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AFFIDAVIT OF MICHAEL MARKING

State of Nevada }
County of Lander } ss.

I, Michael Marking, being first duly sworn, depose and say that

1. I and Elizabeth Fleming are Plaintiffs in the above entitled case;
2. This affidavit is given in support of our MOTION TO VOID ACTIONS TAKEN AT 10 APRIL 2012 MEETING, 11 June 2012, in Sixth Judicial District Court, Lander County, Case No. 10196, Dept. 1, *Marking v. Austin Roping Club*.
3. I attended the 10 April 2012 meeting of the Austin Roping Club except for the portion closed to the public.
4. Exhibit VA-1 is a true and correct copy of the Club's By-Laws as were in effect from the time we (Plaintiffs) joined the Club. The copy was provided to us by Sissie Gallegos, who passed it out also to others and represented that it contained the by-laws.
5. There have been and are several drafts of revisions to the By-Laws of Exhibit VA-1. However, none were ever approved during the time we were members, and no other By-Laws have been approved from the time we were members to present.
6. Exhibit VA-2 is a true and correct copy of a memo distributed by Ray Williams Jr. at the 10 April 2012 meeting. He said the memo was from his files.
7. Exhibit VA-3 is a true and correct copy of the 10 April 2012 meeting agenda, as posted

27 in several places in Austin and as distributed at the 10 April 2012 meeting.

- 28 **8.** The two agenda items, “Executive/Closed Session” and “Retention of Attorney”,
29 were swapped at the meeting itself. The closed session was held before the attorney
30 was retained.
- 31 **9.** The closed session excluded Club members Lois Bispo and Chuck Bispo.
- 32 **10.** Prior to the retention of Hy Forgeron at the “Retention of Attorney” agenda item, Mr
33 Forgeron made it clear several times that he did not consider himself to be the Club’s
34 attorney, and that he did not represent the Club in the action *Marking vs. Austin*
35 *Roping Club*.
- 36 **11.** After the closed session, there was no discussion regarding the “information” that was
37 presumably provided by Mr Forgeron to the members in the closed session. Those
38 members merely passed a resolution, the text of which was provided by Hy Forgeron,
39 without any discussion. Any deliberation or decision had already (at the time the
40 closed session ended) taken place.
- 41 **12.** Plaintiffs do not recite the Pledge of Allegiance to the flag of the U.S., nor to any
42 other symbol. This has resulted in criticism by some members of the Club, ranging
43 from those members muttering expressions of disgust to outright contempt and
44 ridicule. Plaintiffs have over the years explained their practices, but the explanations
45 seem to fall on deaf ears. Plaintiffs have repeatedly explained over several years that
46 they have a right to freedom of religion under the U.S. Constitution.
- 47 **13.** At the beginning of the 10 April 2012 meeting, Chuck Bispo assaulted and battered
48 me. He was drunk, smelling of liquor, and slurring his words. This was not the first
49 time he was drunk at meetings. He threatened me, told me if I got hurt it was my own
50 fault. His main stated reason was my failure to recite the Pledge. Then he took hold of
51 me from behind, by reaching under my shoulders across my chest, and dragged me
52 across the room to a different location; he said he didn’t want me to sit by him because

53 my inaction was “an insult”.

54 **14.** After being dragged across the room, I attempted to phone the sheriff’s department by
55 calling 911 on a phone in the room. Joe Ramos told me I could not use the phone, and
56 twice unplugged the phone while I was dialing the number. Eventually I reached 911
57 and two deputies were sent from Battle Mountain. The deputies arrived during the
58 closed portion of the meeting, some time later.

59 **15.** As allowed by the OML, I was recording the meeting. Exhibit VA-5 is a copy of the
60 first approximately five minutes of the meeting. The words beginning, “hey, you don’t
61 belong here...” are those of Chuck Bispo.

62 **16.** Deputy Rangel said that assault and battery had occurred, and asked if I wanted to
63 make an arrest. I told him no, that I would file a report later.

64 **17.** I did not notice if Joe Ramos was drunk. I have seen him infrequently in the years that
65 I have been here, but outside of work I have usually found him to have been drinking.
66 According to Ruben Gallegos, the meetings used to be held in bars when Joe Ramos
67 was president, but they were moved to the Austin Firehouse when Ruben Gallegos
68 took office because there was too much drinking and people got into too many
69 arguments.

70 **18.** Subsequent to the assault and battery and to the phone call, Joe Ramos declared that I
71 was being disruptive and the minutes would reflect that. He did not show or say that
72 he found any fault with Chuck Bispo’s behaviour.

73 **19.** I have repeatedly explained that I have difficulty hearing, and have usually set at the
74 table to be able to hear. Rather than speaking up, the members speak more quietly to
75 make it more difficult for me to hear, and declare that there is a by-law to prevent me
76 from sitting at the table. When asked, they can point to no such by-law. Other non-
77 members are welcome at the table, but not Plaintiffs.

78 **20.** At the 10 April 2012 meeting, the Club failed to provide or to make available copies of

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supporting materials, including among other things the treasurer's report, proposed minutes, and the current contract with Lander County.

I understand that a false statement in this affidavit will subject me to penalties for perjury.

Dated Tuesday, 5 June 2012.

Michael Marking

(Plaintiffs' electronic document name: *mfvarc_affidavit_marking_20120605a*)