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11 **UNITED STATES DISTRICT COURT**  
12 **DISTRICT OF NEVADA**

13 CYCALONA GOWEN,

14 Plaintiff,

15 v.

16 TILTWARE LLC, FULL TILT POKER,  
17 POCKET KINGS LIMITED, POCKET  
18 KINGS CONSULTING, LIMITED,  
19 KOLYMA CORPORATION, TILTPROOF,  
20 INC., RAYMOND BITAR, an individual,  
21 HOWARD LEDERER, an individual,  
22 ANDREW BLOCH, an individual, PHILLIP  
23 IVEY, an individual, CHRISTOPHER  
24 FERGUSON, an individual, JOHN  
25 JUANDA, an individual, PHILLIP  
26 GORDON, an individual, ERICK  
27 LINDGREN, an individual, ERIK SEIDEL,  
28 an individual, JENNIFER HARMAN-  
TRANIELLO, an individual, MICHAEL  
MATUSOW, an individual, ALLEN  
CUNNINGHAM, an individual, GUS  
HANSEN, an individual, AND PATRIK  
ANTONIUS, an individual,

Defendants.

CASE NO. 2:08-CV-01581-RCJ-RJJ

**PLAINTIFF'S MOTION FOR ORDER  
SHORTENING TIME ON MOTION FOR  
RECONSIDERATION OF ORDER  
DENYING AS MOOT [79] MOTION TO  
COMPEL DISCOVERY; DENYING AS  
MOOT [80] MOTION FOR SANCTIONS  
RE DISCOVERY; AND, DENYING AS  
MOOT [82] MOTION FOR PROTECTIVE  
ORDER BASED ON A RULING BY THE  
COURT AT THE HEARING HELD  
4/27/2009, GRANTING DEFENDANTS'  
MOTION TO DISMISS**

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I.  
POINTS AND AUTHORITIES

A. BECAUSE DEFENDANT TILTWARE DID NOT MOVE TO DISMISS PLAINTIFF'S CLAIMS FOR ACCOUNTING AND QUANTUM MERUIT, THE COURT COULD NOT HAVE DISMISSED THOSE CAUSES OF ACTION; THEREFORE, THE COURT SHOULD RECONSIDER ITS ORDER VACATING THE HEARING SET FOR APRIL 30, 2009 AND PROCEED AS SCHEDULED.

A district court has the inherent power to reconsider and modify its interlocutory orders prior to the entry of judgment. *Smith v. Massachussets*, 543 U.S. 462, 475 125 S.Ct. 1129, 1139 (2005). On February 20, 2009, Defendants filed a Motion to Dismiss Plaintiff's First Amended Complaint. Defendants' Motion did not move to dismiss Plaintiff's claims for Accounting ad Quantum Meruit against Defendant Tiltware. See Transcript of Proceedings of Telephonic Hearing On Plaintiff's Ex Parte Motion, No. 58 p. lines 15-21.

On April 25, 2009, the Court granted Defendants' Motion to Dismiss to the extent that Defendants Tiltware, Bitar, and Lederer were dismissed without prejudice, and the remaining individual Defendants were dismissed with prejudice. During the hearing there was no mention of Plaintiff's Accounting and Quantum Meruit claims. Therefore, unless the Court dismissed those claims sua sponte (of which there was no discussion), they still remain. Accordingly, Tiltware must file an Answer, and Plaintiff should be permitted to conduct discovery related to those causes of action.

Further, due to the fact that Plaintiff's Accounting and Quantum Meruit claims still exist, Tiltware does not have the right to a protective order or to cause further delay. See *Twin City Fire Ins. Co. v. Employers Ins. Of Wausau*, 124 F.R.D. 652, 653 (D. Nev. 1989). As such, the Motions which were set to be heard on April 30, 2009, should not be vacated as moot, and they should proceed as scheduled.

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**II.**  
**CONCLUSION**

Based on the foregoing, Plaintiff respectfully requests that the Court reconsider its Order and conduct the April 30, 2009 hearing as previously scheduled.

Dated: This 28<sup>th</sup> day of April, 2009

HOWARD & HOWARD PLLC

By:/s/ James A. Kohl  
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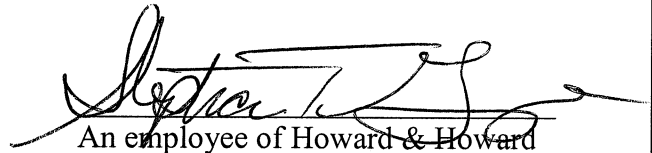
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CERTIFICATE OF SERVICE

Pursuant to FRCP 5(b), I certify that I am an employee of HOWARD & HOWARD and that on this 28th day of April 2009, I did cause a true copy of the foregoing **PLAINTIFF'S MOTION FOR ORDER SHORTENING TIME ON MOTION FOR RECONSIDERATION OF ORDER DENYING AS MOOT [79] MOTION TO COMPEL DISCOVERY; DENYING AS MOOT [80] MOTION FOR SANCTIONS RE DISCOVERY; AND, DENYING AS MOOT [82] MOTION FOR PROTECTIVE ORDER BASED ON A RULING BY THE COURT AT THE HEARING HELD 4/27/2009, GRANTING DEFENDANTS' MOTION TO DISMISS** to be served via electronic service on the following counsel of record.

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