

11-1-2012

# Telford v. Smith County Texas Clerk's Record v. 1 Dckt. 39878

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**No. 39878-2012**

**LAW CLERK**  
**SUPREME COURT  
OF THE  
STATE OF IDAHO**

**CLERK'S RECORD ON APPEAL**

**HOLLI TELFORD**

**Plaintiff/Appellant**

**vs.**

**SANDRA COPELAND; ADMITRA MILLS; JEANETTE HARMON; CODY  
KELLY; PAUL KELLEY JR; THE ESTATE OF PAUL KELLEY SR;  
SMITH COUNTY TRUSTEE; TAX ASSESSOR GARY BARBER; SMITH  
COUNTY; ARTIE ROSS; ATTORNEY TAB BEALL; LAW OFFICES  
OF PURDUE, BRANDON, FIELDER, COLLINS & MOTT; LISA  
NEILSON AND DOES 1 - 10**

**Defendants/Respondents**

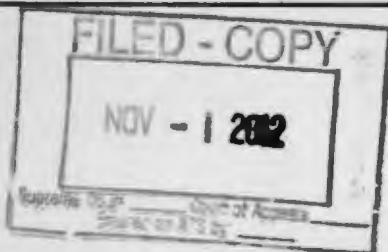
**Appealed from the District Court of the Sixth  
Judicial District, of the State of Idaho,  
in and for Oneida County  
Honorable Stephen S. Dunn, District Judge**

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**39878**

**COPY**

**DOCKET NO. 39878-2012**

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**IN THE  
SUPREME COURT  
OF THE  
STATE OF IDAHO**

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**CLERK'S RECORD ON APPEAL  
VOLUME I**

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HOLLI TELFORD

**Plaintiff/Appellant**

vs.

SANDRA COPELAND; ADMITRA MILLS; JEANETTE HARMON; CODY KELLY; PAUL KELLEY JR; THE ESTATE OF PAUL KELLEY SR; SMITH COUNTY TRUSTEE; TAX ASSESSOR GARY BARBER; SMITH COUNTY; ARTIE ROSS; ATTORNEY TAB BEALL; LAW OFFICE OF PURDUE, BRANDON, FIELDER, COLLINS & MOTT; LISA NEILSON AND DOES 1 - 10

**Defendants/Respondents.**

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*Appealed from the District Court of the Sixth Judicial District,  
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Oneida County Case CV-2011-66*

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VERIFIED RESPONSES TO COURT ORDER DATED AUGUST 18, 2011 AND OPPOSING COUNSEL'S OBJECTION TO CONTINUANCE OF THIS CASE FILED ON AUGUST 16, 2011	08/23/2011	192	II

HOLLI TELFORD  
10621 S. Old Hwy 191  
Malad City, Idaho 83252  
208-473-5800

Filed AT 3:590'clock P.M.  
JUN 3, 2011  
*J. H. Schaefer*

IN THE SIXTH JUDICIAL DISTRICT COURT FOR THE  
STATE OF IDAHO, COUNTY OF ONEIDA

HOLLI TELFORD AS ASSIGNEE :  
TO M.D. DIET TRUST : Case No. CV-2011-06

Plaintiff :

vs. :

SANDRA COPELAND; ADMITRA MILLS; : VERIFIED COMPLAINT  
JEANETTE HARMON; CODY KELLEY: :  
PAUL KELLEY JR.; THE ESTATE OF :  
OF PAUL KELLEY SR.; SMITH COUNTY : DEMAND FOR JURY TRIAL  
TRUSTEE; TAX ASSESSOR GARY :  
BARBER; SMITH COUNTY; ARTIE :  
ROSS; ATTORNEY TAB BEALL; LAW :  
OFFICES OF PURDUE, BRANDON, :  
FELDER, COLLINS & MOTT; LISA :  
NEILSON AND DOES 1-10 :

\_\_\_\_\_ Defendants \_\_\_\_\_ :

COMES NOW Plaintiff Holli Telford as assignee to the chose in actions, rights, claims and titles of M.D. Diet Trust and therefore the real party in interest in these proceedings <sup>1</sup> and alleges as follows:

**SUBJECT MATTER JURISDICTION**

1. Idaho recognizes that choses in action are generally assignable. **McCluskey v. Galland, 95 Idaho 472, 474-75, 511 P.2d 289, 291-92 (1973)**. An assignment may be done in such a way to be construed as a complete sale of the claim. **6 Am.Jur.2d Assignment § 147 (1999)**. An assignment of the chose in action transfers to the assignee and divests the assignor of all control and right to the cause of action, and the assignee becomes the real party in interest. **McCluskey, 95 Idaho at 474, 511 P.2d at 291**. Only the assignee may prosecute an action on the chose in action. *Id.* "Assignment" is defined as "the transfer of rights or property." **BLACK'S LAW DICTIONARY 115 (7th ed. 1999)**. American Jurisprudence, Second Edition, defines "assignment" as: ... a transfer of property or some other right from one person (the 'assignor') to another (the 'assignee'), which confers a complete and present right in the subject matter to the assignee.



1. This court has subject matter jurisdiction over the within claims under Idaho's Consumer Sales Protection Act; Idaho's Specific Performance Statute; Idaho's Breach of Contract and of The Implied Covenant of Good Faith and Fair Dealing; Unjust Enrichment, and Utah's Communication Fraud Statute - as the origin of the depository funds.

#### PERSONAL AND VENUE JURISDICTION

2. The land purchase/sale contract subject of the within action was executed in the state of Idaho with an Idaho resident Holli Telford and under Idaho's Consumer Sales Protection Act, jurisdiction and venue properly lies in the state of Idaho where the consumer effected by the act was violated.

3. Defendants are residents of smith county Texas and Cache county Utah.

#### GENERAL ALLEGATIONS

4. On February 1, 2011, Smith County, Texas' Office advertised over the internet, the sales of various improved and unimproved real properties deeded over to the Smith County Trustee in various judicial proceedings. Attached hereto as exhibit "1" is the inventory of real properties deeded over to and owned by Smith County and in the custody of the Smith County Trustee as of January 1, 2011. In explaining exhibit 1: the first column describes the account number and physical address assigned to the "offered" property; the second column identifies the case number of the judicial proceeding verifying the sale date and the concurrent deeding date of the property in question over to the Smith County Trustee ; the third column identifies the open bid amount and current value of the property in question; the fourth column identifies the map # where the property may be found; the fifth column identifies the school district and whether the property is improved or unimproved and; the sixth column identifies the file number of the lawfirm that attempted to sell the property without success at a court step auction.

5. A deed vested in a winning bidder at a tax sale may only be negated if the original owner or a vested interest in the real property timely redeems the title to the property. The time to redeem commences from the sale date of the property to the county trustee as posted in the sales offer.<sup>2</sup> Hence if an original owner does not timely redeem from the sale

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2. See Idaho Code section 11-402 providing in part that. . . the judgment debtor

date of the property to the trustee, no impediment exists for a winning bidder to claim title to that property pursuant to contract laws. <sup>3</sup>

6. Plaintiff placed a bid on the property identified as Smith County's property number 197 bearing judicially decreed sale and deed date of 11-2-10, bearing street address of 14811 FM 2661 Flint Texas; asking an opening bid amount of \$11,320 and representing that the property had a home on it valued at \$43,254. Based on these representations, plaintiff place an initial bid on March 20, 2011 for the minimum bid amount. Before the bidding period closed, plaintiff notified county employees that the entire bid offer was false as the property address identified with situs address 14811 FM 2661 belonged to Joseph Conflitti and not the trustee for smith County. See exhibit "2" attached. The County informed plaintiff that they would correct the error and referred plaintiff to the correct property lot which would actually bear the address of 14821 FM 2661. Subject to this correction, on March 28, 2011 Plaintiff hand submitted a modified bid to the county in the amount of \$4,200 ( the market value of the land only as the building on the property was burned down and infested with black mold). Attached hereto as exhibit "3" is a copy of plaintiff's modified bid. Plaintiff also contacted the county appraiser and requested a re-evaluation of the building on the property to \$0 given it's condition and the need to demolish the building. Attached hereto as exhibit "4" was the county record stating the present value of the property.

7. On April 3, 2011, plaintiff received several calls from Smith County employees apprising plaintiff that she was the only bidder on the subject property and that plaintiff had won the bid. Pursuant to plaintiff's request, a follow up email and letter were sent to plaintiff confirming that plaintiff had won the bid and that it would take the County approximately 4 months to execute a quitclaim deed to plaintiff as the deed had to be prepared and submitted to a court commissioner for signature. In addition, the county had to wait until May 1, 2011, when the redemption period passed on the property in order to be free and clear to execute the quitclaim deed to plaintiff.

8. In accordance with these representations, plaintiff arranged to drive into

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or redemptioner may redeem the property from the purchaser . . . **from the date of sale to the date of redemption.** See also Texas tax code § 34.01. SALE OF PROPERTY. subsection (n) reads in part that the deed vests good and perfect title in the purchaser or the purchaser's assigns to the interest ...or to the taxing agent... at the time of sale of the property.

3. See Resource Mgmt. Co. v. Western Ranch & Livestock Co., 706 P.2d 1028, 1037 (Utah 1985) ("[C]ourts . . . construe land sale contracts so as not to grant one of the parties an arbitrary right to terminate the contract.").

Texas on or before May 1, 2011 to secure the quitclaim deed and arrange for property improvements. Plaintiff arrived in Texas on April 29, 2011, surveyed the property, and met with numerous contractors to perform work on the property commencing May 1, 2011; the last day that a prior vested interest or owner could pay redemption fees on the property.

9. After plaintiff met with contractors on May 1, 2011, plaintiff appeared at Smith County's Tax office and spoke to Lois to verify whether any redemption fees had been paid on the property that day before plaintiff commenced improvements to the property. Lois affirmed that no redemption fees had been paid to the county and that plaintiff could possess the property and do what ever she desired in light of this fact. As an after thought, Lois asked plaintiff to submit a written letter which withdrew plaintiff's first bid in writing and explained why plaintiff had submitted a second bid replacing the first bid. Plaintiff did so and included in the letter a request that the county clear massive debris from the property which had been used as a garbage site for upwards of 12 years. With Lois' verbal approval that plaintiff could now possess the property and exercise her rights thereto; said approval which was witnessed by third persons appearing at the tax office with plaintiff, on May 2, 2011 plaintiff commenced substantial construction on the subject property.

10. Plaintiff spent tens of thousands of dollars, demolishing and clearing the subject lot for preparation of a home. On May 3, 2011, the prior owners or vested interests to Paul Kelly's estate to include the ex wife, Paul Kelleys son, the executor, etc. appeared on the property while plaintiff was performing said construction work. These persons inquired into plaintiff's rights to be on the property. Plaintiff announced to these persons that she was the new owner of the property by virtue of a tax sale contract with the County. These persons openly conceded that they had by-passed the redemption period to take the property back given they did not fully redeem all amounts due on the property by May 1, 2011.<sup>4</sup>

11. For three weeks massive improvements were made to the property without further conflict by the prior owners, vested interests or the County. Plaintiff returned back to Idaho to await execution and recording of the deed by the judicial commissioner.

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4. See Texas Tax code § 34.21. RIGHT OF REDEMPTION. (e) The owner of real property sold at a tax sale other than property that was used as the residence homestead of the owner or that was land designated for agricultural use when the suit was filed . . . may redeem the property . . . except that: (1) the owner's right of redemption may be exercised **not later than the 180th day following the date on which the taxing unit's deed was filed in the cause**; Also see subsection (3) "Purchaser" includes a taxing unit to which property is bid off under Section 34.01.

11. Thereafter, Plaintiff made several emails to Lois inquiring into when the deed would be placed before the judicial commissioner to be executed. Plaintiff never heard back from Lois until June 1, 2011. At this time Lois informed plaintiff that the property had been redeemed by the prior owners and therefore plaintiff's sales contract with the county was no longer effective. Plaintiff wrote Lois back and informed Lois that the prior owners had passed the redemption period, that Lois and her office by acts and deeds had confirmed the redemption period had passed and that plaintiff was the legal owner to the property and entitled to specific performance of the sales contract. Plaintiff also informed Lois that the prior owners could not redeem on two grounds, their redemption was untimely and because the prior owners as well as the county had personal knowledge that plaintiff had substantially improved the property and at no time was a request submitted to plaintiff as the buyer under contract for an itemization of costs spent on the property for improvements as required under the Texas tax code.<sup>5</sup> Plaintiff demanded that Lois call her back by June 3, 2011 with a representation that any alleged redemption fees had been returned in light of the foregoing.

12. On the morning of June 2, 2011, defendant attorney Tab Beall from the county's lawfirm contacted plaintiff by phone. Defendant Beall asserted that since the commissioner had not yet executed a quitclaim deed to plaintiff, that the county was not obligated to sell the property to plaintiff. Plaintiff countered by telling Beall that she could and would enforce the sales contract and seeking punitive damages against the court for bad faith breach. Plaintiff also demanded to know who allegedly redeemed the property, how much was the property redeemed for, and on what date. Plaintiff directly asserted that the county had to have backdated documents into order to accept a redemption which would subject the county to a series of fraud charges by plaintiff. Defendant Beall informed plaintiff to go ahead and sue that plaintiff would never win.

13. Plaintiff now files this lawsuit.

14. Plaintiff also sues Does defendants under onkown names and moves to amend this lawsuit upon learning the true names thereof.

15. Finally, plaintiff alleges that each of the defendants acted in conspiracy with

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5. See Texas Tax code section 11.13(i). The owner must make application for any property costs and redemption premiums to the purchaser. The purchaser shall itemize all amounts spent on the property in costs and deliver the itemization in writing to the owner not later than the 10th day after the date the written request is received.

one another to defraud plaintiff of monies and things of value.

FIRST CAUSE OF ACTION  
(Specific Performance on Bid Purchase Contract)

16. Plaintiff alleges that the contract at issue was for the purchase of certain real property offered by the Smith County Trustee in January of 2011.

17. Plaintiff alleges that she accepted the offer and won the highest and only bid on the subject property. Plaintiff alleges that the purchase contract was based on a cash purchase only and that plaintiff was at all times herein mentioned fully prepared and able to close the transaction.

18. Plaintiff alleges that she substantially improved the property based on representations by county employees that the property was hers, that the redemption period had passed and that plaintiff was presently the equitable owner of the property until such time the county judicial commissioner had convened to execute the quitclaim deed.

19. Plaintiff alleges that *Fazzio v. Mason*, infra mandates that the court issue an order directing specific performance on the sales contract to plaintiff and to turn over of a quitclaim deed by the County. 6

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6. See *Fazzio v. Mason*, Docket No. 36068, 2011 Opinion No. 41, SUPREME COURT OF IDAHO, March 21, 2011, Filed.

Summary of Case:

On April 12, 2006, Mason entered into an agreement to purchase 2 parcels of real property from Respondents the Fazzios. While the agreements were pending, Mason had the Properties annexed to the City of Kuna (Kuna). Mason failed to close on the Properties in the time provided by the sales contract. The sales contract was not contingent upon Mason obtaining financing for the purchase. The contract provided for a cash tender from Mason to the Fazzios upon closing of the contract. The Fazzios sued for specific performance when Mason failed to close the contract and tender the cash sums.

The district court found that while the sales contract was pending, Mason made significant improvements and alterations to the properties thus requiring invocation of the doctrine of specific performance. In support of its order for specific performance, the district court noted that the Properties were unique as they dealt with specific parcels of land, that the Properties were significantly and materially altered by Mason during the pendency of the contract, that the contract was for a cash sale, and that performance was not so unlikely or impossible as to render an order for specific performance futile. The district court also granted vendor's liens to the Properties to the properties in the sales amounts and other damages fixed by the sales contract, and ordered that these liens were to be enforceable through foreclosure sale pursuant to Chapter 1, Title 6, Idaho Code. The Idaho Supreme Court made the following conclusions of law as applied to the facts of this case:

## SECOND CAUSE OF ACTION

(Breach Of Contract And Of the Covenant Of Good Faith and Fair Dealing)

20. A bona fide contract existed for the purchase of certain property from the County trustee. The defendant Trustee deliberately breached that contract in bad faith and based on grounds not authorized in law.<sup>7</sup> Short of falsifying documents after the fact, there is no conceivable way that the owners to the subject property had timely redeemed the property in question. Moreover, at no time did either the trustee as the present deeded owner nor the prior delinquent tax owners ever submit a request to plaintiff to compensate plaintiff for improvement costs on the property as required under the tax code; in spite of their personal knowledge that the property had been substantially improved. Accordingly aside from the untimely redemption, no valid redemption was ever made as represented by Lois from the County assessor's office.

21. Texas law provides that persons that are not titled owners but whom make improvements to property, are entitled to compensation.<sup>8</sup> Moreover, under Texas law

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1. Specific performance is an authorized remedy when legal remedies are inadequate. The inadequacy of remedies at law is **presumed** in an action for breach of a real estate sales agreement due to the perceived uniqueness of land. *P.O. Ventures, Inc. v. Loucks Family Irrevocable Trust*, 144 Idaho 233, 237, 159 P.3d 870, 874 (2007); See also **Perron, 108 Idaho at 583, 701 P.2d at 203** (upholding award for specific performance in case involving breach of land sale contract, **noting that alteration of property is an especially convincing factor militating for the grant of specific performance**").

2. The Supreme Court also determined that cash sales for land are easily enforceable. **Perron v. Hale, 108 Idaho 578, 583, 701 P.2d 198, 203 (1985)** (awarding specific performance of land sale and noting "[t]he agreement was for a cash sale which can be easily enforced"). Furthermore, a buyer's financial inability to pay is not a bar to specific performance in a case involving the breach of an agreement to purchase land.

3. Mason objected to the entry of money judgments in favor of the Fazzios which were applied as liens against the properties and subjected the properties to deficiency judgments if sold at a foreclosure sale pursuant to **I.C. § 6-108** for the difference between the total judgment and the value of the Properties when sold. The court held these liens reasonable to enforce the sales contract at issue.

7. **The Idaho Supreme Court in *Mc Gill, Hardy v. Mc Gill*, Docket No. 26993 (ID Supreme Court 2002)** held that judgment in favor of the buyers was proper in dispute over alleged default in contract for purchase of real property because the contract of sale was supported by performance of the buyer and the sellers had intentionally defaulted in the contract.

8. See Texas Property Code § 22.021. CLAIM FOR IMPROVEMENTS. (a) A person . . . who is not the rightful owner of property, but who has possessed the property in

a redemption deed is void if it was obtained by any means of fraud. <sup>9</sup>

22. It is asserted that the defendants corruptly lulled plaintiff into improving the property so that the defendants could be unjustly enriched by the improvements to plaintiff's injury. There was no other explanation for the breaches other than simple bad faith and corruption justifying an imposition of punitive damages against the county defendants.

THIRD CAUSE OF ACTION  
(Breach of Idaho Consumer Sales Practices Act)

23. The defendants sales offer did reach into the state of Idaho and to an Idaho resident. The sales of real property are covered under Idaho's Consumer Sales Practices Act.

24. The defendants did offer to sell a property to plaintiff under false pretenses AND without intention to complete that sale. The defendants did make false representations in the property which were remedied by a modified bid. The defendants did accept plaintiffs modified bid. It was not until plaintiff had put substantial monies into the property, that defendants then elected to negate the bid by further falsifying public records to justify a redemption right. These acts are actionable under Idaho's Consumer Sales Practices act within the state of Idaho given the involvement of an Idaho citizen.

FOURTH CAUSE OF ACT  
(Violation of Utah's Fraudulent Communications Act)

25. M.D. Diet Trust's Bank originates out of and is only incorporated in the state of Utah. The defendant's false promises, representations and communications by wire, by mail and by oral representations, did cause the trust to expend substantial amounts of monies that were apparently intended to be defrauded from the trust - in violation of Utah's communication fraud statute, U.C.A. Section 76-10-1801. Each communication committed in violation of this statute is a separate offense. Moreover plaintiff is entitled to treble damages for each violation.

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good faith and made permanent and valuable improvements to it, is either: (1) entitled to recover the amount by which the estimated value of the improvements exceeds the estimated value of the use and occupation of the property.

9. See Texas tax code § 34.01. SALE OF PROPERTY, subsection (n).. The redemption deed is subject to impeachment both for fraud and because the redemption was rendered null and void either because it was too late or because it was not a full redemption.

§.

WHEREFORE PLAINTIFF PRAYS AS FOLLOWSI

1. For all compensatory, special and punitive damages as allowed by law;
2. For treble damages as allowed by law;
3. For equitable remedies of specific performance
4. For pre and post judgment interest;
5. For Attorneys fees and court costs; and
6. For trial by jury

Dated: June 3, 2011

A handwritten signature in cursive script, appearing to read "Holli Telford", is written above a horizontal line.

Holli Telford



# INVENTORY OF SMITH COUNTY PROPERTY STRUCK OFF AT TAX SALE

RECENT CHANGES IN THE PROPERTY TAX CODE NOW REQUIRE PURCHASERS OF TAX SALE PROPERTY TO HAVE A STATEMENT FROM THE SMITH COUNTY TAX ASSESSOR-COLLECTOR CERTIFYING THAT THE PERSON/FIRM/COMPANY PURCHASING PROPERTY AT A TAX SALE OWES NO DELINQUENT PROPERTY TAXES TO ANY TAXING ENTITY WITHIN THE COUNTY. YOU MAY NOT PURCHASE PROPERTY WITHOUT THIS CERTIFICATE.

(Subject to any and all City of Tyler and Smith County liens recorded in the County Clerk Records.)  
( Troup properties are subject to Troup ISD taxes.)

	ACCOUNT # LEGAL ADDRESS	CAUSE # SALE DATE	OPEN BID CUR VALUE	ACREAGE MAP #	IMP/VAC SCHOOL	LGBS # PBFCM
1.	1-50000-0852-13-016000 819 DUCKENFIELD	13,746-B 06-03-03	15,329.90 35,900	#C146	IMP TISD	707
2.	1-50000-0521-00-023000 TYLER SANDFLAT	13,854-C 10-05-99	600.00 600	#C18	VAC TISD	543
3.	1-81281-0001-00-182000 CHEROKEE TRAIL	16,647-C 08-05-97	2,102.70 3,500	#12700	VAC TISD	293
4.	1-50000-0852-00-125030 1026 HILLCREST	17,600-G 11-03-98	4,140.30 5,300	#C113B	IMP TISD	453
5.	1-50000-0324-04-029000 W BRYAN	18,805-A 10-03-00	2,616.01 3,000	#C58	VAC TISD	609
6.	1-50000-0582-00-006000 2118 W JACKSON	19,167-B 01-02-07	12,000.00 15,100		IMP TISD	P119
7.	1-50000-0502-00-021000 2211 MOORE	19,205-A 01-02-07	11,200.00 28,700		IMP TISD	P120
8.	1-50000-0669-14-218000 1415 HAWTHORNE	19,259-A 02-05-08	28,000.00 51,800		IMP TISD	P160
9.	1-50000-0148-00-008010	19,289-A 09-06-05	1,750.00 2,500	0.24 #C48	VAC TISD	P17
10.	1-80875-0006-00-007000 ROOSEVELT	19,292-A 02-03-03	1,400.00 1,400	#C223	VAC TISD	696
11.	1-50000-0092-00-025000 W LINE	19,539-B 12-03-02	2,700.00 2,700	#C38	VAC TISD	690
12.	1-50000-0092-00-010000 W LINE	19,539-B 12-03-02	3,900.00 3,900	#C38	VAC TISD	689

	ACCOUNT # LEGAL ADDRESS	CAUSE # SALE DATE	OPEN BID CUR VALUE	ACREAGE MAP #	IMP/VAC SCHOOL	LGBS # PBFCM
195.	1-81281-0006-00-031000 ROSEWAY	22,094-C 03-02-2010	1,500.00 1,500		VAC TISD	P213
196.	1-80160-0000-00-089000 BLUEBIRD	22,095-C 06-01-2010	5,000.00 5,000		VAC TISD	P224
197.	1-00000-0206-00-013090 14811 FM 2661	22,107-C 11-2-2010	11,320.00 43,254		IMP TISD	P237
198.	1-50000-0836-07-010010 2107 BEN	22,107-C 11-2-2010	7,218.00 8,526		IMP TISD	P238
199.	1-50000-0356-00-019010 1314 CLAUDE	22,115-C 07-06-2010	7,000.00 26,337		IMP TISD	P228
200.	1-50000-0665-02-086020 621 S ROSS	22,116-A 02-01-2011	8,764.00 16,969		IMP TISD	P285
201.	1-50000-0553-00-009000 1529 N CONFEDERATE	22,123-B 11-02-2010	9,342.71 14,575		IMP TISD	923
202.	1-80705-0001-00-311000 LAKEWAY HARBOR	22,130-C 05-04-2010	4,440.29 10,608		IMP BISD	895
203.	1-80062-0000-00-017000 2732 DEPREIST	22,132-A 04-06-2010	2,000.00 2,000		VAC TISD	P217
204.	1-80800-0000-00-056000 MEANDERING	22,133-B 05-04-2010	3,000.00 3,000		VAC TISD	P218
205.	1-54660-0000-00-051000 13432 SIERRA LANE	22,134-C 07-06-2010	6,700.00 7,341		IMP TISD	P230
206.	1-54660-0000-00-052000 13432 SIERRA LANE	22,134-C 07-06-2010	3,300.00 5,000		VAC TISD	P229
207.	1-50000-0663-00-444000 1309 SHAW	22,184-B 06-01-2010	4,900.00 5,000		VAC TISD	P225
208.	1-50000-0446-00-014000 1715 MOORE	22,190-B 03-01-2011	1,980.00 1,980		VAC TISD	931
209.	1-50000-0533-00-023000 206 BAXTER	22,197-C 06-01-2010	4,700.00 4,700		VAC TISD	P226
210.	1-00000-0010-80-051022 820 S ATHENA	22,208-B 03-01-2011	3,306.80 4,955.00		VAC TISD	932

Click on the underlined Acct# to view Account detail

Account	Name	Location
<u>100000020600013021</u>	CONFLITTI JOSEPH M & TAMMY S	14811 F M 2661
<u>150000157006015010</u>	CONFLITTI JOSEPH M & TAMMY S	2224 PINEHURST ST
<u>100000020600013020</u>	CONFLITTI JOSEPH M & TAMMY S	14811 F M 2661

**New Search**

71 2<sup>11</sup>



- MODIFIED -  
BID

I hereby submit my bid for the purchase of:

FILED DEED DATE 11/2/10

PBF / LGB # P237

Cause # 22,107-C

Property Account # 1-00000-0206-00-013090

Enclosed is a cashier's check, money order or a letter of credit from a local bank for the bid amount. <sup>BEARING SITUS ADDRESS: 14811 FM 2661 ON Bid</sup>  
<sup>REPORTEDLY CORRECTED TO 14821 FM 2661</sup>

Bid Amount \$ 4,200<sup>00</sup> VALUE OF LAND

PRINT NAME BUILDING HAS NO VALUE -  
HOLL TELFORD AS TRUSTEE

ADDRESS 10621 S. OLD HWY 191

CITY MALAD STATE ID ZIP 83252

TELEPHONE 208-473-5800

Print name(s) to appear on deed if different than above:  
M. D. DIET TRUST

I certify that I have no outstanding tax judgments or tax delinquencies in Smith County. With each sealed bid, I am submitting a statement from the Smith County Tax Office stating such, as required by House Bill 335.

Signature [Handwritten Signature]  
(must be signed by hand)

Date 3/28/11

"3"

HOMESTEAD EXEMPTION FORM			
Preliminary 2011 Values			
Land Value:		\$4200.00	
Ag Value:		\$0	
Building Value:		\$9763.00	
Market Value:		\$13963.00	
2011 Exemptions			
Frozen Values / Years			
Legal Information			
Map#:	12420	Subd/Survey:	ABST A0206 J CAUBLE
Grid#:	E-21.2	Lot/Tract:	TRACT 13I,13J
Abst/Sub#:	0206	Block:	
Acres:	0.43	Unit/Section:	
For Actual Tax Levy contact Gary Barber Tax Assessor/Collector at (903) 590-2920. Tax amounts shown are Estimates prepared by Smith County Appraisal District			
ATTENTION: Effective September 1, 2005, in accordance with S.B. No. 541, we will no longer display photos, sketches, or floor plans of residential properties.			
Dwelling Information			
Year Built:	1976		
Square Feet:	1120		
Stories:	1		
Ext. Wall:	CONCRETE BLOCK		
Bath Full:	1		
WBFP:	0		

11  
4<sup>8</sup>

2011 Ownership Data			
<b>PIN#:</b>	043056		
<b>Account:</b>	100000020600013090		
<b>Owner:</b>	SMITH COUNTY TRUSTEE		
<b>Address:</b>	PO BOX 2011		
<b>City:</b>	TYLER	<b>Zip1:</b>	75710
<b>State:</b>	TX	<b>Zip2:</b>	0000
Deed Information			
<b>Book:</b>			
<b>Page:</b>			
<b>Recd. Date:</b>	11/29/2010		
<b>Recd. Info:</b>	SD 55262		
Jurisdictions/2011		Est Taxes	
SMITH COUNTY		\$0.00	
TYLER ISD		\$0.00	
SCESD #2		\$0.00	
For Actual Tax Levy contact Gary Barber Tax Assessor/Collector at (903) 590-2920. Tax amounts shown are Estimates prepared by Smith County Appraisal District			

Filed  
 JUN 10 2011  
*D. Nye*  
 9:00 clock p.m.  
 108

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE  
 STATE OF IDAHO, IN AND FOR THE COUNTY OF ONEIDA

\*\*\*\*\*

HOLLI TELFORD,	)	
	)	
Plaintiffs,	)	
	)	Case No. CV-2011-66
vs	)	
	)	<b>ORDER OF DISQUALIFICATION</b>
SANDRA COPELAND, ADMITRA MILLS,	)	
JEANETTE HARMON, CODY KELLEY,	)	
PAUL KELLEY, JR., THE ESTATE OF	)	
PAUL KELLEY, SR, SMITH COUNTY	)	
TRUSTEE, TAX ASSESSOR GARY	)	
BARBER, SMITH COUNTY, ARTIE ROSS,	)	
ATTORNEY TAB BEAELL, LAW OFFICES	)	
OF PURDUE, BRANDON, FELDER,	)	
COLLINS & MOTT; LISA NEILSON; AND	)	
DOES 1 - 10	)	
	)	
Defendants.	)	

The above Plaintiff, having filed with this Court a Motion to Disqualify the undersigned Judge without cause pursuant to Idaho Civil Rule 40(d)(1);

NOW, THEREFORE, IT IS HEREBY ORDERED, pursuant to Rule 40(d)(1)(a) of the Idaho Civil Rules, the undersigned Judge hereby deems himself disqualified in the above-entitled case and requests that Administrative Judge David C. Nye promptly assign another District Judge in the State of Idaho to preside in any further proceedings in the above-entitled matter.

DATED this 10 day of June, 2011.

*Robert C. Naftz*  
 \_\_\_\_\_  
 ROBERT C. NAFTZ,  
 District Judge

### CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 10<sup>th</sup> day of June, 2011, I served a true and correct copy of the above and foregoing ORDER OF DISQUALIFICATION to the following person(s) in the manner indicated below:

Holli Telford  
10621 S. Old Hwy. 191  
Malad, ID 83252

U.S. Mail/Postage Prepaid  
 Hand Delivery  
 Overnight Mail  
 Facsimile

Sandra Copeland  
1618 Wolford  
Tyler, TX 75702

U.S. Mail/Postage Prepaid  
 Hand Delivery  
 Overnight Mail  
 Facsimile

Admitra Mills  
315 Harpole  
Tyler, TX 75702

U.S. Mail/Postage Prepaid  
 Hand Delivery  
 Overnight Mail  
 Facsimile

Jeanette Harmon  
1583 FM 346  
Tyler, TX 75702

U.S. Mail/Postage Prepaid  
 Hand Delivery  
 Overnight Mail  
 Facsimile

Cody Kelley  
1618 Wolford  
Tyler, TX 75702

U.S. Mail/Postage Prepaid  
 Hand Delivery  
 Overnight Mail  
 Facsimile

Paul Kelley, Jr.  
1618 Wolford  
Tyler, TX 75702

U.S. Mail/Postage Prepaid  
 Hand Delivery  
 Overnight Mail  
 Facsimile



The Estate of Paul Kelley, Sr.  
1618 Wolford  
Tyler, TX 75702

U.S. Mail/Postage Prepaid  
 Hand Delivery  
 Overnight Mail  
 Facsimile

Smith County Trustee  
200 East Ferguson, Ste #100  
Tyler, TX 75702

U.S. Mail/Postage Prepaid  
 Hand Delivery  
 Overnight Mail  
 Facsimile

Tax Assessor Gary Barber  
1517 W. Front Street  
Tyler, TX 75702

U.S. Mail/Postage Prepaid  
 Hand Delivery  
 Overnight Mail  
 Facsimile

Smith County  
200 East Ferguson, Ste #100  
Tyler, TX 75702

U.S. Mail/Postage Prepaid  
 Hand Delivery  
 Overnight Mail  
 Facsimile

Artie Ross  
4907 Fox Hill Lane  
Dallas, TX 75232

U.S. Mail/Postage Prepaid  
 Hand Delivery  
 Overnight Mail  
 Facsimile

Attorney Tab Beall  
205 South Broadway #200  
Tyler, TX 75702

U.S. Mail/Postage Prepaid  
 Hand Delivery  
 Overnight Mail  
 Facsimile

Law Office of Purdue, Brandon,  
Felder, Collins & Mott  
205 South Broadway #200  
Tyler, TX 75702


U.S. Mail/Postage Prepaid  
 Hand Delivery  
 Overnight Mail  
 Facsimile

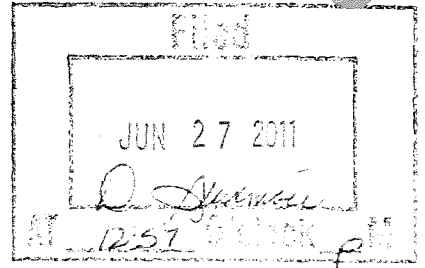
Lisa Neilson  
360 East 950 South #257  
Salt Lake City, UT 84111

U.S. Mail/Postage Prepaid  
 Hand Delivery  
 Overnight Mail  
 Facsimile

Hon. David C. Nye  
Administrative Judge  
P.O. Box 4165  
Pocatello, ID 83205

U.S. Mail/Postage Prepaid  
 Hand Delivery  
 Overnight Mail  
 Facsimile

  
\_\_\_\_\_  
Deputy Clerk



IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF ONEIDA

HOLLI TELFORD, )  
 )  
 Plaintiff )  
 )  
 vs. )  
 )  
 SANDRA COPELAND; ADMITRA MILLS; )  
 JEANETTE HARMON; CODY KELLEY; )  
 PAUL KELLEY, JR.; THE ESTATE OF )  
 PAUL KELLEY, SR; SMITH COUNTY )  
 TRUSTEE; TAX ASSESSOR GARY )  
 BARBER; SMITH COUNTY; ARTIE )  
 ROSS; ATTORNEY TAB BEAELL; LAW )  
 OFFICES OF PURDUE, BRANDON, )  
 FELDER, COLLINS & MOTT; LISA )  
 NEILSON; AND DOES 1-10, )  
 )  
 Defendants. )  
 \_\_\_\_\_ )


Case No.: CV-2011-66  
**ADMINISTRATIVE ORDER OF  
REFERENCE**

The Honorable Robert C. Naftz, District Judge, having been disqualified by Plaintiff without cause pursuant to Idaho Civil Rule 40(d)(1),

IT IS HEREBY ORDERED that the above-entitled matter is hereby REFERRED TO the Honorable Stephen S. Dunn, for complete resolution.

IT IS SO ORDERED.

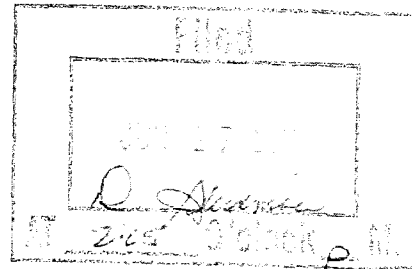
DATED this 27<sup>th</sup> day of June, 2011.

  
DAVID C. NYE  
District Judge

Copies to:

Honorable Mitchell W. Brown, District Judge  
Honorable Stephen S. Dunn, District Judge  
Honorable Robert C. Naftz, District Judge  
Holli Telford  
Sandra Copeland  
Admitra Mills  
Jeanette Harmon  
Cody Kelley  
Paul Kelley, Jr.  
The Estate of Paul Kelley, Sr.  
Smith County Trustee  
Tax Assessor Gary Barber  
Smith County  
Artie Ross  
Attorney Tab Beall  
Law Offices of Purdue, Brandon, Felder, Collins & Mott  
Lisa Neilson  
Suzanne Johnson, Trial Court Administrator

HOLLI TELFORD  
10621 S. Old Hwy 191  
Malad City, Idaho 83252  
208-473-5800



SIXTH JUDICIAL DISTRICT COURT FOR THE STATE OF IDAHO  
IN AND FOR THE COUNTY OF ONEIDA

HOLLI TELFORD : Case No. 2011 – CV – 0000066  
Plaintiff :  
vs : REQUEST FOR CLERK'S ENTRY OF  
ADMITRA MILLS : DEFAULT AND DEFAULT JUDGMENT  
Defendant : PURSUANT TO IDAHO RULES OF  
CIVIL PROCEDURE RULE 55(a) AND  
(b)(1)  
:  
:

---

In this case Defendant Admitra Mills has been properly served with process and has failed to appear or defend this action, and the time allowed by law for answering the verified Complaint has expired. The Default of Defendant Admitra Mills is therefore entered according to law.

Plaintiff also requests a Default Judgment be entered against Defendant Admitra Mills subsequent to entry of the Default and pursuant to the admitted allegations made in her Verified Complaint, including the Prayer. <sup>1</sup> This Default Judgment shall include: statutory money damages, restitution, an injunction and other equitable

---

1. Idaho Rules of Civil Procedure Rule 55(b)(1) provides: Default judgment by the court or clerk. When the plaintiff's claim against a defendant is for a sum certain or for a sum which can by computation be made certain, ... the clerk thereof, upon request of the plaintiff, and upon the filing of an affidavit of the amount due and showing the method of computation, shall enter judgment for that amount and costs against the defendant, if the defendant has been defaulted for failure to appear and if the defendant is not an infant or incompetent person. Any application for a default judgment must contain written certification of the name of the party against whom judgment is requested and the address most likely to give the defendant notice of such default judgment, and the clerk shall use such address in giving such party notice of judgment.

relief as authorized by law. Furthermore, this Default Judgment shall be limited in damages to date due to its expedited default nature.

IT IS ORDERED AND ADJUDGED that plaintiff have and recover from Defendant Admitra Mills, a money judgment in the statutory sum of \$1000 as provided by Idaho Code § 48-608(1) under Idaho's Consumer Protection Act, together with the costs of suit in the amount of \$88, and prejudgment interest from the date of June 1, 2011 to June 28, 2011 in the amount of \$12, for a total money judgment of \$1,100 plus interest at the statutory rate of 10% per annum from this date until this amount is paid in full.

IT IS ALSO ORDERED AND ADJUDGED pursuant to Idaho Code § 48-608(1) that the equitable relief of specific performance shall be granted to the plaintiff. In consideration of this judgment of specific performance, the Smith County Trustee is DIRECTED and ORDERED to: (1) Accept the bid contract made between plaintiff and the Smith County Trustee found at exhibit "3" attached to the Verified Complaint; (2) Execute title of the subject real property into plaintiff's name; and (3) forever release all rights, title and interest in the subject real property to plaintiff.

IT IS FURTHER ORDERED AND ADJUDGED that defendant Admitra Mills shall make full restitution to plaintiff concerning the subject real property by releasing all rights, title and interest in the property to plaintiff, and;

IT IS CONCLUSIVELY ORDERED AND ADJUDGED that defendant Admitra Mills is permanently enjoined from claiming any rights, title or interest in said subject real property bearing Smith County Appraisal District account number 100000020600013090 and subject of Smith County District Court cause no. 22,107-C, and further, that defendant Admitra Mills is permanently enjoined from entering said premises without the express permission of plaintiff.

DATED this 27<sup>th</sup> day of June, 2011.



\_\_\_\_\_  
Clerk of the District Court

and bearing the official seal.

CERTIFICATE OF SERVICE

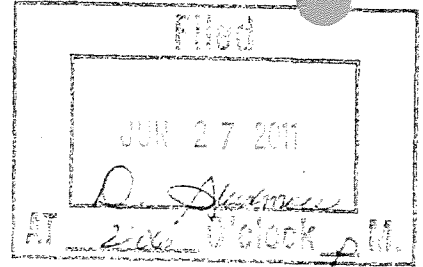
I, hereby certify that on the \_\_\_\_\_ day of \_\_\_\_\_, 2011, I served a true and correct copy of the foregoing document upon the following individual by US. Mail:

Admitra Mills  
315 Harpole  
Tyler, Texas 75702

Dated:

\_\_\_\_\_  
Deputy Clerk

HOLLI TELFORD  
10621 S. Old Hwy 191  
Malad City, Idaho 83252  
208-473-5800



SIXTH JUDICIAL DISTRICT COURT FOR THE STATE OF IDAHO  
IN AND FOR THE COUNTY OF ONEIDA

HOLLI TELFORD : Case No. 2011 – CV – 0000066  
Plaintiff :  
vs : AFFIDAVIT OF HOLLI TELFORD  
IN SUPPORT OF  
ADMITRA MILLS : REQUEST FOR CLERK'S ENTRY OF  
DEFAULT AND DEFAULT JUDGMENT  
PURSUANT TO IDAHO RULES OF  
CIVIL PROCEDURE RULE 55(a) AND  
(b)(1)  
Defendant :

---

STATE OF IDAHO )  
 : ss  
COUNTY OF ONEIDA)

I, Holli Telford, being first duly sworn, states:

1. I am the plaintiff in the above stated action and I have personal knowledge of the facts set forth in this Affidavit.
2. That the Verified Complaint and Summons were properly served upon the Defendant Admitra Mills on June 4, 2011 as shown by the attested Return Of Service attached hereto as exhibit "1".
3. That the defendant has not, as of this date, filed an Answer or otherwise appeared to defend against the allegations in the Verified Complaint.
4. That the Defendant is not an infant or incompetent person.
5. Defendant is not now, nor in the previous six months has been, a member of the Armed Forces of the United States of America or it's allies.

ORIGINAL



6. Defendant is not entitled to any statutory remedy of redemption;

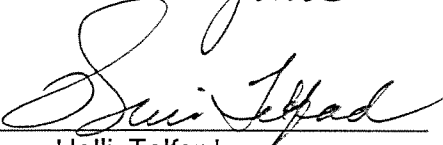
7. Defendant owes me an actual statutory damage amount of \$1,000 as provided under Idaho Code § 48-608(1) : Any person who purchases. . . goods. . . services and thereby *suffers any ascertainable loss of money or property, real or personal, as a result of the use or employment by another person of a method, act or practice declared unlawful by this chapter, may bring an action to recover actual damages or one thousand dollars (\$1,000), whichever is the greater.* Here, I seek the \$1,000 statutory damage remedy for this defendant's admitted breach of the Idaho Consumer Protection Act.

8. The defendant also owes me \$88 in court costs and service fees and prejudgment interest in the amount of \$12. The total money judgment owed me at the time of entry of this default and default judgment is \$1,100.00. I am also entitled to statutory post judgment interest at the rate of 10% until this judgment is paid.

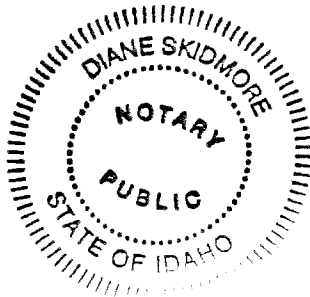
9. I certify that the address most likely to give the Defendant Admitra Mills notice of this default and judgment is:


Admitra Mills  
315 Harpole  
Tyler, Texas 75702

DATED this 27<sup>th</sup> day of June, 2011.

  
\_\_\_\_\_  
Holli Telford

SUBSCRIBED AND SWORN / AFFIRMED before me, this June 27, 2011.



  
\_\_\_\_\_  
Notary Public for Idaho  
Residing at: Mesa, AZ  
My Commission expires on: 1-17-2015

HOLLI TELFORD  
10621 S. OLD HIGHWAY 191  
MALAD CITY, IDAHO 83252  
208-473-5800

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF ONEIDA

HOLLI TELFORD	)	
	)	Case no. CV-2011- 66
Plaintiff	)	
vs.	)	
ADMITRA MILLS	)	RETURN OF SERVICE ON SUMMONS AND VERIFIED COMPLAINT
Defendants	)	
_____)		

I, Ferron Stokes, declare as follows:

1. I am a resident of Box Elder County, State of Utah, over the age of 18 years, and not a party to the above entitled action.

2. On the 4th day June, 2011, I served copies of the Summons and Verified Complaint in the above entitled action, pursuant to a specific service statute under Idaho's Consumer Protection Act i.e. I.C. section 48-613 which provides ... Service of any notice, demand, summons or subpoena under this act (may be obtained through), **substituted service . . . in the following manner:**

- (1) Personal service thereof without this state; or
- (2) The mailing thereof by registered or certified mail to the last known place of business, residence or abode within or without this state of such person for whom the same is intended; or
- (3) As to any person, in the manner provided in the Idaho rules of civil procedure as if a complaint which institutes a civil proceeding had been filed.

This server certifies that on June 4, 2011, he served **defendant ADMITRA MILLS** by certified mail addressed to her designated address as recorded with the Smith County Appraisal District's website being: 315 Harpole, Tyler, TX 75702. This form of service was authorized by



11-6  
48-

Idaho Code section 48-613 for actions brought under Idaho's Consumer Protection Act.

Attached to this Return of Service is a copy of the certified mail receipt verifying such service was made. Following that is the USPS electronic proof of delivery.

I attest the foregoing is true and correct under penalty of perjury in accordance with 28 USC section 1746(2) as applicable to the laws of both the states of Utah, Idaho and these United States.

Ferron Stokes  
Affiant's signature

FERRON STOKES  
Affiant's printed name

7006 0100 0007 1722 9468

<b>U.S. Postal Service™</b>	
<b>CERTIFIED MAIL™ RECEIPT</b>	
<i>(Domestic Mail Only; No Insurance Coverage Provided)</i>	
For delivery information visit our website at <a href="http://www.usps.com">www.usps.com</a>	
7006 0100 0007 1722 9468	
Postage	\$ 95
Certified Fee	2 85
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 380

Sent To: ADMITRA MILLS  
Street, Apt. No., or PO Box No.: 315 HARPOLE  
City, State, ZIP+4: TYLER TEXAS 75702

PLYMOUTH UT 84330-9598  
Postmark Here  
JUN - 4 2011  
USPS

PS Form 3800, June 2002 See Reverse for Instructions

**ORIGINAL**

HOLLI TELFORD  
assignee to M.D.Diet Trust  
10621 S. Old Hwy 191  
Malad City, Idaho 83252

Filed AT 4:20'clock P.M.  
JUN 3 2011  
*J. Henschamp*

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF ONIEDA  
(Location: 10 Court Street. Malad City, Idaho 83252)

HOLLI TELFORD assignee to M.D. Diet Trust )

SUMMONS

Plaintiff, )

v. )

DEFENDANT  
ADMITRA MILLS

SANDRA COPELAND; ADMITRA MILLS; )  
JEANETTE HARMON; CODY KELLEY; )  
PAUL KELLEY JR; THE ESTATE OF )  
PAUL KELLEY SR.; SMITH COUNTY )  
TRUSTEE; TAX ASSESSOR GARY )  
GARY BARBER; SMITH COUNTY; ARTIE )  
ROSS; ATTORNEY TAB BEAELL; LAW )  
OFFICES OF PURDUE, BRANDON, )  
FELDER, COLLINS & MOTT; LISA )  
NEILSON; AND DOES 1 - 10 )

*CV-2011-66*

Defendants. )

NOTICE: YOU HAVE BEEN SUED BY THE ABOVE-NAMED PLAINTIFF(S): THE COURT MAY ENTER JUDGMENT AGAINST YOU WITHOUT FURTHER NOTICE UNLESS YOU RESPOND WITHIN 20 DAYS. READ THE INFORMATION BELOW.

TO: Defendant Admitra Mills

You are hereby notified that in order to defend this lawsuit, an appropriate written response must be filed with the above designated court within 20 days after service of this Summons on you. If you fail to so respond the court may enter judgment against you as demanded by the plaintiff in her Verified Complaint.

A copy of the Complaint is served with this Summons. If you wish to seek the advice of or representation by an attorney in this matter, you should do so promptly so that your written response, if any, may be filed in time and other legal rights protected.

An appropriate written response requires compliance with Rule 10(a)(1) and other Idaho Rules of Civil Procedure and shall also include:

1. The title and number of this case.
2. If your response is an Answer to the Complaint, it must contain admissions or denials of the separate allegations of the Complaint and other defenses you may claim.
3. Your signature, mailing address and telephone number, or the signature, mailing address and telephone number of your attorney.
4. Proof of mailing or delivery of a copy of your response to plaintiff or plaintiff's attorney, as designated above.

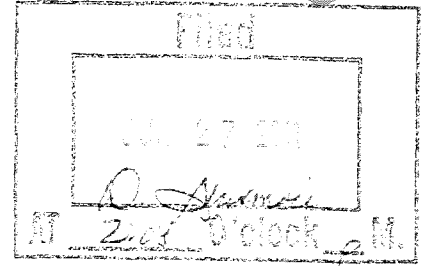
To determine whether you must pay a filing fee with your response, contact the Clerk of the above-named court.

DATED this 3<sup>rd</sup> day of June, ~~20~~ 2011.

CLERK OF THE DISTRICT COURT

By Janet Bluechamps  
Deputy Clerk

HOLLI TELFORD  
10621 S. Old Hwy 191  
Malad City, Idaho 83252  
208-473-5800



SIXTH JUDICIAL DISTRICT COURT FOR THE STATE OF IDAHO  
IN AND FOR THE COUNTY OF ONEIDA

HOLLI TELFORD : Case No. 2011 – CV – 0000066  
Plaintiff :  
vs : REQUEST FOR CLERK'S ENTRY OF  
SANDRA COPELAND, personally and : DEFAULT AND DEFAULT JUDGMENT  
as Administrator Of The Estate Of Paul : PURSUANT TO IDAHO RULES OF  
Kelley Sr. : CIVIL PROCEDURE RULE 55(a) AND  
Defendant : (b)(1)

---

In this case Defendant Sandra Copeland, personally and as Administrator of the Estate of Paul Kelley Sr. has been properly served with process and has failed to appear or defend this action, and the time allowed by law for answering the verified Complaint has expired. The Default of Defendant Sandra Copeland, personall and as Administrator of the estate of Paul Kelley Sr. is therefore entered according to law.

Plaintiff also requests a Default Judgment be entered against Defendant Sandra Copeland, personally and as Administrator of the Estate of Paul Kelley Sr., subsequent to entry of the Default and pursuant to the admitted allegations made in her Verified Complaint, including the Prayer.<sup>1</sup> This Default Judgment shall include :

---

1. Idaho Rules of Civil Procedure Rule 55(b)(1) provides: Default judgment by the court or clerk. When the plaintiff's claim against a defendant is for a sum certain or for a sum which can by computation be made certain, ... the clerk thereof, upon request of the plaintiff, and upon the filing of an affidavit of the amount due and showing the method of computation, shall enter judgment for that amount and costs against the defendant, if the defendant has been defaulted for failure to appear and if the defendant is not an infant or incompetent person. Any application for a default judgment must contain written certification of the name of the party against whom judgment is requested and the address most likely to give the defendant notice of such default judgment, and the clerk shall use such address in giving such party notice of judgment.

statutory money damages, restitution, an injunction and other equitable relief as authorized by law. Furthermore, this Default Judgment shall be limited in damages to date due to its expedited default nature.

IT IS ORDERED AND ADJUDGED that plaintiff have and recover from Defendant Sandra Copeland, personally and as Administrator of the Estate of Paul Kelley Sr., a money judgment in the statutory sum of \$1000 as provided by Idaho Code § 48-608(1) under Idaho's Consumer Protection Act, together with the costs of suit in the amount of \$88, and prejudgment interest from the date of June 1, 2011 to June 28, 2011 in the amount of \$12, for a total money judgment of \$1,100 plus interest at the statutory rate of 10% per annum from this date until this amount is paid in full.

IT IS ALSO ORDERED AND ADJUDGED pursuant to Idaho Code § 48-608(1) that the equitable relief of specific performance shall be granted to the plaintiff. In consideration of this judgment of specific performance, the Smith County Trustee is DIRECTED and ORDERED to: (1) Accept the bid contract made between plaintiff and the Smith County Trustee found at exhibit "3" attached to the Verified Complaint; (2) Execute title of the subject real property into plaintiff's name; and (3) forever release all rights, title and interest in the subject real property to plaintiff.

IT IS FURTHER ORDERED AND ADJUDGED that defendant Sandra Copeland, personally and as Administrator of the Estate of Paul Kelley Sr. shall make full restitution to plaintiff concerning the subject real property by releasing all rights, title and interest in the property to plaintiff, and;

IT IS CONCLUSIVELY ORDERED AND ADJUDGED that defendant Sandra Copeland, personally and as Administrator of the estate of Paul Kelley Sr. is permanently enjoined from claiming any rights, title or interest in said subject real property bearing Smith County Appraisal District account number 100000020600013090 and subject of Smith County District Court cause no. 22,107-C, and further, that defendant Cody Kelley is permanently enjoined from entering said premises without the express permission of plaintiff.

DATED this 27<sup>th</sup> day of June, 2011.



\_\_\_\_\_  
Clerk of the District Court  
and bearing the official seal.

CERTIFICATE OF SERVICE

I, hereby certify that on the \_\_\_\_\_ day of \_\_\_\_\_, 2011, I served a true and correct copy of the foregoing document upon the following individual by US. Mail:

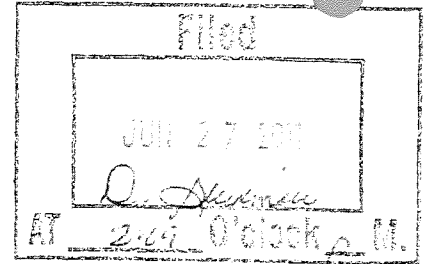
Sandra Copeland personally and as  
Administrator Of The Estate Of Paul Kelley Sr.  
1618 Wolford  
Tyler, Texas 75702

Dated:

\_\_\_\_\_  
Deputy Clerk



HOLLI TELFORD  
10621 S. Old Hwy 191  
Malad City, Idaho 83252  
208-473-5800



SIXTH JUDICIAL DISTRICT COURT FOR THE STATE OF IDAHO  
IN AND FOR THE COUNTY OF ONEIDA

HOLLI TELFORD : Case No. 2011 – CV – 0000066  
Plaintiff :  
vs : AFFIDAVIT OF HOLLI TELFORD  
IN SUPPORT OF  
SANDRA COPELAND, personally and : REQUEST FOR CLERK'S ENTRY OF  
as Administrator Of the Estate Of Paul : DEFAULT AND DEFAULT JUDGMENT  
Kelley Sr. : PURSUANT TO IDAHO RULES OF  
CIVIL PROCEDURE RULE 55(a) AND  
(b)(1)  
Defendant :

---

STATE OF IDAHO )  
: ss  
COUNTY OF ONEIDA)

I, Holli Telford, being first duly sworn, states:

1. I am the plaintiff in the above stated action and I have personal knowledge of the facts set forth in this Affidavit.

2. That the Verified Complaint and Summons were properly served upon the Defendant Sandra Copeland, personally and as Administrator of the Estate of Paul Kelley Sr. on June 4, 2011 as shown by the attested Return Of Service attached hereto as exhibit "1".

3. That the defendant has not, as of this date, filed an Answer or otherwise appeared to defend against the allegations in the Verified Complaint.

4. That the Defendant is not an infant or incompetent person.

5. Defendant is not now, nor in the previous six months has been, a

ORIGINAL

member of the Armed Forces of the United States of America or it's allies.

6. Defendant is not entitled to any statutory remedy of redemption;

7. Defendant owes me an actual statutory damage amount of \$1,000 as provided under Idaho Code § 48-608(1): Any person who purchases. . . goods. . . services and thereby *suffers any ascertainable loss of money or property, real or personal, as a result of the use or employment by another person of a method, act or practice declared unlawful by this chapter, may bring an action to recover actual damages or one thousand dollars (\$1,000), whichever is the greater.* Here, I seek the \$1,000 statutory damage remedy for this defendant's admitted breach of the Idaho Consumer Protection Act.

8. The defendant also owes me \$88 in court costs and service fees and prejudgment interest in the amount of \$12. The total money judgment owed me at the time of entry of this default and default judgment is \$1,100.00. I am also entitled to statutory post judgment interest at the rate of 10% until this judgment is paid.

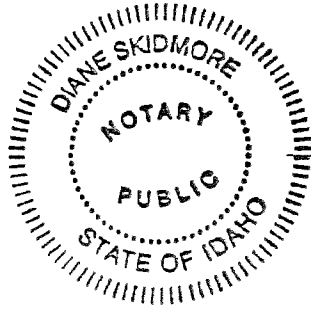
9. I certify that the address most likely to give the Defendant Sandra Copeland, personally and as Administrator of the Estate of Paul Kelley Sr. notice of this default and judgment is:

Sandra Copeland, personally and as Administrator  
of the Estate of Paul Kelley Sr.  
1618 Wolford  
Tyler, Texas 75702

DATED this 27<sup>th</sup> day of June, 2011.

Holli Telford  
Holli Telford

SUBSCRIBED AND SWORN / AFFIRMED before me, this June 27, 2011.



Diane Skidmore  
Notary Public for Idaho  
Residing at: Malden, IL  
My Commission expires on: 1-17-2015

HOLLI TELFORD  
10621 S. OLD HIGHWAY 191  
MALAD CITY, IDAHO 83252  
208-473-5800

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF ONEIDA

HOLLI TELFORD	)	
	)	Case no. CV-2011- 66
Plaintiff	)	
vs.	)	
SANDRA COPELAND, personally and as Administrator of the estate of Paul Kelly Sr.	)	RETURN OF SERVICE ON SUMMONS AND VERIFIED COMPLAINT
Defendants	)	
_____	)	

I, Ferron Stokes, declare as follows:

1. I am a resident of Box Elder County, State of Utah, over the age of 18 years, and not a party to the above entitled action.

2. On the 4th day June, 2011, I served copies of the Summons and Verified Complaint in the above entitled action, pursuant to a specific service statute under Idaho's Consumer Protection Act i.e. I.C. section 48-613 which provides ... Service of any notice, demand, summons or subpoena under this act (may be obtained through), **substituted service . . . in the following manner:**

- (1) Personal service thereof without this state; or
- (2) The mailing thereof by registered or certified mail to the last known place of business, residence or abode within or without this state of such person for whom the same is intended; or
- (3) As to any person, in the manner provided in the Idaho rules of civil procedure as if a complaint which institutes a civil proceeding had been filed.

This server certifies that on June 4, 2011, he served **defendant SANDRA COPELAND PERSONALLY AND AS ADMINISTRATOR OF THE ETSTAE OF**

\*

**PAUL KELLY SR.** by certified mail addressed to her designated address as recorded with the Smith County Appraisal District's website being: 1618 Wolford, Tyler, Texas 75702. This form of service was authorized by both Idaho Code section 48-613 for actions brought under Idaho's Consumer Protection Act.

Attached to this Return of Service is a copy of the certified mail receipt verifying such service was made. Following that is the USPS electronic proof of delivery.

I attest the foregoing is true and correct under penalty of perjury in accordance with 28 USC section 1746(2) as applicable to the laws of both the states of Utah, Idaho and these United States.

*Ferron Stokes*  
Affiant's signature

FERRON STOKES  
Affiant's printed name

7006 0100 0007 1722 9420

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<b>Total Postage &amp; Fees</b>	<b>\$27.80</b>

PLYMOUTH UT 84330-9998  
U.S. Postmark Here 2011  
USPS

*Personally and by*

Sent to: SANDRA COPELAND - Administrator  
 Street, Apt. No.: OF ESTATE OF PAUL KELLEY  
 PO Box No.:  
 City, State, ZIP+4: 1618 WOLFORD TYLER, TEXAS 75702

PS Form 3800, June 2002 See Reverse for Instructions

[Click to View Map](#)

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2011 Ownership Data			
<b>PIN#:</b>	043057		
<b>Account:</b>	100000020600013110		
<b>Owner:</b>	KELLEY PAUL W ESTATE		
<b>Address:</b>	1618 WOLFORD		
<b>City:</b>	TYLER	<b>Zip1:</b>	75702
<b>State:</b>	TX	<b>Zip2:</b>	
Deed Information			
<b>Book:</b>	2756		
<b>Page:</b>	235		
<b>Recd. Date:</b>	12/29/1987		
<b>Recd. Info:</b>	WD 42462		
Jurisdictions/2011		Est Taxes	
SMITH COUNTY		\$2.75	
TYLER ISD		\$12.03	
SCESD #2		\$0.75	
For Actual Tax Levy contact Gary Barber Tax Assessor/Collector at (903) 590-2920. Tax amounts shown are Estimates prepared by Smith County Appraisal District			



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## Track & Confirm

### Search Results

Label/Receipt Number: 7006 0100 0007 1722 9420  
Expected Delivery Date: June 6, 2011  
Class: Priority Mail®  
Service(s): Certified Mail™  
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Your item was delivered at 12:19 pm on June 07, 2011 in TYLER, TX 75702.

#### Detailed Results:

- Delivered, June 07, 2011, 12:19 pm, TYLER, TX 75702
- Notice Left, June 06, 2011, 12:10 pm, TYLER, TX 75702
- Acceptance, June 04, 2011, 10:42 am, PLYMOUTH, UT 84330

#### Notification Options

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Get current event information or updates for your item sent to you or others by email. [Go >](#)

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No FEAR Act EEO Data

FOIA



United States Postal Service  
Washington, DC 20260



United States Postal Service  
Washington, DC 20260

ORIGINAL

Filed AT 4:20'clock PM  
JUN 3 2011  
*J. H. Schamp*

HOLLI TELFORD  
assignee to M.D.Diet Trust  
10621 S. Old Hwy 191  
Malad City, Idaho 83252

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF ONIEDA  
(Location: 10 Court Street. Malad City, Idaho 83252)

HOLLI TELFORD assignee to M.D. Diet )  
Trust )

Plaintiff, )

v. )

SANDRA COPELAND; ADMITRA MILLS; )  
JEANETTE HARMON; CODY KELLEY; )  
PAUL KELLEY JR; THE ESTATE OF )  
PAUL KELLEY SR.; SMITH COUNTY )  
TRUSTEE; TAX ASSESSOR GARY )  
GARY BARBER; SMITH COUNTY; ARTIE )  
ROSS; ATTORNEY TAB BEAELL; LAW )  
OFFICES OF PURDUE, BRANDON, )  
FELDER, COLLINS & MOTT; LISA )  
NEILSON; AND DOES 1 - 10 )

Defendants. )

SUMMONS

- DEFENDANT  
SANDRA COPELAND, *PERSONALLY*  
AND AS ADMINISTRATOR OF  
THE ESTATE OF PAUL KELLEY SR.

*CV-2011-66*

NOTICE: YOU HAVE BEEN SUED BY THE ABOVE-NAMED PLAINTIFF(S): THE COURT MAY ENTER JUDGMENT AGAINST YOU WITHOUT FURTHER NOTICE UNLESS YOU RESPOND WITHIN 20 DAYS. READ THE INFORMATION BELOW.

TO: Defendant Sandra Copeland

You are hereby notified that in order to defend this lawsuit, an appropriate written response must be filed with the above designated court within 20 days after service of this Summons on you. If you fail to so respond the court may enter judgment against you as demanded by the plaintiff in her Verified Complaint.

A copy of the Complaint is served with this Summons. If you wish to seek the advice of or representation by an attorney in this matter, you should do so promptly so that your written response, if any, may be filed in time and other legal rights protected.

An appropriate written response requires compliance with Rule 10(a)(1) and other Idaho Rules of Civil Procedure and shall also include:

1. The title and number of this case.
2. If your response is an Answer to the Complaint, it must contain admissions or denials of the separate allegations of the Complaint and other defenses you may claim.
3. Your signature, mailing address and telephone number, or the signature, mailing address and telephone number of your attorney.
4. Proof of mailing or delivery of a copy of your response to plaintiff or plaintiff's attorney, as designated above.

To determine whether you must pay a filing fee with your response, contact the Clerk of the above-named court.

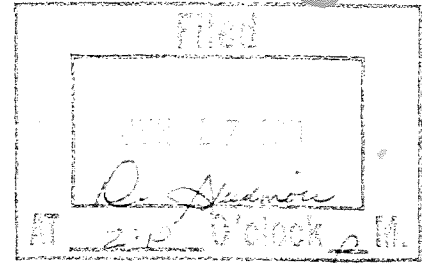
DATED this 3<sup>rd</sup> day of June, ~~18~~ 2011.

CLERK OF THE DISTRICT COURT

By Janet Hleechamp  
Deputy Clerk



HOLLI TELFORD  
10621 S. Old Hwy 191  
Malad City, Idaho 83252  
208-473-5800



SIXTH JUDICIAL DISTRICT COURT FOR THE STATE OF IDAHO  
IN AND FOR THE COUNTY OF ONEIDA

HOLLI TELFORD : Case No. 2011 – CV – 0000066  
Plaintiff :  
vs : REQUEST FOR CLERK'S ENTRY OF  
PAUL KELLEY JR. : DEFAULT AND DEFAULT JUDGMENT  
: PURSUANT TO IDAHO RULES OF  
: CIVIL PROCEDURE RULE 55(a) AND  
: (b)(1)  
Defendant :

---

In this case Defendant Paul Kelley Jr. has been properly served with process and has failed to appear or defend this action, and the time allowed by law for answering the verified Complaint has expired. The Default of Defendant Paul Kelley Jr. is therefore entered according to law.

Plaintiff also requests a Default Judgment be entered against Defendant Paul Kelley Jr. subsequent to entry of the Default and pursuant to the admitted allegations made in her Verified Complaint, including the Prayer.<sup>1</sup> This Default Judgment shall include: statutory money damages, restitution, an injunction and other equitable relief as authorized by law.

---

1. Idaho Rules of Civil Procedure Rule 55(b)(1) provides: Default judgment by the court or clerk. When the plaintiff's claim against a defendant is for a sum certain or for a sum which can by computation be made certain, ... the clerk thereof, upon request of the plaintiff, and upon the filing of an affidavit of the amount due and showing the method of computation, shall enter judgment for that amount and costs against the defendant, if the defendant has been defaulted for failure to appear and if the defendant is not an infant or incompetent person. Any application for a default judgment must contain written certification of the name of the party against whom judgment is requested and the address most likely to give the defendant notice of such default judgment, and the clerk shall use such address in giving such party notice of judgment.

Furthermore, this Default Judgment shall be limited in damages to date due to its expedited default nature.

IT IS ORDERED AND ADJUDGED that plaintiff have and recover from Defendant Paul Kelley Jr., a money judgment in the statutory sum of \$1000 as provided by Idaho Code § 48-608(1) under Idaho's Consumer Protection Act, together with the costs of suit in the amount of \$88, and prejudgment interest from the date of June 1, 2011 to June 28, 2011 in the amount of \$12, for a total money judgment of \$1,100 plus interest at the statutory rate of 10% per annum from this date until this amount is paid in full.

IT IS ALSO ORDERED AND ADJUDGED pursuant to Idaho Code § 48-608(1) that the equitable relief of specific performance shall be granted to the plaintiff. In consideration of this judgment of specific performance, the Smith County Trustee is DIRECTED and ORDERED to: (1) Accept the bid contract made between plaintiff and the Smith County Trustee found at exhibit "3" attached to the Verified Complaint; (2) Execute title of the subject real property into plaintiff's name; and (3) forever release all rights, title and interest in the subject real property to plaintiff. .

IT IS FURTHER ORDERED AND ADJUDGED that defendant Paul Kelley Jr. shall make full restitution to plaintiff concerning the subject real property by releasing all rights, title and interest in the property to plaintiff, and;

IT IS CONCLUSIVELY ORDERED AND ADJUDGED that defendant Paul Kelley Jr. is permanently enjoined from claiming any rights, title or interest in said subject real property bearing Smith County Appraisal District account number 100000020600013090 and subject of Smith County District Court cause no. 22,107-C, and further, that defendant Paul Kelley Jr. is permanently enjoined from entering said premises without the express permission of plaintiff.

DATED this 27<sup>th</sup> day of June, 2011.



\_\_\_\_\_  
Clerk of the District Court

and bearing the official seal.

CERTIFICATE OF SERVICE

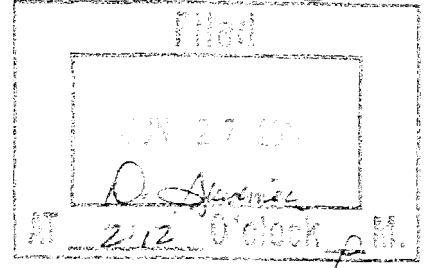
I, hereby certify that on the \_\_\_\_\_ day of \_\_\_\_\_, 2011, I served a true and correct copy of the foregoing document upon the following individual by US. Mail:

Paul Kelley Jr.  
1618 Wolford  
Tyler, Texas 75702

Dated:

\_\_\_\_\_  
Deputy Clerk

HOLLI TELFORD  
10621 S. Old Hwy 191  
Malad City, Idaho 83252  
208-473-5800



SIXTH JUDICIAL DISTRICT COURT FOR THE STATE OF IDAHO  
IN AND FOR THE COUNTY OF ONEIDA

HOLLI TELFORD : Case No. 2011 – CV – 0000066  
Plaintiff :  
vs : AFFIDAVIT OF HOLLI TELFORD  
IN SUPPORT OF  
REQUEST FOR CLERK'S ENTRY OF  
DEFAULT AND DEFAULT JUDGMENT  
PURSUANT TO IDAHO RULES OF  
CIVIL PROCEDURE RULE 55(a) AND  
(b)(1)  
PAUL KELLEY JR. :  
Defendant :

---

STATE OF IDAHO )  
                              : ss  
COUNTY OF ONEIDA)

I, Holli Telford, being first duly sworn, states:

1. I am the plaintiff in the above stated action and I have personal knowledge of the facts set forth in this Affidavit.
2. That the Verified Complaint and Summons were properly served upon the Defendant Paul Kelley Jr. on June 4, 2011 as shown by the attested Return Of Service attached hereto as exhibit "1".
3. That the defendant has not, as of this date, filed an Answer or otherwise appeared to defend against the allegations in the Verified Complaint.
4. That the Defendant is not an infant or incompetent person.
5. Defendant is not now, nor in the previous six months has been, a member of the Armed Forces of the United States of America or it's allies.

ORIGINAL

6. Defendant is not entitled to any statutory remedy of redemption;

7. Defendant owes me an actual statutory damage amount of \$1,000 as provided under Idaho Code § 48-608(1): Any person who purchases . . . goods . . . services and thereby *suffers any ascertainable loss of money or property, real or personal, as a result of the use or employment by another person of a method, act or practice declared unlawful by this chapter, may bring an action to recover actual damages or one thousand dollars (\$1,000), whichever is the greater.* Here, I seek the \$1,000 statutory damage remedy for this defendant's admitted breach of the Idaho Consumer Protection Act.

8. The defendant also owes me \$88 in court costs and service fees and prejudgment interest in the amount of \$12. The total money judgment owed me at the time of entry of this default and default judgment is \$1,100.00. I am also entitled to statutory post judgment interest at the rate of 10% until this judgment is paid.

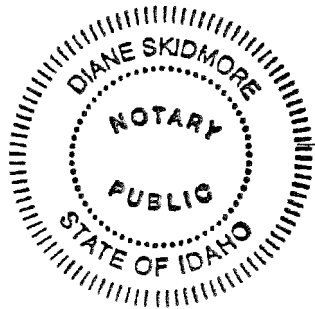
9. I certify that the address most likely to give the Defendant Paul Kelley Jr. notice of this default and judgment is:

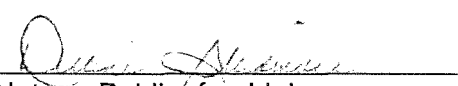
Paul Kelley Jr.  
1618 Wolford  
Tyler, Texas 75702

DATED this 27<sup>th</sup> day of June, 2011.

  
Holli Telford

SUBSCRIBED AND SWORN / AFFIRMED before me, this June 27, 2011.



  
Notary Public for Idaho  
Residing at: Meridian, ID  
My Commission expires on: 1-17-2015

HOLLI TELFORD  
10621 S. OLD HIGHWAY 191  
MALAD CITY, IDAHO 83252  
208-473-5800

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF ONEIDA

HOLLI TELFORD	)	
	)	Case no. CV-2011- 66
Plaintiff	)	
	)	
vs.	)	
	)	RETURN OF SERVICE ON
PAUL KELLEY JR.	)	SUMMONS AND VERIFIED
	)	COMPLAINT
	)	
Defendants	)	
_____ )		

I, Ferron Stokes, declare as follows:

1. I am a resident of Box Elder County, State of Utah, over the age of 18 years, and not a party to the above entitled action.

2. On the 4th day June, 2011, I served copies of the Summons and Verified Complaint in the above entitled action, pursuant to a specific service statute under Idaho's Consumer Protection Act i.e. I.C. section 48-613 which provides ... Service of any notice, demand, summons or subpoena under this act (may be obtained through), **substituted service . . . in the following manner:**

- (1) Personal service thereof without this state; or
- (2) The mailing thereof by registered or certified mail to the last known place of business, residence or abode within or without this state of such person for whom the same is intended; or
- (3) As to any person, in the manner provided in the Idaho rules of civil procedure as if a complaint which institutes a civil proceeding had been filed.

This server certifies that on June 4, 2011, he served **defendant PAUL KELLEY JR.** by certified mail addressed to the designated address shown with the Smith County Appraisal District being: 1618 Wolford, Tyler Texas 75702. This form of service was authorized by both Idaho Code

section 48-613 for actions brought under Idaho's Consumer Protection Act.

Attached to this Return of Service is a copy of the certified mail receipt verifying such service was made. Following that is the USPS electronic proof of delivery.

I attest the foregoing is true and correct under penalty of perjury in accordance with 28 USC section 1746(2) as applicable to the laws of both the states of Utah, Idaho and these United States.

Feron Stokes  
Affiant's signature

FERON STOKES  
Affiant's printed name

7006 0100 0007 1722 9420

<b>U.S. Postal Service™</b>	
<b>CERTIFIED MAIL™ RECEIPT</b>	
<i>(Domestic Mail Only; No Insurance Coverage Provided)</i>	
For delivery information visit our website at <a href="http://www.usps.com">www.usps.com</a>	
<b>OFFICIAL USE</b>	
Postage	\$24.95
Certified Fee	8.85
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$27.80

Sent to: SANDRA COPELAND - Administrator  
Street, Apt. No., or PO Box No.: 1618 WOLFORD  
City, State, ZIP+4: TYLER, TEXAS 75702

PLYMOUTH UT 84330-9008  
JUL Postmark Here 2011  
USPS

PS Form 3800, June 2002 See Reverse for Instructions

SEE ORIGINAL RECEIPT ON SANDRA COPELAND'S RETURN

[Click to View Map](#)

[Click to Print This Window](#)

2011 Ownership Data			
PIN#:	043057		
Account:	100000020600013110		
Owner:	KELLEY PAUL WESTATE		
Address:	1618 WOLFORD		
City:	TYLER	Zip1:	75702
State:	TX	Zip2:	
Deed Information			
Book:	2756		
Page:	235		
Recd. Date:	12/29/1987		
Recd. Info:	WD 42462		
Jurisdictions/2011		Est Taxes	
SMITH COUNTY		\$2.75	
TYLER ISD		\$12.03	
SCESD #2		\$0.75	
For Actual Tax Levy contact Gary Barber Tax Assessor/Collector at (903) 590-2920. Tax amounts shown are Estimates prepared by Smith County Appraisal District			





## Track & Confirm

### Search Results

Label/Receipt Number: 7006 0100 0007 1722 9420  
Expected Delivery Date: June 6, 2011  
Class: Priority Mail®  
Service(s): Certified Mail™  
Status: Delivered

### Track & Confirm

Enter Label/Receipt Number.

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Your item was delivered at 12:19 pm on June 07, 2011 in TYLER, TX 75702.

#### Detailed Results:

- Delivered, June 07, 2011, 12:19 pm, TYLER, TX 75702
- Notice Left, June 06, 2011, 12:10 pm, TYLER, TX 75702
- Acceptance, June 04, 2011, 10:42 am, PLYMOUTH, UT 84330

#### Notification Options

##### Track & Confirm by email

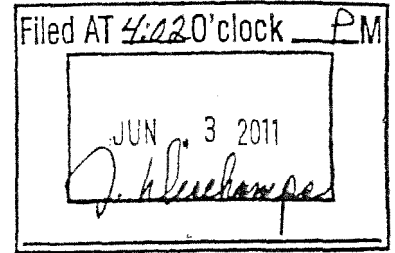
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**ORIGINAL**

HOLLI TELFORD  
assignee to M.D.Diet Trust  
10621 S. Old Hwy 191  
Malad City, Idaho 83252



IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF ONIEDA  
(Location: 10 Court Street. Malad City, Idaho 83252)

HOLLI TELFORD assignee to M.D. Diet Trust )

SUMMONS

Plaintiff, )

DEFENDANT

v. )

PAUL KELLEY JR

SANDRA COPELAND; ADMITRA MILLS; )  
JEANETTE HARMON; CODY KELLEY; )  
PAUL KELLEY JR; THE ESTATE OF )  
PAUL KELLEY SR.; SMITH COUNTY )  
TRUSTEE; TAX ASSESSOR GARY )  
GARY BARBER; SMITH COUNTY; ARTIE )  
ROSS; ATTORNEY TAB BEAELL; LAW )  
OFFICES OF PURDUE, BRANDON, )  
FELDER, COLLINS & MOTT; LISA )  
NEILSON; AND DOES 1 - 10 )

CASE No.  
CV-2011-666

Defendants. )

NOTICE: YOU HAVE BEEN SUED BY THE ABOVE-NAMED PLAINTIFF(S): THE COURT MAY ENTER JUDGMENT AGAINST YOU WITHOUT FURTHER NOTICE UNLESS YOU RESPOND WITHIN 20 DAYS. READ THE INFORMATION BELOW.

TO: Defendant Paul Kelley Jr

You are hereby notified that in order to defend this lawsuit, an appropriate written response must be filed with the above designated court within 20 days after service of this Summons on you. If you fail to so respond the court may enter judgment against you as demanded by the plaintiff in her Verified Complaint.

A copy of the Complaint is served with this Summons. If you wish to seek the advice of or representation by an attorney in this matter, you should do so promptly so that your written response, if any, may be filed in time and other legal rights protected.

An appropriate written response requires compliance with Rule 10(a)(1) and other Idaho Rules of Civil Procedure and shall also include:

1. The title and number of this case.
2. If your response is an Answer to the Complaint, it must contain admissions or denials of the separate allegations of the Complaint and other defenses you may claim.
3. Your signature, mailing address and telephone number, or the signature, mailing address and telephone number of your attorney.
4. Proof of mailing or delivery of a copy of your response to plaintiff or plaintiff's attorney, as designated above.

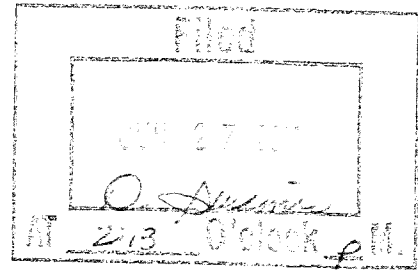
To determine whether you must pay a filing fee with your response, contact the Clerk of the above-named court.

DATED this 3<sup>rd</sup> day of June, 2011.

CLERK OF THE DISTRICT COURT

By Janet Kleschamps  
Deputy Clerk

HOLLI TELFORD  
10621 S. Old Hwy 191  
Malad City, Idaho 83252  
208-473-5800



SIXTH JUDICIAL DISTRICT COURT FOR THE STATE OF IDAHO  
IN AND FOR THE COUNTY OF ONEIDA

HOLLI TELFORD : Case No. 2011 – CV – 0000066  
Plaintiff :  
vs : REQUEST FOR CLERK'S ENTRY OF  
CODY KELLEY : DEFAULT AND DEFAULT JUDGMENT  
Defendant : PURSUANT TO IDAHO RULES OF  
CIVIL PROCEDURE RULE 55(a) AND  
(b)(1)  
:  
:

---

In this case Defendant Cody Kelley has been properly served with process and has failed to appear or defend this action, and the time allowed by law for answering the verified Complaint has expired. The Default of Defendant Cody Kelley is therefore entered according to law.

Plaintiff also requests a Default Judgment be entered against Defendant Cody Kelley subsequent to entry of the Default and pursuant to the admitted allegations made in her Verified Complaint, including the Prayer.<sup>1</sup> This Default Judgment shall include: statutory money damages, restitution, an injunction and other equitable

---

1. Idaho Rules of Civil Procedure Rule 55(b)(1) provides: Default judgment by the court or clerk. When the plaintiff's claim against a defendant is for a sum certain or for a sum which can by computation be made certain, ... the clerk thereof, upon request of the plaintiff, and upon the filing of an affidavit of the amount due and showing the method of computation, shall enter judgment for that amount and costs against the defendant, if the defendant has been defaulted for failure to appear and if the defendant is not an infant or incompetent person. Any application for a default judgment must contain written certification of the name of the party against whom judgment is requested and the address most likely to give the defendant notice of such default judgment, and the clerk shall use such address in giving such party notice of judgment.

relief as authorized by law. Furthermore, this Default Judgment shall be limited in damages to date due to its expedited default nature.

IT IS ORDERED AND ADJUDGED that plaintiff have and recover from Defendant Cody Kelley, a money judgment in the statutory sum of \$1000 as provided by Idaho Code § 48-608(1) under Idaho's Consumer Protection Act, together with the costs of suit in the amount of \$88, and prejudgment interest from the date of June 1, 2011 to June 28, 2011 in the amount of \$12, for a total money judgment of \$1,100 plus interest at the statutory rate of 10% per annum from this date until this amount is paid in full.

IT IS ALSO ORDERED AND ADJUDGED pursuant to Idaho Code § 48-608(1) that the equitable relief of specific performance shall be granted to the plaintiff. In consideration of this judgment of specific performance, the Smith County Trustee is DIRECTED and ORDERED to: (1) Accept the bid contract made between plaintiff and the Smith County Trustee found at exhibit "3" attached to the Verified Complaint; (2) Execute title of the subject real property into plaintiff's name; and (3) forever release all rights, title and interest in the subject real property to plaintiff.

IT IS FURTHER ORDERED AND ADJUDGED that defendant Cody Kelley shall make full restitution to plaintiff concerning the subject real property by releasing all rights, title and interest in the property to plaintiff, and;

IT IS CONCLUSIVELY ORDERED AND ADJUDGED that defendant Cody Kelley is permanently enjoined from claiming any rights, title or interest in said subject real property bearing Smith County Appraisal District account number 100000020600013090 and subject of Smith County District Court cause no. 22,107-C, and further, that defendant Cody Kelley is permanently enjoined from entering said premises without the express permission of plaintiff.

DATED this 27<sup>th</sup> day of June, 2011.

  
\_\_\_\_\_  
Clerk of the District Court

and bearing the official seal.

CERTIFICATE OF SERVICE

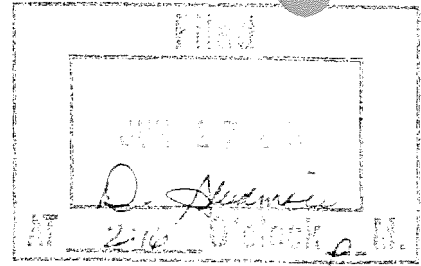
I, hereby certify that on the \_\_\_\_\_ day of \_\_\_\_\_, 2011, I served a true and correct copy of the foregoing document upon the following individual by US. Mail:

Cody Kelley  
1618 Wolford  
Tyler, Texas 75702

Dated:

\_\_\_\_\_  
Deputy Clerk

HOLLI TELFORD  
10621 S. Old Hwy 191  
Malad City, Idaho 83252  
208-473-5800



SIXTH JUDICIAL DISTRICT COURT FOR THE STATE OF IDAHO  
IN AND FOR THE COUNTY OF ONEIDA

HOLLI TELFORD : Case No. 2011 – CV – 0000066  
Plaintiff :  
vs : AFFIDAVIT OF HOLLI TELFORD  
: IN SUPPORT OF  
CODY KELLEY : REQUEST FOR CLERK'S ENTRY OF  
: DEFAULT AND DEFAULT JUDGMENT  
: PURSUANT TO IDAHO RULES OF  
Defendant : CIVIL PROCEDURE RULE 55(a) AND  
: (b)(1)

---

STATE OF IDAHO )  
: ss  
COUNTY OF ONEIDA)

I, Holli Telford, being first duly sworn, states:

1. I am the plaintiff in the above stated action and I have personal knowledge of the facts set forth in this Affidavit.
2. That the Verified Complaint and Summons were properly served upon the Defendant Cody Kelley on June 4, 2011 as shown by the attested Return Of Service attached hereto as exhibit "1".
3. That the defendant has not, as of this date, filed an Answer or otherwise appeared to defend against the allegations in the Verified Complaint.
4. That the Defendant is not an infant or incompetent person.
5. Defendant is not now, nor in the previous six months has been, a member of the Armed Forces of the United States of America or it's allies.

ORIGINAL

6. Defendant is not entitled to any statutory remedy of redemption;

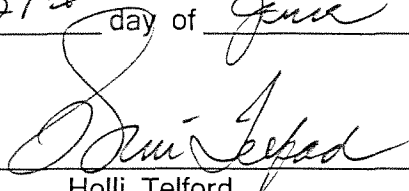
7. Defendant owes me an actual statutory damage amount of \$1,000 as provided under Idaho Code § 48-608(1): Any person who purchases. . . goods. . . services and thereby *suffers any ascertainable loss of money or property, real or personal, as a result of the use or employment by another person of a method, act or practice declared unlawful by this chapter, may bring an action to recover actual damages or one thousand dollars (\$1,000), whichever is the greater.* Here, I seek the \$1,000 statutory damage remedy for this defendant's admitted breach of the Idaho Consumer Protection Act.

8. The defendant also owes me \$88 in court costs and service fees and prejudgment interest in the amount of \$12. The total money judgment owed me at the time of entry of this default and default judgment is \$1,100.00. I am also entitled to statutory post judgment interest at the rate of 10% until this judgment is paid.

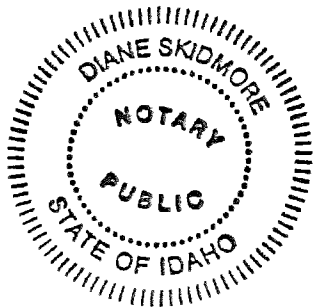
9. I certify that the address most likely to give the Defendant Cody Kelley notice of this default and judgment is:


Cody Kelley  
1618 Wolford  
Tyler, Texas 75702

DATED this 27<sup>th</sup> day of June, 2011.

  
Holli Telford

SUBSCRIBED AND SWORN / AFFIRMED before me, this June 27, 2011.



  
Notary Public for Idaho  
Residing at: Malden, MA  
My Commission expires on: 1-17-2015



HOLLI TELFORD  
10621 S. OLD HIGHWAY 191  
MALAD CITY, IDAHO 83252  
208-473-5800

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF ONEIDA

HOLLI TELFORD	)	
	)	Case no. CV-2011- 66
Plaintiff	)	
vs.	)	
	)	RETURN OF SERVICE ON
CODY KELLEY	)	SUMMONS AND VERIFIED
	)	COMPLAINT
Defendants	)	
_____)		

I, Ferron Stokes, declare as follows:

1. I am a resident of Box Elder County, State of Utah, over the age of 18 years, and not a party to the above entitled action.

2. On the 4th day June, 2011, I served copies of the Summons and Verified Complaint in the above entitled action, pursuant to a specific service statute under Idaho's Consumer Protection Act i.e. I.C. section 48-613 which provides ... Service of any notice, demand, summons or subpoena under this act (may be obtained through), **substituted service . . . in the following manner:**

- (1) Personal service thereof without this state; or
- (2) The mailing thereof by registered or certified mail to the last known place of business, residence or abode within or without this state of such person for whom the same is intended; or
- (3) As to any person, in the manner provided in the Idaho rules of civil procedure as if a complaint which institutes a civil proceeding had been filed.

This server certifies that on June 4, 2011, he served **defendant CODY KELLEY** by certified mail addressed to the designated address shown with the Smith County Appraisal District being: 1618 Wolford, Tyler Texas 75702. This form of service was authorized by both Idaho Code

section 48-613 for actions brought under Idaho's Consumer Protection Act.

Attached to this Return of Service is a copy of the certified mail receipt verifying such service was made. Following that is the USPS electronic proof of delivery.

I attest the foregoing is true and correct under penalty of perjury in accordance with 28 USC section 1746(2) as applicable to the laws of both the states of Utah, Idaho and these United States.

*Feron Stokes*

Affiant's signature

FERON STOKES

Affiant's printed name

7006 0300 0007 1722 9420

<b>U.S. Postal Service™</b>	
<b>CERTIFIED MAIL™ RECEIPT</b>	
<i>(Domestic Mail Only; No Insurance Coverage Provided)</i>	
For delivery information visit our website at <a href="http://www.usps.com">www.usps.com</a>	
<b>OFFICIAL USE</b>	
Postage	\$24.95
Certified Mail Fee	2.85
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$27.80
Sent to: SANDRA COPELAND - Administrator	
Street, Apt. No., or PO Box No.: OF ESTATE OF PAUL KELLEY	
City, State, ZIP+4: 1618 WOLFORD TYLER, TEXAS 75702	

PLYMOUTH UT 84330-6866  
JUN 20 2011  
Postmark Here  
USPS

PS Form 3800, June 2002 See Reverse for Instructions

See ORIGINAL RECEIPT ON SANDRA COPELAND'S RETURN

[Click to View Map](#)[Click to Print This Window](#)

2011 Ownership Data			
PIN#:	043057		
Account:	100000020600013110		
Owner:	KELLEY PAUL WESTATE		
Address:	1618 WOLFORD		
City:	TYLER	Zip1:	75702
State:	TX	Zip2:	
Deed Information			
Book:	2756		
Page:	235		
Recd. Date:	12/29/1987		
Recd. Info:	WD 42462		
Jurisdictions/2011		Est Taxes	
SMITH COUNTY		\$2.75	
TYLER ISD		\$12.03	
SCESD #2		\$0.75	
For Actual Tax Levy contact Gary Barber Tax Assessor/Collector at (903) 590-2920. Tax amounts shown are Estimates prepared by Smith County Appraisal District			

## Track & Confirm

### Search Results

Label/Receipt Number: 7006 0100 0007 1722 9420  
Expected Delivery Date: June 6, 2011  
Class: Priority Mail®  
Service(s): Certified Mail™  
Status: Delivered

### Track & Confirm

Enter Label/Receipt Number.

[Go >](#)

Your item was delivered at 12:19 pm on June 07, 2011 in TYLER, TX 75702.

#### Detailed Results:

- Delivered, June 07, 2011, 12:19 pm, TYLER, TX 75702
- Notice Left, June 06, 2011, 12:10 pm, TYLER, TX 75702
- Acceptance, June 04, 2011, 10:42 am, PLYMOUTH, UT 84330

#### Notification Options

##### Track & Confirm by email

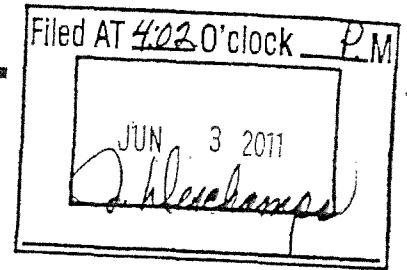
Get current event information or updates for your item sent to you or others by email.

[Go >](#)



HOLLI TELFORD  
assignee to M.D.Diet Trust  
10621 S. Old Hwy 191  
Malad City, Idaho 83252

**ORIGINAL**



IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF ONIEDA  
(Location: 10 Court Street. Malad City, Idaho 83252)

HOLLI TELFORD assignee to M.D. Diet )  
Trust )

Plaintiff, )

v. )

SANDRA COPELAND; ADMITRA MILLS; )  
JEANETTE HARMON; CODY KELLEY; )  
PAUL KELLEY JR.; THE ESTATE OF )  
PAUL KELLEY SR.; SMITH COUNTY )  
TRUSTEE; TAX ASSESSOR GARY )  
GARY BARBER; SMITH COUNTY; ARTIE )  
ROSS; ATTORNEY TAB BEAELL; LAW )  
OFFICES OF PURDUE, BRANDON, )  
FELDER, COLLINS & MOTT; LISA )  
NEILSON; AND DOES 1 - 10 )

Defendants. )

SUMMONS

DEFENDANT  
CODY KELLEY

*CV-2011-66*

NOTICE: YOU HAVE BEEN SUED BY THE ABOVE-NAMED PLAINTIFF(S): THE COURT MAY ENTER JUDGMENT AGAINST YOU WITHOUT FURTHER NOTICE UNLESS YOU RESPOND WITHIN 20 DAYS. READ THE INFORMATION BELOW.

TO: Defendant Cody Kelley

You are hereby notified that in order to defend this lawsuit, an appropriate written response must be filed with the above designated court within 20 days after service of this Summons on you. If you fail to so respond the court may enter judgment against you as demanded by the plaintiff in her Verified Complaint.

A copy of the Complaint is served with this Summons. If you wish to seek the advice of or representation by an attorney in this matter, you should do so promptly so that your written response, if any, may be filed in time and other legal rights protected.

An appropriate written response requires compliance with Rule 10(a)(1) and other Idaho Rules of Civil Procedure and shall also include:

1. The title and number of this case.
2. If your response is an Answer to the Complaint, it must contain admissions or denials of the separate allegations of the Complaint and other defenses you may claim.
3. Your signature, mailing address and telephone number, or the signature, mailing address and telephone number of your attorney.
4. Proof of mailing or delivery of a copy of your response to plaintiff or plaintiff's attorney, as designated above.

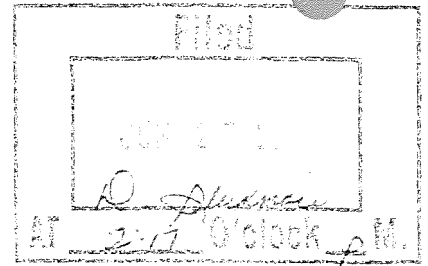
To determine whether you must pay a filing fee with your response, contact the Clerk of the above-named court.

DATED this 3<sup>rd</sup> day of June, ~~20~~ 2011

CLERK OF THE DISTRICT COURT

By Janet Hleschamps  
Deputy Clerk

HOLLI TELFORD  
10621 S. Old Hwy 191  
Malad City, Idaho 83252  
208-473-5800



SIXTH JUDICIAL DISTRICT COURT FOR THE STATE OF IDAHO  
IN AND FOR THE COUNTY OF ONEIDA

HOLLI TELFORD : Case No. 2011 – CV – 0000066  
Plaintiff :  
vs : REQUEST FOR CLERK'S ENTRY OF  
THE ESTATE OF PAUL KELLEY SR. : DEFAULT AND DEFAULT JUDGMENT  
PURSUANT TO IDAHO RULES OF  
CIVIL PROCEDURE RULE 55(a) AND  
(b)(1)  
Defendant :

---

In this case Defendant the Estate of Paul Kelley Sr. has been properly served with process and has failed to appear or defend this action, and the time allowed by law for answering the verified Complaint has expired. The Default of Defendant the Estate of Paul Kelley Sr. is therefore entered according to law.

Plaintiff also requests a Default Judgment be entered against Defendant the Estate of Paul Kelley Sr., subsequent to entry of the Default and pursuant to the admitted allegations made in her Verified Complaint, including the Prayer.<sup>1</sup> This Default Judgment shall include: statutory money damages, restitution, an injunction and

---

1. Idaho Rules of Civil Procedure Rule 55(b)(1) provides: Default judgment by the court or clerk. When the plaintiff's claim against a defendant is for a sum certain or for a sum which can by computation be made certain, ... the clerk thereof, upon request of the plaintiff, and upon the filing of an affidavit of the amount due and showing the method of computation, shall enter judgment for that amount and costs against the defendant, if the defendant has been defaulted for failure to appear and if the defendant is not an infant or incompetent person. Any application for a default judgment must contain written certification of the name of the party against whom judgment is requested and the address most likely to give the defendant notice of such default judgment, and the clerk shall use such address in giving such party notice of judgment.

other equitable relief as authorized by law. Furthermore, this Default Judgment shall be limited in damages to date due to it's expedited default nature.

IT IS ORDERED AND ADJUDGED that plaintiff have and recover from Defendant the Estate of Paul Kelley Sr., a money judgment in the statutory sum of \$1000 as provided by Idaho Code § 48-608(1) under Idaho's Consumer Protection Act, together with the costs of suit in the amount of \$88, and prejudgment interest from the date of June 1, 2011 to June 28, 2011 in the amount of \$12, for a total money judgment of \$1,100 plus interest at the statutory rate of 10% per annum from this date until this amount is paid in full.

IT IS ALSO ORDERED AND ADJUDGED pursuant to Idaho Code § 48-608(1) that the equitable relief of specific performance shall be granted to the plaintiff. In consideration of this judgment of specific performance, the Smith County Trustee is DIRECTED and ORDERED to: (1) Accept the bid contract made between plaintiff and the Smith County Trustee found at exhibit "3" attached to the Verified Complaint; (2) Execute title of the subject real property into plaintiff's name; and (3) forever release all rights, title and interest in the subject real property to plaintiff. .

IT IS FURTHER ORDERED AND ADJUDGED that defendant the Estate of Paul Kelley Sr. shall make full restitution to plaintiff concerning the subject real property by releasing all rights, title and interest in the property to plaintiff, and;

IT IS CONCLUSIVELY ORDERED AND ADJUDGED that defendant the Estate of Paul Kelley Sr. is permanently enjoined from claiming any rights, title or interest in said subject real property bearing Smith County Appraisal District account number 100000020600013090 and subject of Smith County District Court cause no. 22,107-C, and further, that defendant the Estate of Paul Kelley Sr. is permanently enjoined from entering said premises without the express permission of plaintiff.

DATED this 27<sup>th</sup> day of June, 2011.

  
\_\_\_\_\_  
Clerk of the District Court

and bearing the official seal.



CERTIFICATE OF SERVICE

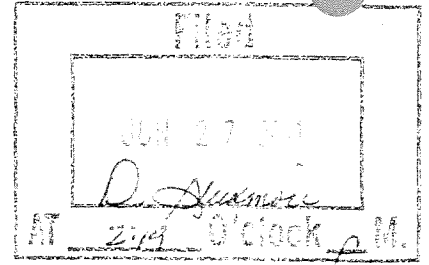
I, hereby certify that on the \_\_\_\_\_ day of \_\_\_\_\_, 2011, I served a true and correct copy of the foregoing document upon the following individual by US. Mail:

The Estate Of Paul Kelley Sr.  
1618 Wolford  
Tyler, Texas 75702

Dated:

\_\_\_\_\_  
Deputy Clerk

HOLLI TELFORD  
10621 S. Old Hwy 191  
Malad City, Idaho 83252  
208-473-5800



SIXTH JUDICIAL DISTRICT COURT FOR THE STATE OF IDAHO  
IN AND FOR THE COUNTY OF ONEIDA

HOLLI TELFORD : Case No. 2011 – CV – 0000066  
Plaintiff :  
vs : AFFIDAVIT OF HOLLI TELFORD  
IN SUPPORT OF  
REQUEST FOR CLERK'S ENTRY OF  
THE ESTATE OF PAUL KELLEY : DEFAULT AND DEFAULT JUDGMENT  
SR. : PURSUANT TO IDAHO RULES OF  
CIVIL PROCEDURE RULE 55(a) AND  
(b)(1)  
Defendant :

---

STATE OF IDAHO )  
: ss  
COUNTY OF ONEIDA)

I, Holli Telford, being first duly sworn, states:

1. I am the plaintiff in the above stated action and I have personal knowledge of the facts set forth in this Affidavit.
2. That the Verified Complaint and Summons were properly served upon the Defendant the Estate of Paul Kelley Sr. on June 4, 2011 as shown by the attested Return Of Service attached hereto as exhibit "1".
3. That the defendant has not, as of this date, filed an Answer or otherwise appeared to defend against the allegations in the Verified Complaint.
4. That the Defendant is not an infant or incompetent person.
5. Defendant is not now, nor in the previous six months has been, a member of the Armed Forces of the United States of America or it's allies.

ORIGINAL

6. Defendant is not entitled to any statutory remedy of redemption;

7. Defendant owes me an actual statutory damage amount of \$1,000 as provided under Idaho Code § 48-608(1) : Any person who purchases. . . goods. . . services and thereby *suffers any ascertainable loss of money or property, real or personal, as a result of the use or employment by another person of a method, act or practice declared unlawful by this chapter, may bring an action to recover actual damages or one thousand dollars (\$1,000), whichever is the greater.* Here, I seek the \$1,000 statutory damage remedy for this defendant's admitted breach of the Idaho Consumer Protection Act.

8. The defendant also owes me \$88 in court costs and service fees and prejudgment interest in the amount of \$12. The total money judgment owed me at the time of entry of this default and default judgment is \$1,100.00. I am also entitled to statutory post judgment interest at the rate of 10% until this judgment is paid.

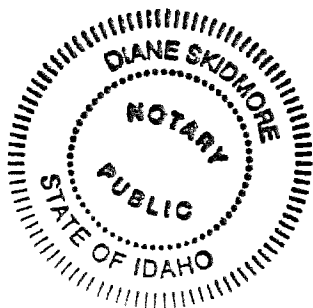
9. I certify that the address most likely to give the Defendant the Estate of Paul Kelley Sr. notice of this default and judgment is:


The Estate Of Paul Kelley Sr.  
1618 Wolford  
Tyler, Texas 75702

DATED this 27<sup>th</sup> day of June, 2011.

  
\_\_\_\_\_  
Holli Telford

SUBSCRIBED AND SWORN / AFFIRMED before me, this June 29, 2011.



  
\_\_\_\_\_  
Notary Public for Idaho  
Residing at: Meridian, ID  
My Commission expires on: 1-17-2015

HOLLI TELFORD  
10621 S. OLD HIGHWAY 191  
MALAD CITY, IDAHO 83252  
208-473-5800

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF ONEIDA

HOLLI TELFORD	)	
	)	Case no. CV-2011- 66
Plaintiff	)	
vs.	)	
ESTATE OF PAUL KELLEY SR .	)	RETURN OF SERVICE ON SUMMONS AND VERIFIED COMPLAINT
Defendants	)	
<hr/>		

I, Ferron Stokes, declare as follows:

1. I am a resident of Box Elder County, State of Utah, over the age of 18 years, and not a party to the above entitled action.

2. On the 4th day June, 2011, I served copies of the Summons and Verified Complaint in the above entitled action, pursuant to a specific service statute under Idaho's Consumer Protection Act i.e. I.C. section 48-613 which provides ... Service of any notice, demand, summons or subpoena under this act (may be obtained through), **substituted service . . . in the following manner:**

- (1) Personal service thereof without this state; or
- (2) The mailing thereof by registered or certified mail to the last known place of business, residence or abode within or without this state of such person for whom the same is intended; or
- (3) As to any person, in the manner provided in the Idaho rules of civil procedure as if a complaint which institutes a civil proceeding had been filed.

This server certifies that on June 4, 2011, he served **defendant ESTATE OF PAUL KELLEY SR.** by certified mail addressed to the designated address shown with the Smith County

-90-1 11 //

Appraisal District being: 1618 Wolford, Tyler Texas 75702. This form of service was authorized by both Idaho Code section 48-613 for actions brought under Idaho's Consumer Protection Act.

Attached to this Return of Service is a copy of the certified mail receipt verifying such service was made. Following that is the USPS electronic proof of delivery.

I attest the foregoing is true and correct under penalty of perjury in accordance with 28 USC section 1746(2) as applicable to the laws of both the states of Utah, Idaho and these United States.

*Ferron Stokes*  
Affiant's signature

FERRON STOKES  
Affiant's printed name

7006 0100 0007 1722 9420

**U.S. Postal Service™**  
**CERTIFIED MAIL™ RECEIPT**  
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at [www.usps.com](http://www.usps.com)

**OFFICIAL USE**

Postage	\$24.95
Service Fee	2.85
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
<b>Total Postage &amp; Fees</b>	<b>\$27.80</b>

PLYMOUTH UT 84330-0908  
Postmark Here 2011  
USPS

Sent to: ESTATE OF SANDRA COPELAND - Administrator  
ESTATE OF PAUL KELLEY  
 Street, Apt. No., or PO Box No. 1618 WOLFORD  
 City, State, ZIP+4 TYLER, TEXAS 75702

PS Form 3800, June 2002 See Reverse for Instructions

SEE ORIGINAL RECEIPT ON SANDRA COPELAND'S RETURN

[Click to View Map](#)[Click to Print This Window](#)

2011 Ownership Data			
<b>PIN#:</b>	043057		
<b>Account:</b>	100000020600013110		
<b>Owner:</b>	KELLEY PAUL W ESTATE		
<b>Address:</b>	1618 WOLFORD		
<b>City:</b>	TYLER	<b>Zip1:</b>	75702
<b>State:</b>	TX	<b>Zip2:</b>	
Deed Information			
<b>Book:</b>	2756		
<b>Page:</b>	235		
<b>Recd. Date:</b>	12/29/1987		
<b>Recd. Info:</b>	WD 42462		
Jurisdictions/2011		Est Taxes	
SMITH COUNTY		\$2.75	
TYLER ISD		\$12.03	
SCESD #2		\$0.75	
For Actual Tax Levy contact Gary Barber Tax Assessor/Collector at (903) 590-2920. Tax amounts shown are Estimates prepared by Smith County Appraisal District			



## Track & Confirm

### Search Results

Label/Receipt Number: 7006 0100 0007 1722 9420  
Expected Delivery Date: June 6, 2011  
Class: Priority Mail®  
Service(s): Certified Mail™  
Status: Delivered

### Track & Confirm

Enter Label/Receipt Number.

[Go >](#)

Your item was delivered at 12:19 pm on June 07, 2011 in TYLER, TX 75702.

#### Detailed Results:

- Delivered, June 07, 2011, 12:19 pm, TYLER, TX 75702
- Notice Left, June 06, 2011, 12:10 pm, TYLER, TX 75702
- Acceptance, June 04, 2011, 10:42 am, PLYMOUTH, UT 84330

### Notification Options

#### Track & Confirm by email

Get current event information or updates for your item sent to you or others by email. [Go >](#)



ORIGINAL

HOLLI TELFORD  
assignee to M.D.Diet Trust  
10621 S. Old Hwy 191  
Malad City, Idaho 83252

Filed AT 4:20'clock PM  
JUN 3 2011  
*J. Blumhauer*

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF ONIEDA  
(Location: 10 Court Street. Malad City, Idaho 83252)

HOLLI TELFORD assignee to M.D. Diet )  
Trust )

SUMMONS

Plaintiff, )

v. )

DEFENDANT  
ESTATE OF PAUL KELLEY SR.

SANDRA COPELAND; ADMITRA MILLS; )  
JEANETTE HARMON; CODY KELLEY; )  
PAUL KELLEY JR; THE ESTATE OF )  
PAUL KELLEY SR.; SMITH COUNTY )  
TRUSTEE; TAX ASSESSOR GARY )  
GARY BARBER; SMITH COUNTY; ARTIE )  
ROSS; ATTORNEY TAB BEAELL; LAW )  
OFFICES OF PURDUE, BRANDON, )  
FELDER, COLLINS & MOTT; LISA )  
NEILSON; AND DOES 1 - 10 )

*CV - 2011 - 66*

Defendants. )

NOTICE: YOU HAVE BEEN SUED BY THE ABOVE-NAMED PLAINTIFF(S): THE  
COURT MAY ENTER JUDGMENT AGAINST YOU WITHOUT FURTHER NOTICE  
UNLESS YOU RESPOND WITHIN 20 DAYS. READ THE INFORMATION BELOW.

TO: Defendant Estate of Paul Kelley Sr.

You are hereby notified that in order to defend this lawsuit, an appropriate written  
response must be filed with the above designated court within 20 days after service of this  
Summons on you. If you fail to so respond the court may enter judgment against you as  
demanded by the plaintiff in her Verified Complaint.



A copy of the Complaint is served with this Summons. If you wish to seek the advice of or representation by an attorney in this matter, you should do so promptly so that your written response, if any, may be filed in time and other legal rights protected.

An appropriate written response requires compliance with Rule 10(a)(1) and other Idaho Rules of Civil Procedure and shall also include:

1. The title and number of this case.
2. If your response is an Answer to the Complaint, it must contain admissions or denials of the separate allegations of the Complaint and other defenses you may claim.
3. Your signature, mailing address and telephone number, or the signature, mailing address and telephone number of your attorney.
4. Proof of mailing or delivery of a copy of your response to plaintiff or plaintiff's attorney, as designated above.

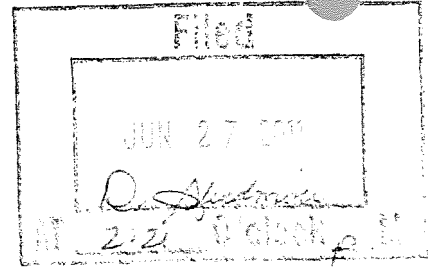
To determine whether you must pay a filing fee with your response, contact the Clerk of the above-named court.

DATED this 3<sup>rd</sup> day of June, ~~20~~ 2011.

CLERK OF THE DISTRICT COURT

By Janet Kleckamp  
Deputy Clerk

HOLLI TELFORD  
10621 S. Old Hwy 191  
Malad City, Idaho 83252  
208-473-5800



SIXTH JUDICIAL DISTRICT COURT FOR THE STATE OF IDAHO  
IN AND FOR THE COUNTY OF ONEIDA

HOLLI TELFORD : Case No. 2011 – CV – 0000066  
Plaintiff :  
vs : REQUEST FOR CLERK'S ENTRY OF  
SMITH COUNTY TRUSTEE : DEFAULT AND DEFAULT JUDGMENT  
: PURSUANT TO IDAHO RULES OF  
: CIVIL PROCEDURE RULE 55(a) AND  
: (b)(1)  
Defendant :

---

In this case Defendant SMITH COUNTY TRUSTEE, has been properly served with process and has failed to appear or defend this action, and the time allowed by law for answering the Verified Complaint has expired. The Default of Defendant Smith County Trustee is therefore entered according to law.

Plaintiff also requests a Default Judgment be entered against Defendant Smith County Trustee subsequent to entry of the Default and pursuant to the admitted allegations made in her Verified Complaint, including the Prayer. <sup>1</sup> This Default Judgment shall include: statutory money damages, restitution, an injunction and other equitable relief as authorized by law. Furthermore, this Default

---

1. Idaho Rules of Civil Procedure Rule 55(b)(1) provides: Default judgment by the court or clerk. When the plaintiff's claim against a defendant is for a sum certain or for a sum which can by computation be made certain, ... the clerk thereof, upon request of the plaintiff, and upon the filing of an affidavit of the amount due and showing the method of computation, shall enter judgment for that amount and costs against the defendant, if the defendant has been defaulted for failure to appear and if the defendant is not an infant or incompetent person. Any application for a default judgment must contain written certification of the name of the party against whom judgment is requested and the address most likely to give the defendant notice of such default judgment, and the clerk shall use such address in giving such party notice of judgment.

Judgment shall be limited in money damages to date due to its expedited default nature.

IT IS ORDERED AND ADJUDGED that plaintiff have and recover from Defendant Smith County Trustee, a joint and several money judgment in the statutory sum of \$21,800 as provided by Idaho Code § 48-608(1) and Idaho Code § 18-7805 for violation of Idaho's Consumer Protection Act, Communications fraud, Theft by False Promise and Attempted Theft by Extortion. In addition, should this default and default judgment be successfully challenged by the County entities as alter egos of one another for any reason, plaintiff will be permitted to seek several hundred thousand in extra contractual damages that would be incurred by plaintiff for breach of the covenant of good faith and fair dealing with respect to plaintiff's accepted bid contract found at exhibit "3" attached to plaintiff's complaint. Plaintiff will also be permitted to amend her complaint to include a claim for Tortious Interference With Third Party Contracts, and further, will be permitted to seek punitive damages as to both torts of Bad Faith Breach and Tortious Interference. In addition, Plaintiff will be permitted to reinstate her demand for a jury trial as asserted in her Verified Complaint. Plaintiff is also entitled to the costs of this suit in the amount of \$88, and prejudgment interest from the date of June 1, 2011 to June 28, 2011 in the amount of \$212 resulting in a total money judgment of \$22,100 plus interest at the statutory rate of 10% per annum from this date until this amount is paid in full. IT IS FURTHER ORDERED that this money judgment shall be the joint and several liability of defendants Smith County Trustee, Smith County Assessor Gary Barber and Smith County, as alter egos of one another.

IT IS ALSO ORDERED that the statutory money judgment owed plaintiff supra in the amount of \$22,100 shall be set off against the market value of the land lot being \$4,200 as identified exhibit "3" attached to the verified complaint (given the burned down building on the property has a negative demolition value.). This leaves a remainder money judgment owed plaintiff of \$18,100 after the set off is applied. This remainder money judgment shall be paid to plaintiff in an expeditious manner and in not less than 60 days from the date of entry of this default judgment, unless otherwise agreed to by plaintiff. If this money judgment is not paid to plaintiff within 60 days, plaintiff will be entitled to further statutory damages under Idaho Code § 18-7805.

IT IS FURTHER ORDERED AND ADJUDGED pursuant to Idaho Code § 48-608(1) that the equitable relief of specific performance shall be granted to the plaintiff.

In consideration of this judgment of specific performance, the Smith County Trustee is DIRECTED and ORDERED to: (1) Accept the bid contract made between plaintiff and the Smith County Trustee found at exhibit "3" attached to the Verified Complaint; (2) Execute title of the subject real property into plaintiff's name; and (3) forever release all rights, title and interest in the subject real property to plaintiff.

IT IS ALSO ORDERED AND ADJUDGED that defendant Smith County Trustee shall execute full restitution of the subject real property to plaintiff immediately upon entry of this default judgment.

IT IS ORDERED AND ADJUDGED that defendant Smith County Trustee will within 6 weeks of the entry of this default judgment, direct County employees to haul off and carry away certain trash and debris located on the subject real property at Smith County's costs and at the sole discretion of plaintiff and/or her agent.

IT IS ALSO ORDERED AND ADJUDGED that the Smith County Trustee shall be permanently enjoined from engaging in any conduct that could be construed as Bad Faith Breach of: (1) this judgment, (2) the bid contract found at exhibit "3" attached to the Verified Complaint, and/or (3) any other obligations due plaintiff by contract and under the law. IT IS FURTHER ORDERED AND ADJUDGED that the Smith County Trustee is permanently enjoined from tortiously interfering with plaintiff's third party contracts or from exercising extortion under color of law as applied to plaintiff's third party contacts.

IT IS ALSO ORDERED AND ADJUDGED that the Smith County Trustee shall immediately transfer of all title, rights and interest in the subject real property to plaintiff within one week of this default judgment being entered, shall see to it that the deed documents are recorded with the Smith County Clerk and Smith County Appraisal District in accordance with plaintiff's wishes within 2 weeks after entry of this default judgment, and shall expedite the turn over and delivery of all original title/deed documents to plaintiff within 3 weeks of the entry of this judgment.

\*\*\* This section was intentionally left blank

IT IS FINALLY ORDERED AND ADJUDGED that the Smith County Trustee shall not otherwise trespass onto the subject real property outside of the limited and time restricted purposes given to expedite this judgment, or as may be permitted by established law at the time this default judgment is and was entered.

DATED this 27<sup>th</sup> day of June, 2011.



\_\_\_\_\_  
Clerk of the District Court

and bearing the official seal.

#### CERTIFICATE OF SERVICE

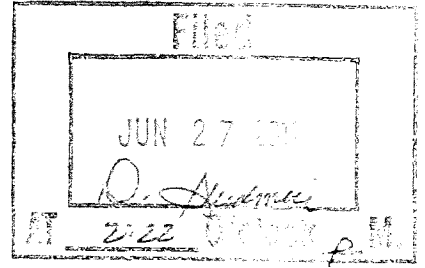
I, hereby certify that on the \_\_\_\_\_ day of \_\_\_\_\_, 2011, I served a true and correct copy of the foregoing document upon the following individual by US. Mail:

Smith County Trustee  
Attentioned: County Judge Joel Baker  
200 E. Ferguson, Ste # 100  
Tyler, Texas 75702

Dated:

\_\_\_\_\_  
Deputy Clerk

HOLLI TELFORD  
10621 S. Old Hwy 191  
Malad City, Idaho 83252  
208-473-5800



SIXTH JUDICIAL DISTRICT COURT FOR THE STATE OF IDAHO  
IN AND FOR THE COUNTY OF ONEIDA

HOLLI TELFORD : Case No. 2011 – CV – 0000066  
Plaintiff :  
vs : AFFIDAVIT OF HOLLI TELFORD  
IN SUPPORT OF  
SMITH COUNTY TRUSTEE : REQUEST FOR CLERK'S ENTRY OF  
DEFAULT AND DEFAULT JUDGMENT  
PURSUANT TO IDAHO RULES OF  
CIVIL PROCEDURE RULE 55(a) AND  
(b)(1)  
Defendant :

---

STATE OF IDAHO )  
: ss  
COUNTY OF ONEIDA)

I, Holli Telford, being first duly sworn, states:

1. I am the plaintiff in the above stated action and I have personal knowledge of the facts set forth in this Affidavit.

2. That the Verified Complaint and Summons were properly served upon the Defendant Smith County Trustee on June 4, 2011 as shown by the attested Return Of Service attached hereto as exhibit "1".

3. That the defendant has not, as of this date, filed an Answer or otherwise appeared to defend against the allegations in the Verified Complaint.

4. That the Defendant is not an infant or incompetent person.

5. Defendant is not now, nor in the previous six months has been, a member of the Armed Forces of the United States of America or it's allies.

ORIGINAL

6. Defendant is not entitled to any statutory remedy of redemption;

7. Defendant owes me an actual damages of \$5,450 as provided under Idaho Code § 48-608(1): Any person who purchases. . . goods. . . services and thereby *suffers any ascertainable loss of money or property, real or personal, as a result of the use or employment by another person of a method, act or practice declared unlawful by this chapter, may bring an action to recover actual damages*. Attached hereto as exhibit "2" are the bank transaction statements showing that M.D. Diet Trust paid for certain property improvements to and for the benefit of Smith County entities prior to the initiation of this lawsuit in the actual total amount of \$5,450. I am statutorily entitled to damages in this amount under Idaho's Consumer Protection Act. The record also shows that County entities engaged in multiple violations of Idaho Code sections 18-2403(1) (d), 18-2403(1)(e)(7) and 18-2403(1)(e)(8) which also resulted in the actual damage amount of \$5,450 as stated supra. Idaho code section 18-7805 (a) provides . . . "a person who sustains injury to his person, business, or property by a pattern of racketeering activity is . . .entitled to 3 times the actual damages proved, the cost of suit and reasonable attorneys fees. Since I have provided bank transactions showing an actual damage amount of \$5,450 before this suit was instituted, than as a matter of law, I am entitled to an additional treble damage award of \$16,350 added to the actual damages of \$5, 450; thus making the total damages due me \$21,800.00 for violations of Idaho's Consumer Protection Act and Racketeering Act.

8. The defendant also owes me \$88 in court costs and service fees and prejudgment interest in the amount of \$212. The total money judgment owed me at the time of entry of this default and default judgment is \$22,100.00. I am also entitled to statutory post judgment interest at the rate of 10% until this judgment is paid.

9. These same statutes also provide for restitution, injunctive and equitable relief, the terms of which I have set forth in my default and default judgment.

10. The County entities that I have sued are alter egos of one another. Therefore I seek to enforce my money judgment against each county entity, as a joint and several money judgment to be satisfied as a mutual obligation by any county entity.

\*\*\* This section is intentionally left blank

11. I certify that the address most likely to give the Defendant Smith County Trustee notice of this default and judgment is:

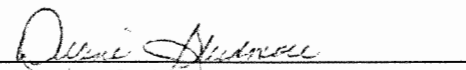
Smith County Trustee  
Upon: County Judge Joel Baker  
200 E. Ferguson Ste #100  
Tyler, Texas 75702

DATED this 27<sup>th</sup> day of June, 2011.

  
\_\_\_\_\_  
Holli Telford

SUBSCRIBED AND SWORN / AFFIRMED before me, this June 27, 2011.



  
\_\_\_\_\_  
Notary Public for Idaho  
Residing at: Malden, IL  
My Commission expires on: 1-17-2015



HOLLI TELFORD  
10621 S. OLD HIGHWAY 191  
MALAD CITY, IDAHO 83252  
208-473-5800

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF ONEIDA

HOLLI TELFORD	)	
	)	Case no. CV-2011- 66
Plaintiff	)	
vs.	)	
SMITH COUNTY TRUSTEE	)	RETURN OF SERVICE ON SUMMONS AND VERIFIED COMPLAINT
Defendants	)	
_____	)	

I, Ferron Stokes, declare as follows:

1. I am a resident of Box Elder County, State of Utah, over the age of 18 years, and not a party to the above entitled action.

2. On the 4th day June, 2011, I served copies of the Summons and Verified Complaint in the above entitled action, pursuant to a specific service statute under Idaho's Consumer Protection Act i.e. I.C. section 48-613 which provides ... Service of any notice, demand, summons or subpoena under this act (may be obtained through), **substituted service . . . in the following manner:**

- (1) Personal service thereof without this state; or
- (2) The mailing thereof by registered or certified mail to the last known place of business, residence or abode within or without this state of such person for whom the same is intended; or
- (3) As to any person, in the manner provided in the Idaho rules of civil procedure as if a complaint which institutes a civil proceeding had been filed.

This server certifies that on June 4, 2011, he served **defendant SMITH COUNTY TRUSTEE** by certified mail addressed to his designated agent of service, the County Judge Joel

\*

Baker pursuant to Texas Civil Prac. & Rem. Section 17.024(a) at Judge Joel Baker's designated office address being: 200 E. Ferguson, Ste. # 100, Tyler, Texas 75702. This form of service was authorized by both Idaho Code section 48-613 for actions brought under Idaho's Consumer Protection Act.

Attached to this Return of Service is a copy of the certified mail receipt verifying such service was made. Following that is the USPS electronic proof of delivery.

I attest the foregoing is true and correct under penalty of perjury in accordance with 28 USC section 1746(2) as applicable to the laws of both the states of Utah, Idaho and these United States.

Ferran Smith  
Affiant's signature

FERRAN SMITH  
Affiant's printed name

7006 0100 0007 1722 9444

**U.S. Postal Service™**  
**CERTIFIED MAIL™ RECEIPT**  
(Domestic Mail Only; No Insurance Coverage Provided)  
For delivery information visit our website at [www.usps.com](http://www.usps.com)

**SPECIAL USE**

Postage	\$ 95
Certified Fee	2 85
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 3 80

Postmark Here  
PLYMOUTH UT 84330  
JUN - 4 2011

Sent To: COURT, JUDGE JOEL BAKER  
Street, Apt. No. or PO Box No. SMITH COUNTY COURTHOUSE  
City, State, Zip 200 E FERGUSON # 100  
TYLER TEXAS 75702

PS Form 3880, June 2002 See Reverse for Instructions

*Handwritten notes: SMITH COUNTY TRUSTEE*

**ORIGINAL**

HOLLI TELFORD  
assignee to M.D.Diet Trust  
10621 S. Old Hwy 191  
Malad City, Idaho 83252

Filed AT 4:20'clock PM  
JUN 3 2011  
*J. Hleschamps*

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF ONIEDA  
(Location: 10 Court Street. Malad City, Idaho 83252)

HOLLI TELFORD assignee to M.D. Diet )  
Trust )

SUMMONS

Plaintiff, )

v. )

DEFENDANT  
SMITH COUNTY TRUSTEE

SANDRA COPELAND; ADMITRA MILLS; )  
JEANETTE HARMON; CODY KELLEY; )  
PAUL KELLEY JR; THE ESTATE OF )  
PAUL KELLEY SR.; SMITH COUNTY )  
TRUSTEE; TAX ASSESSOR GARY )  
GARY BARBER; SMITH COUNTY; ARTIE )  
ROSS; ATTORNEY TAB BEAELL; LAW )  
OFFICES OF PURDUE, BRANDON, )  
FELDER, COLLINS & MOTT; LISA )  
NEILSON; AND DOES 1 - 10 )

*CASE No. 1*  
*CV-2011-66*

Defendants. )

NOTICE: YOU HAVE BEEN SUED BY THE ABOVE-NAMED PLAINTIFF(S): THE  
COURT MAY ENTER JUDGMENT AGAINST YOU WITHOUT FURTHER NOTICE  
UNLESS YOU RESPOND WITHIN 20 DAYS. READ THE INFORMATION BELOW.

TO: Defendant Smith County Trustee

You are hereby notified that in order to defend this lawsuit, an appropriate written  
response must be filed with the above designated court within 20 days after service of this  
Summons on you. If you fail to so respond the court may enter judgment against you as  
demanded by the plaintiff in her Verified Complaint.

A copy of the Complaint is served with this Summons. If you wish to seek the advice of or representation by an attorney in this matter, you should do so promptly so that your written response, if any, may be filed in time and other legal rights protected.

An appropriate written response requires compliance with Rule 10(a)(1) and other Idaho Rules of Civil Procedure and shall also include:

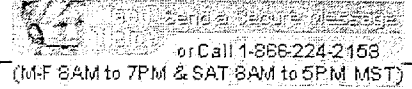
1. The title and number of this case.
2. If your response is an Answer to the Complaint, it must contain admissions or denials of the separate allegations of the Complaint and other defenses you may claim.
3. Your signature, mailing address and telephone number, or the signature, mailing address and telephone number of your attorney.
4. Proof of mailing or delivery of a copy of your response to plaintiff or plaintiff's attorney, as designated above.

To determine whether you must pay a filing fee with your response, contact the Clerk of the above-named court.

DATED this 3<sup>rd</sup> day of June, ~~20~~ 2011.

CLERK OF THE DISTRICT COURT

By Janet Hleschamps  
Deputy Clerk

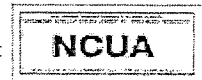


## Update Transaction Details

You can update your category and memo for your transaction. To accept your changes, select UPDATE below.

Transaction ID:	598671373
Date:	5/4/2011
Description:	CHECK # 3
No.:	3
Type:	Debits
Amount:	\$250.00
Category:	<input type="text" value="Select a Category"/>
Memo:	

©2010 America First Credit Union, PO Box 9199, Ogden, Utah 84409, 1-800-999-3961. All Rights Reserved. America First Federal Credit Union does business as (DBA) America First Credit Union. Unauthorized account access or use is not permitted and may constitute a crime punishable by law. America First Credit Union respects your privacy. Please view our [Privacy Policy](#).



11 2  
-107-



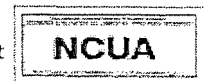
or Call 1-866-224-2158  
(M-F 8AM to 7PM & SAT 8AM to 5PM MST)

### Update Transaction Details

You can update your category and memo for your transaction. To accept your changes, select UPDATE below.

Transaction ID:	600397761
Date:	5/6/2011
Description:	CHECK # 2
No.:	2
Type:	Debits
Amount:	\$700.00
Category:	<input type="text" value="Select a Category"/>
Memo:	

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## Update Transaction Details

You can update your category and memo for your transaction. To accept your changes, select UPDATE below.

Transaction ID:	603035779
Date:	5/10/2011
Description:	CHECK # 1
No.:	1
Type:	Debits
Amount:	\$300.00
Category:	Select a Category <input type="button" value="v"/>
Memo:	

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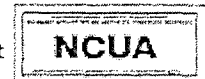
or Call 1-866-224-2158  
(M-F 8AM to 7PM & SAT 8AM to 5PM MST)

## Update Transaction Details

You can update your category and memo for your transaction. To accept your changes, select UPDATE below.

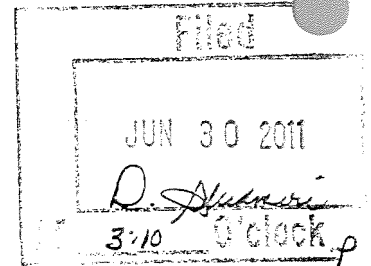
Transaction ID:	618934275
Date:	6/1/2011
Description:	CHECK 079009502
Type:	Debits
Amount:	\$4,200.00
Category:	<input type="text" value="Select a Category"/>
Memo:	

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HOLLI TELFORD  
10621 S. Old Hwy 191  
Malad City, Idaho 83252  
208-473-5800



SIXTH JUDICIAL DISTRICT COURT FOR THE STATE OF IDAHO  
IN AND FOR THE COUNTY OF ONEIDA

HOLLI TELFORD : Case No. 2011 – CV – 0000066  
Plaintiff :  
vs : REQUEST FOR CLERK'S ENTRY OF  
ARTIE ROSS : DEFAULT AND DEFAULT JUDGMENT  
Pursuant to IDAHO RULES OF  
CIVIL PROCEDURE RULE 55(a) AND  
(b)(1)  
Defendant :

---

In this case Defendant Artie Ross. has been properly served with process and has failed to appear or defend this action, and the time allowed by law for answering the verified Complaint has expired. The Default of Defendant Artie Ross is therefore entered according to law.

Plaintiff also requests a Default Judgment be entered against Defendant Artie Ross subsequent to entry of the Default and pursuant to the admitted allegations made in her Verified Complaint, including the Prayer. <sup>1</sup> This Default Judgment shall include: statutory money damages, restitution, an injunction and other equitable relief as authorized by law.

---

1. Idaho Rules of Civil Procedure Rule 55(b)(1) provides: Default judgment by the court or clerk. When the plaintiff's claim against a defendant is for a sum certain or for a sum which can by computation be made certain, ... the clerk thereof, upon request of the plaintiff, and upon the filing of an affidavit of the amount due and showing the method of computation, shall enter judgment for that amount and costs against the defendant, if the defendant has been defaulted for failure to appear and if the defendant is not an infant or incompetent person. Any application for a default judgment must contain written certification of the name of the party against whom judgment is requested and the address most likely to give the defendant notice of such default judgment, and the clerk shall use such address in giving such party notice of judgment.


Furthermore, this Default Judgment shall be limited in damages to date due to its expedited default nature.

IT IS ORDERED AND ADJUDGED that plaintiff have and recover from Defendant Artie Ross, a money judgment in the statutory sum of \$3000 as provided by Idaho Code § 48-608(1) under Idaho's Consumer Protection Act, together with the costs of suit in the amount of \$88, and prejudgment interest from the date of June 1, 2011 to June 28, 2011 in the amount of \$36, for a total money judgment of \$3,124 plus interest at the statutory rate of 10% per annum from this date. IT IS ORDERED that defendant Artie Ross in lieu of this money judgment shall forfeit to plaintiff certain real property bearing account number 100000020600013080 and having an equal market value.

IT IS FURTHER ORDERED AND ADJUDGED that defendant Artie Ross shall make full restitution to plaintiff concerning his subject real property by releasing all rights, title and interest in his subject real property bearing account number 100000020600013080 to plaintiff -- as a result of plaintiff's required improvements to his property to avoid condemnation, and;

IT IS CONCLUSIVELY ORDERED AND ADJUDGED that defendant Artie Ross is permanently enjoined from claiming any rights, title or interest in said subject real property bearing Smith County Appraisal District account number 100000020600013080, and further, that defendant Artie Ross is permanently enjoined from entering said premises without the express permission of plaintiff.

DATED this 30<sup>th</sup> day of June, 2011.

  
\_\_\_\_\_  
Clerk of the District Court

and bearing the official seal.

CERTIFICATE OF SERVICE

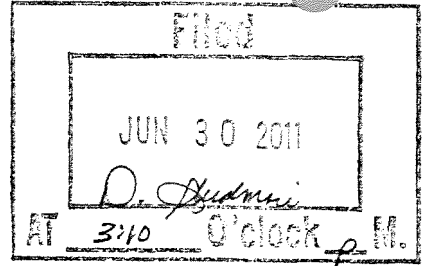
I, hereby certify that on the \_\_\_\_\_ day of \_\_\_\_\_, 2011, I served a true and correct copy of the foregoing document upon the following individual by US. Mail:

Artie Ross  
4907 Hill Lane  
Dallas, Texas 75052

Dated:

\_\_\_\_\_  
Deputy Clerk

HOLLI TELFORD  
10621 S. Old Hwy 191  
Malad City, Idaho 83252  
208-473-5800



SIXTH JUDICIAL DISTRICT COURT FOR THE STATE OF IDAHO  
IN AND FOR THE COUNTY OF ONEIDA

HOLLI TELFORD : Case No. 2011 – CV – 0000066  
Plaintiff :  
vs : AFFIDAVIT OF HOLLI TELFORD  
IN SUPPORT OF  
ARTIE ROSS : REQUEST FOR CLERK'S ENTRY OF  
DEFAULT AND DEFAULT JUDGMENT  
PURSUANT TO IDAHO RULES OF  
CIVIL PROCEDURE RULE 55(a) AND  
(b)(1)  
Defendant :

---

STATE OF IDAHO )  
: ss  
COUNTY OF ONEIDA)

I, Holli Telford, being first duly sworn, states:

1. I am the plaintiff in the above stated action and I have personal knowledge of the facts set forth in this Affidavit.
2. That the Verified Complaint and Summons were properly served upon the Defendant Artie Ross on June 4, 2011 as shown by the attested Return Of Service attached hereto as exhibit "1".
3. That the defendant has not, as of this date, filed an Answer or otherwise appeared to defend against the allegations in the Verified Complaint.
4. That the Defendant is not an infant or incompetent person.
5. Defendant is not now, nor in the previous six months has been, a member of the Armed Forces of the United States of America or it's allies.

6. I am entitled to monies expended on defendant's behalf to avoid punitive measures impacting the subject real property;

7. Defendant owes me an actual damages of \$3,000 as provided under Idaho Code § 48-608(1) : "Any person who . . . suffers any ascertainable loss of money or property, real or personal, as a result of the use or employment by another person of a method, act or practice declared unlawful by this chapter, may bring an action to recover actual damages . Attached hereto as exhibit "2" is the bank transaction statements showing that M.D. Diet Trust paid for certain property improvements to and for the benefit of defendant Artie Ross prior to the initiation of this lawsuit in the actual total amount of \$3000. I am statutorily entitled to damages in this amount under Idaho's Consumer Protection Act.

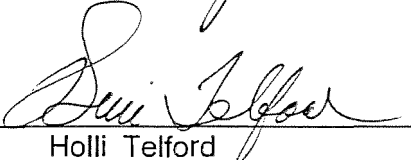
8. The defendant also owes me \$88 in court costs and service fees and prejudgment interest in the amount of \$36. The total money judgment owed me at the time of entry of this default and default judgment is \$3,124. I am also entitled to statutory post judgment interest at the rate of 10% until this judgment is paid.

9. I am also entitled to full restitution in this matter through a release of all rights, title and interest in the subject real property bearing account number 100000020600013080 with the Smith County Appraisal district.

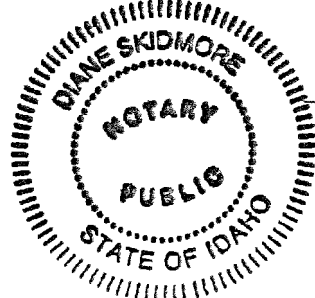
11. I certify that the address most likely to give the Defendant Smith County notice of this default and judgment is:

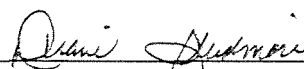
Artie Ross  
4907 Hill Lane  
Dallas, Texas 75052

DATED this 30<sup>th</sup> day of June, 2011.

  
\_\_\_\_\_  
Holli Telford

SUBSCRIBED AND SWORN / AFFIRMED before me, this June 30, 2011.



  
\_\_\_\_\_  
Notary Public for Idaho  
Residing at: Malheur, OR  
My Commission expires on: 1-17-2016

HOLLI TELFORD  
10621 S. OLD HIGHWAY 191  
MALAD CITY, IDAHO 83252  
208-473-5800

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF ONEIDA

HOLLI TELFORD	)	
	)	Case no. CV-2011- 66
Plaintiff	)	
vs.	)	
ARTIE ROSS	)	RETURN OF SERVICE ON SUMMONS AND VERIFIED COMPLAINT
Defendants	)	
<hr/>		

I, Ferron Stokes, declare as follows:

1. I am a resident of Box Elder County, State of Utah, over the age of 18 years, and not a party to the above entitled action.

2. On the 4th day June, 2011, I served copies of the Summons and Verified Complaint in the above entitled action, pursuant to a specific service statute under Idaho's Consumer Protection Act i.e. I.C. section 48-613 which provides ... Service of any notice, demand, summons or subpoena under this act (may be obtained through), **substituted service . . . in the following manner:**

- (1) Personal service thereof without this state; or
- (2) The mailing thereof by registered or certified mail to the last known place of business, residence or abode within or without this state of such person for whom the same is intended; or
- (3) As to any person, in the manner provided in the Idaho rules of civil procedure as if a complaint which institutes a civil proceeding had been filed.

This server certifies that on June 4, 2011, he served defendant **ARTIE ROSS** by certified mail addressed to his designated address as recorded with the Smith County Appraisal District's website being: 4907 Fox Hill Lane, Dallas, TX 75232. This form of service was authorized



by Idaho Code section 48-613 for actions brought under Idaho's Consumer Protection Act.

Attached to this Return of Service is a copy of the certified mail receipt verifying such service was made. Following that is the USPS electronic proof of delivery.

I attest the foregoing is true and correct under penalty of perjury in accordance with 28 USC section 1746(2) as applicable to the laws of both the states of Utah, Idaho and these United States.

*Ferron Stokes*  
Affiant's signature

FERRON STOKES  
Affiant's printed name

7006 0100 0007 1722 9505

<b>U.S. Postal Service™</b>	
<b>CERTIFIED MAIL™ RECEIPT</b>	
<i>(Domestic Mail Only; No Insurance Coverage Provided)</i>	
For delivery information visit our website at <a href="http://www.usps.com">www.usps.com</a>	
OFFICIAL USE	
Postage	\$ 95
Certified Fee	2.85
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 3.80

PLYMOUTH UT 84330-9998  
Postmark Here JUN - 4 2011  
USPS

Sent To	ARTIE ROSS
Street, Apt. No., or PO Box No.	4907 FOX HILL LANE
City, State, ZIP+4	DALLAS TEXAS 75232

PS Form 3800, June 2002 See Reverse for Instructions

**ORIGINAL**

HOLLI TELFORD  
assignee to M.D.Diet Trust  
10621 S. Old Hwy 191  
Malad City, Idaho 83252

Filed AT 4:20'clock PM  
JUN 3 2011  
*J. H. Schamp*

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF ONIEDA  
(Location: 10 Court Street. Malad City, Idaho 83252)

HOLLI TELFORD assignee to M.D. Diet Trust )

SUMMONS

Plaintiff, )

v. )

DOE DEFENDANT  
ARTIE ROSS

SANDRA COPELAND; ADMITRA MILLS; )  
JEANETTE HARMON; CODY KELLEY; )  
PAUL KELLEY JR; THE ESTATE OF )  
PAUL KELLEY SR.; SMITH COUNTY )  
TRUSTEE; TAX ASSESSOR GARY )  
GARY BARBER; SMITH COUNTY; ARTIE )  
ROSS; ATTORNEY TAB BEAELL; LAW )  
OFFICES OF PURDUE, BRANDON, )  
FELDER, COLLINS & MOTT; LISA )  
NEILSON; AND DOES 1 - 10 )

*CASE No.*  
*CV-2011-66*

Defendants. )

NOTICE: YOU HAVE BEEN SUED BY THE ABOVE-NAMED PLAINTIFF(S): THE COURT MAY ENTER JUDGMENT AGAINST YOU WITHOUT FURTHER NOTICE UNLESS YOU RESPOND WITHIN 20 DAYS. READ THE INFORMATION BELOW.

TO: Defendant Artie Ross

You are hereby notified that in order to defend this lawsuit, an appropriate written response must be filed with the above designated court within 20 days after service of this Summons on you. If you fail to so respond the court may enter judgment against you as demanded by the plaintiff in her Verified Complaint.



A copy of the Complaint is served with this Summons. If you wish to seek the advice of or representation by an attorney in this matter, you should do so promptly so that your written response, if any, may be filed in time and other legal rights protected.

An appropriate written response requires compliance with Rule 10(a)(1) and other Idaho Rules of Civil Procedure and shall also include:

1. The title and number of this case.
2. If your response is an Answer to the Complaint, it must contain admissions or denials of the separate allegations of the Complaint and other defenses you may claim.
3. Your signature, mailing address and telephone number, or the signature, mailing address and telephone number of your attorney.
4. Proof of mailing or delivery of a copy of your response to plaintiff or plaintiff's attorney, as designated above.

To determine whether you must pay a filing fee with your response, contact the Clerk of the above-named court.

DATED this 3<sup>rd</sup> day of June, 2011.

CLERK OF THE DISTRICT COURT

By Janet Blackman  
Deputy Clerk



[Home](#) | [Help](#) | [Sign In](#)

[Track & Confirm](#)

[FAQs](#)

## Track & Confirm

### Search Results

Label/Receipt Number: 7006 0100 0007 1722 9505

Expected Delivery Date: June 6, 2011

Class: Priority Mail®

Service(s): Certified Mail™

Status: Delivered

[Track & Confirm](#)

Enter Label/Receipt Number.

[Go >](#)

Your item was delivered at 10:23 am on June 07, 2011 in DALLAS, TX 75232.

#### Detailed Results:

- Delivered, June 07, 2011, 10:23 am, DALLAS, TX 75232
- Processed through Sort Facility, June 07, 2011, 3:44 am, DALLAS, TX 75260
- Acceptance, June 04, 2011, 10:38 am, PLYMOUTH, UT 84330

#### Notification Options

##### Track & Confirm by email

Get current event information or updates for your item sent to you or others by email.

[Go >](#)

[Site Map](#)

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[Forms](#)

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[Privacy Policy](#)

[Terms of Use](#)

[Business Customer Gateway](#)

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No FEAR Act EEO Data

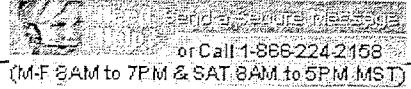
FOIA



U.S. Postal Service  
United States Postal Service



United States Postal Service  
United States Postal Service

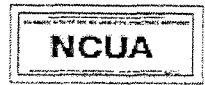


## Update Transaction Details

You can update your category and memo for your transaction. To accept your changes, select UPDATE below.

Transaction ID:	594039558
Date:	4/29/2011
Description:	CHECK 027047315
Type:	Debits
Amount:	\$3,000.00
Category:	<input type="text" value="Select a Category"/>
Memo:	

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IN THE DISTRICT COURT FOR THE SIXTH JUDICIAL DISTRICT OF THE  
 STATE OF IDAHO, IN AND FOR THE COUNTY OF ONEIDA

Register #CV-2011-66  
 HOLLI TELFORD AS ASSIGNEE TO )  
 M.D. DIET TRUST, )  
 )  
 Plaintiff, )  
 )  
 -vs- )  
 )  
 SANDRA COPELAND; ADMITRA )  
 MILLS; JEANETTE HARMON; )  
 CODY KELLY; PAUL KELLY JR.; )  
 THE ESTATE OF PAUL KELLY SR.; )  
 SMITH COUNTY TRUSTEE; TAX )  
 ASSESSOR GARY BARBER; SMITH )  
 COUNTY; ARTIE ROSS; ATTORNEY )  
 TAB BEALL; LAW OFFICES OF )  
 PURDUE, BRANDON, FELDER, )  
 COLLINS & MOTT; LISA NEILSON )  
 AND DOES 1-10 )  
 )  
 Defendants. )  
 )

MEMORANDUM DECISION

COURSE OF PROCEEDINGS

On June 3, 2011 Plaintiff<sup>1</sup> filed a Complaint against the Defendants asserting various claims and relief, including, but not limited to, “specific performance on a bid purchase contract;” breach of contract; violations of the Idaho Consumer Protection Act; and violations of the Utah Fraudulent Communications Act, all arising out of an effort of

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<sup>1</sup> Plaintiff, Holli Telford asserts, in the Complaint, that she is the assignee of the M.D. Diet Trust, the alleged purchaser of the property in question, although no assignment is of record. The Court assumes, without deciding for purpose of the pending issues, that such an assignment exists and the Ms. Telford is a proper assignee and the real party in interest.

Plaintiff to purchase a piece of real property from Smith County Texas.

The court file reflects that Plaintiff attempted service, by certified mail sent by Ferron Stokes of Box Elder County, Utah, pursuant to I.C. § 48-613, on all named Defendants, as shown by a Returns of Service outlining the method and statutory authority claimed for that service, all filed on June 9, 2011.<sup>2</sup>

On June 27, 2011 Plaintiff filed a request for Clerk's Entry of Default and for Default Judgment, asserting that service had occurred by certified mail and that she was entitled to judgment as a matter of law, pursuant to I.R.C.P. 55(a) and (b)(1).<sup>3</sup>

#### ANALYSIS

Pursuant to I.R.C.P. 55(a), a default may be entered against a party who has "failed to plead or otherwise appear as provided by these rules..." Obviously, a responding party is not in default if that party has not been properly served with the complaint, because service of the complaint is required "by these rules," i.e., I.R.C.P. 4(d) and (e). Likewise, a default judgment cannot be entered until it is shown that "defendant has been defaulted for failure to appear and if the defendant is not an incompetent person, and has been personally served, other than by publication or personal service outside of this state." I.R.C.P. 55(b)(1)(emphasis added).

Service of a complaint must be in person, to an individual or, if to a corporation, on an authorized person. I.R.C.P. 4(d)(2) and (4). The record clearly shows that service of Plaintiff's Complaint herein was not in person, but was by certified mail. As

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<sup>2</sup> All of the returns show that the alleged service was by certified mail on June 4, 2011.

<sup>3</sup> The Court notes that on July 13, 2011 some of the Defendants, particularly Smith County, Tax Assessor Gary Barber, Tab Beall and the Law Offices of Purdue, Brandon, Felder, Collins & Mott, have filed Motions to Dismiss, to Quash Service, and for Summary Judgment. However, those Motions have not yet been heard by the Court and are not considered in ruling on Plaintiff's request for a Default and Default Judgment.

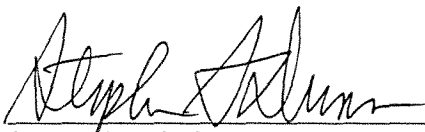
previously noted, the “Return of Service” for each Defendant states that service was made by certified mail pursuant to I.C. § 48-613, which is a section found within the Idaho Consumer Protection Act. Importantly, each Return asserts that this statute allows “Service of any notice, demand, summons or subpoena under this act.” [Emphasis added]. This is an incorrect statement of the statute. The statute specifically allows for service of “any notice, demand or subpoena.” It does not provide a means for service of a summons. I.R.C.P. 4 is the exclusive means of serving a summons on a complaint. No service, in fulfillment of the requirements of I.R.C.P. 4, has occurred in this case.

Failure to properly serve the Complaint, to each and every Defendant herein, means that a vital requirement for entry of default and default judgment has not occurred. Therefore, Plaintiff’s request for entry of Default and Default Judgment is DENIED.

Special appearances have been made by certain Defendants, as noted above. The Clerk is directed to provide a copy of this Order to counsel for those Defendants. Even though the other named Defendants have not appeared in any way, and the Court has concluded that service has not been properly made on those Defendants, the Clerk is, nevertheless, directed to mail a copy of this Order to all other named Defendants, directly, to the extent that a mailing address can be determined from the record.

IT IS SO ORDERED.

DATED this 15<sup>th</sup> day of July, 2011.

  
STEPHEN S. DUNN  
District Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 18<sup>th</sup> day of July, 2011, I served a true and correct copy of the foregoing document upon each of the following individuals in the manner indicated.

Holli Telford  
10621 S. Old Hwy 191  
Malad City, ID 83252

- U.S. Mail
- Overnight Delivery
- Hand Delivery
- Facsimile

Brian K. Julian  
ANDERSON, JULIAN & HULL LLP  
P.O. Box 7426  
Boise, ID 83707-7426

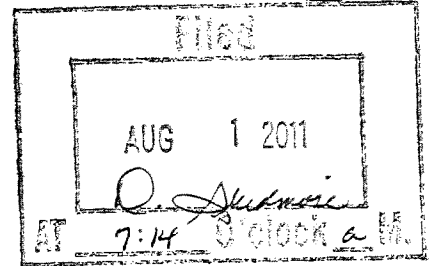
- U.S. Mail
- Overnight Delivery
- Hand Delivery
- Facsimile

All Other Defendants  
Mailing Addresses in File

- U.S. Mail
- Overnight Delivery
- Hand Delivery
- Facsimile

DATED this 18<sup>th</sup> day of July, 2011.

*Diane Stinson*  
Deputy Clerk



HOLLI TELFORD  
 10621 S. OLD HWY 191  
 MALAD CITY, IDAHO 83262  
 ATTORNEY PRO SE  
 208-473-5800

IN THE SIXTH JUDICIAL DISTRICT COURT OF THE STATE OF IDAHO  
 COUNTY OF ONEIDA

HOLLI TELFORD assignee to M.D. Trust	:	Case No. CV 2011-000066
Plaintiff	:	AFFIDAVIT OF ELHAM NEILSEN IN OPPOSITION TO DEFENDANTS
SANDRA COPELAND, et al.	:	SMITH COUNTY, TAX ASSESSOR GARY BARBER, ATTORNEY TAB BEALL AND
Defendants	:	LAW OFFICES OF PURDUE, BRANDON, FELDER, COLLINS AND MOTT'S
	:	MOTIONS TO DISMISS AND MOTIONS FOR SUMMARY JUDGMENT

STATE OF UTAH     )  
                           ) ss  
 County of            )

ELHAM NEILSEN, being first duly sworn upon oath, deposes and says:

1. That the attestments made herein are made of affiant's own personal knowledge and are true and correct to the best of Affiant's knowledge.
2. I am currently a resident of Box Elder County, Utah. My Phone number is 801-689-6201.
3. I was referred to Holli through a friend because Holli knew how to acquire real properties through Tax or other distress sales and Holli also had former contacts to obtain mortgage or rehabilitative financing for prospective buyers. I needed to purchase a residence close to Tyler Texas. I contacted Holli to conduct any transaction necessary for me to acquire a residence in this location. At all times herein, I was informed that Holli's phone contact number was 208-473-5800. In addition, all phone calls I made to this number were received by Holli or other third persons at Holli's direction.



4. Holli was very helpful and showed me how I could monitor the Tax deed sales through Smith County Texas' website for struck off properties. Holli, myself and members of my family researched all of the properties listed on the online advertised "struck off" property sale list posted on Smith County Texas' website on or about January of 2011 and selected a struck off property from that sale list. The property we selected bore the address of 14811 FM 2661, Flint Texas. We googled that address which showed a prefabricated building/residence on acreage. Holli also checked Smith County Appraisal District's website under an address search and learned that the alleged defaulted buyer's name was Joseph Conflitti.

5. Our contract with Holli included an agreement that Holli would bid on the property and if Holli won the bid, then after Holli obtained the warranty deed, Holli would convey the property to me and my family for a "finders fee", expenses to secure the transaction, plus any fees it cost to fund the loan Holli would obtain to acquire the property from Smith County, Texas.

6. In performance on this agreement, on February 8, 2011 Holli personally appeared at the Smith County Texas Tax Assessor's office and obtained a statement of no tax delinquency on any Smith county Texas property as required under Texas' tax code. Holli gave us a copy of that statement shortly after she obtained it. This statement is found attached as part of exhibit "A" to Gary Barber's Affidavit.

7. The Bid deadline for the property was set for March 31, 2011 at noon. Lois Mosley was the Smith County Tax Assessor Officer handling this sale. As soon as Holli obtained the required statement, she placed a bid on the struck off real property offered by Smith County. Because this property was a resale property owned by the taxing unit, under Texas Tax Code § 34.23 (b) -- "the owner of property sold for taxes to a taxing unit may not redeem the property from the taxing unit after the property has been resold." Consequently, redemption by the owner was not supposed to be an issue if Smith County accepted Holli's bid. Also, according to Texas Tax Code § 34.05(d): RESALE BY TAXING UNIT:

**The acceptance of a bid by an officer conducting the sale is conclusive and binding.** On conclusion of the sale, the officer making the sale shall prepare a deed to the purchaser. The county clerk shall file and record each deed under this subsection and after recording shall return the deed to the grantee.

Holli showed us the foregoing statutes and explained that struck off properties are properties owned by the taxing unit and resold to persons as if in a private sale, with the

taxing unit as the owner. Holli also explained that § 34.05(d) meant that once the Taxing unit accepted the winning bid, the sale was conclusive and binding. This is how we would have interpreted these statutes as lay persons.

8. Holli and myself arranged to have a relative appear at the Tax Assessor's office on March 31, 2011 at noon to hear the announced winners of the bid. My relative Kim Vogt who resided in Idaho traveled to Tyler Texas to visit family, and while there, Kim appeared at the Assessor's on March 31, 2011 at noon to hear the winners and Smith County's acceptances of the highest bids. Holli was announced as the only bidder as well as the winning bidder to the property bearing situs address 14811 FM 2661, Flint Texas. Smith County official Lois Mosley, who conducted the sale, orally represented to Kim that all highest bids had been accepted by the County Tax Collector and that it would take approximately three months to process the deeds to the accepted bid winners.

9. On April 4, 2011, I was at Holli's place in Malad, Idaho when several Smith County Tax officials called Holli's Idaho number and informed Holli that she had won the bid on the property bearing situs address 14811 FM 2661, Flint, Texas and that it would take approximately three months to process the Deed. In addition, the employees asked about Holli's Letter of Credit and what was needed to process payment. I heard Holli instruct the smith county employee over her speaker activated telephone that she would need a letter from Lois indicating that Holli was the accepted bid winner and assuring the bank that no redemption rights placed the property at risk. Lois asked Holli to prepare this form letter which Lois would sign in order to expedite the funds promised in Holli's Letter of Credit. To my knowledge, Holli did execute this form letter and Lois signed this letter.

10. On April 30, 2011, myself, members of my family and Holli traveled to Texas to take possession of the property Holli had won on our behalf. When we attempted to do so, we were advised by a person on Joseph Conflitti's property that his property had not been put up for sale nor had it been defaulted to Smith County for failure to pay property taxes. Myself, family members and Holli appeared to the Tax office on the early morning hours of May 2, 2011 to complain. We were deferred to a Smith County Tax Appraiser who acknowledged the property address error made on Smith County's Struck off property list and directed us to the correct property owned by Smith County and which did not have an assigned situs address.

11. We went to look at the struck off property. This property was a small lot, with garbage debris everywhere. It was clear that it had been used as a garbage dump for

many years. In addition, the claimed residence on this site was a burned out building beyond repair. Holli took pictures of the inside of the building for purposes of presenting the pictures to Lois Mosley who conducted the tax sale and in support of a modification of the bid to reflect the true market value of the property. Texas Tax Code § 34.01(o) permitted the county official conducting the sale to offer a lower amount than requested at the sale, and further, placed a duty on the official to reopen the bidding at the amount of Holli's bid and bid off the property to Holli. With this statute in mind, we reappeared at the Tax office again to speak to Lois Mosley.

12. Myself and others were present when Holli reported back to Smith County tax official Lois Mosley on the afternoon of May 2, 2011 concerning the condition of the misrepresented property sold by Smith County. I personally witnessed Lois Mosley go into Gary Barber's office which had glass partitions on the wall that allowed people to see into Gary Barber's office and discuss Holli's concerns with Gary Barber, the Smith County Tax Collector. I personally witnessed Lois exit Gary Barber's office, approach Holli, and instruct Holli to: (a) execute a corrected bid *nun-pro tunc* to a day before the bidding closed and bid the assessed value of the property only, (b) execute a written statement describing the conflict which justified the county's actions under Texas Tax Code section 34.01(o) in selling the property to Holli at a lower value, (c) send pictures of the inside of the building to Lois to assess the building's demolition value at -0-; and (d) execute a request for demolition work and cleanup at the County's costs. Lois also confirmed that it was okay for Holli and those working with her, to occupy and improve the property sold to Holli by the County – given redemption was not an issue.

13. On May 6, 2011, Holli did execute the written statement requested by Lois Mosley and this statement was personally served by LA Greer upon Smith County Tax Assessor employee Lois Mosley and upon the law offices of Linebarger, Blair, etc., the latter, the County's attorneys who we were informed would be executing the deed to Holli in short order.

14. We returned to the property and helped to improve the property which would eventually be placed in my name. Holli paid a number of vendors to excavate the property. In addition, since our initial contract included a viable residence, Holli acquired a manufactured home and made arrangements to move that home onto the property. The Manufactured home was installed onto the property by May 16, 2011. Holli and I then amended our sales agreement to include the necessary changes in the situs address and


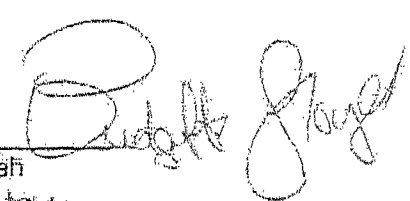
residential structure. We both considered the sales transaction between us closed given Lois Mosley told us that the property was Holli's irrespective of the modification in the bid price.

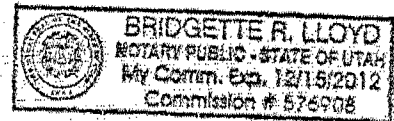
15. During the entire time we were improving the property, the prior owners who defaulted on the property i.e. members of the estate of Paul Kelley Sr., repeatedly came onto the property to inquire to it's status. At all times herein mentioned, the defaulted owners were told by Holli, in front of us, that Holli owned the property upon purchasing the property from Smith County at the resale bid auction.

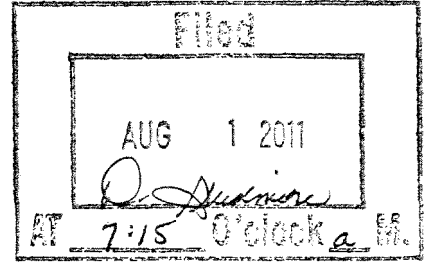
FURTHER, your Affiant saith naught.

  
\_\_\_\_\_  
ELHAM NEILSEN

SUBSCRIBED AND SWORN to before me this 25 day of July, 2011.

   
\_\_\_\_\_  
Notary Public for Utah  
residing at: Salt Lake City, Utah





HOLLI TELFORD  
 10621 S. OLD HWY 191  
 MALAD CITY, IDAHO 83262  
 ATTORNEY PRO SE  
 208-473-5800

IN THE SIXTH JUDICIAL DISTRICT COURT OF THE STATE OF IDAHO  
 COUNTY OF ONEIDA

HOLLI TELFORD assignee to M.D. Trust	:	Case No. CV 2011- 000066
Plaintiff	:	AFFIDAVIT OF L.A. GREER IN OPPOSITION TO DEFENDANTS
SANDRA COPELAND, et al.	:	SMITH COUNTY, TAX ASSESSOR GARY BARBER, ATTORNEY TAB BEALL AND
Defendants	:	LAW OFFICES OF PURDUE, BRANDON, FELDER, COLLINS AND MOTT'S
	:	MOTIONS TO DISMISS AND MOTIONS FOR SUMMARY JUDGMENT

STATE OF TEXAS )  
 County of *Collin* ) ss

L.A. GREER, being first duly sworn upon oath, deposes and says:

1. That the attestments made herein are made of affiant's own personal knowledge and are true and correct to the best of Affiant's knowledge.
2. On April 30, 2011, Holli appeared in Smith County, Texas to handle conveyance matters on a certain real property located in Smith County Texas and bearing situs address 14811 FM 2661 Flint Texas. I assisted Holli in this entire transaction in concurrence with other third persons.
3. I appeared at the Smith County Tax Assessor's office with Holli on February 8, 2011, when Holli personally obtained the required written statement under Texas Tax Code section 34.015 regarding delinquent taxes; a necessary prerequisite to Holli entering the Bid contest for real property owned by Smith County. At the time Holli obtained that

required Statement certified by an tax official of the Smith County Assessor's office, I personally witnessed Holli present her Idaho Driver's License bearing situs address 10621 S. Old Hwy 191, Malad, Idaho as her contact loci. I also witnessed the Smith County Tax Assessor clerk Janie Flores certify this statement for Holli upon Holli presenting a check made out to the Smith County Tax Assessor's office for the required certification fee and which was drawn off of Holli's bank account assigned to her Idaho address. This statement is found as part of exhibit "A" attached to the Gary Barber affidavit.

4. At all times during these transactions, Holli represented to all Smith County employees that her phone contact number was 208-473-5800.

5. At all times herein mentioned, I understood Holli to be acting in the capacity of a trustee for a private trust located in the state of Idaho in purchasing the subject property on behalf of the trust. I was also made aware that after Holli's bid was accepted by Smith County that Holli acting on behalf of the trust had contracted to sell the property to a third person by the name of Elham Neilsen.

6. Holli placed a bid on real property owned by Smith County and being resold over the internet to any person previously meeting the statement qualifications under Texas Tax code section 34.015. The Bid Offer posted by Smith County over the internet reflected the property address as 14811 FM 2661, Flint Texas.

7. On or about April 4, 2011, I became aware that Holli won the bid on this property when Holli called me and informed me that Smith County had called her twice that day and congratulated her on winning the bid on the subject property.

8. I later became aware of a conflict in subject of the bid. The address identified as 14811 FM 2661, Flint Texas according to the Smith County Appraisal District belonged to one Joseph Conflitti, not Smith County. I am personally aware that Holli raised this conflict to Smith County and that Smith County redirected Holli to the correct property located South of 14811 FM 2661, Flint Texas and which property was in serious disrepair carrying a demolition value of -0- or less re the burned out building.

9. I was present when Holli raised this conflict personally to Smith County tax official Lois Mosley on May 2, 2011. I personally witnessed Lois Mosley go into Gary Barber's office enclosed by a half wall topped with glass partitions and raise this conflict to Gary Barber. I personally witnessed Lois exit Gary Barber's office, approach Holli, and instruct Holli to: (a) execute a corrected bid nun pro tunc to a day before the bidding closed - bidding the assessed value of the property only - given Holli was the only bidder on the property, (b)

execute a written statement describing the conflict which justified the county's actions under Texas Tax Code section 34.01(o) in selling the property to Holli at a lower value, (c) send pictures of the inside of the building to Lois to assess the building's demolition value; and (d) execute a statement for demolition work and cleanup at the County's costs. Lois also confirmed that it was okay for Holli and those working with her, to improve the property given redemption was not an issue.

10. As shown in Gary Barber's exhibit "D", on May 6, 2011, Holli did execute the written statement requested by Lois Mosley and this statement was personally served by me upon Smith County Tax Assessor employee Lois Mosley and upon the law offices of Linebarger, Blair, etc., the latter, the County's attorneys who we were informed would be executing the deed to Holli in short order.

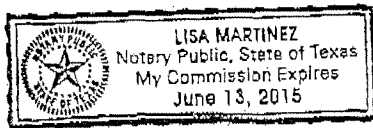
11. We continued to improve the property in accordance with Lois' consent to do so. Holli paid a number of vendors to excavate the property. In addition, a manufactured home was also moved onto the property, installed and substantially repaired. Holli then contacted the buyer Elham Neilsen and executed a sales agreement which included a promise to tender a deed as soon as the County tendered a deed to the private trust.

12. During the entire time we were improving the property, the prior owners having defaulted on the property repeatedly came onto the property to inquire to it's status. At all times herein mentioned, the owners were told in front of me that Holli owned the property upon purchasing from Smith County at an online resale bid auction.

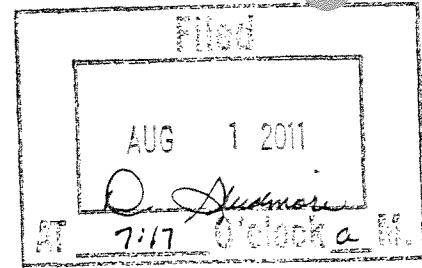
FURTHER, your Affiant saith naught.

*L.A. Greer*  
\_\_\_\_\_  
L.A. GREER

SUBSCRIBED AND SWORN to before me this 22<sup>nd</sup> day of July, 2011.



*Lisa Martinez*  
\_\_\_\_\_  
Notary Public for Texas  
residing at:



HOLLI TELFORD  
 10621 S. OLD HWY 191  
 MALAD CITY, IDAHO 83262  
 ATTORNEY PRO SE  
 208-473-5800

IN THE SIXTH JUDICIAL DISTRICT COURT OF THE STATE OF IDAHO  
 COUNTY OF ONEIDA

HOLLI TELFORD assignee to M.D. Trust	:	Case No. CV 2011- 000066
Plaintiff	:	AFFIDAVIT OF KIM VOGT IN OPPOSITION TO DEFENDANTS
SANDRA COPELAND, et al.	:	SMITH COUNTY, TAX ASSESSOR GARY BARBER, ATTORNEY TAB BEALL AND
Defendants	:	LAW OFFICES OF PURDUE, BRANDON, FELDER, COLLINS AND MOTT'S MOTIONS TO DISMISS AND MOTIONS FOR SUMMARY JUDGMENT

STATE OF IDAHO                    )  
   ) ss  
 County of Washington         )

KIM VOGT, being first duly sworn upon oath, deposes and says:

1. That the attestments made herein are made of affiant's own personal knowledge and are true and correct to the best of Affiant's knowledge.
2. I am related to Elham Neilsen. Elham Neilsen retained Holli Telford to purchase a residential Tax Deed property out of Smith County Texas. I know Holli Telford. Her phone number is 208-473-5800. This is a magic jack phone that preserves incoming phone calls.
3. I have relatives that presently live in or about Smith County Texas. Because I was making a trip out to Texas around April 1, 2011, Holli and Elham procured me to leave for Texas earlier so that I could appear at the Smith County Tax office when they opened the bid for the property Holli bid on and which was to go to my cousin Elham ;
4. I appeared at the Smith County, Texas Tax Office on March 31, 2011 at



approximately 11:30 a.m. The bids were scheduled to be opened at noon. The lady conducting the bid sale was a short afro-american lady, rotund, with black hair. I heard the afro american lady announce that Holli Telford was the sole bidder for the property bearing situs address 14811 FM 2661, Flint Texas and hence was the winning bidder. I called Holli and Elham to announce the news that they had won the bid. The lady who announced the winners then informed everyone appearing for the bid openings that it would take approximately three months to process the trustee deeds to the accepted bid winners.

5. I returned back to Idaho on or around April 7, 2011. On April 30, 2011, I returned to Texas with Holli, Elham and some other relatives to take possession of the property that Holli won on March 31, 2011 and which was to be conveyed to Elham as soon as Holli received the trustee's deed.

6. When we attempted to take possession of the property identified 14811 FM 2661 Flint Texas, we were advised by a person on this property that his property had not been put up for sale nor had it been defaulted to Smith County for failure to pay property taxes. Myself, Elham, Elham's family members, other relatives and Holli appeared to the Tax office on the early morning hours of May 2, 2011 to complain. We were deferred to a Smith County Tax Appraiser who acknowledged the property address error made on Smith County's Struck off property list and directed us to the correct property owned by Smith County and which did not have an assigned situs address.

7. We all went to look at the struck off property. This property was a small lot which had a burned building the size of a garage on the lot. There was garbage debris everywhere and it appeared the county had not kept the property clear of debris irrespective that a private person would have been cited for this conduct. (See Smith County, City of Tyler Code Ordinance Sec. 16-8. Disposal of construction and demolition waste. (a) Rock, scrap building materials, or other trash resulting from construction or major remodeling, resulting from a general cleanup of vacant or improved property just prior to its occupancy, . . . will not be classified as garbage or brush and will not be removed except by special arrangement. Materials of this type can be picked up on special request to the Solid Waste Department prior to disposal. A charge will be assessed for this service based on cost. (Ord. No. 0-97-53, 11/5/97)). Failure to remove from property in a timely manner will result in a misdemeanor crime bearing a penalty of up to one year in county jail and a \$1000 fine.). Holli took pictures of the inside of the building for purposes of presenting the pictures to Lois Mosley who conducted the tax sale and in support of a modification of the bid to reflect the true market value of the

property. Texas Tax Code § 34.01(o) permitted the county official conducting the sale to offer a lower amount than requested at the sale, and further, placed a duty on the official to reopen the bidding at the amount of Holli's bid and bid off the property to Holli. With this statute in mind, we reappeared at the Tax office again to speak to Lois Mosley.

8. We all went back to the Smith County tax official Lois Mosley (who conducted the resale of the struck off property) – on the afternoon of May 2, 2011 and expressed concern regarding the County's misrepresentation of the property sold to Holli. I witnessed Holli outlay the false representations made by Smith County in the sale of the property bearing situs address 14811 FM 2661, Flint Texas. Holli informed Lois that she would buy the property owned by Smith County, instead of the advertised property, but only at the market / assessed value of the lot as shown on Smith County Appraisal District's Website. Holli Presented to Lois, the Smith County Appraisal District's recording information on the struck off property and which bore no address for the property, but rather bore the address of the Smith County Trustee. (See Aff. Of Holli for this record). I personally witnessed Lois Mosley go into Gary Barber's office which had glass partitions on the wall that allowed people to see into Gary Barber's office and discuss Holli's concerns with Gary Barber, the Smith County Tax Collector. I personally witnessed Lois exit Gary Barber's office, approach Holli, and instruct Holli to: (a) execute a corrected bid *nun pro tunc* to a day before the bidding closed and bid the assessed value of the land only, (b) execute a written statement describing the conflict which justified the county's actions under Texas Tax Code section 34.01(o) in reselling the property to Holli at a lower value and based on the *nun pro tunc* re-bid, (c) send pictures of the inside of the building to Lois to assess the building's demolition value at -0-; and (d) execute a request for demolition work and cleanup at the County costs. Lois also confirmed that it was okay for Holli and the rest of us working with her, to occupy and improve the property purchased by Holli given redemption was not an issue under Texas Tax Code § 34.23 (b) ("the owner of property sold for taxes to a taxing unit may not redeem the property from the taxing unit after the property has been resold.").

9. On May 6, 2011, Holli did execute the written statement requested by Lois Mosley and this statement was personally served by LA Greer upon Smith County Tax Assessor employee Lois Mosley and upon the law offices of Linebarger, Blair, etc., who was reportedly executing the deed on the property. According to Texas Tax Code § 34.05(d): RESALE BY TAXING UNIT:

**The acceptance of a bid by an officer conducting the sale is conclusive**

3.

and binding. On conclusion of the sale, the officer making the sale shall prepare a deed to the purchaser. The county clerk shall file and record each deed under this subsection and after recording shall return the deed to the grantee.

Holli announced to Lois that the purchase was conclusive and binding and that only the price could be modified.

10. We returned to the property and helped to improve the property which would eventually be placed in my cousin's name after Holli acquired the trustee deed. Holli paid a number of vendors to excavate the property in the amount of more than \$6000. In addition, since Holli's initial contract with Elham Neilsen included a viable residence, Holli acquired a manufactured home and made arrangements to move that home onto the property. The Manufactured home was installed onto the property by May 16, 2011. Holli and Nielsen executed a new sales contract.

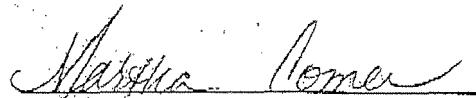
11. During the entire time we were improving the property, the prior owners who defaulted on the property i.e. members of the estate of Paul Kelley Sr., repeatedly came onto the property to inquire to it's status. At all times herein mentioned, the defaulted owners were repeatedly told by Holli, in front of us, that Holli owned the property after purchasing the property from Smith County at the resale auction.

FURTHER, your Affiant saith naught.



KIM VOGT

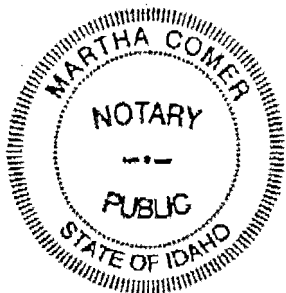
SUBSCRIBED AND SWORN to before me this 21<sup>st</sup> day of July, 2011.

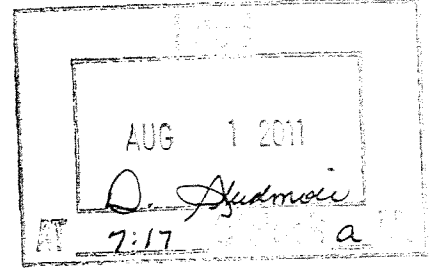


Notary Public for Idaho

Residing at 55 W. Idaho, Weiser, Idaho

My Commission expires 9-21-2013





HOLLI TELFORD  
10621 S. OLD HWY 191  
MALAD CITY, IDAHO 83262  
ATTORNEY PRO SE  
208-473-5800

IN THE SIXTH JUDICIAL DISTRICT COURT OF THE STATE OF IDAHO  
COUNTY OF ONEIDA

HOLLI TELFORD assignee to M.D. Trust	:	Case No. CV 2011- 000066
Plaintiff	:	AFFIDAVIT OF HOLLI TELFORD IN OPPOSITION TO DEFENDANTS
SANDRA COPELAND, et al.	:	SMITH COUNTY, TAX ASSESSOR GARY BARBER, ATTORNEY TAB BEALL AND
Defendants	:	LAW OFFICES OF PURDUE, BRANDON, FELDER, COLLINS AND MOTT'S MOTIONS TO DISMISS AND MOTIONS FOR SUMMARY JUDGMENT

STATE OF IDAHO                    )  
  ) ss  
County of Oneida                 )

HOLLI TELFORD, being first duly sworn upon oath, deposes and says:

1. That the attestments made herein are made of affiant's own personal knowledge and are true and correct to the best of Affiant's knowledge.
2. I am the purchaser of the subject struck off property offered for "resale" (emphasis added) by the taxing unit Smith County Texas over the internet.
3. I contend that personal jurisdiction exists over the county entities and lawfirm under: (1) Idaho's Consumer Protection Act, (2) the Idaho Racketeering Act 18 I.C. § 7801 et seq. for the following predicate crimes: 18 I.C. § 2403 (Theft by unauthorized transfer); 18 I.C. § 2403 (d) (Theft by false promise); 18 I.C. § 2403(e) (Theft by extortion); 18 I.C. § 2407 (a) (Extortion by public servant in failing to perform an official duty, in such manner as to affect some person adversely and resulting in grand theft); and 18 I.C. § 1905 (Falsification of corporate books); (3) Idaho's Long Arm Statute; and (4) the Due

Process Clause of the US Constitution.

4. I purchased this struck off property bearing situs address 14811 FM 2661 Flint Texas from a resale list **posted by Smith County over their website**. This list is attached as exhibit "1" to my verified complaint. My plans were to re- sell the property to Affiant Elham Nielsen as soon as I received the trustee's deed.

5. In conducting a search on this property, I pulled down the Smith County Appraisal District's Website and did an address search on this property. I learned that the property bearing situs address 14811 FM 2661, Flint Texas Belonged to Joseph and Tammy Conflitti. Attached as exhibit "2" to my verified complaint is the Smith County Appraisal District's property address search result verifying this information. Two parcels bear this address. I was told by the Smith County Tax Assessor's office before I placed my bid that the parcel with the barn / residence was the property up for re-sale by the Smith County Trustee.

6. Before a bid can be made on struck off property owned by the County Taxing unit, Texas law requires that the bidder obtain a written statement regarding delinquent property taxes in Texas under Texas Tax Code 34.015. I obtained this statement from the County Tax assessor clerk Janie Flores. Before I obtained this Statement, I had to provide Ms Flores with a copy of my Idaho Driver's License bearing the address of 10621 S. Old Hwy 191, Malad, Idaho 83252. When the clerk verified my identity via my drivers license, I paid the clerk with a check which had my Idaho address affixed thereto. Attached hereto as exhibit "1" is a redacted copy of the cancelled check paying for this Statement and bearing as the payee Gary Barber-Tax Assessor with the canceled side of the check showing a stamp reading: "For Deposit Only Smith County Tax Collector". Following this check is the Statement for which the check was issued.

7. In addition, when I presented my bid for the struck off property that Smith County was attempting to re-sell, I tendered a letter of credit (aka letter of approval) from the same bank as my check in exhibit "1" attached, was drawn. See a true copy of my letter of credit as exhibit "2" attached hereto.

8. Oneida County, Idaho has always had my legal phone number as 208-473-5800. This phone number is tied into my computer and records all incoming calls on a magic jack softphone. I am able to take a digital picture of the soft-phone and convert to pdf format to preserve this evidence which will be addressed later in this declaration.

9. I showed Ms. Nielsen, Ms. Vogt and their family members how to monitor

2.

the tax purchase I was making with Smith County Texas. I also involved these persons and others in every step involved in acquiring and improving the struck off property - until such time this property was to be resold to Elham Nielsen. Hence these persons were aware of the actual purchasing offer made by Smith County over their website, were witnesses to my phone conversations with Smith County officers, and accompanied me to Texas on April 30, 2011 when I sought to take possession of the properties as the bona fide purchaser and assess it for needed improvements before conveying it to Elham Nielsen.

10. I made an original bid on the subject property of \$12,001 based on false representations by Smith County officials that I was bidding on the barn / residence and acreage owned by the Conflittis. The "online" Bid deadline for the property was set for March 31, 2011 at noon. Lois Mosley was the Smith County Tax Assessor Officer handling this sale. Because this property was a resale property owned by the taxing unit, this property was not subject to redemption under Texas Tax Code § 34.23 (b) providing: "the owner of property sold for taxes to a taxing unit may not redeem the property from the taxing unit after the property has been resold." Consequently, when I obtained my letter of credit from my bank which agreed to fund a loan if I won the bid, I informed the bank that there would be no risk of redemption and that I would obtain a letter from the selling agent to that effect should a demand be placed on my letter of credit. I was also referred to Texas Tax Code § 34.05(d) by Smith County officials as assurance that if I won the bid, Smith County officials were bound to accept my bid and tender me a trustees Deed. Texas Tax Code § 34.05(d) reads in part as follows: RESALE BY TAXING UNIT:

**The acceptance of a bid by an officer conducting the sale is conclusive and binding.** On conclusion of the sale, the officer making the sale shall prepare a deed to the purchaser. The county clerk shall file and record each deed under this subsection and after recording shall return the deed to the grantee.

11. Myself and Elham arranged to have affiant Kim Vogt appear at the Tax Assessor's office on March 31, 2011 at noon to hear the announced winners of my bid on the subject struck off property. Kim Vogt did appear at the Smith County Tax Assessor's office at 11:30 a.m. on March 31, 2011 to hear the winning bidders. As attested to by Kim and as confirmed to me by the official conducting the sale Lois Mosley, I was the "only" bidder and the winning bidder on the struck off property bearing situs address 14811 FM 2661 Flint, Texas. After the sale, Lois Mosley told Kim that it would take approximately 3 months to

execute the Trustee's deed during which time the County would be making a demand on my letter of credit.

9. On April 4, 2011, at about 10:00 a.m., the County's lawfirm constructing the deed, ie. Linebarger, Goggan, Blair and Sampson called me at my number 208-473-5800 to confirm how the deed should read. There number is 903-593-8426. At 1:52 P.M. on April 4, 2011, a Smith County Tax Assessor official called me at my Idaho number to officially inform me that I was the winner of the bid on the subject real property and that it would take approximately three months to execute the Trustee's deed and record said deed with the county clerk's office. At 2:37 p.m. on April 4, 2011, the officer conducting the sale - Lois Mosley - called me at my Idaho number to inquire into the demand for performance on my letter of credit to pay for the property. I informed Lois that she would need to execute a letter from her office and bearing her official seal which: (a) announced me as the winner of the re-sale auction, (b) indicated that Smith County had accepted my bid and that the bid was conclusive and binding (less fraud in the transaction), (c) informed the bank that Smith County was exercising their demand on my letter of credit, and (d) verify that I was the successful bona fide purchaser of the property in question so that I could now possess the property and make improvements thereto. Lois informed me that she would get back to me on this issue of preparing a letter. Attached hereto as exhibit "3" is the digital camera picture I took of my magic jack phone verifying these incoming calls to me on April 4, 2011.

10. On April 5, 2011, I received an email from the County's law office preparing the deed for the sale. An employee of their office was sending me a letter confirming purchase of the subject property so that I could obtain immediate insurance on the property. This letter was sent to my Idaho address and forwarded to my insurance carrier. Attached hereto as exhibit "4" is the conformation email I was sent by the Law Offices of Linebarger, Goggan, Blar and Sampson. I did obtain the required insurance.

11. On April 6, 2011, I called Lois Mosley to inform her that the demand letter executed to my bank should also confirm that the sale was binding and not subject to any redemption rights. During this conversation, Lois Mosley asked me to prepare a form letter that had the necessary language needed to exercise my letter of credit. On April 8, 2011, I faxed Lois a form demand letter for her to execute with the official seal of her office. Lois faxed me this letter back after she executed it. Attached hereto as exhibit "5" is this executed form letter to be placed with the bank upon demand by Lois.

12. On April 30, 2011, myself, Elham, Kim and members of their family

traveled to Texas to take possession of the struck off property I had purchased. When we arrived, we went onto the property and were greeted by an employee of Conflitti. We were advised by this person that Joseph Conflitti's property had not been put up for sale nor had it been defaulted to Smith County for failure to pay property taxes. Upon receiving this information, we all appeared at the Smith County Tax office on the early morning hours of May 2, 2011 to complain. We were deferred to a Smith County Tax Appraiser who acknowledged the property address error made on Smith County's Struck off property list and directed us to the correct property owned by Smith County and which did not have an assigned situs address. The lot re-sold by Smith County adjoined Conflitti's property on the southeast end.

13. We went to look at the struck off property. This property was a small lot, with garbage debris everywhere. It was clear that it had been used as a garbage dump for many years. In addition, the claimed residence on this site was a burned out building beyond repair. I took pictures of the inside of the building for purposes of presenting the pictures to Lois Mosley who conducted the tax sale and in support of a modification of my bid to reflect the true market value of the property. Texas Tax Code § 34.01(o) permitted the county official conducting the sale to offer a lower amount than requested at the sale, and further, placed a duty on the official to reopen the bidding at the amount of my bid and bid off the property to me (especially where fraud was committed in the sale.). With this statute in mind, we reappeared at the Tax office again that afternoon so that I could raise these new issues with Lois Mosley.

14. I spoke to Lois and complained about the misrepresentations in the sale of the subject property. I informed Ms. Mosley that I would buy the County's property for the market / assessed value of the land only, that the alleged building on the property which was valued at \$43,254 actually had a -0- demolition value as a significantly burned out building infested with black mold, and that I would agree to pay for the demolition of the building if county hauled off the debris at their cost. All of us present, witnessed Lois Mosley go into Gary Barber's office which had glass partitions on the wall that allowed people to see into Gary Barber's office and discuss my fraud issues with Gary Barber, the Smith County Tax Collector. We all further witnessed Lois exit Gary Barber's office, approach me, and instruct me to: (a) execute a corrected bid *nun pro tunc* to a day before the bidding closed and bid the assessed value of the property only, (b) execute a written statement describing the conflict which justified the county's actions under Texas Tax Code section 34.01(o) in re-



selling the property to me at a lower value, (c) send Lois pictures of the inside of the building via email so that Lois could assess the building's demolition value at -0-; and (d) execute a request to Lois for debris cleanup at the County's costs to avoid liability under Smith County, City of Tyler Code Ordinance Sec. 16-8 entitled: Disposal of construction and demolition waste . . . which would not be removed except by special arrangement prior to disposal. Furthermore, a county resolution would have to be passed to waive the charge for removal and disposal of this waste pursuant to Ord. No. 0-97-53, 11/5/97. In conclusion, Lois confirmed that it was okay for me and those working with me, to occupy and improve the property re-sold to me by the County -- given redemption was not an issue. Thereafter I submitted Lois Mosley's demand letter to my bank to release the amount of \$4200, and no more, under my letter of credit to pay for the struck off property.

15. On May 6, 2011, I did execute the written statement requested by Lois Mosley and this statement was immediately personally served by LA Greer upon the Smith County Tax Assessor through employee Lois Mosley and upon the law offices of Linebarger, Blair, etc., the latter performing the function of preparing and recording the Trustee's Deed. I also tendered another bid offer nun pro tunc to the close date on the original bid sale, and within the terms of my modified agreement with Smith County employee Lois Mosley. Attached as exhibit "3" to my verified complaint is my "nun pro tunc bid" authorized by Texas Tax Code 34.01(o). The statement served on the Smith County Tax Assessor's office is attached to Tax Assessor/ Collector Gary Barber's affidavit of his exhibit "D". In the First paragraph of the Statement, lines 5-6 of Barber's exhibit "D", I proclaimed that I was "an out of state buyer". Given the Tax Assessor / Collector produced this evidence, then he has also judicially admitted that he knew that I resided in Idaho throughout the re-sale of this struck-off property to me, contrary to his perjurious affidavit stating otherwise.

16. Immediately after we served this statement upon Lois Mosley, I emailed to Lois in 6 different emails pdf copied pictures of the fire damages to the garage/office unit on the struck off property. I also emailed Lois the demolition work that we had done commencing May 3, 2011 and forward. Attached hereto as exhibit "6" is my email record showing more than 6 emails sent to Lois Mosley delivering these pictures. Attached hereto as exhibit "7" are the fire damaged pictures of the building on the struck off property and pictures of the demolition work performed by us; said demolition trash to be removed by the County at their expense. \*\*\*Actual pictures will be emailed to the parties and the court for better clarity.

17. The entire time we were at the property performing demolition work and otherwise clearing the property for installation of a manufactured home pursuant to my modified sales agreement with Ms. Nielsen, the prior owners who defaulted on the property i.e. members of the estate of Paul Kelley Sr., repeatedly came onto the property to inquire to it's status. At all times herein mentioned, the defaulted owners were told by me in front of Elham, Kim, family members, construction crew members, and heavy equipment operators, that I owned the property upon purchasing the property from Smith County at the resale auction. They were also told that no redemption rights existed under the laws of the state of Texas.

18. On May 15, 2011, I placed a manufactured home on the property which I had purchased from Smith county at the same time I became the bona fide purchaser of the subject struck off real property. Attached hereto as exhibit "8" is a picture of this home formerly belonging to Clarence Williams. Attached hereto as exhibit "9" is Clarence Williams property tax transcript.

19. On May 15, 2011, Smith County called me twice presumably to inquire into the value of the manufactured home I placed on the property ; an assessed value they had already set under the Clarence Williams account.

20. On June 1, 2011, I received an email from Lois Mosley, telling me that the original owners had redeemed the property and therefore Smith County was revoking the resale of the property to me. I responded to Lois' email with threats of a lawsuit from the state of Idaho if Smith County did not turn over the Trustee's deed to me forthwith. Lois immediately contacted the County's other attorneys, Tab Beall and the Law Offices of Purdue, Brandon, Felder, Collins & Mott and informed them of my threats of a lawsuit. On June 2, 2011, Tab Beall called my Idaho number 208-473-5800 and we discussed the basis of any future suit I might bring. Mr. Beall deceptively represented to me that the county had the right to revoke any re-sale at any time up to the date the Trustee's Deed was recorded with the Smith County Clerk. I told Mr. Beall that he was wrong, I referred Mr. Beall to the Texas laws stating otherwise, and I informed Mr. Beall that if he didnt withdraw from the County's conspiracy to commit various racketeering violations, I would include Mr. Beall and his lawfirm in my lawsuit. Attached hereto as exhibit "10" is my magic jack phone list bearing phone number 208-473-4800 and showing 2 incoming calls from Smith County on May 15, 2011 and an incoming call from Tab Beall on June 2, 2011. I for any reason Smith County attorneys deny making this call to my Idaho number, then I seek discovery to prove this point

and a resultant default judgment for fraud upon the court.

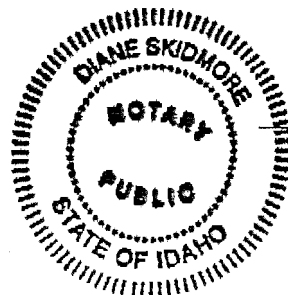
21. Attached hereto as exhibit "11" are transaction records with the bank showing that \$5450 was spent in demolition work on the subject real property. This does not include the \$3500 fee to move the manufactured home to the property, the cost of the home itself, or the costs to make repairs and utility hookups to the home.

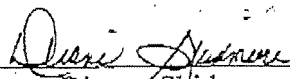
22. The US Supreme Court has long held that private citizens may sue foreign municipalities in their forum state for injuries caused to private citizens of sister states in re Chitcot County v. Sherwood, 148 US 529, 13 S.Ct. 695, 37 L.Ed 546 (1893). This authority is attached hereto as exhibit "11". Accordingly, because the defendants knew at all times that I hailed from the state of Idaho, that the contract at issue generated from the state of Idaho, that the monies funding this transaction were generating from an Idaho citizen, that I had expended substantial monetary sums improving the property based on the false promises of the County defendants, that I expected delivery of the Trustee's Deed to me in the state of Idaho, that the County defendants committed grand theft against me through extortion and illicit use of their offices when they announced that the resale of the property was retracted based on the false premise that redemption had occurred, and when numerous other frauds were committed against me all the while I was here in the state of Idaho receiving those fraudulent communications and acts, the defendants may not claim that that this state lacks personal jurisdiction over them.

FURTHER, your Affiant saith naught

  
\_\_\_\_\_  
HOLLI TELFORD

SUBSCRIBED AND SWORN to before me this 18 day of July, 2011.



  
\_\_\_\_\_  
Dianne Skidmore  
Notary Public  
Residing in Malad, ID  
Expires 1-17-2011

# Check Images

Account: Checking \*\*\*~~XXXX~~ | Check Number: 28 | Date Posted: 2/9/2011 | Amount: (\$10.00)

Zoom In Zoom Out Print

HOLLI TELFORD 70627 S HIGHWAY 191 MALAD CITY ID 83252 (208) 766-5559		Open Since <del>10/20/08</del> DATE <u>2/8/2011</u>	0028 87-7516243
PAY TO THE ORDER OF <u>Gary B. Barber - TAX ASSESSOR</u>		<u>\$ 10.00</u>	<u>Ten dollars and 00/100</u> DOLLARS
<b>AMERICA FIRST</b> <small>CREDIT UNION</small>		P.O. Box 9199 Ogden, UT 84409 www.americafirst.com	
FOR _____			
⑆324377516⑆ <del>XXXXXXXXXXXXXXXXXXXX</del>			

DEPOSIT ONLY SOUTHSHORE BANK 9600 S 1111 SALT LAKE CITY, UT 84143	X FOR DEPOSIT ONLY SALT COUNTY TAX COLLECTOR
FEDERAL RESERVE BANK OF CLEVELAND BRANCH AT SALT LAKE CITY 100 WEST 100 SOUTH SALT LAKE CITY, UT 84111	FEDERAL CREDIT UNION OF SALT LAKE COUNTY 100 WEST 100 SOUTH SALT LAKE CITY, UT 84111

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COUNTY TAX ASSESSOR-COLLECTOR'S WRITTEN STATEMENT  
UNDER TEX. TAX CODE 34.015  
REGARDING DELINQUENT TAXES

In Re: Holli Telford  
(Name of person/firm/company requesting statement)

This is to certify as follows: {check applicable statements(s)}

the person/firm/company whose name is shown above owes no delinquent taxes to Smith County or to a school district or municipality for which the county assessor-collector is the tax collector

the person/firm/company whose name is shown above owes no delinquent taxes to any school district or municipality having territory in Smith County.

there are no reported delinquent taxes owed by the person/firm/company whose name is shown above to any school district or municipality having territory in Smith County.

the person/firm/company whose name is shown above owes delinquent taxes to \_\_\_\_\_ County and/or to a school district or municipality for which the county assessor-collector is the tax collector in the amounts shown on the attached statement (s).

the person/firm/company whose name is shown above owes delinquent taxes to a school district or municipality having territory in \_\_\_\_\_ County in the amounts shown on the attached statement(s), each such statement bearing the name and address of the applicable tax collector.

ISSUED TO: Holli Telford  
(Name of Requestor)

DATE OF ISSUANCE: Feb 8, 2011

THIS STATEMENT EXPIRES ON THE 90<sup>th</sup> DAY AFTER DATE OF ISSUANCE,  
TO-WIT: May 8, 2011

ISSUED BY: Smith County Tax Assessor-Collector

By: Janie Flores  
(Deputy's Signature)

Janie Flores  
(Deputy's Printed Name)



America First Federal Credit Union  
Letter Of Approval

Page: 1

Member Name: Holli Telford

Please be advised that our member Holli Telford has been approved for a personal loan up to the amount of \$18,000 - available for immediate funding upon acceptance of her bid proposal to Smith County Texas property division for property situs address: 14811 FM 2661, Flint Texas, bearing LGBS # P237, account # 1-00000-0206-00-013090 and cause no. 22,107.

Should you have any questions, please feel free to call us.

  
SANDRA M. BOYER, SERVICE CENTER MANAGER

All credit information reported through the credit bureau

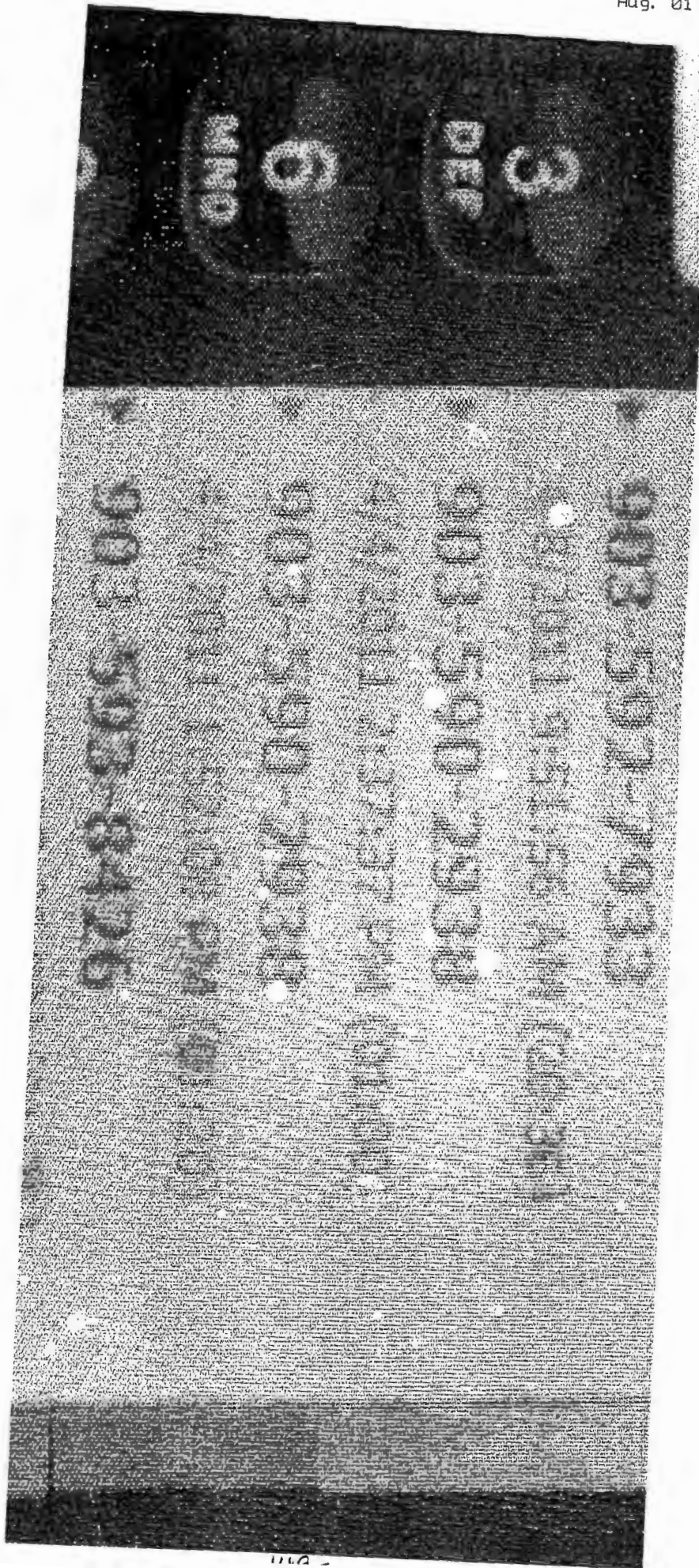
CC: Member Address  
10621 S. Old Highway 191  
Malad Idaho 83252

*MEMBERS COME FIRST.*

FROM :

FAX NO. :

Aug. 01 2011 12:28AM P1



"3"

1160 -

FILED  
 AUG 18 2011  
*D. Summers*  
 11:57  
 9:00 a.m.

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE  
 STATE OF IDAHO, IN AND FOR THE COUNTY OF ONEIDA

\*\*\*\*\*

HOLLI TELFORD,	)	
	)	
Plaintiffs,	)	
	)	Case No. CV-2011-66
vs	)	
	)	<b>ORDER</b>
SANDRA COPELAND, ADMITRA MILLS,	)	
JEANETTE HARMON, CODY KELLEY,	)	
PAUL KELLEY, JR., THE ESTATE OF	)	
PAUL KELLEY, SR, SMITH COUNTY	)	
TRUSTEE, TAX ASSESSOR GARY	)	
BARBER, SMITH COUNTY, ARTIE ROSS,	)	
ATTORNEY TAB BEAELL, LAW OFFICES)	)	
OF PURDUE, BRANDON, FELDER,	)	
COLLINS & MOTT; LISA NEILSON; AND	)	
DOES 1 - 10	)	
	)	
Defendants.	)	
_____	)	

The Court has received and reviewed the Plaintiff's Motion to Continue the hearing on Defendants' Motion for Summary Judgment, among other Motions, currently scheduled for August 26, 2011. The Court has also received and reviewed Defendants' Objection to the Motion to Continue, which raises some legitimate concerns for consideration.

As a practical matter, Plaintiff has appealed the Court's prior Memorandum Decision denying her request for the entry of Default Judgment against all Defendants, which appeal effectively stays any further proceedings until the request for the appeal has been ruled on by the Idaho Supreme Court. Should no ruling be made by the Idaho Supreme Court before August 26, 2011, the hearing on Defendants' Motions could not proceed.

ORDER - 1




Nevertheless, in anticipation of the possibility that Plaintiff's appeal will not be allowed by the Idaho Supreme Court, this Court wishes to be in a position to move forward on Defendants' Motions in a timely manner.

Therefore, Plaintiff is Ordered to respond to Defendants' Objection to her Motion to Continue within five (5) days of this Order, or no later than Tuesday, August 23, 2011. Plaintiff is directed to respond specifically to the issues raised by Defendants' Objection, and particularly the questions of why her Motion to Continue is not sworn to, why she has not previously submitted the additional briefing and affidavits she expects to submit, how much additional time she expects would be necessary to make her additional submissions, how long she expects the hearing on Defendants' Motions to be continued, and whether she is requesting that this civil matter be postponed while her criminal proceeding takes place. The Court will rule on the Motion to Continue at that time.

IT IS SO ORDERED.

DATED this 18 day of August, 2011.

*for*   
STEPHEN S. DUNN,  
District Judge

CERTIFICATE OF SERVICE

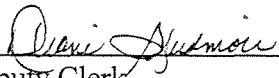
I HEREBY CERTIFY that on the 18<sup>th</sup> day of August, 2011, I served a true and correct copy of the above and foregoing ORDER OF DISQUALIFICATION to the following person(s) in the manner indicated below:

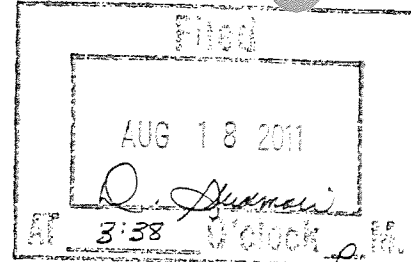
Holli Telford  
10621 S. Old Hwy. 191  
Malad, ID 83252

- U.S. Mail/Postage Prepaid
- Hand Delivery
- <sup>E-mail</sup> Overnight Mail
- Facsimile

Stephen L. Adams  
ANDERSON, JULIAN & HULL LLP  
P.O. Box 7426  
Boise, ID 83707-7426

- U.S. Mail/Postage Prepaid
- Hand Delivery
- Overnight Mail
- Facsimile

  
\_\_\_\_\_  
Deputy Clerk



Brian K. Julian, ISB No. 2360  
Stephen L. Adams, ISB No. 7534  
ANDERSON, JULIAN & HULL LLP  
C. W. Moore Plaza  
250 South Fifth Street, Suite 700  
Post Office Box 7426  
Boise, Idaho 83707-7426  
Telephone: (208) 344-5800  
Facsimile: (208) 344-5510  
E-Mail: [bjulian@ajhlaw.com](mailto:bjulian@ajhlaw.com)  
[sadams@ajhlaw.com](mailto:sadams@ajhlaw.com)  
Attorneys for Defendants Tab Beall and  
Law Offices of Perdue, Brandon, Fielder,  
Collins and Mott, LLP

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ONIEDA

HOLLI TELFORD assignee to M.D. Diet Trust,

Plaintiff,

vs.

SANDRA COPELAND; ADMITRA MILLS;  
JEANETTE HARMON; CODY KELLEY;  
PAUL KELLEY JR; THE ESTATE OF PAUL  
KELLEY SR; SMITH COUNTY TRUSTEE;  
TAX ASSESSOR GARY BARBER; SMITH  
COUNTY; ARTIE ROSS; ATTORNEY TAB  
BEAELL; LAW OFFICES OF PURDUE  
BRADON, FELDER, COLLINS & MOTT;  
LISA NEILSON, AND DOES 1 – 10,

Defendants.

Case No. CV 2011-000066

REPLY IN SUPPORT OF MOTION  
TO DISMISS, MOTION TO QUASH  
AND MOTION FOR SUMMARY  
JUDGMENT

COME NOW, the above Defendants Tab Beall and Law Offices of Perdue, Brandon, Fielder, Collins and Mott, LLP, by and through their attorneys of record, Anderson, Julian & Hull, LLP, and hereby submit this Reply in Support of Defendants' Motion to Dismiss, Motion to Quash and Motion for Summary Judgment.

I.

REPLY IN SUPPORT OF MOTION TO DISMISS, MOTION TO QUASH AND MOTION  
FOR SUMMARY JUDGMENT - 1

LEGAL ARGUMENT

**A. PLAINTIFF HAS FAILED TO SHOW A DISPUTE OF ANY MATERIAL FACTS WHICH WOULD PREVENT THE ENTRY OF SUMMARY JUDGMENT.**

When a party files a Motion for Summary Judgment, the responding party has a duty to file affidavits made on personal knowledge which sets forth facts which would be admissible in evidence. *I.R.C.P.* 56(e). Further,

an adverse party may not rest upon the mere allegations or denials of that party's pleadings, but the party's response, by affidavits or as otherwise provided in this rule, must set forth specific facts showing that there is a genuine issue for trial. If the party does not so respond, summary judgment, if appropriate, shall be entered against the party.

*Id.* Defendants Beall and Perdue Brandon contend that Plaintiff has failed to put into evidence any facts which show that there is a genuine issue for trial.

Plaintiff's response comes in the form of the Affidavits of Hollie Telford, L. A. Greer, Elham Neilsen and Kim Vogt. The Affidavits of Neilsen, Vogt and Greer do not mention or any way refer to Defendants Tab Beall and Perdue Brandon. Therefore, they fail to show that there is specific facts creating a genuine issue for trial relevant to these Defendants.

The only reference to Tab Beall and Perdue Brandon in all of Plaintiff's response comes in paragraph 20 of the Telford Affidavit. In that paragraph, Plaintiff states

Lois immediately contacted the County's other attorneys, Tab Beall and the Law Offices of Purdue [sic], Brandon, Felder, Collins & Mott and informed them of my threats of a lawsuit. On June 2, 2011, Tab Beall called my Idaho number 208-473-5800 and we discussed the basis of any future suit I might bring. Mr. Beall deceptively represented to me that the county had the right to revoke any re-sale at any time up to the date the Trustee's Deed was recorded with the Smith County Clerk. I told Mr. Beall that he was wrong, I referred Mr. Beall to the Texas laws stating otherwise and I informed Mr. Beall that if he didnt [sic] withdraw from the County's conspiracy to commit various racketeering violations, I would include Mr. Beall and his lawfirm [sic] in my lawsuit.

*Telford Aff.*, ¶ 20. Plaintiff also purports to show a "magic jack" record of Mr. Beall's contact to

her, and a copy of Mr. Beall's address in Tyler Texas. *See Telford Affidavit*, Ex. 10.<sup>1</sup>

None of this establishes that there are specific facts showing that there is a genuine issue for trial. Plaintiff alleges, without any supporting foundational facts, that Tab Beall and Perdue Brandon are the County's law firm. This allegation directly contradicted Mr. Beall's statement in his Affidavit that Perdue Brandon represented the Tyler Independent School District, and that neither he nor Perdue Brandon provided legal services "to any person or entity named as a defendant in this matter." *Beall Aff.*, ¶¶ 23 and 25. Plaintiff has failed to put forward any evidence, other than her allegation, that Mr. Beall or Perdue Brandon represented Smith County. "If a Motion for Summary Judgment is supported by a particularized Affidavit, the opposing party may not rest upon bare allegations or denials in his pleadings." *Verbillis v. Dependable Appliance Co.*, 107 Idaho 335, 337 (Idaho Ct. App. 1984). Because Plaintiff can show no facts supporting her allegations that Defendants Beall and Perdue Brandon represented Smith County, there is no issue of fact, and no reason to deny summary judgment on this issue.

Further, there is nothing in Plaintiff's Affidavit that shows that Defendants Beall and Perdue Brandon in any way acted so as to create liability. As a matter of law, Mr. Beall calling Plaintiff and indicating that he believed that she could not prevail on a lawsuit is not a tort. Even if Mr. Beall made every comment that Plaintiff alleges he did, *see Telford Aff.*, ¶ 20, and was lying, there still is no cause of action. A recipient may not sue a commenter for merely making statements which the recipient believes to be incorrect. Plaintiff makes no allegation that she relied on Mr. Beall's statements and specifically indicates that she believed they were incorrect.

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<sup>1</sup> It is unclear from Plaintiff's affidavit what number Mr. Beall allegedly called, as she alleges early in ¶ 20 that he called 208-473-5800, and later in ¶ 20 that he called 208-473-4800. In any case, this testimony is inadmissible, as required by *I.R.C.P.* 56(e). Ms. Telford fails to state how she knows that Mr. Beall called either of those numbers. We have no information from Ms. Telford as to who witnessed him dial, or any statements that she does not have any cell phones or other phone numbers which are automatically forwarded to her alleged "magic jack" phone number in Idaho. Absent some evidence of this type, the Court has no way of knowing what number Mr. Beall dialed. Therefore, these statements are inadmissible, and should be stricken.

*Telford Aff.*, ¶ 20. There is no allegation that Defendants made comments about Plaintiff to others. Therefore, there is no cause of action that is stated or supported by the allegations in ¶ 20, and summary judgment should appropriately be entered.

To the extent that Plaintiff alleges that Mr. Beall was involved in a “conspiracy to commit various racketeering violations,” there is no such cause of action in Idaho for conspiracy. *See Mannos v. Moss*, 143 Idaho 927, 935 (2007). If all Mr. Beall did was to call Plaintiff, there is insufficient evidence to establish that he committed a racketeering violation. Therefore, such conspiracy claim should be dismissed.<sup>2</sup>

Finally, Plaintiff has failed to show that there is an issue of fact with regard to Defendants Tab Beall and Perdue Brandon related to any of the specifically pled causes of action. Plaintiff's first and second causes of action are for specific performance and breach of contract. *Complaint*, ¶¶ 16 – 22. Plaintiff has not alleged any facts which could support a conclusion that there is a contract between Plaintiff and Defendants. Plaintiff has not provided any facts which could support a conclusion that Defendants have any power to specifically perform a contract. Therefore, Plaintiff should not succeed on these causes of action, and summary judgment should be entered.

With regard to Plaintiff's third cause of action, Plaintiff has failed to present any evidence or argument that Defendants have violated the Idaho Consumer Protection Act, *I.C.* § 48-601, *et seq.* One phone call to Plaintiff to discuss a disagreement about the interpretation of Texas law does not show a violation of any of the prohibited acts under *I.C.* §§ 48-603 through

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<sup>2</sup> It should be noted that even though Plaintiff alleges in ¶ 20 of her affidavit that she believes the Defendants committed various racketeering violations, and that Mr. Beall and Perdue Brandon were part of a conspiracy to commit such, she has alleged no such causes of action in the Complaint. *See Complaint*, ¶¶ 1, 16 – 25 (no mention of racketeering in any of the specifically alleged causes of action). Therefore, these facts, even if true, do not support any facts which would prevent the entry of summary judgment, as they are not relevant to the causes of action plead in the Complaint.

48-603F. Therefore, Plaintiff's third cause of action should be dismissed, or in the alternative, summary judgment should be granted to the Defendants because Plaintiff has failed to prove any facts which would entitle her to recover under such act.

**B. DEFENDANTS' MOTION TO QUASH SHOULD BE GRANTED BECAUSE PLAINTIFF FAILS TO ADDRESS IT, AND THE COURT HAS ALREADY RULED ON THIS ISSUE.**

Defendants contend that Plaintiff's attempt to serve the Summons and Complaint through certified mail was ineffective pursuant to *I.R.C.P.* 4(d). Until proper service is effected, the Court has no jurisdiction over the Defendants. *Direct Mail Specialists, Inc. v. Eclat Computerized Technologies, Inc.*, 840 F.2d 685, 688 (9th Cir. 1988). Plaintiff failed to address this issue in her response documents. Therefore, Defendants contend that Plaintiff's failure to address an issue raised in Defendants' Motion to Dismiss, Motion to Quash, and Motion for Summary Judgment constitutes a waiver of that argument, and that Plaintiff essentially concedes Defendants' arguments. *See I.R.C.P.* 56(e).

Further, in the July 18, 2011 Memorandum Decision, the Court has already ruled that Plaintiff has failed to properly serve all of the Defendants as required by *I.R.C.P.* 4(d) and (e). *Memorandum Decision*, pp. 2 – 3. Therefore, Defendants request that the Court utilize its discretion to dismiss this case against these Defendants, or in the alternative, enter a formal order quashing service of the Summons and Complaint.

**C. PLAINTIFF HAS FAILED TO ADDRESS DEFENDANTS' MOTION TO DISMISS FOR IMPROPER VENUE.**

Defendants contend that, pursuant to *I.R.C.P.* 12(b)(3), this lawsuit should be dismissed because venue is improper in Oneida County. This issue was addressed in Defendants' briefing. *See Memo in Support*, pp. 8 – 9. Plaintiff failed to address this issue in her responsive affidavits.

Therefore, Defendants contend that Plaintiff has waived her argument, and should be deemed to have conceded that venue is improper in Oneida County. *I.R.C.P.* 56(e). It should be noted that half of the affidavits submitted by Plaintiff were from people out of Idaho. *See Neilsen Aff.*, ¶ 2 (Neilsen is a resident of Utah); *Greer Aff.*, ¶ 1 (signed in Texas).<sup>3</sup> Because Idaho is a *forum non conveniens* with regard to the property at issue, the majority of witnesses, and the Defendants, it is requested that this case be dismissed in Idaho so that it may be refiled in Texas where venue would be more appropriate.

**D. PLAINTIFF HAS FAILED TO SHOW THAT THERE IS PERSONAL JURISDICTION OVER DEFENDANTS TAB BEALL AND PERDUE BRANDON.**

Plaintiff does not address any of Defendants' arguments with regard to whether Defendant Tab Beall or Perdue Brandon have engaged in any actions that would subject Defendants to jurisdiction within the State of Idaho pursuant to the Idaho long arm statute, *I.C.* § 5-514.<sup>4</sup> Plaintiff also fails to present any facts that would show that Defendants purposely availed themselves of doing business in Idaho and that the litigation arose out of or related to the contacts with Idaho. *McAnally v Bonjac, Inc.*, 137 Idaho 488, 491 (2002). At best, Plaintiff can show that Tab Beall contacted Plaintiff telephonically while Plaintiff was located in Idaho. *Telford Aff.*, ¶ 20. Mr. Beall admitted that he contacted Plaintiff in his affidavit. *Beall Aff.*, ¶ 22. Mr. Beall contends that he was not made aware that Plaintiff resided in or was present in Idaho. *Beall Aff.*, ¶ 22. This, though, is not an issue that prevents the entry of summary judgment.

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<sup>3</sup> Ms. Vogt appears to be a resident of Washington County, Idaho. *Vogt Aff.*, p. 1. The only person for whom venue is convenient in Oneida County is Plaintiff.

<sup>4</sup> Plaintiff alleges in ¶ 3 of her affidavit a number of reasons why Defendants are subject to jurisdiction in Idaho. However, these are purely legal allegations, not facts which support a conclusion or inference that there is personal jurisdiction over the Defendants. Subsection (2) of *Telford Aff.* ¶ 3 merely lists a number of criminal statutes. As Plaintiff has not alleged that there is any criminal action pending in Idaho against Defendants under any of these statutes, nor has she attempted to claim liability under an independent cause of action based on these statutes, a list of statutes does not support a conclusion that there is personal jurisdiction. As to the other alleged sources of personal jurisdiction, Plaintiff fails to allege how any facts would support imposition of jurisdiction under these statutes. Therefore, summary judgment is appropriate on this issue.



Assuming that Mr. Beall had known Plaintiff was located in Idaho, it would not have made a difference. Calling someone in another state does not subject them to personal jurisdiction in the state any more than mailing payments for medical bills from an out of state provider creates personal jurisdiction in that state. *Saint Alphonsus Reg'l Medical Ctr. v. Wash.*, 123 Idaho 739, 744 (1993). Further, assuming that Plaintiff is correct, and there was a conspiracy to deprive her of property, the litigation arises out of the acts done in Texas, not the communication with Idaho. Therefore, Plaintiff cannot show, as a matter of law that the litigation arises out of or relates to the contacts with Idaho.

In summary, Defendants contend that one call to Plaintiff while located in Idaho does not create jurisdiction over Defendants. Plaintiff's claims against the Defendants should be dismissed because there is no personal jurisdiction over the Defendants.

**E. PLAINTIFF FAILS TO ADDRESS ANY OF DEFENDANTS' LEGAL ARGUMENTS, AND THEREFORE PLAINTIFF SHOULD BE DEEMED TO HAVE CONCEDED THESE ARGUMENTS.**

In their Memorandum in Support, Defendants presented a number of other arguments as to why Plaintiff has failed to state a cause of action against Defendants or otherwise why summary judgment should be granted. *See Memorandum in Support*, pp. 14 – 19. Plaintiff makes no attempt to respond to any of these arguments, either factually or legally. With regard to the Plaintiff's fourth cause of action for violation of the Utah Fraudulent Communication Act, *Complaint*, ¶ 25, Plaintiff does not even mention such cause of action in her affidavit. Therefore, Defendants request that Plaintiff's failure to address these arguments be deemed a waiver of her response, and that Plaintiff be deemed to concede these arguments. *I.R.C.P.* 56(e).

**F. PLAINTIFF HAS FAILED TO SHOW ANY CASE LAW SUPPORTING THE CONCLUSION THAT SHE CAN BRING A CLAIM AGAINST DEFENDANTS IN IDAHO.**

Plaintiff contends that *Chicot County v. Sherwood*, 148 U.S. 529 (1893) stands for the proposition that “private citizens may sue foreign municipalities in their forum state for injuries caused to private citizens of sister states [sic].” *Telford Aff.*, ¶ 22. In that case, citizens of New York sued Chicot County, Arkansas related to some bonds. *Id.* at 529. The suit was not brought in New York, but was brought in the United States Circuit Court for the Eastern District of Arkansas. *Id.* A majority of the discussion in the case was whether a state could deprive the Federal Court of jurisdiction over state subdivisions by state statute. *Id.* at 534. *Chicot County* provides no guidance on whether an Idaho resident can sue a Texas attorney and his employer in Idaho state court, and therefore has nothing to do with these Defendants. It is irrelevant, and Defendants contend that there is no personal jurisdiction over them in Idaho.

## II.

### CONCLUSION

Based on Plaintiff's failure to adequately respond to Defendants' various Motions, Defendants request that service of the Summons be quashed, or in the alternative, the case be dismissed for improper service, lack of personal jurisdiction, and failure to state a cause of action. In the alternative, Defendants request summary judgment be granted as Plaintiff has failed to show that there is an issue of material fact for which trial would be necessary on any of Plaintiff's causes of actions, and that Defendants are entitled to judgment as a matter of law.

DATED this 18 day of August, 2011.

ANDERSON, JULIAN & HULL LLP

By *Brian K. Julian*

Brian K. Julian, Of the Firm  
Attorneys for Defendants Tab Beall and  
Law Offices of Perdue, Brandon, Fielder,  
Collins and Mott, LLP

CERTIFICATE OF MAILING

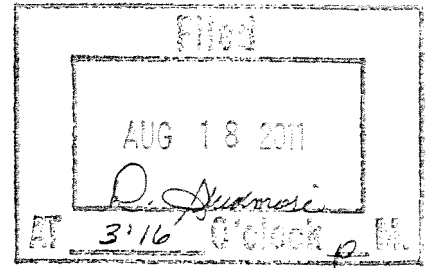
I HEREBY CERTIFY that on this 18 day of August, 2011, I served a true and correct copy of the foregoing REPLY IN SUPPORT OF MOTION TO DISMISS, MOTION TO QUASH AND MOTION FOR SUMMARY JUDGMENT by delivering the same to each of the following attorneys of record, by the method indicated below, addressed as follows:

Holli Telford  
Assignee to M.D. Diet Trust  
106212 S. Old Hwy 191  
Malad City, Idaho 83252

- U.S. Mail, postage prepaid
- Hand-Delivered
- Overnight Mail
- Facsimile

*Pro Se Plaintiff*

*Brian K. Julian*  
Brian K. Julian



Brian K. Julian, ISB No. 2360  
 Stephen L. Adams, ISB No. 7534  
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           [sadams@ajhlaw.com](mailto:sadams@ajhlaw.com)  
 Attorneys for Defendants Smith County and  
 Tax Assessor, Gary Barber

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT  
 OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ONIEDA

HOLLI TELFORD assignee to M.D. Diet Trust,

Plaintiff,

vs.

SANDRA COPELAND; ADMITRA MILLS;  
 JEANETTE HARMON; CODY KELLEY;  
 PAUL KELLEY JR; THE ESTATE OF PAUL  
 KELLEY SR; SMITH COUNTY TRUSTEE;  
 TAX ASSESSOR GARY BARBER; SMITH  
 COUNTY; ARTIE ROSS; ATTORNEY TAB  
 BEAELL; LAW OFFICES OF PURDUE  
 BRADON, FELDER, COLLINS & MOTT;  
 LISA NEILSON, AND DOES 1 – 10,

Defendants.

Case No. CV 2011-000066

REPLY IN SUPPORT OF MOTION  
 TO DISMISS, MOTION TO QUASH  
 AND MOTION FOR SUMMARY  
 JUDGMENT

COME NOW, the above Defendants Smith County, Texas and Gary Barber (hereinafter referred to collectively as "Defendants"), by and through their attorneys of record, Anderson, Julian & Hull, LLP, and hereby submit this Reply in Support of Defendants' Motion to Dismiss, Motion to Quash and Motion for Summary Judgment.

I.

LEGAL ARGUMENT

REPLY IN SUPPORT OF MOTION TO DISMISS, MOTION TO QUASH AND MOTION FOR SUMMARY JUDGMENT - 1

**A. PLAINTIFF HAS FAILED TO PRESENT ANY EVIDENCE OR LEGAL ARGUMENT CONTROVERTING DEFENDANTS' ARGUMENT THAT THE SUMMONS AND COMPLAINT WERE IMPROPERLY SERVED.**

Defendants' first argument in their Memorandum in Support was that Plaintiff's attempted service should be quashed or, alternatively, the case should be dismissed because Plaintiff improperly served Defendants. *Memorandum in Support of Motion to Dismiss, Motion to Quash and Motion for Summary Judgment* (hereinafter referred to as "Memo in Support"), pp. 5 - 7. Pursuant to the Idaho Rules, when a party files a Motion for Summary Judgment, the responding party has a duty to file affidavits made on personal knowledge which sets forth facts which would be admissible in evidence. *I.R.C.P. 56(e)*. Further,

an adverse party may not rest upon the mere allegations or denials of that party's pleadings, but the party's response, by affidavits or as otherwise provided in this rule, must set forth specific facts showing that there is a genuine issue for trial. If the party does not so respond, summary judgment, if appropriate, shall be entered against the party.

*Id.* Until proper service is effected, the Court has no jurisdiction over the Defendants. *Direct Mail Specialists, Inc. v. Eclat Computerized Technologies, Inc.*, 840 F.2d 685, 688 (9th Cir. 1988). Plaintiff has the burden of proof establishing that service was proper once service has been challenged. *Aetna Business Credit, Inc. v. Universal Decor & Interior Design, Inc.*, 635 F.2d 434, 435 (5th Cir. 1981). Plaintiff's responsive affidavits<sup>1</sup> do not address the argument made by Defendants with regard to improper service. Therefore, Defendants contend that Plaintiff's failure to address an issue raised in Defendants' Motion to Dismiss, Motion to Quash, and Motion for Summary Judgment constitutes a waiver of that argument, and that Plaintiff concedes Defendants' arguments. *See I.R.C.P. 56(e)*.

Further, in the July 18, 2011 Memorandum Decision, the Court has already ruled that

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<sup>1</sup> There was no responsive briefing from Plaintiff. She only filed affidavits signed by herself, Kim Vogt, Elham Neilsen, and L.A. Greer.

Plaintiff has failed to properly serve all of the Defendants as required by *I.R.C.P.* 4(d) and (e). *Memorandum Decision*, pp. 2 – 3. Therefore, Defendants request that the Court utilize its discretion to dismiss this case against these Defendants, or in the alternative, enter a formal order quashing service of the Summons and Complaint to these Defendants.

**B. PLAINTIFF HAS FAILED TO PRESENT ANY ARGUMENT WHY VENUE WOULD BE APPROPRIATE IN ONEIDA COUNTY.**

Defendants' second argument in their Memorandum in Support was that venue is improper in Oneida County. *Memo in Support*, pp. 7 – 9. Plaintiff failed to address this issue in her responsive affidavits. Therefore, Defendants contend that Plaintiff has waived her argument, and should be deemed to have conceded that venue is improper in Oneida County. *I.R.C.P.* 56(e). It should be noted that half of the affidavits submitted by Plaintiff were from people out of Idaho. *See Neilsen Aff.*, ¶ 2 (Neilsen is a resident of Utah); *Greer Aff.*, ¶ 1 (signed in Texas).<sup>2</sup> Because Idaho is a forum non conveniens with regard to the property at issue, the majority of witnesses, and the Defendants, it is requested that this case be dismissed in Idaho so that it may be refiled in Texas where venue would be more appropriate.

**C. PLAINTIFF HAS FAILED TO SHOW THAT PERSONAL JURISDICTION EXISTS OVER DEFENDANTS IN IDAHO.**

Defendants' third argument in their Memorandum in Support was that Idaho Courts have no personal jurisdiction over Defendants. *Memo in Support*, pp. 9 – 13. In order for personal jurisdiction to exist, Plaintiff must prove first that Defendants' actions fall within the scope of the long arm statute, *I.C.* § 5-514. *Blimka v. My Web Wholesaler, LLC.*, 143 Idaho 723, 726 (2007). If the actions are covered by the long-arm statute, then the Court must determine whether jurisdiction comports with the standards of due process under the Constitution. *Id.*

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<sup>2</sup> Ms. Vogt appears to be a resident of Washington County, Idaho. *Vogt Aff.*, p. 1. The only person for whom venue is convenient in Oneida County is Plaintiff.

With regard to the first step, Plaintiff has failed to show that any of Defendants' actions are within the reach of the long-arm statute. There is no question of fact but that the property at issue is in Texas. Therefore, *I.C.* § 5-514(c) does not apply. Plaintiff has failed to present any evidence that the lawsuit involves contracting for insurance, and therefore, *I.C.* § 5-514(d) does not apply. Plaintiff has failed to present any evidence that the lawsuit involves maintenance of matrimonial domicile or divorce. Therefore *I.C.* § 5-514(e) does not apply. This case is not about sexual intercourse, and Plaintiff has failed to bring up any disputed facts about that issue. Therefore, *I.C.* § 5-514(f) does not apply. As for the commission of a tortious act within the state, there is no evidence of such having occurred. Plaintiff admits that she was purchasing land in Texas, and that she went to Texas a number of times in pursuit of that goal. *Telford Aff.*, ¶¶ 5 – 6, 12 – 14, 18 – 19. Defendants state that they've never been to Idaho, and Smith County owns no property in Idaho, nor does it do any work in Idaho. *Barber Aff.*, ¶¶ 4 – 7; *Springerley Aff.*, ¶¶ 4 – 6. Even in Plaintiff's Complaint and Affidavit, there is nothing alleged that happened in Idaho. Plaintiff alleges that she sent the bid documents for the property to Smith County, Texas, where they were opened. *Complaint*, ¶ 6; *Telford Aff.*, ¶¶ 10 – 11 (Plaintiff had Vogt and appear at the tax office in Texas for the opening of the bid). Plaintiff admits that she was purchasing the property for a Utah resident. *Telford Aff.*, ¶ 4; *Neilsen Aff.*, ¶ 2. Plaintiff has failed to show that any tortious activity took place in Idaho, and therefore *I.C.* § 5-514(b) does not apply.

Finally, there is no evidence of the transaction of any business within the state of Idaho. Plaintiff spends a great deal of time trying to show that Defendants knew and were aware that Plaintiff was in Idaho. *Telford Aff.*, ¶¶ 6, 9, 11, Exs. 1, 2, 5. However, even if Defendants did have knowledge that Plaintiff was located in Idaho, it still does not establish that any business was transacted in Idaho. Plaintiff admits that she submitted the bid to Smith County, Texas, that she travelled numerous times to Smith County Texas, and that the property was in Smith County,

Texas. There is nothing in the evidence that shows that there was any business which occurred in Idaho. Further, business is defined as “the purpose of realizing a pecuniary benefit.” *I.C.* § 5-514(a). There is no evidence that the County derived any sort of pecuniary benefit from a tax sale, particularly one done subject to a sealed bid process. Under the statutory definition, “business” must be done to enhance “the business purpose or objective or any part thereof of such person, firm, company, association, or corporation.” *Id.* Smith County does not qualify as an entity that can do business under this definition, as it is a governmental subdivision.

Based on the foregoing, Plaintiff cannot show that the long-arm statute applies. There simply is no evidence which, taken in a light most beneficial to Plaintiff, can show jurisdiction under the Idaho statute. The same is true for due process considerations. There must be minimum contacts between Defendants and the State of Idaho. *Blimka*, 143 Idaho at 727. Plaintiff can provide no evidence of such. There is no evidence that Defendants purposefully availed themselves of doing business in Idaho. *McAnally v. Bonjac, Inc.*, 137 Idaho 488, 491 (2002). Even if Defendants knew that Plaintiff resided in Idaho<sup>3</sup>, and sent communications to her in Idaho, that is insufficient to create jurisdiction. *See Saint Alphonsus Reg'l Medical Ctr. v. Wash.*, 123 Idaho 739, 744-745 (1993) (Washington state sending communications and payments to medical providers in Idaho was not sufficient to establish minimum contacts). It was Plaintiff herself who initiated contact with Smith County, and a majority of her contacts with Smith County were in person in Texas, or over the phone.<sup>4</sup> All of the action relevant to this case took place in Texas. Therefore, it is impossible for the litigation to arise out of or relate to the contacts with Idaho (if any). *McAnally*, 137 Idaho at 491. Defendants could not reasonably have

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<sup>3</sup> Defendants reject the allegation that they knew Plaintiff resided in Idaho. Defendants stand by the versions of the documentation attached to the *Springerley Aff.* and *Barber Aff.*, which do not contain any of Plaintiff's Idaho information. If Plaintiff wanted Defendants to know that she was in Idaho, she should not have listed her address on the bid forms as a Texas address. *Barber Aff.*, Exs. A and C. In any case, it is irrelevant, as knowledge that a person is in Idaho with regard to a bid for property in Texas does not create jurisdiction in Idaho.



anticipated being haled into Idaho courts, and therefore due process considerations should be determined to prevent jurisdiction arising in Idaho. Defendants request that the Court dismiss Plaintiff's claims because there is no jurisdiction over the Defendants in Idaho.

**D. PLAINTIFF HAS FAILED TO RESPOND TO DEFENDANTS' OTHER ARGUMENTS.**

Defendants' remaining argument in their Memorandum in Support contended that Plaintiff either had not stated a claim, or otherwise failed to establish a prima facie case as a matter of law. *Memo in Support*, pp. 13 – 16. Plaintiff makes no attempt to respond to any of these arguments, either factually or legally. With regard to the Plaintiff's fourth cause of action for violation of the Utah Fraudulent Communication Act, *Complaint*, ¶ 25, Plaintiff does not even mention such cause of action in her affidavit. Therefore, Defendants request that Plaintiff's failure to address these arguments be deemed a waiver of her response, and that Plaintiff be deemed to concede these arguments. *I.R.C.P.* 56(e).

**E. PLAINTIFF HAS FAILED TO SHOW ANY CASE LAW SUPPORTING THE CONCLUSION THAT SHE CAN BRING A CLAIM AGAINST A TEXAS COUNTY IN IDAHO.**

Plaintiff contends that *Chicot County v. Sherwood*, 148 U.S. 529 (1893) stands for the proposition that “private citizens may sue foreign municipalities in their forum state for injuries caused to private citizens of sister states [sic].” *Telford Aff.*, ¶ 22. It is unclear from this confusing statement whether Plaintiff is alleging that *Chicot County* stands for the proposition that she can sue a Texas county in Idaho or in Texas. Regardless, nothing in *Chicot* stands for the proposition that she can sue a Texas county in Idaho. In *Chicot County*, citizens of New York sued Chicot County, Arkansas related to some bonds. *Id.* at 529. The suit was not brought in New York, but was brought in the United States Circuit Court for the Eastern District of Arkansas. *Id.* A majority of the discussion in the case was whether a state could deprive the

Federal Court of jurisdiction over state subdivisions by state statute. *Id.* at 534. This analysis is irrelevant to this case.

The law is clear that governments have the right to waive sovereign immunity. *See Sterling v. Bloom*, 111 Idaho 211, 258 (1986). However, sovereign immunity is limited by the statute that abrogates it, and in both Idaho and Texas, the law requires that the case against a governmental subdivision be brought in the county in which the governmental subdivision is located. *I.C.* §§ 6-915 and 5-403; *Tex. Civ. Prac. & Rem. Code*, § 15.015. Therefore, there is no legal basis for Plaintiff to bring a state law claim against a Texas County in an Idaho court.

**F. PLAINTIFF'S AFFIDAVITS CREATE CONCERNS OF VIOLATION OF IDAHO STATE LAW, INCLUDING ILLEGAL PRACTICE OF LAW.**

Plaintiff makes it clear that she was approached by Elham Neilsen to purchase property in Texas on Neilsen's behalf. *Telford Aff.*, ¶ 4; *Neilsen Aff.*, ¶¶ 2 – 5. There was a contractual arrangement between Neilsen and Telford relating to the purchase of the property. *Neilsen Aff.*, ¶ 5. This is of concern because of the potential ramifications that result from such arrangement. It could show that Plaintiff was acting as Neilsen's agent for the purchase of the property, and as a result Plaintiff is not the real party in interest. Thus, the case would be subject to dismissal pursuant to *I.R.C.P.* 17(a), as the real party in interest (i.e. the party who was purchasing the property through Plaintiff as an agent) was Elham Neilsen. *Neilsen Aff.*, ¶¶ 3, 5. Alternately, if Plaintiff was not Neilsen's purchasing agent, there is the possibility that Plaintiff was acting as Neilsen's attorney assisting in purchasing the property. This is a violation of Idaho law, as there is no evidence that Plaintiff is licensed to practice law in the State of Idaho.<sup>5</sup> *I.C.* § 3-104. Unauthorized practice of law is also a violation of Utah Law (where Neilsen lived) and Texas law (where the property was purchased on behalf of Neilsen). *See Utah R. Judicial Admin Rule*

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<sup>5</sup> A search of the Texas and Utah Bar directories for Ms. Telford did not turn up any evidence that she is licensed as an attorney in either of those states.

14-802; *Tex. Gov't Code* § 81.101, *et seq.* If Plaintiff is now suing with regard to property she is contractually obligated to purchase on behalf of another person, again there is a concern that she is practicing law without a license. An appropriate remedy under these circumstances would be to dismiss the case. *Indian Springs LLC v. Indian Springs Land Inv., LLC*, 147 Idaho 737, 745 (2009). Based on the information Plaintiff has submitted to the Court, there are sufficient grounds to dismiss this case and Defendants request that the Court enter such an order.

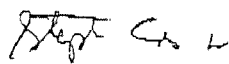
## II.

### CONCLUSION

Based on Plaintiff's failure to adequately respond to Defendants' various Motions, Defendants request that service of the Summons be quashed, or in the alternative, the case be dismissed for improper service, lack of personal jurisdiction, and failure to state a cause of action. In the alternative, Defendants request summary judgment be granted as Plaintiff has failed to show that there is an issue of material fact for which trial would be necessary on any of Plaintiff's causes of actions, and Defendants contend that they are entitled to judgment as a matter of law.

DATED this 18 day of August, 2011.

ANDERSON, JULIAN & HULL LLP

By   
Brian K. Julian, Of the Firm  
Attorneys for Defendants Smith County and  
Tax Assessor, Gary Barber

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 18 day of August, 2011, I served a true and correct copy of the foregoing REPLY IN SUPPORT OF MOTION TO DISMISS, MOTION TO QUASH AND MOTION FOR SUMMARY JUDGMENT by delivering the same to each of the following attorneys of record, by the method indicated below, addressed as follows:

Holli Telford  
Assignee to M.D. Diet Trust  
106212 S. Old Hwy 191  
Malad City, Idaho 83252

- U.S. Mail, postage prepaid
- Hand-Delivered
- Overnight Mail
- Facsimile

*Brian K. Julian*

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Brian K. Julian