

LINCOLN COUNTY, NV

2023-164261

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APN 01119209

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**AMENDED DEFAULT JUDGMENT**

**Title of Document**

**Affirmation Statement**

   I, the undersigned hereby affirm that the attached document, including any exhibits, hereby submitted for recording **does not contain** the social security number, driver's license or identification card number, or any "Personal Information" (as defined by NRS 603A.040) of any person or persons. (Per NRS 239B.030)

   I, the undersigned hereby affirm that the attached document, including any exhibits, hereby submitted for recording **does contain** the social security number, driver's license or identification card number, or any "Personal Information" (as defined by NRS 603A.040) of a person or persons as required by law:

(State specific law)

James E. Shapiro Attorney  
Signature Title

James E. Shapiro, Esq.

Print

04/03/2023

Date

**Grantees address and mail tax statement:**

Smith & Shapiro, PLLC / James E. Shapiro, Esq.

3333 E. Serene Ave., Ste. 130

Henderson, Nevada 89074

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*Attorneys for Plaintiff*

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LINCOLN COUNTY CLERK

7 **IN THE SEVENTH JUDICIAL DISTRICT COURT**  
8 **IN AND FOR LINCOLN COUNTY, NEVADA**

9 BEHRLY, LLC, a Nevada limited liability  
company,  
10  
11 Plaintiff,

Case No.: CV 1002522  
Dept.:

11 vs.

12 MARK HIGBEE, an individual, MARY  
HIGBEE, an individual, and DOES 1-10, ROE  
13 ENTITIES 1-10, inclusive,  
14 Defendants.

15 **AMENDED DEFAULT JUDGMENT**

17 An Application For Default Judgment having been duly made by and for Plaintiff BEHRLY,  
18 LLC, a Nevada limited liability company ("Behrly"), the Default of Defendants MARK HIGBEE, an  
19 individual, and MARY HIGBEE, an individual (hereinafter collectively the "Higbees"), having been  
20 entered for their failure to answer or otherwise defend as to the Complaint, it appearing that said  
21 Defendants are not in the military service of the United States, that said Defendants are not incompetent  
22 persons, the Court having reviewed the pleadings and evidence submitted by the Plaintiff and upon a  
23 finding that the Plaintiff has met its burden of proof, and GOOD CAUSE APPEARING:

24 THE COURT hereby makes the following findings of fact and conclusions of law:

25 **FINDINGS OF FACT**

26 1. On July 24, 2014, the Higbees executed a written lease agreement (the "Lease  
27 Agreement") with Lexi Holdings, LLC ("Lexi"), for the use and possession of certain real property  
28 located at 724 Lincoln Ave., Alamo, Nevada 89001 (the "Property").

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1 2. Behrly is the successor-in-interest to Lexi with respect to the Lease Agreement and all  
2 claims relating to the Lease Agreement.

3 3. On June 7, 2014, the Higbees took possession of the Property.

4 4. Over the course of their occupancy of the Property, the Higbees failed to pay \$11,060.00  
5 in rent, which amount accrued late fees in the amount of \$6,685.00.

6 5. Over the course of their occupancy of the Property, the Higbees remitted two checks  
7 which were returned for insufficient funds.

8 6. On December 31, 2018, the Higbees vacated the Property.

9 7. Upon vacating the Property, the Higbees left the Property in a dirty and damaged  
10 condition, forcing Lexi and/or Behrly to pay \$11,920.00 in repair costs.

11 8. If any of the FINDINGS OF FACTS are more appropriately designated as  
12 CONCLUSIONS OF LAW, they are hereby deemed as such.

13 **CONCLUSIONS OF LAW**

14 9. Pursuant to Section 4 of the Lease Agreement, the Higbees were obligated to make  
15 monthly rent payments in the amount of \$800.00 per month.

16 10. Pursuant to Section 22 of the Lease Agreement, the Higbees were obligated (among  
17 other things) to maintain the Property in a clean and safe condition, dispose of garbage, occupy the  
18 Property in a reasonable manner, not deliberately or negligently damage the Property, and make minor  
19 repairs to the Property.

20 11. Pursuant to Section 26 of the Lease Agreement, upon vacating the Property, the Higbees  
21 were obligated (among other things) to leave the Property in a good, clean, and operating condition,  
22 ordinary wear and tear excepted.

23 12. Pursuant to Sections 22, 24, 26, 33, and 35 of the Lease Agreement, Plaintiff is entitled  
24 to recover from the Higbees the costs of repair of the Property.

25 13. Pursuant to Section 8 of the Lease Agreement, Plaintiff is owed late charges by the  
26 Higbees in the amount of 10% of their unpaid rent payments, plus \$5.00 per day for missed payments.

27 14. Pursuant to Section 40 of the Lease Agreement, Plaintiff is entitled to recover from the  
28 Higbees interest on unpaid amounts at the rate of 24% per annum.

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1 15. Pursuant to Section 7 of the Lease Agreement, Plaintiff is entitled to recover from the  
2 Higbees charges for returned checks in the amount of \$50.00 for every check which was returned for  
3 insufficient funds.

4 16. According to Nevada Revised Statutes § 18.010(1):

5 1. The compensation of an attorney and counselor for his or her services is governed  
6 by agreement, express or implied, which is not restrained by law.

7 17. Defendants breached the Lease Agreement, causing Plaintiff to incur the damages set  
8 forth below.

9 18. Defendants violated NRS 118A.310, and as such, are liable to Plaintiff for the damages  
10 set forth below.

11 19. Defendants violated NRS 40.150, and as such, are liable to Plaintiff for treble damages  
12 as set forth below.

13 20. Section 40 of the Lease Agreement states that “[t]o enforce any breach or in any lawsuit  
14 involving statutory or contractual obligation of the owner or Resident, the prevailing party shall be  
15 entitled to recover cost of collection, attorney’s fees, and all other cost for litigation from non-prevailing  
16 party. . .”

17 21. After reviewing the Plaintiff’s invoices and applying the *Brunzell* factors (the qualities  
18 of the advocate, the character of the work, the work actually performed, and the result), the Court finds  
19 that an award of \$8,313.50 in attorneys fees is both justified and warranted as special damages. *Brunzell*  
20 *v. Golden Gate Nat’l Bank*, 85 Nev. 345, 349, 455 P.2d 31, 33 (1969).

21 22. After reviewing the Plaintiff’s Memorandum of Costs, which included supporting  
22 documentation, the Court finds that an award of \$744.53 in costs is both justified and warranted  
23 pursuant to NRS 18.020.

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23. Plaintiff's recoverable damages are as follows:

Total Rent	\$ 11,060.00
Total Late Fees	\$ 6,685.00
Total Other Fees	\$ 11,920.00
Accrued Interest	\$ 47,837.46
Tenant's Security Deposit	\$ (800.00)
Treble Damages [NRS 40.150]	\$ 23,600.00
Attorney Fees [§ 40]	\$ 8,313.50
Litigation Costs [§ 40]	\$ 744.53
<b>Total Due and Owning</b>	<b>\$ 109,360.49</b>

24. If any of the CONCLUSION OF LAW are more appropriately designated as FINDINGS OF FACTS, they are hereby deemed as such.

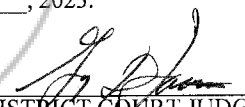
**JUDGMENT**

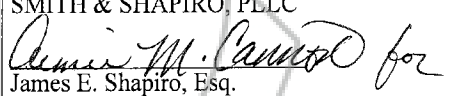
NOW THEREFORE,

25. IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Plaintiff's Application for Default Judgment is GRANTED, in its entirety.

26. IT IS FURTHER ORDERED that JUDGMENT is hereby ENTERED in favor of Plaintiff BEHRLY, LLC, a Nevada limited liability company, and against Defendants MARK HIGBEE and MARY HIGBEE, jointly and severally, in the principal amount of **ONE HUNDRED NINE THOUSAND THREE HUNDRED SIXTY AND 49/100 DOLLARS (\$109,360.49)**, which amount shall accrue interest at the contract rate of twenty-four percent (24%) per annum from February 28, 2023, the original date of entry of this judgment, until paid in full.

DATED this 23<sup>rd</sup> day of MARCH, 2023.

  
DISTRICT COURT JUDGE

Submitted by:  
SMITH & SHAPIRO, PLLC  
  
James E. Shapiro, Esq.  
Nevada Bar No. 7907  
3333 E. Serene Ave., Suite 130  
Henderson, Nevada 89074  
Attorneys for Plaintiff

COPY

This document to which this certificate is attached is a full, true and correct copy of the original, on file in the County Clerk's Office, Pioche, Nevada. In witness whereof, I have hereunto set my hand and affixed the seal of the Seventh Judicial District Court in and for the County of Lincoln, State of Nevada, this 24<sup>th</sup> day of April, 2025.

*[Signature]*  
County Deputy Clerk