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 Shriners Hospitals for Children and
 8 Shriners Hospitals for Children (Quebec), Inc.

9
 10 **UNITED STATES DISTRICT COURT**
 11 **DISTRICT OF NEVADA**

12 MORGAN STANLEY & CO., INC.,)
 13)
 Interpleader Plaintiff,)
 14)

CASE NO.: 2:09-cv-00398-JCM-PAL

15 vs.)

16 SHRINERS HOSPITALS FOR)
 CHILDREN; SHRINERS HOSPITALS)
 FOR CHILDREN (QUEBEC) INC.;)
 17 JOSEPH L. SURACE, an individual,)
 residing in Arizona; THE ESTATE OF)
 18 MAURITS JOZEF VAN PRAAG;)
 ROBERT DYSON, an individual;)
 19 RONALD DAVID VAN PRAAG, an)
 individual; EDWARD NEDJELSKI, an)
 20 individual; RENEE TRUDER, an)
 individual; MADY COHEN MISSET, an)
 21 individual,)

22 Interpleader Defendants.)
 23)

ORDER

24 Presently before the Court is Interpleader Defendant The Estate of Maurits Jozef Van
 25 Praag's Motion for Summary Judgment (Doc. # 56), filed on April 5, 2010. Interpleader
 26 Defendants Shriners Hospitals for Children and Shriners Hospitals for Children (Quebec), Inc. filed
 27

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1 an opposition (Doc. # 57) and Interpleader Defendant Joseph Surace filed an opposition (Doc. #
2 58), both on April 29, 2010. The Estate filed a reply (Doc. 59) on May 11, 2010.

3 The motion came on for hearing before the Honorable James C. Mahan on August 3, 2010,
4 at 10:00 a.m. As a result of a request for additional time for discovery made pursuant to Federal
5 Rule of Civil Procedure 56(f), the matter was continued until September 10, 2010, to provide
6 additional time for Interpleader Plaintiff Morgan Stanley & Co. Inc. to answer outstanding
7 discovery.

8 The Court will deny the motion because it finds that the motion relied upon and referred
9 to exhibits not properly authenticated. See Orr v. Bank of America, 285 F.3d 764 (2002). The
10 Court will deny the motion without prejudice and the Estate is not precluded from filing a motion
11 for reconsideration if it is able to remedy the deficiencies in the motion for summary judgment.

12 After consideration of the pleadings and papers on file, and the oral arguments by counsel,
13 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Interpleader Defendant
14 The Estate of Maurits Jozef Van Praag's Motion for Summary Judgment is DENIED without
15 prejudice.

16
17 **ORDER**

18 IT IS SO ORDERED.

19 DATED this 1st day of November, 2010.

20
21 
UNITED STATES DISTRICT JUDGE

22 Submitted by:
23 JOLLEY URGA WIRTH WOODBURY & STANDISH

24 By: /s/ Mindy C. Fisher
25 WILLIAM R. URGA, ESQ.
26 MINDY C. FISHER, ESQ.
27 3800 Howard Hughes Pkwy., 16th Floor
28 Las Vegas, Nevada 89169

///

///

1 Approved as to form and content by:

2 GREENBERG TRAUIG, LLP

3

4 By: /s/ _____¹
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8 ALBRIGHT, STODDARD, WARNICK
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9

10 By: /s/ Whitney B. Warnick _____
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14 WRIGHT & WEINER, LTD.

15

16 By: /s/ John Henry Wright _____
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CERTIFICATE OF SERVICE

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I, the undersigned, hereby certify that I am employed in the County of Clark, State of Nevada, am over the age of 18 years and not a party to this action. My business address is that of Jolley Urga Wirth Woodbury & Standish, 3800 Howard Hughes Parkway, Suite 1600, Las Vegas, Nevada 89169.

¹ Undersigned counsel was unable to obtain approval from counsel for Morgan Stanley & Co. as Mr. Austin was not able to be reached, and as a result, this Proposed Order is filed without said approval.

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On this day, I electronically filed the **[PROPOSED] ORDER** with the Clerk of Court using the CM/ECF system, which will cause the document to be served upon the following counsel of record:

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Attorney for Defendant
Joseph L. Surace

I certify under penalty of perjury that the foregoing is true and correct, and that this Certificate of Service was executed by me on October 22nd, 2010, at Las Vegas, Nevada.

By: /s/ Vicki Dumas
An Employee of JOLLEY URGA WIRTH
WOODBURY & STANDISH