

LINCOLN COUNTY, NV

2024-166576

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HOWARD & HOWARD

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OFFICIAL RECORD

AMY ELMER, RECORDER

E99

APN 011-160-19

ORDER GRANTING HOWARD & HOWARD ATTORNEYS PLLC'S MOTION TO ADJUDICATE ATTORNEY'S LIEN AND JUDGMENT AGAINST PLAINTIFF BETSY WHIPPLE

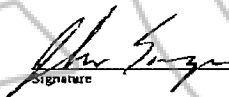
Title of Document

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)


Signature

Attorney
Title

John J. Savage, Esq.
Print

01/30/2024
Date

Grantees address and mail tax statement:

Howard Simon
CLERK OF THE COURT

HOWARD & HOWARD ATTORNEYS PLLC

1 Cami M. Perkins, Esq., Nevada Bar No. 9149
2 John J. Savage, Esq., Nevada Bar No. 11455
3 **Howard & Howard Attorneys PLLC**
4 3800 Howard Hughes Parkway, Suite 1000
5 Las Vegas, NV 89169
6 Telephone: (702) 257-1483
7 Facsimile: (702) 567-1568
8 E-Mail: cp@h2law.com; jj@h2law.com

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

8 MS. WHIPPLE L. WHIPPLE, individually and
9 as
10 shareholder of WHIPPLE CATTLE
11 COMPANY, Inc., a Nevada Corporation,
12
13 Plaintiff,
14
15 vs.

Case No. A-19-790929-B
Dept No. 27

Consolidated with:
CASE NO.: A-20-827055-B

16 BRET O. WHIPPLE, individually AND as
17 President and Director of WHIPPLE CATTLE
18 COMPANY, INC., a Nevada Corporation;
19 CODY K. WHIPPLE, individually and as
20 Treasurer of WHIPPLE CATTLE COMPANY,
21 INC., a Nevada Corporation; KIRT R.
22 WHIPPLE,
23 individually and as Secretary of WHIPPLE
24 CATTLE COMPANY, INC., a Nevada
25 Corporation; JANE E. WHIPPLE, individually
26 and as Director of WHIPPLE CATTLE
27 COMPANY, INC., a Nevada Corporation;
28 JANE WHIPPLE, trustee of JANE WHIPPLE
FAMILY TRUST and as managing member of
KENT WHIPPLE RANCH LLC; JANE
WHIPPLE FAMILY TRUST; KENT WHIPPLE
RANCH LLC.; KATHRYN WETZEL,
individually, WHIPPLE CATTLE COMPANY,
INC., a Nevada Corporation; DOE
INDIVIDUALS I through X; and ROE
CORPORATIONS I through X,

**ORDER GRANTING HOWARD &
HOWARD ATTORNEYS PLLC'S
MOTION TO ADJUDICATE
ATTORNEY'S LIEN**

AND

**JUDGMENT AGAINST PLAINTIFF
BETSY WHIPPLE**

Defendants.

AND ALL RELATED MATTERS

1 Howard & Howard Attorneys, PLLC's ("Howard & Howard") Motion to Adjudicate
2 Attorney's Lien (the "Motion") came on for hearing in front of the Honorable Nancy L. Allf on
3 December 13, 2023 at 11:00 a.m. Cami M. Perkins Esq, appeared on behalf of Howard & Howard.
4 Plaintiff appeared through her attorney, James R. Christensen, Esq, of James R. Christensen PC,
5 who appeared as special counsel as it relates to the Motion. The Court having considered the
6 Motion, Plaintiff's Opposition to the Motion, Howard & Howard's Reply to the Motion,
7 Plaintiff's Supplement, Howard & Howard's Supplement, Plaintiff's Supplemental documents
8 reviewed by the Court *in camera*, and Howard & Howard's Second Supplement and
9 Supplemental documents reviewed by the Court *in camera*, having considered the oral arguments
10 by counsel, and having reviewed the other pleadings and papers on file herein, finds, concludes,
11 and orders as follows:

12 **I. FINDINGS OF FACT**

13 1. Plaintiff retained the law firm of Howard & Howard in November of 2020 to
14 represent her in the above-entitled case. A true and correct copy of the Engagement Agreement
15 signed by Plaintiff was attached to the Motion as Exhibit 3 (the "Engagement Agreement").

16 2. The Engagement Agreement provides that Howard & Howard's fees for services
17 rendered will be based upon hourly charges at the prevailing Howard & Howard hourly rates in
18 effect from time-to-time, and such rates will vary with the particular lawyer involved. The
19 Engagement Agreement further provides that statements for services rendered and costs incurred
20 are due and payable upon receipt.

21 3. The Engagement Agreement further provides that Plaintiff agrees that unpaid fees
22 and disbursements/costs will accrue interest at the maximum rate permitted under the laws of the
23 State of Nevada, not to exceed one percent (1%) per month from the beginning of the second
24 month in which they become overdue.

25 4. The Engagement Agreement states "**To the extent we can**, we will apply a
26 friends and family discount due to your relationship with the firm which is typically ten percent
27 off of the fees." *Id.* (emphasis added). According to Howard & Howard, any friends and family
28

1 discount is conditioned on being current on outstanding invoices per the firm’s policy. See Exhibit
 2 1 to Howard & Howard’s Second Supplement, Declaration of Cami M. Perkins.

3 5. Howard & Howard applied a total of \$42,431.83 in discounts, no-charges, and
 4 write-offs to Plaintiff’s invoices during the course of its representation. *Id.*; also see Exhibit 3 to
 5 Howard & Howard’s Second Supplement, Howard & Howard invoices.

6 6. Howard & Howard’s invoices appear to contain some entries that are attributable
 7 to a separate matter of Plaintiff’s and commonly referred to by Plaintiff as the “arbitration matter”
 8 (the “Arbitration Matter”) which were inadvertently contained in the invoices applicable to this
 9 matter. These entries include the following:

DATE	TIMEKEEPER	DOLLAR AMOUNT
5/19/2021	CMP	\$255.00
12/1/2021	BDF	\$241.50
12/1/2021	CMP	\$135.00
12/2/2021	BDF	\$517.50
12/3/2021	JMP	\$150.00
12/3/2021	BDF	\$207.00
12/3/2021	CMP	\$270.00
5/17/2022	CMP	\$360.00
5/17/2022	CMP	\$270.00
5/24/2022	CMP	\$450.00
5/24/2022	CMP	\$135.00
6/8/2022	BDF	\$69.00
6/10/2022	BDF	\$69.00
10/16/2022	CMP	\$237.50
10/31/2022	TWD	\$165.00
11/2/2022	CMP	\$142.50

1	11/3/2022	CMP	\$95.00
2	11/10/2022	CMP	\$95.00
3	11/14/2022	CMP	\$95.00
4	12/4/2022	JJS	\$42.50
5	12/12/2022	CMP	\$247.50
6	3/20/2023	KDB	\$385.00
7	TOTAL		\$4,634.00

8 See Exhibit 3 to Howard & Howard’s Second Supplement, Howard & Howard invoices.

9
10 7. Howard & Howard represented Plaintiff through the end of March of 2023 when
11 Howard & Howard was unable to continue the representation of Plaintiff due to the significant
12 amount in legal fees owed by Plaintiff to Howard & Howard.

13 8. Howard & Howard perfected an attorneys’ lien pursuant to NRS 18.015(4)(b) (the
14 “Attorney’s Lien”). Howard & Howard served the Notice of Attorney’s Lien via e-service,
15 certified mail to Plaintiff’s new counsel (Weinberg Wheeler Hudgins Gunn & Dial) and certified
16 mail to Plaintiff. Both Plaintiff’s counsel and Plaintiff acknowledged receipt of the Attorney’s
17 Lien by signing the return receipt accompanying the certified mail. A true and correct copy of the
18 Attorney’s Lien was attached to the Motion as Exhibit 1.

19 9. If any finding of fact is more properly a conclusion of law, it shall be so deemed.

20 **II. CONCLUSIONS OF LAW**

21 1. NRS 18.015(1) provides “an attorney at law shall have a lien”:

22 (a) Upon any claim, demand or cause of action, including any claim for unliquidated
23 damages, which has been placed in the attorney’s hands by a client for suit or collection,
24 or upon which a suit or other action has been instituted.

25 (b) In any civil action, upon any file or other property properly left in the possession of
26 the attorney by a client.

27 2. Plaintiff placed her claims, demands, and causes of action in Howard & Howard’s
28 hands, thus creating a valid charging lien pursuant to NRS 18.015(1)(a).

1 3. Pursuant to NRS 18.015(1)(b), there is a civil action (the current case), where
2 Plaintiff's file and property were properly left in the possession of Howard & Howard by Plaintiff,
3 thus creating a valid retaining lien pursuant to NRS 18.015(1)(b).

4 4. The Attorney's Lien is clear on its face that it is a charging lien and a retaining
5 lien. Howard & Howard has a valid charging lien and retaining lien, but is only seeking
6 adjudication of its retaining lien at this juncture in the case.

7 5. Even though Plaintiff claimed that she is entitled to a 10% discount due to the
8 language in the Engagement Agreement stating "[T]o the extent we can, we will apply a friends
9 and family discount due to your relationship with the firm which is typically ten percent off of
10 the fees," Howard and Howard applied a total of \$42,431.83 in discounts, no-charges, and write-
11 offs to Plaintiff's invoices during the course of its representation, which is a significant discount
12 and sufficient to satisfy any alleged promise of a discount.

13 6. Howard & Howard is entitled to be paid for the amount of the Attorney's Lien,
14 less any amounts solely attributable to the Arbitration Matter. Less the amounts attributable to the
15 Arbitration Matter in the amount of \$4,634.00, the total amount owed by Plaintiff to Howard &
16 Howard pursuant to the Engagement Agreement and the Attorney's Lien is \$199,119.89 (versus
17 the \$203,753.89 amount stated in the Attorney's Lien).

18 7. Howard & Howard perfected the Attorney's Lien by filing and properly serving a
19 Notice of Attorney's Lien.

20 8. Howard & Howard properly sought adjudication of the Attorney's Lien by filing
21 the Motion.

22 9. Even though Plaintiff disputed the substance and amount of the fees, the Court
23 was not persuaded by Plaintiff's arguments and Howard & Howard has provided sufficient
24 evidence to establish that it is entitled to payment of \$199,119.89 pursuant to the Engagement
25 Agreement, the Attorney's Lien, and applicable law.
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1 10. Pursuant to the Engagement Agreement, Howard & Howard is also entitled to
2 interest at the maximum rate permitted under the laws of the State of Nevada, not to exceed one
3 percent (1%) per month from the beginning of the second month in which they became overduc.

4 11. The Court has evaluated the four factors set forth in *Brunzell v. Golden Gate*
5 *National Bank*, 85 Nev. 345, 349-50, 455 P.2d 31, 33 (1969), and concludes that Howard &
6 Howard has sufficiently fulfilled all of them, and that the attorney's fees sought are reasonable
7 and justified.

8 12. As set forth in the Motion and the supporting Declaration of Cami M. Perkins,
9 Esq. attached to the Motion, the qualities of the attorneys responsible for handling this matter are
10 exceptional, including their ability, training, education, experience, professional standing, and
11 skill. The character and difficulty of the work performed in this matter were complex and required
12 extensive skill, time, and attention. The work actually performed by Howard & Howard were set
13 forth in detail in Exhibit 3 to Howard & Howard's Second Supplement. The result obtained by
14 Howard & Howard is evidenced by the numerous favorable rulings obtained by Plaintiff.
15

16 13. If any conclusion of law is more properly a finding of fact, it shall be so deemed.

17 Based on the above findings,

18 **IT IS HEREBY ORDERED** that the Motion is granted in its entirety, limited solely
19 by the amount of fees related to the Arbitration Matter, as set forth herein.

20 **IT IS HEREBY FURTHER ORDERED** that Judgment is made in favor of Howard &
21 Howard and against Plaintiff Betsy Whipple for unpaid fees and costs in the sum of **\$199,119.89**.

22 **IT IS HEREBY FURTHER ORDERED** that nothing contained in this Order or
23 Judgment shall serve to preclude Plaintiff from asserting the allegations contained in opposition
24 to the Motion in a different forum.

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HOWARD & HOWARD ATTORNEYS PLLC

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IT IS SO ORDERED.

Dated this 28th day of December, 2023

Nancy L Alf
DISTRICT COURT JUDGE GD

Respectfully submitted by:

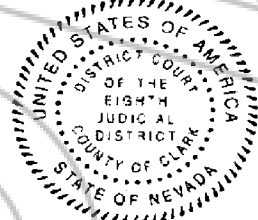
HOWARD & HOWARD ATTORNEYS PLLC

CC0 736 51FB 2146
Nancy Alf
District Court Judge

January 11, 2024

By: /s/ Cami M. Perkins

Cami M. Perkins, Esq., Nevada Bar No. 9149
John J. Savage, Esq., Nevada Bar No. 11455
3800 Howard Hughes Parkway, Suite 1000
Attorneys for Plaintiff



Approved as to form:

JAMES R. CHRISTENSEN PC

CERTIFIED COPY
ELECTRONIC SEAL (NRS 1.190(3))

By: /s/ James R. Christensen

James R. Christensen Esq., Nevada Bar No. 3861
601 S. 6th Street
Las Vegas NV 89101
Attorney for Betsy L. Whipple

Amber M. Clayton

From: Cami M. Perkins
Sent: Wednesday, December 27, 2023 9:46 AM
To: Amber M. Clayton
Cc: Victoria Agunos; John J. Savage
Subject: FW: Whipple Order

Howard & Howard | Cami M. Perkins
law for business | Attorney and Counselor

3800 Howard Hughes Pkwy, STE 1000, Las Vegas, NV 89169
D: 702.667.4855 | C: 702.810.4132 | F: 702.567.1568
cperkins@howardandhoward.com | Bio | vCard | LinkedIn

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From: James R. Christensen <jim@jchristensenlaw.com>
Sent: Wednesday, December 27, 2023 9:44 AM
To: Cami M. Perkins <cperkins@howardandhoward.com>
Cc: Victoria Agunos <vagnos@howardandhoward.com>; John J. Savage <jsavage@howardandhoward.com>
Subject: Re: Whipple Order

Cami,

You may affix my electronic signature to the attached proposed order.

Jim

James R. Christensen
Law Office of James R. Christensen PC
601 S. 6th St.
Las Vegas NV 89101
(702) 272-0406

From: Cami M. Perkins <cperkins@howardandhoward.com>
Sent: Wednesday, December 27, 2023 9:42 AM
To: James R. Christensen <jim@jchristensenlaw.com>
Cc: Victoria Agunos <vagnos@howardandhoward.com>; John J. Savage <jsavage@howardandhoward.com>
Subject: RE: Whipple Order

Thanks Jim, I removed the requested language. Please see attached. I will go ahead and submit and cc you.

Howard & Howard | Cami M. Perkins
law for business. Attorney and Counselor

3800 Howard Hughes Pkwy, STE 1000, Las Vegas, NV 89169
D: 702.667.4855 | C: 702.810.4132 | F: 702.567.1568
cperkins@howardandhoward.com | Bio | vCard | LinkedIn

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From: James R. Christensen <jim@jchristensenlaw.com>
Sent: Wednesday, December 27, 2023 9:35 AM
To: Cami M. Perkins <cperkins@howardandhoward.com>
Cc: Victoria Agunos <vagunos@howardandhoward.com>; John J. Savage <jsavage@howardandhoward.com>
Subject: Re: Whipple Order

CAUTION: EXTERNAL EMAIL

Cami,

Please omit the language at 6:22-24, 6:25-27 & 7:1-2.

With the above changes I can approve as to form.

Jim

James R. Christensen
Law Office of James R. Christensen PC
601 S. 6th St.
Las Vegas NV 89101
(702) 272-0406

From: Cami M. Perkins <cperkins@howardandhoward.com>
Sent: Tuesday, December 26, 2023 12:51 PM
To: James R. Christensen <jim@jchristensenlaw.com>
Cc: Victoria Agunos <vagunos@howardandhoward.com>; John J. Savage <jsavage@howardandhoward.com>
Subject: RE: Whipple Order

Hi Jim, if at all possible, can you please get back to me today or tomorrow at the latest on the order? I know it is the holidays but given Judge Alf retiring, she wanted us to get it to her quickly (she mentioned that). Also, I need to include it with my response to your client's bar complaint submission and my response is due (I got an extension and do not want to ask for another). Your prompt attention to this is greatly appreciated. Thanks.

Howard & Howard | Cami M. Perkins
law for business. Attorney and Counselor

3800 Howard Hughes Pkwy, STE 1000, Las Vegas, NV 89169
D: 702.667.4855 | C: 702.810.4132 | F: 702.567.1568
cperkins@howardandhoward.com | Bio | vCard | LinkedIn

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From: Cami M. Perkins <cperkins@howardandhoward.com>

Sent: Sunday, December 24, 2023 3:02 PM

To: James R. Christensen <jim@jchristensenlaw.com>

Cc: Victoria Agunos <vagnos@howardandhoward.com>; John J. Savage <jsavage@howardandhoward.com>

Subject: Whipple Order

Dear Jim,

Merry Christmas. I'm sorry for the sending this on Christmas eve and obviously don't expect a response until next week, but know that we need to get this submitted prior to Judge All's retirement on January 1. Hopefully you can review it asap after Christmas. I tried to keep it very simple while covering the necessary elements/factors. Please let me know if you have any changes or otherwise confirm I have your authorization to submit.

Thank you.

Howard & Howard | Cami M. Perkins
law for business® Attorney and Counselor

3800 Howard Hughes Pkwy, STE 1000, Las Vegas, NV 89169

D: 702.667.4855 | C: 702.810.4132 | F: 702.567.1568

cperkins@howardandhoward.com | [Bio](#) | [vCard](#) | [LinkedIn](#)

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CSERV

DISTRICT COURT
CLARK COUNTY, NEVADA

Betsy Whipple, Plaintiff(s)
vs.
Bret Whipple, Defendant(s)

CASE NO: A-19-790929-B
DEPT. NO. Department 27

AUTOMATED CERTIFICATE OF SERVICE

This automated certificate of service was generated by the Eighth Judicial District Court. The foregoing Order Granting was served via the court's electronic eFile system to all recipients registered for e-Service on the above entitled case as listed below:

Service Date: 12/28/2023

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