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Attorneys for Plaintiffs

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

KIRK and AMY HENRY,

Plaintiffs,

vs.

FREDRICK RIZZOLO aka RICK RIZZOLO,
an individual; LISA RIZZOLO, individually and
as trustee of The Lisa M. Rizzolo Separate Property
Trust and as successor trustee of The Rick J.
Rizzolo Separate Property Trust; THE RICK
AND LISA RIZZOLO FAMILY TRUST; THE
RICK J. RIZZOLO SEPARATE PROPERTY
TRUST; and THE LISA M. RIZZOLO
SEPARATE PROPERTY TRUST,

Defendants.

Case No. 2:08-CV-635-PMP-GWF

**MOTION TO REVEAL PRO SE
LITIGANT RICK RIZZOLO'S
GHOST WRITER; REQUEST
FOR VERIFICATION
PURSUANT TO FRCP 11;
ALTERNATIVELY FOR
CONTEMPT SANCTIONS**

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COMES NOW Plaintiffs KIRK and AMY HENRY, by and through their attorneys of record, DONALD J. CAMPBELL, ESQ. and JACK F. DEGREE, ESQ., of the law firm CAMPBELL & WILLIAMS, and C. STANLEY HUNTERTON, ESQ., of the law firm HUNTERTON & ASSOCIATES, and hereby file the following Motion to Reveal Identity of Pro Se Litigant Rick Rizzolo's Ghost Writer; Request for Verification Pursuant to FRCP 11; Alternatively for Contempt Sanctions.

This Motion is made and based upon all the pleadings and papers on file herein, together with the affidavits and exhibits attached hereto, and any and all oral arguments.

DATED this 3rd day of September, 2009.

CAMPBELL & WILLIAMS

HUNTERTON & ASSOCIATES

By /s/
JACK F. DEGREE, ESQ. (11102)
700 South Seventh Street
Las Vegas, Nevada 89101
Attorneys for Plaintiff Kirk Henry

By /s/
C. STANLEY HUNTERTON, ESQ. (1891)
333 South Sixth Street
Las Vegas, Nevada 89101
Attorneys for Plaintiff Amy Henry

**AFFIDAVIT OF JACK F. DEGREE IN SUPPORT OF
MOTION TO REVEAL PRO SE LITIGANT RICK RIZZOLO'S GHOST WRITER;
REQUEST FOR VERIFICATION PURSUANT TO FRCP 11;
ALTERNATIVELY FOR CONTEMPT SANCTIONS**

STATE OF NEVADA)
)ss.
COUNTY OF CLARK)

JACK F. DEGREE, being first duly sworn, deposes and says:

1. I am a resident of Clark County, Nevada. I am over the age of eighteen (18) years and I am in all respects, competent to make this Affidavit. This Affidavit is based upon my personal knowledge, and if called upon to testify, I would testify as set forth in this Affidavit.

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2. I am a licensed attorney in the State of Nevada Bar Number 11102. I am an associate in the law firm CAMPBELL & WILLIAMS and one of the attorneys representing Plaintiffs Kirk and Amy Henry in the above-captioned action.

3. On January 7, 2009, the Court granted permission to the law firm of Patti Sgro & Lewis to withdraw as counsel of record for Defendant Rick Rizzolo ("Rick") (#55). Rick was also ordered to advise the Court "if he will retain new counsel or proceed in proper person" by February 9, 2009. *Id.*

4. On January 22, 2009, the Court heard oral argument on Plaintiffs' motions to compel and the issue concerning Rick's legal representation was discussed and ordered:

THE COURT: I would, you know, to the – let me ask you this while you're there, Mr. Hafer [Rick's counsel at the time]. I know I required you to represent Mr. Rizzolo through the date of this hearing. Are you able to advise the Court one way or the other whether Mr. Rizzolo is retaining new counsel to represent him in this case?

MR. HAFER: He has not. He has interviewed a couple of attorneys. I have provided those attorneys with information on the case, but none of them have offered to substitute in this matter.

THE COURT: Well, at this point then I'm going to consider Mr. Rizzolo to be improper [sic] person in this case *and counsel can deal with him directly.*

See January 22, 2009 Hearing Transcript, excerpts of which are attached hereto as Exhibit "1" (emphasis added). At no point has Rick represented to the Court or the Plaintiffs that he has retained new counsel to represent him in this case. He has instead continued to represent himself.

5. On July 9, 2009, the Plaintiffs received via facsimile what appeared to be a draft version of a motion to dismiss by Defendant Rick Rizzolo. *See* Facsimile, relevant portions of which are attached hereto as Exhibit "2." This document was not file-stamped by the Court and the referenced exhibits were not included as part of the fax transmission. The bottom of the

1 document shows the transmittal date and time and also identifies the apparent sender as "AM
2 KIMSEY." *Id.* (emphasis added).
3

4 6. Five days later, the Plaintiffs received a completed, file-stamped version of the
5 foregoing document via the Court's CM/ECF filing system (#139). The referenced exhibits were
6 now included in Rick's Appendix of Exhibits. Attached as Exhibit "H" of this Appendix is an
7 August 5, 2005 article authored by Las Vegas Sun columnist Jeff German. *See* Rick's Exhibit,
8 attached hereto as Exhibit "3." The bottom of the document shows what appears to be the
9 computer location of this document prior to its printing: "file://C:\Documents and
10 Settings\JAMES EDWARD KIMSEY\My Documents\Columnist J..." *Id.* (emphasis added).
11

12 7. Shortly thereafter, on July 22, 2009, I telephoned Rick to apprise him of
13 communications I had with Defendant Lisa Rizzolo's counsel, Mr. Mark B. Bailus, Esq.,
14 regarding Plaintiffs' request for a stipulation to an extension for Plaintiffs to file a response to the
15 Motion he filed (#139). I also inquired as to whether he would agree to this stipulated extension
16 (which was agreed to by both Plaintiffs' counsel and Mr. Bailus). Rick indicated he wanted to
17 think about it; however, he assured me that he would return my call later that day.
18

19 8. One hour later, I received a call from a man named "James" who informed me he
20 was calling on behalf of Rick. He immediately explained that Rick would not agree to any
21 stipulation for extension absent a stay of discovery. I asked "James" for his last name, but he
22 would not provide one. I asked "James" who he worked for, but he would not say. He only
23 provided me with a return telephone number to reach him which is: (239) 352-0841.
24

25 9. A short time later, I telephoned "James" to follow up on our discussion. I again
26 asked him for his last name and also an address where he may be reached. He would not provide
27 me with any information. I then inquired as to whether he was a lawyer to which he responded,
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2 "I'm not answering your questions, Mr. DeGree!" I then advised "James" that Rick is a pro se
3 litigant; we have been instructed by Judge Foley to deal with him directly; and that Rick said he
4 would personally return my phone call but instead chose to have him call me. I concluded the
5 conversation by informing "James" that we would not agree to his request and would proceed by
6 filing an ex parte request for extension since Rick was the sole holdout.

7 10. After my two conversations with "James," I immediately contacted private
8 investigator Dave Groover to obtain additional information on the subscriber with the "(239)
9 352-0841" telephone number. On the same day, Mr. Groover advised me that the telephone
10 number was registered to a man by the name of "James E. Kimsey." See Declaration of Dave
11 Groover, attached hereto as Exhibit "4."
12

13 11. I certify that all attached exhibits are true and correct copies.

14 12. I declare under penalty of perjury that the foregoing is true and correct.

15 DATED this 3rd day of September, 2009.

16
17 /s/
18 JACK F. DEGREE
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POINTS AND AUTHORITIES

I. INTRODUCTION

A brief glance at the Court’s recent docket entries over the last month and a half reveals an endless barrage of frivolous motions filed by Rick. These meritless filings include:

- #139 (July 9, 2009): Motion to Dismiss Amended Complaint...
- #140 (July 9, 2009): Ex Parte Motion for Hearing on Order Shorten Time...
- #153 (July 27, 2009): Objection to Court’s Order...
- #160 (July 31, 2009): Motion to Join Indispensable Parties...
- #161 (July 31, 2009): Motion to Dismiss Amended Complaint...
- #162 (July 31, 2009): Motion to Stay Discovery...
- #170 (August 14, 2009): Motion to Disqualify Plaintiffs’ Law Firms...
- #172 (August 14, 2009): Objection to Court’s Order...

Included within these absurd filings are wholly inappropriate and offensive attacks on Plaintiffs’ counsel and this Court that will be explored further herein *infra*.

Irrespective of the baseless positions Rick takes in these documents, they appear strikingly different from the hand written discovery responses Rick has provided to Plaintiffs. He has upgraded to his own pleading paper; his illogical arguments follow an outline format somewhat similar to attorney briefs; and his briefing vocabulary now incorporates legal jargon.

It is important to note at the outset that Rick originally elected to proceed pro se, because he claims he “can’t even afford a new attorney.” See Opposition, dated February 18, 2009, attached hereto as Exhibit “5” at 3:4-6. This representation is hardly believable considering Rick paid out at least \$50,000 in attorney fees to the law firm of Patti, Sgro & Lewis just months before. See Checks, attached hereto collectively as Exhibit “6.” Rick, nevertheless, is proceeding *in form* as a pro se litigant.

To that end, Rick routinely pleads for this Court to follow the United States Supreme Court precedent set forth in *Haines v. Kerner*, 404 U.S. 519, 92 S.Ct. 594 (1972): allegations of a pro se litigant are held to a less stringent standard than pleadings drafted by lawyers. *Id.* at 521.

1 He repeatedly asks this Court to grant him the benefit of this standard and permit him “wide
2 latitude” with the rule requirements. *See, e.g.*, Rick’s Ex Parte Motion, attached hereto as
3 Exhibit “7” at ¶ 3.
4

5 Simply put, it is clear Rick is not authoring the nonsensical filings which are presently
6 burdening this Court. He is hiding behind the authorship of an apparent ghost writer – one with
7 an ulterior motive. The Court must not grant any deference to Rick’s request for “wide latitude”
8 with the rule requirements. As will be shown herein, the identity of Rick’s ghost writer must be
9 revealed and further action in the form of contempt sanctions is more than appropriate.
10

11 II. ARGUMENT

12 A. Courts Require Pro Se Litigants To Reveal Identities Of Their Ghost Writers

13 Ghost-writing occurs when a “member of the bar gives substantial legal assistance, by
14 drafting or otherwise, to a party ostensibly appearing *pro se*, with the lawyer’s actual or
15 constructive knowledge that the legal assistance will not be disclosed to the court.” Nevada State
16 Bar, Standing Committee on Ethics and Professional Responsibility, Opinion No. 34 (June 24,
17 2009); *see also Ricotta v. State of California*, 4 F.Supp.2d 961, 987 (S.D. Ca. 1998) (ghost-
18 writing occurs when attorneys “gather and anonymously present legal arguments, with the actual
19 or constructive knowledge that the work will be presented in some similar form in a motion
20 before the court”); *In re Mungo*, 305 B.R. 762, 768 (D. S.C. 2003) (same).
21

22 Ghost-writing is prohibited for many reasons. First, a litigant’s pleadings “seemingly
23 filed *pro se* but drafted by an attorney would give him the unwarranted advantage of having a
24 liberal pleading standard applied whilst holding the plaintiffs to a more demanding scrutiny.”
25 *Johnson v. Board of County Commissioners for County of Fremont*, 868 F.Supp. 1226, 1231 (D.
26 Co. 1994); *see also Delso v. Trustees*, 2007 WL 766349, *13 (D. N.J. 2007). Second, “such
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2 undisclosed participation by a lawyer that permits a litigant to falsely appear as being without
3 professional assistance would permeate the proceedings.” *Id.* Finally, “[t]he *pro se* litigant
4 would be granted greater latitude as a matter of judicial discretion in hearings and trials.” *Id.* In
5 sum, the “entire process would be skewed to the distinct disadvantage of the nonoffending
6 party.” *Id.* This is precisely the harmful prejudice Plaintiffs are seeking to avoid. Rick has
7 already repeatedly requested leniency from this Court, but his briefing shows he should not be
8 afforded the protections of *pro se* litigants.

9
10 Thus, where there is suspicion or discovery of undisclosed assistance, the court must
11 require the *pro se* litigant to disclose whether he or she is receiving such assistance, and if so, the
12 identity of the party giving the improper assistance. *See Nevada State Bar, Standing Committee*
13 *on Ethics and Professional Responsibility, Opinion No. 34 (June 24, 2009); see also Stewart v.*
14 *Angelone*, 186 F.R.D. 342, 344 (E.D. Va. 1999) (court ordered identification of assisting party
15 where *pro se* litigant admitted receiving assistance); *Duran v. Carris*, 238 F.3d 1268, 1273 (10th
16 Cir. 2001) (ghost-writing attorney must sign and acknowledge any pleadings). The Court must
17 exercise its authority and order the identification of this ghost writer.

18 19 **B. Ghost Writer As Non-Lawyer**

20 At this juncture, the Court has not ordered the identity of Rick’s ghost writer be revealed.
21 For this reason, Plaintiffs set forth a separate application of law because the rules differ
22 depending on whether or not the ghost writer is a lawyer *or* a non-lawyer. In the event Rick’s
23 ghost writer is a non-lawyer, the following sections dictate the ramifications for engaging in this
24 dubious practice.

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1. The Unauthorized Practice of Law in Nevada

NRS 7.285 mandates that “[a] person shall not practice law in this state if the person is not a member of the State Bar of Nevada or otherwise authorized to practice law in this state pursuant to the rules of the Supreme Court.” Any person who violates NRS 7.285 is guilty of a crime ranging from a misdemeanor to a Class E felony. In Nevada:

“What constitutes the ‘practice of law’ must be determined on a case-by-case basis, in light of the ‘touchstone’ principle that the practice of law includes activities calling for the exercise of trained judgment in applying the general body of legal knowledge to the specific problem of a client and recommending a course of action.”

In re Discipline of Lerner, 197 P.3d 1067, 1078 (Nev. 2008). The practice of law in Nevada, “at a minimum, involves giving legal advice and exercising legal judgment.” *In re Virissimo*, 354 B.R. 284, 291 (D. Nev. 2006). “Law practice is not limited to conducting litigation, but includes the preparation of documents requiring the use of legal knowledge or skill.” *Id.* Likewise, the Ninth Circuit defines the practice of law as “the exercise of professional judgment in applying legal principles to address another person’s individualized needs through analysis, advice, or other assistance.” *Taub v. Weber*, 366 F.3d 966, 970 (9th Cir. 2004).

Plaintiffs dispute the merits of all arguments set forth in Rick’s frivolous filings. It is clear, nonetheless, that these documents were prepared on Rick’s behalf with the application of law to fact. Each document requests a legal course of action no matter the absurd nature. This authorship falls under the confines of NRS 7.285 as the “unauthorized practice of law.”

2. Individual is Subject to Sanctions or Contempt of Court

Federal courts have inherent powers which include “the authority to control admission to its bar and to discipline attorneys who appear before it.” *United States v. Johnson*, 327 F.3d 554, 560 (7th Cir. 2003) (citing *Chambers v. NASCO*, 501 U.S. 32, 43 (1991)). “A federal court also

1 has the inherent power to sanction for conduct which abuses the judicial process.” *Johnson*, 327
2 F.3d at 560. “It follows logically that a federal court’s power to regulate and discipline attorneys
3 appearing before it extends to nonlawyers amounting to practicing law without a license” and
4 “resort to the inherent powers is an appropriate remedial measure.” *Id.* ..
5

6 Indeed, federal courts deem it appropriate to hold the unauthorized practitioner of law in
7 contempt as punishment for the misconduct. *See United States v. Marthaler*, 571 F.2d 1104,
8 1104-05 (9th Cir. 1978) (upholding contempt conviction for defendant’s unauthorized
9 representation of another party in court); *see also In re Chas. A. Stevens & Co.*, 108 B.R. 191,
10 194 (N.D. Ill. 1989) (“the practice of law by a person not licensed is potentially punishable as a
11 contempt of court”). Notwithstanding the imposition of contempt of court punishments, a court
12 may impose any variety of sanctions on the offending parties. *See Chas. A. Stevens*, 108 B.R. at
13 194 (striking pleadings drafted by unauthorized practitioner of law); *see also In re Ellingson*, 230
14 B.R. 426 (D. Mt. 1999) (entering permanent injunction barring party from the unauthorized
15 practice of law).
16

17 The abuse on the part of Rick’s ghost writer is worthy of contempt sanctions. This
18 person has stepped into the shoes of a pro se litigant and improperly engaged in seemingly
19 endless motion practice. This, in turn, has burdened the Plaintiffs and this Court with the duty to
20 address these ridiculous filings. In order to prevent future conduct such as this, the Court must
21 hold the ghost writer in contempt and appropriate sanctions should follow.
22

23 C. Ghost Writer As Lawyer

24 As mentioned herein, a different application of law is controlling in the event that Rick’s
25 ghost writer is a lawyer in this jurisdiction. Indeed, the practice is still scorned and punished.
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2 **1. Practice is in Violation of Nevada Rules of Professional Conduct**

3 “Courts and ethics opinions often cite ghostwriting as a breach of ethical duties and
4 prohibitions concerning deception.” *Delso*, 2007 WL 766349 at *13; *see* Nevada State Bar,
5 Standing Committee on Ethics and Professional Responsibility, Opinion No. 34 (June 24, 2009)
6 (ghost-writing is unethical unless the ghost-writer’s assistance and identity are disclosed);
7 Specifically, ghost-writing implicates many ethical rules including: “breach of the duties of
8 candor to the Court and fairness to the opposing party, prohibitions against dishonesty, fraud,
9 deceit or misrepresentations, conduct prejudicial to the administration of justice, [and] violation
10 of ethics rules through the act of another.” *Delso*, 2007 WL 766349 at *13; *see also Duran*, 238
11 F.3d at 1272 (ghost-writing is a misrepresentation to the court and a breach of the duty of
12 candor); *Johnson*, 868 F.Supp. at 1232 (ghost-writing is misrepresentation to court and breach of
13 the Rules of Professional Conduct).

14
15 In the event Rick’s ghost writer is a lawyer, there is no question that these recent filings
16 are in breach of the foregoing duties as they are written under the Nevada Rules of Professional
17 Conduct. The ghost writing practice is unfair, dishonest, deceitful, and prejudicial to Plaintiffs.
18 Most importantly, it undermines the duty of candor owed to this Court.

19
20 **2. Pleadings Must be Signed and Verified Pursuant to FRCP 11**

21 FRCP 11 states: “[e]very pleading, written motion, or other paper must be signed by at
22 least one attorney of record in the attorney’s name – or by a party personally if the party is
23 unrepresented.” FRCP 11 protects against claims brought for improper purposes and contentions
24 therein that lack any valid factual or legal basis. FRCP 11(b). Ghost-writing pleadings for a *pro*
25 *se* litigant is “condemned as a deliberate evasion of the responsibilities imposed on counsel by
26 Rule 11” because it allows counsel to escape the obligation of representing to the court that there
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2 is a foundation to support the allegations made. *Johnson*, 868 F.Supp. at 1232; *see also Delso*,
3 2007 WL 766349 at *13 (same); Nevada State Bar, Standing Committee on Ethics and
4 Professional Responsibility, Opinion No. 34 (June 24, 2009) (ghost-writing violates FRCP 11
5 unless the ghost-writer's assistance and identity are disclosed).

6 Once the Court has an opportunity to review Rick's briefing, it becomes clear why ghost
7 writing would be the mechanism by which to put forth these illogical arguments. It can be
8 reasoned that no rational-minded lawyer would sign his or her name to these documents and the
9 assertions contained therein. This is because the statements reveal a complete abandonment of
10 the duties owed by a lawyer pursuant to FRCP 11 which protects against contentions that lack
11 any legal or factual basis.
12

13 3. *Courts Will Sanction a Lawyer in Violation of the NRPC*

14 FRCP 11(c)(1) provides that if the "court determines that Rule 11(b) has been violated,
15 the court may impose an appropriate sanction on the attorney, law firm, or party that violated the
16 rule or is responsible for the violation." Courts will impose sanctions of varying severity in
17 cases of breaches of the ethical rules and FRCP 11 violations arising out of ghost-writing
18 activities. *See Mungo*, 305 B.R. at 770 (court will "consider sanctions which may include
19 suspension or disbarment of a ghost-writing attorney"); *Stewart*, 186 F.R.D. at 344 (ghost-
20 writing counsel must comply with FRCP 11 and ethical rules or face sanctions); *Kircher v.*
21 *Charter Township of Ypsilanti*, 2007 WL 4557714, *4 (E.D. Mi. 2007) (attorney faces sanctions
22 if "he persists in helping Plaintiff file *pro se* pleadings and papers"). Furthermore, "a *pro se*
23 litigant may also be subject to sanctions, including sua sponte dismissal of the pleading, for
24 presenting a ghost-written pleading as a *pro se* pleading." *Mungo*, 305 B.R. at 770 fn. 2.
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26 If Rick's ghost writer is a lawyer, appropriate sanctions should follow.
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2 **D. Upon Information and Belief, James Kimsey is Rick Rizzolo's Ghost Writer**

3 Based on the information set forth in the foregoing Affidavit of counsel, it is believed that
4 Mr. Kimsey is the ghost writer. This should cause great concern from the Court. The allegations
5 set forth in Rick's recent pleadings consist of outrageous attacks on Plaintiffs' counsel and this
6 Court, specifically The Honorable Philip M. Pro. These remarks are utterly offensive and Rick
7 (and his ghost writer) should be reprimanded for this despicable conduct.

8
9 ***1. The Defamatory Attacks on Counsel and the Court***

10 Rick first set forth his stunning accusations in his Motion to Dismiss (#139) wherein he
11 attacked Judge Pro by charging that an inappropriate relationship exists between Plaintiffs'
12 counsel and the Court:¹

13 ***"This thirty (30) year relationship between the judge in this case, and opposing***
14 ***counsel, appears to have been used by opposing counsel to manipulate the***
15 ***Court, with some degree of success, into a position of relitigating the Federal***
16 ***Criminal Case... Defendants will reserve the right to seek recusal when and if***
17 ***deemed appropriate."***

18 See Ex. 2 at p.5 fn. 12 (also filed on the Court's Docket (#139)). This bold-faced accusation
19 continues in Rick's subsequent filings:

20 ***"...opposing counsel continue to use the thirty (30) year history between counsel***
21 ***and the Court to manipulate what should have been dismissed long ago."***

22 See Rick's Objection, attached hereto as Exhibit "8" at ¶ 3 (emphasis added). These are serious
23 accusations being cast around by a ghost writer hiding behind a pro se litigant. It is offensive to
24 Plaintiffs' counsel and disrespectful to His Honor. Rick's repugnant attacks do not end here.

25
26 ¹ Rick's ridiculous suggestion is based on his argument that Plaintiffs' counsel, Mr. Campbell
27 and Mr. Hunteerton, as well as Judge Pro formerly served as federal prosecutors in the United
28 States Attorney's Office for the District of Nevada in the late 1970's and early 1980's.

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2 The ghost writer furthers an ulterior motive by attempting to frame an inconceivable legal
3 malpractice action against Plaintiffs' counsel:

4 Proposed indispensable parties Donald J. Campbell and the law firm of Campbell
5 Williams are indispensable as both witnesses to [the] underlying the facts pled in
6 the Complaint and Amended Complaint and Defendants' Motion to Dismiss; and
7 through acts and omissions, participated in the events in such a manner as the
relief sought by Plaintiffs' Kirk and Amy Henry may be limited to claims against
said proposed indispensable parties. Fed. R. Civ. P. 19(a).

8 See Rick's Notice (#160), attached hereto as Exhibit "9" at ¶ 1.² Two weeks later, Rick moved
9 to disqualify the foregoing attorneys and law firms from representing their clients in this case
10 (#170). The suggestion of malpractice is ridiculous and His Honor shared the same view at oral
11 argument on March 17, 2009 when Mr. Hafer (on behalf of Mr. Rizzolo) raised it (#115). See
12 March 17, 2009 Motion Hearing, excerpts of which are attached as Exhibit "10" at p. 34:14-
13 35:20 (emphasis added).

14 If Mr. Kimsey is in fact the man behind the curtain making all these senseless
15 accusations, then Plaintiffs proffer the following section to identify who exactly Mr. Kimsey is
16 and further detail his relationship with the Courts of this State.

18 2. *The Criminal History of James E. Kimsey*

19 Rick's strategy is clearly focused on removing Plaintiffs' counsel and disparaging this
20 Court through his recent filings. Indeed, James Kimsey is likely the tool Rick is using to execute
21 this plan. Though Mr. Kimsey is not a lawyer in the State of Nevada,³ he is certainly no stranger
22 to the Courts of this State. Mr. Kimsey is a convicted felon. His criminal history shows
23 convictions for the following offenses in Washoe County, State of Nevada:

24
25 _____
26 ² Paragraph 2 of this Exhibit contains the same language asserted against C. Stanley Hunterton
and the law firm of Hunterton & Associates.

27 ³ An "Attorney Search" on the State Bar of Nevada's website reveals that there is no "James
28 Kimsey" licensed to practice law. See Search Results, attached hereto as Exhibit "11."

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Case No. C86-856: **Forgery (Six Counts)**
 Perjury
 Conspiracy to Commit Perjury (Two Counts)
 Offering False Instrument for Filing

Case No. C86-1823: **Uttering a Forged Instrument**

Case No. C86-1840: **Forgery**
 Offering False Instrument for Filing
 Perjury
 Attempted Obtaining Money by False Pretenses
 Swindling (Two Counts)
 Unlawful Practice of Law

Case No. C87-446: **Embezzlement**

See Charging Documents and Judgments, certified copies of which are collectively attached hereto as Exhibit "12." These document show the lack of respect Mr. Kimsey has for the Courts.

Mr. Kimsey was convicted in Washoe County, Nevada. Since his release from incarceration, Mr. Kimsey has apparently moved his act south to Clark County, Nevada. He has a continuous pattern of attacking lawyers and judges in this State. His filings with the Courts of Clark County, Nevada, are littered with "Motions to Disqualify" both judges and attorneys, wholly unsupported and otherwise based on ridiculous accusations. *See* Court Filings, collectively attached hereto as Exhibit "13."

Assuming Mr. Kimsey is a non-lawyer, then he is engaging in the unauthorized practice of law in violation of NRS 7.285. His authorship of these writings on behalf of Rick Rizzolo is improper at best and criminal at its worst. He is "applying legal principles to address another person's individualized needs" which constitutes the practice of law. *See Taub*, 366 F.3d at 970. This Court should sanction Mr. Kimsey's conduct and hold him in contempt pursuant to the authority cited herein at Section II(B)(2). Plaintiffs set forth one final point.

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3. Rick Rizzolo's Probation Conditions

In an act both stunning and extraordinarily brazen, Rick has apparently agreed to the formation of the wholly prohibited partnership with the serially convicted felon, James Kimsey. Rick himself was convicted and sentenced to prison on January 25, 2007 in the United States District Court – District of Nevada (Case No. 2:06-cr-186-PMP-PAL). Included in the Judgment is a Section titled “Standard Conditions of Supervision” wherein Number 9 reads in full:

[T]he defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer.

See Rick’s Judgment, attached hereto as Exhibit “14” at p. 3 (emphasis added). Though it is not clear whether Rick has been granted permission from his probation officer, it is inconceivable that any probation officer would permit Rick to consort with a felon whose very crimes involve the corrupt manipulation of our system of justice.

III. CONCLUSION

Accordingly, it is respectfully requested that Plaintiffs’ Motion to Reveal Identity of Pro Se Litigant Rick Rizzolo’s Ghost Writer and Request for Verification be granted. It is further requested that Plaintiffs’ Motion for Sanctions or, Alternatively, Motion for Contempt be granted.

DATED this 3rd day of September, 2009.

CAMPBELL & WILLIAMS

HUNTERTON & ASSOCIATES

By _____ /s/
JACK F. DEGREE, ESQ. (11102)
700 South Seventh Street
Las Vegas, Nevada 89101
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By _____ /s/
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CERTIFICATE OF SERVICE

Pursuant to Fed.R.Civ.P.5(b), I certify that I am an employee of Campbell & Williams and on the 3rd day of September, 2009, service of a true and correct copy of the foregoing Plaintiffs' Motion to Reveal Identity of Pro Se Litigant Rick Rizzolo's Ghost Writer; Request for Verification Pursuant to FRCP 11; Alternatively Motion for Contempt Sanctions was made via CM/ECF and U.S. Mail to the following:

Mark B. Bailus, Esq.
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*Attorneys for Defendant/Cross Claimant
Lisa Rizzolo, The Lisa M. Rizzolo
Separate Property Trust, and The LMR Trust*


Rick Rizzolo
1760 Amarone Way
Henderson, NV 89012

VIA U.S. MAIL

*Pro Se Litigant for Rick Rizzolo,
The Rick and Lisa Rizzolo Family Trust,
The Rick J. Rizzolo Separate Property Trust,
And The RLR Trust*

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