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MARY ANN GRAY
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1 Case No. 10197

2 Dept. No. 1

3 The undersigned hereby affirms this document
4 does not contain a social security number.

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6
7 IN THE SIXTH JUDICIAL DISTRICT COURT
8 COUNTY OF LANDER, STATE OF NEVADA

9 MICHAEL MARKING and
10 ELIZABETH FLEMING,

11 Plaintiffs,

DEFENDANT'S MOTION TO STRIKE COMPLAINT

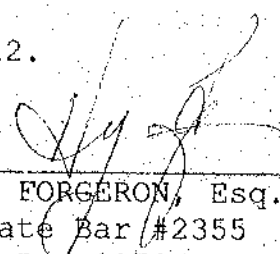
12 -vs-

13 AUSTIN ROPING CLUB.

14 Defendant.
15 _____/

16 COMES NOW, Defendant above-named, by and through it's
17 attorney HY FORGERON, Esq., and moves this honorable Court for an
18 Order striking Plaintiffs' Complaint for Plaintiffs failure to
19 respond to this Court's Order Granting Defendant's Motion For More
20 Definite Statement, all as is more fully set forth in the Points
21 and Authorities annexed hereto.

22 Dated this 25th day of April, 2012.

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24 
25 _____
26 HY FORGERON, Esq.
State Bar #2355
PO Box 1179
Battle Mountain, NV 89820
775-635-8100
Fax: 775-635-3118
Attorney for Defendant

1 I.

2 **POINTS AND AUTHORITIES**

3 **A. Procedural Background**

4 Defendant is a nonprofit cooperative corporation without
5 stock organized under Title 7, Chapter 81 of the Nevada Revised
6 Statutes. Defendant's formal corporate name is denominated in
7 it's Articles Of Incorporation as "The Austin Roping Club,
8 Incorporated" and shall hereinafter be referred to as Defendant or
9 as "the Club".

10 On or about February 22, 2012, the Club's resident agent,
11 Joseph P. Ramos, was served with a copy of the Complaint filed by
12 the Plaintiffs herein on February 7, 2012.

13 Defendant, by and through its attorney Hy Forgeron, Esq.,
14 filed its Motion For More Definite Statement on March 13, 2012.

15 On April 2, 2012, no timely response having been filed by
16 Plaintiffs, Defendant filed its Request For Submission.

17 On April 5, 2012, this Court filed its Order Granting
18 Defendant's Motion For More Definite Statement.

19 On April 5, 2012, Defendant filed its Notice Of Entry Of
20 Order.

21 **B. Argument**

22 This Court granted Defendant's Motion For More Definite
23 Statement in its Order filed herein on April 5, 2012. N.R.C.P.
24 Rule 12(e) provides, in pertinent part:

25 xxx

1 **(e) Motion for More Definite Statement.** If a pleading to which a
2 responsive pleading is permitted is so vague or ambiguous that a party cannot
3 reasonably be required to frame a responsive pleading, the party may move for a
4 more definite statement before interposing a responsive pleading. The motion shall
5 point out the defects complained of and the details desired. **If the motion is granted**
6 **and the order of the court is not obeyed within 10 days after notice of the order**
7 **or within such other time as the court may fix, the court may strike the pleading**
8 **to which the motion was directed or make such order as it deems just.** (emphasis
9 added).

10 Defendant served its Notice Of Entry Of Order on Plaintiffs
11 in compliance with Rule 12(e). The last day for Plaintiffs to
12 comply with the Order was April 24, 2012. No pleading complying
13 with the Order was filed by Plaintiffs within that time period.

14 II.

15 **CONCLUSION**

16 It is therefore respectfully submitted that, Plaintiffs
17 having failed to comply with the Order, their Complaint should be
18 stricken.

19 WHEREFORE, Defendant requests relief from this honorable
20 Court as follows:

21 1. That this Court issue its Order striking the Complaint
22 filed by Plaintiffs on February 7, 2012;

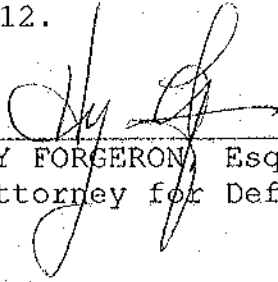
23 2. For an award of attorney's fees and costs associated
24 with the preparation and presentation of this Motion;

25 3. For such other and further relief as to the Court may

26 xxx

1 seem just and proper in the premises.

2 Dated this 25th day of April, 2012.

3
4 
5 HY FORGERON Esq.
6 Attorney for Defendant
7

8 AFFIDAVIT OF COUNSEL

9 STATE OF NEVADA)
10) ss.
11 COUNTY OF LANDER)

12 COMES NOW, HY FORGERON, who, being first duly sworn, on oath,
13 deposes and says:

14 1. Affiant is a member in good standing of the State Bar of
15 Nevada, State Bar #2355.

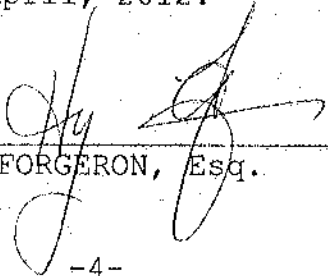
16 2. Affiant is the attorney of record for the Defendant
17 herein.

18 3. The factual allegations made in the foregoing Motion are
19 true of Affiant's own personal knowledge.

20 4. That this Motion is made in good faith and not merely
21 for the purposes of delay.

22 5. Pursuant to NRS 52.045, I declare under penalty of
23 perjury that the foregoing is true and correct.

24 Dated this 25th day of April, 2012.


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HY FORGERON, Esq.

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CERTIFICATE OF SERVICE

I hereby certify that on the 25th day of April, 2012, I deposited in the United States Post Office at Battle Mountain, Nevada 89820 a copy of the foregoing Motion, in a sealed envelope, postage fully prepaid, addressed to:

Michael Marking
Elizabeth Fleming
General Delivery
Austin, NV 89310



Marcia Meyer, Assistant to
Hy Forgeron