

TRADEMARK ASSIGNMENT COVER SHEET

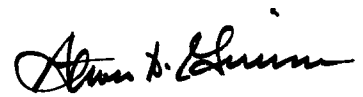
Electronic Version v1.1
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ETAS ID: TM355158

SUBMISSION TYPE:	NEW ASSIGNMENT		
NATURE OF CONVEYANCE:	COURT ORDER		
CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
BAHAMA MAMAS HOLDING, LLC		08/26/2015	LIMITED LIABILITY COMPANY: NEVADA
RECEIVING PARTY DATA			
Name:	Tietans Company		
Street Address:	2500 Anthem Village Dr.		
City:	Henderson		
State/Country:	NEVADA		
Postal Code:	89052		
Entity Type:	CORPORATION: SOUTH AFRICA		
PROPERTY NUMBERS Total: 4			
Property Type	Number	Word Mark	
Registration Number:	3681432	BAHAMA MAMAS	
Registration Number:	3677812	BAHAMA MAMAS	
Registration Number:	4074449	BAHAMA MAMAS	
Registration Number:	4067431	BAHAMA MAMAS	
CORRESPONDENCE DATA			
Fax Number:	7023141909		
<i>Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent using a fax number, if provided; if that is unsuccessful, it will be sent via US Mail.</i>			
Phone:	702-314-1905		
Email:	bpeterson@weildrage.com		
Correspondent Name:	Charles Peterson		
Address Line 1:	2500 Anthem Village Dr.		
Address Line 4:	Henderson, NEVADA 89052		
ATTORNEY DOCKET NUMBER:	2582.001		
NAME OF SUBMITTER:	Charles Peterson		
SIGNATURE:	/Charles Peterson/		
DATE SIGNED:	09/15/2015		
Total Attachments: 11			
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OP \$115.00 3681432

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CLERK OF THE COURT

1 **NEOJ**
NEIL B. DURRANT, ESQ.
2 Nevada Bar No. 7324
C. ROBERT PETERSON, ESQ.
3 Nevada Bar No. 11680
WEIL & DRAGE, APC
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Henderson, NV 89052
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Facsimile: (702) 314-1909
6 ndurrant@weildrage.com
bpeterson@weildrage.com

7 Attorneys for Defendants
8 T. AYABATWA; TIETANS COMPANY; MAX HOLMES

9
10 **DISTRICT COURT**
11 **CLARK COUNTY, NEVADA**
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15 BAHAMA MAMAS, LCC, and JOSEPH
16 L. GOLD,

17 Plaintiffs,

18 vs.

19 T. AYABATWA; TIETANS COMPANY;
20 MAX HOLMES; and Does 1-10, inclusive,
Defendants.

21 T. AYABATWA and TIETANS
22 COMPANY,

23 Counterclaimants,

24 vs.

25 BAHAMA MAMAS, LCC, and
26 JOSEPH L. GOLD,

27 Counter-Defendants
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Case No.: A-13-676716-C

Dept. No.: II

NOTICE OF ENTRY OF ORDER

1 T. AYABATWA and TIETANS
2 COMPANY,
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4 Third-Party Plaintiffs,
5 vs.
6 BAHAMA MAMAS HOLDING, LLC;
7
8 Third-Party Defendant.
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10 PLEASE TAKE NOTICE that the ORDER AND JUDGMENT GRANTING MOTION
11 TO STRIKE PLEADINGS FOR FAILURE TO PROSECUTE AND MOTION TO DEEM
12 REQUESTS FOR ADMISSIONS ADMITTED AND FOR JUDGMENT ON THE PLEADINGS
13 was entered on the 26th day of August, 2015. A copy of said Order is attached hereto.
14

15 DATED: September 11, 2015.
16

17 **WEIL & DRAGE, APC**

18

/s/ C. Robert Peterson

19

C. ROBERT PETERSON, ESQ.

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21 2500 Anthem Village Drive
22 Henderson, NV 89052
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27 *Attorneys for T. Ayabatwa, Tietans*
28 *Company and Max Holmes*

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CERTIFICATE OF SERVICE

Pursuant to Nevada Rules of Civil Procedure 5(b), I hereby certify that on the 20th day of March, 2015, service of the foregoing NOTICE OF ENTRY OF ORDER was made this date by mailing a true and correct copy of the same, via first-class mail, at Henderson, Nevada, addressed as follows:

Joseph Gold
Bahama Mamas, LLC
4325 Dean Martin Drive
Las Vegas, Nevada 89103

Joseph Gold
Bahama Mamas, LLC
7437 South Eastern Ave. #128
Las Vegas, Nevada 89123

Joseph Gold
Bahama Mamas Holdings, LLC
4325 Dean Martin Drive
Las Vegas, Nevada 89103

Joseph Gold
Bahama Mamas Holdings, LLC
7437 South Eastern Ave. #128
Las Vegas, Nevada 89123

Joseph Gold
7437 South Eastern Ave. #128
Las Vegas, Nevada 89123

/s/ Lisa Robison

Lisa Robison, an Employee of
WEIL & DRAGE, APC


CLERK OF THE COURT

1 **ORDR**
NEIL B. DURRANT, ESQ.
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C. ROBERT PETERSON, ESQ.
3 Nevada Bar No. 11680
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6 ndurrant@weildrage.com
bpeterson@weildrage.com

7 Attorneys for Defendants
8 T. AYABATWA; TIETANS COMPANY; MAX HOLMES

9 **DISTRICT COURT**
10 **CLARK COUNTY, NEVADA**

12 BAHAMA MAMAS, LCC, and JOSEPH
L. GOLD,
13
14 Plaintiffs,

Case No.: A-13-676716-C
Dept. No.: XV

15 vs.

16 T. AYABATWA; TIETANS COMPANY;
MAX HOLMES; and Does 1-10, inclusive,
17 Defendants.

**ORDER AND JUDGMENT GRANTING
MOTION TO STRIKE PLEADINGS FOR
FAILURE TO PROSECUTE AND MOTION
TO DEEM REQUESTS FOR ADMISSIONS
ADMITTED AND FOR JUDGMENT ON
THE PLEADINGS**

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19
20 T. AYABATWA and TIETANS
COMPANY,
21
22 Counterclaimants,

23 vs.

24 BAHAMA MAMAS, LCC, and
JOSEPH L. GOLD,
25
26 Counter-Defendants

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28

1 T. AYABATWA and TIETANS
2 COMPANY,
3
4 Third-Party Plaintiffs,
5 vs.
6 BAHAMA MAMAS HOLDING, LLC;
7
8 Third-Party Defendant.

9
10 **ORDER AND JUDGMENT GRANTING MOTION TO STRIKE PLEADINGS FOR**
11 **FAILURE TO PROSECUTE AND MOTION TO DEEM REQUESTS FOR ADMISSIONS**
12 **ADMITTED AND FOR JUDGMENT ON THE PLEADINGS**
13

14 The Court having reviewed Defendants/Counterclaimants T. AYABATWA (“Ayabatwa”);
15 TIETANS COMPANY (“Tietans Co.”) MAX HOLMES (“Holmes” and collectively with
16 Ayabatwa and Tietans Co., “Tietans”) Motion To Strike Pleadings For Failure To Prosecute And
17 Motion To Deem Requests For Admissions Admitted And For Judgment On The Pleadings
18 (“Motion”), all pleadings and papers on file herein as well as oral argument held on August 26,
19 2015 there being no opposition to the Motion and Plaintiffs, Counterdefendants and Third Party
20 Defendants having not appeared, and with good cause and merit appearing, hereby finds,
21 concludes and orders as follows:

22 **FINDINGS OF FACT**

23 The Court finds as follows:

- 24 1. On March 19, 2015, this Court entered an order adopting the Discovery
25 Commissioner’s Report and Recommendation (“Report and Recommendation”)
- 26 2. The Report and Recommendation required Plaintiffs BAHAMA MAMAS, LLC, and
27 JOSEPH L. GOLD and Third Party Defendant BAHAMA MAMAS HOLDING, LLC
28 (“Bahama Mamas”) to produce their initial list of witnesses and documents pursuant to
Nev. R. Civ. P. 16.1.
3. The Report and Recommendation required Bahama Mamas to join Tietans’ joint case
conference report or file an individual case conference report.
4. The Report and Recommendation required Bahama Mamas, LLC and Bahama Mamas

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Holding, LLC to retain counsel as those entities cannot appear pro se.

5. The Report and Recommendation stated that if Bahama Mamas failed to comply with the Report and Recommendation, "SANCTIONS WILL ISSUE, including, but not limited to striking Bahama Mamas Parties' pleadings."
6. Despite the Report and Recommendations, Bahama Mamas failed to provide to Tietans their Nev. R. Civ. P. 16.1 disclosures or file an individual case conference report or join Tietans' joint case conference report.
7. Despite the Report and Recommendations Bahama Mamas, LLC and Bahama Mama Holding failed to retain counsel.
8. Bahama Mamas failed to appear at the August 10, 2015 pretrial conference.
9. On May 19, 2015, Tietans sent request for admissions to Bahama Mamas.
10. The requests for admissions contained the following requests:

REQUEST NO. 1:

Admit that you borrowed money from T. Ayabatwa ("Mr. Ayabatwa").

REQUEST NO. 2:

Admit that you were required to repay Mr. Ayabatwa on or before December 31, 2012.

REQUEST NO. 3:

Admit that you were supposed to use the money loaned to you for the business of Bahama Mamas, LLC.

REQUEST NO. 4:

Admit that you did not use the money loaned to you for the business of Bahama Mamas, LLC.

REQUEST NO. 5:

Admit that you were supposed to provide weekly reports to Mr. Ayabatwa.

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REQUEST NO. 6:

Admit that you did not provide weekly reports to Mr. Ayabatwa.

REQUEST NO. 7:

Admit that you changed the maturity date in the Note to December 31, 2015 without informing Mr. Ayabatwa and without his approval.

REQUEST NO. 8:

Admit that you granted a security interest in your "Bahama Mamas" trademarks to Mr. Ayabatwa.

REQUEST NO. 9:

Admit that Mr. Ayabatwa is entitled to full unencumbered ownership of the Bahama Mama trademarks by virtue of your failure to repay the loan.

- 11. Bahama Mamas failed to respond to the requests for admission.
- 12. On August 19, 2015 Tietans filed the Motion and sent a copy of the Motion with Notice of the hearing and opposition deadline of August 24, 2015 to the last known address for Bahama Mamas.
- 13. Bahama Mamas failed to file an opposition to the Motion or appear at the August 26, 2015 pre-trial calendar call or hearing on the Motion.

CONCLUSIONS OF LAW

The Court hereby finds and concludes as follows:

- 1. The Motion is deemed meritorious and Bahama Mamas is deemed to have consented to the granting of the Motion by failing to oppose the Motion. EDCR 2.20(e).
- 2. Courts have the inherent power to dismiss a case for failure to prosecute. Moore v. Cherry, 90 Nev. 390, 393, 528 P.2d 1018, 1020-21 (1974) ("Inherent in courts is the power to dismiss a case for failure to prosecute or to comply with its orders. To prevent undue delays and to control their calendars, courts may exercise this power within the

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bounds of sound judicial discretion, independent of any authority granted under statutes or court rules. . . .”)

3. Failure to appear at a hearing, including a pretrial hearing is grounds to dismiss for failure to prosecute. Link v. Wabash Railroad Company, 370 U.S. 626, 633 82 S.Ct. 1386, 1390 8 L.Ed.2d 734 (1962).
4. The Nevada Supreme Court has held that “Inherent in courts is the power to dismiss a case for failure to prosecute or to comply with its orders. To prevent undue delays and to control their calendars, courts may exercise this power within the bounds of sound judicial discretion, independent of any authority granted under statutes or court rules.” Moore v. Cherry, 90 Nev. 390, 393, 528 P.2d 1018, 1020 (1974).
5. The Nevada Supreme Court has held that “NRCP 37(b)(2)(C) grants the district court authority to strike the pleadings in the event that a party fails to obey a discovery order. This court generally reviews a district court's imposition of a discovery sanction for abuse of discretion. Young, 106 Nev. at 92, 787 P.2d at 779. However, a somewhat heightened standard of review applies where the sanction strikes the pleadings, resulting in dismissal with prejudice. Id. Under this somewhat heightened standard, the district court abuses its discretion if the sanctions are not just and do not relate to the claims at issue in the discovery order that was violated. Id. at 92, 787 P.2d at 779–80. Foster v. Dingwall, 126 Nev. Adv. Op. 6, 227 P.3d 1042, 1048 (2010).
6. Bahama Mamas have repeatedly shown a failure to prosecute and failure to comply with Court orders. Namely,
 - a. Bahama Mamas failed to appear at a discovery hearing before the Discovery Commissioner to address, among other things, the failure of Bahama Mamas to join the joint case conference.
 - b. Despite the specific warning that failure to comply with the Report and Recommendations would result in sanctions, including striking of the pleadings, Bahama Mamas failed to comply with the Report and

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Recommendations by failing to file an individual case conference report, failing to disclose their list of witnesses and documents pursuant to Nev. R. Civ. P. 16.1 and failing to retain counsel to represent Bahama Mamas, LLC and Bahama Mamas Holding, LLC.

- c. Bahama Mamas failed to appear at the pretrial conference on August 10, 2015.
- d. Bahama Mamas failed to oppose the instant Motion or appear for the hearing thereon on August 26, 2015.
- e. Bahama Mamas failed to appear at the pretrial calendar call on August 26, 2015.

- 7. The Court's order on the Report and Recommendation represents an enforceable order of this Court with which Bahama Mamas has failed to comply.
- 8. Based on Bahama Mamas failure to prosecute this case, comply with this Court's orders and appear at the pretrial hearing, this Court exercises its inherent authority to strike Bahama Mamas' pleadings, dismiss each and every of their respective claims and enter judgment against them consistent with Tietans' pleadings.
- 9. In addition and alternatively, this Court strikes Bahama Mamas' pleadings, dismisses each and every of their respective claims and enters judgment against them consistent with Tietans' pleadings based upon Nev. R. Civ. P. 37(b)(2)(C) and Bahama Mamas' failure to comply with the Report and Recommendation.
- 10. Independent from the striking of Bahama Mamas, pleadings, this Court also concludes that the requests for admission sent by Tietans to Bahama Mamas shall be deemed admitted pursuant to Nev. R. Civ. P. 36. Smith v. Emery, 109 Nev. at 742, 856 P.2d at 1390 ("[F]ailure to respond to a request for admissions will result in those matters being deemed conclusively established, and this is so even if the established matters are ultimately untrue").
- 11. Summary judgment is appropriate when "[T]he pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to

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JUDGMENT

IT IS HEREBY ADJUDGED AND DECREED that Final Judgment is hereby entered in favor of T. AYABATWA and TIETANS COMPANY and against Defendant BAHAMA MAMAS, LLC, JOSEPH GOLD and BAHAMA MAMAS HOLDING, LLC, jointly and severally, awarding a total judgment in the amount of \$100,000, plus pre- and post-judgment interest, accruing at the statutory rate from December 31, 2012 until paid in full.

DATED this 21st day of August, 2015.


DISTRICT COURT JUDGE

Respectfully Submitted By:

WEIL & DRAGE, APC



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Nevada Bar No. 7324
C. ROBERT PETERSON, ESQ.
Nevada Bar No. 11680
2500 Anthem Village Drive
Henderson, NV 89052
Attorneys for Plaintiff