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Bach v. Miller Clerk's Record v. 3 Dckt. 31716

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LAW CLERK IN THE
SUPREME COURT
OF THE
STATE OF IDAHO

Vol. 3 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

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Filed this _____ day of _____

APR 21 2008

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Clerk

By

Supreme Court _____ Court of Appeals
Entered on ATS 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

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Answer, Counterclaim and Jury Demand for Defendant Katherine Miller, & Miller Third Party Complaint IRCP Rule 14(a) and Miller Cross Claim/Counterclaim IRCP Rule 13(a), 13(g), 13(h), 17(d), 19(a)(1), Filed March 17, 2003	0265
Answer, Filed January 29, 2003	0193
Answer to First Amended Complaint and Demand for Jury Trial, Filed April 14, 2003	0351
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 32nd 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 Complaine 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

FILED IN CHAMBERS
at Idaho Falls
Bonneville County
Honorable Richard T. St. Clair
Date 4/2/03
Time 10:30
Deputy Clerk M. Southwick

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

**ELEVENTH ORDER
ON PENDING MOTIONS**

I. INTRODUCTION

Pending before the Court is defendant Wayne Dawson's motion to dismiss plaintiff John Bach's first amended complaint for insufficiency of service of process under Rule 12(b)(5), I.R.C.P., and Dawson's motion to set aside clerk's default under Rule 55(c), I.R.C.P., both served on February 3, 2003. The

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motions were supported by the affidavit of counsel Jared Harris and a memorandum.

Also before the Court are Bach's motions for sanctions under Rule 11, I.R.C.P., against Dawsons and "their counsel" filed on February 11, 2003. Bach filed two memoranda in opposition to Dawson's motions and in support of his Rule 11 motions.

No reply memorandum was filed by Dawson. Oral argument was heard on these motions on March 28, 2003. Having read the motions, supporting affidavit and memorandum, and opposing memorandum, the Court issues the following decision on the pending motions.

II. ANALYSIS

1. Dawson's Rule 12(b)(5) Motion.

Rule 12(b)(5), I.R.C.P., permits a party to move before filing a responsive pleading for an order from the trial court quashing service of the summons and complaint, and if granted the court may not exercise jurisdiction over the party until such party is properly served. See generally B.B.P. Association, Inc. v. Cessna Aircraft Company, 91 Idaho 259, 420 P.2d 134 (1966).

Dawson's motion argues that the personal service of the summons and complaint on him in California on December 20, 2002,

was void because Bach did not first file an affidavit and obtain an order under Rule 4(e), I.R.C.P., and Idaho Code §5-508 authorizing out of state service on him. Bach argues that personal service on Dawson was proper under Rule 4(d)(2), I.R.C.P., without such order. Bach relies on B.B.P. Association, Inc. v. Cessna Aircraft Company, supra.

B.B.P. Association, Inc. is dispositive of Dawson's motion. In that case the Idaho Supreme Court reversed a trial court's order quashing service of summons and a complaint alleging a tort cause of action occurring in Idaho as to Cessna a Kansas corporation served in Kansas because Rule 4(d), I.R.C.P., authorized out of state service on out of state defendants for causes of action described in Idaho Code §5-514 without first filing an affidavit and obtaining the order mentioned in Idaho Code §5-508.

In this case, Bach's first amended complaint alleges that Dawson lived in Chico, California (¶3(j)), that Bach owned a 40 acres in Teton County (Exhibit "1") (¶5(a)) and a one-half interest in 8.5 acres in Teton County co-owned by Dawson (¶5(b)), that Dawson received as grantee a void deed as to parts of Bach's property (Exhibit "5") signed by defendant Jack McLean (¶14). Bach alleges in First Count a cause of action to quiet title to the 40 acres (¶¶16 & 17), in Second Count a cause of

action to quiet to the one-half interest and to partition his one-half interest from Dawson's one-half interest in the 8.5 acres (¶¶19 & 20) and in Fourth Count to quiet title to property described in the void deed (Exhibit "5") against Dawson and other defendants (¶24). The first amended complaint also attempts to allege various tort causes of action against Dawson. Pursuant to Idaho Code §5-514(b) & (c) the Idaho state district courts may extend personal jurisdiction over non-resident parties allegedly committing a tort in Idaho and by owning an interest in Idaho real property. Rule 4(e), I.R.C.P., authorizes service over parties in the manner prescribed by statute and Rule 4(d)(2). As explained by B.B.P. Association, Inc., Idaho Code §5-514 does not require first filing an affidavit and obtaining an order before effecting personal service on non-residents. Therefore, the Rule 12(b)(5) motion must be denied.

2.Dawson's Rule 55(c) Motion.

Rule 55(c), I.R.C.P., permits a trial court, upon a showing of good cause, to set aside a clerk's default. The trial court's decision on a Rule 55(c) motion invokes its sound discretion as to whether good cause is shown by the moving party for not timely filing a responsive motion or pleading, and requires the moving party to show facts which, if true, would amount to a

meritorious defense. McFarland v. Curtis, 123 Idaho 931, 854 P.2d 274 (App. 1993).

In this case Dawson was served in California on December 20, 2002, and a responsive motion or pleading was due to be filed with the clerk by January 9, 2003. The summons properly stated that the served party must file a response with the Teton County Court Clerk within 20 days of service. Dawson contacted attorney Jared Harris in "mid-January, 2003," and Harris obtained a copy of the filing docket from the Clerk of Court on January 14, 2003. The record contains no facts as to why Dawson did not contact Jared Harris or another attorney to file a responsive motion or pleading before the January 9, 2003 deadline. Further the motion is not supported by any facts from which this Court could glean that Dawson has any meritorious defense as required by McFarland, supra. Therefore, this motion must be denied.

3. Bach's Motions for Rule 11 Sanctions.

Rule 11(a)(1), I.R.C.P., focuses on the "signor" of pleadings, motions, and other court filed documents, who has made inadequate investigation into relevant facts and law before filing the document, usually an attorney representing a civil litigant. This Rule is to be applied within the trial court's discretion. Durrant v. Christensen, 120 Idaho 886, 821

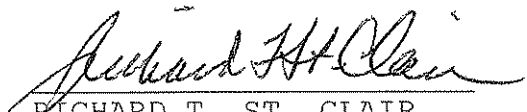
P.2d 319 (1991). Rule 11(a)(1) was intended to be a narrowly used court management tool. See Landvik v. Herbert, 130 Idaho 54, 61, 936 P.2d 697, 704 (App.1997).

Bach's motion seeks Rule 11 sanctions against "Dawsons, and their counsel." Mrs. Dawson is not a named party defendant in this action. Mr. Dawson did not sign the offending motions, so sanctions under Rule 11 cannot be granted against Dawsons. While Rule 11 might apply to counsel Jared Harris, attorney fees cannot be awarded to a pro se party. No specific expenses incurred because of Dawson's motions are shown.

NOW THEREFORE, IT IS HEREBY ORDERED that

1. Defendant Wayne Dawson's Rule 12(b)(5) motion is DENIED;
2. Defendant Dawson's Rule 55(c) motion is DENIED; and
3. Plaintiff Bach's Rule 11 motions for sanctions are DENIED.

DATED this 2nd day of April, 2003.


RICHARD T. ST. CLAIR
DISTRICT JUDGE

CERTIFICATE OF SERVICE

I hereby certify that on the 2nd day of April, 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)

RONALD LONGMORE
Clerk of Court


Deputy Court Clerk

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

Attorneys for Defendant Wayne Dawson

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.

NOTICE OF APPEARANCE

Category II

Fee \$47.00

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.

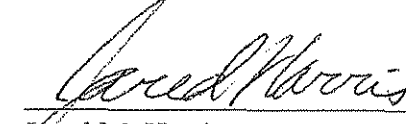
NOTICE OF APPEARANCE - 1

000344

COMES NOW Jared M. Harris of the firm BAKER & HARRIS, and gives notice of its appearance on behalf of the Defendants Wayne Dawson and Donna Dawson, husband and wife.

DATED this 2nd day of April, 2003.

BAKER & HARRIS

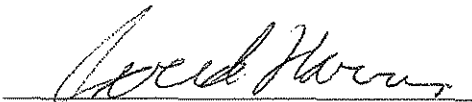

Jared M. Harris

CERTIFICATE OF SERVICE

I hereby certify that on the 2nd day of April, 2003, I served a true and correct copy of the following-described document on the attorney listed by the method indicated.

Document Served: **NOTICE OF APPEARANCE**

Attorneys Served:	John N. Bach	() Hand Delivered
	1858 S. Euclid Avenue	(X) Mail
	San Marino, CA 91108	() Fax


Jared M. Harris

NOTICE OF APPEARANCE - 2

000345

FILED

APR 04 2003

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

TETON CO.
DISTRICT COURT

4:45 PM

SEVENTH JUDICIAL DISTRICT COURT, IDAHO, TETON COUNTY

JOHN N. BACH,

CASE NO: CV 02-208

Plaintiff/
Counterdefendant,

PLAINTIFF & COUNTERCLAIMANT
JOHN N. BACH'S ANSWER & AFFIRM-
ATIVE DEFENSES TO COUNTERCLAIMS
OF KATHERINE D. MILLER, aka
KATHERINE M. MILLER, et al.

v.

KATHERINE D. MILLER, aka
KATHERINE M. MILLER,

Defendant/
Counterclaimant,

80

COMES NOW THE PLAINTIFF & COUNTERDEFENDANT JOHN N. BACH,
and ANSWERS the COUNTERCLAIMS filed by KATHERINE D. MILLER,
aka KATHERINE M. MILLER, which is purportedly dated, March 17, 2003,
but was not served or attempted to be served until March 25,
2003, on JOHN N. BACH, as follows:

1. DENY EACH AND EVERY ALLEGATIONS OF ALL PARAGRAPHS,
not otherwise admitted by my FIRST AMENDED COMPLAINT, and deny
all such allegations, both generally and specifically, conjunc-
tively and disjunctively, and singularly and jointly or plurally.

2. DENY AND REFUTE ALL ALLEGATIONS OF SAID COUNTERCLAIMS,
WHICH ARE WHOLLY SPECIOUS, FRIVOLOUS, WITHOUT MERIT, VEXATIONOUSLY
OPPRESSIVELY, SLANDEROUSLY BROUGHT IN VIOLATION OF I.R.C.P.,
RULE 11, & DENIES ALL ATTACHED EXHIBITS/DOCUMENTS-~~NOT~~ VALID, AUTHENTIC OR APPLI-
CABLE.

AS AND FOR SEPARATE AFFIRMATIVE DEFENSES AND DENIALS,
state that each and all counterclaims therein;

1. Were and are improperly served personally or otherwise
upon JOHN N. BACH, in violation of IRCP, 12(b)(1) through (5);

2. Said counterclaims are without this court's jurisdiction
over the alleged subject matter and over the person of JOHN N. BACH.

3. Said counterclaims are barred by the Chapter 13, Bankruptcy
COUNTERDEFENDANT'S ANSWER & AFFIRMATIVE DEFENSES - P. 1.

0345A

filed in the U.S. Bankruptcy Court, Sacramento Division,
being number

4. Said counterclaims are barred, precluded and waived per KATHERINE MILLER's failure to assert her mandatory counterclaims if any she had/has in U.S.D.C., Idaho, Federal Action CV 99-014-E-BLW.

5. Said counterclaims are barred, precluded and waived by the Dismissal With Prejudice of KATHERINE MILLER's claims in TETON COUNTY ACTION CV 01-59.

6. Said counterclaims are barred, precluded and preempted by the doctrines of res judicata, collateral estoppel, issue and claims preclusions, from the above actions and Teton County Action CV 00-76.

7. Said counterclaims are barred, precluded and preempted by the doctrines of promissory estoppel, as well as equitable estoppel and quasi estoppel.

8. Said counterclaims are barred, precluded and abandoned by the Statute of Limitations of 3 years, 5 years and 2 years, and other Idaho statute of limitations.

9. Said counterclaims are extinguished, barred, precluded and discharged/released by the Settlement Agreement between JOHN N. BACH, TARGHEE POWDER EMPORIUM, Inc., etc., and KATHERINE D. or KATHERINE MI MILLER, of October 7, 1997 and subsequent deeds and agreements.

10. Said counterclaims are void, being nonpursuable, without merit, basis or law, as they are based upon criminal acts, formation of an Idaho corporation and use thereof of dbas which were stolen, criminally misappropriated with acts by Miller and defendant named in said FIRST AMENDED COMPLAINT, which are business identity and common law, Idaho statutory grand theft of plaintiff/counterclaimant JOHN N. BACH's properties, assets, business entities and dba designations and names.

11. Said counterclaims are barred by the doctrines of KATHERINE MILLER'S, her coconspirators, attorneys and others wrongful, criminal and unclean hands, plus their joint and several actions and intentional unwillingness to do equity or act equitably and further acts of bad faith, unwillingness to deal fairly with JOHN

COUNTERDEFENDANT'S ANSWER & AFFIRMATIVE DEFENSES - P. 2.

0345 B

N. BACH, and the violations of his Idaho Civil Rights and the Idaho Terrorism Act and Statutes.

12. Said counterclaims, each and every one of them, fails to state facts or aver facts upon which a claim or any claim could be based or for any relief by Katherine Miller against JOHN N. BACH, his business entities of TARGHEE POWDER EMPORIUM, INC., TARGHEE POWDER EMPORIUM, UNLTD and/or LTD, and any trust of investment of the VASA N. BACH FAMILY TRUST.

13. Said counterclaims are barred by MILLER's misrepresentations, violations of fiduciary duties and obligations to JOHN N. BACH, constructive fraud by her upon him, and her actions, conduct and procedures, along with all other named defendants in the FIRST AMENDED COMPLAINT, were done with malice in fact, with oppressiveness, coercion and distress inflicted upon JOHN N. BACH and his assets, properties and investments.

14. Said counterclaims are barred by the doctrines of waiver, abandonment and failure to exhaust judicial remedies and failure, refusal and avoidance of conditions precedent and prerequisite.

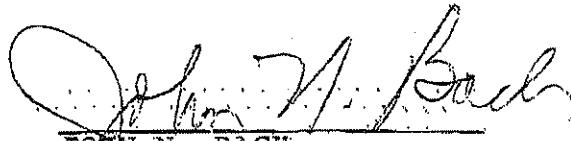
15. Said counterclaims are further barred by the doctrines of failure and refusal of KATHERINE MILLER to mitigate or avoid any damages, losses or injuries, plus that such damages, losses, injuries or claimed basis of relief sought by MILLER are the proximate cause, result and effect of her own spiteful, hateful and wrongful or criminal acts, omissions and pursuits by herself and with/by her codefendants, attorneys and agents, as such latter acts and omissions were of third parties in such a degree as to be independent intervening proximate and primary causes or proximate results of MILLER's claimed damages, losses, injuries, etc., as to bar all recovery against JOHN N. BACH, his said corporate and business entities, names and said VASA N. BACH FAMILY trusts.

16. That JOHN N. BACH, individually and in his business names and in his capacities, is entitled to reasonable attorneys fees, paralegal fees, costs, and other expenses actually incurred, both per Rule 11, and 54, ERCP, and I.C. statutes 12-120 and 12-121.

17. WHEREFORE, JOHN N. BACH, prays that KATHERINE MILLER, take nothing by her counterclaims or third parties claims, and

that he, JOHN N. BACH, be granted all legal and equitable relief, redress and damages as sought by his FIRST AMENDED COMPLAINT or any further amendment thereto, plus any other further relief as is deemed right and meet in the premises. COUNTERDEFENDANT JOHN N. BACH DEMANDS A JURY TRIAL ON ALL ISSUES.

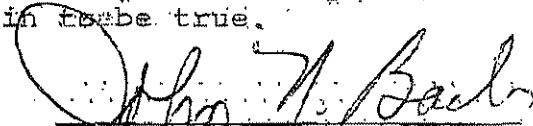
DATED: April 4, 2003


JOHN N. BACH

VERIFICATION OF ANSWER
AND AFFIRMATIVE DEFENSES

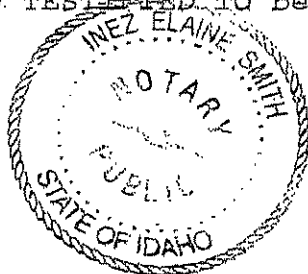
STATE OF IDAHO)
COUNTY OF TETON)^{ss}


JOHN N. BACH, being duly placed under oath, testifies, deposes and says; That he is the counterdefendant in the above counterclaim, that he has read the foregoing ANSWER AND AFFIRMATIVE DEFENSES, knows the contents thereof, and verily believes that the statements contained therein to be true.


JOHN N. BACH

SUBSCRIBED AND TESTIFIED TO before me on this 4th day of April, 2003.

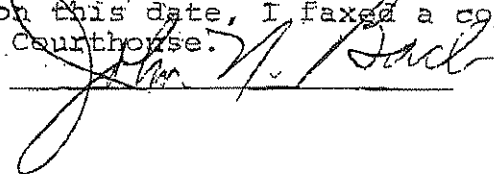
(SEAL)




NOTARY PUBLIC
Residing: Idaho
Com'n Exp: 6-18-07

CERTIFICATE OF SERVICE BY MAIL ON APRIL 4, 2003

I HEREBY CERTIFY that on April 4, 2003, I did serve a true and correct copy of the foregoing document on the Galen Woelk, by depositing the same in the U.S. Mail, with correct postage thereon, in an envelope addressed to: Galen Woelk, P.O. Box 533, Driggs, Idaho, 83422. I further certify that on this date, I faxed a copy to Judge St. Clair, Bonneville County Courthouse.



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

**TWELFTH ORDER
ON PENDING MOTIONS**

I. INTRODUCTION

Pending before the Court is defendant Katherine Miller's motion for contempt against plaintiff John Bach, filed on March 17, 2003, Miller's motion to vacate her motion for contempt, filed on March 25, 2003, plaintiff Bach's motion to strike the last 3 lines of Miller's motion to vacate, filed on March 27,

2003, defendant Miller's alternative motion for continuance of April 11th hearing, filed on April 1, 2003, and plaintiff Bach's motion to strike Miller's objection and alternate motion to continue hearing, filed on April 4, 2003.

Oral argument was either waived, or is not necessary on the foregoing motions. Having read the motions, supporting affidavits, objections, and opposing affidavits, the Court issues the following decision on the pending motions.

II. ANALYSIS

All of the motions invoke the sound discretion of the trial court. Exercising its discretion, this Court has determined that defendant Miller's motion to vacate her previously filed motion for contempt should be granted because Bach has paid the \$150.00 monetary sanction. Plaintiff Bach's motion to strike should be denied because the last 3 lines of defendant Miller's motion are not redundant, immaterial, impertinent, or scandalous within the meaning of Rule 12(f), I.R.C.P. Defendant Miller's alternate motion to continue the April 11th hearing to a date after April 21st that Miller's attorney can be present, and 14 days after a written motion and supporting affidavits and legal memorandum are served, should be granted. Miller's request that all motions be argued in Teton County should be denied because her counsel can appear by telephone and the assigned Judge has too many

cases to timely adjudicate preventing his driving to Teton County to hear motions where no witness will be allowed to testify anyway. Plaintiff Bach's motion to strike defendant Miller's alternate motion should be denied because the motion is not redundant, immaterial, impertinent, or scandalous.

III. ORDER

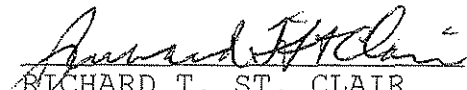
NOW THEREFORE, IT IS HEREBY ORDERED that

1. Defendant Katherine Miller's motion for contempt against plaintiff John Bach is WITHDRAWN by Miller;
2. Defendant Miller's motion to vacate her motion for contempt is GRANTED;
3. Plaintiff Bach's motion to strike the last 3 lines of Miller's motion to vacate is DENIED;
4. Defendant Miller's alternative motion for continuance of April 11th hearing is GRANTED in part and the April 11th hearing will have to be noticed; but DENIED in part because pretrial motions need not be heard in Teton County;
5. Plaintiff Bach's motion to strike Miller's objection and alternate motion to continue hearing is DENIED;
6. All motions shall be in writing, supported by affidavits and legal memoranda, and served on all parties (with courtesy copies to the assigned Judge in chambers at Idaho

Falls, Idaho) at least 14 days before any scheduled hearing on such motions; and

7. Unless waived, or deemed not necessary by the Court, oral argument in support of, or in opposition to, motions shall be at the Bonneville County Courthouse, Idaho Falls, Idaho, and leave will be granted for out of town counsel to appear by telephone.

DATED this 8th day of April, 2003.


RICHARD T. ST. CLAIR
DISTRICT JUDGE

CERTIFICATE OF SERVICE

I hereby certify that on the 8th day of April, 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)

RONALD LONGMORE
Clerk of Court


Deputy Court Clerk

Ronald E. Bush, ISB No. 3066
Jason D. Scott, ISB No. 5615
HAWLEY TROXELL ENNIS & HAWLEY LLP
333 South Main Street
P.O. Box 100
Pocatello, ID 83204-0100
Telephone: (208) 233-0845
Facsimile: (208) 233-1304
E-mail: REB@hteh.com

FILED
J:SS
APR 14 2003
TETON CO.
MAGISTRATE COURT

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,)	
)	
vs.	)	ANSWER TO FIRST AMENDED
	)	COMPLAINT AND DEMAND FOR
KATHERINE D. MILLER, aka KATHERINE	)	JURY TRIAL
M. MILLER, Individually and dba R.E.M., et)	
al.,	)	Fee Category I(10)
	)	No fee
Defendants.)	
)	
)	

In answer to Plaintiff John N. Bach's First Amended Complaint filed on September 27, 2002, Defendant Galen Woelk, individually & dba Runyan & Woelk, admits, denies, and avers as follows:

1. Woelk admits that Bach lives in Teton County, Idaho. Woelk is without knowledge or information sufficient either to admit or deny the remaining allegations of Paragraph 1 of the First Amended Complaint and therefore denies them.
2. Woelk admits that he lives in Driggs, Idaho, and practices law with Cody Runyan. Woelk denies having been involved in any capacity in any conspiracy to harm Bach or Bach's properties or interests. Woelk is without knowledge or information sufficient either to admit or

deny the remaining allegations of Paragraph 2 of the First Amended Complaint and therefore denies them.

3. The First Amended Complaint does not contain any paragraph numbered "3."

4. Woelk denies the allegations of Paragraph 4 of the First Amended Complaint.

5. The First Amended Complaint contains two paragraphs numbered "5." Woelk denies the allegations of both of them.

6. Woelk denies the allegations of Paragraph 6 of the First Amended Complaint.

7. Woelk denies the allegations of Paragraph 7 of the First Amended Complaint.

8. Woelk admits having represented persons in connection with criminal complaints initiated by Bach. Woelk denies the remaining allegations of Paragraph 8 of the First Amended Complaint.

9. Woelk is without knowledge or information sufficient either to admit or deny the allegations of Paragraph 9 of the First Amended Complaint and therefore denies them.

10. Woelk is without knowledge or information sufficient either to admit or deny the allegations of Paragraph 10 of the First Amended Complaint and therefore denies them.

11. Woelk is without knowledge or information sufficient either to admit or deny the allegations of Paragraph 11 of the First Amended Complaint and therefore denies them.

12. Woelk is without knowledge or information sufficient either to admit or deny the allegations of Paragraph 12 of the First Amended Complaint and therefore denies them.

13. Woelk is without knowledge or information sufficient either to admit or deny the allegations of Paragraph 13 of the First Amended Complaint and therefore denies them.

14. Woelk denies the allegations of Paragraph 14 of the First Amended Complaint.

15. Insofar as Paragraphs 15 through 42 (except those paragraphs included in Bach's Seventh Count, Tenth Count, and Eleventh Counts, to which no response is required because

some of those counts are not asserted against Woelk and because the Court dismissed some of them in its Tenth Order on Pending Motions) of the First Amended Complaint make any direct or indirect allegations against Woelk, Woelk denies those allegations. Woelk is without knowledge or information sufficient either to admit or deny the remaining allegations of those paragraphs and therefore denies them.

16. Woelk denies every allegation of the First Amended Complaint not specifically admitted herein.

FIRST DEFENSE

Bach's complaint fails to state a claim on which relief can be granted.

SECOND DEFENSE

Bach's claims are barred by the doctrines of res judicata and collateral estoppel.

THIRD DEFENSE

Bach's damages, if any, were the consequence of and/or proximate result of his own actions. Further, to the extent Bach has made any claim against Woelk that constitutes a claim subject to the rule of comparative negligence, Bach's negligence is the sole negligent cause of his damages, if any, or is equal to or greater than the negligence, if any, of Woelk. Therefore, Bach is barred from recovering any damages from Woelk.

FOURTH DEFENSE

Bach's damages, if any, were caused by the acts or omissions of third parties, over whom Woelk had no right of direction or control.

FIFTH DEFENSE

Bach's claims are barred for the reason that the actions of which he complains, allegedly committed by Woelk, are privileged actions under the law and Woelk is immune from liability for such actions.

SIXTH DEFENSE

Bach's claims are barred by applicable statutes of limitation, to include, but not necessarily be limited to, Idaho Code §§ 5-218, 5-219, and 5-224.

SEVENTH DEFENSE

Bach's claims are barred by principles of equity, to include, but not be limited to, estoppel, waiver, unclean hands and laches.

EIGHTH DEFENSE

Bach's claims are barred for the reason that his claims are based in whole, or in part, upon his own fraudulent conduct.

NINTH DEFENSE

Bach's claims are barred for the reason of illegality.

TENTH DEFENSE

Bach's claims are barred based on the Court's ruling that he never had any attorney-client relationship with Woelk and never shared any confidential information with Woelk.

DEMAND FOR RELIEF

WHEREFORE, having answered Bach's First Amended Complaint, Woelk demands judgment against Bach as follows:

1. That Bach's First Amended Complaint be dismissed with prejudice;
2. That Woelk be awarded his costs and attorney fees incurred in defending Bach's claims pursuant to Idaho Code § 12-121 and/or other applicable law; and
3. That Woelk be awarded such further relief as may be just and proper.

DEMAND FOR JURY TRIAL

Bach demands a trial by jury pursuant to I.R.C.P. 38(b).

DATED THIS 16th day of April, 2003.

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 10th day of April, 2003, I caused to be served a true copy of the foregoing ANSWER TO FIRST AMENDED COMPLAINT AND DEMAND FOR JURY TRIAL 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

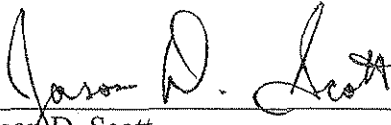
☒ U.S. Mail, Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Telecopy

Galen Woelk
Runyan & Woelk, P.C.
P.O. Box 533
Driggs, ID 83422

☒ 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



Jason D. Scott

IN THE DISTRICT COURT FOR 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)
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

FILED
2:43
APR 15 2003
TETON CO.
DISTRICT COURT

On the 28th day of March, 2003, Woelk's motion to dismiss, Bach's motion for sanctions against Woelk for motion to dismiss, Dawson's motion to dismiss under Rule 12(b)(5), Dawson's motion to set aside clerk's default, and Bach's motion for sanctions against Dawson 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. Jason Scott appeared on behalf of Defendant(s) Galen Woelk dba Runyan & Woelk.

Mr. Jared Harris appeared on behalf of Defendant Wayne

000357

Dawson.

Mr. Alva Harris appeared on behalf of Defendant(s) Harris, Fitzgerald, Lyle, Olson, Scona, Inc., and McLean.

Mr. Scott presented Woelk's motion to dismiss and addressed the Court in opposition to Bach's motion for sanctions against Woelk under Rule 11. Mr. Bach argued in opposition to Woelk's motion to dismiss and presented his motion for sanctions against Woelk under Rule 11. Mr. Scott presented rebuttal argument.

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

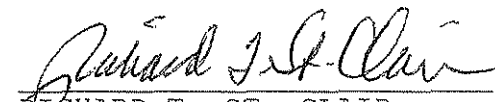
Mr. Jared Harris presented Dawson's motion to dismiss under Rule 12(b)(5) for insufficiency of process and Dawson's motion to set aside clerk's default judgment. Mr. Bach argued in opposition to the motions and presented his motion for sanctions.

Mr. Harris presented rebuttal argument.

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

The Court addressed counsel regarding the request for appointment of mediator. Each counsel in turn responded. The Court will relieve the parties of the requirement to mediate the case.

Court was thus adjourned.



RICHARD T. ST. CLAIR
DISTRICT JUDGE

A:13Bach/CC8275 @1860 full over to CC8305

000358

CERTIFICATE OF MAILING

I certify that on the 1st day of April, 2003, 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
1958 S. Euclid Ave.
San Marino, CA 91108
(626) 799-3146
PO Box 101
Driggs, ID 83422
FAX (208) 354-8303

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

Jason Scott
PO Box 100
Pocatello, ID 83204

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

000359

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

FILED
4:25
APR 18 2003
TETON CO.
MAGISTRATE COURT

SEVENTH JUDICIAL DISTRICT COURT, IDAHO, TETON COUNTY

JOHN N. BACH,

CASE NO: CV 02-208

Plaintiff/
Counterclaimant
Defendant,

AFFIDAVIT OF JOHN N. BACH
IN SUPPORT OF HIS MOTIONS FOR
SUMMARY JUDGMENT and/or SUMMARY
ADJUDICATION (R.C.P., Rule 56,
et seq.)

v.

KATHERINE D. MILLER, aka
KATHERINE M. MILLER, etc.,

Defendants/Miller
Counterclaimant.

JOHN N. BACH, duly being placed under oath, does hereby give
testimony of his own personal knowledge, participation, observa-
tion, perception and understanding as follows:

1. The testimony I give hereby is to supplement and expand
on the statements of facts, events and occurrences, which I
have set forth in my verified FIRST AMENDED COMPLAINT, filed
herein on September 27, 2003 and my verified ANSWER & AFFIRMA-
TIVE DEFENSES TO COUNTERCLAIMS OF KATHERINE D. MILLER, aka KATHERINE
M. MILLER, et al., filed April 4, 2003, which both pleadings are
incorporated and reaffirmed herein.

2. I request judicial notice of my testimonies given before
this Court, on August 13 and 15, 2002, along with the affidavit,
and exhibits offered in support of preliminary injunction, which
preliminary injunction, I seek hereby to be extended to a permanent
injunction, restraining all defendants from trespassing, entering
AFF. of JOHN N. BACH. In Supp. of His Mtns re S/T &/or S/A 000360 1

upon, making any claims of title, ownership, possession, use, right or access whatsoever to those total 87 plus/minus acres of land, which is the subject of my FIRST, SECOND, THIRD AND FOURTH COUNTS of the FIRST AMENDED COMPLAINT. Lastly, as to said properties, etc., included, encompassed and/or related to said FIRST through FOURTH COUNTS, I request a summary judgment or adjudication, that all of the named defendants, jointly and severally, "slandered, clouded, impaired my rightful titles/claims, possession, use and economic development and monetary increase in fair market value to all of said real properties."

3. In 1995 affiant was sued along with Katherine Miller, by Lovell & Lorraine Harrop, in Teton CV 95-47, filed May 10, 1995, with both affiant and Katherine M. Miller, having been personally served with process therein by the end of May 31, 1995. Katherine D. Miller and affiant were then living together, under a written as well as partially oral performed prenuptial arrangement, since Miller had not obtained here divorce from her then husband Ronald E. Miller, of Mt. Pleasant, MI. Katherine Miller, knew that affiant had purchased in his own right, claim and sole interest a 40 acre parcel from the Harrops, under the dba "TARGHEE POWDER EMPORIUM, INC.," which was an unincorporated sole proprietorship owned solely by affiant. The Warranty Deed so conveying said 40 acre parcel

to affiant is Teton County Recorded Instrument 118682, filed December 30, 1994 at 2 p.m. By virtue of said Lovell litigation KATHERINE D. MILLER, had direct knowledge, awareness and participation of all proceedings therein, through her retained Idaho Attorneys, Chuck Homer and other attorneys of the law firm of Holden, Kidwell, Hahn & Crapo, who represented and advised her through the final termination of said litigation. At no time during said Harrop litigation, or even before or after, did affiant ever state he was a licensed Idaho attorney who could or would present Katherine D. Miller's interests therein, nor did he ever undertake to do so, and in fact, through said litigation he only represented himself pro se in his own name and dba as TARGHEE POWDER EMPORIUM, Inc., an unincorporated sole proprietorship. Attached hereto from said Harrop litigation are copies of the following filed documents therein:

- A. Affidavit of JOHN N. BACH, filed Sept. 4, 1997, in Teton CV 95-047, along with a color listing/"Property Profile" sheet re the listing sales price of the Harrops' remaining 73 acres, at \$5,750 an acre, as EXHIBIT "A-1"
- B. October 15, 1996 letter, signed by David Nye and affiant and initialled as well reflecting only settlement of affiant's claims only against the Harrops, being EXHIBIT "B".

Even before said two exhibits execution, affiant and MILLER has entered into a verbal agreement on or about June 12, 1996, their prenuptial agreement, as to that written portion, letter of Dec. 8, 1994, a copy of which letter is EXHIBIT "C" attached, MILLER had affiant executed to her an OFFER OF ASSIGNMENT OF RIGHTS, CLAIMS, etc., of all his INTERESTS TO HARROP PROPERTY [only the front or most easterly 80 acres still under affiant's and the Harrop's purchase agreement on the promises that MILLER would purchase said most easterly 80 acres in her own name but in fact and agreement as a 50/50 partnership with affiant, who MILLER discussed with and

AFF. of JOHN N. BACH, In Supp. of His Mtns re S/J &/or S/A P. 3.

convinced affiant to file Chapter 13, bankruptcy proceedings, which proceedings would not have to disclose/reveal that he was an undisclosed partner and equal beneficiary with her in the said most easterly 80 to be purchased. Attached hereto are copies of said OFFER OF ASSIGNMENT OF RIGHTS, etc., being EXHIBIT "D", attached and a further, MEMORANDUM OF MONTHLY LEASEHOLD TO KATHERINE DEWEY MILLER IN THE EVENT OF JOHN N. BACH'S DEMISE, also dated, June 12, 1996, being EXHIBIT "E" attached. MILLER, kept telling affiant about this time, that she had gotten the HARROPS to agree to offer her the said most 80 acres for \$90,000.00, but she told affiant she would offer them no more than \$80,000.00 or \$1,000.00 per acre, since the HARROP litigation against affiant only, she having been dismissed without prejudice therefrom, would convince them to agree to her terms. The HARROPS did not so agree to said \$80,000.00 purchase, which negotiations were conducted solely by MILLER and her attorneys, CHUCK HOMER, and others of Holden, Kidwell, Hahn & Crapo. MILLER promised affiant that if he would settle his claims she would make him an equal partner in the most westerly 40 acres which were deeded in her sole name, derived from the Harrops in late December 30, 1994. MILLER had affiant promise he would not tell her children of such partnership as to said most 40 acres, her son in particular was withdrawing from her and did not want to have anything to do with her, and, she wanted to help her daughter buy a home in Michigan, but did not want either of them to know of this partnership before her difficulties with her children were resolved.

4. In late January through March 1997, affiant began to suspicion that MILLER was having an affair or several affairs; Miller kept assuring him that such was not true and that their prenuptial agreements and said partnership with affiant as to the most westerly

40 acres, but she wanted to have an interim home that she would purchase for both of them, other than where they were living since the house at 195 N. Hwy 33, Driggs, was being threatened to be seized and sold by the IRS for affiant's and his former wife's claimed back taxes. Miller agreed with affiant she would buy a home, which she and affiant picked out and negotiated, but that she would buy it in her name, with affiant having a life estate therein, with her and after her death. She again asked affiant not to reveal such agreement to anyone as affiant would be going through said Chapter 13 proceeding, and her problems with her children. Miller in the Spring-Summer of 1997 purchased 15 acres with a house and garage on 500N, 100 E and affiant lived therein with her until July 4, 1997, when he confronted MILLER with her indiscretions, and had to leave to attend to his mother's illness, and hospitalization in Chico, CA, where he had spent the most time in 1997.

5. Affiant returned from time to time from California to attend to his properties, investments and animals, and when in Teton County, had MILLER visit him, and tried to discuss with her some resolution of all the agreements and the partnership she had entered with him regarding said most westerly 40 acres and said property/home on 500N, 100E. In late September, 1997, affiant returned from California to Driggs, but before returning he had corresponded with MILLER re his feelings, concerns and person-1 evaluations of her actions. Two letters from affiant, dated Aug. 13, 1997 (EXHIBIT "F", attached) and Aug. 16, 1997 (EXHIBIT "G") attached, by such reference incorporated, state and reveal the positions taken by affiant, and the notices therein given MILLER.

6. Around October 1, 1997, MILLER stated to affiant if she
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AFF. of JOHN N. BACH, In Supp of his Mtns re S/J &/or S/A P. 5.

would go with her to see her attorneys, especially Chuck Homer and sign an agreement with her, that she could show her children, she would still honor the partnership agreement she had with him as to said most westerly 40 acres adjacent to the 40 acres solely owned by affiant under the dba TARGEE POWDER EMPORIUM, INC., and that he would have exclusive possession of all said most westerly 40 acres and the strip parcel of some 110 feet by $\frac{1}{2}$ miles off Hwy 33 going westerly most immediately onto/with affiants' said 40 acres. On said date, MILLER desired affiant to move back in with her, to live with her at 500 N, 100E, and affiant did so, resume their relationship toward marriage. On October 3, 1997, affiant was driven by MILLER to Chuck Homer's office in Idaho Falls, and he executed an AGREEMENT of 5 pages, his signatures being notarized by Mr. Homer, as were MILLER's, to which AGREEMENT were attached copies of two quit claim deeds and an easement agreement copies of the same attached thereto, & ATTACHED hereto as EXHIBIT "H" & incorporated herein. Also attached as EXHIBIT "I" is a copy of Mr. Homer's MEMO TO FILE, dated Oct. 6, 1997, referring to his meeting and said signing of agreements and deeds, per EXHIBIT "H". After the signing of said AGREEMENT, affiant and MILLER went shopping together getting house and food provisions, supplies for the resumption of their relationship to marriage, and during such shopping activities affiant met Chuck Homer, at Sam's Club and his wife, the latter to whom he was introduced, and had a brief discussion with the Homer's in the presence of MILLER for some 10-12 minutes. From that date on until December 13, 1997, when affiant ended his living with MILLER at 500N, 100E, he and MILLER did almost everything together, took trips, one to Alberquerque, to an Arabian horse show, to Moab, Utah, through Western Wyoming, celebrated her Oct. 30, birthday, and started the winter ski season, spent Thanksgiving

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AFF. of JOHN N. BACH, In Supp of his Mtns re S/J &/Or S/A P. 6.

together, and preparations for Christmas, trips to Idaho Falls, Pocatello, Preston (looking to purchase tractor and horses for each other), etc. On December 13, 1997, affiant was confronted with information of MILLER's still ongoing indiscretions, while supposedly in Michigan, attending to her operations of her MIDA MUFFLER shop and of her so called visits to women friends in Wyoming. On said date, he left said residence at 500N, and terminated his personal relationship with MILLER but not any interests, rights or exclusive management of said partnership of the most westerly 40 acres and said 110 foot by ½ mile strip. Throughout 1998, MILLER pursued and sought to have affiant reestablish their personal relationship and then interrupted marriage plans, but on November 29, 1998 or thereabout affiant terminated all personal contact with MILLER due to her untrustworthiness and deceitful nature, but always maintaining his ownership, claims and interest as well as exclusive management over said westerly 40 acres and ½ mile strip.

7. In January 11, 1999 affiant filed his action against Roy C. Moulton, Katherine Miller, Jack Mclean and others in USDC, Idaho CV 99-014-E-BLW, wherein MILLER filed no mandatory compulsory counter-claims against affiant per FRCP, Rule 13(a), and wherein, she further denied that the AGREEMENT of October 3, 1997 had been rescinded, voided or disavowed in any part. Said matter is now before the Ninth Circuit Court of Appeal, per a petition for rehearing en banc.

8. MILLER then commenced a number of utterly specious actions and legal proceedings against affiant to so oppress him, financially, and otherwise, that he would not seek to enforce his rights to the properties set forth in the FIRST AMENDED COMPLAINT, which pleadings is by such reference incorporated herein, such being verified by affiant. One of such vexatious and frivolous/specious and without merit actions

was Teton CV 01-59, which was DISMISSED WITH PREJUDICE as to MILLER'S CLAIMS therein, but as to affiant's counterclaim, such were dismissed without prejudice. This Court has heretofore taken full judicial notice, knowledge and received into evidence said CV 01-59 and affiant requests such also be done as to these motions. Another frivolous action filed by MILLER was and still is Teton CV 00-76, whereafter filing a verified complaint and affidavit admitting affiant solely owned said most easterly 40 acres at the end of said ½ mile strip and having an equal one-half ownership interest in said strip with affiant, she thereafter dismissed without prejudice her entire action, and affiant's transfer of said action, it's removal, to the Idaho Federal District Court. A third frivolous action, by MILLER, is Teton CV 01-191, wherein she is represented by Alva A. Harris, who at one point moved to consolidate said actions with this action, but then withdrew MILLER's said motions, and now, MILLER seeks per her further frivolous counterclaims against affiant filed herein on March 19, 2003, and her improperly filed THIRD PARTY COMPLAINT and CROSS COMPLAINT, to further duplicate and replicate, her utterly frivolous, specious and vexatious complaint in Teton CV 01-59 and Teton CV 01-191.

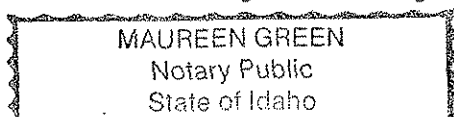
9. Affiant refers to and incorporates his ANSWER, etc, filed April 4, 2003, to MILLER's said answer, affirmative defenses and counterclaims, and seeks granting of full summary judgment against MILLER as to her said pleadings, all four of them filed April 4, 2003.

10. further, affiant sayeth not at this time.

DATED: April 18, 2003

STATE OF IDAHO)
TETON COUNTY) ss (Seal)

I, the undersigned NOTARY OF IDAHO, verify, attest, acknowledge and affirm that JOHN N. BACH, appeared before, was placed under oath and gave the above testimony, after which he signed his signature in my presence and witnessing, this April 4, 2003



OFF OF JNR to S/T

000367

NOTARY:

Address:

P 8

Com'n Exp.

08/02/08

JOHN N. BACH
TARGHEE POWDER EMPORIUM, INC
P.O. Box 101
Driggs, Idaho 83422
Tel; (208) 354-8303
Defendants/Counterclaimants
In Pro Per/Se

FILED
1:22
SEP 04 1997
TETON CO.
DISTRICT COURT

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

W. LOVELL HARROP and
LORRAINE M. HARROP, husband
and wife,

CASE NO. CV 95-047

AFFIDAVIT OF JOHN N. BACH

Plaintiffs,

v.

JOHN N. BACH, KATHERINE M.
MILLER; and TARGHEE POWDER
EMPORIUM, INC., an Idaho
corporation,

Defendants.

AND RELATED COUNTERCLAIMS.

I, JOHN N. BACH, under oath, deposes and says:

1. I am one of the defendants and counterclaimants herein and have personal knowledge, participation, involvement and observations of the facts and circumstances stated herein.

2. None of the settlement discussion, nor written portions of any settlement agreement herein nor of the statements made in chambers herein regarding further terms and agreements of settlement ever had the express condition and agreement that all of the defendants and counterclaims claims were to be dismissed before the entire terms and conditions, express as well as implied of the total nonintegrated settlement agreements were fully performed by the Harrops which settlement terms and agreements included the Harrops full and timely performance "within 30 days" of the October 5,

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Aff. of John N. Bach - D

EXHIBIT "A"

1996 written letter portion of said settlement agreements. Nor was therein any agreement that had the Harrops so timely performed with said 30 days, that I would agree to indemnity any of the Harrops or their attorneys, agents, etc., from any claims or demands to be asserted, made or pursued by Katherine M. Miller. In fact, not only was no such discussions, nor certainly any term so reached or agreed, but the plaintiffs' counsel, had been dealing directly with one of Ms. Katherine Miller's Idaho attorneys, Mr. Chuck Homer of Idaho Falls, in a number of capacities, to wit, (1) attempting to buy directly from the Harrops the front or most easterly 80 acres before October 5, 1997 for the sum of \$80,000.00; (2) attempting to resolve the location of the 60 easement to be given by the Harrops per the original agreements of purchase of the most westerly 80 acre parcel, purchased in two separate 40 acre parcels by Ms. Miller and Targhee Powder Emporium, Inc.; and obtain a specific Warranty Deed of Easement for said two 40 acre parcels; (3) to have the Harrops complete the issuance of title insurance and the placement of the midline metal survey pipes around said two 40 acre parcels already conveyed and warranty deeds recorded thereon; and (4) to complete the final and total transfer of water shares of all canal companies, and other water rights to Ms. Miller.

3. Thus, prior to October 5, 1996 John N. Bach and Katherine Miller, John N. Bach having legal and physical possession of the most easterly 80 acres, per written and oral agreements and other understandings between them, did set out to locate with survey stakes, markers, a location of a house, barn and other buildings to be built by Ms. Miller and John Bach on said most easterly 80 acres, obtaining estimates and locations of a permanent road, installation of a septic tank or sewerage system pond or pits,

etc. and even going to the Teton County Health Department District Seven office and making application for testing of soil conditions for such septic tanks, etc., qualification and or eventual installation. However, the plaintiffs, in particular Mr. Lovel Harrop and one of his children entered wrongfully upon the most easterly 80 acres destroyed all/removed the survey stakes, markers and other designations upon the middle of said most easterly 80 acres, further did wrongfully attempt to dispossess John N. Bach off said most easterly 80 acres, did have the next door neighbor with the plaintiffs directions and instructions bring some 200 plus mixed cattle breeds upon the most easterly 80 acres, did place logs, bolts and other chain linkage upon the main entrance gates and other interior gates of the easterly 80 acres to preclude and prevent John N. Bach's rightful possession and use thereof. As a direct result of said wrongful actions by the plaintiffs and members of their family, Ms. Miller refused to continue any negotiations for the full purchase of said easterly 80 acres, delayed and postponed the fulfillment with John N. Bach of their written and oral agreements to build a residence, barn and other structures on the most easterly 80 acres or on her most westerly 40 acres.

4. The settlement agreements reached herein, now breached and unfulfilled by the plaintiffs, were reached per the directions and participation of Katherine M. Miller, who further agreed with John N. Bach that she'd advance the money for the purchase of the 6.6 acres which were to be put into her name but that such purchased acreage would be held in either a joint venture with John N. Bach or per a resulting/constructive trust because just after the chamber session where the additional terms of settlement were

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Ms. Katherine M. Miller has refused and failed to perform all of her said written and oral agreements with John N. Bach re the building of said house, barn, etc., on any of the properties either purchased or in negotiation to be purchased from the plaintiffs. Such refusal and failure was made clearly known to John N. Bach on or about July 5 and thereafter to date hereof by Ms. Katherine M. Miller who has severed all relationships and contacts with John N. Bach after the last court hearing herein, and has referred all matters concerning this action and said agreements she has breached with John N. Bach, to her attorney Mr. Chuck Homer of Idaho Falls, and other attorneys in Michigan which she has also consulted and been advised.

7. As stated above, per the written and oral agreements with Katherine M. Miller, which written portion of December 8 & 12, 1994 provided that Ms. Miller was to build a house for her and John N. Bach of 1,000 square feet within two (2) years of close of escrow and completion of all terms by the Harrops, then she would repay \$40,000.00 within a year with 10% interest thereon to John N. Bach. Said house was initially to be build upon the 40 acres purchased by Ms. Miller and then with further agreement, it was contemplated being built upon the most easterly 80 acres which Ms. Miller was then in negotiations to be purchased from the Harrops. Such agreements with Ms. Miller for the benefit of John N. Bach have now been refused and defaulted in performance by the actions of the plaintiffs herein and the decisions of Ms. Miller based upon the breaches, delays and failures of performance of the plaintiffs herein on both the original agreements of purchase and the settlement agreements.

8. Among one of the most salient misrepresentation by the plaintiffs to John N. Bach, was that of the absence of wetlands or wetlands status conditions on the entire 160 acres to be purchased from the Harrops. Because of this misrepresentations and especially because of the admissions by Lovell Harrop during his deposition that he not only knew of such wetlands problems but had approached the Army Corp. of Engineers to ascertain how much of said 160 acres was wetlands or related thereto in such status, which facts and details he did not relate nor disclose to John N. Bach prior to the original purchase agreement, but only in his deposition, Ms. Miller has felt that her 40 acres along with the 40 acres purchased by Targhee Powder Emporium, Inc., could not be developed into 2.5 acre parcels as represented by the Harrops to John N. Bach. With such concern, John N. Bach, confronted Mr. David Nye after the next to last court hearing in Blackfoot, that he had heard from Mr. Gus Boyd, a relator for ReMax of Driggs, who had received a listing from the Harrops for the sale of the remaining 73.4 most easterly acres, that the Harrops had gone again to the army corp of engineers with the request that such corp determine the nature and extent of wetlands not only on such remaining 73.4 acres but also the most westerly 80 acres so sold to Ms. Miller and Targhee Powder Emporium, Inc. When John N. Bach addressed Mr. Nye with this concern he specifically asked Mr. Nye to provide him with whatever documents, materials, information, etc., created, caused or derived by the Harrops in their request of the army corp as such request affected all of the 160 acres involved. John N. Bach indicated to Mr. Nye that he felt that such was required of the Harrops by the express and implied covenants of good faith and

per the original agreements of purchase and even the breached or defaulted agreements of settlement by the Harrops. Mr. Nye specifically stated: "I will check with my clients and the army corp and provide you all such documents and copies as soon as I can get them. " John N. Bach thanked him for his statement of intent and cooperation. The statements now set forth in Mr. Nye's affidavit of August 27, 1997 which affidavit John N. Bach did not receive via the mail until this morning, (since he had been absent from Idaho attending to his ill elderly mother in Chico, California, and other pressing matters) are wholly inaccurate, incomplete and misleading. These same documents, materials and information regarding the Harrops' requests of the army corp of engineers was also requested by John N. Bach from Gus Boyd, ReMax Realtor, who, as indicated in previous affidavit of John N. Bach of August 14, 1997 filed herein, Exhibit "II" attached, page 3 thereof, stated: "he had not received any such documents from the Army Corp of Engineers but it would be coming within a matter of weeks. But nothing was forwarded to defendant Bach." As of this date and time John N. Bach has not received any such documents, materials or information as requested of and from the Harrops, via Mr. Nye or Mr. Gus Boyd.

8. Plaintiffs' reliance upon the MINUTE ENTRY AND ORDER of July 28, 1997 particularly the paragraph which reads:

"The Court informed the parties that the original case is settled and resolved and that it appears there is an ambiguity on the settlement agreement regarding evidence taken on the water shares"

is not an order, nor certainly not a final order or determination,

is not either within the jurisdiction of the Court to so find upon the matters then before it, and was premature as well as without any foundation in point of fact or law since the court neither had the transcript of the chamber session before it nor did it consider the fact of the first major ambiguity, to wit, whether the settlement agreements by their entire terms were firmly, unequivocally and exactly of the meeting of mind between the parties that the claims and counterclaims of all parties before the settlement agreements terms were to be performed, were to be then dismissed or terminated. Such was neither the understanding, nor intent or legal effect which John N. Bach had in mind when said settlement terms were reached, rather, at all times, John N. Bach knew, understood and agreed only to an executory accord, to wit, that until all the terms of said settlement agreements had been timely completed within said 30 days period, no such dismissal or termination of any of his or Tarhgee Powder Emporium, Inc's counterclaims or other related and further claims were ever to be dismissed or considered as resolved with finality.

9. Exhibit 4 attached to the recent Affidavit of Mr. Nye of August 27, 1997, re October 10, 1996 letter to Clerk with copy of Release of Lis Pendens, was never received nor was it made known to John N. Bach, until the receipt this morning of said declaration. No copy of either said October 10, 1996 letter or Release of Lis Pendens was previously received by John N. Bach. John N. Bach has just had the opportunity this morning, due to this affidavit's preparation to reply to that of Mr. Nye to ascertain if such Release of Lis Pendens has been recorded if at all.

After checking with Mrs. Phyllis Hansen, court clerk, second floor, it was ascertained that 2-3 weeks ago, Mr. Nye called her to check to see if the Release of Lis Pendens was filed/recorded, and she said she had so checked and it was. She also informed John N. Bach that on December 11, 1996, two warrants numbered 7565 and 7566, in the respected amounts of \$4,750 and \$2,406.72, were issued and sent to Merrill and Merrill. and that on January 1, 1997 a third warrant numbered 7703 was sent to A-W. Engineering in the amount of \$300.01, This was the first time John N. Bach had received any information of such warrants, amounts or to whom made or sent, as he had never given any written or oral approval for the payments of such funds.

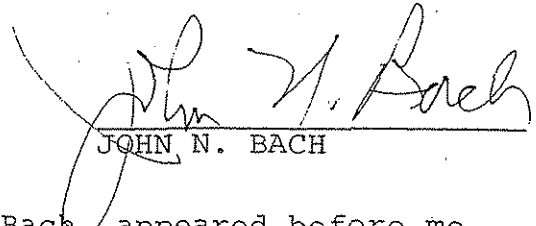
10. After talking to Mrs. Hansen, John N. Bach went to the main clerk's office and after extended efforts was able to find and obtain right at noon, this date a copy of a recorded Release of Lis Pendens, on November 27, 1997, at 10:55 a.m., said recorded release also had a date "RECEIVED" stamp of November 27, 1996 and a copy of the same is attached hereto. Until said production by the clerk's office this morning John N. Bach had not received any verifiable information that such Release had so been recorded nor the original as record nor even a copy as recorded sent him. Moreover, said date of recordation is well over said 30 days from and after October 5, 1997 and even the negligence of Mr. Nye, his office or the clerk's office does not excuse the failure, breach and default of the settlement agreements.

11. John N. Bach, while unavailable yesterday, received two phone calls, as he could discern, from the court reporter saying a transcript or transcripts would be received by mail by him this

morning, but as of 12:10 p.m., this day, in checking with the Driggs, post office no such transcripts or other documents have been received from the court reporter for Judge Herndon.

12. Further affiant sayth not:

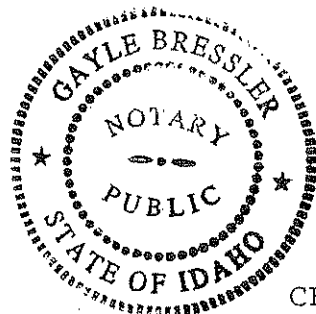
DATED: September 4, 1997


JOHN N. BACH

On September 4, 1997, John N. Bach, appeared before me, a Notary Public in and for the County of Teton, State of Idaho known to me to be the person whose name is subscribed to the within document, and acknowledges to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written, September 4, 1997.

(Seal)

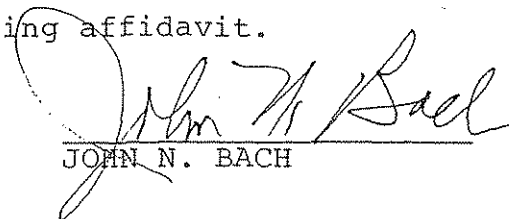



NOTARY PUBLIC FOR IDAHO
4-10-2001

CERTIFICATE OF SERVICE

I the undersigned certify that on this date, September 4, 1997, at the Teton County Courthouse, I did hand personally or will do so to David C. Nye, Esquire, counsel for the plaintiffs, a complete copy of the foregoing affidavit.

DATED: September 4, 1997

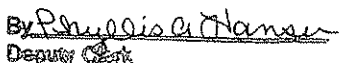

JOHN N. BACH

STATE OF IDAHO }
County of Teton } ss.

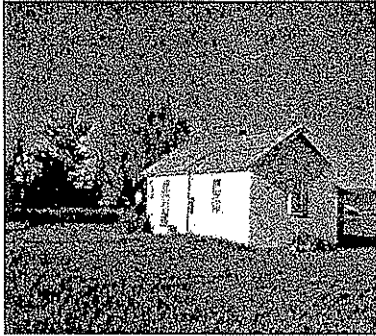
HEREBY CERTIFY that the above and foregoing is a full, true and correct copy of original thereof, on file in my office.

Date: 18 April 2003


Magistrate

By 
Deputy Clerk

Aff of John N. Bach P 10 000377



*T*his 73-acre parcel with water rights and a striking view of the Grand Teton near the airport offers so many options. Currently leased seasonally for livestock grazing, however other uses could be a horse ranch or subdivided or with conditional use might be approved for light industrial. Large parcels with Hwy. frontage are rarely available and may make a sound investment to hold at this reasonable price of \$5,750 per acre.

PROPERTY PROFILE

LOCATION: Driggs, ID

ACREAGE: \pm 73 Acres

ADDRESS: 304 N. Highway 33

TAXES 2001: \$209.54

HOME: 650 sq. ft., 1 bedroom, .75 baths

LIST PRICE: \$419,750

INTEREST #9-5262

Although the foregoing data has been compiled from sources deemed to be reliable, Jackson Hole Realty does not guarantee its authenticity. It is intended for informational purposes only, is subject to prior sale, error, revision & cancellation without notice, and should be independently verified with the source of such information.

000375

EXHIBIT "A-1"

10/05/1996 12:17 FROM

Powder Emporium

TO 12882322

P. 01

10/05/96 14:18 FAX 2082333499

Merrill & Merrill

0001

MERRILL & MERRILL
 1000 N. 10TH ST.
 PO BOX 101
 POCAHELLO, ID 83204-0101
 DAVE R. GALLAGHER
 STEPHEN J. BROWN
 D. ALBERTA WRIGHT
 DAVID C. BRY
 ROBERT J. WOODWARD
 THOMAS W. J. LINDSEY
 PHONE 208-233-4999

MERRILL & MERRILL
 CHARTERED
 COUNSELLORS AND ATTORNEYS AT LAW
 100 NORTH ARTHEM - 5TH FLOOR
 P.O. BOX 89
 POCAHELLO, ID 83204-0089

TELEPHONE
 208-233-4999
 TELEFAX
 208-233-4999

October 5, 1996

SENT VIA TELEFAX

John N. Bach

P.O. Box 101

Driggs, ID 83422-0101

Re: Harrop v. Bach

Dear Mr. Bach:

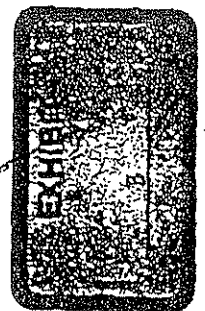
I conveyed your offer to my clients. This is our response. We will settle on the following terms:

1. We will deed you a strip, 110 feet wide, along the north side of the East 80 acres, which will be 110 along the westerly boundary of highway 33 to a length of 2640 feet along the north boundary line which abuts and gives unfettered access to the next westerly 80 acres already deeded to Targhee Powder Emporium, Inc. and Katherine Miller. The 110 feet will be measured from the survey line and not from the fence line.
2. You will receive sufficient water shares to cover the acreage deeded in the roadway strip.
3. Both sides are to get estimates of the cost of surveying and fencing the roadway and the border between the two 80 acre parcels in sufficient time to put their share of the costs of surveying and fencing into escrow by Friday, October 11, 1996.
4. You will pay \$4,750 for the deed to the roadway, into an escrow by Friday, Oct. 11. We will use the Court for the escrow if you want. Court will continue jurisdiction to supervise until all terms herein are completed.
5. The pond is dry so the Harrops won't give you access to their remaining property to access the west 80 acres. Just drive through the dry pond bed.
6. Everything must be completed within 30 days.
7. Both parties release the other party from all claims and liabilities.
8. All parties agree to cooperate fully and assist each other in good faith in completing this settlement.
9. Title insurance to all property previously conveyed and this 110 x 2640 strip to be paid by the Harrops.

10. Upon payment of \$4750 in court, the Harrops will release &/or cause the his orders to be opened on Targhee Powder Emporium, Inc. already deeded 40 acres.

000379

EXHIBIT "B"



10/05/1996 12:17 FROM: hys, Pou, Inpro, lya ID 13982322499

10/05/96 14:18 FAX 2082322490

Merrill&Merrill


P.02

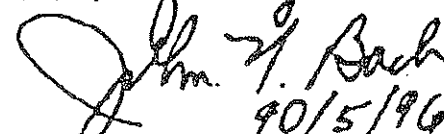
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If you accept these terms, please sign at the bottom and fax it back to me. I will then contact Judge Herndon to cancel the jury and set a hearing for Monday morning to put this on the record.

Very truly yours,

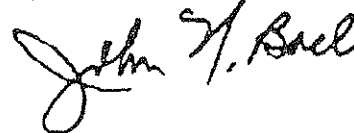
MERRILL & MERRILL, CHARTERED


David C. Nye

As further clarified by insertion of item 10
Agreed. 
90/5/96

Judge Herndon works as in Court Monday at 10:00 AM
to put this on the record.

David - I related the last information to Tom Lyons who
said he'd have you insert it into the settlement terms



000380

Targhee powder emporium, inc.

195 N Hwy 33, #101
Driggs, Idaho 83422
(208) 354-8303

December 8, 1994

Ms. Kathy Miller
P.O. 1332
Jackson, Wyoming 83001

Dear Kathy:

This letter is a very personal, private and for your eyes' and sole consideration. As I have related to you I have now received from my joint venturers and investors permission and authorization to make the offer which I now state:

You are invited and offered to buy the most westerly 40 acres of the second westerly 80 acre parcel for the total sum of \$160,000.00, or \$4,000.00 an acre upon the following terms and conditions:

1. You must pay by December 10, 1994, actually December 12, 1994 which is the next business day, the sum of \$110,000.00 into escrow.
2. The balance of \$50,000.00 will be evidenced by a sixty day promissory note for \$10,000.00 and the remaining \$40,000.00 will be evidenced by a separate contract to build a house of at least 1,000 square feet on said 40 acres or any portion thereof within two (2) years and which house you would occupy. If such is done in two years from close of escrow, which close will be on December 15, 1994, then you need not repay the \$40,000.00, except that Targhee Powder Emporium Inc., would have a one-half ownership interest in the house only. If said house is not built in said two (2) years then you would repay said \$40,000.00 within a year with 10% interest thereon.
3. Per the other material sent you, a 60 foot easement for road and underground utilities would be provided to your 40 acre parcel and you would assume and pay on the 40 acre pro rata basis for the construction and installation of such road/utilities to your 40 acres.

I would acquire a 20 acre parcel just to the east of your 40 acres.

000381

EXHIBIT "C" 00229

5. As stated above and earlier, this offer must be accepted by and no later than December 10, 1994 with the \$110,000.00 deposited into escrow by December 12, 1994. Upon close of escrow you would receive a Warranty Deed to said 40 acre parcel without any mortgage or deed of trust thereon, as the other terms of this offer, to wit, per paragraph 2, supra, would be evidenced by separate nonsecured note and agreement.
6. If at the end of two years, assuming you have purchased the said 40 acre parcel but not built the 1,000 square foot house, I would be willing to buy back all of the 40 acres for the sum of your original \$120,000.00 purchase price plus another \$24,000.00 as and for two (2) years interest which would represent 10% per annum on said original purchase price for said two years. The repayment of said \$144,000.00 would be within one year after said initial (2) year period from close of escrow.

Kathy, I realize that this offer calls for a firm and immediate commitment from you. As I indicated earlier, the price per acre is increased by \$1,000.00 on December 15, 1994 and every 90 day intervals goes up at least another \$1,000.00 per acre.

Today, in particular, with the weather clearing and the fog, clouds and visibility lifting, you can see for yourself that these 40 acres are of prime residential development and use, with magnificent views of the Teton Valley. Life is good in this valley, and this offer leaves many options open and available to you.


JOHN N. BACH, C.E.O.

Page 3 of December 8, 1994 Letter to KATHY MILLER

I, KATHY MILLER, P.O. 1332, Jackson, Wyoming, 83001, do on the date entered next to my signature below, accept, agree to and bind myself to the terms and conditions of the foregoing letter offer of two (2) pages, and do further agree to diligently, timely and efficiently carry out the terms and conditions of the foregoing contract of purchase by myself, in my name, as I will further direct my agents or attorneys to enter, on the most westerly forty (40) acres of the second and westerly eighty (80) acre parcel being offered by the Harrops.

Dated this 12th day of December, 1994

Katherine M. Miller
KATHERINE M. MILLER,
aka KATHY MILLER.

000383

00231

1 OFFER OF ASSIGNMENT OF RIGHTS, CLAIMS AND
2 ALL INTERESTS TO HARROP PROPERTY AND TETON
3 COUNTY ACTION, NUMBER C.V. 95-047 AND FOR
4 INDEMNIFICATION OF JOHN N. BACH
5 & TARGHEE POWDER EMPORIUM, INC.

6 This offer of assignment is personally and specially being
7 extended to only one person, to wit, KATHERINE DEWEY MILLER, of
8 MT. Pleasant, Michigan and Driggs, Idaho, to whom, upon her written
9 acceptance and agreement of performance of the conditions herein
10 stated and/or implied, I, JOHN N. BACH, individually and as C.E.O.
11 of TARGHEE POWDER EMPORIUM, INC, hereby assign, convey and grant
12 unto KATHERINE DEWEY MILLER, all of our rights, claims, interests
13 and/or any causes of action, against W. LOVELL HARROP and LORRAINE
14 HARROP, in any way related to that current action, being Teton
15 County District Court case number C.V. 95-047, and all rights, in-
16 terests and claims to the most easterly eighty (80) acres, along
17 the westerly side of Highway 33, north of Driggs, provided that
18 said KATERHINE DEWEY MILLER agree to and commit to the performance
19 of the following conditions and express essential terms of this
20 assignment:

- 21 1. That in lieu of any refund of the \$2,500.00 paid the
22 Harrops for said most easterly 80 acres, that upon her purchase
23 of said 80 acres she will deed back two acres along the most easterly
24 boundary of the 40 acres purchased by TARGHEE POWDER EMPORIUM, INC.,
25 Said two acres to be mutually agreed upon by JOHN N. BACH and her
26 as to the exact alignment along said easterly boundary to wit, at
27 the northerly or southerly corners of the mutual boundary between
28 said 40 acres of T.P.E., INC., and the 80 she is to still purchase

000384

EXHIBIT "D"

1 from the Harrops.

2 2. That all previous agreements in writing between her
3 and JOHN N. BACH regarding any further payment of moneys to
4 him or TARGHEE POWDER EMPORIUM, INC., re any remaining moneys to
5 be paid or performance of building a house, on her most westerly
6 40 acres, already purchased and deeded to her by the Harrops is
7 hereby extinguished.

8 3. The sixty (60) foot right of way and easement to the
9 said 40 acres and also the additional 2 acres to be deeded to
10 those already owned by T.P.E., Inc. will be upon mutual agreement
11 over the 80 acres she is to still purchase from the Harrops with
12 preference, and priority being given to KATHERINE DEWEY MILLER's
13 wishes, desires and overall plans of where such 60 foot easement
14 should be placed permanently.

15 4. That upon KATHERINE DEWEY MILLER's acceptance of this
16 offer of assignment, she will henceforth fully indemnify and hold
17 JOHN N. BACH and TARGHEE POWDER EMPORIUM, INC. harmless, secure
18 and entirely free of any claims, actions or causes of actions
19 asserted in any manner by said W. LOVELL HARROP and/or LORRAINE
20 HARROP relating to said Teton County action C.V. 95-047

21 DATED: June 12, 1996

22 
23 JOHN N. BACH, Individually
24 & as C.E.O. of TARGHEE
POWDER EMPORIUM, INC.

25 I do on this date _____, 1996 accept and agree to
26 the foregoing assignment and all terms and conditions therein
27 stated or implied.

28 KATHERINE DEWEY MILLER

MEMORANDUM OF MONTHLY LEASEHOLD
TO KATHERINE DEWEY MILLER IN THE
EVENT OF JOHN N. BACH's DEMISE

I, JOHN N. BACH, as C.E.O. of TARGHEE POWDER EMPORIUM, INC., and individually, do hereby confirm a creation and grant, in the event of the demise of JOHN N. BACH, of a month to month lease for a minimum term of six (6) months, on that real property known as 195 North Highway 33, Driggs, Idaho, with house and curtailage therewith, excepting therefrom the personal, business and other belongings, personalties, etc., of JOHN N. BACH and TARGHEE POWDER EMPORIUM, INC., which shall remain stored and safeguarded therein said house by KATHERINE DEWEY MILLER, who shall be the only lessee and/or tenant of said six (6) month minimum term. At the end of said six (6) month terms, the executors and/or successors of JOHN N. BACH and TARGHEE POWDER EMPORIUM, INC., shall exclusively and solely decide what to do with any further extensions, terminations or cessation of such leasehold interest to KATHERINE DEWEY MILLER. During the said six (6) month term KATHERINE DEWEY MILLER shall carry adequate fire and liability insurance on said premises and curtailage, pay all utilities and/or taxes that become due thereon.

DATED: June 12, 1996



JOHN N. BACH, Individually
& as C.E.O. of TARGHEE
POWDER EMPORIUM, INC.

EXHIBIT "E"

000386

August 13, 1997

KATHY M. MILLER via fax: (208) 456-2116

Dear Kathy:

Your letter of August 12, 1997, which you handed me in the Targhee Powder Emporium's driveway this morning at approximately 10:18 a.m., was a letter untruthful and harshly cruel in its statements, inaccuracies and obfuscations of our relationship.

I am taking the opportunity, briefly that I have since as you know I am preparing to leave to return to California to take care of my mother and see to her medical needs, to initially respond. Hopefully, from California, or whenever I return I will respond more fully. But at the moment my feelings, which are of concerns and love for you which now ask what motives you have such invectives/untruths. Our relationship until July 4th of this year was such that I confided in you everyday my utmost thoughts, desires and plans. You were never kept from the truth at any time during our relationship, until I found out of your affair and infidelity to me, by entering into a secret personal relationship with Walter J. Harris. Even when I initially asked you questions which should have been answered honestly and directly by you, you were evasive and became angry about my prying. With a lot of patient persistence I finally got you to admit the deception you worked on me with Walter and others. Even then you refused to apologize nor to be forthright and completely honest.

Yet, when you state in your first paragraph that you "were silenced by my angry demeanor" such statement is entirely untrue. The anger you now characterize, was the fact that you stated to me after July 4, in trying to rationalize your infidelity, that I made decisions and statements which I would say to you, I don't want to repeat myself, but I have discussed such with you and why is it that you want to revisit and discuss or undo such item again." I have never yelled at you. Certainly, I have never done anything of any abusive nature, conduct or actions toward you or around you. It seems that whenever I insisted that you truthfully confront what decisions and actions you have taken, that such openness and honesty requests of you was anger. It wasn't and shouldn't be characterized as such.

I, as you know am a packrat and extensive notetaker. I have kept most of our correspondence, cards, faxes and other communications, with notes of our discussions. I have not reviewed them prior to this initial reply to your letter, but I know from memory that what I say at this point is true and supportable. But more importantly, to me, is that whatever the truth of our personal and intimate relationship, business ventures and dealings with each other, I will not be threatened nor intimidated to ignore the truth and the proper sequence of events as they took place. I am not ashamed nor will I be silent to state such truths and to protect my interests.

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EXHIBIT "F"

1. **Introduction**
 2. **Methodology**
 3. **Results**
 4. **Conclusion**

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08/11/97 12:49 FROM Targhee Powder Emporium TO 4562116

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when you sent me all those cards, letters and even personal diary (wherein you quoted Walt Whitman's most poignant and love committing verses of Song of the Open Road) about your love for me? Or were such writings merely to get me to surrender to your business and money objectives?

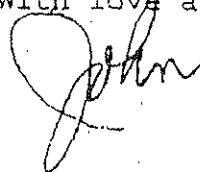
Kathy, there are many matters which you have now chosen to ignore, revise to suit or conveniently obfuscate to your self serving positions and views in said letter. I know and you do also, that you have breached and violated our written agreements, even oral executed and fully performed joint venture agreement wherein you wanted to have the settlement terms and property put into your names solely stating to me that we would at all times be equal owners but you wanted to prevent the I.R.S. from levying on any of my interest therein. Now you seem to ignore my requests for full accounting and compliance with the latests agreement which was reached, carried out and performed, and put into written form by your attorney, Chuck Homer. The written memorialization of such agreement, which was imposed upon me, when you said you wanted me to drive you to his office, and you had to talk to him, but when I waited in the anteroom, you had him summon me in and we discussed what terms you wanted despite what we had agreed to orally and performed mostly if not entirely by such meeting. Even then, I indicated to you because of my love and concern for protecting you that I wanted to finalize our joint venture and agreement. Then after Homer had sent such papers to you in early January of this year you kept them from me until just before the July 4 weekend, when you were giving me all these statements and signals of the problems you were having with your mother's visit and your sister Lucinda. In case you have forgotten, while your mother was here, after the first evening which I spent intimately with you, and thereafter was not allowed to be with you thereafter, you would call me daily three to five time to complain about your mother's lack of love, concern and devotion to you. Was this all a ruse? Was I being played for some type of fool? And now that you think you should undo all the agreements, decisions and commitments you have made to me and with the joint uses of said properties, what is it that you will do in return for me? You stated recently, that you look forward in the future for our resuming our relationship, but again, how truthful can that be? Or is this again another personal promise and deception upon me, knowing how very much I still care for and love you.

You are correct, I did tell you that money and possessions do not mean what they mean to you and as they seem to consume you in undoing your decisions, commitments and agreements with me. But what does matter is integrity, principles and sincerity of having made decisions and agreements which with one must abide and honor. I decline your suggestions and will not honor any of your stated requests. I will hold you, both in all agreements and legal basis to what you have committed and promised me. I know that some of these statements may be misinterpreted and rephrased by you in your attempts to enhance your misassertions but I will not be coerced nor oppressed into undoing what is the truth and what we have agreed. I hope you respond in the proper acknowledging and accepting manner. For now, I want more time

000389 - 3-

to see the honesty and integrity by you of keeping the legal agreements which we have entered into. I still expect the accounting and performance by you of those terms and promises you made to me as set forth in my last letter to you.

With love always,



August 16, 1997

Dear Kathy

I only can hope that this letter causes you to reflect upon your position & to have you begin the reestablishment of our relationship as it was when we were together & intimate, but without your anger or doubt. I realize such result may be improbable but not impossible, and that you will realize how much we did & still mean to each other. I also know my words, thoughts & your reaction to them may preclude all of this, but I must try to somehow reach you.

First, I could go into detail of how it was you who pursued me, how you wanted to move in with me & I discouraged you, how you knew personally (remember coming to the home around July 4, 1994, to get a bag of dog food, I'd brought for you only to be ignored by Carolyn?) & then how Janet of my dating Carolyn Roberts, how you corresponded, how messages back & forth to me from Madison, how you rode backneck speed on horseback to meet me for an overnight horse trip, only to find out I'd called & had to cancel, how Dixon & Christine spent Christmas at the home,

000391

EXHIBIT G

while I had gone to visit & be with my mother for Christmas of 1994, and then upon my return, after car trouble & a forced sojourn in Wenatchee, we began a beautiful relationship & union for some 2 years and 4 plus months before you moved into your current home.

I remember - how I remember & how these memories still remain vivid, good & enduring.

Secondly, I also remember & know that, despite all your current attitudes, we gave to each other, mutual, loved & grew with each other. I am at a loss & feel inadequate to express the overwhelming goodness & ecstasy of our being together, of our talks, of our trips, our plans, of our sharing, our joys & about all of the beauty which you exuded & displayed when we were together.

Third, I could detail your efforts in finally accepting the facts as I believed to tell you, that this Valley, especially North of Diggins, was more uplifting, advantageous & beautiful in all natural scenes & opportunities than living in Jackson, a place you said you'd planned & wanted to move to & find a home. (I will not go into such details, but order to survive)

the feeling & reactions by you that I am
confronting you with accusations of the inconsistency
(continuation of your Aug 12th letter) I again
can only hope you will remember & be truthful
to yourself at this point about such details

Fourth, I can furnish an accounting
statement of how much money & efforts
were expended for you & your children by myself
for 2 1/2 years plus that you lived w me
rent free, maintained an office, rent free, had
storage of your personal belongings, furniture, files,
rent free & 2-3 horses were pastured & provided
room & rent free for 2 dogs, 2 cats &
numerous birds, etc were provided room,
meals & other benefits by me without any
thought or request of you sharing any financial
burden. (You stated you've paid some \$1,800
in attorney fees but didn't reimburse you
some \$300 of that, didn't you have Chuck Horner
represent you in offering to buy the first 80
acres, planning with me to build a house & then
& put a road to the new house, only to be have you
frightened by the Harop's actions & attitude in
fencing out the marking stakes, put locks &
additional restraints on entry to the property &
then having the neighbor bring some 140-150
head of mixed breed cattle onto the eastern 80 acres.

Didn't I want the easement to my 2/40 acre ^{piece} to be on the South Broadway side but acceded to your evaluations & wishes to have it on & along the north Broadway? Didn't I keep you informed of all developments & filings on the survey line. Giving you my files, all papers, including the Harveys & mine own depositions to read. I'm sorry I'm rambling. But you paid, or so I recall about \$600-\$800 to the vets or nurse for Hoot's transfusions & efforts to prolong Rhonda's life & Rhonda's life for as much as 30 days & now you won't spend just the effort of time, thought & truthfulness to save our relationship. Kathy you know how I feel about the value of a human life & that of an animal; to me a human life & that human being is overwhelmingly of greater concern & effort to save & protect than any animal. Am I wrong in your eyes, less than even the efforts you give or would give to your animals? (Oh no were to assume that you drew from your business a gross monthly salary of over \$3,000 for some 28 months or more all without payment of the expenses & benefits I may have somehow provided you, your children, family (mother & husband) such etc. on an accounting basis was our relationship then worth over \$84,000 to you. (Again I'm sorry to go off on this tangent

but I'm writing this letter as thoughts, randomly
or otherwise come to mind at 5 PM, after
traveling almost nonstop from Durango to Chico.)

Faithfully, what if all the money or
income I may have received while living
with you for such 2 1/2 plus years & up to
now, (including the wedding trips other trips &
excursions we took etc.) would be spent on
you, your children, family & friends by me.
What if I was as you would say, a "bom
man pushing a cart" along a public street
broke, destitute & homeless - without
resources? Would such cause you to
believe I loved, cared for & provided for you
beyond any thought for myself or your
money? (I remember some of our discussions
along these thoughts & I remember telling
you or recalling quoting to you the words of
Helen Keller: "Security is a myth. It
does not exist at all in nature. Life is
a daring adventure or nothing at all."
I remember telling & encouraging you to
look at "Life [being] is good & beautiful.
Keep your options open!")

I feel wholly at a loss to say anything
more. I find myself trying to reach you

but not knowing what & how or when I should be able or try to do so. I evaluated & analyzed as I drew all the facts & occurrences which I remember & know occurred that would & do disprove the numerous untiths in your Aug 12th letter, but I will not go into them as they would be my further seeds of destruction of each other, and this I do not want to do unless you further reject my requests & efforts of this letter. Even this last sentence makes me aware of why I must try to have you reflect on the goodness of what we meant to each other & hopefully still do.

I better stop now as the feelings & emotions I have of concern & love for you might reveal how foolish I have become. I hope all is well & good for you that you are enjoying your time & what with Christ.

Love, always

John

AGREEMENT

THIS AGREEMENT is made and entered into this 31 day of October, 1997, by and between **KATHERINE M. MILLER**, a single woman ("Miller"), **TARGHEE POWDER EMPORIUM, INC.**, a corporation ("Targhee") and **JOHN N. BACH**, a single man ("Bach").

RECITALS:

- A. Targhee is now the owner of the following property (the "Targhee Property"):
- Township 5 North, Range 45 East of the Boise Meridian, Teton County, Idaho Section 10: E $\frac{1}{2}$ S $\frac{1}{2}$ SE $\frac{1}{4}$
- B. Miller is now the owner of the following property (the "Miller Property"):
- Township 5 North, Range 45 East of the Boise Meridian, Teton County, Idaho Section 10: W $\frac{1}{2}$ S $\frac{1}{2}$ SE $\frac{1}{4}$
- C. Miller is also the owner of the following property (the "Miller Access Parcel"):
- A part of the S $\frac{1}{2}$ SW $\frac{1}{4}$ Section 11, TWP, 5N., RNG. 45E., B.M., Teton County, Idaho, being further described as: From the SW corner of said Section 11; thence N0°02'03"W. 1214.14 feet along the western section line to the true point of beginning; thence N0°02'03"W, 110.00 feet further along the western section line to the NW corner of the S $\frac{1}{2}$ SW $\frac{1}{4}$ of said Section 11; thence S89°57'55"E. 2627.56 feet along the North line of the S $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 11 to a point on the western right-of-way line of State Highway 33; thence S0°09'27"W, 110.00 feet along the western right-of-way line of State Highway 33 to a point; thence N89°57'55"W, 2627.19 feet to the point of beginning.
- D. Bach is the President of Targhee and is executing this Agreement acting both individually and as President of Targhee.
- E. The parties are entering into this Agreement in order to provide access rights to the Miller Property and the Targhee Property and to resolve additional issues between the parties in the manner hereinafter set forth.

000397

EXHIBIT "H"

NOW, THEREFORE, for and in consideration of the mutual covenants set forth herein, the parties agree as follows:

1. Simultaneously with the execution of this Agreement, Miller and Targhee shall execute and cause to be recorded in the records of Teton County, Idaho, Quitclaim Deeds and the Easement Agreement in the forms of Exhibits A, B and C attached hereto.


2. In connection with Targhee's ownership of the Targhee Property and Miller's ownership of the Miller Property, Miller and Targhee are receiving a Stock Certificate for twenty-one (21) shares of stock issued by the Grand Teton Canal Company. An undivided one-half ($\frac{1}{2}$) interest in such Stock Certificate and the water rights associated therewith shall be appurtenant to and for the benefit of the Targhee Property and an undivided one-half ($\frac{1}{2}$) interest in such Stock Certificate and the water rights associated therewith shall be appurtenant to and for the benefit of the Miller Property. Miller and Targhee and their respective successors and assigns shall own an undivided interest in such Stock Certificate and the water rights and benefits associated therewith. Targhee and Miller and their respective successors and assigns shall each be responsible to pay one-half ($\frac{1}{2}$) of any assessments issued by Grand Teton Canal Company in connection with such Stock Certificate.


3. The parties herein do hereby acknowledge and agree that except for the rights and obligations created by this Agreement and the Quitclaim Deeds and Easement Agreement attached hereto as Exhibits A, B and C, there are no other claims or causes of action between the parties pertaining to their use, acquisition and ownership of the Miller Property, the Miller Access Parcel and the Targhee Property. The parties do specifically acknowledge and agree that there are no continuing obligations between the parties arising from the terms and conditions set forth in that certain letter dated December 8, 1994, provided to Miller by Bach and the parties do hereby specifically release each other from any and all obligations referred to in such letter.

4. The parties herein do further specifically agree that this Agreement and the Quitclaim Deeds and Easement Agreement referred to herein as Exhibits "A", "B" and "C" constitute a fully executed compromise, settlement and mutual release of all claims any of the parties may have had against any other party until this date. In consideration of the mutual covenants set forth herein and subject to the terms and conditions herein stated and stated in the Quitclaim Deeds and Easement Agreement referred to herein as Exhibits "A", "B" and "C", Targhee and Bach hereby forever release and discharge Miller and all of her present and past employees, attorneys, insurers and agents and each of them from any and all claims, demands, debts, liabilities, accounts, obligations, costs, expenses, liens, actions,

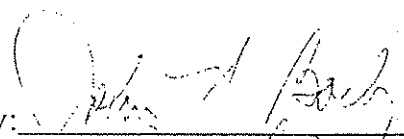
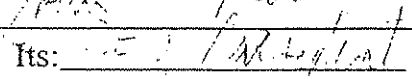
and causes of action of every kind and nature, whether or known or unknown, suspected or unsuspected, that Bach or Targhee now own or hold or at any time heretofore have owned or held, based upon, or related to, or by reason of any contract, lien, liability, matter, cause, fact, thing, act, or omission whatever. In consideration of the mutual covenants set forth herein and subject to the terms and conditions herein stated and stated in the Quitclaim Deeds and Easement Agreement referred to herein as Exhibits "A", "B" and "C", Miller hereby forever releases and discharges Targhee and Bach and all of their present and past employees, attorneys, insurers and agents and each of them from any and all claims, demands, debts, liabilities, accounts, obligations, costs, expenses, liens, actions, and causes of action of every kind and nature, whether or known or unknown, suspected or unsuspected, that Miller now owns or holds or at any time heretofore has owned or held, based upon, or related to, or by reason of any contract, lien, liability, matter, cause, fact, thing, act, or omission whatever.

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


Katherine M. Miller


John N. Bach

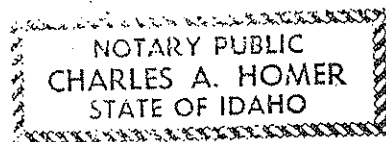
TARGHEE POWDER EMPORIUM, INC.

By: 
Its: 

STATE OF IDAHO)
)ss.
County of Bonneville)

On the 31 day of October, 1997, before me, the undersigned, a notary public, in and for said State, personally appeared **Katherine M. Miller**, known or identified to me to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same.

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



(seal) My Commission Expires Dec. 6, 1998

Notary Public for Idaho

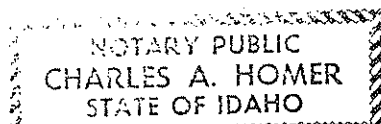
Residing at Idaho Falls, Idaho

My Commission Expires: 12/6/98

STATE OF IDAHO)
)ss.
County of Bonneville)

On the 31 day of October, 1997, before me, the undersigned, a notary public, in and for said State, personally appeared **John N. Bach**, known or identified to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same.

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



(seal) My Commission Expires Dec. 6, 1998

Notary Public for Idaho

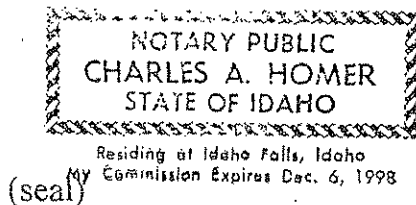
Residing at Idaho Falls, Idaho

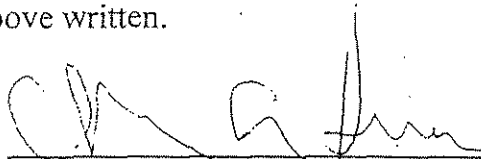
My Commission Expires: 12/6/98

STATE OF IDAHO)
)ss.
County of Bonneville)

On the 3rd day of October, 1997, before me, the undersigned, a notary public, in and for said State, personally appeared John D. Breh, known or identified to me to be the President - CEO of **Targhee Powder Emporium, Inc.**, the corporation whose name is subscribed to the within instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

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





Notary Public for Idaho
Residing at Idaho Falls, Idaho
My Commission Expires: 12/6/98

G:\WPDATA\CAH\2903\ALL0123.AGR:jht

Exhibit "A" to Agreement

QUITCLAIM DEED

THIS INDENTURE is made this ____ day of October, 1997, by and between **KATHERINE M. MILLER**, a single woman, the "Grantor," and **TARGHEE POWDER EMPORIUM, INC.**, a corporation, whose mailing address is Post Office Box 101, Driggs, Idaho 83422, the "Grantee."

WITNESSETH:

That the Grantor, for and in consideration of the sum of Ten and No/100 Dollars (\$10.00) lawful money of the United States of America and other good and valuable consideration to Grantor in hand paid by the Grantee, the receipt whereof is hereby acknowledged, does by these presents remise, release and forever quitclaim unto the Grantee, and to Grantee's successors and assigns forever, all right, title and interest now owned or hereafter acquired by the Grantor in all the following described real estate in the County of Teton, State of Idaho, to-wit:

AN UNDIVIDED ONE-HALF INTEREST IN THE FOLLOWING:

A part of the S½SW¼ Section 11, TWP, 5N., RNG. 45E., B.M., Teton County, Idaho, being further described as: From the SW corner of said Section 11; thence N0°02'03"W. 1214.14 feet along the western section line to the true point of beginning; thence N0°02'03"W, 110.00 feet further along the western section line to the NW corner of the S½SW¼ of said Section 11; thence S89°57'55"E. 2627.56 feet along the North line of the S½SW¼ of Section 11 to a point on the western right-of-way line of State Highway 33; thence S0°09'27"W, 110.00 feet along the western right-of-way line of State Highway 33 to a point; thence N89°57'55"W, 2627.19 feet to the point of beginning.

Reserving and excepting unto the Grantor an easement for the installation, usage and maintenance of electrical utility lines and the construction, usage and maintenance of a roadway which shall provide ingress to and egress from the following described property which is owned by and being retained by Grantor:

Township 5 North, Range 45 East of the Boise Meridian, Teton
County, Idaho

Section 10: West Half (W½) South Half (S½) Southeast Quarter (SE¼)

TOGETHER, with the tenements, hereditaments and appurtenances thereunto
belonging or in anywise appertaining, and any reversions, any remainders, and rents, issues
and profits therefrom.

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

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

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

Katherine M. Miller, Grantor

STATE OF IDAHO)
)ss.
County of Bonneville)

On the ____ day of October, 1997, before me, the undersigned, a notary public, in
and for said State, personally appeared **Katherine M. Miller**, known or identified to me to
be the person whose name is subscribed to the within instrument and acknowledged to me
that she executed the same.

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

(seal)

Notary Public for Idaho
Residing at Idaho Falls, Idaho
My Commission Expires: _____

G:\WPDATA\CAH\2903\AGR103 EXA.jht

000403

Exhibit "B" to Agreement

QUITCLAIM DEED

THIS INDENTURE is made this ____ day of October, 1997, by and between **TARGHEE POWDER EMPORIUM, INC.**, a corporation, and **JOHN N. BACH**, a single man acting both individually and as nominee for Targhee Powder Emporium, Inc. collectively the "Grantor," and **KATHERINE M. MILLER**, a single woman, whose mailing address is Post Office Box 112, Driggs, Idaho 83422, the "Grantee."

WITNESSETH:

That the Grantor, for and in consideration of the sum of Ten and No/100 Dollars (\$10.00) lawful money of the United States of America and other good and valuable consideration to Grantor in hand paid by the Grantee, the receipt whereof is hereby acknowledged, does by these presents remise, release and forever quitclaim unto the Grantee, and to Grantee's successors and assigns forever, all right, title and interest now owned or hereafter acquired by the Grantor in all the following described real estate in the County of Teton, State of Idaho, to-wit:

AN UNDIVIDED ONE-HALF INTEREST IN THE FOLLOWING:

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

Reserving and excepting unto Grantor a perpetual easement over and across the above described property which such easement shall be for the installation, usage and maintenance of electrical utility lines and the construction, usage and maintenance of a roadway which shall provide ingress to and egress from the following described property:

Township 5 North, Range 45 East of the Boise Meridian, Teton County, Idaho

Section 10: East Half (E $\frac{1}{2}$) South Half (S $\frac{1}{2}$) Southeast Quarter (SE $\frac{1}{4}$)

000404

TOGETHER, with the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and any reversions, any remainders, and rents, issues and profits therefrom.

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

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

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

TARGHEE POWDER EMPORIUM, INC.

By: _____

Its: _____

John N. Bach

STATE OF IDAHO)
)ss.
County of Bonneville)

On the _____ day of October, 1997, before me, the undersigned, a notary public, in and for said State, personally appeared _____, known or identified to me to be the _____ of Targhee Powder Emporium, Inc., the corporation whose name is subscribed to the within instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

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

(seal)

Notary Public for Idaho
Residing at Idaho Falls, Idaho
My Commission Expires: _____

STATE OF IDAHO)
)ss.
County of Bonneville)

On the _____ day of October, 1997, before me, the undersigned, a notary public, in and for said State, personally appeared **John N. Bach**, known or identified to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same.

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

(seal)

Notary Public for Idaho
Residing at Idaho Falls, Idaho
My Commission Expires: _____

G:\WPDATA\CAH\2903\AGR103 EXB.jht

Exhibit "C" to Agreement

EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT is made and entered into this ____ day of October, 1997, by and between **KATHERINE M. MILLER**, a single woman ("Miller") and **TARGHEE POWDER EMPORIUM, INC.**, a corporation and **JOHN N. BACH**, a single man acting both individually and as nominee for Targhee Powder Emporium, Inc. (collectively "Targhee").

RECITALS:

A. Miller and Targhee each now own an undivided one-half ($\frac{1}{2}$) interest in the following (the "Property"):

Parcel 1:

A part of the $S\frac{1}{2}SW\frac{1}{4}$ Section 11, TWP, 5N., RNG. 45E., B.M., Teton County, Idaho, being further described as: From the SW corner of said Section 11; thence $N0^{\circ}02'03"W$, 1214.14 feet along the western section line to the true point of beginning; thence $N0^{\circ}02'03"W$, 110.00 feet further along the western section line to the NW corner of the $S\frac{1}{2}SW\frac{1}{4}$ of said Section 11; thence $S89^{\circ}57'55"E$, 2627.56 feet along the North line of the $S\frac{1}{2}SW\frac{1}{4}$ of Section 11 to a point on the western right-of-way line of State Highway 33; thence $S0^{\circ}09'27"W$, 110.00 feet along the western right-of-way line of State Highway 33 to a point; thence $N89^{\circ}57'55"W$, 2627.19 feet to the point of beginning.

Parcel 2:

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

B. Miller and Targhee have agreed to grant to each other reciprocal easements over and across the Property.

NOW, THEREFORE, for and in consideration of the mutual covenants set forth herein, the parties agree as follows:

1. Miller does hereby grant, set over and transfer to Targhee a perpetual easement over and across the Property. Such easement shall be for the installation, usage and maintenance of electrical utility lines and the construction, usage and maintenance of a roadway which shall provide ingress to and egress from the following described property now owned by Targhee (the "Targhee Property"):

Township 5 North, Range 45 East of the Boise Meridian, Teton
County, Idaho Section 10: E½ S½ SE¼

2. Targhee does hereby grant, set over and transfer to Miller a perpetual easement over and across the Property. Such easement shall be for the installation, usage and maintenance of electrical utility lines and the construction, usage and maintenance of a roadway which shall provide ingress to and egress from the following described property now owned by Miller (the "Miller Property"):

Township 5 North, Range 45 East of the Boise Meridian, Teton
County, Idaho Section 10: W½ S½ SE¼

3. The parties do hereby agree that the description for the easements set forth herein shall constitute the exact location for the easement referred to in those certain Warranty Deeds dated December 28, 1994, which were recorded on December 30, 1994, records of Teton County, Idaho, as Instrument Nos. 118681 and 118682.

4. Targhee and Miller do hereby specifically agree that neither Targhee nor Miller, or their respective heirs and assigns shall be responsible, expected or obligated to do any development or maintenance work on, over or across the Property or be responsible for the payment of any costs or expenses related to such development or maintenance work unless either Targhee or Miller specifically agree in writing to be responsible for any such development or maintenance work. Unless agreed to in writing, neither Targhee nor Miller shall be responsible to construct any type of roadway across the Property, maintain any roadway across the Property and/or install or maintain any electrical utility lines across the Property. Should either Targhee or Miller acting alone elect to do any development or maintenance work on the Property without the written agreement of the other party to

participate in such development or maintenance work, then the party electing to do such development or maintenance work on its own shall do so at its sole cost and expense.

5. The burdens and benefits of this Easement Agreement and the easement granted herein shall be appurtenant to and perpetual covenants running with the Targhee Property and the Miller Property. The right to use the Property for ingress to and egress from and for the benefit of the Miller Property shall apply to all or any portion of the Miller Property and may be used by any and all future owners of the Miller Property including, but not limited to the owner of any portion of the Miller Property if the Miller Property is subdivided or divided into smaller parcels or lots. The right to use the Property as a means of ingress to and egress from and for the benefit of the Targhee Property shall apply to all or any portion of the Targhee Property and may be used by any and all future owners of the Targhee Property including, but not limited to the owner of any portion of the Targhee Property if the Targhee Property is subdivided or divided into smaller parcels or lots.

6. This Easement Agreement shall extend to and be binding upon the heirs, personal representatives, assigns and successors in interest to the respective parties hereto.

7. Should either party default in performance of any of the covenants or agreements contained herein, such defaulting party shall pay to the other party all costs and expenses, including but not limited to, a reasonable attorney fee, including such fees on appeal, which the offended party may incur in enforcing this Easement Agreement or in pursuing any remedy allowed by law for breach hereof, whether such is incurred by the filing of suit or otherwise.

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

Katherine M. Miller

TARGHEE POWDER EMPORIUM, INC.

By: _____
Its: _____

John N. Bach

000409

STATE OF IDAHO)
)ss.
County of Bonneville)

On the _____ day of October, 1997, before me, the undersigned, a notary public, in and for said State, personally appeared **Katherine M. Miller**, known or identified to me to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same.

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

(seal)

Notary Public for Idaho
Residing at Idaho Falls, Idaho
My Commission Expires: _____

STATE OF IDAHO)
)ss.
County of Bonneville)

On the _____ day of October, 1997, before me, the undersigned, a notary public, in and for said State, personally appeared _____, known or identified to me to be the _____ of **Targhee Powder Emporium, Inc.**, the corporation whose name is subscribed to the within instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

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

(seal)

Notary Public for Idaho
Residing at Idaho Falls, Idaho
My Commission Expires: _____

STATE OF IDAHO)
)ss.
County of Bonneville)

On the _____ day of October, 1997, before me, the undersigned, a notary public, in and for said State, personally appeared **John N. Bach**, known or identified to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same.

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

(seal)

Notary Public for Idaho
Residing at Idaho Falls, Idaho
My Commission Expires: _____

G:\WPDATA\CAH2903\AGR103.EXC:jht

000411

MEMO TO FILE

TO: File
FROM: CAH
CASE: Kathy Miller/2903
RE: Meeting
DATE: October 6, 1997

On October 3, 1997, I met with Kathy Miller and John Bach. John Bach represented to both me and Kathy Miller that he was the President and CEO of Targhee Powder Emporium, Inc. and that he did not need anybody else's authority to sign the documents. He also represented to us that he owned the property on which he was giving Kathy Miller an undivided one-half interest and easement free and clear of all liens. He indicated to us that the tax lien has been released and there is nothing due and owing to the IRS. Kathy Miller took the two Quitclaim Deeds and the Easement Agreement to Teton County and she is going to record them. I instructed her to record the two Deeds first and then the Easement Agreement and to mail back a copy of the recorded documents after they were recorded.

G:\WPDATA\CAH\2903\MEM10069 FIL.jht

000412

EXHIBIT "I"

JOHN N. BACH
1858 S. Euclid Avenue
San Marino, CA. 91108
Tel: (626) 799-7146
(Seasonal Address:
P.O. #101, Driggs
ID 83422
Plaintiff & Counterclaim
Defendant Pro Se

FILED
4/23
APR 18 2003
TETON CO.
MAGISTRATE COURT

SEVENTH JUDICIAL DISTRICT COURT, IDAHO, TETON

JOHN N. BACH,

Plaintiff,

v.

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

Defendants.

CASE NO: CV 02-208

PLAINTIFF & COUNTERCLAIM DEFENDANT
JOHN N. BACH'S NOTICE OF MOTIONS
AND MOTIONS for SUMMARY JUDGMENT
AND/OR SUMMARY ADJUDICATION, IRCP,
RULE 56, et seq.

DATE OF HEARING: May 20, 2003

TIME OF HEARING: 8:30 a.m.

PLACE OF HEARING: Bonneville
Courthouse, 605 N. Capitol
Idaho Falls, ID 83205

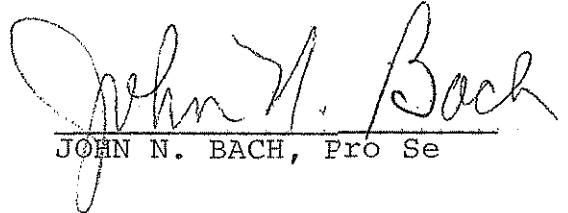
COMES NOW PLAINTIFF AND COUNTERCLAIM DEFENDANT JOHN N. BACH,
WHO DOES HEREBY GIVE NOTICE, that on May Thursday, May 20, 2003
at 8:30 a.m., he will appear before this Court, before the Honor-
able RICHARD T. ST. CLAIR, Assigned, sitting in the Bonneville,
County Courthouse, 605 N. Capitol Avenue, Idaho Falls, Idaho, a
will then move the Court for SUMMARY JUDGMENT AGAINST KATHERINE
D. MILLER, aka KATHERINE M. MILLER, individually and dba R.E.M.,
and also dba CACHE RANCH, on both the FIRST AMENDED COMPLAINT
and on her entire ANSWER, AFFIRMATIVE DEFENSES AND COUNTERCLAIM
dated March 17, 2003, but which said ANSWER & COUNTERCLAIM were
not served until March 25, 2003; and for SUMMARY JUDGMENT IN FAVOR
OF COUNTERCLAIM DEFENDANT JOHN N. BACH, on his ANSWER AND AFFIRM-
ATIVE DEFENSES filed April 14, 2003; and/or FOR SUMMARY ADJUDICA-
TION of designated/various issues.

The above motions are alternative to and supplemental to all
PLAINTIFF JOHN N. BACH's motions to be heard May 2, 2003 at 9 a.m.
before this Court, in the event all of his previously noticed

Pt's JNB's NTO OF Mtns & MINS/SUMM. JUDGMENT & R. SUMM. ADJUDICATION P. 1

motions for May 2, 2003, are not granted in full. The above-noticed motions are based upon the entire record, filings herein, the testimonies of JOHN N. BACH, adduced hereto before the court, all prior affidavits filed, evidence received via exhibits and other demonstrative forms, the contemporaneous affidavit, memorandum and further delineation of issues without controversy as to any genuine or material facts, presented herewith, and the further affidavits of JOHN N. BACH, oral argument and allocution to be presented in support of the above motions as provided by I.R.C.P., Rule 56(a) through 56(f).

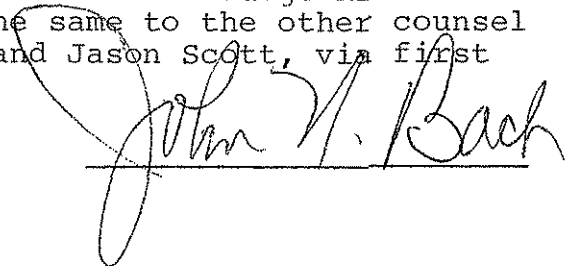
DATED: April 18, 2003


JOHN N. BACH, Pro Se

CERTIFICATE OF SERVICE BY PERSONAL DELIVER, FAX & MAIL:

I the undersign, certify this date, April 18, 2003, that I did ~~personally deliver~~ ^{mail} a copy of this NOTICE OF MOTIONS AND MOTIONS FOR SUMMARY JUDGMENT, etc., along with the accompanying Affidavit of JOHN N. BACH, Memorandum Brief In Support thereof and further delineation of Issues without Controversy, to Galen Woelk's law office in Driggs, ID., and did ~~fax~~ ^{mail} copies of the same to Judge Richard T. St. Clair and did mail copies of the same to the other counsel of record, Alva Harris, Jared Harris, and Jason Scott, via first class postage affixed mail.

* Mr Woelk's office was closed this date


JOHN N. BACH

IN THE DISTRICT COURT FOR 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)
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

FILED
1:46
MAY 05 2003
TETON CO.
MAGISTRATE COURT

On the 2nd day of May, 2003, Bach's motion to enter default against Katherine Miller, Targhee Powder Emporium, Inc. dba Targhee Powder Emporium, Unltd. and Ltd., Bach's motion to strike answer of defendants Alva Harris, Scona, Inc., Jack McLean, Ole Olesen, Bob Fitzgerald, and Blake Lyle, filed after clerk's default was entered, Bach's motion for sanctions under Rule 37, Bach's motion to strike defendant Miller's answer and counterclaim, Bach's motion to strike summons issued on March 19 to Miller, Bach's motion to continue trial and cutoff dates, Bach's motion to strike defendant Dawson's attorney's notice of appearance, Bach's motion to disqualify Galen Woelk and Runyan and Woelk law firm from representing Miller, Bach's motion to

quash service of the Third Party Complaint, Vasa Bach Trust's motion to quash service of Third Party Complaint, and Bach's motion for protective order 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. Ron Bush appeared on behalf of Defendant(s) Galen Woelk dba Runyan & Woelk.

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

No one appeared for or on behalf of Defendant Wayne Dawson.

Mr. Alva Harris appeared on behalf of Defendant(s) Harris, Fitzgerald, Lyle, Olson, Scona, Inc., and McLean.

Mr. Harris advised the Court that he had a medical problem, was not prepared to argue the motions before the court today and asked to be excused from the hearing. The Court excused Mr. Harris.

Mr. Bach presented Plaintiff's motion to enter default against Katherine Miller, Targhee Powder Emporium, Inc. dba Targhee Powder Emporium, Unlimited and Limited, Plaintiff's motion to strike Miller's Answer and Counterclaim, Plaintiff's motion to strike summons issued on March 19th to Miller, Plaintiff's motion to disqualify Woelk and Runyan and Woelk law firm, Plaintiff's motion to quash service of third party complaint, and Vasa Bach's motion to quash service of Third Party


Complaint. Mr. Woelk argued in objection to the motions. Mr. Bach presented rebuttal argument.

Mr. Bach presented Plaintiff's motion to strike answer of defendants Alva Harris, Scona, Inc., Jack McLean, Ole Olesen, Bob Fitzgerald, and Blake Lyle, and motion for sanctions under Rule 37 and submitted the matter on briefing filed with the court.

Mr. Bach presented Plaintiff's motion to continue trial and cutoff dates and motion for protective order. Mr. Bush argued in objection to the motions. Mr. Woelk argued in opposition to the motions.

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

Court was thus adjourned.


RICHARD T. ST. CLAIR
DISTRICT JUDGE

H:18Bach/CC8363

CERTIFICATE OF MAILING

I certify that on the 2nd day of May, 2003, I
caused a true and correct copy of the foregoing document to
be delivered to the following:

RONALD LONGMORE

M Southwick
Deputy Court Clerk

John N. Bach
1958 S. Euclid Ave.
San Marino, CA 91108
(626) 799-3146
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Jared Harris
PO Box 577
Blackfoot, ID 83221

Jason Scott
Ron Bush
PO Box 100
Pocatello, ID 83204

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

000418

GALEN WOELK
RUNYAN & WOELK, P.C.
P.O. BOX 533
DRIGGS, ID 83422
TELE (208) 354-2244
FAX (208) 354-8886
IDAHO STATE BAR #5842

FILED
4:36
MAY 06 2003
TETON CO.
MAGISTRATE COURT

ATTORNEY FOR DEFENDANT

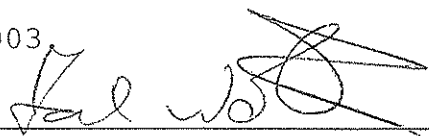
IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT
COURT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TETON

JOHN N. BACH,)	
	)	CASE NO. CV-02-208
Plaintiff,)	
	)	MILLER'S OBJECTION TO
	)	BACH'S MOTION FOR
vs.	)	SUMMARY JUDGMENT
)	
KATHERINE M. MILLER, et. al.,)	
)	
Defendant.)	
_____)	

COMES NOW, Defendant Miller, by and through her attorney of record, Galen Woelk of Runyan & Woelk, P.C. and pursuant to Rule 56(c) objects to Bach's Motion for Summary Judgment and submits her answering brief and affidavit.

Attached and filed with this objection is "Miller's Brief in Opposition to Motions for Summary Judgment" and "Katherine Miller's Affidavit in Objection to Bach's Motion for Summary Judgment".

DATED this 6 day of May, 2003



Galen Woelk

000419

CERTIFICATE OF SERVICE

I hereby certify that I am a duly licensed attorney in the State of Idaho, with my office in Driggs, Idaho; that on the 6 day of May, 2003, I caused a true and correct copy of the foregoing MILLER'S OBJECTION TO BACH'S MOTION FOR SUMMARY JUDGMENT to be served upon the following persons at the addresses below their names either by depositing said document in the United States mail with the correct postage thereon or by hand delivering or by transmitting by facsimile as set forth below.

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

☒ Mail
☐ Hand Delivery
☐ Facsimile

Alva Harris
Box 479
Shelley, ID 83274

☒ Mail
☐ Hand Delivery
☐ Facsimile

Judge Richard St.Clair, Chambers
605 N. Capital
Idaho Falls, ID 83402

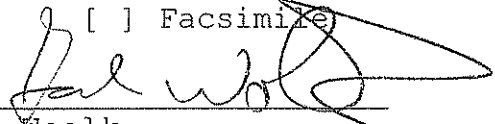
☒ Mail
☐ Hand Delivery
☐ Facsimile

Hawley, Troxell, Ennis & Hawley
Jason Scott, Esq.
P.O. Box 100
Pocatello, ID 83204

☒ Mail
☐ Hand Delivery
☐ Facsimile

Jared Harris, Esq.
P.O. Box 577
Blackfoot, ID 83221

☒ Mail
☐ Hand Delivery
☐ Facsimile


Galen Woelk

000420

GALEN WOELK
RUNYAN & WOELK, P.C.
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TELE (208) 354-2244
FAX (208) 354-8886
IDAHO STATE BAR #5842

FILED

MAY 06 2003

TIME:
TETON CO. MAGISTRATE COURT

ATTORNEY FOR DEFENDANT

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

JOHN N. BACH,)	
	)	CASE NO. CV-02-208
Plaintiff,)	
	)	DEFENDANT MILLER'S BRIEF
	)	IN OPPOSITION TO SUMMARY
vs.	)	JUDGMENT
)	
KATHERINE M. MILLER, et. al.,)	
)	
Defendant.)	
)	

INTRODUCTION

Plaintiff John Bach has moved this Court for summary adjudication of his claims against Katherine Miller. More specifically, Bach requests summary judgment with respect to Counts 1-5 of his FIRST AMENDED COMPLAINT. See *Plaintiff & Counterclaim Defendant John N. Bach's Initial Memorandum Brief in Support of His Motions RE Summary Judgment &/or Summary Adjudication . . .*, p.1 (Dated April

18, 2003). Bach's requests for relief in each of those respective causes of action are summarized as follows:

1. First Count: Quieting Title to those properties this Court has previously referred to as the "*Miller Property*", the "*Targhee Property*", the "*Miller Access Parcel*", and the "*Targhee/Miller Property*". See *ORDER AND PRELIMINARY INJUNCTION*, P.2 (August 16, 2002).

2. Second Count: Quieting Title to 8.5 acres of property Bach allegedly co-owns with Defendant Wayne Dawson.

3. Third Count: Quieting Title to a one acre parcel located at 195 N. Hwy 33, Driggs, ID, presently owned by a Bret & Deena Hill.

4. Fourth Count: Quieting Title to a property in the SE1/4SW1/4 of Section 35, Township 6 North, Range 45 East, Teton County, ID (owned by Mark Liponis), and quieting title to a property in the SW1/4SE1/4 of Section 6, Township 5 North, Range 45 East, Teton County, ID (owned by Wayne Dawson).

5. Fifth Count: For "Slander of Title" and damages against Katherine Miller.

Bach also requests that this Court summarily adjudicate in his favor Miller's Answer, Affirmative Defenses and Counterclaims. *Id.* at 1.

In support of his requests for relief Bach has submitted his "Initial Memorandum Brief" (hereinafter referred to as "Bach's Memorandum"), and an "Affidavit of John Bach in Support of His Motions for Summary Judgment" (hereinafter referred to as "Bach's Affidavit"). Bach has filed no other documentation in support of his Rule 56 motion.

INITIAL OBJECTION

Initially, it should be clarified that Bach's request for summary judgment against Miller on the second, third and fourth counts alleged in his *First Amended Complaint* are improper and non-justiciable as against Miller. Miller has not possessed, nor does she presently possess any interest in the properties Bach seeks to quiet title to in those causes of action. A motion for summary judgment on counts 2, 3 and 4 of Bach's "First Amended Complaint" can only be brought against those defendants who are the record owners of those properties, i.e., Liponis, Dawson, Harris, Scona, Hill and Targhee Powder Emporium Inc., many of which have not even been served with process in this action. Bach's failure to bring his motion against the real parties in interest requires that it also be denied as against Miller with regard to the second, third and fourth counts of Bach's complaint.

To the extent that Bach's Rule 56 motion requests summary adjudication on the fifth count of his amended complaint, Bach's utter failure to address the issue or provide any written authority in support of his request requires denial of the same. Nowhere in Bach's Affidavit or in Bach's Memorandum is there any discussion pertaining to why Miller should be found liable as a matter of law for allegedly perpetrating the tort of slander. Bach has not only failed to meet the Rule 56 burden, but he has not provided Miller with any argument or facts upon which she could reasonably respond.

A similar argument applies with respect to Bach's request for summary relief on Miller's affirmative defenses and counterclaims. Nowhere in Bach's Rule 56 memorandum or affidavit does he specify which of Miller's counterclaims or affirmative defenses he is challenging. Nor does Bach address or offer any legal argument in support of his motion other than stating that Miller has "acquiesced, waived, abandoned and surrendered" her rights to any claims against him. *Bach's Memorandum*, p.3. For these reasons, and because Bach has not complied with the requirements of Rule 56, nor met the burden of proof with respect to the mandate of that Rule, Bach's motions for summary judgment must be denied and dismissed.

ARGUMENT

1. Standard on Summary Judgment

Bach has brought his motion for summary judgment against Katherine Miller individually. To the extent that Bach alleges it is also brought against other entities, Miller would object and respond that no business she had or has any interest in has ever been served with process in this action.

The standard for summary judgment is clear and well known. Idaho Rule of Civil Procedure 56(c) requires that judgment shall be rendered if the pleadings, depositions, admissions and affidavits "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. *I.R.C.P.* Rule 56(c). Idaho law also reiterates that a court, when reviewing a motion for summary judgment must "**liberally** construe facts in the existing record in favor of the non-moving party, and to draw all reasonable inferences from the record in favor of the non-moving party." *Bonz v. Sudweeks*, 119 Idaho 539, 808 P.2d 876 (1991) (Emphasis supplied).

Not only must there be no genuine issues of material fact for the moving party to prevail, but he must also prove that he is entitled to summary judgment as a matter

of law. More importantly, and germane to this action, is the proposition that "[e]ven circumstantial evidence can create a genuine issue of material fact". *Doe v. Durtschi*, 110 Idaho 466, 716 P.2d 1238 (Idaho, 1986). The existence of circumstantial evidence in this action would therefore require the denial of Bach's request for summary judgment.

2. Bach's own affidavits establish the existence of genuine and material facts in dispute..

Since 1995, Bach's legal and factual posturing is in a state of constant flux, changing monthly and even yearly depending upon the mandates of whatever legal action Bach is involved in; e.g. (whether it is one initiated by Harrop over a land purchase, or one brought by Bach in an attempt to obtain federal bankruptcy protection without disclosing assets and holdings). Presently, Bach argues that he individually owns all 80 acres of property that this Court maintains jurisdiction over pursuant to its preliminary injunction. To support this claim, Bach argues that he entered into an oral agreement with Miller whereby she agreed he could have property she already possessed, and that he did business solely as Targhee Powder Emporium, Inc.. Bach provides no evidence of payments he made for the purchase of these properties, nor does he even provide the Court with recorded deeds that evidence his individual

ownership interest to the properties. Bach also fails to present any written evidence which supports his claim that Miller entered into an "oral" agreement with him, nor does he specify why Idaho's Statute of Frauds would not preclude him from arguing that an oral agreement for the transfer of property is void.

The affidavits Bach filed with this Court in support of his motion for summary judgment establish three very important facts: **(1)** Miller purchased and owned pursuant to warranty deed, 40 acres of the 80 acre Harrop parcel Bach now seeks to quiet title to. See *Exhibit A* (September 4, 1997 Affidavit of John Bach), p. 2, attached to *Affidavit of John N. Bach In Support of His Motions For Summary Judgment and/or Summary Adjudication*. **(2)** Targhee Powder Emporium, Inc. purchased and owned pursuant to warranty deed, 40 acres of the 80 acre Harrop parcel Bach seeks to quiet title to. *Id.* **(3)** Targhee Powder Emporium, Inc. was an entity composed of various investors and joint venturers of whom Bach was required to get permission from before entering into business transactions. See *Exhibit C*, p. 1, attached to *Affidavit of John Bach in Support of His Motions for Summary Judgment . . .*, ("I have now received from **my joint venturers and investors**

permission and authorization to make the offer which I now state.") (emphasis supplied).

Notwithstanding Miller's answer and verified counterclaim, or her *"Affidavit in Support of Objection"* filed herewith, this Court should deny Bach's motion since the facts he presents are convoluted, confusing and in conflict with each other. Quite obviously, genuine issues of material fact abound. Presently, defendant Miller is attempting to find out what Targhee Powder Emporium was, and what individuals make up its principals and investors. Other than stating that he has obtained assignments from Targhee Powder Emporium, Bach presents no factual evidence which would suggest that he even has standing to bring a quiet title action on behalf of the Targhee entity. *(After-all, the Targhee entity is the only true and recorded deed holder of the property other than Miller.)*

Miller has presently joined the Targhee entities to this action in an attempt to further address the ownership issues and her alleged fraud claims. It is presently unknown whether the Targhee entity's investors and principals authorized Bach to make the type of claims he now alleges **on his own** behalf. And if Bach does want title quieted in his name individually, shouldn't he also have included a claim to quiet title against the Targhee he

represented since it is a record deed holder? (See also *Exhibit 2*, attached to *Katherine Miller's Affidavit in Objection to Bach's Motion for Summary Judgment*).

The factual discrepancies and conflicts, coupled with Bach's inability to provide this Court with any authority supporting his theory that title to the properties can be quieted to him individually as a matter of law, requires the denial of Bach's motion.

3. Bach's Statute of Limitation arguments fail.

The only legal argument Bach makes in his memorandum asks this Court to dismiss Miller's counterclaims for the reason that she missed her statute of limitations filing deadline. In a nutshell, Bach impliedly argues that because Miller must have discovered his fraud a long time ago, she not only missed her filing deadline, but waived her right to bring any such claims.

Bach cites to the case of *McCoy v. Lyons* as support for the proposition that this Court can infer Miller's knowledge of fraud as a matter of law. *Bach's Memorandum in Support*, p.3. What Bach doesn't state is that that theory holds true only where "there is no dispute over any issue of material fact regarding when the cause of action accrues". *McCoy v. Lyons*, 120 Idaho 765, 773, 820 P. 2d 360, 368 (Idaho, 1991). Miller has stated in her attached

affidavit and "Answer and Counterclaim" that she acquired knowledge of Bach's and Targhee Powder Emporium's fraud sometime late in the year of 2000. (See *Katherine Miller Affidavit in Objection to Bach's Motion for Summary Judgment*). Bach has failed to provide this Court with any information or proof which substantially proves that Miller's knowledge accrued at an earlier time. Should Bach do so, Miller would vigorously defend and rebut those assertions if she hasn't already done so. And where, as in this action, there is conflicting evidence as to when a cause of action arose, summary judgment is inappropriate, and the question becomes "one of fact for the trier of fact." *Id.* at 368. For this reason, Bach's motion for summary judgment must also be denied.

Even if Bach were able to provide this Court with un rebutted evidence that the date of Miller's causes of action were barred by Idaho's Statute of Limitations, that would still not prevent Miller from bringing each and every defense and counterclaim that she has alleged in this action. The law in Idaho clearly states that in a tort case, "[a]n expired statute of limitations **does not bar a counterclaim** interposed defensively as an offset against a complaint arising from the same incident." *Viehweg v. Thompson*, 103 Idaho 265, 268, 647 P.2d 311, 314 (*Id.* Ct.

App. 1982). For this reason, the Court would be unable to dismiss Miller's answer and counterclaim on Bach's motion since it arises from the same incident and transaction that Bach's numerous claims against Miller are brought.

4. Bach has failed to provide this court with proof that he, as an individual, is entitled to a judgment as a matter of law.

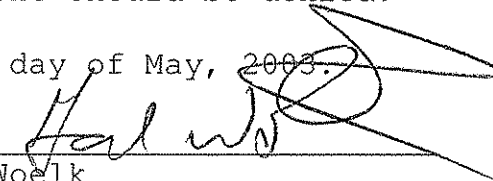
On the last page of "Bach's Memorandum" he utilizes a shotgun approach in his attempt to convince this Court that summary judgment is proper. Rather than provide legal argument, authority, or proof of the facts he alleges, Bach sets out in five short paragraphs, the reasons why this Court should grant him summary judgment. Bach argues, among other things, that because Miller failed to file a mandatory counterclaim in CV 95-47 her present claims should be barred. Similarly, Bach states that Miller's claims should be barred because she was allegedly discharged in a bankruptcy proceeding, and that other doctrines of res judicata, estoppel, and unclean hands would also bar her claims. Once again, Bach provides no factual or legal foundation in support of these requests, nor does he explain on what basis a Court could bar a defendant's claims brought in defense of a plaintiff's causes of action.

Bach also alleges that because Miller is bound by certain settlement agreements and easement agreements she entered into with Targhee Powder Emporium in 1997, this Court can grant summary judgment against her. Bach fails to explain how this Court could subsequently disregard those settlement agreements and give Bach an individual and complete right to properties he never possessed an individual interest in? Res-judicata issues may very well subsequently control this matter. (See Judge Herndon's *Order and Judgment*, CV-95-047, dated 9/22/97, attached as *Exhibit 1* to Miller's *Answer and Counterclaim*.) (Whereby title to all properties was quieted in the name of Miller and the Targhee entity.) But they certainly wouldn't necessitate a final order that provided Bach with individual title to all of the properties. At least not until this court and/or a jury has had an opportunity to analyze the ownership issues, and entertain Miller's equitable and resulting trust theories, and claims of fraud now pending against Bach and Targhee Powder Emporium. For these reasons, and because Bach has failed to meet his burden as required by Rule 56, this Court should deny Bach's request for summary judgment.

CONCLUSION

For the reasons set forth above and in Miller's Answer and Counterclaim and her affidavit filed herewith, Plaintiff's Motion for Summary Judgment should be denied.

RESPECTFULLY SUBMITTED this 6 day of May, 2003.


Galen Woelk

CERTIFICATE OF SERVICE

I hereby certify that I am a duly licensed attorney in the State of Idaho, with my office in Driggs, Idaho; that on the 6th day of May, 2003, I caused a true and correct copy of the foregoing DEFENDANT MILLER'S BRIEF IN OPPOSITION TO SUMMARY JUDGMENT to be served upon the following persons at the addresses below their names either by depositing said document in the United States mail with the correct postage thereon or by hand delivering or by transmitting by facsimile as set forth below.

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

☒ Mail
☐ Hand Delivery
☐ Facsimile

Alva Harris
Box 479
Shelley, ID 83274

☒ Mail
☐ Hand Delivery
☐ Facsimile

Judge Richard St.Clair, Chambers
605 N. Capital
Idaho Falls, ID 83402

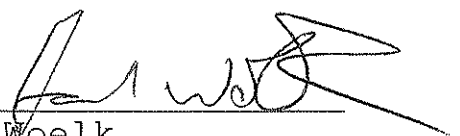
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Hawley, Troxell, Ennis & Hawley
Jason Scott, Esq.
P.O. Box 100
Pocatello, ID 83204

☒ Mail
☐ Hand Delivery
☐ Facsimile

Jared Harris, Esq.
P.O. Box 577
Blackfoot, ID 83221

☒ Mail
☐ Hand Delivery
☐ Facsimile



Galen Woelk

GALEN WOELK
RUNYAN & WOELK, P.C.
P.O. BOX 533
DRIGGS, ID 83422
TELE (208) 354-2244
FAX (208) 354-8886
IDAHO STATE BAR #5842

FILED

MAY 06 2003

TIME: _____
TETON CO. MAGISTRATE COURT

ATTORNEY FOR DEFENDANT

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

JOHN N. BACH,)
	) CASE NO. CV-02-208
Plaintiff,)
	) KATHERINE MILLER'S
	) AFFIDAVIT IN OBJECTION
vs.	) TO BACH'S MOTION FOR
	) SUMMARY JUDGMENT
KATHERINE M. MILLER, et. al.,)
)
Defendant.)
_____)

COMES NOW Katherine Miller, being first duly sworn,
deposes and states as follows:

1. I am a party defendant in the above-entitled action.
2. I have had a chance to review the "Affidavit of John N. Bach In Support of His Motions for Summary Judgment" and believe the majority, if not all of the representations made in that affidavit by Bach are fabricated and untrue.

3. Without responding to every sentence of Mr. Bach's affidavit, I would state that among other things, I never accepted a proposal to marry Mr. Bach, I never entered into or even discussed a pre-nuptial agreement with Mr. Bach, I never had any "affairs" as alleged by Mr. Bach, Mr. Bach never lived with me at my house, I never entered into any oral agreements pertaining to any of my properties whatsoever with Mr. Bach, and I never discussed bankruptcy with Bach or requested him to do anything in regards to any bankruptcy he may have been involved in.

4. At all times from 1994 through 1997 Bach informed me that he had no ownership interest in Targhee Powder Emporium, Inc., and that he was simply an agent representing the interests of "principals and investors." Through the years I requested that Mr. Bach inform me as to who the investors and principals of Targhee Powder Emporium were. Mr. Bach always refused to provide me with any of their names, despite his representations that they were numerous. (Attached as Exhibit 1 to this affidavit is a true and correct copy of that original offer Bach made on behalf of Targhee Powder Emporium's numerous investors for the purchase of land from the Harrops.)

5. Pursuant to Bach's negotiations on behalf of Targhee Powder Emporium, I ended up paying the entire purchase

price for the 80 acres eventually purchased from Harrop. At all times it was represented to me by Bach that the Targhee investors were investing an equal amount of money for an equal amount of property. See also *Miller's Answer and Counterclaim*, p. 10.

6. I was not fully aware of the legal issues being litigated in the Harrop v. Bach litigation as Bach attempted to keep what was taking place in that action a secret from me. Contrary to Mr. Bach's assertions, I was never served with process in that action, nor was I ever involved in negotiations with the Harrops for the purchase of any additional Easterly 80 acres.

7. What I was aware of during the Harrop v. Bach litigation is that Bach supposedly represented investors and principals by the name of Targhee Powder Emporium, Inc., and that he had no individual interest in the properties. (Attached as *Exhibit 2* is a true and correct copy of a letter written by Mr. Bach to Mr. Nye, and made part of the record in the Harrop v. Bach litigation whereby Bach again makes very clear that in no way should any title to any of the properties "*show him as an individual owner of any parcel.*")

8. It was not until approximately October and November of the year 2000 that I became aware that I had been the sole

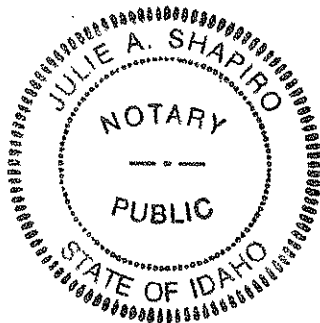
purchaser, for value of any and all of those properties titled in the name of Targhee Powder Emporium, Inc., and that no investors from that company provided any monetary consideration for the purchase of property Targhee Powder Emporium received title to.

DATED this 6th day of May, 2003.

Katherine M Miller
Katherine Miller

STATE OF IDAHO)
) ss.
County of Teton)

On this 6th day of May, 2003, before me, a notary public in and for said county and state, personally appeared Katherine Miller, personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same.



Julie A. Shapiro
Notary Public
Residing At: Vidor
My Commission Expires: 11/23/07

T. A. R. G. H. E. P. O. W. D. E. R. E. M. P. O. R. I. U. M., LTD.
195 N. Highway 33
Post Office Box 101
Driggs, Idaho 83422
Phone & Fax: (208)
354-8303
August 9, 1994

WRIGHT LAW OFFICES
477 Shoup Ave., Suite 109
P.O. Box 50578
Idaho Falls, Idaho 83405-0578

VIA FAX TRANSMISSION TO:
(208) 523-4400

RE: SALE/PURCHASE OF LOVELL & LORRAINE
HARROP REAL PROPERTY-160 acres, Driggs
Your letter of July 27, 1994, delivered
July 28, 1994

Dear Mr. Taylor:

On behalf of my principals, I am taking the opportunity per this letter, to respond to your letter of July 27, 1994, consisting of two (2) pages, which letter references my letter to the Harrops of July 21, 1994.

I am authorized to make the following responding proposal:

1. The total purchase price of the 160 acre parcel would be TWO HUNDRED TEN THOUSAND DOLLARS (\$210,000),, with a down payment out of escrow of FIVE THOUSAND DOLLARS (\$5,000.00) and the balance of TWO HUNDRED FIVE THOUSAND DOLLARS payable in two installations, to wit; on or before December 15, 1994, one half thereof or ONE HUNDRED TWO THOUSAND FIVE HUNDRED DOLLARS (\$102,500.00) provided that the mostly westerly eighty (80) acres be conveyed therewith to the principals, and the second payment of ONE HUNDRED TWO THOUSAND FIVE HUNDRED DOLLARS (\$102,500.00) to be paid on or before February 15, 1995 and the remaining acreage, the most easterly eighty (80) acres being conveyed to the principals.
2. The other numbered paragraphs, 2 through 6 and 8 are acceptable and to be incorporated in the terms and conditions of purchase and sale.
3. If at all possible, acceptance of this proposal should be forthcoming no later than the end of the business day of August 16, 1994, On that day I leave for California to meet with some of the principals and won't be back until September 1, or thereafter, 1994, but can be reached in California at 916-534-9500.

EXHIBIT 1

000020

Page 2, Letter of August 9, 1994 to WRIGHT LAW OFFICES
HARROP REAL PROPERTY SALE
160 acres, Briggs

For the Harrops and your information, the aforesaid total price of \$210,000.00 was reached as follows: (1) 120 acres at \$1,500.00 for \$180,000.00 and (2) the remaining 40 acres which comprise wetlands, ponds and unusable ditches, canals and dry beds at \$750.00 for \$30,000.00, thus totalling \$210,000.00. It took some doing on my part and time to get the various principals to come forth with even that sum. I do not foresee that they will change their position or increase said proposed purchase price of \$210,000.00.

Since many of the principals act under different corporate and/or entity names and are advised by separate counsel, business managers and accountants, they do not wish their names divulged nor do they wish to be contacted, but will through me, upon advise of their business partners, corporations and advisors, direct and authorize me on how they wish in name and vesting deed language to take their respective purchased interests if this proposal is accepted by the HARROPS.

Please feel free to call or fax me if there are any questions. My telephone and fax number is the same: (208) 354-8303.

Very truly,

TARGHEE POWDER EMPORIUM

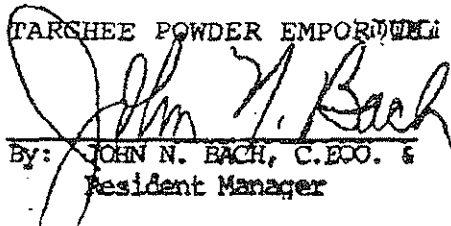

By: JOHN N. BACH, C.E.O. &
Resident Manager

EXHIBIT 1

000440

October 10, 1996

FAX MEMORANDUM TO: Mr. David C. Nye, Esquire
(208) 232-2499

FROM: JOHN N. BACH
(208) 354-8303

RE: Your Oct. 9, 1996 letter, received Oct.
10, 1996 & your message re
warranty deed left on my message
machine

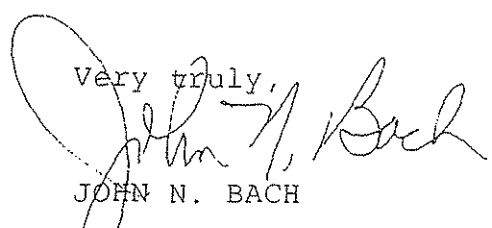
Dear Mr. Nye:

In reply to your telephone message and inquiry,
Ms. Katherine M. Miller wants the survey to be com-
pleted so that the warranty deed you are to prepare
for the Harrips signature and execution, will have
the most current legal description of the 110 by
2640 parcel which is being conveyed to her.

Therefore, it is not necessary that such warranty
deed which is to show only her as the grantee, be
deposited into court until said survey has been comp-
leted and such legal description made available to
you and your clients.

I repeat again, the warranty deed is to be
made out to Ms. Miller and not myself. I do not want
any games played with this position and the assignment
I have provided you a copy of. Thusly, the title
insurance, should not in any way show me as an individual
owner of any parcel.

Very truly,


JOHN N. BACH

Fax copy to: The Honorable James C. Herndon

EXHIBIT 2

000441

FILED IN CHAMBERS
at Idaho Falls
Bonneville County
Honorable Richard T. St. Clair
Date 5/6/03
Time 1:50 pm
Deputy Clerk MSouthwick

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

JOHN N. BACH,

Plaintiff,

vs.

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

Defendants.

Case No. CV-02-208

**THIRTEENTH ORDER
ON PENDING MOTIONS**

I. INTRODUCTION

Pending before the Court are plaintiff John Bach's motion to enter default against defendants Miller, Targhee Powder Emporium, Inc. dba Targhee Powder Emporium Unltd. and Ltd., motion to strike answer of defendants Harris, Scona, Inc., McLean, Olesen, Fitzgerald, and Lyle, motion for sanctions under Rule 37, I.R.C.P., against defendants Miller, Harris, Scona, THIRTEENTH ORDER ON PENDING MOTIONS

Inc., McLean, Olesen, Fitzgerald, and Lyle, motion to strike defendant Miller's answer and counterclaim, motion to strike summons issued on March 19th for Miller, motion to continue jury trial and to enlarge discovery cutoff date, motion to strike defendant Dawsons' attorney's notice of appearance, and motion to disqualify attorney Galen Woelk and the law firm Runyan & Woelk from representing defendant Miller, motion to quash service of Miller's third party complaint, all filed on April 14, 2003, and motion for protective order under Rule 26(c), I.R.C.P., filed on April 15, 2003.

Defendant Miller filed several legal memoranda in opposition to plaintiff Bach's motions. Defendants Harris, Scona, Inc., McLean, Olesen, Fitzgerald, Lyle, Woelk, and Dawson did not file any opposition to any motion. Oral argument was heard on May 2, 2003, during which counsel for Woelk orally objected to enlarging the discovery cutoff date only for plaintiff Bach but not as to the defendants.

Having read the motions, supporting affidavits, legal memoranda in support and legal memoranda in opposition, and the oral arguments of the parties, the Court issues the following decision on the pending motions.

II. ANALYSIS

1. Motion to enter default against Miller.

Plaintiff Bach's first motion seeks an order to enter a clerk's default under Rule 55, I.R.C.P., against defendants Miller, and Targhee Powder Emporium, Inc. Defendant Miller objects on the grounds that she filed an answer on March 17, 2003, and Bach's application to the clerk for default was the following day of March 18, 2003.

The record establishes that Miller's answer was filed on March 17th, and Bach's application for a clerk's default was on March 18th. The Clerk correctly refused to enter the requested default against Miller.

The record establishes that Targhee Powder Emporium, Inc. has never been named as a defendant in plaintiff Bach's original complaint, nor in his first amended complaint. Naming ten Doe defendants and then serving them does not satisfy Rule 3(b), I.R.C.P., requiring the complaint to identify the party defendants by name. It is clear that before the action was filed, Bach knew Targhee Powder Emporium, Inc., was an Idaho corporation that had been writing deeds to the real property he seeks to quiet title against in his favor. Targhee Powder Emporium, Inc., was not one of the unknown Doe defendants. No default can be entered against Targhee Powder Emporium, Inc., at the request of the plaintiff in this action, without first

obtaining leave of court to file an amended complaint alleging a cause of action against such corporation, serving the amended complaint, and waiting twenty days after service.

The first amended complaint alleges that Miller was doing business as R.E.M. and Cache Ranch, apparently fictitious business names, rather than duly formed legal entities. Using a fictitious business name does not create a legal entity, does not constitute a defense for the party using the name, nor limit a party's liability. If Miller used fictitious names of R.E.M. and Cache Ranch it makes no difference to Bach's alleged causes of action against Miller, nor to her alleged defenses.

Bach's motion states that Targhee Powder Emporium, Inc., was doing business as Targhee Powder Emporium, Unltd. and Ltd. When a corporation uses a fictitious business name, it also does not create another legal entity, does not constitute a defense, does not limit its liability. If Targhee Powder Emporium, Inc., becomes a party defendant, and is properly served, it will make no difference whether it used fictitious business names.

Therefore, the Court must deny Bach's motion.

2. Motion to strike answer of defendants Harris, Scona, Inc., McLean, Olesen, Fitzgerald, and Lyle.

Plaintiff Bach's second and third motions (in the " 9 motions filed on April 14th) seek the same relief, namely an order striking the answer of defendants Harris, Scona, Inc.,

THIRTEENTH ORDER ON PENDING MOTIONS

McLean, Olesen, Fitzgerald and Lyle, because a clerk's default had previously been entered. No opposition was presented to this motion.

The record establishes that on January 27, 2003, a clerk's default was entered against these defendants. Apparently those defendants filed an answer sometime thereafter, but did not send a courtesy copy to the assigned out of county judge. In any event a party in default cannot file an answer without first obtaining a court order setting aside the clerk's default.

Therefore, the Court must grant Bach's motion.

3. Motion for sanctions under Rule 37, I.R.C.P., against defendants Miller, Harris, Scona, Inc., McLean, Olesen, Fitzgerald, and Lyle.

Bach's fourth motion sees sanctions under Rule 37, I.R.C.P., against defendants Miller, Harris, Scona, Inc., McLean, Olesen, Fitzgerald, and Lyle. Miller argues in opposition that she timely served responses to Bach's discovery and delivered documents to the Copy Cabin in Driggs, Idaho for copying on Bach's request. Bach argues further that Miller did not provide many documents, and made objections. From the current record, this Court cannot determine the sufficiency of Miller's responses, nor if the responses were inadequate how Bach has been prejudiced, nor if he is prejudiced what the least

onerous sanction under Rule 37(c) would alleviate such prejudice.

Therefore, this Court shall require Miller to serve on Bach not later than May 19, 2003, legible copies of every document (as defined in Rule 34) that Miller anticipates offering into evidence in defense of Bach's complaint and in prosecution of her counterclaim, Miller will not be allowed to introduce at trial any document that has not been furnished to Bach on May 19th.

Since, the other defendants with an interest in this motion have been defaulted, they cannot defend Bach's complaint, and their answer is being stricken from the court record. A duplicate sanction under Rule 37(c) would be meaningless.

4. Motion to strike defendant Miller's answer and counterclaim.

Plaintiff Bach's fifth motion seeks an order striking defendant Miller's answer and counterclaim because it was not timely filed and properly served. Miller argues in opposition that she timely filed the pleadings, and that she served Bach by mail when she filed the pleading on March 17th.

The record contains no certificate of service attached to the answer and counterclaim. Based on the record, the Court finds that the answer and counterclaim were not served by mail. However, Bach received a copy of the answer and counterclaim the

THIRTEENTH ORDER ON PENDING MOTIONS

following week. Bach has shown no prejudice by Miller's failure to serve the pleading by mail. The answer and counterclaim were timely filed.

Therefore, the Court must deny Bach's motion.

5. Motion to strike summons issued on March 19th for Miller.

Plaintiff Bach's sixth motion seeks an order striking the summons that Miller had issued by the clerk, apparently for serving here third party complaint or counterclaim on certain "third party defendants and other defendants/involuntary defendants," namely "The Vasa N. Bach Family Trust and Targhee Powder Emporium, Inc. (a non-incorporated entity)" doing business under several fictitious business names. Miller argues in opposition that Bach knew what Miller's allegations were as to he and these other entities or non-entities when he was served, and that Bach has no standing to bring this motion for anyone but himself as an individual because legal entities must have a licensed Idaho attorney represent them in court, and it is the unlawful practice of law for anyone else to represent such legal entities.

It is not necessary for Miller to obtain a summons to serve plaintiff Bach with a counterclaim. To the extent the third party complaint attempts to make counterclaims against Bach individually doing business under a fictitious business name it

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is not necessary to name him again in a third party complaint, nor to serve him. As stated above in part 1, an individual's liabilities and defenses are not changed by using a fictitious name. If he was doing business under fictitious names such as Targhee Powder Emporium, Inc., Ltd. or Unltd, and Targhee Powder Investments that were in fact not legal entities his liability is not changed.

Bach is not a licensed Idaho attorney and cannot appear generally or specially for the Vasa N. Bach Family Trust. If it is a legal entity with a written declaration of trust signed by a trustor and a trustee, having a lawful purpose, and having beneficiaries, it can be added as a defendant. While the summons was not proper, Bach does not have standing to bring this motion. Therefore, the Court must deny Bach's motion.

6. Motion to continue jury trial and to enlarge discovery cutoff date.

Plaintiff Bach's seventh motion seeks to continue the jury trial and to enlarge the discovery cutoff date for 90 days, and to have the defendants advance costs for Bach to take the defendants depositions. Defendants Miller and Woelk do not object to continuing the jury trial, but do object to enlarging the discovery cutoff only for Bach.

This Court's order on Bach's motion for discovery sanctions will cure any prejudice Bach may have based on any inadequacy on

THIRTEENTH ORDER ON PENDING MOTIONS

Miller's responses to discovery. Bach has not shown any inadequacy on Woelk's responses to any discovery. The other defendants who have had clerk's defaults entered may not defend the complaint. Good cause has not been shown for continuing the jury trial or the discovery cutoff.

Therefore, the Court must deny Bach's motion.

7. Motion to strike defendant Dawsons' attorney's notice of appearance.

Plaintiff Bach's eighth motion seeks an order striking defendant Dawsons' attorney Jared Harris' notice of appearance because the Dawsons earlier moved to set aside a clerk's default, and their motion was denied. No party opposes this motion. Since the supports Bach's argument, good cause for granting this motion has been shown.

Therefore, the Court must grant Bach's motion.

8. Motion to disqualify attorney Galen Woelk and the law firm Runyan & Woelk from representing defendant Miller.

Plaintiff Bach's ninth motion seeks an order disqualifying Galen Woelk and Runyan & Woelk from representing defendant Miller. Miller argues in opposition that this Court previously ruled following an evidentiary hearing, at which Woelk and Bach both testified, that no attorney client relationship existed between Bach and Runyan & Woelk.

Woelk's argument concerning this Court's earlier finding is correct, so no conflict of interest exists requiring Woelk and his law firm to withdraw as counsel for Miller. However, Rule 3.7 of the Idaho Rules of Professional Conduct prohibit Woelk from acting as an advocate for Miller after he testifies in this action. Rule 1.10 prohibits another attorney in his law firm from representing Miller, if Woelk becomes disqualified by reason of being a witness. This was explained to Woelk and Bach several months ago during the hearing in August or September, 2002 when a very similar motion was argued.

Whether Woelk will testify at this jury trial cannot be predicted with any certainty by this Court. Therefore, the Court must deny this motion.

9. Motion to quash service of Miller's third party complaint.

Plaintiff Bach's tenth motion seeks an order quashing Miller's third party complaint. Miller argues in opposition that Bach has no standing to bring this motion for any legal entity.

Since Bach is not a licensed Idaho attorney, he may not enter a general or special appearance on behalf of any legal entity.

Therefore, this Court must deny this motion.

10. Motion for protective order under Rule 26(c), I.R.C.P.

Plaintiff Bach's eleventh motion seeks a protective order under Rule 26(c), I.R.C.P., until after this Court rules on his other motions addressed herein, or until after the defendants fully respond to his discovery. Defendants Miller and Woelk argue in opposition that they have supplied discovery.

Since this Court has ruled on all of the motions referred to by Bach, since the Court has found no inadequacy in discovery responses of defendant Woelk, since the Court has ordered defendant Miller to serve all trial documents promptly on Bach, since the Court has stricken any answer of defendants Harris, Scona, Inc., Bagley, Olesen, Fitzgerald and Lyle, and since the clerk has defaulted the Dawsons, there is no good cause for granting a protective order.

Therefore, the Court must deny this motion.

III. ORDER

NOW THEREFORE, IT IS HEREBY ORDERED that

1. plaintiff Bach's motion to enter default against defendants Miller, Targhee Powder Emporium, Inc. dba Targhee Powder Emporium Unltd. and Ltd., is DENIED;

2. plaintiff Bach's motion to strike answer of defendants Harris, Scona, Inc., McLean, Olesen, Fitzgerald, and Lyle is GRANTED;

3. plaintiff Bach's motion for sanctions under Rule 37, I.R.C.P., against defendant Miller is GRANTED in part, and DENIED in part; and his motion against defendants Harris, Scona, Inc., McLean, Olesen, Fitzgerald, and Lyle is MOOT;

4. plaintiff Bach's motion to strike defendant Miller's answer and counterclaim is DENIED;

5. plaintiff Bach's motion to strike summons issued on March 19th for Miller is DENIED;

6. plaintiff Bach's motion to continue jury trial and to enlarge discovery cutoff date is DENIED;

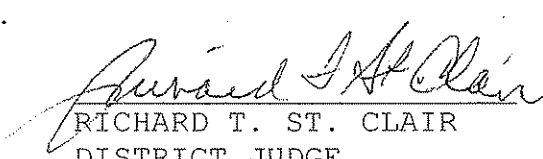
7. plaintiff Bach's motion to strike defendant Dawsons' attorney's notice of appearance is GRANTED;

8. plaintiff Bach's motion to disqualify attorney Galen Woelk and the law firm Runyan & Woelk from representing defendant Miller is DENIED without prejudice to renewing if Woelk actually testifies before the jury;

9. plaintiff Bach's motion to quash service of Miller's third party complaint is DENIED; and

10. plaintiff Bach's motion for protective order under Rule 26(c), I.R.C.P. is DENIED.

DATED this 21st day of May, 2003.


RICHARD T. ST. CLAIR
DISTRICT JUDGE

CERTIFICATE OF SERVICE

I hereby certify that on the 6th day of May, 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)

Teton County - ✓
Attn: Phyllis

RONALD LONGMORE
Clerk of Court

M. Santhwick
Deputy Court Clerk

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

FILED
2:10
MAY 13 2003
TETON CO.
DISTRICT 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 SUPPORT OF
HIS MOTION FOR SUMMARY JUDGMENT
AGAINST ALL DEFENDANTS

v.

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

DATE OF HEARING: May 20, 2003
TIME OF HEARING: 8:30 a.m.
PLACE OF HEARING: Bonneville
County Courthouse, 605 N.
Capitol Ave., Idaho Falls, ID

Defendants &
Counterclaimant.

THE HONORABLE RICHARD T. ST. CLAIR,
Assigned, Presiding

Plaintiff JOHN N. BACH, hereby submits his Closing Brief in
Support of his Motion for Summary Judgment Against All Defendants.

I. PLAINTIFF HAS COMPLIED WITH ALL PREREQUISITES AND REQUIREMENTS UNDER RULE 56(a) THROUGH 56(f) ENTITLING HIM TO SUMMARY JUDGMENT AGAINST ALL DEFENDANTS ON ALL HIS CLAIMS.

A. STANDARDS AND APPLICATION OF CONSIDERATION OF PLAINTIFF'S SUMMARY JUDGMENT MOTION

As stated in McCoy v. Lyons, 820 P.2d 360, 365, (Idaho 1991):

"It is well established that a party against whom a motion for summary judgment is sought 'may not merely rest on allegations contained in his [her] pleadings, but must come forward and produce evidence by way of deposition or affidavit to contradict the assertions of the moving party and establish a genuine issue of material fact.' Olsen v. J.A. Freeman Co., 117 Idaho 706, 791 P.2d 1285 (1990); Clarke v. Prenger, 114 Idaho 766, 760 P.2d 742 (1998); Rawson v. United Steelworkers of Amer. 111 Idaho 630, 726 P.2d 742 (1986); Doe v. Durtschi, 110 Idaho 466, 716 P.2d 1238 (1986). This requirement has been made a part of our Court Rules. I.R.C.P. 56(e) states:

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PT JOHN N. BACH's CLOS'G BRIEF re Supp of His S/J Motions P. 1.

"When a motion for summary judgment is made and supported as provided in this rule, an adverse party may not rest upon the mere allegations or denials of his pleadings, but his response, by affidavits, or otherwise provided in this rule, must set forth facts showing that there is a genuine issue for trial. If he does not respond, summary judgment, if appropriate, shall entered against him."

As is revealed by the entire filings herein, the testimony of the plaintiff given on August 13 and 14, 2002, also per his verified FIRST AMENDED COMPLAINT, plaintiff's affidavits (all of them) filed herein, including his affidavits against defendant Woelk's motion for summary judgment, the judicial notices taken by this court and still required to be taken herein in support of plaintiff's motions for summary judgment and against said Woelk's frivolous and utterly without merit summary judgment motion, plaintiff has set forth the total absence of any genuine material issues of fact under all his claims, requiring summary judgment on all his claims in his favor, same and except the awarding of damages, therewith/thereby.

Contrarily, those defendants in default, their defaults having been entered herein or soon to be entered, and those defendants who have filed general appearances but no answer or denial pleadings, have admitted and confessed, not only their liabilities and culpabilities, but also those of all other codefendants as well, on all claims of conspiracies, aiding/abetting & inciting or counseling of codefendants' torts and wrongs, and of all joint ventures, coprincipal coagencies and united or concerts of joint efforts, purposes and actions among all defendants perpetrated and inflicted upon plaintiff. Doe v. Durtschi, 110 Idaho 466, 716 P.2d 1238 (Idaho 1986) at 716 P.2d 1241-2:

"In this process, the court must look to the totality of the motions, affidavits, depositions, pleadings, attached exhibits' not merely to portions of the record in isolation. [Citations omitted]. ." [And from Petreceovich v. Salmon River Canal Co, 92 Idaho 865-868-69; 452 P.2d 362, 365-66, cited in Doe, supra, page 366: "Upon a motion for summary judgment a court will consider only that materials contained in affidavits or depositions which is based upon personal knowledge and which

would be admissible at trial, the testimony is [must be] competent, relevant and material." See also Rule 56(e); Woods v. City of Chicago (2000, CA 7, Ill) 234 F.3d 979; EEOC v. Virginia Carolina Veneer Corp (1980, W.D. Va) 495 F. Supp 775, app. dismissed (1981) C.A. 4, Va) 652 F.2d 380.

Even had plaintiff not submitted affidavits under oath, per his own personal knowledge, participation, observation and witness, the court still must take judicial notice of records and files of its own court, even as to other actions, which show the absence of any genuine issue of material fact or facts. See Latta v. Western Ins. Co. (1949) CA 9, Cal.) 173 F.2d 99, cert den., (1949) 337 U.S. 940, 93 L Ed 1744, 69 S. Ct 1516, reh den., (1949) 338 U.S. 840, 94 L Ed 514, 70 S. Ct. 35 & reh den., 338 U.S. 863, 94 L. Ed 529, 70 S. Ct. 96, & reh den., (1949) 338 U.S. 889, 94 L Ed 546, 79 S Ct 181.

Thus, the plaintiff's entire testimonies given before this court, and the exhibits admitted during his testimonies, also the testimony of Blake Lyle of August 15, 2002, must be considered. Attached hereto, to aid the court in this consideration, are copies of (1) Plaintiff's EX. 1, hearing of Aug. 13, 2002, first five pages which per pages 3 through 5, sets forth his Exhibits I through XVI, as admitted in Teton CV 01-59, May 16, 2002, and the 10 Teton County cases along with 2 USDC, Idaho, civil cases which support his current summary judgment motions; (2) plaintiff's EX. 2, hearing 8-13-02, Warranty Deed from the Harrops to himself as Targhee Powder Emporium, Inc.; (3) John Bach's EX I, May 16, 2002 hearing, in Teton CV 01-59 received also in evidence herein on Aug 13, 2002; (4) copy of plaintiff's EX X, within his aforesaid EX 1, Aug 13, 2002 hearing, being a handwritten, signed/initialed letter from Katherine Miller stating in the first paragraph: "Dear John, I would like you to sign a quit claim deed on the 40 acres over to me before you list your assets & file the bankruptcy papers" (000457) Woelk's second page of his Nov. PT. JOHN N. BACH'S CLOS'G BRIEF re Supp of His S/J Motions P. 3.

16, 2000 letter to Laura Lowry, admitted in both CV 01-59, and during plaintiff's testimonies herein, as well as being part of EX "1" of Plaintiff Affidavit filed herein April 28, 2003; (6) Plaintiff's EX 21, admitted herein, on 8-15-02, showing the new subdivision developed adjacent to the most westerly 40 acre parcel, which parcel being in the averred partnership between plaintiff and Katherine Miller plaintiff seeks to have title quieted in to himself solely, as well as to all other parcels and acreages set forth in the FIRST AMENDED COMPLAINT; and (7) copies of 3 pages of both Plaintiff's and Defendants' EXHIBITS admitted in the Aug. 13, 15 and Nov. 26, 2002 hearings held herein. All of the exhibits set forth in subgroup 7, supra, should be considered and will be addressed briefly herein, in support of plaintiff's summary judgment motions against all defendants. By way of example of the establishment of the absence of any genuine issues of materials fact to deny plaintiff's motion, in particularly, against Defendant Katherine D. Miller, aka Katherine M. Miller, individually and dbas R.E.M. and CACHE RANCH, are the transcripts marked PLT's EX 3, 8-13-02 hearing, being of the proceedings before Judge Moss, Aug. 28, 2001, Teton CV 01-59 and the deposition pages selected by Miller and her then attorney, Alva Harris, being DFT. EX. E, 8-15-02 hearing, of John N. Bach, in the Harrop litigation CV 95-047, all of which transcripts along with the entire exhibits received durings said hearings in this matter and the testimony of plaintiff, which was unrefuted during said hearings as to his claims herein, have not been contradicted nor properly placed into any controversy, or conflict of any genuine issues of materials facts, to delay the granting of plaintiff's current motions not only against Miller in all capacities, but all other codefendants herein on all claims.

B. DEFENDANT MILLER IN ALL CAPACITIES HAS UTTERLY FAILED TO PRESENT ANY COUNTERVAILING FACTS OR BASIS, AS REQUIRED PER RULE 56(e) TO PRECLUDE OR DENY PLAINTIFF'S MOTIONS FOR SUMMARY JUDGMENT AGAINST HER AND ALL OTHER DEFENDANTS, HEREIN, ALL OTHER DEFENDANT HAVING FILED NO COUNTER AFFIDAVITS, SHOWINGS OR ANY OPPOSITION TO PLAINTIFF'S SUMMARY JUDGMENT MOTIONS.

As expressly directed and provided by Rule 56(c) and 56(e) all affidavits must be made ^{sworn to} upon the affiant's personal knowledge, must be competent, relevant and materials, not speculations, wholly personal conclusions or opinions which are inadmissible, irrelevant and now deliberately presented as a ruse or fraud to attempt to show some conjured genuine issue of material fact or facts, when such affiant previously has testified, admitted or confessed otherwise, See also Rule 56(g) requiring such conjured/contrived fraudulent and false affidavit to be stricken and sanctions imposed against the affiant and her counsel, the latter who drafted and composed the language and wording of such specious document, not sworn/under oath per I.C. 51-109. See Cates v. Albertson, Inc., 126 Idaho 1030, 895 P.2d 1223(1995).

Thus, in considering Miller's Affidavit in Objection to plaintiff's motions for summary judgment, dated May 6, 2003, it must be concluded she not only has not made such upon her personally sworn knowledge, observations and participation as a percipient witness, but that her statements, therein are conjectures, speculations and opinions, all inadmissible; as revealed by her paragraphs 1, and 5; but all other paragraphs, 2-4 and 6-8 are utterly perjuriously false and fraudulently interposed to delay, frustrate and impede, illegally and contemptuously, justice and the processes of the court, in granting plaintiff's said summary judgments against her and all defendants.

Considering first just the perjury statements of paragraph 3, Miller does not specifically, directly and relevantly respond to Plaintiff's Affidavit filed April 18, 2003 herein in support

of his S/J Motions, but attempts per her present counsel, and as blaired and shrilled by her past counsel, & codefendant Alva Harris to paint plaintiff black and heinous when not only are such facts not in issue but have been clearly shown by the referenced Teton actions, Chapter 13 and USDC, Idaho two actions to bar/preclude all Miller's defenses, affirmative defenses and contrived unsupported speculations and theories of her Cross Claims/Third Party Complaint. See Contractors St. Lic. Bd v. Dunbar (9th Cir 2001) 245 F.3rd 1058, 1063-64; & Montana v. U.S. (1979) 440 U.S. 147, 153 (claims not asserted in prior action barred)

Whether Miller now claims she never accepted a proposal to marry earlier plaintiff, she never responds to his said April 18, 2003 Affidavit, paragraphs 3 through 9, directly nor relevantly, does not deny nor respond to EXHIBITS "A" through "I", does not specifically deny nor could she the statements in EXHIBIT "C" which she signed on Dec. 12, 1994 in Jackson, Wyoming nor to the further unassailed proof of statements contained in the following EXHIBITS "D" through "H" and "I", the latter two being the executed settlement agreement of Oct. 8, 1997 wherein she unequivocally/unconditionally "forever releases and discharges Targhee and Bach and all of their present and past employees, attorneys, insurers and agents and each of them from any and all claims, demands, debts, liabilities, accounts, obligations, costs, expenses, liens, actions, and causes of action of every kind and nature, whether known or unknown, suspected or unsuspected, that Miller now owns or holds or at any time heretofore has owned or held, based upon, or related to, or by reason of any contract, lien, liability, matter, cause, fact, thing, act, or omission whatever." . .

and the last, EX "I" being Miller's personal and court appearing attorney in the Harrop action, Chuck Homer's memo of said Oct 3, 1997

meeting stating clearly, first 13 sentences: "On October 3, 1997, I met with Kathy Miller, and John Bach. John Bach represented to both me and Kathy Miller that he was the President and CEO of Targhee Powder Emporium, Inc., and that he did not need anybody else's authority to sign the documents. He also represented to us that he owned the property on which he was giving Kathy Miller an undivided one-half interest and easement freed and clear of all liens. ."

By this date, Oct. 3, 1997, Miller had been served with process

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in the Harrop's action, CV 95-047, had via Homer, obtained from the Harrop's a dismissal without prejudice and a release of lis pendens filed by the Harrops on her claimed most westerly 40 acres (See Pt's 1, subEX. IX therein); she had been named in and served with plaintiff's chapter 13 bankruptcy papers, as a specifically named/to be discharged creditor (Df's I, CV-01-59, wherein she ^{didn't} file/made no claim and all her claims, causes of action were discharged Dec. 28, 2002, (Defendant Wayne Dawson, in default herein, was also so named, discharged and forever precluded as to any rights against plaintiff); and MILLER not only knew of chapter 13 bankruptcy proceedings thereby, she also knew and had sought from plaintiff a quit claim deed to her as to his ownership in his said parcels and acreages. (Pt EX 1, SubEX X, and copy attached hereto. It should be further pointed out that in said Settlement Agreement of Oct. 3, 1997, paragraph 3, page 2, recites in the last sentence thereof: " . . .The parties do specifically acknowledge and agree that there are no continuing obligations between the parties arising from the terms and conditions set forth in that certain letter dated December 8, 1994 provided to Miller by Bach and the parties do hereby specifically release each other from any and all obligations referred to in such letter."

Therefore, all of Miller's statements in said paragraph 3 of her said Affidavit, May 6, 2003 are patently perjurious, deliberate untruths and contrived/fraudulent effort to deceive this Court into somehow believing that there are issues of genuine material facts. NOT SO! Even Miller's sublie therein that she never entered "into any oral agreements pertaining to any of my properties whatsoever with Mr. Bach" deliberately ignores her admitted transcript testimony herein from Teton CR 99-165, wherein she admitted having oral agreements carried out with plaintiff about, the installation of front gates, the location and installation of

the driveway onto the 110 strip, up to the first pond, than N.W. at a 45° angle, past said pond, then westerly within 40-60 feet South of the northern boundar line of said strip; the oral agreement with plaintiff whereby he had John Lethem cut the grass hay, producing only \$400.⁰⁰ for Miller's partnership share, while plaintiff told Letham he did not need the money; and the oral, performed agreement with plaintiff, specifically set forth in his FIRST AMENDED COMPLAINT, paragraphs 5(a) through (c), which agreement and facts leading up to and the deliberate misrepresentations and false promises, relied upon, by plaintiff, when he signed the Oct. 3, 1997 Settlement Agreement and carried out the partnership at said time, date and thereafter established. See also Miller's fanatasy letter, EX. 8, copy attached, herein, which is a memorandum of such future and carried out partnership; See also Pt's Aff, filed April 18, '03, paragraphs 3-7 with exhibits thereto, the forebearances, consideration and reliances plaintiff gave to and for Miller's benefit, and also, the consideration rendered thereby, all facts and events which remove any claimed defense of statute of frauds, although such defense does not apply as to an oral partnership involving ownership or management, etc., of said westerly 40 acres. Am. Jr. 2d, Stat/Frauds, sec. 569; 56 ALR3d 1037, Prom. Estoppel applying; 16 ALR2d 621, Suff of Memo satisfying S/F. Affirming such oral partnership and disposition by Miller, is Pt's EX 1, subEX XV a FOR SALE sign, written by Bob Fitzgerald, not a licensed realtor/agent, who plaintiff testified as containing Fitzgerald's CACHE RANCH telephone number. See also Pt's entire April 28, 2003 filed Affidavit objecting/opposing Woelk's S/J motion, which Affidavit is offered and to be considered also in support of plaintiff's S/J motions; EXHIBIT "1" through "2" prove without contradiction, the lies, perjuries, false reports, fraudulent usage of contrived documents, charges by Miller, and her co-counsel, Alva Harris, Cody runyan and Galen Woelk, as well as co-principal

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PT. JOHN N. BACH'S CLOS'G BRIEF re Supp of His S/J Motions P. 8.

defendants Fitzgerald, McLean, Dawson, Lyle and Olesen. (See Pt's 1, supra, subEX XVI, Harris' Jan. 10, 2001 letter to Roger B. Wright, with handwritten notes to Miller re their ploy/strategy. QUERY: If Miller paid \$120,000.00 as she claims for a 40 acre parcel, later put into a partnership with plaintiff, she got 40 acres as a single woman according to her, but has never shown such was not of said fair market value nor was it anything but the offered value and price she paid. Then, on what legally supportable basis and claim is she entitled to receive any refund, return or adjustment from Harrops via the Wright Law office for what she paid? Answer: Extortion, Fraud and attempted Grand Theft, contrived delusionally by her attorneys Alva Harris, Galen Woelk and the aforesaid defendants. Miller, with and through McLean even claimed she had moneys in the \$15,000.00 stolen by them from plaintiff on Nov. 14, 2000. The lies and deceptions perpetrated by Miller upon plaintiff, continue upon this Court via her current inadmissiable affidavit, and it's time to say "enough Miller, you have no rights, claims or causes of actions or defenses against plaintiff; you've made your decisions and they bind and preclude you from further frivolous, specious and vexatious litigation or arguments herein or elsewhere." (See, esp., Pt's Aff, April 28, 2003, EX "2", Idaho A.G.'s Amended Motion for Return of Property and Jack McLean's transcription of video interview by Deputy Sheriff, Don Mohler. [Amended Mtn re Rtrn of Prop., p. 2., "McLean's withdrawal of Bach's \$15,000 was a prejudgment attachment. Taking Bach's money was a method that McLean could execute a non-existent judgement against Bach. He [McLean, with others, Harris, Miller, Woelk, Fitzgerald, etc] ignored or avoided the proper method of securing the \$15,000.

Idaho law provides for the remedy of a temporary restraining order (TRO) where an aggrieved party is worried that they will suffer immediate and irreparable injury or damage if a court doesn't act immediately. IRCP 65(b-d) In this case, if the Defendant was worried about an immediate and irreparable injury, if he was worried that Bach was going to withdraw money that was rightfully his, then he should

have asked a court to issue a TRO to prevent Bach from withdrawing money from the account. Instead, the Defendant simply took the \$15,000, from an account that he had not used, when he knew or believed that Bach had put the money into the account. If McLean had properly restrained the \$15,000, Bach would have received the protection IRCP, 65(c) provides. It requires the court issuing the TRO to require the person asking for the TRO to give security in an amount deemed proper by the court. In this case the security likely would have been in the amount of \$15,000." and McLean's transcribed video statement: P. 9-11; JMC "I don't know where Bach got the money." . . . "Yea. Harris thought that, well, Bach would put the money in there and then make a check to the Sheriff to call off the auction but Bach paid off the Sheriff but he also put \$15,000 in this account" . . . DM And he told you [Harris did] that you should take out any money just because the money that used to be in there was to take care of the land to begin with? . . . JMC Yea, See that account has been on there for seven years, I never touched it, I never had any reason to touch it and yet Bach's been drawing out of it" . . . "I don't know who originally put the money in." The Court has the admission by Woelk in his letters of November 13 and 16, 2000 (Pt's Affid., April 28, 2003, EX. 11) re his and the defendants' criminal actions against plaintiff were "Because of the slow process of ordinary justice . . ." and "You [Lowry] obviously know the difficulty Ms. Miller has faced for the better part of three years with regard to the subject property. You also know that she has made numerous efforts to deal with it 'civilly.' [*] . . . "if he [Bach] were to attempt to file suit, he would have to hire an attorney to do so, something he will not and cannot do. .")

NOTE: Pt's said EX 9, Chapter 13 discharge papers shows that plaintiff had received personally for himself, over \$21,600 plus, moneys which he testified during the preliminary hearing, CV 00-649 he had deposited in said account, as was his right, and also, the \$15,000 which he borrowed from his personal friend Sanford I. Beck of Sacramento, stolen by McLean, Miller and other defendants, also into said account. But most importantly, John Bach gave a full accounting during said preliminary hearing as to his said moneys and the payments personally therefrom, of taxes/expenses re Drawknife and Peacock Joint Venture Investments parcels, taxes which were not paid by by McLean, Liponis and Dawson. There were other moneys which John Bach had been gifted and/or earned personally, that went into said account, and the only reason McLean's name was allowed on the signature card was that due to his 12 plus year Canadian divorce from McLean's second wife, McLean wanted to hide moneys in the event his second wife, had any Canadian judgments against him. Neither McLean nor Liponis had any personal or any joint venture moneys rightfully in said account for over some 3-4 years. Harris in conspiring to steal plaintiff's real properties, had the void Idaho corporation, Targhee Powder Emporium, Inc., deal over to his sham corporation, solely owned and manipulated by him, Scona, Inc., all of plaintiff's interest in some 8.5+/- acres next to the home at 195 N. Hwy 33; see EXHIBIT 3 to the FIRST AMENDED COMPLAINT, par. 8(e), 18-23, thereof

The Plaintiff's Affidavits of April 18, 2002 and April 28, 2003 filed herein admissible/relevant testimony upon plaintiff's "own personal knowledge, participation, involvement, witnessing, percept- [*] (Such action was Teton CV 0076, which Miller dismissed in July 2000) PT. JOHN N. BACH's CLOS'G BRIEF re Supp of His S/J Motions P. 10.

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ion. ." In paragraphs 1 and 2 of said plaintiff's April 18, 2002, Affidavit, he states that "The testimony I give hereby is to supplement and expand on the statement of facts, events and occurrences, which I have set forth in my verified FIRST AMENDED COMPLAINT, filed . . . September 27, 2003, and my verified ANSWER & AFFIRMATIVE DEFENSE TO COUNTERCLAIMS OF KATHERINE D. MILLER, aka KATHERINE M. MILLER, et al., filed April 4, 2002, which both pleadings are incorporated and reaffirmed herein. . . [2.] I request judicial notice of my testimonies given before this Court, on August 13 and 15, 2002, along with affidavit, and exhibits offered in support of preliminary injunction, which preliminary injunction, I seek hereby to be extended to a permanent injunction, restraining all defendants from trespassing, entering upon, making any claims of title, ownership, possession, use, right or access whatsoever those 87 plus/minus acres of land, which is the subject of my FIRST COUNT, and for the QUIETING OF COMPLETE TITLE, LEGAL, EQUITABLE AND OTHERWISE to myself, individually, in all said 87 plus/minus acres. I seek also hereby as and for summary judgment, the quieting of COMPLETE TITLE, LEGAL, EQUITABLE AND OTHERWISE to myself, individually, in all real properties, acres and investments, and the identical [permanent] injunction, stated supra, against all defendants herein, per my FIRST, SECOND, THIRD and FOURTH COUNTS of the FIRST AMENDED COMPLAINT. Lastly, as to said properties, etc., included, encompassed and/or related to said FIRST through FOURTH COUNTS, I request summary judgment or adjudication, that all of the named defendants, jointly and severally, 'slandered, clouded, impaired my rightful titles/claims, possession, use and economic development and monetary increase in fair market value to all of said real properties." [EMPHASIS ADDED]

The only defendant's Affidavit attempting to countervail such summary judgment/adjudication is Miller's but her affidavit is not sworn on personal knowledge, nor of competent, relevant and material evidence, nor does her halfbaked attempt to refer to her Answer and Counterclaim, page 10, as stated on page 3, thereof, paragraph 5, save her utter lack of compliance with Rule 56(c), 56(d) or 56(e). She further compounds her lack of refutation, by the evasive and utterly irrelevant statements: (1) "Through the years I requested
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PT. JOHN N. BACH'S CLOS'G BRIEF re Supp of His S/J Motions P. 11.

that Mr. Bach inform me as to who the investors and principals of Targhee Powder Emporium were."; but Miller admits in attached Exhibit 1, which she claims is a true and correct copy of the original offer plaintiff made on behalf of Targhee Powder Emporium's numerous investors for the purchase of the land from Harrops" such is dated, (a) August 9, 1994, 4 months plus before plaintiff made any such offer to Miller, (b) when plaintiff was dating another lady, Carolyn Roberts [Steele] (see EX "G", Second full paragraph, page 1 through top, page 2, AFFI/April 18, '03, (c) Miller had not moved in with plaintiff, 'til after Christmas, 1994, and (d) paragraph 3, of said letter, stated, last sentence thereof: " . . . On that day [Aug. 16, 1994] I leave for California to meet with some of the principals and won't be back until September 1, or thereafter, 1994, but can be reached in California at 916-534-9500." Plaintiff in his 95-47 deposition, select pages of which were offered, as DF EX E, herein, 8-15-02, he gave testimony under oath of his principals and the further fact he was never the agent for Miller nor she his principal.

Nor does Miller's unverified and inadmissible affidavit, in violation of Rule 56(e) and wholly contrived in further violation of Rule 56(g), through any further distortive speculations that she paid for all of said 80 acres, either stand true, nor does it have any relevance, as to why she is NOW barred and precluded as to all her affirmative defenses, counterclaims, cross claims and third party claims, re (1) her discharge by John N. Bach's Chapter 13 bankruptcy, Sac., Div., Eastern Dist, CA, Bkrptcy Court No. 97-31942-A-13; (2) the provisions of Rule 13(a) requiring her to have raised all counterclaims against John N. Bach in USDC, Idaho, CV 99-014, wherein per paragraph 15 of John Bach's complaint therein, he sought to rescind all settlement and other agreements with Miller as to said 87 acres (See Miller's testimony in CR 99-165, wherein she admitted she sought no mandatory or other counterclaims in said federal action); (3) the doctrines of res judicata, collateral estoppel, issue preclusion, and/or estoppel, splitting of her causes of actions, and promissory estoppel, equitable estoppel and quasi-estoppel, the latter in Idaho, only requiring "silence and/or acquiescence", Evans v. Idaho State Tax Com'n (1975) 540 P.2d 810, 812, 97 Idaho 148; Obray v. Mitchell (Idaho 1977) 567 P.2d 1284, 1289, 98 Idaho 533, and most recently, Seeley v. Liberty N.W. Ins. Corp (Mont., 2000) 998 P.2d 156, 158-162, 2000 Mt. 76 ("The doctrine of equitable estoppel is designed to prevent

PT. JOHN N. BACH'S CLOS'G BRIEF re Supp of His S/J Motions P. 12.

one party from unconscionably taking advantage of a wrong while asserting a strict legal right, and will be invoked where 'justice, honest and fair dealing' are promoted. . .[it] precludes a party from profitting from its wrong. ."); (4) the statutes of limitation of 3, or even 5 years, if the latter has any application; (McCluskey v. Gallard (Idaho 1978) 95 Idaho 472, 511 P.2d 289; this case also is cited for the principle that every action must be prosecuted in the name of the assignee, who is the real party interest, whether such assignee, as the plaintiff is re claims of his former mother's intervivos trust, was with or without consideration and notwithstanding the assignee may have taken subject to all equities between the assignor and 3rd parties; see also Brumback v. Oldhan, 1 Idaho 709, 711 (1878).); McCoy v. Lyons, supra., Idaho, 820 P.2d 360, 367; and very recent Calif. decision, Cossman v. Daimlerchrysler Corp decided April 14, 2003, LA Daily Journal, May 2, 2003, DAR 4772, 4774, holding: "The discovery standard [for the beginning of the running of a statute of limitations] is not a subjective one (Doe v. United Methodist Church (Ind. Ct. App. 1996) 673 N.E.2d 839, 842-844 [failure to understand legal rights or total extent of damages does not toll limitations period]. Although a mere suspicion would not trigger the running of the limitation period, it 'will begin to run when . .there is a 'reasonably possibility, if not a probability' that a specific [wrongful act] caused the injury [or loss of property]. ." [NOTE: Miller's speculative assertion that she "was not fully aware of the legal issues being litigation in the Harrop v. Bach litigation as Bach attempted to keep what was taking place in that action a secret from me" is utterly perjurious and bogusly conjured/contrived, especially in view of Miller's averments, improperly verified in her affirmative defenses, counterclaim and cross-claims/third party claims, that she received an assignment in Harrop to all the properties, via plaintiff JOHN N. BACH, via EX B to Pt's AFF, April 18, 2003, such assignment occurring on Oct. 5, 1996, well after Miller was aware, having been served with the action by the Harrops in May, 1994.]; (5) the doctrine of waiver and condonation as revealed by Miller's execution of the Oct. 3, 1997 settlement agreement with plaintiff; see Nelson v. Hopper (Idaho 1963) 383 P.2d 588, 86 Idaho 115; certainly, even by the very conjured stretch of inventive imagination Miller denies having, until Oct 3, 1997, the two and three year statutes of limitation expired on Miller's claims against plaintiff re the Harrops transaction, on Oct. 3, 2000, just before Miller, her said counsel and said defendants herein stole plaintiff's \$15,000, his said real properties, per said void Idaho Corporation, identically named, as plaintiff's dbas "Targhee Powder Emporium, Inc, Unltd and Ltd.; and (6) by Miller's frivolous and specious splitting or withholding of claims against plaintiff, who was a defendant in Teton CV 01-59, MILLER is further barred by the joint as well as individual application of the above stated doctrines. Lastly (7) said Idaho corp., Targhee Powder Emporium, Inc., Unltd & Ltd as voided formed Nov 13-21, 2000 must be ordered dissolved & plaintiff's properties. I.C. 30-1-401 (6) (7). (Requiring enjoin permanently all defendants from using T.P.E.)

Thus, Miller and all said defendants herein have presented

no showing of any genuine issues of material fact or facts to preclude plaintiff's motions for summary judgment. Again, it should be noted that defendant's Woelk's and his law firm's answer is unverified, cannot serve as an affidavit or verified under personal knowledge,

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nor relevant and admissible document to refute summary judgment for plaintiff. Similarly the unverified answers of defendants Ann-Toy Broughton and Stan Nickells, pro se, herein, are without any application, weight or consideration as opposing legally, sufficiently and timely, under Rule 56(e) summary judgment for plaintiff. (Defendant EARL HAMLIN's default is being entered today)

Before leaving these doctrines, especially the application of Idaho Statutes of Limitation to bar as a matter of law, all of Miller's claims, affirmative defenses, etc., her citation, via her counsel's shrill argument and misleading propositions in her objection brief, page 10 of Viehweg v. Thompson, 647 P.2d 311, 314, 103 Idaho 265, 268, is deceptively and misleadingly a ruse; such case is wholly inapplicable in fact or law herein. See Denton v. Detweiler, 48 Idaho 869, 282 P. 82 (1929) (Counter-claim is subject to statute of limitations)

- C. MILLER'S OFFERED AFFIDAVIT BEING IN VIOLATION AND UTTER DEFICIENT PER RULE 56(e) and FURTHER CLEARLY PRESENTED IN BAD FAITH, PER RULE 56(g), MUST BE STRICKEN, DENIED ANY CONSIDERATION IN OPPOSING PLAINTIFF'S SUMMARY JUDGMENT MOTIONS AND REQUIRES THIS COURT TO ISSUE AN ORDER AWARDED PLAINTIFF REASONABLE EXPENSES INCURRED IN RESPONDING/OBJECTING TO SAID INADMISSIBLE AFFIDAVIT; AND FURTHER, FOR THE COURT ISSUING AN ORDER OF CONTEMPT AGAINST BOTH MILLER, AND HER COUNSEL, GALEN WOELK-SUCH CONTEMPT BEING DULY ESTABLISHED UNDER RULE 56(g) SOLELY.

This subpart heading/title argument, speaks adequately in and for itself. Only the following need be added; that the conclusionary paragraphs, inadmissible as they are and objected to as they are of Miller said Affidavit, paragraph 8, as to when she became aware she was the sole purchaser of all said properties, in the name of Targhee Power Demporium, Inc., and the paragraphs of her objection brief, signed by Woelk, being paragraphs on pages 8 through 12, all speculations, arguments and conjectures notwithstanding, are wholly irrelevant, immaterial

and raise absolutely no genuine issue or issues of material fact that cannot be decided by the trial court via granting plaintiff's motions for summary judgment. Miller's/Woelk's statement that:

"Presently, defendant Miller is attempting to find out what Targhee Powder Emporium, was and what individuals make up its principals and investors. . ."

is irrelevant, a deceptively contrived dodge and an intentional specious argument advanced in the utter most bad/malicious in fact FAITH and egregiously an obstruction of justice intended to frustrate and impede/delay the granting of plaintiff's summary judgment motions. Plaintiff is and was at all times Targhee Powder Emporium, Inc., Unltd and Ltd. Further, it was solely plaintiff's moneys of \$15,000 that were stolen, converted and kept from him by all defendants to destroy plaintiff financially and prevent him from obtaining legal counsel in a number of defendants' specious and utterly frivolous actions. Erhard v. Leonard, 104 Idaho 197, 200, 657 P.2d 494 (Ct. App. 1983) Plaintiff is entitled to complete summary judgment on the NINTH COUNT against all defendants and to a mandatory injunctive order directing the immediate release by this Court of said \$15,000 plus interest being held in any court or Teton County account, to be paid directly to plaintiff, along with the further relief sought by plaintiff per the NINTH COUNT.

II. THE COURT MUST STOP DEFENDANTS' FLAGRANT MISUSE AND ABUSE OF LEGAL PROCESS BY ALL DEFENDANTS, BY NOT ONLY GRANTING SUMMARY JUDGMENT TO PLAINTIFF ON ALL OTHER COUNTS OF THE FIRST AMENDED COMPLAINT, BUT, ALSO PER RULE 56(g) AWARD PLAINTIFF REASONABLE EXPENSES, FEES AND HOLD/FIND MILLER AND WOELK IN CONTEMPT PER THEIR FILINGS HEREIN.

The above heading and titled argument speaks for itself and is/has been supported and is based upon all other memoranda plaintiff's filed in this action. There is/are no genuine issues of material fact in dispute that would preclude granting plaintiff's summary judgment on all other counts of his FIRST AMENDED COMPLAINT. Plaintiff reserves unto himself the right to present testimony, offer documents or present materials for relevant judicial notice at the hearing on his summary judgment motions. March v. Levine (2001, CA 6, Tenn) (Testimony at S/J hearing is proper per Rule 43(e),); see also Rule 65, et seq; In re Gioioso (1992) CA 3d, NJ) 979 956 (Given wrongful character of opposing affidavit, Rule 56(g) required court to order party presenting such affidavit to pay reasonable expenses & fees.)

DATED: May 13, 2003

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PLT's CLOS'G BRIEF re Supp of His Mtns S/J P. 15.


JOHN N. BACH, Pro Se

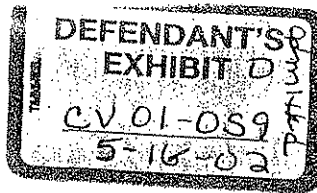
CERTIFICATE OF SERVICE BY FAX
AND MAIL

I, the undersigned, certify this 13th day of May, 2003, that I did fax copies of the foregoing Plaintiff's, etc. Closing Brief, to counsel of record, Galen Woelk, Jason Scott, Jared Harris, and also to Judge Richard T. St. Clair and that I also this day, did mail a copy of said brief to Alva A. Harris, in Shelley, Idaho.

*Personally served at
Mr. Dugan Law Office
John M. Bach*

John M. Bach

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



FILED
SEP 27 2001
TIME: 3:20 p.m.
TETON CO. DISTRICT COURT

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

KATHERINE M. MILLER,

Plaintiff-
Counterdefendant,

v.

JOHN N. BACH,

Defendant,
Counterclaimant.

CASE NO: CV 01-59

DEFENDANT & COUNTER-
CLAIMANT'S FILING OF
DOCUMENTATIONS PER
ORDER OF AUGUST 28, 2001

Per IRCP, Rule 38(b)
DEMANDS A FULL 12 PERSON
JURY TRIAL & STATES HE WILL
NOT STIPULATE TO A LESSER
NUMBERED JURY.

Defendant and Counterclaimant JOHN N. BACH does attach hereto for filing those documentations which he presents per this Court's Order of August 28, 2001, with the full reservation of rights to submit further documentations as the same as either provided him through his discovery, further investigation or made available to him, by plaintiff and her counsel, who have via various tortious actions obtained possession of some of his files, documents and materials, and further, subject to the preparation of full or partial transcripts of taped statements, testimony or video tapes within the possession of the plaintiff, her counsel, and others acting with them, such as Bob Fitzgerald, Ole Oleson, Laura Lowry, Teton County prosecutor and attorney, the Idaho Attorney General's office, etc.

Many of the documentations are already a part of this court's files herein and especially in those Teton County

000471

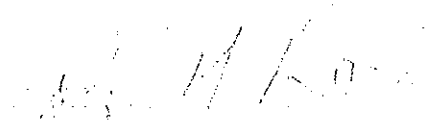
actions set forth in the first attachments page, denominated DEFENDANT'S I., and from which Teton cases cited therein, only those believed initially relevant documents, pleadings, etc., are attached hereto.

During the interrupted and self terminated deposition of plaintiff KATHERINE M. MILLER, her counsel, earlier therein stated, as did plaintiff that they had brought with them a limited number of documents, items, etc., which they then refused to produced, despite the fact that a request for production for extensive documents, items, etc., had been given, along with the notice of plaintiff's deposition. The complete deposition of plaintiff, dated August 2, 2001, has been filed with the court and such deposition is referred to and denominated DEFENDANT'S II, and by such reference, without further coping and burdening the record, is presented as such potential exhibit.

Even though the Court has not yet re-established a scheduling order with cutoff dates herein, and with the understanding that mutuality of requirement applies to plaintiff and her counsel and agents, defendant requests a further order that all parties and counsel, will continue to provide any other and further documentations on a continuing basis as part of discovery, similar to the meet and produce conference requirements of Rule 27 of the Federal Rules of Civil Procedure.

Attached hereto is a table of contents and identification of documents filed herewith.

DATED: September 27, 2001



JOHN N. BACH

TABLE OF CONTENTS AND IDENTIFICATION
OF DOCUMENTS FILED HERewith, ETC.

- DEFENDANT'S I: Listing of Cases, Public REcords and files thereof equally available to all parties, and which may become relevant depending on any amendment of the complaint, examinations, etc.
- DEFENDANT'S II: Deposition of Plaintiff KATHERINE M. MILLER, of August 2, 2001, already filed with the court
- DEFENDANT'S III: WARRANTY DEED recored Dec. 30, 1994 being document number 118682, W. Lovell Harrop and Lorraine M. Harrop, Husband and Wife, grantors to Targhee Powder Emporium, Inc., P.O. Box 101, Driggs, Idaho, 83422, Grantor. (Not attached although partially produced in subsequent documents are agreements between the Harrops' and John N. Bach and still to be found, located or produced via discovery, agreements between John N. Bach and Katherine D. Miller, aka Katherine M. Miller and her attorneys)
- DEFENDANT'S IV: QUITCLAIM DEED, recorded Oct 3, 1997, being document number 128474, between TARGHEE POWDER EMPORIUM, INC., and JOHN N. BACH and KATHERINE M. MILLER.
- DEFENDANT'S V: QUITCLAIM DEED, recorded Oct. 3, 1997, being document number 128475, between KATHERINE M. MILLER, a single woman, Grantor and TARGHEE POWDER EMPORIUM, INC., a corporation with address, P.O. Box 101, Driggs, Idaho 83422, Grantee.
- DEFENDANT'S VI: EASEMENT AGREEMENT, recorded Oct. 3, 1997 being document number 128476, between KATHERINE M. MILLER, a single woman, and TARGHEE POWDER EMPORIUM, INC., a corporation and JOHN N. BACH, a single man acting both individually and as nominee for Targhee Powder Emporium, Inc., collectibely TARGHEE.
- DEFENDANT'S VII: A SETTLEMENT AGREEMENT between KATHERINE M. MILLER and JOHN N. BACH, individually and for Targhee Powder Emporium, Inc., his entity-corporation. (This Agreement is one which is in plaintiff's possession and her many attorneys but which John N. Bach has been precluded from obtaining per his discovery requests of plaintiff.

DEFENDANT'S VIII: (A) COMPLAINT, Verified, in TETON
CV 00-76 CV 00-265, filed by Katherine M.
Miller against Targhee Powder Emporium,
Inc., and John N. Bach

(B) Affidavit of Katherine M. Miller
Teton CV 00-265, re issuance of O.S.C
00-76 SNB

DEFENDANT'S IX: (A) Complaint brought by Harrops against
Targhee Powder Emporium, John N. Bach &
Katherine Miller in Teton CV 95-47

(B) Affidavit of JOHN N. BACH, CV 95-47

DEFENDANT'S X: [Undated] Handwritten note from Katherine
Miller to JOHN BACH

DEFENDANT'S XI: "TO WHOM IT MAY CONCERN" handwritten
memo note of July 6, 1999, signed by
Katherine M. Miller, Janet Woodland &
Loretta M. Scott

DEFENDANT'S XII: [Undated] Handwritten discussion notes
of Katherine M. Miller with Nancy Schwarz

DEFENDANT'S XIII: October 4, 1999 letter from Roy C. Moulton
to Kathy Miller and Kathleen A. Martin
(This letter was one among many which
Defendant intended to cover with Ms. Miller
during her deposition of August 2, 2001.)

DEFENDANT'S XIV: [Undated] Four (4) pages of handwritten
notes or diary/reminder items of Katherine
M. Miller

DEFENDANT'S XV: [Copy, black and white] of FOR SALE SIGN
by Bob [Fitzgerald] with copy card of Cache
Ranch

DEFENDANT'S XVI: January 10, 2001 letter copy from Alva A.
Harris to Roger B. Wright, with Harris'
handwritten notes to Kathy Miller re his
ploy and strategy.

NOTE: As indicated, supra, additional documentation will be
filed with the court, especially when defendant is
able to see, review, etc., what documentations are filed
by plaintiff who yet to amend her complaint, a complaint
which is more than specious, frivolous and utterly without
merit.

THE FOLLOWING CASES, PUBLIC RECORDS OR FILES
ARE EQUALLY AVAILABLE TO THE PLAINTIFF & HER
ATTORNEY HEREIN & In many of such files,
documents requested they are in the
Exclusive Control, Access and Possession
of Plaintiff & Her Counsels

- A. TETON COUNTY RECORDER-CLERK'S OFFICE-prior to Nov 21, 2000
- B. Jack Lee McLean Litigations in British Columbia & with Legal Society of B.C.
- C. Teton CR 00-649
- D. Teton CV 01-59
- E. Teton CV 95-47
- F. Teton CV 00-76
- G. Teton CV 00-526
- H. Teton CV 94-54
- I. Teton CV 94-94
- J. Teton CR 99-165 and Appeals therefrom
- K. Teton CR 00-265
- L. Reports, Statements and Incident Supplements, etc.
Teton County Sheriff's office and County Prosecutor/Attorneys
from April, 1997 to present .
- M. Idaho Attorney General's Office, Kenneth F. Stringfield &
William Bouis, from about August 1, 1999 to present
- M. The files, reports, records, documents, etc., of the Idaho
State Police's offices and personell of Idaho Falls.
- N. Teton County CV 01-33 & U.S.D.C. Idaho CV 01-117
- O. Teton County CV 01-59 & U.S.D.C. Idaho CV 01-118
- P. Idaho U.S.D.C. CV 99-14-E
- Q. Idaho U.S.D.C. CV 01-266-E
- R. FILES/DOCUMENTS, CORRESPONDENCE, ETC., OF RUNYAN & WOELK,
ALVA A. HARRIS, ROY C. MOULTON, HARRIS, KIDWELL, HAHN &
CRAPO, AND OTHER ATTORNEYS UTILIZED BY KATHERINE M OR D
MILLER, HER INSURERS, CPAS, ACCOUNTANTS OR OTHER BUSINESS
ADVISORS, VIA HER BUSINESSES OR MIDA INTERNATIONAL AND
BANKS WITH WHOM IS HAD ACCOUNTS, DID BUSINESS, LOANS, ETC.

DEC 30 1994

TETON CO. ID

Buy Value Received

Warranty Deed

REXBURG, IDAHO 83440

PLAINTIFF'S
EXHIBIT 2
CV 02 208
8-13-02

W. Lovell Harrop and Lorraine M. Harrop, HUSBAND AND WIFE

the grantor(s) do hereby grant, bargain, sell and convey unto

Taryhoe Powder Emporium, Inc.

whose current address is P.O. Box 101
DR 663, Id. 83402

DEFENDANT'S
EXHIBIT 1
CV 02 208
5-16-03

the grantee, the following described premises, in Teton County Idaho, to wit:

Township 5 North, Range 45 East of the Boise Meridian, Teton
County, Idaho Section 10: E 1/4 S 1/4 SE 1/4

Together with all mineral rights and 10 shares of water in the
Grand Teton Canal Company.

Subject to a 60 foot easement right as set out in that certain
Warranty Deed dated December 28, 1994 recorded December 30, 1994
as Instrument No. 118681 records of Teton County,
Idaho.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee, heirs and assigns forever And the said Grantor(s) do hereby covenant to and with the said Grantee, that they and their heirs and assigns in fee simple of said premises; that they are free from all incumbrances

and that they will warrant and defend the same from all lawful claims whatsoever.

Dated: 12-28-94

W. Lovell Harrop Lorraine M. Harrop
W. Lovell Harrop Lorraine M. Harrop

STATE OF IDAHO, COUNTY OF Teton
this 28th day of December, 1994.
before me, a notary public and the said State, personally appeared
W. Lovell Harrop and
Lorraine M. Harrop
known to me to be the persons whose names are
scribed to the within instrument, and acknowledged to me that
they executed the same for the purposes and consideration therein
expressed.
Given under my hand and seal of office this 28th day of December, 1994.
Notary Public
Idaho
Recording at 12:30 PM
Teton County

118682

FILED

AT THE REQUEST OF

American Lead
THIRTEEN PAST 2 PM
DATE Dec 30, 1994
Clerk of Court
Teton County
Notary Public
Idaho

Recorded
Indexed
Filed

EXHIBIT "Z" 006478

EXHIBIT
"B"

**OFFICE OF THE CHAPTER 13 TRUSTEE
LAWRENCE J. LOHEIT – STANDING TRUSTEE**

**POST OFFICE BOX 1858
SACRAMENTO, CA. 95812-1858
(916) 856-8000**



Neil Enmark, Esq.
Staff Attorney

Kathy Rein
Office Manager

January 10, 2002

JOHN NICHOLAS BACH
1858 S EUCLID AVE.

SAN MARINO CA, 91108-1609

In Re: 97-31942-A-13

Dear JOHN NICHOLAS BACH:

Enclosed is a copy of the Final Decree in your Chapter 13 case. This certifies that your case has been concluded to the satisfaction of the Court.

Along with this document goes my personal thanks for bringing your case to a successful close. You are to be congratulated first for presenting a plan for the payment of your debts and second for carrying out that plan to a successful conclusion. You stand as proof that honest people will pay their just debts if given the chance to do so in an orderly manner.

The cooperation that you showed this office during the many months your plan was active, is very much appreciated.

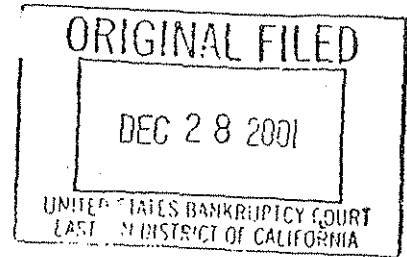
Sincerely,

Lawrence J. Loheit
Chapter 13 Trustee

LJL/bl

enc

000477"
EXHIBIT 9 P. 2 OF 4



L.J. Loheit, Trustee
P.O. Box 1858
Sacramento, CA 95812
(916) 856-8000

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA
SACRAMENTO DIVISION

IN RE

CASE NO.: 97-31942-A-13L

JOHN NICHOLAS
BACH

Debtor(s)

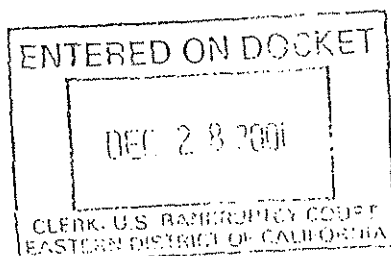
FINAL DECREE APPROVING
TRUSTEE'S FINAL REPORT AND
ACCOUNT, DISCHARGING TRUSTEE
AND CLOSING CASE

Upon consideration of the Final Report and Account of L. J. Loheit, Standing Chapter 13 Trustee in the above referenced matter, and that an Order Discharging Debtor After Completion of Chapter 13 has been entered,

IT IS HEREBY ORDERED that the Final Report and Account of the Trustee is approved.

IT IS FURTHER ORDERED that L. J. Loheit is hereby discharged as Trustee of the above named Debtor(s) and he and the sureties on his bond are released from any and all liability.

THIS CASE IS ORDERED CLOSED.



ORDERED Pursuant to Special Order 93-1

FOR THE COURT
RICHARD G. HELTZEL
CLERK, U.S. BANKRUPTCY COURT

Dated: 12-28-01

By:

David N. Larson
Deputy Clerk

000478

"9"

By: *David N. Larson*

LOHEIT, CHAPTER 13 TRUSTEE
Box 1858
Santo Domingo, CA 95812-1858
(916) 856-8000

ORIGINAL FILED

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA
SACRAMENTO DIVISION

SEP 28 AM 9:33

CLERK, U.S. BANKRUPTCY COURT
EASTERN DIST. OF CA.
Case No. 97-31242-A-13
SACRAMENTO

JOHN NICHOLAS BACH
1858 S EUCLID AVE

SAN MARINO CA 91108-1609

SSN(1):

DEBTOR(S)

FINAL REPORT AND ACCOUNT

Case Filed On:
Mon Aug 04, 1997

Plan Confirmed On:
Thu Apr 02, 1998

Case Concluded On:
Wed Sep 26, 2001

THIS CASE WAS COMPLETED.

The Trustee has maintained a detailed record of all receipts, including the source or other identification of each receipt, of all distributions through the above referenced Plan. Copies of these detailed records have been filed with the Court and are incorporated by reference in this report.

RECEIPTS: Amount paid to the Trustee by or for the Debtor for the benefit of Creditors: \$ 33,793.35

DISTRIBUTIONS TO CREDITORS NAME OF CREDITOR	CLASS	CLAIM AMOUNT	AMOUNT PAID PRINCIPAL INTEREST	BALANCE DUE
01/800000 FEDERAL REVENUE SERVICE	SECURED	11,630.76	11,630.76	.00
02/317551 SACRAMENTO TAX COMMISSION	CLAIM NOT FILED	.00	.00	.00
03/298079 JAN & DIANA CHEYOVICH	CLAIM NOT FILED	.00	.00	.00
04/191550 JANIM N BACH	UNSECURED	5,695.84	5,695.84	.00
05/317085 JIMMY D MILLER	CLAIM NOT FILED	.00	.00	.00
06/053887 JAYNE DAWSON	CLAIM NOT FILED	.00	.00	.00
07/460299 JON & MARY RICHEY	CLAIM NOT FILED	.00	.00	.00
08/342836 J&T	CLAIM NOT FILED	.00	.00	.00
09/078741 JANET BACH	CLAIM NOT FILED	.00	.00	.00
01/800000 FEDERAL REVENUE SERVICE	PRIORITY	10,000.00	10,000.00	.00

000473

"9"

Pa 3 of 4

SUMMARY OF CLAIMS ALLOWED AND PAID

TYPE OF CLAIM	SECURED	PRIORITY	UNSECURED *	LATE	SPECIAL	TOTAL
AMOUNT ALLOWED	11,630.76	10,000.00	5,695.84	.00	.00	27,326.60
PRINCIPAL PAID	11,630.76	10,000.00	5,695.84	.00	.00	27,326.60
INTEREST PAID	.00	.00	.00	.00	.00	.00

The amount allowed reflects the percentage due pursuant to the Plan.
 Percentage to unsecured creditors is 100.00%.

TOTAL PAID - PRINCIPAL AND INTEREST 27,326.60

DISBURSEMENTS PURSUANT TO AN ORDER OF THE COURT

DEBTOR'S ATTORNEY	FEE ALLOWED	FEE PAID
PRO SE - DEBTOR ACTING AS OWN ATTORNEY	.00	.00

COURT COSTS AND OTHER EXPENSES OF ADMINISTRATION

TRUSTEE NOTICE FEES	TRUSTEE'S EXPENSE & COMPENSATION FUND	COURT NOTICE FEES	TOTAL COST & EXPENSE
13.00	2,408.55	.00	2,421.55

WHEREFORE, the Trustee requests that the Court approve this Final Report and Account. Upon approval, the Trustee requests that he be discharged, the Trustee and the sureties on his bond be released from any and all liabilities on account of this proceeding and requests that this case be closed.

FOR: LAWRENCE J. LOHEIT
 CHAPTER 13 TRUSTEE

ORIGINAL SIGNED

Dated: 11-30-01

By: _____
 Trustee's Representative

Refunded to Debtor:

JOHN NICHOLAS BACH

Closed Case Refund: 4,045.20
 Other Refund: 16,547.39

"9"

000480

Pg 4 OF 4

Dear John,

I would like you to sign a quit claim deed on the 40 acres over to me before you list your assets & file the bankruptcy papers.

I feel this is the decent thing to do. I can prove to the IRS that my check paid the contract for the land, so it is not illegal for you to assign the land to me.

I don't think it is fair to let the IRS seize the 40 acres.

K

000481

1
X

have to pay anything, and you and I will expend excessive time and energy building a record that Mr. Bach can look forward to utilizing in future proceedings against him with regard to the land in question.

I would ask you to please re-think your goals with regard to this prosecution. Mr. Fitzgerald will not plead, and I will represent him until this matter is either dismissed or he is acquitted. Hopefully neither of us will have to expend the time and energy pressing forward with this action. I would relish the opportunity to talk to you about this case and hope we can resolve it prior to argument in front of Judge Luke.

This letter is intended to be a confidential communication related to plea negotiations and its use for any other reason or distribution to any other party is unauthorized.

Sincerely,



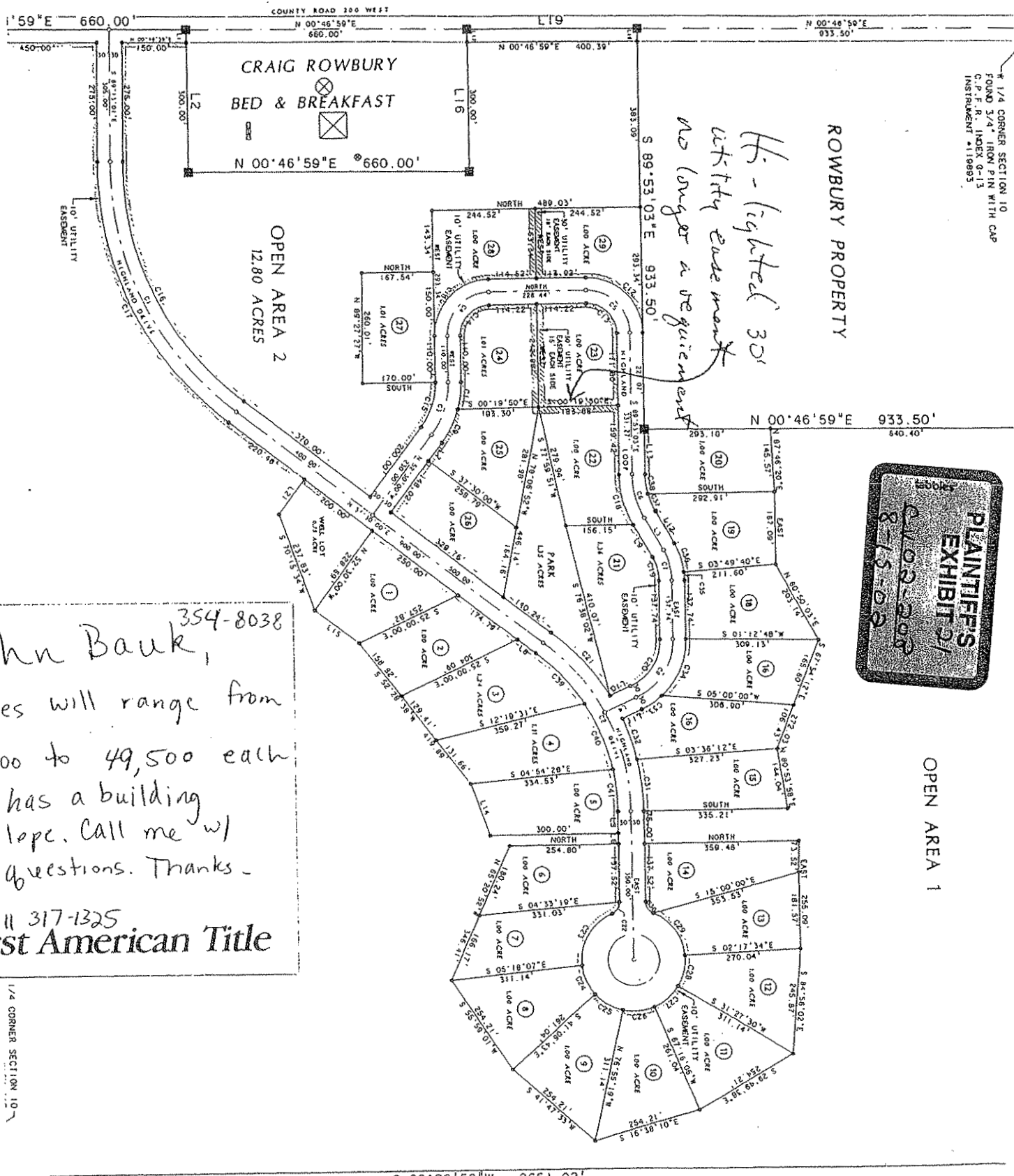
Galen Woelk

GW/ms

cc: Bob Fitzgerald

DFs EX. No 11: 4 of 4 pgs

000482



* 1/4 CORNER SECTION 10
FOUND 3/4\" IRON PIN WITH CAP
C.P.F.R. INDEX 9-13
INSTRUMENT #11985

ROWBURY PROPERTY

*Hi-lighted 30'
city easement
no longer a requirement*



OPEN AREA 1

John Bauk, 354-8038
Prices will range from
40,000 to 49,500 each
lot has a building
envelope. Call me w/
any questions. Thanks -
my Cell 317-1325
First American Title

KATHERINE MILLER

EARL HAMBLIN

000483

CURVE DATA	
CURVE DELTA	53.16°
C 1	53.16°
C 2	52.10°
C 3	37.30°
C 4	90.00°
C 5	90.00°
C 6	30.00°
C 7	30.00°
C 8	65.55°
C 9	21.21°
C 10	90.00°
C 11	16.08°
C 12	90.00°
C 13	90.00°
C 14	90.00°
C 15	37.30°
C 16	53.16°
C 17	53.16°
C 18	30.00°
C 19	30.00°
C 20	65.55°
C 21	21.21°
C 22	66.25°
C 23	71.43°
C 24	35.48°
C 25	35.48°
C 26	35.48°
C 27	35.48°
C 28	62.04°
C 29	62.04°
C 30	65.25°
C 31	13.16°
C 32	10.48°
C 33	10.48°
C 34	41.44°
C 35	41.44°
C 36	23.32°
C 37	16.12°
C 38	16.12°
C 39	30.00°
C 40	30.00°
C 41	12.1°

EXHIBITS
Case CV 02-208
John N. Bach vs Katherine Miller et.al.

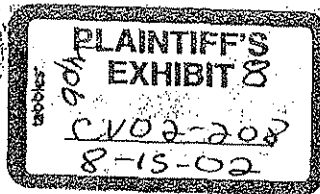
<u>Plaintiff's Exhibits</u>	<u>Marked</u>	<u>Offered</u>	<u>Objection</u>	<u>Admitted</u>
PX 1 Copies of Documents from Case CV 01-059	Y	Y	N	Y
PX 2 Several documents previously Marked DX A	Y	Y	N	Y
3 Transcript dated 08-28-02	Y	Y	N	Y
4 Photos – 25	Y	Y	N	Y
5 Statement of Financial Affairs	Y	Y	N	Y
6 Letter dated 03-26-02 to Blake Lyle	Y	Y	N	Y
7 Offer of Assignment of Right	Y	Y	Y	N
8 handwritten letter from Bach to Miller	Y	Y	N	Y
PX 9 handwritten letter from Miller to Bach – second page attached	Y	Y	N	Y
PX 10 handwritten letter date 8-1-98	Y	Y	N	Y
PX 11 letter dated 11-28-98	Y	Y	N	Y
PX 12 Compilation of letters involving Miller, Bach and Homer	Y	Y	N	Y
PX 13 complaint filed in Federal Court Case 99-014 E BLW	Y	Y	N	Y
PX 14 Correspondence from Ken Stringfield	Y	Y	Y	N
PX 15 Series of photographs a-q	Y	Y	N	Y
PX 16 photographs a-y destruction	Y	Y	N	Y
PX 17 photographs a - trailers that Were on the property	Y	Y	N	Y
PX 18 photos a – b	Y	Y	N	Y
PX 19 photos a –d	Y	Y	N	Y
PX 20 newspaper article Post Register Dated April 25, 2001	Y	Y	N	Y
PX 21 Schematic of property	Y	Y	Y	N
PX 22 Sheriff's Incident Report	Y	Y	N	Y

000484

<u>Defendant's Exhibits</u>	<u>Marked</u>	<u>Offered</u>	<u>Objection</u>	<u>Admitted</u>
DX A Assignment of Rights	Y	Y	N	Y
DX B Copy of Letter From Mr. Homer To Mr. Bach	Y	Y	N	Y
DX C Building Permit	Y	Y	N	Y
DX D Faxed Memo dated 12-7-98	Y	Y	N	Y
DX E Deposition in Case 95-047 Page 32 added	Y	Y	N	Y

EXHIBITS
Case CV 02-208
John Bach vs. Katherine Miller et.al.
26 November 2002

<u>Plaintiff's Exhibits</u>	<u>Marked</u>	<u>Offered</u>	<u>Objection</u>	<u>Admitted</u>
PX 23 Photos a – h	Y	Y	N	Y
PX 24 Photos a – e	Y	Y	N	Y



Dear Kelly,

I have come to realize the hurt and pain that I caused you in the purchase of the Klamath property. I realize that you feel the transaction took advantage of you and profited me. I realize you feel that you were not told the truth about the financial basis of the purchase.

I have come to love you deeply - more than I ever expected to love anyone. I want to show you that I realize my error and am willing to correct it. I want you to have the quiet claim deed and demonstrate my love for you which is not based on your resources.

I do not want to share you with anyone. I realize though that you need to be on your own right now and have the room to see other men. If this is what you need to take care of yourself, I will support you in this. I will wait for you as long as it takes because I love you. If I find out that I cannot take care of myself by waiting for you, then I will be unable to continue. I love you and want to set things right between us so that we can work toward a committed relationship and a future of care and partnership. You are important to me - just you - and I would like to spend the rest of our years loving, caring and nurturing each other.
Love always,
John

This is what is my "fantasy" letter from you John. This is what I needed to hear you say. I'm sorry that I didn't hear it from you. K

000487

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

FILED
4.03
MAY 16 2003
TETON CO.
MAGISTRATE COURT

SEVENTH JUDICIAL DISTRICT COURT, IDAHO, TETON COUNTY

JOHN N. BACH,

Plaintiff, et
al,

v.

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

Defendants.

CASE NO: CV 02-208

PLAINTIFF JOHN N. BACH'S NOTICE OF
EX PARTE MOTION AND MOTION FOR
IMMEDIATE ISSUANCE OF WRIT OF POSSESS-
SION, ASSISTANCE AND/OR SEIZURE
OF PLAINTIFF'S VEHICLES AND TRAILORS
STILL IN DEFENDANTS' POSSESSION, ESP-
ECIALLY IN POSSESSION OF BLAKE LYLE

(IF REQUESTED ORDER/WRIT NOT ISSUED
IMMEDIATELY, MOTION WILL BE PRESENTED
May 20, 2003 @1:30p.m, Judge St. Clair)

COMES NOW PLAINTIFF JOHN N. BACH, and moves for an immediate ORDER of
issuance of a writ of possession, assistance and/or seizure against
all defendants and especially defendant Blake Lyle doing business
as Grande Towing or successor Teton Towing and/or Grande Body & Paint,
at his present location, 445 S. Main, Driggs, Idaho, from said defen-
dant's impound lot areas or any other portions of his said businesses.

The issuance of a writ of possession, assistance and/or seizure is
necessary, based upon and called for by the Preliminary Injunction
issued herein, August 16, 2003, and further, per the attached AFFIDAVIT
OF DAVE GUYMON, dated May 16, 2003, which reveals that said defendant
has deliberately, violated said preliminary injunction, as well as
very probably committed perjury, obstructed justice if not entered into
with other defendants herein, to commit said crimes and others, incl-
uding the further crimes of grand theft and extortion of plaintiff's
said vehicles and trailers as are set forth in DAVE GUYMON's attached
AFFIDAVIT. Upon issuance of said Order and/or writ requested, plain-
tiff will have WRECKERBOYZ TOWING & TRANSPORT, INC., of Driggs, Idaho
assist the Teton County Sheriff's Department in so seizing and return-
ing to plaintiffs any or all of said vehicles and trailers at BLAKE
LYLE's said business' location. DATED: May 16, 2003

CERTIFICATE OF SERVICE BY FAX & MAIL

I, the undersign certify that on May 16, 2003, I did fax a copy of this
Ex Parte Motion, with attached AFFIDAVIT, to Judge St. Clair, and all counsel of
record, except Alva A. Harris, who was sent a copy via the U.S. Mail, also today.

JOHN N. BACH, Pro Se

000488

AFFIDAVIT OF DAVE GUYMON

STATE OF IDAHO)
 SS
COUNTY OF TETON)

I, DAVE GUYMON of Driggs, Idaho, being sworn, placed under oath, thereby give testimony of my own personal knowledge, involvement, participation and observations as follows:

1. Affiant is just recovering from major intestine surgery on April 10, 2003, in the hospital for ten (10) days, then released to home care and convalescence, receiving a checkup on last Tuesday, May 14, 2003. Affiant is still under doctor's orders and is precluded from employment or heavy lifting, anything over 25 lbs.

2. Affiant worked for Blake Lyle in his towing business, at both locations, the first behind O'Rourke's Pizza & then at 445 S. Main, Lyle's current location. Affiant, was directed by Lyle, as an employee to remove various vehicles and trailers from John N. Bach's properties just S and West of Milepost 138, Hwy 33, Driggs, Idaho, among such being a 1951 Ford 2 door coupe, a 1967 brown Dodge pickup truck, a 1988 Camery 4 door sedan, a 1988 Chevy Caprice, 4 door sedan and a 2 horse trailer, light beige. Four of said vehicles and trailer are still located in Lyle's current impound yard, although kept at the very back northeast corner, visually away from traffic, viewing or observation of business clients of Lyle's in his towing and body/paint businesses. Affiant was fired by Lyle on or about October 5, 2002. There were other vehicles and trailers and personal properties of John N. Bach, that affiant at Lyle's directions removed with Lyle and others from John N. Bach's real properties.

3. Before affiant was terminated by Lyle, he observed and was the victim, along with his wife, an accountant for Lyle, of Lyle's explosive tirades, outbursts, threats and assaults. Even

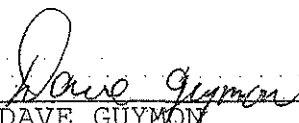
after affiant's termination he was threatened by Lyle challenging affiant to fight him; Lyle in the presence of Deputy Sheriffs, gave affiant the finger and other gestures. Lyle is extremely violent engaging, becomes out of control, challenging, wanting to fight while spewing vulgar profanity, name calling, etc., toward affiant and others. Lyle also will lie readily & repeatedly about such conduct.

4. Affiant had a number of conversations with Lyle about John N. Bach's 1951 Ford 2 door coupe, the first, after Lyle had towed such vehicle along with other vehicles from John Bach's properties, many of which Lyle did not want to return and didn't return in violation of a court order. This first conversation, Lyle said to affiant: "That's a clean car [1951 Ford]. I'm going to keep it, Bach's not getting it back." On another 3 or so occasions, after Lyle was told by the court to bring back all vehicles, trailers and other items he had removed from John Bach's properties, Lyle would repeatedly state: "I got everything hauled back, I'm taking back." Shortly before affiant's termination, around end of September 2002, affiant was at the northeast impound area, and asked Lyle, who was with him: "Isn't that the Ford coupe you were to return to Bach?" Lyle angrily responded: "I'm keeping this car; Bach is not going to get this car back, that's it." Lyle also made similar statements about keeping other vehicles of John Bach, a 1967 Dodge Pickup, a 1988 Camery, and a 2 space horse trailer. Lyle did have a friend jump start John Bach's 1988 Chevy Caprice and drive it out of the impound lot. Lyle also told, if not bragged to affiant, that he had struck BACH, and knocked a camera out of Bach's hands and destroyed it. Lyle never made any statements to affiant that John Bach did anything to either assault or attempt to hit Lyle, but Lyle made statements that he was the aggressor toward Bach.

5. Just before Lyle terminated affiant, affiant observed Lyle assault, push, batter and violently knock down affiant's wife, who, along with affiant have filed reports and statements against Lyle, however, for all practical purposes, both the Teton County Sheriff's department, especially James Dewey and Larry Hansen, deputies, as well as the Teton County Prosecutor, Laura Lowry, have delayed, stalled, avoided and refused to conduct pertinent, diligent investigation or to bring appropriate criminal prosecution against Blake Lyle. Such conduct and actions of these Teton officials and officers, are of great concern to affiant and his wife, as they deny him both protection and safety, of themselves and their children, under the Idaho criminal statutes and also the U.S. Constitution.

6. After affiant's termination, his teenage daughter underwent major cancer surgery in Salt Lake City. Her recovery and convalescent care/treatment, along with affiant's surgery and recovery, as aforesaid, have precluded greatly affiant's availability and capability to give this brief affidavit regarding just a small number of Blake Lyle's criminal and other illegal activities and threats against affiant, his wife and others

7. DATED: May 16, 2003

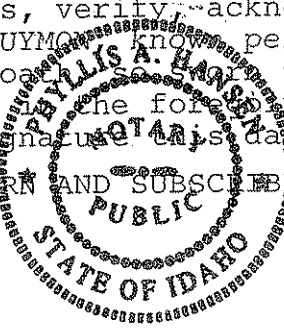

DAVE GUYMON

NOTARY VERIFICATION AND ACKNOWLEDGEMENT

I, the undersigned NOTARY for the State of Idaho, do hereby attests, verify, acknowledge, affirm and state, that on May 16, 2003, DAVE GUYMON, known personally to me, did appear, was duly placed under oath to give testimony, and did give testimony as stated in the foregoing affidavit, which affidavit, he signed/affixed his signature this date, in my immediate presence and witness.

SWORN AND SUBSCRIBED before me, this date, May 16, 2003

(SEAL)



notary's Name: Phyllis A. Hansen

Address: Boise Idaho

Com'n Exp: 3-21-07

FILED IN CHAMBERS
 at Idaho Falls
 Bonneville County
 Honorable Richard T. St. Clair
 Date 5/22/03
 Time 10:30
 Deputy Clerk M. Southwell

GALEN WOELK
 RUNYAN & WOELK, P.C.
 P.O. BOX 533
 DRIGGS, ID 83422
 TELE (208) 354-2244
 FAX (208) 354-8886
 IDAHO STATE BAR #5842

ATTORNEY FOR DEFENDANT

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

JOHN N. BACH,

Plaintiff,

vs.

KATHERINE M. MILLER, et al.,

Defendant.

)
) CASE NO. CV-02-208
)
)
)

) ORDER
)
)
)
)

On April 24th, 2003 Defendant / Counter-claimant Miller filed her "MOTION TO COMPEL DISCOVERY". On May 20th, 2003, this Court heard Miller's Rule 37 motion, whereby oral argument was made by Miller's attorney, and Plaintiff Bach. Having reviewed the written motions and having heard argument thereon;

IT IS HEREBY ORDERED that Miller's motion to compel discovery is GRANTED. Plaintiff Bach shall fully answer Miller's interrogatories and provide documentary discovery

ORDER

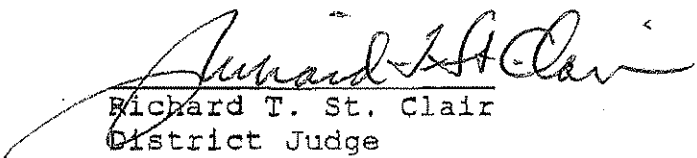
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000492

by 5:00 p.m., May 23rd, 2003. Bach shall deliver his interrogatory responses and the documentation to "The Copy Cabin" located in Driggs, Idaho, by that time and date.

IT IS FURTHER ORDERED that Miller's request for costs and fees is GRANTED and, plaintiff Bach shall pay \$100.00 to Miller within 10 days.

DATED this 22nd day of May, 2003.


Richard T. St. Clair
District Judge

CERTIFICATE OF ENTRY
BY MAIL, HAND DELIVERY OR FACSIMILE TRANSMISSION

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 following persons at the names and addresses stated below.

Galen Woelk
Runyan & Woelk, P.C.
P.O. Box 533
Driggs, ID 83422

☒ Mail
☐ Hand Delivery
☐ Facsimile

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

☒ Mail
☐ Hand Delivery
☐ Facsimile

Alva Harris
Box 479
Shelley, ID 83274

☒ Mail
☐ Hand Delivery
☐ Facsimile

Hawley, Troxell, Ennis & Hawley
Jason Scott, Esq.
P.O. Box 100
Pocatello, ID 83204

☒ Mail
☐ Hand Delivery
☐ Facsimile

ORDER

000493

2

FILED
MAY 27 2003
TETON CO.
MAGISTRATE COURT

GALEN WOELK
RUNYAN & WOELK, P.C.
P.O. BOX 533
DRIGGS, ID 83422
TELE (208) 354-2244
FAX (208) 354-8886
IDAHO STATE BAR #5842

ATTORNEY FOR DEFENDANT

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

JOHN N. BACH,	)	CASE NO. CV-02-208
)	
Plaintiff,	)	MILLER'S DESCRIPTIVE
	)	EXHIBIT LIST
)	
vs.)	
)	
KATHERINE M. MILLER, et. al.,)	
)	
Defendant.)	
)	
)	

COMES NOW, Katherine Miller, by and through her attorney of record Galen Woelk of Runyan & Woelk, P.C., and hereby submits her Descriptive Exhibit list as required pursuant to this Court's scheduling order.

1. 9/22/97 Order and Judgment (Harrop v. Bach) with attached Deeds.
2. May 12, 1995 Unauthorized Practice of Law letter.
3. Bogus Deeds filed by Bach Instrument# 148042.
4. July 10, 2000 letter from Bach to Miller.
5. 12/7/98 Vasa N. Bach letters to Miller.

MILLER'S DESCRIPTIVE EXHIBIT LIST

000495

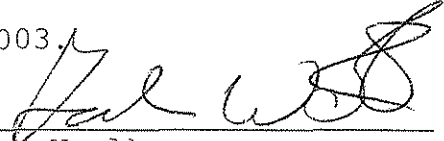
6. Kaufman Timber invoice to Vasa N. Bach Family Trust.
7. 12/20/98 McLean Termination of Power of Attorney.
8. 10/5/94 Targhee Powder Emporium letter to Liponis.
9. John Bach Voluntary Petition Bankruptcy Filings.
10. 8/4/97 John Bach Chapter 13 Debtor's Plan.
11. 9/22/2000 letter from Bach to Lowery.
12. 12/11/2000 letter from Bach to Lowery.
13. 7/27/94 Kurt Taylor Letter to Bach.
14. 8/9/94 Bach letter to Taylor.
15. 8/15/94 Taylor letter to Bach.
16. 8/16/94 Real Estate Purchase and Sale Agreement.
17. 11/28/94 Bach letter to Taylor.
18. 12/15/94 Bach letter to Taylor.
19. 12/22/94 Taylor letter to Bach.
20. 12/22/94 Bach letter to Taylor.
21. 12/22/94 Fax memo from Bach to Taylor.
22. 12/27/94 Taylor letter to Bach.
23. 12/28/94 Bach (Targhee Powder Emporium) letter to Taylor.
24. 12/28/94 Taylor letter to Bach.
25. 12/30/94 Targhee Powder Inc. letter to Taylor.
26. 12/30/94 Taylor letter to Bach.

27. Wright Law Office checks #2303, 2304, 2305, 2302,
dated 12/30/94.
28. 12/30/94 Taylor letter to Bach.
29. 1/3/95 Bach letter to Taylor.
30. 1/4/95 Taylor letter to Bach.
31. Wright Law Office 12/30/94 check #2307.
32. 2/1/95 Harrop letter to Bach.
33. 2/17/95 Harrop letter to Bach
34. 4/5/95 Smith letter to Bach.
35. 10/5/96 Nye settlement offer to Bach.
36. 10/7/96 Kaufman Timber bid.
37. Harrop letter to Kaufman.
38. 10/7/96 Woolstenhume letter to Harrop.
39. Harrop deed to Targhee Powder Emporium Instrument#
118682.
40. Harrop deed to Miller Instrument# 118681.
41. Unsigned Quitclaim Deed from TPE. Inc and John
Bach to Katherine Miller.
42. Teton County Building Department application for
building permit, filed by Targhee Powder Emporium,
a Holding Venture of Vasa N. Bach Family Trust,
John N. Bach, Trustee.
43. Katherine Miller check to Targhee Powder Emporium
in amount of \$10,000.00 dated 3/16/95.

44. Katherine Miller April 3, 1995 Bank Statement.
45. Katherine Miller January 3, 1995 Bank Statement.
46. Katherine Miller check to Wright Law Office in amount of \$110,000.00 check number 4434.
47. Katherine Miller check to Teton County Clerk in amount of \$7,456.73. Check number 4539.
48. 10/9/96 Nye letter to Herndon.
49. 10/10/96 Bach letter to Nye.
50. 10/8/96 Bach's assignment of rights in property. Instrument# 144284.
51. Law Office check to Liponis Emporium Trust dated 12/30/94, #2307.
52. State of Idaho 1/24/96 certificate of non-existence of Targhee Powder Emporium.
53. State of California Certificate of Non-filing Corporation dated 3/27/96.
54. 4 photographs depicting Easement strip, Hay, Entrance Gate, and Shack allegedly owned by Bach.
55. 2 page Targhee Powder Emporium announcement of opening of overnight "sojourners facilities".
56. Targhee Powder Emporium Inc. business card.
57. Revocation of Trust by Jack McLean dated and notarized 4/25/98.

58. Complete copy of three page Teton County Building Permit application signed by John Bach, dated 6/15/00.
59. Bach notice of appeal filed and dated August 30, 1999 in CV-98-025.
60. 4/6/98 letter from Moulton to McLean.
61. 2/18/94 Jack McLean Family Trust.
62. 11/28/94 fax receipt for 11/28/94 Bach letter to Taylor.
63. Photos of Miller property entrance dated 10/27/00, 10/4/00, 11/8/00 and 9/22/00.

DATED this 27 day of May, 2003.


Galeh Woelk

CERTIFICATE OF SERVICE

I hereby certify that I am a duly licensed attorney in the State of Idaho, with my office in Driggs, Idaho; that on the 27 day of May, 2003, I caused a true and correct copy of the foregoing MILLER'S DESCRIPTIVE EXHIBIT LIST along with all Court ordered discovery documentation to be served upon the following persons at the addresses below their names either by depositing said document in the United States mail with the correct postage thereon or by hand delivering or by transmitting by facsimile as set forth below.

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

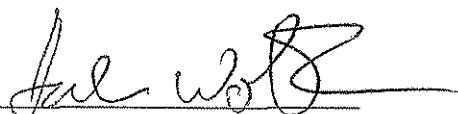
☒ Mail
☐ Hand Delivery
☐ Facsimile

Judge Richard St.Clair, Chambers
605 N. Capital
Idaho Falls, ID 83402

☒ Mail
☐ Hand Delivery
☐ Facsimile

Hawley, Troxell, Ennis & Hawley
Jason Scott, Esq.
P.O. Box 100
Pocatello, ID 83204

☒ Mail
☐ Hand Delivery
☐ Facsimile



Galen Woelk

JOHN N. BACH
1858 S. Euclid Avenue
San Marino, CA 91108
Tel: (626) 799-3146
(Seasonal: P.O. Box 101
Driggs, ID 83422
Tel: (208) 354-8606
Plaintiff & Counterclaim
Defendant Pro Se

FILED
9:00
MAY 28 2003
TETON CO.
MAGISTRATE COURT

SEVENTH JUDICIAL DISTRICT COURT, IDAHO, TETON COUNTY

JOHN N. BACH,

Plaintiff & Counter-
claim Defendant,

v.

KATHERINE D. MILLER, aka
KATHERINE M. MILLER, Individ-
ually and dba R.E.M. et al.,

Defendants &
Counterclaimant.

CASE NO.: CV 02-208

PLAINTIFF & COUNTERCLAIM
DEFENDANT JOHN N. BACH'S
EXHIBIT LIST AND DESIGNATIONS
PENDING/SUBJECT TO COURT'S RULINGS-
ORDERS RE SUMMARY JUDGMENT MOTIONS

TRIAL DATE: June 10, 2003

PRETRIAL DATE: May 30, 2003
10:00 a.m.
Teton County
Courthouse, Driggs,
Idaho

Plaintiff and Counterclaim defendant JOHN N. BACH, hereby states his preliminary exhibit list and designations, subject to this Court's rulings/orders on his motions for summary judgment, and further subject to the exhibits to be offered by Counterclaimant Katherine Miller, and all other defendants still represented herein, who are not in default.

- I. Plaintiff's Exhibits 1 through 22 admitted during the August 13 and 15, 2002 hearing, which Plaintiff's Exhibits are set forth in the one (1) page itemization thereof.
- II. Plaintiff's EXHIBITS 23 and 24 admitted during the November 25, 2002 hearing, see attached sheet of said exhibits
- III. All those exhibits attached to the affidavits filed herein by Plaintiff, especially those to his affidavits re summary judgment motions, in support or opposition thereto, as

filed with the Court herein.

- IV. All those documents, delineated in ATTACHMENT "B", Pages 3 through 5, documents "D" through "DD", excluding "U" and "X" thereof. These documents, etc., have been delivered per this Court's ruling of May 20, 2003, to Copy Cabin of Driggs, and pending, the Court's Ruling Orders re Summary Judgment, not all may be marked for Identification. The audio cassette tapes, denominated "L" and "Q" are being held subject again to the Court's discovery order and Galen Woelk's instructions to plaintiff re what recording concern will be used by him to make duplicate copies thereof.
- V. A video cassette tape, portions thereof, made by Katherine Miller, and Bob Fitzgerald; said tape is also being held per Galen Woelk's instruction re business concern to duplicate, if such is what he desires
- VI. SIX (6) rolls of film currently pending their development
- VII. Article of Vasan N. Bach's Obituary Notice published in the Chico Enterprise Record re her Montenegrin birth, ancestry and that of her children, including John N. Bach. (Pending such being obtained via U.S. Mail delivery from California.)
- VIII. Other exhibits offered or produced during defendants and counterclaimant's cross examination, etc.

DATED: May 27, 2003


JOHN N. BACH, Pro Se

CERTIFICATE OF SERVICE BY FAX & MAIL: I the undersigned, certify this May 27, 2003, that on this date, I faxed copies of this document to Judge St. Clair, Galen Woelk, Jason Scott, Jared Harris and mailed copies via the U.S. Mail to Alva A. Harris, Ann-toy Broughton and Stan Icnekels, the latter two defendants pro se.

EXHIBITS
Case CV 02-208
John N. Bach vs Katherine Miller et.al.

<u>Plaintiff's Exhibits</u>		<u>Marked</u>	<u>Offered</u>	<u>Objection</u>	<u>Admitted</u>
PX 1	Copies of Documents from Case CV 01-059	Y	Y	N	Y
PX 2	Several documents previously Marked DX A	Y	Y	N	Y
3	Transcript dated 08-28-02	Y	Y	N	Y
4	Photos - 25	Y	Y	N	Y
5	Statement of Financial Affairs	Y	Y	N	Y
6	Letter dated 03-26-02 to Blake Lyle	Y	Y	N	Y
7	Offer of Assignment of Right	Y	Y	Y	N
8	handwritten letter from Bach to Miller	Y	Y	N	Y
PX 9	handwritten letter from Miller to Bach - second page attached	Y	Y	N	Y
PX 10	handwritten letter date 8-1-98	Y	Y	N	Y
PX 11	letter dated 11-28-98	Y	Y	N	Y
PX 12	Compilation of letters involving Miller, Bach and Homer	Y	Y	N	Y
PX 13	complaint filed in Federal Court Case 99-014 E BLW	Y	Y	N	Y
PX 14	Correspondence from Ken Stringfield	Y	Y	Y	N
PX 15	Series of photographs a-q	Y	Y	N	Y
PX 16	photographs a-y destruction	Y	Y	N	Y
PX 17	photographs a - trailers that Were on the property	Y	Y	N	Y
PX 18	photos a - b	Y	Y	N	Y
PX 19	photos a -d	Y	Y	N	Y
PX 20	newspaper article Post Register Dated April 25, 2001	Y	Y	N	Y
PX 21	Schematic of property	Y	Y	Y	N
PX 22	Sheriff's Incident Report	Y	Y	N	Y

000503

EXHIBITS
Case CV 02-208
John Bach vs. Katherine Miller et.al.
26 November 2002

Plaintiff's Exhibits

Marked Offered Objection Admitted

PX 23 Photos a – h
PX 24 Photos a – e

Y	Y	N	Y
Y	Y	N	Y

000504