

9-7-2012

Campbell v. Kvamme Clerk's Record v. 4 Dckt. 39650

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VII 4 of 5

IN THE
SUPREME COURT
OF THE
STATE OF IDAHO

V. LEO CAMPBELL and KATHLEEN CAMPBELL

VOL. IV of IV Plaintiff _____ and
 Appellant _____ and
 Cross-Respondent _____

JAMES C. KVAMME and DEBRA KVAMME.

COPY Defendant _____ and
 Respondent _____ and
 Cross-Appellant _____

Appealed from the District Court of the Seventh _____ Judicial
District of the State of Idaho, in and for Bonneville _____ County
Hon. Jon J. Shindurling _____, District Judge

Kipp Manwaring _____

PO Box 50271, Idaho Falls, ID 83405 _____
Attorney for Appellant and Cross-Respondent

Attorney General's Office _____

Statehouse Mall, Room 210, Boise, ID 83720 _____
Attorney for Respondent and Cross-Appeal

Filed this SEP day of 2012, 20_____,
Clerk
By _____ Deputy
Supreme Court _____ Court of Appeals

29650

IN THE SUPREME COURT OF THE STATE OF IDAHO

V. LEO CAMPBELL and KATHLEEN CAMPBELL,
Plaintiffs/Appellants/ Cross-Respondents,
vs.
JAMES C. KVAMME and DEBRA KVAMME,
Defendants/Respondents/ Cross-Appellants.

Case No. CV-2010-3879

Docket No. 39650

VOLUME IV of IV

CLERK'S RECORD ON APPEAL

Appeal from the District Court of the Seventh Judicial District of the State of Idaho, in and for the County of Bonneville

HONORABLE JON J. SHINDURLING, District Judge.

Attorney for Appellant/Cross-Respondent

Attorney for Respondent/Cross-Appellant

Kipp Manwaring
PO Box 50271
Idaho Falls, ID83405

Justin R. Seamons
414 Shoup Avenue
Idaho Falls, ID 83402

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BONNEVILLE COUNTY
IDAHO

11 NOV -4 PM 4:46

Justin R. Seamons
414 Shoup Avenue
Idaho Falls, ID 83402
Telephone Number: (208) 542-0600
Facsimile Number: (208) 529-4166
Idaho State Bar Number: 3903

Attorney for Defendants

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

V. LEO CAMPBELL and KATHLEEN)
CAMPBELL,)
)
Plaintiffs,)
)
vs.)
)
JAMES C. KVAMME and DEBRA)
KVAMME,)
)
Defendants.)
_____)

Case No. CV 10-3879

**AFFIDAVIT IN SUPPORT OF
MEMORANDUM OF COSTS**

State of Idaho)
) ss.
County of Bonneville)

I, Justin R. Seamons, state and declare the following under oath:

1. I represent the Defendants in this case.
2. The total amount of attorney's fees for the performance of the legal services in this case was **\$51,152.00**.
3. The STATEMENTS, attached hereto, itemize the costs in this case, as well as the legal services that I performed in connection with this case, including the applicable dates of service, hours of service, and rates.

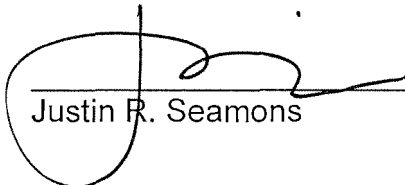
4. The performance of the foregoing services was necessary. See I.R.C.P. 54(e)(3)(A).

5. The foregoing amount of attorney's fees is reasonable. In this regard, I possess the skills that the proper performance of the foregoing services required; in particular, I have experience and I am able to perform legal services in the fields of law that underlaid this case. See I.R.C.P. 54(e)(3)(C).

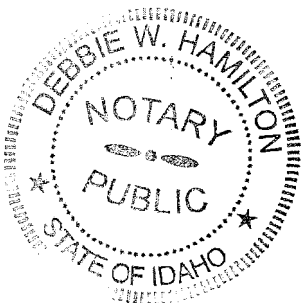
6. I charge a fixed fee or hourly rate for the performance of such services, the amount of which is similar to that which attorneys at Idaho Falls, Idaho, charge for the performance of such services. See I.R.C.P. 54(e)(3)(D) and (E).

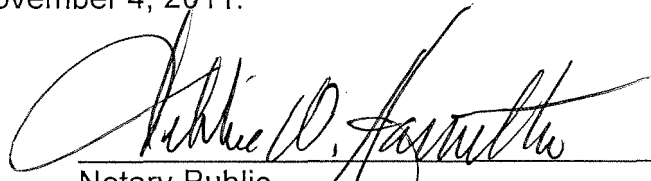
7. The Defendants obtained a favorable result in this case. See I.R.C.P. 54(e)(3)(G) and (L).

Dated November 4, 2011.


Justin R. Seamons

Subscribed and sworn on November 4, 2011.

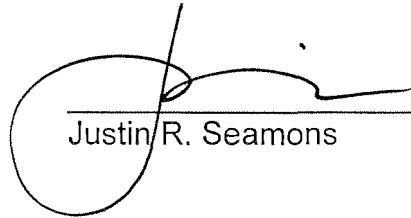



Notary Public
Commission expires: 04/11/2017
Residing at: Idaho Falls, ID

CERTIFICATE OF SERVICE

I served a copy of the foregoing AFFIDAVIT IN SUPPORT OF MEMORANDUM
OF COSTS on the following person on November 4, 2011:

Kipp L. Manwaring
HAND DELIVERED



Justin R. Seamons

JUSTIN R. SEAMONS

ATTORNEY AT LAW

SHOUP EXECUTIVE SUITES

414 Shoup Avenue
Idaho Falls, ID 83402

Office: (208) 542-0600
Facsimile: (208) 529-4166

James Craig Kvamme and Debra Kvamme
10278 North 15th East
Idaho Falls, ID 83401



STATEMENT

Re: Leo Campbell.

<u>Date of Statement</u>	<u>Amount Due</u>	<u>Due Date</u>
July 1, 2010	\$64.09	July 15, 2010

SUMMARY

<u>Date</u>	<u>Description of Services</u>	<u>Hours</u>
06/02/10	Meet with Craig Kvamme re response to letter.	0.0
06/02/10	Prepare letter to Kipp Manwaring.	0.25
06/11/10	Review letter from Kipp Manwaring re conflict.	0.1
06/14/10	Meet with Craig Kvamme re status of case and new survey.	0.0
06/18/10	Review survey from Craig Kvamme.	0.0
		0.35

- Attorney's Fees: \$63.00 (\$180.00 per hour x hours)
 - Photocopies: \$0.21
 - Postage: \$0.88
- \$64.09

JUSTIN R. SEAMONS

ATTORNEY AT LAW

SHOUP EXECUTIVE SUITES

414 Shoup Avenue
Idaho Falls, ID 83402

Office: (208) 542-0600
Facsimile: (208) 529-4166

James Craig Kvamme and Debra Kvamme
10278 North 15th East
Idaho Falls, ID 83401

STATEMENT

Re: Leo Campbell.

<u>Date of Statement</u>	<u>Amount Due</u>	<u>Due Date</u>
August 1, 2010	\$1,015.76	August 15, 2010

SUMMARY

<u>Date</u>	<u>Description of Services</u>	<u>Hours</u>
07/07/10	Review transmittal letter from office of Kipp Manwaring re filing of complaint.	0.0
07/07/10	Review Summons.	0.0
07/07/10	Review and execute Acknowledgment of Service of Process; calendar due date for answer.	0.1
07/07/10	Review complaint.	0.1
07/07/10	Meet with Craig Kvamme re course of action.	0.0
07/07/10	Telephone call to Kipp Manwaring re status of case and possibility of settlement.	0.1
07/15/10	Telephone call with Craig Kvamme re status of case and possible witnesses.	0.0

07/19/10 Telephone call with Craig Kvamme re status of case and course of action re discovery. 0.0

07/27/10 Review complaint; research re issues and claims; telephone calls with Craig Kvamme re facts and issues. Prepare Answer, Counterclaim, and Demand for Jury Trial. 5.0

5.3

- Attorney's Fees: \$954.00 (\$180.00 per hour x hours)
 - Photocopies: \$3.15
 - Postage: \$0.61
 - Filing Fee: \$58.00 (Check No. 4573)
- \$1,015.76

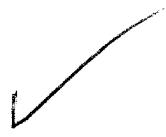
JUSTIN R. SEAMONS

ATTORNEY AT LAW

SHOUP EXECUTIVE SUITES

414 Shoup Avenue
Idaho Falls, ID 83402

Office: (208) 542-0600
Facsimile: (208) 529-4166



James Craig Kvamme and Debra Kvamme
10278 North 15th East
Idaho Falls, ID 83401

STATEMENT OF COSTS

Re: Campbell v. Kvamme, Case No. CV 10-3879.

<u>Date of Statement</u>	<u>Amount Due</u>	<u>Due Date</u>
August 1, 2011	\$1,903.61	August 15, 2011

SUMMARY

- Photocopies: \$112.49
- Postage: \$78.12
- Chain of Title Report: \$150.00 (Check No. 4657)
- Deposition Fee: \$100.00 (Check No. 4756)
- Recorded Documents: \$2.00 (01/25/11)
- Recorded Documents: \$2.00 (01/26/11)
- Recorded Documents: \$14.00 (05/27/11)
- Deposition Fee: \$270.00 (Check No. 4848)
- Mediation Fee: \$270.00 (Check No. 4848)
- Deposition Fee: \$905.00 (Check No. 4878)

\$1,903.61

JUSTIN R. SEAMONS

ATTORNEY AT LAW

SHOUP EXECUTIVE SUITES

414 Shoup Avenue
Idaho Falls, ID 83402

Office: (208) 542-0600
Facsimile: (208) 529-4166

James Craig Kvamme and Debra Kvamme
10278 North 15th East
Idaho Falls, ID 83401

STATEMENT OF COSTS

Re: Campbell v. Kvamme, Case No. CV 10-3879.

<u>Date of Statement</u>	<u>Amount Due</u>	<u>Due Date</u>
November 4, 2011	\$250.66	November 4, 2011

SUMMARY

- Deposition Fee: \$154.71 (Check No. 5126)
 - Recording Fee: \$10.00 (09/19/11)
 - Photocopies: \$65.07
 - Postage: \$0.88
 - Certification Fee: \$1.00
 - Recording Fee: \$19.00 (Check No. 5255)
- \$250.66

JUSTIN R. SEAMONS

ATTORNEY AT LAW

SHOUP EXECUTIVE SUITES

414 Shoup Avenue
Idaho Falls, ID 83402

Office: (208) 542-0600
Facsimile: (208) 529-4166

James Craig Kvamme and Debra Kvamme
10278 North 15th East
Idaho Falls, ID 83401

STATEMENT OF ATTORNEY'S FEES

Re: Campbell v. Kvamme, Case No. CV 10-3879.

<u>Date of Statement</u>	<u>Amount Due</u>	<u>Due Date</u>
November 4, 2011	\$50,135.00	November 4, 2011

SUMMARY

<u>Date</u>	<u>Description of Services</u>	<u>Hours</u>
08/16/10	Telephone call from Craig Kvamme re threat from Leo Campbell to stop access and call police. Telephone call with Kipp Manwaring.	0.25
08/18/10	Review message from Kipp Manwaring re rejection of offer of settlement.	0.1
08/18/10	Review letter from Kipp Manwaring re status of case.	0.1
08/18/10	Prepare letter to Kipp Manwaring.	0.5
08/18/10	Review Reply to Counterclaim.	0.1
08/18/10	Review transmittal letter from office of Kipp Manwaring.	0.1
08/18/10	Review Notice of Service of discovery; calendar due date.	0.1
08/19/10	Review Notice of Hearing re Status Conference.	0.1

08/20/10	Discuss status of case with Craig Kvamme, including discovery and possible new counterclaim.	0.0
09/06/10	Review pleadings and discovery from Kipp Manwaring; legal research re elements of claims, defenses, and issues; prepare Interrogatories, Requests for Production, and Notice of Service. Prepare outline of issues.	5.0
09/10/10	Meet with Craig Kvamme re settlement possibilities.	0.1
09/13/10	Telephone call to Kipp Manwaring; leave message.	0.0
09/13/10	Telephone call with Kipp Manwaring re new settlement possibility.	0.1
09/17/10	Telephone call to Kipp Manwaring; leave message.	0.0
09/20/10	Prepare Answers to Requests for Admission; telephone call with Craig Kvamme re facts of case; review documents and site map.	3.0
09/20/10	Prepare Notice of Service.	0.25
09/20/10	Prepare letter to Kipp Manwaring re discovery and settlement.	0.25
09/21/10	Telephone call from Craig Kvamme re status of case.	0.0
09/27/10	Telephone call to Kipp Manwaring; leave message re possibility of settlement and status of case.	0.0
09/27/10	Telephone call from Kipp Manwaring re status of case and possibility of settlement. Update Craig Kvamme.	0.15
09/30/10	Review letter from Kipp Manwaring.	0.1
09/30/10	Telephone call to Kipp Manwaring; leave message re letter.	0.1
09/30/10	Review Notice of Compliance.	0.1
10/04/10	Meet with Craig Kvamme re letter from Kipp Manwaring; prepare response.	0.75

10/05/10	Review Answers to Interrogatories and Responses to Requests for Production; prepare outline of issues and chain of title.	2.0
10/07/10	Meet with Craig Kvamme re status of case, facts and issues, and course of action. Prepare answers to interrogatories.	7.0
10/08/10	Research files and public records at Bonneville County Assessor's Office, Mapping Department, and Recorder's Office. Meet with Idaho Title & Trust re chain of title. Prepare responses to requests for production.	7.5
10/08/10	Telephone calls to Craig Kvamme; leave messages.	0.0
10/11/10	Meet with Craig Kvamme re discovery; revise documents.	1.5
10/11/10	Prepare Notice of Service.	0.25
10/11/10	Prepare letter to Kipp Manwaring re repair of fence or course of action.	0.25
10/11/10	Prepare letter to Kipp Manwaring re removal of fence or course of action.	0.25
10/12/10	Meet with Craig Kvamme re supplemental documents.	0.25
10/12/10	Prepare Supplemental Response to Request No. 4.	0.25
10/12/10	Prepare for and attend scheduling conference.	0.5
10/12/10	Meet with Kim Leavitt re issues and preparation of documents re boundaries; he will provide an estimate.	2.0
10/13/10	Review order; calendar trial and pretrial conference.	0.1
10/15/10	Review scheduling order, mediation order, and minute entry; calendar dates.	0.5
10/15/10	Meet with Craig Kvamme re status of case.	0.0
10/15/10	Meet with Heather Elverud re preparation of chain of title.	0.5
10/19/10	Review chain of title report.	0.1
10/21/10	Review letter from Idaho Title & Trust, Inc.	0.1

10/21/10	Review amended chain of title report.	0.15
10/21/10	Receive and pay invoice for amended chain of title report.	0.1
10/22/10	Telephone call from office of Kipp Manwaring re depositions; he will schedule depositions on 11/30/10.	0.1
10/22/10	Second telephone call from office of Kipp Manwaring re depositions; he will depose Mr. and Mrs. Kvamme; instead, he wants me to schedule my depositions; I am still awaiting a survey and will schedule my depositions when ready, not before.	0.1
10/22/10	Telephone call to Kim Leavitt; leave message.	0.0
10/25/10	Telephone call with Kim Leavitt re estimated cost of preparing documents.	0.1
10/29/10	Meet with Craig Kvamme re status of case and use of Kim Leavitt to prepare documents.	0.0
10/29/10	Meet with Kim Leavitt; he will prepare documents and call me in approximately two weeks.	1.25
11/01/10	Review file and list of prospective witnesses; prepare letter to Kipp Manwaring re scheduling of depositions.	0.5
11/15/10	Review status of file; prepare letter to Kipp Manwaring re depositions.	0.15
11/16/10	Review letter from Kipp Manwaring.	0.1
11/16/10	Review Motion for Protective Order.	0.1
11/16/10	Review Affidavit in Support.	0.1
11/16/10	Review Notice of Hearing; calendar hearing.	0.1
11/16/10	Research re protective orders.	0.5
11/16/10	Telephone call with Craig Kvamme re course of action.	0.0
11/19/10	Review pleadings, discovery responses, and files; prepare Notice of Deposition and Subpoena re Leo Campbell.	1.5

11/19/10	Prepare letter to Kipp Manwaring re scheduling of depositions and responding to discovery requests.	0.5
11/22/10	Review issues re fence lines, including surveys, evasive and incomplete discovery, and preliminary injunction; outline course of action.	1.0
11/22/10	Review photographs from Craig Kvamme.	0.15
11/22/10	Review facsimile from Kipp Manwaring re addresses for discovery; prepare reply.	0.15
11/24/10	Review transmittal letter supplemental discovery.	0.1
11/24/10	Review Notice of Compliance.	0.1
11/24/10	Review Supplemental discovery responses.	0.1
11/29/10	Review rules of evidence and civil procedure re motion for protective order. Prepare Objection to Affidavit of Counsel. Prepare Notice of Intent to Cross-Examine Witnesses.	1.0
11/30/10	Review e-mail from Kipp Manwaring re deposition; prepare reply.	0.15
12/01/10	Review e-mail from Kipp Manwaring re deposition; prepare reply. Prepare letter to Kipp Manwaring re possibility of settlement. Meet with Craig Kvamme re deposition of Leo Campbell. Prepare letter to Kipp Manwaring re possibility of settlement. Review e-mail from Kipp Manwaring: No settlement. Prepare reply. Review Motion to Shorten Time, Notice of Hearing, and proposed form of order. Review Amended Notice of Hearing re protective order. Prepare e-mail to Kipp Manwaring. Prepare for deposition of Leo Campbell; prepare deposition outline pages 1-13.	7.5
12/02/10	Prepare for hearing re protective order. Attend hearing. Meet briefly with Kipp Manwaring; plaintiffs are unwilling to settle.	1.0
12/02/10	Telephone call with Craig Kvamme re outcome of hearing; plaintiffs not interested in settlement; and deposition will begin as scheduled.	0.0

12/02/10	Legal research re allegations in complaint re attorney's fees and bases of recovery.	2.0
12/02/10	Prepare for deposition of Leo Campbell; research re unavailability to attend or testify at trial; prepare deposition outline pages 14-16.	2.0
12/03/10	Prepare for deposition; attend deposition of Leo Campbell. Meet with Kipp Manwaring.	4.0
12/03/10	Meet with Craig Kvamme re deposition and possible ways to settle case.	0.0
12/08/10	Review Minute Entry.	0.1
12/08/10	Review Order.	0.1
12/14/10	Prepare e-mail to Kipp Manwaring re next available dates for continued deposition of Leo Campbell.	0.1
12/14/10	Review quote to move pivot.	0.1
12/15/10	Review e-mail from Kipp Manwaring re deposition; prepare reply.	0.1
12/15/10	Review transmittal letter re discovery.	0.1
12/15/10	Review Notice of Compliance.	0.1
12/15/10	Review supplemental responses to requests for production, including attached documents.	0.25
12/29/10	Telephone call from Kipp Manwaring's office re new dates for continued deposition of Leo Campbell.	0.15
12/30/10	Review transmittal letter from T & T Court Reporting.	0.1
12/30/10	Review invoice for first deposition.	0.1
12/30/10	Meet with T & T Court Reporting re allocation of first invoice.	0.15
12/30/10	Prepare Notice of Continued Deposition.	0.25
12/30/10	Review scheduling order and mediation order; prepare letter to Kipp Manwaring re proposed mediators.	0.5

01/03/11	Prepare letter to Kipp Manwaring re deposition schedule.	0.15
01/07/11	Prepare letter to Kipp Manwaring re deposition schedule.	0.15
01/07/11	Prepare letter to Kipp Manwaring re mediation.	0.15
01/07/11	Review letter from Kipp Manwaring re alternate deposition dates.	0.1
01/07/11	Telephone call with Kipp Manwaring to confirm second continued deposition date, possible mediation, and possible deposition of Mrs. Campbell.	0.15
01/07/11	Prepare Notice of Continued Deposition.	0.25
01/07/11	Meet with T & T Court Reporters re deposition schedule.	0.25
01/07/11	Telephone calls to Craig Kvamme.	0.0
01/07/11	Prepare letter to Kipp Manwaring re possible deposition of Ms. Campbell.	0.25
01/10/11	Telephone call with Clerk of the Court re date and time for hearing; telephone call with Craig Kvamme.	0.25
01/10/11	Prepare Motion to Appoint Mediator.	0.25
01/10/11	Prepare Notice of Hearing.	0.25
01/10/11	Review letter from Kipp Manwaring re possible mediators.	0.1
01/10/11	Research Judge Dunn; prepare letter to Kipp Manwaring, confirming Alan Stephens as mediator.	0.15
01/10/11	Telephone call with Clerk of the Court to cancel hearing.	0.1
01/12/11	Review e-mail from Kipp Manwaring re possible deposition of Kathleen Campbell; prepare reply.	0.15
01/12/11	Review e-mail from Kipp Manwaring re mediation dates; prepare reply.	0.15
01/12/11	Telephone call with Alan Stephens re mediation.	0.15
01/12/11	Prepare letter to Alan Stephens to confirm mediation.	0.15

01/12/11	Telephone call with Craig Kvamme re mediation.	0.0
01/14/11	Review letter from Alan Stephens re mediation.	0.1
01/14/11	Review Mediation Rules and Procedures.	0.1
01/14/11	Review Mediation Agreement.	0.1
01/14/11	Meet with Craig Kvamme re Mediation Agreement and status of case.	0.15
01/14/11	Review scheduling order and status of discovery. Prepare supplemental Interrogatories, supplemental Requests for Production, and Notice of Service.	1.0
01/14/11	Telephone call with Marcia re new date and time for mediation.	0.1
01/14/11	Telephone call to office of Kipp Manwaring; no answer.	0.0
01/14/11	Prepare letter to Kipp Manwaring and Alan Stephens re new date and time for mediation.	0.15
01/14/11	Prepare letter to Kipp Manwaring and Alan Stephens re execution of Mediation Agreement.	0.15
01/24/11	Review documents for continued deposition of Leo Campbell. Telephone calls with T & T Court Reporters. Meet with Craig Kvamme. Prepare outline of key issues. Prepare outline for continued deposition.	5.0
01/25/11	Review documents for discovery. Prepare Supplemental Answer and Supplemental Response to discovery. Prepare Disclosure of Expert Witnesses. Prepare Notice of Service.	1.5
01/25/11	Telephone call to Kim Leavitt.	0.0
01/25/11	Review transmittal letter from Kipp Manwaring re supplemental discovery responses.	0.1
01/25/11	Review Notice of Compliance.	0.1
01/25/11	Review Supplemental Answers and Responses.	0.1
01/25/11	Prepare questions and exhibits for continued deposition.	8.5

01/26/11	Prepare for and take continued deposition of Leo Campbell.	3.5
01/27/11	Telephone call from T & T Court Reporters; meet with Bryan Smith re scheduling conflict; meet with Kipp Manwaring re scheduling conflict; telephone call from Leslie Northrup re change of location.	0.25
01/28/11	Prepare for and attend continued deposition of Leo Campbell. Meet with Craig Kvamme re status of case and course of action.	5.5
02/02/11	Telephone call from Kim Leavitt re status of case, mediation, and course of action.	0.1
02/03/11	Receive and pay Invoice No. 9565 for deposition.	0.1
02/03/11	Receive and pay Invoice No. 9566 for deposition.	0.1
02/08/11	Prepare Confidential Mediation Statement.	4.5
02/08/11	Prepare letter to Kipp Manwaring re Confidential Mediation Statement and Mediation Agreement.	0.15
02/14/11	Review all files, pleadings, and documents; prepare final supplemental response to Request for Production No. 4.	1.0
02/15/11	Prepare for mediation; telephone call with Craig Kvamme. Attend mediation.	3.0
02/15/11	Prepare letter to Kipp Manwaring re continued deposition of Leo Campbell.	0.15
02/16/11	Review e-mail from Kipp Manwaring re available dates.	0.1
02/16/11	Prepare Notice of Continued Deposition.	0.25
02/16/11	Meet with T & T Reporting re preparation of transcript.	0.25
02/16/11	Telephone call with Kim Leavitt re trial testimony.	0.25
02/17/11	Review letter from Alan Stephens to Judge Shindurling re outcome of mediation.	0.1
02/17/11	Review letter from Kipp Manwaring, including offer of settlement.	0.1

02/17/11	Prepare letter to Kipp Manwaring.	0.15
02/18/11	Review transmittal letter from Kipp Manwaring.	0.1
02/18/11	Review Notice of Service.	0.1
02/18/11	Review supplemental interrogatory and request for production; calendar due date.	0.1
02/22/11	Receive and pay invoice for Mediation Fee.	0.1
03/07/11	Telephone call from T & T Court Reporting re status of transcript.	0.1
03/08/11	Prepare letter to Kipp Manwaring re status of deposition.	0.15
03/08/11	Review letter from Kipp Manwaring re postponement of deposition.	0.1
03/08/11	Telephone call with T & T Reporting to postpone deposition.	0.1
03/08/11	Review e-mail from T & T Reporting re completion of partial deposition transcript.	0.1
03/08/11	Prepare letter to T & T Reporting re postponement of deposition.	0.15
03/08/11	Prepare letter to Kipp Manwaring re new available dates.	0.15
03/08/11	Meet with T & T Reporting re partial deposition transcript.	0.15
03/08/11	Review and pay invoice for partial deposition transcript.	0.15
03/08/11	Review transmittal letter re e-transcript and read/sign notice to Kipp Manwaring.	0.1
03/08/11	Review letter from T & T Reporting re transcript.	0.1
03/09/11	Review letter from Kipp Manwaring, including attached letter from Eric Pertulla.	0.15
03/21/11	Meet with Craig Kvamme re status of case and pending discovery requests.	0.0
03/22/11	Meet with Craig Kvamme; review documents. Prepare Answer and Response to discovery.	1.5

03/22/11	Prepare Notice of Service.	0.25
03/28/11	Meet with Craig Kvamme re status of case and possibility of settlement.	0.0
03/30/11	Telephone call to Kipp Manwaring; leave message re completion of deposition, upcoming trial, and possibility of settlement.	0.0
03/31/11	Telephone call from Kipp Manwaring re status of case, possibility of settlement, and possible postponement of trial.	0.25
03/31/11	Review letter from Kipp Manwaring.	0.1
03/31/11	Review letter from Dr. Gonzalez.	0.1
04/08/11	Review Motion to Continue.	0.1
04/08/11	Review proposed Stipulation to Continue Trial.	0.1
04/11/11	Prepare for and attend pre-trial conference and hearing of motion to continue.	0.75
04/11/11	Meet with Craig Kvamme re status of case.	0.0
04/11/11	Review Notice of Trial Setting.	0.1
04/12/11	Review Minute Entry.	0.1
04/12/11	Review Order Setting Trial.	0.1
04/27/11	Review letter from Kipp Manwaring, declining offer of settlement; prepare reply.	0.25
05/06/11	Meet with Craig Kvamme re rejection of offer of settlement.	0.0
05/19/11	Review Motion for Summary Judgment, memorandum in support, Affidavit of Margy Spradling, Affidavit of Jo Le Campbell, Affidavit of Blake Mueller, Affidavit of Mark Hansen, and Affidavit of Counsel.	1.0
05/19/11	Prepare e-mail to Kipp Manwaring re depositions of Jo Le Campbell, Leo Campbell, and Margy Spradling.	0.15

05/19/11	Review e-mail from Kipp Manwaring re hearing; prepare reply.	0.15
05/20/11	Meet with Craig Kvamme re Motion for Summary Judgment and options.	0.0
05/20/11	Telephone call to Kipp Manwaring; leave message re possibility of settlement.	0.0
05/20/11	Telephone call from Kipp Manwaring re status of case, possibility of settlement, and course of action.	0.15
05/20/11	Review transmittal letter from Kipp Manwaring.	0.1
05/20/11	Review Notice of Hearing; calendar deadlines.	0.15
05/23/11	Meet with Craig Kvamme re motion for summary judgment and course of action.	0.5
05/24/11	Review e-mail from Kipp Manwaring re rejection of settlement and status of depositions.	0.1
05/24/11	Review pending motion, file, and documents re issues for summary judgment; prepare outline of related motions and course of action. Telephone calls with Heather Elverud re chain of title.	2.5
05/25/11	Legal research for and preparation of affidavit for Blake Mueller; meet with Blake Mueller.	5.0
05/25/11	Telephone call to Kim Leavitt; leave message.	0.0
05/26/11	Legal research for and preparation of affidavit for Mark Hansen; meet with Mark Hansen.	2.5
05/26/11	Telephone call to Kim Leavitt; leave message.	0.0
05/26/11	Research real property records at Bonneville County; meet with clerks re chain of title. Research records at Idaho Title & Trust; meet with Heather Elverud re chain of title. Meet with Mark Hansen; revise affidavit.	4.0
05/27/11	Research records at the Bonneville County Recorder's Office.	3.25
05/27/11	Telephone call with Kim Leavitt re status of case.	0.25

05/31/11	Meet with Kim Leavitt re expert testimony.	3.0
05/31/11	Telephone call with Craig Kvamme re status of case and course of action.	0.0
06/01/11	Work on elements and issues for cross-motion for summary judgment; meet with Craig Kvamme, review photographs.	4.0
06/02/11	Work on affidavit of Craig Kvamme in support of motion for summary judgment; telephone calls with Craig Kvamme re facts and issues and review of documents.	8.5
06/02/11	Telephone call to Revar Harris; leave message.	0.0
06/02/11	Review facsimile from Kipp Manwaring re deposition dates for Margy Spradling.	0.1
06/03/11	Work on affidavit of Craig Kvamme; meet with Craig Kvamme re facts and issues, including pictures.	5.5
06/06/11	Meet with Craig Kvamme; meet with Kim Leavitt; work on Motion for Summary Judgment, including supporting affidavits, exhibits, and deposition excerpts; complete legal research.	15.5
06/06/11	Meet with Craig Kvamme; meet with Kim Leavitt; work on Motion for Summary Judgment, including supporting affidavits, exhibits, and deposition excerpts. Prepare Notice of Hearing. Finalize documents.	15.5
06/17/11	Review affidavits of Jo Campbell, Margy Spradling, and Kipp Manwaring; prepare objections and exhibits. Meet with Craig Kvamme. Telephone call with Revar Harris re facts of case.	6.5
06/18/11	Meet with Revar Harris, Jane Harris, and Gene Harris.	3.0
06/20/11	Review Motion for Extension of Time, Motion to Shorten Time, Notice of Hearing, and proposed form of Order.	0.4
06/20/11	Telephone calls with Revar Harris and Jane Harris; prepare affidavits. Meet with Revar Harris and Jane Harris; revise and finalize affidavits.	6.0

06/20/11	Meet with Gene Killian; revise and finalize affidavit. Prepare Objection to Record of Survey.	1.75
06/21/11	Telephone call with Craig Kvamme; revise Objection to Record of Survey. Prepare Objection to Plaintiffs' Motion for Summary Judgment.	5.5
06/22/11	Review transmittal letter from Leslie Northrup.	0.1
06/22/11	Review second Notice of Hearing.	0.1
06/28/11	Prepare for hearing re Motion to Extend Time. Attend hearing. Telephone call with Craig Kvamme re outcome of hearing. Telephone call with Kim Leavitt re deposition dates and fee. Prepare Amended Notice of Hearing.	3.0
06/28/11	Review Minute Entry.	0.1
06/28/11	Review Notice of Hearing from court.	0.1
06/28/11	Review e-mail from Kim Leavitt re deposition schedule; prepare reply.	0.1
06/30/11	Telephone call with Kim Leavitt re deposition schedule.	0.1
06/30/11	Prepare letter to Kipp Manwaring re deposition schedule.	0.25
06/30/11	Telephone call from Kipp Manwaring re status of case; Jo Campbell and V. Leo Campbell are both allegedly dying.	0.15
07/01/11	Review transmittal letter from office of Kipp Manwaring.	0.1
07/13/11	Telephone call from Leslie Northrup re deposition date for Kim Leavitt; confirm date.	0.1
07/16/11	Review letter from Kipp Manwaring to Kim Leavitt.	0.1
07/16/11	Review Notice of Deposition.	0.1
07/18/11	Telephone call with Kim Leavitt re deposition and prep schedule.	0.15
07/18/11	Prepare documents and files for Kim Leavitt; meet with Kim Leavitt re deposition preparation.	3.25

07/19/11	Review transmittal letter.	0.1
07/19/11	Review Amended Notice of Deposition.	0.1
07/21/11	Review statutes and research re deposition issues for Kim Leavitt.	1.0
07/22/11	Meet with Kim Leavitt re deposition preparation.	1.75
07/26/11	Review message from T & T Court Reporting to confirm deposition.	0.1
07/27/11	Meet with Kim Leavitt re deposition preparation.	1.0
07/27/11	Prepare for deposition; review affidavit and exhibits; meet with Kim Leavitt.	0.75
07/27/11	Attend deposition.	1.75
07/29/11	Receive invoice from Kim Leavitt re deposition fee.	0.1
07/29/11	Prepare letter to Kipp Manwaring re payment of deposition fee.	0.15
08/02/11	Review e-mail from T & T Reporting re deposition of Kim Leavitt; open attached exhibits; prepare reply.	0.15
08/03/11	Telephone call with John Terrill re deposition; open and download deposition.	0.25
08/04/11	Review letter from T & T Reporting to Kipp Manwaring.	0.1
08/04/11	Review letter from T & T Reporting to Kim Leavitt.	0.1
08/04/11	Receive and pay invoice for deposition fee.	0.1
08/09/11	Meet with Kim Leavitt; review and sign deposition.	0.75
08/15/11	Meet with John Terrill of T & T Court Reporting re deposition of Kim Leavitt.	0.15
08/17/11	Review letter from T & T Court Reporting.	0.1
08/30/11	Telephone call from Craig Kvamme re status of case and fire.	0.0

08/30/11	Receive invoice from Kim Leavitt for expert witness fees. Prepare note and forward to Craig Kvamme.	0.15
08/31/11	Review Notice of Hearing.	0.1
08/31/11	Review Affidavit of Counsel.	0.1
08/31/11	Review Motion to Strike.	0.1
08/31/11	Review Response to Summary Judgment; prepare outline of issues for reply.	0.5
08/31/11	Prepare e-mail to Kipp Manwaring re new offer of settlement.	0.25
09/01/11	Telephone call with Craig Kvamme re payment of expert witness fee.	0.0
09/05/11	Research issues and prepare Reply Memorandum. Prepare letter to Kim Leavitt re reply affidavit.	5.0
09/06/11	Prepare Reply Affidavit; meet with Kim Leavitt; revise Reply Affidavit.	6.25
09/12/11	Prepare for hearing; attend hearing. Meet with Craig and Debra Kvamme and Revar Harris. Prepare notes re course of action.	5.0
09/12/11	Meet with Kipp Manwaring; plaintiffs did not respond to offer of settlement; now expired.	0.0
09/13/11	Research and telephone calls re possible bias and prejudice of Judge Shindurling; confirm possible relationships from Prosecutor's Office and church.	0.75
09/14/11	Telephone call to Kim Leavitt; leave message.	0.0
09/15/11	Telephone call with Kim Leavitt re facts and issues.	1.0
09/19/11	Meet with Clerk of the Court; purchase copy of oral argument. Review oral argument; make notes re issues.	3.25
09/20/11	Meet with Craig Kvamme; review facts and issues. Prepare affidavit re argument of Judge Shindurling. Prepare objection. Meet with Kim Leavitt; review and issues.	8.0

	Prepare affidavit re argument of Judge Shindurling. Prepare objection.	
09/21/11	Meet with Kim Leavitt; review facts and issues. Prepare Objection and Notice of Augmentation re Manual of Surveying Instructions. Research re same. Meet with Craig Kvamme. Prepare Notice of Augmentation re deposition of Kim Leavitt.	7.0
09/22/11	Meet with Kim Leavitt; prepare exhibits and attachments.	1.0
09/23/11	Meet with Craig Kvamme re status of case.	0.0
09/23/11	Review Minute Entry.	0.1
09/28/11	Review Augmented Memorandum and Augmented Affidavit of Kipp L. Manwaring. Telephone call with Kim Leavitt; meet with Craig Kvamme. Prepare objection to Augmented Affidavit and objection to Augmented Memorandum. Review GSS article re acquiescence.	6.0
09/29/11	Meet with Kim Leavitt; review cases and excerpts from manual; prepare affidavit.	2.0
10/05/11	Review past due invoice from Harper Leavitt Engineering; forward to Craig Kvamme for payment.	0.1
10/06/11	Review current invoice from Harper Leavitt Engineering; forward to Craig Kvamme for payment.	0.1
10/12/11	Meet with Craig Kvamme re status of case; no decision yet.	0.0
10/28/11	Review memorandum decision; telephone call with Craig Kvamme re decision; telephone call with Kim Leavitt re decision.	0.5
10/31/11	Meet with Craig Kvamme re status of case and course of action.	0.0
11/01/11	Prepare Judgment and Decree of Quiet Title; prepare letter of instruction to Clerk of the Court re certification of Judgment and Decree of Quiet Title.	2.5
11/03/11	Receive and review invoice from Kim Leavitt; forward to Craig Kvamme.	0.1

11/03/11	Review entry and certification of Judgment and Decree of Quiet Title.	0.1
11/03/11	Record Judgment and Decree of Quiet Title in Bonneville County.	0.15
11/04/11	Review files re facts and issues regarding costs and attorney's fees. Prepare Memorandum of Costs. Prepare Affidavit in Support.	3.0
		<u>271.0</u>

- | | |
|------------------|---|
| Attorney's Fees: | \$50,135.00 (\$185.00 per hour x hours) |
| | <u>\$50,135.00</u> |

BONNEVILLE COUNTY
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**IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT
STATE OF IDAHO, COUNTY OF BONNEVILLE**

V. LEO CAMPBELL and KATHLEEN
CAMPBELL, husband and wife;

Plaintiffs,

vs.

JAMES C. KVAMME and DEBRA
KVAMME, husband and wife; and JOHN
DOES I-X;

Defendants.

Case No. CV-2010-3879

**MOTION FOR
RECONSIDERATION**

In accordance with I.R.C.P. 11(a)(2)(B), the Plaintiffs move the court to reconsider its Opinion and Order filed October 28, 2011. This motion is based upon the pleadings of record and the Affidavit of Kevin Thompson filed simultaneously with this motion.

Under Rule 11(a)(2)(B), a motion for reconsideration of any order of the trial court made after entry of final judgment may be filed within fourteen (14) days from the entry of such order. The Opinion and Order filed October 28, 2011 was an interlocutory order. The subsequent judgment entered November 3, 2011 became the final judgment. Consequently, the Plaintiffs can timely file a motion for reconsideration of the interlocutory order within 14 days after entry of the final judgment. *PHH Mortg. Services Corp. v. Perreira*, 146 Idaho 631, 200 P.3d 1180 (2009). On a motion for reconsideration under the above rule, the court must consider new

evidence to determine its impact on the interlocutory order. *Id.*; *Coeur d'Alene Mining Co. v. First Nat'l Bank of North Idaho*, 118 Idaho 812, 823, 800 P.2d 1026, 1037 (1990).

In its Opinion and Order on the cross motions for partial summary judgment filed October 28, 2011 the court determined that a survey attached as an exhibit to the affidavit of counsel for the Plaintiffs lacked foundation and could not be considered as admissible evidence for purposes of summary judgment. The Plaintiffs request the court reconsider its opinion and order in light of the new evidence supplied with this motion.

Furthermore, the record of survey performed by Kevin Thompson was an exhibit to the Affidavit of Kim H. Leavitt. Mr. Leavitt relied upon that survey in his testimony in both his affidavit and deposition.

The Affidavit of Kevin Thompson supplies the necessary foundation for admissibility of the record of survey he performed. In addition, Mr. Thompson provides testimony concerning the reliability of his survey demonstrating that the surveyed boundary of the adjoining parcels is approximately 15 feet north of the fence in question.

With the new evidence provided in Mr. Thompson's affidavit, the court must reconsider its opinion and order. The Plaintiffs believe the court must vacate its judgment and grant the Plaintiffs' motion for partial summary judgment.

Oral argument is requested.

Dated this 14 day of November 2011.



Kipp L. Manwaring, Esq.
Attorney for the Plaintiffs

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on the 15th day of November 2011, a true and correct copy of the foregoing document was served upon the person or persons named below, in the manner indicated.

Justin R. Seamons
Attorney at Law
414 Shoup Avenue
Idaho Falls, Idaho 83402

Hand Delivered
 U.S. Mail, Postage Prepaid
 Facsimile
 Other _____



Leslie Northrup
Paralegal

BONNEVILLE COUNTY
IDAHO
11 NOV 15 AM 10:35

CHARLES C. JUST, ESQ. – ISB 1779
KIPP L. MANWARING, ESQ. – ISB 3817
JUST LAW OFFICE
381 Shoup Avenue
P.O. Box 50271
Idaho Falls, Idaho 83405
Telephone: (208) 523-9106
Facsimile: (208) 523-9146

Attorneys for the Campbells

**IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT
STATE OF IDAHO, COUNTY OF BONNEVILLE**

V. LEO CAMPBELL and KATHLEEN
CAMPBELL, husband and wife;

Plaintiffs,

vs.

JAMES C. KVAMME and DEBRA
KVAMME, husband and wife; and JOHN
DOES I-X;

Defendants.

Case No. CV-2010-3879

**AFFIDAVIT OF KEVIN L.
THOMPSON**

STATE OF IDAHO)
 : ss
County of Bonneville)

Kevin L. Thompson, being first duly sworn under oath, deposes and states as follows:

1. I am eighteen years of age or older and have personal knowledge of the facts and information contained in this affidavit.
2. I am a professional land surveyor duly licensed in the state of Idaho; L.S. 10563.
3. I have been a licensed land surveyor since May 2002.
4. I have over 20 years of experience in land surveying.

5. I possess all the requisite education, knowledge, training, practical experience and skill required of professional land surveyors in accordance with the requirements of Idaho Code §§ 54-1202(11) and (12), and 54-1212.

6. In performing services as a professional land surveyor I comply with the directive of Idaho Code § 31-2709 and accordingly apply the instructions in the United States Department of the Interior, Bureau of Land Management, Cadastral Survey, Manual of Surveying Instructions (Manual); and, I comply with I.C. § 54-1229.

7. In September 2009 I performed a survey of the NE¼ of Section 17, Township 3 North, Range 38 East Boise Meridian, Bonneville County, Idaho. A true and correct copy of the Record of Survey is attached as Exhibit A and incorporated here by reference. It is the same Record of Survey identified in the Affidavit of Kim H. Leavitt as Exhibit C.

8. While performing my survey of the NE¼ of Section 17, I followed the survey practices outlined in the Manual.

9. When I performed my survey of the NE¼ of Section 17, I first located all known public land corners of that section and then calculated the quarter and sixteen corners of that section. Through that process, I located at the NW, SW, and NE corners as labeled on my Record of Survey. At each of those labeled corners was found an iron rod. Each rod bears the imprint of surveyor's license number 826. My measurements in locating those corners were all within 1 inch of the iron rods.

10. As required by Idaho Code § 55-1601-1613, professional land surveyors are obligated to perpetuate corners and record corner perpetuation findings.

11. At the NW corner as labeled on my Record of Survey was found an iron rod bearing the imprint for John Barnes. I know Mr. Barnes as a local professional land surveyor.

12. At the SW corner as labeled on my Record of Survey was found an iron rod bearing the imprint for John Barnes. I know Mr. Barnes as a local professional land surveyor.

13. At the NE corner as labeled on my Record of Survey was found an iron rod bearing the imprint for John Barnes. I know Mr. Barnes as a local professional land surveyor.

14. In addition, at the SE corner of the NE¼ of Section 17 labeled on my Record of Survey as found railroad spike, is a quarter corner as referenced by Garth Cunningham in his Corner Perpetuation and Filing Record recorded as Instrument No. 812369.

15. According to the public corner perpetuation record, Garth Cunningham recorded on January 4, 1980 his finding of the SE corner of Section 17 as Instrument No. 518952. A copy of that record was attached to the Affidavit of Kim H. Leavitt as Exhibit J. At the time that record was recorded, Mr. Cunningham was working for Ellsworth Engineering, Inc.

16. A previous corner perpetuation record for the same SE corner of Section 17 was prepared by Donald M. Ellsworth on March 18, 1969.

17. In my opinion, Ellsworth Engineering's determination of the SE corner of Section 17 is reliable.

18. According to the public corner perpetuation record, Dennis L. Jones recorded on December 7, 1979 his finding of the NE corner of Section 17 as Instrument No. 577473. A copy of that record was attached to the Affidavit of Kim H. Leavitt as Exhibit M.

19. I know Dennis Jones as a professional land surveyor.

20. On the corner perpetuation record prepared by Mr. Jones, he notes that he found the NE corner of Section 17 "using ties from Ellsworth Engineering." An iron rod was noted as the monument for that corner.

21. Dennis Jones also recorded a Corner Perpetuation and Filing Record as Instrument No. 577471. In that record Mr. Jones notes that he located a quarter corner on the east line of Section 17 "placed on a straight line and proportional distance between existing section corners recorded by Ellsworth Engineering." A true and correct copy of that record is attached as Exhibit B and incorporated here by reference.

22. In my opinion, the corner perpetuation made by Mr. Jones indicates he was relying upon the NE and SE corners of Section 17 as established previously by Ellsworth Engineering.

23. I am familiar and have reviewed the original GLO survey of Section 17 and adjacent sections as performed by John B. David in 1877. The original NE corner of Section 17 as established by Mr. David was marked with a cedar post and that monument has been lost for many years.

24. In the area where the original NE corner of Section 17 was set, is now found the intersection of 113 North (Ucon Cemetery Road) and 15th East (St. Leon Road) in Bonneville County, Idaho.

25. In accordance with the Manual, when a corner is lost it should be redetermined by double proportioning through other known corners. In my opinion, Ellsworth Engineering properly determined the location of that corner. In my opinion, Ellsworth Engineering's determination of the NE corner of Section 17 is reliable.

26. I reviewed the Affidavit of Kim H. Leavitt where he suggests the measurement for determining the boundary between the N $\frac{1}{2}$ of the NE $\frac{1}{4}$ and S $\frac{1}{2}$ of the NE $\frac{1}{4}$ of Section 17 should be accomplished by mere measurement from the SE corner of Section 17. In my opinion, that process does not comply with the Manual.

27. Rather, the process outlined in the Manual for determining the boundary between the N $\frac{1}{2}$ of the NE $\frac{1}{4}$ and S $\frac{1}{2}$ of the NE $\frac{1}{4}$ of any section is the process of proportioning.

28. In my survey of the NE $\frac{1}{4}$ of Section 17, I found and relied upon actual corner monuments as placed by professional land surveyors and located with 1 inch of my own survey measurements. With such reliable evidence of the corners, quarter corners and sixteenth corners, I was able to make a reliable survey of that land. From the known original SE corner of Section 17 and the redetermined NE corner of Section 17, I was able to follow the Manual's direction on proportioning.

29. According to my survey measurements and findings, I was able to make a determination of the boundary between the N $\frac{1}{2}$ of the NE $\frac{1}{4}$ and S $\frac{1}{2}$ of the NE $\frac{1}{4}$ of Section 17.

30. In my opinion, my survey correctly located the boundary between the N $\frac{1}{2}$ of the NE $\frac{1}{4}$ and S $\frac{1}{2}$ of the NE $\frac{1}{4}$ of Section 17 at a point that is approximately 15 feet north of an existing fence. As depicted on my Record of Survey, I located the surveyed boundary based upon the descriptions in the respective deeds between Leo Campbell's property and the Kvammes' property.

31. I note that Kim H. Leavitt raises some question about his reliance of corners perpetuated in Section 17; however, Mr. Leavitt has not submitted a survey he performed of the NE $\frac{1}{4}$ of Section 17 to show any discrepancy with my survey.

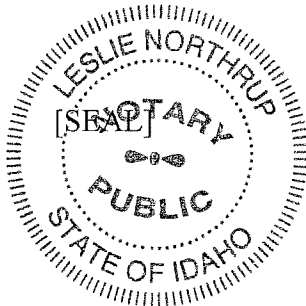
32. I note that in 2004 Mr. Leavitt's office was involved in creating survey datum for the City of Idaho Falls. This datum was the basis for my survey of Section 17. The distance and bearings on the Idaho Falls control correlate exactly with the distance and bearings on my Record of Survey.

33. I have reviewed the public record for other recent surveys of Section 17. I located two other surveys, one performed by Benton Engineering as Instrument No. 819487, and one performed by Mountain River Engineering as Instrument No. 976870. Both of those surveys identify and rely upon the NE and SE corners of Section 17, and the east quarter corner of Section 17, in accordance with the corner perpetuation records previously filed of record and noted in this affidavit.

Dated this 14th day of November 2011.

Kevin L. Thompson
Kevin L. Thompson

SUBSCRIBED AND SWORN TO before me this 14th day of November 2011.



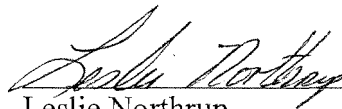
Leslie Northrup
Notary Public for Idaho
Residing at: Moore, Idaho
My commission expires: 9.29.2015

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on the 15th day of November 2011, a true and correct copy of the foregoing document was served upon the person or persons named below, in the manner indicated.

Justin R. Seamons
Attorney at Law
414 Shoup Avenue
Idaho Falls, Idaho 83402

- Hand Delivered
- U.S. Mail, Postage Prepaid
- Facsimile
- Other _____



Leslie Northrup
Paralegal

Parcel 1

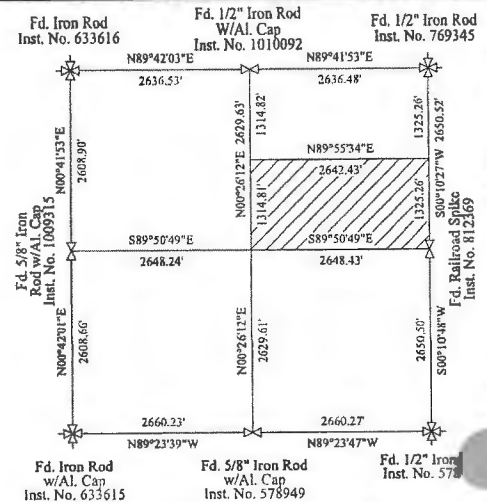
A Parcel of Land Situated in Bonneville County, State of Idaho, Township 3 North, Range 38 East of the Boise Meridian, Section 17, More Particularly Described as Follows: Beginning at the Northeast Corner of Section 17, Township 3 North, Range 38 East, B.M.
 Thence S00°10'27"W along the East line of Section 17 for a Distance of 1325.26 feet to the Northeast Corner of the South Half (S 1/2) of the Northeast Quarter (NE 1/4), said point also being the True Point of Beginning.
 Thence S00°10'27"W (Record = South) along the East line of Section 17 for a Distance of 438.65 feet;
 Thence N89°50'35"W for a Distance of 2644.37 feet to the West line of the South Half (S 1/2) of the Northeast Quarter (NE 1/4).
 Thence N00°26'12"E (Record = N00°15'30"E) for a Distance of 428.00 feet to the Northwest Corner of said South Half (S 1/2).
 Thence N89°55'34"E (Record = N89°45'00"E) along the North line of said South Half (S 1/2) for a Distance of 2642.43 (Record = 2642.37) feet to the True Point of Beginning, Containing 26.30 Acres More or Less.
 Subject to: Easements and Right-of-Ways for highways, roads, ditches, canals, power poles, and transmission lines as they exist.

Parcel 2

A Parcel of Land Situated in Bonneville County, State of Idaho, Township 3 North, Range 38 East of the Boise Meridian, Section 17, More Particularly Described as Follows: Beginning at the Northeast Corner of Section 17, Township 3 North, Range 38 East, B.M.
 Thence S00°10'27"W along the East line of Section 17 for a Distance of 1763.91 feet to the True Point of Beginning.
 Thence S00°10'27"W (Record = South) along the East line of Section 17 for a Distance of 423.00 feet;
 Thence N89°51'13"W for a Distance of 2646.30 feet to the West line of the South Half (S 1/2) of the Northeast Quarter (NE 1/4).
 Thence N00°26'12"E (Record = N00°15'30"E) along said West line for a Distance of 423.50 feet;
 Thence S89°50'35"E for a Distance of 2644.37 feet to the True Point of Beginning, Containing 25.70 Acres More or Less.
 Subject to: Easements and Right-of-Ways for highways, roads, ditches, canals, power poles, and transmission lines as they exist.

Parcel 3

A Parcel of Land Situated in Bonneville County, State of Idaho, Township 3 North, Range 38 East of the Boise Meridian, Section 17, More Particularly Described as Follows: Beginning at the Northeast Corner of Section 17, Township 3 North, Range 38 East, B.M.
 Thence S00°10'27"W along the East line of Section 17 for a Distance of 2186.91 feet to the True Point of Beginning.
 Thence S00°10'27"W (Record = South) along the East line of Section 17 for a Distance of 203.00 feet;
 Thence N89°40'48"W (Record = N89°51'13"W) for a Distance of 455.42 feet;
 Thence S00°26'27"E (Record = S00°56'54"E) for a Distance of 236.97 feet;
 Thence S89°50'58"E (Record = N89°58'35"E) for a Distance of 452.88 feet to the East line of Section 17;
 Thence S00°10'27"W (Record = South) along the East line of Section 17 for a Distance of 25.00 feet to the East Quarter Corner of Section 17;
 Thence N89°50'49"W (Record = S89°58'35"W) for a Distance of 2648.43 (Record = 2648.28) feet to the Southwest Corner of the South Half (S 1/2) of the Northeast Quarter (NE 1/4) of Section 17;
 Thence N00°26'12"E (Record = N00°15'30"E) along the West line of said South Half (S 1/2) for a Distance of 463.31 feet;
 Thence S89°51'13"E for a Distance of 2646.30 feet to the True Point of Beginning, Containing 25.70 Acres More or Less.
 Subject to: Easements and Right-of-Ways for highways, roads, ditches, canals, power poles, and transmission lines as they exist.



SECTION 17 BREAKDOWN (NO SCALE)

Narrative

Kevin Thompson meet with Leo Campbell and onsite on September 8, 2009. Leo asked that Kevin combine 6 Deeds as described in Instrument Numbers 924841, 1202459, 847849, 774872, and 1189866 into 3 parcels of land as shown in this Record of Survey. The boundaries of the property had previously been surveyed, although no Record of Survey's were found in the Courthouse. The Section Breakdown was taken from the City of Idaho Falls Control. This Survey does not constitute a Title Search by Thompson Engineering, Inc., and may not show all Easements of Record.

Legend

- Set 1/2" X 30" Iron Rod with Cap Marked L.S. 10563
- △ Set Mag Nail
- Fd. Iron Rod with Cap as Noted
- Fenceline

CERTIFICATE OF SURVEY

I, Kevin L. Thompson, do hereby Certify that I am a Registered Professional Land Surveyor in the State of Idaho, and that the attached plat was drawn from an actual Survey made on the ground under my direct supervision, and that this map is an accurate representation of said Survey.

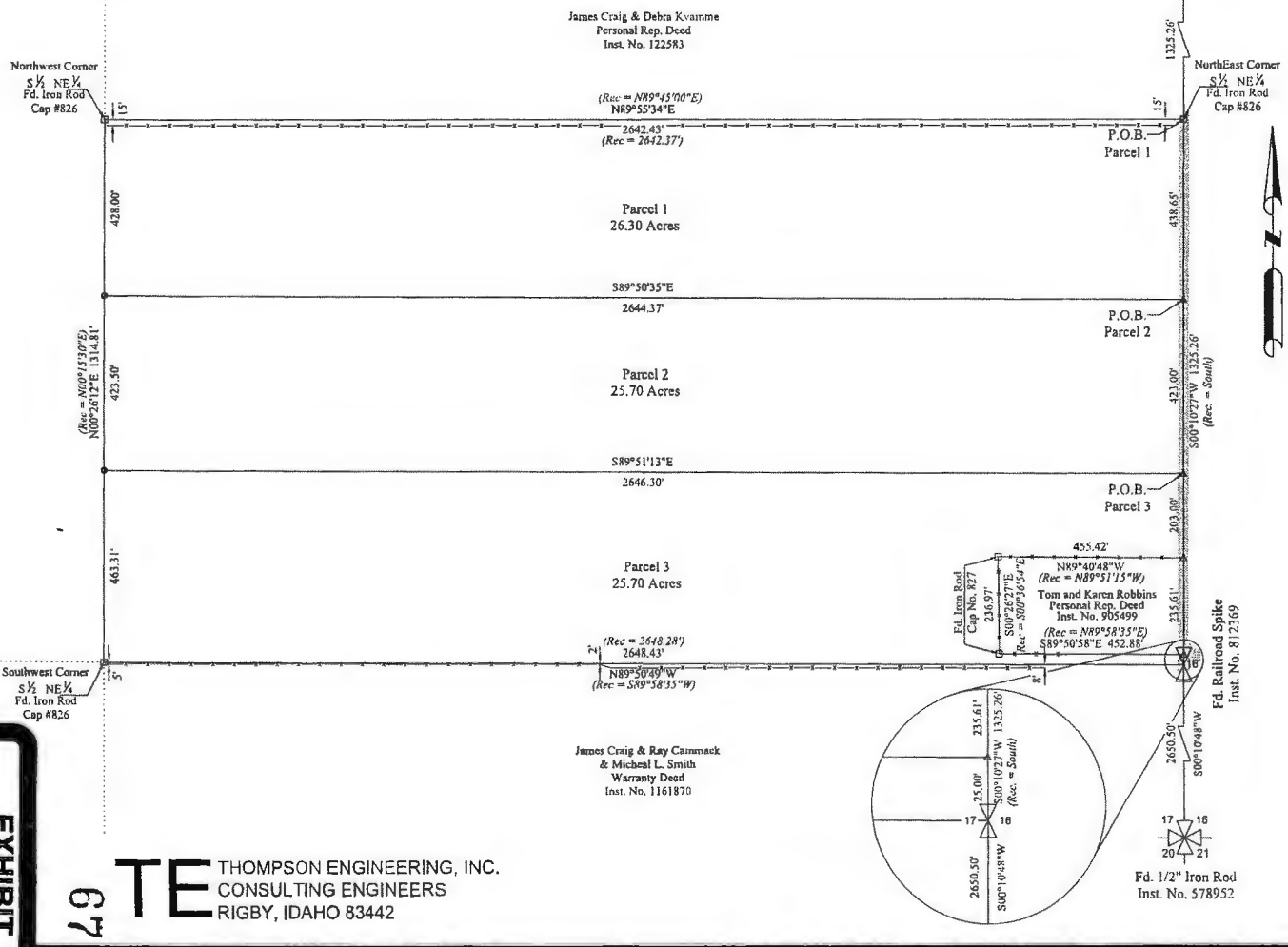


October 5, 2009 Date
 10563 License No.

RECORD OF SURVEY

LOCATED IN THE NE 1/4 OF SECTION 17, TOWNSHIP 3 NORTH, RANGE 38 EAST, BONNEVILLE COUNTY, IDAHO

Project Name:	Campbell Family	Scale	1" = 200'
Job Number:	2009-101		
CoGo File:	CampbellLeo2009-101		
Date:	September 17, 2009	Sheet	Of
Surveyor:	K.L.T.	1	1
Drawn By:	J.W.T.		



tabbles®
 EXHIBIT
 A
 67B

TE THOMPSON ENGINEERING, INC.
 CONSULTING ENGINEERS
 RIGBY, IDAHO 83442

L-9

Filed

530142

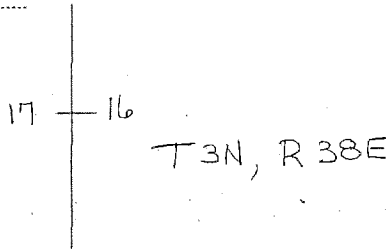
577471

STATE OF IDAHO

CORNER PERPETUATION AND FILING RECORD

(In compliance with Title 55, Chapter 16, Sections 1601-1612 CORNER PERPETUATION AND FILING ACT).

1. DESCRIPTION OF CORNER EVIDENCE FOUND AND ORIGINAL RECORD, IF KNOWN. Date of work 9-1-78



This CORNER WAS PLACED ON A STRAIGHT LINE AND PROPORTIONAL distance between existing section corners Recorded By ELLSWORTH ENGINEERING

INSTRUMENT NO. 577471
DATE 12-29-78
FIGURE NO. 88-19
ID# Phil
STATE OF IDAHO
COUNTY OF BONNEVILLE
I, Dennis L. Jones, Registered Land Surveyor or Professional Engineer, State of Idaho, hereby certify that I have carefully performed or reviewed the work done on the diagrammed corner as reported in this Corner Perpetuation and Filing Record, and do approve same.
Dennis L. Jones

2. SKETCH, WITH COURSE AND DISTANCE TO ADJACENT CORNERS, IF DETERMINED, AND THIS SURVEY. (Sketch may be pasted or drawn on reverse side of this form.)



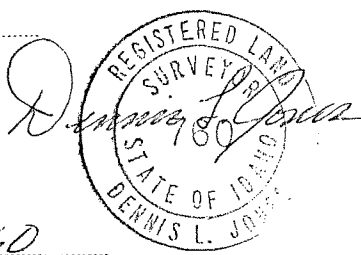
3. DESCRIPTION OF MONUMENT AND ACCESSORIES ESTABLISHED TO PERPETUATE THE ORIGINAL LOCATION OF THIS CORNER. Date of work 9-1-78

5771471
577471
BONNEVILLE COUNTY
CLERK
DEC 7 2 13 PM '79

4.

I, Dennis L. Jones, Registered Land Surveyor or Professional Engineer, State of Idaho, hereby certify that I have carefully performed or reviewed the work done on the diagrammed corner as reported in this Corner Perpetuation and Filing Record, and do approve same.

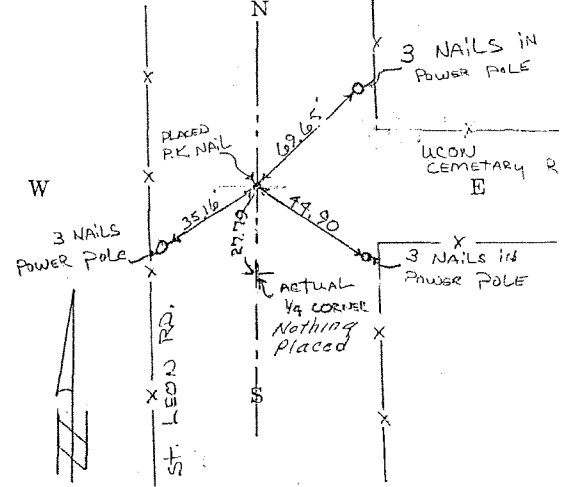
Date 12-29-78



Registration No. 760

(Place signature over PE or LS stamp or seal)

DIAGRAM OF CORNER



Office of Clerk and Recorder, County of.....
This "Corner Record" was filed for record on theday of....., 19....., was noted on the cross-index plat and is assigned Page No....., in Book No.....

Cross Index No. L-9 T. 3N R. 38E B.M.

County Official 674
Page.....

EXHIBIT
B

Justin R. Seamons
414 Shoup Avenue
Idaho Falls, ID 83402
Telephone Number: (208) 542-0600
Facsimile Number: (208) 529-4166
Idaho State Bar Number: 3903

BONNEVILLE COUNTY, IDAHO

2011 NOV 15 PM 2: 50

Attorney for Defendants

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

V. LEO CAMPBELL and KATHLEEN)
CAMPBELL,)
)
Plaintiffs,)
)
vs.)
)
JAMES C. KVAMME and DEBRA)
KVAMME,)
)
Defendants.)
_____)

Case No. CV 10-3879

MOTION FOR RECONSIDERATION

Several months ago, the parties filed cross-motions for summary judgment. After exhaustive briefing, a continuance, an intervening deposition, oral argument, and supplemental briefing, the Plaintiffs have now filed an affidavit from Kevin L. Thompson and a MOTION FOR RECONSIDERATION, dated November 15, 2011.

The MOTION FOR RECONSIDERATION attacks the court's OPINION AND ORDER, dated October 28, 2011.

In its OPINION AND ORDER, the court stated that, "based on the evidence properly before the court, it appears that the fence is the boundary line between the parcels owned by the Plaintiffs and Defendants." See OPINION AND ORDER, p. 4.

Thus, the court concluded that the “remaining issues argued by counsel regarding adverse possession and boundary by acquiescence do not need to be addressed.” See *Id.*

Because of the Plaintiffs’ MOTION FOR RECONSIDERATION, the Defendants hereby move the court to address the “remaining issues”—to wit, the doctrine of adverse possession and the doctrine of boundary by acquiescence. See MOTION FOR SUMMARY JUDGMENT, dated June 7, 2011.

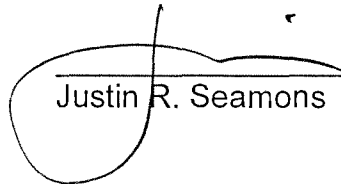
In connection therewith, and so that the record on appeal is complete, the Defendants respectfully request the court to rule on the following objections that relate or otherwise pertain to the cross-motions for summary judgment:

1. OBJECTION TO RECORD OF SURVEY, dated June 21, 2011.
2. OBJECTION TO AFFIDAVIT OF MARGY SPRADLING, dated June 21, 2011.
3. OBJECTION TO AFFIDAVIT OF JO LE CAMPBELL, dated June 21, 2011.
4. OBJECTION TO DEPOSITION OF V. LEO CAMPBELL, dated June 21, 2011.
5. OBJECTION TO ARGUMENT OF THE HONORABLE JON J. SHINDURLING THAT THE ORIGINAL SURVEY IN THIS CASE WAS NOT ACCURATE, dated September 21, 2011.
6. OBJECTION TO ARGUMENT OF THE HONORABLE JON J. SHINDURLING THAT THE FENCE IN THIS CASE IS A CONVENIENCE FENCE, dated September 21, 2011.

7. OBJECTION TO AUGMENTED AFFIDAVIT OF COUNSEL—THAT IS, AUGMENTED AFFIDAVIT OF KIPP L. MANWARING, dated September 28, 2011.

8. OBJECTION TO AUGMENTED MEMORANDUM OF ADDITIONAL POINTS AND AUTHORITIES, dated September 28, 2011.

Dated November 15, 2011.

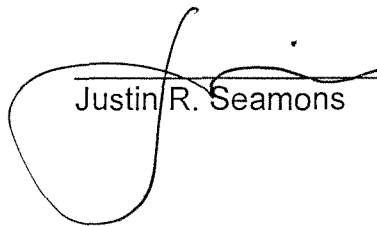


Justin R. Seamons

CERTIFICATE OF SERVICE

I served a copy of the foregoing MOTION FOR RECONSIDERATION on the following person on November 15, 2011:

Kipp L. Manwaring
P.O. Box 50271
Idaho Falls, ID 83405-0271



Justin R. Seamons

Justin R. Seamons
414 Shoup Avenue
Idaho Falls, ID 83402
Telephone Number: (208) 542-0600
Facsimile Number: (208) 529-4166
Idaho State Bar Number: 3903

BONNEVILLE COUNTY, IDAHO

2011 NOV 15 PM 2:50

Attorney for Defendants

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

V. LEO CAMPBELL and KATHLEEN)
CAMPBELL,)
)
Plaintiffs,)
)
vs.)
)
JAMES C. KVAMME and DEBRA)
KVAMME,)
)
Defendants.)
_____)

Case No. CV 10-3879

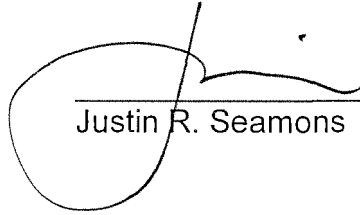
NOTICE OF HEARING

(Motion for Reconsideration)

The Defendants will call their **MOTION FOR RECONSIDERATION** for hearing at
the following address at 2:00 p.m. on November 29, 2011:

Bonneville County Courthouse
Attn: Jon J. Shindurling, District Judge
605 North Capital Avenue
Idaho Falls, ID 83402

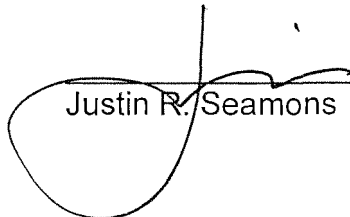
Dated November 15, 2011.


Justin R. Seamons

CERTIFICATE OF SERVICE

I served a copy of the foregoing NOTICE OF HEARING on the following person
on November 15, 2011:

Kipp L. Manwaring
P.O. Box 50271
Idaho Falls, ID 83405-0271


Justin R. Seamons

Justin R. Seamons
414 Shoup Avenue
Idaho Falls, ID 83402
Telephone Number: (208) 542-0600
Facsimile Number: (208) 529-4166
Idaho State Bar Number: 3903

BONNEVILLE COUNTY, IDAHO
2011 NOV 15 PM 2:50

Attorney for Defendants

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

V. LEO CAMPBELL and KATHLEEN)
CAMPBELL,)
)
Plaintiffs,)
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vs.)
)
JAMES C. KVAMME and DEBRA)
KVAMME,)
)
Defendants.)
_____)

Case No. CV 10-3879

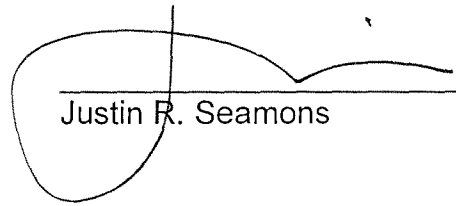
**NOTICE OF RESERVATION OF RIGHT
TO FILE A SUPPLEMENTAL MEMO-
RANDUM OF COSTS AND AFFIDAVIT
IN SUPPORT**

The court duly entered a JUDGMENT AND DECREE OF QUIET TITLE in this case on November 3, 2011. The Defendants thereupon filed a MEMORANDUM OF COSTS and AFFIDAVIT IN SUPPORT OF MEMORANDUM OF COSTS in accordance with I.R.C.P. 56(d)(5) on November 4, 2011.

The Plaintiffs have now filed a MOTION FOR RECONSIDERATION, dated November 14, 2011.

Thus, the Defendants hereby reserve the right to hereafter file a supplemental memorandum of costs and affidavit in support for any and all costs and attorney's fees herein from and after November 4, 2011.

Dated November 15, 2011.

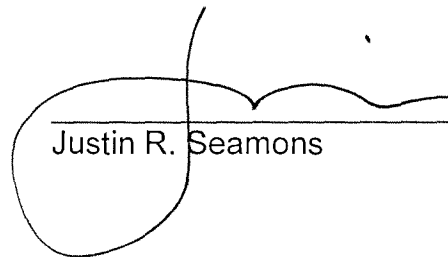


Justin R. Seamons

CERTIFICATE OF SERVICE

I served a copy of the foregoing NOTICE OF RESERVATION OF RIGHT TO FILE A SUPPLEMENTAL MEMORANDUM OF COSTS AND AFFIDAVIT IN SUPPORT on the following person on November 15, 2011:

Kipp L. Manwaring
P.O. Box 50271
Idaho Falls, ID 83405-0271



Justin R. Seamons

Justin R. Seamons
414 Shoup Avenue
Idaho Falls, ID 83402
Telephone Number: (208) 542-0600
Facsimile Number: (208) 529-4166
Idaho State Bar Number: 3903

BONNEVILLE COUNTY, IDAHO
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Attorney for Defendants

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

V. LEO CAMPBELL and KATHLEEN)
CAMPBELL,)
)
Plaintiffs,)
)
vs.)
)
JAMES C. KVAMME and DEBRA)
KVAMME,)
)
Defendants.)
_____)

Case No. CV 10-3879

**MOTION TO REPAIR OR REPLACE
FENCE**

The Plaintiffs filed the complaint in this case on June 30, 2010. Shortly thereafter, the Plaintiffs sent a letter to the Defendants on August 16, 2010. In the letter, the Plaintiffs threatened the Defendants and "demanded" that the Defendants "remove their wheel line and all other moveable personal property from the Campbells' land."

The Defendants responded to the Plaintiffs on August 18, 2010, and specifically and expressly stated the following:

. . . Please notify Mr. and Mrs. Campbell **not** to "take action into their own hands," but to follow the law and proceed through the court; otherwise, I will file an application against Mr. and Mrs. Campbell to maintain the 50-year-plus status quo pending the outcome of this case.

Notwithstanding the foregoing written notice, the Plaintiffs thereafter tore out and removed a section of the fence that runs between the parties' respective parcels of real property. Thankfully, they did not damage the pivot.

This court strongly disfavors the resort to forceful self-help in resolving property disputes. See *Burke v. Prudential Ins. Co. Of Am.*, No. 02C5910, 2004 WL 784073, at 4 (N.D. Ill. Jan. 29, 2004) ("Self-help in litigation is not condoned by the court."); *Doles v. Doles*, No. 17462, 2000 WL 511693, at 2, (Va. Cir. Ct. Mar. 10, 2000) ("Public policy favors the settlement of disputes by litigation, rather than by self help force.") When parties have entered into a conflict over real property, the rights are usually fixed far in advance of the exchange of attorney's letters, or subsequent filing of a lawsuit, motions, depositions, and hearings. Making a bold physical attempt to gain, or regain, possession or control of a real property interest, by demolishing or erecting gates or fences, bulldozing land, etc., results in no strategic advantage. Instead, passions become inflamed, positions become entrenched, damages are exacerbated rather than mitigated, and the parties end up spending far more money in litigation than their supposed interest was worth to begin with. Attorneys who counsel their clients to engage in self-help, without being certain that the respective rights and responsibilities have been settled, do their clients a disservice. Clients who ignore the advice of counsel and take matters into their own hands do themselves a disservice. In short, parties who attempt to solve a property dispute through their own forceful action do so at their own peril.

See Weitz v. Green, 148 Idaho at 864, 230 P.3d at 756.

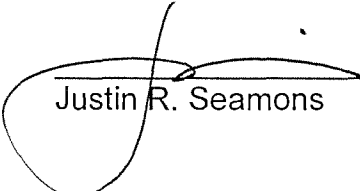
The Plaintiffs thereafter filed a motion for summary judgment, dated May 17, 2011. In response, the Defendants filed an OBJECTION TO PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT, dated June 21, 2011.

In their objection, the Defendants duly notified the court that the Defendants had taken action into their own hands and resorted to self-help. In this regard, the Defendants respectfully requested the court to "order the Plaintiffs to repair and/or restore the fence and not to take any further action into their own hands without the

court's approval in advance." See AFFIDAVIT OF JAMES C. KVAMME, p. 59, Paragraph 115, dated June 7, 2011.

Thus, the Defendants hereby move the court to order the Plaintiffs to repair or replace the fence and not to take any further action into their own hands without the court's approval in advance. See I.R.C.P. 11(a)(2)(B); see also Idaho Code Section 1-1603.

Dated November 15, 2011.

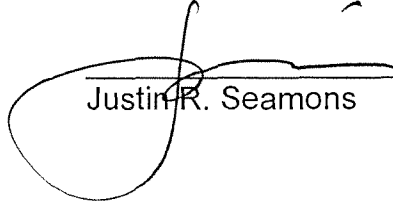


Justin R. Seamons

CERTIFICATE OF SERVICE

I served a copy of the foregoing MOTION TO REPAIR OR REPLACE FENCE on the following person on November 15, 2011:

Kipp L. Manwaring
P.O. Box 50271
Idaho Falls, ID 83405-0271



Justin R. Seamons

una 0

Justin R. Seamons
414 Shoup Avenue
Idaho Falls, ID 83402
Telephone Number: (208) 542-0600
Facsimile Number: (208) 529-4166
Idaho State Bar Number: 3903

BONNEVILLE COUNTY
IDAHO

11 NOV 22 PM 4: 26

Attorney for Defendants

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V. LEO CAMPBELL and KATHLEEN)
CAMPBELL,)
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JAMES C. KVAMME and DEBRA)
KVAMME,)
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Defendants.)
_____)

Case No. CV 10-3879

**MEMORANDUM IN OPPOSITION TO
MOTION FOR RECONSIDERATION,
OBJECTION TO AFFIDAVIT OF
KEVIN L. THOMPSON AND MOTION
TO STRIKE, AND MOTION FOR
COSTS AND ATTORNEY'S FEES**

ORIGINAL

INTRODUCTION

This case is a simple boundary dispute, involving a sliver of farm ground that is only 15 feet wide. After extensive litigation, the court duly entered a JUDGMENT AND DECREE OF QUIET TITLE in this case on November 3, 2011.

The Plaintiffs thereafter filed a MOTION FOR RECONSIDERATION on November 15, 2011. The MOTION FOR RECONSIDERATION is timely; however, the Defendants disagree with the Plaintiffs' argument that the court "must reconsider its opinion and order." See MOTION FOR RECONSIDERATION, p. 2.

Contrary to the Plaintiffs' argument, a motion for reconsideration is not mandatory; it is discretionary:

The decision to grant or deny a request for reconsideration generally rests in the sound discretion of the trial court.

Jordan v. Beeks, 135 Idaho 586, 592, 21 P.3d 908, 914 (2001).

In addition, a motion for reconsideration is not a subversive stratagem or clever end run—that is, I.R.C.P. 11(a)(2)(B) is not a scheme or maneuver to prolong a case, to increase the cost of litigation, to ignore the rules of evidence, to disregard the rules of civil procedure, to violate the rules of discovery, or to engage in endless litigation. In this regard, please recall the first rule of civil procedure:

. . . These rules [including I.R.C.P. 11(a)(2)(B)] shall be liberally construed to secure the just, speedy, and inexpensive determination of every action and proceeding.

See I.R.C.P. 1(a).

HISTORY

As the court knows, the Plaintiffs retained the services of Kevin L. Thompson in 2009. Mr. Thompson prepared a RECORD OF SURVEY on September 17, 2009. The purpose of the RECORD OF SURVEY was not to determine if the fence in this case sits on the boundary between the parties' respective parcels of real property; instead, the purpose of the RECORD OF SURVEY was to illustrate the possible "combining" of six deeds.

The Plaintiffs did not produce or otherwise provide a copy of the RECORD OF SURVEY to the Defendants; nonetheless, the Plaintiffs thereafter filed a complaint against the Defendants on June 30, 2010.

Shortly thereafter, the Defendants served interrogatories and requests for production on the Plaintiffs on September 6, 2010.

With respect to the interrogatories, see EXHIBIT A, attached hereto.

With respect to the requests for production, see EXHIBIT B, attached hereto.

The interrogatories and requests for production were straightforward. For example, the interrogatories specifically and expressly asked the Plaintiffs to disclose the following information in accordance with I.R.C.P. 26(b)(4):

INTERROGATORY NO. 1: Please state the name, address, and telephone number of each and every expert "expected to testify" in this case, whether "acquired or developed in anticipation of litigation or for trial." See I.R.C.P. 26(b)(4).

INTERROGATORY NO. 2: In connection with INTERROGATORY NO. 1, above, please provide a full and complete "statement of all opinions to be expressed and the basis and reasons therefor." See I.R.C.P. 26(b)(4)(A)(I).

INTERROGATORY NO. 3: In connection with INTERROGATORY NO. 1, above, please provide a full and complete statement of "any qualifications of the witness, including a list of all publications authored by the witness within the preceding ten years." See I.R.C.P. 26(b)(4)(A)(I).

INTERROGATORY NO. 4: In connection with INTERROGATORY NO. 1, above, please provide a full and complete disclosure of "the compensation to be paid for the testimony." See I.R.C.P. 26(b)(4)(A)(I).

INTERROGATORY NO. 5: In connection with INTERROGATORY NO. 1, above, please provide a full and complete "listing of any other cases in which the witness has testified as an expert at trial or by deposition within the preceding four years." See I.R.C.P. 26(b)(4)(A)(i).

See EXHIBIT A, pp. 1-2.

In addition, the requests for production specifically and expressly asked the Plaintiffs to disclose the following documents:

REQUEST FOR PRODUCTION NO. 1: Please produce the resume of each and every expert "expected to testify" in this case, whether "acquired or developed in anticipation of litigation or for trial." See I.R.C.P. 26(b)(4).

REQUEST FOR PRODUCTION NO. 2: Please produce the curriculum vitae of each and every expert "expected to testify" in this case, whether "acquired or developed in anticipation of litigation or for trial." See I.R.C.P. 26(b)(4).

REQUEST FOR PRODUCTION NO. 3: Please produce the report of each and every expert "expected to testify" in this case, whether "acquired or developed in anticipation of litigation or for trial." See I.R.C.P. 26(b)(4).

REQUEST FOR PRODUCTION NO. 4: Please produce the entire file of each and every expert "expected to testify" in this case, whether "acquired or developed in anticipation of litigation or for trial," including, without limitation, any and all correspondence, notes, records, and other documents. See I.R.C.P. 26(b)(4).

REQUEST FOR PRODUCTION NO. 5: In connection with REQUESTS FOR PRODUCTION NOS. 1 through 4, above, please produce any and all "data and other information considered by the witness in forming the opinions." See I.R.C.P. 26(b)(4)(A)(i).

See EXHIBIT B, p. 2.

The Plaintiffs answered the interrogatories and responded to the requests for production on September 30, 2010; however, notwithstanding their knowledge of Mr. Thompson and the key importance—indeed, the foundational importance—of the RECORD OF SURVEY in this case, the Plaintiffs did not answer and respond to the foregoing interrogatories and requests for production regarding expert witnesses. See EXHIBIT C, attached hereto.

. . . [A]n evasive or incomplete answer is to be treated as a failure to answer.

See I.R.C.P. 37(a)(3).

As before, the Plaintiffs did not produce or otherwise provide a copy of the RECORD OF SURVEY to the Defendants.

The litigation continued. Of course, the Plaintiffs were then under a duty to supplement their answers and responses:

A party who has responded to a request for discovery with a response that was complete when made is under to duty to supplement his response to include information thereafter acquired, except as follows:

(1) A party is under a duty seasonably to supplement his response with respect to any question directly addressed to:

...

(B) The identity of each person expected to be called as an expert witness at trial, the subject matter on which he is expected to testify, and the substance of his testimony.

See I.R.C.P. 26(b)(4).

On October 11, 2010, the court conducted a status conference in this case. The court set this case for trial on April 25, 2011, and duly entered an ORDER SETTING PRE-TRIAL CONFERENCE AND TRIAL.

The Plaintiffs thereafter supplemented their answers and responses, but not with respect to the foregoing interrogatories and requests for production regarding expert witnesses; in other words, their supplemental answers and responses related to other interrogatories and requests for production. See NOTICE OF COMPLIANCE, dated November 23, 2010, and NOTICE OF COMPLIANCE, dated December 14, 2010.

According to the ORDER SETTING PRE-TRIAL CONFERENCE AND TRIAL, above, the parties had to disclose their respective expert witnesses 90 days before trial—that is, on or before January 25, 2011:

No later than 90 days before the date set for trial, counsel shall disclose the names, addresses, and telephone numbers of expert witnesses that may be called to testify at trial.

See ORDER SETTING PRE-TRIAL CONFERENCE AND TRIAL, p. 1, Section I, Paragraph 2.

In accordance with the court's order, the Defendants duly filed a DISCLOSURE OF EXPERT WITNESSES on January 25, 2011; however, notwithstanding their knowledge of Mr. Thompson and the importance of the RECORD OF SURVEY in this case, the Plaintiffs did not.

In addition, the Defendants duly served a supplemental interrogatory and supplemental request for production on the Plaintiffs on January 14, 2011. See ORDER SETTING PRE-TRIAL CONFERENCE AND TRIAL, p. 1, Section I, Paragraph 4.

With respect to the supplement interrogatory, see EXHIBIT D, attached hereto.

With respect to the supplemental request for production, see EXHIBIT E, attached hereto.

The Plaintiffs answered the supplemental interrogatory and responded to the supplemental request for production on January 24, 2011; however, as before, notwithstanding their knowledge of Mr. Thompson and the importance of the RECORD OF SURVEY in this case, the Plaintiffs did not supplement their answers and responses to the foregoing interrogatories and requests for production regarding expert witnesses. See EXHIBIT F, attached hereto.

At that point, the Defendants were ready for trial; however, on the eve of trial, the Plaintiffs filed a MOTION TO CONTINUE, alleging that the “added stress of trial could be fatal to Mr. Campbell.” The court granted the motion and moved the trial from April 25, 2011, to March 5, 2012. In addition, as the court now knows, the Plaintiffs have failed and refused to complete the deposition of Mr. Campbell.

Shortly thereafter, the Plaintiffs filed a motion for summary judgment on May 17, 2011; however, notwithstanding their knowledge of Mr. Thompson and the importance of the RECORD OF SURVEY in this case, the Plaintiffs did not file an affidavit from Mr. Thompson in support of their motion for summary judgment.

In addition, the Plaintiffs did not supplement their answers and responses to the foregoing interrogatories and requests for production regarding expert witnesses.

Instead, the Plaintiffs filed an AFFIDAVIT OF COUNSEL—that is, an affidavit from Kipp L. Manwaring. Mr. Manwaring simply attached a copy of the RECORD OF SURVEY to his affidavit.

Of course, Mr. Manwaring was not and is not an expert witness in this case. He is a lawyer. He did not prepare the RECORD OF SURVEY, he could not identify it, he could not authenticate it, he was not competent to testify regarding it, he could not lay a proper foundation for it, it was not based on his personal knowledge, and his arguments regarding it were speculative, based on hearsay, conclusory, and argumentative. In short, the RECORD OF SURVEY was not admissible.

As a result, the Defendants filed an OBJECTION TO RECORD OF SURVEY on June 21, 2011, and duly moved the court to strike the AFFIDAVIT OF COUNSEL and

the RECORD OF SURVEY in accordance with I.R.C.P. 56(e), I.R.E. 701, I.R.E. 702, I.R.E. 901, and I.R.E. 103(a)(1).

In addition, the Defendants filed a cross motion for summary judgment, including an affidavit from their expert witness, Kim H. Leavitt, in support of their motion for summary judgment; however, notwithstanding their knowledge of Mr. Thompson and the importance of the RECORD OF SURVEY in this case, the Plaintiffs did not file an affidavit from Mr. Thompson in opposition to the Defendants' motion for summary judgment, they did not cure or otherwise remedy the foregoing evidentiary issues, and they did not move the court for a "continuance to permit affidavits to be obtained" in accordance with I.R.C.P. 56(f); instead, the Plaintiffs forged ahead with full knowledge of the foregoing evidentiary issues and full knowledge of the requirement upon them to survive the cross motions for summary judgment:

. . . When a motion for summary judgment is made and supported as provided in this rule, 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 . . . shall be entered against him.

See I.R.C.P. 56(e).

The hearing of both motions—that is, the cross motions for summary judgment—was set for July 5, 2011.

Shortly before the hearing, the Plaintiffs filed a MOTION FOR EXTENSION OF TIME. The Plaintiffs moved the court for an extension of time "to respond to the Kvammes' motion for summary judgment." In this regard, the Plaintiffs only moved the court for an extension of time to depose Kim H. Leavitt; however, as before, the

Plaintiffs did not move the court for an extension of time to file an affidavit from Mr. Thompson and they did not move the court for an extension of time to cure or otherwise remedy the foregoing evidentiary issues.

In addition, the Plaintiffs did not supplement their answers and responses to the foregoing interrogatories and requests for production regarding expert witnesses.

As before, the Plaintiffs forged ahead with full knowledge of the foregoing evidentiary issues and full knowledge of the requirement upon them to survive the cross motions for summary judgment.

The court granted the motion and moved the hearing of the cross motions for summary judgment from July 5, 2011, to September 12, 2011. The Plaintiffs deposed Mr. Leavitt on July 27, 2011, well in advance of the hearing.

Before the hearing, the Plaintiffs filed their reply to the cross motions for summary judgment. Once again, however, notwithstanding their knowledge of Mr. Thompson and the importance of the RECORD OF SURVEY in this case, the Plaintiffs did not file an affidavit from Mr. Thompson in support of their motion for summary judgment, they did not file an affidavit from Mr. Thompson in opposition to the Defendants' motion for summary judgment, and they did not cure or otherwise remedy the foregoing evidentiary issues.

In addition, the Plaintiffs did not supplement their answers and responses to the foregoing interrogatories and requests for production regarding expert witnesses.

Instead, the Plaintiffs filed another AFFIDAVIT OF COUNSEL—that is, another affidavit from Mr. Manwaring. Again, Mr. Manwaring was not and is not an expert witness in this case. He is a lawyer. Once again, the Plaintiffs forged ahead with full

knowledge of the foregoing evidentiary issues and full knowledge of the requirement upon them to survive the cross motions for summary judgment.

Before the hearing, the Defendants also filed their reply to the cross motions for summary judgment, including a reply affidavit from Mr. Leavitt. As before, the Plaintiffs did not file an affidavit from Mr. Thompson and they did not cure or otherwise remedy the foregoing evidentiary issues.

In addition, the Plaintiffs did not supplement their answers and responses to the foregoing interrogatories and requests for production regarding expert witnesses.

As before, the Plaintiffs forged ahead with full knowledge of the foregoing evidentiary issues and full knowledge of the requirement upon them to survive the cross motions for summary judgment.

At the hearing, the court "interrogated counsel" in accordance with I.R.C.P. 56(d). During the colloquy, the court alerted or otherwise forewarned the Plaintiffs about the foregoing evidentiary issues:

Mr. Seamons: My answer to that, your Honor, is, if we do not follow what Mr. Leavitt has done, and, again, I want to emphasize he has followed the law, he has followed the manual of surveying, he has performed his professional services in accordance with it, he has laid that out without dispute from them. There is no counter-affidavit here that says Mr. Leavitt didn't do this correctly, he didn't make the measurements, he didn't take the history correctly. My point is this: If we throw Mr. Leavitt's [opinion] out the door, what do you have in front of you to say that's not the boundary? Their burden in this case is to show that there is a dispute here about a boundary, and that this piece of property is not where it is supposed to be. What do you have? Nothing.

...

Is this conversation any different for the survey that was stapled to Kipp's affidavit?

Court: Oh no. I have questions about the survey that was stapled to Kipp's affidavit.

After the hearing, the court allowed both parties to "augment" or otherwise supplement the record.

Shortly thereafter, the Plaintiffs did so. Once again, however, notwithstanding their knowledge of Mr. Thompson and the importance of the RECORD OF SURVEY in this case, the Plaintiffs did not file an affidavit from Mr. Thompson and they did not cure or otherwise remedy the foregoing evidentiary issues.

In addition, the Plaintiffs did not supplement their answers and responses to the foregoing interrogatories and requests for production regarding expert witnesses.

Instead, the Plaintiffs filed an AUGMENTED AFFIDAVIT OF COUNSEL, dated September 23, 2011. Again, Mr. Manwaring was not and is not an expert witness in this case. He is a lawyer. Once again, the Plaintiffs forged ahead with full knowledge of the foregoing evidentiary issues and full knowledge of the requirement upon them to survive the cross motions for summary judgment.

The Defendants also augmented the record. In this regard, the Defendants filed an augmented affidavit from Mr. Leavitt. As before, the Plaintiffs did not file an affidavit from Mr. Thompson and they did not cure or otherwise remedy the foregoing evidentiary issues.

In addition, the Plaintiffs did not supplement their answers and responses to the foregoing interrogatories and requests for production regarding expert witnesses.

As before, the Plaintiffs forged ahead with full knowledge of the foregoing evidentiary issues and full knowledge of the requirement upon them to survive the cross motions for summary judgment.

OPINION AND ORDER

The Plaintiffs were the original moving party in this case—that is, the Plaintiffs filed their motion for summary judgment on May 17, 2011; nonetheless, the Plaintiffs did not file any further affidavits or other documents of whatever kind or nature.

In addition, they did not move the court for any further “continuances to permit affidavits to be obtained” in accordance with I.R.C.P. 56(f).

Thus, the record was complete.

One month later, the court duly entered its OPINION AND ORDER on October 28, 2011. The court cut straight to the chase:

Pursuant to Rule 56(e) of the Idaho Rules of Civil Procedure, the record of survey submitted as an exhibit to Plaintiffs’ counsel’s affidavit lacks a proper foundation and is not properly before the court. Therefore, the Plaintiffs have failed to “set forth specific facts showing that there is a genuine issue for trial.” As such, and based on the evidence properly before the court, it appears that the fence is the boundary line between the parcels owned by Plaintiffs and Defendants.

See OPINION AND ORDER, p. 4.

MOTION FOR RECONSIDERATION

After months of exhaustive briefing, a lengthy continuance, an intervening deposition, grueling oral argument, and supplemental briefing, the Plaintiffs have now filed an affidavit from Mr. Thompson, dated November 15, 2011. The date of his affidavit nearly marks the six month anniversary of the Plaintiffs’ motion for summary judgment, dated May 17, 2011.

After having failed to answer and respond to the foregoing interrogatories and requests for production regarding expert witnesses, after having failed to disclose Mr. Thompson and the RECORD OF SURVEY in accordance with the court's ORDER SETTING PRE-TRIAL CONFERENCE AND TRIAL, after having failed to supplement their answers and responses in accordance with I.R.C.P. 26(e)(1)(B), after having failed to file an affidavit from Mr. Thompson in support of their motion for summary judgment, after having failed to file an affidavit from Mr. Thompson in opposition to the Defendants' motion for summary judgment, after having knowingly forged ahead with full knowledge of the foregoing evidentiary issues, after having knowingly forged ahead with full knowledge of the requirement upon them to survive the cross motions for summary judgment, and after having lost, the Plaintiffs want the court to let them take a mulligan, go back to square one, and have a do-over.

That is not fair, that is not right, that is not the law, and the Defendants respectfully object.

APPLICABLE LAW

The following case is dispositive of the issue herein. The procedural history is analogous to this case and the ruling of the Idaho Supreme Court is right on point:

. . . The court found that plaintiffs had failed to disclose Bidstrup as an expert witness in violation of the court's scheduling order.

...

. . . Even after the defendants filed motions for summary judgment, arguing that Bidstrup had not been disclosed as an expert witness, and filed motions to strike Bidstrup's second affidavit for lack of qualification and improper rendering of opinions on questions of law, appellants made no effort to remedy the situation. Citing I.R.C.P. 26(b)(4), the district court did not allow Bidstrup's testimony in the form of his second affidavit.

The district court's decision striking Bidstrup's second affidavit is affirmed.

...

... The appellants had ample notice of the hearing and knew what was required of them to survive the summary judgment motions. Appellants did not establish that a genuine issue of material fact existed. The grants of summary judgment are affirmed.

...

"The decision to grant or deny a request for reconsideration generally rests in the sound discretion of the trial court." *Jordan v. Beeks*, 135 Idaho 586, 592, 21 P.3d 908, 914 (2001).

The district court did not abuse its discretion in denying appellants' motion for reconsideration. The court exercised reason in reaching its decision that the appellants had been given numerous opportunities to prepare their case. They were aware of the defendants' motions for summary judgment and motions to strike Bidstrup's second affidavit. They made no effort to request an extension of time before the hearing, nor did they address or correct the deficiencies in the affidavit. Instead, after the court issued its order, they requested a time extension to submit additional affidavits or retain another expert. The court found that the appellants had been given several opportunities to remedy the issues raised by the defendants in their motions. Based on the record before the district court, it did not abuse its discretion in denying appellants' motion for reconsideration.

Carnell v. Barker Management, Inc., 137 Idaho 322, 48 P.3d 651 (2002).

OBJECTION AND MOTION

The Defendants object to the affidavit of Mr. Thompson and respectfully move the court to strike it. See I.R.E. 103(a)(1).

In the alternative, if the court grants the MOTION FOR RECONSIDERATION, the Defendants move the court for an award of costs and attorney's fees. In simple terms, if the Plaintiffs want to take a mulligan, go back to square one, and have a do-over, the

Plaintiffs, in all fairness, need to reimburse the Defendants for the costs and attorney's fees that they incurred as a result of the Plaintiffs' course of action.

Again, the Plaintiffs failed to answer and respond to the foregoing interrogatories and requests for production regarding expert witnesses; they failed to disclose Mr. Thompson in accordance with the court's ORDER SETTING PRE-TRIAL CONFERENCE AND TRIAL; they failed to supplement their answers and responses in accordance with I.R.C.P. 26(e)(1)(B); they failed to file an affidavit from Mr. Thompson in support of their motion for summary judgment; they failed to file an affidavit from Mr. Thompson in opposition to the Defendants' motion for summary judgment; and they forged ahead with full knowledge of the foregoing evidentiary issues and full knowledge of the requirement upon them to survive the cross motions for summary judgment.

The following statute and rules of civil procedure are relevant and dispositive:

IDAHO CODE SECTION 1-1603

Every court has power:

...

(2) To enforce order in the proceedings before it

(3) To provide for the orderly conduct of proceedings before it or its officers.

(4) To compel obedience to its judgments, orders, and process

.....

...

(8) To amend and control its process and orders so as to make them conformable to law and justice.

I.R.C.P. 1(a)

. . . These rules shall be liberally construed to secure the just, speedy, and inexpensive determination of every action and proceeding.

I.R.C.P. 56(e)

Supporting and opposing affidavits shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated therein.

I.R.C.P. 56(c)

. . . The court may alter or shorten the time periods and requirements of this rule for good cause shown, may continue the hearing, and may impose costs, attorney's fees, and sanctions against a party or his attorney, or both.

I.R.C.P. 56(g)

Should it appear to the satisfaction of the court at any time that any of the affidavits presented pursuant to this rule are presented in bad faith or solely for the purpose of delay, the court shall forthwith order the party employing them to pay to the other party the amount of the reasonable expenses which the filing of the affidavits caused him to incur, including reasonable attorney's fees, and any offending party or attorney may be adjudged guilty of contempt.

I.R.C.P. 11(a)(1)

. . . The signature of an attorney or party constitutes a certificate that the attorney or party has read the pleading, motion, or other paper; that, to the best of the signer's knowledge, information, and belief after reasonable inquiry, it is well grounded in fact and is warranted by existing law . . . and that it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation. . . . If a pleading, motion, or other paper is signed in violation of this rule, the court, upon motion or upon its own initiative, shall impose upon the person who signed it, a represented party, or both, an appropriate sanction, which may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the pleading, motion, or other paper, including a reasonable attorney's fee.

I.R.C.P. 37(e)

In addition to the sanctions above under this rule for violation of discovery procedures, any court may in its discretion impose sanctions or conditions, as assess attorney's fees, costs, or expenses against a party or the party's attorney for failure to obey an order of the court made pursuant to these rules.

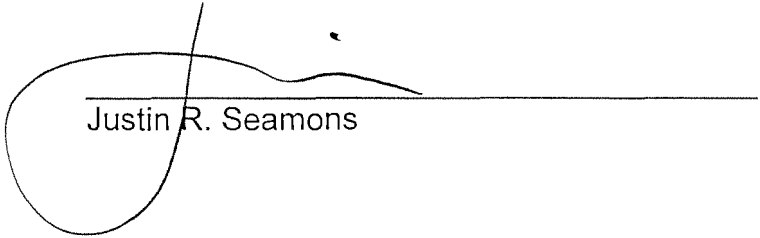
I.R.C.P. 26(e)(4)

If a party fails to seasonably supplement the responses as required in this Rule 26(e), the trial court may exclude the testimony of witnesses or the admission of evidence not disclosed by a required supplementation of the responses of the party.

CONCLUSION

If the court grants the MOTION FOR RECONSIDERATION, the Defendants hereby reserve the right to depose Mr. Thompson and to file a motion for reconsideration, including an affidavit from Mr. Leavitt. See I.R.C.P. 26(b)(4) and I.R.C.P. 11(a)(2)(B).

Dated November 22, 2011.

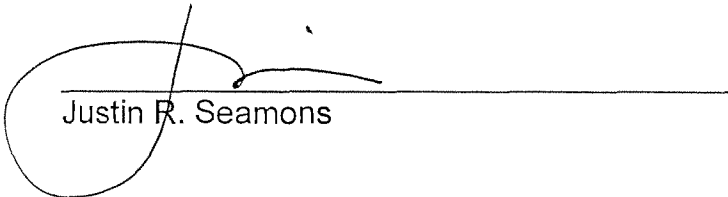


Justin R. Seamons

CERTIFICATE OF SERVICE

I served a copy of the foregoing MEMORANDUM IN OPPOSITION TO MOTION FOR RECONSIDERATION, OBJECTION TO AFFIDAVIT OF KEVIN L. THOMPSON AND MOTION TO STRIKE, AND MOTION FOR COSTS AND ATTORNEY'S FEES on the following person on November 22, 2011:

Kipp L. Manwaring
P.O. Box 50271
Idaho Falls, ID 83405-0271



Justin R. Seamons

EXHIBIT A

703

Justin R. Seamons
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Idaho State Bar Number: 3903

Attorney for Defendants

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

V. LEO CAMPBELL and KATHLEEN)
CAMPBELL,)
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Plaintiffs,)
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vs.)
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JAMES C. KVAMME and DEBRA)
KVAMME,)
)
Defendants.)
_____)

Case No. CV 10-3879

INTERROGATORIES

To: V. Leo Campbell and Kathleen Campbell.

James C. Kvamme and Debra Kvamme respectfully serve the following interrogatories on you in accordance with I.R.C.P. 33.

INTERROGATORY NO. 1: Please state the name, address, and telephone number of each and every expert "expected to testify" in this case, whether "acquired or developed in anticipation of litigation or for trial." See I.R.C.P. 26(b)(4).

INTERROGATORY NO. 2: In connection with INTERROGATORY NO. 1, above, please provide a full and complete "statement of all opinions to be expressed and the basis and reasons therefor." See I.R.C.P. 26(b)(4)(A)(i).

ORIGINAL

INTERROGATORY NO. 3: In connection with INTERROGATORY NO. 1, above, please provide a full and complete statement of "any qualifications of the witness, including a list of all publications authored by the witness within the preceding ten years." See I.R.C.P. 26(b)(4)(A)(i).

INTERROGATORY NO. 4: In connection with INTERROGATORY NO. 1, above, please provide a full and complete disclosure of "the compensation to be paid for the testimony." See I.R.C.P. 26(b)(4)(A)(i).

INTERROGATORY NO. 5: In connection with INTERROGATORY NO. 1, above, please provide a full and complete "listing of any other cases in which the witness has testified as an expert at trial or by deposition within the preceding four years." See I.R.C.P. 26(b)(4)(A)(i).

INTERROGATORY NO. 6: Please state the name, address, and telephone number of each and every person who knows about the facts of this case, irrespective of whether you may call such person as a witness at the trial of this case.

INTERROGATORY NO. 7: Please state the name, address, and telephone number of each and every person whom you may call as a witness at the trial of this case, excluding the experts whom you identified in your answer to INTERROGATORY NO. 1, above.

INTERROGATORY NO. 8: In connection with INTERROGATORY NO. 7, above, please state the substance of the testimony of each and every such person.

INTERROGATORY NO. 9: In Paragraph 19 of your COMPLAINT, you allege that, "as a result of the trespass, the Campbells have been damaged in an amount to be determined at trial." See COMPLAINT, p. 3, Paragraph 19. Please state each and every fact upon which you allege that you have been damaged "as a result of the trespass."

INTERROGATORY NO. 10: In connection with INTERROGATORY NO. 9, above, please provide a full and complete description or other explanation of each and every alleged damage and the amount thereof, including, without limitation, any and all general damages, special damages, nominal damages, and other damages of whatever kind or nature.

INTERROGATORY NO. 11: In your REPLY TO COUNTERCLAIM, you allege that Mr. and Mrs. Kvamme's counterclaim is subject to the affirmative defense of "waiver." See REPLY TO COUNTERCLAIM, p. 2, AFFIRMATIVE DEFENSES, Paragraph 1. Please state each and every fact upon which you base the foregoing allegation.

INTERROGATORY NO. 12: In your REPLY TO COUNTERCLAIM, you allege that Mr. and Mrs. Kvamme's counterclaim is subject to the affirmative defense of "estoppel and quasi-estoppel." See REPLY TO COUNTERCLAIM, p. 2, AFFIRMATIVE DEFENSES, Paragraph 2. Please state each and every fact upon which you base the foregoing allegation.

INTERROGATORY NO. 13: In your REPLY TO COUNTERCLAIM, you allege that Mr. and Mrs. Kvamme "knowingly installed improvements on the Campbell's land." See REPLY TO COUNTERCLAIM, p. 2, AFFIRMATIVE DEFENSES, Paragraph 4. Please state each and every fact upon which you allege that Mr. and Mrs. Kvamme "knew" that the "land" was the "Campbell's land."

INTERROGATORY NO. 14: In your REPLY TO COUNTERCLAIM, you allege that the "Campbells have never agreed to treat the fence between their property and the Kvamme's property as the boundary." See REPLY TO COUNTERCLAIM, p. 2, AFFIRMATIVE DEFENSES, Paragraph 7. Please state the name, address, and telephone number of each and every person who constructed or otherwise erected the fence.

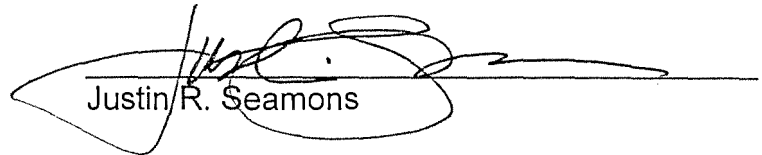
INTERROGATORY NO. 15: In connection with INTERROGATORY NO. 14, above, please state the date on which the foregoing person or people constructed or otherwise erected the fence.

INTERROGATORY NO. 16: In connection with INTERROGATORY NO. 14 and INTERROGATORY NO. 15, above, please state the name, address, and telephone number of each and every person who has thereafter maintained or otherwise provided upkeep of the fence.

INTERROGATORY NO. 17: In connection with INTERROGATORY NO. 14 and INTERROGATORY NO. 15, above, please state the name, address, and telephone number of each and every person who has thereafter repaired or otherwise fixed the fence.

INTERROGATORY NO. 18: In connection with INTERROGATORY NO. 14 and INTERROGATORY NO. 15, above, please state the name, address, and telephone number of each and every person who has thereafter altered or otherwise modified the fence.

Dated September 6, 2010.


Justin R. Seamons

CERTIFICATE OF SERVICE

I served a copy of the foregoing INTERROGATORIES on the following person on September 6, 2010:

Kipp L. Manwaring
P.O. Box 50271
Idaho Falls, ID 83405-0271

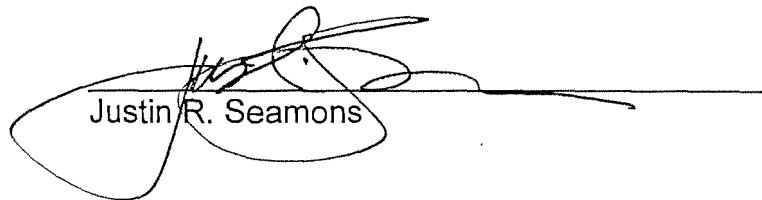

Justin R. Seamons

EXHIBIT B

Justin R. Seamons
414 Shoup Avenue
Idaho Falls, ID 83402
Telephone Number: (208) 542-0600
Facsimile Number: (208) 529-4166
Idaho State Bar Number: 3903

Attorney for Defendants

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

V. LEO CAMPBELL and KATHLEEN)
CAMPBELL,)
)
Plaintiffs,)
)
vs.)
)
JAMES C. KVAMME and DEBRA)
KVAMME,)
)
Defendants.)
_____)

Case No. CV 10-3879

REQUESTS FOR PRODUCTION

To: V. Leo Campbell and Kathleen Campbell.

James C. Kvamme and Debra Kvamme respectfully serve the following requests for production on you in accordance with I.R.C.P. 34.

You must produce the following "documents" or other "tangible things" at the following address at 9:00 a.m. on Monday, October 11, 2010:

Justin R. Seamons
414 Shoup Avenue
Idaho Falls, ID 83402

In the alternative, you may attach a copy of the following documents or other tangible things to your responses.

ORIGINAL

REQUEST FOR PRODUCTION NO. 1: Please produce the resume of each and every expert "expected to testify" in this case, whether "acquired or developed in anticipation of litigation or for trial." See I.R.C.P. 26(b)(4).

REQUEST FOR PRODUCTION NO. 2: Please produce the curriculum vitae of each and every expert "expected to testify" in this case, whether "acquired or developed in anticipation of litigation or for trial." See I.R.C.P. 26(b)(4).

REQUEST FOR PRODUCTION NO. 3: Please produce the report of each and every expert "expected to testify" in this case, whether "acquired or developed in anticipation of litigation or for trial." See I.R.C.P. 26(b)(4).

REQUEST FOR PRODUCTION NO. 4: Please produce the entire file of each and every expert "expected to testify" in this case, whether "acquired or developed in anticipation of litigation or for trial," including, without limitation, any and all correspondence, notes, records, and other documents. See I.R.C.P. 26(b)(4).

REQUEST FOR PRODUCTION NO. 5: In connection with REQUESTS FOR PRODUCTION NOS. 1 through 4, above, please produce any and all "data and other information considered by the witness in forming the opinions." See I.R.C.P. 26(b)(4)(A)(i).

REQUEST FOR PRODUCTION NO. 6: In connection with REQUESTS FOR PRODUCTION NOS. 1 through 4, above, please produce any and all "exhibits to be used as a summary of or support for the opinions." See I.R.C.P. 26(b)(4)(A)(i).

REQUEST FOR PRODUCTION NO. 7: Please produce each and every document or other tangible thing that you may introduce into evidence at the trial of this case, including, without limitation, any and all exhibits.

REQUEST FOR PRODUCTION NO. 8: Please produce each and every document or other tangible thing in your “possession, custody, or control” that relates or otherwise pertains to the facts or subject matter of this case, including, without limitation, any and all “writings, drawings, graphs, charts, photographs, phono-records, and other data compilations,” e-mails, instant messages, and other “electronic and data storage devices in any medium.” See I.R.C.P. 34(a).

REQUEST FOR PRODUCTION NO. 9: Please produce each and every document or other tangible thing in your “possession, custody, or control” that relates or otherwise pertains to any issue or defense in this case, including, without limitation, any and all “writings, drawings, graphs, charts, photographs, phono-records, and other data compilations,” e-mails, instant messages, and other “electronic and data storage devices in any medium.” See I.R.C.P. 34(a).

REQUEST FOR PRODUCTION NO. 10: In Paragraph 1 of your COMPLAINT, you allege that you are the “owners of record of that certain real property identified in Exhibit A.” See COMPLAINT, p. 1, Paragraph 1. Please produce each and every document upon which you base the foregoing allegation, including, without limitation, any and all deeds and other instruments.

REQUEST FOR PRODUCTION NO. 11: In Paragraph 19 of your COMPLAINT, you allege that, “as a result of the trespass, the Campbells have been damaged in an amount to be determined at trial.” See COMPLAINT, p. 3, Paragraph 19. Please produce each and every document or other tangible thing upon which you allege that you have been damaged “as a result of the trespass.”

REQUEST FOR PRODUCTION NO 12: In connection with REQUEST FOR PRODUCTION NO. 11, above, please produce each and every document or other tangible thing that evidences or otherwise shows the alleged damage and the amount thereof, including, without limitation, any and all general damages, special damages, nominal damages, and other damages of whatever kind or nature.

REQUEST FOR PRODUCTION NO. 13: In your REPLY TO COUNTERCLAIM, you allege that Mr. and Mrs. Kvamme's counterclaim is subject to the affirmative defense of "waiver." See REPLY TO COUNTERCLAIM, p. 2, AFFIRMATIVE DEFENSES, Paragraph 1. Please produce each and every document or other tangible thing upon which you base the foregoing allegation.

REQUEST FOR PRODUCTION NO. 14: In your REPLY TO COUNTERCLAIM, you allege that Mr. and Mrs. Kvamme's counterclaim is subject to the affirmative defense of "estoppel and quasi-estoppel." See REPLY TO COUNTERCLAIM, p. 2, AFFIRMATIVE DEFENSES, Paragraph 2. Please produce each and every document or other tangible thing upon which you base the foregoing allegation.

REQUEST FOR PRODUCTION NO. 15: In your REPLY TO COUNTERCLAIM, you allege that Mr. and Mrs. Kvamme "knowingly installed improvements on the Campbell's land." See REPLY TO COUNTERCLAIM, p. 2, AFFIRMATIVE DEFENSES, Paragraph 4. Please produce each and every document or other tangible thing upon which you allege that Mr. and Mrs. Kvamme "knew" that the "land" was the "Campbell's land."

REQUEST FOR PRODUCTION NO. 16: In your REPLY TO COUNTERCLAIM, you allege that "a survey has been completed of the property." See REPLY TO COUNTERCLAIM, p. 2, AFFIRMATIVE DEFENSES, Paragraph 3. Please produce the survey.

REQUEST FOR PRODUCTION NO. 17: In your REPLY TO COUNTERCLAIM, you allege that the "Campbells have never agreed to treat the fence between their property and the Kvamme's property as the boundary." See REPLY TO COUNTERCLAIM, p. 2, AFFIRMATIVE DEFENSES, Paragraph 7. Please produce each and every document or other tangible thing that evidences or otherwise shows the fence, including, without limitation, any and all photographs, aerial photographs, pictures, maps, plans, diagrams, drawings, sketches, site maps, and other images of the fence.

REQUEST FOR PRODUCTION NO. 18: In connection with REQUEST FOR PRODUCTION NO. 17, above, please produce each and every document or other tangible thing that evidences or otherwise shows the name of each and every person who constructed or otherwise erected the fence.

REQUEST FOR PRODUCTION NO. 19: In connection with REQUEST FOR PRODUCTION NO. 17 and REQUEST FOR PRODUCTION NO. 18, above, please produce each and every document or other tangible thing that evidences or otherwise shows the date on which the foregoing person or people constructed or otherwise erected the fence.

REQUEST FOR PRODUCTION NO. 20: In connection with REQUEST FOR PRODUCTION NO. 17 and REQUEST FOR PRODUCTION NO. 18, above, please produce each and every document or other tangible thing that evidences or otherwise shows the construction or erection of the fence, including, without limitation, any and all purchase orders, invoices, and receipts for materials, any and all checks and other proofs of payment for materials, and any and all photographs of the construction or erection of the fence.

REQUEST FOR PRODUCTION NO. 21: In connection with REQUEST FOR PRODUCTION NO. 17, above, please produce each and every document or other tangible thing that evidences or otherwise shows the name of each and every person who has thereafter maintained or otherwise provided upkeep up the fence.

REQUEST FOR PRODUCTION NO. 22: In connection with REQUEST FOR PRODUCTION NO. 17 and REQUEST FOR PRODUCTION NO. 21, above, please produce each and every document or other tangible thing that evidences or otherwise shows the maintenance or upkeep of the fence, including, without limitation, any and all purchase orders, invoices, and receipts for materials, any and all checks and other proofs of payment for materials, and any and all photographs of the maintenance or upkeep of the fence.

REQUEST FOR PRODUCTION NO. 23: In connection with REQUEST FOR PRODUCTION NO. 17, above, please produce each and every document or other tangible thing that evidences or otherwise shows the name of each and every person who has thereafter repaired or otherwise fixed the fence.

REQUEST FOR PRODUCTION NO. 24: In connection with REQUEST FOR PRODUCTION NO. 17 and REQUEST FOR PRODUCTION NO. 23, above, please produce each and every document or other tangible thing that evidences or otherwise shows the repair or other fix of the fence, including, without limitation, any and all purchase orders, invoices, and receipts for materials, any and all checks and other proofs of payment for materials, and any and all photographs of the repair or other fix of the fence.

REQUEST FOR PRODUCTION NO. 25: In connection with REQUEST FOR PRODUCTION NO. 17, above, please produce each and every document or other tangible thing that evidences or otherwise shows the name of each and every person who has thereafter altered or otherwise modified the fence.

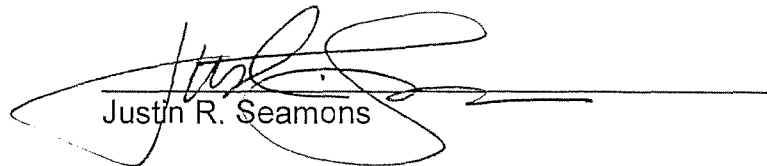
REQUEST FOR PRODUCTION NO. 26: In connection with REQUEST FOR PRODUCTION NO. 17 and REQUEST FOR PRODUCTION NO. 25, above, please produce each and every document or other tangible thing that evidences or otherwise shows the alteration or other modification of the fence, including, without limitation, any and all purchase orders, invoices, and receipts for materials, any and all checks and other proofs of payment for materials, and any and all photographs of the alteration or other modification of the fence.

REQUEST FOR PRODUCTION NO. 27: If you have "withheld" or otherwise not disclosed any "information" or documents or other tangible things "by claiming it is privileged or subject to protection as trial preparation material" or that it is not relevant or "otherwise discoverable," please "make the claim expressly and describe the nature of the documents, communications, or things not produced or disclosed in a manner that,

REQUESTS FOR PRODUCTION - 7

without revealing information itself privileged or protected, will enable [the court and the Defendants] to assess the applicability of the privilege or protection." See I.R.C.P. 26(b)(5)(A).

Dated September 6, 2010.

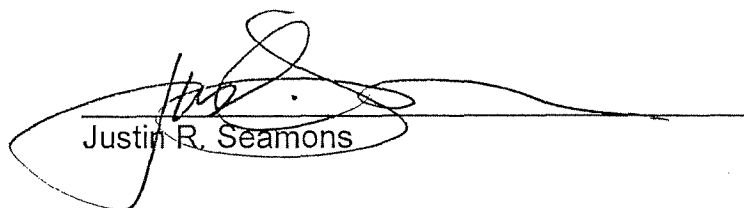


Justin R. Seamons

CERTIFICATE OF SERVICE

I served a copy of the foregoing REQUESTS FOR PRODUCTION on the following person on September 6, 2010:

Kipp L. Manwaring
P.O. Box 50271
Idaho Falls, ID 83405-0271



Justin R. Seamons

EXHIBIT C

CHARLES C. JUST, ESQ. – ISB 1779
KIPP L. MANWARING, ESQ. – ISB 3817
JUST LAW OFFICE
381 Shoup Avenue
P.O. Box 50271
Idaho Falls, Idaho 83405
Telephone: (208) 523-9106
Facsimile: (208) 523-9146

Attorneys for the Campbells

**IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT
STATE OF IDAHO, COUNTY OF BONNEVILLE**

V. LEO CAMPBELL and KATHLEEN
CAMPBELL, husband and wife;

Plaintiffs,

vs.

JAMES C. KVAMME and DEBRA
KVAMME, husband and wife; and JOHN
DOES I-X;

Defendants.

Case No. CV-20410-3879

**PLAINTIFFS' RESPONSE TO
DEFENDANTS'
INTERROGATORIES AND
REQUESTS FOR PRODUCTION**

In accordance with Idaho Rules of Civil Procedure, Plaintiff/Defendant submits the following Responses to Defendants' Interrogatories and Requests for Production as follows:

INTERROGATORIES

INTERROGATORY NO. 1: Please state the name, address, and telephone number of each and every expert "expected to testify" in this case, whether "acquired or developed in anticipation of litigation or for trial." See I.R.C.P. 26(b)(4).

ANSWER TO INTERROG NO. 1: No expert witness has been identified. However, Kevin Thompson of Thompson Engineering, Inc., may qualify as an expert pertaining to surveying.

INTERROGATORY NO. 2: In connection with INTERROGATORY NO. 1, above, please provide a full and complete “statement of all opinions to be expressed and the basis and reasons therefor.” See I.R.C.P. 26(b)(4)(A)(i).

ANSWER TO INTERROG NO. 2: None.

INTERROGATORY NO. 3: In connection with INTERROGATORY NO. 1, above, please provide a full and complete statement of “any qualifications of the witness, including a list of all publications authored by the witness within the preceding ten years.” See I.R.C.P. 26(b)(4)(A)(i).

ANSWER TO INTERROG NO. 3: None.

INTERROGATORY NO. 4: In connection with INTERROGATORY NO. 1, above, please provide a full and complete disclosure of “the compensation to be paid for the testimony.” See I.R.C.P. 26(b)(4)(A)(i).

ANSWER TO INTERROG NO. 4: None.

INTERROGATORY NO. 5: In connection with INTERROGATORY NO. 1, above, please provide a full and complete “listing of any other cases in which the witness has testified as an expert at trial or by deposition within the preceding four years” See I.R.C.P. 26(b)(4)(A)(i).

ANSWER TO INTERROG NO. 5: None.

INTERROGATORY NO. 6: Please state the name, address, and telephone number of each and every person who knows about the facts of this case, irrespective of whether you may call such persona as a witness at the trial of this case.

ANSWER TO INTERROG NO. 6:

Leo Campbell – has general knowledge of the facts and information pertaining to the facts alleged in the Complaint and Reply. Specifically, Mr. Campbell has knowledge that the fence between the Campbells’ property and the Kvammes’ property was never intended to be a boundary fence, he has never agreed it was the boundary, and knows that he has paid all taxes assessed on his real property and no such taxes were paid by the Kvammes.

Kathleen Campbell – has general knowledge of the facts and information pertaining to the facts alleged in the Complaint and Reply. Specifically, Mrs. Campbell has knowledge that the fence between the Campbells' property and the Kvammes' property was never intended to be a boundary fence, she has never agreed it was the boundary, and knows that she has paid all taxes assessed on her real property and no such taxes were paid by the Kvammes.

Bonneville County Assessor – has knowledge concerning assessment of taxes on the real property owned by the Campbells, including knowledge that assessments are based upon legal descriptions contained in deeds and not based upon locations of fences that may exist on the respective properties, and knowledge that there was no tax assessment notice given to the Kvammes relating to any portion of the Campbells' real property.

Bonneville County Treasurer – has knowledge concerning payment of taxes assessed on the real property owned by the Campbells, including knowledge that the Campbells paid all taxes assessed on their real property and that the Kvammes did not pay taxes for any part of the Campbells' property.

Jo L. Campbell, 915-755-0458 – has knowledge that the fence between the Campbells' property and the Kvammes' property was erected as a pasture fence to keep the Killians' livestock from entering onto the Campbells' property, including knowledge that the fence was intentionally set back a little from the actual boundary.

Don Mickelsen – has knowledge concerning the Campbells' property, survey, and marketing and value of the Campbells' property.

Margy Spradling - has knowledge that the fence between the Campbells' property and the Kvammes' property was erected as a pasture fence to keep the Killians' livestock from entering onto the Campbells' property, including knowledge that the fence was intentionally set back a little from the actual boundary.

Kurt Young, 1998 N. 2500 E., Hamer, ID – has knowledge of his conversation with Mary Killian concerning the fence and Mary’s statement that she knew the fence was not on the boundary.

Rodger Stucki – has knowledge as a prior tenant of the existence of a lateral ditch and headgate that the Kvammes’ removed.

James Kvamme

Debra Kvamme

INTERROGATORY NO. 7: Please state the name, address, and telephone number of each and every person whom you may call as a witness at the trial of this case, excluding the experts whom you identified in your answer to INTERROGATORY NO. 1, above.

ANSWER TO INTERROG NO. 7: Object as to identity of witnesses. Otherwise, see response to Interrogatory No. 6.

INTERROGATORY NO. 8: In connection with INTERROGATORY NO. 7, above, please state the substance of the testimony of each and every such person.

ANSWER TO INTERROG NO. 8: See response to Interrogatory No. 6.

INTERROGATORY NO. 9: In Paragraph 19 of your COMPLAINT, you allege that, “as a result of the trespass, the Campbells have been damaged in an amount to be determined at trial”. See COMPLAINT, p. 3, Paragraph 19. Please state each and every fact upon which you allege that you have been damaged “as a result of the trespass.”

ANSWER TO INTERROG NO. 9: Discovery is at the early stage and all facts have not yet been fully developed. However, the Campbells have listed their property for sale but cannot give clear title where the Kvammes’ have trespassed upon and asserted rights to possession of a portion of the Campbells’ property. The Campbells have lost opportunities to sell their property for \$11,500 per acre, an amount a previously willing buyer was ready to pay. The Campbells have been damaged by the lost income from a sale together with lost interest accruing on net sale income. Additionally, for any trespass

nominal damages are available together with costs required to restore property to its pre-trespass condition. Finally, there are damages from the Kvammes' removal of the lateral ditch and headgate; such damages are unknown in amount at this time.

INTERROGATORY NO. 10: In connection with INTERROGATORY NO. 9, above, please provide a full and complete description or other explanation of each and every alleged damage and the amount thereof, including, without limitation, any and all general damages, special damages, nominal damages, and other damages of whatever kind or nature.

ANSWER TO INTERROG NO. 10: See response to Interrogatory No. 9.

INTERROGATORY NO. 11: In your REPLY TO COUNTERCLAIM, you allege that Mr. and Mrs. Kvamme's counterclaim is subject to the affirmative defense of "waiver." See REPLY TO COUNTERCLAIM, p. 2, AFFIRMATIVE DEFENSES, Paragraph 1. Please state each and every fact upon which you base the foregoing allegation.

ANSWER TO INTERROG NO. 11: In 2004-2005 the Kvammes had a lease agreement with the Campbells. In 2008 the Kvammes installed a center pivot and asked the Campbells if the pivot could be made to go full circle through the Campbells' property. The Kvammes made alterations to the fence to accommodate the center pivot. If the Kvammes believed they had some right of possession to any portion of the Campbells' property they should have raised their claim at the time of the lease agreement and at the time of installing the center pivot. Failure to raise a claim constitutes waiver of the Kvammes' claim.

INTERROGATORY NO. 12: In your REPLY TO COUNTERCLAIM, you allege that Mr. and Mrs. Kvamme's counterclaim is subject to the affirmative defense of "estoppel and quasi-estoppel." See REPLY TO COUNTERCLAIM, p. 2, AFFIRMATIVE DEFENSES, Paragraph 2. Please state each and every fact upon which you base the foregoing allegation.

ANSWER TO INTERROG NO. 12: In 2004-2005 the Kvammes had a lease agreement with the Campbells. In 2008 the Kvammes installed a center pivot and asked the Campbells if the pivot could be made to go full circle through the Campbells' property. The Kvammes made alterations to the fence to accommodate the center pivot. The

Kvammes are now changing their position to the detriment of the Campbells. The Kvammes' change in position constitutes estoppel or quasi-estoppel.

INTERROGATORY NO. 13: In you REPLY TO COUNTERCLAIM, you allege that Mr. and Mrs. Kvamme "knowingly installed improvements on the Campbell's land." See REPLY TO COUNTERCLAIM, p. 2, AFFIRMATIVE DEFENSES, Paragraph 4. Please state each and every fact upon which you allege that Mr. and Mrs. Kvamme "knew" that the "land" was the "Campbell's land."

ANSWER TO INTERROG NO. 13: James Kvamme has notice of the recorded deeds establishing by legal description the dimensions of the Campbells' property and the Kvammes' property. Despite such notice, Kvamme removed an irrigation ditch and headgate on the Campbells' property and installed a pump and pivot. Leo Campbell asked Kvamme why he had put his pump so close to the Campbells' house. Kvamme replied, "I didn't think about it." There is an open and apparent survey marker on the nearby road that gives notice of property boundary lines.

INTERROGATORY NO. 14: In your REPLY TO COUNTERCLAIM, you allege that the "Campbells have never agreed to treat the fence between their property and the Kvamme's property as the boundary." See REPLY TO COUNTERCLAIM, p. 2, AFFIRMATIVE DEFENSES, Paragraph 7. Please state the name, address, and telephone number of each and every person who constructed or otherwise erected the fence.

ANSWER TO INTERROG NO. 14: It is believed Hyrum Campbell and his sons erected the fence. All those persons are now deceased.

INTERROGATORY NO. 15: In connection with INTERROGATORY NO. 14, above, please state the date on which the foregoing person or people constructed or otherwise erected the fence.

ANSWER TO INTERROG NO. 15: The date the fence was erected is unknown.

INTERROGATORY NO. 16: In connection with INTERROGATORY NO. 14, and INTERROGATORY NO. 15, above, please state the name, address, and telephone number of each and every person who has thereafter maintained or otherwise provided upkeep of the fence.

ANSWER TO INTERROG NO. 16:

Hyrum Campbell, deceased.
Leo H. Campbell, deceased.
V. Leo Campbell, plaintiff.
Delbert Killian, deceased.
Mary Killian, deceased.
Delbert Killian, Jr., deceased.

INTERROGATORY NO. 17: In connection with INTERROGATORY NO. 14, and INTERROGATORY NO. 15, above, please state the name, address, and telephone number of each and every person who has thereafter repaired or otherwise fixed the fence.

ANSWER TO INTERROG NO. 17:

Hyrum Campbell, deceased.
Leo H. Campbell, deceased.
V. Leo Campbell, plaintiff.
Delbert Killian, deceased.
Mary Killian, deceased.
Delbert Killian, Jr., deceased.

INTERROGATORY NO. 18: In connection with INTERROGATORY NO. 14 and INTERROGATORY NO. 15, above, please state the name, address, and telephone number of each and every person who has thereafter altered or otherwise modified the fence.

ANSWER TO INTERROG NO. 18: James Kvamme altered the fence to accommodate his center pivot. Unaware of any other person who has altered or modified the fence.

REQUEST FOR PRODUCTION OF DOCUMENTS

REQUEST FOR PRODUCTION NO. 1: Please produce the resume of each and every expert “expected to testify” in this case, whether “acquired or developed in anticipation of litigation or for trial.” See I.R.C.P. 26(b)(4).

RESPONSE TO REQUEST NO. 1: None.

REQUEST FOR PRODUCTION NO. 2: Please produce the report of each and every expert “expected to testify” in this case whether “acquired or developed in anticipation of litigation or for trial.” See I.R.C.P. 26(b)(4).

RESPONSE TO REQUEST NO. 2: None.

REQUEST FOR PRODUCTION NO. 3: Please produce the report of each and every expert “expected to testify” in this case, whether “acquired or developed in anticipation of litigation or for trial.” See I.R.C.P. 26(b)(4). See I.R.C.P. 26(b)(4).

RESPONSE TO REQUEST NO. 3: None.

REQUEST FOR PRODUCTION NO. 4: Please produce the entire file of each and every expert “expected to testify” in this case whether “acquired or developed in anticipation of litigation or for trial,” including, without limitation, any and all correspondence, notes, records, and other documents. See I.R.C.P. 26(b)(4).

RESPONSE TO REQUEST NO. 4: None.

REQUEST FOR PRODUCTION NO. 5: In connection with REQUESTS FOR PRODUCTION NOS. 1 through 4, above, please produce any and all “data and other information considered by the witness in forming the opinions.” See I.R.C.P. 26(b)(4)(A)(i).

RESPONSE TO REQUEST NO. 5: None.

REQUEST FOR PRODUCTION NO. 6: In connection with REQUESTS FOR PRODUCTION NOS. 1 through 4, above please produce any and all “exhibits to be used as a summary of or support for the opinions.” See I.R.C.P. 26(b)(4)(A)(i).

RESPONSE TO REQUEST NO. 6: None.

REQUEST FOR PRODUCTION NO. 7: Please produce each and every document or other tangible thing that you may introduce into evidence at the trial of this case, including, without limitation, any and all exhibits.

RESPONSE TO REQUEST NO. 7: Exhibits have not been identified. However, they will include a record of survey dated October 5, 2009. A copy of that survey is attached.

Exhibits will also include the following deeds:

1. Personal representative's deed recorded as Instrument No. 122583 in the Recorder's Office for Bonneville County, Idaho.
2. Quitclaim deed recorded as Instrument No. 1189866 in the Recorder's Office for Bonneville County, Idaho.
3. Quitclaim deed recorded as Instrument No. 1014290 in the Recorder's Office for Bonneville County, Idaho.
4. Quitclaim deed recorded as Instrument No. 976340 in the Recorder's Office for Bonneville County, Idaho.
5. Quitclaim deed recorded as Instrument No. 797916 in the Recorder's Office for Bonneville County, Idaho.
6. Warranty deed recorded as Instrument No. 870640 in the Recorder's Office for Bonneville County, Idaho.
7. Deed of gift recorded as Instrument No. 774872 in the Recorder's Office for Bonneville County, Idaho.
8. Deed of gift recorded as Instrument No. 774871 in the Recorder's Office for Bonneville County, Idaho.
9. Deed of gift recorded as Instrument No. 774870 in the Recorder's Office for Bonneville County, Idaho.
10. Warranty deed recorded as Instrument No. 607254 in the Recorder's Office for Bonneville County, Idaho.
11. Warranty deed recorded as Instrument No. 380830 in the Recorder's Office for Bonneville County, Idaho

REQUEST FOR PRODUCTION NO. 8: Please produce each and every document or other tangible thing in your "possession, custody, or control" that relates or otherwise pertains to the facts or subject matter of this case, including, without limitation, any and all "writings, drawings, graphs, charts, photographs, phono-records, and other data compilations," emails, instant messages, and other "electronic and data storage devices in any medium." See I.R.C.P. 34(a).

RESPONSE TO REQUEST NO. 8: Objection. Request is overly broad and includes matters protected by attorney-client privilege and attorney work product. Without waiving that objection, see attached copy of letter dated December 3, 2005 from Craig

Kvamme to Leo Campbell and the response to Request No. 7. There is no known electronic data.

REQUEST FOR PRODUCTION NO. 9: Please produce each and every document or other tangible thing in your “possession, custody, or control” that relates or otherwise pertains to the issue or defense in this case, including, without limitation, any and all “writings, drawings, graphs, charts, photographs, phono-records, and other data compilations,” emails, instant messages, and other “electronic and data storage devices in any medium.” See I.R.C.P. 34(a).

RESPONSE TO REQUEST NO. 9: Objection. Request is overly broad and includes matters protected by attorney-client privilege and attorney work product. Without waiving that objection, see attached copy of letter dated December 3, 2005 from Craig Kvamme to Leo Campbell and response to Request No. 7. There is no known electronic data.

REQUEST FOR PRODUCTION NO. 10: In Paragraph 1 of your COMPLAINT, you allege that you are the “owners of record of that certain real property identified in Exhibit A.” See COMPLAINT, p. 1, Paragraph 1. Please produce each and every document upon which you base the foregoing allegation, including, without limitation, any and all deeds and other instruments.

RESPONSE TO REQUEST NO. 10: See attached deeds identified in response to Request No. 7.

REQUEST FOR PRODUCTION NO. 11: In Paragraph 19 of your COMPLAINT, you allege that, “as a result of the trespass, the Campbells have been damaged in an amount to be determined at trial.” See COMPLAINT, p. 3, Paragraph 19. Please produce each and every document or other tangible things upon which you allege that you haven damaged “as a result of the trespass.”

RESPONSE TO REQUEST NO. 11: When damages are fully identified, this response will be supplemented.

REQUEST FOR PRODUCTION NO. 12: In connection with REQUEST FOR PRODUCTION NO. 11, above please produce each and every document or other tangible thing

that evidences or otherwise shows the alleged damage and the amount thereof, including, without limitation, any and all general damages, special damages, nominal damages, and other damages of whatever kind or nature.

RESPONSE TO REQUEST NO. 12: See response to Request No. 11.

REQUEST FOR PRODUCTION NO. 13: In your REPLY TO COUNTERCLAIM, you allege that Mr. And Mrs. Kvamme's counterclaim is subject to the affirmative defense of "waiver." See REPLY TO COUNTERCLAIM, p. 2, AFFIRMATIVE DEFENSES, Paragraph 1. Please produce each and every document or other tangible thing upon which you base the foregoing allegation.

RESPONSE TO REQUEST NO. 13: No known documents except for a lease agreement which is in the Kvammes' possession.

REQUEST FOR PRODUCTION NO. 14: In your REPLY TO COUNTERCLAIM, you allege that Mr. and Mrs. Kvamme's counterclaim is subject to the affirmative defense of "estoppel and quasi-estoppel." See REPLY TO COUNTERCLAIM, p. 2, AFFIRMATIVE DEFENSES, Paragraph 2. Please produce each and every document or other tangible thing upon which you base the foregoing allegation.

RESPONSE TO REQUEST NO. 14: No known documents except for a lease agreement which is in the Kvammes' possession.

REQUEST FOR PRODUCTION NO. 15: In your REPLY TO COUNTERCLAIM, you allege that Mr. and Mrs. Kvamme "knowingly installed improvements on the Campbell's land." See REPLY TO COUNTERCLAIM, p. 2, AFFIRMATIVE DEFENSES, Paragraph 4. Please produce each and every document or other tangible thing upon which you allege that Mr. and Mrs. Kvamme "knew" that the "land" was the "Campbell's land."

RESPONSE TO REQUEST NO. 15: See deeds identified in response to Request No. 7.

REQUEST FOR PRODUCTION NO. 16: In your REPLY TO COUNTERCLAIM, you allege that "a survey has been completed of the property." See REPLY TO COUNTERCLAIM, p. 2, AFFIRMATIVE DEFENSES, Paragraph 3. Please produce the survey.

RESPONSE TO REQUEST NO. 16: See attached copy of record of survey dated October 5, 2009.

REQUEST FOR PRODUCTION NO. 17: In your REPLY TO COUNTERCLAIM, you allege that the Campbells have never agreed to treat the fence between their property and the Kvamme's property as the boundary." See REPLY TO COUNTERCLAIM, p. 2, AFFIRMATIVE DEFENSES, Paragraph 7. Please produce each and every document or other tangible thing that evidences or otherwise shows the fence, including, without limitation, any and all photographs, aerial photographs, pictures, maps, plans, diagrams, drawings, sketches, site maps, and other images of the fence.

RESPONSE TO REQUEST NO. 17: At present, no such documents have been located other than the record of survey dated October 5, 2009. In the event additional documents are identified, this response will be supplemented.

REQUEST FOR PRODUCTION NO. 18: In connection with REQUEST FOR PRODUCTION NO. 17, above, please produce each and every document or other tangible thing that evidences or otherwise shows the name of each and every person who constructed or otherwise erected the fence.

RESPONSE TO REQUEST NO. 18: None known.

REQUEST FOR PRODUCTION NO. 19: In connection with REQUEST FOR PRODUCTION NO. 17 and REQUEST FOR PRODUCTION NO. 18, above, please produce each and every document or other tangible thing that evidences or otherwise shows the date on which the foregoing person or people constructed or otherwise erected the fence.

RESPONSE TO REQUEST NO. 19: None known.

REQUEST FOR PRODUCTION NO. 20: In connection with REQUEST FOR PRODUCTION NO. 17 and REQUEST FOR PRODUCTION NO. 18, above, please produce each and every document or other tangible thing that evidences or otherwise shows the construction or erection of the fence, including, without limitation, any and all purchase orders, invoices, and receipts for materials, any and all checks and other proofs of payment for materials, and any and all photographs of the construction or erection of the fence.

RESPONSE TO REQUEST NO. 20: None known.

REQUEST FOR PRODUCTION NO. 21: In connection with REQUEST FOR PRODUCTION NO. 17, above, please produce each and every document or other tangible thing that evidences or otherwise shows the name of each and every person who has thereafter maintained or otherwise provided the upkeep of the fence.

RESPONSE TO REQUEST NO. 21: None known.

REQUEST FOR PRODUCTION NO. 22: In connection with REQUEST FOR PRODUCTION NO. 17 and REQUEST FOR PRODUCTION NO. 21, above, please produce each and every document or other tangible thing that evidences or otherwise shows the maintenance or upkeep of the fence, including, without limitation, any and all purchase orders, invoices, and receipts for materials, any and all checks and other proofs of payment for materials, and any and all photographs of the maintenance or upkeep of the fence.

RESPONSE TO REQUEST NO. 22: None known.

REQUEST FOR PRODUCTION NO. 23: In connection with REQUEST FOR PRODUCTION NO. 17, above, please produce each and every document or other tangible thing that evidences or otherwise shows the name of each and every person who has thereafter repaired or otherwise fixed the fence.

RESPONSE TO REQUEST NO. 23: None known.

REQUEST FOR PRODUCTION NO. 24: In connection with REQUEST FOR PRODUCTION NO 17 and REQUEST FOR PRODUCTION NO. 23, above, please produce each and every document or other tangible things that evidences or otherwise shows the repair or other fix of the fence, including, without limitation, any and all purchase orders, invoices, and receipts for materials, any and all checks and other proofs of payment for materials, and any and all photographs of the repair or other fix of the fence.

RESPONSE TO REQUEST NO. 24: None known.

REQUEST FOR PRODUCTION NO. 25: In connection with REQUEST FOR PRODUCTION NO. 17, above, please produce each and every document or other tangible thing

that evidences or otherwise shows the name of each and every person who has thereafter altered or otherwise modified the fence.

RESPONSE TO REQUEST NO. 25: None known.

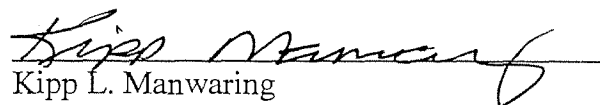
REQUEST FOR PRODUCTION NO. 26: In connection with REQUEST FOR PRODUCTION NO. 17 and REQUEST FOR PRODUCTION NO. 25, above, please produce each and every document or other tangible thing that evidences or otherwise shows the alteration or other modification of the fence, including, without limitation, any and all purchase orders, invoices, and receipts for materials, any and all checks and other proofs of payment for materials, and any and all photographs of the alteration or other modification of the fence.

RESPONSE TO REQUEST NO. 26: None known.

REQUEST FOR PRODUCTION NO. 27: If you have “withheld” or otherwise not disclosed any “information” or documents or other tangible things “by claiming it is privileged or subject to protection as trial preparation material” or that it is not relevant or “otherwise discoverable,” please “make the claim expressly and describe the nature of the documents, communications, or things not produced or disclosed in a manner that, without revealing information itself privileged or protected, will enable [the court and the Defendants] to assess the applicability of the privilege or protection.” See I.R.C.P. 26(b)(5)(A).

RESPONSE TO REQUEST NO. 27: All attorney notes, correspondence with clients, and work product.

DATED this 30 day of September 2010.


Kipp L. Manwaring
Attorney for the Campbells

VERIFICATION

STATE OF IDAHO)
 : ss
County of Bonneville)

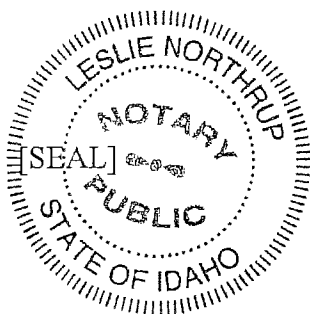
V. Leo Campbell, being first duly sworn, deposes and says:

That I am a Plaintiff in the foregoing action; that I have read the within Responses to Interrogatories and Request for Production of Documents, know the contents thereof, and that the same is true and correct as I verily believe.

V. Leo Campbell

V. Leo Campbell

SUBSCRIBED AND SWORN TO before me this 30th day of September, 2010.



Leslie Northrup

Notary Public for Idaho
Residing at: Moore, Idaho
My commission expires: 9-29-2015

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on the 30th day of September, 2010, a true and correct copy of the foregoing document was served upon the person or persons named below, in the manner indicated.

Justin R. Seamons
414 Shoup Avenue
Idaho Falls, Idaho 83402

- Hand Delivered
- U.S. Mail, Postage Prepaid
- Facsimile
- Other _____

Leslie Northrup

Leslie Northrup
Paralegal

PERSONAL REPRESENTATIVE'S DEED

THIS INDENTURE is made this 29th day of July, 2003, between H. Delbert Killian, Personal Representative of the Estates of Delbert Henry Killian and Mary C. Killian, the "Grantor", and James Craig Kvamme and Debra Kvamme, husband and wife, whose mailing address is 10278 N. 15th E. Idaho falls, ID 83401, the "Grantee".

WITNESSETH, that the Grantor, for and in consideration of the sum of Ten Dollars (\$10.00) lawful money of the United States of America, and other good and valuable consideration, to the Grantor in hand paid by the Grantee, the receipt whereof is hereby acknowledged, has granted, and by these presents does grant and confirm unto the Grantee, and to Grantee's heirs and assigns forever, all of the following described property in the County of Bonneville, State of Idaho, to-wit:

The North Half of the Northeast Quarter, Section 17, Township 3 North, Range 38 East, of the Boise Meridian. LESS AND EXCEPTING THE FOLLOWING TWO TRACTS:

Beginning at the Northeast corner of Section 17, Township 3 North, Range 38 East of the Boise Meridian; running thence West along the Section line 164.92 feet; thence S. 00°58'40" W. 260.56 feet; thence S. 88°45'53" E. 167.20 feet to the East line of said Section 17; thence N. 00°28'42" E. along said East line 264.13 feet to the point of beginning.

Also less: Beginning at a point that is West along the Section line 164.92 feet from the Northeast corner of Section 17, Township 3 North, Range 38 East of the Boise Meridian; running thence West along the Section line 195.64 feet; thence S. 09°40'58" E. 261.06 feet; thence S. 88°45'53" E. 147.32 feet; thence N. 00°58'40" E. 260.56 feet to the point of beginning.

SUBJECT to all existing easements or claims of easements, patent reservations, rights of way, protective covenants, zoning ordinances, and applicable building codes, laws and regulations, encroachments, overlaps, boundary line disputes and other matters which would be disclosed by an accurate survey or inspection of the premises.

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

IF 54856
First American title
734

TO HAVE AND TO HOLD, the premises and the appurtenances unto the Grantee, and to Grantee's heirs and assigns forever.

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

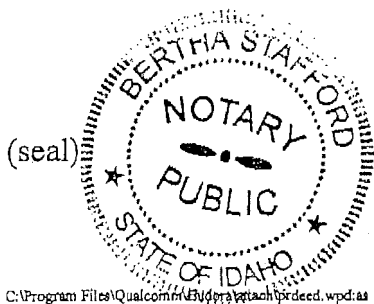
IN WITNESS WHEREOF, the Grantor has executed the within instrument the day and year first above written.

H. Delbert Killian
H. Delbert Killian
Personal Representative

STATE OF IDAHO)
)ss.
County of Bonneville)

On the 29th day of July, 2003, before me, the undersigned, a notary public in and for said State, personally appeared H. Delbert Killian known or identified to me to be the person whose name is subscribed to the within instrument as Personal Representative of the Estate of Delbert Henry Killian and Mary C. Killian and acknowledged to me that he executed the same as such Personal Representative.

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



C:\Program Files\Qualcomm\USB\practach\prdeed.wpd.as

Bertha Stafford
Notary Public for Idaho
Residing at: Idaho Falls, Idaho
My Commission Expires: 1-27-05

INSTRUMENT NO.	<u>1122583</u>
DATE	<u>7-29-03</u>
INST. CODE	<u>270</u>
IMAGED PGS	<u>2</u>
FEE	<u>6.00</u>
STATE OF IDAHO) COUNTY OF BONNEVILLE) ss	
I hereby certify that the within instrument was recorded.	
Ronald Longmore, County Recorder	
By	<u>R Long</u> Deputy
Request of	<u>FATCO</u>

misc

QUITCLAIM DEED

V. LEO CAMPBELL, a married man, as GRANTOR.

for good and valuable considerations, the receipt of which is hereby acknowledged, does hereby release, remise, and forever QUITCLAIM unto **V. LEO CAMPBELL and KATHY CAMPBELL, husband and wife, as GRANTEE,**

whose address is 10909 North 115 East, Idaho Falls, ID 83401, and Grantee's successors and assigns, all of the following described real property, to-wit:

Beginning at a point 982.50 feet North of the Southeast corner of the Northeast Quarter of Section 17, Township 3 North, Range 38 East of the Boise Meridian, Bonneville County, Idaho and running thence S89°58'35"W 2643.85 feet; thence N0°30'E 332.30 feet; thence N89°45'00"E 2642.37 feet; thence South 342.72 feet to the point of beginning.

TOGETHER WITH any and all improvements, water and ditch rights, easements, tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and any reversion, remainder, rents, issues, and profits thereof.

In construing this Deed and where the context so requires, the singular includes the plural, and the masculine, the feminine and neuter.

Dated: 6-22-05

V. Leo Campbell

STATE OF IDAHO)
COUNTY OF Bonneville) ss

On 6-22-05, before me, the undersigned, personally appeared **V. LEO CAMPBELL** known or identified to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

Wendy K. Nelson
Notary Public for the State of Idaho
Commission Expiration Date: 5/9/09

**WENDY K. NELSON
NOTARY PUBLIC
STATE OF IDAHO
MY COMMISSION EXPIRES 5/9/09**

INSTRUMENT NO.	<u>189866</u>
DATE	<u>6-22-05</u>
INST. CODE	<u>220</u>
IMAGED PGS	<u>1</u>
FEE	<u>3.00</u>
STATE OF IDAHO) ss
COUNTY OF BONNEVILLE)
I hereby certify that the within instrument was recorded.	
Ronald Loggins, County Recorder	
By <u><i>L. B. Wadley</i></u>	
Deputy	
Request of <u><i>AMT</i></u>	

AmeriTitle
497 N. Capital Ave
Idaho Falls, ID 83401

1014290

INSTRUMENT NO.	1014290
DATE	1-5-00
INST. CODE	220
IMAGED PGS	7
FEE	3.00
STATE OF IDAHO) COUNTY OF BONNEVILLE) ss	
I hereby certify that the within instrument was recorded.	
For #1 Long Term, County Request	
By	<i>[Signature]</i> Deputy
Request of	

ATEC

BONNEVILLE COUNTY RECORDER

1014290 JAN 5 '00 AM 1109

QUITCLAIM DEED

ORDER NO.: 3039900508

FOR VALUE RECEIVED, V. Leo Campbell, a married man as his sole and separate property

Do(es) hereby convey, release, remise and forever quit claim unto

V. Leo Campbell and Kathy Campbell, husband and wife

whose current address is:: 10909 North 115 East, Idaho Falls, ID. 83401

the following described premises:

BEGINNING AT THE NORTHEAST CORNER OF THE SOUTH HALF NORTHEAST QUARTER OF SECTION 17, TOWNSHIP 3 NORTH, RANGE 38, EAST OF THE BOISE MERIDIAN, BONNEVILLE COUNTY, IDAHO; THENCE SOUTH 208 FEET; THENCE WEST 238 FEET; THENCE NORTH 208 FEET; THENCE EAST 238 FEET TO THE POINT OF BEGINNING. LESS AND EXCEPTING THEREFROM: THE EXISTING COUNTY ROAD RIGHT OF WAY ALONG THE EAST SIDE OF THE ABOVE DESCRIBED PROPERTY.

TO HAVE AND TO HOLD the said premises, unto the said grantees, heirs and assigns forever.

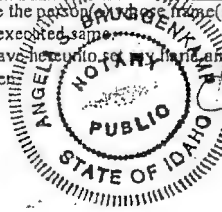
[Signature]

V. Leo Campbell

State of Idaho)
County of Bonneville)

On this 4 day of January, before me, a Notary Public in and for said state, personally appeared
V. Leo Campbell

known or identified to me to be the person whose name(s) are subscribed to the within Instrument and acknowledged to me that they executed same.
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



[Signature]

Notary Public for the State of
Residing at: Idaho Falls, ID.
Commission Expires: 08/29/03

1/23

976340 14-19719-DA

QUITCLAIM DEED

ATEC

For Value Received

KATHLEEN A. CAMPBELL, SPOUSE OF V. LEO CAMPBELL

do hereby convey, release, remise and forever quit claim unto

V. LEO CAMPBELL, A MARRIED MAN DEALING WITH HIS SOLE AND SEPARATE PROPERTY

whose current address is

10909 N 15TH E IDAHO FALLS, ID 83401

the following described premises, to-wit:

BEGINNING AT THE NORTHEAST CORNER OF THE SOUTH HALF NORTHEAST QUARTER OF SECTION 17, TOWNSHIP 3 NORTH, RANGE 38, EAST OF THE BOISE MERIDIAN, BONNEVILLE COUNTY, IDAHO; THENCE SOUTH 208 FEET; THENCE WEST 238 FEET; THENCE NORTH 208 FEET; THENCE EAST 238 FEET TO THE POINT OF BEGINNING. LESS AND EXCEPTING THEREFROM: THE EXISTING COUNTY ROAD RIGHT OF WAY ALONG THE EAST SIDE OF THE ABOVE DESCRIBED PROPERTY.

98 SEP 2 PM 2 14

BONNEVILLE COUNTY
RECORDER

976340

together with their appurtenances.

Dated: AUGUST 26, 1998

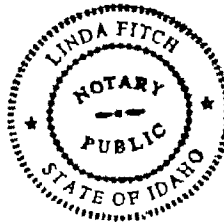
Kathleen A. Campbell
KATHLEEN A. CAMPBELL

INSTRUMENT NO.	976340
DATE	8-26-98
INST CODE	220
FICHE NO.	15230-49
FEE	3-
STATE OF IDAHO) COUNTY OF BONNEVILLE) ss	
I hereby certify that the within instrument was recorded.	
Ronald Longmore, County Recorder	
By	<i>[Signature]</i> Deputy
Request of	

STATE OF IDAHO, COUNTY OF BONNEVILLE
On this 26TH day of AUGUST, 1998,
before me, a notary public in and for said State, personally
appeared
KATHLEEN A. CAMPBELL

known to me to be the person whose name IS
subscribed to the within instrument, and acknowledged to
me that SHE executed the same

Linda Fitch
Notary Public
Residing at Idaho Falls, Idaho
Comm Expires 8/12/1999



Furnished by the

ALLIANCE

QUITCLAIM DEED

Printed and for sale by Fryer-Tank Company, Boise

797916

(Optional)
 Recorded Platted Key Punched To Treasurer
 Microfilmed Deed Card Master File
 Indexed Compared Abstracted

QUITCLAIM DEED

197916

THIS INDENTURE, Made this twentieth day of November
 in the year of our Lord one thousand nine hundred and Ninety between

Kathleen Anne Campbell
 of 10581 Seneca, Boise County of Ada
 State of Idaho, the party of the first part, and Vera Leo Campbell
 of 10909 N. 15th E., Idaho Falls County of Bonneville
 State of Idaho, the party of the second part,
 whose current address is 10909 N. 15th E., Idaho Falls, ID 83401

90 DEC -6 AM 4
BOONEVILLE COUNTY
CLERK

WITNESSETH That the said party of the first part, for and in consideration of the sum of
 xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx One and no 100ths xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx
 lawful money of the United States of America, to him in hand paid by the said party of
 the second part, the receipt whereof is hereby acknowledged, does by these presents remise, release
 and forever QUITCLAIM, unto the said party of the second part, and to his heirs and
 assigns all that certain lot, piece or parcel of land, situate, lying and being in
County of Bonneville, State of Idaho, bounded and particularly
 described as follows, to-wit:

1.14 acres, S 1/2 NE 1/4 section, 17 township, 3N range 38.
1977 28x66 Royal Oaks

INSTRUMENT NO. 797916
 DATE 12-5-78
 INST. CODE 68209
 REC'D NO. 68209
 FEE
 STATE OF IDAHO
 COUNTY OF BONNEVILLE } ss
 I hereby certify that the within
 instrument was recorded.
 Recorded compared,
 by Vera Leo Campbell
 (Recipient of V.L. Campbell)

Location of above described property...
 House No. 10907 N. 15th E. 17.83401
 MAIL DEED TO:
 MAIL TAX NOTION TO:
 Name
 Address
 City & State

TOGETHER with all and singular the tenements, hereditaments and appurtenances therunto belonging or in anywise appertaining, the reversion and reversions, remainder and remainders, rents, issues and profits thereof.

TO HAVE AND TO HOLD, All and singular the said premises, together with the appurtenances, unto the party of the second part, and to his heirs and assigns forever.

IN WITNESS WHEREOF, The said party of the first part has hereunto set her hand and seal the day and year first above written.

SIGNED, SEALED AND DELIVERED IN PRESENCE OF
Kathleen Campbell (Seal)
..... (Seal)
..... (Seal)
..... (Seal)

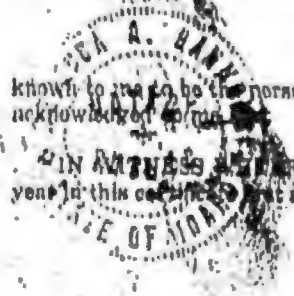
STATE OF IDAHO
County of ~~Blaine~~ *Ada* } RR.

On this *20th* day of *November* in the year 19*22* before me

In and for said State, personally appeared _____ a Notary Public

known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

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



Victoria D. Saunders
Notary Public for the State of Idaho.
Residing at *Meridian*, Idaho.

No. _____
QUITCLAIM DEED
-TO-
Dated _____, 19____
STATE OF IDAHO,
County of _____
I hereby certify that this instrument was filed
for record at request of _____
at _____ minutes past _____
o'clock _____ M. this _____ day
of _____ A.D. 19____
in my office, and duly recorded in Book _____
of _____ at page _____
By _____
Fee \$ _____
Mail to _____

WARRANTY DEED

V. LEO CAMPBELL aka VEE LEO CAMPBELL, spouse of KATHLEEN A. CAMPBELL aka KATHLEEN ANNE CAMPBELL

as GRANTOR,

of Idaho Falls, State of Idaho, for good and valuable considerations, the receipt of which is hereby acknowledged, does hereby grant, bargain, sell and convey unto V. LEO CAMPBELL and KATHLEEN A. CAMPBELL, husband and wife

10909 N. 15th P. Idaho Falls, State of Idaho, as GRANTEE, and to his successors and assigns forever, all of the following described real estate situated in the State of Idaho, to-wit:

Township 3 North, Range 38 East of the Boise Meridian, Bonneville County, Idaho.

Section 17: Beginning at the Northeast Corner of the S1/2 NE1/4 of said Section; thence South 208 feet; thence West 238 feet; thence North 208 feet; thence East 238 feet to the point of beginning.

94 FEB 9 PM 4 00

BONNEVILLE COUNTY
RECORDER

870810

TOGETHER WITH any and all improvements, water, water rights, ditches, ditch rights, easements, hereditaments, and appurtenances thereunto belonging or in anywise appertaining.

~~Grantee, grantee's heirs, assigns, personal representatives, executors, administrators, and assigns, shall hold the above described premises, together with all improvements thereon, unto the heirs, assigns, personal representatives, executors, administrators, and assigns of the grantor, his heirs, assigns, personal representatives, executors, administrators, and assigns forever.~~

In construing this Deed and where the context so requires, the singular includes the plural, and the masculine, the feminine and neuter.

IN WITNESS WHEREOF, the Grantor hereunto has set his hand and seal the 4th day of February, 1994

V. Leo Campbell
V. Leo Campbell

STATE OF IDAHO

County of Bonneville ss:

On this 4th day of February, 1994

I, before me, the undersigned, a Notary Public in and for said State, personally appeared V. LEO CAMPBELL aka VEE LEO CAMPBELL

known to me to be the person(s) whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

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

Notary Public for the State of Idaho

Reside in Idaho Falls, ID

Commission Expiration Date 1/19/99

RECORDING DATA

INSTRUMENT NO. 870640
DATE 2-9-94
INST. CODE 205
FICHE NO. 1572-36
FEE 2.00

STATE OF IDAHO
COUNTY OF BONNEVILLE,) ss

I hereby certify that the within instrument was recorded.

Ronald Longmore,
County Recorder

By Ruth Avery Deputy

Bonneville Land & Title Co.

DEED OF GIFT

774872

8307 - 4 PM 4:02

This indenture, made this 10 day of October, 1989, between LEO H. CAMPBELL and PHYLLIS B. CAMPBELL, husband and wife, "DONOR", of 10519 North 15 East, City of Idaho Falls, Bonneville County, State of Idaho, and JO. L. CAMPBELL, "DONEE" of 4701 Fairbanks Avenue, City of El Paso, El Paso County, Texas, WITNESSETH:

That the Donor, for and in consideration of the love and affection which Donor has and bears unto the Donee, and for the purpose of making a gift to Donee and also for the better maintenance, support and protection and livelihood of Donee, does by these presents give, grant, convey and confirm unto the said Donee the following described real property, situate in Bonneville County, State of Idaho, to-wit:

Beginning at a point 982.50 feet North of the Southeast corner of the Northeast Quarter of Section 17, Township 3 North, Range 38 East, Boise Meridian, Bonneville County, Idaho and running thence S89°58'35"E 2643.85 Feet; thence S.0°15'30"W. 327.50 feet; thence N69°58'35"E 2645.32 feet; thence North 327.50 feet to the point of beginning. Contains 19.88 acres, less county road right-of-way along the East Side.

TOGETHER with all and singular the tenements, heretiments and appurtenances thereunto belonging to in anywise appertaining, and the reversion or reversions, remainder and remainders, rents, issues and profits thereof together with 7.5 shares in the Harrison Canal and Irrigation Company together with the water, water rights and ditch rights appertuant thereto.

Subject to all existing easements and rights-of-way as appear of record or on the ground or by way of use.

SUBJECT, however, and reserving to Donor, and each of them, a life estate in and to all of such real property and improvements for and during the term of their natural lives, with the specific right to collect, receive, use and enjoy the income, dividends and proceeds therefrom during such term of their natural lives. Upon the death of both Donors, such life estate shall terminate.

IN WITNESS WHEREOF, the Donor have hereunto set their hands and seals the day and year first above written.

DONOR

LEO H. CAMPBELL

PHYLLIS B. CAMPBELL

STATE OF IDAHO)
)ss.
County of Bonneville)

On this ___ day of October, 1989, before me, the undersigned, a Notary Public in and for said said, personally appeared, LEO H. CAMPBELL and PHYLLIS B. CAMPBELL, husband and wife, known to me to be the persons whose names are subscribed to the within and foregoing DEED OF GIFT, and acknowledged to me that they had read the same, understood the contents thereof and the legal effect thereof, and that they had executed same of their own free will

and choice.

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

[Signature]
NOTARY PUBLIC FOR IDAHO
Residing at Idaho Falls, Idaho
My Commission Expires: 11/22

INSTRUMENT NO.	<u>774472</u>
DATE	<u>10-4-19</u>
INST. CODE	<u>556</u>
FICHE NO.	<u>6004-19</u>
FEE	<u>0.00</u>
STATE OF IDAHO) COUNTY OF BONNEVILLE) ss	
I hereby certify that the within instrument was recorded.	
Boyd Longmore, County Recorder	
<u>[Signature]</u> Recorder of <u>[Signature]</u>	

POB 021

BONNEVILLE COUNTY

DEED OF GIFT

774871

89001-4 PM 4:02

This indenture, made this 11 day of October, 1989, between LEO H. CAMPBELL and PHYLLIS B. CAMPBELL, husband and wife, "DONOR", of 10514 North 15 East, City of Idaho Falls, Bonneville County, State of Idaho, and MARGY L. SPRADLING, "DONEE" of 5135 Lamancha Way, City of Salt Lake City, Salt Lake County, Utah, WITNESSETH:

That the Donor, for and in consideration of the love and affection which Donor has and bears unto the Donee, and for the purpose of making a gift to Donee and also for the better maintenance, support and protection and livelihood of Donee, does by these presence give, grant, convey and confirm unto the said Donee the following described real property, situate in Bonneville County, State of Idaho, to-wit:

Beginning at a point 327.50 feet North of the Southeast corner of the Northeast Quarter of Section 17, Township 3 North, Range 38 East, Boise Meridian, Bonneville County, Idaho and running S89°58'35"W 2646.80 Feet; thence N. 0°15'30"E 327.50 feet; thence N69°58'35"E 2645.32 feet; thence South 327.50 feet to the point of beginning. Contains 19.89 acres, less county road right-of-way along the East Side.

TOGETHER with all and singular the tenements, heretiments and appertuances thereunto belonging to in anywise appertaining, and the reversion or reversions, remainder and remainders, rents, issues and profits thereof together with 7.5 shares in the Harrison Canal and Irrigation Company together with the water, water rights and ditch rights appertuant thereto.

BONNEVILLE COUNTY

DEED OF GIFT

774870

89 OCT -4 PM 4:02

This indenture, made this 4th day of October, 1989, between LEO H. CAMPBELL and PHYLLIS B. CAMPBELL, husband and wife, "DONOR", of 10519 North 15 East, City of Idaho Falls, Bonneville County, State of Idaho, and V. LEO CAMPBELL, "DONEE" of 10909 North 15 1st East, City of Idaho Falls, Bonneville County, Idaho, WITNESSETH:

That the Donor, for and in consideration of the love and affection which Donor has and bears unto the Donee, and for the purpose of making a gift to Donee and also for the better maintenance, support and protection and livelihood of Donee, does by these presence give, grant, convey and confirm unto the said Donee the following described real property, situate in Bonneville County, State of Idaho, to-wit:

Beginning at a point 982.50 feet North of the Southeast corner of the Northeast Quarter of Section 17, Township 3 North, Range 38 East, Boise Meridian, Bonneville County, Idaho and running thence S89°58'35"W 2643.85 Feet; Thence N. 0°15'30"E. 332.30 feet; thence N89°45'00"E 2642.37 feet; thence South 342.72 feet to the point of beginning. Contains 20.48 acres, less county road right-of-way on the East Side. Includes 1.14 Acres heretofore deeded to Donee in the Northeast Corner and on which Donee has constructed substantial improvements prior hereto.

TOGETHER with all and singular the tenements, heretiments and appurtenances thereunto belonging to in anywise appertaining, and the reversion or reversions, remainder and remainders, rents, issues and profits thereof

together with 7.5 shares in the Harrison Canal and Irrigation Company together with the water, water rights and ditch rights appertuant thereto.

Subject to all existing easements and rights-of-way as appear of record or on the ground or by way of use.

SUBJECT, however, and reserving to Donor, and each of them, a life estate in and to all of such real property and improvements for and during the term of their natural lives, with the specific right to collect, receive, use and enjoy the income, dividends and proceeds therefrom during such term of their natural lives. Upon the death of both Donors, such life estate shall terminate.

IN WITNESS WHEREOF, the Donor has hereunto set their hands and seals the day and year first above written.

DONOR

Leo H. Campbell
LEO H. CAMPBELL

Phyllis B. Campbell
PHYLLIS B. CAMPBELL

STATE OF IDAHO)
)ss.
County of Bonneville)

On this 1 day of October, 1989, before me, the undersigned, a Notary Public in and for said said, personally appeared, LEO H. CAMPBELL and PHYLLIS B. CAMPBELL, husband and wife, known to me to be the persons whose names are subscribed to the within and foregoing DEED OF GIFT, and acknowledged to me that they had read

the same, understood the contents thereof and the legal effect thereof, and that they had executed same of their own free will and choice.

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

L. Roy Herman
NOTARY PUBLIC FOR IDAHO
Residing at Idaho Falls, Idaho
My Commission Expires: 2-11-195

INSTRUMENT NO.	<u>774770</u>
DATE	<u>10-4-59</u>
INST. CODE	<u>336</u>
FICHE NO.	<u>6004-13</u>
FEE	<u>75</u>
STATE OF IDAHO) COUNTY OF BONNEVILLE) ss	
I hereby certify that the within instrument was recorded.	
Ronald Longmore, County Recorder	
By <u>Wesley S. [Signature]</u>	
Request of <u>C. J. [Signature]</u>	

10621
10-5-59

WARRANTY DEED

FOR VALUABLE CONSIDERATION RECEIVED LEO H. CAMPBELL and PHYLLIS B. CAMPBELL, husband and wife, the Grantor,

does hereby grant, bargain, sell and convey unto V. LEO CAMPBELL and KATHY CAMPBELL, husband and wife, the Grantee,

whose current address is 795 Marcia, Idaho Falls, Idaho the following described real estate situated in Bonneville County, State of Idaho, to-wit:

TOWNSHIP 3 NORTH, RANGE 38, EAST BOISE MERIDIAN, Section 17: Beginning at the Northeast corner of the S1/4 of said Section, thence South 208 feet; thence West 238 feet; thence North 208 feet; thence East 238 feet to the point of beginning, Bonneville County, Idaho.

TO HAVE AND TO HOLD the said premises, together with all tenements, hereditaments and appurtenances thereto belonging, unto the said Grantee, his successors and assigns forever. Grantor does hereby warrant to and with the said Grantee that IT is the owner in fee simple of said premises and that IT will warrant and defend the same from all lawful claims whatsoever.

In construing this Deed and where the context so requires, the singular includes the plural and the masculine, the feminine and neuter.

DATED: May 28, 1981

Leo H. Campbell LEO H. CAMPBELL

Phyllis B. Campbell PHYLLIS B. CAMPBELL

STATE OF IDAHO, COUNTY OF Bonneville On this 28th day of May 1981 before me, a notary public in and for the State of Idaho, personally appeared LEO H. CAMPBELL and PHYLLIS B. CAMPBELL

known to me to be the persons whose names are subscribed to the within instrument and to know the contents thereof, they

Scott McCall Residing at Idaho Falls Comm. Expires Life

Notary Public Seal and signature area with handwritten notes.

IDAHO TITLE & TRUST COMPANY ESCROWS • Title Insurance

547 N. Capitol Ave. Idaho Falls, Idaho 83402

DE GR. LPT. 11B: 101 and 102 103 104 105 106 107 108 109 110 111 112 113 114 115 116 117 118 119 120 121 122 123 124 125 126 127 128 129 130 131 132 133 134 135 136 137 138 139 140 141 142 143 144 145 146 147 148 149 150 151 152 153 154 155 156 157 158 159 160 161 162 163 164 165 166 167 168 169 170 171 172 173 174 175 176 177 178 179 180 181 182 183 184 185 186 187 188 189 190 191 192 193 194 195 196 197 198 199 200

WARRANTY DEED

380830

THIS INDENTURE, Made this 10th day of April in the year of our Lord, One Thousand Nine Hundred and Sixty, by and between Charlotte R. Campbell, widow of James L. Campbell, deceased,

of the County of Jefferson, State of Idaho, the part Y of the first part, and Delbert H. Millien and Lucille M. Millien, his wife,

of the County of Bonneville, State of Idaho, the part 125 of the second part.

WITNESSETH, That the said party of the first part, for and in consideration of the sum of Ten and No/100 (\$10.00) DOLLARS of the United States of America, and other considerations, to her in hand paid by the parties of the second part, the receipt whereof is hereby acknowledged, has granted and sold, and by these presents do grant, bargain, sell, convey and assign to the said parties of the second part and to their heirs and assigns forever, the following described real estate, situate in the County of Bonneville, State of

The North Half of the Northeast Quarter (N2E4), of Section Seventeen (17), Township Three (3), North of Range Thirty-eight (38), East of the Boise Meridian, together with the tenements, hereditaments, water and ditch rights, and appurtenances thereunto belonging or in anywise appertaining, and particularly including 30 shares of the capital stock of Harrison Canal and Irrigation Company, an Idaho corporation.

This Deed is given subject to 1950 taxes and assessments and subsequent taxes and assessments.

With all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and the reversion or reversions, remainder and reversionary interests and profits thereof, and all estate, right, title and interest in and to the same, as well in law as in equity, of the said party Y of the first part.

TO HAVE AND TO HOLD, All and singular, the above mentioned and described premises, together with the appurtenances, unto the parties of the second part, and to their heirs and assigns forever. And the said party Y of the first part, and her heirs, the said parties of the second part and peaceable possession of the said parties of the second part, and their heirs and assigns against the said party of the first part and her heirs and against all persons, whomsoever lawfully claiming or to claim the same, shall and lawfully may be and by these presents forever DEFEND.

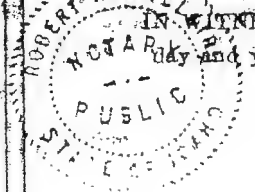
IN WITNESS WHEREOF, The said party Y of the first part has hereunto set her hand and seal the day and year first above written.

Witness my hand and delivered in the presence of the following witnesses: Charlotte R. Campbell (SEAL), (SEAL), (SEAL), (SEAL)

STATE OF IDAHO,
County of Bonanza } ss.

On this 14th day of April, in the year 1950, before me
the undersigned, a Notary Public in and for the State of Idaho, personally
appeared Charlotte A. Campbell, a widow.

known to me to be the person whose name is subscribed to the within instrument,
and acknowledged to me that he executed the same.



IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal
this 14 day and year in this certificate first above written.

[Signature]
Notary Public
Residing at Idaho Falls, Idaho
My commission expires November 1, 1951

9000000

No. _____
Warranty Deed

JOHN C. HUGHES & ANNE
TO

Dated April 14, 1950
STATE OF IDAHO
County of Bonanza ss.

I hereby certify that this instrument
was filed for record at the request of
[Signature]

at 48 minutes past 10
o'clock P.M., this 9
day of April, 1950
in my office and duly recorded in
Book _____ of Deeds at

PAGE _____
[Signature]
By [Signature]
Recorder

13-782 500 SHEETS, FILLER 5 SQUARE
42-381 50 SHEETS EYE-EASE® 5 SQUARE
42-382 100 SHEETS EYE-EASE® 5 SQUARE
42-389 200 SHEETS EYE-EASE® 5 SQUARE
42-392 100 RECYCLED WHITE 5 SQUARE
42-399 200 RECYCLED WHITE 5 SQUARE
MADE IN U.S.A.



Leo,

I decided to treat the Farm as if you and your sister brother owned the Farm in common. It was too difficult to figure out exactly who owned what acres when it came to figuring the cost of the alfafa.

I planted alfafa from the south boundary up to the irrigation box or approximately 1/2 of the Farm.

According to the Farm Service Agency your Farm (Farm # 488) is broken into the following tracts:

- Tract # 2619 = 18.0 Acres
- Tract # 2618 = 20.0 Acres
- Tract # 2617 = 18.7 Acres
- Tract # 2616 = 16.9 Acres

Tract # 2616 is the piece next to it behind your house. The tracts go sequentially to the south. I subtracted 10 Acres from Tract # 2616 for your pasture.

The calculation for the rest is attached.

IF there are any problems, let me know.

You can settle with your brother separately.

I have already settled with MARY as I have a working lease with her. PLEASE provide me a written lease to include yours and your brother's ground.

Thanks,
Craig Kravme
522-1941
752



13-762 500 SHEETS, FILLER 5 SQUARE
 42-381 50 SHEETS EYE-EASE® 5 SQUARE
 42-382 100 SHEETS EYE-EASE® 5 SQUARE
 42-389 200 SHEETS EYE-EASE® 5 SQUARE
 42-392 100 RECYCLED WHITE 5 SQUARE
 42-399 200 RECYCLED WHITE 5 SQUARE
 Made in U. S. A.

Acres - Total

18.0
 20.0
 18.7
16.9 - 18 (PASTURE)

63.6 Acres

Acres less MARY'S

63.6
 - 24.1
39.5 Acres

39.5 Acres
 x 60 \$ / Acre
\$ 2,370

1/2 Farm part in alfalfa. LANDLORD PAY
 1/2 of seed.

39.5 Acres / 2 = 20 Acres in ALFALFA

20 Acres x 20 lbs / Acre = 400 lbs ALFA

400 lbs x \$1.95 / lb = \$780 cost of
 ALFALFA SEED

\$780 / 2 = \$390 LANDLORD SHARE

— 390
\$1980 - Rent due to Leo & Brother Joe

EXHIBIT D

Justin R. Seamons
414 Shoup Avenue
Idaho Falls, ID 83402
Telephone Number: (208) 542-0600
Facsimile Number: (208) 529-4166
Idaho State Bar Number: 3903

Attorney for Defendants

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

V. LEO CAMPBELL and KATHLEEN)
CAMPBELL,)
)
Plaintiffs,)
)
vs.)
)
JAMES C. KVAMME and DEBRA)
KVAMME,)
)
Defendants.)
_____)

Case No. CV 10-3879

INTERROGATORY

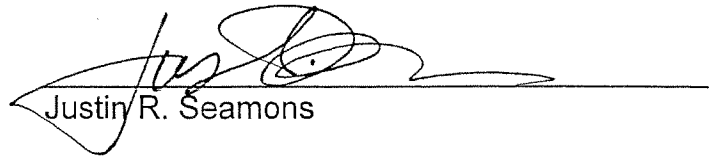
To: V. Leo Campbell and Kathleen Campbell.

James C. Kvamme and Debra Kvamme respectfully serve the following
interrogatory on you in accordance with I.R.C.P. 33.

INTERROGATORY NO. 19: If applicable, please supplement your answers to
INTERROGATORY NOS. 1 through 18, dated September 30, 2010, in accordance with
I.R.C.P. 26(e)(3). In this regard, please make sure that your answers are not "evasive
or incomplete" in violation of I.R.C.P. 37(a)(3).

(END)

Dated January 14, 2011.

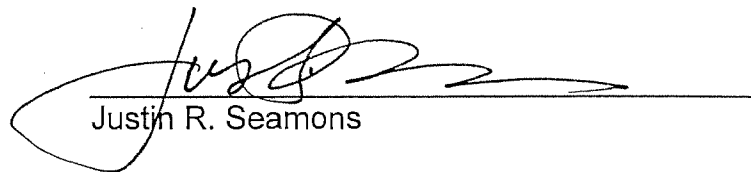


Justin R. Seamons

CERTIFICATE OF SERVICE

I served a copy of the foregoing INTERROGATORY on the following person on
January 14, 2011:

Kipp L. Manwaring
HAND DELIVERED



Justin R. Seamons

EXHIBIT E

Justin R. Seamons
414 Shoup Avenue
Idaho Falls, ID 83402
Telephone Number: (208) 542-0600
Facsimile Number: (208) 529-4166
Idaho State Bar Number: 3903

Attorney for Defendants

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

V. LEO CAMPBELL and KATHLEEN)
CAMPBELL,)
)
Plaintiffs,)
)
vs.)
)
JAMES C. KVAMME and DEBRA)
KVAMME,)
)
Defendants.)
_____)

Case No. CV 10-3879

REQUEST FOR PRODUCTION

To: V. Leo Campbell and Kathleen Campbell.

James C. Kvamme and Debra Kvamme respectfully serve the following request for production on you in accordance with I.R.C.P. 34.

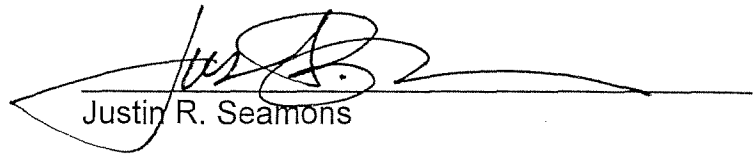
You must produce the following "documents" or other "tangible things" at the following address at 9:00 a.m. on Monday, February 14, 2011:

Justin R. Seamons
414 Shoup Avenue
Idaho Falls, ID 83402

In the alternative, you may attach a copy of the following documents or other tangible things to your response.

REQUEST FOR PRODUCTION NO. 28: If applicable, please supplement your responses to REQUESTS FOR PRODUCTION NOS. 1 through 18, dated September 30, 2010, in accordance with I.R.C.P. 26(e)(3). In this regard, please make sure that your responses are not "evasive or incomplete" in violation of I.R.C.P. 37(a)(3).

Dated January 14, 2011.

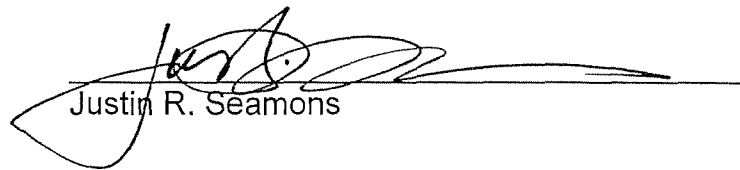


Justin R. Seamons

CERTIFICATE OF SERVICE

I served a copy of the foregoing REQUEST FOR PRODUCTION on the following person on January 14, 2011:

Kipp L. Manwaring
HAND DELIVERED



Justin R. Seamons

EXHIBIT F

CHARLES C. JUST, ESQ. – ISB 1779
KIPP L. MANWARING, ESQ. – ISB 3817
JUST LAW OFFICE
381 Shoup Avenue
P.O. Box 50271
Idaho Falls, Idaho 83405
Telephone: (208) 523-9106
Facsimile: (208) 523-9146

Attorneys for the Campbells

**IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT
STATE OF IDAHO, COUNTY OF BONNEVILLE**

V. LEO CAMPBELL and KATHLEEN
CAMPBELL, husband and wife;

Plaintiffs,

vs.

JAMES C. KVAMME and DEBRA
KVAMME, husband and wife; and JOHN
DOES I-X;

Defendants.

Case No. CV-20410-3879

**PLAINTIFFS' RESPONSE TO
DEFENDANTS' ADDITIONAL
INTERROGATORY AND
REQUEST FOR PRODUCTION**

In accordance with Idaho Rules of Civil Procedure, Plaintiff/Defendant submits the following Responses to Plaintiff's Additional Interrogatory and Request for Production as follows:

INTERROGATORIES

INTERROGATORY NO. 19: If applicable, please supplement your answers to Interrogatory Nos. 1 through 18, dated September 20, 2010, in accordance with I.R.C.P. 26(e)(3). In this regard, please make sure that your answers are not "evasive or incomplete" in violation of I.R.C. P. 37(a)(3).

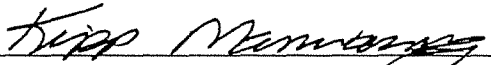
ANSWER TO INTERROG NO. 19: After due review and as of the date of the response, the Campbells are unaware of any facts, documents, or information not previously disclosed. A supplemental response is not applicable.

REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 28: If applicable, please supplement your responses to Requests for Production Nos. 1 through 18, dated September 20, 2010, in accordance with I.R.C.P. 26(e)(3). In this regard, please make sure that your responses are not “evasive or incomplete” in violation of I.R.C.P. 37(a)(3).

ANSWER TO REQUEST NO. 28: After due review and as of the date of the response, the Campbells are unaware of any facts, documents, or information not previously disclosed. A supplemental response is not applicable.

DATED this 24 day of January 2011.


Kipp L. Manwaring
Attorney for the Campbells

CERTIFICATE OF MAILING

I **HEREBY CERTIFY** that on the 27th day of January, 2011, a true and correct copy of the foregoing document was served upon the person or persons named below, in the manner indicated.

Justin R. Seamons
414 Shoup Avenue
Idaho Falls, Idaho 83402

- Hand Delivered
- U.S. Mail, Postage Prepaid
- Facsimile
- Other _____



Leslie Northrup
Paralegal

hindering

Justin R. Seamons
414 Shoup Avenue
Idaho Falls, ID 83402
Telephone Number: (208) 542-0600
Facsimile Number: (208) 529-4166
Idaho State Bar Number: 3903

BONNEVILLE COUNTY
IDAHO

2011 NOV 25 AM 11:43

Attorney for Defendants

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

V. LEO CAMPBELL and KATHLEEN)
CAMPBELL,)

Plaintiffs,)

vs.)

JAMES C. KVAMME and DEBRA)
KVAMME,)

Defendants.)

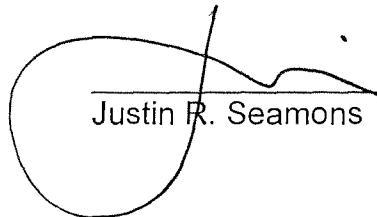
Case No. CV 10-3879

NOTICE OF SERVICE

The Defendants served the following documents on the Plaintiffs on
November 25, 2011:

1. INTERROGATORY NO. 20
2. REQUEST FOR PRODUCTION NO. 29

Dated November 25, 2011.

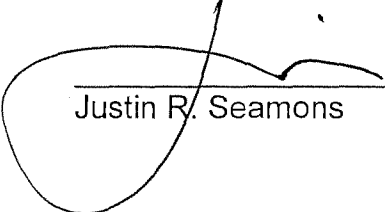


Justin R. Seamons

CERTIFICATE OF SERVICE

I served a copy of the foregoing NOTICE OF SERVICE on the following person
on November 25, 2011:

Kipp L. Manwaring
P.O. Box 50271
Idaho Falls, ID 83405-0271



Justin R. Seamons

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

V. LEO CAMPBELL, et al,)
)
 Plaintiff,)
)
 -vs.-)
)
 JAMES C. KVAMME, et al,)
)
 Defendant.)
 _____)

Case No. CV-2010-3879

MINUTE ENTRY

11 NOV 30 AM 10:06

7TH JUDICIAL DISTRICT COURT
BONNEVILLE COUNTY, IDAHO

On November 29, 2011, at 2:00 PM, several motions came on for hearing before the Honorable Jon J. Shindurling, District Judge, sitting in open court at Idaho Falls, Idaho.

Ms. Nancy Marlow, Court Reporter, and Ms. Grace Walters, Deputy Court Clerk, were present. Mr. Kipp Manwaring appeared on behalf of the plaintiffs. Mr. Justin Seamons appeared on behalf of the defendants.

Mr. Manwaring presented argument on the plaintiffs' Motion for Reconsideration.

Mr. Seamons presented argument on the defendants' cross-motion for Reconsideration, opposition to the plaintiffs' motion, and requested the Court deny the plaintiffs' Motion for Reconsideration. If the Court grants the plaintiffs' motion, Mr. Seamons requested the Court grant possession by adverse possession, or acquiescence along with fees and costs.

Mr. Manwaring rebutted the opposition argument, requested the Court re-examine the evidence and reconsider the judgment.

Mr. Seamons rebutted the opposition argument to the defendants' motions.

The Court will take the matter under review and issue a ruling in due time.

Court was thus adjourned.



JON J. SHINDURLING
District Judge

c: Kipp Manwaring
Justin Seamons

summary

CHARLES C. JUST, ESQ. – ISB 1779
KIPP L. MANWARING, ESQ. – ISB 3817
JUST LAW OFFICE
381 Shoup Avenue
P.O. Box 50271
Idaho Falls, Idaho 83405
Telephone: (208) 523-9106
Facsimile: (208) 523-9146

BONNEVILLE COUNTY, IDAHO

2011 NOV 30 PM 3: 27

Attorneys for the Campbells

**IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT
STATE OF IDAHO, COUNTY OF BONNEVILLE**

V. LEO CAMPBELL and KATHLEEN
CAMPBELL, husband and wife;

Plaintiffs,

vs.

JAMES C. KVAMME and DEBRA
KVAMME, husband and wife; and JOHN
DOES I-X;

Defendants.


Case No. CV-²⁰¹⁰~~2011~~-3879

**NOTICE OF COMPLIANCE –
Plaintiffs’ Third Supplemental
Response**

NOTICE IS HEREBY GIVEN that on this 30th day of November 2011, I certify that I served a true and correct copy of **Plaintiffs’ Third Supplemental Response to Defendants’ Interrogatories**, pursuant to Rules 33, 34 and 36 of the Idaho Rules of Civil Procedure, upon the following individuals by the method indicated below:

Justin R. Seamons
Attorney at Law
414 Shoup Avenue
Idaho Falls, Idaho 83402

- Hand Delivered
- U.S. Mail, Postage Prepaid
- Facsimile
- Other _____



Leslie Northrup.
Paralegal

S

Handwritten signature

Justin R. Seamons
414 Shoup Avenue
Idaho Falls, ID 83402
Telephone Number: (208) 542-0600
Facsimile Number: (208) 529-4166
Idaho State Bar Number: 3903

BONNEVILLE COUNTY
2011 DEC -6 PM 4:47

Attorney for Defendants

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

V. LEO CAMPBELL and KATHLEEN)
CAMPBELL,)
)
Plaintiffs,)
)
vs.)
)
JAMES C. KVAMME and DEBRA)
KVAMME,)
)
Defendants.)
_____)

Case No. CV 10-3879

**DISCLOSURE OF EXPERT
WITNESSES**

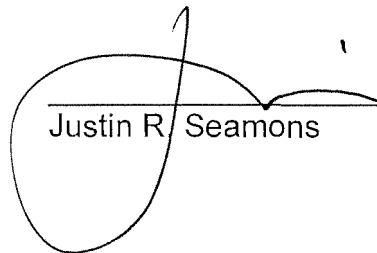
The Defendants hereby "disclose the names, addresses, and telephone numbers of expert witnesses [who] may be called to testify at trial" in accordance with the court's ORDER SETTING PRETRIAL CONFERENCE, dated October 12, 2010. See ORDER, p. 1, Section 1, Paragraph 2.

1. Robert Jon Meikle
Mountain River Engineering
1020 Lincoln Road
Idaho Falls, ID 83401
(208) 524-6175
2. Heather Elverud
Title One Corporation
400 Memorial Drive
Idaho Falls, ID 83402
(208) 522-7895

3. Kim H. Leavitt
Harper-Leavitt Engineering, Inc.
985 North Capital Avenue
Idaho Falls, ID 83402
(208) 524-0212

4. The Defendants hereby reserve the right to call any and/or all of the expert witnesses whom the Plaintiffs call, attempt to call, or otherwise disclose in this case, including, without limitation, Kevin L. Thompson, John Barnes, Garth Cunningham, and Dennis Jones.

Dated December 6, 2011.

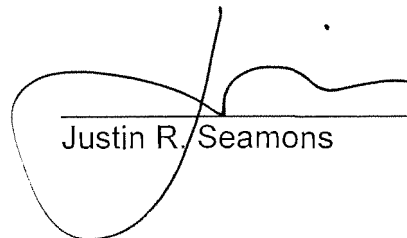


Justin R. Seamons

CERTIFICATE OF SERVICE

I served a copy of the foregoing DISCLOSURE OF EXPERT WITNESSES on the following person in accordance with I.R.C.P. 5(b) on December 6, 2011:

Kipp L. Manwaring
P.O. Box 50271
Idaho Falls, ID 83405-0271



Justin R. Seamons

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

V. LEO CAMPBELL, et al,

Plaintiffs,

v.

JAMES C. KVAMME, et al,

Defendants.

Case No. CV-2010-3879

OPINION AND ORDER ON
PLAINTIFFS' MOTION FOR
RECONSIDERATION

11 DEC 21 P 1:23

7TH JUDICIAL DISTRICT COURT
BONNEVILLE COUNTY, IDAHO

I.

FACTUAL AND PROCEDURAL BACKGROUND

Plaintiffs and Defendants own parcels of real property located in Section 17, Township 3 North, Range 38 East of the Boise Meridian, Bonneville County, Idaho. The north boundary of the Plaintiffs' parcel is contiguous with the south boundary of the Defendants' parcel. Plaintiffs filed a complaint on June 30, 2010 and Defendants filed an answer and counterclaim on July 27, 2010. The issue now before the Court concerns the boundary line between Plaintiffs' and Defendants' parcels. Defendants allege that there is a fence on the boundary line between the two parcels and Plaintiffs allege that the actual boundary line is about 15 feet north of the fence.

Plaintiffs filed a motion for partial summary judgment on May 17, 2011. Defendants filed a motion for summary judgment on June 7, 2011. Those motions came on for hearing before this Court

OPINION AND ORDER ON PLAINTIFFS' MOTION FOR RECONSIDERATION

CV-2010-3879

771

on September 12, 2011. This Court granted the Defendants' Motion for Summary Judgment in its Opinion and Order on Plaintiffs' Motion for Partial Summary Judgment and Defendants' Motion for Summary Judgment on October 28, 2011. On November 3, 2011, this Court entered a Judgment and Decree of Quiet Title.

Pursuant to Rule 11(a)(2)(B), the Plaintiffs filed a Motion for Reconsideration on November 15, 2011. They request that this Court reconsider its opinion in light of the new evidence supplied with their motion. That motion came before this Court for hearing on November 29, 2011.

After considering the argument of counsel and the submitted briefs, the Court now renders its decision.

II.

STANDARD OF REVIEW

The decision to grant or deny a request for reconsideration pursuant to I.R.C.P. 11(a)(2)(B) generally rests in the sound discretion of the trial court. *Jordan v. Beeks*, 135 Idaho 586, 21 P.3d 908 (2001). See also, *Watson v. Navistar Int'l Transp. Corp.*, 121 Idaho 643, 827 P.2d 656 (1992) and *Slaathaug v. Allstate Ins. Co.*, 132 Idaho 705, 979 P.2d 107 (1999).

III.

ANALYSIS

In its October 28, 2011 Opinion and Order, this Court found that “[p]ursuant to Rule 56(e) of the Idaho Rules of Civil Procedure, the record of survey submitted as an exhibit to Plaintiffs’ counsel’s affidavit, lacks a proper foundation and is not properly before the Court.” Although Plaintiffs request this Court to reconsider its opinion in light of the new evidence supplied with their motion, there is no new evidence supplied with their motion. The evidence is the same record of

survey performed by Kevin Thompson that was not properly before the Court in the previous motions. The Plaintiffs have now submitted an Affidavit of Kevin Thompson to lay the proper foundation for the survey, but the evidence is not new. While Plaintiffs are not required to present new evidence in a Rule 11(a)(2)(B) motion for reconsideration, their motion is based on the Court now considering the record of survey that was not properly before the Court on the previous motions. This evidence was known to the Plaintiffs in May of 2011 when they filed for summary judgment and was known to them when the Complaint was filed in this case in June of 2010. Based on Rule 56(c) of the Idaho Rules of Civil Procedure and also on the Court's scheduling order, the affidavit of Kevin Thompson should have been submitted months ago. Therefore, as the decision to grant or deny a motion for reconsideration rests in this Court's discretion, this Court finds that it is too late to now submit an affidavit that could have, and should have, been submitted months ago. To decide otherwise would essentially allow Plaintiffs to not comply with the rules of civil procedure and the Court's scheduling order and roll the dice with a motion for summary judgment. If they lose on that motion, under the same rules of civil procedure not complied with originally, they would then be allowed to file endless restructured motions on the same subject matter.

Plaintiffs alternatively argue that the record of Kevin Thompson was properly before the Court as it is attached to the Affidavit of Kim H. Leavitt and was used by Mr. Leavitt in forming his opinions for his testimony in his affidavit and deposition. Mr. Leavitt is entitled to consult with inadmissible evidence in forming his opinions and testimony. *See* I.R.E. 703. The Thompson survey could be used at trial to question Mr. Leavitt regarding his opinions but that does not make the Thompson survey admissible to prove what it purports.

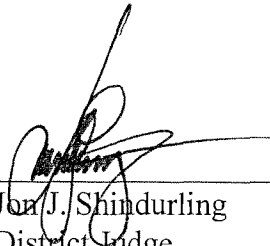
IV.

CONCLUSION AND ORDER

For the foregoing reasons, Plaintiffs' Motion for Reconsideration is DENIED.

IT IS SO ORDERED.

Dated this 21 day of December, 2011.



Jon J. Shindurling
District Judge

CERTIFICATE OF SERVICE

I hereby certify that on this 21 day of December, 2011, the foregoing OPINION AND ORDER ON PLAINTIFFS' MOTION FOR RECONSIDERATION was entered and a true and correct copy was served upon the parties listed below by mailing, with the correct postage thereon, or by causing the same to be delivered to their courthouse boxes.

Attorney for Plaintiff

Kipp Manwaring
Just Law Office
PO Box 50271
Idaho Falls, Idaho 83405

Attorney for Defendant

Justin Seamons
414 Shoup Avenue
Idaho Falls, ID 83402

Ronald Longmore
Clerk of the District Court
Bonneville County, Idaho

by

RL
Deputy Clerk

Justin R. Seamons
414 Shoup Avenue
Idaho Falls, ID 83402
Telephone Number: (208) 542-0600
Facsimile Number: (208) 529-4166
Idaho State Bar Number: 3903

BONNEVILLE COUNTY
IDaho
2011 DEC 22 PM 1:23

Attorney for Defendants

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

V. LEO CAMPBELL and KATHLEEN)
CAMPBELL,)
)
Plaintiffs,)
)
vs.)
)
JAMES C. KVAMME and DEBRA)
KVAMME,)
)
Defendants.)
_____)

Case No. CV 10-3879

**SUPPLEMENTAL AFFIDAVIT IN
SUPPORT OF MEMORANDUM OF
COSTS**

State of Idaho)
) ss.
County of Bonneville)

I, Justin R. Seamons, state and declare the following under oath:

1. I represent the Plaintiff in this case.
2. The total amount of attorney's fees for the performance of the legal

services in this case was **\$56,662.00**:

\$51,152.00 (see AFFIDAVIT IN SUPPORT, dated 11/04/11)
+ \$5,510.00 (see STATEMENT, attached hereto)

\$56,662.00

3. The STATEMENT, attached hereto, is an itemization of the legal services that I performed in connection with this case, including the applicable dates of service, hours of service, and rate.

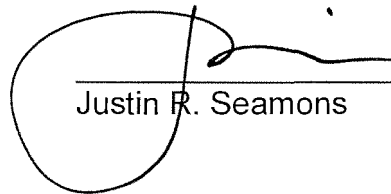
4. The performance of the foregoing services was necessary. See I.R.C.P. 54(e)(3)(A).

5. The foregoing amount of attorney's fees is reasonable. In this regard, I possess the skills that the proper performance of the foregoing services required; in particular, I have experience and I am able to perform legal services in the fields of law that underlaid this case. See I.R.C.P. 54(e)(3)(C).

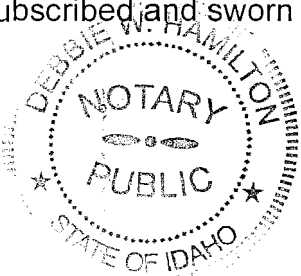
6. I charge a fixed fee or hourly rate for the performance of such services, the amount of which is similar to that which attorneys at Idaho Falls, Idaho, charge for the performance of such services. See I.R.C.P. 54(e)(3)(D) and (E).

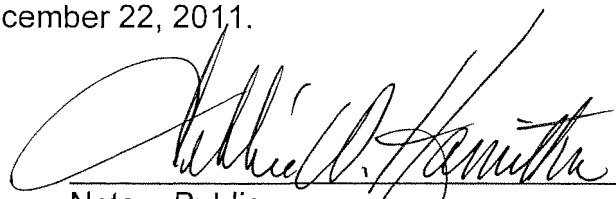
7. The Plaintiff obtained a favorable result in this case. See I.R.C.P. 54(e)(3)(G) and (L).

Dated December 22, 2011.


Justin R. Seamons

Subscribed and sworn on December 22, 2011.

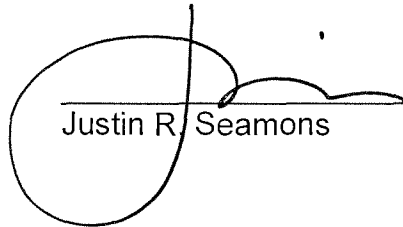



Notary Public
Commission expires: 04/11/2017
Residing at: Idaho Falls, ID 83401

CERTIFICATE OF SERVICE

I served a copy of the foregoing SUPPLEMENTAL AFFIDAVIT IN SUPPORT OF
MEMORANDUM OF COSTS on the following person on December 22, 2011:

Kipp L. Manwaring
HAND DELIVERED


Justin R. Seamons

JUSTIN R. SEAMONS

ATTORNEY AT LAW

SHOUP EXECUTIVE SUITES

414 Shoup Avenue
Idaho Falls, ID 83402

Office: (208) 542-0600
Facsimile: (208) 529-4166

James Craig Kvamme and Debra Kvamme
10278 North 15th East
Idaho Falls, ID 83401

STATEMENT OF ATTORNEY'S FEES

Re: Campbell v. Kvamme, Case No. CV 10-3879.

<u>Date of Statement</u>	<u>Amount Due</u>	<u>Due Date</u>
December 22, 2011	\$5,510.00	December 22, 2011

SUMMARY

<u>Date</u>	<u>Description of Services</u>	<u>Hours</u>
11/07/11	Meet with Craig Kvamme re status of case and settlement options.	0.0
11/08/11	Review e-mail from Kipp Manwaring; prepare reply.	0.75
11/10/11	Review e-mail from Kipp Manwaring; prepare reply. Telephone calls to Kipp Manwaring; leave messages. Review order and rules.	0.5
11/10/11	Research re motions to reconsider.	1.0
11/11/11	Telephone call with Craig Kvamme re status of case, offer of settlement, and course of action.	0.0
11/14/11	Telephone call with Craig Kvamme re status of case and course of action; prepare e-mails to Kipp Manwaring (4); review reply. Review files and pleadings re motions, including motions to reconsider, discovery motions, and pre-trial motions.	3.0

11/14/11	Telephone call to Kipp Manwaring re settlement; leave message.	0.0
11/15/11	Review Objection to Memorandum of Costs, Motion for Reconsideration, Affidavit of Kevin L. Thompson, and Notice of Hearing. Prepare Motion to Compel deposition of V. Leo Campbell, notice of hearing, Motion to Compel deposition of Kathleen Campbell, notice of hearing, Motion to Repair or Replace Fence, notice of hearing, Motion to Depose Kevin L. Thompson, notice of hearing, Motion for Reconsideration, notice of hearing, and Notice of Reservation of Rights.	5.0
11/15/11	Prepare letter to Kipp Manwaring re status of case.	0.25
11/16/11	Meet with Kim Leavitt re affidavit of Kevin Thompson.	0.5
11/16/11	Telephone call from Kipp Manwaring re status of case and possibility of settlement.	0.15
11/16/11	Prepare e-mail to Kipp Manwaring re possibility of settlement.	0.1
11/17/11	Prepare e-mail to Kipp Manwaring re settlement.	0.1
11/17/11	Telephone call from Kim Leavitt re affidavit of Kevin Thompson and issues for affidavit in opposition.	0.25
11/18/11	Prepare e-mail to Kipp Manwaring re settlement.	0.1
11/18/11	Review e-mail from Kipp Manwaring; no settlement.	0.1
11/18/11	Telephone call with Kipp Manwaring re status of case and course of action.	0.15
11/18/11	Receive invoice from Kim Leavitt; forward to Craig Kvamme.	0.1
11/18/11	Telephone call from Kipp Manwaring; still no settlement.	0.1
11/21/11	Review e-mail from Kipp Manwaring; no response to settlement options.	0.1
11/21/11	Research for and preparation of Memorandum in Opposition to Motion for Reconsideration, Objection to Affidavit	6.0

of Kevin L. Thompson, and Motion for Costs and Attorney's Fees.

11/22/11	Complete Motion for Reconsideration, Objection to Affidavit of Kevin L. Thompson, and Motion for Costs and Attorney's Fees.	5.0
11/25/11	Review response to Motion to Compel.	0.1
11/25/11	Review response to Motion to Repair Fence.	0.1
11/25/11	Review Affidavit of Counsel.	0.1
11/25/11	Review depositions of Leo Campbell re time.	0.15
11/25/11	Prepare supplemental interrogatory.	0.25
11/25/11	Prepare supplemental request for production.	0.25
11/25/11	Prepare Notice of Service.	0.25
11/29/11	Prepare for hearing; review motions, memoranda, and research. Attend hearing.	2.5
11/30/11	Review Minute Entry.	0.1
11/30/11	Review Notice of Compliance re discovery.	0.1
11/30/11	Review supplemental answer to Interrogatory No. 6.	0.1
12/02/11	Receive invoice from Harper Leavitt Engineering; forward to Craig Kvamme.	0.0
12/06/11	Review scheduling order and Plaintiffs' disclosures; calendar dates; prepare final Disclosure of Expert Witnesses.	0.75
12/21/11	Review Memorandum Decision, denying Motion to Reconsider. Telephone call with Craig Kvamme re outcome of motion.	0.5
12/22/11	Prepare Supplemental Affidavit in Support of Memorandum of Costs.	0.5

29.0

- Attorney's Fees: \$5,510.00 (\$190.00 per hour x hours)
\$5,510.00

Justin R. Seamons
414 Shoup Avenue
Idaho Falls, ID 83402
Telephone Number: (208) 542-0600
Facsimile Number: (208) 529-4166
Idaho State Bar Number: 3903

BONNEVILLE COUNTY, IDAHO

2012 JAN -4 PM 4: 04

Attorney for Defendants

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

V. LEO CAMPBELL and KATHLEEN)
CAMPBELL,)
)
Plaintiffs,)
)
vs.)
)
JAMES C. KVAMME and DEBRA)
KVAMME,)
)
Defendants.)
_____)

Case No. CV 10-3879

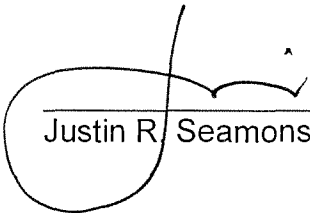
NOTICE OF HEARING

*(Objection to Defendants' Motion and
Memorandum for Costs)*

The Defendants will call the Plaintiffs' **OBJECTION TO DEFENDANTS' MOTION
AND MEMORANDUM FOR COSTS** for hearing at the following address at 10:15 a.m.
on January 23, 2012:

Bonneville County Courthouse
Attn: Jon J. Shindurling, District Judge
605 North Capital Avenue
Idaho Falls, ID 83402

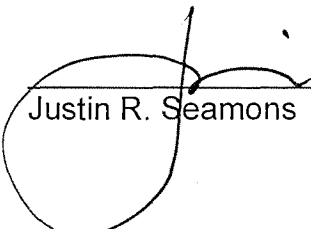
Dated January 4, 2012.


Justin R. Seamons

CERTIFICATE OF SERVICE

I served a copy of the foregoing NOTICE OF HEARING on the following person
on January 4, 2012:

Kipp L. Manwaring
P.O. Box 50271
Idaho Falls, ID 83405-0271


Justin R. Seamons

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

7TH JUDICIAL DISTRICT COURT
BONNEVILLE COUNTY, IDAHO

12 JAN 27 P2:28

V. LEO CAMPBELL, et al,)	
)	
Plaintiffs,)	Case No. CV-2010-3879
)	
v.)	OPINION AND ORDER ON
)	ATTORNEY'S FEES AND COSTS
JAMES C. KVAMME, et al,)	
)	
Defendants.)	
)	
<hr style="border: 0.5px solid black;"/>		

After this Court granted summary judgment in favor of Defendants on October 28, 2011, Defendants filed a Memorandum of Costs requesting costs and attorney's fees on November 4, 2011. After this Court issue its opinion on December 21, 2011 denying Plaintiffs' Motion for Reconsideration, Defendants filed a supplemental affidavit to their Memorandum of Costs on December 22, 2011. Plaintiffs object and argue that the deposition fee requested for Leo Campbell's deposition is unreasonable, partly due to Defendants prolonging the length of the deposition. Plaintiffs further argue that none of the discretionary costs requested by Defendants were necessary and exceptional costs reasonably incurred. Finally, Plaintiffs argue that Defendants should not be awarded attorney's fees as Plaintiffs did not assert or pursue their claims and defenses frivolously, unreasonably or without foundation.

Defendants are entitled to costs as a matter of right pursuant to I.R.C.P. 54(d)(1) and this Court finds that the deposition costs are reasonable. Although Plaintiff argues the deposition of Mr. Campbell went afield and was too broad, the discovery rules allow fairly broad latitude in the inquiry for admissible evidence. Thus, even though questioning does not seem to seek admissible evidence, it is permissible if it “appears reasonably calculated to lead to the discovery of admissible evidence.” I.R.C.P. 26(b)(1). Discovery depositions of a party, in particular, merit some liberality of inquiry so that the opposing counsel can flesh out that party’s position and scope of contentions at trial. The Court cannot find the deposition of Mr. Campbell to be unreasonable in that regard.

Although counsel for Defendant argued that the discretionary costs they seek are necessary and reasonable at the hearing on this matter, he did not argue then or in his brief that they are exceptional, as required by I.R.C.P. 54(d)(1)(D). Therefore, as no showing was made that Defendants’ requested discretionary costs were necessary and exceptional costs reasonably incurred, Defendants will only be awarded the following costs as a matter of right:

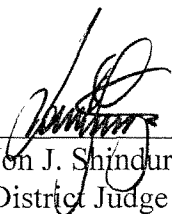
I.	Filing Fee:	\$58.00
II.	Deposition Fee – Leo Campbell:	\$1,275.00
III.	Deposition Fee – Kim Leavitt:	\$154.71
	Total:	\$1,487.71

Defendants have also requested \$56,662.00 in attorney’s fees. In making the determination on awarding attorney’s fees, the Court must determine, pursuant to I.R.C.P. 54(e)(1), whether the case was brought, pursued or defended frivolously. The Court does not find that the Plaintiffs pursued this action frivolously, unreasonably, or without foundation and therefore denies Defendants’ request for attorney’s fees.

Therefore, Defendants are awarded costs in the above matter in the amount of \$1,487.71. All other costs and fees are denied. Counsel for Defendant shall prepare a final form of judgment.

IT IS SO ORDERED.

Dated this 27 day of January, 2012.



Jon J. Shindurling
District Judge

CERTIFICATE OF SERVICE

I hereby certify that on this 27 day of January, 2012, the foregoing OPINION AND ORDER ON ATTORNEY'S FEES AND COSTS was entered and a true and correct copy was served upon the parties listed below by mailing, with the correct postage thereon, or by causing the same to be delivered to their courthouse boxes.

Attorney for Plaintiff

Kipp Manwaring
Just Law Office
PO Box 50271
Idaho Falls, Idaho 83405

Attorney for Defendant

Justin Seamons
414 Shoup Avenue
Idaho Falls, ID 83402

Ronald Longmore
Clerk of the District Court
Bonneville County, Idaho

by RL
Deputy Clerk

Justin R. Seamons
414 Shoup Avenue
Idaho Falls, ID 83402
Telephone Number: (208) 542-0600
Facsimile Number: (208) 529-4166
Idaho State Bar Number: 3903

12 JAN 30 P4:12

Attorney for Defendants

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

V. LEO CAMPBELL and KATHLEEN)
CAMPBELL,)
)
 Plaintiffs,)
)
 vs.)
)
 JAMES C. KVAMME and DEBRA)
KVAMME,)
)
 Defendants.)
_____)

Case No. CV 10-3879

JUDGMENT

The Defendants duly filed a MEMORANDUM OF COSTS and an AFFIDAVIT IN SUPPORT thereof, dated November 4, 2011. The Plaintiffs thereafter filed an OBJECTION, dated November 15, 2011. The court heard the parties' oral arguments on January 23, 2012.

Based on the applicable law and good cause appearing therefor, the court hereby enters the following JUDGMENT against the Plaintiffs, jointly and severally:

1. \$1,487.71 for costs as matter of right; and
2. Interest thereon at the statutory rate of 5.25 percent per annum from the date of entry hereof until paid in full. See Idaho Code Section 28-22-104(2).

Dated the 30 day of January, 2012.




District Judge

CERTIFICATE OF SERVICE

I served a copy of the foregoing JUDGMENT on the following people on the 30 day of Jan, 2012:

Kipp L. Manwaring
P.O. Box 50271
Idaho Falls, ID 83405-0271

Justin R. Seamons
COURT MAIL



Clerk

BONNEVILLE COUNTY
IDAHO

12 JAN 30 PM 3: 33

CHARLES C. JUST, ESQ. – ISB 1779
KIPP L. MANWARING, ESQ. – ISB 3817
JUST LAW OFFICE
381 Shoup Avenue
P.O. Box 50271
Idaho Falls, Idaho 83405
Telephone: (208) 523-9106
Facsimile: (208) 523-9146

Attorneys for the Campbells

**IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT
STATE OF IDAHO, COUNTY OF BONNEVILLE**

V. LEO CAMPBELL and KATHLEEN
CAMPBELL, husband and wife;

Plaintiffs,

vs.

JAMES C. KVAMME and DEBRA
KVAMME, husband and wife; and JOHN
DOES I-X;

Defendants.

Case No. CV-2010-3879

NOTICE OF APPEAL

**Filing Category L-4
Filing Fee: \$101.00**

NOTICE IS HEREBY GIVEN THAT:

1. The above named appellants, V. Leo Campbell and Kathleen Campbell, appeal against the above named respondents, James C. Kvamme and Debra Kvamme, to the Idaho Supreme Court from the Opinion and Order Denying the Campbells' motion for reconsideration entered in the above action on December 21, 2011, and the prior judgment entered November 3, 2011 and the Order Granting Summary Judgment entered October 28, 2011, Honorable Jon J. Shindurling, District Judge, presiding.

2. The Appellants have a right to appeal to the Idaho Supreme Court and the judgment described in paragraph 1 above is an appealable order under and pursuant to Rule 11(a)(1), I.A.R.

3. The preliminary issues on appeal are: Did the district court abuse its discretion in denying the Appellants' motion for reconsideration?

4. No order has issued sealing all or any portion of the record.

5. A standard reporter's transcript in both hard copy and electronic format is requested of the following hearings:

a. Hearing held November 29, 2011 on the Campbells' motion for reconsideration; Nancy Marlow reporting, with the number of transcript pages estimated at under 50.


6. The Appellants request the following documents to be included in the clerk's record in addition to those automatically included under Rule 28, I.A.R.

- a. 05/17/2011 Plaintiffs' Motion for Partial Summary Judgment;
- b. 05/17/2011 Plaintiffs' Memorandum in Support of Partial Summary Judgment;
- c. 05/17/2011 Affidavit of Margy Spradling [in support of partial summary judgment];
- d. 05/17/2011 Affidavit of Jo Le Campbell [in support of partial summary judgment];
- e. 05/17/5011 Affidavit of Blake Mueller [in support of partial summary judgment];
- f. 05/17/2011 Affidavit of Mark Hansen [in support of partial summary judgment];
- g. 05/17/2011 Affidavit of Counsel [in support of partial summary judgment];
- h. 08/25/2011 Plaintiffs' Response in Opposition to Motion for Summary Judgment;
- i. 08/25/2011 Affidavit of Counsel Opposing Motion for Summary Judgment;
- j. 09/23/2011 Plaintiffs' Augmented Memorandum of Additional Points and Authorities for Summary Judgment;
- k. 09/23/2011 Augmented Affidavit of Counsel;
- l. 11/14/2011 Plaintiffs' Motion for Reconsideration;
- m. 11/14/2011 Affidavit of Kevin L. Thompson

7. I certify that:

- a. A copy of this notice of appeal has been served on the reporter, Nancy Marlow.
- b. The clerk of the district court has been paid the estimated fee for preparation of the clerk's record.
- c. The filing fee has been paid.
- d. Service has been made upon all parties required to be served.

Dated this 30 day of January 2012.

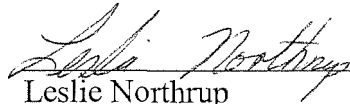

Kipp L. Manwaring
Attorney for the Appellants

CERTIFICATE OF MAILING

I **HEREBY CERTIFY** that on the 30th day of January 2012, a true and correct copy of the foregoing document was served upon the person or persons named below, in the manner indicated.

Justin R. Seamons
Attorney at Law
414 Shoup Avenue
Idaho Falls, Idaho 83402

- Hand Delivered
- U.S. Mail, Postage Prepaid
- Facsimile
- Other _____



Leslie Northrup
Paralegal

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

V. LEO CAMPBELL and KATHLEEN)
 CAMPBELL,)
)
 Plaintiffs/Appellants,)
)
 vs.)
)
 JAMES C. KVAMME and DEBRA)
 KVAMME,)
)
 Defendants/Respondents.)
 _____)

Case No. CV-2010-3879

Docket No. 39650

**CLERK'S CERTIFICATE
OF APPEAL**

Appeal from: Seventh Judicial District, Bonneville County
 Honorable Jon J. Shindurling, District Judge, presiding.

Case number from Court: CV-2010-3879

Order or Judgment appealed from: Opinion and Order on Plaintiffs' Motion for Reconsideration, entered December 21, 2011; Judgment and Decreed of Quiet Title, entered November 3, 2011; and Opinion and Order on Plaintiffs' Motion for Partial Summary Judgment and Defendants' Motion for Summary Judgment, entered October 28, 2011.

Attorney for Appellant: Kipp Manwaring, JUST LAW OFFICE
 PO Box 50271, Idaho Falls, ID 83405

Attorney for Respondent: Justin Seamons, Attorney at Law
 414 Shoup Avenue, Idaho Falls, ID 83402

Appealed by: V. Leo Campbell and Kathleen Campbell

Appealed against: James C. Kvamme and Debra Kvamme

Notice of Appeal Filed: January 30, 2012

Appellate Fee Paid: Yes

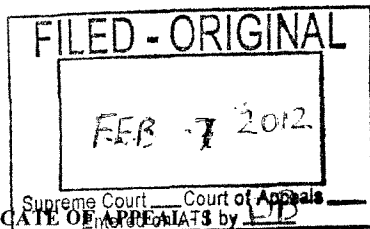
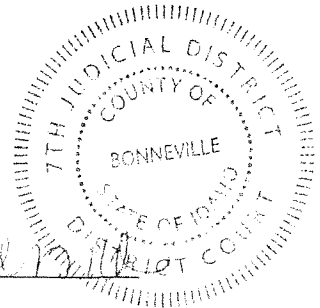
Was District Court Reporter's Transcript requested? Yes, 50 pages

If so, name of reporter: Nancy Marlow

Dated: February 2, 2012

RONALD LONGMORE
 Clerk of the District Court

By: [Signature]
 Deputy Clerk



CLERK'S CERTIFICATE OF APPEAL

BONNEVILLE COUNTY
IDAHO

12 FEB 15 AM 8:15

Justin R. Seamons
414 Shoup Avenue
Idaho Falls, ID 83402
Telephone Number: (208) 542-0600
Facsimile Number: (208) 529-4166
Idaho State Bar Number: 3903

Attorney for James C. Kvamme and Debra Kvamme

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

V. LEO CAMPBELL and KATHLEEN)
CAMPBELL,)
)
 Plaintiffs,)
 Appellants, and)
 Cross-respondents,)
)
 vs.)
)
 JAMES C. KVAMME and DEBRA)
 KVAMME,)
)
 Defendants,)
 Respondents, and)
 Cross-appellants,)
)

Case No. CV 10-3879
NOTICE OF CROSS-APPEAL
Fee Category L(4): \$101.00

ORIGINAL

James C. Kvamme and Debra Kvamme respectfully file a NOTICE OF
CROSS-APPEAL in this case in accordance with I.A.R. 15(b).

**TO: THE ABOVE NAMED CROSS-RESPONDENTS, V. LEO
CAMPBELL AND KATHLEEN CAMPBELL, AND THEIR
ATTORNEY, KIPP L. MANWARING, AND THE CLERK OF
THE ABOVE ENTITLED COURT.**

NOTICE IS HEREBY GIVEN THAT:

1. The above named cross-appellants, James C. Kvamme and Debra Kvamme, appeal against the above named cross respondents, V. Leo Campbell and Kathleen Campbell, to the Idaho Supreme Court from (a) the OPINION AND ORDER ON PLAINTIFFS' MOTION FOR PARTIAL SUMMARY JUDGMENT AND DEFENDANTS' MOTION FOR SUMMARY JUDGMENT, entered in the above entitled action on October 28, 2011, (b) the OPINION AND ORDER ON PLAINTIFFS' MOTION FOR RECONSIDERATION, entered in the above entitled action on December 21, 2011, and (c) the OPINION AND ORDER ON ATTORNEY'S FEES AND COSTS, entered in the above entitled action on January 27, 2012, the Honorable Jon J. Shindurling, District Judge, presiding.

2. The cross-appellants have the right to cross-appeal to the Idaho Supreme Court and the judgments or orders described in Paragraph 1, above, are appealable orders under and pursuant to I.A.R. 11(a)(1).

3. The following is a preliminary statement or list of the issues on appeal that the cross-appellants intend to assert in the appeal; provided, however, the following list of issues shall not prevent the cross-appellants from asserting other issues on appeal:

a. The gamesmanship and duplicity of the Plaintiffs/Appellants in this case. See OBJECTION TO PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT, dated June 21, 2011.

b. The disposition of the Record of Survey in this case, including, without limitation, the admissibility thereof and the applicability

of the “right result/wrong theory” rule thereto. See OBJECTION TO RECORD OF SURVEY, dated June 21, 2011.

c. The disposition of the AFFIDAVIT OF MARGY SPRADLING. See OBJECTION TO AFFIDAVIT OF MARGY SPRADLING, dated June 21, 2011.

d. The disposition of the AFFIDAVIT OF JO LE CAMPBELL. See OBJECTION TO AFFIDAVIT OF JO LE CAMPBELL, dated June 21, 2011.

e. The disposition of the DEPOSITION OF V. LEO CAMPBELL. See OBJECTION TO DEPOSITION OF V. LEO CAMPBELL, dated June 21, 2011.

f. The disposition or applicability of the district court’s comment that the original survey in this case was not accurate. See OBJECTION TO ARGUMENT OF THE HONORABLE JON J. SHINDURLING THAT THE ORIGINAL SURVEY IN THIS CASE WAS NOT ACCURATE, dated September 21, 2011.

g. The disposition or applicability of the district court’s comment that the fence in this case was a convenience fence. See OBJECTION TO ARGUMENT OF THE HONORABLE JON J. SHINDURLING THAT THE FENCE IN THIS CASE IS A CONVENIENCE FENCE, dated September 21, 2011.

h. The disposition of the AUGMENTED AFFIDAVIT OF COUNSEL, including, without limitation, the admissibility thereof and the

applicability of the “right result/wrong theory” rule thereto. See OBJECTION TO AUGMENTED AFFIDAVIT OF COUNSEL—THAT IS, AUGMENTED AFFIDAVIT OF KIPP L. MANWARING, dated September 28, 2011.

i. The disposition of the Plaintiffs’ AUGMENTED MEMORANDUM, including, without limitation, the admissibility thereof and the applicability of the “right result/wrong theory” rule thereto. See OBJECTION TO AUGMENTED MEMORANDUM OF ADDITIONAL POINTS AND AUTHORITIES, dated September 28, 2011.

j. The applicability of the “right result/wrong theory” rule regarding the doctrine of adverse possession and the doctrine of boundary by acquiescence. See MOTION FOR SUMMARY JUDGMENT, dated June 7, 2011; see also MOTION FOR RECONSIDERATION, dated November 15, 2011.

k. The disposition of the Defendants’ MOTION TO REPAIR OR REPLACE FENCE in this case. See MOTION TO REPAIR OR REPLACE FENCE, dated November 15, 2011.

l. The disposition of the AFFIDAVIT OF KEVIN L. THOMPSON, dated November 15, 2011. See MEMORANDUM IN OPPOSITION TO MOTION FOR RECONSIDERATION, OBJECTION TO AFFIDAVIT OF KEVIN L. THOMPSON AND MOTION TO STRIKE, AND MOTION FOR COSTS AND ATTORNEY’S FEES, dated November 22, 2011.

m. The disposition of the Defendants' MOTION FOR COSTS AND ATTORNEY'S FEES. See MEMORANDUM IN OPPOSITION TO MOTION FOR RECONSIDERATION, OBJECTION TO AFFIDAVIT OF KEVIN L. THOMPSON AND MOTION TO STRIKE, AND MOTION FOR COSTS AND ATTORNEY'S FEES, dated November 22, 2011.

n. The applicability of the "right result/wrong theory" rule regarding the Plaintiffs' MOTION FOR RECONSIDERATION. See MOTION FOR RECONSIDERATION, dated November 15, 2011.

o. The disposition of the Defendants' MEMORANDUM OF COSTS, AFFIDAVIT IN SUPPORT OF MEMORANDUM OF COSTS, and SUPPLEMENTAL AFFIDAVIT IN SUPPORT OF MEMORANDUM OF COSTS. See OPINION AND ORDER ON ATTORNEY'S FEES AND COSTS, dated January 27, 2012.

4. Reporter's Transcript:

a. Is additional reporter's transcript requested? Yes. The additional transcript is to be provided in both hard copy and electronic format.

b. The cross-appellants request the preparation of the following portions of the reporter's transcript:

- (1) Hearing on September 12, 2011
- (2) Hearing on November 29, 2011
- (3) Hearing on January 23, 2012

5. The cross-appellants request the following documents to be included in the clerk's record in addition to those automatically included under I.A.R. 28 and those designated by the appellant in the initial notice of appeal:

1. COMPLAINT, dated June 30, 2010
2. ANSWER, COUNTERCLAIM, AND DEMAND FOR TRIAL BY JURY, dated July 27, 2010
3. NOTICE OF SERVICE, dated September 6, 2010
4. NOTICE OF COMPLIANCE, dated September 30, 2010
5. ORDER REFERRING CASE TO MEDIATION, dated October 12, 2010
6. ORDER SETTING PRE-TRIAL CONFERENCE AND JURY TRIAL, dated October 12, 2010
7. MOTION FOR PROTECTIVE ORDER, dated November 15, 2010
8. AFFIDAVIT OF COUNSEL, dated November 15, 2010
9. NOTICE OF COMPLIANCE, dated November 23, 2010
10. OBJECTION TO AFFIDAVIT OF COUNSEL, dated November 29, 2010
11. NOTICE OF INTENT TO CROSS-EXAMINE V. LEO CAMPBELL, KATHLEEN CAMPBELL, AND ERIC W. PERTULLA, dated November 29, 2010
12. MINUTE ENTRY, dated December 2, 2010
13. NOTICE OF COMPLIANCE, dated December 14, 2010

14. MOTION FOR COURT TO APPOINT MEDIATOR, dated
January 10, 2011

15. NOTICE OF SERVICE, dated January 14, 2011

16. NOTICE OF COMPLIANCE, dated January 24, 2011

17. DISCLOSURE OF EXPERT WITNESSES, dated
January 25, 2011

18. MOTION TO CONTINUE, dated April 7, 2011

19. MINUTE ENTRY, dated April 11, 2011

20. PLAINTIFFS' MOTION FOR PARTIAL SUMMARY
JUDGMENT, dated May 17, 2011

21. AFFIDAVIT OF JO LE CAMPBELL, dated March 28, 2011

22. AFFIDAVIT OF MARGY SPRADLING, dated April 1, 2011

23. AFFIDAVIT OF BLAKE MUELLER, dated April 7, 2011

24. AFFIDAVIT OF MARK HANSEN, dated May 11, 2011

25. AFFIDAVIT OF COUNSEL, dated May 17, 2011

26. NOTICE OF HEARING, dated May 19, 2011

27. MOTION FOR SUMMARY JUDGMENT, dated June 7, 2011

28. AFFIDAVIT OF BLAKE MUELLER, dated May 26, 2011

29. AFFIDAVIT OF MARK HANSEN, dated May 27, 2011

30. AFFIDAVIT OF KIM H. LEAVITT, dated June 7, 2011

31. EXHIBITS IN SUPPORT OF AFFIDAVIT OF KIM H.
LEAVITT, dated June 7, 2011

32. NOTICE OF SUBMISSION OF DEPOSITION OF V. LEO CAMPBELL, dated June 7, 2011

33. AFFIDAVIT OF JAMES C. KVAMME, dated June 7, 2011

34. EXHIBITS IN SUPPORT OF AFFIDAVIT OF JAMES C. KVAMME, dated June 7, 2011

35. NOTICE OF HEARING, dated June 7, 2011

36. AFFIDAVIT OF ARNOLD GENE KILLIAN IN OPPOSITION TO PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT, dated June 20, 2011

37. AFFIDAVIT OF REVAR HARRIS IN OPPOSITION TO PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT, dated June 20, 2011

38. AFFIDAVIT OF MARY JANE HARRIS IN OPPOSITION TO PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT, dated June 21, 2011

39. OBJECTION TO PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT, dated June 21, 2011

40. OBJECTION TO RECORD OF SURVEY, dated June 21, 2011

41. OBJECTION TO DEPOSITION OF V. LEO CAMPBELL AND MOTION TO STRIKE, dated June 21, 2011

42. OBJECTION TO AFFIDAVIT OF JO LE CAMPBELL AND MOTION TO STRIKE, dated June 21, 2011

43. OBJECTION TO AFFIDAVIT OF MARGY SPRADLING AND MOTION TO STRIKE, dated June 21, 2011
44. MOTION FOR EXTENSION OF TIME, dated June 17, 2011
45. MINUTE ENTRY, dated June 28, 2011
46. NOTICE OF RESETTING HEARING, dated June 28, 2011
47. REPLY MEMORANDUM, dated September 6, 2011
48. REPLY AFFIDAVIT OF KIM H. LEAVITT, dated September 6, 2011
49. MINUTE ENTRY, dated September 12, 2011
50. NOTICE OF AUGMENTATION, dated September 21, 2011
51. OBJECTION TO ARGUMENT OF THE HONORABLE JON J. SHINDURLING THAT THE ORIGINAL SURVEY IN THIS CASE WAS NOT ACCURATE, dated September 20, 2011
52. AFFIDAVIT OF KIM H. LEAVITT RE ARGUMENT OF THE HONORABLE JON J. SHINDURLING THAT THE ORIGINAL SURVEY IN THIS CASE WAS NOT ACCURATE, dated September 21, 2011
53. OBJECTION TO ARGUMENT OF THE HONORABLE JON J. SHINDURLING THAT THE FENCE IN THIS CASE IS A CONVENIENCE FENCE, dated September 20, 2011
54. AFFIDAVIT OF JAMES C. KVAMME RE ARGUMENT OF THE HONORABLE JON J. SHINDURLING THAT THE FENCE IN THIS CASE IS A CONVENIENCE FENCE, dated September 20, 2011

55. OBJECTION AND NOTICE OF AUGMENTATION, dated September 21, 2011

56. AUGMENTED AFFIDAVIT OF COUNSEL, dated September 23, 2011

57. AUGMENTED MEMORANDUM, dated September 23, 2011

58. OBJECTION TO "AUGMENTED AFFIDAVIT OF COUNSEL"—THAT IS, AUGMENTED AFFIDAVIT OF KIPP L. MANWARING, dated September 28, 2011

59. OBJECTION TO AUGMENTED MEMORANDUM OF ADDITIONAL POINTS AND AUTHORITIES, dated September 28, 2011

60. AFFIDAVIT OF KIM H. LEAVITT IN OPPOSITION TO AUGMENTED AFFIDAVIT OF KIPP L. MANWARING, dated September 29, 2011

61. OPINION AND ORDER ON PLAINTIFFS' MOTION FOR PARTIAL SUMMARY JUDGMENT AND DEFENDANTS' MOTION FOR SUMMARY JUDGMENT, dated October 28, 2011

62. JUDGMENT AND DECREE OF QUIET TITLE, dated November 3, 2011

63. MEMORANDUM OF COSTS, dated November 4, 2011

64. AFFIDAVIT IN SUPPORT OF MEMORANDUM OF COSTS, dated November 4, 2011

65. MOTION FOR RECONSIDERATION, dated November 15, 2011

66. AFFIDAVIT OF KEVIN L. THOMPSON, dated November 14, 2011
67. MOTION FOR RECONSIDERATION, dated November 15, 2011
68. NOTICE OF HEARING, dated November 15, 2011
69. MOTION TO REPAIR OR REPLACE FENCE, dated November 15, 2011
70. NOTICE OF RESERVATION OF RIGHT TO FILE A SUPPLEMENTAL MEMORANDUM OF COSTS AND AFFIDAVIT IN SUPPORT, dated November 15, 2011
71. MEMORANDUM IN OPPOSITION TO MOTION FOR RECONSIDERATION, OBJECTION TO AFFIDAVIT OF KEVIN L. THOMPSON, AND MOTION FOR COSTS AND ATTORNEY'S FEES, dated November 15, 2011
72. NOTICE OF SERVICE, dated November 25, 2011
73. NOTICE OF COMPLIANCE, dated November 30, 2011
74. MINUTE ENTRY, dated November 29, 2011
75. DISCLOSURE OF EXPERT WITNESSES, dated December 6, 2011
76. OPINION AND ORDER ON PLAINTIFFS' MOTION FOR RECONSIDERATION, dated December 21, 2011
77. SUPPLEMENTAL AFFIDAVIT IN SUPPORT OF MEMORANDUM OF COSTS, dated December 22, 2011

78. OBJECTION TO THE DEFENDANTS' MOTION AND MEMORANDUM FOR COSTS, dated November 15, 2011

79. NOTICE OF HEARING, dated January 4, 2012

80. OPINION AND ORDER ON ATTORNEY'S FEES AND COSTS, dated January 27, 2012

81. JUDGMENT, dated January 30, 2012

82. NOTICE OF APPEAL, dated January 30, 2012

6. Not applicable.

7. I certify:

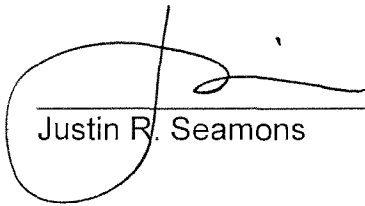
a. That a copy of this NOTICE OF CROSS-APPEAL and any request for additional transcript have been served on each reporter of whom an additional transcript has been requested as named below at the address set out below:

Bonneville County Courthouse
Attn: Nancy Marlow, Court Reporter
605 North Capital Avenue
Idaho Falls, ID 83402

b. That the Clerk of the District Court has been paid the estimated fee for preparation of the reporter's transcript and any additional documents requested in the cross-appeal.

c. That service has been made upon all parties required to be served pursuant to I.A.R. 20.

Dated February 14, 2012.



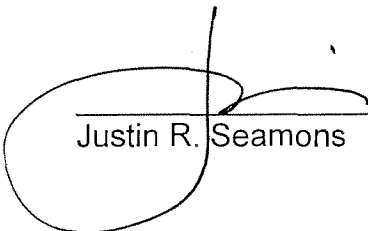
Justin R. Seamons

CERTIFICATE OF SERVICE

I served a true and correct copy of the foregoing NOTICE OF CROSS-APPEAL on the following people in accordance with I.R.C.P. 5(b) and I.A.R. 20 on February 14, 2012:

Kipp L. Manwaring
P.O. Box 50271
Idaho Falls, ID 83405-0271

Bonneville County Courthouse
Attn: Nancy Marlow, Court Reporter
605 North Capital Avenue
Idaho Falls, ID 83402



Justin R. Seamons

809

DISTRICT COURT
MAGISTRATE DIVISION
BONNEVILLE COUNTY, IDAHO
12 MAR -2 AM 11:50

CHARLES C. JUST, ESQ. – ISB 1779
KIPP L. MANWARING, ESQ. – ISB 3817
JUST LAW OFFICE
381 Shoup Avenue
P.O. Box 50271
Idaho Falls, Idaho 83405
Telephone: (208) 523-9106
Facsimile: (208) 523-9146

Attorneys for the Campbells

**IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT
STATE OF IDAHO, COUNTY OF BONNEVILLE**

V. LEO CAMPBELL and KATHLEEN
CAMPBELL, husband and wife;

Plaintiffs,

vs.

JAMES C. KVAMME and DEBRA
KVAMME, husband and wife; and JOHN
DOES I-X;

Defendants.

Case No. CV-2010-3879

AMENDED NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN THAT:

1. The above named appellants, V. Leo Campbell and Kathleen Campbell, appeal against the above named respondents, James C. Kvamme and Debra Kvamme, to the Idaho Supreme Court from the Judgment entered January 30, 2012, and the Opinion and Order Denying the Campbells' motion for reconsideration entered December 21, 2011 seeking reconsideration of the judgment entered November 3, 2011 together with the Order Granting Summary Judgment entered October 28, 2011, Honorable Jon J. Shindurling, District Judge, presiding.

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2. The Appellants have a right to appeal to the Idaho Supreme Court and the judgment described in paragraph 1 above is an appealable order under and pursuant to Rule 11(a)(1) and (7), I.A.R.

3. The preliminary issues on appeal are: Did the district court abuse its discretion in denying the Appellants' motion for reconsideration?

4. No order has issued sealing all or any portion of the record.

5. A standard reporter's transcript in both hard copy and electronic format is requested of the following hearings:

a. Hearing held November 29, 2011 on the Campbells' motion for reconsideration; Nancy Marlow reporting, with the number of transcript pages estimated at under 50.

6. The Appellants request the following documents to be included in the clerk's record in addition to those automatically included under Rule 28, I.A.R.

- a. 05/17/2011 Plaintiffs' Motion for Partial Summary Judgment;
- b. 05/17/2011 Plaintiffs' Memorandum in Support of Partial Summary Judgment;
- c. 05/17/2011 Affidavit of Margy Spradling [in support of partial summary judgment];
- d. 05/17/2011 Affidavit of Jo Le Campbell [in support of partial summary judgment];
- e. 05/17/5011 Affidavit of Blake Mueller [in support of partial summary judgment];
- f. 05/17/2011 Affidavit of Mark Hansen [in support of partial summary judgment];
- g. 05/17/2011 Affidavit of Counsel [in support of partial summary judgment];
- h. 08/25/2011 Plaintiffs' Response in Opposition to Motion for Summary Judgment;
- i. 08/25/2011 Affidavit of Counsel Opposing Motion for Summary Judgment;
- j. 09/23/2011 Plaintiffs' Augmented Memorandum of Additional Points and Authorities for Summary Judgment;

- k. 09/23/2011 Augmented Affidavit of Counsel;
- l. 11/14/2011 Plaintiffs' Motion for Reconsideration;
- m. 11/14/2011 Affidavit of Kevin L. Thompson

7. I certify that:

- a. A copy of this notice of appeal has been served on the reporter, Nancy Marlow.
- b. The clerk of the district court has been paid the estimated fee for preparation of the clerk's record.
- c. The filing fee has been paid.
- d. Service has been made upon all parties required to be served.

Dated this 7 day of March 2012.


Kipp L. Manwaring
Attorney for the Appellants

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on the 15th day of March 2012, a true and correct copy of the foregoing document was served upon the person or persons named below, in the manner indicated.

Justin R. Seamons
Attorney at Law
414 Shoup Avenue
Idaho Falls, Idaho 83402

Hand Delivered
 U.S. Mail, Postage Prepaid
 Facsimile
 Other _____

Nancy Marlow
Bonneville County District Court
605 North Capital
Idaho Falls, Idaho 83402

Hand Delivered
 U.S. Mail, Postage Prepaid
 Facsimile
 Other _____



Leslie Northrup
Paralegal

NANCY MARLOW, CSR
Official Court Reporter
Post Office Box 1671
Idaho Falls, Idaho 83403-1671
Tele: 208-529-1350 Ext. 1194
FAX: 208-528-8348

June 26, 2012

NOTICE OF LODGING

Clerk of the Court
Supreme Court
Post Office Box 83720
Boise, Idaho 83720-0101
FAX: 208-334-2616

RE: Campbell vs Kvamme
Bonneville County Case No. CV-10-3879
Supreme Court No. 39650

Hearings:
Summary Judgment Hearing – September 12, 2011
Motion for Reconsideration Hearing – November 29, 2011
Fees and Costs Hearing – January 23, 2012
Total Pages – 116 pgs

Please be advised that the Reporter's Transcript in the above-entitled matter will be filed this date with the Clerk of the District Court, Bonneville County.

This completes all hearings requested in the Appeal in this matter.

Sincerely,

Nancy Marlow, CSR
Official Court Reporter
Cc: Clerk of the Court

JUSTIN R. SEAMONS

ATTORNEY AT LAW

SHOUP EXECUTIVE SUITES

414 Shoup Avenue
Idaho Falls, ID 83402

Office: (208) 542-0600
Facsimile: (208) 529-4166

July 18, 2012

HAND DELIVERED

Clerk of the Court
Attn: Lettie Messick

Re: Campbell v. Kvamme, Case No. CV 10-3879.

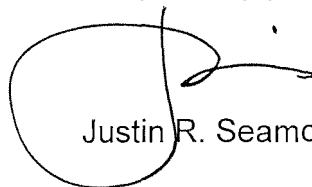
Dear Lettie:

I have prepared this letter to confirm our telephone conversation on July 18, 2012. Please remove or otherwise strike the OBJECTION AND NOTICE OF AUGMENTATION from the Clerk's Record in the foregoing appeal. As you recall, it is the 500+ page document that includes the Surveyor's Manual.

In addition, please send or fax a revised bill to me. Upon receipt, I will pay the new balance due to you.

Thank you, again, for your cooperation.

Respectfully yours,

A handwritten signature in black ink, appearing to be "Justin R. Seamons", written over a circular stamp or mark.

Justin R. Seamons

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

V. LEO CAMPBELL and KATHLEEN CAMPBELL,

Plaintiffs/Appellants/
Cross-Respondents,

vs.

JAMES C. KVAMME and DEBRA KVAMME,

Defendants/Respondents/
Cross-Appellants.

Case No. CV-2010-3879

Docket No. 39650

**CLERK'S CERTIFICATION
OF EXHIBITS**

STATE OF IDAHO)
County of Bonneville)

I, Ronald Longmore, Clerk of the District Court of the Seventh Judicial District of the State of Idaho, in and for the County of Bonneville, do hereby certify that there were no exhibits offered for admitted into evidence during the course of this action.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the District Court this 26 day of July, 2012.

RONALD LONGMORE
Clerk of the District Court

By [Signature]
Deputy Clerk

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

V. LEO CAMPBELL and KATHLEEN)
 CAMPBELL,)
)
 Plaintiffs/Appellants/)
 Cross-Respondents,)
)
 vs.)
)
 JAMES C. KVAMME and DEBRA)
 KVAMME,)
)
 Defendants/Respondents/)
 Cross-Appellants.)
 _____)

Case No. CV-2010-3879

Docket No. 39650

CLERK'S CERTIFICATE

STATE OF IDAHO)
)
 County of Bonneville)

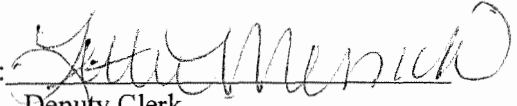
I, Ronald Longmore, Clerk of the District Court of the Seventh Judicial District of the State of Idaho, in and for the County of Bonneville, do hereby certify that the above and foregoing Record in the above-entitled cause was compiled and bound under my direction and is a true, correct and complete Record of the pleadings and documents as are automatically required under Rule 28 of the Idaho Appellate Rules.

I do further certify that no exhibits were either offered or admitted in the above-entitled cause, that the Clerk's Record along with the Court Reporter's Transcript will be duly lodged with the Clerk of the Supreme Court, as required by Rule 31 of the Idaho Appellate Rules.

IN WITNESS WHEREOF, I have hereunto set my hand affixed the seal of the District Court this

25th day of July, 2012.

RONALD LONGMORE
Clerk of the District Court

By: 
Deputy Clerk

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

V. LEO CAMPBELL and KATHLEEN CAMPBELL,
 Plaintiffs/Appellants/
 Cross-Respondents,
 vs.
 JAMES C. KVAMME and DEBRA KVAMME,
 Defendants/Respondents/
 Cross-Appellants.

Case No. CV-2010-3879
 Docket No. 39650

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the ____ day of July, 2012, I served a copy of the Reporter's Transcript (if requested) and the Clerk's Record in the Appeal to the Supreme Court in the above entitled cause upon the following attorneys:

Kipp Manwaring
 PO Box 50271
 Idaho Falls, ID83405

Justin R. Seamons
 414 Shoup Avenue
 Idaho Falls, ID 83402

by depositing a copy of each thereof in the United States mail, postage prepaid, in an envelope addressed to said attorneys at the foregoing address, which is the last address of said attorneys known to me.

RONALD LONGMORE
 Clerk of the District Court

By: *Letitia Menick*
 Deputy Clerk