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LAW CLERK

Vol. 1 of 5

COPY

IN THE
SUPREME COURT
OF THE
STATE OF IDAHO

Jack Lee McLean, Trustee
and Wayne Dawson, trustee

Plaintiffs/ Appellants

vs.

Cheyovich Family Trust and Vasa N. Bach Family Trust

Defendants/ Respondents

Appealed from the District Court of the Seventh *Judicial District of the State of Idaho, in and for* Teton *County*

Hon Jon J. Shindurling, *District Judge*

Marvin M. Smith, 591 Park Ave Suite 202 Idaho Falls, Idaho 83402

Attorney-for-Appellants

John N Bach, PO Box 101 Driggs, Idaho 83422

Pro Se

Filed this ______ *day of* ______, 20____

FILED - COPY
NOV - 5

Clerk

By ______ *Deputy*

Supreme Court ____ Court of Appeals ____
Entered on ATS by: ____

34712 35334

Supreme Court No. 34712 & 35334
Consolidated
Teton County No. CV 01-265

JACK LEE McLEAN, Trustee and
WAYNE DAWSON, Trustee
Plaintiffs/Appellants

vs.

CHEYOVICH FAMILY TRUST and
VASA N BACH FAMILY TRUST
Defendants/Respondents

Marvin M. Smith
4591 Park Ave
Suite 202
Idaho Falls, Idaho 83402
Attorney for Plaintiffs/Appellants

John N. Bach, Pro Se
P.O. Box 101
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Attorney for Plaintiffs

FILED
DEC 18 2001
TIME: 10:00 am.
TETON CO. DISTRICT COURT

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TETON

JACK LEE McLEAN, Trustee, and WAYNE DAWSON, Trustee,	)	Case No CV-01- 265
Plaintiffs,	)	
	)	COMPLAINT
vs.	)	TO QUIET TITLE
	)	AND PARTITION
CHEYOVICH FAMILY TRUST and	)	REAL ESTATE
VASA N. BACH FAMILY TRUST,	)	
	)	$ 77 00
Defendants.	)	

The Plaintiffs allege:

COUNT ONE: COMPLAINT TO QUIET TITLE TO REAL ESTATE

1. That the Plaintiff, Jack Lee McLean is the Trustee of the McLean Family Trust, is an Idaho resident residing in Teton County, Idaho, and Plaintiff, Wayne Dawson, is the trustee of the Dawson Family Trust, is a resident of California , and plaintiffs trusts, purchased for valuable consideration, as bona fide purchasers for value, certain real property and improvements thereon, by Deeds, dated and recorded as follows:

1. Deed: Date: August 12, l994, and recorded August 17, l994, as instrument No. 117219, records of Teton County, Idaho. (see attached Exhibit A)

2. Deed: Date: February 22, 2001, and recorded February 22, 2001, as instrument No. 141456, records of Teton County, Idaho (see attached Exhibit B)

2. Thus Plaintiffs, Jack Lee McLean,Trustee, and Wayne Dawson, Trustee, are the owners in fee simple of an undivided 3/4 right, title and interest in the following described real estate, situate in the county of Teton, state of Idaho:

The SW1/4 SE1/4 of Section 6, Township 5 North, Range 46 East, Boise Meridian, Teton County, Idaho.

Also described as Schedule A in attached Exhibit B.

Property contains 40 acres more or less.

3. That Plaintiff, Wayne Dawson, trustee, was in reality the de facto undisclosed principal known as "Targhee Powder Emporium, Ltd." to the Grantor, Teton West Corporation, at the time of the original purchase. Plaintiffs paid 3/4 of the consideration to Teton West Corporation for the purchase of all the real property and are entitled to 3/4 ownership of said property by the doctrine of resulting and/or constructive trust and by their purchase, receipt, and recording of the "DEEDS" is entitled to physical possession and all other ownership rights and privileges incident to the said real property.

4. Defendant, Vasa N. Bach Family Trust, through its successor trustee, Jovan N. Bachovich aka John N. Bach, as stated in numerous federal and state suits, alleges a claim of interest in all or a portion of the "property" and refuses to vacate the "property;" that such refusal is deliberate, intentional, wilful, calculated, and designed to damage Plaintiffs and has damaged Plaintiffs; that the Defendant Vasa N. Bach

Family Trust has no ownership right, title, or interest or color of title in and to said real property.

5. That said Defendant, its assigns and/or representatives, continue to unlawfully destroy forsale signs placed upon the real property, without right, title, or claim. That Plaintiffs are entitled to Quiet Title in their name the property described above under the provisions of Idaho Code 6:401 et seq. based upon the deeds received and from the legal principles of resulting and/or constructive trust as having paid all consideration for said real property.

6. This Court has jurisdiction in this matter inasmuch as the "real property" at issue is located in Teton County, Idaho.

7. That Plaintiff has retained Alva A. Harris as their attorney in this matter and has agreed to pay him a reasonable fee of $150.00 per hour for his services herein; that under the applicable Idaho Statutes Plaintiffs are entitled to an award of attorney fees.

COUNT TWO: PARTITION OF REAL PROPERTY

8. Plaintiffs reaffirm and reallege all the allegations in the above count.

9. Plaintiffs hold and are in possession of the subject real property as cotenants in common with Defendant Cheyovich Family Trust and all these parties hold an estate of inheritance.

10. Plaintiffs respectfully request this Court under authority of section 6-501 etal of the Idaho Code Annotated for a partition of said real property, according to the respective rights of the owners thereof, and interested therein, and/or for a sale of such property, or a part thereof, if it appears that a partition cannot be made without great prejudice to the owners.

11. The interests of the various parties in this real property is as follows:

Dawson Family Trust,Wayne Dawson, Trustee--undivided 1/2 interest;

Cheyovich Family Trust, Milan Cheyovich and Diana Cheyovich, Trustees--undivided 1/4 interest;

McLean Family Trust, Jack Lee McLean, Trustee--undivided 1/4 interest (See first page attached exhibit "Schedule B, Warranty Deed" recording number 132550).

12. Their are no known leinholders or purchasers of record appearing of record in Teton County, Idaho, against the subject real property.

13. It is Plaintiffs allegation that the property is so situated that partition can be made without great prejudice to the owners and request is made for the Court to appoint 3 referees therefor as provided in section 6-512, Idaho Code Annotated.

Wherefore, Plaintiffs pray as follows under all counts:

1. For a Decree quieting title to the described property in Plaintiffs against Defendant Vasa N. Bach Family Trust, any unknown successors and assigns, and against all who claim any right, title or interest in the said real property through said Defendant and for Plaintiffs damages for the wrongful claims and actions of this Defendant regarding this property.

2. That the undivided estates of inheritance be determined for each of the owners of the subject real property.

3. For appointment of referees and for the physical partition of the property as the interests of the parties appear.

4. For costs of litigation and attorney fees.

5. For such other and further orders as is just and equitable in the premises.

Dated this 17th day of December, 2001.

Alva A. Harris

VERIFICATION

STATE OF IDAHO)

: ss.

County of Teton)

Jack Lee McLean, being first duly sworn deposes and says:

That he is one of the Plaintiffs in the above action; that he has read the above and foregoing COMPLAINT, knows the contents thereof, and verily believes the allegations contained therein to be true.

Jack Lee McLean

SUBSCRIBED AND SWORN TO before me on this 18th day of December, 2001.

(SEAL)

ALVA A. HARRIS NOTARY PUBLIC STATE OF IDAHO

Notary Public for Idaho
Residing at: Shelley, Idaho
My Comm. expires: 1-22-2005

A

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TETON Co. Id.
Clerk Recorder

CORRECTION
CORPORATION WARRANTY DEED

THIS INDENTURE is made this 12th day of August 1994, between TETON WEST CORPORATION, a Nevada corporation duly authorized to do business in the State of Idaho, and having its principal office in Idaho at Driggs in the County of Teton, State of Idaho, the "GRANTOR", and JACK LEE McLEAN, Trustee of the JACK LEE McLEAN FAMILY TRUST, as to an undivided one-fourth interest; MILAN CHEYOVICH and DIANA CHEYOVICH, Trustees of the CHEYOVICH FAMILY TRUST, as to an undivided one-fourth interest; WAYNE DAWSON, Trustee of the DAWSON FAMILY TRUST, as to an undivided one-fourth interest; and TARGHEE POWDER EMPORIUM, LTD, as to an undivided one-fourth interest whose mailing address is P.O. BOX 93, DRIGGS, IDAHO 83422, the "GRANTEE".

WITNESSETH, that GRANTOR, having been duly authorized by resolution of its Board of Directors, for and in consideration of the sum of Ten Dollars ($10.00) lawful money of the United States of America, and other good and valuable consideration, to it in hand paid by GRANTEE, receipt whereof is hereby acknowledged, has granted, bargained and sold, and by these presents does grant, bargain, sell, convey and confirm unto GRANTEE and to GRANTEE's heirs and assigns forever, all the following described property in the County of Teton, State of Idaho, to-wit:

(See Attached Exhibit "A" attached hereto and by this reference incorporated herein)

EXCEPTING THEREFROM surface water and rights and membership in proposed water company as per written agreement between Grantor and Grantee.

TOGETHER with the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, also any reversions, remainders, rents, issues and profits therefrom, and all estate, right, title and interest in and to said property, as well in law as in equity, of the GRANTOR.

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TO HAVE AND TO HOLD, the above described premises and appurtenances unto the GRANTEE and to GRANTEE's heirs and assigns forever. The GRANTOR shall warrant and defend said premises in the quiet and peaceable possession of the GRANTEE against GRANTOR and GRANTOR's successors, and against every person whomsoever who lawfully holds (or who later lawfully claims to have held) rights in the premises as of the date hereof.

In construing this deed and where the context so requires, the singular includes the plural.

THIS CORRECTION CORPORATE WARRANTY DEED IS BEING RECORDED TO CORRECT LANGUAGE IN CORPORATE WARRANTY RECORDED JUNE 14, 1994, RECORDER'S NO. 116461, RECORDS OF TETON COUNTY, IDAHO.

IN WITNESS WHEREOF, the GRANTOR has caused its corporate name to be affixed by its duly authorized officer.

TETON WEST CORPORATION

By: [signature]
Its President

ATTEST: [signature]
Assistant Secretary

STATE OF UTAH)
: ss.
COUNTY OF SALT LAKE)

On this 27th day of August, in the year 1994, before me, the undersigned, a notary public in and for said state, personally appeared George C. Hatch and Diane G. Orr, known or identified to me to be the President and Assistant Secretary, respectively, of Teton West Corporation, and the persons who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

NOTARY PUBLIC
NORMA OLIVER
... Salt Lake City, Utah 84119
My Commission Expires
February 1, 1995
STATE OF UTAH

[signature]
Notary Public for Utah
Residing at Salt Lake City, Utah
My Commission Expires: 2/1/95

000007

117219

EXHIBIT "A"

A portion of the South 1/2 South 1/2 Section 6, Township 5 North, Range 46 East, Boise Meridian, Teton County, Idaho, being further described as: From the SW corner of said Section 6, South 89 degrees 50'12" East, 2630.05 feet to the true point of beginning; thence North 00 degrees 07'58" East, 813.70 feet to a point; thence North 01 degrees 37'48" East, 505.18 feet to a point; thence South 89 degrees 58'47" East, 1319.28 feet to a point; thence South 00 degrees 07'36" West, 1321.69 feet to a point on the Southern Section Line; thence North 89 degrees 51'01" West, 1320.49 feet along the Southern Section Line to the South 1/4 Corner of said Section 6, a point; thence North 89 degrees 50'13" West, 12.13 feet along the Southern Section Line to the point of beginning.
Subject to a 60 foot road and utility easement along the Western Property lines.
And subject to a 60 foot road and utility easement along the Southern Property Lines.

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TETON CO., ID
CLERK RECORDER

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141456

CORRECTION CORPORATE WARRANTY DEED

THIS INDENTURE, Made this 22nd day of February, 2001 , between

TARGHEE POWDER EMPORIUM, INC., an Idaho Corporation, doing business as Targhee Powder Emporium, Ltd, possessed of an undivided one-fourth interest therein,

as Seller, and

WAYNE DAWSON, Trustee of the Dawson Family Trust,
1752 Park Vista Drive
Chico, CA 85928

as Buyer,

WITNESSETH, That Seller, having been hereunto duly authorized by resolution of its Board of Directors, and for the furtherance of a good and valuable corporate purpose, and, in consideration of the sum of TEN AND NO/100 ($10.00) DOLLARS, lawful money of the United States of America, to it in hand paid by Buyer, the receipt whereof is hereby acknowledged, has granted, bargained, sold, and by these presents does grant, bargain, sell, convey and confirm unto Buyer, and to their heirs and assigns forever, all Grantor undivided one-fourth (1/4) interest in and to the following described real estate situated in the County of Teton, State of Idaho, to-wit:

The SW1/4SE1/4 of Section 6, Township 5 North, Range 46 East, Boise Meridian, Teton County, Idaho. 40 acres more or less.

Also described as:

A portion of the South 1/2 South 1/2 Section 6 as described in the attached Schedule A of order No. T-757 and signed by grantors agent herein.

Instrument # 141456
DRIGGS, TETON, IDAHO
2001-02-22 04:27:18 No. of Pages: 3
Recorded for : HARRIS, ALVA
NOLAN G. BOYLE Fee: 9.00
Ex-Officio Recorder Deputy M. Wade
Index to: DEED CORPORATION WARRANTY

141456

SCHEDULE A

LOT BOOK GUARANTEE H-265563 ORDER NO. T-7557

The assurances referred to on the face page are:
That, according to the Company's property records relative to the following described real property (but without examination of those Company records maintained and indexed by name):

A portion of the South 1/2 South 1/2 Section 6, Township 5 North, Range 46 East, Boise Meridian, Teton County, Idaho, being further described as: From the SW corner of said Section 6, South 89 degrees 50'12" East, 2630.05 feet to the true point of beginning; thence North 00 degrees 07'58" East, 813.70 feet to a point; thence North 01 degrees 37'48" East, 505.18 feet to a point; thence South 89 degrees 58'47" East, 1319.28 feet to a point; thence South 00 degrees 07'36" West, 1321.69 feet to a point on the Southern Section Line; thence North 89 degrees 51'01" West, 1320.49 feet along the Southern Section Line to the South 1/4 Corner of said Section 6, a point; thence North 89 degrees 50'13" West, 12.13 feet along the Southern Section Line to the point of beginning.
Subject to a 30 foot road and utility easement along the Western Property lines.
And subject to a 60 foot road and utility easement along the Southern Property Lines.

Together with all water and water rights, ditches and ditch rights, improvements, hereditaments and appurtenances thereto, however evidenced, and subject to all covenants and restrictions, applicable building and zoning ordinances, use regulations and restrictions, easements, rights-of-way, and encumbrances of record or established by user with respect thereto.

IN WITNESS WHEREOF, the Seller has caused its corporate name to be hereto subscribed by its Vice-President in pursuance to said resolution the day and year first above written.

TARGHEE POWDER EMPORIUM, INC.

By: Jack Lee McLean
It's Vice-President.

STATE OF IDAHO)
: ss.
County of Teton)

On this 22nd day of February, 2001, before me, the undersigned, a Notary Public for Idaho, personally appeared, Jack Lee McLean, known to me to be the Vice-President of Targhee Powder Emporium, Inc., doing business under the assumed business name of Targhee Powder Emporium, Ltd, the corporation that executed the within instrument and acknowledged to me that he subscribed his name for and in behalf of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

MARIANNE SNARR
NOTARY PUBLIC
STATE OF IDAHO

(SEAL)

Marianne Snarr
Notary Public for Idaho
Residing at: VICTOR , Idaho
My Comm. Expires: 11/19/05

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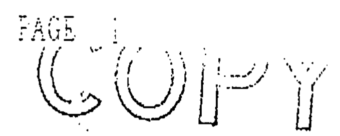

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SCHEDULE B

WARRANTY DEED

Warranty deed made this 21 day of December, 1998, between the JACK LEE McLEAN FAMILY TRUST, Jack Lee McLean, Trustee, whose current mailing address is P. O. Box 96, Driggs, Idaho 83422, referred to as Grantor, and the McLEAN FAMILY TRUST, Jack Lee McLean, Trustee, referred to as Grantee.

Grantor in consideration of the sum of Ten Dollars ($10.00) and other good and valuable consideration, the receipt whereof is hereby acknowledged, has granted, bargained, and sold, and does hereby grant, bargain, sell, convey, and confirm unto Grantee and its heirs and assigns forever, an undivided one-fourth (1/4) interest in the following described real estate situated in Teton County, Idaho:

> The SW¼SE¼ of Section 6, Township 5 North, Range 46 East, Boise Meridian, Teton County, Idaho. 40 acres, more or less. Said parcels being subject to any easements, rights-of-way, covenants, conditions, restrictions, reservations, agreements or encumbrances of sight and/or record.
>
> Said parcel being subject to any easements, rights-of-way, covenants, conditions, restrictions, reservations, agreements or encumbrances of sight and/or record.

To have and to hold, all and singular the above-described premises together with the appurtenances unto Grantee and its heirs and assigns forever.

And Grantor and his heirs shall and will warrant and by these presents forever defend the premises in the quiet and peaceable possession of Grantee, its heirs, and assigns against Grantor

FILED
AT THE REQUEST OF
Ray Moulton
AT 44 MINUTES PAST 3 P M

FILED

JAN 07 2002
TIME 2:27 pm
TETON CO. DISTRICT COURT

JOHN N. BACH
1858 S. Euclid Avenue
San Marino, CA 91108
Tel: (626)799-3146
Specially Appearing
RE Rule 12(b)(2)(4)(5)

DISTRICT COURT OF THE SEVEN JUDICIAL DISTRICT

STATE OF IDAHO, IN AND FOR TETON COUNTY

JACK LEE McLEAN, Trustee and WAYNE DAWSON, Trustee

Plaintiffs,

v.

CHEYOVICH FAMILY TRUST, and

VASA N. BACH FAMILY TRUST,

Defendants.

/

Case NO: CV 01-265

NOTICE OF MOTION BY JOHN N. BACH, SPECIALLY APPEARING, TO QUASH PURPORTED SERVICE, AND TO DISMISS SERVICE/LACK OF PERSONAL JURISDICTION, IRCP, Rule 12(b)92)(4)(5) AND FOR SANCTIONS, Rule 11.
DATE OF HEARING: Jan. 22, 2002
TIME OF HEARING: 10 a.m.
PLACE: Teton Courthouse, 89 N. Main

COMES NOW JOHN N. BACH, specially appearing, and gives notice hereby that on Tuesday, January 22, 2002, he will appear before this Court, at the Teton County Courthouse, at 89 N. Main, Driggs, at 10 o'clock a.m., and will then move this Court for an order or orders QUASHING THE PURPORTED OR ATTEMPTED SERVICE OF PROCESS UPON HIM, ON DECEMBER 19, 2001; and, further, DISMISSING THIS ENTIRE ACTION AND COMPLAINT, UPON THE BASIS OF LACK OF JURISDICTION OF HIM OR ANY DEFENDANT HEREIN, (IRCP, Rule 12(b)(2); FOR INSUFFICIENCY OF PROCESS (IRCP, Rule 12(b)(4); and INSUFFICIENCY OF SERVICE OF PROCESS, Rule 12(b)(5); and FOR SANCTIONS, Per IRCP, Rule 11, regarding such invalidity of personal jurisdiction, and service aspects.

The foregoing motions are based upon this notice, motion, the

submitted documents, attachments, memorandum, etc., along with such further showing and allocution, at the time of hearing.

Nothing stated or advanced hereby is in any way a waiver of any other aspects of jurisdiction, or propriety, or right to remove this action to the appropriate federal district court. DATED: January 7, 2002

JOHN N. BACH

INITIAL MEMORANDUM BRIEF

Attached hereto, is a copy of the attempted use for service purposes of the summons issued herein. Such summons fails to comply not only with IRCP, Rules 3(a), [second clause of last sentence], 3(b), and Rule 4(b), but also Rule 4(c)(1) [cannot be a party to the action which seeks to serve process], Rule 4(d)(4) and Idaho Statutes 15-7-201, through 15-7-2-3, 15-1-401 through 15-1-403 and 15-7-30. The court and opposing counsel, are cited to the cases of: Harkness v. Hyde, 98 U.S. 476, 25 L.Ed. 237 (1879)[illegality of service is not waived by special appearance, even after motion to set aside service is denied, and answer filed]; Silver Sage Ranch, Inc. v. Lawson 98 Idaho 707, 571 P.2d 768 [Earlier motion to quash now part of Rule 12(2)(4)(5)]; Collier Carbon &Chem v. Castle Butte, Inc. 109 Idaho 708, 710 P2d 618 (1985)[Any claimed trustee must be named and served in individual capacity]; Dennett v. Kuenzli 130 Idaho 21, 936 P.2d 219 (Ct. App 1997); and Rasmussen v. Walker Bank, etc., 102 Idaho 95, 625 P.2d 1098 (1981)

DATED: January 7, 2002

Certificate of Service; I certify that on this day, Jan. 7, 2002, I did mail a copy of the foregoing document with attachments to Alva A. Harris, P.O. Box 479, Shelley, ID 83274.

000014

Alva A. Harris, Esq.
Attorney at Law
171 So. Emerson Ave.
P. O. Box 479
Shelley, ID 83274

Phone: 208-357-3448
Idaho State Bar No. 968

Attorney for Plaintiffs.

FILED
12:18
JAN 15 2002
TETON CO.
DISTRICT COURT

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TETON

JACK LEE McLEAN, Trustee, and WAYNE DAWSON, Trustee,	)	Case No. CV-01-0265
Plaintiffs,	)	MOTION TO STRIKE
v.	)	MOTION FOR SANCTIONS
VASA N. BACH FAMILY TRUST,	)	NOTICE OF HEARING
Defendant.	)	

TO: JOHN N. BACH, Intruder:

Plaintiff's named in the above-entitled action, move this Court, for entry of an Order:

Striking under IRCP rules 11(a)(1) and 12(f) those documents filed by you with this Court on or about January 7, 2002, that are entitled (a) "Notice of Motion by John N. Bach, Specially Appearing et al." and (b) "John N. Bach's Specially Appearing Motion for Disqualification et al."upon the following grounds:

I. The Defendant, VASA N. BACH FAMILY TRUST, has been a properly served party to this action since December 18, 2001, but has failed to properly present itself to this Court in asserting any defense or motions;

2. That Default has been entered against said Defendant Vasa N. Bach Family Trust.

3. The said documents listed above, that attempt to represent this defendant, were not filed by an attorney authorized to practice law in Idaho;

4. That John N. Bach is not an attorney authorized to represent clients before any Idaho Court; that Bach has no standing to represent said Trust before this Court;

5. That the "documents filed" are an affront to the Court in that an individual, not authorized to practice law, and who has no proper standing before this Court, has attempted to come before it allegedly representing himself, other persons or entities, and this defendant; in addition he notices matters up for hearing without clearing the hearing date and thus causes plaintiffs additional costs;

6. That individual, John N. Bach, makes this "special appearance" knowing full well that this Court, through Judge Wood, issued its Order on October 2, 1998, in Teton County Case No. CV-98-025 as follows:

"1. The Court, sua sponte, raised the issue of whether defendant John N. Bach (Bach) could represent Targhee Powder Emporium, Unlimited (TPE) as its legal counsel. Where Bach declined to affirm to the Court that he is licensed to practice law in the state of Idaho, the Court concluded that Bach is not licensed to practice law in the state of Idaho and therefore ruled that Bach may not represent TPE as its legal counsel. Accordingly, it is hereby ordered that Bach may not represent TPE as legal counsel in any further proceeding before this Court."

7. That same John N. Bach had been previously informed by this Court in numerous cases that he could not represent anyone other than himself.

8. In a present case before this Court, Teton County Case No. CV-01-205, this same Mr. Bach attempted to remove the claim and delivery pictures

case to the U.S. District Court. In the Order remanding the case back to this Court, the United States Circuit Judge, Thomas G. Nelson, stated the following on page 2:

"Although Bach properly filed a motion to remove the case as to himself, the Trust never filed a motion to remove. Bach purported to appear both for himself and the Trust. However, a *pro se* party may not appear on behalf of other parties. *Church of the New Testament v. United States,* 783 F.2d 771, 773-74 (9th Cir. 1986). Non-lawyer litigants may not represent other litigants. *Id.* at 774. The Trust never filed an appearance through counsel, and thus, it never filed a motion to remove the action as required by 28 U.S.C. sec. 1441. Accordingly, this case was never fully removed to this court."

and for an Order:

For Sanctions under rule 11(a)(1) herein, imposing costs, expenses, and a reasonable attorney's fee and authorizing execution thereon against Defendant Vasa N. Bach Family Trust and this intruder, John N. Bach, in favor of these Plaintiffs on the following grounds

I. That the special appearance herein by the said John N. Bach for "HIM OR ANY DEFENDANT HEREIN" is deliberate, intentional and clearly violates the certificate provisions of said rule 11 and the above quoted Order of this Court.

2. Futher, that said filing is done solely to delay and cloud the issues in violation of Idaho Code 12: 123, and that this individual is insulting this Court by these attempted representations.

removal even after the plaintiff of that case filed a Notice of Dismissal in the state and federal courts.

3. It is Plaintiffs position that Bach intentionally filed herein his Notice of Removal and the other frivolous motions, notices, etc. with the intent of

delay and to occassion costs and expenses to the other party. He obviously attempts to harrass his victims by vexatious ligation. This activity should be punished via sanctions. He is attempting to befuddle, confuse, and avoid his opponents by playing the part of a paper producing tiger. This Court should not allow itself to be his little plaything.

4. To create the federal case, CIV No. 00-0358-E-BLW, Bach filed a Notice of Removal in the Teton County, Idaho, case of Katherine M. Miller vs. John N. Bach and Targhee Powder Emporium, Inc. that was filed in this state court on May 19, 2000. Bach then wanted to consolidate that removed state case in the federal cas5CIV No. 99-014-E-BLW. Bach continued to seek removal even after the plaintiff of that case filed a Notice of Dismissal in the state and federal courts.

5. In an "Objection" document filed in the state removed Case No. 00-0358-E-BLW by attorney Galen Woelk of Driggs, Idaho, Mr. Voelk stated Mr. Bach's litigation problems and procedures nicely when he wrote:

"3. Plaintiff should point out for this Court that she suspects Mr. Bach's recent filing of motions is simply his attempt to forestall dismissal of this action and give him the opportunity to needlessly tie up this Court's time at everyone else's expense. Mr. Bach's modus operandi has been repeated in various states in the nation, as is evidenced by Mr. Bach's disbarment in the State of California. See *In Re John Nicholas Bach on Discipline*, California State Bar Court Case No. 89-0-11726; 91-0-04983 (1993). Similarly, and as evidenced by other Courts in California, Mr. Bach has previously engaged in "multiple acts of misconduct ...." (and, his) "use of specious and unsupported arguments in an attempt to evade culpability ... reveals a lack of appreciation both for his misconduct and for his obligations as an attorney." *In the Mater of John Nicholas Bach*, 1991 WL 153103 (Cal. Bar Ct.), 1 Cal. State Bar Ct. Rptr. 6311 646-647, (1991) see also *Bach v. State*

of California, 52 Cal. 3d 1201, 805 P.2d 325, 328 ("{p}etitioners difficulties have multiplied apparently as a result of a persistent lack of insight into the deficiencies of his professional behavior."). Further, Mr. Bach's present motions and attempts to remove this case clearly resemble those types of actions he has previously engaged in and been sanctioned for. See *Bach v. County of Butte* et al., 215 Cal. App. 3d 294, at 305, 311-312, ("Once again, a case cited by the Bachs is irrelevant to this appeal.) ("{I}ssues raised by the Bachs are entirely meritless and no reasonable attorney familiar with the applicable law and the facts of this case would have pursued the present appeal.) ("John Bach's motive . . . was for the improper purpose of delaying the resolution of this case.") ("We find Mr. Bach's actions in this case particularly eqregious . . . Mr. Bach **acted in pro se** and sought to further his own interests by filing a clearly frivolous appeal.") (emphasis supplied)."

6. Defendant Bach, a trained, licensed, but debared past attorney, has had ample time to learn how to comply with the provisions of Rule 11. It is Plaintiff's position that Bach has violated Rule 11. He has never alleged any facts or evidence to substantiate any of his countless claims in all these cases. Each Idaho Court-state and federal- that has reviewed his pleadings, motions, notices of hearings, and briefs has come to the same conclusion. He substantiates nothing. Summary Judgment is always granted against him in these courts.

7. The appropriate sanction as allowed under Rule 11 should be an attempt to correct the problem. The federal rule ll states:

"A sanction imposed for violation of this rule shall be limited to what is sufficient ***to deter repetition of such conduct***. . .".(emphasis added)
The Idaho Rules of Civil Proceedure, Rule 11, allows for the imposition of "an appropriate sanction."

8. Clearly his past performances in California and in his previous frivolous filings in the state and federal court systems in Idaho demonstrate his inability to comply with Rule 11. He has shown himself to be an empty, issueless, vextacious litigation paper producing pro se litigant, who knowingly and intentionally misuses the judicial system to hurt innocent parties and to consume valuable judicial time.

9. Robert M. Harwood, Esq. of Benoit, Alexander, Sinclair, Harwood & High of Ketchum, Idaho is asking the U. S. District Court in its case CIV-01-266-E-TGN for a "vexatious litigant determination" against Mr. Bach. He represents Charles A. Homer, Donald L. Harris, Shan B. Perry and the law firm of Holden, Kidwell, Hahn & Crapo P.L.L.C. and seeks "dismissal with prejudice of all the claims against them, summary judgment, and future protection for themselves, their lawyers, and insurers from the Plainitff's (Bach) vexatious litigation tactics." Thus, others who have been attacked by Bach are tired of the needless time wasted and expense incurred.

10. Plaintiffs seek monetary damages of costs and attorney fees herein as a sanction. However, Plaintiff also believes that Bach is a pauper and that monetary sanctions will not deter him. That also does not solve this Court's real problem.

11. Plaintiff thus proposes to this Honorable Court the imposition of additional sanctions to the effect that John N. Bach be barred and stopped from filing any documents within the state court system of Idaho in any case without first obtaining this Court's approval or that all filings for John N. Bach be done under the signature of a licensed attorney. That sanction would truly "deter repetition of such conduct." It is "an appropriate sanction" under the rule. It also allows him to pay for his sincere and valid litigation issues and to pursue them without violation of any of his rights.

This motion is based upon the documents and pleadings on file herein and oral argument is requested.

DATED this 11 day of January, 2002.

Attorney for Plaintiffs

NOTICE OF HEARING

COMES NOW, Alva A. Harris, attorney for said Plaintiff, and gives notice that a hearing will be held on the 29th day of January, 2002, at 10:00 a.m., or as soon thereafter as counsel can be heard, at the Teton County Courthouse in Driggs, Idaho, at which time and place said Plaintiffs motions described above will be heard.

Dated this 11th day of January, 2002.

Alva A. Harris

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 11 day of January, 2002, I served a true and correct copy of the following described document on the person listed below by depositing the same in the United States mail, with the correct postage thereon, in envelopes addressed as follows:

Document Served: MOTION TO STRIKE,
MOTION FOR SANCTIONS., AND
NOTICE OF HEARING

Person Served: John N. Bach, Intruder
1858 S. Euclid Avenue
San Marino, CA 91108

Alva A. Harris

Seventh Judicial District - Teton County

Minutes Report

Case: CV-2001-0000265

Jack Lee Mclean, etal. vs. Cheyovich Family Trust, etal.

All Items

User: PHYLLIS

Hearing type:	Motions	Minutes date:	01/29/2002
Assigned judge:	Brent J. Moss	Start time:	10:45 AM
Court reporter:	David Marlowe	End time:	10:45 AM
Minutes clerk:	PHYLLIS HANSEN	Audio tape number:	CV
Civil parties:	Plaintiffs Attorney Alva Harris Defendant's Attorney Kathleen Heimerl		

Tape Counter: 2950
J calls case -
Bach introduces Attorney Kathleen Heimel
Attorney intends to appear in both cases

Tape Counter: 3048
PA makes comments
our position is that default has already been taken
J cannot act on disqualification because not filed properly
Motion to Strike is well taken
Ask for Sanctions because party with no standing asked court to act
Object to hearing becuse not timely filed
sates mailed on 19; envelope not postmarked until January 23
in 266 only one defendant and have been defaulted
ample reasons to strike Motion to Disqualify
Ask for Sanction in haveing to argue

Tape Counter: 3180
PA - in 265 - same thing occured
no other arguments; nothing more pending

Tape Counter: 3246
DA - confused as to what capacity Mr. Bach was served;
question service of process
IF default has been entered and should be set aside; that is another matter
If service imporoper; the has been nothing filed so no default should be entered
am moving to quash service of process as invalid

Tape Counter: 3368
J any motion to Quash is not timely filed
J ENtry of Default has been filed by Clerk; would have to be proper notice followed
As to Bach's appearance, would be happy to enter but not properly filed
FIled motion, not party
Not properly before the court; have you read the case you cited
Court has to grant Petition to Intervene
Have to cite proper rule

Tape Counter: 3583
Bach - think motion is appropriate
J- I don't
Bach - think should put everything on hold
have multiplicity of suits
J - nothing else to continue
What is the basis of the default - how can the clerk sign a default when she has to make a legal determination as to whether properly served
J - under the law of the state of Idaho - the clerk is entitiled to enter the default
B - every time I do, I am told to put it in writing and there is a delay of 5 to 10 days

Seventh Judicial District - Teton County

Minutes Report

Case: CV-2001-0000265

Jack Lee Mclean, etal. vs. Cheyovich Family Trust, etal.

All Items

Tape Counter: 3711

J motion to DQ is stricken
Motion for Sanctions is appropriate; will grant $150 appearance fee
Motion to Intervene - made under Rule 19A - have explained on record
will allow Bach to file Motion to Intervene
Must be at least 10 days notice to the parties; Ms Heimerl must be notified
J - must move to set aside
Cloase 3792

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE STATE OF IDAHO,

AND FOR THE COUNTY OF TETON

MAGISTRATE DIVISION

TLE OF ACTION ~~John Bach~~ Miller, et al vs John Bach et. al

PE OF ACTION Hearings

SE NUMBER CV 01-059, 265, 266 TAPE CV 83 181-1241

TE 26 February 2002 TIME 10:17

DGE Brent J Moss CLERK Phyllis A Hansen

ESENT Defendant John Bach, Plaintiffs attorney Alva Harris

J calls case
PA - ready to try issue on eviction
J - will try counterclaims as separate issues
D - believe of eviction goes before court - if he attempts to offers some of more recent deeds do get into counterclaims
believe eviction should not go to trial
deliberate misuse of process
believe should be tried before a jury
J should be resolved on pleading
PA think dispute on all evidence
J - Documentation needs to be submitted
can D as matter of law
HD argues
Counter claims raise adverse possession

000024

go far beyond eviction
motions for further deposition of Ms Miller
never had notice of
still want discover
want production of documents complied w/
PA - object more than enough time; no
reason for continued delay
need dead animal removed
PA - D continues to flaunt direct orders
of court
want to go on property; going to go on
property; any disturbance will be caused
by D
J - don't have to resolve those matters
D - object to effort to block and to respond
J - dead horse not issue here
D - PA should show cause why his claim
should not be dismissed
where is jurisdiction
J get trial date set
Counterclaims will be put on hold for now
no amendments to pleading

set trial date - 2 days
D - will be filing motion to recuse Harris
is precipient witness
schedule for
May 16 + 17
Clerk will send notice
any pendings motions filed within next
two weeks

650 PA - different matter -
J will recused - want set
D have appeared + filed motion to dismiss
PA - want to file for sanctions
DA - has seen and approved
D - she does not represent me personally
J calls trust cases
request to intervene

788 DA have filed motion to set aside default
PA not ready to hear
request produce evidence
J have received proper notice
DA - requested to be set for hearing tda
J schedule for next time here -
March 26, 10:00

will not authorize anything until hearing

881 D's request on motion to intervene

J. see no personal interest

D- no default judgment has been entered yet

don't see anything that says I have to

show proof

should be joined as indispensible party

4 recorded documents of each 2 cases

special power of attorney

warranty deed

deposition was taken, have always claimed

interest

have never been challenged in federal cases

I am individual that secured options in

own name for principles

1028 PA- said represented joint venture

stated was asset of Vasa D Bach Family

Trust

object - will not consent genie method

by which he tries to come in

is joint venture, has been recorded

doesn't have qualifications or right to

represent anyone but himself

object until can come in on his own

1122 D responds - PA is prime example

I am Jorghee Powder Emporium

disregard + strike Harris's objects

1190 J will allow intervention as long as is

only his personal interest; not any

other kind of entity

D - other matters have come up

want to amend

J - file proposed motion

1236 PA - request documents be filed

1246

FILED
FEB 26 2002
TETON CO.
DISTRICT COURT

Alva A. Harris, Esq.
Attorney at Law
171 So. Emerson Ave.
P. O. Box 479
Shelley, ID 83274

Phone: 208-357-3448
Idaho State Bar No. 968

Attorney for Plaintiffs.

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TETON

JACK LEE McLEAN, Trustee, and WAYNE DAWSON, Trustee, Plaintiffs, v. CHEYOVICH FAMILY TRUST and VASA N. BACH FAMILY TRUST, Defendants.	)	Case No. CV-01-0265 ORDER OF SANCTIONS

Plaintiff's Motion to Strike and Motion for Sanctions were heard before this Court on January 29, 2002. The Court heard from Alva A. Harris, for the Plaintiff, John N. Bach appeared and argued, and Kathleen M. Heimerl, Attorney at law, filed an appearance in behalf of the Defendant Vasa N. Bach Family Trust.

The Court heard the matter as presented by the various parties and after consideration of the matter, ruled and ordered as follows:

NOW, THEREFORE, IT IS ORDERED THAT:

1. Leave is given for Kathleen M. Heimerl, Attorney at Law, to file an Appearance herein for Defendant Vasa N. Bach Family Trust.

2. The Motion for Disqualification filed by John N. Bach is hereby ordered Stricken as having been filed by someone that is not a party to the case and who cannot represent parties to the case.

3. The Motion for Sanctions filed by the Plaintiff is granted and John N. Bach is ordered to pay the sum of $150.00 to Plaintiff. Execution shall issue thereon upon application therefore.

DATED this 26 day of February, 2002.

Brent J. Moss

District Judge

CLERK'S CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the _____ day of February , 2002, I served a true and correct copy of the following described document on the person listed below by hand delivery or by depositing the same in the United States mail, with the correct postage thereon, in envelopes addressed as follows:

Document Served: ORDER OF SANCTIONS

Person Served:

John N. Bach
1858 S. Euclid Avenue
San Marino, CA 91108

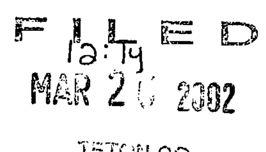
Kathleen M. Heimerl, Esq.
P. O. Box 828
Victor, Idaho 83455

Alva A. Harris, Esq.
P. O. Box 479
Shelley, Idaho 83274

____

Clerk

MILAN CHEYOVICH
DIANA CHEYOVICH
1858 S. Euclid Avenue
San Marino, CA 91108
Tel: (626) 799-3146
Individually & As Assignors
of the CHEYOVICH FAMILY TRUST,
Specially Appearing, Contesting
All Aspects of Jurisdiction and
Service of Process, In Pro Se



FILED
MAR 25 2002
TIME: 9:10 am
TETON CO. DISTRICT COURT

SEVENTH JUDICIAL DISTRICT COURT, STATE OF IDAHO

IN AND FOR THE COUNTY OF TETON

JACK LEE McLEAN, Trustee and WAYNE DAWSON, Trustee, Plaintiffs, v. CHEYOVICH FAMILY TRUST and VASA N. BACH FAMILY TRUST, Defendants.	CASE NO: CV 2001-00265 NOTICE OF MOTION BY MILAN CHEYOVICH AND DIANA CHEYOVICH, SPECIALLY APPEARING, INDIVIDUALLY, AS ASSIGNORS OF AND FOR THE CHEYOVICH FAMILY TRUST, AND THEIR MOTION TO QUASH, STRIKE AND/OR DISMISS THE SERVICE, THIS ACTION FOR LACK OF PERSONAL JURISDICTION, IRCP, Rule 12(b)(2)(4)(5) and FOR SANCTIONS, IRCP, Rule 11 DATE OF HEARING: April 30, 2002 TIME OF HEARING: 10 a.m PLACE OF HEARING: Teton Courthouse, 89 N. Main, Driggs, ID 83422

COME NOW, MILAN CHEYOVICH and DIANA CHEYOVICH, specially appearing, individually, as assignors of and for/on behalf of the CHEYOVICH FAMILY TRUST, a California Revocable Trust, who

HEREBY GIVE NOTICE hereby, that on Tuesday, April 30, 2002, they will appear before this Court, at the Teton County Courthouse, at 89 N. Main, Driggs, at 10 a.m., and will then move this Court for each and all of the following ORDERS:

1. TO QUASH, STRIKE AND/OR DISMISS ALL PURPORTED SERVICE OF PROCESS UPON ANY OF THESE APPEARING (SPECIALLY) DEFENDANTS AND ASSIGNEES; (IRCP, Rule 12(b)(2)(4)(5);
2. TO DISMISS FOR LACK OF PERSONAL JURISDICTION, (IRCP, Rule 12(b)(2); and
3. FOR BOTH MONETARY SANCTIONS AGAINST PLAINTIFFS &

THEIR COUNSEL, ALVA A. HARRIS, AND TO HOLD ALVA A. HARRIS IN CONTEMPT FOR THE FLAGRANT MISUSE/ABUSE OF THE POWERS OF THE COURT, AND OF HIS VIOLATIONS OF HIS OATH AND DUTIES AS AN OFFICER OF THE COURT. (IRCP, Rule 11)

The above motions are based upon this notice, the motions as presented at time of hearing. the submitted initial memorandum brief in support hereof; along with further submitted documents, request for judicial notice, etc.

Nothing stated or advanced hereby is in any way a waiver of any other challenge to any jurisdiction herein, or the rights to remove this action to the appropriate federal district court.

DATED: March 22, 2002

MILAN CHEYOVICH

DIANA CHEYOVICH

INITIAL MEMORANDUM BRIEF IN SUPPORT

The named defendants, CHEYOVICH FAMILY TRUST and the VASA N. BACH FAMILY TRUST, do not have any designated specified party trustee or trustees, as required by IRCP, Rule 3(b). Such glaring defect is found not only in the complaint's caption of the parties but in the summons which was improperly served only on one of the CHEYOVICH's. IRCP, Rule 4(b). Thus, where no trustees have been named as parties in their individual capacities when the complaint was filed, the trial court never obtains jurisdiction over them in their individual nor any capacity on behalf of the trust. See Collier Carbon & Chem. Corp v. Castle Butte, Inc. 109 Idaho 708, 710 P.2d 618 (1985)

Moreover, an out of state trust cannot be sued nor personal jurisdiction obtained over it, without it's permission and consent. I.C. statutes 15-7=201 through 15-7-3, 15-1-401 through 15-1-403 and 15-7-30.

Further, the CHEYOVICH FAMILY TRUST being a California revocable trust established by only MILAN and DIANA CHEYOVICH, husband and wife, they can not only personally appear for the trust, but they have assigned the trust's rights, claims, causes of actions and all interests to them, joint and severally as individuals. See IRCP, Rules 17(a), 17(c), and 19(a)(1).

See also Harkness v. Hyde, 98 U.S. 476, 25 L. Ed 237 (1879) (illegaility/impropriety of service is not waived by special appearance, even after motion to set aside or strike service is denied and answered filed); Silver Sage Ranch, Inc. v. LAWson (Earlier motion to quash now part of Rule 12(b)(2)(4)(5),). See also Dennett v. Kuenzli 130 Idaho 21, 936 P.2d 219 (1997) and Rasmaussen v. Walker Bank, etc., 102 Idaho 95, 625 P.2d 1098 (1981).

Additional memorandum brief will be filed.

DATED: March 22, 2002

MILAN CHEYOVICH

DIANA CHEYOVICH

Certificate of Service by Mail: I certify that on this date, March 22, 2002, I did mail, a copy of the foregoing document, in an envelope with first class postage preppaid affixed thereto, to Alva A. Harris, P.O. Box 479, Shelley, ID 83274.

FILED
MAR 26 2002
TETON CO.
DISTRICT COURT

JOHN N. BACH
1858 S. Euclid Avenue
San Marino, CA 91108
Tel: (626) 799-3146
Intervenor-Complainant

DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT

STATE OF IDAHO, IN AND FOR THE COUNTY OF TETON

JOHN N. BACH, Individually & dba TARGHEE POWDER EMPORIUM, LTD,

Intervenor-Complainant,

v.

JACK LEE McLEAN, TRUSTEE, WAYNE DAWSON, TRUSTEE, DONNA DAWSON, ALVA A.HARRIS, Individually, & dba & as Alter Ego of Scona, Inc., Katherine M. Miller, and Does 1 through 30, Inclusive,

Third Party Defendants.

_______________/

CASE NO: CV 01-0265
COMPLAINT IN INTERVENTION BY JOHN N. BACH, INTERVENOR

JOHN N. BACH DEMANDS A TWELVE (12) PERSON JURY ON ALL ISSUES IN THIS ACTION; HE WILL NOT STIPULATE TO A SIX (6) PERSON JURY, IRCP, Rules 38(a), 38(b) & 38(c).

Intervenor-Complainant, JOHN N. BACH, does hereby state as follows as and for claims against all defendants, and each of them, jointly and severally.

1. He is a citizen of California, having held all his adult life a California driver's license, regiatered to vote in Los Angeles County, who sojourns and seasonally lives in Teton County, Idaho, owning land, in his own rights, stead and interests, individually and dba TARGEHEE POWDER EMPORIUM, LTD.

2. Defendants in Intervention are JACK LEE McLEAN, Trustee and WAYNE DAWSON, trustee, who are also sued here indvidually, and are respectively citizens of Canada and

California.

3. Party defendants, ALVA A. HARRIS, Individually & dba & as alter ego of SCONA, INC., along with KATHERINE M. MILLER, are the coprincipals, conspirators, joint venturers, mutual agents and acting in commonality of purposes, unity of actions, and economic enterprises, not only with said JACK McLEAN, WAYNE and DONNA DAWSON, in all said capacities, but also among and for each others and his/her own tortious and criminal acts to steal, convert, destroy and/or cheat intervenor of his right, title, interest, beneficial/economic ownership, managment, possession and entitlement to the real property, hereinafter described.

4. On or about August 5, 1994, Intervenor JOHN N. BACH, McLEAN-DAWSON, and MILAN and DIANA CHEYOVICH, purchased a forty (40) acre parcel, known generally by the designation THE PEACOCK PROPERTY, each obtaining an undivided one-fourth onwership, with Intervenor JOHN N. BACH's one-fourth ownership and entitlement rights thereo, being held under his dba of TARGHEE POWDER EMPORIUM, LTD. A copy of an August 17, 1994 recorded CORRECTION CORPORATION WARRANTY DEED to said property is EXHIBIT "I" hereto and by such reference incorporated herein as though set forth in full. Since the purchase of said PEACOCK PROPERTY, intervenor has been the duly designated agent, manager and overseer of said 40 acre parcel.

5. On or about November 13, 2000, McLEAN, joined by HARRIS, SCONA, INC., and KATHERINE M. MILLER and a secret undisclosed additional principal and conspirator with them, whose true name has been deliberately withheld by HARRIS and is currently unknown to intervenor, who per I.R.C.P., Rule 10(a)(4) will amend this Complaint in Intervention when his/her true name is discovered, but who is named herein DOES 1, along with also unknown DOES 2

through 30, Inclusive, did attempt to steal, convert, destroy and deprive Intervenor JOHN N. BACH of not only his ownership, interests, and investment in said real property, but also of his dba names and business identities of TARGHEE POWDER EMPORIUM, LTD, UNLTD, and INC., business names, entities, which are his rightful California and Idaho entitles, which were not required to be registered in Idaho, and which said plaintiffs and defendants herein McLEAN, DAWSON, HARRIS, MILLER and DOES 1 through 30, Inclusive, seek per the complaint filed in this action to deprive Intervenor therefrom, fraudlently, and contrary to the laws of Idaho, acting voidly and criminally, to have said real property set forth in EXHIBIT "I" quieted only to themselves, to the complete exclusion and deprivation of Intervenor JOHN N. BACH's ownership, entitlements thereto, via the void/bogus deed attached to their complaint as Exhibit B.

6. Said tortious and criminal conduct by all of said plaintiffs McLEAN and DAWSON, along with that of the defendants, herein designated have been pursued per their economic enterprise in violation of the Idaho Racketeering and Corrupt Influence Act, for over the last five (5) years with other one or more like predicate acts against intervernor as to other land investments and purchases. Intervenor refers to and incorporates herein his ANSWER, AFFIRMATIVE DEFENSES and COUNTERCLAIMS, filed in those Teton County Actions, CV 01-33, CV 01-59 and his COMPLAINT IN INTERVENTION in CV 01-266.

7. Intervenor JOHN N. BACH, other than as stated herein, denies, all other statements and/or allegations in McLEAN's and DAWSON's complaint and in all claims or purported causes of actions stated therein.

WHEREFORE, Intervenor JOHN N. BACH, requests as and for full relief, complete judgment in his favor and against all parties herein, as follows:

1. The quieting of at least one-fourth title, ownership, economic worth and benefits in/to said real property;

2. Special damages as allowed by law, subject to proof, and general damages allowed by California and/or Idaho statutes, etc., in the minimum of $1,000,000.00 per each defendant herein, plus treble damages therewith as allowed by racketeering statutes; or other authorities;

3. Punitive, deterrant or other statutory civil penalties, of California/Idaho in the minimum amount of $2,500,000.00 per defendant herein;

4. Attorney fees, paralegal, investigative, court costs, assessments, fees, etc., and other recoveral damages or sanctions, per California/Idaho authorities;

5. Such other/further relief as meet and proper.

DATED: March 26, 2002

John N. Bach

JOHN N. BACH, Intervenor

Verification

STATE OF IDAHO)
COUNTY OF TETON) ss

JOHN N. BACH, being duly placed under oath, desposes and says: He is the intervenor herein, he has read the foregoing COMPLAINT IN INTERVENTION, knows the contents thereof and verily believes the statements contained therein are true.

SAMANTHA HIRES NOTARY PUBLIC STATE OF IDAHO

John N. Bach

JOHN N. BACH

Samantha Hires

NOTARY FOR IDAHO
Residing at: Driggs

(SEAL)

Commsn Expires: 2/1?/0?

RECEIVED

AUG 17 1994

TETON Co. Id.
Clerk Recorder

CORRECTION
CORPORATION WARRANTY DEED

THIS INDENTURE is made this 12th day of ~~July~~ August 1994, between TETON WEST CORPORATION, a Nevada corporation duly authorized to do business in the State of Idaho, and having its principal office in Idaho at Driggs in the County of Teton, State of Idaho, the "GRANTOR", and JACK LEE McLEAN, Trustee of the JACK LEE McLEAN FAMILY TRUST, as to an undivided one-fourth interest; MILAN CHEYOVICH and DIANA CHEYOVICH, Trustees of the CHEYOVICH FAMILY TRUST, as to an undivided one-fourth interest; WAYNE DAWSON, Trustee of the DAWSON FAMILY TRUST, as to an undivided one-fourth interest; and TARGHEE POWDER EMPORIUM, LTD, as to an undivided one-fourth interest whose mailing address is P.O. BOX 93, DRIGGS, IDAHO 83422, the "GRANTEE".

WITNESSETH, that GRANTOR, having been duly authorized by resolution of its Board of Directors, for and in consideration of the sum of Ten Dollars ($10.00) lawful money of the United States of America, and other good and valuable consideration, to it in hand paid by GRANTEE, receipt whereof is hereby acknowledged, has granted, bargained and sold, and by these presents does grant, bargain, sell, convey and confirm unto GRANTEE and to GRANTEE's heirs and assigns forever, all the following described property in the County of Teton, State of Idaho, to-wit:

(See Attached Exhibit "A" attached hereto and by this reference incorporated herein)

EXCEPTING THEREFROM surface water and rights and membership in proposed water company as per written agreement between Grantor and Grantee.

TOGETHER with the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, also any reversions, remainders, rents, issues and profits therefrom, and all estate, right, title and interest in and to said property, as well in law as in equity, of the GRANTOR.

117219

FILED
AT THE REQUEST OF
First American
AT 15 MINUTES PAST 1 P M
DATE 17 August 1994
[signature]
CLERK OF RECORDER
BY ______
DEPUTY

Filmed ______
Indexed ______
Platted ______

EXHIBIT "I"

117219

TO HAVE AND TO HOLD, the above described premises and appurtenances unto the GRANTEE and to GRANTEE's heirs and assigns forever. The GRANTOR shall warrant and defend said premises in the quiet and peaceable possession of the GRANTEE against GRANTOR and GRANTOR's successors, and against every person whomsoever who lawfully holds (or who later lawfully claims to have held) rights in the premises as of the date hereof.

In construing this deed and where the context so requires, the singular includes the plural.

THIS CORRECTION CORPORATE WARRANTY DEED IS BEING RECORDED TO CORRECT LANGUAGE IN CORPORATE WARRANTY RECORDED JUNE 14, 1994, RECORDER'S NO. 116461, RECORDS OF TETON COUNTY, IDAHO.

IN WITNESS WHEREOF, the GRANTOR has caused its corporate name to be affixed by its duly authorized officer.

TETON WEST CORPORATION

By: George C Hatch
Its President

ATTEST: Diane G Orr
Assistant Secretary

STATE OF UTAH)
: ss.
COUNTY OF SALT LAKE)

On this 27th day of August, in the year 1994, before me, the undersigned, a notary public in and for said state, personally appeared George C. Hatch and Diane G. Orr, known or identified to me to be the President and Assistant Secretary, respectively, of Teton West Corporation, and the persons who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

NOTARY PUBLIC
NORMA OLIVER
Salt Lake City, Utah 84119
My Commission Expires
February 1, 1995
STATE OF UTAH

Norma Oliver
Notary Public for Utah
Residing at Salt Lake City, Utah
My Commission Expires: 2/1/95

FILED
1:09
MAY 03 2002
TETON CO.
DISTRICT COURT

Alva A. Harris, Esq.
Attorney at Law
171 So. Emerson Ave.
P. O. Box 479
Shelley, ID 83274

Phone: 208-357-3448
Idaho State Bar No. 968

Attorney for Plaintiffs.

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TETON

JACK LEE McLEAN, Trustee, and WAYNE DAWSON, Trustee,	)	Case No. CV-01-0265
Plaintiffs,	)	MOTION TO DISMISS
v.	)	
CHEYOVICH FAMILY TRUST, and VASA N. BACH FAMILY TRUST,	)	
Defendants	)	

TO: JOHN N. BACH, Intruder and MILAN CHEYOVICH and DIANA CHEYOVICH, intruders and KATHLEEN DHEIMERL, attorney for the Vasa N. Bach Family Trust.

Plaintiffs in the above-entitled action, move this Court, for entry of an Order:

1. Dismissing pursuant to IRCP rule 12(b) all proceedings herein after April 2, 2002, upon the grounds that this state Court lacks jurisdiction to hear any matters herein because this action was removed to the U. S. District Court, District of Idaho, in case No. CIV 02-148-E-MHW by a filing dated April 2, 2002.

2. Dismissing pursuant to IRCP rule 12(b) that service upon Alva A. Harris, on April 19, 2002, for Jack Lee McLean, of a Summons on Complaint in Intervention and a Complaint in Intervention by John N. Bach, Intervenor, on the grounds that this Court has no jurisdiction after the matter was removed to the federal court as stated above.

DATED this 2nd day of May, 2002.

Attorney for Plaintiffs

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 2 day of May, 2002, I served a true and correct copy of the following described document on the person listed below by depositing the same in the United States mail, with the correct postage thereon, in envelopes addressed as follows:

Document Served: MOTION TO DISMISS

Persons Served:

John N. Bach
1858 S. Euclid Avenue
San Marino, CA 91108

Milan Cheyovich and Diana Cheyovich
1858 S. Euclid Avenue
San Marino, CA 91108

Kathleen Heimerl, Esq.
P.O. Box 828
Victor, Idaho 83455

Alva A. Harris

JOHN N. BACH
1858 S. Euclid Avenue
San Marino, CA 91108
Tel: (626) 799-3146
Defendant & Counterclaimant
In Pro Per

FILED 4:49 AUG 08 2002 TETON CO. DISTRICT COURT

SEVENTH JUDICIAL DISTRICT COURT, STATE OF IDAHO

IN AND FOR THE COUNTY OF TETON

JACK LEE McLEAN,

Plaintiff,

v.

JOHN N. BACH, et al.,

Defendants.

CASE NO: CV 01-265

ANSWER, AFFIRMATIVE DEFENSES & COUNTERCLAIMS.
(DEMAND FOR JURY TRIAL ON ALL ISSUES; JOHN N. BACH is unwilling to stipulate to any lessor number than a 12 Jury Plus Alternates to try all issues herein)

Defendant, JOHN N. BACH, having already appeared herein, filed various motions, affidavits in support thereof, one such motion being for complete summary judgment against the plaintiff, sanctions, etc., has already filed his answer and affirmative defenses raised/asserted in said filings, but, in order to eliminate any uncertainty, does hereby file his ANSWER, denying all allegations in the complaint on file herein, such denial being generally, specifically, conjunctively, disjunctively and jointly and severally, and asserts as AFFIRMATIVE DEFENSES, all those issues, facts, and legal points raised herein by him per his previous filings herein, which said incorporated AFFIRMATIVE DEFENSES are also averred and set forth herein, as COUNTERCLAIMS, along with all his counterclaims set forth in Teton Seventh Judicial Court Actions, CV 01-33, CV 01-59, counterclaims therein dismissed without prejudice, and those claims set forth in the Complaint filed by JOHN N. BACH, on July 23, 2002 in Teton CV 02-208, further expanded by his Affidavit also filed therein on July 23, 2002. DATED: August 8, 2002

JOHN N. BACH

VERIFICATION OF ANSWERS, ETC.

STATE OF IDAHO) ss
COUNTY OF TETON)

I, JOHN N. BACH, being placed under oath, hereby do verify, all statements as aforesaid, in my ANSWER, AFFIRMATIVE DEFENSES & COUNTERCLAIMS, having read the same, knowing of my own personal knowledge and belief that the statements therein contained are true, or so I verily believe them to be true.

I, the undersigned NOTARY PUBLIC for the State of Idaho, do hereby acknowledge, verify and authenticate, that JOHN N. BACH, known to me to be such person by such name, did personally appear before me, was placed under oath and did in my presence sign and confirm thereby the statements given in the foregoing document, entitled: "ANSWER, AFFIRMATIVE DEFENSES & COUNTERCLAIMS."

DATED: August 8, 2002

Gayle Bressler
NOTARY PUBLIC

Victor
Residing at:

3-1-07
Comm'n Expires:

(SEAL)

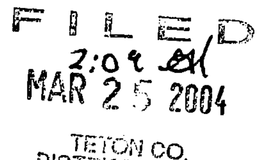
GAYLE BRESSLER
NOTARY PUBLIC
STATE OF IDAHO

CERTIFICATE OF SERVICE BY MAIL

I, the undersigned hereby certify that on this date, I did Mail a true and correct copy per separate envelopes, with first class postage prepaid affixed thereon, of the foregoing document, to Alva A. Harris, P.O. Box 479, Shelley, ID 84274 and Judge Jon Shindirling, C/O Bonneveill Courthouse, 605 N. Capital Ave., Idaho Falls, Id, 83402.

John N. Bach

Alva A. Harris
Attorney at Law
171 South Emerson
P.O. Box 479
Shelley, Idaho 83274
(208) 357-3448
Idaho State Bar No. 968



Attorney for Plaintiffs and named third party Defendants

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TETON

JACK LEE McLEAN, Trustee and WAYNE DAWSON, Trustee, Plaintiffs, vs. CHEYOVICH FAMILY TRUST and VASA N. BACH FAMILY TRUST Defendants	Case No. CV-01-265 ANSWER OF THIRD PARTY DEFENDANTS
JOHN N. BACH, individually & dba TARGHEE POWDER EMPORIUM, LTD, Intervenor-complainant, vs. JACK LEE McLEAN, TRUSTEE, WAYNE TRUSTEE, DONNA DAWSON, ALVA A. HARRIS, individually, & dba & as Alter Ego of Scona, Inc., KATHERINE M. MILLER, and Does 1 through 30, Inclusive. Third Party Defendants	

COMES NOW defendants Paula Ehrler, Successor Trustee to Jack Lee McLean, Trustee, and Wayne Dawson, Trustee, Scona, Inc. and Alva A. Harris, by and

through undersigned counsel, and as their Answer to the Complaint in Intervention filed by Intervenor, John N. Bach, respond as follows:

FIRST DEFENSE

Intervenor's Complaint in Intervention fails to state a claim upon which relief can be granted and should be dismissed.

SECOND DEFENSE

Intervenor's Complaint in Intervention should be dismissed because Intervenor has no standing to repesent anyone before this court.

THIRD DEFENSE

These defendants deny each and every allegation of the Complaint in Intervention that is not specifically and expressly admitted in this Answer. Defendants respond to the individual allegations of the Complaint in Intervention as follows:

1. These defendants deny the allegations of Paragraph 1 of the Complaint in Intervention.

2. These defendants deny the allegations of Paragraph 2 of the Complaint in Intervention which alleges that McLean and Dawson are sued individually.

3. These defendants deny the allegations of Paragraph 3 of the Complaint in Intervention.

4. These defendants deny the allegations of Paragraph 4 of the Complaint in Intervention. These defendants allege that the rights of the McLean Family Trust and the Dawson Family Trust are superior in every way to any claims of intervenor and specifically deny that intervenor has any ownership rights to the property alluded to therein and that intervenor is not the agent, manager or overseer of the designated property.

5. These defendants deny the allegations of Paragraph 5 of the Complaint in Intervention.

6. These defendants deny the allegations of Paragraph 6 of the Complaint in Intervention. These defendants request that the court strike that portion of Paragraph 6 attempting to incorporate the reference to filings in CV-01-33, and 59 and 266 as being impermissible under the Idaho Rules of Civil Procedure.

7. These defendants request the court to strike the attempted "Answer" contained in the allegations of Paragraph 7 of the Complaint in Intervention as improper under the rules referenced above.

FOURTH AFFIRMATIVE DEFENSE

Defendants admit receiving legal advice, counsel and civil action suit from counsel Harris to help plaintiffs and defendants herein. This assistance was necessary for them to protect themselves against numerous law suits filed by intervenor and to secure unto them the real properties for which they had paid. Intervenor is barred from recovery against Harris by the doctrines of immunity and qualified immunity. Further any damages suffered by intervenor were the proximate result of intervenor's own acts and omissions, in such a degree as to bar recovery against these answering defendants.

FIFTH AFFIRMATIVE DEFENSE

Intervenors claims are barred by the statute of limitations.

SIXTH AFFIRMATIVE DEFENSE

Intervenors claims are barredd by the doctrine of unclean hands and by the misconduct of intervenor.

SEVENTH AFFIRMATIVE DEFENSE

Itervenors claims are barred by the doctrine of estoppel.

EIGHTH AFFIRMATIVE DEFENSE

Intervenors claims are barred by the doctrine of waiver.

NINTH AFFIRMATIVE DEFENSE

Intervenors claims are barred by the doctrine of laches.

TENTH AFFIRMATIVE DEFENSE

Intervenors claims are barred by the doctrine of unconscionablility.

ELEVENTH AFFIRMATIVE DEFENSE

Intervenors claims are barred because he suffered no damages from the conduct he alleges amd because he failed to mitigate he damages, if any.

ATTORNEY'S FEES

Defendants have been required to retain the services of their attorney herein to defend this action and have been, and will incur costs and attorney fees in connection therewith. They are entitled to recover said fees and costs pursuant to Idaho Code sections 12-120 and 12-121.

WHEREFORE, defendants pray that any relief requested by intervenor be denied and that defendants be granted relief as follows:

1. That intervenor take nothing and that the complaint in intervention against defendants be dismissed with prejudice;

2. That the court issue a decree granting defendants the reliet requested in the original complaint filed herein before this request for intervention;

3. For all costs and attorneys fees incurred by defendants;

4. For such other and further relief as the Court deems proper.1

Dated this 24 day of March, 2004.

____

Alva A. Harris

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 23 day of March, 2004, I served a true and correct copy of the following described document on the person listed below by depositing the same in the United States mail, with the correct postage thereon, in envelopes addressed as follows:

Document Served: Answer of Third Party Defendants

Persons Served:

John N. Bach
1858 S. Euclid Avenue
San Marino, CA 91108

Milan Cheyovich and Diana Cheyovich
1858 S. Euclid Avenue
San Marino, CA 91108

Kathleen Heimerl, Esq.
P.O. Box 828
Victor, Idaho 83455

____

Alva A. Harris

JOHN N. BACH
1858 S. Euclid Avenue
San Marino, CA 91108
Tel: (626) 799-3146
(Idaho Local: P.O. Box 101
Driggs, ID 83422
(208) 354-8303)
Defendant & Counterclaimant
Pro Se

FILED
OCT 25 2004
TETON CO.
DISTRICT COURT

SEVENTH JUDICIAL DISTRICT COURT, IDAHO, TETON COUNTY

JACK LEE McLEAN and MARK J. LIPONIS, Trustee,

Plaintiffs,

v.

JOHN N. BACH,

Defendant & Counterclaimant.

CV 01-33

JACK LEE McLEAN,

Plaintiff,

v. VASA N. BACH FAMIL TRUST, JOHN N. BACH, Successor Trustee, & JOHN N. BACH,

Defendants & Counterclaimants.

CV 01-205

JACK LEE McLEAN & MARK LIPONIS, Truestee,

Plaintiffs

v.

JOHN N. BACH, et al.,

Defendants & Counterclaimants.

CV 01-265

TETON CASE NO: CV 01-265

DEFENDANT AND COUNTERCLAIMANT JOHN N. BACH'S NOTICE OF MOTIONS & MOTIONS RE (1) FOR FULL RECONSIDERATION of HIS LATEST NON-RULED UPON MOTIONS IN CV 01-33, 01-205 and 01-265; (2) FOR GRANTING OF ALL DEFENDANTS LAST MADE MOTIONS & SETTING ASIDE OF ALL ANY OTHER COURT ORDERS TO THE CONTRARY; (3) FOR THE IMMEDIATE RELEASE, PAYMENT AND DELIEERY TO DEFENDANT JOHN N. BACH OF THE $15,000.00 STOLEN FROM HIM/HIS AGENCY ACCOUNT BY JACK LEE McLEAN, MARK LIPONIS, ALVA HARRIS & SCONA, INC., ETC.: (4) FOR THE DISMISSAL WITH PREJUDICE OF ALL PLAINTIFFS' CLAIMS IN ALL CV ACTIONS 01-33, 01 205 & 01-265; and (5) FOR MONETARY SANCTIONS, EVIDENTIARY SANCTIONS AND HOLDING OF CONTEMPT OF ALVA A. HARRIS, MARK LIPONIS AND OTHERS. (IRCP, Rule 1(a), 9(e), 11(a((2)(B), 12(b)(1), 12(g)91)(2) et seq.)

DATE OF HEARING: Nov. 9, 2004
TIME OF HEARING: 10 a.m.,
PLACE OF HEARING: 605 N. Capital Ave., Idaho Falls, Bonneville County Courthouse, Honorable JON SHINDURLING, Assigned.

NOTICE IS HEREBY GIVEN, that the defendant and/or counterclaimant JOHN N. BACH, in each of the foregoing Teton Civil actions, CV 01-59, CV 01-205 and CV 01-265, will appear before this Court, the Honorable JON SHINDURLING, Assigned Presiding, and then move the Court for each and all other related/included ORDERS, NUMBERED 1 through 5, as above designated and/or stated under the CV. number of each of said three (3) cases, upon the factual and legal irrefut-

basis that none of the plaintiff's in all said three Teton Civil actions have any standing or capacities to maintain any of said actions.; that the court lacks jurisdiction, per Rule 12(g); that another action is not only pending, but has resulted in judgments against all said defendants in said three Teton Civil actions, such judgments being issued, filed and/or recorded in Teton CV 02-208 on February 27, 2004, September 21, 2004 and per the Court's TWENTY-SECOND ORDER, therein, all of which judgments and orders, have been served upon the plaintiff's counsel herein, and copies of which will be presented for purposes of judicial notice to this court at or before the hearing on the foregoing/noticed motions herein (IRCP, Rule 12(g)(2) and (4); that no presonal representative of the estate of JACK LEE McLEAN exists nor has appeared herein in any of these three CV ACTIONS 01-33, 01-205 AND 01-265; and further, that all of said three actions should be dismissed for utter and specious lack of prosecution and further utterly without any merit, but brought to harass annoy, oppress and destroy defendant and counterclaimant JOHN N. BACH both financial, in his health, well being and mostly, to violated both IPCP, Rule 1(a) and 12(a)(1)(A) for which monetary, evidentiary, judgment and contempt sanctions , must be imposed against all of said plaintiffs and their single attorney ALVA A. HARRIS, especially per the findings, conclusions and judgment rendered against said defendants and ALVA A. HARRIS, in Teton CV 02-208

Defendant will be submitting a more complete memorandum brief in each of said three actions before or at the time of hearing on his said motions, but, preliminarily he cites the following cases: Coeur D. Alene Mining Co. v. First Nat'l Bank , (1990) 118 Idaho 812, 800 P.2 1026; Jensen v. Berry & Ball Co, (1924) 37 Idaho 394, 216 P.2d 1033; Mason v. Ruby (1922) 35 Idaho 157, 204 P. 1071; Russell v. Pace, 94 U.S. (4 Otto) 6061, 24 L.Ed 214. IRCP, RULES 12(b)(1), (2); 11(a)(2) (B), and Rule 1(a)[". .the rules shall be lieberally construed to secure just, speeding and inexpensive determination of every action and proceeding.]

DATED: October 21, 2004

JOHN N. BACH, Defendant &
Counterclaimant PRO Se

CERTIFICATE OF SERVICE BY MAIL: I the undersign certify that on October 21, 2004, I did mail copies of this document in each of said 3 referenced actions via separate envelopes mailed to Judge JON SHINDURLING, at his chambers, Bonneville County Courthouse, Idaho Falls, and other separate copies to ALVA A. HARRIS, P.O Box 479 Shelley, ID 83274.

DATED: October 21, 2004

000050

FILED IN CHAMBERS
AT IDAHO FALLS
BONNEVILLE COUNTY
HONORABLE JON J. SHINDURLING
DATE January 3, 2005
TIME 2:58 p.m.
DEPUTY CLERK

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE

STATE OF IDAHO, IN AND FOR THE COUNTY OF TETON

JACK LEE McLEAN, Trustee, and WAYNE DAWSON, Trustee, Plaintiffs, v. CHEYOVICH FAMILY TRUST, VASA N. BACH FAMILY TRUST, and JOHN N. BACH, Individually & dba Targhee Powder Emporium, Ltd. Defendant.	Case No. CV-01-265 OPINION, DECISION, AND ORDER ON DEFENDANT'S MOTIONS

I.
FACTUAL AND PROCEDURAL BACKGROUND

The dispute in this case revolves around a parcel of real property located in Teton County Idaho. On December 18, 2001, Plaintiffs Jack Lee McLean and Wayne Dawson (collectively "Plaintiffs") filed their complaint in this matter seeking to quiet title to a tract of land known as the

ORIGINAL

"Peacock Property." Plaintiffs also seek a partition of that parcel. McLean died in early December 2003.[1]

Defendant has now filed a motion seeking, *inter alia*: 1) to have him appointed and substituted as the sole assignee and successor of the estate of McLean[2]; 2) dismissal for failure to prosecute; 3) dismissal for failure to file mandatory counterclaim in Teton County Case No. CV-02-208; 4) dismissal pursuant to Idaho Rule of Civil Procedure 12(g)(2);[3] 5) the application of res judicata, collateral estoppel, judicial estoppel, and quasi-estoppel; and 4) sanctions against Plaintiffs and their counsel.

Hearing on the motion was held November 9, 2004, and the Court took the motion under advisement. Having considered the arguments of Defendant and of Plaintiff's counsel, and having reviewed the Court's file, the Court renders the following opinion.

II.
DEFENDANT CANNOT EXERCISE ANY POWER OF ATTORNEY ALLEGED GRANTED TO HIM BY McLEAN BECAUSE ANY EXISTING POWERS OF ATTORNEY TERMINATED AT McLEAN'S DEATH.

Defendant seeks to terminate Alva A. Harris as counsel for Plaintiffs, to assign all rights, claims, and interests of McLean to Defendant, and, finally, to submit to judgment against Plaintiffs in all actions pending between Defendant and Plaintiffs. Defendant claims he has the authority to do so because of a power of attorney allegedly granted by McLean to Defendant. Plaintiffs contend that any such power of attorney has long since been revoked.

1 McLean has since been dismissed as a plaintiff in this suit. *See* This Court's January 3, 2005 Order.

2 Defendant contends that McLean granted him a power of attorney that empowers him to assign McLean's cause of action to himself, to dismiss McLean's complaint, and to fire McLean's counsel.

3 In his memorandum, Defendant explains that he seeks dismissal under I.R.C.P. 12(g)(2) because there is another action pending between the same parties for the same cause. The Court takes this to be a request for dismissal under I.R.C.P. 12(b)(8).

If a power of attorney is not coupled with an interest, it is revoked by the death of the principal. *See* 3 Am. Jur. 2d *Agency* § 52 (2004). Therefore, unless coupled with an interest, any power of attorney granted by McLean to Defendant terminated, at the latest, in December 2003.[4] Defendant contends that the power of attorney granted to him by McLean survives McLean's death because it is "an irrevocable power of attorney with vested interests and lifetime rights coupled with irrevocable agency."

However, a review of the language of the purported power of attorney indicates otherwise. The document is entitled "**General Power of Attorney** ..." More importantly, no where does the document refer to any specific property or interest. The document merely speaks in general terms and indicates that McLean was empowering Defendant to be his general attorney in fact. Finally, except for the assertion quoted above, Defendant provides no argument or analysis as to why he concludes that the power of attorney is coupled with an interest. Similarly, Defendant cites no authority demonstrating that the language of the document creates a power coupled with an interest.[5] Accordingly, the Court finds that the power of attorney granted by McLean to Defendant, if any, terminated at the death of McLean. Therefore, Defendant cannot exercise that power to assign McLean's cause of action to himself, to dismiss McLean's complaint, or terminate McLean's counsel.

III.
PLAINTIFFS' COMPLAINT WILL NOT BE DISMISSED FOR FAILURE TO PROSECTUE

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4 Plaintiffs have provided certain documents in which McLean purportedly revokes the power of attorney granted by him to Defendant. However, the authenticity and veracity of those documents are questionable. In any event, the Court's determination that the power of attorney would be revoked at McLean's death forecloses the need to address whether those documents revoked the power of attorney.

5 Defendant cites, without explanation, *McClusky v. Galland*, 95 Idaho 472, 511 P.2d 289 (1975). However, *McClusky* merely stands for the proposition that, where an assignee obtains rights prior to the commencement of litigation, the assignee, rather than the assignor, is the real party in interest.

In *Gerstner v. Washington Water Power Co.*, 122 Idaho 673, 837 P.2d 799 (1992), the Idaho Supreme Court stated that "[w]hen deciding whether to dismiss a case the district court must consider the length of delay caused by the failure to prosecute, the justification, if any, for such delay, and the extent of any resultant prejudice." *Id.* at 677, 837 P.2d at 803 (citing *Bartlett v. Peak*, 107 Idaho 284, 688 P.2d 1189 (1984) and *Rudy-Mai Farms v. Peterson*, 109 Idaho 116, 705 P.2d 1071 (Ct.App.1985). The decision is a discretionary one and will not be overturned on appeal absent a showing of abuse of that discretion. *Gerstner*, 122 Idaho at 677, 837 P.2d at 803. Furthermore, "it is an abuse of discretion 'to punish a period of delay' where the defendant has not established prejudice stemming from that delay," and prejudice "must exist regardless of the length of the delay and the rationale for the delay." *Id.*

The Court finds that, at the current time, it would be an abuse of discretion to dismiss Plaintiffs' suit for failure to prosecute. Although some delay may be present in this case, that delay can be attributable to Defendant, as well as Plaintiffs. For example, the current case was delayed to allow time for the resolution of a suit brought by Defendant against Plaintiffs.[6] Defendant's health also attributed to the delay. Finally, Defendant has made no showing of any specific prejudice to Defendant caused by the delay. Therefore, the Court declines to dismiss Plaintiffs suit for failure to prosecute.

IV.
PLAINTIFFS' COMPLAINT SHOULD NOT BE DISMISSED FOR FAILURE TO FILE MANDATORY COUNTERCLAIMS IN TETON COUNTY CASE NO. CV-02-208.

Defendant argues that Plaintiffs' suit must be dismissed for their failure to file mandatory counterclaims in Teton County Case No. CV-02-208. The Court disagrees. Idaho Rule of Civil Procedure 13(a) states that a party need not file a mandatory counterclaim if "at the time the action

6 The case referred to is Teton County Case No. CV-02-208.

was commenced the claim was the subject of another pending action." I.R.C.P. 13(a)(1). The case at bar was pending at the time Teton County Case No. CV-02-208 was commenced. Therefore, Plaintiffs were not required to file any claims in that case that related to the subject matter of the case at bar.

V.
THE COURT DECLINES TO DISMISS PLAINTIFFS' SUIT PURSUANT TO I.R.C.P. 12(b)(8).

Defendant contends that Plaintiffs' action should be dismissed because Teton County Case No. CV-02-208 involves the same parties and the same cause. Rule 12(b)(8) provides for dismissal of an action when there is "another action pending between the same parties for the same cause." Two tests govern the determination of whether a lawsuit should proceed where a similar lawsuit is pending in another court. First, the court should consider whether the other case has gone to judgment, in which event the doctrines of claim preclusion and issue preclusion may bar additional litigation. *Klaue v. Hern*, 133 Idaho 437, 988 P.2d 211, (1999); *See also Wing v. Amalgamated Sugar*, 106 Idaho 905, 908, 684 P.2d 307, 310 (Ct.App.1984); *cf. Roberts v. Hollandsworth*, 101 Idaho 522, 616 P.2d 1058 (1980) (holding that state action was precluded by a judgment entered in federal court).

The second test is whether the court, although not barred from deciding the case, should nevertheless refrain from deciding it. *Id.* The determination of whether to proceed with a case where a similar case is pending elsewhere, and has not gone to judgment, is discretionary, and will not be overturned absent an abuse of that discretion. *Id.; See also Zaleha v. Rosholt, Robertson & Tucker, Chtd.*, 129 Idaho 532, 533, 927 P.2d 925,926 (Ct.App.1996). The Court of Appeals in *Diet Ctr., Inc. v. Basford*, 124 Idaho 20, 22-23, 855 P.2d 481, 483-84 (Ct.App.1993) (citations omitted), suggested several guidelines for exercising such discretion:

> In deciding whether to exercise jurisdiction over a case when there is another action pending between the same parties for the same cause, a trial court must evaluate the identity of the real parties in interest and the degree to which the claims or issues are similar. The trial court is to consider whether the court in which the matter already is pending is in a position to determine the whole controversy and to settle all the rights of the parties. Additionally, the court may take into account the occasionally competing objectives of judicial economy, minimizing costs and delay to litigants, obtaining prompt and orderly disposition of each claim or issue, and avoiding potentially inconsistent judgments.

Default judgment was entered against Dawson and the personal representative of McLean in Teton County Case No. CV-02-208 on February 23, 2004 and September 21, 2004, respectively. Accordingly, the first test enumerated in *Klaue v. Hern* is applicable. However, Defendant did not address the preclusive effect of that default judgment. Instead, he merely cites the fact that judgment has been entered. The Court is conscious of the need to minimize costs to the parties and the desire to "[obtain] prompt and orderly disposition of each claim or issue, and [avoid] potentially inconsistent judgments." *Id.* However, the Court declines to address an issue with respect to which Defendant has neither cited authority nor presented argument.

VI.
THE APPLICATION OF RES JUDICATA, COLLATERAL ESTOPPEL, JUDICIAL ESTOPPEL, AND QUASI-ESTOPPEL.

In both his motion and at oral arguments, Defendant merely sought the application of the doctrines of res judicata, collateral estoppel, judicial estoppel, and quasi-estoppel. Defendant neither set forth the elements necessary for the application of those doctrines nor made any argument or explanation as to why those doctrines are applicable to the case at bar. Accordingly, the Court declines to address those issues.

VII.
SANCTIONS

Defendant requests that the Court levy sanctions against Plaintiffs' counsel and Plaintiffs. However, the Court declines to impose sanctions at this time.

VIII.
CONCLUSION

Defendant's motions are denied.

IT IS SO ORDERED.

Dated this 3rd day of January, 2005.

Jon J. Shindurling
District Judge

CERTIFICATE OF SERVICE

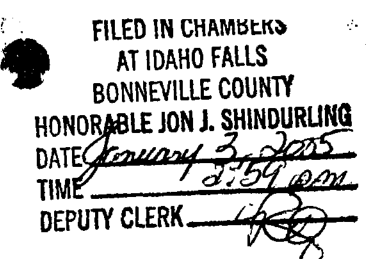
I hereby certify that on this 3rd day of January, 2005, I served a true and correct copy of the foregoing **OPINION, DECISION, AND ORDER ON DEFENDANT'S MOTIONS** upon the parties listed below by mailing, with the correct postage thereon, or by causing the same to be delivered to their courthouse boxes.

Attorney for Plaintiff
Alva A. Harris
Attorney at Law
171 South Emerson
P.O. Box 479
Shelly, Idaho 83274

Defendant
John N. Bach, Pro Se
P.O. Box 101
Driggs, Idaho 83422

_____________________,
Clerk of the District Court
Teton County, Idaho

by [signature] Chambers
Deputy Clerk
at Bonneville County



IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE

STATE OF IDAHO, IN AND FOR THE COUNTY OF TETON

JACK LEE McLEAN, Trustee, and WAYNE DAWSON, Trustee, Plaintiffs, v. CHEYOVICH FAMILY TRUST, VASA N. BACH FAMILY TRUST, and JOHN N. BACH, Individually & dba Targhee Powder Emporium, Ltd. Defendant.	Case No. CV-01-265 **ORDER**

ORDER

Defendant/Counterclaimant John N. Bach's Motion for the Dismissal with Prejudice of All Plaintiffs' Claims came before this Court on November 9, 2004. The Court finds that, with respect to Plaintiff Jack Lee McLean, Bach's motion should be granted. McLean died in early December 2003. Neither McLean's successors nor representatives have filed a motion for substitution. There has been no appearance by McLean's estate. The Court finds that substitution has not been made within a reasonable time. Therefore, pursuant to Idaho Rule of Civil Procedure 25(a), McLean is hereby dismissed as a plaintiff in this action.

IT IS SO ORDERED.

Dated this 3rd day of January, 2005.

Jon J. Shindurling
District Judge

ORIGINAL

NOTICE OF ENTRY

I hereby certify that on this 3rd day of January, 2005, the foregoing **ORDER** was entered and a true and correct copy was served upon the parties listed below by mailing, with the correct postage thereon, or by causing the same to be delivered to their courthouse boxes.

Attorney for Plaintiff
Alva A. Harris
Attorney at Law
171 South Emerson
P.O. Box 479
Shelly, Idaho 83274

Defendant
John N. Bach, Pro Se
P.O. Box 101
Driggs, Idaho 83422

______________________,
Clerk of the District Court
Teton County, Idaho

by [signature: Chambers]
Deputy Clerk
at Bonneville County

JOHN N. BACH
Post Office Box 101
Driggs, Idaho 83422
Tel: (208) 354-8303
Defendant, Counterclaimant
and Claimant In Intervention.

FILED
JUL 02 2007
TIME: 11:52 MW
TETON CO ID DISTRICT COURT

SEVENTH JUDICIAL DISTRICT COURT, IDAHO, TETON COUNTY

JACK LEE McLEAN and MARK J. LIPONIS, Trustee,
Plaintiffs.

v.

JOHN N. BACH,
Defendant & Counterclaimant.
[Teton CV 01-33]

JACK LEE McLEAN, Trustee and WAYNE DAWSON, Trustee,
Plaintiffs,

v.

C HEYOVICH FAMILY TRUST and VASA N. BACH FAMILY TRUST, [and JOHN N. BACH, Individually & dba TARGHEE POWDER EMPORIUM, LTD.],
Defendants, Countere claimant & Complainant in Intervention.
[Teton CV 01-265]

CASE NOS: CV 01-33 and 01-265

NOTICE OF MOTIONS AND MOTIONS BY DEFENDANT, COUNTERCLAIMANT & COMPLAINT IN INTERVENTION FOR:
(1) SUMMARY JUDGMENT IN JOHN N. BACH'S FAVOR ON THE COMPLAINTS IN BOTH CV 01-33 and 01-265;
(2) FOR ORDER AND JUDGMENT OF DISMISSAL WITH PREJUDICE OF BOTH COMPLAINTS IN CV 01-33 & 01-265 FOR LACK OF DILIGENT PROSECUTION, ESTOPPEL, LACHES & FRIVOULOUS COMPLAINTS & SPECOUS CLAIMS THEREIN.

(IRCP, Rule 11(a), 56(b)-(f) & 13, etc., and Rule

DATE OF HEARING: August 7, 2007
TIME OF HEARING: 2 p.m.
PLACE OF HEARING: Teton County Courthouse, 89 N. Main, Driggs.

NOTICE IS HEREBY GIVEN BY JOHN N. BACH in all capacities in both of the above two Civil Case, 01-33 and 01-265, as defendant, counterclaimant and complainant in intervention, that on Tuesday, August 7, 2007 at 2 p.m., he will move the above entitled court in both actions, for each of the above desingated motions, which per the provsisions of IRCP, Rule 10(c), by such reference are incorporated and repeated herein in full. All of the foregoing motions will be based upon the entire record, orders, etc., in both actions, and the reconsideration of the Opinion, Decison and Order on Defendant's motions filed in both actions on or about January 3, 2005, the orders and judgment of dismissal with prejudice of Jack Lee Mclean's Complaint, which has not been appealed and is final for all purposes of res judicata collateral and judicial estoppel, along with select orders, jddgments and rulings rendered in Teton CV 02-208, which are requested to be judicially noticed and received in support of all of the foregoing motions. These motions

will be further based upon the attached AFFIDAVIT OF JOHN N. BACH wtth all exhibits attached, referenced or file documents requested to be judicially noticed, and the initial memorandum of points and authorities in support thereof, along with all other memoranda contained in both files and records of CV 01-33 and -1-265.

DATED: July 6, 2007

JOHN N. BACH, In all designated capacities and standings as set forth in Teton CV 01-33 and 01-265, Pro Se

INITIAL MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF JOHN N. BACH's FOREGOING MOTIONS

PREFACE:

The Court in the stated two civil actions, 01-33 and 01-265 and also in action Teton CV 01-205, has dismissed with prejudice all claims of Jack Lee McLean . In acton Teton CV 01-205, the court further Ordered on November 9, 2004 the return of $15,000.00 to JOHN N. BACH, finding and stating in pertinent part: "Upon the irrefutable and good cause showing having been made [by JOHN N. BACH] per his motions filed herein and heard and decided in his favor this date, there is abosultely no just reason or basis in fact or law for the Court ordered deposit of [$15,000.00]. . , which was always the sole and exclusive moneys of JOHN N. BACH , ... nor is there any just reason or basi for the further withholding of said moneys from JOHN N. BACH, . ."

This ORDER has never been appealled and is not only FINAL and CONTROLLING, but requires the dismissal with prejudice of both complaints in both actions CV 01-33 and 01-265. Further, the Judgments of Feb. 23 and 27, 2004 in Teton CV 02-208, which are to judicially noticed and received/applied herein, further controll, required and mandate the granting of all JOHN N. BACH's current motions. In Teton CV 02-208, WAYNE DAWSON who had an amended default judgment entered against him on Feb. 23, 2004 never appealled such judgment and it is now final, controlling and mandating likewise as to all claims on his in Teton CV 01-265.

Although, Alva A. Harris purportedly filed an appeal from the Feb. 27, 2007 Judgment he has not perfected it, nor can he for the deceased Jack McLean, whose dismissal with prejudice against his complaint in Teton CV 01-205 and 01-265 are res judiciata and collaterally estopp any prosecution by a deadman

whoshas no estate that was legally and prooperly probated, who had his representation abandoned by his attorney, Alva A. Harris who never appeared to oppose, resist or argue against JOHN N. BACH's earlier motions heard, on November 9, 2004.

As pointed our in the attached Affidavit of JOHN N. BACH, both WAYNE DAWSON, and McLean and Liponis, were and are discharged and barred from pursuing any claims or causes of action by their current complaints in Teton CV. 01-33 and 01-265., not only by the violation of the automatic stay order in John Bach's Chapter 13 banktruptcy, but, also by the fact of said plaintitfs' and their attorney's unclean hands, fraud and acts of criminal theft.

I. THE COMPLAINT, TETON CV. 01-33, IS ONLY BY MARK J. LIPONIS, WHO IS BOTH COLLATERAL ESTOPPED, JUDICIAL ESTOPPED, AND BARRED FROM PROCEEDING OF ANY OF HIS CLAIMS, WHATEVER THEY MAY BE AS A RESULT OF THE FINAL ORDER AND JUDGMENT OF DISMISSAL WTH PREJUDICE OF COPLAINTIFF'S JACK LEE McLEAN's CLAIMS AND THE FINAL JUDGMENT AGAINST MCLEAN in TETON CV 02-208. BOTH PLAINTIFFS ARE FURTHER BARRED BY THEIR UNCLEAN HANDS.

The ORDER of November 9, 2004 in Teton CV 01-33 is both final and controlling against plaintiff remaining Mark J. Liponis, also both individually and even as his purported being a trustee. It should be noted and emphasized that LIPONIS NEVER VERIFIED ORIGINALLY NOR PROPERLY ANY AMENDED PLEADING OF HIS HEREIN, to validly and without any speciouness, claim the relief he sought by McLean's now dismissed with prejudice complaint in CV 01-33.

Alva Harris is the attorney in these two actions for plaintiffs, and was the attorney for Dawson and McLean in Teton CV 02-208.

As LIPONIS did not properly verifed said complaint the attached copy of a purported/aged Joint Venture agreement is thereto is not admissible in any manner of opposition nor response to JOHN N. BACH's foregoing motions. IRCP, Rule 56(d)(e). Moreover, both Liponis' & Dawson's complaints contain inadmissible opinions. Hecla Mining Co. v. Star-Morning Co, 122 Idaho 778, 783-86, 839 P.2d 1192(19

More specifically, the foregoing stated findings and conclusions set forth in the Nov. 9, 2004 ORDER, eliminates any triable issue of any accounting now existing, if it every did, as may be claimed within the remaining complaint in CV 01-33. Further, the discharge of all Dawson's claims in John Bach's Chapt. 13 Bankrutpcy proceeding bars his complaint in CV 01-265. In re Adkins(6th Cir) 2005, 425 F.3d 296, 302; In re Sasson (9th, 2005) 424 F.3d 864, 868-69; Catalano v. C.I.R. (9th 2002) 279-682; In re Sicroff (9th 2005) 401 F.3d 1101. Congliano v. Ibid (9th 2006) 2006 DAR 13851, 13853

And further dispositive of such complaint's frivolous statments and canards are the final and controlling judgments rendered in Teton CV 02-208 of Feb 23, and 27, 2007, along with the holding of Rexburg Lumber Co. v. Purrington, 113 P.2d 511, 515, which requires that any and all interest that may have been asserted by both McLean and Liponis as to the Drawknife Property parcel of 33 plus/minus acreas is required to be quieted in full legal, equitable and all rights,of actual possession, use, management and development in the sole name of JOHN N. BACH, individually and dba TARGHEE POWDER EMPORIUM, INC and TARGHEE POWDER EMPORIUM, LTD. (SEE 40235 Wash. St. Corp v. Lusardi (9th 2005) 2003 DAR 5547, 5560

Besides LIPOINIS, SAWSON and most certainly McLEAN, being estopped and utterly precluded from pursuing any aspects of their complaints in CV 01-33, 01-265 and 01-205, JOHN N. BACH is the owner, holder and rightfull incorporator and sole shareholder of TARGHEE POWDER EMPORIUM, INC., and with said Idaho corporation, individually, dba as TARGHEE POWDER EMPORIUM, UNLTD and LTD.

MOST CONFROLLING is the WARRANTY DEED which JOHN N. BACH, executed as holder not just of any power of attorney from JACK LEE McLEAN, but an irrevocable power of attorney with vested proprietary interests, titles and claims to and in both properties known as THE PEACOCK PARCEL OF 40 acres and the DRAWKNIFE PARCEL of approximately 33+/- acres, such recorded instruement being TetonrNumber 148042. This WARRANTY DEED was validly executed per an irrevocable power of attorney given by Jack McLean to John Bach and was necessary to undo the void deeds executed by McLean, seeking to transfer John Bach's interests in a number of parcels to Dawson, Liponis and even Alva Harris and his bogus corporation, Scona, Inc. This WARRANTY DEED, Teton #148042 is unassailably controlling herein; it was never challenged in any court proceedings by McLean and never in Teton CV 02-208. Such deed has transferred any interests of McLean, when he was alive to John Bach, who has ejected Dawson from any titles or interests or claims in any of the property sought by his complaint in CV 01-265.

II. JOHN N. BACH'S MOTIONS FOR SUMMARY JUDGMENT IN ENTIRETY ON BOTH COMPLAINTS SHOULD BE GRANTED.

Rule 56(c), IRCP, mandates that a motion for summary judgment "shall be rendered forthwith if the pleadings, depositions and admissions on file, together with the affidavits, if any, show, that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." (Thompson v. City of Idaho Falls, 126 Idaho 587, 590, 887 P.2d 1094, 1097 (Ct. App. 1994).)

Where all issues to be tried before a jury, the rule is all controverted facts are liberally construed in favor of the non-moving party. Farm Credit Bank of Spokane v. Stevenson, 125 Idaho 270, 272, 869 P.2d 1365, 1367 (1994), But if the action on the complaint is to be tried by the court without a jury, the judge is not constrained to draw inferences in favor of the party opposing a motton for summary judgment, but is free to arrive at the most probable inferences to be drawn from uncontroverted evidentiary facts. Sewell v. Neilsen, Monroe, Inc.109 Idaho 192, 706 P.2d. 81 (Ct App. 1985)

Moreover, where defendant herein is not required to carry the burden of proof at trial, he as a moving party may show that no genuine issue of materials fact exists by showning/establishing the abesence of evidence of just one element that the non-moving party is required to prove at trial, thus, the burden is shifted and upon the non-moving party to establish that such genuine issue of fact for trial does exist. Dunnick v. Elder, 126 Idaho 308, 311.

Thus even disputed facts will not defeat summary judgment when the party opposing the motion fails to establish the existence of an essential element of his case. Podolan v. Idaho Legal Aid Services, Inc. 123 Idaho 937, 941-42, 858 P.2d 280, 284-85 (C.A. 1985)

It becomes clear that in both complaints in CV 01-33 and 01-265, the issues are for a trial court wtthout a jury. and, the court following the above principles and authorities, should grant summary judgment for JOHN BACH.

III. JUDGMENTS OF DISMISSAL WITH PREJUDICE SHOULD BE ISSUED AGAINST THE REMAINING PLAINTIFFS, LIPONIS AND DAWSON, IN TETON CV 01-33 and 01-265 FOR LACK OF DILIGENT PROSECUTIOON, ESTOPPEL (JUDICIAL-RES JUDICATA, COLLATERAL ESTOPPEL, etc.), LACHES & DUE TO SDATUTE OF LIMITATIONS BARRINGSAID ACTIONS, ALONG WITH THE FINDING THAT SUCH COMPLAINTS ARE FRIVOLOUS AND SPECIOUS.

Ths foregoing statement has been addressed in a number of earlier motions and memos filed by JOHN BACH in both of said actions. He refers to and incorporates all of the same herein in support of his renewed motinn Number 2, brought hereby.

What is significant in consideration of said second motion is that Dawson, Liponis, McLean and their attorney, Alva Harris, commited numerous acts of grand theft, the stealingg of John N. Bach's dba's and entites of TARGHEE POWDER EMPORIUM, INC, and dba TARGHEE POWBER EMPORIUM, UNLTD And LTD., plus, his percentage of ownershtp in joint ventured trusts, in the Peacock Parcel, the Drawknife Parcel, and an 8.5 acre parcel. All of such acts of theft and creation of void, fraudulent and criminal theft deeds and acts were further done by all of said plaintiffs and Alva Harris by interstate mail, telephone communications, faxes, e-mails, etc. What is readily apparent is that the casesoof LivingDesigns, Inc. v. E.I. DuPont Demourse & Co. (9th 2005) 413 F.3d 352, 361-71, and Mannos v. Moss, Idaho Supreme Court Dkt No. 31958, decided Fe. 22, 2007, ---P3-p-2007 WL 528486 (Idaho). Defendant and counterclaimant/complainant in intervention will be seeking to amend his pleadings further against all current plaintiffs, their counsel and other jointly participating conspirators, etc.

Such motion and other motions to amend JOHN BACH's pleadings do not preclude his current motions being granted.

DATED: July 6, 2007

JOHN N. BACH, Pro Per

000066

AFFIDAVIT OF JOHN N. BACH
of July 6, 2007

I, JOHN N. BACH, duly being placed under oath, hereby given testimony of my own personal knowledge, witnessing involvements, participation and understanding, as a defendant, counterclaimant and/or claimant in intervention in Teton CV 01-33, 01-265 and even 01-205.

1. I make and offered this AFFIDAVIT with all exhibits attached, documents identified, referenced and/or presented herewith or hereafter, in support of the foregoing motions which preced thts affidavit.

2. Per the provisions of IRCP, Rules 56(b) through (e), I request the Court to take full judicial notice and received in evidence in support of my said motions, all filings I have made in thehthree (3) actions, being Teton CV 01-33, 01-205 and 01-265. This Court has dismissed with prejdiceeall claims in any pleadings brought, filed or asserted by Jack Lee McKean in all said three pleadings, Moreover, the ORDER of November 9, 2004, in Teton CV 01-33, has never been appealled by either Jack Lee McLean nor Mark J. Lipinis, either individually nor as Trustee, in Teton CV 01-33. Attached hereto as EXHIBIT "1" is a certified copy of said ORDER of Nov. 9, 2004 in CV 01-33. The ordered release payment of $15,000.00 was paid to affiant on Nov. 9, 2004 wtth a miserly interest rate, amounting to a total of $15,229.13 so received. Affiant has sustained as further interests, costs and fees to Sanford I. Beck, from whom said borrowed $15,000 was stolen by McLean, Liponis, Dawson, Alva Harris, Katherine Miller, Galen Woelk, Bob Fitzgerald, and others. Such further monetary losses are part of the relief, recover and redress sought by affiant in his counterclaims, etc., in CV 01-33 and 01-265. which he will be seeking to amend shortly.

2. Affiant has filed two (2) Chapter 13 bankruptcy petitions, on in Idaho, only to be dismissed without prejudice to refile in in Sacramento, California, which he did refile being U.S. Bankruptcy Chapter 13 Petition, Saremento Division, No. 97 - 31942 - A - 13. Wayne Dawson was named as a creditor to be discharged in said second Chapter 13 proceeding, ahe filed no claim, made no appearance and never moved, either in pro per or via any counsel whatsoever to lift the automatic stay order precluding him from proceeding on any claims whatsoever he might have claimed against affiant. In late December, around th 28th, 2002, affiann received from the Chapter 13 bankrtupcy Trustee, an order and closing documents that his second bakkrutpcy had been closed and all his named creditors had been discharged, among them Wayne Dawon.

3. In Teton CV 02-208 affiant filed an AFFIDAVIT, seeking to have judgment issued against Wayne Dawson, cancelling all any any interest he may possibly claim in the Peacock Parcel of 40 acres, and another parcel of 8.5 acres, which Alva Harris via Scona, Inc., had fraudulently converted into said corporation's name. Attached hereto as EXHIBIT "2" is a copy of said Affidavit filed, along with exhibits attached.

4. On Feb. 23, 2004, the Court in Teton CV 02-208 issued, despite affiant's requests a limited AMENDED DEFAULTTJUDGMENT AGAINST WAYNE DAWSON, A copy of said AMENDED DEFAULT JUDGMENT, is attached hereto marked as EXHIBIT "3". Such judgment as to any appeal rigths by WAYNE DAWSON is final as he has failed to file any notice of appeal therefrom, and most, signifcantly, he never attempt to file, nor did he ever seek leave to file a counterclaim seeking to have any interest, title, etc., established in himself in said Peacock Parcel or said 8.5 acre parcel. Affiant, did file a notice of appeal, and has raised per said appeal, still awaiting the comple-

tion of both the Clerk's and Reporter's Transcripts on appeal, the issues that WAYNE DAWSON because of his pleading deficiencies and fraud, grant theft of affiant's prope-ty interests and titles in said parcels, has lost all claims of any title, equity or any intesests or hodlings whatsoever in said parcels. Even before the entry of said AMENDED DEFAULT JUDGMENT, affiant had terminated and removed WAYNE DAWSON from any and all particpation or controlling owning interests and dissolved said joint venture with DAWSON. DAWSON has not filed any action on said termiantions, removal and dissolution of his interests or titles in said parcels, which two parcels affiant has sole title, possession and ovarwhelming majority control and management of the Peacock Parcel, having made over some $100,000.00 worth of improvements, DAWSON has not contacted affiant since and after said AMENDED DEFAULT JUDGMENT.

5. Attached hereto marked EXHBIT "4" is a copy of a DEFAULT JUDGMENT AGAINST ALVA HARRIS, SOONA, INC., BOB FITZGERALD OLE OLESEN, and BLAKE LYLE.. Although, Alva Harris has filed an appeal from said default judgment he has not perfected it and at present, he must be deemed to have abandoned it. Alva Harris, again, as he did in representing DAWSON, failed to file not just any answer timely, but not counterclaim whatsoever asserting any claims to the foregoing properties that are the subject of Teton CV 01-33 and 01-265, nor in the 8.5 acre parcel. Affiant also termianted Dawson's interest, as aforesaid in said 8.5 acre parcel

6. Attached hereto as EXHBIT "5" is a copy of WARRANTY DEED TETON INSTRUMENT 148042, which transferred all title and interest in any of teh foregoing properties;lclaimed possibly by DAWSON or LIPONIS to affiant. No actions have been filed by anyone to set aside said WARRANTY DEED and the staute of limiations has run.

7. Affiant, sayth nothing further at this time and juncture, but, does reserve leave and right in his stead to submit further supplemental affidavits or documents for judicial notice, knowledge and receipt in support of his foregoing motions.

DATED: July 6, 2007

JOHN N. BACH

NOTARY'S VERIFICATION STATEMENT, SEAL & SIGNATURE.

I, the undersigned NOTARY OF IDAHO, hereby verify, attest, confirm, acknowledge and state, that JOHN N. BACH, known to me, did appear before, was duly placed under oath and gave the foregoing testimony of his own stated personal knowledge, whereafter, he signed his signaure in my presence and witnessing thereof.

SO SWORN AND SUBSCRIBED TO MY ME, this July 6, 2007,

NOTARY'S SIGNATURE

(SEAL)

Rachel E. Burnside
Notary Public
State of Idaho

Driggs, ID. 83422
Notary's Address.

Comm'n Expires: 8-25-09

CERTIFICATE OF SERVICE BY MAIL

I, the undersigned hereby certify that on Saturday, July 7, 2007 I did cause 2 copies of all the foregoing documents and the attached exhibits to be mailed to the following via the U.S. Mail:

Alva A. Harris
Post Office Box 479
Shelley, Idaho 83274

Judge Jon Shindirling
C/O Bonneville County Courthouse
605 N. Capital Avenue
Idaho Falls, Idaho 83402

DATED? July 7, 2007

000070

AT IDAHO FALLS
BONNEVILLE COUNTY
HONORABLE JON J. SHINDURLING
DATE November 9, 2004
TIME 10:36 a.m.
DEPUTY CLERK [illegible]

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TETON

JACK LEE McLEAN and MARK J. LIPONIS, Trustee,

Plaintiffs,

v.

JOVAN N. BACHOVICH, aka JOHN N. BACH,

Defendant & Counterclaimant.
/

TETON CASE NO: CV 01-33

ORDER COMMANDING/DIRECTING TETON COUNTY CLERK, SHERIFF & COUNTY PROSECUTOR TO IMMEDIATELY RELEASE/PAY TO JOHN N. BACH, THE ENTIRE FIFTEEN THOUSAND DOLLARS ($15,000.00) PLUS ALL ACCRUED INTEREST, HELD BY THEM, & TO FILE AN AFFIDAVIT OF FULL COMPLIANCE WITH THIS ORDER.

O R D E R

Upon the irrefutable and good cause showing having been made by defendant and counterclaimant JOHN N. BACH, per his motions filed herein and heard and decided in his favor this date, that there is absolutely no just reason or basis in fact or law for the Court ordered deposit of FIFTEEN THOUSAND DOLLARS ($15,000.00) herein, which was always the sole and exclusive moneys of JOHN N. BACH, now held by the Teton County Clerk in a general account fund or otherwise, per the Teton County Sheriff and/or Teton County Prosecutor/County Attorney, nor is there any just reason or basis for the further withholding of said moneys from JOHN N. BACH,

NOW, THEREFORE, IT IS HEREBY ORDERED that said sum of FIFTEEN THOUSAND DOLLARS, WITH ALL ACCRUED INTEREST OR ANY OTHER ACCUMULATION IS TO BE RELEASED, PAID AND DELIVERED IMMEDIATELY, WITHOUT ANY FURTHER DELAY WHATSOEVER, TO JOHN N. BACH, the defendant and counterclaimant herein. The TETON COUNTY CLERK, SHERIFF and TETON COUNTY PROSECUTOR/ATTORNEY shall file with this court an Affidavit of Full Compliance and Payment of said $15,000.00 with all interest and other accumulation of moneys thereon, to JOHN N. BACH, with this court. TIME IS MADE OF THE UTTERMOST ESSENCE AND SIGNIFICANCE IN COMPLIANCE OF THIS ORDER.

DATED: November 9, 2004

STATE OF IDAHO)
County of Bonneville) SS
I HEREBY CERTIFY that above and foregoing is a full and correct copy of the original thereof, on file in my office.
Dated November 9 20 04
RONALD LONGMORE
Clerk of the District Court

[signature]
JON J. SHINDURLING, District Judge Assigned.

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EXHIBIT "1"

CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of November, 2004, I did send a true and correct copy of the aforementioned Order upon the parties listed below by mailing, with the correct postage thereon, or by causing the same to be hand delivered.

Alva Harris, Esq.
P.O. Box 479
Shelley, Idaho 83274

John Bach
Personally Served

RONALD LONGMORE
Clerk of the District Court

By: [signature] in Chambers at Bonneville
Deputy Clerk

AFFIDAVIT OF PLAINTIFF JOHN N. BACH
IN SUPPORT OF HIS THREE (3) MOTIONS

STATE OF IDAHO)
ss
COUNTY OF TETON)

I, JOHN N. BACH, being duly placed under oath to tell the truth and to give personal testimony of my own knowledge, participation, witnessing and observations, herein do testify:

1. I am the plaintiff herein, who was purportedly awarded a default judgment against defendant WAYNE DAWSON, on January 5, 2004, but which Judgement, is more than incomplete, contradictory and inappropriate, if not without basis in facts and legal authorities hereto made of record, clerk's record and court reporter's requested record to be prepared, per my filed January 12, 2004, AMENDED NOTICE OF APPEAL, etc.

2. I do refer to and incorporate herein my:

a) AFFIDAVIT OF JOHN N. BACH, filed November 6, 2003, along with all further Af Affidavits and Memo Briefs, identified, on Page 2, thereof.

b) Plaintiff JOHN N. BACH'S MEMORANDUM BRIEF FOR COMPLETE JUDGMENT, etc., filed December 19, 2003.

c) PLAINTIFF JOHN N. BACH'S PRETRIAL STATEMENT, etc., filed January 15, 2004, pages 1-3, Part "1. PREFACE" thereof, which are not only incorporated herein, but specifically made a part of my testimony herein, in support of my foregoing 3 motions.

3. Said January 5, 2004 Judgment against Defendant WAYNE DAWSON, fails to comply with the JOINT VENTURE AGREEMENT executed by DAWSON, and the further oral agreement of his selling to plaintiff at book value his interest if any, which he had in said PEACOCK, 40 acres investment and Clifford Trust holding. Plaintiff's testimony in such particulars was never refuted, nor denied at all by Dawson, nor should he have been allowed to testify to such, as such subjects

OF LIABILITY AND CULPABILITY OF DAWSON under California laws and authorites which Plaintiff has cited to this Court, per said plaintiff's memo brief, filed December 19, 2003; see pages 1-3, thereof. This Court never followed, nor apply California laws and cited authorities as set forth on all pages of said memo brief, Dec 19, 2003.

4. Nor did the court find from the facts, as required, per the statements and Calif. laws 7 authorities, Pages 3-6 of said memo brief, ignored that DAWSON was in a high fiduciary relationship with absolute duties of not just good faith and fair dealings, but of complete honesty, in revealing his fraudulent, criminal and void acts of attempting to steal plaintiff's ownership interests, sole management and development rights and interests, an his buying out at book value any interests or claim of owernship of Dawson, which ownership has become void and non existence under California laws and authorities of not allowing DAWSON to profit or benefit at any length, degree or financial extent for his criminal acts done in clear admission of complicity, conspiracy and joint planning, actions and pursuits against plaintiff, along with Miller, McLean, Liponis, Alva Harris, and Scona, Inc., to steal via said latter defendants formations, principals and incorporators, officers and directors of that identity theft corporation formed on November 12, 13 and per execution of five (5) void Warranty Deeds, of TARGHEE POWDER EMPORIUM, INC., which was in violation of all public policies of CALIF. and IDAHO, to steal plaintiff's investments, as set forth in all counts of his FIRST AMENDED COMPLAINT. These defendants' void warranty deeds were further5invalidated by Plaintiff's WARRANTY DEED rescinding all said McLean's void warranty deeds, such plaintiff's deed being Instrument 148042.

5. As stated , and further affirmed by plaintiff's testimony herein, per incorporated Plaintiff's PRETRIAL STATEMENTS, pages 1-3, this Court has not followed California laws and authorities but without jurisdiction, and contrary to the evidence and Calif., laws and authorities, rendered a Default Judgement that favors overall and moreso, defendant WAYNE DAWSON, in that:

a) Said judgment does not quiet title to any percentage or degree of ownership of plaintiff in either the PEACOCK INVESTMENT JOINT VENTURE CLIFFORD TRUST OF 40 ACRES, NOR IN THAT 8.5. acres, which was purchased by plaintiff and DAWSON, in a joint venture titled deed.

b) The court did not rule, nor address the utter lack of any interest of either Alva A. Harris or of his sham corporation, SCONA, INC., both defendants having entries of defaults filed and upheld against them, as to the said 8.5. acres adjacent to the 1 acre parcel with house, subsequently purchased in violation of a bankruptcy court stay order, at 195 N. Hwy 33, Driggs. Attached hereto are copies of the following, which are testified hereto as being plaintiff's business records, kept in the normal course of his investments holdings, operations and management, as well, as being from transcripts, exhibits and other evidence herein received or testified to and which this court has refused to consider:

i) Reporter's partial transcript of Sept 4, 1998, in Teton CV 98-25, before Judge Ted WOOD, pages 4, 25, 30, & 41, which establish conclusively that the bankruptcy stay order, was known to Alva Harris before the attempted sale of one

acre purportedly seized, levied and sold, at 195 N. Hwy 33, Driggs; further known & admitted by Alva Harris, that at no time, did the IRS, he or Scona, Inc., ever move in said bankruptcy proceeding to lift the automatice stay; that Alva Harris, knew further, that even as to his first amended complaint, he was suing plaintiff personally, as to property which was never deeded to him, in fact, per the documents and purportedly void deeds from the IRS, he got not property of any kind at said sale; and that he could not proceed against plaintiff directly, nor as his dba designations,TARGHEE POWDER EMPORIUM, UNLTD, such was not a corporation. Yet despite said stay order, he obtained an utterly void judgement, order of void rent assessments and a void writ of execution, in said action. ALVA A. HARRIS, never had any right or claim or contention of acquiring any interest in plaintiff's onehalf joint venture in said adjacent 8.5. acres, (See Page 41:8-18_ and yet he tried to steal it into his corporations names via DAWSON's actions and those of all other defendants who criminally formed said TRAGHEE POWDER EMPORIUM, INC., on November 12-13, 2000, and executed a void deed signed by Jack McLean, at DAWSON's and all said other defendants conspiracy plans, overt acts and conduct, to transfer plaintiff's interest of his said onehalf to HARRIS, who owns and solely shamly controls and operates SCONA, INC., to try to insulate and prevent lawsuits against himself and other investors he represents at IRS seizure sales. ALL OF SUCH FACTS ARE MORE THAN WELL PLED, THEY HAVE BEEN ADMITTED, CONFESSED AND ESTABLISHED WITHOUT THE MACHINATIONS OF THE COURT, WHICH OTHERWISE REFUSES TO FOLLOW THE CALIF., LAWS AND CASES CITED.

ii) A copy of Plaintiff's admitted EX. 6A, which Harris testified before the jury, was valid and had he known of it would have precluded all of his litigation efforts and plans, but he did know of it, as plaintiff, Page 25;9-15, disclosed of it plus other assignment from the original trustee, plaintiff's mother, but which assignment, was more than determinative of plaintiff's rightful ownership of his said onehalf interest in said 8.5. acres, the onehalf interst in Peacock and his onehalf interest in the Drawknife investment, Clifford Trust. The Court is referred to Plaintiff's EXHIBIT SERIES, 5,6, 10, & 13? received in evidence during the jury tria

6. The Court ignored plaintiff's objections, and motions to strike, any deeds offered by Dawson. on said 8.5. acres which

deeds were more than twice void, first, the IRS never liened not sold any of pääintiff's interest in said 8.5 acres and moreover, the stay order precluded any further deeds being issued, or if issued by the IRSc, as to either the one acre parcel or the 8.5 joint venture adjacent parcel, as the stay order per the Lusardi case cited to the court, created no rights or interests of ownership or claims thereto to any or either of plaintiff's properties held in the dba or desingations of TARGHEE POWDER EMPORIUM, UNLTD, LTD Or INC., THE LATTER DESIGNATION, only applying to the 86.5 acres parcels at MP 138, North Driggs. (See plaintiff's said Memo Brief filed Dec. 19, 2003, page 4, first full paragraph, through page 6, wherein he renews his motions to strike and objections to any other deeds being received from Alva Harris, Scona, Inc., or Dawson.)

7. The Court is further in great prejudicial error, to hold that it cannot award plaintiff's the entire damages he sets forth on pages 6-8 of his said Memo brief of Dec. 19, 2003, especially that he has not moved for punitive damages under IC. 6-k604. Both under California law, which controls herein, in a default situation, the court is duty bound to award any and all monetary relief commensurate with the admitted averments of the entire complaint and to further award punitive damages where said facts show; deliberate fraud, malice, spite, oppression and intentional criminal conducts/acts which the defendants in default not merely perpetrated but followed even after the filing of the complaint. This duty and jurisdiction of awarding plaintiff full and complete damages, whether predictable or not was required under the case authorities cited by plaintiff, pages 6-8 of his said Memo Brief, filed Dec. 19, 2003.

8. This Court's said judgment, is without any description of the quieted title of the specific real properties involved, and further, because, on Dec. 5, 2003, there was not time left to sufficiently hear plaintiff's damages' evidence as to all remaining defendants in defaults, which evidence also bears upon and will militate/mandate the damages plaintiff sets forth in his said memo brief of Dec. 19, 2003 against DAWSON and all other defendants in defaults, this court has deprive plaintiff of his full rights to have complete quiet title and damages/ monetary relief awarding default judgments enteeed against DAWSON and all said other defendants in default, jointly and severally.

9. Judge St. Clair, has admitted in open court that he has never tried or presided over a quiet title action, nor most certainly one that required him, to try all said quiet title claims of plaintiff, without a jury; he further, admitted that he was not familiar with the true valuation award required to be given plaintiff against Kathy Miller for the improvements he made in good faith on the 86.5 acres. But despite such admissions and acknowledgements of Judge St. Clair, he has not sought the assistance of plaintiff or counsel for the involved defendants and has done reserach and probable outside reading or investigations which conduct further violates plaintiff's rights of due process and equal protection. Attached hereto is an article entitled: "Too man questions get judge in trouble"

10. This court allowed over plaintiff's opposition the standing of DAWSON via his attorneys to question plaintiff re his sought damages. When plaintiff gave testimony as to punitive damges, none of DAWSON'S multiple counsel, Alva Harris nor Jared

HARRIS who never made any objections to plaintiff's said punitive damages testimony, never questioned him on cross-EXAMINATION about such testimony and during WAYNE DAWSON's testimony, they never rebutted, refuted or even brought up plaintiff's uncontradicted testimony, that DAWSON was worth singularly, over $5million dollars. (See page 8, Plaint'ffs Dec. 19, 2003 Memo Brief) DAWSON and his COUNSEL have WAIVED AND RELINQUISHED ANY OBJECTIONS OR OPPOSITION TO AN AWARD OF PUNITIVE DAMAGES IN FAVOR OF PLAINTIFF AND AGAINST DAWSON. MORE SIGNIFICANTLY, THIS COURT, JUDGE ST. CLAIR, IS TO CEASE BEING OF COUNSEL FOR DAWSON AND HIS ATTORNEYS, THE HARRISes WHO HE CONSTANTLY PROTECTS FROM THEIR CRIMINAL AND EVEN UNETHICAL ACTS AND COURT STRATEGIES REPERCUSSIONS.

DATED: January 20, 2004

JOHN N. BACH

NOTARY'S ACKNOWLEDGEMENT, VERIFICATION, ETC.

I, the undersigned NOTARY PUBLIC OF IDAHO, hereby acknowledge, verify, attenticate and attest, that on Jan. 20, 2004, JOHN N. BACH personally known to me did, appear, was placed under oath, and did give the foregoing testimony, to which he affixed his signature in my immediate presence and witnessing,at Driggs, Idaho.

SUBSCRIBE AND SWORN BEFORE ME.

(SEAL)

Rachel E. Burnside
Notary Public
State of Idaho

NOTARY'S SIGNATURE

Driggs ID 83422
Address:

August 25 2009
Comm'n Expires"

CERTIFICATE OF SERVICE BY MAIL: I, the undersigned hereby certify that on this date, I did mail copies of the foregoing document to Judge St. Clair, as his Idaho Falls, Chamber Address and to Jared Harris, counsel for Wayne Dawson, at his Blackfoot, P.O. Box 577, 83221 address. Dated: Jan. 20, '04.

001036 000079

SEPTEMBER 24, 1998

THE COURT: We'll take up Case Number 98-25, Scona, Inc., versus John N. Bach and Targhee Powder Emporium, Unlimited.

Appearing for the Plaintiff is Alva Harris.

I presume you are John Bach.

MR. BACH: I am. Good afternoon, Your Honor.

THE COURT: Good afternoon.

MR. BACH: May I be seated at the table?

THE COURT: You may be seated.

MR. BACH: Thank you.

THE COURT: Now, this case is before the Court on this Court's Order that all pending motions be brought before the Court at this time.

The Court entered an Order, based on a Status Conference held June 18th, that all pending motions be heard at the Teton County Courthouse on July 30th at 1:30. However, at the Court's request, that date was vacated and rescheduled for today.

Now, in preparation for this hearing today, I have reviewed the entire file, which is Teton County's original file. However, upon arriving here at the courthouse a few moments ago, the Clerk

1 That's not necessary.

2 And I don't play fast and loose. I try

3 to deal with an issue head on, and I hope this Court

4 does, too. But in the process of that assignment and

5 under the California law, which it's a California

6 trust, it is also part of the powers of a trustee.

7 THE COURT: Have you made an assignment?

8 MR. BACH: Pardon me?

9 THE COURT: Has there been an assignment

10 made?

11 MR. BACH: There has been.

12 THE COURT: Where is it?

13 MR. BACH: It's in writing. And I don't have

14 it with me, but it's signed by the original trustee.

15 THE COURT: All right.

16 MR. BACH: And if that were the concern of

17 the Court, then I submit under Rule 17, Idaho Rules of

18 Civil Procedure, it should never affect any kind of

19 either punitive disenfranchising or other dismissal

20 action against the trust, because -- if I might just

21 have a moment, and I'll go right with the Court.

22 It's 17(a), the last sentence: "No action shall be

23 dismissed on the ground that it is not prosecuted in

24 the name of the real party in interest until a

25 reasonable time has been allowed after objection for

1 the trustee's representative.

2 THE COURT: Okay. Let me ask you another

3 question. Before proceeding with the tax sale of the

4 property that we're going to be talking about more here

5 today, did the IRS obtain any kind of a lift of any

6 stay imposed by the filing of the bankruptcy?

7 MR. BACH: Absolutely not. In fact, they

8 were personally advised and informed, and Mr. Harris

9 was granted and given a notice at the sale, as was

10 Mr. James Mason. And Mr. Harris was further sent a

11 notice by mail, along with a letter not to come up with

12 any further monies, that there was a stay ordered.

13 THE COURT: Okay. I didn't ask that. My

14 only question was: Did anybody ever obtain a lift of

15 the stay? Yes or no?

16 MR. BACH: No.

17 THE COURT: All right. Mr. Harris, is that

18 correct, to your knowledge?

19 MR. HARRIS: Your Honor, I know that my

20 client received no notice of any bankruptcy at the time

21 we made the purchase at the sale?

22 THE COURT: All right, but answer the

23 question. Do you know if any stay was ever lifted

24 before this sale took place?

25 MR. HARRIS: I don't know of any,

1 Then, when I read the description in
2 Tract 2, it looked to me like they were giving the same
3 description of Lot 1, Block 1, and then saying less
4 that very same piece of property they originally gave
5 you in Tract 1. So it looked like they gave you
6 Tract 1 and then took it away in Tract 2. So it
7 looked to me like they gave you absolutely zippo.
8 Now, I read it again, and with the
9 assistance of my Law Clerk, he suggested that, well,
10 maybe what it says is Tract 1 conveyed the 220 by
11 200 foot piece of property within Lot 1, and then
12 Tract 2 conveyed all of Lot 1, but excepted out of all
13 of Lot 1 the 200 by 220 foot piece of property in
14 Tract 1, which, if that is the case, would leave all of
15 Lot 1 conveyed to Scona, minus the 200 foot by
16 220 foot piece of property. And from what Mr. Harris
17 says, the IRS never owned that.
18 Am I right?
19 MR. HARRIS: Your Honor, I see now the
20 confusion that exists because of it. I read it that
21 there are two tracts involved; conveyed Tract 1, and
22 then they turn around and attempt to convey Tract 2,
23 which is all of Lot 1, except what they had already
24 conveyed in Tract 1.
25 THE COURT: Well, all right.

PLT'S 6A/2-208
6-4-03
admitted

CONFIRMATION OF ALL RIGHTS, TITLES INTERESTS AND PROPRIETARY CLAIMS OF TARGHEE POWDER EMPORIUM, INC., an unformed corporation, and the dbas of TARGHEE POWDER EMPORIUM, UNLTD & LTD, AS BELONGING TO AND BEING A SOLE PROPRIETORSHIP OF JOHN N. BACH, of CHICO, CALIFORNIA

BY THESE PRESENTS AND THE RECITALS STATED HEREIN, IT IS CONFIRMED, AGREED AND ADMITTED, THAT ALL RIGHTS, TITLES, INTERESTS AND PROPRIETARY CLAIMS to or for TARGHEE POWDER EMPORIUM, INC., as that name appears on real properties in Driggs, Idaho, and as such further, unformed corporation which was used as a dba by JOHN N. BACH, for himself alone and to repay his mother's trust loans re June 15, 1993, and also, those dbas he used as TARGHEE POWDER EMPORIUM, UNTLD and LTD, were his sole proprietary ownership and holdings, exclusively and there were as of this confirmation date, and prior thereto, no other persons, corporations or trusts never owned said names, and the real properties and investments so held per said names in Teton County, Idaho, other than JOHN N. BACH, who is the only owner, investor and sole principal of said dbas, designations and names.

DATED: Oct. 1, 1997

JOHN N. BACH, As an Individua & dba as TARGHEE POWDER EMPORIUM, INC., UNLTD & LTD.

JOHN N. BACH, CEO of TARGHEE POWDER EMPORIUM, INC. an unformed corporation, not filing any articles of incorp oration in Idaho.

JOHN N. BACH, First Succeeding Trustee of the VASA N. BACH, FAMILY TRUST OF JUNE 15, 1997.

Post Register A3

Too many questions get judge in trouble

BY DEBBIE S. WICKHAM
Knight Ridder

ORLANDO, Fla. — An Orlando [illegible] who likes to educate himself [illegible] the issues he rules on is in [illegible] for asking too many ques[illegible] his courtroom.

A Florida state panel that [illegible] the conduct of judges [illegible] Circuit Judge Joe Baker of [illegible] County has committed [illegible] violations. The rules are [illegible]. Judges are supposed to [illegible] based solely on [illegible] that lawyers pro[illegible] the case.

[illegible] calls that nonsense. He [illegible] lawyers working for clients [illegible] people to give him [illegible] information. So when [illegible] or scientific issues con[illegible] him, he reads books and [illegible] knowledgeable friends [illegible] relatives or experts around [illegible].

Now he faces punishment [illegible] from a reprimand to [illegible] from office if the panel — [illegible] eventually the Florida [illegible] Court — finds him [illegible].

The lawyers are not interested in the judge having a full and complete and accurate understanding of the subject," Baker said. "They're interested in the judge seeing it their way."

He said the court system should be interested in having judges make the most appropriate decision in a case.

"Do you say a judge is bound and limited to what he or she sees in the courtroom?" Baker said. "That's nonsense because it means the dumbest judge is the best. It exalts ignorance. It exalts subordination. It's saying judges should act dumb, stay dumb."

But the Judicial Qualifications Commission maintains that Baker isn't giving lawyers a fair shake in his courtroom. It contends that lawyers trying a case have no idea what the judge learns from his outside conversations and should have an opportunity to rebut it.

Not only that, Baker could receive inaccurate information and the lawyers won't know it, the commission says. At least if a judge reads a book and tells the lawyers about it, the attorneys have a chance to see what the judge learned.

JQC lawyer Charles Pillans, who is prosecuting Baker, would not comment on the case. But in legal papers, he says that contrary to Baker's arguments, rules of judicial conduct and legal precedent prohibit a judge from consulting with others. If judges are confused, they are supposed to ask lawyers to clear things up. To do that, lawyers can bring in expert witnesses on any subject.

"His consultation with (outside) experts in this case clearly gives the appearance of impropriety, which, in light of Judge Baker's inability to appreciate the import of his conduct, must be addressed," Pillans wrote.

JQC officials maintain that the rules aren't meant to keep judges stupid. They can read what they want, draw on personal knowledge of a lifetime or even pursue degrees in such areas as medicine or engineering. According to the commission, general education is different from researching a specific issue in a case.

Baker says he thinks the intent of the rules is to stop judges from discussing cases only with people involved in the case or with people who want to influence the judge's decision.

Baker, 64, is one of Orlando's longest-serving judges. Appointed to the bench in 1977, he has never faced opposition in an election. He is generally regarded as an intellect, an independent thinker and a bit eccentric.

A voracious reader and writer, Baker often questions some of the basic tenets of the court system. And his written rulings sometimes incorporate his thou[illegible] about issues rather than sticking to the basic legal fou[illegible]tions.

"I know how diligent he is [illegible] how hard he tries to do a [illegible] job," said Orlando la[illegible] Mayanne Downs, who is r[illegible]senting Baker. "Is the state o[illegible] judiciary such that this is [illegible] the JQC is pursuing? Is th[illegible] matter to sanction a public [illegible]vant?"

Downs said she thinks B[illegible] could become the first judg[illegible] American history to be puni[illegible] for educating himself.

The case that got Bake[illegible] trouble involved compu[illegible] Universal Business Systems [illegible] sued Disney Vacation [illegible] Management Corp., over com[illegible]er software it sold Disney fo[illegible] time-share business. Disney [illegible] supposed to return the soft[illegible] plus all the modifications ma[illegible] it. That didn't happen.

After a trial in 1999, a [illegible] decided Disney should pay $2[illegible] lion in damages. But Baker [illegible] overturned its decision. He [illegible] agreed about how damages [illegible] been calculated. Instead, [illegible] reduced the judgment aga[illegible] Disney to just $1,000.

An appeals court overtu[illegible] Baker for several reasons, in[illegible]ing that he talked about the [illegible] outside the courtroom. In a m[illegible]orandum, Baker wrote tha[illegible] had spoken to several pe[illegible] about technical computer is[illegible] He told the Orlando Sentinel [illegible] he talked to a friend who is a [illegible]puter consultant and Baker's [illegible]in-law, an engineer who i[illegible] expert on the computer syste[illegible] the U.S. Navy labs worldwid[illegible]

000085

FILED IN CHAMBERS
at Idaho Falls
Bonneville County
Honorable Richard T. St. Clair
Date February 23, 2004
Time 3:00
Deputy Clerk MSouthwick

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TETON

JOHN N. BACH, Plaintiff, vs. KATHERINE D. MILLER aka KATHERINE M. MILLER, ALVA HARRIS, Individually & dba SCONA, INC., JACK LEE McLEAN, BOB FITZGERALD, OLE OLSON, BOB BAGLEY & MAE BAGLEY, husband and wife, BLAKE LYLE, Individually and dba GRAND TOWING, GALEN WOELK and CODY RUNYAN, Individually & dba RUNYAN & WOELK, ANN-TOY BROUGHTON, WAYNE DAWSON, MARK LIPONIS, EARL HAMLIN, STAN NICKELL, BRET HILL & DEENA R. HILL, and DOES 1 through 30, Inclusive, Defendants.	Case No. CV-02-208 **AMENDED** **DEFAULT JUDGMENT** **AGAINST WAYNE DAWSON**

This amended judgment is entered this 23rd day of February, 2004, with such amendments to the January 5, 2004 judgment stated herein below in bold typeface.

On September 27, 2002, plaintiff John N. Bach ("Bach") filed a first amended complaint against defendant Wayne Dawson ("Dawson") and several other defendants, seeking as to Dawson a decree quieting title to several tracts of real property in Teton County, Idaho, and seeking compensatory damages.

EXHIBIT "3"

On December 20, 2002, Dawson was personally served with the summons and a copy of Bach's first amended complaint. On January 27, 2003, the Clerk entered Dawson's default. Thereafter the Court denied Dawson's motion to set aside default, and two motions for reconsideration, but allowed Dawson to participate as to damages claims in a default evidentiary hearing under Rule 55(b(2), I.R.C.P.

The Court having taken as true the well pleaded factual allegations in Bach's first amended complaint as against Dawson; and the Court having determined in its previous orders that Bach has no interest in the 87 acres described in the first count, and the Court having quieted title in the name of Miller as to such property; and the Court having determined that the tenth count alleging violation of the Idaho RICO Act is barred by an order dismissing with prejudice the same count in Bach's federal action entitled John N. Bach v. Teton County, et. al., CV-01-266-E-TGN; and the Court noting that I. C. § 6-1604 prohibits recovery of punitive damages without first obtaining leave of court to amend one's complaint based on evidence of malicious, wanton and willful conduct; and the Court noting that default judgments cannot be entered for relief not pleaded in the complaint served on the defaulted defendant; and the Court having noted that several of Bach's counts contain only conclusions as to what Dawson did or did not do rather than "well pleaded facts"; and

Court having taken evidence as to Bach's alleged damages on the 5th day of December, 2003; and the Court having made its own assessment as to the credibility of all witnesses and exhibits; and the Court having reviewed the legal authorities in the post hearing memoranda filed by both Bach and Dawson; and the Court noting that Rule 55(a) provides that "findings of fact and conclusions of law are unnecessary in support of a judgment by default;" and the Court having reviewed the legal authorities submitted by Bach as to remedies of partners and/or joint owners of real property; and the Court being fully advised in the premises:

WHEREFORE, by virtue of the law and by the reasons of the premises aforesaid, it is ordered and adjudged pursuant to Rule 58(a), I.R.C.P. as follows:

IT IS HEREBY ORDERED that:

1. As to counts two, three and four of Bach's first amended complaint seeking a decree quieting title against Dawson, Bach shall have judgment against Dawson decreeing that Dawson has no title to, or interest in, the Drawknife 33 acres in Teton County **described as follows:**

> **SE1/4SW1/4 of Section 35, Township 6 North, Range 45 East, Boise Meridian, Teton County, Idaho,**
> **LESS a tract beginning at the SE corner of the SW1/4 of Section 35, Township 6 North, Range 45 EBM; running thence North 516 feet; thence West 295 feet; thence South 516 feet; thence East 295 feet to the point of beginning.**

Further Dawson has no title to, or interest in, the 1 acre property located at 195 North Hwy 33, Driggs, Idaho, described as follows:

> Approximately 1 acre on the East side of Highway 33, North of Driggs, Idaho, with the address of 195 N. Hwy 33, Driggs, Idaho, beginning at the NW corner of Lot 1, Block 1, Teton Peaks View, Division 1, Teton County, Idaho according to said recorded plat; running thence South 200 feet; thence East 220 feet; thence North 200 feet; thence West 220 feet to the point of beginning.

Further Dawson has only an undivided one-half interest in the 8.5 acres adjacent to 195 North Highway 33 in Teton County described as follows:

> Lot 1, Block 1, Teton Peaks View, Division 1, as per the recorded plat thereof, Teton County, Idaho. Together with 20 shares of Grand Teton Canal Company and all mineral, gas, oil and geothermal rights appurtenant thereto,
> LESS approximately 1 acre on the East side of Highway 33, North of Driggs, Idaho, with the address of 195 N. Hwy 33, Driggs, Idaho, beginning at the NW corner of Lot 1, Block 1, Teton Peaks View, Division 1, Teton County, Idaho according to said recorded plat; running thence South 200 feet; thence East 220 feet; thence North 200 feet; thence West 220 feet to the point of beginning.

Further Dawson has only an undivided one-fourth interest in the Peacock 40 acres in Teton County described as follows:

> SW1/4SE1/4 of Section 6, Township 5 North, Range 46 East, Boise Meridian, Teton County, Idaho.

2. As to counts five, six, seven, nine, eleven and twelve seeking damages, plaintiff Bach shall have judgment against Dawson for $5,000.00, being those damages proximately caused by

all acts of Dawson established by "well pleaded factual allegations" as to Dawson alleged in the complaint and by testimony at all evidentiary hearings and in affidavits on file in this action;

3. Count one is barred by this Court's judgment quieting title as to all real property described in that count in the name of defendant Katherine Miller; count eight does not allege a claim against Dawson; and count ten is barred by res judicata effect of the Judge Nelson's order dismissing the same count with prejudice in the above cited federal action.

4. The amount of any costs shall be determined hereafter under Rule 54, I.R.C.P.

DATED this 23rd day of February, 2004.

Richard T. St. Clair
RICHARD T. ST. CLAIR
DISTRICT JUDGE

CERTIFICATE OF SERVICE

I hereby certify that on the 23rd day of February, 2004, I certify that a true and correct copy of the foregoing document was mailed, telefaxed or hand delivered to the following persons:

John N. Bach
1858 S. Euclid Avenue
San Marino, CA 91108
Telefax Nos. 626-441-6673 (TELEFAX & MAIL)

Alva Harris
P. O. Box 479
Shelley, ID 83274
Telefax No. 208-357-3448 (TELEFAX & MAIL)

Galen Woelk Runyan & Woelk, P.C. P.O. 533 Driggs, ID 83422 Telefax No. 208-354-8886	(TELEFAX & MAIL)
Jason Scott P. O. Box 100 Pocatello, ID 83204 Telefax No. 208-233-1304	(TELEFAX & MAIL)
Jared Harris P. O. Box 577 Blackfoot, ID 83221 Telefax No. 208-785-6749	(TELEFAX & MAIL)
Anne Broughton 1054 Rammell Mountain Road Tetonia, ID 83452	(MAIL)
David Shipman P. O. Box 51219 Idaho Falls, ID	(COURTHOUSE BOX)
Gregory Moeller P. O. Box 250 Rexburg, ID 83440-250	(MAIL)

RONALD LONGMORE
Clerk of Court

Deputy Court Clerk

FILED IN CHAMBERS
at Idaho Falls
Bonneville County
Honorable Richard T. St. Clair
Date February 27, 2004
Time 10:30
Deputy Clerk MSouthwick

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TETON

JOHN N. BACH, Plaintiff, vs. KATHERINE D. MILLER aka KATHERINE M. MILLER, ALVA HARRIS, Individually & dba SCONA, INC., JACK LEE McLEAN, BOB FITZGERALD, OLE OLESEN, BOB BAGLEY & MAE BAGLEY, husband and wife, BLAKE LYLE, Individually and dba GRAND TOWING, GALEN WOELK and CODY RUNYAN, Individually & dba RUNYAN & WOELK, ANN-TOY BROUGHTON, WAYNE DAWSON, MARK LIPONIS, EARL HAMBLIN, STAN NICKELL, BRET HILL & DEENA R. HILL, and DOES 1 through 30, Inclusive, Defendants.	Case No. CV-02-208 **DEFAULT JUDGMENT AGAINST ALVA HARRIS, SCONA, INC., BOB FITZGERALD, OLE OLESEN, and BLAKE LYLE**

On September 27, 2002, plaintiff John N. Bach ("Bach") filed a first amended complaint against defendants Alva Harris ("Harris"), Scona, Inc. ("Scona"), Jack Lee McLean ("McLean"), Bob Fitzgerald ("Fitzgerald"), Ole Olesen ("Olesen"), Blake Lyle ("Lyle") and several other defendants, seeking as to these

EXHIBIT "4"

defendants a decree quieting title to several tracts of real property in Teton County, Idaho, and seeking compensatory damages.

The first amended complaint was served by mail on attorney Harris, and on November 12, 2002, defendants Harris, Scona, Fitzgerald, Olesen and Lyle filed a motion to strike the first amended complaint. On January 10, 2003, the Court denied this motion. On January 21, 2003, these defendants and defendant McLean (appearing through counsel Harris) filed a motion to dismiss the first amended complaint under Rule 12(b)(8), I.R.C.P. On March 4, 2003, the Court denied this motion. On March 19, 2003, the Clerk entered these defendants' default. Thereafter the Court denied these defendants' motion to set aside default, but allowed these defendants to participate in a default evidentiary hearing on damages under Rule 55(b)(2), I.R.C.P., originally scheduled for December 5, 2003.

Defendant McLean died a few days before the damages hearing. The damages hearing was continued. No Order for substitution of McLean's successor or representative has been entered. Judgment cannot be entered against defendant McLean at this time.

The evidentiary hearing on damages was held on February 3, 2004, and plaintiff Bach presented testimony, an affidavit, and jury trial exhibits 81-1 through 81-6 (Canal Co. bills), 84 (letter to Prosecutor), 83, 85 & 86 (3 incident reports filed

with Sheriff), 87-1 through 87-24 (photos), 88-1 through 88-27 (photos), 89-1 through 89-26 (photos) and 90-1 through 90-27 (photos). Defendants Harris, Scona, Fitzgerald and Lyle personally appeared at the hearing but declined to cross examine Bach or to call any witnesses.

The Court having taken as true the well pleaded factual allegations in Bach's first amended complaint as against defendants Harris, Scona, Fitzgerald, Olesen and Lyle; and the Court having determined in its previous orders that Bach has no interest in the 87 acres described in the first count, and the Court having quieted title in the name of Miller as to such property; and the Court having determined that the tenth count alleging violation of the Idaho RICO Act is barred by an order dismissing with prejudice the same count in Bach's federal action entitled John N. Bach v. Teton County, et. al., CV-01-266-E-TGN; and the Court noting that I. C. § 6-1604 prohibits recovery of punitive damages without first obtaining leave of court to amend one's complaint based on evidence of malicious, wanton and willful conduct; and the Court noting that default judgments cannot be entered for relief not pleaded in the complaint served on the defaulted defendant; and

The Court having noted that several of Bach's counts contain only "conclusions" as to what these defendants did or did not do, both individually and in concert, rather than "well pleaded

facts"; and the Court concluding from evidence at several hearings that defendant Harris acted for himself and in the scope of authority for defendant Scona at all times; and the Court concluding from such evidence that defendants Fitzgerald and Lyle acted in concert together and with Harris and Scona **only** in threatening injury to Bach, converting and damaging some of Bach's money and tangible personal property, and harassing Bach; and the Court concluding that defendant Olesen acted in concert together with Harris, Scona, Fitzgerald and Lyle **only** in harassing Bach; and

The Court having taken evidence as to Bach's alleged damages on the 3rd day of February, 2004; and the Court having made its own assessment as to the credibility of all witnesses and exhibits; and the Court noting that Rule 55(a) provides that "findings of fact and conclusions of law are unnecessary in support of a judgment by default;" and the Court being fully advised in the premises:

WHEREFORE, by virtue of the law and by the reasons of the premises aforesaid, it is ordered and adjudged pursuant to Rule 58(a), I.R.C.P. as follows:

IT IS HEREBY ORDERED that:

1. As to counts two, three and four of Bach's first amended complaint seeking a decree quieting title against defendants Harris, Scona, Fitzgerald, Olesen and Lyle, Bach shall have

judgment against these defendants decreeing that these defendants have no title to, or interest in, the following real property in Teton County, Idaho:

a. the 8.5 acres adjacent to 195 North Highway 33 north of Driggs, described as follows:

> Lot 1, Block 1, Teton Peaks View, Division 1, as per the recorded plat thereof, Teton County, Idaho. Together with 20 shares of Grand Teton Canal Company and all mineral, gas, oil and geothermal rights appurtenant thereto,
> LESS approximately 1 acre on the East side of Highway 33, North of Driggs, Idaho, with the address of 195 N. Hwy 33, Driggs, Idaho, beginning at the NW corner of Lot 1, Block 1, Teton Peaks View, Division 1, Teton County, Idaho according to said recorded plat; running thence South 200 feet; thence East 220 feet; thence North 200 feet; thence West 220 feet to the point of beginning; or

b. the 1 acre parcel located at 195 North Highway 33 north of Driggs, described as follows:

> A tract beginning at the SE corner of the SW1/4 of Section 35, Township 6 North, Range 45 EBM; running thence North 516 feet; thence West 295 feet; thence South 516 feet; thence East 295 feet to the point of beginning; or

c. the Drawknife 33 acre property, described as follows:

> SE1/4SW1/4 of Section 35, Township 6 North, Range 45 East, Boise Meridian, Teton County, Idaho,
> LESS a tract beginning at the SE corner of the SW1/4 of Section 35, Township 6 North, Range 45 EBM; running thence North 516 feet; thence West 295 feet; thence South 516 feet; thence East 295 feet to the point of beginning. acres in Teton County, Idaho; or

d. the Peacock 40 acre property, described as follows:

> SW1/4SE1/4 of Section 6, Township 5 North, Range 46 East, Boise Meridian, Teton County, Idaho.

2. As to counts five, six, nine, eleven and twelve seeking damages, considering the "well pleaded factual allegations" alleged in the amended complaint and the testimony and exhibits at all evidentiary hearings and in affidavits on file in this action, plaintiff Bach shall have judgment against these defendants as follows:

a. For slander of title under count five, $5,000.00 against defendants Harris and Scona, jointly and severally, and $1.00 each against defendants Fitzgerald, Olesen and Lyle, not jointly or severally, being those damages proximately caused by all acts of such defendants;

b. For intentional interference with contracts, business relations and economic expectancies under count six, $1.00 against defendants Harris, Scona, Fitzgerald, Olesen and Lyle, jointly and severally, being those damages proximately caused by all acts of such defendants;

c. For conversion of money and business names under count nine, $15,000.00 against defendants Harris and Scona, jointly and severally, and for conversion and damage to tangible personal property under count nine $5,000.00 against defendants Harris, Scona, Fitzgerald and Lyle, jointly and severally, and $1.00 against defendant Olesen, not jointly or severally, being those damages proximately caused by all acts of such defendants;

d. For malicious prosecution and abuse of process under

count eleven, $5,000.00 against defendants Harris and Scona, jointly and severally, and $1.00 each against defendants Fitzgerald, Olesen and Lyle, not jointly or severally, being those damages proximately caused by all acts of such defendants;

e. For malicious harassment under count twelve, $5,000.00 against defendants Harris, Scona, Fitzgerald, Olesen and Lyle, jointly and severally, being those damages proximately caused by all acts of such defendants;

3. Count one is barred by this Court's judgment quieting title as to all real property described in that count in the name of defendant Katherine Miller; counts seven and eight do not allege claims against these defendants; and count ten is barred by res judicata effect of the Judge Nelson's order dismissing the same count with prejudice in the above cited federal action.

4. The amount of any costs shall be determined hereafter under Rule 54, I.R.C.P.

DATED this 27th day of February, 2004.

RICHARD T. ST. CLAIR
DISTRICT JUDGE

CERTIFICATE OF SERVICE

I hereby certify that on the 27th day of February, 2004, I certify that a true and correct copy of the foregoing document was mailed, telefaxed or hand delivered to the following persons:

John N. Bach
1858 S. Euclid Avenue
San Marino, CA 91108
Telefax Nos. 626-441-6673 (TELEFAX & MAIL)

Alva Harris
P. O. Box 479
Shelley, ID 83274
Telefax No. 208-357-3448 (TELEFAX & MAIL)

Galen Woelk
Runyan & Woelk, P.C.
P.O. 533
Driggs, ID 83422
Telefax No. 208-354-8886 (TELEFAX & MAIL)

Jason Scott
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Pocatello, ID 83204
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Jared Harris
P. O. Box 577
Blackfoot, ID 83221
Telefax No. 208-785-6749 (TELEFAX & MAIL)

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David Shipman
P. O. Box 51219
Idaho Falls, ID (COURTHOUSE BOX)

Gregory Moeller
P. O. Box 250
Rexburg, ID 83440-250 (MAIL)

RONALD LONGMORE
Clerk of Court
M Southwick
Deputy Court Clerk

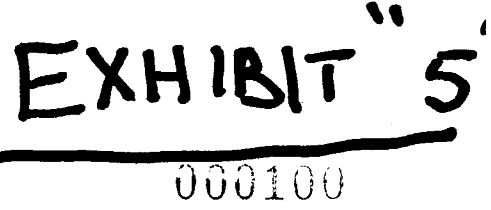
WARRANTY DEED, ANNULLING, VOIDING & RESCINDING WARRANTY DEEDS RECORDED NOVEMBER 21, 2000, BY TARGHEE POWDER EMPORIUM, INC., JACK LEE McLEAN, Vice President, BEING INSTRUMENT NUMBERS 140249, 140248, 140247, 140246 and CORPORATION WARRANTY DEEDS, RECORDED FEBRUARY 22, 2001, INSTRUMENT NO. 141453 AND AUGUST 16, 2002, INSTRUMENT NO. 143842 and REGRANTING, REESTABLISHING ALL OWNERSHIP OF JOHN N. BACH AS SOLE OWNER OF ALL PROPERTIES DESCRIBED IN THE VOIDED DEEDS

THIS INDENTURE, WARRANTY DEED, is made this 7th day of May, 2002, by JACK L. McLEAN, Individually and as Vice-President of TARGHEE POWDER EMPORIUM, INC., a fraudulently formed Idaho Corporation by Alva A. Harris, Jack L. McLean, Katherine M. MIller, a single woman and others;

NOW BY THESE PRESENTS, JACK L. McLEAN in the stated capacities, as Vice President of the fraudulent/void Corporation, Targhee Powder Emporium, Inc., in all of the identified Corporate Warranty Deeds, which he signed for and on behalf of said fraudulently created Idaho corporation of November 21, 2000, recorded as instruments numbers 140249, 140248, 140247, 140246, and that further corporate warranty deeds, recorded February 22, 2001, NO. 141453 and recorded August 16, 2001, NO. 143842, are all individually and jointly, entirely and completely, hereby ANNULLED, REVOKED, RESCINDED and VOIDED; and it is hereby admitted, confessed and stated, that all of said void warranty deeds, were deliberately false, deceptive and contrived documents, which sought to deprive illegally, and otherwise, JOHN N. BACH's ownership in all said properties set forth in said now voided and revoked warranty deeds, and to convert and steal all his ownership, possession, management, use, rights interests and business contracts, opportunities and adavantages, etc., thereof and therefrom.

BY THESE FURTHER PRESENTS, JACK L. McLEAN is such capacity as Vice-President of said false/void Idaho Corporation, Targhee Powder Emporium, Inc., and also individually and as trustee of the McLean Family Trust, does hereby reaffirm, reestablish, grant, assign and forever transfer unto JOHN N. BACH, as owner of that entire parcel of forty (40) acres more or less situated in the County of Teton, Idaho, described more particularly as;

> The E1/2S1/2SE1/4 of Section 10, Township 5 North, Range 45 East, Boise Meridian, Teton County, Idaho, 40 acres more or less
> Together with all mineral rights and 10 shares of water in the Grantd Teton Canal Company
> Together with all water and water rights, ditches and ditch rights, improvement, hereditaments and appurtenances thereto, however evidenced, and subject to all covenants and restrictions if any, applicable building and zoning ordinances, use regulations and restrictions, easements, rights-Of-way, and encumbrances of record or established by user with respect thereto.



AND FURTHER, is granted, conveyed, transferred, confirmed and established to JOHN N. BACH, as owner-grantee of that entire real property situated in Teton County, Idaho, as follows:

Tract A: A part of the E 1/2 S 1/2 SE 1/4 of Section 10, Township 5 North, Range 45 East, Boise Meridian, Teton County, State of Idaho, described as: From the NE Corner of the E 1/2 S 1/2 SE 1/4 of said Section 10; thence West along the North Boundary line of the E 1/2 S 1/2 SE 1/4 of said Section 10 to the NW Corner of the E 1/2 S 1/2 SE 1/4 of said Section 10; thence South along the West boundary line of the E 1/2 S 1/2 SE 1/4 of said Section 10, 110 feet; thence East to the East Boundary line of the E 1/2 S 1/2 SE 1/4 of said Section 10; thence North along the East Boundary line of the E 1/2 S 1/2 SE 1/4 of said Section 10 to the point of beginning, and

Tract B: Township 5 North, Range 45 East of the Boise Meridian, Teton County, Idaho Section 11: A section of the S 1/2 SW 1/4 containing 6.63 acres more or less being further described as:

From the SW corner of said Section 11, thence N 0 02' 03" W, 1214.14 feet along the Western Section Line to the true point of beginning;

Thence N 0 02' 03" W, 110 feet further along the Western Section Line to the NW corner of the S 1/2 SW 1/4 of said Section 11;

Thence S 89 57' 55" E 2627.56 feet along the North Line of the S 1/2 SW 1/4 of Section 11 to a point on the Western Right-of-Way Line of Highway 33;

Thence S 0 09' 27" W, 110 feet along the Western Right-of-Way Line of Highway 33 to a point;

Thence N. 89 57' 55" W, 2627.19 feet to the point of beginning.

Together with all water and water rights, ditches and ditch rights, improvements, hereditaments and appurtenances thereto, however, evidence, and subject to all covenants and restriction, applicable building and zoning ordiances, use regulations and restrictions, easements, rights-of-way, and encumbrances of record or established by user with respect thereto/

AND FURTHER is granted, conveyed, transferred, confirmed and established to JOHN N. BACH as owner-grantee of all/any interest in that real property in Teton County, Idaho, described as follows:

Lot 1, Block 1, Teton Peaks View, Division 1, as per the record plat thereof, Teton County, Idaho,
Together with 20 shares of Grand Teton Canal Company and all mineral, gas, oil and geothermal rights.
Together with all water and water rights, ditches, and ditch rights, improvements, hereditaments and appurtenances thereto, however, evidence, and subject to all covenants nad restrictions, applicable building and zoning ordinances, use regulations, easements, rights-of-way, and encumbrances of record or established by user with respect thereto.

AND FURTHER is granted, conveyed, transferred, confirmed and established to JOHN N. BACH as owner-grantee of an undivided two-thirds interest in that real property in Teton County, Idaho, described as:

The SE 1/4 SW 1/4 of Section 35, Township 6 North, Range 45 East, Boise, Meridian, Teton County, Idaho

Less Beginning at the SE corner of the SW 1/4 of Section 35, Township 6, North Range 45 EBM, thence North 516 feet; thence West 295; then S. 46 feet, thence East 295 feet to the point of beginning.
ALSO LESS: Beginning at a point 516 feet North from the SE corner of the SW 1/4 of the same section 35, Township 6 North, Range 45 EBM; thence North 435 feet; thence West 295 feet; thence South 435; thence East 295 feet to the point of beginning; including a 60-foot wide easement for road access from existing Highway along South line of Clawson Ward property in an east-west direction. Property contains 33.85 acres more or less.

Together with all water and water rights, ditches and ditch rights, improvements, hereditaments and appurtenances thereto; however evidence, and subject to all covenants and restrictions, applicable builidng and zoning ordiances, use regulations and restrictions, easements, rights-of-way, and encumbrances of record or established by user with respect thereto.

AND FURTHER is granted, conveyed, transferred, confirmed and established to JOHN N. BACH as owner-grantee, of an undivided one-half interest in that real property in Teton County, Idaho, described as:

The SW 1/4 SE 1/4 of Section 6, Township 5 North, Range 46 East, Boise Meridian Teton County, Idaho, 40 acres more or less. Also desecribed as: A portionof the South 1/2 South 1/2 of Section 6 as described in the attached schedule of order No. t-757 and signed by grantors agent herein. Together with all water and water rights, ditches and ditch rights, improvements, hereditaments and appurtenances thereto, however, evidenced, and subject to all covenants and restrictions, easements, rights-Of-way, and encumbrances of record or established by user with respect thereto.

PER THE ATTACHED GENERAL POWER OF ATTORNEY and DESIGNATION OF ALTERNATE TRUSTEE, executed originals by JACK LEE McLEAN, empowering JOHN N. BACH to sign for JACK L. McLEAN in all of the capacities stated herein, JACK L. McLEAN, per said document originals attached, executes this WARRANTY DEED, this 7th day of May, 2002, at Teton County, Idaho.

State of Idaho)
Teton County) ss

On May 7, 2002, before me, appeared JOHN N. BACH, known to me, an Idaho Notary Public, Teton County, who did subscribe the name of Jack L. McLean, in the stated capacities, as Jack L. McLean's attorney in fact and alternate trustee, & executed this Warranty Deed, witnessed & acknowledged by me.

NOTARY PUBLIC STATE OF IDAHO

Notary Public

Residing at: Driggs ID

Comm. Expires: 2-1-08

148042

Jack L. McLean, Individually, & as Vice President of Targhee Powder Emporium, Inc., Idaho Corp, & for his Family Trust.

BY JOHN N. BACH, attorney in fact, and said trustee for JACK L. McLEAN

GENERAL POWER OF ATTORNEY FOR CANADA AND ANY STATE OF THE UNITED STATES OF AMERICA--GRANTOR: JACK LEE McLEAN of Driggs, Idaho to Attorney in Fact and General Agent for Him: JOHN N. BACH of Driggs, Idaho 83422

I, JACK LEE McLEAN, P.O. Box 96, Driggs, Idaho, 83422, (208) 354-8528 do by these presents, grant, convey and empower JOHN N. BACH, P.O. 101, Driggs, Idaho, 83422 to be my general attorney in fact and general agent for all matters, purposes, intendments and/or personal, business, legal and all other proceedings, events, circumstances and occurrences in my place and stead, to act in all capacities as my attorney in fact and/or general agent, to do any and all acts, transaction, functions or exercise of my legal rights, interest and/or claims, as if I were personally executing, undertaking and/or carrying/pursuing the same, whether such acts, transctions, functions or exercise of my legal rights, interest and/or claims are in any province of Canadia, such as British Columbia or Alberta, or in any of the states of the United States of America.

I further direct any and all persons in dealing with, or assisting said JOHN N. BACH, to cooperate with, grant and extend to him all good faith and diligent performance and response to any of his requests, inquiries, directions, decisions, and/or legal actions made of them as my attorney in fact and general agent. I especially direct and instruct Mr. RON BUDDENHAGEN, Esquire of Cranbrook, that any actions, decisions, instructions or other determinations by said JOHN N. BACH, regarding as to any legal matters that Mr. RON BUDDENHAGEN may be handling for me, are to be followed to the letter and complete spirit of said JOHN N. BACH's decisions and determinations, including but not limited to: terminating and/or replacing MR. RON BUDDENHAGEN as my personal or business counsel in any and all legal matters or affairs; collecting any and all moneys, receivables/claims or judgments in my favor or on my behalf without any interference, intrusion or further involvement by Mr. RON BUDDENHAGEN; obtaining, securing and/or receiving all and any of my files, records, materials of any kind, character or sort, in the possession, under the control of or via access of Mr. RON BUDDENHAGGEN, any member or employee of his staff; and pursuing, prosecuting and/or advancing any and all claims, legal matters or proceedings before the Canadian Legal Society and/or Supreme Court of British Columbia, Alberta or any other provence and before the Supreme Court of Canada or any other inferior court of original or appellate jurisdiction.

WHEREFORE, by these presents, I do execute and grant this general power of attorney to JOHN N. BACH, this 11 day of April, 1994 at Driggs, Teton County, Idaho, U.S.A.

[signature] Jack Lee McLean
JACK LEE McLEAN

STATE OF IDAHO, COUNTY OF Teton

On this 11th day of April, 1994, before me, a notary public in and for said State, personally appeared Jack Lee McLean known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

[signature] Notary Public

Residing at Driggs, Idaho

Comm. Expires 5-19-94

Instrument # 148042
DRIGGS, TETON, IDAHO
2002-05-07 03:50:02 No. of Pages: 6
Recorded for: JOHN BACH
NOLAN G. BOYLE Fee: 18.00
Ex-Officio Recorder Deputy [signature]
Index to DEED WARRANTY

148042

EXHIBIT 3

DESIGNATION OF APPOINTMENT OF ALTERNATE TRUSTEE (JOHN N. BACH) OF THE JACK LEE McLEAN FAMILY TRUST

I, JACK LEE McLEAN, trustor/grantor and primary beneficiary of the JACK LEE McLEAN FAMILY TRUST, of February 18, 1994, Driggs, Idaho, do, per the terms, provisions and conditions of parts III and V of said trust agreement and instrument, resign as Trustee and do appointment and establish as alternate and first succeeding Trustee, JOHN N. BACH, also of Driggs, Idaho, to act in all capacities and empowerment as the sole and exclusive Trustee of said JACK LEE McLEAN FAMILY TRUST per all the terms, conditions and provisions therein and all other applications of California and Idaho laws and authorities.

WHEREFORE, I do execute this document this 11th day of April, 1994 at Driggs, Teton County, Idaho, U.S.A.

Jack Lee McLean

JACK LEE McLEAN
P.O. Box 96
Driggs, Idaho 83422

STATE OF IDAHO, COUNTY OF Teton

On this 11 th day of April, 1994, before me, a notary public in and for said State, personally appeared Jack Lee McLean known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

[signature]

Notary Public

Residing at Driggs, Idaho

Comm. Expires 5-19-94

148042

EXHIBIT 3

000104

000315

... the legal description of the property. Other e... trans... , be stated in the summary. If the requireme... section are ..., the summary of the instrument may be recorded under ... provisions of this chapter and, as to the contents of the summary only ... shall have the same force and effect as if the original instrument had be... recorded, and constructive notice shall be deemed to be given concerning the contents of the summary and the existence of the instrument to ... subsequent purchasers, mortgagees or other persons or entities that ... quire an interest in the real property. [I.C., § 55-818, as added by 1987, ... 353, § 1, p. 785; am. 1989, ch. 105, § 2, p. 238.]

Compiler's notes. Section 1 of S.L. 1989, ch. 105 is compiled as § 55-601.

CHAPTER 9

UNLAWFUL TRANSFERS

SECTION.
55-901. Fraudulent conveyances of land.
55-902. Grantee must be privy to fraud.
55-903. Power of revocation — When deemed executed.
55-904. Power of revocation not subject to exercise before grant — When deemed executed.
55-905. Fraudulent transfers of personalty.
55-906. Transfers in fraud of creditors.
55-907. Transfers in fraud of creditors — Delivery and change of possession.
55-908. Fraud is a question of fact.
55-909. Title of purchaser not impaired.
55-910. Uniform fraudulent transfer act — Definitions.
55-911. Insolvency defined.

SECTION.
55-912. Value defined.
55-913. Transfers fraudulent as to present and future creditors.
55-914. Transfers fraudulent as to present creditors.
55-915. When transfer is made or obligation is incurred.
55-916. Remedies of creditors.
55-917. Defenses, liability, and protection of transferee.
55-918. Extinguishment of a cause of action.
55-919. Application of general law.
55-920. Uniformity of application and construction.
55-921. Short title.
55-922. [Repealed.]

55-901. Fraudulent conveyances of land. — Every instrument, other than a will, affecting an estate in real property, including every charge upon real property, or upon its rents or profits, made with intent to defraud prior or subsequent purchasers thereof, or encumbrancers thereon, is void as against every purchaser or encumbrancer, for value, of the same property, or the rents or profits thereof. [1864, p. 540, § 1; R.S., § 3015; reen. R.C. & C.L., § 3164; C.S., § 5428; I.C.A., § 54-901.]

Cross ref. Decedents' estates, actions to set aside fraudulent conveyances, § 15-3-710.
Fraudulent practices, § 55-1812.

ANALYSIS

Close relationship between debtor and transferee.
Conflict of laws.
Intent.
Question of fact and intent.

Close Relationship Between Debtor and Transferee.
Execution and delivery of trust deed by d-...

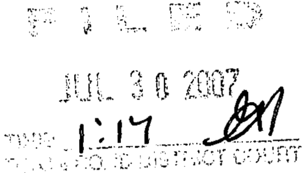
14804?

EXHIBIT 3 000316

000105

Pages 106 – 316 do not exist

JOHN N. BACH
Post Office Box 101
Driggs, Idaho 83422
Tel: (208) 354-8303
Defendant, Counterclaimant
and Claimant in Intervention



SEVENT JUDICIAL DISTRICT COURT, IDAHO, TETON COUNTY

JACK LEE McLEAN and MARK J. LIPONIS, Trustee, Plaintiffs, v. JOHN N. BACH, Defendant & Counterclaimant. [Teton CV 01-33]	CASE NOS: CV 01-33 and CV 01-265
JACK LEE McLEAN, Trustee and WAYNE DAWSON, Trustee, Plaintiffs, v. CHEYOVICH FAMILY TRUST and VASA N. BACH FAMILY TRUST [and JOHN N. BACH, Individually & dba TARGHEE POWDER EMPORIUM, LTD.], Defendants, Counter claimant & Complaint In Intervention. [Teton CV 01-265]	DEFENDANT, COUNTERCLAIMANT & COMPLAINANT IN INTERVENTION'S CLOSING BRIEF IN SUPPORT OF HIS MOTIONS RE: (1) SUMMARY JUDGMENT IN HIS FAVOR ON BOTH COMPLAINTS FILED IN CV 01-33 and CV 01-265; and (2) FOR ORDER AND JUDGMENT OF DISMISSAL WITH PREJUDICE OF BOTH COMPLAINTS IN CV 01-33 and CV 01-265, FOR LACK OF DILIGENT PROSECUTION, FAILURE TO STATE ANY CLAIMS OR CAUSES OF ACTION, ESTIPPELL, LACHES & FRIVOLOUS/SPECIOUS CLAIMS THEREIN. DATE OF HEARING: Aug. 7, 2007 TIME OF HEARING: 2 p.m PLACE OF HEARING: Teton County Courthouse, 89 N. Main, Driggs, Idaho 83422

JOHN N. BACH, in the foregoing capacities as stated hereine, supra and per his notice of motions and motions filed July 2, 2007 does hereby submit his CLOSING BRIEF with requests for stated ORDERS and complete judgments with prejudice against all plaintiffs in said Teton CV 01-33 and CV 01-265.

I. ALL PLAINTIFFS IN BOTH SAID TETON CIVIL ACTIONS, CV 01-33 and CV 01-265 HAVE ADMITTED, CONFESSED AND STIPULATED BY THEIR ABSOLUTE AND UNEQUIVOCAL FAILURES AND REFUSALS TO RESPOND TO JOHN N. BACH'S MOTIONS, THAT SAID MOTIONS ARE WITH MERIT, FULL EVIDENTIARY SHOWING AND COMPLETENESS, FULLY SUFFICIENT IN EVIDENCE AND SHOWING PER IRCP RULE 56(b), et seq TO REQUIRE THIS COURT TO GRANT, ORDER AND ENTER JUDGMENTS WITH PREJUDICE AGAINST ALL PLAINTIFFS IN BOTH SAID ACTIONS AND IN FAVOR OF JOHN N. BACH, AS TO SOLE OWNERSHIP, SUBJECT TO AN UNDIVIDED

ONE FOURTH INTEREST HELD BY MILAN CHEYOVICH AND DIANA CHEYOVICH IN THE PEACOCK PARCEL, CONSISTING OF 40 ACRES; and JOHN N. BACH'S ENTIRE OWNERSHIP INTEREST OF THE JACK-KNIFE PROPERTY PARCEL, CONSISTING OF 33 ACRES, SUCH OWNERSHIP TO BE QUIETED FORTHWITH IN THE NAME OF JOHN N. BACH WITH A PERMEANT INJUNCTION ISSUING FURTHER TO ENJOIN ANY AND ALL FURTHER CLAIMS, INTRUSIONS, TRESPASSINGS, VIOLATIONS, ETC. BY ANY OF THE PLAINTIFFS', ANY OF THEIR ATTORNEYS, AGENTS, FAMILY MEMBERS, ETC. UPON OR RELATING TO SAID TWO PARCELS OF 40 ACRES AND 33 ACRES.

All Plaintiffs in said two Teton CV 01-33 and CV 01-265, as well as their attorneys of record in both said actions and in Teton CV 02-208, have utterly, completely and unequivocally failed to respond or present any allowable opposition to the motinns filed by JOHN N. BACH, herein both actions, on July 22, 2007.

Any response, whether in the form of opposition, objections or countershowing by affividavits, etc., from said plaintiffs and their attorneys were due and required to have been filed on or before Monday, July 23, 2007; such is and was mandated by Rule 56(c). Nothing has been filed nor presented for filing neither by said date nor as of this date, Monday, July 30, 2007

Therefore, per the further mandating language of Rule 56(c) and 56(e) JOHN N. BACH, as both defendant and counterclaimant and claimant in intervention is entitled to have judgment "rendered forthwith in his favor and especially quieting title in his favor as to ownership of all the foregoing two parcels, Peacock and Drawknife, except as qualified to the undivided one-quarter interest of ownership of the Cheyovich's in said 40 acre Peacock Parcel."

Such granting of not just summary judgment but all such quiet title issues judgment in JOHN N. BACH's favor against all plaintiff's in both actions is further mandated by the holding of Rexburg Lumber Co, v. Purrington, 113 P.2d 511, 515 and all the federal circuit court bankrutpcy case authorities cited on pages 3-5 of his Initial Memorandum of authorties. Further, supporting and mandating s

irrefutable facts of evidence and law as set forth in JOHN N. BACH's of July 6, 2007 with all exhibits attached thereto, especially with the execution and recordation of that Warranty Deed, Teton Instrument No. 148042, Exhibit "5" attached to his said affidavit.

Even any possible credible opposition or claims that any of the plaintiffs could have been somehow investors, shareholders or equity holders in any corporation known as TARGHEE POWDER EMPORIUM, INC., or as dbas thereof as TARGHEE POWDER EMPORIUM, UNLTD OR LTD, fail totally, absolutely and unequivocally to state any derivative shareholder action or claims, which were also discharged in JOHN N. BACH's Chapter 13 Bankruptyc action, U. S. Bankruptcy Eastern District of California, Sacramento Diviston, being Case No. 97-31942-A-13, and the holding of Mannos v. Moss, Idaho Supreme Court Dkt No. 31958, Feb. 22, 2007, WL 528486 (Idaho). All Plaintiffs' failure to state any facts upon which any claims could be based is "NOW" waived and this court, even sua sponte, must take such noticed and issued full judgment against all plaintiffs on their said dual complaints, per the provisions of IRCP, Rule 12(f).

If the Court has any questions or concern of who is the owner or holder of all rights, title and equity to TARGHEE POWDER EMPORIUM, INC, and/or its dbas UNTLD & LTD, it is JOHN N. BACH, who will produced recorded instruments Teton Nos 185333, 185334 and 185335, copies thereof for the Court to take judicial notice and received into evidence. Thus, without arguing any unassailable facts and legal conclusions, none of the plaintiffs ever nor now have any right, title, claim or interests, etc., in said entities.

NOTE: See In re Egleston (5h Cir 2006)448 F.3d 803, 809-10 & 812: "The Supreme Court has

explained that Congress intended to adopt the broadest available definition of 'claim' Johnson v. Home State Bank, 501 U.S. 78, 111 S.Ct. 2150, 115 L.Ed2d 66(1991)

II. NONE OF THE PLAINTIFFS HAVE PRESENTED ANY CREDIBLE, ADMISSIBLE NOR RELEVANT SHOWING OF GENUINE ISSUES OF MATERIALS FACTS AS TO THEIR BEING BARRED AND UTTERLY PRECLUDED BY THE NUMEROUS DOCTRINES ASSERTED AGAINST THEM BY JOHN N. BACH, IN HIS AFFIRMATIVE DEFENSES AND PER THE AVERMENTS OF HIS COUNTERCLAIMS AND CLAIMS IN INTERVENTION

John Bach's filing for Chapter 13 Petitions in bankrutpcy in 1997 certainly gave notice not only of the automatic stay order, but, also of any starting of any applicable time period to file creditors claims. Dawson, Alva Harris and Kathy Miller were named creditors therein; moreso, Harris knew in his lawsuit, Teton CV 98-25, and admitted such stay order was never lifted. Even before the date of John Bach's first Chapter 13 filing in Pocatello Idaho, dismissed, so as to be refiled in Sacramento, CA., all statues of limitation had expired on any possible creditor claims by Dawson, Liponis and their mutual attorney, Alva Harris, and even coconspirator and complicator, Kathy Miller, (Aff. of JNB, Ju;y 6. 2--7. par. 2 [second par 2], page 8 through 4, page 9 and Exhibits 2 and 5, attached) (See In re Bracewell (11th Cir, GA 2006) 454 F.3d 1234, 1238 & 1241; In re Moses (9th Cir. 1999) 167 F.3d 470, 473 & Cogliano v. Ibid, (9th Cir. 2006) 2006 DJDAR 1351, 13854.)

But even if any applicable statute of limitations did not expire, Dawson, Liponis and Harris, on their behalves and also Harris' scam corporation, Scona, Inc., failed to timely file and pursue a creditor's claim in such banktrupcy, and the time period for filing such claims was another bankruptcy statute of limitations which further barred and now precludes any and all possible claims by said individuals against JOHN BACH and/or his TARGHEE POWDER EMPORIUM, INC, and dbas thereof of UNLTD and LTD. Nancy Lee Mines, Inc. v. Harrison, Idaho, 511 P.2d 828, 829, see citing and application of Davis v. Harrison, 25 Wash. 2d 1, 167 P.2d 1015 (1946). Even the uncontested oral agreement between JOHN BACH and DAWSON, Exhibit "2", paragraphs 3 and 4 thereof, establish the unclean hands of Dawson, Lipoinis, Harris and Miller, as well.

Thusly, all said individuals, Dawson, Liponis, Alva Harris

and Kathy Miller's possible claims against John Bach, even if not discharged in his Sacremento Division, Chapter 13 Bankrtupcy, are independelty barred by the statute of limitations, and the doctrines of unclean hands, laches, waiver and estoppel as welll as issues and claims preclusions, res judicata, collateral estoppel, and the provisions of IRCP, Rule 13(a), latter due to none of Dawson's, McLean's nor Harris' actions re leading to their defaults in Teton CV 02-208, ever attempted to file nor did they ever seek, a mandatory counterclaim. See Rexburg Lumber Co, supra. Liponis, being both factually and as a matter of law in privity, concert of action and conspiracy with them is likewise so barred and precluded, independently on all such grounds from any recovery whatsoever, but via his complaint in Teton CV. 01-335 Liponis is factually and legally found and proven to have been in collusion and with fraud in stealing from JOHN BACH, said $15,000 removed from John's agency account, which this court in Teton CV 01-33, by ORDER of Nov. 9, 2004, found/ held "there is absolutely no just reason or basis in fact or law for the Court ordered deposit of [$15,000.00] . . . which was alwsys the sole and exclusive moneys of JOHN N. BACH . . " As this Court is well aware, factually uncontradicted, Alva Harris on behalf of Dawson, Liponis and evern Miller, threatened to sue and hold liable the Idaho State Attorney's General's office, if it returned said stolen, $15,000 to John Bach; it was this malicious, frivolous, vexatious and without merit threats and actions of Harris, Dawson, Liponis and Miller that such moneys was interpleaded into court via a controll account all over John Bach's objections and opposittion. Not only are such egregiously abusive, fraudulent and unconstitutional acts, conduct and pursuits of Liponis, Dawson, Harris and Miller, and unconstitutionally prejudgment attachment, but

per se, grand theft, violating I.C. 55-901, et seq
and as a matter of irrefutable fact and principle of law, unclean hands and abuse of legal procee, extortion, etc., by said plaintiffs and their counsel, in Teton CV 01-33 and 01-265, Liponis can be accorded standing, any claim of right or benefits recognized by his utterly malicious fraud, grand theft and clearly established unclean hands, to have any interest or title in said Drawknife parcel. The entire ownership of such 33 plus acre parcel must be quieted solely in JOHN N. BACH and/or his TARGHEE POWDER EMPORIUM, INC & dba TARGHEE POWDER EMPORIUM, LTD.

Any last minute attempt by either Liponis, Dawsonoor their complicitor counsel, Alva Harris, to have the court order any judgment in their favor, as might have been done by Judge St. Clair, in Teton CV 02-208, is not only grievous error and a legal position which neither Rule 56(c), 56(e), etc provide for, but, further, is to deny, restrict and elminate this Court's statutory and inherent powers, duties and obligations to JOHN N. BACH to do justice to his rights, titles and ownership, independently,ffrom any issues he may have raised in his current appeal in Teton CV 02-208. This court is neither required nor under any obligation to rubber stamp the errors, mistakes and even prejudices of Judge St. Clair, as he perpetrated them in Teton CV02-208. Nor can this Court ignore or evade the finality of the Amended Judgment of Feb. 23, 2004 against Dawson, who has not appealled therefrom, making such binding upon him, as further augmented by JOHN BACH's current motions and the application of the Rexburg Lumber case, supra, which requires this Court to award and quiet title of his and even McLean's former claim-

interests, right of ownership, etc., to solely JOHN N. BACH. Such award/judgment of quieting title to JOHN N. BACH is also a required sanction for said plaintiffs and their counsel's abuse of process. Bell v. Bell (C.A. 1992) 122 Idaho 520, 835 P.2d 1331; Durrant v. Christensen (1990) 117 Idaho * 70, 785 P.2d 634 & Paul Oil Co III. v. Federated Mut. Ins. Co. (9th Cir. 1998) 98 Daily Journal D.A.R. 9688-89.

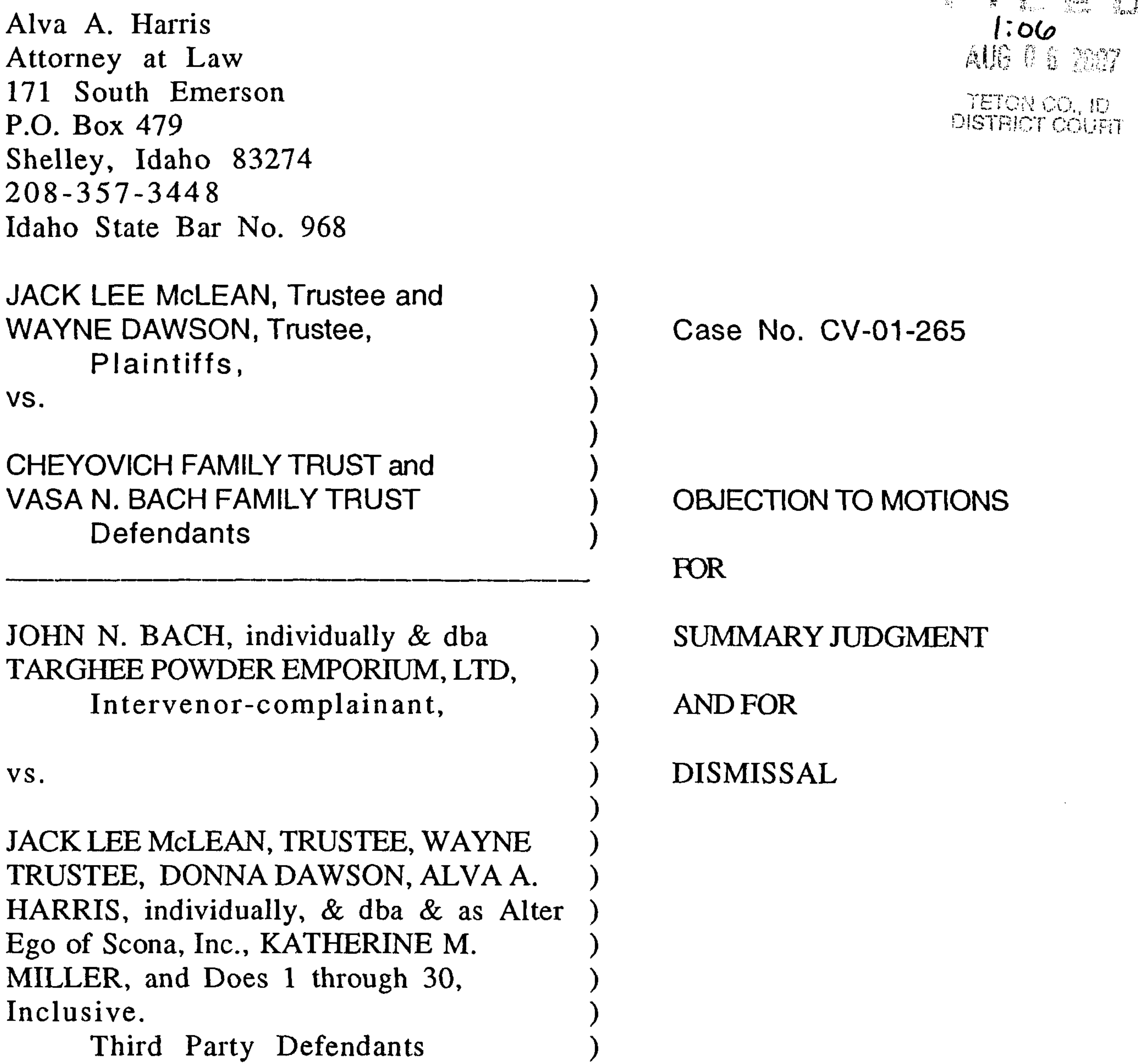
JOHN N. BACH'S SECOND MOTION, FOR DISMISSAL WITH PREJUDICE OF BOTH COMPLAINTS IN TETON CV 01-33 and CV 01-265 FOR LACK OF DILIGENT PORSEUCTION, ESTOPPEL, LACHES & FRVILOUS COMPLAINTS & SPECIOUS CLAIMS MUST BE GRANTED IN FULL AS WELL

All previous showings, evidence and memoranda s heretofore filed by JOHN BACH in both said actions, and now in support of his current unopposed, admitted, confessed and stipulated to motions, are incroporated and advanced in support of his second motions, filed July 2, 2007. Said second motion is neither duplicating nor unnessecary to be granted, sinced his first motions for summary judgment and judgment thereon is required to be granted initially. The motion to dismiss with prejudice both said complaints in both said Teton CV 01-33 and 01-265, are required independently and authoritatively, in order to provide further basis in fact and law for JOHN N. BACH to amend his counterclaims and complaint in intervention in both or either of said actions brought by Dawson and Liponis and to add additional parties as counterdefendeants, etc., thereto. Said counterclaims and complaints in intervention, are still validly and effectively asserted before this Court in both said Teton CV 01-33 and 01-265. JOHN N. BACH will be filing a ppropriate motions shortly to amend his pleadings in both said actions and add additional counterclaim defendants as parties, by virtue of this Court's granting and issuing of his current motions and the quieting title judgments in his favor against all plaintiffs DAWSON, LIPONIS and their attorneys, agents, etc.

DATED: July 30, 2007

JOHN N. BACH, Pro

I hereby certify that a copy of the s document was mailed this date, July 30, 2007 to Alva Harris, P.O. Box 479, Shelley, ID 83274, and a copy to Judge Jon Shindirling, 605 N Capital, Idaho Falls, ID 83402.



FILED
1:06
AUG 06 2007
TETON CO., ID
DISTRICT COURT

Alva A. Harris
Attorney at Law
171 South Emerson
P.O. Box 479
Shelley, Idaho 83274
208-357-3448
Idaho State Bar No. 968

JACK LEE McLEAN, Trustee and WAYNE DAWSON, Trustee, Plaintiffs, vs. CHEYOVICH FAMILY TRUST and VASA N. BACH FAMILY TRUST Defendants	)	Case No. CV-01-265
JOHN N. BACH, individually & dba TARGHEE POWDER EMPORIUM, LTD, Intervenor-complainant, vs. JACK LEE McLEAN, TRUSTEE, WAYNE TRUSTEE, DONNA DAWSON, ALVA A. HARRIS, individually, & dba & as Alter Ego of Scona, Inc., KATHERINE M. MILLER, and Does 1 through 30, Inclusive. Third Party Defendants	)	OBJECTION TO MOTIONS FOR SUMMARY JUDGMENT AND FOR DISMISSAL

COMES NOW Alva A. Harris, attorney for plaintiffs and third party defendants Jack L. McLean and Wayne Dawson herein, and moves this Court to dismiss and deny each of the alleged motions for the following reasons:

1) John N. Bach has no standing to represent anyone in this case. John N. Bach is not an attorney and cannot represent anyone in any legal proceedings in this state other than himself.

2) There has been no substitution of record for the attorney, Kathleen M. Heimert, who appeared for the trusts in January , 2002.

3) John N. Bach has no standing and is attempting by this method to represent the trusts named as defendant in the original case or to move to vacate the default that exists against the Vasa N. Bach Family Trust.

4) Said motions are ambiguous and meaningless since they are improperly joined with CV-01-33.

5). Said John N. Bach is in standing contempt of this court's order of sanctions in the amount of $150.00 issued in February, 2002.

6) This court should now order sanctions against John N. Bach in the sum of $5000.00 for this brazen attempt to practice law herein.

This motion is supported by the pleadings and filings filed herein.

WHEREFORE, for these reasons Bach's motions should be denied as to these plaintiffs and as to the defendants of the intervention allegations in this case.

DATED this 3 day of August, 2007.

____

Alva A. Harris

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 3 day of August, 2007, I served a true and correct copy of the following described document on the Defendant listed below by depositing the same in the United States mail, with the correct postage thereon, in envelopes addressed as follows:

Document Served: Objection to Motions

Pro Se Defendant Served:

John N. Bach

P.O. Box 101

Driggs, Idaho

Alva A. Harris

JOHN N. BACH
P.O. Box 101
Driggs, Idaho 83422
Tel: (208) 354-8303
Defendant, Counterclaimant
and Third Party Cross Claimant
In Pro Per

FILED
AUG 07 2007
TIME: 1:45
TETON CO. ID DISTRICT COURT

SEVENTH JUDICIAL DISTRICT COURT, STATE OF IDAHO, TETON COUNTY

JACK LEE McLEAN and MARK J. LIPONIS, Trustee,

Plainfiffs, [Counterclaim Defendants],

v.

JOHN N. BACH,

Defendant [Counter-claimant].
[Teton CV 01-33] /

JACK lee mcLEAN, Trustee and WAYNE DAWSON, Trustee,

Plaintiffs,

v.

CHEYOVICH FAMILY TRUST and VASA N. BACH FAMILY TRUST,

Defendants. /

JOHN N. BACH, individually & dba TARGHEE POWDER EMPORIUM, LLTD,

Intervenor-complaint,

v.

JACK LEE McLEAN, TRUSTEE, WAYNE DAWSON, TRUSTEE, DONNA DAWSON, ALVA A. HARRIS, individually & dba & as Alter Ego of Scona, Inc., KATHERINE M. MILLER, and Does 1 through 30, Inclusive,

Third Party Defendeants.
[Teton CV 01-265] /

CASE NOS: CV 01-33 and
CV 01-265

JOHN N. BACH's, In All Capacities, MOTION TO STRIKE AND OBJECTIONS TO THE COURT'S CONSIDERATION OF ALVA A. HARRIS', Attorney for hisclients and himself in both said actions, SIMILARLY LABELLED: "OBJECTION TO MOTIONS FOR SUMMARY JUDGMENT AND DISMISSAL", both dated Aug. 3, 2007 and purportedly served by mail said date, but not received by mail by JOHN N. BACH Until late Monday, Aug. 6, 2007.

DATE OF HEARING: Aug. 7, 2007
TIME OF HEARING: 2 p.m.
PLACE OF HEARING: Teton County Courthouse, 89 N. Main, Driggs, Idaho 83422

PREFACE OF PROCEDURALY STAGES/STEPS

On Monday, July 30, 2007, eight (8) days before the noticed hearing on his motions for (1) SUMMARY JUDGMENT and (2) ORDER & JUDGMENT OF DISMISSAL WITH PREJUDICE OF BOTH COMPLAINTS IN CV 01-33

and CV 01-265, he filed in both said civil actions his CLOSING BRIEF IN SUPPORT OF HIS said two motions in each action, consisting of seven (7) pages, a copy of which he mailed that date to Alva Harris, counsel for all plaintiffs in both said civil actions. Harris should have received said copy mailed him the next day, July 1 or at the lates, Wednesday, Aug. 1, 2007.

The CLOSING BRIEF unequivocally established that both of JOHN N. BACH's motions in both said civil actions were unopposed and in point of fact and law, admitted, confessed, and stipulated by the plaintiffs and their counsel and the third party defendants to file any objecttons, oppositton, or countervailing affidavits, etc., as mandated by IRCP, Rule 56(c) through 56(e).

On late Monday, Aug. 6, 2007 JOHN N. BACH received in his mail two separate documents, one in each of said two civil cases, withint a single envelope, both documents in each case labelled: "OBJECTIONS TO MOTIONS FOR SUMMARY JUDGMENT AND FOR DISMISSAL", purportedly mailed on Aug. 3, 2007, a Friday, but per the mail post office stamp, which is somewhat unreadable, not mailed until Saturday, Aug. 4, 2007, and containing no affidavit nor any other allowable evidentiary materiasl in opposition to either of said two motions in both said civil actions.

Both said documents labelled OBJECTIONS TO MOTIONS FOR SUMMARY JUDGMENT AND FOR DISMISSAL ARE NOT JUST LATE, IN VIOLATION OF RULE 11(a), etc., but a surrilious, distortively convoluted and obfuscatory abuse of legal process for which not only does JOHN N. BACH, hereby move to strike, quash and preclude any use of consideration as intended by this Court in either of said civil actions, but, seeks further by way of the provisions of said Rule 11(a) both monetary and evidentiary sanctions and the further, basis of granting each of his motions in each of said two civil actions.

JOHN N. BACH, further objects and moves to strike said documents in their entirety, but, if any utilization is allowed, solely as evidentiary showing of the prejudce and utterly frivolous basis, vexatious and specious intents and purposes by plaintiffs and their counsel, Alva A. Harris, which justify further the granting of both said motions filed by JOHN N. BACH.

II. THE LATE, UNTIMELY AND WHOLLY IMPROPER OBJECTIONS SO PRESENTED FAIL TO COMPLY WITH ALL PROCEDURAL AND SUBSTANTIVE RIGHTS AND IRCP, Rules 7(b)(1)(2)(3) RIGHTS OF NOTICE, DUE PROCESS AND EQUAL PROTECTION.

The IRCP, Rules require, in absence of an order shortening time issued also promptly and properly, a minimun of 17 days notice by mail, if such objections were applicable not to JOHN BACH's current two motions, but any other denominated motions. Harris' for his clients and himself fails to even attempt to comply with said rules and has obtained no order shortening time upon any affidvit of good cause for his being excused from not complying with said basic rules of 17 days notice and Rules 56(c) through 56(e).

Even if JOHN N. BACH were not an individual named party he per the now final AMENDED JUDGMENT AGAINST WAYNE DAWSON, in CV 02-208, per IRCP, Rule 71, can appear herein and seek to enforce said final judgment, unappealled by Dawson, and hold both Dawson, Liponis and even Harris, liable to him in both said civil actions. (See also Rule 70 which states this Court's inherent power and jurisdiction to enforce said AMENDED JUDGMENT And any other judgments which JOHN N. BACH has obtained against McLean, Alva Harris and even Liponis, a in privity with Dawson, Harris and McLean, by means of contempt.) J.I. Case Co. v. McDonald (1955) 76 Idaho 225, 280 P.2d 1070; Fox v. Flynn (1915) 27 Idaho 580, 150 P. 44; Punishment for Civil Contempt, I.C. 44-711; Summary Contempt within Court's presenced by said frivolous OJBECTIONS, etc now untimely and illegally filed/presented, etc., which constitute adiing, abetting, counselling, advising, etc., in not only contemptous acts and filings, but misdemeanors as well, per I.C. 18-304, State v. Thompson, 136 Idaho 322, 33 P.2d 213 (Ct. App. 2001); and Mc Dougall v. Sheridan (1913) 23 Idaho 191, 128 P. 954.

The filing and presence of said two separately filed OBJECTIONS, to JOHN BACH's said two motions in each civil case 01-33 and 01-265 are contempts in the court's presence by their very filings and any attempt to argue such inane and utterly vexatious and without merit statements therein, all such being direct contempt per I.C. 7-603, which per I.C. 7-610 requires the imposition of a fine/penalty of $5,000.00 or alternatively 5 days in jail or both. See further, State v. Delezene, (1991) 120 Idaho 473, 812 P.2d 139

and Rule 75(b), SUMMARY PROCEEDINGS [re direct contempt], a., b., c., of Subpar. 1, and subparagraphs (2) and (3)

This Court, which is also schduled this date at 2pm. to hear contempt charges against Bret Hill, Deena R. Hill, Alva A. Harris and Jared Harris, in Teton CV 02-208, is requested to take full judicial notice, knowledge and receive into evidence in further support of JOHN N. BACH's said two motions (summary judgment and dismissal with prejudice re lack of diligent prosecution, laches, statute of limitations, etc., the filings and orders of the court therein of June 19, 2007, based upon/with Affidavit of JOHN N. BACH, etc., with EXHEBITS attachedhthereto, all consisting of eight (8) pages.

III. JOHN N. BACH's FURTHER REQUEST FOR JUDICIAL NOTICE, KNOWLEDGE AND RECEIPT INTO EVIDENCE, FOR ALL OF HIS TWO MOTIONS AND REQUESTS TO IMPOSES SANCTIONS, CONTEMPT, ETC., AGAINST ALVA HARRIS

Per Idaho Rules of Evidence, Rule 201, JOHN N. BACH, hereby requests judicial notice, knowledge and full receipt into evidence in support of his said two motions and all other requests herein, including sanctions, contempt, fines, penalties, etc., to be ordered and imposed against ALVA HARRIS and HIS SAID CLIENTS IN BOTH CIVIL ACTIONS, CV 01-33 and 01-265, the following copies attached hereto:

A. Pages 8 through 12 and 29, of Judge St. Clair's NINETEENTH ORDER ON PENDING MOTIONS, being respectively Clerk's Transcript on Appeal Numbers 875 through 879, and 896.

B. Copies of Articles of Incorporation, re Targhee Powder Emporium, Inc., Teton Instrument 18533; of Certificate of Assumed Business Name of Targhee Powder Emporium, Unlimited, Teton Instrument 185334; and Certificate of Assumed Business Name of Targhee Powder Emporium, Limited, Teton Instrument 185335. The two Certificate of Assumed Business names, are filed by both Targhee Powder Emporium, Inc., and JOHN N, BACH, as he is prpprly named and identified as Intervenor-complainant in CV 01-265.

C. Complete copy of Lon McGhan v. Jason Rutz, Ninth Cir, May 7, 2002 decision, reported in 2002 DJDAR 4968-4971.

D. The fact that on March 24, 2003, the clients of Alva Harris that are named in the DEFAULT JUDGMENT, EX . caused an arson fire, after JOHN N. BACH had their defaults entered in Teton CV 02-208, which arson fire by Blake Lyle, Bob Fitzgerald, Ole Oleson and involving Alva Harris, destroyed not just JOHN N. BACH's barn and lodge buildings, but their contents, records and files relating to many of the issues whtch have been frivolously raised in these two civil actions, CV 01-33 and 01-265. Such destruction by such arson acts and complicities with Harris is more than

severe prejudice and substantial destruction of evidence which said in default defendants acting with Harris, have inflicted ppon JOHN N. BACH so as to required per laches the complete dismissal with prejudice of both civil actions, 01-33 and 01-265. (CSR, Pg 744-751 attached)

IV. COMPLAINTS AND THEIR COMPLICITOR/COCONSPIRATOR AND COPRINCIPAL IN THE FIRST DEGREE ATTORNY/COUNSEL OF RECORD ALVA A. HARRIS, HAVE UTTERLY FAILED TO MEET THEIR DUTIES AND BURDENS OF PROOF IN BOTH MOTIONS FILED BY JOHN N. BACH IN BOTH CIVEL ACTIONS CV 01-33 and CV 01-265. REQUIRING ALL HIS MOTIONS TO BE GRANTED.

It is aximmatic, that JOHN N. BACH in moving for summary judgment is not required to carry the burden of proof at trial upon the averments of the two complaints in CV 01-33 and 01-265. All he has to show is that that is no genuine issue of material fact which exists, as he has done so by his current motions, supporting documents, affidavits and requests for judicial notice, etc. He has more than established and showon/proven the absence of not just an essential issue and facts which the plaintiffs in both actions cannot prove nor establish. Dunnic v. Elder (Ct. App. 1994) 12 Idaho 308, 311, 882 P.2d 475 478. Not only has that burden of proof shited to all plaintiffs in said two civil acttons, 01-33 and 01-265, but, they have utterly failed if not refused to show that any suchgenuine materials facts exist on the issues which they have the burden of proof. Id.

But furthermore, even if any possible disputed facts could now be raised, to which JOHN BACH OBJECTS, WHATEVER THE PLAINTIFFS AND HARRI may attempt to create or fabricate, summary judgment is mandated herein. Podolan v. Idaho Legal Aid Service, Inc. (Ct. App. 1993) 123 Idaho 937, 941-42, 854 P.2d 200, 284-85.

V. JOHN N. BACH's MOTIONS FOR SUMMARY JUDGMENT AND DISMISSAL WITH PREJUDICE FOR LACK OF DILIGENT PROSECUTION, LACHES, STATUTE OF LIMITATIONS SHOULD BE GRANTED FORTHWITH, AND ALL TITLE OF OWNERSHIP,POSSESSION, EXCLUSIVE USE AND CONTROL OF THE PEACOCK PARCEL, Except for an undivided one fourth interest held by the Cheyovich's, THE DRAWKNIFE PARCEL and THE 8.5 ZOMONA CASPER PARCEL, SHOUDD BE QUIETED, GRANTED AND FULLY AWARDED TO JOHN N. BACH TO THE EXCLUSION OF ALL PLAINTIFFS AND THEIR COUNSEL, ALVA HARRIS AND SCONA, INC., in TETON CV 01-33 and 01-265.

DATED: August 7, 2007

Respectfully Submitted,

JOHN N. BACH, In Pro Per

court may conduct such hearings as are necessary and proper. While there is no Idaho appellate case discussing whether a defaulted defendant can participate in such default evidentiary hearing, at least one federal district court has held that a defaulted defendant may appear and offer proof regarding the amount of damages sustained by the plaintiff in an automobile accident. Clague v. Bednarski, 105 F.R.D. 552 (E.D.N.Y. 1985); 6 Moore's Federal Practice §55.03[2].

In this case, because all of the defendants are lumped together in the pleadings as having caused several different types of damages to the plaintiff, the Court believes it is necessary and proper to allow the defaulted defendants to participate and offer evidence as to damages that the plaintiff suffered, and which were caused in whole or in part by any particular defendant. Therefore this motion should be granted.

4. Dawson's Second Renewed Motion to Set Aside Clerk's Default and Request for Evidentiary Hearing.

The instant motion is Dawson's third attempt to set aside the clerk's default entered against him. On April 2, 2003, in its Eleventh Order this Court denied Dawson's motion because he did not show good cause or a meritorious defense. On May 28, 2003, in its Fourteenth Order this Court denied Dawson's renewed motion because he presented no factual basis for his conclusion that he had a defense.

While Dawson cites no civil rule authorizing this motion, it is clear that the motion is another motion for reconsideration under Rule 11(a)(2)(B), I.R.C.P. Although the Rule does not specifically address whether more than one motion for reconsideration of an interlocutory order is permissible, this Court holds that unless newly discovered evidence or newly announced legal principles are shown a party is limited to one motion for reconsideration. Repeated motions for reconsideration simply adding more facts, that were known all the time to the moving party, causes undue economic duress on the opposing party and unnecessary waste of judicial resources. Thus, Dawson's present motion is not authorized by Rule 11(a)(2)(B).

Further, while Dawson's present motion is supported by a more detailed affidavit, it is still largely made up of conclusions. Dawson's statement that Bach is seeking to quiet title against Dawson's undivided one-half ownership of the 8.5 acres is a misreading of Count Two of the first amended complaint, and Dawson presents no facts to support a defense to partition alleged by Bach. Dawson's statements that Bach should not be allowed to quiet title to one half of the 40 acre tract (referred to sometimes as "Peacock property") because Dawson paid $30,000.00 and received a deed to only 10 acres instead of 20 acres does not attribute any false statements of material

fact as being made by Bach in order to support a fraud defense to Count Four.

The remaining statements in Dawson's most recent affidavit go toward causation and amount of damages sought by Bach. For the reasons stated in part 3 above, Dawson may participate and offer evidence as to damages that Bach suffered, and which were caused in whole or in part by any particular defendant.

Therefore Dawson's second renewed motion to set aside clerk's default must be denied. Dawson's request for an evidentiary hearing is granted to the extent that it relates to damages sought by Bach.

5. Bach's Motion for Default Judgment as to Defaulted Defendants and Motion for Appointment of Personal Representative for Stan Nickell's Estate and Substitution as Party Defendant.

Bach's motion for default judgment as to all defaulted defendants seeks a judgment under Rule 55, I.R.C.P. Since this Court has concluded that the defaults entered against defendants Hill and Hamlin must be set aside, it will be necessary to schedule a trial to resolve the causes of action against those defendants.

Pursuant to Rule 55(b)(2), I.R.C.P., this Court has concluded that it is necessary and proper to hold an evidentiary hearing at the Teton County Courthouse, Driggs, Idaho for the

purpose of receiving evidence from plaintiff Bach as to each element of his causes of action against defaulted defendants, except damages. Immediately following such hearing, a second hearing shall be held as to the nature and amount of damages caused to Bach by defaulted defendants Harris, Scona, Fitzgerald, Olesen, Lyle, McLean and Dawson.

During the hearing on these motions, Bach and counsel for Stan Nickell stipulated to deferring argument and decision on the motions related to Stan Nickell.

6. Harris and Scona's Motion to Set Aside Clerk's Default and Motion to File Answer.

Harris and Scona's motion to set aside clerk's default was supported by an affidavit of Alva Harris and a supporting legal memorandum. Since this Court earlier denied a similar motion by Harris and Scona in its Fifteenth Order entered on June 2, 2003, this Court will treat the current motion as a motion for reconsideration of an interlocutory order under Rule 11(a)(2)(B), I.R.C.P.

In its Fifteenth Order, this Court concluded that Harris and Scona had not shown good cause as to why they did not timely file an answer to the first amended complaint. The most recent affidavit of Alva Harris contains no additional facts to show good cause for not filing a timely answer.

Further, Harris' affidavit contains no facts establishing any defense to Bach's allegations for quieting title to the 87 acres alleged in Count One of the first amended complaint. It contains no facts establishing any defense to Bach's allegations to quiet title as to an undivided one-half interest in the 8.5 acres allegedly owned by Bach and Dawson at issue in Count Two. The affidavit and its attachments do state an affirmative defense for the Hills to Bach's allegations to quiet title to the 1 acre and house allegedly owned by the Hills at issue in Count Three, but not an affirmative defense for Harris or Scona. The affidavit contains no facts establishing any defense to Bach's allegations to quiet title to the two 40 acre tracts allegedly owned by Bach, Dawson, Liponis and McLean at issue in Count Four.

The remainder of the statements in Harris' most recent affidavit go toward causation and amount of damages sought by Bach. For the reasons stated in part 3 above, Harris and Scona may participate and offer evidence as to damages that the plaintiff suffered, and which were caused in whole or in part by any particular defendant.

Therefore Harris and Scona's motion to set aside clerk's default and motion to file answer must be denied.

Smith v. Smith, 136 Idaho 120, 29 P.3d 956 (App. 2001). A reasonable attorney fee may be awarded to the prevailing party. Id.

This Court will schedule a hearing in Teton County to her Miller and Bach's evidence on the motion for contempt.

10. Bach's Motion to Strike Answers Filed by Defaulted Defendants.

Bach's motion seeks to strike the answers filed by the Hills, Hamlin, Wayne Dawson, Harris, Scona, Fitzgerald, Olesen, Lyle and McLean. Based on this Court's rulings in parts 1 and 2 above, it must deny Bach's motion as to the Hills and Hamlin, but based on rulings in parts 3, 4 and 6 above it must grant Bach's motion as to Wayne Dawson, Harris, Scona, Fitzgerald, Olesen and McLean.

11. Woelk's Renewed Motion for Summary Judgment.

Woelk's renewed motion for summary judgment seeks dismissal of the remaining counts in Bach's first amended complaint, i.e. counts one through four seeking quiet title, injunctive relief and damages for trespass on the Miller 87 acres, the house and 1 acre 8.5 acres at 195 N. Highway 33, the "Peacock" 40 acre parcel, and the "Drawknife" 40 acre parcel, count five for damages from slander of title, count six for intentional interference with contracts or economic expectations, count nine for conversion of $15,000.00, count twelve for statutory

185333

FILED EFFECTIVE

200

ARTICLES OF INCORPORATION

(General Business)

(Instructions on back of application)

2007 FEB 16 PM 12:20
SECRETARY OF STATE
STATE OF IDAHO

The undersigned, in order to form a Corporation under the provisions of Title 30, Chapter 1, Idaho Code, submits the following articles of incorporation to the Secretary of State.

Article 1: The name of the corporation shall be:

Targhee Powder Emporium, Inc.

Article 2: The number of shares the corporation is authorized to issue: 10000

Article 3: The street address of the registered office is: 400 North 152 East, Driggs, ID 83422

and the name of the registered agent at such address is: John N. Bach

Article 4: The name of the incorporator is: John N. Bach

and address of the incorporator is: 400 N 152 E, P.O. Box 101, Driggs, ID 83422

Article 5: The mailing address of the corporation shall be:

P.O. Box 101, Driggs, ID 83422

Optional Articles:

RECEIVED
FEB 27 2007
TETON CO., ID
CLERK RECORDER

185333

Instrument # 185333
DRIGGS, TETON, IDAHO
2007-02-27 01:38:12 No. of Pages: 1
Recorded for : JOHN N BACH
MARY LOU HANSEN Fee: 3.00
Ex-Officio Recorder Deputy [signature]
Index to: NOTICE

DATED: February 14, 2007

Signature of at least one incorporator: [signature]

Typed Name: John N. Bach

[signature]

Typed Name: CINDY L. BACH

Customer Acct #:

(If using pre-paid account)

Secretary of State use only

IDAHO SECRETARY OF STATE
02/16/2007 05:00
CK: 1221 CT: 209786 BH: 1033905
1 @ 100.00 = 100.00 CORP # 2
1 @ 20.00 = 20.00 EXPEDITE C # 3

g:\corp\forms\corp forms\artsofincprofit.p65 Revised 06/2006

Web Form

185333

000338 C177526

227

FILED EFFECTIVE

CERTIFICATE OF ASSUMED BUSINESS NAME

Pursuant to Section 53-504, Idaho Code, the undersigned submits for filing a certificate of Assumed Business Name.

Please type or print legibly.
NOTE: See instructions on reverse before filing.

2007 FEB 16 PM 12:20
SECRETARY OF STATE
STATE OF IDAHO

1. The assumed business name which the undersigned use(s) in the transaction of business is: 185334

   Targhee Powder Emporium, Unlimited

2. The true name(s) and business address(es) of the entity or individual(s) doing business under the assumed business name:

Name	Complete Address
Targhee Powder Emporium, Inc.	400 N 152 E, Driggs, ID 83422
and John N. Bach	400 N 152 E, Driggs, ID 83422
C171520	

RECEIVED
FEB 27 2007
TETON CO., ID
CLERK RECORDER

3. The general type of business transacted under the assumed business name is:

- [ ] Retail Trade
- [ ] Wholesale Trade
- [x] Services
- [ ] Manufacturing
- [ ] Finance, Insurance, and Real Estate
- [ ] Transportation and Public Utilities
- [ ] Construction
- [ ] Agriculture
- [ ] Mining

185334

4. The name and address to which future correspondence should be addressed:

   John N. Bach, CEO
   P.O. Box 101
   Driggs, ID 83422

Submit Certificate of Assumed Business Name and **$25.00** fee to:

Secretary of State
700 West Jefferson
Basement West
PO Box 83720
Boise ID 83720-0080
208 334-2301

Instrument # 185334
DRIGGS, TETON, IDAHO
2007-02-27 01:45:16 No. of Pages: 1
Recorded for: JOHN D BACH
MARY LOU HANSEN Fee: 3.00
Ex-Officio Recorder Deputy
Index to: CERTIFICATE

5. Name and address for this acknowledgment copy is (if other than # 4 above):

Phone number (optional):

DATED: February 14, 2007

Signature: [signature] (signature required)

Printed Name: John N. Bach

Capacity/Title: President & CEO

(see instruction # 8 on back of form)

g:\corp\forms\abn form\abn.p65
Revised 04/2003

Secretary of State use only

RECEIVED
FEB 27 2007
TETON CO., ID
CLERK RECORDER

IDAHO SECRETARY OF STATE
02/16/2007 05:00
CK: 10367654433 CT: 177683 BH: 1033907
1 @ 25.00 = 25.00 ASSUM NAME # 3

000339 D108282

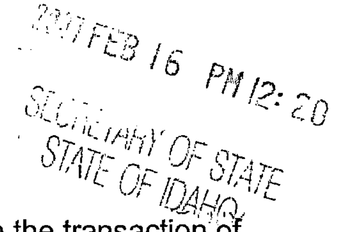
227

CERTIFICATE OF ASSUMED BUSINESS NAME

Pursuant to Section 53-504, Idaho Code, the undersigned submits for filing a certificate of Assumed Business Name.

Please type or print legibly.
NOTE: See instructions on reverse before filing.

FILED EFFECTIVE



1. The assumed business name which the undersigned use(s) in the transaction of business is:

   Targhee Powder Emporium, Limited

2. The true name(s) and business address(es) of the entity or individual(s) doing business under the assumed business name:

Name	Complete Address
Targhee Powder Emporium, Inc.	400 N. 152 E, Driggs, ID 83422
and John N. bach	400 N 152 E, Driggs, ID 83422
C171520	

3. The general type of business transacted under the assumed business name is:

- ☐ Retail Trade
- ☐ Wholesale Trade
- ☑ Services
- ☐ Manufacturing
- ☐ Finance, Insurance, and Real Estate
- ☐ Transportation and Public Utilities
- ☐ Construction
- ☐ Agriculture
- ☐ Mining

4. The name and address to which future correspondence should be addressed:

   John N. Bach, CEO
   P.O. Box 101
   Driggs, ID 83422

Submit Certificate of Assumed Business Name and **$25.00** fee to:

Secretary of State
700 West Jefferson
Basement West
PO Box 83720
Boise ID 83720-0080
208 334-2301

5. Name and address for this acknowledgment copy is (if other than # 4 above):

Phone number (optional):

DATED: February 14, 2007

Signature: [signature] (signature required)

Printed Name: John N. Bach

Capacity/Title: President & CEO

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BANKRUPTCY

State court lacks jurisdiction to determine whether creditor received adequate notice of discharge in bankruptcy proceeding.

Cite as 2002 DJDAR 4968

In re: LON MCGHAN, aka Lon L. McGhan fdba Envirotrend, Inc. fdba McGhan Management, Debtor.

LON MCGHAN,
Appellant,
v.
JASON RUTZ,
Appellee.

No. 99-56956
BAP No. CC-99-01219-PaMeMa
United States Court of Appeals
Ninth Circuit
Filed May 7, 2002

Appeal from the Ninth Circuit Bankruptcy Appellate Panel Pappas, Meyers and Marlar, Judges, Presiding

Argued and Submitted May 10, 2001--Pasadena, California

Before: M. Margaret McKeown and Raymond C. Fisher, Circuit Judges, and David W. Hagen, District Judge.
Opinion by Judge Fisher

COUNSEL

John C. Tobin, Hanover & Schnitzer, San Bernardino, California, for the debtor-appellant.
William J. Light, David B. Felsenthal, Law Offices of Todd Rash, Riverside, California, for the appellee.

OPINION

FISHER, Circuit Judge:

Appellee Jason Rutz was a listed creditor in his stepfather's -- appellant Lon McGhan -- bankruptcy proceedings. Rutz, a minor at the time, did not file a complaint of nondischargeability in those proceedings. As a result, the bankruptcy court issued an order discharging Rutz's claim and issued a permanent injunction barring Rutz from collecting on the debt. After Rutz attained maturity, he nonetheless filed a civil action against McGhan to collect on the discharged debt. Over McGhan's objections, the state court in which that action was filed ruled that Rutz's action could proceed because Rutz had inadequate notice of the earlier bankruptcy proceedings. Arguing that only the bankruptcy court had jurisdiction to resolve that question, McGhan then moved the bankruptcy court to reopen his bankruptcy case to review the state court's decision. The bankruptcy court denied the motion, reasoning that McGhan's desire to relitigate an issue already heard in state court was insufficient cause to reopen the case. We reverse. Relying on Gruntz v. County of Los Angeles (In re Gruntz), 202 F.3d 1074 (9th Cir. 2000) (en banc), we hold that state courts lack jurisdiction to determine whether a listed and scheduled creditor received adequate notice of discharge proceedings. We also hold that the state court lacked authority to modify the bankruptcy court's orders discharging Rutz's claim and permanently enjoining Rutz from collecting on the debt. In light of those holdings, we conclude that it was an abuse of discretion for the bankruptcy court to decline to reopen McGhan's bankruptcy case. The bankruptcy court was required to reopen the proceedings to protect its exclusive jurisdiction over the enforcement of its own orders.

FACTS AND PROCEDURAL BACKGROUND

In 1991, McGhan was charged with five counts of sexual molestation of Rutz, his stepson. At the time the charges were filed, Rutz was 12 years old. McGhan pled guilty to one count of felony violation of California Penal Code § 288(a) (lewd and lascivious acts committed on a child under 14).

Shortly after his conviction, McGhan filed a voluntary petition for bankruptcy under Chapter 7 of the Bankruptcy Code. When a debtor files a Chapter 7 petition, the debtor lists each of his creditors. The appointed bankruptcy trustee convenes a meeting of these creditors pursuant to 11 U.S.C.§ 341(a).[1] All creditors must receive at least 30 days' advance notice of the creditors' meeting. Rule 4007(c). Within 60 days after the date first set for that meeting, any creditor wishing to have a debt characterized as nondischargeable must file a complaint alleging nondischargeability of the debt. Id. If the creditor has adequate notice of the meeting but fails to make a timely complaint, his claim is automatically discharged pursuant to § 523(c)(1). Although debts for intentional torts such as Rutz's claim ordinarily are not dischargeable under § 523(a)(6) of the code, which states that debts for "willful and malicious injury" are nondischargeable, such claims will be discharged automatically if the listed creditor fails to make a timely objection. When a debtor is discharged under the Bankruptcy Code, the discharge "operates as a permanent injunction against any attempt to collect or recover on a . . . debt." Irizarry v. Schmidt (In re Irizarry), 171 B.R. 874, 878 (B.A.P. 9th Cir. 1994); accord Am. Hardwoods, Inc. v. Deutsche Credit Corp. (In re Am. Hardwoods, Inc.), 885 F.2d 621, 626 (9th Cir. 1989).

A different provision of the code is implicated when the creditor was not listed on the bankruptcy petition. An unlisted creditor's claim ordinarily is not discharged. Under § 523(a)(3) of the code, however, the debt will be discharged if the creditor had "notice or actual knowledge" of the bankruptcy proceedings in time to permit the creditor to file a proof of claim and, if necessary, challenge its dischargeability. Under § 523(a)(3)(B), which applies to debts for "willful and malicious injury" defined by § 523(a)(6), the debt will not be discharged if the creditor (1) was neither listed nor scheduled and (2) did not have "notice or actual knowledge" of the case in time for timely filing a proof of claim and timely request for a determination of dischargeability. Federal courts have exclusive jurisdiction over §§ 523(a)(6) (nondischargeability of willful and malicious injury) and 523(c)(1) (adequacy of notice to a listed creditor) of the code, whereas state and federal courts have concurrent jurisdiction over § 523(a)(3) (unlisted or unscheduled debt) proceedings.

With respect to Rutz's claim, McGhan's bankruptcy proceedings followed the general scheme for a listed creditor rather than an unlisted one. His petition for bankruptcy listed Rutz as a creditor holding an unsecured nonpriority claim against him.[2] As Rutz's guardian, Rutz's mother received timely notice of the creditors' meeting and the deadline for creditors to file a complaint objecting to discharge of the debtor or to determine dischargeability of debts, but she did not file a nondischargeability claim on her son's behalf. Applying § 523(c)(1), the bankruptcy court issued a discharge order automatically discharging McGhan's debt to Rutz. The discharge order also stated that

"any judgment . . . obtained in any court other than this court is null and void as a determination of the personal liability of the debtor with respect to" any debt under § 523(a)(6). Pursuant to § 524, the discharge order also permanently enjoined any listed creditor "from instituting or continuing any action . . . to collect such debts as personal liabilities of the above-named debtor. " The bankruptcy court closed McGhan's case.

Upon reaching adulthood, Rutz filed a civil action against McGhan in California Superior Court, seeking damages arising out of his sexual molestation at the hands of McGhan. McGhan promptly moved to dismiss the action, arguing that Rutz's claim had been discharged by the bankruptcy court's discharge order and that Rutz's civil suit was enjoined by the § 524 discharge injunction. At McGhan's request, the state court took judicial notice of numerous documents from McGhan's bankruptcy case, including McGhan's bankruptcy petition, which listed Rutz as a creditor; and the discharge order containing the permanent injunction, which showed that Rutz's claim had been automatically discharged. McGhan contended that the bankruptcy court possessed exclusive jurisdiction over the dischargeability of Rutz's claim and that Rutz was estopped from collaterally attacking the validity of the discharge order and injunction in state court. Rutz responded that neither he nor the state court should be bound by the discharge order or permanent injunction because he had not received the notice required by § 523(c)(1) as a prerequisite to automatic discharge. Because notice of the proceedings had been provided only to his mother and her interests had conflicted with his own, he contended, the bankruptcy court's orders did not apply to his action against McGhan.[3] The superior court agreed with Rutz. First, the court reasoned that it had jurisdiction pursuant to § 523(a)(3) to determine the sufficiency of Rutz's notice and the applicability of the discharge order. Second, the court agreed with Rutz that notice had been inadequate.[4] Accordingly, the court ruled that Rutz was not bound by the discharge order and allowed Rutz's case to proceed.[5]

McGhan then sought to collaterally attack the state court's ruling in federal court. He moved to reopen his Chapter 7 bankruptcy case in the bankruptcy court, seeking leave to file a complaint against Rutz for violation of the § 524 permanent discharge injunction. In denying McGhan's motion, the bankruptcy court agreed that the state court had jurisdiction to adjudicate the adequacy of Rutz's notice under § 523(a)(3)(B) and reasoned that McGhan's desire to relitigate an issue already properly decided by the state court did not constitute sufficient cause to reopen.[6] The Bankruptcy Appellate Panel ("BAP") affirmed, holding that the bankruptcy court had not abused its discretion in refusing to reopen McGhan's case. Like the state court and the bankruptcy court, the BAP assumed that the state court's jurisdiction validly rested on § 523(a)(3). The BAP also affirmed on the alternative ground that the Rooker-Feldman doctrine precluded the bankruptcy court from reversing or modifying the state court decision.[7] McGhan appeals.

STANDARDS OF REVIEW

We review jurisdictional issues in bankruptcy appeals de novo. Durkin v. Benedor Corp. (In re G.I. Indus., Inc.), 204 F.3d 1276, 1279 (9th Cir. 2000). A refusal to reopen a bankruptcy case is reviewed for an abuse of discretion. Weiner v. Perry, Settles & Lawson, Inc. (In re Weiner), 161 F.3d 1216, 1217 (9th Cir. 1998). We review the decision of the BAP de novo, Scovis v. Henrichsen (In re Scovis), 249 F.3d 975, 980 (9th Cir. 2001), and independently review the bankruptcy court's rulings. Oyama v. Sheehan (In re Sheehan), 253 F.3d 507, 511 (9th Cir. 2001).

DISCUSSION

1. State Court Jurisdiction

To assess whether the bankruptcy court abused its discretion by denying McGhan's § 350(b) motion to reopen his bankruptcy case, we first must determine whether the state court had the authority to adjudicate the adequacy of Rutz's notice and modify the bankruptcy court's discharge order and permanent discharge injunction. Relying on our en banc opinion in Gruntz v. County of Los Angeles (In re Gruntz), 202 F.3d 1074 (9th Cir. 2000), we conclude that the state court lacked that authority. In reaching a contrary conclusion, the state court asserted that it had jurisdiction pursuant to § 523(a)(3), which vests state courts with concurrent jurisdiction to adjudicate the adequacy of the notice provided to creditors who were neither listed nor scheduled. Because Rutz was a listed and scheduled creditor, § 523(a)(3) has no application here.

A. Gruntz

Gruntz involved a Chapter 13 debtor who was prosecuted by the Los Angeles County District Attorney, convicted for misdemeanor failure to support his dependent children and sentenced to 360 days in jail. Gruntz subsequently filed an adversary proceeding against the County in bankruptcy court, asking the court to declare the state proceedings void as violative of the § 362(a) automatic stay on proceedings to collect debt. Reasoning that the state court's judgment included a determination that the automatic stay did not enjoin the state criminal proceeding, the bankruptcy court dismissed the complaint as collaterally estopped by the state judgment. The district court, acting in its appellate capacity, affirmed the dismissal on the basis of the Rooker-Feldman doctrine, which prohibits direct appellate review of state court decisions by federal courts other than the Supreme Court. 202 F.3d at 1077-78.

We reversed. Gruntz, as well as our later decision in Contractors' State License Bd. v. Dunbar (In re Dunbar), 245 F.3d 1058, 1063 (9th Cir. 2001), stand primarily for the proposition that federal courts are not bound by state court modifications of the automatic stay. Gruntz, 202 F.3d at 1077. Gruntz held that the Rooker-Feldman doctrine does not deprive federal courts of jurisdiction over the scope and applicability of the stay. Id. at 1083. Dunbar added that state court modifications of the automatic stay do not preclude federal relitigation of the scope and applicability of the stay under the doctrines of collateral estoppel and res judicata. Dunbar, 245 F.3d at 1060.[8]

Gruntz has broader implications, however, that dictate the outcome here. First, Gruntz holds not only that a federal court may review state court decisions modifying an automatic stay, but also that state courts lack jurisdiction in the first instance to modify the stay. Id. at 1082-83. Because "bankruptcy court orders are not subject to collateral attack in other courts," "[a]ny state court modification of the automatic stay would constitute an unauthorized infringement upon the bankruptcy court's jurisdiction to enforce the stay. " and actions and judicial proceedings taken in violation of the automatic stay are void. Id. at 1082; see also Gonzales v. Parks, 830 F.2d 1033, 1035-36 (9th Cir. 1987) ("Congress' grant to the federal courts of exclusive jurisdiction over bankruptcy petitions precludes collateral attacks on such petitions in state courts.").

Second, Gruntz bars state court intrusions on all "bankruptcy court orders" (or other "core" bankruptcy proceedings), 202 F.3d at 1082, not just the automatic stay. As we stated in Gruntz, "state courts should not intrude upon the plenary power of the federal courts in administering bankruptcy cases by attempting to modify or extinguish federal court orders such as the automatic stay."

Id. at 1088 (emphasis added). Thus, just as "[a] state court does not have the power to modify or dissolve the automatic stay," id. at 1087, a state court also lacks authority to modify or dissolve a discharge order or the § 524 discharge injunction.[9] See Lenke v. Tischler (In re Lenke), 249 B.R. 1, 10 (Bankr. D. Ariz. 2000) (applying Gruntz and holding that state courts lack jurisdiction to modify a bankruptcy court's discharge order); see also Pavelich v. McCormick, Barstow (In re Pavelich), 229 B.R. 777, 782 (B.A.P. 9th Cir. 1999) ("Congress has plenary authority over bankruptcy in a manner that entitles it to preclude state courts from doing anything in derogation of the discharge.").

Our extension of Gruntz to modifications of the discharge order and discharge injunction flows naturally from the policy concerns that informed our decision there. Our decision was animated by our concern that permitting a state court to modify the federal automatic stay "would undermine the principle of a unified federal bankruptcy system, as declared in the Constitution and realized through the Bankruptcy Code." 202 F.3d at 1083. "If state courts were empowered to issue binding judgments modifying the federal injunction created by the automatic stay, creditors would be free to rush into friendly courthouses around the nation to garner favorable relief." Id. at 1083-84. The same concerns arise when California courts purport to modify a discharge order and to grant relief from the bankruptcy court's permanent injunction.

Accordingly, we conclude that the state court lacked authority to adjudicate the adequacy of the notice received by Rutz. By reaching that issue, the state court held that Rutz was bound by neither the discharge order nor the discharge injunction, documents that on their face plainly barred Rutz's action. The state court effectively modified both orders, and in so doing impermissibly infringed upon the bankruptcy court's jurisdiction to enforce its orders. See Gruntz, 220 F.3d at 1082.

In so deciding, we do not hold that a state court is divested of all jurisdiction to construe or determine the applicability of a discharge order when discharge in bankruptcy is raised as a defense to a state cause of action filed in state court by a listed creditor. See Pavelich, 229 B.R. at 783 (holding that "state courts have the power to construe the discharge and determine whether a particular debt is or is not within the discharge" because "discharge in bankruptcy is a recognized defense under state law").[10] It plainly was in the power of the state court to take judicial notice of McGhan's proceedings. In this case, those documents showed that Rutz was a listed creditor, that Rutz's claim was discharged and that Rutz was enjoined from taking any action to collect on the debt. The state court should have given effect to the bankruptcy court's orders. By going further, the state court exceeded its jurisdiction, even if the state court believed that Rutz had valid grounds to object to the orders. As we noted in Gruntz, " `persons subject to an injunctive order issued by a court with jurisdiction are expected to obey that decree until it is modified or reversed [by the issuing court], even if they have proper grounds to object to the order.' " 202 F.3d at 1082 (quoting Celotex Corp. v. Edwards, 514 U.S. 300, 306 (1995)).

Nor do we suggest that a listed creditor such as Rutz is without means to attack a discharge order on grounds of inadequate notice or to repel attempts to enforce the order against him if notice was insufficient. Rather, we hold that only the bankruptcy court could grant such relief. Rutz had several options, such as addressing the validity of the discharge order before proceeding in state court by petitioning the court to reopen the McGhan proceedings or by petitioning the bankruptcy court for leave to file an untimely complaint of nondischargeability. If Rutz was unaware of the existence of the bankruptcy order until after he filed his state action, he could have sought to stay the lawsuit and petitioned the bankruptcy court for relief before proceeding in state court.

B. Section 523(a)(3)

In concluding that it possessed jurisdiction to adjudicate the adequacy of Rutz's notice and to modify the discharge order and injunction, the state court erroneously relied on § 523(a)(3). State and federal courts have concurrent jurisdiction over actions brought under § 523(a)(3), which allows debtors to extend the coverage of the discharge order to creditors who were not listed but who had actual notice of the bankruptcy proceedings. See Menk v. Lapaglia (In re Menk), 241 B.R. 896, 904 (B.A.P. 9th Cir. 1999). By its plain language, however, that subsection applies only to creditors "neither listed nor scheduled" during the initial bankruptcy proceedings. See, e.g., Malandra, 206 B.R. at 672 (holding that a listed creditor contending that he did not receive notice of the case until after the discharge had issued did not raise a § 523(a)(3) claim because not being listed is a prerequisite to raising an issue under that subsection). Rutz offers no authority to the contrary. There is no dispute that Rutz was listed during McGhan's bankruptcy proceedings, so the state court had no jurisdiction under § 523(a)(3) and Rutz is barred from obtaining relief under that subsection.

The distinction between § 523(a)(3), pertaining to an unlisted creditor, and § 523(c)(1), relating to the adequacy of notice provided to a listed creditor, is not merely technical. A creditor who was not listed in the bankruptcy proceedings is not expressly covered by the discharge order. When a court adjudicates whether that creditor's claim nonetheless should be discharged because the creditor had actual notice of the bankruptcy proceedings in time to file a nondischargeability complaint, the state court is not entertaining a collateral attack on the bankruptcy court's order or infringing on the bankruptcy court's exclusive jurisdiction. That situation is altogether different from the one here, where a state court entertains a listed creditor's argument to void or modify a discharge order or injunction that is facially valid and that expressly covers the creditor's claim. In the latter situation, the jurisdictional and policy concerns discussed in Gruntz are paramount.

II. Abuse of Discretion

Having concluded that the bankruptcy court erroneously assumed that the state court had jurisdiction to modify the discharge order and injunction, we hold that the bankruptcy court abused its discretion by denying McGhan's § 350(b) motion to reopen proceedings. First, Gruntz and Dunbar make clear that neither Rooker-Feldman nor collateral estoppel is applicable here. To the extent that the bankruptcy court was concerned that it would have been collaterally estopped from relitigating an issue determined by the California Superior Court, therefore, that concern was misplaced. See Dunbar, 245 F.3d at 1064 (holding that the bankruptcy court erred in finding itself precluded from reviewing the judgment of a state administrative law judge modifying the automatic stay); see also Pavelich, 229 B.R. at 782 (holding that when a bankruptcy court was presented with a motion to reopen proceedings after a state court had proceeded to hear a claim on a debt discharged by a bankruptcy court order, the bankruptcy court "should not have taken the position that it could not examine the state court judgment"). For the same reason, the BAP erroneously concluded that the bankruptcy court's decision was compelled by the Rooker-Feldman doctrine. See Gruntz, 202 F.3d at 1083 (holding that Rooker-Feldman is not implicated by collateral challenges to core bankruptcy proceedings because Congress vested the federal courts

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with the final authority to determine such issues). Our concern that the bankruptcy court misconstrued the validity of the state court's jurisdiction and the preclusive effect of the state court's decision requires at the very least that we remand for the bankruptcy court to reconsider its decision. See Dunbar, 245 F.3d at 1064.

Given the posture of this case, however, we go further and hold that the bankruptcy court should have reopened the proceedings. It is well settled that "[a] Congressional grant of exclusive jurisdiction to the federal courts includes the implied power to protect that grant." Gonzales, 830 F.2d at 1036. A bankruptcy court may not decline to invoke this power in the face of a clearly invalid state court action infringing upon the bankruptcy court's exclusive jurisdiction. The bankruptcy court was required to reopen the proceedings to protect its exclusive jurisdiction over the enforcement of its own orders. Cf. id. (holding that the bankruptcy court properly vacates a state court judgment and properly holds that a state court's action was void from the outset when the state court proceeded with an action in violation of an automatic stay).

III. Adequacy of Rutz's Notice

We offer no opinion on the viability of Rutz's claim that he did not receive the notice required by § 523(c)(1). Because the bankruptcy court may confront that issue on remand, however, we note that in In Re Chicago, Rock Island & Pacific R.R. Co., 788 F.2d 1280 (7th Cir. 1986), the Seventh Circuit opined that notice to a minor's mother might be inadequate where a conflict of interest prevents the mother from representing the minor's interests adequately in the bankruptcy proceedings. Id. at 1283. Whether the Seventh Circuit's reasoning should be applied here, and, if so, whether Rutz can establish that a conflict of interest or other grounds prevented his interests from being adequately represented so as to vitiate notice are issues to be determined in the first instance by the bankruptcy court

CONCLUSION

The judgment of the BAP is reversed. Under the circumstances of this case, the bankruptcy court abused its discretion by denying McGhan's motion to reopen the bankruptcy proceedings. We remand for further proceedings consistent with this opinion.

REVERSED AND REMANDED. Each party to bear its own costs.

* The Honorable David Walker Hagen, Senior District Judge, United States District Court for the District of Nevada, sitting by designation.

1 Unless otherwise indicated, all Chapter, Section and Rule references are to the Bankruptcy Code, 11 U.S.C. §§ 101-1330, and to the Federal Rules of Bankruptcy Procedure, Rule 1001-9036.

2 The petition described the claim as follows: "January 1989[.] Potential Civil Action for Personal Injury; Amount Unknown.".

3 Rutz asserted a conflict of interest because his mother, also a listed creditor in McGhan's bankruptcy proceedings, had a competing claim for child support against McGhan.

4 Section 523(a)(3)(B) provides that a debtor is not discharged from any debt neither listed nor scheduled in time to permit the creditor to file a claim and request that the debt be found nondischargeable, unless the creditor had notice or actual knowledge of the case in time to file a timely request for a determination of dischargeability.

5 McGhan then filed a petition for writ of mandate with the California Court of Appeal, arguing the superior court had misapplied federal bankruptcy law; the court of appeal denied the petition.

6 Section 350(b) states: "A case may be reopened in the court in which such case was closed to administer assets, to accord relief to the debtor, or for other cause." In its conclusions of law, the bankruptcy court stated that it would exercise its discretion to reopen McGhan's bankruptcy case only if he would stipulate to allow the bankruptcy court to hear Rutz's claims under § 523(a)(6). McGhan would not so stipulate.

7 The Rooker-Feldman doctrine takes its name from Rooker v. Fidelity Trust Co., 263 U.S. 413 (1923), and District of Columbia Court of Appeals v. Feldman, 460 U.S. 462 (1983). Rooker held that federal statutory jurisdiction over direct appeals from state courts lies exclusively in the Supreme Court and is beyond the original jurisdiction of federal district courts. See 263 U.S. at 415-16. Feldman held that this jurisdictional bar extends to particular claims that are "inextricably intertwined" with
those a state court has already decided. See 460 U.S. at 486-87.

8 Gruntz identified three limited circumstances in which a state judgment could be given preclusive effect in subsequent bankruptcy proceedings in federal court: (1) the state judgment is prepetition; (2) the bankruptcy court affirmatively has authorized the state action, as, for example, by lifting an automatic stay; or (3) the case does not involve a core proceeding that implicates substantive rights under title 11. See Dunbar, 245 F.3d at 1063; Gruntz, 202 F.3d at 1084; cf. Diamond v. Kolcum (In re Diamond), _______ F.3d _______, 2002 WL 500657 (9th Cir. Apr. 4, 2002) (affirming bankruptcy court's decision to give preclusive effect to state court judgment where the bankruptcy court lifted the stay as to the creditors' statecourt action).

9 No matter how we characterize it, the state court's action here relates to a core bankruptcy proceeding. Dischargeability of a debt under § 523(a)(6), for instance, is a core bankruptcy proceeding, see, e.g., Sandersville Prod. Credit Ass'n v. Douthit (In re Douthit), 47 B.R. 428, 430-31 (M.D. Ga. 1985); Wurm v. Ridgway (In re Ridgway), 265 B.R. 853, 857 n.1 (Bankr. N.D. Ohio 2001); Mass. Cas. Ins. Co. v. Green (In re Green), 241 B.R. 550, 559 (Bankr. N.D. Ill. 1999); Leathem v. Volkmar (In re Von Volkmar), 218 B.R. 890, 892 (Bankr. N.D. Ill. 1998), over which federal courts possess exclusive jurisdiction. Rein v. Providian Fin. Corp., 270 F.3d 895, 904 (9th Cir. 2001). The adequacy of notice required for automatic discharge under § 523(c)(1) also is related to a core proceeding over which federal courts exercise exclusive jurisdiction. See, e.g., RTC v. McKendry (In re McKendry), 40 F.3d 331, 335 (10th Cir. 1994); Schunck v. Santos (In re Santos), 112 B.R. 1001, 1005 (B.A.P. 9th Cir. 1990). Finally, actions relating to the § 524 discharge injunction also constitute "core" proceedings. See Ins. Co. of N. Am. v. NGC Settlement Trust & Asbestos Claims Mgmt. Corp. (In re Nat'l Gypsum Co.), 118 F.3d 1056, 1064 (5th Cir. 1997); In re Kewanee Boiler Corp., 270 B.R. 912, 918 (Bankr. N.D. Ill. 2002) (action to enforce discharge injunction); Polysat, Inc. v. Union Tank Car Co. (In re Polysat), 152 B.R. 886, 888 (Bankr. E.D. Pa. 1993) (scope of discharge injunction).

10 At least one out-of-circuit bankruptcy court has read Gruntz as barring a state court not only from modifying a discharge order but also from assessing the applicability of a discharge order to the action before it. See Siskin v. Complete Aircraft Services, Inc. (In re Siskin), 258 B.R. 554, 562 (Bankr. E.D.N.Y. 2001) (criticizing and refusing to follow Gruntz because it supposedly blurred the distinction between a state court's valid authority to determine the applicability of an automatic stay to the action before it and the bankruptcy court's exclusive authority to grant relief from the automatic stay). But see Lenke v. Tischler (In re Lenke), 249 B.R. 1, 8 (Bankr. D. Ariz. 2000) ("Gruntz should not be read to mean that states lack jurisdiction to determine the applicability of either the stay or the discharge, but only that they lack jurisdiction to modify either of them[.]"). However narrowly Gruntz is read, the state court's modification of the discharge order runs afoul of that decision.

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1 MR. BACH: Your Honor, I'd like to do that
2 before - - I'd like permission of the Court to step
3 aside and defer my redirect until I call Mr. Geneo
4 Knight who is seated here. He's been waiting here
5 since 11:00 o'clock.
6 And secondly I have another witness that I'd
7 have to call, Mr. Travis Thompson, at Arrowhead
8 Mortgage. I could call Mr. Knight and then get on the
9 telephone, if we could take a break, and get
10 Mr. Travis Thompson here.
11 THE COURT: Okay. Call your next witness.
12 You may step down.
13 MR. BACH: Mr. Geneo Knight, please.
14 I'll leave these here, Your Honor, I'm only
15 taking my documents.
16 THE COURT: Mr. Knight, you will need to
17 approach the Clerk, raise your right hand and be
18 sworn.
19
20 FRANCIS E. KNIGHT, called as a
21 witness on behalf of the Plaintiff, after being duly
22 sworn, took the stand and testified as follows:
23
24 THE COURT: Take a seat over here on the
25 witness stand. Try to speak up very loud because the

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1 acoustics aren't that great in this room.
2
3 DIRECT EXAMINATION
4
5 BY MR. BACH:
6 Q. Mr. Knight, may we have your full name
7 please?
8 A. Francis E. Knight.
9 Q. And where do you reside?
10 A. Well, it's supposed to reside in my house at
11 Southern Depot, but the people I had living in there
12 trashed it so bad I'm now sleeping in my truck outside
13 my house.
14 Q. Formerly did you hold any public position of
15 this county?
16 A. I was a county commissioner.
17 Q. What period of time?
18 A. Oh, before Mark Troupe took office, that was
19 probably about four, six years ago.
20 Q. Have you owned any businesses here in
21 Driggs?
22 A. I owned two businesses, I had Creko's
23 Restaurant a long time ago, and I had the British Rail
24 Restaurant for nine years.
25 Q. What is the name of that business now, the

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1 British Rail?
2 A. The Royal Wolf.
3 Q. Did you do any kind of employment for a
4 gentleman by the name of Blake Lyle?
5 A. I was hired by Mr. Blake Lyle to learn now
6 to run the office and be kind of an office manager.
7 Q. And what period of time was this?
8 A. That's approximately two years ago, 2001.
9 Q. During that period of time that you worked
10 for Mr. Lyle do you recall the names of his
11 businesses?
12 A. Well, there was Grand Body Auto Paint or
13 Grand Body Auto and there were three tow companies
14 that had different names. There was Targhee Tow,
15 Grand Towing, and I forget the other one. But there
16 was like three tow companies, but they were all in
17 that one office.
18 Q. Where was his office or principal place of
19 business located in 2000?
20 A. As far as I know when I was working for
21 Mr. Lyle we were over there in a building behind Java
22 Hut, which is now Eagle Sports Therapy I think.
23 Q. During the time you worked for him at that
24 location did you happen to overhear any conversation
25 with Mr. Lyle and anybody regarding John N. Bach?

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1 MR. WOELK: Leading.
2 THE COURT: Overruled.
3 THE WITNESS: Does that mean I can answer
4 that?
5 THE COURT: Yes.
6 THE WITNESS: Okay. Thanks.
7 On one occasion - - there are several
8 occasions that I heard Mr. Bach's name come up along
9 with other people, but I do recall Mr. Bach's name
10 coming up in very derogatory terms. And one time
11 Tyler Hammond and myself and Blake and another guy
12 named Wylie I believe, and Bob Fitzgerald were
13 present. Wylie was on a different occasion. But Bob
14 Fitzgerald was there one day.
15 MR. WOELK: Narrative, Your Honor.
16 THE COURT: Sustained.
17 MR. BACH: I'm sorry I didn't hear that.
18 THE COURT: He's asking to have another
19 question.
20 Q. By Mr. Bach: Can you pin point as close as
21 you can the time in 2000 that this was?
22 A. It seems to me, and I can't recall the exact
23 date, but it seems to me that it was during the time
24 of the year when - - it must have been fall, I think,
25 the weather was getting cold.

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1 Bob Fitzgerald, myself, and Tyler Hammond
2 were present and Blake Lyle was present. And Blake
3 Lyle was talking with Bob and they were talking about
4 things that they had done to Mr. Bach's property,
5 towing his cars, and laughing about some of that
6 stuff.
7 And then they were also talking about
8 different types of destructive things they could do to
9 the property without anybody really finding out who
10 did it.
11 Q. Such as?
12 A. They had talked about fire on the property,
13 hauling all his stuff off the property, and basically
14 just destructive things to the property. And then
15 there was also part of a conversation that came up
16 where if there'd been a fire or something like that
17 and Mr. Bach had been in a fire they would just find
18 some pieces of bone or something.
19 And I said, "You know, watching these TV
20 shows they have now it looks like they can even tell
21 who somebody was from a little piece of bone that
22 somebody tried to burn somebody."
23 Q. Did you consider this a joke?
24 A. No, they were seriously talking like they
25 had some plans made up to do something like that.

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1 Q. Who were the principal individuals
2 instigating this?
3 MR. WOELK: Objection, asked and answered.
4 THE COURT: Overruled.
5 Q. By Mr. Bach: You may answer.
6 A. Well, the people that I know, it was just
7 the people that were there which was Mr. Lyle and
8 Mr. Fitzgerald.
9 Q. Did Tyler Hammond at all involved himself in
10 this plan?
11 A. No.
12 Q. Did you?
13 A. No. Tyler and I just eventually quit
14 because of some of the things that happened.
15 Q. Let's stay with this conversation. Did
16 Mr. Lyle on any other occasions talk about the camera
17 involving Mr. Bach?
18 A. I heard him talk about an altercation that
19 he'd gotten involved with on Mr. Bach's property or
20 something. And Mr. Bach was taking pictures and Blake
21 said he knocked it out of Mr. Bach's hands and trashed
22 the camera or tried to break it or something.
23 Q. Did he say anything else as to who the
24 perpetrator was?
25 A. I don't understand that question.

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1 Q. Did he say who started it?
2 A. Well, no, what I understood was just that
3 Mr. Bach was taking - -
4 MR. WOELK: Objection, personal knowledge,
5 speculation.
6 THE COURT: Overruled.
7 Q. By Mr. Bach: Go ahead.
8 A. What I understood - -
9 MR. WOELK: Objection, what he understood. He
10 doesn't have any knowledge of the event.
11 THE COURT: I thought he was relating his
12 understanding of the conversation.
13 MR. BACH: Yes.
14 THE COURT: But maybe I'm missing something.
15 MR. BACH: No.
16 THE COURT: I'll sustain the objection, you
17 can ask a pointed question.
18 Q. By Mr. Bach: Do you recall the exact words
19 that Mr. Lyle said about this camera incident in your
20 presence?
21 A. I can't recall the exact words.
22 Q. From what he said what was your
23 understanding who started it?
24 MR. WOELK: Objection, calls for speculation.
25 THE COURT: Overruled.

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1 THE WITNESS: My understanding was that he
2 went there to have a confrontation with Mr. Bach.
3 Q. By Mr. Bach: You said you quit. Before you
4 quit did you have any kind of a face-to-face situation
5 with Mr. Lyle?
6 A. I had several incidents with Mr. Lyle. When
7 I first started working there I thought he was a
8 really decent guy, it was right around Thanksgiving
9 time, he bought us all a turkey and a ham. But as
10 time went on his behavior became very demeaning - -
11 MR. WOELK: Objection, improper
12 characterization.
13 THE COURT: Overruled.
14 Q. By Mr. Bach: Go ahead.
15 A. At one time when I - - one of the last
16 things that Mr. Lyle - - well, let me back up a little
17 bit.
18 While I was working there on one occasion
19 - -
20 MR. WOELK: Judge, I'll continue to object, I
21 don't see how this conforms with 405, reputation.
22 It's not proper impeachment.
23 THE COURT: Do you have any more reasons for
24 your objection?
25 MR. WOELK: No, Your Honor.

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AUG 20 2007

JACK LEE McLEAN, Trustee and WAYNE DAWSON, Trustee, Plaintiffs, vs. CHEYOVICH FAMILY TRUST and VASA N. BACH FAMILY TRUST Defendants	)	Case No. CV-01-265 MOTION FOR CONTINUANCE
JOHN N. BACH, individually & dba TARGHEE POWDER EMPORIUM, LTD, Intervenor-complainant, vs. JACK LEE McLEAN, TRUSTEE, WAYNE DAWSON TRUSTEE, DONNA DAWSON, ALVA A. HARRIS, individually, & dba & as Alter Ego of Scona, Inc., KATHERINE M. MILLER, and Does 1 through 30, Inclusive Third Party Defendants	)	

COMES NOW Alva A. Harris, attorney for plaintiffs and third party defendants Jack L. McLean and Wayne Dawson herein, and moves this Court to not dismiss but continual this case for the following reasons:

1. This case was notified as ready for trial by a document filed herein by plaintiffs dated March 24, 2004.

2. The attorney of record for the defendant trusts and Mr. Bach failed to respond pursuant to IRCP 40(b).

3. The court failed to respond under IRCP 40)b).

4. No response, orders, or further proceedings were issued by this Court.

5. Since March 24, 2004 this Court has completely failed to abide by the requirements of IRCP 40(c) as regarding both plaintiffs and all defendants.

This motion is supported by the pleadings and filings filed herein

DATED this 17 day of August, 2007.

Alva A. Harris

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 17 day of August, 2007, I served a true and correct copy of the following described document on the Defendant listed below by depositing the same in the United States mail, with the correct postage thereon, in envelopes addressed as follows:

Document Served: Motion for Continuance

Pro Se Defendant Served:
John N. Bach
P.O. Box 101
Driggs, Idaho

Alva A. Harris

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TETON

JACK LEE McIEAN and MARK J. LIPONIS, Trustee,

Plaintiffs Counterclaim Defendants,

v.

JOHN N. BACH, Defendant & Counterclaimant.

[Teton CV 01-33]

JACK LEE McLEAN, Trustee and WAYNE DAWSON, Trustee,

Plaintiffs,

v.

CHEYOVICH FAMILY TRUST and VASA N. BACH FAMILY TRUST,

Defendants.

JOHN N. BACH, Individually & a dba TARGHEE POWDER EMPROIUM, LTD.,

Intervenor-Complainant,

v.

JACK LEE McLEAN, Trsutee, WAYNE DAWSON, Trustee, DONNA DAWSON, ALVA A. HARRIS, Individually, & dba & as Alter Ego of Scona, Inc., Katherine M. Miller, and DOES 1 through 30, Inclusive,

Third Party Defendants.

[Teton CV 01-265]

CASE NOS: CV 01-33 and CV 01-265

JOINT CASES - CV 01-33 & CV 01-26 - OPINION MEMORANDUM AND ORDERS RE: 1) GRANTING DEFENDANT, COUNTERCLAIMANT & COMPLAINANT IN INTERVENTION JOHN N. BACH'S MOTIONS FOR SUMMARY JUDGMENT; and 2) FOR ORDER AND ISSUANCE OF JUDGMEN OF DISMISSAL WITH PREJUDICE OF PLAINTIFFS' COMPLAINTS IN CV 01-3 and CV 01-265 WITH ORDERS FOR:

IMMEDIATE ISSUANCE OF JUDGMENT IN JOHN N. BACH'S FAVOR QUIETING SOL TITLE, OWNERSHIP, POSSESSION, USE AND OCCUPATION OF REAL PROPERTY PARCELS KKOWN AS-DRAWKNIFE PARCEL (33 acres), PEACOCK PARCEL (40 acres) and ZAMONA CASPER PARCEL (8.5 acres, WITH PERMANENT INJUNCTION AGAINST ALL PLAINTIFFS, THEI TRUSTEES, ANY AND ALL SUCCESSORS IN INTERESTS, ATTORNEYS, AGENTS, ETC.

FILED
SEP 1 1 2007
TIME: 5:00
TETON CO. ID DISTRICT COURT

ORIGINAL

I.

RELEVANT PROCEDURAL/FACTUAL BACKGROUND

Although the afore two cases, TETON CV 01-33 and CV 01-265 have never been ordered consolidated, they are interrelated and

must be considered at least, to be coordinated and ruled upon jointly, due to JOHN N. BACH's MOTIONS FOR SUMMARY JDUGMENT, in all his capacities in both action, and secondly, MOTIONS TO DISMISS both complaints therein, with prejudice, due to all plaintiffs' and their counsel of record, Alva A. Harris', lack of diligent prosecution. Prejudce to JOHN N. BACH, is both patently and facially apparent and exisitng in view of the judgments entered in TEton CV.02-208, wherein all the plaintiffs in CV 01-33 and 01-265 were defendants named and served, except for plaintiff MARK J. LIBONIS, but, this court's juridical knowledge, and receipt into evidence via JOHN N. BACH's showing via his foregoing motions, clearly establishes not just in privity with said plaintiffs in CV 01-33 and 01-265, but, a cotortfeasor, conspirator, joint venturer, mutual, and noprincipal with all other plaintiffs and even their counsel of record, Alva A. Harris.

A. Complaint filed by Plaintiffs JACK LEE McLEAN (McLEAN) and MARK J. LIPONIS, Trustee, TETON CV 01-33.

The complaint filed Feb. 14, 2001, by said two plaintiffs, was simply labelled "COMPLAINT", verified only by JACK LEE McLEAN. with rambling, confusing, very contradictory and replete with conclusions, speculations and opinions, rather then required averred facts. Plaintiffs complaint was brought to cover their conversion, actually theft, of JOHN N. BACH's rightful funds and moneys, removed from his business agency account, the sum of $15,000.00 he had borrowed from a personal friend in Sacramento, CA. Attached to said complaint was a copy of a written joint venture agreement signed only by LIPONIS and his wife,

Giving such innocuous and inadequate averments any consideration, as to what relief was sought, since there were no separately

stated counts, causes of action, at times in opposing JOHN N. BACH's motions to dismiss per Rule 12(b)(6)(8) and for release of his stolen $15,000.00, plaintiffs' counsel, argued his clients were seeking i) an accounting, ii) possible reformation, but some form of termination of the written joint venture agreement, and iii) a form of shareholders' derivative action, of a corporate name/ entity and its dbas owned, managed and belonging solely to JOHN N. BACH, known as TARGHEE POWDER EMPORIUM, INC., and its dba TARGHEE POWDER EMPORIUM, LTD. Plaintiffs sought to obtain JOHN N. BACH's undivided one-third ownership, in said joint venture, which per its wording was a spendthrift land trust owning 33+ acres knwon as the DRAWKNIFE PARCEL.

Plaintiffs' complaint admitted:

1. Both plaintiffs and their counsel, Alva A. Harris, had discussed, planned and acted jointly to remove/ steal said $15,000.00 from JOHN BACH's business account.
2. Plaintiffs knew of JOHN N. BACH's actions regarding said account and his depositing moneys belongin to him immediately after the JOINT VENTURE AGREEMENT was recorded; he managed, oversaw and supervised the holding of said 33+ acres. Such knowledge and information was @ Sept 1, 1994
3. The $15,000 illegally removed from JOHN N. BACH's said account was recovered by the Idaho Attorney General's office, per a criminal investigation and complaint for grand theft filed against McLEAN, who after a preliminary hearing was to stand as a defendant in a jury trial. (The Idaho's Attorney General's office interpled said $15,000.00, although he concluded it was JOHN N. BACH's sole moneys, but, was threatened with a lawsuit by plaintiffs and their said counsel of record. Deputy A.G., Ken Stringfield advised the court via a number of documents that he considered said illegal removal also an unconstitutional prejudgment attachment, as plaintiffs had not initiated any proper claim and delivery action, with like amount plus of cash bond required to withhold said $15,000.00 from JOHN N. BACH, after a required due process hearing.)

JOHN N. BACH filed his ANSWER, AFFIRMATIVE DEFENSES and COUNTERCLAIMS, September 20, 2001. A number of motions he filed this Court denied with the instructions and expectations

expedite their complaint to trial. JOHN BACH's counterclaim, incorporating many affirmative defenses,sought recovery re fraud and Idaho Racketeering claims.

On November 9, 2004, this Court granted JOHN N. BACH's unopposed motion to release said interpleaded $15,000.00 forthwith, finding in its written ORDER of Nov. 9, 2004:

> "Upon the irrefutable and good caus showing having been made by defendant and counterclaimant JOHN N. BACH, per his motions filed herei and heard and decide in his favor this date, hat there is absolutely no just reason or basis in fact or law for the Court ordered deposit of FIFTEEN THOUSAND DOLLARS ($15,000.00) herein, which was always the sole and exclusive moneys of JOHN N. BACH, Now held by the Teton County Clerk in a general account fund or otherwise.. .:

On January 3, 2005, plaintiff MCLEAN's claims, whatever they were or might have been imagined, were dismissed with prejudice by this Court; McLEAN also was dismissed with prejudice same date, CV 01-2

July 7, 2007, JOHN N. BACH, filed in all capacities in CV 01-33 and CV 01-265, his MOTIONS FOR SUMMARY JUDGMENTS and FOR ORDER & ISSUANCE OF JUDGMENTS OF DISMISSAL WITH PREJUDICE OF both complaints in both said Teton actions CV 01-33 and CV 01-265.

B. <u>COMPLAINT filed by Plaintiffs Filed by Plaintiffs JACK LEE McLEAN, Trustee and WAYNE DAWSON, Trustee,in Teton CV 01-265</u>

This Complaint sought in part as well the reformation or termination of another Joint Venture agreement regarding 40 acres the PEACOCK property between McLean, Dawson, Cheyovich's and JOHN N. BACH's mother's trust expired at said time, the VASA N. BACH FAMILY TRUST. Plaintiffs apparantly sought to end run around whatever undivided one fourth or more interest JOHN N. BACH, held in his dba name of TARGHEE POWDER EMPORIUM, LTD, which was solely his dba as Plaintiffs knew he was such dba name and entity.

JOHN N. BACH, individually and dba TARGHEE POWDER EMPORIUM, LTD, filed his motion in intervention, as he was an indispensible

intentionally not named in CV 01-265, although he had been so named in CV 01-33.

JOHN N. BACH, individually and dba TARGHEE POWDER EMPORIUM, LTD, filed his verified COMPLAINT IN INTERVENTION, March 26, 2002. naming as Third Party Defendants JACK LEE McLEAN, TRUSEE, WAYNE DAWSON, TRUSTEE, DONNA DAWSON, ALVA A. HARRIS, Individualy, & dba & as Alter Ego of Scona, Inc., Katherine M. Miller, et al. Said complaint besides establishing that McLean and Dawson were "respectively citizens of Canada and California, also established he was California citizen, with a life time California driver's licensed registered to vote as of the date of filing his said pleading. The significanse of such proved/ met the interstate commerce element of the Idaho Racketeering RICO Act and even the Federal RICO act. (This Court takes coggizance of I.C. 30-1-1501 which does not requiredthe registration nor incorporation by JOHN N. BACH of his said dbas; see especially 30-1-1501 (a)(a), (c), (e), (f), (g), (i), (k) & (3).)

In addition to JOHN N. BACH's averments seeking relief, recovery and redress from all third party defendants, per par. 3-7 per said defendants' violations of the Idaho Racketeering and Corrupt Influence Act, over the last five (5) years as to his numerous ownership, possession and management, etc., of three(3) plus parcels of land, that the plaintiffs' deed, exhibit B was void, since purchase of the PEACOCK PARCEL he had "been the duly designated agent, manager and overseer of said 40 acre parcel", and all third party defendants "did steal, convert, destroy and deprive [him] of his dba names and business identities of TARGHEE POWDER EMPORIUM, LTD, UNLTD, and INC." JOHN N. BACH further, per Rule 10(C), IRCP, did incorporate his "answers, affirmative defenses and counterclaims in Teton Actions

CV 01-33, CV 01-51 and his COMPLAINT IN INTERVENTION IN CV 01-266." (Par. 6, thereof)

No Answer was filed by said third party defendants, as reveallled by the files in CV 01-265, until March 25, 2004, such answer by all named third party defendants except defendant KATHERINE M. MILLER; said third party defendants were all represented by Alva A. Harris who appeared thereby for himself and his alter ego corporation, Scona, Inc. It does not appear that such ANSWER was timely nor properly served, if at all, on JOHN N. BACH. (As held by the Court, infra, this answer with all defenses or affirmative defenses was abandoned, waived and or withdrawn by the utter lack of any response, opposition or objections are required by RUle 56(c), IRCP, to JOHN N. BACH's said July 7, 2007 MOTIONS FOR SUMMARY JUDGMENTS)

On January 3, 2005, McLean was dismissed with prejudice from the Complaint in CV 01-265, and also said same date was also had dismissed with prejudice his entire complaint against JOHN N. BACH and others in CV 01-205. The Court had earlier and again in considering JOHN N. BACH's SUMMARY JUDGMENT MOTIONS taken judicial notice and receipt into evidence in both CV 01-33 and CV 01-265, the many false and perjurious statements in McLean's complaint in CV 01-205, along with false exhibits therewith produced by McLean and his attorney, Alva A. Harris, which more than proved, . the at least two (2) overt acts of felonies required under the Idaho RICO Act, just by the complaint in CV 01-205.

Per various motions filed in CV 01-33 and CV 01-265, this Court became aware that in Teton CV 02-208, JOHN N. BACH as plaintiff, had proceeded to a jury trial and obtained two (2) default judgments against plaintiffs, their counsel, on the same issues as in CV 01-33

and CV 01-265, as well as CV 01-205.

II

JOHN N. BACH'S CURRENT MOTIONS FOR SUMMARY JUDGMENT & FOR DISMISSAL OF BOTH COMPLAINTS FOR LACK OF DILIGENT PROSECUTION

The foregoing motinns were filed July 7, 2007 in both CV 01-33 and CV01-265, noticed for hearing Aug. 7, 2007 @ 2 p.m. Such motions, per Rule 10(c), incorporated all previous pleadings, motions and addidavits filed by JOHN BACH in both said actions, and a June 6, 2006 Affidavit of JOHN N. BACH with five (5) exhibits,

EXHIBIT 1: Certified copy of this Court's Nov. 9, 2004 ORDER releasing the court held $15,00.00 to JOHN N. BACH

EXHIBIT 2: An Affidavit of his, Jan 24, 2004, in Teton CV 02-208, with admitted Exhibit 6A in said action, dated Oct 1. 1997, proving JOHN N. BACH's sole ownership, title and use of the names/entities: TARGHEE POWDER EMPORIUM, INC., and its dbas TARGHEE POWDER EMPORIUM, UNLTD and LTD.

EXHIBIT 3: AMENDED DEFAULT JUDGMENT AGAINST WAYNE DAWSON, filed Feb. 23, 2004 in TETON CV 02-208, now final and not appealled by WAYNE DAWSON, but appealled by JOHN N. BACH, upon the issues of the Court's failure to grant him 3/4s interest in the PEACOCK PARCEL of 40 acres and sole title in the ZAMONA CASPER PARCEL of 8.5 acres. (After Dawson's default, was entered he moved three (3) times to set aside such default, which were denied as he should no facts of any defense or even any misrepresentations by JOHN N. BACH re said properties purchase or management by him. Most significantly DAWSON, per said motions offered no mandatory counterclaim per Rule 13(a) IRCP, to have any title quieted to him in any of five (5) properties which JOHN N. BACH claimed as solely his. In his initial memo, JOHN BACH cited the preclusive issue and claim preclusionary effect of the failure of DAWSON's not even presenting such mandatory counterclaim and the applicable case authority of Rexburg Lumber Co. v. Purrington which mandated the awarding/quieting sole title to all the parcels in CV 01-33 and CV-01-265 as further expanded by JOHN BACH's counterclaim and Complaint in Intervention therein. JOHN BACH further raised the issues, he presented his proof on, that all of McLean's, Dawson's, Liponis', even Alva Harris' and Kathereine Miller's claims via

actions CV 01-33 and 01-265 were barred by the automatic stay order of his Chapter 13, Bankrutpcy-USBkrptcy Ct., Eastern Dist. CAl No. 97-31952-A-13, and discharge order of Dawson and Miller as creditors; the running of any/all statutes of limitations, application of the doctrines of res judicata, collateral estioppel, judicial estoppel, laches, and all such plaintiffs, Harris and his alter ego corporation, Scona, Inc., being in privity and acting jointly as tortfeasors, conspirators and a racketeering enterprise had filed some half dozen frivolous, specious, vexatious and harassing complaints against JOHN N. BACH, to wit: CV 01-33 CV 01-59, CV 01-191, CV 01-205, CV 01-265, CV 01-266, illegally splitting causes of action/claims which were required to have been brought in one complaint and/or raised in one mandatory counterclaim.

EXHIBIT 4: A copy of a DEFAULT JUDGMENT AGAINST ALVA A. HARRIS, SCONA, INC. BOB FITZGERALD, OLE OLESEN and BLAKE LYLE, entered Feb. 27, 2004, Teton 02-208 which is final except for JOHN N. BACH's appeal therefrom re awarding of all titles to properties set forth therein: ZAMONA CASPER, 85. acres; DRAWKNIFE, 33+ acres and PEACOCK, 40 acres, as well as inadequate damages, refusal to award punitive damages, etc.

EXHIBIT 5: TETON RECORD WARRANTY DEED, INSTRUMENT TETON NO. 148042, excuted by JOHN N. BACH per an irrevocable power of attorney coupled with interest granted him by JACK LEE McLEAN, per which JOHN N. BACH conveyed, transferred and granted to himself, the three (3) real property parcels of ZAMONA CASPER, 8.5 acres, DRAWKNIFE, of 33+ acres and PEACOCK, of 40 acres, of the fraudulent VOID multipe deeds, some six in number executed by JACK McLEAN as purported Vice President of TARGHEE POWDER EMPORIUM, Inc, & its dbas. Attached to said DEED NO. 148042, is a complete copy of I.C. sec 55-901, last page thereof recorded that mandates: "Every instrument . . .made with intent to defraud prior or subsequent purchasers therof. . .is void. . ." This WARRANTY DEED has never been the subject of any action brought by McLEAN, LIPONIS, DAWSON, HARRIS Or SCONA, Inc., challenging its validity and legal application and transferring of all titles to said parcels involved in CV 01- and CV01-265.

JOHN N. BACH's initial memo brief in support of said motions for summary judgment and dismissal with prejudice for lack of diligent prosecution presented more than adequate, if not overwhelming case authorities, statutes, etc. for the Court's immediate granting of both motions on all grounds/basis. He further sought a permanent

injunction. JOHN BACH in his EX 2: Affid-Teton CV 02-208 that he and DAWSON as to the ZAMONA and PEACOCK pareels had an oral agreement if JOHN BACH dissolved said joint ventures DAWSON sell to JOHN BACH any interest at book value, such oral agreement being governed by Calif. law and authorities, Masterson v. Sine (1968) 68 C.2d 222. DAWSON never timely acted to attempt to enforce such oral agreement and against per Rule 13(a) as well as the two (2) year STATUTES OF LIMITATION for breach of oral agreements in Calif., DAWSON was barred and estipped by such statute in claim any moneys due him. (It is noted that said Exh. 2 Aff. incroporated other affidavits of JOHN BACH, along with several memos of authorites he filed in Teton CV 02-208, which this Court had previously considered and did so again in granting the motions herein)

A. PLAINTIFFS VIA THEIR COUNSEL ALVA A. HARRIS FILED NO OPPOSITION, NO RESPONSE AND NO MEMORANDUM BRIEF AS REQUIRED BY RULE 56(c) THROUGH 56(e); THEY LIKEWISE FAILED AND REFUSED TO RESPOND WHATSOEVER TO THE MOTION TO DISMISS FOR DILIGENT PROSECUTION.

Plaintiffs responses were due 14 days, to be filed, in each said action, before the hearing on said motion for summary judgment, such last date being July 24, 2007.

But the plaintiffs did not file anything, --absolute did nothing.

B. JOHN N. BACH filed his CLOSING BRIEF on both motions July 30, 2007, with attached select pages from his Appeal in Teton CV 02-208, Being Idaho Supreme Court Dkt No. 31717 attaching other excepts from Teton CV 02-208 to be Judicially Noticed.

In his CLOSING BRIEF John Bach contended that all plaintiffs in both said actions , by their utter and deliberate failres to time and properly file any opposition or response, had admitted, confessed and both in point of fact and as a matter of law stipulated to the granting in full of his two motions for summary judgment and motions for dismissal with prejudice for lack of diligeng prosecution.

Monday, Aug. 6, 2007, Alva Harris in each of said actions filed separate but similarly worded OBJECTIONS of 2 pages. Such objections had nothing to do with the merits of the motions then before this Court.

Early morning Aug. 7, 2007 JOHN N. BACH filed a formal MOTION TO STRIKE said late and scurrilous objections, which attacked him personally, and further attached thereto copies of the 19th ORDER rendered in Teton CV 02-208 along with portions of the testimony of Geno Knight during the trial of 02-208 wherein he testified overhearing BLAKE LYLE and BOB FITZGERALD planning the burning of JOHN N. BACH's then under construction buildings re a lodge and a large barn. Their entry of defaults were taken March 19, 2003, and early Monday, March 24, 2003, an arson fire destroyed all of JOHN BACH's said construction buildings which contain many of his files, documents and materials kept re litigation involving the actions brought by plaintiffs herein and their common attorney ALVA A. HARRIS. The damages and losses of said fire were not allowed in Teton CV 02-208 as they occurred after the amended complaint therein was filed. (JOHN N. BACH has indicated that he will be seeking amendment to his complaint in intervention, etc. in these actions to include such arson fire losses/damages.)

III.

THE HEARING ON JOHN N. BACH'S MOTIONS, HAD AUG. 7, 2007

The foregoing motions of JOHN N. BACH were called up for hearing, Aug. 7, 2007 @ 2p.m., Appearing were Alva Harris for plaintiffs in both actions and JOHN N. BACH, pro se.

The Court initially asked Mr. Harris, if he'd any objections to Mr. Bach's motions for dismissal with prejudice for lack of diligent prosecution, Harris replied he did not but felt such dismissal should be without prejudice. The Court advised Mr. Harris that its granting of said motions to dismiss would be with prejudice and notified him that two other Teton Civil Actions which he had filed would be likewise dismissed with prejudice, as such actions against Mr. Bach's mother's former family trust and others had not been prosecuted since their filings in 2001. The court further indicated there was in fact prejudice which had resulted to all defendants, JOHN N. BACH, in such 2001 actions filed by Harris. The Court struck Harris' untimely objections.

Mr. Harris did not present any statements or arguments in response to JOHN BACH's said motions; he remained silent and mute as to MR. BACH's requests and further argument that his motions for summary judgment in CV 01-33 and 01-265 should first be granted immediately with issuance of an appropriately worded permanent injunction against all plaintiffs, their counsel, successors in interest, etc., from entering upon, violating his sole titles to said three (3) parcels. John Bach requested that due to the similarity of parties, issues and privity among plaintiff LIPONIS with the defendants in Teton CV 02-208 who had default judgments of Feb. 23, and 27, 2004 entered against them, that the Court's

ruling and/o opinion memorandum and orders issued therewith, should be filed in both actions CV 01-33 and CV 01-265, with similarly, if not identically worded quieting title decrees and adjudications of said three (3) parcels, with the legal descriptions stated in detail as set forth in EXHIBITS 3 and 4 attached to his most recent July 6, 2007 Affidavit.

Alva A. Harris made no statement, offered no response or reply to said argument and requests by JOHN N. BACH, The hearing conclude in approximately 15 mintues with the Court granting all of JOHN N. BACH's motions he'd filed in both CV 01-33 and CV 01-265.

IV.

THE COURT GRANTED IN BOTH TETON CV 01-33 AND TETON CV 01-265 JOHN N. BACH's MOTIONS [In All Capacities], FIRST, HIS MOTIONS FOR SUMMARY JUDGMENTS IN FULL ON ALL BASIS, GROUNDS AND AUTHORITIES PRESENTED, ADMITTED AND CONFESSED BY PLAINTIFFS AND THEIR COUNSEL, ALVA A. HARRIS; AND, SECONDLY, GRANTED ALL HIS MOTIONS FOR DISMISSAL OF BOTH SAID ACTIONS WITH PREJUDICE AGAINST ALL PLAINTIFFS' COMPLAINT AND ANY CLAIMS THEREIN.

The above statement of this Court is a formal binding and controlling ORDER, to be further supplemented or augmented by the JUDGEMENTS thereon, which this court has directed JOHN N. BACH to prepare, submit to the Court for issuance and filing.entry.

Such ORDERS granting JOHN N. BACH's said motions are required per the provisions of Rule 56(c), especially the provision:

"... The judgment sought shall be rendered forthwith if the pleadings, depositions and admissions on file, ttogether with the affidavits, if any, show that there is no genuine issues as to any materialsfact and that the moving party is entitled to a judgment as a matter of law. A summary judgment, interlocutoy in char acter may be rendered on the issue of liability along although there is a genuin issues as to the amount of any party to the action.

The Court is required per Rule 1, IRCP, to provide expeditious, fair, just and conclusive orders and judgments when re-required. JOHN N. BACH has shown, proven and despite the intents of plaintiffs and their counsel in both CV 01-33 and CV 01-265 clear and convincing evidence and authorities for the granting of his motions for summary judgment.

The Court adopts and incorporates herein by reference and the application of Rule 10(c) his affidavits, memo, arguments and presentations made in both actions; and, further, per the requeated judicial notice of orders, proceedings, testimony, etc. in Teton CV 02-208, CV 01-205, 01-266, 01-59, etc. Findings are not required, etc., herein due to the provisions of Rule 52(a), et seq. Bank of Idaho v. Nesseth, 104 Idaho 842, 664 P.2d 270 (1983) Moreover, even responsive pleadings are not necessary to be filed before moving for summary judgment, Bradbury v. Voge 93 Idaho 360, 461 P.2d 255. (1969)

The Court finds and determines that PLAINTIFFS and their COUNSEL have waived, abandoned(and by their violations of the provisions of Rule 11(a)(1))their answers, affirmative defenses and all/any opposition , to the relief sought by JOHN N. BACH per his complaint in intervention in CV 01-265, which also applies to their complaint in CV 01-33 per the express provisions of the Idaho Racketeering Statute, I.C. 18-7804(a), (b), (c), (d), (g)(1)(2) and (h), with JUdgments and permanent injunctions to be issued in both said actions, CV 01-33 and 01-265, per I.C. 18-7805 (a),(c),(d)(1)(2)(3)(4)(5)(6) & (7)

The COURT ORDERS THE IMMEDIATE DISMISSAL WITH PREJUDICE OF BOTH CV 01-33 and CV 01-265 FOR UTTER LACK BY PLAINTIFFS AND THEIR COUNSEL OF DILIGENT PROSECUTION, AND SEVERE PREJUDICE TO

JOHN N. BACH, his witnesses to be called and to this very Court.

V.

FURTHER ORDERS OF THE COURT

It is hereby further ORDERED:

1. Formal Judgments shall be entered forthwith in FAVOR of JOHN N. BACH, quieting sole title to him, individually & dba TARGHEE POWDER EMPORIUM, LTD, to the ZAMONA CASPER PARCEL of 8.5 acres; the DRAWKNIFE PARCEL of 33+ acres; and the PEACOCK PARCEL of 40 acres, showing his title in and thereof of an undivided three- quarters interests with the other undivided one-quarter interest owned and in the name of MILAN CHEYOVICH and DIANA CHEYOVICH, husband and wife, 1858 S. Euclid Ave., San Marino, CA 91108, such percentages still held in a Joint Venture Spendthrift Land Trust.

2. That JOHN N. BACH shall retain the management, full possession of said parcels to the exclusion of all plaintiffs their attorneys, spouses, children, issue, successors in interests, agents, etc.,

3. To secure and preserve the above orders, supra and these parts 1, and 2, under this part "V", a permanent injunction is ordered in both CV 01-33 and CV 01-265, worded effectively as follows:

"ALL PLAINTIFFS, COUNTERCLAIM DEFENDANTS, THIRD PARTY COMPLAINT DEFENDANTS, in Teton CV 01-33 and CV 01-265, along with their successors in interests, corporations, trusts, spouses, children, issues, and all attorneys, especially ALVA A. HARRIS, and any members of his law firm are PERMANENTLY ENJOINED, RESTRIANED, PRECLUDED, PREVENTED AND FORECLOSED, from;

A. Trespassing, entering upon, invading, intruding or causing any such trespassing, entering, invading or intrudings uon each of said three real properties, described herein, the 8.5 acres, the DRAWKNIFE 33+ acres and the PEACOCK 40 acres.

B. Making any further claims against JOHN N. BACH, individually and dba TARGHEE POWDER EMPORIUM, INC., UNLTD and/or LIMITED, or doing, initiating any act, pursuite or communication with the Teton County Tax Assessor, Tax Collector or County Clerk's Recorder's Office, to place any cloud, encumbrance or slanderous document or instrument upon the quieted titles herein to JOHN N. BACH, individually and dba TARGHEE POWDER EMPORIUM, INC., UNLIMITED and LIMITED.

C. TO forthwith account, deliver and produce all records, documents and files, which they, their attorneys or others acting jointly or separately, but in concert with them, have created, assembled or acted as or for TARGHEE POWDER EMBORIUM, INC., or dba TARGHEE POWDER

EMPORIUM, UNLIMITED or LIMITED; MOREOVER EACH OF THEM AND ALL, ARE HEREBY FURTHER ENJOINED, RESTRAINED AND PRECLUDED FROM USING, ACTING AS, MISAPPLYING OR MISAPPROPRIATING SAID CORPORATE AND DBA'S NAMES, ENTITIES and OPERATIONS. Such accounting, delivery and productinn, shall be completed within thirty (30) days from the date of filing this JUDGMENT, to JOHN N. BACH, 400 N, 152E, P.O. Box 101, Driggs, Idaho 83422. The Court will tolerate no delays, refusals, or evasions of this paragraph."

(Each of these paragrphs of the permanent injunction, to be included in each judgment in JOHN N. BACH's FAVOR In TETON CV 01-33 and CV 01-265, is based and per I.C. 18-7805(c),(d)(1)(2)(3)(5) & (6).), and Rule 65,& 70, IRCP,

4. Any application, or memorandum of costs, and/or for fees, etc., shall be deferred until further entry of monetary award of damages, losses and recovery, especially per I.C. 18-7805(a),(c),(d)(4) & (7), and/or any remaining issues on JOHN N. BACH's counterclaims and third party in interventions complaint, as may be further amended and heard before a jury trial; this order applies in both CV01-33 and CV 01-265.

5. An original of this OPINION MEMORANDUM with all pages and ORDERS SHALL BE FILED IN BOTH ACTIONS CV 01-33 and CV 01-265.

DATED: This 11 day of ~~August~~ Sept., 2007

The Honorable JON J. SHINDURLING

CERTIFICATE OF SERVICE BY MAIL:

I, the undersigned on this date, did mail copies of this JOINT CASES-CV 01-33 & CV 01-265 -OPNION MEMORANDUM AND ORDERS, etc., to the attorneys and parties per se of record:

ALVA A. HARRIS
P.O. BOX 479
Shelley, ID 83274

JOHN N. BACH
P.O. Box 101
Driggs, ID 83422

DATED: This 3RD day of ~~August~~ October, 2007

000363

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TETON

JACK LEE McLEAN, Trustee and WAYNE DAWSON, Trustee, Plaintiffs, v. CHEYOVICH FAMILY TRUST and VASA N. BACH FAMILY TRUST Defendants.	CASE NO: CV 01-0265 QUIETING TITLE JUDGMENT IN FAVOR OF JOHN N. BACH, Individually & dba TARGHEE POWDER EMPORIUM, LTD, and AGAINST JACK LEE McLEAN, TRUSTEE, WAYNE DAWSON, TRUSTEE, DONNA DAWSON, ALVA A. HARRIS, Individually & dba & as Alter Ego of Scona, Inc.
JOHN N, BACH, Individually & dba TARGHEE POWDER EMPORIUM, LTD., Intervenor-Complainant, v. JACK LEE McLEAN, Trustee, WAYNE DAWSON, TRUSTEE, DONNA DAWSON, ALVA A. HARRIS, Individually, & dba & as Alter Ego of Scona, Inc., Katherine M. Miller, and Does 1 through 30, Inclusive, Third Party Defendants.	FILED SEP 11 2007 TIME: 5:00 TETON CO. ID DISTRICT COURT ORIGINAL

On Tuesday, August 7, JOHN N. BACH's MOTIONS for SUMMARY JUDGMENT against the plaintiffs and third party defendants, and FOR DISMISAL WITH PREJUDICE OF the plaintiffs COMPLAINT were heard in both this action, CV 01-265 and CV 01-33 against the plaintiffs and counterclaim defendants therein, The motion for summary judgment included/also were for the quieting of title and finding of liability against the plaintiffs and third party

Defendants JACK LEE cLEAN, TRUSTEE, WAYNE DAWSON, TRUSTEE, DONNA DAWSON, ALVA A. HARRIS, Individually & dba & as Alter Ego of Scona, Inc., Katherine M. Miller, etc. JOHN N. BACH had filed such verified complaint on Mar. 26, 2002 with pertinent paragraphs thereof, being paragraphs 3 through 6, which this Court FINDS proven, established and true of all avemments but moreover, admitted, confessed and stipulated to both in this action, Teton CV 01-33 and having been tried in Teton CV 02-208, in which all parties, McLean, Dawson, Alva Harris, his sham corporation, Scona, Inc., and others acting with them in concert, conspiracy and privity, had default judgments entered against them, which were binding, controlling and final as to the issues of the Third Party defendants' violations of the Idaho Racketeering Act, with JOHN N. BACH, individually and dba TARGHEE POWDER EMPORIUM, INC., also TARGHEE POWDER EMPORIUM, UNLIMITED and LIMITED [LTD] was entitled to this judgment quieting title to him in some three parcesl known as 1) the ZAMONA CASPER parcel of 8.5 acres; 2) the DRAWKNIFE PARCEL of 33+ acres; and the PEACOCK PARCEL of 40 acres, especially per the provisions of I.C. sec. 18-705 (a), (c), and (d)(1) through (7) via this JUDGMENT and the like JUDGMENT order entered, filed and recorded in Teton CV 01-33.

Preceding and filed herein, is a written JOINT CASES-CV 01-33 and CV 01-265 OPINION MEMORANDUM AND ORDERS RE: 1) GRANTING DEFENDANT, COUNTERCLAIMANT & COMPLAINANT IN INTERVENTION JOHN N BACH'S MOTIONS FOR SUMMARY JUDGMENT; and 2) FOR ORDER AND ISSUANCE OF JUDGMENTS OF DISMISSAL WITH PREJUDICE OF PLAINTIFFS' COMPLAINTS IN CV 01-33 and CV 01-265 WITH ORDERS FOR IMMEDIATE ISSUANCE OF JUDGMENT IN JOHN N. BACH'S FAVOR QUIETING SOLE TITLE, OWNERSHIP, POSSESSION, USE, AND OCCUPATION OF REAL PROPERTY PARCELS KNOWN AS DRAWKNIFE PARCEL (33 acres), PEACOCK PARCEL (40 acres) and ZAMONA CASPER PARCEL acres), WITH PERMANENT INJUNCTION AGAINST ALL PLAINTIFFS, THEIR TRUSTEES, ANY AND ALL SUCCESSORS IN INTERESTS, ATTORNEYS, AGENTS,

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ETC., upon which this JUDGMENT is ordered and based.

NOW, THEREFORE, by virtue of the law and by reasons of this Court stated in such OPINION MEMORANDUM, etc., in this action and also CV 01-33 and the premises per Judicial Notice taken of proceedings in Teton CV 02-208 and Judgments final and conclusive therein, as well as Judicial Notice of the cases of Teton CV 01-59, CV 01-266, CV 01-191 and CV 01-266, and via all of this Court's previous rulings, orders, etc.,

I. IT IS ORDERED, ADJUDGE AND DECREED, pursuant to R le 58(a), I.R.C.P, that: erein JACK LEE McLEAN, Trustee and WAYNE DAWSON Trustee, shall recover nothing, nor are they entitled to any relief, recovery nor redress of any kind via their Complaint which is dismissed with prejudice with all/any claims sought thereby against any defendants or their trustees, agents, or successors in interest.

II. IT IS FURTHER ORDER, ADJUDGED AND DECREED, that JOHN N. BACH, individually and dba TARGHEE POWDER EMPORIUM, LTD, shall have and is hereby granted JUDGMENT against JACK LEE McLEAN, TRUSTEE, WAYNE DAWSON, TRUSTEE, DONNA DAWSON, ALVA A. HARRIS, Individually, & dba & as Alter Ego of Scona, Inc., and each of them jointly, severally and individually, third party defendants herein. Moreover, the aforesaid third party defendants have absolutely no claim to nor any title, ownership, rights of possession or occupation and enjoyment of as to any of the following described real property parcels in Teton County, Idaho.

III. IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that JOHN N. INDIVIDUALLY & DBA TARGHEE POWDER EMPORIUM, UNLTD & LTD is awarded /quieted TITLE to the parcels herein designated and described:

A. The 8.5 acres parcel, known as the ZAMONA CASPER PARCEL, adjacent to 195 N. Hwy 33, north of Driggs, East side, being:

000366

Lot 1, Block 1, Teton Peaks View, Division 1, as per the recorde plat thereof, Teton County, Idaho, Together with 20 shares of Grand Teton Canal Company and all mineral, gas, oil and geothermal rights appurtenant thereto, LESS approximately 1 acre on the East side of highway 33, North of Driggs, Idaho, beginning at the NW corner of Lot 1, Block 1, Teton Peaks View, Division 1, Teton County, Idaho according to said recorded plat; running thence South 200 feet; thence East 220 feet; thence North 200 feet; thence West 220 feet to the point of beginning.

B. The DRAWKNIFE 33 acre parcel described as:

SE¼ SW ¼ of Section 35, Township 6 North, Range 45 East, Boise Meridian, Teton County, Idaho, LESS a tract beginning at the SE corner of the SW¼ of Section 35, Township 6 North, Range 45 EBM; running thence North 516; thence West 295 feet; thence South 516 feet; thence East 295 feet to the point of beginning, consisting of 33+/- acres, West side of Highway 33, to the North and West of the Drawknife Billards, 516 N Hwy 33, Tetonia, Idaho, TOGETHER with all mineral, gas, oil, water and geothermal/mining rights appurtenant thereto or claims filed.

C. The PEACOCK 40 acre parcel, descibed as:

SW¼ SE¼ of Section 6, Township 5, North, Range 45 East, Boise Meridan, Teton County, Idaho, having the street address 400N, 152E, Tetoni, Idaho, TOGETHER with all mineral, gas, oil, water and geothermal mining rights appurtenant thereto or claims filed.

The title to this PEACOCK 40 acre parcel shall be held and recorded in the following undivided percentage ages shares:

JOHN N. BACH, Individually and dba TARGHEE POWDER EMPORUM, LIMITED, is the owner and title holder of this parcel to an undivided three quarters (3/4); and

MILAN CHEYOVICH and DIANA CHEYOVICH, husband and wife of 1858 East Euclid Avenue, San Marino, CA., are the owners and title holders to an undivided one quarter (1/4) of this parcel.

IV. ALL PLAINTIFFS, COUNTERDEFENDANTS, THIRD PARTY COMPLAINT DEFENDANTS, in Teton CV 01-33 and CV 01-265, along with their successors in interests, corporations, trusts, spouses, children, issues, and all attorneys, especially ALVA A. HARRIS and any members of his law firm ARE PERMANENTLY ENJOINED, RESTRAINED, PRECLUDED, PREVENTED AND FORECLOSED

from:

000367

A. Trespassing, entering upon, invading, intruding or causing any such trepassing, entering, invading or intrudings upon each of said three real properties, described herein, the 8.5 acres, the DRAWKNIFE 33+ Acres and the PEACOCK 40 acres.

B. Making any further claims against JOHN N. BACH, individually and dba TARGHEE POWDER EMPORIUM, INC., UNLIMITED and/or LIMITED, or doing, initiating any act, pursuit, or communication with the Teton County Tax Assessor, Tax Collector or County Clerk's Recorder's offices, to place any cloud, encumbrance or slanderous document or instrument upon the quieted titles herein to JOHN N. BACH, indidividually and dba TARGHEE POWDER EMPORIUM INC, UNLI ITED and LIMITED.

C. To forthwith account, deliver and produced all records, documents and files, which they, their attorneys or others, acting jointly or separately, but in concert with them have created or assembled, and acted as or for TARGHEE POWBER EMPORIUM, INC., or dba TARGHEE POWDER EMPORIUM, UNLIMITED or LIMITED; MOREOVER EACH OF THEM AND ALL, ARE HEREBY FURTHER ENJOINED, RESTRAINED AND PRECLUDED FROM USING, ACTING AS, MISAPPLYING OR MISAPPROPRIATING SAID CORPORATE AND DBA's NAMES, ENTITIES and OPERATIONS, Such accounting, delivery and production, shall be completed within thirty (30) days from the date of filing of this JUDGMENT, to JOHN N. BACH, 400N, 152E, P.O. Box 101, Driggs, Idaho 83422. The Court will tolerate no delays, refusals or evasions of this paragraph.

IV. Any application or memorandum of costs, and/or fees, etc., shall be deferred until further entry of monetary award of damages, lossess and recovery per any such remaining issues on JOHN N. BACH's counterclaims and Third Party In Intervention Complaint in CV 01-33 and 01-265 or as determined hereafter per Rule 45, I.R.C.P., et seq or any other ORDER of the Court.

DATED: This 11 day of ~~August~~ Sept, 2007

Nunc pro tunc 8/7/07 J

The Honorable
JON J. SHINDIRLING

CERTIFICATE OF SERVICE BY MAIL:

I, the undersigned on this date, did mail a copy of this JUDGMENT IN FAVOR OF JOHN N. BACH and AGAINST JACK LEE McLEAN AND MARK J. LIPONIS, Trustee, to the attorneys/parties pro se of records, to wit:

Alva A. Harris
P.O.Box 479
Shelley, ID 83274

John N. Bach
P.O. Box 101
Driggs, Idaho 83422

DATED: This 3rd day of ~~August~~ October, 2007

000369

JOHN N. BACH
400N, 152E
P.O. Box 101
Driggs, ID 83422
(208) 354-8303
Defendant, Counterclaimant
& Intervenor Complainant
Pro Se

SEVENTH JUDICIAL DISTRICT COURT, IDAHO, TETON COUNTY

JACK LEE McLEAN and MARK J. LIPONIS, Trustee,

Plaintiffs

v.

JOHN N. BACH,

Defendant & Counterclaimant.
[Teton CV 01-33]

JACK LEE McLEAN, Trustee and WAYNE DAWSON, Trustee,

Plaintiffs,

v.

CHEYOVICH FAMILY TRUST and VASA N. BACH FAMILY TRUST [and JOHN N. BACH, Individually & dba TARGHEE POWDER EMPORIUM, LTD.].

Defendants, etc.
[Teton CV 01-265]

CASE NOS: CV 01-33 and 01-265
NOTICE OF MOTIONS AND MOTIONS BY DEFENDANT JOHN N. BACH [& In All Capacities Appearing] IN THESE TWO ACTIONS RE: (1) FOR SIGNING & ENTRY OF OPINI)ON AND ORDER DECISION ANONG WITH TWO SEPARATE FORMA JUDGMENTS IN FORMS PRESENTED BY HI and (2) FOR CERTIFICATE OF FINAL APPEAL OF SAID JUDGMENTS, ONCE EN= TERED PER IRCP, RULE 54(B).

DATE: Oct. 9, 2007
TIME: 2 p.m.
PLACE: Driggs, Teton County Courthouse, 89 N. Main

FILED
SEP 25 2007
TIME: 2:50
TETON CO. ID DISTRICT COURT

NOTICE IS HEREBY GIVEN BY JOHN N. BACH, in all capacities in both CV 01-33 and 01-265, that on Tues., Oct. 9, 2007 at 2 p.m. or as soon as the court can hear the above motions, which are incorporated herein per IRCP, Rule 10(e), he will seek to have this court sign, finalize and enter in both actions stated, the OPINION AND ORDER decision, and teo separate JUDGMENTS thereon presented to the court since August 15, 2007, which forms were specially delivered to this Court, Judge Shindirling in Bonneville County, who is assigned in both actions, and that by such entries and filings requested, the Court further deny any request or strike any request for any delays/continuance by Alva Harris, and, further issue a CERTIFICATE OF APPEALABILITY OF SAID JUDGMENTS IN BOTH ACTIONS, per Rule 54(B). The forms delivered to Judge Shindirling were prepared in accordance to his rulings in granting both motions heard as brought by JOHN N. BACH on Aug. 17, 2007

There are no just nor good reasons nor cause to further delay or withhold the signing and entry-of said JUDGMENTS in both action nor in not issuing said CERTIFICATE OF APPEALABILITY per Rule 54(B).

DATED: Sept 24, 2007

I hereby certify a copy of these motions was mailed to Alva Harris this date, Sept. 24, '07 at P.O. 479, Shelley, ID 83274

JOHN N. BACH
400N, 152E
Post Office Box 101
Driggs, Idaho 83422
Tel: (208) 354-8303
Intervenor-Complainant Pro SE

FILED
AUG 21 2007
TIME: m.w. 11:41
TETON CO. ID DISTRICT COURT

SEVENTH JUDICIAL DISTRICT COURT, OF IDAHO, COUNTY OF TETON

JACK LEE MCLEAN, Trustee and
WAYNE DAWSON, Trustee,

Plaintiffs,

v.

CHEYOVICH FAMILY TRUST and
VASA N. BACH FAMILY TRUST

Defendants. /

JOHN N. BACH, individually & dba
TARGHEE POWDER EMPORIUM, LTD,

Intevernor-Complainant,

v.
JACK KEE McLEAN, TRUSTEE, WAYNE
DAWSON, TRUSTEE, DONNA DAWSON,
ALVA A. HARRIS, individually &
dba & as Alter Efo of SCONA, INC.,
KATHERINE M. MILLER, and DOES
1 through 30, Inclusive,

Third Party Defendants. ?

CASE NO: CV 01-265

INTERVENOR-COMPLAINANT
JOHN N. BACH'S EX PARTE
MOTION (Individually & dba
TARGHEE POWDER EMPORIUM, LTD)
TO STRIKE Plaintiffs JACK
L. McLEAN and WAYNE DAWSON's
MOTION FOR CONTINUANCE, (Which
Plaintiffs' motion is frivolous,
untimely, moot and A further
Vexatious Abuse of Legal Process
By Plaintiffs and their Attorney
Alva A. Harris, against Whom
JOHN N. BACH Seeks?moves for
FURTHER MONETARY, CONTEMPT &
OTHER EVIDENTIARY SANCTIONS,
Especially of The Court's ORDER
DETERMINING THAT ALL THIRD PARTY
DEFENDANTS ARE OBLIGATED TO PAY
PUNITIVE DAMAGES TO JOHN N. BACH
The Amount to Be Determined by
A Jury Along with Special, Gner-
al & Any other Monetary Damages.

INTERVENOR-COMPLAINANT JOHN N. BACH does hereby move ex parte as per the aforesaid desicribed/designated motions-to strike Plaintiffs Motion for Continuance and further, for an order imposing the sbove stated sanctions against Third Party Defendants and their counsel of record; the enitre designated motions, supra, under the case number herein are incorporated, per IRCP, Rule 10(c) herein in full.

I. MOTION TO STRIKE (PER RULE 12(f) PLAINTIFFS' SPECIOUS & VEXATIOUS MOTION FOR CONTINUANCE.

Procedurally and form content said plaintiffs' motion for contiuance is objected to as:

A. Failing to comply with IRCP, Rules 4 through 7, et seq. it does not have the name nor designation anywhere of this Court. No Affidavit, no memo brief & NO hearing date is given.

B. Mr. Harris on behalf of his client plaintiffs already has been heard on August 7, 2007, answering the court's question, if he had any objection to the dismisal of his client's complaint, to which he replied he didn't but sought such to be without prejdice. This Court ruled the motion was granted but with prejudice. This scenerio is set forth in the proposed JOINT CASES OPINION MEMORANDUM AND ORDER, [etc.] which has been submitted to this Court, awaiting its signature thereon and the entry of two (2) separate judgments in this action and Teton CV 01-33.

C. There is no affidavit as required by IRCP, Rule 60(b) etc., with appropriate memo brief, supporting any motion to be relieved of any neglect, default, inadvertence, etc. Nor can such motion be brought, other than being a further violation of Rules 11(a)(1) and Rule 1, IRCP.

D. Plaintiffs filed no opposition, made no objections as required to the granting of all motions of summary judgment and dismissal with prejudice for lack of diligent prosecution brought by JOHN N. BACH IN THIS ACTION & Teton CV -1-33

E. This Court's granting of said motions for summary judgment per the JOINT CASES-OPINION MEMORANDUM, were first ruled upon and are now completely dispositive of the dismissal with prejudice of both action. Thus, even if such motion for continuance had any applicability which it does not, such motion for continuance, of whatever imagination by plaintiffs' counsel is more than moot. This court's granting of JOHN N. BACH's motion for summary judgment on the entire complaint and on his third party complaint re liability, is controlling, but, nowhere addressed by plaintiffs' current furtherabuses of processes.

II. <u>PLAINTIFFS AND THEIR COUNSEL SHOULD BE FURTHER SANCTIONED PER RULE 1 and RULE 11(a)(1)AS IT IS PATENTLY CLEAR SUCH MOTION FOR CONTINUANCE IS INTERPOSED FOR IMPROPER PURPOSES, TO HARASS, TO CAUSE UNNECESSARY DELAY, INCREASE IN THE COSTS OF LITIGATION, ETC.</u>

The bringing of plaintiffs' specious and wholly without merit motion for continuance violates all the affirmative duties imposed upon plaintiffs and their counsel per Rule 11(a)(1) & Rule (1). <u>Landvik , etc. v. Herbert</u>, 130 Idaho 43, 936 P.2d (Ct. App. 1997); <u>Bell v. Bell</u> 122 Idaho 520, 835 P.2d 1331 (Ct. App. 1992)

IT IS REQUESTED THAT THIS COURT sign, issue & file/enter the submitted JOINT CASES -OPINION MEMORANDUM & ORDERS ALONG WITHE THE SUBMITTED <u>JUDGMENTS IN THIS ACTION TETON CV 0L-265 AND CV 01-33 FORTHWITH.</u>

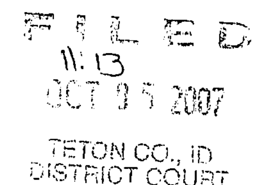
DATED: Aug. 21, 2007

John N. Bach

000372

I hereby certify a copy of this document was mailed to ALVA HARRIS THIS DATE, Aug. 21, 2007

John N. Bach



Alva A. Harris
Attorney at Law
171 South Emerson
P.O. Box 479
Shelley, Idaho 83274
208-357-3448
Idaho State Bar No. 968

JACK LEE McLEAN, Trustee and WAYNE DAWSON, Trustee, Plaintiffs, vs. CHEYOVICH FAMILY TRUST and VASA N. BACH FAMILY TRUST Defendants	))))))))	Case No. CV-01-265 OBJECTION TO MOTION
JOHN N. BACH, individually & dba TARGHEE POWDER EMPORIUM, LTD, Intervenor-complainant, vs. JACK LEE McLEAN, TRUSTEE, WAYNE DAWSON TRUSTEE, DONNA DAWSON, ALVA A. HARRIS, individually, & dba & as Alter Ego of Scona, Inc., KATHERINE M. MILLER, and Does 1 through 30, Inclusive Third Party Defendants	)))))))))) 0))	

COMES NOW Alva A. Harris, attorney for plaintiffs and third party defendants Jack L. McLean and Wayne Dawson herein, objects to the MOTION filed herein by John N. Bach for the following reasons:

1. This Motion is premature since this Court has not issued its Decision or Order concerning the Summary Judgment matter presented prior hereto. Accordingly, this counsel will not appear at this hearing.

2. The proposed documents are beyond the scope of the pleadings

and demonstrate once again that John N. Bach is attempting to represent others unlawfully.

This motion is supported by the filings and pleadings and exhibits filed herein.

WHEREFORE, for these reasons Bach's motions should be denied.

DATED this 4 day of October, 2007.

Alva A. Harris

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 4 day of October, 2007, I served a true and correct copy of the following described document on the Defendant listed below by depositing the same in the United States mail, with the correct postage thereon, in envelopes addressed as follows:

Document Served: Objection to Motion

Pro Se Defendant Served:

John N. Bach

P.O. Box 101

Driggs, Idaho 83422

Alva A. Harris

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TETON

JACK LEE McLEAN and MARK J.
LIPONIS, Trustee,

Plaintiffs,

v.

JOHN N. BACH,

Defendant &
Counterlcaimant.
[Teton CV 10-33]

JACK LEE McLEAN, Trustee, and
WAYNE DAWSON, Trustee,

Plaintiffs,

v.

CHEYOVICH FAMILY TRUST and
VASA N. BACH FAMILY TRUST [and
JOHN N. BACH, Individually &
dba TARGHEE POWDER EMPORIUM, LTD,
intervenor complainant, pro se].

Defendants &
Intervenor Com-
plainant.
[Teton CV 02-0265]

CASE NOS; CV 01-33

and

CV 01-265

CERTIFICATES OF APPEAL-
ABILITY OF JUDGMENTS,
Filed Spetmber 11, 2007
per I.R.C.P., Rule 54(b)

FILED
OCT 09 2007
TETON CO., ID
DISTRICT COURT

JOHN N. BACH's motions, in all capacities in both afore-actions, Teton CV 01-33 and CV 01-265, for issuance of CERTIFICATES OF APPEALABILITY per Rule 54(b) in both said actions, was heard Tuesday, October 9, 2007 @ 2 p.m. JOHN N. BACH, appeared in pro se in all capacites in both said actions; Alva Harris, counsel of record for all other parties did not make an appearance.

THE COURT, NOW FINDS, GOOD, JUST AND ADEQUATE CAUSE for the issuance of these CERTIFICATES OF APPEALABILITY per Rule 54(b) in both these actions, CV 01-33 and 01-265, and so CERTIFIES each of said judgments filed September 11, 2007 QUIETING TITLE IN FAVOR OF JOHN N. BACH, etc., having determined that there is no excuse, just reason or basis for the delay of entry of final judgments as to said quieting title judgments per Rule 54(b) and such judgments are such upon which execution may issue and an appeal may be taken as provided by the Idaho Appelalte Rules.

DATED this 9th day of October, 2007

JON J. SHINDIRLING,
District Judge.

CERTIFICATE OF SERVICE BY MAIL

I, the undersigned court clerk for Teton County, Seventh Judicial District Court, State of Idaho, hereby certify that on this date, I did serve via the mail, in separate envelopes with first class postage affixed thereon, separate copies of the foregoing CERTIFICATE OF APPEALABILITY OF JUDGMENTS, Filed September 11, 2007 per I.R.C.P., Rule 54(b), to the following:

ALVA A. HARRIS
P.O. Box 479
Shelley, Idaho 83274

JOHN N. BACH
Post Office Box 101
Driggs, ID 83422

DATED: October 10, 2007

Phyllis A Hansen
Clerk or Deputy Clerk

Marvin M. Smith
ANDERSON NELSON HALL SMITH, P.A.
490 Memorial Drive
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Idaho Falls, Idaho 83405-1630
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Idaho State Bar No. 2236
Attorneys for Plaintiffs

FILED
OCT 17 2007
[illegible] DISTRICT COURT

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TETON

ESTATE OF JACK LEE MCCLEAN AND SURVIVING BENEFICIARIES AND WAYNE DAWSON, INDIVIDUALLY AND AS TRUSTEES,

Plaintiffs

v.

CHEYOVICH FAMILY TRUST AND VASA N. BACH FAMILY TRUST,

Defendant.

Case No. CV-01-265

STIPULATION FOR SUBSTITUTION OF COUNSEL

It is hereby stipulated that MARVIN M. SMITH of the law firm of ANDERSON NELSON HALL SMITH, P.A., will be substituted as counsel of record in place of ALVA HARRIS, attorney at law, for the Plaintiffs in the above-captioned matter.

DATED this 17th day of October, 2007.

ANDERSON NELSON HALL SMITH, P.A.

By [signature]
Marvin M. Smith

[signature]
Alva Harris

CERTIFICATE OF SERVICE

I hereby certify that I served a true copy of the foregoing document upon the following this 17th day of October 2007, by hand delivery, mailing with the necessary postage affixed thereto, facsimile, or overnight mail.

John N. Bach
PO Box 101
Driggs, ID 83422

[✔] Mailing
[ ] Hand Delivery
[ ] Fax
[ ] Overnight Mail

MARVIN M. SMITH

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