

EXHIBIT I

1 Code: 2645
2 SANDRA A. UNSWORTH
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6 (775) 324-1550
7 Attorney for Petitioner
8 Eloisa Besada Furer

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10
11 **IN THE FAMILY DIVISION OF THE**
12 **SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
13 **IN AND FOR THE COUNTY OF WASHOE**

14 * * * * *

15 IN THE MATTER OF THE DIVORCE OF

Case No. DV04-01626

16 ANDREW EARL FURER

Dept. No. 5

17 And

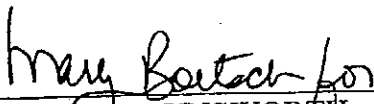
18 ELOISA BESADA FURER

19 JOINT PETITIONERS

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21 **OPPOSITION TO MOTION FOR RESTRAINING ORDER**

22 Petitioner Eloisa Besada Furer, by and through her attorney, SANDRA A.
23 UNSWORTH, opposes Petitioner Andrew Earl Furer's motion for a restraining
24 order. This opposition is made and based upon NRS 125.050, and is further
25 supported by the following points and authorities.

26 DATED this 30th day of August, 2004.

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SANDRA A. UNSWORTH
Attorney for Eloisa Besada Furer

Important - This is when Mr. Furer - 16 hours after signing the PNA - MR. Furer invited women to the home in Incline

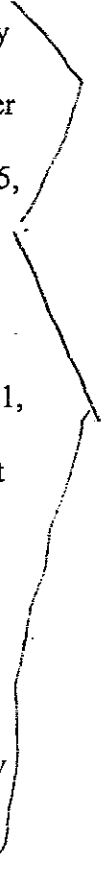
SUPPORTING POINTS AND AUTHORITIES

I. OVERVIEW

Contrary to the PNA that its purpose is to

Petitioners Andrew Furer and Eloisa Furer were married in June 1981. In January 2004, after the parties' marriage had suffered difficult times, the parties discussed signing an agreement by which they would separate some of their property, but remain married with the idea that formal separation or divorce was not on the horizon. See, Affidavit of Eloisa Furer, Exhibit "1." In May 2004, after nearly 23 years of marriage, the parties entered into a Post Nuptial Agreement, by which they agreed to a division of the community property, but agreed continue to live together as husband and wife so long as they mutually desired to do so. *Id.* See also, May 5, 2004, Post Nuptial Agreement, Exhibit "2." The agreement was designed and intended to give Andrew and Eloisa the opportunity to reconcile their marriage. Exhibit "1;" see also, July 9, 2004, Marital Settlement Agreement, Exhibit "3," p. 1, ¶ C (the parties expressly acknowledged that the intent of the prenuptial agreement was to permit an opportunity to reconcile the marriage). To that end, Andrew and Eloisa agreed that they would purchase a home in Las Vegas, in addition to their home in Lake Tahoe, and that, while they would both spend time in both homes, Eloisa would spend most of her time at the Las Vegas residence (she had difficulty with the Tahoe winters), and Andrew would spend most of his time at their Lake Tahoe residence. Exhibit "1."

reconcile marriage



On May 6, 2004, the day after the parties executed the Post Nuptial agreement, Eloisa left for Las Vegas to look for a second family home. *Id.* Within an hour after she left, Andrew made a three (3) hour phone call to a woman with whom he



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1 had been chatting on the internet. *Id.* Within days, Andrew purchased a round trip
2 ticket for his internet friend, who stayed in the marital home for approximately 5
3 days, from May 9 to May 13. *Id.* While Andrew's internet friend was in the
4 parties' marital home, Andrew called at least 2 other women. *Id.* After his internet
5 friend left, Andrew invited another woman he had met on the internet and later met
6 in the Bay Area to stay in his home for approximately 8 days, from May 21 to May
7 28. *Id.* The day after Andrew's second friend left, the parties' son came home from
8 college, and Andrew and his son traveled to Las Vegas to look at the house Eloisa
9 found and wanted to purchase. *Id.*

10
11 When Eloisa and Andrew returned from Las Vegas on June 2, 2004, Eloisa
12 discovered a lipstick mark on her bed sheets, on her side of the bed. *Id.* In another
13 room, Eloisa discovered a sanitary napkin ("pad") and a pair of panties. *Id.* Then,
14 to her horror, Eloisa discovered evidence that her husband – to whom she had been
15 married for 23 years and with whom she had just entered an agreement that was
16 intended to give them the opportunity to reconcile their marriage – had participated
17 in "S&M" sexual activity, presumably with the women he brought into their marital
18 home. *Id.* Eloisa found a bag full of sex paraphernalia, dildos, leather panties with
19 chains and locks, metal and electric sex gadgets, "S&M" books, and the like.¹ *Id.*
20 At that point, Eloisa realized that Andrew fraudulently induced her to execute the
21 post nuptial agreement by promising the opportunity to reconcile the marriage –
22 something he never intended to do. *Id.* Eloisa was mortified, humiliated, deeply
23 hurt, and angry. *Id.* At that point, the parties' relationship completely deteriorated.
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27 *Id.* Andrew became abusive to Eloisa and, in front of Eloisa, continued

28 ¹ Eloisa has photographs of the S & M gadgets and books she discovered.

1 communications with the women with which he was carrying on extramarital sexual
2 relationships. *Id.*

3 On June 8, 2004, Andrew left their Lake Tahoe home and stayed in a Reno hotel
4 with one of the women with whom he was having an affair. *Id.* At this point,
5 Andrew and Eloisa decided that they would divorce, and, through their counsel,
6 began negotiating a marital settlement agreement. *Id.* Apparently realizing that the
7 financial terms of the parties' post-nuptial agreement were unconscionable in light
8 of their true financial condition, Andrew's concessions in their initial settlement
9 agreement were far more than that to which they previously agreed.
10

11 On June 30, 2004, after the parties had agreed to the substantive terms of the
12 marital settlement agreement, Andrew kicked Eloisa during a heated exchange
13 between them, leaving Eloisa black and blue. *Id.* Andrew was arrested for
14 domestic battery, and his criminal case is currently pending. On July 2, 2004,
15 furious about being arrested, but in the midst of nearly-finalized settlement
16 negotiations, Andrew filed a complaint for divorce. Subsequently, Andrew moved
17 out of the home, and in with his girlfriend in California. *Id.*
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19 On July 9, 2004, Eloisa agreed to a Marital Settlement Agreement. Exhibit "3."
20 However, just prior to finalization of that settlement, Eloisa found evidence of three
21 additional accounts, of which she had no knowledge. Exhibit "1." When Andrew
22 could not explain the existence of those accounts, Eloisa sought permission with
23 withdraw her approval of the settlement agreement. Subsequently, the accounts
24 were sufficiently explained, and Eloisa was ready to move forward with the parties'
25 agreed upon settlement. On July 16, 2004, however, Andrew sought to dismiss this
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1 joint petition action and file a contested case. On July 18, 2004, this Court ordered
2 that this case proceed as a contested divorce.

3 Around this time, Eloisa was preparing to move to her second home in Las Vegas,
4 which was scheduled to close at the end of July 2004. When Eloisa traveled to Las
5 Vegas to complete the closing, Andrew told her that he would permit her to return
6 to their Lake Tahoe home and pack her belongings the parties had agreed would be
7 hers by way of the Post Nuptial Agreement and the Marital Settlement Agreement.

8
9 While she was gone, however, Andrew reneged and filed a motion for exclusive
10 possession of the home, preventing Eloisa from returning and gathering her
11 belongings. Ultimately, counsel for Eloisa agreed that Eloisa would vacate the
12 home, but did so believing the parties were at the point of settlement, and that
13 Eloisa would be taking her possessions. On August 5, 2004, counsel for Eloisa
14 relayed to Eloisa that settlement was forthcoming. On August 6, 2004, however,
15 Andrew again reneged on the settlement. To that end, on August 9, 2004, counsel
16 for Eloisa was provided a list of items that Andrew needed before he would agree to
17 settle. By the end of that day, Eloisa had agreed to a majority of the items on the
18 list. On August 10, 2004, however, Andrew's demands on which settlement was
19 conditioned changed. By the end of that day, Eloisa had agreed to a majority of
20 those additional/changed demands in order to facilitate settlement. Andrew,
21 however, raised the bar again. Upon Eloisa's acceptance of his ever changing and
22 increasing list of conditions to settlement, Andrew added a term to the Marital
23 Settlement Agreement that conditioned Eloisa's receipt of community property
24 stock upon her assurance that the criminal charges against him for domestic battery
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1 would be dismissed. Because Eloisa cannot agree to a condition that is entirely out
2 of her control, and because Andrew continues to change the terms of settlement
3 every time Eloisa agrees to his demands, the parties are at an impasse, and are
4 pursuing a contested divorce. To that end, Eloisa has answered Andrew's contested
5 complaint, and has asserted a counterclaim.
6

7 Andrew has now moved for a restraining order prohibiting and restraining Eloisa
8 from:

- 9 1. contacting, harassing, assaulting, annoying, molesting, intimidating,
10 threatening, denigrating, or disparaging Andrew and others associated with him;
- 11 2. the places, locations, and residences of those associated with Andrew; and
- 12 3. contacting any third party if that contact could be reasonable interpreted as
13 harassing, assaulting, annoying, molesting, intimidating, threatening, denigrating, or
14 disparaging.

15 Those Andrew seeks to protect are himself, his parents, his girlfriend, and his
16 girlfriend's employers, parents, children, and ex-husband. In support of his request,
17 Andrew produced 51 pages of what are purported to be transcribed voice messages
18 from Eloisa to him, the most recent of which was August 5, 2004, and an August 9,
19 2004 letter to Andrew's parents. Andrew's motion, however, is without merit.

20 II. ARGUMENT

21 On its face, Andrew's motion requests relief that is not contemplated by NRS
22 125.050. In any event, Andrew's request is antagonistic, unreasonable, overkill,
23 and based upon patently inadmissible evidence. Therefore, Andrew's motion for a
24 restraining order as requested should be denied.
25

26 A. *Andrew's Motion Requests Relief That is not Contemplated by NRS*
27 *125.050.*
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1 As this Court well knows, NRS 125.050, the basis on which Andrew makes his
2 motion for restraining order, permits this Court to enter a restraining order where it
3 is made to appear probable to the Court that either party is about to do any act that
4 would defeat or render less effectual any order which the court might ultimately
5 make *concerning the property or pecuniary interests*. Nothing in Andrew's 10
6 page motion or his 53 pages of exhibits asserts, alleges, or even suggests that Eloisa
7 is about to do any act that would defeat or render less effectual any order by this
8 Court concerning the parties' *property or pecuniary interests*. Rather, Andrew's
9 motion seeks to prevent Eloisa from contacting him or anyone remotely associated
10 with him because, as he repeatedly concludes in his motion, Eloisa is
11 "unpredictable," "intimidating," "threatening," and "violent." Despite that Andrew
12 offers no evidence, information, or assertion that Eloisa has contacted, or even
13 attempted to contact, most of the people on his list of people he wishes to "protect"
14 from her, nothing that Eloisa has, if he feels truly threatened by Eloisa, then the
15 appropriate forum for his request is with the TPO office, and not before this Court
16 on a statute intended to preserve marital property.

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20 ***B. Andrew's Motion is Antagonistic, Unreasonable, Overkill, and Based
upon Patently Inadmissible Evidence.***

21 Notwithstanding that NRS 125.050 does not provide a basis for Andrew's
22 requested relief, Andrew's motion simply illustrates his antagonistic, unreasonable,
23 and ruthless conduct toward Eloisa, who is *reeling* in the pain and confusion of
24 discovering -- what are to her -- the disgusting betrayals by her husband of 23 years.
25 Indeed, the only evidence Andrew has provided in support of his motion -- 51 pages
26 of purported transcripts and a letter -- is inadmissible hearsay, not within any
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1 hearsay exception (*See*, NRS 51.035, *et. seq.*), and provided without *any*
2 authentication or foundation as required by Nevada's evidence code (*See*, NRS
3 52.015, *et. seq.*). Until Andrew can properly authenticate those documents and
4 submit them under any hearsay exception – especially the “transcripts” of the phone
5 messages – they are patently inadmissible, and should not be considered by this
6 Court under any circumstances.

8 Based on the inadmissibility of his supporting documents, Andrew's motion is
9 supported by nothing more than bald and insulting assertions, characterizations, and
10 conclusions, many of which have nothing to do with any perceived “threat,” or
11 which are completely belied by competent evidence. For instance, as part of what
12 Andrew includes as pertinent information in support of his motion is irrelevant and
13 offensive, as follows:

- 15 1. The parties' age difference;
- 16 2. That the parties had not been sexually intimate with one another in excess
17 of ten years;
- 18 3. Eloisa's “succession of counsel” as not demonstrating any controlling
19 influence over Eloisa's “persistent, harassing behavior.”
- 20 4. Eloisa hired a private investigator.²

21 Moreover, contrary to his assertions, the Post Nuptial Agreement was not, in effect,
22 an “economic divorce,” and Andrew was not “painfully frank” about pursuing
23 outside relationships that included a sexual component. Indeed, those are absurd

24 ² Andrew makes much ado about Eloisa having hired a private investigator after making
25 her discoveries in the home in order to find out the truth of what Andrew was doing, who he was
26 with, and what kind of people had been in her house. At that point, Eloisa felt threatened and
27 afraid. Andrew's reference to the private investigator, however, begs the proverbial question, “so
28 what?” She did nothing illegal, and he certainly was not harassed or threatened by it. What his
motion reveals is that he is embarrassed about having the truth of his whereabouts having been
“found out.”

1 claims to make when considered in the context of the intent of the Post Nuptial
2 Agreement. As stated in the July 9, 2004, Marital Settlement Agreement, "...the
3 Post Nuptial Agreement ... was *designed and intended to give them the opportunity*
4 *to reconcile their marriage....*" Exhibit "3," p. 1, ¶ C. It is incomprehensible that
5 parties would enter into an agreement with that intended outcome, while at the same
6 time effecting an "economic divorce" and agreeing to explore outside relationships
7 that included sexual components. Andrew's conduct was blatantly contrary to the
8 expressed intent of the Post Nuptial Agreement, and Eloisa's reaction to her horrific
9 discovery supports that there was never any such understanding.

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11 That leaves this Court with unsupported and unsubstantiated claims, which are
12 nothing more than repetitious conclusions and characterizations of Eloisa, and none
13 of which establishes that Eloisa is any threat to Andrew, or anyone else. What
14 Andrew is facing is the devastation and humiliation his conduct created. Eloisa did
15 not want to divorce. She signed an agreement that was intended to give her an
16 opportunity to reconcile with her husband of 23 years. Even if this Court considers
17 the transcripts provided by Andrew as what they purport to be, what they reveal is a
18 wife who is devastated, frustrated, humiliated, and searching for answers, not
19 "vicious," "dangerous," "angry," or "harassing," and certainly not threatening.
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21 Moreover, contrary to Andrew's assertion, Eloisa has not "persisted" in these
22 contacts with Andrew and those associated with him. By his own "evidence,"
23 Andrew has, at best, illustrated phone calls to him from Eloisa, and one letter from
24 Eloisa to his parents, with whom she had a relationship for 23 years. Moreover,
25 Andrew's own supporting documents place the last call by Eloisa to him on August
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1 5, 2004, nearly two weeks prior to the time they filed their motion for a restraining
2 order. Likewise, the purported letter to Andrew's parents was dated August 9,
3 2004, nearly 10 days prior to the August 18, 2004, motion. Andrew has not
4 illustrated or provided any information that Eloisa has harassed, or even contacted,
5 Andrew's girlfriend or her employers, children, and family, or that there has been
6 any ongoing contact with anyone.
7


8 As acknowledged by Andrew, Eloisa is *devastated* by her discoveries of
9 Andrew's conduct, and despite that the depths of her anguish, loss, humiliation, and
10 frustration are beyond written or spoken expression, her communications with
11 Andrew have been her attempt at conveying how he has made her feel. By his
12 motion, Andrew requests that this Court protect him from having to be bothered by
13 Eloisa's emotional reaction to his conduct – a request that is neither legally nor
14 factually appropriate before this Court. Had Andrew truly felt that Eloisa was
15 violent, vicious, and physically threatening, the correct forum to have aired those
16 concerns would have been in the form of a request for a Temporary Protective
17 Order issued by the agency of this Court vested with the ability to address threats of
18 domestic violence. That he has not pursued that remedy demonstrates the
19 antagonistic nature of this motion.
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1 **III. CONCLUSION**

2 Andrew's motion is nothing less than an improper attempt to try this case in the
3 very first motion, for which there is no factual or legal basis. Therefore, Eloisa
4 requests that this Court deny Andrew's motion for a restraining order.

5 DATED this 30th day of August, 2004.
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9 SANDRA A. UNSWORTH
10 Attorney for Eloisa Besada Furer
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AFFIDAVIT OF ELOISA FURER

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2 STATE OF NEVADA)
3 : ss.
4 COUNTY OF WASHOE)

5 ELOISA FURER, having first been duly sworn and under penalty of perjury,
6 states as follows:

7 1. I am Defendant/Counterclaimant in *In re: Furer*, Second Judicial District
8 Court case no. DV04-01626, and I make this affidavit in support of the Opposition
9 to Plaintiff/Counterdefendant Andrew Furer's ("Andrew") Motion for a Restraining
10 Order filed on my behalf.

11 2. Andrew and I were married in June 1981.

12 3. In January 2004, after our marriage had suffered difficult times, Andrew
13 and I discussed signing an agreement by which we would separate some of our
14 property, but remain married with the idea that formal separation or divorce was not
15 on the horizon.

16 4. In May 2004, after nearly 23 years of marriage, Andrew and I executed a
17 Post Nuptial Agreement, by which we agreed a division of the community property
18 we accumulated during our marriage, but agreed continue to live together as
19 husband and wife so long as we mutually desired to do so.

20 5. The Post Nuptial Agreement was designed and intended to give Andrew
21 and I an opportunity to reconcile our marriage.

22 6. To that end, Andrew and I agreed that we would purchase a home in Las
23 Vegas, in addition to our home in Lake Tahoe, and that, while we would both spend
24 time in both homes, I would spend most of my time at the Las Vegas residence (I
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1 have difficulty with the Tahoe winters), and Andrew would spend most of his time
2 during the winter months at our Lake Tahoe residence. In January 2004, Andrew
3 and I went to Las Vegas to look for a house but did not find one.

4 7. On May 6, 2004, the day after we executed the Post Nuptial agreement,
5 per Andrew's suggestion, I left for Las Vegas to look for a second family home and
6 he would follow to give his approval.

8 8. Andrew and my son joined me in Las Vegas on May 29, 2004, to look at
9 the home I found and wanted to purchase.

10 9. On June 2, 2004, when we returned from Las Vegas to our Lake Tahoe
11 home, I discovered a lipstick mark on my bed sheets, on my side of the bed.

12 10. In another room, I discovered a sanitary napkin ("pad") and a pair of
13 panties.

14 11. To my horror, I also discovered evidence that my husband of 23 years,
15 with whom I had just entered an agreement that was intended to give us an
16 opportunity to reconcile our marriage, was participating in "S&M" sexual activity
17 with other women in our marital home.

18 12. I found a bag full of sex paraphernalia, dildos, leather panties with chains
19 and locks, metal and electric sex gadgets, "S&M" books, and the like. I took
20 pictures of what I found.

21 13. At that point, I realized that Andrew had no intention of reconciling our
22 marriage, which was the main reason I signed the Post Nuptial Agreement.

23 14. I was mortified, humiliated, deeply hurt, and angry.
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1 15. After I confronted Andrew about what I found, our relationship
2 completely deteriorated.

3 16. Andrew became abusive to me and, in front of me, continued
4 communications with the women with which he was carrying on extramarital sexual
5 relationships.

6
7 17. Our phone bills and credit card statements later revealed to me that:

8 a. On May 6, 2004, the day after Andrew and I signed the Post Nuptial
9 Agreement and within an hour after I left for Las Vegas, Andrew made a three (3)
10 hour phone call to a woman with whom he had been chatting on the internet.

11 b. Within days, Andrew purchased a round trip ticket for his internet
12 friend, who stayed in our marital home for approximately 5 days, beginning on
13 Mother's Day, from May 9 to May 13.

14 c. While Andrew's internet friend was staying in our home, Andrew
15 called at least 2 other women.

16 d. After Andrew's internet friend left, Andrew invited another woman he
17 met over the internet and later met in the Bay Area on May 20 and stayed at a hotel
18 in the Bay Area and drove to the marital residence and stayed in our home for
19 approximately 8 days, from May 21 to May 28, just before our son came home from
20 college and my husband and son joined me in Las Vegas.

21 e. The day after Andrew's second friend left, our son came home from
22 college, and Andrew and our son traveled to Las Vegas to look at the house I found
23 and wanted to purchase.

24 18. On June 8, 2004, Andrew left our Lake Tahoe home and stayed in a Reno
25 hotel with one of the women with whom he was having an affair.

26 19. At this point, Andrew and I decided that we would divorce, and, through
27 our attorneys, began negotiating a marital settlement agreement.

28 20. On June 30, 2004, after we had agreed to most of the terms of the marital
settlement agreement, Andrew kicked me in the leg during a heated exchange
between us, leaving me black and blue.

1 21. Andrew was arrested for domestic battery.
2 22. On July 2, 2004, furious about being arrested, but in the midst of our
3 nearly-finalized settlement negotiations, Andrew filed a complaint for divorce.
4 23. Subsequently, Andrew moved out of our home, and in with his girlfriend
5 in California.
6 24. On July 9, 2004, I agreed to a Marital Settlement Agreement, which was
7 negated after I discovered additional assets that had not been disclosed, and which
8 Andrew could not sufficiently explain.
9 25. Since that time, we have not been able to agree to a settlement because
10 Andrew continues to request additional and different conditions to settlement, the
11 final one of which was for me to ensure the criminal proceedings against him would
12 not proceed. I could not ensure that, as whether those charges go forward is not
13 under my control.
14 26. I have reviewed the transcripts in support of Andrew's motion for a
15 restraining order, and, notwithstanding some of the messages appear to be
16 duplicated throughout the transcripts, I do not recall making that many phone calls
17 and leaving that many messages for Andrew.
18 27. I have never threatened anyone.
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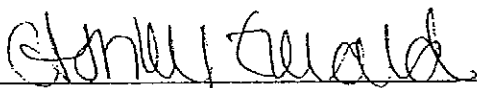
1 28. I have not contacted or spoken to most of the entities and/or people on the
2 list of those Andrew seeks to protect by his motion for a restraining order.

3 DATED this 30th day of August, 2004.
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6 _____
ELOISA FURER

7 State of Nevada)
8 : ss.
9 County of Washoe)

10 Signed and sworn to before me
11 on August 30, 2004, by ELOISA FURER

12 
13 _____
Notarial Officer

