

1 DAVID ROGER
District Attorney
2 State Bar No. 002781
CIVIL DIVISION
3 By: **STEPHANIE A. BARKER**
Chief Deputy District Attorney
4 State Bar No. 003176
500 South Grand Central Pkwy.
5 P. O. Box 552215
Las Vegas, Nevada 89155-2215
6 Phone: (702) 455-4761
7 Fax: (702) 382-5178
Attorneys for Plaintiff Clark County

8 **UNITED STATES DISTRICT COURT**

9 **DISTRICT OF NEVADA**

10 CLARK COUNTY, a political subdivision
of the State of Nevada,)

11 Plaintiff,)

12 vs.)

Case No: _____

13 COMPUTER SQUARE, INCORPORATED,
14 d/b/a/ CSI TECHNOLOGY GROUP, a New
Jersey corporation,)

15 Defendant.)

16 _____
17 **COMPLAINT**

18 COMES NOW, Plaintiff CLARK COUNTY, by its counsel District Attorney David
19 Roger, through Stephanie A. Barker, Chief Deputy District Attorney, and hereby alleges,
20 complains and avers as follows:

21 **PARTIES**

- 22 1. Plaintiff Clark County is a political subdivision of the State of Nevada.
23 2. Defendant Computer Square, Inc., d/b/a CSI Technology Group is, and was at
24 all times complained of herein, a New Jersey corporation doing business in the State of
25 Nevada (hereinafter referred to as "Defendant CSI").

26 ///

27 ///

28 ///

1 **JURISDICTION AND VENUE**

2 3. Jurisdiction is proper in this United States District Court because there is
3 diversity of citizenship pursuant to 28 U.S.C. §1332(a)(1). The contract which is the subject
4 of this Complaint is between Plaintiff, a political subdivision of the state of Nevada, and
5 Defendant, a New Jersey corporation, and the amount in controversy exceeds the sum of
6 \$75,000.00 as set forth more specifically hereinbelow.

7 4. This Court has personal jurisdiction over the Defendant based upon its actions
8 in conducting business or entering into agreements in Clark County, Nevada, including but
9 not limited to, a June 7, 2005 contract to provide a case management system to the Clark
10 County District Attorney's Office, as well the legally binding amendments thereto.

11 5. The contract which gives rise to this action was entered into and involved
12 obligations to be performed in and for the benefit of Clark County, Nevada, accordingly,
13 venue is proper in the Southern Division of the Nevada District Court pursuant to Nev. Rev.
14 Stat. 13.010.

15 6. The terms of the Contract between Plaintiff and Defendant CSI, which contract
16 gives rise to this action, require that the contract be subject to, construed and enforced in
17 accordance with the laws of the State of Nevada.

18 **GENERAL ALLEGATIONS**

19 **I. The Contract and Amendments**

20 7. On June 7, 2005 the Board of Clark County Commissioners approved a
21 contract (hereinafter the "Contract") with Defendant CSI to provide a case management
22 system for the Clark County District Attorney's Office (hereinafter the "Project").

23 8. By entering into the Contract, Defendant CSI represented that it would provide
24 the personnel and resources necessary to provide the contracted product and accomplish the
25 contracted case management system Project within a schedule required by the Contract.

26 9. The Contract required that Defendant CSI be responsible for the professional
27 quality, technical accuracy, timely completion and coordination of all services to be
28 performed under the Contract.

1 10. The Contract required that Defendant CSI retain such employees as it may
2 need to perform the services required by the Contract.

3 11. The Contract required Defendant CSI to warrant that the product delivered
4 would conform to the Contract specifications when installed and be free from defects that
5 would substantially affect the case management system Project performance.

6 12. On June 20, 2006, the Board of Clark County Commissioners approved
7 “Amendment No. 1” to the Contract.

8 13. Amendment No. 1 to the Contract provided that additional services be added to
9 the contracted scope of work.

10 14. On April 6, 2010, the Board of Clark County Commissioners approved
11 “Amendment No. 2” to the Contract.

12 15. Amendment No. 2 to the Contract eliminated the requirement that Defendant
13 CSI create an E-Discovery module called for in Amendment No. 1.

14 **II. Contract Go-Live Provisions**

15 16. Pursuant to the Contract, as part of each Functional Acceptance Testing period,
16 Defendant CSI and Plaintiff were to agree upon a firm Deployment/Go-Live date
17 (hereinafter the Go-Live date).

18 17. The Contract’s Milestones, Deliverables and Billing Schedule provided that
19 the agreed upon Go-Live date for Phase I of the Project was August 31, 2005.

20 18. The Contract’s Milestones, Deliverables and Billing Schedule provided that
21 the agreed upon Go-Live date for Phase II of the Project was July 1, 2006.

22 19. Amendment No. 1 to the Contract modified the Milestones, Deliverables and
23 Billing Schedule to require completion of Phase I of the Project by June 30, 2005, and
24 completion of Phase 2 of the Project by February, 2007.

25 20. The Milestones, Deliverables and Billing Schedule in Amendment No. 1 to the
26 Contract provided for an estimated Go-Live date of February 20, 2007.

27 ///

28 ///

1 21. Amendment No. 2 to the Contract modified the Milestones, Deliverables and
2 Schedule as to the payment schedule only, but left in tact the Go-Live date of February 20,
3 2007.

4 **III. Compensation under the Contract**

5 22. The compensation to be paid to Defendant CSI for performance under the June
6 7, 2005 Contract was for an aggregate sum not to exceed \$645,000.00.

7 23. Amendment No. 1 to the Contract represented an increase of \$178,000.00 in
8 the cost of the Contract, for a new aggregate contract amount of \$823,000.00.

9 24. Amendment No. 2 to the Contract revised the aggregate payable to Defendant
10 CSI under the Contract by a decrease of \$48,000.00, to a sum not to exceed \$775,000.00.

11 25. To date, Plaintiff has paid Defendant CSI the total sum of \$661,400.00.

12 **IV. Failure of Performance Penalties under the Contract**

13 26. The Contract contains a liquidated damages clause requiring Defendant CSI to
14 pay to Plaintiff the sum of \$500.00 for each calendar day of delay beyond the Go-Live date
15 until such reasonable time as may be required for final completion of the Project, in a total
16 amount not to exceed \$1,000,000.00.

17 27. In each instance giving rise to the possibility of liquidated damages the
18 Contract requires Plaintiff to serve written notice on Defendant CSI specifying the failure
19 under the Contract, and provide a cure period of not less than forty-eight (48) hours.

20 28. The Contract may be terminated in whole or in part by either party in the event
21 of substantial failure of the other party to fulfill its obligations under the Contract, after thirty
22 (30) calendar days written notice of intent to terminate the contract, and an opportunity for
23 consultation with the terminating party prior to termination.

24 **V. Failure of Performance under the Contract**

25 29. The June 7, 2005 Contract provided for a July 1, 2006 Go-Live date.

26 30. Amendment No. 1 to the Contract extended the Go-Live date to February 20,
27 2007.

28 ///

1 31. Defendant CSI failed to deliver a functioning Project by the February 20, 2007
2 Go-Live date and by mutual agreement between Plaintiff and Defendant CSI, the February
3 20, 2007 Go-Live date was extended to July 21, 2008.

4 32. On the July 21, 2008 Go-Live date, the system Project failed to perform in any
5 capacity.

6 33. Written notice of the July 21, 2008 Go-Live failure, the necessary Corrective
7 Action Plan schedule, and the invocation of the liquidated damages clause of the Contract
8 was provided to Defendant CSI on July 31, 2008.

9 34. Further negotiation between Plaintiff and Defendant CSI regarding the
10 Corrective Action Plan resulted in an August 26, 2008 Timeline and Schedule to bring the
11 Project to successful conclusion.

12 35. As a result of the Timeline, Defendant CSI agreed to a second Go-Live date of
13 January 25, 2010.

14 36. As of January 25, 2010 the Project continued to fail to function in any
15 capacity, repeatedly locking down upon attempts to access, modify or input
16 data/information.

17 37. On October 18, 2010, Plaintiff served written notice on Defendant CSI of
18 Plaintiff's intent to terminate the Contract due to Defendant CSI's substantial failure to
19 fulfill its obligations under the Contract (hereinafter the "Notice".)

20 38. The Notice advised Defendant CSI of Plaintiff's intent to terminate the
21 Contract effective November 17, 2010.

22 39. The Notice allowed for Defendant CSI to meet with Plaintiff and provide a
23 cure in the form of a functional product within 30 days of the Notice.

24 40. Defendant CSI telephonically conferenced with Plaintiff on November 17,
25 2010, but failed to provide cure or a plan for cure that could occur within the 30 day
26 deadline.

27 ///

28 ///

FIRST CAUSE OF ACTION

(Breach of Contract)

1
2
3 41. Plaintiff repeats, realleges and reincorporates by reference, all of the
4 allegations contained in Paragraphs 1 through 40 of the Complaint, as though fully set forth
5 herein.

6 42. Plaintiff and Defendant CSI entered into a valid and existing Contract for the
7 provision of a case management system to the Clark County District Attorney's Office.

8 43. The scope of work to be performed by Defendant CSI is described by the
9 Contract and the amendments thereto.

10 44. Defendant CSI failed to deliver the professional quality, technical accuracy,
11 timely completion and coordination of the scope of work to be performed under the
12 Contract.

13 45. Defendant CSI failed to retain employees with the technical expertise
14 necessary to facilitate performance of the scope of work required by the Contract.

15 46. Defendant CSI failed to deliver an operational case management system as
16 warranted, conforming to the Contract specifications when installed, because the product
17 contains defects that substantially affect Project system performance.

18 47. Defendant CSI materially breached the Contract as initially written and as
19 modified by subsequent amendment by failing to deliver an operational case management
20 system Project as contracted.

21 48. Plaintiff has fulfilled its obligations under the Contract.

22 49. As a direct consequence of the breach of contract by Defendant CSI, Plaintiff
23 has been damaged in a sum in excess of the SEVEN HUNDRED SEVENTY FIVE
24 THOUSAND DOLLAR (\$775,000.00) cost of the Contract, according to proof to be taken at
25 the time of the trial of this matter, plus any and all applicable interest at the legal rate, and
26 any and all attorney's fees and costs as incurred herein.

27 ///

28 ///

1 4. For an award to Plaintiff of any and all such other and further relief as the
2 Court deems just, proper and/or appropriate under the circumstances.

3 DATED this 3rd day of June, 2011.

4 DAVID ROGER
5 DISTRICT ATTORNEY

6 By: 

7 STEPHANIE A. BARKER
8 Chief Deputy District Attorney
9 State Bar No. 003176
10 500 South Grand Central Pkwy. 5th Flr.
11 P. O. Box 552215
12 Las Vegas, Nevada 89155-2215
13 Attorneys for Plaintiff Clark County