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Bach v. Dawson Respondent's Brief Dckt. 38380

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IN THE SUPREME COURT OF THE STATE OF IDAHO

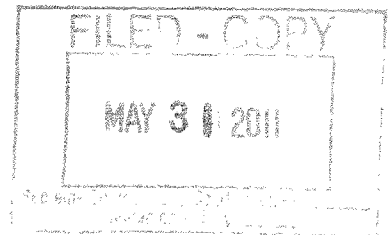
JOHN N. BACH,
Plaintiff-Respondent,

v.

WAYNE DAWSON,
Defendant-Appellant,
and

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

Supreme Court No. 38380-2010
Teton County Case No. 2002-208



R E S P O N D E N T ' S B R I E F

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

Honorable Darren B. Simpson

Attorneys for Appellant Wayne Dawson
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Blackfoot, Idaho 83221

Respondent John N. Bach, p r o s e
John N. Bach
PO Box 101
Driggs, ID 83422

IN THE SUPREME COURT OF THE STATE OF IDAHO

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Plaintiff-Respondent,

v.

WAYNE DAWSON,
Defendant-Appellant,

and

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JOHN N. BACH,
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v.

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Defendant-Appellant,
and

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Driggs, ID 83422

T A B L E O F C O N T E N T S

1. OBJECTION TO ENTIRE APPELLANT'S BRIEF, ALL PARTS I. THROUGH V; P. 1.
AS NOT ONLY IN VIOLATIONS OF I.A.R., FAILURE TO PROVIDE CLERK'S
TRANSCRIPT ON APPEAL FAILURE TO PROVIDE CITATIONS TO RECORD,
AND IDENTIFY ARGUMENTS MADE ON HEARING BEFORE THE SEVENTH JUDICIAL
DISTRICT COURT JUDGE, BUT ALSO, BECAUSE APPELLANT'S APPEAL AND
BRIEF, AS A MATTER OF LAW, IS SPECIOUS, FRIVOLOUS WITHOUT FOUNDATION,
USED FOR HARMFUL PURPOSES ONLY, AND JUSTIFIES AWARDING AGAINST
APPELLANT AND HIS ATTORNEY, JOINTLY AND SEVERALLY COSTS, ATTORNEY
FEES AND ALL RELATED APPEAL EXPENSES INCURRED BY RESPONDENT JOHN
N. BACH, PER I.C. 12-121, IRCP, Rule 11(a)(1), etc. & I.A.R. 41.
2. CERTIFICATE OF SERVICE

TABLE OF CASES AND AUTHORITIES

I.C. sect. 12-121	2.
I.A.R. Rule 11(a)	1.
14 & k4(a)	1.
41	1. 2
I.R.C.P. Rule 54(a)	1.
Rule 54(b)	1
<u>Southland Produce Co. v. Belson,</u> 95 Idaho 776, 536 P2d 1126 (1975)	1.

- I. OBJECTIONS (and opposition/refutations) TO ENTIRE APPELLANT'S BRIEF, ALL PARTS I. THROUGH V, AS NOT ONLY IN VIOLATION OF I.A.R. RULES, FAILURE TO PROVIDE CLERK'S TRANSCRIPT ON APPEAL, FAILURE TO PROVIDE CITATIONS TO RECORD, AND IDENTIFY ARGUMENTS MADE ON HEARING BEFORE SEVENTH JUDICIAL DISTRICT COURT JUDGE, BUT ALSO, BECAUSE APPELLANT'S APPEAL AND BRIEF, AS A MATTER OF LAW, IS SPECIOUS, FRIVOLOUS, WITHOUT FOUNDATION, USED FOR HARRASSMENT PURPOSE ONLY, AND JUSTIFIES AWARDING AGAINST APPELLANT WAYN DAWSON AND HIS ATTORNEY, JOINT AND SEVERALLY, COST, ATTORNEY FEES, PARALEGAL AND RELATED EXPENSES INCURRED HEREIN BY RESPONDENT JOHN N. BACH.

In further support of the aforesaid objections-opposition and refutations, Respondent cites to this Honorable Idaho Supreme Court, the following:

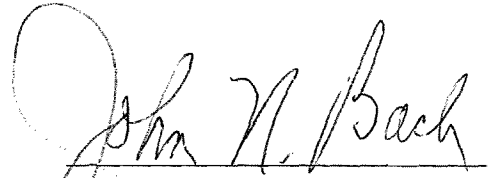
1. The definition of "Judgments is set forth in I.R.C.P., Rule 54(a), esp. to wit: "A judgment is final if either it has been certified as final pursuant to subsection (b)(1) of this rule or judgment as been entered on all claims for relief, except costs and fees, asserted by or against all parties in the action."
2. I.R.C.P. Rule 54(b) Providing for Certificate of Interlocutory Judgment as Final, (No such certificate ever issued from trial court on the three (e) interlocutory rendered judgment of default, which Wayn Dawson, never/ever appealed, nor could he.)
3. I.A.R., Rule 11(a) Civil Actions (allowing/premitting appeals from): (1) Final judgments, as defined in Rule 54(a) . . ." (See also I.A.R., Rule 14(a).)
4. Southland Produce Co. v. Belson, 95 Idaho 776, 536 P2d 1126 (1975) (Partial summary judgment against 3 of the 5 defendants, all sought to be jointly and severally liable is not a final judgment against all.)

No relevant cases, statutes, rules of court nor even legal nor factual analysis are made in Appellant's Opening Brief. Most deceptively and intentionally mistatingly inaccurately stated is the sole issue presented on appeal.

All the three (3) earlier non final Default Judgments, including that against Wayne Dawson, was not made final, until February 11, 2005 Appellant admits and removes all basis of his appeal and brief thereby, by confessing but ignoring the fact, that Respondent's motion to Renew the default judgment against Dawson, was made on or before February 2, 2011 which motion was timely, some over nine (9) days before the five (5) year time limit had expired.) Dawson's last argument sentence is wholly illusory, frivolous and specious, that: "Nowhere in the statute is there any requirement that the judgment be final and appealable as a condition of the time to renew running." Sanctions are in order.

THIS COURT SHOULD AWARD COSTS, ATTORNEYS FEES, PARALEGAL AND PREPARATION EXPENSES, FEES AND OTHER INCURRING OF MONEYS TO RESPONDENT IN HAVING TO FILE THESE OBJECTIONS, OPPOSITION AND REFUTATION PER I.R. 41, etc.

DATED: May 26, 2011


JOHN N. BACH Pro Se

CERTIFICATE OF SERVICE BY MAIL: I hereby certify that on May 26, 2011, I did serve via first class mail the following copies to: (1) Original & seven copies to: Clerk Idaho Supreme Court, P.O. 83720, Boise, ID 83720-0101 and (2) Two Copies to Jared M. Harris, 266 W. Bridge Street, Blackfoot, ID 83221.

