

10-27-2009

# Allied Bail Bonds v. County of Kootenai Clerk's Record Dckt. 36861

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**LAW CLERK**

Vol. 1 of 2

<b>IN THE SUPREME COURT</b>
<b>OF THE STATE OF IDAHO</b>
<b>ALLIED BAIL BONDS INC., an</b>
<b>Idaho Corporation</b>
<b>Plaintiff/Appellant,</b>
<b>vs.</b>
<b>COUNTY OF KOOTENAI, A Political</b>
<b>Subdivision of the State of Idaho</b>
<b>ROCKY WATSON, Kootenai County</b>
<b>Sheriff John and Jane Does 1-13</b>
<b>Defendants/Respondents.</b>
<b>INSCRPTION APPEAL</b>
<b>In the District Court of the First Judicial District of</b>
<b>the State of Idaho, in and for the County of Kootenai</b>
<b>ATTORNEY FOR APPELLANT</b>
<b>Arthur M Bistline</b>
<b>ATTORNEY FOR RESPONDENTS</b>
<b>Darrin L Murphey</b>
<b>SUPREME COURT DOCKET #36861-2009</b>

**SEE AUGMENTATION  
RECORD**

**36861**

## TABLE OF CONTENTS

CLERK'S RECORD ON APPEAL.....	1
COMPLAINT AND REQUEST FOR JURY TRIAL Filed October 9, 2007 .....	2
ORDER GRANTING DEFENDANT'S MOTION EXCEPTING TO BOND Filed March 24, 2009.....	20
ANSWER TO COMPLAINT AND REQUEST FOR JURY TRIAL Filed February 7, 2008.....	23
AMENDED COMPLAINT AND REQUEST FOR JURY TRIAL Filed May 20, 2008.....	29
ORDER AMENDED COMPLAINT Filed June 17, 2008.....	36
ORDER DENYING PLAINTIFF'S SECOND MOTION FOR PRELIMINARY INJUNCTION Filed June 17, 2008.....	38
ORDER DENYING PLAINTIFF'S MOTION TO AMEND COMPLAINT AND MOTION FOR PRELIMINARY INJUNCTION Filed June 20, 2008.....	40
ANSWER TO AMEND COMPLAINT AND DEMAND FOR JURY TRIAL Filed July 7, 2008.....	43
SECOND MOTION TO AMEND COMPLAINT Filed July 9, 2008.....	52
ORDER OF VOLUNTARY DISQUALIFICATION Filed September 17, 2008.....	54
NOTICE OF SEVICE OF SUPPLEMENTAL ANSWERS OF DEFENDANT; KOOTENAI COUNTY TO PLAINTIFF'S FIRST SET OF INTERROGATORIES AND REQUESTS FOR PRODUCTION TO DEFENDANT KOOTENAI COUNTY Filed September 25, 2008.....	56
SCHEDULING ORDER, NOTICE OF TRIAL SETTING AND INITIAL PRETRIAL ORDER Filed October 28, 2008.....	58

TABLE OF CONTENTS

SECOND AMENDED COMPLAINT AND REQUEST FOR JURY TRIAL  
Filed December 4, 2008.....68

SECOND AMENDED COMPLAINT AND REQUEST FOR JURY TRIAL  
Filed December 9, 2008.....75

ORDER GRANTING MOTION TO DISMISS IN PART AND DENYING  
MOTION TO DISMISS IN PART  
Filed December 12, 2008.....81

ANSWER TO SECOND AMENDED COMPLAINT  
(DATED OCTOBER 22, 2008)  
Filed December 26, 2008.....105

ORDER GRANTING RENEWED MOTION TO DISMISS IN PART  
AND DENYING RENEWED MOTION TO DISMISS IN PART  
Filed February 26, 2009.....113

JUDGMENT  
Filed March 9, 2009.....116

ORDER CONTINUING TRIAL  
Filed May 6, 2009.....120

MEMORANDUM DECISION AND ORDER 1) GRANTING DEFENDANTS'  
MOTION FOR ATTORNEY FEES AND MEMORANDUM OF COSTS AND 2)  
DENYING PLAINTIFF'S MOTION FOR RECONSIDERATION  
SECOND AMENDED COMPLAINT  
Filed July 13, 2009.....122

ORDER GRANTING DEFENDANTS' MOTION TO SHORTEN TIME  
Filed July 28, 2009.....136

ORDER TO SHORTEN TIME  
Filed July 28, 2009.....138

ORDER REGARDING PLAINTIFF'S AMENDED MOTION TO AMEND  
COMPLAINT, AMENDED MOTION TO JOIN CLERK OF THE COURT  
AND MOTION FOR PRELIMINARY INJUNCTION  
Filed July 28, 2009.....140

TABLE OF CONTENTS

JUDGMENT RE: ATTORNEY FEES  
Filed July 28, 2009.....143

NOTICE OF APPEAL  
Filed August 24, 2009.....145

CLERK'S CERTIFICATE .....150

CLERK'S CERTIFICATE OF SERVICE .....151

## INDEX

AMENDED COMPLAINT AND REQUEST FOR JURY TRIAL Filed May 20, 2008 .....	29
ANSWER TO AMEND COMPLAINT AND DEMAND FOR JURY TRIAL Filed July 7, 2008.....	43
ANSWER TO COMPLAINT AND REQUEST FOR JURY TRIAL Filed February 7, 2008.....	23
ANSWER TO SECOND AMENDED COMPLAINT (DATED OCTOBER 22, 2008) Filed December 26, 2008.....	105
CLERK'S CERTIFICATE OF SERVICE .....	151
CLERK'S CERTIFICATE .....	150
CLERK'S RECORD ON APPEAL.....	1
COMPLAINT AND REQUEST FOR JURY TRIAL Filed October 9, 2007 .....	2
JUDGMENT RE: ATTORNEY FEES Filed July 28, 2009.....	143
JUDGMENT Filed March 9, 2009.....	116
MEMORANDUM DECISION AND ORDER 1) GRANTING DEFENDANTS' MOTION FOR ATTORNEY FEES AND MEMORANDUM OF COSTS AND 2) DENYING PLAINTIFF'S MOTION FOR RECONSIDERATION SECOND AMENDED COMPLAINT Filed July 13, 2009.....	122
NOTICE OF APPEAL Filed August 24, 2009.....	145
NOTICE OF SEVICE OF SUPPLEMENTAL ANSWERS OF DEFENDANT; KOOTENAI COUNTY TO PLAINTIFF'S FIRST SET OF INTERROGATORIES AND REQUESTS FOR PRODUCTION TO DEFENDANT KOOTENAI COUNTY Filed September 25, 2008 .....	56
ORDER AMENDED COMPLAINT Filed June 17, 2008.....	36

ORDER CONTINUING TRIAL Filed May 6, 2009 .....	120
ORDER DENYING PLAINTIFF'S MOTION TO AMEND COMPLAINT AND MOTION FOR PRELIMINARY INJUNCTION Filed June 20, 2008 .....	40
ORDER DENYING PLAINTIFF'S SECOND MOTION FOR PRELIMINARY INJUNCTION Filed June 17, 2008 .....	38
ORDER GRANTING DEFENDANT'S MOTION EXCEPTING TO BOND Filed March 24, 2009 .....	20
ORDER GRANTING DEFENDANTS' MOTION TO SHORTEN TIME Filed July 28, 2009 .....	136
ORDER GRANTING MOTION TO DISMISS IN PART AND DENYING MOTION TO DISMISS IN PART Filed December 12, 2008 .....	81
ORDER GRANTING RENEWED MOTION TO DISMISS IN PART AND DENYING RENEWED MOTION TO DISMISS IN PART Filed February 26, 2009 .....	113
ORDER OF VOLUNTARY DISQUALIFICATION Filed September 17, 2008 .....	54
ORDER REGARDING PLAINTIFF'S AMENDED MOTION TO AMEND COMPLAINT, AMENDED MOTION TO JOIN CLERK OF THE COURT AND MOTION FOR PRELIMINARY INJUNCTION Filed July 28, 2009 .....	140
ORDER TO SHORTEN TIME Filed July 28, 2009 .....	138
SCHEDULING ORDER, NOTICE OF TRIAL SETTING AND INITIAL PRETRIAL ORDER Filed October 28, 2008 .....	58
SECOND AMENDED COMPLAINT AND REQUEST FOR JURY TRIAL Filed December 4, 2008 .....	68
SECOND AMENDED COMPLAINT AND REQUEST FOR JURY TRIAL Filed December 9, 2008 .....	75

SECOND MOTION TO AMEND COMPLAINT

Filed July 9, 2008.....52

## Allied Bail Bonds vs. Kootenai County, Rocky Watson, Does 1-13

Date	Code	User		Judge
10/9/2007	NCOC	PARKER	New Case Filed - Other Claims	John P. Luster
		PARKER	Filing: A1 - Civil Complaint, More Than \$1000 No Prior Appearance Paid by: Andrew A Schillinger Receipt number: 0765480 Dated: 10/9/2007 Amount: \$88.00 (Check) For: [NONE]	John P. Luster
	SUMI	LSMITH	Summons Issued	John P. Luster
10/10/2007	NOTC	VICTORIN	Notice of Filing	John P. Luster
11/8/2007	NTWD	PARKER	Notice Of Withdrawal/Patti Jo Foster/ & Substitution of Counsel/Arthur M Bistline	John P. Luster
12/11/2007	AFSV	MOLLETT	Affidavit Of Service	John P. Luster
12/19/2007	HRSC	BOOTH	Hearing Scheduled (Motion to Dismiss 03/04/2008 03:00 PM)	John P. Luster
12/24/2007	NOAP	MCCOY	Notice Of Appearance - Darrin Murphey OBO Kootenai County	John P. Luster
	ACKS	MCCOY	Acknowledgement Of Service	John P. Luster
1/8/2008	NTSD	LUNNEN	Notice Of Service Of Discovery	John P. Luster
	NTSD	LUNNEN	Notice Of Service Of Discovery	John P. Luster
	NTSD	LUNNEN	Notice Of Service Of Discovery	John P. Luster
2/7/2008	NOTC	LSMITH	Notice of service of answers of defendant Kootenai County to Plaintiff's First set of interrogatories & request for production to defendant Kootenai County	John P. Luster
	NOTC	LSMITH	Notice of service of defendants' first set of interrogatories & request for production of documents propounded to plaintiff	John P. Luster
	NOTC	LSMITH	Notice of service of responses of defendant Rocky Watson to Plaintiff's request for admission to defendant Rocky Watson	John P. Luster
	NOTC	LSMITH	Notice of service of answers of defendant Rocky WATson to Plaintiff's first set of interrogatories & requests for production to defendant Rock Watson	John P. Luster
	ANSW	LSMITH	Answer to complaint & request for jury trial	John P. Luster
2/19/2008	NOHG	LSMITH	Notice Of Hearing Re: Motion excepting to bond	John P. Luster
	MOTN	LSMITH	Motion excepting to bond	John P. Luster
2/20/2008	MNDS	PARKER	Motion To Dismiss	John P. Luster
	MEMO	PARKER	Memorandum in Support of Motion to Dismiss	John P. Luster
	MISC	PARKER	Request to Take Judicial Notice	John P. Luster
	AFFD	PARKER	Affidavit of Darren L Murphey	John P. Luster
	NOTH	PARKER	Notice Of Hearing	John P. Luster
2/25/2008	HRSC	BOOTH	Hearing Scheduled (Motion 03/03/2008 03:00 PM) EXCEPTING BOND	John P. Luster

Allied Bail Bonds vs. Kootenai County, Rocky Watson, Does 1-13

Date	Code	User		Judge
2/25/2008	HRVC	BOOTH	Hearing result for Motion to Dismiss held on 03/04/2008 03:00 PM: Hearing Vacated	John P. Luster
	HRSC	BOOTH	Hearing Scheduled (Motion to Dismiss 07/23/2008 03:00 PM)	John P. Luster
	ANHR	VICTORIN	Amended Notice Of Hearing - Motion to Dismiss	John P. Luster
	ANHR	VICTORIN	Amended Notice Of Hearing - Motion Excepting to Bond	John P. Luster
3/3/2008	INHD	BOOTH	Hearing result for Motion held on 03/03/2008 03:00 PM: Interim Hearing Held EXCEPTING BOND	John P. Luster
	AFFD	BAXLEY	Affidavit of Frank Davis	John P. Luster
3/17/2008	BNDS	JANUSCH	Bond Posted - Surety (Amount 250000.00 )	John P. Luster
3/18/2008	HRSC	BOOTH	Hearing Scheduled (Motion 04/10/2008 03:00 PM) for preliminary injunction	John P. Luster
3/24/2008	ORDR	BOOTH	Order Granting defendants motion excepting to bond	John P. Luster
3/27/2008	HRVC	BOOTH	Hearing result for Motion held on 04/10/2008 03:00 PM: Hearing Vacated for preliminary injunction	John P. Luster
	HRSC	BOOTH	Hearing Scheduled (Motion 04/21/2008 03:00 PM)	John P. Luster
4/7/2008	HRVC	BOOTH	Hearing result for Motion held on 04/21/2008 03:00 PM: Hearing Vacated	John P. Luster
	HRSC	BOOTH	Hearing Scheduled (Motion 04/22/2008 03:00 PM) preliminary injunction	John P. Luster
4/9/2008	AFFD	MCCOY	Affidavit of Jared Anderson	John P. Luster
	AFFD	MCCOY	Affidavit of Frank Davis	John P. Luster
	AFFD	MCCOY	Affidavit of Laura Kees	John P. Luster
	AFFD	MCCOY	Affidavit of Russell McHenry	John P. Luster
	AFFD	MCCOY	Affidavit of Debbie Nickel	John P. Luster
	MEMS	MCCOY	Memorandum In Support Of Motion for Preliminary Injunction	John P. Luster
	MNAM	MCCOY	Motion To Amend Complaint	John P. Luster
	MOTN	MCCOY	Motion for Preliminary Injunction	John P. Luster
	NOHG	MCCOY	Notice Of Hearing	John P. Luster
4/10/2008	NOTC	PARKER	Notice of Address Change	John P. Luster
4/15/2008	OBJT	PARKER	Objection to Motion to Amend Complaint	John P. Luster
	OBJT	PARKER	Objection to Preliminary Injunction	John P. Luster
	MOTN	PARKER	Motion to Shorten Time	John P. Luster
	AFFD	PARKER	Affidavit of Dan Soumas	John P. Luster
	MOTN	PARKER	Motion to Strike	John P. Luster
	NOTH	PARKER	Notice Of Hearing	John P. Luster

Allied Bail Bonds vs. Kootenai County, Rocky Watson, Does 1-13

Date	Code	User		Judge
4/22/2008	DCHH	BOOTH	Hearing result for Motion held on 04/22/2008 03:00 PM: District Court Hearing Held Court Reporter: Anne MacManus Number of Transcript Pages for this hearing estimated: Under 100 pages	John P. Luster
4/23/2008	HRSC	BOOTH	Hearing Scheduled (Motion to Amend 06/03/2008 03:00 PM) and preliminary injunction	John P. Luster
4/24/2008	FILE	MCCORD	New File Created *****FILE 2*****	John P. Luster
5/20/2008	NOTH	MCCORD	Notice Of Hearing	John P. Luster
	AFFD	MCCORD	2nd Affidavit of Frank Davis	John P. Luster
	MEMS	MCCORD	Memorandum In Support Of 2nd Motion for preliminary injunction	John P. Luster
	MOTN	MCCORD	2nd Motion for preliminary injunction	John P. Luster
	MNAM	MCCORD	amended Motion To Amend complaint	John P. Luster
	AMCO	CLAUSEN	Amended Complaint Filed and Request for Jury Trial	John T. Mitchell
5/28/2008	OBJT	LSMITH	Objection to Second Motion for Preliminary Injunction	John P. Luster
	NOTC	LSMITH	Request for Judicial Notice	John P. Luster
	OBJT	LSMITH	Objection to Plaintiff's Amended Motion to amend Complaint	John P. Luster
6/2/2008	MISC	RABROWN	Reply To Defendants Objection To Plaintiff's Second Motion For Preliminary Injunction and Motion To Amend Complaint	John P. Luster
6/3/2008	DCHH	BOOTH	Hearing result for Motion to Amend held on 06/03/2008 03:00 PM: District Court Hearing Hel Court Reporter: Anne McManus Number of Transcript Pages for this hearing estimated: and preliminary injunction Under 100 pages	John P. Luster
6/17/2008	ORDR	DARNELL	Order Amending Complaint	John P. Luster
	ORDR	DARNELL	Order Denying Plaintiff's Second Motion For Preliminary Injunction	John P. Luster
6/20/2008	ORDR	VICTORIN	Order Denying Plaintiff's Motion to Amend Complaint and Motion for Preliminary Injunction	John P. Luster
7/7/2008	ANSW	MCCOY	Answer to Amended Complaint and Demand for Jury Trial - Darrin Murphey	John P. Luster
7/9/2008	MOTN	PARKER	Second Motion to Amend Complaint	John P. Luster
	MOTN	PARKER	Motion to Disqualify Judge and Change of Venue	John P. Luster
	AFFD	PARKER	Affidavit of Arthur M Bistline in Support of Motion to Disqualify Judge and Change of Venue	John P. Luster
	MEMO	PARKER	Memorandum in Support of Motion to Disqualify Judge and for a Change of Venue	John P. Luster
	NOTH	PARKER	Notice Of Hearing	John P. Luster

Allied Bail Bonds vs. Kootenai County, Rocky Watson, Does 1-13

Date	Code	User		Judge
7/10/2008	NOTH	DARNELL	Notice Of Hearing (07/23/08 @ 3 pm)	John P. Luster
	MOTN	DARNELL	Motion For Reconsideration Of Order Amending Complaint	John P. Luster
	MEMO	DARNELL	Memorandum In Support Of Motion For Reconsideration Of Order Amending Complaint	John P. Luster
	MOTN	DARNELL	Motion To Dismiss Amended Complaint	John P. Luster
	MEMO	DARNELL	Memorandum In Support Of Motion To Dismiss Amended Complaint	John P. Luster
7/16/2008	MISC	BAXLEY	Response to Defendants' Motion To Dismiss Second Amended Complaint and Motion To Reconsider	John P. Luster
	AFFD	BAXLEY	Affidavit of Frank Davis In Opposition To Motion To Dismiss	John P. Luster
	MISC	BAXLEY	Objection To Motion To Disqualify Presiding Judge and For A Change of Venue and Second Motion to Amend Complaint	John P. Luster
7/21/2008	MOTN	LSMITH	Reply to Plaintiff's Response to Defendant's Motion to Dismiss Second amended complaint and Motion to Reconsider	John P. Luster
7/23/2008	DCHH	BOOTH	Hearing result for Motion to Dismiss held on 07/23/2008 03:00 PM: District Court Hearing Hel Court Reporter: Anne MacManus Number of Transcript Pages for this hearing estimated: under 100 pages	John P. Luster
7/24/2008	BNDS	JANUSCH	Bond Posted - Surety (Amount 25000.00 )	John P. Luster
8/7/2008	NOTC	CANTU	Notice of Filing in Support of Motion to Disqualify Judge and Change of Venue	John P. Luster
9/16/2008	FILE	MCCORD	New File Created *****FILE 3*****	John T. Mitchell
9/17/2008	DISF	BOOTH	Disqualification Of Judge - Self	John P. Luster
		BOOTH	Order Assigning Judge On Voluntary Disqualification - John T. Mitchell	John P. Luster
	DEOP	BOOTH	Decision On Motion to Disqualify and Change Venue	John T. Mitchell
9/18/2008	HRSC	CLAUSEN	Hearing Scheduled (Motion for Summary Judgment 12/04/2008 04:00 PM) Bistline	John T. Mitchell
	HRSC	CLAUSEN	Hearing Scheduled (Motion to Dismiss 12/04/2008 04:00 PM) K.C.-Murphy	John T. Mitchell
9/25/2008	NOHG	RICKARD	Notice Of Hearing	John T. Mitchell
	NTSV	CRUMPACKER	Notice Of Service of Supplemental Answers of Defendant	John T. Mitchell
9/29/2008	HRSC	CLAUSEN	Hearing Scheduled (Scheduling Conference 10/21/2008 04:00 PM)	John T. Mitchell
	NOTC	CLAUSEN	Notice of Scheduling Conference	John T. Mitchell

## Allied Bail Bonds vs. Kootenai County, Rocky Watson, Does 1-13

Date	Code	User		Judge
9/29/2008	ANHR	VICTORIN	Amended Notice Of Hearing	John T. Mitchell
10/1/2008	STIP	CLAUSEN	Stipulation for Scheduling - Arthur Bistline	John T. Mitchell
10/7/2008	HRSC	CLAUSEN	Hearing Scheduled (Motion to Compel 11/05/2008 04:30 PM) Bistline	John T. Mitchell
10/21/2008	HRVC	CLAUSEN	Hearing result for Scheduling Conference held on 10/21/2008 04:00 PM: Hearing Vacated	John T. Mitchell
10/22/2008	AFFD	CRUMPACKER	Affidavit of Frank Davis	John T. Mitchell
	MEMO	CRUMPACKER	Memorandum in Support of Motion to Compel	John T. Mitchell
	AFFD	CRUMPACKER	Affidavit of Arthur M Bistline	John T. Mitchell
	NOTH	MCCORD	Notice Of Hearing	John T. Mitchell
	MNAM	MCCORD	Amended Motion To Amend	John T. Mitchell
10/23/2008	MNCL	MCCORD	Motion To Compel	John T. Mitchell
10/27/2008	NOTH	PARKER	Amended Notice Of Hearing	John T. Mitchell
10/28/2008	HRSC	CLAUSEN	Hearing Scheduled (Jury Trial Scheduled 05/18/2009 09:00 AM) 5 DAYS	John T. Mitchell
	ORDR	CLAUSEN	Scheduling Order, Notice of Trial Setting and Initial Pretrial Order	John T. Mitchell
10/31/2008	MISC	BAXLEY	Reply To Plaintiff's Memorandum In Support Of Motion To Compel	John T. Mitchell
	OBJT	BAXLEY	Objection To Plaintiff's Amended Motion To Amend Complaint (3rd Proposed Amendment)	John T. Mitchell
11/4/2008	MISC	CRUMPACKER	Verification of Second Amended Complaint	John T. Mitchell
11/5/2008	MISC	BAXLEY	Reply To Defendant's Objection To Plaintiff's Motion To Amend	John T. Mitchell
	AFFD	BAXLEY	Affidavit Of Frank Davis In Support Of Motion To Compel	John T. Mitchell
	HELD	CLAUSEN	Hearing result for Motion to Compel held on 11/05/2008 04:30 PM: Motion Held Bistline	John T. Mitchell
11/14/2008	NOTC	MCCORD	Notice of reliance	John T. Mitchell
11/18/2008	HRVC	CLAUSEN	Hearing result for Motion for Summary Judgment held on 12/04/2008 04:00 PM: Hearing Vacated Bistline	John T. Mitchell
	HRSC	CLAUSEN	Hearing Scheduled (Motion for Summary Judgment 02/17/2009 03:00 PM) Bistline	John T. Mitchell
11/25/2008	AFSV	MCCORD	Affidavit Of Service - Kyndra Hoffman 11/24/08	John T. Mitchell
11/26/2008	NOTC	CRUMPACKER	Notice of Reliance	John T. Mitchell
	MISC	CRUMPACKER	Supplemental Response to Defendants Motion to Dismiss	John T. Mitchell
	AFFD	CRUMPACKER	Affidavit of Nathan Simpson	John T. Mitchell
	AFFD	CRUMPACKER	Affidavit of Steven Tucker	John T. Mitchell
	AFFD	CRUMPACKER	Affidavit of Joshua Jones	John T. Mitchell
	AFFD	CRUMPACKER	Affidavit of Mitchell Holt	John T. Mitchell

## Allied Bail Bonds vs. Kootenai County, Rocky Watson, Does 1-13

Date	Code	User		Judge
11/26/2008	AFFD	CRUMPACKER	Affidavit of Tim Welch	John T. Mitchell
	AFFD	CRUMPACKER	Affidavit of Andrew Robles	John T. Mitchell
	MISC	HUFFMAN	Supplemental Response to Defendant's Motion to Dismiss	John T. Mitchell
12/2/2008	MISC	BAXLEY	Response To Plaintiff's Supplemental Response To Defendants' Motion To Dismiss	John T. Mitchell
12/4/2008	AMCO	MOLLETT	Second Amended Complaint And Request For Jury Trial	John T. Mitchell
	HRHD	CLAUSEN	Hearing result for Motion to Dismiss held on 12/04/2008 04:00 PM: Hearing Held K.C.-Murphy	John T. Mitchell
12/8/2008	HRSC	CLAUSEN	Hearing Scheduled (Motion to Quash 12/15/2008 03:00 PM) Subpoena/Motion Prot Ord - Murphy	John T. Mitchell
	MISC	LEU	Submission Of Additonal Authorities	John T. Mitchell
	LETR	RICKARD	Letter From Wells Fargo Bank RE: Subpoena Duces Tecum	John T. Mitchell
12/9/2008	AMCO	MCCORD	2nd Amended Complaint Filed & Req for Jury Trial	John T. Mitchell
	FILE	RICKARD	New File #4 Created	John T. Mitchell
12/10/2008	MISC	LEU	Supplemental Brief In Support Of Opposition To Motion To Dismiss	John T. Mitchell
12/12/2008	ORDR	CLAUSEN	Order Granting Motion to Dismiss in Part and Denying Motion to Dismiss in Part	John T. Mitchell
	NOTC	CRUMPACKER	Notice of Hearing	John T. Mitchell
	MOTN	CRUMPACKER	Motion to Quash Subpoena	John T. Mitchell
	MOTN	CRUMPACKER	Motion to Shorten Time	John T. Mitchell
	AFFD	CRUMPACKER	Affidavit of Darrin Murphey	John T. Mitchell
12/15/2008	HRVC	CLAUSEN	Hearing result for Motion to Quash held on 12/15/2008 03:00 PM: Hearing Vacated Subpoena/Motion Prot Ord - Murphy	John T. Mitchell
	NTSD	CRUMPACKER	Notice Of Service Of Discovery Responses	John T. Mitchell
	NTSD	CRUMPACKER	Notice Of Service Of Discovery Responses	John T. Mitchell
12/22/2008	HRSC	CLAUSEN	Hearing Scheduled (Motion to Dismiss 02/17/2009 03:00 PM) Murphy	John T. Mitchell
12/26/2008	ANSW	HUFFMAN	Answer to Second Amended Complaint - Dated 10/22/08	John T. Mitchell
2/3/2009	MEMO	HUFFMAN	Memorandum in Support of Renewed Motion to Dismiss	John T. Mitchell
	NOHG	HUFFMAN	Notice Of Hearing-2/17/09 3:00 PM	John T. Mitchell
	MNDS	HUFFMAN	Renewed Motion to Dismiss	John T. Mitchell
2/11/2009	MISC	SREED	Response to Defendants' Renewed Motion to Dismiss	John T. Mitchell

## Allied Bail Bonds vs. Kootenai County, Rocky Watson, Does 1-13

Date	Code	User		Judge
2/11/2009	MOTN	PARKER	Motion to Set Bond	John T. Mitchell
	MOTN	PARKER	Motion to Shorten Time	John T. Mitchell
	MNCN	PARKER	Motion To Continue Trial	John T. Mitchell
	MOTN	PARKER	Motion to Reconsider	John T. Mitchell
	MEMO	PARKER	Memorandum in Support of Motion to Reconsider	John T. Mitchell
	NOTH	PARKER	Notice Of Hearing	John T. Mitchell
2/13/2009	MISC	CRUMPACKER	Reply to Plaintiffs Response to Defendants Renewed Motion to Dismiss	John T. Mitchell
2/17/2009	OBJT	CRUMPACKER	Objection to Plaintiffs Motion to Set Bond, Motion to Reconsider, & Motion to Continue Trial	John T. Mitchell
	HRVC	BUTLER	Hearing result for Motion for Summary Judgment held on 02/17/2009 03:00 PM: Hearing Vacated Bistline	John T. Mitchell
	HRHD	BUTLER	Hearing result for Motion to Dismiss held on 02/17/2009 03:00 PM: Hearing Held Murphy - Motion Granted as to sections B, C, and D.	John T. Mitchell
2/18/2009	HRSC	BUTLER	Hearing Scheduled (Motion 02/25/2009 10:30 AM) Motion to Continue Trial, 1 hour - Bistline	John T. Mitchell
		BUTLER	Notice of Hearing	John T. Mitchell
	HRSC	BUTLER	Hearing Scheduled (Motion 02/25/2009 10:30 AM) Motion to Shorten Time 1 hour - Bistline	John T. Mitchell
	HRSC	BUTLER	Hearing Scheduled (Motion 02/25/2009 10:30 AM) Motion to Set Bond 1 hour - Bistline	John T. Mitchell
2/23/2009	CONT	CLAUSEN	Hearing result for Motion held on 02/25/2009 10:30 AM: Continued Motion to Continue Trial 1 hour - Bistline	John T. Mitchell
	CONT	CLAUSEN	Hearing result for Motion held on 02/25/2009 10:30 AM: Continued Motion to Shorten Time 1 hour - Bistline	John T. Mitchell
	CONT	CLAUSEN	Hearing result for Motion held on 02/25/2009 10:30 AM: Continued Motion to Set Bond 1 hour - Bistline	John T. Mitchell
	HRSC	CLAUSEN	Hearing Scheduled (Motion to Continue 04/29/2009 11:00 AM) Trial - 1 Hour - Bistline	John T. Mitchell
	HRSC	CLAUSEN	Hearing Scheduled (Motion 04/29/2009 11:00 AM) Shorten Time - 1 Hour - Bistline	John T. Mitchell
	HRSC	CLAUSEN	Hearing Scheduled (Motion 04/29/2009 11:00 AM) Set Bond - 1 hour - Bistline	John T. Mitchell
	MEMO	BAXLEY	Supplemental Memorandum In Support of Motion To Reconsider	John T. Mitchell
2/26/2009	ORDR	CLAUSEN	Order Granting Renewed Motion to Dismiss in Part and Denying Renewed Motion to Dismiss in Part	John T. Mitchell
3/2/2009	MISC	PARKER	Continuation Certificate/ in file	John T. Mitchell
3/9/2009	JDMT	CLAUSEN	Judgment	John T. Mitchell

## Allied Bail Bonds vs. Kootenai County, Rocky Watson, Does 1-13

Date	Code	User		Judge
3/20/2009	AFFD	CRUMPACKER	Affidavit in Support of Motion for Attorney Fees	John T. Mitchell
	MEMO	CRUMPACKER	Memorandum of Costs	John T. Mitchell
	MOTN	CRUMPACKER	Motion for Attomey Fees	John T. Mitchell
3/23/2009	NOHG	LEU	Notice Of Hearing	John T. Mitchell
	MOTN	BAXLEY	Motion To Reconsider	John T. Mitchell
	MEMS	BAXLEY	Memorandum In Support Of Motion To Reconsider	John T. Mitchell
3/24/2009	HRSC	CLAUSEN	Hearing Scheduled (Motion 04/29/2009 11:00 AM) Attorney Fees - Murphey	John T. Mitchell
	NOHG	VICTORIN	Notice Of Hearing	John T. Mitchell
4/3/2009	MOTN	LEU	Motion To Disallow Items Of Cost	John T. Mitchell
4/16/2009	MOTN	CRUMPACKER	Supplemental Argument in Support of Motions to Reconsider	John T. Mitchell
4/22/2009	OBJT	MCCORD	Def's Objection to Motion to Reconsider	John T. Mitchell
	MISC	MCCORD	Response to Plaintiff's Motion to Disallow Costs	John T. Mitchell
4/28/2009	AFFD	BAXLEY	Affidavit of Donna Hrehor	John T. Mitchell
	MOTN	CRUMPACKER	Reply to Response to Motion to Disallow Costs & to Reconsider	John T. Mitchell
4/29/2009	HRHD	CLAUSEN	Hearing result for Motion held on 04/29/2009 11:00 AM: Hearing Held Attorney Fees - Murphey	John T. Mitchell
	HRHD	CLAUSEN	Hearing result for Motion held on 04/29/2009 11:00 AM: Hearing Held Set Bond - 1 hour - Bistline	John T. Mitchell
	HRHD	CLAUSEN	Hearing result for Motion held on 04/29/2009 11:00 AM: Hearing Held Shorten Time - 1 Hour - Bistline	John T. Mitchell
	HRVC	CLAUSEN	Hearing result for Motion to Continue held on 04/29/2009 11:00 AM: Hearing Vacated Trial - 1 Hour - Bistline	John T. Mitchell
5/6/2009	STIP	CLAUSEN	Stipulation to Vacate Trial and Reset	John T. Mitchell
	ORDR	CLAUSEN	Order Continuing Trial	John T. Mitchell
	CONT	CLAUSEN	Hearing result for Jury Trial Scheduled held on 05/18/2009 09:00 AM: Continued 5 DAYS	John T. Mitchell
5/8/2009	HRSC	CLAUSEN	Hearing Scheduled (Jury Trial Scheduled 09/21/2009 09:00 AM) 5 DAYS	John T. Mitchell
	HRSC	CLAUSEN	Hearing Scheduled (Motion to Reconsider 07/21/2009 02:00 PM) BISTLINE	John T. Mitchell
7/7/2009	AFFD	HUFFMAN	Affidavit of Arthur M Bistline in Support of Motion to Join Clerk of the Court, Kootenai County & Motion for Preliminary Injunction	John T. Mitchell
	MEMO	HUFFMAN	Memorandum in Support of Motion to Join Clerk of the Court, Kootenai County & Motion for Preliminary Injunction	John T. Mitchell

Allied Bail Bonds vs. Kootenai County, Rocky Watson, Does 1-13

Date	Code	User		Judge
7/7/2009	MOTN	HUFFMAN	Motion to Join Clerk of the Court, Kootenai County	John T. Mitchell
7/8/2009	HRVC	CLAUSEN	Hearing result for Motion to Reconsider held on 07/21/2009 02:00 PM: Hearing Vacated BISTLINE	John T. Mitchell
	HRSC	CLAUSEN	Hearing Scheduled (Motion to Reconsider 07/22/2009 09:30 AM) Bistline - 1 Hour	John T. Mitchell
	NOHG	HUFFMAN	Notice Of Hearing-7/21/09 2:00 PM	John T. Mitchell
	MOTN	HUFFMAN	Motion to Amend Complaint	John T. Mitchell
	FILE	LEU	New File Created- #5 - 7/8/09	John T. Mitchell
7/13/2009	ORDR	CLAUSEN	Memorandum Decision and Order 1) Granting Defendants' Motion for Attorney Fees and Memorandum of Costs and 2) Denying Plaintiff's Motion for Reconsideration	John T. Mitchell
7/14/2009	MOTN	PARKER	Amended Motion to Join Clerk of the Court and Motion for Preliminary Injunction	John T. Mitchell
	MOTN	PARKER	Amended Motion to Amend Complaint	John T. Mitchell
	MOTN	PARKER	Motion to Shorten Time	John T. Mitchell
	NOTH	PARKER	Notice Of Hearing	John T. Mitchell
7/16/2009	HRSC	CLAUSEN	Hearing Scheduled (Motion to Dismiss 07/22/2009 09:30 AM) Plaintiff's Motions - Murphey	John T. Mitchell
	MOTN	PARKER	Motion to Shorten Time	John T. Mitchell
	MNDS	PARKER	Motion To Dismiss	John T. Mitchell
	MEMO	PARKER	Memorandum in Support of Defendants' Objection to Plaintiff's Amended Motion to Amend Complaint, Amended Motion to Join Clerk of the Court, Amended Motion for Preliminary Injunction and Defendants' Motion to Dismiss	John T. Mitchell
	NOTH	PARKER	Notice Of Hearing on Defendants' Motion to Dismiss	John T. Mitchell
	NOHG	LEU	Notice Of Hearing On Defendants' Motion To Shorten Time	John T. Mitchell
7/17/2009	NOTC	HUFFMAN	Notice of Filing Amended Authorities	John T. Mitchell
7/22/2009	DCHH	CLAUSEN	Hearing result for Motion to Reconsider held on 07/22/2009 09:30 AM: District Court Hearing Hel Court Reporter: JULIE FOLAND	John T. Mitchell
	DCHH	CLAUSEN	Hearing result for Motion to Dismiss held on 07/22/2009 09:30 AM: District Court Hearing Hel Court Reporter: JULIE FOLAND	John T. Mitchell
7/23/2009	HRVC	CLAUSEN	Hearing result for Jury Trial Scheduled held on 09/21/2009 09:00 AM: Hearing Vacated 5 DAYS	John T. Mitchell
7/28/2009	ORDR	SREED	Order Granting Defendants' Motion to Shorten Time	John T. Mitchell

Date: 9/9/2009

First Judicial District Court - Kootenai County

User: HUFFMAN

Time: 04:44 PM

ROA Report

Page 10 of 10

Case: CV-2007-0007471 Current Judge: John T. Mitchell

Allied Bail Bonds vs. Kootenai County, etal.

Allied Bail Bonds vs. Kootenai County, Rocky Watson, Does 1-13

Date	Code	User		Judge
7/28/2009	ORDR	SREED	Order to Shorten Time	John T. Mitchell
	ORDR	SREED	Order Regarding Plaintiff's Amended Motion to Amend Complaint, Amended Motion to Join Clerk of the Court, and Motion for Preliminary Injunction	John T. Mitchell
	JDMT	SREED	Judgment Re: Attorney Fees	John T. Mitchell
8/11/2009	MOTN	BAXLEY	Motion To Reconsider Attorneys Fees Award	John T. Mitchell
	MEMS	BAXLEY	Memorandum In Support Of Motion To Reconsider Attorneys Fees Award	John T. Mitchell
8/13/2009	HRSC	CLAUSEN	Hearing Scheduled (Motion to Reconsider 10/08/2009 03:30 AM) Atty Fees Award - Bistline	John T. Mitchell
8/24/2009		VICTORIN	Filing: L4 - Appeal, Civil appeal or cross-appeal to Supreme Court Paid by: Bistline, Arthur Mooney (attorney for Allied Bail Bonds) Receipt number: 0863118 Dated: 8/24/2009 Amount: \$101.00 (Check) For: Allied Bail Bonds (plaintiff)	John T. Mitchell
	BNDC	VICTORIN	Bond Posted - Cash (Receipt 863119 Dated 8/24/2009 for 100.00)	John T. Mitchell
	APSC	VICTORIN	Appealed To The Supreme Court	John T. Mitchell
	NOTC	VICTORIN	Notice of Appeal	John T. Mitchell
8/26/2009	NOTE	VICTORIN	Clerk's Certificate of Appeal to Supreme Court	John T. Mitchell

IN THE SUPREME COURT OF THE STATE OF IDAHO

ALLIED BAIL BONDS, INC., )  
 An Idaho Corporation )  
 )  
 Plaintiff/Appellant )  
 )  
 vs )  
 )  
 COUNTY OF KOOTENAI, A Political )  
 Subdivision of the State of Idaho, )  
 ROCKY WATSON, Kootenai County )  
 Sheriff, John and Jane Does 1-13 )  
 )  
 Defendants/Respondents )  
 \_\_\_\_\_ )

CV 07-7471

SUPREME COURT NO.  
36861-2009

CLERK'S RECORD ON APPEAL

Appeal from the District Court of the First Judicial District of the State of Idaho, in and for the County of Kootenai.

HONORABLE JOHN T MITCHELL  
District Judge

Arthur M Bistline  
5431 N Government Way Ste 101 B  
Coeur d'Alene, ID 83815

Darrin L Murphey  
Dept Legal Services  
324 West Garden  
Coeur d'Alene, ID 83816

Attorneys for Appellants

Attorneys for Respondents

ANDREW A. SCHILLINGER, *Pro Hac Vice*  
PATTI JO FOSTER, ISB No. 7663  
LAYMAN, LAYMAN & ROBINSON, PLLP  
601 S. Division  
Spokane, Washington 99202  
(800)377-8883

**SUMMONS ISSUED**  
OCT 09 2007

STATE OF IDAHO }  
COUNTY OF KOOTENAI } SS  
FILED:

2007 OCT -9 PM 4: 38

CLERK DISTRICT COURT  
*Joanna Barker*  
DEPUTY

Please Fax and Mail To:  
LAYMAN, LAYMAN & ROBINSON, PLLP  
110 Wallace Avenue  
Coeur d'Alene, Idaho 83814  
(208) 665-7270  
(208) 665-7290 (fax)

Attorneys for Plaintiff

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

ALLIED BAIL BONDS, INC., an Idaho  
Corporation,

Plaintiff,

vs.

COUNTY OF KOOTENAI, a political  
subdivision of the State of Idaho,  
ROCKY WATSON, Kootenai County,  
Sheriff, John and Jane Does 1 through  
13.

Defendants.

Case No. *CV07-7471*

COMPLAINT AND REQUEST FOR  
JURY TRIAL

ALLIED BAIL BONDS, INC., for a cause of action, alleges as follows:

- 1) Plaintiff is an Idaho Corporation in good standing.
- 2) Defendant Kootenai County, is a political subdivision of the State of Idaho.
- 3) Defendant Rocky Watson is the Kootenai County Sheriff.

002

COMPLAINT

-1-

**ASSIGNED TO  
JUDGE LUSTER**

**ORIGINAL**

.96

- 4) John and Jane Does are as of yet unidentified individuals and/or employees or officers of Kootenai County.
- 5) All acts and/or omissions complained of herein occurred in Kootenai County, State of Idaho, and jurisdiction is proper before this Court.
- 6) During the year 2000, Defendants, amongst other things, engaged in a course of conduct designed and intended to interfere with Plaintiff's ability to engage in Plaintiff's chosen business of providing bonding services to inmates being held at the Kootenai County Jail. As a result of this conduct, Plaintiff filed suit against Defendant on or about September 13, 2000, Case No. CV-00-5841.
- 7) On or about April 19, 2001, Plaintiff and Defendant entered into the Release and Settlement Agreement ("Agreement") attached hereto as Exhibit A and incorporated herein as if set forth in full.
- 8) Not by way of limitation, Defendant has breached the Agreement by:
  - a. Directly soliciting inmates to file cash or credit card bonds;
  - b. Directing inmates to other sources of bonding besides bonding companies;
  - c. Refusing to make change to those paying the ten dollar (\$10.00) bonding fee;
  - d. Refusing to collect the ten dollar (\$10.00) bonding fee from an inmate's account when the inmate is bonding with Plaintiff, but allowing it when an inmate is providing a cash or credit card bond to Defendant; and

- e. Such other conduct as may be developed through discovery showing the scheme and plan of Defendant to deprive Plaintiff of its economic opportunity and prospective business advantage.
- 9) Allied Bail Bonds submitted the Public Records Request Forms attached as Exhibits B through K. The Sheriff's Department and Kootenai County denied the requests by failing to submit a substantial number of documents covered by the request. Both the Sheriff and Kootenai County acted in bad faith in denying the request.
- 10) The conduct complained of in paragraph 9., is in contravention of Idaho Code, Title 9, Chapter 3.
- 11) Because of the conduct complained of herein, Plaintiff has been damaged in an amount in excess of \$10,000 to be proved at trial.
- 12) Because of the conduct complained of herein, Plaintiff has had to acquire the services of an attorney and pursuant to the Settlement Agreement, and Title 9, Chapter 3, Idaho Code, Plaintiff is entitled to an award of its reasonable attorneys' fees and costs incurred in this action with a reasonable sum in the event of default for failure to file an answer being \$4,000, exclusive of collection costs. In the event this matter proceeds by way of default for any other reason, a reasonable sum for attorneys' fees is \$100,000, subject to Idaho Rule of Civil Procedure 54.

Wherefore, Plaintiff prays that this Court enter judgment as follows:

- 1) For Plaintiff and against Defendant in an amount in excess of \$10,000 to be proved at trial;

- 2) For Plaintiff and against Defendants enjoining Defendants from further violations of the parties agreement and other conduct designed to deprive Plaintiff of its economic opportunity;
- 3) For Plaintiff and against Defendant in an amount to compensate Plaintiff for its reasonable attorneys' fees and costs incurred in this action; and
- 4) For Plaintiff and against Defendant granting Plaintiff any other relief that this Court deems fair and equitable.

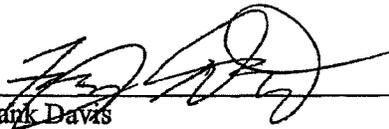
DATED this 9th day of October, 2007.

  
\_\_\_\_\_  
PATTI Q FOSTER  
Attorneys for Plaintiff

**VERIFICATION**

I, Frank Davis, certify that I am the owner/operator of Allied Bail Bonds, have read the foregoing Complaint, know the contents thereof and believe the same to be true and correct.

DATED: October 9, 2007.

  
\_\_\_\_\_  
Frank Davis



**RELEASE AND SETTLEMENT AGREEMENT**

This Settlement Agreement and Release ("Agreement") is made as of the date listed below, between ALLIED BAIL BONDS, INC., plaintiff ("Allied"), and KOOTENAI COUNTY, defendant-counterclaimant ("County").

**RECITALS**

The following recitals form the bases for and are part of this Agreement:

WHEREAS, on or about September 13, 2000, plaintiff filed a suit against defendant in the District Court of the First Judicial District of the State of Idaho, in and for the County of Kootenai, Case No. CV-00-5841 ("Complaint").

WHEREAS, on or about October 13, 2000, defendant filed a Counterclaim against plaintiff ("Counterclaim").

WHEREAS, bona fide disputes and controversies exist between the parties, both as to liability and the amount of liability, if any, and by reason of the dispute and controversy, the parties desire to compromise and settle all claims and causes of action of any kind whatsoever which the parties now have, or may have in the future, in any way arising out of the facts alleged in the Complaint and Counterclaim.

**TERMS OF SETTLEMENT**

NOW THEREFORE, in consideration of the above recitals and mutual covenants and agreements set forth below, the parties to this Agreement agree as follows:

1. The County agrees that the GTE/Verizon telephone directories will be the only telephone directories provided for inmates at the Kootenai County Public Safety Building, 5500 N. Government Way, Coeur d'Alene, ID 83814 ("Jail"). The Jail will accommodate any reasonable request by GTE/Verizon to enter the Jail facility and perform an inspection for the purpose of monitoring compliance with this provision of the Agreement. This provision of the Agreement shall terminate when any contract between GTE/Verizon and the County provides that GTE/Verizon is no longer authorized as the exclusive provider of services at the Jail.



2. The County agrees that the \$10.00 fee, authorized by Idaho Code § 31-3203, shall be collected from the inmate if that inmate has funds available in his or her account, and the inmate requests that the \$10.00 fee be subtracted from his or her account. If the inmate either does not have the money, or does not authorize the Jail to deduct the \$10.00 fee from his or her account, and Allied wishes to bond the inmate, Allied will have to pay the \$10.00 fee or find someone else to pay the fee.
3. The County agrees that, upon request, Jail personnel will provide a receipt to whoever pays the \$10.00 fee, in the name of the payee.
4. The County agrees that when cash is available, Jail personnel will provide change for up to a \$50.00 bill when Allied posts the \$10.00 fee.
5. The County agrees that when a specific inmate has had some arrangement in bringing Allied to the Jail for the purpose of posting that inmates bond, Allied will be given a copy of that inmates booking sheet and the inmate and will not need to sign any additional paperwork to accomplish this. The Jail will not, however, provide a blanket list of booking sheets and then allow Allied random access to unspecified inmates in visiting booths for the purpose of solicitation of business.
6. The County agrees that it shall be the Jail's policy that Jail personnel refrain from advising inmates or any third parties against posting bonds. Inmates with questions regarding whether they should post a cash bond or contact a bonding company or stay and go to court, will be directed by Jail personnel to the "AFTER YOU ARE BOOKED IN YOUR OPTIONS ARE:" plaque.
7. The County further agrees that if the County is responsible for blocking telephone calls from the Jail to Allied, and receives notice of the block, it will make a good faith effort to remove the block within 48 hours of said notice.
8. The parties agree that the Complaint and Counterclaim shall be dismissed with prejudice and that all parties will bear their own costs and attorneys fees.
9. Each of the parties to this Agreement, individually and for their predecessors, successors, assigns and legal representatives, releases and forever discharges the other party to this Agreement, and their officers, agents and legal representatives, of and for any and all claims,

demands, causes of action, obligations, damages and liabilities of any nature whatsoever, whether now known or unknown, arising from or relating to any matter asserted in or which might have been asserted in the Complaint or the Counterclaim.

10. This Agreement is a compromise of a disputed matter and may not be construed as an admission of any parties liability.
11. This Agreement embodies the entire agreement of the parties respecting the subject matter set forth in this instrument. There are no promises, terms, conditions or obligations other than those contained in this Agreement. This instrument supersedes all previous communications, representations, or agreements, either verbal or written, between the parties. This Agreement may be amended only by an instrument in writing, executed by the parties.
12. In the event any action is instituted to enforce the provisions of this Agreement, the prevailing party will be entitled to recover reasonable attorneys' fees, and expenses, and court costs.

DATED this 19<sup>th</sup> day of APRIL, 2001.

KOOTENAI COUNTY

ALLIED BAIL BONDS, INC.

By *Rocky Watson*  
Its Kootenai County Sheriff

By *[Signature]*  
Its Pres. A.B.B. Inc.

DATED:

*Ronald D Rankin*  
Ronald d. Rankin, Chairman Pro-Tem  
KOOTENAI COUNTY BOARD OF COMMISSIONERS

ATTEST

DANIEL J. ENGLISH

BY: *[Signature]*  
Deputy Clerk

W:\00228\00072\A\001.wpd:rs

KOOTENAI COUNTY SHERIFF'S DEPARTMENT  
PUBLIC RECORDS REQUEST FORM

Date: April 5, 2007  
Name: Frank Davis  
Mailing Address: 5433 Government Way Coeur d'Alene Idaho 83815  
Telephone Number: 667-8334

*Please Provide Copies*

I am requesting to copy or to examine certain records of the Kootenai County Sheriff's Department which may be identified as follows:

All Jail Policies and every Writing as defined by Idaho Code 9-337(15) concerning term six (6) of the Release and Settlement Agreement between Allied Bail Bonds Inc. and Kootenai County executed on or about April 19, 2001. CV-00-5811 Kootenai

**Response**

Request granted.

The requested record is attached to this response (include Report No. or other descriptive information).

Response delayed.

Additional time is necessary to locate or retrieve the requested public records. You should have a response no later than 10 working days following the date of your request.

Request denied.

Your request for a record(s) of Kootenai County Sheriff's Department has been denied for one or more of the following reasons:

Documents not known to exist.

The Kootenai County Sheriff's Department is not the custodian of the requested record.

The requested record is exempt from disclosure pursuant to Idaho Code § 9-340A, or 9-340B, or 9-340C, or 9-340F.

Notice of partial denial.

Your request for a record of the Kootenai County Sheriff's Department has been partially denied. Certain information has been determined to be exempt from disclosure pursuant to Idaho Code § 9-340 A, B, C, or F and has therefore been deleted from the requested record. A copy of the requested record with certain information deleted is attached.

If your request has been denied or partially denied, the attorney for the Kootenai County Sheriff's Department has reviewed the request, or the Kootenai County Sheriff's Department has had the opportunity to consult with an attorney regarding the request for examination or copying of a record and has chosen not to do so. If you wish to appeal the denial or partial denial of your request for public records, you may do so pursuant to the provisions of Idaho Code § 9-343 which requires that a petition be filed in the District Court within 180 days from the date of the mailing of the notice of denial or partial denial.

EXHIBIT

B

010

SHR #153 rev. 1-07

KOOTENAI COUNTY SHERIFF'S DEPARTMENT  
PUBLIC RECORDS REQUEST FORM

Date: April 5, 2007  
Name: Frank Davis  
Mailing Address: 5433 Government Way Coeur d'Alene Idaho 83815  
Telephone Number: 667-8334

I am requesting to copy or to examine certain records of the Kootenai County Sheriff's Department which may be identified as follows:

All sections of the Jail Policy Manual and every writing as defined by Idaho Code 9-337(15) applicable to the jails policies and procedures for staff communications with inmates, inmate phone calls, and bonding matters including bonding by credit card, cash, and bail.

**Response**

Request granted.

The requested record is attached to this response (include Report No. or other descriptive information).

Response delayed.

Additional time is necessary to locate or retrieve the requested public records. You should have a response no later than 10 working days following the date of your request.

Request denied.

Your request for a record(s) of Kootenai County Sheriff's Department has been denied for one or more of the following reasons:

Documents not known to exist.

The Kootenai County Sheriff's Department is not the custodian of the requested record.

The requested record is exempt from disclosure pursuant to Idaho Code § 9-340A, or 9-340B, or 9-340C, or 9-340F.

Notice of partial denial.

Your request for a record of the Kootenai County Sheriff's Department has been partially denied. Certain information has been determined to be exempt from disclosure pursuant to Idaho Code § 9-340 A, B, C, or F and has therefore been deleted from the requested record. A copy of the requested record with certain information deleted is attached.

If your request has been denied or partially denied, the attorney for the Kootenai County Sheriff's Department has reviewed the request, or the Kootenai County Sheriff's Department has had the opportunity to consult with an attorney regarding the request for examination or copying of a record and has chosen not to do so. If you wish to appeal the denial or partial denial of your request for public records, you may do so pursuant to the provisions of Idaho Code § 9-343 which requires that a petition be filed in the District Court within 180 days from the date of the mailing of the notice of denial or partial denial.

EXHIBIT

C

011

SHR #153 rev. 1-07

KOOTENAI COUNTY SHERIFF'S DEPARTMENT  
PUBLIC RECORDS REQUEST FORM

LEGAL SERVICES

Rec'd 4-24-07  
Route Dm  
CC  
Caldr  
File No. 1200153  
Scan X  
Lit. File  
Shred

Date: April 18, 2007

Name: Frank Davis

Mailing Address: 5433 Government Way Coeur d'Alene, Idaho 83815

Telephone Number: 667-8334

I am requesting to copy or to examine certain records of the Kootenai County Sheriff's Department which may be identified as follows:

All writings as defined by Idaho Code 9-337(15) involving and concerning all bail bond companies and all bail agents for November and December 2006, and 2007 to date of this request.

Response

Request granted.

The requested record is attached to this response (include Report No. or other descriptive information).

Response delayed.

Additional time is necessary to locate or retrieve the requested public records. You should have a response no later than 10 working days following the date of your request.

Request denied.

Your request for a record(s) of Kootenai County Sheriff's Department has been denied for one or more of the following reasons:

Documents not known to exist.

The Kootenai County Sheriff's Department is not the custodian of the requested record.

The requested record is exempt from disclosure pursuant to Idaho Code § 9-340A, or 9-340B, or 9-340C, or 9-340F.

Notice of partial denial.

Your request for a record of the Kootenai County Sheriff's Department has been partially denied. Certain information has been determined to be exempt from disclosure pursuant to Idaho Code § 9-340 A, B, C, or F and has therefore been deleted from the requested record. A copy of the requested record with certain information deleted is attached.

If your request has been denied or partially denied, the attorney for the Kootenai County Sheriff's Department has reviewed the request, or the Kootenai County Sheriff's Department has had the opportunity to consult with an attorney regarding the request for examination or copying of a record and has chosen not to do so. If you wish to appeal the denial or partial denial of your request for public records, you may do so pursuant to the provisions of Idaho Code § 9-343 which requires that a petition be filed in the District Court within 180 days from the date of the mailing of the notice of denial or partial denial.

SHR #153 rev. 1-07

EXHIBIT

D

012

KOOTENAI COUNTY SHERIFF'S DEPARTMENT  
PUBLIC RECORDS REQUEST FORM

LEGAL SERVICES  
Rec'd 7-1-07 File No. 1200, 153  
Scan X  
Lit. File \_\_\_\_\_  
Shred \_\_\_\_\_  
Cldr \_\_\_\_\_

Date: April 18, 2007

Name: Frank Davis

Mailing Address: 5433 Government Way Coeur d'Alene, Idaho 83815

Telephone Number: 667-8334

I am requesting to copy or to examine certain records of the Kootenai County Sheriff's Department which may be identified as follows:

A list or report for all numbers blocked from jail inmate accessible phones from March 1 2007 to date of this request.

Response

Request granted.

The requested record is attached to this response (include Report No. or other descriptive information).

Response delayed.

Additional time is necessary to locate or retrieve the requested public records. You should have a response no later than 10 working days following the date of your request.

Request denied.

Your request for a record(s) of Kootenai County Sheriff's Department has been denied for one or more of the following reasons:

Documents not known to exist.

The Kootenai County Sheriff's Department is not the custodian of the requested record.

The requested record is exempt from disclosure pursuant to Idaho Code § 9-340A, or 9-340B, or 9-340C, or 9-340F.

Notice of partial denial.

Your request for a record of the Kootenai County Sheriff's Department has been partially denied.

Certain information has been determined to be exempt from disclosure pursuant to Idaho Code § 9-340 A, B, C, or F and has therefore been deleted from the requested record. A copy of the requested record with certain information deleted is attached.

If your request has been denied or partially denied, the attorney for the Kootenai County Sheriff's Department has reviewed the request, or the Kootenai County Sheriff's Department has had the opportunity to consult with an attorney regarding the request for examination or copying of a record and has chosen not to do so. If you wish to appeal the denial or partial denial of your request for public records, you may do so pursuant to the provisions of Idaho Code § 9-343 which requires that a petition be filed in the District Court within 180 days from the date of the mailing of the notice of denial or partial denial.

SHR #153 rev. 1-07

EXHIBIT

E

013

KOOTENAI COUNTY SHERIFF'S DEPARTMENT  
PUBLIC RECORDS REQUEST FORM

Date: April 18, 2007  
Name: Frank Davis  
Mailing Address: 5433 Government Way Coeur d'Alene, Idaho 83815  
Telephone Number: 667-8334

I am requesting to copy or to examine certain records of the Kootenai County Sheriff's Department which may be identified as follows:

All policies, procedures, and writings as defined by Idaho Code 9-337(15) concerning blocking phone calls for all phones accessible by jail inmates.

**Response**

Request granted.

The requested record is attached to this response (include Report No. or other descriptive information).

Response delayed.

Additional time is necessary to locate or retrieve the requested public records. You should have a response no later than 10 working days following the date of your request.

Request denied.

Your request for a record(s) of Kootenai County Sheriff's Department has been denied for one or more of the following reasons:

Documents not known to exist.

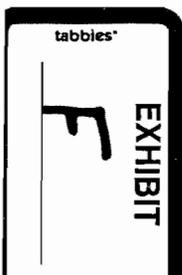
The Kootenai County Sheriff's Department is not the custodian of the requested record.

The requested record is exempt from disclosure pursuant to Idaho Code § 9-340A, or 9-340B, or 9-340C, or 9-340F.

Notice of partial denial.

Your request for a record of the Kootenai County Sheriff's Department has been partially denied. Certain information has been determined to be exempt from disclosure pursuant to Idaho Code § 9-340 A, B, C, or F and has therefore been deleted from the requested record. A copy of the requested record with certain information deleted is attached.

If your request has been denied or partially denied, the attorney for the Kootenai County Sheriff's Department has reviewed the request, or the Kootenai County Sheriff's Department has had the opportunity to consult with an attorney regarding the request for examination or copying of a record and has chosen not to do so. If you wish to appeal the denial or partial denial of your request for public records, you may do so pursuant to the provisions of Idaho Code § 9-343 which requires that a petition be filed in the District Court within 180 days from the date of the mailing of the notice of denial or partial denial.



KOOTENAI COUNTY SHERIFF'S DEPARTMENT  
PUBLIC RECORDS REQUEST FORM

Date: April 24, 2007

Name: Frank Davis

Mailing Address: 5433 Government Way Coeur d'Alene, Idaho, 83815

Telephone Number: 667-8334

*Please provide copies*

I am requesting to copy or to examine certain records of the Kootenai County Sheriff's Department which may be identified as follows:

All Sheriff meetings, Citizen & Sub Committee minutes, and including all writings as defined by Idaho Code 9-337(15) concerning in any way Pretrial interviews/release/services.

Response

Request granted.

The requested record is attached to this response (include Report No. or other descriptive information).

Response delayed.

Additional time is necessary to locate or retrieve the requested public records. You should have a response no later than 10 working days following the date of your request.

Request denied.

Your request for a record(s) of Kootenai County Sheriff's Department has been denied for one or more of the following reasons:

Documents not known to exist.

The Kootenai County Sheriff's Department is not the custodian of the requested record.

The requested record is exempt from disclosure pursuant to Idaho Code § 9-340A, or 9-340B, or 9-340C, or 9-340F.

Notice of partial denial.

Your request for a record of the Kootenai County Sheriff's Department has been partially denied. Certain information has been determined to be exempt from disclosure pursuant to Idaho Code § 9-340 A, B, C, or F and has therefore been deleted from the requested record. A copy of the requested record with certain information deleted is attached.

If your request has been denied or partially denied, the attorney for the Kootenai County Sheriff's Department has reviewed the request, or the Kootenai County Sheriff's Department has had the opportunity to consult with an attorney regarding the request for examination or copying of a record and has chosen not to do so. If you wish to appeal the denial or partial denial of your request for public records, you may do so pursuant to the provisions of Idaho Code § 9-343 which requires that a petition be filed in the District Court within 180 days from the date of the mailing of the notice of denial or partial denial.

EXHIBIT

G

SHR #153 rev. 1-07

015

KOOTENAI COUNTY SHERIFF'S DEPARTMENT  
PUBLIC RECORDS REQUEST FORM

Date: May 17, 2007  
Name: FRANK DAVIS  
Mailing Address: 5433 Government Way Coeur d'Alene Idaho 83815  
Telephone Number: 667-8334

I am requesting to copy or to examine certain records of the Kootenai County Sheriff's Department which may be identified as follows:

Copies of all public request forms with the most notations and copies of the post mark or envelopes they were received in that were submitted by Frank Davis in the month of April 2007.

**Response**

Request granted.

The requested record is attached to this response (include Report No. or other descriptive information).

Response delayed.

Additional time is necessary to locate or retrieve the requested public records. You should have a response no later than 10 working days following the date of your request.

Request denied.

Your request for a record(s) of Kootenai County Sheriff's Department has been denied for one or more of the following reasons:

Documents not known to exist.

The Kootenai County Sheriff's Department is not the custodian of the requested record.

The requested record is exempt from disclosure pursuant to Idaho Code § 9-340A, or 9-340B, or 9-340C, or 9-340F.

Notice of partial denial.

Your request for a record of the Kootenai County Sheriff's Department has been partially denied. Certain information has been determined to be exempt from disclosure pursuant to Idaho Code § 9-340 A, B, C, or F and has therefore been deleted from the requested record. A copy of the requested record with certain information deleted is attached.

If your request has been denied or partially denied, the attorney for the Kootenai County Sheriff's Department has reviewed the request, or the Kootenai County Sheriff's Department has had the opportunity to consult with an attorney regarding the request for examination or copying of a record and has chosen not to do so. If you wish to appeal the denial or partial denial of your request for public records, you may do so pursuant to the provisions of Idaho Code § 9-343 which requires that a petition be filed in the District Court within 180 days from the date of the mailing of the notice of denial or partial denial.



KOOTENAI COUNTY SHERIFF'S DEPARTMENT  
PUBLIC RECORDS REQUEST FORM

Date: May 17, 2007  
Name: Frank Davis  
Mailing Address: 5433 Government Way Coeur d'Alene, Idaho 83815  
Telephone Number: 667-8334

I am requesting to copy or to examine certain records of the Kootenai County Sheriff's Department which may be identified as follows:

Copy of the current merchant agreement for taking credit cards at the jail for bail bonds

**Response**

Request granted.

The requested record is attached to this response (include Report No. or other descriptive information).

Response delayed.

Additional time is necessary to locate or retrieve the requested public records. You should have a response no later than 10 working days following the date of your request.

Request denied.

Your request for a record(s) of Kootenai County Sheriff's Department has been denied for one or more of the following reasons:

Documents not known to exist.

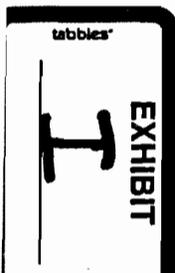
The Kootenai County Sheriff's Department is not the custodian of the requested record.

The requested record is exempt from disclosure pursuant to Idaho Code § 9-340A, or 9-340B, or 9-340C, or 9-340F.

Notice of partial denial.

Your request for a record of the Kootenai County Sheriff's Department has been partially denied. Certain information has been determined to be exempt from disclosure pursuant to Idaho Code § 9-340 A, B, C, or F and has therefore been deleted from the requested record. A copy of the requested record with certain information deleted is attached.

If your request has been denied or partially denied, the attorney for the Kootenai County Sheriff's Department has reviewed the request, or the Kootenai County Sheriff's Department has had the opportunity to consult with an attorney regarding the request for examination or copying of a record and has chosen not to do so. If you wish to appeal the denial or partial denial of your request for public records, you may do so pursuant to the provisions of Idaho Code § 9-343 which requires that a petition be filed in the District Court within 180 days from the date of the mailing of the notice of denial or partial denial.



**KOOTENAI COUNTY BOARD OF COMMISSIONERS**  
**Public Records Request**

RECEIVED  
MAY 18 2007  
9:53 AM

Date: May 18, 2007 Time: \_\_\_\_\_  
Name: Frank Davis  
Mailing Address: 5433 Government Way Coeur d'Alene, Idaho 83815  
Telephone Number: 667-8334

I am requesting to copy or to examine certain records of the Board of County Commissioners, which may be identified as follows: On April 12, 2007 and May 3, 2007 county council Darrin Murphey provided me 7 pages of untitled polices. Please provide certified copies of the aforementioned 7 public documents including any documentation that would indicate the documents date of origin, custodian, and location.

LEGAL SERVICES  
File No. 2007-692  
Scan  
Lit. File  
Shred  
Rec'd 5-18-07  
Route DL  
CC  
Caldr

\*\*\*\*\*  
Response

**Request Granted**

The requested record is attached

**Response Delayed**

Additional time is necessary to locate or retrieve the requested public records. You should receive a response no later than (10) ten working days following the date of your request.

**Unable to Respond for One or More of the Following Reasons**

- Documents not known to exist
- The Board of County Commissioners is not the custodian of the requested record
- The requested record is exempt from disclosure pursuant to *Idaho Code* §9-340 A-F

**Notice of Partial Denial**

Your request for a record of the Board of County Commissioners has been partially denied. Certain information has been determined to be exempt for disclosure pursuant to *Idaho Code* §9-340 A-F, and has therefore been deleted from the requested record. A copy of the requested record with certain information deleted is attached.

If your request has been denied or partially denied, the attorney for the Board of County Commissioners has reviewed the request, or the Board of County Commissioners has had the opportunity to consult with an attorney regarding the request for examination or copying of a record and has chosen not to do so. If you wish to appeal the denial or partial denial of your request for public records you may do so pursuant to the provisions of *Idaho Code* §9-343, which requires that a petition be filed in the District Court within 180 days from the date of the mailing of the notice of denial or partial denial.

DLM  
Deputy Clerk to the Board of County Commissioners

Date: 5-22-07  
Time: \_\_\_\_\_

**EXHIBIT**  
**J**

**KOOTENAI COUNTY**  
**Public Records Request Form**

Date: August 24, 2007 Time: \_\_\_\_\_

Name: Frank Davis

Mailing Address: 5433 Government Way Coeur d'Alene, Idaho 83815

Telephone Number: (208) 667-8334

I am requesting to copy or to examine certain records of Kootenai County Department of AMP & PTS which may be identified as follows:

Mike Wall is the project director concerning the 2006 BJAG Subgrant for KC Pretrial

Services, excluding inmate evaluation reports please provide copies of all correspondences and

emails to and from Mr. Wall including writings as defined by Idaho Code 9-337 (15)

concerning KC Pretrial Services from August 22, 2006 through August 24, 2007.



\*\*\*\*\*

**Response**

**Request Granted**  
The requested record is attached.

**Response Delayed**

- Additional time is necessary to locate or retrieve the requested record. You should receive a response later than ten (10) working days following the date of your request.
- The electronic record requested will have to be converted to another electronic format which will take more than ten (10) working days following the date of your request to respond. Please contact Kootenai County Department of \_\_\_\_\_ to discuss when you will receive a response.

**Advance Payment**  
Kootenai County Department of \_\_\_\_\_ will require advance payment of the cost associated with responding to your request. Please contact Kootenai County Department of \_\_\_\_\_ to discuss amount and manner of the advance payment.

**Unable to Respond for One or More of the Following Reasons**

- Record not known to exist.
- Kootenai County Department of \_\_\_\_\_ is not the custodian of the requested record.

**Notice of Denial**  
The requested record is exempt from disclosure pursuant to Idaho Code § 9-340 \_\_\_ (A-H).

**Notice of Partial Denial**  
Your request has been partially denied. Certain information has been determined to be exempt from disclosure pursuant to Idaho Code § 9-340 \_\_\_ (A-H), and has therefore been redacted from the requested record. A copy of the requested record with the exempt information redacted is attached.

If your request has been denied or partially denied, the attorney for Kootenai County has reviewed the request, or Kootenai County has had the opportunity to consult with an attorney regarding the request for examination or copying of a record and has chosen not to do so. If you wish to appeal the denial or partial denial of your request for public records you may do so pursuant to the provisions of Idaho Code § 9-343, which requires that a petition be filed in the District Court within 180 days from the date of the mailing of the notice of denial or partial denial.

Signature of Kootenai County Representative \_\_\_\_\_ Date: \_\_\_\_\_



STATE OF IDAHO  
 COUNTY OF KOOTENAI  
 2/5/08  
 193  
 4/18  
 POLICE M.  
 ARTHUR BISTLINE

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE  
 STATE OF IDAHO IN AND FOR THE COUNTY OF KOOTENAI

ALLIED BAIL BONDS, INC., an Idaho  
 Corporation,

Plaintiff,

vs.

COUNTY OF KOOTENAI, a political  
 subdivision of the State of Idaho, ROCKY  
 WATSON, Kootenai County Sheriff, John and  
 Jane Does 1 through 13,

Defendants.

Case No. CV-07-7471

**ORDER GRANTING  
 DEFENDANT'S MOTION  
 EXCEPTING TO BOND**

This matter having come before the Court on the 3<sup>rd</sup> day of March, 2008,  
 on defendant's Motion Excepting to Bond pursuant to Idaho Code §6-610, and  
 Arthur Bistline, Attorney at Law, appearing on behalf of the Plaintiff, Allied Bail  
 Bonds, Inc., and Darrin L. Murphey of the Kootenai County Legal Services,  
 appearing on behalf of the Defendant, Rocky Watson, Kootenai County Sheriff,  
 and the Court having heard the arguments of counsel and otherwise being fully  
 informed; now, therefore,

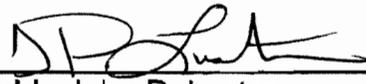
**ORDER GRANTING DEFENDANT'S MOTION  
 EXCEPTING TO BOND: 1**

H:\Sheriffs Department\Allied Bail Bonds 2007\Order Granting Defendant's Motion Excepting to Bond.doc

IT IS HEREBY ORDERED that Plaintiff, Allied Bail Bonds, Inc., shall file with the Clerk of the District Court, no later than five (5) days from the date this order is received by plaintiff's counsel, a bond with at least two sufficient sureties in an amount not less than \$25,000.

IT IS FURTHER ORDERED that the objection of Defendant, Rocky Watson, Kootenai County Sheriff, to the failure of the Plaintiff, Allied Bail Bonds, Inc., to file a bond prior to instituting this action is not waived.

DATED this 21<sup>st</sup> day of March, 2008.



\_\_\_\_\_  
Honorable John P. Luster  
District Judge

**ORDER GRANTING DEFENDANT'S MOTION**

**EXCEPTING TO BOND: 2**

H:\Sheriffs Department\Allied Bail Bonds 2007\Order Granting Defendant's Motion Excepting to Bond.doc

**CERTIFICATE OF SERVICE**

I hereby certify that on this 27 day of March, 2008, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

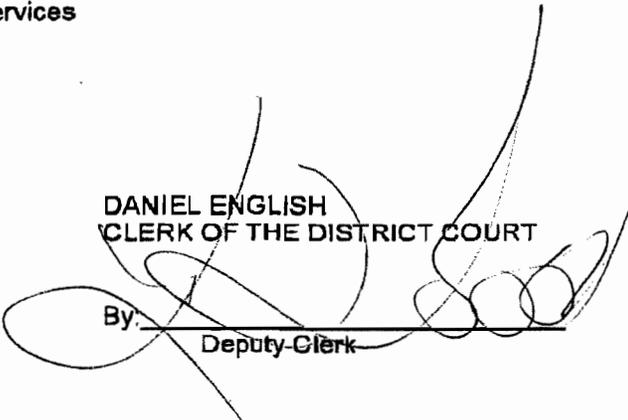
- U.S. Mail
- INTEROFFICE DELIVERY
- OVERNIGHT MAIL
- TELEFAX (FAX)

Arthur M. Bistline  
 110 Wallace Avenue  
 Coeur d'Alene, ID 83814  
 Fax: (208) 665-7290

- U.S. Mail
- INTEROFFICE DELIVERY
- OVERNIGHT MAIL
- TELEFAX (FAX)

Darrin L. Murphey  
 Kootenai County Dept. Legal Services  
 451 Government Way  
 P.O. Box 9000  
 Coeur d'Alene, ID 83816-9000  
 Fax: (208) 446-1621

DANIEL ENGLISH  
 CLERK OF THE DISTRICT COURT

By:   
 Deputy Clerk

**ORDER GRANTING DEFENDANT'S MOTION  
 EXCEPTING TO BOND: 3**

H:\Sheriffs Department\Allied Ball Bonds 2007\Order Granting Defendant's Motion Excepting to Bond.doc

DARRIN L. MURPHEY  
 KOOTENAI COUNTY DEPARTMENT  
 OF LEGAL SERVICES  
 451 N. Government Way  
 P.O. Box 9000  
 Coeur d'Alene, ID 83816-9000  
 Telephone: (208)446-1620  
 Facsimile: (208) 446-1621  
 ISBA# 6221

STATE OF IDAHO  
 COUNTY OF KOOTENAI } SS  
 FILED:

2008 FEB -7 PM 4: 34

CLERK DISTRICT COURT  
  
 DEPUTY

Attorney for Defendants Kootenai County and  
 Rocky Watson, Kootenai County Sheriff

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF  
 THE STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

ALLIED BAIL BONDS, INC., an Idaho Corporation,	)
	) Case No. CV 07-7471
Plaintiff,	)
	) <b>ANSWER TO COMPLAINT AND</b>
vs.	) <b>REQUEST FOR JURY TRIAL</b>
	)
COUNTY OF KOOTENAI, a political subdivision of	)
the State of Idaho, ROCKY WATSON, Kootenai	)
County, Sheriff, John and Jane Does 1 through 13,	)
	)
Defendants.	)
	)

COME NOW, Defendants COUNTY OF KOOTENAI and ROCKY WATSON,  
 Kootenai County Sheriff, by and through their attorney, DARRIN L. MURPHEY, of  
 Kootenai County Department of Legal Services, and answers Plaintiff's Complaint and  
 Request for Jury Trial, and admits, denies, and alleges as follows:

I.

Defendants deny each and every allegation as set forth in the Complaint and Request for Jury Trial not expressly and specifically admitted herein.

II.

Defendants are without knowledge or information sufficient to form a belief as to the truth of paragraphs 1, 4, and 5, and therefore deny the same.

III.

Defendants admit paragraphs 2, 3, and 7.

IV.

Defendants deny paragraphs 6, 8, including all sub-parts, and 9 through 12.

#### AFFIRMATIVE DEFENSES

I.

The Complaint fails to state a claim against defendants upon which relief can be granted.

II.

Plaintiff's claim for damages arising out of any denial of a public records request is statutorily precluded.

III.

Plaintiff lacks standing to enforce any petition contesting the denial of Frank Davis's public records request, as Plaintiff is not the real party in interest.

IV.

Plaintiff's claims contesting the denial of Frank Davis's public records requests are time barred pursuant to Idaho Code § 9-343.

V.

Plaintiff is barred from recovering in whole or in part for failing to mitigate damages.

VI.

Plaintiff's claims are moot.

VII.

Plaintiff has waived, or by its conduct is estopped from asserting, the causes of action alleged against defendants.

VIII.

Plaintiff was guilty of negligent, careless, and/or intentional misconduct at the time of, and in connection with, the matters and damages alleged, which misconduct on his part proximately caused and contributed to said events and resultant damages, if any.

IX.

Plaintiff's damages, if any, were proximately caused by the negligence, omissions or actions of third persons or entities, for whose conduct defendants are not responsible, and the responsibility of such others should be compared as provided by law.

X.

Plaintiff's damages, if any, were proximately caused by the superceding, intervening acts of third parties for whose conduct defendants are not responsible.

XI.

Plaintiff has failed to exhaust administrative remedies.

XII.

Plaintiff's claims are de minimis in nature.

XIII.

Plaintiff has failed to comply with the bond requirements set forth in Idaho Code § 6-610.

XIV.

Plaintiff's claims are barred for failure to comply with the notice provisions of the Idaho Tort Claims Act, Idaho Code § 6-901, *et. seq.*

XV.

Defendants are immune from liability pursuant to the provisions of the Idaho Tort Claims Act, Idaho Code § 6-901, *et seq.*

XVI.

Plaintiff's claims are precluded for failure to follow the time period for filing a complaint as set forth in Idaho Code § 6-910.

XVII.

Plaintiff's claims are barred by the doctrine of compromise and settlement.

XVIII.

Plaintiff's claims are barred by the doctrine of consideration.

XIX.

Plaintiff has released its claims, in whole or in part.

XX.

Plaintiff's claims are precluded by the statute of limitations contained in Idaho Code §§ 6-911, 5-216, 5-217, 5-218, 5-219, 5-221, and 5-224.

XXI.

Plaintiff's claim for damages is precluded on the basis of public policy or judicial immunity or privilege.

### **DEMAND FOR JURY TRIAL**

Pursuant to Rule 38(b) of the Idaho Rules of Civil Procedure, this answering defendant herein demands a trial by jury.

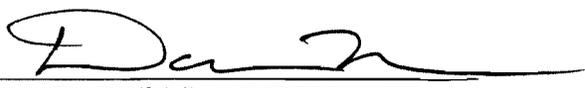
### **PRAYER FOR RELIEF**

WHEREFORE, these answering defendants prays for judgment against plaintiff as follows:

1. That plaintiff's Complaint be dismissed with prejudice, and plaintiff recover nothing.
2. That defendants be awarded their costs of suit and reasonable attorney fees pursuant to the Settlement Agreement, Idaho Code §§ 9-344, 6-918A, 6-610, 12-117, 12-120, and 12-121; and,
3. That defendants be awarded such other relief as the Court deems proper.

DATED this 7<sup>th</sup> day of February, 2008.

Kootenai County  
Department of Legal Services

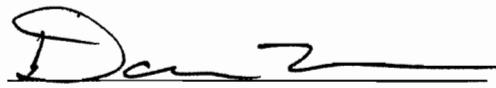
By   
DARRIN L. MURPHEY  
Attorney for Defendants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 7<sup>th</sup> day of February, 2008, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Arthur M. Bistline  
Layman, Layman & Robinson, PLLP  
110 Wallace Avenue  
Coeur d'Alene, ID 83814

- U.S. MAIL  
 HAND DELIVERED  
 OVERNIGHT MAIL  
 TELECOPY (FAX) to: (208) 765-5117

  
DARRIN L. MURPHEY

STATE OF IDAHO }  
COUNTY OF KOOTENAI }  
FILED } 199

2008 MAY 20 PM 4:55

CLERK DISTRICT COURT  
*Sharon Clausen*  
DEPUTY

ARTHUR BISTLINE  
5431 N. Government Way, Ste. 101A  
Coeur d'Alene, Idaho 83815  
(208) 665-7270  
(208) 676-8680 (fax)

Attorney for Plaintiff

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

ALLIED BAIL BONDS, INC., an Idaho  
Corporation,

Plaintiff,

vs.

COUNTY OF KOOTENAI, a political  
subdivision of the State of Idaho,  
ROCKY WATSON, Kootenai County,  
Sheriff.

Defendants.

Case No. CV-07-7471

AMENDED COMPLAINT AND  
REQUEST FOR JURY TRIAL

ALLIED BAIL BONDS, INC., for a cause of action, alleges as follows:

- 1) Plaintiff is an Idaho Corporation in good standing.
- 2) Defendant Kootenai County is a political subdivision of the State of Idaho.
- 3) Defendant Rocky Watson is the Kootenai County Sheriff.
- 4) All acts and/or omissions complained of herein occurred in Kootenai County, State of Idaho, and jurisdiction is proper before this Court.
- 5) Plaintiff is a licensed bond agent pursuant to Title 41, Chapter 10. Plaintiff generates its revenue by writing bonds for a fee which is based on the total amount of the bond. Plaintiff is one of, if not the, largest producer of bonds in Kootenai County.

029

- 6) During the year 2000, Defendants, amongst other things, engaged in a course of conduct designed and intended to interfere with Plaintiff's ability to engage in Plaintiff's chosen business of providing bonding services to inmates being held at the Kootenai County Jail. As a result of this conduct, Plaintiff filed suit against Defendant on or about September 13, 2000, Case No. CV-00-5841.
- 7) On or about April 19, 2001, Plaintiff and Defendant entered into the Release and Settlement Agreement ("Agreement") attached hereto as Exhibit A and incorporated herein as if set forth in full.
- 8) Not by way of limitation, Defendant has breached the Agreement by:
  - a. Directly soliciting inmates to file cash or credit card bonds;
  - b. Encouraging inmates to file credit card bonds by telling them they will be released in a more timely manner;
  - c. Directing inmates to other sources of bonding besides bonding companies;
  - d. Refusing to make change to those paying the ten dollar (\$10.00) bonding fee;
  - e. Refusing to collect the ten dollar (\$10.00) bonding fee from an inmate's account when the inmate is bonding with Plaintiff, but allowing it when an inmate is providing a cash or credit card bond to Defendant;
  - f. Not allowing arrestees access to the phone to call a bonding company until after Pre-Trial Services has conducted interviews with the arrestees; and

- g. Such other conduct as may be developed through discovery showing the scheme and plan of Defendant to deprive Plaintiff of its economic opportunity and prospective business advantage.
- 9) Plaintiff is entitled to damages occasioned by such conduct as well as an Order requiring the Sheriff's Department to abide by its terms. It is difficult to calculate exactly how much economic harm the Sheriff's disregard of the parties' settlement agreement is causing Plaintiff as it is difficult to know how often the Sheriff is violating its terms.
- 10) The Kootenai County Sheriff's office is presently and has in the past accepted credit cards from inmates for purposes of posting bail pursuant to Idaho Code Title 19, Chapter 29, Idaho Rule of Criminal Procedure 46, and Idaho Misdemeanor Rules 12 and 13. Said conduct interferes with Plaintiffs economic opportunity and prospective business advantage by diverting business away from bonding companies.
- 11) Accepting credit cards as alleged above is not authorized by Idaho Code or the Idaho Criminal/Misdemeanor Rules and Plaintiff is entitled to an order permanently enjoining the Sheriff and his deputies from engaging in said conduct.
- 12) Kootenai County operates Kootenai County Justice Services. One of the functions of Kootenai County Justice Services is Adult Misdemeanor Probation which has the control, direction and management of Adults placed on probation for misdemeanor offenses committed in Kootenai County.

- 13) The exclusive jurisdiction over adults placed on probation lies with the Idaho Department of Corrections and Kootenai County's operation of Adult Misdemeanor Probation is *ultra vires* and illegal.
- 14) Pre-trial services is a division or sub-unit of Adult Misdemeanor Probation and is likewise not legally operating in Kootenai County. Pre-Trial Services, with the cooperation of the Sheriff, interviews arrestees prior to the first appearance in front of the magistrate and provides advice to arrestees regarding the decision to bond out of jail with the present bond amount, or wait and seek a bond reduction by the Court.
- 15) The continued operation of pre-trial services interferes with Plaintiff's economic opportunity and prospective business advantage by reducing the amounts of bonds, increasing the amounts of releases without bond, and by interfering with the bonding relationship between Allied Bail Bonds and its customers. In addition, the Sheriff is engaged in a scheme to prevent arrestees from contacting bonding companies prior to Pre-Trial Services employees conducting their interviews, while processing arrestees with credit cards expeditiously.
- 16) Plaintiff is entitled to an order permanently enjoining Kootenai County from the operation of Adult Misdemeanor Probation and Pre-Trial Services.
- 17) Plaintiff submitted the Public Records Request Forms attached as Exhibits B through K. The Sheriff's Department and Kootenai County denied the requests by failing to submit a substantial number of documents covered by

the request. Both the Sheriff and Kootenai County acted in bad faith in denying the request.

- 18) The conduct complained of in paragraph 17., is in contravention of Idaho Code, Title 9, Chapter 3.
- 19) Because of the conduct complained of herein, Plaintiff has been damaged in an amount in excess of \$10,000 to be proved at trial.
- 20) The conduct complained of herein is reducing Plaintiff's bonding business and
- 21) Because of the conduct complained of herein, Plaintiff has had to acquire the services of an attorney and pursuant to the Settlement Agreement, and Title 9, Chapter 3, Idaho Code, Plaintiff is entitled to an award of its reasonable attorneys' fees and costs incurred in this action with a reasonable sum in the event of default for failure to file an answer being \$4,000, exclusive of collection costs. In the event this matter proceeds by way of default for any other reason, a reasonable sum for attorneys' fees is \$100,000, subject to Idaho Rule of Civil Procedure 54.

Wherefore, Plaintiff prays that this Court enter judgment as follows:

- 1) For Plaintiff and against Defendant in an amount in excess of \$10,000 to be proved at trial;
- 2) For Plaintiff and against Defendants enjoining Defendants from further violations of the parties agreement and other conduct designed to deprive Plaintiff of its economic opportunity;
- 3) For Plaintiff and against Defendant in an amount to compensate Plaintiff for its reasonable attorneys' fees and costs incurred in this action; and

4) For Plaintiff and against Defendant granting Plaintiff any other relief that this Court deems fair and equitable.

DATED this 20<sup>th</sup> day of May, 2008.

ARTHUR M. BISTLINE  
Attorneys for Plaintiff

**VERIFICATION**

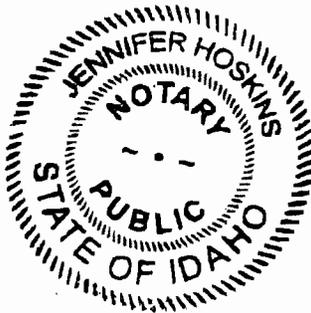
I, Frank Davis, certify that I am the owner/operator of Allied Bail Bonds, have read the foregoing Complaint, know the contents thereof and believe the same to be true and correct.

DATED this 21<sup>st</sup> day of May, 2008.

  
Frank Davis

STATE OF IDAHO )  
                          ) ss.  
County of Kootenai )

SUBSCRIBED AND SWORN before me this 20<sup>th</sup> day of May, 2008.

  
Notary in and for the State of Idaho  
Residing at: Hayden, ID  
Commission Expires: 4/20/2013

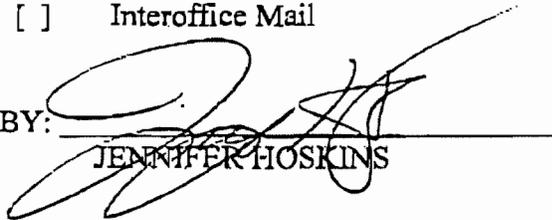
**CERTIFICATE OF SERVICE**

I hereby certify that on the 2<sup>nd</sup> day of May, 2008, I caused to be served a true and correct copy of the foregoing document by the method indicated below, and addressed to the following:

Darrin Murphey  
Kootenai County Department of Legal  
Services  
PO Box 9000  
Cocur d'Alene, ID 838116

- Hand-delivered
- Regular mail
- Certified mail
- Overnight mail
- Facsimile
- Interoffice Mail

BY: \_\_\_\_\_

  
JENNIFER HOSKINS

STATE OF IDAHO } SS  
COUNTY OF KOOTENAI }  
FILED:

2008 JUN 17 AM 9:03

CLERK DISTRICT COURT

*Wendell Samnell*  
DEPUTY

*ND*

ARTHUR M. BISTLINE  
LAW OFFICE OF ARTHUR M. BISTLINE  
5431 N. Government Way, Ste. 101A  
Coeur d'Alene, ID 83815  
(208) 665-7270  
(208) 676-8680 (fax)

Attorney for Plaintiff

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

ALLIED BAIL BONDS, INC., an Idaho Corporation,

Plaintiff,

vs.

COUNTY OF KOOTENAI, a political subdivision of the State of Idaho, ROCKY WATSON, Kootenai County Sheriff, John and Jane Docs 1 through 13,

Defendant

Case No.: No. CV-07-7471

ORDER AMENDING COMPLAINT

THIS CAUSE, having come before the Court on Motion to Amend Complaint and the Court, having been advised and for good cause appearing, it is thereupon

ORDERED AND ADJUDGED that the Plaintiff is allowed to amend its Complaint and the Defendants have twenty (20) days from this Order to file their answer.

DONE AND ORDERED this 15<sup>th</sup> day of June, 2008.

*J.P. Luster*  
HONORABLE JOHN P. LUSTER

036

**CERTIFICATE OF SERVICE**

I hereby certify that on the 17 day of <sup>June</sup>~~May~~, 2008, I caused to be served a true and correct copy of the foregoing document by the method indicated below, and addressed to the following:

Darrin Murphey [ ] Hand-delivered  
Kootenai County Department of Legal [ ] Regular mail  
Services [ ] Certified mail  
PO Box 9000 [ ] Overnight mail  
Coeur d'Alenc, ID 838116  Facsimile 446-1621  
[ ] Interoffice Mail

Arthur M. Bistline [ ] Hand-delivered  
Law Office of Arthur M. Bistline [ ] Regular mail  
5431 N. Government Way, Ste 101A [ ] Certified mail  
Coeur d'Alene, ID 83815 [ ] Overnight mail  
Fax: 208-676-8680  Facsimile  
[ ] Interoffice Mail

DANIEL J. ENGLISH  
BY: Joanna Parker  
CLERK OF THE COURT 9:04 Am  
9:13 Am

STATE OF IDAHO }  
COUNTY OF KOOTENAI } SS  
FILED:

2008 JUN 17 AM 9:03

CLERK DISTRICT COURT

*Debbie Dainelle*  
DEPUTY  
ND

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE  
STATE OF IDAHO IN AND FOR THE COUNTY OF KOOTENAI

ALLIED BAIL BONDS, INC., an Idaho  
Corporation,

Plaintiff,

vs.

COUNTY OF KOOTENAI, a political  
subdivision of the State of Idaho, ROCKY  
WATSON, Kootenai County Sheriff, John and  
Jane Does 1 through 13,

Defendants.

Case No. CV-07-7471

**ORDER DENYING PLAINTIFF'S  
SECOND MOTION FOR  
PRELIMINARY INJUNCTION**

Plaintiff's Second Motion for Preliminary Injunction having come on for hearing before the Honorable John P. Luster, District Judge, on the 3<sup>rd</sup> day of June, 2008, and Arthur Bistline, Attorney at Law, appearing on behalf of the Plaintiff, Allied Bail Bonds, Inc., and Darrin L. Murphey of the Kootenai County Department of Legal Services, appearing on behalf of the Defendant, Rocky Watson, Kootenai County Sheriff, and counsel having presented oral argument on behalf of their respective clients, and the Court being fully advised, now, therefore,

**ORDER DENYING PLAINTIFF'S SECOND MOTION FOR PRELIMINARY INJUNCTION: 1**  
H:\Sheriffs Department\Allied Bail Bonds 2007\Order Denying Plaintiff's Motion for Preliminary Injunction.doc

IT IS HEREBY ORDERED, AND THIS DOES ORDER, that plaintiff's Second Motion for Preliminary Injunction is hereby denied on the grounds and for the reasons as stated on the record.

DATED this 15<sup>th</sup> day of June, 2008.



Honorable John P. Luster  
District Judge

**CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_\_ day of June, 2008, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

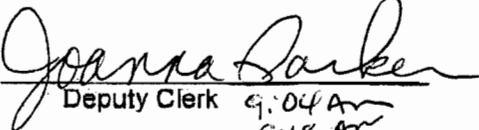
- U.S. Mail
- INTEROFFICE DELIVERY
- OVERNIGHT MAIL
- TELEFAX (FAX)

Arthur M. Bistline  
Attorney at Law  
5431 N. Government Way, Ste. 101A  
Coeur d'Alene, ID 83814  
Fax: (208) 676-8680

- U.S. Mail
- INTEROFFICE DELIVERY
- OVERNIGHT MAIL
- TELEFAX (FAX)

Darrin L. Murphey  
Kootenai County Dept. Legal Services  
451 Government Way  
P.O. Box 9000  
Coeur d'Alene, ID 83816-9000  
Fax: (208) 446-1621

DANIEL ENGLISH  
CLERK OF THE DISTRICT COURT

By:   
Deputy Clerk 9:04 AM  
9:18 AM

ORDER DENYING PLAINTIFF'S SECOND MOTION FOR PRELIMINARY INJUNCTION: 2  
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STATE OF IDAHO }  
COUNTY OF KOOTENAI } SS  
FILED:

2008 JUN 20 AM 9:34

CLERK DISTRICT COURT

*Cathy Vint...*  
DEPUTY

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE  
STATE OF IDAHO IN AND FOR THE COUNTY OF KOOTENAI

ALLIED BAIL BONDS, INC., an Idaho  
Corporation,

Plaintiff,

vs.

COUNTY OF KOOTENAI, a political  
subdivision of the State of Idaho, ROCKY  
WATSON, Kootenai County Sheriff, John and  
Jane Does 1 through 13,

Defendants.

Case No. CV-07-7471

**ORDER DENYING PLAINTIFF'S  
MOTION TO AMEND  
COMPLAINT AND MOTION  
FOR PRELIMINARY  
INJUNCTION**

This matter having come before the Court on the 22nd day of April, 2008,  
on plaintiff's Motion to Amend Complaint and Motion for Preliminary Injunction,  
and Arthur Bistline, Attorney at Law, appearing on behalf of the Plaintiff, Allied  
Bail Bonds, Inc., and Darrin L. Murphey of the Kootenai County Legal Services,  
appearing on behalf of the Defendant, Rocky Watson, Kootenai County Sheriff,  
and the Court having heard the arguments of counsel and otherwise being fully  
informed; now, therefore,

**ORDER DENYING PLAINTIFF'S MOTION TO AMEND COMPLAINT  
AND MOTION FOR PRELIMINARY INJUNCTION: 1**

H:\Sheriffs Department\Allied Bail Bonds 2007\Order Denying Motion to Amend Complaint and Motion For Preliminary  
Injunction.doc

IT IS HEREBY ORDERED that plaintiff's Motion to Amend Complaint is DENIED on the grounds that plaintiff failed to notice the matter for hearing.

IT IS FURTHER ORDERED that plaintiff's Motion for Preliminary Injunction is DENIED on the grounds and for the reasons set forth by the court on the record.

DATED this 19<sup>th</sup> day of June, 2008.



\_\_\_\_\_  
Honorable John P. Luster  
District Judge

**ORDER DENYING PLAINTIFF'S MOTION TO AMEND COMPLAINT AND MOTION FOR PRELIMINARY INJUNCTION: 2**

H:\Sheriffs Department\Allied Ball Bonds 2007\Order Denying Motion to Amend Complaint and Motion For Preliminary Injunction.doc

**CERTIFICATE OF SERVICE**

I hereby certify that on this 20 day of June, 2008, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

9136

- U.S. Mail
- INTEROFFICE DELIVERY
- OVERNIGHT MAIL
- TELEFAX (FAX)

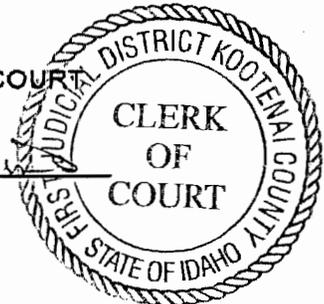
Arthur M. Bistline  
 110 Wallace Avenue  
 Coeur d'Alene, ID 83814  
 Fax: (208) 665-7290

- U.S. Mail
- INTEROFFICE DELIVERY
- OVERNIGHT MAIL
- TELEFAX (FAX)

Darrin L. Murphey  
 Kootenai County Dept. Legal Services  
 451 Government Way  
 P.O. Box 9000  
 Coeur d'Alene, ID 83816-9000  
 Fax: (208) 446-1621

DANIEL ENGLISH  
 CLERK OF THE DISTRICT COURT

By: Cathy Victoria  
 Deputy Clerk



**ORDER DENYING PLAINTIFF'S MOTION TO AMEND COMPLAINT  
 AND MOTION FOR PRELIMINARY INJUNCTION; 3**

H:\Sheriffs Department\Allied Bail Bonds 2007\Order Denying Motion to Amend Complaint and Motion For Preliminary Injunction.doc

DARRIN L. MURPHEY  
KOOTENAI COUNTY LEGAL SERVICES  
451 N. Government Way  
P.O. Box 9000  
Coeur d'Alene, ID 83816-9000  
Telephone: (208)446-1620  
Facsimile: (208) 446-1621  
ISB# 6221

STATE OF IDAHO }  
COUNTY OF KOOTENAI } SS  
FILED:

2008 JUL -7 PM 3: 38

CLERK DISTRICT COURT  
*[Signature]*  
DEPUTY *[Signature]*

Attorney for Defendants Kootenai County and  
Rocky Watson, Kootenai County Sheriff

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI**

**ALLIED BAIL BONDS, INC., an  
Idaho Corporation,**

**Plaintiff,**

**vs.**

**COUNTY OF KOOTENAI, a political  
subdivision of the State of Idaho,  
ROCKY WATSON, Kootenai  
County, Sheriff,**

**Defendants.**

**CASE NO. CV-07-7471**

**ANSWER TO AMENDED COMPLAINT  
AND DEMAND FOR JURY TRIAL**

COME NOW, Defendants COUNTY OF KOOTENAI and ROCKY  
WATSON, Kootenai County Sheriff, by and through their attorney, DARRIN L.  
MURPHEY, of the Kootenai County Department of Legal Services, and by way of

answer to plaintiff's Amended Complaint and Request for Jury Trial, admits, denies, and alleges as follows:

I.

Defendants deny each and every allegation as set forth in the Amended Complaint and Request for Jury Trial not expressly and specifically admitted herein.

II.

Defendants are without knowledge or information sufficient to form a belief as to the truth of paragraphs 1, 4, and 5 of the Amended Complaint and Request for Jury Trial, and therefore deny the same.

III.

Defendants admit paragraphs 2 and 3.

IV.

Defendants admit that the plaintiff filed suit against defendant Kootenai County on or about September 13, 2000, Case No. CV-00-5841, as referenced in paragraph 6 of the Amended Complaint and Request for Jury Trial, but deny the remaining allegations contained in paragraph 6.

V.

Defendants admit that on or about April 19, 2001, plaintiff and defendants entered into a Release and Settlement Agreement. However, plaintiff's Amended Complaint and Request for Jury Trial was void of Exhibit A as referenced in paragraph 7. Therefore, defendants are without knowledge or

information sufficient to form a belief as to the truth of paragraph 7 and therefore deny the same.

VI.

Defendants deny paragraph 8, including all subparts, and paragraph 9 of the Amended Complaint and Request for Jury Trial.

VII.

Responding to paragraph 10, defendants admit that defendants are presently and have in the past accepted credit cards for the payment of bail as authorized by Idaho Code § 31-3221. Defendants deny the remaining allegations contained in paragraph 10 of the Amended Complaint and Request for Jury Trial.

VIII.

Defendants deny paragraph 11 of the Amended Complaint and Request for Jury Trial, and specifically aver that Idaho Code § 31-3221 authorizes accepting payment of bail by credit card.

IX.

Defendants admit that Kootenai County operates the Kootenai County Department of Adult Misdemeanor Probation, which does generally provide for misdemeanor probation services to supervise misdemeanor offenders as mandated by Idaho Code § 31-878. Defendants deny the remaining allegations contained in paragraph 12 of the Amended Complaint and Request for Jury Trial.

X.

Defendants deny paragraphs 13, 14, 15, 16 of the Amended Complaint and Request for Jury Trial.

XI.

Responding to the allegations contained in paragraph 17 of plaintiff's Amended Complaint and Request for Jury Trial, defendants admit receiving public records requests from Frank Davis and affirmatively aver that defendants fully responded to all such requests. Plaintiff's Amended Complaint and Request for Jury Trial was void of Exhibits B through K as referenced in paragraph 17. Therefore, defendants are without knowledge or information sufficient to form a belief as to the truth of the Exhibits referenced in paragraph 17 and therefore deny the same. Defendants deny the remaining allegations contained in paragraph 17.

XII.

Defendants deny paragraphs 18, 19, 20, and 21 of Plaintiff's Amended Complaint and Request for Jury Trial.

#### AFFIRMATIVE DEFENSES

I.

The Complaint fails to state a claim against defendants upon which relief can be granted.

II.

Plaintiff's claim for damages arising out of any denial of a public records request is statutorily precluded.

III.

Plaintiff lacks standing to enforce any petition contesting the denial of Frank Davis's public records request, as plaintiff is not the real party in interest.

IV.

Plaintiff's claims contesting the denial of Frank Davis's public records requests are time barred pursuant to Idaho Code § 9-343.

V.

Plaintiff is barred from recovering in whole or in part for failing to mitigate damages.

VI.

Plaintiff's claims are moot.

VII.

Plaintiff has waived, or by its conduct is estopped from asserting, the causes of action alleged against defendants.

VIII.

Plaintiff was guilty of negligent, careless, and/or intentional misconduct at the time of, and in connection with, the matters and damages alleged, which misconduct on his part proximately caused and contributed to said events and resultant damages, if any.

IX.

Plaintiff's damages, if any, were proximately caused by the negligence, omissions or actions of third persons or entities, for whose conduct defendants

are not responsible, and the responsibility of such others should be compared as provided by law.

X.

Plaintiff's damages, if any, were proximately caused by the superseding, intervening acts of third parties for whose conduct defendants are not responsible.

XI.

Plaintiff has failed to exhaust administrative remedies.

XII.

Plaintiff's claims are de minimis in nature.

XIII.

Plaintiff has failed to comply with the bond requirements set forth in Idaho Code § 6-610.

XIV.

Plaintiff's claims are barred for failure to comply with the notice provisions of the Idaho Tort Claims Act, Idaho Code § 6-901, *et. seq.*

XV.

Defendants are immune from liability pursuant to the provisions of the Idaho Tort Claims Act, Idaho Code § 6-901, *et seq.*

XVI.

Plaintiff's claims are precluded for failure to follow the time period for filing a complaint as set forth in Idaho Code § 6-910.

XVII.

Plaintiff's claims are barred by the doctrine of compromise and settlement.

XVIII.

Plaintiff's claims are barred by the doctrine of consideration.

XIX.

Plaintiff has released its claims, in whole or in part.

XX.

Plaintiff's claims are precluded by the statute of limitations contained in Idaho Code §§ 6-911, 5-216, 5-217, 5-218, 5-219, 5-221, and 5-224.

XXI.

Plaintiff's claim for damages is precluded on the basis of public policy or judicial immunity or privilege.

XXII.

Plaintiff lacks any contract or property right in any specific bail bond business.

XXIII.

Plaintiff lacks standing.

XXIV.

The settlement agreement is void or voidable in whole or in part.

XXV.

Plaintiff's amended complaint fails to name an indispensable party.

**DEMAND FOR JURY TRIAL**

Pursuant to Rule 38(b) of the Idaho Rules of Civil Procedure, this answering defendant herein demands a trial by jury.

**PRAYER FOR RELIEF**

WHEREFORE, these answering defendants pray for judgment against plaintiff as follows:

1. That plaintiff's Amended Complaint and Demand for Jury Trial be dismissed with prejudice, and plaintiff recover nothing.
2. That defendants be awarded their costs of suit and reasonable attorney fees pursuant to the Settlement Agreement, Idaho Code §§ 9-344, 6-918A, 6-610, 12-117, 12-120, and 12-121; and,
3. That defendants be awarded such other relief as the Court deems proper.

DATED this 7<sup>th</sup> day of July, 2008.

Kootenai County  
Department of Legal Services

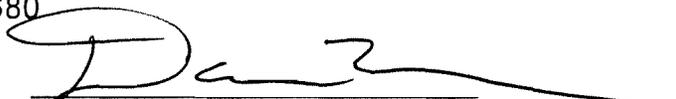
By   
DARRIN L. MURPHEY  
Attorney for Defendants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 7<sup>th</sup> day of July, 2008, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Arthur M. Bistline  
Attorney at Law  
5431 N. Government Way, Suite 101A  
Coeur d'Alene, ID 83815

- U.S. MAIL
- HAND DELIVERED
- OVERNIGHT MAIL
- TELECOPY (FAX) to: (208) 676-8680

  
DARRIN L. MURPHEY

STATE OF IDAHO  
COUNTY OF KOOTENAI } SS  
FILED:

ARTHUR M. BISTLINE  
LAW OFFICE OF ARTHUR M. BISTLINE  
5431 N. Government Way, Ste. 101A  
Coeur d'Alene, ID 83815  
(208) 665-7270  
(208) 676-8680 (fax)

Attorney for Plaintiff

2008 JUL -9 PM 4:58  
CLERK DISTRICT COURT  
*Joanna Barker*  
DEPUTY

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE STATE OF  
IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

ALLIED BAIL BONDS, INC., an Idaho  
Corporation,

Plaintiff,

vs.

COUNTY OF KOOTENAI, a political  
subdivision of the State of Idaho, ROCKY  
WATSON, Kootenai County Sheriff, John and  
Jane Does 1 through 13,

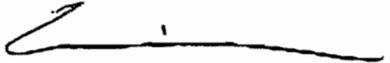
Defendant

Case No.: No. CV-07-7471

SECOND MOTION TO AMEND  
COMPLAINT

Plaintiff moves this Court for an Order allowing it to amend its Amended Complaint filed in this matter which has been filed simultaneously herewith and directing that the Defendants who have appeared file and answer thereto within 20 days of the Order.

DATED this 9 day of July, 2008.

  
ARTHUR M. BISTLINE

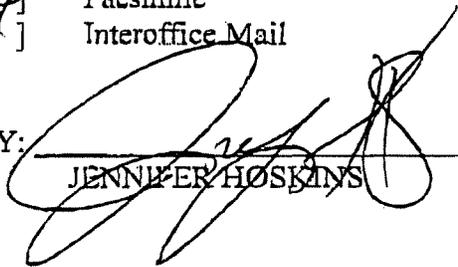
**CERTIFICATE OF SERVICE**

I hereby certify that on the 9<sup>th</sup> day of July, 2008, I caused to be served a true and correct copy of the foregoing document by the method indicated below, and addressed to the following:

Darrin Murphey  
Kootenai County Department of Legal  
Services  
PO Box 9000  
Coeur d'Alene, ID 838116

- Hand-delivered
- Regular mail
- Certified mail
- Overnight mail
- Facsimile
- Interoffice Mail

BY:

  
\_\_\_\_\_  
JENNIFER HOSKINS

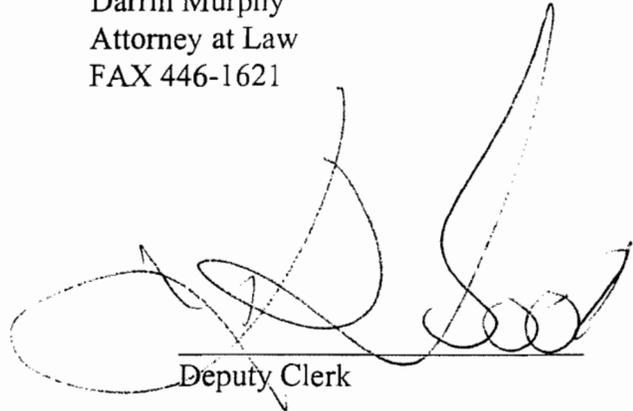


CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was [] faxed; [] mailed by me, First Class mail, postage prepaid this 17 day of JAN, 2008, to:

Arthur Bistline  
Attorney at Law  
FAX 676-8680

Darrin Murphy  
Attorney at Law  
FAX 446-1621



Deputy Clerk

STATE OF IDAHO  
COUNTY OF KOOTENAI } SS  
FILED:

2008 SEP 25 PM 3: 09

CLERK DISTRICT COURT  
*Carl C. [Signature]*  
DEPUTY

DARRIN L. MURPHEY  
KOOTENAI COUNTY DEPARTMENT  
OF LEGAL SERVICES  
451 N. Government Way  
P.O. Box 9000  
Coeur d'Alene, ID 83816-9000  
Telephone: (208)446-1620  
Facsimile: (208) 446-1621  
ISBA# 6221

Attorney for Defendants Kootenai County and  
Rocky Watson, Kootenai County Sheriff

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

ALLIED BAIL BONDS, INC., an Idaho  
Corporation,

Plaintiff,

vs.

COUNTY OF KOOTENAI, a political  
subdivision of the State of Idaho, ROCKY  
WATSON, Kootenai County Sheriff, John  
and Jane Does 1 through 13,

Defendant

Case No. CV-07-7471

NOTICE OF SERVICE OF  
SUPPLEMENTAL ANSWERS OF  
DEFENDANT KOOTENAI COUNTY  
TO PLAINTIFF'S FIRST SET OF  
INTERROGATORIES AND  
REQUESTS FOR PRODUCTION TO  
DEFENDANT KOOTENAI COUNTY

COMES NOW the Defendant Rocky Watson, by and through his attorney of  
record, Darrin L. Murphey of the Kootenai County Department of Legal Services, and  
hereby gives notice that the undersigned served SUPPLEMENTAL ANSWERS OF  
DEFENDANT KOOTENAI COUNTY TO PLAINTIFF'S FIRST SET OF  
INTERROGATORIES AND REQUESTS FOR PRODUCTION TO DEFENDANT

KOOTENAI COUNTY upon counsel for plaintiff as indicated in the Certificate of Service below.

DATED this 25<sup>th</sup> day of September, 2008.

Kootenai County  
Department of Legal Services

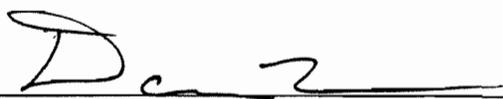
  
DARRIN L. MURPHEY  
Attorney for Defendant Kootenai County

**CERTIFICATE OF SERVICE**

I hereby certify that on the 25<sup>th</sup> day of September, 2008, I caused to be served a true and correct copy of the foregoing document by the method indicated below, and addressed to the following:

- U.S. Mail
- HAND DELIVERED
- OVERNIGHT MAIL
- TELEFAX (FAX)

Arthur M. Bistline  
Law Office of Arthur M. Bistline  
5421 N. Government Way, Suite 101A  
Coeur d'Alene, ID 83815  
Fax: (208) 676-8680

By   
Darrin L. Murphey

STATE OF IDAHO )  
County of KOOTENAI )  
FILED 10-28-08 )  
AT 1:15 O'clock P M )  
CLERK, DISTRICT COURT )  
Deputy )

*John A. Clausen*  
Deputy

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE  
STATE OF IDAHO IN AND FOR THE COUNTY OF KOOTENAI

ALLIED BAIL BONDS, INC.,  
  
Plaintiff,  
  
vs.  
  
COUNTY OF KOOTENAI, et al,  
\_\_\_\_\_

Case No. **CV 2007 7471**  
  
**SCHEDULING ORDER, NOTICE  
OF TRIAL SETTING AND INITIAL  
PRETRIAL ORDER**

Pursuant to **IRCP 16** IT IS HEREBY ORDERED that:

1. A **JURY** trial for **5** day(s) will commence at the KOOTENAI County Courthouse at 9:00 a.m. on **MAY 18, 2009**. **If possible, cases set for the same day will be tried on a to follow basis.**
2. The Court, at its discretion, will set the priority for each of the civil matters set for trial on the above date. Any party may request a priority setting by filing a request for Priority Setting, copy to the Court in chambers. The Court will attempt to give priority to cases where such Request for Priority Setting is filed in the order in which they are filed. Prior participation in mediation is a factor in granting priority. **Notice is hereby given that all civil trial settings are subject to being preempted by the court's criminal calendar.**

In order to assist with the pretrial conference and trial of this matter **IT IS HEREBY**

**FURTHER ORDERED** that:

1. a. **PRETRIAL EVENTS:** Before noticing a deposition, hearing or other pretrial event, a lawyer should consult and work with opposing counsel to accommodate the needs and reasonable requests of all witnesses and participating lawyers.

b. **MOTION PRACTICE:** Before setting a motion for a hearing, a lawyer should make a reasonable effort to resolve the issue without involving the Court. A lawyer who has no valid objection to an opponent's proposed motion should promptly make this position known to opposing counsel. After a hearing, a lawyer charged with preparing the proposed order should draft it promptly, striving to fairly and accurately articulate the Court's ruling. Before submitting the proposed order to the Court, the lawyer should provide a copy to opposing counsel who should promptly voice any objections. If the lawyers cannot resolve all objections, the drafting lawyer should promptly submit the proposed order to the Court, stating any unresolved objections.

c. **PRETRIAL MOTIONS:** Motions for summary judgment shall be timely filed so as to be heard **not later than ninety (90) days before trial**. The last day for filing all other pretrial motions shall be **twenty-one (21) days before trial**, except for *motions in limine* concerning witnesses and exhibits designated pursuant to paragraph Nos. 6 and 7 respectively of this Pretrial Order. Motions *in limine* concerning designated witnesses and exhibits shall be submitted in writing **at least seven (7) days before trial**. Motions *in limine* concerning any designated exhibit shall attach copies of the exhibit in issue. Motions *in limine* regarding designated witnesses shall attach copies of the discovery requests claimed to require the earlier disclosure and a representation by counsel regarding the absence of a prior response from the party to whom the discovery was directed. The fact that a party which has submitted discovery to another party has not

filed motions to compel in advance of trial does not, in and of itself, waive an objection by that party as to the timeliness of disclosure of witnesses and exhibits by the other party as required by this order.

2. **MOTIONS FOR SUMMARY JUDGMENT:** There shall be served and filed with each motion for summary judgment a separate concise statement, together with a reference to the record, of each of the material facts as to which the moving party contends there are no genuine issues of dispute. Any party opposing the motion shall, **not later than fourteen (14) days prior to the date of the hearing**, serve and file a separate concise statement, together with a reference to the record, setting forth all material facts as to which it is contended there exist genuine issues necessary to be litigated. In determining any motion for summary judgment, the Court may assume that the facts as claimed by the moving party are admitted to exist without controversy, except and to the extent that such facts are asserted to be actually in good faith controverted by a statement filed in opposition to the motion.

3. **BRIEFS AND MEMORANDA:** In addition to any original brief or memorandum filed with the Clerk of the Court, a chambers' copy shall be provided to the Court. To the extent counsel rely on legal authorities not contained in the **Idaho Reports**, a copy of each case or authority cited shall be attached to the Court's copy of the brief or memorandum.

4. **DISCOVERY DISPUTES:** Unless otherwise ordered, the Court will not entertain any discovery motion, except those brought pursuant to **I.R.C.P. 26(c)** by a person who is not a party, unless counsel for the moving party files with the Court, at the time of filing the motion, a certification that the lawyer making the motion has in good faith conferred or attempted to confer with the opposing lawyer to reach agreement without court action,

pursuant to I.R.C.P. 37(a)(2). The motion shall not refer the Court to other documents in the file. For example, if the sufficiency of an answer to an interrogatory is in issue, the motion shall contain, verbatim, both the interrogatory and the allegedly insufficient answer, followed by each party's contentions, separately stated. In the absence of a showing of good cause as to why the discovery was not initiated so that timely responses were due **at least thirty (30) days before trial**, the Court will not hear motions to compel discovery **after twenty-one (21) days before trial**.

5. **EXPERT WITNESSES:** Not later than **one hundred eighty (180) days before trial**, plaintiff(s) shall disclose all experts to be called at trial. Not later than **one hundred fifty (150) days before trial**, defendant(s) shall disclose all experts to be called at trial. Such disclosure shall consist of at least the subject matter upon which the expert is expected to testify and the substance of any opinions to which the expert is expected to testify. The disclosure shall be contemporaneously filed with the Court.

Each party shall, **at least twenty-eight (28) days before trial**, file with the Court and serve all parties with a supplemental disclosure for each expert witness which shall identify the underlying facts and data upon which the opinions of each expert are based, to the extent such information is required to be disclosed pursuant to **I.R.C.P.**

**26(b)(4)(A)(i)**. Absent good cause, an expert may not testify to matters not included in the disclosure. A party may comply with the disclosure by referencing expert witness depositions, without restating the deposition testimony in the disclosure report.

6. **DISCLOSURE OF WITNESSES:** Each party shall prepare and exchange between the parties and file with the Clerk **at least fourteen (14) days before trial** a list of witnesses with current addresses and telephone numbers, setting forth a brief statement identifying the general subject matter about which the witness may be asked to

testify (exclusive of impeachment witnesses). Each party shall provide opposing parties with a list of the party's witnesses and shall provide the Court with two copies of each list of witnesses.

7. **EXHIBITS AND EXHIBIT LISTS:** Using the attached form, each party shall prepare a list of exhibits it expects to offer. Exhibits should be listed in the order that the party anticipates they will be offered. Each party shall affix labels to their exhibits before trial. After the labels are marked and attached to the original exhibit, copies should be made. Plaintiff's exhibits shall be marked in numerical sequence. Defendant's exhibits shall be marked in alphabetical sequence. The civil action number of the case and the date of the trial shall also be placed on each of the exhibit labels. Exhibit lists and copies of exhibits shall be exchanged between parties and the exhibit list filed with the Clerk **at least fourteen (14) days before trial**. The original exhibits and a Judge's copy of the exhibits should be filed with the Clerk at the time of trial. Two copies of the exhibit list are to be filed with the Clerk. It is expected that each party will have a copy of all exhibits to be used at trial.

8. **JURY INSTRUCTIONS:** Jury instructions shall be prepared and exchanged between the parties and filed with the Clerk (with copies delivered to chambers) **at least seven (7) days before trial**. The Court has prepared stock instructions covering the following Idaho Jury Instructions: 1.00, 1.01, 1.03, 1.03.1, 1.04, 1.05, 1.09, 1.11, 1.13, 1.13.1, 1.15.2, 1.20.1, 1.22, 1.24.1 and 9.00. Copies of the Court's stock instructions may be obtained from the Court, and are available on the Kootenai County website ([www.co.kootenai.id.us/dpeartment/districtcourt/forms.asp](http://www.co.kootenai.id.us/dpeartment/districtcourt/forms.asp)). The parties shall meet in good faith to agree on a statement of claims instruction which shall be submitted to the Court with the other proposed instructions. Absent agreement, each party shall submit

their own statement of claims instruction. All instructions shall be prepared in accordance with *I.R.C.P. 51(a)*. A party objecting to any requested jury instruction shall file at the time of trial **written objections to jury instructions**.

9. **TRIAL BRIEFS:** Trial briefs shall be prepared and exchanged between the parties and filed with the Clerk (with copies to chambers) **at least seven (7) days before trial**.

10. **PROPOSED FINDINGS AND CONCLUSIONS:** If the trial is to the Court, each party shall **at least seven (7) days prior to trial** file with the opposing parties and the Court (with copies to chambers) proposed Findings of Fact and Conclusions of Law supporting their position.

11. **TRIAL PRACTICE:** At least a week before trial the lawyers shall meet and confer to discuss any stipulations that can be made at the beginning of trial and what exhibits can be admitted by stipulation. Following this meeting, the parties shall immediately alert the Court to any matters that need to be taken up **before** the time scheduled for trial to begin.

12. **TRIAL DAY:** After the first day of trial, all subsequent trial days will likely be on an **8:30 a.m. to 1:30 p.m.** schedule.

13. **MODIFICATION:** This Pretrial Order may be modified by stipulation of the parties upon entry of an order by the Court approving such stipulation. Any party may, upon motion and for good cause shown, seek leave of the Court modifying the terms of this order, upon such terms and conditions as the Court deems fit. Any party may request a pretrial conference pursuant to *I.R.C.P. 16* or mediation pursuant to *I.R.C.P. 16(k)*.

14. **REQUEST TO VACATE TRIAL SETTING:** Any party moving or stipulating to vacate a trial setting shall set forth the reasons for the request and include a representation by counsel that these reasons have been discussed with the client and that the client has no objection to vacating the trial date. For a continuance to be granted, the parties shall have already engaged in mediation, or should expect to engage in mediation at the time originally set for the trial or shortly thereafter.

Any vacation or continuance of the trial day shall not change or alter the time frames for the deadlines set forth herein, but the dates for such deadlines will change to the new dates as are established by the date of the new trial setting. Any party may, upon motion and for good cause shown, request different discovery and disclosure dates upon vacation or continuance of the trial date.

15. **MEDIATION:** Lawyers should educate their clients early in the legal process about the various methods of resolving disputes without trial, including mediation, arbitration and neutral case evaluation. The parties are encouraged and expected to mediate as soon as possible. The Court will facilitate mediation if requested. The parties are ordered to report jointly to the Court in writing at least sixty (60) days prior to trial, setting forth when mediation occurred and the results of mediation. If no mediation has taken place, the joint report must state the reason the parties are not using mediation.

16. **SANCTIONS FOR NONCOMPLIANCE:** Failure to timely comply in all respects with the provisions of this order shall subject noncomplying parties to sanctions pursuant to *I.R.C.P. Rule 16(i)*, which may include:

(A) An order refusing to allow the disobedient party to support or oppose designated claims or defenses, or prohibiting such party from introducing designated matters in evidence;

(B) An order striking out pleadings or parts thereof, or staying further proceedings until the order is obeyed, or dismissing the action or proceeding or any part thereof, or rendering a judgment by default against the disobedient party;

(C) In lieu of any of the foregoing orders or in addition thereto, an order treating as contempt of court the failure to comply;

(D) In lieu of or in addition to any other sanction, the judge shall require the party or the attorney representing such party or both to pay the reasonable expenses incurred because of any noncompliance with this rule, including attorney's fees, unless the judge finds that the noncompliance was substantially justified or that other circumstances make an award of expenses unjust.

**IT IS FURTHER ORDERED** that no party may rely upon any deadline set forth in this pretrial order as a reason for failing to timely respond to discovery or to timely supplement discovery responses pursuant to *I.R.C.P. 26(c)*.

Notice is hereby given, pursuant to Idaho Rule of Civil Procedure 40(d)(1)(G), that an alternate judge may be assigned to preside in this case. The following is a list of potential alternate judges: Hon. James R. Michaud, Hon. John P. Luster, Hon. Fred Gibler, Hon. Charles W. Hosack, Hon. Steve Verby or Hon. George R. Reinhardt, III or Hon. Lansing L. Haynes.

Unless a party has previously exercised their right to disqualification without cause under Rule 40(d)(1), each party shall have the right to file one (1) motion for disqualification without cause as to any alternate judge not later than ten (10) days after service of this notice.

IT IS FURTHER ORDERED that any party who brings in an additional party shall serve a copy of this "Scheduling Order, Notice of Trial Setting" upon that added party at the time the pleading adding the party is served on the added party, and proof of such service shall then be given to the Court by the party adding an additional party.

DATED this 28 day of October, 2008.

BY ORDER OF JOHN T. MITCHELL, District Judge

  
\_\_\_\_\_  
Jeanne Clausen, Deputy Clerk/Secretary

**CERTIFICATE OF MAILING**

I hereby certify that true copies of the foregoing have been mailed, postage prepaid or sent by interoffice mail, this 26 day of October, 2008, to: **If applicable**, KOOTENAI County Jury Commissioner, Judge Gibler, Judge Hosack, Trial Court Administrator .

Arthur Bistline  
5431 N. Government Way, Ste  
101A  
Coeur d'Alene, ID 83815

Fax 665-7290

Darrin Murphey  
P.O. Box 9000  
Coeur d'Alene, ID 83815-9000

Fax 446-1621

By   
\_\_\_\_\_  
Jeanne Clausen, Deputy Clerk/Secretary



STATE OF IDAHO }  
COUNTY OF KOOTENAI } ss  
FILED:

ARTHUR BISTLINE  
5431 N. Government Way, Ste. 101A  
Coeur d'Alene, Idaho 83815  
(208) 665-7270  
(208) 676-8680 (fax)

2008 DEC -4 PM 6: 01

CLERK DISTRICT COURT  
*Charmaine Mellett*  
DEPUTY

Attorney for Plaintiff

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

ALLIED BAIL BONDS, INC., an Idaho  
Corporation,

Plaintiff,

vs.

COUNTY OF KOOTENAI, a political  
subdivision of the State of Idaho,  
ROCKY WATSON, Kootenai County,  
Sheriff, Karlene Behringer, Kootenai  
County Trial Court Administrator.

Defendants.

Case No. CV-07-7471

SECOND AMENDED COMPLAINT  
AND REQUEST FOR JURY TRIAL

ALLIED BAIL BONDS, INC., for a cause of action, alleges as follows:

- 1) Plaintiff is an Idaho Corporation in good standing.
- 2) Defendant Kootenai County is a political subdivision of the State of Idaho.
- 3) Defendant Rocky Watson is the Kootenai County Sheriff.
- 4) Defendant Karlene Behringer is the Kootenai County Trial Court Administrator.
- 5) All acts and/or omissions complained of herein occurred in Kootenai County, State of Idaho, and jurisdiction is proper before this Court.

- 6) Plaintiff is a licensed bond agent pursuant to Title 41, Chapter 10. Plaintiff generates its revenue by writing bonds for a fee which is based on the total amount of the bond. Plaintiff is one of, if not the, largest producer of bonds in Kootenai County.
- 7) During the year 2000, Defendants, amongst other things, engaged in a course of conduct designed and intended to interfere with Plaintiff's ability to engage in Plaintiff's chosen business of providing bonding services to inmates being held at the Kootenai County Jail. As a result of this conduct, Plaintiff filed suit against Defendant on or about September 13, 2000, Case No. CV-00-5841.
- 8) On or about April 19, 2001, Plaintiff and Defendant entered into the Release and Settlement Agreement ("Agreement") attached hereto as Exhibit A and incorporated herein as if set forth in full.
- 9) Not by way of limitation, Defendant has breached the Agreement by:
  - a. Directly soliciting inmates to file cash or credit card bonds;
  - b. Encouraging inmates to file credit card bonds by telling them they will be released in a more timely manner;
  - c. Directing inmates to other sources of bonding besides bonding companies;
  - d. Refusing to make change to those paying the ten dollar (\$10.00) bonding fee;
  - e. Refusing to collect the ten dollar (\$10.00) bonding fee from an inmate's account when the inmate is bonding with Plaintiff, but allowing it when an inmate is providing a cash or credit card bond to Defendant;

- f. Not allowing arrestees access to the phone to call a bonding company until after Pre-Trial Services has conducted interviews with the arrestees; and
- g. Such other conduct as may be developed through discovery showing the scheme and plan of Defendant to deprive Plaintiff of its economic opportunity and prospective business advantage.
- 10) Plaintiff is entitled to damages occasioned by such conduct as well as an Order requiring the Sheriff's Department to abide by its terms. It is difficult to calculate exactly how much economic harm the Sheriff's disregard of the parties' settlement agreement is causing Plaintiff as it is difficult to know how often the Sheriff is violating its terms.
- 11) The Kootenai County Sheriff's office is presently and has in the past accepted credit cards from inmates for purposes of posting bail pursuant to Idaho Code Title 19, Chapter 29, Idaho Rule of Criminal Procedure 46, and Idaho Misdemeanor Rules 12 and 13. Said conduct interferes with Plaintiff's economic opportunity and prospective business advantage by diverting business away from bonding companies.
- 12) Accepting credit cards as alleged above is not authorized by Idaho Code or the Idaho Criminal/Misdemeanor Rules and Plaintiff is entitled to an order permanently enjoining the Sheriff and his deputies from engaging in said conduct.
- 13) Kootenai County operates Kootenai County Justice Services. One of the functions of Kootenai County Justice Services is Adult Misdemeanor

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Probation which has the control, direction and management of Adults placed on probation for misdemeanor offenses committed in Kootenai County.

- 14) The exclusive jurisdiction over adults placed on probation lies with the Idaho Department of Corrections and Kootenai County's operation of Adult Misdemeanor Probation is *ultra vires* and illegal.
- 15) Pre-trial services is a division or sub-unit of Adult Misdemeanor Probation and is likewise not legally operating in Kootenai County. Pre-Trial Services, with the cooperation of the Sheriff, interviews arrestees prior to the first appearance in front of the magistrate and provides advice to arrestees regarding the decision to bond out of jail with the present bond amount, or wait and seek a bond reduction by the Court.
- 16) The continued operation of pre-trial services interferes with Plaintiff's economic opportunity and prospective business advantage by reducing the amounts of bonds, increasing the amounts of releases without bond, and by interfering with the bonding relationship between Allied Bail Bonds and its customers. In addition, the Sheriff is engaged in a scheme to prevent arrestees from contacting bonding companies prior to Pre-Trial Services employees conducting their interviews, while processing arrestees with credit cards expeditiously.
- 17) Plaintiff is entitled to an order permanently enjoining Kootenai County from the operation of Adult Misdemeanor Probation and Pre-Trial Services.
- 18) Plaintiff submitted the Public Records Request Forms attached as Exhibits B through K. The Sheriff's Department and Kootenai County denied the

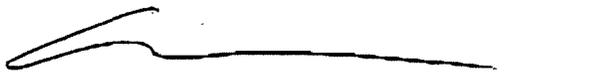
requests by failing to submit a substantial number of documents covered by the request. Both the Sheriff and Kootenai County acted in bad faith in denying the request.

- 19) The conduct complained of in paragraph 17., is in contravention of Idaho Code, Title 9, Chapter 3.
- 20) Defendant Karlene Behringer is exceeding her statutory authority by regulating the bail bond industry and by implementing procedures for forfeiture and reinstatement of bonds which are not in accord with Idaho Code or the Idaho Criminal Rules and in violation of Plaintiff's right to conduct business in the bail bond industry.
- 21) Plaintiff is entitled to an order enjoining Karlene Behringer from engaging in the conduct complained of in paragraph 20.
- 22) Because of the conduct complained of herein, Plaintiff has been damaged in an amount in excess of \$10,000 to be proved at trial.
- 23) The conduct complained of herein is reducing Plaintiff's bonding business and
- 24) Because of the conduct complained of herein, Plaintiff has had to acquire the services of an attorney and pursuant to the Settlement Agreement, and Title 9, Chapter 3, Idaho Code, Plaintiff is entitled to an award of its reasonable attorneys' fees and costs incurred in this action with a reasonable sum in the event of default for failure to file an answer being \$4,000, exclusive of collection costs. In the event this matter proceeds by way of default for any other reason, a reasonable sum for attorneys' fees is \$100,000, subject to Idaho Rule of Civil Procedure 54.

Wherefore, Plaintiff prays that this Court enter judgment as follows:

- 1) For Plaintiff and against Defendant in an amount in excess of \$10,000 to be proved at trial;
- 2) For Plaintiff and against Defendants enjoining Defendants from further violations of the parties agreement and other conduct designed to deprive Plaintiff of its economic opportunity;
- 3) For Plaintiff and against Defendant in an amount to compensate Plaintiff for its reasonable attorneys' fees and costs incurred in this action; and
- 4) For Plaintiff and against Defendant granting Plaintiff any other relief that this Court deems fair and equitable.

DATED this 9 day of July, 2008.

  
\_\_\_\_\_  
ARTHUR M. BISTLINE  
Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on the 5<sup>th</sup> day of July, 2008, I caused to be served a true and correct copy of the foregoing document by the method indicated below, and addressed to the following:

Darrin Murphey  
Kootenai County Department of Legal  
Services  
PO Box 9000  
Coeur d'Alene, ID 838116

- Hand-delivered
- Regular mail
- Certified mail
- Overnight mail
- Facsimile
- Interoffice Mail

BY: \_\_\_\_\_

JENNIFER HOSKINS

STATE OF IDAHO }  
COUNTY OF KOOTENAI } SS  
FILED:

2008 DEC -9 PM 4:29 429 KME

ARTHUR BISTLINE  
5431 N. Government Way, Ste. 101B  
Coeur d'Alene, Idaho 83815  
(208) 665-7270  
(208) 665-7290 (fax)

CLERK DISTRICT COURT  
*[Signature]*  
DEPUTY

Attorney for Plaintiff

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

ALLIED BAIL BONDS, INC., an Idaho  
Corporation,

Plaintiff,

vs.

COUNTY OF KOOTENAI, a political  
subdivision of the State of Idaho,  
ROCKY WATSON, Kootenai County,  
Sheriff,

Defendants.

Case No. CV-07-7471

SECOND AMENDED COMPLAINT  
AND REQUEST FOR JURY TRIAL

ALLIED BAIL BONDS, INC., for a cause of action, alleges as follows:

- 1) Plaintiff is an Idaho Corporation in good standing.
- 2) Defendant Kootenai County is a political subdivision of the State of Idaho.
- 3) Defendant Rocky Watson is the Kootenai County Sheriff.
- 4) All acts and/or omissions complained of herein occurred in Kootenai County, State of Idaho, and jurisdiction is proper before this Court.
- 5) Plaintiff is a licensed bond agent pursuant to Title 41, Chapter 10. Plaintiff generates its revenue by writing bonds for a fee which is based on the total amount of the bond. Plaintiff is one of, if not the, largest producer of bonds in Kootenai County.

- 6) During the year 2000, Defendants, amongst other things, engaged in a course of conduct designed and intended to interfere with Plaintiff's ability to engage in Plaintiff's chosen business of providing bonding services to inmates being held at the Kootenai County Jail. As a result of this conduct, Plaintiff filed suit against Defendant on or about September 13, 2000, Case No. CV-00-5841.
- 7) On or about April 19, 2001, Plaintiff and Defendant entered into the Release and Settlement Agreement ("Agreement") attached hereto as Exhibit A and incorporated herein as if set forth in full.
- 8) Not by way of limitation, Defendant has breached the Agreement by:
  - a. Directly soliciting inmates to file cash bonds;
  - b. Directly soliciting inmates to use credit cards for bonding purposes;
  - c. Encouraging inmates to use a credit card to bond by telling them they will be released in a more timely manner;
  - d. Directing inmates to other sources of bonding besides bonding companies;
  - e. Refusing to make change to those paying the ten dollar (\$10.00) bonding fee;
  - f. Refusing to collect the ten dollar (\$10.00) bonding fee from an inmate's account when the inmate is bonding with Plaintiff, but allowing it when an inmate is providing a cash or credit card bond to Defendant;
  - g. Not allowing arrestees access to the phone to call a bonding company until after Pre-Trial Services has conducted interviews with the arrestees; and

- h. Such other conduct as may be developed through discovery showing the scheme and plan of Defendant to deprive Plaintiff of its economic opportunity and prospective business advantage.
- 9) Plaintiff is entitled to damages occasioned by such conduct as well as an Order requiring the Sheriff's Department to abide by its terms. It is difficult to calculate exactly how much economic harm the Sheriff's disregard of the parties' settlement agreement is causing Plaintiff as it is difficult to know how often the Sheriff is violating its terms.
- 10) The Kootenai County Sheriff's office is presently and has in the past accepted credit cards from inmates for purposes of posting bail pursuant to Idaho Code Title 19, Chapter 29, Idaho Rule of Criminal Procedure 46, and Idaho Misdemeanor Rules 12 and 13. Said conduct interferes with Plaintiff's economic opportunity and prospective business advantage by diverting business away from bonding companies and to credit card companies.
- 11) Accepting credit cards as alleged above is not authorized by Idaho Code or the Idaho Criminal/Misdemeanor Rules and amounts to and Plaintiff is entitled to an order permanently enjoining the Sheriff and his deputies from engaging in said conduct.
- 12) Engaging in conduct which encourages the use of a credit card for bonding purposes violates Article 8, Section 4 of the Idaho Constitution by granting preferential treatment to one private enterprise to the disadvantage of another.
- 13) Kootenai County operates Kootenai County Justice Services. One of the functions of Kootenai County Justice Services is Adult Misdemeanor

Probation which has the control, direction and management of Adults placed on probation for misdemeanor offenses committed in Kootenai County.

- 14) The exclusive jurisdiction over adults placed on probation lies with the Idaho Department of Corrections and Kootenai County's operation of Adult Misdemeanor Probation is *ultra vires* and illegal.
- 15) Pre-trial services is a division or sub-unit of Adult Misdemeanor Probation and is likewise not legally operating in Kootenai County. Pre-Trial Services, with the cooperation of the Sheriff, interviews arrestees prior to the first appearance in front of the magistrate and provides advice to arrestees regarding the decision to bond out of jail with the present bond amount, or wait and seek a bond reduction by the Court.
- 16) The continued operation of pre-trial services interferes with Plaintiff's economic opportunity and prospective business advantage by reducing the amounts of bonds, increasing the amounts of releases without bond, and by interfering with the bonding relationship between Allied Bail Bonds and its customers. In addition, the Sheriff is engaged in a scheme to prevent arrestees from contacting bonding companies prior to Pre-Trial Services employees conducting their interviews, while processing arrestees with credit cards expeditiously.
- 17) Plaintiff is entitled to an order permanently enjoining Kootenai County from the operation of Adult Misdemeanor Probation and Pre-Trial Services.
- 18) Plaintiff submitted the Public Records Request Forms attached as Exhibits B through K. The Sheriff's Department and Kootenai County denied the

requests by failing to submit a substantial number of documents covered by the request. Both the Sheriff and Kootenai County acted in bad faith in denying the request.

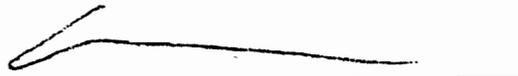
- 19) The conduct complained of in paragraph 17., is in contravention of Idaho Code, Title 9, Chapter 3.
- 20) Because of the conduct complained of herein, Plaintiff has been damaged in an amount in excess of \$10,000 to be proved at trial.
- 21) The conduct complained of herein is reducing Plaintiff's bonding business and causing irreparable harm to Plaintiff entitling Plaintiff to an injunction preventing said conduct.
- 22) Because of the conduct complained of herein, Plaintiff has had to acquire the services of an attorney and pursuant to the Settlement Agreement, and Title 9, Chapter 3, Idaho Code, Plaintiff is entitled to an award of its reasonable attorneys' fees and costs incurred in this action with a reasonable sum in the event of default for failure to file an answer being \$4,000, exclusive of collection costs. In the event this matter proceeds by way of default for any other reason, a reasonable sum for attorneys' fees is \$100,000, subject to Idaho Rule of Civil Procedure 54.

Wherefore, Plaintiff prays that this Court enter judgment as follows:

- 1) For Plaintiff and against Defendant in an amount in excess of \$10,000 to be proved at trial;

- 2) For Plaintiff and against Defendants enjoining Defendants from further violations of the parties agreement and other conduct designed to deprive Plaintiff of its economic opportunity;
- 3) For Plaintiff and against Defendant in an amount to compensate Plaintiff for its reasonable attorneys' fees and costs incurred in this action; and
- 4) For Plaintiff and against Defendant granting Plaintiff any other relief that this Court deems fair and equitable.

DATED this 22 day of October, 2008.



ARTHUR M. BISTLINE  
Attorneys for Plaintiff

**CERTIFICATE OF SERVICE**

I hereby certify that on the 22 day of October, 2008, I caused to be served a true and correct copy of the foregoing document by the method indicated below, and addressed to the following:

Darrin Murphy  
Kootenai County Department of Legal  
Services  
PO Box 9000  
Coeur d'Alene, ID 83816

- Hand-delivered
- Regular mail
- Certified mail
- Overnight mail
- Facsimile
- Interoffice Mail

BY:   
SARAH J. OECHELSLE

FILED 12-12-08

AT 1:30 o'Clock P M  
CLERK OF DISTRICT COURT

*[Signature]*  
Deputy

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE  
STATE OF IDAHO IN AND FOR THE COUNTY OF KOOTENAI

ALLIED BAIL BONDS, INC., )  
)  
*Plaintiffs,* )  
vs. )  
)  
COUNTY OF KOOTENAI, et al. )  
)  
*Defendants.* )  
)

Case No. **CV 2007 7471**

**ORDER GRANTING MOTION TO  
DISMISS IN PART AND DENYING  
MOTION TO DISMISS IN PART**

**I. INTRODUCTION AND PROCEDURAL BACKGROUND.**

In April 2001, plaintiff Allied Bail Bonds, Inc., (Allied) and defendant Kootenai County, through Ron Rankin, the Chairman Pro-Tem of the Kootenai County Board of Commissioners, and Rocky Watson, the Kootenai County Sheriff, entered into a Release and Settlement Agreement which Allied now alleges defendants have breached. Exhibit A to Complaint and Request for Jury Trial, filed October 9, 2007. Allied alleges defendants interfered with Allied's business of providing bonding services, in part by accepting credit cards from inmates for the purposes of posting bail and not regularly charging the \$10 bonding fee.

On October 22, 2008, Allied filed its Motion to Amend its complaint, and attached to that Motion was a Second Amended Complaint dated October 22, 2008. Oral argument on that motion was held on November 5, 2008. That motion was taken under advisement.

On July 9, 2008, defendants filed a Motion to Dismiss pursuant to I.R.C.P. 12(b)(1) and 12(b)(6). Oral argument on defendants' motion to dismiss was held on December 4, 2008. At the beginning of that hearing the Court announced its ruling granting Allied's Motion to Amend Complaint, and the Court ordered the Second Amended Complaint, dated October 22, 2008, be filed, and that defendants had twenty-days from December 4, 2008, to answer such.

At that December 4, 2008, hearing, the Court noted that at the conclusion of an earlier hearing on June 3, 2008, Judge Luster (previously assigned to this case) granted Allied's Motion to Amend the Complaint and ordered the Amended Complaint and Request for Jury Trial, dated May 20, 2008, be filed. On June 15, 2007, Judge Luster signed an order allowing Allied to amend its complaint. However, the Amended Complaint was never actually filed with the Court. This Court ordered that Amended Complaint be filed *nunc pro tunc* back to May 20, 2008, the date the Motion to Amend the Complaint was granted.

The Second Amended Complaint dated October 22, 2008, differs very little from the Amended Complaint. The only significant difference this Court can see is that the Second Amended Complaint makes the claim that as to some party defendant (it is not clear which party defendant): "Engaging in conduct which encourages the use of a credit card for bonding purposes violates Article 8, Section 4 of the Idaho Constitution by granting preferential treatment to one private enterprise to the disadvantage of another." Second Amended Complaint, dated October 22, 2008, p. 3, ¶ 12.

At oral argument on December 4, 2008, counsel for defendants made the argument that if only the breach of contract argument is left against the Board of County Commissioners, the Board cannot be liable for the Kootenai County Sheriff's actions because the Board has no authority over the Sheriff. This argument was not briefed,

and the Court allowed additional time for the parties to submit any additional authority. On December 8, 2008, defendants filed "Submission of Additional Authorities", and on December 15, 2008, Allied submitted "Supplemental Brief in Support of Opposition to Motion to Dismiss." This Court has read this material. However, since defendants have not formally moved for dismissal on these grounds, this Court will not address that decision in this opinion. A separate motion will need to be filed in order to get that issue before this Court.

## **II. ANALYSIS.**

### **A. Standard of Review.**

The standard for reviewing a dismissal for failure to state a cause of action pursuant to I.R.C.P. 12(b)(6) is the same as the standard for reviewing a grant of summary judgment. See *Idaho Schools For Equal Education v. Evans*, 123 Idaho 573, 578, 850 P.2d 724, 728 (1993); *Rim View Trout Co. v. Dep't. of Water Resources.*, 119 Idaho 676, 677, 809 P.2d 1155, 1156 (1991). The grant of a 12(b)(6) motion will be affirmed where there are no genuine issues of material fact and the case can be decided as a matter of law. See *Moss v. Mid-American Fire and Marine Ins. Co.*, 103 Idaho 298, 302, 647 P.2d 754, 758 (1982); *Eliopulos v. Idaho State Bank*, 129 Idaho 104, 107-08, 922 P.2d 401, 404-05 (Ct.App.1996). When reviewing an order of the district court dismissing a case pursuant to I.R.C.P. 12(b)(6), the non-moving party is entitled to have all inferences from the record and pleadings viewed in its favor, and only then may the question be asked whether a claim for relief has been stated. See *Idaho Schools for Equal Education*, 123 Idaho 573, 578, 850 P.2d 724, 729; *Miles v. Idaho Power Co.*, 116 Idaho 635, 637, 778 P.2d 757, 759 (1989). "The issue is not whether the plaintiff will ultimately prevail, but whether the party 'is entitled to offer

evidence to support the claims.' " *Orthman v. Idaho Power Co.*, 126 Idaho 960, 962, 895 P.2d 561, 563 (1995) (quoting *Greenfield v. Suzuki Motor Co. Ltd.*, 776 F.Supp. 698, 701 (E.D.N.Y.1991)).

Whether a court has properly dismissed a case for lack of jurisdiction pursuant to I.R.C.P. 12(b)(1) is a question of law over which reviewing courts exercise free review. *Downey Chiropractic Clinic v. Nampa Restaurant Corp.*, 127 Idaho 283, 285, 900 P.2d 191, 193 (1995); *Meisner v. Potlach Corp.*, 131 Idaho 258, 260, 954 P.2d 676, 678 (1998).

## **B. Allied's Claims Discussed in Defendants' Motion to Dismiss.**

### **1. Subject Matter Jurisdiction Under Idaho Tort Claims Act.**

Defendants argue that this Court lacks the subject matter jurisdiction to rule on Allied's claims because Allied failed to comply with the Idaho Tort Claims Act (ITCA). Memorandum in Support of motion to Dismiss Amended Complaint, pp. 6-11. Since Allied alleges a deprivation of economic opportunity or prospective business advantage, which sounds in tort, defendants argue Allied was required to comply with the notice requirements of the ITCA. *Id.* at 6-7. Allied argues its claims are contract claims and "taxpayer suits to stop illegal conduct of public officials." Response to Defendants' Motion to Dismiss, p. 2. Defendants argue that since Allied's claim that defendants damaged Allied as a result of a violation of Article 8, Section 4 of the Idaho Constitution, does not arise in contract and cannot arise directly under the Constitution, it must arise under the Idaho Tort Claims Act. That argument only applies to paragraph 8(h) of the Second Amended Complaint dated October 22, 2008.

The only claim Allied makes regarding the Idaho Constitution is found in paragraph 8(h) of the Second Amended Complaint dated October 22, 2008, and reads:

“Engaging in conduct which encourages the use of a credit card for bonding purposes violates Article 8, Section 4 of the Idaho Constitution by granting preferential treatment to one private enterprise to the disadvantage of another”. Even though the allegation in paragraph 8(h) of the Second Amended Complaint dated October 22, 2008, alleges a constitutional violation, (see *School Dist. No. 8, Twin Falls County v. Twin Falls County Mutual Fire Ins. Co.*, 30 Idaho 400, 164 P. 1174 (1917) for a discussion of Idaho Constitution Article 8, § 4), as alleged it is a tort. The allegation made by Allied is that by violating that section, defendants are “granting preferential treatment to one private enterprise to the disadvantage of another.” Second Amended Complaint, ¶8(h). As discussed immediately below, that is essentially a tortious interference with a business relationship.

Allied admits that: “[t]o the extent that Allied has any tort claims, and has in fact failed to comply with the act, that would only justify dismissing the tort claims, not any of the other claims or outright dismissing the entire complaint.” Response to Defendants’ Motion to Dismiss Second Amended Complaint, p. 2. The question then is “What claims has Allied alleged which are torts?”

Allied’s use of the language “to deprive Plaintiff of its economic opportunity and prospective business advantage” (Complaint filed October 9, 2007, pp. 2-3, ¶ 8) and “interferes with Plaintiff’s economic opportunity and prospective business advantage”, (Amended Complaint filed May 20, 2008, p. 3, ¶¶ 8(g) and 10), certainly sounds in tort. The language in Allied’s most recent pleading, that: “Defendants, amongst other things, engaged in a course of conduct designed and intended to interfere with Plaintiff’s ability to engage in Plaintiff’s chosen business of providing bonding services to inmates being held at the Kootenai County jail”; “such other conduct as may be developed through discovery showing the scheme and plan of Defendant to deprive

Plaintiff of its economic opportunity and prospective business advantage”; and “Engaging in conduct which encourages the use of a credit card for bonding purposes violates Article 8, Section 4 of the Idaho Constitution by granting preferential treatment to one private enterprise to the disadvantage of another”; “The continued operation of pre-trial services interferes with Plaintiff’s economic opportunity and prospective business advantage by reducing the amount of bonds...”; certainly sounds in tort. Second Amended Complaint, pp. 2-5; ¶¶ 6, 8(h), 10, 12 and 16. The common law *tort* of interference with prospective advantage is recognized in *Twin Falls Farm & City Distributing, Inc. v. D & B Supply Co., Inc.*, 96 Idaho 351, 359, 528 P.2d 1286, 1294 (1974).

Any claim by Allied which is a tort must be dismissed as a matter of law pursuant to I.R.C.P. 12(b)(1), because this Court lacks subject matter jurisdiction where there was a failure to comply with the notice requirements of the ITCA. *Madsen v. Idaho Dept. of Health and Welfare*, 116 Idaho 758, 761, 779 P.2d 433, 436 (Ct.App. 1989); Memorandum in Support of Motion to Dismiss Amended Complaint, p. 7. Allied failed to give Kootenai County an opportunity to evaluate the claims and approve or deny them within 90 days, pursuant to Idaho Code §6-909 and § 6-910. Memorandum in Support of Motion to Dismiss, pp. 10-11. The only notice Allied gave the county was via the filing of its Complaint. Idaho Code §6-909 6-910 of the Idaho Tort Claims Act were not complied with.

Allied has not set forth any purported question of fact regarding the timing of its ITCA notice, the amount of damages, or of its having given the County an opportunity to evaluate the claim and act as required by the ITCA. In *Wickstrom v. North Idaho College*, 111 Idaho 450, 451-52, 725 P2d 155, 156-57 (1986), the Idaho Supreme

Court held that a plaintiff's demand letter failed to serve as notice pursuant to the ITCA where it did not state the names and addresses of the claimants, the amounts of claimed damages, or the nature of the injury claimed; the Court barred the claim. Failure to comply with the notice requirement is fatal to the claims. *Udell v. Idaho State Land Board*, 119 Idaho 1018, 1020, 812 P.2d 325, 327 (Ct.App. 1991). Dismissal is mandated by Idaho Code §6-908.

The breach of contract claims of Allied, if any have been pled, survive defendants' motion to dismiss, at least on the ground that Allied failed to comply with the Idaho Tort Claims Act. *Greenwade v. Idaho State Tax Commission*, 119 Idaho 501, 506, 808 P.2d 420, 425 (Ct.App. 1991), *see also City of Chubbuck v. City of Pocatello*, 127 Idaho 198, 899 P.2d 411 (1995). All claims for money damages arising out of the negligent or otherwise wrongful acts or omissions of any governmental entity or its employee or its employees, must be dismissed. Idaho Code §§ 6-902(7), 6-903(a). (emphasis added). It is clear from this language that a tort is more than just negligence. *Greenwade* makes it clear that a "claim" also encompasses trespass, trover and conversion (119 Idaho 501, 503, 808 P.2d 420, 422), as well as fraud. 119 Idaho 501, 506 808 P.2d 420, 425. "To conclude that the ITCA governs *all* claims against the state is to extend the reach of the act beyond its reasonable interpretation, for the term 'claim' is specifically defined and limited in the ITCA to tort claims." *Id.* (italics in original).

The Idaho Tort Claims Act is to be construed liberally and with a view to accomplishing its aims and purposes, and attaining substantial justice. *Sterling v. Bloom*, 111 Idaho 211, 723 P.2d 755 (1986). Defendants' motion to dismiss all tort claims under its complaints must be granted. This would include any claims of tortious

interference of a business relationship, if such is alleged by Allied. See *Government Payment Service, Inc., v. ACE Bail Bonds*, 854 N.E.2d 1205, 1209-10 (Ct.App.Ind. 2007), for the elements of such tort in a similar fact setting. Tortious interference with a business relationship seems to have been alleged by Allied in paragraphs 6, 8(h), 10, 12, and 16 of the Second Amended Complaint dated October 22, 2008.

## **2. Public Records Request**

Defendants argue Allied cannot complain for damages pursuant to a denial of public records requests pursuant to the plain language of I.C. § 9-343. Memorandum in Support of Motion to Dismiss Amended Complaint, p. 11. In response, Allied claims it seeks only attorney's fees, not damages, for the alleged violation of § 9-301, *et seq.* In *Cowles Publishing Co., v. Kootenai County Board of Commissioners*, 144 Idaho 259, \_\_\_, 159 P.3d 896, 901 (2007), the District Court and the Idaho Supreme Court held email correspondence between the county prosecutor and the manager of juvenile education and training was public and ordered disclosure. The Idaho Supreme Court held that Cowles' request for attorney's fees and costs in the last line of its response brief and its reply brief was not supported by authority or argument and denied the request. *Id.*, 159 P.3d 896, 903. The Idaho Supreme Court refused to consider a request for fees on appeal that was not supported by legal authority or argument. *Id.*

The "sole remedy" under Idaho Code § 9-343 "for a person aggrieved by the denial of a request for disclosure" of information is to compel the disclosure of documents. There is no provision for damages in this statute. Allied admits it is not seeking damages, only attorney fees. But this Court cannot think of any possible way for Allied to get attorney fees when Allied is not seeking the "sole remedy" that Idaho Code § 9-343 provides...that being disclosure of the documents. If Allied is not seeking

the remedy allowed (disclosure of the documents), this Court simply cannot envision an outcome where Allied would be a prevailing party entitled to attorney fees. *Cowles Publishing* supports that conclusion.

Defendants also argued Allied lacks standing to protest the denial of the public records request as the requests were submitted by Frank Davis, not Allied Bail Bonds. Memorandum in Support of Motion to Dismiss Amended Complaint, p. 12. Allied responds that Frank Davis is the owner and president of Allied Bail Bonds and was requesting the information in that capacity. Response to Defendants' Motion to Dismiss Second Amended Complaint, p. 2. Here, although Mr. Davis did not print his name and add that he was President and Owner of Allied Bail Bonds, he did list the Allied Bail Bonds address and telephone number on each public records request. See Complaint (filed October 9, 1007), Exhibits B-K. This Court is not persuaded by defendants' lack of standing argument. However, Allied's admission that they are only seeking attorney's fees under Idaho Code § 9-343, coupled with this Court's determination that the "sole remedy" allowed under that statute is disclosure, is dispositive on this issue. Defendants motion to dismiss all claims brought by Allied under Idaho Code § 9-343 must be granted.

### **3. The Bonding Requirements of I.C. § 6-610.**

Defendants argue Allied failed to comply with the bond requirements of I.C. § 6-610 by not posting the bond before the filing of its complaint and by not posting the bond with two sureties as required. Memorandum in Support of Motion to Dismiss Amended Complaint, pp 13-15. Defendants argue this failure (not posting the pre-filing bond) is fatal to the claim against Sheriff Watson, citing *Beehler v. Fremont County*, 145 Idaho 656, 182 P.3d 713 (Ct.App., April 14, 2008). Idaho Code § 6-610(2)

requires:

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Before any civil action may be filed against any law enforcement officer or service of civil process on any law enforcement officer, when such action arises out of, or in the course of the performance of his duty, or in any action upon the bond of any such law enforcement officer, the proposed plaintiff or petitioner, as a condition precedent thereto, shall prepare and file with, and at the time of filing the complaint or petition in any such action, a written undertaking with at least two (2) sufficient sureties in an amount to be fixed by the court. The purpose of this requirement is to ensure diligent prosecution of a civil action brought against a law enforcement officer, and in the event judgment is entered against the plaintiff or petitioner, for the payment to the defendant or respondent of all costs and expenses that may be awarded against the plaintiff or petitioner, including an award of reasonable attorney's fees as determined by the court.

That statute speaks in mandatory terms ("shall"), and requires filing of a bond, with at least two sufficient sureties, prior to filing the action. That did not happen in this case, as Allied filed a \$700 bond on October 10, 2007, the day *after* filing their complaint.

The Court of Appeals in *Beehler* held that compliance with I.C. § 6-610 is mandatory in cases against law enforcement officers, with only a narrow exception for indigent prisoners and non-prisoners who seek a waiver under I.C. § 31-3220. *Beehler*, 145 Idaho at \_\_\_, 182 P.3d at 717. *Monson v. Boyd*, 81 Idaho 575, 582, 348 P.2d 93, 97 (1959) also held when Idaho Code § 6-610 has not been complied with, the action must be dismissed.

The facts in *Beehler* are to some extent distinguishable from the instant matter, as the Beehlers did not comply in any manner with the requirements of § 6-610. Allied attempted "some" compliance with its requirements, but after the fact. Allied filed a \$700 bond on October 10, 2007, the day after its complaint was filed. Later, the issue was brought before Judge Luster. Judge Luster's Order, filed March 24, 2008, also orders "that Plaintiff, Allied Bail Bonds, Inc., shall file with the Clerk of the District Court, no later than five (5) days from the date this order is received by plaintiff's counsel, a bond with at least two sufficient sureties in an amount not less than \$25,000. Order

Granting Defendants' Motion Excepting to Bond, p. 2. That Order was entered following the hearing on defendants' Motion Excepting to Bond pursuant to Idaho Code § 6-610, held on March 3, 2008. Allied filed the \$25,000 bond on March 17, 2008, but posted the bond with only one surety, again, not completely complying with Idaho Code § 6-610.

Allied makes two arguments. First, as it argued at the hearing before Judge Luster on March 3, 2008, counsel for Allied also argued at the hearing before this Court on Defendants' Motion to Dismiss that compliance with that statute was impossible because the bond has to be posted before filing the complaint, yet the bond must be determined by a judge, and you cannot get before a judge without filing a complaint. Even if that argument were true, the language of the statute and *Beehler* is mandatory. And even if that argument were true, it does not address the secondary defect by Allied, the failure to utilize two sureties. Allied's second argument is that defendants waived their right to make this argument because they stipulated to the filing of a sufficient bond at the March 3, 2008, hearing, and because "the original complaint is *functus officio*, and is not part of the record", and that the bond was in place when the amended complaint was filed. Response to Defendants' Motion to Dismiss Second Amended Complaint and Motion to Reconsider, pp. 2-3. This waiver argument ignores the fact that Judge Luster's Order Granting Defendants' Motion Excepting to Bond, specifically stated: "IT IS FURTHER ORDERED that the objection of Defendant, Rocky Watson, Kootenai County Sheriff, to the failure of the Plaintiff, Allied Bail Bonds, Inc., to file a bond prior to instituting this action is not waived." Order Granting Defendants' Motion Excepting to Bond, p. 2. This waiver argument also ignores the fact that Judge Luster ordered in that same order that the bond had to be filed with at least two sufficient

sureties. *Id.* That requirement of Idaho Code § 6-610 and Judge Luster's Order Granting Defendant's Motion Excepting to Bond has not been met.

This Court is not persuaded by Allied's *functis officio* argument. Allied cites *Pacheco v. Safeco Ins. Co. of America*, 116 Idaho 794, 809, 780 P.2d 116, 131 (1989) as support for this argument. Response to Defendants' Motion to Dismiss Second Amended Complaint and Motion to Reconsider, pp. 2-3. That statement, found in the well written dissenting opinion written by Justice Bistline, actually cuts against that doctrine being used in the present case. The pertinent portion of Justice Bistline's dissent reads:

One might be asked what to make of the fact that Safeco amended its answer so as to remove the allegations of fraud and fraudulent conduct on the part of Dr. Pacheco which were contained in its initial answer. The general rule as stated in *Jenkins v. Donaldson*, 91 Idaho 711, 429 P.2d 841 (1967) is that the prior answer becomes *functus officio*, and is not properly in the record. In this case, however, it *is* still in the record, and moreover the defendant itself cites to it and uses it in its brief. If not properly in the record, rather than use it, Safeco could have moved that it be stricken. But it did not, notwithstanding its amended answer was so careful not to allege fraud.

That it is still in the record entitles not just Safeco to make use of and refer to it, but this Court as well may do so. Although an amended pleading supersedes the prior pleading as a pleading, the prior pleadings are not ineffective for all purposes. *Las Vegas Network, Inc. v. Sawcross*, 80 Nev. 405, 395 P.2d 520 (1964).

116 Idaho 794, 809, 780 P.2d 116, 131. A review of *Jenkins v. Donaldson*, 91 Idaho 711, 429 P.2d 841 (1967), shows that "where an amended complaint and answer thereto are filed, the original complaint and answer *cease to perform any functions as pleadings* and are not part of the record." 91 Idaho 711, 715, 429 P.2d 841, 845 (1967). While the original complaint by Allied in the present case may "cease to perform any functions as pleadings", this Court's reading of these cases does not allow

*functus officio* to apply as a way for Allied to side-step its obligations to post a bond with two sureties under Idaho Code § 6-610.

This Court concludes Allied has failed to state a claim against Sheriff Watson upon which relief may be granted, due to its failure to follow Judge Luster's order and Idaho Code § 6-610, and due to the mandatory language in that statute and the Court of Appeals decision in *Beehler* and the Idaho Supreme Court decision in *Monson*. See also *Greenwade v. Idaho State Tax Commission*, 119 Idaho 501, 503, 808 P.2d 420, 422 (Ct.App. 1991).

#### **4. The Contract Claim and Non-Compete Clause**

Defendants argue that the Settlement Agreement between the County and Allied Bail Bonds (Exhibit A, Complaint filed October 9, 2007) is void and unenforceable as it contains no limitation as to time and Allied is attempting to enforce the settlement as a covenant not to compete. Memorandum in Support of Motion to Dismiss Amended Complaint, p. 16. Allied responds it is defendants who seek to characterize the agreement as a covenant not to compete. Response to Defendants' Motion to Dismiss Second Amended Complaint, p. 3. Allied argues the County does not compete with bail bondsmen, but rather, Allied's competition is credit card companies. *Id.*

The Release and Settlement Agreement, entered into by the parties on April 19, 2001, cannot be construed as a covenant not to compete. The terms of the settlement include: (1) that the county will use and provide GTE/Verizon directories to inmates; (2) the county agrees to collect the \$10 fee if the funds are in an inmate's account and the inmate requests the fee be subtracted, or if the inmate wished to use Allied, Allied may pay the fee; (3) the jail will provide a receipt in the name of the payee to whoever pays the fee; (4) jail personnel will make change for up to \$50 bills when Allied posts the fee; (5) the jail will provide Allied with an inmate's booking sheet when posting bond for that

inmate, but will not provide a blanket list of booking sheets and allow Allied random access to unspecified inmates to solicit business; (6) it shall be the jail's policy that personnel refrain from advising inmates or third parties against posting bonds, rather they shall direct those with questions to the "After you are booked in your options are:" plaque; and (7) if the County is responsible for blocking calls from the jail to Allied, if the jail receives notice, it will make a good faith effort to remove such a block within 48 hours, *inter alia*.

None of these terms appear to comprise a covenant not to compete, and as Allied argues, by pushing credit cards, the County is giving preferential treatment to a private enterprise, Allied's competition the credit card companies, to the detriment of Allied. Reply to Defendants' Objection to Plaintiff's Second Motion for Preliminary Injunction and Motion to Amend Complaint, pp. 1-2. Even if this Court were to determine that the language at issue constitutes a covenant not to compete, this is certainly not such a covenant in an employment setting. The Idaho Supreme Court has said non-compete covenants are disfavored in the employment context; but the Court has not stated that they are disfavored when ancillary to the sale of a business, for example. *Bybee v. Isaac*, 145 Idaho 251, \_\_\_, 178 P.3d 616, 621 (1008); *Stipp v. Wallace Plating, Inc.*, 96 Idaho 5, 6, 523 P.2d 822, 823 (1974) ("restrictive covenants in contracts limiting employee's natural right to pursue an occupation and thus support himself and his family will be strictly scrutinized," but courts are less strict in construing the reasonableness of such covenants ancillary to the sale of a business). Here, it is likely that taking all inferences in favor of Allied, a claim for relief (breach of the Release and Settlement Agreement) has been stated. Accordingly, defendants' Motion to Dismiss on the grounds that the agreement is a covenant not to compete must be denied.

## 5. Allied's Property or Contract Right to the Bail Bond Business

Defendants argue Allied has a mere license to conduct its business which is a privilege and not a right of property or contract, citing *BHA Investments v. State*, 138 Idaho 348, 63 P.3d 474 (2004) in support of that argument. Memorandum in Support of Motion to Dismiss Amended Complaint, pp. 16-17. Allied claims defendants' reliance on *BHA* is inapt because the claim in that case was based on a taking of property without just compensation because a transfer fee was too high, and the Court noted, in *dicta*, that a liquor license is not a property right. Response to Defendants' Motion to Dismiss Second Amended Complaint and Motion to Reconsider, p. 4.

*BHA* dealt with a dispute over whether the plaintiff in that case had a valid property interest in a transfer fee being charged by the State under the Takings Clause. 138 Idaho 348, 354, 63 P.3d 474, 480. The plaintiff argued that money charged in excess of a reasonable transfer fee was a taking and plaintiff had a property interest in that money. *Id.* at 355, 63 P.3d at 481. The plaintiff in *BHA* cited *Coeur d'Alene Garbage Service v. Coeur d'Alene*, 114 Idaho 588, 759 P.2d 879 (1988) for the proposition that it had a valid economic property interest, because *Coeur d'Alene Garbage* had held the right to conduct business is property and found that the Garbage Service's interest in the business it conducted in areas annexed by the city was a valid property interest. In *BHA*, the Idaho Supreme Court distinguished *BHA* from *Coeur d'Alene Garbage* because in *BHA* the claim was money taken in excess of a reasonable transfer fee constituted the property taken, not that the license itself was property. *BHA*, 138 Idaho 348, 354, 63 P.3d 474, 480. Here, unlike in *BHA*, Allied is claiming that its license gives rise to the property right it claims: "As such, Allied has the right and license to sell bail bonds and make a profit doing so and that is a property

right." Response to Defendants' Motion to Dismiss Second Amended Complaint and Motion to Reconsider, p. 4. Allied has submitted evidence via Affidavits (see Affidavits of Nathan Simpson, Steven Tucker, Joshua Jones, Michael Holt, Tim Welch, and Andrew Robles) that its claim is not altogether speculative because pre-trial services participants would have bonded with Allied.

*Coeur d'Alene Garbage Service* dealt with a private company which picked up garbage in suburban areas outside the City of Coeur d'Alene. By city ordinance, the City of Coeur d'Alene required its citizens to use Lake City Disposal for garbage collection. Coeur d'Alene Garbage Service was licensed as a hauler of garbage by Panhandle Health. The City of Coeur d'Alene began annexation proceedings, but before those proceedings were completed, Coeur d'Alene Garbage Service obtained written contracts with its customers in the areas about to be annexed to haul their garbage for a period of three months with an automatic renewal for additional periods of three months unless cancelled by prior notice within ten days of the expiration of a three-month term. Following annexation, Coeur d'Alene Garbage Service sued the City of Coeur d'Alene and Lake City Disposal in an inverse condemnation action for providing garbage service within the annexed areas. The trial court held the City of Coeur d'Alene had taken Coeur d'Alene Garbage Service's property. 114 Idaho 588, 590, 759 P.2d 879, 881.

On appeal, the Idaho Supreme Court affirmed the trial court, stating:

The essence of our holding here is that the City went too far by excluding Garbage Service from continuing to service its customers in the annexed areas. \* \* \* If the City had merely regulated the operation of Garbage Service in the annexed areas by requiring it to comply with reasonable standards established by the City, there would have been no taking. Instead, the City chose to take from Garbage Service any opportunity to continue to service its customers in the annexed areas. It was this exclusion that entitles Garbage Service to just compensation. Thus, a claim for relief was likely stated.

114 Idaho 588, 591, 759 P.2d 879, 882. The Idaho Supreme Court noted: "It is also established that the 'right to conduct a business is property.'" *Id.*, citing *Robison v. H. & R. E. Local # 782*, 35 Idaho 418, 429, 207 P. 132, 134 (1922), *O'Connor v. City of Moscow*, 69 Idaho 37, 42-43, 202 P.2d 401, 404 (1949), and *Village of Weippe*, 91 Idaho 798, 803, 430 P.2d 401, 404 (1967). Then, the Idaho Supreme Court stated:

Garbage Service had a property interest in the business it conducted in the areas annexed by the City. The City chose to take this property in order to allow Disposal to provide exclusive garbage service to the annexed areas.

*Id.* There are two important features which distinguish the present case from *Coeur d'Alene Garbage Service*. First, in *Coeur d'Alene Garbage Service*, Coeur d'Alene Garbage Service had a contractual right with specific existing customers in the annexed areas. In the present case, Allied, while licensed to write bonds, has no contractual right to write a bond for any specific person. There are other bonding companies, and a defendant may post cash or property bond. Second, as the Supreme Court stated above: "The essence of our holding here is that the City went too far by excluding Garbage Service from continuing to service its customers in the annexed areas." The defendants Kootenai County and Sheriff Watson have not "excluded" any bonding business, Allied or any other bonding business. Against these two important distinctions, this Court turns its attention to *Government Payment Service, Inc., v. ACE Bail Bonds, et.al.*, 854 N.E.2d 1205 (Ct.App.Ind. 2007). (hereafter ACE).

In ACE, Government Payment Service, Inc. (GPS), facilitated cash bail in the State of Indiana by helping credit card holders access their credit in order to make payments to government agencies, including cash bail or a fine. 854 N.E.2d 1205, 1207. ACE Bail Bonds and other bail bond companies sued GPS for tortious interference with a business relationship. The Indiana Court of Appeals noted that the

first element of tortious interference with a business relationship is the existence of a valid business relationship. *Id.* The Indiana Court of Appeals found there was no evidence that either the bail agents or their clients had any such relationship with the local governmental entities. That might not be accurate in the present case where Allied and defendants have the agreement which is the center of this dispute. The Indiana Court of Appeals went on to state that “There is no evidence of *property or other rights* held by the Bail Agents.” *Id.* Although *ACE* concerned tortious interference with a business relationship, and the present part of defendants’ motion to dismiss deals with a property right, the Indiana Court of Appeals was looking for *any* right held by the bail agents, and found specifically that they had no “property right.”

This Court finds that while Allied has a contractual right with defendants Kootenai County and its Sheriff Rocky Watson, there is no property right to this bail bond business.

#### **6. Allied's Standing.**

Defendants next argue Allied has failed to establish a particularized injury not suffered by all taxpayers and lacks standing to challenge the acceptance of credit cards or the operation of pre-trial services and adult misdemeanor probation (AMP). Memorandum in Support of Motion to Dismiss Amended Complaint, p. 17. Allied responds that it is part of an exclusive group of individuals and entities licensed to provide surety bonds for bail purposes and the use of credit cards, and that the operation of pre-trial services and AMP reduces the number of bonds written, thereby injuring only licensed bail bonding companies like Allied. Response to Defendants’ Motion to Dismiss Second Amended Complaint, p. 5.

In *Gallagher v. State*, 141 Idaho 665, 115 P.3d 756 (2005), a smoker brought a claim for injunctive and declaratory relief against Idaho, the Governor, the legislature, the State Tax Commission, State Treasurer, State Auditor, and State Controller for allegedly unconstitutional increases in the cigarette tax and the sales and use tax. 141 Idaho 665, 666, 115 P.3d 756. 757. The Idaho Supreme Court held: "Taxpayers who have a 'generalized grievance' shared by a large class of citizens do not have standing... The taxpayers remedy is through the political process." *Id.* (citations omitted). In the present case, Allied posits the particularized injury is suffered only by bail bonding companies, not a large class of citizens, and Allied therefore has standing. This court agrees that Allied has demonstrated that it bears the incident of the use of credit cards, operation of AMP and pre-trial services, and therefore, has standing to challenge the use of credit cards, operation of AMP and pre-trial services.

#### **7. Accepting Bail by Credit Cards.**

Defendants argue Idaho law specifically allows for the payment of a cash bail bond by credit card, citing Idaho Code § 31-3221. Memorandum in Support of Motion to Dismiss Amended Complaint, pp.18-19. Idaho Code § 31-3221, entitled "Payments to court by credit card or debit card," states that the clerk of the district court may accept payment of a debt owed the court by credit or debit card. Idaho Code § 31-3221(1). A debt to court is later defined as, "any assessment of fines, court costs, surcharges, penalties, fees, restitution, cash deposit of bail." Idaho Code § 31-3221(2)(d).

Allied argues subsection (3) of the statute provides that the Supreme Court may adopt rules for the administration of this section and may enter into contracts with an issuer or organization to implement the provisions of this section. Response to Defendants' Motion to Dismiss Second Amended Complaint, p. 5. Allied goes on to state the "Idaho Supreme Court was asked to speak and speak it did; credit cards are

not authorized for cash bond purposes. Furthermore, only the Supreme Court may enter into contracts with credit card issues [sic], not the county as in this case." *Id.* However, in briefing, Allied has failed to provide for this Court what rules the Supreme Court has adopted so as not to authorize the use of credit cards for cash bond purposes. At oral argument, counsel for Allied argued that Idaho Criminal Rule 46(d) provides such, specifically the portion of Idaho Criminal Rule 46(d) which reads:

Provided, bail may be posted by depositing a cashier's check, money order, or a personal check payable to the clerk of the court under such procedures as shall be established by the administrative district judge, or where acceptance of a personal check has been approved by a magistrate or a district judge.

This Court does not agree that this provision of Idaho Criminal Rule 46(d) results in the Idaho Supreme Court's prohibition of credit cards for cash bond. First of all, this sentence reads "...bail *may* be posted by depositing a cashier's check, money order or personal check...", it does not say it has to be posted by only those means or that any other means are prohibited. Second, as noted by defendants, Idaho Code § 31-3221 provides that the Idaho Supreme Court may enter into contracts with an issuer, but does not require that all contracts be entered into by the Idaho Supreme Court. Third, Administrative Judge James F. Judd allowed for the payment of cash bail in the First Judicial District. (Defendants') Request for Judicial Notice, filed May 28, 2008, Exhibit C; Administrative Order E-DW.1 (June 16, 2000). Fourth, as stated in *Government Payment Service, Inc., v. ACE Bail Bonds, et.al.*, 854 N.E.2d 1205 (Ct.App.Ind. 2007):

Indiana law permits licensed bail agents to write bonds for incarcerated defendants. It also permits a cash bail program. Facilitating the access of incarcerated defendants to credit which they in turn post as cash bail is not engaging in the writing of bail bonds, and it is not tortious interference with the business relationships of the Bail Agents.

854 N.E.2d 1205, 1210.

Allied's claims challenging the acceptance of a credit card to post bail fails to state a claim upon which relief can be granted. Therefore, defendants motion to dismiss on this ground must be granted.

#### **8. The County's Operation of Pre-Trial Services and AMP**

Defendants claim that "Allied alleges that the county's operation of the Adult Misdemeanor Probation Department is without statutory authority and in violation of Article 10, § 5, of the Idaho Constitution and therefore the pre-trial services program is unlawful. Amended Complaint, ¶¶ 12-15." Memorandum in Support of Motion to Dismiss Amended Complaint, p. 19. Defendants claim "Allied argues that Article 10 § 5 of the Idaho Constitution provides that the Department of Corrections has exclusive authority for providing misdemeanor probation services." Reply to Plaintiff's Response to Defendants' Motion to Dismiss Second Amended Complaint and Motion to Reconsider, p. 7. Indeed, Allied makes the claim that: "The Department of Corrections is in charge of adults on probation." Response to Defendants' Motion to Dismiss Second Amended Complaint and Motion to Reconsider, p. 6. Defendants argue that operation of both pre-trial services and Adult Misdemeanor Probation is lawful. Memorandum in Support of Motion to Dismiss Amended Complaint, pp. 19-20. Defendants state that while the Constitution addresses the board of corrections' power concerning those convicted of a felony, persons convicted of a misdemeanor are managed by the counties. *Id.* at 19. Allied argues that Article 10, § 5 of the Idaho Constitution provides the Department of Corrections the exclusive authority for providing misdemeanor probation services, and the word "felony" is found nowhere in the section. Response to Defendants' Motion to Dismiss Second Amended Complaint, p. 6. Article 10, § 5 of the Constitution states:

...The state legislature shall establish a nonpartisan board to be known as the state board of correction,... This board shall have the control, direction, and management of the penitentiaries of the state, their employees and properties, and of adult probation and parole, with such compensation, powers, and duties as may be prescribed by law.

Allied argues this provision is unambiguous and not subject to interpretation, and that the State of Idaho Department of Corrections is in charge of adults on probation.

Response to Defendants' Motion to Dismiss Second Amended Complaint, p. 6.

Although no case law in Idaho is on point, defendants' argument is well taken. Article 10, § 5 is entitled "State Prisons—Control Over", and must be read with that limitation. As pointed out by defendants, Idaho Code § 18-113(1) clearly states that misdemeanors are punishable by imprisonment in county jails, not to exceed six months, or a fine not to exceed \$1,000, or both. Memorandum in Support of Motion to Dismiss Amended Complaint, p. 19. Because Article 10, § 5 was never intended to govern *all* adults on probation, but only those who had been in or who face punishment in *state prisons*, (ie. felons), Allied has not stated a claim upon which relief can be granted. Defendant is entitled to a motion to dismiss on Allied's claims that the county's operation of the Adult Misdemeanor Probation Department is without statutory authority and in violation of Article 10, § 5, of the Idaho Constitution.

### III. ORDER.

IT IS HEREBY ORDERED:

1. Defendants' motion to dismiss all tort claims under its complaints is

GRANTED.

2. Defendants' motion to dismiss all claims brought by Allied under Idaho Code § 9-343 is GRANTED.

3. Defendants' motion to dismiss on the ground that Allied has failed to state a claim against Sheriff Watson upon which relief may be granted is GRANTED, due to Allied's failure to follow Judge Luster's order and Idaho Code § 6-610, and due to the mandatory language in that statute and the Court of Appeals decision in *Beehler* and *Greenwade* and the Idaho Supreme Court decision in *Monson*.

4. Defendants' Motion to Dismiss on the grounds that the agreement is a covenant not to compete is DENIED.

5. Defendants' Motion to Dismiss on the grounds that Allied has no property right to the bail bond business is GRANTED, and defendants' motion to dismiss on the ground that Allied has no contractual right is DENIED as there may be contractual rights which attach to the April 2001 agreement.

6. Allied has standing to challenge the use of credit cards, operation of AMP and pre-trial services, and to that extent, defendants' motion to dismiss on the grounds that Allied lacks standing is DENIED.

7. Defendants' motion to dismiss on the ground that Allied's claims challenging the acceptance of a credit card to post bail fails to state a claim upon which relief can be granted is GRANTED.

8. Defendants' motion to dismiss on Allied's claims that the county's operation of the Adult Misdemeanor Probation Department and Pre-Trial Services is without statutory authority and in violation of Article 10, § 5, of the Idaho Constitution is GRANTED.

Entered this 12th day of December, 2008.

  
John T. Mitchell, District Judge

**Certificate of Service**

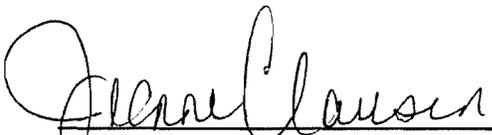
I certify that on the 12 day of December, 2008, a true copy of the foregoing was mailed postage prepaid or was sent by interoffice mail or facsimile to each of the following:

Lawyer  
Arthur Bistline

Fax #  
676-8680 ✓

Lawyer  
Darrin Murphey

Fax #  
446-1621 ✓

  
Secretary



ORIGINAL

STATE OF IDAHO  
COUNTY OF KOOTENAI } SS  
FILED:

DARRIN L. MURPHEY  
KOOTENAI COUNTY LEGAL SERVICES  
451 N. Government Way  
P.O. Box 9000  
Coeur d'Alene, ID 83816-9000  
Telephone: (208)446-1620  
Facsimile: (208) 446-1621  
ISB# 6221

2008 DEC 26 PM 4: 35

CLERK DISTRICT COURT

*Sherry Huff*  
DEPUTY

Attorney for Defendants Kootenai County and  
Rocky Watson, Kootenai County Sheriff

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI**

**ALLIED BAIL BONDS, INC., an  
Idaho Corporation,**

**Plaintiff,**

**vs.**

**COUNTY OF KOOTENAI, a political  
subdivision of the State of Idaho,  
ROCKY WATSON, Kootenai  
County, Sheriff,**

**Defendants.**

**CASE NO. CV-07-7471**

**ANSWER TO SECOND AMENDED  
COMPLAINT (DATED OCTOBER 22,  
2008)**

COME NOW, Defendants COUNTY OF KOOTENAI and ROCKY  
WATSON, Kootenai County Sheriff, by and through their attorney, DARRIN L.  
MURPHEY, of the Kootenai County Department of Legal Services, and by way of

**ANSWER TO SECOND AMENDED COMPLAINT (DATED  
OCTOBER 2, 2008) - 1**

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answer to plaintiff's Second Amended Complaint (dated October 22, 2008), admits, denies, and alleges as follows:

I.

Defendants deny each and every allegation as set forth in the Second Amended Complaint not expressly and specifically admitted herein.

II.

Defendants are without knowledge or information sufficient to form a belief as to the truth of paragraphs 1, 4, and 5 of the Second Amended Complaint, and therefore deny the same.

III.

Defendants admit paragraphs 2 and 3 of the Second Amended Complaint.

IV.

Defendants admit that the plaintiff filed suit against defendant Kootenai County on or about September 13, 2000, Case No. CV-00-5841, as referenced in paragraph 6 of the Second Amended Complaint, but deny the remaining allegations contained in paragraph 6.

V.

Defendants admit that on or about April 19, 2001, plaintiff and defendants entered into a Release and Settlement Agreement. However, plaintiff's Second Amended Complaint was void of Exhibit A as referenced in paragraph 7. Therefore, defendants are without knowledge or information sufficient to form a belief as to the truth of paragraph 7 and therefore deny the same.

VI.

Defendants deny paragraph 8, including all subparts, and paragraph 9 of the Second Amended Complaint.

VII.

Responding to paragraph 10, defendants admit that defendants are presently and have in the past accepted credit cards for the payment of bail as authorized by Idaho Code § 31-3221. Defendants deny the remaining allegations contained in paragraph 10 of the Second Amended Complaint.

VIII.

Defendants deny paragraph 11 of the Second Amended Complaint, and specifically aver that Idaho Code § 31-3221 authorizes accepting payment of bail by credit card.

IX.

Defendants deny paragraphs 12, 13, 14, 16 and 17 of the Second Amended Complaint.

X.

Responding to the allegations contained in paragraph 15 of the Second Amended Complaint, defendants admit that pre-trial services is a program operated under the direction of Kootenai County Adult Misdemeanor Department, in such a manner as authorized by the court, and with the cooperation of the Kootenai County Sheriff. Defendants deny the remaining allegations contained in paragraph 15.

XI.

Responding to the allegations contained in paragraph 18 of plaintiff's Second Amended Complaint, defendants admit receiving public records requests from Frank Davis and affirmatively aver that defendants fully responded to all such requests. Plaintiff's Second Amended Complaint was void of Exhibits B through K as referenced in paragraph 18. Therefore, defendants are without knowledge or information sufficient to form a belief as to the truth of the Exhibits referenced in paragraph 18 and therefore deny the same. Defendants deny the remaining allegations contained in paragraph 18.

XII.

Defendants deny paragraphs 19, 20, 21, and 22 of Plaintiff's Second Amended Complaint.

AFFIRMATIVE DEFENSES

I.

The Second Amended Complaint fails to state a claim against defendants upon which relief can be granted.

II.

Plaintiff's claim for damages arising out of any denial of a public records request is statutorily precluded.

III.

Plaintiff lacks standing to enforce any petition contesting the denial of Frank Davis's public records request, as plaintiff is not the real party in interest.

IV.

Plaintiff's claims contesting the denial of Frank Davis's public records requests are time barred pursuant to Idaho Code § 9-343.

V.

Plaintiff is barred from recovering in whole or in part for failing to mitigate damages.

VI.

Plaintiff's claims are moot.

VII.

Plaintiff has waived, or by its conduct is estopped from asserting, the causes of action alleged against defendants.

VIII.

Plaintiff was guilty of negligent, careless, and/or intentional misconduct at the time of, and in connection with, the matters and damages alleged, which misconduct on his part proximately caused and contributed to said events and resultant damages, if any.

IX.

Plaintiff's damages, if any, were proximately caused by the negligence, omissions or actions of third persons or entities, for whose conduct defendants are not responsible, and the responsibility of such others should be compared as provided by law.

X.

Plaintiff's damages, if any, were proximately caused by the superseding, intervening acts of third parties for whose conduct defendants are not responsible.

XI.

Plaintiff has failed to exhaust administrative remedies.

XII.

Plaintiff's claims are de minimis in nature.

XIII.

Plaintiff has failed to comply with the bond requirements set forth in Idaho Code § 6-610.

XIV.

Plaintiff's claims are barred for failure to comply with the notice provisions of the Idaho Tort Claims Act, Idaho Code § 6-901, *et. seq.*

XV.

Defendants are immune from liability pursuant to the provisions of the Idaho Tort Claims Act, Idaho Code § 6-901, *et seq.*

XVI.

Plaintiff's claims are precluded for failure to follow the time period for filing a complaint as set forth in Idaho Code § 6-910.

XVII.

Plaintiff's claims are barred by the doctrine of compromise and settlement.

XVIII.

Plaintiff's claims are barred by the doctrine of consideration.

XIX.

Plaintiff has released its claims, in whole or in part.

XX.

Plaintiff's claims are precluded by the statute of limitations contained in Idaho Code §§ 6-911, 5-216, 5-217, 5-218, 5-219, 5-221, and 5-224.

XXI.

Plaintiff's claim for damages is precluded on the basis of public policy, judicial immunity or privilege.

XXII.

Plaintiff lacks any contract or property right in any specific bail bond business.

XXIII.

Plaintiff lacks standing.

XXIV.

The settlement agreement is void or voidable in whole or in part.

XXV.

Plaintiff's Second Amended Complaint fails to name an indispensable party.

XXVI.

The Court's Order Granting Motion to Dismiss in Part and Denying Motion to Dismiss in Part, entered December 12, 2008, dismissed all tort claims for

failure to comply with the notice provisions of the Idaho Tort Claims Act, Idaho Code § 6-901, et.seq.; dismissed all claims against Sheriff Watson for failure to post a bond pursuant to the bonding requirements set forth in Idaho Code § 6-610, and for failure to comply with the courts order; dismissed all public records request claims; dismissed all claims challenging the acceptance of a credit card to post bail; dismissed all claims challenging the County's operation of the Adult Misdemeanor Probation Department and Pretrial Services for allegedly acting without statutory authority and in violation of Article X, Section 5 of the Idaho Constitution; and dismissed all claims that Plaintiff has a property right in the bail bond business.

#### **DEMAND FOR JURY TRIAL**

Pursuant to Rule 38(b) of the Idaho Rules of Civil Procedure, this answering defendant herein demands a trial by jury.

#### **PRAYER FOR RELIEF**

WHEREFORE, these answering defendants pray for judgment against plaintiff as follows:

1. That plaintiff's Second Amended Complaint be dismissed with prejudice, and plaintiff recover nothing.
2. That defendants be awarded their costs of suit and reasonable attorney fees pursuant to the Settlement Agreement, Idaho Code §§ 9-344, 6-918A, 6-610, 12-117, 12-120, and 12-121; and,

3. That defendants be awarded such other relief as the Court deems proper.

DATED this 26<sup>th</sup> day of December, 2008.

Kootenai County  
Department of Legal Services

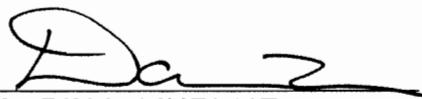
By   
DARRIN L. MURPHEY  
Attorney for Defendants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 26<sup>th</sup> day of December, 2008, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

- U.S. MAIL
- HAND DELIVERED
- OVERNIGHT MAIL
- TELECOPY (FAX) to: (208) 665-7290

Arthur M. Bistline  
Attorney at Law  
5431 N. Government Way, Suite 101B  
Coeur d'Alene, ID 83815

  
DARRIN L. MURPHEY

STATE OF IDAHO } SS  
 COUNTY OF KOOTENAI }  
 FILED: 2/26/09  
 AT 5:00 O'CLOCK PM  
 CLERK, DISTRICT COURT  
*Johnnie Clausen*  
 DEPUTY

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE  
 STATE OF IDAHO IN AND FOR THE COUNTY OF KOOTENAI

ALLIED BAIL BONDS, INC., an Idaho  
 Corporation,

Plaintiff,

vs.

COUNTY OF KOOTENAI, a political  
 subdivision of the State of Idaho, ROCKY  
 WATSON, Kootenai County Sheriff, John and  
 Jane Does 1 through 13,

Defendants.

Case No. CV-07-7471

**ORDER GRANTING RENEWED  
 MOTION TO DISMISS IN PART  
 AND DENYING RENEWED  
 MOTION TO DISMISS IN PART**

This matter having come before the Court on the 17<sup>th</sup> day of February,  
 2009, on Defendant's Renewed Motion to Dismiss Plaintiff's Second Amended  
 Complaint, and Arthur Bistline, Attorney at Law, appearing on behalf of the  
 Plaintiff, Allied Bail Bonds, Inc., and Darrin L. Murphey of the Office of the  
 Kootenai County Prosecuting Attorney, Civil Division, appearing on behalf of the  
 Defendants Kootenai County, and Rocky Watson, Kootenai County Sheriff, and  
 the Court having heard the oral arguments of counsel and having pronounced its  
 decision in open court, now, therefore,

**ORDER GRANTING RENEWED MOTION TO DISMISS IN PART AND  
 DENYING RENEWED MOTION TO DISMISS IN PART - 1**

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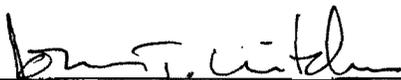
IT IS HEREBY ORDERED that Defendants' Renewed Motion to Dismiss the claim for injunctive relief of Allied Bail Bonds, Inc., against Defendant Rocky Watson, Kootenai County Sheriff, is granted, on the grounds that Rocky Watson, Kootenai County Sheriff, was previously dismissed from this lawsuit.

IT IS FURTHER ORDERED that Defendants' Renewed Motion to Dismiss the claims of Allied Bail Bonds, Inc., against Defendant Kootenai County, is granted, on the grounds that the Kootenai County Board of County Commissioners does not have the authority to perform or direct the statutory duties of the Sheriff.

IT IS FURTHER ORDERED that Defendants' Renewed Motion to Dismiss the claims of Allied Bail Bonds, Inc., against Defendant Kootenai County, is granted, on the grounds that Defendant Kootenai County is not directly liable for the alleged non-performance or mal-performance of the Sheriff.

IT IS FURTHER ORDERED that Defendants' Renewed Motion to Dismiss on the grounds of public policy, is denied, on the grounds that there exists genuine issues of material fact which preclude the granting of such claims.

ENTERED this 26<sup>th</sup> day of February, 2009.

  
\_\_\_\_\_  
Honorable John T. Mitchell  
District Judge

**CERTIFICATE OF SERVICE**

I hereby certify that on this 29 day of February, 2009, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

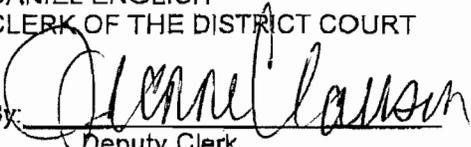
- U.S. Mail
- INTEROFFICE DELIVERY
- OVERNIGHT MAIL
- TELEFAX (FAX)

Arthur M. Bistline  
 Attorney at Law  
 5431 N. Government Way, Suite 101B  
 Coeur d'Alene, ID 83815  
 Fax: (208) 665-7290

- U.S. Mail
- INTEROFFICE DELIVERY
- OVERNIGHT MAIL
- TELEFAX (FAX)

Darrin L. Murphey  
 Civil Deputy  
 Office of the Kootenai County Prosecuting Attorney  
 451 Government Way  
 P.O. Box 9000  
 Coeur d'Alene, ID 83816-9000  
 Fax: (208) 446-1621

DANIEL ENGLISH  
 CLERK OF THE DISTRICT COURT

By:   
 Deputy Clerk

**ORDER GRANTING RENEWED MOTION TO DISMISS IN PART AND DENYING RENEWED MOTION TO DISMISS IN PART - 3**

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STATE OF IDAHO  
COUNTY OF KOOTENAI } SS  
FILED:

2009 MAR -9 AM 8:56

*[Signature]*  
CLERK DISTRICT COURT  
DEPUTY

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE  
STATE OF IDAHO IN AND FOR THE COUNTY OF KOOTENAI

ALLIED BAIL BONDS, INC., an Idaho  
Corporation,

Plaintiff,

vs.

COUNTY OF KOOTENAI, a political  
subdivision of the State of Idaho, ROCKY  
WATSON, Kootenai County Sheriff, John and  
Jane Does 1 through 13,

Defendants.

Case No. CV-07-7471

**JUDGMENT**

Pursuant to the Court's Order Granting Motion to Dismiss in Part and Denying Motion to Dismiss in Part, entered on December 12, 2008, and the Court's Order Granting Renewed Motion to Dismiss in Part and Denying Renewed Motion to Dismiss in Part, entered on the 26th day of February, 2009;

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Plaintiff's Second Amended Complaint is dismissed.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that all tort claims are dismissed without prejudice.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that all claims

JUDGMENT - 1

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brought pursuant to Idaho Code § 9-343 are dismissed with prejudice.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that all claims against Sheriff Watson are dismissed without prejudice for failure to comply with Idaho Code § 6-610.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that all claims arising out of Plaintiff's claim of a property right to the bail bond business are dismissed with prejudice.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that all claims arising out of Plaintiff's challenge to the acceptance of a credit card to post bail are dismissed with prejudice.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that all claims arising out of Plaintiff's claims that the County's operation of the Adult Misdemeanor Probation Department and Pre-Trial Services is without statutory authority and in violation of Article 10, § 5, of the Idaho Constitution, are dismissed with prejudice.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Plaintiff's claims for injunctive relief against Defendant Rocky Watson, Kootenai County Sheriff, are dismissed without prejudice.

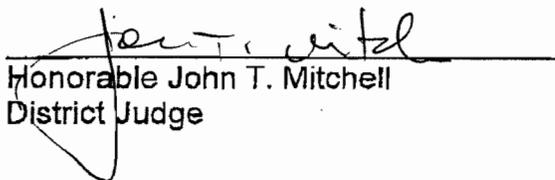
IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that all claims arising out of Plaintiff's claims against Defendant Kootenai County, that the Kootenai County Board of County Commissioners have the authority to perform or direct the statutory duties of the Sheriff, are dismissed with prejudice.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that all claims

against Defendant Kootenai County, that Defendant Kootenai County is directly liable for the alleged non-performance or mal-performance of the Sheriff, are dismissed with prejudice.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that determination of the prevailing party and awarded costs and attorney's fees will be subsequently determined by the Court.

ENTERED this 8<sup>th</sup> day of March, 2009.

  
 Honorable John T. Mitchell  
 District Judge

**CERTIFICATE OF SERVICE**

I hereby certify that on this 9 day of March, 2009, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

- U.S. Mail
- INTEROFFICE DELIVERY
- OVERNIGHT MAIL
- TELEFAX (FAX)

Arthur M. Bistline  
 Attorney at Law  
 5431 N. Government Way, Suite 101B  
 Coeur d'Alene, ID 83815  
 Fax: (208) 665-7290

- U.S. Mail
- INTEROFFICE DELIVERY
- OVERNIGHT MAIL
- TELEFAX (FAX)

Darrin L. Murphey  
 Civil Deputy  
 Office of the Kootenai County Prosecuting Attorney  
 451 Government Way  
 P.O. Box 9000  
 Coeur d'Alene, ID 83816-9000  
 Fax: (208) 446-1621

DANIEL ENGLISH  
 CLERK OF THE DISTRICT COURT

By: *[Signature]*  
 Deputy Clerk

ARTHUR M. BISTLINE  
LAW OFFICE OF ARTHUR M. BISTLINE  
5431 N. Government Way, Ste. 101B  
Coeur d'Alene, ID 83815  
(208) 665-7270  
(208) 665-7290 (fax)

Attorney for Plaintiff

STATE OF IDAHO  
COUNTY OF KOOTENAI  
FILED: 5/6/09  
AT 5:00 O'CLOCK PM  
John T. Mitchell  
CLERK, DISTRICT COURT  
DEPUTY

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE STATE OF  
IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

ALLIED BAIL BONDS, INC., an Idaho  
Corporation,

Plaintiff,

vs.

COUNTY OF KOOTENAI, a political  
subdivision of the State of Idaho, ROCKY  
WATSON, Kootenai County Sheriff, John and  
Jane Does 1 through 13,

Defendant

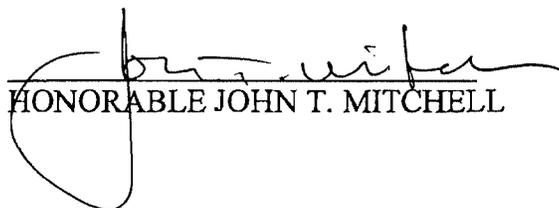
Case No. CV-07-7471

ORDER CONTINUING TRIAL

THIS CAUSE, having come before the Court on stipulation of both parties and the Court,  
having been advised and for good cause appearing, it is thereupon

ORDERED AND ADJUDGED that the trial set in the above entitled matter for May 18,  
2009, be and hereby is continued to <sup>September 21, 2009</sup> ~~a later date~~.

DONE AND ORDERED this 6<sup>th</sup> day of May, 2009.

  
HONORABLE JOHN T. MITCHELL

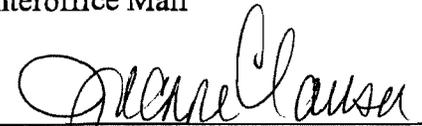
11.10

**CERTIFICATE OF SERVICE**

I hereby certify that on the 8 day of May, 2009, I caused to be served a true and correct copy of the foregoing document by the method indicated below, and addressed to the following:

Darrin Murphey	<input type="checkbox"/>	Hand-delivered
Kootenai County Department of Legal Services	<input type="checkbox"/>	Regular mail
PO Box 9000	<input type="checkbox"/>	Certified mail
Coeur d'Alene, ID 838116	<input checked="" type="checkbox"/>	Overnight mail
	<input checked="" type="checkbox"/>	Facsimile 446-1621
	<input type="checkbox"/>	Interoffice Mail

Arthur M. Bistline	<input type="checkbox"/>	Hand-delivered
Law Office of Arthur M. Bistline	<input type="checkbox"/>	Regular mail
5431 N. Government Way, Ste 101A	<input type="checkbox"/>	Certified mail
Coeur d'Alene, ID 83815	<input type="checkbox"/>	Overnight mail
Fax: 208-665-7290	<input checked="" type="checkbox"/>	Facsimile 665-7290
	<input type="checkbox"/>	Interoffice Mail

BY:   
 CLERK OF THE COURT



argument on that motion was held on November 5, 2008. That motion was taken under advisement.

On July 9, 2008, defendants filed a Motion to Dismiss pursuant to I.R.C.P. 12(b)(1) and 12(b)(6). Oral argument on defendants' motion to dismiss was held on December 4, 2008. At the beginning of that hearing the Court announced its ruling granting Allied's Motion to Amend Complaint, and the Court ordered the Second Amended Complaint, dated October 22, 2008, be filed, and that defendants had twenty days from December 4, 2008, to answer such.

At that December 4, 2008, hearing, the Court noted that at the conclusion of an earlier hearing on June 3, 2008, Judge Luster (previously assigned to this case) granted Allied's Motion to Amend the Complaint and ordered the Amended Complaint and Request for Jury Trial, dated May 20, 2008, be filed. On June 15, 2007, Judge Luster signed an order allowing Allied to amend its complaint. However, the Amended Complaint was never actually filed with the Court. This Court ordered that Amended Complaint be filed *nunc pro tunc* back to May 20, 2008, the date the Motion to Amend the Complaint was granted. The Second Amended Complaint dated October 22, 2008, differs very little from the Amended Complaint.

On December 12, 2008, this Court entered its "Order Granting Motion to Dismiss in Part and Denying Motion to Dismiss in Part." In that Order, this Court: 1) granted defendants' motion to dismiss all tort claims in Allied's complaints; 2) granted defendants' motion to dismiss all claims brought by Allied under Idaho Code § 9-343; 3) granted defendants' motion to dismiss on the ground that Allied has failed to state a claim against Sheriff Watson upon which relief may be granted due to Allied's failure to follow Judge Luster's order and Idaho Code § 6-610, and due to the mandatory

language in that statute and the Court of Appeals decision in *Beehler* and *Greenwade* and the Idaho Supreme Court decision in *Monson*; 4) denied defendants' Motion to Dismiss on the ground that the agreement is a covenant not to compete; 5) granted defendants' Motion to Dismiss on the ground that Allied has no property right to the bail bond business and denied defendants' motion to dismiss on the ground that Allied has no contractual right as there may be contractual rights which attach to the April 2001 agreement; 6) denied defendants' Motion to Dismiss on the ground that Allied has standing to challenge the use of credit cards, operation of Adult Misdemeanor Probation (AMP) and pre-trial services; 7) granted defendants' Motion to Dismiss on the ground that Allied's claim challenging the acceptance of a credit card to post bail fails to state a claim upon which relief can be granted; and 8) granted defendants' Motion to Dismiss on Allied's claims that the county's operation of AMP and Pre-Trial Services (PTS) is without statutory authority and in violation of Article 10, § 5 of the Idaho Constitution.

On February 3, 2009, defendants filed a "Memorandum in Support of Renewed Motion to Dismiss", moving to dismiss the breach of contract claim against defendants arising out of the 2001 Release and Settlement Agreement. Memorandum in Support of Renewed Motion to Dismiss, p. 2. On February 11, 2009, Allied filed its "Response to Defendants' Renewed Motion to Dismiss. On February 13, 2009, defendants filed their "Reply to Plaintiff's Response to Defendants' Renewed Motion to Dismiss." Oral argument was held on February 17, 2009. At the conclusion of that hearing, this Court announced its decision and on February 26, 2009, entered an "Order Granting Renewed Motion to Dismiss in Part and Denying Renewed Motion to Dismiss in Part" in which this Court: 1) granted defendants' Renewed Motion to Dismiss Allied's claim for

injunctive relief on the ground that Kootenai County Sheriff Rocky Watson was previously dismissed from this lawsuit; 2) granted defendants' Renewed Motion to Dismiss Allied's claims on the ground that the Kootenai County Board of County Commissioners does not have the authority to perform or direct the statutory duties of the Sheriff; 3) granted defendants' Renewed Motion to Dismiss Allied's claims on the ground that defendants are not directly liable for the alleged non-performance or mal-performance of the Sheriff; and 4) denied defendants' Renewed Motion to Dismiss Allied's claims on the ground of public policy, finding there to be genuine issues of material fact on that claim. On March 9, 2009, this Court entered a Judgment consistent with the above decisions.

On February 23, 2009 [after this Court announced its decision on February 17, 2009, but before this Court entered its Order Granting Renewed Motion to Dismiss in Part and Denying Renewed Motion to Dismiss in Part on February 26, 2009], Allied filed its "Supplemental Memorandum in Support of Motion to Reconsider", asking this Court to reverse its ruling that the filing of the bond the day after the complaint was filed requires dismissal. Supplemental Memorandum in Support of Motion to Reconsider, p. 1. On March 23, 2009, Allied filed its "Memorandum in Support of Motion to Reconsider", claiming: 1) Allied's claim for public records must be reinstated because Allied fulfilled the pleading requirements of I.R.C.P. 8 and is entitled to relief under the Public Records Act; 2) because the court, not the defendants, excepted to the sufficiency of the sureties, dismissal of the Sheriff is error; 3) because Allied submitted a bond supported by "two (2) sufficient sureties" as required by I.C. § 6-610, and 4) because Article 10, Section 5 of the Idaho Constitution is clear and unambiguous, this

Court may not engage in interpreting its plain language. Also on March 23, 2009, Allied filed a Notice of Hearing scheduling its Motion to Reconsider for April 29, 2009.

On April 15, 2009, Allied filed its "Supplemental Argument in Support of Motions to Reconsider", claiming 1) the Sheriff and the County's conduct is in violation of the Idaho Constitution, and 2) the County can be held liable for the Sheriff's actions under *respondeat superior*.

On April 22, 2009, defendants filed "Defendants' Objection to Motion to Reconsider", arguing: 1) the Court properly dismissed Allied's Public Record's request; 2) the Court properly dismissed Allied's claims against Sheriff Watson for failure to comply with I.C. § 6-610; the Court properly dismissed Allied's claim challenging the defendants' operation of Adult Misdemeanor Probation; 4) Allied's Supplemental Request to Reconsider is untimely under I.R.C.P. 11(b)(2); 5) the Court properly dismissed Allied's Tort Claims; and 6) the Court properly dismissed Allied's contract claims against defendants.

In the midst of all the briefing filed regarding Allied's Motion to Reconsider, defendants filed a "Memorandum of Costs", a "Motion for Attorney Fees" and an "Affidavit [of Darrin L. Murphey] in Support of Motion for Attorney Fees" on March 20, 2009. On March 24, 2009, defendants filed a Notice of Hearing, scheduling the Motion for Attorney Fees and Memorandum of Costs for oral argument on April 29, 2009. On April 3, 2009, Allied filed its "Motion to Disallow Items of Costs." On April 22, 2009, defendants filed their "Response to Plaintiff's Motion to Disallow Costs."

On April 28, 2009, the day before oral argument, Allied filed its "Reply to Response to Motion to Disallow Costs and to Reconsider". The caption of that pleading

is misleading, as Allied references Allied's Motion to Disallow Costs, but the pleading itself pertains only to Allied's Motion to Reconsider.

Oral argument was held on April 29, 2009. At the conclusion of the hearing, the Court took under advisement the issue of attorney's fees, but because oral argument on the attorney fees issue took so long, the Court announced that it would hear oral argument on Allied's Motion to Reconsider at a later point in time. While Allied has reserved hearing time for July 22, 2009, Allied has failed to file a Notice of Hearing on Allied's Motion to Reconsider. Allied, on July 8, 2009, filed a Notice of Hearing for July 21, 2009, for its "Motion to Amend Complaint", "Motion to Join Clerk of the Court" and "Motion for Preliminary Injunction."

Because it would make sense to decide Allied's Motion to Reconsider before addressing defendants' Motion for Attorney Fees and Memorandum of Costs, this Court deferred issuing a decision on defendants' Motion for Attorney Fees and Memorandum of Costs, hoping Allied would schedule oral argument on its Motion to Reconsider. However, doing so has left defendants' Motion for Attorney Fees and Memorandum of Costs under advisement for two and one-half months.

## **II. ANALYSIS.**

### **A. Defendants are Entitled to Attorney Fees Against Allied.**

Defendants move this Court for an Order determining defendants the prevailing party pursuant to I.R.C.P. 54(e)(1) and for fees pursuant to I.C. §§ 9-344, 6-918A, 6-610, 12-117, 12-120, and 12-121. Allied argues defendants have not set forth a "reasoned argument" for the statutory basis of the fees request. Motion to Disallow Costs, pp. 1-3. Allied argues I.C. § 9-344, allowing fees if a public records request is frivolously requested or denied, is inapplicable because "the request was not frivolous,

it was merely dismissed for failure to make the proper requests as required under the statute." *Id.*, p. 2. Allied also argues I.C. § 6-610 makes no provision for fees based on the statute itself, that I.C. § 6-918A only allows fees if an action is brought in bad faith, and that I.C. §§ 12-117 and 12-121 only allow for fees where no reasonable basis in law or fact exists for a claim against the governmental agency. It appears Allied makes no argument with respect to I.C. § 12-120 specifically.

Defendants claim they seek an award of attorney fees "primarily" pursuant to the attorney's fee provision of paragraph 12 of the Settlement Agreement attached to Allied's Second Amended Complaint. Response to Plaintiff's Motion to Disallow Costs, p. 4. Indeed, paragraph 12 of the Settlement Agreement provides: "In the event any action is instituted to enforce the provisions of this Agreement, the prevailing party will be entitled to recover reasonable attorneys' fees, and expenses, and court costs." Complaint, Exhibit A. Allied's Complaint revolves around the alleged breach of that Settlement Agreement. Complaint, pp. 2-3, ¶8.

An award of attorney fees under I.C. § 12-121 may only be granted by the Court when it finds that the case was brought, pursued or defended frivolously, unreasonably, or without foundation. *Hossner v. Idaho Forest Indus., Inc.*, 122 Idaho 413, 835 P.2d 648 (1992). Similarly, attorney fees under I.C. § 12-117 are not awarded where it cannot be shown that the parties acted without a reasonable basis in fact or law. *Stacey v. Idaho Dep't of Labor*, 134 Idaho 727, 9 P.3d 530 (2000).

Idaho Code § 12-120(3) grants the prevailing party the right to an award of reasonable attorney's fees in "any civil action to recover... in any commercial transaction." The statute applies to declaratory judgment actions if the gravamen of the action is a commercial transaction. *Freiburger v. J-U-B Engineers, Inc.*, 141 Idaho 415,

423, 111 P.3d 100, 108 (2005). "The term 'commercial transaction' is defined to mean all transactions except transactions for personal and household purposes." I.C. § 12-120(3). And, I.C. § 12-120(3) does not require that there be a contract between the parties before that statute is applied; "the statute requires only that there be a commercial transaction." *Great Plains Equip., Inc. v. Northwest Pipeline Corp.*, 136 Idaho 466, 472, 36 P.3d 218, 224 (2001).

In its Judgment, this Court ordered that a determination of the prevailing party would be subsequently made by the Court. Judgment, p. 3. Such a determination is necessary to a grant of fees under I.C. §§ 6-610, 9-344, 12-117, 12-120, and 12-121. I.C. § 6-918A does not use the language "prevailing party," but provides for fees "in the manner provided for fixing costs in civil actions." I.C. § 6-918A. Thus, the requirement for a prevailing party analysis is implicit in this Code section as well.

Allied argues the County and Sheriff are both not prevailing parties because the dismissals in this matter were not an adjudication of the claims on their merits. Motion to Disallow Costs, p. 3. Allied makes the argument that: "Finally, most of the claims were dismissed without prejudice, so it is unreasonable for Defendants to state that they were the prevailing parties when such claims can be re-filed." Motion to Disallow Costs, p. 4. No case law is cited by Allied to support this argument. Such argument is not supported by *Sanders v. Lankford*, 134 Idaho 322, 1 P.3d 823 (Ct. App. 2000), where the complaint in that case was dismissed without prejudice for failure to name a property party and failure to properly serve. 134 Idaho 322, 325, 1 P.3d 823, 826. Defendants reply that Idaho Courts have recognized a party to be the prevailing party where obtaining a dismissal of an action, even without prejudice, amounts to a favorable outcome. Response to Plaintiff's Motion to Disallow Costs, p. 3. Defendants

have cited authority from other jurisdictions that show a dismissal without prejudice may still result in a prevailing party for attorney fee purposes. Motion to Disallow Costs, p. 4, citing: *First Commodity Traders, Inc. v. Heinold Commodities, Inc.*, 766 F.2d 1007, 1015 (7<sup>th</sup> Cir. 1985), quoting 6 J. Moore, W. Taggart & J. Wicker, *Moore's Federal Practice* ¶ 54.70[4] (2d ed. 1985); *Arango v. United Automobile Ins. Co.*, 901 So.2d 320, 321-22 (Fla.3d DCA 2005). The fact that some of the dismissals of Allied's various claims have been without prejudice is of no help to Allied in avoiding responsibility for defendants' attorney fees.

I.R.C.P. 54(d)(1)(B) states a trial court:

...shall in its sound discretion consider the final judgment or result of the action in relation to the relief sought by the respective parties. The trial court in its sound discretion may determine that a party to an action prevailed in part and did not prevail in part, and upon so finding may apportion the costs between and among the parties in a fair and equitable manner after considering all of the issues and claims involved in the action and the resultant judgment or judgments obtained.

Defendants are the prevailing party, having sought dismissal of all claims and having received the favorable outcome of the Judgment with respect to:

- 1) Allied's second amended complaint was dismissed;
- 2) all of Allied's tort claims were dismissed without prejudice;
- 3) all of Allied's public record claims were dismissed with prejudice;
- 4) all of Allied's claims against Sheriff Watson were dismissed without prejudice;
- 5) all of Allied's claims related to an alleged property right in bail bond business were dismissed with prejudice;
- 6) all of Allied's credit card bond-posting claims were dismissed with prejudice;
- 7) all of Allied's claims relating to AMP and PTS violating the Idaho Constitution were dismissed with prejudice;

8) all of Allied's claims for injunctive relief against Sheriff Watson were dismissed without prejudice;

9) all of Allied's claims that the BOCC have the authority to direct the statutory duties of the Sheriff were dismissed with prejudice; and

10) all claims that the County is directly liable for alleged non or mal-performance of the Sheriff were dismissed with prejudice.

Only Allied's contract claims remain. Even if Allied were to prevail on its breach of contract claim, Allied has failed to prevail on *all* other claims it has brought. Based upon the above, defendants are the prevailing party. Determination of the prevailing party is committed to the discretion of the trial court. I.R.C.P. 54(d)(1)(B); *Sanders v. Lankford*, 134 Idaho 322, 325, 1 P.3d 823, 826 (Ct.App. 2000).

Allied makes the argument that: "Most importantly, no authority is cited for the proposition that a governmental lawyer is entitled to hour rate of a private attorney, or any hourly rate for that matter." Motion to Disallow Costs, p. 2. In defendants' Response to Plaintiff's Motion to Disallow Costs, defendants cited a plethora of cases from a variety of jurisdictions which allow an award of attorney fees to in-house counsel. Response to Plaintiff's Motion to Disallow Costs, pp. 6-8, n. 1.

Allied makes the argument that the Settlement Agreement is void because the County Commissioners were not a party to the Settlement Agreement and because that Agreement lacks consideration. Motion to Disallow Costs, pp. 4-5. As pointed out by the defendants, Allied's argument is misplaced as "A party may be entitled to attorney's fees under a contract even if it is established that no contract between the parties ever existed." *O'Connor v. Harger Constr. Inc.*, 145 Idaho 904, 912, 188 P.3d 846, 854 (2008); *citing Garner v. Barschi*, 139 Idaho 430, 439, 80 P.3d 1031, 1040 (2003);

*Ayotte v. Redmon*, 110 Idaho 726, 728, 718 P.2d 1164, 1166 (1986). The Settlement Agreement in the present case does not contain a severability agreement. The Idaho Supreme Court in *O'Connor* noted that the agreement in question in that case had a severability clause, and attached significance to that fact by stating: "Even though the contract was unenforceable, it was a contract and had a severability clause, so the attorney fee provision is capable of enforcement." 145 Idaho 904, 912, 188 P.3d 846, 854. However, in *Garner*, there either was no severability clause or at least that issue was never discussed. The Idaho Supreme Court in *Garner* held:

It is of no consequence that the underlying contractual obligation is unenforceable. A prevailing party may recover attorney fees even though no liability under a contract was established or where no contract was, in fact, ever formed.

139 Idaho 430, 439, 80 P.3d 1031, 1040, quoting from *Hilbert v. Hough*, 132 Idaho 203, 207, 969 P.2d. 836, 840 (Ct.App. 1998). In *Hilbert*, there was either no severability clause or at least that issue was not discussed in the appeal. The Idaho Supreme Court in *Hilbert* cited *Farmers Nat'l Bank v. Shirey*, 126 Idaho 63, 73, 878 P.2d 762, 772 (1994) and *Konic International Corporation v. Spokane Computer Services, Inc.*, 109 Idaho 527, 708 P.2d 932 (Ct.App. 1985), for the proposition that: "A prevailing party may recover attorney fees even though no liability under a contract was established or where no contract was, in fact, ever formed." *Shirey* in turn cited *Twin Falls Livestock Comm'n Co. v. Mid-Century Ins. Co.*, 117 Idaho 176, 184, 786 P.2d 567, 575 (Ct.App. 1989). *Twin Falls Livestock* in turn cited *Boise Truck & Equipment, Inc. v. Hafer Logging, Inc.*, 107 Idaho 824, 693 P.2d 470 (Ct.App. 1984). This Court has reviewed all those cases and either there was no severability clause or at least that issue was not discussed in the appeal.

132

This Court has reviewed *Mihalka v. Shepherd*, 145 Idaho 547, 181 P.3d 473

(2008). Neither party cited *Mihalka*, but it is very instructive. In *Mihalka*, the Idaho Supreme Court affirmed District Judge Renae Hoff's decision to award attorney fees to the prevailing party where the settlement agreement provided attorney fees for the prevailing party when a party was required to enforce the settlement agreement. That is the situation in the present case. As mentioned above, Allied's Complaint revolves around the alleged breach of that Settlement Agreement. Complaint, pp. 2-3, ¶18.

Because this Court finds defendants are the prevailing party and are entitled to attorney fees under the Settlement Agreement, this Court need not determine whether Allied's prosecution of its claims were frivolous.

Although defendants are entitled to their attorney fees, this Court cannot make the determination at this point as to the *amount* of those fees. Defendants have stated how much time has been involved (202 hours) in this litigation, and defendants have claimed that \$200 per hour is "...a reasonable hourly rate for the services that have been provided." Affidavit in Support of Motion for Attorney Fees, p. 3. That addresses criteria (A), (D) and (G) under I.R.C.P. 54(e)(3). Neither party has expressly addressed the remaining criteria under I.R.C.P. 54(e)(3)(A)-(L). This Court can determine that (C) Darren Murphey has adequate skills requisite to perform the legal service properly, and this Court is aware that (I), Darren Murphey has worked for defendants as one of its counsel for quite some time. However, neither of those criteria would justify an upward or downward departure from the amount of fees sought by defendants' counsel. This Court determines that (B), (E), (F), (H), (J), and (K) are either not applicable, or if applicable, would not justify an upward or downward departure from the amount of fees sought by defendants' counsel. This Court is not bound by Darren Murphey's claim that \$200 per hour is "...a reasonable hourly rate for the services that have been provided."

Affidavit in Support of Motion for Attorney Fees, p. 3. This Court finds a reasonable hourly rate for similar work in this area to be \$150 per hour. This Court also finds the fact that Darren Murphey is a salaried Deputy Prosecuting Attorney is a relevant factor under (L) ("Any other factor which the court deems appropriate in the particular case"), and he does not have some of the operating costs and some of the overhead that an individual attorney or a member of a private law firm would have. This results in a downward departure of \$50 per hour from the reasonable hourly rate for similar work in this area of \$150 per hour. Accordingly, this Court finds a reasonable hourly rate for Darren Murphy to be \$100 per hour. At 202 hours spent on the case, defendants are entitled to reasonable attorney fees against Allied in the total amount of \$20,200.00.

**B. Allied's Motion to Reconsider is Denied.**

Allied's Motion to Reconsider filed February 11, 2009, did not state the applicable civil rule under which it was filed (in contravention of I.R.C.P. 7(b)(1)), and did not state on the "face of the motion" whether Allied desired to present oral argument on their motion. Thus, under I.R.C.P. 7(b)(3)(C) and (D), Allied is not entitled to oral argument.

This Court has read Allied's Memorandum in Support of Motion to Reconsider filed February 11, 2009, read pages 3-5 of defendants' Objection to Plaintiff's Motion to Set Bond, Motion to Reconsider, and Motion to Continue Trial, read Allied's Supplemental Memorandum in Support of Motion to Reconsider filed February 23, 2009, read Memorandum in Support of Motion to Reconsider filed March 23, 2009, and read Allied's Supplemental Argument in Support of Motions to Reconsider filed April 15, 2009, and read Defendant's Objection to Motion to Reconsider. Most importantly, this Court has re-read its "Order Granting Motion to Dismiss in Part and Denying Motion to

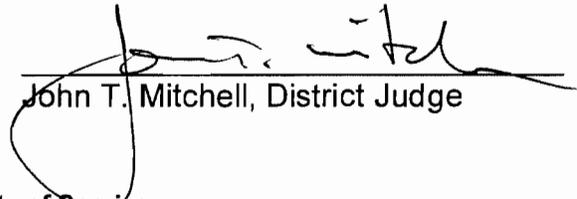
Dismiss in Part" filed December 12, 2008. The decision to grant or deny a motion for reconsideration is committed to the Court's discretion. *Jordan v. Beeks*, 135 Idaho 586, 592, 21 P.3d 908, 914 (2001). After considering all of Allied's submissions, in light of the "Order Granting Motion to Dismiss in Part and Denying Motion to Dismiss in Part", Allied's Motion to Reconsider is Denied.

**III. ORDER.**

**IT IS HEREBY ORDERED** defendants are the prevailing party and are awarded reasonable attorney fees against Allied, in the total amount of \$20,200.00. Defendant's Motion for Attorney Fees and Memorandum of Costs is GRANTED to that extent, and Allied's Motion to Disallow Costs is DENIED to that extent.

**IT IS FURTHER ORDERED** Allied's Motion to Reconsider is DENIED.

Entered this 13<sup>th</sup> day of July, 2009.



John T. Mitchell, District Judge

**Certificate of Service**

I certify that on the 13 day of July, 2009, a true copy of the foregoing was mailed postage prepaid or was sent by interoffice mail or facsimile to each of the following:

Lawyer  
Arthur Bistline

Fax #  
676-8680 ✓

Lawyer  
Darrin Murphey

Fax #  
446-1621 ✓



Secretary



STATE OF IDAHO } SS  
COUNTY OF KOOTENAI }  
FILED:

Barry McHugh, Kootenai County Prosecuting Attorney  
Jethelyn H. Harrington, Civil Deputy  
451 N. Government Way  
P.O. Box 9000  
Coeur d'Alene, ID 83816-9000  
Telephone: (208) 446-1620  
Fax: (208) 446-1621  
ISB #6221

2009 JUL 28 PM 2: 30

CLERK DISTRICT COURT  
*Sharon Reed*  
DEPUTY

Attorney for Defendants Kootenai County, and Rocky  
Watson, Kootenai County Sheriff

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE  
STATE OF IDAHO IN AND FOR THE COUNTY OF KOOTENAI

ALLIED BAIL BONDS, INC., an Idaho  
Corporation,

Plaintiff,

vs.

COUNTY OF KOOTENAI, a political  
subdivision of the State of Idaho, ROCKY  
WATSON, Kootenai County Sheriff, John and  
Jane Does 1 through 13,

Defendants.

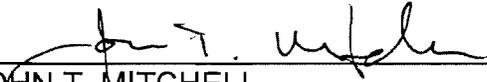
Case No. CV-07-7471

**ORDER GRANTING DEFENDANTS'  
MOTION TO SHORTEN TIME**

The Defendants' Motion to Shorten Time having come on for hearing  
before the undersigned on July 22, 2009, and good cause appearing therefore,

IT IS HEREBY ORDERED that the Defendants' Motion to Shorten Time is  
hereby granted.

DATED this 22<sup>nd</sup> day of July, 2009.

  
\_\_\_\_\_  
JOHN T. MITCHELL  
District Judge

**CERTIFICATE OF SERVICE**

I hereby certify that on this 28 day of July, 2009, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

- U.S. Mail
- INTEROFFICE DELIVERY
- OVERNIGHT MAIL
- TELEFAX (FAX)

Arthur M. Bistline  
Law Office of Arthur M. Bistline  
5421 N. Government Way, Suite 101B  
Coeur d'Alene, ID 83815  
Fax: (208) 665-7290

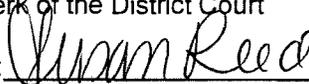
#876

- U.S. Mail
- INTEROFFICE DELIVERY
- OVERNIGHT MAIL
- TELEFAX (FAX)

Jethelyn H. Harrington  
Kootenai County Civil Deputy  
Office of the Prosecuting Attorney  
451 N. Government Way  
P.O. Box 9000  
Coeur d'Alene, ID 83816-9000  
Fax: (208) 446-1621

#877

Daniel English  
Clerk of the District Court

By:   
\_\_\_\_\_  
Deputy Clerk



ARTHUR M. BISTLINE  
 LAW OFFICE OF ARTHUR M. BISTLINE  
 1423 N. Government Way  
 Coeur d'Alene, ID 83814  
 (208) 665-7270  
 (208) 665-7290 (fax)  
 ISB: 5216

Attorney for Plaintiff

STATE OF IDAHO }  
 COUNTY OF KOOTENAI } SS  
 FILED:

2009 JUL 28 PM 2: 30

CLERK DISTRICT COURT  
*Susan Reed*  
 DEPUTY

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE STATE OF  
 IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

ALLIED BAIL BONDS, INC., an Idaho  
 Corporation,

Plaintiff,

vs.

COUNTY OF KOOTENAI, a political  
 subdivision of the State of Idaho, ROCKY  
 WATSON, Kootenai County Sheriff, John and  
 Jane Does 1 through 13,

Defendant

Case No. CV-07-7471

ORDER TO SHORTEN TIME

THIS CAUSE, having come before the Court on Plaintiff's Motion to Shorten Time and the Court, having been advised and for good cause appearing, it is thereupon

ORDERED AND ADJUDGED that the Motion to Shorten Time to hear Plaintiff's Amended Motion to Join Clerk of the Court and Motion for Preliminary Injunction and Amended Motion to Amend Complaint is Granted.

DONE AND ORDERED this 22<sup>nd</sup> day of July, 2009.

*John T. Mitchell*  
 \_\_\_\_\_  
 JOHN T. MITCHELL

**CERTIFICATE OF SERVICE**

I hereby certify that on the 28 day of July, 2009, I caused to be served a true and correct copy of the foregoing document by the method indicated below, and addressed to the following:

Darrin Murphey  
Kootenai County Department of Legal  
Services  
PO Box 9000  
Coeur d'Alene, ID 838116

- Hand-delivered
- Regular mail
- Certified mail
- Overnight mail
- Facsimile
- Interoffice Mail

#877

440-1021

Arthur M. Bistline  
Law Office of Arthur M. Bistline  
1423 N. Government Way  
Coeur d'Alene, ID 83814  
Fax: 208-665-7290

- Hand-delivered
- Regular mail
- Certified mail
- Overnight mail
- Facsimile
- Interoffice Mail

#870

BY: Susan Reed  
CLERK OF THE COURT



STATE OF IDAHO }  
COUNTY OF KOOTENAI } SS  
FILED:

2009 JUL 28 PM 2:29

CLERK DISTRICT COURT  
*Sharon Reed*  
DEPUTY

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE  
STATE OF IDAHO IN AND FOR THE COUNTY OF KOOTENAI

ALLIED BAIL BONDS, INC., an Idaho  
Corporation,

Plaintiff,

vs.

COUNTY OF KOOTENAI, a political  
subdivision of the State of Idaho, ROCKY  
WATSON, Kootenai County Sheriff, John and  
Jane Does 1 through 13,

Defendants.

Case No. CV-07-7471

**ORDER REGARDING PLAINTIFF'S  
AMENDED MOTION TO AMEND  
COMPLAINT, AMENDED MOTION  
TO JOIN CLERK OF THE COURT,  
AND MOTION FOR PRELIMINARY  
INJUNCTION**

This matter having come before the Court on the 22<sup>nd</sup> day of July, 2009,  
on Plaintiff's Amended Motion to Amend Complaint, Amended Motion to Join  
Clerk of the Court, and Motion for Preliminary Injunction, and Arthur Bistline,  
Attorney at Law, appearing on behalf of the Plaintiff, Allied Bail Bonds, Inc., and  
Darrin L. Murphey and Jethelyn H. Harrington, Civil Deputy Prosecuting  
Attorneys, appearing on behalf of the Defendants, Kootenai County, and Rocky  
Watson, Kootenai County Sheriff, and the Court having heard the arguments of  
counsel, and otherwise being fully informed; NOW, THEREFORE,

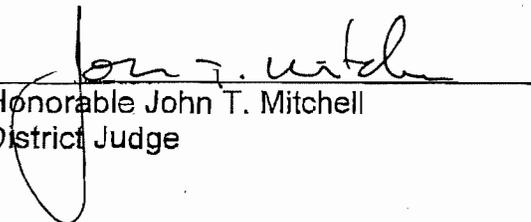
**ORDER REGARDING PLAINTIFF'S AMENDED MOTION TO AMEND  
COMPLAINT, AMENDED MOTION TO JOIN CLERK OF THE COURT, AND  
MOTION FOR PRELIMINARY INJUNCTION - 1**

H:\Sheriffs Department\2007 Allied Bail Bonds\Order Regarding Plt's Amended Motion To Amend Complaint Et  
Al.Docx

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Plaintiff's Amended Motion to Amend Complaint, Amended Motion to Join Clerk of the Court, and Motion for Preliminary Injunction are hereby denied, on the grounds that final judgment has been entered in this matter, and Plaintiff's Motion for Reconsideration has been denied, and on the further grounds and for the reasons set forth by the Court on the record.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED, in the alternative, that Plaintiff's Amended Motion to Amend Complaint, Amended Motion to Join Clerk of the Court, and Motion for Preliminary Injunction is denied, on the grounds that Plaintiff's Motions are untimely, and that Plaintiff's claims are moot, and for the reasons set forth by the Court on the record.

ENTERED this 24<sup>th</sup> day of July, 2009.

  
Honorable John T. Mitchell  
District Judge

**ORDER REGARDING PLAINTIFF'S AMENDED MOTION TO AMEND  
COMPLAINT, AMENDED MOTION TO JOIN CLERK OF THE COURT, AND  
MOTION FOR PRELIMINARY INJUNCTION - 2**

H:\Sheriffs Department\2007 Allied Bail Bonds\Order Regarding Plt's Amended Motion To Amend Complaint Et  
Al.Docx

**CERTIFICATE OF SERVICE**

I hereby certify that on this 28 day of July, 2009, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

- U.S. Mail
- INTEROFFICE DELIVERY
- OVERNIGHT MAIL
- TELEFAX (FAX)

- U.S. Mail
- INTEROFFICE DELIVERY
- OVERNIGHT MAIL
- TELEFAX (FAX)

Arthur M. Bistline  
 Attorney at Law  
 1423 N. Government Way  
 Coeur d'Alene, ID 83814  
 Fax: (208) 665-7290

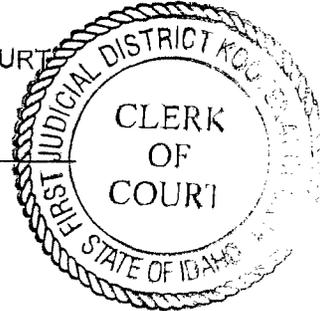
*#870*

Darrin L. Murphey, Civil Deputy  
 Office of the Kootenai County Prosecutor  
 451 Government Way  
 P.O. Box 9000  
 Coeur d'Alene, ID 83816-9000  
 Fax: (208) 446-1621

*#877*

DANIEL ENGLISH  
 CLERK OF THE DISTRICT COURT

By: *Juan Reed*  
 Deputy Clerk



**ORDER REGARDING PLAINTIFF'S AMENDED MOTION TO AMEND COMPLAINT, AMENDED MOTION TO JOIN CLERK OF THE COURT, AND MOTION FOR PRELIMINARY INJUNCTION - 3**

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STATE OF IDAHO }  
COUNTY OF KOOTENAI } SS  
FILED:

2009 JUL 28 PM 2: 29

CLERK DISTRICT COURT  
*Sharon Reed*  
DEPUTY

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE  
STATE OF IDAHO IN AND FOR THE COUNTY OF KOOTENAI

ALLIED BAIL BONDS, INC., an Idaho  
Corporation,

Plaintiff,

vs.

COUNTY OF KOOTENAI, a political  
subdivision of the State of Idaho, ROCKY  
WATSON, Kootenai County Sheriff, John and  
Jane Does 1 through 13,

Defendants.

Case No. CV-07-7471

**JUDGMENT RE:  
ATTORNEY FEES**

Pursuant to the Court's Memorandum Decision and Order 1) Granting Defendants' Motion for Attorney Fees and Memorandum of Costs and 2) Denying Plaintiff's Motion for Reconsideration entered on July 13, 2009; now, therefore,

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendants Kootenai County, and Rocky Watson, Kootenai County Sheriff, are deemed the prevailing parties in this action.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Defendants' Motion for Attorney Fees and Costs is hereby granted, and that judgment is hereby entered in favor of Defendants Kootenai County, and Rocky Watson, Kootenai County Sheriff, and against Plaintiff Allied Bail Bonds, Inc., in

**JUDGMENT RE: ATTORNEY FEES- 1**

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the amount of \$20,200.00.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Motion to Reconsider filed by Plaintiff Allied Bail Bonds, Inc. is hereby denied.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the five (5) day jury trial scheduled to commence on September 21, 2009, at 9:00 a.m., is hereby rendered moot and therefore vacated.

ENTERED this 24<sup>th</sup> day of July, 2009.

*John T. Mitchell*  
Honorable John T. Mitchell  
District Judge

**CERTIFICATE OF SERVICE**

I hereby certify that on this 28 day of July, 2009, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

- U.S. Mail
- INTEROFFICE DELIVERY
- OVERNIGHT MAIL
- TELEFAX (FAX)

- U.S. Mail
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- TELEFAX (FAX)

Arthur M. Bistline  
Attorney at Law  
1423 N. Government Way  
Coeur d'Alene, ID 83814  
Fax: (208) 665-7290

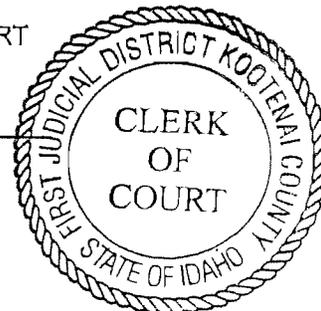
*#870*

Darrin L. Murphey, Civil Deputy  
Office of the Kootenai County Prosecutor  
451 Government Way  
P.O. Box 9000  
Coeur d'Alene, ID 83816-9000  
Fax: (208) 446-1621

*#877*

DANIEL ENGLISH  
CLERK OF THE DISTRICT COURT

By: *Dustin Reed*  
Deputy Clerk



ARTHUR M. BISTLINE  
LAW OFFICE OF ARTHUR M. BISTLINE  
5431 N. Government Way, Ste. 101A  
Coeur d'Alene, ID 83815  
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(208) 676-8680 (fax)

Attorney for Plaintiff

STATE OF IDAHO }  
COUNTY OF KOOTENAI } SS  
FILED 863118

2009 AUG 24 PM 4: 06

CLERK DISTRICT COURT

*Cathy Hightower*  
DEPUTY

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE STATE OF  
IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

ALLIED BAIL BONDS, INC., an Idaho  
Corporation,

Plaintiff,

vs.

COUNTY OF KOOTENAI, a political  
subdivision of the State of Idaho, ROCKY  
WATSON, Kootenai County Sheriff, John and  
Jane Does 1 through 13,

Defendant

Case No.: No. CV-07-7471

NOTICE OF APPEAL

Appeal from the First Judicial District, the Honorable Judges John P. Luster and John T. Mitchell presiding. Arthur M. Bistline for Plaintiff/Appellants Allied Bail Bond, Inc, (Allied), Barry McHugh, Kootenai County Prosecuting attorney for Defendants/Respondent.

I. Judgments and Orders Appealed

- a. Decision on Motion to Disqualify and Change Venue filed September 17<sup>th</sup>, 2008.
- b. Order granting Motion to Dismiss in Part and Denying Motion to Dismiss in Part filed December 12<sup>th</sup>, 2008.
- c. The Oral pronouncement of Judgment in Open Court on February 26<sup>th</sup>, 2009, which resulted in the Judgment entered March 9<sup>th</sup>, 2009.
- d. The Judgment filed March 9<sup>th</sup>, 2009.

- e. The Memorandum Decision and Order 1) granting Defendant's Motion for Attorneys Fees and Memorandum of Costs and 2) Denying Plaintiff's Motion for Reconsideration filed July 13<sup>th</sup>, 2009.
- f. The Judgment re: Attorneys Fees filed July 29<sup>th</sup>, 2009.
- g. The Order Regarding Plaintiff's Amended Motion to Amend Complaint, Amended Motion to Join Clerk of the Court, and Motion for Preliminary Injunction filed July 28<sup>th</sup>, 2009.

## II. Issues on Appeal

- a. Did the Trial Court error in refusing to change the venue of this action?
- b. Did the Trial Court error in determining that Allied's Constitutional claim was subject to the Idaho Tort Claims Act?
- c. Did the Trial Court error in determining that Allied had failed to plead a cause of action pursuant to Title 9, Chapter 3, pertaining to the right to inspect and copy public documents?
- d. Did the Trial Court error in failing to set times for responsive pleadings and for hearing on Allied's public records request as required by Idaho Code 9-343?
- e. Did the Trial Court error by interpreting Idaho Code 6-610 as requiring dismissal of the action if a bond adequate in all respects is not filed before an action is filed against a law enforcement officer?
- f. Did the Trial Court error in concluding that Allied had failed to file a bond before filing its complaint in light of the fact that a sufficient bond was filed and the complaint was then amended?
- g. Did the Trial Court error by sua sponte raising the issue of the number of sureties on the \$25,000 bond filed by Allied?

- h. Did the Trial Court error in determining that Allied's bond was not supported by two sureties?
- i. Did the Trial Court error in dismissing all claims against the Kootenai County Sheriff based on the use of a credit card machine with prejudice?
- j. Did the Trial Court error in determining that Allied has no property right in its ability to write bail bonds?
- k. Did the Trial Court error in determining that Idaho Rule of Criminal Procedure as it existed at the time allowed for the use of Credit Cards for purposes of posting cash bail?
- l. Did the Trial Court error in engaging in interpretation and/or construction of Article 10, Section 5, of the Idaho Constitution without first determining that the literal reading of that section lead to a palpably abused result?
- m. Did the Trial Court error in determining that Kootenai County has the ability pursuant to the Idaho Constitution to control, direct and supervise adults on supervised misdemeanor probation?
- n. Did the Trial Court error in determining that Kootenai County had no liability pursuant to the contract entered into between it and Allied?
- o. Did the Trial Court error in determining that the Kootenai County cannot be held responsible for the action of the Kootenai County Sheriff?
- p. Did the Trial Court error in determining that Kootenai County cannot control the conduct of the Kootenai County Sheriff?
- q. Did the Trial Court error in determining that Kootenai County was a prevailing party to this action and awarding fees and cost to Kootenai County?

- r. Did the Trial Court error in determining that the Kootenai County Sheriff was a prevailing party to this action and awarding fees and cost to the Kootenai County Sheriff?
- s. Did the Trial Court error in failing to allow Allied to add the Clerk of the Court to the action as the Clerk of the Court was the proper party to answer for the use of a credit card machine for posting cash bail?

III. Statement of Jurisdiction.

- a. The matter is a final judgment and appealable pursuant to Idaho Appellate Rule 11(a)(1).

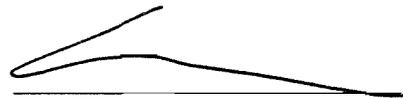
IV. A transcript of the hearing held February 26<sup>th</sup>, 2009, is requested.

V. A standard record is requested.

VI. Certification of Attorney

- a. Service of the notice of appeal has been served on the Court reporter.
- b. The estimated fees for the reporter's transcript have been paid.
- c. All appellate filing fees have been paid.
- d. Service of this notice of appeal has been filed on all parties.

DATED this 24<sup>th</sup>, day of August, 2009.

  
ARTHUR M. BISTLINE

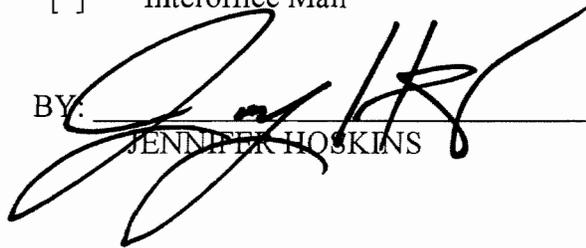
**CERTIFICATE OF SERVICE**

I hereby certify that on the 24 day of August, 2009, I caused to be served a true and correct copy of the foregoing document by the method indicated below, and addressed to the following:

Darrin Murphey  
Kootenai County Department of Legal  
Services  
PO Box 9000  
Coeur d'Alene, ID 838116

- Hand-delivered
- Regular mail
- Certified mail
- Overnight mail
- Facsimile
- Interoffice Mail

BY: \_\_\_\_\_



JENNIFER HOSKINS

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE STATE  
OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

ALLIED BAIL BONDS, INC.,	)	
An Idaho Corporation	)	
	)	CV 07-7471
Plaintiff/Appellant	)	
	)	SUPREME COURT NO.
vs	)	36861-2009
	)	
COUNTY OF KOOTENAI, A Political	)	
Subdivision of the State of Idaho,	)	
ROCKY WATSON, Kootenai County	)	
Sheriff, John and Jane Does 1-13	)	
	)	
Defendants/Respondents	)	

CLERK'S CERTIFICATE

I, Daniel J. English, Clerk of the District Court of the First Judicial District of the State of Idaho, in and for the County of Kootenai, do hereby certify that the above and foregoing record in the above entitled cause was compiled and bound under my direction as, and is a true, full and correct record of the pleadings and documents under Rule 28 of the Idaho Appellate Rules.

I further certify that there are exhibits offered in this case. I certify that the Attorneys for the Appellant and Respondent were notified that the Clerk's Record was complete and ready to be picked up, or if the Attorney is out of town, the copies were mailed by U.S. mail, postage prepaid, on the 9<sup>th</sup> day of September 2009.

I do further certify that the Clerk's Record will be duly lodged with the Clerk of the Supreme Court.

I do further certify that the Clerk's Record will be duly lodged with the Clerk of the Supreme Court.

In witness whereof, I have hereunto set my hand and affixed the seal of said Court at Kootenai County, Idaho this 9<sup>th</sup> day of September 2009.

DANIEL J. ENGLISH  
Clerk of the District Court

By: Sherry Huffman  
Deputy Clerk

IN THE SUPREME COURT OF THE STATE OF IDAHO

ALLIED BAIL BONDS, INC.,  
An Idaho Corporation  
  
Plaintiff/Appellant,  
  
vs  
  
COUNTY OF KOOTENAI, A Political  
Subdivision of the State of Idaho,  
ROCKY WATSON, Kootenai County  
Sheriff, John and Jane Does 1-13  
  
Defendants/Respondents.

SUPREME COURT NO.  
36861-2009

CLERK'S CERTIFICATE OF SERVICE

I, Daniel J. English, Clerk of the District Court of the First Judicial District of the State of Idaho, in and for the County of Kootenai, do hereby certify that I have personally served or mailed, by United States mail, one copy of the Clerk's Record to each of the Attorneys of record in this cause as follows:

Arthur M Bistline  
5431 N Government Way Ste 101 B  
Coeur d'Alene, ID 83815

Darrin L Murphey  
Dept Legal Services  
324 W Garden  
Coeur d'Alene, ID 83816

IN WITNESS WHEREOF, I have unto set my hand and affixed the seal of the said Court this 9th day of September, 2009.

Daniel J. English  
Clerk of the District Court

by: Sherry Huffman