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Bach v. Miller Clerk's Record v. 10 Dckt. 31716

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LAW CLERK

IN THE
SUPREME COURT
OF THE
STATE OF IDAHO

vol. 10 of 13
COPY

John N. Bach

Plaintiff / Appellant

Alva Harris, et. al.

Defendants / Respondents

and

John N. Bach

Plaintiff / Respondent

Alva Harris, et. al.

Defendants / Appellants

Katherine Miller, et. al.

Defendants

Appealed from the District Court of the Seventh Judicial
District of the State of Idaho, in and for Teton County
Hon Richard T. St. Clair, District Judge

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

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

Attorney-for-Defendants/Respondent
and ~~Defendants/Appellants~~

Filed this _____ day of _____

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

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Clerk

By _____

Deputy

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Supreme Court No. 31716/31717
Teton County No. CV 02-208

John N. Bach
Plaintiff/Appellant
vs
Alva Harris, et. al.
Defendants/ Respondents

John N. Bach
Plaintiff/Respondent
vs
Alva Harris, et. al.
Defendants/Appellants

and

Katherine Miller et. al.
Defendants

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

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

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Appearance; Motion to Dismiss and Motion for Sanctions, Filed January 22, 2003	0210
Application & Affidavit of John N. Bach, Plaintiff, for Entry of Default Per IRCP, Rule 55(a)(1), et seq, Against Defendants: (1) Alva A. Harris, Individually & dba SCONA, Inc., a sham entitiy; (2) Targhee Powder Emporium, Inc., Untld and Ltd.; (3) Jack Lee McLean; (4) Ole Olesen; (5) Bob Fitzgerald, Individually & dba Cache Ranch; and (6) Blake Lyle, Individually & dba Grande Towing, and also, dba Grande Body & Paint, Filed March 19, 2003	0321
Brief, Filed June 27, 2003	0757
Brief in Support of Emergency Motion for Substitution of Parties and to Shorten Time for Hearing, Filed February 7, 2005	1482
Certificate of Exhibits	1707
Certificate of Service	1721
Clerk's Certificate	1719
Complaint for Damages/Injuries to Plaintiff, His Real & Personal Properties; Malicious Prosecution; Abuse of Process; Slander of Title & Conversion-Theft of Properties; Defamation-Libel & Slander; and for Immediate Injunctive/ Equitable relief, Filed July 23, 2002	0001
Default Judgment Against Alva Harris, SCONA, Inc., Bob Fitzgerald, Ole Olesen, and Blake Lyle, Filed February 27, 2004	1101
Default Judgment Against Lynn McLean, as Personal Representative of the Estate of Jack Lee McLean, Filed September 21, 2004	1367
Default Judgment Against Wayne Dawson, Filed January 5, 2004	0988

Defendant Ann-Toy Broughton's Exhibit List, Filed June 4, 2003	0597
Defendant Earl Hamblin's Answer to Plaintiff's First Amended Complaint, Filed June 25, 2003	0721
Defendant Earl Hamblin's Disclaimer of Interest in Certain Real Property and Motion to Dismiss, Filed March 23, 2004	1213
Defendant, Earl Hamblin's Exhibit List, Filed January 13, 2004	1009
Defendant Miller's Brief in Opposition to Summary Judgment, Filed May 6, 2003	0421
Disclaimer of Interest, Filed November 17, 2003	0950
Disclaimer of Interest in Certain Real Property and Motion to Dismiss, Filed March 8, 2004	1185
Eighteenth Order on Pending Motions, Filed September 9, 2003	0857
Eighth Order on Pending Motions, Filed March 4, 2003	0246
Eleventh Order on Pending Motions, Filed April 2, 2003	0337
Emergency Motion for Substitution of Parties and to Shorten Time for Hearing, Filed February 7, 2005	1479
Entry of Appearance, Filed August 16, 2002	0036
Entry of Default Against Defendants; (1) Alva A. Harris, Individually & dba SCONA, Inc., a sham entity; (2) Targhee Powder Emporium, Inc., an Idaho Corporation; & dba Unltd & Ltd.; (3) Jack Lee McLean; (4) Ole Olesen; (aka Oly Olson); (5) Bob Fitzgerald, Individually & dba Cache Ranch; and (6) Blake Lyle, Individually & dba Grande Towing, and also dba Grande Body & Paint (IRCP, Rule 55(a)(1), et seq.), Filed March 19, 2003	0320
Exhibit List, Filed January 20, 2005	1439
Exhibit List, Filed May 29, 2003	0537
Fifteenth Order on Pending Motions, Filed June 2, 2003	0562
Fifth Order on Pending Motions, Filed January 10, 2003	0165
Final Judgment, Filed February 11, 2005	1505

Final Pre-Trial Order, Filed June 3, 2003	0576
Findings of Fact and Conclusions of Law, Filed July 1, 2003	0762
First Amended Complaint, Filed September 27, 20002	0053
Fourteenth Order on Pending Motions, Filed May 28, 2003	0505
Fourth Order on Pending Motions, Filed December 3, 2002	0154
Further Affidavit in Support of His Current Motions to (1) Strike Entire Answer of Defendants Hill and/or Preclude Any Evidence by Them of Their Claims to Title, Ownership, Possession or Rights of Use of Real Property with Home @ 195 N. Hwy 33, Driggs and/or for Unqualified Admissions That Plaintiff is the Sole & Rightful Owner Thereof, Etc., & (2) Alternatively, in Opposition to Defendants Hills' Motion for Summary Judgment, Filed April 20, 2004	1229
John N. Bach's Amended Notice of Appeal, Per The Supreme Court of the State of Idaho's Order Denying Motion to Dismiss Appeal of May 23, 2005. Filed June 13, 2005	1662
John N. Bach's Second Amended Notice of Appeal, Per The Supreme Court of the State of Idaho's Order of August 4, 2005, Not Mailed, Purportedly Until August 5, 2005 and Not Received Until on Thursday, August 11, 2005; and John N. Bach's Second Amended Notice of Appeal in No. 31717, Filed August 18, 2005	1685
Judgment Against Defendants Bret Hill and Deena R. Hill, on Second Count and Fourth Count of First Amended Complaint, Granting Quiet Title Judgment in Favor of Plaintiff John N. Bach, and Permanent Injunction in His Favor Re the Real Properties & Interest Quieted to/in Him as to Said Second & Fourth Counts, Filed June 24, 2004	1325
Judgment, Filed February 17, 2005	1511
Judgment, Filed February 24, 2005	1561
Judgment, Filed October 23, 2003	0908
Katherine Miller's Affidavit in Objection to Bach's Motion for Summary Judgment, Filed May 6, 2003	0435
Miller's Descriptive Exhibit List, Filed May 27, 2003	0495
Miller's Objection to Bach's Motion for Summary Judgment, Filed May 6, 2003	0419
Minute Entry, Dated January 9, 2003	0178

Minute Entry, Dated July 14, 2003	0814
Minute Entry, Filed April 15, 2003	0357
Minute Entry, Filed April 19, 2004	1222
Minute Entry, Filed February 23, 2004	1082
Minute Entry, Filed July 17, 2003	0841
Minute Entry, Filed July 21, 2004	1342
Minute Entry, Filed June 16, 2004	1018
Minute Entry, Filed June 17, 2003	0609
Minute Entry, Filed June 30, 2004	1330
Minute Entry, Filed March 14, 2005	1612
Minute Entry, Filed March 22, 2004	1204
Minute Entry, Filed May 5, 2003	0415
Minute Entry, Filed May 6, 2005	1625
Minute Entry, Filed May 9, 2004	1306
Minute Entry, Filed May 29, 2003	0532
Minute Entry, Filed November 9, 2004	1400
Minute Entry, Filed October 14, 2003	0862
Minutes Report, Dated August 13, 2002	0020
Minutes Report, Dated June 11, 2003	0629
Minutes Report, Dated June 16, 2003	0679
Minutes Report, Dated November 26, 2002	0141
Minutes Report, Dated October 9, 2002	0126
Minutes Report, Dated September 10, 2004	1362

Motion, Filed November 12, 2002	0137
Motion to Set Aside Default, Filed April 2, 2003	0324
Motion to Strike Plaintiff's First Amended Complaint and for Rule 11(a)(1) Sanctions Against John Bach, Filed October 3, 2002	0087
Nineteenth Order on Pending Motions, Filed October 23, 2003	0868
Ninth Order on Pending Motions, Filed March 7, 2003	0259
Notice of Appeal, Filed February 28, 2005	1564
Notice of Appeal, Filed March 25, 2005	1624A
Notice of Appearance , Filed April 1, 2003	0323
Notice of Appearance, Filed April 4, 2003	0344
Notice of Appearance, Filed August 7, 2002	0016
Notice of Hearing Motion to Set Aside Default and Motion to Reinstate Answer Filed May 29, 2007	540A
Notice of Motions and Motions by Plaintiff John N. Bach Re Post Twenth Fifth Order and Final Judgment, Along with Order, of February 8, 2005 and February 11, 2005 for Orders: (1) Vacating, Setting Aside, Etc. Said Orders and Final Judgment; (2) Entering New and Different Order & Final Judgment in Favor of Plaintiff; (3) Granting of New Trial as to All Plaintiff's Counts Against Katherine Miller and Galen Woelk; (4) For Order Awarding Plaintiff Costs and Paralegal Fees Sought. & Modifying Permanent Injunction. Filed February 25, 2005	1524
Notice of Substitution of Attorney, IRCP 11(b)(1), Filed August 27, 2002	0043
Order Amending Stay Entered April 13, 2004, Filed April 14, 2004	1219
Order and Notice Setting Jury Trial, Filed November 27, 2002	0139
Order and Preliminary Injunction, Filed August 16, 2002	0038
Order, Filed February 7, 2005	1487
Order, Filed June 16, 2003	0606
Order, Filed March 18, 2004	1200
Order, Filed May 22, 2003	0492

Order for Default, Filed June 16, 2003	0603
Order of Voluntary Disqualification Pursuant to IRCP 40(d)(4), Filed July 23, 2002	0012
Order on Pending Motions, Filed September 3, 2002	0045
Order on Various Motions Heard on March 16, 2004, Filed March 22, 2004	1209
Order Restraining All Defendant Their Agents, Attorneys, or Any Persons/Entities From Entering, Accessing or Attempting to Enter, Access or Be on Any of Plaintiff's Properties; and Order to Show Cause to All Defendants Why Such Restraining Order Should Not Be Issued as a Preliminary and Permanent Injunction, Filed July 25, 2002	0014
Order Sealing All Records of in Camera Session on September 9, 2002, Filed October 15, 2002	0133
Order Suspending Appeal, Filed January 22, 2004	1043
Plaintiff's & Appellant's Amended Notice of Appeal, Per Idaho Supreme Court's Order Re: Final Judgment of December 22, 2003. (Related Petition for Writ of Mandate/Prohibition, Idaho Supreme Court Docket No. 30009 Filed September 19, 2000, denied) & Plaintiff, Counterclaim Defendant & Appellant Has Made Two Motions for a Rule 54(b) Certificate, to which Katherine Miller Has Not Objected Except to the form of the Proposed Certificate. Judge St. Clair has delayed issuing said Certificate, most recently, issued a Twentieth Order, see attached copy, continuing all such motion to the 1 st week, Feb., 2004, Filed January 12, 2004	0996
Plaintiff & Counterclaim Defendant John N. Bach's Exhibit List and Designations Pending/Subject to Court's Rulings – Orders Re Summary Judgment Motions, Filed May 28, 2003	0501
Plaintiff & Counterclaim Defendant John N. Bach's Memorandum Brief in Support of His Motions Filed Feb. 25, 2005 (IRCP, 12(f), (g), 59(a), 1, 3, 4, 5, 6, & 7; 52(b); 60(b), (1), (2), (3), (4), (5), & (6); 11(a)(1)(2), Filed March 9, 2005	1579
Plaintiff and Counterclaim Defendant John N. Bach's Motion for Directed Verdict on All His Counts in the First Amended Complaint and on All his Affirmative Defenses to Katherine Miller's Counterclaims (IRCP, Rule 50(a) et seq.), Filed June 18, 2003	0613
Plaintiff & Counterclaim Defendant John N. Bach's Notice of Motions and Motions for Summary Judgment and /or Summary Adjudication, IRCP, Rule 56, et seq., Filed April 18, 2003	0413

Plaintiff's & Counterclaim Defendant John N. Bach's Notice of Motions & Motions Re (1) Order Voiding/Invalidating Special Jury Verdict of June 19, 2003; (2) For Judgment in Complete Favor of Plaintiff & Counterclaim Defendant, John N. Bach, against Defendant & Counterclaimant Katherine D. Miller, aka Katherine M. Miller, in all capacities; (3) Amendment of Ruling/Order or Contemplated Judgment Re Special Verdict &/or new Trial: and for Modification of Final Pretrial Order &/or Relief from Final Pretrial Order & Trial Orders, Special Verdict, Etc. (IRCP, Rules 16, 50, 58, 59, & 60(1)-(6).) Filed July 3, 2003	0786
Plaintiff & Counterclaim Defendant John N. Bach's Notice of Motion, Motion & Affidavit for the Disqualification of the Honorable Richard T. St. Clair, Assigned, (IRCP, Rule 40(d)(2)(A)(1)(3) & (4); 40(d)(5), et seq; and Notice of Motion & Motion for Vacating of All Judge St. Clair's Final Pretrial Orders, Adverse Orders, Findings of Facts and Conclusions of Law, Etc., Filed July 9, 2003	0804
Plaintiff & Counterclaim Defendant John N. Bach's Post Judgment Evidentiary Hearing Brief Re: Lack of Jurisdiction, Basis, Reasons and Lack of Any Attorneys' Fees, Reasonable or Otherwise to be Awarded/Allowed Defendants Hills Nor Hamblin Per 12-121. Filed May 6, 2005	1639
Plaintiff & Counterclaim Defendant John N. Bach's Supplemental Brief No. 1. In Support of His Motions Filed November 6, 2003, Filed November 20, 2003	0953
Plaintiff & Counterclaim Defendant John N. Bach's Supplemental Brief No. 2., In Support of His Motions Filed November 6, 2003. Filed December 3, 2003	0963
Plaintiff & Counterclaim Defendant John N. Bach's Trial Brief No. Two (2) Defendant & Counterclaimant Miller's Answer & All Counterclaims are Barred as a Matter of Both Fact and Law-By Miller's Discharge of Claims Against Bach in His Chapter 13 Bankruptcy & Per the Written Undispute Settlement Agreement of October 3, 1997. (Also Cited/Presented for Plaintiff's Motion in Limine to be Filed Herein.) Filed May 30, 2003	0541
Plaintiff & Counterclaimant John N. Bach's Answer & Affirmative Defenses to Counterclaims of Katherine D. Miller, aka Katherine M. Miller, Filed April 4, 2003	0345A
Plaintiff John N. Bach's Affidavit Per IRCP, Rule 56(f) to Stay Any Hearing or Action to Consider Granting Defendants Bret & Deena R. Hill's Motion for Summary Judgment Until Plaintiff has His Further Motions for Discovery Sanctions Against Said Defendants Hill Heard; and Affidavit, Part II, in Opposition, Refutations and Objections to Hills Affidavits Re Their Summary Judgment Motions, Filed March 2, 2004	1144
Plaintiff John N. Bach's Closing Brief in Opjections & Opposition to Defendants Hill's Motion/Application for Attorney Fees (IRCP, Rule 54(e)(2), I.C. 12-121; and Also To: Defendant Hamblin's Motion/Application For Attorneys Fees, (IRCP, Rule 54(e)(2), I.C. 12-121), Filed May 6, 2005	1630

Plaintiff John N. Bach's Closing Brief in Support of His Motion for Summary Judgment Against All Defendants, Filed May 13, 2003	0455
Plaintiff John N. Bach's Exhibit List for Jury Trial of February 8, 2005, Filed January 21, 2005	1445
Plaintiff John N. Bach's Further Affidavit Re Issuance of Proposed Permanent Injunction & Request for Judicial Notice of Orders of Dismissal with Prejudice of all plaintiff (Jack Lee McLean's) Claims in Teton CV 01-33; 01-205; 01-265 & Dismissal of Charges in Teton CR 04-526 With John N. Bach's 4 Motions Filed Dec. 27. 2004 & His Further Memo In Support of His Motions, Filed January 12, 2005	1417
Plaintiff John N. Bach's Further Memorandum Brief Re Objections & Opposition to Defendants Hills' Motion for Summary Judgment, Filed March 11, 2004	1190
Plaintiff John N. Bach's Memorandum Brief No. "1", Re His Objections & Opposition to Defendant Katherine Miller's Motion to Dismiss (Rule 12(b)(8)); and Motion to Strike Said Defendant's Motion and for Evidentiary & Monetary Sanctions. (IRCP, Rule 11(a)(1), Rule 56(g) & Court's Inherent Powers, Etc., Filed January 28, 2003	0182
Plaintiff John N. Bach's Memorandum Brief Re Objections & Opposition to Defendants Dawsons' Motion to Dismiss Per Rule 12(b)(5); & Plaintiff's Motions For Sanctions IRCP, Rule 11(a)(1) & Inherent Power of Court, Filed February 11, 2003	0240
Plaintiff John N. Bach's Memorandum Brief Re Objections, Motion to Strike, & Opposition to Defendant Wayne Dawson's Motion Re (1) Second Renewed Motion to Set Aside Default; (2) Motion to Continue Trial or (3) Bifurcate, Etc., Filed June 3, 2003	0591
Plaintiff John N. Bach's Memorandum of Objections & Opposition to Defendants In Default (The Dawson's) Motion to Set Aside Deffault & to Strike the Affidavit of Jared Harris Offered Purportedly in Support Thereof; and Plaintiff's Motion for Sanctions, Etc. (IRCP, Rule 12(f), 11(a)(1) & 55(c) and 60(d)(6), Filed February 11, 2003	0199
Plaintiff John N. Bach's Memorandum Re Court's Inquiry of Effect of Discharge in Bankruptcy of Debtors Property Not Utilized by Trustee for Creditors, Filed September 3, 2004	1356
Plaintiff John N. Bach's Motion Re (1) Protective Order Staying/Abating All Discovery by Defendants Hills, Until They Have Complied Fully with Plaintiff's No. 1, Discovery Set & Until Plaintiff's Motions Re Hills' Default Entries, Etc., Are Heard; and (2) For Striking, Vactating or Disallowing Any Summary Judgment Motions by Defendants Hill. IRCP, Rules 11, 26, 37 & 56(f)(g), Filed February 11, 2004	1059

Plaintiff John N. Bach's Motion to Strike and Quash Defendant's Dawsons' Motion To Disqualify the Honorable Richard T. St. Clair, IRCP, Rule 40(d)(1); and for Sanctions Against Dawsons & Their Counsel, Jared Harris, IRCP, Rule 11(a)(1) & Inherent Powers of the Court, Filed February 11, 2003	0242
Plaintiff John N. Bach's Motion to Strike Motion for Attorneys Fees and Costs Brought by Defendants, Estate of Stan Nickell, Personal Representative; and Plaintiff's Memorandum Brief in Support of Said Motion and in Opposition to Nickell's Estate Motion for Attorneys Fees & Costs. & Motion for Sanctions. Rule 11(a)(1) a Full Hearing is not Just Requested but Further Required (ID Const. Art. I, Sec 13, IRCP, Rule, Filed February 23, 2005	1514
Plaintiff John N. Bach's Notice of Ex Parte Motion and Motion for Immediate Issuance of Writ of Possession, Assistance and/or Seizure of Plaintiff's Vehicles and Trailors Still in Defendants' Possession, Especially in Possession of Blake Lyle, Filed May 16, 2003	0488
Plaintiff John N. Bach;s Notice of Motions and Motions Re; (1) Hearing on All Plaintiff's Motions Filed Since September 27, 2004; (2) For Order Striking, Quashing or Denying Defendants Woelk, Runyan's Motion to Amend/Modify, Etc., Court's 32 nd Order; (2) For Order to Set Pretrial Conference on Remaining & Amending Issues; and (4) For Order Granting Plaintiff Leave to Amend & Add Claims Against Defendants Woelk, Runyan & Their Law Firm. (IRCP Rules 12(f), 15(a), etc.) Filed October 19, 2004	1396
Plaintiff John N. Bach's Notice of Motion & Motions Re: (1) Order for Amended Judgment of Default Against Defendant Wayne Dawson; (2) Order Entering Different & Additional Damages & Relief Against Wayne Dawson, in Judgment of January 5, 2004; and (3) Order for Immediate Writ of Possession, Assistance of Execution or Execution. Rules 55(b)(2), 11(a)(2)(A)(B); 60(b)1-3,5-7; &59(e), Filed January 20, 2004	1027
Plaintiff John N. Bach's Notice of Motions and Motions Re (1) Reconsideration of Court's Previous Order Re His Answering Defendants Hill's Discovery Set; (2) for Additional Time to Answer/Respond, Etc. to Said Hill's Discovery Set After Plaintiff's Motions for Further Discovery Sanctions and Rule 56(f) Motions are Heard; and (3) for Relief from Any Missing of Discovery Complainece Due Date by Plaintiff, Etc. IRCP, Rules 11(a)(2), Rule 37, 60(1)-(6), Filed March 11, 2004	1188
Plaintiff John N. Bach's Notice of Motion & Motion Re: (1) Reconsideration of Default Judgment Terms of September 21, 2004; and (2) Entry of Different Default Judgment Against Jack Lee McLean & His Estate, Especially Quieting All Title & Ownership of McLean to Plaintiff John N. Bach in Peacock & Drawknife Properties, Plus Full Permanent Injunction, Etc. (IRCP, Rule 11), Filed October 5, 2004	1392

Plaintiff John N. Bach's Pretrial Statement of Objections & Requests, Etc., Per IRCP, Rule 16(c), 16(d), etc., Filed January 15, 2004	1012
Plaintiff John N. Bach's Submission of Documentary Evidence in Further Support of His Motions Numbers (1) & (2), filed Oct. 5, 2004 & Argued Nov 4, 2004 @ 9:15 a.m. Before Judge St. Clair, Filed November 5, 2004	1398
Plaintiff John N. Bach's Trial Brief No. Three (3) Re for Immediate Entry of Judgment Quieting Title to Plaintiff on Those Properties Subject of Second, Third, and Fourth Counts, Reserving Issues of All Damages Thereon, Filed June 2, 2003	0566
Pre-Trial Order, Filed April 19, 2004	1226
Receipt, Dated April 1, 2004	1218
Remittitur, Filed February 2, 2005	1463
Request for Additional Record, Filed September 1, 2005	1698
Request for Additional Record, Filed September 2, 2005	1704
Request for Additional Transcript, Filed June 27, 2005	1682
Request for Additional Transcript, Filed September 1, 2005	1701
Request for Pretrial Conference, Filed December 15, 2003	0968
Return of Service Upon Katherine D. Miller aka Katherine M. Miller and Jack Lee McLean and Alva A. Harris, Individually & DBA SCONA, Inc., a sham entity and Bob Bagley & Mae Bagley, Filed August 8, 2002	0018
Second Affidavit of John N. Bach, In Support of Motions Filed February 25, 2005, Filed March 7, 2005	1571
Second Order on Pending Motions, Filed September 19, 2002	0050
Seventeenth Order on Pending Motions, Filed August 28, 2003	0843
Seventh Order on Pending Motions, Filed January 29, 2003	0195
Sixteenth Order on Pending Motions, Filed July 8, 2003	0801
Sixth Order on Pending Motion, Filed January 28, 2003	0189
Special Appearance of Katherine M. Miller, Filed August 7, 2002	0017

Special Verdict, Filed June 19, 2003	0621
Stipulation and Order for Dismissal with Prejudice, Filed February 7, 2005	1490
Summons on First Amended Complaint, Dated September 27, 2002	0204
Supplemental Affidavit No. 1. To Plaintiff's Further Affidavit Re Issuance of Permanent Injunction, Etc., filed Jan. 12, 2005, Filed January 13, 2005	1430
Supplemental Affidavit of John N. Bach, in Support of His Motions, to Disqualify the Honorable Richard T. St. Clair, and All Other Motions Filed July 9, 2003 and July 2, 2003, Filed July 16, 2003	0817
Tenth Order on Pending Motions, Filed April 2, 2003	0326
Third Order on Pending Motions, Filed October 15, 2002	0134
Thirteenth Order on Pending Motions, Filed May 6, 2003	0442
Thirtieth Order on Pending Motions, Filed July 14, 2004	1334
Thirty Fifth Order on Pending Motions, Filed February 11, 2005	1494
Thirty First Order on Pending Motions, Filed August 18, 2004	1352
Thirty Fourth Order on Pending Motions, Filed December 10, 2004	1410
Thirty Second Order on Pending Motions, Filed September 21, 2004	1375
Thirty Seventh Order on Pending Motions, Filed May 11, 2005	1648
Thirty Sixth Order on Pending Motions, Filed March 17, 2005	1617
Thirty Third Order on Pending Motions, Filed November 30, 2004	1404
Twelfth Order on Pending Motions, Filed April, 2003	0346
Twentieth Order on Pending Motions, Filed January 6, 2004	0993
Twenty Eighth Order on Pending Motions, Filed May 6, 2004	1289
Twenty Fifth Order on Pending Motions, Filed March 16, 2004	1196
Twenty First Order on Pending Motions, Filed January 16, 2004	1023
Twenty Fourth Order on Pending Motions, Filed March 2, 2004	1109

Twenty Ninth Order on Pending Motions, Filed July 6, 2004	1310
Twenty Second Order on Pending Motions, Filed February 12, 2004	1061
Twenty Seventh Order on Pending Motions, Filed April 21, 2004	1266
Twenty Sixth Order on Pending Motions, Filed April 21, 2004	1256
Twenty Third Order on Pending Motions, Filed February 23, 2004	1092
Verified Answer, Filed July 1, 2003	0779
Verified Answer to First Amended Complaint, Filed June 6, 2003	0599
Verified Answer to First Amended Complaint, Filed June 27, 2003	0734

FEB 25 2005

TIME: 4:15 PM SN
TETON CO. DISTRICT COURT

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

(Local Idaho: P. O. Box 101
Driggs, ID 83422/ (208) 354-8303
Plaintiff and Counterclaim Defendant
Pro Se

SEVENTH JUDICIAL DISTRICT COURT, IDAHO, TETON COUNTY

JOHN N. BACH,

CASE NO: CV 02-208

Plaintiff,

NOTICE OF MOTIONS AND MOTIONS BY
PLAINTIFF JOHN N. BACH RE POST
TWENTH FIFTH ORDER AND FINAL
JUDGMENT, ALONG WITH ORDER, of
February 8, 2005 and February 11,
2005 FOR ORDERS:

v.

KATHERINE D. MILLER, aka
KATHERINE M. MILLER, Individually
& dba R.E.M., et al.,

- (1) VACATING, SETTING ASIDE, ETC.
SAID ORDERS AND FINAL JUDGMENT;
- (2) ENTERING NEW AND DIFFERENT ORDER
& FINAL JUDGMENT IN FAVOR OF
PLAINTIFF;
- (3) GRANTING OF NEW TRIAL AS TO
ALL PLAINTIFF'S COUNTS AGAINST
KATHERINE MILLER and GALEN WOELK;
- (4) FOR ORDER AWARDING PLAINTIFF
COSTS AND PARALEGAL FEES SOUGHT.
& MODIFYING PERMANENT INJUNCTION.

Defendants...

PRELIMINARY DATE, OF HEARING: March 11, 2005
(As or rescheduled)

TIME: 9 a.m

PLACE: Teton County Courthouse, Driggs, Id

NOTICE IS HEREBY GIVEN, that Plaintiff and counterclaim defen-
dant JOHN N. BACH, will appear at the aforesaid noticed date, time
and place, and move this court for each or all of the following
ORDERS and FINAL JUDGMENT, OR ALTERNATIVELY NEW TRIAL:

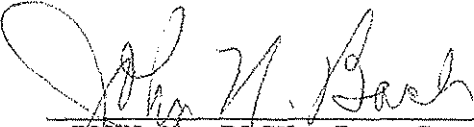
- 1. VACATING, SETTING ASIDE AND/OR RESCINDING OR RELIEVING
PLAINTIFF FROM THAT ORDER OF FEB. 8, 2005, THE TWENTH-
FIFTH ORDER, portions as designated in the accompanying
AFFIDAVIT OF JOHN N. BACH, with attachments and referenced
to be judicially noticed and evidence of his designated

affidavits, exhibits and memo briefs he has filed herein. (IRCP, Rule 59, 60 and 60(1) through (6));

2. ENTERING OF NEW, FAVORABLE AND CORRECTING ORDERS AND FINAL JUDGMENT OR JUDGMENTS TO PLAINTIFF; as well as DENYING ALL ATTORNEYS FEES AND COSTS TO ANY DEFENDANTS;
3. ALTERNATIVELY, GRANTING PLAINTIFF A NEW TRIAL AS TO ALL JUDGMENTS AND/OR ORDERS ISSUED TO, FAVORABLY TO, DEFENDANTS KATHERINE MILLER and GALEN WOELK, INDIVIDUALLY & dba RUNYAN and WOELK;
4. AWARDING PLAINTIFF HIS CLAIMED LEGAL COURT COSTS AND PARALEGAL FESS SOUGHT, PLUS MODIFYING THIS COURT'S PERMANENT INJUNCTION IN HIS FAVOR AS SOUGHT, REQUESTED AND PRESENTED BY AFFIANT, PER HIS FILINGS OF Documentary Evidence in Support of his Motions No. (1) and (2) filed Oct. 5, 2004, Argued Nov. 2004, Supplemented further Nov 5, 2004, per the expansion requested of the Court's THIRTY FOURTH ORDER, pages 1-3, first paragraph's completion thereon , GRANTING Plaintiff's Motion to reconsider and modify damages award entered on Sept 21, 2004 further in plaintiff's favor; and to issued PERMANENT INJUNCTION as sought per par. 2, page 4 thereof, and per plaintiff's FURTHER AFFIDAVIT, filed Jan 12. 2005 and SUPPLEMENTAL AFFIDAVIT No.1, filed Jan 13, 2005.

Plaintiff's motions will be based upon the corrected and legally determined record herein, per the affidavits and exhibits offered herein especially his affidavit attached hereto.

DATED: February 25, 2005


JOHN N. BACH, Pro Se

001525

withholding of evidence which per their discovery requests were not just not produced, but during the jury trial, and prior thereto, of June 9 through 19, 2003, denied as existing and even pulled from exhibits marked by defendant Miller's said counsel to be used during said jury trial. Since said jury trial which was conducted further so as to limit and severely restrict affiant's presentation of evidence, his constitutional rights of cross-examination of defendants Katherein Miller and Alva Harris, the court's imposed limitations, unreasonably and in prejudicial abuse of discretion and even further limitations, identical in such errors, precluding affiant's rights, opportunity and ability to attempt to offset such errors in his arguement to the jury, this court, after being challenged for cause with written motions, supporting affidavits, memo briefs, none of which showings contradicted in point of fact or law by any of the defendants herein, continued its illegal and unconstitutional practice against affiant in denying him said constitutional rights, up to and including through February 11, 2005 and even on Febraury 7, and 8, 2005 when without any notice to, or opportunity whatsoever given/extended to affiant to be heard or present his evidence, opposition and authorities, said Judge St. Clair did:

- a) Refused to hold as required by Rule 16, any pretrial conferences and allow amendments to affiant's pleadings despite affiant's numerous motions seeking such relief.
- b) Even after a second jury trial was to commence herein on the remaining claims of affiant against Galen Woelk, which jury trial was scheduled to commence on the morning of Feb. 8, 2005, without any notice or such meaningful opportunity to be heard allowed affiant, said Judge did secretly

sign some/a STIPULATION AND ORDER FOR DISMISSAL WITH PREJUDICE, filed in chambers, Bonneville County, Feb 7, 2005 @ 1:50 pm., which document had not been served nor could it have been timely nor constitutionally served with any notice for hearing thereon, upon affiant, and when affiant appeared at 9 a.m., before the Teton Court Clerk on the next morning to commence said second jury trial, said clerk, Mrs. Phyllis Hanson apprised him that the afternoon before Judge St. Clair had dismissed the jury and the remaining claims set for said trial that morning. The ORDER so signed by Judge St. Clair, also dated and filed Feb. 7, 2005 at 1:50 p.m., despite the attached proof of service by mail that it was served upon affiant that date, was not so served by mail or any form, until said STIPULATION, etc., and said ORDER of February 7, 2005 were stapled together, and included within an envelope which was not mailed to affiant until late Friday, Feb. 11, 2005, included in the same envelope were filed copies, also in said chambers, on February 11, 2005, at 9:20 a.m, of (i) THIRTY FIFTH ORDER ON PENDING MOTIONS and FINAL JUDGMENT. Affiant current motions are to invalidate, set aside, vacate and or alter all of said documents and ORDERS, as well as FINAL JUDGMENT filed on Feb. 7, through Feb. 11, 2005. Attached hereto, as EXHIBIT "I" is a copy of the front of said court's envelope which contained said three documents, all mailed and included therein not until the late afternoon of Friday, February 11, 2005.

- c) In a related and controlling legal and factual criminal action, which had been disclosed to this court per motions

filed by affiant for issuance of a PERMANENT INJUNCTION enjoining/restraining a good number of defendants herein from violating his ownership, possession, use, enjoyment and development of his real properties awarded him per this Court's AMENDED DEFAULT JUDGMENT of February 23, and DEFAULT JUDGMENT of Feb. 27, 2004 and of the further DEFAULT JUDGMENT of Sept. 21, 2004, Judge St. Clair, who was assigned to said criminal action Teton CV 04-526, refused to hear four (4) motions filed by affiant himself, as a defendant therein; and after, the facts and developments which affiant set forth in said motions and supporting documents, resulted in the dismissal of all charges against affiant therein, Judge St. Clair therein also violated said constitutional rights of affiant, by against secretly and without any notices, opportunity to be heard or hearing, modified a proposed ORDER that affiant's trial counsel should be paid by TETON COUNTY for his services, as affiant was determined therein to be without financial means, indigent and in financial need, so as to have court appointed counsel, said findings and appointment being ordered by a magistrate judge. Per Judge St. Clair's handwritten insertion on said proposed ORDER, none of which had been sent previously at all to affiant, Judge St. Clair ordered affiant to reimburse Teton County, \$3,298.00 @ the rate of \$200.00 per month starting 3/1/05. This ORDER with said handwritten insertion was filed also in chambers by Judge St. Clair on Feb. 8, 2005, the same date, if not morning that affiant was to have started said second jury trial hearing, and which trial Judge St. Clair had illegally and unconstitutionally eviscerated the day before.

Attached heretom marked EXHIBIT "II" is a Feb. 22, 2005 copy

of affiant three (3) motions filed in said CR. 05-526 re vacating, striking, etc., said ORDER of Feb. 8, 2005, for order he is not obligated to pay any fees or costs; and for sanctions. By such incorporation affiant includes and reasserts all authorities, constitutional provisions statutes, and case citations, etc., in further support of his motions now raised per his filings of both February 23, 2005 and this date, Feb. 25, 2005.

d) In both this action and Teton CV 05-10, affiant was before Judge St. Clair over two weeks before the second jury trial date of Feb. 8, 2005 herein; Judge St. Clair was at that time apprised by affiant and counsel, Craig, L. Meadows that they would be forwarding to Judge James C. Herndon, a written stipulation having said Teton CV 05-10 assigned to Judge St. Clair to hear immediately, and affiant would be contacting his clerk for a hearing date ASAP. Judge St. Clair did not inform affiant that he would be gone on his long planned vacation starting on Friday, January 21, 2005 not to return until over two (2) weeks later on Monday, Feb. 7, 2005. Said vacation period and absence of Judge St. Clair was brought to his attention by his clerk, Marlene, when on the next Monday, upon affiant calling to get a time and date of hearing motions in CV 05-10 heard by Judge St. Clair, she disclosed his being on said vacation until the morning of Feb. 7, 2005. Affiant was more than constitutionally deprived of his said rights and despite a further stipulation, confirmed by reciprocal letters that Judge Herndon could hear his motions in CV 05-10, Judge Herndon was not up to having the entire file herein before him and was greatly misled by the misrepresentations and

statements of Craig L. Meadows, the attorney also for Galne Woelk, Runyan and Woelk, in Teton CV 05-10. Judge Herndon, with only five (5) minutes allowed of argument by affiant in Teton CV 05-10 denied his motions and claim of exemption, in fact, he would not allow any evidentiary hearing thereon. At the very conclusion of the hearing before Judge Herndon, Mr. Meadows, did an intentional and deliberately deceptive slight of hand fraud on affiant, by handing him a proposed ORDER for Judge Herndon to sign, but handing to Judge Herndon, who was then in the process of leaving the bench, standing upright, an entirely different ORDER, and which second ORDER, no copy had been given that morning nor could it have been received at all by affiant. This is the ORDER upon which Galen Woelk and Mr. Meadows, then, as affiant was precluded from being at the sheriff's sale at 10 a.m., Monday, morning, Feb. 7, 2005 on the Driggs' Courthouse steps, as affiant at 9:59 a.m., was still in Judge Herndon's Courthouse in Blackfoot, Idaho. The purchaser at said sheriff's sale was Woelk's former partner, Cody Runyan who purportedly assigned whatever he purchased to Galen Woelk, and which transaction as obfuscated and contrived, was the basis of said STIPULATION and ORDER of Feb. 7, and 8, 2005, as set forth, supra. But the issues still before this Court, of whether said sale could have in any legal manner deprived affiant of his right to have said claims decided by a jury on Feb. 8, 2005, whether said remaining claims were nonassignable as personal injury claims and also the punitive damages, was and still is before this Court, except for the unconstitutional actions and ORDERS of Judge St. Clair herein. Judge

Herndon on Monday morning Feb. 7, 2005 stated his ORDER, as affiant thought he was signing, was not a final appellable ORDER. Most pertinently, said Teton CV 05-10 has been removed to the U.S. District court of Idaho, February 17, 2005, given action number CV 05-053-E-MHW. Such removal was proper and necessary due to the issues of diversity of citizenship of affiant, Galen Woelk, and now Wayne Dawson, the latter two, citizens and residents of Wyoming and California, of the issue of federal law pertaining to a federal court final judgment trumping any Idaho law, per the provisions of 28 U.S.C. sec, 655(c), FRCP, Rule 4.1(c) and the holding of Schneider, 72 F.3d 17, 19-21, thus depriving all jurisdiction of the subject matter and persons to have proceeded with said sheriff's sale; and further, the constitutional and federal civil rights issues attendant and arising therefrom by Woelk's and his counsel's violations of said federal statutes, rules and authorities. All of said issues, especially of the utter lack of jurisdiction by which Galen Woelk, fraudulently acquired any rights over or of affiants' remaining claims herein were before this Court, to have been constitutionally heard and with full meaningful notice, opportunity to be heard and to argue as well as present evidence and authorities to an unbiased judge, but such patently was not the impartial mindset of Judge St. Clair. Attached hereto, as EXHIBIT "III" is a two (2) page filed Feb. 17, 2004 copy of his Motions, some 3 in number for Reconsideration, Vacating of Judge Herndon's Order, and to Stay all Execution, etc., in USDC, Idaho, CV 05-053. All cited authorities are reasserted herein.

4. Judge St. Clair further compounded and even falsified the record herein in his THIRTY FIFTH ORDER ON PENDING MOTIONS filed Feb. 11, 2005 and his FINAL JUDGMENT. Said THIRTY FIFTH ORDER is deliberately erroneous and inaccurate in stating:

- a) That there were before the court then or even now, those motions he set forth, being numbers 1, through 4. Pages 1-2 thereof;
- b) Most egregiously misstated was his unsupported by the record statement and conclusions, page 2, that:

"having considered the motions, affidavits filed in support and in opposition, written arguments,, and oral arguments of the parties at previous hearings. the record in this case, this Court renders the following decision on the pending motions." [Emphasis added]

There were no motions nor any arguments held at any previous hearings on defendant's HILLS motion for attorney's fees and costs as such motion had been made prematurely and never even noticed for hearing or argument, and it was more than clear that affiant as plaintiff had prevailed on a number of his claims against the HILLS, and had specifically, not only titled quieted by Judge St. Clair as to the adjacent 8.5 plus acres in which affiant held an one-half undivided interest, but that Judge St. Clair had issued a permanent injunction against the HILLS who had falsely represented to Teton County to get a variance for a home run ICE CUBE AND BLOCK business on the one acre with home, that they owned the adjoining 8.5 plus acres, when they did not so own such 8.5 acres. Further, the record reveals that not only had affiant been deprived of due process in the unpublished and non-binding federal appellate opinion, but three (3) develop-

ments and factors, had substantial effect on affiant's viable claims to said one acre with house, to wit:

(1) the law per the case authority of McChan v. Rutz (9th Cir. May 7, 2002, D.A.R. 4968-71 (See Ptl's Trial Brief 2, 5/29/03) had changed and such law until said decision was not clear nor had it been evsicerated ~~by~~ application by said unpublished and non binding federal decision;

(ii) Alva Harris had acquired improperly both said 8.5 acres and said one acre with house and was at the prolonged outset of being serwed with the FIRST AMENDED COMPLAINT, Sept. 27, 2002 its date of filing, not just counsel for himself but also counsel of record herein, who allowed entries of default to occur, including against defendants HILLS, to whom he was both their personal and trial counsel as well as sellor via SCONA, INC., of said one acre with house, showing said house to the HILLS using the conspiratorial plans, acts and illegal practices of both Katherine Miller and Jack McLean. By such relationship, the HILLS not only became jointly liable parties wvth HARRIS and said other defendants, but they accepted, ratified, and condoned HARRIS and SCONA's tortious and illegal acts; and (iii) when HARRIS refused and stonewalled Affiant's discovery requests not only required and due from himself personally and his SCONA entity, but also defendants HILLS and all other defendants which had default judgments entered on FEB. 23, & 27, 2004 and September 21, 2004, the HILLS continued such discovery stonewalling and evasions in their depositions which required two (2) Court ORDERS and sanctions being imposed

against them and even then, affiant was forced to move for further sanctions, which Judge St. Clair improperly prejudicially and intentionally refused to order, and then, did deliberately fail to consider the foregoing issues and the overwhelming fact ladden affidavits of affiant, which show genuine issues of triable fact to required the denial of defendants HILLS' summary judgment motions. AFFIANT DOES PER THESE MOTIONS, AFFIDAVIT AND ATTACHMENTS AND REQUESTED JUDICIAL NOTICE AND RECEIPT INTO EVIDENCE HEREIN OF ALL HIS MOITONS, AFFIDAVITS AND MEMORANDA SINCE JUNE 19, 2003 through and including to date hereof and hereafter, til time of hearing on his current motions, offer all of said filings in support of his current motions and especiall in opposition to any award of attorneys fees or costs as set forth in said THIRTY FIFTH ORDER, pages 7-8 and FINAL JUDGMENT, pages 1-2 and paragraphs 4, and 10, thereof which should not only be vacated, stricken or set aside, but a new and different order and FINAL JUDGMENT ISSUED denying said DEFENDANTS HILLS any and all attorneys fees and costs or even quieting title to them in said one (1) acre with house. AFFIANT does oppose and object to the issuance of any separate judgment as has been sought or applied for by the defendants HILLS or their current counsel, AND FURTHER REQUESTS A FULL HEARING ON HIS SAID OBJECTIONS AND OPPOSITION TO BOTH SAID HILLE" MOTIONS FOR ATTORNEYS FEES AND A SEPARATE JUDGMENT if even this Court considers the jurisdiction to allow the HILLS at this stage any such relief. As indicated, supra, as to the lack of both jurisdiction and discretion

for any awarding of attorneys fees, to defedants HILLS, EARL

HAMBLIN, ESTATE OF STAN NICKELLS or KATHY MILLER, affiant incorporates herein his filed motions, affidavit and memo brief of Feb. 23, 2005, per his paragraph 3, supra, and especially the case authorities of: Bingham v. Montane Resources Assocs. 133 Idaho 420, 987 P.2d 1035 (1999); Sun Valley Hot Springs Ranch, Inc. v. Kelsey, 131 Idaho 657, 962 P2d208(1999); Management Catalysts v. Turbo W. Corpac Inc. 119 Idaho 626, 809 P.2d 487 (1991) [Unless all claims asserted are shown to be frivolous, without foundation, such does not requate with nonmeritorius, and where multiple claims some of which have merit or are successful, cannot segregate those claims to determine others were frivolously pursued.); and Pancoast v. Indian Cove Irrigation Dist. 121 Idaho 984, 829 P.2d 1333 (1992).

- c) Nor was the motion for attorneys fees and costs made by defendant EARL HAMBLIN ever heard, not aruged and never now properly before the Court. As to said defendant's motion, affiant filed formal objections, opposition and motion to strike with analyzis of both the contrived charges, the lack of authority to award fees or costs and requested specifically: "Plaintiff requests a full evidentiary hearing on all of Hamblin;s motions for attorney fees, costs and/or costs memoranda." (See Affiant's said filings Mar. 24, 2004, page 5 thereof)

But most siginificantly contradicting and showing further Judge St. Clair's deliberate misstatements as aforesaid, are the Minutes Entry of April 2, 2004, where on page 2, it is noted that David Shipman apeated for defendant Earl Hamblin. and at the top of the 4th unnumbered page, it is stated; "Hamlin's motion for attorneys fees and costs will be taken up after trial has been completed."

There was no arugment, no caling up no hearing and no pre-

sentation of any matters/issues/ facts or the law re Hamblin's

said motion for attorneys fees and costs. NOTHING!

The only action taken by David Shipman was that as noted on the second unnumbered pages that: "Nichol and Hamlin have signed disclaimers to property." Such disclaimers produced affiant as the prevailing parties on his Counts Two through Four, and further, as his affidavit with attachments showed, there were genuine issues of material fact as to Hamblins and Nickell's tortious conduct against him personally, his personalty and animals and most egregiously against his deed water rights per the Teton Canal Company over some 21 shares, and his rights to riparian and surface ground water irrigation, while in possession of the 87 acres. The JUDGMENT of Oct. 23, 2003 and the unsupported Findings of Fact and Conclusions of Law, filed June/July, 2003, did not establish either factually nor legally, that all of nor that any of affiant's claims against said defendants HAMBLIN and NICKELLS were frivolous, without foundation nor brought to harass either defendant or any defendants. See Bingham v. Mont. Res., Assocs. 133 Idaho 420, 987 P.2d 1035 (1999); Seversen v. Hermann, 116 Idaho 497, 777 P.2d 269 (1989).

5. The most egregious errors of not just constitutional rights denied deliberately to affiant but also of misstatement of the issues, the law, case authorities and even the facts, the latter obstructed to both the court and jury at the first and so further precluded as aforesaid, at the most recent jury trial set for Feb. 8, 2005, is the scrying prejudicial mindset and more prominent evolving bias and lack of jurisdiction of the actions, orders and JUDGMENTS of Judge St. Clair, such JUDGMENTS being the Judgment of

October 23, 2003, Amended Default Judgment of Feb. 23, 2004, Default Judgment of Feb. 27, 2004, Default Judgment of Sept. 21, 2004 and the FINAL JUDGMENT OF Feb. 11, 2005.

a) In further support of affiant's current motions, he specifically refers to and incorporates herein, the following filed documents herein, which are now more than relevant, as reflecting the prejudicial actions, orders, and said judgments of a biased and without concern Judge, Judge St. Clair:

(i) The March 19, 2003 ENTRY OF DEFAULTS against six (6) defendants, including as No. 2.. "Targhee Powder Emporium, Inc., an Idaho Copr. & dba Unltd & Ltd" which Judge St. Clair had stricken from the Entry of Default form, by Mrs. Hansen after affiant had said entry of defaults entered. Alva Harris had filed a notice of appearance by said defendants and Judge St. Clair was duty bound to recognize such appearance and default of said defendant corporation, as per the averments of Paragraphs 1 and 8(e) of the FIRST AMENDED COMPLAINT. Said appearance of said defendants corporate, who had been personally served, was further a stipulation in point of fact and law, that such were defendant parties/entities against who affiant had entered a valid default. But Judge St. Clair was biasedly determined to prevent that because of the legal effect and result, that indeed all said defendants name in the complaint had committed criminal acts of grand theft and Idaho Racketeering Statutes.

(ii) Affiant's CLOSING BRIEF IN SUPPORT OF HIS MOTION

FOR SUMMARY JUDGMENT AGAINST ALL DEFENDANTS, filed May 13, 2003, which is incorporated herein in full along with all exhibits identified or referenced therein in this action and Teton CV 01-59.

(iii) The entire testimony of Gino Knight during the second day of the first Jury trial wherein he testified without any contradiction or impeachment via cross examination by Galen Woelk or Anntoy Broughton, that when he was working for Blake Lyle as Lyle's general manager, he overheard, Lyle and Bob Fitzgerald discussing and planning to burn affiant's barn and other structures under construction on the most easterly 40 acres owned, possessed and being improved by affiant at the end of the 110 foot strip of the 83 plus acres at Milepost 138, Hwy 33, Driggs. Mr. Knight testified that such discussions and planning was to have such fire occur while affiant was in such structures under construction and to the degree of destruction that affiant's remains would not be identifiable.

(iv) The testimony of affiant himself, that five (5) days after he had said entry of defaults filed on Mar. 19, 2003, in the early morning hours of Monday, Mar. 25, 2003, an arson fire, started around 3:30 or 4 a.m. and destroyed all his structures under construction to such a degree that his financial losses for which he had and could not obtain fire insurance coverage, with his burned antiques and life time collections, etc., was over \$300,000.00 The Court's denial and refusal, even under the issue of proximate cause damages, to allow the jury to decide said damages as being included in damages he sought against Kathy Miller and the

Court's repeated refusals and denials of affiants motions to so amend his pleadings as against Miller and Galen Woelk, and to recover damages against all defendants in default are prejudicial errors caused by his biased mindset and of protecting at least three (3) attorneys from criminal consequences and possible disbarment.

- (v) The SUPPLEMENTAL AFFIDAVIT OF JOHN N. BACH, IN SUPPORT OF HIS MOTIONS TO DISQUALIFY THE HONORABLE RICHARD T. STL CLAIR, AND ALL OTHER MOTIONS FILED July 9, 2003, and July 2003
 - (vi) PLAINTIFF & COUNTERCLAIM DEFENDANT JOHN N. BACH'S REPLY MEMORANDUM TO MILLER'S OBJECTION TO BACH'S MOTION TO DISQUALIFY JUDGE RICHARD T. ST. CLAIR AND MEMORANDUM IN SUPPORT filed August 8, 2003.
 - (vii) AFFIDAVIT OF JOHN N. BACH filed Nov. 6, 2003 with all attached exhibits offered for reversal of October 23, 2003 and as now sought to be a FINAL JUDGMENT per the Judgment of Feb. 11, 2005. The exhibits attached thereto, as well as to all referenced affidavits of affiant, more than established that no judgment as filed Oct 23, 2003 could nor should have been entered, nor the findings of fact or conclusions of law upon which said Judgment is based no could it be now a final judgment of this Court.
 - (viii) Plt's Ex Parte Motion re Reinstating Prel. Inj'n, filed Jan. 9, 2004.
- b) Affiant further confirms his testimony that during the June 9-19, 2003 jury trial, that a great majority of his records, files, etc., of this case herein were destroyed by said arson fire, of March 25, 2005, that he had been repeatedly threatened also by Bob Fitzgerald and Ole Oleson, the latter driving Kathy

Miller's vehicles when making such threats and reiterating that they and she, Kathy Miller, would see that affiant was run out of Teton Valley and all his structures, horses, animals and all other vehicles, on said 83 plus acres burned, removed or destroyed. Kathy Miller has never denied nor refuted that said two defendants and others who stated similar threats, such as Jack Mclean, Blake Lyle, Galen Woelk and Alva Harris were not acting for her and that they were not in league with one another.

c) Affiant has within the last 90 or so days been able to obtain copies of taped interviews (two, 2, cassette tapes) which had previously been destroyed in said March 25, 2003 arson fire, of Katherine Miller interviewed in the presence of her attorney Galen Woelk, on March 2, 2001 by deputy Attorney General of Idaho, Kaenneth Stringfield, and his investigator, William Bouie, at the home, 500N, 100E, Tetonia, but which statements of Katherine Miller were not under oath, but were given voluntarily by her, directed, with insertions of statements of speculation, conjectures and even legal conclusions by Galen Woelk. Such tapes were not known to still exist but affiant did disclose such tapes and other tapes obtained of other defendants herein so interviewed, and made copies of the same within some 30 days or more before the Feb. 8, 2005 second jury trial was to commence, providing such copies to Mr. Craig L. Meadows, counsel for Galen Woelk, and which tapes had been previously made known to Miller's counsel, Galen Woelk, but which tapes Miller nor any other defendants ever disclosed or produced herein per affiant's numerous discovery request for production and answers of interrogatories..

d) Attached hereto marked "EXHIBIT "IV"" are five (5) pages of transcribed portions of said 2 tape cassettes of Katherine Miller's said March 2, 2001 interview, which bear upon, reveal and most certainly prove not only affiant's claims per COUNT ONE of his FIRST AMENDED COMPLAINT and all other counts therein against Miller and Woelk, that Miller was not defrauded nor could she have been by affiant, that Miller has perjured herself and Woelk along with Alva Harris have suborned her and others perjuries before this court during said first jury trial and in affidavits filed herein by them; that all said defendants have so obstructed, prevented and deliberately withheld discovery from affiant of MILLER's and their said complicities of crimes and torts against affiant, that both in point of fact, law and result MILLER's defense, affirmative defenses and counterclaims against affiant were patently and utterly frivolous, without merit and/or foundation, previously tried and determined against her interests, claims and falsely contrived assertions defenses and counterclaims. Affiant personally listened to said tapes, over five (5) different times, did nothing to alter or modify any of the statements of Miller or questions of her or her voluntary comments or the comments and directives given her by Galen Woelk, Affiant personally typed said five (5) pages of her relevant statements, which are of themselves, confessional statements, also of admissions, and declarations against interest both reliable, trustworthy and most relevantly admissible in support of affiant's current and said earlier referenced motions to reverse and undo the foregoing judgments herein. Affiant will present at the time for hearing on his motions herein, a duplicate copy

of both taped cassettes of Katherine Miller's said interview. These tapes along with other defendants' interview tapes were initially obtained from Mr, Kenneth Stringfield per the Idaho Freedom of Information Act, and my copies are duplicate originals of public records, files and documents, albeit it in audio form, of the State of Idaho.

6. Even without the consideration, receipt into evidence and applying of Miller's said confessional statements on said EXHIBIT "IV", the Court was wholly without jurisdiction, factual or legal showing, and even moreso, now, to have prejudicially granted Katherine Miller any attorneys fees nor to have considered any such motions, on Feb. 11, 2005, as her earlier motion had been denied and refused by Judge St. Clair. Most discrediting of any attorneys fees and costs or the award to Miller of the \$2,500 bond posted for issuance of the restraining order and then the preliminary injunction of August 16, 2002, is the irrefutable facts, that Miller never tried to have said preliminary injunction set aside or vacated, except to restrict farm animals on the 110 foot strip; She was personally present on August 13 and 15, 2002 when affiant presented his testimony and exhibits to obtain said preliminary injunction, she being represented by Alva Harris at the time under a claim of special appearance. She never took the stand never presented any witnesses and simply was an observer by her choice. On August 16, 2002, Galen Woelk, filed an appearance as her counsel all without her required signature and from that date, through the first jury trial she made no motions to terminate the preliminary injunction. In fact, all her evidence presented was to obtain

a generic jury verdict of sympathy for the contrived claims of some sort of fraud by affiant of her. But there never was and cannot be any fraud upon this record nor as shown now by her statements per EXHIBIT "IV" The findings of fact and conclusions of law which Judge St. Clair prejudicially and erroneously entered was without any input from Iller or her counsel, as was the Oct 23, 2003 Judgment, both of which terminated the preliminary injunction as against here and allowed here to have possession of her most westerly 40 acres. It was only through the further errors and lack of jurisdiction of Judge St. Clairs order, that Miller improperly and unconstitutionally sought the issuance of a writ of possession, which writ has never been ever personally served upon affiant, despite the further contrived and falsified return by M. Hatch of the Teton Sheriff's office, that, based upon speculation and compounded hearsay, she signed a return that Madison County Sheriff's office had so served affiant in Rexburg, when such was utterly disproven and never evidentiary nor relevantly and admissibly contradicted, to his affidavits filed in opposition to said misues of writ of possession bh Miller and Woelk. The contrived and ineffective return by Hatch was presented by Cody Runyan to this Court's clerk and despite it's defects filed.

7. Affiant's current motions and the duties as well as jurisdiction and proper discretion, if any there be, of this Court is to vacate and rescind/undo all that "ANALYSIS" on pages 5-9, of said THIRD FIFTH ORDER, especially to vacate any release to MILLER of affiant's \$2,5000 bond as Miller did not show nor was there any issue that she "incurrred well over \$2,500

of attorney fees in post judgment motions to dissolve the preliminary injunction apart from the merits of the action." No such evidence nor showing has been made nor can it as Judge St. Clair dissolved the injunction as to affiant in July 2003 and per the Judgment of Oct. 23, 2003. Moreover, any efforts by Miller's counsel re misuse of said writ of assistance, which is never mentioned by Judge St. Clair in said 35th ORDER, is not covered by any such bond as affiant posted. The total amount of \$25,000 must be returned immediately to affiant. Lastly, in this regard, Miller presented no evidence of damages, or attorneys fees at the first jury trial for wrongfully being enjoined; in fact, her testimony of attorneys fees paid was for defending affiant's torts claims and her prosecution of her fraud claim,s. she claiming she paid some \$15,000 for Woelk's services but the admitting that her insurance policy covered \$10,000 of that. the jury awarded her \$5,000 attorneys fees all without evidence or legal basis, being misled by Judge St. Clair's personal erroneous jury instruction, which he later reduced to \$500.00.


8. Affiant will supplement this affidavit, but due to not only the press of time to file his motions by Feb. 25, 2005, but the further machinations of Judge St. Clair, as aforesaid herein and the misues of process and unconstitutional execution by Woelk, his attorney and with Judge St. Clair's intentional unavailability and disregard to maintain the orderly functions of justice and protect affiant's rights and claims,as stated supra herein,affiant has not had the resources or physical abilities and prowess to present herewith a more detailed and complete showing, although

he is hopeful he can be able to do so withint the next week to ten days..

9. Affiant also seeks per his motions and this affidavit court costs of his filing fee, \$47,00, his costs of the Hills court ordered depositions of \$1,370.91, and for at minimum of 2,160 hours of paralegal time, efforts and self services incurred at the rate of \$25.00 an hour, or a total of paralegal fees and such costs of \$55,417.91 per Rule 54(e), I.C. 12-120 and/or 12-121,

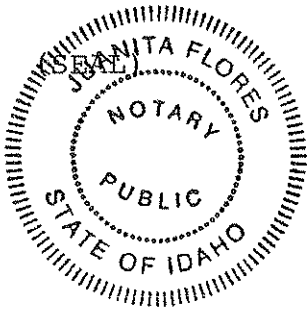
10. Affiant sayth nothing further at this date and time.

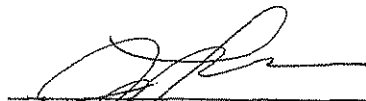
DATED: February 25, 2005



JOHN N. BACH

SO SUBSCRIBED AND SWORN TO BY ME, THIS FEBRARY 25, 2005





NOTARY PUBLIC OF IDAHO
Duggs ID
Address
2/2010
Commjssioner Expires:

001546

STATE OF IDAHO
DISTRICT COURT OF BONNEVILLE COUNTY
605 N CAPITAL AVENUE
IDAHO FALLS ID 83402

John N. Bach
PO Box 101
Driggs, ID 83422

1758 U.S. POSTAGE P82232113*
4826 \$01.520 FEB 11 05*
2814 FROM ZIP CODE 83402

001547

EXHIBIT

JOHN N. BACH
Post Office Box 101
Driggs, ID 83422
Tel: (208) 354-8303
Defendant Pro Se

FILED
4:08
FEB 22 2005
TETON CO.
MAGISTRATE COURT

SEVENTH JUDICIAL DISTRICT COURT, IDAHO, TETON COUNTY

STATE OF IDAHO,

CASE NO: CR 04-526

Plaintiff,

v.

JOHN N. BACH,

Defendant.

DEFENDANT JOHN N. BACH'S, Pro Se,
NOTICE OF MOTIONS AND MOTIONS RE:
(1) ORDER VACATING, STRIKING AND/OR
SETTING ASIDE ORDER RE: ATTORNEY FEES
FILED FEB. 8, 2005; (2) ORDER THAT
DEFENDANT IS NOT OBLIGATED TO PAY ANY
FEES OR COSTS AND IS NOT OBLIGATED TO
REIMBURSE TETON COUNTY ANY MONEYS OR
CHARGES WHATSOEVER RE THIS ACTION; &
(3) ORDER DISQUALIFYING/RECUSING JUDGE
ST. CLAIR FROM HEARING ANY MATTERS HEREIN.

Date of Hearing: Mar. 11, 2005
Time: 9 a.m. Place: Teton Co. Cthouse,
Driggs, Id

NOTICE IS HEREBY GIVEN BY DEFENDANT JOHN N. BACH, Pro Se,
that on Tuesday, March 11, 2005 at 9 a.m., at the Teton County
Courthouse, he will appear before this Court and present, both
evidence, argument and showings, to grant each of the following
orders:

- (1) AN ORDER VACATING, STRIKING AND/OR SETTING ASIDE:
this Court's "ORDER RE: ATTORNEY FEES, filed Feb. 8,
2005, but not served until Feb. 9, 2005 or thereafter,
striking, vacating, and setting aside the handwritten
portion of said ORDER, which reads:
"IT IS FURTHER ORDERED that John Bach shall reimburse
Teton County \$3,298.00@ the rate of \$200.00 per month
starting 3/1/05"; and
- (2) AN ORDER THAT DEFENDANT IS NOT OBLIGATED NOR SHALL HE
BE REQUIRED TO PAY ANY FEES, COSTS OR EXPENSES WHATSOEVER
INCURRED BY TETON COUNTY AND/OR THE COURT IN THIS
ACTION, AND THAT ALL FEES, COSTS, EXPENSES, ETC., SHALL
BE PAID, BORN AND THE SOLE LIABILITY OF TETON COUNTY; and
- (3) AN ORDER DISQUALIFYING /RECUSING JUDGE RICHARD T. ST. CLAIR
FROM HEARING ANY MATTERS OR MOTIONS HEREIN FURTHER FROM
THE DATE OF THE FILING/PRESENTATION OF THIS NOTICE OF
MOTIONS AND MOTIONS.

These motions will be based, primarily but not exclusively, upon the utter violations of both procedural and substantive rights of due process and equal protection, by Judge St. Clair and other officers of this Court, in the granting of said purported ORDER RE ATTORNEY FEES, of Feb. 8 and 9, 2005, which violations include the First through Fifth and Fourteenth Amendments to the U.S. Constitution, also violations of the Idaho Constitution, Art. I, Sec. 7, Right to trial by jury; Art. I, Sec 13, whereby said Judge denied and deprived defendant of his right to sufficient and meaningful notice of whatever issues the court may have believed it could hear and decide re said attorneys fees and other costs. expenses order to be paid by defendant in absentia, and further, deprived defendant of any meaningful opportunity to present evidence, argument, etc., further violating defendant's rights of equal protection, of having a fair, impartial and unbiased judge presiding over whatever issues he wanted to have properly heard, properly notice and conducted via a jury trial and hearings; all of which said judge's unconstitutional acts were as prosecutor in further violation of Idaho Statute 1-1802 and Idaho Constitution, Art. VII, Sec. 10, the latter constituting a felony by Judge St. Clair's said unconstitutional, star chamber antics and said ORDER RE: Attorney Fees; and all of which, or any actions by Judge St. Clair, were unconstitutional in regards to whatever act or statutes he felt he was authorized to so act and issue said ORDER, as such acts or statutes were vague, uncertain, capricious and arbitrary both on their face, in application and wholly without or in excess of all jurisdiction over the awarding of Teton County, any fees or costs to be paid by defendant and further without or in excess of jurisdiction over the person of JOHN N. BACH, to be ordered to

any amounts, cent or any figure whatsoever of reimbursement to Teton County, the latter which was neither a named party nor served as a defendant herein, nor was any standing or capacity of said Teton County existing whatsoever to have requested any of said void and unconstitutionally ordered fees and costs to be paid by defendant. In this latter issue and regard, the Court is referred to the following case authorities: State v. Lankford, 116 Idaho 869, 781 P.2d 197 (1989) cert. den. 497 U.S. 1032, 110 S.Ct. 3295, 111 L.Ed 2d 803 (1990)[prosecutorial acts by trial judge are violative of defendant's constitutional rights]; Sweitzer v. Dean, 118 Idaho 568, 798 P.2d 27 (1990)[fundamental requirements of due process are the opportunity, via a meaningful notice, and time and opportunity to be heard in a meaningful time and manner]; Williams v. State, 132 Idaho 427, 974 P.2d 83 (Ct. App. 1998)[Idaho State Courts must take into consideration and follow federal Supreme Court in deciding due process and equal protection issues/cases]; Smith v. Costello, 77 Idaho 205, 290 P.2d 742 (1955)[any summary disposition statute or acts taken by court, which violate due process or equal protection of law is neither justified nor defensible]; Olesen v. J. A. Freeman Co., 117 Idaho 706, 791 P.2d 1285 (1990)[A constitutional challenge to a state statute can apply equally to criminal as well as civil statutes, practices, customs or practiced acts of the court, prosecutor or legislature]; State v. Carver, 94 Idaho 677, 496 P.2d 676 (1972)[defendant has constitutional as well as statutory right to be personally present at each stage of criminal prosecution against him; see also I.R.C.R., Rule 42 (a), and State v. Money, 109 Idaho 757, 710 P2d 667 (Ct. App. 1985), cert. den. 116 Idaho 466, 776 P.2d 828 (1986)]; I.R.C.R. Rule 43.1, Proceedings by telephone conference or video teleconference; and further, as

transcripts prepared by the court reporter of the initial request for a warrant of arrest, etc., defendant's arraignment where he appeared without counsel, but requested counsel and objected to any filing of an amended complaint as beyond the court's jurisdiction and the transcript of the preliminary hearing, during which defendant's counsel and he were precluded from presenting evidence as they desired to present and generally outlined in defendant's Dec. 27, 2004, four (4) pretrial motions, all of said transcripts were stipulated to be prepared and could nor should any costs of preparing the same have even been considered in view of the prohibition of I.C.R. Rule 5.2 (a) when, as herein, the defendant was determined at his arraignment to be an indigent or needy person and therefore, requiring the court appointment of counsel to represent him at all stages herein, Not even the disqualification of some three (3) other court appointed counsel, could be considered to include let alone be ordered as reimbursible fees and costs by the defendant, nor of even the fees which Teton County had to pay Mr. James Archibald, who eventually represented defendant, but who the court itself did not adequately notice, notify or apprise of, before its actions - Feb. 8, or 9, 2005 per said ORDER to be stricken, vacated and/or set aside. per defendant's now filed motions, supra.

Defendant will await a period of five (5) week days from date hereof, to see if Judge St. Clair will on his own set aside said ORDER and further recuse himself or step aside; if defendant hears no such response from the court he will be filing a detailed affidavit in support of his third motion, supra, detailing not only herein, but also in Teton CV 02-208, the unconstitutional actions and orders/judgments of Judge St. Clair, as most recently as January 7, 8 and in particular on Jan. 11, 2005.

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

U.S. COURTS

05 FEB 17 PM 4:34

FILED _____
CLERK _____

CLERK _____

UNITED STATES DISTRICT COURT, DISTRICT OF IDAHO

CIV 05-053-E-MHW

CODY RUNYAN and GALEN WOELK,
Individually and d/b/a Ruyan
& Woelk,

CASE NO: CV _____

Judgment Creditors,
Plaintiffs,

v.

JOHN N. BACH,

Defendant &
Counterclaimant.

NOTICE OF MOTION AND MOTION
RE: (1) RECONSIDERATION OF
[State Judge's] ORDER DENYING
JUDGMENT DEBTOR'S CLAIMS OF
EXEMPTION; and (2) FOR VACA-
TING OF SAID ORDER DENYING,
ETC; & (3) FOR ORDER GRANTING
DEFENDANT JOHN N. BACH'S
SPECIAL APPEARANCE MOTION TO
STAY ALL EXECUTION, ETC.,
As filed Jan. 20, 2005, &
GRANT FURTHER RELIEF RELATED
THERETO, ETC. A FULL HEARING
IS REQUESTED. FRCP, Rule 11(a)

NOTICE IS HEREBY GIVEN BY THE DEFENDANT JOHN N. BACH,
herein that in this NOTICE OF REMOVAL action, from that Teton
County CV 05-10, Seventh Judicial District Court Case No. 05-10,
he does hereby move this Court for each of the foregoing three (3)
ORDERS which are set forth hereinabove under the designation of
this filed document without having to restate all said motions,
which designation, supra, is incorporated herein.

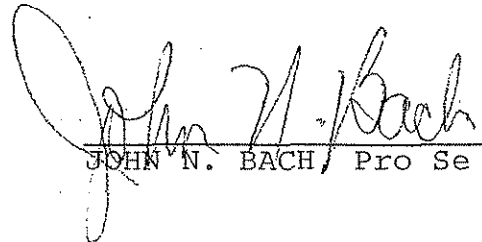
The foregoing three (3) motions are not just based upon the
filed documents and materials which are attached or separately
filed herein with his NOTICE OF REMOVAL, and all his Memoranda
Briefs in support of his special appearance and motions brought
as aforesaid, but, further per the showing to be made by supple-
mental declarations and/or transcripts of proceedings, that reveal
defendant was denied both procedural and substantive rights of due
process and equal protection, by the State of Idaho District Court

601553

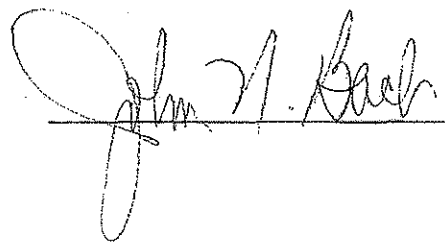
EXHIBIT "III"

by a jurist . who did not have subject nor personal jurisdiction over defendant and further who unconstitutionally assumed both nonexisting jurisdiction and abuse of discretion, wilfully and prejudicially biased exerted against defendant without compliance with the federal statutes and case authority heretofore cited to him and reiterated by the foregoing references. moreover, the federal laws and the Schneider decision, 72 F.3d 17, 19-21 trumps, along with FRCP, Rule 4.1(c) and 28 655(c) all Idaho State law, including any purported Foreign Judgment State of Idaho, which said statute is both unconstitutional vague, uncertain and ambiguous on its face, in application and inferiority to the aforesaid federal statutes, civil rules and decision.

DATED: February 17, 2005


JOHN N. BACH, Pro Se

CERTIFICATE OF SERVICE BY MAIL: I the undersigned hereby certify that on this date, Feb. 17, 2005, I did mail a copy of this document to Craig, L. Meadows, PO. Box 1617, Boise, Idaho 83701-1617.


JOHN N. BACH, Pro Se

001554

KATHY MILLER'S TAPED INTERVIEW
BY KENNETH STRINGFIELD AND WILLIAM
BOUIE OF THE IDAHO ATTORNEY GENERAL'S
OFFICE ON MORNING OF MARCH 2, 2001
AT HER HOME, 500N, 100E, Tetonla, ID
With Galen Woelk, Present and inject-
ing his comments and Questions As Well

PREFACING STATEMENTS BY WILLIAM BOUIE: "Prior to activation
of record, I advised Kathy of general direction of
interview." [Kathy was not placed under oath]

1. [KATHY'S STATEMENTS OF HER MOVE TO JACKSON, WYO]

"I, moved to Jackson 1993 from Michigan, moved to Driggs,
May, 1995.

"I met John approximately January 1994, at Targhee Ski Resort,
introduced by mutual friends."

"We did not start dating until November 94, so in between, January to
November --I'd come over to ski from Jackson. I'd usually see John . . ."

2. [Ken Stringfield] "Q. Are you familiar, that-whether, excuse me--
did he [John] ever say he was licensed to practice law in Idaho.
A. He never told me he was licensed to practice law in Idaho.

[After taped stopped & restarted]

3. "I'd filed for a divorce in December of 93. . .as of January
1994, my ex and I made an agreement to separate and then work
toward a settlement--so in----all of 94 involved in negotiating
a settlement."

. . . . I hired another attorney.

[William Bouie] "Q. the letters which he [John] assisted in pre-
paring directed to your attorney did he sign those himself?

A. No. No.

Q. He just helped you prepare them?

A. Yes. my impression was that he [John] was way much
more aggressive than I am and eventually I had to let him out
of the whole loop. I couldn't handle him. So eventually I
made the settlement and left John out of the advisor capacity

At this time I was living in John's house. . . .

My divorce was finalized, um, I believe in August of 95.

Q. And prior to that you'd cut John out of advising you?

A. Prior to that we were actually scheduled to go to court trial in my divorce and I did not want to do that. So I would say within a month before that, I just didn't tell John what was going on and I did all the negotiating myself."

4. [KATHY FINDING OUT OF JOHN'S DISBARMENT]

" I lived with John approximately June 95 until Feb. 97. .

A. He told me, in his view he retired and in his view they [the Calif. State Bar] were out to get him.

Q. Was he convincing?

A. No.

Q. Was he convincing?

A. No, I began to get uncomfortable feelings what his true background was? Well in July 1995 I was about to be served with a lawsuit by Lovell and Lorrain Harrop and . . .this was coupled with finding out John was disbarred, provoked a lot of questions..

5. [KATHY LOOKING FOR LAND TO BUY]

"At that time I was looking for a place to live in Jackson and the difference in price between Teton Idaho, Teton Valley and Teton County, Wyoming was huge. So I was looking at land in Jackson 30,000 to 50,000 an acre and overhere land was more like 2,000 to 5,000 an acre at the time. So he kept telling me about all the different properties he was in the process of purchasing and asking me if I wanted to be part of the investment group that was buying the land. . . ."

" I was looking for land so I did agree to buy land from him."

6. [KATHY'S KNOWLEDGE OF TARGHEE POWDER EMPORIUM]

[William Bouie] Q. How did you learn of that name [Targhee Powder Emporium?

- A. He had that name in letters on a railing in front of his house and he talked about Targhee Powder Emporium, but I was never clear exactly what it was.
- Q. Ah, did he mention the name of Targhee Powder Emporium, at any time as any group he was associated with, a family trust or any?
- A. At the time, when the deeds were made out, I'd seen this, he wrote out to Wright's Law Office. . .
- Q. Presumably Targhee Powder Emporium was his trust or whatever you called it?
- A. It had something to do with him. I didn't know if it was John alone, John's family, John's undisclosed principals. I just know that was the name he was having put in the deed.

.
Certainly by July of 95 when I discovered the true costs of the land, I knew that at least \$10,000 of his income came from me."

7. [KATHY'S KNOWLEDGE OF JOHN OFFERING PROPERTIES TO OTHERS]

[Kenneth Stringfield] Q. Why do you believe that he desperately tried to find somebody?

- A. Because I listened to him call people and solicit, um, tell them all about this land. As I said to Galen [Woelk], what surprised me the most, is I never heard him lower the price. I think most of the people he solicited, he raised it up to \$6,000 an acre. So even knowing he'd negotiated it at 1200 an acre in that neighborhood, knowing that the deal was about to fall by the wayside, he never backed down from that profit margin he was seeking. That would surprise me, but living in the same house, I would overhear these conversations. . .

So, John negotiated a 110 foot strip down one side of the land, so that he and I could get to our landlocked 80 acres.

I have, I've a lot of documents from that, that you would have to read, but there was a lot of back and forth between John and the Harrops and John and the Harrops attorney.

Q. You were completely out of the picture is that true?

- A. I was out of the picture, the only thing, from time to time I would see the documents; he [John] would show me the documents, but no, I'd actively been released from the lawsuit. .

Chuck Homer showed proof that I did pay for the land and I did not negotiate any of the contracts. . . .

I hired Chuck Homer."

[Galen Woelk] Q. Why -- did you tell Chuck Homer the property you purchased with all your money, did you ask whether if, he could do a crossclaim against John Bach for your property? Did you discuss that when . . . ?

A. We discussed that, at the beginning. I wasn't willing to sue John. . . .

There was a 110 foot easement that had to be surveyed, fenced and paid for and the price of that was approximately \$7,300. John and I were supposed to split it. At the time John was involved in a bankruptcy dispute, some I.R.S. problems but he told me, if he put money down at the courthouse, they would seize it, so would I please pay the court his portion and he would pay me back."

8. [MORE OF KATHY'S KNOWLEDGE OF TARGHEE POWDER EMPORIUM]

[Kenneth Stringfield] Q. Targhee Powder Emporium, did you ask John who was, was involved in it?

A. I think I was just told that Targhee Powder Emporium, was his [John's] corporation. It was definitely clear he was the corporation."

9. [KATHY'S KNOWLEDGE OF LIPONIS EMPORIUM TRUST ACCOUNT & LACK OF TRUST OF JOHN]

"Q. Did you know anything about that account, up until that time that Jack [McLean] called you?

A. When I lived with John I would see bank statements come addressed to Liponis Emporium Trust and Targhee Powder Emporium."

. . . .

Q. Did you have any reason to believe that any of your money went into that account until Mr. Harris or Mr. McLean had pointed out it had?

A. Well, I think that back in 97, I had noticed that when the Harrop lawsuit include those checks, the checks were written out to Liponis Emporium Trust. . . .

Q. But you were estranged from John at that time-- and you didn't trust him?

A. No. No. I didn't.

Q. At least a 100%?

A. No.

Q. At least not financially?

A. No."

END OF TRANSCRIPTIONS MADE PERSONALLY
BY JOHN N. BACH, RELEVANT PORTIONS PRESENTED

CERTIFICATE OF SERVICE BY MAIL

I, the undersigned, hereby certify that on February 25, 2005, I did mail copies of the foregoing document, via separate envelopes with first class mail affixed thereto, addressed to each of the following:

Judge Richard T. St. Clair
Bonneville County Courthouse
605 N. Capital Ave.
Idaho Falls, ID 83402

Galen Woelk
1472N 5th St. Ste 201
Laramie, WY 82072

Alva A. Harris
P. O. Box 479
Shelley, ID 83274

Jared Harris
P. O. Box 577
Blackfoot, ID 8322.

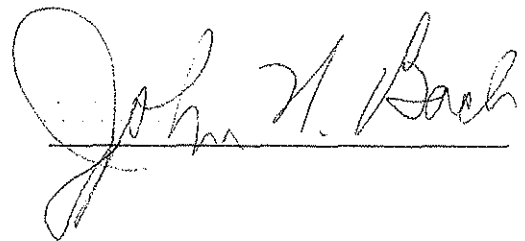
Craig L. Meadows
P. O. Box 1617
Boise, ID 83701-1617

David Shipman
P.O. Box 51219
Idaho Falls, ID 83405-1219

Gregory W. Moeller
P. O. Box 250
Rexburg, ID 83440

Anntoy Broughton
1054 Rammell Mtn Rd
Tetonia, ID 83452

DATED: February 25, 2005



John H. Bach

001560

FILED IN CHAMBERS
at Idaho Falls
Bonneville County
Honorable Richard T. St. Clair
Date February 24, 2005
Time 1:10
Deputy Clerk M. Mauthwick

HOPKINS RODEN CROCKETT
HANSEN & HOOPES, PLLC
David H. Shipman, ISBN 4130
428 Park Avenue
P.O. Box 51219
Idaho Falls, Idaho 83405-1219
Telephone: 208-523-4445
Attorneys for Defendant Earl Hamblin

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

JOHN N. BACH,

Plaintiff/Counterclaim Defendant,

vs.

KATHERINE D. MILLER, aka
KATHERINE M. MILLER, Individually
and dba R.E.M., et al.,

Defendants/Counterclaimants.

Case No. CV-02-208

JUDGMENT

THIS COURT, having entered its Order on February 11, 2005 awarding Defendant Earl Hamblin costs of right in the amount of \$326.00 and \$8,354.00 in attorney's fees;

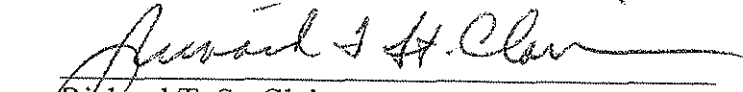
NOW, THEREFORE, the Court enters judgment in favor of Defendant Earl Hamblin and against Plaintiff John Bach, for the sum of \$8,680.00; together with interest

JUDGMENT - 1

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thereon at the judgment rate of 7.125% per annum or \$1.69 per day until paid; and the Court orders that execution may issue on the foregoing instrument.

SO ORDERED this 24th day of February, 2005.

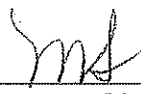

Richard T. St. Clair
District Judge

CERTIFICATE OF ENTRY

I, the undersigned and clerk of the above-entitled court, hereby certify that pursuant to Idaho Rule of Civil Procedure 77(d), a copy of the foregoing was duly posted by first class mail to the Plaintiff's and the Defendants' counsel at the names and addresses stated below.

DATED this 24th day of February, 2005.

NOLAN G. BOYLE
Clerk of the Court

By 
Deputy Clerk

David H. Shipman, Esq.
HOPKINS RODEN CROCKETT
HANSEN & HOOPES, PLLC
P.O. Box 51219
Idaho Falls, ID 83405-1219

Jason D. Scott, Esq.
HAWLEY TROXELL ENNIS & HAWLEY, LLP
P.O. Box 1617
Boise, ID 83701-1617

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

Jared M. Harris, Esq.
BAKER & HARRIS
P.O. Box 577
Blackfoot, ID 83221

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

Anne Broughton
1054 Rammell Mountain Rd.
Tetonia, ID 83452

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

Gregory W. Moeller, Esq.
RIGBY THATCHER ANDRUS
RIGBY & MOELLER, CHTD.
P.O. Box 250
Rexburg, ID 83440-0250

Galen Woelk, Esq.
ARON & HENNIG, LLP
1472 N. 5th St., Ste. 201
Laramie, WY 82072

FILED
3:43
FEB 28 2005
TETON CO.
MAGISTRATE COURT

GALEN WOELK
ARON AND HENNIG LLP
1472 NORTH 5TH ST., SUITE 201
LARAMIE, WY 82072
TELE (307) 742-6645
FAX (307) 742-7766
IDAHO STATE BAR #5842

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

JOHN N. BACH,	)	Case No. CV-02-208
)	
Respondent,)	
)	
vs.	)	NOTICE OF APPEAL
)	
KATHERINE M. MILLER, et. al.,	)	RULE 23 I.A.R.
	)	FEE: \$86.00
)	
Appellant.)	
_____)

TO: THE ABOVE NAMED RESPONDENT, John N. Bach, acting Pro-
Se, AND THE CLERK OF THE ABOVE ENTITLED COURT.

NOTICE IS HEREBY GIVEN THAT:

1. The above named appellant, Katherine M. Miller, appeals against the above named respondent to the Idaho Supreme Court from the Seventh Judicial District Court's *ADDITIONAL FINDINGS OF FACT AND CONCLUSIONS OF LAW*, entered in the above-entitled action on December 23rd, 2003, and the *TWENTY SECOND ORDER ON PENDING MOTIONS*, entered in the above-

NOTICE OF APPEAL - 1

001564

entitled action on the 12th day of February, 2004, the Honorable Richard T. St. Clair presiding. The Orders appealed from require Appellant to reimburse Respondent for the value of improvements Bach claims were made on Appellant's real property during the time Bach held the property in a constructive trust for Appellant.

2. Katherine Miller has a right to appeal to the Idaho Supreme Court, and the order and decision described in paragraph 1 above is an appealable order under and pursuant to Rule 4 and 11(a)(1) of the Idaho Appellate Rules.

3. This Notice of Appeal is filed within 42 days of the District Court's *FINAL JUDGMENT*, entered as final by the Court on February 11, 2005.

4. The issues Appellant intends to assert on appeal shall include but are not limited to:

a. Whether the District Court erred when it determined the degree of Bach's fraud against Miller distinguished this action from applicable legal authority which would have barred Bach from collecting an award of restitution under Idaho's restitution statute.

b. Whether the District Court erred when it held Bach occupied Appellant's property in "good faith" and under "color of title" as defined by Idaho Code §§ 6-414 and

6-417, even though Bach's possession of Appellant's property was obtained through fraud.

c. Whether the legal standard applicable to Idaho Code § 6-417 requires actual notice, rather than constructive notice, to defeat a restitution claimant's "good faith" showing.

d. Whether the District Court erred when it held Bach did not have "actual notice" of Appellant's claims to her property during the time of Bach's possession.

e. Whether the District Court erred when it held in Bach was NOT estopped from claiming an individual right to restitution.

5. No reporter's transcript is requested or relevant as the controlling issues derive from the pleadings of record, and the District Court's findings, holdings, and orders; all of which are issues at law.

6. Appellant is appealing one ruling/order from an action which includes numerous rulings and orders. Therefore, and pursuant to Rule 28(a), Appellant requests the Clerk's record be limited to those documents specified below, and DOES NOT request a complete Rule 28(b) *Standard Record*, as it is unnecessary and too voluminous for purposes of Miller's appeal.

Appellant designates the following documents to comprise the Limited Clerk's Record in her appeal:

1. MOTION TO DISMISS I.R.C.P. 12(b)(8), filed January 22, 2003.
2. AFFIDAVIT OF KATHERINE MILLER IN SUPPORT OF MOTION TO DISMISS, filed January 22, 2003.
3. MEMORANDUM IN SUPPORT OF I.R.C.P. 12(b)(8) MOTION TO DISMISS, filed January 22, 2003.
4. SEVENTH ORDER ON PENDING MOTIONS, filed January 29, 2003.
5. EIGHTH ORDER ON PENDING MOTIONS, filed March 4, 2003.
6. ANSWER, COUNTERCLAIM AND JURY DEMAND OF DEFENDANT KATHERINE MILLER, filed March 17, 2003.
7. PLAINTIFF & COUNTERCLAIMANT JOHN N. BACH'S ANSWER & AFFIRMATIVE DEFENSES TO COUNTERCLAIMS OF KATHERINE D. MILLER, aka KATHERINE M. MILLER, et al., filed April 4, 2003.
8. PLAINTIFF & THIRD PARTY DEFENDANT JOHN N. BACH, Special Appearance, (Individually & dba Targhee Powder Emporium, Inc, an Unincorp. Db), Unltd & Ltd) NOTICE OF MOTIONS & MOTIONS TO QUASH, STRIKE, THIRD PARTY COMPLAINT (Only 1 Summons Attempted to be Served) and to DISMISS ENTIRE THIRD PARTY COMPLAINT (IRCP, RULE 12(b)(2)(4)(5), filed April 14, 2003.
9. FOURTEENTH ORDER ON PENDING MOTIONS, filed May 28, 2003.
10. FINAL PRETRIAL ORDER, filed June 3, 2003.
11. ORDER FOR DEFAULT, filed June 16, 2003.
12. FINDINGS OF FACT AND CONCLUSIONS OF LAW, filed June 31, 2003.

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13. SIXTEENTH ORDER ON PENDING MOTIONS, filed July 8, 2003.
14. SEVENTEENTH ORDER ON PENDING MOTIONS, filed August 28, 2003.
15. NINETEENTH ORDER ON PENDING MOTIONS, filed October 23, 2003.
16. JUDGMENT, filed October 23, 2003.
17. MEMORANDUM OF POINTS AND LAW IN SUPPORT OF MILLER'S OBJECTION TO BACH'S CLAIM OF RESTITUTION, filed December 17, 2003.
18. ADDITIONAL FINDINGS OF FACT AND CONCLUSIONS OF LAW, filed December 23, 2003.
19. MILLER'S MOTION FOR RECONSIDERATION AND ALTERNATIVE MOTION TO PROVE RENTAL VALUE OF PROPERTY, filed January 5, 2004.
20. MILLER'S MOTION FOR 1). AMENDMENT TO "ADDITIONAL FINDINGS OF FACT AND CONCLUSIONS OF LAW." 2). MOTION TO CLARIFY 3). MOTION FOR POST-JUDGMENT RENT AND NOTICE OF HEARING, filed January 6, 2004.
21. TWENTY FIRST ORDER ON PENDING MOTIONS, filed January 16, 2005.
22. TWENTY SECOND ORDER ON PENDING MOTIONS, filed February 12, 2004.
23. TWENTY FIFTH ORDER ON PENDING MOTIONS, filed March 16, 2004.
24. WRIT OF ASSISTANCE, signed and filed by the Clerk on April 1, 2004.
25. TWENTY SIXTH ORDER ON PENDING MOTIONS, filed April 21, 2004.
26. TWENTY EIGHTH (sic) ORDER ON PENDING MOTIONS, filed May 6, 2004.
27. THIRTY FIFTH ORDER ON PENDING MOTIONS, filed February 11, 2005.

28. FINAL JUDGMENT, filed February 11, 2005.

29. TRIAL EXHIBIT 68.

7. I certify the estimated fee for preparation of the Limited Clerk's Record, in the amount of \$503.75, has been paid.

8. I certify that the appellate filing fee, in the amount of \$86.00, has been paid.

9. Service of this NOTICE has not been made upon the Court reporter, as NO REPORTER'S TRANSCRIPT IS REQUESTED.

DATED this 23rd day of February, 2005.

ARON AND HENNIG, LLP



GALEN WOELK
ATTORNEY FOR APPELLANT
KATHERINE MILLER.

CERTIFICATE OF SERVICE

I hereby certify that I am a duly licensed attorney in the State of Idaho, with my office in Laramie, Wyoming; that on the 23rd day of February, 2005, I caused a true and correct copy of the foregoing NOTICE OF APPEAL to be served upon the following persons at the addresses below their by depositing said document in the United States mail with the correct postage thereon.

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

Jason Scott
Hawley Troxell Ennis & Hawley LLP

Attorneys for Galen Woelk and H. Cody Runyan, both
individually and dba Runyan & Woelk, P.C..
P.O. Box 1617
Boise, ID 83422

Alva Harris, Esq.
Attorney for Alva Harris, individually and dba Scona, Inc.,
Jack Lee McLean, Ole Oleson, Blake Lyle, individually & dba
Grand Towing and Grand Body & Paint, Robert Fitzgerald,
individually & dba Cache Ranch
P.O. Box 479
Shelley, Idaho 83274

Anne Broughton
1054 Rammell Mountain Road
Tetonia, ID 83452

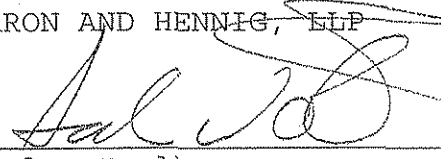
Jared Harris, Esq.
Attorney for Wayne Dawson, Bret Hill and Deena Hill
P.O. Box 577
Blackfoot, ID 83221

David Shipman
Hopkins Roden Crockett, PLLC
Attorneys for Earl Hamblin
P.O. Box 51219
Idaho Falls, ID 83405

Greg W. Moeller
Rigby, Thatcher, Andrus
Attorneys for the Estate of Stan Nickell
Post Office Box 250
25 North Second East
Rexburg, ID 83440-0250

Judge Richard T. St. Clair
605 North Capital Avenue.
Idaho Falls, ID 83404

ARON AND HENNIG, LLP


Galen Woelk

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

FILED
4109
MAR 07 2005
TETON CO.
MAGISTRATE COURT

SEVENTH JUDICIAL DISTRICT COURT, IDAHO, TETON COUNTY

JOHN N. BACH,

CASE NO: CV 02-208

Plaintiff,
Counterclaim
Defendant,

SECOND AFFIDAVIT OF JOHN
N. BACH, In Support of
MOTIONS FILED FEBRUARY 25,
2005

v.

KATHERINE D. MILLER, aka
KATHERINE M. MILLER, Individ-
idually & dba R.E.M., et al.,

Defendants,
etc.

STATE OF IDAHO)

ss

COUNTY OF TETON)

I, JOHN N. BACH, having been placed under oath, gives further testimony of my own personal knowledge in support of all my motions filed February 25, 2005.

1. After affiant had filed his AFFIDAVIT of February 25, 2005 on said date, he received in his Saturday, Feb. 26, 2005 mail, a copy of an ORDER OF RECUSAL by Judge St. Clair in Teton CR 04-526, with meter stamped mail date of Feb. 25, 2005, wherein pursuant to Rule 25(d), I.C.R., Judge St. Clair recused himself, and thereafter "ORDERED that all further proceedings in this case shall be decided by the regularly assigned Magistrate Judge or District Judge for Teton County," knowing that both of said Judges had been recused previously, that's why he had been assigned

to said case CR 05-526. But most improper was said order of who would decide affiant's filed motions therein, as once a judge recuses himself, he has no power to order anything. Affiant believes said ORDER OF RECUSAL is a patent admission of Judge St. Clair's disqualification and recusal herein, such being effective as a matter of law, since affiant filed his motions to disqualify Judge St. Clair as of July 3, 2003.

2. A further development which bears upon Judge St. Clair's disqualification, to have entered any of the Orders on Feb. 7, Feb. 8, and Feb 11, 2005 and even the Final Judgment of Feb. 11, 2005, is found in Defendnt Galen Woelk's, individually & dba Runyan & Woelk's Motion to Amend Answer, filed on or about January 6, 2005, wherein per Woelk's Brief in support of said motion, it was stated: "Woelk is entitled to set off the \$6,016.00 [Federal Judgment re attorneys' fees in USDC, Idaho CV 02-266] against any award of damages Bach might recover in this case. Idaho recognizes 'the equitable principle allowing individuals to setoff amounts owed to them by the same person who is attempting to collect from them.' Beard v. George, 135 Idaho 685, 688, 23 P.3d 147, 150 (2001). It is proper to reduce a judgment in favor of the plaintiff by the amount of any such such setoff. Id. It may, however, be necessary for Woelk to amend his answer to assert the right of setoff as an additional affirmative defense, as this defese was provided for in his original answer, which was filed long before the federal court judgment was entered."

3. Judge St. Clair had knowledge of said filing, and yet he deliberately ignored it not just per the appearance affiant made before him in Teton CV 05-10, which is documented in affiant's said Feb. 25, 2005 Affidavit, paragraph 3, subparagraphs a), b), c), d), pages 3 through 9 thereof, but per the secret without hearing, notice of meaningful opportunity, orders issued by Judge ST. Clair from Feb 7, 2005 through Feb. 11, 2005 herein. All of such unconstitutional violations and intentional deprivations by Judge St. Clair of affiant's stated due process and equal protect-

rights, are more than a lack or want of jurisdiction for Judge St. Clair to have so illegally acted; they are but further confirmation of his bias, prejudice, and nonimpartial mindset against affiant and his claims set forth in the FIRST AMENDED COMPLAINT requiring Judge St. Clair's recusal and disqualification as of July 3, 2003, requiring the voiding, striking and setting aside of all orders of Judge St. Clair against affiant's rights, claims, interests, etc., from July 3, 2003 to date hereof, and the assignment immediately of another judge over this action.

3. Affiant does hereby make the following corrections to the designated portions of his Feb. 25, 2005 AFFIDAVIT which were inadvertently and typographically occurred:

- a) The Entry of Default of March 19, 2003 stated in paragraphs 5. a), (i), page 15 which was returned to affiant had a small 3 inch by 3 inch yellow gum tab attached to it with the words "Please note change." A copy said filing the the affixed yellow gum tab is attached hereto, marked EXHIBIT "V", continuing in sequence from the last Exhibit "IV" to the AFFIDAVIT of Feb. 25, 2005, and said EXHIBIT "V" is incorporated herein.
- b) The date of the arson fire which occurred 5 days after the filing of said March 19, 2003 Entry of Defaults, was Monday, March 24, 2003, and such corrected March 24, 2003 date is hereby made to paragraphs 5., a), (iv), 5., b) and 5., c), pages 16, 17 and 18, thereof.
- c) The inadvertently omitted filed documents from paragraph 5., a) (ii), page 16, which were also filed May 13, 2003, along with Affiant's CLOSING BRIEF FOR SUMMARY JUDGMENT AGAINST ALL DEFENDANTS, such documents further including: Affidavit of John N. Bach for Entry of Default against Earl Ham-

001573

blin; Entry of Default against Earl Hamblin; JOHN N. BACH's Memorandum Re; Objections and Opposition To: 'Miller's Motion for Rule 11 Sanctions against Bach'; and JOHN N. BACH's Memorandum of Objections/Opposition to Deft Miller's Motion to; Continue Trial Date and for Continuance of Time to File Dispositive Motions. All said filings were on May 13, 2003 at 2;10 p.m..

- d) At the end of par.5., a), (v), page 17, the last line should read and is corrected to read: "July 3, 2003, as well as Supplemental Biref No 1, filed Nov 20, 2003 and his Supp'l Biref No 2, filed Dec 3, '03."

4. Over the last weekend while at the local Driggs, Hospital Auxiliary Thrift Store, was found an old Teton Valley Business Directory, 1994-1995, which was printed by Teton Valley Chamber of Commerce, and wherein on page 16, therein listed as a recreational entity which offered such activities and resources to tourists, visitors, etc., was TARGHEE POWDER EMPORIUM, P.O. Box 101, Driggs, Idaho 83422 (208) 354-8303, Copies of the front cover page and page 16 of said 1994-1995 Teton Valley Business Directory, are attached hereto, marked EXHIBIT "VI" & incorporated. Said EXHIBIT "VI" further supports all of affiant's motions filed Feb. 25, 2005

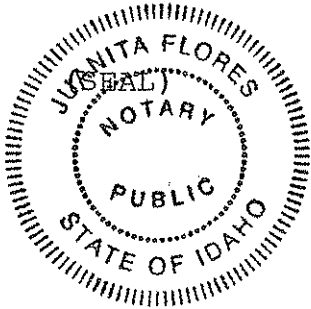
5. Without attaching copies hereto, the following filings of affiant are requested to not just be judicial noticed but received in evidence in further support of his Feb. 25, 2005 motions:

- a) AFFIDAVIT OF JOHN N. BACH re: Testimony of Damages to be admitted, considered and included in JUDGMENTS OF DEFAULT AGAINST DEFEDNATNS ALVA A. HARRIS, Individually & dba SCONA, INC., a sham entity; JACK LEE McLEAN, ROBERT FITZGERALD, aka BOB FITZGERALD, Individually & dba CACHE RANOH, OLY OLESON, Individually & dba CACHE RANOH & dba R.E.M., ; and BLAKE LYLE, Individually & dba GRANDE TOWING and also dba GRANDE BODY & PAINT;
- b) I.C. sec. 5-336; and
- c) JOHN N. BACH, RESPONSES, REPLIES, ETC., filed Mar 24, 2003.

DATED: March 7, 2005

John N. Bach
JOHN N. BACH.

SO SUBSCRIBED, SWORN TO AND WITNESSED BY ME, THIS MARCH 7, 2005.



[Signature]
NOTARY PUBLIC OF IDAHO
Juggs ID
Address
2/30/10
Commission Expires

CERTIFICATE OF MAILING OR
OTHERWISE WHERE DESIGNATED
BY FAX

I, hereby certify, that on March 7, 2005 I did mail copies or fax copies of the foregoing document, as noted/designated, supra, via the U.S. Mails, in separate envelopes with first class postage affixed thereto, to each of the following:

Judge Richard T. St. Clair
Bonnevill County Courthouse
Via FAX (208) 529-1300

Galen Woelk
1472 N. 5th St. Ste 201
Laramie, WY 82072

Alva Harris
P.O. Box 479
Shelley, Id 83274

Jared Harris
P.O. box 577
Blackfoot, ID 8322

Craig L. Meadows
P.O. Box 1617
Boise, ID 83701-1617

David Shipman
P.O. Box 51219
Idaho Falls, ID 83405-1219

Gregory W. Moeller
P.O. Box 250
Rexburg, ID 83440

Anntoy Broughton
1054 Rammel Mtn Rd
Tetonia, ID 83452

DATED: March 7, 2005

John N. Bach

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

FILED
9:01 AM
MAR 19 2003
TETON CO.
MAGISTRATE COURT

Please note change

SEVENTH JUDICIAL DISTRICT COURT, IDAHO, TETON COUNTY

JOHN N. BACH,

CASE NO: CV 02-208

Plaintiff,

ENTRY OF DEFAULT AGAINST DEFENDANTS:

v.

- (1) ALVA A. HARRIS, Individually & dba SCONA, INC., a sham entity;
- (2) FARGHEE POWDER EMPORIUM, INC., an Idaho Corporation; & dba Unltd & Ltd.;
- (3) JACK LEE McLEAN;
- (4) OLE OLESEN; (aka OLY OLSON);
- (5) BOB FITZGERALD, Individually & dba CACHE RANCH; and
- (6) BLAKE LYLE, Individually & dba GRANDE TOWING, and also dba GRANDE BODY & PAINT (IRCP, Rule 55(a)(1), et seq.)

KATHERINE D. MILLER, aka
KATHERINE M. MILLER, et al.,

Defendants.

Proof having been filed herein on March 19, 2003, per the APPLICATION & AFFIDAVIT OF JOHN N. BACH, Plaintiff, for entry of defaults against the herein designated/identified defendants, per I.R.C.P., Rule 55(a)(1), et seq.,

NOW, THEREFORE, ENTRY OF DEFAULT IS HEREBY ENTERED, AGAINST EACH AND ALL OF THE FOLLOWING DEFENDANTS:

- 1. ALVA A. HARRIS, Individually & dba SCONA, INC., a sham entity;
- ~~2. FARGHEE POWDER EMPORIUM, INC., an Idaho Corp, & dba Unltd & Ltd.~~
- 3. JACK LEE McLEAN;
- 4. OLE OLESEN; (aka OLY OLSON);
- 5. BOB FITZGERALD, Individually & dba CACHE RANCH; and
- 6. BLAKE LYLE, Individually & dba GRANDE TOWING, and also dba GRANDE BODY & PAINT,

in all capacities, named, served or averred, said defendants having failed, after this Court's ORDER of March 4, 2003, to appear further, defendat or answer Plaintiff's FIRST AMENDED COMPLAINT, as provided by the Idaho Rules of Civil Procedure.

DATED: March 19, 2003

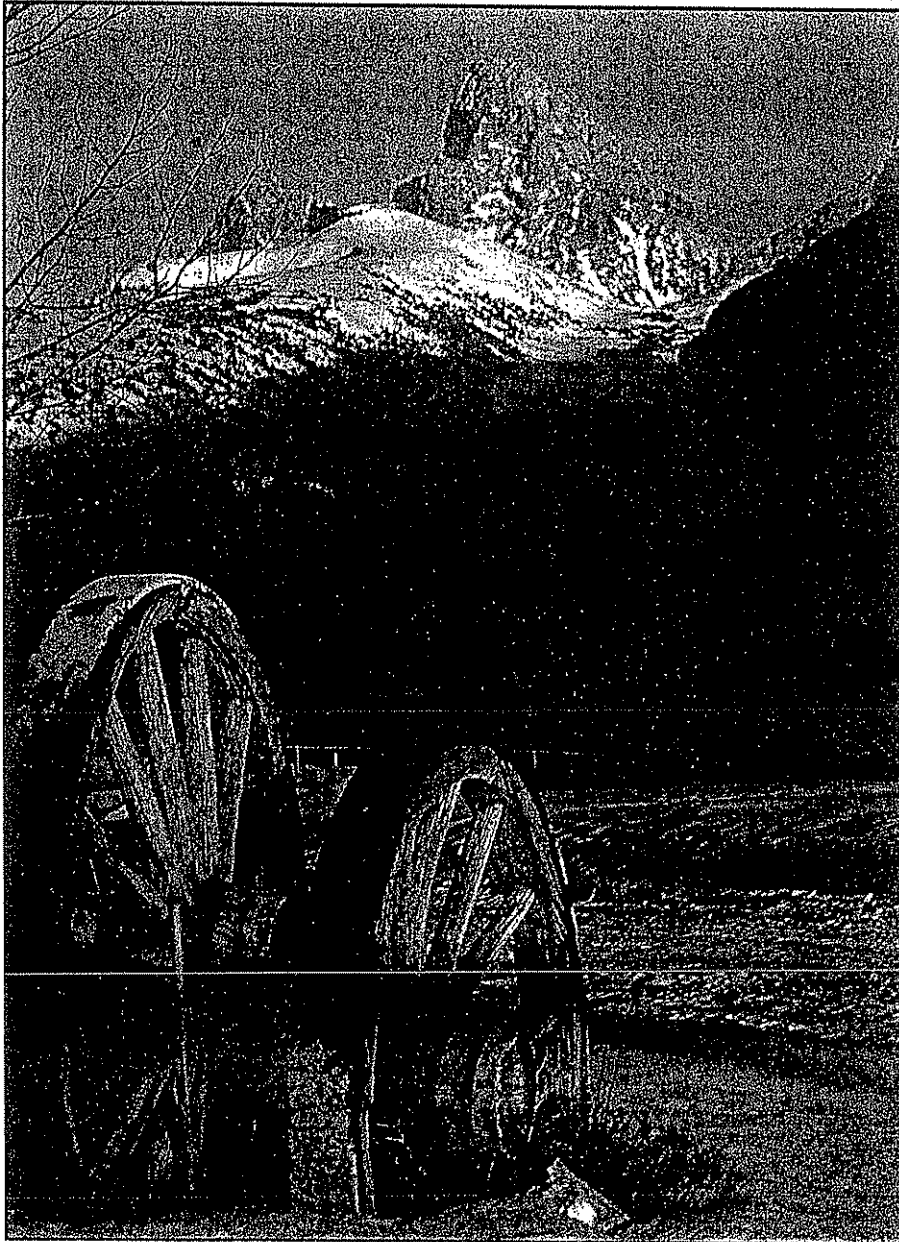
CLERK OF THE COURT

By: Francis A. Hansen

001576

EXHIBIT "V"

**TETON VALLEY
BUSINESS DIRECTORY
1994-1995**



COMPLIMENTARY

001577

are splendid in their winter coats. Though the roads are closed to cars, snowmobilers or skiers can enjoy the parks' natural beauty without the crowds of summer. Yellowstone in particular, with its ice encrusted thermal features, and access by snowcoach to Old Faithful, makes a spectacular day or overnight trip from Teton Valley.

SNOWMOBILING - Groomed trails in the Big Hole Mountains provide one of the larger trail systems in the Rocky Mountains. Connectors to other regional trail systems, and a long season of ample snow, make this one of the premier snowmobile destinations. More information and rentals are available locally.

DOG SLEDDING - Get a taste of winter travel without cars or snowmobiles. "Mushers" can take you on short trips, or full day adventures. Contact Grand Targhee to sign up.

Recreation in Teton Valley

Whether you are here for Summer or Winter fun, a fulfilling experience is almost guaranteed. Our local guides and proprietors of recreation will help you have the best time possible.

GRAND TARGHEE RESORT
Ski Hill Road
Alta, Wyoming 83422
(800) TARGHEE or (307) 353-2300

GREEN CANYON HOT SPRINGS
P.O. Box 235
Newdale, Idaho 83436
(208) 458-4454

IDAHO DEPARTMENT OF FISH & GAME
1515 Lincoln Road
Idaho Falls, Idaho 83401
(208) 525-7290

RENDEZVOUS SKI TOURS
219 Highland Way
Victor, Idaho 83455
(208) 787-2906

SHADY LANES BOWLING CENTER
189 N. Main, P.O. Box 365
Driggs, Idaho 83422
(208) 354-8154

16 - TETON VALLEY BUSINESS DIRECTORY

SPUD DRIVE-IN/SPUD TOO THEATRE
& LAUNDROMAT / SNACKBAR
190 North Main
Driggs, Idaho 83422
(208) 354-2718

TARGHEE POWDER EMPORIUM
P.O. Box 101
Driggs, Idaho 83422
(208) 354-8303

TARGHEE SNOWMOBILE TOURS
P.O. Box 94
Victor, Idaho 83455
(208) 787-2783

TARGHEE VILLAGE GOLF COURSE
Stateline Road, Box 707
Driggs, Idaho 83422
(208) 354-8577

TETON CREST OUTFITTERS
Phil Major
P.O. Box 711
Wilson, Wyoming 83104
Phone (208) 787-2968

001578

FILED
4:49
MAR 09 2005
TETON CO.
MAGISTRATE COURT

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

SEVENTH JUDICIAL DISTRICT COURT, IDAHO, TETON COUNTY

JOHN N. BACH,

Plaintiff &
Counterclaim
Defendant,

v.

KATHERINE D. MILLER, AKA
KATHERINE M. MILLER, indiv-
idually & dba R.E.M, et al,

Defendants,
etc.

CASE NO: CV 02-208

PLAINTIFF & COUNTERCLAIM DEFEN-
ANT JOHN N. BACH'S MEMORANDUM
BRIEF IN SUPPORT OF HIS MOTIONS
FILED FEB. 25, 2005 (IRCP, 12(f)(g),
59(a), 1, 3, 4, 5, 6, & 7; 52(b);
60(b), (1), (2), (3), (4), (5),
& (6); 11(a)(1)(2)

DATE OF HEARING: Mar. 10, 2005

TIME: 9:30 a.m

PLACE: Bonneville County Court-
house, Law Enforcement
Building

Plaintiff and Counterclaim defendant JOHN N. BACH hereby
submits his further MEMORANDUM BRIEF in support of all his motions
filed February 25, 2005, which are further clarified and amended
as designated or stated, infra.

I. PREFACE: ALL FILINGS OF JUNE 31, [July 1], 2003, JUDGMENT OF
SEPTEMBER 27, 2003; ORDERS OF FEBRUARY 7, 2005 (Dis-
missing all of Plaintiff's Remaining Claims against
Defendants Galen Woelk, Individually & dba Runyan &
Woelk); and the THIRTY FIFTH ORDER, along with
PORTIONS OF THE FINAL JUDGMENT OF FEBRUARY 11, 2005
WHICH INCORPORATE AND/OR REAFFIRM SAID FILINGS FROM
JUNE 31, 2003 [July 1] 2003] and JUDGMENT OF OCT.
23, 2003 ARE VOID, WITHOUT BASIS PER THE EVIDENCE
PRESENTED AND THE APPLICABLE LAWS, STATUTES AND CASE
AUTHORITIES OF IDAHO.

Under this prefacing heading of both stated position and
requested relief, reliance and procedural grounds are asserted
not only per IRCP, Rule 12(g) and 12(g), but also and in particular
Rule 59(a), 1, 3, 4, 5, 5, 6, & 7; and independently, per Rule

52(b); Rule 60(b)(1), (2), (3), (3), (4), (5), and (6), and the further case authorities as cited infra. One particular and initial case authority, the Court is cited to McGlooin v. Gwynn, (Oct 23, 2004) Idaho Supreme Court, 2004 Opinion 113, wherein page 3, is stated: " . . . a judgment is void when a court's action amounts to a plain usurpation of power constituting a violation of due process. Dragotoiu v. Dragotoiu, 133 Idaho 644, 647, 991 P.2d 369, 372 (1998) The right to procedural due process guaranteed under both the Idaho and United States Constitution requires that a person involved in the judicial process be given [both] meaningful notice and a meaningful opportunity to be heard. 133 Idaho at 648, 991 P.2d at 373." Also required is a substantive rights of any party to a fair, impartial, objective and unbiased jurist. Plaintiff will forego restating all his authorities and the facts of Judge St. Clair's disqualification and recusal for cause, as such are set forth clearly and relevantly, never having been refuted in point of fact nor law, per his filings herein, most recently in his FEB. 25, 2005 AFFIDAVIT, paragraphs 3, a) through d), a) through c), 5. a)(i) through (viii), b), c), and d); and paragraph 6 through 9, thereof, all of which cited and incorporated by reference filings stated in said paragraphs are also incorporated herein as to all his motions. But a recent Idaho decision, Eacret v. Bonner County, (2004) 86 P.3d 494, dealing with the disqualification and removal/recusal of a zoning decision maker who made specific statements and opinions of changes and results he sought, the result was not only in violation of said substantive due process rights of petitioners, specifically foretold and the decision he pursued was reversed. This decision has application herein.

Herein, Judge St. Clair's statements of his frame of mind toward plaintiff, to wit; he was rankled about the settlement agreement and deeds of Oct. 7, 1998, was upset and effected biasedly to the point in responding to plaintiff's oral arguments by saying "You just want me to eat dirt?"; refusing to rule upon motions before him, but deliberately delaying such in order to custom frame unsupportable findings of fact and conclusions of law, reflecting his bias against plaintiff, his disdain for plaintiff's assertions of his rights, especially that plaintiff had the constitutional right and even common law right to go through and remove Katherine Miller's abandoned garbage and trash on a public highway; in giving immediate orders to defendants, especially Galen Woelk and his law firm, without such required notice and hearing, due process safe guards, etc. The latter affront and violations of plaintiffs said due process rights he did on Feb. 7, 2005, along with dismissing the jury panels which had been summoned, but, that was not the first time he acted so precipitously without jurisdiction, as he had earlier granted Woelk a continuance ex parte without any affidavit by Woelk other than said defendant's statement he would be out of the continentall U.S.A. on the date that plaintiff had noticed motions to be heard against him and his client Miller.

Most egregiously, the deliberate, wrongful and contumacious mindeset of Judge St. Clair, that he would not allow the first jury to hear evidence re the issue of conspriacy or aiding, abetting encouraging, counseling or assiting, etc., of the defendants in default, some eight of them, in complicities with Miller, and his refusal to give plaintiff's proposed jury instruction, especially Jury instruction No. 1, along with his clearly erroneous, incomplete

and void, both findings of fact and conclusions of law, dated filed "June 31, 2003, when June only has 30 days, plus his refusal to grant plaintiff's motion for summary judgment, to which there was no valid opposing affidavit or evidentiary showings nor by any other defendants, clearly reveal and establish that Judge St. Clair ruled and considered in/upon, extra judicial sources in making such decisions, findings, etc & Judgment of Sept. 23, 2003. (SUPPLEMENTAL AFF. of JOHN N. BACH, filed July 16, 2003, and case authorities cited therein)

After the void jury verdict of June 19, 2003, Judge St. Clair did not allow plaintiff to present any arguments of whatever equitable or other court issues he thought were before the court, he did not allow any post trial briefs on such issues which were not denominated, nor set forth at all with preciseness in the Pre-trial ORDER, which order, was insufficient in point of further due process of plaintiff having time to object as required of the court per IRCP, rule 16, et seq. Without allowing plaintiff any rights of due process Judge St. Clair solely fashioned, without issuing any written opinion or memoranda or allowing any time period or rights of due process to object, his said findings of facts and conclusions of law, not only which are not totally void, incomplete and clearly erroneous, but further compounded by his de minimus monetary judgment awards to plaintiff against those defendants he had defaults entered. Compounding such prejudice, he refused to allow plaintiff to amend his complaint against defendant Woelk and his law firm, and further, denied further pretrial conferences and order therewith, as to the remaining claims to have been tried on Feb. 8, 2005.

A. JUDGE ST. CLAIR FURTHER MADE DELIBERATE AND CLEARLY ERRONEOUS, PREJUDICIAL ERRORS IN LAW, HIS FINDINGS AND SAID SEPT. 27, 2003 JUDGMENT, HIS ORDERS OF FEB. 7 and 8, 2003 AND HIS FINAL JUDGMENT OF FEB 11, 2005

The correct statement of law as it applies to the statute of limitations and the nonapplication of any constructive trust or resulting trust etc., as Judge St. Clair flagrantly misstated and miscited in said findings and conclusions and then based his judgment of Sept. 27, 2003 are found not in the cited case of Klein v. Shaw, 10 Idaho 237, 241, 706 P.2d 1348 (App. 1985) within paragraph 8, page 13 of his said June 31, 2003 Conclusions of Law. Klein is both factual and legally nonapplicable and most deliberately clearly erroneously misapplied. In Klein the real property with home was owned by Shaw, who on the second occasion of facing foreclosure of his home due to nonpayment of monthly installments thereon, orally agreed to deed it to Klein, rent it back and that upon an express oral promise by Klein and Shaw would be allowed to repurchase it. The facts were even more distinct and apart from those even contrived by Katherine Miller during the jury trial. Klein did not deny such oral promise and agreement but banked on it not being in a written form or memorial and asserted the statute of frauds. The former Mrs Klein, after her divorce from her husband, "testified that she always thought the house belonged to Shaws." (706 P.2d 1350) No amount of any perjured Miller's testimony of her relying upon plaintiff's advice, can justify or explain her transcribed statements of confessions and admission via EXHIBIT IV attached to plaintiff's Feb. 25, 2005 AFFIDAVIT, that she did not either rely nor accept his advice and had numerous attorneys advising her independly. See especially parts 3, 2 through 7 and 9 thereof) She did not trust plaintiff since her being given direct notice of the Harrop lawsuit, finding out of plaintiff's disbarment and

her secret kept from plaintiff of her "impression that he [John] was way much more aggressive than I am and eventually I had to let him out of the whole loop. I couldn't handle him, so eventually I made the settlement and left John out of the advisor capacity. At this time I was living in John's house. My divorce was finalized, um, I believe in August of 95."

Earlier she had discover all the other concerns about the Harrop lawsuit, plaintiff's disbarment, etc, in early July, 1995. As set forth per Part 4, page 2 of said EXHIBIT "IV" she started living with plaintiff approximately June 1995 and she discovered and was acutely aware of all of plaintiff's imperfections as they may be, withint a month to two months later, and she left him in Feb 97 when she purchased a house on 500N, 100 E. Tetonia, ID.

The recent Idaho Surpreme Court decision in Katherine M. Miller v. Rita Simonson, et al, 2004 Opinion NO. 74, Filed June 24, 2004, over a year after her testimony in this action before the jury, further reveals, confirms and establishes that she not just perjured herself, but was joined in by her many counsel herein, Woelk, Runyan and Alva Harris, who conspired with her, suborning and compounding her perjury, especially Alva Harris, who testified falsely during the jury trail in June, 2003, when they knew of all the facts and saw all the documents which started the statute of limiations per I.C. 5-218, running most certainly by the end of August, 1995 and all her claims of fraud, misrepresentations, imposition of trust or any equitable relief, none of which existed, expired as of the last day of August 1998. During that entire summer, plaintiff was in Chico, California taking care of his very elderly and ill mother and did not return until just days before Miller took plaintiff to her attorney, Chuck Homer

to sign the settlement agreement with accompanying deeds of October 3, 1998.

In Miller v. Simonson, she was represented by the law firm of Hawley Troxell Ennis and Hawley LLP of Boise, since she had filed the action in Teton County and through the denial of her appeal. The pertinent facts of said Idaho Supreme Court decisions are as follows:

"In 1994 the Simonsons submitted an Amendment to the CC&R's to Teton County to be recorded. The Amendment was not properly acknowledged and again, the instrument was improperly indexed by Teton County under the name Redfeather Ranch instead of under the names of Simonsons.

The Redfeather Ranch subdivision included a particular ten-acre parcel ("the Property") that the Simonsons sold to Michael and Floyce Gallagher in 1990. In February 1997, Miller purchased the Property from the Gallaghers. Miller claims that at no time prior to the purchase did she receive actual notice of the CC&R's, even after specifically asking Michael Gallagher about any restrictions on use. Because Miller purchased the Property with the intent of raising and breeding horses, she constructed a shed within 100 feet of her property boundary and placed metal fenced posts on the Property in furtherance of her plans.

In July 1997, Rita Simonson informed Miller of the existence of the CC&R's and demanded that Miller remove the fence posts and shed as they were in violation of its terms. In June 1998, Miller filed a declaratory judgment action in the district court alleging that because she had no actual or record notice of the CC&R's, she could not be forced to comply with them. On a motion for partial summary judgment by Miller, the district court found that because Amendment to the CC&R's was not properly acknowledged it could not have been recorded, and therefore Miller could not have had notice as to its terms.

As to the original CC&R's, the district court found for the Simonsons, ruling that even though the CC&R's were not properly indexed by Teton County, the cases of Oregon Short Land R.R.Co. v. Stalker, 14 Idaho 362, 94 P.56 (1908) and O'Connor v. Board of Comm'rs, 17 Idaho 346, 105 P.560 (1909) are controlling and dictate that if a party submits an instrument governing real property to be recorded but the recording official fails to properly record it, subsequent purchasers of that real property are still on notice as to the instrument." (The district court was affirmed)

What is most significant of the dates above, is that plaintiff on June 7, 1997 found in Miller's roadside discarded trash not only her notes of telephone conversations of advice and questions with

Roy C. Moulton and Nancy Schwartz, two successive Teton County Prosecutors and County Attorneys, but a letter predating June 7, 1997 by some months from Roy Moulton regarding her dispute with the Simonsons. At that date and point of time, Miller had over four (4) different attorneys, not in any way including plaintiff, advising and representing her most personally and immediately., and not counting the many other attorneys within said 4 separate law firms. Attached hereto, are copies of pages 4-7 of RESPONDENTS' BRIEF filed by the Simonsons via their counsel Gregory W. Moeller who represents the defendant Estate of Stan Nickells. Such pages are part of the official record of the Idaho Supreme Court and are to be given full judicial notice and receipt into evidence in support of all plaintiff's Feb. 25, 2003 motions. These pages summarize Miller's statements, actions and knowledge of said facts and CC&R's in discussions with Rita Simonson in the summers of 1997 and 1998. As the Respondents' conclude on page 7, top one sentence paragraph: "In the case at hand, had the Appellant or her title insurer, exercised even a minimal amount of diligence, they would have been able to locate the recorder instrument."

In the evidence brought to light by plaintiff's most recent AFFIDAVIT and SUPPLEMENTAL AFFIDAVIT AND THE FOREGOING DECISIONS AND REQUEST FOR JUDICIAL NOTICE AND RECEIPT INTO EVIDENCE IN SUPPORT OF HIS MOTIONS CURRENTLY, Miller lied, perjured herself before the jury, continued to lie even during her limited testimony as to the nature and value of the improvements plaintiff constructed and placed upon the 87 plus acres at M/P 138, although he gave no valuations of such improvements whatsoever and presented no qualified witness otherwise re such valuations. Miller lied about her discovery of the facts and causes of action re fraud and constructive or resulting trusts against plaintiff as those were discover

ed by her, her daughter, her many attorneys, etc., and business cources in July and Augugst of 1995, that started all 3 year statutes of limitations running against plaintiff, and his dba entities Targhee Powder Emporium Inc., Unltd and Ltd.

Without even revisiting the clearly erroneous errors by Jdge St. Clair as to not finding res judicâas, collateral estoppel, issue and claims preclusions and quasi estoppel, estoppel in pais and promissory estoppel against Miller's defenses, affirmative defenses and most relevantly and controlling against her counter-claims, all of the latter were and are barred by the Idaho Statute of Limitations of 3 years per I.C. 5-218(4) re on grund of fraud or mistake. There was no personal fidicuary relationship nor attendant duties that plaintiff had with Miller, most certainly no after she purchased her house in Feb. 1997 and further as she testified that by/on July 4, 1997 she was not longer seeing or dating or wanting to date and most definitely was not living with plaintiff nor being advised whatsoever by him.

Attached hereto, is a complete copy of Woelk's proposed Defendant's Trial Exhibit "PPP", which is his counsel's copy of the filed June 31, 2003 FINDINGS OF FACT AND CONCLUSIONS OF LAW, by Judge St. Clair of 14 pages. It is most significant that said defendants PPP has page 12 missing. As plaintiff has set forth in previous affidavits and even his Petitions to the Idaho Supreme Court for Writs of Mandamus or Prohibition, the copy he received and the copy he saw and had further duplicatd by the Teton County Clerk froj the file herein, also has page 12 " MISSING." THUS, WHATEVER WERE SUPPOSED TO BE OR MAY HAVE BEEN THE CONCLUSIONS OF LAW PURPORTEDLY DETERMINED BY JUDGE ST. CLAIR, PRESUMABLEY IN PARAGRAPHS NUMBERS 1 through 7, on SAID MISSING PAGE 12, IT IS NOT WITHIN THE OFFICIAL RECORD HEREIN AND THEREBY REQUIRES THE

FURTHER VACATING, SETTING ASIDE AND STRIKING OF THE ENTIRE FINDINGS OF FACT AND CONCLUSIONS OF LAW, and the reopening of a full and complete trial with plaintiff's rights of all due process and equal protection being protected and guaranteed or, alternatively, the court denying all of Miller's claims, defenses and counterclaims asserted herein, invalidating further the jury verdict, and quieting title to plaintiff in the entire 87 plus acres immediately and lifting all writs of assistance, possession or restraint against him as to said 87 plus acres per Count One. Additionally a new trial should be granted upon plaintiff's monetary claims, all of them against Miller and Woelk, Runyan and Woelk, immediately, but in front of another duly qualified, impartial and unbiased judge properly assigned.

For most clearly and uncontradictory, is that the ALL STATUTES OF LIMITATION AND LACHES APPLY AGAINST ALL MILLER'S CLAIMS AND DEFENSES. Nancy Lee Mines, Inc. v. Harrison, (Idaho) 511 P.2d 828, 829, holding:

"As noted in I.C. sec 5-218, the statute does not begin to run in fraud cases 'until the discovery' of the fraud. However, actual knowledge of the fraud will be inferred if the alleged aggrieved party could have discovered it by the exercise of due diligence ¹. It is unnecessary to consider the issue of whether or not there was any fraud (actual or constructive) in this case. If there was any fraud it could have been discovered in the exercise of reasonable diligence at the time it was alleged to have been committed.

The reasoning of the Washington Supreme Court in Davis v. Harrison ² is applicable to this case.

'We hold that this action was barred by the three year statute of limitations, whether appellants had actual knowledge of the various transactions or not, for the reason that the facts were open and appeared upon the records of the corporation, subject to inspection by the stockholders. If the stockholders failed to examine the corporate records, they must have been negligent and careless of their own interest. The means of knowledge were open to them, and means of knowledge are equivalent to actual knowledge.' ³

[1. Gerlach v. Schultz, 72 Idaho 507, 514, 244 P.2d 1065 (1952); Laramie v. Rivers Company, 490 P.2d 1062 (Wyo. 1971)

2. 25 Wash. 2d 1, 167 P.2d 1045 (1946)

3. Id. 167 P 2d at 1024.]

B. THUS, WPER THE FOREGOING AND FURTHER EXPANSION DURING ORAL ARGUMENT BY PLAINTIFF ALL OF PLAINTIFF'S MOTIONS, ESPECIALLY NUMBERS 1, 2, and 3, SHOULD BE GRANTED FORTHWITH.

The subparagraphs or Rule 59(a):

- "1. Irregularity in the proceedings of the court, jury or adverse party or any order of the court or abuse of discretion by which [plaintiff] was prevented from having a fair trial."
2. Accident or surprise, which ordinary prudence could not have gaurded against.
4. Newly discovered evidence, material for the party makigg the application, which the party could not, with reasonable diligence, have discovered and produced at the trial.
5. Excess damages or [improper and without jurisdictionprelief] appearing to haave been given under the influence of passion or prejudice [by both the jury and the Judge herein]
6. Insufficiency of the evidence to justify the verdict or other decision; [Findings, etc., of June 31, 2003 and Sept 27, 2003 judgment] or that it is against the law.
7. Error in law, occurring at the trial.";

all are applicable herein and require the granting of all of said plaintiff's motions.

Additionally, the supbaraphs of Rule 60(b) apply equally and directory as well, to wit:

"On motion and upon such terms as are just, the court may relieve aparty from a final judgment, order, or proceeding for the followingreasons: (1) mistake, inadvertence, surprise, or excusable neglect;
(2) newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under Rule 59(b);
(3) fraud (whether heretofore denominated intrinsic or extrinsic misrepresentation of other misconduct of an adverse party;
(4) the judgment is void;
(5) its is no longer equitable that the[orders. rulings. etc./] judgment should have prospective application; or
(6) any other reason justifying relief from the operation of the judgment[orders, rulings or decisions, etc]."

to require the immediate granting of all of said plaintiff's motions.

See Deutz-Allis Credit Corp v. Smith, 117 Idaho 118, 785 682 (Ct.

App. 19910[Where certain procedural safeguards not strictly complied

with in obtaining judgment and order, etc., upon which judgment is based, the Court has certain mandating authority. This Court and an unbiased judge must consider plaintiff's application for relief under each subparagraph of 60(b) upon and in light of the unique facts herein. Baldwin v. Baldwin, 114 Idaho 525, 757 P.2d 1244 (Ct. app. 1988) The Court must consider the news facts and evidence which plaintiff has presented as well as the legal authorities and recent case decisions which militate such motions being granted. Idaho First Nat'l Bank v. David Steed & Assoc. 121 356, 825, P.2d 79 (1992) As to the void findings, conclusions and Judgment, per Rule 60(b)(4) plaintiff redirects the Court to McGloob, cited supra, at page 2. Plaintiff has shown remarkable due diligence in not only pretrial discovery requests and efforts but continuing in related motions before this Court up to the dismissal of his remaining claims against Woelk and Runyan Woel, and the new evidence plaintiff has presented justifies the granting of said new trial requested whether under Rule 59(c) or under each of the provisions of Rule 60(b)(1) through 6). In re Estate of Freeman 95 Idaho 562, 511 P.2d 1338 (1973) But plaintiff has shown more herein, the surprise of not just the court's misconduct and bias but that of the deliberate withholding of evidence and even perjury, via evasions of discovery which plaintiff requested by Miller, which surprise, now further supported by the newly discovered evidence presented and the newly decided case authorities cited, further require the granting of all of plaintiff's motions. Viafax Corp v. Stuckenbrock, 134 Idaho 65, 995 P.2d 835 (2000). But in one special degree of fraud shown by plaintiff as perpetrated by Miller, and her many counsel, & other defendants, has been that of tampering in the administration of justice, a wrong against Tule 1 and this Court's power and processes, and the need to protect and safeguard

both plaintiff and the public from such judicial abuses as well as obstructions of justice. Catledge v. Transport Tire Co., 107 Idaho 602, 691 P.2d 1217 (1984)

II. THE COURT SHOULD REINSTATE ALL CLAIMS AGAINST DEFENDANTS WOELK, RUNYAN & WOELK, AND FURTHER VACATE, STRIKE OR RESCIND ITS ORDER OF FEB. 7, 2003 and the PROFFERED STIPULATION AND/OR SHERIFF'S SALE CERTIFICATE UPON WHICH SAID ORDER IS BASED.

All of the foregoing arguments, points, authorities and presentatons are reiterated and incorporated herein. There was no jurisdiction for Judge James C. Herndon to deny plaintiff's request for a stay of execution nor to deny him his claim of exemptions from any execution per said Federal U.S. Judgment as not only were the issues solely federal as well as controlled by diversity of citizenship, but the remaining claims, including that of intentional infliction of emotional and mental distress etc., against Woelk and his law firm, and punitive damages were personal injury claims and by Idaho decisions not subject to voluntary nor involuntary assignments, attachments or executions. AFFIDAVIT OF JOHN N. BACH, Feb. 25, 2005, Par. 3. d), pages 7-9.

Plaintiff will be presenting during oral arguments copies of his filings in the removed and newly numbered Teton CV 05-10 to U.S.D.C., Idaho, CV 05-53 -E_WHM, actions and other authorities which bear upon the nonexecutable claims of his FIRST AMENDED COMPLAINT.

III. ALL DEFENDANTS' MOTIONS FOR ANY COSTS, ATTORNEYS FEES, ETC. PER I.C. 12-120, 12-121, or Rule 54(e)(1), WHICH MOTIONS HAVE NOT CITED CORRECTLY TO SUCH RULES IF THEY DID APPLY, MUST BE NOT ONLY BE STRICKEN FROM THIS COURT'S THIRTY FIFTH-ORDER, BUT FURTHER ANY AND ALL JUDGMENTS SEPARATELY ISSUED AFTER FEB. 11, 2005 IN FAVOR OF ANY AWARD OF ATTORNEYS FEES AND COSTS TO SUCH DEFENDANTS' MUST BE STRICKEN, QUASHED & VOIDED.

Plaintiff also refers to all previous statements, authorities etc., supra and incorporates the same herein in full. Plaintiff further refers to and incorporates his Motions to Strike Defendant Estate of Stan Nickell's motion for attorneys fees, etc., and for an award of sanctions against not only said defendants' attorney but further, the awarding of sanctions, costs and paralegal fees etc., per plaintiff's motions Numbers 1 and 4.

Plaintiff has been the prevailing party as to counts two through FIVE as to all defendants, even those which the court granted summary judgment after the June 19, 2003 jury trial ended. It is a significant fact and legal basis, that through said jury trial, such defendants who were later let out via summary judgment motions had defaults entered against them, Defendants Hills had a Permanent Injunction issued against them as to plaintiff's undivided one-half ownership in the 8.5 acres plus adjacent to 195 N. Hwy 33, Driggs, house and 1 acre. Plaintiff has therefore as and against all defendants herein, even Nickells, Hamblin, Hills and most certainly Miller, pursued viable, good faith and bona fide claims and causes of action. Thus, no attorneys fees could have been nor should they have been considered, even in violation of plaintiff's due process rights not was the court either within any statutory jurisdiction or discretion to award any said defendants attorneys fees per its Feb. 11, 2005 ORDER, FINAL JUDGMENT nor issued any separate judgments to such defendants so voidly and illegally awarded attorneys fees and costs. Miller is entitled to no attorneys fees and plain-

Cash bond posted of \$2,5000.00 must be returned to him and any order, ruling or judgment or part thereof to the contrary vacated, set aside and voided.

The decisions on pages 8 through 10 of plaintiff's motions and memorandum in support of striking, denying such attorneys fees to Nickell's Estate are most relevant and incorporated herein. Especially applicable and invalidating of any jurisdiction or discretion per any of the cited statutes, which statutes were not properly cited by any of the defendants, are the the case authorities of: (1) Management Catalysts v. Turbo W. Corpac, Inc. 119 Idaho 626, 809 P.2d 487, at 491(1991); (2) Bingham v. Montane Resource Assocs 133 Idaho 420, 987 P.2d 1035, 1040-1042 (1999)1 (3); (3) Anderson v. Anderson Kaufman, Ringert & Clark Chartered 116 Idaho 359, 775 P.2d 1201 (1989); (4) Turner v. Willis, 119 Idaho 1023, 812 P.2d 737 (1991); (5) Sun Valley Hot Springs Ranch, Inc. v. Kelsey (1999) 131 Idaho 657, 962 P.2d 1041[Where interests in real property including all appurtenant rights to property, water, mineral, etc., as well as trespassing and damages are properly asserted, such claims cannot be considered frivolous nor without foundation and any attorneys fees sought must be correctly denied][In this case vacated and stricken]; and (6) Severson v. Hermann, 116 Idaho 497, 777 P.2d 269 (1989).

IV. PLAINTIFF'S MOTIONS AND REQUEST FOR ISSUANCE OF PERMANENT INJUNCTION, AS PER HIS FILED AFFIDAVIT, JAN. 11, 2005; WAS BOTH SUPPORTED BY THE RECORD AND HIS PRIOR AFFIDAVITS AND UNOPPOSED COMPLETELY BY THE DEFENDANTS HEREIN, THUS REQUIRING THAT SAID PROPOSED PERMANENT INJUNCTION BE GRANTED AND ISSUE FORTHWITH EXPANDED ADDITIONALLY AGAINST KATHERINE D. MILLER, aka KATHERINE M. MILLER, and ALL HER ATTORNEYS, ETC.

Despite the surgical efforts of Judge St. Clair to serve as counsel for defendants herein and to voidly restrict the terms of plaintiff's unopposed proven facts, basis and good cause

showing/need for the issuance of a Permanent Injunction in the form submitted with his Jan 12, 2005 filed Affidavit, Judge St. Clair again. limited certain provisions per his ORDER of Feb. 11, 2005 and the Final Judgment of like date, which all provisions must be included. Such Amendment must include the exact wording as per plaintiff's submitted proposed Permanent Injunction on Jan 12, 2005 and which must now be further extended to include and restrain Kathereine Miller as to the 87 plus acres at M/P 138, Hwy 33, Driggs, per plaintiff be granted a judgment in his favor on Count One and against all claims or frivolously and perjuriouly asserted rights of Miller.

Plaintiff will further expand on this Part and points along with authorities at oral argument on Thursday, March 10, 2005.

DATED: March 9 , 2005

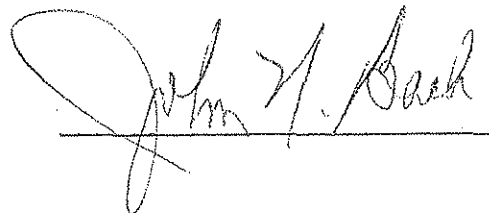
Respectfully Submitted


JOHN N. BACH

Certificate of fax and personal service prior to hearing on march 10, 2005

I, the undersigned certify that on this date, March 9, 2005, I did fax a copy of the foregoing document to each of the counsel of record at their given fax numbers, with the expectation that Alva Harris and a few other counse as well as Anntoy Broughton will not either receive my fax or have not fax capabilities, and as to such latter status, I will serve them personally prior to hearing when they appear at the Bonnvile County courthouse, Law Enforcement Building.

Dated; March 9, 2005



“Offer made subject to Buyer approval of covenants.” By inserting this language, not only were the Gallaghers, but also their title insurer, put on constructive notice that covenants affected the property.

Respondents have asserted that this is the same title company that later represented Miller in her transaction with the Gallaghers. That assertion has never been challenged nor denied by Miller. Miller has also never denied the assertion that she is represented by the same law firm that represents the title company, Alliance Title (previously known as “American Land Title”). R. Vol. I, pp. 19-21; 23; 28-31.

On or about February 4, 1997, the Gallaghers conveyed their 10 acre parcel to Miller, by a Warranty Deed. R. Vol. I, pp. 118. Miller now claims she was never informed about the CC&R’s by Gallaghers. The Warranty Deed provided that the conveyance was “subject to all existing patent reservations, easements, rights-of-way, **protective covenants**, zoning ordinances, and applicable building codes, laws and regulations. . .” R. Vol. I, pp. 118 (emphasis added). This clearly contradicts a statement made by Miller in her affidavit that there was no “information that would lead me to make inquiries regarding the existence of the CC&R’s.” R. Vol. I, pp. 72.

Later, during the summer of 1997, Simonsons met with Miller for the first time. They advised her that she had violated the provisions of the CC&R’s. Rita Simonson explained in her affidavit what occurred during that first encounter:

When we told her that she had violated the CC&R’s, she took it in stride and acted very casually. She did not appear shocked or surprised when we discussed the CC&R’s. *Affidavit of Rita Simonson*, para. 13, p. 3, R. Vol. I, pp. 111.

The issue was then raised again by the Simonsons the next summer. They were informed by

Miller that her attorney was “taking care of it.” Simonsons were very surprised when, after having mentioned the matter briefly over two summers, they were suddenly served with a complaint by Miller. There had been no attempt at negotiations or discussions, other than two brief informal meetings.

In connection with her motion for summary judgment, Miller filed an “Affidavit of Clarence Gummow in Support of Motion for Partial Summary Judgment.” Mr. Gummow is the general manager and vice-president of the title company that apparently issued the title policies to Gallaghers and later to Miller. R. Vol. I, pp. 87-91. Mr. Gummow’s Affidavit was the basis for Miller’s contention before the Trial Court that finding the CC&R’s in this case would be analogous to “finding a needle in a hay stack- ie. an impossible task.” R. Vol. I, pp. 42. (Emphasis not added.)

This somewhat exaggerated statement was proven to be untrue by the “Affidavit of Grant X. Moedl in Opposition to Motion for Summary Judgment,” filed by Simonsons. R. Vol. I, pp. 119-124. In his affidavit, Moedl, a title officer for First American Title Insurance Company in Rexburg, Idaho, explained that while the erroneous indexing of a document in the grantor/grantee index may have made it difficult to find, it would not have been impossible to discover. The most pertinent part of the Mr. Moedl’s affidavit is set forth below:

7. I reviewed the “Affidavit of Clarence Gummow in Support of Motion for Partial Summary Judgment,” dated April 11, 2000. While I agree with much of what is contained in that Affidavit, significant information has been left out which could create a misleading impression with the Court.

8. For example, in paragraph 5 of Mr. Gummow’s Affidavit, he states:

“The only method of reviewing and researching title to real property is by tracing the chain of title through the grantor/grantee

indexes.”

While this statement could be true at a recorder’s office, there are numerous other ways available to title officers and title insurers to review and research title to real property in Idaho.

9. For example, to facilitate the title industry in researching titles, it is a required industry practice to utilize a “title plant” or “geographical title plant.” A title plant is a required tool used in the title insurance industry to supplement county records and show title history to a specific parcel or legal description in Idaho.

10. In reviewing the statements made in paragraphs 6 through 9 of Mr. Gummow’s Affidavit, it appears to me that his statements that the Declaration of Covenants, Conditions and Restrictions for Red Feather Ranch (“CC&R’s”) and the “Amendments to Covenants, Conditions and Restrictions for Red Feather Ranch (“Amendment”), may not appear in the Grantor/Grantee Index under Defendant’s names may be true. However, any professional and competent title searcher would not have stopped there, but would have also checked the title plant or tract index.

11. If the title plant had been checked in this case, the CC&R’s and Amendments would have been readily discovered. This is because the title plant or tract index records information based upon the legal description, not just the name. Inasmuch as the legal description is contained in the CC&R’s and Amendments, it would have shown up in the title plant. R. Vol. I, pp. 120-121.

In fact, the tract index attached as Exhibit “A” to Mr. Moedl’s Affidavit clearly shows the CC&R’s were recorded against the subject property. R. Vol. I, p. 124.

Simonsons have sold other lots within the original 160 acre parcel which was covered by the CC&R’s. The other lot owners have abided by the CC&R’s and will be adversely affected if Miller is allowed to avoid compliance. R. Vol. I, p. 111.

By providing a very narrow and slanted view of the how the recording system works in Idaho, and how title insurance companies do their jobs, Appellant is attempting to convince the Court that it should change well established Idaho legal precedent. By only looking at the injustice to one party, Miller, the Appellant asks the Court to do a greater injustice to Simonsons.

In the case at hand, had the Appellant, or her title insurer, exercised even a minimal amount of diligence, they would have been able to locate the recorded document.

ARGUMENT

I. Standard of Review for Summary Judgment.

The standard of review on summary judgment is familiar and well-known to the Court.

Idaho Rules of Civil Procedure 56(c) provides:

The judgment sought shall be rendered forthwith if the pleadings, depositions, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law.

The Idaho Supreme Court, in *Anderson v. Ethington*, 103 Idaho 658, 651 P.2d 923 (1982), held that in determining whether genuine issues of fact exist, the facts must be “liberally construed in favor of the party opposing the motion, who is also to be given the benefit of all reasonable inferences which might be reasonably drawn from the evidence.” 651 P.2d at 925. This same standard also applies on an appeal. *Brown v. Caldwell Sch. Dist. No. 132*, 127 Idaho 112, 898 P.2d 43 (1995).

If there are conflicting inferences in the record, upon which reasonable minds might reach differing conclusions, the Idaho Supreme Court has held that summary judgment must be denied. *Bonz v. Sudweeks* 119 Idaho 539, 808 P.2d 876 (1991). The role of the Court in determining whether genuine issues of material facts exist is not to actually weigh the evidence or resolve the factual disputes, but only to determine whether genuine issues exist upon which reasonable persons may differ. *Mut. Aid Ins. Co. v. Armstrong*, 119 Idaho 897, 811 P.2d 507 (Ct. App. 1991).

JUL 11 2002
7TH JUDICIAL DISTRICT COURT
BONNEVILLE COUNTY, IDAHO

03 JUN 27 10:10

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

JOHN N. BACH,

Plaintiff,

vs.

KATHERINE D. MILLER aka
KATHERINE M. MILLER, ALVA
HARRIS, Individually & dba
SCONA, INC., JACK LEE McLEAN,
BOB FITZGERALD, OLE OLSON, BOB
BAGLEY & MAE BAGLEY, husband and
wife, BLAKE LYLE, Individually
and dba GRAND TOWING, GALEN
WOELK and CODY RUNYAN,
Individually & dba RUNYAN &
WOELK, ANN-TOY BROUGHTON, WAYNE
DAWSON, MARK LIPONIS, EARL
HAMLIN, STAN NICKELL, BRET HILL
& DEENA R. HILL, and DOES 1
through 30, Inclusive,

Defendants.

Case No. CV-02-208

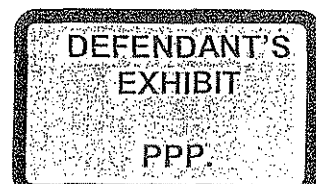
FINDINGS OF FACT
AND
CONCLUSIONS OF LAW

I. PROCEDURAL BACKGROUND OF THE CASE

On September 27, 2002, plaintiff John N. Bach ("Bach") filed a first amended complaint against defendant Katherine Miller ("Miller") and several other defendants, seeking as to Miller quiet title to four tracts of real property in Teton County, Idaho, and damages for slander of title, trespass, conversion of

FINDINGS OF FACT AND CONCLUSIONS OF LAW

001599



personal property, injury to personal property, and malicious harassment. On March 17, 2003, Miller filed an answer and counterclaim against Bach seeking to quiet title or impose a constructive trust on the same four tracts of property in Teton County, Idaho based on fraud and breach of fiduciary duty, or for damages, and also for damages based on slander of title, forcible detainer and unjust enrichment. On April 7, 2003, Bach filed an answer denying Miller's counterclaim and alleged as affirmative defenses that the court lacks subject matter and personal jurisdiction, the claims are barred by a Chapter 13 federal bankruptcy discharge order, the claims are barred by failure to assert a compulsory counterclaims in federal case CV-99-014-E-BLW, the claims are barred by dismissal of Teton County case CV-01-59, the claims are barred by res judicata and collateral estoppel or claim preclusion from Teton County case CV-00-76, the claims are barred by promissory estoppel, equitable estoppel, and quasi estoppel, the statute of limitations, release by agreement of October 3, 1997, illegality and misappropriation or conversion of business name, equitable unclean hands, fraudulent acts by Miller, breach of fiduciary duties, failure to exhaust conditions precedent, waiver, abandonment, failure to mitigate damaged, and superseding acts of third persons. Both parties requested a jury trial.

On June 3, 2003, following a final pretrial conference, the

Court entered a final pretrial order, reserving for the Court the decision on the parties' causes of action seeking as remedies quiet title and constructive trust. Causes of action seeking damages were scheduled for trial to a jury. From June 10 through 19, 2003, a jury trial was held. On the evening of June 19, 2003, the jury returned a special verdict finding against Bach on all of his causes of action and in favor of Miller on some of her counterclaims. The jury awarded Miller \$127,456.73 on her fraud and breach of fiduciary counterclaims, and \$5,000.00 on her slander of title counterclaim.

Based on the evidence admitted at trial, including the Court's evaluation of the credibility of the witnesses' testimony and the exhibits, pursuant to Rule 52(a), I.R.C.P., the Court makes the following findings of fact and conclusions of law from clear and convincing evidence.

II. FINDINGS OF FACT

1. Plaintiff and counterdefendant Bach is an individual residing in Driggs, Idaho.
2. Defendant and counterclaimant Miller is an individual residing in Driggs, Idaho.
3. Starting in 1994, Bach decided to buy interests in real property in Teton County, Idaho under fictitious names of "Targhee Powder Emporium, Inc.," "Targhee Powder Emporium, Ltd.," "Targhee Powder Emporium, Unltd," and "Targhee Powder Emporium

Investments," (all hereinafter referred to individually or collectively as "Targhee"). The Targhee names were not legally formed nor recognized entities such as corporations, unincorporated associations, partnerships, or limited liability companies in Idaho or any other state. Bach did not file with any county recorder or the Idaho Secretary of State any fictitious name certificates for Targhee.

4. The Vasa N. Bach Family Trust was established by Bach's mother Vasa N. Bach pursuant to a written declaration of trust in June, 1993, and from its effective date through Vasa Bach's death in December, 2000, Bach served as trustee. On October 1, 1997, the trust assigned any interest it had in Targhee and any real property in Teton County, Idaho to Bach.

5. On August 16, 1994, purporting to act as an agent for Targhee, Bach entered into a real estate purchase agreement with Lovell and Lorraine Harrop, whereby Bach agreed to purchase 160 acres of real property in Teton County, Idaho from the Harrops for \$210,000.00, with a down payment of \$5,000.00.

6. Beginning in the summer of 1994, Bach and Miller entered into a romantic relationship with Miller moving into Bach's home in Driggs, Idaho, in January, 1995. This relationship lasted until the fall of 1997.

7. In December, 1994, Miller had recently inherited \$100,000.00 from her deceased father in Michigan, and was looking

to invest in real property in the Teton Valley. At that time Bach represented to Miller that he was a retired attorney from California and was the agent of various wealthy Californians who were buying real property in the Teton Valley as investors in Targhee, which was corporation, in order to preserve their anonymity. Bach told Miller that she could be a joint venturer with Targhee and acquire a one half interest in 80 acres recently purchased by Targhee from the Harrops for over \$200,000.00, if Miller would pay \$120,000.00. These facts were false, and Bach knew the facts were false. These facts were material to Miller and anyone making a real estate investment decision. Bach intended that Miller rely on the truth of these facts in her decision to invest money with Bach. Believing Bach's representations of fact to be true, justifiably relying on such facts, and relying on Bach's expertise as a retired attorney to represent her interests, Miller signed a contract agreeing to pay \$110,000.00 down and \$10,000.00 in January, 1995. Miller fully performed the contract by paying at Bach's direction a check for \$110,000.00 on December 16, 1994, to the Harrops attorneys Wright Law Office, and a second check for \$10,000.00 on March 16, 1995, to Targhee.

8. Unknown to Miller, Bach arranged with the Wright Law Office for the Harrops to deed 80 acres of the original 160 acres to Targhee and Miller in consideration of \$105,000.00 of Miller's

money, and to refund to Bach \$15,000.00 of Miller's money, which Bach deposited in an account controlled by him.

9. In May, 1995, the Harrops sued Bach, Targhee and Miller in Teton County case no. CV-95-047 for breach of the August, 1994 contract. This case was settled. One term of the settlement required that Bach pay \$7,456.73 to the Harrops and the Harrops deed an access strip 110 feet wide and one half mile long (comprising 6.63 acres more or less) along the northern boundary of the eastern most 80 acres to Miller and Targhee. On October 8, 1996, as directed by Bach, Miller paid the \$7,456.73 by check to the Teton County Clerk. On September 22, 1997, District Judge James Herndon entered a final judgment quieting title to the eastern most 80 acres (less the 6.63 access strip) in the Harrops, quieting title in Targhee to the east 40 acres (out of the western most 80 acres), and quieting title to Miller to the west 40 acres (out of the western most 80 acres) and to the 6.63 acre access strip.

10. On October 3, 1997, Miller and Bach entered into a settlement agreement drafted by Miller's then attorney Charles Homer of Idaho Falls. At the time of execution of this settlement agreement, Bach represented to Miller and to Homer that he was the president and chief executive officer of Targhee and that it was a corporation. Believing Bach's representation of fact, Miller signed the agreement. The settlement agreement provided

that Miller released all claims she had as a against Bach and Targhee, and Targhee and Bach released all claims they had as against Miller. It further provided that undivided one half interests in the 6.63 acre access strip would be deeded to Targhee and Miller as joint tenants, that undivided one half interests in another access strip being 110 feet wide and one quarter mile long (3.3 acres more or less) across the northern boundary of the east 40 acres titled in Targhee would be deeded to Miller and Targhee, and that Miller and Targhee would have reciprocal easements for access in the 6.63 acre and the 3.3 acre access strips. Both parties performed the settlement agreement by executing deeds and an easement agreement on October 3, 1997, and the deeds were recorded. As of October 3, 1997, the title to the four tracts of real property, all situate in Township 5 North, Range 45 East, Boise Meridian, Teton County, Idaho, was shown by the county recorders office as:

A part of the S1/2SW1/4 Section 11, commencing from the SW corner of said Section 11 thence N 0 02'03" W 1214.14 feet along the Western section line to the true point of beginning: thence N 0 02'03" W 110.00 feet further along said Western section line to the NW corner of the S1/2SW1/4 of Section 11; thence S 89 57'55" E 2627.56 feet along the north line of the S1/2SW1/4 of Section 11 to a point on the Western right of way line of State Highway 33; thence S 0 09'27" W 110.00 feet along the Western right of way line of State Highway 33 to a point; thence N 89 57'55" W 2627.19 feet to the point of beginning, comprising 6.63 acres more or less (in names of Targhee and Miller).

W1/2S1/2SE1/4 Section 10, comprising 40 acres more or less (in name of Miller).

E1/2S1/2SE1/4 Section 10, comprising 40 acres more or less (in name of Targhee).

A part of the E1/2S1/2SE1/4 Section 10, commencing from the NE corner of the E1/2S1/2SE1/4 of said Section 10; thence West along the North boundary line of the E1/2S1/2SE1/4 of said Section 10 to the NW corner of the E1/2S1/2SE1/4 of said Section 10; thence South along the West boundary line of the E1/2S1/2SE1/4 of said Section 10 110.00 feet; thence East to the East boundary line of the E1/2S1/2SE1/4 of said Section 10 to the point of beginning, comprising 3.3 acres more or less (in names of Targhee and Miller).

11. From December, 1994 through October, 1997, Bach occupied a fiduciary relationship with Miller, because he held himself out to Miller as an expert in law and real estate transactions, had gained Miller's trust by demonstrating knowledge in law and real estate, had gained Miller's admiration through romantic involvements, and had acted as Miller's agent in structuring the payments and title to the four tracts of real property in Teton County.

12. In June 2000, Miller employed Alva Harris, an attorney in Shelley to investigate Targhee and its land acquisitions in the Teton Valley. Harris contacted the secretaries of state in California, Idaho, Utah, Arizona and Nevada, and the county recorders in Teton County and several adjoining counties in Idaho. Harris determined from such investigation that Targhee was not incorporated in any of those states and had filed no fictitious name certificates in such Idaho counties. Sometime between June and November, 2000, Harris informed Miller what he

had learned about Targhee.

13. Until June, 2000, Miller was ignorant of the fact that Targhee was not a corporation, and was ignorant of the fact that Bach obtained a refund from the Harrops' attorneys Wright Law Office of \$15,000.00 of her initial \$120,000.00 checks. Miller was damaged by her reliance on Bach's false representations of fact in 1994 and 1995 by agreeing to pay \$120,000.00 for real property worth only \$105,000.00, and in further relying on Bach's false representations in 1997 by agreeing that Targhee, being only Bach's fictitious business name and not a legitimate corporation, could obtain sole title to the east 40 acres and undivided one half interests in the 6.63 acre and 3.3 acre access strips without having paid any money to the Harrops or to Miller.

14. During 1994 through October, 1997, Bach was acting as an attorney for Miller having gained her trust both from romantic involvement and by explaining to her his expertise in law and real estate transactions. However, by false representations of fact as to Targhee being a true corporation, as to Targhee having actual investors, as to Targhee having paid money to the Harrops, and by failing to disclose that he obtained a \$15,000.00 refund of her money, Bach breached the fiduciary duties of honesty and fair dealing that he owed Miller. Such breach of duty proximately caused Miller the same damages as set out in paragraph 13.

15. It would be equitable to quiet title in Miller as to

all four of the tracts of real property described in paragraph 10 above because she paid \$15,000.00 more than the entire purchase price for such property, and Bach obtained his interests by fraud and breach of fiduciary duty.

16. Bach's 1997 federal bankruptcy schedules did not list ownership of any Teton County, Idaho real property, Bach did not tender to the trustee in bankruptcy appointed by the Federal Bankruptcy Court for the District of California any Teton County real property to be administered under the Chapter 13 plan for the benefit of Bach's creditor, and since the initiation of this action, Bach has not petitioned the Federal Bankruptcy Court to reopen the bankruptcy case to adjudicate the validity of Miller's counterclaims, and therefore, Miller's counterclaims are not barred by any Chapter 13 federal bankruptcy discharge order.

17. There was no final adjudication on the merits in federal case CV-99-014-E-BLW, and therefore any failure of Miller in filing a counterclaim in that action does not bar relief in this action.

18. The dismissal of Teton County case CV-01-59 seeking possession based on unlawful detainer did adjudicate Miller's counterclaims to quiet title herein, because the presiding judge in that case directed Miller to file a quiet title action.

19. Miller's counterclaims to quiet title are not barred by res judicata and collateral estoppel or claim preclusion from

Teton County case CV-00-76 because the issues tried in this case were not adjudicated in that case.

20. Bach's evidence did not establish the elements of promissory estoppel, equitable estoppel, or quasi estoppel.

21. Miller did not discover the true facts about Targhee under June, 2000, which was within 3 years of the filing of her counterclaim.

22. Since Miller had not yet discovered the falsity of Bach's representations, and she still believed Bach was acting as her expert real estate legal advisor in October, 1997, the settlement agreement of October 3, 1997, did not release counterclaims accruing in June, 2000.

23. Any illegality, misappropriation or conversion of Bach's Targhee business name, acting with unclean hands, or fraudulent actions, that Miller participated in during November, 2000, was not a proximate cause of her damages sustained as a result of Bach's fraud and breach of fiduciary duty owed to Miller in 1994, 1995 and 1997.

24. Miller was not a fiduciary to Bach.

25. Miller did not fail to exhaust conditions precedent, waive, abandon, or failure to mitigate damages.


26. No acts of third persons superceded Bach's fraudulent actions or breach of fiduciary duty owed Miller.

8. In Idaho a victim of fraud or breach of fiduciary duty may seek in lieu of damages and in equity the imposition of a constructive trust as to real property in favor of "the one who is in good conscience" is entitled to the property. Klein v. Shaw, 109 Idaho 237, 241, 706 P.2d 1348, 1352 (App. 1985). While the Court may order the constructive trustee of real property to deed it to the constructive trust beneficiary, such is equivalent to the Court directly quieting title to such beneficiary against any claim or interest in such trustee.

9. Because a double recovery is prohibited, Miller must elect between the remedy at law awarded her by the jury verdict of \$127,456.73 in damages on her fraud and breach of fiduciary duty counterclaims, and the remedy in equity found herein by the Court as to quiet title to the four tracts of real property on such counterclaims.

10. After Miller's written election is filed with the Court, the Court will enter an appropriate judgment as to the causes of action in Bach's first amended complaint and Miller's counterclaim consistent with the jury's verdict and the Court's findings and conclusions herein.

DATED this 1st day of July, 2003.


RICHARD T. ST. CLAIR
DISTRICT JUDGE

CERTIFICATE OF SERVICE

I hereby certify that on the 1st day of July, 2003, I certify that a true and correct copy of the foregoing document was mailed, telefaxed or hand delivered to the following persons:

John N. Bach
P. O. Box 101
Driggs, ID 83422
Telefax Nos. 626-441-6673
208-354-8303 (TELEFAX & MAIL)

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

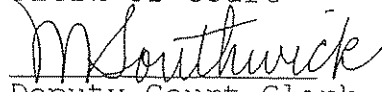
Galen Woelk
Runyan & Woelk, P.C.
P.O. 533
Driggs, ID 83422
Telefax No. 208-354-8886 (TELEFAX & MAIL)

Jason Scott
P. O. Box 100
Pocatello, ID 83204
Telefax No. 208-233-1304 (TELEFAX & MAIL)

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

Anne Broughton
1054 Rammell Mountain Road
Tetonia, ID 83452 (MAIL)

RONALD LONGMORE
Clerk of Court


Deputy Court Clerk

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

FILED

MAR 14 2005

TIME: 12:06 *AK*
TETON DISTRICT COURT

JOHN N. BACH,)
)
Plaintiff,)
)
vs.)
)
KATHERINE D. MILLER, aka)
KATHERINE M. MILLER, ALVA)
A. HARRIS, individually and)
dba SCONA, INC., a sham entity)
JACK LEE McLEAN, BOB)
FITZGERALD, OLE OLESON, BIB)
BAGLEY and MAE BAGLEY, husband)
and wife, BLAKE LYLE,)
Individually and dba GRANDE)
TOWING, and DOES 1 through 30,)
Inclusive,)
)
Defendant(s).)
_____)

MINUTE ENTRY
Case No. CV-2002-208

On the 10th day of March, 2005, Defendant Miller's motion to correct 35th order, Defendant Nickell's motion for attorney fees and costs, Plaintiff Bach's motion to strike Nickell's motion and motion for Rule 11 sanction, Plaintiff Bach's motion to vacate 35th order and final judgment; motion for final judgment for Bach; motion for new trial as to Defendants Miller and Woelk; and motion for costs and paralegal fees and to modify permanent injunction came before e Honorable Richard T. St. Clair, District Judge, in open court at Idaho Falls, Idaho.

Mr. Ross Oviatt, Court Reporter, and Mrs. Marlene Southwick, Deputy Court Clerk, were present.

001612

Mr. John Bach appeared pro se on his own behalf as Plaintiff.

Mr. Craig Meadows and Mr. Jason Scott appeared by telephonic connection on behalf of Defendant(s) Galen Woelk dba Runyan & Woelk.

Mr. Jonathan Harris appeared on behalf of Defendant Hill.

Mr. David Shipman appeared on behalf of Defendant Earl Hamblin.

Mr. Galen Woelk appeared by telephonic connection on behalf of Defendant Miller.

Mr. Bach opposed Defendant Miller's motion to correct 35th order. The Court will take the matter under advisement.

Mr. Bach argued in opposition to Defendant Nickell's motion for attorney fees and costs and presented his motion to strike Nickell's motion and motion for Rule 11 sanction. The Court will take the motions under advisement.

Mr. Bach presented his motion to vacate 35th order and final judgment; motion for final judgment for Bach; motion for new trial as to Defendants Miller and Woelk; and motion for costs and paralegal fees and to modify permanent injunction. Mr. Shipman argued in opposition to the motions. Mr. Jonathan Harris joined in opposition to the motions. Mr. Woelk presented argument in opposition to the motions. Mr. Meadows joined in opposition to the motions. Mr. Bach presented rebuttal argument.

The Court will take the matters under advisement and issue an opinion as soon as possible.

001613

Court was thus adjourned.


RICHARD T. ST. CLAIR
DISTRICT JUDGE

H:10bach/05-405@1557

001014

CERTIFICATE OF MAILING

I certify that on the 9th day of March, 2005, I
caused a true and correct copy of the foregoing document to
be delivered to the following:

RONALD LONGMORE


Deputy Court Clerk

John N. Bach
PO Box 101
Driggs, ID 83422
FAX (208) 356-9154
1958 S. Euclid Ave.
San Marino, CA 91108
(626) 799-3146

Alva N. Harris
PO Box 479
Shelley, ID 83274
(208) 357-3448
FAX (208) 357-3448

Galen Woelk
PO Box 533
Driggs, ID 83422
FAX (208) 354-8886

Jared Harris
PO Box 577
Blackfoot, ID 83221
FAX (208) 785-6749

Craig L. Meadows
PO Box 1617
Boise, ID 83701-1617
FAX (208) 342-3829

Teton County Clerk
Teton County Courthouse
ATTN: PHYLLIS
89 N. Main, Ste 1
Driggs, ID 83422
FAX (208) 354-8496

Gregory W. Moeller
PO Box 250
Rexburg, ID 83440-0250
FAX (208) 356-0768

001015

David H. Shipman
Bart J. Birch
PO Box 51219
Idaho Falls, ID 83405-1219
FAX (208) 523-4474

Anne Broughton
1054 Rammell Mountain Road
Tetonia, ID 83452

001616

5 MAR 17 P3:45

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

JOHN N. BACH,

Plaintiff,

vs.

KATHERINE D. MILLER aka
KATHERINE M. MILLER, ALVA
HARRIS, Individually & dba
SCONA, INC., JACK LEE McLEAN,
BOB FITZGERALD, OLE OLSON, BOB
BAGLEY & MAE BAGLEY, husband and
wife, BLAKE LYLE, Individually
and dba GRAND TOWING, GALEN
WOELK and CODY RUNYAN,
Individually & dba RUNYAN &
WOELK, ANN-TOY BROUGHTON, WAYNE
DAWSON, MARK LIPONIS, EARL
HAMBLIN, STAN NICKELL, BRET HILL
& DEENA R. HILL, and DOES 1
through 30, Inclusive,

Defendants.

Case No. CV-02-208

**THIRTY SIXTH ORDER
ON PENDING MOTIONS**

I. INTRODUCTION

Pending before the Court are the following motions:

1. defendant Katherine Miller's motion to correct
typographical error in Thirty Fifth Order, filed on February 15,
2005;

THIRTY SIXTH ORDER ON PENDING MOTIONS

1

001617

2. defendant Nickell's motion for attorney fees and costs, filed on February 18, 2005, and plaintiff Bach's motion to strike Nickell's motion and Bach's motion for Rule 11 sanctions; and

3. plaintiff Bach's motion to vacate 35th Order and Final Judgment, motion for final judgment for Bach, motion for new trial as to defendants Miller and Woelk, motion for costs and paralegal fees, and motion to modify permanent injunction, filed on February 25, 2005.

The motions were orally argued at a hearing on March 10, 2005. Having considered the motions, affidavits filed in support and in opposition, written arguments, and oral arguments of the parties at previous hearings, the record in this case, this Court renders the following decision on the pending motions.

II. AUTHORITY AND STANDARD OF REVIEW

The Court incorporates herein by this reference the authorities set forth in its Thirty Fifth Order as to an award of attorney fees and costs.

III. ANALYSIS

Defendant Miller seeks an order correcting a typographical error in the costs of right awarded Miller in the Thirty Fifth Order on pending motions from \$225.81 to \$585.81. The motion is well taken and should be granted.

Defendant Nickell seeks costs of right totaling \$670.42, and attorney fees under I. C. § 12-120. Nickell is awarded costs of right for reporter fees for Bach's deposition \$397.83. The Court denies all other itemized costs sought by Nickell because they are not costs of right. Nickell's discretionary costs for hearing transcripts, travel and westlaw, totaling \$346.71, were routine litigation expenses and "not exceptional." None of the causes of action alleged in Bach's amended complaint are of the type described in I. C. § 12-120. No attorney fees claimed by Nickell are authorized under I. C. § 12-120.

Plaintiff Bach's motion to strike is not proper. Although Nickell's motion was not meritorious, there is no evidence that it was interposed for an improper purpose for which sanctions under Rule 11, I.R.C.P., might be imposed. Therefore, Bach's motion to strike and motion for Rule 11 sanctions must be denied.

Plaintiff Bach's motion to vacate the Thirty Fifth Order and the Final Judgment, and Bach's motion for final judgment in favor of Bach, and Bach's motion for new trial as to defendants' Miller and Woelk argue essentially that (1) the presiding judge was biased against Bach; (2) the jury verdict of June 9, 2003 was based on erroneous instructions, erroneous evidence rulings, inadequate evidence, and perjured testimony by defendant Miller;

(3) the Court should have directed a verdict dismissing all of Miller's counterclaims and granted judgment on all Bach's claims based on Miller's failure of proof or Bach's proven affirmative defenses; (4) the Court's findings of fact and conclusions of law on equitable causes of action by Miller entered on July 1, 2003 were based on inadequate facts and erroneous interpretation of law; (5) District Judge James Herndon erroneously denied Bach's motion to quash a writ of execution issued in Teton County case CV-05-10 wherein the Sheriff sold Bach's remaining causes of action against defendant Woelk on February 7, 2005; and (6) this Court erroneously dismissed Bach's remaining causes of action against defendant Woelk based the Sheriff's certificate of sale to Woelk and Woelk's stipulation for dismissal on February 7, 2005. Arguments (1) through (4) have been argued and ruled on by previous orders, and while Bach cites additional cases his arguments are the same. This Court adheres to its previous rulings and the analysis and authorities discussed in previous memorandum decisions. Argument (5) is more properly brought in Teton County case CV-05-10. Argument (6) is without merit unless Judge Herndon's order denying Bach's motion to quash the writ of execution in CV-05-10 is reversed. The Sheriff's certificate of sale conveying Bach's remaining claims to Woelk, as the highest bidder at the execution sale on

February 7, 2005, is not refuted by any evidence in the record. As the owner of the two remaining causes of action Woelk was entitled to dismiss them before the jury trial scheduled for February 8, 2005. Therefore, Bach's motions must be denied.

Plaintiff Bach's motion for costs and paralegal fees must be denied because Bach was not the prevailing party except as to the defaulted defendants. Bach is not entitled to paralegal fees as against the defaulted defendants, for the same reason that a licensed attorney representing himself is not entitled to attorney fees as a prevailing party. Bach is not entitled to costs against the defaulted parties because he has not timely filed a memorandum of costs, itemizing his costs as required by Rule 54, I.R.C.P. Bach's motion to modify the permanent injunction as to certain defaulted judgment has been considered, but this Court still adheres to its decision in the Thirty Fifth Order that Bach's proposed permanent injunction was replete with erroneous conclusions, and therefore such motion must be denied.

Lastly, Bach's motion to vacate that portion of the Thirty Fifth Order awarding attorney fees to defendants Hills and Hamblin must be granted because Bach is entitled to an evidentiary hearing on the reasonableness of attorney fees incurred by such defendants in defense of Bach's claims against

such defendants that were not warranted under facts known to Bach and applicable law.

IV. CONCLUSION AND ORDER

Based on the foregoing analysis, this Court concludes and THEREFORE IT IS HEREBY ORDERED that:

1. Miller's motion to correct the Thirty Fifth Order is GRANTED, the Thirty Fifth Order is corrected to state "plaintiff John Bach shall pay defendant Katherine Miller \$585.81 in costs of right . . . ;"

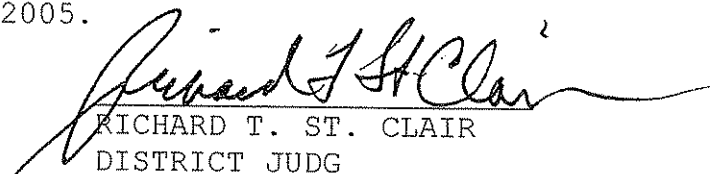
2. defendant Nickell's motion for attorney fees and costs is GRANTED IN PART and Nickell is awarded \$397.83 in costs of right, and DENIED IN PART as to all attorney fees under I. C. § 12-120 and other claimed costs; and plaintiff Bach's motion to strike Nickell's motion and Bach's motion for Rule 11 sanctions are both DENIED;

3. plaintiff Bach's motion to vacate 35th Order and Final Judgment, motion for final judgment for Bach, motion for new trial as to defendants Miller and Woelk, motion for costs and paralegal fees, and motion to modify permanent injunction are DENIED, except that the award of attorney fees to defendants Hills and Hamblin in the Thirty Fifth Order is VACATED; and

4. an evidentiary hearing shall be held at the Bonneville County Courthouse on April 29, 2005 at 930 a.m. as to the amount

of reasonable attorney fees allowable to defendants Hills and Hamblin under I. C. § 12-121.

DATED this 17th day of March, 2005.


RICHARD T. ST. CLAIR
DISTRICT JUDGE

CERTIFICATE OF SERVICE

I hereby certify that on the 17th day of March, 2005, I certify that a true and correct copy of the foregoing document was mailed, telefaxed or hand delivered to the following persons:

John N. Bach
1858 S. Euclid Avenue
San Marino, CA 91108
Telefax No. 626-441-6673 (MAIL)

John N. Bach
P.O. Box 101
Driggs, ID 83422 (MAIL)

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

Galen Woelk
1472 North 5th Street, Ste.#201
Laramie, WY 82072 (MAIL)

Jason Scott
P. O. Box 100
Pocatello, ID 83204
Telefax No. 208-233-1304 (MAIL)

Jared Harris
P. O. Box 577
Blackfoot, ID 83221
Telefax No. 208-785-6749 (MAIL)

Anne Broughton
1054 Rammell Mountain Road
Tetonia, ID 83452

(MAIL)

David Shipman
P. O. Box 51219
Idaho Falls, ID 83405-1219

(MAIL)

Gregory Moeller
P. O. Box 250
Rexburg, ID 83440-0250

(MAIL)

RONALD LONGMORE
Clerk of Court



Deputy Court Clerk

Alva A. Harris
Attorney at Law
171 South Emerson
P.O. Box 479
Shelley, Idaho 83274
(208) 357-3448
ISB # 968

FILED
12:17
MAR 25 2005
TETON CO.
MAGISTRATE COURT

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

JOHN N. BACH,)	
	)	Case No. CV-02-0208
Plaintiff--Respondent,)	
vs.	)	NOTICE OF APPEAL
)	
KATHERINE D. MILLER, etal.,	)	RULE 23 I.A.R.
	)	FEE: \$86.00
Defendant--Appellant.)	
-----)	

TO: THE ABOVE NAMED RESPONDENT, John N. Bach, acting Pro Se, and THE CLERK
OF THE ABOVE ENTITLED COURT.

NOTICE IS HEREBY GIVEN THAT:

1. Alva A. Harris, Scona, Inc., Bob Fitzgerald, Blake Lyle, Ole Oleson and Jack Lee McLean, appellants herein, hereby appeal to the Idaho Supreme Court from the Seventh Judicial District Court's:

- a. THIRTEENTH ORDER ON PENDING MOTIONS entered in the above-entitled action on May 6, 2003,
- b. FIFTEENTH ORDER ON PENDING MOTIONS entered in the above-entitled action on June 2, 2003,
- c. DEFAULT JUDGMENT filed February 27, 2004.
- d. DEFAULT JUDGMENT filed September 21, 2004.
- e. FINAL JUDGMENT filed February 11, 2005.

the Honorable Richard T. St. Clair presiding. The Orders appealed resulted in imposing Default Judgments that require appellants to pay sums to Respondent

1624 A

Bach to satisfy the same. The Final Judgment erred in issuing permanent injunctions against these appellants.

2. Alva A. Harris, Scona, Inc., Bob Fitzgerald, Blake Lyle, Ole Oleson and Jack Lee McLean have a right to appeal to the Idaho Supreme Court, and the orders and decisions described in paragraph 1 above are appealable order under and pursuant to Rule 4 and 11 (a) (1) of the Idaho Appellate Rules.

3. This Notice of Appeal is filed within 42 days of the District Court's FINAL JUDGMENT, entered as final by the Court on February 11, 2005.

4. The issues these Appellants intend to assert on appeal shall include but are not limited to:

a. Whether the District Court erred when it refused to set aside the defaults entered against these appellants as a matter of law.

b. Whether the District Court erred in granting damages against these appellants in the sums awarded.

c. Whether the District Court erred in granting permanent injunctions against these appellants.

5. A reporter's Compressed Transcript is requested of the damage evidentiary hearing held on February 2, 2004. After consultation with the Court Reporter, it is estimated that the fee for this transcript is \$200.00.

6. These appellants are appealing the Court's refusal to set aside defaults and the granting of default judgments. They are a small portion of the numerous rulings and orders issued in this cause of action. Therefore, and pursuant to Rule 28 (a), these appellants request the Clerk's record be limited to those documents specified below, and DOES NOT request a complete Rule 28 (b) *Standard Record*, as it is unnecessary and too voluminous for purposes of these appellant's appeal.

These appellants designate the following documents to comprise the *Limited Clerk's Record* in their appeal:

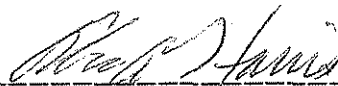
1624B

1. MOTION TO STRIKE etc filed November 12, 2002.
2. FIFTH ORDER ON PENDING MOTIONS filed January 10, 2003.
3. APPEARANCE, MOTION TO DISMISS AND MOTION FOR SANCTIONS filed January 22, 2003.
4. EIGHTH ORDER ON PENDING MOTIONS filed March 4, 2003.
5. ANSWER and DEMAND FOR JURY TRIAL filed March 19, 2003.
6. MOTION TO SET ASIDE DEFAULT filed April 1, 2003.
7. MINUTE ENTRY dated May 2, 2003.
8. THIRTEENTH ORDER ON PENDING MOTIONS filed May 6, 2003.
9. NOTICE OF HEARING MOTION TO SET ASIDE DEFAULT AND MOTION TO REINSTATE and AFFIDAVIT OF ALVA A. HARRIS IN SUPPORT OF MOTIONS filed May 23, 2003.
10. FIFTHTEENTH ORDER ON PENDING MOTIONS filed June 2, 2003.
11. VERIFIED ANSWER dated June 25, 2003.
12. AFFIDAVIT OF JACK LEE McLEAN dated on or about June 24, 2003.
13. AFFIDAVIT OF BLAKE LYLE dated on or about June 24, 2003.
14. VERIFIED ANSWER TO FIRST AMENDED COMPLAINT dated June 24, 2003. (Defendants Fitzgerald, Lyle, Oleson and McLean).
15. VERIFIED ANSWER TO FIRST AMENDED COMPLAINT dated June 4, 2003.
16. BRIEF dated June 24, 2003. (Hills).
17. POST EVIDENTIARY HEARING BRIEF dated February 6, 2004.
18. DEFAULT JUDGMENT filed February 27, 2004.
19. DEFAULT JUDGMENT filed September 21, 2004.
20. TWENTY NINTH ORDER ON PENDING MOTIONS filed July 6, 2004.
21. THIRTY SECOND ORDER ON PENDING MOTIONS filed September 21, 2004.

6. a. These appellants intend to refer and use documents designated by the other appellants without requesting duplication herein.

1624 C

7. The undersigned certifies that the estimated fee for preparation of the Limited Clerk's Record, in the amount of \$ ~~509~~⁰⁰ has been paid.
 8. The undersigned certifies that the appellate filing fee, in the amount of \$86.00, has been paid.
 9. The undersigned certifies that the Reporter's transcript fee, estimated in the amount of \$200.00, has been paid.
 10. Service of this NOTICE has been made upon the Court's reporter.
- DATED this 25 day of March, 2005.



Alva A. Harris

CERTIFICATION OF SERVICE

I HEREBY CERTIFY that I am a duly licensed attorney in the State of Idaho, with my office in Shelley, Idaho; that on the 25th day of March, 2005, I served a true and correct copy of the forgoing NOTICE OF APPEAL on the following Persons, Attorneys and Judge listed below by depositing the same in the United States mail, with the correct postage thereon, in envelopes addressed as follows:

Persons Served: John N. Bach, Pro Se
 P.O. Box 101
 Driggs, Idaho 83422

Anne Broughton, Pro Se
1054 Rammell Mountain Road
Tetonia, Idaho 83452

1624 D

Attorney's Served:

Galen Voelk, Esq.
1472 North 5th St., Suite 201
Laramie, WY 82072

Jason Scott, Esq.
PO Box 1617
Boise, Idaho 83422

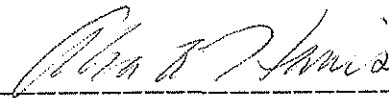
Jared Harris, Esq.
PO Box 577
Blackfoot, Idaho 83221

David Shipman, Esq.
PO Box 51219
Idaho Falls, Idaho 83405

Greg W. Moeller, Esq.
PO Box 250
Rexburg, Idaho 83440-0250

Court Served:

Hon. Richard T. St. Clair
District Judge
605 N. Capital Ave.
Idaho Falls, Idaho 83402



Alva A. Harris

1624 E

FILED

MAY 06 2005

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

TETON CO.
MAGISTRATE COURT

JOHN N. BACH,)
)
 Plaintiff,)
)
 vs.)
)
 KATHERINE D. MILLER, aka)
 KATHERINE M. MILLER, ALVA)
 A. HARRIS, individually and)
 dba SCONA, INC., a sham entity)
 JACK LEE McLEAN, BOB)
 FITZGERALD, OLE OLESON, BIB)
 BAGLEY and MAE BAGLEY, husband)
 and wife, BLAKE LYLE,)
 Individually and dba GRANDE)
 TOWING, and DOES 1 through 30,)
 Inclusive,)
)
 Defendant(s).)

MINUTE ENTRY
Case No. CV-2002-208

On the 29th day of April, 2005, evidentiary hearing re:
attorneys fees came before the Honorable Richard T. St. Clair,
District Judge, in open court at Idaho Falls, Idaho.

Mr. Ross Oviatt, Court Reporter, and Mrs. Marlene Southwick,
Deputy Court Clerk, were present.

Mr. John Bach appeared pro se on his own behalf as
Plaintiff.

Mr. Greg Moeller appeared on behalf of Defendant(s) Nichols.

Mr. David Shipman appeared on behalf of Defendant(s)
Hamblin.

Mr. Jared Harris appeared on behalf of Defendant(s) Hills.

Mr. Bach called Mr. Jared Harris to the stand. Mr. Harris
was placed under oath. Mr. Bach inquired on direct examination.

Plaintiff's Exhibit 1 - 3 letters with billings from Harris' office - was marked, offered and denied admission. Plaintiff's Exhibit 2 - second notice of hearing - was marked, offered and admitted. Plaintiff's Exhibit 3 - Objection to Request For Discovery By Defs Hill - was marked.

Hearing recessed.

Mr. Moeller was excused from the hearing.

Hearing continued with Mr. Jared Harris on the witness stand subject to direct examination by Mr. Bach. Plaintiff's Exhibit 3 was offered and admitted. Plaintiff's Exhibit 4 - Objection and Request For Damage Determination Hearing - was marked, offered and admitted without objection. Plaintiff's Exhibit 5 - Renotice of Hearing - was marked, offered and admitted into evidence. Plaintiff's Exhibit 6 - letter to Hills - was marked, offered, objection raised, objection overruled, and admitted. Plaintiff's Exhibit 7 - Motion Re: Protective Order - was marked.

Mr. Jared Harris presented a statement for purpose of cross-examination regarding attorneys fees. Mr. Harris was excused.

Mr. David Shipman was placed under oath and took the witness stand. Mr. Bach inquired of Mr. Shipman on direct examination.

Hearing recessed for lunch break.

Mr. Shipman resumed the witness stand subject to direct examination by Mr. Bach. Plaintiff's Exhibit 8 - letter of retention - was marked, offered and admitted. Plaintiff's Exhibit 9 - Request For Damages Determination Hearing - was marked, offered and admitted. Plaintiff's Exhibit 10 - warranty deed - was marked, offered, and admitted. Plaintiff's Exhibit 11

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was marked.

Mr. David Shipman presented a statement to the Court for the purpose of cross-examination regarding attorneys fees. The Court inquired of Mr. Shipman. Mr. Shipman was excused.

Mr. Bach was placed under oath and took the witness stand. Mr. Bach presented a statement to the Court regarding evidence regarding attorneys fees.

Counsel will submit argument in writing simultaneously within seven days of today. There will be no rebuttal.

The Court will then deem the matter submitted and issue an opinion.

Court was thus adjourned.



RICHARD T. ST. CLAIR
DISTRICT JUDGE

A:bach.17/05-712@480 full over to 05-720, 05-721 & 05-722

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CERTIFICATE OF MAILING

I certify that on the 29th day of April, 2005, I caused a true and correct copy of the foregoing document to be delivered to the following:

RONALD LONGMORE



Deputy Court Clerk

John N. Bach
PO Box 101
Driggs, ID 83422
FAX (208) 356-9154
1958 S. Euclid Ave.
San Marino, CA 91108
(626) 799-3146

Alva N. Harris
PO Box 479
Shelley, ID 83274
(208) 357-3448
FAX (208) 357-3448

Galen Woelk
PO Box 533
Driggs, ID 83422
FAX (208) 354-8886

Jared Harris
PO Box 577
Blackfoot, ID 83221
FAX (208) 785-6749

Craig L. Meadows
PO Box 1617
Boise, ID 83701-1617
FAX (208) 342-3829

Teton County Clerk
Teton County Courthouse
ATTN: PHYLLIS
89 N. Main, Ste 1
Driggs, ID 83422
FAX (208) 354-8496

Gregory W. Moeller
PO Box 250
Rexburg, ID 83440-0250
FAX (208) 356-0768

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David H. Shipman
Bart J. Birch
PO Box 51219
Idaho Falls, ID 83405-1219
FAX (208) 523-4474

Anne Broughton
1054 Rammell Mountain Road
Tetonia, ID 83452

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JOHN N. BACH
1858 S. Euclid Avenue (Idaho Local: P.O. #101
San Marino, CA 91108 Driggs, ID 83422)
Tel: (626) 799-3146
Plaintiff & Counterclaim
Defendant*

FILED
4. 3 7
MAY 06 2005
TETON CO.
MAGISTRATE COURT

SEVENTH JUDICIAL DISTRICT COURT, IDAHO, TETON COUNTY

JOHN N. BACH,

Case No: CV 02-208

Plaintiff &
Counterclaim
Defendant,

PLAINTIFF JOHN N. BACH'S
CLOSING BRIEF IN OBJECTIONS
& OPPOSITION TO DEFENDANTS
HILLS' MOTION/APPLICATION
FOR ATTORNEY FEES (IRCP, Rule
54(e)(2), I.C. 12-121

v.

KATHERINE D. MILLER, aka
KATHERINE M. MILLER, et al,

and Also To:

Defendant &
Counterclaimant,

DEFENDANT HAMBLIN'S MOTION/
APPLICATION FOR ATTORNEYS FEES,
(IRCP, RULE 54(e)(2), I.C. 12-121)

AND ALL OTHER DEFENDANTS.

Plaintiff JOHN N. BACH submits this closing brief per the oral order of Judge ST. Clair, at the end of what he set as evidentiary hearings on the applications or motions by the two defendants ~~HILLS~~ AND ~~defendant~~ HAMBLIN, on Friday, April 29th.

I. PLAINTIFF'S OBJECTIONS TO THE JURISDICTION AND QUALIFICATIONS OF THE COURT, JUDGE ST. CLAIR TO HEAR, LET ALONE RULE OR DECIDE, OTHER THAN DENY OUT-RIGHT THE DEFENDANTS; HILLS' & HAMBLIN'S ATTORNEYS FEES PER I.C. 12-121.

Plaintiff refers to and incorporates herein the following:

- A. PLAINTIFF & COUNTERCLAIM DEFENDANT JOHN N. BACH'S POST JUDGMENT EVIDENTIARY HEARING BRIEF RE: LACK OF JURISDICTION, BASIS REASONS AND LACK OF ANY ATTORNEYS' FEES, REASONABLE OR OTHERWISE TO BE AWARDED/ALLOWED DEFENDANTS HILL NOR HAMBLIN PER 12-121 dated April 28, 2005, filed herein.
- B. PLAINTIFF JOHN N. BACH'S FURTHER DOCUMENTS AND MEMORANDUM IN SUPPORT OF HIS MOTIONS RE ORDERS STRIKING DEFENDANT HILLS' ANSWERS AND DENIALS, ETC., FILED Jan. 7, 2004/4:23 p.m. which plaintiff's further documents and memorandum was filed Jan. 9, 2004, on which date the defendants HILLS were represented by Alva A. Harris.
- C. PLAINTIFF'S AFFIDAVIT and [separate] MEMORANDUM OF OBJECTIONS

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vacated, or directed both Jared Harris and David Shipman to immediately record, appropriate NOTICES OF INVALIDATION AND NOIDNESS of said Judgements. Both of said Judgements have further damaged plaintiff and impacted, as well as precluded his rights herein to due process. Thus, the most important maxim of Due Process that "the tribunal be a 'fair' and impartial one" is nonexistent under Judge St. Clair. 16B. Amer Jur. @d, Sec 967, Pages 8584-587.

If Judge St. Clair recused himself in Teton CR 04-526, how can he with any judicial integrity, claim he is not likewise and moreso, disqualified and required to recuse himself herein.

4. Both defendants HILLS and HAMBLIN, prematurely and inappropriately filed for attorneys fees per Rule 54, but said rule did not apply until a final judgment was entered herein which did not occur until Feb. 11, 2005. Even before said FINAL JUDGMENT, Judge St. Clair became an advocate for said defendants and also KATHERINE MILLER, by secretly, without notice, a hearing and absolute violation not just of said Rule 54 but also the minutes and previous ORDERS he issued called up for said defendants their void applications for attorneys fees granting them prejudicially and utterly in violation of Plaintiff's Due Process & Equal Protection Rights. The evidentiary hearings were based upon the further compounding of said due process and equal protection rights and did absolutely nothing to cure the flagrant violations and egregiously deliberate bias of Judge St. Clair.

Said defendants and their counsel were required to refile and notice for hearing their said application or motions for attorneys fees not to rely on Judge St. Clair doing such "ultra vires" acts of nonjudicial prejudice.

5. Throughout the evidentiary hearing Judge St. Clair, placed the burden of proof upon plaintiff to rebut, oppose and object to the basis which did not exist at all for the hearings themselves to award any fees and to disprove, rather than Jared Harris and David Shipman to prove that they were entitled to any attorneys fees whatsoever. Moreover, repeatedly, Judge ST. Clair sustained said attorneys' during their testimonies objections re relevance, when the information sought was not just relevant to their credibility, motives, fabrications and padding of hours, efforts and amounts of fees, but per I.R.C.P., Rules 1 and 11(a)(1), went to the covenants expressed and implied of good faith and fair dealings and legal efforts as required of said rules and the further factors of Rule 54(e)(2) and 54(e)(3), et seq.

THUS, PLAINTIFF DOES NOT JUST OR ONLY OBJECT TO ANY BASIS OR JUSTIFICATIONS FOR ANY AWARD OF ATTORNEYS FEES WHATSOEVER, TO SAID DEFENDANTS HILLS AND HAMBLIN, BUT ALSO, AND IN PARTICULARLY TO (1) ANY HOURSE CLAIMED OF SAID FEES, (2) ANY AMOUNT EITHER AT \$125.00, \$120.00, or \$65.00 or any amount hourly or any fraction thereof, as accurate time slips and records were not presented by them, not did they offer any proof of what other trial experienced attorneys in the Driggs area nor in Idaho Falls charged,

and in the case of Jared Harris he had no contract or agreement whatsoever, either written or oral nor implied in law that he could seek for the HILLS said attorneys fees and in the matter of HAMBLIN's application for said fees, David Shipman admitted that he was solely the attorney for EARL HAMBLIN, not SafeCo, nor American States Insurance Company, which was further confirmed by Plaintiff's Exhibit 8, letter of July 1, 2003 to Earl and Joan Hamblin, it was expressly stated, top of page 5:

"Although we will pay the attorney fees of Mr. Shipman, it should be clear that Mr. Shipman will represent you and not American States Insurance Company. Mr. Shipman will be obligated by law to consider your interests only, and to take no action furthering anyone's interest other than your own.. ."

[Emphasis Added]

Mr. Shipman testified as did Jared Harris that neither had any agreement with their clients other than what the insurance or title company's insurance carrier had with their clients, therefore, neither JARED HARRIS nor DAVID SHIPMAN, both of whom have been paid their fees and charges per private arrangements by the respective carriers, had nor were in any position of standing, capacities, or authorizations by their sole and only clients, the HILLS and HAMBLIN to even pursue on their sole clients' behalves such attorneys fees and such fees even if proper and reasonably awarded were not to go to their clients but the carriers who had long ago signed off with their clients to pursue such non existent attorneys fees claims herein. Jared Harris' and Shipman's testimonies revealed the further deliberate abuse of this Court's process and not just said lack of standings, capacities, authorizations, etc., but that said fees were sought in utter bad faith, were frivolous, without merit, vexatious and utterly a sham.

Lastly, as the amount of fees sought were greatly in excess of \$500.00 per each defendants, no distinction of any kind was given by either Jared Harris or Shipman to the separate and distinct obligations each had to the wives of said defendants, any agreement to authorize them to seek such attorneys had to be in conformity with the Statute of Frauds of Idaho, in writing, and there were no

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PLAINTIFF'S BRIEF OBJ /OPP to Any Award A/F to Hills or HAMBLIN P. 4.

written agreements with the husbands nor with the wives of either Bret Hill or Earl Hamblin. Nor was there any testimony given by either Jared Harris or Shipman as to any custom, practice or overt understanding in the legal profession or defense insurance carrier fields that created, if it could have, any implied in fact, agreement or contract, giving them standing, capacity, etc.

Also expressly excluded by any liability policies that may have been in effect to provide defenses to said defendants is the EXCLUSIONS as set forth on page 3 of said Exhibit 8, which exclusions also applied to the Hills, as such standard exclusion of "expected or Intended Injury" is one under Idaho Statutes and case authorities. But even more so, excluded was that of default entries and judgments which had been rendered against both HILLS and HAMBLIN. Had "ALL" of the HILLS AND THE HAMBLINS given their insurance carrier notice of their being served, rather than relying upon, in the case of the HILLS, Alva Harris, and Hamblin, on his self contived and selfing understanding of his being rpresented in a federal law suit, none of the efforts directly indirectly or associated by either JARED HARRIS or SHIPMAN to set aside the entries of default or to make, attend and perfect the setting aside of said defaults can be considered in any attorneys fees sought to be awarded.

NOTE: FOR THE SAKE OF BREVITY, WITHOUT RESTATING THE PARAGRAPHS IN FULL, REFERENCE IS HAD TO THE LAST FOUR (4) PARAGRAPHS OF PAGE 4, of EXHIBIT 8.

- II. EVEN IF THE COURT WERE TO CONSIDER THE APPLCATIONS AND EVIDENCE PRESENTED DURING THE EVIDENTIARY HEARINGS THERE IS NOT BASIS IN POINT OF FACT NOR LAW TO AWARD ANY FEES, NO REASONABLE HOURS OR EFFORTS FOR TIME EXPENDED AND NO REASONABLE HOURLY RATES OF \$125 or \$120 or any OTHER LESSOR SUMS, AS SUCH HOUR RATES WERE NOT PROVEN NOR PRESENTED AS TO QAULIFDEED AND EXPERIENCE TRIAL COUNSEL IN THE DRIGGS AREAS, IN WHICH AREAS THE ONLY EVIDENCE WAS THAT SUCH HOURLY RATES WERE FROM \$65 to \$35 and even lower rates per hour, but then NO EVIDENCE WAS PRESENTED OF

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ANY ACCURATE TO THE MINUTE TIMES SPENT OR CHARGES
OTHER THAN A FURTHER PADDING AND OVERSTATING OF
HOURS AND RATES :

Against, foremost, as Plaintiff was the prevailing party on a number of claims and in judgements against both the HILLS and HAMBLIN, they can be no consideration whatsoever of any award of attorneys fees. In both the JUDGMENT AGAINST DEFENDANTS BRET HILL and DEENA R. HILL, filed June 14, 2004 Plaintiff prevailed on a number of counts against them, SECOND and FOURTH COUNT, and on pages 2 through 3 not only quieted title against them as to a number of properties, i.e. the 8.5 acres, the DRAWKNIFE and PEACOCK Property but per paragraph 3, page 3, thereof, also obtained a PERMANENT INJUNCTION against them 'from trespassing, entering upon, storing, placing or leaving upon each of said three real properties described herein, the 8.5+ acres, the DRAWKNIFE 33+ acres and the PEACOCK 40 acres, their persons, any personal properties, objects, items or making any further claims thereto or against each of said real property, herein quieted to JOHN N. BACH. The HILLS' agent & attorneys are also so restrained."

This permanent injunction covered/covers any claims for the HILLS' present attorneys fees sought, Noevidence was presented by Jared Harris that it did not so include any possible "further claims" even for attorneys fees. But even more significantly, the HILLS violated said Judgment and per Plaintiff's EXHIBIT 6, they owe him over \$3,600 plus interest for said violations, Jared Harris testified that he got notice and saw said documents which are part of PLAINTIFF's exhibit 6, admitted for all purposes at the evidentiary hearings on April 29, but never replied nor objected to any statements or values set forth therein. Moreso, at the very least Plaintiff is entitled to any offset of at least \$3,600 against

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any award, which should be not just scant but de minimus.

Also in line with such offset, are the irrefutable facts that Jared Harris falsified his billings as he was not the attorney of record for the HILLS if ever he became such. First, he did not appear until mid to late Jan, 2004 as their attorney, When he did so he made representations of providing immediately full discovery to Plaintiff's then in default discovery request, ignored by his father Alva Harris. (Alva testified that as to all his clients he charged them nothing until he recovered any thing and then they would agree as to a certain amount or percentage) Jared Harris never put any indemnity, reimbursement or hold harmless demands upon his father for the botched up representation he gave the HILLS. Jared's entire testimony was not just discredited by he was shown as not qualified either as a trial attorney nor any experience counsel to have charged what he sought in the HILLS' unauthorized motion for attorney fees.

Through plaintiff's discovery efforts, Jared Harris, evaded, stone walled and even violated this Court's discovery orders against him, but the court has conveniently overlooked such obfuscations and deliberate denial machinations by Jared Harris. To award any hours or fees therewith for his such obstructionist effort would be to sanction and glorify the prohibitions of Rules 1 and 11(a)(1). (See especially the statements of Plaintiff in his NOTICE OF HEARING OF HIS JAN. 7, 2004 FILED MOTIONS, etc., against the HILLS especially pages 2 through 4.) It must be remembered that when Alva Harris obstructed discovery by the HILLS when he represented them, the defaults of March 24, 2003 had been entered as to over some 10 defendants including the HILLS, and the obstructions and refusal of any meaningful discovery continued with JARED HARRIS.

The HILLS COMPARATIVE WRONGDOINGS AND DELIBERATE OBSTRUCTIONS TO DISCOVERY INITIATED BY PLAINTIFF, is a major independent overriding and excludating factor and element that deprices them of any award of attorneys fees, even if they had standing, capacity etc., or were the court to have any jurisdiction herein, which it does not.

III. DEFENDANT HAMBLIN IS LIKEWISE INCAPABLE AND WITHOUT AUTHORITY OR PROOF TO HAVE ANY ATTORNEYS FEES CONSIDERED, LET ALONE AWARDED TO HIM NOR.

All of the above analysis and factors as well as legal principles and authoriies apply most relevantly to preclude and eliminate any standing, basis, authority or capacity of both defendant HAMBLIN and this Court to consider nor to grant him any attorneys fees. Furthermore, the FINAL JUDGMENT entered a permeanent injunction against EARL HAMBLIN as to all the properies to which title was quieted to JOHN N. BACH directly or per any joint ventures or undivided interests. Most significantly, plaintiff further prevailed against HAMBLIN as to the quieting of title to at the very least 20 water shares not just on the 8.5 acres parcel, but to himself personally in the Grand Teton Canal Company, which waters shares were testified both in his AFFIDAVIT in Opposition to HAMBLINS' summary Judgement motions and in the evidentiary hearing of April 29, as being awarded to plaintiff as a separate incorporeal right to be used upon any of the properties that he owned or had rightful and/or colorful right of possession, such as the 87 acres at M/P 138. Again, this evidence was admitted by Hamblin to that right and even further admitted/confessed that he gave KATHY MILLER and her crazed goons permission to utilize his property to not just access he back 40 acres but plaintiff's entire possession and

PLT's brief OBJ/OPP to Any Award of A/F to HILLS or HAMBLIN P. 8.

use of said 87 acres. Even after the Court's additional findings of fact and conclusion of law in mid Dec. 2003, Miller was only entitled to go to her back 40 acres as found by the court's interlocutory judgment, and not to disturb or violate plaintiff's possession of the front 47 plus acres. Such remained the order of the Court even wrongfully, when further compounded and exasperated by the writ of assistance which was not effected until late May, 27th, 2004. Plaintiff was till entitled to utilize his 20 waters shares purchased from Zamona Casper, at the same time he purchased the 8.5 acres. in late 1992. Such water shares he used or tried to on the secondary canal in teton valley within the north boundary of the 112 foot strip, and throughout his separately owned 40 acres. No contradictory evidency was presented other than conclusions by a water master who had not capacity or qualification to give any opinion of what water shares plaintiff did or did not own and further, nor any assumptions by Hamblin of what plaintiff did or did not own.

Even Shipman's ongoing volunateeing statments over plaintiff's objections and motions to strike, denied by the court, did nothing to present any factual or legal basis for any award of attorney fees. Shipman's testimony admitted and revealed the extent and nature of his untruthfulness and deception not just upon this court, and plaintiff but even his emplouing insurance carrier.

NO AMOUNTS OF HOURS CAN BE JUSTIFIED AND NOR FEES SHOULD BE NOR CAN THEY BE AWARD TO EITHER JARED HARRIS, SHEPMAN OR THEIR CLIENTS THE HILLS AND HAMBLINS HEREIN. Even a token award of \$500,000 to each is unreasonable and unauthorized. DATED: May 6, 2005

I hereby certify that a copy of this document was faxed to and mailed to JUDGE St. Clair this date, and mailed to JARED Harris and DAVID SHIPMAN.

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John N. Bach

John N. Bach

4:37
MAY 06 2005
TETON CO.
MAGISTRATE COURT

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

SEVENTH JUDICIAL DISTRICT COURT, IDAHO, TETON COUNTY

JOHN N. BACH, CASE NO: CV 02-208

Plaintiff &
Counterclaim Defendant,

v.

KATHERINE D. MILLER, aka
KATHERINE M. MILLER, et al.,

Defendants [& MILLER
Counterclaimant.

PLAINTIFF & COUNTERCLAIM DEFENDANT JOHN N.
BACH'S POST JUDGMENT EVIDENTIARY HEARING BRIEF
RE: LACK OF JURISDICTION, BASIS, REASONS AND
LACK OF ANY ATTORNEYS' FEES, REASONABLE
OR OTHERWISE TO BE AWARDED/ALLOWED
DEFENDANTS HILLS NOR HAMBLIN PER 12-121.

Plaintiff and Counterclaim defendant JOHN N. BACH, does hereby submit this Post Judgment Evidentiary Hearing Brief of his OBJECTIONS AND OPPOSITION to the Court's THIRTY SIXTH ORDER ON PENDING MOTIONS, filed March 17, 2005, wherein per Paragraph 4, page 6 thereof, it was ordered that:

"an evidentiary hearing shall be held at the Bonneville County Courthouse on April 29, 2005 at 9[:]30 a.m. as to the amount of reasonable attorneys fees allowable to defendants Hills and Hamblin under I.C. & 12-121."

I. JURISDICTIONAL OBJECTIONS AND OPPOSITION

Plaintiff and Counterclaim Defendant JOHN N. BACH makes the following subject matter and personal objections and opposition to the Court's, that is the qualifications and power of any jurisdiction or discretion by the Honorable Richard T. St. Clair to even hear any evidentiary presentations by defendants Hills nor Hamblin for any award of reasonable or otherwise any attorneys' fees whatsoever to them per I.C. sec. 12-121. as follows:

A. Judge St. Clair has more than prejudicially and in violations of JOHN N. BACH's procedural and substantive rights of due process and equal protection exhibits not just a prejudicial mind-set, disposition and prejudgment of an award of attorneys fees per 12-121 or otherwise, by previously void ORDERS not just because he now recognizes JOHN BACH's rights to an evidentiary hearing but because he deliberately misstated both the law and the status/facts and the issues, pleadings and his own prior orders herein, which he still has failed to address as such orders deprive him entirely of any jurisdiction whatsoever to now proceed with the evidentiary hearing he has set for Friday, April 29, 2005, at 9:30 a.m. (See SUPP'L AFFID. of J.N.B. re Disqualify Judge St. Clair, July 16, 2003 & Liteky)

B. Furthermore independently, JOHN N. BACH filed per his claims in his FIRST AMENDED COMPLAINT multiple claims per I.C. sections 6-414 through 6-418, which deprive the court/Judge St. Clair of any consideration of attorneys fees to defendants HILL and HAMBLIN. JOHN N. BACH prevailed against the defendants HILLS not just as to his coownership of the 8.5. plus/minus adjacent acres in joint venture with Wayne Dawson, (See Amended Default Judgment Against Wayne Dawson, February 23, 2004; and Judgment Against Defendants Bret Hill and Deena R. Hill, June 24, 2004)

but JOHN N. BACH had title quieted to him of joint ownership in some 20 plus water shares in the Grand Teton Canal Company, which water shares were owned and utilized by JOHN N. BACH in the Grand Teton Canal Company's northern ditch of the 8.5 acres and of the Northern boundary of the 112 foot strip at Milepost 138 leading to his easterly 40 acres but also upon, through and entirely upon his said easterly 40 acres even up to the date the Judge St. Clair wrongly ordered JOHN N. BACH to remove his personal belongings and animals off of said 40 acres and the 112 by one half mile strip, on or about May 27, 2004, per the TWENTY EIGHT ORDER ON PENDING MOTIONS, filed May 6, 2004, pages 13-15. Thus, up until May 27, 2004, JOHN N. BACH had rightful possession not only of his said 40 easterly acres and the said 112 foot by one half mile strip, but he had ownership of an initial sole 20 water shares which he could use on any canal or ditch of the Grant Teton Canal Company, either on said 40 acres and one half mile strip or on his 8.5 acres initially coowned with Wayne Dawson. Plaintiff JOHN N. BACH was a prevailing party against all of said defendants HILLS and HAMBLINS as to said properties and his said ownership, and rights of exclusive use of said water shares, and all of said defendants HILL and HAMBLIN further disclaimed any and all interests in said real properties and said water shares purchased with said 8.5 acres.

But as previously stated the prejudiced and utterly biased predisposed mindset which preclude any fair and objective rulings by Judge St. Clair as to both the HILLS and HAMBLIN'S summary judgment motions totally ignored and rejected the testimony given by JOHN N. BACH as presented in his AFFIDAVIT OF PLAINTIFF JOHN N. BACH In OPPOSITION to DEFENDANTS HAMBLIN'S & STAN NICKELL'S ESTATE'S RESPECTIVE MOTIONS FOR SUMMARY JUDGMENT, especially the attached BACH'S POST JUDGMENT EVIDENTIARY HEARING BRIEF PE OBJ/OPP, etc. P. 3.

thereto composite deposition pages of his testimony, pages 11 through 18, given January 5, 2004 in Mr. Woelk's Driggs' office. (See copy of Envelope to JOHN N. BACH with receipt from Grand Teton Canal.)

But moreso, deprivation of jurisdiction to award any attorneys fees as JOHN N. BACH was a prevailing party against all defendants, even KATHERINE MILLER and most specifically against defendants HILLS and HAMBLIN, is that of his rights and claims via I.C. sections 6-414 through 6-418, infra. See also Rule 12(g).

C. The mandatory provisions of I.C. 6-418 also deprive all jurisdiction by Judge St. Clair to order any attorneys fees per I.C. 12-121 and Rule 54(e)(1) through 54(e)(9). Sec. 6-418 reads:

"Owner in main action is entitled to an execution to put him [her] in possession of his [her] property in accordance with the provisions of this act, but not otherwise." [Emphasis Added] (See cited in Gage v. Harris 119 Idaho 451, 807 P.2d 1289 (Ct. App. 1991).

Section 6-414 through 6-4-5 required Judge St. Clair, even despite his void Judgement of Dec. 13, 2003, to award JOHN N. BACH, the value of all improvements he placed upon not just his easterly 40 acres but also the 112 foot strip by one half mile; this the Court ordered KATHERINE MILLER to pay JOHN N. BACH by the end of Nov, 2004, \$23,650.00 "for Bach's good faith improvements under I.C. 6-414 & 416 by the Court's Additional Findings of Fact and Conclusions of Law entered on December 23, 2004; . " See TWENTY SECOND ORDER OF Feb. 12, 2004, pages 9 through 11. It must be emphasized that the 10 shares that JOHN N. BACH had deeded to him along with said easterly 40 acres at the end of the 112 foot strip and the further 10 shares deed to KATHERINE MILLER, initially to the most westerly 40 acres sharing a common boundary line with JOHN N. BACH's said easterly 40 acres are separate and wholly BACH'S POST JUDGMENT EVIDENTIARY HEARING BRIEF RE OBJ/OPP, etc. .P. 4.

unrelated from the 20 shares which JOHN N. BACH has still and which were quieted to him along with the 8.5. acres per said Judgements of Feb. 23, 2004 and June 24, 2004. It is most significant that Judge St. Clair has refused to apply such irrefutable and undeniable facts due to his prejudiced mindset against JOHN N. BACH and even to recognize that in said TWENTY SECOND ORDER, where he abuses the discretion he has to award attorneys fees to Miller, pages 5 through 6 he concludes: " . . . the applicable legal standard is whether 'all claims brought or all defenses asserted are frivolous and without foundation.' Id.; Chapple v. Madison County Officials, 132 Idaho 76, 81, 967 P.2d 278, 283 (1998).

Bach raised legitimate issues of fact, although resolved against him by the jury and court, in support of several of his cause of action, including Miller's involvement in slandering Bach's title to the 8.5 acres, the Drawknife proper and the Peacock property. Miller's involvement in converting and damaging his tangible personal property with defendants Boy Fitzgerald and Blake Lyle, Miller's involvement in lawsuits filed by defendant Alva Harris against Bach and dismissed. Bach also raised legitimate issues of fact, although resolved against him by the jury and the court, in his defense of Miller's counterclaim, including the effect of the October 3, 1997 settlement agreement and the date the 3 year statute of limitations commenced to run. Thus, Rockefeller and Chapple prohibit an award of attorneys fees under I.C. & 12-121."

These same cases cited by Judge St. Clair apply to preclude any basis or jurisdiction per all of the authorities cited so far and infra, especially sections 6-414-through 6-418, the latter precluding any writ of possession or assistance as he allowed per Rule 69 and in flagrant violation of Rule 70 to issue to Katherine Miller who has not paid any of the ordered \$23,650.00 to JOHN N. BACH, all of such authorities present no jurisdiction, no accurate nor applicable reasons/basis for any award of attorneys fees whatsoever to defendants HILLS and HAMBLIN.

D. Even before the rendered opinion in Chapple, supra, quoted by Judge St. Clair in his TWENTY SECOND ORDER, it was firmly established that:

1. Attorneys' fees were not appropriate under 12-121 nor 54(e)(1) through 54(e)(9) unless all claims brought are found to have been utterly frivolous and without foundations; but, where there were alleged multiple counts/claims, it was not within the jurisdiction nor discretion of the court, and most certainly it was therefore not appropriate, for the court to segregate and determine individual claims as being utterly frivolous and without foundation. It is the rule that the entire claims of plaintiff as pursued must be found to be utterly unreasonable, or frivolous and without foundation. Managment Catalysts v. Turbo W. Corpac, Inc. 119 Idaho 626, 809 P.2d 487 (1991)

2. Especially in quiet title actions, of real property and water rights/shares, and even as to prescriptive easements or rights, where factual contentions along with evidence were presented, even not sufficient to allow plaintiff to prevail, attorneys' fees award were not appropriate. French v. Sorenson, 113 Idaho 950, 751 P.2d 98 (1988, overrule on other grounds, Cardenas v. Jurpjuiveit, 116 Idaho 739, 779 P.2d 414 (1989)

3. Nor is a failure to enter into or conduct settlement discussion, or dismiss some claims after a plaintiff has prevailed on many of his claims, as herein, but, had not dismissed with or without prejudice his remaining claims, any basis, reason nor jurisdiction for awarding to any defendant who might have prevailed on the remaining claims, any attorneys fees. Anderson v. Anderson, et al, 116 Idaho 359, 775 P.2d 1201 (1989) See Roark v. Bentley Idaho, 86 P.3d 507, (2004)

E. A consideration of attorneys fees even where appropriate and within the clear mandated jurisdiction of the unbiased judge is still to be within definitive, ascertainable and clearly set forth

001644
BACH'S POST JUDGMENT EVIDENTIARY HEARING BRIEF RE OBJ/OPP, etc. P. 6.

standards of understanding to the average person, not just a capricious, whimsical or arbitrary without limitations of application of feelings by the court and or the judge. Not only are the provisions of Rule 54(e)(3) arbitrary, capricious, whimsical, without clear reasonable understanding, application of factors, limitations etc., and therefore unconstitutional on its face as uncertain, unreasonable, vague, conflicting, and contradictory, but, said Rules violates the provisions of 6-414 through 6-418, I.C. section 6-502, et seq and further ignores the constitutional prohibitions of I.C. section 6-1606 (precluding recovery where any collateral sources are in place "whether private, group or governmental sources and whether contributory or noncontributory); further ignores the right of setoff or offset via equitable principles long established in Idaho (Beard v. George, 135 Idaho 685, 688, 23 P.3d 147, 150 (2001),) and the further constitutional rights to a full jury trial of 12 persons to decide the amounts if any to be awarded to a defendant where an adequate basis, reason and/or justification and jurisdiction is established.

Among the single most admitted fact, ignored by Judge St. Clair in defendants HILLS' and HAMBLIN's summary judgment motions is that HAMBLIN gave Miller permission to utilize his property for access by her and her numerous friends, defendants who have had their defaults entered and judgment rendered on Feb. 27, 2004 and Sept. 21, 2004, and that such defendants consisted of ALVA HARRIS, JACK McLEAN and KATHY MILLER who showed not just the house, records and belongings there of JOHN N. BACH at 195 N. Hwy 33, but HARRIS was common counsel for all of said defendants and advising them, even HAMBLIN, until defaults were entered, except for Miller, who changed counsel the day the PRELIMINARY INJUNCTION issued on Aug. 16, 2002 against her and BACH'S POST JUDGMENT EVIDENTIARY HEARING BRIEF, RE OBJ/OPP, etc. P. 7.

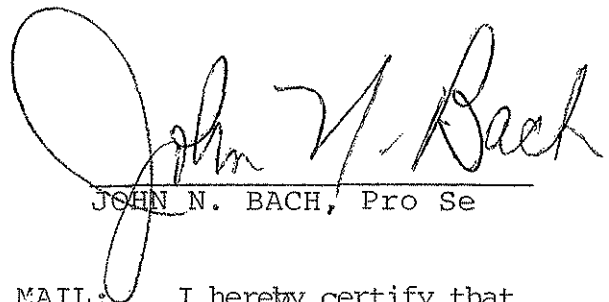
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Codefendants with default judgments entered against them..

ALL OF THE FOREGOING OBJECTIONS AND OPPOSITION WILL BE FURTHER
ADDRESSED AS TIME WILL PERMIT AT THE SET EVIDENTIARY HEARING.

II. THE PREVIOUS JUDGMENTS RE ATTORNEYS FEES AND COSTS
MUST BE IMMEDIATELY STRICKEN, VACATED AND SET ASIDE/
RECALLED. MOREOVER, PLAINTIFF MOVES HEREIN FOR A
STAY OF ALL EXECUTION ON ANY ORDER, RULING OR AWARD
GRANTING ANY AMOUNT OF ATTORNEYS FEES TO ANY DFEENDANT
AT LEAST OF A PERIOD OF 14 DAYS AND MORE SO, PER I.A.R.,
RULES, 13(a), (b) (9), (10) and 16(a). (Latter permanent stay)

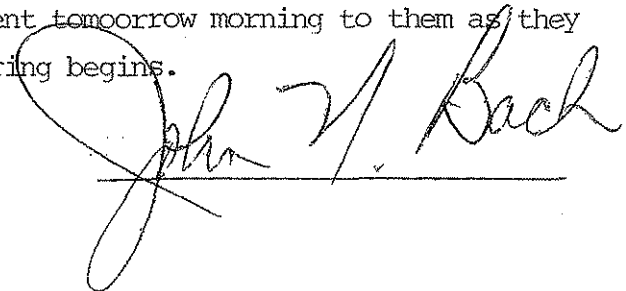
DATED: April 28, 2005



JOHN N. BACH, Pro Se

CERTIFICATE OF FAX SERVICE AND BY MAIL: I hereby certify that
on this date, April 28, 2005, I did fax a copy of this document to each
of the following: (1) Judge St. Clair, (208) 529-1300; Jared Harris, (208)
785-6740 and David Shipman, (208) 523-4474; and that I will also personally
deliver a copy of the foregoing document tomorrow morning to them as they
arrive just before the evidentiary hearing begins.

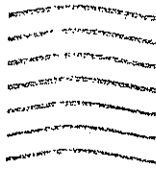
DATED: April 28, 2005



JOHN N. BACH, Pro Se

601646

Grand Teton Canal
P.O. Box 1099
Driggs, Id.
83422



Mr John N. Bach
195 N. Hwy 33
P.O. Box 1010
Driggs, Idaho 83422

11-12-96.

100.⁰⁰ received for
 Grand Teton Canal water
 dues + Transfer fee.
 Targhee Powder Exposition Inc.

	Due	70. ⁰⁰
Payment - 11-12-96	Cash -	100. ⁰⁰
	credit	30. ⁰⁰

Sec. Lowell Pugh
11-12-96 -

5 MAY 11 P1:57

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

JOHN N. BACH,

Plaintiff,

vs.

KATHERINE D. MILLER aka
KATHERINE M. MILLER, ALVA
HARRIS, Individually & dba
SCONA, INC., JACK LEE McLEAN,
BOB FITZGERALD, OLE OLSON, BOB
BAGLEY & MAE BAGLEY, husband and
wife, BLAKE LYLE, Individually
and dba GRAND TOWING, GALEN
WOELK and CODY RUNYAN,
Individually & dba RUNYAN &
WOELK, ANN-TOY BROUGHTON, WAYNE
DAWSON, MARK LIPONIS, EARL
HAMBLIN, STAN NICKELL, BRET HILL
& DEENA R. HILL, and DOES 1
through 30, Inclusive,

Defendants.

Case No. CV-02-208

**THIRTY SEVENTH ORDER
ON PENDING MOTIONS**

I. INTRODUCTION

Pursuant to Rule 54(e)(6), I.R.C.P., on April 29, 2005, the
Court held an evidentiary hearing on plaintiff John Bach's
objections to attorney fees awarded to defendants Earl Hamblin
THIRTY SEVENTH ORDER ON PENDING MOTIONS 1

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and Bret and Deena Hill by the Thirty Sixth Order. At such hearing the parties were granted leave to submit written argument on the evidence received during the evidentiary hearing. Bach, Hamblin and the Hills have filed such written argument.

On May 9, 2005, defendant Arlene Nickell filed a motion for a ruling on attorney fees pursuant to Rule 54(e). Nickell did not request a hearing on this motion.

Having considered the evidence at the April 29th hearing, the written arguments, and further reviewing the court record containing pleadings, affidavits, deposition transcripts, testimony and arguments at hearings, briefs, and orders, this Court renders the following decision on the pending motions.

II. AUTHORITY AND STANDARD OF REVIEW

The Court incorporates herein by this reference the authorities set forth in its Thirty Fifth Order as to an award of attorney fees and costs.

III. ANALYSIS

In addition to arguing that the attorney fees sought by defendants Hamblin and the Hills are unreasonable, plaintiff Bach argues again that the presiding judge is biased against him, the district court lacks jurisdiction over the attorney fees issues, the entire lawsuit was not frivolous, the insurance

companies who paid these defendants' attorneys fees cannot recover such fees, one insurance company defended Hamblin under a reservation of rights letter, and there should be a \$3600 offset as to attorney fees awarded to the Hills.

This Court is not biased against plaintiff Bach, and in fact has granted many of his motions, and entered judgments in his favor. Although these defendants filed their motions for attorney fees before final judgment was entered, premature filings do not deprive the district court of jurisdiction. See *Crowley v. Lafayette Life Ins.Co.*, 106 Idaho 818, 683 P.2d 854 (1984). Further when the final judgment is on appeal, the district court retains jurisdiction to make any order regarding the taxing of costs or determination of attorneys fees incurred at the district court level. Rule 13(b)(9), I.A.R. As previously held in the Thirty Fifth Order, once title was quieted to Miller at to the 86.6 acres and defendants Hamblin and the Hills advised Bach they were not claiming any interest in any property described in Bach's amended complaint except the 1 acre which the Hills bought, "pursuing" the amended complaint further against such defendants was "frivolous and without foundation in law or fact." No authority is cited, and this Court is aware of no authority in Idaho, prohibiting an insurer who is obligated by contract to defend a civil action against its insured from

recovering costs and attorney fees so expended from the non-prevailing plaintiff. While one insurer sent Hamblin a reservation of rights letter, no declaratory judgment was ever entered relieving the insurer from its contractual obligation to defend Hamblin in this action. Default judgment was entered against the Hills as to any interest in the 8.5 acres as to which plaintiff Bach now assert a \$3600 offset against the Hills for storage of personal property on such 8.5 acres. However, since this claim was not specifically alleged in the amended complaint, nor was evidence put on to prove it before default judgment was entered, the claim was extinguished by the default judgment.

The testimony of attorneys Jared Harris and David Shipman, along with their previously filed affidavits was sufficient to prove enough pertinent information as to the factors enumerated in Rule 54(e)(3), I.R.C.P. This Court specifically finds from such evidence by a preponderance of the evidence the following. \$125.00 per hour is a reasonable fee for legal services performed by such attorneys in this action and that the hours stated in the affidavits were actually spent doing worthwhile legal work in defense of their clients. As is typical with most civil lawsuits, some of the issues were easy, but others were difficult and involved novel issues. Both attorneys had over 10

years of litigation experience. The fees were charged and paid on an hourly basis at the same rate as itemized in their affidavits on file. This Court imposed the litigation timelines, not the clients, and the attorneys complied with the hearing schedules at all times and places, some of which required travel to Driggs and Idaho Falls. Millions of dollars were sought by the plaintiff, but no money was awarded against these two particular defendants. The case was of typical desirability. The length and nature of the professional relationship with the clients was about two years. Awards in similar cases handled by this presiding judge involving the same number of hours are essentially the same. Some automated research was appropriate. In addition to the attorney fees incurred by defendants Hamblin and the Hills before the April 29th hearing, this Court finds that such defendants incurred an additional 6 hours worth of reasonable legal fees at \$120.00 per hour for Shipman totaling \$720.00, and at \$125.00 per hour for Harris, totaling \$750.00

The Thirty Sixth Order denying attorney fees to defendant Nickell is a final ruling on Nickell's request for attorney fees. Rule 54(e)(1), I.R.C.P., creates no substantive right to attorney fees, but merely establishes a framework for applying I. C. § 12-121. *Huff v. Uhl*, 103 Idaho 274, 277, 647 P.2d 730, 733 (1982); *Application of Robinson*, 107 Idaho 1055, 1057, 695

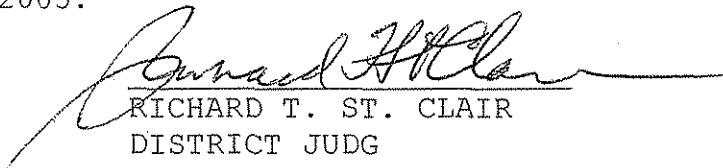
P.2d 440, 442 (App. 1985). As stated in the Thirty Sixth Order, none of the causes of action alleged in Bach's amended complaint are of the type described in I. C. § 12-120, the statutory authority under which Nickell was seeking attorney fees. While this Court did order that attorney fee requests would be processed under Rule 54 in its Thirty Fifth Order, it was referring to the procedural timelines for filing requests and objections and necessary affidavits as procedurally required in Rule 54. While this Court sympathizes with Nickell's loss of any award of attorney fees due to Nickell citing the wrong statutory authority, it is bound to apply the controlling authority established by the Idaho Supreme Court.

IV. CONCLUSION AND ORDER

Based on the foregoing analysis, this Court concludes and THEREFORE IT IS HEREBY ORDERED that:

1. plaintiff John Bach shall pay defendant Earl Hamblin \$326.00 in costs of right and \$9,074.00 in attorney fees under I. C. § 12-121; and pay defendants Bret and Deena Hill \$139.00 in costs of right and \$10,750.00 in attorney fees under I. C. § 12-121.
2. defendant Nickell's motion for a ruling on attorney fees under Rule 54(e) is DENIED.

DATED this 11th day of May, 2005.


RICHARD T. ST. CLAIR
DISTRICT JUDGE

CERTIFICATE OF SERVICE

I hereby certify that on the 11th day of May, 2005, I certify that a true and correct copy of the foregoing document was mailed, telefaxed or hand delivered to the following persons:

John N. Bach
1858 S. Euclid Avenue
San Marino, CA 91108
Telefax No. 626-441-6673 (MAIL)

John N. Bach
P.O. Box 101
Driggs, ID 83422 (MAIL)

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

Galen Woelk
1472 North 5th Street, Ste.#201
Laramie, WY 82072 (MAIL)

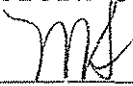
Jason Scott
P. O. Box 100
Pocatello, ID 83204
Telefax No. 208-233-1304 (MAIL)

Jared Harris
P. O. Box 577
Blackfoot, ID 83221
Telefax No. 208-785-6749 (MAIL)

Anne Broughton
1054 Rammell Mountain Road
Tetonia, ID 83452 (MAIL)

David Shipman
P. O. Box 51219
Idaho Falls, ID 83405-1219 (MAIL)

Gregory Moeller
P. O. Box 250
Rexburg, ID 83440-0250 (MAIL)

RONALD LONGMORE
Clerk of Court

Deputy Court Clerk

FILED IN CHAMBERS
at Idaho Falls
Bonneville County
Honorable Richard T. St. Clair
Date May 23, 2005
Time 3:00
Deputy Clerk M. Southwick

Jared M. Harris, Esq.
BAKER & HARRIS
199 W Bridge
P.O. Box 577
Blackfoot, ID 83221
Telephone: (208) 785-2310
Facsimile: (208) 785-6749
E-mail: bakerharrislaw@cableone.net
Idaho State Bar No. 4488

Attorneys for Defendants Bret & Deena R. Hill

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

JOHN N. BACH,

Plaintiff,

Case No. CV-02-208

v.

AMENDED JUDGMENT

KATHERINE D. MILLER, aka
KATHERINE M. MILLER, Individually
& dba R.E.M., and CACHE RANCH,
ALVA A. HARRIS, Individually & dba
SCONA, INC., a sham entity, JACK LEE
McLEAN, BOB FITZGERALD,
Individually & dba CACHE RANCH,
OLY OLESEN, BOB BAGLEY & MAE
BAGLEY, husband and wife, BLAKE
LYLE, Individually & dba GRANDE
TOWING, and also GRANDE BODY &
PAINT, GALEN WOELK & CODY
RUNYAN, Individually & dba RUNYAN
& WOELK, ANN-TOY BROUGHTON,
WAYNE DAWSON, MARK LIPONIS,
EARL HAMLIN, STAND NICKELL,
BRET & DEENA R. HILL, DOES 1
through 30 Inclusive,

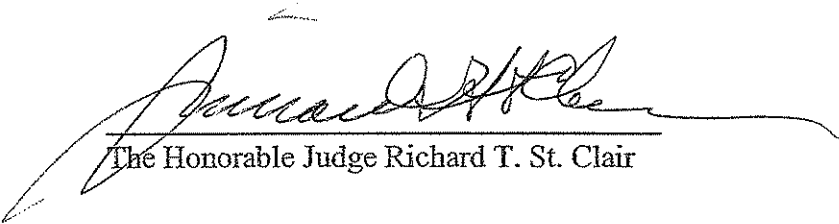
Defendants.

AMENDED JUDGMENT - 1

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THIS COURT, having entered its Order on February 11, 2005, granting Defendants Bret and Deena Hill costs of right in the amount of \$139.00 and \$10,000.00 in attorney's fees, which Order was reduced to a Judgment entered February 17, 2005, and this Court having entered its Order dated May 11, 2005, increasing the amount due from Plaintiff John N. Bach, WHEREFORE, by reason of the law and the premises aforesaid, it is ordered, adjudged and decreed that Defendants Bret and Deena Hill, do have and recover of and from said Plaintiff John Bach, the sum of \$10,889.00, costs and attorney's fees; together with interest thereon at the judgment rate until paid; that execution may issue on the foregoing instrument.

SO ORDERED this 23^d day of May, 2005.


The Honorable Judge Richard T. St. Clair

CLERK'S CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a full, true and correct copy of the foregoing JUDGMENT was mailed by first class mail with prepaid postage and/or hand delivered and/or transmitted by facsimile this 23rd day of May, 2005, to:

Attorneys Served:	Jared M. Harris BAKER & HARRIS 199 W Bridge PO Box 577 Blackfoot, ID 83221	() Mail
	John N. Bach P O Box 101 Driggs, ID 83422	() Mail
	Alva Harris PO Box 479 Shelley, ID 83274	() Mail
	Jason D. Scott HALLEY TROXELL ENNIS & HALLEY P O Box 100 Pocatello, ID 83204	() Mail
	Galen Woelk RUNYAN & WOELK P O Box 533 Driggs, ID 83422	() Mail
	David Shipman HOPKINS RODEN P O Box 51219 Idaho Falls, ID 83405-1219	() Mail
	Gregory Moeller P O Box 250 Rexburg, ID 83440-0250	() Mail
	Anne Toy-Broughton 1054 Rammell Mountain Road Tetonia, ID 83452	() Mail

CLERK OF THE DISTRICT COURT

By: ms
Deputy

FILED BY CLERK
at Idaho Falls
Teton County
Honorable Richard T. St. Clair
Date 6/2/05
Time 8:45
Deputy Clerk M. Southwick

HOPKINS RODEN CROCKETT
HANSEN & HOOPES, PLLC
David H. Shipman, ISBN 4130
428 Park Avenue
P.O. Box 51219
Idaho Falls, Idaho 83405-1219
Telephone: 208-523-4445
Attorneys for Defendant Earl Hamblin

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

JOHN N. BACH,

Plaintiff/Counterclaim Defendant,

vs.

KATHERINE D. MILLER, aka
KATHERINE M. MILLER, Individually
and dba R.E.M., et al.,

Defendants/Counterclaimants.

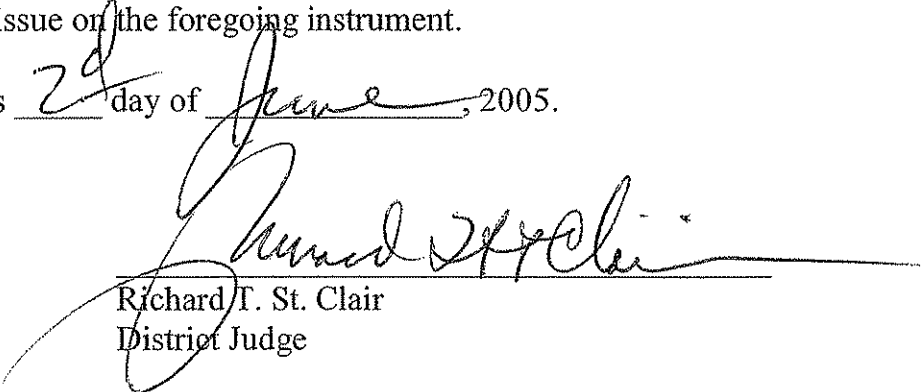
Case No. CV-02-208

AMENDED JUDGMENT

THIS COURT, having entered its Order on February 11, 2005 awarding Defendant Earl Hamblin costs of right in the amount of \$326.00 and \$8,354.00 in attorney's fees; and this Court having entered its Order on May 11, 2005 awarding Defendant Earl Hamblin an additional \$720.00 in attorney's fees;

NOW, THEREFORE, the Court enters judgment in favor of Defendant Earl Hamblin and against Plaintiff John Bach, for the sum of \$9,400.00; together with interest thereon at the judgment rate of 7.125% per annum or \$1.83 per day until paid; and the Court orders that execution may issue on the foregoing instrument.

SO ORDERED this 29 day of June, 2005.


Richard T. St. Clair
District Judge

CERTIFICATE OF ENTRY

I, the undersigned and clerk of the above-entitled court, hereby certify that pursuant to Idaho Rule of Civil Procedure 77(d), a copy of the foregoing was either duly posted by first class mail to Plaintiff's and Defendants' counsel at the names and addresses stated below or placed in the Courthouse box belonging to Plaintiff's and Defendants' counsel.

DATED this 2nd day of June, 2005.

NOLAN G. BOYLE
Clerk of the Court

By SMD
Deputy Clerk

David H. Shipman, Esq.
HOPKINS RODEN CROCKETT
HANSEN & HOOPES, PLLC
P.O. Box 51219
Idaho Falls, ID 83405-1219

Jason D. Scott, Esq.
HAWLEY TROXELL ENNIS & HAWLEY, LLP
P.O. Box 1617
Boise, ID 83701-1617

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

Jared M. Harris, Esq.
BAKER & HARRIS
P.O. Box 577
Blackfoot, ID 83221

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

Anne Broughton
1054 Rammell Mountain Rd.
Tetonia, ID 83452

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

Gregory W. Moeller, Esq.
RIGBY THATCHER ANDRUS
RIGBY & MOELLER, CHTD.
P.O. Box 250
Rexburg, ID 83440-0250

Galen Woelk, Esq.
ARON & HENNIG, LLP
1472 N. 5th St., Ste. 201
Laramie, WY 82072

JUN 13 2005

TIME: 9:35 AM PM
TETON CO. DISTRICT COURT

SEVENTH JUDICIAL DISTRICT COURT, IDAHO, TETON COUNTY

JOHN N. BACH,)
)
 Plaintiff-Respondent,)
)
 v.)
)
 KATHERINE D. MILLER, aka)
 KATHERINE M. MILLER, dba R.E.M.)
 et al,)
)
 Defendant-Appellant,)
)
 and)
 ALVA A. HARRIS, et al.,)
 _____)
 JOHN N. BACH,)
)
 Plaintiff-Respondent,)
)
 v.)
)
 KATHERINE D. MILLER, aka)
 KATHERINE M. MILLER, dba)
 R.E.M., et al.,)
)
 Defendants,)
)
 and)
 ALVA A. HARRIS, et al.,)
 _____)
 Defendants-Appellants.)
 _____)
 JOHN N. BACH,)
)
 Plaintiff-Appellant,)
)
 v.)
)
 KATHERINE D. MILLER, aka)
 KATHERINE M. MILLER, dba)
 R.E.M., et al,)
)
 Defendants-Respondents,)
)
 and)
 ALVA A. HARRIS, et al;,)
 _____)
 Defendants-Respondents.)

NO: CV 02-208
 (Being Consolidated Appeals
 Before The
 SUPREME COURT OF THE STATE
 OF IDAHO
 Nos: 31658/31716/31717.)

 JOHN N. BACH's AMENDED

 NOTICE OF APPEAL, Per

 THE SUPREME COURT OF THE

 STATE OF IDAHO'S ORDER

 DENYING MOTION TO DISMISS

 APPEAL of May 23, 2005.

TO: THE ABOVE NAMED RESPONDENTS AND APPELLANTS IN THESE CONSOLI-
 DIATED APPEALS, AND TO THE CLERK OF THE ABOVE ENTITLED COURT.

NOTICE IS HEREBY GIVEN THAT, JOHN N. BACH, per the ORDER
 DENYING MOTION TO DISMISS APPEAL of May 23, 2005 from the SUPREME
 COURT OF THE STATE OF IDAHO, DOES HEREBY MAKE HIS AMENDED NOTICE
 JNB's AMENDED NOTICE OF APPEAL P. 1.

OF APPEAL, and he does refer to and incorporate his NOTICE OF APPEAL & CROSS APPEAL filed March 25, 2005 and by such reference adopts and reaffirms all statements therein contained as though set forth in full herein, JOHN N. BACH does further Appeal from all ORDERS, DECISIONS AND JUDGMENTS entered after his said NOTICE of Appeal, the following:

- A. Appeals from this Court's THIRTY SIX ORDER on PENDING MOTIONS, filed in chambers, March 17, 2005, not served by mail upon plaintiff until March 24, 2005;
- B. Appeals from all rulings and decisions by Judge St. Clair, during the "evidentiary hearing" held at the Bonneville County Courthouse, April 29, 2005 at 9:30 a.m.;
- C. Appeals from this Court's THIRTY SEVENTH ORDER ON PENDING MOTIONS filed May 11, 2005;
- D. Appeals from that AMENDED JUDGMENT of May 23, 2005;
- E. Appeals from that AMENDED JUDGMENT of June 2, 2005;
- F. And as stated in JOHN N. BACH's NOTICE OF APPEAL, March 25, 2005, Pages 2 through 8, Appeals from, not just each of the appealed JUDGMENTS, FINDINGS OF ACT AND CONCLUSIONS, of LAWS, the ongoing adverse ORDERS of the court to JOHN N. BACH's CLAIMS, MOTIONS and even inadequate equitable/injunctive and monetary award of damages, etc., in the individual, and default JUDGMENTS of February 23, 2004, February 27, 2004, June 24, 2004 and September 21, 2004, etc., as all reaffirmed in the Court's FINAL JUDGMENT and ORDER of February 11, 2005, but also any and all orders, rulings and/or decisions prior to said Judgments and even thereafter through that Amended Judgment of June 2, 2005, including adverse rulings and orders during any trials held or evidentiary hearings held, adverse to JOHN N. BACH.

JOHN N. BACH has filed before the Idaho Supreme Court, in these consolidated appeals, on June 6, 2005 a VERIFIED APPLICATION, MOTION AND PETITION for (1) EX PARTE TEMPORARY STAY ORDER OF EXECUTION, etc., and (2) For a MORE PERMANENT STAY ORDER staying all ORDERS and said [AMENDED] JUDGMENTS ' EXECUTION against JOHN N. BACH. Said VERIFIED APPLICATION, MOTION and PETITION by such reference incorporated herein, further identifies the appealed from ORDERS, JUDGMENTS and rulings, etc., adverse to JOHN N. BACH and does delineate further the issues on appeal herein.

Knowing the contentious efforts and motions by the appellants, respondents and cross appellants in this consolidated appeal to seek to have JOHN N. BACH's NOTICE OF APPEAL and even this AMENDED NOTICE OF APPEAL dismissed, etc., such parties and their counsel are cited to Duerr v. Nicholson (Fed. Cir., March 11, 2005) 400 F.3d 1052, 1375-1380 re how far notices of appeal are to be liberally construed, FRAP, Rule 3. Federal laws and case decisions are the supreme law of Idaho per its Constitution Article I, section 3.

JOHN N. BACH in reading and understanding said May 23, 2005 ORDER DENYING MOTION TO DISMISS APPEAL, particularly the second full paragraph requiring him to "file an Amended Notice of Appeal . .specifying by title and date the items to be included in the Clerk's Record and Reporter's Transcript within twenty-one (21) days of the date of this Order" [with] Respondents shall have fourteen (14) days thereafter to request any additional items to included in the Clerk's Record and Reporter's Transcript" limits this amended notice to solely specifying said items to be included in said Clerk's Record and Reporter's Transcript.

However, among the issues this Respondent and Appellant intends to assert on appeal, include but are not limited to:

1. Did the Court err in refusing a complete permanent injunction after the Aug. 13 and 15, 2002 hearings?
2. Did the Court err in its rulings and various ORDERS, in granting various defendants motions:
 - a) To Dismiss?
 - b) For Partial Summary Judgments of Various Counts?
 - c) In the time, manner and provisions of holding or denying/refusing to hold pre-trial conferences as required by IRCP, Rule 16, et seq?
 - c) For Attorneys Fees and Costs, etc?
 - d) Mo sever claims against Dfts Woelk, Runyan & their firm?
3. Did the Court err, or was it without jurisdiction or did it wilfully and prejudicially abuse its discretion in denying, in part or whole, Plaintiff's motions and claims per: the FIRST AMENDED COMPLAINT, when:
 - a) Court denied to disqualify Galen Woelk, and his law firm from representing Katherine Miller, or any defendant?
 - b) Court denied Plaintiff's motions for sanctions against various defendants who thwarted, evade and avoided required discovery requests compliance?
 - c) Court denied Plaintiff's motion for summary judgment against both Katherine Miller and all other defendants, who filed non-admissible contradicting affidavits, etc., as required by IRCP, Rule 56, et seq?
 - d) Court made and gave the inaccurate and prejudicially erroneous jury instructions to the jury in the jury trial of June 10 - 19, 2003?
 - e) Court refused to hear and rule upon Plaintiff's written motion for directed verdict on all his counts?
 - f) Court made and present inaccurate and incomplete Special Verdict to the jury?
 - g) Court rendered FINDINGS OF FACT & CONCLUSIONS OF LAW, purportedly filed June "31", 2003, with pages missing, therefrom, especially page 12, which seemingly contained, but has never been produced nor known to exist, complete COUNCLUSIONS OF LAW, etc.?
 - h) Court denied plaintiff's motion to disqualify/recuse Judge St. Clair for Cause?
 - i) Court denied full, requested and required relief, injunctive and adequate damages/recovery to plaintiff in its:

- (A) JUDGMENT filed Oct 23, 2003?
- (B) ADDITIONAL FINDINGS OF FACT AND CONCLUSIONS OF LAW, filed Dec. 23, 2004?
- (C) AMENDED DEFAULT JUDGMENT AGAINST WAYNE DAWS, of Feb. 23, 2004?
- (D) DEFAULT JUDGMENT AGAINST ALVA A. HARRIS, SCONA, INC., BOB FITZGERALD, OLE OLESON and BLAKE LYLE OF Feb. 27, 2004?
- (E) TWENTY-FIFTH ORDER of Mar. 16, 2004?
- (F) granting issuance of writ of assistance of April 1, 2004?
- (G) TWENTY SIXTH ORDER of April 12, 2004?
- (H) TWENTY SEVENTH ORDER of April 21, 2004?
- (I) TWENTY EIGHTH ORDR of May 6, 2004?
- (J) TWENTY NINE ORDER of June 6, 2004?
- (K) JUDGMENT AGAINST DEFTS BRET & DEENA R. HILL, of June 24, 2004?
- (L) THIRTIETH ORDRR of July 14, 2004?
- (M) THIRTY FIRST ORDER of Aug. 18, 2004?
- (N) THIRTY SECOND ORDER of Sept. 21, 2004?
- (O) THIRTY THIRD ORDER of Nov. 30, 2004?
- (P) THIRTY FOURTH ORDER of Dec. 10, 2004?
- (Q) ORDER and actions, all without any constitutional allowance of procedural and substantive due process in filings recieved and other actions, i.e. calling off jury panels and eliminating plaintiff's remaining claims, etc., on Feb. 7, 2005?
- (R) THIRTY FIFTH ORDER of Feb 11, 2005?
- (S) BOND CONVERTED, of Feb 15, 2005?
- (T) JUDGMENT dated Feb 11, 2004/filed Feb. 17, 2005?
- (U) JUDGMENT of Feb. 24, 2005?
- (V) THIRTY SIXTH ORDER of March 17, 2005?
- (W) THIRTY SEVENTH ORDER of May 11, 2005?
- (X) AMENDED JUDGMENT OF May 23, 2005?
- (Y) AMENDED JUDGMENT of June 2, 2005?

ITEMS TO BE INCLUDED IN THE CLERK'S RECORD ON APPEAL

In the Notices of Appeal filed by KATHERINE M. MILLER, of Feb. 22, 2005 Pages 4 through 5, she lists 27 items to comprise the Limited Clerk's Record in her Appeal; and in the Notice of Appeal filed by appellants Alva A. Harris, Scona, Inc., Bob Fitzgerald, Blake Lyle, Ole Oleson and Jack Lee Mclean, on the third unnumbered page thereof, they list 21 items to comprise the Limited Clerk's Record in their appeal. JOHN N. BACH intends to refer and use documents so designated and to comprise other appellants' Limited record on appeal, without requesting duplication and incurring necessary expenses and costs. Therefore, although JOHN N. BACH does request a complete Rule 28(b) Standard Record, plus jury instructions he submitted, instructions given, all exhibits offered and received at any trials, evidentiary hearing or other hearings, in listing those documents and items to be included in the Clerk's Record on Appeal as required by the Idaho Supreme Court's ORDER DENYING MOTION TO DISMISS APPEAL, May 23, 2005, he does not want any duplication of what has been or will be included in the other appellants and/or respondents Clerk's Record on Appeal.

JOHN N. BACH designates the following documents/items to comprise the STANDARD and EXPANDED CLERK'S RECORD ON APPEAL:

1. Verified Complaint filed July 23, 2002
2. Affidavit filed July 23, 2002 with ORDER of July 25, 2002
3. Notice of Special Appearance by Katherine Miller filed Aug. 7, 2002
4. Notice of Appearance filed by other defendants on Aug. 7, 2002.
5. Return of Service filed Aug. 8, 2002.
6. Minutes of Aug. 13, 2002 hearing

7. All Exhibits offered or admitted during Aug 13, 2002, hearing re Preliminary Injunction.
8. Minutes of Aug. 15, 2002 hearing re preliminary injunction.
9. All Exhibits offered or admitted during Aug 15, 2002, hearing re preliminary injunction.
10. ORDER AND PRELIMINARY INJUNCTION of Aug. 16, 2002
11. Substitution of Counsel for Katherine Miller filed Aug. 16, 2002
12. Notice of Motions and Plt's Initial Memo Brief, Support of his 3 motions filed Sept. 3, 2002
13. ORDER ON PENDING MOTIONS filed Sept. 4, 2002
14. Plaintiff's Notice of Motions filed Sept. 13, 2002
15. [Verified] FIRST AMENDED COMPLAINT, filed Sept 27, 2002.
16. Minutes/hearing results for Motions held Oct. 9, 2002
17. Order Sealing All Records of In Camera Session of Oct. 9, 2002
18. THIRD ORDER PENDING MOTIONS filed Oct. 15, 2002
19. Plaintiff's OBJECTIONS to Miller's Motion filed Nov. 11, 2002.
20. Plaintiff's Closing Brief re Contempt Finding/Order filed Dec. 2, 2002
21. FOURTH ORDER ON PENDING MOTIONS filed Dec. 3, 2002
22. All Minutes/hearing results & Exhibits on Nov. 26, 2002. 2 p.m., along with all Notices of Hearing Scheduled re PTC for 5/30/03 @ 3 p.m., Jury Trial on Jun. 10, 03 @ 10 a.m. and Notice of All Current Motions to be on Dec. 9, 2002 at 9 a.m., Bonneville Co.
23. FIFTH ORDER ON PENDING MOTIONS filed Jan 10, 2003
24. Plt's Ex Pare Motion with Supporting Affidavit, filed Jan. 23, 2003
25. Plt's Memo Brief #1, Re Objections & Opposition to Dfts' Motion to Dismiss filed Jan. 28, 2002
26. SIXTH ORDER ON PENDING MOTIONS filed Jan. 28, 2003
27. SEVENTH ORDER ON PENDING MOTIONS filed Jan 29, 2003.
28. Plt's Initial Memo Brief re Objectns/Opp filed Feb. 5, 2003.

29. ANSWER by Anntoy Broughton filed Feb. 6, 2002
30. Plt's 2 Mem briefs re Objns & Opp to Dfts' in Default Motions to Set aside Defaults filed Feb. 11. 2003.
31. EIGHTH ORDER ON PENDING MOTIONS filed Mar 4, 2003
32. NINTH ORDER ON PENDING MOTIONS filed Mar. 7, 2003
33. ANSWER, COUNTERCLAIM and JURY DEMAND of Dft Katherine Miller, filed Mar. 17, 2003.
34. ANSWER & DEMAND For Jury Trial filed Mar. 19, 2003.
35. Default (Entered pre instruction of Judge St. Clair to strike Targhee Powder Emporium) with copy of Default change mailed to Bach, filed on Mar. 19, 2003.
36. Plt's further Memo Brief in Oppos to D's Mtn filed Mar. 26, 2003
37. Aff. of Plt re Clerk's Irregularities/Actions Re Entries of Default & Docs Filings, filed Mar. 28, 2003.
38. All Plts' Ntces of Mtions filed Mar. 28, 2003
39. Objn to Plt's Ntc of Hearing & Alternative Mtn for Continuance filed April 1, 2003
40. Ntc of Appearances: Bret & Deena Hill filed Apr. 1, 2003.
41. Mtn to Set Aside Hills Defaults with Aff. of Jared Harris filed April 2, 2003
42. TENTH ORDER ON PENDING MOTIONS and ELEVENTH ORDER ON PENDING MOTIONS filed April 2, 2003.
42. Ntc of Appearance for Defts in Default DONNA DAWSON & WAYNE DAWSON, filed April 4, 2003.
43. All of Plts' Opp. & Objns (3 separee briefs/docs) filed April 4, 2003.
44. Plt's and Counterclaimant's Answer & Affirm. Defenses etc., to Katherine Miller, filed April 4, 2003.
45. TWELFTH ORDER ON PENDING MOTIONS filed April 8, 2003.
46. Pt's & counterclaim defa Suppl. Mem Brief re Support of His seven Mtms of Mar 28, 2003, filed April 9, 2003.
47. Plt's Ntc of Mtms & Mtms for 9 Seprate Orders filed April 14, 2003
48. Answer to First Amended Complaint, etc by Woelk, filed April 14, 2003.

49. Plt's & 3rd Party Spec'l. Appear, & Ntc of Mtns to Strike or Invalidate Service of Summons, etc., filed April 15, 2003
50. Plt's Ex Parte Mtn for Protective ORDER STAYING D's Discovery Request filed April 15, 2003
51. Supp'l Aff. of John Bach re Support of Ntc'd Mtns to be heard May 2, 2003 @ 9:30 a.m., filed April 17, 2003.
52. Plt's Ntc of Mtns & Mtns for S/J with his Affidavit in Support and Plt's Memo Brief, etc., all filed April 18, 2003.
(NOTE: WHATEVER DOCUMENTS PLAINTIFF FILED ON THIS DATE RE HIS MTNS FOR SUMMARY JUDGMENT AGAINST ALL DEFENDANTS ARE TO BE INCLUDED WITHOUT EXCEPTION)
53. Plt's Opp to Dfts Runyan/Woelk's Mtn to Dismiss and Plt's Ntce of Mtn, filed April 22, 2003.
54. Aff. of John Bach re Objns/Refutation-Opp to Woelks-runyans Mtn for S/J, filed April 28, 2003
55. Plt's Objns & Opp Memo to Dft Woelks, etc. Mtn, filed April 29, 2003
56. Plt's, C/Claimant & 3rd Party Dft JOHN BACH's Closing Memo re Supprt of his Mtn #6, filed May 1, 2003.
57. Minute entry along with Plt's Ntc of Mtns, etc., and Plt's Memo Brief Objns/Opp to Woelk's S/J, filed May 5, 2003
58. Dft Miller's Objection to Bach's Mtn for Summary Judgment filed May 6, 2003
59. THIRTEEN ORDER ON PENDING MOTIONS filed May 6, 2003
60. Aff. of John N. Bach re Entry of Default vs Earl Amblin, along with Entry of Default against Earl Hamblin, etc., filed May 13, 2003.
61. Plt's JOHN BACH Closing Brief re Support of His Mtn for Summ. Judgment against all Dfts, filed May 13, 2003
62. Plt's John N. Bach's Memo re Objn/Opp to Dft Miller's Mtn to cont. trial date, etc., filed May 13, 2003.
63. Plt's & C/Claim Dft's John Bach's Memo re Objns/Opp to Miller's Mtn for Rule 11 Sanctns, filed May 13, 2003.
64. Mtn for Entry of Default v. Vasa N. Bach Family Trust, & Targhee Powder Emporium, filed May 16, 2003.
65. Plt's Ntc of Ex Parte Mtn for Immed/Issuance of Writ of Poss'n assistance &/or seizure of Plt's Vehicles & Trailors Still in Dfts' Possn, esp in poss'n of Blake Lyle, filed May 16, 2003.
66. Plt's Mem of Objns & Opp to D's Represented by Alva Harris

to Set Aside Default & For Sanct'ns of Precluding any Further Mtns etc., filed May 19, 2003.

67. Plt's Mem re Response to Woelk's Objn to P's Closing Brief in Support of his S.J Mtn against all Dfts, filed May 20, 2005.
68. ~~All minutes/hearing results of all S/J mtns held May 20, 2003, with ORDER filed May 22, 2003.~~
69. Mt'n to Disqualify Bach as Pro-se Counsel, filed May 22, 2003.
70. All of the following: (a) Plt's Pre Trial Statements & Preliminary Trial Briefs, Plt's Witness & Exhibit List, etc. all filed May 28, 2005
71. Plt's & C/C Dft John Bach's Aff. re Entry of Default against Bret & Deena Hill and his Ntc of Applicat for dfault Judgment Hearing vs all Dfts who Defaults Have been entered. filed May 30, 2003., along with Entry of Default vs Bret Hill and Deena Hill filed May 30, 2003.
72. Plt's & C.C Dft John Bach's Trial Brief No. Two (2) re Miller's Answer & all Counterclaims Barred as Matter of Both Law and Fact, etc. filed May 30, 2003.
73. Plt's & C.C.Dft John Bach's Further Delineator & Designation of Exhibits to be Offered at Trial, filed May 30, 2003.
74. ~~Minutes & Hearing results for Pre-Trial conference held May 30, filed May 30, 2003.~~
75. Plt's JOHN BACH's Trial Brief #3 re Immed. Entry of Judgment Quieting Title to Plaintiff, etc., filed June 2, 2003.
76. Plt's JOHN BACH's Proposed/Submitted Jury Instruction filed Jun. 2, 2003.
77. FIFTEENTH ORDER ON PENDING MOTIONS, filed June 2, 2003; (NOTE: In the Clerk's Printout, pages 8 through 11, obtained by John Bach, Mar. 25, 2004, there is not listed nor identified any "FOURTEENTH ORDER ON PENDING MOTIONS. If it is now contended there was such FOURTEENTH ORDER, Respondent-appellant JOHN N. BACH requests such be included with an affidavit explaining where and when such FOURTEENTH ORDER was filed or kept til now.)
78. FINAL PRE-TRIAL ORDER, filed June 3, 2003.
79. Notification of Death of Party, filed June 4, 2003.
80. Plt's JOHN BACH's OBJNS, Mtn to Strike & Opp to Any Standing or Capacity re Miller, etc of her Objnts to Bach's No 3 Trial brief/Mtn, immed. quieting title, etc., filed Jun 6, 2003.
81. Minutes and Hearing results for each day of Jury Trial for June 10 - 19, 2003 plus additionally :
 - a) All Plaintiff's Exhibits admitted on each day, June 10-19, 2003;
 - b) All Defendant Miller & Broughton's Exhibits admitted, Jun. 10-19, 2003;
 - c) Plt's written mtn for Directed Verdict on all His Counts, filed June 18, 2003;

- d) All Jury instructions given by the court on June 19, 2003;
 - e) All plaintiff's jury instruction denied, rejected or not given, etc., during said trial
 - f) All forms of jury verdict proposed but not given, during said trial;
 - g) All initial or ongoing jury instructions with special verdict forms, which the Court was to give but either revoked, withdrew or decided not to give during said trial;
 - h) The Special Verdict form and actual jury instructions given to the jury for their deliberation during said trial;
 - i) All jury instructions returned along with the Special Verdict from signed, accepted and/or filed with the Court, on June 19, 2003'
 - j) All Plaintiff's Exhibits marked, offered and/or presented but not admitted by the Court during the days of June 10-19-2003;
 - k) All Defendants' Miller's and Broughton's Exhibits marked, offered or not offered, etc., and therefore not admitted into evidence by the Court, during the days of June 10-19, 2003;
 - l) All notes, messages and/or other requests by the jury during the trial of June 10-19, 2003 and especially while they were in deliberations after the case was submitted to them for their decision.
 - m) FINDINGS OF FACT & CONCLUSIONS OF LAW, filed June 31, 2003 (NOTE: This was requested by Miller but the clerk's computer filings show it was(*1)
82. Earl Hamblin's ANSWER to Plt's First Amended Complaint , along with his Second Affidavit and Brief in Support of his Mtn for Relief from Default filed June 25, 2003.
83. Verified Answer to First Amended Complaint filed Jun. 27, 2003.
84. Ntce of Hearing, Mtn to SET Aside Default, etc., with Affidavit of Alva Harris and offered Verified Answer, all filed June 27, 2003.
85. John N. Bach's Ntce of Mtns/Mtns re (1) Order Voiding/Invalidating Special Jury Verdict of June 19, 2003; (2) For Judgment in Complete Favor of Plaintiff & Counterclaim Defendant, filed July 3, 2003.
86. SIXTEENTH ORDER ON PENDING MOTIONS filed July 3, 2003.
87. Plt & C/Claim Dft JOHN N. BACH's Ntce of Mtn, Mtn & Aff. for the Disqualif'n of Judge Richardt T. St. Clair, filed July 9, 2003.
88. Plt's Memo of Objns & Opp to All Dfts' Mtns to Set Aside Entries of Defaults, etc., and Mtn to Strike Any Answers Already filed by Any Defendants in Default , filed July 10, 2003.
89. Miscellaneous Payment Receipt and minutes, if any, Receipt 0020909, Paid by JOHN N. BACH for Dfts Exhibi's G(admitted) filed July 15, 2003.

SPECIAL REQUEST NOTE: Plaintiff filed a SUPPLEMENTAL AFFIDAVIT ON July 16, 2003 in Support of His Mtn for the Disqualification of Judge St. Clair. Although this SUPPLEMENTAL AFFIDAVIT is not listed/mentioned in the Clerk's Dkt Entry Computer Lists as obtained by Plt, Nar, 30, 2005, Judge St. Clair's served copy or chamber copy is to be included in the Clerk's Record.

JNB AMENDED NOTICE OF APPEAL Page 11.

(*1) never filed with the Teton Clerk and moreover, pages were missing from copy served upon plaintiff, which copy was later changed as to purported date supposedly filed, but with Page 12, still missing. Such document is not shown on page 13- 30 of said computer docket entries of Mar. 25, 2005.

90. Minutes and/or Hearing Results on Mtns argued Aug. 15, 2003, filedg 29, s003.
91. SEVENTEENTH ORDER ON PENDING MOTIONS filed Aug. 28, 2003, one day before said Minutes and Hearing results, etc., supra, #90.
92. EIGHTEENTH ORDER ON PENDING MOTIONS, filed Sept. 9, 2003.
93. Minutes and/or Hearing Result for Mtns "held on 09/25/03 01:30 p.m., filed Sept 10, 2003.
94. Mtn for Entry of Partial Judgment as to Dft. Miller, filed Sept 11, 2003.
95. Plt's Objns & Mtns to Strike, etc., filed Sept 30, 2003.
96. Plt's Three (3) separate further Memos, and Memo Briefs re: Election of Remedies in Idaho, Objns/Opp to All Dfts' current mtns to set aside default entries and Memo re Objns/Opp. to Miller's current Mtns, filed Oct. 7, 2003.
97. NINETEENTH ORDER ON PENDING MOTIONS, filed Oct. 10, 2003.
98. JUDGMENT, filed Oct. 23, 2003.
99. Plt's Mtn for Order Certified Partial Judgment, etc., filed Oct. 31, 2003
100. Affidavit of JOHN N. BACH, filed Nov. 6, 2003.
101. Motion for Court View of Property filed Nov. 12, 2003.
102. Disclaimer of Interest filed Nov. 17, 2003.
103. P's Ntc-Mtns&Mtns For Order (1) To Disallow, Deny And/or Strike Miller's Memo of Cost, filed Nov. 18, 2003.
104. Plt's Memo of Objns/Opp to Miler's Mtn for Propa View, filed Nov 18, 2003
105. P's Supp'l Brief No 1, in Support of his mtns filed nov 6, 2003, which Supp'l Brief No. 1, was filed Nov. 20, 2003.
106. Dft Earl Hamblin's Mtn for S/J filed Nov. 26, 2003.
107. Plt's etc JOHN N. BACH Supp'l Brief No 2, etc., filed Nov. 6, 2003.
108. Brief By Earl Hamblin along with his Affid in Support of Mtn for S/J filed Dec. 5, 2003.
109. Minutes of and/or Hearing Results, etc., of evidentiary and other hearing held on Dec 5, 2003 @ 9 a.m, filed on Dec. 5, 2003 or thereafter.
110. Dft Est of Stan Nickell's Mtn for S/J, filed Dec. 8, 2003.
111. Brief in Support of Nickell;s Mtns for S/J filed Dec. 12. 2003, with:
 - a) Affidavit of Patricia Koplw filed Dec. 12, 2003;
 - b) Affidavit of Arlene Nickell filed Dec. 12, 2003.
 - c) Affidavit of John Lttham, filed Dec. 12, 2003.
112. Request for Pre-Trial conference, filed Dec. 15, 2003.
113. Plt & C/Claim Dft Memo Brief in Support of Award & Judgment of \$508,000.00, filed Dece 19, 2003.
114. Plt Memo Brief for Complete Judgment of quieting Title completely in Favor Of Plt on 2d & 4th Counts Against Dft Wayne Dawson & Terminating all Rights of Dawson to All Real Properties in said Counts, filed Dec. 22, 2005

115. ADDITIC. FINDINGS OF FACT and CONCLUSIONS OF LAW, filed Dec 23, 2003.
116. Ntc of Mtns & Mtns re (1) ORDER to Amend/Add to Partial Judgment; (2) Mtn of Nov. 17, 2003; (3) ORDER to Certify for all Purpose of Appeal, Original Partial Judgment and/or as Further Amended, etc., file Dec. 31, 2003.
117. TWENTILETH ORDER ON PENDING MOTIONS filed Jan. 6, 2004.
118. Plt's Ntc of Mtns & Mtns Re Three (3) ORDERS, filed Jan. 7, 2004.
119. Plt's Ntc of Mtn to compell, Ex parte Mtn for Order, and his documents and Memo in Support thereof, filed Jan. 9, 2004.
120. Dft Earl Hamblin's Ntce of Appearance, Pre-Trial Statement and Trial Brief filed Jan. 13, 2004.
121. Plt's Pre-Trial Statment of Objections and Requests per IRCP, Rule 16, filed Jan. 15, 2004.
122. TWENTY FIRST ORDER ON PENDING MOTIONS, filed Jan 16, 2004.
123. Plt's Ntc of Mtn to Amend HIs First Amended Complaint, filed Jan 18, 2004.
124. Plt's Renc of Hearing on his Jan 7, 2004 filed Mtns (3) against Dfts Hills, etc., filed Jan. 28, 2004.
125. Memorandum re: Plt's 3 mtns & Amendment to Judgment of Default, filed Feb 3, 2004.
126. Plt's & C/claim Dfts' Memo re Objns/Opp, filed Feb 3, 2004.
127. Plt's Further Memorandum re Opp to Dfts Mtn re Attny Fees, filed Feb. 3, 2004.
128. Affidavit of JOHN N. BACH Re: Testimony of Damages to be Admitted [awarded him], etc., filed Feb. 3, 2004.
129. Minutes and Hearing results, etc. for Mtns held, Feb 3, 2004, filed Feb. 3, 2004.
130. Three (3) separate affidavits of Jared M. Harris, Deena R. Hills & Bret Hill in Support of Mtn re S/J, filed Feb 3, 2004.
131. Plt's Supplemental Memos filed Feb. 6, 2004.
132. Post Evidentiary Hearing Brief, filed Feb 11, 2004.
133. Plt's Mtn re: (1) Protective Order Staying/Abating All Discovery by Dfts Hills, Until they have complied Full with Plt's No. discover st & Until Plt's Mtns re Hills Default Entries, etc., along with all other documents filed by Plaintiff therewith, all filed Feb. 11, 2004.
134. 22nd SECOND ORDER ON PENDING MOTIONS, filed Feb. 12, 2004
135. Plt's Memo in Supp. of His Jan 20, 2004 mtns, filed Feb. 17, 2004.
136. Plt's Ntc of Mtn & Mtn Re: Order confirming He's Already Plead/Asserted Properly Punitve Damages, filed Feb 19, 2004.
137. Plt's Ntc of Mtns & Mtns re Order (1) To Strike, Vacate or Amend Portions of 22nd Order, filed Feb. 19, 2004
138. Minutes entry and/or minutes of Feb. 23, 2004
139. AMENDED DEFAULT JUDGMENT AGAINST WAYNE DAWSON filed Feb. 23, 2004

- 140. TWENTY THIRD ORDER ON PENDING MOTIONS filed Feb. 23, 2004.
- 141. DEFAULT JUDGMENT AGAINST ALVA HARRIS, SCONS, INC., BOB FITZGERALD, OLE OELSON and BLAKE LYLE, filed Feb 27. 2004.
- 142. TWENTY FOUR ORDER ON PENDING MOTIONS, filed Mar. 3, 2004.
- 143. John N. Bach's Affid Per IRCP, Rule 56(f) To Stay Any Hearing or Action to Consider Granting Dfts Hills' Mtn for S/J Until Plt Has further Mtns for Discvoery Sanctns vs. Dfts Hills heard, filed Mar. 3, 2004.
- 144. John N. Bach's further Memo Brief in Support of His Mtns to Strike , filed Mar. 3, 2004.
- 145. Disclaimer of Interest in Certain Real Prop. filed Mar 8, 2004
- 146. Earl Hamblin's Mtn for Attnys Fees with Affid of David Shipman re Award of Attorneys fees and Memo of Cost filed Mar. 11, 2004.
- 147. Plt' John N. Bach's Further Memo Brief Re; Objns & Opp to Dfts Hills' Mtn for S/J, filed Mar. 11, 2004.
- 148. Plt's Ntc of Mtns & Mtns re (1) Reconsideration of Ct's Previous Order Re his Answering Dfts Hills' Discovery Set, filed Mar. 11, 2004.
- 149. Plt's Ntc of Mtns and Mtns (3) filed Mar. 15, 2004.
- 150. Plt's Addit'l Reply Mem Brief in Opp to Dft Hills' S/J Mtns and In Supprt of Plt's Applicat'n/Mtn to Stay Hearing on Hill's S/J Mtn & to Grant P's Mtns for Issuing Ultimate Sanctions-Entries of Dfault against Dfts Hills, etc., filed Mar. 11, 2004.
- 151. Plt's Memo Brief Re Objns & Opp to Dft Hills' Mtn to Compel, filed Mar. 11, 2004.
- 152. Signature Page of Affidavit of Jana Siepert, filed Mar 11, 2004
- 152. TWENTY FIFTH ORDER ON PENDING MOTIONS, filed Mar. 16, 2004.
- 153. Bach's Reply Brief to Miller's Objections to Bach's Mtns to Strike, Vacate or Amend Portions of Twenty-Second Order, filed Mar. 17, 2004
- 154. Minute Entry and ORDER on Various Motions Heard on Mar 16, 2004, filed Mar. 22, 2004.
- 155. Dft Earl Hamblin's Disclaimer of Interest in Certain Real Property, etc., filed Mar. 23, 2004.
- 156. Mtn in Limine Re Calling Judge St. Clair and Jared Harris as Witnesses, etc., filed Mar. 29, 2004.
- 157. Plt's Mtn to Strike Hamblin;s Memo and Plt's Objns, Opp to all Requests/mtns or Submitted Memo of Costs by Dft Earl Hamblin filed April 1, 2004.
- 158. Bond Post-Cash Receipt 22686, Dated April 1, 2004 for \$32,164.00, filed April 1, 2004.
- 159. Writ of Assistance Issued, filed April 1, 2004
- 160. Plt's Mtn to cont. Trial of April 20, 2004 For At Least

- 4 Months Due to Plt's Health complications, filed Apr. 9, 2004
161. Addit'l Mtn Re: Order Vacating All Filing Mtns' Deadlines Until After Plaintiff's Mtn for Trial Continuance, re Health Complications is Heard, filed April 9, 2004.
 162. Ntc of Mtns & Mtns by Plt JOHN N. BACH Re (4) ORDERS, 1st Order for Quashing, Striking or Vacating Writ of Assistance of April 1, 2004, 35c., filed April 9, 2004.
 163. ORDER STAYING ALL EXECUTION EFFORTS, ETC., TO REMOVE PLAINTIFF AND/OR HIS ANIMALS and PERSONAL PROPERTIES, etc for Those 87 acres /MP 138, filed April 13, 2004.
 164. Miller's Ex Parte Mtn for Lt'g Orders during Stay, filed April 13, 2004.
 165. ORDER AMENDING STAY ENTERED April 13, 2004, filed April 14, 2004.
 166. Minutes and/or Minute Entry of April 19, 2004.
 167. Pre-Trial ORDER, filed April 19, 2004.
 168. Plt's Ntc of Mtn & Mtns Re 3 Orders, re (1) Order Striking Entire Answer of Hills, etc., filed April 20, 2004.
 169. Plt's Further Affidavit in support of His Current 3 Mtns re (1) To Strike Entire Answer of Hills, etc., filed April 20, 2004.
 170. TWENTY SIXTH ORDER ON PENDING MOTIONS filed April 21, 2004.
 171. TWENTY SEVENTH ORDER ON PENDING MOTIONS, filed April 21, 2004.
 172. Plt's Reply Memo Brief to Miller's Objns to Bach's Motions, filed May 3, 2004.
 173. TWENTY EIGHT ORDER ON PENDING MOTIONS filed May 6, 2004.
 174. Minutes Entry and/or Minutes, etc., filed May 9, 2004.
 175. Memorandum of Costs and Fees, filed May 21, 2004.
 176. Dft Woelks' Runyans Mtns for S/J on 8th Count, with Affidavits of Jason Scott and Brief in Support filed May 21, 2004.
 177. Plt's Ex Parte Mtn to Modify and Extend Time of Addit'l 10 days to Remove his Personal Prop, etc., filed May 24, 2004.
 178. Plt's Bach's Reply Memo to Miller's Objns, etc., and Mtn to Strike Woelk's Aff. of Nonadmissible, Hysterical statements of Nonfacts & Solely Contrived Mfgd Decpts, filed April 25, 2004.
 179. Plt's Supp'l Memo Re Ex Parte Mtn for Extension of Addit'l 10 Days through June 13, 2004 to Remove his Personal Properties, filed June 3, 2004.
 180. TWENTY NINE ORDER ON PENDING MOTIONS, filed June 6, 2004.
 181. Plt's Affidavit & Memo Brief Opposing Woelk's S.J Mtn filed June 11, 2004.
 182. Plt's Ntc of Mtns for Order Reconsidering 28th ORDER and Reconsidering for Entering New Orders Granting Plt's 3 Mtns for Hearing on Default Judgment, filed April 21, 2004
 183. JUDGMENT AGAINST DEFPTS BRET & DEENA HILL, filed June 24, 2004

184. Plt's Further Memo Brief In Support of His Mtns, filed July 12, 2004
185. Ntce of Mtn & Mtn for Reconsideration of Denial of His Mtn Argued July 13, 2004 for Continuance of Trial, filed July 14, 2004.
186. THIRTIETH ORDER ON PENDING MOTIONS filed July 14, 2004.
187. Minute Entry and Minutes of July 21, 2004
188. Affidavit in Opposition to Woelk's S.J. Mtn, filed Aug 16, 2004
189. THIRTY FIRST ORDER ON PENDIG MOTIONS filed Aug. 18, 2004.
190. Ntce of Mtns for Entry of Default Judgment, filed Aug. 23, 2004.
191. Plt's MEM re Ct's Inquiry of Effect of Discharge in Bankruptcy of Debtors Property Not utilized by Trustee for Creditors, filed Sept 3, 2004.
192. Memo in Support of Judgment of Default against Jack Lee McLean, filed Sept. 10, 2004
193. Plt's Mtn to Reconsider and to Modify Damage Award Contained in Default Judgment Entered February 27, 2004.
194. Minutes, hearing result along with all Exhibits/Affidavits, etc. admitted, received and/or judicially noticed during hearing held on Sept 10, 2004 @ 2 p.m., filed Sept 10, 2004.
195. THIRTY SECOND ORDER ON PENDING MOTIONS filed Sept 21, 2004.
196. DEFAULT JUDGMENT AGAINST LYNN McLEAN, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JACK LEE McLEAN, filed Sept. 21, 2004.
197. Affidavits filed Sept. 23, 2004
198. Plt's Ntc of Mtn Re: Reconsideration of Default Judgment Terms & Entry of different Default Judgment against Jack McLean and his Estate Especially Quieting Title and Ownership of McLean's (Interest if any] to Pltf in Peacock and Drawknife Properties Plus Full Permanent Injunction, etc., filed Oct. 5, 2004.
199. Plt's Nt of Mtns and Mtns re [Four in number] 1) Hearing on all Plt's Mtns filed since Sept 27, 2004, etc., and 4) for Order Granting Ptl Leave to Amend and Add Claims against Dfts' Woelk, Runyan & their law firm, filed Oct. 19, 2004.
200. Minutes, hearing entries and/or results with all exhibits offered/ admitted, at Nov, 4, 2004 hearing at 9:15 a.m. before Judge St. Clair. (NOTE. Against there are no Clk' entries of this Nov. 4, 2004 hearing despite it taking place.)
201. Plt's John N. Bach's Submission of Documentary Evidence in Further Support of his Mtns (1) & (2), filed Oct. 5, 2004 & argued Nov 4, 2004 before Judge St. Clair, filed Nov. 5, 2004.
202. Minutes entry and/or minutes, etc., filed Nov. 19, 2004.
203. Affidavit of Jason D. Scott in Support of S/J Mtn re Res Judicata, filed Nov. 16, 2004.
204. THIRTY-THIRD ORDER ON PENDING MOTIONS filed Nov. 30, 2004.
205. Plt's John n. Bach's Objns & Opp Brief to Woelk's his Law Firm's Mtn for S/J re Res Judica & Plt's Mtn for Sanctions filed Dec. 8, 2004.

206. THIRTY FOURTH ORDER ON PENDING MOTIONS, filed Dec. 10, 2004.
207. Plt's Further Affidavit re Issuance of Proposed Permanent Injunction, filed Jan 12, 2005.
208. Mtn to Amend Answer and [Proposed] Amended Answer and Demand for jury Trial by Dft Woelk, his law firm, filed Jan 13, 2005.
209. Supp'l Affidavit No. 1, to Plt's Further Affidavit Re Issuance of Permanent Inunction, etc., filed Jan 13, 2004.
210. Plt's John N. Bach's Mtn in Limine filed Jan. 27, 2005.
211. Plt's John Bach's Inital Proposed Jury Instructions On Issues or Claims [some 4 plus isse, etc] against Dft Woelk, runyan & their law firm, filed Jan. 27, 2005.
212. Addendum to Stipulated Pretrial Order, filed Jan 27, 2005.
213. The following documents, along with all minutes, minute entries, written or faxed or e-mailed instructions directions etc., from Judge St. Clair and/or his clerk of Feb. 7, 2004, including but not limited to the following filed Feb 7, 2005:
- a) Affidavit of Galen Woelk
 - b) Emergency Mtn for Substitution of Parties and To Shorten Time for Hearing
 - c) Brief in Support of Motion
 - d) ORDER
 - e) Stipulation and ORDER for Dismissal With Prejudice
 - f) All minutes or minute entires re Clerk calling off two (2) jury panels to appear new morning for jury trial
 - g) Any notices in writing, by telephone, fax or e-mail of and prior to any of the documents and itmes set forth in A) through F), supra under this Number 213.
214. THIRTY FIFTH ORDER ON PENDING MOTIONS filed Feb. 11, 2005
215. FINAL JUDGMENT filed Feb. 11, 2005.
216. Bond Converted-other party (Transaction number 15633 dated 2/15/05 amount \$2,500.00, filed Feb. 15, 2005.
217. JUDGMENT entered/filed of Feb. 17. 2005 along with CIVIL DISPOSTIONT entred for: Hill, Bret Basil, Defendant; Hill, Deena, Defendant; Bach, John Nicholas, Plaintiff, order date, 2/17/2005.

POST FINAL JUDGMENT MOTIONS, FILINGS, ORDERS AND AMENDED JUDGMENTS

218. JUDGMENT filed FEB. 24, 2005.
219. Ntc of Mtns & Mtns by Plt JOHN N. BACH RE POST [Thirty-] FIFTH ORDER and FINAL JUDGMENT, ALONG WITH ORDER, of Feb. 8, 2005 and Feb. 15, 2005 for ORDERS:
- (1) Vacating, Setting Aside, Etc., Said Orders and FINAL JUDGMENT;
 - (2) Entering New and Differenct Order & final Judgment in Favor of Plaintiff;
 - (3) GRANTING OF NEW TRIAL AS TO ALL PLAINTIFF'S COUNTS AGAINST KATHERINE MILLER and GALEN WOELK;

- (4) FOR ORDER AWARDING PLAINTIFF COSTS AND PARALEGAL FEES SOUGHT & MODIFYING PERMANENT INJUNCTION, along with included AFFIDAVIT OF JOHN N. BACH and attached EXHIBITS "I" through "IV", all filed Feb. 25, 2005.
220. Second Affidavit of JOHN BACH in Support of Mtns filed Feb. 25, 2005, this 2nd Affidavit filed Mar. 7, 2005.
221. Plt's Memo Brief in Supports of his Mtns filed Mar. 9, 2005.
222. Minutes and/or minutes entry and documents filed/received during Hearing of March 10, 2005, filed Mar. 14, 2005.
223. THIRTY SIXTH ORDER ON PENDING MOTIONS, filed Mar 17, 2005.
224. Minutes, minute entries, results of hearing and all Exhibits admitted by Court, on April 29, 2005, in evidentiary hearing on the "plaintiff John Bach's objections to attorney fees award to defendants Earl Hamblin and Bret Hill and Deena R. Hill by the [void] Thirty Sixth ORDER, as such documents requested were filed on April 29, 2005 and through the THIRTY SEVENTH ORDER ON PENDING MOITONS, the latter being dated May 11, 2005 but not then served upon Plaintiff-Respondent-Appellant.
225. Plt & C/Claim Def JOHN N. BACH'S POST JUDGMENT EVIDENTIARY HEARING BRIEF RE: Lack of Jurisdiction, Basis, Reasons & Lack of Any Attny Fees, resonable or Otherwise to be Awarded/ Allowed Dfts Hills Nor Hamblin, Per 12-121, dated April 28, 2005 offered for filing during April 29, 2005 Hearing but filed May 6, 2005.
- 226, Plt John N. Bach's CLOSING BRIEF In Objections & Opposition to Defts Hills' Mtn/Application for Attny Fees (IRCP, Rule 54(e)(2), I.C. 12-121 and Also to: Defendant Hamblin's Mtn Application for Attny fees, (IRCP, Rule 54(e)(2), I.C. 12-121, filed May 6, 2005
- 227 THIRTY SEVENTH ORDER ON PENDING MOTIONS filed May 11, 2005.
228. AMENDED JUDGMENT of May 23, 2005, filed that date May 23, '05.
229. AMENDED JUDGMENT of June 2, 2005, filed June 2, 2005.

Plaintiff-Respondent-Appellant JOHN N. BACH requests that the Clerk provide an estimate of costs for preparation of the Clerk's Record in two categories: One of the costs to prepare those items supra which he had "underlined"; and the second amount of all the items/documents filed that he has requested 1 through 229. Within both statements of costs, the Clerk is to not duplicate the costs of those documents requested by any other appellants. Plaintiff has given the Clerk an initial deposit of \$500.00, as was requested.

REQUESTED HEARINGS, TRIALS AND SESSIONS OF COURT
TO BE INCLUDED IN COURT REPORTER'S TRANSCRIPT ON APPEAL

The following matters are requested to be transcribe:

1. Only the Testimony of Plaintiff JOHN N. BACH, on August 13, 2002, First Day of Hearing re Issuance of Preliminary Injunction.
2. Only the Testimonies off Plaintiff JOHN N. BACH, and witness BLAKE LYLE, latter called by all defendants, Second Day re issuance of Preliminary Injunction.
3. Only the testimony of Plaintiff JOHN N. BACH, on hearing of October 9, 2002.
4. Only the oral arguments of Plaintiff JOHN N. BACH's MOTION FOR SUMMARY JUDGMENT AGAINST ALL DEFENDANTS, and his arguments against Defendant's KATHERINE MILLER'S MOTION FORSUMMARY JUDGMENT, on May 20, 2002
5. The entire hearing held of the Pre-Trial Conference of May 30, 2003.
6. The entire testimonies of only the following witnesses during the jury trial of June 10-19, 2003:
 - a) Plaintiff JOHN N. BACH
 - b) Defendant KATHERINE MILLER
 - c) GENO KNIGHT, witness called by plaintiff
 - d) ALVA A. HARRIS
7. The entire court trial of December 5, 2003.
8. The entire court trial of February 3, 2004.
9. The entire court trial of September 10, 2004.
10. Only Plaintiff's arguments of March 10, 2005.
11. The entire hearing of April 29, 2005. (NOTE: Subject to the Idaho's Supreme Court's Ruling and Order on Plaintiff's Verified Application, Motion & Petition for Ex Parte Stay Order and Permanent Stay Order of Execution of THIRTY SIXTH, THIRTY SEVENTH ORDER and reissued AMENDED JUDGMENTS of May 23, 2005 and June 2, 2005.)

Plaintiff, Respondent and Appellant JOHN N. BACH has filed with the Idaho Supreme Courta Verified REQUEST AND APPLICATION for an ORDER DIRECTING ROSS OVIAT, CSR of Idaho Falls, to give a written statement of moneys or deposit required to prepare the above sessions; plaintiff renews hereby his said application & request.

CERTIFICATION OF SERVICE BY MAIL

I, plaintiff/respondent/appellant JOHN N. BACH hereby certify:

1. I have served a copy of this AMENDED NOTICE OF APPEAL in separate envelopes to both:

- A) ROSS OVIAT, CSR, 605 N. Capital Ave., Idaho Falls, Idaho 83405
- B) Honorable RICHARD T. ST. CLAIR, 605 N. Capital Ave., Idaho Falls, Idaho 83405

2. I have served, further via separate envelopes, copies of this AMENDED NOTICE OF APPEAL upon the parties' attorneys of record and in pro se parties, being:

- C) GALEN WOELK, Counsel for KATHERINE MILLER 1472 N. 5th ST., Suite 201, Laramie, WY 82072.
- D) ALVA A. HARRIS, Counsel for Alva A. Harris, Individually & dba SCONA, Inc., Jack Lee McLean, Ole Oleson, Blake Lyle, individually & dba Grand Towing and Grand Body & Paint, Robert Fitzgerald, individually & dba Cache Ranch Post Office Box 479, Shelley, Idaho 83274
- E) JASON SCOTT & CRAIG L. MEADOWS, Counsel for GALEN WOELK, Individually & dba RUNYAN & WOELK, law firm P.O. Box 1617, Boise, Idaho 83702
- F) JARED HARRIS, Counsel for Wayne Dawson, Bret & Eena Hills P. O. Box 577, Blackfoot, Idaho 83221
- G) DAVID SHIPMAN, Counsel for Earl Hamblin P.O. Box 51219, Idaho Falls, Idaho 83405-1219
- H) GREG W. MOELLER, Counsel for Estate of Stn Nickell P. O. Box 250, Rexburg, Idaho 83440
- I) ANN-TOY BROUGHTON, 1054 Rammel Mtn Road, Tetonia, Idaho 83452, being In Pro Se.

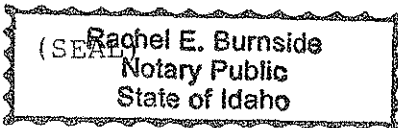
Therefore, service this June 13, 2005 had been made upon all parties as required by I.A.P., Rule 20. DATED: June 13, 2005

John N. Bach
JOHN N. BACH

STATE OF IDAHO)

COUNTY OF TETON) ^{SS}

JOHN N. BACH, was placed under oath, gave the above testimony and statements, and signed this AMENDED NOTICE OF APPEAL in my presence, wherefore IT IS SWORN TO AND SUBSCRIBED this June 13, 2005.



Name: *Rachel E. Burnside*

Address: *Driggs, ID 83422*

Comss'n Expires" *8/25/09*

GALEN WOELK
ARON AND HENNIG LLP
1472 NORTH 5TH ST., SUITE 201
LARAMIE, WY 82072
TELE (307) 742-6645
FAX (307) 742-7766
IDAHO STATE BAR #5842

FILED

JUN 27 2005

TIME: _____
TETON CO. MAGISTRATE COURT

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

JOHN N. BACH,	)	Case No. CV-02-208
	)	Supreme Court of Idaho # 31717
Appellant,)	
	)	REQUEST FOR ADDITIONAL
vs.	)	TRANSCRIPT
)	
KATHERINE M. MILLER, et. al.,)	
)	
Respondent.)	
_____)	

TO: THE ABOVE NAMED APPELLANT, John N. Bach, acting Pro-Se,
the CERTIFIED COURT REPORTER and CLERK OF THE ABOVE ENTITLED
COURT.

NOTICE IS HEREBY GIVEN THAT:

The Respondent in the above-entitled appeal hereby
requests pursuant to Rule 19(a) I.A.R., the inclusion of the
following material in the reporter's transcript in addition
to that required to be included by the I.A.R. and *John N.
Bach's Amended Notice of Appeal.*

1. The entire reporter's standard transcript as defined in Rule 25(a) and (c), I.A.R..
2. This request is made within 14 days of the filing of Bach's *Amended Notice of Appeal*, which appears to request the production of a reduced Standard Transcript.
3. Respondent Miller DOES NOT request that any part of the transcript be produced in compressed format.
4. I certify that a copy of this request was served upon the reporter and Clerk of the District Court and upon all parties required to be served pursuant to Rule 20.

DATED this 23rd day of June, 2005.

ARON AND HENNIG, LLP



GALEN WOELK
ATTORNEY FOR RESPONDENT
KATHERINE MILLER.

CERTIFICATE OF SERVICE

I hereby certify that I am a duly licensed attorney in the State of Idaho, with my office in Laramie, Wyoming; that on the 23rd day of June, 2005, I caused a true and correct copy of the foregoing REQUEST FOR ADDITIONAL TRANSCRIPT to be served upon the following persons at the addresses below their by depositing said document in the United States mail with the correct postage thereon.

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

Jason Scott
Hawley Troxell Ennis & Hawley LLP
Attorneys for Galen Woelk and H. Cody Runyan, both
individually and dba Runyan & Woelk, P.C..
P.O. Box 1617
Boise, ID 83701-1617

Alva Harris, Esq.
Attorney for Alva Harris, individually and dba Scona, Inc.,
Jack Lee McLean, Ole Oleson, Blake Lyle, individually & dba
Grand Towing and Grand Body & Paint, Robert Fitzgerald,
individually & dba Cache Ranch
P.O. Box 479
Shelley, Idaho 83274

Anne Broughton
1054 Rammell Mountain Road
Tetonia, ID 83452

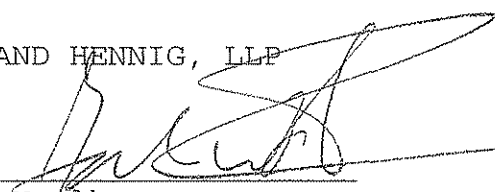
Jared Harris, Esq.
Attorney for Wayne Dawson, Bret Hill and Deena Hill
P.O. Box 577
Blackfoot, ID 83221

David Shipman
Hopkins Roden Crockett, PLLC
Attorneys for Earl Hamblin
P.O. Box 51219
Idaho Falls, ID 83405

Greg W. Moeller
Rigby, Thatcher, Andrus
Attorneys for the Estate of Stan Nickell
Post Office Box 250
25 North Second East
Rexburg, ID 83440-0250

Ross Oviat, CSR
605 North Capital Avenue.
Idaho Falls, ID 83404

ARON AND HENNIG, LLP



Galen Woelk

SEVENTH JUDICIAL DISTRICT COURT, IDAHO, TETON COUNTY

JOHN N. BACH,)
 Plaintiff-Respondent,)
 v.)
 KATHERINE D. MILLER, aka)
 KATHERINE M. MILLER, dba R.E.M.)
 et al,)
 Defendant-Appellant,)
 and ALVA A. HARRIS, et al.,)
 _____)
 JOHN N. BACH,)
 Plaintiff-Respondent,)
 v.)
 KATHERINE D. MILLER, aka)
 KATHERINE M. MILLER, dba)
 R.E.M., et al,)
 Defendants,)
 and)
 ALVA A. HARRIS, et al.,)
 Defendants-Appellants.)
 _____)
 JOHN N. BACH,)
 Plaintiff-Appellant,)
 v.)
 KATHERINE D. MILLER, aka)
 KATHERINE M. MILLER, dba)
 R.E.M., et al.,)
 Defendants-Respondents,)
 and)
 ALVA A. HARRIS, et al.,)
 Defendants-Respondents.)

NO: CV 02 - 208
 (Being Consolidated Appeals
 Before the IDAHO SUPREME
 COURT, Nos: 31658/31716/31717.
 Ref NO: 05S-114

JOHN N. BACH'S SECOND
 AMENDED NOTICE OF APPEAL,
 Per THE SUPREME COURT OF THE
 STATE OF IDAHO'S ORDER of
 August 4, 2005, Not Mailed,
 Purportedly Until August 5,
 2005 and Not Received Until
On Thursday, August 11, 2005

FILED

AUG 18 2005

TIME: 3:32 *EL*
 TETON CO. MAGISTRATE COURT

JOHN N. BACH'S SECOND AMENDED
 NOTICE OF APPEAL IN NO. 31717

TO: THE ABOVE NAMED RESPONDENTS, APPELLANTS, PARTIES OF RECORD
 and THEIR COUNSEL OF RECORD IN THESE CONSOLIDATED APPEALS,
 and TO THE CLERK OF THE ABOVE ENTITLED COURT, NOTICE OF
 APPEAL IS GIVEN BY THIS SECOND AMENDED NOTICE OF APPEAL,
 BY JOHN N. BACH, Per the ORDER OF SUPREME COURT OF THE
 STATE OF ADAHO, August 4, 2005, Not Purportedly Mailed
 Until August 5, 2005, But Not Received Until August 11, 2005,

001685

(See copies of envelope from Idaho Supreme Court Clerk of the Courts, with Pitney Bowes postage meter stamp of " AUG 05 2005" and of JOHN N. BACH's August 15, 2005 letter to Ross Oviatt, CSR, which are by such reference incorporated herein) DOES HEREBY FURTHER AMENDED HIS EARLIER NOTICES OF APPEAL, TO WHICH HE REFERS TO AND INCORPORATES HEREIN HIS ORIGINAL NOTICE OF APPEAL & CROSS APPEAL filed March 25, 2005, and his AMENDED NOTICE OF APPEAL, filed JUNE 13, 2005, and does only modify or alter said earlier NOTICE OF APPEAL and AMENDED NOTICE OF APPEAL, as per the last paragraph of said most recent ORDER of the IDAHO SUPREME COURT, "specifying the documents requested without condition within fourteen (14) days from the date of this Order. ."

Therefore, in compliance with the aforesaid provision of said ORDER, JOHN N. BACH, modifies and amends his pages 6 through 18 of his earlie filed AMENDED NOTICE OF APPEAL as follows:

ITEMS TO BE INCLUDED IN THE CLERK'S RECORD ON APPEAL

JOHN N. BACH designates and requests that the clerk, per Idaho Appellate Rules, Rule 28 prepare the standard clerk's record described in subsection (b)(1) in this civil case and all proceedings thereunder/therewith, which shall include the minimum of the following:

- A. Any order sealing all or any portion of the record.
- B. The original and any amended complaint or petition [latter to include petitions for writs of assistance, execution, etc].
- C. The original and any amended answer or response to the complaint or petition.
- D. The original and any amended counterclaim, third party claims, or cross-claims.
- E. The original and any amended answer or response to a counter-claim.
- F. The jury verdict rendered in a jury trial.
- G. The [all, amended, corrected, etc] findings of fact and conclusions of law and any memoranda decisions entered by the court. [NOTE: The Findings/Conclusions, etc., purportedly filed June 31, 2003 are to be specifically included as first filed, with any and all changes by the court or clerk's, eit-

her made/filed by the Teton County Court Clerk's or the/any Bonneville County Clerks or Judge St. Clair or any judge, whether such changes or amendments or additions were made with or without notice, service or compliance with procedural and substantive notices and considerations of due process and equal protection to/ for JOHN N. BACH, and especially of any such additions, etc., presented in any of the appellants' clerk's record on appeal in thses consolidated appeals.]

- H. All judgments and decrees [whether denominated interlocutory, intermediate, final or post final, etc.].
- I. A list of all exhibits offered, whether or not admitted.
- J. Notices of all Appeal and cross-appeal, especially including all original notices of appeal and cross appeal by JOHN N. BACH, amended notice of appeal and this SECOND AMENDED NOTICE OF APPEAL.
- K. Any request for additional reporter's transcript or clerk's record, especially as also contained in the aforesaid notices of appeal, amended notice of appeal and Second Amended Notice of Appeal by JOHN N. BACH.
- L. Tables of contents and indexes, which shall be placed at the beginning of each volume of the clerk's records on appeal in these consolidated appeals, with indications or statmenets of any last minute found documents which were never originally filed, but which now any clerk or judge suggests of directs such be included, along with the dates, conversations and reasons for such inclusions.

The following documents filed, received or kept in the clerk's files, records and compilations of this action, are, if not included or to be inserted in the standard record on appeal as aforesaid, are to be additionally included:

1. Verified Complaint filed July 23, 2002
2. Affidavit filed July 23, 2002 along with ORDER of July 23, 2002
3. Special Appearance by Katherine Miller, filed Aug. 7, 2002
4. Notices of Appearance by other defendants filed Aug. 7, 2002.
5. Return of Service, filed Aug. 8, 2002.
6. Minutes of Aug. 13, 2002 hearing
7. All Exhibits offered or admitted Aug 13, 2002
8. Minutes of Aug. 15, 2002
9. All Exhibits offered or admitted Aug. 15, 2002.
10. ORDER and PRELIMINARY INJUNCTION, Aug. 16, 2002
11. Substitution of Counsel for Katherine Miller, Aug 16, 2002.
12. [Verified] FIRST AMENDED COMPLAINT, Sept 27, 2002.
13. Minutes/hearing results of Oct. 9, 2002
14. ORDER SEALING ALL RECORDS OF IN CAMERA SESSION, Oct. 9, 2002.
15. THIRD ORDER, Oct. 15, 2002
16. FOURTH ORDER, Dec. 3, 2002.
17. All minutes/hearing results & Exhibits, Nov 26, 2002 @

001687

17. 2pm, with all Notices of Hearing re Scheduled PTC, Jury Trial and Notices etc., of any motions for Dec 9, 2002.
18. FIFTH ORDER, Jan 10, 2003
19. Plt's Memo Brief #1, filed Jan. 28, 2002
20. SIXTH ORDER, Jan. 28, 2003.
21. SEVENTH ORDER, Jan 29, 2002.
22. Plt's 2 Memo Briefs re Objections, Opposition re Mtns to set aside defaults, etc., Feb. 11, 2003.
23. EIGHTH ORDER, Mar. 4, 2003.
24. NINTH ORDER, Mar. 7, 2003.
25. DEFAULT (Entered per instructions from Judge St. Clair to strike Targhee Powder Emporium) with copy of Default change mailed to John Bach, Mar. 19, 2003.
26. Notice of Appearance Bret & Deena Hill, April 1, 2002 along with their Motion to Set Aside Hills' defaults with Jared Harris Affidavit, April 2, 2003.
27. TENTH ORDER, April 2, 2003.
28. Notice of Appearance of Donna Dawson & Wayne Dawson, April 4, 2003
29. Pltf's and Counterdft's ANSWER, Affirm. Defenses, etc. April 4, 2003.
30. ELEVENTH ORDER
31. TWELFTH ORDER, April 8, 2003.
32. ANSWER TO FIRST AMENDED COMPLAINT by Dfts Woelk, etc., April 14, 2003.
33. Plt's Notice of Mtns & Mtns Summ. Judgmt with all his Affidavits and memo briefs, etc., filed April 10, 2003.
34. Dft Miller's Objections to Bach's Mtn S.J., May 6, 2003 along with any affidavit of Miller or Woelk if offered.
35. Plt's CLOSING Brief in Support of His S/J Mtn, May 13, 2003.
36. Plt's Notice of Ex Parte Mtn for Immed Issuance of Writ of Poss'n/assistance, etc., filed May 16, 2003.
37. All minutes/hearing results of all S/J Mtns held May 22, 2003. with ORDER filed May 22, 2003.
38. Ptl's Bach's Trial Brief No Two(2) re Miller's Answer & All Counterclaims Barred as Matter of Law & Facts, May 30, 2003.
39. Minutes and Hearing Results of PreTrial Confer, May 30, 2003
40. Plts' Bach's Trail Brief #3 re Immed. Entry of Judgment Quieting Title to Plt, etc., June 2, 2003.
41. FIFTEENTH ORDER, June 2, 2003.
42. FINAL PRE-TRIAL ORDER, June 3, 2003.
43. Plt's Bach's Objn, Mtn to Strike & Opp to Any Standing/ Capacity re Miller, June 6, 2003.

44. Plt's Mtn for Directed Verdict on all counts, filed Jun 19, 2003.
45. FINDINGS OF FACT & CONCLUSIONS OF LAW, filed June 31, 2003, and any copies thereof, redated, July 1, 2003 or later inserted and offered as filed on either of said two dates, along with any additional pages never originally filed but not included and made to appear retroactively as filed and served upon Bach and all parties, but in fact such never were.
46. John N. Bach's Notice of Mtns, filed July 3, 2003.
47. SIXTEENTH ORDER, July 3, 2003.
48. Plt's Mtn with Aff. for Disqualification of Judge St. Clair, July 9, 2003.
49. Plt's SUPPLEMENTAL AFFIDAVIT to D.Q, Judge St. Clair, July 16, 2003.
50. Minutes/Hearing Results of Aug. 15, 2003.
51. SEVENTHTEENTH ORDER, Aug. 28, 2003.
52. EIGHTHEENTH ORDER, Sept. 9, 2003.
53. NINETEENTH ORDER, Oct. 10, 2003.
54. JUDGEMNT, Oct. 23, 2003.
55. Aff. of John Bach filed Nov. 6, 2003.
56. Disclaimer of Interest filed Nov. 17, 2003.
57. PLT's SUPP'L Biref No 1. filed Nov 20, 2003.
58. Plt's SUPP'L Brief No. 2, filed No Dec. 2, 2003.
59. Request for Pre-Trial conference, filed Dec. 15, 2003.
60. ADDITIONAL FINDINGS OF FACT and CONCLUSIONS OF LAW, filed Dec. 23, 2003.
61. TWENTIETH ORDER, Jan 6, 2004.
62. Plt's Pre-Trial Statment , etc., filed Jan 15, 2004.
63. TWENTY FIRST ORDER, Jan 16, 2004.
64. Plt's Notice of Mtn to Amend His First Amended Complaint, Jan 16, 2004.
65. AFFIDAVIT OF JOHN N. BACH, re Testimony Damages, etc., filed Feb. 3, 2004.
66. Plt's Mtns re (1) Protective Order Staying/Abating All Discovery by Dfts Hills, etc., Feb 11, 2004.
67. TWENTY SECOND ORDER, Feb. 12, 2004.
68. AMENDED DEFAULT JUDGMENT AGAINST DAWSON, Feb. 23, 2004.
69. TWENTY THIRD ORDER, Feb 23, 2004.
70. DEFAULT JUDGMENT AGAINST ALVA HARRIS, SCONA, INC., FITZGERALD, OLESON, BLAKE LYLE, etc., Feb. 27, 2004.
71. TWENTH FOURTH ORDER, Mar. 3, 2004.
72. Discliamer of Interest, Mar 8, 2004.
73. Plt's Bach's Affid per Rule 56(f), etc., Mar. 3, 2004.

74. Plt's Bach's Additional Reply Mem Brief, etc., to Hills S/J, etc., filed Mar. 11, 2004
75. Signature Page of Aff. of Jana Siepert, Mar. 16, 2004.
76. TWENTY FIFTH ORDER, Mar. 16, 2004.
77. Minte Entry and ORDER re Mtns Heard Mar. 16, 2004, filed Mar. 22, 2004.
78. Hamblin's Disclaimer of Interest, Mar. 23, 2004.
79. Bond Post-Cash Receipt 22686, April 1, 2004, for \$32,164.00 along with issued Writ of Assistance, April 1, 2004.
80. PRE-TRIAL ORDER, April 19, 2004.
81. Plt's Further Addidavit, etc., filed April 20, 2004.
82. TWENTH SIXTH ORDER, April 21, 2004.
83. TWENTM SEVENTH ORDER, Arpil 21, 2004.
84. TWENTY EIGHTH ORDER, May 6, 2004.
85. TWENTM NINTH ORDER, June 6, 2004.
86. JUDGMENT AGAINST DFETS BRET & DEEN HILL, filed June 24, 2004.
87. THIRTIETH ORDER, July 14, 2004.
88. AFFIDAVIT of Bach Opp to Woelk's S/J Mtn, filed Aug 16, 2004.
89. THIRTY FIRST ORDER, Aug. 18, 2004.
90. Plt's Memo re Ct's Inquiry of Effect of Discharge in Bankruptgy, etc., filed Sept 3, 2004.
91. Minutes, hearing reeulsts along with all Exhibits/Affidavits admitted, judicially noticed, etc, re hearing Sept 10, 2004, filed Sept 10, 2004.
92. THIRTY SECOND ORDER, Sept 21, 2004.
93. DEFAULT JUDGMENT AGAINST LYNN McLEAN, personal repre of ~~W~~ACK LEE McLEAN filed Sept 21, 2004.
94. Affidavits filed Sept 23, 2004.
95. Plt's Bach's Ntce of Mtns & Mtns re Reconsideration of Default Judgmt, etc., v. McLean filed Oct 5, 2004.
96. Plt's Ntce of Mtns & Mtns (4 in number, filed Oct 19, 2004.
97. Minutes, hearing results, etc along with exhibits offered/ admitted at Nov 4, 2004. hearing.
98. Plts' Bach's Submission of Documentary Evidence in Further Support of his Mtns (1) & (2) filed Oct 5, 2004, argued Nov 4, 2004, filed Nov. 5, 2004.
99. THIRTY THIRD ORDER, Nov. 30, 2004.
100. Plts' Bach's Objtns & Opp Brief to Woelk's SJ re res judicata, etc, filed Dec 8, 2004.
101. THIRTY FOURTH ORDER, filed Dec. 10, 2004.
102. Plt's Further Affid re Issuance of Proposed Permanent In-unction, filed Jan 12, 2005.
103. Suppl Aff No 1, of Plt, filed Jan 13, 2005.

- 104. Addendum to Stipulated Pretrial Order, filed Jan. 27, 2005.
- 105. All filed documents, affidavits, briefs, ORDER, Stipulation and ORDER along with all minutes/minute entries re Woelk's Substitution of Parties, i.e. JOHN N. BACH and Dismissal with Prejudice of Bach's claims against Woelk and his law firm, etc., received, filed or acted upon Feb. 7, 2005.
- 106. THIRTY FIFTH ORDER, filed Feb 11, 2005.
- 107. FINAL JUDGMENT, filed Feb. 11, 2005.
- 108. Bond Converted, (#15633, dated 2/15/05 amount \$2,500.00, filed Feb 15, 2005.
- 109. All Judgment entered/filed Feb 17, 2005 along with any notations/entries of CIVIL DISPOSITION, ORDER, etc. Feb 17, 2005.
- 110. JUDGMENT filed Feb. 24, 2005.
- 111. Notice of Motions & Answers by Plt JOHN N. BACH, etc., (4 in number, filed Feb 22, 2005.
- 112. SECOND AFFIDAVIT OF JOHN N. BACH, in Support of his 4 Motions, filed Mar. 7, 2005.
- 113. Plt's Memo Brief In Support of his Motions, Mar 9, 2005.
- 114. Minutes/ documents, etc., received/filed during Mar 10, 2005 hearing, filed Mar. 14, 2005.
- 115. THIRTY SIXTH ORDER, Mar. 17, 2005.
- 116. Minutes, results of hearing along with all exhibits received, offered, etc., during evidentiary hearing of April 29, 2005.
- 117. Plt's Bach's POST JUDGMENT EVIDENTIARY HEARING BRIEF, filed May 6, 2005.
- 118. Plt's Bach's CLOSING BRIEF In Opposition to Hills application and Dft Hamblin's request re Attorney Fees, filed May 6, 2005.
- 119. THIRTY SEVENTH ORDER, filed May 11, 2005.
- 120. AMENDED JUDGMENT filed May 23, 2005
- 121. AMENDED JUDGMENT filed June 2, 2005.

JOHN N. BACH, as APPELLANT herein requests per Idaho Appellate Rules 31, that the Clerk of the District court, Teton County and Bonneville County, latter where Judge St. Clair, assigned heard many motions, lodge all exhibits, recordings and all other documents, etc., per Idaho Appellate Rules, Rule 31, (a)(1) through (4) and (d) be lodged as soon as possible, with the Idaho Supreme Court before the clerk's or court reporter's transcripts are lodged therewith/therein, as appellant and respondent JOHN N. BACH will be moving shortly to dismiss

the NOTICES OF APPEALS and all the appeals by appellants KATHERINE MILLER, ALVA A. HARRIS, etc., being those appeals numbered 31658 and 31716, as said appellants therein neither have standing, capacity nor jurisdiction to bring said appeals and moreso, there is no jurisdiction nor was there any before the Teton County, Seventh Judicial District Court, to have issued the Judgment of JUDGMENT OF Oct. 23, 2003 in favor of Katherine Miller on the first count of plaintiff's FIRST AMENDED COMPLAINT, as all of her claims via her COUNTERCLAIM AGAINST JOHN N. BACH, were barred by her being discharged as a creditor of JOHN N. BACH in that Bankruptcy proceeding initiated by JOHN N. BACH, August 4, 1997, U.S. Bankruptcy Court, District of Eastern District of California, Case No 97-31942-A-13, as were all defenses or possible counterclaims, had the latter even been timely and not in default asserted by not just Miller, but Alva A. Harris and all appellants he represents in Appeal Number 31716, as the exclusive jurisdiction for any of said appellants to have asserted their claims against JOHN N. BACH was in such bankruptcy proceeding, which none of them neither appeared nor contested. Moreover, there is a further lack of standing, capacity or jurisdiction of said Alva Harris, Scona, Inc., Jack McLean's Estate, etc., and even Miller's appeal notice, etc., due to the mandatory application of FRCP, Rule 13 and IRCP, Rule 13(a) as well as res judicata, judicial estoppel, issue and claim preclusions and statute of limitations, as a matter of law and legal controlling jurisdiction.

As part of said future motions to dismiss by JOHN N. BACH of consolidated appeals number 31658 and 31716, he will be asking the Idaho Supreme Court to facilitate the lodging of said documents and exhibits with it at this early stage, as many of said exhibits stipulated and/or admitted covered a great number of the requested

additional documents to be included in the clerk's record on appeal and will further, negative, if not allow per I.A.R. Rule 30, deletions from both the clerk's and also the court reporter's transcript records on appeal, which will avoid duplication, costs, and time in preparation of said records, so as to facilitate and expedite the resolution of controlling appeal issues of standing, capacities and jurisdiction, as mentioned aforesaid.

Plaintiff has deposited with the Clerk of the Teton County Seventh Judicial District court, an initial deposit of \$500.00 and will upon receiving a complete statement of costs preparation of the foregoing requested clerk's transcript/record on appeal, as such be allowed by the Idaho Supreme Court, he will promptly pay any further necessary and stated sums to said clerk.

Plaintiff-Appellant has been told by Ross Oviatt the Court Reporter, as recently as Monday, August 15, 2005, in response to Appellant's attached letter of said date, Aug. 15, 2005 that he will not give appellant any quote of costs nor receive from appellant any deposit sum or sums until he hears from the Idaho Supreme Court that he should or can do so. Such is likewise the situation with the Teton County Court Clerk's office as to the preparation of the Clerk's record on appeal.

Attached hereto is a copy of page 19, of Appellant's AMENDED NOTICE OF APPEAL which pages specifically sets forth what he requests of Ross Oviatt to prepare as the court reporter's transcript, such request being in compressed format per I.A.R., Rule 26(m). Said attached former page 19, is renumbered page 10 of this SECOND AMENDED NOTICE OF APPEAL AND MADE A COMPLETE PART HEREOF, as though set forth again as to each requested matter to be transcribed.

REQUESTED HEARINGS, TRIALS AND SESSIONS OF COURT
TO BE INCLUDED IN COURT REPORTER'S TRANSCRIPT ON APPEAL

The following matters are requested to be transcribe:

1. Only the Testimony of Plaintiff JOHN N. BACH, on August 13, 2002, First Day of Hearing re Issuance of Preliminary Injunction.
2. Only the Testimonies of Plaintiff JOHN N. BACH, and witness BLAKE LYLE, latter called by all defendants, Second Day re issuance of Preliminary Injunction.
3. Only the testimony of Plaintiff JOHN N. BACH, on hearing of October 9, 2002.
4. Only the oral arguments of Plaintiff JOHN N. BACH's MOTION FOR SUMMARY JUDGMENT AGAINST ALL DEFENDANTS, and his arguments against Defendant's KATHERINE MILLER'S MOTION FOR SUMMARY JUDGMENT, on May 20, 2002
5. The entire hearing held of the Pre-Trial Conference of May 30, 2003.
6. The entire testimonies of only the following witnesses during the jury trial of June 10-19, 2003:
 - a) Plaintiff JOHN N. BACH
 - b) Defendant KATHERINE MILLER
 - c) GENO KNIGHT, witness called by plaintiff
 - d) ALVA A. HARRIS
7. The entire court trial of December 5, 2003.
8. The entire court trial of February 3, 2004.
9. The entire court trial of September 10, 2004.
10. Only Plaintiff's arguments of March 10, 2005.
11. The entire hearing of April 29, 2005. (NOTE: Subject to the Idaho's Supreme Court's Ruling and Order on Plaintiff's Verified Application, Motion & Petition for Ex Parte Stay Order and Permanent Stay Order of Execution of THIRTY SIXTH, THIRTY SEVENTH ORDER and reissued AMENDED JUDGMENTS of May 23, 2005 and June 2, 2005.)

Plaintiff, Respondent and Appellant JOHN N. BACH has filed with the Idaho Supreme Court a Verified REQUEST AND APPLICATION for an ORDER DIRECTING ROSS OVIAT, CSR of Idaho Falls, to give a written statement of moneys or deposit required to prepare the above sessions; plaintiff renews hereby his said application &

request.

Formerly:

JED AMENDED NOTICE OF APPEAL

001694

Page 19.]

CERTIFICATION OF SERVICE BY MAIL

I, plaintiff/respondent/appellant JOHN N. BACH hereby certify:

1. I have served a copy of this AMENDED NOTICE OF APPEAL in separate envelopes to both:

A) ROSS OVIAT, CSR, 605 N. Capital Ave., Idaho Falls, Idaho 83405

B) Honorable RICHARD T. ST. CLAIR, 605 N. Capital Ave., Idaho Falls, Idaho 83405

2. I have served, further via separate envelopes, copies of this AMENDED NOTICE OF APPEAL upon the parties' attorneys of record and in pro se parties, being:

C) GALEN WOELK, Counsel for KATHERINE MILLER 1472 N. 5th ST., Suite 201, Laramie, WY 82072.

D) ALVA A. HARRIS, Counsel for Alva A. Harris, Individually & dba SCONA, Inc., Jack Lee McLean, Ole Oleson, Blake Lyle, individually & dba Grand Towing and Grand Body & Paint, Robert Fitzgerald, individually & dba Cache Ranch Post Office Box 479, Shelley, Idaho 83274

E) JASON SCOTT & CRAIG L. MEADOWS, Counsel for GALEN WOELK, Individually & dba RUNYAN & WOELK, law firm P.O. Box 1617, Boise, Idaho 83702

F) JARED HARRIS, Counsel for Wayne Dawson, Bret & Eena Hills P. O. Box 577, Blackfoot, Idaho 83221

G) DAVID SHIPMAN, Counsel for Earl Hamblin P.O. Box 51219, Idaho Falls, Idaho 83405-1219

H) GREG W. MOELLER, Counsel for Estate of Stn Nickell P. O. Box 250, Rexburg, Idaho 83440

I) ANN-TOY BROUGHTON, 1054 Rammel Mtn Road, Teton, Idaho 83452, being In Pro Se.

Therefore, service on August 18, 2005 has been made upon all parties as required by I.A.P., Rule 20. DATED: August 18, 2005.

John N. Bach
JOHN N. BACH

STATE OF IDAHO)

COUNTY OF TETON) ^{SS}

JOHN N. BACH, was placed under oath, gave the above testimony and statements, and signed this AMENDED NOTICE OF APPEAL in my presence, wherefore IT IS SWORN TO AND SUBSCRIBED this Aug. 18, 2005.

(SEAL)

Rachel E. Burnside
Notary Public
State of Idaho

Name: *Rachel E. Burnside*
Address: *Driggs ID 83422*
Comss'n Expires: *8/25/09*

August 15, 2005

VIA FAX TRANSMISSION TO 529-1300

PLEASE DELIVER TO ROSS OVIATT, ASAP

Mr. Ross Oviatt, CSR
Bonneville County Courthouse
605 N.Capital Avenue
Idaho Falls, Idaho 83405

RE: SECOND AMENDED APPEAL BY JOHN N. BACH
Teton CV 02-208, Idaho Supreme Court
Docket 31717
Ref No. 05S-114

Mr. Oviatt:

This is to confirm the understanding reached this morning during my 9:10 a.m. telephone call to you. I told you that last Thursday, August 11, 2005 I had received an ORDER of August 14, 2005 which permits me to file a second Amended Notice of Appeal, but which ORDER had not been mailed to myself purportedly, according to the postage stamp of the court, until Friday, August 5, 2005. But apparently not sent until Aug. 8-9.

You stated that you had not received a copy of such ORDER and that I had to deal directly with the Idaho Supreme Court regarding it. I am faxing herewith said two (2) page ORDER, as you requested to apprise you directly of its wordings and provisions.

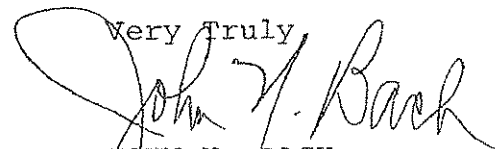
I requested of you, that in my Amended Notice of Appeal, I had requested certain hearings to be transcribed by you as the court reporter's transcript on appeal, and that I wished directly from you a statement of costs to prepare such, so that I could pay such deposit or make further arrangements with you. You indicated you could not do that until you had contacted the Idaho Supreme Court to ascertain whether it would be proper for you to so respond to my requests.

Despite your heavy criminal calendar reporting this date, you agreed to contact the Idaho Supreme Court, as your earliest free moment, which you indicated would be around noon today, and get back to me re the information or directions you received.

I further confirm that I gave you my telephone number (208) 354-8303, to call and to leave a message as to what you ascertained from the Idaho Supreme Court, before the end of this business day.


Thank you for your courtesy and assistance. In expectation of your continued cooperation, I remain

Very Truly



JOHN N. BACH
P.O. Box 101
Driggs, ID 83422
(208) 354-8303

001696

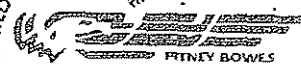
CLERK OF THE COURTS
SUPREME COURT  COURT OF APPEALS
P.O. Box 83720
Boise, Idaho 83720-0101

101-6

RETURN SERVICE
REQUESTED

PRESORTED
FIRST CLASS



UNITED STATES POSTAGE

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001697

FILED
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SEP 01 2005
TETON CO.
MAGISTRATE COURT

ORIGINAL

Craig L. Meadows, ISB No. 1081
Jason D. Scott, ISB No. 5615
HAWLEY TROXELL ENNIS & HAWLEY LLP
P.O. Box 1617
Boise, ID 83701-1617
Telephone: (208) 344-6000
Facsimile: (208) 342-3829
E-mail: CLM@HTEH.COM

Attorneys for Defendant Galen Woelk, individually & dba Runyan & Woelk

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

JOHN N. BACH,)	
	)	Case No. CV-02-0208
Plaintiff/Appellant,)	
	)	REQUEST FOR ADDITIONAL RECORD
vs.)	
)	
KATHERINE D. MILLER, aka KATHERINE)	
M. MILLER, Individually and dba R.E.M., et)	
al.,)	
)	
Defendants/Respondents.)	

TO: THE ABOVE-NAMED APPELLANT AND THE CLERK OF THE ABOVE ENTITLED COURT.

NOTICE IS HEREBY GIVEN, that Galen Woelk, individually & dba Runyan & Woelk, a respondent in the above entitled proceeding, hereby requests pursuant to Rule 19, I.A.R., the inclusion of the following material in the clerk's record in addition to that required to be included by the I.A.R. and the notice of appeal:

1. Clerk's Record:

- (a) Motion for Summary Judgment Based on Res Judicata (filed on November 16, 2004);
- (b) Brief in Support of Motion for Summary Judgment Based on Res Judicata (filed on November 16, 2004);
- (c) Affidavit of Jason D. Scott (filed on November 16, 2004);
- (d) Emergency Motion for Substitution of Parties and to Shorten Time for Hearing (filed on February 7, 2005);
- (e) Brief in Support of Emergency Motion for Substitution of Parties and to Shorten Time for Hearing (filed on February 7, 2005);
- (f) Affidavit of Galen Woelk (filed on February 7, 2005);
- (g) Order (entered on February 7, 2005); and
- (h) Stipulation and Order for Dismissal with Prejudice (filed and entered on February 7, 2005).

To assist the Clerk of Court in preparing the Clerk's Record, Woelk advises that items (d) - (h) on the above list are believed to be the documents requested categorically, instead of by specific document, in item 105 on page 7 of John N. Bach's Second Amended Notice of Appeal filed on August 18, 2005.

2. I certify that a copy of this request was served upon the clerk of the district court and upon all parties required to be served pursuant to Rule 20.

DATED THIS 31st day of August, 2005.

HAWLEY TROXELL ENNIS & HAWLEY LLP

By Jason D. Scott
Jason D. Scott
Attorneys for Defendant Galen Woelk, individually
& dba Runyan & Woelk

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 31st day of August, 2005, I caused to be served a true copy of the foregoing REQUEST FOR ADDITIONAL RECORD by the method indicated below, and addressed to each of the following:

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

U.S. Mail, Postage Prepaid
 Hand Delivered
 Overnight Mail
 Telecopy

Alva Harris
P.O. Box 479
Shelley, ID 83274

U.S. Mail, Postage Prepaid
 Hand Delivered
 Overnight Mail
 Telecopy

Galen Woelk
Aron & Hennig, LLP
1472 N. 5th Street, Suite 201
Laramie, WY 82072

U.S. Mail, Postage Prepaid
 Hand Delivered
 Overnight Mail
 Telecopy

Jared M. Harris
Baker & Harris
P.O. Box 577
Blackfoot, ID 83221

U.S. Mail, Postage Prepaid
 Hand Delivered
 Overnight Mail
 Telecopy

Anne Broughton
1054 Rammell Mountain Road
Tetonia, ID 83452

U.S. Mail, Postage Prepaid
 Hand Delivered
 Overnight Mail
 Telecopy

David H. Shipman
Hopkins Roden Crockett Hansen & Hoopes, PLLC
P.O. Box 51219
Idaho Falls, ID 83405-1219


U.S. Mail, Postage Prepaid
 Hand Delivered
 Overnight Mail
 Telecopy

Gregory W. Moeller
Rigby, Thatcher, Andrus, Rigby & Moeller, Chartered
25 North Second East
Rexburg, ID 83440

U.S. Mail, Postage Prepaid
 Hand Delivered
 Overnight Mail
 Telecopy

Clerk of Court
Teton County Courthouse
89 N. Main, Ste 5
Driggs, ID 83422

U.S. Mail, Postage Prepaid
 Hand Delivered
 Overnight Mail
 Telecopy



Jason D. Scott

GALEN WOELK
ARON AND HENNIG LLP
1472 NORTH 5TH ST., SUITE 201
LARAMIE, WY 82072
TELE (307) 742-6645
FAX (307) 742-7766
IDAHO STATE BAR #5842

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

JOHN N. BACH,	)	Case No. CV-02-208
	)	Supreme Court of Idaho # 31717
Appellant,)	
	)	REQUEST FOR ADDITIONAL
vs.	)	TRANSCRIPT
)	
KATHERINE M. MILLER, et. al.,)	
)	
Respondent.)	

TO: THE ABOVE NAMED APPELLANT, John N. Bach, acting Pro-Se,
the CERTIFIED COURT REPORTER and CLERK OF THE ABOVE ENTITLED
COURT.

NOTICE IS HEREBY GIVEN THAT:

The Respondent in the above-entitled appeal hereby
requests pursuant to Rule 19(a) I.A.R., the inclusion of the
following material in the reporter's transcript in addition
to that required to be included by the I.A.R. and *John N.
Bach's Second Amended Notice of Appeal.*

1. The entire reporter's standard transcript as defined in Rule 25(a) and (c), I.A.R..
 2. This request is made within 14 days of the filing of *Bach's Second Amended Notice of Appeal*, which appears to request the production of a reduced Standard Transcript.
 3. Respondent Miller DOES NOT request that any part of the transcript be produced in compressed format.
 4. I certify that a copy of this request was served upon the reporter and Clerk of the District Court and upon all parties required to be served pursuant to Rule 20.
- DATED this 31st day of August, 2005.

ARON AND HENNIG, LLP



GALEN WOELK
ATTORNEY FOR RESPONDENT
KATHERINE MILLER.

CERTIFICATE OF SERVICE

I hereby certify that I am a duly licensed attorney in the State of Idaho, with my office in Laramie, Wyoming; that on the 31st day of August, 2005, I caused a true and correct copy of the foregoing REQUEST FOR ADDITIONAL TRANSCRIPT to be served upon the following persons at the addresses below their by depositing said document in the United States mail with the correct postage thereon.

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

001702

Jason Scott
Hawley Troxell Ennis & Hawley LLP
Attorneys for Galen Woelk and H. Cody Runyan, both
individually and dba Runyan & Woelk, P.C..
P.O. Box 1617
Boise, ID 83701-1617

Alva Harris, Esq.
Attorney for Alva Harris, individually and dba Scona, Inc.,
Jack Lee McLean, Ole Oleson, Blake Lyle, individually & dba
Grand Towing and Grand Body & Paint, Robert Fitzgerald,
individually & dba Cache Ranch
P.O. Box 479
Shelley, Idaho 83274

Anne Broughton
1054 Rammell Mountain Road
Tetonia, ID 83452

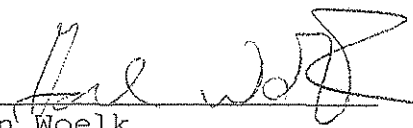
Jared Harris, Esq.
Attorney for Wayne Dawson, Bret Hill and Deena Hill
P.O. Box 577
Blackfoot, ID 83221

David Shipman
Hopkins Roden Crockett, PLLC
Attorneys for Earl Hamblin
P.O. Box 51219
Idaho Falls, ID 83405

Greg W. Moeller
Rigby, Thatcher, Andrus
Attorneys for the Estate of Stan Nickell
Post Office Box 250
25 North Second East
Rexburg, ID 83440-0250

Ross Oviat, CSR
605 North Capital Avenue.
Idaho Falls, ID 83404

ARON AND HENNIG, LLP


Galen Woelk

001703

FILED
11:20
SEP 02 2005
TETON CO.
MAGISTRATE COURT

Craig L. Meadows, ISB No. 1081
Jason D. Scott, ISB No. 5615
HAWLEY TROXELL ENNIS & HAWLEY LLP
P.O. Box 1617
Boise, ID 83701-1617
Telephone: (208) 344-6000
Facsimile: (208) 342-3829
E-mail: CLM@HTEH.COM

Attorneys for Defendant Galen Woelk, individually & dba Runyan & Woelk

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

JOHN N. BACH,)	
	)	Case No. CV-02-0208
Plaintiff/Appellant,)	
	)	REQUEST FOR ADDITIONAL RECORD
vs.)	
)	
KATHERINE D. MILLER, aka KATHERINE)	
M. MILLER, Individually and dba R.E.M., et)	
al.,)	
)	
Defendants/Respondents.)	

TO: THE ABOVE-NAMED APPELLANT AND THE CLERK OF THE ABOVE ENTITLED COURT.

NOTICE IS HEREBY GIVEN, that Galen Woelk, individually & dba Runyan & Woelk, a respondent in the above entitled proceeding, hereby requests pursuant to Rule 19, I.A.R., the inclusion of the following material in the clerk's record in addition to that required to be included by the I.A.R. and the notice of appeal:

001704

1. Clerk's Record:

- (a) Motion for Summary Judgment Based on Res Judicata (filed on November 16, 2004);
- (b) Brief in Support of Motion for Summary Judgment Based on Res Judicata (filed on November 16, 2004);
- (c) Affidavit of Jason D. Scott (filed on November 16, 2004);
- (d) Emergency Motion for Substitution of Parties and to Shorten Time for Hearing (filed on February 7, 2005);
- (e) Brief in Support of Emergency Motion for Substitution of Parties and to Shorten Time for Hearing (filed on February 7, 2005);
- (f) Affidavit of Galen Woelk (filed on February 7, 2005);
- (g) Order (entered on February 7, 2005); and
- (h) Stipulation and Order for Dismissal with Prejudice (filed and entered on February 7, 2005).

To assist the Clerk of Court in preparing the Clerk's Record, Woelk advises that items (d) - (h) on the above list are believed to be the documents requested categorically, instead of by specific document, in item 105 on page 7 of John N. Bach's Second Amended Notice of Appeal filed on August 18, 2005.

2. I certify that a copy of this request was served upon the clerk of the district court and upon all parties required to be served pursuant to Rule 20.

DATED THIS 31st day of August, 2005.

HAWLEY TROXELL ENNIS & HAWLEY LLP

By


Jason D. Scott

Attorneys for Defendant Galen Woelk, individually
& dba Runyan & Woelk

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 31st day of August, 2005, I caused to be served a true copy of the foregoing REQUEST FOR ADDITIONAL RECORD by the method indicated below, and addressed to each of the following:

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

U.S. Mail, Postage Prepaid
 Hand Delivered
 Overnight Mail
 Telecopy

Alva Harris
P.O. Box 479
Shelley, ID 83274

U.S. Mail, Postage Prepaid
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 Overnight Mail
 Telecopy

Galen Woelk
Aron & Hennig, LLP
1472 N. 5th Street, Suite 201
Laramie, WY 82072

U.S. Mail, Postage Prepaid
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Jared M. Harris
Baker & Harris
P.O. Box 577
Blackfoot, ID 83221

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Anne Broughton
1054 Rammell Mountain Road
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David H. Shipman
Hopkins Roden Crockett Hansen & Hoopes, PLLC
P.O. Box 51219
Idaho Falls, ID 83405-1219

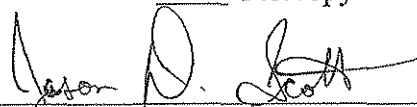
U.S. Mail, Postage Prepaid
 Hand Delivered
 Overnight Mail
 Telecopy

Gregory W. Moeller
Rigby, Thatcher, Andrus, Rigby & Moeller, Chartered
25 North Second East
Rexburg, ID 83440

U.S. Mail, Postage Prepaid
 Hand Delivered
 Overnight Mail
 Telecopy

Clerk of Court
Teton County Courthouse
89 N. Main, Ste 5
Driggs, ID 83422

U.S. Mail, Postage Prepaid
 Hand Delivered
 Overnight Mail
 Telecopy



Jason D. Scott

001706

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

JOHN N. BACH)	
)	
Plaintiff-Appellant	)	Supreme Court No. 31716/31717
)	
)	
- vs -	)	TETON COUNTY CASE NO.
	)	CV 02-208
)	
KATHERINE D. MILLER aka KATHERINE M.)	
MILLER dba R.E.M. BOB BAGLEY and)	
MAE BAGLEY, husband and wife, an	)	CERTIFICATE OF EXHIBITS
DOES, 1 through 30, Inclusive,)	
)	
Defendants)	
and)	
)	
ALAV HARRIS, individually & dba SCONA,)	
INC., JACK LEE McLEAN, BOB FITZGERALD,)	
Individually and dba CACHE RANCH, OLE)	
OLESON, BLAKE LYLE, individually)	
and dba GRAND TOWING, GALEN WOELK,)	
and CODY RUNYAN, individually and dba)	
RUNYAN & WOELK, ANN-TOY BROUGHTON)	
WAYNE DAWSON, MARK LIPONIS, EARL)	
HAMBLIN, STAN NICKELL, BRET HILL &)	
DEENA R. HILL)	
)	
<u>Defendants- Respondents.</u>)	

I, Phyllis A. Hansen, Deputy Clerk of the District Court of the Seventh Judicial District of the State of Idaho, in and for the County of Teton, do hereby certify that the following is a list of exhibits, offered or admitted and which have been lodged with the Supreme Court or retained as indicated:

	<u>Plaintiff's Exhibits</u>	<u>Admitted</u>
PX1	2 Photo's of California Drivers License's of John Bach	Yes
PX2	Document "The Montenegrin Hat"	Yes

PX3	Document "Montenegro, The Black Mountain"	Yes
PX4	Letter from Maxim to John Bach Re: "MAA"	Yes
PX5	Notice Memo to Vasa N. Bach's Children	Yes
PX6	Assignment (separated from 6B)	Yes
PX6A	Confirmation of All Rights	Yes
PX6B	Letter to Judge Shindurling (separated from 6)	No
PX7	Picture of Bach with older lady	Yes
PX8	Warranty Deed #111053	Yes
PX9	Oregon Mutual Insurance Policy #PPD287901	Yes
PX10	Document from First American Title Co. to John Bach	Yes
PX11A	Bills from US West Communication to John Bach	Yes
PX11B	Bills from US West and Fall River Electric to Bach	Yes
PX12	Death Certificate	Yes
PX13(1)	Declaration/Affidavit of Garen Hancock	No
PX13(2)	Faxed Demand Letter to Alva Harris	Yes
PX13(3)	Fax Transmission Report	No
PX13(4)	Envelope and Letter from Alva Harris	Yes
PX13(5)	Picture of man on Courthouse steps	Yes
PX13(6)	Picture of man in front of Courthouse	Yes
PX13(7)	Picture of Alva Harris holding a check	Yes
PX14	Letter to Mark Liponis and Siobhan McNally from John Bach	Yes
PX15	Letter from Mark Liponis to John Bach	Yes
PX16	Letter to Mark Liponis and Siobhan McNally from John Bach	Yes

PX16A	Assignment of All Claims Recorded #117108	Yes
PX17	Warranty Deed Recorded #117187	No
PX18	Policy of Title Ins. from First American Title Co. #J28208	Yes
PX18A	Correction Corp. Warranty Deed Recorded #117219	Yes
PX18B	Document "Powers of Attorney to Close Escrow" Recorded #11646	Yes
PX18C	Letter from Roy C. Moulton to Wayne Dawson	Yes
PX18D	Letter from John Bach to Wayne Dawson	No
PX19	Letter from John Bach to Mr. Taylor	Yes
PX20	Article from New York Times, Jackson Journal, Dated November 16, 1994	Yes
PX21	First Amended Complaint CV02-208, Filed September 27, 2002	Yes
PX22	Affidavit of John Bach CV 02-208, Filed April 18, 2003	Yes
PX22C	Letter to Miller from John Bach, Dated December 8, 1994	Yes
PX22D	Offer of Assignment of Rights	No
PX22E	Memo of Monthly Leasehold to Kathy Miller	No
PX22F	Letter to Kathy Miller from CAH	Yes
PX22H	Agreement	Yes
PX22G	Hand written letter from John Bach to Kathy Miller	No
PX23	Affidavit of John Bach CV 02-208, filed on April 28, 2003	No
PX23A	Incorporation of TPE	Yes
PX23B	Amended Motion for Return of Property	No
PX24	Document filed in CV 02-208 on May 23, 2003	No
PX24B	Document Re. Kathy Miller's Testimony (Exhibit 9)	No

PX24C	Letter from Alva A. Harris to Roger B. Wright	Yes
PX25	Document filed in CV 02-208 on April 4, 2003	No
PX26A	Document filed in CV 02-208 on September 27, 2001	No
PX26A(1)	Complaint (11 pages)	Yes
PX26A(2)	Handwritten notes from Kathy Miller	Yes
PX26A(3)	Copy of For Sale sign	Yes
PX26B	Warranty Deed Recorded #118682	No
PX26B(1)	Warranty Deed (Also Defendant's Exhibit M)	Yes
PX26B(2)	Final Bankruptcy Decree	Yes
PX26B(7) 1&2	Hand Drawing	Yes
PX26B(e)	Letter from John Bach to Kathy Miller	Yes
PX26C	Letter from Galen Woelk to Laura Lowery	No
PX26D	Criminal Complaint CR 00-526 filed November 20, 2000	No
PX26E	Warrant of Arrest for Jack Lee McLean	No
PX26F	Teton County Sheriff's Incident Report	No
PX26G	Letter from John Bach to Jack Lee McLean	No
PX26H	Letter from John Bach to Jack Lee McLean	No
PX26I	Summons/Criminal CR 99-144 filed July 8, 1999	No
PX27	Transcript CV 01-059 Hearing on August 28, 2001	No
PX28	25 Photos	Yes
PX29A	Letter from John Bach to Alva A. Harris	Yes
PX30	Statement of Financial Affairs/John Bach Case 97-31942-A	Yes
PX31	Letter from John Bach to Blake Lyle	Yes

PX32A	Affidavit of Dave Guymon	No
PX32B	26 Photos of Cars	Yes
PX33	Document Offer of Assignment of Rights CV 95-047	No
PX34	Letter from John Bach to Kathy Miller	Yes
PX35	Kathy Miller's Supplemental Answer CV 99-014-E-BLW	No
PX35A	Kathy Miller's Supplemental Answer CV 99-014-E-BLW	No
PX35B	Deposition of John Bach CV 95-047	Yes
PX35 (72&73)	Letter from John Bach to Kathy Miller	Yes
PX35 (293)	Letter from Kathy Miller	Yes
PX36	Letter from Kathy Miller to John Bach	No
PX37	Letter from John Bach to Kathy Miller	Yes
PX38A	Letter from Kathy Miller to John Bach	Yes
PX38B	3 Picture of John Bach on a horse	No
PX39	Letter from John Bach to Kathy Miller	Yes
PX40	Letter from Charles A. Homer to John Bach	No
PX41	Kathy Miller's Supplemental Answer CV 99-014-E-BLW	No
PX42	Letter from Kenneth F. Stringfield to John Bach	No
PX43	17 Photos	Yes
PX44	26 Photos	Yes
PX45A	Fitzgerald Tape	Yes
PX45B	Teton County Sheriff Incident Report	Yes
PX46	6 Photos	No
PX47	16 Photos	Yes

PX48	2 Photos	No
PX49	4 Photos (Construction of barn)	Yes
PX50	12 Photos	Yes
PX51	Drawing of a House	Yes
PX52	25 Photos (on Plaintiff's label says 26 Photos)	Yes
PX53	27 Photos (on Plaintiff's label says 28 Photos)	Yes
PX54	33 Photos (on Plaintiff's label says 32 Photos)	Yes
PX55	24 Photos	Yes
PX56	Newspaper "Post Register" Dated April 25, 2001	No
PX58	Teton County Sheriff Incident Report	No
PX59	8 Photos	No
PX60	6 Photos	No
PX61	Copy of Building Permit to John Bach Permit #060500-4	No
PX62	4 Photos	Yes
PX63A	Documents of the Arizona Republic	Yes
PX64	Letter to Bill and Jill Jackson from John Bach	No
PX65	Map of the Rowbury Property	No
PX66	19 Photos (dead horse)	Yes
PX67	20 Photos	No
PX68	Summons-Action for Possession of Land CV 01-059	Yes Unable to Locate
PX69	Defendant's Special Appearance Objection filed May 22, 2001, CV 01-059	No
PX70	Defendant's Notice of Motion on CV 01-059	No

PX71	Order to Maintain Status Quo CV 01-059, filed July 27, 2001	Yes
PX72	Defendant's Initial Pretrial Conference Statement CV 01-059, Filed July 31, 2001	No
PX73	Defendant's Brief in Support CV 01-059, filed August 27, 2001	No
PX74	Defendant's Exhibits to be marked CV 01-059, filed May 8, 2002	No
PX75	John Bach's note about Judge Moss, filed May 17, 2002	No
PX76	Order & Judgment of Dismissal CV 01-059, filed May 20, 2002	Yes
PX77	Complaint to Quit Title CV 01-191, filed September 17, 2001	Yes
PX78	Fall River Capital Gains Letter	Yes
PX78C	Letter from Moulton to Dawson	Yes Unable to Locate
PX79	Teton Telecom Bill November 22, 1999	Yes
PX80	US West Invoice	Yes
PX81	Grand Canal Stockholder Meeting	Yes
PX82	Hand written letter to Sheriff from Kathy Miller	Yes
PX83	Teton County Sheriff's Office Incident Report dated September 13, 2000	Yes
PX84	Letter from John Bach to Laura Lowery dated December 29, 2000	Yes
PX85	Incident Report Dated February 18, 2001	Yes
PX86	Incident Report Dated August 27, 2002	Yes
PX87	Photos (24)	Yes
PX88	Photos (27)	Yes
PX89	Photos (26)	Yes
PX90	Photos (27)	Yes

In the Supreme Court of the State of Idaho

JOHN N. BACH,

Plaintiff-Appellant,

v.

BOB BAGLEY & MAE BAGLEY, husband
and wife, and DOES 1 through 30, inclusive,

Defendants,

and

KATHERINE D. MILLER aka KATHERINE
M. MILLER dba R.E.M., ALVA HARRIS,
individually & dba SCONA, INC., JACK LEE
MC LEAN, BOB FITZGERALD, individually
and dba CACHE RANCH, OLE OLESON,
BLAKE LYLE, individually and dba GRAND
TOWING, GALEN WOELK and CODY
RUNYAN, individually & dba RUNYAN &
WOELK, ANN-TOY BROUGHTON,
WAYNE DAWSON, MARK LIPONIS,
EARL HAMBLIN, THE ESTATE OF STAN
NICKELL, BRET HILL & DEENA R. HILL,

Defendants-Respondents.

ORDER GRANTING MOTION TO
CORRECT RECORD

Supreme Court Docket No. 31717-2005
Teton County District Court
No. CV02-0208

Ref. No. 09-437

RESPONDENT MILLER'S: MOTION TO CORRECT RECORD was filed September 14, 2009. Thereafter, APPELLANT JOHN N. BACH'S OPPOSITION RESPONSE & MOTION TO STRIKE/QUASH RESPONDENT MILLER'S MOTION TO CORRECT RECORD, DATED SEPT. 10, 2009, BUT NOT RECEIVED UNTIL SEPT. 14 AND MOTION TO HOLD MILLER AND HER COUNSEL, GALEN WOELK IN CONTEMPT AND FOR SANCTIONS ETC., AGAINST BOTH JOINTLY & INDIVIDUALLY was filed by Appellant on September 24, 2009. The Court being fully advised, therefore, good cause appearing,

IT IS HEREBY ORDERED that RESPONDENT MILLER'S: MOTION TO CORRECT RECORD is, GRANTED and the record shall be corrected as follows:

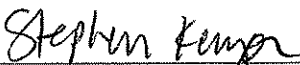
Entered on JSI

By: _____

1. The district court clerk's Certificate of Exhibits shall be corrected to show Trial Exhibit PX95 as admitted and Trial Exhibit PX96 as not admitted.

DATED this 5th day of October, 2009.

By Order of the Supreme Court



Stephen W. Kenyon, Clerk

cc: Counsel of Record
John N. Bach, pro se
District Court Clerk

PX91	Outline – “Shows, Clubs and Other Groups”	Yes
PX92	Travel Diary	Yes
PX93	Hand written letter dated November 11, 1994	Yes
PX94	Faxed notes	Yes
PX95	Fax from Miller Development dated November 23, 1994	No
PX96	Affidavit of Katherine Miller CV 99-014-E-BLW	Yes
PX97	Photos	No
PX98A	Hand drawn diagram of house	No
PX98B	Note with numbers (possible cost to build house)	No
PX99	Newspaper	No
PX100	Memorabilia from New Mexico trip	No
PX101	Letter from Kathy Miller to her son dated August 31, 1997	No
PX102	Faxed message dated June 4, 1994, from Kathy Miller to John Bach	No
PX103	Faxed notes dated November 1, 1994, from Kathy Miller to John Bach	No
PX104	Fax from Miller Development Co. Re. Legal cases	No
PX105	Appraisal report	No
PX106	Pages from Court file case CV 98-025	Yes
PX107	Hand Drawn Map	Too Large to Send

Defendant Miller’s Exhibits

Admitted

DXA	Purchase and Sale Agreement	Yes
DXB	Letter from Kurt R. Taylor to John Bach, Dated July 27, 1994	No

In the Supreme Court of the State of Idaho

JOHN N. BACH,)
)
 Plaintiff-Appellant,)
 v.)
)
 BOB BAGLEY & MAE BAGLEY, husband)
 and wife, and DOES 1 through 30, inclusive,)
)
 Defendants,)
 and)
)
 KATHERINE D. MILLER aka KATHERINE)
 M. MILLER dba R.E.M., ALVA HARRIS,)
 individually & dba SCONA, INC., JACK LEE)
 MC LEAN, BOB FITZGERALD, individually)
 and dba CACHE RANCH, OLE OLESON,)
 BLAKE LYLE, individually and dba GRAND)
 TOWING, GALEN WOELK and CODY)
 RUNYAN, individually & dba RUNYAN &)
 WOELK, ANN-TOY BROUGHTON,)
 WAYNE DAWSON, MARK LIPONIS,)
 EARL HAMBLIN, THE ESTATE OF STAN)
 NICKELL, BRET HILL & DEENA R. HILL,)
)
 Defendants-Respondents.)

ORDER AUGMENTING THE RECORD

Supreme Court Docket No. 31717-2005
 Teton County District Court
 No. CV02-0208

Ref. No. *NONE (Orally Ordered by this Court)*

Oral Argument was held in the above entitled appeal on Friday, January 15, 2010, at 11:10 a.m., during which time Appellant John N. Bach orally moved and presented to this Court a file stamped document to be added to this Record on Appeal.

THE COURT HEREBY GRANTED Appellant John N. Bach's oral Motion to Augment the Record and the augmentation record shall include the document listed below, a file stamped copy of which was presented to this Court by Appellant John N. Bach on January 15, 2010, as an EXHIBIT:

1. Plaintiff John N. Bach's Supplemental Memorandum after February 3, 2004 hearing supporting his testimony & quieting title requests against all defendants in default, file stamped February 6, 2004, in the Teton County Magistrate Court.

IT FURTHER IS ORDERED that this ORDER SHALL BE EFFECTIVE AS OF THE DATE OF JANUARY 15, 2010.

DATED this 21 day of January 2010.

By Order of the Supreme Court



Stephen W. Kenyon, Clerk

DXC	Letter from John Bach to Kurt R. Taylor, Dated July 28, 1994	Yes
DXD	Letter from Kurt R. Taylor to John Bach, Dated August 15, 1994	Yes
DXE	Purchase Sales Agreement to Mr. Taylor from John Bach	Yes
DXF	Letter from John Bach to Mark Liponis, Dated October 5, 1994	Yes
DXF(1)	Part removed from DXF	No
DXG	Letter to Vicki Motloch from John Bach, Dated December 1, 1994	Yes
DXH	Copies of Checks of Ms. Miller	Yes
DXH(1)	Copies detached from DXH	No
DXI	Letter to Kurt Taylor from John Bach, Dated December 15, 1994	Yes
DXJ	Letter to Kurt Taylor from John Bach, Dated December 22, 1994	No
DXK	Purchase of Real Property from Kurt Taylor to John Bach, Dated December 27, 1994	No
DXL	Letter to Kurt Taylor from John Bach, Dated December 28, 1994	Yes
DXM	Closure of Escrow to Kurt Taylor from John Bach, Dated December 30, 1994	Yes
DXN	Purchase of Real Property from Kurt Taylor to John Bach, Dated December 30, 1994	Yes
DXO	Letter from Kurt Taylor to John Bach, Dated January 03, 1995	Yes
DXP	Purchase of Real Property from Kurt Taylor to John Bach, Dated January 4, 1995	No
DXQ	Kathy Miller's Check #4455 of \$10,000.00, Dated March 16, 1995	Yes
DXR	Kathy Miller's Bank Statement (First of America), Dated January 3, 1995	No
DXS	Kathy Miller's Bank Statement (First of America), Dated January 3, 1995	No

DXT	Kathy Miller's Check #4539 of \$7,456.73, Dated October 8, 1996	Yes
DXU	Letter from Mr. Nye to J. Herndon CV-95-047, Dated October 8, 1996	Yes
DXV	Letter from John Bach to Mr. Nye, Dated October 10, 1996	
DXW	Assignment of Rights CV 95-047	Yes
DXX	Order & Judgment CV 95-047, Filed September 22, 1997	No
DXY	Letter from Mr. Nye to John Bach, Dated October 5, 1996	Yes
DXZ	Letter from Kathy Miller to John Bach, Dated August 12, 1997	Yes
DXAA	Blank Quitclaim Deed	Yes
DXBB	Letter from John Bach to Kathy Miller, Dated October 8, 1997	Yes
DXCC	Letter from Kathy Miller to John Bach, Dated December 7, 1998	Yes
DXDD	Building Permit Application by John Bach	Yes
DXEE	Letter from Kathy Miller to John Bach, Dated August 10, 2000	Yes
DXFF	Letter to Laura Lowery from John Bach, Dated September 22, 2000	Yes
DXGG	Corporate Warranty Deed Recorded #140249	No
DXHH	Letter to Laura Lowery from John Bach, Dated December 11, 2000	No
DXII	Warranty Deed Record #148042	Yes
DXJJ	Building Permit Application by John Bach	Yes
DXKK	Motion for Payment/Release CV 01-033	No
DXLL	Order CV 01-033, Filed November 1, 2002	No
DXMM	Document "Jack Lee McLean Family Trust"	No
DXNN	Letter from Roy Moulton to Jack Lee McLean	No

DXOO	Notarized Documents from Jack Lee McLean	No
DXPP	Documents Terminating Power of Attorney from Jack McLean, December 20, 1998	No
DXQQ	John Bach Debtor's Plan, Chapter 13, Filed August 4, 1997	Yes
DXRR	U.S. Bankruptcy Petition by John Bach	Yes
DXSS	Case #97-31942-A-13 Schedule A-Real Property	Yes
DXTT	Case #97-31942-A-13 Debtor's Schedule	Yes
DXUU	Case #97-31942-A-13 Summary of Schedule	Yes
DXVV	Business Card from Targhee Powder Emporium	Yes
DXWW	1 Photo of Property	Yes Unable to Locate
DXXX	1 Photo of House	Yes Unable to Locate
DXYY	1 Photo of Cars	Yes
DXZZ	1 Photo of Cars	Yes
DXAAA	1 Photo of Cars next to a fence	Yes Unable to Locate
DXBBB	1 Photo of a Truck	Yes
DXCCC	Agreement Miller/Targhee/Bach, Dated October 31, 1997	Yes
DXDDD	Quitclaim Deed Recorded #128474	No
DXEEE	Quitclaim Deed Recorded #128475	Yes
DXFFF	Easement Agreement Recorded #128476	Yes
DXGGG	Transcript CV 98-25, Dated September 24, 1998	No Unable to Locate
DXHHH	Transcript CV 95-047, Dated April 8, 1996, John Bach's Disposition	No

DXIII	Disbarment proceeding from State of California	No
DXJJJ	Motion and Notice of Motion Case 113714	No
DXKKK	Denial by Judge Herndon	Yes
DXLLL	Federal Lawsuit	No

And I further certify that all of said Exhibits are on file in my office and are part of this record on Appeal in this cause and are hereby transmitted to the Supreme Court.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the said Court this ___ day of April, 2007.

Mary Lou Hansen

by Phyllis A. Hansen
Phyllis A. Hansen, Deputy

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

JOHN N. BACH)	
)	
Plaintiff-Appellant	)	Supreme Court No. 31716/31717/
)	
)	
- vs -	)	TETON COUNTY CASE NO.
	)	CV 02-208
KATHERINE D. MILLER aka KATHERINE M.)	
MILLER dba R.E.M. BOB BAGLEY and)	
MAE BAGLEY, husband and wife, an	)	CLERK'S CERTIFICATE
DOES, 1 through 30, Inclusive,)	
)	
Defendants)	
and)	
)	
ALAV HARRIS, individually & dba SCONA,)	
INC.,JACK LEE McLEAN, BOB FITZGERALD,)	
Individually and dba CACHE RANCH, OLE)	
OLESON, BLAKE LYLE, individually)	
and dba GRAND TOWING, GALEN WOELK,)	
and CODY RUNYAN, individually and dba)	
RUNYAN & WOELK, ANN-TOY BROUGHTON)	
WAYNE DAWSON, MARK LIPONIS, EARL)	
HAMBLIN, STAN NICKELL, BRET HILL &)	
DEENA R. HILL)	
)	
<u>Defendants- Respondents.</u>)	

I, Phyllis A. Hansen, Deputy Clerk of the District Court of the Seventh Judicial District of the State of Idaho, in and for the County of Teton, do hereby certify that the above and foregoing record in the above-entitled cause was compiled and bound under my direction as, and is a true, full and correct record of the pleadings and documents under Rule 28 of the Idaho Appellate Rules.

I do further certify that all documents, charts and pictures requested in the above entitled cause will be duly lodged with the Clerk of the Supreme Court along with the Court Reporter's Transcripts and Clerk's Record as required by Rule 31 of the Idaho Appellate Rules.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the said Court this _____ day of April, 2007

Mary Lou Hansen

by Phyllis A. Hansen
Phyllis A. Hansen, Deputy

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

JOHN N. BACH)

Plaintiff-Appellant)

- vs -)

KATHERINE D. MILLER aka KATHERINE M.)
MILLER dba R.E.M. BOB BAGLEY and)
MAE BAGLEY, husband and wife, an)
DOES, 1 through 30, Inclusive,)

Defendants)

and)

ALAV HARRIS, individually & dba SCONA,)
INC., JACK LEE McLEAN, BOB FITZGERALD,)
Individually and dba CACHE RANCH, OLE)
OLESON, BLAKE LYLE, individually)
and dba GRAND TOWING, GALEN WOELK,)
and CODY RUNYAN, individually and dba)
RUNYAN & WOELK, ANN-TOY BROUGHTON)
WAYNE DAWSON, MARK LIPONIS, EARL)
HAMBLIN, STAN NICKELL, BRET HILL &)
DEENA R. HILL)

Defendants- Respondents.)

Supreme Court No. 31716/31717

TETON COUNTY CASE NO.
CV 02-208

CERTIFICATE OF SERVICE

I, Phyllis A. Hansen, Deputy Clerk of the District Court of the Seventh Judicial District of the State of Idaho, in and for the County of Teton, do hereby certify that I have personally served or mailed, by Unites States Mail, postage prepaid, one copy of the Clerk's Record and any Reporter's Transcript not already served to each of the parties or their Attorney of Record as follows:

Alva A. Harris, Esq.
PO Box 479
Shelley, Idaho 83274

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

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the
said Court this _____ day of April 2007.

Mary Lou Hansen

by Phyllis A. Hansen
Phyllis A. Hansen, Deputy