

CONCLUSION

Petitioner Alan Singer, therefore, requests that this Court declare the imposition of attorney's fees by the Arizona Supreme Court is void; and that the dismissal of Respondent Mondex Corporation be reversed.

Respectfully submitted,



Alan Singer, Petitioner/In Pro Se
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Dated: May 1, 2020

FILED BHC
TIME 4:20 PM M
JUN 08 2018
VIRLYNN TINNELL
CLERK SUPERIOR COURT
DEPUTY

App. 1

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MOHAVE

HONORABLE CHARLES W. GURTNER, JR., JUDGE
DIVISION I – BULLHEAD CITY
DATE: JUNE 8, 2018

*ks

COURT ORDER

ALAN SINGER,

Plaintiff,

v.

MONDEX CORPORATION, a Canadian
corporation; et al.,

NO. CV-2018-4018

Defendant.

The Court has reviewed the Response to the Motion for Reconsideration. The parties present a very interesting issue here. On the one hand, in the matter of In re Consolidated Zicam Products Liability Cases v. Zensano, Inc., 212 Ariz. 85, 127 P.3d 903 (App.Div.1 2006) the issue presented was whether there was in personam jurisdiction over the defendants. The Court of Appeals unequivocally referenced at two specific points that the Superior Court did not err in granting the defendant's Motion to Dismiss for lack of in personam jurisdiction and dismissing the complaint with prejudice. Zicam, 212 Ariz. at 88 and 92.

Rule 41(b), A.R.C.P. specifies:

Unless a dismissal order states otherwise, a dismissal under this Rule 41(b) and any dismissal not under this rule – except one for lack of jurisdiction, improper venue, or failure to join a party under Rule 19 – operates as an adjudication on the merits.

Rule 41(b), A.R.C.P.



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The above language is actually susceptible to two different interpretations. One interpretation would be entirely inconsistent with the ruling in Zicam. The Court, therefore, addresses both interpretations.

In the first interpretation there are three (3) exceptions to the rule that an involuntary dismissal is an adjudication on the merits. One of those exceptions is a dismissal for lack of jurisdiction. Therefore, a dismissal for lack of *in personam* jurisdiction should be without prejudice.

This interpretation clearly is inconsistent with the Court of Appeals ruling in Zicam. The Court notes that it does not appear that the issue as to whether the dismissal in Zicam should have been with prejudice, or without prejudice. Therefore, it would appear that that issue was not addressed in the Zicam matter by the Court of Appeals. However, the interpretation is still inconsistent with the ruling.

However, the second interpretation of Rule 41(b), A.R.C.P. does comport with the holding in Zicam. That is, if the order specifies it is dismissed with prejudice, then one does not proceed to the three exceptions enumerated in the rule. The plain language of the rule states that "... unless the dismissal order states otherwise. . ." operates as an adjudication on the merits, or is with prejudice. In other words, if the Court specifies the dismissal is with prejudice, then one does not need to even look to the rule or the exceptions. The rule only has application when the Court Order does not specify if it is with prejudice, or without prejudice. This would appear to be the proper interpretation given the plain language of the rule.

The Court further notes that the form of Order dismissing this matter with prejudice was submitted by the Defendant at the time of the filing of the Motion. Therefore, the Defendant had the form of Order and could have filed an Objection to the form of Order either in the Response to the Motion, or by separate document entitled Objection to form of Order. The Plaintiff had in excess of five (5) days to object to the form of Order as is required by Rule 58(a)(2), A.R.C.P.

However, it appears to the Court this issue truly is one of fundamental fairness. The Plaintiff essentially makes that argument without developing the argument. At paragraph 3 of the Motion, the Plaintiff argues that if the court dismisses a matter with prejudice, then there is a ruling on the merits of the case and the Court has essentially asserted jurisdiction. If it dismisses without prejudice, then in that event, the Plaintiff can seek adjudication of the claim in another forum. As such, the Court has researched the issue. The Court came across the matter of Chavez v. State of Indiana for Logansport State Hospital, 122 Ariz. 560, 596 P.2d 698 (1979). In that matter, the Plaintiff sued a doctor who allegedly released a mental patient committed to

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the Mental Health Division of the State of Indiana for a crime involving violence and sexual deviancy. The mental patient was released from the State of Indiana, proceeded to Arizona and subsequently murdered the plaintiff's daughter, Chavez, 122 Ariz. at 561. The matter was dismissed for lack of in personam jurisdiction. The Arizona Supreme Court specified:

Since the dismissal was based on lack of jurisdiction, and not on the merits, the trial court should have dismissed the claim without prejudice.

Chavez, 122 Ariz. at 562.

As the Supreme Court has provided guidance that when there is a dismissal for lack of in personam jurisdiction (which was the issue in the Chavez case), the dismissal should be without prejudice.

However, that does not end the analysis. The Court has to take judicial notice that the Plaintiff has essentially refiled the same suit against the Defendant, and an agent of the Defendant in Mohave County Cause No. CV-2018-4044 arguing that there is now in personam jurisdiction as the agent of Defendant MONDEX was located in the State of Arizona because the agent of the corporation was speaking at a Holocaust convention in Scottsdale. It is very apparent to this Court that the Plaintiff somehow envisions dismissal for lack of personal jurisdiction without prejudice means that the Plaintiff can continue to re-file the case in the State of Arizona hoping that at some time it may be able to get an agent of the Defendant to be personally within the confines of the State of Arizona, and somehow there is jurisdiction over Defendant MONDEX in the State of Arizona. This is entirely in opposition to the whole purpose and ruling that there is no in personam jurisdiction of Defendant MONDEX, a Canadian company.

In Zicam, the Court of Appeals specifically outlined the due process requirement in order to exercise personal jurisdiction of an out of state defendant. The case specified:

Due process is satisfied if (1) the defendants perform some act or consummated some transaction with Arizona by which they purposefully availed themselves of the privilege of conducting activities in this state; (2) the claim arises out of or results from the defendants' activities related to Arizona; and (3) the exercise of jurisdiction would be reasonable. [Cite omitted.]

Zicam, 212 Ariz. at 90.

This Court has made it perfectly clear that Defendant has not consummated said transaction within Arizona merely because the Canadian corporation it entered into a contract with had its principal temporarily located in the State of Arizona. The agreement contemplated a Canadian company working with a provincial government in Canada to reobtain assets located in Canada for the other Canadian company. Therefore, the Court cannot make any finding whatsoever that there was some act or transaction that the Defendant has somehow interconnected with Arizona such that MONDEX purposefully availed themselves of the privilege of conducting some activity in the state. In addition, the claim does not arise out of any acts, or results or activities of the Defendant in Arizona. All the action of the Defendant was to occur in Canada. Finally, under the third subsection exercise of jurisdiction simply is unreasonable.

Therefore, the Plaintiff is unequivocally barred from filing a subsequent lawsuit against Defendant MONDEX in the State of Arizona. However, this should not prevent the Plaintiff from proceeding to the dominion or country of Canada to assert any claim there.

IT IS, THEREFORE, ORDERED granting the Motion for Reconsideration in part, but denying it in part.

IT IS FURTHER ORDERED granting the Motion to the extent that the overall dismissal shall be without prejudice allowing the Plaintiff to seek redress of any claims it has against Defendant MONDEX in a court of appropriate jurisdiction.

IT IS FURTHER ORDERED denying the Motion to the extent that the dismissal without prejudice can be utilized by the Plaintiff to re-file the present lawsuit, or any of the claims or related claims in the present lawsuit against Defendant MONDEX in the State of Arizona.

Counsel for the Defendant is directed to submit a revised form of Judgment and Order dismissing this matter for lack of in personam jurisdiction for the Court to sign and enter.

cc:

ALAN SINGER
4825 HWY 95, #2-120
FT. MOHAVE AZ 86426
Plaintiff

NOTICE: NOT FOR OFFICIAL PUBLICATION.
UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL
AND MAY BE CITED ONLY AS AUTHORIZED BY RULE.

IN THE
ARIZONA COURT OF APPEALS
DIVISION ONE

ALAN SINGER, Plaintiff/Appellant,

v.

MONDEX CORPORATION, Defendant/Appellee.

No. 1 CA-CV 18-0346
FILED 5-2-2019

Appeal from the Superior Court in Mohave County
No. B8015CV201804018
The Honorable Charles W. Gurtler, Judge

AFFIRMED

COUNSEL

Alan Singer, Fort Mohave
Plaintiff/Appellant

The Mullan Law Firm, PC, Bullhead City
By Anthony Joseph Mullan, Jr.
Counsel for Defendant/Appellee

MEMORANDUM DECISION

Presiding Judge David D. Weinzweig delivered the decision of the Court, in which Judge Kent E. Cattani and Judge James P. Beene joined.

WEINZWEIG, Judge:

¶1 Plaintiff Alan Singer (“Singer”) appeals the superior court’s order granting Defendant Mondex Corporation’s (“Mondex”) motion to dismiss for lack of personal jurisdiction. We affirm.

FACTS AND PROCEDURAL BACKGROUND

¶2 This lawsuit concerns a May 2017 contract between two Canadian corporations to recover assets located in Canada. The contracting parties were Mondex (incorporated in Ontario, Canada), Mercury Terrain & Maison, Inc. (located in Quebec, Canada), and Judith Rottmann (identified as a Quebec resident). Rottmann was Mercury’s President; she entered the contract in her individual and corporate roles. The contract directed that Mondex agreed to “help recover [certain assets] situated in the Province of Quebec, and possibly elsewhere, which were expropriated and otherwise misappropriated.” It was a contingency agreement; Mondex was promised a 40 percent commission on the assets it recovered.

¶3 Singer is an Arizona resident and Mercury’s consultant. He was the first to inform Mercury that its assets “had been looted by the Quebec government and various business entities.” Singer was not a party to the May 2017 contract, but he did sign the contract as a witness to the transaction, and the contract authorized him to act for Mercury and Rottmann “in the case of her incapacity.” Mondex and Singer had a poor relationship moving forward, and Mondex eventually asked Mercury to “remove [Singer] from the equation.”

¶4 Singer alleges Mondex “overlooked millions of dollars” which Mercury could have recovered, and that Mercury cancelled the contract “for non-performance” in November 2017. Although Mondex apparently found no assets, Singer alleges Mondex still demanded that Mercury pay a 40 percent commission and thousands of dollars in attorneys’ fees. Singer filed this lawsuit against Mondex in March 2018. He

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alleged "Mercury and its owner, Judith Rottmann, assigned their right to economic damages against Mondex to [him]," but included no proof of the assignment. He asserted various tort and contract theories against Mondex, including fraudulent inducement, "breach of promise," breach of fiduciary duty, racketeering, interference with contract and prospective economic advantage, negligence, libel and unfair business practices.

¶5 Mondex moved to dismiss under Arizona Rule of Civil Procedure 12(b)(2) for lack of personal jurisdiction. A supporting affidavit was attached from James Palmer, founder of Mondex, who averred that Mondex was a Canadian corporation with no current or historical Arizona presence (no offices, business, advertising or employees). He further swore that Mondex signed the contract in Canada and had not been served in Arizona.

¶6 Singer opposed the motion. He asserted that Mondex implicitly consented to personal jurisdiction in Arizona in the contract because the contract provided that the "law of Ontario" would apply, and Ontario law does not include a minimum contacts analysis. Singer thus argued that the superior court had specific personal jurisdiction over Mondex. Singer attached his affidavit, his personal bank statement, newspaper articles and circulation statistics, and a list of emails from Mondex to Singer and Rottmann. Neither party requested an evidentiary hearing or oral argument.

¶7 The superior court granted the motion to dismiss with prejudice. Singer moved for reconsideration on various grounds, including that dismissal should have been without prejudice. The court granted Singer's motion only "to the extent that the overall dismissal shall be without prejudice" and Singer could file his claims "in a court of appropriate jurisdiction." Singer timely appealed. We have jurisdiction pursuant to A.R.S. §§ 12-120.21(A)(1) and -2101(A)(3).¹

DISCUSSION

¶8 Arizona law permits "long-arm" exercise of personal jurisdiction to the maximum permissible extent under the United States Constitution. Ariz. R. Civ. P. 4.2(a); *Planning Grp. of Scottsdale, L.L.C. v. Lake Mathews Mineral Props., Ltd.*, 226 Ariz. 262, 265, ¶ 12 (2011). Although

¹ We do not address Singer's argument about the dismissal being with prejudice because the court later amended its ruling to "dismiss[] the matter without prejudice."

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personal jurisdiction may be general or specific, *Planning Grp.*, 226 Ariz. at 265, ¶ 13, Singer only argues that Arizona courts have specific personal jurisdiction here. The Constitution permits the exercise of specific personal jurisdiction over a nonresident defendant that has sufficient “minimum contacts” with the forum so that “maintenance of the suit does not offend traditional notions of fair play and substantial justice.” *Walden v. Fiore*, 571 U.S. 277, 283 (2014) (quotation omitted).

¶9 Singer asserts – as he did below – that Mondex cannot contest Arizona jurisdiction because the 2017 contract provides that Canadian law applies, and Canadian law does not require a minimum contacts analysis in determining jurisdiction. We disagree that this contractual provision implicitly creates jurisdiction in Arizona. Moreover, Singer seems to conflate two different types of clauses: forum-selection and choice-of-law. *See Morgan Bank v. Wilson*, 164 Ariz. 535, 537 (App. 1990) (“[P]arties may include contractual provisions for resolving controversies in a particular jurisdiction.”). Nor would the fundamental jurisdictional inquiry turn on a choice-of-law clause. *See Hanson v. Denckla*, 357 U.S. 235, 254 (1958) (stating the “issue is personal jurisdiction, not choice of law”). He also argues that jurisdiction is appropriate if Mondex was served with process in Canada because service outside of Arizona “has the same effect as if personal service were accomplished within Arizona.” Singer misunderstands Arizona Rule of Civil Procedure 4.2, which does not negate the threshold requirement of jurisdiction. *See Pegler*, 6 Ariz. App. at 340-42.

¶10 Arizona may exercise specific personal jurisdiction over a nonresident defendant when the totality of defendant’s contacts with this state demonstrate (1) purposeful conduct by the defendant targeting the forum, rather than accidental or casual contacts or those brought about by the plaintiff’s unilateral acts, (2) a nexus between those contacts and the claim asserted and (3) that exercise of jurisdiction would be reasonable. *See Planning Grp.*, 226 Ariz. at 266-70, ¶¶ 16, 25, 29, 37; *Williams v. Lakeview Co.*, 199 Ariz. 1, 4, ¶ 11 (2000).

¶11 The “minimum contacts” analysis “focuses on the relationship among the defendant, the forum, and the litigation.” *Walden*, 571 U.S. at 284-85 (quotation omitted). The “relationship must arise out of contacts that the defendant *himself* creates with the forum State,” and “the defendant’s suit-related conduct must create a substantial connection with the forum State.” *Id.* at 284 (emphasis in original) (quotation omitted).

¶12 To survive a motion to dismiss for lack of personal jurisdiction, Singer was required to offer “facts establishing a *prima facie*

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showing of jurisdiction." *Ariz. Tile, L.L.C. v. Berger*, 223 Ariz. 491, 493, ¶ 8 (App. 2010); *see also Pegler v. Sullivan*, 6 Ariz. App. 338, 339 (1967) ("The facts, and not the allegations of the complaint, must be the touchstone."). Only then would the burden "shift[] to the defendant to rebut the showing." *Ariz. Tile, L.L.C.*, 223 Ariz. at 493, ¶ 8. We review *de novo* the superior court's ruling on personal jurisdiction. *Id.*

¶13 Singer did not provide the superior court with enough facts to support Arizona's exercise of specific jurisdiction over a Canadian corporation that contracted with another Canadian corporation and its owner to locate assets in Canada. He maintains on appeal that specific jurisdiction was proper because (1) Mondex directed telephone calls and emails toward Arizona during the negotiation and performance of the contract; (2) Mondex aimed false advertisements and tortious conduct at Arizona, injuring him; (3) Mondex entered into the contract in Arizona; (4) Singer and Mercury performed research services in Arizona under the contract; (5) Singer and Rottmann signed the contract in Arizona; (6) Mondex harmed and defamed an Arizona resident in Arizona; (7) and Mondex's founder visited Scottsdale to speak at the 2018 Genocide Awareness Week, which Singer characterized as a "marketing ploy."

¶14 We are not persuaded. First, Singer's only evidence of the telephone calls and emails are his affidavit and a list of emails sent by Mondex's founder to him and Mercury's owner in Arizona. But the actual communications are not included, only the information in the email header (sender, recipient, date, time and subject matter line). This index was inadequate for the superior court to examine the content of the communications and determine whether (1) they represented purposeful targeting, rather than responsive or casual contacts, or (2) established a nexus between the contacts and the asserted claims. The subject matter lines are not informative, using descriptions such as "RE:" and "telephone conference re: case." And the emails often indicate Mondex responding to external inquiries rather than vice versa, *Batton v. Tenn. Farmers Mut. Ins. Co.*, 153 Ariz. 268, 274 (1987) ("[T]he requisite minimum contacts are not established when the plaintiff's action requires the defendant to send communications into the forum.") (quotation omitted), or communications with people who happen to be in Arizona about a contract between Canadian corporations that never mentions Arizona, *see Smith & Wesson Corp. v. The Wuster*, 243 Ariz. 355, 359, ¶ 18 (App. 2017) (finding no specific jurisdiction where agreement did not show defendant "actively pursued a contractual relationship in Arizona or that it had any ongoing obligations in Arizona").

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¶15 Second, Singer provides no evidence that Mondex injured him in Arizona, advertised in Arizona, or targeted Arizona or its residents with false advertisements or tortious conduct. *See In re Marriage of Peck*, 242 Ariz. 345, 348, ¶ 7 (App. 2017) (“A petitioner cannot establish a *prima facie* showing with bare allegations and must come forward with facts, established by affidavit or otherwise, supporting jurisdiction.”). Likewise, he never explains how Mondex entered into the contract in Arizona and offers no evidence in support.

¶16 Third, specific jurisdiction is not warranted based on facts arising from Singer’s or Mercury’s conduct rather than from Mondex’s conduct, including that Singer might have performed research in Arizona and Rottmann might have signed the contract in Arizona. *Walden*, 571 U.S. at 284-85 (minimum contact test focuses on the defendant and contacts he created with the forum). More generally, the Arizona contacts of Singer and Mercury are not enough to justify the exercise of specific jurisdiction over Mondex. *Smith & Wesson Corp.*, 243 Ariz. at 359, ¶ 19 (plaintiff’s contacts with the forum “is not relevant to whether personal jurisdiction can be exercised over a non-resident defendant”).

¶17 And last, the record does not indicate the remarks of Mondex’s founder at a 2018 Scottsdale conference were connected to this lawsuit or the claims asserted herein. *See In re Consol. Zicam Prod. Liab. Cases*, 212 Ariz. 85, 90, ¶ 11 (App. 2006) (“[T]he plaintiffs’ cause of action must arise out of or relate to the defendants’ contacts with Arizona.”). At most, the record includes the sort of “random, fortuitous, or attenuated contacts” deemed insufficient to warrant specific personal jurisdiction. *Walden*, 571 U.S. at 286 (2014); *see also Bristol-Myers Squibb Co. v. Cal. Super. Ct.*, 137 S. Ct. 1773, 1781 (2017) (specific jurisdiction requires a connection between the controversy and forum, and “[w]hen there is no such connection, specific jurisdiction is lacking regardless of the extent of a defendant’s unconnected activities in the State”). We therefore conclude the superior court correctly granted Mondex’s motion to dismiss for lack of personal jurisdiction.

¶18 Finally, Mondex requests attorneys’ fees incurred on appeal under A.R.S. § 12-341.01(A) and A.R.S. § 12-349. We deny its request for fees under § 12-349 because Singer did not bring this action without substantial justification or to harass Mondex. We also deny, in our discretion, an award of attorneys’ fees under § 12-341.01(A). Mondex is awarded its taxable costs upon compliance with ARCAP 21.

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CONCLUSION

¶19

We affirm.



AMY M. WOOD • Clerk of the Court
FILED: AA



Supreme Court
STATE OF ARIZONA

ROBERT BRUTINEL
Chief Justice

ARIZONA STATE COURTS BUILDING
1501 WEST WASHINGTON STREET, SUITE 402
PHOENIX, ARIZONA 85007
TELEPHONE: (602) 452-3396

JANET JOHNSON
Clerk of the Court

December 6, 2019

RE: ALAN SINGER v MONDEX CORPORATION
Arizona Supreme Court No. CV-19-0159-PR
Court of Appeals, Division One No. 1 CA-CV 18-0346
Mohave County Superior Court No. B8015CV201804018

GREETINGS:

The following action was taken by the Supreme Court of the State of Arizona on December 5, 2019, in regard to the above-referenced cause:

ORDERED: Plaintiff/Appellant's Petition for Review = DENIED.

FURTHER ORDERED: Request for Attorneys' Fees (Appellee Mondex Corporation) = GRANTED.

A panel composed of Chief Justice Robert Brutinel, Vice Chief Justice Timmer, Justice Gould and Justice Montgomery participated in the determination of this matter.

Janet Johnson, Clerk

TO:

Alan Singer
Anthony Joseph Mullan Jr.
Amy M Wood
adc

SUPREME COURT OF ARIZONA

ALAN SINGER,)	Arizona Supreme Court
)	No. CV-19-0159-PR
Plaintiff/Appellant,)	Court of Appeals
v.)	Division One
)	No. 1 CA-CV 18-0346
MONDEX CORPORATION,)	Mohave County
Defendant/Appellee.)	Superior Court
)	No. B8015CV201804018
)	

FILED 02/11/2020

O R D E R

The Court has received and considered "Appellee's Statement of Taxable Costs and Attorney's Fees" and "Plaintiff/Appellant's Response and Opposition to Defendant/Appellee's Statement of Taxable Costs and Attorney's Fees." After consideration of these pleadings and pursuant to Rule 21, Rules of Civil Appellate Procedure and this Court's minute letter dated December 6, 2019,

IT IS ORDERED denying Defendant/Appellee's request for \$4971.93 in attorneys' fees and costs in the trial court for failure to comply with Arizona Rule of Civil Procedure 54(f) and 54(g);

IT IS FURTHER ORDERED denying Defendant/Appellee's request for \$5036.03 in attorneys' fees in the court of appeals because that court has exercised its discretion to deny such fees; costs in that court have already been awarded. See *Autenreith v. Norville*, 127 Ariz. 442, 444 (1980);

Arizona Supreme Court No. CV-19-0159-PR

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IT IS FURTHER ORDERED awarding to Defendant/Appellee for expenses incurred in this Court, attorneys' fees in the amount of \$2145.00 and costs in the amount of \$165.42, for a total award of \$2310.42.

DATED this 11th day of February, 2020.

/s/

ROBERT BRUTINEL
Chief Justice

TO:

Alan Singer
Anthony Joseph Mullan Jr
Amy M Wood
pm

Justice Beene did not participate in the determination of this matter.

AGREEMENT

AGREEMENT, made as of the date set forth below, between MONDEX CORPORATION, with offices at 95 St. Clair Avenue West, Suite 904, Toronto, Canada M4V 1N6 ("Mondex"); and JUDITH ROTTMANN on her own behalf, and on behalf of MERCURY TERRAIN & MAISON INC., 250-4625 Boul. Cote-Vertu, Saint-Laurent, Québec, Canada, H4S1C8, Numéro d'entreprise du Québec (NEQ) 1164467327 (the "Client")

WHEREAS, Mondex has information concerning assets of value ("Assets") which the Client is or may be entitled to receive;

AND WHEREAS the Client has requested Mondex, and Mondex has agreed, to help recover these Assets situated in the Province of Quebec, and possibly elsewhere, which were expropriated or otherwise misappropriated;

NOW THEREFORE, in consideration of the mutual premises and covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which is acknowledged, it is hereby agreed as follows:

1. The Client warrants that all Assets subject to this Agreement belong solely to Mercury Terrain & Maison Inc., and are not held in common with any other person(s) or entities.
2. The Client will cooperate fully with Mondex in fulfilling the requirements of the recovery, including the execution and delivery of instruments necessary to document or pursue the Client's claim, and the Client shall provide all required research and identification concerning the Assets that are subject of this Agreement. The Client warrants that all research regarding the unclaimed Assets has been done by her, and Mondex can rely on such research and information as provided by the Client. Such research shall exclude legal research which will be provided by Mondex and/or by Fasken Martineau DuMoulin.
3. The Client has requested that in the case of her incapacity, that ALAN SINGER be authorized to act on the Client's behalf, and the Client will provide all relevant contact information for Alan Singer to Mondex.
4. The Client instructs and authorizes Mondex to attempt to recover the Assets on behalf of and for the benefit of the Client; and Mondex is authorized to do any and all lawful acts required for said recovery as the Client could do if acting independently.
5. Mondex and the Client have agreed to retain Antoine Aylwin of the law firm Fasken Martineau DuMoulin LLP in Montreal, Quebec, to assist in making claims for the recovery of the Assets, or compensation for the same. Mondex will be responsible for the legal fees due to Fasken Martineau DuMoulin.
6. Mondex will be deemed to have helped the Client with the recovery of the said Assets by disclosing information about the Assets to the Client and discharging its duty to attempt to recover the Assets. Mondex will be entitled to its commission and costs upon recovery of such Assets by the Client or by a third party under the instructions of the Client.

JR *MF*

7. If the legal fees exceed 20% of the value of the recovered Assets, the legal fees will be deducted first from the recovered value of the Assets, with the balance divided between the Client and Mondex as per the terms of this Agreement.

8. As its compensation, the Client agrees to pay Mondex a sum equivalent to forty percent (40%) of the gross value of the Assets recovered by the Client, based on the Client's assertion that the unclaimed Assets are valued at between \$2 million and \$4 million or more. This fee shall be inclusive of expenses such as legal costs and other disbursements.

9. Mondex shall be authorized to receive the Assets or compensation for the Assets and after deducting its fee, the balance shall be paid to the Client.

10. Mondex will use its best efforts to recover the Assets and shall advance the full amount of costs and expenses required to effect the recovery of the Assets. In the event that no recovery takes place, Mondex shall bear all such costs and expenses. In the event that the Assets recovered are valued at less than the amount of costs, expenses and disbursements, Mondex shall bear all such costs.

11. Mondex shall have the discretion to decline to proceed with litigation or other legal proceedings if the prospects of succeeding in recovering the Assets or compensation for the Assets appears not to be feasible.

12. This agreement shall be binding on Mondex, its successors and assigns, and on the Client's heirs, successors and assigns, and shall be construed under the laws of the Province of Ontario, Canada.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals hereunto this
19th day of May, 2017

Alan Singer
Witness' Signature (please sign above)

ALAN SINGER
Witness' Name (please print above)

4825 Highway 95, Ste 2-100
Fort Mohave, AZ 86426
Witness' Address (please print above)

Jedidah Rottman /on behalf of Mercury Terrain
Client's Signature (please sign above)
Jedidah Rottman 1@gmail.com

514 945 1798

Client's Telephone & Email
(please print above)

9625 bou. Côte Verte
250

St. Laurent, QC H4S 1C8

Client's Address (please print above)

President, Mercury Terrain
et Mason

(Retired)
Client's Occupation (please print above)

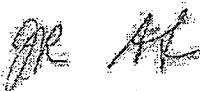
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For MONDEX CORPORATION accepted as above


James Palmer - International Consultant

File #7042


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