

4-21-2008

## Bach v. Miller Clerk's Record v. 5 Dckt. 31716

Follow this and additional works at: [https://digitalcommons.law.uidaho.edu/idaho\\_supreme\\_court\\_record\\_briefs](https://digitalcommons.law.uidaho.edu/idaho_supreme_court_record_briefs)

---

### Recommended Citation

"Bach v. Miller Clerk's Record v. 5 Dckt. 31716" (2008). *Idaho Supreme Court Records & Briefs*. 1893.  
[https://digitalcommons.law.uidaho.edu/idaho\\_supreme\\_court\\_record\\_briefs/1893](https://digitalcommons.law.uidaho.edu/idaho_supreme_court_record_briefs/1893)

This Court Document is brought to you for free and open access by Digital Commons @ UIIdaho Law. It has been accepted for inclusion in Idaho Supreme Court Records & Briefs by an authorized administrator of Digital Commons @ UIIdaho Law. For more information, please contact [annablaine@uidaho.edu](mailto:annablaine@uidaho.edu).

LAW CLERK

IN THE  
SUPREME COURT  
OF THE  
STATE OF IDAHO

Vol. 5 of 13

**COPY**

John N. Bach

Plaintiff / Appellant

Alva Harris, et. al.

Defendants / Respondents

and

John N. Bach

Plaintiff / Respondent

Alva Harris, et. al.

Defendants / Appellants

Katherine Miller, et. al.

Defendants

Appealed from the District Court of the Seventh Judicial

District of the State of Idaho, in and for Teton County

Hon Richard T. St. Clair, District Judge

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

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

Attorney-for-Defendants/Respondent  
and Defendants/Appellants

Filed this \_\_\_\_\_ day of \_\_\_\_\_, 20

FILED - COPY  
AUG 21 2008  
Supreme Court Court of Appeals  
Entered on ATS by: \_\_\_\_\_

Clerk

By \_\_\_\_\_

Deputy

Volume 5 of 10

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

John N. Bach  
Plaintiff/Appellant

vs

Alva Harris, et. al.  
Defendants/ Respondents

John N. Bach  
Plaintiff/Respondent

vs

Alva Harris, et. al.  
Defendants/Appellants

and

Katherine Miller et. al.  
Defendants

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

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

# Table of Contents

## Volume 1 of 10

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
Affidavit of Plaintiff John N. Bach, in Support of Application/Request for Immediate Ex Parte Issuance of Restraining Order, and Order to Show Cause for Preliminary & Permanet Injunction Against All Defendants, Their Agents, Etc., Protecting Plaintiff's Person and Properties, Filed July 23, 2002	0006
Order of Voluntary Disqualification Pursuant to IRCP 40(d)(4), Filed July 23, 2002	0012
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
Notice of Appearance, Filed August 7, 2002	0016
Special Appearance of Katherine M. Miller, Filed August 7, 2002	0017
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
Minutes Report, Dated August 13, 2002	0020
Entry of Appearance, Filed August 16, 2002	0036
Order and Preliminary Injunction, Filed August 16, 2002	0038
Notice of Substitution of Attorney, IRCP 11(b)(1), Filed August 27, 2002	0043
Order on Pending Motions, Filed September 3, 2002	0045
Second Order on Pending Motions, Filed September 19, 2002	0050
First Amended Complaint, Filed September 27, 20002	0053
Motion to Strike Plaintiff's First Amended Complaint and for Rule 11(a)(1) Sanctions Against John Bach, Filed October 3, 2002	0087

Affidavit of Galen Woelk, Dated October 3, 2002	0093
Minutes Report, Dated October 9, 2002	0126
Order Sealing All Records of in Camera Session on September 9, 2002, Filed October 15, 2002	0133
Third Order on Pending Motions, Filed October 15, 2002	0134
Motion, filed November 12, 2002	0137
Order and Notice Setting Jury Trial, Filed November 27, 2002	0139
Minutes Report, Dated November 26, 2002	0141
Fourth Order on Pending Motions, Filed December 3, 2002	0154

## Volume 2 of 10

Fifth Order on Pending Motions, Filed January 10, 2003	0165
Minutes Entry, Dated January 9, 2003	0178
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
Sixth Order on Pending Motion, Filed January 28, 2003	0189
Answer, Filed January 29, 2003	0193
Seventh Order on Pending Motions, Filed January 29, 2003	0195
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
Summons on First Amended Complaint, Dated September 27, 2002	0204
Appearance; Motion to Dismiss and Motion for Sanctions, Filed January 22, 2003	0210

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 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
Eighth Order on Pending Motions, Filed March 4, 2003	0246
Ninth Order on Pending Motions, Filed March 7, 2003	0259
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 & Demand for Jury Trial, Filed March 19, 2003	0317
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
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
Notice of Appearance , Filed April 1, 2003	0323
Motion to Set Aside Default, Filed April 2, 2003	0324
Tenth Order on Pending Motions, Filed April 2, 2003	0326

### Volume 3 of 10

Eleventh Order on Pending Motions, Filed April 2, 2003	0337
Notice of Appearance, Filed April 4, 2003	0344

Plaintiff & Counterclaimant John N. Bach's Answer & Affirmative Defenses to Counterclaims of Katherine D. Miller, aka Katherine M. Miller, Filed April 4, 2003	0345A
Twelfth Order on Pending Motions, Filed April, 2003	0346
Answer to First Amended Complaint and Demand for Jury Trial, Filed April 14, 2003	0351
Minute Entry, Filed April 15, 2003	0357
Affidavit of John N. Bach in Support of His Motions for Summary Judgment And/or Summary Adjudication (RCP, Rule 56, et seq.), Filed April 18, 2003	0360
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
Minute Entry, Filed May 5, 2003	0415
Miller's Objection to Bach's Motion for Summary Judgment, Filed May 6, 2003	0419
Defendant Miller's Brief in Opposition to Summary Judgment, Filed May 6, 2003	0421
Katherine Miller's Affidavit in Objection to Bach's Motion for Summary Judgment, Filed May 6, 2003	0435
Thirteenth Order on Pending Motions, Filed May 6, 2003	0442
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 Notice of Ex Parte Motion and Motion for Immediate Issuance of Writ of Possession, Assistance and/or Seizure of Plaintiff's Vehicles and Trailers Still in Defendants' Possession, Especially in Possession of Blake Lyle, Filed May 16, 2003	0488
Order, Filed May 22, 2003	0492
Miller's Descriptive Exhibit List, Filed May 27, 2003	0495
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

## Volume 4 of 10

Fourteenth Order on Pending Motions, Filed May 28, 2003	0505
Minute Entry, Filed May 29, 2003	0532
Exhibit List, Filed May 29, 2003	0537
Notice of Hearing Motion to Set Aside Default and Motion to Reinstate Answer Filed May 29, 2007	540A
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
Fifteenth Order on Pending Motions, Filed June 2, 2003	0562
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
Final Pre-Trial Order, Filed June 3, 2003	0576
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
Defendant Ann-Toy Broughton's Exhibit List, Filed June 4, 2003	0597
Verified Answer to First Amended Complaint, Filed June 6, 2003	0599
Order for Default, Filed June 16, 2003	0603
Order, Filed June 16, 2003	0606
Minute Entry, Filed June 17, 2003	0609
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
Special Verdict, Filed June 19, 2003	0621



Minutes Report, Dated June 11, 2003 0629

## Volume 5 of 10

Minutes Report, Dated June 16, 2003 0679

Defendant Earl Hamblin's Answer to Plaintiff's First Amended Complaint, Filed June 25, 2003 0721

Verified Answer to First Amended Complaint, Filed June 27, 2003 0734

Brief, Filed June 27, 2003 0757

Findings of Fact and Conclusions of Law, Filed July 1, 2003 0762

Verified Answer, Filed July 1, 2003 0779

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

Sixteenth Order on Pending Motions, Filed July 8, 2003 0801

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

Minute Entry, Dated July 14, 2003 0814

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

Minute Entry, Filed July 17, 2003 0841

Seventeenth Order on Pending Motions, Filed August 28, 2003 0843

## Volume 6 of 10

Eighteenth Order on Pending Motions, Filed September 9, 2003	0857
Minute Entry, Filed October 14, 2003	0862
Nineteenth Order on Pending Motions, Filed October 23, 2003	0868
Judgment, Filed October 23, 2003	0908
Affidavit of John N. Bach (Apart from the Memoranda Briefs Referenced and Incorporated Herein, and the Further Case and Other Authorities Cited Herein to Support Any of Plaintiff's Motions, Plaintiff Will Be Submitting Further Briefs Prior to 14 Days of Hearing of Friday, December 5, 2003), Filed November 6, 2003	0913
Disclaimer of Interest, Filed November 17, 2003	0950
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
Request for Pretrial Conference, Filed December 15, 2003	0968
Additional Findings of Fact and Conclusions of Law, Filed December 23, 2003	0972
Default Judgment Against Wayne Dawson, Filed January 5, 2004	0988
Twentieth Order on Pending Motions, Filed January 6, 2004	0993
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 <sup>st</sup> week, Feb., 2004, Filed January 12, 2004	0996
Defendant, Earl Hamblin's Exhibit List, Filed January 13, 2004	1009
Plaintiff John N. Bach's Pretrial Statement of Objections & Requests, Etc., Per IRCP, Rule 16(c), 16(d), etc., Filed January 15, 2004	1012
Minute Entry, Filed June 16, 2004	1018

Twenty First Order on Pending Motions, Filed January 16, 2004 1023

## Volume 7 of 10

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

Order Suspending Appeal, Filed January 22, 2004 1043

Affidavit of John N. Bach Re: Testimony of Damages to be admitted, considered and included in Judgments Of Defaults Against Defendants Alva A. Harris, Individually & dba SCONA, Inc., a sham entity; Jack Lee McLean, Robert Fitzgerald aka Bob Fitzgerald, Individually & dba Cache Ranch; Oly Oleson, Individually & dba Cache Ranch & dba R.E.M.; and Blake Lyle, Individually & dba Grande Towing and also dba Grande Body & Paint. Filed February 3, 2004 1045

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

Twenty Second Order on Pending Motions, Filed February 12, 2004 1061

Minute Entry, Filed February 23, 2004 1082

Amended Default Judgment Against Wayne Dawson, Filed February 23, 2004 1086

Twenty Third Order on Pending Motions, Filed February 23, 2004 1092

Default Judgment Against Alva Harris, SCONA, Inc., Bob Fitzgerald, Ole Olesen, and Blake Lyle, Filed February 27, 2004 1101

Twenty Fourth Order on Pending Motions, Filed March 2, 2004 1109

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

Disclaimer of Interest in Certain Real Property and Motion to Dismiss, Filed March 8, 2004	1185
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 Further Memorandum Brief Re Objections & Opposition to Defendants Hills' Motion for Summary Judgment, Filed March 11, 2004	1190
Affidavit of Jana Siepert in Support of Motion to Compel, Filed March 15, 2004	1195
Twenty Fifth Order on Pending Motions, Filed March 16, 2004	1196

## Volume 8 of 10

Order, Filed March 18, 2004	1200
Minute Entry, Filed March 22, 2004	1204
Order on Various Motions Heard on March 16, 2004, Filed March 22, 2004	1209
Defendant Earl Hamblin's Disclaimer of Interest in Certain Real Property and Motion to Dismiss, Filed March 23, 2004	1213
Receipt, Dated April 1, 2004	1218
Order Amending Stay Entered April 13, 2004, Filed April 14, 2004	1219
Minute Entry, Filed April 19, 2004	1222
Pre-Trial Order, April 19, 2004	1226
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
Twenty Sixth Order on Pending Motions, Filed April 21, 2004	1256
Twenty Seventh Order on Pending Motions, Filed April 21, 2004	1266

Twenty Eighth Order on Pending Motions, Filed May 6, 2004	1289
Minute Entry, Filed May 9, 2004	1306
Twenty Ninth Order on Pending Motions, Filed July 6, 2004	1310
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
Minute Entry, Filed June 30, 2004	1330
Thirtieth Order on Pending Motions, Filed July 14, 2004	1334
Minute Entry, Filed July 21, 2004	1342
Affidavit of Plaintiff John N. Bach, in Opposition to Defendants' Galen Woelk, individually & dba Runyan & Woelk's Motion for Summary Judgment on Remaining Counts, and to Affidavit of Galen Woelk & Affidavit of Jason Scott; and Request for Judicial Notice of Pending Teton Actions, Filed August 16, 2004	1346
Thirty First Order on Pending Motions, Filed August 18, 2004	1352
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
Minutes Report, Dated September 10, 2004	1362
Default Judgment Against Lynn McLean, as Personal Representative of the Estate of Jack Lee McLean, Filed September 21, 2004	1367

## Volume 9 of 10

Thirty Second Order on Pending Motions, Filed September 21, 2004	1375
Affidavit of Lynn Barrie McLean, Dated September 10, 2004	1388
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 Notice of Motions and Motions Re; (1) Hearing on All Plaintiff's Motions Filed Since September 27, 2004; (2) For Order Striking, Quashing or Denying Defendants Woelk, Runyan's Motion to Amend/Modify, Etc., Court's 32 <sup>nd</sup> 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 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
Minute Entry, Filed November 9, 2004	1400
Thirty Third Order on Pending Motions, Filed November 30, 2004	1404
Thirty Fourth Order on Pending Motions, Filed December 10, 2004	1410
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
Supplemental Affidavit No. 1. To Plaintiff's Further Affidavit Re Issuance of Permanent Injunction, Etc., filed Jan. 12, 2005, Filed January 13, 2005	1430
Amended Answer and Demand for Jury Trial, Filed January 13, 2005	1433
Exhibit List, Filed January 20, 2005	1439
Plaintiff John N. Bach's Exhibit List for Jury Trial of February 8, 2005, Filed January 21, 2005	1445
Addendum to Stipulated Pretrial Order, Filed January 27, 2005	1453
Amended Exhibit List, Filed February 1, 2005	1457
Remittitur, Filed February 2, 2005	1463
Affidavit of Galen Woelk, Filed February 7, 2005	1465
Emergency Motion for Substitution of Parties and to Shorten Time for Hearing, Filed February 7, 2005	1479
Brief in Support of Emergency Motion for Substitution of Parties and to Shorten Time for Hearing, Filed February 7, 2005	1482
Order, Filed February 7, 2005	1487

Stipulation and Order for Dismissal with Prejudice, Filed February 7, 2005	1490
Thirty Fifth Order on Pending Motions, Filed February 11, 2005	1494
Final Judgment, Filed February 11; 2005	1505
Judgment, Filed February 17, 2005	1511
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

### Volume 10 of 10

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
Judgment, Filed February 24, 2005	1561
Notice of Appeal, Filed February 28, 2005	1564
Second Affidavit of John N. Bach, In Support of Motions Filed February 25, 2005, Filed March 7, 2005	1571
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
Minute Entry, Filed March 14, 2005	1612
Thirty Sixth Order on Pending Motions, Filed March 17, 2005	1617
Notice of Appeal, Filed March 25, 2005	1624A
Minute Entry, Filed May 6, 2005	1625

Plaintiff John N. Bach's Closing Brief in Objections & 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 & 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
Thirty Seventh Order on Pending Motions, Filed May 11, 2005	1648
Amended Judgment, Filed May 23, 2005	1656
Amended Judgment, Filed June 2, 2005	1659
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
Request for Additional Transcript, Filed June 27, 2005	1682
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
Request for Additional Record, Filed September 1, 2005	1698
Request for Additional Transcript, Filed September 1, 2005	1701
Request for Additional Record, Filed September 2, 2005	1704
Certificate of Exhibits	1707
Clerk's Certificate	1719
Certificate of Service	1721



## Index

Addendum to Stipulated Pretrial Order, Filed January 27, 2005	1453
Additional Findings of Fact and Conclusions of Law, Filed December 23, 2003	0972
Affidavit of Galen Woelk, Filed February 7, 2005	1465
Affidavit of Galen Woelk, Dated October 3, 2002	0093
Affidavit of Jana Siepert in Support of Motion to Compel, Filed March 15, 2004	1195
Affidavit of John N. Bach (Apart from the Memoranda Briefs Referenced and Incorporated Herein, and the Further Case and Other Authorities Cited Herein to Support Any of Plaintiff's Motions, Plaintiff Will Be Submitting Further Briefs Prior to 14 Days of Hearing of Friday, December 5, 2003), Filed November 6, 2003	0913
Affidavit of John N. Bach in Support of His Motions for Summary Judgment And/or Summary Adjudication (RCP, Rule 56, et seq.), Filed April 18, 2003	0360
Affidavit of John N. Bach Re: Testimony of Damages to be admitted, considered and included in Judgments Of Defaults Against Defendants Alva A. Harris, Individually & dba SCONA, Inc., a sham entity; Jack Lee McLean, Robert Fitzgerald aka Bob Fitzgerald, Individually & dba Cache Ranch; Oly Oleson, Individually & dba Cache Ranch & dba R.E.M.; and Blake Lyle, Individually & dba Grande Towing and also dba Grande Body & Paint. Filed February 3, 2004	1045
Affidavit of Lynn Barrie McLean, Dated September 10, 2004	1388
Affidavit of Plaintiff John N. Bach, in Opposition to Defendants' Galen Woelk, individually & dba Runyan & Woelk's Motion for Summary Judgment on Remaining Counts, and to Affidavit of Galen Woelk & Affidavit of Jason Scott; and Request for Judicial Notice of Pending Teton Actions, Filed August 16, 2004	1346
Affidavit of Plaintiff John N. Bach, in Support of Application/Request for Immediate Ex Parte Issuance of Restraining Order, and Order to Show Cause for Preliminary & Permanent Injunction Against All Defendants, Their Agents, Etc., Protecting Plaintiff's Person and Properties, Filed July 23, 2002	0006
Amended Answer and Demand for Jury Trial, Filed January 13, 2005	1433
Amended Default Judgment Against Wayne Dawson, Filed February 23, 2004	1086
Amended Exhibit List, Filed February 1, 2005	1457

Amended Judgment, Filed June 2, 2005	1659
Amended Judgment, Filed May 23, 2005	1656
Answer & Demand for Jury Trial, Filed March 19, 2003	0317
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 Fifith 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 <sup>st</sup> week, Feb., 2004, Filed January 12, 2004	0996
Plaintiff & Counterclaim Defendant John N. Bach's Exhibit List and Designations Pending/Subject to Court's Rulings – Orders Re Summary Judgment Motions, Filed May 28, 2003	0501
Plaintiff & Counterclaim Defendant John N. Bach's Memorandum Brief in Support of His Motions Filed Feb. 25, 2005 (IRCP, 12(f), (g), 59(a), 1, 3, 4, 5, 6, & 7; 52(b); 60(b), (1), (2), (3), (4), (5), & (6); 11(a)(1)(2), Filed March 9, 2005	1579
Plaintiff and Counterclaim Defendant John N. Bach's Motion for Directed Verdict on All His Counts in the First Amended Complaint and on All his Affirmative Defenses to Katherine Miller's Counterclaims (IRCP, Rule 50(a) et seq.), Filed June 18, 2003	0613
Plaintiff & Counterclaim Defendant John N. Bach's Notice of Motions and Motions for Summary Judgment and /or Summary Adjudication, IRCP, Rule 56, et seq., Filed April 18, 2003	0413

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



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

Plaintiff John N. Bach's Motion to Strike and Quash Defendant's Dawsons' Motion To Disqualify the Honorable Richard T. St. Clair, IRCP, Rule 40(d)(1); and for Sanctions Against Dawsons & Their Counsel, Jared Harris, IRCP, Rule 11(a)(1) & Inherent Powers of the Court, Filed February 11, 2003	0242
Plaintiff John N. Bach's Motion to Strike Motion for Attorneys Fees and Costs Brought by Defendants, Estate of Stan Nickell, Personal Representative; and Plaintiff's Memorandum Brief in Support of Said Motion and in Opposition to Nickell's Estate Motion for Attorneys Fees & Costs. & Motion for Sanctions. Rule 11(a)(1) a Full Hearing is not Just Requested but Further Required (ID Const. Art. I, Sec 13, IRCP, Rule, Filed February 23, 2005	1514
Plaintiff John N. Bach's Notice of Ex Parte Motion and Motion for Immediate Issuance of Writ of Possession, Assistance and/or Seizure of Plaintiff's Vehicles and Trailors Still in Defendants' Possession, Especially in Possession of Blake Lyle, Filed May 16, 2003	0488
Plaintiff John N. Bach;s Notice of Motions and Motions Re; (1) Hearing on All Plaintiff's Motions Filed Since September 27, 2004; (2) For Order Striking, Quashing or Denying Defendants Woelk, Runyan's Motion to Amend/Modify, Etc., Court's 32 <sup>nd</sup> 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

Date: 06/19/2003

Seventh Judicial District - Teton County

User: PHYLLIS

Time: 10:01 PM

Minutes Report

Page 1 of 42

Case: CV-2002-0000208

John Nicholas Bach vs. Katherine Miller, etal.

Selected Items

Hearing type:	Jury Trial	Minutes date:	06/16/2003
Assigned judge:	Richard T. St. Clair	Start time:	08:53 AM
Court reporter:		End time:	08:53 AM
Minutes clerk:	PHYLLIS HANSEN	Audio tape number:	

Civil parties: Second Week

Tape Counter: 275      Tape 13  
Monday June 16  
J calls case; ids those present  
Clerk has advised me she is unable to find PX 26B(e)  
and PX 78C  
P - would the jurors have retained those J will ask  
Jury is recalled

Tape Counter: 340      All jurors are present  
so stipulated  
Wednesday told you there was going to be a change to; have generated an Amended  
14; have been put in notebooks: Amended will override anything  
Clerk cannot locate two exhibits

Tape Counter: 400      P continues testimony  
August 16 encounter with Blake Lyle  
Have had 5 enocunter with Mr Lyle since that date  
DA objects - foundation sustained  
DA continues objection on relevancy  
Don't believe tese are issues  
J need to take up outside presence of jury; jury is excused

Tape Counter: 515      DA understood not to get into issues after Sept 22  
P think is relevant because of nature of averrments  
Do bear upon first amended complaint and origianl complaint  
No different thatn remedial correstion after the fact

Tape Counter: 580      J will sustain objection; think there is such a thing as continuous Tort, but pi, are  
separate torts  
Think more proper for another litigation  
Only those incidents that occurred before the filing of the first amended complaint

Tape Counter: 636      P PX 21 also have admitted PX 21 and 22  
DA object; not only is inappropriate but damages being requested  
Not appropraite issue for parties to be made aware  
J going to sustain; originals are in court file  
P to maake FAC complete  
Da don't understand how this releaters to what jury excused from  
Can address that issue at that time; will withdraw atipulation to admission if that make  
easier  
Jury is recalled 9:19

000673

Date: 06/19/2003

Seventh Judicial District - Teton County

User: PHYLLIS

Time: 10:01 PM

Minutes Report

Page 2 of 42

Case: CV-2002-0000208

John Nicholas Bach vs. Katherine Miller, etal.

Selected Items

Tape Counter: 742

Jurors are returned

P continues

Slurs on ethnic heritage

Mr. Woelk came in and started badgering me

DA objects - hearsay, relevance overruled

Felt family heritage had now become an issueN868

Tape Counter: 868

Broughton had now become spotter for Ms Miller

Fitzgerald told me to get out; they would take care of me

Horse trailer - living in to protect strip

Fitzgerald pointed gun at me

Went to SO

GOt gun - kept pointed at ground

With Kelly Circle - didn't have gun; had walking stick that looked like stock of gun

Witgerald made a false report

SO refused to do anything

Have never damaged Miller's property

Have never done anything to assault or abuse her

Have never done anything to animals

Have not stalked her

After my \$15,000 stolen - McLean came out of Latino's Delight

Followed to - turned right

Tape Counter: 1108

Pulled in to Reese Chambers driveway -

Asked him why he had stolen by money

McLean pulled straight to Millers house

Fitzgerald was letting in to house

Waited for 30 minutes to see if he was going to leave

Waited for 30 minutes to see if he was going to lave

When he didn't I went to the SO and told im where they could find McLean

Tape Counter: 1160

Request for production of documents

Knew Miller put documents in her trash; went to trash and pulled out some documents

DA objection - documents speak for themselves sustained

Since then, has been concentrated effort to destroy me

Tape Counter: 1235

Possible business ventures

DA objects - foundation - sustained

Move be stricken - stricken; disregard last statement

Still claim and seek Quiet Title to that land

DA objects - foundation sustained

Tape Counter: 1355

Represented people before the Idaho Tax Commission

DA objects - relevance sustained

Da objects relevance - sustained

Da objects foundation

P request 88, 89, 92, 90, 91

000680

Date: 06/19/2003

Seventh Judicial District - Teton County

User: PHYLLIS

Time: 10:01 PM

Minutes Report

Page 3 of 42

Case: CV-2002-0000208

John Nicholas Bach vs. Katherine Miller, etal.

Selected Items

Tape Counter: 1496

P ids 91  
DA objects - hearsay overruled - think premature  
Agreement with Bill and Jill Jackson  
Da continue objects - document is hersay; hasn't been admitted yet sustained  
Da objects hearsay overruled  
DA smae objection - hearsay overruled  
Sustained as to what the jacksons' said  
Da same objection sustained  
Da same objection overruled as to what it was  
PX 92- travel diary  
only two documents could find that revealed contract  
Offers 91 and 92  
Da objects hearsay  
DB defers  
J will overrule 91 and 92 ADMITTED passed among jurors

Tape Counter: 1724

P DX BB, VV  
P ids VV photocopy of business card  
Offers VV DA already stipulated to  
J - in evidence already  
DA objects relevance sustained

Tape Counter: 1845

Have attempted to get financing at three back  
DA objects hearsay - sustained  
Da onjects hearsday sustained  
Have tried to protect and preserve porperty of kathy Miller

Tape Counter: 1874

Recall Olsen drivng on to property in Millers vehicle  
Came out of vehicle; came within a foot of me; immedicately smelled alcohol  
DA object s sustained  
Da objects sustained

Tape Counter: 1930

Threats to me personal and property and animals  
Vehicles taken by Lyle  
DA foundation sustained  
Da foundation  
1988 Caprice \$1000  
Lost \$2000 in value of trailer  
Handle broken off; skylights broken  
Gun purchased for me by my father when I turned 12  
DA foundation move to strike - overruled  
Beautiful crystal cut decanter  
Rare coins  
COthers; bedding  
Nothing of value when it was returned to be  
Poles had to replace; minimum of \$6/pole  
Everytime had to replace, cost \$10,000  
Had to borrow money  
Intended to give tem warranty deed - couldn't do that

000681



Date: 06/19/2003

Seventh Judicial District - Teton County

User: PHYLLIS

Time: 10:01 PM

Minutes Report

Page 4 of 42

Case: CV-2002-0000208

John Nicholas Bach vs. Katherine Miller, etal.

Selected Items

Tape Counter: 2155 Had to build fence to separate two parcels  
Spent \$7500 puttin in back fence  
No effort to comply  
P requests DB 1  
P requests DE 1  
Little house I built for my grandchildren ballerll to the left - pole goes across to easterly boundary  
She could drive down and get to her property  
Set up corral to show my good faith  
She continued to go behind barn  
At no time was she evr blocked; she refused to get out of her viehicle and open the gate

Tape Counter: 2377 CV 00-76 she was never enied access; she as restricted to open and close gates  
She and Earl Hamblin too my water rights from the Teton Canal  
Ran hose underneath culvert  
That hose was cut  
Horses were well taken care of

Tape Counter: 2457 Prelimianry injunction - she ignored it  
I have taken care of fence repairs  
have sprayed for weeds  
Knocked down noxious weeds by hand  
Preserved and protected her property  
Repaired fences  
Reestablished poles and rails; \$5,000 = \$7,000  
She chose the back 40 acres  
Hamblin has cut off water  
Retrenched from  
DYr Creek a channel  
DA objects sustained

Tape Counter: 2552 Da objects sustained as to Mr. Hamblin  
Da objection foundation

Tape Counter: 2587 PX 89-1 -26  
Da will stipulate to admission  
J going to hold parties to time comitments; that may preclude from you calling other witnesses  
J will overrule objection  
P describes photos  
PX 89 will be admitted

Tape Counter: 2725 PX 90 shows not only chrysler but also tracks trespassing of Millers vehicle all over my 40 acres  
Offers Da no objections ADMITTED  
Offers 88 1-27 no objection ADMITTED

Tape Counter: 2814 P seek return of \$15,000  
DA objection sustained  
DA objection sustained  
Da objectin sustained

Tape Counter: 2834 Rturn of additional \$15,000 paid to Alva Harris for rent of my house on Hwy 33  
Reasonable rent \$45,000  
Da objets - relevance, foundation sustained

000682

Date: 06/19/2003

Seventh Judicial District - Teton County

User: PHYLLIS

Time: 10:01 PM

Minutes Report

Page 5 of 42

Case: CV-2002-0000208

John Nicholas Bach vs. Katherine Miller, etal.

Selected Items

Tape Counter: 2870 Other items destroyed \$1300  
Shrubs, trees, torn down  
Had to go buy water irrigation pipes\$300  
Spent inordinate amount of time defending that property  
Da foundation overrule  
spent 30 hours/week  
deserve to be compensated for 1500 hours  
I'm scared to go to California  
Recess 10:27

Tape Counter: 3026 P requests to go on record 10:43  
Have two witnesses scheduled for today; then will rest  
Would like to go over exhibits to see if all are offered  
J - you agreed to be through today  
If still onstand, can we take them out of order  
J will leave up to counsel to decide  
Jury is recalled 10:45

Tape Counter: 3098 Jury is entirely present  
J - don't get photos mixed up  
Ticket lady has been giving tickets  
Write down name and license number, make and model of vehicle  
City wants you to park in the public parking lot

Tape Counter: 3164 DA begins X  
Object to bunch of documents in front of him  
P need to keep record of what goes in and what comes out  
Need to refresh recollection; evidence code sections have run off  
Will with draw objection

Tape Counter: 3213 DA X pP objects deed speaks for itself overruled  
TPE never registered to do business is state of IDaho  
P objects - will just confuse and mislead the jury overuled you testified about that on direct

Tape Counter: 3280 Disbarment - legal backlash for bucking the system  
P objects - overruled  
There are some complaints from some clients  
Acts of moral turpitude - one  
Vexatious litigant - not by state bar  
DA intro DXIII Disbarment proceedings  
P objects A&A sustained  
Moves be admitted this will just mislead the jury  
J think you need more foundation - susstained

Tape Counter: -3464 Da - what is foundation object  
Rule 609 proceedings - lots in there about disbarment proceedings  
P assumes facts not in evidence overruled  
Da - not charging document; is findings document  
P objection foundation overruled

Tape Counter: 3575 refer to page 5  
Same objection irrelevant and immaterial  
J only limited for purpose of impeachment; not to be used for any other purposes  
Shawb found to be completely meritless action  
Page 31 lines 17 - 27

000683

Date: 06/19/2003

Seventh Judicial District - Teton County

User: PHYLLIS

Time: 10:01 PM

Minutes Report

Page 6 of 42

Case: CV-2002-0000208

John Nicholas Bach vs. Katherine Miller, etal.

Selected Items

Tape Counter: 3719 J offered only for limited purpose of impeachment  
Ask court to accept - is direct issue in the action  
Same objection, same offer, same ruling

Tape Counter: 3800 Stewart property  
J ruled there was no contract  
4 years

Tape Counter: 3860 Resident Fishing License  
Voted in Teton County 96,98, 00  
Made representation was Idaho Resident

Tape Counter: 3969 DA intro DX JJJ marked  
Read page 6 first paragraph  
P objection A&A sustained

Tape Counter: 4113 Client stalking  
P A&A sustained  
P objects relevance overrule  
Keep copies of letters write to client

Tape Counter: 4200 DA refers to DX A  
Purchase Agreement for 160 acres with Harrops  
P objects A &A  
P objects document speaks for itself overuled  
Signed as agent  
P objects argumentative overruled  
Sales commission from Ms. Miller  
You paid \$5,000 for this - 5 and 5 more  
P argumentative overruled  
Spent my time, my travel, my meals  
Other than \$5,000, how much cash did you put in the Harrops pocket - non e

Tape Counter: 4343 DX C  
Purchase price \$210,000  
P objection misstates testimony of this document  
NOt 210 that had been paid; it was the price agreed upon

Tape Counter: 4494 next paragraph  
DX E Offer DX E no objection ADMITTED  
P A&A document speaks for itself - sustained  
P A&A sustained  
Document speaks for itself

Tape Counter: 4707 DX F  
Objection and immaterial; Liponis  
J entire exhibit is being offered sustained objction as to everything but paragraph 1  
DA entire document spaeks to 80 acres

Tape Counter: 4836 J Paragraph 4 and last paragraph  
Para 2 Liponis Trust account  
P objects no counterclaim by Liponis  
J overrule objection that paragraph (2) can come it  
DA will redact page 2  
P refers that not be done  
P would like to have record  
J - those will be kept Mark F 1 not admitted

Tape Counter: 5040 P as sole account owner after the first \$5000  
Signers on the account

000684

Date: 06/19/2003

Seventh Judicial District - Teton County

User: PHYLLIS

Time: 10:01 PM

Minutes Report

Page 7 of 42

Case: CV-2002-0000208

John Nicholas Bach vs. Katherine Miller, etal.

Selected Items

Tape Counter: 5100 DX Q Signature on the back  
Liponis Emporium Trust Account  
P object irrelevant overruled ADMITTED  
P object A&A overruled  
P objects irrelevant  
Haven;t filed tax return since 78 - filed 93, 99, 2000  
DA - not 94-98  
didn't have any income

Tape Counter: 5292 From 94-00, only back account was Liponis Trust account - could not be traced to you  
P objection assumes facts not established  
Wants F and Q sent to jury

Tape Counter: 5448 DX G  
Page 2 2nd paragraph  
third paragraph - price per acre will increase  
What owner referring to me  
P objects A&A overruled myself  
Misrepresented facts - have right to change any facts  
P objection A&A sustained  
document submitted to jury

Tape Counter: 5646 DX I already stipulated to  
Did you instruct you to have Mr. Taylor released to yourself -  
\$110, in paragraph 2 it was my money  
Miller paid me and I turned around and paid the Harrops  
P A&A sustained

Tape Counter: 5773 PX L already entered  
Last paragraph  
D A&A overruled says holding principles money  
D objectionn J sustained on A&A  
DX L passed to jury

Tape Counter: 5900 DX N  
Accounting as to Miller's \$110,000  
P A&A sustianed  
Document speaks for itself  
Assumes facts not in evidence overruled I didn't have to tell him

Tape Counter: 6010 DX O entered  
Ask for another \$2500  
DA non responsive sustained  
assumes facts not in evidence and ignores my previous answer  
J answer his question

Tape Counter: 6158 Point to tell us this money was going to you and not to Liponis Emporium Trust  
East 80 acres not purchased - yes it was - yes it was  
sued by Harrops because they claim money wasn't paid for it Told Randy SMith first and  
then met in chambers with Herndon  
Recess 12:00

Tape Counter: 6323 P would like to put witnesses on out of order  
Testimony will not take more than half an hour  
J - you and Woelk will have to work out  
DA - NOT at this point

Tape Counter: 6368 P - moves take out of order  
J - cross is under control of Woelk; if he doesn't want to allow them to interrupt cross, he  
doesn't have to  
Recess 12:03

000685

Date: 06/19/2003

Seventh Judicial District - Teton County

User: PHYLLIS

Time: 10:01 PM

Minutes Report

Page 8 of 42

Case: CV-2002-0000208

John Nicholas Bach vs. Katherine Miller, etal.

Selected Items

Tape Counter: 6412

Jury is recalled 12:59  
8:00 - 4:00 tomorrow  
Parties stipulate all jurors are in  
Both took \$110,000 to Wright Law Office  
DA requeusts PX H  
Offers no bjection other than relevancy overruled  
P second page only DA okay  
H ADMITTED  
H-1 not  
Da continues X

Tape Counter: 6636

DA request DX X  
P relevancy, prejudice, misleading for jury  
Overruled ADMITTED  
P best evidence sustained  
DX X submitted to Jury

Tape Counter: 6818

Filed on behalf of TPE, Inc judgment on the pleadings  
Stated was Idaho Corporation  
Motion was denied because not Idaho corp

Tape Counter: 6898

DA intro DXKKK marked  
P objects misleading overruled ADMITTED  
DA requests PX 35B  
Also HHH

Tape Counter: 7217

Deposition  
Told David Nye was either a CA or NV corp

Tape Counter: 7300

Did you tell Nye as CA or NV corp  
That it had been incorporated Line 20  
Page 37 Line 17  
Sole proprietorship  
Supposed to be Tape 13 ends

Tape Counter: 1

Tape 14 begins  
Family Trust had purchased the eastern 40 acres  
Line 10, page 29  
That's incorrect

Tape Counter: 24

Assignment from Trust to you  
Pa ge 30 Line 25  
PA request PX y  
PX T

Tape Counter: 183

Kathy Miller Tendered that sum of money  
Offers P objects overruled ADMITTED  
DX V no objections ADMITTED  
P objection  
DA withdrawn

Tape Counter: 289

Title insurance should not show me as any individual owner  
DX W Assignment of all Rights in Easement Property to Miller  
P document speaks for itself  
How long have had 51 FORd

Tape Counter: 390

DA DX QQ, - UU  
objection irrelevant, lack of foundation Assumes facts not established overruled  
ADMMITTED

Tape Counter: 419

QQ  
Paragraph 3 real property holdings  
Did you list any of the Idaho properties

000686

Date: 06/19/2003

Seventh Judicial District - Teton County

User: PHYLLIS

Time: 10:01 PM

Minutes Report

Page 9 of 42

Case: CV-2002-0000208

John Nicholas Bach vs. Katherine Miller, etal.

Selected Items

Tape Counter: 470 DXSS towards end Bankruptcy cpirts pade 14; schedule B personal property interests in stocks, incorporated or unincorporated business  
P wasn't required there  
Schedule A Real property  
Did you list any no. It wasn't required

Tape Counter: 574 Schedule E page 15 List interest and current market value  
response ? after \$1000  
That car was not in my sole possession  
No 33 - all other personal property - junk fire and scrapbooks \$500  
Those were in my mother's trust

Tape Counter: 650 QQ - Debtor's Plan  
Created an exception in the Affirmation  
PA objection irrelevant...overruled  
DA objection J if you

Tape Counter: 734 DX II  
That's the only place you rname has ever appeared on a deed in Teton County  
YOu recorded those deed b ut signed Jack mcLeans's name  
I had an Irrevocable Powerof Attorney of Jack McLeans name  
How many times had sued Mr. McLean  
P irrelevant under 609 sustained  
Move to strike stricken  
Did not revole P of A in Idaho  
Reestablished my rights to that easement strip

Tape Counter: 880 DX DD  
Moves to admit  
P objects incomplete overrule ADMITTED  
Stated TPE owned by John N. Bach  
States Agriculture; not for personal residence  
P that not admitted J is can submit additional pages

Tape Counter: 1000 DX EE offer EE  
same objection overruled ADMITTED  
Telling Miller West 40 is owned by VasaN Bach Family Trust owns the property  
Assignment

Tape Counter: 1080 McLean case testifying in Court  
Stated had no individual interest in property - not entirely true  
No individual interest in any of the 80 acres that are at issue today - don't recall that

Tape Counter: 1163 Page 43, lines 1-6  
Refers to an exhibit  
Jack paid \$22000; entire purchase was \$66,000  
Dr. liponis paid \$66,000  
TPE paid ) - no  
Bach took home \$22,000 cash  
P objects A&A sustained

Tape Counter: 1296 Miller sought injunction and then you dq'd Judge Moss  
P objection and immaterial overruled  
Sought to mave case to Federal rights

Tape Counter: 1345 Faxes that said "Law Offices of John Bach" was mistake  
Objection irrelevant and immaterial overruled  
Objection to form of the word ethnic  
objection improper and immaterial sustained  
Some they wouldn't take my report on  
Blake Lyle hasn't been prosecuted 000687

Date: 06/19/2003

Seventh Judicial District - Teton County

User: PHYLLIS

Time: 10:01 PM

Minutes Report

Page 10 of 42

Case: CV-2002-0000208

John Nicholas Bach vs. Katherine Miller, etal.

Selected Items

Tape Counter: 1399

Luke, Lowery and Kaufman conspiring against me  
Brag to Miller that you could tie the court's up for years with lawsuits  
DX JJ has been admitted  
Most recent building applicaton permit  
Now saying John Bach owns the property  
Submitted origianl Judge Herndon deeds  
No Lovell Harrops  
P objectionn argumentative overruled  
Deed was entered in fron of Judge St. Clair

Tape Counter: 1578

P would like to step aside and call another witness  
P calls w - geneo Knight  
Clerk swears in W  
P ? w 5  
DA leading overruled  
Talked about destructive things could do  
talked about fire to property  
Da objects - overruled  
Da personal knowledge, speculation - J will sustain  
DA objectioin calls for speculation  
Da objects improper character testimony overruled  
Da objects relevance sustained  
DA objects relevance sustained  
Da continues to object not proper impeachment overruled

Tape Counter: 2039

Dark 38 caliber pistol  
Pouch was stuffed full of cash  
DA objects sustained

Tape Counter: 2074

DA begins X  
How many jobs have had in last two years  
P objects irrelevant sustained  
Recess 2:25

Tape Counter: 2164

Jury is recalled 2:41  
P calls w - 6 Travis Thompson  
Clerk swears in W -66 Victor  
50% partner Clarence Gummow  
Highland meadowss purchased for \$2500 acre  
Bought as 140 acre peice  
Bench for all of building sites  
\$45-60,000  
Acreage to Miller's property  
DA foundation, relevance sustained  
Leading foundation sustained  
Leading foundation sustained  
Foundation, leading overruled  
Around \$4000/acre  
Da foundation sustained  
Have to show borrower has ability to obtain funding and that poperty is financable  
Objection calls for speculation  
have to prove owenrship Warranty Deed, Quit Claim Deed  
P ? W - 6 Real Estate Broker  
P intro PX 65

000688

Date: 06/19/2003

Seventh Judicial District - Teton County

User: PHYLLIS

Time: 10:01 PM

Minutes Report

Page 11 of 42

Case: CV-2002-0000208

John Nicholas Bach vs. Katherine Miller, etal.

Selected Items

Tape Counter: 2496 DA X  
Bankruptcy terms and conditions less desirable  
P objection lack of foundation overruled  
Articles of organization or incorporation  
Trust documentation  
P objection lack of foundation overruled  
DB no ?  
DB no ?

Tape Counter: 2747 P requests P 12, 6, 6A, 5  
DA leading foundation speculation sustained on leading  
DA A&A said would have to send to legal seaprtment overruled  
If warranty deed was recorded, would be able to loan money on that ; if they could not  
inuse it, we cold not loan moaney on it  
DA objects -beyond scope speculation sustained

Tape Counter: 2957 P is resuming witness stand  
Offers 65 for admission  
Da objects irrelevant sustained

Tape Counter: 2999 DB X P  
Why am I here  
you are in league with Miller  
still co principle, still an agent

Tape Counter: 3022 P redirects  
P requests all 26 exhibits  
Clear admissions and declaration of interest that Miller knew Bach owned  
26B1 regrating and reestablishing Bach as sole owner  
DA relevancy sustained  
DA same objection sustained  
Have never recieved a notice of termination

Tape Counter: 3400 Like PX 22 marked separately and admitted  
Daobjects self-serving is hearsay sustained  
Ask court to allow me to read it as past memeoray  
DA - certainly object to him reading hearsay into the record

Tape Counter: 3484 DA somewhat concerned he may say he is refreshing memory and he will read from  
document  
P ot reading from; refreshing memory  
relevancy overruled  
objection relevance and beyond scope sustained on scope  
testifying from what is affidavit sustained  
objection beyond the scope beleive it is; sustain  
Offer PX 26 B(2) objection ADMITTED  
Bankruptcy court did not require other property

Tape Counter: 4186 Totally fails to disclose settlement agreement of 1997

Tape Counter: 4232 PX 26 A(2)  
DA beyond scope sustained  
DA beyond scope sustained

Tape Counter: 4311 PX 35 B portion completely omitted and not read is lines 9 -17  
Objection beyond the scope overrueld

Tape Counter: 4555 P never have I been unfair in my dealings  
Miller was not mislead  
State bar - don't regret what I told the state bar  
would like to have marked an exhibit

000689



Date: 06/19/2003

**Seventh Judicial District - Teton County**

User: PHYLLIS

Time: 10:01 PM

Minutes Report

Page 12 of 42

Case: CV-2002-0000208

John Nicholas Bach vs. Katherine Miller, etal.

Selected Items

Tape Counter: 4700

P intro PX 99  
Only mistake I made was I answered truthfully  
retributin by the State Bar  
It revealed some of the secrets that goes on  
Asked questons about a judgment I obtained  
Going to put on non -profit law clinic  
DA objection relevancy sustained  
DA objects relevancy sustained  
Big boys don't fight back fairly  
Estate af Shawb  
DA objects relevancy Think you were using a impeachment  
J not going to admit PX 99  
Unpublished opinion  
Truth doesn't come out - just the verdict  
I did not do a gentle practice of the law - I went after public officials and I won  
I did not lie; I did not deceive  
I will always tell the truth

Tape Counter: 5035

Question #1 form jury  
DA ask court introduce DX III ;imited purpose pages 6 -18  
Ask either offer or be read into evidence  
No objection  
DA can be read or offered  
J - said no objection to offering it  
P do objet to

Tape Counter: 5163

J will not let the rest of that objection come in over his objection; closed subject  
J reads Juror ? #1  
1. D and I had discussed first and 2nd bankruptcy. She did not want me to disclose the  
40 acres  
2. She did not want her children to find put about it  
If you're not asked a question, you are not required to give an answer  
I had truthfully answered all the questions; I had protected Ms Miller  
recess 4:09

Tape Counter: 5355

Jury has been excused  
P will call and see if witness is available

Tape Counter: 5434

J recalls case  
P W is in hospital - not until next week  
Want to take a look at 3 exhibits PX Be  
Clerk - 26Be is exhibit cannot find  
Would like to call Ms. Guymon early tomorrow morning - will not takle more than 10 minutes  
J is she going to say anything other han hearsay  
DA - object to her being called tomorrow; p is closing hes case toady  
J will let her testify tomorrow al long as only goes 10 minutes  
P mive PX 80 and 81 be admitted  
DA object  
no objection to 80 ADMITTED  
Sustain objection to 81

000690

Date: 06/19/2003

Seventh Judicial District - Teton County

User: PHYLLIS

Time: 10:01 PM

Minutes Report

Page 13 of 42

Case: CV-2002-0000208

John Nicholas Bach vs. Katherine Miller, etal.

Selected Items

Tape Counter: 5745

DA would like to put Rule 58 Motion on record  
P has rested his case  
ARgue that Western 40 acres - ask for directed verdict on the theory and argument that statue requires property or transfers need to be made in writing - nothing signed by her  
Therefore property would revert to her  
Failed to show any form of consideration paid for that 40 acres  
Re other peice of property - to both parcels - all quiet title claims should be directed verdict  
P has said several time ths he opearates as a business  
Must register and file with Secy of State  
If not, fail to maintain action in state of Idaho  
Cannot bring any form of action of behalf of that entit

Tape Counter: 5895

Slander of title COunt 5 - no evidence shows my client has filed anything individually  
No showing corproation should be peirced  
Count 6 intention interference - no showin that he has been injured by any third party's breach of contract - certainly no amount  
No evidence tha my client intereferred

Tape Counter: 5997

County 7 Bach did not act as agent of my client - certainly mot that she was ever acting os his agent

Tape Counter: 6023

Count 11 mailicious porsecution abuse of process  
Has not show client has used form to abuse; no ilterior otive or ulterior purpose  
Move for directed verdict on those counts

Tape Counter: 6072

All under advisement except fiduciary - no evidence that Miller acted as agent  
P argues no different than past recorded testimony  
By averments, by the facts  
the very last question asked by the juror and answered by me - that I trustedher, that I was in love with her, don't have to say was fiducitary trust

Tape Counter: 6198

J you haven't persuaded me  
Any separate and independant count  
Will court allow me the evening to brief  
J can submit authority

Tape Counter: 6262

DB - ask for directed verdict as to all counts against me  
J willt ake under advisement  
Jury is recalled - 4:42

Tape Counter: 6290

P - rest subject to 10 minute ruling to call tomorrow morning

Tape Counter: 6349

DA calls D  
Family and background  
P objects - relevancy sustained  
P objects relevancy sustained  
P objects overruled  
P objects - hearsay, lack of foundation sustained  
P objects A&A overruled  
{ objects leading  
P objection move to strke sistained  
P objection overruled  
Jury is excused 5:00  
End of tape 15 7225

000691

Date: 06/19/2003

Seventh Judicial District - Teton County

User: PHYLLIS

Time: 10:01 PM

Minutes Report

Page 14 of 42

Case: CV-2002-0000208

John Nicholas Bach vs. Katherine Miller, etal.

Selected Items

Tape Counter: 1

Tuesday June 17

Tape 15

Reconvene 8:00

Jury is recalled

J recalls case

Tape Counter: 66

Miller resumes stand

P objects vague and ambiguous overruled

He called me repeatedly

Meeting his children

P objects irrelevant, immaterial overruled

P objects hearsay overruled

P - lack of foundation overruled

P objects hearsay sustained

P getting in to overruled

P objects overruled speculative overruled

Next lawsuit

move to strike as speculative sustained, answer will be stricken

leading suggestive sustained

Tape Counter: 250

purchase of Harrops land

Was told time was of the essence; had to sign right away

P objection agreement speaks for itself sustained

40 acres bordering 40 acres you were purchasing

Both TPE and I would be purchasing each paying \$120000

Agreement said if I didn't build a house within two years, would have to pay \$40,00 or

TPE would buy back land from me

Move to strike as misstating the agreement overruled the jury can compare

vague and ambiguous overruled

Move to strike, non responsive overruled

leading suggestive sustained

Tape Counter: 383

January 1995 said investors are very impatient, especially Wayne Dawson

leading and suggestive move to strike her answer there has been no answer

move to strike as non responsive overruled

How d you know Bach put \$5000 down

Tape Counter: 444

DA requests DX H

irrelevant immaterial speculative overruled

check mysteriously disappeared

TPE had loaned 10,000 toward purchase price

leading suggestive sustained

000692

Date: 06/19/2003

Seventh Judicial District - Teton County

User: PHYLLIS

Time: 10:01 PM

Minutes Report

Page 15 of 42

Case: CV-2002-0000208

John Nicholas Bach vs. Katherine Miller, etal.

Selected Items

Tape Counter: 500

Being sued by Harrops May 1995  
Midas manager called and said had been served  
Told Bach  
Said not a big deal, don't worry about it  
move to strike as non responsive sustained  
Took to Peter Moyer, he said he was not licensed to practice law in Idaho  
Move to strike as non responsive  
leading and suggestive sustained  
assumes there were some leading suggestive  
vague overruled  
leading suggestive hearsay sustained on leading  
P don't need a leacture; not trying to do anything other than present my case  
J think Woelk is asking for permission to lead his client  
P object  
obection asked and ansered overruled  
objection vague overruled  
move to strike as non responsive and hearsay overruled  
move to strike bou in the alternative - basis of her frame of mind, not being true at all  
J overrule except for statement from daughter but that will be admitted only to show her  
state of mind

Tape Counter: 787

other payments for Harrops negotiations  
Wrote chek to Teton County Court  
leading sustained  
Just did what Bah asked me to do

Tape Counter: 815

IRS status  
your understanding - he was in trouble with IRS and owed them a lot of money  
Recall he had an appointment and had to do with IRS problems  
leading suggestive sustained

Tape Counter: 855

Assignment of easement strip agreed to put it in my name which made sense to me  
since I was paying for it  
move to strike nonresponsive overruled  
leading overruled  
move to strike sustained

Tape Counter: 912

TPE paid nothing for easement strip; I paid everything  
Purchase and sale agreement - said paid the same as I had  
another time said had paid over \$200,000 for it  
move to strike overruled

Tape Counter: 960

Purchased  
Marriage to Bach  
leading sustained  
move to strike sustained  
same objection overruled  
leading suggestive sustained  
leading sustained  
move to strike as non responsive overruled  
Har him lie to Judges on the phone

000693

Date: 06/19/2003

Seventh Judicial District - Teton County

User: PHYLLIS

Time: 10:01 PM

Minutes Report

Page 16 of 42

Case: CV-2002-0000208

John Nicholas Bach vs. Katherine Miller, etal.

Selected Items

Tape Counter: 1019 Stalking began in 1997  
move to strike overruled  
Night before went on trip to Middle Fork - about 3:00 let dog out; he ran down road barking  
heard vehicle start; watched it turned around walked out in to field saw Bach's truck drive  
by  
Neighbors would comment  
move to strike - sustained  
Caled it the Dawn Patrol because he usuall drove by between 5: - 6:00 in the morning  
been continual for 5 -6 years

Tape Counter: 1100 Bankruptcy  
Said house on highway would be in jeopardy  
Ask him to sign 40 (?)

Tape Counter: 1145 DA requests DXZ  
W ids  
D ojects as hearsay  
J DX Z was admitted  
P disclosed everything in court -  
J if either party wants these exhibits to be a part of this record, they need to come up  
with a new one; the court and the clerk cannot seem to find it  
DA - ask - believe I have copy of that letter back in my office. I would ask to substitute  
J Bach and Broughten on would need to agree

Tape Counter: 1396 Harrop action finally resolved for good  
Think took until 1997. Not sure why it took so long since I had already paid the money  
hearsay overruled  
Bach was going to sue them for fraud  
compund overruled

Tape Counter: 1448 Meeting in Chuck Homer's office  
leading suggestive sustained  
irrelevant overruled  
hearsay overruled  
Not clear as to Bach's owner ship status  
assumes facts misstates sustained  
irrelevant overruled  
irrelevant overruled  
A&A sustaine  
J can read agreement; that says who the parties are  
objection irrelevant overruled

Tape Counter: 1597 Agreement 1997  
quit claim deed if I would begin an exclusive relationship with him and marry him

Tape Counter: 1634 DX AA W ids  
Was suppose to have notarized and file on Oct 6  
offers AA objection hearsay overruled ADMITTED  
PX 34

Tape Counter: 1722 W ids fantasy letter  
wrote after he said would not sign quit claim deed  
wrote as an expression of what I had hoped to hear from him but never did  
objectionn letter speaks for itself sustained

Tape Counter: 1784 DX BB bach to myself addressing fantasy letter  
move to strike as non repsonive J last sentence will be stricken  
leading irrelevant overruled  
further objection as to time J read quickly

000694

Date: 06/19/2003

Seventh Judicial District - Teton County

User: PHYLLIS

Time: 10:01 PM

Minutes Report

Page 17 of 42

Case: CV-2002-0000208

John Nicholas Bach vs. Katherine Miller, etal.

Selected Items

Tape Counter: 1836 representation in letter  
objection - then or now  
move to strike anything after "I don't recall" J she hasn't said anything  
realized it was going to be hard to be friends

Tape Counter: 1888 ABout another year before broke off relationship - almost another year  
did not want an intimate relationship  
Went to CHristmas party with friend; Bach sated he would ha ve nothing more to do with  
me

Tape Counter: 1923 who owned easterly 40 acres  
DX CC  
P have to problem but last two paragraphs are nonexistent  
W ids - fax from P Dec 7, 98 talking about buildingmore raod  
object to her reading - jury can read it - sustained  
irrelevant overruled  
first represent ation Vasa N Bach Family Trust may own  
A&A overuled  
Would let Homer reply

Tape Counter: 2030 1999 - gates started to be locked  
August to McLean out for first time to show him the land and he was assaulted by Bach  
move to strike as leagal conclusion overrueld

Tape Counter: 2064 Served subpoena while out in my barn feeding my horses  
Move to strike as non responsive this story telling has got to end overruled  
move to strike as non responsive overruled  
Sued for \$2,000,000  
Appeal has been denied  
move to strike as non responsive  
Homer turned over to Don Harris; he turned over to Shan Perry  
objection irrelevant overruled  
All attornies who have helped me have been sued  
move to strike as non responsive - overruled  
speculation and conjecture sustained

Tape Counter: 2220 Developments on property  
Not strong enough o use bolt cutters  
Bach testified in courtroom that he was adversely possessing my land  
leading sustained  
in crimianl trial again started talking about Vasa N Bach Family Trust  
Never heard him individually

Tape Counter: 2298 DX EE  
P has been admitted; no bjection to it going through the jury  
in 2000 the blocking became mush more agresive

Tape Counter: 2323 Large chains started being put on the gates and vehicles started blocking the gate  
leading suggestive overruled  
Saw SCONA on Internet as someone else who had been sued in Federal Court by Bach

000695

Date: 06/19/2003

Seventh Judicial District - Teton County

User: PHYLLIS

Time: 10:01 PM

Minutes Report

Page 18 of 42

Case: CV-2002-0000208

John Nicholas Bach vs. Katherine Miller, etal.

Selected Items

Tape Counter: 2366 Called Harris and asked if he would help me; he said no - conflict of action  
We filed against TPE  
DA refers PX26A(1)  
leading A&S overruled  
Wanted to access my land  
objection irrelevant overruled  
TPE was on the deed and Bach was moving the vehicles  
leading A&A sustained  
A&A sustained  
document speaks for itself; is in evidence overruled

Tape Counter: 2474 AFter filing bach took over to Federal Court  
move to strike as non responsive, her feelings sustained as to her feelings  
Harris said could now help  
hearsay sustained  
Federal COurt found moot  
move to strike hearsay, speculation overruled

Tape Counter: 2570 July 1997  
Harris said it was my right to enter my property as long as I didn't disturb the peace  
DXEE rescinding all of me permission to go on to the land  
objection A&A overruled  
leading suggestive, document speaks for itself sustained  
objection leading suggestive A&A overruled  
A&A sustained  
irrelevant A&A J ask her a question in that fram

Tape Counter: 2727 Took in all documents to try and get a clear understanding of what really happened  
irrelevant overruled  
move to strike as hearsay sustained  
leading hearsay sustained  
leading hearsay sustained  
move to strike hearsay overruled she hasn't relayed what anybody said or what the  
documents said  
Saw no documents of an ymoney coming in from TPE

Tape Counter: 2838 Stared moving obstacles from in front of the gate  
He wants the court interaction

Tape Counter: 2878 Sept 11 and 12 - moved vehicles and removed fences  
Fence across easment  
only removed fence from access strip  
Fence down easment strip came out of my \$7400 fence so I paid for it  
Why did you record it - trying to protect myself  
move to strike assumes frame of mind sustained Jury will disregard conclusion

Tape Counter: 2972 Second federal action  
filmed moving 51 to show how backed off  
We knew that Bach would be out of the state  
Has to be done peacefully  
leading suggestive overruled

000696

Date: 06/19/2003

Seventh Judicial District - Teton County

User: PHYLLIS

Time: 10:01 PM

Minutes Report

Page 19 of 42

Case: CV-2002-0000208

John Nicholas Bach vs. Katherine Miller, etal.

Selected Items

Tape Counter: 3030 Fitzgerald charged by PA  
hearsay sustained  
move to strike sticken  
irrelevant hearsay sustained  
irrelevant overruled  
Luke dismissed charges about cutting down fences  
hearsya sustained  
move to strike sustained  
non responsive overruled  
Bach was acquitted of all charges  
More obstructions

Tape Counter: 3150 have been informed DX YY is missing  
P no objection already been admitted  
J if want part of record, need to come up with duplicate

Tape Counter: 3187 DX WW XX Zz  
objecton A&A overruled  
New fences that were built and haystack that was put there

Tape Counter: 3246 DX XX  
leading suggestive sustained  
leading again as the shed overruled  
EVrything from Sprtsmen's Lodge over is on the easement  
leading sustained  
still leading overruled

Tape Counter: 3353 Vehicles towed off on two occaisons  
couldn't get on  
objection immaterial irrelevant overruled  
immaterial hearsay sustained as to hearsay  
hearsay sustainedx

Tape Counter: 3414 Relationship with Mr. lyle  
Ask for opinion, leading calls for conclusion overruled  
Did you ever attempt to block the entrance to the property  
leading and suggestive overruled

Tape Counter: 3512 Back took truck and bashed the whole side of the truck in  
hearsay sustained  
intention was to give Bach a taste of his own medicine  
objection foundation sustained  
It was swung to the side and the whole side of the vehicle was smashed in  
move to strike the form of the question overruled - she can say what she saw; her  
observations aren't hearsay

Tape Counter: 3610 FOrmaton to TPE, Inc  
relevance hearsay overruled  
move to strike hearsay is hearsay if no exception cited will instruct jury to disregard

Tape Counter: 3659 officers of TPE, Inc  
Have not met Dr. Liponis  
irrelevant as to the issues before this jury overrule it relates to some of the issues of this  
lawsuit

000697



Date: 06/19/2003

**Seventh Judicial District - Teton County**

User: PHYLLIS

Time: 10:01 PM

Minutes Report

Page 20 of 42

Case: CV-2002-0000208

John Nicholas Bach vs. Katherine Miller, etal.

Selected Items

Tape Counter: 3708

intention - ws to rectify and to form actual legal corporation in State of Idaho  
leading compund move tostrike sustained on leading  
comound, leading and irrelevant overrule  
leading sustained  
mistates her answer leading sustained  
leading overruled  
Believed would be away to find out the truth  
leading suggestive calls for leal conclusion sustained  
Belief origianl transaction went to sham entity  
that land would then be transferred by myself  
leading suggestive sustained  
best evidence hearsay sustained on best evidence  
A&A sustained  
Don't beleive Miller has testified as to the result of this law suit  
You're right - overruled

Tape Counter: 3900

Dis  
hearsay and best evidence sustain on best evidence  
\$60 or 61,0000,000 - had to pay nothing  
Recess 9:58

Tape Counter: 3949

reconvene 10:17  
DA continues  
Recording of deeds by Bach  
Felt had defrauded Jack McLean  
opinion conclusion based on hearsay  
Move to strike as non repsonive also violation of courts order on exhibits  
J don't think is any violaton of my order  
P - is this exhibit marked  
All documents were to be used at time of trial were to be marked by a specific date  
One of my key exhibits is missing  
J sill sustain on best evidence rule

Tape Counter: 4112

Action brought after deeds filed  
move to strike non responsive overruled  
objection irreleevant overruled  
legal conclusion overruled  
document speaks for itself hearsay DA withdraw  
irrelevant overruled  
Mr. Sperry would not let us use his land any more  
objection overruled

Tape Counter: 4300

Adjacent land owners being sued  
irrelevant overruled  
irrelevantl calls for legal conclusion overruled  
move to strike hearsay overruled  
move to strike  
move to strike be sustained as to everything but the "20 times"  
objection irrelevant overruled  
move to strike

Tape Counter: 4500

DA requests A1 B1 C1  
W ids  
have taken signs down; embarassing to have right on the highway

000093

Date: 06/19/2003

Seventh Judicial District - Teton County

User: PHYLLIS

Time: 10:01 PM

Minutes Report

Page 21 of 42

Case: CV-2002-0000208

John Nicholas Bach vs. Katherine Miller, etal.

Selected Items

Tape Counter: 4614 Notice of being listed as creditor on bankruptcy  
irrelevant and immaterial overruled  
best evidence  
irrelevant and immaterial overruled  
objection frame of mind, irrelevant hearsay speculation foundation sustained on  
speculation

Tape Counter: 4696 \$15,000  
have heard joint account  
leading and suggestive calls for legal conclusion overruled

Tape Counter: 4763 chairlift ride  
Cindy came to me and said she didn't have anyone to ski with  
not happy at that point with Bach  
Said he had written down cars who had been parked at my house  
objection leading irrelevant overruled

Tape Counter: 4840 Other lawsuits filed  
Ability to tie up the system  
A&A overruled  
bragged about tying up the legal system  
Said justice was agame

Tape Counter: 4888 Contact in last year  
took to PA;  
lack of foundation hearsay of the worst kind sustained  
irrelevant immaterial vague overruled

Tape Counter: 4950 oral agreement A&A overruled  
irrelevant and immaterial sustained  
objection irrelevant and immaterial overruled  
objection court just sustained - other than this lawsuit  
99-014 \$15 20,000  
leading best evidence Sustained on leading  
objection overruled  
assumes facts not in evidence irrelevant and immaterial overruled

Tape Counter: 5125 moves to strike speculative nad conjecture , document will be best evidence  
Da - state of mind exception  
J not admitted for truth of matter; document will be the best evidence  
P - no meeting of the minds;  
Still object not relevant understand your objection I've ruled  
leading and suggestive sustained  
leading and suggstive overruled  
thought TPE buying 40 acre and I was buying 40

Tape Counter: 5248 DB ?  
leading opinion and conclusion overruled  
Only time seen name on document was when you got sued  
leading and compound sustained  
move to strike as non responsive sustained  
leading suggestive and irrelevant overruled

Tape Counter: 5406 P begins X  
are you a perpertual victim  
DA- A&A sustained  
DA will start objecting to relevancy grounds, sort of beyond the scope will overrule

000699

Date: 06/19/2003

Seventh Judicial District - Teton County

User: PHYLLIS

Time: 10:01 PM

Minutes Report

Page 22 of 42

Case: CV-2002-0000208

John Nicholas Bach vs. Katherine Miller, etal.

Selected Items

Tape Counter: 5993

P would like to have exhibit marked and safely  
J want marked to replace missing PX B(e)  
offers no objection ADMITTED  
objection document speaks for itself  
Top Paragraph page 2  
relevance sustained  
same objection J doesn't appeared to be relevant to me overruled

Tape Counter: 6262

Miffle Fork trip  
relevance overruled  
P intro PX 100 marked  
relevance sustained as to animals  
relevance dates are relevant  
relevance overruled  
A&A sustained  
relevance beyond the scope sustained  
objection A&A overruled  
relevance sustained

Tape Counter: 6797

Accusation made of threats of stalking  
A&A overruled  
A&A overruled

Tape Counter: 7090

Discussion about oral partnership  
A&A overruled  
argumentative  
A&A argumentative sustained

Tape Counter: 7163

Agreement 1007 three weeks before took trip  
Tape 15 ends 7410  
P marks PX 22G  
relevancy overrule  
relevancy sustained  
same objection sustained  
Page 2 of letter in front of you  
Didn't want to dignify this letter with an answer  
P - like letter passed to the jury

Tape Counter: 110

PX 22G offers  
hearsay not proper impeachments SUSTAINED  
DX BB

Tape Counter: 200

At end of two years - buy back  
document speaks for itself sustained  
A&A on direct overruled  
document speaks for itself sustained  
argumentative overruled  
Thought document became moot

Tape Counter: 299

PX 22 H  
document speaks for itself sustained  
same objection overruled  
document speaks for itself sustained  
objection relevance argumentative sustained  
A&A sustained

000700

Date: 06/19/2003

Seventh Judicial District - Teton County

User: PHYLLIS

Time: 10:01 PM

Minutes Report

Page 23 of 42

Case: CV-2002-0000208

John Nicholas Bach vs. Katherine Miller, etal.

Selected Items

Tape Counter: 418

PX 22F  
document speaks for itself  
W - looks like memo fom Homer to himself  
personal knowledge overruled  
Do you deny the accuracy of this document  
misstates testimony  
objection relevancy sustained

Tape Counter: 496

PX22H talk about relationship to son  
relevancy sustained  
P like to have PX 101 marked  
DA objects letter from Miller to son J don't have time to read it; leaf's see where this goes  
PX 101 is marked

Tape Counter: 555

W ids  
relevance sustained  
compound and argumentative sustained

Tape Counter: 610

P offers letter PX 102  
objection relevance sustained  
PX 103  
CAme from accountant  
PAGE 2 and 3 how you wanted the property split  
Proposals you were assisting me with at the time  
Bottom of page 1  
You were heping me with it  
Standard operating control procedure  
objection compound sustained  
J admonishes jury  
recess 11:58

Tape Counter: 941

Reconvene 1:03  
Da want to make continuing objection  
P is making all these new exhibits  
they aren't relevant, they are beyond the scope, certainly not being used for  
impeachment

Tape Counter: 980

These are for impeachment; never know of having to put on offer of proof  
THink properly goig into this line of questioning  
Is for rebuttal

Tape Counter: 1000

J -W, TH Fri, Mon to put on P's case.  
Mr. Woelk to be through today  
Arguments tomorrow  
I was assuming we would be through with this Wednesday, instruction Wednesday night,  
to jury by noon on THursday  
You're getting in to attempts to impeach on collateral issues  
How much more cross  
P hour, an hour and 15 minutes

Tape Counter: 1059

J will give you half our to com[lete cross  
One witness with regard to value of whole 80 acres  
Cannot have until Thursday morning  
Will only have one witness this afternoon

Tape Counter: 1090

J will only give you half hour this afternoon. How you choose to use it is up to you  
Easily could have been tried and gone to the jury by tomorrow morning. Am giving you  
an extra day  
P can I have 45 minutes  
J no. 30 minutes

000701

Date: 06/19/2003

Seventh Judicial District - Teton County

User: PHYLLIS

Time: 10:01 PM

Minutes Report

Page 24 of 42

Case: CV-2002-0000208

John Nicholas Bach vs. Katherine Miller, etal.

Selected Items

Tape Counter: 1135 Jury is recalled 1:09  
All are present  
P continues X  
Recap testimony - said you were pressured. All documents do not demand any kind of urgency  
DA - Is there a question  
Thought Harrop lawsuit was big deal  
Was still living with Bach when served  
A&A sustained  
A&A sustained  
When did you find check was mysteriously missing Approx May or June of 1995  
A&A sustained  
What disadvantage were you put at - none

Tape Counter: 1264 P request PX 35  
There was no telephone conference was there  
Access possibilities to back 40 acres  
I've never gone out with Tape measure  
We elongated the pond  
That was the cost of the leasing of the back 40 acres to Ken Dunn  
Put the mone toward bioding the first roadway

Tape Counter: 1458 Did you say you did not want to spend any more money  
Move to strike as non responsive overruled  
compound ? overruled  
compound ? overruled  
Do you have to answer? I don't want anyone else to be sued

Tape Counter: 1571 List of names  
Compound ? Assumes facts

Tape Counter: 1650 Did you authorize Lyle to  
DA object to ? and continued testimony overruled  
He continues to pose all these horrible acts and then ask question  
P want his speech subtracted from my 30 minutes  
overruled

Tape Counter: 1767 Who pushed the dismissal in Federal Court  
Da objects overruled  
00-76  
01-059  
could have filed for quiet Title action  
Is Mr Bach testifying now or is he asking a question  
objection improper impeachment  
objection hearsay sustained  
DA ask P to stop badgering the witness

Tape Counter: 1856 P restates  
We did file a quiet title action don't remember the date  
objection hearsay overruled  
Action still is sitting there over 2 1/2 months  
objection relevance sustained

Tape Counter: 1937 who has retined Alva Harris  
have used friends to do work for you without paying them  
Misstates testimony  
They were rendering you services; you requested them to do so  
OObjectin calls for standing in the law sustained

000702

Date: 06/19/2003

Seventh Judicial District - Teton County

User: PHYLLIS

Time: 10:01 PM

Minutes Report

Page 25 of 42

Case: CV-2002-0000208

John Nicholas Bach vs. Katherine Miller, etal.

Selected Items

Tape Counter: 2015 Did you ever send letter to Bach making an offer - try to work things out  
objection improper ? 408 sustained on 408  
Not on 408 ask to reconsider J have reconsider; the answer is the same  
DA is this a question overruled  
J time is up

Tape Counter: 2111 DA begins X 1:39  
P can have  
objection immaterial not part of C sustained  
objection not part of cross overruled  
Assumes facts not in evidence overruled  
Who owns posts and rails  
Strike hearsay and speculation overruled  
objection speculation If she knows  
irrelevant and immaterial overruled

Tape Counter: 2200 P move to strike anser be stricken  
objection best evidence J can't remember  
Discuss those issues on trip to Albuquerque  
P may have 2 ? J no

Tape Counter: 2323 DA calls W - 7  
Clerk swears in W 7  
P - object to narrative  
Sustained ask ?

Tape Counter: 2400 Purchase of home on Hwy 33  
Move to strike as non responsive sustained  
move to strike as non responsive overruled  
I was the only bidder  
Sale was in August 1997; got deed in early 98  
asked and answered

Tape Counter: 2495 filed suit  
move to strike as non responsive sustained  
move to strike as non responsive sustained  
move to strike as non responsive sustained  
move to strike as non responsive sustained  
Best evidence, hearsay overruled  
leading and suggestive sustained as to leading  
A&A overruled  
move to strike as non responsive - ssustained  
best evidence overruled

Tape Counter: 2653 Bankruptcy shows owns no property in Idaho except worthless 5 acre in Idaho  
DA - PX 6A  
Was document  
assumes facts not in evidence or established overruled  
calls for legal opinion with standing and foundation  
moved to strike exclusive jurisdiction in Federal Court overruled  
document speaks for itself overruled

Tape Counter: 2108 Names on parcels of land  
Who did TPE consist of he claimed he wanted to be the trustee of Family Trust  
objection v ague and ambiguous, possible hearsay  
earsay move to strike sustained stricken  
P witness should be directed to answer the question, not to talk to the jury  
hearsay as to what his client said, sustained

000703

Date: 06/19/2003

Seventh Judicial District - Teton County

User: PHYLLIS

Time: 10:01 PM

Minutes Report

Page 26 of 42

Case: CV-2002-0000208

John Nicholas Bach vs. Katherine Miller, etal.

Selected Items

Tape Counter: 2991 Made investigation for Jack McLean and then Kathy Miller asked Liponis Emporium Trust Account leading sustained leading overruled hearsay move to strike - don'ttell them what somebody else said hearsay sustained

Tape Counter: 3060 \$15,000 DX H wrong one DX N second page Investigation as to what Liponis Emporium Trust Move to strike sustained

Tape Counter: 3176 J - want to offer hearsay from McLean to Harris Will allow for limited purpose but not for truth P argues J - I don't write the rules of evidence; I just apply them Knew account was in existance Hearsay goes beyond the question - J I don't think there is a question pending right now

Tape Counter: 3259 DX Q f This is not an issue in this case; are we changing that tack J what is relevance DA showing the money and funds that have gone throughthat accunt P Miller claims she makes no claim to that \$15,000 irrelevant as to further, this is just when he foundout overruled

Tape Counter: 3313 DX q W ids Dawson paid \$30000 objection sustained objection irrelevant and immaterial overruled Paid \$81,000; purchase price was \$60 No payments at all from TPE TPE had paid nothings half and got one-fourth objection McLean paid \$60,000 TPE had paid nothing; saw no checks or any type of payment at all from TPE or Vasa N Bach Family Trust objectin overruled

Tape Counter: 3454 Told them to go to the bank and pull out all the money Asked McLean and Lipois to file an ction against Bach to ask for an accounting Advised McLean to go withdraw \$15,000 Saw no evidence onjection hearsay, speculationn Lack of foundation

Tape Counter: 3551 DX F missing some pages document speaks for itself overruled lack of foundation hearsay sustained on lack of foundation lack of foundation still tw missing components signature card Over rule ongrounds he has read Exhibit F Purpose was to pay taxes on porperty answer leading suggesting sustained stricken A&A sustained

000704

Date: 06/19/2003

Seventh Judicial District - Teton County

User: PHYLLIS

Time: 10:01 PM

Minutes Report

Page 27 of 42

Case: CV-2002-0000208

John Nicholas Bach vs. Katherine Miller, etal.

Selected Items

Tape Counter: 3664 What did McLean do with those funds  
foundation sustained  
leading suggestive overruled  
Created new special trust account and put in Bank in SHelley  
relevance overruled  
Is now in COurt cntrol in Teton COUnty Idaho  
irrelevant hearsay overruled  
Liponis and McLEan are suing bach to find out what happened to all the money  
non responsive sustained

Tape Counter: 3741 leading sustained  
lack of foundation calls for legal opinion sustained; you'll have to ask the Judge; he  
probably hasn't reached a decision yet

Tape Counter: 3780 Instructed them to protect themselves - to  
move to strike not form of ? calls for conclusion

Tape Counter: 3835 What was TPE, Inc  
lack of foundation sustained  
Attended court in 98-025  
Said was an asset of VNBFT  
Contacted CA no corp, etc. concluded there was no corporation  
Looked in COunties to see if Trust registered  
Concluded it had to be asset of VNBFT  
move to strike without foundation  
hearsay sustained

Tape Counter: 3923 DX L  
A&A sustained  
lack of foundation overruled  
move to strike, that wasn't the question  
WHat was the ?  
Recess 2:28

Tape Counter: 3994 reconvene 2:46  
move to strike as hearsay Witness can answer that question  
leading suggestive calls for legal conclusion overruled  
objection speculative sustained on speculation  
leading and suggestive sustained on leading  
lack of foundatin speulative susained on speculation  
leading and suggestive A&S overruled  
move to strike non responsive overruled

Tape Counter: 4264 How many times have you been sued  
move to strike as non responsive the ? was how many times  
move to strike as non responsive sustained two or three federal cases  
hearsay sustained  
based on hearsay back door attempt to get in sustaining objection  
leading will allow little more leniency

Tape Counter: 4356 Non responsive not his reasons and motivations sustain that  
Clad Blake Lyle and instructed him to get those vehicles of  
calls for legal opinion or conclusion overruled  
objection lack of foundation overruled  
She filed against him and TPE - I told her to dismiss and refile against VNBFT  
move to strike overruled

000705



Date: 06/19/2003

Seventh Judicial District - Teton County

User: PHYLLIS

Time: 10:01 PM

Minutes Report

Page 28 of 42

Case: CV-2002-0000208

John Nicholas Bach vs. Katherine Miller, etal.

Selected Items

Tape Counter: 4455 Unlawful detainer action  
move to strike as hearsay sustinaed  
leading and suggestive  
move to stirke as non responsive calling for legal conclusion  
P May have identification of that document  
DA 6B

Tape Counter: 4544 Filled any other actions against Bach or entities  
move to strike overrled  
P Excuse me; that's a mistake J You can inquire on X  
leading and suggestion and calls for legal opinion and concusion, misleads the jury  
sustained  
same objection usutained  
objection irrelevant as to the other clients sustained  
irrelevant overruled  
moved to strike as to any opinion sustained  
irrelevant overruled  
moved to strike based upon hearsay overruled

Tape Counter: 4675 Bankruptcy ended  
ojection sustained

Tape Counter: 4695 P X w -7  
move to strike as non responsive  
I will explain my answers  
SCONA Inc you own it lock stock and barrell no  
Registered agent  
Beyond scope overruled

Tape Counter: 4824 How many years been buying distresses properties  
Do you check the bankruptcy sales of state - sometime  
asked and answered it is  
Whose money did you use to buy property  
objection overruled  
move to strike as non responsive stricken  
Usig SCONA to hide true buyer

Tape Counter: 4960 Tape from AG on \$15,000  
Did you seek to tape a deposition of John Bach  
move to strike as non responsive stricken  
Read a deposition taken of you  
read you deposition in the Harris case  
Objection Sustained  
Move to strike as non responsive stricken

Tape Counter: 5084 J answer yes, no or I don't remember or I don't know  
relevance compound ? sustained on compound  
You walked out when tried to take the deposition of Miller  
move to strike as non responsive sustained

Tape Counter: 5238 P requests all of 13 series  
8.5 acres  
when he owed you no money and SCONA no money  
Ask for file of 98-o25 know that is blatant falsehood  
J is it one of the exhibits J not going to take recess  
J planning on being done with mr. Harris today

000706

Date: 06/19/2003

Seventh Judicial District - Teton County

User: PHYLLIS

Time: 10:01 PM

Minutes Report

Page 29 of 42

Case: CV-2002-0000208

John Nicholas Bach vs. Katherine Miller, etal.

Selected Items

Tape Counter: 5376 PX 13(2) 13(3)  
Remind the court I offered it at one time; there was an objection of hearsay  
Offers  
DA objects foundation sustained on foundation  
DA will stipulate to admissio of 13-2' passed to jury ADMITTED

Tape Counter: 5492 PX 13(4) You've alrady put in the title of a case  
13(5) this isn't the sale  
Sale was inside the foyer  
move to strike as non responsive stricken  
misstates testimony A&A overruled  
move to strike as non responsive sustained  
move to strike

Tape Counter: 5676 You knew there was a bankruptcy file didn't know anything about it  
move to strike as nonresponsive - disregard  
remember Judge saying  
DA is P testifying to earsay sustained  
sameobjection if calling for what Judge Wood said  
move to strike sustained  
move to strike sustained

Tape Counter: 5850 DA going to start objecting on relevancy  
Why are we litigating a fedaal bankruptcy case  
PX 30

Tape Counter: 6134 Beyond scope  
Da objects  
you are in default  
DA beyond scope  
Filed answer 2 hours after default entered  
DA objects  
(I'm not sure what went on here)  
J overruling Mr. Woelk's objection  
P still have opportunity to withdraw the question

Tape Counter: 6246 Defaults on this case  
Defaults won't stand  
Nodamages to you because you don't own anything and don't have anything  
Move to strike as non responsive stricken

Tape Counter: 6341 Why did you not go through with the quite title action  
Compound question overruled  
We force you to file this suit so we cold find out what you're claiming  
J goingt o deny motion  
request answer be stricken  
As court to maintian cntroland decorum of courtroom  
No harm since he's already said it before

Tape Counter: 6440 PX 26 B 2  
J will be recessing at 4:00 need to save some time for Woelk  
GOing to be limited again - better get started  
move to strike as non responsive  
Bankruptcy stay in effect  
move to strike as non responsive  
move to strike as non responsive stricken

000707

Date: 06/19/2003

**Seventh Judicial District - Teton County**

User: PHYLLIS

Time: 10:01 PM

Minutes Report

Page 30 of 42

Case: CV-2002-0000208

John Nicholas Bach vs. Katherine Miller, etal.

Selected Items

Tape Counter: 6856

PX 22 H  
calls for legal conclusionn sustained  
Move to strike last answer stricken  
PX 23 B PX 23 C marked  
Da going to object  
Crimianl action only to place n this county  
Objectin relevance beyond the cope overruled  
objection hearsay  
Tape 16 ends 7421

Tape Counter: 1

Tape 18 ends  
I was never at the criminal proceedings  
Bragged about almost came up with Bach's property  
Objection compound  
That's the end of cross

Tape Counter: 60

DA begins redirect  
objection never went in to overruled  
objection irrelevant don't think he said anything about that on cross  
Why filed as TPE  
objection read into the record best evidence  
DA used for impeachment goes to Harris state of mind and Bach's cross

Tape Counter: 122

Did you try to take Bachs deposition  
he refused to said Kathy didn't give hers so he wasn't going to do one  
Why stopped her  
All he wanted to know was who she was sleeping with  
objection overruled

Tape Counter: 173

P want three minutes  
J what gong in to McLean  
J think that has been beat to death  
J have already ruled on that  
Jury is admonished  
Recess 4:00

Tape Counter: 200

Wednesday June 18  
reconvene 8:04  
J recalls case  
P object to calling of any expert witnesses  
Ken Rissotti  
John Letham  
Object to any of these witnesses being called at this time  
The disclosure that was made, late, was only for Ken Rissotti not for any member of his firm  
Will just take an inordinate amount of time

Tape Counter: 271

Da responds  
Rissotti and Company  
Conformed with all of these court orders  
Bach has had notice since March 2003  
Bach - I hear no response to the untimeliness  
admits it was a shotgun approach to Rissotti

Tape Counter: 330

Da Eighth Order on Pending Motions  
P that was only for me  
DA Letham is also on Bach's witness list  
Never listed Letham as an expert  
DA - P has never requested to take that person's deposition  
P cut off date is a cut off date

000708

Date: 06/19/2003

Seventh Judicial District - Teton County

User: PHYLLIS

Time: 10:01 PM

Minutes Report

Page 31 of 42

Case: CV-2002-0000208

John Nicholas Bach vs. Katherine Miller, etal.

Selected Items

Tape Counter: 408

J - Think is a matter that comes within the Court's discretion  
Disclosure deadlines is a routine matter  
Purpose is so parties can take depositions to prepare for trial and can line up there own witnesses  
Usually have P go first and then d a month later and then usually P will want to add others  
Generally allow late disclosure of expertts as long as there is enough time for the opposing party to get ready for trial  
Deadline was extended for the P; then D can add depending on whom the P added  
P - didn't add any witnesses  
J - is 2 1/2 months enough time to get ready  
Appraiser was company not a person  
Had Rissotti's deposition been taken, would not allow substitution, but where Bach has not talked to appraiser nor done anything to prepare for an appraiser  
THink Letham was available for Bach to talk to

Tape Counter: 545

P - put order on us that all documents be marked with this court; have not seen  
J - what if he hadn't prepared a report  
P that's not the gamesmanship of the rules of discovery  
Da - no requirement that I have a report  
Da - P called Travis Thompson certainly is not an expert  
P there was no objection to Travis  
J her was not qualified as an appraiser; totally unqualified as an appraiser; most of what he said was irrelevant

Tape Counter: 700

J - what is Letham going to testify about  
DA - hay evaluation  
J will let Letham testify  
Will allow Burgess because think he is member of Rissottia and Co and don't see how Bach will be prejudiced because he didn't take any discovery

Tape Counter: 745

Jury is recalled 8:23  
All jurors are present  
DA calls W - 8 Richard Berges  
Clerk swear in W - 8 Alta  
P objects lack of foundation and qualifications would like to Voir Dire  
Da - object think has become cross  
Object to lack of qualifications overruled

Tape Counter: 1076

Da continues  
move to strike til those are identified the plats are presented, hearsay until then  
J - don't think foundation has been laid  
Ask answer be stricken stricken  
P would like to have this entire document to be entered as an exhibit  
DA - W is simply using to refresh recollection  
DA - what use is document  
Do you object to having it marked as an exhibit no  
P this document is totally inadequate overruled  
P object This does not supply the foundation overruled  
objection hearsay overruled  
Move to strike if he doesn't know that, he doesn't know the answer stricken  
objection A&A overruled  
move to strike - calls for opinion and conclusion without foundation overruled  
object sustained no evidence of what 87 acres he looked at  
objection hearsay not in evidence still lack of foundation overruled  
move to strike as calling for legal opinion sustained

000709

Date: 06/19/2003

Seventh Judicial District - Teton County

User: PHYLLIS

Time: 10:01 PM

Minutes Report

Page 32 of 42

Case: CV-2002-0000208

John Nicholas Bach vs. Katherine Miller, etal.

Selected Items

Tape Counter: 1500 lack of foundatoin, suggestive calling for legal opinion overruled  
leading and suggestive overruled  
irrelevant lack of foundation May I voir dore  
lack of founatin move to strike or preclude any testimony  
J will have to wait and see what question is before I can rule on an y objection  
leading sustained  
irrelevant and immaterial overruled  
A&A sustained  
A&A misstateshis testimony leading sustained  
lack of foundatin overruled  
move to strike as lack of qualification overruled  
move to strike this entire testimony  
lack of foundation, irrelevant all of this is improper foundation  
Da responds certainly qualified

Tape Counter: 1718 Adequate foundation to give an opinion of the 86.3 acre of the entire parcel overruled  
Most of the objection goes to weight and can be covered on X  
no adequate foundation ofor W to give opinion as to the east 40 and west 40

Tape Counter: 1762 P begins X  
objection personal knowledge overruled  
Who gave you permission to go on the easterly portion of the property  
You ignored the improvements on the first 40 acres  
objectin relevance and beyond the scope overruled

Tape Counter: 1980 DA redirects  
objection lack improper redirect  
Would like exhibit returned to Mr. Burgess  
Clerk will make a copy of the exhibit for the record and will return the original to Mr.  
Burges

Tape Counter: 2030 Da will rest  
J as well as on counterclaim

Tape Counter: 2044 DB goven as there is no evidence at all against me , will rest.  
Will leave for jury to decide

Tape Counter: 2063 P Under Rule 50 A, have written motion  
Jury is excused 9:04  
P - 8 page motion  
J - is this origianl for court file  
Make motion under Rule 50 A but also ask court to ruling determination quieting title  
Also make motion as to Ms. Broughton in all regards  
Cannot relegate to jury quiet title and equity  
No evidence to deny or dispute the legitimacy of the strip bing coowned; was joint  
venture; nothing  
as to 40 ebing owned wholly by Bach is without question  
Don't believe this is a jury question  
Court must consider what was heard at the August 13 and 15 hearings

Tape Counter: 2519 DA two issues  
objeccto to motion for directed verdict other issues of ownership are at issue  
been evidence presented  
federal action consisted of civil rights violation  
no compulsory cunterclaim  
staute of limitations

Tape Counter: 2616 DB - obviously so not involved that P doesn't even remember to give me my time

Tape Counter: 2634 P - rebuttal  
J - does Idaho recognize recoupment

000710

Date: 06/19/2003

Seventh Judicial District - Teton County

User: PHYLLIS

Time: 10:01 PM

Minutes Report

Page 33 of 42

Case: CV-2002-0000208

John Nicholas Bach vs. Katherine Miller, etal.

Selected Items

Tape Counter: 2773 J has anyone moved to reopen bankruptcy  
Didn't the debtor move to reopen the bankruptcy case  
P that wasn't the case  
J they haven' here either

Tape Counter: 2900 P what we come down to is a matter of policy and even judicial temprament

Tape Counter: 2939 J - will reerve ruling

Tape Counter: 2949 DA plead constructive fraud  
move to conform title  
P object

Tape Counter: 3023 J well pleaded motin in counter claim title given does not make any difference going to  
deny motion  
Da don't think does either  
recess 10:35

Tape Counter: 3066 Jury is recalled 9:43  
J explains rebuttal

Tape Counter: 3112 P recalls himself  
Have Exhibit list and transcript of Case CV 98-025 and have a plat  
DA never seen transcript or exhibit; have never been notified  
object to his use of transcript J will have to see what purpose is

Tape Counter: 3185 P begins  
Repeat 4 things  
1. her efforts at reconciliation in 1997; continuing intimate relationship  
objectin relevance this has already been subject to cross  
P requests PX 41  
relevance hos is this rebuttal sustained  
same objectin sustained

Tape Counter: 3506 objection have already been through this testimony sustained  
same bjectin relevance overruled  
relevance we have already been through this sustained  
Same objectin overruled  
relevance overruled  
relevance overruled

Tape Counter: 3644 Did do a number of para legal things for her  
D requests PX 4  
Da objects to any further testimony as to Montenegrin issues sustained  
same objection sustained  
Offers PX 4 hearsay , relevance, lack of foundation

Tape Counter: 3788 J - P 4 will be ADMITTED  
offer 13 (2) both parties object ADMITTED

Tape Counter: 4033 P requests case file CV 98-025  
DA objects testifying from document sustaned best evidence  
objectin hearsay best evidence sustained hearsay  
objectin hearsay best evidence sustained best evidence  
same objection sustained  
same objectoin overruled  
same objectin sustained best evidence  
P offers whole file J not going to have a court file marked as an exhibit n another

000711

Date: 06/19/2003

Seventh Judicial District - Teton County

User: PHYLLIS

Time: 10:01 PM

Minutes Report

Page 34 of 42

Case: CV-2002-0000208

John Nicholas Bach vs. Katherine Miller, etal.

Selected Items

Tape Counter: 4258 ask paragraph 5 be marked as next exhibit parens A 5 pages  
DA all these arguments relate to the sale of the 1 acre and 8 acre have been tried by the federal courts  
J - think the elements or valid for impeachment against Harris  
Am gong to ADMIT  
DA gong to have objection to these two  
P is trustess  
J am sustaining objection

Tape Counter: 4585 Caption of verified complaint; third page; third page of Amended verified complaint and Three page Quit Claim Deed  
Those will be taken out of the official court record in case CV 98-025

Tape Counter: 4692 P continues  
several hearings before Judge Wood  
DA bjectin hearsay sustained; jury will disregard

Tape Counter: 4942 P requests PX 6(B)  
CV 01-205  
objection hearsay sustained  
objectin hearsay sustained  
Offer PX 6(B0 Sustained

Tape Counter: 5063 P request PX 66  
DA have already testified to  
J will allow a little latitude  
objection exhibits speak for themselves sustained  
same objection overruled

Tape Counter: 5222 DB has no X  
Da begins X  
P wants to reopen  
Like to have marked Chart summarizing testimonies  
hearsay self serving and no foundation  
J admitted for limited purpose of illustrative purpose; no other purpose

Tape Counter: 5335 DA requests PX GGG  
P objects Never brought that up overruled  
objection A&A improper X overruled  
P that is public opinion not to be cited  
Federal COurt denied your request that the sale of your house been overturned  
Stated consistently placedon the record that TPE was you

Tape Counter: 5555 DA refers to DX GGG transcript of CV 98-025  
Page 17 line 11  
move to strike, incorrect  
Requests PX 6A

Tape Counter: 5666 All TPE entities are your sole proprietorship  
Noever provided for in discovery until 2 days before trial  
Never filed in other state or federal actions

Tape Counter: 5760 \$15,000 is held in this court  
objectin I never brought that up sustained

Tape Counter: 5800 P redirect  
P requests PX 6  
DA beyond scope; if it's been admitted it speaks for itself J ok  
Requests PX 5  
DA - beyond scope, speaks for itself J they're in

000712

Date: 06/19/2003

Seventh Judicial District - Teton County

User: PHYLLIS

Time: 10:01 PM

Minutes Report

Page 35 of 42

Case: CV-2002-0000208

John Nicholas Bach vs. Katherine Miller, etal.

Selected Items

Tape Counter: 6078 J ? from jury  
P no objection  
J reads are there any records to prove you borrowed \$60,000 from your sister or had a  
They were considered but never came in  
DA objection hearsay sustained  
DA other objection sustained

Tape Counter: 6274 Da one ?  
objection irrelevant overruled  
objection irrelevant overruled  
DA objects misstatement of the law durtained  
P I want to answer it J can file supporting Briefs with the court

Tape Counter: 6373 P rests  
DA rests  
DB no counterclaim  
Jury is released until 1:30  
Jury is admonished  
excused 11:01  
J - under new rule, jury is entitled to their own set of instructions  
Tape 17 ends 6726

Tape Counter: 1 reconvene 1:19  
Tape 18  
J recalls case  
J reviews jury instructions 14D

Tape Counter: 123 P objections to Instruction 1-33  
Do in ommissions  
No instruction as to Statute of Limitations  
Objections to what have prepared - Abuse of Legal Process  
malicious Prosecution  
Don't mean to overlook settlement Instruction

Tape Counter: 273 Da problematic instruction  
Instruction 15 Frad by omissins needs to be included on both instructions

Tape Counter: 409 DB has no objections

Tape Counter: 410 P Ask be deleted wherever it is found  
J thinks that is an accurate statement of defense  
Won't be giving mandatory counterclaim

Tape Counter: 580 J good appeal issue  
P sequester the \$15,000  
Other instructions on misappropriation of porperty  
J objection to dmage instr on the claims #24  
Think I am giving the benefit of the doubt on that

Tape Counter: 650 Mental pain and cuffering  
Think msut have evidence in writing - think is jury issue

Tape Counter: 725 To Mr. woelks issues  
Think is case of active fraud, not constructive  
Will not make changes to 15 and 22  
DA - don't think jury is adequately instructed  
P - not only is it non-sensical, it is absolutely untrue  
There is no issue of fraud in this lawsuit by John N. Bach

000713



Date: 06/19/2003

Seventh Judicial District - Teton County

User: PHYLLIS

Time: 10:01 PM

Minutes Report

Page 36 of 42

Case: CV-2002-0000208

John Nicholas Bach vs. Katherine Miller, etal.

Selected Items

Tape Counter: 894 J back to conspiracy - don't think any evidence that jury could find conspiracy  
Will not be giving No 1  
Won't for the same reason give No. 2  
Going to reject P's no. 3 but have looked at Dennett vs kuenzli 130 Idaho 21  
Going to give an instruction regarding trust  
DA only partially object; jury needs to be properly instructed as to what Idaho Trust Act  
require

Tape Counter: 1180 P  
- my objection is very clear legaally formed California Trust  
If we're going to waste the time, them I waive the jury and want to go on the record  
before your honor because the jury is not going to be correctly instructed  
J we have spent 8 days before a jury  
P I certqainly can waive a jury trial and I do

Tape Counter: 1287 Jury going to add as 14 E  
P add one sentence

Tape Counter: 1360 J Bach no 4 don't think accurate statement of Idaho Law and am not going to give it  
Same reasoning for no. 5  
No. 6 is on estoppel - don't think all the elements of estoppel have been established  
enough  
P - not even as to quasi estoppel

Tape Counter: 1410 Supplemental # 1 - think 21  
Da - think jury should be instructed that reliance upon your attorney is a defense  
Think 2 is reastatement of smae thing DA - no 2 is slander  
P there is no basis for reliance on attorney

Tape Counter: 1560 Da Instructin No. 2 should say  
Am going to cover 2 by adding to 17B. change end of 1st period to semicolon and add:  
Reject #3  
DA argues -

Tape Counter: 1853 Will create Inst. 14E paraphrasing Dennet case  
Add clause to 17 B and 28 A  
DA - last instruction

Tape Counter: 1957 Could do a 14 f  
P dpn't think either one of those should be given  
DA two other small issues  
P argues

Tape Counter: 2343 J for reasons stated don't think I will be giving instruction of nuisance  
DA - Instr. 29 plead as affirmative defense  
Forcible detainer  
One problem with 25  
J not going to give forcible setainer; not gong to give unjust enrichment  
j GOING TO LEAVE IT THE WAY IT IS

Tape Counter: 2623 J going to inset names of agents  
Then continues on  
Da concern is don'tthink jru has beenspecifically informed enough  
P object is misstatement of law  
There is adequate relief  
J can't guarantee the jury is going to understand all this  
That's my answer to the issue you have raised

Tape Counter: 2779 DB - that affects me  
Never went on real property

000714

Date: 06/19/2003

Seventh Judicial District - Teton County

User: PHYLLIS

Time: 10:01 PM

Minutes Report

Page 37 of 42

Case: CV-2002-0000208

John Nicholas Bach vs. Katherine Miller, etal.

Selected Items

Tape Counter: 2724 DA one - Did Miller traspas on Bach's real property  
If you anser yes, did the damage in a manner in which Miller was attempting to abate  
damage  
J depends on wether should be nuisance

Tape Counter: 2790 J about half hour to read rest of instruction  
hour and half to Back for closing  
hour and half to Woelk  
15 minutes to Broughton

Tape Counter: 2838 P don't want to lose time on exhibits - want to ha ve complete freedom and unrestraint to  
pull out and use at my freedom  
Time frames are okay  
J - no problem with having those on the witness stand  
Will put on card table

Tape Counter: 2929 Question from Juror rest fire department report  
Did make ruling that fire was separate tort and wold ha ve to be pleaded in separate action  
Will answer just before give instruction  
P - rather they be told  
DA ask for limiting instruction telling then that is not an issue in this case  
P - but Knight heard conversation

Tape Counter: 3025 DB Defer to woelk  
DA - then certianly would have made arguement that Bach set the fire  
J just tring to protect you  
P - just think I am very capable of defending myself  
Not going into loss  
Recess2:49

Tape Counter: 3167 Reconvene 8:00  
Thursday June 19  
J have revamped special verdict form  
P - have terrific problem; think is prejudicial; have specifically said quiet title  
First question is correct. Miller has not sought quiet title  
Now you have put in something that was not even metioned; she only wanted \$127,000.  
11th hour switcheroo. If the court advocates that as thier function, then this trial has  
been a total waste of time

Tape Counter: 3310 DA - have no objection; this it is entirely appropriate. Certainly did plead for quiet title  
J is quite clear that counterclaim pled for quiet title  
P - or; it can't be both  
P - gives the jury the impression that it is binding  
DA - they do need to decide  
J going to give revised special verdict but will tell them it is the court's decision as to the  
property but that it is advisory

Tape Counter: 3510 Jury is recalled 8:23  
stipulated all jurors are present  
NOte from juror question about fire of barn  
Evidence is in; any property damages are not part of this particular law suit  
J will start with 14 B  
Explains process for choosing alternate

000715

Date: 06/19/2003

**Seventh Judicial District - Teton County**

User: PHYLLIS

Time: 10:01 PM

Minutes Report

Page 38 of 42

Case: CV-2002-0000208

John Nicholas Bach vs. Katherine Miller, etal.

Selected Items

Tape Counter: 3689

J reads jury instructions  
Special verdict 8 pages long  
Reads page 1,  
Explains quieting title - Judge has to decide, not jury. Judge is entitled to get advisory decision  
One each line have three possible answers A. John Bach B. Katherine or C. Both  
Your decision on damages is final and binding; not advisory  
36 questions and answer blanks

Tape Counter: 1

Tape 19  
P begins closing 9:23  
Only need to prove my case by preponderance of the evidence barely 51%  
Miller must prove by clear and convincing evidence 75-80%  
Da objects - misstatement of the law  
Woelk asked where was my family; where were all Woelk's witness  
Who owned all of those four parcels - John N Bach  
damages of \$1,500,000 - 2,000,000  
Can use statements from First Amended Complaint PX 21  
Also Vasa N. Bach Family Trust

Tape Counter: 163

Trust document is very flexible document  
Not required to give you certainty  
Circumstantial evidence is sufficient to carry the day  
Federal lawsuits - see still pending actions but that's not for you to consider

Tape Counter: 420

Miller perpetual victim  
Celebrate the opportunity to resolve this  
7 lawsuits filed by Miller  
Goon's Gang and Crazy Posse  
Deception, crimes  
Unlawful detainer was dismissed with prejudice  
Evil is existent; is perpetuating

Tape Counter: 500

"Competent" attorney  
Miller has limited all her agents  
She gave her interest and claims away  
I became her worker since Octo 1997 to present date

Tape Counter: 660

Not all the jury instructions apply  
Da objects  
J have told them they have to follow the instructions  
Miller cannot accept the fact that she has to follow through with her commitment

Tape Counter: 816

Berges was pathetic  
Lawsuit is really all about?  
Geneo Knight's testimony about 38 - has that been refuted

Tape Counter: 996

Did Broughton take the stand  
Asking for sympathy and passion  
If want to show Teton County has joined the 21st century, must give verdict to John Bach

Tape Counter: 1096

I don't need any written documentation  
She failed to file a mandatory written counterclaim  
If you're going to tell a lie, you might as well tell a whopper  
No claim by Dawson, no claim by Miller

Tape Counter: 1300

Damages \$15,000  
Another \$15,000  
House on Hwy 33 at rental value of \$1000/mo

000716

Date: 06/19/2003

Seventh Judicial District - Teton County

User: PHYLLIS

Time: 10:01 PM

Minutes Report

Page 39 of 42

Case: CV-2002-0000208

John Nicholas Bach vs. Katherine Miller, etal.

Selected Items

Tape Counter: 1380 Miller came in from back access  
Why has she continually gotten the restraining order  
Value at \$40,000 (\$10,000/acre)  
Showed had been 5 raids - costs to repair after raids was \$10,000  
value \$60,000, \$11,00 - \$71,000 from damage to vehicles  
Expected \$3,000 from Bill and Jill Jackson - could not go to shows \$72,000  
After all of this - other people said they didn't want to deal with me

Tape Counter: 1550 I have gone on with my life; tell Miller to do the same  
Aound \$250,000 damages  
Record of that kind of income  
\$100/hour 52 weeks/year for 3 years  
Loss of freed om of time and enjoyment va;ue of that \$10,000  
general damages 1st sleep, humiliation, embarrassment

Tape Counter: 1680 Qustion No 1  
You know I own that strip; you know I own the first 40 acres  
Let her get on with her life and I'll pay her  
Answers should be yes and damages should start out at a minimum of a million five  
Recess10:17

Tape Counter: 1768 Reconvene 10:34  
Jury is recalled  
DA begins closing 10:34  
Rules are somewhat changed when face Bach  
Not bound by eithical challenges, not bound by professional ethics  
Will County prosecute  
J jury will decide what witnesses to beleive; how much weight to give closing

Tape Counter: 1906 Have you seen any "raw" testimony  
Witness list - listed 30 or 40 individuals  
Move to strike improper overruled  
Bank loans - have we seen any officers

Tape Counter: 1948 In openeing he said damages were \$2 1/2 million  
Agents - why would I call them  
Do you feel comfortable taking MR. Bach's word for it  
Didn't have to declare any Idaho properties on bankruptcy  
Shed going to become sportsman's lodge  
Could sign away all of McLean's properties

Tape Counter: 2054 DX E - you have my principal's \$110,00 know Kathy's money  
TPE is an Inc  
1995 - no exhibit Harrop lawsuit - I told those Judges TPE was me, unformed corp  
DXKKK - 3-16-96 Page 11

Tape Counter: 2210 4-8-96 Deposition taken TPE is California or Nevada Corp  
Said Katherine Miller's money  
QQ, SS  
All I own is worthless rabbit patch in Atomic City  
Page 14 X SS  
Ex 6 6A - going to show why he drafted just three days before trial  
TPE is trust  
If all this property his, why isn't he just signing the stuff as his

Tape Counter: 2535 DX DD - no right to go on easment strips

000717

Date: 06/19/2003

Seventh Judicial District - Teton County

User: PHYLLIS

Time: 10:01 PM

Minutes Report

Page 40 of 42

Case: CV-2002-0000208

John Nicholas Bach vs. Katherine Miller, etal.

Selected Items

Tape Counter: 2690 Why is this case different  
If he is acting as an agent, the people he is representing is us. We have to be TPE; we are the only ones who have paid any money  
Everything he does is with an eye to the future  
Homer's is memo to himself

Tape Counter: 2924 PX 6A

Tape Counter: 3119 Jury instructions  
If there's not a document saying that we entered into an agreement, Kathy wins  
17, 21, 21A  
Instruction 25 Paragraph 10  
Benefit not received is westerly 40 acres  
Copy of Verified Complaint  
Had she know about the fraud committed on her, she would have included it in that  
cuase of action  
Look at the letters  
Settlement agreement is nothing if being induce be fraud

Tape Counter: 3541 P objects request be stricken  
J - not going to rule on it; the jury can read the instructions  
PX II

Tape Counter: 3617 Cash or certified checks - was that so there was no money trail  
He keeps copies of all letters; he doesn't keep a copy of receipts?  
How good his memory is - he thinks that legitimizes his claims  
Where are all the witnesses to testify to these facts

Tape Counter: 3730 PX 21 - document brought causes of actions against all these other people  
Think about having to attempt to respond to it  
PX 29A  
Who's the one who has the problem with ethnicity and religion

Tape Counter: 3857 Look at modus operandi  
look at lies to Kurt Taylor  
Secured 80 acres at price for 160; tied up for 2 1/2 years  
Msirepresentations aall the way through

Tape Counter: 3926 DB closes 11:32  
There is no evidence against me of any kind  
I have done nothing wrong  
Don't have time to do these things that Bach invents for me  
I avoid him like the plague  
Bch does not like her to have friends  
You can be sure that sooner or later, you will be sued  
How many more juries are going to have to sit here because of his delusions and his  
obsessions

Tape Counter: 4045 Bach has been a serious problem for a lot of people  
Can litigate whomever he wants when ever he wants  
Whines that the worl is against him  
Expensive court actions  
Complains people talk in a bad way about him while continually provoking him with his lies

Tape Counter: 4144 P objects closing argument is not evidence  
Evidence was from witness stand and exhibits  
J will have to sustain  
Miller has sought every leal means at her disposal to peacefully end this  
Can see her house with his spotting scope  
Watches her house  
Drives by

000718

Date: 06/19/2003

Seventh Judicial District - Teton County

User: PHYLLIS

Time: 10:01 PM

Minutes Report

Page 41 of 42

Case: CV-2002-0000208

John Nicholas Bach vs. Katherine Miller, etal.

Selected Items

Tape Counter: 4264 How many other men and women will there be who have also been his victims  
Bewildered by complicated documents and legal terms  
Conversations more interesting in California  
Can;t figure out how a man who paid nothing for this land can claim to own it  
USed to think was only about Kathy but now think Bach g=here to raise his confidence  
games  
Stop the victimization

Tape Counter: 4366 P begins rebuttal 11:42  
Woelk has mislead you - I do't have to provide a written document  
That cofirmed that I was the original owner of all thos acres  
Broughton's only crme is that she refuses to think for her self  
To use Broughton is despicable

Tape Counter: 4840 Where was I October 1 In Winemucaa 6:25 am

Tape Counter: 5446 Borrowed money from my family to make down payment  
no Fiduciary duties to Miller  
Let me take care of those 86 acres and I will pay Ms. Miller

Tape Counter: 5868 DA rebuts  
Bailiff gathers up exhibits  
P - tv and video to replay J if they ask for one

Tape Counter: 6046 Clerk swears in Bailiff  
J excuses Susan Karichner  
Jury is excused 12:20

Tape Counter: 6115 Note from juror Can jurors be sued based on verdicts for participation at trials  
P want to know who is  
DA - thought jurors had immunity  
DB I wouldn't be suing anybody  
P concerned with frame of mind of juror - think court should voir dire  
May be that alternate should not be allowed to go home  
J - not going to voir dire the jury  
P my suggested answer is to voir dire the jury  
That juror must declare what their frame of mind is

Tape Counter: 6288 J - going to sign bottom of note jurors have immunity

Tape Counter: 6310 Juror wants quick break Yes  
J - answer is yes  
DA poropose baif supervise

Tape Counter: 6362 Note - are we protected from lawsuit  
P think jury iscompletely tainted  
Renew motion for misstrial and improper selection of the jury  
Answer same as the first on e

Tape Counter: 6464 Motion for mistrial want ruling  
third ruling - can move into courtroom

Tape Counter: 6557 DA response -  
It was P who initially informed the jurprs that there were 20 some witnesses to be called  
When they see on an amnded complaint that there have been 20 some people sued,  
certainly they would be concerned

Tape Counter: 6616 LDS people want me driven out of this county  
Not going to get a fair trial in this county  
THis entire jury has been tainted from the beginning  
To have the jury go in and have that kind of thinking  
DB - shows the integrity of they jury that they ask

000719

Date: 06/19/2003

Seventh Judicial District - Teton County

User: PHYLLIS

Time: 10:01 PM

Minutes Report

Page 42 of 42

Case: CV-2002-0000208

John Nicholas Bach vs. Katherine Miller, etal.

Selected Items

Tape Counter: 6722

J - topic of multiple lawsuit was mentioned in Bachs opening presentation of his case.  
From that point forward, there has been mention of multiple lawsuits  
Comments on all evidence that has been coming in  
Is logical question for juror to ask  
Think the fact that they are asking the question shows that they are unbiased  
Do not intend to Voir Dire the jury  
All parties requested the jury trial  
Then at the end, P wanted to waive the jury but D would not agree  
Mistrial will be denied.  
Recess 12:33

Tape Counter: 6851

reconvene 7:18  
Jury is out; all parties are present  
J reads question from juror  
P think are looking for direction as to where in the evidence that is; that is a problem with  
the jury instruction  
DA actual amount paid minus the value of the property  
J that would be a comment on the evidence  
DA - do your best to interpret that question as you can  
J I cannot comment on the evidence in this case. Hypothetically if a consumer bout a  
vehicle...  
P - think is going to compound  
No objection to answer" I cannot comment on the evidence/"

Tape Counter: 7293

Reconvene 8:29  
Tape 20  
J recalls case ; id's those present  
Parties stipulate that 12 members of the jury are present  
Jurors we have reached a verdict  
Clerk reads verdict form

Tape Counter: 196

J is that your verdict yes  
P wants jury polled  
All jurors answered yes  
J - verdict is regular; unanimous  
J reads parting instructions

Tape Counter: 260

J thanks jury

Tape Counter: 299

P wants to stay on record  
P wants judgment notwithstanding the verdict  
J - think you have 14 days to file your record in writing  
J will have to call Marlene

Tape Counter: 335

P want preliminary injunction to remain in full force and effect  
J still have to reach my decision on the quiet title

000720

FILED  
12.05  
JUN 25 2003  
TETON CO.  
MAGISTRATE COURT

HOPKINS RODEN CROCKETT  
HANSEN & HOOPES, PLLC  
David H. Shipman, ISBN 4130  
Barton J. Birch, ISBN 6426  
428 Park Avenue  
P.O. Box 51219  
Idaho Falls, Idaho 83405-1219  
Telephone: 208-523-4445  
Attorneys for Defendant Earl Hamblin

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

JOHN N. BACH,

Plaintiff/Counterclaim Defendant,

vs.

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

Defendants/Counterclaimants

Case No. CV-02-208

DEFENDANT EARL HAMBLIN'S  
ANSWER TO PLAINTIFF'S FIRST  
AMENDED COMPLAINT

FEE CATEGORY: I.1.b

FEE: \$14.00

COMES NOW, the Defendant, Earl Hamblin, by and through his attorneys  
of record, the law firm of HOPKINS RODEN CROCKETT HANSEN & HOOPES, PLLC, and in  
response to Plaintiff's Verified First Amended Complaint admits, denies, and answers as  
follows:

DEFENDANT EARL HAMBLIN'S ANSWER TO PLAINTIFF'S FIRST AMENDED  
COMPLAINT - 1

000721



## FIRST DEFENSE

Plaintiff's Verified First Amended Complaint fails to state a cause of action upon which relief can be granted.

## SECOND DEFENSE

The Defendant denies each and every allegation contained in Plaintiff's First Amended Complaint unless specifically admitted herein.

1. Defendant lacks sufficient knowledge to either admit or deny the averments of paragraph 1; and, therefore, denies the same.
2. Defendant denies the allegations of paragraph 2 to the extent they apply to him. Defendant Earl Hamblin has never acted or conspired to act in any manner to destroy, damage, injure, harm, or to inflict losses upon Plaintiff, his health, person, his properties, investments, holdings, and business pursuits. Defendant lacks sufficient knowledge to admit or deny the remaining allegations of paragraph 2 to the extent they apply to all other defendants.
3. Defendant did not locate a "paragraph 3" in the First Amended Complaint; and, therefore, denies any allegations deemed to be paragraph 3.
4. Defendant denies the allegations of paragraph 4.
5. Defendant denies the allegations of the first "paragraph 5" of the First Amended Complaint, and lacks sufficient knowledge to either admit or deny the averments and allegations contained in the second "paragraph 5" and any subparts; and, therefore, denies the same. Further answering, Defendant Earl Hamblin asserts that he

has done nothing improper with regard to any properties that Plaintiff John Bach claims an ownership interest in.

6. Defendant lacks the knowledge to admit or deny the allegations made against other defendants contained in paragraph 6, but denies the allegations of paragraph 6 to the extent they may apply to him.

7. Defendant lacks the knowledge to admit or deny the allegations made against other defendants contained in paragraph 7, but denies the allegations of paragraph 7 to the extent they may apply to him.

8. Defendant lacks the knowledge to admit or deny the allegations made against other defendants contained in paragraph 8 including all subparts, but denies the allegations of paragraph 8 and all subparts to the extent they may apply to him.

9. Defendant lacks the knowledge to admit or deny the allegations made against other defendants contained in paragraph 9, but denies the allegations of paragraph 9 to the extent they may apply to him.

10. Defendant Earl Hamblin admits that he owns real property on the northern boundary of property that the Plaintiff John Bach claims an ownership interest in, but he denies all other allegations contained in paragraph 10. Further answering, Defendant Earl Hamblin has not destroyed or relocated any fence sections, he has not intruded on Plaintiff's property; or rerouted or diverted any irrigation canals or ditches, nor has he misappropriated any water. Defendant Earl Hamblin has not harassed, intimidated, or stalked the Plaintiff or his live-in mate, nor has he allowed anyone to use

his property to surveil the Plaintiff. Defendant Earl Hamblin has not participated in any raids, trespasses, or destruction of Plaintiff's claimed property.

11. Defendant did not locate a "paragraph 11" in the First Amended Complaint; and, therefore, denies any allegations deemed to be paragraph 11.

12. Defendant lacks the knowledge to admit or deny the allegations made against other defendants contained in paragraph 12, but denies the allegations of paragraph 12 to the extent they may apply to him.

13. Defendant lacks the knowledge to admit or deny the allegations made against other defendants contained in paragraph 13, but denies the allegations of paragraph 13 to the extent they may apply to him.

14. Defendant lacks the knowledge to admit or deny the allegations made against other defendants contained in paragraph 14, but denies the allegations of paragraph 14 to the extent they may apply to him.

15. Defendant realleges his previous responses to each allegation contained in paragraphs 1 through 14 of Plaintiff's First Amended Complaint and incorporates the same herein as though fully set forth.

16. Defendant objects to Plaintiff's request for an injunction and the quieting of title to all property and water rights described in "Exhibit 1" and denies or contests that Plaintiff is entitled to any relief including injunctive relief, monetary relief, or restraining orders. Defendant denies and objects to all allegations and requests contained in paragraph 16.

17. Defendant objects to Plaintiff's request for an injunction and the quieting of title to all property and water rights and denies or contests that Plaintiff is entitled to any relief including injunctive relief, monetary relief, or restraining orders. Defendant denies and objects to all allegations and requests contained in paragraph 17.

18. Defendant realleges his previous responses to each allegation contained in paragraphs 1 through 17 of Plaintiff's Complaint and incorporates the same herein as though fully set forth.

19. Defendant objects to Plaintiff's request for an injunction and the quieting of title to all property and water rights and denies or contests that Plaintiff is entitled to any relief including injunctive relief, monetary relief, or restraining orders. Defendant denies and objects to all allegations and requests contained in paragraph 19.

20. Defendant objects to Plaintiff's request for an injunction and the quieting of title to all property and water rights and denies or contests that Plaintiff is entitled to any relief including injunctive relief, monetary relief, or restraining orders. Defendant denies and objects to all allegations and requests contained in paragraph 20.

21. Defendant realleges his previous responses to each allegation contained in paragraphs 1 through 20 of plaintiff's Complaint and incorporates the same herein as though fully set forth.

22. Defendant denies any allegations that may apply to him contained in paragraph 22, and objects to any relief ordered against his interests.

23. Defendant realleges his previous responses to each allegation contained in paragraphs 1 through 22 of plaintiff's Complaint and incorporates the same herein as though fully set forth.

24. Defendant objects to Plaintiff's request for an injunction and the quieting of title to all property and water rights and denies or contests that Plaintiff is entitled to any relief including injunctive relief, monetary relief, or restraining orders. Defendant denies and objects to all allegations and requests contained in paragraph 24.

25. Defendant realleges his previous responses to each allegation contained in paragraphs 1 through 24 of plaintiff's Complaint and incorporates the same herein as though fully set forth.

26. Defendant denies all allegations contained in paragraph 26 to the extent those allegations are made against him.

27. Defendant realleges his previous responses to each allegation contained in paragraphs 1 through 26 of plaintiff's Complaint and incorporates the same herein as though fully set forth.

28. Defendant denies all allegations contained in paragraph 28 to the extent those allegations are made against him.

29. Defendant denies all allegations contained in paragraph 29 to the extent those allegations are made against him.

30. Defendant denies all allegations contained in paragraph 30 to the extent those allegations are made against him.

31. Defendant realleges his previous responses to each allegation contained in paragraphs 1 through 31 of plaintiff's Complaint and incorporates the same herein as though fully set forth.

32. Defendant denies all allegations contained in paragraph 32 to the extent those allegations are made against him.

33. Defendant realleges his previous responses to each allegation contained in paragraphs 1 through 32 of plaintiff's Complaint and incorporates the same herein as though fully set forth.

34. Defendant denies all allegations contained in paragraph 34 to the extent those allegations are made against him.

35. Defendant realleges his previous responses to each allegation contained in paragraphs 1 through 34 of plaintiff's Complaint and incorporates the same herein as though fully set forth.

36. Defendant denies all allegations contained in paragraph 36 to the extent those allegations are made against him.

37. Defendant denies all allegations contained in paragraph 37 to the extent those allegations are made against him.

38. Defendant lacks the knowledge to admit or deny the allegations made against other defendants of paragraph 38, but denies any allegations as they may relate to him.

39. Defendant lacks the knowledge to admit or deny the allegations made against other defendants of paragraph 39, but denies any allegations as they may relate to him.

40. Defendant lacks the knowledge to admit or deny the allegations made against other defendants of paragraph 40, but denies any allegations as they may relate to him.

41. Defendant denies and objects to any allegations or requests for relief made in the first “paragraph 41”, and specifically denies that the doctrines of claim and issue preclusion prevent him from seeking any type of relief. Defendant additionally denies all allegations contained in the second “paragraph 41”.

42. Defendant denies the allegations of paragraph 42.

#### **FIRST AFFIRMATIVE DEFENSE**

Plaintiff, by his conduct and actions, is estopped from asserting some or all of his claims and/or allegations against the Defendant.

#### **SECOND AFFIRMATIVE DEFENSE**

Plaintiff, by his conduct and actions, has waived some or all of his claims and/or allegations against the Defendant.

#### **THIRD AFFIRMATIVE DEFENSE**

Plaintiff's actions with regard to real property and water rights are barred herein by the appropriate statute of limitations.

**FOURTH AFFIRMATIVE DEFENSE**

Plaintiff's actions with regard to real property are barred by the doctrine of adverse possession.

**FIFTH AFFIRMATIVE DEFENSE**

Plaintiff's actions with regard to real property are barred by the doctrine of boundary by acquiescence.

**SIXTH AFFIRMATIVE DEFENSE**

Plaintiff's actions relating to the misappropriation of any water rights are barred by the fact that Plaintiff does not have any water rights in the irrigation district that Defendant Earl Hamblin has water rights in.

**SEVENTH AFFIRMATIVE DEFENSE**

Plaintiff's actions relating to the misappropriation of any water rights are barred by the doctrines of forfeiture and abandonment.

**EIGHTH AFFIRMATIVE DEFENSE**

Plaintiff's claims are barred by the doctrines of collateral estoppel also known as issue preclusion and res judicata or claim preclusion.

WHEREFORE, Defendant prays entry of this Court's Order as follows:

1. That Plaintiff's Complaint be dismissed and that Plaintiff takes nothing thereby.
2. That Defendant be awarded his costs and attorney fees incurred in defending Plaintiff's Complaint.




3. That Plaintiff be enjoined from interfering with Defendant Earl Hamblin's water rights, ditches, and any existing fence lines.

4. That Plaintiff be enjoined by this Court from bringing pro se lawsuits without obtaining leave of this Court prior to the filing of any lawsuits.

5. That Defendant be awarded such other and further relief as the Court deems appropriate and equitable.

DATED this 23<sup>rd</sup> day of June, 2003.

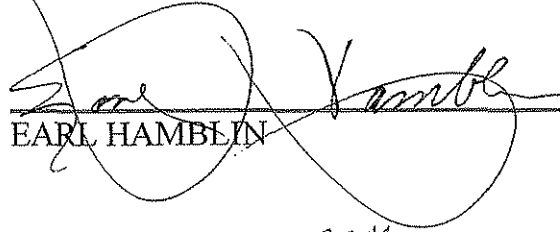
HOPKINS RODEN CROCKETT  
HANSEN & HOOPES, PLLC

By   
David H. Shipman  
Attorneys for Defendant Earl Hamblin

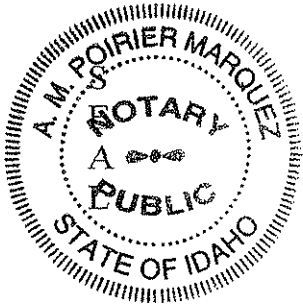
STATE OF IDAHO            )  
  ) ss.  
County of Bonneville        )

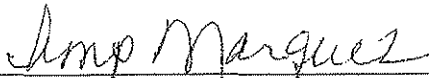
EARL HAMBLIN, being first duly sworn, deposes and says:

That he is a named defendant in the above-entitled action; that he has read the above and foregoing Answer and knows the contents thereof; and that he believes the facts therein stated to be true.

  
EARL HAMBLIN

SUBSCRIBED AND SWORN to before me this 20<sup>th</sup> day of  
June, 2003.



  
Notary Public for Idaho  
Residing at: Idaho Falls  
My Commission Expires: 04-27-04

CERTIFICATE OF SERVICE BY MAIL, HAND DELIVERY  
OR FACSIMILE TRANSMISSION

I hereby certify that a true and correct copy of the foregoing document was on this date served upon the person(s) named below, at the address(es) set out below their name, either by mailing, overnight delivering, hand delivering or by telecopying to them a true and correct copy of said document in a properly addressed envelope in the United States mail, postage prepaid; by overnight delivery, postage prepaid; by hand delivery to them; or by facsimile transmission.

DATED this 23<sup>rd</sup> day of June, 2003.

By *David H. Shipman* (for)  
David H. Shipman

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

U.S. Mail  
 Overnight Delivery  
 Hand Delivery  
 Facsimile

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

U.S. Mail  
 Overnight Delivery  
 Hand Delivery  
 Facsimile

Galen Woelk  
RUNYAN & WOELK, P.C.  
P.O. Box 533  
Driggs, ID 83422  
Telefax No. 208-354-8886

U.S. Mail  
 Overnight Delivery  
 Hand Delivery  
 Facsimile

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

U.S. Mail  
 Overnight Delivery  
 Hand Delivery  
 Facsimile

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

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

Anne Broughton  
1054 Rammell Mountain Road  
Tetonia, ID 83452

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

Alva A. Harris  
Attorney at Law  
171 South Emerson  
P.O. Box 479  
Shelley, ID 83274  
Idaho State Bar No. 968

FILED  
JUN 27 2003

Attorney for Defendants Bob Fitzgerald, Blake Lyle, Ole Oleson and Jack McLean

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

JOHN N. BACH,	)	
	)	Case No. CV-02-208
Plaintiff	)	
	)	
vs.	)	VERIFIED ANSWER TO
	)	
KATHERINE D. MILLER et al,	)	FIRST AMENDED COMPLAINT
	)	
Defendants.	)	
_____	)	

COMES NOW the defendants Bob Fitzgerald, Blake Lyle, Ole Oleson and Jack Lee McLean and Answer the First Amended Complaint as follows:

1. The complaint fails to state a claim against these defendants upon which relief may be granted.
2. These defendants deny each and every allegation of said complaint that is not specifically admitted herein.
3. Answering the allegations of paragraph 1 defendants deny the same and affirmatively allege that plaintiff is an Idaho resident and that he has testified in open court that the Targhee Powder Emporium entities are an asset of the Vasa N. Bach Family Trust.
4. Answering the allegations of paragraph 2 defendants deny acting in any capacity with any one to "destroy, damage, etc." plaintiff and admit that they are residents of the Driggs area but deny the rest of the allegations therein.

5. Defendants deny the allegations of the unstated paragraph 3, paragraph 4 and the allegations of the first paragraph 5 and affirmatively allege that they know nothing of plaintiffs purported real properties or background and have never sought to remove him from Teton County.

6. Defendants deny the allegations of the second paragraph 5a, affirmatively allege that the real property described therein belongs to Katherine M. Miller, acknowledge that they claim no right, title or interest in said real estate, and do not know anything about the agreements alleged in 5(a) and therefore deny the same.

7. Defendants deny the allegations of paragraph 5(b) and (c) page 5 and 6.

8. Defendants deny any agreement to "undertake as many vexatious civil actions, etc." or to do any thing else in violations of any Idaho criminal statutes as alleged in paragraph 6.

9. These Defendants know nothing of the validity of the allegations of paragraph 7, so they deny them.

10. These Defendants specifically deny the allegations of paragraph 8 and affirmatively allege that they know of no conspiracy against plaintiff, have only gone onto the real property of Katherine M. Miller when authorized by her, followed advice of legal counsel at all times when dealing with real property matters, never injured any personal property of plaintiff, properly testified at legal hearings, and that they have been harrassed and assaulted by plaintiff.

11. These Defendants deny the allegations of paragraphs 9, 10, (no 11), 12, 13 and 14.

12. Defendants deny the allegations of the First Count in that they have never engaged in any tortious actions to create either public or private nuisance against plaintiff nor have they ever filed false claims of any nature against plaintiff.

13. Defendants deny the allegations of the Second Count, Third Count, Fourth Count, Fifth Count and Sixth Count. These defendants deny any right, title or interest of plaintiff in any real property described in the exhibits and know of no contractual or business interests of plaintiff that they could have interfered with.

14. Defendants deny all the allegations referred to in the Seventh Count and Defendant McLean affirmatively alleges that Bach has lied, misrepresented himself, and attempted to defraud McLean.

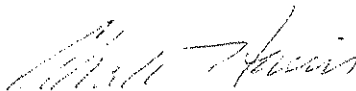
15. Defendants are excluded from the allegations of the Eighth Count therefore no response is needed to those.

16. Defendants deny all of said allegations in the Ninth Count, both Eleventh Count's and the Twelveth Count. Defendants affirmatively allege that any damages suffered by plaintiff were the proximate result of plaintiff's own acts or omissions, or of third parties, in such a degree as to bar recovery against these answering defendants. Plaintiff is further barred from damage recovery against defendants because of the doctrine of unclean hands and misrepresentation wherein he represented that he was the agent for undisclosed principals when in fact he was covering for himself in dealing with his alleged properties.

17. These Defendants affirmatively allege that plaintiff's claims against them are barred by the doctrines of issue preclusion and res adjudicata by the decisions of the U. S. District Court in CIV-01-266-E-TGN.

WHEREFORE, Defendants respectfully pray that plaintiffs complaint be dismissed with prejudice, that plaintiff be awarded nothing, and that defendnts be awarded their costs and attorney fees herein.

DATED this 24th day of June, 2003.

  
\_\_\_\_\_  
Alva A. Harris

VERIFICATION

STATE OF IDAHO

)

:ss

County of Bingham

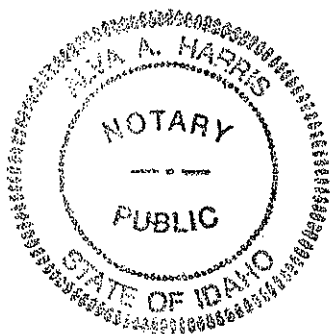
)

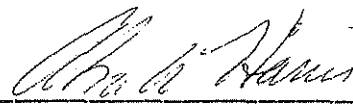
Bob Fitzgerald, being first duly sworn on oath, deposes and says:

That he is one of the defendants in the above entitled matter; that he has read the foregoing Verified Answer, knows the contents thereof, and that he verily believes the same to be true to the best of his knowledge.

  
Bob Fitzgerald

SUBSCRIBED AND SWORN TO before me this 24 day of June, 2003.



  
Notary Public for Idaho  
Residing at: Shelley, Idaho  
My Comm. expires: 1-22-2005





3. That this affiant first became acquainted with plaintiff on the ski hills in 1993. Plaintiff informed me that he was a retired California attorney looking to invest in the Teton Valley.

4. Thereafter, and based upon Mr. Bach representations that he was a licensed attorney, your affiant obtained Bach's assistant in a divorce matter in British Columbia, in drafting the Jack Lee McLean Family Trust, and in investing in two properties in the Teton Valley. One was with a Dr. Mark Liponis and Targhee Powder Emporium, Ltd and the other was with Wayne Dawson and the Targhee Powder Emporium, Ltd and another party. Bach was very well paid for this service.

5. I gradually learned over the next 4 years that Mr. Bach was not a licensed attorney, was not truthful in his business dealings with me, and that the trust he created was in reality a guise to control all my properties.

6. I contacted Alva A. Harris with Kathy Miller. He eventually agreed to help us. I made all my records available to him and authorized him to get copies of land transactions from the closing agents.

7. Upon his advice a corporation was created called Targhee Powder Emporium, Inc. and it registered the names "Unltd" and "Ltd". He advised the directors and officers thereof, who in his opinion were the "undisclosed principals" of various land tracts purchased through the agency of John N. Bach, to deed the Targhee Powder Emporium "Inc.", "Unltd", and "Ltd" portions of those tract purchases, to the "undisclosed principal" of each of those purchases. This was done. I was an officer of the corporation and signed the deeds.

8. When I informed Mr. Harris that a joint trust savings account existed in The Bank of Commerce, Mr. Harris advised and directed me as a signator thereto to take out all the monies therein. His investigations agreed with my conclusions that the sums originally deposited had been improperly taken from the "undisclosed principals." Kathy Miller, Wayne Dawson, Dr.

Mark Liponis and myself. I was able to remove the sum of \$15,000.00 from the joint trust saving account. It is deposited with the Court now.

9. Shortly after the \$15,000 was withdrawn an accounting action was filed between Jack Lee McLean and Dr. Mark Liponis vs. John N. Bach and Mr. Bach became the chief witness in a criminal action against me concerning that account withdrawal.

10. I do not know why I am named in this lawsuit. I have read the First Amended Complaint and feel that it is merely an attempt to harrass me.

11. I know that Bach has resided in Idaho constantly since coming to the valley. He always told me that the Targhee Powder Emporium entities were part of the Vasa N. Bach Family Trust.

12. I personally have no ownership interests in the real property mentioned in the complaint other than my trust owning 1/3 with Dr. Liponis and 1/4 with Wayne Dawson.

13. I have never attended a meeting with any of the said defendants wherein it was plotted to "destroy, damage, injure, harm and inflict losses upon plaintiff, his health, person, his properties, investments, holdings and business pursuits..." and I have never agreed to "undertake as many vexatious civil actions" as possible against Bach. I have filed suits to obtain my pictures, partition my real property, and account for my monies. I have never attempted to influence Teton County authorities or to cause harm to any Bach properties. I do not think he owns any real property in Teton Vallery.

*J. J. M.*  
14. Throughout the complaint from paragraph 1 through paragraph 14 plaintiff makes statements and allegations about me. They are all false except that Galen Woelk represented me in the criminal case and I signed the deeds for Targhee Powder Emporium, Inc.

15. The claims in the number counts are meaningless to me because they do not pertain to me. I own no interest in the Kathy Miller or Wayne Dawson properties. I know that the IRS sold the tax sale property to Scona.

000740

Inc. and it then sold the same to the Hills. I have never had a fiduciary duty to Bach. He lied to me and has attempted to steal my properties.

16. The monies I removed from the Bank of Commerce were not Bach's monies. That is why I filed an accounting action. He improperly took money from said account.

17. Bach has filed numerous federal and state civil actions against me. I am tired of it. I really wish he would go away and leave me alone.

18. I am now informed by counsel that Bach has recorded and produced in evidence in this case a cancelled power of attorney and fabricated deed purporting to give him real property. The same is not worth the paper it is written upon.

18. Further this affiant sayeth naught.

Dated this 25 day of June, 2003.

*Jack Lee McLean*

Jack Lee McLean

SUBSCRIBED AND SWORN TO before me this 25 day of June, 2003.

*J. L. M.*  
*25*

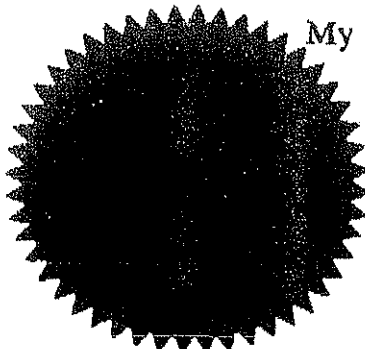
*Thomas Arthur LyMBERY*

Notary Public for British Columbia

Residing at GRAY CREEK, B.C. V0B1S0

My comm. expires is FOR LIFE

**THOMAS ARTHUR LYMBERY**  
NOTARY PUBLIC  
In And For The Province Of British Columbia  
1981 Chainsaw Avenue  
GRAY CREEK, B.C. V0B 1S0  
(250) 227-9315 Fax (250) 227-9449



Alva A. Harris  
Attorney at Law  
171 South Emerson  
P.O. Box 479  
Shelley, Idaho 83274  
(208) 357-3448  
Idaho State Bar No. 968

Attorney for Defendants Hill, Harris, Fitzgerald, Oleson, Lyle, McLean, and  
Scona, Inc.

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,	)	
	)	CIV-02-208
Plaintiff,	)	
vs.	)	AFFIDAVIT OF
	)	
KATHERINE D. MILLER, et al	)	BLAKE LYLE
	)	
	)	
Defendants.	)	

-----

STATE OF IDAHO            )  
                                  ss.  
County of Teton            )

Blake Lyle, being first duly sworn on his oath deposes and says:

1. That he is an employee of B L & L, Inc. d/a Teton Valley Towing and Grande Body and Paint.
2. That this affidavit is given according to his own personal knowledge.

3. That this affiant was contacted by Alva A. Harris and requested to have his company remove vehicles and other personal property from real property belonging to Katherine Miller.

4. Affiant has read the First Amended Complaint and requested that Mr. Harris defend him in the matter.

5. I do not know most of the defendants and have no ownership interests in any of the land involved.

6. Affiant has no knowledge concerning paragraphs 1, 2, 4, 5, 5a, 5b, 5c, 6, 7, 9, 10, d, (there is no 11) 12, 13, and 14. I know nothing of what Bach is writing about in those paragraphs.

7. Affiant has read and reread paragraph 8 of the said complaint. I have never met with Woelk and Runyan to conspire with anyone to do any act against Bach. I never trespassed upon Bach's property. I was informed that Katherine Miller owned the property upon which I went with my company's vehicles to remove what I considered to be junk. When Bach says I threatened him and his "live in mate" he is lying. I know nothing about the statements of 8c, d, e, or f. I was authorized and directed by Mr. Harris to remove the "junk" from Ms. Miller's property and did so. I never trespassed and never stole any "building materials, damaging levees, gates, guns, other improvements of plaintiff's."

8. Affiant never met with or discussed any "common plan" with any other defendants in this case as to how to annoy or damage John N. Bach. Therefore I deny the absurd statements of paragraph 8 h, i, j, and k.

9. I know nothing concerning the legal title to any of the real property involved in this case, I have never gone onto any of said real property, except that of Kathy Miller, and so I merely state that First Count, Second Count, Third Count, Fourth Count, Fifth Count, Sixth Count, Seventh Count, Eighth Count, Ninth Count, and the two Tenth Counts are meaningless to me. I deny any involvement in those matters.

10. Affiant has never sued Bach nor harrassed him or abused him. Bach has done all those things to me. I deny both Eleventh Counts and Twelveth Count.

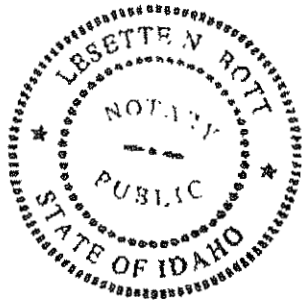
11. Further this affiant sayeth naught.

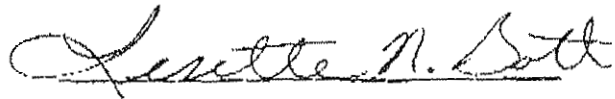
Dated this 25 day of June, 2003.

  
\_\_\_\_\_

Blake Lyle

SUBSCRIBED AND SWORN TO before me this 25 day of June, 2003.



  
\_\_\_\_\_

Notary Public for Idaho

Residing at: Tetonia, Idaho

My comm. expires: 1-3-06

Alva A. Harris  
Attorney at Law  
171 South Emerson  
P.O. Box 479  
Shelley, Idaho 83274  
(208) 357-3448  
Idaho State Bar No. 968

Attorney for Defendants Hill, Harris, Fitzgerald, Oleson, Lyle, McLean, and  
Scona, Inc.

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

JOHN N. BACH,	)	
	)	CIV-02-208
Plaintiff,	)	
vs.	)	AFFIDAVIT OF
	)	
KATHERINE D. MILLER, et al	)	BOB FITZGERALD
	)	
	)	
Defendants.	)	

-----

STATE OF IDAHO	)	
	)	ss.
County of Bingham	)	



Comes now Bob Fitzgerald, who being first duly sworn under oath, deposes and states as follows:

1) I am Bob Fitzgerald. I am 60 years old. I have been awarded a Bachelors Degree at Creighton University and a Masters Degree in Economics at California State University at San Jose. I am a licensed Bail Bonds agent with Northwest Bail Bonds, Inc., and hold a valid Idaho Concealed Weapons Permit. I have stood twice in the public eye while I ran in the elections for the elected position of Teton County Commissioner. I am one of the defendants named in the above titled matter. I have reviewed the First Amended Complaint served upon me. I have a meritorious defense to this lawsuit.

.....

2) Referring to page 1:1, I know from my observations that John N. Bach (hereafter referred to as Bach) is and has been a full time resident in Teton County, Idaho, for at least 6 years. I had noticed Bach in Teton County, Idaho and Wyoming as he was always eating at restaurants, spoke to everyone there, acted like a "big shot" and left large tips. But I had not had a meaningful conversation with him until the winter of '98-'99.

During that winter, Bach approached me. Bach immediately told me that he was a retired California Lawyer and is now the CEO and legal consul of an Idaho corporation named Targhee Powder Emporium Inc. (hereafter referred to as TPE) which was investing more than five million dollars in real estate ventures here in Teton County, ID. Bach informed me that many people that I know had invested in TPE, so that they would get in on the ground floor of the future real estate boom coming to Teton Valley. Bach then invited me to invest in TPE but I demurred. Later that winter Bach approached my sister, Carole Ruzzimente who was here on a ski vacation and who is employed by American West Airlines, and myself at Grand Targhee Ski resort. I heard Bach trying to persuade my sister to invest in TPE's sports lodge development and to use her influence at American West Airlines to send guests to this lodge. My sister politely declined.

I know that Bach has voted in Teton County, ID, and has possessed a resident Idaho Fishing License. I have learned that Bach has never filed a "dba" with the state of Idaho to do business as Targhee Powder Emporium Inc et al. I have learned that a registered Idaho corporation called Targhee Powder Emporium Inc et al disclaims any association with Bach. I have heard Bach in past years say in court under oath and on the witness stand that Bach is not TPE.

3) as to page 2:2, I did not act alone or with others to harm or inflict losses, damages, etc. upon Bach or whatever unknown properties he might have had.

4) as to page 2:2a, Bach resorts to bizarre accusations. Cache Ranch is not now or ever was registered as a "dba" by any of us nor does Cache Ranch have a tax number. I have no association with R.E.M. Inc. ~~Miller~~, Olsen, myself or any others have conducted business as Cache Ranch nor have we dealt in "illegal contraband, narcotics and other illegal pursuits and activities".

MEITHER  
B.Fitz-

5) as to page 2:2b, Alva Harris is a licensed attorney and Scona, Inc is a registered Idaho corporation. I have no knowledge of any illegal activities.

6) as to page 2:2c, Jack McLean is a friend of mine.

7) as to page 3:2d, I am Bob Fitzgerald.

8) as to page 3:2e, I know that 'Oly Olsen" has never conducted business as R.E.M. or Cache Ranch.

9) as to page 3:2f, 2g, 2h, 2i, 2j, 2k, 2l, 2m, 2n, I know Bob & May Bagley, Blake Lyle, Galen Woelk & Cody Runyan, Ann-Toy Broughton. I do not know Wayne Dawson or Mark Liponis. I know that Bret & Deena Hill legally purchased real estate at 195 North Hwy 33 from Alva Harris.

10) as to page 3:4, I know of no real properties owned by Bach in Teton County, ID. I know of no attempts by anyone named in this complaint to intimidate ~~any~~ prospective or actual jurors.

11) as to page 3:5, I have no knowledge of a "common objective of removing plaintiff from Teton County". The rest of Bach's accusations are ridiculous! I am third generation Irish Catholic, a liberal Democrat, handicapped, and have all my adult life been active in the civil rights, minority and labor movements. None of the defendants I have spoken with have ever referred to Bach as a "Montenegrin". I have seen no discrimination toward Bach because of his alleged heritage. I have seen a paper where Bach was identified as "Jovan Nicholas Bachovich".

12) as to page 4:5 (sic), I do not know if Bach purchased any "real property parcels in Teton County, Idaho"

13) as to page 4: 5a (sic), I know that Miller owned 40 acres and a half mile by 110 foot strip, and that something called "Targhee Powder Emporium, Inc" owned 40 acres. Miller never mentioned to me any oral or written agreements or partnerships that are alleged by Bach in this section.

14) as to page 5:5b (sic), I know that Alva Harris purchased this real estate at a tax sale. Later, Bret & Deena Hill purchased this real estate from Alva Harris.

15) as to page 6:5c (sic), I can't make any sense out of this paragraph.

16) as to page 6:6 (sic), alleged violations of IC 18-7803a,2,6,10,17,18,b,c I know of no conspiracy or concerted actions toward Bach. Galen Woelk & Ava Harris have been my attorneys in the past. Regarding assaults, batteries and threats to harm, it has been Bach who has punched me, challenged me to fights, aimed a shotgun at me, lied about me in his writings and in his conversations with others. It was Bach who has filed false police reports, invented evidence and used his legal education to further his attempts to steal land from Miller, Mclean, Liponis and Dawson. The conversations I have had with some of the named defendants dealt with the nature of a legal defense against Bach's numerous punitive, retaliatory and frivolous lawsuits.

17) as to page 7:7, I am not named. I know nothing of the alleged confidential relationship between Bach and Runyan & Woelk Law firm.

18) as to page 8:8, Neither Runyan or Woelk ever advised myself, Miller or Lyle to do anything illegal, unethical or immoral.

19) as to page 8:8a, I have the written permission of Miller for my free access to her lands, to perform any work necessary to maintain her lands including a land survey, and to irrigate and cut her hay crop. Bach always tried to prevent me from doing so. Bach assaulted me with a loaded shotgun and I recorded this incident on video tape and filed a police report. I did see Bach assault Miller with his pickup truck, not the other way around.

20) as to page 8:8b, I know of no real properties allegedly owned by Bach at mile post 138. I never heard Blake Lyle threaten Bach or Cindy Miller on 9/7/2002, 9/13/2002, 8/16/2002 or at any other time.

21) as to page 9:8c, I know of no real properties allegedly owned by Bach. I did no damage to any vehicles, etc as alleged herein.

22) as to page 9:8d, I am not named here and did not steal any \$15,000.00.

23) as to page 9:8e, I am not named, own stock or have an interest in a registered Idaho corporation doing business as Targhee Powder Emporium, Inc., unlted., ltd..

24) as to page 9:8f, Woelk did represent me in a jury trial. A charge was brought against me by Bach wherein he claimed that

I put water in the gas tank of my pickup truck. I was found not guilty by a unanimous jury. Bach knew he filed false charges with no evidence, yet he was determined to use the Prosecuting Attorney Office to suit his purposes. I witnessed no wrong doing or falsehoods (other than by Bach) or threats of any kind by the State or the Defense.

25) as to page 10:8g, I know of no real properties owned by Bach. I stole nothing as alleged herein.

26) as to page 10:8h, Miller filed a lawsuit against Bach to stop him from prevent her free access to her lands. She then withdrew this suit because Bach did not own any of the 87 acres described in this complaint and because she wished to take a different legal action.

27) as to page 10:8i, There is no evidence that a horse was poisoned. I do know that a dead horse owned by Bach was left at the entrance to the Miller lands for 5 months. Bach was charged with leaving a dead horse within 300 feet of a state highway for a period of 5 months, was tried and found guilty by unanimous decision of the jury. I noticed at trial that Bach was furious at being convicted, especially since he had acted as his own attorney. I know of no "blackmailing and extortion threats", <sup>THOSE</sup> EXCEPT BY BACH.

- Bob Felt

28) as to page 11:8j, At all times everyone named respected this courts preliminary order and did nothing that is alleged herein to the best of my knowledge.

29) as to page 11:8k, On 8/16/02, Bach violated this courts preliminary order by appearing on the Miller entrance before he was allowed. Bach prevented Blake and I from leaving. I watched Bach attack Blake, then Bach punched me in the head while I was in the drivers seat of the car attempting to leave. On 9/13/02, Bach ran into Blake and I on the stairs inside the court house and Bach pushed Blake as Bach went down the stairs.

30) as to page 11:9, Bach's accusations herein are outrageous! Stan Nickell is no horse thief! He is an excellent horseman and would never harm an animal! Stan Nickell is a veteran who has served his country with distinction and is a well respected member of our community even after his death in February of 2003. I know that Stan had his water diverted by Bach to the TPE lands during and before this years.

31) as to page 12:10, I know that Bach was diverting water owned by Earl Hamlin because I saw Bach rerouting Hamlin's irrigation ditches while Bach was trespassing upon Hamlin lands. I have only seen Bach, Earl and myself on Hamlin lands. I have Earl Hamlin's verbal permission to be on his land in order to service common fences between Miller and Hamlin lands, to check proper water flow in ditches and to do other work as necessary. Earl Hamlin is a respected long time rancher in our community. I was never at any meetings or know of any meetings by named defendants and Hamlin to plan any of these alleged actions contained herein. I know of no harassment or stalking by any defendants of Cindy Miller or Bach. I have seen Bach and Cindy Miller stalk and harass Kathy Miller and Jack Mclean on numerous occasions

32) as to page 13:12 (sic), I know of no properties own by Bach at mile post 138. Bob & May Bagley are my friends and I do, on occasion, visit their home. The Miller lands are easily visible from the Bagley home and we cannot but notice Bach locking and barricading the gate that Bach constructed to prevent Miller's access to her lands. None of the defendants ever met to plan "raids" or "base of operations" or "stalking and maliciously harassing" at the Bagley residence or at any other place. Rather, it was Bach who constantly watches and slowly drives by the Bagley house to see who is there.

33) as to page 13:13, I know of no property own by Bach in Teton County. Ann-Toy Broughton has never met with Miller, Mclean, Fitzgerald or Olsen to "stalk, harass and inflict/cause property damage" on Bach.

34) as to page 13:14, I have never met, received mail from or talked by phone to Mr. Dawson or Liponis.

35) FIRST COUNT, this defendant refers to and incorporates paragraphs 1 through 34. As to page 14:16, I <sup>Do Not</sup> own and have no interest in properties as described in "exhibit A".

36) as to page 15:17, this accusation is yet another example of Bach's sociopathic mind at work! I neither use or sell non prescription drugs nor drink alcoholic beverages. It is true that I am well known in Teton Valley. I have ran twice for the office of Teton County Commissioner. My work with the recovery programs of Alcoholic Anonymous and Narcotics Anonymous over the years is well know. I have had numerous state and federal background investigations run on me as part of various licensing applications and permits. Yet Bach, knowing this, has made harassing claims in his various lawsuits and in his public comments that I am protected by the local authorities because Peter Estay, the Prosecuting Attorney's brother, and myself are allowed to continue in our international drug dealings in return for information on the local drug scene. Another example of Bach's outright lies is contained herein..."reports of drugs...a false claim was the basis of a withdrawn search warrant of plaintiffs said properties, which basis in part was that of a false claim made by Fitzgerald...". I never made such a report. I know of no "drug dealings" by any of the defendants, I must agree with the California Supreme Court when it declared Bach to be ethically and morally beyond redemption. Bach should be sanctioned by this court.



37) SECOND COUNT, this defendant refers to incorporates paragraphs 1 through 36. As to page 16:19,20, I have no connection, interest or involvement in the Dawson 8.5 acres and should suffer no damages. Bach should be sanctioned for naming me here.

38) THIRD COUNT, this defendant refers to and incorporates paragraphs 1 through 37. As to page 16:22, I have no involvement in the purchase of the Hill property from Alva Harris and should suffer no damage.

39) FOURTH COUNT, this defendant refers to and incorporates paragraphs 1 through 38. As to page 17:24, I have no involvement in the ownership of these two properties and should suffer no damages.

40) FIFTH COUNT, this defendant refers to and incorporates paragraphs 1 through 39. As to page 18:26, I know that Bach had no clear title to the Miller lands or the alleged "Targhee Powder Emporium" lands in the first place. Bach's legal problems are of his own making and I should suffer no damages.

41) SIXTH COUNT, this defendant refers to and incorporates paragraphs 1 through 40. As to page 18:28, since Bach does not and has not possessed a good name or a good reputation, how can such be taken from him by the defendants? I have not seen Bach hold any employment at any time, although he has claimed to be an attorney, a para-legal, a ski instructor offering private lessons outside of the Grand Targhee Ski School, a tax consultant and even a real estate consultant. Bach has no visible means of support. Bach is a bankrupt fraud and a failure by his own actions. I should suffer no damages

42) SEVENTH COUNT, this defendant refers to and incorporates paragraphs 1 through 41. As to page 19:30, I am not named here as a defendant and should suffer no damages.

43) EIGHT COUNT, this defendant refers to and incorporates paragraphs 1 through 42. As to page 20:32, I did no business with Bach at any time, although Bach did ask me to invest money with "Targhee Powder Emporium" in the past.

44) NINTH COUNT, this defendant refers to and incorporates paragraphs 1 through 43. As to page 21:34, I do not know why I am named here as I have none no business with Bach and Bach should be sanctioned for naming me hereIN.

45) TENTH COUNT, this defendant refers to and incorporates paragraph 1 through 44. As to page 22:36,37 (sic), I am not a part of any racketeering enterprises nor do I know of any such thing directed at Bach. I, nor any of the defendants named, attempted bribery or attempted to corrupt any Teton County Officials. I have never brought a lawsuit against Bach. All of these allegations are totally without merit and Bach should be sanctioned. Bach should be awarded nothing which is what he had in the first place.

46) ELEVENTH COUNT, this defendant refers to and incorporates paragraphs 1 through 45.

As to pages 22 (sic) & 23 & 24:38,39,40,41 I was not a party to CV 01-59. I, at all times, follow the Courts directives. I am not a licensed attorney. I have no standing or influence with the Sheriff and his deputies, other than that of a private citizen and a licensed Bail Bondsman. I should suffer no damages and Bach should be sanctioned for name me herein.

47) TWELFTH COUNT, this defendant refers to and incorporates paragraphs 1 through 46. As to page 25:41,42 I am not a member, nor have I ever been a member, and am not even remotely associated with any ethnic hate groups. To my knowledge, none of the defendants have violated the Idaho Malicious Harassment Statute, section 18-7901 through 18-7904.

My liberal credentials are better than Bach. For example, Bach lies about his membership in the National League of Woman Voters. I should suffer no damages and Bach should be sanctioned for making such outrageous accusations.

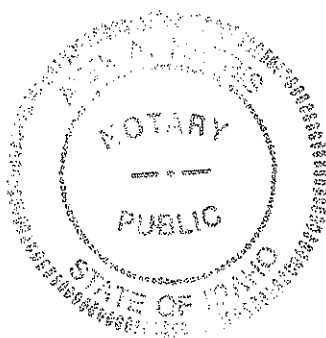
48) I ask this Court to set aside this default, which occurred through no fault of my own, and to continue its trial in this matter so that my meritorious defense can be heard.

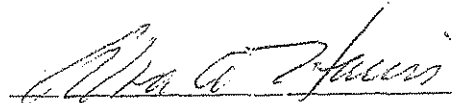
Further, Affiant saith not.

Dated this 24 day of June, 2003

  
\_\_\_\_\_

Subscribed and sworn to before me this 24th day of June, 2003.



  
\_\_\_\_\_

Notary Public for Idaho  
Residing at Shelley, Idaho  
My Comm. expires 1-22-2005

Alva A. Harris  
 Attorney at Law  
 171 South Emerson  
 P.O. Box 479  
 Shelley, ID 83274  
 Idaho State Bar No. 968  
 Attorney for Defendants Bret Hill and Deena R. Hill

FILED  
 JUN 27 2003  
 TETON CO.  
 MAGISTRATE COURT

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

JOHN N. BACH,	)	
	)	Case No. CV-02-208
Plaintiff	)	
	)	
vs.	)	BRIEF
	)	
KATHERINE D. MILLER et al,	)	
	)	
Defendants.	)	
_____	)	

FACTS

1. On August 5, 1997, Scona, Inc. purchased all the interests of John N. Bach and Targhee Powder Emporium Unltd in Tract 1 and Tract 2, as described on the Certificate of Sale of Seized Property and in the Quitclaim Deed subsequently issued by the United States Treasury Department. The said John N. Bach now alleges that the sale was estopped by action of the automatic stay of his personal bankruptcy filed on August 4, 1997.

2. The matter was first heard before the Honorable Ted Wood in Teton County, Idaho, case no CV-98-025. Bach was dismissed from that case because of his bankruptcy stay and because he represented to Judge Wood that Targhee Powder Emporium, Unltd was an asset of the Vasa N. Bach Family Trust. In that suit title and possession of the real property via the Treasury Department deeds was confirmed in Scona, Inc.. Thereafter Scona, Inc. issued

its Corporate Warranty Deed to Bret B. Hill and Deena R. Hill on March 9, 2001 and recorded it as instrument no. 141785, Teton County, Idaho.

3. Bach, and others, filed suit in the U.S. District Court, 98-0383-E-EJG/PAN, alleging, among other things, that the IRS “wrongfully seized and sold their properties in violation of the Tax Code and that law enforcement and the courts ignored their obligations to protect plaintiffs’ rights.” The IRS and the defendants Alva A. Harris and Scona, Inc. were dismissed as defendants with prejudice. See order of October 21, 1999.

4. Bach filed again in U.S. District Court in case CV-01-266-E-TGN. The U.S. Court in an Order dated June 25, 2002, said:

“2. The Court dismissed the claims against the United States based on laches and res judicata. Defendants other than the United States were included in the claims in Case No. 98-CV-383-E-EJG which were the basis of the laches decision.” *Bach v. Mason*, 190 F.R. D. 567 (D. Idaho 1999), *aff’d* 2001 WL 177179 (9th Cir. (Idaho)) (mem.), cert. denied, 122 S. Ct. 818 (2002).

5. In the U.S. Court’s Memorandum Decision and Order of same date the Court said:

“It is clear that this claim is identical to that now presented here. The defense of res judicata is available to all defendants who are claimed to have any connection with the August 5, 1997, sale. This Court can sua sponte consider issues of claim and issue preclusion.”

6. This same Court in an Order dated July 25, 2002, stated:

“THEREFORE, IT IS HEREBY ORDERED that the Second Amended Complaint be DISMISSED WITH PREJUDICE as to each and all of the following defendants:

“ Docket Number	Party
...	
187	Miller, Katherine M. McLean, Jack L.

188

Ehrler, Paula

Harris, Alva A.

Scona, Inc.

Targhee Powder Emporium, Inc.

Targhee Powder Emporium, Unltd

Targhee Powder Emporium, Ltd

189

Dawson, Wayne & Donna

...”

7. This U.S. Court again addressed the issue concerning the property at 195 N. Hwy 33, that was contained in Bach’s Count 9 of the various complaints, when it Ordered on December 16, 2002, as follows:

“Second, Plaintiff argues that the Court should have allowed him to amend his complaint a second time in order to allow him to include Bret and Deena Hill as defendants, in place of Brad and Susan Hill. In the amended complaint, Plaintiff alleged that Brad and Susan Hill purchased property from Defendants Scona, Inc., Harris, and Christensen following a tax lien sale. Now there is some question as to whether Bret and Deena Hill actually purchased the property. The Court denies Plaintiff’s request to add Bret and Deena Hill to the Complaint as doing so would be futile.

“The Court’s previous orders (see Docket Nos. 241 and 259) have dismissed Plaintiff’s claims relating to the tax lien sale. The dismissals included Scona, Inc., Alva Harris and Tom Christensen, who were alleged to be purchasers from the United States. The individuals who purchased the property from the original purchasers, whoever they are, are entitled to dismissal of Plaintiff’s claims for the same reasons as were the original purchasers. Accordingly, the action shall be dismissed with prejudice as to Brad and Susan Hill and would be dismissed with prejudice as to Bren and Deena Hill if Plaintiff were allowed to add them. Thus, allowing Plaintiff to add

Bret and Deena Hill as named defendants would be futile, and the Court denies the Plaintiff's request." page 4 & 5.

8. During this same period of time Bach presented to these defendants Teton County, Idaho, case CV-02-208 his First Amended Complaint filed September 27, 2002.

#### ISSUE

9. Whether John N. Bach has any legitimate claim to a right, title, or interest in and to the property located at 195 N. Highway 33, Driggs, Idaho.

#### ARGUMENT

10. Bach acknowledged before Judge Wood in CV-98-025 that he had no personal ownership in the property but that Targhee Powder Emporium, Unltd was the owner and that it was an asset of the Vasa N. Bach Family Trust.

"Idaho law presumes that the holder of title to property is the legal owner of that property." *Hettinga v Sybrandy*, 126 Idaho 467 (1994). Accordingly, Bach has no claim to the property.

11. However, Bach now claims that he personally owns the property and that the bankruptcy stay order precluded the sale to Scona, Inc.. He relies totally on the stay order and his self promoting declaration that he is "Targhee Powder Emporium, Unltd.". He produces no documents to verify those positions. He has no recorded deeds. He has never in any of these related cases produced one. In fact, his evidence in his bankruptcy denies the allegations he now makes. In his bankruptcy filings he merely asserts that he is an employee of the Vasa N. Bach Family Trust. His schedules deny that he personally owned any interests in any corporations, trusts, etc. The decisions quoted above reveals the U.S. Courts reasoning and holds that he does not own the property.

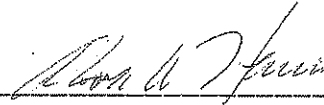
12. Attached hereto is the affidavit of Alva A. Harris that attaches the "Declaration of David Cheng", the "Declaration of James Mason," and the

“Memorandum in Support of United States’ Motion To Dismiss Amended Complaint” in CIV 01-0266-E-TGN

SUMMARY

It is obvious that Bach never titled the property into his name. He choose another name because he knew the IRS was after him and he wanted to hid from them. Many entities were thrown out as the true owner; however, he had to deny that he himself was the owner until after the bankruptcy was concluded. He feared that claiming the property would subject him to a felony charge of misrepresentation to the bankruptcy court. Also, if he claimed the property, the IRS would take it. They took it anyway and gave him credit therefore. The IRS followed the money trail and ignored the sham entities with vested title. His own inaction and attempts to deceive bound him in his lies as apply written by David Cheng. Therefore the title is vested in the Hills.

DATED this 24<sup>th</sup> day of June, 2003.



---

Alva A. Harris



03 JULY 01 10:11

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

JOHN N. BACH,

Plaintiff,

vs.

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

Defendants.

Case No. CV-02-208

**FINDINGS OF FACT  
AND  
CONCLUSIONS OF LAW**

**I. PROCEDURAL BACKGROUND OF THE CASE**

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

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

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

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

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

## II. FINDINGS OF FACT

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

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

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

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

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

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

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

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

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

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

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

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

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

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

had learned about Targhee.

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

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

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



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

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

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

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

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

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

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

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

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

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

24. Miller was not a fiduciary to Bach.

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

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

### III. CONCLUSIONS OF LAW

1. This Court has subject matter jurisdiction over the claims in Bach's first amended complaint and Miller's counterclaim. Idaho Code § 1-705.

2. This Court has personal jurisdiction over Bach because he resides in Idaho and voluntarily appeared by filing the first amended complaint and a reply to the counterclaim. It has personal jurisdiction over Miller because she resides in Idaho, was served with summons in Idaho and appeared by filing an answer and counterclaim.

3. The quiet title claims of Bach and Miller are to be decided by the court and not a jury. However, by advisory verdict, the jury has found in favor of Miller.

4. Miller has proved all elements of her fraud counterclaim against Bach.

5. Miller has proved all elements of her breach of fiduciary duty counterclaim against Bach.

6. Bach has not proved his quiet title claims in the first amended complaint. Bach has not proved any affirmative defense to Miller's counterclaims.


7. In Idaho a purchaser of real property damaged by fraud may seek damages under either the "out of pocket" rule or the "benefit of the bargain" rule. Shrives v. Talbot, 91 Idaho 338, 345, 421 P.2d 133, 140 (1966).

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

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

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

DATED this 1st day of July, 2003.

  
RICHARD T. ST. CLAIR  
DISTRICT JUDGE

CERTIFICATE OF SERVICE

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

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

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

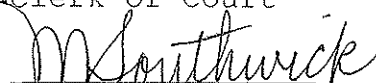
Galen Woelk  
Runyan & Woelk, P.C.  
P.O. 533  
Driggs, ID 83422  
Telefax No. 208-354-8886 (TELEFAX & MAIL)

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

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

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

RONALD LONGMORE  
Clerk of Court

  
Deputy Court Clerk

John N. Bach vs Katherine Miller, et. al

CV 02-208

Tape CV 119

900

Plaintiff John Bach, Defendant Kathy Miller, Defense Attorney Galen Woelk

900

J calls case, ids those present; reviews

P – like to point out some of defendants in the courtroom; want record to reflect that

Not basing motion simply on Fossil Case – citations given in Affd and Reply Brief

First constitutional basis is – not sure you should hear this

Look on page 3

J – how do you work this when you have a jury

P – this never should have been in front of a jury

Court should have order a transcript of preliminary hearing

There was no right for jury trial

1900

You have made judgment as to my credibility

You gave an instruction that I object to that was absolutely erroneous

Ignored the allegations

2095

J – wasn't there an instruction that if any other people were found to be agents of Millers,  
she would be held responsible

2197

P – your fourth order bothered me

Became more biased and more prejudiced

You didn't tell us until the morning of trial that you were going to restrict time

This case was simple procedurally

Would love to put your honor on the stand

2622

No right to jury trial in Quiet Title Issue

Proper instructions were never given

2712

It was your determination to have the jury trial

I couldn't take any of these people's discovery

3042

The Peacock Decision points out – offer both affidavits in evidence

Concern mostly is exhibit 96 starting on pages 15 – 19 particularly page 18

000775

3156

3 other things that concerned me – Exhibit UU disappeared from this court  
Followed by blue business card made by myself  
Also had address, P.O. Box, and telephone – that card was printed in 1993 – the  
prospectus was also printed at same time by Ms. Miller  
J – made a record of those; tried to get you guys to come up with copies of those  
P – am assailing the court for refusing me my discovery requests  
Also a check supposedly of \$10,000 Miller paid to myself  
One of the documents showed deposit receipt; when we came to trial, that was gone  
On this side of the table there has been a deliberate attempt to destroy evidence

3510

DA – what does this have to do with disqualification  
P – has everything to do  
This case was going to take a good, possibly four weeks, to try  
You have the power, you have the disposition to try this  
Find that courtesy lacking

4017

The protection this court gave to Woelk and Runyan and their law firm borders on  
racketeering  
Harris was n default – the jury was not told that  
In your findings I searched for Ms. Miller's background

4265

A statement of price is never a misqualification – except  
There was no fiduciary relationship  
Find that something that has got to be corrected (looking at exhibits and listening to  
testimony)  
Your honor was distracted- using the computer was the cause of  
You owe me an apology  
How can this court be trusted I think this motion must be granted  
If not, in addition to the other issues that still remain, there are also statutory setoffs

4850

DA responds  
40 D 2 A – haven't heard any facts or evidence to suggest that  
Have heard quite a bit of discussions from Bach as to what he believes the evidence  
shows  
Foss – disqualifying evidence can't be deduced from adverse rulings  
Suspicion and conjecture cannot be substituted for facts  
Bach alleges that have failed to respond correctly – what have I to file an affidavit for

000777

5700

P responds

Arrogant stupidity

This is not a pretext to stall – this is only a pretext for justice from an unprejudiced jurist

Decisions handed down by Appellate Court are not following the Idaho Courts

DeFosses is outdated

6369

J will take under advisement

000778



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

FILED  
3:15  
JUL 01 2003  
TETON CO.  
DISTRICT COURT

Attorney for Defendants Harris and Scona, Inc.

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.	)	VERIFIED ANSWER
	)	
KATHERINE D. MILLER, etal	)	
Defendants.	)	
-----	)	

Comes now Alva A. Harris and Scona, Inc. and Answers the complaint of Plaintiff against the above named Defendants as follows:

1. Each of these defendants deny each and every allegation of the First Amended Complaint not specifically admitted herein.
2. Each defendant admits he/it are residents of the State of Idaho or subject to the jurisdiction of the court.

FIRST DEFENSE

Plaintiff's First Amended Complaint fails to state a cause of action upon which relief can be granted.

SECOND DEFENSE

1. Defendants deny that plaintiff is a California resident, denies that he owns real property in Teton County, Idaho, and denies that he was doing

000779

business as any of the Targhee Powder Emporium entities and affirmatively alleges that said entities were assets of the Vasa N. Bach Family Trust.

2. Defendants deny that they ever sought in conjunction with any of the named defendants to destroy or damage plaintiff in any way; defendants admit knowing Katherine M. Miller, Bob Fitzgerald, Oly Oleson, Jack Lee McLean, many of the other named defendants, and Bret and Deena R. Hill;

3. Defendants deny plaintiff owns any real property in Teton County and deny attempting to prejudice prospective jurors because they do not know who said jurors are as alleged in paragraph 4.

4. Defendants deny engaging in any activity to remove plaintiff from Teton County and knew nothing about his heritage and ancestry until this allegation was issued in the first paragraph 5 and as found in earlier Civil action pleadings.

5. Defendants deny plaintiff owns any real property in Teton County, Idaho, and affirmatively allege that their examination of the records of said county show Katherine Miller owner of the real property mentioned in second paragraph 5 (a); defendants further deny the statements of said 5 (b) and (c) and affirmatively allege that the IRS income tax sale in 1997 resulted in the title of said real property being vested in Scona, Inc. with a portion thereof being subsequently transferred to Bret and Deena Hill. Defendants affirmatively allege that the U.S. District Court in CIV 01-0266-E-TGN confirmed said title as stated and that this issue is precluded from consideration herein by the doctrine of issue preclusion, res adjudicata and/or claim preclusion. Reference is hereby made to the Answer and Brief and attendant filings filed herein by Bret and Deena Hill.

6. Defendants deny the allegations of paragraph 6 as being the ravings of the wild imagination of a deluded person. Defendants affirmatively allege

that they have had to protect themselves from many vexatious civil actions and the concerted action of plaintiff to steal real property from them.

7. Defendants deny any knowledge of plaintiff's relationship with the law firm of Runyan and Woelk.

8. Defendants specifically deny the fabrications and falsehoods of paragraph 8 and deny ever joining, agreeing, or conspiring with Runyan & Woelk, or any other defendants named in this suit, to trespass upon plaintiff's acres, assault plaintiff, obtain and serve false court documents, threaten plaintiff in any manner, enter illegally upon plaintiff's property, steal any sum of money from plaintiff, or misappropriate or convert any business entities of plaintiff's for defendant's use. Defendant Harris admits being a witness in the McLean criminal case and testified as to the facts. These defendants deny in toto the allegations of 8 (g), (h) (i), (j) and (k).

9. These defendants deny joining with Stan Nickell, Earl Hamlin, Bob Bagley, Mae Bagley, Ann-Toy Broughton or any other defendants to conspire against, observe or harrass plaintiff as alleged in paragraphs 9, 10, 12, and 13.

10. Defendant Harris admits giving legal advice, counsel and civil action suit help to Wayne Dawson and Dr. Mark Liponis. This assistance was necessary for them to protect themselves against numerous law suits filed by plaintiff and to secure unto them the real properties for which they had paid. Plaintiff is barred from recovery against defendant Harris by the doctrines of immunity and qualified immunity. Further any damages suffered by Plaintiff were the proximate result of Plaintiff's own acts and omissions, in such a degree as to bar recovery against these answering defendants.

11. These defendants have no right, title, or interest in the real property owned by Katherine M. Miller, which is the subject of First Count, and deny

that Plaintiff is entitled to any relief therefore including quiet title, injunctive relief or damages.

12. Defendants deny the allegations of Second Count and Third Count and reallege and incorporate herein their statement in paragraph 5 above.

13. Defendants deny the allegations of Fourth Count and affirmatively alleges that the deeds of exhibits 4 and 5 are valid; that the legal holder of the property are the entities whose names now appear on the last recorded deed.

14. Defendants deny the allegations of Fifth Count and Sixth Count and allege said counts should be dismissed as to them for lack of factual data to substantiate the allegations.

15. Defendants know of no fiduciary duty owed plaintiffs and so variably deny the allegations of Seventh Count and Eighth Count.

16. Defendants have never received any monies from plaintiff other than that Ordered by this Court and have never engaged in any racketeering acts, either federal or state, against plaintiff. Defendants deny the allegations of Ninth Count and both Tenth Counts.

17. Defendant Harris has never filed a civil or criminal action against plaintiff and defendant Scona, Inc. was awarded a Judgment against Targhee Powder Emporium, Unltd. This is not a malicious prosecution against John N. Bach. These defendants deny the allegations of both Eleventh Counts. Defendant Harris herein realleges the statements of paragraph 10 above.

18. These defendants deny violating the Idaho Malicious Harassment Statute in any manner and denies that plaintiff has standing to under any Idaho Statutes to bring an action against these defendants. Defendants deny the allegations of the Twelveth Count.

WHEREFORE, defendants Harris and Scona, Inc. asks the Court:

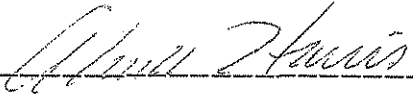
1. To deny any relief, either monetary or equitable, injunctive or otherwise to plaintiff and they do further request the Court to dismiss with prejudice this action.

2. That this action be dismissed as being moot and without legal standing; the verdict herein has been rendered by the Jury and plaintiff was found to have suffered no damages and to own no real property.

2. That Plaintiff be enjoined from filing pro se lawsuits in Idaho without obtaining leave of this Court prior to the filing of any lawsuits.

3. That defendants be awarded such other and further relief as is just in the premises.

DATED this 25th day of June, 2003.



---

Alva A. Harris

VERIFICATION

STATE OF IDAHO )

:ss

County of Bingham )

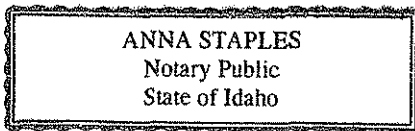
Alva A. Harris, being first duly sworn on oath, deposes and says:

That he is one of the defendants in the above entitled matter; that he has read the forefoing Verified Answer, knows the contents thereof, and that he verily believes the same to be true to the best of his knowledge.

*Alva A. Harris*  
\_\_\_\_\_

Alva A. Harris

SUBSCRIBED AND SWORN TO before me this 26 day of June, 2003.



MY COMMISSION EXPIRES  
May 23, 2009  
BONDED THRU NOTARY PUBLIC UNDERWRITERS

*Anna Staples*  
\_\_\_\_\_

Notary Public for Idaho

Residing at: Shelley, Idaho

My Comm. expires:

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 26th day of June, 2003, I served a true and correct copy of: Affidavit of Alva A. Harris

Verified Answer

on the following by depositing the same in the United States mail, with the correct postage thereon, in envelopes addressed as follows:

Party Served: John N. Bach, Pro Se  
1858 South Euclid Avenue  
San Marino, CA 91108

Courts Served: Teton County Clerk  
89 N. Main, Ste 1  
Driggs, Idaho 83422

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

  
-----  
Alva A. Harris

JOHN N. BACH  
1858 S. Euclid Avenue  
San Marino, CA 91108  
Tel: (626) 799-3146  
(Seasonal Address Only  
for Summer, 2003:  
P.O. Box, Driggs, ID 83422

FILED  
3:03  
JUL 03 2003  
TETON CO.  
DISTRICT COURT

SEVENTH JUDICIAL DISTRICT COURT, IDAHO, TETON COUNTY

JOHN N. BACH,

Plaintiff,

Counterclaim defendant,

v.

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

Counterclaimant &  
Defendants, et al.

CASE NO: 02-208

Plaintiff & Counterclaim Defendant  
JOHN N. BACH'S NOTICE OF MOTIONS  
& MOTIONS RE (1) ORDER VOIDING/IN-  
VALIDATING SPECIAL JURY VERDICT OF  
June 19, 2003; (2) FOR JUDGMENT IN  
COMPLETE FAVOR OF PLAINTIFF & COUNTER-  
CLAIM 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).)

A HEARING IS REQUESTED AND WILL BE NOTICED SHORTLY FORTHWITH,  
HOWEVER, THE PLAINTIFF & COUNTERCLAIM DEFENDANT JOHN N. BACH'S  
MOTIONS, AS STATED AND NOTICED HEREIN/HEREBY ARE FILED THIS DATE,  
TO MEET ANY REQUIREMENTS OF THE 14 DAY PERIODS OF IRCP, RULES 50(b),  
59, and 60, etc.

NOTICE IS HEREBY EXPRESSLY GIVEN AND STATED, TO ALL PARTIES AND  
THE COURT HEREIN, THAT Plaintiff and Counterclaim Defendant JOHN  
N. BACH, as a date shortly to be set by special order and arrange-  
ments with the court/clerk, will and does appear, now and make  
the following motions for orders as expressly and/or otherwise  
stated, incorporated and/or implicated hereby, for the following:

1. FOR AN ORDER VOIDING AND/OR INVALIDATING IN WHOLE OR  
ADVERSE DETERMINATION AGAINST PLAINTIFF, THAT ENTIRE



SPECIAL JURY VERDICT OF JUNE 19, 2003, from which no further ORDER nor JUDGMENT OF ANY KIND has been entered or ruled upon as may have been required per IRCP, 16, etc., and 58-59; and/or Rule 50(b), Judgment NotWith Standing Verdict; and/or

2. FOR AN ORDER AND JUDGMENT IN COMPLETE FAVOR OF PLAINTIFF & COUNTERCLAIM DEFENDANT JOHN N. BACH, on all his claims per his FIRST AMENDED COMPLAINT, against defendant KATHERINE D. MILLER, aka KATHERINE M. MILLER, in all capacities, and judgment further in his complete favor against all claims of KATHERINE MILLER, per her counterclaims against him, per IRCP, Rule 59-60(1) through (6); and/or Rule 50(b); and/or
3. FOR AN ORDER OF AMENDMENT OF ALL RULINGS/ORDERS per this Court's FINAL PRETRIAL ORDER, and ALL TRIAL ORDERS, DENYING OR REFUSING, PLAINTIFF'S JURY INSTRUCTIONS, HIS OBJECTIONS TO ISSUES AND FACTUAL SHOWINGS DURING TRIAL, WHICH HE SOUGHT AND MOVED THE COURT FOR A COMPLETE DIRECTED VERDICT ON ALL HIS CLAIMS AGAINST DEFENDANT KATHERINE MILLER, and AGAINST ALL HER CLAIMS PER HER COUNTERCLAIMS, WHICH MOTIONS AND OBJECTIONS WERE EVADED, EITHER DENIED AND/OR TAKEN UNDER SUBMISSION, BUT NEVER RULED UPON NOR ADDRESSED WITH FINALITY, and WHICH OBJECTIONS AND DIRECTED VERDICT MOTIONS OF JOHN N. BACH, JUSTIFY AND REQUIRE THE SETTING ASIDE, AMENDING and/or ALTERING said SPECIAL JURY VERDICT OF JUNE 19, 2003, and/or FOR COMPLETE OR PARTIAL NEW TRIAL, IRCP, Rule 59, subparts 1, through 7, thereof, re (1) Irregularities in the proceedings before trial and during trial; (2) Misconduct of the jury; (3) Accident or surprise, which ordinary prudence could not have guarded against; (4) Newly discovered evidence, material for the plaintiff making the application, which could not, with reasonable diligence have been discovered and produced at the trial; (5) Excessive damages appearing to have been given under the influence of passion or prejudice against JOHN N. BACH; (6) Insufficiency of the evidence to justify the special verdict or any findings therein in favor of Katherine Miller, or other decisions, rulings and orders of the court, or that such special verdict is against/contrary to Idaho laws and authorities; and (7) Error in and at law and equity committed both by the court, and Opposing Counsel, both Galen Woelk, and Alva A. Harris,

and other defendants, many in default status, for which the court is also moved hereby to open, the special verdict and any part or whole of the trial, take additional testimony, amend findings of fact and conclusions of law, or make new findings and conclusions of law in JOHN N. BACH's complete favor and direct the entry of a new judgment and/or verdict of findings or conclusions, as the trial court should have directed, and ordered, not only in granting plaintiff and counterclaim defendant's motions for summary judgment, but also, in granting JOHN N. BACH's motion for complete directed verdict and judgment on all quiet title, equitable and legal issues in favor of JOHN N. BACH on all the pleadings herein; and

4. FOR AN ORDER SETTING ASIDE AND/OR MODIFICATION OF FIAN PRETRIAL ORDER &/OR RELIEF FROM FINAL PRETRIAL ORDER & ALL ADVERSE TRIAL ORDERS TO JOHN N. BACH, SETTING ASIDE & VACATING OF SPECIAL VERDICT, and ADVERSE FINDINGS THEREIN, AGAINST JOHN N. BACH's claims, property interests, rights, etc. per IRCP, 16, et seq and Rule 60(1) through (6), and the inherent powers jurisdiction and obligations of the court, to decide without any jury's input or recommendations, such quiet title issues, equitable and legal issues, as a matter of law on the evidence presented to the court, since the filing of the original complaint to date hereof and upon any reopening of the trial and/or special verdict, etc.

Each and all of the foregoing motions and subparts thereof, sought by plaintiff and counterclaim defendant JOHN N. BACH, are based upon the entire file herein, all hearings had on August 13 and 15, 2002, and thereafter to date hereof, including the evidence as properly should have been restricted and limitedly admitted before the court, during the combined jury and court trial, further based upon JOHN N. BACH's uncontested and unrefuted motions for summary judgment (none of his motions were ever rebutted by any admissibly relevant verified pleading nor affidavit of Katherine Miller, as per IRCP, Rule 56(e), upon his memorandum

of points and authorities submitted in support of said motions for summary judgment, upon his trial briefs, all three (3) of them, along with his submitted jury instructions, standard as to issues to be decided and also his special or supplementary jury instructions, which were avoided, denied and/or ignored by the court, and upon the further documents, affidavits and/or other memoranda in support of the foregoing motions and subparts thereof. Lastly, the exhibits not only admitted, but offered, and/or rejected or denied during said jury trial are also relied upon and the basis of each and all of said foregoing motions, as are all evidence submitted to this court, at all times in support of JOHN N. BACH's requests for injunctive relief, as per IRCP, Rule 54, et seq.

Plaintiff and counterclaim defendant JOHN N. BACH, cites to the court and counsel, the provisions of IRCP, Rules 54(a) 54(b) and 59(a), which address the form, entry and effect of a judgment, but, which are in abeyance herein, due to the court's delays and noncompliance with the quiet title, equitable and legal issues as a matter of law, requiring the court's ordering and granting judgment, partial or otherwise, with finality, against, not only Katherine Miller, in all capacities, but also all defendants in default entry status, who were noticed for hearing on plaintiff's motions for entry of default against each and all of said defaulted defendants, during the jury trial and combined court trial of June 10, through June 19, 2003.

The provisions of Rule 59, et se seq, are premised upon the entry of valid and enforceable judgment or judgements or certificate of judgment per Rule 54(b), but, in order to not have any claim of plaintiff's and counterclaim's JOHN N. BACH's untimely bringing of said motions for amendment or altering of Plt's Post Spec'l Verdict 4 Mtns, etc. P. 4. 000789

judgment and/or new trial, upon all the basis stated, supra, his foregoing motions are presented first, in the request for relief of any interim orders, nor final in judgment and secondly, per the provisions of both IRCP, 16 and 60(1) through (6), thus, plaintiff and counterclaim defendant JOHN N. BACH, need not comply with the 14 days requirement of 59, et seq, re affidavits filings and/or for full memoranda briefs in support of all or any of said foregoing motions, which briefs have already been filed both before the trial, via his summary judgment motions\* and opposition to defendant Galen Woelk's summary judgment motions,\* his trial brief, three in number, and his motions for complete directed verdicts and findings against Katherine Miller on all his claims via his FIRST AMENDED COMPLAINT and against her claims, in his favor, on her counterclaim. (\*Pt's EX 22 & 23 are offered in support)

Lastly, the court, itself, addressed and advised the parties, that after the rendering of said special verdict that it would immediately address and rule upon those court issues re quiet title, equitable, injunctive and other legal issues for it solely to have resolved and/or further to have resolved, by the following week. Now, over two (2) weeks have expired and the only filings are those of Alva Harris, Jared Harris and other counsel, representing defendants in default status, who have repeatedly, ad nauseum brought and still file, frivolous and unduly redundant, without merit, motion to set aside their respective clients defaults, with a hearing set by plaintiff on his motions for default judgments entries to be heard July 10, 2003 @ 9:15 a.m.

Because of the foregoing confusions and obfuscations of the proceedings had and still to be presented, plaintiff and counterclaim JOHN N. BACH will be submitting further memoranda briefing Plt's Post Spec'l Verdict 4 Mtns, etc. P. 5.

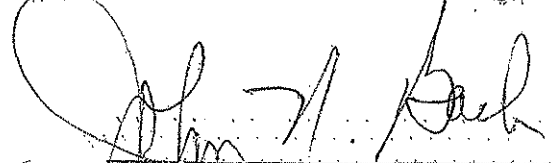
which will refine, define and meet any requirements of the rules cited herein, as and for the full granting and ordering of his requested motions and relief thereby. (See Stewart Whale, Co. v. District Judge (1925) 41 Idaho 572, 240 P. 597 (Clerk has no authority to enter judgment on a special verdict in an action involving equitable issues, where no judgment has been rendered by the court.) Ward v. Lupinacci, 111 Idaho 40, 720 P.2d 223 (1986) (When a court properly acquires jurisdiction over the parties, and over the subject matter of a controversy, that jurisdiction continues until extinguished by some event, the court's power to enter judgment, and even to correct a judgment or the record so that it accurately reflects action taken by the court, is not lost by lapse of time); and Whitney v. Randall, 58 Idaho 49, 70 P.2d 384 (1937) (Where parties appear and suit may be construed for one to quiet title and/or for declaratory relief as to construe a contract [herein an oral partnership between plaintiff and defendant Miller as to the most westerly 40 acres parcel] or to convey land, the district court has continuing jurisdiction of both the parties and the subject matter. Pp 387-388)

The Court was presented on August 13, 2002, with Plaintiff JOHN N. BACH's Initial Memorandum Brief, In Support of his Application for T.R.P. and Preliminary Injunction, which brief amply and decisively supports and requires the quieting of title to himself as to all One through Four Counts or Claims, and for the immediate issuance of a permanent injunction as he has repeatedly requested. Said eight (8) page Initial Memorandum Brief is attached hereto and by such reference incorporated herein, and when such initial memorandum brief is further supplemented by plaintiff's summary judgments briefs, his three brief during trial and his motion for directed verdict and brief, there is little question or

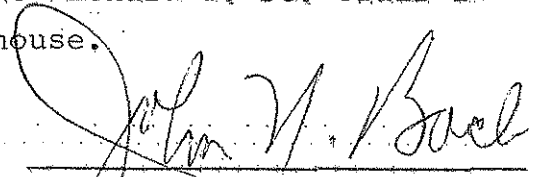
Plt's Post Spec'l Verdict / Mtns. etc. p. 6 000791

no legal basis or evidentiary obstacle that should be considered to grant fully all or any of his current motions and full relief as sought by his FIRST AMENDED COMPLAINT against defendant KATHERINE MILLER in all capacities. Respectfully submitted and to be augmented,

DATED: July 3, 2003

  
\_\_\_\_\_  
JOHN N. BACH, Pro Se

CERTIFICATE OF SERVICE BY MAIL: I the undersigned, hereby certify this date, July 3, 2003, that I did mail copies of the foregoing document with attachment to each of the counsel of record herein, to wit, Galen Woelk, alva A. Harris, Jared Harris, Jason Scott, Greg Moeller, David Shipman and to Ann-Toy Broughton, pro se. as well as a mailed copy to the Honorable Richard T. St. Clair in Chambers at the Bonneville County Courthouse.

  
\_\_\_\_\_

000792

AUG 13 2002

TETON CO.  
DISTRICT COURT

JOHN N. BACH  
1858 S. Euclid Avenue  
San Marino, CA 91108  
Tel: (626) 799-3146  
(seasonally: P.O. #101  
Driggs, ID 83422  
Tel: (208) 354-8303

SEVENTH JUDICIAL DISTRICT COURT, STATE OF IDAHO

IN AND FOR THE COUNTY OF TETON

JOHN N. BACH,

CASE NO: CV 02-208

Plaintiff,

PLAINTIFF JOHN N. BACH'S  
INITIAL MEMORANDUM BRIEF  
IN SUPPORT OF HIS APPLICATION  
FOR T.R.O. and PRELIMINARY  
INJUNCTION

v.

KATHERINE D. MILLER aka  
KATHERINE M. MILLER, ALVA  
A. HARRIS, Individually & dba  
SCONA, INC., a sham entitly,  
JACK LEE McLEAN, BOB FITZGERALD,  
OLE OLESON, BOB BAGLEY & MAE  
BAGLEY, husband and wife, BLAKE  
LYLE, Individually & dba GRANDE  
TOWING, and DOES 1 through 30,  
Inclusive,

Date of Hearing: August 13, 2002  
Time of Hearing: 2 p.m.  
Place of Hearing: Teton County  
Courthouse, Driggs

Defendants.....

Plaintiff presents this initial memorandum brief in support of the injunctive and other relief he seeks per the restraining Orders and Order to Show cause, which issued from this court and is set for hearing currently, on Tuesday, August 13, 2002 at 2 p.m., at the Teton County Courthouse.

I. REQUEST FOR JUDICIAL NOTICE AND RECEIPT INTO EVIDENCE  
IN SUPPORT OF PLAINTIFF'S REQUESTED RELIEF.

Per Idaho Rules of Evidence, Rule 201, plaintiff requests not only the judicial notice, but receipt into evidence of the following Teton County cases and filings or Exhibits as further delineated or specified by plaintiff at time of hearing herein:

- A. Teton CV 01-59, with the final judgment of dismissal of all Katherine Miller's claims with prejudice and those

motions, filing of pleadings, affidavits and exhibits offered and admitted by defendant therein John N. Bach, especially EXHIBITS A. through M., offered and received into evidence therein on May 16, 2002, and the large binding of documents filed September 27, 2001, entitled on the cover page: "Defendant & Counterclaimant's Filing of Documentations Per Order of August 28, 2001, which entire package was remarked Defendant's Exhibit D, [another D] admitted May 16, 2002, along with all transcripts by the court reporter of proceedings held therein, especially the transcript of August 28, 2001 hearing before Judge Moss. Included with said exhibits are further documents and materials from Teton County cases CV 95-47 (action filed by the Harrops against plaintiff and Katherine Miller in May, 1995); Teton County CR -99-165 now on appeal before the Idaho Supreme Court (copies of transcript pages of Miller's testimony therein admitting that plaintiff not only owned the property deeded to Targhee Powder Emporium, Inc, but he was such entity, dba and as nominee thereof, further evidence that plaintiff has ownership per constructive trust and failure of public policy condition of violation of subdivision ordinance by Miller and her counsel of the strip of 110 feet by one half mile and that there was no easement strip of such width that extended over his 40 acres via Targhee Powder Emporium, Inc.; and that as to Miller's purported most westerly 40 acres, plaintiff and Miller were in a partnership, equal partners, with other evidence to be presented, showing that Miller is now a former and disassociated partner, having breached the partnersip agreements and understandings with plaintiff and plaintiff



now is the sole owner of her former 40 acres by doctrines of claim preclusion, collateral estoppel, judicial estoppel, quasi estoppel and abandonment/waiver as a matter of law. I.C. sections 53-3-601, 53-3-602, 53-3-603, 53-3-701); Teton County CV 00-76; and Teton CR 00--265, 00-649 and possible exhibits offered from CR 02-335.

B. Selected documents filed in those United States District Court, Idaho, CV 99-014-E-BLW and CV 01-266-E-TGN, as presented during the hearing.

A list of other cases from which judicial notice may be requested is set forth as Defendant's 1, as part of said Defendant's [Second] Exhibit D, received May 16, 2002 in CV 01-59.

II. THE DEFENDANTS, ESPECIALLY KATHERINE D. MILLER, aka KATHERINE M. MILLER, AND ALL OTHER DEFENDANTS WHO CLAIM ANY INTEREST OR RIGHT THROUGH HER OR IN THEIR OWN SEPARATE STEAD ARE BARRED, PRECLUDED AND FOREVER TO BE ENJOINED FROM ASSERTING ANY INTERESTS, RIGHTS OR CLAIMS IN ALL OF SAID PLAINTIFF'S REAL AND PERSONAL PROPERTIES, WHETHER IMPROVEMENTS, ADDITIONS OR PERSONALTY MOVEABLE ON SAID REAL PARCELS—Two (40) acre parcels, totalling 80 acres and the strip access parcel of 110 feet by one-half mile

The above heading states most explicitly plaintiffs positions, not contentions, but facts of both evidence and now matters of law which this Court should utilize to grant plaintiff's preliminary and even now mandatory permanent injunction.

As a result of Miller's and her counsel's deliberate evasive and multiplicity of frivolous lawsuits and defenses against plaintiff in the foregoing to be noticed lawsuits, Miller never once filed a mandatory counterclaim, as required by IRCP, Rule 15, et seq, never raised all claims which existed against John N. Bach in any actions she filed against him and either dismissed, such as CV 00-76 or as she lost with prejudice in CV 01-59 Since per Idaho Constitution Article I, Section 3, the United States Constitution is "the supreme

law of the land" and most certainly of Idaho, federal case authorities are offered herein as most applicable, if not binding and controlling.

First and foremost, if Miller had any claim whatsoever against plaintiff as to any of said parcels which plaintiff now owns in his own and sole rights, steady and fact, she failed to bring any mandatory counterclaim of fraud, mistake or negligence in plaintiff's acquisition and accumulation thereof. It is clear such claims come within the Idaho Statute of limitations per I.C. sec. 5-218, which claims, not in any way stating they even existed against plaintiff, commenced with the Harrops litigation and the 3 years of 5-218 expired by the end of May, 1998. But such mandatory counterclaim failure of filing or assertion also was duplicate by Miller in U.S.D.C., Idaho, CV 01-14-E-BLW, wherein she claim under penalty of perjury, in her answers to interrogatories, further answers thereto and documents produced, that she had honored and recognized plaintiff's said property ownership. Thus, under Miller's twice failure, at least, if not more, to assert such mandatory counterclaims, she is forever barred herein and precluded entirely from now asserting any such claims or contentions.

Cuervo Resources, Inc. v. Claydesta Nat'l Bank (5th Cir. 1989) 876 F.2d 436, 436-437; Federated Dept Stores, Inc., v. Moities, 452 U.S. 394, 397-399, 101 S. Ct. 2424, 69 L.Ed. 2d 103, (1981); see also Nilesen v. City of Moss Point, 701 F. 2d 556, 560, (5th Cir. 1983) (party that has choice of more than one remedy for particular wrong may not assert them serially in successive actions but must advance all at once or be subject to preclusions for those not asserted.)

(See Miller's verified complaint and affidavit in Teton CV 00-76, dismissed and compare with Teton CV 01-59, which was on a spurious, specious and utterly without merit claim of her being a landlord and John N. Bach a tenant at will on all of his properties in question herein.

Secondly, as is shown without equivocation or exception, Miller and her counsel, were repeatedly advised, if not directed by Judge Moss to amend their complaint to one for quiet title, as he had absolutely no jurisdiction or discretion to decide her ownership claims if any to said plaintiff's real and personal properties. As further shown by the exchange between Mr. Harris, Judge Moss and John N. Bach in the reporter's transcript of August 28, 2001, Miller, her attorney Harris and even Bob Fitzgerald who is now again frivolously claiming some sort of ethereal lease or tenancy, all without any factual presentation or admissible evidence being presented, deliberately decided not to so amend the complaint in CV 01-59. As stated in Moore's Federal Practice, Effects of Application of Claim Preclusion, Sec. 30.55(4):

"Under the doctrine of claim preclusion, all available legal and equitable relief resulting from a transaction or series of transactions constitutes a single claim, and as a general rule, the plaintiff must seek all available relief in the first action. Any judgment in that action precludes a second suit requesting additional relief.<sup>1</sup> Furthermore, the merger of law and equity allowed joinder of legal and equitable claims in a single action; therefore, any claims are subject to the claim preclusion doctrine, whether they are legal or equitable.<sup>2</sup>"

[Ftn 1 is Nilsen v. City of Moss Point, supra, 701 F.2d 556, 560; and 2 is: Lubrizol Corp. v. Exxon Corp., 929 F.2d 960, 963-964 (3rd Cir. 1991)]

See further In re Hopkins, 146 F.3d 729, 731-732 (9th Cir. 1998) and especially Mercoid Corp. v. Mid-Continent Inv. Co., 302 U.S. 661, 670-671, 64 S. Ct. 268, 88 L. Ed 376 (1944) (defendant who fails to assert available defense [or mandatory counterclaim] in initial action is precluded from raising it in subsequent action involving same parties and transactions). (NOTE: Mercoid has now been binding for over 58 years) See also In re Duncan 713 F.2d 538, 541 (9th Cir 1983)

Thirdly, the doctrine of judicial estoppel applies most relevantly, against Miller, her counsel, and even Fitzgerald or others,

from taking inconsistent positions in different lawsuits and even in the same lawsuit. Judicial estoppel does not require that the issues have been actually litigated in the prior proceeding, nor is mutuality of the parties required for judicial estoppel. Lowery v. Stovall, 92 F.2d 218, 223 n.3 (4th Cir. 1996) cert den. 519 U.S. 1113 (1996); Morris v. California, 966 F.2d 448, 452 (9th Cir. 1992) cert den. 506 U.S. 831 (1992) The conclusion which applies from such judicial estoppel doctrine is that it applies where neither collateral estoppel nor equitable estoppel apply. Allen v. Zurich Ins. Co. 667 F.2d 1162, 1166-1167 (4th Cir. 1982)

There are other basis for the doctrine of issue preclusion to also be applied but such is not necessary in view of the foregoing three(3) mandatory doctrines which apply and support plaintiff's sought relief.

There is also the Idaho doctrines of equitable estoppel, quasi-estoppel and condonation, waiver, abandonment and acceptance, which are also asserted by the complaint but at this point need not be considered in depth due to the time constraint of the hearing. In presentation/consideration of such Idaho doctrines, it is clear without question, especiall from CV 01-59, that Plaintiff at all times from his buyding the real properties in question from the Harrops in August 16, 1994 has had possession of all of them, utilized, controlled, improved and even excluded Miller therefrom due to her criminal and wrongful actions of destruction, malicious harm to his improvements, structures, fences, etc., and his animals, all of which plaintiff had a right to do per the doctrines of abatement of Miller and her crazed posse associates being both public and private nuisance. Moreover, Fitzgerald and Oleson are both known alcholics and drug dealers/


who have not only threatened to run off or harm plaintiff's horses and animals, but burn his barn and home construction structures, they both have been under surveillance re drug trafficking and various charges have been filed against them but for unexplainable reasons, although the evidence was there, they have escaped conviction along felony line charges. Oleson, in fact, threatend to harm both plaintiff and his significant lady, Cindy Miller, and lives with Miller, doing her bidding and scheming to intimidate if not harm plaintiff. (Note: Interview tapes obtained via the Idaho Freedom of Informatin Act, from the Attorney General's office, reveals that Miller brags about her use of such criminally inclined individuals to fight if not harm plaintiff.

Further, as to what was Miller's most westerly 40 acres, there has not been any field grass to be swathed therefrom for the last three years counting this year, and water availability to such most westerly 40 acres has been cut off since early July, 2002, and each of the two years preceding with whatever grass there was was not only meager but wholly without substance feed to any horses, cattle or other domestic stock. Some 4 years ago; plaintiff as managing partner of said most westerly 40 acres was only able to obtain \$400 for such grass feed or hay cut; and such amount was more than reasonable.

CONCLUSION: The Court is respectfully requested to issue not just a preliminary injunction but a permanent injunction against all defendants and that no further security or bond be required whatsoever, as plaintiff still has damages, which he seeks to have a jury award him and the delays via the frivolous filings and lawsuits by Miller more than offsets any further bond of security posting let

along of the present cash bond of \$2,5000.00 which plaintiff  
has posted with the court.

DATED: August 13, 2002



JOHN N. BACH,  
Plaintiff Pro Se

JOHN N. BACH  
1858 S. Euclid Avenue  
San Marino, CA 91108  
Tel: (626) 799-3146  
(Seasonal Only for  
Summer 2003: P.O. #101  
Driggs, Idaho 83422)

FILED  
3:06  
JUL 09 2003  
TETON CO.  
DISTRICT COURT

SEVNEETH JUDICIAL DISTRICT COURT, IDAHO, TETON

JOHN N. BACH,

Plaintiff &  
Counterclaim Defendant,

v.

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

Defendants [& Miller]  
Counterclaimant, et al.,

CASE NO: CV 02-208

PLAINTIFF & COUNTERCLAIM  
DEFENDANT JOHN N. BACH'S  
NOTICE OF MOTION, MOTION &  
AFFIDAVIT FOR THE DISQUALIF-  
ICATION 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  
VACTING OF ALL JUDGE ST. CLAIR'S  
FINAL PRETRIAL ORDERS, ADVERSE  
ORDERS, FINDINGS OF FACTS AND  
CONCLUSIONS OF LAW, ETC.

---

DATE OF HEARING: Thursday, July 31, 2003, or any other date  
rescheduled, assigned, etc.  
TIME OF HEARING: 9:00 a.m  
PLACE OF HEARING: Driggs, Teton County Courthouse, Idaho

---

COMES NOW THE PLAINTIFF AND COUNTERCLAIM DEFENDANT JOHN N. BACH,  
who does hereby give NOTICE OF HIS MOTIONS, AND MAKES THE HEREIN  
STATED MOTIONS, that on Thursday, July 31, 2003 at the hour of  
9:00 a.m., he will appear before this Court, at the Teton County  
Courthouse, 89 N. Main, Driggs, Idaho, 83422, or on any other  
date, that his motions herein are rescheduled or assigned, etc.,  
and will move this court for each and all of the following ORDERS:

1. FOR AN ORDER FOR THE IMMEDIATE AND COMPLETE DISQUALIFICATION  
AND/OR RECUSAL OR REMOVAL OF THE HONORABLE RICHARD T. ST.  
CLAIR, ASSIGNED, not only per the provisions of I.R.C.P.,  
40(d)(2)(A)(1),(3) & (4) and 40(d)(5), but also upon the  
federal basis and rights per the U.S. Constitution and/or  
Idaho State Constitution and interpretative case authori-  
ties, that the JOHN N. BACH's procedural and substantive  
rights of due process and equal protection, have been already  
denied and are continued to be denied to an impartial and  
uninterested, unbiased and prejudiced judge, to wit, Judge  
St. Clair, who has become an interested party herein, has  
become an advocate or counsel for defendants, misusing with-

out jurisdiction or in excess thereof, his powers, and who has become so biased and prejudiced against plaintiff and counterclaim defendant JOHN N. BACH, that his continued assignment to all remaining issues, claims and other proceedings herein will further compound such egregious unconstitutional violations, and deny JOHN N. BACH his said constitutional rights with impunity by Judge St. Clair, and that further, Judge St. Clair's disqualification/removal, is necessary being in violation of JOHN N. BACH's said constitutional rights, as his actions and conduct herein have more than given a reasonable person the appearance of bias and prejudice against JOHN N. BACH. (See 91 ALR 5th 437); and/or


2. FOR AN ORDER OR ORDERS VACATING ALL OF JUDGE ST. CLAIR'S PRETRIAL AND FINAL PRETRIAL ORDERS, ADVERSE JURY TRIAL RULINGS/ORDERS AGAINST JOHN N. BACH, AND FOR ALL ORDERS AS SOUGHT BY JOHN N. BACH, PER HIS FOUR (4) MOTIONS WHICH WERE FILED IN THIS ACTION ON JULY 2, 2003, and which by such reference and identification are incorporated herein.

JOHN N. BACH, does further give notice that per IRCP, Rule 40(d)(5), upon the filing of these motions and until said hearing thereon, is held, submitted and ruled upon, Judge St. Clair is without authority to act further in this action. Waters v. Barclay 57 Idaho 376, 64 P.2d 1079 (1937) Further, notice and basis of the unconstitutionality of said Rule 40(d)(2) of the I.R.C.P., in flagrant violation of JOHN N. BACH's said constitutional rights is given, such unconstitutionality not only per the wording of said Rule 40(d)(2), but of it's usage, the practices and customs and habits of Judge St. Clair, and other Idaho Judges, in refusing, failing and avoiding the U.S. Constitutional rights of due process and equal protection, and the federal standards of disqualification/recusal is required, if not mandated, when a judge's actions in a case give to a reasonable person the imminent appearance of bias and prejudice, or the reasonable likelihood thereof.

Plaintiff and counterclaim defendant will be filing 14 days before the noticed date of hearing herein, a more complete written brief in support hereof. DATED July 9, 2003

000805

Pt's Ntc/Mtns DQ Judge St. Clair, etc. - 2 -

  
JOHN N. BACH



AFFIDAVIT OF JOHN N. BACH IN SUPPORT  
OF HIS MOTIONS NOTICED AND INCORPORATED

STATE OF IDAHO )

COUNTY OF TETON) <sup>SS</sup>

I, JOHN N. BACH, duly being placed under oath, give testimony herein of my own personal knowledge, involvement, participation, observations, perception and understanding.

1. I am the plaintiff and counterclaim defendant herein, who from June 6, 1964 through approximately May 12, 1992 was a licensed practicing attorney in California, with my principal office being at all times during said practice in Chico, California. I was for the last 15 years or more a trial advocate who practiced before many of the courts of original jurisdiction of California and the federal district courts throughout California, and did also appellate work before the California Appellate courts and the U.S. Ninth Circuit Court of Appeals. I have maintained my legal research and continued paralegal pursuits, although not licensed since May 1992, and am able, because of my training, education, experience and legal exposure background, to identify, and detect unconstitutional practices in various legal actions and proceedings, such, that from time to time, I assist California counsel and parties in doing briefing, drafting and analyzing of legal authorities applicable to such unconstitutional practices, especially of biased, interested and prejudiced judges, an area of legal and unconstitutional violations which most attorneys are fearful to raise or assert by motions for a judge's recusal or disqualifications, due to such judge's power, and vindictive retaliatory reactions, adverse rulings and punishment inflicted in cases before him involving such challenging attorney; the scenario, is very similar to an attorney being required to be a "whistle blower" as to a judge's Pt's Ntc/Mtns re DQ Judge St. Clair, & Aff., etc.

unconstitutional actions and basis of disqualifications, but which "whistle blower" is in fact punished, hounded and targetted by other jurists for destruction and devastation of his clients' cases, his own livelihood and removal from the legal profession. The fine tuning and practice of a Judge's bias and prejudice against a client and/or his attorney is more prevalent when such Judge is seeking an appellate appointment, such as Judge Richard T. St. Clair is known to be currently seeking an appointment to the Idaho State Supreme Court, a most high court dominated by the appointment of L.D.S. lawyers and judges, who follow, espouse and practice the L.D.S. principles of administrating their church's postulates and principles, and not that of true consitutional adherence to the rights and principles enumerated and perfected by the U.S. Constitution and federal standards, statutes and case authorities.

2. Affiant is aware that normally a judge's one or simple few adverse rulings against an attorney or his client, "alone" do not give rise to the existence of bias or prejudice sufficient to disqualify or remove such judge, especially in an L.D.S judicially dominated state as Idaho and/or Utah. However, the Idaho Civil Rules of Procedure, Rule 40(d)(2), with its many subparts thereof, as currently existing, is on its face, let alone it's application and practice, customs, habits or usages, applied therefrom by Idaho jurists, unconstitutionally deficient and flawed to provide, and/or guarantee a litigant in Idaho, especially Eastern Idaho, a fair, impartial, unbiased, uninterested and objective jurist, free from said L.D.S controls, influences and intrusions into the Idaho judicial system and cases processed therein.

3. The actions, not just the rulings or orders or findings of fact and conclusions of law of Judge St. Clair, herein, have now materialized and presented themselves, to establish that Judge St. Clair has become more than an interested party, acting numerous times as legal counsel or attorney for the defendants, especially defendant Alva A. Harris and the defendants he represents whose defaults are have been entered herein, as well as for defendants Galen Woelk, his law firm, defendants Katherine Miller, and other defendants, whose defaults have also been entered herein. The recently, purportedly filed "June 31, 2003" FINDINGS OF FACT AND CONCLUSIONS OF LAW, signed on July 1, 2003, but not mailed to affiant until July 2, 2003, per the meter stamp of Judge St. Clair, which document is missing several pages as sent to affiant, especially the next to last two pages thereof, has revealed to affiant, the enormity of not just bias, prejudiced and interested advocacy by Judge St. Clair, but also, and most, sequentially and significantly, the prior bias, prejudiced and favorably rulings, orders and actions by Judge St. Clair to said defendants, which by way of examples, but not all inclusive are:

a) Judge St. Clair's refusal and orders denying affiant full discovery responses by all defendants, after said defendants' and their counsel, waived all privileges and rights of privacy or possible claimed confidentiality matters/materials or documents.

b) Judge St. Clair's biased order protecting defendant KATHERINE MILLER and her counsel, Galen Woelk, Alva Harris and other defendants, from producing full discovery but limiting affiant to receive "only those documents" which Miller and her counsel will use in their case in chief at trial.

c) Delaying and denying rulings upon affiant's motions to continue or extend cutoff dates, and the trial date, allow him further opportunity at discovery, when defendants Alva A. Harris and defendants he represented not only violated but openly contemptuously denied affiant full discovery, after being ordered to do so by the court, and then, refusing to hear at the same trial as the forced time date of jury trial upon affiant, his motions for default judgement entries against all said defendants whose defaults had been entered. As part of this bias and prejudice, Judge St. Clair, then held a last minute pretrial conference from which a wholly biased order of trialable issues against affiant, as to not

000808

allowing the issues of conspiracy, joint ventures, common planning, actions and/or union of actions among all defendants, even those in default status, being presented to the jury, and then further denying all affiant's offered jury instructions, both general as to the law and even special jury instructions, and Judge St. Clair, then rewriting jury instructions, which he had no jurisdiction or basis, not being either the legislature of one in Idaho nor a Supreme Court Idaho justice of one, to apply principles of law which were not existant, nor correct and for which affiant was "flogged publically" before an unqualified, infected and biased L.D.S. jury, who had been deliberately and systematically poisoned and injected with the untruths, disparagement statements and defamatory publications of defendants Miller, Woelk, Harris and all other defendants represented by said legal counsel. The trial was not only an "Alice in Wonderland" draconian unconstitutional exhibition, but a complete subversions and denial of affiant's said unconstitutional rights, privileges and processes of justice.

d) Even before said final pretrial order, denying also to affiant numerous of his counts, especially that of violation of fiduciary duties by defendants Miller, Woelk, Dawson, McLean, etc., and of violation of express and implied covenants of good faith and fair dealings, Judge St. Clair, totally ignored the requirements of Rule 56(e), in denying not only affiant's motions for summary judgment against defendants Miller, Woelk, Harris and all other defendants represented by said counsel, but in further, denying affiant's motions for summary adjudication on the required affirmative defenses of statute of limitations, a complete settlement agreement of October 3, 1997, the doctrines of res judicata as to Miller's contrived fraud in the inducement claim, also collateral estoppel, issue and claim preclusions, the preclusive effect of Rule 13(a), (this Rule 13(a) especially appropriate since as of this date, the appeal in USDC, Idaho CV 99-014-E-BLW is final, and the bond of some \$7,500.00 posted by affiant pending appeal therein, has been ordered released and to be paid to Miller and her codefendants/appellees therein); promissory estoppel, quasi estoppel, and judicial estoppel, etc., which issues were controlling, dispositive and eliminated completely any and all relief granted by the fractured jury special verdict, which special verdict was changed some 3 times unilaterally by Judge St. Clair, the last change being announced to affiant some 5 minutes or less before Judge St. Clair read the closing instructions and affiant was to start his closing arguments. Even during the trial, Judge St. Clair let in, over affiant's objections, evidence or the suggestions of Miller's counsel, Galen Woelk, that affiant was a vexatious litigant, a tax dodger, a constitutionalist as to the assertion of his and other clients or parties' tax rights and constitutional assertions of due process and equal protection, etc. Even the issue of whether affiant was or is a true Idaho permanent citizen, was allowed, despite such issue not being relevant nor contained within the final pretrial order.

e) Judge St. Clair never consulted nor allowed affiant's input as to the length of trial, and when the trial was to begin, announced that he was limiting it to only eight days, and even then, limited affiant's opening statement, his closing arguments, and limited, restricted affiant's cross examinations of Miller and Harris, and refused to direct them to answer affiant's questions responsively, rather than engage in a tirade of accusations and charges against affiant; further, allowed Miller and her counsel, to inject evidence not relevant to any issues of Miller's affirmative defense or counterclaims against affiant, especially when

Miller had not pled extrinsic fraud, nor had she pled that the complete October 3, 1997 agreement was not the final intended settlement agreement between her and affiant. In this later regard, Coaley v. Whittlesey 126 Idaho 630, 888 P.2d 804, 808-809, clearly established that even if such incomplete claim of a settlement agreement was properly pled by Miller, which it wasn't, the issue of her and affiant's intent was paramount, had to be proven by Miller, and jury instructions were required, if such issue was properly before the jury, which it was not, and the findings of fact/conclusions of law which Judge St. Clair, biasedly/prejudicially fashioned and constructed against affiant are more than clearly erroneous and against the weight of the evidence, especially Miller's own handwritten letters to affiant, before October 3, 1997 when she discovered and admitted so, "NO" claim of fraud in the inducement, but which fraud never existed VIA her testimonies, both under cross and during her direct presentation, was only described as affiant first "pressured" her, then "persuaded" her and then lastly, that affiant "pitched" her, as to her acquisition of the most westerly 40 acres, but even then she never testified at any time whatsoever, before or during trial, that she would not have purchased said most westerly 40 acres had she known what price affiant had secured from the Harrops. In fact, Miller's further testimony admitted her estoppel, quasi estoppel and promissory estoppel as a matter of law, when she admitted she had sought to take advantage of the Harrop lawsuit, which she fully knew of the claims therein as early as May, 1995 and for sure by July 1, 1995, when she offered the Harrops, \$80,000 to purchase the front 80 acres, before she directed and instructed affiant to settle with the Harrops as to the 110 foot by ½ mile joint owned strip, which strip was confirmed by said October 3, 1997, not only settlement agreement, but documents, deeds recorded thereby, to be jointly owned by affiant and Miller.

f) Even during the trial Judge St. Clair, precluded affiant introducing evidence as to the averred conspiracies, joint ventures, and/or commonality of plans, unity of action and pursuits, etc. by all defendants, whose defaults had been entered, in conjunction with Miller, and further, incorrectly and deliberately misleadingly to the jury gave them statute of frauds, jury instructions, which issue if properly before the court, was for the court alone to decide, and then, most violative of affiant's rights of due process and allocation did not allow nor permit, in written or any form, affiant the right to argue and/or present to the court alone, argument on those court issues, equitable or as a matter of law, regarding all of his quiet title counts/claims, which quiet title issues, inaccurately, incompletely and improperly were given to the jury who was by then sending notes to the court, asking if they could be sued by affiant for rendering their verdict, and which notes despite affiant's requests and motions that such jurors be identified and examined and despite affiant's further repeated motions and applications for a mistrial.

g) But far more revealing when considered as to the utter clearly erroneous findings of fact now issued by Judge St. Clair was his evasiveness and taking under submission, affiant's motion for a directed verdict and for determination of said affirmative defenses outside and before the jury was to hear further evidence, received any instructions therein or hear arguments let alone not to be given such issues which the court was required to determine and grant in affiant's favor. This evasiveness, was not merely innocent by Judge St. Clair but a deliberate orchestrated procedure, unauthorized and intentionally biased and prejudiced against affiant, because his required

duties and responsibilities to rule and grant affiant's directed verdict motion and his further refusal to try first without the jury the quiet title issues and related court/equitable issues, more than distorted and violated affiant's civil and federal rights to due process and equal protection, but was intended by Judge St. Clair to effectively, destroy and eliminate affiant's federal claims against all defendants and especially defendants, Ryan Kaufman, Colin Luke, a judge with whom Judge St. Clair associates with and works in judicial matters in Bonneville County, and with defendant Laura Lowry, and the undisclosed tortious conduct of Roy C. Moulton, whom Judge St. Clair had personally protected along with John J. Stewart in Teton CV 94-054 and 94, wherein he also orchestrated new rules of civil procedure and even evidence when he admitted a purportedly signed/initialled purchase agreement, at hearing on a motion for summary judgment by Moulton, which copy of said agreement had never before existed nor been revealed or admitted, all such admission being allowed in direct contravention to the requirements of Rule 56(a) through (e). Now Judge St. Clair, in his offered findings of facts and conclusions of law, does the same creation of fiction, of improper and none existing evidence and ignoring of actual evidence, documentary and testimonial to the contrary, which evidence clearly calls for the judgment of quieting title on all of affiant's first four counts, especially against Miller on his FIRST COUNT of his FIRST AMENDED COMPLAINT.

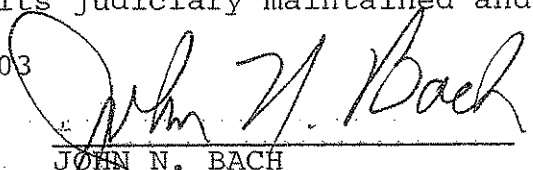
h) For Judge St. Clair to now further create an election by defendant Miller per said findings and conclusions, is another impermissible procedure, practice and nonlegal or equitable right, as Miller has already relinquished, surrendered, settled and forever elected that she has no such rights of election, nor of any purchase money trust remedy and most certainly no relief for any damage award of \$127,000 or any other amount of \$5,000 or any cent, whatsoever. What the evidence clearly established without any machinations or biased obfuscations of Judge St. Clair, Miller or her other counsel, was that: (i) Miller negotiated at arms length with affiant to purchase first 20 most westerly acres, then 40 most westerly acres, which (ii) 40 acres were offered to her, without any fraud as to the amount of acreage, status of use or development thereof, and at a price to her which was more than fair as to the price said 40 acres was offered by affiant to others at and before the December 12, 1994 written agreement; (iii) that by Miller's own testimony, she did not begin to live with affiant until May, 1995, after she had been served/had full knowledge of the Harris lawsuit, which lawsuit she discussed with her sister Lucinda and affiant when the three of them went on a trip to Dubois, Wyoming in early July 1995, during the progress of said lawsuits, she was personally represented by Chuck Homer of Holden, Kidwell, Hahn & Crapo, not affiant and which per her declaration read to her during her cross examination, into the record and evidence for all purposes she admitted that affiant was not her attorney, she did not rely upon him as her counsel or advisor and that she entered into a complete settlement with affiant on October 3, 1997 which settlement was drafted by her counsel, Chuck Homer, who knew and was told, that affiant was the sole owner of the first 40 acres, that all taxes had been paid and all liens cleared thereon.

i) The overwhelming evidence further presented established that in Teton CV 01-59, Miller, Harris and Woelk, not only pursued malicious prosecution against affiant, but also a total abuse of legal process, and the immediate application of collateral estoppel, judicial estoppel, issue and claim preclusions to bar any and all claims by

Miller via her late filed counterclaims against affiant. Affiant has already referred to his trial briefs and his post special verdict motions and attached initial preliminary injunction hearing brief, all of which reveal and establish the enormity and pervasiveness of Judge St. Clair's bias and prejudice against affiant and said Judge's further deliberate misuses of his powers and discretion to punish affiant unconstitutionally and otherwise for his assertion of his rights and insistence of judgement for the relief he seeks per the FIRST AMENDED COMPLAINT.

4. This affidavit will be further supplemented before the hearing of July 31, 2003, but, the unexpected July 4, 2003 hospitalization and unexpected major abdominal surgery of affiant's fiancée, Cindy L. Miller, who was released from the hospital, mid afternoon, July 8, 2003, and affiant's care and attention to her medical and convalescent needs, preclude the full completion of this affidavit.

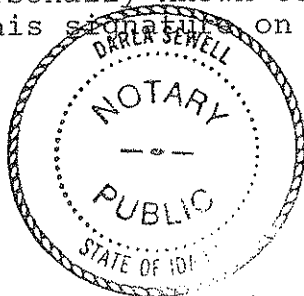
5. Affiant does request a full evidentiary and allocutory hearing on July 31, 2003, and objects to any request or suggestion by any defendants or their counsel, that Judge St. Clair further compounded or aggravate his biased and prejudiced rulings, orders, etc.. herein by deciding in secret and without affording affiant his said constitutional rights to due process. It is of not only affiant's great concern and objection to Judge St. Clair deciding any other issues herein further, but it should be that of any diligently conscientious counsel, who seeks to have justice not only constitutional served and applied herein, but the public's trust and confidence in its judiciary maintained and above all, preserved. DATED: July 9, 2003

  
JOHN N. BACH

NOTARY'S ACKNOWLEDGE, VERIFICATION AND ATTESTATIONS

I, the undersigned Notary for Idaho, hereby acknowledge, verify and attest, that on this date, July 9, 2003, I did place JOHN N. BACH under oath, who is personally known to me, who did give the above testimony, sign and affix his signature on this date, in my presence and witness thereof.

(SEAL )



NOTARY: 

Address: 

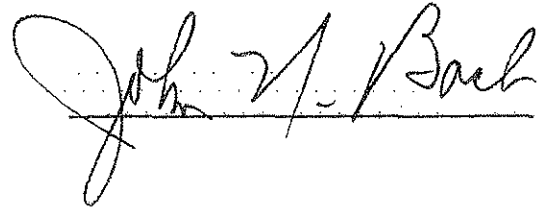
Com'n. Exp: 

000812

Certification of service by Personal  
service, fax and mail

I, the undersigned hereby certify that on this date, I did  
serve a copy of the foregoing document, consisting of 10 pages,  
including this page, upon all counsel, either by way of personal  
service, upon Galen Woelk, at his Driggs office, by fax upon  
counsel, Jared Harris, Jason Scott, and Judge St. Clair, and by mail  
service upon all other counsel, <sup>also Harris JS</sup> Gregory Moeller and David Shipman and  
upon Ann-toy Broughton, pro se.

DATED: July 9, 2003



John M. Baub

000813



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

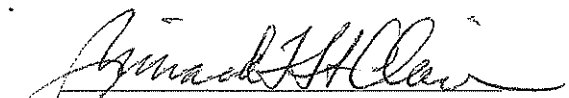
**SIXTEENTH ORDER  
ON PENDING MOTIONS**

Pending before the Court are motions for directed verdict presented by both defendant Katherine Miller and plaintiff John Bach during the jury trial before submission of the case to the jury. With the exception of granting Miller's motion for directed verdict on Bach's breach of fiduciary duty claim in Count VII, the Court reserved ruling on the parties' respective motions.

The Court has considered the parties' respective motions and supporting oral arguments, and it has considered the testimony of witnesses and the facts in the admitted exhibits. The Court has concluded pursuant to Rule 50(a), I.R.C.P., that although the evidence was conflicting, the Court must give the party opposing each motion for directed verdict the benefit of the truth of his or her adverse evidence and legitimate favorable inferences from such adverse evidence. Thomas Helicopters, Inc. v. San Tan Ranches, 102 Idaho 567, 633 P.2d 1145 (1981). Applying such standard to the admitted evidence present at the time of the respective motions for directed verdict, this Court concludes that there was substantial evidence to support the elements of the causes of action and affirmative defenses submitted to the jury.

NOW THEREFORE, IT IS HEREBY ORDERED that, with the exception of the oral motion for directed verdict of dismissal of Count VII of the first amended complaint alleging breach of fiduciary duty which was granted during trial after the close of the plaintiff's case in chief, all other motions for directed verdict by both defendant Miller and plaintiff Bach are DENIED.

DATED this 8th day of July, 2003.

  
RICHARD T. ST. CLAIR  
DISTRICT JUDGE

CERTIFICATE OF SERVICE

I hereby certify that on the *9th* day of July, 2003, I certify that a true and correct copy of the foregoing document was mailed, telefaxed or hand delivered to the following persons:

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

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

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

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

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

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

RONALD LONGMORE  
Clerk of Court

*M Southwick*  
Deputy Court Clerk

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. ) MINUTE ENTRY  
 ) Case No. CV-2002-208  
 )  
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). )  
\_\_\_\_\_ )

On the 10th day of July, 2003, scheduled motions 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. Galen Woelk appeared by telephonic connection on behalf of Defendant Katherine Miller.

Mr. Jared Harris appeared on behalf of Defendant Wayne Dawson.

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

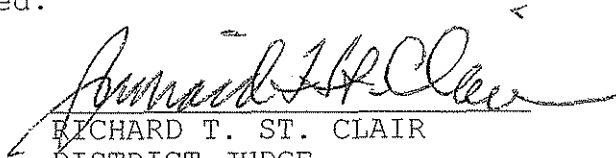
Mr. Bart Birch appeared on behalf of Defendant Earl Hamblin.

Mr. Greg Moeller appeared by telephonic connection on behalf of the Estate of Stan Nicole.

Mr. Bach has filed a motion to disqualify Judge St. Clair. The Court cannot hear the pending motions until the motion to disqualify has been decided. The motions scheduled for today will have to be rescheduled.

The pretrial conference scheduled for July 18, 2003, in Teton County is vacated.

Court was thus adjourned.

  
RICHARD T. ST. CLAIR  
DISTRICT JUDGE

CERTIFICATE OF MAILING

I certify that on the 14 day of July, 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

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

000816

JOHN N. BACH  
1858 S. Euclid Avenue  
San Marino, CA 91108  
Tel: (626) 799-3146  
(Seasonal-Summer 2003  
P.O. BOX 101, Driggs,  
Idaho 83422)

FILED  
4:25  
JUL 16 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, et al.,

Defendants & Counter-  
claimant [Miller], et  
al.,

CASE NO. CV 02-208

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  
3, 2003.

DATE OF HEARING:

TIME OF HEARING:

PLACE: Teton County Courthouse,  
89 N. Main, Driggs, ID.

STATE OF IDAHO )  
COUNTY OF TETON )<sup>SS</sup>

I, JOHN N. BACH, duly being placed under oath, give testimony herein of my own personal knowledge, involvement, participation, observations, perception and understanding.

6. I hereby supplement by Affidavit filed July 9, 2003, in support of my motions filed that date and also on July 3, 2003 and number all paragraphs consecutively from and after paragraph 5, contained in said July 9, 2003 Affidavit.

7. The basis of said motion to disqualify Judge St. Clair, are reiterated and further expanded from said previous affidavit, with the assertions that the herein cited case authorities and statutes, in addition to IRCP, Rule 40(d)(2), especially the provisions of 28 U.S.C. sections 144 and 455(a), 455(b)(1), Liteky v.

United States (1994) 510 U.S. 540, 551 (and Concurring Opinion, 557-568), 127 L.Ed 2d 474, 488, 492-499, 114 S. Ct. 1147, 94 CODS 1668, 94 Daily Journal DAR 2985, 7 FLW Fed S. 793; In re Beard (1987) 811 F.2d 818, 830 (When Judge has "any other interest" that may be substantially affected by the lawsuit, he is disqualified); In re Virginia Elect. & Power (4th Cir. 1976) 539 F.2d 357, 366-69 (Evaluates judge's ownership interest and "any other interest" disqualification basis/showing, and that "In determining whether he [the judge] should continue to sit, the district judge should regard himself as bound by the fundamental fairness of the fourteenth amendment and also bound by the enactment of the Congress in . . .Section 455."); Peacock Records, Inc. v. Checker Records, Inc. (1970, C.A. 7, Ill.) 430 F.2d 85, 88-89, cert den (1971) 401 U.S. 975, 28 L. Ed 2d 324, 91 S. Ct. 1193; U.S. v. Townsend (1973, C.A. 3, Pa) 478 F.2d 1072; U.S. v. Alabama (1984, N.D. Ala.) 582 F. Supp. 1197, affirmed without Opp. (1985; C.A. 11, Ala) 762 F.2d 1021 (relationship with former senator, then nonmember of firm in suit, is sufficient to disqualify); U.S. v. Moore (1976, S.D. W. Va) 405 F. Supp 771, (Judge's close personal relationship with U.S. Senator whose political interests were or might in future conflict, requires disqualification); and the treatises in 65ALR4th 73; 65 ALR Fed. 775, 787-789; and 72 ALR Fed 638.

As stated in Peacock Records, Inc. 430 F. 2d at 89: "Finding by a trial judge unsupported by the record are evidence that the judge has ruled on extra judicial sources in making such determinations indicating personal bias and prejudice." Such bias and prejudice is overwhelmingly established herein as well be further delineated infra.

000818



The United States Supreme Court in Liteky, supra, 510 U.S. at 551 established that extrajudicial sources are not the only basis of bias or prejudice or reasonable appearances thereof, to disqualify a jurist, by clearly stating: " . . . It ["extrajudicial sources"] is the only common basis, but not the exclusive reason a predisposition can be wrongful or inappropriate. A favorable or unfavorable disposition can also deserve to be characterized as 'bias' or 'prejudice' because, even though it springs from the facts adduced or the evnts occurring at trial, it is so extreme as to display clear inability to render fair judgment. (That explains what some courts have called the 'pervasive bias' exception to the 'extrajudicial source' doctrine. See e. g., Davis v. Board of School Comm'rs of Mobile County, 517 F.2d 1044, 1051 (CA 5 1975), cert denied 425 U.S. 944, 48 L Ed 2d 188, 96 S. Ct 1985 (1976).)"

In Justice Kennedy's concurring opinion, joined by Justices Stevens and Souter, the following statements have application:

"It is beyond dispute that challegned opinions or predispositions arising from outside the courtroom need not be disqualifying. See, e. g. United States v. Conforte, 624 F2d 869, 878-881 (CA 9), cert denied, 449 U.S. 1012, 66 L Ed 2d 470, 101 S Ct 568 (1980) Likewise, prejudiced opinions based upon matters disclosed at trial may rise to the level where recusal is required. See, e. g. United States v. Holland, 655 F2 44 (CA5 1981); Nicodemus v. Chrysler Corp., 596 F2d 152, 155-157, and n 10 (CA6 1979). From this, the Court is correct to conclude that an allegation concerning some extrajudicial matter is neither a necessary nor a sufficient condition for disqualification under any of the recusal statutes. Ante, at 554-555, 127 L Ed 2dm at 489-490. . "(510 U.S. 561-2) Supp'l Aff. of J.N. Bach re Judge St. Clair's D.O. P. 3.

"There is no justification, however, for a strict rule dismissing allegations of intrajudicial partiality, or the appearance thereof, in every case. A judge may find it difficult to put aside views formed during some earlier proceeding. In that instance we would expect the judge to heed the judicial oath and step down, but that does not always occur. If through obduracy, honest mistake or simple inability to attain self-knowledge the judge fails to acknowledge a disqualifying predisposition or circumstance, an appellate court must order recusal no matter what the source. . ." (510 U.S. 562-63)

" . . . I would apply the statute as written to all charges of partiality, extrajudicial or otherwise. . ." (510 U.S. 565)

8. On the morning of July 15, 2003, affiant spent some 1 hour and over 45 minutes getting access to all the exhibits admitted and those refused or still marked for identification in this matter. The delays and obstacles that precluded immediate access were that all such exhibits had been locked in the sheriff's evidence locker, within the prosecuting attorney's second story office, and that only by getting a deputy or the sheriff to open it would affiant be allowed such review of the exhibits. At first by telephone message relayed by Gabby, assistant court clerk in Driggs, from her telephone call to Phyliss Hansen, court clerk off that day, affiant was initially told he would have to make a written application to see such exhibits and it would take 5 or more days to present them to him; that such exhibits had been locked up since the end of jury trial. Based not only upon such disclosures and statements by the clerks, but also by the utterly erroneous findings of facts and conclusions of law, rendered by Judge St. Clair, herein, which still have not been filed in Teton County, and which were not, albeit incomplete in 3 pages missing, not served by mail upon

Supp'l Aff. of J.N. Bach re Judge St. Clair's D.C. P. 4.

upon affiant, until July 2, 2003, as evidenced by the meter stamp date of July 2, 2003, by Judge St. Clair's clerk, such admitted exhibits and other exhibits from which testimonies direct and during cross-examination of Katherine Miller, Alva Harris and John Bach, were not reviewed, nor considered nor correctly applied as evidence in fact admitted and controlling the facts and court trial issues. It is further, abundantly established, that Judge St. Clair's findings of fact and conclusions of law are more than just both extrajudicial and intrajudicial bias, prejudice and passion illegally and egregiously contrived by Judge St. Clair against affiant's claims and affirmative defenses against Miller's counterclaims, but were part of corruptness of Judge St. Clair in denying to affiant a court trial as required by Idaho authorities re his quiet title counts/claims set forth in his first through fourth counts of his FIRST AMENDED COMPLAINT.

9. At affiant testified herein during the illegal jury trial, he had in late Winter/early Spring 1998, from February through April, rendered paralegal, investigative and drafting services for Irene Beard of Idaho Falls, who was then charged in a criminal action for violating Idaho's Racketeering Statute, in which action Judge St. Clair presided. During said efforts for Irene Beard, affiant became aware of investigative actions, disclosures and evidence of Judge St. Clair's close political and personal ties, alliances and even arrangements of processing cases in a favorable manner, result and relief, involving attorney Blake G. Hall, of Idaho Falls, and his law firm, that Hall was a very daily visitor, who had access to Judge St. Clair, not only as the Idaho State Republican Chairman, but also as personal confidante and political and judicial goal achievements by Judge

St. Clair who wanted to be appointed to appellate court position either before the Idaho Court of Appeals or the Idaho State Supreme Court as he is now seeking to be appointed, to the Idaho Supreme Court. Such information and evidence was presented to affiant by a reporter from an Oregon newspaper, its editor and other personnel, who had interviewed Judge St. Clair's law clerk and court clerk, and even had obtained personal taped recordings of such interviews. During this period, affiant was involved with Judge St. Clair in appealing his judgment of summary judgment granting improperly to John J. Stewart, and Roy C. Moulton and Moulton's clients in that Teton Case CV 95-054, and related actions, which appeal, went up to the Idaho Supreme Court, upon a Petition for Review being granted, but at the hearing, before said Idaho Supreme Court, John J. Stewart, a high L.D.S. Priesthood and constitutional revisionist writer of the L.D.S. policies of damnation, denunciations and discrimination against blacks and other nonwhite skin persons, as per the book of Mormon, Nephi, argued that such review was improperly granted, and affiant for all purposes was precluded from fully arguing and having his raised issues decided on the merits by the totally L.D.S. dominated Idaho Supreme Court. Mr. Moulton, never filed any opposition briefs and his clients were given a not to be published opinion and order affirming Judge St. Clair's improper granting of their motion for summary judgment. In said appeal, affiant discovered in going through the Teton clerk's purported official files that such files, contained a nonfiled copy therein, which had not been served nor brought to affiant's notice whatsoever, of his disbarment proceedings and findings of the California Supreme Court in 1992. Such disbarment copy was soiled and underlined on numerous pages, and was thus accessible and

Suppl Aff. of J.N. Bach re Judge St. Clair's D.O. P. 6.

present at all times for Judge St. Clair to read, familiarize and review at all times he had the file. Roy C. Moulton, who represented the other defendants/appellees in said appeal by affiant has been along with JOHN J. Stewart, a defendant in that USDC, Idaho action filed by plaintiff, CV 99-014-E-BLW, which appeal is now more than ~~file~~<sup>FINAL, JB</sup>, as the appeal cash bond of \$7,500.00 has been released as of July 10, 2003 or thereafter to appellees therein, including Katherine Miller, Jack McLean, Roy Moulton and others. In the current USDC, action still pending against Teton County, Laura Lowry, Teton prosecutor and county attorney, and Ryan Kaufman, Teton Sheriff, in Idaho CV 01-266-E-TGN, said remaining defendants are represented by Blake G. Hall, personally and two other associated attorneys of his law firm, who also represented Roy C. Moulton, therein, and other Teton officials, commissioners, deputy sheriffs, etc. The fact of such present SECOND AMENDED COMPLAINT in said federal action Idaho CV 01-266-E-TGN, was not official made a part of this record herein, until after September 27, 2002, when affiant filed his FIRST AMENDED COMPLAINT herein. The initial complaint filed by affiant herein on July 23, 2002 was not complete in stating all his claims and all the defendants now named, because of his attention, plans and efforts to attend his only son's wedding in Hawaii on August 3, 2002. At the two days of hearing on August 13, and August 15, 2002, Judge St. Clair in granting said preliminary injunction in affiant's favor, stated clearly that based upon the evidence presented and the pleadings before him, affiant would probably prevail on his quiet title claims. There is a partial reporter's transcript which was prepared of Judge St. Clair's said ruling, and which was incorporated in his Preliminary Injunction Supp'l Aff of J.N. Bach re Judge St. Clair's D.O. 000823 P. 7.

of August 16, 2002. What if any evidence or pleading changes would allow, or support Judge St. Clair's bias, prejudice and constitutional unfair treatment, orders and findings of fact and conclusions of law herein from and after the filing of affiant's FIRST AMENDED COMPLAINT? The Answer is none, except that he was intent, predisposed and involved in returning and nuturing favorable rulings, orders, restrictions on discovery which affiant should have received and even the granting of affiant's summary judgment and/or summary adjudication motions because ~~he~~ had to protect the defendants herein from affiant's properly averred Idaho State Racketeering Statute violations, their conspiracies, joint ventures, unity of effort, enterprises and other viciously liability producing acts and plans against affiant, especiall to protect Blake Hall's clients in said USDC, Idaho CV 01-266, and to depress affiant so financially, physically and disparage him in front of said illegal jury trial held on June 10-19, 2003.

10. At the beginning and throughout said jury trial, affiant challenged the composition, predisposition and conditioning of the prospective jury members against him by the defendants and their many counsel, affiant made motions to deny not only said jury panel as called, but also later throughout the trial moved for mistrials, based upon said jurors' predeliberation discussions among themselves, and obvious prejudgments against affiant, especially, when just before going into deliberations, 3 of said jurors wrote an identical note, asking if they could be sued by affiant, presumably, for finding against affiant. As Judge St. Clair, was a declared candidate for the Idaho Supreme Court anticipated vacancy, Blake G. Hall, being also a declared candidate

Sump'l Aff. of J.N. BACH re Judge ST. Clair's D.O. P. 8. 000824

for the anticipated vacancy to be created by Judge T. G. Nelson's retirement from active judge status of the Idaho USDC Court, Judge Nelson, presiding over said USDC, Idaho action brought by affiant, CV 01-266-E-TGN, Judge St. Clair was more than personally biased and, prejudicially and predispositionally motivated against affiant, he was very much aware and knowledgeable that no jury trial right existed in quiet title actions. Such facts are more than revealed by the following Idaho case authorities, mostly of the Idaho Supreme Court case decisions since 1897:

- a) McMasters v. Toreson, (1897) 5 Idaho 536, 51 P. 100
- b) Shields v. Johnson, (1907) 10 Idaho 476, 79 P. 391  
(Quiet title is wholly equitable in nature and only before the court)
- c) Fairview Inv. Co. v. Lamberson, 25 Idaho 72, 136 P. 606 (1913) (In a quiet title action there is no right to a jury trial)
- d) Owsley Canal Co. v. Henninger, 66 Idaho 485, 162 P.2d 389 (1945) (Quiet title action includes adjudication of water rights)
- e) Loomis v. Union Pac R.R. Co. (1975) 544 P.2d 299, 304, 97 Idaho 341 ("In suits to quiet title to real property no right to trial by jury exists.<sup>16</sup>"[N.] "16. Id. at 121, 227 P 2d at 356. See also Shields v. Johnson, 10 Idaho 476, 79 P. 391 (1904); Fairview Investment Co. v. Lamberson, 25 Idaho 72, 136 P. 606 (1913); Howard v. Bar Bell Land & Cattle Co., 81 Idaho 189, 340 P.2d 103 (1959).)  
(NOTE: In Loomis, Plaintiff on appeal assigned as error the granting of a jury trial, see page 305, the appellate court pointed out that defendants appealed to equity to defeat plaintiff's quiet title claims, and no jury should have been ordered for any reason. Miller's counterclaims against affiant were mostly, if not wholly equitable, but even then she did not seek rescission, nor reformation, nor tender back any consideration as required in equity, did not raise any extrinsic fraud as to the Settlement Agreement and deed exchanged and record of Oct 3, 1997, nor allege any mistake or fraud as to said Settlement Agreement and deeds which total Settlement Agreement and Deeds executed therewith, save and except for the oral partnership Miller had with affiant as to the most westerly 40 acres and access strip of 110 feet by ½ mile, were Binding, complete, all inclusive and barred all of Miller's damages claims or counts, which latter damage claims should have been severed for purposes of court trial. See also

Loomis, at page 303, stating: "We believe the case of Anderson v. Whipple,<sup>13</sup> is controlling on this issue." [Anderson, (1951) 71 Idaho 112, 227 P.2d 351, 355 held that Idaho Const. Art. I, sec. 7., was "not intended to and did not extend the right of trial by jury to suits in equity."

11. In matters before the final pretrial conference and at pretrial conference Judge St. Clair wanted the exhibits admitted during the August 13 and 15, 2002 hearings and during the contempt application hearing, to be remarked separately, despite the provisions of IRPC, Rule 55 et seq, such exhibits and all the evidence which affiant had presented was not to be repeated but was required to be considered completely by Judge St. Clair as to all of affiant's quiet title counts. More significantly, as to Judge St. Clair's bias and prejudice during one of such discussions, he asked affiant if in any possible discussions re settlement he was going to be seeking not only the quieting of all title to the properties involving Miller, but also monetary damages as well; when affiant indicated he was not willing to answer such question, as he had received no indication from Miller that she was willing to settle and would not be placed in a position to discuss or bid against his settlement prospects with Miller, Judge St. Clair displayed displeasure and irritation at affiant's answer and insistence that he first have an indication that Miller was reasonably willing in good faith to discuss settlement with him. By such time of this questioning by Judge St. Clair, he, by his discovery restriction on documents which Miller had not produced, had precluded affiant from getting, as he was required to have produced by Miller and her multiple counsel, herein, both Woelk, Runyan and Harris and other counsel such as Chuck Homer of their statements of services and billings sent to Miller, of her personal record, files, computer materials, discs, Supp'l Aff. of J. N. Bach re Judge St. Clair's D.O. . P. 10. 000826



etc. which Miller had accumulated since her relationships with affiant to the date of trial. By pure circumstance, affiant recalls, that two documents were marked by Miller before trial, one being her Exhibit G which was admitted, a letter of December 1, 1994 from affiant to Mrs. Vicki Motloch, re INVESTMENT PROPERTIES, a copy of which is attached hereto, and which letter more than disputes and invalidates any claim whatsoever of any fraud by affiant involving Miller's Agreement of December 8 and 12, 1994 to purchase the most westerly 40 acres, such agreement being Plt's EX. 22C. See also plaintiff's Exhibits marked for identification as 95 of 3 pages, 98a, 98B, 103, 104 and 105, which further negate and wholly disprove any fraud by affiant, and Miller's superior business knowledge, awareness and dealing with affiant, at arms length, at all times. In further comparing such exhibits not admitted due to Judge St. Clair's limitations of cross examination of Miller and Harris and limiting affiant on his rebuttal time, with Plaintiff's admitted EXHIBITS 93, and 94, it more than is clear that no fraud was perpetrated upon Miller by affiant, especially since he was under no duty to disclose to Miller what he had secured initially for himself as the purchase price per acres of any of the Harrops 160 acres and that the law is clear that affiant's statement as to the value per acre for the most westerly to be sold to Miller does not constitute fraud. Affiant offered the same price per acre to Mr. and Mrs. Motloch as he had to Miller, and he was neither in a fiduciary relationship with Motlochs nor Miller at any time in December, 1994. This lack of fiduciary relationship will be analyzed infra.) The second document Miller had marked, as affiant recalls as her EXHIBIT UU, was a 2 page sheet which affiant had prepared well before he had met Miller, re his starting a sporting lodge or bed and breakfast at 195 N. Hwy 33, Driggs, or anywhere else as Targhee Powder

Supp'l Aff. of J.N. Bach re Judge St. Clair's D.Q. P. 11. 600827

Emporium, but said Miller defendant's EXHIBIT UU, was not among those exhibits affiant was begrudgingly given to review yesterday, as described in paragraph 8, supra. Both of these exhibits and the documents produced therein by Miller, were not available to affiant, had clearly been taken from affiant's records at some times earlier by Miller, and were kept non disclosed, until just at time required of the exhibits being marked, but now the second document, Miller's EXHIBIT UU, is missing as were a number of exhibits lost or taken not by affiant but others during the trial. As stated supra, Judge St. Clair clearly did not review, nor considered or apply the evidence in said affiant's favor in quieting title to him in all 87 acres and in denying all Miller's counterclaims to be tried by the court solely. What other documents and materials did Miller and all her counsel deliberately withhold from affiant's discovery request, knowing that Judge St. Clair was prejudicially and biasedly protecting all of them from affiant getting evidence of all of their illegal actions and even criminal conduct and pursuits against affiant.

12. The clear fact and conclusion that Judge St. Clair did not review any of the exhibits admitted before seeking to effect his biased and prejudiced findings of fact and findings is revealed by the facts which he flagrantly miscites, distorts and even conjures up to support said utterly erroneous and without any substantial or material evidence to support said findings. By way of example is finding "4", which fails to consider or accept the clear uncontradicted evidence found in Plaintiff's EXHIBITS 5, 6, 6A, 7 and 12, which proved, and established that the Vasa N. Bach Family Trust was executed, established on June 15, 1993 (over 9 months after the property at 195 N. Hwy 33, was purchased by affiant in the dba name of Targhee Powder Emporium, Unltd), his mother was the initial trustee until

September 27, 1997, on that date she signed the Consent Agreement of Succeeding Trustee, that being affiant (Ex. 5, 2d page); and on October 1, 1997, affiant Assigned and Transferred All Interests, etc., per said trust in Targhee Powder Emporium, Inc., Unltd and Ltd. to himself, (EX 6) which assets, etc., were clearly stated to be his per Schedule A. Paragraph 5 of the Vasa N. Bach Family Trust, EX. 5, and such being further reaffirmed per the Confirmation of All Rights, etc., document being Exhibit 6A. Affiant's mother did not die "in December, 2000;" but on "December 11, 2002" as shown by the County of Los Angeles Death Certificate, with obituary article and memorial service program, comprising EX. 12. Comparing the aforesaid proven facts and dates, further with said grossly misstated finding "4" more than shows the deliberate machinations of Judge St. Clair; such without any evidentiary basis in fact finding, reveals the extent to which Judge St. Clair set out to distort, manufacture and wholly contrive all other findings and conclusions contrary to affiant's clear and overwhelmingly undisputed evidence, requiring the granting of complete quiet title to all 87 acres and the total denial of Miller's affirmative defenses and all her counterclaims.

13. The contrived misstatements by Judge St. Clair of the evidence, are replete throughout findings "5" through 26, page 10 thereof, and what is numbered "8." through "10" on page 13, as in both the copies of said FINDINGS OF FACT AND CONCLUSIONS OF LAW, the first mailed to affiant on July 2, 2003 and the second given to him by Marlene, Clerk for Judge St. Clair on July 10, 2003 just before the hearing at 9:15 a.m., pages which seemed to be numbered 11 and/or 12 are missing. The second copy given by Marlene had the date written over the stamp of "03 June 31, 2003" to read "03 July 01, 2003" but neither copy had any time of filing, and as of affiant's checking with

Gabby, the assistant court clerk in Driggs, Teton Courthouse, looking over her shoulders while she called up the filings of documents and other materials in this action since June 19, 2003, no such FINDINGS OF FACT AND CONCLUSIONS OF LAW, nor any other FINDINGS OR CONCLUSIONS have been filed in Teton County in this action, as required by the Idaho Rules of Civil Procedure.

14. The enormity of Judge St. Clair's predisposition and preconceived bias, prejudice and utterly contrived statements in said findings, many of which contained partial or whole conclusions, without validity and even the fragmented, if such are conclusions of paragraphs "8.", through "10.", on page 13, is properly most significantly revealed by Plaintiff's EXHIBITS 22, 22C, 22F, 22H, 22I and 96, the latter, being the Affidavit of Katherine Miller, of 10 page, filed in USDC, Idaho 99-014-E-BLW, now a final not to be published appeals decision of the Ninth Circuit, whereby as a matter of law, Miller is barred both by the FRCP, and the IRCP, Rule 13(a) failure to raise mandatory counterclaims against affiant therein, which evidence and unassailable facts wholly void Judge St. Clair's purported finding "17", page 10. Interestingly, Judge St. Clair's earlier bias and prejudice, used a nonfinal ruling by Judge T.G. Nelson, in USDC, Idaho CV 01-266-E-TGN, that has not even gone to any judgement, partial judgment nor finalized appeal, in his dismissing affiant's EIGHTH COUNT, & TENTH COUNT, which completely protected all counsel representing Miller, as well as Miller and her codefendants now in default as to joint violations of fiduciary duties, covenants of fair dealings and good faith and constructive fraud perpetrated against affiant and most significantly, per count ten, their violations of the Idaho Racketeering Act, by all Defendants I.C. Sections 18-7802 through 18-7805

000830

15. Plaintiff's EXHIBIT 96 was used by affiant during his initial calling of Miller to testify, but later, according to the record her said Affidavit was admitted and received in evidence. Had Judge St. Clair read not only said affidavit and considered the damning testimony Miller gave during her initial cross examination by affiant, he would have not even considered the utterly flagrant and wholly unsupported findings he contrived. However, affiant believes when a bias and prejudiced judge like Judge St. Clair is so bent upon ruling against affiant in the contrived and corrupt manner in which he did, he felt more than confident that no other jurist, let alone on an Idaho Idaho Appeals Court or even the Idaho Supreme Court would overturn him, and more egregiously, he had precluded any recovery by affiant per his summary judgment motions and even during the trial to have his stolen \$15,000.00 returned to him which is now still being held as a prejudgment unconstitutional attachment, by Teton County, particularly Laura Lowry and Ryan Kaufman. Within a matter of a few days affiant recieved from Judge St. Clair's court reporter a letter, unsolicited or requested by affiant, telling affiant a complete trial transcript would cost some \$6,700.00 or more.

16. The affirmative defenses asserted by affiant to Miller's counterclaims were all proven, without any contradiction of relevant admissible and in issue evidence by her. Since no final judgment has been entered by Judge St. Clair on said findings and conclusions and none should be entered at all by his bias and prejudice as stated herein and as further revealed by a full and complete review and judicial notice of all Judge St. Clair's orders, fulings herein, affiant, still has his post verdict motions which he filed July 3, 2003, to be finalized and is within all requisite 14 days periods, but he has additional motions and objections to any partial judgement, if

Supp'l Aff of J.N. Bach re Judge St. Clair's D.O. P. 15. 600831

Judge St. Clair were to continue to preside over all remaining matters, which should not be allowed nor countenanced.

17. In just the statements and admissions as well as confessions of Miller's said affidavit which is EXHIBIT 96, she undoes all her affirmative defenses to plaintiff's FIRST AMENDED COMPLAINT and all her COUNTS of her counterclaim against affiant. On page 12, Miller states: ". . . it is true that I had a close personal relationship with plaintiff [affiant]. . . From approximately May '95 to February 1997, we resided in the same residence during which time plaintiff refused my offer to pay rent. We did not have any prenuptial agreements as I never accepted his proposals of marriage. . ." In Miller's direct testimony when called by her counsel, Galen Woelk, during her case in chief on her counterclaims, she identically testified, that she and affiant had not been living intimately together until May 1995 through February 1997, so where did Judge St. Clair come up with the facts as stated in his finding 6, that they started such in "the summer of 1994", when no such evidence was produced nor do the above cited exhibits even speculatively suggest such fact; nor did he have any facts or evidence that "Miller entered into a romantic relationship . . . with Miller moving into Bach's home in Driggs, Idaho, in January, 1995. This relationship lasted until the fall of 1997." As both affiant and Miller testified, they cut off all contacts and relations on July 4, 1997, and it was only as affiant testified and is further supported by his EXHIBITS 21 (Complete copy of FIRST AMENDED COMPLAINT, verified) and said 22, all parts and series thereof, which includes the complete Affidavit of John N. Bach in Support of His Motions for Summary Judgment, that only just before, during and after Oct. 3, 1997, Miller made oral promises, representations, commitments and assurances, which affiant relied upon, rendered performance and services upon and

Supp'l Aff. of JN. Bach re Judge St. Clair's D.O. P. 16. 000832

finally on Friday, December 13, 1997, affiant broke off any contacts or relations personally with Miller, other than the business agreements and duties they had to each other. Miller, herself, testified during her presentation of her counterclaims,, that even on the October trip with affiant to New Mexico, Arizona, Moab, Utah and other places, they were not intimate nor did she have any personal relations with him nor did affiant represent or seek to represent her in any actions whatsoever, legal or otherwise.

18, Th EXHIBIT 96, Miller further admits, confesses and agrees:

- a) "He [affiant] offered me an opportunity to purchase land he stated was a very equitable price and that he was purchasing 40 acres of that land also." (It cannot be emphasized enough that affiant had purchase the entire 160 acres and whatever portion he had not offered to Miller, he was purchasing the entire remained)
- b) "14. In July of 1995, the Harrops filed a lawsuit in Teton County, Case No. CV 95-04, against plaintiff and myself for failing to purchase the easterly 80 acres remaining on the 160 acre purchase agreement. I retained Chuck Homer of Holden, Kidwell, Hahn & Crapo to represent me in that action and I was released from this lawsuit in. [no date given] As a result of this lawsuit, I 'became aware of the original purchase agreement and discovered that the price for the entire westerly 80 acres was \$105,000. . " (Clearly ignored by Judge St. Clair was Miller's testimony that she tried to buy through chuck Homer, for \$80,000, the remaining 80 easterly acres fronting Hwy 33, that she had gone through plans with affiant to build a home on such easterly 80 acres, had gone to the Health department to get a septic tank permit, had gotten estimates of building a road and even of the house's constructin costs, but she did so in her own name; but as set forth in affiant's affidavit filed in CV 95-04, which is part of EXHIBIT 22, being included subexhibit A, filed Sept. 4 1997, all of that was per agreement for their partnership and joint venture not to be disclosed to IRS and to keep from any bankruptcy filing disclosure by affiant.

c) (Reference is made to Miller's other admissions, top of page 6, of said Affidavit) But unquestionably her statements that: "On October 3, 1997, I entered into an Agreement with plaintiff in which all issues were resolved, compromised and settled" concerning the access issues and any other related issues. A true and correct copy of this Agreement is attached as EXHIBIT "L". All breaches plaintiff alleges in his complaint happened prior to October 3, 1997. However, the October 3, 1997 Agreement was a complete settlement agreement to all issues surrounding the purchase of the property from the Mr. and Mrs. Harrop. I have not breach the October 3, 1997 Agreement in any way."

This EXHIBIT 96 along proves without any doubt or refutation that a complete settlement agreement was reached between affiant and Miller, that she was aware of the facts that give or gave rise to any basis, but which none existed, re fraud, mistake or other grounds to undo the purchase agreement of December 8 and 12, 1994 which was specifically mentioned in the Settlement Agreement of Oct. 3, 1997 as being terminated and that there were no basis in fact or law for Miller's counterclaim counts as Judge St. Clair recreated by his fictional and corruptly fashioned findings and conclusions, incomplete and non filed as they are.

19. Affiant cites herein in support of said settlement agreement being absolutely complete, final without ambiguity, confusion or attack as to uncertainty, to wit: Mountain Stone Co. v. H.W. Hammond Co. (1977) 564 P.2d 958,960-1; Johnson v. City of Las Cruces (1974) 521 P.2d 1037, 1038, 86 N.M. 196; Estes v. Magee (1941) 109 P.2d 631, 634-36, 62 Idaho 82; Cilibrasis v. Keiter, (1951) 229 P.2d 394, 396, 103 C.A. 2d 397; Goff v. Boma Investment Co., (1947) 116 Colo 359, 181 P.2d 459; and Holve v. Draper (1973) 505 P.2d 1265, 95 Idaho 193; and Ranta v. Rake, 421 P.2d 747, 91 Idaho 376. Judge St. Clair's findings 20, 21 and 23, are wholly specious, without merit or evidence or legal support.

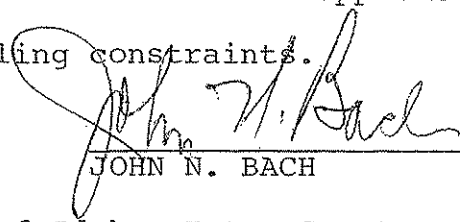


20. Affiant further cites in support of Judge St. Clair's clear bias, prejudice and unfavorable disposition toward affiant, the following cases, which clearly establish that Miller's counterclaims are all barred by the statute of frauds, of 3 years, I.C. 5-218(4):

a) Stewart v. Hood Corp. (1973) 506 P.2d 95, 97-98, 95 Idaho 198 (Summary judgment granted, affirmed on fraud notice and statute of limitation); Nancy Lee Mines, Inc. v. Harrison (1973) 511 P.2d 828, 95 Idaho 546; Ralph v. City of Spirit Lake (1977) 560 P.2d 1315, 1317, 95 Idaho 225 (for St/L to run do not need exact theory of recovery to hit you in the face nor that all your damages are known); Cook v. Saltman, (1974) 525 P.2d 909, 96 Idaho 187; Jones v. State (1967) 432 P.2d 420, 424-427, 91 Idaho 823; and Barnett v. Aetna Life Ins. Co. (1979) 580 P.2d 849, 850-51, 99 Idaho 46.

21. The other findings of Judge St. Clair, as to the requirements of affiant to have disclosed his interests and holdings in the Chapter 13 bankruptcy proceeding in Sacramento, are utterly contrary to all the Ninth Circuit case authorities cited to this court, and further are grossly erroneous without evidentiary, legal or jurisdictional basis or support whatsoever. Affiant concludes this supplemental affidavit due to time limitation and mailing constraints.

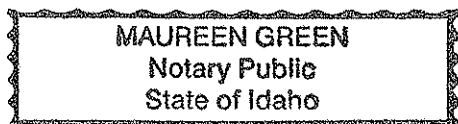
DATED: July 16, 2003

  
 \_\_\_\_\_  
 JOHN N. BACH

I, the undersigned NOTARY for the State of Idaho, Teton County, acknowledge, attest and affirm, that on this date, July 16, 2003, John N. Bach, known to me, personally appeared, was sworn by me, gave the above testimony and signed his named, supra, in my presence and witness.

DATED: July 16, 2003

(SEAL)

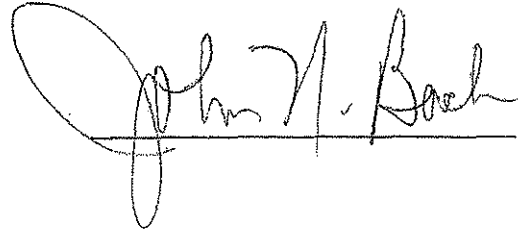


NOTARY: Maureen Green  
 Address: Teton County  
 Com'n Exp: 08/05/08

CERTIFICATE OF SERVICE BY  
MAIL, FAX OR PERSONAL SERVICE

I, the undersigned hereby certify that on this date, July 16, 2003, I did mail a copy of the foregoing document to Judge St. Clair, at the Bonneville Courthouse, Idaho Falls, Idaho, and mailed copies to all counsel of record, to wit: Galen Woelk, Alva Harris, Jared Harris, Dave Shipman, Jason Scott, Gregory Moeller and mailed a copy to Ann-toy Broughton, pro se, in Tetonina, Idaho.

DATED: July 16, 2003

A handwritten signature in cursive script, reading "John N. Bach", is written over a horizontal line. The signature is fluid and somewhat stylized, with a large loop at the beginning and a long tail at the end.

000836

To  
John Bach  
PO Box 101  
Driggs, ID 83422

STATE OF IDAHO  
CLERK OF THE DISTRICT COURT  
BONNEVILLE COUNTY  
605 N. CAPITAL  
IDAHO FALLS, IDAHO 83402

1044 U.S. POSTAGE P82232113  
4829 \$0.830 JUL 02 03  
6534 83402

000837



TARGHEE POWDER EMPORIUM, INC.  
195 N. Hwy 33, P.O. 101  
Driggs, Idaho 83422  
Phone & Fax (208) 354-8303

FAX MEMORANDUM TRANSMISSION TO:

December 1, 1994

TO: Mrs. VICKI MOTLOCH  
FAX TO: (208) 539-3995

FROM: John N. Bach  
Reply Fax (208) 354-8303

RE: INVESTMENT PROPERTIES

Vicki:

Here are copies of the following documents:

1. Four pages of materials which depict the location of the 13.20 acre parcel, easterly side of Hwy 33 4 miles north of Driggs, which is 1,078,45 feet along Hwy 33 and 533 wide. Currently, to the north and east of said 13.20 acre parcel, Trouts Teton Valley Ranch Subdivision is under initial stages of construction. Page one is plat showing the location of the 13.20 acres in relation to Trouts Teton Valley Ranch. The second page is a compilation of six view photos of and from the 13.20 acres. The third page is a rendering of the construction area now being done for the entrance to said subdivision. The fourth page is the first page of the Findings of Fact and Conclusions before the Planning and Zoning Board of Teton County, Idaho whereby said subdivision is given preliminarily approval.

The 13.20 acre parcel is being offered in the form of a joint venture with either three or four joint venturers for the price per acre of \$10,000.00 which price is firm until this Friday, December 2, 1994 and then is subject to reevaluation and probably offering at \$12,500.00 an acre. Therefore, a one quarter interest would run \$33,000.00 and a one third interest would run \$44,000.00

I am faxing herewith a form/draft of the type of joint venture agreement which would be required for all members to sign and which is recorded along with the warranty deed the latter being in the full individual names of all joint venturers as stated in the joint venture agreement.

The current owners of this property want the sale and closing of escrow of said 13.20 acres to be completed by December 7, 1994.

2. The second offering is 20 acres parcels of a large 80 acre parcel just westerly of Hwy 33, approximately 3 miles north of Driggs,

000835

2. (Continued)

I am faxing a not to scale hand rendering plat showing said 80 acre parcel and the 20 smaller acre parcels which are offered at \$4,000.00 per acre. The front 80 acre parcel is being retained by the owners for future light retail and/or resort-recreational development. A 60 foot road and utilities easement will be provided to the back 80 acres and through all 20 acre parcels. The future costs of such road improvement and underground utilities will be shared on the basis of the total number of acres owned by each joint venturer. For example, the owners of the front 80 acres will pay and/or provide at their expense the road and underground utilities to the most easterly boundary of the second 80 acre parcel and from this point the owners of said second 80 acre parcel (divided into 20 or 40 acres) will share proportionately said costs in accordance with the total number of acres owned.

This offered 80 acre parcel will be subject to a Deed and Agreement of Covenants, Conditions and Restrictions re type of residential structures, landscaping, outside lighting, prohibitions of storing vehicles, equipment or trailers, etc., outside (all of which must be in storage garages, barns or buildings, etc.

The time for accepting or buying into this joint venture is also December 2, 1994 but with closing of escrow by December 10, 1994. The owners of this 80 acres have stated that after December 10, 1994, the price per acre will increase to \$5,000.00 and every 90 days thereafter will be increased by an additional \$1,000.00 per acre.

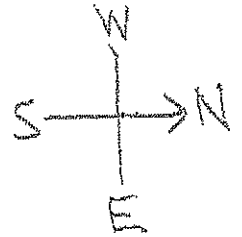
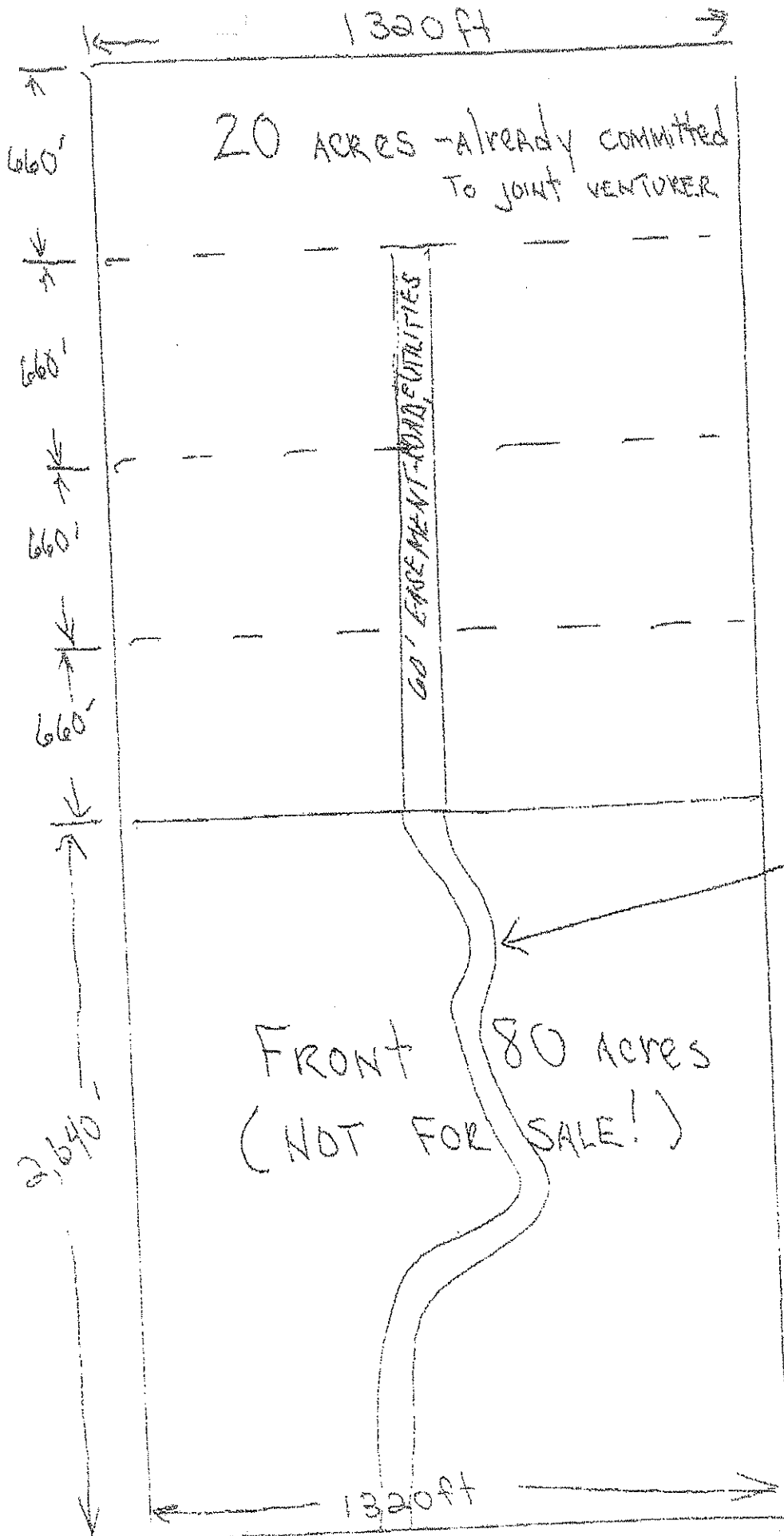
I had hoped to get this material and information to you and Chet on November 26, 1994, but missed somehow both of you. I did go through Mike to ascertain what your schedules were only to find out Chet was going to San Diego immediately upon return to work. I did call November 27 and left a message with Jake for Chet to call me that night.

I already have joint venturers for both of these properties, some of which have given preliminary commitment to buying in and others who will let me know by this Friday, tomorrow. Please feel free to fax me any inquiries this day and I hope to be in touch with you this evening.

Very truly

  
JOHN N. BACH, C.E.O.

000833



60' EASEMENT PROVIDED BY OWNERS OF FRONT 80 ACRES

(NOT TO SCALE)

← Driggs (3 miles)

Hwy 33  
000840

TETONIA →

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**  
2:25  
**JUL 17 2003**  
TETON CO.  
MAGISTRATE COURT

On the 10th day of July, 2003, scheduled motions 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. Galen Woelk appeared by telephonic connection on behalf of Defendant Katherine Miller.

Mr. Jared Harris appeared on behalf of Defendant Wayne Dawson.

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

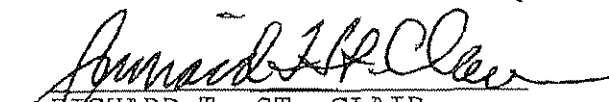
Mr. Bart Birch appeared on behalf of Defendant Earl Hamblin.

Mr. Greg Moeller appeared by telephonic connection on behalf of the Estate of Stan Nicole.

Mr. Bach has filed a motion to disqualify Judge St. Clair. The Court cannot hear the pending motions until the motion to disqualify has been decided. The motions scheduled for today will have to be rescheduled.

The pretrial conference scheduled for July 18, 2003, in Teton County is vacated.

Court was thus adjourned.

  
RICHARD T. ST. CLAIR  
DISTRICT JUDGE



3 48 26 11 am

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

**SEVENTEENTH ORDER  
ON PENDING MOTIONS**

**I. INTRODUCTION**

Pending before the Court is plaintiff John Bach's motion to disqualify Judge St. Clair for cause under Rule 40(d)(2)(A)(1), (3) & (4), I.R.C.P., filed on July 9, 2003. The motion was supported by an affidavit of John Bach also filed on

000843

July 9<sup>th</sup>, and a supplemental affidavit of John Bach filed on July 16, 2003.

Defendant Miller filed an objection on August 1, 2003, and plaintiff Bach filed a reply on August 8, 2003. Oral argument was heard on August 15, 2003.

The Court has considered the subject motion and supporting affidavits, oral and written arguments, and the applicable civil rules and law. For the reasons hereafter stated, the plaintiff's motion must be denied.

## II. STANDARD FOR DETERMINING MOTION FOR DISQUALIFICATION OF JUDGE

Rule 40(d)(2), I.R.C.P., states:

(A) Any party to an action may disqualify a judge or magistrate for cause from presiding in any action upon any of the following grounds:

1. That the judge or magistrate is a party, or is interested, in the action or proceeding.
2. That the judge or magistrate is related to either party by consanguinity or affinity within the third degree, computed according to the rules of law.
3. That the judge or magistrate has been attorney or counsel for any party in the action or proceeding.
4. That the judge or magistrate is biased or prejudiced for or against any party or the case in the action.

A party moving to disqualify the presiding judge under Rule 40(d)(2), I.R.C.P., bears the burden of providing facts to

support the stated grounds for disqualification. Suspicion, surmise, speculation, rationalization, conjecture, innuendo, and statements of mere conclusions may not be substituted for a statement of facts. DesFosses v. DesFosses, 120 Idaho 27, 29, 813 P.2d 366, 368 (Ct.App.1991), aff'd 122 Idaho 634, 836 P.2d 1095 (App. 1992).

A judge is not disqualified from hearing the case on the ground that he has made adverse rulings in the case. Liebelt v. Liebelt, 125 Idaho 302, 306, 870 P.2d 9, 13 (Ct. App. 1994); Bell v. Bell, 122 Idaho 520, 835 P.2d 1331 (Ct. App. 1992). A judge's participation in prior legal proceedings involving related parties or issues does not provide grounds for disqualification. Roselle v. Heirs & Devisees ex. rel. Grover, 117 Idaho 184, 789 P.2d 526 (Ct. App. 1990).

A motion to disqualify a presiding judge invokes the discretion of the judge. Pizzuto v. State, 127 Idaho 469, 470, 903 P.2d 58, 59.

### III. ANALYSIS

It is noted that Rule 40(d)(2)(B), I.R.C.P., provides that "presiding judge or magistrate sought to be disqualified shall grant or deny the motion for disqualification." Initially Bach argues that constitutional due process requires that another district judge decide the motion, citing 28 U.S.C. §§ 144 & 455; Liteky v. United States, 510 U.S. 540, 114 S.Ct. 1147, 127

L.Ed.2d 474 (1994); Peacock Records, Inc. v. Checker Records, inc., 430 F.2d 85 (7<sup>th</sup> Cir. 1970), cert. denied 401 U.S. 975, 91 S.Ct. 1193, 28 L.Ed.2d 324 (1971), and other federal cases. Having reviewed the federal statutes, Liteky, and Peacock Records, it is clear that Rule 40(d)(2)(B) does not violate constitutional due process. Even under the federal statute the judge sought to be disqualified rules on the motion. While California and a few other states require by court rule or statute that another judge decide the motion for disqualification, it is not constitutionally mandated. This Court does not have the authority to ignore Rule 40(d)(2)(B) and assign another judge to hear Bach's motion.

Next Bach argues that his two affidavits must be taken as true, since no party filed any opposing affidavits, and that his motion must be granted. While California v. Kleppe, 431 F.Supp. 1344 (D.C.Cal. 1977), supports this legal proposition in applying 28 U.S. §144, Bach's affidavits do not contain any specific facts based on personal knowledge supporting a ground for disqualification under Rule 49(d)(2)(A).

Bach's two affidavits filed in support of his motion to disqualify Judge St. Clair contain many allegations. However, even read broadly the affidavits contain no admissible facts from which anyone could find that Judge St. Clair "is a party,

or is interested, in the action" within the meaning of Rule 40(d)(2)(A)(1). Judge St. Clair is not named anywhere in the pleadings as a plaintiff, defendant, or third party defendant. None of the pleadings allege that Judge St. Clair has any legal or equitable interest in any of the real or personal property described in the pleadings. The pleadings do not allege, and Bach's affidavits do not state that Judge St. Clair has ever owned any property whatsoever, real or personal, located in Teton County, Idaho. Bach's affidavits do not establish any blood or marriage relationship between Judge St. Clair and any defendant or any attorney representing a defendant.

Although Mr. Bach broadly alleges in his two affidavits "acted as counsel or attorney for the defendants," such allegation is a mere "conclusion" and not supported by any facts to support such conclusion. The affidavits do not state when, where, in what legal proceeding, or how Judge St. Clair ever represented any particular party defendant named in this action. Even read broadly, Mr. Bach's affidavits do not establish that Judge St. Clair "has been attorney or counsel for any party in the action" within the meaning of Rule 40(d)(2)(A)(3), I.R.C.P.

Further reading Mr. Bach's two affidavits broadly, this Court finds no admissible facts showing "bias or prejudice for or against any party" to the action within the meaning of Rule

40(d)(2)(A)(4). Mr. Bach's allegations are mere conclusions, and can be grouped into the following categories:

1. Judge St. Clair denied some of Bach's motions and granted some of defendant Miller and defendant Woelk's motions before trial.

2. Judge St. Clair allowed members of the L.D.S. or Mormon religion to sit as jurors during the trial.

3. Judge St. Clair limited the trial to 8 days, and limited Bach's opening statement, examination of himself and Miller, and Bach's closing argument to the relevant issues.

4. Judge St. Clair gave erroneous jury instructions.

5. Judge St. Clair made erroneous evidentiary rulings.

6. Judge St. Clair denied Bach's request to voir dire jurors during their deliberations.

7. Judge St. Clair made erroneous findings of fact and conclusions of law on equitable issues not triable to a jury.

8. Judge St. Clair allowed the jury to give advisory verdicts on equitable issues.

9. Judge St. Clair impaired Bach's right to prosecute claims against non-parties Teton County Sheriff Ryan Kaufman, Teton County Magistrate Colin Luke, and Teton County Prosecutor Laura Lowery in federal case no. CIV-01-266-E-TGN pending in the U. S. District Court for Idaho.

10. Judge St. Clair has close personal and political ties with Blake Hall, an attorney in Idaho Falls who has held offices in the Idaho Republican Party and who applied to be a federal judge when Judge St. Clair applied for a vacancy on the Idaho Supreme Court in 2003. In order to help Blake Hall or his clients, Judge St. Clair ruled against Bach in this case.

11. Judge St. Clair erroneously entered Findings and Conclusions after the June, 2003 jury trial quieting title to the 87 acres in favor of defendant Miller, which was contrary to Judge St. Clair's preliminary findings from Bach's evidence at the hearing on the Bach's motion for preliminary injunction on August 15, 2002 that "Bach would likely prevail on many of his quiet title claims."

Categories 1 through 8 above are merely the woes of an unsuccessful litigant. Judge St. Clair's rulings and the facts, procedural rules and law considered are all a matter of record for appellate review. Judge St. Clair could have made an error in one or more of his rulings, and if it affected the substantial rights of Bach, or any other party when Judge St. Clair ruled in Bach's favor, the appellate courts can correct any error.

I, the undersigned Judge Richard T. St. Clair, do unequivocally declare:

a. I have never held any bias or prejudice against Mr. Bach, nor any bias or prejudice in favor of any of the defendants in this action. I have never represented any of the defendants named in this action. Before being assigned to this case, I never met any of the defendants, except attorneys Alva Harris and Galen Woelk. I met and talked with Galen Woelk a few times at the Eagle Rock Inns of Court events in Idaho Falls in 2000 and 2001, but I never talked with him in connection with any legal matter, except on the record discussions in this case. I have known Alva Harris for over 20 years. I have never had any dealings with or discussions with Alva Harris except when I represented clients in matters adverse to Mr. Harris' clients when I was in private legal practice before May, 1996, or on the record in court discussions since May, 1996 when sitting on a case where Mr. Harris appeared for a client.

b. I have never been a member of the L.D.S. or Mormon church, and I have no desire to join it in the future. I do not know any of the trial jurors. I have no information as to any religious beliefs of any of the trial jurors.

c. I have no idea how the trial, the jury verdict or any ruling I made in this case had any impact whatsoever on claims in the federal case CIV-01-266-E-TGN pending before Judge Thomas Nelson between Bach and any party defendant in this case, much



less any party in that case who is not a party in this case. As near as I can glean from reading the amended complaints in this action and the federal action, the only identical cause of action was Bach's Idaho RICO Act cause of action, which Judge Nelson had earlier dismissed with prejudice, and which I was required to dismiss under Rule 12(b)(8), I.R.C.P., as explained in my Tenth Order on Pending motions. I have never represented Teton County, Sheriff Ryan Kaufman, Judge Colin Luke, or Prosecutor Laura Lowery, who I understand are defendants in Bach's federal action. I have no reason to be biased in their favor for any reason. I have never met or talked to Sheriff Kaufman. I met Laura Lowery about three years ago in the airport while waiting for a plane. She has never appeared in my court. I have known Judge Luke for about 10 years, and appeared once or twice in his court for divorce cases when I was in private law practice. I see him around the Bonneville County Courthouse quite frequently and we attend 3 or 4 meetings a year with Seventh District Judges, but we are not social friends. I made no rulings in this case to help out Sheriff Kaufman, Prosecutor Lowery, Judge Luke, or Teton County in any manner.

d. I have no idea how attorney Blake Hall has anything to do with this case or with Mr. Bach. I have known Blake Hall for about 25 years, since we both started practicing law in Idaho

Falls during the 1970s and both still live in Idaho Falls. I have never discussed with Blake Hall anything about this case, nor anything about any party to this case, nor anything about any party to the federal case involving Mr. Bach. Until reading Mr. Bach's affidavits filed in support of this motion, I did not even know that Blake Hall or his law firm was involved in Mr. Bach's federal case. While Blake Hall and members of his law firm have appeared frequently in my court since 1996, representing civil litigants I have never discussed lawsuits with Mr. Hall or his firm members except on the record in court or in the presence of all parties or lawyers in the case if a side-bar or in chambers conference is requested by them. I did not rule against Mr. Bach, or in favor or against anybody in any lawsuit, for the purpose of getting Mr. Hall's support for appointment to an Idaho appellate court.

e. It is true that I made an oral finding in court on August 15, 2002 that Mr. Bach would likely prevail on his quiet title cause of action as to owning an undivided one-half joint tenancy interest in the Miller Access Parcel of 6.63 acres and the Targhee/Miller Property of 3.3 acres, and as to owning the Targhee Parcel of 40 acres. My finding was based solely on the evidence admitted during that hearing, including the October 3, 1997 Deeds and Easement Agreement placed into evidence during

the hearing on Bach's motion for preliminary injunction. I heard no evidence at that hearing for me to find that either Mr. Bach or Ms. Miller could quiet title to the 87 acres in any manner different from the executed and recorded deeds and agreement of October 3, 1997. In fact Ms. Miller had not even filed a counterclaim at that time asserting any claim inconsistent with the October, 1997 deeds. Although Ms. Miller sat in the back of the courtroom during the August, 2002 hearing, she did not testify on the witness stand. However, during the subsequent June, 2003 jury trial, the jury and I heard Ms. Miller testify extensively. The jury and I heard Mr. Bach testify to a number of matters that I had not heard Mr. Bach testify on during the August, 2002 hearing. My assessment of Mr. Bach and Ms. Miller's credibility was impacted by the jury verdict against Mr. Bach. My assessment of his credibility was impacted also by Mr. Bach's testimony that from 1994 through 2002 he was using corporate names of "Targhee Powder Emporium, Inc." and "Targhee Powder Emporium, Ltd.," knowing that he never had certificates of incorporation issued by any state secretary of state for such corporations, and also by Mr. Bach's testimony that he rifled through Ms. Miller's garbage can sitting on her curb, and took several documents from her garbage can to use as exhibits in lawsuits against her. There was no legitimate reason for Mr.

Bach to engage in either of those activities. While testimony from Ms. Miller and Mr. Bach at trial was conflicting, Ms. Miller's testimony was more credible than Mr. Bach's as to what they stated to each other at the time of the October 3, 1997 settlement, and the state of her knowledge at the time she signed such documents. After all the evidence was in, it was clear to me that Mr. Bach did not prove his affirmative defenses as to Ms. Miller's counterclaim to quiet title or impose a constructive trust on the 87 acres, and that Ms. Miller did establish fraudulent conduct by Mr. Bach in dealing with her interest in the 87 acres.

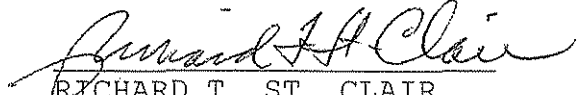
#### IV. CONCLUSION

In summary, Mr. Bach's affidavits contain no admissible facts to establish that Judge St. Clair made any ruling based on anything but facts presented in court hearing and affidavits filed in the court record after interpreting controlling civil rules or case law. No facts, as opposed to conjecture, were presented to show that Judge St. Clair was influenced by any out of court information, any religious belief, any acquaintance with Idaho lawyers, or any bias or prejudice against Mr. Bach or in any bias or prejudice in favor of anybody else.

V. ORDER

NOW THEREFORE, IT IS HEREBY ORDERED that plaintiff Bach's motion to disqualify Judge St. Clair is DENIED.

DATED this 28th day of August, 2003.

  
RICHARD T. ST. CLAIR  
DISTRICT JUDGE

CERTIFICATE OF SERVICE

I hereby certify that on the 28th day of August, 2003, I certify that a true and correct copy of the foregoing document was mailed, telefaxed or hand delivered to the following persons:

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

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

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

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

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

(TELEFAX & MAIL)

Anne Broughton  
1054 Rammell Mountain Road  
Tetonia, ID 83452

(MAIL)

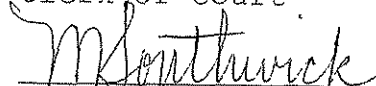
David Shipman  
P. O. Box 51219  
Idaho Falls, ID 83405-1219

(TELEFAX & MAIL)

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

(TELEFAX & MAIL)

RONALD LONGMORE  
Clerk of Court

  
Deputy Court Clerk