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IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

In re AMERCO DERIVATIVE
LITIGATION

Case No. CV02-05602
Consolidated with:
(1) Case No. CV02-06331;
(2) Case No. CV03-02486; and
(3) Case No. CV03-02617

This Document Relates to:
ALL ACTIONS

Dept. No. B6

**AFFIDAVIT OF CHRISTOPHER T. HEFFELFINGER
IN SUPPORT OF PLAINTIFFS' MOTION TO DISQUALIFY THE
HONORABLE BRENT T. ADAMS FROM HEARING CASE *IN
RE AMERCO DERIVATIVE LITIGATION*, CASE NO. CV02-05602**

1 I, CHRISTOPHER T. HEFFELFINGER, declare as follows:

2 1. I am a shareholder in the San Francisco law office of Berman DeValerio, counsel
3 for Plaintiffs Glenbrook Capital Limited Partnership and Paul F. Shoen in the above-entitled
4 action. I am duly licensed to practice before all of the courts of the State of California and have
5 been admitted before this Court *pro hac vice*. I have personal knowledge of the matters stated
6 herein (except as to those matters stated upon information and belief, which I am informed and
7 believe to be true), and, if called upon, I could and would competently testify thereto. I am
8 submitting this Affidavit in Support of Plaintiffs' Motion to Disqualify the Honorable Brent
9 Adams from Hearing Case *In re Amerco Derivative Litigation*, Case No. CV02-05602 (the
10 "Subject Litigation").

11 2. On Tuesday morning, March 20, 2012, I was informed by Peter Neumann (an
12 attorney in Reno, Nevada) that Judge Adams had received campaign contributions in 2008 from
13 individuals and entities who are defendants in the above-captioned action. These same defendants
14 were defendants when the above-captioned case was pending before Judge Adams in 2008. I also
15 learned from Mr. Neumann that Judge Adams recently recused himself in connection with another
16 case involving campaign contributions made during the same 2008 election. I asked Mr. Neumann
17 to forward me whatever information he had on this topic.

18 3. On Wednesday, March 21, 2012, I received from Mr. Neumann, via e-mail
19 attachment, two news articles from the *Reno Gazette-Journal* dated March 15 and 16, 2012,
20 respectively. The first article described Judge Adams' receipt of funds from Harvey Whittemore
21 and the case pending before him involving the Whittemore Peterson Institute for Neuro Immune
22 Disease. The second article, dated March 16, 2012, described Judge Adams' recusal from the same
23 case. A true and correct copy of the news articles I received from Mr. Neumann, are attached
24 hereto, collectively, as Exhibit 1. I do not submit both news articles for the truth of the matters
25 asserted in either article, but simply for the non-hearsay purpose that both articles were one of a
26 number of factors that provided me with notice and prompted me to look into this matter further.
27 Thereafter, I directed my associate, Anthony Phillips, to locate any further information pertinent to
28 campaign contributions by defendants to Judge Adams.

1 4. On Friday, March 23, 2012, my associate, Anthony Phillips, provided me with a pdf
2 document, which I am informed by him, and believe, that he downloaded from the Nevada
3 Secretary of State website. This document, entitled "Campaign Contributions and Expenses
4 Report." purports to be campaign contributions and expenses report for Judge Brent T. Adams and
5 purports to have his signature on the bottom of the first page. There is a handwritten date in the
6 bottom right-hand portion of the first page to the right of the signature which, while somewhat
7 illegible, appears to be "August 1, 2008." On Monday, March 26, 2012, I personally accessed the
8 website for the Nevada Secretary of State and located what appeared to me to be the very same
9 document that Anthony Phillips had provided me on Friday, March 23, 2012. A true and correct
10 copy of this "Campaign Contributions and Expenses Report" ("Campaign Report") that I accessed
11 on Monday, March 26, 2012, and printed out is attached hereto as Exhibit 2. This report can be
12 accessed via the Nevada Secretary of State's website by searching for Judge Adams' name under
13 records for the year 2008. See [http://nvsos.gov/SOSCandidateServices/AnonymousAccess/
14 CEFDSearch/Candidate.aspx](http://nvsos.gov/SOSCandidateServices/AnonymousAccess/CEFDSearch/Candidate.aspx).

15 5. I am further informed and believe that, according to the records available on the
16 Nevada Secretary of State's website (which cover all available Campaign Reports from 2004 to the
17 present), there is no record of any other campaign contributions by any of the Defendants to any
18 other judge in any department of general jurisdiction now sitting in the Second Judicial District
19 Court of Nevada. See [http://nvsos.gov/SOSCandidateServices/AnonymousAccess/
20 CEFDSearch/Candidate.aspx](http://nvsos.gov/SOSCandidateServices/AnonymousAccess/CEFDSearch/Candidate.aspx).

21 6. In reviewing the subject Campaign Report together with a list of Contributors
22 attached hereto as Exhibit 2, I noticed that certain individuals and entities were identified in the list
23 of Contributors that I believe are either the same defendants, or affiliated with a defendant, in the
24 Subject Litigation. In the table below, for ease of reference, I have excerpted from the Campaign
25 Report the names of those individuals and entities shown in the report that I believe to be
26 defendants, or affiliated with a defendant, in the Subject Litigation together with the corresponding
27 amounts next to their respective names, and the dates listed above their names.

28

Individual/Entity	Amount	Date
AMERCO	\$10,000	4/18/08
John Brogan	\$1,000	4/18/08
John M. Dodds & Barbara Edstrom Dodds	\$1,000	4/22/08
Five SAC Self Storage Corp.	\$10,000	4/22/08
U-Haul International, Inc.	\$10,000	4/22/08
E.J. Shoen	\$1,000	4/22/08
James Shoen	\$2,000	5/13/08
Richard Herrera	\$1,000	7/02/08

7. U-Haul International, Inc., while not a named defendant in this litigation, is a wholly-owned subsidiary of AMERCO. A true and correct copy of an excerpt from AMERCO's Form 10-K filed June 4, 2008 is attached hereto as Exhibit 3.

8. In adding up the contributions shown in the foregoing table, the total is \$36,000.00. Excluding law firms, I do not know if other persons or entities shown on the list of Contributors to the Campaign Report have any connections or affiliations with the defendants and/or their respective affiliates in the Subject Litigation.

9. Page 1 of the Campaign Contributions and Expenses Report shows that the "Total Amount of Monetary Contributions Received" is \$268,975. Total contributions from the defendants (and one subsidiary—U-Haul International, Inc.), thus, constitute 13.38% of the total. In contrast, I note that the total contributions by Harvey Whittemore and Red Hawk Land Co. of \$10,000 are only 3.7%.

10. At no time since April 2008 do I recall Judge Adams disclosing to Plaintiffs that he had received campaign contributions from defendants and/or their affiliates in this matter. I reviewed the following transcripts of proceedings in the Subject Litigation and saw no mention of Judge Adams having disclosed that he had received campaign contributions from any defendant: Transcript of August 31, 2011 Status Hearing; Transcript of the January 5, 2012 Oral Arguments; and the Transcript of the January 11, 2012 Telephonic Conference.

11. I would note that on April 7, 2008, some eleven days prior to the first contribution listed in the above table, Judge Adams issued his Order dismissing the Subject Litigation for yet a second occasion on the grounds of the *Goldwasser* release and *in pari delicto*. A true and correct copy of the April 7, 2008 Order is attached hereto as Exhibit 4.

1 12. In May, 2008, defendants filed both their respective Verified Memorandum of
2 Costs and Supplements thereto seeking, in the aggregate, \$95,032.09 in costs. Plaintiffs Glenbrook
3 Capital Limited Partnership, Alan Kahn and Ron Belec filed their Motion to Retax Costs and
4 joined in Paul Shoen's Motion to Retax Costs. This motion was resisted by defendants. By order
5 dated June 9, 2008, filed on June 10, 2008, Judge Adams issued his Order denying Plaintiffs their
6 motions to retax costs and awarding defendants their costs: (1) Defendants Charles J. Bayer,
7 John P. Grogan, John M. Dodds, James J. Grogan, Richard Herrera and Aubrey Johnson were
8 awarded costs in the amount of \$14,034.49; (2) Defendant AMERCO was awarded costs in the
9 amount of \$27,531.11; (3) the SAC Entities and Mark Shoen were awarded their costs in the
10 amount of \$22,593.52; and (4) Defendants William E. Carty, Edward J. Shoen and James P. Shoen
11 were awarded their costs in the amount of \$30,872.97. A true and correct copy of the Court's
12 June 9, 2008 Order is attached hereto as Exhibit 5.

13 13. On May 8, 2008, Plaintiffs filed their Notice of Appeal. On July 20, 2009,
14 Plaintiffs/Appellants filed their Opening Appellate Brief. In connection with that briefing,
15 Plaintiffs requested the matter be reassigned on remand. A true and correct copy of
16 Plaintiffs'/Appellants' opening brief (without record exhibits) is attached hereto as Exhibit 6. A
17 true and correct copy of the Directors' Brief is attached as Exhibit 7 hereto. In its answering brief
18 nominal defendant/respondent AMERCO joined the argument by the Directors that the request for
19 reassignment was totally unfounded. A true and correct copy of the AMERCO Answering Brief
20 (without record exhibits) is attached hereto as Exhibit 8. Defendants/Appellees did not disclose in
21 their respective briefs in response to Plaintiffs' request to reassign the case that they contributed to
22 Judge Adams' 2008 campaign.

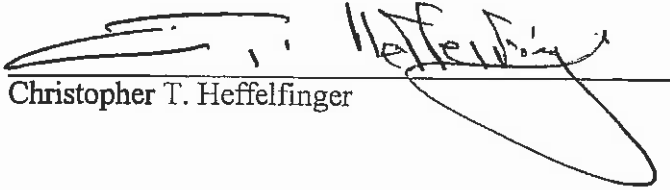
23 14. In its Order filed May 12, 2011, at footnote 13, the Nevada Supreme Court stated
24 the following: "Appellants request that this court reassign the matter to a different judge upon
25 remand, arguing that 'Judge Adams' successive dismissals demonstrate that he has prejudged this
26 case.' However, appellants fail to cite any basis for disqualification under the Nevada Code of
27 Judicial Conduct, and thus, we conclude that reassignment is not warranted."
28

1 15. A true and correct copy of the Nevada Supreme Court's May 12, 2011 Order is
2 attached hereto as Exhibit 9.

3 16. A true and correct copy of Judge Adams' self-recusal order in *Whittemore Peterson*
4 *Institute for Neuro-Immune Disease v. Mikovits*, Case No. CV11-03232 (2d Dist. Nev. Mar. 15,
5 2012) is attached hereto as Exhibit 10.

6 17. A true and correct copy of the transcript of proceedings held in-chambers on
7 March 14, 2012, in *Whittemore Peterson Institute for Neuro-Immune Disease v. Mikovits*, Case
8 No. CV11-03232 (2d Dist. Nev.) is attached hereto as Exhibit 11.

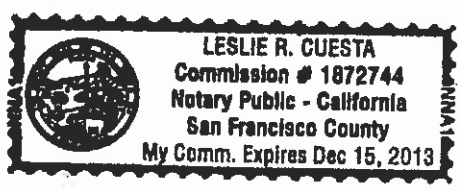
9 Further Affiant sayeth not. DATED: March 28, 2012.

11
12 
Christopher T. Heffelfinger

13 STATE OF CALIFORNIA)
14 COUNTY OF SAN FRANCISCO) ss:

15 Subscribed and sworn to before me this
16 March 28, 2012, by Christopher T.
17 Heffelfinger, proved to me on the basis of
satisfactory evidence to be the person
who appeared before me.

18 
19 Notary Public
20 Leslie R. Cuesta



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INDEX OF EXHIBITS

Exhibit No.	Description	No. Of Pages
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2	Campaign Contributions and Expenses Report, accessed on Monday, March 26, 2012	35
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11	Transcript of in-chambers proceedings held on March 14, 2012, <i>Whittemore Peterson Institute for Neuro-Immune Disease v. Mikovits</i> , Case No. CV11-03232 (2d Dist. Nev.).	27