 25 Exhibit number 3?

38 1 A. It's possible. 2 Again, I would have to -- we always go out 3 in person to make these determinations. Photographs 4 are always taken at varying angles. And where the 5 actual stop signs or street signage is placed plays a 6 big part in -- in where -- whether we determine the 7 obstruction exists or not. 8 Q. Looking at the third page of Exhibit 5. 9 You would agree with me that the vegetation 10 within that photograph is taller than 24 inches; is 11 that correct? 12 A. It appears to be taller than 24 inches in 13 the photograph. 14 Q. Are you able to opine or comment on whether 15 or not this third photograph creates a larger view 16 obstruction than what's in Exhibit 3? 17 A. It's possible. Again, I would have to go 18 and view it in person to make that determination. 19 Q. Okay. Let's look at the fourth page of 20 Exhibit 5. This one has the van in the photograph. 21 A. Okay. 22 Q. There's some vegetation that's circled. 23 You would agree with me that that vegetation 24 is taller than 24 inches; is that correct? 25 A. It appears taller than 24 inches in the	40 1 say with the ones that are down lower. 2 Q. What about the last photograph, which I see 3 the street sign Dunnottar in that one. 4 Is that correct? 5 A. Yes, sir, it looks like Dunnottar. 6 Q. And that vegetation also looks like it's 7 taller than 24 inches; correct? 8 A. It looks taller than 24 inches. Yes. 9 Q. And, as you sit here today, you don't recall 10 Pennie ever calling up Code Enforcement -- let me -- 11 strike that. Let me rephrase. 12 As you sit here today, there were no 13 violations that you're aware of, with respect to any 14 of the photographs within Exhibit 5, that were 15 assigned to you; is that correct? 16 A. I'm not aware of any violations that match 17 these photos. 18 Q. After the matter was escalated to Traffic 19 Engineering -- well, let me rephrase. 20 Are you aware if this matter was escalated 21 to Traffic Engineering? 22 A. I'm aware that we consulted with them 23 through -- though my supervisor, Ian Massey, it was -- 24 it was forwarded to them. 25 Q. Okay. Do you recall what Traffic
39 1 photograph. 2 Q. Are you able to opine or comment on whether 3 this fourth photograph presents a larger view 4 obstruction than what's within Exhibit 3? 5 A. I can't even determine if this is at an 6 intersection or not. 7 Q. If you look right above the van, can you two 8 little brown signs? One looks like it's got -- 9 A. The two street name signs. Yes, I see that. 10 Q. Yeah. That would appear to indicate that 11 it's at an intersection; correct? 12 A. Yes. 13 Q. But, I mean, between the van and bushes, it 14 sounds like it's a view obstruction so bad that you 15 can't even tell if there's another street there; is 16 that correct? 17 A. The growth is fairly tall in the front yard. 18 Yes. 19 Q. And looking at the last couple photographs 20 of Exhibit 5. 21 You would agree with me that the vegetation 22 within those photographs are also taller than 23 24 inches; is that correct? 24 A. It appears at least those -- the shrub to 25 the right looks taller than 24 inches. It's hard to	41 1 Engineering determined? 2 A. I believe they determined that it was not 3 within the sight visibility zone, that there was no 4 obstruction. 5 Q. So just to be clear, Traffic Engineering 6 also determined that there was no violation with 7 respect to those oleander bushes; is that correct? 8 A. I believe that's what I recall hearing. 9 You would have to consult with Traffic 10 Engineering for -- for records to -- to see if they 11 made that determination for sure. 12 Q. Jason, as we sit here today, is there 13 anything that -- regarding these cases or those 14 oleander bushes that sticks out to you that we haven't 15 talked about here today? 16 A. No. 17 MR. ELSON: I don't have any further 18 questions at this time. 19 MR. BOYACK: Thank you. 20 21 EXAMINATION 22 BY MR. BOYACK: 23 Q. Sir, my name is Ted Boyack. I represent the 24 defendants in this matter. 25 If it's okay with the court reporter, I can

42 1 stay seated here if you can hear okay. I'll talk to 2 you and through you if that's okay. 3 A few questions about Title 15.12.030. 4 That's the code that generally governs the issues that 5 we have been talking about today. Is that a fair 6 statement? 7 A. Yes. 8 Q. All right. And just, generally speaking, 9 that's the code that basically indicates that 10 vegetation shouldn't obstruct -- on a private property 11 shouldn't obstruct the vision to the streets. 12 Is that the general intent of that code, as 13 you understand it? 14 A. Yes. 15 Q. And that's the code that would -- is that 16 the code that specifically says the vegetation should 17 be 24 inches -- or 24 inches? 18 Where does that code -- where does that 19 24 inches come from? 20 A. I believe that comes out of Title 19. And 21 it refers to the sight visibility zones within the 22 intersection. 23 Q. All right. So in this particular case with 24 the oleanders -- and you indicated they were -- if 25 they were below 24 inches that they do not create a	44 1 to potentially create a view obstruction? 2 A. I don't recall discussing further, you know, 3 occurrences of the oleanders being in violation in 4 particular. I just recall that she was adamant that 5 they needed to be removed. 6 Q. Do you understand -- do you remember what 7 her argument was, or concern was, as to why they 8 needed to be removed? 9 A. Well, she mentioned that people ran the stop 10 sign there. And that was -- one of the causes of it 11 was because of the presence of the oleanders. 12 Q. Did she believe that they were fine at 13 24 inches or below? Or she thought that they should 14 be removed, generally? 15 A. I recall her opinion was that they needed to 16 be removed completely. 17 Q. All right. Was that because at 24 inches 18 and below they still created a possible obstruction in 19 her opinion? 20 A. I couldn't say for sure. 21 Q. That's not a good question. I'm not asking 22 you to get into her head. I'm just saying: 23 Do you recall if she specifically 24 articulated that she believed that there was an 25 obstruction there even if the oleanders were below
43 1 sight -- a sight obstruction that would violate 2 Title 15. Is that a fair statement? 3 A. Yes. 4 Q. All right. But if they do go -- rise above 5 24 inches, would you agree with me, at that point, 6 they may be in violation of Title 15? 7 A. Yes. 8 Q. So it would be incumbent upon the homeowner 9 to ensure that those oleanders are, at all times, 10 maintained at 24 inches or below? 11 A. Yes. 12 Q. So in the case of vegetation -- obviously, 13 vegetation grows. You know, some vegetation faster 14 than others. But vegetation grows. 15 And then we can -- we can have a violation 16 at one point in time and no violation at another point 17 in time, depending on how those -- the landscape is 18 maintained; correct? 19 A. Correct. 20 Q. When you -- going back to your one 21 conversation with Ms. Puhek. 22 Do you recall anything specifically being 23 discussed about the concerns about how the oleanders 24 were planted and placed in the area and that -- that, 25 since they continued to grow, that they would continue	45 1 24 inches? 2 Or do you recall what her argument or 3 concern was that she may have articulated to you? 4 A. No. I just recall that she just was adamant 5 about them needing to be removed and that trimming was 6 not sufficient. 7 Q. All right. On this exhibit -- I think 8 it's -- I'm sorry. Is that Exhibit 2? Right here 9 (indicating) there's handwriting. 10 Do you see that? 11 A. Uh-huh. 12 Q. Is that your handwriting? 13 A. No. That's not mine. 14 Q. Whose handwriting is that? 15 A. I have no idea. 16 Q. Why would someone else's handwriting be on 17 that notice -- strike that. 18 Do you know if that would be handwriting 19 from someone in your office? 20 A. I don't believe so. 21 Q. All right. You don't recognize that 22 handwriting as anything that would be coming from your 23 office? 24 A. No. 25 Q. So you did refer this matter over to traffic

46 1 control; correct? 2 A. So I referred it to my supervisor, who then, 3 in turn, referred it over to the traffic -- City 4 traffic engineer. 5 Q. And that's Mr. Massey? 6 A. Mr. Massey is my supervisor. Correct. 7 Q. All right. So he, in essence, after you 8 discussed it with him, referred it to traffic -- 9 A. Yes. 10 Q. -- control? 11 Do you recall, approximately, when that 12 referral occurred? Generally. 13 A. I believe I have it documented in my case. 14 Q. You're free to look at the document. 15 A. I asked -- yeah. So there's a note on 16 Exhibit 1, page 2, where it says: 17 Pending review by PW, which is Public Works, 18 Traffic Engineer's Office on the sight visibility 19 zone. 20 That was a note in my case. 21 Q. Okay. Thank you. 22 Just on that note, you've indicated you 23 recall one conversation with Ms. Puhek; correct? 24 A. Is that Pennie? 25 Q. Pennie. Sorry. Pennie.	48 1 any conversation with Mr. Elson other than today? 2 A. We had a conference call a few weeks ago. I 3 can't remember the date. That was the first time. 4 Q. And who was on the conference call? 5 A. Myself. Amanda. Mr. Elson. And, I 6 believe, Andrea Collier. 7 Q. And what was discussed -- who initiated -- 8 I'm sorry. 9 Who initiated the conference call? Who 10 asked for it? 11 A. It came through our City Attorney's Office, 12 I think, from Mr. Elson's office. 13 Q. And what was the subject of that conference 14 call? What did you guys talk about? 15 A. Well, they had some questions regarding the 16 case -- or my case. 17 Q. What were those questions? Do you remember? 18 A. So I believe they were asking me if I had 19 any additional notes aside from what was in the case 20 and, basically, what -- what happened. What was the 21 time frame of what happened when the complaint came in 22 and such. 23 Q. And did you provide them any additional 24 documents or information at that time that they did 25 not have previously, to your knowledge?
47 1 A. Yes. 2 Q. Do you recall any other conversations with 3 anyone else from the association involving this 4 particular residence? 5 A. No, I do not. 6 Q. Do you recall receiving any calls from 7 Ms. Collier regarding this -- this violation? 8 A. I spoke with Ms. Collier on more than one 9 occasion throughout the -- when the case was open. 10 So, yes, I did. 11 Q. Do you recall, approximately, how many times 12 you spoke with her? 13 A. Not exactly. At least a couple of times. 14 Q. And that's when the matter was open the 15 first -- was open; correct? 16 A. It was open. 17 And I can't recall if I spoke with her when 18 this second complaint came in or not. But I -- I just 19 recall that I did have at least one conversation with 20 her when the case was first opened for her property. 21 Q. Did you have any conversations with her 22 attorney, Mr. Elson, at all that you recall around the 23 time period of these violations? 24 A. No, I did not. 25 Q. When was the first time -- have you ever had	49 1 A. So I don't personally provide any 2 documentation. We have a process where public records 3 requests are made through the City of Henderson. So I 4 didn't provide any documents. 5 Q. All right. Did you review these documents 6 that are in front of you today during that conference 7 call? 8 A. I believe I had the case documents on my 9 screen at my desk when we were on the call. 10 Q. Are there any other documents that are 11 relevant to this matter that we have not seen here 12 today? 13 A. Not that I'm aware of. 14 Q. Other than the discussion on the 15 documents -- you said there was some discussion about 16 the events or the time line. 17 Is that correct? 18 A. Of the case, in general, yes. 19 Q. Okay. 20 A. From what I recall. 21 Q. All right. Did you talk -- or say anything 22 during that conference call that you have not 23 discussed or testified to here today in deposition? 24 A. I don't believe I did. No. 25 Q. So you say there's seven people that work in

50 1 the office that handle complaints -- right now 2 there's, approximately, seven people. 3 A. We have seven code enforcement officers. 4 Q. All right. Do you -- and I understand that 5 you may not have a recollection. 6 But just in an effort to maybe try to 7 refresh your recollection, I'm going to just ask you 8 some questions. If it refreshes your recollection 9 about a potential communication with the City of 10 Henderson enforcement with Anthem Highlands, then just 11 let me know. 12 Does that make sense? 13 A. Okay. 14 Q. All right. Are you aware of a request from 15 Anthem Highlands for a traffic control stop sign at 16 the corner of Culloden and Crathes? Does that ring a 17 bell? 18 A. No. I'm not aware of it. 19 Q. Were you -- were you aware of any requests 20 from the association to assist with people living in 21 trailers in the public streets on Culloden Avenue? 22 A. I'm not aware of it. 23 Q. Are you aware of a request by Anthem 24 regarding abandoned or stored vehicles that had -- 25 were in the community? Generally.	52 1 A. Yes. 2 Q. All right. So -- yeah. 3 I think you testified earlier that you 4 believed you handle a lot of issues within the -- 5 strike that. 6 That you believe that you -- and I think you 7 indicated one other person would most likely handle 8 the physical area of Anthem Highlands. 9 Is that a fair statement? 10 A. At that particular time, yes. 11 Q. At that time? 12 A. Yes. 13 Q. Okay. Do you remember a time line as to 14 when that may have changed internally within the 15 department? 16 A. Approximately, two months ago. 17 Q. Okay. Is everything done jurisdictionally 18 by way of geography as far as assignments? Or does 19 it -- is it random? Or is it general guidance? How 20 does that work? 21 A. For the most part, it was. 22 We've experienced some -- some changes in 23 staffing levels. So, you know, there's people that 24 have been bouncing around from different areas. 25 But, yeah, at that time, we were assigned to
51 1 A. We do get cases regarding possible abandoned 2 or inoperable vehicles on the street. I -- I can't 3 recall from that particular time frame. 4 Q. Fair enough. 5 And I understand. I'm just only asking if 6 something triggers your memory that you can discuss 7 it. 8 Have you heard of any requests from Anthem 9 Highlands regarding issues with trimming of palm trees 10 because of rat infestations? 11 A. No. I'm not aware of that. 12 Q. Okay. How about with regard to a home in 13 the community that was, for lack of a better 14 description, a hoarder home that was having vermin and 15 other problems in the community? Does that ring a 16 bell? 17 A. I don't recall of -- one of those in Anthem. 18 Q. Would it -- if, hypothetically, those type 19 of requests for assistance or inspection were made by 20 Anthem, could that have been assigned by someone else 21 within the department? 22 A. I'm sorry. Can you rephrase. 23 Q. Sure. 24 A. Could it have been assigned to someone else? 25 Q. Yes.	53 1 specific areas of the city. 2 Q. And when did you start handling the general 3 area of Anthem Highlands? Do you recall? 4 Approximately. 5 A. I don't recall. It was after the COVID 6 lockdown. It was around the same time when I handled 7 this case, approximately. 8 Q. So, say, the year or two prior to you 9 handling this case, you may not have been assigned to 10 that geographic area; correct? 11 A. Correct. 12 Q. When I say "Anthem Highlands," just for 13 clarification -- I know that you talked to a board 14 member, Pennie. 15 Right? 16 A. (Nonverbal response.) 17 Q. But there's also the management company that 18 manages the affairs of the association. So there may 19 be a manager, also, that would reach out to you. 20 Do you recall having any conversations with 21 any managers or -- at Anthem Highlands with regard to 22 this particular issue? 23 MR. ELSON: I'm sorry. What -- you're 24 talking about the oleanders; correct? 25 MR. BOYACK: Yeah. The oleanders. Yeah.

54 1 MR. ELSON: Okay. 2 THE WITNESS: No. Not -- not this 3 particular case or these oleanders. 4 BY MR. BOYACK: 5 Q. Any recollection of any conversations with 6 any managers at Anthem regarding any other issues 7 where you may have interacted with a management person 8 representing Anthem? 9 A. So Anthem Highlands, from -- how I 10 understand it, is the -- they are further south of the 11 Anthem loop. I know we've dealt with -- I believe 12 it's Terra West for other parts of Anthem. 13 So, yes, we -- we have dealt with a property 14 management company and vendor. 15 Q. Do you remember, generally, what those 16 interactions were? 17 A. We had a meeting because there were some 18 common areas that had landscape growth that were 19 either obstructions or could soon become obstructions. 20 And so it was -- it was a group meeting that we had to 21 just kind of generally address common areas within 22 the -- the Anthem community. 23 Q. Do you -- was it a Zoom meeting? Or an 24 actual physical meeting? 25 A. It was an actual physical meeting.	56 1 routinely do, over the years, to meet with -- vendors 2 keep changing. 3 So we just kind of proactively want to meet 4 with these people and let them know, like, you know, 5 you guys might want to take a trip around the Anthem 6 loop and address any possible issues. 7 Q. So you looked at Exhibit 5, which was a 8 series of photographs. 9 A. Uh-huh. 10 Q. And there were general questions about 11 whether these photographs may or may not violate 12 Title 15. 13 But you don't have any information with 14 regard to any specifics as to what the association may 15 or may not have been doing with regard to these 16 locations as far as enforcements of the overgrowth of 17 vegetation? 18 A. No. I don't have -- I'm not privy to the 19 information with the HOA -- between the HOA and -- 20 Q. Have you seen these photographs at all prior 21 to today? 22 A. I think this is the first time I've seen 23 them. 24 I know there was a lot of photographs that 25 Ms. Collier had sent to me when I initially opened my
55 1 Q. And you were present at that meeting? 2 A. Yes. 3 Q. Was it -- do you recall the name of anybody 4 else that may have been present? 5 A. My co-worker, Kami, at the time. And I 6 can't remember the woman's name. But I believe she's 7 a property manager with Terra West. 8 Q. If I mentioned the name Carmen Essa, would 9 that ring a bell? 10 A. Carmen who? 11 Q. Carmen Essa, E-s-s-a. 12 A. That doesn't really ring a bell. No. 13 Q. Okay. When was that meeting, approximately? 14 A. I can't recall. It was prior to -- it was 15 prior to this case. It was unrelated. But it was 16 prior to this case, for sure. 17 Q. Was that to discuss general issues 18 throughout the community? Or was there anything 19 specific that that meeting was addressing? 20 A. It was mainly the Anthem Hills Parkway loop. 21 The big loop. 22 There's a lot of common areas that there -- 23 that have been there. I believe it's Par 3 or Par 4 24 landscaping. They sent a representative. And we 25 were -- it's just a -- it's something that we	57 1 case for her property. 2 Q. And when you talked to Ms. Collier and she 3 indicated to you that she felt the association -- what 4 did she tell you? She was having issues with the 5 association? Do you remember anything specific? 6 A. I recall she -- she just -- I think she just 7 kind of vaguely said that she was having issues with 8 the HOA. 9 And it's not uncommon for us to -- to hear 10 these from property owners. So I just immediately 11 said, look, we're -- I'm just coming out to determine 12 whether a violation exists. But -- yeah. 13 Q. And you haven't been out to -- to her 14 residence at present, have you, as far as -- or at any 15 time within the last several months to -- to inspect 16 the height of the oleanders? 17 A. No. 18 Q. You wouldn't do that on a regular basis, 19 would you? You'd only go if somebody brought it to 20 your attention? 21 "You" being the City of Henderson. 22 A. Yes. We would typically respond to 23 complaints. 24 Q. If the oleanders, right now, were over 25 24 inches, would you agree with me that that may

58 1 constitute a violation of Title 15? 2 A. It could possibly be a violation. Yes. 3 Q. In evaluating -- go back to Exhibit 5. 4 Okay. You said that you really have a 5 difficult time making any opinions or comments just 6 based on photographs due to camera angles and other 7 factors. 8 So you -- you would withhold any opinion 9 regarding any other view obstructions until you 10 actually set sight on -- until you were actually 11 on-site. 12 Is that a fair statement? 13 A. Correct. 14 Q. What are some of the factors you determine 15 or evaluate or think about when you try to determine 16 whether or not vegetation has created a view 17 obstruction in violation of Title 15? 18 A. The location of the actual street sign 19 itself. In some cases, there will be a painted solid 20 white bar on the road delineating where people should 21 stop. But those are a couple of different things. 22 Q. In other words, each location can be unique 23 as to the hazards that it may or may not create. 24 Is that a fair statement? 25 A. Correct.	60 1 Q. And do you recall doing that in the case 2 of -- of your inspection of the Collier residence? 3 A. Yes. 4 Q. And you determined, at that point, that, 5 based on the height the oleanders, that it was a view 6 obstruction; correct? 7 A. Yes. 8 Q. And the reason -- you may agree with me -- 9 that we have these sort of code enforcement issues to 10 ensure public safety. 11 Is that a fair statement? 12 A. That's one reason. 13 Q. What are some other reasons? 14 A. Nuisances. Just general property 15 maintenance issues. Lack of maintenance and so forth. 16 Q. And you would consider, in evaluating a 17 particular line of sight area, not only the traffic 18 but, also, pedestrian issues as well? 19 A. Yeah. I mean, it's mostly traffic that 20 we're looking for as far as the obstruction for -- for 21 visibility for oncoming traffic. 22 Q. But if -- if one area had a sidewalk versus 23 another area that does not have a sidewalk, would that 24 weigh into your analysis of -- of how you view the 25 obstruction should be managed?
59 1 Q. And that could be -- also, other factors 2 could be the amount of traffic? 3 A. We don't necessarily take into consideration 4 the amount of traffic when we evaluate these 5 complaints. 6 Q. How about the nature of the traffic control 7 devices at a particular intersection, whether it's a 8 two-way stop, you know -- in other words, how the 9 intersection is structured by way of traffic control. 10 Does that weigh in at all into your 11 analysis? 12 A. Not necessarily. 13 You know, we -- we make an inspection of the 14 intersection based on where the -- the signs and 15 markings are. And we make a determination. 16 Q. Do you actually get in your vehicle and -- I 17 mean, do you do it from outside the vehicle? Or do 18 you get in a vehicle and pull up and actually simulate 19 traffic conditions? 20 A. I do it in the vehicle. Yes. 21 Q. So you sort of act as if you were a driver 22 in that area and evaluate? 23 A. When initially responding, that's usually 24 the first thing I do on these particular types of 25 complaints -- obstruction complaints. Yes.	61 1 A. I don't understand, necessarily, the 2 question. 3 Q. Okay. Well, some -- my neighborhood in my 4 community -- there's a sidewalk on one side of the 5 street and no sidewalk on the other side of the 6 street. And I don't know if many communities are like 7 that. 8 But -- so I'm just asking if the sidewalk of 9 pedestrian right-of-ways is part of your analysis in 10 determining view corridors when you do an inspection. 11 That's all. 12 A. Yes. So sidewalks are considered part of 13 the public, you know, way -- public right-of-way. 14 Public sidewalks, I should say. 15 And in cases where there is no sidewalk, 16 there is landscaping that could possibly be 17 obstructions over the roadway. 18 Q. Now, you've been here providing testimony 19 that we appreciate very much. 20 Is there any -- and I know you've, 21 generally, talked about Mr. Massey and others in the 22 office are familiar with some of the facts involving 23 this situation. 24 Is there anybody else that you haven't 25 mentioned that you spoke to about this particular

62 1 case? 2 A. Not that I'm aware of. 3 Q. Did you have -- or have any knowledge of 4 what traffic -- the traffic engineers determined or 5 how -- what they evaluated? 6 A. I just heard that it was determined that 7 they -- their determination was that there was no 8 sight visibility issues. 9 Q. Okay. Provided that the oleanders stayed 10 below the 24 inches; correct? 11 MR. ELSON: Objection. Calls for 12 speculation. 13 When an attorney makes an objection, unless 14 you're instructed not to answer the question, you can 15 go ahead and answer the question. 16 THE WITNESS: Can you ask the question 17 again. 18 MR. BOYACK: Sure. If I can remember it. 19 MR. ELSON: We can have court reporter read 20 it back to you if you want. 21 MS. KERN: Yeah. She read it back for you. 22 MR. BOYACK: Go ahead, Court Reporter. If 23 you can read it back, that would be great. 24 Thank you. 25 (The record was read.)	64 1 Q. Okay. So -- 2 A. -- adjacent to it. 3 Q. Sorry. I didn't mean to cut you off. 4 A. Yeah. 5 Q. Just so we're clear, because a -- the bush 6 to the ground may be higher or lower than the sidewalk 7 or the street in some cases; correct? 8 A. Correct. 9 Q. So if you're measuring the 24 inches, is it 10 your understanding that that would be from the ground 11 next to the vegetation up? Or would it be from the 12 street or sidewalk to the top of the vegetation? 13 A. I would typically measure it from the 14 street -- or from the -- I'm sorry -- from the 15 sidewalk, adjacent to the -- the landscaping in 16 question. 17 Q. Okay. So if you measure it from the 18 sidewalk, there may be a slope -- it may be stepped up 19 a little bit so that it -- you may actually be higher 20 where the vegetation is to the grade of the sidewalk. 21 Have you seen that before? 22 A. Yes. 23 Q. All right. But you would -- you believe 24 that you should measure it from the sidewalk location 25 to the top of the vegetation; right?
63 1 THE WITNESS: No. I don't have any 2 firsthand knowledge of what their determinations were. 3 I just heard that the determination was made that 4 there was no obstruction. 5 BY MR. BOYACK: 6 Q. Did they do a report -- do you know? -- 7 internally? 8 I know it's not your department. But -- 9 A. I'm not aware. 10 Q. Understood. 11 Just on that -- so just so I understand, 12 because we don't -- we're lawyers. But that doesn't 13 mean we get digging around in City codes. Okay. 14 So Title 19 discusses visibility. And you 15 mentioned Title 15 discusses the 24-inch requirement. 16 Right? 17 A. Title 15 is the property maintenance code. 18 Title 19 is the development code. 19 Q. That 24 inches, as outlined in 15 -- do you 20 know if that's from the -- from the ground level? The 21 curb level? The street level? Do you know how that 22 24 inches is measured? 23 A. It's usually measured from the street 24 level -- from the ground level. The -- I guess the 25 sidewalk level. Whatever the landscaping is --	65 1 A. Correct. 2 Q. Do you know if -- if that's your practice? 3 Or do you know if that's what the -- how the 4 department does it? 5 A. It's my practice, based on -- on my 6 knowledge of the code. 7 Q. Do you know if other inspectors do it that 8 way? Do you have any knowledge if they do it from the 9 ground -- the vegetation -- or maybe from the street 10 itself? Do you know? 11 A. I can't -- I don't know how other code 12 officers measure. 13 Q. Have you been informed at all, from any 14 source, whether it be Ms. Collier or counsel or anyone 15 else, about the details of the actions that the 16 association has taken with regard to violations in 17 this matter? 18 A. No. I'm not aware of any of that 19 information. 20 Q. Okay. So the wealth of your knowledge is 21 really just related to your engagement with these 22 particular violations as it related to this particular 23 home; right? 24 A. Correct. 25 Q. Okay. Are you aware of any other violations

66 1 that have been brought by the association against this 2 particular residence other than what we've discussed 3 today? 4 A. No. I'm not aware. 5 Q. In your conversation with Pennie -- you 6 indicated that she had told you that she disagreed 7 with you with regard to the interpretation of the 8 code; right? 9 A. Correct. 10 Q. Okay. How did you feel about her wanting to 11 disagree with you about the interpretation of the 12 code? Did it anger you? Frustrate you? Were you 13 indifferent to it? 14 A. I felt indifferent to it. 15 It actually happens quite often in my line 16 of work. 17 Q. A lot people read a code and interpret it 18 differently. Is that -- that's pretty common. You've 19 seen that? 20 A. Yeah. That's -- yeah. They'll have a 21 different interpretation. Yes. 22 Q. That's not necessarily unreasonable -- that 23 people may disagree about how a code should be 24 interpreted? 25 MR. ELSON: Objection. Form.	68 1 you're doing a sight inspection? 2 A. No. 3 Q. But would you -- 4 A. Unless it was marijuana. 5 Q. Well, then you would have to cut it down 6 immediately. 7 A. We would -- yeah. 8 Q. Okay. 9 A. We'd refer it to somebody else. 10 Q. Yeah. Your City Attorney is really cool. 11 She won't say anything. 12 That was a bad question. 13 What I was just asking is -- is -- I mean, 14 you know, you evaluate some vegetations different than 15 others. Vegetation at my house is, like -- it seems 16 to be dying and sparse all the time. 17 So you would evaluate the overall conditions 18 and circumstances of the vegetation when you do your 19 analysis? 20 A. When -- well, it depends on what the 21 complaint is. 22 I don't understand the question 23 specifically. 24 Q. Well, if -- when you do a line of sight 25 evaluation to see if it complies with Title 19, is
67 1 MS. KERN: You can answer. 2 THE WITNESS: Yeah. People disagree with 3 almost everything I do. 4 BY MR. BOYACK: 5 Q. And I appreciate that. I'm not -- I think 6 we're all sympathetic to you. 7 I'm just saying specifically to the code 8 itself. You've seen -- it's common where people may 9 disagree with how -- what the language of the code may 10 mean or how it is to be applied. 11 Is that a fair statement? 12 A. It happens. Yes. 13 Q. All right. Is there anything with regard to 14 title -- and I know I'm just talking in general terms. 15 But you're doing a very good job in following me. 16 Is there anything in Title 19 or 15 that 17 discusses particular types of vegetation as opposed to 18 just the height? 19 A. Title 15 does not, as I -- as I'm aware, 20 point out specific types of vegetation. 21 Title 19 is -- it's a lot of pages. It's a 22 couple hundred pages. So I -- I don't want to say for 23 sure. But it may -- they may list specific species or 24 plant types in 19. 25 Q. Do you evaluate the type of vegetation when	69 1 part of your analysis the thickness and nature of the 2 vegetation and how it looks through the line of sight? 3 Do you look -- because there's -- some 4 vegetation may not be as difficult to see -- or 5 problematic as other vegetation at that time -- is 6 that part of your consideration? 7 A. The only consideration we take is whether or 8 not the landscaping is an obstruction or not, not 9 necessarily what type of vegetation is it. 10 Q. Or its condition? Would the condition of 11 the vegetation -- 12 A. We do have a violation for dead or dieing 13 landscaping. 14 Q. Okay. Did you -- other than your 15 attorney -- did you talk to Mr. Massey about your 16 deposition today? 17 A. I mentioned to him that it was -- it was 18 happening. Yes. 19 Q. Did he make any comments or have any 20 opinions regarding it? 21 A. No. Just that he thanked me for letting him 22 know. 23 Q. Did he have any interactions with anyone at 24 Anthem Highlands, to your knowledge? Directly. 25 A. I don't -- I'm not aware of whose

70 1 interactions -- what interactions Mr. Massey may have 2 had. 3 Q. And he hasn't had any detailed conversations 4 with you regarding the nature of this residence and 5 this complaint in particular? 6 MR. ELSON: Objection. Form. 7 THE WITNESS: I have not discussed this case 8 with Mr. Massey since, I believe, when the last time 9 we had a case, which was -- would have been the second 10 case. 11 BY MR. BOYACK: 12 Q. Is it December? Around the December time 13 period? 14 A. I believe so when the second case came in. 15 December of last year. 16 Q. Do you recall the nature of those 17 conversations that you had with Massey regarding 18 the -- I'll just refer to it as the December -- around 19 December the second time that this issue came up? 20 A. I recall just asking him if -- if Traffic 21 Engineering -- because I know we had sent the -- or he 22 had sent it over to Traffic Engineering. And I hadn't 23 heard any -- whether or not a determination had been 24 made. 25 So I believe our last conversation was --	72 1 Thank you so much. 2 THE WITNESS: You're welcome. 3 MR. ELSON: Can we go off the record for a 4 second. 5 (A discussion was held off the record.) 6 MR. ELSON: Back on. 7 Off the record, Mr. Boyack and I discussed 8 the admissibility of Exhibits 1, 2, and 4, which are 9 records from the City of Henderson. And rather than 10 go through the Business Records Exception, we've both 11 agreed and stipulated that we agree that the hearsay 12 exception applies to these records and they qualify 13 under the Business Exceptions within the state of 14 Nevada. 15 Is that correct, Ted? 16 MR. BOYACK: I agree. 17 The only thing that I would just add is if 18 there's some document that part of the production 19 today or whatever that is not an exhibit listed that 20 that would be included. 21 MR. ELSON: I have no issue with that as 22 well. 23 MR. BOYACK: Okay. 24 MR. ELSON: So I think we just both agree 25 that the City of Henderson records are admissible.
71 1 was about the matter being referred to Traffic 2 Engineering. 3 Q. I'm going to -- do you -- do you know, in 4 particular, if your department has talked about 5 with -- amongst yourselves -- amongst the code 6 enforcement that Anthem Highlands is known for having 7 a lot of complaints or a lot of issues that come 8 before Code Enforcement? 9 A. I'm not aware of what -- the discussion if 10 that's what happened. 11 Q. I guess my question is: Is Anthem Highlands 12 unique or special in the amount of times they'd 13 contact Code Enforcement with regard to issues in the 14 City of Henderson? 15 A. I don't recall Anthem Highlands being a -- 16 you know, someone that contacts us frequently. 17 Q. Any different than anything else; right? 18 A. Well, it's different. They're an HOA. 19 There's HOAs in these neighborhoods. And, for the 20 most part, a lot of these HOA neighborhoods police 21 themselves. So we do get fewer complaints from HOA 22 communities. 23 Q. Okay. 24 MR. BOYACK: All right. I appreciate your 25 time today.	73 1 MR. BOYACK: Yeah. 2 MR. ELSON: So -- 3 MR. BOYACK: So stipulated. 4 MR. ELSON: Okay. Off the record. 5 I don't have anything further. 6 THE WITNESS: Do you want a copy of the 7 transcript, Mr. Boyack? 8 MR. BOYACK: Not at this time. No thanks. 9 THE REPORTER: Okay. 10 (The deposition recessed at 2:45 p.m.) 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25

1 CERTIFICATE OF REPORTER
2 STATE OF NEVADA)
3) ss:
4 COUNTY OF CLARK)

5 I, Linda Horton Sprague, a Certified Court
6 Reporter, licensed by the State of Nevada, do hereby
7 certify:

8 That I reported the deposition of JASON ESAU, on
9 Tuesday, September 27, 2022 at 1:15 p.m.;

10 That prior to being deposed, the witness was duly
11 sworn by me to testify to the truth, the whole truth,
12 and nothing but the truth;

13 That I thereafter transcribed my said stenographic
14 notes into typewriting and that the typewritten
15 transcript is a complete, true, and accurate record of
16 testimony provided by the witness at said time to the
17 best of my ability;

18 I further certify (1) that I am not a relative,
19 employee, or independent contractor of counsel, or of
20 any of the parties involved in the proceeding; nor a
21 person financially interested in the proceeding; nor do
22 I have any other relationship that may reasonably cause
23 my impartiality to be questioned; and (2) that
24 transcript review pursuant to NRCP (30)(e) was not
25 requested.

26 IN WITNESS WHEREOF, I have set my hand in my
27 office in the County of Clark, State of Nevada, this
28 29th day of September, 2022.

Linda Horton Sprague

Linda Horton Sprague, C.C.R. No. 466

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EXHIBIT 22

Case: 22-625625

Location: Crathes & Culloden

Request: This request is being submitted on behalf of the Anthem Highlands Board of Directors. Code Enforcement has a pending case for 2822 Culloden to evaluate for site visibility violations. This case has been open for at least 8 months with no evaluation. The HOAs homeowners have complained that when stopping at the white line for the stop sign at the corner of Crathes and Culloden, they cannot see oncoming traffic. It is also hard to see the children when walking to school as they round this corner. The maps obtained for site visibility on the COH website show that these fast-growing oleanders (which are not permitted in Henderson) are in violation of the site visibility guidelines. Code enforcement determined they were not in violation of Title 15 if they were kept to a 2ft height. The issue is that the 2 ft must be from the "level of the sidewalk" and not the level of the ground where the plants are placed under COH guidelines. This was not addressed by code enforcement. This area continues to be a safety concern for residents because these plants are intended to create a wall on this corner and there is no way we can continue to monitor the growth. We respectfully ask for a traffic engineer to address the site visibility violations at this corner as soon as possible. (2/8/2022)

Homeowner at 2822 Culloden, Andrea Collier 702-219-4335, called today. She said there is now a civil case pending with the HOA. She maintains Code Enforcement told her there was no problem. I let her know the case is still open and is in our queue for a site visibility study. She said she is available if anyone has any questions or needs to speak with her. (4/8/2022)

Response: thank you for your patience as we worked through our case load until we were able to respond to this case. At the time your case was opened, there was over 400+ cases. We try to treat every case with the same amount of detail since they are all as important as the others. We recently conducted a site visit to the intersection of Culloden and Crathes to look into the concern regarding the sight visibility and the bushes. The sight visibility guidelines that are mentioned in your concern are used at intersections that do not have an all-way stop controlled or signal. Intersections such as two-way stop controlled and or roundabouts must meet sight visibility requirements since the vehicles that are stopped must be able to see oncoming traffic a specific distance down the roadway to be able to gauge when it is appropriate for them to continue through the intersection. Since the intersection of Culloden and Crathes is an all-way stop controlled intersection where all approaches must come to a stop, the sight visibility is different. The line of sight for this type of intersection is from the drivers eye to the first car at the stop sign at all approaches. During our field visit we made sure that when stopped at every approach, the stop sign and vehicles at the stop sign were visible. The bushes in question to do hinder the line of sight for any approach. It should be noted that when sitting at the approach on Crathes, the stop sign for eastbound Culloden was blocked by trees. We respectfully request that the HOA have their landscaping company trim the tree so the approach on Crathes can see that that leg of the intersection does have a stop sign. Please let me know if there are any other questions we can assist you with. Thank you. (4/26/2022)

EXHIBIT 23

RESP

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Attorneys for Defendants

**EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA**

ANDREA COLLIER, as trustee of the JACT
TRUST

Plaintiff,

vs.

PENNIE MOSSETT-PUHEK, individually;
ANTHEM HIGHLANDS COMMUNITY
ASSOCIATION, a Nevada Non-Profit
Corporation; DOES I through X and ROE
BUSINESS ENTITIES I through X, inclusive.

Defendants.

CASE NO. A-22-852032-C

DEPT. NO. VIII

**ANTHEM HIGHLANDS COMMUNITY
ASSOCIATION'S RESPONSE TO
PLAINTIFF ANDREA COLLIER'S FIRST
SET OF INTERROGATORIES**

Defendants, ANTHEM HIGHLANDS COMMUNITY ASSOCIATION, by and through
its attorney of record Edward D. Boyack of the law firm Boyack Orme & Anthony, hereby
responds to Plaintiff Andrea Collier's First Set of Interrogatories as follow:

GENERAL OBJECTIONS

Anthem's answer to each and every Interrogatory herein is made subject to and without
waiving the following general objections:

1. Anthem has not yet completed its investigation of the facts pertaining to this action
and has not yet completed its discovery or preparation for trial and specifically reserves the right
to amend, modify and/or supplement the within answers/objections.

2. In responding to Plaintiff's Interrogatories, Anthem does not waive, or intend to waive, but rather intends to preserve and is preserving:

- a. all objections as to competency, relevancy, materiality and admissibility;
- b. all rights to object on any ground to the use in any proceeding, including trial of this or any other action, of any of the responses or documents referenced herein;
- c. all objections as to vagueness and ambiguity; and
- d. all rights to object on any ground to future discovery Interrogatories.

3. Anthem objects to Plaintiff's Interrogatories to the extent they seek information protected from discovery by the attorney-client privilege, the work product doctrine, or any other judicially recognized protection or privilege applicable to any requested information.

4. Anthem objects to Plaintiff's Interrogatories to the extent they purport to impose on Plaintiff's obligations greater than those existing under the Nevada Rules of Civil Procedure.

5. Anthem objects to Plaintiff's Interrogatories to the extent they purport to apply to persons and entities not parties to this action or purport to require Anthem to provide information which is not within its possession, custody or control.

6. Anthem objects to Plaintiff's Interrogatories to the extent they seek information which is not relevant to the subject matter involved in the pending action, nor admissible or reasonably calculated to lead to the discovery of admissible evidence.

7. Anthem objects to Plaintiff's Interrogatories to the extent they seek the disclosure of information which constitutes trade secrets or proprietary or other confidential business information.

8. Anthem incorporates the foregoing General Objections into each and every objection and/or individualized answer contained herein and set forth below.

1 9. In responding to Plaintiff's Interrogatories, Anthem will give the word its plain,
2 ordinary meaning and not such overly broad and all-inclusive meanings as stated by Plaintiff.

3
4 **INTERROGATORIES**

5 **INTERROGATORY NO. 1:**

6 Please identify all board members that have served on ANTHEM's board since 2015. A
7 complete answer shall include their name, address, telephone number, email address, and the
8 length of time they served.

9 **RESPONSE TO INTERROGATORY NO. 1:**

10 Objection, the request for board members prior to 2021 is not relevant, or likely to lead to
11 discoverable evidence. Notwithstanding said objection the association answers as follows:

12 From August 1, 2020, to present the board members serving the Anthem board are:

13
14 5/2020 Elections

15 Gregory Moore
16 2819 Dunnottar Ave.
17 Henderson, NV 89044
18 c. 702.823.6426
19 e. gregahca@gmail.com
20 5/2020 - 5/2021

21 Harold "Ken" Brensinger
22 2741 Rosenheartly Dr.
23 Henderson, NV 89044
24 c. 702.528.1440
25 Term Exp: 5/23/2024
26 kenbrensinger@gmail.com
27 5/2020 - 5/2022

28 Joseph "Joe" Osisek
29 2780 Strathblane Ave.
30 Henderson, NV 89044
31 c. 407.579.4255
32 joeosisek@gmail.com
33 5/2019 - 5/2021

Pennie Puhek
2740 Kildrummie St.
Henderson, NV 89044
c. 702.808.8917
pennieahca@gmail.com
5/2019 - 5/2021

Sydney Woo
2773 Strathblane Ave.
Henderson, NV 89044
c. 702.528.8282
sydneyahca@gmail.com
5/2020 - 1/2022

5/2021 Election

Joseph "Joe" Osisek
5/2021 - 5/2023

Pennie Puhek
5/2021 - 5/2023

Shirley Breeden
5/26/21 - 1/2022

Dahl Capello
2459 Macrory Dr.
Henderson, NV 89044
702-786-5839
dahlahca@gmail.com
2/2022 – 5/2022
6/2022 – 5/2023

Jay Winter
2794 Lochleven Way
Henderson, NV 89044
702-439-1385
Jaymw0@gmail.com
2/2022 – 5/2022
5/2022 -5/2024

Harold "Ken" Brensinger
2741 Rosenheartly Dr.
Henderson, NV 89044
702.528.1440
5/2020 - 5/2022

1 5/2022 – 5/2024

2 Chris Astrella
3 2879 Kinknockie Way
4 Henderson, NV 89044
5 608-446-6480
6 Bootleg711@gmail.com
7 5/2022 – 6/2022

8 Dahl Capello
9 2/2022 – 5/2022
10 6/2022 – 5/2023

11 5/2023 Election

12 Dahl Capello
13 5/2023 – present

14 Pennie Puhek
15 5/2023 – present

16 Joe Osisek
17 5/2023 – present

18 For information from August 1, 2020, through 2015, the data and information is presently
19 contained on a flash drive prepared and managed by the prior management company, First
20 Service Residential. The plaintiff is welcome to review and search the business records for all
21 identifying information responsive to interrogatory number one. Said data will be made available
22 upon appointment at the offices of Boyack, Orme, & Anthony. (See attached Ex. 1.)

23 **INTERROGATORY NO. 2:**

24 Please identify all community managers that have been employed by Anthem since 2015.
25 A complete answer shall include their name, address, telephone number, email address, the
26 management company with whom they were employed, and the length of time they served.

27 **RESPONSE TO INTERROGATORY NO. 2:**

28 Objection as to relevance for community managers prior to August 2020. Notwithstanding

1 said objection, the association answers as follows:

2
3 Community managers on Anthem Highlands account:
4 Dawn Marshall 8/2020 – 9/2020 (deceased Terra West)
5 Carmen Eassa 10/2020 – present (Terra West)
6 Brittany Langmade 1/2023 – present (Terra West)

7 Prior to August 2020, the managers employed by First Service Residential, and relevant
8 information related to interrogatory number two are contained upon the flash drive located at
9 Boyack Orme & Anthony and can be reviewed upon appointment. (See attached Ex 1.)

10 **INTERROGATORY NO. 3:**

11 Please identify all persons that have served on ANTHEM's architectural review
12 committee since 2015. A complete answer shall include their name, address, telephone number,
13 email address, and the length of the time they served.

14 **RESPONSE TO INTERROGATORY NO. 3:**

15 As stated previously, prior to August of 2020, the relevant information responsive to this
16 interrogatory is contained upon a flash drive located at the offices of Boyack, Orme & Anthony
17 and can be reviewed upon appointment. (See attached Ex 1.)

18
19 Mark West
20 2441 Barclay St.
21 Henderson, NV 89044
22 702-462-5707
23 mwest51@me.com
24 7/2019 – 3/2020
25 3/2020- 5/2020

26
27 Michael Stein
28 6/2020 – 7/2020
Christine Damalas
3/2019 - 4/2019

Paul Gallant
2485 Sturrock Dr.
Henderson, NV 89044
510-501-6594

1 paul@griplv.com
2 3/2019- 3/2020
3 3/2020- 5/2020

4 Joseph Androwski
5 2471 Sturrock Dr.
6 Henderson, NV 89044
7 702-296-1065
8 androj01@gmail.com
9 3/2020- 5/2020

10 Frank Capello Jr, ARC Chairman
11 2459 Macroy Dr
12 Henderson, NV 89044
13 631-834-9601
14 anthemfrank@gmail.com
15 6/2020 – 6/2021
16 6/2021-6/2022
17 6/2022 – present

18 Klaus Drehmann
19 2790 Culzean Pl
20 Henderson, NV 89044
21 360-901-9894
22 kdrehmann@cox.net
23 6/2020 – 6/2022

24 Gregory Moore
25 2819 Dunnottar Ave.
26 Henderson, NV 89044
27 702.823.6426
28 e. gregahca@gmail.com
6/2020 - 6/2021
8/2021 - 1/2022

Jonathan Johnson
2744 Tarbert St
Henderson, NV 89044
Jondjohn2@gmail.com
702-797-1352
6/2021 – 6/2022
6/30/22 - 8/3/22

Joe Osisek
2780 Strathblane Ave
Henderson, NV 89044

joeosisek@gmail.com
407.579.4255
3/2019- 3/2020
3/2020- 5/2020
6/2021 – 6/2022
6/2022-present

Pennie Puhek
2740 Kildrummie St.
Henderson, NV 89044
702.808.8917
e. pennieahca@gmail.com
8/2021 – 6/2022

Cynthia Heard
2781 Mingary Avenue
Henderson, NV 89044
CynHeardBOD@gmail.com
702-372-2158
08/2021 – 3/2022

Patrick Kays
2432 Tyneside St.
Henderson, NV 89044
916-871-0686
patrickahca@gmail.com
6/2022 – present

William (Bill) Pittman
2967 Pitgaveny Ave.
Henderson, NV 89044
575-770-3434
pittmanwilliam550@gmail.com
2/2023 – present

Jay Winter
2794 Lochleven Way
Henderson, NV 89044
c. 702-439-1385
Jaymw0@gmail.com
6/2022 -present

INTERROGATORY NO. 4:

Please identify each and every alleges violation for all other unit owners within

1 ANTHEM *for each violation Collier*. That is, please identify all other unit owners that have
2 received notices of violation for oleanders, view obstruction, replacement of plant material, paint
3 schemes, and flag poles. A complete answer will identify the date of the initial notice alleging a
4 violation, unit owner, unit address, the nature of the violation, and whether or not a violation was
5 found.
6

7 **RESPONSE TO INTERROGATORY NO. 4:**

8
9 Objection, interrogatory is vague and overly broad and burdensome. Objection as to the
10 request for information which is confidential in nature and statutorily protected pursuant to NRS
11 116.31075, and pursuant to statute, the association is obligated to provide only a violation log.
12 Said log is produced hereto with the appropriately redacted homeowner information. The log is
13 from June of 2022. (See attached Ex. 1.)
14

15 **INTERROGATORY NO. 5:**

16 If you still contend that COLLIER's oleanders create a view obstruction, please state all
17 facts that support this contention.

18 **RESPONSE TO INTERROGATORY NO. 5:**

19 Objection as the interrogatory is vague and ambiguous as to time, and as to the term
20 "view obstruction". Notwithstanding said objection, if the association receives a complaint of a
21 specific view obstruction it will generally act accordingly in the best interest of the association
22 and its unit owners to maintain safety within the community. Additionally, the association may
23 refer where appropriate to the city of Henderson site visibility guidelines which state that plant
24 material cannot be higher than two feet from the level of the curb. If the current height exceeds 2
25 ft it would violate the maximum allowable height, then pursuant to the city of Henderson
26 guidelines, the oleanders may present a view obstruction to pedestrians and vehicles. (See City of
27
28

Henderson guidelines attached hereto as Ex. 1.)

INTERROGATORY NO. 6:

If you still contend that COLLIER's oleanders create a violation of the GOVERNING DOCUMENTS in any way whatsoever, please state all facts that support this contention.

RESPONSE TO INTERROGATORY NO. 6:

Objection as the interrogatory is vague and ambiguous as to time and the definition of "view obstruction". Notwithstanding said objection, the association follows the architectural guidelines in effect at the time of any architectural submission. Specifically, pursuant to the architectural guidelines, oleanders are prohibited. Furthermore, architectural guidelines from 2018 to current state under article 5 entitled "landscape design standards" that, "landscaping on corner lots must not encroach on site visibility line requirements". Furthermore, under section 5.8 entitled "trees and shrubs" it reads, "care must be taken in the placement of trees and shrubs to avoid creating maintenance nuisance or view restrictions for surrounding lots of any adjacent common areas such as parks and paseos".

A violation of the governing documents as it relates to oleanders, may occur based upon a violation of the architectural guidelines at the time of the architectural submission, or as observed by the association where no application has been submitted previously.

INTERROGATORY NO. 7:

If you still contend that COLLIER is in violation of the GOVERNING DOCUMENTS as it relates to the paint scheme, please state all facts that support this contention.

RESPONSE TO INTERROGATORY NO. 7:

The Association contends that Ms. Collier is in violation of the government documents, based upon the fact she did not submit an application for architectural approval as is required by

1 the associations governing documents for the color scheme utilized for her residence. Additionally,
2 the trim color is not within the approved color scheme for the community of Glengarry.

3
4 **INTERROGATORY NO. 8:**

5 If you still contend that COLLIER is in violation of the GOVERNING DOCUMENTS as
6 it relates to the flagpole, please state all the facts that support this contention.

7
8 **RESPONSE TO INTERROGATORY NO.8:**

9 The Association contends Ms. Collier is in violation of the governing documents as it
10 relates to the flagpole because she did not seek architectural approval which is required pursuant
11 to the governing documents for the installation of the poll. The controlling guidelines at the time
12 of the violation are contained within the architectural guidelines from 2018.

13
14 **INTERROGATORY NO. 9:**

15 If you removed any fines related to COLLIER or the Property since 2015, please identify
16 the basis for removing the fine. A Complete answer will identify the fine, when it was removed,
17 and why it was removed.

18
19 **RESPONSE TO INTERROGATORY NO. 9:**

20 Terra West Management was the agent for the Association commencing on August 2020.
21 Any information sought with regard to any fine waiver prior to August 2020 is made available on
22 a flash drive for inspection by the plaintiff which represents the prior management files from
23 First Service Residential. In response to this interrogatory, the association is aware of the
24 removal of a fine for health safety welfare violation for a view obstruction. The fine was
25 imposed after a hearing and a 14-day compliance period to cure the violation. The \$2,000 fine
26 was removed in June of 2022 after, at the request of the association, a city of Henderson traffic
27 engineering site inspection was conducted. Based upon the city of Henderson traffic engineering
28

1 inspection it was determined that due to a third stop sign being installed in the locality, that a site
2 visibility issue was not present at the time of the inspection. (See attached Ex. 1.)

3 **INTERROGATORY NO. 10:**

4 Please identify all persons that ANTHEM has required to submit information for a flag
5 pole as stated in ANTHEM'S COMMUNICATION to COLLIER dated February 28, 2022. A
6 complete answer will identify the date that the communication was sent, unit owner, and unit
7 address.
8

9 **RESPONSE TO INTERROGATORY NO. 10:**

10 Darren Mark, 2848 Kinknockie, date was July 18, 2022. (See attached Ex. 1.)

11 **INTERROGATORY NO. 11:**

12 Please identify each and every COMMUNITATION that ANTHEM made with
13 Henderson Code Enforcement pertaining to Collier.
14

15 **RESPONSE TO INTERROGATORY NO. 11:**

16 On behalf of the association board of directors, Ms. Mossett-Puhek contacted code
17 enforcement for the city of Henderson in March and December 2021 regarding the possible view
18 obstruction. During the phone conversation, Ms. Mossett-Puhek was informed that there existed
19 an open ticket and that traffic engineering would conduct a site inspection of the subject
20 property. The March 2021, communication was initiated by the board due to the association
21 receiving a homeowner complaint regarding a possible view obstruction of Ms. Colliers's
22 property. The association is aware of no other communications with Henderson code
23 enforcement pertaining to Ms. Collier. (See attached Ex. 1.)
24

25 **INTERROGATORY NO. 12:**

26 Please identify all units that ANTHEM has referred to Henderson Code Enforcement for
27
28

view obstructions involving traffic issues.

RESPONSE TO INTERROGATORY NO. 12:

Based upon knowledge and belief there have been no units referred to Henderson code enforcement related to view obstructions involving traffic issues.

INTERROGATORY NO. 13:

Since 2015, identify each and every inspection of the PROPERTY. A complete answer will identify the date of the inspection, who conducted the inspection, and for what purpose the inspection occurred.

RESPONSE TO INTERROGATORY NO. 13:

Objection, the interrogatory is vague and ambiguous as it relates to the term inspection of the property and may call for disclosure of information protected by confidentiality statutes. Notwithstanding said objection, the current management company, Terra West does not maintain a record for each specific inspections conducted within the community. A record of inspections would be identified by particular courtesy notices sent to unit owners. Inspectors, employed by Terra West, generally conduct monthly inspections in the community to determine homeowner compliance with the governing documents. Members of the association's architectural committee occasionally may confirm architectural compliance by unit owners and report any non-compliant homeowners.

INTERROGATORY NO. 14:

Please identify all units within ANTHEM that have oleanders planted.

RESPONSE TO INTERROGATORY NO. 14:

Objection, the interrogatory is overly broad and ambiguous and vague. Notwithstanding

1 said objection, the association has not maintained any specific records as it relates to the planting
2 of oleanders within the Anthem Community. Consequently, the associations does not possess any
3 information responsive to this interrogatory.
4

5 **INTERROGATORY NO. 15:**

6 Please identify all units within ANTHEM that were approved for oleanders as part of
7 their architectural review applications. A complete answer will identify the date the application
8 was submitted, the date it was approved, and the unit address.
9

10 **RESPONSE TO INTERROGATORY NO. 15:**

11 Objection as the interrogatory calls for confidential information protected pursuant to
12 NRS 116.31075. Notwithstanding said objection, upon information and belief, the association is
13 unaware of any application submitted relating to the approval of oleanders within the
14 community.
15

16 **INTERROGATORY NO. 16:**

17 Please identify all areas where oleanders are planted within the common elements. A
18 Complete answer will identify each area and the date the oleanders were planted.
19

20 **RESPONSE TO INTERROGATORY NO. 16:**

21 Upon information and belief, there are no oleanders planted within the common elements
22 of Anthem Highlands as they have been a prohibited plant within the community since 2018.
23

24 **INTERROGATORY NO. 17:**

25 Please identify how ANTHEM notifies or notifies members of Glengarry Community of
26 the approved paint schemes since 2015.

27 **RESPONSE TO INTERROGATORY NO. 17:**

28 Objection, interrogatory is overly broad, vague and ambiguous as it relates to the term

1 notifies members of Glengarry Community. Notwithstanding said objection, the Anthem
2 Community Association mails copies to all homeowners of the updated guidelines each time the
3 guidelines are revised or updated. Upon information and believe this occurred in May 2018 as
4 well as July 2022. The information is also contained within the web portal for the Anthem
5 Community Association and the Sherwin Williams web portal for all homeowners to review and
6 reference.

7
8 **INTERROGATORY NO. 18:**

9 Please identify all Intervention Affidavits (Form 530 with NRED) filed by, against, or in
10 any way involving MOSSETT-PUHEK since MOSSETT-PUHEK first resided in ANTHEM. A
11 complete answer will identify the date the Intervention Affidavit was filed, who filed the
12 Intervention Affidavit, the issued complained of in the Intervention Affidavit, and any supporting
13 documentation related to the Intervention Affidavit.

14
15 **RESPONSE TO INTERROGATORY NO. 18:**

16 Objection, request is not likely to lead to discoverable evidence, and is not at all relevant
17 or discoverable as it relates to the causes of action and defenses in this matter. The association is
18 unaware of any supporting documentation responsive to this interrogatory. Based upon
19 information and belief, the association is aware that an Intervention affidavit was filed by Ms
20 Puhek against Mark West approximately December of 2019.

21
22 **INTERROGATORY NO. 19:**

23 Please identify all complaints that ANTHEM has received pertaining to MOSSETT-
24 PUHEK since MOSSETT-PUHEK first resided in ANTHEM. A complete answer will identify
25 the date the complaint was received, who made the complaint, the issues complained of by
26 complainant, and any supporting documentation related to the complaints.
27
28

RESPONSE TO INTERROGATORY NO. 19:

Objection, interrogatory is vague and is overly broad and ambiguous as it pertains to the term complaint furthermore, the interrogatory calls for confidential information protected by statute or pursuant to NRS 116. 31075. Notwithstanding said objection, the association is aware of one complaint sent to the association by email to the agent Terra West, from homeowner Danielle Gallant alleging that Ms. Mossett-Puhek reported her to city of Henderson for not having obtained appropriate permits. The Association is aware of no other information responsive to interrogatory number 19. (See attached Ex. 1)

INTERROGATORY NO. 20:

Please identify any and all reason(s) why ANTHEM chose to solicit bids for general counsel (the time prior to the BOYACK FIRM being retained).

RESPONSE TO INTERROGATORY NO. 20:

Objection, the interrogatory is not reasonably calculated to lead to discoverable evidence and is completely irrelevant. Furthermore, the interrogatory is designed to seek attorney client information or another information that is privileged. Furthermore, the interrogatory is vague and is unable to be answered as to the time period in question.

INTERROGATORY NO. 21:

Please identify any and all reason(s) why ANTHEM chose to solicit bids for community manager (the time prior to the BOYACK FIRM being retained).

RESPONSE TO INTERROGATORY NO. 21:

Objection, the interrogatory is not reasonably calculated to lead to discoverable evidence and is completely irrelevant. Furthermore, the interrogatory is designed to seek attorney client

1 information or another information that is privileged. Furthermore, the interrogatory is vague and
2 is unable to be answered as to the time period in question.

3 DATED this 31st day of March, 2023.

4 **BOYACK ORME & ANTHONY**

5
6 By: /s/Edward D. Boyack
7 EDWARD D. BOYACK, ESQ.
8 Nevada Bar No. 005229
9 7432 W. Sahara Ave, Ste 101
10 Las Vegas, Nevada 89117
11 Attorney for Defendants

12
13 **CERTIFICATE OF SERVICE**

14
15 I HEREBY CERTIFY that on this 31st day of March, 2023, a true and correct copy of the
16 foregoing **ANTHEM HIGHLANDS COMMUNITY ASSOCIATION'S RESPONSE TO**
17 **PLAINTIFF ANDREA COLLIER'S FIRST SET OF INTERROGATORIES**, was served
18 via electronic submission through the Clerk of Court's electronic filing/service to all parties
19 registered to receive electronic.
20

21 By: /s/ Norma Ramirez
22 An Employee of Boyack Orme & Anthony
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EXHIBIT 24

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DISTRICT COURT
CLARK COUNTY, NEVADA

ANDREA COLLIER, as trustee of	)	
the JACT TRUST,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	CASE NO.
	)	A-22-852032
PENNIE MOSSETT-PUHEK,	)	
individually ANTHEM HIGHLANDS	)	
COMMUNITY ASSOCIATION, a Nevada	)	
nonprofit corporation; DOES I-X	)	
and ROE BUSINESS ENTITIES I-X,	)	
inclusive,	)	
	)	
Defendants.	)	
	)	

DEPOSITION
OF
SHIRLEY BREEDEN

LAS VEGAS, NEVADA
MONDAY, June 26, 2023

REPORTED BY: DONNA E. MIZE, CCR NO. 675, CSR 11008
JOB NO: 979688

Page 2 1 DEPOSITION OF SHIRLEY BREEDEN taken at 8965 2 South Eastern Avenue, Las Vegas, Nevada, on Monday, 3 June 26, 2023, at 9:00 a.m., before Donna E. Mize, 4 Certified Court Reporter, in and for the State of 5 Nevada. 6 7 8 APPEARANCES 9 10 For Plaintiff: 11 TIMOTHY P. ELSON, ESQ. 12 Law Office of Timothy Elson 13 8965 South Eastern Avenue 14 Suite 382 15 Las Vegas, Nevada 89123 16 702.874.8600 17 tim@elsonlawoffices.com 18 19 For Pennie Mossett-Puhek: 20 DEREK NOACK, ESQ. 21 Freeman, Mathis & Gary 22 3993 Howard Hughes Parkway 23 Suite 100 24 Las Vegas, Nevada 89169 25 derek.noack@fmglaw.com	Page 3 1 For Anthem Highlands: 2 TED BOYACK, ESQ. 3 Boyack, Orme, Anthony & McKiever 4 7432 West Sahara Avenue 5 Suite 101 6 702.562.3415 7 Also Present: ANDREA COLLIER 8 PENNIE MOSSETT-PUHCK, Via Telephone 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25
Page 4 1 INDEX OF EXAMINATION 2 3 WITNESS: SHIRLEY BREEDEN 4 5 EXAMINATION PAGE 6 By Mr. Elson: 5 7 By Mr. Boyack: 43 8 By Mr. Noack: 56 9 10 11 INDEX OF EXHIBITS 12 13 Exhibit Description Page 14 Exhibit 1 6/9/2021 Letter 23 15 Exhibit 2 6/9/2021 Email 27 16 Exhibit 3 6/20/2021 Courtesy Notice 29 17 Exhibit 4 6/9/2021 Meeting Minutes 35 18 Exhibit 5 6/17/2021 Letter 37 19 Exhibit 6 6/18/2021 Email 37 20 21 /// 22 /// 23 /// 24 /// 25 ///	Page 5 1 Las Vegas, Nevada; Monday, June 26, 2023 2 9:00 a.m. 3 -oOo- 4 (The court reporter was relieved of her 5 duties under NRCP Rule 30(b)(4).) 6 7 SHIRLEY BREEDEN, 8 was called as a witness, and having been first duly 9 sworn, was examined and testified as follows: 10 EXAMINATION 11 BY MR. ELSON: 12 Q. Good morning, Ms. Breedon. My name is Tim 13 Elson and I represent Ms. Andrea Collier here. 14 Before we begin this deposition would you 15 please state and spell your legal name? 16 A. Shirley Andrea Breedon. S-h-i-r-l-e-y A-n-n 17 B-r-e-e-d-e-n. 18 Q. Ms. Breedon, have you ever been sworn to tell 19 the truth before? 20 A. I have. 21 Q. On how many occasions? 22 A. Once. 23 Q. What was that for? 24 A. It was a deposition. 25 Q. How long ago was that deposition?

Page 6 1 A. Twenty years maybe. 2 Q. It's been a little bit of time? 3 A. It has. 4 Q. Let me explain the process to you to make 5 sure we are all on the same page here. 6 A. Okay. 7 Q. You understand that you are under oath here 8 today and that is the same oath you would take as if 9 you were before a judge and jury? 10 A. Yes. 11 Q. You understand anything you say here today 12 carries the same penalty of perjury as it would if you 13 were before a judge and jury? 14 A. Yes. 15 Q. Have you consumed any alcohol in the last 12 16 hours? 17 A. No. 18 Q. Have you consumed any prescription drugs or 19 non-prescription drugs in the last 24 hours? 20 A. No. 21 Q. Do you know of any reason why you can't give 22 me your best testimony here today? 23 A. No. 24 Q. One of the basic rules of a deposition is 25 that only one person speak at a time. The reason why	Page 7 1 is we have the court reporter here who is taking down 2 everything we are saying, and it becomes very difficult 3 to create a clean and accurate record if we are 4 speaking over one another so I would ask that you wait 5 for me to finish asking my question before you answer, 6 and I will try and give you the same courtesy; is that 7 fair? 8 A. Yes. 9 Q. Sometimes in ordinary language we do things 10 like uh-huhs or uh-uhs or nodding our head yes or no 11 and while it's perfectly fine in ordinary language, it 12 makes it very difficult for the court reporter to 13 create a clean and accurate record so from time to time 14 I may say is that a yes or is that a no, I'm not trying 15 to be rude, I'm just trying to make sure we have a 16 clean and accurate record; is that fair? 17 A. Yes. 18 Q. I don't want you to guess here today. I am 19 entitled to your best estimate. Do you understand the 20 difference between a guess and an estimate? 21 A. Yes. 22 Q. Most people tell me they do, but I like to 23 give a little example to help demonstrate. If I asked 24 you to estimate the length of the table in front of 25 you, you could look at it using your every day
Page 8 1 experience and tell me that you believe it is X amount 2 of feet long. If I asked you to estimate the length of 3 the table in my house because you've never been to my 4 house that would be a pure guess. 5 Does that comport with your understanding of 6 the difference between a guess and an estimate? 7 A. Yes. 8 Q. Your testimony will come in a typed booklet 9 format and you will have the opportunity to review it 10 and make any changes that you wish to make. Please be 11 cautious, however, that if you wish to make a material 12 change to your testimony here today at any point in 13 time anyone will have the right to opine or comment as 14 to whether or not you were telling the truth at one 15 time or another. It's very important that we get your 16 best testimony here today. 17 Do you understand that? 18 A. Yes. 19 Q. As such, I want you to understand my 20 questions before you answer them. If you don't 21 understand my question, please tell me and I will be 22 happy to rephrase it as many times as necessary until 23 you do; is that okay? 24 A. Yes. 25 Q. Keep in mind that if you do provide us an	Page 9 1 answer everyone will have the right to presume that you 2 understood the question before you answered it; is that 3 fair? 4 A. Yes. 5 Q. I don't anticipate your deposition is going 6 to go overly long today, but if at any point in time 7 you want to take a break, get up use the restroom, 8 stretch your legs, that's fine, just let us know and we 9 will go off the record and can take a short break. I 10 typically try and take breaks every hour or so anyway 11 so just keep that in mind. 12 Do you have any questions before we start? 13 A. No. Thank you. 14 Q. Let's start with a little background 15 information just so we can get a better understanding 16 of who Shirley Breeden is. 17 How long have you lived in Las Vegas, Nevada? 18 A. Consecutively since 1967. 19 Q. A long time resident of the valley? 20 A. Yes. 21 Q. My wife would be very proud. She constantly 22 reminds me that I am not a native even though I have 23 been here 26 years now. 24 Where were you born and when were you born? 25 A. I was born December 19, 1955 in Needles,

Page 10 1 California. 2 Q. And when did you first move to Las Vegas? 3 A. I moved here '62 or '63. I can't remember. 4 I was five. I went to kindergarten here -- sorry, I 5 started here in second grade so that would be '62, I 6 believe. 7 Q. Did you graduate from high school, Shirley? 8 A. Yes. 9 Q. Where did you graduate and when? 10 A. I graduated 1973 here at Clark High School. 11 Q. After high school did you attend any 12 additional schooling, college, vocational schools, 13 anything like that? 14 A. I did. I attended Community College of 15 Southern Nevada, and also, I took some continuing 16 education courses at UNLV. 17 Q. What have you done for a living employment 18 wise, why don't you walk me through that? 19 A. I worked for the community college for about 20 a year. Then I went to work for the Clark County 21 School District, and I retired there in 2008 with 31 22 years of employment. 23 Q. What did you do for CCSD? 24 A. Originally I started out in the clerical 25 field and then I worked my way up and I was director of	Page 11 1 hiring and recruitment of support staff personnel. 2 That was ten years in that position, and the last 11 3 years I was director of professional development and 4 education. 5 Q. Congratulations. 6 A. Thank you. Then after I retired I served as 7 a Nevada state senator here in Nevada for four years, 8 2008 to 2012. 9 Q. Was that one term? 10 A. It was one term. 11 Q. I don't want to offend you, Shirley, I ask 12 this question of every witness I've ever deposed. 13 A. Okay. 14 Q. Have you ever been convicted of a felony? 15 A. No. 16 Q. Have you ever been convicted of a crime of 17 moral turpitude, that is, one involving deceit or 18 dishonesty? 19 A. No. 20 Q. What did you do to prepare for your 21 deposition here today? 22 A. Nothing. I kind of tried to remember the 23 meetings of which I served on the Anthem Highlands 24 board pertaining to this issue. 25 Q. What documents did you review, if any?
Page 12 1 A. None. 2 Q. Have you ever seen any of the documents that 3 pertain to this specific case before, the complaint or 4 any of the other court documents? 5 A. No, just the subpoena. 6 Q. Other than me, did you talk to anybody about 7 your deposition? 8 A. Yes. 9 Q. Who did you talk to? 10 A. My daughter. 11 Q. Who is your daughter? 12 A. Jennifer Breedon. 13 Q. Why did you talk to Jennifer? 14 A. Because I was very surprised that I was being 15 called as a witness. 16 Q. It wasn't anything really substantively you 17 talked to Jennifer about, it was hey, I have to go 18 through this deposition? 19 A. Correct. 20 Q. Did anyone ever tell you what to say here 21 today? 22 A. No. 23 Q. We are here today to discuss a lawsuit 24 involving Ms. Collier and Anthem Highlands. My 25 understanding is you had a prior role on Anthem	Page 13 1 Highlands; is that correct? 2 A. Yes. 3 Q. What was your role with Anthem Highlands? 4 A. I served as a board member on that board. 5 Q. When I refer to Anthem Highlands, and it 6 sounds like you already know, but I'm talking about 7 Anthem Highlands Homeowners Association? 8 A. Yes. 9 Q. Do you recall when you started to serve on 10 the board? 11 A. No, not specifically. I know when I 12 resigned, January 2022, but I only served like five, 13 six, seven months. 14 Q. Based on my records it looks like you got on 15 the board some time around May or June of 2021, which 16 seems to comport with your understanding; is that 17 right? 18 A. That sounds correct. 19 Q. Did you have a specific role when you were on 20 the board with Anthem Highlands? 21 A. I did not serve as an officer. I just served 22 as a board member. 23 Q. One of the board's roles is to help enforce 24 the governing documents of the association; is that 25 correct?

Page 14 1 A. That is correct. 2 Q. And part of that is to bring homeowners to 3 hearings if they are out of compliance; is that 4 correct? 5 A. Correct. 6 Q. When somebody is in violation of the 7 governing documents what is your understanding of how 8 homeowners were first brought to a hearing when you 9 served on the board? 10 A. When I was serving it was during Covid and 11 all of our meetings were via Zoom, and really, we 12 didn't have many people homeowners come before us via 13 Zoom. 14 Q. How would a violation first get brought to 15 the board's attention? 16 A. Pennie would bring it to our attention. She 17 was president then. 18 Q. When you say Pennie would bring it to your 19 attention, is that because she noticed the violation or 20 how would Pennie come to find out about the alleged 21 violations? 22 A. I guess they were reported to her. 23 Q. Do you know that or are you guessing about 24 that? 25 A. I would say I'm guessing.	Page 15 1 Q. Again, nobody wants you to guess here today. 2 I don't know is a perfectly acceptable answer as long 3 as it's the truth. All anybody wants you to do today 4 is show up and tell the truth. 5 A. Yes. 6 Q. Prior to a homeowner being issued a courtesy 7 violation or a notice of violation, was there a 8 discussion amongst the board to even issue a courtesy 9 violation? 10 A. Yes. 11 Q. When would that take place? 12 A. We had two meetings, an executive meeting and 13 an actual board meeting, and sometimes we would hear 14 information and it would actually show up in our board 15 minutes, the person's name and violation and what the 16 violation was for. 17 Q. And then the first step was to issue a 18 courtesy notice; is that correct? 19 A. I believe so. 20 Q. And then do you recall what happened after a 21 courtesy notice was issued? 22 A. I do not. I do not. 23 Q. Eventually a homeowner was brought to some 24 type of hearing; is that correct? 25 A. I can't really answer that because I will be
Page 16 1 honest, it was so long ago and I -- all I remember 2 receiving is the board documents and we -- we would go 3 over the violations then because there were many of 4 them. 5 Q. So is it fair to say that you didn't see 6 anything before the home was set on the executive 7 session for a violation hearing? 8 A. Please repeat that. 9 Q. A home gets set for a violation at the 10 executive session, is that correct, a unit? 11 A. Yes. 12 Q. A homeowner has alleged violations and the 13 board talks about that unit at executive session; is 14 that correct? 15 A. Yes. 16 Q. And determines whether or not the issue fines 17 against that unit? 18 A. Yes. 19 Q. At that point in time notices have already 20 been sent to the homeowner in order to bring them to a 21 violation hearing, is that correct, or do you not have 22 an understanding? 23 A. I do not have an understanding of that. 24 Q. So you don't know how a home was actually 25 brought to a violation hearing; is that correct?	Page 17 1 A. Correct. 2 Q. When did you first learn of Ms. Collier? 3 A. I do not recall the date when it was brought. 4 What I remember about that is it was at the board 5 meeting when Pennie proposed a fine. 6 Q. So the first time you remember learning of 7 Ms. Collier was at the executive session meeting where 8 she was brought for a violation? 9 A. I don't remember if it was an executive 10 meeting or the board meeting. 11 Q. Do you recall that board meeting regarding 12 Ms. Collier? 13 A. I do. Actually, the board meeting I remember 14 is when you came to testify on her behalf. 15 Q. What transpired at that meeting? 16 A. We were told that before you were going to 17 speak we were told that you were there to represent Ms. 18 Collier and so then Pennie told Carmen because the 19 meeting was via Zoom to allow you in so however that 20 happened, and I remember before you even spoke Pennie 21 said, Mr. Elson, if you do not have anything new to 22 share, do not say anything because if there is nothing 23 new then we don't need to hear it. Something to that 24 effect. 25 Q. What happened after that?

Page 18 1 A. You were very polite and said no, I waited 2 for you to speak and now it's my turn, and you were 3 trying to present your case or your comments and you 4 were being interrupted by Pennie. 5 Q. Did you agree with the way that Pennie was 6 conducting that meeting? 7 MR. NOACK: Object. Vague, overbroad. 8 BY MR. ELSON: 9 Q. From time to time an attorney may lodge an 10 objection and the reason why is we don't have a judge 11 here to rule on this objection at this point in time so 12 an attorney may lodge an objection in order to preserve 13 that right to the extent your deposition transcript 14 needs to be used at the time of trial. 15 Unless someone instructs you otherwise, which 16 I don't think is going to happen since you don't have 17 counsel with you here today, but unless somebody 18 instructs you otherwise, go ahead and answer the 19 question because all the attorney is doing is 20 preserving their record. 21 A. Okay. 22 Q. I will reask the question that way or freshen 23 your memory, in fact, I don't remember what it was. 24 Ms. Court Reporter, will you remind me what 25 the question was.	Page 19 1 (Record read by the reporter.) 2 BY MR. ELSON: 3 Q. So I will reask it. Did you agree with the 4 way that Pennie was conducting that meeting? 5 A. No. 6 Q. Was anyone other than Ms. Collier acting in a 7 manner -- I'm sorry, I said Ms. Collier. Let me reask 8 the question. 9 Was anyone other than Ms. Mossett-Puhek 10 conducting themselves in a manner in which you 11 disagreed with? 12 A. No. 13 Q. Was Ms. Collier ultimately fined as a result 14 of that board meeting? 15 A. Yes. 16 Q. Do you recall how much she was fined? 17 A. Originally the fine was \$5,000. That was 18 what Pennie proposed. 19 Q. What did you think of that fine amount when 20 Pennie proposed it? 21 A. I thought it was ludicrous. 22 Q. Did you vote in favor of fining Ms. Collier 23 \$5,000? 24 A. No. 25 Q. How did you want to handle the situation with
Page 20 1 the oleanders? 2 A. Pennie asked me because of my questioning of 3 Pennie, she asked me what I would do, what I would 4 suggest, and I mentioned to her that sitting in Carson 5 City and working with both sides of people who have 6 pros and cons that we should work together or write a 7 letter and outline the specifics in it and send it to 8 Ms. Collier and tell her that she violated whatever it 9 was and she had so many weeks to correct it or impose a 10 fine of, like I said, a thousand or \$500, depending on 11 the infractions. Pennie stated no, you have to hit 12 them where it hurts in the pocket. 13 Q. Did the rest of the board discuss the amount 14 of the fine? 15 A. I don't -- I know there was some discussion, 16 very minor, but I don't recall the discussion. I was 17 the one that was so surprised at the fine because I am 18 new to the board and was flipping through my binder to 19 try to find the fines to see how they were laid out. 20 But, you know, it was everything happened so quickly 21 that I believe I was the only one that had most of the 22 questions. 23 Q. When you served on the Anthem board how many 24 other \$5,000 fines did Anthem issue to homeowners? 25 A. None.	Page 21 1 Q. When you were on the board how many other 2 \$5,000 fines did Anthem even discuss issuing to other 3 homeowners, whether they were actually issued or not? 4 A. None. 5 Q. So you would agree with me that this was an 6 abnormal fine? 7 A. Yes. 8 Q. When you discussed this fine amount with 9 Pennie did Pennie ever discuss anything with you 10 personal as it related to Andrea? 11 A. One of my questions to Pennie at the time was 12 how can you justify that large of a fine for planting 13 an oleander, and she mentioned she didn't ask 14 permission, oleanders aren't on the list, it was on 15 Anthem Highlands' property and it was a safety issue. 16 And then she stated at one time -- the verbiage could 17 be different, but she eluded to Ms. Collier working 18 against her when she was up for a reelection. 19 Q. So did this seem personal to Pennie? 20 MR. NOACK: Objection, speculation. 21 MR. BOYACK: Join in the objection. 22 THE WITNESS: I -- it just came at the end. 23 It was a comment she made at the end. 24 BY MR. ELSON: 25 Q. At the end about how Ms. Collier had worked

Page 22 1 against her during a time when Pennie was seeking to 2 get elected to the board? 3 A. That was my understanding. 4 Q. Did Pennie discuss with you how Ms. Collier 5 had said bad things about Pennie during the election? 6 A. No. 7 Q. Do you remember anything else about that 8 conversation where Pennie had mentioned that Ms. 9 Collier had worked against her during the election? 10 A. No. 11 Q. I believe when you and I had spoke before 12 your deposition you had mentioned you were 13 uncomfortable about appearing at a deposition; is that 14 right? 15 A. Yes. 16 Q. Are you afraid of Pennie? 17 MR. NOACK: Objection. 18 MR. BOYACK: Join. 19 THE WITNESS: I'm not afraid of her. I'm 20 afraid of her actions. 21 BY MR. ELSON: 22 Q. Why is that? 23 MR. NOACK: Same objection. 24 THE WITNESS: Because of the comment that she 25 made about Ms. Collier I felt as though she could be	Page 23 1 vindictive. 2 (Exhibit 1 marked) 3 BY MR. ELSON: 4 Q. In addition to Pennie mentioning that Ms. 5 Collier had worked against her you mentioned a few 6 other reasons that Pennie discussed about why the fine 7 amount was appropriate. 8 One was that oleanders are prohibited; is 9 that correct? 10 MR. NOACK: Objection. Misstates testimony. 11 BY MR. ELSON: 12 Q. If I'm misstating your testimony please 13 correct me because I want to make sure I cover the 14 other issues that were discussed. 15 The second was that they were placed on HOA 16 property? 17 A. Yes. 18 Q. The third was a view obstruction? 19 A. Did I tell you that? 20 Q. I thought you had mentioned that. Do you 21 remember a view obstruction being discussed? 22 A. I do. 23 Q. Is there any others that I'm missing that you 24 can remember? 25 A. Oleanders were not on the approved list and
Page 24 1 she did not ask permission before planting. 2 Q. As it relates to a view obstruction, were you 3 provided photographs of the oleanders at the time of 4 the board meeting? 5 A. Yes, one. 6 Q. And do you recall when that photograph was 7 taken? 8 A. I do not. 9 Q. Based on your view of the photograph did you 10 believe the oleanders had constituted a view 11 obstruction? 12 A. No. 13 Q. What type of dialogue existed with the board 14 about the oleanders constituting a view obstruction? 15 A. I don't remember. I don't know who said it, 16 but I remember someone said that they were -- she had 17 them trimmed, they were only two feet high, and if they 18 kept them at two feet it wouldn't be a view 19 obstruction, but that's all I remember. I don't 20 remember who said it. 21 Q. As it relates to the oleanders in the 22 community, how long did you live in Anthem Highlands? 23 A. About 15 months. 24 Q. Do you remember oleanders being present at 25 other homes in the community?	Page 25 1 A. I really never paid any attention. 2 Q. Do you know if there were oleanders planted 3 on the common elements, the association -- the property 4 in which the association maintains? 5 A. I do not know. 6 Q. Was that something that was ever discussed on 7 how oleanders were planted throughout the community? 8 A. I remember someone bringing up that there are 9 already oleanders planted around the community, but I 10 don't know when that was. 11 Q. Could that have been me? 12 A. I do not remember. 13 Q. As far as the oleander being planted on HOA 14 property, what type of discussion happened on that 15 issue? 16 A. As it pertains to Ms. Collier? 17 Q. Yes. 18 A. Like I say, I remember the discussion was 19 pretty vague. Well, that she didn't ask permission and 20 they were planted on HOA property and that was not 21 allowed. 22 Q. Did anybody pull out any site maps or 23 anything like that in order to verify whether or not 24 the oleanders were planted on HOA property? 25 A. No.

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1 Q. Who said they were planted on HOA property?

2 A. Pennie.

3 Q. Who was leading the discussion as it related

4 to Ms. Collier in general?

5 A. Pennie.

6 Q. I'm handing you what's been marked as

7 Exhibit 1. It's quite long. I believe it's about 20

8 pages. I don't necessarily need you to read the entire

9 document, Ms. Breedon, but if you could flip through it

10 and generally familiarize yourself with it because my

11 first question is going to be do you recall ever seeing

12 it so I don't necessarily need you to read every page,

13 but you can certainly read every page if you need to in

14 order to familiarize yourself with the document.

15 Have you had a chance to review the document,

16 Ms. Breedon?

17 A. I have glanced at it, yes.

18 Q. Do you recall if you have ever seen this

19 document before?

20 A. I have never seen this document.

21 Q. Was this document discussed prior to Ms.

22 Collier -- the fines being enforced against Ms.

23 Collier?

24 A. There was some discussion about fines for the

25 oleanders.

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1 documents or evidence at the hearing.

2 Do you recall that taking place at the

3 meeting?

4 A. I do.

5 Q. Ms. Mossett-Puhek misstated Nevada law in

6 claiming that a unit owner may not present evidence at

7 a hearing.

8 Do you recall Pennie making that statement at

9 the hearing?

10 MR. NOACK: Objection, speculation.

11 THE WITNESS: I don't remember that.

12 BY MR. ELSON:

13 Q. At one point early in the meeting the host,

14 which we understand is you referring to Ms. Eassa muted

15 me.

16 Do you recall if at any point in time I was

17 muted during the meeting?

18 A. I don't recall that.

19 Q. Ms. Mossett-Puhek refused to allow me to

20 answer specific questions from board members,

21 specifically the gentleman named Joseph.

22 Do you remember that taking place at the

23 meeting?

24 A. I'm sorry, I don't.

25 Q. When you say you don't remember things, you

Page 27

1 Q. But not this specific document?

2 MR. NOACK: Objection, speculation.

3 THE WITNESS: I do not recognize this

4 document.

5 Exhibit 2 marked)

6 BY MR. ELSON:

7 Q. You have been handed what's been marked as

8 Exhibit 2. Have you ever seen this email before, Ms.

9 Breedon?

10 A. No.

11 Q. This is an email dated June 9, 2021 from

12 myself to Ms. Eassa and Mr. Boyack. Do you see that?

13 A. Yes.

14 Q. You sent this email at 6:14 p.m. which was

15 shortly after the executive meeting. It starts off --

16 I'm not going to read the entire email, I'm just going

17 to read parts to you.

18 It starts off and says Ms. Mossett-Puhek

19 repeatedly interrupted me from the very outset of the

20 meeting. Do you recall if that took place?

21 A. Yes.

22 Q. And yes, it did?

23 A. Yes, it did.

24 Q. Sorry, it was a poor question on my part.

25 Ms. Mossett-Puhek refused to allow us to present

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1 don't remember them one way or the other, is that

2 correct, you just have no memory altogether as it

3 relates to those issues; you are not necessarily saying

4 they didn't take place, you just don't remember them?

5 A. Correct.

6 Q. It also states at the very top Ms.

7 Mossett-Puhek refused to allow you to enable screen

8 share to allow us to more easily present evidence or

9 refer to evidence during the hearing.

10 Do you remember that taking place?

11 A. I'm sorry, I do not.

12 Exhibit 3 marked)

13 BY MR. ELSON:

14 Q. You have been handed what's been marked as

15 Exhibit 3. Take a moment to review Exhibit 3 and let

16 me know after you've had a chance to familiarize

17 yourself with it.

18 Have you ever seen Exhibit 3 before?

19 A. No.

20 Q. Exhibit 3, property address 2822 Culloden

21 Avenue. I will represent to you that's Ms. Collier's

22 address. It says regarding courtesy notice. The date

23 of it is June 10, 2021. There is a time above that

24 that says 8:25:05 a.m.

25 Do you see that.

Page 30 1 A. Yes. 2 Q. It says the violation, Tim Elson has been 3 emailing the association's legal counsel without board 4 authorization for such contact. This unauthorized 5 contact has incurred legal fees for the association. 6 Please be advised that all legal fees incurred as a 7 result of this misconduct will be assessed to the unit 8 owner's account after a duly noticed hearing. 9 Did I read that correctly? 10 A. Yes. 11 Q. Exhibit 2 is dated June 9, 2021 at 6:14 p.m. 12 and this courtesy notice is dated June 10, 2021 at 13 8:25:05 a.m. 14 Do you see that? 15 A. Yes. 16 Q. Did the board ever discuss sending this 17 courtesy notice out before it was issued to Ms. 18 Collier? 19 A. I do not recall it. 20 Q. Do you recall any sort of email exchange 21 about this courtesy notice before it was issued? 22 A. No. 23 Q. As you sit here today is this the first time 24 you are becoming aware of the fact that Exhibit 3, the 25 courtesy notice, was even issued to Ms. Collier?	Page 31 1 A. I believe so. 2 Q. While you were on the board were you aware of 3 any pursuit of any violations for flag poles? 4 A. No. 5 Q. You don't recall during any executive session 6 discussing any flag poles for any unit within the 7 association; is that correct? 8 A. Correct. 9 Q. What was it like to serve on the board? 10 MR. NOACK: Objection. Overbroad, vague. 11 THE WITNESS: Awful. 12 BY MR. ELSON: 13 Q. Why is that? 14 MR. NOACK: Same objection. 15 THE WITNESS: The first few months I sat on 16 the board Pennie was the president and I was appalled 17 and ashamed at how she conducted the meetings and how 18 she treated people. I have never sat on a board 19 throughout my career with the district or with serving 20 in the senate where people were treated so rudely. 21 Then it changed when Sydney Woo became president. 22 BY MR. ELSON: 23 Q. When you say it changed, you mean the dynamic 24 on how people were treated? 25 A. Yes. Even us board members, Sydney -- let me
Page 32 1 backup. Pennie ran every meeting when she was 2 president and she made most of the motions, and then 3 when Sydney became president and that was kind of an 4 internal reorganization Sydney was -- he asked for 5 suggestions and he just talked calmer. His demeanor 6 was so different and very professional. It was very 7 different. 8 Q. When you say he asked for suggestions, was 9 that something that Pennie never did? 10 A. You know, when you make a motion there is 11 usually -- it's asked if there is any discussion and it 12 seemed like again, with me being new I'm the one that 13 always asked the questions. No one else asked 14 questions, but I was trying to learn. So there was 15 very little discussion usually on most of the topics 16 except for my questioning. 17 Q. Did you ever disagree with Pennie? 18 A. Yes. 19 Q. How did Pennie react when you disagreed with 20 her? 21 MR. NOACK: Objection, overbroad. 22 THE WITNESS: Pennie made statements to me 23 that it's because I was new and I didn't understand how 24 things worked, suggested I take classes through the 25 real estate division, and at one point in time I made a	Page 33 1 comment to her that when I was serving up in Carson 2 City there were some legislation that came before us 3 regarding HOAs and none of them got passed because they 4 were so stringent, the requests were stringent. 5 Again, let me remind you that the board 6 meetings were all via Zoom. Sometimes Pennie would 7 roll her eyes, and Ken who was her vice president would 8 go -- I'm sorry, I don't know how you -- I'm sorry. It 9 just -- it seemed like I was wasting their time by 10 making my comments. 11 Q. Would Pennie ever interrupt you? 12 A. Yes. 13 Q. Would she ever cut you off or act in other 14 rude ways toward you? 15 A. It was Pennie's way or the highway, but I 16 still asked questions. I felt as though it was my 17 duty. 18 Q. Why did you get off the board -- before I go 19 there. You resigned from the board; is that correct? 20 A. That's correct. 21 Q. And you voluntarily resigned? 22 A. That is correct. 23 Q. Why did you resign from the board? 24 A. In December Pennie called a special board 25 meeting and I -- it came from Pennie and so I called

Page 34 1 Sydney and asked him if he knew about this special 2 board meeting and why would it come from Pennie. I was 3 confused because Pennie was the secretary then. After 4 she left being the president she became board 5 secretary. 6 Sydney explained to me that in the documents 7 the secretary could call -- she is the only one on the 8 board that could call a special meeting besides the 9 president. I'm like well, what about it, and he said I 10 think it's about removing me as president. Anyway, I 11 thought what happened Pennie ran that meeting, and most 12 of Sydney's responsibilities or some of his 13 responsibilities were given to Ken and to Joe and she 14 was made I think the term was liaison to the management 15 company to Terra West; and I felt that was very 16 underhanded, deceitful and going through a backdoor to 17 accomplish whatever goals she wanted to accomplish. I 18 was ashamed and I no longer wanted to be associated 19 with them. 20 Q. Do you know of anything personal going on 21 between Pennie and Sydney at that time? 22 A. No. I know she sent me a barrage of emails 23 because for a while we were copied on them, and after 24 he became president, my opinion is that even though 25 Pennie was the secretary and Sydney was the president,	Page 35 1 Pennie still tried to run the board. Sydney would say 2 oh, well, let's do this or let's do that or I spoke to 3 this person and he said this, and so then she started 4 issuing or sending emails have you done this, have you 5 done that, have you done -- I mean, constantly and it 6 was like yikes. 7 Q. When you resigned did you send a letter? 8 A. I did. 9 Q. What did your letter say? 10 A. I don't remember specifically but I was very 11 honest and stated my feelings as to how I could no 12 longer serve on the board because of what happened, how 13 the special board meeting went down, I remember how it 14 all went down, and I was ashamed and I could not work 15 with people that would be so deceitful, to that 16 language. I don't remember specifically the language. 17 I was very honest in my feelings. 18 (Exhibit 4 marked) 19 MR. BOYACK: Would this be a good time for a 20 restroom break? 21 MR. ELSON: Sure. We can take it now or 22 after I ask a few questions. I don't plan on being 23 long with this document. 24 BY MR. ELSON: 25 Q. Have you ever seen this document before,
Page 36 1 Ms. Breeden? 2 A. I probably have but I don't recall it. 3 Q. Do you agree with what's in this document, 4 Ms. Breeden? 5 A. I don't remember all that's typed on here as 6 far as it's, you know, by the motions and approval of 7 minutes and by who made the motion and seconded it. I 8 don't remember it specifically. 9 Q. For example, it states that homeowner's 10 attorney Ms. Elson created a hostile and threatening 11 environment by repeatedly interrupting the board 12 president who was trying to conduct the meeting. 13 Do you agree with that statement? 14 A. I do not. 15 Q. It states that you voted in favor of fining 16 Ms. Collier \$2,000. Did you vote in favor of that? 17 A. I don't remember voting for a \$2,000 fine. 18 Let me say I don't even remember us discussing a \$2,000 19 fine. 20 Q. On the last page there is a signature. Is 21 that your signature? 22 A. No. 23 Q. Do you recognize that signature? 24 A. I do not. 25 MR. ELSON: Let's go off the record.	Page 37 1 (A recess was taken.) 2 (Exhibits 5-6 marked) 3 BY MR. ELSON: 4 Q. Back on the record. 5 While we were off the record we discussed 6 that it has come to our attention that Ms. 7 Mossett-Puhek is listening in to today's proceedings, 8 which she has every right to do so all we are doing is 9 noting her appearance for the record. 10 Ms. Breeden, we are back on the record. I 11 have some additional questions for you. When I finish 12 my line of questioning both Mr. Boyack and Mr. Noack 13 will have the right to ask you questions if they have 14 any questions for you. 15 A. Okay. 16 Q. I do understand you have some time 17 constraints and we will do our best to get you out of 18 here to allow you to, I think, you said pick your 19 grandkid up from school, correct? 20 A. It's not school but I have to pick him up. 21 Q. You have been handed what's been marked as 22 Exhibit 5 when we were off the record. It's a letter 23 dated June 17, 2021. Do you see that? 24 A. Yes. 25 Q. Have you ever seen this document before?

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1 A. I don't recall seeing it.

2 Q. Do you recall discussing this document with

3 the board when you served on the board back in 2021?

4 A. I don't recall.

5 Q. Were you ever asked to preserve any of your

6 emails or other documents relating to your time when

7 you served on the board?

8 A. No.

9 Q. When you communicated with the board did you

10 sometimes communicate with email?

11 A. Yes.

12 Q. Did you have a specific Anthem email address

13 or did you use like a personal email address for

14 communication.

15 A. Originally, I used personal but then I was

16 advised by Carmen to get an HOA email.

17 Q. Did someone help create that for you?

18 A. She told me -- Carmen told me what to do.

19 Q. What did you have to do the create an email

20 address?

21 A. It was a Gmail account. I used Cox so I just

22 created -- my daughter helped me create it.

23 Q. So you just made a new email address?

24 A. Yes.

25 Q. And you made it through Gmail?

Page 40

1 that.

2 Q. Do you recall when you found out about that?

3 A. I do not recall.

4 Q. Do you think Pennie's relationship with

5 Carmen influenced Carmen at all as to how she did her

6 job?

7 MR. NOACK: Objection, speculation.

8 MR. BOYACK: Join.

9 BY MR. ELSON:

10 Q. Let me ask it this way. Did you see anything

11 during your time on the board that would have caused

12 you to believe that Pennie's relationship with Carmen

13 influenced Carmen in one way or another?

14 MR. NOACK: Objection, speculation.

15 THE WITNESS: I don't remember seeing any

16 specific influence, no. I do remember Carmen always

17 saying that Pennie was very knowledgeable in this area.

18 She has spent years in HOA issues.

19 BY MR. ELSON:

20 Q. Did you ever see a time where Carmen would

21 defer to Pennie?

22 A. I don't recall.

23 Q. Let me ask it this way. Did you ever see

24 Carmen stand up to Pennie?

25 MR. NOACK: Objection, vague.

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1 A. Yes.

2 Q. Do you recall what that email address was or

3 is?

4 A. I don't recall and I don't want to guess.

5 Q. I imagine if you went home and reviewed your

6 records you could probably figure that out for us; is

7 that correct?

8 A. Yes, or Terra West would have it as well.

9 Q. Does Terra West have access to those emails?

10 A. No, but when you communicate back and forth.

11 Q. I understand why you think they would know

12 the email address. It was a separate and independent

13 question I was going to ask you anyway.

14 Does Terra West have access to the Gmail

15 email account?

16 A. No.

17 Q. Are you aware that Pennie previously worked

18 for Ted Boyack?

19 A. No.

20 Q. Was that disclosed to you as part of your

21 role on the board?

22 A. No.

23 Q. Are you aware that Pennie and Carmen Eassa

24 previously worked together?

25 A. I kind of remember -- I think Carmen told me

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1 THE WITNESS: No.

2 BY MR. ELSON:

3 Q. In case you thought that question was vague

4 or you didn't understand it, did you ever see Carmen

5 tell Pennie that the manner in which she was acting was

6 inappropriate?

7 A. No.

8 Q. You have been handed what's been marked as

9 Exhibit 6. This is an email. I do not believe you are

10 copied on this email.

11 Have you ever seen this email exchange

12 before?

13 A. No.

14 Q. This email discusses Exhibit 5, the

15 preservation of evidence letter. At any point in time

16 did Pennie discuss with the board her emails before

17 sending them out, these emails that she was sending?

18 A. No, I don't remember her discussing them.

19 Q. Do you know who authorized Pennie to send

20 those emails on behalf of the HOA?

21 A. No.

22 Q. Now, I'm flipping back to Exhibit 1. I'm

23 showing you what is Exhibit 3 to Exhibit 1. It's Bates

24 stamped as pages 232 to 236. This is a series of

25 emails involving Ms. Puhek.

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1 Did Pennie ever discuss those emails with the
2 board before she sent them out?
3 A. I don't recall a discussion.
4 Q. Do you know who authorized Pennie to send
5 those emails?
6 A. No.
7 Q. Now, I'm showing you Exhibit 4 to Exhibit 1,
8 which is Bates stamped as P238 to P242. These are
9 additional emails involving Pennie.
10 Was there a discussion with the board before
11 those emails were sent by Pennie?
12 A. I don't recall a discussion.
13 Q. I didn't mean to interrupt you.
14 A. I do not recall a discussion.
15 Q. Do you know who authorized Pennie to send out
16 those emails?
17 A. No.
18 Q. Do you recall a time when Ms. Collier was
19 brought to hearing for a paint scheme violation?
20 A. No.
21 Q. Is it your recollection that there was only a
22 single hearing violation involving Ms. Collier while
23 you served on the board?
24 A. I believe so.
25 Q. And that's the one that I was present at,

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1 A. I do.
2 Q. I want to ask you, and maybe this may trigger
3 your recollection, if Ms. Puhek may have indicated that
4 the fine for health, safety, welfare could potentially
5 be up to \$5,000 as opposed to a specific proposal that
6 the fine be \$5,000.
7 Do you understand the difference?
8 A. I do.
9 Q. How would you respond to that question then as to
10 whether Ms. Puhek may have said it could be a fine up
11 to 5,000 versus an actual proposal of 5,000?
12 A. I remember her proposing a \$5,000 fine
13 because I asked her how she could justify such a high
14 fine.
15 Q. You have specific recollection that you
16 believe she actually proposed a \$5,000 fine, correct?
17 A. That's my recollection, yes.
18 Q. At some point the board decided to fine
19 according to the minutes Ms. Collier \$2,000, is that
20 your recollection or is that coming from your review of
21 the minutes?
22 A. Coming from the review of the minutes.
23 Q. Do you have any dispute with these minutes
24 that you voted in favor of that fine?
25 A. I do not remember voting for a \$2,000 fine.

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1 correct?
2 A. Correct.
3 MR. ELSON: I don't have any further
4 questions at this time.
5 EXAMINATION
6 BY MR. BOYACK:
7 Q. Thank you, ma'am. My name is Ted Boyack. As
8 you know I represent Anthem so I want to ask you a few
9 questions.
10 As you sit here today do you have any
11 understanding of the allegations by Ms. Collier against
12 Anthem Highlands as it relates to this lawsuit?
13 A. I do not know any specific allegations.
14 Q. Let's go back to the board meeting that we
15 have been discussing the fines. You acknowledge that
16 meeting was on Zoom, correct?
17 A. Yes.
18 Q. I think you also had indicated that your
19 memory as it relates to a lot of things that occurred
20 in that meeting may not be complete; is that a fair
21 statement?
22 A. It was a long time ago, yes.
23 Q. Let's talk, for example, about the testimony
24 you gave indicating that Ms. Puhek had suggested a fine
25 of \$5,000. Do you recall that?

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1 Q. I want to be clear because this is an
2 important point. Do you believe that these minutes are
3 inaccurate because it reflects that you voted
4 affirmatively to issue a \$2,000 fine?
5 A. I can just tell you that I do not remember
6 voting for a \$2,000 fine so if it's in the record then
7 possibly I did, but when I had the discussion about the
8 fine my suggestion was a thousand or \$500.
9 Q. Fair enough. Understanding that there could
10 be a difference between suggestion and discussion and
11 what the board -- a motion and an actual vote, correct?
12 A. Correct.
13 Q. Do you as you sit here today believe there is
14 anything wrong in this case if indeed -- if the \$2,000
15 fine had been levied, do you sit here in hindsight and
16 believe that that was somehow an error or
17 inappropriate?
18 A. Like I said, if the minutes reflect the
19 \$2,000 fine then I must have voted for it.
20 Q. You don't have as you sit here today any
21 criticisms or concerns about your vote or the
22 board's actions as it relates to the fine levied
23 against Ms. Collier, do you?
24 A. I personally believe the fine was too high.
25 Q. As you sit here today understanding that

Page 46 1 opinion but you are not saying that any fine at all was 2 not appropriate, correct? 3 A. Correct. 4 Q. Do you recall in the meeting at all you 5 personally raising the issue of oleanders not being 6 able to be kept sufficiently at 24 inches, that they 7 may grow over time, do you recall that you may have 8 specifically asked or raised that concern? 9 A. I don't recall that. 10 Q. Is that something that would possibly be a 11 concern to you that vegetation could grow beyond a 12 certain height and that could be an issue that the 13 board needed to address? 14 A. I remember discussion being that Ms. Collier 15 had hired a landscaper and they had -- they were 16 keeping them trimmed to two feet is what I remember. 17 Q. If just hypothetically the oleanders, and you 18 looked at the picture, if you need to look at the 19 picture again we certainly can, but if hypothetically 20 those oleanders were three, three and a half feet would 21 that give you a concern that it could constitute a view 22 obstruction? 23 A. I don't know specifically where Ms. Collier 24 lives and where the oleanders are. I never drove 25 there. I just saw the picture.	Page 47 1 Q. Do you have an opinion based on reviewing the 2 picture at all if those oleanders got to say three, 3 three and a half feet that would constitute a view 4 obstruction? 5 A. I really don't know but with someone sitting 6 in a car, a car sits up higher than two feet. 7 Q. Is it fair to say you would really need to 8 look at it closer to really evaluate whether or not the 9 height of the oleanders could constitute a view 10 obstruction? 11 A. I would have to go to the exact location. 12 Q. You wouldn't have any criticism or concern 13 that if hypothetically vegetation created a view 14 obstruction around a corner that that's something the 15 association should address with the homeowner? 16 A. It should be addressed if it's a safety 17 issue. 18 Q. During this -- we talked -- you provided 19 testimony about this meeting and hearing that Mr. Elson 20 attended and you had some criticism or concerns about 21 how that meeting was conducted by Pennie, correct? 22 A. Yes. 23 Q. Do you have any criticisms or concerns about 24 anyone else involved in that meeting about how they 25 conducted themselves, whether it be Mr. Elson or
Page 48 1 management or any board members? 2 A. No. 3 Q. You felt in that meeting your sole criticism 4 would rest with how Pennie conducted herself in that 5 meeting, correct? 6 A. Pennie was the lead person of the meeting. 7 Let me just share and add that usually board members 8 did not add many comments as I mentioned before. I was 9 the one with most of the questions. 10 Q. These criticisms generally, and I'm trying to 11 do this efficiently so if you don't understand my 12 question I will try to break it down. 13 Generally speaking, you have criticized, for 14 example, Pennie and how she conducted board meetings, 15 how she conducted the meeting with Sydney, the special 16 meeting, for example, the hearing. 17 Do you believe that your criticism of her or 18 anything she did in those meetings would actually 19 constitute a violation of law? 20 MR. ELSON: Objection. Calls for legal 21 conclusion. Calls for speculation. 22 THE WITNESS: I believe Pennie was 23 unprofessional and demeaning. 24 BY MR. BOYACK: 25 Q. On a personal level you disagreed with the	Page 49 1 manner and means upon which she conducted business with 2 the association; is that a fair statement? 3 A. Not with the association, it was with the 4 people that came before. 5 Q. Do you have any evidence as you sit here 6 today specifically as it relates to Ms. Collier that 7 Ms. Collier -- that the board's actions to fine her 8 \$2,000, that those were somehow retaliatory against her 9 personally? 10 A. I have no evidence, no. 11 Q. You had indicated in your testimony 12 previously that Ms. Puhek you thought, and I don't want 13 to put words in your mouth, but generally indicated 14 there was some discussion about Ms. Collier having 15 spoken out against Pennie or done something during an 16 election. Do you recall that testimony? 17 A. Yes. 18 Q. I want to elaborate on that a little bit. Do 19 you know specifically any details about the election 20 that that may have been referencing or any more details 21 with when that may have occurred? 22 A. No. 23 Q. Do you recall any specific statements by Ms. 24 Puhek to that effect or was it more -- let me backup. 25 You had testified that there was a statement

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1 by Ms. Puhek to your recollection that indicated that
 2 Ms. Collier had taken some action against her during an
 3 election. Do you recall that testimony?
 4 A. I recall the testimony but I did not say
 5 action. What I said was Pennie eluded that Ms.
 6 Collier, and I don't remember the specific language,
 7 but like worked against her when she was up for
 8 reelection. No dates. Anything else was -- because I
 9 didn't ask.
 10 Q. This is rather important so I'm going to try
 11 to walk you through this. When you say you don't
 12 recall specific language but Pennie eluded to it, is
 13 there anyway you can help quantify or explain the
 14 difference between not recalling specific language
 15 versus you felt she eluded to the fact that Ms. Collier
 16 had done something during the election?
 17 A. She did not give specifics. I asked her how
 18 can you justify imposing or recommending such a high
 19 fine, and she went on, like I say, to indicate what I
 20 had stated before, the infractions and she goes well,
 21 she worked against me during an election so she made a
 22 statement to that effect and that was it. I didn't ask
 23 any other questions.
 24 Q. Do you recall specifically that it was
 25 referencing an election or some other situation?

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1 with words and everybody else just listens, and so no,
 2 I do not. As a board member, seated board member I
 3 thought Sydney was very professional, and I don't even
 4 remember when he became president but he was very
 5 professional, like I say, asked for suggestion or
 6 comments.
 7 Q. Fair enough. I understand that. I want to
 8 make sure I clarify this.
 9 Do you recall from that special meeting what
 10 happened as far as the restructuring of the board? I
 11 think you indicated that Sydney was removed or do you
 12 remember the details of what happened, the outcome?
 13 A. I don't remember everything. What I remember
 14 was Sydney was left as the president, he remained
 15 president. The oversight of the landscaping was then
 16 given, handed over to Ken, the vice president. Pennie
 17 became secretary and I do not -- I believe Ken
 18 nominated her as secretary, but you would have to check
 19 the records on that. Then Sydney was also performing
 20 the duty as treasurer, and those duties were handed
 21 over to Joe. Sydney volunteered to assist Joe because
 22 Joe was sick. I don't know what his specific ailment
 23 was, but Sydney volunteered to help him.
 24 Q. Did you agree with those changes or did you
 25 vote in favor of those changes?

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1 A. It was a reelection.
 2 Q. Do you have any other evidence or information
 3 as you sit here today regarding that statement that you
 4 say Pennie cited regarding the reelection or any
 5 actions, in other words, have you heard from anybody
 6 else or any other evidence other than what you just
 7 testified to today?
 8 A. No.
 9 Q. That is my understanding you indicated came
 10 right out of Pennie's mouth, right?
 11 A. Yes.
 12 Q. Others in the room would have heard that
 13 statement I presume, it was on Zoom so everyone could
 14 have heard it?
 15 A. Yes, I assume.
 16 Q. Going back to this special meeting, I think
 17 you called it a special session or meeting involving
 18 Sydney?
 19 A. Yes.
 20 Q. As you sit here today, do you have any
 21 recollection as to issues or concerns raised by the
 22 board as it related to Sydney's conduct prior to that
 23 meeting occurring?
 24 A. I don't remember specifically what was stated
 25 because Pennie ran the meeting and Pennie has a way

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1 A. I don't know if we even voted to be honest.
 2 Q. Were you -- did you have any objection or did
 3 you have any concern about those changes that you
 4 voiced at the time, do you recall?
 5 A. As I mentioned earlier, my concerns were how
 6 the board meeting went down just through the backdoor
 7 and underhanded.
 8 Q. So you had a concern about the procedural
 9 process and how the meeting occurred. Is it fair to
 10 say you did not necessarily have any criticisms or
 11 concerns about the actual changes that were made?
 12 A. No. I had some concerns of how she could do
 13 that, how that could happen.
 14 Q. Let's go back to the subject meeting, which
 15 was June 91, 2021. That's the meeting where Mr. Elson
 16 appeared.
 17 Do you recall any other hearings where fines
 18 were issued at that executive session against another
 19 homeowner?
 20 A. There were lots of fines levied.
 21 Q. So you don't have any specific recollection?
 22 A. No.
 23 Q. Do you have a recollection that the fine
 24 levied against Ms. Collier had a window where she could
 25 come into compliance and there would be no fine, are

Page 54 1 you aware of that? 2 A. I don't remember any discussion about no 3 fine. I remember there was a discussion supposedly 4 with Ms. Collier, but I don't remember us as a board 5 discussing there would be no fine. 6 Q. Maybe I didn't ask a very good question. Let 7 me reference the meeting minutes here that have been 8 marked as an exhibit. 9 It says here homeowner must provide notice to 10 the association of their removal along with 11 photographic proof within 14 days to confirm 12 compliance. Do you recall that discussion or being 13 part of -- 14 A. I remember some discussion with Ms. Collier, 15 I mean, about her situation. Specifically, I'm going 16 to be honest, I don't remember everything that was 17 stated, and I will tell you the whole experience on the 18 board was a terrible experience and when I resigned I 19 just was glad I was finished. 20 Q. Have you had any conversations with Sydney 21 Woo recently say in the past six months? 22 A. I did call Sydney when I had a message from 23 Mr. Elson because the message stated an HOA 24 homeowner -- no, I texted him and then he called and I 25 said do you know this name, Mr. Elson, and he told me	Page 55 1 who it was and I said oh, okay. That was it. 2 Q. It was just a text? 3 A. No, he did call me. He was working when I 4 texted him but we have not spoken since. 5 Q. For the record you and I have spoken on the 6 phone previously? 7 A. Yes, you've called me. 8 Q. I understand your concerns and issues that 9 you've raised about Pennie's conduct, for example, 10 during the course of some of these -- your time on the 11 board. 12 Is there anything that the board did to your 13 knowledge or belief during your time on the board that 14 you felt were actions that could create some type of 15 liability or unfair or inappropriate actions taken by 16 the board; in other words, was there anything in 17 particular, not necessarily with Ms. Collier, but with 18 anyone at all where you felt the board's actions were 19 creating potential or inappropriate, not following the 20 law, gave you concerns about what the board was doing. 21 What I'm asking is separate and apart from 22 what you thought were unprofessional actions and the 23 means and manner of how things were conducted, but I'm 24 asking specifically was there anything in particular 25 that you recall where you thought this could be a real
Page 56 1 problem for the association? 2 MR. ELSON: Objection. Calls for legal 3 conclusion. Speculation, compound. 4 You can proceed to answer the question. 5 THE WITNESS: Now, I'm not an attorney by all 6 means or any means, but I remember a discussion about 7 there was some, I believe, some landscaping that hadn't 8 been completed in the previous year that was going to 9 be completed and funded on the current year and 10 discussion -- Sydney actually brought up the discussion 11 and said we can't do that because it was supposed to be 12 paid for and funded the previous year. That's what I 13 remember. I don't remember specifically what it was, 14 but that's the only thing that would come to mind that 15 that might get the HOA in a bind. 16 Q. Did you guys take any action on that, do you 17 recall? 18 A. I don't recall that, no. It was just 19 discussion. 20 MR. BOYACK: I pass the witness. 21 MR. NOACK: Off the record for just a moment. 22 (Discussion off the record) 23 EXAMINATION 24 BY MR. NOACK: 25 Q. Back on the record.	Page 57 1 Good morning, ma'am. I introduced myself to 2 you off the record but I'm Derek Noack. I'm the 3 attorney for Pennie Mossett-Puhek. I appreciate your 4 time here today. I might jump around a little bit just 5 to get through some of the follow-up that I have so if 6 you ever need me to clarify a question please just let 7 me know. 8 A. Thank you. 9 Q. What's your present address? 10 A. 2015 High Mesa Drive, Henderson 89012. 11 Q. Is that address in the Anthem community? 12 A. No. 13 Q. What was your address when you lived at the 14 Anthem community, if you can recall? 15 A. It was on Lockerbie. I'm sorry, I don't 16 remember. I blocked it all out. 17 Q. You don't recall your specific address at 18 Anthem? 19 A. Correct. 20 Q. How long did you live in the Anthem 21 community? 22 A. About 14, 15 months. 23 Q. Approximately when did you move out of the 24 Anthem community to your present address? 25 A. June 2022.

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1 Q. When you say you blocked out time that you
 2 lived at the Anthem community, are there certain things
 3 you don't remember about that 14 or 15 month time
 4 frame?
 5 A. I don't remember my address, I mean, I'm
 6 sorry. If I saw it then I would say oh, yeah, that's
 7 my address. I mean, I didn't like living out in
 8 Anthem.
 9 Q. Just generally can you explain some of the
 10 reasons why you didn't like living in Anthem?
 11 A. Reasons, it was too far out. I was far from
 12 my children, and after serving on the board I felt as
 13 though I would be a target of Pennie's. With all those
 14 combined I decided to move.
 15 Q. How long had you lived in the Anthem
 16 community before you joined the board?
 17 A. I had just moved in really and information --
 18 I don't remember the exact time, but I had just moved
 19 in and submitted my interest letter so it was I would
 20 say a few months.
 21 Q. I think this was asked but had you ever
 22 served on any type of HOA board prior to the time you
 23 joined the Anthem board?
 24 A. Not on the HOA board but yes, I had served on
 25 several boards.

Page 60

1 understanding of when the actual election occurred, and
 2 let me ask specifically, was it after this June 9, 2021
 3 meeting with Ms. Collier?
 4 A. Which election process?
 5 Q. You had offered some testimony regarding some
 6 election issues as between Sydney and Pennie for
 7 president, do you recall that?
 8 A. Okay. I do.
 9 Q. I will break it down.
 10 A. I don't remember the dates.
 11 Q. So at the June 9, 2021 meeting, Pennie was
 12 president, correct?
 13 A. Correct.
 14 Q. Do you know who else served on the board at
 15 that meeting?
 16 A. Yes. It was Ken, he was the vice president.
 17 Joe was a member. Sydney was the treasurer and myself.
 18 I don't remember anybody else.
 19 Q. Let's break that down. Is that Ken
 20 Brensinger?
 21 A. Yes.
 22 Q. Sydney Woo?
 23 A. Yes.
 24 Q. Joe Osisek?
 25 A. Yes.

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1 Q. Do you take any medications?
 2 A. No.
 3 Q. No prescription medications or anything you
 4 take regularly?
 5 A. I do but nothing anti-depressants or anything
 6 like that so if that's what you are getting at.
 7 Q. No. If there is any type of medication that
 8 you take regularly?
 9 A. A thyroid medication.
 10 Q. Does the thyroid medication you take affect
 11 your memory?
 12 A. No.
 13 Q. During the time frame that you lived in
 14 Anthem, and again, I apologize for asking, these are
 15 pretty standard questions that are typically asked.
 16 A. That's standard?
 17 Q. Yes, I ask these in every depo. I don't
 18 think Mr. Elson asked them. We just want to make sure
 19 we get your best and most accurate testimony so I want
 20 to make sure you are not taking any medication that
 21 affects your memory in anyway and I understand your
 22 answer to be no; is that correct?
 23 A. Correct.
 24 Q. Now, during the election process that you
 25 referenced as between Pennie and Sydney, what was your

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1 Q. And then Shirley Breeden?
 2 A. Yes.
 3 Q. Anybody else serve on the board as of the
 4 time of the June 2021 meeting?
 5 A. No.
 6 Q. When you indicated there was an election that
 7 you understood Pennie eluded to Ms. Collier interfering
 8 with, was that after the time of this June 2021
 9 meeting?
 10 A. I didn't state that Pennie interfered with an
 11 election. What I stated was an election somehow
 12 transpired and the next board meeting, whenever it
 13 happened, I don't remember the date, Sydney was
 14 president -- and we voted. Sydney was president, Ken
 15 remained vice president, Joe remained on the board, I
 16 remained on the board and Pennie became secretary, but
 17 I don't know what the reasoning behind that was.
 18 Q. Do you know whether Sydney and Pennie ever
 19 ran against each other for president?
 20 A. I have no idea.
 21 Q. Now, was the June 9, 2021 meeting the first
 22 board meeting that you had attended?
 23 A. I don't remember.
 24 Q. Do you recall whether you attended any
 25 meeting in May of 2021?

Page 62 1 A. I don't recall but I don't believe so. I 2 would have to check with management to see when my 3 actual first meeting was. 4 Q. You mentioned that you were learning at the 5 time, especially at the time of this June 2021 because 6 you had just joined the board, correct? 7 A. Yes. 8 Q. You offered some testimony that Pennie had 9 asked you to take a course or review some information 10 as it related to HOA law; was that correct? 11 A. She specifically stated that yes, there are 12 classes available through I believe it was the real 13 estate division on HOA topics, and she sent out an 14 email to everybody. 15 Q. Did Pennie just send these to you or was it 16 sent to the whole board? 17 A. To the whole board. 18 Q. What was your understanding once you joined 19 the board of what information you were supposed to 20 review as a board member? 21 A. Well, supposed to -- our job was to oversee, 22 you know, to follow the governing documents and keep 23 our community beautiful and support homeowners. 24 Q. What were the governing documents that you 25 are referencing?	Page 63 1 A. I don't remember them all. I'm sure you have 2 them. 3 Q. When you joined the board did you review all 4 of the governing documents so you could become familiar 5 with what they were? 6 A. In time I did. It was like a six, eight inch 7 binder so in time you just review as you -- with topics 8 I tried to plan before a meeting. 9 Q. Do you recall if there was an approximate 90 10 day or three month window where essentially a board 11 member was supposed to be up on the documents, 12 including the governing documents? 13 A. I don't remember a specific time frame. 14 Q. Were you ever asked to review any Nevada law 15 including the provisions of NRS116? 16 A. I was aware of NRS116, not in its entirety 17 but I knew it existed for HOA compliance in Nevada. 18 Q. When you joined the board did you review the 19 provisions of NRS116 to become familiar with them so 20 you could serve in your capacity on the board? 21 A. Yes. I mean, I skimmed over it but yes. 22 Q. Can you generally describe to me the 23 process -- your understanding of the process of the HOA 24 issuing a fine such as the fine that was issued to Ms. 25 Collier, and let me ask that better. Strike that.
Page 64 1 Can you generally explain the process of the 2 HOA board issuing a violation to a homeowner such as 3 Ms. Collier, kind of what the process entails? 4 A. Not in its entirety. 5 Q. Can you tell me what you know? 6 A. Well, my understanding is that an inspector 7 goes around and Pennie tells them what to look for, and 8 they go around and they come back and submit it to the 9 HOA. And I believe there is a committee that reviews 10 the information and then information comes out to the 11 homeowner. Then it's discussed with the board. 12 Q. When you say there is an inspector, do you 13 know who the inspector was, for example, at the time or 14 in June 2021? 15 A. I do not. 16 Q. When you say Pennie would tell the inspector 17 what to look for, what do you mean by that? 18 A. One time Pennie made a comment that she -- 19 there was a young guy who was hired as an inspector and 20 he didn't know what to look for, and she went out with 21 him and told him specifically what to look for and it 22 just happened to be during paint, she mentioned spot 23 painting. I remember there were a lot of violations. 24 Q. As a member of the board yourself and Pennie 25 in her role as president, did you feel it was	Page 65 1 appropriate that she would assist the inspector or at 2 least make them aware of some of the things they are 3 supposed to be looking for? 4 Was there anything inappropriate about asking 5 him to look for paint or things like that that they may 6 have missed? 7 A. She was the president so she -- it sounded 8 like she gave the direction of what to look for. 9 Q. When the inspector would issue a proposed 10 violation, let's say to the board, what form would that 11 violation come to the board so they could review it and 12 vote whether to issue it or not? 13 A. I think the violation went to a committee 14 first or the management and then a committee and then 15 once it was determined, I believe, then it would come 16 to the board and we would have sometimes information in 17 our board packet of the addresses and whether it was a 18 rock violation to replace rock or trash cans or what 19 have you. 20 Q. That information, was that assembled or 21 produced by the inspector or by the committee? 22 A. I don't know who it was. 23 Q. Typically, would that information include you 24 said the homeowner's address? 25 A. Yes.

Page 66

1 Q. And then would it include --

2 A. A violation or what the violation was.

3 Q. Was there a citation to the governing

4 documents or to some code?

5 A. I don't recall that.

6 Q. And then would there be a description of what

7 the violation was, a written description?

8 A. I believe it just said on the document, I

9 believe just said paint, paint or replacement of rock,

10 trimming of trees.

11 Q. So there would be a general description of

12 what the violation was that was observed; is that fair?

13 A. Yes.

14 Q. And would there also be photographs included

15 with this?

16 A. No, not normally.

17 Q. Sometimes there would be photographs of the

18 actual issue?

19 A. Maybe. I don't recall. There were hardly

20 any photos.

21 Q. For example, with the paint violation, in

22 support of the paint violation was there ever a

23 photograph of the actual paint?

24 A. There might have been but I don't recall

25 seeing that.

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1 that question of the board or Mr. Elson at that

2 meeting?

3 A. No, I do not recall.

4 Q. Do you recall how long Mr. Elson spoke at the

5 executive session meeting, do you have an estimate as

6 to how long he was speaking?

7 A. I don't have an estimate but I can tell you

8 it wasn't very long. He wasn't allowed to speak.

9 Q. If you look at Exhibit 4, on the second page

10 of Exhibit 4, and for the record it's Bates label

11 DFT278.

12 Right above the redactions, the final

13 sentence states the hearing took 30 minutes with most

14 of the time being spent with Mr. Elson complaining

15 about procedure and citing legal opinions that were

16 incorrect under NRS116 regarding such procedure.

17 Do you see that sentence?

18 A. I do.

19 Q. Does that refresh your recollection that the

20 hearing took approximately 30 minutes with Mr. Elson?

21 A. Like I said, I don't recall the time frame,

22 but I do remember Mr. Elson was not really allowed to

23 speak very much.

24 Q. Do you recall if Mr. Elson was able to share

25 any photographs by any means over the Zoom call during

Page 67

1 Q. How about specifically with respect to the

2 oleander violation, were there any photographs that you

3 were able to review of the actual oleander plants that

4 Ms. Collier had?

5 A. Yes, I believe there was one photo.

6 Q. Do you know who took that photograph?

7 A. I have no idea.

8 Q. You don't know if it was the inspector or

9 another homeowner, you don't know who that is as you

10 sit here?

11 A. No.

12 Q. Are you familiar -- let me backup.

13 Do you recall during the June 9, 2021

14 executive session asking any questions about the burden

15 of the association or its inspector to continually

16 observe the condition and height of the oleanders at

17 Ms. Collier's residence?

18 A. I don't recall that.

19 Q. Do you recall, I believe, it's provision 2.04

20 of the architectural guidelines stating that no

21 condition on a property should create a burden on the

22 association or the board to continually observe it, do

23 you --

24 A. I cannot recite that, no.

25 Q. As you sit here today you don't recall asking

Page 69

1 that hearing?

2 A. I don't recall that.

3 Q. So there was some testimony earlier that

4 basically the screen sharing wasn't set up so Mr.

5 Eluded couldn't, for example, pull up the actual screen

6 on his computer?

7 A. I remember that but I don't remember if there

8 were photos that he showed. The only photo I remember

9 was during the board, a board meeting that we were

10 given.

11 Q. Do you recall whether or not the Zoom

12 technology or the meeting was set up to allow for

13 something like a screen share?

14 A. I have no idea. I don't even know what that

15 is.

16 Q. During the meeting itself, do you remember

17 Mr. Elson holding up photographs to the camera over

18 Zoom so everybody could view them, including

19 photographs of Ms. Collier's residence?

20 A. I'm sorry, I don't recall that.

21 Q. Now, briefly I want to ask you a few

22 questions about the time frame when that special

23 meeting occurred where Mr. Woo and Pennie appeared to

24 both become liaisons to the community management group.

25 Do you recall that?

Page 70 1 A. I remember the board meeting. 2 Q. Now, were there any health issues that you're 3 aware of with Mr. Sydney Woo prior to the time of that 4 meeting? 5 A. I was not aware of any. 6 Q. Were you aware whether or not Mr. Woo 7 suffered a brain injury during the late months of 2021? 8 A. I have no knowledge of that. 9 Q. Are you aware of any of the specific reasons 10 why this special liaison meeting was set up, for 11 example, any concerns that the board members had with 12 Mr. Woo's performance as president? 13 A. I have no knowledge of that. 14 Q. Do you know whether or not Mr. Woo was 15 failing to communicate with vendors during the time 16 frame of late 2021? 17 A. I have no knowledge of that. It didn't come 18 across during a board meeting when he was president. 19 Q. Were you speaking with Mr. Woo during this 20 time period? 21 A. I spoke to Sydney after the board meeting. I 22 called and I said what just happened. He made some 23 comments that Pennie had been emailing him, a barrage 24 of emails and things that she didn't agree with. 25 Q. Were you aware of any of the vendors	Page 71 1 contacting Pennie regarding issues they were having 2 with communications with Sydney like not being 3 responded to or anything like that? 4 A. I remember at a board meeting prior to the 5 special meeting, I believe, it was that time that 6 Pennie just, you know, said that she had heard from, 7 and I don't remember who, and there was some banter and 8 discussion back and forth between her and Sydney but 9 specifically I don't recall. 10 Q. During this kind of unique or special liaison 11 meeting, was Sydney Woo opposed to the restructuring of 12 it or did he actually agree to the restructuring? 13 A. I don't remember him opposing the 14 presidential duties. Like I say, he offered to help 15 Joe with the treasurer, being treasurer but I don't 16 recall specifically that he -- there was any arguments. 17 I mean, again, Pennie ran the meeting, Sydney did not. 18 Q. At that meeting was it basically like Pennie 19 was asking for this but Sydney was opposed to it, or 20 was it actually in agreement, like, did Sydney actually 21 agree to have this dual liaison ultimately go through? 22 A. My understanding is that Pennie became the 23 liaison with the management company. It was removed 24 from Sydney's under his wheelhouse. 25 Q. If I represented to you that Pennie was added
Page 72 1 and both Pennie and Sydney were communicated to by the 2 management company does that refresh your recollection 3 of what the dual liaison role became? 4 A. Like I said I don't believe it was a dual 5 role. My understanding of the meeting is that Sydney 6 retained title and Pennie becoming the secretary she 7 had special role as being the liaison. 8 Q. Were any presidential powers, for lack of a 9 better word, or was anything taken away from Sydney 10 during this time? 11 A. Well, for me my understanding is that yes, 12 his role -- he kept title only but I was not privy to 13 being an officer so I do not know what went on between 14 the officers and management. 15 Q. As you sit here today and during that time 16 you are not aware of anything specifically that was 17 taken away from Sydney during this liaison? 18 A. Yes, the treasurer duties were removed. 19 Q. Removed from Sydney? 20 A. Yes. 21 Q. The treasurer. How about any of the 22 presidential duties? 23 A. I believe being the liaison with the 24 management company. That's my understanding. 25 Q. Sydney was removed as liaison to the	Page 73 1 management company, that's your understanding? 2 A. Yes. 3 Q. Would it surprise you to know that the 4 management company continued to communicate with Sydney 5 after this time? 6 A. Would it surprise me, yes, actually possibly. 7 Q. Do you know whether or not as you sit here 8 today the management company continued to communicate 9 with Sydney after this liaison meeting? 10 A. I'm not aware of that. 11 Q. You testified a little earlier after you left 12 the board you were afraid of retaliation against you by 13 the Anthem board. Do you remember that? 14 A. It wasn't the Anthem board, it was Pennie 15 individually. 16 Q. Was any action taken against you after the 17 time you left the HOA board? 18 A. No, but I moved -- well, actually I received 19 letters. I had my tree in my front yard trimmed, 20 pruned, and it was really pruned. After that I 21 received a letter that I needed to replace my tree 22 because it was dead so I responded and said no, it's 23 not dead. I went to Star Nursery and asked how to 24 prune it and told my yard guys, but it did not have any 25 leaves on it so I responded and then I went down there

Page 74 1 and I spoke with a horticulturist. I don't remember 2 the gentleman. 3 Then I received a letter back and I said how 4 can you tell me I have to replace my tree when we as 5 the board just had all of the Texas Rangers pruned down 6 to the ground. Then I received a response later on 7 that we will close this infraction. 8 Q. There was no violation issued, it was more a 9 concern that the tree was actually dead or not? 10 A. I mean, I felt like I was threatened to have 11 to replace my tree instead of just, you know, asking 12 about it. It was like you need to replace your dead 13 tree. I mean, there is a way of dealing with people 14 here or anywhere, the grocery store, anywhere, and I 15 think we as an HOA, I think, our responsibility was to 16 have an open line of communication with our homeowners 17 and be fair with them because after all we are 18 homeowners. Just because we serve on the board doesn't 19 mean we are better than anybody else. 20 Q. Around the time of this dual liaison special 21 meeting, did you talk to any other board members 22 besides Sydney? 23 A. No. 24 Q. Did any of the other board members express 25 any concerns or was there anything -- did they take any	Page 75 1 issues with the structuring of that dual liaison role 2 that Pennie and Sydney would have. 3 A. I think the other board members already knew 4 what was happening because they accepted the 5 assignments. 6 Q. But you don't recall any specific 7 conversations you had with any of them or heard during 8 that meeting? 9 A. No. 10 Q. Did you ever speak with me before today's 11 deposition? 12 A. No. 13 Q. I understand you spoke with Mr. Elson before 14 today's deposition? 15 A. Yes. 16 Q. How many times did you speak with Mr. Elson? 17 A. Once on the phone. 18 Q. Was that in response to the subpoena that you 19 received? 20 A. He called to talk to me and ask me questions 21 in case he wanted to subpoena me. 22 Q. So prior to the subpoena being issued you had 23 a conversation with Mr. Elson? 24 A. Yes. 25 Q. Do you recall approximate date or month?
Page 76 1 A. I'm sorry, I don't. Whatever -- it was right 2 before the first subpoena. 3 Q. Was that some time in early 2023? 4 A. Yeah, it was whatever our first date was 5 supposed to be. 6 Q. So around the time of the first deposition 7 notice? 8 A. Yes. 9 Q. How long did that conversation last? 10 A. Not very long? 11 Q. You said he asked -- do you remember the 12 questions he asked? 13 A. He asked if I remember the last name of 14 Collier and I said no. 15 Q. As of the time when Mr. Elson was speaking to 16 you, you couldn't even recall who Ms. Collier was? 17 A. I didn't remember the last name. Then he 18 asked me do you remember an issue regarding oleanders 19 and I said yes, I did. 20 Q. What else did you talk about in that 21 conversation? 22 A. He asked me whether I remembered and I told 23 him I remembered that it was brought up, and just like 24 I said earlier, it was -- a fine was recommended to be 25 imposed of \$5,000, and the issues of safety, you know,	Page 77 1 and being on HOA property, oleanders is not on the 2 approved list and not asking permission so I said -- 3 then he asked if I remembered him coming to speak 4 before the board and I said I sure do. 5 Q. You testified earlier that after you heard 6 from Mr. Elson you contacted someone to ask who Mr. 7 Elson was? 8 A. Yes. 9 Q. Do you remember that? 10 A. It was Sydney. 11 Q. You talked to Sydney, right, but now you're 12 telling me that during that conversation you recalled 13 who -- that meeting and who Mr. Elson was so, I guess, 14 I'm a little confused? 15 A. He asked me -- Mr. Elson asked me if I 16 remembered him speaking at a board meeting and I said 17 yes because he was -- because Pennie was very rude to 18 him. 19 Q. You specifically recall that during your 20 conversation with Mr. Elson? 21 A. Yeah, because it -- there were three things 22 that stand out for me serving on the board and this was 23 one of them. 24 Q. Did Mr. Elson provide you any information 25 during that call, like was he just asking you questions

Page 78 1 or was he telling you some things that were going on? 2 A. No. He just asked me if I remembered the 3 issue and I said yes, and then he asked me what I 4 remember and I told him about the fine. And then he 5 said do you -- the infractions that Pennie had shared. 6 He asked me if I remember him coming to the board and I 7 remembered that. 8 Q. Then you called Sydney to confirm that? 9 A. No, no. I called Sydney before I even spoke 10 to Mr. Elson. Mr. Elson left a message for me. 11 Q. This is what -- now it makes sense. 12 A. Mr. Elson left a message for me and I wasn't 13 able to answer so after I listened to the message 14 because the message was he was representing a homeowner 15 in Anthem Highlands. Didn't leave a name or anything. 16 I haven't spoken to Sydney since before that time I 17 called since I left. I called Sydney and said -- yeah, 18 I called and left a message and said hey, do you -- and 19 I texted him, do you know this name. 20 Q. So there was a message left by Mr. Elson -- 21 A. Yes. 22 Q. -- prior to the time you ever spoke with Mr. 23 Elson? 24 A. Yes. 25 Q. Before calling Mr. Elson back you spoke with	Page 79 1 Sydney to basically get your memory refreshed on who 2 this was? 3 A. No. I just wanted to know if he had heard of 4 Mr. Elson and if he had any idea of what this was about 5 since we served on the board together because I thought 6 why am I being called regarding an HOA lawsuit. 7 Q. Right. You were surprised by the call and 8 being contacted? 9 A. Yes. 10 Q. What did Sydney tell you about his 11 recollection of Mr. Elson and Ms. Collier? 12 A. All I asked him was he aware of the name and 13 he said yes, he represented -- he remembered and I said 14 oh. 15 Q. That conversation with Sydney kind of jogged 16 your memory? 17 A. Like I say, that specific board meeting was 18 very unprofessional. 19 Q. Contentious? 20 A. Very contentious. 21 Q. How long after the conversation with Mr. Woo 22 did you speak with Mr. Elson? 23 A. I don't know. I called him back the next day 24 or two days later. It was a short time. 25 Q. Then you mentioned you had also spoken with
Page 80 1 Mr. Boyack prior to the deposition? 2 A. What I did was after I spoke to Mr. Elson I 3 called -- I texted -- no, I emailed Carmen and I spoke 4 to her as well, and I said hey, I don't know why I'm 5 being called but I just want you to know because 6 serving on the board I thought I should at least let 7 management know. Carmen said that she had notified Mr. 8 Boyack and that he would be calling me. 9 Q. Do you remember any of the specifics of the 10 conversation that you had with Mr. Boyack? 11 A. He asked me -- I made myself notes but I 12 couldn't find them today. He asked me if I remembered 13 the name, and we didn't speak very long. I told him 14 I -- you know, basically I had shared with him about 15 the \$5,000 fine and to be transparent and honest, and 16 then at the end I remember saying hey, so if Mr. Elson 17 calls me again I said do I tell him to contact you or 18 am I allowed to speak with him because I thought I was 19 an HOA board member during the time of the issue that 20 I -- I really didn't know where I fit in. I thought I 21 needed to let management know. 22 I asked him if Mr. Elson calls me do I tell 23 him to contact you now, and he said no, I don't 24 represent you. I said oh, okay. He said but if you 25 feel you need counsel then we can talk. I just said	Page 81 1 okay and we hung up. I don't think we spoke longer 2 than 15 minutes maybe, 15, 20 minutes. I don't 3 remember. 4 Q. Do you recall stating that you didn't really 5 want to be involved? 6 A. I told both attorneys that I didn't know why 7 I was involved. 8 Q. As you sit here today are you aware of 9 whether any personal allegations against you have been 10 levied by Ms. Collier in your role as a board member? 11 A. No. 12 Q. Final question. As far as the architectural 13 guidelines for the health and safety issues of oleander 14 prohibition, are you aware of whether any architectural 15 request was ever made by Ms. Collier before the 16 oleanders was planted? 17 A. One of the statements that Pennie indicated 18 during a board meeting was that that was one of the 19 fines because she did not ask for permission to plant 20 the plants. 21 Q. Do you know whether the fine was issued on 22 the basis that it was a health and safety issue? 23 A. I do not recall that. It was a variety. 24 Q. I have no further questions. 25 A. May I make a statement?

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1 Q. Sure.

2 A. I never witnessed Pennie do anything illegal,

3 but I do believe that she's a bully and people are

4 intimidated by her.

5 MR. ELSON: It's 11:45 a.m. I'm assuming you

6 have to leave to go pick up the grandchild; is that

7 correct?

8 THE WITNESS: Yes.

9 MR. ELSON: I think for the most part

10 everybody has probably asked 99 percent of the

11 questions they would ask you. I might have had a few

12 more if we didn't have the time constraints, but I

13 certainly don't want to keep your grandchild any longer

14 than we already have so I want to let you go and get

15 your grandchild.

16 I'm not saying this because I plan on calling

17 you back for a second day of your deposition. At this

18 point in time I don't have any plans to do so. If you

19 have five more minutes I might ask you two questions.

20 If you don't have anymore time I will let you go to get

21 your grandchild.

22 THE WITNESS: If you let me make a phone call

23 I can stay for a few more minutes but I don't want to

24 stay all day.

25 MR. ELSON: I don't think anybody wants you

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1 STATE OF NEVADA)

2 COUNTY OF CLARK)

3

4 CERTIFICATE OF REPORTER

5 I, Donna E. Mize, a licensed court reporter,

6 Clark County, State of Nevada, do hereby certify:

7 That I reported the taking of the deposition of

8 Shirley Breeden, commencing on June 26, 2023, at the

9 hour of 9:00 a.m.;

10 That the witness was, by me, duly sworn to

11 testify to the truth and that I thereafter transcribed

12 my shorthand notes into typewriting, and that the

13 typewritten transcript of said deposition is a

14 complete, true, and accurate transcription of said

15 shorthand notes;

16 I further certify that I am not a relative or

17 employee of any of the parties involved in said action,

18 nor a person financially interested in said action;

19 That the reading and signing of the transcript

20 was not requested.

21 IN WITNESS WHEREOF, I have hereunto set my hand

22 in my office in the County of Clark, State of Nevada,

23 this 5th day of July 2023.

24 _____

25 DONNA E. MIZE, CCR NO. 675

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1 here all day. I don't want to do anything that's going

2 to cause you any inconvenience or your grandchild any

3 inconvenience so if you need to leave we can stop right

4 now.

5 THE WITNESS: That would be great.

6 MR. ELSON: I want to make sure all the

7 attorneys are okay with that as well. I think Ted got

8 all his questions, Derek seemed to get all his. I

9 think we are done.

10 THE WITNESS: Thank you. I tried to make a

11 plan B with a couple of folks.

12 MR. ELSON: Let's have you go get your

13 grandchild. I'm a firm believer family comes number

14 one in life. Let's go off the record.

15 THE REPORTER: Derek, did you need a copy?

16 MR. NOACK: Yes, please.

17

18

19 (Deposition Adjourned at 11:45 a.m.)

20

21

22

23

24

25

Page 85

1 ERRATA SHEET

2

3

4 I declare under penalty of perjury that I have read the

5 foregoing _____ pages of my testimony, taken

6 on _____ (date) at

7 _____ (city), _____ (state),

8

9 and that the same is a true record of the testimony given

10 by me at the time and place herein

11 above set forth, with the following exceptions:

12

Page	Line	Should read:	Reason for Change:
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ERRATA SHEET				Page 86	HEALTH INFORMATION PRIVACY & SECURITY: CAUTIONARY NOTICE				Page 87
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1					1				
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Exhibits	1	2	24 6:19 46:6	42:7 68:9,10
Exhibit 1 4:14 23:2 26:7 41:22,23 42:7	1 4:14 23:2 26:7 41:22,23 42:7	2 4:15 27:5,8 30:11	26 1:19 2:3 5:1 9:23	43 4:7
Exhibit 2 4:15 27:5,8 30:11	10 29:23 30:12	2.04 67:19	27 4:15	5
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EXHIBIT 25

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DISTRICT COURT
CLARK COUNTY, NEVADA

ANDREA COLLIER, as trustee of the)
JACT TRUST,)
Plaintiff,)
vs.)CASE NO: A-22-852032-C
DEPT NO: 8
PENNIE MOSSETT-PUHEK, individually;)
ANTHEM HIGHLANDS COMMUNITY)
ASSOCIATION, a Nevada Non-Profit)
Corporation; DOES I through X and)
ROE BUSINESS ENTITIES I through X,)
inclusive,)
Defendants.)
_____)

DEPOSITION OF SYDNEY WOO
LAS VEGAS, NEVADA
WEDNESDAY, JUNE 28, 2023

REPORTED BY: VANESSA LOPEZ, CCR NO. 902
JOB NO.: 992981

Page 2	Page 3
1 DEPOSITION OF SYDNEY WOO held at The Law Offices 2 of Timothy Elson, located at 8965 South Eastern Avenue, 3 Suite 382, Las Vegas, Nevada, on Wednesday, June 28, 2023, 4 at 1:04 p.m., before Vanessa Lopez, Certified Court 5 Reporter, in and for the State of Nevada. 6 7 8 APPEARANCES: 9 For Plaintiff: 10 THE LAW OFFICES OF TIMOTHY ELSON 11 BY: TIMOTHY ELSON, ESQ. 12 8965 South Eastern Avenue, Suite 382 13 Las Vegas, Nevada 89123 14 (702)874-8600 Tim@ElsonLawOffices.com 15 For Defendant Pennie Mossett-Puhek: 16 FREEMAN MATHIS & GARY, LLP 17 BY: DEREK NOACK, ESQ. 18 3993 Howard Hughes Parkway, Suite 100 19 Las Vegas, Nevada 89169 20 (725)258-7360 derek.noack@fmglaw.com 21 For Defendant Anthem Highlands Community Association: 22 BOYACK ORME ANTHONY & MCKIEVER 23 BY: EDWARD BOYACK, ESQ. 24 7432 West Sahara Avenue, Suite 101 25 Las Vegas, Nevada 89117 (702)562-3415 Also Present: Andrea Collier	1 I N D E X 2 WITNESS: SYDNEY WOO 3 EXAMINATION PAGE 4 By Mr. Elson 4 5 6 7 8 E X H I B I T S 9 NUMBER PAGE 10 Exhibit 1 P00220-P00244 68 11 Exhibit 2 June 9, 2021, E-mail Printout 79 12 Exhibit 3 P00245 79 13 Exhibit 4 P00256-P00260 82 14 Exhibit 5 E-mail Printout Re: 2822 83 15 Culloden: Preservation of Evidence 16 Exhibit 6 P00208-P00213 88 17 Exhibit 7 DFT283-DFT288 91 18 19 20 21 22 23 24 25
Page 4	Page 5
1 LAS VEGAS, NEVADA; WEDNESDAY, JUNE 28, 2023 2 1:04 P.M. 3 -oOo- 4 (The Reporter was relieved of her duties 5 under NRPC 30(b)(4).) 6 Whereupon, 7 SYDNEY WOO, 8 having been first duly sworn by the court reporter to 9 testify to the truth, the whole truth, and nothing but the 10 truth, was examined and testified under oath as follows: 11 12 EXAMINATION 13 BY MR. ELSON: 14 Q. Good afternoon, Mr. Woo. 15 A. Yes, sir. 16 Q. My name is Tim Elson, and I represent Ms. Collier. 17 Before we begin this deposition, could you please 18 state and spell -- excuse me, state and spell your legal 19 name for the record. 20 A. Sydney Woo, S-Y-D-N-E-Y, W-O-O. 21 Q. Have you ever been sworn to tell the truth before? 22 A. Yes. 23 Q. On how many occasions? 24 A. I don't know the exact number. I'd say more than 25 ten.	1 Q. Okay. Were those at depositions, or what was, 2 kind of, the basis for -- 3 A. Depositions, court appearances. 4 Q. And were you a party in those legal matters, or 5 how were you involved in them? 6 A. I was a party on behalf of businesses. If our 7 business was involved in some kind of a legal case, then I 8 was a party to that in that respect. I was an agent of the 9 business or I was a witness -- I'm involved in one right 10 now. I'm a witness for the state in a criminal case. 11 So . . . it's currently active. 12 Q. Okay. Fair enough. Well, let me explain the 13 basic rules of a deposition. Give you a little refresher 14 just to make sure there's no confusion here today. You 15 understand that you are under oath today and that this is 16 the same oath you would take as if a judge and jury were 17 present? 18 A. Yes. 19 Q. You understand that anything you say here today 20 carries the same penalty of perjury as if you were before a 21 judge and jury. Is that correct? 22 A. Yes. 23 Q. Have you consumed any alcohol in the last 12 24 hours? 25 A. No.

Page 6 1 Q. Have you consumed any prescription or 2 nonprescription medication in the last 24 hours? 3 A. Yes. 4 Q. I don't necessarily need to know specifics, but 5 will any of that medication that you've taken affect your 6 ability to give me your best testimony here today? 7 A. No. 8 Q. Is any of that medication mind-altering substances 9 like narcotics or anything like that? 10 A. No. 11 Q. Do you know of any reason why this deposition 12 cannot go forward here today? 13 A. No. 14 Q. One of the basic rules of a deposition is that 15 only one person speak at a time. The reason why is we have 16 the court reporter here who is taking down everything that 17 we say. So it becomes very difficult to create a clean and 18 accurate record if we are speaking over one another. So I 19 would ask you to wait for me to finish asking my question 20 before you answer, and I will try and provide you the same 21 courtesy. Is that fair? 22 A. Yes. 23 Q. Sometimes in ordinary language we do things like 24 uh-huhs, uh-uhs, or nodding our head yes or no. And while 25 those types of actions are perfectly normal in everyday	Page 7 1 conversation, it does make it difficult to create a clean 2 and accurate record. So from time to time, I may ask you, 3 Is that a yes or is that a no? I'm not trying to be rude, 4 I'm just trying to create a clean and accurate record. Is 5 that fair? 6 A. Yes. 7 Q. I don't want you to guess today, but I am entitled 8 to your best estimate. Do you understand the difference 9 between a guess and an estimate? 10 A. Yes. 11 Q. Okay. Most people tell me they do, and I like to 12 give a quick example to help demonstrate it. If I asked you 13 to estimate the length of the table in this room, you could 14 look at it, using your everyday experiences, tell me you 15 believe it is X amount of feet long. 16 If I asked you to estimate the length of my table 17 in my house, because you've never been to my house, that 18 would be a pure guess. Does that help confirm your 19 understanding of what the difference between a guess and 20 estimate is? 21 A. Yes. 22 Q. Okay. Your testimony will have -- will come in a 23 typed booklet format, and you will have the opportunity to 24 review it and make any changes you wish to make to it. 25 Please be cautious that if you make any material changes, at
Page 8 1 that time or any other time, anyone will have the right to 2 opine or comment as to whether or not you were telling the 3 truth at one time or another. 4 Therefore, it is very important we get your best 5 testimony here today. Do you understand? 6 A. I do. 7 Q. As such, I want you to understand my questions 8 before you answer them. If you don't understand my 9 question, please tell me and I will rephrase it as many 10 times as necessary until you understand the question. Is 11 that fair? 12 A. Yes. 13 Q. Please keep in mind that if you do give us an 14 answer, everyone will have the right to understand that you 15 understood the question before you answered it. Is that 16 fair? 17 A. Yes. 18 Q. Okay. Do you have any questions before we start? 19 A. No. 20 Q. Okay. If at any point in time you need to take a 21 break, use the restroom, stretch your legs, I don't have any 22 issue with that. I typically try and take breaks every hour 23 or so anyway. 24 So the only thing I would ask is that you answer 25 any question that is pending before you before we go off the	Page 9 1 record and take a break or maybe let me finish that line of 2 questioning. Is that fair? 3 A. Yes. 4 Q. Okay. So I want to start with just some 5 background information for you, Sydney. Could you -- is it 6 okay if I call you Sydney? 7 A. Yes. 8 Q. Could you just go over a little background with 9 your education, where you went to high school, whether you 10 attended any college, things like that? 11 A. Went to high school in California, in San Carlos, 12 California, and came to Las Vegas, attended UNLV, got a 13 degree in hospitality management at UNLV. 14 Q. When did you first move to Las Vegas? 15 A. 1980. 16 Q. Okay. And when did you graduate from UNLV? 17 A. I actually went for a little while, then didn't -- 18 didn't continue and then went back. So I graduated, 19 ultimately, in 1999. 20 Q. Okay. Since graduating from UNLV, have you 21 attended any other schooling? 22 A. Are you asking like an accredited educational 23 institution? 24 Q. That's correct. Any vocational -- 25 A. I'm trying to think.

Page 10 1 Q. -- or professional accreditation or anything like 2 that. 3 A. I know I went through some training in the 4 insurance industry. You know, I am -- I was FINRA licensed, 5 you know, for securities. So I did go through an 6 educational process there. I don't -- and it did involve 7 using, you know, certain curriculum to do that, but I don't 8 know what level of accreditation that warrants, but I did 9 get, you know, again, licensed through the federal 10 government -- 11 Q. Okay. So -- 12 A. -- for securities. 13 Q. Would your answer change if I moved the time line 14 back to 1980? Because I asked you after you graduated from 15 UNLV. 16 So let me ask it this way: Have you attended any 17 additional schooling since graduating from high school? 18 A. I -- not to my recollection. Not -- not a formal 19 schooling type of environment, no. 20 Q. Okay. Do you have any other professional 21 certifications other than the one that you just described? 22 A. I'm trying to think. Insurance, securities, I 23 think that's it. I -- you know, based on my industry 24 background, I did go through a lot of clearances with, you 25 know, law enforcement so on, so forth, but not, like, a	Page 11 1 certification type of thing. 2 Q. Okay. Well, let's talk a little bit about that, 3 because I don't know much about Sydney Woo. Why don't you 4 tell me a little bit about your employment background and 5 what type of clearances and things like that -- 6 A. Okay. 7 Q. -- you -- 8 A. So I work in hospitality gaming ever since I moved 9 out here in 1980. That was basically my career for -- until 10 I retired. And so that involved, you know, a certain level 11 of background clearance as I progressed in my level of 12 responsibility. So I became a key employee, and I went 13 through, you know, key employee background checks with the 14 state and with law enforcement at the local level as well, 15 and that had to be maintained throughout my course of 16 employment. 17 Q. What casinos did you work for, I guess? 18 A. Ooh. Aladdin, Sands, Frontier, Golden Nugget, 19 Mirage Corporation, American Casinos, which was the 20 Stratosphere, Arizona Charlie's, Aquarius, you know, the -- 21 and that was my last one, American Casinos. 22 Q. What -- when you say you were a key employee, what 23 does that mean? What type of role did you have? 24 A. Typically, vice president level. 25 Q. Is there a specific division that you were vice
Page 12 1 president of? 2 A. Typically operations, either hotel operations or 3 overall operations. So I pretty much focused on the 4 operation side. I did not really directly involve myself in 5 the gaming side of the business. 6 Q. When you first started in the casino business, 7 what was, I guess, your entry level position? 8 A. I think I worked at the front desk. No. 9 Actually, I started out -- believe it or not, I moved out 10 here to go to school, and I started out bussing tables. So 11 I worked at the Imperial Palace back then before it became 12 whatever it is now. So -- yeah, so I honestly started out 13 bussing tables. 14 Q. And then you started working at the front desk and 15 worked your way up? 16 A. I became a waiter. Really got burnt out in the 17 food business, and so then I switched over to the hotel side 18 and worked at the front desk for a while and then progressed 19 to an assistant manager's position, then became a hotel 20 manager, and then took over hotel operations as a director, 21 vice president level. 22 And then I switched to -- and then I -- that's 23 when I went back to school. I left that position, went back 24 to school. Then went -- after finishing school, I went back 25 to work. At that time, it was Mirage Resorts property.	Page 13 1 Became a director. And then I left that business to work 2 for a local businessperson that ran Extended Stay 3 properties. So I ran his companies. So I actually had -- I 4 was general manager for him and ran five companies that he 5 had. 6 Did that for a while, and then became -- went to 7 work for American -- American Casinos, which was a Carl 8 Icahn company, became vice president, and then they sold it 9 to Goldman Sachs. So I worked for Goldman for a while and 10 then I -- I had a real serious illness in my family. So I 11 decided -- it was a lengthy process. So I decided I had 12 enough, so I retired. 13 Q. What year did you retire in? 14 A. 2011. And then I stayed off for about seven years 15 and got bored and went back to work again. 16 Q. Okay. So let's talk a little bit about that. 17 What have you done since you've been back to work? 18 A. So I went back and I got licensed in insurance. I 19 was really looking at potentially doing work in the 20 insurance industry and it got to a point where it -- I felt 21 it was more a sales type job than, you know, what I 22 considered -- what -- the role I wanted to assume, which -- 23 which was really help people, regardless of sales. 24 And because of that, I -- I did that for a while. 25 I got licensed, like I said, you know. I even got -- I was

Page 14 1 one step away from a full security clear- -- securities 2 license. I was at a Series -- what they call Series 6 3 license, and all I needed to do was get a Series 7 and I 4 could have done all -- you know, full licensing for 5 securities. 6 But I decided I just didn't want to do these sales 7 jobs, so I switched over to banking, which is what I'm doing 8 right now, and -- which is a little bit less of -- it's 9 still sales. But in the area that I got into right now, I 10 got out of the sales part of it. I just don't want to be in 11 that. 12 Q. Who is your current employer? 13 A. B of A. Bank of America. 14 Q. And what's your specific role with Bank of 15 America? 16 A. I do clients -- client relations. So right now I 17 work in the vehicle lending division. And, basically, I 18 provide support for clients, and so it's basically all 19 client driven. 20 Q. Sydney, where were you born, and when were you 21 born? 22 A. Born in Okinawa, Japan. At that time when I was 23 born, it was a U.S. territory before it was handed back to 24 Japan. So I was born in Okinawa. I did not gain 25 citizenship, even though it was a U.S. territory. I was	Page 15 1 born in July of 1960, and we left Okinawa in 1969, moved to 2 the San Francisco Bay Area and I grew up there. 3 Q. Sydney, I don't want to offend you. I ask this 4 question of every witness I've ever deposed. Have you ever 5 been convicted of a felony? 6 A. No. 7 Q. Have you ever been convicted of a crime of moral 8 turpitude, that is one involving deceit or dishonesty? 9 A. No. 10 Q. What did you do to prepare for your deposition 11 here today? 12 A. Nothing. 13 Q. Did you review any documents? 14 A. There were a couple of documents I did review, 15 yes. 16 Q. What documents did you look at? 17 A. I -- I looked at a resolution that the Anthem 18 Highlands Community Association had regarding fiduciary 19 responsibility, and that was something that was drafted in 20 2014. I just happened across it. So I looked -- I -- I 21 reviewed that, and I also reviewed a court case that was 22 involving the association background the same time. 23 Q. What court case was that? 24 A. I don't remember exactly what it was. Honestly, 25 Mr. Boyack was representing the association. So it was with
Page 16 1 Charles Hernandez. So . . . 2 Q. Is there a specific reason why you reviewed that 3 court case? 4 A. I remembered something about it. And I -- it was 5 just something I wanted to review, not specifically that 6 court case. I just happened upon it and I was looking at -- 7 just browsing regarding the association and that thing 8 popped up. So I read it and then I just printed it out 9 because, you know, it -- I felt it had some relevance to 10 what we're talking about today. 11 Q. Anything else that you can think of that you 12 reviewed in preparation for your deposition here today? 13 A. I did a quick scan of some -- you know, my 14 e-mails, but I really didn't go into too much detail of 15 that. I just did a quick review of e-mails. 16 Q. Are those personal e-mails? E-mails related to 17 Anthem? 18 A. It was e-mails related to Anthem. 19 Q. Do you have a separate e-mail account 20 for Anthem-related e-mails? 21 A. We created one, yeah, when we were on the board. 22 So I do have a separate e-mail address for that. 23 Q. Is that something you still maintain or have 24 access to? 25 A. I still have access to it. It's not -- it's not	Page 17 1 gone. Everything is still there. 2 Q. And is there -- I'm trying to think of the correct 3 way to phrase this. Who hosts that e-mail account? 4 A. Google. 5 Q. Google. So it's a Gmail account? 6 A. Yes. It's a Gmail account. There was a domain 7 created by the board at one point through GoDaddy for Anthem 8 Highlands, and there were e-mail addresses associated with 9 that that were created. But subsequent to that board 10 leaving, we decided that we were going to use Gmail and 11 create Gmail identities for our e-mails. 12 Q. Did anyone ever come to you and ask you to gather 13 documents from your Gmail account? 14 A. No. 15 Q. When you searched in your Gmail account, did you 16 type in any search terms or anything like that to help you 17 locate e-mails? 18 A. I -- I wanted to see if I can refresh myself a 19 little bit. So I -- I think I typed in Culloden, the street 20 name. 21 Q. Mm-hmm. 22 A. Just to see if there was any relevance to what 23 we're talking about today. That was basically it. 24 Q. Did any e-mails pop up when you typed in Culloden? 25 A. There were, because there were -- there were

Page 18 1 things going back and forth regarding violations and 2 architectural committee requests and things like that. 3 There weren't a ton of them. And I guess "ton" is a vague 4 word, but I won't say there were a lot of them, but I just 5 used that as a keyword and, you know, when the search comes 6 up, it will show the e-mails with that word highlighted. I 7 would say it was basically on the one screen. 8 Q. Were all of those e-mails related to Ms. Collier, 9 or were some of those e-mails related to units other than 10 Ms. Collier? 11 A. There were other ones, too. Ms. Collier -- there 12 were a few e-mails with her in the subject, but I -- you 13 know, I looked at some of those because, obviously, you 14 know, I thought it might refresh myself coming here today, 15 but there really weren't that many. 16 Q. Anything else that you think -- that you can think 17 of that you reviewed in preparation for your deposition? 18 A. No. 19 Q. Prior to appearing for this deposition, have you 20 ever reviewed any documents produced in this case? 21 A. I'm sorry, prior to -- prior to the dep- -- 22 Q. Let me -- let me phrase it this way. 23 A. Okay. 24 Q. Prior to today -- 25 A. Uh-huh.	Page 19 1 Q. -- have you reviewed any documents filed or 2 produced in this case? 3 A. During the course of when I was on the board? 4 Q. Just in general -- 5 A. I mean, I would assume I did. 6 Q. Let me -- let me put it this way: My 7 understanding is is that you either resigned from the board 8 or were no longer on the board prior to the complaint in 9 this case being filed. 10 A. Right. 11 Q. Have you ever seen the complaint in this case in 12 District Court? 13 A. No. 14 Q. Have you ever seen any of the discovery answers or 15 responses that have been produced in this case? 16 A. No. 17 Q. Have you ever seen any of the discovery disclosure 18 documents that any party has produced in this case? 19 A. No. 20 Q. And we're going to talk about timing as it relates 21 to you on the board here in a few moments. But, again, it's 22 my understanding that you resigned from the board shortly 23 before the NRED mediation took place as it relates to 24 Ms. Collier. 25 So correct me if I'm wrong, but did you -- you
Page 20 1 didn't have any participation in the NRED mediation. 2 A. No. 3 Q. Is that correct? 4 A. No. 5 Q. Is that correct? 6 A. Oh, that's correct. Yes, I did not have any. 7 Sorry. 8 Q. Prior to resigning from the board, were you 9 involved in any communications related to the NRED filing by 10 Ms. Collier? 11 A. I can't remember. 12 Q. So if you were, it would also be fair to say that 13 you don't remember what your involvement was. Is that 14 correct? 15 A. If anything, it would have been so minimal that I 16 don't believe it would have any bearing on what's going on 17 today. 18 Q. Okay. When was the last time you talked to 19 Mr. Boyack? 20 A. I don't remember the exact date. I did have a 21 phone conversation with him prior to coming here today. 22 Q. Okay. Does Mr. Boyack represent you, as far as 23 you know? 24 A. No. You mean personally? 25 Q. That's correct.	Page 21 1 A. No. 2 Q. How long did your conversation with Mr. Boyack 3 last? 4 A. Say about an hour. 5 Q. Did you just have that one conversation with 6 Mr. Boyack or -- 7 A. Yes. 8 Q. -- did you -- have you ever talked to Mr. Noack? 9 A. No. 10 Q. Have you ever talked to a gentleman by the name of 11 Michael Edwards that works with Mr. Noack at his office? 12 A. No. 13 Q. Okay. As far as you know, have you ever talked to 14 anybody at Mr. Noack's office? 15 A. No. 16 Q. What did you and Mr. Boyack speak about when you 17 spoke? 18 A. General -- what -- you know, obviously, I left my 19 position on the board. I had not spoken to him since I had 20 left. So touched on different aspects of, you know, why I 21 left or, you know, the fact that I left and concerns that, 22 you know, I had regarding the board. 23 Q. Did Mr. Boyack -- and I don't mean to insinuate 24 that Mr. Boyack would do any of this. So no offense to him, 25 but I just want to make sure we're clear.

Page 22 1 Did Mr. Boyack ever tell you what to say? 2 A. No. 3 Q. Did Mr. Boyack ever coach you on how to provide 4 your testimony -- 5 A. No. 6 Q. -- today? Other than that conversation that you 7 had with Mr. Boyack -- I'm going to assume it was in the 8 last month. Is that fair? 9 A. Maybe a little longer than that. I -- yeah, I 10 don't -- 11 Q. Last 60 days? 12 A. Most -- most likely, yes. 13 Q. Yeah. 14 MR. BOYACK: Last 60 to 75 days. 15 THE WITNESS: Yeah, I'm just -- I'm not sure 16 exactly. It's been a while. Because this has been 17 postponed a little bit, too. So I'm losing my track of, you 18 know, the time line, because this -- this has been later 19 than I thought we would originally do this. So . . . 20 Q. (By Mr. Elson) Understood. So it would be fair 21 to say that it was at or near the time we first reached out 22 to you and tried to start scheduling your deposition? 23 A. I don't think it was even then. I think it was 24 prior to that. 25 Q. Okay. All right. Fair enough. So other than	Page 23 1 that conversation, have you spoken to Mr. Boyack since you 2 were on the board? 3 A. Wait. Wait a second. I don't understand that at 4 all. 5 MR. BOYACK: Since the last conversation? Or -- 6 sorry. 7 THE WITNESS: Since I was on the board, I've had 8 conversations with him. I mean . . . 9 Q. (By Mr. Elson) Since you resigned from it. Maybe 10 I phrased it incorrectly. 11 A. Yeah. I mean, that -- 12 Q. Let me ask it another way. 13 A. Yeah. Okay. 14 Q. Since you resigned from the board -- 15 A. Mm-hmm. 16 Q. -- other than the conversation that you just 17 mentioned to me, have you spoken to Mr. Boyack? 18 A. No. 19 Q. Since you resigned from the Board, have you spoken 20 to Carmen Eassa? 21 A. Yes. 22 Q. How many times have you spoken to Carmen Eassa 23 since you resigned from the board? 24 A. I'd say less than ten. They were having some 25 problems with the domain that we had set up and how to
Page 24 1 manage it, the GoDaddy domain. So I was the only one who 2 knew how to do it. 3 So a majority of the conversation I had with her 4 was regarding that and -- because she was tasked with it and 5 she had no idea what to do. So I was just trying to help 6 her, you know, get through that because she had no other way 7 to -- nobody else that can help her, so I decided to. 8 And at that time, because the association didn't 9 have any kind of funding accounts set up with GoDaddy, I was 10 using my credit card to make the monthly payments for the 11 GoDaddy subscriptions, and then I would just get reimbursed 12 by the board. So one of the things I told Carmen was that 13 she needs to speak to Pennie or somebody to get somebody 14 else to pay for this, because I'm not on the board anymore. 15 And so I -- and I told her specifically to get my credit 16 card off the account. So I told her how to do it and to get 17 another credit card account or something or set up -- you 18 know, I encouraged them to set up an account instead, like a 19 direct bill account, but that was a lot of the conversation. 20 Then the functionality of how to manage that domain. How -- 21 you know, there were conversations about that, because she 22 really didn't know what to do. 23 Q. Okay. 24 A. And then I think I spoke to her a couple times, 25 because the board issued a violation, you know, personally	Page 25 1 against me for landscaping issues. And so I told her that 2 what I was issued a violation for was what the Board 3 recommended homeowners do and I did it and I got a 4 violation. 5 And so I told her, you know, This shouldn't even 6 be on my record, and they closed the violation, but it's 7 still on my record, which is absurd, but I had conversations 8 with her about that. 9 And then I think during the course of those 10 conversations, you know, we just spoke just casually, like, 11 you know, more about outside of the board, just how things 12 were going and more friendly-type of conversation. 13 Q. Were any of those conversations -- was Ms. Collier 14 a part of any of those conversations? 15 A. No. 16 Q. When you say Carmen was tasked with the domain, 17 was she also tasked with managing the website? Is that what 18 you mean by the domain? 19 A. No. See, what we tried to do -- the prior board 20 created this GoDaddy domain and it was basically to be able 21 to provide a -- you know, an address for homeowners to send 22 to the board. So it was, like, manager@anthem. So it 23 was -- anthemhighlands.org was the domain. And so we 24 created, like, a manager address to send the e-mails. 25 And then you could set it up where -- that once it

Page 26 1 comes into that box, it could distribute to certain people 2 so that, you know, you wouldn't have to involve a person's 3 e-mail address. It would just go to this, you know, domain 4 name and the e-mail address. 5 And the other reason why, you know, I wanted to 6 maintain it is because, if we changed management companies, 7 which happens, that it creates a real headache to try to 8 transition different e-mail addresses for homeowners to 9 communicate. So by keeping this manager@anthemhighlands.org 10 consistent, it really didn't matter who it was, because it 11 would funnel -- if it was a new company, we could funnel it 12 to new e-mail addresses. 13 Q. Who was in charge of maintaining the website for 14 Anthem Highlands? 15 A. The website itself, I have no idea. It was most 16 like -- I know that, you know, Terra West was -- has their 17 website. But the Anthem Highlands website, we really didn't 18 have anything. 19 Q. Is there a website outside of the one that Terra 20 West has for Anthem? 21 A. I don't believe so. 22 Q. There is just a portal on the Terra West website 23 where you log into? 24 A. Right. You know . . . 25 Q. When was the last time you've talked to Ken	Page 27 1 Brensinger? 2 A. It's prior to my departure from the board. 3 Q. What about other members of the board, like Joe 4 Osisek or -- 5 A. Yeah, Joe lives two houses away from me. So I -- 6 I have spoken to him a few times just because I'm -- 7 Q. Let me clarify before you jump into your 8 conversations with Joe. When was the last time you've 9 spoken to Joe about Ms. Collier? 10 A. Never. 11 Q. Okay. When was the last time you spoken to 12 anyone, other than Mr. Boyack, about Ms. Collier? 13 A. I had conversations with another board member that 14 resigned by the name of Shirley Breeden. 15 Q. Okay. 16 A. But there were -- I don't believe I had any 17 specific conversation with her about Ms. Collier. 18 Q. Okay. What about other than Ms. Breeden? Anybody 19 else that you can think of since you resigned from the 20 Board? 21 A. That I spoke to at all or regarding -- 22 Q. Regarding Ms. Collier. 23 A. No. 24 Q. When was the last time you've spoken to Pennie 25 Mossett-Puhek?
Page 28 1 A. Prior to my departure from the board. I don't 2 remember the exact date. 3 Q. As you are aware, we're here today to talk about a 4 lawsuit involving Ms. Collier and Anthem Highlands. From 5 time to time, I may refer to Anthem Highlands HOA as Anthem 6 Highlands or Anthem. I'm always trying to refer to the HOA, 7 Anthem Highlands HOA. If you ever have any questions or 8 it's ambiguous, please let us know. 9 But if you refer to Anthem or Anthem Highlands, 10 I'm also understanding that you're referring to Anthem 11 Highlands HOA. Is that fair? 12 A. Yes. 13 Q. Okay. How long have you lived in the Anthem 14 community? 15 A. I moved there in July of 2014. 16 Q. Does your path of travel that you take as ingress 17 and egress out of the community to your house -- does that 18 take you past Ms. Collier's house? 19 A. No. 20 Q. When you enter or leave the community, would you 21 ever drive by Ms. Collier's house? 22 A. No. Well, let me do a clarification on that. 23 There is a back way out of the community on Democracy. If 24 something is wrong with the normal course of travel, I might 25 go out the back way, but I may have done that once or twice	Page 29 1 in the entire time I've lived in that community. 2 Q. How many oleanders are planted throughout the 3 Anthem community? 4 A. I couldn't give you an exact number. I don't 5 think it's uncommon. 6 Q. Would you say that there's a high percentage of 7 homes in the Anthem community that have oleanders planted? 8 A. I couldn't answer that. I don't know what high 9 percentage is. I mean, can you be more specific? 10 Q. Well, let me have you give me an estimate then. 11 A. I can't. I don't know how many there would be. 12 I -- I do feel that it's not out of the ordinary to have 13 oleanders, but I couldn't give you a number or an estimate. 14 Q. Are oleanders planted on the common elements 15 within Anthem Highlands? 16 A. Not to my knowledge. 17 Q. Do you know if oleanders were ever planted on the 18 common elements within Anthem Highlands? 19 A. No, I don't. I don't know. 20 Q. How long have you known Pennie? 21 A. I knew of her after I moved into the community 22 because I used to attend board meetings. So I knew who she 23 was, but I don't believe I started talking to her or had any 24 kind of correspondence with her until I was on the board. 25 Q. When did you first serve on the board?

Page 30 1 A. Okay. So one time I was appointed to go on the 2 board because they didn't have enough board members, and so 3 I was appointed for a short duration of time. I -- I don't 4 know the exact year. 2017, maybe. But I only served for a 5 few months because there was elections after that and there 6 were other candidates that were -- that garnered more votes 7 than I did. So I just -- I just filled for a few months and 8 then that was it. 9 Q. Okay. So after that first time you served on the 10 board in the 2017-type time frame -- and we'll keep it 11 general. No one is trying to trick you on dates. 12 A. Okay. 13 Q. It was a long time ago. But I'm just going to 14 call it the 2017 time frame. 15 How long after that was the next time you served 16 on the board? 17 A. I believe it was when I was -- I didn't serve on 18 the board. I was appointed as treasurer for the 19 association, even though I wasn't on the board. 20 Q. How did that work? 21 A. You can be a treasurer. 22 Q. Okay. 23 A. You can hold -- you could be a officer without 24 being a board member. 25 Q. Okay.	Page 31 1 A. So I was an officer, basically, without being a 2 board member. 3 Q. When did that take place? 4 A. I'm trying to think when we had -- let's see, I -- 5 maybe 2019, maybe. It was the latter part of either 2018 or 6 2019. 7 Q. Okay. 8 A. Probably 2019. 9 Q. Did you ever become a board member? 10 A. Yes. 11 Q. When was the first time you became a board member? 12 A. Let's see. 2022 . . . 2021, I believe. 13 Q. Were you an officer from the approximate dates of 14 2018, 2019 through 2021? 15 A. I was a treasurer. So I was a treasurer preceding 16 becoming a board member. 17 Q. And I -- so let me ask it this way: Were you 18 continuously the treasurer from 2018 to 2019 until you 19 became a board member in 2021? 20 A. I -- that's why I'm trying to correlate the dates, 21 and I apologize that I can't be more specific, but I don't 22 believe I had a break between being treasurer and then 23 becoming a board member. So that -- my dates of being a 24 treasurer may be incorrect. 25 Q. Fair enough. And, again, I can't remember what I
Page 32 1 had for dinner last week. 2 A. Yeah, this is really hard for me to remember. 3 Q. So . . . 4 A. Yeah. 5 Q. So I'm -- 6 A. I'm just trying to do some kind of, you know, 7 correlation to time. I -- I do believe my role as treasurer 8 transitioned directly back to when I got elected and then I 9 became a director -- you know, a member of -- a director of 10 the board when I got elected and then I believe I continued 11 as treasurer after that. 12 Q. Okay. So then how long were you a board member 13 after you were elected as a board member? 14 A. One year . . . one year, eight months. 15 Q. When did you resign from the board? 16 A. January 2022. 17 Q. That -- that's what my records show as well -- 18 A. Yeah. 19 Q. -- is that it was in December 2021 or January 20 20- -- 21 A. So that means I got elected in 20- -- so that -- 22 that reelect- -- I was coming up for reelection in 2022. 23 That means I was on the board in 2020, because I served a 24 two-year term. So that means I would have been elected 25 2020, and then the 2019 for the treasurer probably makes	Page 33 1 sense, because that -- again, I really apologize. I'm 2 trying to put the time frame back in -- back in perspective 3 here. 4 Q. Okay. That's fine. And we can piece it 5 together -- together, Sydney. 6 So when you first -- you said you learned of 7 Pennie by attending board meetings. What was your first 8 impression of Pennie? 9 MR. NOACK: Objection. Vague. 10 MR. BOYACK: Relevance. 11 Q. (By Mr. Elson) Go ahead and -- so from time to 12 time I may ask questions and these attorneys may put 13 objections on the record, and that's just to preserve their 14 objection. We don't have a judge here to rule on these 15 objections and whether or not that type of testimony would 16 become admissible at the time of trial. So unless anyone 17 instructs you otherwise, just go ahead and proceed to answer 18 the question -- 19 A. So -- 20 Q. -- after -- 21 A. So -- 22 Q. -- they place their objection -- 23 A. Right. So -- 24 Q. -- on the record. 25 A. -- for my clarification, if they object, I'm still

Page 34 1 required to answer the question? 2 Q. Unless someone instructs you otherwise, yes. 3 A. Okay. I just want to make sure I understood that. 4 Q. Yes. So let me reask -- and it's very rare that 5 someone instructs a witness to not answer a question, 6 especially an unrepresented witness. But in any event, if 7 someone does, then we can discuss it at that time. 8 So when they make their objection, just proceed to 9 answer the question as if they hadn't objected, because they 10 are just preserving the record. 11 MR. ELSON: Does counsel have anything they wish 12 to add? 13 MR. BOYACK: No. 14 MR. ELSON: Okay. Just want to make sure 15 everybody is on the same page. 16 Q. (By Mr. Elson) So let me reask the question since 17 I've been speaking so long. 18 When you first met Pennie, what was your 19 impression of her? 20 MR. NOACK: Objection. Vague. 21 THE WITNESS: I didn't have any impression. I -- 22 I saw her at a board meeting. 23 Q. (By Mr. Elson) I just wasn't sure if there was 24 something that stood out to you when you first saw her at a 25 board meeting, if there was some type of interaction with	Page 35 1 her. 2 A. She was -- the only thing I could say is that when 3 I -- when I saw the functioning of the board, I felt that 4 she was very active in the board meeting. 5 Q. And when did you develop either some sort of 6 professional relationship or personal relationship with 7 Pennie? 8 MR. NOACK: Objection. Compound. Vague. 9 THE WITNESS: I do believe it was after I got on 10 the board or maybe when I was treasurer, as an officer. 11 Possibly then. I don't -- I really can't answer that 12 because I don't know -- I don't have a distinct memory of 13 when we first communicated or when that started. I -- I 14 can't answer that. 15 Q. (By Mr. Elson) Okay. Did you ever develop -- 16 outside of your role of being board members, did you ever 17 develop any sort of friendship or personal relationship with 18 Pennie? 19 A. I would consider us friends. I mean, I don't see 20 anything -- you know. 21 Q. And I'm not suggesting there was anything romantic 22 or anything scandalous. I'm just trying to better 23 understand if your relationship with her extended beyond 24 being board members into being friends or anything like 25 that.
Page 36 1 A. I do believe there was -- there was a level of 2 friendship. I mean, you know, I did have a tremendous 3 amount of respect for her, and I had no -- no qualms about 4 being -- you know, having some kind of friendship. I mean, 5 I had no problem with that. 6 Q. Was there -- would you guys hang out socially 7 outside of being board members with one another? 8 A. Hang out socially, meaning what? 9 Q. I don't know. Have dinner or drinks or go to 10 family gatherings or -- I mean, there's a variety of 11 different ways -- 12 A. I think there were times when we might go grab a 13 bite to eat or, you know, have a drink or something like 14 that, but that was just -- just to connect. I don't -- I 15 don't even remember the subject matter, you know, why we did 16 that. But it wasn't something that was, you know, like 17 something that we would plan out or -- it was just something 18 that -- go grab a drink or something. 19 Q. And how often would that type of activity take 20 place? 21 A. Several months, maybe a month. 22 Q. So once every several months -- 23 A. Or -- again, I think most of the time that we met 24 or communicated was relative to board -- board -- it wasn't 25 outside of the board. So, in other words, if we met for	Page 37 1 drinks, it might have been, you know, to discuss something 2 that we had thoughts about, you know, regarding board -- it 3 wasn't like, let's go have something -- let's go have a 4 drink so we can hang out. It wasn't like that. It was more 5 board driven. 6 Q. Okay. Understood. And I'm just trying to better 7 understand the -- the nature of -- of your relationship with 8 Pennie. 9 When you ultimately resigned from the board in 10 2022 -- you did resign. Is that correct? 11 A. I did. 12 Q. Okay. Why did you resign from the board in 13 January of 2022? 14 A. I felt that the conduct and the direction of the 15 board and what was happening on the board did not represent 16 my beliefs. And I was president of the board, and I felt 17 the consequences would become my responsibility. And I was 18 not willing to take the responsibility for the actions of 19 the members of the board. 20 Q. Okay. And what specifically are you referring to 21 when you say that you did not condone the direction that the 22 board was taking? 23 MR. NOACK: Objection. Misstates testimony. 24 Q. (By Mr. Elson) If it misstates your testimony, 25 please tell me. I'm just trying to get a better

Page 38 1 understanding of the specifics. 2 A. You know, I just have a belief and way homeowners 3 should be treated, how the board should conduct itself in 4 a business manner -- 5 Q. Okay. 6 A. -- you know, as a -- as a board. It's a 7 corporation. I do feel there are responsibilities and 8 fiduciary duties. I just didn't feel like it was properly 9 represented. I didn't want to have anything to do with it. 10 Q. Okay. Was there a specific instance that you 11 believe the board was not properly representing the 12 community in? 13 A. I don't think one specific incident. There were 14 times where I started seeing -- well, there's one, I think, 15 that would be -- I could use as an example. 16 Q. Okay. 17 A. I was the board president. I was the liaison to 18 the management company, but there was a lot of back and 19 forth with the management company giving direction to our 20 community manager that didn't come from me. 21 Q. Who was giving that direction? 22 A. Pennie. 23 Q. Did you agree with the direction that Pennie was 24 giving the management committee? 25 A. It wasn't a management committee. It was our	Page 39 1 community manager that she was ordering to be. And I had -- 2 you know, there were -- and this -- and I knew about this 3 because it was shared to me, you know, what -- what was 4 being said. So, you know, that -- the frequency of calls, 5 the mannerism of the calls, you know, and the demands that 6 were placed on the community manager, even though I was the 7 designated contractual liaison with the management 8 company -- all correspondence and communications should have 9 gone through me to the community manager. And I do not 10 believe in treating people that way. 11 And so because of that, you know, it disturbed me 12 that, you know, our community manager was being directed 13 in -- by multiple people. I don't believe that fits into 14 any kind of sound organizational structure in my, you know, 15 professional background. And I, again, felt like those 16 actions would -- I would be held accountable as board 17 president, and I was under -- I was unwilling to take that 18 responsibility for the behavior. 19 Q. Okay. Was it discussed that that behavior should 20 stop? 21 A. Oh, yeah. 22 Q. Okay. And did Pennie persist with that behavior 23 even after it was discussed that it could stop? 24 MR. NOACK: Objection. Foundation. 25 THE WITNESS: So --
Page 40 1 Q. (By Mr. Elson) Is it your understanding that that 2 behavior was discussed with Pennie? 3 A. I -- I do believe so. 4 Q. Okay. Is it your understanding that that behavior 5 continued even after it was discussed with Pennie that that 6 behavior should stop? 7 A. I don't know of any time that behavior stopped. 8 Q. Was it not only the fact that the behavior was 9 occurring but also the -- the -- the manner in which the 10 behavior was occurring? Was that also an issue? 11 A. Yes. 12 MR. NOACK: Objection. Speculation. Vague. 13 MR. BOYACK: Let me -- let me -- can I just do 14 this? Can I just pose a running objection so we're not -- 15 you know, so we're not interrupting all the time? 16 MR. ELSON: No, I just -- no, I want to hear 17 specific objections every time they are raised, because I'll 18 rephrase it to make sure that it's phrased correctly. 19 Q. (By Mr. Elson) Is it your understanding that 20 the -- that it wasn't just the fact that the behavior was 21 occurring but it also related to the manner -- the subject 22 matter itself of what was occurring with the behavior? 23 MR. NOACK: Objection. Foundation. 24 THE WITNESS: I don't understand the question. 25 (Reporter requested clarification.)	Page 41 1 MR. NOACK: Vague. 2 (Reporter requested clarification.) 3 MR. NOACK: So objection. Vague. Calls for 4 speculation. Lacks foundation. I don't even know what the 5 question -- 6 MR. BOYACK: This line of questioning, I just want 7 to have a running relevance objection. That's it. 8 THE WITNESS: I don't understand the question. 9 Q. (By Mr. Elson) Sure. So you took issue with -- 10 let me rephrase. 11 It's your understanding that there was an issue 12 with the fact that Pennie was communicating directly with 13 the community manager. Is that correct? 14 A. Yes. 15 Q. Okay. Was there -- was it your understanding that 16 there was also an issue with the subject matter of what she 17 was communicating with the community manager? 18 MR. NOACK: Objection. Calls for speculation. 19 THE WITNESS: Again -- 20 MR. NOACK: Vague. 21 THE WITNESS: "Subject matter," I don't understand 22 what you mean. 23 Q. (By Mr. Elson) The substance of the 24 communications themselves. 25 MR. NOACK: Same --

Page 42 1 THE WITNESS: I didn't -- 2 MR. NOACK: Same objection. 3 THE WITNESS: I didn't personally witness the 4 communications, so I couldn't really tell you. I can't 5 answer that question. 6 Q. (By Mr. Elson) How did the communications take 7 place? 8 A. By -- 9 MR. NOACK: Objection. Speculation. It's vague. 10 THE WITNESS: Most likely by phone calls or 11 e-mails that I was not privy to. 12 Q. (By Mr. Elson) Okay. Did you ever see any of the 13 e-mails? 14 A. That were sent outside of my -- outside of e-mails 15 sent to me? 16 Q. That's correct. 17 A. Not to my knowledge. 18 Q. Okay. Who discussed with you that Pennie was 19 engaging in this conduct? 20 A. Carmen. 21 Q. When Ms. Breeden was deposed earlier this week -- 22 Ms. Breeden was deposed on Monday. 23 A. Okay. 24 Q. Ms. Breeden described this type of special meeting 25 that took place sometime in the fall of 2021 wherein some	Page 43 1 powers were removed from you as president. Do you recall 2 what I'm talking about? 3 A. I do. 4 MR. NOACK: Objection. Misstates testimony. You 5 can answer. 6 THE WITNESS: The meeting actually took place in 7 December. 8 Q. (By Mr. Elson) Okay. Why don't you describe to 9 me what took place at that meeting? 10 A. Again, I'm going to have to go by my recollection. 11 This meeting, specifically, was to just do several -- it 12 was -- it was an outside of the normal meeting scheduled. 13 Okay? It was a special meeting. 14 Ironically -- and I don't know for what purpose -- 15 it was scheduled when Carmen was gone. So she was on 16 vacation. So that meeting was, to me -- and I can't say for 17 sure, but it was very strange that that meeting was suddenly 18 rescheduled knowing that the community manager wouldn't be 19 there. 20 And the purpose of that meeting, supposedly, was 21 to approve some kind of a landscaping project of some sort. 22 But the real purpose and intent of that meeting was to 23 create a board approved -- a motion to separate and have two 24 liaisons with the management company and restrict what areas 25 of authority I would have and create levels of authority
Page 44 1 that Pennie would have that really was not representative of 2 our contract. Our contract was the board president is the 3 liaison to the management company. 4 And, again, it was all because this would allow 5 Pennie officially to have this kind of -- you know, be able 6 to do the things I just talked about by having the board 7 approve creating, you know, two liaisons, which, again, to 8 me, is just a horrible way to run a business. 9 And so that, again, was called as an emergency 10 meeting. 11 Q. Do you have an understanding as to why the board 12 just wasn't restructured? Like, why wasn't Pennie just put 13 back in place as president? 14 MR. BOYACK: Objection. Relevance. 15 MR. NOACK: Join. 16 THE WITNESS: She indicated to me she didn't want 17 to be president. 18 Q. (By Mr. Elson) Why did she indicate -- well, when 19 she indicated that to you, did she discuss with you her 20 reasoning behind that? 21 A. Not -- she told me she was burnt out, I guess, to 22 a certain extent. To me, you know, she was board president. 23 She would have that level of responsibility that I was 24 concerned about, that the consequences of actions would 25 ultimately be held and are responsible by the board	Page 45 1 president. I felt that this was, in some way, convenient, 2 that she could continue her -- doing whatever she wanted to 3 without direct consequence. 4 Q. That she could essentially still run the board 5 without the appearance of running the board? 6 A. Right. She would never stop running the board, 7 you know. Or, you know, based on her personality and her 8 behavior traits, she would always command. And so I really 9 didn't feel that -- again, that it was fair for me to not be 10 able to execute my responsibilities completely. 11 Q. Are you aware that Shirley resigned as well after 12 that special meeting? 13 A. Yes. 14 Q. Do you have an understanding as to why Shirley 15 resigned? 16 MR. BOYACK: Objection. Relevance. 17 MR. NOACK: Speculation. 18 THE WITNESS: I think there was an equal 19 frustration in the way the board was conducting business. I 20 wouldn't be surprised if, you know, that had a tremendous 21 amount of bearing on how -- you know, why she made that 22 decision. 23 Q. (By Mr. Elson) Are you aware of what an 24 intervention affidavit is? 25 A. Not specifically.

Page 46 1 Q. It's a Form 530 that you can file with the 2 ombudsman, the Nevada Real Estate Division. Does that help 3 refresh your recollection? 4 A. Yes. 5 Q. Okay. So when I refer to an intervention 6 affidavit, that's what I'm referring to. Is that fair? 7 A. Okay. 8 Q. Are you aware on [sic] whether or not Pennie's 9 filed any intervention affidavits against any third parties? 10 A. Not -- I'm not aware of that. 11 Q. Okay. Are you aware of whether any intervention 12 affidavits have been filed against Pennie by any third 13 parties? 14 A. I'm not aware of that. 15 Q. Okay. Are you aware of whether anybody has ever 16 sought a temporary protective order against Pennie? 17 A. I haven't seen it. I do remember there was a lot 18 of back and forth on social media, and there was -- I -- I 19 do believe there was some kind of legal action taken. I 20 don't know if it was officially a restraining order. I -- I 21 haven't seen anything, so I don't know for sure. 22 Q. Are you aware of whether or not Pennie has ever 23 been suspended or banned from Nextdoor? 24 A. I don't -- again, haven't seen that. So I 25 couldn't tell you if I know for sure.	Page 47 1 Q. Has Pennie ever discussed any of those issues with 2 you? 3 A. What issues? 4 Q. Intervention affidavits, temporary protective 5 orders, or any suspensions or bans with Nextdoor. 6 A. No. 7 Q. Have you -- have you ever heard of any allegations 8 of harassment by Pennie? By harassment, I mean hostile 9 conduct, threats, intimidation, things along those lines. 10 A. I do recall there was a situation a while back 11 regarding a homeowner and, you know, interchanges on social 12 media. 13 Q. And what was the name of that homeowner? 14 A. Robert Stern. 15 Q. Was Mr. Stern alleging that Pennie engages in 16 harassment? 17 MR. NOACK: Objection. Speculation. Relevance. 18 THE WITNESS: I can't -- 19 Q. (By Mr. Elson) I'll rephrase. 20 Was it your understanding that Mr. Stern was 21 engaging -- was alleging that Pennie engages in harassment? 22 MR. NOACK: Same objection. 23 THE WITNESS: I -- unless he told that to me 24 directly, I wouldn't know. 25 Q. (By Mr. Elson) Just wasn't sure what you saw on
Page 48 1 social media or however you became aware of it. So let me 2 ask it this way: How did you become aware of these issues 3 with Mr. Stern? 4 A. That was the case that I happened upon that I told 5 you about at the beginning of the deposition. 6 Q. Have you ever witnessed Pennie raise her voice at 7 other board members? 8 A. Yes. 9 MR. BOYACK: Objection. Relevance. 10 MR. NOACK: Join. 11 Q. (By Mr. Elson) Have you ever witnessed Pennie 12 interrupt other board members? 13 A. Yes. 14 MR. BOYACK: Same objection. 15 MR. NOACK: Join. 16 Q. (By Mr. Elson) Have you ever witnessed Pennie 17 yell at other board members? 18 MR. NOACK: Objection. 19 THE WITNESS: Yes. 20 MR. NOACK: Relevance. 21 Q. (By Mr. Elson) What about unit owners? Have you 22 ever witnessed that conduct with unit owners before? 23 MR. NOACK: Objection. Vague. Relevance. 24 THE WITNESS: When you -- can you be more 25 specific? When you -- are you talking yelling at a	Page 49 1 homeowner? 2 Q. (By Mr. Elson) Sure. Have you ever witnessed 3 Pennie yell at a homeowner before -- 4 MR. NOACK: Objection. Vague. 5 Q. (By Mr. Elson) -- or their representatives? 6 A. Okay. I -- 7 MR. NOACK: Objection. Vague. Argumentative. 8 Relevance. You can answer. 9 THE WITNESS: Okay. So yelling is subjective, in 10 terms of what you consider yelling, but I do believe that 11 I've seen Pennie be very aggressive with other homeowners. 12 Q. (By Mr. Elson) When you were on the board in 2020 13 through 2022 type time frame, can you explain to me how 14 homeowners are first brought to a violation hearing? 15 A. Well, they're initially issued a courtesy 16 violation -- a courtesy notice to, you know, remedy whatever 17 the violation is. And -- 18 Q. Okay. Let's talk just about that step for now. 19 So before a courtesy notice is issued, is there a 20 discussion among the board on whether or not to issue a 21 courtesy notice? 22 A. No. 23 Q. Prior to you being board -- well, let me actually 24 provide some background. When did you become board 25 president?

Page 50 1 A. I don't remember the exact date. 2 Q. I show it being sometime in the fall of 2021, like 3 the October type time frame -- 4 A. That's very possible. 5 Q. Prior to you becoming the board president, who was 6 the president of the board? 7 A. Pennie. 8 Q. Was Pennie the president of the board the entire 9 time you were on the board prior to you becoming president? 10 A. Yes. 11 Q. So I want to limit this conversation right now or 12 this deposition right now to the time that Pennie was the 13 president of the board. Is that fair? 14 A. Okay. 15 Q. So prior to a homeowner being issued a courtesy 16 notice, how was it determined that a homeowner would receive 17 a courtesy notice? 18 A. The inspections. There would be violations 19 identified during inspections, and then they would get a 20 courtesy notice to correct the violation. 21 Q. So is that something the community manager 22 determined as a result of the inspections? 23 A. They would process the inspections and then issue 24 the violations. 25 Q. Okay. Would there be any type of oversight after	Page 51 1 the inspections were done before the community manager 2 issued the courtesy notice by any member of the board? 3 A. If anybody, it would be Pennie. 4 Q. Okay. Do you know if Pennie had that type of 5 oversight before the courtesy notice went out? 6 A. I couldn't say for sure. I wouldn't be surprised 7 if she did -- or, you know, if she did have involvement. 8 Q. Do you know if Pennie ever played any role in the 9 inspections conducted by the management company? 10 A. She did. 11 Q. Okay. What type of role did Pennie play in the 12 inspections? 13 A. She would do inspections, and she would take the 14 manager with her. 15 Q. Is that how you acted when you were president? 16 A. Absolutely not. 17 Q. When did you first learn of or meet Ms. Collier? 18 A. The first time I met Ms. Collier was at her home. 19 There was a get-together that she hosted, and Pennie asked 20 me to go. 21 Q. So do you recall what time frame that was in? 22 A. Well, I can tell you it wasn't very cold outside, 23 so it wouldn't have been in the wintertime, I can tell you 24 that. 25 Q. My understanding is, based on the allegations in
Page 52 1 the complaint, is that that dinner party, so to speak, took 2 place in January of 2021. 3 Do you have any reason to dispute, other than the 4 fact that it may have been a warmer than usual -- 5 A. I don't -- again, I'm just trying to remember when 6 I was there, what I was doing, or if I was wearing a heavy 7 jacket or we were cold outside or anything. I don't 8 remember any of that. So that's the only reason I said 9 that. I don't know when it happened. I don't. 10 Q. Prior to, what I'll call, this dinner party at 11 Ms. Collier's residence, had you ever heard of Ms. Collier 12 before? 13 A. No. 14 Q. Had issues regarding Ms. Collier's unit ever been 15 discussed amongst the board before that you are aware of? 16 A. The only thing I knew about was this back and 17 forth regarding -- I don't recall I even knew her name 18 specifically. I think I knew it was -- the homeowner was 19 having an issue with the Southwest Gas employee parking his 20 truck and giving issues with the homeowner next door. 21 Again, it was not, you know, in my mind specifically 22 Ms. Collier. 23 Q. So -- but that was with respect to Ms. Collier's 24 neighbor, not with respect to Ms. Collier's unit itself. 25 Correct?	Page 53 1 A. Right. It was, I believe, her next door neighbor. 2 Q. So just to reask the question, as it relates to 3 Ms. Collier's unit, had there ever been violations or 4 anything discussed amongst the board about Ms. Collier or 5 her unit prior to this dinner party that you're aware of? 6 A. There -- and I can't remember if it was prior to 7 the dinner party or not. I know that there was a time where 8 the safety issue came up regarding bushes that were creating 9 a view obstruction as you enter that community, but I don't 10 know if that was before or after the dinner party. 11 Q. How -- would you have learned about the oleanders 12 bushes at or near the time the courtesy notice was sent to 13 Ms. Collier related to the oleanders bushes? 14 A. I can't answer that. I don't know. 15 Q. So I guess what I'm trying to figure out is: Was 16 there a large length of time before -- when you -- when you 17 first learned about the oleanders bushes until enforcement 18 steps were taken by Anthem to deal with the oleander bushes? 19 A. I -- I don't know the time line on that. I -- 20 there is -- the one thing I do recollect regarding this was 21 when there was an appearance at an executive session that 22 was done on Zoom. As a matter of fact, you were there. 23 Q. We're going to talk about that in a moment. 24 A. Okay. 25 Q. Okay. So there was -- let's go back to the dinner

Page 54 1 party. 2 Well, actually, let me ask it one more time: 3 Other than, possibly, the oleander bushes that you just 4 described, were you aware of any other issues related to 5 Ms. Collier's unit prior to the dinner party? 6 A. See, I'm having difficulty answering all these 7 questions, because I can't correlate the time line to the 8 dinner party. 9 Q. Okay. 10 A. In other words, I can't -- I don't know if it was 11 before or after. So I can't answer these questions, because 12 I don't know. 13 Q. Then fair enough. And that's -- it's a very 14 acceptable answer with the time frame we are dealing with. 15 Again, the truth is all anybody is asking you -- 16 A. That's what I'm here to do. And that's why I said 17 when you keep bringing up before the dinner party, I can't 18 answer any of these question, because I don't know when the 19 dinner party takes place relative to everything else. 20 Q. That's fine. And sometimes -- I'm not trying to 21 repeat myself, but the brain sometimes percolates on 22 different issues. And if we ask questions in different 23 ways, it might cause witnesses to trigger certain memories 24 or remember things differently than if questions were asked 25 another way. So that's why I'm trying to get creative in	Page 55 1 some of my questioning, the way that we phrase it, but 2 moving on. 3 As it relates to the dinner party, what do you 4 recall about the dinner party at Ms. Collier's house? 5 A. It was casual. We had a great time. I think 6 everybody did. 7 Q. Okay. 8 A. I don't think it was anything besides that. You 9 know, it was just we all got together, had a good time. 10 Q. Do you recall any discussions with Ms. Collier 11 about her yard? 12 A. Her -- I thought she had a gorgeous property. I 13 don't think I -- I'm sure I complimented it at one point or 14 another. I don't remember exactly what I said, but I 15 remember she had an outdoor area that you could, you know -- 16 where we were sitting where you could prepare food and 17 drinks and everything. I thought it was great. 18 Q. Do you remember any conversation about her 19 oleanders at that time? 20 A. No. 21 Q. Okay. Do you remember any conversation about her 22 front yard at that time? 23 A. Again, if there were any conversations regarding 24 that, it would be complimentary. I think, you know, just 25 coming into her property, I think she has a very nicely
Page 56 1 maintained and presented property. It looks great. 2 Q. Do you remember any conversations about her flag 3 pole at that time? 4 A. No. 5 Q. Do you remember any conversations about her paint 6 at that time? 7 A. No. 8 Q. Do you remember Pennie discussing any other 9 homeowners at that time with Ms. Collier? 10 A. "At that time," meaning what? 11 Q. At the dinner party. Do you remember? 12 A. Again, I can't answer anything. You mean did we 13 discuss it at the dinner party? 14 Q. That's correct? 15 A. I don't believe so. 16 Q. Who else was at the dinner party? Do you recall? 17 A. Pennie was there, I was there, Frank Appela was 18 there, his wife, Doll was there. I can't remember if there 19 was anybody else there. I know that -- 20 MS. COLLIER: Me. 21 THE WITNESS: Ms. Collier was there and Jennifer 22 was there. 23 Q. (By Mr. Elson) When you say "Jennifer," who's -- 24 A. That -- 25 MS. COLLIER: Turner. Oh.	Page 57 1 Q. (By Mr. Elson) Do you know Jennifer's last name? 2 A. No. 3 Q. Okay. So there was a woman named Jennifer there? 4 A. I believe her name was Jennifer, and I'm trying to 5 go by my memory. So I will call her Jennifer. How is that? 6 Q. There was a lady named Jennifer there. Anybody 7 else that you can think of? 8 A. I can't. I can't remember for sure if anybody 9 else was there. That's who I definitely remember being 10 there. 11 Q. It's my understanding that shortly after this 12 dinner party there was also a dinner at Michael's Gourmet 13 Room. 14 A. Yes. 15 Q. So I'm talking about the time frame between the 16 dinner party and Michael's Gourmet Room. Do you recall any 17 conversations you had with Ms. Collier during that time 18 frame? 19 A. No. 20 Q. Okay. Do you recall having conversations with any 21 third party such as Pennie or management or anybody else 22 about Ms. Collier during that time frame? 23 A. About her specifically? 24 Q. That's correct. 25 A. No.

Page 58 1 Q. So going to dinner at Michael's Gourmet Room, do 2 you recall when that took place? 3 A. No. It was after dinner -- the party at her 4 house. 5 Q. Who attended the dinner at Michael's Gourmet Room? 6 A. Pennie. 7 Q. And who else was there? 8 A. And -- and Ms. Collier and Jennifer. 9 Q. And you were there as well. Correct? 10 A. I was there. 11 Q. So there were four people at this dinner. Is that 12 correct? 13 A. Correct. 14 Q. Did you guys discuss Anthem or community 15 matters -- 16 A. I don't -- 17 Q. -- at this dinner? 18 A. I don't believe so. 19 Q. Do you recall Andrea relaying concerns to Pennie 20 about parking or vandalism or anything like that at this 21 dinner? 22 MR. NOACK: Objection. Asked and answered. 23 THE WITNESS: Yeah, I don't -- I don't recall any 24 conversation at that dinner. I don't -- it was -- it was an 25 enjoyable time, but I don't remember any conversation that	Page 59 1 took place. 2 Q. (By Mr. Elson) Do you recall anything 3 specifically about that dinner, other than just having a 4 good time and enjoying the evening? 5 A. Well, I went because she -- Pennie asked me to go 6 because apparently her husband doesn't socialize. So she 7 wanted somebody to accompany her. I didn't personally think 8 it was the greatest idea to go. Not because of this 9 particular case or anything, I just don't think in the 10 capacity we were in, as, you know, members of the board, 11 that necessarily would be a good idea. Personally, I don't 12 believe that when -- and when I was on the board, I would 13 never personally associate with a homeowner in any way 14 socially or, you know, even in dialogue. I would never tell 15 anybody I was a board president, and I just didn't feel 16 appropriate to involve homeowner to homeowner when you are 17 in that capacity. 18 So, personally, I didn't think it was the greatest 19 idea, but I thought it might not be a bad idea just to, you 20 know, make sure I accompany her. When the dinner was over, 21 we went separate ways. I left by myself, and I think Pennie 22 went with Ms. Collier. 23 Q. It's my understanding the courtesy notice was -- 24 about the oleanders was issued a month or so after the 25 dinner at Michael's Gourmet Room.
Page 60 1 Do you recall any conversations regarding 2 Ms. Collier after the dinner at Michael's Gourmet Room and 3 before the courtesy notice was issued regarding the 4 oleanders? 5 A. Again, I can't answer that because I can't put it 6 in perspective of time. So when you say before or after, I 7 can't answer those questions. 8 Q. What was the first conversation you recall 9 regarding Ms. Collier and enforcement actions against her 10 unit? 11 A. Enforcement for what? 12 Q. For the oleanders or any of the other violations. 13 A. I do -- like I said, I -- the recollection I have 14 regarding Ms. Collier's unit started with that Southwest 15 Gas -- 16 Q. Okay. 17 A. -- vehicle, and that kept going. And I personally 18 was really surprised that Pennie took it upon herself to 19 deal with it. 20 You know, I didn't feel it appropriate, again, for 21 a board member who is a homeowner to take direct action like 22 this, which is contrary to how I would behave on the board. 23 I think that's a community management issue. And so she was 24 definitely involved with that directly with that Southwest 25 Gas situation. I'm sure she communicated with Ms. Collier	Page 61 1 regarding that. 2 After that, I know that this came up with the 3 oleanders. I don't know when it was. I just know -- I 4 remember the issue was the line of sight. And it was a 5 health, safety, welfare violation that was going to be 6 issued because of that because there was a blockage of 7 the -- you know, obstruction of the line of sight for people 8 coming into the community. 9 Q. Okay. Do you recall any discussion regarding 10 Ms. Collier and violations pertaining to her unit prior to 11 the executive meeting that took place regarding those 12 violations? 13 A. The executive meeting that you were at? 14 Q. That's correct. 15 A. Okay. So I'm sure in preparation for that 16 executive meeting there was some kind of discussion about 17 what it was all -- you know, what -- what it was concerning, 18 that, you know, you can't see when you pull up in there to 19 the -- the stop sign, the limit line. That, you know, it's 20 obstructing view of traffic to the right, but -- and I'm 21 sure there was some form of a discussion. I don't 22 specifically remember what, with whom, or when. 23 Q. Do you recall, specifically, that there was a 24 discussion, or are you just presuming that there was a 25 discussion as you sit here?

Page 62 1 A. I don't remember a specific discussion. What I 2 would assume from the situation that was at hand coming up 3 to that meeting, especially -- you know, you were present -- 4 that there -- there would most likely have been some form of 5 discussion, but, again, that's all assumption. I can't -- I 6 can't define an actual conversation or any discussion. 7 Q. Prior to the executive session, did you drive by 8 Ms. Collier's unit to look at the oleanders and the line of 9 sight? 10 A. I did. 11 Q. Did you do that before or after the oleander 12 bushes had been trimmed back to 24 inches? 13 A. I can't -- I don't know for sure, because I don't 14 know what it looked like before or after it was trimmed. I 15 just know that when I was there, there was some obstruction 16 from where I was sitting. If I went to that limit line, 17 that -- and when I looked to my right, that there was 18 obstruction in the line of sight all the way down the 19 street. I remember that. 20 Q. Did you take any measurements of the oleander 21 bushes prior to that executive session? 22 A. No, I would not, because I would have to access 23 property. I didn't do that. 24 Q. Okay. Do you know if anybody took any 25 measurements of those oleander bushes?	Page 63 1 A. Prior to that meeting -- I don't know the timing 2 of it. I do remember there was discussion about the height 3 of the bushes meeting the requirements for the City of 4 Henderson, but I don't know when that took place, when those 5 measurements were actually taken. 6 Q. Do you know who made the decision to first send 7 Ms. Collier a courtesy notice regarding the oleander bushes? 8 A. I'd have to -- again, I couldn't answer that, 9 because if it was just established on a normal course of 10 inspections, then it would have been generated by the 11 inspector to the community manager, but if it was -- because 12 it was identified as a safety violation, I don't know how it 13 was -- how it's determined to be a violation. 14 Q. Was it ever discussed with the board that the 15 matter should be set for an executive session before it was 16 set for executive session? 17 A. I don't remember. 18 Q. Do you know who first reported the matter to the 19 City of Henderson? 20 A. I do not. 21 Q. Do you know who involved the Henderson Police 22 Department? 23 A. I do not. 24 Q. Was it a board action to report the matter to the 25 City of Henderson?
Page 64 1 A. Not to my recollection. 2 Q. Was it a board action to report the matter to the 3 Henderson Police Department? 4 A. Not to my recollection. 5 Q. Prior to the executive session that I attended, do 6 you recall any board action or discussion as an entire board 7 related to the oleander bushes? 8 A. Again, I can't -- I can't correlate the time line, 9 so I can't answer that. 10 Q. Do you know if Pennie ever involved the City of 11 Henderson as it relates to homeowners within Anthem? 12 A. I don't know firsthand. I know that one thing I'm 13 aware of, she involved the City of Henderson -- was 14 regarding a trail that was behind the community she lives in 15 and -- regarding safety and maintenance of that trail and 16 she involved the City of Henderson in that. 17 I believe she involved the City of Henderson 18 regarding parking in front of our park, because it was a 19 city street and she was trying to restrict -- I remember 20 something to the effect of that Southwest Gas thing again, 21 the ability to park in front of our park, that vehicle. I 22 remember that had something to do with the City of Henderson 23 as well. But, again, I don't -- I can't recall any seeing 24 any kind of direct communication in writing. I don't know 25 if she did that verbally. I don't know.	Page 65 1 Q. Do you know of any times that the board has voted 2 to take board action to report specific units to the City of 3 Henderson for alleged view obstructions? 4 A. I don't remember that. I don't recall ever doing 5 that. 6 Q. Okay. Do you know of any time the board voted to 7 take board action to refer units to the City of Henderson 8 for health, safety violations? 9 A. I can't recall that. 10 On that last question, can you ask that again? 11 MR. ELSON: Madam Reporter, will you read back the 12 last question for the witness? 13 (Record read.) 14 THE WITNESS: I'll leave my answer as is. 15 (Reporter requested clarification.) 16 THE WITNESS: I'll leave my answer as is. 17 MR. ELSON: We've been going for about an hour and 18 20 minutes. Do you want to take a break, or do you want to 19 keep going a little longer? 20 THE WITNESS: Yeah, I'm good. 21 MR. ELSON: Everybody good? Madam Reporter? 22 (Pause in proceedings.) 23 Q. (By Mr. Elson) Do you know who raised the issue 24 of sending Ms. Collier a courtesy notice regarding her paint 25 scheme before the courtesy notice was issued?

Page 66 1 A. No. I remember -- the conversation I remember 2 regarding the paint scheme had something to do with another 3 homeowner that wanted, I believe, to use the same paint 4 scheme or something to that effect. I'm just going by a 5 conversation I recollected. It became an issue because of 6 another homeowner. That's what I remember. And then it -- 7 from there, you know, it became, Well, this doesn't match. 8 Because another homeowner wanted to do it, it became, Well, 9 no, we can't let that happen, because then everybody else 10 would want to do it. 11 Q. Do you know who the other homeowner was that 12 reported that? 13 A. No. It had to have been on the same street. I 14 guess I can't even -- I can't even assume that. I just know 15 that it was somebody that lived in that community. 16 Q. How did you learn about that other homeowner? 17 A. I just remembered the paint became an issue and, 18 again, this was -- like, hearing this conversation -- it may 19 have been by e-mail. I don't know. I don't -- I'm just -- 20 I don't have a specific recollection of exactly how I 21 learned about this, but I remember there was an issue with 22 her paint scheme because somebody else wanted to use some of 23 it or all -- I don't know, you know, but there was some 24 relationship to the fact that it was not an approved paint 25 scheme and somebody else saw it and wanted to use some part	Page 67 1 of it, if not all of it, and then it became an issue. 2 Q. Let's talk a moment about the executive session 3 related to the oleander issue. Do you recall that executive 4 session meeting? 5 A. I do. 6 Q. What transpired at that meeting? 7 MR. NOACK: Objection. Overbroad. 8 THE WITNESS: There was a discussion. You 9 attended that meeting to present your position regarding 10 that violation. 11 Q. (By Mr. Elson) How did Pennie conduct herself at 12 that meeting? 13 A. It was -- 14 MR. NOACK: Objection. Vague. 15 THE WITNESS: Personally, it was offensive, her 16 behavior, and I was embarrassed by it. 17 Q. (By Mr. Elson) How did I present myself at that 18 meeting? 19 MR. NOACK: Objection. Vague. 20 THE WITNESS: Well, you acted like an attorney. I 21 think you were trying to present your case. I don't believe 22 it was handled properly at that meeting. It was just -- it 23 was very unfortunate. 24 (Pause in proceedings.) 25
Page 68 1 (Exhibit 1 was marked.) 2 Q. (By Mr. Elson) Mr. Woo, you've been handed what's 3 been marked as Exhibit 1. Will you please take a moment to 4 flip through Exhibit 1? Let me know after you've had a 5 chance to review it. Exhibit 1 is quite long, so I don't 6 necessarily need you to review the entire exhibit in detail. 7 My first question to you is going to be: Have you 8 ever seen it before? And depending on that, I may have 9 additional questions for you. 10 A. No, I have not seen this. 11 Q. So just to be clear, this letter was not 12 circulated to the board at or near the time of the executive 13 session. Is that correct? 14 MR. NOACK: Objection. Calls for speculation. 15 MR. BOYACK: Misstates testimony. 16 Q. (By Mr. Elson) Let me rephrase the question. 17 Mr. Woo, did you receive a copy of this letter 18 prior to the executive session? 19 A. I don't recall ever seeing this letter. 20 Q. Do you think Ms. Collier was provided a fair 21 opportunity to express her position as to why the oleanders 22 were not a violation at the executive session? 23 MR. NOACK: Objection. Vague. Argumentative. 24 THE WITNESS: Well, the way that meeting was 25 conducted according to Pennie, it wasn't, but I would have	Page 69 1 handled things differently. 2 Q. (By Mr. Elson) Was Ms. Collier ultimately fined 3 as a result of the oleanders? 4 A. I do remember there was some type of a vote taken 5 for a fine for a health, safety violation. I don't remember 6 the amount. 7 Q. Did you vote in favor of the fine for the health, 8 safety violation? 9 A. I believe I did. 10 Q. Do you recall why you did? 11 A. I don't know specifically what -- why. I do 12 believe that, to a certain extent, we relied on what was 13 presented to us by Pennie. 14 Q. What did Pennie present to the board regarding the 15 oleanders? 16 A. The view -- the view obstruction, that it was a 17 safety issue. And I know that at one point I went and drove 18 it to see for myself. Again, I don't know when it -- when 19 it was actually -- what condition those oleanders were in 20 when I drove it, but I do remember seeing a view obstruction 21 to a certain level. 22 Q. Can you flip to what's marked as 227 in the bottom 23 right-hand corner? 24 A. 227? 25 Q. It's hard to see.

Page 70 1 A. I'm getting there. 2 Q. Okay. 3 A. Here it is. Yep. 4 Q. Is that what you recall the view looking like at 5 the time you conducted your inspection? 6 A. Well, it wasn't really an inspection. I drove it. 7 Q. Well -- 8 A. And what I did was I -- at that time, I had -- 9 right now I drive an SUV, but I remember -- I do believe -- 10 oh, no. I can't remember for sure which vehicle I had, but 11 when I was -- what I did was I drove to the limit line. So 12 I wanted to use that perspective of that limit line and 13 where a vehicle should stop before proceeding. So that's 14 what I did. 15 Q. Looking at that photograph before you, what's 16 marked as P227, do you believe there is a view obstruction 17 presented in that photograph? 18 A. I can't tell unless I was sitting there at the 19 limit line. 20 Q. Okay. 21 A. I can't tell because this photograph was taken at 22 a different angle. 23 Q. Let's flip to what's marked as 244. 24 A. Okay. 25 Q. Is that what the oleanders looked like at the time	Page 71 1 you -- I keep calling it an inspection. I'm not trying to 2 improperly characterize it, but that's what I see it as. So 3 I'm going to continue to use that word just to -- 4 A. Okay. So you are saying from the time I drove it? 5 Q. I'm saying: Is this what it looked like at the 6 time you drove it? 7 A. I don't -- I can't say for sure, but what I will 8 tell you is this picture is taken far exceeding the limit 9 line. Where I would have been sitting, looking is not this 10 perspective. The limit line is back further. You can see 11 the pole for the stop sign and the side of the window. 12 Q. Do you believe that photograph presents a view 13 obstruction? 14 A. I guess I can't answer that question, because if 15 you stop where you are supposed to stop, it's a different 16 perspective. 17 Q. So let's assume that that is where you were 18 supposed to stop. Would you believe that that -- there is a 19 view obstruction presented in that photograph? 20 MR. NOACK: Objection. Incomplete hypothetical. 21 Lacks foundation. 22 THE WITNESS: That -- again, I wouldn't answer 23 that question, because that's not where you are supposed to 24 stop. 25 Q. (By Mr. Elson) How did the board arrive at the
Page 72 1 \$2,000 fine amount? 2 A. Pennie. 3 Q. How did Pennie come up with the fine amount in the 4 amount of \$2,000, if you know? 5 A. I don't know. 6 Q. Did Pennie discuss why the \$2,000 fine amount was 7 correct or appropriate? 8 A. I think, to the best of my recollection, safety 9 violations don't have a specific amount. I don't recall why 10 that particular amount was chosen. 11 Q. Originally, I wanted to try and have a copy of 12 Ms. Breeden's transcript for today's deposition, but due to 13 some timing issues, her deposition got continued till 14 Monday. So I'm not trying to mischaracterize her testimony, 15 but it was my -- it's my recollection that Ms. Breeden 16 testified that Ms. Mossett-Puhek made a comment that you 17 have to hit the homeowners where it hurts, in their 18 pocketbook. 19 Do you recall Pennie making any sort of comment 20 like that at the executive session meeting? 21 A. I don't recall that specific comment. 22 Q. Do you recall anything similar to that type of 23 comment? 24 A. In general? 25 Q. Yes.	Page 73 1 A. The only thing -- like I said, I was skimming 2 through some of the e-mails. The only thing I recall was 3 one e-mail that -- when it was mentioned, the fact that 4 Ms. Collier had retained an attorney. And I remember 5 something to the effect -- my response was, I can't believe 6 she did that. And then Ms. Puhek's comment was something to 7 the effect of, She's going to drag it out and run up the 8 bill. 9 Q. So do you think -- so what's your understanding as 10 to how that would correlate with the fine amount? 11 A. I don't -- I don't know how that directly relates. 12 I'm just saying, you know, there was something to that 13 effect. I can't use those specific words, but it's 14 probably -- you know, I would associate that with running up 15 the legal bill so that would hurt her. 16 Q. Do you -- was \$2,000 a typical fine amount? 17 A. We didn't have that many health, safety 18 violations. So I don't know if that's typical. I -- I 19 don't -- I don't specifically recall. I mean, these -- 20 we're going back where I can't remember these things. 21 Q. Do you recall any other unit that was fined \$2,000 22 while you were serving on the board? 23 A. Again, I can't answer that. I don't recall. 24 Q. Okay. Do you recall any other unit that was fined 25 \$2,000 for an alleged view obstruction?

Page 74 1 A. No. 2 Q. Do you recall any of the -- what any of the other 3 board members were saying about whether or not they believed 4 a violation issued or the fine amount or anything related to 5 the oleanders? 6 A. I -- again, I would have to speculate. I can't 7 answer anything I specifically recall. 8 Q. Ms. Breeden -- and, again, this is based on my 9 recollection, because I don't have the -- the transcript. I 10 believe she testified that Pennie made comments at the 11 executive session -- that Pennie was recommending fines 12 against Ms. Collier in part due to statements Ms. Collier 13 made about Pennie during an election. 14 Do you remember Pennie making any such comments 15 like that? 16 A. I didn't see it. Are you talking about social 17 media or something? 18 Q. No, this was a discussion during the executive 19 session. 20 A. Again, I'm not going to dispute what she said. I 21 just don't remember that. 22 Q. Do you have an understanding as to whether or not 23 Pennie was pursuing Ms. Collier as a result of any personal 24 motivation? 25 A. So I'll reference back to what I said prior. I	Page 75 1 don't believe homeowners and, you know, board members -- the 2 board members should interact directly with homeowners. So 3 a consequence of, you know, what may have transpired because 4 Pennie decided she wanted to engage Ms. Collier directly 5 could be a direct result of that. I don't know for sure. I 6 wasn't there. 7 Q. Do you know if there was a falling out between 8 Pennie and Ms. Collier? 9 A. Do I know -- I wasn't involved in that. So I 10 don't know for sure. What I can tell you is the way it 11 started was because Pennie -- she became board president and 12 I do believe Ms. Collier, in her best interest for her 13 community, wanted to try to establish some type of 14 relationship with Ms. Puhek so that she can provide more 15 insight into what's going on in her community, but, you 16 know, how that transpired from there, I don't know. 17 You know, she obviously got Pennie's contact 18 information. I don't know to what extent they communicated. 19 You know, I know that that Southwest Gas thing was a very 20 active part of that communication. After that, I -- you 21 know, we went to the dinner, you know, at her home. We went 22 to Michael's. I mean, I don't think there was any falling 23 out through that period of time. So if it happened, it 24 would have been after that. 25 Q. During the board meeting, did anyone discuss any
Page 76 1 code provisions regarding the oleanders? 2 A. The only conversation I recall -- and I hear 3 that -- I've heard it multiple times regarding oleanders, is 4 they were banned by the City of Henderson. That kept coming 5 up. And then there was toxicity issues, that they can kill 6 animals and, you know, there were issues about that 7 regarding oleanders. I recall I was at a meeting towards 8 the end before I left the board that a homeowner had planted 9 oleanders because his neighbor had some and they made him 10 yank it. And so I remember that. 11 I do remember one of -- the toxicity issue was 12 brought up by one of the other board members. And, you 13 know, I, quite honestly, haven't seen specifically how the 14 City of Henderson bans oleanders because they sell it at 15 Star Nursery. So I'm not sure where that came from, but 16 that was the basis of it, if I remember correctly. 17 Outside of the fact that it was on the prohibited 18 plant list and, you know, the -- in the community documents. 19 But the fact is that it was brought up multiple times that 20 oleanders were not allowed because it was banned by the City 21 of Henderson. 22 Q. Do you know, were any specific code provisions 23 cited that supported that? 24 A. I don't recall. I just kept hearing, Oh, no. 25 It's banned by the City of Henderson.	Page 77 1 Q. Were any specific code provisions cited regarding 2 the height of the oleanders? 3 A. I remember in some back and forth -- and, again, I 4 don't remember the exact correspondence, but there was 5 something mentioned about what the height limit was. I know 6 that that was brought up, but I don't recall when. 7 Q. Was it discussed that Ms. Collier was within that 8 height limit, exceeded that height limit, or how was it 9 discussed? 10 A. I don't recall at the time if it was, but it 11 was -- it was easily cut back to that height limit, but I 12 know that there was discussion about the fact that, How are 13 you going to maintain this? Because if you cut it to 14 whatever it was, 24 inches or whatever it was, in a week 15 it's above 24 inches. 16 So what are you going to do to enforce something 17 like that? I remember there was a conversation to that 18 extent. 19 Q. Was there ever a discussion about how this was a 20 controlled intersection? 21 A. Okay. So that -- again, I'm not sure about the 22 time line on that, but at a point in time, it was not a 23 controlled intersection. Okay? There was only one stop 24 sign. It was coming into the community. The issue was 25 vehicles coming from the right. If you are turning left at

Page 78 1 that intersection, as you are entering the community and you 2 stop at the prescribed limit line, you could not see 3 vehicles that did not have to stop coming from your right. 4 But then after a period of time, there was a controlled 5 intersection established where cars coming from the right 6 would have to stop and that would change the dynamics of 7 that quite a bit. 8 Q. What if I told you that that stop sign -- that it 9 was a three-way controlled intersection before Ms. Collier 10 was fined? 11 MR. NOACK: Objection. Incomplete hypothetical. 12 THE WITNESS: Again, I -- I -- I don't know. I 13 remember when it wasn't. Again, I can't correlate the time 14 line to this, but I remember there was a period of time -- I 15 thought when I drove it it wasn't. But I, again, defer to 16 the dates that you have if you have specific dates, but what 17 I'm trying to say is that I know at one point in time it was 18 an uncontrolled intersection. Okay? Only control was the 19 vehicles coming into the community that had to stop at the 20 limit line. If you stopped at the limit line and there was 21 no control of the vehicles coming from the right, it was 22 dangerous. 23 Q. (By Mr. Elson) Well, you would agree with me that 24 whether or not it was a controlled intersection is a pretty 25 important point then. Is that correct?	Page 79 1 A. I think it would change the dynamics of it, 2 because if the vehicle has to stop coming from the right, it 3 would be different. 4 Q. It would be fair to say that the board never 5 discussed Exhibit 1 at the executive session. Is that 6 correct? 7 A. I can't remember. I don't -- I don't remember all 8 of this. 9 MR. ELSON: Let's go off the record. 10 (Pause in proceedings.) 11 (Exhibit 2 was marked.) 12 (Exhibit 3 was marked.) 13 Q. (By Mr. Elson) So give me a moment, Sydney. You 14 have been handed what's been marked as Exhibit 2. 15 A. Yep. 16 Q. Please take a moment and review Exhibit 2. 17 Have you ever seen Exhibit 2 before, Sydney? 18 A. No. 19 Q. Have you had a chance to review it and familiarize 20 yourself with it? 21 A. Yes. 22 Q. What's the date of Exhibit 2? What's the date and 23 time of the e-mail? 24 A. Wednesday, June 9th, 2021, at 6:17 p.m. 25 Q. Okay. Thank you.
Page 80 1 Now I'm handing you what's been marked as 2 Exhibit 3. 3 A. Okay. 4 MR. ELSON: Off record. 5 (Pause in proceedings.) 6 MR. ELSON: Back on the record. 7 Q. (By Mr. Elson) If you've had a chance to review 8 Exhibit 3 and familiarize yourself with it, please let me 9 know. 10 A. Okay. 11 Q. Have you ever seen Exhibit 3 before? 12 A. No. 13 Q. Was it discussed amongst the board that the 14 courtesy notice, Exhibit -- well, actually, let me take a 15 step back. 16 What is Exhibit 3? 17 A. It's a courtesy notice. 18 Q. Okay. What's the date and time as it relates to 19 the process date? 20 A. June 10th, 2021, 8:25 a.m. 21 Q. So roughly 12 hours after the e-mail was sent in 22 Exhibit 2. Is that correct? 23 A. Yes. 24 Q. Was it discussed amongst the board that Exhibit 3 25 would be sent?	Page 81 1 A. I don't recall the discussion. 2 Q. Do you know who authorized the sending of 3 Exhibit 3? 4 A. No. 5 Q. Be fair to say that Exhibit 3 was not a board 6 action? Is that correct? 7 MR. NOACK: Objection. Foundation. Speculation. 8 THE WITNESS: I don't recall taking a vote on it. 9 Q. (By Mr. Elson) Let's flip back to Exhibit 1. We 10 are going to use the Bates stamps again. Take a look at 11 pages 232 to 236. Have you ever seen this e-mail chain 12 before? 13 A. I don't remember seeing something like this. 14 Q. Okay. Was Ms. Mossett-Puhek authorized by the 15 board to send the manners that -- to send the e-mails that 16 she did on pages 232 to 236? 17 A. Ms. Puhek did whatever she wanted to. 18 Q. Take a look at pages 238 to 242. Have you ever 19 seen this e-mail exchange before? 20 A. Isn't it the same one? 21 Q. You know what, I believe you are correct, Mr. Woo. 22 I will presume your answers would be the same then. 23 A. Yes. 24 Q. Let's . . . 25

Page 82 1 (Exhibit 4 was marked.) 2 Q. (By Mr. Elson) Handing you what's been marked as 3 Exhibit 4. Take a moment to flip through Exhibit 4 4 and . . . let me know after you've had a chance to 5 familiarize yourself with that document. Just like with the 6 first letter, I don't necessarily need you to read it in its 7 entirety, but you can certainly do so if you wish. 8 My first question to you is going to be: Have you 9 ever seen this document before? 10 A. It's possible. I don't specifically remember this 11 document, but I remember something about document storage. 12 Q. What do you recall about document storage? 13 A. To make sure we don't destroy any. 14 Q. And when do you recall receiving some sort of 15 communication regarding document storage? 16 A. I don't -- I don't recall when. 17 Q. Do you recall who sent you that communication? 18 A. No. 19 Q. Do you recall what that communication involved? 20 A. Again, I mean, I -- I can't say that I've seen or 21 not seen this particular document, but I remember the 22 subject matter. I just don't know when. 23 Q. Do you know if the steps that are outlined in this 24 letter were followed? 25 MR. NOACK: Objection. Calls for speculation as	Page 83 1 to -- 2 THE WITNESS: Yeah, I don't know for sure. 3 Q. (By Mr. Elson) Did you take the steps that were 4 outlined in this letter? 5 A. No. 6 (Exhibit 5 was marked.) 7 Q. (By Mr. Elson) Sydney, you've now been handed 8 what's been marked as Exhibit 5. Please take a moment and 9 familiarize yourself with Exhibit 5. 10 MR. NOACK: Do you have an extra copy of 11 Exhibit 5, Tim? 12 MR. ELSON: Absolutely. 13 MR. NOACK: Yeah, it might be different. 14 MS. COLLIER: You're welcome. 15 Q. (By Mr. Elson) Have you ever seen Exhibit 5 16 before? 17 A. I don't recall seeing this one. 18 Q. Did Ms. Mossett-Puhek discuss these responses 19 before sending them out on behalf of Anthem? 20 A. I don't believe so. 21 Q. Was Ms. Mossett's e-mails authorized by the board 22 on behalf of Anthem? 23 A. I don't believe we ever voted on it. 24 Q. Are you aware that Ms. Mossett-Puhek previously 25 worked for Mr. Boyack?
Page 84 1 A. Yes. 2 MR. BOYACK: Objection. Relevance. 3 MR. NOACK: Join. 4 Q. (By Mr. Elson) How did you become aware that 5 Ms. Mossett-Puhek worked for Mr. Boyack? 6 A. She told me. 7 Q. When did she tell you? 8 A. When I was on the board. 9 Q. Was this ever disclosed to the community? 10 A. I don't know. That, I don't know. 11 Q. Whose idea was it to hire Mr. Boyack? 12 A. Well, we ultimately took a vote on it. 13 Q. Who first proposed the potential retention for 14 hiring Mr. Boyack? 15 A. I believe it was put on the agenda by Pennie. 16 Q. Do you know how much money Mr. Boyack has received 17 from Anthem since Anthem hired Mr. Boyack this most recent 18 time? 19 MR. BOYACK: Objection. Relevance. 20 THE WITNESS: I don't know the amount. 21 Q. (By Mr. Elson) Are you aware that 22 Ms. Mossett-Puhek and Ms. Eassa previously worked together? 23 A. Previously worked together, they were -- she was 24 our community manager prior when -- when Pennie was on the 25 board prior.	Page 85 1 Q. Are you aware that Ms. Eassa also used to be 2 employed by Mr. Boyack? 3 A. I do recall that conversation. 4 Q. At the same time that Ms. Mossett-Puhek was 5 employed by Mr. Boyack? 6 A. I don't know that they worked at the same time. I 7 do know that they both worked there. 8 Q. Was it ever disclosed to the community in a formal 9 manner that Ms. Eassa worked for Mr. Boyack and also worked 10 along with Ms. Mossett-Puhek? 11 A. I don't recall that disclosure to the board. 12 Q. Whose idea was it to hire Terra West? 13 A. It was voted by the board. 14 Q. Who first raised the idea of replacing 15 FirstService Residential with Terra West? 16 A. Pennie. 17 Q. Are you aware -- so moving topic matters to the 18 paint scheme. 19 Actually, bear with me for a moment. 20 MR. ELSON: Can we go off the record for a moment? 21 (Pause in proceedings.) 22 MR. ELSON: Back on the record. 23 Q. (By Mr. Elson) While you were serving on the 24 board, Sydney, are you aware of any pursuit of any 25 violations for flag poles?

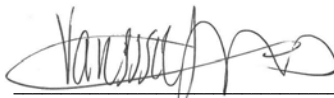
Page 86 1 A. I don't recall. I know that you can put a flag 2 pole in there. I just think you need to put in an ARC 3 request for it, if I remember correctly. 4 Q. Were you aware of the board taking any enforcement 5 actions or inspecting or reviewing anybody's flag poles 6 while you served on the board? 7 A. Not to my recollection. 8 Q. As it relates to enforcement steps by the board, 9 did COVID change any sort of procedures or steps that the 10 board would take regarding enforcement? 11 A. And what do you mean by that specifically? 12 Q. You know, if homeowners asked for extensions, did 13 COVID make it more likely that Anthem would provide them? 14 A. I'm -- I don't remember specific cases, but I 15 wouldn't put -- rule that out as, you know, not a 16 possibility because of the fact that people were impacted 17 financially. I do think that, you know, the ability to do 18 repairs or, you know, bring things up to required standards 19 that involved a financial outlay -- if the homeowner claimed 20 hardship due to COVID, I think that would definitely be 21 within the realm of consideration by the board. 22 I do believe that even -- there was a time that 23 the prior board president prior to Pennie being on the, you 24 know, board as president even did something to the effect of 25 putting up some kind of a motion out there regarding COVID	Page 87 1 and accommodation of assessments that, you know, there would 2 be consideration even for assessments, you know, for people 3 that were impacted by COVID. So I would definitely -- you 4 know, not knowing specific cases, I would definitely not 5 rule that out as a possibility. 6 Q. How would -- how would the HOA treat -- typically 7 treat a homeowner if they asked for an extension of time to 8 come into compliance or address a violation? 9 A. They would vote on it in the executive session. 10 Q. What type of factors would the board consider in 11 granting such a request? 12 A. I think hardship would be one. Practicality would 13 be another. I mean, there are times where if there's issues 14 with your landscaping -- for instance, there's times where 15 you are not going to put something out. I mean, you 16 wouldn't put -- you know, we wouldn't try to put new plant 17 material out there at, you know, 115 degrees or, you know, 18 if it's, you know, in the worst part of winter. I think 19 there's times where you would do something like that. Same 20 thing with painting. You know, I think there's times of the 21 year that are more conducive to painting a home than others. 22 Q. What times of year are more conducive? 23 A. I think the spring and fall. I think it's 24 tougher -- although, I had my house painted. They did it in 25 December, and that company had no problems doing it. They
Page 88 1 do it year round. They didn't care. But I would assume 2 that there may be -- there may be difficulty finding 3 contractors during certain times of the year just because of 4 demand. You know, certain times of the year, it's hard to 5 find a painter. You know, they're all -- they're booked up. 6 The guy that I -- the one that did my house, I think I 7 waited two months in December. I mean -- but I wanted to do 8 it in October. They wound up doing it in December. 9 Q. And is cost also a factor? You know, if a 10 homeowner has a more expensive course of action to remedy a 11 violation, is that something that the HOA takes into account 12 in determining whether or not to grant an extension? 13 A. I think if it's within reason, sure. 14 (Pause in proceedings.) 15 (Exhibit 6 was marked.) 16 Q. (By Mr. Elson) Sydney, you've been handed what's 17 been marked Exhibit 6. Please take a moment to review it 18 and familiarize yourself with it. 19 Mr. Woo, have you ever seen the e-mail exchange in 20 Exhibit 6 before? 21 A. I don't recall. 22 Q. Prior to Ms. Mossett-Puhek or Ms. Eassa sending 23 out the e-mails that they did in Exhibit 6, were those 24 discussed with the board? 25 A. These specific e-mails?	Page 89 1 Q. That's correct. 2 A. I don't know if these specific e-mails were 3 discussed with the board. 4 Q. Do you recall the board ever voting on approving 5 these types of e-mails? 6 A. The board would have voted on what was on the 7 violation list. During the course of an executive session, 8 all the violations are -- they're the ones that have passed 9 the courtesy notice time frame based on the status that -- 10 the updated status of the violations, there would be 11 votes on whether to fine the homeowner or, you know, take 12 any other kind of action. That -- that vote would have been 13 taken. I don't recall vote by vote, specifically, what was 14 done. 15 Q. Okay. Do you know -- would you characterize these 16 e-mails by Ms. Mossett-Puhek as a board action? 17 A. No. 18 MR. NOACK: Objection. Vague. 19 THE WITNESS: Meaning that the board voted on it, 20 no. 21 Q. (By Mr. Elson) Looking at page 212 -- actually, 22 let's start at the bottom of 213, which is the first e-mail 23 chain -- first e-mail in the chain. It states, in part, 24 Please forward us the current violation letters as it 25 pertains to the paint scheme. Again, we simply want to

Page 90 1 ensure that we have the current letters. New paragraph. 2 A. Wait a second. Where are you? 213 is the last 3 page. 4 Q. 211. 5 A. Oh, 211. Okay. Sorry. 6 Q. Which is the last e-mail in the e-mail chain. 7 A. Okay. Sorry. 8 Q. Just read the first paragraph to you. Did I read 9 that correctly? 10 A. Oh, yes. 11 Q. Okay. Starting at the second paragraph, We are 12 still reviewing this issue and discussing it with 13 Ms. Collier's painter, who, unfortunately, had some family 14 issues to which he's attending. Nonetheless, it is our 15 understanding that Ms. Collier is determining what needs to 16 occur and will take steps to address any issue with the 17 paint scheme. 18 Did I read that paragraph correctly? 19 A. Yes. 20 Q. With that said, COVID has substantially impacted 21 Ms. Collier's business. As such, Ms. Collier needs some 22 additional time to address this issue. We would propose 23 confirming how she attends to address the paint scheme 24 within the next 45 days. This will allow time for her to 25 coordinate and address the issue with the painter. We would	Page 91 1 then request that any painting occur within the next 12 2 months, which will provide Ms. Collier -- which will provide 3 ample time for Ms. Collier to budget and make any changes. 4 Did I read that paragraph correctly? 5 A. Yes. 6 Q. Would you characterize that as a request for 7 extension? 8 A. Yes. 9 (Exhibit 7 was marked.) 10 Q. (By Mr. Elson) Mr. Woo, you've been handed what's 11 been marked as Exhibit 7. When you've had a chance to 12 review and familiarize yourself with it, please let me know. 13 A. Yes. 14 Q. What is Exhibit 7? 15 A. It's the violation for the painting. They're 16 requiring the ARC for the paint for 2822 Culloden and a 17 motion that was made and voted in favor. 18 Q. It's from Wednesday, July 28th, 2021. Is that 19 correct? 20 A. Yes. 21 Q. Subsection 3 says, Noncompliance, Hearings, 22 references an Attachment A. You see that? 23 A. I do. 24 Q. Okay. We look at attachment A, which is a 25 spreadsheet starting on what's been Bates stamped as 286.
Page 92 1 Is that correct? 2 A. Yes. 3 Q. That spreadsheet is three pages and ends on 288? 4 A. Mm-hmm, yes. 5 Q. Okay. And Item No. 4, we see JACT Trust and the 6 address 2822 Culloden Avenue. Do you see that, Mr. Woo? 7 A. I do. 8 Q. Okay. I'll represent to you that JACT Trust is 9 Ms. Collier's trust and that this address is her unit. Is 10 that your understanding? 11 A. I recognize the address. 12 Q. Okay. Do you recognize it as Ms. Collier's? 13 A. Yes. 14 Q. Okay. And then we have the violation, Need ARC 15 for paint. Do you see that? 16 A. I do. 17 Q. It says, Extension request, yes or no, and it 18 says, No. Is that correct? 19 A. Yes. 20 Q. Is it fair to say that this e-mail regarding the 21 paint scheme violation -- that it was never presented to the 22 board at the time of this executive session? 23 A. It doesn't appear so, because it's indicating 24 there's no extension request. 25 Q. Do you recall discussing this e-mail with the	Page 93 1 board at this executive session? 2 A. I don't have a specific recollection of it. 3 Q. Do you recall -- what do you recall from this 4 executive session as it relates to Ms. Collier's unit and 5 the paint scheme? 6 A. We took a vote. I don't remember -- I don't 7 specifically recall the vote itself, but it doesn't -- it 8 seems to follow consistently what we did at the meetings 9 taking -- or, you know, voting on the violations as to what 10 to do. We have a standard, you know, process for a fine -- 11 the fine policy. 12 Q. Do you recall any specific conversation regarding 13 Ms. Collier's unit at this board meeting? 14 A. I don't know if it was at the particular board 15 meeting. I know that there was something mentioned at one 16 point or another regarding the 12 months. The 12 month -- 17 the request for 12 months to repaint. 18 Q. Okay. And when was that discussed? 19 A. I don't know. I just remember there was a 20 conversation at one point or another. I don't know where or 21 when it was discussed. 22 Q. Was it discussed that Ms. Collier wanted to review 23 the issue and come into compliance at this board meeting? 24 A. If I remember correctly, the most -- the biggest 25 concern was the 12 months being excessive.

Page 94 1 Q. Was a shorter time frame ever relayed to 2 Ms. Collier? 3 A. I don't know. I don't know what was relayed to 4 Ms. Collier. I just know that we -- I was made aware that 5 there was the request for -- was for a 12-month extension. 6 Q. Did the board vote on providing a shorter 7 extension? 8 A. I don't recall. 9 Q. Would the board typically just say yes or no to an 10 extension request, or would the board propose another one if 11 they deemed the extension too long? 12 A. It's possible to offer an alternative solution, 13 but I don't recall specifically on this case whether that 14 was done or not. And, again, it really depends on what it 15 is. I mean, there's certain things that are probably more 16 dire that need to be resolved quicker than something that -- 17 you know, like I said, something that may involve 18 seasonality, but a year to resolve something is pretty 19 substantial, in terms of time, regardless of circumstance. 20 I mean, one year seems to be a pretty lengthy request. 21 Q. Would you characterize this violation as one 22 that's dire? 23 A. Well, you know, if a homeowner paints a home and 24 doesn't follow the requirements to paint the home -- dire, 25 in terms of does it create a circumstance that's considered	Page 95 1 emergency or -- you know, hazard or whatever, I don't think 2 it would fall into that. I don't. But at the same time, 3 you know, that sets some form of precedence as well if you 4 grant one. 5 So I do think there is some concern there as to 6 what you want to do to be consistent, as far as what I would 7 do. But, again, you know, how that applies to this 8 particular case, you know, I can't answer for what the 9 thought process was at that time. 10 Q. But you do not recall reviewing Exhibit 7. Is 11 that correct? 12 A. Well, I don't recall reviewing, but we would have 13 done so in the normal course during a meeting when we go 14 through the violations. We would look at a report like this 15 (gesturing) and we would go violation by violation and we 16 would vote on what the disposition would be for that. 17 Q. Maybe I misspoke then. Exhibit 6. Did you recall 18 reviewing Exhibit 6, Ms. Collier's -- 19 A. Oh, Exhibit 6. I was looking at 7, sorry. 20 Q. Yeah, I must have misspoken. 21 A. I don't -- I don't recall. 22 Q. Exhibit 7 doesn't reference that any extension 23 request was made. Is that correct? 24 A. Correct. 25 Q. Is it entirely possible that Exhibit 6 was never
Page 96 1 presented to the board? 2 A. It's possible. 3 Q. If a homeowner sent something like Exhibit 6 to 4 the board president and management, as well as legal 5 counsel, would you expect that to be provided to the board 6 at the executive session regarding the violation? 7 A. I would. The other thing that was concerning -- 8 and I wouldn't necessarily reference to this specific 9 meeting, but there were tendency -- there was a tendency for 10 these reports to come out very late in the process, in terms 11 of, you know, when it would be available to review prior to 12 a meeting. So there are times where, you know, you are 13 getting things at the last minute that, honestly -- you 14 know, I'm working. I don't know how much time I would have 15 to review everything prior to having to vote on it. So we 16 would use this document as a summary of what would be 17 material that may or may not have been provided or have any 18 kind of relevance to these particular situations. 19 I just can't tie the document to this form, 20 because a lot of times I can't remember when exactly I 21 review anything, because they may have come in so late in 22 the process that, quite honestly, you know, the backup 23 documentation may -- I may or may not have had an 24 opportunity to review it. 25 I mean, it's just, you know, sometimes these --	Page 97 1 there were times where we would actually go running around 2 trying to clear these violations right before the meeting. 3 You know, so it's just -- it was -- it was, to a certain 4 extent, really helter-skelter, in terms of how we handled 5 some of these things. You know, I just can't give you a 6 consistent, This is what we did every single time. 7 Q. Would it affect your -- well, strike that. 8 Would it have affected your determination on 9 whether or not a violation existed as it relates to the 10 paint scheme? Actually, let me lay a little more 11 foundation. 12 How would a homeowner find out about what is an 13 appropriate paint scheme for the Anthem community? 14 A. In the courtesy notice, it would reference the 15 color schemes that are available. I do believe it's on the 16 Terra West website, in terms of -- because Sherwin-Williams 17 put together all the color schemes. However -- and I 18 mentioned this, is that they did not carry over a lot of the 19 original color schemes for the homes from the original 20 Frazee Paint company when Sherwin-Williams bought them. So 21 not all the paint schemes are in the available color 22 combination or paint scheme options that the homeowner can 23 choose from if they wanted to paint their home in the 24 original color. 25 Q. And why is that?

Page 98 1 A. Because they just didn't carry it over. When 2 Sherwin-Williams put together the color schemes, they didn't 3 include everything. Like, my house -- when I just painted 4 my house -- my house is not in the color scheme for our 5 community. 6 Q. Do you view that as a problem? 7 A. Absolutely. 8 Q. So before a homeowner goes to paint their house, 9 the way that they would find out about the paint scheme is 10 by looking it up on Terra West's website. Is that correct? 11 A. Yes, or they can go to -- I believe they can go to 12 Sherwin-Williams and get their color schemes. I actually 13 went down there to verify my color schemes. 14 Q. But you would agree with me that all of the color 15 schemes are supposed to be listed on Terra West's website? 16 A. They should be, but they're not. 17 Q. All of the communities are supposed to be listed 18 on Terra West's website. Is that correct? 19 A. They should be. They should be. Within the 20 communities -- the available color schemes should have been 21 listed on there by community. 22 Q. Do you have an understanding as to whether or not 23 at any point in time whether all communities were listed on 24 Terra West's website? 25 A. I don't know for sure. I didn't -- I didn't go	Page 99 1 through -- what I -- what I did at one point was I -- I 2 tried to look through what color schemes were available in 3 the different communities. And that's when I -- you know, I 4 could see that not all of them were on there. And I know 5 that there was some color schemes that were added, but I 6 don't believe every single one of them was carried over, 7 because I can reference my own personal experience. 8 The other thing that I was aware of that was 9 brought to my -- brought to my attention by Carmen was that 10 there were homes that were in Earlstone that they didn't 11 have the color schemes -- the original color schemes for and 12 it caused a tremendous amount of problems for the homeowners 13 that received violations, because they couldn't find their 14 color schemes. 15 Q. Would it have affected your view on whether or not 16 a violation existed if the Glengarry community where 17 Ms. Collier's home is located was not listed on Terra West's 18 website when she repainted the trim of her house? 19 A. Yes and no. Because she would still require an 20 ARC and the ARC would specify what color scheme she would be 21 using. And if she indicated she can't find one, that would 22 obviously be a point of discussion in the ARC request. 23 Because, you know, a homeowner -- like, I -- I would, again, 24 reference back to the conversations about Earlstone, is that 25 they -- they -- it created a tremendous amount of problems
Page 100 1 for the community manager, because Pennie instructed the 2 inspectors to hit paint violations on one of the invest -- 3 inspection cycles. 4 So there were, like, 160 some odd violations that 5 went out because of that. And the way it was worded was 6 that it could be any particular part of the paint. Like, it 7 could be the stucco. It could be the garage door. It could 8 be the facade. You know, there are different parts of it. 9 If they were in violation, they would get a paint violation. 10 So, you know, if -- if it was difficult for them 11 to be able to figure out what paint to use -- I mean, they 12 would -- when they got that violation, they would actually 13 have to submit an ARC if they were going to do some kind of 14 a paint or change in paint, you know, for the colors that 15 they want to use. So that would be something that would 16 have to be put on the ARC, what color scheme you are going 17 to use to paint whatever you are going to paint. The 18 problem I have is that the original color schemes weren't 19 there. 20 Q. Who gave the instruction to the inspectors to go 21 out and look for paint scheme violations? 22 A. Pennie. She basically gave instructions to the 23 inspectors for all the inspections. 24 Q. If a homeowner repainted their house but painted 25 it the correct color scheme without submitting an ARC, is	Page 101 1 that a violation? 2 A. No. So here's the interesting thing -- I'll 3 provide some clarity again, firsthand experience. I know 4 what my color scheme was when I bought my house. So I went 5 to Frazee Paint before it was purchased by Sherwin-Williams 6 and I looked at the book and took a picture of my color 7 scheme just so I had it, not knowing that they were going to 8 be sold. It was just for -- I wasn't going to paint my 9 house for a few years, but I just wanted to make sure I had 10 the color schemes in case I needed it. 11 So when I -- I got a violation that my home needed 12 to be painted, which I knew it needed to be painted. So I 13 sent an e-mail back because I -- I was bound by a time frame 14 to get this done. So I sent an e-mail back to the community 15 manager indicating that I'm going to paint my home, but I 16 can't get a paint contractor available until, potentially, 17 December. 18 So at that point, I got a response back from the 19 Terra West management team that as long as I painted it the 20 same color, I don't need to submit an ARC. So the 21 interesting thing is I painted my home using the color 22 scheme I gave -- I just gave it -- I went to 23 Sherwin-Williams to verify the colors, which they did, the 24 codes that were on that, you know, color scheme that I took 25 a picture of. I gave it to the painter. It's exactly what

Page 102 1 the color of the house was. 2 So I painted it in December. I think my violation 3 cleared in April -- April or May. I was shocked at how long 4 it took to clear that violation. I was starting to wonder 5 what they were going to do, if they were going to fine me or 6 what, because they never cleared the violation. But the 7 fact of the matter is I painted my house with a color scheme 8 that's not on Terra West's color chart for my community, 9 because it's the original color of the home, which I got 10 from the prior paint company. 11 So, now, how do you determine what other 12 homeowners are doing if the color schemes don't match the 13 community from the original colors? And that was the 14 problem in Earlstone, Pennie's community, that a lot of the 15 homes -- they didn't have the original color schemes. And 16 these homeowners are trying to paint -- whether they were 17 trying to exactly match it or they were trying to make, you 18 know, a variation of what gets painted what color -- I don't 19 know how you can violate them. 20 Q. Are you aware, as you sit here today, as it 21 relates to the oleanders, that Henderson -- City of 22 Henderson determined that there was never any sort of code 23 violation as it relates to Henderson related to the 24 oleanders, regardless of what height the oleanders were? 25 A. No, but like I said, you know, I -- that was	Page 103 1 always the point of contention that was repeated over and 2 over again, was that oleanders are banned, you know, by the 3 City of Henderson. 4 Well, what, again, prompted me to wonder about 5 that, even though I didn't get any confirmation of it, is 6 that I go to Star Nursery and there's oleanders for sale. 7 It doesn't say anywhere that you can't put them in 8 Henderson. 9 Q. As you sit here today and after seeing some of 10 these additional e-mails and letters that maybe you didn't 11 have access to, do you think Ms. Collier was treated fairly 12 throughout this process? 13 MR. NOACK: Objection. Argumentative. 14 THE WITNESS: I mean, that's -- that's just an 15 opinion. 16 Q. (By Mr. Elson) I'm asking you for your opinion. 17 A. Okay. So -- 18 MR. NOACK: Same objection. 19 THE WITNESS: I don't. And it's not so much 20 fairness. I -- I -- I look at it overall. You know, in 21 terms of all the things that were happening in the 22 community. It's the conduct. It's how it was handled that 23 really bothers me, including the meeting that, you know, 24 I -- we referenced back that you were in attendance. You 25 know, it's an embarrassment, you know, of how you were
Page 104 1 handled and how -- and you as a, you know, legal 2 representative of Ms. Collier. That means how she was 3 treated. You know, and that's -- that's something that I 4 really, you know, saw repetitively. And I -- I just don't 5 think -- so in -- if you want to consider that fairness, you 6 can. 7 I don't -- you know, I'm not going to deem whether 8 it's fair. You know, does somebody get a 12-month 9 extension? Is that fair or not fair by saying no? It's not 10 so much that. It's how it was handled to try to mitigate, 11 you know, situations with homeowners, you know. And I think 12 that's the most important part of the board, is to 13 accommodate the homeowners that spent so much money on their 14 homes and are trying to live in our community. And so, you 15 know, I can't say is it fair or not fair. I just can say 16 how it was handled. I think this was handled poorly. 17 MR. ELSON: I don't have any further questions at 18 this time. 19 So when we were off the record at a prior break, 20 we talked about how we were going to try and limit timing 21 and questioning here today, as well as that the court 22 reporter had some personal issues that we were going to try 23 and accommodate. 24 And so while I'm not necessarily indicating that I 25 think a second deposition is required, the parties did	Page 105 1 discuss off the record that, to the extent that a second -- 2 someone felt a second deposition was required, because we're 3 not going to go the full afternoon, that no one would object 4 to that and that we could reschedule it as well as 5 reschedule it by Zoom in order to better accommodate 6 everyone, which nobody has any opposition to. 7 So with that understanding, I'm going to go ahead 8 and pass the witness to provide some of the other attorneys 9 here some time before we conclude the deposition for the 10 day. 11 MR. NOACK: All right. Can we go off the record 12 for a moment? 13 (Pause in proceedings.) 14 MR. NOACK: Back on the record. This is Derrick 15 Noack on behalf of Pennie Mossett-Puhek. All counsel had a 16 discussion off the record. And based on the aforementioned 17 timing concerns and allowing the court reporter to get to 18 her appointment, we've all agreed to suspend the deposition. 19 And should a second deposition be necessary, we'll recall 20 Mr. Woo. 21 THE WITNESS: Okay. 22 MR. ELSON: Mr. Woo, we thank you for your time. 23 Thank you very much. 24 THE WITNESS: It's been my pleasure. Thank you. 25 (The proceedings suspended at 3:54 p.m.)

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CERTIFICATE OF DEPONENT <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 10%;">PAGE</th> <th style="width: 10%;">LINE</th> <th style="width: 40%;">CHANGE</th> <th style="width: 40%;">REASON</th> </tr> </thead> <tbody> <tr><td></td><td></td><td></td><td></td></tr> <tr><td></td><td></td><td></td><td></td></tr> <tr><td></td><td></td><td></td><td></td></tr> <tr><td></td><td></td><td></td><td></td></tr> <tr><td></td><td></td><td></td><td></td></tr> <tr><td></td><td></td><td></td><td></td></tr> <tr><td></td><td></td><td></td><td></td></tr> <tr><td></td><td></td><td></td><td></td></tr> <tr><td></td><td></td><td></td><td></td></tr> <tr><td></td><td></td><td></td><td></td></tr> </tbody> </table> * * * * * I, Sydney Woo, Deponent herein, do hereby certify and declare under penalty of perjury the within and foregoing transcription to be my deposition in said action; that I have read, corrected, and do hereby affix my signature to said deposition, under penalty of perjury. SYDNEY WOO, Deponent	PAGE	LINE	CHANGE	REASON																																									STATE OF NEVADA)) SS: COUNTY OF CLARK) CERTIFICATE OF REPORTER I, Vanessa Lopez, a duly commissioned and licensed court reporter, Clark County, State of Nevada, do hereby certify: That I reported the taking of the deposition of Sydney Woo, commencing on Wednesday, June 28, 2023, at the hour of 1:04 p.m.; That the witness was, by me, duly sworn to testify to the truth and that I thereafter transcribed my said shorthand notes into typewriting, and that the typewritten transcript of said deposition is a complete, true, and accurate transcription of said shorthand notes; I further certify that I am not a relative or employee of any of the parties involved in said action, nor a relative or employee of an attorney involved in said action, nor a person financially interested in said action; That the reading and signing of the transcript was requested. IN WITNESS WHEREOF, I have hereunto set my hand in my office in the County of Clark, State of Nevada, this 5th day of July, 2023.  VANESSA LOPEZ, CCR NO. 902
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EXHIBIT 26



NEVADA STATE CONTRACTORS BOARD

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2310 CORPORATE CIRCLE, SUITE 200, HENDERSON, NEVADA, 89074 (702) 486-1100 FAX (702) 486-1190, INVESTIGATIONS (702) 486-1110
www.nscb.nv.gov

NRS 624.031(5) Applicability of chapter: Exemptions. The provisions of this chapter do not apply to:

An owner of property who is **building or improving a residential structure on the property for his own occupancy and not intended for sale or lease**. The sale or lease, or the offering for sale or lease, of the newly built structure within 1 year after its completion creates a rebuttable presumption for the purposes of this section that the building of the structure was performed with the intent to sell or lease that structure. An owner of property who requests an exemption pursuant to this subsection must apply to the board for the exemption. The board shall adopt regulations setting forth the requirements for granting the exemption.

If you are seeking an exemption from licensure pursuant to NRS 624.031(4) you must complete the following affidavit, obtain the required signatures, and submit the original to the building department with your application for a building permit.

OWNER BUILDER AFFIDAVIT OF EXEMPTION

I hereby certify that I am the owner of the property listed below, and that I am building or improving a residential structure on this property for my own occupancy and do not intend to sell or lease the property.

Parcel Number: 91-24-813-013 Description of Work: FLAG POLE INSTALL Type of Permit GENERAL

Please initial acknowledging the following obligations and duties:

- I may not sell or lease this property. If I sell or lease, or offer to sell or lease this property within 1 year after completion, it may be presumed that I have violated the provisions of this exemption and Chapter 624 of NRS.
- I may not hire an unlicensed person to act as my contractor, agent, or construction manager.
- I must directly supervise the construction.
- Any subcontractor(s) working on this project must be properly licensed by the Nevada State Contractors Board.
- Any person working on my project who is not a licensed contractor must work under my direct supervision and must be employed by me. I must comply with all State and Federal laws as an employer in the State of Nevada, including payroll deductions (FICA and income tax withholding), provide industrial insurance coverage, and pay the required unemployment compensation for that employee.
- If my project requires the repair, restoration, improvement or construction of a pool or spa, I acknowledge my obligation and duty to comply with the provisions of NRS 624.900 through NRS 624.930 (inclusive).
- I acknowledge that I have received copies of NRS 624.900 through NRS 624.930 (inclusive) and NRS 278.573.
- I acknowledge that the failure to comply with any of the above may result in cancellation of the permit.

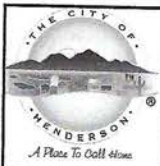
I have read the above owner builder affidavit of exemption and certify that the information provided is true and correct to the best of my knowledge.

Dated this 19 day of AUGUST, 2022.

Andrea Collin
Legal Owner of Residential Property (Signature)
ANDREA COLLIN
(Print Name)

2822 CULLODEN AVE
Location of Single Family Residence
HELD Nev. 891044
City State Zip

Witness: _____



City of Henderson Development Services Center

240 S. Water Street, P.O. Box 95050, Henderson, NV 89009-5050

Phone - (702) 267-3600 Fax - (702) 267-3601

BUILDING PERMIT APPLICATION

Internal Use Only

Temporary Permit Number:

T20

Permit Number:

20

Project Address: **2822 CULLODEN AVE. HEND. NV 89044**

Internal Use Only
Permit Type:

Section 1

Community Development: Should any of the following applications apply to this project, they must be completed and approved prior to building permit application submittal. If you have any questions, please call (702) 267-1500.

☐ Design Review

☐ Tentative Map

☐ Use Permit

☐ Zone Change

☐ Variance

Project Number(s):

Public Works/ Land Development: On-Site / Off-Site Improvement Plans must be submitted prior to the building permit application.

Civil Permit Number: (Current Phase)

Civil Permit Name:

Provide one of the following: (when available)

Standard Plan Permit #:

Shell Bldg. Permit #:

Original Bldg. Permit #:

Master Sign Plan #:

Section 2

Applicant Information:

Company Name:

Individual Name: **ANDREA COLLIER**

Address: **2822 CULLODEN AVE**

City: **HEND**

State: **NV**

Zip: **89044**

Phone: **702-219-4335** ext:

Fax:

Email: **ANDREA@SBWL.V.COM**

Contact Information:

Company Name:

Individual Name:

Address:

City:

State:

Zip:

Phone:

ext:

Fax:

Email:

Land Owner Information:

Name: **JACK TRUST / ANDREA COLLIER**

Address: **2822 CULLODEN AVE.**

Phone: **702-219-4335** ext:

Fax:

City: **HENDERSON**

State: **NV**

Zip: **89044**

Email: **ANDREA@SBWL.V.COM**

Contractor Information:

Contractor Name:

State Contractor's License #:

COH Business License #:

Address:

City:

State:

Zip:

☒ Check here if Owner/Builder

Section 3

Project Data:

Tenant Name:

Construction Type:

Occupancy Type:

Sprinklers:

Zone:

Valuation*:

*Note - Construction valuation is for recording purposes only. No fees shall be assessed based on valuation.

Area of Building:

Commercial:

Total Project Area:

SF

Residential:

Total Livable Area:

SF

Garage Area:

SF

Porch Area:

SF

of Bedrooms:

Patio Area:

SF

Dwelling Units:

Deck Area:

SF

Scope of Work:

INSTALL 20FT FLAG POLE IN FRONT YARD. UTILIZE 3FT x 3FT CEMENT FOOTING WITH INTERIOR SLEEVE. POLE MADE FROM 16 GAUGE RUST PROOF ALUMINUM. POLE CONSTRUCTED WITH CUSTOM PIN AND THREADED LOCKING COLLARS. FLAG POLE MANUFACTURED BY STAUD FLAG POLES / ROOSEVELT PREMIUM ANODIZED FLAG POLE KIT.

P01181

Agreement and Survey**APPLICATION FOR NEW UTILITY SERVICE**

I, the undersigned, hereby make application to the City of Henderson for utility service. The following requirements and information are conditions of Utilities Services' approval of the building permit.

1. Will you be residing on the property during construction? ☐ Yes ☐ No
2. Water service (meter) must be applied for at time of issuance of Building Permit. (Phone 702-267-3670)
3. Do you want water lateral to be installed by city forces? ☐ Yes ☐ No
4. Do you want sewer lateral to be installed by city forces? ☐ Yes ☐ No
5. If service laterals are to be installed by city forces, a stake must be placed on the front or side property line showing **where the** service is to be installed. The stake will be labeled "water" and/or "sewer" as appropriate. Water service cannot be placed in the driveway approach and should be at least 20 feet from the property corner. A separate permit is required for use of a fire hydrant for construction water.
6. Participation in future street/utility improvement districts is required.
7. The City of Henderson disclaims any responsibility or commitment to guarantee utility extensions to the subject **property by a** certain date. Priority will be given to city emergencies and maintenance activities.
8. Are sewer and water mains existing at lot? **Sewer -** ☐ Yes ☐ No **Water -** ☐ Yes ☐ No
9. Domestic Meter Size: _____ **Number of Domestic Meters requested:** _____
10. Irrigation Meter Size: _____ **Number of Irrigation Meters requested:** _____

HAZARDOUS MATERIALS & HIGH PILED COMBUSTIBLE STORAGE SURVEY

The following survey questions must be answered to facilitate an accurate and timely plan review by the Building and Fire Safety Divisions.

Do you intend to store, use, handle or dispense hazardous materials within this building? ☐ Yes ☐ No

Hazardous materials are those chemicals or substances which are physical hazards or health hazards as defined in Article 80 of the Uniform Fire Code whether the materials are in usable or waste condition.

Do you intend to store high-piled combustibles within this building? ☐ Yes ☐ No

High-piled combustible storage is storage of combustible materials in closely packed piles or combustible materials on pallets, in racks, or on shelves where the top of storage exceeds 12 feet in height. When required by the Fire Chief, high-piled combustible storage may also include certain high-hazard commodities where the top of storage exceeds 6 feet in height.

If the answer to either question is YES, specific information must be submitted. For hazardous materials, see International Building Code Chapter 4 and Uniform Fire Code Article 80. For high-piled combustible storage, see Uniform Fire Code Article 81.

I certify that:

- ◆ I am the permit applicant or the permit applicant's authorized agent.
- ◆ I have read this application and state that all information is correct.
- ◆ I agree to comply with all City of Henderson Ordinances and state laws related to building construction and hereby authorize representatives of the city to enter upon the above mentioned property for inspection purposes.
- ◆ I also acknowledge the following:

All demolition and remodel permit applicants must contact the Clark County Department of Air Quality and Environmental Management for requirements prior to commencement of work. This contact regards inspection and/or abatement of asbestos, as well as dust control. This requirement is in effect regardless of the size or date of construction of the building. The Clark County Department of Air Quality and Environmental Management is located at 500 S. Grand Central Pkwy, 1st Floor, P.O. Box 555210, Las Vegas, NV 89155-5210, or can be reached at (702) 383-9994, or <http://www.accessclarkcounty.com>.

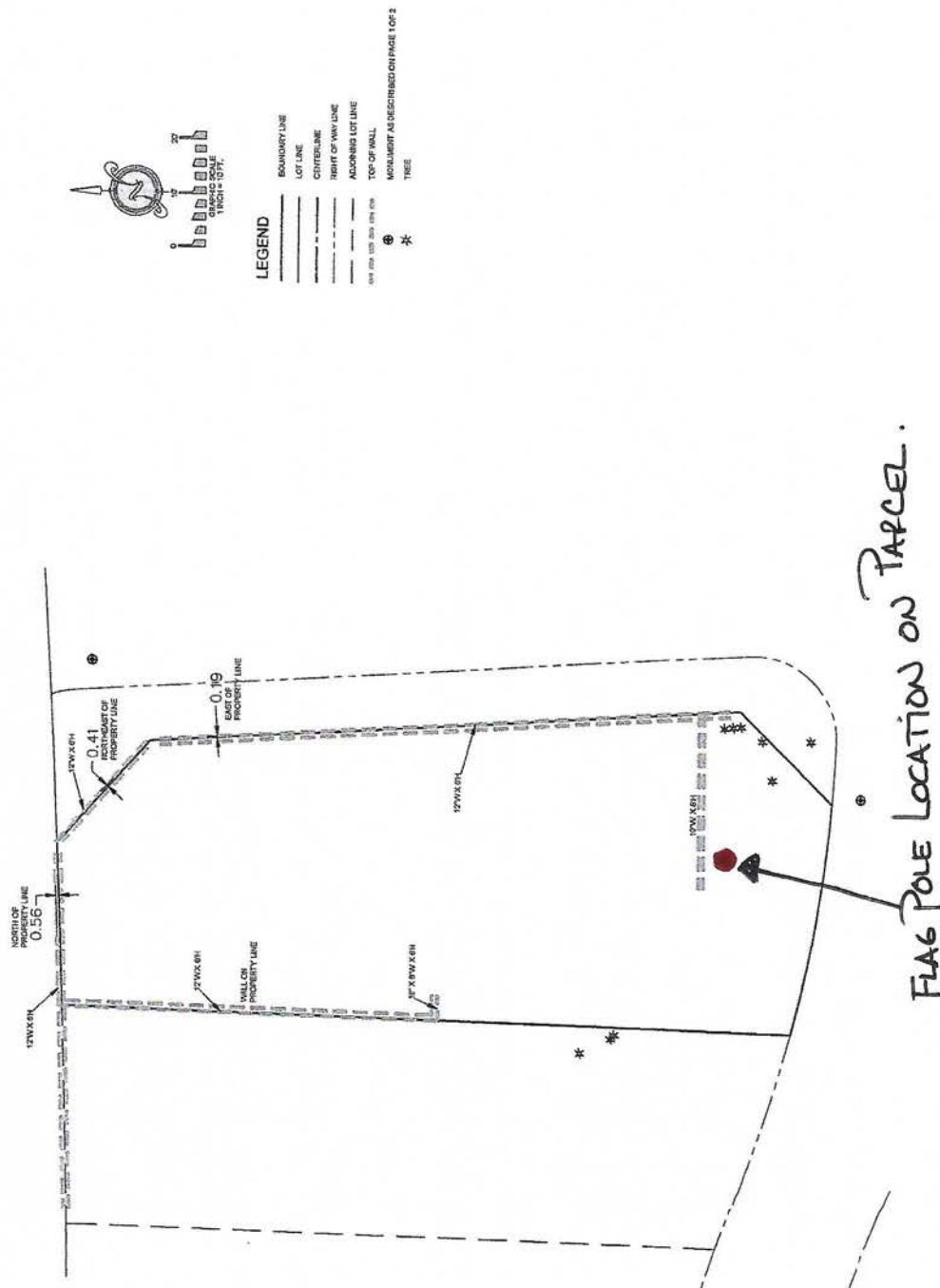
Andrea M. Coult
Print Name

[Signature]
Applicant Signature

8/19/22
Date

[illegible]

DATE	4-15-2022
RAW	20F
SENSOR	M35
EXPOS	58H
PROJECT #	X00012705
PROJECT TITLE	
WALL TOPOGRAPHY	
SHEET NUMBER	

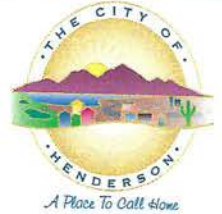


FLAG POLE LOCATION ON PARCEL.

INVOICE

BILLING CONTACT

NO NAME NO NAME
J A C T TRUST
10620 Southern Highlands
Las Vegas, NV 89141



INVOICE NUMBER	INVOICE DATE	INVOICE DUE DATE	INVOICE STATUS	INVOICE DESCRIPTION
COH00348181	08/22/2022	08/22/2022	Due	NONE

REFERENCE NUMBER	FEE NAME	TOTAL
BOTH2022214536	Flag pole -BIN	\$30.00
	Flag pole -BPC	\$67.00
2822 Culloden Ave Henderson, NV 89044		
SUB TOTAL		\$97.00

TOTAL \$97.00

The City offers the following payment methods:

- Credit Card, which will incur a non-refundable 2.8% service fee.
- ECheck/ACH, personal check, money order, or cash, none of which incur a service fee.

Payment Confirmation - Henderson, NV

noreply@mygovpay.com <noreply@mygovpay.com>

Mon 8/22/2022 3:06 PM

To: Social Butterfly World <andrea@sbwlv.com>

 MyGovPay - Empowered by Tyler Technologies

Henderson, NV**Payment Confirmation**

Payment Date		Monday, August 22, 2022		
Order Number		111081		
Line Items				
Invoice #	Item Description	Quantity	Unit Price	Total Price
COH00348181	BOTH2022214536	1	\$97.00	\$97.00
Item Total				\$97.00
Order Total				\$97.00

Thank you for your payment,

Henderson, NV

FLAG



CITY OF HENDERSON
240 Water Street
P.O. Box 95050
Henderson, NV 89009

BUILDING & FIRE SAFETY
702-267-3900
Fax 702-267-3901

Building Permit

Permit Number:
BOTH2022214536
Permit Type:
BLDG - Non-Building Structure - Complete
Permit Name:
Collier Residence / Flag Pole
Issue Date:
09/22/2022
Expiration Date:
03/21/2023
Occupancy

Permit Address:
2822 CULLODEN AVE
HENDERSON, NV 89044

Type of Construction

Permit Issued To:
Social Butterfly World, LLC
2822 CULLODEN AVE
Henderson, NV 89044

Contractor License Number

Location Description:

Install a Ground Mounted flag pole in Front Yard. The project includes a 3 ft x 3 ft cement footing with a secured Ground sleeve, 20 ft-Anodized 16 gauge rust proof aluminum pole with Retractable built in pins and threaded locking collars. Manufactured by STAND Flag Poles, Roosevelt Edition.



Building Permit

City of Henderson
Building and Fire Safety
Page 2 of 7

Collier Residence / Flag Pole
BOTH2022214536
2822 CULLODEN AVE HENDERSON, NV 89044

Applicant is responsible for complying with all applicable laws, regulations, and with all conditions specified by the City of Henderson.

The owner, owner's authorized agent, permittee and/or contractor is responsible to provide a material and debris enclosure consisting of a chain link compound constructed with temporary post and fence sections covered with fabric, or similar enclosure approved by the Building Official to prevent material and debris from littering the jobsite or surrounding neighborhood.

The owner, owner's authorized agent, permittee and/or contractor is responsible to provide means for inspections, (i.e. ladders, temporary stairs and guards, etc.), to cause the work to remain visible and able to be accessed for inspection purposes.

The contractor and/or permittee scheduling inspections shall notify the owner and/or occupant of the inspection date and necessity to secure pets.

When scheduling inspections, we are currently not able to make appointments.

This permit is a multipage document. All pages must remain in a single package at the site and be accessible to city staff at all times. Permit Contents may include these sections:

- List of Required Inspections
- Inspection Holds (Requirements prior to scheduling certain inspections.)
- Conditions of Approval
- Special Inspections

• Inspection Scheduling Instructions.

Inspections may be scheduled at <http://dsconline.cityofhenderson.com>.



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www.nscb.nv.gov

DISCLOSURES

NRS 278.573 Statement of restrictions: Duty of building official to deliver to owner who is issued permit for construction on his residence; owner to acknowledge receipt in writing; text.

1. A building official who issues a permit to the owner of a residence to construct, alter, repair, add to, subtract from, improve, move, wreck or demolish the residence shall, at the same time, deliver to him a statement. The owner of the residence shall acknowledge in writing receipt of the statement.
2. The statement delivered by the building official must include the following text:

State law requires construction to be done by licensed contractors. You have applied for a permit under an exemption to that law. The exemption allows you, as the owner of your property, to act as your own contractor with certain restrictions although you do not have a license.

You must directly supervise the construction, on the job, yourself. The building or residence must be for your own use or occupancy. It may not be built or substantially improved for sale or lease. If you sell or lease a building you have built or substantially improved yourself within 1 year after the construction is complete, it is presumed that you built or substantially improved it for sale or lease, which is a violation of this exemption and a violation of [chapter 624](#) of NRS.

You may not hire an unlicensed person to act as your contractor or to supervise people working on your building. It is your responsibility to make sure that people employed by you have the licenses required by state law and by county or municipal licensing ordinances. You may not delegate the responsibility for supervising work to a contractor unless he is licensed to perform the work being done. Any person working on your building who is not licensed must work under your direct supervision and must be employed by you, which means that you must deduct FICA and withholding tax and provide industrial insurance and pay the required contribution for unemployment compensation for that employee, and comply with other state and federal laws relating to employment. Your construction must comply with all applicable laws, ordinances, building codes and zoning regulations.

RESIDENTIAL SWIMMING POOLS AND SPAS

NRS 624.900 Definitions. As used in [NRS 624.900](#) to [624.965](#), inclusive, unless the context otherwise requires, the words and terms defined in [NRS 624.905](#), [624.910](#) and [624.915](#) have the meanings ascribed to them in those sections.
(Supplied in revision)

NRS 624.905 "Contract" defined. "Contract" means any contract or agreement in which a contractor agrees to perform work concerning a residential pool or spa.

NRS 624.910 "Contractor" defined. "Contractor" means a person licensed pursuant to the provisions of this chapter who performs work concerning a residential pool or spa.

NRS 624.915 "Work concerning a residential pool or spa" defined.

1. "Work concerning a residential pool or spa" means any of the following acts, if performed for a fee:
 - (a) The design, construction, repair, maintenance, restoration, alteration or improvement of any residential swimming pool or spa, regardless of use, including the repair or replacement of existing equipment or the installation of new equipment, as necessary; or
 - (b) Any consultation or supervision concerning such work.
2. The scope of such work includes layout, excavation, operation of construction pumps for removal of water, steelwork, construction of floors, installation of gunite, fiberglass, tile and coping, installation of all perimeter and filter piping, installation of all filter equipment and chemical feeders of any type, plastering of the interior, construction of decks, installation of housing for pool equipment and installation of packaged pool heaters.
3. The scope of such work also includes the installation of plumbing, including, without limitation, connections to potable water, and the installation of gas lines if the contractor holds classifications for such work pursuant to [NRS 624.925](#).



NEVADA STATE CONTRACTORS BOARD

5390 KIETZKE LANE, SUITE 102, RENO, NEVADA, 89511 (775) 688-1141 FAX (775) 688-1271, INVESTIGATIONS (775) 688-1150
2310 CORPORATE CIRCLE, SUITE 200, HENDERSON, NEVADA, 89074 (702) 486-1100 FAX (702) 486-1190, INVESTIGATIONS (702) 486-1110
www.nscb.nv.gov

NRS 624.920 License or other authorization required to perform work concerning residential pool or spa. A person shall not, directly or indirectly, perform or offer to perform, for a fee, any work concerning a residential pool or spa or any consultation or supervision concerning such work or otherwise hold himself out as being able to perform such acts for a fee, unless the person holds:

1. A license as a contractor or subcontractor under state law which authorizes the person to perform such acts for a fee; or
2. Any other license, certificate, registration or permit under state law which authorizes the person to perform such acts for a fee.

NRS 624.925 Classifications of licensing.

1. The Board shall adopt regulations to provide for classifications of licensing that authorize a contractor who performs work concerning a residential pool or spa to perform, in connection with such work, the installation of:

- (a) Plumbing, including, without limitation, connections to potable water; and
- (b) Gas lines.

2. The regulations adopted by the Board must include, without limitation, regulations establishing the qualifications, training and examinations that are required for such classifications.

NRS 624.930 Contractor and subcontractor required to obtain permits and meet certain requirements; certain owner-builders required to submit information regarding bonds and insurance; supervision and control of work; license or other authorization required to perform certain acts for owner-builder.

1. Any contractor or subcontractor who performs work concerning a residential pool or spa shall, regardless of whether the work is performed under the direction of a builder who is also the owner of the property being improved:

- (a) Apply for and obtain all applicable permits for the project; and
- (b) Meet all applicable requirements imposed pursuant to this chapter and any regulations adopted by the Board with respect to contracts for work concerning a residential pool or spa.

2. If a contractor or subcontractor performs work concerning a residential pool or spa and the work is performed under the direction of a builder who is also the owner of the property being improved, the owner shall comply with all state and local laws and ordinances for the submission of names, licenses and information concerning any required bonds and insurance with respect to the contractors and subcontractors working on the project.

3. With respect to a contract for work concerning a residential pool or spa, the work performed pursuant to such a contract must be supervised and controlled directly by the qualified employee or qualified officer of the contractor.

4. If work concerning a residential pool or spa is performed under the direction of a builder who is exempt from having to obtain a license as a contractor because the builder is also the owner of the property being improved, a person shall not, directly or indirectly, perform or offer to perform, for a fee, any act as a consultant, adviser, assistant or aide to the builder for the purposes of the project, including, without limitation, any act associated with obtaining permits for the project, or otherwise hold himself out as being able to perform such acts for a fee, unless the person holds:

- (a) A license as a contractor or subcontractor under state law which authorizes the person to perform such acts for a fee; or
- (b) Any other license, certificate, registration or permit under state law which authorizes the person to perform such acts for a fee.



SOUTHERN NEVADA BUILDING OFFICIALS (SNBO)

REGIONAL FLAGPOLE STANDARD

The purpose of this standard is to identify building permit requirements for the installation of flagpoles. This standard does not address zoning requirements or property specific deed restrictions that may apply to flagpoles. Guidance regarding design loads for flagpoles can be found in the ANSI/NAAMM FP 1001-97 "Guide Specifications for Design of Metal Flagpoles."

Ground mounted flagpole installations:

- Height is defined for ground mounted flagpoles as the distance between the top of the highest attached projection on the pole to finished grade.
- Flagpoles less than 15' high do not require building permits and are not regulated by this standard. Note that this exemption shall not be construed as allowing any unsafe flagpole condition to exist irrespective of permitting requirements.
- All Flagpoles 15 feet high or higher shall require a building permit. Permit requirements are as specified below.

○ Flagpoles with a height of 15 feet or more but less than 25 feet high are subject to the following minimum requirements:

- ✓ → ▪ A site plan shall be provided showing the location and height of the proposed flagpole.
- ✓ → ▪ The flagpole shall be of a kit form and shall be installed in strict conformance to the manufacturer's published installation requirements.

DON'T NEED → ▪ Custom fabricated flagpoles may be utilized provided that they are built in accordance with the design of a Registered Design Professional.

○ Flagpoles with a height of 25 feet or more but less than 40 feet high are subject to the following minimum requirements:

- A site plan shall be provided showing the location and height of the proposed flagpole.
- The flagpole shall be designed by a Registered Design Professional. The design must include calculations for the foundation and strength of the pole (including any connections). Material specifications must be provided.

**Southern Nevada
Building Officials**
c/o City of Henderson
Building & Fire Safety
Department
240 Water Street
Henderson, NV 89015

Phone: 702-267-3611
Fax: 702-267-3605
Email: Michael.Bouse@cityofhenderson.com

MEMBERS

Michael Bouse, Chair
City of Henderson

Greg Blackburn
City of North Las Vegas

Ron Nybo
City of Boulder City

Ron Lynn
Clark County

Kurt Sawyer
City of Mesquite

Brent Steed
Pahrump Regional
Planning District
(Nye County)

Chris Knight
City of Las Vegas

Lisa Conner
Clark County School
District

SOUTHERN NEVADA BUILDING OFFICIALS (SNBO)

REGIONAL FLAGPOLE STANDARD (cont.)

- Foundation design may assume presumptive values specified in Section 1803.1 of the Southern Nevada Amendments to the 2009 IBC. Other values for geotechnical parameters may be utilized in the design where an acceptable geotechnical report is provided that substantiates such values.
- Flagpoles with a height of 40 feet or more but less than 100 feet high are subject to the following minimum requirements:
 - A site plan shall be provided showing the location and height of the proposed flagpole.
 - The flagpole shall be designed by a Registered Design Professional. The design must include calculations for the foundation and strength of the pole (including any connections). Material specifications must be provided.
 - Foundation design may not use presumptive values; a site specific geotechnical report is required.
- Flagpoles with a height of 100 feet or taller are subject to the following minimum requirements:
 - A site plan shall be provided showing the location and height of the proposed flagpole.
 - The flagpole must be designed by a Nevada Registered Structural Engineer. The design must include calculations for the foundation and strength of the pole (including any connections). Material specifications must be provided.
 - Foundation design may not use presumptive values; a site specific geotechnical report is required.

Building or structure mounted flagpole installations:

- Flagpoles less than 10' long and having their base mounted to a building or structure no more than 10 feet above finish grade do not require building permits and are not regulated by this standard. Note that this exemption shall not be construed as allowing any unsafe flagpole condition to exist irrespective of permitting requirements.
- Flagpoles more than 10 feet long or having their base mounted to a building or structure more than 10 feet above finish grade shall require a building permit. Permit requirements are as specified below.
 - A site plan shall be provided showing the location, length and base mounting height of the proposed flagpole.
 - Plans and details shall be provided to show material specifications and specific attachment requirements to the existing structure.
 - Calculations shall be provided by a Nevada Registered Design Professional to include strength of the pole (including any connections), capacity of connections to the existing structure, and suitability of the existing structure and components to receive the new loads.

SOUTHERN NEVADA BUILDING OFFICIALS (SNBO)
REGIONAL FLAGPOLE STANDARD (cont.)

APPROVED BY THE BELOW SNBO BUILDING OFFICIALS ON _____:

Ron Nybo, Building Official, City of Boulder City

Ronald Lynn, Building Official, Clark County

Lisa Conner, Building Official, Clark County School District

Michael Bouse, Building Official, City of Henderson

Chris Knight, Building Official, City of Las Vegas

Kurt Sawyer, Building Official, City of Mesquite

Greg Blackburn, Building Official, City of North Las Vegas

Brent Steed, Building Official, Nye County

CITY OF HENDERSON
BUILDING & FIRE SAFETY

240 Water Street
P.O. BOX 95050
Henderson, NV 89009



CERTIFICATE OF OCCUPANCY

This certificate is issued per the Building and Fire Safety Administrative Code

At the time of issuance, this building was deemed to be in substantial compliance with fire, safety and structural provisions of the adopted codes based on periodic inspections of the work during construction. This certificate of occupancy should not be relied upon as evidence that the construction is in actual compliance with all applicable building codes or that the construction meets the minimum standards of a specific industry.

**2822 CULLODEN AVE
HENDERSON, NV 89044**

BLDG - Non-Building Structure/Complete

PERMIT NUMBER
BOTH2022214536

OCCUPANCY GROUP

CONSTRUCTION TYPE


BUILDING OFFICIAL

October 07, 2022

PROPERTY OWNER
**J A C T TRUST
10620 SOUTHERN HIGHLANDS PKWY
110-431
LAS VEGAS, NV 89141**

Permit # BOTH2022214536 has been Finaled

dsconline@cityofhenderson.com

Fri 10/7/2022 1:14 PM

To: Social Butterfly World <andrea@sbwlv.com>

1 attachments (117 KB)

BLDG MANUAL C OF O (COHBD001)_07-10-2022_13-08-28.pdf;

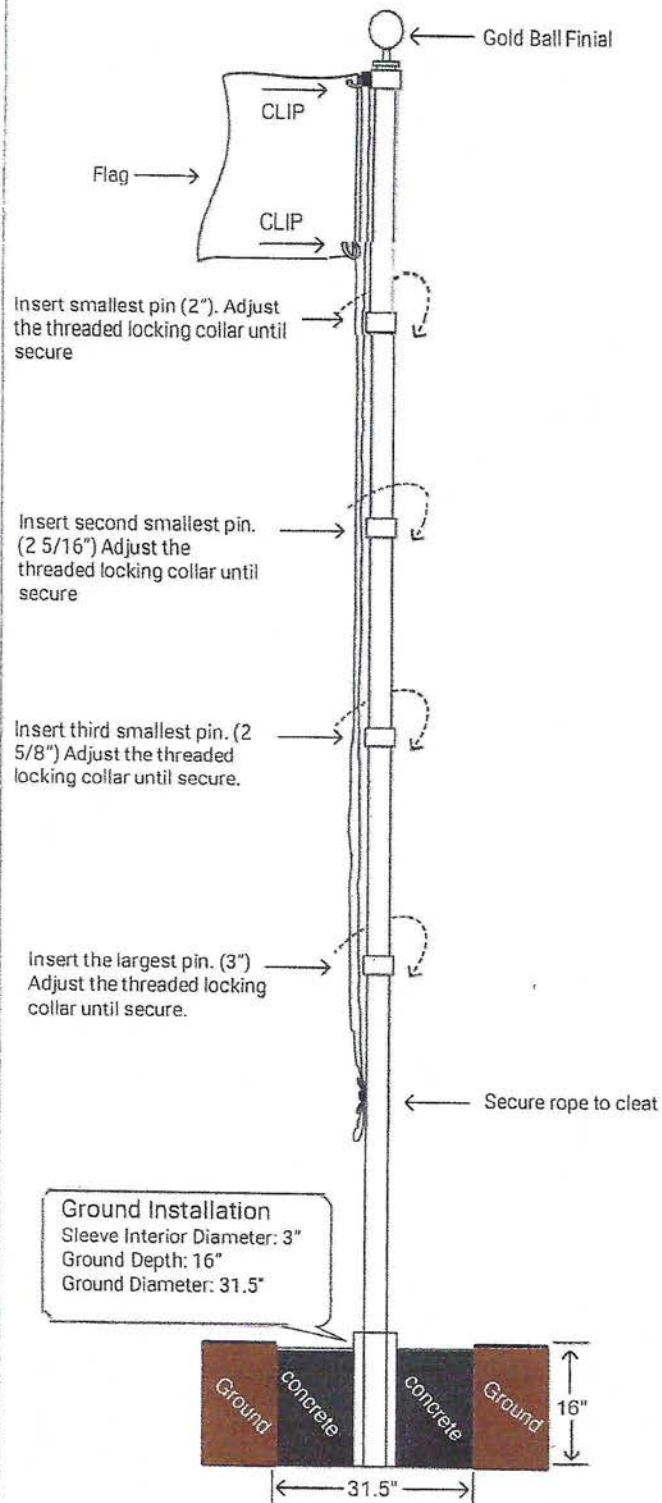
Your final inspection has received a result of PASS and your permit is now complete. Please see your Certificate of Occupancy attached.

[City of Henderson Survey] <https://urldefense.proofpoint.com/v2/url?u=https-3A__www.surveymonkey.com_r_RRQ7GVR&d=DwlFag&c=euGZstcaTDlIvimEN8b7jXrwqOf-v5A_CdpqnVfiiMM&r=v7okzx-eH63fyQXKuqna9g&m=OSw7Bw10r2ueKDGX2EYWu4F9ThFAd1pfWKGIlh-BUSVc&s=1BnYkF0jNpNsqkKn418HYqLsl-LwanK4RFcCWe6gOv8&e=>>

PUBLIC RECORDS NOTICE: In accordance with NRS Chapter 239, this email and responses, unless otherwise made confidential by law, may be subject to the Nevada Public Records laws and may be disclosed to the public upon request.

ASSEMBLY INSTRUCTION

(Roosevelt Flag Pole)

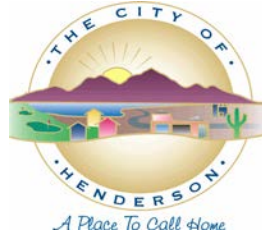


- Fully extend each section until pin holes align. Insert pin. Lower and tighten threaded locking collar until secure.
- It's recommended to lower or remove this flagpole for storage in the event of extreme weather conditions.

CITY OF HENDERSON

BUILDING & FIRE SAFETY

240 Water Street
P.O. BOX 95050
Henderson, NV 89009



CERTIFICATE OF OCCUPANCY

This certificate is issued per the Building and Fire Safety Administrative Code

At the time of issuance, this building was deemed to be in substantial compliance with fire, safety and structural provisions of the adopted codes based on periodic inspections of the work during construction. This certificate of occupancy should not be relied upon as evidence that the construction is in actual compliance with all applicable building codes or that the construction meets the minimum standards of a specific industry.

2822 CULLODEN AVE
HENDERSON, NV 89044

BLDG - Non-Building Structure/Complete

PERMIT NUMBER
BOTH2022214536

OCCUPANCY GROUP

CONSTRUCTION TYPE


BUILDING OFFICIAL

October 07, 2022

PROPERTY OWNER
J A C T TRUST
10620 SOUTHERN HIGHLANDS PKWY
110-431
LAS VEGAS, NV 89141

EXHIBIT 27

Anthem Highlands Community Association

Board of Directors Meeting
Wednesday, May 27, 2020
Zoom Teleconference
MINUTES

CALL TO ORDER

Ms. Norris called the meeting to order at 6:11 p.m. upon establishment of a quorum.

ROLL CALL:

President, Pennie Puhek – PRESENT
Vice President/ Treasurer, Sydney Woo – PRESENT
Secretary, Ken Brensinger – PRESENT
Director, Joe Osisek – PRESENT
Director, Greg Moore - PRESENT

OTHERS PRESENT

Felicia Norris, Community Manager PCM, FirstService Residential
Courtney Khan-Goetz, Assistant Community Manager, FirstService Residential

NOTICE OF EXECUTIVE SESSION

The Board met in executive session on May 27, 2020 at 5pm. The Board may meet in executive session to discuss delinquencies, legal matters, ARC applications, personnel issues, violations of the governing documents, conduct hearings and discuss any other private homeowner matter that may come before the Board.

HOMEOWNER'S OPEN FORUM – In accordance with NRS116.31083 this portion of the meeting is devoted to unit owners' comments and discussion of those items listed on the agenda directly. Comments are limited to three (3) minutes. Per NRS116.31068, the general substance of remarks made by unit owners during this time is shown as follows:

- Questions regarding clarification of Haddington working group requests.

REPORT(S)

- A. **Par 3 Landscape** – Reports were previously reviewed. No action needed
- B. **Management** – Ms. Norris gave an update to the board/homeowners present on items of interest and projects within the community.
 - i. **Monthly activity report** – Provided by Par3 and FirstService Residential.

APPROVAL OF MINUTES

Board of Directors Meeting March 11, 2020 and April 29, 2020 – A motion was made by Ms. Puhek, seconded by Mr. Brensinger, to accept the minutes from the regular Board meeting held on March 11, 2020 and April 29, 2020 All in favor. Motion carried

APPROVAL OF FINANCIALS

March 2020 Financials – A motion was made by Mr. Woo, seconded by Ms. Puhek, to accept the March 2020 Financials. All in favor. Motion carried.

ACTION OUTSIDE OF A MEETING

The Board approved through written unanimous consent of all five directors to appoint Ms. Puhek as interim president beginning May 21, 2020 until a formal reorganization can take place in an open meeting.

UNFINISHED BUSINESS –

- A. Architectural Committee – appointments/Board Liaison– A motion was made by Ms. Puhek, seconded by Mr. Moore, to terminate all current committee member terms and have the board take over the arc approval process so it can put safe guards in place to ensure the completion forms and photos are submitted for review. The board will appoint members to the committee once again at its June 17th

meeting and at that time the arc committee will resume control of the architectural committee process. All in favor. Motion carried

- B. No trespassing, loitering sign replacement proposals – A motion was made by Ms. Puhek, seconded by Mr. Osisek, to **postpone** this item to the June 17, 2020 meeting. Management to solicit additional bids and follow up with pictures. All in favor. Motion carried
- C. Haddington Working Group -
 - i. Review camera bids for the gates – As the cameras were not in the 2020 budget they will need to be added to the 2021 budget.
 - ii. Request to match Earlstone entrance signs – management will receive the company information from Ms. Puhek to be contacted for proposal.
 - iii. Park renovation bids – Management to work with Ken and Haddington WG to get this on the July agenda. Park furniture will need to go into the 2021 budget.
 - iv. Request for speed table for the neighborhood – need to inquire on liability and city ordinances.
- D. Storage unit – re-evaluate as PAR3 has gone month to month - A motion was made by Ms. Puhek, seconded by Mr. Moore, to **postpone** this item to the June 17, 2020 meeting. Management to meet with Mr. Brensinger to verify all items in the storage unit. All in favor. Motion carried

NEW BUSINESS

- A. Insurance Renewal – Master, Edinburgh, Haddington - A motion was made by Ms. Puhek, seconded by Mr. Brensinger, to **postpone** this item to the June 17, 2020 meeting. All in favor. Motion carried
- B. Par3 Weathermatic Smartlink Web access renewal proposal. - A motion was made by Ms. Puhek, seconded by Mr. Moore, to **deny** the Par3 Weathermatic Smartlink Web access renewal proposal All in favor. Motion carried
- C. Approve to suspend the previously approved Email Resolution pending modifications as it has the potential to violate board member and homeowner confidentiality. – A motion was made by Ms. Puhek, seconded by Mr. Brensinger, to **approve** to suspend the previously approved Email Resolution pending modifications by the board as it has the potential to violate board member and homeowner confidentiality. All in favor. Motion carried
- D. Approve to rescind Board Approval to allow homeowners to video record meetings. The meetings reveal the confidential financial and business information of the association, which should remain confidential and not be disseminated to the general public. – A motion was made by Ms. Puhek, seconded by Mr. Moore, to **approve** to rescind Board Approval to allow homeowners to video record meetings. The meetings reveal the confidential financial and business information of the association, which should remain confidential and not be disseminated to the general public. All in favor. Motion carried.
- E. Approve to direct management to retrieve all emails from Anthem Highland board member email accounts established under anthemhighlands.org and through GoDaddy.com that management acknowledged were deleted under the GoDaddy.com policy. These emails are to be downloaded and placed on a flash drive for storage, since they are records of the association. - A motion was made by Ms. Puhek, seconded by Mr. Moore, to **approve** to direct management to retrieve all emails from Anthem Highland board member email accounts established under anthemhighlands.org and through GoDaddy.com that management acknowledged were deleted under the GoDaddy.com policy. These emails are to be downloaded and placed on a flash drive for storage, since they are records of the association. All in favor. Motion carried.
- F. Approve to hire John Smith with Horticulture Consultants as a third party professional to advise the board and conduct a community landscape inspection on various and continuing landscape issues. The budgetary impact is expected to be between \$500-\$1500 and will be applied to account #77740. - A motion was made by Ms. Puhek, seconded by Mr. Brensinger, to **approve** to hire John Smith with Horticulture Consultants as a third party professional to advise the board and conduct a community

landscape inspection on various and continuing landscape issues. The budgetary impact is expected to be between \$500-\$1500 and will be applied to account #77740. All in favor. Motion carried

- G. Authorize board members Sydney Woo and Joe Osisek to engage in discussions to renegotiate the management contract and conduct a financial audit of the payroll and compensation paid to FirstService Residential. This authorization also allows for these board members to consult with the CPA as needed, gives full authorization for management to provide all data requested to conduct the audit, and allows the board to request all emails and/or written agreements or memos in managements possession relating to compensation, benefits, and hiring decisions of staff for the association. – A motion was made by Ms. Puhek, seconded by Mr. Brensinger, to **approve** to authorize board members Sydney Woo and Joe Osisek to engage in discussions to renegotiate the management contract and conduct a financial audit of the payroll and compensation paid to FirstService Residential. This authorization also allows for these board members to consult with the CPA as needed, gives full authorization for management to provide all data requested to conduct the audit, and allows the board to request all emails and/or written agreements or memos in managements possession relating to compensation, benefits, and hiring decisions of staff for the association. All in favor. Motion carried. A motion was made by Ms. Puhek, seconded by Mr. Moore, to **amend** the previous motion to add to send the management contract out to bid. All in favor. Motion carried.
- H. Appoint board member to the Anthem Council as representative for the association. Terms are renewed in November for 2 years. – A motion was made by Ms. Puhek, seconded by Mr. Brensinger, to **appoint** Ms. Puhek. to the Anthem Council as representative for the association. All in favor. Motion carried.
- I. Approve the following additional board meeting dates to be held virtually and noticed to homeowners via us mail with information on how to access the meetings. Regular session meeting to be held June 17 at 6:00 pm and two additional closed executive sessions to be held on June 3 at 4:30pm and June 17th at 4:30pm. - A motion was made by Ms. Puhek, seconded by Mr. Moore, to **approve** the following additional board meeting dates to be held virtually and noticed to homeowners via us mail with information on how to access the meetings. Regular session meeting to be held June 17 at 6:00 pm and two additional closed executive sessions to be held on June 3 at 4:30pm and June 17th at 4:30pm. All in favor. Motion carried.
- J. Approve to direct management to place a hold on moving any new homeowner assessment or fine accounts to the collection company until the board has the opportunity to review and approve the placement. Management will continue to process accounts for pre-collection in accordance with the adopted collection policy. - A motion was made by Ms. Puhek, seconded by Mr. Osisek, to **approve** to direct management to place a hold on moving any new homeowner assessment or fine accounts to the collection company until the board has the opportunity to review and approve the placement. Management will continue to process accounts for pre-collection in accordance with the adopted collection policy. All in favor. Motion carried.
- K. Approve to rescind recently approved collection policy resolution approved at the April 29, 2020 meeting. - A motion was made by Ms. Puhek, seconded by Mr. Osisek, to **approve** to rescind recently approved collection policy resolution approved at the April 29, 2020 meeting. All in favor. Motion carried.
- L. Approve for management to engage with Collection Company to request a discount of their collection costs on homeowner fine accounts in order for the association to negotiate settlements with owners. - A motion was made by Ms. Puhek, seconded by Mr. Moore, to **approve** to for management to engage with Collection Company to request a discount of their collection costs on homeowner fine accounts in order for the association to negotiate settlements with owners. All in favor. Motion carried.
- M. Approve to seek bids for painting of light poles and ironwork fencing and gates in Haddington and Edinburgh. Management will work with the board to create an RFP and will solicit bids from at least 4 vendors of the boards choosing. - A motion was made by Ms. Puhek, seconded by Mr. Brensinger, to **approve** to seek bids for painting of light poles and ironwork fencing and gates in Haddington and

Edinburgh. Management will work with the board to create an RFP and will solicit bids from at least 4 vendors of the boards choosing. All in favor. Motion carried.

- N. Approve to cancel the cell phone reimbursement for managers and approve for the association to purchase a cell phone and cellular services to be provided to the manager. - A motion was made by Ms. Puhek, seconded by Mr. Brensinger, to **approve** to cancel the cell phone reimbursement for managers and approve for the association to purchase a cell phone and cellular services to be provided to the manager. All in favor. Motion carried.
- O. Approve to terminate the collection contract with the Leach Law Firm and approve to place collection accounts with Association Recovery Services. - A motion was made by Ms. Puhek, seconded by Mr. Brensinger, to **approve** to suspend forwarding any more collection accounts to the Leach Law Firm and approve to place collection accounts with Association Recovery Services. Additionally to restrict management from having any conversation with the Leach Law firm. All in favor. Motion carried.

HOMEOWNERS FORUM – This open forum session is reserved for general homeowner comments. General comments / subject matter was as follows:

- Questions about cameras being a capital improvement and not being in the reserves budget
- Will the new signs be coming out of the Master budget and the Haddington Budget

HOMEOWNER CORRESPONDANCE –

- A. Ms. Puhek correspondence re: alleged violations of NRS 116.3103 through NAC 116.405 1, 2 ,3, 5(c), 5 (e), NRS 116.31183, CCR 3.6

NEXT MEETING DATE(S)

The next Board meeting is scheduled for Wednesday, June 17, 2020 at 6:00 p.m. at via Zoom teleconference.

ADJOURNMENT – A motion was made by Ms. Puhek, seconded by Mr. Osisek, to adjourn the meeting, at 8:01p.m. All in favor. Motion carried

Respectfully submitted by:
Felicia Norris, Community Manager PCM, FirstService Residential

Accepted By:



Secretary

7-3-2020

Date

Anthem Highlands Community Association

Board of Directors Meeting
Wednesday, June 17, 2020
Zoom Teleconference
MINUTES

CALL TO ORDER

Ms. Puhek called the meeting to order at 6:07 p.m. upon establishment of a quorum.

ROLL CALL:

President, Pennie Puhek – PRESENT
Vice President/ Treasurer, Sydney Woo – PRESENT
Secretary, Ken Brensinger – PRESENT
Director, Joe Osisek – PRESENT
Director, Greg Moore - PRESENT

OTHERS PRESENT

Felicia Norris, Community Manager PCM, FirstService Residential
Courtney Khan-Goetz, Assistant Community Manager, FirstService Residential

NOTICE OF EXECUTIVE SESSION

The Board met in executive session on June 17, 2020 at 5:04pm. The Board may meet in executive session to discuss delinquencies, legal matters, ARC applications, personnel issues, violations of the governing documents, conduct hearings and discuss any other private homeowner matter that may come before the Board.

HOMEOWNER'S OPEN FORUM – In accordance with NRS116.31083 this portion of the meeting is devoted to unit owners' comments and discussion of those items listed on the agenda directly. Comments are limited to three (3) minutes. Per NRS116.31068, the general substance of remarks made by unit owners during this time is shown as follows:

- Questions about security concerns and neighborhood watch.

REPORT(S)

- A. **Par 3 Landscape** – Reports were previously reviewed. No action needed
- B. **Management** – Ms. Norris gave an update to the board/homeowners present on items of interest and projects within the community.
 - i. **Monthly activity report** – Provided by Par3 and FirstService Residential.

APPROVAL OF MINUTES

Board of Directors Meeting May 27, 2020 – A motion was made by Mr. Brensinger, seconded by Mr. Osisek to accept the minutes from the regular Board meeting held on May 27, 2020, all in favor. Motion carried.

APPROVAL OF FINANCIALS

April 2020 Financials – A motion was made by Mr. Woo, seconded by Mr. Moore, to accept the April 2020 Financials. All in favor. Motion carried.

ACTION OUTSIDE OF A MEETING

The Board approved through action outside of a meeting to appoint the law firm of Boyack, Orme, Anthony as association general legal counsel.

UNFINISHED BUSINESS –

- A. Insurance Renewal – Master, Edinburgh, Haddington – A motion was made by Mr. Osisek, seconded by Ms. Puhek, to **approve** the 2020 – 2021 insurance proposal for the Master provided by LaBarre/Oksnee Insurance in the amount of \$26,927.00. All in favor. Motion carried.

- B. No trespassing, loitering sign replacement proposals – A motion was made by Ms. Puhek, seconded by Mr. Moore, to **approve** the HD supply proposal to purchase 15 signs for the community in the amount of \$1302.45 and to hire Buckeye to install the signs at a cost not to exceed \$600.00 All in favor. Motion carried.
- C. Architectural Committee – appointments/Board Liaison - A motion was made by Ms. Puhek, seconded by Mr. Brensinger, to **appoint** the following members to the Arc Committee for one year; Frank Capello- Chairman and Liaison, Jon Johnson, Michael Stein, Joe Osisek and Gregory Moore. All in favor. Motion carried.

NEW BUSINESS

- A. Management Company Proposals- Sealed Bids to be opened by law firm of Boyack, Orem, Anthony – Four bids were received from the following companies; Camco, FirstService Residential, The Management Trust and Terra West. All bids were presented by Ms. Sametra Albert of Boyak, Orem and Anthony. Bids were read as follows:
1. Camco –
 - Inclusive agreement is \$7398.00 a month
 - \$4.49 per door
 - Fulltime dedicated licensed community manager \$72,000.00 - \$78,000.00 per year
 - Fulltime dedicated Administrative assistant \$42,000 - \$47,000 per year
 - Plus 14% payroll overhead
 - Monthly and year ending financials for Haddington \$125.00
 - Monthly and year ending financials for Edinburgh \$125.00
 2. First Service Residential –
 - Management fee is \$7232.00 per month
 - Edinburgh Accounting fee is \$90.00 per month
 - Haddington Accounting fee \$112.00 per month
 - Licensed CAM fulltime work week hrs and a 25% labor burden
 - Assistant association manager XX hours per week 25% labor burden
 - Administrative assistant XX hours per week 25% labor burden
 3. The Management Trust –
 - All-inclusive agreement with dedicated employees
 - Monthly proposed pricing of \$4.00 per door/ \$6588
 - Additional financial services for Haddington 73 units \$2.00 per door
 - Additional financial services for Edinburgh 92 units \$2.00 per door
 - *the standard agreement provides full service management with reimbursable expenses outlined in the attached schedule A please note that salary and wages are not included.
 - Dedicated staffing actual cost and compensation for each employee plus 7%
 4. Terra West – 2 options
 - Option A is an all-inclusive contract
 - o \$2.95 per door \$4858.65 per month
 - o base monthly management fee excluding payroll and benefits
 - Option B is an all-inclusive contract
 - o Base monthly management fee including payroll and benefits
 - o \$16,600.00 per month
 - Community Manager - \$3541.67.00, annually \$85,000.00
 - o Medicare/ health insurance/ workers comp – 7% administration fee
 - Community Assistant - \$1473.33, annually \$35,360.00
 - Monthly and year ending financials for Haddington \$100.00 per month
 - Monthly and year ending financials for Edinburgh \$80.00 per month

- B. A motion was made by Ms. Puhek, seconded by Mr. Moore, to **postpone** this item to the July 8, 2020 meeting. All in favor. Motion carried.
- C. Draft 2019 Audit - A motion was made by Ms. Puhek, seconded by Mr. Woo, to **approve** the 2019 draft audit as presented. All in favor. Motion carried.
- D. Reserve Study – Proposal for Level 1 update from Complex Solutions. A motion was made by Ms. Puhek, seconded by Mr. Brensinger, to **approve** the proposal for a level one reserve study update to be completed by Complex Solutions at a cost of \$3800.00 for the Master, \$550.00 for Haddington and \$550.00 for Edinburgh. All in favor. Motion carried.
- E. Authorize Landscape Maintenance Update by John Smith. – A motion was made by Ms. Puhek, seconded by Mr. Moore, to **authorize** Mr. John Smith to update the landscape maintenance agreement at a cost of \$125.00/ hr. All in favor. Motion carried.
- F. Approve - Closing the Sommerville Playground for renovations and to approve new playground equipment. - A motion was made by Ms. Puhek, seconded by Mr. Woo, to **approve** closing the Sommerville Playground for renovations and to **approve** new play ground equipment at a cost not to exceed \$50,000.00. All in favor. Motion carried.
- G. Approve proposal for temporary Fencing Sommerville Park - A motion was made by Ms. Puhek, seconded by Mr. Moore, to **approve** the proposal from Tiberti Fence to place temporary fencing around the Sommerville Park play structure at a cost of \$780.00. All in favor. Motion carried.
- H. Tree Irrigation proposals for the Master and Haddington. – A motion was made by Ms. Puhek, seconded by Mr. Brensinger, to **postpone** this item to the July 8, 2020 meeting. All in favor. Motion carried.
- I. Schedule new board member orientation. – No action needed as this item can be discussed via email.
- J. Approve proposal from Buckeye to repaint curbs and fire hydrants in Haddington and Edinburgh. - A motion was made by Ms. Puhek, seconded by Mr. Moore, to **approve** proposal #E179 for Haddington at a cost of \$890.00 and proposal #E180 for Edinburgh at a cost of \$580.00. All in favor. Motion carried.

HOMEOWNERS FORUM – This open forum session is reserved for general homeowner comments. General comments / subject matter was as follows:

- Crime in Glengarry, informing HPD about all the current activity
- Cars parked on the sides of roads and curbs
- Trees and shrubs need water
- Captur HPD camera sharing

HOMEOWNER CORRESPONDANCE – none

NEXT MEETING DATE(S)

The next Board meeting is scheduled for Wednesday, August 12, 2020 at 6:00 p.m. via Zoom teleconference.

ADJOURNMENT – A motion was made by Ms. Puhek, seconded by Mr. Moore, to adjourn the meeting, at 7:55p.m. All in favor. Motion carried

Respectfully submitted by:
Felicia Norris, Community Manager PCM, FirstService Residential

Accepted By:



Secretary

7/20/2020

Date

Anthem Highlands Community Association

Board of Directors Meeting
Wednesday, July 8, 2020
Zoom Teleconference
MINUTES

CALL TO ORDER

Ms. Puhek called the meeting to order at 6:06 p.m. upon establishment of a quorum.

ROLL CALL:

President, Pennie Puhek – PRESENT
Vice President/ Treasurer, Sydney Woo – PRESENT
Secretary, Ken Brensinger – PRESENT
Director, Joe Osisek – PRESENT
Director, Greg Moore - PRESENT

OTHERS PRESENT

Felicia Norris, Community Manager PCM, FirstService Residential
Courtney Khan-Goetz, Assistant Community Manager, FirstService Residential

NOTICE OF EXECUTIVE SESSION

The Board met in executive session on July 8, 2020 at 5:08pm. The Board may meet in executive session to discuss delinquencies, legal matters, ARC applications, personnel issues, violations of the governing documents, conduct hearings and discuss any other private homeowner matter that may come before the Board.

HOMEOWNER'S OPEN FORUM – In accordance with NRS116.31083 this portion of the meeting is devoted to unit owners' comments and discussion of those items listed on the agenda directly. Comments are limited to three (3) minutes. Per NRS116.31068, the general substance of remarks made by unit owners during this time is shown as follows:

- None

REPORT(S)

- A. **Par 3 Landscape** – Reports were previously reviewed. No action needed
- B. **Management** – Ms. Norris gave an update to the board/homeowners present on items of interest and projects within the community.
 - i. **Monthly activity report** – Provided by Par3 and FirstService Residential.

APPROVAL OF MINUTES

Board of Directors Meeting June 17, 2020 – A motion was made by Mr. Brensinger, seconded by Mr. Moore to accept the minutes from the regular Board meeting held on June 17, 2020, with the addition of the amounts for the management company proposals. All in favor. Motion carried.

APPROVAL OF FINANCIALS

May 2020 Financials – A motion was made by Mr. Woo, seconded by Mr. Brensinger, to accept the May 2020 Financials. All in favor. Motion carried.

ACTION OUTSIDE OF A MEETING

- None

UNFINISHED BUSINESS –

- A. A motion was made by Ms. Puhek, seconded by Mr. Brensinger to postpone the unfinished business to the end of the meeting. All in favor. Motion carried.

NEW BUSINESS

- A. Approve proposals for the Haddington Park Demo and the Haddington Park breezeway demo.— A motion was made by Ms. Puhek, seconded by Mr. Osisek to **postpone** this item to the July 22, 2020 meeting. All in favor. Motion carried.
- B. Approve proposal for the Earlstone paseo: tree removals/ tree trimming for safety concerns - A motion was made by Ms. Puhek, seconded by Mr. Osisek to **approve** the proposal for the Earlstone/ Clermont paseo tree removals in the amount of \$2490.00. All in favor. Motion carried.
- C. Approve to have former legal counsel provide all email exchanges with management and former President from March 2019-May 2020 in order to determine accuracy and authorization of billing. - A motion was made by Ms. Puhek, seconded by Mr. Brensinger, to **approve** to have former legal counsel provide all email exchanges with management and former President from March 2019-May 2020 in order to determine accuracy and authorization of billing. All in favor. Motion carried.
- D. Rescind Email policy due to potential unlawful access of individual board member emails.— A motion was made by Ms. Puhek, seconded by Mr. Osisek, to **rescind** the Email policy that was previously created earlier this year. All in favor. Motion carried.
- E. Holbrook Seal Crack Proposals- Approve seal crack proposals for Edinburgh, Haddington, and power line trail to be scheduled in October. - A motion was made by Ms. Puhek, seconded by Mr. Brensinger, to **approve** the seal crack proposals for Edinburgh in the amount of \$4,119.96, and Haddington in the amount of \$4,590.72. to be scheduled for mid to late October. And to **postpone** the proposal for the power line trail to the July 22nd, 2020 meeting pending more information. All in favor. Motion carried.
- F. Insurance Proposals Haddington and Edinburgh Approve insurance proposals that expire 7-31-2020.- A motion was made by Ms. Puhek, seconded by Mr. Osisek, to **postpone** the insurance proposals for Haddington and Edinburgh to the July 22nd, 2020 meeting. All in favor. Motion carried.
- G. Staffing Level-Approve reduction in staffing level. – A motion was made by Ms. Puhek, seconded by Mr. Moore, to **approve** to reducing the staffing level to one manager from July 18th to July 31st. All in favor. Motion carried.
- H. Budget Variance- Approve variance to Budget Line Item 60005- SBW Administrative. A motion was made by Ms. Puhek, seconded by Mr. Moore, to **approve** move \$85,000.00 from line #60005 – SBW Administrative to line item #77200 management fees, so that there is a proper adjustment to the staffing level. All in favor. Motion carried.
- I. Meeting Date Changes- Meetings to be held the third Wednesday of the month to allow additional time each month for review of the financials. Add additional meeting date for July 22, 2020 at 3pm to address playground proposals and any other matters that need immediate attention. - A motion was made by Ms. Puhek, seconded by Mr. Brensinger, to **approve** the meeting date changes. Meetings to be held the third Wednesday of the month to allow additional time each month for review of the financials. Add additional meeting date for July 22, 2020 at 3pm to address playground proposals and any other matters that need immediate attention All in favor. Motion carried.
- J. Approve proposal for Anthem Highlands Dr. at Dewar Highlands -Pine tree Irrigation. - A motion was made by Ms. Puhek, seconded by Mr. Brensinger, to **approve** proposal #203-2062601 for Anthem Highlands Dr. at Dewar Highlands -Pine tree Irrigation at a cost of \$305.00. All in favor. Motion carried.

UNFINISHED BUSINESS –

- A. Management Proposals- Approve management contract for 8-1-2020 to 7-31-2021 based on previously received sealed bids from First Service, Terra West, Camco, The Management Trust. – A motion was made by Ms. Puhek, seconded by Mr. Woo, to **approve** the management contract with its addendums for Terra West from August 3rd, 2020 to July 31st, 2021 in the amount of \$16,600.00 per month and to approve the proposal to prepare monthly and year end financials for Haddington at \$100 per month and for Edinburgh at \$80.00 per month. All in favor. Motion carried.

A motion was made by Ms. Puhek, seconded by Mr. Brensinger, to terminate FirstService's contract and give their 30day notice effective tomorrow, July 9th and will terminate on August 9th. All in favor. Motion carried.

HOMEOWNERS FORUM – This open forum session is reserved for general homeowner comments. General comments / subject matter was as follows:

- Stop sign at Culloden needed
- Thanks to management for all their work

HOMEOWNER CORRESPONDANCE – none

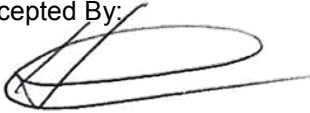
NEXT MEETING DATE(S)

The next Board meeting is scheduled for Wednesday, July 22nd, 2020 at 3:00 p.m. via Zoom teleconference.

ADJOURNMENT – A motion was made by Ms. Puhek, seconded by Mr. Osisek, to adjourn the meeting, at 6:51p.m. All in favor. Motion carried

Respectfully submitted by:
Felicia Norris, Community Manager PCM, FirstService Residential

Accepted By:



Secretary

7-27-2020

Date

EXHIBIT 28

**ANTHEM HIGHLANDS COMMUNITY ASSOCIATION BOARD OF DIRECTORS
CANDIDATE NOMINATION & DISCLOSURE FORM**

This form is provided for candidates who wish to serve on the Board of Directors. The membership will be voting on **three (3) open positions, each with a 2 year term from May 2021 – May 2023**. Nevada State Law requires the following disclosures in order for a candidate to qualify for Board membership of a Common Interest Community. **Write-in candidates are not permitted.**

NAME OF NOMINEE: Pennie Mossett-Puhak
PROPERTY ADDRESS: 2740 Kildrummie ST

Are you a unit owner? ☒ yes ☐ no

(NOTE: Except as otherwise provided in subsection 5 of NRS 116.212, not later than the termination of any period of declarant's control, the units' owners shall elect an executive board of at least three members, all of whom must be units' owners.

Per NRS 116.31034.9 (a) and (b), please complete the following information regarding your candidacy:

9. Each person whose name is placed on the ballot as a candidate for a member of the executive board must: (a) make a good faith effort to disclose any financial, business, professional or personal relationship or interest that would result or would appear to a reasonable person to result in a potential conflict of interest for the candidate if the candidate were to be elected to serve as a member of the executive board:

I have potential conflict(s) of interest: ☐ (check) Please explain on a separate sheet of paper.

I have no potential conflict(s) of interest: ☒ (check)

And, (b) Disclose whether the candidate is a member in good standing. For the purposes of this paragraph, a candidate shall not be deemed to be in "good standing" if the candidate has any **unpaid and past due assessments or construction penalties** that are required to be paid to the association.

I am a candidate in good standing as defined above: ☒ yes ☐ no

Per NRS 116.31034.10 a person may not be a candidate for or a member of the executive board or an officer of the association if either of the following apply. (Note: there may be an exception for uncontested elections). To comply with this requirement, please complete the following:

I reside in a unit with, am married to, domestic partners with, or am related by blood, adoption or marriage within the third degree of consanguinity or affinity to another person who is also a member of the executive board or is an officer of the association. ☐ yes ☒ no
(If yes, please explain on a separate sheet of paper)

I, my spouse or parent or child, by blood, marriage or adoption, performs the duties of community manager for the association. ☐ yes ☒ no

Please explain why you wish to serve as a Board member and what your goals are for the Association: (a separate Candidate Statement may be attached) Please See attached Statement. Thank you.

Per NRS 116.31034 additional information provided is voluntary and NOT a requirement of the law. The Candidate Statement (if provided) a) **must be no longer than an additional single, typed page**; b) must not contain any defamatory, libelous or profane information and c) may be sent in its entirety with the secret ballot mailed. Responses may be edited. Consent for editing is implied by returning this form.

The candidate must make all disclosures required pursuant to NRS 116 in writing to the association with his candidacy information. The association shall distribute the disclosures to each member of the association with the ballot in the manner established by the bylaws of the association and NRS. However, the association is not obligated to distribute any disclosure pursuant to (NRS 116.31034) if the disclosure contains information that is believed to be defamatory, libelous or profane. Any additional information provided by the candidate for the executive board is voluntary and is not a requirement under NRS 116.31034. NOTE: Nothing cited in this disclosure is intended to be used to prevent a potential candidate from running for the board of directors. Further, the board will not prohibit a candidate from appearing on the ballot for failure to provide a disclosure statement, or for providing an inaccurate one or one with content that is defamatory, libelous or profane. Should a candidate not complete a disclosure statement, or should it contain content believed to be defamatory, libelous or profane, the board will note the fact in a statement to be included with election-related mailings. Further, a complaint may be filed with the Real Estate Division against the candidate who does not comply with the disclosure requirement.

Signature of Nominee: Pennie Mossett-Puhak Date: 4-26-21
Email Address: Pennieahca@gmail.com Phone: 702-808-8917

MAIL NOMINATION FORM TO: 6655 S. Cimarron Rd., Ste. 200, Las Vegas, NV 89113 or FAX: (702) 998-6083 or
Scan and Email to: anthemhighlands@terrawest.com. Deadline: April 26, 2021 by 5:00 PM

EXHIBIT 29

STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY - REAL ESTATE DIVISION
OFFICE OF THE OMBUDSMAN FOR COMMON-INTEREST COMMUNITIES AND CONDOMINIUM HOTELS
3300 West Sahara Avenue, Suite 350 * Las Vegas, NV 89102
(702) 486-4480 * Toll free: (877) 829-9907 * Fax: (702) 486-4520
CICombudsman@red.nv.gov <http://www.red.nv.gov>

ALTERNATIVE DISPUTE RESOLUTION (ADR) SUBSIDY APPLICATION FOR MEDIATION

IMPORTANT: Subsidization of any Mediator fees is limited to actual Mediator fees only and may not exceed \$250.00 per side not to exceed \$500 per Mediation, to the extent that funds are available. Specific costs not subsidized include, but are not limited to, the \$50 filing fee required to accompany any claim or response and any attorney fees incurred by the parties.

Date Form is Completed: 7/26/23 **Claim Number:** _____

This form is being completed on behalf of ☒ Claimant ☐ Respondent
The above-indicated party is ☒ Unit Owner ☐ Homeowners Association

Subsidy is based on the unit address the claim is filed in reference to.

For subsidy to be approved for either party, the primary unit address involved in this claim is required:

Unit Owner's Name: Andrea Collier, as trustee of the JACT Trust

Unit Address: 2822 Culloden Ave., Henderson NV 89044

**If the Respondent is completing this form, please list the primary unit address involved in this claim.*

Contact Information for the Party Applying for Subsidy:

Name: Andrea Collier, as trustee of the JACT Trust

Law Firm and Attorney Name (if applicable): Timothy Elson of The Law Offices of Timothy Elson

Contact Address: 8965 S. Eastern Ave., Suite 382, Las Vegas, NV 89123

Contact Phone: (702) 874-8600 **Fax Number:** _____ **Email Address:** tim@elsonlawoffices.com

Claimant's Acknowledgements:

Initial here confirming your claim was filed within one year of discovery.
For subsidy to be approved, the claim form must be filed within 1 year from the date of discovery of the issue(s) listed on the claim form.

Claimant's and Respondent's Acknowledgments:

If subsidy is denied, I acknowledge I will be responsible for the cost of the Mediation.

I acknowledge that the Subsidy application will **ONLY** be accepted and reviewed prior to the claim being assigned to a Mediator/Referee.

☐ Yes ☒ No Have you received a subsidy during the State's current fiscal year? (The fiscal year is July 1 – June 30)

If yes, indicate: Claim Number: _____ Claimant Name: _____ Unit Address: _____

Association's Acknowledgments:

☐ Yes ☐ No Is the association in "Good Standing" with both the Office of the Ombudsman and the Secretary of State?
 If the association is "Not in Good Standing" with the Office of the Ombudsman and/or the Secretary of State, I acknowledge the subsidy will be denied.

FOR DIVISION USE ONLY – MEDIATOR

Date claim assigned to mediator: _____ **Date form received by Division:** _____

STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
REAL ESTATE DIVISION
OFFICE OF THE OMBUDSMAN FOR OWNERS IN
COMMON-INTEREST COMMUNITIES AND CONDOMINIUM HOTELS

3300 W. Sahara Ave., Suite 350, Las Vegas, Nevada 89102

(702) 486-4480 * Toll free: (877) 829-9907

E-mail: CIOmbudsman@red.nv.gov

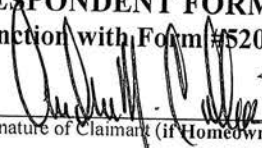
<http://red.nv.gov>

ALTERNATIVE DISPUTE RESOLUTION (ADR)

ADDITIONAL RESPONDENT FORM

This form should only be used in conjunction with Form #520 - ADR Claim Form

Date: 7/26/23


Signature of Claimant (if Homeowner, must be owner of record)

(http://nvsos.gov/sos)
If filed on behalf of the Association, provide the Association's Entity Number as it appears on the Secretary of State's website.

Respondent: Carmen Eassa

If individual provide full name. If Association, provide COMPLETE Association name and Entity Number as it appears on the Secretary of State's website.

Contact Address: 1016 Windhook St, Las Vegas, NV 89144

Street

City

State

Zip Code

Contact Phone: _____

Fax: _____

E-Mail: _____

Respondent: _____

If individual provide full name. If Association, provide COMPLETE Association name and Entity Number as it appears on the Secretary of State's website.

Contact Address: _____

Street

City

State

Zip Code

Contact Phone: _____

Fax: _____

E-Mail: _____

Respondent: _____

If individual provide full name. If Association, provide COMPLETE Association name and Entity Number as it appears on the Secretary of State's website.

Contact Address: _____

Street

City

State

Zip Code

Contact Phone: _____

Fax: _____

E-Mail: _____

Respondent: _____

If individual provide full name. If Association, provide COMPLETE Association name and Entity Number as it appears on the Secretary of State's website.

Contact Address: _____

Street

City

State

Zip Code

Contact Phone: _____

Fax: _____

E-Mail: _____

For office use only:

Receipt number: _____

Claim number: _____

Date received: _____

STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY – REAL ESTATE DIVISION
OFFICE OF THE OMBUDSMAN FOR COMMON-INTEREST COMMUNITIES AND CONDOMINIUM HOTELS
3300 West Sahara Avenue, Suite 350, Las Vegas, Nevada 89102
(702) 486-4480 / Toll free: (877) 829-9907 / Fax: (702) 486-4520
E-mail: CICombudsman@red.nv.gov / <http://red.nv.gov>

ALTERNATIVE DISPUTE RESOLUTION (ADR) CLAIM FORM

Date: 7/26/23

Signature of Claimant: _____

***Only one claimant per claim form is allowed for tracking purposes.**

Claimant: Andrea Collier, as trustee of the JACT Trust

**If individual, provide full name as it appears with the assessor's office in order to verify that you are a Unit Owner. If an Association, provide COMPLETE Association name as it appears on the Secretary of State's website.*

Law Firm and Attorney (if applicable): Timothy Elson of The Law Offices of Timothy Elson

Please provide the name of the law firm and the name of the attorney. An attorney is not required.

Mailing Address: 8965 S. Eastern Ave., Suite 382, Las Vegas, NV 89123

Street and number, city, state, and zip code

Phone Number: (702) 874-8600 Fax Number: _____ Email Address: tim@elsonlawoffices.com

Respondent: K.G.D.O. Holding Company, LLC, d/b/a Terra West Management Services

**If individual, provide full name. If an Association, provide COMPLETE Association name as it appears on the Secretary of State's website.*

Please list only one party. Attach an Additional Respondent Form 520B if there is more than one Respondent.

Mailing Address: 801 S. Rampart Blvd., #200, Las Vegas, NV 89145

Street and number, city, state, and zip code

Phone Number: _____ Fax Number: _____ Email Address: _____

PLEASE SELECT YOUR METHOD OF RESOLUTION: ☒ Mediation ☐ Referee Program*

**Claims involving multiple parties may be excluded from the Referee Program.*

***If all parties agree to the Referee Program, the cost will be fully subsidized by the Division, if funds are available.*

☐ Yes ☒ No Has the above-listed Claimant filed an Intervention Affidavit (Form 530) regarding the same or similar issues? *If yes, provide the file number(s):* _____

INITIAL

AC

I have read and agree to the policies stated in the ADR Overview (Form 523).

**INITIAL IF
APPLICABLE**

☐ I acknowledge that if an Intervention Affidavit (Form 530) has been filed with the Division based upon the same issues, by filing an ADR claim; the Division will not move forward with investigating the Intervention Affidavit pursuant to NAC 116.630.

☐ If the Referee Program is selected, and the Respondent chooses Mediation, the claim will default to mediation.

For office use only

Receipt Number: _____ Claim Number: _____ Date Received: _____

Address of unit related to this claim: 2822 Culloden Ave., Henderson NV 89044

- Your explanation must start below. You may attach additional pages, if more space is needed. Please, do not write "SEE ATTACHMENT" in the space below IT IS NOT ACCEPTABLE.
- If this claim is being filed based on a referral from the Intervention process, please ensure that you explain the issue below. Do not refer to your original complaint.

The allegations include, but are not limited to, the following: Eassa and TerraWest engaged in conduct in violation of NRS 116.31183 and NRS 116.31184; Eassa and TerraWest breached various statutory obligations, duties, and otherwise fell below the standard of care engaging in the course of conduct against Collier and by otherwise failing to properly manage the Association, Anthem Highlands Community Association; Eassa and TerraWest conspired with or otherwise engaged in concerted actions with Mossett-Puhek and Anthem Highlands against Collier; and that Eassa and TerraWest otherwise violated Nevada law, which Collier reserves her right to address at the mediation or in a legal action.

IDENTIFY THE SECTION OF GOVERNING DOCUMENTS PERTAINING TO THE DISPUTE:

The following sections may apply, but do not necessarily include and are not necessarily limited to: CC&R 4.1.4 and CC&R 4.3.

In order for the claim to be considered filed, the following must be submitted, if applicable.

Please indicate that you acknowledge and will follow through with completing each of the items below. Initial that the following steps have been completed:

INITIAL

AC

Forms:

One (1) Original Claim Form (Form 520)

Two (2) copies of the Claim Form and supporting documents

- *Supporting documents may be provided directly to the Mediator or Referee once assigned and are not required with this Claim Form. Should you choose to submit your documents, you must submit three (3) copies of the supporting documents.*

AC

NONREFUNDABLE Filing Fee of \$50.00 payable to "NRED" in the form of:

- Cash (exact change; please do not mail cash)
- Check
- Money Order

AC

I acknowledge that the Subsidy Application will ONLY be accepted and reviewed prior to the claim being assigned to a Mediator or Referee.

INITIAL IF APPLICABLE

AC

ADR Subsidy Application for Mediation (Form 668). Subsidy is awarded based on the following:
For a Unit Owner, once during each fiscal year of the State for each unit owned.

For an Association, once during each fiscal year of the State for each unit located within each individual association. Association must be "in good standing" with Secretary of State and Office of the Ombudsman.

I acknowledge that the Claimant will **NOT** be applying for Subsidy for this claim.

SERVING THE CLAIM

Please be advised, the Claimant will be responsible to have the Respondent(s) served within **45 days** from the date the Division processes the Claimant's 520 claim form. The packet will contain instructions on how to serve the claim.

The packet that the Claimant will receive in the mail will contain:

- A claim opening letter (keep this letter for your records).
- A receipt for **the non-refundable** \$50.00 filing fee (keep for your records).
- Affidavit of Services Form
 - This form must be filled out by the person that serves the claim.
 - The form **MUST** be notarized and returned to the Division within 10 days of the claim being served.
 - The packet cannot be served by anyone associated with the claim.

The following items from the packet are required to be served:

- ADR Overview, Form 523
- Copy of the claim that was processed, Form 520
- A blank Response, Form 521
- A blank Subsidy Application, Form 668
- *If the Claimant listed more than one Respondent on the Claim Form (520). The Claimant will be responsible to make copies of the packet, so that each Respondent can be served.*
- *One (1) Affidavit of Service will have to be notarized and submitted for each Respondent listed on the Claim Form (520/520B).*
- *Pursuant to NAC 38.350(2)(a) – The Affidavit of Service MUST be submitted to the Division within 10 days of being served.*

INITIAL

AC

I acknowledge that all forms listed above will be served pursuant to NRS 38.320.

AC

I acknowledge that if the claim is not served within the timeframe set forth by Nevada Administrative Code (NAC) 38.350 (1), the claim will be closed.

AC

I acknowledge if the Affidavit of Service (AOS) is not submitted to the Division within the timeframe set forth by Nevada Administrative Code (NAC) 38.350 (2)(a), the Division has the authority to close the claim.

How service must be made:

- **Service on a Nevada Corporation:** Service shall be made upon the president or other corporate head, secretary, cashier, managing agent or resident agent. However, if this is not possible, then upon the Secretary of State in the manner described in Rule 4 of the Nevada Rules of Civil Procedure.
- **Service on a Non-Nevada Corporation:** Service shall be made upon the agent designated for service of process, in Nevada, or its managing agent, business agent, cashier, or secretary within this State. However, if this is not possible, then upon the Secretary of State in the manner described in Rule 4 of the Nevada Rules of Civil Procedure.
- **In all other cases (except service upon a person of unsound mind, or upon a city, town or county):** Service shall be made upon the respondent personally, or by leaving copies at his dwelling house or usual place of abode with some person of suitable age and discretion then residing therein, or by delivering a copy of the summons and complaint to an agent authorized by appointment or by law to receive service of process.
- **If all the above are not possible because of the absence from the state or inability to locate the respondent:** An Affidavit of Due Diligence can be provided to the Division. If the Division determines adequate efforts were made to serve the respondent(s), the Division will provide a letter to the claimants acknowledging their unsuccessful efforts to participate in the ADR program.

"Service by Publication" is not a valid form of service for the ADR Program.

The following is a listing of the Mediators and Referees for the Alternative Dispute Resolution program. Before making your selection, you may view the resumes of the Mediators and Referees, and their location availability.

- If the parties do not agree on the selection of Mediator or Referee, the Division will assign a Mediator/Referee at random.
- *This is a requirement, please indicate the Mediator/Referee by initialing next to the party selected.*

SOUTHERN NEVADA

MEDIATOR LISTING

- ☐ Barbara Fenster*
- ☐ Dee Newell, JD*
- ☐ Donald E. Lowrey, Esq.*
- ☐ Eric Dobberstein, Esq.*
- ☐ Henry Melton*
- ☐ Janet Trost, Esq.*
- ☐ Malcolm Doctors*
- ☒ Phillip A. Silvestri, Esq.*

REFeree LISTING

- ☐ Donald E. Lowrey, Esq.*
- ☐ Janet Trost, Esq.*

NORTHERN NEVADA

MEDIATOR LISTING

- ☐ Paul H. Lamboley, Esq.

REFeree LISTING

- ☐ Paul H. Lamboley, Esq.

** Mediator/Referee available for virtual proceedings for Northern Nevada residents.*

Once a claim has been received and processed by the Division an opening packet will be mailed out to the mailing address provided on page 1 of this form. This packet will include instructions on the next step in this process (serving the claim).

Submit the required forms and documents to:

**Nevada Real Estate Division
ADR Facilitator
3300 West Sahara Avenue, Ste. 350
Las Vegas, NV 89102**

ATTN: RHONDA GALVIN,

EXHIBIT 30

Case No. 17TPH399
Dept. No. 1

RECEIVED JUSTICE COURT

2017 OCT -3 A 10:02

IN THE JUSTICE COURT OF HENDERSON TOWNSHIP
COUNTY OF CLARK, STATE OF NEVADA

FirstService Residential, Nevada, LLC

Employer,

vs.

Pennie Puhek

Adverse Party.

) APPLICATION FOR TEMPORARY
) ORDER FOR PROTECTION AGAINST
) HARASSMENT IN THE WORKPLACE
) (NRS 33.250)

(NOTE: There can only be one Adverse Party.)

HARASSMENT IN THE WORKPLACE— Under NRS 33.240, harassment in the workplace occurs when:

1. A person knowingly threatens to cause or commits an act that causes:
 - (a) Bodily injury to himself or another person;
 - (b) Damage to the property of another person; or
 - (c) Substantial harm to the physical or mental health or safety of a person;
2. The threat is made or the act is committed against an employer, an employee of the employer while the employee performs his duties of employment or a person present at the workplace of the employer; and
3. The threat would cause a reasonable person to fear that the threat will be carried out or the act would cause a reasonable person to feel terrorized, frightened, intimidated or harassed.

PLEASE TYPE OR PRINT CLEARLY.

COMPLETE THE APPLICATION TO THE BEST OF YOUR KNOWLEDGE.

I state the following facts under penalty of perjury:

- ☐ I am the employer.
- ☒ I am the authorized agent of the employer.
- ☐ I am not the employer or authorized agent of the employer. (If this box is checked, you may not file this form.)

1 I reasonably believe that the Adverse Party has threatened or committed an act or act(s) of
2 harassment in the workplace as defined above. The event(s) occurred as follows:

3 **NOTE: BE SPECIFIC AS TO WHO THREATENED OR COMMITTED WHAT ACT OR**
4 **ACTS AND AGAINST WHOM. INDICATE APPROXIMATE DATE(S) AND**
5 **LOCATION(S). ALSO LIST SPECIFIC EMPLOYEE(S)/PERSON(S) PRESENT AT THE**
6 **WORKPLACE WHO ARE THE FOCUS OF THE HARASSMENT OR WHOM THE**
7 **ADVERSE PARTY SHOULD BE DIRECTED NOT TO CONTACT.**

8 **THIS FORM IS A PUBLIC RECORD**

9 Mrs. Puhek is the owner of the property located at 2740 Kildrummie St., Henderson,
10 Nevada, which is found within Anthem Highlands Community Association ("Anthem
11 Highlands"). FirstService Residential, Nevada, LLC ("FSR") is the management
12 agent for Anthem Highlands. FSR employs Marlina Short, who is the Community
13 Manager for Anthem Highlands. Mrs. Puhek has initiated an extremely
14 inappropriate and intentionally harmful harassment campaign against Ms. Short in
15 connection with her management role at Anthem Highlands. For reasons unknown,
16 Mrs. Puhek has been personally attacking and circulating inappropriate and
17 negative comments to the Anthem Highlands President and Board.

18 Mrs. Puhek has made additional attacks online at nextdoor.com, in emails, in board
19 meetings and other correspondence to FSR/Anthem Highlands personnel. Attached
20 as Exhibits 1 and 2 are emails from Mrs. Puhek. Exhibit 2 shows an online post
21 where Mrs. Puhek is harassing and making false allegations and defamatory
22 content. Attached as Exhibits 3, 4, and 5 contain three groundless demand letters
23 Mrs. Puhek sent to Ms. Short from April and May, 2017.

24 In addition, on December 7, 2016, Mrs. Puhek openly accused the Board President,
25 General Counsel, and Community Manager of conspiracy to violate the law. On
February 22, 2017, Mrs. Puhek attacked and accused Ms. Short of misappropriation
of funds, violation of state law, and made additional threats to Ms. Short. These
emails, demands, and conduct in public meetings are just a small sample showing
her pattern and practice of harassment.

26 **NOTE: PLEASE DO NOT WRITE ON THE BACKS OF ANY PAGES;**
27 **CHECK BOX IF YOU ARE USING ADDITIONAL PAGES.**

28 ☒ **Check if you use a continuation page (to be incorporated by reference)**

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NOTICE REQUIREMENTS

(Complete either A or B, not both)

A. I HAVE given notice of this Application to the Adverse Party by the following method(s):

- ☐ In Person ☐ E-mail ☐ Fax
☐ Telephone ☒ Overnight Carrier ☒ First Class Mail
☐ Other: _____

Date: _____ Time: _____

☐ I have received confirmation that the Adverse Party has received my Application for a Temporary Order for Protection Against Harassment in the Workplace. Confirmation of receipt is attached (i.e., fax, e-mail, postal mail, etc.).

☒ I have not received confirmation.

B. I HAVE NOT given notice of this Application to the Adverse Party because immediate and irreparable injury, loss, or damage will result to the employer, an employee of the employer while the employee performs the duties of his employment, or a person who is present at the workplace of the employer, before the matter can be heard on notice. The irreparable injury, loss, or damage that may result is: _____

It is irreparable because of:

- ☐ Possible economic or property damage which may include the following: _____

☐ Continuous threat of stalking/harassment
☐ Assault/Battery (personal injury)
☐ Possible death to specified individuals named in the Application
☐ Other: _____

1. What efforts, if any, have been made to give notice to the Adverse Party? _____

2. Facts supporting waiver of notice requirements: _____

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GENERAL INFORMATION

1. a) This matter does not have to be reported to law enforcement; however, has a related report ever been filed? ☐ Yes ☒ No
(Please complete information, if known. You may attach available copies)

Approximate date of report(s): _____

Name(s) of law enforcement agencies: _____

Case number(s): _____

- b) For purposes of this form, a "TPO Action" is defined to include the following **Justice Court** actions:

- (1) An Order for Protection Against Stalking and Harassment (NRS 200.591);
(2) An Order for Protection of Children (NRS 33.400);
(3) An Order for Protection Against Harassment in the Workplace (NRS 33.270). A
"TPO Action" is also defined to include the following **Justice/Family/District** action:
(a) An Order for Protection Against Domestic Violence (NRS 33.020)

Please Check the Appropriate Box Below:

- ☒ In the last 2 years, Applicant or any party seeking protection has not filed a TPO action against the Adverse Party anywhere in the State of Nevada, and the Adverse Party has not filed a TPO action against Applicant or any party seeking protection anywhere in the State of Nevada.
- ☐ In the last 2 years, the following TPO action(s) in the State of Nevada have been filed involving Applicant and the Adverse Party:

Case # (if known)	Court (Justice/Family)	Place of Filing	Approx. Date Filed	Outcome (TPO granted, denied, rescinded, etc.)

2. a) Employer's name (if applicable, d/b/a): FirstService Residential, Nevada, LLC

- b) The workplace is located in, and the employees primarily perform their duties at the following address: Anthem Highlands Community Association

Town/City of Henderson, County of Clark, State of Nevada

Phone #: 702-564-3847

3. PLEASE CHECK THE APPROPRIATE BOX(ES) BELOW, IF APPLICABLE.

☒ Employee(s) also work at the additional specific locations that need to be enumerated in the Order:

Street Address: 2401 Somersworth Dr.

Town/City of Henderson, County of Clark, State of Nevada

Phone #: _____

Street Address: 8290 Arville St.

Town/City of Las Vegas, County of Clark, State of Nevada

Phone #: 702-215-5077

(If you wish to designate more specific addresses, please list them in this format on a separate sheet.)

☒ The employees perform their duties statewide.

☐ Other comments on locations where protection is needed: _____

4. Authorized agent for employer: _____

5. Phone number for authorized agent: _____

6. Is employer represented by an attorney? ☒ Yes ☐ No

Attorney name: Steven B. Scow, Esq. Bar #: 9906

Address: 11500 S. Eastern Ave., Ste. 210, Henderson, NV 89052

Phone # for attorney: 702-318-5040 Fax # for attorney: 702-318-5039

7. Are there additional safety concerns that the Court should know (i.e., firearms, dangerous conditions, hazardous premises, nature of business, etc.)? ☐ Yes ☒ No

If yes, please briefly explain: Unknown

1 8. Have there been any other Court actions or any other relationships between the employer
2 and the Adverse Party? ☒ Yes ☐ No

3 If yes, please describe: No court action, but sent 2 response letters to groundless
4 demands and a cease and desist letter, dated August 17.

5 **RELIEF REQUESTED**

6 I THEREFORE REQUEST that a Temporary Order for Protection Against Harassment in
7 the Workplace be issued against the Adverse Party so that the Adverse Party will be prohibited from
8 contacting, intimidating, threatening, or otherwise interfering with the employer's business and/or its
9 employees and/or any person present at the workplace, and that the Adverse Party will be ordered to stay
10 away from the employer's workplace. I also request that the Court prohibit the Adverse Party from
11 violating this Order via e-mail, correspondence, telephone, or by an agent.

12 I FURTHER REQUEST the following other conditions: _____
13 the Court hold a hearing to issue an extended, year-long protective order against Mrs.
14 Puhek.

15 I FURTHER REQUEST that this Court set a hearing date for an Extended Order
16 as soon as possible.

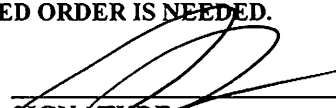
16 ☒ Yes ☐ No

17 If yes, complete the Application for Extended Order for Protection Against
18 Harassment in the Workplace. **NOTE: THIS HEARING WILL BE HELD WITHIN
19 TEN (10) JUDICIAL DAYS PURSUANT TO NRS 33.270(6)(c), UNLESS
20 COMPELLING REASONS REQUIRE OTHERWISE.**

21 **DECLARATION**
22 **(NRS 53.045)**

23 I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAW OF THE STATE OF NEVADA
24 THAT: (1) I AM THE EMPLOYER OR AUTHORIZED AGENT HEREIN, (2) I HAVE READ THE
25 STATEMENTS CONTAINED HEREIN OR HAVE HAD THEM READ TO ME, (3) I BELIEVE THESE
STATEMENTS TO BE TRUE, AND (4) THE REQUESTED ORDER IS NEEDED.

23 Dated: September 22, 2017

24 
SIGNATURE

25 Steven B. Scow
PRINT NAME

EXHIBIT 31

BEFORE THE COMMISSION FOR COMMON-INTEREST
COMMUNITIES AND CONDOMINIUM HOTELS
STATE OF NEVADA

JOSEPH (J.D.) DECKER, Administrator,
REAL ESTATE DIVISION, DEPARTMENT
OF BUSINESS & INDUSTRY,
STATE OF NEVADA,

Case Nos. 2015-291

Petitioner,

vs.

ANTHEM HIGHLANDS COMMUNITY
ASSOCIATION, PENNIE PUHEK, JAMES
LAUTH, and CHARLES HERNANDEZ,

Respondents.

FILED

JUL 27 2016

NEVADA COMMISSION OF
COMMON INTEREST COMMUNITIES
AND CONDOMINIUM HOTELS

**REPLY TO RESPONDENT PENNIE PUHEK'S
OPPOSITION TO MOTION FOR SUMMARY JUDGMENT AND
OPPOSITION TO REQUEST FOR TIME TO CONDUCT DISCOVERY PER NRCP §56(f)**

The Real Estate Division of the Department of Business and Industry, State of Nevada (the "Division"), by and through its counsel, Adam Paul Laxalt, Attorney General of the State of Nevada, and Michelle D. Briggs, Senior Deputy Attorney General, hereby files its Reply to Respondent Pennie Puhek's Opposition to Motion for Summary Judgment and Opposition to Request for Time to Conduct Discovery Per NRCP §56(f). This reply and opposition is made and based on the following memorandum of points and authorities as well as any and all pleadings on file herein and any oral argument that may be heard at the time of the hearing of this matter.

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

PUHEK submitted her opposition to the Division's motion for summary judgment, but fails to establish any material issues of fact. In addition, PUHEK requests discovery pursuant to NRCP §56(f), but such discovery is not provided for in NAC 116.557, and therefore, not required. The Nevada Rules of Civil Procedure do not specifically apply to administrative proceedings. Moreover, PUHEK fails to identify any need for the extensive discovery

1 requested. It is not clear what additional facts need to be determined that would be material
2 to this matter. PUHEK does not believe she violated the law by posting the disparaging
3 comments about another homeowner. She made the postings and she was a board member
4 at that time. This Commission can determine based on those facts whether her conduct
5 violated the law. In the interests of an efficient resolution to this matter, the Division requests
6 summary adjudication.

7 PUHEK'S opposition tries to take the Commission's attention away from the specific
8 language PUHEK used to attack a fellow homeowner by blaming the Division and its counsel
9 for doing their job. The Division is a regulatory agency charged with investigating and
10 pursuing complaints before this Commission for violations of NRS 116 and NAC 116. As
11 unimportant as PUHEK thinks her conduct is; the Division takes board member retaliation
12 against a homeowner very seriously. This sort of behavior fosters animosity and distrust and
13 can lead to significant financial losses to the Association. The Division's administrator tried to
14 discuss his concerns with her, but PUHEK, as she continues to do, refused to accept that her
15 conduct violated NRS 116. This matter could have been resolved in 2015 if PUHEK would
16 have conceded that her behavior was inappropriate. Her refusal left the Division with no other
17 option, but to bring this matter to the Commission for adjudication. PUHEK'S attacks on the
18 Division and its counsel for simply prosecuting this case are childish and inappropriate. This
19 Commission should not tolerate such behavior.

20 II. LEGAL ARGUMENT

21 A. PUHEK FAILED TO IDENTIFY ANY MATERIAL ISSUES OF FACT TO BE DECIDED 22 BY THIS COMMISSION.

23 The motion for summary judgment requests that this matter be heard based on the
24 material facts as agreed to by PUHEK in her answer to the complaint. The motion states
25 those facts. There are no material factual allegations that need to be determined by this
26 Commission. PUHEK fails to raise any material disputed facts.

27 ///

28 ///

1 **1. PUHEK alleges she was not acting in the capacity of a board member.**

2 PUHEK alleges the violations of law require a finding that she was acting *in the*
3 *capacity* of a board member. That was not alleged as a fact and need not be shown.
4 Retaliating against a homeowner is by definition not acting in the capacity of a board
5 member. Board members should not be retaliating against owners. It is against the law. The
6 complaint does not state that PUHEK'S conduct was board action or directed by the board.
7 But her action was taken as a board member. The comments she made were based on her
8 experience as a board member against a homeowner, and her comments were directed to
9 other homeowners in the Association.

10 Being a board member is not a hat that you can take on and off when it's convenient
11 for you. Being a board member includes a fiduciary duty to *always* do what is in the best
12 interests of the Association. As that relates to communications with other homeowners, the
13 Division expects board members to be respectful and professional. When their conduct
14 violates NRS 116.31183 – it violates their fiduciary duty.

15 The conduct of a board member is under the jurisdiction of the Division and this
16 Commission. To argue that jurisdiction is limited only to when the board member is *acting in*
17 *their capacity as a board member* would lead to absurd results. A board member is not acting
18 in their capacity as a board member when they take petty cash from the Association, but it
19 would be a violation of their fiduciary duty, and they would be subject to discipline. A board
20 member is not acting in their capacity as a board member when they fail to hold meetings or
21 file annual registration forms with the Division, but they are held accountable, because they
22 are board members.

23 Similarly, retaliation is prohibited by NRS 116.31183. The language of the statute does
24 not require that the board member's actions be in their capacity as a board member.
25 Retaliatory action does not necessarily occur at a board meeting. The language of the statute
26 prohibits taking action or directing or encouraging another person to take any retaliatory
27 action against a homeowner because the homeowner has complained about the association.
28 PUHEK'S comments violated NRS 116.31183 and her fiduciary duty as a board member.

1 **2. PUHEK alleges the administrator's previous testimony supports her posting.**

2 PUHEK'S support for her posting based on the administrator's testimony in June is
3 misplaced. Mr. Decker testified that he met with the complainant, Robert Stern, and PUHEK
4 to discuss this complaint among others. PUHEK'S comment had already been made when
5 Mr. Decker met with Stern and when he met with PUHEK. She could not have known on
6 January 16, 2015, when she made the post, what the Division was going to do with other
7 complaints Stern had filed.

8 What she did already know about; however, is the Informal Conference Agreement
9 ("ICA"). The ICA speaks for itself. It says Stern was paid over \$30,000 by the Association,
10 and that it resolved 10 complaints that are listed by number. PUHEK'S post that the Division
11 "shut him down by basically dismissing his petty complaints" is not true and misleading. She
12 wrote it to discredit Stern and encourage other owners to dislike him as well.

13 **3. PUHEK alleges she was not on the board at all times during the conflict with**
14 **Stern.**

15 It is true that PUHEK was elected to the board, resigned from the board and was
16 reappointed to the board at various times in 2014, but she also had personal knowledge of
17 the Association's civil cases against Stern, and the complaints he filed with the Division. The
18 posts she made are evidence of her intense feelings about Stern. To claim she was not
19 interested in what was happening with Stern is laughable.

20 The Association's records reflect the following:

21 Jan. 22, 2014 – PUHEK was on the board. At this time, the board was in litigation with
22 Stern. It was approved by the board that PUHEK would serve to consult with legal counsel
23 regarding the litigation with Stern.¹

24 Jan. 25, 2014 – PUHEK submitted her resignation to the Association and it was
25 accepted at its meeting on February 26, 2014.²

26 Mar. 18, 2014 – PUHEK attended an executive session of the board just to discuss
27

28 ¹ See Association Executive Session Minutes dated January 22, 2014 at Ex A.

² See Association Meeting Minutes dated February 26, 2014 at Ex. B.

1 rescinding the ICA settlement with Stern that had just been approved in February. According
2 to the minutes, PUHEK'S presence at the executive session was challenged by one board
3 member, but because she was previously appointed by the board "as agent of the board to
4 act on behalf of the board to consult and work with all legal matters associated with litigation
5 regarding Robert Stern and all accompanying legal matters including but not limited to the
6 state of Nevada Real Estate Division and has complete authority to do same and work with
7 any third parties in furtherance of same,"³ the other board members did not object to her
8 being there.

9 PUHEK also serves on virtually all of the subcommittees of the Board and reported
10 back to the board at its March regular session meeting. She also submitted written public
11 comment about Stern and her dislike of him.⁴

12 Sept. 10, 2014 – PUHEK was appointed to the board for the unexpired term ending
13 May 27, 2015.⁵ She then became the vice-president.⁶

14 Jan. 16, 2015 – PUHEK made the posts on Nextdoor about Stern which became the
15 basis for the complaint in this matter.

16 Jan. 28, 2015 – PUHEK and the rest of the board discuss in executive session taking
17 action against Stern and litigation against Stern is on-going.⁷

18 PUHEK'S knowledge of and participation in the conflicts with Stern are very clear from
19 a reading of the Association's meeting minutes. She was certainly on the board in January of
20 2015 when she made the disparaging comments. To claim that she was not concerned about
21 Stern or the complaints he filed against the Association is in direct conflict with the language
22 in her posts, as well as the minutes from the Association's meetings. PUHEK writes in her
23 post that Stern has "terrorized" the community, and she even mentions that he filed a number
24 of complaints that the Division dismissed.⁸ It is clear from PUHEK'S own words that she

25 ³ Association Executive Session Meeting Minutes dated March 18, 2014 at Ex. C.

26 ⁴ See Association Meeting Minutes dated March 26, 2014 at Ex. D.

27 ⁵ See Association Meeting Minutes dated September 10, 2014 at Ex. E.

28 ⁶ See id.

⁷ See Association Executive Session Meeting Minutes dated January 28, 2015 at Ex. F.

⁸ See Complaint at 3, In 7-10.

1 dislikes Stern immensely based on her own personal experiences. This case is not about
2 PUHEK'S comments being rude or impolite. This case is about her comments constituting
3 retaliatory action, and as a result, she violated NRS 116.

4 **4. PUHEK alleges Stern's residence is not confidential based on his book which**
5 **gave her consent to disclose his primary residence.**

6 PUHEK states that Stern consented to her disclosing his primary residence in North
7 Carolina; and therefore, she could not have violated the law regarding revealing confidential
8 information about a unit owner. As evidence of Stern's consent, PUHEK uses an excerpt from
9 his book. First of all, the law does not say that information that can be obtained in a way other
10 than through the Association's records is no longer confidential. For example, the names of
11 owners may not be revealed to candidates running for a board seat. The names of the
12 owners are confidential. But anyone could research the public records to find the owner's
13 name. Just because the owner's name is available through the public records does not make
14 the Association's records public or any less confidential as it relates to a board member
15 releasing that information. The Division would also take the position that consent must be
16 given to the board, and done so knowingly. In the case of an owner requesting a fine hearing
17 at an open board meeting, the owner knowingly consents to the disclosure of confidential
18 information about that owner. Stern's book does not give the Association or its board
19 members consent to disclose any of his personal information, no matter how much
20 confidential information is mentioned in his book.

21 Furthermore, PUHEK'S use of Stern's book as evidence of his consent to disclose his
22 primary residence is not logical. Her posts were made the day the book was released. She
23 could not have received the book, read the book, and accepted the book as consent from him
24 to release his primary residence prior to her posting.

25 The real issue here is not so much that she mentioned his primary residence. It is that
26 her post is trying to use that information against him. She is trying to use the information
27 against him by telling other owners that he really lives in North Carolina only coming to "Las
28

1 Vegas during election time to terrorize our community so he can write more books."⁹ She
2 wants the owners to believe that Stern does not care about the Association, so they will think
3 the same way she does. She knows where he lives based on her experience as a board
4 member. She provides nothing else to establish consent by Stern to allow her to release his
5 primary residence. She had no right to release the information or to use it in retaliation for the
6 complaints he made about the Association.

7 **5. PUHEK misuses the Division's advisory opinion regarding retaliatory conduct to**
8 **claim she did not violate NRS 116.31183.**

9 PUHEK includes one excerpt from the Division's advisory opinion on retaliatory
10 conduct. The entire advisory opinion is attached hereto.¹⁰ What is stated in the advisory
11 opinion is that retaliatory action "is the harmful, punitive action taken by an Association or its
12 representatives against another person that would not have been taken but for such person
13 having," among other things, complained about a violation of NRS 116.¹¹ PUHEK'S post is
14 nothing if not punitive and harmful. She intends to cause harm by telling owners how terrible
15 he is and telling them not to buy his book, or vote for him or anyone he endorses. She states
16 in her post the reason for it – all the complaints he's made against the Association and its
17 managers. There is no clearer case of retaliatory conduct.

18 PUHEK'S argument that she has a First Amendment free speech right to say whatever
19 she wants to say about another homeowner as a board member is just wrong. Everything you
20 say is not protected by the First Amendment. NRS 116.31183 and other provisions of
21 NRS 116 and NAC 116 limit the speech of a board member. If board members do not want to
22 limit their free speech rights, they should not be board members. But to the extent PUHEK
23 wants to make a constitutional challenge of NRS 116.31183 – she can do that in court. It is
24 not appropriate in this proceeding. This Commission enforces the law as adopted by the
25 Nevada Legislature. PUHEK violated NRS 116.31183 based on the language of the statute.

26
27 ⁹ Complaint at 3, In 4-5.

28 ¹⁰ See NRED Advisory Opinion 15-02 at Ex. G.

¹¹ Id. at 1.

1 **B. PUHEK IS NOT ENTITLED TO DISCOVERY AS REQUESTED.**

2 PUHEK argues that she needs time for discovery. She cites to caselaw and
3 NRCP 56(f) that is simply not applicable to this proceeding. Dutchess Business Services tried
4 to make a similar argument to the Nevada Supreme Court in 2008 and failed.¹² The Court
5 found that there is no constitutional right to discovery in administrative proceedings.¹³ In fact,
6 Nevada Rules of Civil Procedure do not apply to administrative proceedings and the Nevada
7 Administrative Procedures Act does not contain any provision for discovery.¹⁴ The only
8 discovery permitted would be what is set forth in the statutes and regulations for the
9 commission.¹⁵ This Commission's only applicable regulation is NAC 116.557.

10 NAC 116.557 sets forth the purposes of a prehearing conference. Puhek previously
11 requested a pre-hearing conference, which is not opposed by the Division. Of course for
12 matters like simplifying the issues for the hearing, obtaining admissions of fact and
13 stipulations, exchanging documents, and identifying witnesses, Puhek could discuss those
14 matters at any time with the Division. The prehearing conference is also intended to have the
15 Commission rule on pending motions and establish a schedule for the completion of
16 discovery. In terms of discovery, the issue is what facts need to be explored. PUHEK does
17 not identify any specific need for the discovery. There is nothing that would be relevant to this
18 matter. PUHEK's prior requests are for confidential investigative files and depositions of
19 Division staff. PUHEK seems to be trying to make a case that the Division did something
20 wrong or has a vendetta against her. There is nothing PUHEK could find that would justify her
21 making the retaliatory posts. Additional discovery is not required by the law, and it is not
22 necessary.

23 ///

24 ///

25
26 ¹² Dutchess Business Services, Inc. v. Nevada State Board of Pharmacy, 124 Nev. 701, 191
27 P.3d 1159 (2008).

27 ¹³ See Dutchess, 124 Nev. at 713-14, 191 P.3d 1167-68.

28 ¹⁴ See id.

28 ¹⁵ See id.

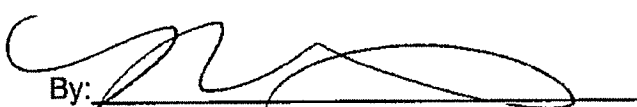
1 III. CONCLUSION

2 PUHEK'S opposition to the Division's motion for summary judgment fails to
3 demonstrate any material fact at issue in this matter. The discovery requested is not required
4 in administrative proceedings, and she failed to establish any need for the extensive
5 discovery requested, including access to unrelated confidential investigative files and four
6 depositions of Division staff.

7 The only matter this Commission needs to determine if is PUHEK'S disparaging posts
8 violated NRS 116.31183 and NRS 116.3103 as a matter of law. All the relevant facts are
9 undisputed. For the foregoing reasons, the Division respectfully requests summary judgment
10 in favor of the Division be granted as to the violations of law against PUHEK.

11 DATED this 26th day of July, 2016.

12
13
14 ADAM PAUL LAXALT
Attorney General

15
16
17 By: 

18 MICHELLE D. BRIGGS
19 Senior Deputy Attorney General
20 555 E. Washington Ave. Ste 3900
21 Las Vegas, Nevada 89101
22 (702) 486-3420
23 Attorneys for Real Estate Division
24
25
26
27
28

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of the Office of the Attorney General and that on the 27th day of July, 2016, I served the foregoing REPLY TO RESPONDENT PENNIE PUHEK'S OPPOSITION TO MOTION FOR SUMMARY JUDGMENT AND OPPOSITION TO REQUEST FOR TIME TO CONDUCT DISCOVERY PER NRCP §56(f) by causing a true and correct copy thereof to be served via U.S. Mail, Postage Prepaid addressed to the following:

Edward D. Boyack, Esq.
Boyack Orme & Taylor
401 N. Buffalo Drive #202
Las Vegas, Nevada 89145
Attorney for Anthem Highlands Community Association and Charles Hernandez

Gregory P. Kerr, Esq.
3556 E. Russell Rd., 2nd Floor
Las Vegas, NV 89120
Attorney for James Lauth

John B. Marcin, Esq.
Marcin Lambirth LLP
3960 Howard Hughes Parkway, 5th Floor
Las Vegas, NV 89169
Attorney for Pennie Puhek

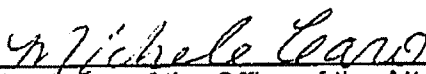

An Employee of the Office of the Attorney General

EXHIBIT 32

Timothy P. Elson, Esq.
 Nevada State Bar # 11559
THE LAW OFFICES OF TIMOTHY ELSON
 8965 S. Eastern Ave., Suite 382
 Las Vegas, Nevada 89123
 Tim@ElsonLawOffices.com
 (702) 874-8600

Attorneys for Plaintiff ANDREA COLLIER, as
 trustee of the JACT TRUST

DISTRICT COURT
CLARK COUNTY, NEVADA

ANDREA COLLIER, as trustee of the JACT
 TRUST,

Plaintiff,

v.

PENNIE MOSSETT-PUHEK, individually;
 ANTHEM HIGHLANDS COMMUNITY
 ASSOCIATION, a Nevada Non-Profit Corporation;
 CARMEN EASSA, an individual; K.G.D.O.
 HOLDING COMPANY, LLC d/b/a TERRA
 WEST MANAGEMENT SERVICES, a Nevada
 limited liability company; DOES I through X and
 ROE BUSINESS ENTITIES I through X,
 inclusive,

Defendants.

Case No.: A-22-852032-C
 Dept.: 8

[PROPOSED] AMENDED COMPLAINT
CASE EXEMPT FROM ARBITRATION
(DECLARATORY RELIEF REQUESTED)

COMES NOW Plaintiff ANDREA COLLIER, as trustee of the JACT TRUST, by and
 through her counsel of record, Timothy Elson, Esq., of The Law Offices of Timothy Elson, PLLC,
 and hereby complains and alleges as follows:

PARTIES, JURISDICTION AND VENUE

1. Plaintiff ANDREA COLLIER (“Plaintiff” or “Collier”) is, and at all relevant times
 was, an individual residing in Clark County, Nevada. Ms. Collier is trustee of the JACT Trust (the
 “Trust”), and holds title to real property as trustee of the Trust located at 2822 Culloden Ave.,
 Henderson, Nevada 89044, Parcel No. 191-24-813-013 (the “Property”).

2. Defendant PENNIE MOSSETT-PUHEK (“Mossett-Puhek”) is, and at all relevant
 times was, an individual residing in the state of Nevada. Mossett-Puhek served as an officer and/or

1 director of Defendant ANTHEM HIGHLANDS COMMUNITY ASSOCIATION (“Anthem”) at all
2 times relevant to this action. Mossett-Puhek conducted business and otherwise engaged in the activity
3 at all times material to this Complaint and as further described herein in Clark County, Nevada.

4 3. Anthem is, and at all relevant times was, a Nevada non-profit corporation, and is
5 conducting business in Clark County, Nevada at all times material to this Complaint and as further
6 described herein. Anthem is the homeowner’s association that governs the Property pursuant to
7 Chapter 116 of the Nevada Revised Statutes and the Declaration of Covenants, Conditions, and
8 Restrictions (the “CC&Rs”) recorded against the Property, as well as the other governing documents.

9 4. Defendant CARMEN EASSA (“Eassa”) is, and at all relevant times was, an individual
10 residing in the state of Nevada. Eassa served as the community manager Anthem at all times relevant
11 to this action. Eassa conducted business and otherwise engaged in the activity at all times material to
12 this Complaint and as further described herein in Clark County, Nevada.

13 5. Defendant K.G.D.O. HOLDING COMPANY, LLC d/b/a TERRA WEST
14 MANAGEMENT SERVICES (“TerraWest”) is a Nevada limited liability company,, and is
15 conducting business in Clark County, Nevada at all times material to this Complaint and as further
16 described herein. TerraWest contracted with Anthem as the management company at all times
17 relevant to this action. TerraWest employed Eassa.

18 6. Defendants DOES 1 through 20, inclusive, are sued herein under fictitious names, their
19 true names and capacities being unknown to Plaintiff but are believed to reside in the State of Nevada
20 or otherwise have sufficient contacts with Nevada; Defendant will ask leave of Court to amend its
21 Complaint by inserting their true names and capacities in the place and stead of said fictitious names
22 when the same have been ascertained.

23 7. Defendants ROE CORPORATIONS 1 through 80, inclusive, are sued herein under
24 fictitious names, their true names and capacities being unknown to Plaintiffs but are believed to be
25 corporations authorized to conduct business in the State of Nevada; Plaintiffs will ask leave of Court
26 to amend its Complaint by inserting their true names and capacities in the place and stead of said
27 fictitious names when the same have been ascertained.

28 8. Plaintiff is informed and believes and based upon such information and belief allege

1 that each Defendant designated herein as DOES 1 through 20, inclusive, and ROE CORPORATIONS
2 1 through 80, inclusive, is responsible, either directly, indirectly, or through vicarious liability, in some
3 way and/or manner for the acts and occurrences herein alleged, whether such acts and occurrences
4 were committed intentionally, negligently, recklessly or otherwise, and that each DOE Defendant and
5 ROE CORPORATION Defendant is liable to Plaintiff for the damages and/or relief sought herein.

6 9. Upon information and belief, Plaintiff alleges that Mossett-Puhek, Anthem, Eassa,
7 TerraWest, each DOE Defendant, and each ROE CORPORATION Defendants (collectively the
8 “Defendants”) are responsible, negligently, intentionally, or in some other actionable manner, for the
9 events and happenings hereinafter referred to, and caused the injuries and damages proximately
10 thereby to Plaintiff as alleged in this Complaint.

11 10. Venue is appropriate in Clark County, Nevada given that the Property is located in
12 Clark County, Nevada and the obligations of the restrictive covenants at issue are to take place in
13 Clark County, Nevada. Furthermore, venue is appropriate in Clark County, Nevada given that
14 Mossett-Puhek resides in Clark County, Nevada. In addition, venue is appropriate in Clark County,
15 Nevada as Mossett-Puhek and Anthem conduct business in Clark County, Nevada and/or events giving
16 rise to this action occurred in Clark County, Nevada. Alternatively, venue is appropriate in Clark
17 County, Nevada pursuant to NRS 13.040 as Plaintiff designates venue in Clark County, Nevada.

18 **FACTUAL ALLEGATIONS**

19 **A. Collier and Mossett-Puhek’s Relationship.**

20 11. On or about December 31, 2015, Collier purchased the Property. The Property is a
21 single-family, two-story residence that is approximately 2,462 square feet on 0.17 acres. Collier takes
22 great pride in maintaining the Property at all times, as well as the surrounding neighborhood.

23 12. For years, Collier never had any issues with Anthem. Collier did not receive any
24 notices of any alleged violations from Anthem given that her Property was properly maintained.

25 13. After several years of residing in Anthem, Collier noticed a general decline in the
26 neighborhood. For example, Collier was frustrated with an increase in crime in the neighborhood,
27 including an increase in car burglaries. The appearance of the neighborhood also decreased given an
28 increase in unkept landscaping. Unit owners and their guests also routinely parked vehicles on the

1 streets, including commercial vehicles and inoperable vehicles, which only worsened the appearance
2 of the neighborhood. This general decline frustrated Collier.

3 14. Around June 2020, given her increased frustration, Collier reached out to Mossett-
4 Puhek, who had recently been elected to Anthem's board of directors, to congratulate Mossett-Puhek
5 on her election victory. Collier also informed Mossett-Puhek of her concerns with the Anthem
6 Community, offering her support in anyway that could assist Anthem. At various times, Collier
7 offered to join committees or otherwise become part of the solution to the general decline in the
8 Anthem Community. During the call, Mossett-Puhek acknowledged many of Collier's concerns with
9 the Anthem Community, specifically in the Glengarry area of Anthem. Mossett-Puhek also informed
10 Collier that she would address these issues, including the parking situation.

11 15. Over the next seven to eight months, Collier and Mossett-Puhek continued to work
12 with one another. Collier and Mossett-Puhek discussed forming various neighborhood task forces to
13 assist Anthem's community management company, Terra West Management Services ("Terra West"),
14 with the various issues in the neighborhood. Mossett-Puhek requested that Collier take pictures of
15 infractions, landscaping issues, parking problems, or other issues within the Anthem Community.
16 Mossett-Puhek informed Collier during this time period that she would then address these issues with
17 Terra West to allow Anthem to follow proper procedure in addressing the complaints with the
18 appropriate unit owners.

19 16. During this timeframe, Mossett-Puhek also requested that Collier, as well as those
20 working with Collier to improve the neighborhood, take to social media to assist Mossett-Puhek. For
21 example, Nextdoor is an online website where neighbors communicate with one another. This creates
22 a neighborhood network. Mossett-Puhek was (and still is) the subject of many negative comments.
23 Mossett-Puhek originally informed Collier that these comments stemmed from disgruntled
24 homeowners, convincing Collier that the comments were not true. Mossett-Puhek encouraged Collier
25 and those working with Collier to post positive comments about Mossett-Puhek and her work to
26 improve the Anthem Community to help improve her status in the Anthem Community. Mossett-
27 Puhek constantly complained to Collier that she could not take significant steps to improve the
28 neighborhood during this timeframe given "covid" restrictions put in place by Terra West and the

1 State of Nevada, Department of Business and Industry, Real Estate Division (“NRED”).

2 17. During this timeframe, Collier also made complaints to Mossett-Puhek, as well as
3 Anthem, about other homeowners in the Anthem Community. For example, Collier complained about
4 commercial vehicles parked on the street. At times, Anthem took action as a result of these complaints.

5 18. Toward the end of January 2021, as Mossett-Puhek and Collier continued to work with
6 one another, Collier invited Mossett-Puhek to the Property for drinks and appetizers in Collier’s
7 backyard (the “Dinner Party”). Mossett-Puhek asked if she could bring a guest or two. Mossett-Puhek
8 brought Frank Capello and his wife, Dahl Capello. Mr. Capello is Mossett-Puhek’s close friend, who
9 also happens to serve as the head of Anthem’s architectural review committee. They arrived around
10 6:00 p.m.

11 19. During the Dinner Party, Mossett-Puhek mentioned that the President of Earlstone,
12 another subcommunity within Anthem, complained about Collier’s oleander bushes. Mossett-Puhek
13 and Mr. Capello informed Collier not to worry as they had already determined that the oleanders were
14 “grandfathered” in and not in violation of Anthem’s governing documents. Mossett-Puhek and Mr.
15 Capello then commented on Collier’s beautiful yard, including her flagpole in the front yard. Mossett-
16 Puhek also commented about the trim of Collier’s home, discussing that she loved the way it matched
17 the patio and gates, even the gates throughout the Anthem Community. Mossett-Puhek made
18 numerous comments about how she wished that more homeowners would maintain their property as
19 Collier did and it was unfortunate that the “covid” restrictions prevented her from taking additional
20 measures to address the degradation of the Anthem Community. During the Dinner Party, as well as
21 during other conversations, Mossett-Puhek discussed other unit owners with Collier in direct violation
22 of privacy restrictions of Nevada law.

23 20. At the Dinner Party, Mossett-Puhek asked if Sydney Woo, the treasurer of Anthem,
24 could join the ongoing festivities. Mossett-Puhek, Mr. Woo, and Mr. Capello (as well as his wife) all
25 enjoyed the food and drink for several hours. Mr. Capello and his wife departed around 11:30 p.m..
26 Prior to their departure, Collier invited Mossett-Puhek and Mr. Woo to dinner at Michael’s Gourmet
27 Room at South Point Hotel & Casino, who accepted Collier’s invitation. Mossett-Puhek and Mr. Woo
28 stayed until approximately 2:00 a.m.

1 21. On February 14, 2021, as Collier continued to develop a friendship with Mossett-
2 Puhek, Collier, Mossett-Puhek, and Mr. Woo went to dinner at Michael's Gourmet Room. During
3 dinner, Collier discussed with Mossett-Puhek the ongoing issues in the Anthem Community. Mossett-
4 Puhek continued to inform Collier that the "covid" restrictions were delaying her efforts. Eventually,
5 Mossett-Puhek became intoxicated and began making loud comments, including toward other notable
6 guests in the restaurant sitting near their table. Eventually, Collier was able to calm down Mossett-
7 Puhek, and they finished their meal and left the restaurant. Collier paid for the entire meal, which
8 Mossett-Puhek should not have accepted as this would violate NAC 116.480.

9 22. Shortly after February 14, 2021, Collier and Mossett-Puhek had another two to three
10 conversations about the lack of progress with the Anthem Community. Mossett-Puhek continued to
11 inform Collier she was working on it. Just as Mossett-Puhek had done in prior conversations,
12 including at the Dinner Party, Mossett-Puhek improperly revealed confidential information to Collier
13 about other unit owners and her efforts to "clean up" the Anthem Community.

14 23. In March 2021, Collier decided to open the lines of communication with Terra West.
15 Collier spoke with Carmen Eassa, who was the community manager at Terra West assigned to the
16 Anthem. Ms. Eassa informed Collier that this was the first that Ms. Eassa had heard of many, if not
17 all, of Collier's concerns. This greatly surprised Collier, given the repeated assurances from Mossett-
18 Puhek that Mossett-Puhek had addressed these concerns.

19 24. Collier's conversation with Ms. Eassa enraged Mossett-Puhek. The nature of Collier's
20 relationship with Mossett-Puhek greatly changed following that conversation. Mossett-Puhek no
21 longer conversed with Collier in a friendly manner. Instead, significant animosity appeared to exist
22 from Mossett-Puhek toward Collier.

23 **B. The Violation Letters And Continued Harassment From Anthem And Mossett-**
24 **Puhek.**

25 25. Almost immediately after Collier's relationship with Mossett-Puhek soured, Collier
26 became the subject of an unfair and intense investigation by Mossett-Puhek and Anthem. That is,
27 Mossett-Puhek utilized her power to inappropriately target Collier.

28 26. On or about April 12, 2021, Anthem allegedly issued Collier a Courtesy Notice

1 pertaining to the oleanders in her front yard. The Courtesy Notice indicated that Collier “need to
2 submit an ARC for approval for Oleanders. It is a view obstruction.” The alleged provision of the
3 CC&Rs that was violated was Article 4, Section 4.1.4, which dealt with alteration of Improvements
4 without prior written approval of the ARC. Despite the oleanders being present in her front yard for
5 several years, as well as vegetation in a similar manner prior to the oleanders, Anthem never addressed
6 this issue with Collier until her relationship with Mossett-Puhek soured.

7 27. On or about April 14, 2021, Anthem also issued a letter to Collier regarding its position
8 on parking enforcement. Therein, Anthem indicated that it started to take additional steps to address
9 parking in the Anthem Community largely due to the complaints by Collier. Therein, Anthem
10 indicated it was now enforcing parking violations to the fullest extent it could under Nevada law.

11 28. On May 4, 2021, Anthem issued a Formal Notice to Collier regarding the oleanders in
12 the front yard. The Formal Notice mirrored the Courtesy Notice.

13 29. On May 5, 2021, Collier requested general records from Anthem pursuant to NRS
14 116.31175(5).

15 30. On May 12, 2021, Anthem issued a Courtesy Notice pertaining to Collier’s paint
16 scheme on the front of her house. The Courtesy Notice indicated as follows:

17 Need to submit an ARC for approval for the exterior paint. Current paint does not match the
18 community approved color scheme. Please go to [https://www.sherwin-](https://www.sherwin-williams.com/homeowners/color/find-and-explore-colors/hoa/henderson/nv/anthem-highlands-glengarry/)
19 [williams.com/homeowners/color/find-and-explore-colors/hoa/henderson/nv/anthem-](https://www.sherwin-williams.com/homeowners/color/find-and-explore-colors/hoa/henderson/nv/anthem-highlands-glengarry/)
highlands-glengarry/ to find all of the approved paint schemes for your community.

20 The alleged provision of the CC&Rs that was violated was Article 4, Section 4.1.4, which dealt
21 with alteration of Improvements without prior written approval of the ARC.

22 31. As it relates to background pertaining to the paint scheme, Collier had the body of her
23 house painted on or about May 28, 2018. Anthem does not argue that the body of Collier’s house
24 violates the Governing Documents. In early to mid 2020, Collier noticed issues with the trim of her
25 house due to faulty and rusted metal flashing. As such, Collier took steps to paint the trim of her
26 house. Before doing so, Collier attempted to contact Terra West on several occasions by telephone.
27 Whether due to covid or other issues with Terra West, Collier was not able to speak with anyone at
28 Terra West. Collier also reviewed the Anthem Community website and Sherwin Williams’ website

1 to verify whether any specific paint scheme requirements existed. From January 1, 2020 until
2 approximately August 15, 2021, the Glengarry Community of Anthem was not listed on either website
3 as to the requirements of the paint schemes. As such, Collier selected a color that was authorized from
4 the Anthem Community, which is used on other houses and in other places on the Property (such as
5 the gates, doors, and patio coverings). Anthem does not allege that Collier selected an unauthorized
6 color, only that Collier chose a color that was not authorized with the body of her house (which is not
7 true given that the paint schemes were not listed on the websites as required to provide notice to Collier
8 and other unit owners in the Anthem Community). Importantly, Anthem never addressed this issue
9 with Collier until her relationship with Mossett-Puhek soured, despite the fact that the trim was painted
10 for over a year.

11 32. On or about May 24, 2021, Anthem issued Collier a Notice of Hearing pertaining to
12 the oleander bushes. The Notice of Hearing set a violation hearing for June 9, 2021. Therein, Anthem
13 alleged for the first time as follows:

14 Unauthorized planting of Oleander bushes near the side yard lot is a safety issue as it creates a
15 view obstruction for those residents or guests turning from Crathes onto Culloden in both
16 directions. The plant material is especially obstructive to low profile vehicles. The plant
material creates a safety issue in the community. Please remove plant material completely,
immediately.

17 The alleged provision of the CC&Rs that was violated was Article 4, Section 4.3, which was
18 the first time that Anthem addressed this provision with Collier.

19 33. Section 4.3 of the CC&Rs deals with nuisances. It states, in pertinent part, as follows:
20 No rubbish or debris of any kind shall be placed or permitted to accumulate upon or adjacent to any
21 Unit, and no odors or loud noises shall be permitted to arise or emit therefrom, so as to render any
22 such Unit or any portion thereof, or activity thereon, unsanitary, unsightly, offensive or detrimental to
23 any other property in the vicinity thereof or to the occupants of such other property. No other nuisance
shall be permitted to exist or operate upon any Unit so as to be offensive or detrimental to any other
property in the vicinity thereof or to its occupants

24 The oleanders did not constitute a nuisance under Nevada law, to the extent any view
25 obstruction even existed.

26 34. On May 24, 2021, Anthem also issued a Second Notice of Hearing pertaining to the
27 oleander bushes. The Second Notice of Hearing set a violation hearing for June 9, 2021. Therein,
28

1 Anthem alleged violations similar to the Courtesy Notice and Formal Notice pertaining to the oleander
2 bushes.

3 35. On or about May 25, 2021, Collier via those acting on her behalf exchanged a series of
4 emails with Anthem via Mossett-Puhek and TerraWest via Eassa. Therein, for example, Collier
5 requested additional time to address the painting scheme issues, respectfully requesting 45 days to
6 coordinate with the painter on what happened with the paint scheme and an additional 12 months to
7 comply with any painting requirements given budget requirements. Mossett-Puhek continued her
8 threatening and demeaning conduct toward Collier, avoiding any discussion of resolution with Collier
9 on the outstanding issues. Mossett-Puhek did so without consulting the executive board in violation
10 of Nevada law. Anthem, Mossett-Puhek, TerraWest, and Eassa never provided these emails to the
11 executive board.

12 36. On June 5, 2021, Collier requested additional general records from Anthem pursuant
13 to NRS 116.31175(5).

14 37. On June 8, 2021, Collier requested additional records from Anthem pursuant to NRS
15 116.31175(5), which included, but is not limited to: 1) Ms. Mossett-Puhek's candidate informational
16 statement, along with any other disclosures. This is for the most recent year and all other elections;
17 2) TerraWest's contract with Anthem.; 3) Boyack Orme Anthony & McKiever's contract with Anthem;
18 4) Meeting minutes wherein TerraWest was retained. 5) Any disclosures by the HOA and/or the
19 TerraWest pertaining to the retention of TerraWest; 6) Meeting minutes wherein the Boyack Firm was
20 retained; 7) Any disclosures by the HOA and/or the Boyack Firm pertaining to the retention of the
21 Boyack Firm; 8) Meeting minutes wherein it was approved to solicit bids for community managers
22 (the time prior to TerraWest being retained); 9) To the extent they were retained, any bids for
23 community manager solicited in response to Item No. 8; 10) Meeting minutes wherein it was approved
24 to solicit bids for general counsel (the time prior to the Boyack Firm being retained). 11) To the extent
25 they were retained, any bids for general counsel solicited in response to Item No. 10; 12) Any
26 recordings of the board meetings for any of the minutes produced in response to this email. And 13)
27 All invoices by the Boyack Firm since its retention. To date, Anthem never fully complied with this
28 request.

1 38. Prior to June 9, 2021, in a further effort to resolve the outstanding disputes with
2 Anthem, Collier took additional measures to trim the oleanders. Prior to trimming the oleander bushes,
3 Collier consulted with Henderson Code Enforcement and various regulations on this issue, as Mossett-
4 Puhek (acting on behalf of Anthem) had previously targeted and harassed Collier by referring her to
5 Henderson Code Enforcement. Neither Mossett-Puhek nor Anthem referred other unit owners to
6 Henderson Code Enforcement who had similar vegetation in similar areas with similar heights to
7 Henderson Code Enforcement, which Collier confirmed with Henderson Code Enforcement.
8 Henderson Code Enforcement did not pursue the issue with Collier at the time of the referral by
9 Mossett-Puhek (acting on behalf of Anthem), thereby furthering Collier's belief that the oleanders
10 were not problematic and/or a view obstruction even before she trimmed the same. Mossett-Puhek
11 (acting on behalf of Anthem) even involved the Henderson Police Department, which also did not
12 pursue the issue with Collier, thereby furthering Collier's belief that the oleanders were not
13 problematic and/or a view obstruction. The Henderson Police Department also confirmed with Collier
14 that neither Mossett-Puhek nor Anthem referred other similarly situated homeowners to the Henderson
15 Police Department. Nonetheless, Collier took steps to attempt to resolve the issue with Anthem by
16 trimming the oleanders.

17 39. On June 9, 2021, Collier sent written correspondence to Anthem addressing the
18 procedural and substantive issues pertaining to the violation hearing. A true and correct copy of this
19 correspondence is attached hereto as **Exhibit A**. That same day, Collier also provided an additional
20 photograph to Anthem from the vantage point of a car to demonstrate that no view obstruction existed.
21 A true and correct copy of this Photograph is attached hereto as **Exhibit B**. These correspondences
22 conclusively demonstrate that Collier was not in violation of the Governing Documents, to the extent
23 the issues were even properly noticed. Mossett-Puhek, Eassa, Anthem, and TerraWest never provided
24 this correspondence to the executive board.

25 40. On June 9, 2021, Anthem issued a Formal Notice pertaining to the paint scheme. The
26 Formal Notice mirrored the Courtesy Notice as to the allegations regarding the paint scheme.

27 41. On June 9, 2021, Collier appeared at the violation hearing. Mossett-Puhek acted in an
28 abusive and otherwise engaged in inappropriate conduct toward Collier and those acting on her behalf,

1 knowing full well that Nevada law did not permit Collier to record the executive session. Mossett-
2 Puhek refused to allow Collier and those acting on her behalf to address the executive board and the
3 alleged violation. Mossett-Puhek refused to allow Collier to present documents or evidence at the
4 hearing. Several times during the executive session, Anthem muted Collier and/or those acting on her
5 behalf to intentionally interrupt and preclude Collier from presenting evidence at the hearing. In fact,
6 other members of the executive board asked Collier or those acting on her behalf questions, which
7 Mossett-Puhek refused to allow Collier to answer.

8 42. Despite an obligation to ensure that the executive meeting was conducted in accordance
9 with Nevada law, neither Eassa nor TerraWest intervened. Eassa and TerraWest permitted (putting
10 their pecuniary interests ahead of the duties owed to Anthem) Mossett-Puhek to conduct the meeting
11 in an abusive and unprofessional manner.

12 43. Immediately following the meeting and in accordance with Nevada law, Collier
13 memorialized the misconduct to both Eassa, TerraWest and legal counsel for Anthem, attempting to
14 report this misconduct to supervisory authorities. At no point did TerraWest, legal counsel for
15 Anthem, and/or Anthem substantively respond to Collier's allegations of misconduct as it pertaining
16 to the conduct at the executive session.

17 44. It was later learned and discovered that conflicts of interest exist between Terra West,
18 legal counsel for Anthem, and Mossett-Puhek, none of which have been disclosed to the Anthem
19 Community in violation of Nevada law. For example, Mossett-Puhek did not disclose her pre-existing
20 relationships with these vendors on her candidate statement as required by Nevada law. The vendors
21 also did not disclose these relationships at the time Mossett-Puhek and the executive board retained
22 them.

23 45. On June 10, 2021, Anthem issued a Courtesy Notice to Collier alleging that Collier and
24 her counsel were improperly contacting Anthem's legal counsel without board approval. Anthem
25 threatened to assess Collier for legal fees generated by their legal counsel. As a basis, Anthem cited
26 Article 7, Section 7.2.4, which does not support Anthem's improper threats to Collier. It was later
27 learned that this Courtesy Notice was sent without approval of the executive board. Mossett-Puhek,
28 Anthem, Eassa, and TerraWest inappropriately sent this Courtesy Notice to Collier in an attempt to

1 silence Collier's reporting of the misconduct by Mossett-Puhek.

2 46. On June 11, 2021, Anthem issued a Notice of Hearing Result as it relates to the
3 oleanders. Anthem alleged that the oleanders presented a health, safety, and welfare violation, thereby
4 fining Collier \$2,000.00 if she did not remove the oleanders within 14 days.

5 47. On June 11, 2021, Anthem issued a Second Notice of Hearing Result as it relates to the
6 oleanders. Anthem alleged that the oleanders are not on the approved plant list, thereby imposing a
7 \$50.00 fine if the oleanders are not removed in the next 14 days. Thereafter, Anthem threatened
8 Collier with an additional \$50.00 fine every seven (7) days until the oleanders are removed.

9 48. On June 11, 2021, in an effort to comply with Anthem's request, Collier submitted a
10 Home Improvement Application, therein requesting to change the plant material to oleanders.

11 49. On June 14, 2021, in a further effort to comply with Anthem's request, Collier
12 submitted a supplement to her ARC submittal.

13 50. On June 17, 2021, in accordance with Nevada law on the preservation of evidence,
14 Collier issued a preservation of evidence request to Anthem, thereby notifying Anthem of a potential
15 claim against Anthem given the conduct toward Collier to date. As yet another example of the
16 improper conduct by Mossett-Puhek, Mossett-Puhek contacted Collier (or those working on her
17 behalf) to notify them that Mossett-Puhek had "unilaterally" determined that Anthem would not abide
18 by the preservation of evidence request and/or Nevada law on ensuring that discoverable information
19 is properly maintained and/or stored. A true and correct copy of Mossett-Puhek's email is attached
20 hereto as **Exhibit C**, thereby confirming additional procedural violations of the Governing Documents
21 and Nevada law. It was later learned that Mossett-Puhek's actions were not done with the approval of
22 the executive board. Nonetheless, Eassa and TerraWest allowed this conduct to continue.

23 51. On June 24, 2021, Anthem issued a denial pertaining to Collier's ARC submittal
24 regarding the oleanders. Anthem alleged that Collier could not plan oleanders as the plants are now
25 (as of 2018) on Anthem's prohibited plant list.

26 52. On June 28, 2021, Anthem produced violation logs in response to document requests
27 by Collier. The violation logs further support that Collier is being targeted and harassed by Anthem
28 as Anthem has not taken steps to pursue other similarly-situated unit owners, whether for alleged

1 violations of the oleanders, paint scheme, and/or flagpole.

2 53. On or about September 1, 2021, Collier submitted an Alternative Dispute Resolution
3 Claim Form with the State of Nevada, Department of Business and Industry, Real Estate Division
4 (“NRED”).

5 54. On October 4, 2021, Anthem’s harassment continued regarding the oleanders. Despite
6 already fining Collier pertaining to the same, Anthem issued another Courtesy Notice to Collier
7 regarding the oleanders, this time alleging a violation of Article 5, Section 5.3.1.

8 55. On October 8, 2021, Collier timely served the Claim Form on Anthem as required by
9 Nevada law.

10 56. On November 1, 2021, Anthem took a new approach to harassing Collier. This time,
11 Anthem issued a Courtesy Notice to Collier regarding a flagpole in her front yard. This is yet another
12 example of the harassment by Anthem and Mossett-Puhek as Anthem (being directed by Mossett-
13 Puhek) issued the notice of violation related to the flagpole as a direct response to the Claim Form that
14 Collier served on Anthem. It would be disingenuous for Anthem to allege that it was unaware of the
15 flagpole prior to November 1, 2021, given the number of inspections and related issues with the
16 Property, as well as that the flagpole was first installed on or about 2017. The Courtesy Notice
17 indicated that Collier needed to submit an ARC for approval for the flagpole. Eassa and TerraWest
18 also continued to engage in this conduct putting their own pecuniary interests ahead of their respective
19 duties owed to Collier, Anthem, and the Anthem Community. Despite numerous other homeowners
20 having flagpoles, who also never submitted ARC applications, Collier was the only homeowner
21 targeted by Mossett-Puhek, Anthem, Eassa, and TerraWest. Collier was the first homeowner to ever
22 receive this type of notice.

23 57. On January 6, 2022, Anthem issued Collier a Notice of Continuing Fine pertaining to
24 the paint scheme.

25 58. On January 7, 2022, Anthem issued a hearing notice to Collier pertaining to the
26 flagpole. Therein, Anthem set a hearing for January 26, 2022, pertaining to the flagpole. Given
27 various procedural and substantive due process violations that Collier pointed out at the prior hearing,
28 Anthem inappropriately stated that hearing responses must be submitted five (5) days prior to the

1 scheduled meeting.

2 59. On January 7, 2022, Collier attended the mediation with Anthem pursuant to the NRED
3 process. The parties were not able to resolve their differences, which necessitated the filing of this
4 legal action.

5 60. On January 12, 2022, Anthem forwarded Collier courtesy copies by email of notices
6 sent out pertaining to the paint scheme and flagpole so that Collier could confirm she received all
7 notices. This enclosure included notices that Collier had never received, including, but not limited to,
8 a Notice of Hearing pertaining to the paint scheme. Ironically, the Notice of Hearing Result stated as
9 follows:

10 We understand that these are difficult times for everyone due to the current environment,
11 however, as homeowners/residents, we have a fiduciary duty to maintain our property and
12 property values. Please do what you can to rectify the issue or respond to us in writing with a
reasonable plan to take care of this issue in the near future.

13 Collier did exactly that prior to the Notice of Hearing being issued, as set forth above.
14 However, Mossett-Puhek informed Collier without ever consulting the board that Collier's proposal
15 was rejected. It is unclear whether Ms. Eassa or Mossett-Puhek ever addressed Collier's proposal
16 with the board given that Collier did not even receive the Notice of Hearing or the result.

17 61. On February 10, 2022, Collier submitted a Home Improvement Application pertaining
18 to the flagpole.

19 62. On February 10, 2022, Collier submitted a Home Improvement Application pertaining
20 to the paint scheme.

21 63. On February 28, 2022, Anthem issued Collier a response to the Home Improvement
22 Application. In an effort to further harass Collier, Anthem required that Collier submit the following
23 information:

24 1) Brochure or manufacturers information on this type of flag pole; 2) Name of contractor who
25 installed flagpole; 3) Any permits (if required) to install the flagpole; 4) Color of flagpole; 5)
26 Height of flagpole (from ground to tip); 6) Method of installation (if concrete footer, how deep
27 is concrete footer); 7) Diagram/drawing of placement on property showing distance from
property lines; 8) Size of flag being flown; 9) Pictures/proof of lines and metal clips are be
28 shrouded or tied in a manner that eliminates noise caused wind; and 10) Has lighting been
installed.

1 This response from Anthem continues to demonstrate the harassment and targeting of Collier.
2 Anthem has not required other unit owners to submit similar information. . This information was
3 requested to continue to frustrate Collier's ability to have her flagpole approved by Anthem. Given
4 Defendants' refusal to treat Collier fairly, Collier obtained building permits from the City of
5 Henderson (despite no obligation to do so) pertaining to her flagpole to conclusively demonstrate it
6 was properly installed.

7 64. On March 1, 2022, Anthem issued Collier a Notice of Hearing Result pertaining to the
8 flagpole. Anthem found Collier in violation for failing to submit a Home Improvement Application
9 pertaining to the flagpole. Anthem fined Collier \$50.00 if the violation was not cured within the next
10 14 days, and thereafter threatened to impose fines against Collier for \$50.00 every seven (7) days
11 thereafter the violation was not cured.

12 65. On March 1, 2022, Anthem also notified Collier that her Home Improvement
13 Application pertaining to the paint scheme had been rejected. Anthem alleged that Collier was mixing
14 and matching paint schemes, which is why they could not approve the same.

15 66. Since January 7, 2022 to Present, Collier has been in contact with Henderson Code
16 Enforcement. Mossett-Puhek (acting on behalf of Anthem) continues to harass Henderson Code
17 Enforcement, attempting to manufacture a false view obstruction against Collier. Despite the fact that
18 Henderson Code Enforcement has informed Mossett-Puhek on several occasions that no violation
19 exists, Mossett-Puhek continues to push Henderson Code Enforcement to pursue Collier. Henderson
20 Code Enforcement continues to inform Collier that it does not intend to do so and that Mossett-Puhek
21 has not reported any other unit owners in the Anthem Community, despite the fact that worse
22 blockages exist (as the oleanders do not pose a view obstruction whatsoever). Mossett-Puhek and
23 Anthem's conduct, which includes unrelenting harassment and threats, continue to create a hostile
24 environment for Collier.

25 67. As a member of the executive board, Mossett-Puhek was the primary driving factor of
26 the conduct by Anthem toward Collier. Mossett-Puhek exchanged emails with Collier and those acting
27 on her behalf. Mossett-Puhek controlled the violation hearings. Mossett-Puhek directly
28 communicated with vendors, such as the community manager and legal counsel, on behalf of Anthem.

1 Mossett-Puhek conducted countless inspections of Collier's property. Mossett-Puhek harassed
 2 Henderson Code Enforcement and other agencies to pursue Collier. Mossett-Puhek otherwise engaged
 3 in the course of conduct contained herein and purposely and intentional caused Anthem to pursue an
 4 inappropriate course of conduct against Collier to fulfill her personal agenda.

5 68. Upon information and belief, Mossett-Puhek has a history of abusive conduct while
 6 serving as a member of the executive board. Mossett-Puhek targets individuals and utilizes the
 7 inherent powers of a homeowner's association to pursue a personal vendetta against those individuals.
 8 Collier is just another victim of Mossett-Puhek's abusive conduct.

9 **FIRST CAUSE OF ACTION**

10 **(For Violation of Nevada Law and Nevada Statutes Against All Defendants)**

11 69. Plaintiff repeats by reference thereto Paragraphs 1 through 59, inclusive with like force
 12 and effect as if the same were set forth herein in full.

13 70. NRS 116.31183 prohibits retaliatory actions by a homeowner's association and its
 14 executive board against a unit owner.

15 71. NRS. 116.31184 prohibits a homeowner's association from making threats or
 16 otherwise engaging in harassment against a unit owner.

17 72. Defendants also violated several other Nevada statutes as it relates to how they
 18 conducted themselves in this matter, including, but not limited to, NRS 116.31031(4)(b)(1)(II), NRS
 19 116.31065; NAC 116A.330(2)-(3); NRS 116.31034(9); NRS 116.31065(5); NRS 116.3102(3)-(4);
 20 NRS 116.31031(4)(b); NRS 116.31031.

21 73. In 2020 and 2021, Collier made various complaints in good faith about alleged
 22 violations of Chapter 116 of the Nevada Revised Statutes and the governing documents. In 2021,
 23 Collier questioned relationships between legal counsel of Anthem and the community manager of
 24 Anthem with certain members of the executive board, including, but not limited to, Mossett-Puhek,
 25 Eassa, TerraWest, Mr. Boyack, and Boyack, Orme, Anthony, and McKiever. In 2021, Collier
 26 requested in good faith to review the books, records or other papers of Anthem.

27 74. The retaliatory actions, threats, and harassment by Defendants, including, but not
 28 limited to, Anthem, Mossett-Puhek, Eassa, and TerraWest, toward Collier have caused significant

1 harm to Collier. Collier has suffered from serious emotional distress and/or a reasonable apprehension
2 thereof given the actions toward Collier. The actions toward Collier involve the Property, which is
3 Collier's primary residence, thereby causing her to live in a constant state of fear given the continued
4 and unrelenting harassment. As a result, the actions toward Collier have created a hostile environment
5 for her.

6 75. Mossett-Puhek (as well as any unnamed Defendants) acted within the course and scope
7 of their role within the executive board of Anthem when Defendants engaged in this conduct toward
8 Collier. Anthem knew of this course of conduct and otherwise consented or agreed to allow
9 Defendants to engage in the course and scope of this conduct within their role of the executive board.
10 Therefore, Anthem is liable for the aforementioned acts via Respondeat Superior, to the extent that
11 Anthem is not directly liable for the conduct.

12 76. Eassa (a well as any unnamed Defendants) acted within the course and scope of their
13 role within TerraWest when Defendants engaged in this conduct toward Collier. TerraWest knew of
14 this course of conduct and otherwise consented or agreed to allow Defendants to engage in the course
15 and scope of this conduct within their role of the executive board. Therefore, TerraWest is liable for
16 the aforementioned acts via Respondeat Superior, to the extent that TerraWest is not directly liable for
17 the conduct.

18 77. As a result of Defendants' conduct, Collier has been injured and is entitled to recover
19 damages in an amount to be proven at trial, which is an amount in excess of \$15,000.00. These
20 damages stem from the retaliatory conduct, threats, and continued and unrelenting harassment by
21 Defendants. Such damages also include punitive damages based on the conduct set forth herein.

22 78. It has been necessary for Plaintiff to retain the services of counsel to represent her and
23 to bring this action, and Plaintiff is entitled to recover attorney's fees and costs incurred herein.

24 **SECOND CAUSE OF ACTION**

25 **(Breach of Contract/Governing Documents/ Breach of Real Covenant/Chapter 116 Against** 26 **Anthem)**

27 79. Plaintiff repeats by reference thereto Paragraphs 1 through 67, inclusive with like force
28 and effect as if the same were set forth herein in full.

1 80. On or about July 24, 2003, the CC&Rs were recorded against the Property, as well as
2 all other real property within the Anthem Community. In order to better regulate the Anthem
3 Community, Anthem also adopted articles of incorporation, bylaws, rules and regulations, and other
4 documents. These documents collectively that govern the operation of the common-interest
5 community are known as the Governing Documents.

6 81. In addition to the Governing Documents, Chapter 116 of the Nevada Revised Statutes
7 regulates homeowner's associations, including but not limited to Anthem. The Governing Documents
8 are deemed to conform with Chapter 116 of the Nevada Revised Statutes to the extent the Governing
9 Documents violate the same. NRS 116.1206(1).

10 82. Anthem violated the Governing Documents and Chapter 116 in a variety of ways. For
11 example, Anthem violated the same by pursuing Collier for alleged violations involving the oleander
12 bushes. The oleander bushes do not constitute a violation under the Governing Documents and/or
13 Nevada law. The oleander bushes also do not create an unreasonable view obstruction. The oleander
14 bushes are not a health, safety or welfare violation. As a result, the fines instituted against Collier are
15 not valid under the Governing Documents and/or Nevada law.

16 83. To the extent any violation of the Governing Documents did exist, Anthem unfairly
17 and inequitably enforced the Governing Documents against Collier in violation of Nevada law. For
18 example, Anthem itself has oleanders planted throughout the Anthem Community on the common
19 elements. It is simply improper as a matter of law for Anthem to pass rules and regulations that
20 prohibit oleander bushes when Anthem itself is in violation of the same. Furthermore, other unit
21 owners in the Anthem Community also have oleander bushes planted throughout the Anthem
22 Community. It is improper for Anthem to unfairly target and harass Collier when Anthem has not
23 initiated or otherwise taken appropriate steps to enforce the Governing Documents against other unit
24 owners in the Anthem Community.

25 84. Anthem is also enforcing the Governing Documents against Collier as it relates to
26 alleged violations involving the paint scheme and flagpole unfairly and inequitably in violation of
27 Nevada law, thereby negating enforcement actions and fines against Collier in this respect as well.

28 85. Anthem is specifically targeting and harassing Collier as it relates to the alleged

1 violations, requiring Collier to take additional steps that Anthem has not required other unit owners to
2 take.

3 86. Beyond the substantive violations of the Governing Documents and Nevada law,
4 Anthem has engaged in various procedural violations of the Governing Documents and Nevada law.
5 For example, Anthem did not timely and properly notice Collier as it relates to an alleged health,
6 safety, and welfare violation as it pertains to the oleanders. Despite having actual notice of the alleged
7 violation, Anthem waited years to address the violation with Collier. Even after addressing it Collier,
8 Anthem did not initially raise the health, safety, and welfare violation in any initial notices, waiting
9 just days before the hearing to raise this issue. Anthem did so to further bully and harass Collier,
10 attempting to fine Collier above and beyond the limitations imposed by the Governing Documents and
11 Nevada law that relate to violations for those not involving health, safety, and welfare of the Anthem
12 Community.

13 87. Anthem engaged in other procedural violations, such as not permitting Collier to
14 address the executive board at the violation hearing or otherwise submit evidence at the violation
15 hearing. Anthem also failed to timely send out all required notices or otherwise comply with Nevada
16 law and the Governing Documents as it relates to notices to Collier involving the alleged violations.

17 88. At all times material, Collier performed under the Governing Documents to the best of
18 her ability given the bullying, threats and harassment toward her involving the alleged violations. To
19 the extent Collier did not perform, Collier's performance was excused given Anthem's course of
20 conduct.

21 89. As a result of Anthem breaches of the Governing Documents and Nevada law, Collier
22 has been injured and is entitled to recover damages in an amount to be proven at trial, which is an
23 amount in excess of \$15,000.00. Such damages also include punitive damages based on the conduct
24 set forth herein.

25 90. It has been necessary for Plaintiff to retain the services of counsel to represent her and
26 to bring this action, and Plaintiff is entitled to recover attorney's fees and costs incurred herein.

27 **THIRD CLAIM FOR RELIEF**

28 **(Breach of Covenant of Good Faith and Fair Dealing (In Tort And Contract) - Against**

Defendants)

91. Plaintiff repeats, realleges, refers to, and incorporates herein by reference Paragraphs 1 through 79 as if fully set forth herein.

92. A valid and enforceable agreement in the form of Anthem's Governing Documents existed between Anthem and Collier.

93. Every agreement in Nevada contains an implied covenant to act in good faith in performance and enforcement of the agreement.

94. Collier had a justifiable expectation that she would receive certain benefits consistent with the spirit of the Governing Documents, which included, but is not limited to, her property rights not being materially affected without a proper basis to do so.

95. As discussed herein, Defendants performed in a manner that was in violation of or unfaithful to the spirit of the governing documents.

96. Furthermore, a special relationship existed between Collier and Defendants given the trust placed within Anthem, given the trust and confidence placed in homeowner's associations over a unit owner's property.

97. The unfaithful actions by Defendants were deliberate.

98. Collier suffered damages as a direct result of Defendants' conduct. Collier has been injured and is entitled to recover damages in an amount to be proven at trial, which is an amount in excess of \$15,000.00. Such damages also include punitive damages based on the conduct set forth herein.

99. It has been necessary for Plaintiff to retain the services of counsel to represent her and to bring this action, and Plaintiff is entitled to recover attorney's fees and costs incurred herein.

FOURTH CLAIM FOR RELIEF**(Breach of Fiduciary Duty – Against Defendants)**

100. Plaintiff repeats, realleges, refers to, and incorporates herein by reference Paragraphs 1 through 88 as if fully set forth herein.

101. As it relates to the specific issue of enforcement and violation actions pertaining to unit owners, Defendants, including, but not limited to, Anthem, Mossett-Puhek (given her role on the

1 executive board), Eassa (given her role as the community manager), and TerraWest (given its role as
2 the management company) owed Collier fiduciary duties of good faith, undivided loyalty,
3 confidentiality, and disclosure to Collier. That is, Collier placed Defendants in a position of trust and
4 confidence given Collier's role as a unit owner within the Anthem Community to only pursue
5 enforcement actions against the Property in accordance with the governing documents and Nevada
6 law, as well as to act in accordance with Nevada law

7 102. Eassa and TerraWest put their pecuniary interests ahead of Collier, Anthem, and the
8 Anthem Community by engaging in a course of conduct that permitted Mossett-Puhek to conduct
9 herself in an inappropriate manner. Eassa and TerraWest failed to disclose their preexisting
10 relationship with Mossett-Puhek at the time Anthem retained Mossett-Puhek. Mossett-Puhek failed
11 to disclose her relationship with Eassa and TerraWest at the time she ran for reelection in 2021. The
12 same is also true with other vendors of Anthem, such as Boyack, Orme, Anthony, and McKiever.

13 103. By engaging in the aforementioned conduct, including, but not limited to, improperly
14 pursuing Collier for violations of the Governing Documents and Nevada law and otherwise engaging
15 in retaliatory conduct, threats, and continued and unrelenting harassment, Defendants violated the
16 fiduciary duty of good faith, the fiduciary duty of loyalty, the fiduciary duty of confidentiality, and
17 other fiduciary duties that they owed to Collier.

18 104. As a result of the multiple breaches of fiduciary duties perpetrated by Defendants,
19 Collier has been injured and is entitled to recover damages in an amount to be proven at trial and as
20 otherwise set forth herein, which exceeds \$15,000.00. Such damages also include punitive damages
21 based on the conduct set forth herein.

22 105. It has been necessary for Plaintiff to retain the services of counsel to represent her and
23 to bring this action, and Plaintiff is entitled to recover attorney's fees and costs incurred herein.

24 **FIFTH CLAIM FOR RELIEF**

25 **(Conspiracy– Against Defendants)**

26 106. Plaintiff repeats, realleges, refers to, and incorporates herein by reference Paragraphs 1
27 through 103 as if fully set forth herein.

28 107. Mossett-Puhek, Anthem, Eassa, and TerraWest, and the ROES and DOES Defendants

1 engaged in an agreement or a concert of action by agreement to accomplish the unlawful objective of
2 harassing Collier, pursuing inappropriate violations against her, or the conduct otherwise generally
3 described herein.

4 108. There was a meeting of the minds between Defendants regarding the objective of
5 harassing Plaintiff or otherwise inappropriately pursuing Plaintiff, whether by explicit agreement or
6 by tacit agreement.

7 109. Defendants engaged in this conduct with the intent to accomplish this unlawful
8 objective for the purpose of harming Plaintiff.

9 110. Defendants engaged in a series of unlawful acts in furtherance of the agreement to
10 inappropriately pursue or otherwise harass Plaintiff, as further described herein, which includes, but
11 is not limited to, pursuing Plaintiff for inappropriate or personal reasons, or the conduct otherwise
12 generally described herein.

13 111. As a direct and proximate result of the conspiracy and its unlawful objectives, Plaintiff
14 has suffered damages in excess of \$15,000, which Plaintiff is entitled to recover from Defendants,
15 along with interest thereon pursuant to NRS 17.130(2).

16 112. Defendants' unlawful, tortious conduct, as described hereinabove, was intentional,
17 malicious, wanton, and oppressive, with a conscious disregard for Plaintiff's rights and with the intent
18 to vex, injure, punish, and annoy Plaintiff so as to cause the injuries complained of herein. Such acts
19 amount to oppression and malice, as described in NRS 42.005(1). Plaintiff is therefore entitled to an
20 award of punitive or exemplary damages in an amount sufficient to punish and make an example of
21 Defendants, and each of them.

22 113. As a direct and proximate result of Defendants' conspiracy and its unlawful objectives,
23 Plaintiff has incurred necessary attorneys' fees and costs in this action, which Plaintiff seeks to recover
24 in addition to the other relief requested herein.

25 **SIXTH CLAIM FOR RELIEF**

26 **(Negligence / Negligent Supervision Against All Defendants – Against Defendants)**

27 114. Plaintiff repeats, realleges, refers to, and incorporates herein by reference Paragraphs 1
28 through 111 as if fully set forth herein.

115. Mossett-Puhek, Anthem, Eassa, and TerraWest, and the ROES and DOES Defendants owed Collier a standard of care given their respective roles within Anthem, whether as the HOA, a member of the executive board, the community manager, and/or the management company.

116. Defendants breached their respective duties to Plaintiff in the following ways, which is not all inclusive: pursuing Plaintiff for inappropriate fines, engaging in harassing conduct in violation of Nevada law, falling below their respective standards of care in their positions, and/or failing to properly supervise persons within positions. .

117. Upon information and belief, Defendants knew or should have known that Anthem, Mossett-Puhek, Eassa, TerraWest or other persons were not properly performing their respective duties to Collier. The harm to Collier could have been prevented had Defendants taken reasonable steps or otherwise properly performed their duties.

118. Defendants' conduct directly and proximately caused Plaintiff to suffer damages in an amount in excess of \$15,000.00 in an amount to be proven at trial.

119. It has been necessary for Plaintiff to retain the services of counsel to represent her and to bring this action, and Plaintiff is entitled to recover attorney's fees and costs incurred herein.

120.

SEVENTH CLAIM FOR RELIEF

(Declaratory Relief Against All Defendants)

121. Plaintiff repeats, realleges, refers to, and incorporates herein by reference Paragraphs 1 through 93 as if fully set forth herein.

122. Pursuant to NRS 30.010, et. seq. and NRS 40.010, this Court has the power and authority to declare Collier's rights and interests, pursuant to Nevada law, in the Governing Documents and the Property.

123. Collier is entitled to declaratory judgment from this Court finding that: i) no legal basis existed for the enforcement action as it relates to the oleanders, paint scheme, and/or flagpole; ii) to the extent a legal basis existed, which it did not, Defendants unfairly and inequitably enforced the Governing Documents against Collier in violation of Nevada law; iii) Defendants committed substantive and procedural violations in the enforcement actions against Collier; iv) Defendants

1 engaged in conduct that amounted to retaliatory actions, threats, and harassment against Collier; and
2 v) Defendants otherwise engaged in violations of Nevada law and the Governing Documents by
3 engaging in the aforementioned conduct.

4 124. It has been necessary for Plaintiff to retain the services of counsel to represent her and
5 to bring this action, and Plaintiff is entitled to recover attorney's fees and costs incurred herein.

6 **PRAYER FOR RELIEF**

7 WHEREFORE, Plaintiffs pray for relief against all Defendants as follows:

- 8 (1) For general and special damages against Defendants, including incidental and
9 consequential damages, resulting from Defendants' actions in excess of \$15,000.00;
10 (2) For compensatory damages against Defendants in excess of \$15,000.00;
11 (3) For punitive or exemplary damages against Defendants in excess of \$15,000.00;
12 (4) For special damages against Defendants in excess of \$15,000.00;
13 (5) For reasonable attorneys' fees;
14 (6) For costs of suit and litigation; and
15 (7) For such other and further relief as the Court deems just and proper.

16
17 DATED: May 3, 2022

THE LAW OFFICES OF TIMOTHY ELSON

18
19
20 By: /s/ Timothy P. Elson

21 Timothy P. Elson, Esq.
22 Nevada State Bar # 11559
23 8965 S. Eastern Ave., Suite 382
24 Las Vegas, Nevada 89123
25 Attorneys for Plaintiff ANDREA COLLIER, as trustee of
26 the JACT TRUST
27
28

On January 7, 2022, I attended the mediation with Anthem pursuant to the NRED process. The parties were not able to resolve their differences, which necessitated the filing of this legal action. The issues addressed in this Complaint, including, but not limited to, the oleanders, paint scheme, flagpole, and the ongoing harassment of Anthem and Mossett-Puhek were addressed and discussed at this mediation.

On May 25, 2023, I submitted a Second Claim Form with NRED, directly naming Mossett-Puhek as a respondent. On June 12, 2023, NRED issued me a letter providing me the right to move forward with litigation over the claims against Mossett-Puhek as a result of my good faith efforts to participate in the NRED process.

I declare under penalty of perjury under the laws of the State of Nevada that the foregoing is true and correct.

FURTHER, AFFIANT SAYETH NAUGHT:

Andrea Collier