

1 **IN THE SUPREME COURT OF THE STATE OF NEVADA**

2
3 FRONT SIGHT MANAGEMENT LLC, a
4 Nevada Limited Liability Company,

5 Petitioner,

6 vs.

7 THE EIGHTH JUDICIAL DISTRICT
8 COURT OF THE STATE OF NEVADA,
9 IN AND FOR THE COUNTY OF CLARK;
10 and THE HONORABLE TIMOTHY C.
11 WILLIAMS, DISTRICT COURT JUDGE,

12 Respondents,

13 and

14 LAS VEGAS DEVELOPMENT FUND
15 LLC, a Nevada Limited Liability Company;
16 EB5 IMPACT CAPITAL REGIONAL
17 CENTER LLC, a Nevada Limited Liability
18 Company; EB5 IMPACT ADVISORS
19 LLC, a Nevada Limited Liability Company;
20 ROBERT W. DZIUBLA, individually and
21 as President and CEO of LAS VEGAS
22 DEVELOPMENT FUND LLC and EB5
23 IMPACT ADVISORS LLC; JON
24 FLEMING, individually and as an agent of
25 LAS VEGAS DEVELOPMENT FUND
26 LLC and EB5 IMPACT ADVISORS LLC;
27 LINDA STANWOOD, individually and as
28 Senior Vice President of LAS VEGAS
DEVELOPMENT FUND LLC and EB5
IMPACT ADVISORS LLC,

Real Parties in Interest.

No.: _____ Electronically Filed
Dec 18 2019 10:38 a.m.
Elizabeth A. Brown
Dist. Ct. Case No: A-18-781084-B
Clerk of Supreme Court

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John P. Aldrich, Esq.
Nevada Bar No. 6877
Catherine Hernandez, Esq.
Nevada Bar No. 8410
Matthew B. Beckstead, Esq.
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ALDRICH LAW FIRM, LTD.
7866 West Sahara Avenue
Las Vegas, Nevada 89117
Telephone: (702) 853-5490
Facsimile: (702) 227-1975
Attorneys for Plaintiff

EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA

FRONT SIGHT MANAGEMENT LLC, a
Nevada Limited Liability Company,

Plaintiff,

CASE NO.: A-18-781084-B
DEPT NO.: 16

vs.

PLAINTIFF'S NOTICE OF INTENT
TO ISSUE AMENDED SUBPOENA
DUCES TECUM TO SIGNATURE
BANK

LAS VEGAS DEVELOPMENT FUND LLC, a
Nevada Limited Liability Company; EB5
IMPACT CAPITAL REGIONAL CENTER
LLC, a Nevada Limited Liability Company;
EB5 IMPACT ADVISORS LLC, a Nevada
Limited Liability Company; ROBERT W.
DZIUBLA, individually and as President and
CEO of LAS VEGAS DEVELOPMENT
FUND LLC and EB5 IMPACT ADVISORS
LLC; JON FLEMING, individually and as an
agent of LAS VEGAS DEVELOPMENT
FUND LLC and EB5 IMPACT ADVISORS
LLC; LINDA STANWOOD, individually and
as Senior Vice President of LAS VEGAS
DEVELOPMENT FUND LLC and EB5
IMPACT ADVISORS LLC; DOES 1-
10, inclusive; and ROE CORPORATIONS 1-
10, inclusive,

Defendants.

1 **PLAINTIFF'S NOTICE OF INTENT TO ISSUE AMENDED SUBPOENA DUCES**
2 **TECUM TO SIGNATURE BANK**

3 Pursuant to Rule 45(a)(4)(A) of the Nevada Rules of Civil Procedure, Plaintiff FRONT
4 SIGHT MANAGEMENT LLC, by and through their counsel of record, hereby provide prior
5 notice of the Amended Subpoena Duces Tecum to be issued to Signature Bank, attached hereto
6 as **Exhibit 1**.

7 DATED this 6th day of August, 2019.

8 **ALDRICH LAW FIRM, LTD.**

9 /s/ John P. Aldrich
10 John P. Aldrich, Esq.
11 Nevada Bar No. 6877
12 Catherine Hernandez, Esq.
13 Nevada Bar No. 8410
14 Matthew B. Beckstead, Esq.
15 Nevada Bar No. 14168
16 7866 West Sahara Avenue
17 Las Vegas, NV 89117
18 Tel (702) 853-5490
19 Fax (702) 226-1975
20 Attorneys for Plaintiff

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 6th day of August, 2019, I caused the foregoing **PLAINTIFF'S NOTICE OF INTENT TO ISSUE AMENDED SUBPOENA DUCES TECUM TO SIGNATURE BANK** to be electronically filed and served with the Clerk of the Court using Wiznet which will send notification of such filing to the email addresses denoted on the Electronic Mail Notice List, or by U.S. mail, postage prepaid, if not included on the Electronic Mail Notice List, to the following parties:

Anthony T. Case, Esq.
Kathryn Holbert, Esq.
FARMER CASE & FEDOR
2190 E. Pebble Rd., Suite #205
Las Vegas, NV 89123
*Attorneys for Defendants LAS VEGAS DEVELOPMENT FUND
LLC, EBSIMPACT CAPITAL REGIONAL CENTER LLC,
EB5 IMPACT ADVISORS LLC, ROBERT W. DZIUBLA,
JON FLEMING and LINDA STANWOOD*

C. Keith Greer, Esq.
16855 West Bernardo Drive, Suite 255
San Diego, CA 92127
*Attorneys for Defendants LAS VEGAS DEVELOPMENT FUND
LLC, EBSIMPACT CAPITAL REGIONAL CENTER LLC,
EB5 IMPACT ADVISORS LLC, ROBERT W. DZIUBLA,
JON FLEMING and LINDA STANWOOD*

/s/ T. Bixenmann
An employee of ALDRICH LAW FIRM, LTD.

EXHIBIT 1

EXHIBIT 1

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Telephone: (702) 853-5490
Facsimile: (702) 227-1975
Attorneys for Plaintiff

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

FRONT SIGHT MANAGEMENT LLC, a
Nevada Limited Liability Company,

Plaintiff,

vs.

LAS VEGAS DEVELOPMENT FUND LLC, a
Nevada Limited Liability Company; et al.,

Defendants.

AND ALL RELATED COUNTERCLAIMS,

Counterdefendants.

CASE NO.: A-18-781084-B
DEPT NO.: 16

**AMENDED SUBPOENA DUCES
TECUM**

THE STATE OF NEVADA SENDS GREETINGS TO:

**Signature Bank
565 Fifth Avenue
New York, NY 10017
Phone: (866) 744-5469**

1 **YOU ARE HEREBY COMMANDED** that all and singular, business and excuses set
2 aside, pursuant to N.R.C.P. 45, to produce the designated documents, electronically stored
3 information, and/or tangible things in your possession, custody, or control, by delivering a true,
4 legible, and durable copy of the business records described below to the requesting attorney, by
5 United States mail or similar delivery service, no later than **September 10, 2019**, at the
6 following address:

7 **John P. Aldrich, Esq.**
8 **Catherine Hernandez, Esq.**
9 **Matthew B. Beckstead, Esq.**
 ALDRICH LAW FIRM, LTD.
 7866 West Sahara Avenue
 Las Vegas, Nevada 89117

10 All documents shall be produced as they are kept in the usual course of business or shall
11 be organized and labeled to correspond with the categories listed. N.R.C.P. 45(d)(1).

12 **A LIST OF THE ITEMS TO BE PRODUCED** is attached as **Exhibit A**.

13 **YOU ARE FURTHER ORDERED** to authenticate the business records produced,
14 pursuant to N.R.S. 52.260, and to provide with your production a completed Certificate of
15 Custodian of Records in substantially the same form as **Exhibit B** attached hereto the subpoena.

16 **CONTEMPT:** Failure by any person without adequate excuse to obey a subpoena served
17 upon that person may be deemed in contempt of the court, N.R.C.P. 45(e), punishable by a fine
18 not exceeding \$500 and imprisonment not exceeding 25 days, N.R.S. 22.100. Additionally a
19 witness disobeying a subpoena shall forfeit to the aggrieved party \$100 and all damages
20 sustained as a result of the failure to attend, and a warrant may issue for the witness' arrest.
21 N.R.S. 50.195, 50.205, and 22.100(3).

22 Please see the attached **Exhibit C** for information regarding your rights and
23 responsibilities relating to this Subpoena.

24 A list of all parties to this action and their respective counsel is attached as **Exhibit D**.

1 **INSTRUCTIONS FOR THE SUBPOENA TO PRODUCE DOCUMENTS,**
2 **INFORMATION, OR OBJECTS**

3 A. The following definitions apply to this discovery request:

- 4 1. Concerning. The term "concerning" means relating to, referring to, describing,
5 evidencing, or constituting.
- 6 2. You, Your, and Yours. The terms "You," "Your," and "Yours" refer to the
7 responsible party in receipt of service and responding to this Subpoena, and,
8 additionally, its agents, employees, members, owners, partners, shareholders,
9 directors, or anyone acting on its behalf.
- 10 3. Document. The terms "Document" or "Writing" is defined to be synonymous in
11 meaning and equal in scope to the use of the terms "document" and
12 "electronically stored information" in Nevada Rules of Civil Procedure 26 and 34.
13 A draft or non-identical copy is a separate document within the meaning of this
14 term. "Document" shall also include any data compilation from which
15 information can be obtained or translated if necessary by YOU through detection
16 devices into reasonably usable form. Where the Document or Writing makes use
17 of, or refers to, codes or keys for particular categories of information, then the
18 definition of a Writing or Document includes the full description of the key
19 necessary for a person unfamiliar with the parlance to understand the meaning of
20 the code or key. A draft or non-identical copy is a separate Document within the
21 meaning of this term.
- 22 4. Any term, word or phrase that has not been defined in this discovery request but
23 appears in the live pleadings in this action (including without limitation the
24 Complaint) shall be given the definition or meaning given to the term, word or
 phrase as used in the live pleadings. Any term, word, or phrase that has been
 defined in these definitions that also appears in the live pleadings shall be given

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the definition or meaning given to the term, word or phrase as used in the pleadings in addition to the definition(s) given in this discovery request.

B. The following rules of construction apply to this Subpoena to Produce Documents, Information, or Objects:

1. All/Each. The terms "all" and "each" shall be construed as all and each.
2. And/Or. The connectives "and" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.
3. Number. The use of the singular form of any word includes the plural and vice versa.

C. The following instructions apply to this discovery request:

Electronic or Magnetic Data. In those instances when requested information exists in electronic or magnetic form, the responding party should state so. In responding to a discovery request, the responding party should, in addition to stating that the information exists in electronic/magnetic form, sufficiently identify the form in which the information exists.

1. E-MAILS: With respect to any and all responsible e-mail messages, produce them in their native, electronic format, including without limitation ".pst" files for Microsoft Outlook e-mail messages and ".nst" files for Lotus Outlook e-mail messages.
2. SPREADSHEETS: With respect to any and all responsive spreadsheets, produce them in their native, electronic format, including without limitation ".xls" files for Microsoft Excel spreadsheets.

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3. OTHER. Where applicable, any responsible information that exists in electronic or magnetic form must be produced in the following formats: CD Rom in an Acrobat (.pdf) compatible application, in a Microsoft Word or WordPerfect compatible application, or in ASCII.

DATED this ___ day of August, 2019.

ALDRICH LAW FIRM, LTD.

John P. Aldrich, Esq.
Nevada Bar No. 6877
Catherine Hernandez, Esq.
Nevada Bar No. 8410
Matthew B. Beckstead, Esq.
Nevada Bar No. 14168
7866 West Sahara Avenue
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Attorneys for Plaintiff

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EXHIBIT A

1. Please provide any and all bank statements and other documents for NES Financial's escrow account for Las Vegas Development Fund LLC, account # 1502391026, for the time period beginning in March 2012 to the present date.

2. Please provide, if any exist, any document(s) showing the check images for deposits made into NES Financial's escrow account for Las Vegas Development Fund LLC, account #1502391026, for the time period beginning in March 2012 to the present date.

3. Please provide any and all documents for any and all financial accounts pertaining to Las Vegas Development Fund LLC and/or for which Las Vegas Development Fund LLC is the beneficiary, signatory, and/or account holder, for the time period beginning March 2012 to the present date.

4. Please provide any and all documents for any and all financial accounts pertaining to EB5 Impact Advisors LLC and/or for which EB5 Impact Advisors LLC is the beneficiary, signatory, and/or account holder, for the time period beginning March 2012 to the present date.

5. Please provide any and all documents for any and all financial accounts pertaining to EB5 Impact Capital Regional Center LLC and/or for which EB5 Impact Capital Regional Center LLC is the beneficiary, signatory, and/or account holder, for the time period beginning March 2012 to the present date.

6. Please provide any and all documents for any and all financial accounts pertaining to Robert W. Dziubla (Date of Birth: July 18, 1952) and/or for which Robert W. Dziubla is the beneficiary, signatory, and/or account holder, for the time period beginning March 2012 to the present date.

7. Please provide any and all documents for any and all financial accounts pertaining to Jon D. Fleming and/or for which Jon D. Fleming is the beneficiary, signatory, and/or account holder, for the time period beginning March 2012 to the present date.

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8. Please provide any and all documents for any and all financial accounts pertaining to Linda Stanwood and/or for which Linda Stanwood is the beneficiary, signatory, and/or account holder, for the time period beginning March 2012 to the present date.

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EXHIBIT B

CERTIFICATE OF CUSTODIAN OF RECORDS

STATE OF NEVADA)
) ss.
COUNTY OF CLARK)

NOW COMES _____ (name of custodian of records), who after first being duly sworn deposes and says:

1. That the deponent is the _____ (position or title) of _____ (name of employer) and in his or her capacity as _____ (position or title) is a custodian of the records of _____ (name of employer).

2. That _____ (name of employer) is licensed to do business as a in the State of _____.

3. That on the day of the month of _____ day of _____, 2019, the deponent was served with a subpoena in connection with the above-entitled cause, calling for the production of _____ records pertaining to _____.

4. That the deponent has examined the original of those records and has made or caused to be made a true and exact copy of them and that the reproduction of them attached hereto is true and complete.

5. That the original of those records was made at or near the time of the act, event, condition, opinion or diagnosis recited therein by or from information transmitted by a person with knowledge, in the course of a regularly conducted activity of the deponent or _____ (name of employer).

Executed on: _____ (Date) _____ (Signature of Custodian of Records)

SUBSCRIBED AND SWORN to before me this _____ day of _____, 2019.

NOTARY PUBLIC in and for the County of _____, State of _____

1 EXHIBIT C

2 NEVADA RULES OF CIVIL PROCEDURE

3 **Rule 45 (c) Protection of Persons Subject to Subpoena.**

4 (1) **Avoiding Undue Burden or Expense; Sanctions.** A party or attorney responsible
5 for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden
6 or expense on a person subject to the subpoena. The court that issued the subpoena must enforce
7 this duty and may impose an appropriate sanction — which may include lost earnings and
8 reasonable attorney fees — on a party or attorney who fails to comply.

7 (2) **Command to Produce Materials or Permit Inspection.**

8 (A) **Appearance Not Required.**

9 (i) A person commanded to produce documents, electronically stored
10 information, or tangible things, or to permit the inspection of premises, need not appear in person
11 at the place of production or inspection unless also commanded to appear for a deposition,
12 hearing, or trial.

12 (ii) If documents, electronically stored information, or tangible things are
13 produced to the party that issued the subpoena without an appearance at the place of production,
14 that party must, unless otherwise stipulated by the parties or ordered by the court, promptly copy
15 or electronically reproduce the documents or information, photograph any tangible items not
16 subject to copying, and serve these items on every other party. The party that issued the
17 subpoena may also serve a statement of the reasonable cost of copying, reproducing, or
18 photographing, which a party receiving the copies, reproductions, or photographs must promptly
19 pay. If a party disputes the cost, then the court, on motion, must determine the reasonable cost of
20 copying the documents or information, or photographing the tangible items.

17 (B) **Objections.** A person commanded to produce documents, electronically stored
18 information, or tangible things, or to permit the inspection of premises, or a person claiming a
19 proprietary interest in the subpoenaed documents, information, tangible things, or premises to be
20 inspected, may serve on the party or attorney designated in the subpoena a written objection to
21 inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises
22 — or to producing electronically stored information in the form or forms requested. The person
23 making the objection must serve it before the earlier of the time specified for compliance or 14
24 days after the subpoena is served. If an objection is made:

21 (i) the party serving the subpoena is not entitled to inspect, copy, test, or sample
22 the materials or tangible things or to inspect the premises except by order of the court that issued
23 the subpoena;

1 (ii) on notice to the parties, the objecting person, and the person commanded to
2 produce or permit inspection, the party serving the subpoena may move the court that issued the
subpoena for an order compelling production or inspection; and

3 (iii) if the court enters an order compelling production or inspection, the order
4 must protect the person commanded to produce or permit inspection from significant expense
resulting from compliance.

5 **(3) Quashing or Modifying a Subpoena.**

6 **(A) When Required.** On timely motion, the court that issued a subpoena must quash
7 or modify the subpoena if it:

8 (i) fails to allow reasonable time for compliance;

9 (ii) requires a person to travel to a place more than 100 miles from the place
where that person resides, is employed, or regularly transacts business in person, unless the
10 person is commanded to attend trial within Nevada;

11 (iii) requires disclosure of privileged or other protected matter and no exception
or waiver applies; or

12 (iv) subjects a person to an undue burden.

13 **(B) When Permitted.** On timely motion, the court that issued a subpoena may quash
14 or modify the subpoena if it requires disclosing:

15 (i) a trade secret or other confidential research, development, or commercial
information; or

16 (ii) an unretained expert's opinion or information that does not describe specific
17 occurrences in dispute and results from the expert's study that was not requested by a party.

18 **(C) Specifying Conditions as an Alternative.** In the circumstances described in Rule
45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order an appearance or
19 production under specified conditions if the party serving the subpoena:

20 (i) shows a substantial need for the testimony or material that cannot be otherwise
met without undue hardship; and

21 (ii) ensures that the subpoenaed person will be reasonably compensated.

22 **Rule 45(d) Duties in Responding to a Subpoena.**

23 **(1) Producing Documents or Electronically Stored Information.** These procedures
24 apply to producing documents or electronically stored information:

1 (A) **Documents.** A person responding to a subpoena to produce documents must
2 produce them as they are kept in the ordinary course of business or must organize and label them
to correspond to the categories in the demand.

3 (B) **Form for Producing Electronically Stored Information Not Specified.** If a
4 subpoena does not specify a form for producing electronically stored information, the person
responding must produce it in a form or forms in which it is ordinarily maintained or in a
5 reasonably usable form or forms.

6 (C) **Electronically Stored Information Produced in Only One Form.** The person
responding need not produce the same electronically stored information in more than one form.

7 (D) **Inaccessible Electronically Stored Information.** The person responding need not
8 provide discovery of electronically stored information from sources that the person identifies as
not reasonably accessible because of undue burden or cost. On motion to compel discovery or for
9 a protective order, the person responding must show that the information is not reasonably
accessible because of undue burden or cost. If that showing is made, the court may nonetheless
10 order discovery from such sources if the requesting party shows good cause, considering the
limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

11 (2) **Claiming Privilege or Protection.**

12 (A) **Information Withheld.** A person withholding subpoenaed information under a
13 claim that it is privileged or subject to protection as trial-preparation material must:

14 (i) expressly make the claim; and

15 (ii) describe the nature of the withheld documents, communications, or tangible things in
a manner that, without revealing information itself privileged or protected, will enable the parties
16 to assess the claim.

17 (B) **Information Produced.** If information produced in response to a subpoena is
subject to a claim of privilege or of protection as trial-preparation material, the person making
18 the claim may notify any party that received the information of the claim and the basis for it.
After being notified, a party must promptly return, sequester, or destroy the specified information
19 and any copies it has; must not use or disclose the information until the claim is resolved; must
take reasonable steps to retrieve the information if the party disclosed it before being notified;
20 and may promptly present the information under seal to the court for a determination of the
claim. The person who produced the information must preserve the information until the claim is
21 resolved.

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EXHIBIT D

Plaintiff FRONT SIGHT MANAGEMENT LLC is represented by:

John P. Aldrich, Esq.
Nevada Bar No. 6877
Catherine Hernandez, Esq.
Nevada Bar No. 8410
Matthew B. Beckstead, Esq.
Nevada Bar No. 14168
ALDRICH LAW FIRM, LTD.
7866 West Sahara Avenue
Las Vegas, Nevada 89117

Defendants LAS VEGAS DEVELOPMENT FUND LLC, EBS IMPACT CAPITAL REGIONAL CENTER LLC, EBS IMPACT ADVISORS LLC, ROBERT W. DZIUBLA, JON FLEMING and LINDA STANWOOD are represented by:

Anthony T. Case, Esq.
Kathryn Holbert, Esq.
FARMER CASE & FEDOR
2190 E. Pebble Rd., Suite #205
Las Vegas, NV 89123

C. Keith Greer, Esq.
16855 West Bernardo Drive, Suite 255
San Diego, CA 92127

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7866 West Sahara Avenue
Las Vegas, Nevada 89117
Telephone: (702) 853-5490
Facsimile: (702) 227-1975
Attorneys for Plaintiff

EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA

FRONT SIGHT MANAGEMENT LLC, a
Nevada Limited Liability Company,

Plaintiff,

CASE NO.: A-18-781084-B
DEPT NO.: 16

vs.

**PLAINTIFF'S NOTICE OF INTENT
TO ISSUE AMENDED SUBPOENA
DUCES TECUM TO OPEN BANK**

LAS VEGAS DEVELOPMENT FUND LLC, a
Nevada Limited Liability Company; EB5
IMPACT CAPITAL REGIONAL CENTER
LLC, a Nevada Limited Liability Company;
EB5 IMPACT ADVISORS LLC, a Nevada
Limited Liability Company; ROBERT W.
DZIUBLA, individually and as President and
CEO of LAS VEGAS DEVELOPMENT
FUND LLC and EB5 IMPACT ADVISORS
LLC; JON FLEMING, individually and as an
agent of LAS VEGAS DEVELOPMENT
FUND LLC and EB5 IMPACT ADVISORS
LLC; LINDA STANWOOD, individually and
as Senior Vice President of LAS VEGAS
DEVELOPMENT FUND LLC and EB5
IMPACT ADVISORS LLC; DOES 1-
10, inclusive; and ROE CORPORATIONS 1-
10, inclusive,

Defendants.

1 **PLAINTIFF'S NOTICE OF INTENT TO ISSUE AMENDED SUBPOENA DUCES**
2 **TECUM TO OPEN BANK**

3 Pursuant to Rule 45(a)(4)(A) of the Nevada Rules of Civil Procedure, Plaintiff FRONT
4 SIGHT MANAGEMENT LLC, by and through their counsel of record, hereby provides prior
5 notice of the Amended Subpoena Duces Tecum to be issued to Open Bank, attached hereto as
6 **Exhibit 1.**

7 DATED this 6th day of August, 2019.

8 **ALDRICH LAW FIRM, LTD.**

9 /s/ John P. Aldrich
10 John P. Aldrich, Esq.
11 Nevada Bar No. 6877
12 Catherine Hernandez, Esq.
13 Nevada Bar No. 8410
14 Matthew B. Beckstead, Esq.
15 Nevada Bar No. 14168
16 7866 West Sahara Avenue
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18 Tel (702) 853-5490
19 Fax (702) 226-1975
20 Attorneys for Plaintiff

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 6th day of August, 2019, I caused the foregoing
**PLAINTIFF'S NOTICE OF INTENT TO ISSUE AMENDED SUBPOENA DUCES
TECUM TO OPEN BANK** to be electronically filed and served with the Clerk of the Court
using Wiznet which will send notification of such filing to the email addresses denoted on the
Electronic Mail Notice List, or by U.S. mail, postage prepaid, if not included on the Electronic
Mail Notice List, to the following parties:

Anthony T. Case, Esq.
Kathryn Holbert, Esq.
FARMER CASE & FEDOR
2190 E. Pebble Rd., Suite #205
Las Vegas, NV 89123
*Attorneys for Defendants LAS VEGAS DEVELOPMENT FUND
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C. Keith Greer, Esq.
16855 West Bernardo Drive, Suite 255
San Diego, CA 92127
*Attorneys for Defendants LAS VEGAS DEVELOPMENT FUND
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JON FLEMING and LINDA STANWOOD*

/s/ T. Bixenmann
An employee of ALDRICH LAW FIRM, LTD.

EXHIBIT 1

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7866 West Sahara Avenue
Las Vegas, NV 89117
Telephone: (702) 853-5490
Facsimile: (702) 227-1975
Attorneys for Plaintiff

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

FRONT SIGHT MANAGEMENT LLC, a
Nevada Limited Liability Company,

Plaintiff,

vs.

LAS VEGAS DEVELOPMENT FUND LLC, a
Nevada Limited Liability Company; et al.,

Defendants.

CASE NO.: A-18-781084-B
DEPT NO.: 16

**AMENDED SUBPOENA DUCES
TECUM**

AND ALL RELATED COUNTERCLAIMS,

Counterdefendants.

THE STATE OF NEVADA SENDS GREETINGS TO:

**Open Bank
Attn: Min Kim
1000 Wilshire Blvd., Suite 500
Los Angeles, CA 90017
Phone: (213) 892-9999
Fax: (213) 892-1199**

1 **YOU ARE HEREBY COMMANDED** that all and singular, business and excuses set
2 aside, pursuant to N.R.C.P. 45, to produce the designated documents, electronically stored
3 information, and/or tangible things in your possession, custody, or control, by delivering a true,
4 legible, and durable copy of the business records described below to the requesting attorney, by
5 United States mail or similar delivery service, no later than **September 10, 2019**, at the
6 following address:

7 **John P. Aldrich, Esq.**
8 **Catherine Hernandez, Esq.**
9 **Matthew B. Beckstead, Esq.**
 ALDRICH LAW FIRM, LTD.
 7866 West Sahara Avenue
 Las Vegas, Nevada 89117

10 All documents shall be produced as they are kept in the usual course of business or shall
11 be organized and labeled to correspond with the categories listed. N.R.C.P. 45(d)(1).

12 **A LIST OF THE ITEMS TO BE PRODUCED** is attached as **Exhibit A**.

13 **YOU ARE FURTHER ORDERED** to authenticate the business records produced,
14 pursuant to N.R.S. 52.260, and to provide with your production a completed Certificate of
15 Custodian of Records in substantially the same form as **Exhibit B** attached hereto the subpoena.

16 **CONTEMPT:** Failure by any person without adequate excuse to obey a subpoena served
17 upon that person may be deemed in contempt of the court, N.R.C.P. 45(e), punishable by a fine
18 not exceeding \$500 and imprisonment not exceeding 25 days, N.R.S. 22.100. Additionally a
19 witness disobeying a subpoena shall forfeit to the aggrieved party \$100 and all damages
20 sustained as a result of the failure to attend, and a warrant may issue for the witness' arrest.
N.R.S. 50.195, 50.205, and 22.100(3).

21 Please see the attached **Exhibit C** for information regarding your rights and
22 responsibilities relating to this Subpoena.

23 A list of all parties to this action and their respective counsel is attached as **Exhibit D**.

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the definition or meaning given to the term, word or phrase as used in the pleadings in addition to the definition(s) given in this discovery request.

B. The following rules of construction apply to this Subpoena to Produce Documents, Information, or Objects:

1. All/Each. The terms "all" and "each" shall be construed as all and each.
2. And/Or. The connectives "and" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.
3. Number. The use of the singular form of any word includes the plural and vice versa.

C. The following instructions apply to this discovery request:

Electronic or Magnetic Data. In those instances when requested information exists in electronic or magnetic form, the responding party should state so. In responding to a discovery request, the responding party should, in addition to stating that the information exists in electronic/magnetic form, sufficiently identify the form in which the information exists.

1. **E-MAILS:** With respect to any and all responsible e-mail messages, produce them in their native, electronic format, including without limitation ".pst" files for Microsoft Outlook e-mail messages and ".nst" files for Lotus Outlook e-mail messages.
2. **SPREADSHEETS:** With respect to any and all responsive spreadsheets, produce them in their native, electronic format, including without limitation ".xls" files for Microsoft Excel spreadsheets.

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3. OTHER. Where applicable, any responsible information that exists in electronic or magnetic form must be produced in the following formats: CD Rom in an Acrobat (.pdf) compatible application, in a Microsoft Word or WordPerfect compatible application, or in ASCII.

DATED this ___ day of August, 2019.

ALDRICH LAW FIRM, LTD.

John P. Aldrich, Esq.
Nevada Bar No. 6877
Catherine Hernandez, Esq.
Nevada Bar No. 8410
Matthew B. Beckstead, Esq.
Nevada Bar No. 14168
7866 West Sahara Avenue
Las Vegas, Nevada 89117
Tel: (702) 853-5490
Fax: (702) 227-1975
Attorneys for Plaintiffs

1
2 **EXHIBIT A**

3 1. Please provide any and all bank statements and other documents for Las Vegas
4 Development Fund I.L.C.'s financial account # 1226364, for the time period beginning in March
5 2012 to the present date.

6 2. Please provide any and all documents for any and all financial accounts pertaining
7 to Las Vegas Development Fund LLC and/or for which Las Vegas Development Fund LLC is
8 the beneficiary, signatory, and/or account holder, for the time period beginning March 2012 to
9 the present date.

10 3. Please provide any and all documents for any and all financial accounts pertaining
11 to Las Vegas Development Fund LLC and/or for which Las Vegas Development Fund LLC is
12 the beneficiary, signatory, and/or account holder, for the time period beginning March 2012 to
13 the present date.

14 4. Please provide any and all documents for any and all financial accounts pertaining
15 to EB5 Impact Advisors LLC and/or for which EB5 Impact Advisors LLC is the beneficiary,
16 signatory, and/or account holder, for the time period beginning March 2012 to the present date.

17 5. Please provide any and all documents for any and all financial accounts pertaining
18 to EB5 Impact Capital Regional Center LLC and/or for which EB5 Impact Capital Regional
19 Center LLC is the beneficiary, signatory, and/or account holder, for the time period beginning
20 March 2012 to the present date.

21 6. Please provide any and all documents for any and all financial accounts pertaining
22 to Robert W. Dziubla (Date of Birth: July 18, 1952) and/or for which Robert W. Dziubla is the
23 beneficiary, signatory, and/or account holder, for the time period beginning March 2012 to the
24 present date.

7. Please provide any and all documents for any and all financial accounts pertaining
to Jon D. Fleming and/or for which Jon D. Fleming is the beneficiary, signatory, and/or account
holder, for the time period beginning March 2012 to the present date.

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8. Please provide any and all documents for any and all financial accounts pertaining to Linda Stanwood and/or for which Linda Stanwood is the beneficiary, signatory, and/or account holder, for the time period beginning March 2012 to the present date.

1 **EXHIBIT C**

2 **NEVADA RULES OF CIVIL PROCEDURE**

3 **Rule 45 (c) Protection of Persons Subject to Subpoena.**

4 (1) **Avoiding Undue Burden or Expense; Sanctions.** A party or attorney responsible
5 for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden
6 or expense on a person subject to the subpoena. The court that issued the subpoena must enforce
7 this duty and may impose an appropriate sanction — which may include lost earnings and
8 reasonable attorney fees — on a party or attorney who fails to comply.

7 (2) **Command to Produce Materials or Permit Inspection.**

8 (A) **Appearance Not Required.**

9 (i) A person commanded to produce documents, electronically stored
10 information, or tangible things, or to permit the inspection of premises, need not appear in person
11 at the place of production or inspection unless also commanded to appear for a deposition,
12 hearing, or trial.

12 (ii) If documents, electronically stored information, or tangible things are
13 produced to the party that issued the subpoena without an appearance at the place of production,
14 that party must, unless otherwise stipulated by the parties or ordered by the court, promptly copy
15 or electronically reproduce the documents or information, photograph any tangible items not
16 subject to copying, and serve these items on every other party. The party that issued the
17 subpoena may also serve a statement of the reasonable cost of copying, reproducing, or
18 photographing, which a party receiving the copies, reproductions, or photographs must promptly
19 pay. If a party disputes the cost, then the court, on motion, must determine the reasonable cost of
20 copying the documents or information, or photographing the tangible items.

17 (B) **Objections.** A person commanded to produce documents, electronically stored
18 information, or tangible things, or to permit the inspection of premises, or a person claiming a
19 proprietary interest in the subpoenaed documents, information, tangible things, or premises to be
20 inspected, may serve on the party or attorney designated in the subpoena a written objection to
21 inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises
22 — or to producing electronically stored information in the form or forms requested. The person
23 making the objection must serve it before the earlier of the time specified for compliance or 14
24 days after the subpoena is served. If an objection is made:

21 (i) the party serving the subpoena is not entitled to inspect, copy, test, or sample
22 the materials or tangible things or to inspect the premises except by order of the court that issued
23 the subpoena;

1 (ii) on notice to the parties, the objecting person, and the person commanded to
2 produce or permit inspection, the party serving the subpoena may move the court that issued the
subpoena for an order compelling production or inspection; and

3 (iii) if the court enters an order compelling production or inspection, the order
4 must protect the person commanded to produce or permit inspection from significant expense
resulting from compliance.

5 **(3) Quashing or Modifying a Subpoena.**

6 **(A) When Required.** On timely motion, the court that issued a subpoena must quash
or modify the subpoena if it:

7 (i) fails to allow reasonable time for compliance;

8 (ii) requires a person to travel to a place more than 100 miles from the place
9 where that person resides, is employed, or regularly transacts business in person, unless the
person is commanded to attend trial within Nevada;

10 (iii) requires disclosure of privileged or other protected matter and no exception
11 or waiver applies; or

12 (iv) subjects a person to an undue burden.

13 **(B) When Permitted.** On timely motion, the court that issued a subpoena may quash
or modify the subpoena if it requires disclosing:

14 (i) a trade secret or other confidential research, development, or commercial
15 information; or

16 (ii) an unretained expert's opinion or information that does not describe specific
17 occurrences in dispute and results from the expert's study that was not requested by a party.

18 **(C) Specifying Conditions as an Alternative.** In the circumstances described in Rule
45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order an appearance or
19 production under specified conditions if the party serving the subpoena:

20 (i) shows a substantial need for the testimony or material that cannot be otherwise
met without undue hardship; and

21 (ii) ensures that the subpoenaed person will be reasonably compensated.

22 **Rule 45(d) Duties in Responding to a Subpoena.**

23 **(1) Producing Documents or Electronically Stored Information.** These procedures
24 apply to producing documents or electronically stored information:

1 (A) **Documents.** A person responding to a subpoena to produce documents must
2 produce them as they are kept in the ordinary course of business or must organize and label them
to correspond to the categories in the demand.

3 (B) **Form for Producing Electronically Stored Information Not Specified.** If a
4 subpoena does not specify a form for producing electronically stored information, the person
5 responding must produce it in a form or forms in which it is ordinarily maintained or in a
reasonably usable form or forms.

6 (C) **Electronically Stored Information Produced in Only One Form.** The person
7 responding need not produce the same electronically stored information in more than one form.

8 (D) **Inaccessible Electronically Stored Information.** The person responding need not
9 provide discovery of electronically stored information from sources that the person identifies as
10 not reasonably accessible because of undue burden or cost. On motion to compel discovery or for
a protective order, the person responding must show that the information is not reasonably
accessible because of undue burden or cost. If that showing is made, the court may nonetheless
order discovery from such sources if the requesting party shows good cause, considering the
limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

11 (2) **Claiming Privilege or Protection.**

12 (A) **Information Withheld.** A person withholding subpoenaed information under a
13 claim that it is privileged or subject to protection as trial-preparation material must:

14 (i) expressly make the claim; and

15 (ii) describe the nature of the withheld documents, communications, or tangible things in
16 a manner that, without revealing information itself privileged or protected, will enable the parties
to assess the claim.

17 (B) **Information Produced.** If information produced in response to a subpoena is
18 subject to a claim of privilege or of protection as trial-preparation material, the person making
the claim may notify any party that received the information of the claim and the basis for it.
19 After being notified, a party must promptly return, sequester, or destroy the specified information
and any copies it has; must not use or disclose the information until the claim is resolved; must
20 take reasonable steps to retrieve the information if the party disclosed it before being notified;
and may promptly present the information under seal to the court for a determination of the
claim. The person who produced the information must preserve the information until the claim is
21 resolved.

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EXHIBIT D

Plaintiff FRONT SIGHT MANAGEMENT LLC is represented by:

John P. Aldrich, Esq.
Nevada Bar No. 6877
Catherine Hernandez, Esq.
Nevada Bar No. 8410
Matthew B. Beckstead, Esq.
Nevada Bar No. 14168
ALDRICH LAW FIRM, LTD.
7866 West Sahara Avenue
Las Vegas, Nevada 89117

Defendants LAS VEGAS DEVELOPMENT FUND LLC, EB5 IMPACT CAPITAL REGIONAL CENTER LLC, EB5 IMPACT ADVISORS LLC, ROBERT W. DZIUBLA, JON FLEMING and LINDA STANWOOD are represented by:

Anthony T. Case, Esq.
Kathryn Holbert, Esq.
FARMER CASE & FEDOR
2190 E. Pebble Rd., Suite #205
Las Vegas, NV 89123

C. Keith Greer, Esq.
16855 West Bernardo Drive, Suite 255
San Diego, CA 92127

1 **NI**
John P. Aldrich, Esq.
2 Nevada Bar No. 6877
Catherine Hernandez, Esq.
3 Nevada Bar No. 8410
Matthew B. Beckstead, Esq.
4 Nevada Bar No. 14168
ALDRICH LAW FIRM, LTD.
5 7866 West Sahara Avenue
Las Vegas, Nevada 89117
6 Telephone: (702) 853-5490
Facsimile: (702) 227-1975
7 *Attorneys for Plaintiff*

8 **EIGHTH JUDICIAL DISTRICT COURT**

9 **CLARK COUNTY, NEVADA**

10 FRONT SIGHT MANAGEMENT LLC, a
Nevada Limited Liability Company,

11 Plaintiff,

12 vs.

13 LAS VEGAS DEVELOPMENT FUND LLC, a
14 Nevada Limited Liability Company; EB5
IMPACT CAPITAL REGIONAL CENTER
15 LLC, a Nevada Limited Liability Company;
EB5 IMPACT ADVISORS LLC, a Nevada
16 Limited Liability Company; ROBERT W.
DZIUBLA, individually and as President and
17 CEO of LAS VEGAS DEVELOPMENT
FUND LLC and EB5 IMPACT ADVISORS
18 LLC; JON FLEMING, individually and as an
agent of LAS VEGAS DEVELOPMENT
19 FUND LLC and EB5 IMPACT ADVISORS
LLC; LINDA STANWOOD, individually and
20 as Senior Vice President of LAS VEGAS
DEVELOPMENT FUND LLC and EB5
21 IMPACT ADVISORS LLC; DOES 1-
10, inclusive; and ROE CORPORATIONS 1-
22 10, inclusive.

23 Defendants.
24

CASE NO.: A-18-781084-B
DEPT NO.: 16

PLAINTIFF'S NOTICE OF INTENT
TO ISSUE AMENDED SUBPOENA
DUCES TECUM TO WELLS
FARGO

1 **PLAINTIFF'S NOTICE OF INTENT TO ISSUE AMENDED SUBPOENA DUCES**
2 **TECUM TO WELLS FARGO**

3 Pursuant to Rule 45(a)(4)(A) of the Nevada Rules of Civil Procedure, Plaintiff FRONT
4 SIGHT MANAGEMENT LLC, by and through their counsel of record, hereby provide prior
5 notice of the Amended Subpoena Duces Tecum to be issued to Wells Fargo, attached hereto as
6 **Exhibit 1.**

7 DATED this 6th day of August, 2019.

8 **ALDRICH LAW FIRM, LTD.**

9 /s/ John P. Aldrich
10 John P. Aldrich, Esq.
11 Nevada Bar No. 6877
12 Catherine Hernandez, Esq.
13 Nevada Bar No. 8410
14 Matthew B. Beckstead, Esq.
15 Nevada Bar No. 14168
16 7866 West Sahara Avenue
17 Las Vegas, NV 89117
18 Tel (702) 853-5490
19 Fax (702) 226-1975
20 Attorneys for Plaintiff

1 **CERTIFICATE OF SERVICE**

2 I HEREBY CERTIFY that on the 6th day of August, 2019, I caused the foregoing
3 **PLAINTIFF'S NOTICE OF INTENT TO ISSUE AMENDED SUBPOENA DUCES**
4 **TECUM TO WELLS FARGO** to be electronically filed and served with the Clerk of the Court
5 using Wiznet which will send notification of such filing to the email addresses denoted on the
6 Electronic Mail Notice List, or by U.S. mail, postage prepaid, if not included on the Electronic
7 Mail Notice List, to the following parties:

8 Anthony T. Case, Esq.
9 Kathryn Holbert, Esq.
10 FARMER CASE & FEDOR
11 2190 E. Pebble Rd., Suite #205
12 Las Vegas, NV 89123
*Attorneys for Defendants LAS VEGAS DEVELOPMENT FUND
11 LLC, EB5IMPACT CAPITAL REGIONAL CENTER LLC,
12 EB5 IMPACT ADVISORS LLC, ROBERT W. DZIUBLA,
13 JON FLEMING and LINDA STANWOOD*

13 C. Keith Greer, Esq.
14 16855 West Bernardo Drive, Suite 255
15 San Diego, CA 92127
*Attorneys for Defendants LAS VEGAS DEVELOPMENT FUND
15 LLC, EB5IMPACT CAPITAL REGIONAL CENTER LLC,
16 EB5 IMPACT ADVISORS LLC, ROBERT W. DZIUBLA,
17 JON FLEMING and LINDA STANWOOD*

18 /s/ T. Bixenmann
19 An employee of ALDRICH LAW FIRM, LTD.
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EXHIBIT 1

EXHIBIT 1

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John P. Aldrich, Esq.
Nevada Bar No. 6877
Catherine Hernandez, Esq.
Nevada Bar No. 8410
Matthew B. Beckstead, Esq.
Nevada Bar No. 14168
ALDRICH LAW FIRM, LTD.
7866 West Sahara Avenue
Las Vegas, NV 89117
Telephone: (702) 853-5490
Facsimile: (702) 227-1975
Attorneys for Plaintiff

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

FRONT SIGHT MANAGEMENT LLC, a
Nevada Limited Liability Company,

Plaintiff,

vs.

LAS VEGAS DEVELOPMENT FUND LLC, a
Nevada Limited Liability Company; et al.,

Defendants.

AND ALL RELATED COUNTERCLAIMS,

Counterdefendants.

CASE NO.: A-18-781084-B
DEPT NO.: 16

**AMENDED SUBPOENA DUCES
TECUM**

THE STATE OF NEVADA SENDS GREETINGS TO:

**Wells Fargo Bank, N.A.
776 Tahoe Blvd.
Incline Village, NV 89451
(775) 885-5500**

YOU ARE HEREBY COMMANDED that all and singular, business and excuses set
aside, pursuant to N.R.C.P. 45, to produce the designated documents, electronically stored

1 information, and/or tangible things in your possession, custody, or control, by delivering a true,
2 legible, and durable copy of the business records described below to the requesting attorney, by
3 United States mail or similar delivery service, no later than **September 10, 2019**, at the
4 following address:

5 **John P. Aldrich, Esq.**
6 **Catherine Hernandez, Esq.**
7 **Matthew B. Beckstead, Esq.**
8 **ALDRICH LAW FIRM, LTD.**
9 **7866 West Sahara Avenue**
10 **Las Vegas, Nevada 89117**

11 All documents shall be produced as they are kept in the usual course of business or shall
12 be organized and labeled to correspond with the categories listed. N.R.C.P. 45(d)(1).

13 **A LIST OF THE ITEMS TO BE PRODUCED** is attached as **Exhibit A**.

14 **YOU ARE FURTHER ORDERED** to authenticate the business records produced,
15 pursuant to N.R.S. 52.260, and to provide with your production a completed Certificate of
16 Custodian of Records in substantially the same form as **Exhibit B** attached hereto the subpoena.

17 **CONTEMPT:** Failure by any person without adequate excuse to obey a subpoena served
18 upon that person may be deemed in contempt of the court, N.R.C.P. 45(e), punishable by a fine
19 not exceeding \$500 and imprisonment not exceeding 25 days, N.R.S. 22.100. Additionally a
20 witness disobeying a subpoena shall forfeit to the aggrieved party \$100 and all damages
21 sustained as a result of the failure to attend, and a warrant may issue for the witness' arrest.
22 N.R.S. 50.195, 50.205, and 22.100(3).

23 Please see the attached **Exhibit C** for information regarding your rights and
24 responsibilities relating to this Subpoena.

A list of all parties to this action and their respective counsel is attached as **Exhibit D**.

1 **INSTRUCTIONS FOR THE SUBPOENA TO PRODUCE DOCUMENTS,**

2 **INFORMATION, OR OBJECTS**

3 A. The following definitions apply to this discovery request:

- 4 1. Concerning. The term "concerning" means relating to, referring to, describing,
5 evidencing, or constituting.
- 6 2. You, Your, and Yours. The terms "You," "Your," and "Yours" refer to the
7 responsible party in receipt of service and responding to this Subpoena, and,
8 additionally, its agents, employees, members, owners, partners, shareholders,
9 directors, or anyone acting on its behalf.
- 10 3. Document. The terms "Document" or "Writing" is defined to be synonymous in
11 meaning and equal in scope to the use of the terms "document" and
12 "electronically stored information" in Nevada Rules of Civil Procedure 26 and 34.
13 A draft or non-identical copy is a separate document within the meaning of this
14 term. "Document" shall also include any data compilation from which
15 information can be obtained or translated if necessary by YOU through detection
16 devices into reasonably usable form. Where the Document or Writing makes use
17 of, or refers to, codes or keys for particular categories of information, then the
18 definition of a Writing or Document includes the full description of the key
19 necessary for a person unfamiliar with the parlance to understand the meaning of
20 the code or key. A draft or non-identical copy is a separate Document within the
21 meaning of this term.
- 22 4. Any term, word or phrase that has not been defined in this discovery request but
23 appears in the live pleadings in this action (including without limitation the
24 Complaint) shall be given the definition or meaning given to the term, word or
 phrase as used in the live pleadings. Any term, word, or phrase that has been
 defined in these definitions that also appears in the live pleadings shall be given

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the definition or meaning given to the term, word or phrase as used in the pleadings in addition to the definition(s) given in this discovery request.

B. The following rules of construction apply to this Subpoena to Produce Documents, Information, or Objects:

1. All/Each. The terms "all" and "each" shall be construed as all and each.
2. And/Or. The connectives "and" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.
3. Number. The use of the singular form of any word includes the plural and vice versa.

C. The following instructions apply to this discovery request:

Electronic or Magnetic Data. In those instances when requested information exists in electronic or magnetic form, the responding party should state so. In responding to a discovery request, the responding party should, in addition to stating that the information exists in electronic/magnetic form, sufficiently identify the form in which the information exists.

1. **E-MAILS:** With respect to any and all responsive e-mail messages, produce them in their native, electronic format, including without limitation ".pst" files for Microsoft Outlook e-mail messages and ".nst" files for Lotus Outlook e-mail messages.
2. **SPREADSHEETS:** With respect to any and all responsive spreadsheets, produce them in their native, electronic format, including without limitation ".xls" files for Microsoft Excel spreadsheets.

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3. OTHER. Where applicable, any responsible information that exists in electronic or magnetic form must be produced in the following formats: CD Rom in an Acrobat (*.pdf) compatible application, in a Microsoft Word or WordPerfect compatible application, or in ASCII.

DATED this ___ day of August, 2019.

ALDRICH LAW FIRM, LTD.

John P. Aldrich, Esq.
Nevada Bar No. 6877
Catherine Hernandez, Esq.
Nevada Bar No. 8410
Matthew B. Beckstead, Esq.
Nevada Bar No. 14168
7866 West Sahara Avenue
Las Vegas, Nevada 89117
Tel: (702) 853-5490
Fax: (702) 227-1975
Attorneys for Plaintiffs

1
2 **EXHIBIT A**

3 1. Please provide any and all bank statements and other documents for EB5 Impact
4 Advisors LLC, Account No. 7197291581, for the time period beginning in March 2012 to the
5 present date.

6 2. Please provide any and all documents for any and all financial accounts pertaining
7 to EB5 Impact Advisors LLC and/or for which EB5 Impact Advisors LLC is the beneficiary,
8 signatory, and/or account holder, for the time period beginning March 2012 to the present date.

9 3. Please provide any and all bank statements for EB5 Impact Capital Regional
10 Center LLC, Account No. 3871099804, for the time period beginning in March 2012 to the
11 present date.

12 4. Please provide any and all documents for any and all financial accounts pertaining
13 to EB5 Impact Capital Regional Center LLC and/or for which EB5 Impact Capital Regional
14 Center LLC is the beneficiary, signatory, and/or account holder, for the time period beginning
15 March 2012 to the present date.

16 5. Please provide any and all documents for any and all financial accounts pertaining
17 to Las Vegas Development Fund LLC and/or for which Las Vegas Development Fund LLC is
18 the beneficiary, signatory, and/or account holder, for the time period beginning March 2012 to
19 the present date.

20 6. Please provide any and all documents for any and all financial accounts pertaining
21 to EB5 Impact Advisors LLC and/or for which EB5 Impact Advisors LLC is the beneficiary,
22 signatory, and/or account holder, for the time period beginning March 2012 to the present date.

23 7. Please provide any and all documents for any and all financial accounts pertaining
24 to EB5 Impact Capital Regional Center LLC and/or for which EB5 Impact Capital Regional
Center LLC is the beneficiary, signatory, and/or account holder, for the time period beginning
March 2012 to the present date.

8. Please provide any and all documents for any and all financial accounts pertaining
to Robert W. Dziubla (Date of Birth: July 18, 1952) and/or for which Robert W. Dziubla is the

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beneficiary, signatory, and/or account holder, for the time period beginning March 2012 to the present date.

9. Please provide any and all documents for any and all financial accounts pertaining to Jon D. Fleming and/or for which Jon D. Fleming is the beneficiary, signatory, and/or account holder, for the time period beginning March 2012 to the present date.

10. Please provide any and all documents for any and all financial accounts pertaining to Linda Stanwood and/or for which Linda Stanwood is the beneficiary, signatory, and/or account holder, for the time period beginning March 2012 to the present date.

1 (ii) on notice to the parties, the objecting person, and the person commanded to
2 produce or permit inspection, the party serving the subpoena may move the court that issued the
subpoena for an order compelling production or inspection; and

3 (ii) if the court enters an order compelling production or inspection, the order
4 must protect the person commanded to produce or permit inspection from significant expense
resulting from compliance.

5 **(3) Quashing or Modifying a Subpoena.**

6 **(A) When Required.** On timely motion, the court that issued a subpoena must quash
or modify the subpoena if it:

7 (i) fails to allow reasonable time for compliance;

8 (ii) requires a person to travel to a place more than 100 miles from the place
9 where that person resides, is employed, or regularly transacts business in person, unless the
person is commanded to attend trial within Nevada;

10 (iii) requires disclosure of privileged or other protected matter and no exception
11 or waiver applies; or

12 (iv) subjects a person to an undue burden.

13 **(B) When Permitted.** On timely motion, the court that issued a subpoena may quash
or modify the subpoena if it requires disclosing:

14 (i) a trade secret or other confidential research, development, or commercial
15 information; or

16 (ii) an unretained expert's opinion or information that does not describe specific
17 occurrences in dispute and results from the expert's study that was not requested by a party.

18 **(C) Specifying Conditions as an Alternative.** In the circumstances described in Rule
45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order an appearance or
19 production under specified conditions if the party serving the subpoena:

20 (i) shows a substantial need for the testimony or material that cannot be otherwise
met without undue hardship; and

21 (ii) ensures that the subpoenaed person will be reasonably compensated.

22 **Rule 45(d) Duties in Responding to a Subpoena.**

23 **(1) Producing Documents or Electronically Stored Information.** These procedures
24 apply to producing documents or electronically stored information:

1 (A) **Documents.** A person responding to a subpoena to produce documents must
2 produce them as they are kept in the ordinary course of business or must organize and label them
to correspond to the categories in the demand.

3 (B) **Form for Producing Electronically Stored Information Not Specified.** If a
4 subpoena does not specify a form for producing electronically stored information, the person
5 responding must produce it in a form or forms in which it is ordinarily maintained or in a
reasonably usable form or forms.

6 (C) **Electronically Stored Information Produced in Only One Form.** The person
7 responding need not produce the same electronically stored information in more than one form.

8 (D) **Inaccessible Electronically Stored Information.** The person responding need not
9 provide discovery of electronically stored information from sources that the person identifies as
10 not reasonably accessible because of undue burden or cost. On motion to compel discovery or for
a protective order, the person responding must show that the information is not reasonably
accessible because of undue burden or cost. If that showing is made, the court may nonetheless
order discovery from such sources if the requesting party shows good cause, considering the
limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

11 (2) **Claiming Privilege or Protection.**

12 (A) **Information Withheld.** A person withholding subpoenaed information under a
13 claim that it is privileged or subject to protection as trial-preparation material must:

14 (i) expressly make the claim; and

15 (ii) describe the nature of the withheld documents, communications, or tangible things in
16 a manner that, without revealing information itself privileged or protected, will enable the parties
to assess the claim.

17 (B) **Information Produced.** If information produced in response to a subpoena is
18 subject to a claim of privilege or of protection as trial-preparation material, the person making
the claim may notify any party that received the information of the claim and the basis for it.
19 After being notified, a party must promptly return, sequester, or destroy the specified information
and any copies it has; must not use or disclose the information until the claim is resolved; must
20 take reasonable steps to retrieve the information if the party disclosed it before being notified;
and may promptly present the information under seal to the court for a determination of the
claim. The person who produced the information must preserve the information until the claim is
21 resolved.

EXHIBIT D

Plaintiff FRONT SIGHT MANAGEMENT LLC is represented by:

John P. Aldrich, Esq.
Nevada Bar No. 6877
Catherine Hernandez, Esq.
Nevada Bar No. 8410
Matthew B. Beckstead, Esq.
Nevada Bar No. 14168
ALDRICH LAW FIRM, LTD.
7866 West Sahara Avenue
Las Vegas, Nevada 89117

Defendants LAS VEGAS DEVELOPMENT FUND LLC, EBS IMPACT CAPITAL REGIONAL CENTER LLC, EBS IMPACT ADVISORS LLC, ROBERT W. DZIUBLA, JON FLEMING and LINDA STANWOOD are represented by:

Anthony T. Case, Esq.
Kathryn Holbert, Esq.
FARMER CASE & FEDOR
2190 E. Pebble Rd., Suite #205
Las Vegas, NV 89123

C. Keith Greer, Esq.
16855 West Bernardo Drive, Suite 255
San Diego, CA 92127

1 NI
2 John P. Aldrich, Esq.
3 Nevada Bar No. 6877
4 Catherine Hernandez, Esq.
5 Nevada Bar No. 8410
6 Mathew B. Beckstead, Esq.
7 Nevada Bar No. 14168
8 **ALDRICH LAW FIRM, LTD.**
9 7866 West Sahara Avenue
10 Las Vegas, Nevada 89117
11 Telephone: (702) 853-5490
12 Facsimile: (702) 227-1975
13 *Attorneys for Plaintiff*

8 **EIGHTH JUDICIAL DISTRICT COURT**

9 **CLARK COUNTY, NEVADA**

10 FRONT SIGHT MANAGEMENT LLC, a
11 Nevada Limited Liability Company,

12 Plaintiff,

13 vs.

14 LAS VEGAS DEVELOPMENT FUND LLC, a
15 Nevada Limited Liability Company; EB5
16 IMPACT CAPITAL REGIONAL CENTER
17 LLC, a Nevada Limited Liability Company;
18 EB5 IMPACT ADVISORS LLC, a Nevada
19 Limited Liability Company; ROBERT W.
20 DZIUBLA, individually and as President and
21 CEO of LAS VEGAS DEVELOPMENT
22 FUND LLC and EB5 IMPACT ADVISORS
23 LLC; JON FLEMING, individually and as an
24 agent of LAS VEGAS DEVELOPMENT
FUND LLC and EB5 IMPACT ADVISORS
LLC; LINDA STANWOOD, individually and
as Senior Vice President of LAS VEGAS
DEVELOPMENT FUND LLC and EB5
IMPACT ADVISORS LLC; DOES 1-
10, inclusive; and ROE CORPORATIONS 1-
10, inclusive,

Defendants.

CASE NO.: A-18-781084-B
DEPT NO.: 16

**PLAINTIFF'S NOTICE OF INTENT
TO ISSUE AMENDED SUBPOENA
DUCES TECUM TO BANK OF
HOPE**

1 **PLAINTIFF'S NOTICE OF INTENT TO ISSUE AMENDED SUBPOENA DUCES**
2 **TECUM TO BANK OF HOPE**

3 Pursuant to Rule 45(a)(4)(A) of the Nevada Rules of Civil Procedure, Plaintiff FRONT
4 SIGHT MANAGEMENT LLC, by and through their counsel of record, hereby provide prior
5 notice of the Amended Subpoena Duces Tecum to be issued to Bank of Hope, attached hereto as
6 **Exhibit 1.**

7 DATED this 6th day of August, 2019.

8 **ALDRICH LAW FIRM, LTD.**

9 /s/ John P. Aldrich
10 John P. Aldrich, Esq.
11 Nevada Bar No. 6877
12 Catherine Hernandez, Esq.
13 Nevada Bar No. 8410
14 Matthew B. Beckstead, Esq.
15 Nevada Bar No. 14168
16 7866 West Sahara Avenue
17 Las Vegas, NV 89117
18 Tel (702) 853-5490
19 Fax (702) 226-1975
20 Attorneys for Plaintiff
21
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23
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 1st day of August, 2019, I caused the foregoing
**PLAINTIFF'S NOTICE OF INTENT TO ISSUE AMENDED SUBPOENA DUCES
TECUM TO BANK OF HOPE** to be electronically filed and served with the Clerk of the Court
using Wiznet which will send notification of such filing to the email addresses denoted on the
Electronic Mail Notice List, or by U.S. mail, postage prepaid, if not included on the Electronic
Mail Notice List, to the following parties:

Anthony T. Case, Esq.
Kathryn Holbert, Esq.
FARMER CASE & FEDOR
2190 E. Pebble Rd., Suite #205
Las Vegas, NV 89123
*Attorneys for Defendants LAS VEGAS DEVELOPMENT FUND
LLC, EB5IMPACT CAPITAL REGIONAL CENTER LLC,
EB5 IMPACT ADVISORS LLC, ROBERT W. DZIUBLA,
JON FLEMING and LINDA STANWOOD*

C. Keith Greer, Esq.
16855 West Bernardo Drive, Suite 255
San Diego, CA 92127
*Attorneys for Defendants LAS VEGAS DEVELOPMENT FUND
LLC, EB5IMPACT CAPITAL REGIONAL CENTER LLC,
EB5 IMPACT ADVISORS LLC, ROBERT W. DZIUBLA,
JON FLEMING and LINDA STANWOOD*

/s/ T. Bixenmann
An employee of ALDRICH LAW FIRM, LTD.

EXHIBIT 1

EXHIBIT 1

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SDT
John P. Aldrich, Esq.
Nevada Bar No. 6877
Catherine Hernandez, Esq.
Nevada Bar No. 8410
Matthew B. Beckstead, Esq.
Nevada Bar No. 14168
ALDRICH LAW FIRM, LTD.
7866 West Sahara Avenue
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Telephone: (702) 853-5490
Facsimile: (702) 227-1975
Attorneys for Plaintiff

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

FRONT SIGHT MANAGEMENT LLC, a
Nevada Limited Liability Company,

Plaintiff,

vs.

LAS VEGAS DEVELOPMENT FUND LLC, a
Nevada Limited Liability Company; et al.,

Defendants.

AND ALL RELATED COUNTERCLAIMS,

Counterdefendants.

CASE NO.: A-18-781084-B
DEPT NO.: 16

**AMENDED SUBPOENA DUCES
TECUM**

THE STATE OF NEVADA SENDS GREETINGS TO:

**Bank of Hope
Attn: Adam Karasik
3200 Wilshire Blvd., Suite 1400
Los Angeles, CA 90010
Phone: (213) 639-1700
Fax: (213) 637-9539**

1 **YOU ARE HEREBY COMMANDED** that all and singular, business and excuses set
2 aside, pursuant to N.R.C.P. 45, to produce the designated documents, electronically stored
3 information, and/or tangible things in your possession, custody, or control, by delivering a true,
4 legible, and durable copy of the business records described below to the requesting attorney, by
5 United States mail or similar delivery service, no later than **September 10, 2019**, at the
6 following address:

7 **John P. Aldrich, Esq.**
8 **Catherine Hernandez, Esq.**
9 **Matthew B. Beckstead, Esq.**
 ALDRICH LAW FIRM, LTD.
 7866 West Sahara Avenue
 Las Vegas, Nevada 89117

10 All documents shall be produced as they are kept in the usual course of business or shall
11 be organized and labeled to correspond with the categories listed. N.R.C.P. 45(d)(1).

12 **A LIST OF THE ITEMS TO BE PRODUCED** is attached as **Exhibit A**.

13 **YOU ARE FURTHER ORDERED** to authenticate the business records produced,
14 pursuant to N.R.S. 52.260, and to provide with your production a completed Certificate of
15 Custodian of Records in substantially the same form as **Exhibit B** attached hereto the subpoena.

16 **CONTEMPT:** Failure by any person without adequate excuse to obey a subpoena served
17 upon that person may be deemed in contempt of the court, N.R.C.P. 45(e), punishable by a fine
18 not exceeding \$500 and imprisonment not exceeding 25 days, N.R.S. 22.100. Additionally a
19 witness disobeying a subpoena shall forfeit to the aggrieved party \$100 and all damages
20 sustained as a result of the failure to attend, and a warrant may issue for the witness' arrest.
N.R.S. 50.195, 50.205, and 22.100(3).

21 Please see the attached **Exhibit C** for information regarding your rights and
22 responsibilities relating to this Subpoena.

23 A list of all parties to this action and their respective counsel is attached as **Exhibit D**.

1 **INSTRUCTIONS FOR THE SUBPOENA TO PRODUCE DOCUMENTS,**
2 **INFORMATION, OR OBJECTS**

3 A. The following definitions apply to this discovery request:

- 4 1. Concerning. The term “concerning” means relating to, referring to, describing,
5 evidencing, or constituting.
- 6 2. You, Your, and Yours. The terms “You,” “Your,” and “Yours” refer to the
7 responsible party in receipt of service and responding to this Subpoena, and,
8 additionally, its agents, employees, members, owners, partners, shareholders,
9 directors, or anyone acting on its behalf.
- 10 3. Document. The terms “Document” or “Writing” is defined to be synonymous in
11 meaning and equal in scope to the use of the terms “document” and
12 “electronically stored information” in Nevada Rules of Civil Procedure 26 and 34.
13 A draft or non-identical copy is a separate document within the meaning of this
14 term. “Document” shall also include any data compilation from which
15 information can be obtained or translated if necessary by YOU through detection
16 devices into reasonably usable form. Where the Document or Writing makes use
17 of, or refers to, codes or keys for particular categories of information, then the
18 definition of a Writing or Document includes the full description of the key
19 necessary for a person unfamiliar with the parlance to understand the meaning of
20 the code or key. A draft or non-identical copy is a separate Document within the
21 meaning of this term.
- 22 4. Any term, word or phrase that has not been defined in this discovery request but
23 appears in the live pleadings in this action (including without limitation the
24 Complaint) shall be given the definition or meaning given to the term, word or
 phrase as used in the live pleadings. Any term, word, or phrase that has been
 defined in these definitions that also appears in the live pleadings shall be given

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the definition or meaning given to the term, word or phrase as used in the pleadings in addition to the definition(s) given in this discovery request.

B. The following rules of construction apply to this Subpoena to Produce Documents, Information, or Objects:

1. All/Each. The terms "all" and "each" shall be construed as all and each.
2. And/Or. The connectives "and" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.
3. Number. The use of the singular form of any word includes the plural and vice versa.

C. The following instructions apply to this discovery request:

Electronic or Magnetic Data. In those instances when requested information exists in electronic or magnetic form, the responding party should state so. In responding to a discovery request, the responding party should, in addition to stating that the information exists in electronic/magnetic form, sufficiently identify the form in which the information exists.

1. E-MAILS: With respect to any and all responsible e-mail messages, produce them in their native, electronic format, including without limitation ".pst" files for Microsoft Outlook e-mail messages and ".nst" files for Lotus Outlook e-mail messages.
2. SPREADSHEETS: With respect to any and all responsive spreadsheets, produce them in their native, electronic format, including without limitation ".xls" files for Microsoft Excel spreadsheets.

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3. OTHER. Where applicable, any responsible information that exists in electronic or magnetic form must be produced in the following formats: CD Rom in an Acrobat (.pdf) compatible application, in a Microsoft Word or WordPerfect compatible application, or in ASCII.

DATED this ___ day of August, 2019.

ALDRICH LAW FIRM, LTD.

John P. Aldrich, Esq.
Nevada Bar No. 6877
Catherine Hernandez, Esq.
Nevada Bar No. 8410
Matthew B. Beckstead, Esq.
Nevada Bar No. 14168
7866 West Sahara Avenue
Las Vegas, Nevada 89117
Tel: (702) 853-5490
Fax: (702) 227-1975
Attorneys for Plaintiff

1
2 **EXHIBIT A**

3 1. Please provide any and all bank statements and other documents for Las Vegas
4 Development Fund LLC's financial account # 6400371502, for the time period beginning in
5 March 2012 to the present date.

6 2. Please provide any and all documents for any and all financial accounts pertaining
7 to Las Vegas Development Fund LLC and/or for which Las Vegas Development Fund LLC is
8 the beneficiary, signatory, and/or account holder, for the time period beginning March 2012 to
9 the present date.

10 3. Please provide any and all documents for any and all financial accounts pertaining
11 to Kenworth Capital, Inc. and/or for which Kenworth Capital, Inc. is the beneficiary, signatory,
12 and/or account holder, for the time period beginning March 2012 to the present date.

13 4. Please provide any and all documents for any and all financial accounts pertaining
14 to EB5 Impact Advisors LLC and/or for which EB5 Impact Advisors LLC is the beneficiary,
15 signatory, and/or account holder, for the time period beginning March 2012 to the present date.

16 5. Please provide any and all documents for any and all financial accounts pertaining
17 to EB5 Impact Capital Regional Center LLC and/or for which EB5 Impact Capital Regional
18 Center LLC is the beneficiary, signatory, and/or account holder, for the time period beginning
19 March 2012 to the present date.

20 6. Please provide any and all documents for any and all financial accounts pertaining
21 to Robert W. Dziubla (Date of Birth: July 18, 1952) and/or for which Robert W. Dziubla is the
22 beneficiary, signatory, and/or account holder, for the time period beginning March 2012 to the
23 present date.

24 7. Please provide any and all documents for any and all financial accounts pertaining
to Jon D. Fleming and/or for which Jon D. Fleming is the beneficiary, signatory, and/or account
holder, for the time period beginning March 2012 to the present date.

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8. Please provide any and all documents for any and all financial accounts pertaining to Linda Stanwood and/or for which Linda Stanwood is the beneficiary, signatory, and/or account holder, for the time period beginning March 2012 to the present date.

1 EXHIBIT B

2 CERTIFICATE OF CUSTODIAN OF RECORDS

3 STATE OF NEVADA)
4) ss.
5 COUNTY OF CLARK)

6 NOW COMES _____ (name of custodian of records), who after
7 first being duly sworn deposes and says:

8 1. That the deponent is the _____ (position or title) of
9 _____ (name of employer) and in his or her capacity as
10 _____ (position or title) is a custodian of the records of
11 _____ (name of employer).

12 2. That _____ (name of employer) is licensed to do
13 business as a _____ in the State of _____.

14 3. That on the _____ day of the month of _____ day of _____, 2019, the
15 deponent was served with a subpoena in connection with the above-entitled cause, calling for the
16 production of records pertaining to

17 _____
18 _____

19 4. That the deponent has examined the original of those records and has made or
20 caused to be made a true and exact copy of them and that the reproduction of them attached
21 hereto is true and complete.

22 5. That the original of those records was made at or near the time of the act, event,
23 condition, opinion or diagnosis recited therein by or from information transmitted by a person
24 with knowledge, in the course of a regularly conducted activity of the deponent or
_____ (name of employer).

Executed on: _____
(Date) (Signature of Custodian of Records)

SUBSCRIBED AND SWORN to before me this
____ day of _____, 2019.

NOTARY PUBLIC in and for the
County of _____, State of _____

1 **EXHIBIT C**

2 **NEVADA RULES OF CIVIL PROCEDURE**

3 **Rule 45 (c) Protection of Persons Subject to Subpoena.**

4 (1) **Avoiding Undue Burden or Expense; Sanctions.** A party or attorney responsible
5 for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden
6 or expense on a person subject to the subpoena. The court that issued the subpoena must enforce
7 this duty and may impose an appropriate sanction — which may include lost earnings and
8 reasonable attorney fees — on a party or attorney who fails to comply.

7 (2) **Command to Produce Materials or Permit Inspection.**

8 (A) **Appearance Not Required.**

9 (i) A person commanded to produce documents, electronically stored
10 information, or tangible things, or to permit the inspection of premises, need not appear in person
11 at the place of production or inspection unless also commanded to appear for a deposition,
12 hearing, or trial.

12 (ii) If documents, electronically stored information, or tangible things are
13 produced to the party that issued the subpoena without an appearance at the place of production,
14 that party must, unless otherwise stipulated by the parties or ordered by the court, promptly copy
15 or electronically reproduce the documents or information, photograph any tangible items not
16 subject to copying, and serve these items on every other party. The party that issued the
17 subpoena may also serve a statement of the reasonable cost of copying, reproducing, or
18 photographing, which a party receiving the copies, reproductions, or photographs must promptly
19 pay. If a party disputes the cost, then the court, on motion, must determine the reasonable cost of
20 copying the documents or information, or photographing the tangible items.

17 (B) **Objections.** A person commanded to produce documents, electronically stored
18 information, or tangible things, or to permit the inspection of premises, or a person claiming a
19 proprietary interest in the subpoenaed documents, information, tangible things, or premises to be
20 inspected, may serve on the party or attorney designated in the subpoena a written objection to
21 inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises
22 — or to producing electronically stored information in the form or forms requested. The person
23 making the objection must serve it before the earlier of the time specified for compliance or 14
24 days after the subpoena is served. If an objection is made:

21 (i) the party serving the subpoena is not entitled to inspect, copy, test, or sample
22 the materials or tangible things or to inspect the premises except by order of the court that issued
23 the subpoena;

1 (ii) on notice to the parties, the objecting person, and the person commanded to
2 produce or permit inspection, the party serving the subpoena may move the court that issued the
subpoena for an order compelling production or inspection; and

3 (iii) if the court enters an order compelling production or inspection, the order
4 must protect the person commanded to produce or permit inspection from significant expense
resulting from compliance.

5 **(3) Quashing or Modifying a Subpoena.**

6 **(A) When Required.** On timely motion, the court that issued a subpoena must quash
or modify the subpoena if it:

7 (i) fails to allow reasonable time for compliance;

8 (ii) requires a person to travel to a place more than 100 miles from the place
9 where that person resides, is employed, or regularly transacts business in person, unless the
person is commanded to attend trial within Nevada;

10 (iii) requires disclosure of privileged or other protected matter and no exception
11 or waiver applies; or

12 (iv) subjects a person to an undue burden.

13 **(B) When Permitted.** On timely motion, the court that issued a subpoena may quash
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limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

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13 claim that it is privileged or subject to protection as trial-preparation material must:

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18 subject to a claim of privilege or of protection as trial-preparation material, the person making
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and any copies it has; must not use or disclose the information until the claim is resolved; must
20 take reasonable steps to retrieve the information if the party disclosed it before being notified;
and may promptly present the information under seal to the court for a determination of the
claim. The person who produced the information must preserve the information until the claim is
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EXHIBIT D

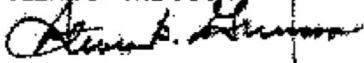
Plaintiff FRONT SIGHT MANAGEMENT LLC is represented by:

John P. Aldrich, Esq.
Nevada Bar No. 6877
Catherine Hernandez, Esq.
Nevada Bar No. 8410
Matthew B. Beckstead, Esq.
Nevada Bar No. 14168
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7866 West Sahara Avenue
Las Vegas, Nevada 89117

Defendants LAS VEGAS DEVELOPMENT FUND LLC, EB5 IMPACT CAPITAL REGIONAL CENTER LLC, EB5 IMPACT ADVISORS LLC, ROBERT W. DZIUBLA, JON FLEMING and LINDA STANWOOD are represented by:

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Kathryn Holbert, Esq.
FARMER CASE & FEDOR
2190 E. Pebble Rd., Suite #205
Las Vegas, NV 89123

C. Keith Greer, Esq.
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 4 kholbert@farmercase.com
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 5 2190 E. Pebbble Rd., Suite #205
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 6 Telephone: (702) 579-3900
 Facsimile: (702) 739-3001

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 8 C. Keith Greer, ESQ.
 Admitted *pro hac vice*
 keith.greer@greerlaw.biz
 9 GREER AND ASSOCIATES, A PC
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 10 San Diego, CA 92127
 Telephone: (858) 613-6677
 11 Facsimile: (858) 613-6680

12 Attorneys for Defendants
 LAS VEGAS DEVELOPMENT FUND LLC, EB5
 13 IMPACT CAPITAL REGIONAL CENTER LLC,
 EB5 IMPACT ADVISORS LLC, ROBERT W. DZIUBLA,
 14 JON FLEMING and LINDA STANWOOD

15 FIFTH JUDICIAL DISTRICT COURT
 16 CLARK COUNTY, NEVADA

17 FRONT SIGHT MANAGEMENT LLC, a
 Nevada Limited Liability Company,

) CASE NO.: A-18-781084-B
) DEPT NO.: 16

18 Plaintiff,

) DEFENDANTS' MOTION TO QUASH
) SUBPOENA FOR DEPOSITION AND
) DOCUMENTS TO WELLS FARGO BANK,
) AND/OR MOTION FOR PROTECTIVE
) ORDER REGARDING SUBPOENA FOR
) DEPOSITION AND DOCUMENTS TO
) WELLS FARGO BANK

19 vs.

20 LAS VEGAS DEVELOPMENT FUND LLC,
 21 et al.,

22 Defendants.

) HEARING REQUESTED
) On Order Shortening Time

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 DEFENDANTS' MOTION TO QUASH SUBPOENA FOR DEPOSITION AND DOCUMENTS TO WELLS FARGO BANK
 AND/OR MOTION FOR PROTECTIVE ORDER REGARDING SUBPOENA FOR DEPOSITION AND DOCUMENTS
 TO WELLS FARGO BANK

1 Defendants, LAS VEGAS DEVELOPMENT FUND LLC, a Nevada Limited Liability
2 Company; EBS IMPACT CAPITAL REGIONAL CENTER LLC, a Nevada Limited Company;
3 EBS IMPACT ADVISORS LLC, a dissolved Nevada Limited Liability Company; ROBERT W.
4 DZIUBLA, individually and as President and CEO of LAS VEGAS DEVELOPMENT FUND
5 LLC and EBS IMPACT ADVISORS LLC; JON FLEMING, individually and as an agent of LAS
6 VEGAS DEVELOPMENT FUND LLC and EBS IMPACT ADVISORS LLC; LINDA
7 STANWOOD, individually and as Senior Vice President of LAS VEGAS DEVELOPMENT
8 FUND LLC and EBS IMPACT ADVISORS LLC, by and through their attorneys, KATHRYN
9 HOLBERT, ESQ., of the law firm FARMER CASE & FEDOR and C. KEITH GREER, ESQ. OF
10 the law firm GREER AND ASSOCIATES, hereby moves the Court, pursuant to Nevada Rules
11 of Civil Procedure 26 and 45 for a Protective Order quashing or modifying the subpoena for
12 deposition testimony and production of documents that Plaintiff FRONT SIGHT
13 MANAGEMENT LLC intends to serve upon Wells Fargo Bank. A copy of the subpoena at issue
14 is attached hereto as Exhibit A.

15 This Motion is made and based upon the pleadings and papers on file herein, the
16 following Memorandum of Points and Authorities, and any oral argument the Court may hear.

17
18 DATED this 14 day of August, 2019.

FARMER CASE & FEDOR

19
20 /s/ Kathryn Holbert
KATHRYN HOLBERT, ESQ.
21 Nevada Bar No. 10084
2190 E. Pebble Rd., Suite #205
22 Las Vegas, NV 89123
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23 Attorneys for Defendants
LAS VEGAS DEVELOPMENT FUND
24 LLC, EBS; IMPACT CAPITAL
REGIONAL CENTER LLC, EBS IMPACT
25 ADVISORS LLC, ROBERT W. DZIUBLA,
JON FLEMING and LINDA STANWOOD
26

1 AFFIDAVIT OF KATHRYN L. HOLBERT IN SUPPORT OF
2 MOTION FOR ORDER SHORTENING TIME and FOR ORDER STAYING ISSUANCE
3 OF THE SUBJECT SUBPOENA UNTIL THE MATTER MAY BE HEARD

3 STATE OF NEVADA)
4) ss:
4 COUNTY OF CLARK)

5 I, Kathryn L. Holbert, Esq., hereby state and declare, based on my personal knowledge as
6 follows:

7 1. I am an attorney at law in good standing before State Bar of Nevada and am
8 counsel of record for the defendants in this matter.

9 2. This motion to quash, and/or modify the subpoena for deposition and documents
10 which Plaintiff intends to serve upon Wells Fargo Bank seeks irrelevant, private, proprietary
11 and/or financial information to which Plaintiff is not entitled. Moreover, such subpoena is
12 intended to harass, annoy, embarrass and/or oppress Defendants and/or to cause Defendants
13 undue burden and expense. Additionally, such Subpoena is compound, overly broad, not
14 sufficiently limited in scope and not reasonably calculated to lead to the discovery of admissible
15 evidence.

16 3. I discussed Defendants' concerns regarding the subject Subpoena with Plaintiff's
17 counsel, John Aldrich, on August 7, 2019.

18 4. Mr. Aldrich declined to withdraw or modify the subject subpoena.

19 5. Mr. Aldrich did state that he was not opposed to this motion being heard on
20 shortened time so long as his client had sufficient time to file an opposition.

21 6. The subject subpoena requests the production of documents no later than
22 August 26, 2019. If the hearing on this motion is set in the ordinary course, it may not be heard
23 until after the production has been made.

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7. In the event that the hearing on this matter is set after the scheduled date for the subject deposition, Defendants request that this Court issue an order staying the subpoena until after this motion can be heard.

I declare under penalty of perjury under the laws of Nevada that the foregoing is true and correct.

Executed this 14th day of August, 2019, at Las Vegas, Nevada.

/s/ Kathryn Holbert
Kathryn I. Holbert, Esq.

1 I. INTRODUCTION AND SUMMARY OF ARGUMENTS

2 Defendants bring this Motion to quash the intended subpoena duces tecum to Wells Fargo
3 Bank. The subpoena seeks a broad range of both corporate and personal records relating to: (1)
4 Las Vegas Development Fund LLC; (2) EBS Impact Advisors LLC; (3) Robert W. Dziubla; (4)
5 Tom Fleming; and (5) Linda Stanwood. As to the Corporate entities, the subpoena is improper
6 because it is over broad, seeks improper and irrelevant matters, which are potentially privileged,
7 confidential, or a trade secret.

8 Plaintiff has alleged numerous causes of action related to Defendants' efforts of to raise
9 investor funds to loan to Plaintiff through the EB5 program. These efforts were partially
10 successful and Defendant Las Vegas Development Fund has loaned Plaintiff in excess of six
11 million dollars. Plaintiff made payments to Defendant EBS Impact Advisors to establish an EB5
12 regional center and begin fund raising efforts. Plaintiff also made interest payments to Defendant
13 Las Vegas Development Fund, LLC pursuant to the Construction Loan Agreement. These
14 payments were often made electronically which provided Plaintiff with the name of Defendants'
15 financial institutions.

16 However, that knowledge cannot be used allow Plaintiffs to obtain the entire universe of all
17 Defendants' private financial information. There is absolutely no nexus between the individual
18 Defendants' financial records and the claims asserted by Front Sight. The requested information
19 could conceivably contain records as far removed from this lawsuit as how much money
20 Defendants spent on groceries or where they might have enjoyed a restaurant meal. These are
21 simply irrelevant to this lawsuit and there is no legitimate litigation related interest in obtaining
22 such information regarding the individual defendants. Rather, the subpoena is clearly intended
23 primarily to harass and intimidate the Defendants by prying into their personal finances unrelated
24 to this lawsuit.

25 Even as to the corporate entities there is little to no justification for the subpoenas. A
26 borrower, such as Front Sight, is not entitled to explore the finances of its lender (LVD Fund).
27 The only relevant piece of information is that the lender made the loan and had sufficient funds

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1 to do so. This question is finally resolved once the loan was made. Moreover, as to EB5IA,
2 Plaintiff has already been provided with an accounting and complete access to financial records
3 sufficient to trace all funds paid by Front Sight to EB5IA. There is no legitimate purpose for
4 Front Sight to obtain the financial records of all of EB5IA's financial transactions. Indeed, as set
5 forth below, such unfettered access is likely to reveal certain information protected from
6 disclosure by the trade secret privilege.

7 The financial documents requested by Plaintiff go far beyond what may be relevant in this
8 matter and are a thinly disguised attempt by Plaintiff to obtain not only a list of names, contact
9 information, etc. of all individuals who invested in Front Sight through Las Vegas Development
10 Fund, LLC, but even go so far as to seek the bank account information of all such immigrant
11 investors. Plaintiff is not entitled to this information and it should be protected.

12 The subpoena to Wells Fargo Bank seeks information that is not admissible nor is it likely to
13 lead to the discovery of admissible evidence, it is premature, it is intended to harass, annoy,
14 embarrass, and/or oppress Defendants and/or to cause Defendants undue burden or expense, but
15 most importantly, the subpoena to Wells Fargo Bank seeks privileged, private, confidential or
16 other protected information. All information regarding immigrant investors is confidential,
17 proprietary and irrelevant to this action and should be protected from disclosure.

18 II. ARGUMENT

19 A. Legal Standard for Motion to Quash and/or Motion for Protective Order

20 Nevada Rule of Civil Procedure Rule 26- General Provisions, Governing Discovery, limits
21 discovery as follows:

22 (b) Discovery Scope and Limits.

23 (1) Scope. Unless otherwise limited by order of the court in accordance with these rules,
24 the scope of discovery is as follows: Parties may obtain discovery regarding any nonprivileged
25 matter that is relevant to any party's claims or defenses and proportional to the needs of the case,
26 considering the importance of the issues at stake in the action, the amount in controversy, the
27 parties' relative access to relevant information, the parties' resources, the importance of the
28 discovery in resolving the issues, and whether the burden or expense of the proposed discovery
outweighs its likely benefit. Information within this scope of discovery need not be admissible in
evidence to be discoverable.

1 (C) When Required. On motion or on its own, the court must limit the frequency or
2 extent of discovery otherwise allowed by these rules or by local rule if it determines that:

3 (i) the discovery sought is unreasonably cumulative or duplicative, or can be
4 obtained from some other source that is more convenient, less burdensome, or less expensive;

5 (ii) the party seeking discovery has had ample opportunity to obtain the
6 information by discovery in the action; or

7 (iii) the proposed discovery is outside the scope permitted by Rule 26(b)(1).

8 Nevada Rule of Civil Procedure 26 (c) concerns Protective Orders.

9 (1) In General. A party or any person from whom discovery is sought may move for a
10 protective order in the court where the action is pending — or as an alternative on matters
11 relating to an out-of-state deposition, in the court for the judicial district where the deposition
12 will be taken. The motion must include a certification that the movant has in good faith conferred
13 or attempted to confer with other affected parties in an effort to resolve the dispute without court
14 action. The court may, for good cause, issue an order to protect a party or person from
15 annoyance, embarrassment, oppression, or undue burden or expense, including one or more of
16 the following:

17 (A) forbidding the disclosure or discovery;

18 (B) specifying terms, including time and place or the allocation of expenses, for the
19 disclosure or discovery;

20 (C) prescribing a discovery method other than the one selected by the party seeking
21 discovery;

22 (D) forbidding inquiry into certain matters, or limiting the scope of disclosure or
23 discovery to certain matters;

24 (E) designating the persons who may be present while the discovery is conducted;

25 (F) requiring that a deposition be sealed and opened only on court order;

26 (G) requiring that a trade secret or other confidential research, development, or
27 commercial information not be revealed or be revealed only in a specified way; and

28 (H) requiring that the parties simultaneously file specified documents or information
in sealed envelopes, to be opened as the court directs.

29 Nevada Rule of Civil Procedure 45(B) Party Objections:

30 (i) A party who receives notice under Rule 45(a)(4)(A) that another party intends to
31 serve a subpoena duces tecum on a third party that will require disclosure of privileged,
32 confidential or other protected matter, to which no exception or waiver applies, may object to the
33 subpoena by filing and serving written objections to the subpoena and a motion for a protective
34 order.

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DEFENDANTS MOTION TO QUASH SUBPOENA FOR DEPOSITION AND DOCUMENTS TO WELLS FARGO BANK
AND/OR MOTION FOR PROTECTIVE ORDER REGARDING SUBPOENA FOR DEPOSITION AND DOCUMENTS
TO WELLS FARGO BANK

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2 **B. The Subpoena for Documents to Wells Fargo Bank should be quashed and/or**
3 **modified.**

4 Plaintiff's subpoena requests all bank statements for Las Vegas Development Fund;
5 copies of all deposits made into such account; all documents for all other accounts pertaining to
6 Las Vegas Development Fund; all documents for all financial accounts pertaining to EB5 Impact
7 Advisors; all documents for all financial accounts pertaining to EB5 Impact Advisors, LLC; all
8 documents for all financial accounts pertaining to Robert W. Dziubla; all documents for all
9 financial accounts pertaining to Jon D. Fleming; and all documents pertaining to all financial
10 accounts pertaining to Linda Stanwood.

11 1) The information sought is not admissible nor is it likely to lead to the
12 discovery of admissible evidence.

13 Plaintiff has alleged that Defendant EB5 Impact Advisors, LLC misspent at least a portion
14 of the funds Plaintiff paid to it. Defendant EB5 has already provided an accounting of all funds it
15 received from Plaintiff and Defendant Robert Dziubla has testified extensively regarding the
16 information which was provided. The financial accounts of all other Defendants are irrelevant
17 and should be protected.

18 2) The subpoena is intended to harass, annoy, embarrass and/or oppress Defendants
19 and/or to cause Defendants undue burden or expense.

20 Plaintiff subpoena is intended to embarrass Mr. Dziubla and to diminish his standing in
21 the eyes of financial institution.

22 3) The subpoena seeks privileged, confidential or other protected information.

23 Plaintiff's subpoena to Wells Fargo Bank seeks *all* details concerning *all* accounts belonging
24 to *all* Defendants. Financial records and income tax returns are not discoverable unless the party
25 seeking the discovery can demonstrate that the information is indispensable to the case and
26 cannot be obtained elsewhere. *Combe v. Cinemark USA, Inc.*, 2009 WL 3578853 (D. Utah
27 2009)). As stated, the only financial information which is relevant to this matter has already
28 been produced.

1 4) The subpoena seeks financial information and Plaintiff has not shown a
2 compelling need, nor can it.

3 The Nevada Supreme Court highly values a litigant's privacy. Tax records and other financial
4 information are protected. The party seeking discovery must show a compelling need for tax
5 returns and other financial information; otherwise, that discovery is not allowed. See, e.g., *Klein*
6 *v. Freedom Strategic Partners, LLC*, 2009 U.S. Dist. LEXIS 52241 (D. Nev.) ("Although
7 Nevada law does not recognize a privilege with respect to tax returns, the Nevada Supreme Court
8 has recognized limitations on the discovery of information contained in tax returns to avoid an
9 invasion into the litigant's private affairs "); *Schlatter v. Eighth Jud. Dist. Ct.*, 99 Nev. 189,
10 561 P.2d 1342 (1977) ("carte blanche discovery of financial information is an excessive invasion
11 of privacy interest"); *Heller v. Dist. Ct.*, 110 Nev. 513, 520, 874 P.2d 762, 766 (1994). ("public
12 policy suggests that tax returns or financial status not be had for the mere asking.") Controlling
13 the disclosure of private financial information is of the utmost importance because the improper
14 disclosure of financial material "is irretrievable once made." (*Id.*). Here, Plaintiff Front Sight has
15 made no such showing, nor can it.

16 5) The subpoena seeks privileged, confidential or other protected information.

17 Further, the subpoena requests information which appears to be protected under the trade
18 secret privilege. Nevada has adopted the Uniform Trade Secrets Act (hereafter "UTSA"). Nev.
19 Rev. Stat. Ann. § 600A.010. The UTSA provides protection for trade secrets, which are defined
20 as information which "derives independent economic value, actual or potential, from not being
21 generally known to, and not being readily ascertainable by proper means by the public or any
22 other persons who can obtain commercial or economic value from its disclosure or use." Nev.
23 Rev. Stat. Ann. § 600A.

24 The information sought to be protected herein - Defendants' financial arrangements with
25 overseas consultants, contractors and investors qualifies as a protectable trade secret. Disclosure
26 of LVD Fund's or EBOLA's bank records would result in disclosure of the financial affairs of
27 numerous third parties who had dealings with those entities. See, *Hooser v. Sup. Ct. (Ray)* 84

1 CA4th 997, 1007 (2000)(Client was not entitled to disclosure of bank statements relating to
2 funds on deposit in Attorney's client trust accounts. Client had alternative and less intrusive
3 means for discovering whether attorney's undisclosed clients had paid fees without sacrificing the
4 clients' privacy rights through requests for information about attorney's personal bank accounts).

5 Here the information regarding financial arrangements and identities of third parties is a
6 protected trade secret. It is information which: (1) has been developed over time; (2) is not
7 generally known or otherwise available to the public; (3) has been the subject of reasonable
8 efforts to maintain as confidential; and (4) has independent economic value to Defendants and
9 potential competitors. See, *SI Handling Sys., Inc. v. Heisley*, 753 F.2d 1244, 1260 (3d Cir.
10 1985)(“absorbed under “costing” and “pricing” information is a whole range of data relating to
11 materials, labor, overhead, and profit margin, among other things. . . . [T]his is not information
12 that is readily obtainable by anyone in the industry. We believe such information qualifies for
13 trade secret protection.”); *Nuratech, Inc. V. Synitech (SSPF) International, Inc.*, 242 F.R.D. 552,
14 555 (CD-Ca 2007)(customer/supplier lists and sales and revenue information qualify as
15 “confidential commercial information”); *Whyte v. Schlage Lock Co.*, 101 Cal. App. 4th 1443,
16 1455-56 (2002)(cost and pricing data unique to Schlage was a trade secret); *Frantz v. Johnson*,
17 999 P.2d 351, 116 Nev. 455 (2000) (customer and pricing information were “trade secrets” under
18 the Uniform Trade Secrets Act (UTSA), where the information was extremely confidential, its
19 secrecy was guarded, and it was not readily available to others); *Kaldi v. Farmers Insurance*
20 *Exchange*, 117 Nev. 273 (2001)(customer information or “book of business” was trade secret).

21 “Nevada law also protects against the public disclosure of trade secrets during litigation.”
22 *David Copperfield's Disappearing, Inc. v. Eighth Judicial Dist. Court in & for Cty. of Clark, No.*
23 *75609*, 2018 WL 2045939, at *1 (Nev. App. Apr. 20, 2018). The UTSA provides for the
24 protection of trade secrets in any action pending in Nevada courts. “In any civil or criminal
25 action, the court shall preserve the secrecy of an alleged trade secret by reasonable means, which
26 may include, without limitation: 1. Granting protective orders in connection with discovery
27 proceedings; 2. Holding hearings in camera; 3. Sealing the records of the action; 4. Determining

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1 the need for any information related to the trade secret before allowing discovery; 5. Allowing
2 the owner of the trade secret to obtain a signed agreement of confidentiality from any party who
3 obtains knowledge of the trade secret; 6. Ordering a person who obtains knowledge of the trade
4 secret to return to the owner of the trade secret any writing which reflects or contains the trade
5 secret; and 7. Ordering any person involved in the litigation not to disclose an alleged trade secret
6 without previous court approval." Nev. Rev. Stat. Ann. § 600A.076.

7 Nevada Rules of Civil Procedure governing protective orders is in accord: "The court may,
8 for good cause, issue an order to protect a party or person from annoyance, embarrassment,
9 oppression, or undue burden or expense, including one or more of the following: (A) forbidding
10 the disclosure or discovery; . . . (D) forbidding inquiry into certain matters, or limiting the scope
11 of disclosure or discovery to certain matters; (E) designating the persons who may be present
12 while the discovery is conducted; . . . (G) requiring that a trade secret or other confidential
13 research, development, or commercial information not be revealed or be revealed only in a
14 specified way." NRCOP Rule 26. In the present case, a complete bar on disclosure of the trade
15 secret information is necessary because it would be difficult - if not impossible - for counsel to
16 compartmentalize the information given the close relationship with Front Sight. *See United*
17 *States v. Dentisply* 187 F.R.D. 152, 159-160 (D. De. 1999) (a total prohibition on disclosure is
18 appropriate where the attorney "would have a difficult time compartmentalizing his
19 knowledge."); *See also Brown-Bag Software v. Symantec Corp.*, 960 F.2d 1465, 1470 (9th Cir.
20 1992)

21 6) The Subpoena Requests Information Protected by the Right of Privacy

22 As stated above, Nevada recognizes a right of privacy as to personal financial information.
23 *See Klein v. Freedom Strategic Partners, LLC*, 2009 U.S. Dist. LEXIS 52241 (D. Nev.);
24 *Schlatter v. Eighth Jud. Dist. Ct.*, 99 Nev. 189, 561 P.2d 1342 (1977); *Heller v. Dist. Ct.*, 110
25 Nev. 513, 520 (1994); *Dunphy v. Sheehan*, 92 Nev. 259, 264 (1976). The "confidentiality"
26 strand of the right to privacy refers to the "individual interest in avoiding disclosure of personal
27

1 matters." *Whalen v. Roe*, 429 U.S. 589, 599-600 (1977). Thus, Defendants' financial statements
2 are protected by confidentiality as well.

3 **III. CONCLUSION**

4 Plaintiff's Subpoena for documents and deposition to Wells Fargo Bank should be quashed
5 or amended for the reasons set forth above, and this Court should issue a specific order that
6 Plaintiff is not entitled to and must not seek to obtain from any source specific information
7 regarding the EBS immigrant investors, including such investor's names, contact information,
8 bank account information or any other potentially identifying information.

9
10 DATED: August 14, 2019

FARMER CASE & FEDOR

11
12
13 /s/ Kathryn Holbert

14 ANTHONY T. CASE, ESQ.
Nevada Bar No. 6589
15 tcase@farmercase.com
KATHRYN HOLBERT, ESQ.
Nevada Bar No. 10084
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20 C. KEITH GREER, ESQ.
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21 Keith.Greer@greerlaw.biz
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23 Telephone: (858) 613-6677
24 Facsimile: (858) 613-6680

25 Attorneys for Defendants
LAS VEGAS DEVELOPMENT FUND LLC
26 EBS IMPACT CAPITAL REGIONAL
CENTER, LLC, EBS IMPACT ADVISORS,
27

1 LLC, ROBERT W. DZIUBLA, JON
2 FLEMING and LINDA STANWOOD

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9 **CERTIFICATE OF SERVICE and/or MAILING**
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11 Pursuant to NRCp 5(b), I hereby certify that I am an employee of Farmer Case & Feder,
12 and that on this date, I caused true and correct copies of the following document(s):

13 **DEFENDANTS' MOTION TO QUASH SUBPOENA FOR DEPOSITION AND**
14 **DOCUMENTS TO WELLS FARGO BANK AND/OR MOTION FOR PROTECTIVE**
15 **ORDER REGARDING SUBPOENA FOR DEPOSITION AND DOCUMENTS TO**
16 **WELLS FARGO BANK**

17 to be served on the following individuals/entities, in the following manner:

18 John P. Aldrich, Esq. Attorneys for Plaintiff
19 Catherine Hernandez, Esq. FRONT SIGHT MANAGEMENT, LLC
20 ALDRICH LAW FIRM, LTD.
21 1601 S. Rainbow Blvd., Suite 160
22 Las Vegas, Nevada 89146

23 By:

24
25 **ELECTRONIC SERVICE** Said document(s) was served electronically upon all eligible
26 electronic recipients pursuant to the electronic filing and service order of the Court (NECRF-9).
27

28
13
DEFENDANTS' MOTION TO QUASH SUBPOENA FOR DEPOSITION AND DOCUMENTS TO WELLS FARGO BANK
AND/OR MOTION FOR PROTECTIVE ORDER REGARDING SUBPOENA FOR DEPOSITION AND DOCUMENTS
TO WELLS FARGO BANK

01302

1 [] U.S. MAIL: I deposited a true and correct copy of said document(s) in a sealed, postage
2 prepaid envelope, in the United States Mail, to those parties and/or above named
3 individuals which were not on the Court's electronic service list.

4 Dated: August 14, 2019.

5
6 /s/ Kathryn Holbert

An Employee of FARMER CASE & FEDOR

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EXHIBIT A

EXHIBIT A

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SDT
John P. Aldrich, Esq.
Nevada Bar No. 6877
Catherine Hernandez, Esq.
Nevada Bar No. 8410
Matthew B. Beckstead, Esq.
Nevada Bar No. 14168
ALDRICH LAW FIRM, LTD.
7865 West Sahara Avenue
Las Vegas, NV 89117
Telephone: (702) 853-5490
Facsimile: (702) 227-1975
Attorneys for Plaintiff

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

FRONT SIGHT MANAGEMENT LLC, a
Nevada Limited Liability Company,

Plaintiff,

CASE NO.: A-18-781084-B
DEPT NO.: 16

vs.

**AMENDED SUBPOENA DUCES
TECUM**

LAS VEGAS DEVELOPMENT FUND LLC, a
Nevada Limited Liability Company, et al.,

Defendants.

AND ALL RELATED COUNTERCLAIMS,

Counterdefendants.

THE STATE OF NEVADA SENDS GREETINGS TO:

Wells Fargo Bank, N.A.
776 Tahoe Blvd.
Incline Village, NV 89451
(775) 885-5500.

YOU ARE HEREBY COMMANDED that all and singular, business and excuses set
aside, pursuant to N.R.C.P. 45, to produce the designated documents, electronically stored

1 information, and/or tangible things in your possession, custody, or control, by delivering a true,
2 legible, and durable copy of the business records described below to the requesting attorney, by
3 United States mail or similar delivery service, no later than September 10, 2019, at the
4 following address:

5 John P. Aldrich, Esq.
6 Catherine Hernandez, Esq.
7 Matthew B. Beckstead, Esq.
8 ALDRICH LAW FIRM, LTD.
9 7866 West Sahara Avenue
10 Las Vegas, Nevada 89117

11 All documents shall be produced as they are kept in the usual course of business or shall
12 be organized and labeled to correspond with the categories listed. N.R.C.P. 45(d)(3).

13 A LIST OF THE ITEMS TO BE PRODUCED is attached as Exhibit A.

14 YOU ARE FURTHER ORDERED to authenticate the business records produced,
15 pursuant to N.R.S. 52.260, and to provide with your production a completed Certificate of
16 Custodian of Records in substantially the same form as Exhibit B attached hereto the subpoena.

17 CONTEMPT: Failure by any person without adequate excuse to obey a subpoena served
18 upon that person may be deemed in contempt of the court, N.R.C.P. 45(e), punishable by a fine
19 not exceeding \$500 and imprisonment not exceeding 25 days, N.R.S. 22.000. Additionally a
20 witness disobeying a subpoena shall forfeit to the aggrieved party \$100 and all damages
21 sustained as a result of the failure to attend, and a warrant may issue for the witness' arrest.
22 N.R.S. 50.195, 50.205, and 22.100(3).

23 Please see the attached Exhibit C for information regarding your rights and
24 responsibilities relating to this Subpoena.

A list of all parties to this action and their respective counsel is attached as Exhibit D.

1 **INSTRUCTIONS FOR THE SUBPOENA TO PRODUCE DOCUMENTS,**
2 **INFORMATION, OR OBJECTS**

3 A. The following definitions apply to this discovery request;

- 4 1. Concerning. The term "concerning" means relating to, referring to, describing,
5 evidencing, or constituting.
- 6 2. You, Your, and Yours. The terms "You," "Your," and "Yours" refer to the
7 responsible party in receipt of service and responding to this Subpoena, and,
8 additionally, its agents, employees, members, owners, partners, shareholders,
9 directors, or anyone acting on its behalf.
- 10 3. Document. The terms "Document" or "Writing" is defined to be synonymous in
11 meaning and equal in scope to the use of the terms "document" and
12 "electronically stored information" in Nevada Rules of Civil Procedure 26 and 34.
13 A draft or non-identical copy is a separate document within the meaning of this
14 term. "Document" shall also include any data compilation from which
15 information can be obtained or translated if necessary by YOU through detection
16 devices into reasonably usable form. Where the Document or Writing makes use
17 of, or refers to, codes or keys for particular categories of information, then the
18 definition of a Writing or Document includes the full description of the key
19 necessary for a person unfamiliar with the parlance to understand the meaning of
20 the code or key. A draft or non-identical copy is a separate Document within the
21 meaning of this term.
- 22 4. Any term, word or phrase that has not been defined in this discovery request but
23 appears in the live pleadings in this action (including without limitation the
24 Complaint) shall be given the definition or meaning given to the term, word or
25 phrase as used in the live pleadings. Any term, word, or phrase that has been
26 defined in these definitions that also appears in the live pleadings shall be given

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the definition or meaning given to the term, word or phrase as used in the pleadings in addition to the definition(s) given in this discovery request.

B. The following rules of construction apply to this Subpoena to Produce Documents, Information, or Objects:

1. All/Each. The terms "all" and "each" shall be construed as all and each.
2. And/Or. The connectives "and" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.
3. Number. The use of the singular form of any word includes the plural and vice versa.

C. The following instructions apply to this discovery request:

Electronic or Magnetic Data. In those instances when requested information exists in electronic or magnetic form, the responding party should state so. In responding to a discovery request, the responding party should, in addition to stating that the information exists in electronic/magnetic form, sufficiently identify the form in which the information exists.

1. E-MAILS: With respect to any and all responsive e-mail messages, produce them in their native, electronic format, including without limitation ".pst" files for Microsoft Outlook e-mail messages and ".nsf" files for Lotus Outlook e-mail messages.
2. SPREADSHEETS: With respect to any and all responsive spreadsheets, produce them in their native, electronic format, including without limitation ".xls" files for Microsoft Excel spreadsheets.

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2 **EXHIBIT A**

3 1. Please provide any and all bank statements and other documents for EB5 Impact
4 Advisors LLC, Account No. 7197291581, for the time period beginning in March 2012 to the
5 present date.

6 2. Please provide any and all documents for any and all financial accounts pertaining
7 to EB5 Impact Advisors LLC and/or for which EB5 Impact Advisors LLC is the beneficiary,
8 signatory, and/or account holder, for the time period beginning March 2012 to the present date.

9 3. Please provide any and all bank statements for EB5 Impact Capital Regional
10 Center LLC, Account No. 3871099804, for the time period beginning in March 2012 to the
11 present date.

12 4. Please provide any and all documents for any and all financial accounts pertaining
13 to EB5 Impact Capital Regional Center LLC and/or for which EB5 Impact Capital Regional
14 Center LLC is the beneficiary, signatory, and/or account holder, for the time period beginning
15 March 2012 to the present date.

16 5. Please provide any and all documents for any and all financial accounts pertaining
17 to Las Vegas Development Fund LLC and/or for which Las Vegas Development Fund LLC is
18 the beneficiary, signatory, and/or account holder, for the time period beginning March 2012 to
19 the present date.

20 6. Please provide any and all documents for any and all financial accounts pertaining
21 to EB5 Impact Advisors LLC and/or for which EB5 Impact Advisors LLC is the beneficiary,
22 signatory, and/or account holder, for the time period beginning March 2012 to the present date.

23 7. Please provide any and all documents for any and all financial accounts pertaining
24 to EB5 Impact Capital Regional Center LLC and/or for which EB5 Impact Capital Regional
Center LLC is the beneficiary, signatory, and/or account holder, for the time period beginning
March 2012 to the present date.

8. Please provide any and all documents for any and all financial accounts pertaining
to Robert W. Dziubla (Date of Birth: July 18, 1952) and/or for which Robert W. Dziubla is the

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beneficiary, signatory, and/or account holder, for the time period beginning March 2012 to the present date.

9. Please provide any and all documents for any and all financial accounts pertaining to Jon D. Fleming and/or for which Jon D. Fleming is the beneficiary, signatory, and/or account holder, for the time period beginning March 2012 to the present date.

10. Please provide any and all documents for any and all financial accounts pertaining to Linda Starwood and/or for which Linda Starwood is the beneficiary, signatory, and/or account holder, for the time period beginning March 2012 to the present date.

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EXHIBIT B

CERTIFICATE OF CUSTODIAN OF RECORDS

STATE OF NEVADA)
) ss.
COUNTY OF CLARK)

NOW COMES _____ (name of custodian of records), who after first being duly sworn deposes and says:

1. That the deponent is the _____ (position or title) of _____ (name of employer) and in his or her capacity as _____ (position or title) is a custodian of the records of _____ (name of employer).

2. That _____ (name of employer) is licensed to do business as a _____ in the State of _____.

3. That on the day of the month of _____ day of _____, 2019, the deponent was served with a subpoena in connection with the above-entitled cause, calling for the production of _____ records pertaining to _____.

4. That the deponent has examined the original of those records and has made or caused to be made a true and exact copy of them and that the reproduction of them attached hereto is true and complete.

5. That the original of those records was made at or near the time of the act, event, condition, opinion or diagnosis recited therein by or from information transmitted by a person with knowledge, in the course of a regularly conducted activity of the deponent or _____ (name of employer).

Executed on: _____ (Date) _____ (Signature of Custodian of Records)

SUBSCRIBED AND SWORN to before me this _____ day of _____, 2019.

NOTARY PUBLIC in and for the County of _____, State of _____

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EXHIBIT C

NEVADA RULES OF CIVIL PROCEDURE

Rule 45 (c) Protection of Persons Subject to Subpoena.

(1) **Avoiding Undue Burden or Expense; Sanctions.** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court that issued the subpoena must enforce this duty and may impose an appropriate sanction — which may include lost earnings and reasonable attorney fees — on a party or attorney who fails to comply.

(2) **Command to Produce Materials or Permit Inspection.**

(A) **Appearance Not Required.**

(i) A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(ii) If documents, electronically stored information, or tangible things are produced to the party that issued the subpoena without an appearance at the place of production, that party must, unless otherwise stipulated by the parties or ordered by the court, promptly copy or electronically reproduce the documents or information, photograph any tangible items not subject to copying, and serve these items on every other party. The party that issued the subpoena may also serve a statement of the reasonable cost of copying, reproducing, or photographing, which a party receiving the copies, reproductions, or photographs must promptly pay. If a party disputes the cost, then the court, on motion, must determine the reasonable cost of copying the documents or information, or photographing the tangible items.

(B) **Objections.** A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, or a person claiming a proprietary interest in the subpoenaed documents, information, tangible things, or premises to be inspected, may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The person making the objection must serve it before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made:

(i) the party serving the subpoena is not entitled to inspect, copy, test, or sample the materials or tangible things or to inspect the premises except by order of the court that issued the subpoena;

1 (ii) on notice to the parties, the objecting person, and the person commanded to
2 produce or permit inspection, the party serving the subpoena may move the court that issued the
subpoena for an order compelling production or inspection; and

3 (iii) if the court enters an order compelling production or inspection, the order
4 must protect the person commanded to produce or permit inspection from significant expense
resulting from compliance.

5 **(3) Quashing or Modifying a Subpoena.**

6 **(A) When Required.** On timely motion, the court that issued a subpoena must quash
or modify the subpoena if it:

7 (i) fails to allow reasonable time for compliance;

8 (ii) requires a person to travel to a place more than 100 miles from the place
9 where that person resides, is employed, or regularly transacts business in person, unless the
person is commanded to attend trial within Nevada;

10 (iii) requires disclosure of privileged or other protected matter and no exception
11 or waiver applies; or

12 (iv) subjects a person to an undue burden.

13 **(B) When Permitted.** On timely motion, the court that issued a subpoena may quash
or modify the subpoena if it requires disclosing:

14 (i) a trade secret or other confidential research, development, or commercial
15 information; or

16 (ii) an unretained expert's opinion or information that does not describe specific
17 occurrences in dispute and results from the expert's study that was not requested by a party.

18 **(C) Specifying Conditions as an Alternative.** In the circumstances described in Rule
45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order an appearance or
19 production under specified conditions if the party serving the subpoena:

20 (i) shows a substantial need for the testimony or material that cannot be otherwise
met without undue hardship; and

21 (ii) ensures that the subpoenaed person will be reasonably compensated.

22 **Rule 45(d) Duties in Responding to a Subpoena.**

23 **(1) Producing Documents or Electronically Stored Information.** These procedures
24 apply to producing documents or electronically stored information:

1 (A) **Documents.** A person responding to a subpoena to produce documents must
2 produce them as they are kept in the ordinary course of business or must organize and label them
to correspond to the categories in the demand.

3 (B) **Form for Producing Electronically Stored Information Not Specified.** If a
4 subpoena does not specify a form for producing electronically stored information, the person
5 responding must produce it in a form or forms in which it is ordinarily maintained or in a
reasonably usable form or forms.

6 (C) **Electronically Stored Information Produced in Only One Form.** The person
7 responding need not produce the same electronically stored information in more than one form.

8 (D) **Inaccessible Electronically Stored Information.** The person responding need not
9 provide discovery of electronically stored information from sources that the person identifies as
10 not reasonably accessible because of undue burden or cost. On motion to compel discovery or for
a protective order, the person responding must show that the information is not reasonably
11 accessible because of undue burden or cost. If that showing is made, the court may nonetheless
12 order discovery from such sources if the requesting party shows good cause, considering the
13 limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

14 (2) **Claiming Privilege or Protection.**

15 (A) **Information Withheld.** A person withholding subpoenaed information under a
16 claim that it is privileged or subject to protection as trial-preparation material must:

17 (i) expressly make the claim; and

18 (ii) describe the nature of the withheld documents, communications, or tangible things in
19 a manner that, without revealing information itself privileged or protected, will enable the parties
20 to assess the claim.

21 (B) **Information Produced.** If information produced in response to a subpoena is
22 subject to a claim of privilege or of protection as trial-preparation material, the person making
23 the claim may notify any party that received the information of the claim and the basis for it.
24 After being notified, a party must promptly return, sequester, or destroy the specified information
and any copies it has; must not use or disclose the information until the claim is resolved; must
take reasonable steps to retrieve the information if the party disclosed it before being notified;
and may promptly present the information under seal to the court for a determination of the
claim. The person who produced the information must preserve the information until the claim is
resolved.

EXHIBIT D

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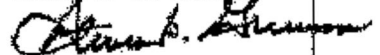
Plaintiff FRONT-SIGHT MANAGEMENT LLC is represented by:

John P. Aldrich, Esq.
Nevada Bar No. 6877
Catherine Hernandez, Esq.
Nevada Bar No. 8410
Matthew B. Bockstead, Esq.
Nevada Bar No. 14168
ALDRICH LAW FIRM, LTD.
7866 West Sahara Avenue
Las Vegas, Nevada 89117

Defendants LAS VEGAS DEVELOPMENT FUND LLC, EB5 IMPACT CAPITAL REGIONAL CENTER LLC, EB5 IMPACT ADVISORS LLC, ROBERT W. DZIUBLA, JON FLEMING and LINDA STANWOOD are represented by:

Anthony T. Case, Esq.
Kathryn Holbert, Esq.
FARMER CASE & FEDOR
2190 E. Pebble Rd., Suite #205
Las Vegas, NV 89123

C. Keith Greer, Esq.
16855 West Bernardo Drive, Suite 255
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1 **MONT-QSH**
 2 ANTHONY T. CASE, ESQ.
 Nevada Bar No. 6589
 3 *tonse@farmercase.com*
 KATHRYN HOLBERT, ESQ.
 Nevada Bar No. 10084
 4 *khobert@farmercase.com*
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 5 2190 E. Pebble Rd., Suite #205
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 6 Facsimile: (702) 739-3001

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 8 C. Keith Greer, ESQ.
 Admitted *pro hac vice*
keith.greer@griserlaw.biz
 9 **GREER AND ASSOCIATES, A.P.C.**
 16855 West Bernardo Dr., STE 255
 10 San Diego, CA 92127
 Telephone: (858) 613-6677
 11 Facsimile: (858) 613-6680

12 Attorneys for Defendants
 LAS VEGAS DEVELOPMENT FUND LLC, EBS
 13 IMPACT CAPITAL REGIONAL CENTER LLC,
 EBS IMPACT ADVISORS LLC, ROBERT W. DZIUBLA,
 14 JON FLEMING and LINDA STANWOOD

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

17 FRONT SIGHT MANAGEMENT LLC, a
 Nevada Limited Liability Company,
 18
 Plaintiff,
 19
 vs.
 20 LAS VEGAS DEVELOPMENT FUND LLC,
 21 or al.,
 22 Defendants.

) CASE NO.: A-18-781084-B
) DEPT NO.: 16
)
) DEFENDANTS' MOTION TO QUASH
) SUBPOENA FOR DEPOSITION AND
) DOCUMENTS TO OPEN BANK AND/OR
) MOTION FOR PROTECTIVE ORDER
) REGARDING SUBPOENA FOR
) DEPOSITION AND DOCUMENTS TO Open
) Bank

HEARING REQUESTED
 On Order Shortening Time

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 DEFENDANTS' MOTION TO QUASH SUBPOENA FOR DEPOSITION AND DOCUMENTS TO OPEN BANK
 AND/OR MOTION FOR PROTECTIVE ORDER REGARDING SUBPOENA FOR DEPOSITION AND DOCUMENTS
 TO OPEN BANK

1 Defendants, LAS VEGAS DEVELOPMENT FUND LLC, a Nevada Limited Liability
2 Company; EB5 IMPACT CAPITAL REGIONAL CENTER LLC, a Nevada Limited Company;
3 EB5 IMPACT ADVISORS LLC, a dissolved Nevada Limited Liability Company; ROBERT W.
4 DZIUBLA, individually and as President and CEO of LAS VEGAS DEVELOPMENT FUND
5 LLC and EB5 IMPACT ADVISORS LLC; JON FLEMING, individually and as an agent of LAS
6 VEGAS DEVELOPMENT FUND LLC and EB5 IMPACT ADVISORS LLC; LINDA
7 STANWOOD, individually and as Senior Vice President of LAS VEGAS DEVELOPMENT
8 FUND LLC and EB5 IMPACT ADVISORS LLC, by and through their attorneys, KATHRYN
9 HOLBERT, ESQ., of the law firm FARMER CASE & FEDOR and C. KEITH GREER, ESQ. of
10 the law firm GREER AND ASSOCIATES, hereby moves the Court, pursuant to Nevada Rules
11 of Civil Procedure 26 and 45 for a Protective Order quashing or modifying the subpoena for
12 deposition testimony and production of documents that Plaintiff FRONT SIGHT
13 MANAGEMENT LLC intends to serve upon Open Bank, a Los Angeles, California
14 headquartered Bank. A copy of the subpoena at issue is attached hereto as Exhibit A.

15 This Motion is made and based upon the pleadings and papers on file hereto, the
16 following Memorandum of Points and Authorities, and any oral argument the Court may hear.

17
18 DATED this 14 day of August, 2019.

FARMER CASE & FEDOR

19
20 /s/ Kathryn Holbert
21 KATHRYN HOLBERT, ESQ.
22 Nevada Bar No. 10084
23 2190 E. Pebble Rd., Suite #205
24 Las Vegas, NV 89123
25 Telephone: (702) 579-3900
26 knolbert@farmercase.com
27 Attorneys for Defendants
28 LAS VEGAS DEVELOPMENT FUND
LLC, EB5 IMPACT CAPITAL
REGIONAL CENTER LLC, EB5 IMPACT
ADVISORS LLC, ROBERT W. DZIUBLA,
JON FLEMING and LINDA STANWOOD

1 AFIDAVIT OF KATHRYN I. HOLBERT IN SUPPORT OF
2 MOTION FOR ORDER SHORTENING TIME and FOR ORDER STAYING ISSUANCE
3 OF THE SUBJECT SUBPOENA UNTIL THE MATTER MAY BE HEARD

3 STATE OF NEVADA)
4 COUNTY OF CLARK) ss:

5 I, Kathryn I. Holbert, Esq. hereby state and declare, based on my personal knowledge as
6 follows:

7 1. I am an attorney at law in good standing before State Bar of Nevada and am
8 counsel of record for the defendants in this matter.

9 2. This motion to quash and/or modify the subpoena for deposition and documents
10 which Plaintiff intends to serve upon Open Bank seeks irrelevant, private, proprietary and/or
11 financial information to which Plaintiff is not entitled. Moreover, such subpoena is intended to
12 harass, annoy, embarrass and/or oppress Defendants and/or to cause Defendants undue burden
13 and expense. Additionally, such Subpoena is compound, overly broad, not sufficiently limited
14 in scope and not reasonably calculated to lead to the discovery of admissible evidence.

15 3. I discussed Defendants' concerns regarding the subject Subpoena with Plaintiff's
16 counsel, John Aldrich, on August 7, 2019.

17 4. Mr. Aldrich declined to withdraw or modify the subject subpoena.

18 5. Mr. Aldrich did state that he was not opposed to this motion being heard on
19 shortened time so long as his client had sufficient time to file an opposition.

20 6. The subject subpoena requests the production of documents no later than
21 August 26, 2019. If the hearing on this motion is set in the ordinary course, it may not be heard
22 until after the production has been made.

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27 7. In the event that the hearing on this matter is set after the scheduled date for the
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1 subject deposition. Defendants request that the Court issue an order staying the subpoena until
2 after this motion can be heard.

3 I declare under penalty of perjury under the laws of Nevada that the foregoing is true and
4 correct.

5 Executed this 14th day of August, 2019, at Las Vegas, Nevada.

6
7 /s/ Kathryn Holbert
Kathryn Holbert, Esq.

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DEFENDANTS' MOTION TO QUASH SUBPOENA FOR DEPOSITION AND DOCUMENTS TO OPEN BANK
AND OR MOTION FOR PROTECTIVE ORDER REGARDING SUBPOENA FOR DEPOSITION AND DOCUMENTS
TO OPEN BANK

1 **I. INTRODUCTION AND SUMMARY OF ARGUMENTS**

2 Defendants bring this Motion to quash the intended subpoena duces tecum to Open Bank,
3 located in Los Angeles, California. The subpoena seeks a broad range of both corporate and
4 personal records relating to: (1) Las Vegas Development Fund LLC; (2) EB5 Impact Advisors
5 LLC; (3) Robert W. Dziuble; (4) Jon Fleming; and (5) Linda Stanwood. As to the Corporate
6 entities, the subpoena is improper because it is over broad, seeks improper and irrelevant matters,
7 which are potentially privileged, confidential, or a trade secret. As to the individuals, the
8 subpoena is improper because it fails to comply with California Code of Civil Procedure §1985.3
9 which applies to this attempt to subpoena records of California Consumers from a California
10 Bank. The subpoena as to the individuals is further improper in that it improperly seeks
11 disclosure of information which would impair the individual's "inalienable right of privacy"
12 protected by California Constitution Article I, Section 1. *See, Britt v. Superior Court*, 20 Cal. 3d
13 844, 857 (1978) (Constitutional right of privacy applicable in private litigation); *Finson v.*
14 *Superior Court*, 43 Cal. 3d 833, 841 (1987) ("California accords privacy the constitutional status
15 of an 'inalienable right,' on a par with defending life and possessing property."); *Rancho La*
16 *Costa, Inc. v. Superior Court*, 106 Cal. App. 3d 646, 667 (1980) ("Private individuals are
17 entitled to the protection of their right of privacy."). "The state Constitution expressly grants
18 Californians a right of privacy. (Cal. Const., art. I, § 1.) Protection of informational privacy is the
19 provision's central concern." *Williams v. Superior Court*, 3 Cal. 5th 551, 552 (2017). The
20 proposed subpoena would necessarily intrude upon this constitutionally protected right of privacy
21 and should be quashed on that basis.

22 Moreover, California generally recognizes that the right of privacy protects against intrusion
23 into matters normally regarded as confidential and applies to business entities as well as
24 individuals. *Right of Privacy*, Cal. Prac. Guide Civ. Trials & Ev. Ch. 8E-C. "In the commercial
25 world, businesses, regardless of their legal form, have zones of privacy which may not be
26 legitimately invaded." *H & M Assocs. v. City of El Centro*, 109 Cal. App. 3d 399, 410, 167 Cal.
27 Rptr. 392, 399-400 (Ct. App. 1980). California specifically recognizes that "[f]he confidential

1 relationships between financial institutions and their customers are built on trust and must be
2 preserved and protected." Gov't Code § 7461 (California Right to Financial Privacy Act).

3 Plaintiff has alleged numerous causes of action related to Defendants' efforts of to raise
4 investor funds to loan to Plaintiff through the EBS program. These efforts were partially
5 successful and Defendant Las Vegas Development Fund has loaned Plaintiff in excess of six
6 million dollars. Plaintiff made payments to Defendant EBS Impact Advisors to establish an EBS
7 regional center and begin fund raising efforts. Plaintiff also made interest payments to Defendant
8 Las Vegas Development Fund, LLC pursuant to the Construction Loan Agreement. These
9 payments were often made electronically which provided Plaintiff with the name of Defendants'
10 financial institutions.

11 However, that knowledge cannot be used allow Plaintiffs to obtain the entire universe of all
12 Defendants' private financial information. There is absolutely no nexus between the individual
13 Defendants' financial records and the claims asserted by Front Sight. The requested information
14 could conceivably contain records as far removed from this lawsuit as how much money
15 Defendants spent on groceries or where they might have enjoyed a restaurant meal. These are
16 simply irrelevant to this lawsuit and there is no legitimate litigation related interest in obtaining
17 such information regarding the individual defendants. Rather, the subpoena is clearly intended
18 primarily to harass and intimidate the Defendants by prying into their personal finances unrelated
19 to this lawsuit.

20 Even as to the corporate entities there is little to no justification for the subpoenas. A
21 borrower, such as Front Sight, is not entitled to explore the finances of its lender (LVD Fund).
22 The only relevant piece of information is that the lender made the loan and had sufficient funds
23 to do so. This question is finally resolved once the loan was made. Moreover, as to EBSIA,
24 Plaintiff has already been provided with an accounting and complete access to financial records
25 sufficient to trace all funds paid by Front Sight to EBSIA. There is no legitimate purpose for
26 Front Sight to obtain the financial records of all of EBSIA's financial transactions. Indeed, as set
27 forth below, such unfettered access is likely to reveal certain information protected from

1 disclosure by the trade secret privilege.

2 The financial documents requested by Plaintiff go far beyond what may be relevant in this
3 matter and are a thinly disguised attempt by Plaintiff to obtain not only a list of names, contact
4 information, etc. of all individuals who invested in Front Sight through Las Vegas Development
5 Fund, LLC, but even go so far as to seek the bank account information of all such immigrant
6 investors. Plaintiff is not entitled to this information and it should be protected.

7 The subpoena to Open Bank seeks information that is not admissible nor is it likely to lead to
8 the discovery of admissible evidence, it is premature, it is intended to harass, annoy, embarrass,
9 and/or oppress Defendants and/or to cause Defendants undue burden or expense, but most
10 importantly, the subpoena to Open Bank seeks privileged, confidential or other protected
11 information. All information regarding immigrant investors is confidential, proprietary and
12 irrelevant to this action and should be protected from disclosure.

13 **II. ARGUMENT**

14 **A. Legal Standard for Motion to Quash and/or Motion for Protective Order**

15 Nevada Rule of Civil Procedure Rule 26- General Provisions Governing Discovery, limits
16 discovery as follows:

17 **(b) Discovery Scope and Limits.**

18 (1) **Scope.** Unless otherwise limited by order of the court in accordance with these rules,
19 the scope of discovery is as follows: Parties may obtain discovery regarding any nonprivileged
20 matter that is relevant to any party's claims or defenses and proportional to the needs of the case,
21 considering the importance of the issues at stake in the action, the amount in controversy, the
22 parties' relative access to relevant information, the parties' resources, the importance of the
discovery in resolving the issues, and whether the burden or expense of the proposed discovery
outweighs its likely benefit. Information within this scope of discovery need not be admissible in
evidence to be discoverable.

23 (C) **When Required.** On motion or on its own, the court must limit the frequency or
extent of discovery otherwise allowed by these rules or by local rule if it determines that:

24 (i) the discovery sought is unreasonably cumulative or duplicative, or can be
25 obtained from some other source that is more convenient, less burdensome, or less expensive;

26 (ii) the party seeking discovery has had ample opportunity to obtain the
information by discovery in the action; or

27 (iii) the proposed discovery is outside the scope permitted by Rule 26(b)(1).

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2 Nevada Rule of Civil Procedure 26 (c) concerns Protective Orders.

3 (1) In General. A party or any person from whom discovery is sought may move for a
4 protective order in the court where the action is pending — or as an alternative on matters
5 relating to an out-of-state deposition, in the court for the judicial district where the deposition
6 will be taken. The motion must include a certification that the movant has in good faith conferred
7 or attempted to confer with other affected parties in an effort to resolve the dispute without court
8 action. The court may, for good cause, issue an order to protect a party or person from
9 annoyance, embarrassment, oppression, or undue burden or expense, including one or more of
10 the following:

11 (A) forbidding the disclosure or discovery;

12 (B) specifying terms, including time and place or the allocation of expenses, for the
13 disclosure or discovery;

14 (C) prescribing a discovery method other than the ones selected by the party seeking
15 discovery;

16 (D) forbidding inquiry into certain matters, or limiting the scope of disclosure or
17 discovery to certain matters;

18 (E) designating the persons who may be present while the discovery is conducted;

19 (F) requiring that a deposition be sealed and opened only on court order;

20 (G) requiring that a trade secret or other confidential research, development, or
21 commercial information not be revealed or be revealed only in a specified way; and

22 (H) requiring that the parties simultaneously file specified documents or information
23 in sealed envelopes, to be opened as the court directs.

24 Nevada Rule of Civil Procedure 45(B) Party Objections.

25 (1) A party who receives notice under Rule 45(a)(4)(A) that another party intends to
26 serve a subpoena duces tecum on a third party that will require disclosure of privileged,
27 confidential or other protected matter, to which no exception or waiver applies, may object to the
28 subpoena by filing and serving written objections to the subpoena and a motion for a protective
order.

29 **B. The Subpoena for Documents to Open Bank should be quashed and/or modified.**

30 Plaintiff's subpoena requests all bank statements for Las Vegas Development Fund;
31 copies of all deposits made into such account; all documents for all other accounts pertaining to
32 Las Vegas Development Fund; all documents for all financial accounts pertaining to EBS Impact
33 Advisors; all documents for all financial accounts pertaining to EBS Impact Advisors, LLC; all
34 documents for all financial accounts pertaining to Robert W. Dziulek; all documents for all

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DEFENDANTS' MOTION TO QUASH SUBPOENA FOR DEPOSITION AND DOCUMENTS TO OPEN BANK
AND/OR MOTION FOR PROTECTIVE ORDER REGARDING SUBPOENA FOR DEPOSITION AND DOCUMENTS
TO OPEN BANK

1 financial accounts pertaining to Jon D. Fleming; and all documents pertaining to all financial
2 accounts pertaining to Linda Stanwood.

3 1) The information sought is not admissible nor is it likely to lead to the
4 discovery of admissible evidence.

5 Plaintiff has alleged that Defendant EBS Impact Advisors, LLC misspent at least a portion
6 of the funds Plaintiff paid to it. Defendant EBS has already provided an accounting of all funds it
7 received from Plaintiff and Defendant Robert Dziuble has testified extensively regarding the
8 information which was provided. The financial accounts of all other Defendants are irrelevant
9 and should be protected.

10 2) The subpoena is intended to harass, annoy, embarrass and/or oppress Defendants
11 and/or to cause Defendants undue burden or expense.

12 Plaintiff subpoena is intended to embarrass Mr. Dziuble and to diminish his standing in
13 the eyes of financial institution.

14 3) The subpoena seeks privileged, confidential or other protected information.

15 Plaintiff's subpoena to Open Bank seeks all details concerning all accounts belonging to all
16 Defendants. Financial records and income tax returns are not discoverable unless the party
17 seeking the discovery can demonstrate that the information is indispensable to the case and
18 cannot be obtained elsewhere. *Cambe v. Chienmark USA, Inc.*, 2009 WL 3578853 (D. Utah
19 2009)). As stated, the only financial information which is relevant to this matter has already
20 been produced.

21 4) The subpoena seeks financial information and Plaintiff has not shown a
22 compelling need, nor can it.

23 The Nevada Supreme Court highly values a litigant's privacy. Tax records and other financial
24 information are protected. The party seeking discovery must show a compelling need for tax
25 returns and other financial information; otherwise, that discovery is not allowed. See, e.g., *Klein*
26 *v. Freedom Strategic Partners, LLC*, 2009 U.S. Dist. LEXIS 52241 (D. Nev.) ("Although
27 Nevada law does not recognize a privilege with respect to tax returns, the Nevada Supreme Court
28 has recognized limitations on the discovery of information contained in tax returns to avoid an

1 invader into the litigant's private affairs..."); *Schlatter v. Eighth Jud. Dist. Ct.*, 99 Nev. 189,
2 561 P.2d 1342 (1977) ("case blanche discovery of financial information is an excessive invasion
3 of privacy interest"); *Hette v. Dist. Ct.*, 110 Nev. 513, 520, 874 P.2d 762, 766 (1994) ("public
4 policy suggests that tax returns or financial status not be had for the mere asking.") Controlling
5 the disclosure of private financial information is of the utmost importance because the improper
6 disclosure of financial material "is irrevocable once made." (*Id.*) Here, Plaintiff Front Sight has
7 made no such showing, nor can it.

8 5) The subpoena seeks privileged, confidential or other protected information.

9 Further, the subpoena requests information which appears to be protected under the trade
10 secret privilege. Nevada has adopted the Uniform Trade Secrets Act (hereafter "UTSA"), Nev.
11 Rev. Stat. Ann. § 600A-010. The UTSA provides protection for trade secrets, which are defined
12 as information which "[d]erives independent economic value, actual or potential, from not being
13 generally known to, and not being readily ascertainable by proper means by the public or any
14 other persons who can obtain commercial or economic value from its disclosure or use." Nev.
15 Rev. Stat. Ann. § 600A.

16 The information sought to be protected herein - Defendants' financial arrangements with
17 overseas consultants/contractors and investors qualifies as a protectable trade secret. Disclosure
18 of LVD Fund's or EB5FA's bank records would result in disclosure of the financial affairs of
19 numerous third parties who had dealings with those entities. See, *Hrooser v. Sup. Ct. (Reg.)* 84
20 CA Int 997, 1007 (2000) (Client was not entitled to disclosure of bank statements relating to
21 funds on deposit in Attorney's client trust accounts. Client had alternative and less intrusive
22 means for discovering whether attorney's undisclosed clients had paid fees without sacrificing the
23 client's privacy rights through requests for information about attorney's personal bank accounts).

24 Here the information regarding financial arrangements and identities of third parties is a
25 protected trade secret. It is information which: (1) has been developed over time; (2) is not
26 generally known or otherwise available to the public; (3) has been the subject of reasonable
27 efforts to maintain as confidential; and (4) has independent economic value to Defendants and

1 potential competitors. See, *Sl Handling Sys., Inc. v. Heisley*, 753 F.2d 1244, 1260 (3d Cir.
2 1985) (“absorbed under “costing” and “pricing” information is a whole range of data relating to
3 materials, labor, overhead, and profit margin, among other things. . . . [T]his is not information
4 that is readily obtainable by anyone in the industry. We believe such information qualifies for
5 trade secret protection.”); *Nutraceutical, Inc. v. Syntech (SSPF) International, Inc.*, 242 F.R.D. 552,
6 555 (C.D. Ca 2007) (customer/supplier lists and sales and revenue information qualify as
7 “confidential commercial information”); *Wlyne v. Schlage Lock Co.*, 101 Cal. App. 4th 1443,
8 1455-56 (2002) (cost and pricing data unique to Schlage was a trade secret); *Frantz v. Johnson*,
9 999 F.2d 551, 116 Nev. 455 (2000) (customer and pricing information were “trade secrets” under
10 the Uniform Trade Secrets Act (UTSA), where the information was extremely confidential, its
11 secrecy was guarded, and it was not readily available to others); *Kaldi v. Farmers Insurance*
12 *Exchange*, 117 Nev. 273 (2001) (customer information or “book of business” was trade secret).

13 “Nevada law also protects against the public disclosure of trade secrets during litigation.”
14 *David Copperfield’s Disappearing, Inc. v. Eighth Judicial Dist. Court in & for Cty. of Clark, No.*
15 *75669*, 2018 WL 2045939, at *1 (Nev. App. Apr. 20, 2018). The UTSA provides for the
16 protection of trade secrets in any action pending in Nevada courts. “In any civil or criminal
17 action, the court shall preserve the secrecy of an alleged trade secret by reasonable means, which
18 may include, without limitation: 1. Granting protective orders in connection with discovery
19 proceedings; 2. Holding hearings in camera; 3. Sealing the records of the action; 4. Determining
20 the need for any information related to the trade secret before allowing discovery; 5. Allowing
21 the owner of the trade secret to obtain a signed agreement of confidentiality from any party who
22 obtains knowledge of the trade secret; 6. Ordering a person who obtains knowledge of the trade
23 secret to return to the owner of the trade secret any writing which reflects or contains the trade
24 secret; and 7. Ordering any person involved in the litigation not to disclose an alleged trade secret
25 without previous court approval.” Nev. Rev. Stat. Ann. § 600A.070.

26 Nevada Rules of Civil Procedure governing protective orders is in accord: “The court may,
27 for good cause, issue an order to protect a party or person from annoyance, embarrassment,

1 oppression, or undue burden or expense, including one or more of the following: (A) forbidding
2 the disclosure or discovery; . . . (D) forbidding inquiry into certain matters, or limiting the scope
3 of disclosure or discovery to certain matters; (E) designating the persons who may be present
4 while the discovery is conducted; . . . (G) requiring that a trade secret or other confidential
5 research, development, or commercial information not be revealed or be revealed only in a
6 specified way" NRCIP Rule 26. In the present case, a complete bar on disclosure of the trade
7 secret information is necessary because it would be difficult - if not impossible - for counsel to
8 compartmentalize the information given the close relationship with Front Sight. See *United*
9 *States v. Dentsply* 187 F.R.D. 152, 159-160 (D. DC, 1999) (a total prohibition on disclosure is
10 appropriate where the attorney "would have a difficult time compartmentalizing his
11 knowledge."); See also *Brown Bag Software v. Symantec Corp.*, 960 F.2d 1463, 1470 (9th Cir.
12 1992).

13 6) The Subpoena Requests Information Protected by the Right of Privacy

14 As stated above, Nevada recognizes a right of privacy as to personal financial information.
15 See *Klein v. Freedom Strategic Partners, LLC*, 2009 U.S. Dist. LEXIS 52241 (D. Nev.);
16 *Schlatter v. Eighth Jud. Dist. Ct.*, 99 Nev. 189, 561 P.2d 1342 (1977); *Hester v. Dist. Ct.*, 110
17 Nev. 513, 520 (1994); *Dunphy v. Sheehan*, 92 Nev. 259, 264 (1976). The "confidentiality"
18 strand of the right to privacy refers to the "individual interest in avoiding disclosure of personal
19 matters." *Whalen v. Roe*, 429 U.S. 589, 595-600 (1977). Thus, Defendants' financial statements
20 are protected by confidentiality as well.

21 7) As to the individuals, the Requirements of California Code of Civil Procedure
22 §1985.3 Apply
23

24 As noted above, Defendants Robert Dziubla, Jon D. Fleming, and Linda Stanwood are each
25 individuals and each residents of California. Accordingly, they are protected by California
26 procedures relating to the subpoena of certain consumer records. That provision requires
27 advance notice to individuals when certain "personal records" are sought by subpoena. "Personal

1 records" specifically include "any copy of books, documents, other writings, or electronically
2 stored information" sought from any "state or national bank." Cal. Civ. Proc. Code § 1985.3.
3 "[B]efore confidential customer information may be disclosed in the course of civil discovery
4 proceedings, the bank must take reasonable steps to notify its customer of the pendency and
5 nature of the proceedings and to afford the customer a fair opportunity to assert his interests by
6 objecting to disclosure, by seeking an appropriate protective order, or by instituting other legal
7 proceedings to limit the scope or nature of the matters sought to be discovered." *Valley Bank of*
8 *Nevada v. Superior Court*, 15 Cal. 3d 652, 658 (1975). "[T]he purpose of section 1985.3 is to
9 protect a consumer's right to privacy (Cal. Const., Art. I, § 1) in his personal records maintained,
10 or kept, by his attorney, accountant, doctor, banker, etc." *Sassan v. Katsali*, 146 Cal. App. 3d
11 119, 124 (1983).

12 Plaintiff will be required to comply with these procedural protections as to any subpoena
13 directed to a California bank and seeking records relating to a California resident.

14 8) The Court May Not Issue A Direct Subpoena to an Out of State Defendant

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16 The subject subpoena is issued to a California bank and regarding California individual
17 consumers. Regardless of the other arguments, the Nevada Court lacks the jurisdiction to issue a
18 subpoena directly to a California Bank. *Atlantic Commercial Dev. Corp. v. Boyles*, 103 Nev. 35,
19 38 (1987), abrogated on other grounds by *Exec. Mgmt., Ltd. v. Ticor Title Ins. Co.*, 118 Nev. 46
20 (2002). The *Atlantic Commercial* case is simply the mirror image of this case. In that case a
21 Florida court issued a subpoena duces tecum for First Interstate Bank in Nevada. The court held
22 the subpoena was unenforceable as extra-jurisdictional. "[U]nder traditional notions of power
23 and jurisdiction, a court cannot order production of records in the custody and control of a
24 non-party in a foreign judicial district. Certainly, a Florida court could not enforce a subpoena
25 duces tecum if FIB refused to comply. Nevada procedure statutes only contemplate process
26 served under the jurisdiction of Nevada courts. We hold that a subpoena duces tecum issued by a
27

1 foreign court in this matter did not have the power or jurisdiction to order FIB to produce
2 Atlantic's Nevada bank records." *Id.*

3 "NRCF 45(b)(2) restricts the service of a subpoena on a nonparty to 'any place within the
4 state.' Thus, as is evident from this rule, the subpoena power of Nevada courts over nonparty
5 deponents does not extend beyond state lines. NRCF 45's intra-state limitation on Nevada courts'
6 subpoena power is consistent with authority from other states recognizing the geographic
7 restrictions of a state's discovery process." *Quinn v. Eighth Judicial Dist. Court in & for Cty. of*
8 *Clark*, 134 Nev. Adv. Op. 5 (2018).

9 Similarly to *Atlantic Commercial* in which a Florida court had no jurisdiction to issue a
10 subpoena directed to a Nevada bank, this court has no jurisdiction to issue a subpoena to a
11 California bank.

12 III. CONCLUSION

13 Plaintiff's Subpoena for documents and deposition to Open Bank should be quashed for the
14 reasons set forth above, including lack of jurisdiction, and this Court should issue a specific
15 order that Plaintiff is not entitled to and must not seek to obtain from any source specific
16 information regarding the EB5 immigrant investors, including such investor's names, contact
17 information, bank account information or any other potentially identifying information.
18
19

20 DATED: August 14, 2019

FARMER, CASE & FEDOR

21
22
23 /s/ Kathryn Holbert
24 ANTHONY T. CASE, ESQ.
25 Nevada Bar No. 6389
26 acase@farmercase.com
27 KATHRYN HOLBERT, ESQ.
28 Nevada Bar No. 16084
kholbert@farmercase.com
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2190 E. Polk Rd., Suite #205
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Attorneys for Defendants
LAS VEGAS DEVELOPMENT FUND LLC,
EB6 IMPACT CAPITAL REGIONAL
CENTER, LLC, EB6 IMPACT ADVISORS,
LLC, ROBERT W. DZIUBLA, JON
FLEMING and LINDA STANWOOD

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CERTIFICATE OF SERVICE and/or MAILING

Pursuant to NRCF 5(b), I hereby certify that I am an employee of Farmer Case & Fedor, and that on this date, I caused true and correct copies of the following document(s):

DEFENDANTS' MOTION TO QUASH SUBPOENA FOR DEPOSITION AND DOCUMENTS TO OPEN BANK AND/OR MOTION FOR PROTECTIVE ORDER REGARDING SUBPOENA FOR DEPOSITION AND DOCUMENTS TO OPEN BANK

to be served on the following individuals/entities, in the following manner:

John P. Aldrich, Esq. Catherine Hernandez, Esq. ALDRICH LAW FIRM, LTD. 1601 S. Rainbow Blvd., Suite 1600 Las Vegas, Nevada 89145	Attorneys for Plaintiff FRONT SIGHT MANAGEMENT, LLC
--	--

By:

ELECTRONIC SERVICE: Said document(s) was served electronically upon all eligible electronic recipients pursuant to the electronic filing and service order of the Court (NRCF 9).

U.S. MAIL: I deposited a true and correct copy of said document(s) in a sealed, postage prepaid envelope, in the United States Mail, to those parties and/or above named individuals which were not on the Court's electronic service list.

Dated: August 14, 2019

/s/ Kathryn Holbert
An Employee of FARMER CASE & FEDOR

EXHIBIT A

EXHIBIT A

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SDT
John P. Aldrich, Esq.
Nevada Bar No. 6877
Catherine Hernandez, Esq.
Nevada Bar No. 8411
Matthew B. Bookstead, Esq.
Nevada Bar No. 14168
ALDRICH LAW FIRM, LTD.
7866 West Sahara Avenue
Las Vegas, NV 89117
Telephone: (702) 853-5450
Facsimile: (702) 227-1975
Attorneys for Plaintiff

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

**FRONT SIGHT MANAGEMENT LLC, a
Nevada Limited Liability Company,**

Plaintiff,

vs.

**LAS VEGAS DEVELOPMENT FUND LLC, a
Nevada Limited Liability Company, et al.,**

Defendants.

AND ALL RELATED COUNTERCLAIMS,

Counterdefendants.

CASE NO.: A-18-781034-B
DEPT NO.: 15

**AMENDED SUBPOENA DUCES
TECUM**

THE STATE OF NEVADA SENDS GREETINGS TO:

**Open Bank
Ann Min Kim
1000 Wilshire Blvd., Suite 500
Los Angeles, CA 90017
Phone: (213) 892-9999
Fax: (213) 892-1199**

1 **YOU ARE HEREBY COMMANDED** that all and singular business and excuses set
2 aside, pursuant to N.R.C.P. 45, to produce the designated documents, electronically stored
3 information, and/or tangible things in your possession, custody, or control, by delivering a true,
4 legible, and durable copy of the business records described below to the requesting attorney, by
5 United States mail or similar delivery service, no later than **September 30, 2019**, at the
6 following address:

7 John P. Aldrich, Esq.
8 Catherine Hernandez, Esq.
9 Matthew B. Beckstead, Esq.
10 ALDRICH LAW FIRM, LTD.
11 7866 West Sahara Avenue
12 Las Vegas, Nevada 89117

13 All documents shall be produced as they are kept in the usual course of business or shall
14 be organized and labeled to correspond with the categories listed N.R.C.P. 45(d)(1).

15 **A LIST OF THE ITEMS TO BE PRODUCED** is attached as Exhibit A.

16 **YOU ARE FURTHER ORDERED** to authenticate the business records produced,
17 pursuant to N.R.S. 52.260, and to provide with your production a completed Certificate of
18 Custodian of Records in substantially the same form as Exhibit B attached hereto the subpoena.

19 **CONTEMPT:** Failure by any person without adequate excuse to obey a subpoena served
20 upon that person may be deemed in contempt of the court, N.R.C.P. 45(e), punishable by a fine
21 not exceeding \$500 and imprisonment not exceeding 25 days, N.R.S. 22.100. Additionally a
22 witness disobeying a subpoena shall forfeit to the aggrieved party \$100 and all damages
23 sustained as a result of the failure to attend, and a warrant may issue for the witness' arrest.
24 N.R.S. 50.195, 50.205, and 22.100(3).

 Please see the attached Exhibit C for information regarding your rights and
responsibilities relating to this Subpoena.

 A list of all parties to this action and their respective counsel is attached as Exhibit D.

1 INSTRUCTIONS FOR THE SUBPOENA TO PRODUCE DOCUMENTS.

2 INFORMATION, OR OBJECTS.

3 A. The following definitions apply to this discovery request:

- 4 1. Concerning. The term "concerning" means relating to, referring to, describing,
5 evidencing, or constituting.
- 6 2. You, Your, and Yours. The terms "You," "Your," and "Yours" refer to the
7 responsible party in receipt of service and responding to this Subpoena, and,
8 additionally, its agents, employees, members, owners, partners, shareholders,
9 directors, or anyone acting on its behalf.
- 10 3. Document. The terms "Document" or "Writing" is defined to be synonymous in
11 meaning and equal in scope to the use of the terms "document" and
12 "electronically stored information" in Nevada Rules of Civil Procedure 26 and 34.
13 A draft or non-identical copy is a separate document within the meaning of this
14 term. "Document" shall also include any data compilation from which
15 information can be obtained or translated if necessary by YOU through detection
16 devices into reasonably usable form. Where the Document or Writing makes use
17 of, or refers to, codes or keys for particular categories of information, then the
18 definition of a Writing or Document includes the full description of the key
19 necessary for a person unfamiliar with the practice to understand the meaning of
20 the code or key. A draft or non-identical copy is a separate Document within the
21 meaning of this term.
- 22 4. Any term, word or phrase that has not been defined in this discovery request but
23 appears in the five pleadings in this action (including without limitation the
24 Complaint) shall be given the definition or meaning given to the term, word or
25 phrase as used in the five pleadings. Any term, word, or phrase that has been
26 defined in these definitions that also appears in the five pleadings shall be given

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the definition or meaning given to the term, word or phrase as used in the pleadings in addition to the definition(s) given in this discovery request.

B. The following rules of construction apply to this Subpoena to Produce Documents, Information, or Objects:

- 1. All/Each. The terms "all" and "each" shall be construed as all and each.
- 2. And/Or. The connectives "and" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.
- 3. Number. The use of the singular form of any word includes the plural and vice versa.

C. The following instructions apply to this discovery request:

Electronic or Magnetic Data. In those instances when requested information exists in electronic or magnetic form, the responding party should state so. In responding to a discovery request, the responding party should, in addition to stating that the information exists in electronic/magnetic form, sufficiently identify the form in which the information exists.

- 1. E-MAILS: With respect to any and all responsive e-mail messages, produce them in their native, electronic format, including without limitation ".pst" files for Microsoft Outlook e-mail messages and ".ost" files for Lotus Outlook e-mail messages.
- 2. SPREADSHEETS: With respect to any and all responsive spreadsheets, produce them in their native, electronic format, including without limitation ".xls" files for Microsoft Excel spreadsheets.

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3. OTHER. Where applicable, any responsive information that exists in electronic or magnetic form must be produced in the following formats: CD-ROM in an Acrobat (*.pdf) compatible application, in a Microsoft Word or WordPerfect compatible application, or in ASCII.

DATED this ___ day of August 2019.

ALDRICH LAW FIRM, LTD.

John P. Aldrich, Esq.
Nevada Bar No. 6877
Catherine Hernandez, Esq.
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Attorneys for Plaintiffs

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EXHIBIT A

1. Please provide any and all bank statements and other documents for Las Vegas Development Fund LLC's financial account # 1226364, for the time period beginning in March 2012 to the present date.

2. Please provide any and all documents for any and all financial accounts pertaining to Las Vegas Development Fund LLC and/or for which Las Vegas Development Fund LLC is the beneficiary, signatory, and/or account holder, for the time period beginning March 2012 to the present date.

3. Please provide any and all documents for any and all financial accounts pertaining to Las Vegas Development Fund LLC and/or for which Las Vegas Development Fund LLC is the beneficiary, signatory, and/or account holder, for the time period beginning March 2012 to the present date.

4. Please provide any and all documents for any and all financial accounts pertaining to EBS Impact Advisors LLC and/or for which EBS Impact Advisors LLC is the beneficiary, signatory, and/or account holder, for the time period beginning March 2012 to the present date.

5. Please provide any and all documents for any and all financial accounts pertaining to EBS Impact Capital Regional Center LLC and/or for which EBS Impact Capital Regional Center LLC is the beneficiary, signatory, and/or account holder, for the time period beginning March 2012 to the present date.

6. Please provide any and all documents for any and all financial accounts pertaining to Robert W. Dziubla (Date of Birth: July 18, 1952) and/or for which Robert W. Dziubla is the beneficiary, signatory, and/or account holder, for the time period beginning March 2012 to the present date.

7. Please provide any and all documents for any and all financial accounts pertaining to Jon D. Fleming and/or for which Jon D. Fleming is the beneficiary, signatory, and/or account holder, for the time period beginning March 2012 to the present date.

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8. Please provide any and all documents for any and all financial accounts pertaining to Linda Stanwood and/or for which Linda Stanwood is the beneficiary, signatory, and/or account holder, for the time period beginning March 2012 to the present date.

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3 **EXHIBIT B**

4 **CERTIFICATE OF CUSTODIAN OF RECORDS**

5 STATE OF NEVADA)
6) ss.
7 COUNTY OF CLARK)

8 NOW COMES _____ (name of custodian of records), who after
9 first being duly sworn deposes and says:

10 1. That the deponent is the _____ (position or title) of
11 _____ (name of employer) and in his or her capacity as
12 _____ (position or title) is a custodian of the records of
13 _____ (name of employer).

14 2. That _____ (name of employer) is licensed to do
15 business as a _____ in the State of _____.

16 3. That on the day of the month of _____ day of _____, 2019, the
17 deponent was served with a subpoena in connection with the above-entitled cause, calling for the
18 production of records pertaining to
19 _____

20 4. That the deponent has examined the original of those records and has made or
21 caused to be made a true and exact copy of them and that the reproduction of them attached
22 hereto is true and complete.

23 5. That the original of those records was made at or near the time of the act, event,
24 condition, opinion or diagnosis recited therein by or from information transmitted by a person
with knowledge, in the course of a regularly conducted activity of the deponent or
_____ (name of employer).

Executed on: _____ (Date) _____ (Signature of Custodian of Records)

SUBSCRIBED AND SWORN to before me this
_____ day of _____, 2019.

NOTARY PUBLIC in and for the
County of _____, State of _____

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EXHIBIT C

NEVADA RULES OF CIVIL PROCEDURE

Rule 45 (c) Protection of Persons Subject to Subpoena.

(1) **Avoiding Unjust Burden or Expense; Sanctions.** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court that issued the subpoena must enforce this duty and may impose an appropriate sanction — which may include lost earnings and reasonable attorney fees — on a party or attorney who fails to comply.

(2) **Command to Produce Materials or Permit Inspection.**

(A) **Appearance Not Required.**

(i) A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(ii) If documents, electronically stored information, or tangible things are produced to the party that issued the subpoena without an appearance at the place of production, that party must, unless otherwise stipulated by the parties or ordered by the court, promptly copy or electronically reproduce the documents or information, photograph any tangible items not subject to copying, and serve these items on every other party. The party that issued the subpoena may also serve a statement of the reasonable cost of copying, reproducing, or photographing, which a party receiving the copies, reproductions, or photographs must promptly pay. If a party disputes the cost, then the court, on motion, must determine the reasonable cost of copying the documents or information, or photographing the tangible items.

(iii) **Objections.** A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, or a person claiming a proprietary interest in the subpoenaed documents, information, tangible things, or premises to be inspected, may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The person making the objection must serve it before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made:

(i) the party serving the subpoena is not entitled to inspect, copy, test, or sample the materials or tangible things or to inspect the premises except by order of the court that issued the subpoena;

1 (ii) on notice to the parties, the objecting person, and the person commanded to
2 produce or permit inspection, the party serving the subpoena may move the court that issued the
subpoena for an order compelling production or inspection; and

3 (iii) If the court enters an order compelling production or inspection, the order
4 must protect the person commanded to produce or permit inspection from significant expense
resulting from compliance.

5 **(3) Quashing or Modifying a Subpoena.**

6 **(A) When Required.** On timely motion, the court that issued a subpoena must quash
or modify the subpoena if it:

7 (i) fails to allow reasonable time for compliance;

8 (ii) requires a person to travel to a place more than 100 miles from the place
9 where that person resides, is employed, or regularly transacts business in person, unless the
person is commanded to attend trial within Nevada;

10 (iii) requires disclosure of privileged or other protected matter and no exception
11 or waiver applies; or

12 (iv) subjects a person to an undue burden.

13 **(B) When Permitted.** On timely motion, the court that issued a subpoena may quash
14 or modify the subpoena if it requires disclosing:

15 (i) a trade secret or other confidential research, development, or commercial
information; or

16 (ii) an unretained expert's opinion or information that does not describe specific
17 occurrences in dispute and results from the expert's study that was not requested by a party.

18 **(C) Specifying Conditions as an Alternative.** In the circumstances described in Rule
45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order an appearance or
19 production under specified conditions if the party serving the subpoena:

20 (i) shows a substantial need for the testimony or material that cannot be otherwise
met without undue hardship; and

21 (ii) ensures that the subpoenaed person will be reasonably compensated.

22 **Rule 45(d) Duties in Responding to a Subpoena.**

23 **(1) Producing Documents or Electronically Stored Information.** These procedures
24 apply to producing documents or electronically stored information:

1 (A) Documents. A person responding to a subpoena to produce documents must
2 produce them as they are kept in the ordinary course of business or must organize and label them
to correspond to the categories in the demand.

3 (B) Form for Producing Electronically Stored Information Not Specified. If a
4 subpoena does not specify a form for producing electronically stored information, the person
responding must produce it in a form or forms in which it is ordinarily maintained or in a
5 reasonably usable form or forms.

6 (C) Electronically Stored Information Produced in Only One Form. The person
responding need not produce the same electronically stored information in more than one form.

7 (D) Inaccessible Electronically Stored Information. The person responding need not
8 provide discovery of electronically stored information from sources that the person identifies as
not reasonably accessible because of undue burden or cost. On motion to compel discovery or for
9 a protective order, the person responding must show that the information is not reasonably
accessible because of undue burden or cost. If that showing is made, the court may nonetheless
10 order discovery from such sources if the requesting party shows good cause, considering the
limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

11 (2) Claiming Privilege or Protection.

12 (A) Information Withheld. A person withholding subpoenaed information under a
13 claim that it is privileged or subject to protection as trial-preparation material must:

14 (i) expressly make the claim; and

15 (ii) describe the nature of the withheld documents, communications, or tangible things in
a manner that, without revealing information itself privileged or protected, will enable the parties
16 to assess the claim.

17 (B) Information Produced. If information produced in response to a subpoena is
subject to a claim of privilege or of protection as trial-preparation material, the person making
18 the claim may notify any party that received the information of the claim and the basis for it.
After being notified, a party must promptly return, sequester, or destroy the specified information
and any copies it has; must not use or disclose the information until the claim is resolved; must
19 take reasonable steps to retrieve the information if the party disclosed it before being notified;
and may promptly present the information under seal to the court for a determination of the
20 claim. The person who produced the information must preserve the information until the claim is
resolved.

EXHIBIT D

Plaintiff FRONT SIGHT MANAGEMENT LLC is represented by:

John P. Aldrich, Esq.
Nevada Bar No. 6877
Catherine Hernandez, Esq.
Nevada Bar No. 8410
Matthew B. Beckstead, Esq.
Nevada Bar No. 14168
ALDRICH LAW FIRM, LTD.
7866 West Sahara Avenue
Las Vegas, Nevada 89117

Defendants LAS VEGAS DEVELOPMENT FUND LLC, EBS IMPACT CAPITAL REGIONAL CENTER LLC, EBS IMPACT ADVISORS LLC, ROBERT W. DZIUBLA, JON FLEMING and LINDA STANWOOD are represented by:

Anthony T. Case, Esq.
Kathryn Holbert, Esq.
FARMER CASE & FEDOR
200 E. Pebble Rd., Suite #205
Las Vegas, NV 89123

Keith Greer, Esq.
4855 West Bernardo Drive, Suite 255
San Diego, CA 92127

1 Defendants, LAS VEGAS DEVELOPMENT FUND LLC, a Nevada Limited Liability
2 Company; EB5 IMPACT CAPITAL REGIONAL CENTER LLC, a Nevada Limited Company;
3 EB5 IMPACT ADVISORS LLC, a dissolved Nevada Limited Liability Company; ROBERT W.
4 DZIUBLA, individually and as President and CEO of LAS VEGAS DEVELOPMENT FUND
5 LLC and EB5 IMPACT ADVISORS LLC; JON FLEMING, individually and as an agent of LAS
6 VEGAS DEVELOPMENT FUND LLC and EB5 IMPACT ADVISORS LLC; LINDA
7 STANWOOD, individually and as Senior Vice President of LAS VEGAS DEVELOPMENT
8 FUND LLC and EB5 IMPACT ADVISORS LLC, by and through their attorneys, KATHRYN
9 HOLBERT, ESQ., of the law firm FARMER CASE & FEDOR and C. KEITH GREER, ESQ. OF
10 the law firm GREER AND ASSOCIATES, hereby moves the Court pursuant to Nevada Rules
11 of Civil Procedure 26 and 45 for a Protective Order quashing or modifying the subpoena for
12 deposition testimony and production of documents that Plaintiff FRONT SIGHT
13 MANAGEMENT LLC intends to serve upon Bank of Hope, a Los Angeles, California
14 headquartered Bank. A copy of the subpoena at issue is attached hereto as Exhibit A.

15 This Motion is made and based upon the pleadings and papers on file herein, the
16 following Memorandum of Points and Authorities, and any oral argument the Court may hear.

17
18 DATED this 14 day of August, 2019.

FARMER CASE & FEDOR

19
20 /s/ Kathryn Holbert
KATHRYN HOLBERT, ESQ.
Nevada Bar No. 10084
21 2190 E. Pablic Rd., Suite #205
Las Vegas, NV 89123
22 Telephone: (702) 579-3900
kholbert@farmercase.com
23 Attorneys for Defendants
LAS VEGAS DEVELOPMENT FUND
24 LLC, EB5: IMPACT CAPITAL
REGIONAL CENTER LLC, EB5 IMPACT
25 ADVISORS LLC, ROBERT W. DZIUBLA,
JON FLEMING and LINDA STANWOOD
26
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1 AFFIDAVIT OF KATHRYN L. HOLBERT IN SUPPORT OF
2 MOTION FOR ORDER SHORTENING TIME and FOR ORDER STAYING ISSUANCE
3 OF THE SUBJECT SUBPOENA UNTIL THE MATTER MAY BE HEARD

3 STATE OF NEVADA)
4 COUNTY OF CLARK) ss:

5 I, Kathryn L. Holbert, Esq. hereby state and declare, based on my personal knowledge as
6 follows:

7 1. I am an attorney at law in good standing before State Bar of Nevada and an
8 counsel of record for the defendants in this matter.

9 2. This motion to quash and/or modify the subpoena for deposition and documents
10 which Plaintiff intends to serve upon Bank of Hope seeks irrelevant, private, proprietary and/or
11 financial information to which Plaintiff is not entitled. Moreover, such subpoena is intended to
12 harass, annoy, embarrass and/or oppress Defendants and/or to cause Defendants undue burden
13 and expense. Additionally, such Subpoena is compound, overly broad, not sufficiently limited
14 in scope and not reasonably calculated to lead to the discovery of admissible evidence.

15 3. I discussed Defendants' concerns regarding the subject Subpoena with Plaintiff's
16 counsel, Jean Aldrich, on August 7, 2019.

17 4. Mr. Aldrich declined to withdraw or modify the subject subpoena.

18 5. Mr. Aldrich did state that he was not opposed to this motion being heard on
19 shortened time so long as his client had sufficient time to file an opposition.

20 6. The subject subpoena requests the production of documents no later than
21 August 26, 2019. If the hearing on this motion is set in the ordinary course, it may not be heard
22 until after the production has been made.

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27 7. In the event that the hearing on this matter is set after the scheduled date for the
28

DEFENDANTS' MOTION TO QUASH SUBPOENA FOR DEPOSITION AND DOCUMENTS TO BANK OF HOPE
AND FOR MOTION FOR PROTECTIVE ORDER REGARDING SUBPOENA FOR DEPOSITION AND DOCUMENTS
TO BANK OF HOPE

1 subject deposition, Defendants request that this Court issue an order staying the subpoena until
2 after this motion can be heard.

3 I declare under penalty of perjury under the laws of Nevada that the foregoing is true and
4 correct.

5 Executed this 14th day of August, 2019, at Las Vegas, Nevada.

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7 /s/ Kathryn Holbert
8 KATHRYN HOLBERT, ESQ.
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DEFENDANTS' MOTION TO QUASH SUBPOENA FOR DEPOSITION AND DOCUMENTS TO BANK OF HOPE
AND/OR MOTION FOR PROTECTIVE ORDER REGARDING SUBPOENA FOR DEPOSITION AND DOCUMENTS
TO BANK OF HOPE

1 I. INTRODUCTION AND SUMMARY OF ARGUMENTS

2 Defendants bring this Motion to quash the intended subpoena duces tecum to Bank of Hope,
3 located in Los Angeles, California. The subpoena seeks a broad range of both corporate and
4 personal records relating to: (1) Las Vegas Development Fund LLC; (2) EBS Impact Advisors
5 LLC; (3) Robert W. Dziuble; (4) Jon Fleming; and (5) Linda Stanwood. As to the Corporate
6 entities, the subpoena is improper because it is over broad, seeks improper and irrelevant matters,
7 which are potentially privileged, confidential, or a trade secret. As to the individuals, the
8 subpoena is improper because it fails to comply with California Code of Civil Procedure §1985.3
9 which applies to this attempt to subpoena records of California Consumers from a California
10 Bank. The subpoena as to the individuals is further improper in that it improperly seeks
11 disclosure of information which would impair the individual's "inalienable right of privacy"
12 protected by California Constitution Article I, Section 1. See *Britt v. Superior Court*, 20 Cal. 3d
13 844, 857 (1978) (Constitutional right of privacy applicable in private litigation); *Finson v.*
14 *Superior Court*, 43 Cal. 3d 833, 841 (1987) ("California accords privacy the constitutional status
15 of an 'inalienable right,' on a par with defending life and possessing property."); *Rancho La*
16 *Costa, Inc. v. Superior Court*, 106 Cal. App. 3d 646, 667 (1980) ("[P]rivate individuals are
17 entitled to the protection of their right of privacy."). "The state Constitution expressly grants
18 Californians a right of privacy. (Cal. Const., art. I, § 1.) Protection of informational privacy is the
19 provision's central concern." *Williams v. Superior Court*, 3 Cal. 5th 351, 352 (2017). The
20 proposed subpoena would necessarily intrude upon this constitutionally protected right of privacy
21 and should be quashed on that basis.

22 Moreover, California generally recognizes that the right of privacy protects against intrusion
23 into matters normally regarded as confidential and applies to business entities as well as
24 individuals. Right of Privacy, Cal. Prac. Guide Civ. Trials & Ev. Ch. 85-C. "In the commercial
25 world, businesses, regardless of their legal form, have zones of privacy which may not be
26 legitimately invaded." *H & M Assocs. v. City of El Centro*, 109 Cal. App. 3d 399, 410, 167 Cal.
27 Rptr. 392, 399-400 (Ct. App. 1980). California specifically recognizes that "[t]he confidential

1 relationships between financial institutions and their customers are built on trust and must be
2 preserved and protected." Gov't Code § 7461 (California Right to Financial Privacy Act).

3 Plaintiff has alleged numerous causes of action related to Defendants' efforts of to raise
4 investor funds to loan to Plaintiff through the EB5 program. These efforts were partially
5 successful and Defendant Las Vegas Development Fund has loaned Plaintiff in excess of six
6 million dollars. Plaintiff made payments to Defendant EB5 Impact Advisors to establish an EB5
7 regional center and begin fund raising efforts. Plaintiff also made interest payments to Defendant
8 Las Vegas Development Fund, LLC pursuant to the Construction Loan Agreement. These
9 payments were often made electronically which provided Plaintiff with the name of Defendants'
10 financial institutions.

11 However, that knowledge cannot be used allow Plaintiffs to obtain the entire universe of all
12 Defendants' private financial information. There is absolutely no nexus between the individual
13 Defendants financial records and the claims asserted by Front Sight. The requested information
14 could conceivably contain records as far removed from this lawsuit as how much money
15 Defendants spent on groceries or where they might have enjoyed a restaurant meal. These are
16 simply irrelevant to this lawsuit and there is no legitimate litigation related interest in obtaining
17 such information regarding the individual defendants. Rather, the subpoena is clearly intended
18 primarily to harass and intimidate the Defendants by prying into their personal finances unrelated
19 to this lawsuit.

20 Even as to the corporate entities there is little to no justification for the subpoenas. A
21 borrower, such as Front Sight, is not entitled to explore the finances of its lender (LVD Fund).
22 The only relevant piece of information is that the lender made the loan and had sufficient funds
23 to do so. This question is finally resolved once the loan was made. Moreover, as to EB5IA,
24 Plaintiff has already been provided with an accounting and complete access to financial records
25 sufficient to trace all funds paid by Front Sight to EB5IA. There is no legitimate purpose for
26 Front Sight to obtain the financial records of all of EB5IA's financial transactions. Indeed, as set
27 forth below, such unfettered access is likely to reveal certain information protected from

1 disclosure by the trade-secret privilege.

2 The financial documents requested by Plaintiff go far beyond what may be relevant in this
3 matter and are a thinly-disguised attempt by Plaintiff to obtain not only a list of names, contact
4 information, etc. of all individuals who invested in Front Sight through Las Vegas Development
5 Fund, LLC, but even go so far as to seek the bank account information of all such immigrant
6 investors. Plaintiff is not entitled to this information and it should be protected.

7 The subpoena to Bank of Hope seeks information that is not admissible nor is it likely to lead
8 to the discovery of admissible evidence, it is premature, it is intended to harass, annoy,
9 embarrass, and/or oppress Defendants and/or to cause Defendants undue burden or expense, but
10 most importantly, the subpoena to Bank of Hope seeks privileged, confidential or other protected
11 information. All information regarding immigrant investors is confidential, proprietary and
12 irrelevant to this action and should be protected from disclosure.

13 **II. ARGUMENT**

14 **A. Legal Standard for Motion to Quash and/or Motion for Protective Order**

15 Nevada Rule of Civil Procedure Rule 26. General Provisions Governing Discovery, limits
16 discovery as follows:

17 (b) Discovery Scope and Limits.

18 (1) Scope: Unless otherwise limited by order of the court in accordance with these rules,
19 the scope of discovery is as follows: Parties may obtain discovery regarding any nonprivileged
20 matter that is relevant to any party's claims or defenses and proportional to the needs of the case,
21 considering the importance of the issues at stake in the action, the amount in controversy, the
22 parties' relative access to relevant information, the parties' resources, the importance of the
23 discovery in resolving the issues, and whether the burden or expense of the proposed discovery
24 outweighs its likely benefit. Information within this scope of discovery need not be admissible in
25 evidence to be discoverable.

26 (C) When Required: On motion or on its own, the court must limit the frequency or
27 extent of discovery otherwise allowed by these rules or by local rule if it determines that:

28 (i) the discovery sought is unreasonably cumulative or duplicative, or can be
obtained from some other source that is more convenient, less burdensome, or less expensive;

(ii) the party seeking discovery has had ample opportunity to obtain the
information by discovery in the action; or

(iii) the proposed discovery is outside the scope permitted by Rule 26(b)(1).

1 Nevada Rule of Civil Procedure 26 (c) concerns Protective Orders.

2
3 (1) In General. A party or any person from whom discovery is sought may move for a
4 protective order in the court where the action is pending — or as an alternative on matters
5 relating to an out-of-state deposition, in the court for the judicial district where the deposition
6 will be taken. The motion must include a certification that the movant has in good faith conferred
7 or attempted to confer with other affected parties in an effort to resolve the dispute without court
8 action. The court may, for good cause, issue an order to protect a party or person from
9 annoyance, embarrassment, oppression, or undue burden or expense, including one or more of
10 the following:

11 (A) forbidding the disclosure or discovery;

12 (B) specifying terms, including time and place or the allocation of expenses, for the
13 disclosure or discovery;

14 (C) prescribing a discovery method other than the one selected by the party seeking
15 discovery;

16 (D) forbidding inquiry into certain matters, or limiting the scope of disclosure or
17 discovery to certain matters;

18 (E) designating the persons who may be present while the discovery is conducted;

19 (F) requiring that a deposition be sealed and opened only on court order;

20 (G) requiring that a trade secret or other confidential research, development, or
21 commercial information not be revealed or be revealed only in a specified way; and

22 (H) requiring that the parties simultaneously file specified documents or information
23 in sealed envelopes, to be opened as the court directs.

24 Nevada Rule of Civil Procedure 45(B) Party Objections.

25 (4) A party who receives notice under Rule 45(a)(4)(A) that another party intends to
26 serve a subpoena duces tecum on a third party that will require disclosure of privileged,
27 confidential or other protected matter, to which no exception or waiver applies, may object to the
28 subpoena by filing and serving written objections to the subpoena and a motion for a protective
order.

B. The Subpoena for Documents to Bank of Hope should be quashed and/or modified.

Plaintiff's subpoena requests all bank statements for Las Vegas Development Fund;
copies of all deposits made into such account; all documents for all other accounts pertaining to
Las Vegas Development Fund; all documents for all financial accounts pertaining to EB5 Impact
Advisors; all documents for all financial accounts pertaining to EB5 Impact Advisors, LLC; all
documents for all financial accounts pertaining to Robert W. Dziubla; all documents for all

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DEFENDANTS' MOTION TO QUASH SUBPOENA FOR DEPOSITION AND DOCUMENTS TO BANK OF HOPE
AND FOR MOTION FOR PROTECTIVE ORDER REGARDING SUBPOENA FOR DEPOSITION AND DOCUMENTS
TO BANK OF HOPE

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1 financial accounts pertaining to Jon D. Fleming, and all documents pertaining to all financial
2 accounts pertaining to Linda Starwood.

3 1) The information sought is not admissible nor is it likely to lead to the
4 discovery of admissible evidence.

5 Plaintiff has alleged that Defendant EB5 Impact Advisors, LLC misspent at least a portion
6 of the funds Plaintiff paid to it. Defendant EB5 has already provided an accounting of all funds it
7 received from Plaintiff and Defendant Robert Dziabla has testified extensively regarding the
8 information which was provided. The financial accounts of all other Defendants are irrelevant
9 and should be protected.

10 2) The subpoena is intended to harass, annoy, embarrass and/or oppress Defendants
11 and/or to cause Defendants undue burden or expense.

12 Plaintiff subpoena is intended to embarrass Mr. Dziabla and to diminish his standing in
13 the eyes of financial institution.

14 3) The subpoena seeks privileged, confidential or other protected information.

15 Plaintiff's subpoena to Bank of Hope seeks all details concerning all accounts belonging to
16 all Defendants. Financial records and income tax returns are not discoverable unless the party
17 seeking the discovery can demonstrate that the information is indispensable to the case and
18 cannot be obtained elsewhere. *Cemite v. Cinemark USA, Inc.*, 2009 WL 3578853 (D. Utah
19 2009)). As stated, the only financial information which is relevant to this matter has already
20 been produced.

21 4) The subpoena seeks financial information and Plaintiff has not shown a
22 compelling need, nor can it.

23 The Nevada Supreme Court highly values a litigant's privacy. Tax records and other financial
24 information are protected. The party seeking discovery must show a compelling need for tax
25 returns and other financial information; otherwise, that discovery is not allowed. See, e.g., *Klein*
26 *v. Freedom Strategic Partners, LLC*, 2005 U.S. Dist. LEXIS 52241 (D. Nev.) ("Although
27 Nevada law does not recognize a privilege with respect to tax returns, the Nevada Supreme Court
28 has recognized limitations on the discovery of information contained in tax returns to avoid an

1 invasion into the litigant's private affairs ..."); *Schlatter v. Eighth Jud. Dist. Ct.*, 99 Nev. 189,
2 561 P.2d 1342 (1977) ("carte blanche discovery of financial information is an excessive invasion
3 of privacy interest"); *Heiter v. Dist. Ct.*, 110 Nev. 513, 520, 874 P.2d 762, 766 (1994). ("public
4 policy suggests that tax returns or financial status not be had for the mere asking."); Controlling
5 the disclosure of private financial information is of the utmost importance because the improper
6 disclosure of financial material "is irretrievable once made."(*Id.*) Here, Plaintiff Front Sight has
7 made no such showing, nor can it.

8 5) The subpoena seeks privileged, confidential or other protected information.

9 Further, the subpoena requests information which appears to be protected under the trade
10 secret privilege. Nevada has adopted the Uniform Trade Secrets Act (hereafter "UTSA"). Nev.
11 Rev. Stat. Ann. § 600A.019. The UTSA provides protection for trade secrets, which are defined
12 as information which "[d]erives independent economic value, actual or potential, from not being
13 generally known to, and not being readily ascertainable by proper means by the public or any
14 other persons who can obtain commercial or economic value from its disclosure or use." Nev.
15 Rev. Stat. Ann. § 600A.

16 The information sought to be protected herein: Defendants' financial arrangements with
17 overseas consultants/contractors and investors qualifies as a protectable trade secret. Disclosure
18 of LVD Fund's or EB5IA's bank records would result in disclosure of the financial affairs of
19 numerous third parties who had dealings with those entities. See, *Hosner v. Sup. Ct. (Rev)* 84
20 CA4th 997, 1007 (2000)(Client was not entitled to disclosure of bank statements relating to
21 funds on deposit in Attorney's client trust accounts. Client had alternative and less intrusive
22 means for discovering whether attorney's undisclosed clients had paid fees without sacrificing the
23 clients' privacy rights through requests for information about attorney's personal bank accounts).

24 Here the information regarding financial arrangements and identities of third parties is a
25 protected trade secret. It is information which: (1) has been developed over time; (2) is not
26 generally known or otherwise available to the public; (3) has been the subject of reasonable
27 efforts to maintain as confidential; and (4) has independent economic value to Defendants and

1 potential competitors. See, *SI Handling Sys., Inc. v. Heisley*, 753 F.2d 1244, 1260 (3d Cir.
2 1985) (“absorbed under ‘costing’ and ‘pricing’ information is a whole range of data relating to
3 materials, labor, overhead, and profit margin, among other things. . . . [T]his is not information
4 that is readily obtainable by anyone in the industry. We believe such information qualifies for
5 trade secret protection.”); *Nutratech, Inc. v. Synitech (SSPF) International, Inc.*, 242 F.R.D. 552,
6 555 (CD Ca. 2007) (customer/supplier lists and sales and revenue information qualify as
7 “confidential commercial information”); *Phyto v. Schlage Lock Co.*, 101 Cal. App. 4th 1443,
8 1455–56 (2002) (cost and pricing data unique to Schlage was a trade secret); *Frantz v. Johnson*,
9 999 F.2d 351, 116 Nev. 455 (2000) (customer and pricing information were “trade secrets” under
10 the Uniform Trade Secrets Act (UTSA), where the information was extremely confidential, its
11 secrecy was guarded, and it was not readily available to others); *Kaldi v. Farmers Insurance
12 Exchange*, 117 Nev. 373 (2001) (customer information or “book of business” was trade secret).
13 “Nevada law also protects against the public disclosure of trade secrets during litigation.”
14 *David Copperfield’s Disappearing, Inc. v. Eighth Judicial Dist. Court in & for City of Clark Co.*, No.
15 75609, 2018 WL 2045939, at *1 (Nev. App. Apr. 20, 2018). The UTSA provides for the
16 protection of trade secrets in any action pending in Nevada courts. “In any civil or criminal
17 action, the court shall preserve the secrecy of an alleged trade secret by reasonable means, which
18 may include, without limitation: 1. Granting protective orders in connection with discovery
19 proceedings; 2. Holding hearings in camera; 3. Sealing the records of the action; 4. Determining
20 the need for any information related to the trade secret before allowing discovery; 5. Allowing
21 the owner of the trade secret to obtain a signed agreement of confidentiality from any party who
22 obtains knowledge of the trade secret; 6. Ordering a person who obtains knowledge of the trade
23 secret to return to the owner of the trade secret any writing which reflects or contains the trade
24 secret; and 7. Ordering any person involved in the litigation not to disclose an alleged trade secret
25 without previous court approval.” Nev. Rev. Stat. Ann. § 620A.070.

26 Nevada Rules of Civil Procedure governing protective orders is in accord: “The court may,
27 for good cause, issue an order to protect a party or person from annoyance, embarrassment,
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1 oppression, or undue burden or expense, including one or more of the following: (A) forbidding
2 the disclosure or discovery; . . . (D) forbidding inquiry into certain matters, or limiting the scope
3 of disclosure or discovery to certain matters; (E) designating the persons who may be present
4 while the discovery is conducted; . . . (G) requiring that a trade secret or other confidential
5 research, development, or commercial information not be revealed or be revealed only in a
6 specified way" NRCF Rule 26. In the present case, a complete bar on disclosure of the trade
7 secret information is necessary because it would be difficult - if not impossible - for counsel to
8 compartmentalize the information given the close relationship with Front Sight. See *United*
9 *States v. Dentsply*, 187 F.R.D. 152, 159, 160 (D. De. 1999) (a total prohibition on disclosure is
10 appropriate where the attorney "would have a difficult time compartmentalizing his
11 knowledge."); See also *Brown Bag Software v. Symantec Corp.*, 960 F.2d 1465, 1470 (9th Cir.
12 1992)

13 6) The Subpoena Requests Information Protected by the Right of Privacy

14 As stated above, Nevada recognizes a right of privacy as to personal financial information.
15 See *Klein v. Freedom Strategic Partners, LLC*, 2009 U.S. Dist. LEXIS 52241 (D. Nev.);
16 *Schlatter v. Eighth Jud. Dist. Ct.*, 99 Nev. 189, 561 P.2d 1342 (1977); *Hutter v. Dist. Ct.*, 110
17 Nev. 513, 520 (1994); *Dunphy v. Sheehan*, 92 Nev. 259, 264 (1976). The "confidentiality"
18 strand of the right to privacy refers to the "individual interest in avoiding disclosure of personal
19 matters." *Whitlen v. Roe*, 429 U.S. 589, 599-600 (1977). Thus, Defendants' financial statements
20 are protected by confidentiality as well.

21 7) As to the Individuals, the Requirements of California Code of Civil Procedure
22 §1983.3 Apply
23

24 As noted above, Defendants Robert Dzubla, Jon D. Fleming, and Linda Stanwood are each
25 individuals and each residents of California. Accordingly, they are protected by California
26 procedures relating to the subpoena of certain consumer records. That provision requires
27 advance notice to individuals when certain "personal records" are sought by subpoena. "Personal
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1 records" specifically include "any copy of books, documents, other writings, or electronically
2 stored information" sought from any "state or national bank." Cal. Civ. Proc. Code § 1985.3.
3 "[B]efore confidential customer information may be disclosed in the course of civil discovery
4 proceedings, the bank must take reasonable steps to notify its customer of the pendency and
5 nature of the proceedings and to afford the customer a fair opportunity to assert his interests by
6 objecting to disclosure, by seeking an appropriate protective order, or by instituting other legal
7 proceedings to limit the scope or nature of the matters sought to be discovered." *Valley Bank of*
8 *Nevada v. Superior Court*, 45 Cal. 3d 652, 658 (1975). "[T]he purpose of section 1985.3 is to
9 protect a consumer's right to privacy (Cal. Const., Art. I, § 1) in his personal records maintained,
10 or kept, by his attorney, accountant, doctor, banker, etc." *Sisson v. Kallish*, 146 Cal. App. 3d
11 119, 124 (1983).

12 Plaintiff will be required to comply with these procedural protections as to any subpoena
13 directed to a California bank and seeking records relating to a California resident.

14 8) The Court May Not Issue A Direct Subpoena to an Out of State Dependent.

15
16 The subject subpoenas issued to a California bank and regarding California individual
17 consumers. Regardless of the other arguments, the Nevada Court lacks the jurisdiction to issue a
18 subpoena directly to a California Bank. *Atlantic Commercial Dev. Corp. v. Boyles*, 103 Nev. 35,
19 38 (1957), abrogated on other grounds by *Exec. Mgmt., Ltd. v. Ticer Title Ins. Co.*, 118 Nev. 46
20 (2002). The *Atlantic Commercial* case is simply the mirror image of this case. In that case a
21 Florida court issued a subpoena duces tecum for First Interstate Bank in Nevada. The court held
22 the subpoena was unenforceable as extra-jurisdictional. "[U]nder traditional notions of power
23 and jurisdiction, a court cannot order production of records in the custody and control of a
24 non-party in a foreign judicial district. Certainly, a Florida court could not enforce a subpoena
25 duces tecum if FIB refused to comply. Nevada procedure statutes only contemplate process
26 served under the jurisdiction of Nevada courts. We hold that a subpoena duces tecum issued by a
27

1 foreign court in this matter did not have the power or jurisdiction to order FEB to produce
2 Atlantic's Nevada bank records." *Id.*

3 "NRCPP 45(b)(2) restricts the service of a subpoena on a nonparty to 'any place within the
4 state.' Thus, as is evident from this rule, the subpoena power of Nevada courts over nonparty
5 deponents does not extend beyond state lines. NRCPP 45's intra-state limitation on Nevada courts'
6 subpoena power is consistent with authority from other states recognizing the geographic
7 restrictions of a state's discovery process." *Quinn v. Eighth Judicial Dist. Court in & for Cty. of*
8 *Clark*, 134 Nev. Adv. Op. 5 (2018).

9 Similarly to *Atlantic Commercial* in which a Florida court had no jurisdiction to issue a
10 subpoena directed to a Nevada bank, this court has no jurisdiction to issue a subpoena to a
11 California bank.

12 III. CONCLUSION

13
14 Plaintiff's Subpoena for documents and deposition to Bank of Hope should be quashed for
15 the reasons set forth above, including lack of jurisdiction, and this Court should issue a specific
16 order that Plaintiff is not entitled to and must not seek to obtain from any source specific
17 information regarding the EB5 immigrant investors, including such investor's names, contact
18 information, bank account information or any other potentially identifying information.

19
20 DATED: August 14, 2019

FARMER CASE & FEDOR

21
22
23 /s/ Kathryn Holbert

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DEFENDANTS' MOTION TO QUASH SUBPOENA FOR DEPOSITION AND DOCUMENTS TO BANK OF HOPE
AND/OR MOTION FOR PROTECTIVE ORDER REGARDING SUBPOENA FOR DEPOSITION AND DOCUMENTS
TO BANK OF HOPE

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FLEMING and LINDA STARWOOD

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CERTIFICATE OF SERVICE and/or MAILING

Pursuant to NRCP 5(h), I hereby certify that I am an employee of Farmer Case & Fedor, and that on this date, I caused true and correct copies of the following document(s):

DEFENDANTS' MOTION TO QUASH SUBPOENA FOR DEPOSITION AND DOCUMENTS TO BANK OF HOPE AND/OR MOTION FOR PROTECTIVE ORDER REGARDING SUBPOENA FOR DEPOSITION AND DOCUMENTS TO BANK OF HOPE

to be served on the following individuals/entities, in the following manner;

John P. Aldrich, Esq. Attorneys for Plaintiff
Catherine Hernandez, Esq. FRONT SIGHT MANAGEMENT, LLC
ALDRICH LAW FIRM, LTD.
1601 S. Rainbow Blvd., Suite 160
Las Vegas, Nevada 89146

By:

ELECTRONIC SERVICE: Said document(s) was served electronically upon all eligible electronic recipients pursuant to the electronic filing and service order of the Court (NRCP 9).

U.S. MAIL: I deposited a true and correct copy of said document(s) in a sealed, postage prepaid envelope, in the United States Mail, to those parties and/or above named individuals, which were not on the Court's electronic service list.

Dated: August 15, 2019

/s/ Kathryn Holbert
An Employee of FARMER CASE & FEDOR

EXHIBIT A

EXHIBIT A

1 **YOU ARE HEREBY COMMANDED** that all and singular, business and excuses set
2 aside, pursuant to N.R.C.P. 45, to produce the designated documents, electronically stored
3 information, and/or tangible things in your possession, custody, or control, by delivering a true,
4 legible, and durable copy of the business records described below to the requesting attorney by
5 United States mail or similar delivery service, no later than September 19, 2019, at the
6 following address:

7 John P. Aldrich, Esq.
8 Catherine Hernandez, Esq.
9 Matthew B. Beckstead, Esq.
10 ALDRICH LAW FIRM, LTD.
11 7866 West Sahara Avenue
12 Las Vegas, Nevada 89117

13 All documents shall be produced as they are kept in the usual course of business or shall
14 be organized and labeled to correspond with the categories listed (N.R.C.P. 45(d)(1)).

15 **A LIST OF THE ITEMS TO BE PRODUCED** is attached as Exhibit A.

16 **YOU ARE FURTHER ORDERED** to authenticate the business records produced,
17 pursuant to N.R.S. 52.260, and to provide with your production a completed Certificate of
18 Custodian of Records in substantially the same form as Exhibit B attached hereto as subpoena.

19 **CONTEMPT:** Failure by any person without adequate excuse to obey a subpoena served
20 upon that person may be deemed in contempt of the court, N.R.C.P. 45(e), punishable by a fine
21 not exceeding \$500 and imprisonment not exceeding 25 days, N.R.S. 22.100. Additionally a
22 witness disobeying a subpoena shall forfeit to the aggrieved party \$100 and all damages
23 sustained as a result of the failure to attend, and a warrant may issue for the witness' arrest,
24 N.R.S. 50.195, 50.205, and 22.100(3).

 Please see the attached Exhibit C for information regarding your rights and
responsibilities relating to this Subpoena.

 A list of all parties to this action and their respective counsel is attached as Exhibit D.

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the definition or meaning given to the term, word or phrase as used in the pleadings in addition to the definition(s) given in this discovery request.

B. The following rules of construction apply to this Subpoena to Produce Documents, Information, or Objects:

1. All/Each. The terms "all" and "each" shall be construed as all and each.
2. And/Or. The connectives "and" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.
3. Number. The use of the singular form of any word includes the plural and vice versa.

C. The following instructions apply to this discovery request:

Electronic or Magnetic Data. In those instances when requested information exists in electronic or magnetic form, the responding party should state so. In responding to a discovery request, the responding party should, in addition to stating that the information exists in electronic/magnetic form, sufficiently identify the form in which the information exists.

1. EMAILS: With respect to any and all responsive e-mail messages, produce them in their native, electronic format, including without limitation ".pst" files for Microsoft Outlook e-mail messages and ".nsf" files for Lotus Outlook e-mail messages.
2. SPREADSHEETS: With respect to any and all responsive spreadsheets, produce them in their native, electronic format, including without limitation ".xls" files for Microsoft Excel spreadsheets.

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3. OTHER. Where applicable, any responsible information that exists in electronic or magnetic form must be produced in the following formats: CD Rom in an Acrobat (*.pdf) compatible application, in a Microsoft Word or WordPerfect compatible application, or in ASCII.

DATED this ____ day of August, 2019.

ALDRICH LAW FIRM, LTD.

John P. Aldrich, Esq.
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Catherine Hernandez, Esq.
Nevada Bar No. 8410
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EXHIBIT A

1. Please provide any and all bank statements and other documents for Las Vegas Development Fund LLC's financial account # 6400371502, for the time period beginning in March 2012 to the present date.

2. Please provide any and all documents for any and all financial accounts pertaining to Las Vegas Development Fund LLC and/or for which Las Vegas Development Fund LLC is the beneficiary, signatory, and/or account holder, for the time period beginning March 2012 to the present date.

3. Please provide any and all documents for any and all financial accounts pertaining to Kenworth Capital, Inc. and/or for which Kenworth Capital, Inc. is the beneficiary, signatory, and/or account holder, for the time period beginning March 2012 to the present date.

4. Please provide any and all documents for any and all financial accounts pertaining to EBS Impact Advisors LLC and/or for which EBS Impact Advisors LLC is the beneficiary, signatory, and/or account holder, for the time period beginning March 2012 to the present date.

5. Please provide any and all documents for any and all financial accounts pertaining to EBS Impact Capital Regional Center LLC and/or for which EBS Impact Capital Regional Center LLC is the beneficiary, signatory, and/or account holder, for the time period beginning March 2012 to the present date.

6. Please provide any and all documents for any and all financial accounts pertaining to Robert W. Dziubla (Date of Birth: July 18, 1952) and/or for which Robert W. Dziubla is the beneficiary, signatory, and/or account holder, for the time period beginning March 2012 to the present date.

7. Please provide any and all documents for any and all financial accounts pertaining to Jon D. Fleming and/or for which Jon D. Fleming is the beneficiary, signatory, and/or account holder, for the time period beginning March 2012 to the present date.

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8. Please provide any and all documents for any and all financial accounts pertaining to Linda Stanwood and/or for which Linda Stanwood is the beneficiary, signatory, and/or account holder, for the time period beginning March 2012 to the present date.

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EXHIBIT B

CERTIFICATE OF CUSTODIAN OF RECORDS

STATE OF NEVADA)
) ss.
COUNTY OF CLARK)

NOW COMES _____ (name of custodian of records), who after first being duly sworn deposes and says:

1. That the deponent is the _____ (position or title) of _____ (name of employer) and in his or her capacity as _____ (position or title) is a custodian of the records of _____ (name of employer).

2. That _____ (name of employer) is licensed to do business as a _____ in the State of _____.

3. That on the day of the month of _____ day of _____, 2019, the deponent was served with a subpoena in connection with the above-entitled cause, calling for the production of _____ records pertaining to _____.

4. That the deponent has examined the original of those records and has made or caused to be made a true and exact copy of them and that the reproduction of them attached hereto is true and complete.

5. That the original of those records was made at or near the time of the act, event, condition, opinion or diagnosis recited therein by or from information transmitted by a person with knowledge, in the course of a regularly conducted activity of the deponent or _____ (name of employer).

Executed on: _____ (Date) _____ (Signature of Custodian of Records)

SUBSCRIBED AND SWORN to before me this _____ day of _____, 2019.

NOTARY PUBLIC in and for the County of _____, State of _____

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EXHIBIT C

NEVADA RULES OF CIVIL PROCEDURE

Rule 45 (c) Protection of Persons Subject to Subpoena.

(1) **Avoiding Undue Burden or Expense; Sanctions.** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court that issued the subpoena must enforce this duty and may impose an appropriate sanction — which may include lost earnings and reasonable attorney fees — on a party or attorney who fails to comply.

(2) **Command to Produce Materials or Permit Inspection.**

(A) **Appearance Not Required.**

(i) A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(ii) If documents, electronically stored information, or tangible things are produced to the party that issued the subpoena without an appearance at the place of production, that party must, unless otherwise stipulated by the parties or ordered by the court, promptly copy or electronically reproduce the documents or information, photograph any tangible items not subject to copying, and serve these items on every other party. The party that issued the subpoena may also serve a statement of the reasonable cost of copying, reproducing, or photographing, which a party receiving the copies, reproductions, or photographs must promptly pay. If a party disputes the cost, then the court, on motion, must determine the reasonable cost of copying the documents or information, or photographing the tangible items.

(B) **Objections.** A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, or a person claiming a proprietary interest in the subpoenaed documents, information, tangible things, or premises to be inspected, may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The person making the objection must serve it before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made:

(i) the party serving the subpoena is not entitled to inspect, copy, test, or sample the materials or tangible things or to inspect the premises except by order of the court that issued the subpoena;

1 (ii) on notice to the parties, the objecting person, and the person commanded to
2 produce or permit inspection, the party serving the subpoena may move the court that issued the
subpoena for an order compelling production or inspection; and

3 (iii) if the court enters an order compelling production or inspection, the order
4 must protect the person commanded to produce or permit inspection from significant expense
resulting from compliance.

5 **(2) Quashing or Modifying a Subpoena.**

6 **(A) When Required.** On timely motion, the court that issued a subpoena must quash
or modify the subpoena if it:

7 (i) fails to allow reasonable time for compliance;

8 (ii) requires a person to travel to a place more than 100 miles from the place
9 where that person resides, is employed, or regularly transacts business in person, unless the
person is commanded to attend trial within Nevada;

10 (iii) requires disclosure of privileged or other protected matter and no exception
11 or waiver applies; or

12 (iv) subjects a person to an undue burden.

13 **(B) When Permitted.** On timely motion, the court that issued a subpoena may quash
or modify the subpoena if it requires disclosing:

14 (i) a trade secret or other confidential research, development, or commercial
15 information; or

16 (ii) an unretained expert's opinion or information that does not describe specific
17 occurrences at dispute and results from the expert's study that was not requested by a party.

18 **(C) Specifying Conditions as an Alternative.** In the circumstances described in Rule
19 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order an appearance or
production under specified conditions if the party serving the subpoena:

20 (i) shows a substantial need for the testimony or material that cannot be otherwise
met without undue hardship; and

21 (ii) ensures that the subpoenaed person will be reasonably compensated.

22 **Rule 45(d) Duties in Responding to a Subpoena.**

23 **(1) Producing Documents or Electronically Stored Information.** These procedures
24 apply to producing documents or electronically stored information:

1 (A) Documents. A person responding to a subpoena to produce documents must
2 produce them as they are kept in the ordinary course of business or must organize and label them
to correspond to the categories in the demand.

3 (B) Form for Producing Electronically Stored Information Not Specified. If a
4 subpoena does not specify a form for producing electronically stored information, the person
5 responding must produce it in a form or forms in which it is ordinarily maintained or in a
reasonably usable form or forms.

6 (C) Electronically Stored Information Produced in Only One Form. The person
7 responding need not produce the same electronically stored information in more than one form.

8 (D) Inaccessible Electronically Stored Information. The person responding need not
9 provide discovery of electronically stored information from sources that the person identifies as
10 not reasonably accessible because of undue burden or cost. On motion to compel discovery or for
a protective order, the person responding must show that the information is not reasonably
accessible because of undue burden or cost. If that showing is made, the court may nonetheless
order discovery from such sources if the requesting party shows good cause, considering the
limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

11 (2) Claiming Privilege or Protection.

12 (A) Information Withheld. A person withholding subpoenaed information under a
13 claim that it is privileged or subject to protection as trial-preparation material must:

14 (i) expressly make the claim; and

15 (ii) describe the nature of the withheld documents, communications, or tangible things in
a manner that, without revealing information itself privileged or protected, will enable the parties
16 to assess the claim.

17 (B) Information Produced. If information produced in response to a subpoena is
subject to a claim of privilege or of protection as trial-preparation material, the person making
the claim may notify any party that received the information of the claim and the basis for it.
18 After being notified, a party must promptly return, sequester, or destroy the specified information
and any copies it has; must not use or disclose the information until the claim is resolved; must
19 take reasonable steps to retrieve the information if the party disclosed it before being notified;
and may promptly present the information under seal to the court for a determination of the
20 claim. The person who produced the information must preserve the information until the claim is
resolved.

EXHIBIT D

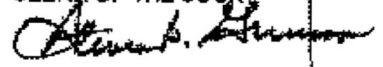
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24 IMPACT CAPITAL REGIONAL CENTER LLC,
25 EB5 IMPACT ADVISORS LLC, ROBERT W. DZIUBLA,
26 JON FLEMING and LINDA STANWOOD

27 **EIGHTH JUDICIAL DISTRICT COURT**

28 **CLARK COUNTY, NEVADA**

17 FRONT SIGHT MANAGEMENT LLC, a) CASE NO.: A-18-781084-B
18 Nevada Limited Liability Company,) DEPT NO.: 16
19 Plaintiff,)
20 vs.) **DEFENDANTS' MOTION TO QUASH**
21 LAS VEGAS DEVELOPMENT FUND LLC,) **SUBPOENA FOR DEPOSITION AND**
22 et al.,) **DOCUMENTS TO SIGNATURE BANK**
23 Defendants.) **AND/OR MOTION FOR PROTECTIVE**
24) **ORDER REGARDING SUBPOENA FOR**
25) **DEPOSITION AND DOCUMENTS TO**
26) **SIGNATURE BANK**

27 **HEARING REQUESTED**
28 **On Order Shortening Time**

**DEFENDANTS' MOTION TO QUASH SUBPOENA FOR DEPOSITION AND DOCUMENTS TO SIGNATURE BANK
AND/OR MOTION FOR PROTECTIVE ORDER REGARDING SUBPOENA FOR DEPOSITION AND DOCUMENTS
TO SIGNATURE BANK**

1 Defendants, LAS VEGAS DEVELOPMENT FUND LLC, a Nevada Limited Liability
2 Company; EB5 IMPACT CAPITAL REGIONAL CENTER LLC, a Nevada Limited Company;
3 EB5 IMPACT ADVISORS LLC, a dissolved Nevada Limited Liability Company; ROBERT W.
4 DZIUBLA, individually and as President and CEO of LAS VEGAS DEVELOPMENT FUND
5 LLC and EB5 IMPACT ADVISORS LLC; JON FLEMING, individually and as an agent of LAS
6 VEGAS DEVELOPMENT FUND LLC and EB5 IMPACT ADVISORS LLC; LINDA
7 STANWOOD, individually and as Senior Vice President of LAS VEGAS DEVELOPMENT
8 FUND LLC and EB5 IMPACT ADVISORS LLC, by and through their attorneys, KATHRYN
9 HOLBERT, ESQ., of the law firm FARMER CASE & FEDOR and C. KEITH GREER, ESQ. OF
10 the law firm GREER AND ASSOCIATES, hereby moves the Court, pursuant to Nevada Rules
11 of Civil Procedure 26 and 45 for a Protective Order quashing or modifying the subpoena for
12 deposition testimony and production of documents that Plaintiff FRONT SIGHT
13 MANAGEMENT LLC intends to serve upon Signature Bank, a New York headquartered bank.
14 A copy of the subpoena at issue is attached hereto as Exhibit A.

15 This Motion is made and based upon the pleadings and papers on file herein, the
16 following Memorandum of Points and Authorities, and any oral argument the Court may hear:

17
18 DATED this 14 day of August, 2019,

FARMER CASE & FEDOR

19
20 /s/ Kathryn Holbert
21 KATHRYN HOLBERT, ESQ.
22 Nevada Bar No. 10084
23 2190 E. Pebble Rd., Suite #205
24 Las Vegas, NV 89123
25 Telephone: (702) 579-3900
26 kholbert@farmercase.com
27 Attorneys for Defendants
28 LAS VEGAS DEVELOPMENT FUND
LLC, EB5 IMPACT CAPITAL
REGIONAL CENTER LLC, EB5 IMPACT
ADVISORS LLC, ROBERT W. DZIUBLA,
JON FLEMING and LINDA STANWOOD

DEFENDANTS' MOTION TO QUASH SUBPOENA FOR DEPOSITION AND DOCUMENTS TO SIGNATURE BANK
AND/OR MOTION FOR PROTECTIVE ORDER REGARDING SUBPOENA FOR DEPOSITION AND DOCUMENTS
TO SIGNATURE BANK

1 AFFIDAVIT OF KATHRYN L. HOLBERT IN SUPPORT OF
2 MOTION FOR ORDER SHORTENING TIME and FOR ORDER STAYING ISSUANCE
 OF THE SUBJECT SUBPOENA UNTIL THE MATTER MAY BE HEARD

3 STATE OF NEVADA)
4 COUNTY OF CLARK) ss:

5 I, Kathryn L. Holbert, Esq. hereby state and declare, based on my personal knowledge as
6 follows:

7 1. I am an attorney at law in good standing before State Bar of Nevada and am
8 counsel of record for the defendants in this matter.

9 2. This motion to quash and/or modify the subpoena for deposition and documents
10 which Plaintiff intends to serve upon Signature Bank seeks irrelevant, private, proprietary and/or
11 financial information to which Plaintiff is not entitled. Moreover, such subpoena is intended to
12 harass, annoy, embarrass and/or oppress Defendants and/or to cause Defendants undue burden
13 and expense. Additionally, such Subpoena is compound, overly broad, not sufficiently limited
14 in scope and not reasonably calculated to lead to the discovery of admissible evidence.

15 3. I discussed Defendants' concerns regarding the subject Subpoena with Plaintiff's
16 counsel, John Aldrich, on August 7, 2019.

17 4. Mr. Aldrich declined to withdraw or modify the subject subpoena.

18 5. Mr. Aldrich did state that he was not opposed to this motion being heard on
19 shortened time so long as his client had sufficient time to file an opposition.

20 6. The subject subpoena requests the production of documents no later than
21 August 26, 2019. If the hearing on this motion is set in the ordinary course, it may not be heard
22 until after the production has been made.

23 //

24 //

25 //

26 //

27 7. In the event that the hearing on this matter is set after the scheduled date for the
28

1 I. INTRODUCTION AND SUMMARY OF ARGUMENTS

2 Defendants bring this Motion to quash the intended subpoena duces tecum to Signature Bank,
3 which is located in New York. The subpoena seeks a broad range of both corporate and personal
4 records relating to: (1) Las Vegas Development Fund LLC; (2) EB5 Impact Advisors LLC; (3)
5 Robert W. Dziubla; (4) Jon Fleming; and (5) Linda Stanwood. As to the Corporate entities, the
6 subpoena is improper because it is over broad, seeks improper and irrelevant matters, which are
7 potentially privileged, confidential, or a trade secret. The proposed subpoena would necessarily
8 intrude upon this constitutionally protected right of privacy and should be quashed on that basis.

9 Plaintiff has alleged numerous causes of action related to Defendants' efforts of to raise
10 investor funds to loan to Plaintiff through the EB5 program. These efforts were partially
11 successful and Defendant Las Vegas Development Fund has loaned Plaintiff in excess of six
12 million dollars. Plaintiff made payments to Defendant EB5 Impact Advisors to establish an EB5
13 regional center and begin fund raising efforts. Plaintiff also made interest payments to Defendant
14 Las Vegas Development Fund, LLC pursuant to the Construction Loan Agreement. These
15 payments were often made electronically which provided Plaintiff with the name of Defendants'
16 financial institutions.

17 However, that knowledge cannot be used allow Plaintiffs to obtain the entire universe of all
18 Defendants' private financial information. There is absolutely no nexus between the individual
19 Defendants financial records and the claims asserted by Front Sight. The requested information
20 could conceivably contain records as far removed from this lawsuit as how much money
21 Defendants spent on groceries or where they might have enjoyed a restaurant meal. These are
22 simply irrelevant to this lawsuit and there is no legitimate litigation related interest in obtaining
23 such information regarding the individual defendants. Rather, the subpoena is clearly intended
24 primarily to harass and intimidate the Defendants by prying into their personal finances unrelated
25 to this lawsuit.

26 Even as to the corporate entities there is little to no justification for the subpoenas. A
27 borrower, such as Front Sight, is not entitled to explore the finances of its lender (LVD Fund).

1 The only relevant piece of information is that the lender made the loan and had sufficient funds.
2 to do so. This question is finally resolved once the loan was made. Moreover, as to EB5IA,
3 Plaintiff has already been provided with an accounting and complete access to financial records
4 sufficient to trace all funds paid by Front Sight to EB5IA. There is no legitimate purpose for
5 Front Sight to obtain the financial records of all of EB5IA's financial transactions. Indeed, as set
6 forth below, such unfettered access is likely to reveal certain information protected from
7 disclosure by the trade secret privilege.

8 The financial documents requested by Plaintiff go far beyond what may be relevant in this
9 matter and are a thinly disguised attempt by Plaintiff to obtain not only a list of names, contact
10 information, etc. of all individuals who invested in Front Sight through Las Vegas Development
11 Fund, LLC, but even go so far as to seek the bank account information of all such immigrant
12 investors. Plaintiff is not entitled to this information and it should be protected.

13 The subpoena to Signature Bank seeks information that is not admissible nor is it likely to
14 lead to the discovery of admissible evidence, it is premature, it is intended to harass, annoy,
15 embarrass, and/or oppress Defendants and/or to cause Defendants undue burden or expense, but
16 most importantly, the subpoena to Signature Bank seeks privileged, confidential or other
17 protected information. All information regarding immigrant investors is confidential, proprietary
18 and irrelevant to this action and should be protected from disclosure.

19 **II. ARGUMENT**

20 **A. Legal Standard for Motion to Quash and/or Motion for Protective Order**

21 Nevada Rule of Civil Procedure Rule 26- General Provisions Governing Discovery, limits
22 discovery as follows:

23 **(b) Discovery Scope and Limits.**

24 (1) Scope. Unless otherwise limited by order of the court in accordance with these rules,
25 the scope of discovery is as follows: Parties may obtain discovery regarding any nonprivileged
26 matter that is relevant to any party's claims or defenses and proportional to the needs of the case,
27 considering the importance of the issues at stake in the action, the amount in controversy, the
parties' relative access to relevant information, the parties' resources, the importance of the
discovery in resolving the issues, and whether the burden or expense of the proposed discovery
outweighs its likely benefit. Information within this scope of discovery need not be admissible in

1 evidence to be discoverable.

2 (C) When Required. On motion or on its own, the court must limit the frequency or
3 extent of discovery otherwise allowed by these rules or by local rule if it determines that:

4 (i) the discovery sought is unreasonably cumulative or duplicative, or can be
5 obtained from some other source that is more convenient, less burdensome, or less expensive;

6 (ii) the party seeking discovery has had ample opportunity to obtain the
7 information by discovery in the action; or

8 (iii) the proposed discovery is outside the scope permitted by Rule 26(b)(1).

9 Nevada Rule of Civil Procedure 26 (c) concerns Protective Orders.

10 (1) In General. A party or any person from whom discovery is sought may move for a
11 protective order in the court where the action is pending — or as an alternative on matters
12 relating to an out-of-state deposition, in the court for the judicial district where the deposition
13 will be taken. The motion must include a certification that the movant has in good faith conferred
14 or attempted to confer with other affected parties in an effort to resolve the dispute without court
15 action. The court may, for good cause, issue an order to protect a party or person from
16 annoyance, embarrassment, oppression, or undue burden or expense, including one or more of
17 the following:

18 (A) forbidding the disclosure or discovery;

19 (B) specifying terms, including time and place or the allocation of expenses, for the
20 disclosure or discovery;

21 (C) prescribing a discovery method other than the one selected by the party seeking
22 discovery;

23 (D) forbidding inquiry into certain matters, or limiting the scope of disclosure or
24 discovery to certain matters;

25 (E) designating the persons who may be present while the discovery is conducted;

26 (F) requiring that a deposition be sealed and opened only on court order;

27 (G) requiring that a trade secret or other confidential research, development, or
28 commercial information not be revealed or be revealed only in a specified way; and

(H) requiring that the parties simultaneously file specified documents or information
in sealed envelopes, to be opened as the court directs.

Nevada Rule of Civil Procedure 45(B) Party Objections.

(i) A party who receives notice under Rule 45(a)(4)(A) that another party intends to
serve a subpoena duces tecum on a third party that will require disclosure of privileged,
confidential, or other protected matter, to which no exception or waiver applies, may object to the
subpoena by filing and serving written objections to the subpoena and a motion for a protective
order.

DEFENDANTS' MOTION TO QUASH SUBPOENA FOR DEPOSITION AND DOCUMENTS TO SIGNATURE BANK
AND/OR MOTION FOR PROTECTIVE ORDER REGARDING SUBPOENA FOR DEPOSITION AND DOCUMENTS
TO SIGNATURE BANK

1
2 **B. The Subpoena for Documents to Signature Bank should be quashed and/or**
3 **modified.**

4 Plaintiff's subpoena requests all bank statements for Las Vegas Development Fund;
5 copies of all deposits made into such account; all documents for all other accounts pertaining to
6 Las Vegas Development Fund; all documents for all financial accounts pertaining to EB5 Impact
7 Advisors; all documents for all financial accounts pertaining to EB5 Impact Advisors, LLC; all
8 documents for all financial accounts pertaining to Robert W. Dziubla; all documents for all
9 financial accounts pertaining to Jon D. Fleming; and all documents pertaining to all financial
10 accounts pertaining to Linda Starwood.

11 1) The information sought is not admissible nor is it likely to lead to the
12 discovery of admissible evidence.

13 Plaintiff has alleged that Defendant EB5 Impact Advisors, LLC misspent at least a portion
14 of the funds Plaintiff paid to it. Defendant EB5 has already provided an accounting of all funds it
15 received from Plaintiff and Defendant Robert Dziubla has testified extensively regarding the
16 information which was provided. The financial accounts of all other Defendants are irrelevant
17 and should be protected.

18 2) The subpoena is intended to harass, annoy, embarrass and/or oppress Defendants
19 and/or to cause Defendants undue burden or expense.

20 Plaintiff subpoena is intended to embarrass Mr. Dziubla and to diminish his standing in
21 the eyes of financial institution.

22 3) The subpoena seeks privileged, confidential or other protected information.

23 Plaintiff's subpoena to Signature Bank seeks *all* details concerning *all* accounts belonging to
24 *all* Defendants. Financial records and income tax returns are not discoverable unless the party
25 seeking the discovery can demonstrate that the information is indispensable to the case and
26 cannot be obtained elsewhere. *Lombey v. Cinemark USA, Inc.*, 2009 WL 3578853 (D. Utah
27 2009). As stated, the only financial information which is relevant to this matter has already
28 been produced.

1 4) The subpoena seeks financial information and Plaintiff has not shown a
2 compelling need, nor can it.

3 The Nevada Supreme Court highly values a litigant's privacy. Tax records and other financial
4 information are protected. The party seeking discovery must show a compelling need for tax
5 returns and other financial information; otherwise, that discovery is not allowed. See, e.g., *Klein*
6 *v. Freedom Strategic Partners, LLC*, 2009 U.S. Dist. LEXIS 52241 (D. Nev.) ("Although
7 Nevada law does not recognize a privilege with respect to tax returns, the Nevada Supreme Court
8 has recognized limitations on the discovery of information contained in tax returns to avoid an
9 invasion into the litigant's private affairs ... "); *Schlatter v. Eighth Jud. Dist. Ct.*, 99 Nev. 189,
10 561 P.2d 1342 (1977) ("careless discovery of financial information is an excessive invasion
11 of privacy interest"). *Hetter v. Dist. Ct.*, 110 Nev. 513, 520, 874 P.2d 762, 766 (1994). ("public
12 policy suggests that tax returns or financial status not be had for the mere asking.") Controlling
13 the disclosure of private financial information is of the utmost importance because the improper
14 disclosure of financial material "is irretrievable once made." (*Id.*). Here, Plaintiff Front Sight has
15 made no such showing, nor can it.

16 5) The subpoena seeks privileged, confidential or other protected information.

17 Further, the subpoena requests information which appears to be protected under the trade
18 secret privilege. Nevada has adopted the Uniform Trade Secrets Act (hereafter "UTSA"). Nev.
19 Rev. Stat. Ann. § 600A.010. The UTSA provides protection for trade secrets, which are defined
20 as information which "[d]erives independent economic value, actual or potential, from not being
21 generally known to, and not being readily ascertainable by proper means by the public or any
22 other persons who can obtain commercial or economic value from its disclosure or use." Nev.
23 Rev. Stat. Ann. § 600A.

24 The information sought to be protected hereat - Defendants' financial arrangements with
25 overseas consultants/contractors and investor's qualifies as a protectable trade secret. Disclosure
26 of LVD Fund's or EBSTA's bank records would result in disclosure of the financial affairs of
27 numerous third parties who had dealings with those entities. See, *Hooser v. Sup. Ct. (Ray)* 84

1 CA4th 997, 1007 (2000)(Client was not entitled to disclosure of bank statements relating to
2 funds on deposit in Attorney's client trust accounts. Client had alternative and less intrusive
3 means for discovering whether attorney's undisclosed clients had paid fees without sacrificing the
4 clients' privacy rights through requests for information about attorney's personal bank accounts).

5 Here the information regarding financial arrangements and identities of third parties is a
6 protected trade secret. It is information which: (1) has been developed over time; (2) is not
7 generally known or otherwise available to the public; (3) has been the subject of reasonable
8 efforts to maintain as confidential; and (4) has independent economic value to Defendants and
9 potential competitors. See, *SI Handling Sys., Inc. v. Heisley*, 753 F.2d 1244, 1260 (3d Cir.
10 1985)(“absumed under “costing” and “pricing” information is a whole range of data relating to
11 materials, labor, overhead, and profit margin, among other things. . . . [T]his is not information
12 that is readily obtainable by anyone in the industry. We believe such information qualifies for
13 trade secret protection.”); *Nitratech, Inc. V. Syntech (SSPF) International, Inc.*, 242 F.R.D. 552,
14 535 (C.D. Ca. 2007)(customer/supplier lists and sales and revenue information qualify as
15 “confidential commercial information”); *Whyte v. Schlage Lock Co.*, 101 Cal. App. 4th 1443,
16 1455-56 (2002)(cost and pricing data unique to Schlage was a trade secret); *Prantz v. Johnson*,
17 999 P.2d 351, 116 Nev. 455 (2000) (customer and pricing information were “trade secrets” under
18 the Uniform Trade Secrets Act (UTSA), where the information was extremely confidential, its
19 secrecy was guarded, and it was not readily available to others); *Kalaji v. Farmers Insurance*
20 *Exchange*, 117 Nev. 273 (2001)(customer information or “book of business” was trade secret).

21 “Nevada law also protects against the public disclosure of trade secrets during litigation.”
22 *David Copperfield's Disappearing, Inc. v. Eighth Judicial Dist. Court in & for Cty. of Clark*, No.
23 75609, 2018 WL 2045939, at *1 (Nev. App. Apr. 20, 2018). The UTSA provides for the
24 protection of trade secrets in any action pending in Nevada courts: “In any civil or criminal
25 action, the court shall preserve the secrecy of an alleged trade secret by reasonable means, which
26 may include, without limitation: 1. Granting protective orders in connection with discovery
27 proceedings; 2. Holding hearings in camera; 3. Sealing the records of the action; 4. Determining

1 the need for any information related to the trade secret before allowing discovery; 5. Allowing
2 the owner of the trade secret to obtain a signed agreement of confidentiality from any party who
3 obtains knowledge of the trade secret; 6. Ordering a person who obtains knowledge of the trade
4 secret to return to the owner of the trade secret any writing which reflects or contains the trade
5 secret; and 7. Ordering any person involved in the litigation not to disclose an alleged trade secret
6 without previous court approval." Nev. Rev. Stat. Ann. § 600A.070.

7 Nevada Rules of Civil Procedure governing protective orders is in accord: "The court may,
8 for good cause, issue an order to protect a party or person from annoyance, embarrassment,
9 oppression, or undue burden or expense, including one or more of the following: (A) forbidding
10 the disclosure or discovery; . . . (D) forbidding inquiry into certain matters, or limiting the scope
11 of disclosure or discovery to certain matters; (E) designating the persons who may be present
12 while the discovery is conducted; . . . (G) requiring that a trade secret or other confidential
13 research, development, or commercial information not be revealed or be revealed only in a
14 specified way" NRCP Rule 26. In the present case, a complete bar on disclosure of the trade
15 secret information is necessary because it would be difficult - if not impossible - for counsel to
16 compartmentalize the information given the close relationship with Front Sight. *See United*
17 *States v. Dentply* 187 F.R.D. 152, 159-160 (D. De. 1999) (a total prohibition on disclosure is
18 appropriate where the attorney "would have a difficult time compartmentalizing his
19 knowledge."); *See also Brown Bag Software v. Symantec Corp.*, 960 F.2d 1465, 1470 (9th Cir.
20 1992)

21 6) The Subpoena Requests Information Protected by the Right of Privacy

22 As stated above, Nevada recognizes a right of privacy as to personal financial information.
23 *See Klein v. Freedom Strategic Partners, LLC*, 2009 U.S. Dist. LEXIS 52243 (D. Nev.);
24 *Schlatter v. Eighth Jud. Dist. Ct.*, 99 Nev. 189, 561 P.2d 1342 (1977); *Hettar v. Dist. Ct.*, 110
25 Nev. 513, 520 (1994); *Dunphy v. Sheehan*, 92 Nev. 259, 264 (1976). The "confidentiality"
26 strand of the right to privacy refers to the "individual interest in avoiding disclosure of personal
27

1 matters.” *Whalen v. Roe*, 429 U.S. 589, 599–600 (1977). Thus, Defendants’ financial statements
2 are protected by confidentiality as well.

3 7) The Court May Not Issue A Direct Subpoena to an Out of State Deponent

4 The subject subpoena is issued to a New York bank and regarding California individual
5 consumers. Regardless of the other arguments, the Nevada Court lacks the jurisdiction to issue a
6 subpoena directly to a New York Bank. *Atlantic Commercial Dev. Corp. v. Boyles*, 103 Nev. 35,
7 38 (1987), abrogated on other grounds by *Exec. Mgmt., Ltd. v. Tigor Title Ins. Co.*, 118 Nev. 46
8 (2002). The *Atlantic Commercial* case is simply the mirror image of this case. In that case a
9 Florida court issued a subpoena duces tecum for First Interstate Bank in Nevada. The court held
10 the subpoena was unenforceable as extra-jurisdictional. “[U]nder traditional notions of power
11 and jurisdiction, a court cannot order production of records in the custody and control of a
12 non-party in a foreign judicial district. Certainly, a Florida court could not enforce a subpoena
13 duces tecum if FIB refused to comply. Nevada procedure statutes only contemplate process
14 served under the jurisdiction of Nevada courts. We hold that a subpoena duces tecum issued by a
15 foreign court in this matter did not have the power or jurisdiction to order FIB to produce
16 Atlantic’s Nevada bank records.” *Id.*

17
18 “NRCP 45(b)(2) restricts the service of a subpoena on a nonparty to ‘any place within the
19 state.’ Thus, as is evident from this rule, the subpoena power of Nevada courts over nonparty
20 deponents does not extend beyond state lines. NRCP 45’s intra-state limitation on Nevada courts’
21 subpoena power is consistent with authority from other states recognizing the geographic
22 restrictions of a state’s discovery process.” *Quinn v. Eighth Judicial Dist. Court in & for Cty. of*
23 *Clark*, 134 Nev. Adm. Op. 5 (2018).

24 Similarly to *Atlantic Commercial* in which a Florida court had no jurisdiction to issue a
25 subpoena directed to a Nevada bank, this court has no jurisdiction to issue a subpoena to a New
26 York bank.

27 **III. CONCLUSION**

1 Plaintiff's Subpoena for documents and deposition to Signature Bank should be quashed for
2 the reasons set forth above, including lack of jurisdiction, and this Court should issue a specific
3 order that Plaintiff is not entitled to and must not seek to obtain from any source specific
4 information regarding the EB5 immigrant investors, including such investor's names, contact
5 information, bank account information or any other potentially identifying information.
6

7 DATED: August 14, 2019

FARMER CASE & FEDOR

8
9
10 /s/ Kathryn Holbert

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Attorneys for Defendants
LAS VEGAS DEVELOPMENT FUND LLC
EBS IMPACT CAPITAL REGIONAL
CENTER, LLC, EB6 IMPACT ADVISORS,
LLC, ROBERT W. DZIUBLA, JON
FLEMING and LINDA STANWOOD

EXHIBIT A

EXHIBIT A

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SDI
John P. Aldrich, Esq.
Nevada Bar No. 6877
Catherine Hernandez, Esq.
Nevada Bar No. 8410
Matthew B. Deckstead, Esq.
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Telephone: (702) 853-5490
Facsimile: (702) 227-1975
Attorneys for Plaintiff

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

FRONT SIGHT MANAGEMENT LLC, a
Nevada Limited Liability Company,

Plaintiff,

vs.

LAS VEGAS DEVELOPMENT FUND LLC, a
Nevada Limited Liability Company, et al.,

Defendants.

AND ALL RELATED COUNTERCLAIMS

Counterdefendants.

CASE NO.: A-18-781084-B
DEPT NO.: 16

**AMENDED SUBPOENA DUCES
TECUM**

THE STATE OF NEVADA SENDS GREETINGS TO:

Signature Bank
565 Fifth Avenue
New York, NY 10017
Phone: (866) 744-5469

1 **YOU ARE HEREBY COMMANDED** that all and singular, business and excuses set
2 aside, pursuant to N.R.C.P. 45, to produce the designated documents, electronically stored
3 information, and/or tangible things in your possession, custody, or control, by delivering a true,
4 legible, and durable copy of the business records described below to the requesting attorney, by
5 United States mail or similar delivery service, no later than **September 10, 2019**, at the
6 following address:

7 **John P. Aldrich, Esq.**
8 **Catherine Hernandez, Esq.**
9 **Matthew B. Beckstead, Esq.**
 ALDRICH LAW FIRM, LTD.
 7866 West Sahara Avenue
 Las Vegas, Nevada 89117

10 All documents shall be produced as they are kept in the usual course of business or shall
11 be organized and labeled to correspond with the categories listed, N.R.C.P. 45(d)(1).

12 **A LIST OF THE ITEMS TO BE PRODUCED** is attached as **Exhibit A**.

13 **YOU ARE FURTHER ORDERED** to authenticate the business records produced,
14 pursuant to N.R.S. 52:260, and to provide with your production a completed Certificate of
15 Custodian of Records in substantially the same form as **Exhibit B** attached hereto to the subpoena.

16 **CONTEMPT:** Failure by any person without adequate excuse to obey a subpoena served
17 upon that person may be deemed in contempt of the court, N.R.C.P. 45(e), punishable by a fine
18 not exceeding \$500 and imprisonment not exceeding 25 days, N.R.S. 22:100. Additionally a
19 witness disobeying a subpoena shall forfeit to the aggrieved party \$100 and all damages
20 sustained as a result of the failure to attend, and a warrant may issue for the witness' arrest.
N.R.S. 50:195, 50:205, and 22:100(3).

21 Please see the attached **Exhibit C** for information regarding your rights and
22 responsibilities relating to this Subpoena.

23 A list of all parties to this action and their respective counsel is attached as **Exhibit D**.

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INSTRUCTIONS FOR THE SUBPOENA TO PRODUCE DOCUMENTS,
INFORMATION, OR OBJECTS

A. The following definitions apply to this discovery request:

1. Concerning. The term "concerning" means relating to, referring to, describing, evidencing, or constituting.
2. You, Your, and Yours. The terms "You," "Your," and "Yours" refer to the responsible party in receipt of service and responding to this Subpoena, and, additionally, its agents, employees, members, owners, partners, shareholders, directors, or anyone acting on its behalf.
3. Document. The terms "Document" or "Writing" is defined to be synonymous in meaning and equal in scope to the use of the terms "document" and "electronically stored information" in Nevada Rules of Civil Procedure 26 and 34. A draft or non-identical copy is a separate document within the meaning of this term. "Document" shall also include any data compilation from which information can be obtained or translated if necessary by YOU through detection devices into reasonably usable form. Where the Document or Writing makes use of, or refers to, codes or keys for particular categories of information, then the definition of a Writing or Document includes the full description of the key necessary for a person unfamiliar with the parlance to understand the meaning of the code or key. A draft or non-identical copy is a separate Document within the meaning of this term.
4. Any term, word, or phrase that has not been defined in this discovery request but appears in the live pleadings in this action (including without limitation the Complaint) shall be given the definition or meaning given to the term, word or phrase as used in the live pleadings. Any term, word, or phrase that has been defined in these definitions that also appears in the live pleadings shall be given

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the definition or meaning given to the term, word or phrase as used in the pleadings in addition to the definition(s) given in this discovery request.

B. The following rules of construction apply to this Subpoena to Produce Documents, Information, or Objects:

1. All/Each. The terms "all" and "each" shall be construed as all and each.
2. And/Or. The connectives "and" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.
3. Number. The use of the singular form of any word includes the plural and vice versa.

C. The following instructions apply to this discovery request:

Electronic or Magnetic Data. In those instances when requested information exists in electronic or magnetic form, the responding party should state so. In responding to a discovery request, the responding party should, in addition to stating that the information exists in electronic/magnetic form, sufficiently identify the form in which the information exists.

1. E-MAILS: With respect to any and all responsive e-mail messages, produce them in their native, electronic format, including without limitation ".pst" files for Microsoft Outlook e-mail messages and ".nst" files for Lotus Outlook e-mail messages.
2. SPREADSHEETS: With respect to any and all responsive spreadsheets, produce them in their native, electronic format, including without limitation ".xls" files for Microsoft Excel spreadsheets.

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3. OTHER. Where applicable, any responsive information that exists in electronic or magnetic form must be produced in the following formats: CD Rom in an Acrobat ("pdf") compatible application, in a Microsoft Word or WordPerfect compatible application, or in ASCII.

DATED this ___ day of August, 2019:

ALDRICH LAW FIRM, LTD.

John P. Aldrich, Esq.
Nevada Bar No. 6877
Catherine Hernandez, Esq.
Nevada Bar No. 8410
Matthew B. Beckstead, Esq.
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Attorneys for Plaintiff

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EXHIBIT A

1. Please provide any and all bank statements and other documents for NES Financial's escrow account for Las Vegas Development Fund LLC, account # 1502391026, for the time period beginning in March 2012 to the present date.

2. Please provide, if any exist, any document(s) showing the check images for deposits made into NES Financial's escrow account for Las Vegas Development Fund LLC, account #1502391026, for the time period beginning in March 2012 to the present date.

3. Please provide any and all documents for any and all financial accounts pertaining to Las Vegas Development Fund LLC and/or for which Las Vegas Development Fund LLC is the beneficiary, signatory, and/or account holder, for the time period beginning March 2012 to the present date.

4. Please provide any and all documents for any and all financial accounts pertaining to EB5 Impact Advisors LLC and/or for which EB5 Impact Advisors LLC is the beneficiary, signatory, and/or account holder, for the time period beginning March 2012 to the present date.

5. Please provide any and all documents for any and all financial accounts pertaining to EB5 Impact Capital Regional Center LLC, and/or for which EB5 Impact Capital Regional Center LLC is the beneficiary, signatory, and/or account holder, for the time period beginning March 2012 to the present date.

6. Please provide any and all documents for any and all financial accounts pertaining to Robert W. Dziubla (Date of Birth: July 18, 1952) and/or for which Robert W. Dziubla is the beneficiary, signatory, and/or account holder, for the time period beginning March 2012 to the present date.

7. Please provide any and all documents for any and all financial accounts pertaining to Jon D. Fleming and/or for which Jon D. Fleming is the beneficiary, signatory, and/or account holder, for the time period beginning March 2012 to the present date.

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8. Please provide any and all documents for any and all financial accounts pertaining to Linda Stanwood and/or for which Linda Stanwood is the beneficiary, signatory, and/or account holder, for the time period beginning March 2012 to the present date.

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EXHIBIT B

CERTIFICATE OF CUSTODIAN OF RECORDS

STATE OF NEVADA)
COUNTY OF CLARK) ss.

NOW COMES _____ (name of custodian of records), who after first being duly sworn deposes and says:

1. That the deponent is the _____ (position or title) of _____ (name of employer) and in his or her capacity as _____ (position or title) is a custodian of the records of _____ (name of employer).

2. That _____ (name of employer) is licensed to do business as a _____ in the State of _____.

3. That on the day of the month of _____ day of _____, 2019, the deponent was served with a subpoena in connection with the above-entitled cause, calling for the production of _____ records pertaining to _____.

4. That the deponent has examined the original of those records and has made or caused to be made a true and exact copy of them and that the reproduction of them attached hereto is true and complete.

5. That the original of those records was made at or near the time of the act, event, condition, opinion or diagnosis recited therein by or from information transmitted by a person with knowledge, in the course of a regularly conducted activity of the deponent or _____ (name of employer).

Executed on: _____ (Date) _____ (Signature of Custodian of Records)

SUBSCRIBED AND SWORN to before me this _____ day of _____, 2019.

NOTARY PUBLIC in and for the County of _____, State of _____

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EXHIBIT C

NEVADA RULES OF CIVIL PROCEDURE

Rule 45 (c) Protection of Persons Subject to Subpoena.

(1) **Avoiding Undue Burden or Expense; Sanctions.** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court that issued the subpoena must enforce this duty and may impose an appropriate sanction — which may include lost earnings and reasonable attorney fees — on a party or attorney who fails to comply.

(2) **Command to Produce Materials or Permit Inspection.**

(A) **Appearance Not Required.**

(i) A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(ii) If documents, electronically stored information, or tangible things are produced to the party that issued the subpoena without an appearance at the place of production, that party must, unless otherwise stipulated by the parties or ordered by the court, promptly copy or electronically reproduce the documents or information, photograph any tangible items not subject to copying, and serve these items on every other party. The party that issued the subpoena may also serve a statement of the reasonable cost of copying, reproducing, or photographing, which a party receiving the copies, reproductions, or photographs must promptly pay. If a party disputes the cost, then the court, on motion, must determine the reasonable cost of copying the documents or information, or photographing the tangible items.

(B) **Objections.** A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, or a person claiming a proprietary interest in the subpoenaed documents, information, tangible things, or premises to be inspected, may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The person making the objection must serve it before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made:

(i) the party serving the subpoena is not entitled to inspect, copy, test, or sample the materials or tangible things or to inspect the premises except by order of the court that issued the subpoena;

1 (ii) on notice to the parties, the objecting person, and the person commanded to
2 produce or permit inspection, the party serving the subpoena may move the court that issued the
subpoena for an order compelling production or inspection; and

3 (iii) if the court enters an order compelling production or inspection, the order
4 must protect the person commanded to produce or permit inspection from significant expense
resulting from compliance.

5 **(3) Quashing or Modifying a Subpoena.**

6 **(A) When Required.** On timely motion, the court that issued a subpoena must quash
7 or modify the subpoena if it:

8 (i) fails to allow reasonable time for compliance;

9 (ii) requires a person to travel to a place more than 100 miles from the place
10 where that person resides, is employed, or regularly transacts business in person, unless the
person is commanded to attend trial within Nevada;

11 (iii) requires disclosure of privileged or other protected matter and no exception
or waiver applies; or

12 (iv) subjects a person to an undue burden.

13 **(B) When Permitted.** On timely motion, the court that issued a subpoena may quash
14 or modify the subpoena if it requires disclosing:

15 (i) a trade secret or other confidential research, development, or commercial
information; or

16 (ii) an unretained expert's opinion or information that does not describe specific
17 occurrences in dispute and results from the expert's study that was not requested by a party.

18 **(C) Specifying Conditions as an Alternative.** In the circumstances described in Rule
19 45(e)(3)(B), the court may, instead of quashing or modifying a subpoena, order an appearance or
production under specified conditions if the party serving the subpoena:

20 (i) shows a substantial need for the testimony or material that cannot be otherwise
met without undue hardship; and

21 (ii) ensures that the subpoenaed person will be reasonably compensated.

22 **Rule 45(d) Duties in Responding to a Subpoena.**

23 (1) **Producing Documents or Electronically Stored Information.** These procedures
24 apply to producing documents or electronically stored information:

1 (A) **Documents.** A person responding to a subpoena to produce documents must
2 produce them as they are kept in the ordinary course of business or must organize and label them
to correspond to the categories in the demand.

3 (B) **Form for Producing Electronically Stored Information Not Specified.** If a
4 subpoena does not specify a form for producing electronically stored information, the person
5 responding must produce it in a form or forms in which it is ordinarily maintained or in a
reasonably usable form or forms.

6 (C) **Electronically Stored Information Produced in Only One Form.** The person
7 responding need not produce the same electronically stored information in more than one form.

8 (D) **Inaccessible Electronically Stored Information.** The person responding need not
9 provide discovery of electronically stored information from sources that the person identifies as
10 not reasonably accessible because of undue burden or cost. On motion to compel discovery or for
a protective order, the person responding must show that the information is not reasonably
accessible because of undue burden or cost. If that showing is made, the court may nonetheless
order discovery from such sources if the requesting party shows good cause, considering the
limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

11 (2) **Claiming Privilege or Protection.**

12 (A) **Information Withheld.** A person withholding subpoenaed information under a
13 claim that it is privileged or subject to protection as trial-preparation material must:

14 (i) expressly make the claim; and

15 (ii) describe the nature of the withheld documents, communications, or tangible things in
16 a manner that, without revealing information itself privileged or protected, will enable the parties
to assess the claim.

17 (B) **Information Produced.** If information produced in response to a subpoena is
18 subject to a claim of privilege or of protection as trial-preparation material, the person making
the claim may notify any party that received the information of the claim and the basis for it.
19 After being notified, a party must promptly return, sequester, or destroy the specified information
and any copies it has; must not use or disclose the information until the claim is resolved; must
20 take reasonable steps to retrieve the information if the party disclosed it before being notified;
and may promptly present the information under seal to the court for a determination of the
claim. The person who produced the information must preserve the information until the claim is
21 resolved.

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EXHIBIT D

Plaintiff FRONT SIGHT MANAGEMENT LLC is represented by:

John P. Aldrich, Esq.
Nevada Bar No. 6877
Catherine Hernandez, Esq.
Nevada Bar No. 8410
Matthew B. Beckstead, Esq.
Nevada Bar No. 14168
ALDRICH LAW FIRM, LTD.
7866 West Sahara Avenue
Las Vegas, Nevada 89117

Defendants LAS VEGAS DEVELOPMENT FUND LLC, EBS IMPACT CAPITAL REGIONAL CENTER LLC, EBS IMPACT ADVISORS LLC, ROBERT W. DZIUBLA, JON FLEMING and LINDA STANWOOD are represented by:

Anthony T. Case, Esq.
Kathryn Holbert, Esq.
FARMER CASE & FEDOR
2190 E. Pebble Rd., Suite #205
Las Vegas, NV 89123

C. Keith Greer, Esq.
16855 West Bernardo Drive, Suite 255
San Diego, CA 92127

Steven D. Grierson

1 OJPC

2
3 DISTRICT COURT

4 CLARK COUNTY, NEVADA

5 FRONT SIGHT MANAGEMENT LLC, a
6 Nevada Limited Liability Company,

Case No. A-18-781084-B
Dep: No. XVI

7 Plaintiff,

8 vs.

9 LAS VEGAS DEVELOPMENT FUND
10 LLC, a Nevada Limited Liability Company;
11 EB5 IMPACT CAPITAL REGIONAL
12 CENTER LLC, a Nevada Limited Liability
13 Company; B5 IMPACT ADVISORS LLC,
14 a Nevada Limited Liability Company;
15 ROBERT W. DZIUBLA, individually and
16 as President and CEO of LAS VEGAS
17 DEVELOPMENT FUND LLC and EB5
18 IMPACT ADVISORS LLC; JON
19 FLEMING, individually and as an
20 agent of LAS VEGAS DEVELOPMENT
21 FUND LLC and EB5 IMPACT ADVISORS
22 LLC; LINDA STANWOOD, individually
23 and as Senior Vice President of LAS
24 VEGAS DEVELOPMENT FUND LLC and
25 EB5 IMPACT ADVISORS LLC;
26 CHICAGO TITLE COMPANY, a
27 California corporation; DOES 1-
28 10, inclusive; and ROE CORPORATIONS
1-10, inclusive,

Defendants.

AND ALL RELATED CLAIMS

HEARING DATE(S)
ENTERED IN
COURTBOOK

AG

ORDER RE RULE 16 CONFERENCE, SETTING CIVIL JURY TRIAL,
PRE-TRIAL/CALENDAR CALL, AND DEADLINES FOR MOTIONS;
DISCOVERY SCHEDULING ORDER

1 THIS BUSINESS COURT SCHEDULING ORDER SETTING TRIAL ("Scheduling
2 Order') is entered following the Rule 16 conference conducted on August 20, 2019, pursuant to
3 the Business Court Order previously entered herein and NRCP 16, and the Court having
4 discussed with counsel, as appropriate, the subjects referred to in NRCP 16(c);
5

6 NOW, THEREFORE, the Court hereby issues this Order pursuant to NRCP 16(e)
7 reciting the action taken at such conference and scheduling trial and incidental dates and
8 discovery and motion deadlines:

9 A. PRELIMINARY.

10 1. If and when there is agreement among counsel that the case is ripe for a
11 settlement conference with a Business Court judge, counsel are to contact the departmental JBA
12 of this Department for direction in scheduling the same. If there is no such agreement, any
13 effort to obtain such a settlement conference should be made by motion herein.
14

15 B. DISCOVERY AND MOTION DEADLINES.

16 1. All parties shall complete discovery on or before **June 5, 2020**. The Court will
17 hear any discovery motions. However, in the event it becomes necessary, the Court may
18 request nominations for a stand-by special master for referrals of discovery issues on a motion-
19 by-motion basis.
20

21 2. All parties shall file motions to amend pleadings or add parties on or before
22 **March 5, 2020**.

23 3. All parties shall make initial expert disclosures pursuant to NRCP 16.1(a)(2) on
24 or before **March 5, 2020**.

25 4. All parties shall make rebuttal expert disclosures pursuant to NRCP 16.1(a)(2) on
26 or before **April 6, 2020**.

- 1 5. All parties shall file dispositive motions on or before **July 6, 2020**.
- 2 6. Counsel/parties in proper person are also directed to abide by EDCR 2.47
- 3 concerning the time for filing and noticing motions *in limine*. Except upon a showing of
- 4 unforeseen extraordinary circumstances, the Court will not shorten time for the hearing of any
- 5 such motions.
- 6

7 **C. TRIAL AND INCIDENTAL DATES AND OBLIGATIONS.**

- 8 1. A jury trial of the above-entitled case is set on a five week stack to begin, 5th
- 9 day of October, 2020 at 9:30 a.m.
- 10 2. A pre-trial/calendar call will be held on September 17, 2020 at 10:30 a.m.
- 11 3. A status check re Trial Readiness is scheduled to be held on June 17, 2020 at
- 12 9:00 am.
- 13 4. The Pre-Trial Memorandum must be filed no later than October 2, 2020, with a
- 14 courtesy copy delivered to Department XVI. All parties, (Attorneys and parties in proper
- 15 person) **MUST** comply with **All REQUIREMENTS** of EDCR 2.67, 2.68 and 2.69. Counsel
- 16 should include in the Memorandum an identification of orders on all motions in limine or
- 17 motions for partial summary judgment previously made, a summary of any anticipated legal
- 18 issues remaining, a brief summary of the opinions to be offered by any witness to be called to
- 19 offer opinion testimony as well as any objections to the opinion testimony.
- 20 5. All original depositions anticipated to be used in any manner during the trial
- 21 must be delivered to the clerk prior to the firm trial date given at pre-trial/calendar call. If
- 22 deposition testimony is anticipated to be used in lieu of live testimony, a designation (by
- 23 page/line citation) of the portions of the testimony to be offered must be filed and served by
- 24 facsimile or hand, two (2) judicial days prior to the firm trial date given at the pre-trial/calendar
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1 call. Any objections or counter-designations (by page/line citation) of testimony must be filed
2 and served by facsimile or hand, one (1) judicial day prior to the firm trial date given at the pre-
3 trial/calendar call. Counsel shall advise the clerk prior to publication.
4

5 6. In accordance with EDCR 2.67, counsel shall meet, review, and discuss exhibits.
6 All exhibits must comply with EDCR 2.27. Two (2) sets must be three-hole punched and
7 placed in three ring binders along with the exhibit list. The sets must be delivered to the clerk
8 prior to the firm trial date given at the pre-trial/calendar call. Any demonstrative exhibits
9 including exemplars anticipated to be used must be disclosed prior to the calendar call.
10 Pursuant to EDCR 2.68, counsel shall be prepared to stipulate or make specific objections to
11 individual proposed exhibits. Unless otherwise agreed to by the parties, demonstrative exhibits
12 are marked for identification but not admitted into evidence.
13

14 7. In accordance with EDCR 2.67, counsel shall meet, review, and discuss items to
15 be included in the Jury Notebook. Pursuant to EDCR 2.68, counsel shall be prepared to stipulate
16 or make specific objections to items to be included in the Jury Notebook.
17

18 8. In accordance with EDCR 2.57, counsel shall meet and discuss preinstructions to
19 the jury, jury instructions, special interrogatories, if requested, and verdict forms. Each side
20 shall provide the Court an agreed set of jury instructions and proposed form of verdict along
21 with any additional proposed jury instructions with an electronic copy in Word format.

22 **Failure of the designated trial attorney or any party appearing in proper person to**
23 **appear for any court appearances or to comply with this Order shall result in any of the**
24 **following: (1) dismissal of the action (2) default judgment; (3) monetary sanctions; (4)**
25 **vacation of trial date; and/or any other appropriate remedy or sanction.**
26
27
28

1 *Counsel is asked to notify the Court Reporter at least two (2) weeks in advance if they*
2 *are going to require daily copies of the transcripts of this trial or real time court reporting.*
3 *Failure to do so may result in a delay in the production of the transcripts or the availability of*
4 *real time court reporting.*

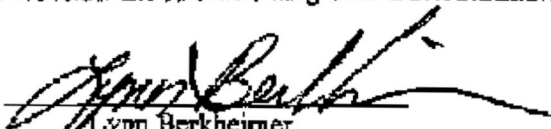
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6 Counsel is required to advise the Court immediately when the case settles or is otherwise
7 resolved prior to trial. A stipulation which terminates a case by dismissal shall also indicate
8 whether a Scheduling Order has been filed and, if a trial date has been set, the date of that trial.
9 A copy should be given to Chambers.

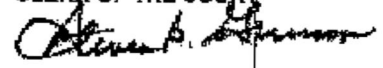
10 DATED this 20th day of August, 2013.

11
12 
13 TIMOTHY C. WILLIAMS
14 DISTRICT JUDGE

15 CERTIFICATE OF SERVICE

16 I hereby certify that on or about the date signed, I served a true and correct copy
17 upon the parties by electronic transmission through the Eighth Judicial District Court E-
18 Filing System in accordance with the mandatory electronic service requirements of
19 Administrative Order 14-2 and the Nevada Electronic Filing and Conversation Rules.

20 
21 Lynn Berkheimer
22 Judicial Executive Assistant



AFFIDAVIT OF SERVICE

**EIGHTH JUDICIAL DISTRICT COURT FOR THE STATE OF NEVADA
CLARK COUNTY, STATE OF NEVADA**

FRONT SIGHT MANAGEMENT LLC, a Nevada Limited Liability Company,	Plaintiff(s)
v.	
LAS VEGAS DEVELOPMENT FUND LLC, a Nevada Limited Liability Company; et al.,	Defendant(s)

Case No: A-18-781084-B
John P. Adrich, Esq., Bar No. 6877
ALDRICH LAW FIRM, LTD
7886 West Sahara Ave.
Las Vegas, NV 89117
(702) 853-5490
Attorneys for the Plaintiff(s)
Client File# 921-001

I, Robert Brooks, being sworn, states: That I am a licensed process server registered in California. I received a copy of the Amended Subpoena Duces Tecum; Subpoena For Production Of Business Records In Action Pending Outside California, from ALDRICH LAW FIRM, LTD

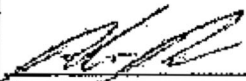
That on 8/14/2019 at 11:25 AM at 3200 Wilshire Blvd., Suite 1400, Los Angeles, CA 90010 I served Bank of Hope - Attn: Adam Kurasik, by personally delivering and leaving a copy of the above-listed document(s) with Alejandra Arenas - Legal Process Officer, a person of suitable age and discretion authorized to accept service of process.

That the description of the person actually served is as follows:

Gender: Female, Race: Latino, Age: 41 - 45 yrs., Height: 5'1 - 5'6, Weight: 161-180 lbs., Hair: Blonde, Eyes: Brown

I being duly sworn, states: that all times herein, Affiant was and is over 18 years of age, not a party to or interested in the proceedings in which this Affidavit is made. I declare under penalty of perjury that the foregoing is true and correct.

Date: 8/20/19


Robert Brooks
Registered Work Card# 2018032404
State of California

(No Notary Per NRS 53.045)

Service Provided for:
Nationwide Legal Nevada, LLC
626 S. 7th Street
Las Vegas, NV 89101
(702) 385-5444
Nevada Lic # 1656



Control #: NV195211
Reference: 921-001