DRIGINAL FILED AFTER HOURS **RPLY** 1 M NELSON SEGEL OCT 16 2009 M NELSON SEGEL, ESQUIRE 2 Nevada Bar No. 0530, 2009 001 16 STEVEN D. GRIERSON CLERK OF THE COURT 3 624 South 9th Street Las Vegas, Nevada 89101 Telephone: (702) 385-5266 4 Attorneys for Defendants Larry Hahn 5 and Hahn's World of Surplus, Inc. 468765 6 DISTRICT COURT OF NEVADA 7 COUNTY OF CLARK 8 9 -000-TED R. BURKE; MICHAEL R and LAURETTA CASE NO. A558629 L. KEHOE: JOHN BERTOLDO: PAUL 11 BERNARD; EDDY KRAVETZ; JACKIE DEPT. XI and FRED KRAVETZ; STEVE FRANKS; PAULA MARIA BARNARD; LEON GOLDEN; C.A. MURFF; GERDA FERN BILLBE; BOB and 13 ROBYN TRESKA; MICHAEL RANDOLPH, and FREDERICK WILLIS. 14 15 Plaintiffs, 16 VS. 17 LARRY L. HAHN, individually, and as President of and Treasurer of Kokoweef, Inc., and former President and Treasurer of Explorations Incorporated 18 of Nevada; HAHN'S WORLD OF SURPLUS, INC., 19 a Nevada corporation; PATRICK C. CLARY, an individual; DOES 1 through 100, inclusive; 20 21 22 22 Defendants, and 10/23/09 DATE: TIME: In Chambers KOKOWEEF, INC., a Nevada corporation; EXPLORATIONS INCORPORATED OF NEVADA. a dissolved Nevada corporation; **さ**24 Nominal Defendants. 25 REPLY TO PLAINTIFFS' OPPOSITION TO 26 DEFENDANTS LARRY HAHN AND HAHN'S WORLD OF SURPLUS, INC.'S 27 MOTION TO TRANSFER CASE TO DEPARTMENT 13 28 Defendants Larry Hahn ("HAHN") and Hahn's World of Surplus, Inc. ("SURPLUS")(HAHN

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and SURPLUS sometimes collectively referred to herein as "HAHN DEFENDANTS") hereby submit their Reply ("REPLY") to Plaintiffs' Opposition to Defendants Larry Hahn and Hahn's World of Surplus, Inc.'s Motion to Transfer Case to Department 13 ("OPPOSITION").

The Plaintiffs have spent eight (8) pages to argue that the HAHN DEFENDANTS are forum shopping. In reality, the original Motion was filed for the purpose set forth, judicial economy. Nothing more.

Plaintiffs suggest that HAHN DEFENDANTS want the case returned to Judge Denton due to the favorable rulings received. This is not a basis for the Motion. HAHN DEFENDANTS are confident that they would have received the same favorable rulings from Judge Gonzalez based upon facts presented to the Court.

The substance of the Motion was set forth on page 6, commencing on line 12:

While the HAHN DEFENDANTS are confident that Judge Gonzalez has sufficient experience and can deal with the issues set forth in this matter, they believe that requiring her to spend the time to comb through the enormous amount of pleadings that have been filed would be burdensome and a waste of judicial resources. What Judge Gonzalez cannot gain from the review of the pleadings and other filings in this case, is the veracity of the witnesses who have testified or the atmosphere in which this case revolves.

While Plaintiffs argue that the Motion was "full of red herrings, misrepresentations and hyperbole ..." (See OPPOSITION page 2, line 23), the factual representations set forth in the Motion were supported by the declaration of M Nelson Segel, Esquire and the orders issued by Judge Denton that were attached to the Motion. The arguments of Plaintiffs are just that; arguments. There is no evidentiary support for their arguments!

The Motion is very simple and is in the total discretion of Judge Gonzalez. If she believes that it is appropriate to reassign the case to Judge Denton, she will grant the Motion. If she believes that the case should remain with her, she will deny the Motion. The HAHN DEFENDANTS will gladly proceed before either Judge. They brought the Motion on the basis that it appeared to be in everyone's best interest, the parties and the Court, to have Judge Denton complete the matter.

Based upon the pleadings, Judge Gonzalez should make a determine whether this case

remains with her or is transferred back to Judge Denton to allow him to complete this case that he has spent a lot of time handling.

DATED this day of October, 2009.

M NELSON, SEGEL, CHARTERED

M NELSON SEGEL, ESQUIRE
Nevada Bar No. 0530
624 South 9th Street
Las Vegas, Nevada 89101
Attorneys for Defendants Larry Hahn and

Hahn's World of Surplus, Inc.

DECLARATION OF M NELSON SEGEL

STATE OF NEVADA) ss: COUNTY OF CLARK)

I, M NELSON SEGEL, state, under the penalty of perjury as follows:

- 1. I am an attorney at law duly licensed to practice in this Court; make this declaration in support of the Reply to Plaintiffs' Opposition to Defendants Larry Hahn and Hahn's World of Surplus, Inc.'s Motion to Transfer Case to Department 13 ("Opposition"); this declaration is made from my own knowledge; and I am competent to testify to the matters set forth herein.
- 2. In an effort to discredit the Larry Hahn and Hahn's World of Surplus, Inc. rather than address the issues set forth in the original Motion to Transfer Case to Department 13 ("Motion"), Plaintiffs' Opposition questions certain representations set forth therein. One of the issues is raised on page 7, beginning on line 18, regarding the need for clarification of Judge Denton's January 29, 2009, Decision ("DECISION").
- 3. A reference to the need to seek clarification was mentioned in the Motion due to one or more real issues. The Motion to Dismiss that was addressed in the DECISION raised an issue regarding the standing of the Plaintiffs to bring the action. Originally, it was written as a derivative action and sought recovery for Kokoweef, Inc. The so-called First Amended Derivative Complaint does not seek any benefit for Kokoweef, Inc., only damages for the Plaintiffs.
- 4. The Court did not address this issue in the DECISION. At footnote 2, on page 3 of the DECISION, the Court stated:

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

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

5. There is nothing in this footnote, or the DECISION, that addresses whether a Plaintiff can sue in his own right and be a representative of the "class" of shareholders which is what takes place in a derivative action. One its face, this appears to me to be something the Court failed to

address and requires clarification before the matter can proceed.

- 6. While I do not believe the issue raised above is dispositive of the Motion, the bona fides of my clients' Motion was questioned and I felt that it was necessary to advise this Court of the validity of the concerns.
- 7. I have filed the original Motion based upon the concept of judicial economy and not for any improper purpose.
- 8. If this matter remains in Department 11, I will proceed with the litigation with no concerns regarding the Court's ability to address the issues.
- 9. It is my intent to prepare the Motion for Partial Summary Judgment and have it available for filing upon the entry of the order regarding transfer.

The foregoing is true and correct to the best of my knowledge.

DATED this 16th day of October, 2009.

M NELSON SEGEL

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 16th day of October, 2009, he served the foregoing REPLY TO PLAINTIFFS' OPPOSITION TO DEFENDANTS LARRY HAHN AND HAHN'S WORLD OF SURPLUS, INC.'S MOTION TO TRANSFER CASE TO DEPARTMENT 13 by causing true and correct copies to be placed in the United States Mail, postage fully prepaid thereon and addressed as follows:

Jennifer Taylor, Esquire
ROBERTSON & VICK, LLP.
401 North Buffalo Drive, Suite 202
Las Vegas, Nevada 89145
Facsimile Number (702) 247-6227

Patrick Clary, Esquire 7201 West Lake Mead Drive, Suite 410 Las Vegas, Nevada 89128 Facsimile Number (702) 382-7277

ωBy

An employee of M NELSON SEGEL, CHARTERED