

5-9-2011

Clayson v. Zebe Clerk's Record v. 2 Dckt. 38471

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Vol. 2 of 6

**IN THE
SUPREME COURT
OF THE
STATE OF IDAHO**

GAYLEN CLAYSON

Plaintiff-Counterdefendant

Respondent

vs.

DON ZEBE, RICK LAWSON, LAZE, LLC

Defendant-Counterclaimant

Appellant

Hon. Stephen S. Dunn District Judge

Appealed from the District Court of the Sixth
Judicial District of the State of Idaho, in and for
Bannock County.

Gary L. Cooper

COOPER & LARSEN, CHARTERED

Attorney X For Appellant X

Blake S. Atkin

ATKIN LAW OFFICES

Attorney X For Respondent X

Filed this FILED - COPY day of _____

2008

MAY - 9 2011

Clerk

Deputy

Terrace Court Court of Appeals

38471

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

GAYLEN CLAYSON,)
)
Plaintiff-Counterdefendant-Respondent,)
)
)
)
vs.)
)
DON ZEBE, RICK LAWSON, LAZE, LLC,)
)
Defendant-Counterclaimant-Appellant,)
)
_____)

Supreme Court No. 38471-2011

Volume II

CLERK'S RECORD

Appeal from the District Court of the Sixth Judicial District of the State of
Idaho, in and for the County of Bannock.

Before **HONORABLE Stephen S. Dunn** District Judge.

For Appellant:

Gary L. Cooper
COOPER & LARSEN, CHARTERED
P.O. Box 4229
Pocatello, Idaho 83205-4229

For Respondent:

Blake S. Atkin
ATKIN LAW OFFICES
7579 North Westside Hwy
Clifton, Idaho 83228

TABLE OF CONTENTS

VOLUME I

COMPLAINT, filed 6-8-091

ANSWER, COUNTERCLAIM AND DEMAND FOR JURY, filed 7-27-097

ANSWER TO COUNTERCLAIM, filed 8-12-09.....12

ORDER OF DISQUALIFICATION AND REFERENCE, filed 8-25-0916

ADMINISTRATIVE ORDER OF REFERENCE, filed 9-9-0918

ORDER FOR SUBMISSION OF INFORMATION FOR SCHEDULING
ORDER, filed 9-18-0920

STIPULATED STATEMENT, filed 10-2-09.....24

FIRST AMENDED COMPLAINT, filed 12-1-0928

ANSWER TO FIRST AMENDED COMPLAINT, filed 12-14-0937

ORDER, filed 12-17-0944

STIPULATED STATEMENT, filed 12-18-09.....47

ORDER SETTING JURY TRIAL, filed 12-23-09.....50

DEFENDANTS’ MOTION TO DISMISS AND/OR MOTION FOR SUMMARY
JUDGMENT, filed 2-3-1055

DEFENDANTS’ MEMORANDUM IN SUPPORT OF MOTION TO DISMISS AND/OR
MOTION FOR SUMMARY JUDGMENT, filed 2-3-10.....57

MEMORANDUM IN OPPOSITION TO DEFENDANTS' MOTION TO DISMISS AND/OR MOTION FOR SUMMARY JUDGMENT; MEMORANDUM IN SUPPORT OF MOTION TO AMEND PLAINTIFF'S FIRST AMENDED COMPLAINT TO ASSERT A CLAIM FOR PUNITIVE DAMAGES; AND MOTION TO CONTINUE PURSUANT TO I.R.C.P. 56(f), filed 3-23-10.....89

MINUTE ENTRY AND ORDER, filed 3-23-10176

MEMORANDUM DECISION ON DEFENDANTS' MOTION TO COMPEL DISCOVERY, filed 4-1-10.....182

MEMORANDUM DECISION AND ORDER RE: VARIOUS MOTIONS, filed 5-20-10188

MINUTE ENTRY AND ORDER, filed 6-30-10191

VOLUME II

DEFENDANTS' LAWSON AND ZEBE REPLY MEMORANDUM IN SUPPORT OF MOTION TO DISMISS/MOTION FOR SUMMARY JUDGEMENT, filed 7-26-10.....194

AFFIDAVIT OF BLAKE S. ATKIN IN OPPOSITION TO DEFENDANT'S MOTION TO DISMISS OR FOR SUMMARY JUDGMENT, filed 8-9-10223

COURT MINUTES (Hearing result) FOR 8-9-10239

MEMORANDUM DECISION AND ORDER ON DEFENDANTS' MOTION FOR SUMMARY JUDGMENT, filed 9-15-10240

MOTION TO RECONSIDER DAMAGE ASPECTS OF DECISION DATED SEPTEMBER 14, 2010, filed 10-4-10.....269

MEMORANDUM IN SUPPORT OF DEFENSE MOTION IN LIMINE, filed 10-4-10.....274

SECOND AFFIDAVIT OF GARY L. COOPER, filed 10-4-10.....298

VOLUME III

DEFENSE MOTION IN LIMINE, filed 10-4-10.....	453
MOTION TO DISMISS COUNTERCLAIM, filed 10-7-10.....	458
JOINT PRE-TRIAL STIPULATION, filed 10-12-10.....	460
MOTION TO RECONSIDER DAMAGE ASPECTS OF DECISION DATED SEPTEMBER 15, 20110	477
MEMORANDUM IN OPPOSITION TO PLAINTIFF'S MOTION FOR RECONSIDERATION RE; DAMAGE ASPECTS OF DECISION DATED 9-15-10, filed 10-18-10.....	482
MEMORANDUM IN OPPOSITION TO DEFENSE MOTION IN LIMINE, filed 10-21-10.....	487
COURT MINUTES (Hearing result) for 10-25-10	500
ORDER, filed 10-29-10	502
TRIAL BRIEF, filed 11-1-10	505
DESIGNATION OF TESTIMONY FROM THE DEPOSITION OF MORRIS A. FARINELLA, filed 11-3-10	542

VOLUME IV

COURT MINUTES (Hearing 11-4-10).....	630
COURT MINUTES (Hearing 11-5-10).....	635
COURT MINUTES (Hearing 11-8-10).....	639
COURT MINUTES (Hearing 11-10-10).....	640
MINUTE ENTRY AND ORDER, filed 11-16-10	642

PLAINTIFF’S DESIGNATION OF PORTIONS OF THE DEPOSITION OF MORRIS FARINELLA, filed 11-22-10	647
DEFENSE OBJECTION TO PLAINTIFF’S DESIGNATION OF DEPOSITION EXCERPTS FROM THE DEPOSITION OF MORRIS FARINELLA, filed 11-24-10	669
DEFENSE PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW AND ARGUMENT, filed 11-24-10.....	672
PLAINTIFF’S POST-TRIAL BRIEF, filed 11-26-10.....	697
FINDINGS OF FACT AND CONCLUSIONS OF LAW, filed 11-29-10.....	708
MEMORANDUM DECISION, FINDINGS OF FACT AND CONCLUSIONS OF LAW, Filed 12-6-10.....	727
JUDGMENT, filed 12-7-10.....	743
DEFENSE MEMORANDUM ON DAMAGE CLAIM, filed 12-8-10.....	745
PLAINTIFF’S TRAIL MEMORANDUM REGARDING THE ADMISSIBILITY OF EVIDENCE THAT DEFENDANTS ASSUMED OR RATIFIED CLAYSON’S ENTIRE BILL TO DAIRY SYSTEMS COMPANY, filed 12-8-11.....	750
REPLY MEMORANDUM IN SUPPORT OF MOTION TO RECONSIDER DAMAGE ASPECTS OF DECISION DATED 9-15-10, filed 12-8-10	762
MEMORANDUM DECISION ON MOTIONS FOR ATTORNEY FEES AND COSTS, filed 1-4-11	772
NOTICE OF APPEAL, filed 1-14-11.....	780
CLERK’S CERTIFICATE OF APPEAL, filed 2-8-11	785
NOTICE OF LODGING, filed 3-30-11.....	787
CLERK’S CERTIFICATE	788
CERTIFICATE OF EXHIBITS.....	790

CERTIFICATE OF SERVICE792

INDEX

ADMINISTRATIVE ORDER OF REFERENCE, filed 9-9-0918

AFFIDAVIT OF BLAKE S. ATKIN IN OPPOSITION TO DEFENDANT’S MOTION TO DISMISS OR FOR SUMMARY JUDGMENT, filed 8-9-10223

ANSWER TO COUNTERCLAIM, filed 8-12-09.....12

ANSWER TO FIRST AMENDED COMPLAINT, filed 12-14-0937

ANSWER, COUNTERCLAIM AND DEMAND FOR JURY, filed 7-27-09.....7

CERTIFICATE OF EXHIBITS.....790

CERTIFICATE OF SERVICE792

CLERK’S CERTIFICATE OF APPEAL, filed 2-8-11785

CLERK’S CERTIFICATE788

COMPLAINT, filed 6-8-091

COURT MINUTES (Hearing 11-10-10).....640

COURT MINUTES (Hearing 11-4-10)630

COURT MINUTES (Hearing 11-5-10).....635

COURT MINUTES (Hearing 11-8-10).....639

COURT MINUTES (Hearing result) for 10-25-10500

COURT MINUTES (Hearing result) FOR 8-9-10239

DEFENDANTS’ LAWSON AND ZEBE REPLY MEMORANDUM IN SUPPORT OF MOTION TO DISMISS/MOTION FOR SUMMARY JUDGEMENT, filed 7-26-10.....194

DEFENDANTS' MEMORANDUM IN SUPPORT OF MOTION TO DISMISS AND/OR MOTION FOR SUMMARY JUDGMENT, filed 2-3-10.....	57
DEFENDANTS' MOTION TO DISMISS AND/OR MOTION FOR SUMMARY JUDGMENT, filed 2-3-10.....	55
DEFENSE MEMORANDUM ON DAMAGE CLAIM, filed 12-8-10.....	745
DEFENSE MOTION IN LIMINE, filed 10-4-10.....	453
DEFENSE OBJECTION TO PLAINTIFF'S DESIGNATION OF DEPOSITION EXCERPTS FROM THE DEPOSITION OF MORRIS FARINELLA, filed 11-24-10	669
DEFENSE PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW AND ARGUMENT, filed 11-24-10.....	672
DESIGNATION OF TESTIMONY FROM THE DEPOSITION OF MORRIS A. FARINELLA, filed 11-3-10	542
FINDINGS OF FACT AND CONCLUSIONS OF LAW, filed 11-29-10.....	708
FIRST AMENDED COMPLAINT, filed 12-1-09	28
JOINT PRE-TRIAL STIPULATION, filed 10-12-10	460
JUDGMENT, filed 12-7-10.....	743
MEMORANDUM DECISION AND ORDER ON DEFENDANTS' MOTION FOR SUMMARY JUDGMENT, filed 9-15-10	240
MEMORANDUM DECISION AND ORDER RE: VARIOUS MOTIONS, filed 5-20-10	188
MEMORANDUM DECISION ON DEFENDANTS' MOTION TO COMPEL DISCOVERY, filed 4-1-10.....	182
MEMORANDUM DECISION ON MOTIONS FOR ATTORNEY FEES AND COSTS, filed 1-4-11	772

MEMORANDUM DECISION, FINDINGS OF FACT AND CONCLUSIONS OF LAW,
Filed 12-6-10.....727

MEMORANDUM IN OPPOSITION TO DEFENDANTS' MOTION TO DISMISS AND/OR
MOTION FOR SUMMARY JUDGMENT; MEMORANDUM IN SUPPORT OF MOTION TO
AMEND PLAINTIFF'S FIRST AMENDED COMPLAINT TO ASSERT A CLAIM FOR
PUNITIVE DAMAGES; AND MOTION TO CONTINUE PURSUANT TO
I.R.C.P. 56(f), filed 3-23-10.....89

MEMORANDUM IN OPPOSITION TO DEFENSE MOTION IN
LIMINE, filed 10-21-10.....487

MEMORANDUM IN OPPOSITION TO PLAINTIFF'S MOTION FOR RECONSIDERATION
RE; DAMAGE ASPECTS OF DECISION DATED 9-15-10, filed 10-18-10.....482

MEMORANDUM IN SUPPORT OF DEFENSE MOTION IN
LIMINE, filed 10-4-10.....274

MINUTE ENTRY AND ORDER, filed 3-23-10176

MINUTE ENTRY AND ORDER, filed 6-30-10191

MINUTE ENTRY AND ORDER, filed 11-16-10642

MOTION TO DISMISS COUNTERCLAIM, filed 10-7-10.....458

MOTION TO RECONSIDER DAMAGE ASPECTS OF DECISION DATED
SEPTEMBER 15, 2010477

MOTION TO RECONSIDER DAMAGE ASPECTS OF DECISION DATED SEPTEMBER 14,
2010, filed 10-4-10.....269

NOTICE OF APPEAL, filed 1-14-11.....780

NOTICE OF LODGING, filed 3-30-11.....787

ORDER FOR SUBMISSION OF INFORMATION FOR SCHEDULING
ORDER, filed 9-18-09.....20

ORDER OF DISQUALIFICATION AND REFERENCE, filed 8-25-09.....16

ORDER SETTING JURY TRIAL, filed 12-23-09.....	50
ORDER, filed 10-29-10.....	502
ORDER, filed 12-17-09.....	44
PLAINTIFF’S DESIGNATION OF PORTIONS OF THE DEPOSITION OF MORRIS FARINELLA, filed 11-22-10	647
PLAINTIFF’S POST-TRIAL BRIEF, filed 11-26-10.....	697
PLAINTIFF’S TRAIL MEMORANDUM REGARDING THE ADMISSIBILITY OF EVIDENCE THAT DEFENDANTS ASSUMED OR RATIFIED CLAYSON’S ENTIRE BILL TO DAIRY SYSTEMS COMPANY, filed 12-8-11.....	750
REPLY MEMORANDUM IN SUPPORT OF MOTION TO RECONSIDER DAMAGE ASPECTS OF DECISION DATED 9-15-10, filed 12-8-10	762
SECOND AFFIDAVIT OF GARY L. COOPER, filed 10-4-10.....	298
STIPULATED STATEMENT, filed 10-2-09.....	24
STIPULATED STATEMENT, filed 12-18-09.....	47
TRIAL BRIEF, filed 11-1-10	505

VOLUME I

VOLUME II

VOLUME III

VOLUME IV

Gaylen Clayson vs. Donald I Zebe, Rick Lawson, LAZE, LLC

Date	Code	User	Judge
6/8/2009	NCOC	SHAREE	Clerk's
	COMP	SHAREE	Complaint Filed by Blake S Atkin, Attorney for Plaintiff
		SHAREE	Filing: A - Civil Complaint for more than \$1,000.00 Paid by: Atkin Law Office PC Receipt number: 0021684 Dated: 6/8/2009 Amount: \$88.00 (Check) For:
	ATTR	SHAREE	Plaintiff: Clayson, Gaylen Attorney Retained Blake S Atkin
	SMIS	SHAREE	Summons Issued - Don Zebe, 465 Berrett Ave, Pocatello, ID 83201
	SMIS	SHAREE	Summons Issued - Rick Lawson, 431 Chesapeake Ave, Pocatello, ID 83202
	SMIS	SHAREE	Summons Issued - LAZE LLC % Rick Lawson, 431 Chesapeake Ave, Chubbuck, ID 83202
7/24/2009		MARLEA	Filing: I1 - Initial Appearance by persons other than the plaintiff or petitioner Paid by: bowers law firm Receipt number: 0028119 Dated: 7/27/2009 Amount: \$58.00 (Check) For: Lawson, Rick (defendant), LAZE, LLC (defendant) and Zebe, Donald I (defendant)
7/27/2009		CAMILLE	Answer, counterclaim and Demand for Jury; John Bowers for def
	ATTR	CAMILLE	Defendant: Zebe, Donald I Attorney Retained John D. Bowers
	ATTR	CAMILLE	Defendant: Lawson, Rick Attorney Retained John D. Bowers
	ATTR	CAMILLE	Defendant: LAZE, LLC Attorney Retained John D. Bowers
8/12/2009		CAMILLE	Answer to Counterclaim; Blake Atkin for plntf/counterclaim def
		AMYW	Returns of Service of Summons and Complaint to Don Zebe, Rick Lawson, and Laze, LLC; /s/ Blake Atkin, atty for plaintiff/counterclaim def
8/25/2009	ORDR	AMYW	Order of Disqualification and Reference; /s/ J Nye
9/9/2009	ORDR	AMYW	Administrative Order of Reference; matter reassigned to Judge Dunn; /s/ J Nye
9/18/2009	ORDR	KARLA	Order for Submission of Information for Scheduling Order; /s J Dunn 09/18/09
10/2/2009		KARLA	Stipulated Statement (Atkin for Plaintiff)
10/13/2009		CAMILLE	Motion for Leave to Amend Complaint; Blake Atkin for plntf/counterclaim Def.
		CAMILLE	Memorandum in support of Motin for Leave to Amend Complaint; aty Blake Atkin for plntf
		CAMILLE	Certificate of service of Plntfs First set of Interrog to Defs; aty Blake Atkin for defs

Gaylen Clayson vs. Donald I Zebe, Rick Lawson, LAZE, LLC

Date	Code	User		Judge
10/13/2009		CAMILLE	Certificate of service of Plaintiffs first set of Document requests to Defendants: aty Blake Atkin for plntf/counterclaim def.	Stephen S Dunn
10/23/2009	NOTC	KARLA	Notice of Hearing; Motion for Leave to Amend; (Atkin for Def)	Stephen S Dunn
	HRSC	KARLA	Hearing Scheduled (Motion 11/23/2009 02:00 PM)	Stephen S Dunn
11/16/2009		CAMILLE	Defendants Motion to Continue Hearing on Motion to Amend; aty John Bowers for defs	Stephen S Dunn
		CAMILLE	Defendants Response to Plntfs Motion to Amend Complaint; aty JohnBowers for def	Stephen S Dunn
		CAMILLE	Certificate of service on Discovery Responses; aty JohnBowers for def	Stephen S Dunn
12/1/2009		DCANO	First Amended Complaint; Blake S. Atkin, Attorney for Plntf. Adding Don Zebe, Rick Lawson and Laze, LLC as Counterclaim Plaintiffs, and Gaylen Clayson as Counterclaim Defendant.	Stephen S Dunn
12/14/2009		CAMILLE	Answer to First Amended Complaint; aty John Bowers for Defs/counterclaim plntfs	Stephen S Dunn
12/17/2009	HRHD	KARLA	Hearing result for Motion held on 11/23/2009 02:00 PM: Hearing Held	Stephen S Dunn
		CAMILLE	Order; Motion for Leave to Amend Complaint is Granted; J Dunn 12-14-09	Stephen S Dunn
12/18/2009		CAMILLE	Stipulated Statement; atyBlake Atkin for plntf/counterclaim def	Stephen S Dunn
12/21/2009		CAMILLE	Notice of Depo of Bill Hudson ; set for 1-8-2010 @ 9am:	Stephen S Dunn
12/23/2009	ORDR	KARLA	Order Setting Jury Trial; /s J Dunn 12/23/09	Stephen S Dunn
	HRSC	KARLA	Hearing Scheduled (Jury Trial 03/23/2010 09:00 AM)	Stephen S Dunn
	HRSC	KARLA	Hearing Scheduled (Jury Trial 11/02/2010 09:00 AM)	Stephen S Dunn
2/24/2009		CAMILLE	Certificate of service - aty John Bowers for defs	Stephen S Dunn
2/28/2009		CAMILLE	Amended notice of Depo of Bill Hudson on 1-12-2010: aty Blake Atkin	Stephen S Dunn
2/31/2009		CAMILLE	Amended Notice of Depo of Bill Hudson on 1-12-2010 @ 9am: aty Blake Atkin for plntf	Stephen S Dunn
/11/2010		CAMILLE	Subpoena Duces Tecum; aty Blake Atkin	Stephen S Dunn
		CAMILLE	Notice of service of Subpoena Duces Tecum; aty Blake Atkin for pnt/conterclaim def	Stephen S Dunn
		CAMILLE	Return of service - srvd on (copy of Subpoena to Becky Holzemer 12-29-09)	Stephen S Dunn
/13/2010		CAMILLE	Certificate of Service - aty John Bowers for defs	Stephen S Dunn

Gaylen Clayson vs. Donald I Zebe, Rick Lawson, LAZE, LLC

Date	Code	User		Judge
1/14/2010		CAMILLE	Amended Notice of Depo of Gaylen clayson and Subpoena; aty John Bowers for Def and Counterclaim plntfs	Stephen S Dunn
	MOTN	KARLA	Motion for Admission Pro Hac Vice (Bowers for Def)	Stephen S Dunn
1/19/2010	MOTN	KARLA	Defendant's Motion to Modify Scheduling Order (Bowers for Def)	Stephen S Dunn
1/20/2010		CAMILLE	Notice of Deposition of Jeff Randall; on 1-26-2010 @ 9am: aty John Bowers for def	Stephen S Dunn
1/21/2010		CAMILLE	Order modifying deadlines in order setting Jury Trial; J Dunn 1-20-2010	Stephen S Dunn
		CAMILLE	Order of Admission Pro Hac Vice; J Dunn 1-20-2010	Stephen S Dunn
1/25/2010		CAMILLE	Second Amended Notice of Depo of Gaylen Clayson on 2-2-2010 @ 9am: aty John Bowers for def and counterclaim plntf	Stephen S Dunn
		CAMILLE	Amended Notice Depo of Jeff Randall on 2-3-2010 @ 9am: aty John Bowers for defs and counterclaim plntf	Stephen S Dunn
2/1/2010		CAMILLE	Motion and Memorandum to Hold Citizen Community Bank in contempt for nonobedience of subpoena; aty Blake Atkin for plntf/counterclaim def	Stephen S Dunn
2/3/2010		CAMILLE	Defs Motin to Dismiss and or Motion for summary Judgment; aty John Bowers	Stephen S Dunn
		CAMILLE	Defs Memorandum in support of motion to dismiss and or motion for sumary Judgment; aty John Bowers for defs	Stephen S Dunn
		CAMILLE	Certificate of service of plntfs Response to Defs First request for Production of Documents; aty Blake Atkin for plntf	Stephen S Dunn
		CAMILLE	Third Amended Notice of Depo of T Gaylen Clayson on 2-17-2010 @ 9am: aty John Bowers for defs	Stephen S Dunn
		CAMILLE	Amended Notice Depo of Jeff Randall on 2-15-2010 @ 10am: aty John Bowers for defs	Stephen S Dunn
2/8/2010		CAMILLE	Subpoena Duces Tecum; (Glanbia Foods)	Stephen S Dunn
2/10/2010		CAMILLE	Third Amended Notice of Depo of Jeff Randall; set for 2-15-2010: aty John Bowers for def	Stephen S Dunn
		CAMILLE	Fourth Amended Notice of Depo of Gaylen Clayson on 2-17-2010 @ 9am: aty John Bowers for defs	Stephen S Dunn
2/12/2010		CAMILLE	Subpoena Returned; left w/ Jerry Femnger	Stephen S Dunn
2/18/2010		CAMILLE	Fifth Amended Notice of Deposition of Gaylen Clayson on 2-25-2010 @ 9am: aty John Bowers for def and counterclaim plntf	Stephen S Dunn

Gaylen Clayson vs. Donald I Zebe, Rick Lawson, LAZE, LLC

Date	Code	User	Judge
2/22/2010		CAMILLE	Defendants Designation of Fact Witnesses; aty John Bowers for the Def and Counterclaim Plntfs
		CAMILLE	Certificate of service of plntfs response to Defendants Second request for production of documents; aty Blaker Atkin for plntf/counterclaim def
2/24/2010	NOTC	KARLA	Notice of Deposition of Rick Lawson (Atkin for Plaintiff)
	NOTC	KARLA	Notice of Deposition of Don Zebe (Atkin for Plaintiff)
		CAMILLE	Plaintiffs Designation of Fact Witnesses: aty Blake Atkin for plntf
2/26/2010		CAMILLE	Motion and Memorandum to be allowed to file late dsignation of Fact Witnesses: aty Blake Atkin for plntf
		CAMILLE	Defendants Motion to Strike Plaintiffs Witness List;; aty John Bowers for defs
3/1/2010		CAMILLE	Defendants Motion to Compel Discovery; aty John Bowers for def
3/2/2010		CAMILLE	Notice of Hearing; set for Defs Motoin to Dismiss/or Motion for Summary Judgment; aty John Bowers for Def
	HRSC	CAMILLE	Hearing Scheduled (Motion 03/15/2010 02:00 PM)
3/4/2010		CAMILLE	Amended Notice of Deposition of Rick Lawson 3-4-2010 @ 9am: aty Blake Atkin for plntf
		CAMILLE	Amended Notice of Deposition of Don Zebe on 3-3-2010 @ 9am: aty Blake Atkin for plntf
3/11/2010	MOTN	KARLA	Motion to Continue Hearing Date from March 15, 2010 to March 23, 2010 (Bowers for Def)
3/12/2010	ORDR	KARLA	Order Vacating Hearing on March 15, 2010 and rescheduling for March 23, 2010 /s J Dunn 03/12/10
	CONT	KARLA	Continued (Motion 03/23/2010 10:00 AM)
3/18/2010		CAMILLE	Stipulation and understanding of parties concerning Trial date Rescheduling; s/ Don Zebe and Rick Lawson
3/19/2010	STIP	KARLA	Stipulation and Understanding of Parties Concerning Trial Date Rescheduling (Don Zebe; Rick Lawson)
3/22/2010		CAMILLE	Certificate of service of Plaintiffs Third set of Requests for Production of Documents to Defendants: aty Blake Atkin for plnt
		CAMILLE	Certificate of Service of Plaintiffs Second set of Interrog. to Defendants: aty Blake Atkin for plntf/counterclaim Def.

Gaylen Clayson vs. Donald I Zebe, Rick Lawson, LAZE, LLC

Date	Code	User	Judge
3/22/2010		CAMILLE	Certificate of Service of Plaintiffs First set of Requests for Admissions to Defendants: aty Blake Atkin for plntf/counterclaim def.
3/23/2010		CAMILLE	Memorandum in Opposition to Defs Motion to Dismiss and or Motin for Summary Judgment; Memorandum in support of Motion to Amend Plntfs First Amended Complaint to Assert a Claim for PUnitive Damages; and Motion to countinue pursuant to IR CP 56f: aty Blake Atkin for p Intf/counterclaim defendant
		CAMILLE	Affidavit of Blake S Atkin in Support of Plaintiffs Rule 56f Motion; aty Blake Atkin for plntf counterclaim def
	HRHD	KARLA	Hearing result for Motion held on 03/23/2010 10:00 AM: Hearing Held
	MEOR	KARLA	Minute Entry and Order-hrg hld 03/23/10 on Motion to dismiss; Court DENY Motion to Dismiss; Plaintiff Rule 56f GRANTED; Def Motion to Compel taken under advisement; set hrg for Def Motion for Summ Judgment;
3/29/2010		CAMILLE	Certificate of service of Plaintiff Supplemental Response to Defs First Request for Production of documents; aty Blake Atkin for plntf/counterclaim def
3/31/2010	HRVC	KARLA	Hearing result for Jury Trial held on 03/23/2010 09:00 AM: Hearing Vacated
4/1/2010	DEOP	KARLA	Memorandum Decision on Defendant's Motion to Compel Discovery; DENIED except as to Bank of Star Valley records; Plaintiff ordered to produce Bank of Star Valley records within 14 days of this order; No costs or fees awarded to either party; /s J Dunn 04/01/10
4/2/2010	HRSC	KARLA	Hearing Scheduled (Motion for Summary Judgment 07/07/2010 02:00 PM)
4/19/2010		CAMILLE	Notice of Deposition of Don Zebe on 4-29-2010 @ 9am: atyBlake Atkin for plntf
		CAMILLE	Notice of Deposition of Rick Lawson on 4-30-2010 @ 9am: aty Blake Atkin for plntf
		CAMILLE	Certificate of Service of Defs Replies to Plaintiffs First set of Req for Admissions to Defendants; aty John Bowers for def/counterclaimants
4/22/2010		CAMILLE	Motion for Protective ORder concerning Deposition Scheduled for 4-29-2010 and April 30,2010: aty John Bowers for defs and counterclaim plntfs
		CAMILLE	Defendants Response to Plaintfs Motion to Extend Deadline to produce Bank of Star Valley Records; aty John Bowers for defs

Gaylen Clayson vs. Donald I Zebe, Rick Lawson, LAZE, LLC

Date	Code	User		Judge
4/22/2010		CAMILLE	Affidavit of Rod Jensen ; aty John Bowers for defs	Stephen S Dunn
4/23/2010		CAMILLE	Defendants Motion for Contempt; aty John Bowers for Def. and counterclaim Plntfs	Stephen S Dunn
		CAMILLE	Affidavit of John Bowers; aty John Bowers for defs and counterclaim plntfs	Stephen S Dunn
4/26/2010		CAMILLE	Defendants Response to Plaintiffs Motion to Extend Deadline to Produce Bank of Star Valley Records; aty John Bowers for Defs. counterclaim plntf	Stephen S Dunn
		CAMILLE	Affidavit of Rod Jensen; aty John Bowers for def and counterclaim plntfs	Stephen S Dunn
5/10/2010		CAMILLE	Certificate of Service - Counterclaim Plntfs served upon the plntf, their Responses to Plntfs Interrog and req for production : aty John Bowers for Defs and Counterclaim plntfs	Stephen S Dunn
5/17/2010		CAMILLE	Notice of Association of counsel; aty Gary Cooper for def	Stephen S Dunn
5/20/2010	DEOP	KARLA	Memorandum Decision and Order re; Various Motions; Motion for Protective Order and Motion for Extension of Time to Produce are moot; Court DENIES Motion for Contempt; /s J Dunn 05/19/10	Stephen S Dunn
5/27/2010		CAMILLE	Motion to continue Trial; aty Gary Cooper for Def.	Stephen S Dunn
		CAMILLE	Notice of Hearing; on motion to continue set for 6-21-2010 @2pm: aty Gary Cooper for def	Stephen S Dunn
5/27/2010		CAMILLE	Notice of Deposition of Gaylen Clayson and Subpoena ; aty Gary Cooper	Stephen S Dunn
5/28/2010		CAMILLE	Amended Notice of Deposition of Gaylen Clayson and Subpoena; aty Gary Cooper for Def	Stephen S Dunn
5/28/2010		CAMILLE	Notice of Cancellation of the Depo of Don Zebe and Rick Lawson; aty Blake Atkin for plntf/counterclaim def	Stephen S Dunn
5/28/2010		CAMILLE	Amended Notice of Hearing; set for Defs Motion for Summary Judgment on 8-9-2010 @ 2pm: aty Gary Cooper	Stephen S Dunn
5/29/2010	HRSC	CAMILLE	Hearing Scheduled (Motion for Summary Judgment 08/09/2010 02:00 PM)	Stephen S Dunn
5/30/2010	MEOR	KARLA	Minute Entry and Order; hrg 06/21/10; Def Motion to Continue Trial; Court retained trial date; set backup date; reset Motion for Summary Judgment; /s J Dunn 06/24/10	Stephen S Dunn
	HRSC	KARLA	Hearing Scheduled (Jury Trial 01/11/2011 09:00 AM)	Stephen S Dunn
6/13/2010		CAMILLE	Notice of service - Response to Plntfs Second set of requests for Admissions to Def : aty Gary Cooper	Stephen S Dunn

Gaylen Clayson vs. Donald I Zebe, Rick Lawson, LAZE, LLC

Date	Code	User	Judge
7/15/2010		CAMILLE	Notice of Service - Discovery to Plaintiff and this Notice: aty Gary Cooper for Defs
7/16/2010		CAMILLE	Notice of service - Response to Plntfs Thrid set of Document requests to defendants: aty Gary Cooper for def
7/26/2010		CAMILLE	Affidavit of Gary Cooper; aty Gary Cooper
		CAMILLE	Defendants Lawson and Zebe Reply Memorandum in support of Motion ot Dismiss/Motion for Summary Judgment : aty Gary Cooper for Def.
8/6/2010		CAMILLE	Notice of Mediation; s/ Judge Brown 8-3-2010
8/9/2010		CAMILLE	Affidavit of Blake S Atkin in Opposition to Defs Motin to Dismiss or for summary Judgment; aty Blake Atkin for plntf
	HELD	KARLA	Hearing result for Motion for Summary Judgment held on 08/09/2010 02:00 PM: Motion Held
8/18/2010		CAMILLE	Certificate of Service of Plntfs Response to Defs Discovery to plntf: aty Blake Atkin for plntf
9/15/2010		CAMILLE	Memorandum Decision and Orderon Defendants Motion for Summary Judgment; (Court GRANTS Defs Summary Judgment) Defs Motion for Summary Judgment is DENIED; Plntfs Motion to Amend Plntf First Amended Complaint to Assert a Claim of Punitive Damages is DENIED) s/ Judge Dunn 9-14-2010
9/21/2010		CAMILLE	Second Amended Notice of Deposition of Gaylen Clayson and Subpoena ; set for 9-30-2010: aty Gary Cooper
10/1/2010		CAMILLE	Defendants Expert and Fact witness Disclosure; aty Gary Cooper
10/4/2010		CAMILLE	Motion to reconsider damage aspects of decision dated september 15, 2010: aty Blake Atkin for plntf
		CAMILLE	Memorandum in Support of Defense Motion in Limine; aty Gary Cooper
		CAMILLE	Second Affidavit of Gary Cooper; aty Gary Cooper
		CAMILLE	Def's Supplemental Expert and Fact Witness Disclosure; aty Gary Cooper for-def
		CAMILLE	Defense Motion in Limine; aty Gary Cooper
	HRSC	CAMILLE	Hearing Scheduled (Motion 10/25/2010 01:30 PM)
10/7/2010		CAMILLE	Motion to Dismiss Counterclaim; aty Gary Cooper for def.
		CAMILLE	Notice of hearing; set for Motion to Dismiss on 10-25-2010 @ 1:30 pm;

Gaylen Clayson vs. Donald I Zebe, Rick Lawson, LAZE, LLC

Date	Code	User		Judge
10/8/2010	NOTC	DCANO	Notice of Deposition of Jeff Randall to Preserve Trial Testimony; Gary L. Cooper, Atty for Dfdts.	Stephen S Dunn
10/11/2010	MOTN	KARLA	Motion and Memorandum for Protective Order Re; Deposition of Jeff Randall to Preserve Trial Testimony (Atkins for Plaintiff)	Stephen S Dunn
10/12/2010		NOELIA	Miscellaneous Payment: For Certifying The Same Additional Fee For Certificate And Seal Paid by: Atkin Law Office Receipt number: 0035333 Dated: 10/12/2010 Amount: \$4.50 (Check)	Stephen S Dunn
		CAMILLE	Joint Pre Trial Stipulation; aty Blake Atkin for plntf	Stephen S Dunn
		CAMILLE	Notice of hearing; set for 10-25-2010 @ 1:30 pm: aty Blake Atkin for def	Stephen S Dunn
	MOTN	KARLA	Motion to Reconsider damage aspects of decision dated September 15, 2010 (Atkin for Plaintiff)	Stephen S Dunn
10/15/2010	RESP	KARLA	Def's Response to Plaintiff's Motion for Protective Order	Stephen S Dunn
10/18/2010	MEMO	KARLA	Memorandum In Opposition to Plaintiff's Motion for Reconsideration Re Damage Aspects of Decision Dated September 15, 2010 (Cooper for Defs)	Stephen S Dunn
10/19/2010		CAMILLE	Notice of hearing; set for Motion on 10-25-2010 @ 1:30pm: aty Gary Cooper	Stephen S Dunn
		CAMILLE	Motion Eliminating Jury; aty Gary Cooper	Stephen S Dunn
10/21/2010		CAMILLE	Defendants Supplemental Expert and Fact Witness Disclosure; aty Gary Cooper for Def.	Stephen S Dunn
		KARLA	Return of Service; subpoena of Jeff Randall 10/05/10	Stephen S Dunn
		CAMILLE	Memorandum in Opposition to Defense Motion in Limine; aty Blake Atkin for plntf/counterclaim def	Stephen S Dunn
10/29/2010	DCHH	KARLA	Hearing result for Motion held on 10/25/2010 01:30 PM: District Court Hearing Held Court Reporter: Sheila Fish Number of Transcript Pages for this hearing estimated: less 100	Stephen S Dunn
	ORDR	KARLA	Order; Counterclaim Dismissed; jury demand dismissed; Plaintiff's Motion to Reconsider denied; Def Motion in Limine deferred until trial; /s J Dunn 10/28/10	Stephen S Dunn
	CONT	KARLA	Continued (Jury Trial 11/04/2010 09:30 AM)	Stephen S Dunn
11/1/2010		CAMILLE	Trial Brief; aty Blake Atkin for plntf/counterclaim;	Stephen S Dunn
11/3/2010		CAMILLE	Designation of Testimony from the Deposition of Morris A Farinella ; on 9-30-2010: aty Gary Cooper for Def.	Stephen S Dunn

Gaylen Clayson vs. Donald I Zebe, Rick Lawson, LAZE, LLC

Date	Code	User	Judge
11/8/2010	HRSC	KARLA	Hearing Scheduled (Status Conference 11/08/2010 12:00 PM) Stephen S Dunn
	HRSC	KARLA	Hearing Scheduled (Jury Trial 11/10/2010 01:30 PM) Stephen S Dunn
11/16/2010	HRVC	KARLA	Hearing result for Jury Trial held on 01/11/2011 09:00 AM: Hearing Vacated Stephen S Dunn
	DCHH	KARLA	Hearing result for Jury Trial held on 11/04/2010 09:30 AM: District Court Hearing Held Court Reporter: Sheila Fish Number of Transcript Pages for this hearing estimated: more than 500 Stephen S Dunn
	HRHD	KARLA	Hearing result for Jury Trial held on 11/10/2010 01:30 PM: Hearing Held Stephen S Dunn
	HRHD	KARLA	Hearing result for Status Conference held on 11/08/2010 12:00 PM: Hearing Held Stephen S Dunn
	MEOR	KARLA	Minute Entry and Order; Court Trial held; Parties to submit findings of facts and conclusions by 11/24/10; matter will be taken under advisement and written decision to be issued; /s J Dunn 11/16/10 Stephen S Dunn
11/22/2010		KARLA	Plaintiff's Designation of Portions of the Deposition of Morris Ferinella (Atkin for Plaintiffs) Stephen S Dunn
11/24/2010		CAMILLE	Defense Objection to plntfs designation of Deposition excerpts from the Deposition of Morris Farinella : aty Gary Cooper Stephen S Dunn
		CAMILLE	Defense Proposed Findings of Fact, Conclusions of Law and Argument; aty Gary Cooper Stephen S Dunn
11/26/2010	BRFS	KARLA	Plaintiff's Post Trial Brief (Atkin for Plaintiff) Stephen S Dunn
11/29/2010		KARLA	Findings of Fact and Conclusions of Law (Atkin for Plaintiff)(Stephen S Dunn
12/6/2010		CAMILLE	Memorandum Decision, findings of Fact and Conclusions of law; court finds in favor of Plntf and awards damages totaling \$97,310.94: s/ Judge Dunn 12-6-2010 Stephen S Dunn
12/7/2010	JDMT	CAMILLE	Judgment; ag Don Zebe Rick Lawson and Laze, LLC in the total amount of \$97,310.94; s/ Judge Dunn 12-6-2010 Stephen S Dunn
	CSTS	CAMILLE	Case Status Changed: Closed Stephen S Dunn
12/8/2010	MEMO	KARLA	Defense Memorandum on Damage Claim (Cooper for Defs) Stephen S Dunn
	MEMO	KARLA	Palintiff's Trial Memorandum Regarding the Admissibility of Evidence that Defendants Assumed or Ratified Clayson's Entire Bill to Dairy Systems Company (Atkin for Palintiff) Stephen S Dunn
	MEMO	KARLA	Reply Memorandum in support of Motion to Reconsider Damage Aspects of Decision Dated September 15, 2010 (Atkin for Plaintiff) Stephen S Dunn

Gaylen Clayson vs. Donald I Zebe, Rick Lawson, LAZE, LLC

Date	Code	User	Judge
12/20/2010		CAMILLE	Memorandum of costs and Attorney Fees; aty Stephen S Dunn Gary Cooper for def
		CAMILLE	Affidavit of Gary Cooper in support of Stephen S Dunn Memorandum of costs and attorney fees; aty Gary Cooper for def
		CAMILLE	Affidavit of John D Bowers for Attorney Fees and Stephen S Dunn costs; aty John Bowers for defs
12/27/2010		CAMILLE	Memorandum of costs including attorney fees; Stephen S Dunn aty Blake Atkin for plntf
12/28/2010		CAMILLE	Memorandum in support of defs objection to Stephen S Dunn costs and attorney fees claimed by plntfs: aty Gary Cooper
		CAMILLE	Objection to Plaintiffs Memorandum of Costs and Stephen S Dunn Attorney fees: aty Gary Cooper for def
12/29/2010		CAMILLE	Objection to Defendants Memorandum of Costs Stephen S Dunn including attorney fees; aty Blake Atkin
1/4/2011		CAMILLE	Affidavit of Blake Atkin in support of Stephen S Dunn Memorandum of costs including attorney fees; aty Blake Atkin for plntf
		CAMILLE	Memorandum Decision on motion for attorney Stephen S Dunn fees and costs; (Based on the foregoing, the court denies both motions for attorney fees and costs: the judgment will not be amended: s/ Judge Dunn 1-4-2011
1/14/2011		NOELIA	Filing: L4 - Appeal, Civil appeal or cross-appeal to Stephen S Dunn Supreme Court Paid by: Gary L. Cooper Receipt number: 0001682 Dated: 1/14/2011 Amount: \$101.00 (Check) For: Clayson, Gaylen (plaintiff)
	APSC	DCANO	Appealed To The Supreme Court Stephen S Dunn
	NOTC	DCANO	NOTICE OF APPEAL; Gary L. Cooper, Atty for Stephen S Dunn Dfdts.
	MISC	DCANO	Paid \$101.00 check # 25113 for Filing Fee and Stephen S Dunn Supreme court Fee. Paid \$100.00 check # 25114 for deposit of Clerk's Record.
1/21/2011	MISC	DCANO	CLERK'S CERTIFICATE OF APPEAL; Signed Stephen S Dunn and Mailed to Counsel and SC on 1-21-11.
1/28/2011	MISC	DCANO	IDAHO SUPREME COURT; Notice of Appeal Stephen S Dunn received in SC on 1-24-11. Docket Number 38471-2011. Clerk's Record and Reporter's Transcript due in SC by 5-5-11. (3-31-11 5 weeks prior to Counsel. The following transcript shall be lodged: Court Trial 11-4-10, 11-5-10 and 11-10-10.
	MISC	DCANO	CORRECTED CLERK'S CERTIFICATE OF Stephen S Dunn APPEAL. Signed and Mailed to SC and Counsel on 2-4-11.

Gaylen Clayson vs. Donald I Zebe, Rick Lawson, LAZE, LLC

Date	Code	User		Judge
2/8/2011	MISC	DCANO	IDAHO SUPREME COURT; Clerk's Corrected Certificated received in SC on 2-7-11. All parties are to review title and if any corrections please contact the Dist. Clerk. If not the title on the certificate must appear on all documents filed in SC.	Stephen S Dunn
3/30/2011	MISC	DCANO	NOTICE OF LODGING FOR TRANSCRIPTS: Sheila Fish on 3-30-11.	Stephen S Dunn
	MISC	DCANO	REPORTER'S TRANSCRIPTS RECEIVED IN COURT RECORDS FROM SHEILA FISH ON 3-30-11 for the following: Court Trial held 11-4-10, 11-5-10, and 11-10-10.	Stephen S Dunn
4/1/2011	MISC	DCANO	CLERK'S RECORD received in Court Records on 4-1-11.	Stephen S Dunn

2010 JUL 26 PM 3:05

BY [Signature]
DEPUTY CLERK

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Facsimile: (208) 235-1182

Counsel for Defendant

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

GAYLEN CLAYSON,)
)
Plaintiff,)

CASE NO. CV-2009-0002212-OC

vs.)

**DEFENDANTS' LAWSON AND ZEBE
REPLY MEMORANDUM
IN SUPPORT OF MOTION TO
DISMISS/MOTION FOR SUMMARY
JUDGMENT**

DON ZEBE, RICK LAWSON, AND)
LAZE, LLC.,)
Defendants,)

_____)
)
DON ZEBE, RICK LAWSON, AND)
LAZE, LLC.,)
Counterclaim Plaintiff,)

vs.)

GAYLEN CLAYSON,)
)
Counterclaim Defendants,)
_____)

SUMMARY OF ARGUMENT

The Statute of Frauds bars Clayson's claim for breach of contract because by his own admission the contract would be performed for longer than one year. The breach of contract claim must also fail because there was never a meeting of the minds to the critical elements of the contract.

Clayson's claim for unjust enrichment is based on a claim that in return for assigning his rights in a Purchase and Sale Agreement he should receive the benefit he allegedly bestowed upon the Defendants. However, the Assignment is in writing and it does not provide that Clayson was to receive compensation for the benefits he allegedly bestowed on the Defendants. Because the assignment was in writing Clayson cannot invoke the equitable remedy of unjust enrichment to change the terms of the written agreement. The First and Second Causes of Action must be dismissed.

As for the defamation and extortion/duress claims Clayson makes, the same should be dismissed for Clayson's failure to come forward with admissible evidence to support the claims. The allegations of extortion/duress are based on the Affidavit of Jeff Randall. However, when he was deposed he testified that the Affidavit was not accurate and that Don Zebe had not threatened to bring additional criminal charges if Clayson did not back off. As part of the motion for summary judgment the Defendants filed the affidavit of Jody Gardner who was the Lincoln County Sheriff's investigatory. He confirmed that the only information he received from Don Zebe was that the ice cream machine was on the inventory of equipment his company bought when it purchased the cheese plant and restaurant, it was not on the premises and Clayson had removed the machine. In his deposition, Clayson admitted that all those facts were correct. Truth is an absolute defense to a defamation claim. Accordingly, the Third, Fourth and Fifth Causes of Action must be dismissed.

STATEMENT OF UNDISPUTED FACT

1. Clayson has no written contracts with Zebe, Lawson or Laze, LLC. (Clayson Deposition, pp. 86 - 87)
2. Clayson and the Defendants never agreed to the terms of the agreement he seeks to enforce. (Clayson Deposition, pp. 20 - 26)

3. The agreement Clayson seeks to enforce would have been performed over at least three years. (Clayson Deposition, p. 24)
4. The agreement to assign Clayson's interest in the Purchase and Sale Agreement is in writing. (Clayson Deposition, pp. 69 - 72; Deposition Exhibit 24)
5. The Taylor Ice Cream Machine was part of the inventory sold to Defendants when they purchased the Star Valley Cheese Plant and Restaurant. (Clayson deposition, pp. 52 - 54, 165 - 166, 199 - 200; Clayson deposition Exhibit 17)
6. Clayson gave the Taylor Ice Cream Machine to a man for working in the restaurant. (Clayson deposition, p. 54)
7. Zebe did not tell Randall that he would file more criminal charges if Clayson did not back off. (Randall deposition, pp. 32 - 35)
8. Jody Gardner, investigator with the Lincoln County Wyoming Sheriff's Department, states that Don Zebe contacted him concerning a missing ice cream machine which was part of the inventory which was sold to his company when it purchased the cheese plant in Thayne, Wyoming; Zebe did not say Clayson "was guilty of larceny" but only that he had removed the ice cream machine. (Gardner Affidavit)

STATEMENT OF DISPUTED FACT

In his opposition Memorandum, Clayson lists 26 material disputed facts. Items 1 - 6 are irrelevant to the issues presented in the Motion for Summary Judgment.

Item 7 alleges a partnership was created. As will be seen below there is no evidence of a partnership and the information cited by Clayson in support of this "legal conclusion" does not establish a partnership agreement.

Item 8 alleges that Zebe and Lawson agreed to buy the partnership interest of Clayson. As will be demonstrated below that claim is without merit. Clayson cannot even identify the terms of such an agreement and admits it was in the formation stage and never got beyond that.

Item 9 alleges that Clayson partially or fully performed the contract. As will be demonstrated below there were other reasons for why Clayson left the restaurant and assigned his interest in the Purchase and Sale Agreement which are not referable to the alleged oral contract which is neither definite nor enforceable.

Items 10 - 13 deal with a business plan which Clayson was not involved in preparing and which is not a basis for creating an oral agreement between Defendants and Clayson as alleged in his First Cause of Action.

Item 14 refers to an email which Clayson admits he never saw before it was presented to him in his deposition. He did not rely on it for anything. It is not an clear expression of an agreement or promise to do anything.

Item 15 is a legal conclusion and there is no contractual obligation proven by Clayson.

Item 16 assumes there is an agreement to pay Clayson's debts. No such agreement has been proven.

Items 17 and 18 are true, but Defendants never had an obligation to take the milk or pay for improvements for a variety of reasons, most importantly because there was no meeting of the minds concerning such an obligation.

Item 19 is true regarding the filing of the lien but it is not correct when it assumes or implies that Zebe and Lawson were obligated to pay the debt Clayson incurred with Dairy Systems.

Items 20 - 25 are not true or correct as demonstrated by the Affidavit of Jody Gardner and the deposition of Jeff Randall.

ARGUMENT

1. FIRST CAUSE OF ACTION BARRED BY THE STATUTE OF FRAUDS

In Clayson's First Cause of Action he alleges that "Defendants entered into a contract with the Plaintiff to purchase his partnership interest for payment of \$500,000 in cash, reimbursement of Plaintiff's out of pocket expenses, assumption of Plaintiff's debt incurred for work done refurbishing The Plant, including the debt to Dairy Systems, and agreement to take all of Plaintiff's production of milk at class 3 milk prices, FOB the dairy." (First Amended Complaint, ¶ 16)

In this deposition Clayson made the following admissions:

1. Clayson has no written contract with Laze, LLC:

86

20 Q. Let's go to No. 18. Do you have any documents
21 evidencing a contract or agreement with Laze, LLC?

22 A. No.

Clayson deposition, p. 86

2. Clayson has no written contract with Don Zebe:

87

19 Q. Let's go to Page 5. Do you have any written
20 contract or agreement with Don Zebe individually?

21 A. No.

Clayson deposition, p. 87

3. Clayson has no written contract with Rick Lawson:

87

22 Q. No. 20, do you have any contract, written
23 contract or agreement with Rick Lawson individually?

24 A. No.

Clayson deposition, p. 87

4. There was no agreement on contract terms between Plaintiff and Defendants:

20

18 Q. No. 8.

19 A. I know there was some things wrote down and
20 not official documents but just things that were wrote
21 down on this, but, no, I don't have any documents per se.

22 Q. Well, what do you mean some things wrote down?
23 A. Well, that agreed on things that we would do
24 and the way things would be handled once the plant was
25 purchased.

21

1 Q. Well, help me identify this more because if
2 there are such documents in existence, I want to find
3 those documents. So are you talking about handwritten
4 documents?
5 A. Yes -- well, some of them were typed. **Really**
6 **the only thing we had agreed with was that they would pay**
7 **the Laze L or whatever it is would pay whatever expenses**
8 **that I had incurred or put into the plant by way of**
9 **repairs and paint, improvements, and that originally they**
10 **would pay 500,000 up front. And then we kind of agreed**
11 **that they were going to be short of cash and that they**
12 **would work that in on the price of the milk.**

13 Other things that were discussed and written
14 were that I would deliver the milk to the plant via Jeff
15 Randall for a Class III price, and that we would bring
16 back the whey.

17 I am sure there are other things that we
18 discussed, but nothing comes to mind at this point.

19 Q. Well, let's talk about that more. What you
20 just described to me, is it in writing someplace?

21 A. I don't know; I don't have any copies of it.

22 Q. Was it ever in writing?

23 A. Yes.

24 Q. When is the last time that you saw this
25 written document?

22

1 A. September, end of September.

2 Q. Where was it when you last saw it?

3 A. In the plant there.

4 Q. That's September of 2008, I am assuming.

5 A. Yes.

6 Q. Was it a handwritten document, a typed
7 document?

8 A. It was typed.

9 Q. Who prepared it?

10 A. I guess between Rick and Don, they both.

11 Q. Did anybody sign it?

12 A. I don't recall.

13 Q. **Well, did you sign it?**
14 A. **I don't recall signing it.**
15 Q. So what was its purpose?
16 A. It was **part of the business plan.**
17 Q. So that's what I should be looking for, is a
18 business plan.
19 A. Yes. Just from in talking with the Department
20 of Ag they needed answers, like that, in order to
21 guarantee the loan. No. 1, they needed to know where the
22 milk supply was coming from, how you are going to buy the
23 milk. **But then I never got involved in it past that, I**
24 **never talked to them after that. My involvement in it**
25 **was pretty well over the end of September.**

23

1 Q. Of 2008.
2 A. Of 2008.
3 Q. So what loan are we talking about and why was
4 the Department of Ag involved in it?
5 A. They were going to -- again, I don't know
6 exactly what they ended up doing, but the plan was that
7 they would go to the Department of Ag in Wyoming there
8 and they would do a guaranteed on a loan.
9 Q. When you say "they," who are you referring to?
10 A. The department, USDA, Department of Ag.
11 Q. Who was going to go to them. I thought you
12 said they.
13 A. Oh, Don and Rick.
14 Q. And so what you are telling me is that the
15 discussions about this first involved that you were going
16 to be paid expenses involving improvements that you had
17 made to the plant and \$500,000 up front.
18 A. Yes.
19 Q. And then it was later determined that there
20 wasn't cash to do that.
21 A. Yes.
22 Q. When was that determined, when you say later,
23 what timeframe are we talking about?
24 A. End of September, first of October.
25 Q. So then the discussions changed and now the

24

1 discussion was that you were somehow going to be paid
2 through delivery and payment for milk; is that correct?
3 A. Correct.
4 Q. Tell me what you understood those discussions

5

5 to be. **How was that going to work?**
6 A. **We didn't get into that part of it, just that**
7 **they would add a premium to the milk and pay it over a**
8 **period of months.**
9 Q. And that period of time would involve how
10 long?
11 A. We didn't talk time.
12 Q. For that amount of money, though, it would
13 take more than a year to do it, wouldn't it?
14 A. I would think.
15 Q. That's pretty logical, isn't it?
16 A. I would think, you know, if it would have been
17 carried out and got to that point, **we probably would have**
18 **done three years.**
19 Q. And, if I understand correctly, it **never got**
20 **to the point that there were definite discussions** about
21 how much that premium would be.
22 A. No.
23 Q. Am I correct that **this never got beyond the**
24 **discussion stage?**
25 A. Correct on the premium?

25

1 Q. **On this entire arrangement. You got to the**
2 **discussion stage but you never went beyond that?**
3 A. As far as writing things down or what?
4 Q. Yes.
5 A. **I would say that, other than what was written**
6 **in the previous agreements, there is no -- in other**
7 **words, we will pay you X amount and this and you sign**
8 **here and we will sign here, no.**
9 Q. And when you say the previous agreements, what
10 agreements are you referring to?
11 A. Well, they had written out some -- you know,
12 like I mentioned earlier, for the purpose of borrowing
13 the money, how it would be structured, how they would do
14 things, how they would pay.
15 Q. But that was in the form of a proposal that
16 was going to be delivered to, what, a bank or Department
17 of Agriculture; is that right?
18 A. Probably, as well as -- in other words, you
19 look it over, does this work for you, this is what we are
20 proposing that we do, and we'll go carry it out.
21 Q. And you are saying that was presented to you.
22 A. Yes.

23 Q. **But there was never a contract written up**
24 between yourself or any of your business entities and
25 either Mr. Zebe or Mr. Lawson or their business entities;

26

1 correct?

2 A. No.

3 Q. No, there was never a contract?

4 A. **No, there never was.**

Clayson deposition, pp. 20 - 26 (**Emphasis** supplied)

Idaho Code § 9-505 reads in pertinent part as follows:

§ 9-505. **Certain agreements to be in writing.** In the following cases the agreement is invalid, unless the same or some note or memorandum thereof, be in writing and subscribed by the party charged, or by his agent. Evidence, therefore, of the agreement cannot be received without the writing or secondary evidence of its contents:

1. An agreement that by its terms is not to be performed within a year from the making thereof.

Wyoming Statutes § 1-23-105 reads in pertinent part as follows:

§ 1-23-105. **Agreements void unless in writing.** (a) In the following cases every agreement shall be void unless such agreement, or some note or memorandum thereof be in writing, and subscribed by the party to be charged therewith:

(i) Every agreement that by its terms is not to be performed within one (1) year from the making thereof;

By Clayson's own admission the contract he alleges as the basis for his First Cause of Action would probably have been performed over three years. Whether Idaho law is applied or Wyoming law, the agreement is unenforceable because it violates the Statute of Frauds. In his opposition Memorandum, Clayson argues that this was an agreement to purchase a partnership interest, not an agreement to purchase real estate, so the Statute of Frauds is not implicated. The Statute of Frauds also applies to contracts to be performed for longer than a year.

Moreover, the terms of the alleged "contract" were never finalized. Some of the terms Clayson seeks to enforce had been discussed according to Clayson but there was no agreement was ever reached.

Contract formation requires mutual assent. *Thompson v. Pike*, 122 Idaho 690, 696, 838 P.2d 293, 299 (1992). "A distinct understanding common to both parties is necessary in order for a contract to exist." *Id.* Whether mutual assent exists is a question of fact. *Id.*

Gray v. Tri-Way Constr. Servs., 147 Idaho 378, 384 (Idaho 2009)

"In order to constitute a contract, there must be a distinct understanding common to both parties. The minds of the parties must meet as to all of its terms, and, if any portion of the proposed terms is unsettled and unprovided for, there is no contract. (9 *Cyc.* 245.) An offer to enter into a contractual relation must be so complete that upon acceptance an agreement is formed which contains all of the terms necessary to determine whether the contract has been performed or not. (1 *Page on Contracts*, § 27; 9 *Cyc.* 248.) An acceptance of an offer, to be effectual, must be identical with the offer and unconditional, and must not modify or introduce any new terms into the offer. (1 *Page on Contracts*, § 45; 9 *Cyc.* 267.) An acceptance which varies from the terms of the offer is a rejection of the offer and is a counter proposition, which must in turn be accepted by the offerer in order to constitute a binding contract. (9 *Cyc.* 290.) After an offer has been rejected by making a counter proposal, it cannot be later accepted without a renewed consent of the offerer. (9 *Cyc.* 290.)"

Brothers v. Arave, 67 Idaho 171, 175-176 (Idaho 1946)

By Clayson's own testimony there was never a meeting of the minds on the critical terms of the so-called contract. *Black Canyon Racquetball Club v. Idaho First Nat'l Bank, N.A.*, 119 Idaho 171, 173 (Idaho 1991) (the well-established rule is that the terms of a contract must be sufficiently definite and certain in order to be enforceable) See also *Giacobbi Square v. Pek Corporation*, 105 Idaho 346, 670 P.2d 51 (1983); *Barnes v. Huck*, 97 Idaho 173, 540 P.2d 1352 (1975); *Dales Service Company, Inc. v. Jones*, 96 Idaho 662, 534 P.2d 1102 (1975).

In his opposition Memorandum, Clayson states that the parties agreement is sufficiently established in writing. He points to the articles of organization of SVC, LLC as evidence of a

partnership. (See Clayson Deposition Exhibits 14, 16 and 19) However, he admitted in his deposition that his name was removed from the LLC shortly after it was formed because his involvement with the restaurant and plant ended.

187

2 Q. The purpose of forming SVC, LLC, was to
3 operate the restaurant and take care of the cleanliness
4 of the plant; correct?

5 A. According to this, yes.

6 Q. Exhibit No. 16. This is filing information
7 from the State of Wyoming showing that SVC, LLC, was
8 filed as an LLC with the State of Wyoming on October 9,
9 2008, and the only members were Donald Zebe and Rick
10 Lawson. Do you see that?

11 A. Yes.

12 Q. Do you remember that between October 2 and
13 October 9, 2008, something happened by which your name
14 was removed as a member or manager of SVC, LLC?

15 A. What was that?

16 Q. Well, October 8, 2008, didn't your involvement
17 with the restaurant and the plant end?

18 A. Yes.

19 Q. So you knew that your name was removed from
20 SVC, LLC; correct?

21 A. I guess I did.

22 Q. Let's go to Exhibit No. 19. Since we have
23 already looked at 17 and 18, just turn those over and put
24 them there. And this, in fact, is the document, Exhibit
25 No. 19, that was filed with the Wyoming Secretary of

188

1 State that eliminated you as a manager or member of SVC,
2 LLC; correct?

- 3 A. Yes.
4 Q. Do you agree with that?
5 A. Yes.

Clayson deposition, pp. 187 - 188

190

- 4 Q. Let's just think about a few things here. We
5 saw that SVC, LLC, was formed on October 2, of 2008. We
6 saw that you were eliminated as a member by October 8,
7 2008, correct, because you were out.
8 A. Correct.

Clayson deposition, p. 190

Clayson also suggests in his opposition Memorandum that the Annual Report of Milk Management, LLC supports the existence of a partnership. (Clayson Deposition Exhibit 13) However, he could not even explain the purpose of the LLC:

183

- 9 Q. What was the purpose on October 2, 2008, of
10 changing the members in milk management, LLC, to add Rick
11 Lawson and Donald Zebe?
12 A. I don't remember.
13 Q. Did Milk Market Management, LLC, after October
14 2, 2008, conduct any business?
15 A. I don't know.
16 Q. Is it still in existence?
17 A. I don't know that.
18 Q. Are you still a member?
19 A. I don't know. If it's in existence, I think I
20 would be, I don't know.
21 Q. That's fair enough, but you don't know whether
22 it's even in existence?
23 A. I don't.

24 Q. And you can't think of any business that it
25 conducted after October 2 of 2008?

184

1 A. No. Jeff always handled that.
Clayson deposition, pp. 183 - 184

Without more, Clayson cannot rely on his brief involvement in an LLC from which he was voluntarily removed as evidence of a partnership. Nor does the existence of an LLC which has no conducted business since the Defendants were added as members supply evidence of a partnership agreement. *Coffin v. Cox*, 78 Idaho 111, 117 (Idaho 1956) (a mere agreement to share in profits, of itself, does not constitute a partnership. There must be other facts showing that it was the intention of the parties to create and carry on such a relationship as co-owners); *Bussell v. Barry*, 61 Idaho 216, 221 (Idaho 1940) (A partnership, and the duties and obligations arising therefrom, can be created only by contract, express or implied); *King v. Lough (In re Lough)*, 422 B.R. 727, 734 (Bankr. D. Idaho 2010) (There was no persuasive evidence that the construction loan created an implied partnership between Plaintiff and Defendants under state law because it was undisputed that Plaintiff was not to be a co-owner of Defendants' business, or even that he acquired any equity in the spec house and there is also no evidence that Plaintiff and Defendants were to share any risks or profits from this venture); Idaho Code § 53-3-202(a) (provides, in pertinent part, that "the association of two (2) or more persons to carry on as co-owners of a business for profit forms a partnership, whether or not the persons intended to form a partnership.")

Clayson also suggests in his opposition Memorandum that a business plan supports the existence of a partnership. Clayson, however, admits that he had virtually nothing to do with the business plan:

3 Q. Did you play any part in obtaining the money
4 to pay that purchase price?

5 A. I got the Department of Ag to commit to do
6 something.

7 Q. Was that in writing?

8 A. No.

9 Q. It was dependent upon somebody making an
10 application and being approved; correct?

11 A. Right.

12 Q. So what you did was you knew there was a
13 Department of Ag that might be interested in financing
14 this and that was the end of your involvement; correct?

15 A. Just told them a few things to add to the
16 business plan to get it through, you know, what they
17 would need.

18 Q. You are saying that's what you told Zebe and
19 Lawson.

20 A. Right.

21 Q. You don't know whether or not that was
22 included in the business plan that was submitted;
23 correct?

24 A. No.

Clayson deposition, p. 172

The business plan was not an agreement. It was a proposal to be submitted for financing.

It does not support the creation of a partnership. (See Clayson deposition, pp. 22 - 26)

Clayson next suggests that an e-mail from Don Zebe to the realtor, Val Pendleton, dated January 14, 2009, confirms the existence of the contract he seeks to enforce in his First Cause of Action. (Clayson deposition Exhibit 29) However, when presented with the e-mail at his deposition, he testified he had never seen it:

19 Q. Exhibit No. 29, this is an e-mail dated
20 January 14, 2009, from Don Zebe to Manny Marin. Do you
21 agree?

22 A. It looks like it.

23 Q. Now, did you receive a copy of this on or
24 about January 14, 2009?

25 A. No.

1 Q. When is the first time that you saw this
2 e-mail?

3 A. I have never seen this.

Clayson deposition, pp. 196 - 197

Clayson suggests in his opposition Memorandum that in this e-mail Mr. Zebe “admitted that upon closing he was going to pay the Dairy Systems Company, Inc. debt.” The words “Dairy Systems” does not even appear in the e-mail. Therefore, to characterize this e-mail as an “admission” is an overstatement. The e-mail states: “Once we close we are prepared to absorb what we have paid in and most of what was done while Gaylen was in charge, i.e. electrical, plumbing, to the tune of 245k.” Clayson never relied on this communication. Clayson never changed his position based on this communication. The communication itself is equivocal and is not a clear expression of commitment. It does not create an agreement enforceable by Clayson. *McAfee v. McAfee*, 132 Idaho 281, 290 (Idaho Ct. App. 1999) (Ken McAfee's offer to sell the farm to the parties, "if they pay for it" may have been an offer of a unilateral contract, which was not enforceable against the parties by Ken McAfee, nor created any rights in the parties until they completed their performance) Being prepared to absorb unidentified items “once we close” is not an enforceable agreement to absorb.

Finally Clayson argues that the agreement is taken out of the Statute of Frauds by part performance on the part of Clayson who assigned his interest in the contract to purchase. (Clayson deposition Exhibit 24) Regarding this assignment, Clayson testified as follows in his deposition:

23 Q. Now let's go to Exhibit No. 24. Do you
24 recognize that?

25 A. Yes.

- 1 Q. Is that your signature?
- 2 A. Yes.
- 3 Q. Is that Jeff Randall's signature?
- 4 A. I guess, I don't know.
- 5 Q. Well, it's notarized by the same person, Sheri
- 6 Jan Jeter. Do you know who she is?
- 7 A. No, I don't.
- 8 Q. She lives here in Pocatello. Did you sign it
- 9 in front of her?
- 10 A. I guess we did.
- 11 Q. Dated November 4. Do you remember being in
- 12 the same room with Jeff when you signed it, or the same
- 13 place with him?
- 14 A. I don't remember when we signed it, no.
- 15 Q. Did you read this before you signed it?
- 16 A. Yes.
- 17 Q. What did you understand this did?
- 18 A. We were assigning our rights to the plant over
- 19 to these guys.
- 20 Q. So it says, "hereby assign all rights of said
- 21 contract to buy and sell real estate to SVC, LLC, a
- 22 Wyoming LLC"; correct?
- 23 A. Correct.
- 24 Q. And the principals in the LLC at that time
- 25 were only Rick Lawson and Don Zebe; correct?

- 1 A. Right.
- 2 Q. And that contract to buy and sell real estate,
- 3 that's the contract that we just looked at, Exhibit
- 4 No. 17; correct?
- 5 A. Probably.
- 6 Q. Now, confirm that for me.

7 A. I don't even know where 17 is.
8 Q. It's right there (indicating).
9 A. What was the question?
10 Q. The question is the contract that is
11 referenced in Exhibit No. 24 is Exhibit No. 17; correct?
12 A. Yes.
13 Q. And so you understood that after you signed
14 this you had no longer any right, title, or interest in
15 that contract; correct?
16 A. That's correct.
17 Q. And you understood at that time that you had
18 no membership or ownership interest in SVC, LLC; correct?
19 A. Correct.
20 Q. At the point that you assigned your interest
21 in Exhibit No. 17, the contract to buy and sell real
22 estate, the purchase money had not been paid; correct?
23 A. Purchase money for the plant?
24 Q. Yes.
25 A. No.

172

1 Q. No, it had not been paid?
2 A. Right.

Clayson deposition, pp. 169 0 172

The purchase and sale contract which was assigned by Clayson and Randall required payment of a purchase price of \$800,000 by "on or before December 31, 2008." (Clayson deposition Exhibit 17) Clayson admitted that he did not have the money to perform the contract:

164

11 Q. On October 17, 2008, if this had been
12 accepted, did you have \$800,000 to complete this
13 purchase?

14 A. No.

Clayson deposition, p. 164

In Clayson's description of the contract the assignment of the contract to purchase was not mentioned as part of the agreement. (See Clayson deposition, pp. 20 - 26)

The doctrine of part performance requires the existence of complete, definite and certain agreement. *Bauchman-Kingston P'ship, LP v. Haroldsen*, 2008 Ida. LEXIS 220, 11-12 (Idaho Dec. 8, 2008):

Part performance is predicated on the existence of an agreement. *Bear Island*, 125 Idaho at 723, 874 P.2d at 534. To specifically enforce a contract to sell real property by operation of the doctrine of part performance, the agreement must be complete, definite, and certain in all its terms, or contain provisions which are capable in themselves of being reduced to certainty. *Id.*

There is no complete, definite and certain agreement in this case and therefore the doctrine of part performance is of no benefit to Clayson in his attempt to enforce a contract against the Defendants.

In addition, Clayson has the burden of proving part performance by clear and convincing evidence and the acts constituting part performance must be definitely referable to the alleged oral contract:

The acts constituting part performance must be proven by clear and convincing evidence, *Boesiger*, 85 Idaho at 558, 381 P.2d at 805, and they must also be definitely referable to the alleged oral contract, *Boesiger*, 85 Idaho at 557, 381 P.2d at 805; *Roundy*, 98 Idaho at 629, 570 P.2d at 866.

Bear Island Water Ass'n v. Brown, 125 Idaho 717, 722 (Idaho 1994)

The act of assigning the contract to the Defendants is not "definitely referable to the alleged oral contract." Clayson did not even mention it as part of the oral agreement when he explained its terms during his deposition. Moreover, he did not have the ability to complete the purchase because

3

he did not have \$800,000. Assigning the contract to the Defendants who may have had the ability to complete the purchase is a reason which is not referable to the alleged oral contract. Clayson has not proved part performance by clear and convincing evidence.

2. SECOND CAUSE OF ACTION BARRED BECAUSE THERE IS A WRITTEN AGREEMENT

In this Second Cause of Action, Clayson alleges that “By assigning to Defendants his interest in the contract with Farinella and facilitating the exercise by Defendants of his option to purchase The Plant from Morris Farinella, Plaintiff conferred a benefit on Defendants.” (First Amended Complaint, ¶ 21)

During his deposition, Clayson was asked about this allegation. It was clear from his testimony that he was incorrect or confused about having an “option” because he did not have an enforceable option. The offer he made that included an option was not accepted. The only agreement which was “assigned to Defendants” was the Purchase and Sale Agreement which he signed for \$800,000 and which he did not have the money to complete (Clayson deposition, p. 164):

160

14 Q. Page 4, Paragraph No. 21. In Paragraph 21 it
15 alleges that you facilitated the exercise by defendants
16 of your option to purchase the plant from Morris
17 Farinella. What is this option to purchase?

18 A. We assigned over our option to buy it and let
19 them buy it.

20 Q. But you didn't have an option to buy it;
21 correct?

22 A. Well, we made an offer and they accepted it.

23 Q. But that's a different matter. What I want to
24 understand is you talk about an option to purchase the
25 plant. Remember when we were looking at Exhibit No. 2

1 and Exhibit No. 3 and we talked about that option to
2 purchase that was part of that offer, do you remember?

3 A. Not exactly what you are getting to.

4 Q. Let's go to Exhibit No. 2, turn to Page 4.

5 A. Okay.

6 Q. The top of the page up there it says, "Parties
7 agree that buyer has option to purchase real estate." Do
8 you remember that?

9 A. Okay.

10 Q. However, this agreement was never accepted,
11 was it?

12 A. No.

13 Q. And there wasn't any other written option to
14 purchase; correct?

15 A. Yes.

16 Q. There was?

17 A. Yes.

18 Q. Where is the other written option to purchase?

19 A. It was the purchase made in October.

20 Q. But it wasn't an option to purchase, it was an
21 offer; correct?

22 A. Correct.

Clayson deposition, pp. 160 - 161

In Clayson's opposition Memorandum, he argues that it is not the written assignment agreement that gives rise to the claim for unjust enrichment, it is the agreement "that Zebe and Lawson would purchase Clayson's partnership interest." It is Clayson's First Amended Complaint which frames the claim for unjust enrichment and it is clear that it is predicated on the assignment of his interest in the contract with Farinella. (First Amended Complaint, ¶ 21) The assignment of

the interest in the contract with Farinella is the subject of a written agreement, Clayson Deposition Exhibit 24:

Gaylen W. Clayson and Jeff Randall hereby assign all rights of said Contract to buy and Sell Real Estate to SVC, LLC a Wyoming LLC,

Wolford v. Tankersley, 107 Idaho 1062, 1064 (Idaho 1984) held that “only when the express agreement is found to be enforceable is a court precluded from applying the equitable doctrine of unjust enrichment in contravention of the express contract.” There is an express written agreement relating to the assignment of Clayson’s rights in the October 17, 2008 Contract to Buy and Sell Real Estate (Commercial). Clayson’s attempts to refocus on some other agreement is not persuasive. His pleadings and his deposition testimony are clear that he is claiming unjust enrichment based on the assignment of his interest in the October 17, 2008 Contract. Because there is an express agreement regarding the assignment, unjust enrichment is not available. Any argument that the assignment contract did not accurately or adequately state the terms or conditions for the assignment is unavailing. *Lovey v. Regence Blueshield of Idaho*, 139 Idaho 37, 41 (Idaho 2003) (Courts do not possess the roving power to rewrite contracts in order to make them more equitable)

3. THIRD AND FIFTH CAUSES OF ACTION FAIL TO STATE A CLAIM

In his Third Cause of Action, Clayson alleges that “Defendants made the criminal actions against Plaintiff with malice and for the express purpose of putting pressure on him to dismiss this action and to get even with him for his perceived cooperation with Dairy Systems in the prosecution of their lien claim against the property, and to try to get him to change his testimony in the pending civil action in Lincoln County, Wyoming, brought against them by Dairy Systems.” (First Amended Complaint, ¶ 40)

In his Fifth Cause of Action, Clayson alleges that “the criminal accusations set forth above was to dissuade Plaintiff from continuing this lawsuit The actions of Defendants were extortion of the Plaintiff.” (First Amended Complaint, ¶¶ 44 - 45)

Recently the Idaho Court of Appeals addressed a somewhat similar issue in *Medical Recovery Servs., LLC v. Carnes*, 230 P.3d 760, 764 (Idaho Ct. App. 2010)

Duress does not occur, however, merely because a person declares an intent to use the courts to pursue a legal right to which he reasonably believes he is entitled absent other oppressive circumstances. Thus, in *McGill v. Idaho Bank & Trust Co.*, 102 Idaho 494, 499, 632 P.2d 683, 688 (1981) the Idaho Supreme Court held that the threat of civil proceedings does not constitute duress if made in good faith and without other oppressive circumstances. Other states are in accord. See *Adams v. Crater Well Drilling, Inc.*, 276 Ore. 789, 556 P.2d 679, 681 n.6 (Or. 1976) (“It is the well-established general rule that it is not duress to institute or threaten to institute civil suits, or take proceedings in court, or for any person to declare that he intends to use the courts wherein to insist on what he believes to be his legal rights.”); *Hawkinson v. Conniff*, 53 Wn.2d 454, 334 P.2d 540, 544 (Wash. 1959) (“[A] threat of civil proceedings does not constitute duress if it is made in good faith and without coercion.”).

Even assuming that the allegations in the Third Cause of Action are proven, there is no duress or extortion here because Clayson admitted in his deposition that the Taylor Ice Cream Machine was, in fact, part of the inventory which he verified on October 17, 2008, when he signed the Purchase and Sale Agreement which he later assigned to Defendants. Although he now claims it was a mistake because he had already given it to another man for payment for working in the restaurant, it was part of the list of equipment the Defendants purchased. Defendants had the right to resort to seek recovery of it through the court system.

165

11 Q. Now, if you turn to Page 3 of that document at

12 Line 110, do you see that?

13 A. Okay.

14 Q. You see what I am talking about, just below
15 that there is typed in current inventory list attached to
16 this contract as Attachment A. Do you see that?

17 A. Yes.

18 Q. Now, I want you to turn to the page, there are
19 three pages that at the top of it someone has written
20 Attachment A. Is that the inventory list that was
21 attached to this document as Attachment A?

22 A. Yes.

23 Q. At the bottom of each of those pages, is that
24 your initial and Jeff Randall's initials?

25 A. Yes.

166

1 Q. So both you and he looked at this on October
2 17, 2008, and initialed each page as being the inventory
3 that was included as a part of the sale; correct?

4 A. Yes.

Clayson deposition, pp. 165 - 166

199

7 Q. I want you to look again at Exhibit No. 17,
8 you are going to have to pull it out of that pile, now,
9 look at that Attachment A that you and Jeff Randall
10 initialed on October 17, 2008, Page 2 of 3, the Taylor
11 soft ice cream machine was part of the assets that were
12 listed as equipment which was part of the sale; correct?
13 Do you agree?

14 A. I don't see where it is but --

15 Q. Look down there, the third to the last item.
16 Taylor soft ice cream machine. Agreed?

17 A. And this is on Exhibit A --

18 Q. That you initialed.

19 A. Okay, yes. That's what it says.

20 Q. And you initialed it; correct?
21 A. Yes.
22 Q. There was only one Taylor soft ice cream
23 machine in that restaurant; correct?
24 A. I guess I wasn't aware of what it was called
25 at the time.

200

1 Q. Nonetheless, there is only one; correct?
2 A. Well, I wasn't aware of what it was.
3 Q. And it was part of the equipment that was
4 sold; correct?
5 A. Had I realized that's what it was, I probably
6 would have acknowledged that it wasn't there.
7 Q. Maybe or maybe not, I have no idea.
8 A. I didn't know what it was called.
9 Q. But it's on the list; correct?
10 A. Yes.
11 Q. So it was part of the equipment that was sold;
12 correct?
13 A. It wasn't sold.
14 Q. Well, it was part of the equipment that was
15 listed as part of the sale, correct?
16 A. Okay.
17 Q. And that's the same Taylor ice cream machine
18 that you were charged with; correct?
19 A. Yes.
20 Q. And according to this you had delivered this
21 Taylor ice cream machine to Mr. Paulson; is that correct?
22 A. Right.

Clayson deposition, 199 - 200

52

10 Q. This Taylor ice cream machine, that's part of

11 what is being asked for here in No. 9.

12 A. Yes.

13 Q. So tell me about that. That's in the
14 restaurant; correct?

15 A. That was in the restaurant. It was probably
16 30, 40 years old. We started out, when I took over the
17 restaurant in July, they were using it for ice cream,
18 soft ice cream. It had a thing where you just mixed the
19 milk and whatever (indicating), and for four or five days
20 every time we closed up at night there was ice cream all
21 over the floor and people were sliding around in it. So
22 we unhooked, we stopped using it, and we had a fellow
23 stop by that was familiar with them --

24 Q. And that person's name is what?

25 A. I don't know who it was. It was just one of

53

1 the vendors. And asked him if he could fix it, and he
2 said that they were quite antiquated and it would have
3 been expensive. So we just left it there.

4 And then in September when we were starting to
5 renovate the restaurant, I had moved it out of there and
6 put it in the back room. And I had a gentleman that had
7 started working on this venture with me earlier by the
8 name of Art Paulson who had a little quick stop in Idaho
9 Falls. And he asked me, he said, hey, is that any good?
10 I said, well, it's got quite a bit of repairs to do on
11 it. And he said, well, if you ever want to get rid of
12 it, I wouldn't mind trying to fix it. He said I don't
13 know if I would ever get it done. So I gave that to him.

14 Q. And did he pay you for it?

15 A. No. He came up and worked a couple of days in
16 the plant, in the restaurant.

17 Q. What did he do in the restaurant?

18 A. He just helped out, you know, during the busy
19 time in July.

20 Q. You said something about you were working with
21 him early on in this venture. What are you talking
22 about?

23 A. He was going to come in with me on it when we
24 first started. He had been up there and met with Val on
25 purchasing it, and because of his previous commitments,

54

1 he wasn't able to continue on with me.

2 Q. So are you telling me that you gave it to him
3 in consideration for helping in the restaurant --

4 A. Yes.

Clayson deposition, pp. 52 - 54

In support of his claim that there was a bad motive behind the report to the Lincoln County Wyoming Sheriff's office, Clayson has submitted the Affidavit of Jeff Randall. Mr. Randall was deposed and disavowed his Affidavit:

A. Don never threatened, never told me that he was going to bring more charges. He never threatened. But he did reaffirm and restate that Gaylen needed to quit lying.

Randall deposition, p. 32

Q. . . . If I understand your testimony correctly, Mr. Zebe never told you that he would file more criminal charges if Gaylen did not back off?

A. He did not – but he also said that Gaylen needed to quit lying. So Don knew more than what he was telling me what was going on.

Q. What was it that Don said that gave you the impression that Don would file more criminal charges if Gaylen did not back off?

A. Don did not give me that impression that he would file more criminal charges.

Randall deposition, p. 35

The Third and Fifth Causes of Action should be dismissed because there was a valid, good faith reason for Defendants to request the Lincoln County, Wyoming Sheriff's office to investigate the disappearance of the ice cream machine and because there is no evidence that Don Zebe threatened further criminal prosecution. The evidence of extortion and duress do not exist.

4. TRUTH IS A DEFENSE TO THE FOURTH CAUSE OF ACTION

Clayson alleges in his First Amended Complaint that "Defendants' statements to law enforcement and to others was of and concerning the Plaintiff" and that "The statements made by Defendants about Plaintiff were defamatory." (First Amended Complaint, ¶¶ 38 - 39)

Submitted with Defendants' Motion for Summary Judgment/Motion to Dismiss is the Affidavit of Jody Gardner, an investigator with the Lincoln County Wyoming Sheriff's Department. He states that Don Zebe contacted him concerning a missing ice cream machine which was part of the inventory which was sold to his company when it purchased the cheese plant in Thayne, Wyoming. (Gardner Affidavit, ¶¶ 3 and 4) He also advises that Don Zebe did not say Clayson "was guilty of larceny." (Gardner Affidavit, ¶ 5) That was the extent of what Zebe told him. He performed an investigation and concluded that a crime had been committed. (Gardner Affidavit, ¶ 12) He reported her findings to the Lincoln County Attorney's Office and it filed charges. (Gardner Affidavit, ¶¶ 13 and 14)

Based on Clayson's own admission that the ice cream machine was part of the inventory that went with the cheese plant, that he had initialed the inventory when he signed the Purchase and Sale Agreement and that he had given the machine away as payment for work at the restaurant, everything Zebe told the investigator was true.

It is axiomatic that truth is a complete defense to a civil action for libel. *Hemingway v. Fritz*, 96 Idaho 364, 529 P.2d 264 (1974). In a slander or libel suit it is not necessary for the defendant to prove the literal truth of his statement in every detail, rather it is sufficient for a complete defense if the substance or gist of the slanderous or libelous statement is true. *Laughton v. Crawford*, 68 Idaho 578, 201 P.2d 96 (1948); *Prosser, Torts* (4th ed.) § 116, p. 798.

Baker v. Burlington N., 99 Idaho 688, 690 (Idaho 1978)

Clayson has produced no admissible evidence to rebut the Affidavit of Jody Gardner and has confirmed that what Zebe told the investigator was true. There is no evidence that Rick Lawson was ever involved in the report to the Sheriff. No action for defamation has been proven. Accordingly, the Fourth Cause of Action must be dismissed.

CONCLUSION

For the reasons stated above, summary judgment is appropriate and the pending lawsuit must be dismissed with prejudice.

DATED this 26th day of July, 2010.

COOPER & LARSEN


GARY L. COOPER

CERTIFICATE OF SERVICE

I hereby certify that on the 26th day of July, 2010, I served a true and correct copy of the foregoing to:

Blake S. Atkin
7579 North Westside Hwy
Clifton, ID 83228

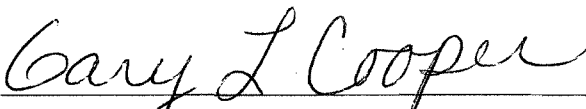
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Attorney for Plaintiff/Counterclaim Defendant

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**IN THE SIXTH JUDICIAL DISTRICT COURT IN AND FOR
BANNOCK COUNTY, STATE OF IDAHO**

GAYLEN CLAYSON,

Plaintiff,

v.

DON ZEBE, RICK LAWSON, and LAZE,
LLC,

Defendants,

DON ZEBE, RICK LAWSON, and LAZE,
LLC,

Counterclaim Plaintiffs,

v.

GAYLEN CLAYSON,

Counterclaim Defendant.

**AFFIDAVIT OF BLAKE S. ATKIN
IN OPPOSITION TO
DEFENDANT'S MOTION TO DISMISS
OR FOR SUMMARY JUDGMENT**

Case No: CV-2009-02212-OC

Judge: Stephen S. Dunn

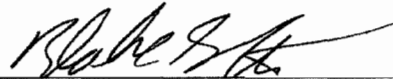
COMES NOW, Blake S. Atkin, being first duly sworn on his oath, deposes and says:

1. I am counsel for the Plaintiff/Counterclaim Defendant in the above-entitled matter.

2. Attached hereto as Exhibit A are true and correct pages from the deposition of Jeff Randall taken February 15, 2010 in this case.

Dated this 4th day of August, 2010.

ATKIN LAW OFFICES, P.C.



Blake S. Atkin
*Attorney for the Plaintiff/Counterclaim
Defendant*

Transcript of the Testimony of **Jeff Randall**

Date: February 15, 2010

Volume: I

Case: CLAYSON v. ZEBE ET AL.

Printed On: March 2, 2010

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Phone: 208.529.5291
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Internet: TandTReport@ida.net

1 MR. ATKIN: I am asking if he knows.

2 THE WITNESS: I don't know.

3 MR. ATKIN: Okay. Fair enough.

4 BY MR. ATKIN:

5 Q Now, look at Exhibit 1, if you would,
6 please.

7 A (Witness complies.)

8 Q You were asked some questions about
9 Exhibit 1. And let me back up on this.

10 I think you testified that you came to
11 my home to talk to me about the matters that are in
12 Exhibit 1.

13 Correct?

14 A Correct.

15 Q And then I prepared a draft of Exhibit
16 1, and you reviewed it.

17 Right?

18 A Correct.

19 Q Couple of days later you called me and
20 made some changes to the exhibit, didn't you?

21 A Correct.

22 Q Okay. And then even after that, when
23 it came time to sign Exhibit 1, there were still
24 some changes that you wanted to make to Exhibit 1.

25 Correct?

1 A Yes.

2 Q And you made those changes?

3 A You made the changes.

4 Q Okay. But you were there present while
5 I made those changes?

6 A Yes.

7 Q And at any time, did I ever tell you
8 that there was -- that any change -- that you could
9 not make whatever changes that you wanted to make to
10 Exhibit 1?

11 A No.

12 Q And if you had wanted to add anything
13 to Exhibit 1 -- you told me about all the things
14 that you wanted to add to Exhibit 1.

15 Right?

16 A Yes.

17 Q And we added those?

18 A Yes.

19 Q Okay. And at the end of those
20 discussions you signed Exhibit 1?

21 A Yes.

22 Q And do you recall me telling you that
23 you should not sign Exhibit 1 unless you were
24 comfortable with it, because you were making a
25 statement under penalty of perjury?

1 Do you recall that conversation?

2 A I think so.

3 Q Okay. Now, if you look at this
4 paragraph 3, you were asked extensive questions
5 about paragraph 3.

6 Mr. Smith asked you, Gaylen Clayson --
7 he had you read, "Gaylen Clayson and I had sold the
8 Star Valley Cheese plant to Don Zebe and Rick Lawson
9 in November 2008."

10 And in your direct examination, I
11 noticed that you had some concern about whether that
12 was accurate or not.

13 Do you recall that?

14 A Yes.

15 Q Okay. Now, I want you to take a look
16 at Exhibit 2. That is that assignment, right, that
17 assignment. What is it dated?

18 A 17th of October.

19 Q No. What date did you sign it, Exhibit
20 2? No, Exhibit 2. You had it right, Mr. Randall.
21 What date did you sign it?

22 A The amendment?

23 Q Yeah. What date did you sign it?

24 A The 4th of November.

25 Q November 2008, right?

1 Q The only time that Don did what?

2 A Call me up and talk to me intentionally
3 was to find out if Gaylen would want to send his
4 milk up there.

5 Q When did that occur?

6 A I don't know. Last -- where are we at?
7 We're in February. It would have been last year.

8 Q Okay. And I will get to that in a
9 minute. But let me stay on this. Let me try not to
10 get distracted.

11 At some point, Don told you about this,
12 I think you called it a teddy, this little --

13 A Nightgown.

14 Q -- nightgown, kind of a sexual thing, I
15 take it?

16 A Yes.

17 Q And Don told you about that, about
18 finding that?

19 A Yes.

20 Q And he said that he found it in the
21 office that Gaylen had used at the plant?

22 A Yes.

23 Q And when did he first tell you about
24 that?

25 A I think it was after they -- well, it

1 was -- it had to have been after Gaylen was out of
2 the plant, because Don was moving everything in his
3 office, in the office that Gaylen had occupied.

4 Q Okay. And was this a discussion in
5 person or on the phone?

6 A I think on the phone.

7 Q Okay. And do you know why he brought
8 that up to you at that time?

9 A He was just telling me of all the
10 things they had found; all the things that they were
11 missing, and all the things that they had found.

12 Q Was this among the list of things that
13 they found that were missing? Just tell me about
14 the conversation.

15 A This was among the things that they
16 found. And I will be real honest with you, I don't
17 remember very much of that because it was small
18 talk. It was not --

19 Q Still in the nature of small talk?

20 A Yes.

21 Q All right.

22 Now, later, after Gaylen was arrested
23 and he called you from the jail, do you recall that?

24 A Yes.

25 Q And you decided to call Don Zebe?

1 A Yes.

2 Q Did Gaylen ask you to call Don Zebe?

3 A No.

4 Q You took it upon yourself to call Don
5 Zebe?

6 A I just called Don Zebe.

7 Q And during that conversation, Mr. Zebe
8 reminded you about the sexual harassment claims and
9 about the teddy that he had found in the office that
10 Gaylen had been using, didn't he?

11 A I don't remember if it was then or when
12 it was. I don't remember for sure.

13 Q Well, did you have more than one phone
14 conversation around that time?

15 A You know, sometimes I talk to Don eight
16 times a day. I talk to Gaylen sometimes that much,
17 too. And I can't remember what I say.

18 Q All right.

19 But at some point around the time that
20 Gaylen had called you from the jail to tell you that
21 he had been arrested, Mr. Zebe reminded you about
22 the sexual harassment claims and about the teddy
23 that he had found.

24 Correct?

25 A No.

1 Q When did he remind you about that?

2 A It could have been the next day, but it
3 was not the night -- it was not when I talked to
4 Don.

5 Q Okay. So it might not have been that
6 night, but it might have been the next day in
7 another conversation?

8 A Actually, it could not have been
9 because he did not take ownership of that -- or he
10 did not move up there to take over for Gaylen until
11 October.

12 So it would had to have been after
13 that.

14 Q Okay. Let's go back to the time period
15 around when Gaylen called you from the jailhouse.

16 A Okay.

17 Q Did Mr. Zebe, in your conversation with
18 him that night, remind you about finding the teddy
19 and the sexual harassment claims or was it the next
20 day?

21 A No. It was not that night. And I
22 don't think it was the next day either.

23 Q When was it?

24 A I don't know. But it was not right
25 then. That night I told Don that Gaylen had been

1 arrested and was in jail. And Don's response was,
2 huh, how about that. And that was the extent of it.
3 That was the extent of our conversation.

4 Then we talked about -- I don't know, I
5 think there was a Friday night or a Thursday night
6 or something. But anyway, that was the extent of
7 our conversation.

8 Q Was it in that conversation or a later
9 conversation when he told you that Gaylen needed to
10 stop lying?

11 A Well, let's look here.

12 It would have been after, because I
13 signed this on the 12th of July. So it would have
14 been after Gaylen was put in jail, but it -- but it
15 would have been before the 12th of July.

16 So somewhere between the 2nd and the
17 12th.

18 Q Okay. In paragraph 5 there, if you go
19 back to Exhibit 1, it says, "When I informed Don
20 that Gaylen had been arrested, he was not
21 surprised."

22 Do you see that?

23 A Yes.

24 Q So -- he indicated that he had made the
25 complaint, and that Gaylen had it coming. What did

1 he say to you in that regard?

2 A He says, huh, he must have had it
3 coming.

4 Q Okay. Did he tell you that he had made
5 the complaint?

6 A No, he did not.

7 Q So this statement that he made here
8 that he indicated that he had made the complaint and
9 Gaylen had it coming, you're changing that now?

10 A Well, you know, I did not write this.
11 I read it -- I remember when I read it. But I will
12 tell you that, just like I said earlier, most of
13 these guys are my friends. So I have to be very,
14 very careful at who gets put in jeopardy.

15 I am not going to be able to give you
16 the exact time that I said something, or that I
17 scratched, or whatever. But I can tell you that Don
18 was not surprised that Gaylen was arrested.

19 Q Okay.

20 A I assumed that he knew why. But he did
21 say well, Gaylen had it coming.

22 Q Okay. And did he tell you that he had
23 made the complaint?

24 A He did not.

25 Q Okay. "He then proceeded to tell me

1 that unless Gaylen backed off, there were worse
2 things coming." Did he make a statement --

3 A He did.

4 Q Okay. And is it at that point that he
5 reminded you about the sexual harassment claims and
6 the teddy?

7 A I put two and two together. I says --
8 yes, it is.

9 Q Okay. That is the time that he
10 reminded you of those?

11 A Yes.

12 Q Okay. I asked him, "Do you mean drop
13 the lawsuit," and he responded, "He needs to quit
14 lying"?

15 A Yes. Correct.

16 Q Did -- was it your impression that he
17 meant by "he needs to quit lying," that Gaylen had
18 been lying in connection with the Dairy Systems
19 lawsuit in Wyoming?

20 A Would you repeat that, please?

21 Q Did you understand that to mean that
22 Mr. Zebe thought that Gaylen had been lying in
23 connection with the Dairy Systems lawsuit that was
24 pending in Wyoming, or was he saying Gaylen is lying
25 in his position that he is taking in this lawsuit

1 against Mr. Zebe and Mr. Lawson in Idaho, or both?

2 A Both.

3 Q Okay. Did you -- now, Mr. Zebe knew
4 that you and Gaylen were friends, right?

5 A Yes.

6 Q Did Mr. Zebe tell you that he expected
7 you to go talk to Gaylen about what he was telling
8 you on the phone?

9 A No.

10 Q Did Mr. Zebe know that you and Gaylen
11 talk?

12 A Yes.

13 Q So he would have expected you to tell
14 Gaylen what you -- what he was telling you?

15 MR. SMITH: Objection. Foundation.

16 THE WITNESS: I don't know what
17 Mr. Zebe would expect me to do. You know,
18 whether he ate three hamburgers, whether he
19 talked to somebody. I don't know.

20 BY MR. ATKIN:

21 Q But he knew that you and Gaylen were
22 friends and that you talked regularly?

23 A Yes. But never did Don tell me, Jeff,
24 I expect you to go tell all this to Gaylen. He
25 never did.

1 Q But he knew that you and Gaylen were
2 friends and that you talked?

3 A As did Gaylen. As Gaylen would call me
4 every Thursday night when I would get out of the
5 temple from working with Don at the temple.

6 Q So Gaylen knew that you talked to Don
7 on a regular basis, and Don knew that you talked to
8 Gaylen on a regular basis?

9 A Yes.

10 Q Okay. And Mr. Zabe never told you,
11 now, don't tell Gaylen what I am telling you, did
12 he?

13 A You know, there was one time when I
14 said something that I should not have. I don't
15 remember -- I don't even remember what it was.

16 But I do know that it made -- Don had
17 told me something in confidence, and I -- I said
18 something to Gaylen. And that is when I decided,
19 hey, I am going to step clear out of this thing. I
20 am not going to get involved because I am going to
21 cause problems.

22 Q Do you remember what that was about?

23 A You know, I don't. I don't.

24 Q Do you know -- do you remember when it
25 was?

COURT MINUTES

CV-2009-0002212-OC

Gaylen Clayson vs. Donald I Zebe, etal.

Hearing type: Motion for Summary Judgment

Hearing date: 08/09/2010

Time: 1:59 pm

Judge: Stephen S Dunn

Courtroom:

Court reporter: Sheila Fish

Minutes Clerk: Karla Holm

Tape Number:

Party: Gaylen Clayson, Attorney: Blake Atkin

Gary Cooper

200 Motion for summary judgment
200 Gary Cooper argument;
220 Atkin argument
249 Cooper response
254 recess

2010 SEP 15 PM 1:06

CW
CLERK

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

Register#CV-2009-2212-OC

GAYLEEN CLAYSON,)

Plaintiff,)

-vs-)

DON ZEBE, RICK LAWSON, and LAZE, LLC,)

Defendants.)

DON ZEBE, RICK LAWSON, and LAZE, LLC,)

Counterclaim Plaintiffs)

-vs-)

GAYLEN CLAYSON,)

Counterclaim Defendant.)

MEMORANDUM DECISION
AND ORDER ON DEFENDANTS'
MOTION FOR SUMMARY
JUDGMENT

This matter is before the Court on Defendants' Motion for Summary Judgment ("Motion") filed on February 3, 2010. A hearing on the Motion was held on August 9, 2010, and the Court has carefully considered the record, the briefs, the affidavits, and the arguments of both parties. The Court now issues its decision and GRANTS, in part, the Defendant's Motion for Summary Judgment.

STANDARD OF REVIEW

“Summary judgment is proper ‘if the pleadings, depositions, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.’” I.R.C.P. 56(c); *Arreguin v. Farmers Ins. Co. of Idaho*, 145 Idaho 459, 460, 180 P.3d 498, 500 (2008); *Northwest Bec-Corp v. Home Living Service*, 136 Idaho 835, 838, 41 P.3d 263, 267 (2002); *see also Cox v. Clanton*, 137 Idaho 492, 494, 50 P.3d 987, 989 (2002). When considering a motion for summary judgment, a court should liberally construe all facts and draw all reasonable inferences in favor of the nonmoving party. *Id.* (citing *S. Griffin Contr., Inc. v. City of Lewiston*, 135 Idaho 181, 185, 16 P.3d 278, 282 (2000)). Normally, summary judgment must be denied where reasonable persons could reach different conclusions or draw conflicting inferences from the evidence presented. *Id.*

The moving party has the burden of showing the lack of a genuine issue of material fact. *Northwest Bec-Corp*, 136 Idaho at 838, 41 P.3d at 267. To meet this burden, the moving party must challenge, in its motion, and establish through evidence that no issue of material facts exists on an element of the nonmoving party’s case. *Id.* The nonmoving party “may not rest upon the mere allegations or denials of that party’s pleadings, but the party’s response, by affidavits or as otherwise provided in this rule, must set forth specific facts showing that there is a genuine issue for trial.” *Id.* (quoting IRCP 56 (e)). Summary judgment is properly granted in favor of the moving party, when the nonmoving party fails to establish the existence of an element essential

to that party's case upon which that party bears the burden of proof at trial. *Smith v. Meridian Joint School Dist. No. 2*, 128 Idaho 714, 719, 918 P.2d 583, 588 (1996).

Once the moving party establishes the absence of a genuine issue the burden shifts to the nonmoving party to make a showing of the existence of a genuine issue of material fact. *Thomson v. Idaho Ins. Agency, Inc.*, 126 Idaho 527, 530-31, 887P.2d 1034, 1037-38 (1994). This standard is set out in a United States Supreme Court case which has been adopted by the Idaho Supreme Court:

The plain language of Rule 56(c) mandates the entry of Summary Judgment, after adequate time for discovery and upon motion, against a party who fails to make a showing sufficient to establish the existence of an element essential to that party's case, and on which that party will bear the burden of proof at trial. In such a situation, there can be no genuine issue as to any material fact, since a complete failure of proof concerning an essential element of the non-moving party's case necessarily renders all other facts immaterial. The moving party is entitled to a Judgment as a matter of law...

Cellotex Corp. v. Catrett, 477 U.S. 317, 322-23 (1986) (see *Badell v. Beeks*, 115 Idaho 101, 102 (1998)). Thus, a responding party cannot raise meritless defenses or claims to defeat Summary Judgment. Rather, a Defendant must introduce facts into the record that support each element of each defense or claim asserted.

Summary Judgment is mandated when a party is entitled to judgment as a matter of law. I.R.C.P., Rule 56(a); *Myers v. A.O. Smith Harvester Products, Inc.*, 114 Idaho 432, 437 (Ct. App. 1988). That is, if there is no cognizable defense, then no genuine issues of material fact are at issue and, as a matter of law, the motion for summary judgment should be granted.

Even if the facts are not disputed, that does not mean that summary judgment is proper. In *Riggs v. Colis*, 107 Idaho 1028, 1030, 695 P.2d 413, 415 (Ct.App. 1985), the Idaho Court of Appeals stated:

[T]he Idaho Supreme Court has held that even though there are no genuine issues of material facts between the parties a motion for summary judgment must be denied, when the case is to be tried to a jury, if the evidence is such that conflicting inferences can be drawn therefrom and if reasonable men might reach different conclusions. *Riverside Development Company v. Ritchie*, 103 Idaho 515, 650 P.2d 657 (1982).

See also *Lundy v. Hazen*, 90 Idaho 323, 326, 411 P.2d 768, 770 (1966) (“A motion for summary judgment must be denied if the evidence is such that conflicting inferences can be drawn therefrom and if reasonable men might reach different conclusions.”) Likewise, if the record raises questions concerning the credibility of witnesses or the weight of the evidence, a motion for summary judgment must be denied. *Altman v. Arndt*, 109 Idaho 218, 706 P.2d 107 (Ct.App. 1985)(citing *Merrill v. Duffy Reed Construction Co.*, 82 Idaho 410, 353 P.2d 657 (1960)).

FACTS

This matter involves the ownership and operation of the Star Valley Cheese Plant located in Thayne, Wyoming (“Plant”). For several years prior to October 2008, Morris Farinella (“Farinella”) owned the Plant through his corporation the Star Valley Cheese Corporation. The Plant had not operated for many years, but there was an operating restaurant located on the premises.

CS

The Plaintiff, Gaylen Clayson (“Clayson”) is a dairy farmer and he owns and runs Cedar Arch Dairies, LLC, in Firth, Idaho.¹ In February 2008, Clayson and Farinella entered into an agreement under which Clayson would clean the Plant while they worked out a purchase deal by which Clayson would purchase the Plant from Farinella.² It appears that one of the reasons Clayson wanted the Plant reopened was to have a place to sell his milk at higher prices than were available on the open market.³

By early summer of 2008, Clayson had begun putting money and time into cleaning the Plant, painting it, and having plumbing and electrical work done on it. Farinella gave Clayson permission to do whatever he wanted in the way of fixing up the Plant and getting it ready to open which included cleaning out a storage room full of old equipment and junking the equipment in that room.⁴

Clayson claims he spent in excess of \$150,000 for renovations to the Plant, that he incurred additional debt in preparation for the reopening of the Plant, that he spent over \$15,000 painting the Plant, and that he hired Dairy Systems Company, Inc. (“Dairy Systems”) in August of 2008 to refurbish the works at the Plant at a cost of about \$280,000.⁵ Clayson asserts that to this point he has already paid \$50,000 of the debt owed to Dairy Systems out of his own pocket.⁶

¹ Clayson Depo., pp. 8-10.

² Farinella Aff., ¶¶ 2-4.

³ Zebe Depo., pp. 191-194.

⁴ Farinella Aff., ¶ 5.

⁵ Complaint, p.2, ¶ 7.

⁶ Clayson Depo., pp. 111-112.

Also, Clayson asserts that he spent “countless” hours in working and supervising the work in preparation for the reopening of the Plant.⁷

According to Clayson, at the end of July he was introduced to Defendants Don Zebe (“Zebe”) and Rick Lawson (“Lawson”) by Jeff Randall (“Randall”) and the purpose of the introduction was to help Clayson form a business plan.⁸ Lawson and Zebe are both members of a limited liability company called Laze, LLC.⁹ On October 2, 2008, Clayson, Zebe, and Lawson created a limited liability company called SVC, LLC in the state of Wyoming and were all listed as members in the Articles of Organization.¹⁰ The Articles of Organization were signed by Clayson, Zebe, and Lawson.¹¹ Also on October 2, 2008, Milk Market Management, LLC filed a report with the Idaho Secretary of State showing that Clayson, Zebe, Lawson, and Jeff Randall (“Randall”) were all members of that company.¹² Clayson claims that the creation of the SVC, LLC and Milk Market Management, LLC, was all part of an alleged partnership agreement that Clayson had entered into with Zebe and Lawson. According to Clayson, the alleged partnership was created to work on refurbishing the Plant and to run the Plant. Clayson claims that in mid October 2008, Zebe and Lawson originally agreed to buy Clayson’s alleged partnership interest for reimbursement of Clayson’s out of pocket expenses and assumption of the debt he incurred in

⁷ Complaint, p. 2, ¶ 8

⁸ Clayson Depo., p. 138-140.

⁹ Zebe Aff., ¶ 4; Lawson Aff., ¶ 2.

¹⁰ Ex. F of Plaintiff’s Memorandum in Opposition to Defendants’ Motion to Dismiss and/or Motion for Summary Judgment; Memorandum in Support of Motion to Amend Plaintiff’s First Amended Complaint to Assert a Claim for Punitive Damages; and Motion to Continue Pursuant to I.R.C.P. 56(f) (hereinafter referred to “Plaintiff’s Memo in Opposition”); *see also* Clayson Depo., Ex. 14 (attached to Cooper Aff. [all further references to Clayson Depo. exhibits are those attached to the Cooper Aff.]).

¹¹ *Id.*

¹² Clayson Depo., Ex. 13.

refurbishing the Plant, including the debt to Dairy Systems, and \$500,000 up front.¹³ However, he acknowledges that there was no formal agreement, and nothing in writing.¹⁴ However, Clayson claims that the agreement was later modified, so instead of Zebe and Lawson paying \$500,000 up front, they allegedly agreed to take all of Clayson's milk supply at a premium of class 3 prices, FOB the dairy, which would net him \$500,000 more than he could make selling his milk on the open market. But again, Clayson concedes that the details of any such agreement were not finalized and there is nothing in writing, although the purchase of milk would allegedly have taken place over at least a three year period of time.¹⁵ Clayson further claims that his part of this agreement was to transfer to Zebe and Lawson his interest in the contract to purchase the Plant from Farinella, which was entered into on October 17, 2008.¹⁶ Although, Zebe acknowledges that his company, SVC, LLC did pay some of Clayson's debts, he claims he had no obligation to do so.¹⁷ Zebe and Lawson also claim they never agreed to pay any bills incurred by Clayson;¹⁸ however, these assertions are contradicted by an email written by Zebe¹⁹ and admissions Zebe made in his deposition.²⁰

On October 9, 2008, the SVC, LLC filing information was modified to show Clayson's name was removed from the members or managers listed with SVC.²¹ On October 17, 2008, Clayson and Randall entered into a contract to purchase the Plant from Farinella for \$800,000 by

¹³ Clayson Depo., p.21

¹⁴ *Id.*, pp. 21-23.

¹⁵ *Id.*, pp. 21-26.

¹⁶ Clayson Depo. Ex. 17.

¹⁷ Zebe Aff., ¶ 14.

¹⁸ Zebe Aff., ¶ 14; Lawson Aff. ¶ 8.

¹⁹ Clayson Depo. Ex. 29.

²⁰ Zebe Depo., pp. 110, 130-141.

December 31, 2008.²² Then on November 4, 2008, Clayson and Randall assigned their right to purchase the Plant under the October 17, 2008 contract to purchase to Zebe and Lawson (hereinafter referred to as the “Assignment of Rights Contract”).²³ Clayson has admitted that he has no written contract with Zebe, Lawson, or Laze, LLC,²⁴ aside from the Assignment of Rights Contract.

Clayson claims that in full performance of his duties under the alleged partnership agreement, Mr. Clayson relinquished his control of the premises on or about October 8, 2008. Clayson also argues that a business plan for SVC, LLC created by Zebe supports his claim that a partnership was created between him, Zebe, and Lawson. In the business plan, Zebe acknowledges that SVC, LLC has secured the milk of Cedar Arch Dairies.²⁵ However, Zebe alleges that he never entered into a contract with Clayson to purchase his milk.²⁶ Zebe states that he discussed the possibility of purchasing milk from Clayson and acknowledges that Clayson even submitted a proposed contract with an entity by the name of Best Whey.²⁷ However, Zebe states that he never agreed with the “proposed terms and refused to sign the contract.”²⁸ Clayson does not assert otherwise, conceding that no written contracts were entered into.²⁹

²¹ Clayson Depo. Ex. 16.

²² *Id.*, Ex. 17.

²³ *Id.*, Ex. 24.

²⁴ Clayson Depo., pp. 86-87.

²⁵ Plaintiff's Memo in Opposition Ex. H.

²⁶ Zebe Aff., ¶ 11.

²⁷ Zebe Aff. Ex. 1.

²⁸ Zebe Aff. ¶ 11.

²⁹ *See* fn. 24.

Clayson claims that in breach of the alleged agreement, Defendants have failed to reimburse Clayson for his out of pocket expenses, have failed to assume the debt to Dairy Systems, and have failed to take Clayson's production of milk.

In addition to the breach of contract claim, Clayson also alleges claims of extortion, slander and duress. These claims stem from events in June 2009 when Zebe contacted law enforcement in Wyoming to report a missing ice cream machine and told Jody Gardner ("Gardner"), an investigator with the Lincoln County Wyoming Sherriff's Department, that Clayson had taken the ice cream machine.³⁰ Zebe told Gardner that when his company took possession of the Plant, the ice cream machine was listed as part of the inventory to be sold and it was not in the Plant.³¹ Gardner conducted an independent investigation of the situation and determined that there was probable cause to charge Clayson with theft.³² Gardner passed the investigation information on to the Lincoln County Attorney's office, along with a recommendation that charges be filed.³³ An arrest warrant for Clayson was filed on July 1, 2009 in Lincoln County, Wyoming, case number CRA-2009-160.³⁴ Clayson was arrested and incarcerated on July 3, 2009.

Clayson claims that he gave the Taylor ice cream machine to a man named Art Paulson, for working at the Star Valley restaurant and that he had permission, from Farinella, to remove

³⁰ Zebe Aff., ¶¶ 3, 6; Gardner Aff., ¶¶ 3, 5.

³¹ Gardner Criminal Aff. (Plaintiff's Memo in Opposition Ex. K).

³² *Id.*

³³ *Id.*

³⁴ Ex. F of Defendant's Memorandum in Support of Motion for Summary Judgment.

the machine.³⁵ Although Farinella agrees that prior to October 2008 he gave Clayson permission to junk any equipment in the Plant,³⁶ Gardner's investigation included a conversation with Farinella where Farinella said that Clayson was not authorized to remove machinery from Star Valley Cheese as it was involved in a bankruptcy proceeding.³⁷ Thus, there is no dispute that the ice cream machine was not junk and was owned by SVC, LLC.

Clayson alleges the Defendants made the criminal accusations knowing that they were false and it was for the "sole purpose of putting pressure on [Clayson] to dismiss this action and to get even with him for his perceived cooperation with Dairy Systems in the prosecution of their lien claim against the property, and to try to get him to change his testimony in the pending civil action in Lincoln County, Wyoming, brought against them by Dairy Systems."³⁸ Zebe and Lawson assert that they never threatened to make more criminal complaints against Clayson.³⁹ Gardner also denies that Zebe told him that Clayson was "guilty of larceny."⁴⁰ The only other evidence relied on by Clayson in support of this claim is the testimony of Jeff Randall. Randall did wonder if the criminal charges were a result of the dispute between Clayson, Zebe and Lawson. Randall called Zebe about the matter, and Zebe told him that "Gaylen had it coming," and that "unless Gaylen backed off, there were worse things coming."⁴¹ When Randall asked Zebe if that meant Clayson should drop the lawsuit, Zebe replied that "he needs to quit lying."⁴²

³⁵ Clayson Depo., p.54.

³⁶ Farinella Aff., ¶ 5.

³⁷ Gardner Criminal Aff., ¶ 12.

³⁸ First Amended Complaint, ¶ 32.

³⁹ Zebe Aff., ¶ 16; Lawson Aff., ¶ 10.

⁴⁰ Gardner Aff., ¶5.

⁴¹ Randall Aff., ¶ 5.

⁴² *Id.*, ¶ 6.

However, in his deposition, Randall clarified that Zebe never threatened more criminal charges or stated that Clayson needed to drop the civil lawsuit in lieu of more criminal charges, but stated only that Clayson needed to quit lying.⁴³

Clayson alleges these events constitute slander per se, duress, and extortion, and he seeks relief from Defendant's alleged wrongful acts.

The Court also notes that there is a civil action, involving a lien claim, pending in Wyoming, where Dairy Systems is suing the Defendants in this case.

ANALYSIS AND HOLDING

I. Breach of Contract and Unjust Enrichment Claims

Initially, the Court notes that Defendants assert that Plaintiff's first two causes of action are separate claims, involving separate contracts. Plaintiff asserts, and the Court agrees, that the first two causes of action assert the same claim, using two different legal theories, i.e., breach of an express contract in the first count, and unjust enrichment in the second count.

Plaintiff's first cause of action alleges that "Defendants entered into a contract with the Plaintiff to purchase his partnership interest for payment of \$500,000 in cash, reimbursement of Plaintiff's out of pocket expenses, assumption of Plaintiff's debt incurred for work done refurbishing the Plant, including the debt to Dairy Systems, and agreement to take all of Plaintiff's production of milk at class 3 milk prices, FOB dairy."⁴⁴ However, Clayson later clarified that the addition of Defendant's taking all of Plaintiff's milk production at class 3 prices, FOB dairy, was a substitute for Zebe and Lawson paying \$500,000 up front, anticipating

⁴³ Randall Depo., pp. 32-36 (attached to Cooper Aff.).

that selling his milk to the Plant would net him \$500,000 more than he could make selling his milk on the open market.⁴⁵ Within the Plant Agreement, Plaintiff claims that he contracted to sell his partnership interest. Before the Court analyzes whether the Plant Agreement even existed, and if so, what the terms of that agreement were, the Court must first determine whether a partnership ever existed between the parties.

A. The Partnership Agreement

Under Idaho Code § 53-3-202, entitled “Formation of Partnership,” a partnership is defined, stating an “association of two (2) or more persons to carry on as co-owners a business for profit forms a partnership, whether or not the persons intend to form a partnership.”⁴⁶ The statute continues:

- (c) In determining whether a partnership is formed, the following rules apply:
- (1) Joint tenancy, tenancy in common, tenancy by the entireties, joint property, common property, or part ownership does not by itself establish a partnership, even if the co-owners share profits made by the use of the property.
 - (2) The sharing of gross returns does not by itself establish a partnership, even if the persons sharing them have a joint or common right or interest in property from which the returns are derived.
 - (3) A person who receives a share of the profits of a business is presumed to be a partner in the business, unless the profits were received in payment:
 - (i) Of a debt by installments or otherwise;
 - (ii) For services as an independent contractor or of wages or other compensation to an employee;
 - (iii) Of rent;
 - (iv) Of an annuity or other retirement or health benefit to a beneficiary, representative, or designee of a deceased or retired partner;
 - (v) Of interest or other charge on a loan, even if the amount of payment varies with the profits of the business, including a direct or indirect present or future

⁴⁴ First Amended Complaint, ¶ 16. This alleged agreement shall hereafter be referred to as the Plant Agreement.

⁴⁵ Clayson Depo. pp. 21-23.

⁴⁶ I.C. § 53-3-202(a).

ownership of the collateral, or rights to income, proceeds, or increase in value derived from the collateral; or
(vi) For the sale of the goodwill of a business or other property by installments or otherwise.⁴⁷

“Partnership is never presumed, hence the burden of establishing the partnership is upon the party who alleges it.” *Preston v. State Industrial Accident Commission*, 174 Or. 553, 562, 149 P.2d 957, 961 (1944). The Idaho Supreme Court has stated that “a mere agreement to share in profits, of itself constitutes neither a partnership nor a joint adventure. There must be other facts, showing that relationship to have been the intention of the parties, or such as to estop a denial of it as against third parties.” *Moon v. Ervin*, 133 P.2d 933, 937 (1943). Under Idaho law, a partnership, unlike a corporation, is not separate legal entity, but is sum of each individual owner's interests. *In re Brown*, 250 B.R. 382, 385 (Bkrtcy.D.Idaho 2000). “A partnership, and the duties and obligations arising therefrom, can be created only by contract, express or implied.” *Bussell v. Barry*, 102 P.2d 276, 278 (1940) (citation omitted). “The fact that the parties each owned an undivided half interest in the ranch, and shared the profits arising therefrom, does not establish ownership of the land as partners.” *Id.*

In this case, there was never a written partnership agreement;⁴⁸ therefore, the Court must examine the parties’ intent, “in addition to the facts and circumstances surrounding the asserted formation, to determine whether a partnership was formed.”⁴⁹ Clayson argues that a partnership was entered into between the parties on October 2, 2008 to “complete the work of refurbishing

⁴⁷ I.C. § 53-3-202(c). Subsection (c) provides three rules of construction that apply in determining whether a partnership has been formed under subsection (a).

⁴⁸ Clayson Depo., pp. 20-26.

⁴⁹ *Longview Aluminim, L.L.C. v. Industrial General, L.L.C.*, 2003 WL 21518585 (N.D. Ill., 2003).

the Plant, and to run the Plant.”⁵⁰ Clayson claims that the partnership was established by the written and signed articles of organization of SVC, LLC, which were written and signed by Plaintiff and Defendants on October 2, 2008 and the Annual Report of Milk Market Management, LLC, which listed Lawson, Zebe, Clayson, and Randall as members and was signed by Lawson.⁵¹ In addition, Clayson points to the Business Plan prepared by Zebe which references using Cedar Arch Dairies as its milk supplier.⁵²

Defendants argue that a partnership agreement or contract never existed. Defendants state that Clayson cannot rely on his brief involvement in an LLC from which he was voluntarily removed as evidence of a partnership and that the Business Plan was a proposal and not an agreement or contract.

Despite Clayson’s assertions that a partnership was created between him and the Defendants, the Court finds that there is no evidence, and thus no disputed question of fact, on this issue. There is no evidence that the parties shared in profits or losses of their purported partnership.⁵³ The entities established by the Parties were two limited liability companies, not partnerships. Clayson was only a member of the SVC, LLC for about 7 days. Also, the Defendants correctly point out that the business plan created by Zebe was not an agreement or contract, it was a proposal, and Clayson was not a party to that proposal. There simply is no evidence to show that the parties intended to form a partnership and what the terms of that

⁵⁰ Plaintiff’s Memo in Opposition, p.3.

⁵¹ Plaintiff’s Memo in Opposition, Ex. F. and Ex. G.

⁵² *Id.*, Ex. H.

⁵³ CJS Partnership § 1

partnership agreement were.⁵⁴ Thus, this Court finds that there was no partnership agreement between the parties in this case.

This is not the end of the inquiry, however. Clearly Clayson was a member of the SVC, LLC, for a period of 7 days and withdrew his involvement in that LLC by October 9, 2008.

What the basis for that action was is the next issue to be resolved.

B. The Plant Agreement

Having determined that no partnership agreement existed between the parties, the Court must now determine whether the alleged Plant Agreement existed between the parties, and if so, what type of contract was it and what the terms of the contract were. As stated earlier, the Plaintiff claims that the following terms were part of the Plant Agreement: (1) Defendants would assume all the debts Clayson had incurred in preparing the Plant for operation, including the debt incurred to Dairy Systems, Company, Inc.; (2) Defendants would reimburse Clayson his out of pocket expenses in preparing the Plant for operation; (3) Defendants would take Clayson's milk supply and pay him a premium price that would net him \$500,000 more⁵⁵ than he could make selling his milk on the open market.⁵⁶ Clayson claims that he performed his part of the Plant Agreement by relinquishing control of the Plant on about October 8, 2008, by withdrawing

⁵⁴ "A promise, to be enforceable, must be sufficiently definite as to both time and subject matter. Here, the alleged oral partnership agreement to purchase property suitable for breeding cattle is incomplete; it is not sufficiently definite as to any of its terms." *Mabry v. Pelton*, 208 Ga.App. 891, 892, 432 S.E.2d 588, 590 (Ga.App.1993)(citation omitted). "In the absence of a written contract creating a partnership, a partnership can be implied only if 'the purported partners... have made a *definite and specific agreement* proved by cogent, clear and convincing evidence, or at least by a preponderance of the credible evidence.'" *Morrison v. Labor and Indus. Relations Com'n*, 23 S.W.3d 902, 908 (Mo.App. W.D.,2000)(citations omitted)(emphasis in original).

⁵⁵ In Clayson's Depo, he stated, that as part of the Plant Agreement, \$500,000 would be paid to him over time in the form of a monthly premium on the milk supply he sold to the Plant. Clayson admitted that the payment of the total \$500,000 would probably take three years complete. Clayson Depo. pp.23-25.

from the SVC, LLC, and by assigning his right to purchase the Plant to the Defendants.⁵⁷ Also, Clayson admits that the Plant Agreement is not in writing,⁵⁸ but points to several pieces of evidence to prove that a Plant Agreement did exist.

Defendants argue that the only contract that existed between the parties was the Assignment of Rights Contract⁵⁹ where Clayson and Randall assigned their rights to purchase the Plant⁶⁰ to SVC, LLC. Also, Defendants point to the fact that Clayson admitted he did not have the \$800,000 to purchase the Plant as of October 17, 2008⁶¹ and that Clayson was bound to perform the contract on or before December 31, 2008. Defendants claim that as consideration for the assignment of Clayson's rights to purchase the Plant, Defendants relieved Clayson of the contractual obligation to purchase the Plant.

The Idaho Court of Appeals has stated:

There are essentially three types of contractual arrangements: express contracts, implied-in-fact contracts and contracts implied-in-law. *Continental Forest Products, Inc. v. Chandler Supply Co.*, 95 Idaho 739, 743, 518 P.2d 1201, 1205 (1974); *Podolan v. Idaho Legal Aid Services, Inc.*, 123 Idaho 937, 942, 854 P.2d 280, 285 (Ct.App.1993). Express contracts exist where the parties expressly agree regarding a transaction. *Id.* Contracts implied-in-fact are those where there is no express agreement but the conduct of the parties implies an agreement from which the contractual obligation arises. *Id.* To find such a contract, the facts must be such that the intent to make a contract may be fairly inferred. *Podolan, supra.*

⁵⁶ Memo in Opposition, pp.3-4, ¶ 8.

⁵⁷ Memo in Opposition, p. 4, ¶ 9.

⁵⁸ Clayson Depo., pp. 86-87.

⁵⁹ Clayson Depo., Ex. 24.

⁶⁰ Clayson Depo., Ex. 17.

⁶¹ Clayson Depo., p. 164.

Baker v. Boren, 129 Idaho 885, 890-91, 934 P.2d 951, 956-57 (Ct.App.1997). The Court will analyze the facts and applicable law to determine if any of these three types of contracts existed between the parties in this case.

i. Express Contract

As to whether an express agreement existed between the parties, the Court refers to *Dante v. Golas*, 121 Idaho 149, 152, 823 P.2d 183, 186 (Ct.App.1992), where the Idaho Court of Appeals stated: “To be enforceable, a contract must be complete, definite and certain in all of its material terms, or contain provisions which are capable in themselves of being reduced to certainty.” Also, “[t]he question whether an agreement is complete in all of its material terms is a question of law over which we exercise free review.” *Id.*

In addition, the Idaho Supreme Court has held that:

In order for a contract to be formed there must be a meeting of the minds. *Inland Title Co. v. Comstock*, 116 Idaho 701, 703, 779 P.2d 15, 17 (1989). A meeting of the minds is evidenced by a manifestation of intent to contract which takes the form of an offer and acceptance. *Id.* The “meeting of the minds” must occur on all material terms to the contract. *Dursteler v. Dursteler*, 108 Idaho 230, 233-34, 697 P.2d 1244, 1247-48 (Ct.App.1985).

Barry v. Pacific West Const., Inc., 140 Idaho 827, 831-32, 103 P.3d 440, 444-45 (2004).

The Idaho Supreme Court has also held that:

Generally, an agreement to agree is unenforceable, as its terms are so indefinite that it fails to show a mutual intent to create an enforceable obligation....No enforceable contract comes into being when the parties leave a material term for future negotiations, creating a mere agreement to agree.” *Maroun v. Wyreless Systems, Inc.*, 141 Idaho 604, 614, 114 P.3d 974, 984 (2005) (quoting from 17A Am.Jur.2d *Contracts* § 181 (2004)).

In re University Place/Idaho Water Center Project, 146 Idaho 527, 533, 199 P.3d 102, 108 (2008).

In this case, the the only express agreement between the parties is the Assignment of Rights Contract where Clayson assigned his rights to the purchase the Plant in exchange for being relieved of the obligation to perform that purchase agreement. There is no evidence of, nor can any further express terms be reasonably inferred from the evidence. For example, one of the terms of the Plant Agreement, according to Clayson, was that the Defendants would pay a monthly premium on the milk and that it would probably take 3 years to reach the sum of \$500,000. This type of contract term should always be put in writing because it cannot be performed within in a year, according to Plaintiff's own admission. "[T]erms [that] cannot be performed within one year, [are] invalid under I.C. § 9-505 unless "some note or memorandum thereof, be in writing and subscribed by the party to be charged...." *Burton v. Atomic Workers Federal Credit Union*, 119 Idaho 17, 19-20, 803 P.2d 518, 520-21 (1990). Also, the terms of the alleged Plant Agreement were never finalized. Some of the terms Clayson seeks to enforce had been discussed, according to Clayson, but a final agreement on all the material terms was never reached.⁶² In other words, there was never a meeting of the minds on all the critical terms of the agreement. Again, the only document that could be construed as an express contract between the parties is the assignment of Clayson's right to purchase the Plant to the Defendants. The Court concludes that Clayson has not shown any further express contractual terms pursuant to any writing.

Defendants argue that because there are no further express contractual terms, Clayson is barred from claiming unjust enrichment or establishing a claim under any other equitable

⁶² Clayson Depo., pp. 20-26.

theories. Defendants also argue that the Court does not “possess the roving power to rewrite contracts in order to make them more equitable.”⁶³ The Idaho Supreme Court has stated, “The doctrine of unjust enrichment is not permissible where there is an enforceable express contract between the parties which covers the same subject matter Equity does not intervene when an express contract prescribes the right to compensation.” *Vanderford Co., Inc. v. Knudson*, 144 Idaho 547, 558, 165 P.3d 261, 272 (2007)(citations omitted). Thus, the Defendants are correct to a degree. However, conflicting evidence in this case demonstrates that the Assignment of Rights Contract could have possibly been part of a larger agreement, or that there were other, separate agreements between the parties, thus not precluding the claims of an implied-in-fact and/or implied-in-law contract. The Court will discuss these facts next.

ii. Implied-In-Fact Contract/Quantum Meruit

The Idaho Supreme Court has stated:

‘An implied in fact contract is defined as one where the terms and existence of the contract are manifested by the conduct of the parties with the request of one party and the performance by the other often being inferred from the circumstances attending the performance.’ *Farnworth v. Femling*, 125 Idaho 283, 287, 869 P.2d 1378, 1382 (1994) (citing *Clements v. Jungert*, 90 Idaho 143, 153, 408 P.2d 810, 815 (1965)). The implied-in-fact contract is grounded in the parties' agreement and tacit understanding. *Kennedy v. Forest*, 129 Idaho 584, 587, 930 P.2d 1026, 1029 (1997). ‘The general rule is that where the conduct of the parties allows the dual inferences that one performed at the other's request and that the requesting party promised payment, then the court may find a contract implied in fact.’ *Homes by Bell-Hi, Inc. v. Wood*, 110 Idaho 319, 321, 715 P.2d 989, 991 (1986) (citing *Clements v. Jungert*, 90 Idaho 143, 153, 408 P.2d 810, 815 (1965); *Bastian v. Gafford*, 98 Idaho 324, 325, 563 P.2d 48, 49 (1977)).

Fox v. Mountain West Elec., Inc., 137 Idaho 703, 708, 52 P.3d 848, 853 (2002).

⁶³ Defendant's Memorandum in Support of Summary Judgment, p.21, citing to *Lovey v. Regenece Blueshield of Idaho*, 139 Idaho 37, 41 (2003).

Furthermore, the Idaho Supreme Court has declared that:

The doctrine of quantum meruit is a remedy for an implied-in-fact contract and permits a party to recover the reasonable value of services rendered or material provided on the basis of an implied promise to pay. *See Cheung v. Pena*, 143 Idaho 30, 35, 137 P.3d 417, 422 (2006).

Gray v. Tri-Way Const. Services, Inc., 147 Idaho 378, 387, 210 P.3d 63, 72 (2009).

The disputed evidence in this case leads to the inference that Defendants may have promised to pay some of Clayson's debts. The Court refers to an email, dated January 14, 2009, sent by Zebe to Val D. Pendleton (the realtor who created the Right to Purchase the Plant agreement), where Zebe states, in part:

From October 8th we (Rick & I) have paid every invoice and bill that has been incurred with no regret. We have also paid over 35,000 of bills Gaylen incurred, I know this is my issue I accept that, my fault and my mistake. . . .

Once we close we are prepared to absorb what we have paid in and most of what was done while Gaylen was in charge, i.e. electrical, plumbing, to the tune of 245k. . . .

P.S. I have no idea what Gaylen did with the 120 hat [sic] was deposited into his account and into the other Star Valley. Nor do I know how much was really made and what was stolen or used for other purposes. That will end up being known between God and Gaylen.⁶⁴

In addition, Zebe acknowledged in his deposition that Defendants would "pay the electricians and any other vendor if we could use the work that had been done."⁶⁵ Zebe also acknowledged that the \$245,000 stated in the email was referring to the debt owed to Dairy Systems.⁶⁶ Zebe goes on to state: "We would have paid that [referring to the Dairy Systems' debt]. We would have paid that. Remember, I had stipulated and stipulated and stipulated, we

⁶⁴ Clayson Depo. Ex. 29.

⁶⁵ Zebe Depo., p.110.

will only pay for work we can use. We are not going [to] pay for work that is not usable.”⁶⁷

From these statements, the trier of fact could reasonably infer that Zebe, on behalf of SVC, LLC, had agreed to assume some of the debts owed by Clayson, and it is reasonably possible that Clayson assigned his rights over to the Defendants to purchase the Plant in reliance of these payments or assumptions of debt, or that a separate implied-in-fact agreement had been entered into where SVC, LLC agreed to make such payments. When Zebe stated an agreement to pay for “most of what was done while Gaylen was in charge...to the tune of 245k” or to pay the Dairy Systems debt, or to pay for “work we can use,” a question of fact arises as to the extent of that obligation, whether pursuant to an implied-in-fact contract or by way of unjust enrichment. What the nature of the agreement was, how much was agreed to be paid, and for what, are questions the jury must decide.

Although there is no evidence to support a contract allowing Clayson to enforce all of the alleged terms of his Plant Agreement, there are questions of fact as to whether he can seek recovery for the reasonable value of the expenses incurred by him in refurbishing the Plant. There is evidence from both parties that indicates that there was some type of agreement regarding those refurbishing expenses. Defendants have the burden of proving that there is a lack of genuine issues of material fact as to whether Clayson was reasonably compensated for those expenses.⁶⁸ The Defendants have failed to meet the burden in regards to the refurbishing

⁶⁶ *Id.* at p. 137-38.

⁶⁷ *Id.* at p.137.

⁶⁸ *Gray v. Tri-Way Const. Services, Inc.*, 147 Idaho 378, 388, 210 P.3d 63, 73 (2009).

expenses, which include Clayson's out of pocket expenses and labor, and the debts that Clayson incurred in an effort to refurbish the Plant.

The Court concludes that there is no question of fact as to any additional term of any type of agreement between these parties, more particularly that the Defendants agreed to pay Clayson \$500,000 cash up front or for \$500,000 to be paid in monthly milk payment premiums.

iii. Implied-In-Law Contract/Unjust Enrichment

The Idaho Supreme Court has stated:

Unjust enrichment, or restitution, is the measure of recovery under a contract implied in law. *Barry v. Pacific West Const., Inc.*, 140 Idaho 827, 834, 103 P.3d 440, 447 (2004). "A contract implied in law ... 'is not a contract at all, but an obligation imposed by law for the purpose of bringing about justice and equity without reference to the intent of the agreement of the parties....'" *Id.* The measure of recovery on an unjust enrichment claim "is not the actual amount of the enrichment, but the amount of enrichment which, as between two parties it would be unjust for one party to retain." *Beco Constr. Co., Inc. v. Bannock Paving Co., Inc.*, 118 Idaho 463, 466, 797 P.2d 863, 866 (1990). The plaintiff has the burden of proving that the defendant received a benefit and of proving the amount of the benefit which the defendants unjustly retained. *Blaser v. Cameron*, 121 Idaho 1012, 1017, 829 P.2d 1361, 1366 (Ct.App.1992). "The value of services rendered can be used as evidence of the value of the benefit bestowed under the theory of unjust enrichment." *Id.* "Although damages need not be proven with mathematical precision, the damages, i.e., the value of any benefit unjustly received by the defendant in an action based upon unjust enrichment, must be proven to a reasonable certainty." *Gillette v. Storm Circle Ranch*, 101 Idaho 663, 667, 619 P.2d 1116, 1120 (1980).

Gray v. Tri-Way Const. Services, Inc., 147 Idaho 378, 388-89, 210 P.3d 63, 73-74 (2009).

In this case, there is no question that the Defendants benefited from Clayson's refurbishment efforts and expenses. Clayson invested his time and money in improving the Plant and incurred large debts in order to make the Plant operational. The burden is on the Defendants, the moving party in this case, to establish the lack of a genuine issue of material fact

as to whether they were unjustly enriched by Clayson. Defendants rely on the fact that they relieved Clayson of his obligation to perform on the Plant purchase contract as evidence that no unjust enrichment took place. However, if that were that were the case, why would Zebe later agree to pay some of the debts incurred by Clayson? At this point, Clayson is not required to prove the amount that Defendants were enriched. Rather, the burden is upon Defendants to show that they have not received any benefit that would be inequitable to retain. Based on the evidence in the record, more fully reflected above, questions of fact exist on this issue.

C. Claims of Extortion, Duress, Slander, and Defamation

In Count Three of Clayson First Amended Complaint, Clayson alleges what appears to be a claim of duress, and in Count Five, he alleges an extortion claim. Clayson claims that on July 2, 2009 at about 6 p.m. he was arrested and incarcerated in Lincoln County, Wyoming.⁶⁹ He states that the arrest and incarceration were initiated by Defendants in this case.⁷⁰ Clayson claims that the criminal prosecution was initiated by Zebe in order to get Clayson to back off his lawsuit in this matter and to stop supporting Dairy Systems in another lawsuit. In support of this claim, Clayson cites to the following statements made by Randall: “When I informed Don that Gaylen had been arrested, he was not surprised and indicated that he had made the complaint and that Gaylen had it coming. He then proceeded to tell me that unless Gaylen backed off, there were worse things coming.”⁷¹ Randall also stated: “The impression he left me with was that unless Gaylen backed off of the complaint he had filed against Mr. Zebe and Mr. Lawson and his

⁶⁹ First Amended Complaint ¶¶ 28, 29.

⁷⁰ *Id.* at ¶ 29.

⁷¹ Memo in Opposition, Ex. L, p. 2, ¶ 5.

support for the claim filed in Wyoming by Dairy Systems that they would bring more criminal charges against Gaylen.”⁷² However, in Randall’s Deposition taken on February 15, 2010, Randall stated that, “Don [Zebe] never threatened, never told me that he was going to bring more charges. He never threatened. But he did reaffirm and restate that Gaylen needed to quit lying.”⁷³ Furthermore, when Randall was questioned more about the possible threats he stated:

- Q. . . . If I understand your testimony correctly, Mr. Zebe never told you that he would file more criminal charges if Gaylen did not back off?
- A. He did not – but he also said that Gaylen needed to quit lying. So Don knew more than what he was telling me what was going on.
- Q. What was it that Don said that gave you the impression that Don would file more criminal charges if Gaylen did not back off?
- A. Don did not give me that impression that he would file more criminal charges.⁷⁴

The First Restatement of Contracts defines duress as:

- (a) any wrongful act of one person that compels a manifestation of apparent assent by another to a transaction without his volition, or
- (b) any wrongful threat of one person by words or other conduct that induces another to enter into a transaction under the influence of such fear as precludes him from exercising free will and judgment, if the threat was intended or should reasonably have been expected to operate as an inducement.⁷⁵

In addition, the Idaho Court of Appeals has clarified that:

Duress does not occur, however, merely because a person declares an intent to use the courts to pursue a legal right to which he reasonably believes he is entitled absent other oppressive circumstances. Thus, in *McGill v. Idaho Bank & Trust Co.*, 102 Idaho 494, 499, 632 P.2d 683, 688 (1981) the Idaho Supreme Court held that the threat of civil proceedings does not constitute duress if made in good faith and without other oppressive circumstances. Other states are in accord. *See Adams v. Crater Well Drilling, Inc.*, 276 Or. 789, 556 P.2d 679, 681 n. 6 (1976) (“It is the well-established general rule that it is not duress to institute or threaten to institute civil suits, or take proceedings in court, or

⁷² *Id.* at ¶ 8.

⁷³ Randall Depo. p. 32.

⁷⁴ Randall Depo., p. 35.

⁷⁵ Restatement of Contracts, § 492

for any person to declare that he intends to use the courts wherein to insist on what he believes to be his legal rights.”); *Hawkinson v. Conniff*, 53 Wash.2d 454, 334 P.2d 540, 544 (1959) (“[A] threat of civil proceedings does not constitute duress if it is made in good faith and without coercion.”).

Medical Recovery Services, LLC v. Carnes, 230 P.3d 760, 764 (Ct.App.,2010).

In this case, Defendant has shown that Plaintiff has failed to establish a genuine issue of material fact regarding the duress and coercion claims. Randall clarified that threats of litigation were not made by Defendants against Plaintiff and that he did not have that impression.

Furthermore, as stated above, the threat of civil proceedings, of which there is no evidence here, does not constitute duress if made in good faith and without other oppressive circumstances.

Clayson claims the threats were made in bad faith and with malice. However, Clayson admitted in his deposition that the Taylor ice cream machine was listed as part of the inventory which he verified on October 17, 2008 when he signed the Purchase and Sale Agreement,⁷⁶ and the evidence is undisputed that Defendants thought that the Taylor ice cream machine had been stolen, and did not act in bad faith in reporting the missing machine.

In Count Four, Clayson alleges that the statements made by Defendants about Plaintiff were defamatory and slander per se. Clayson asserts that “[t]he statements were slander per se because they imputed conduct constituting a criminal offense chargeable by indictment or by information and of such a kind as to involve infamous punishment or moral turpitude conveying the idea of major social disgrace.”⁷⁷

⁷⁶ Clayson Depo. pp. 165-166, 199-200, 52-54. Clayson Depo. Ex. 24.

⁷⁷ First Amended Complaint, ¶ 40.

In Plaintiff's Motion in Opposition, Plaintiff states that they intended to get the deposition of Defendant's lawyer Joshua Smith and the deposition of Lawson in order to bolster their claims. However, Plaintiff has failed to produce any further supporting evidence in regard to this matter. Also, Plaintiff alleges that slander per se applies in this case because accusing someone of a crime is slander per se. Nevertheless, no evidence in the record demonstrates that Defendants accused Plaintiff of a crime. The evidence before the Court is that Zebe contacted Gardner to report a missing ice cream machine from the Plant, that the ice cream machine was listed as part of the inventory when he took possession of the Plant and it was missing, and that Zebe had been told that Clayson removed the ice cream machine.⁷⁸ Gardner clearly states that Zebe did not tell him that Clayson was guilty of larceny.⁷⁹

The Idaho Supreme Court has stated:

It is axiomatic that truth is a complete defense to a civil action for libel. *Hemingway v. Fritz*, 96 Idaho 364, 529 P.2d 264 (1974). In a slander or libel suit it is not necessary for the defendant to prove the literal truth of his statement in every detail, rather it is sufficient for a complete defense if the substance or gist of the slanderous or libelous statement is true. *Laughton v. Crawford*, 68 Idaho 578, 201 P.2d 96 (1948); Prosser, Torts (4th ed.) s 116, p. 798.

Baker v. Burlington Northern, Inc., 99 Idaho 688, 690, 587 P.2d 829, 831 (1978). "Truth is an absolute defense to a per se defamatory statement." *Maison de France, Ltd. v. Mais Oui!, Inc.*, 126 Wash.App. 34, 45, 108 P.3d 787, 794 (Wash.App. Div. 1,2005).

⁷⁸ Gardner Aff. (January 25, 2010), ¶¶ 3-5.

⁷⁹ *Id.* at ¶ 5.

Clayson claims that Zebe had commissioned an inventory of equipment in September 2008 and the Whey Dryer was not a part of the inventory listed.⁸⁰ However, the second claim of a missing Whey Dryer does not appear to be the basis for Clayson's arrest or incarceration. Gardner's Affidavit states that his investigation only involved claims of a stolen Taylor ice cream machine.⁸¹

Accordingly, the record before the Court establishes that Zebe did not accuse Clayson of a crime and the evidence indicates that the statements made by Zebe concerning a missing ice cream machine were true, as established by an independent investigation of those facts by the Lincoln County Sheriff's Department.

The Court finds that there is no disputed fact or legal theory supporting Plaintiff's claims of duress, extortion, slander, and defamation. Also, because the Court will grant judgment on counts three through five, the Court DENIES Plaintiff's Motion to Amend Plaintiff's First Amended Complaint to Assert a Claim of Punitive Damages.

CONCLUSION

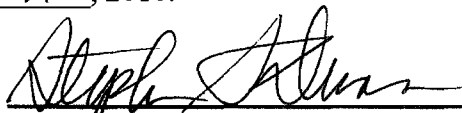
Based on the foregoing, the Court concludes, as a matter of law, that a partnership agreement never existed between the parties. The Court concludes that there is no disputed fact as to whether a contract for the payment of \$500,000, either in cash or through the purchase of milk, was entered into. The Court further concludes that a disputed question of fact does exist over whether there is an obligation of Defendants to pay Plaintiff the refurbishments expenses he incurred prior to the transfer of his interest in the SVC, LLC and the assignment of the Plant

⁸⁰ Zebe Depo. p.42-43.

purchase agreement.⁸² Plaintiff has failed to state a genuine issue as to any material fact on Counts Three, Four, and Five. Therefore, the Court GRANTS Defendants Summary Judgment on all issues and claims in this case except whether Defendants have an obligation to reimburse Plaintiff for Plant refurbishment expenses under either an implied-in-fact contract or by way of unjust enrichment. To that extent only, Defendants Motion for Summary Judgment is DENIED. Further, Plaintiff's Motion to Amend Plaintiff's First Amended Complaint to Assert a Claim of Punitive Damages is DENIED.

IT IS SO ORDERED.

DATED 14th day of September, 2010.



STEPHEN S. DUNN
District Judge

⁸¹ Memo in Opposition, Ex. K.

⁸² For clarity, the Court adds that the only question of fact is whether Defendants are obligated to reimburse Clayson for those expenses Zebe expressed an agreement to pay, because the only statements by Defendants which create a disputed question of fact are those where they agree to reimburse such expenses.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 15 day of Sept, 2010, I served a true and correct copy of the foregoing document upon each of the following individuals in the manner indicated.

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- Overnight Delivery
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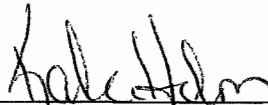
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**IN THE SIXTH JUDICIAL DISTRICT COURT IN AND FOR
BANNOCK COUNTY, STATE OF IDAHO**

<p>GAYLEN CLAYSON, Plaintiff, v. DON ZEBE, RICK LAWSON, and LAZE, LLC, Defendants, <hr/>DON ZEBE, RICK LAWSON, and LAZE, LLC, Counterclaim Plaintiffs, v. GAYLEN CLAYSON, Counterclaim Defendant.</p>	<p>Motion to reconsider damage aspects of decision dated September 15, 2010 Case No: CV-2009-02212-OC Judge: Stephen S. Dunn</p>
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Plaintiff respectfully moves the Court, pursuant to rule 11(a)(2)(B), to reconsider its rulings with regard to damages made in its order dated September 15, 2010. Plaintiff does not make this motion lightly nor simply because the Plaintiff disagrees with the Court's decision. This motion is made because Plaintiff believes the Court may not have been fully informed about the nature of the damages in this case and how they should be quantified in an action on a contract implied in law. Because a significant portion of trial preparation is the presentation of evidence regarding damages, plaintiff seeks this clarification at this juncture which will greatly aid trial preparation.

The Plaintiff is a Dairy Farmer. For many years he has seen profits from Dairy operations being eaten up by the "middle man"--- milk product producers to whom he and other dairymen sell their milk.

The Cheese Plant in Thayne Wyoming has been in moth balls for several years and needed significant cleaning and upgrading of its electrical and plumbing fixtures in order to become operational. Mr. Clayson contacted the owner of the cheese plant who told him the plant was for sale and that if he wanted to put in the effort to reopen the plant they could work out something for him to buy the plant.

Mr. Clayson also cultivated a contact in the United States Department of Agriculture who assured Mr. Clayson that he could arrange government backed loans for the operation of the Plant.

Mr. Clayson, knowing that he needed partners and investors that had the financial ability and the business acumen to put the deal together and obtain the financing was introduced to defendants Zebe and Lawson as potential investors.

The parties organized an LLC, SVC, LLC that runs the cheese plant to this day with plaintiff, and defendants as members. Then plaintiff relinquished his interest in that LLC, in the agreement to purchase the cheese plant that had an appraised value of over \$4 million for only \$800,000 and all of the contacts and relationships he had developed and the business plan he had devised to make this an operational cheese plant. Plaintiff agreed to relinquish the interest he had in all of that on terms that the Court has determined were not sufficiently definite or formal to create a contract.

In its decision the Court found that plaintiff's express contract with defendants did not rise to the level of enforceability because of a lack in formality and clarity. The Court did

however determine that the circumstances were such that a Jury would have to decide whether there was a contract implied in fact or a contract implied in law. Plaintiff has no quarrel with this holding. See, Erickson v. Flynn 138 Idaho 430, 437, 64 P.3d 959, 966 (Idaho App., 2002):

Both unjust enrichment and quantum meruit are referred to as species of “quasi-contract” or implied-in-law contract, *Peavey*, 97 Idaho at 658-60, 551 P.2d at 613-15; *Hausam*, 126 Idaho at 573, 887 P.2d at 1080; *Idaho Lumber, Inc.*, 109 Idaho at 745, 710 P.2d at 655, and both may serve, as Erickson attempted to use them in this case, as an alternative basis for recovery where an alleged agreement was too indefinite to be enforced. See *Anderson*, 118 Idaho 362, 796 P.2d 1035; JOSEPH M. PERILLO, CORBIN ON CONTRACTS, § 1.20, 71-72 (1993).

This Court then went on to suggest in its ruling that the measure of damages would be limited to the value of the labor performed by Clayson in refurbishing the plant and the debts he incurred to that end. See, page 22-23 and p. 28 n. 82. Those suggestions are far too restrictive as they relate to the measure of damages in an unjust enrichment claim, and particularly as applied to the facts that plaintiff can prove in this case.

The measure of damages in a claim for unjust enrichment is the value of the benefit bestowed upon the defendant which, in equity, would be unjust for him or her to retain without compensating the plaintiff. *Idaho Lumber, Inc.*, 109 Idaho at 747, 710 P. 2d at 657. In re Estate of Boyd 134 Idaho 669, 674, 8 P.3d 664, 669 (Idaho App., 2000)

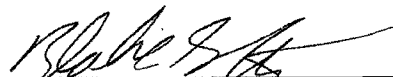
Thus the focus in this case needs to be on the benefit the defendant received. The Court’s focus on what it cost Gaylen Clayson out of pocket to put this deal together misses the essence of what the plaintiff gave up and the benefit defendants received. Plaintiff was not giving the defendants a piece of land with a building on it. Instead he was conveying to defendants a business plan, the raw resources to carry it out, and the contacts and relationships, with Morris Farinella, with Val Pendleton, the broker, with the department of Agriculture, with milk producers, and with cheese brokers, necessary to make it happen. While the out of pocket expenses of the Plaintiff help to measure a part of that benefit, it is only a miniscule part.

Focusing solely on the value of the improvements and refurbishment Plaintiff put into the plant is like telling a plaintiff who sold an antique car to a friend that he could recover the cost of the paint job, but that the car and the value the paint job added to the antique car was not recoverable. That obviously would not be fair. Likewise in this case, Gaylen Clayson was able to get the Cheese plant under contract for only \$800,000. He was able to get it under contract for that price because of the work he had done and the relationship that he had developed with Morris Farinella and the broker Val Pendleton. Defendants could not have contracted to purchase the Plant for that amount. Indeed, Don Zebe was unable to purchase the plant at any cost because of his poor relationship with the parties involved. Jeff Randall deposition at Page 39. Plaintiff has evidence to show that the value of the Plant and equipment he delivered to the defendants exceeded \$4 million. The Trier of fact needs to determine what portion of that \$4 million in value it is just for defendants to retain without payment to the person who made it all possible for them, Gaylen Clayson.

In this case the plaintiff needs to be accorded the opportunity to present his case to the Trier of fact relating to the particular facts of this case and have the jury determine the amount of enrichment these defendants obtained from plaintiff and what portion of that enrichment it would be unjust for the defendants to retain.

Dated this 1st day of October, 2010.

ATKIN LAW OFFICES, P.C.



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 DISTRICT COURT
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Counsel for Defendant

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
 STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

GAYLEN CLAYSON,)
)
 Plaintiff,)
)
 vs.)
)
 DON ZEBE, RICK LAWSON, AND)
 LAZE, LLC.,)
)
 Defendants,)
 _____)
)
 DON ZEBE, RICK LAWSON, AND)
 LAZE, LLC.,)
)
 Counterclaim Plaintiff,)
)
 vs.)
)
 GAYLEN CLAYSON,)
)
 Counterclaim Defendants,)
 _____)

CASE NO. CV-2009-0002212-OC

**MEMORANDUM IN SUPPORT OF
 DEFENSE MOTION IN LIMINE**

The Defendants bring this Motion *in limine* to address certain evidentiary issues which are likely to come up at trial. Defendants request this Court to prohibit Plaintiff and his counsel from offering evidence or argument about the following:

1. The Dairy Systems's debt in excess of the \$50,000 Clayson claims to have paid Dairy Systems because Dairy Systems and Clayson are pursuing recovery of this debt in a separate action in Wyoming against the Defendants in this case.
2. The allegations that there was a partnership agreement or a "plant agreement" because these claims have been dismissed on summary judgment.
3. Evidence of out-of-pocket expenses where proof of payment has not been produced.
4. Evidence of the \$50,000 payment to Dairy Systems because Plaintiff has provided only an illegible check purporting to the \$50,000 check without corresponding bank statements to prove its validity.
5. Evidence of opinion testimony or expert testimony because Plaintiff has failed to disclose expert witnesses.
6. Evidence of the value of his own work because Plaintiff has been unable or unwilling to provide evidence of the hours expended or the value of the hours or the enhanced value created by his own work.

DISCUSSION OF LAW AND ARGUMENT

Following this Court's Memorandum Decision granting partial summary judgment to defendants the remaining claims are equitable. While this Court may choose to empanel an advisory jury, the ultimate decision on these issues is for the trial judge.

while there is no right to a jury trial in an equitable action, empanelling a jury to make advisory findings of fact on equitable issues is not prohibited. *Fairview Inv. Co. v. Lamberson*, 25 Idaho 72, 80, 136 P. 606, 608 (1913). Nearly a century ago in *Lamberson*, this Court noted "in most all equity cases, that there are some questions of fact which a court may properly and sometimes wisely submit to a jury," clearly indicating that an advisory verdict is not only acceptable in equitable cases, but often well-advised. *Id.* (emphasis added).

Bach v. Bagley, 229 P.3d 1146, 1158 (Idaho 2010)

Where an advisory verdict is issued on equitable claims, the trial judge is still required to make independent findings of fact and conclusions of law on the equitable claims before him, not solely relying on the jury's findings. See Idaho R. Civ. P. 52(a); *Vanderford Co. v. Knudson*, 144 Idaho 547, 553, 165 P.3d 261, 267 (2007).

Bach v. Bagley, 229 P.3d 1146, 1158 (Idaho 2010)

Whether this Court decides to proceed with an advisory jury or not, there are certain evidentiary issues which should be addressed prior to trial to avoid delay, surprise and error. *State v. Powell*, 120 Idaho 707, 710 (Idaho 1991) (A court trial obviously differs significantly from a jury trial, however, this difference should not result in an evidentiary free-for-all.)

A. PLAINTIFF SHOULD BE BARRED FROM PRESENTING EVIDENCE OF OR SEEKING RECOVERY OF THE DAIRY SYSTEMS DEBT EXCEPT TO THE EXTENT OF THE \$50,000 CLAYSON ALLEGES HE PAID DAIRY SYSTEMS

As this Court is undoubtedly aware, a debt of between \$220,000 and \$250,000 allegedly owing to Dairy Systems Company, Inc. is the primary, but not the only, debt which Clayson claims Laze, LLC, Zebe and/or Lawson owes as part of his claim for an implied-in-fact contract or unjust enrichment. This case, however, presents an unusual set of circumstances. Laze, LLC, Zebe, Lawson and another LLC with which Zebe and Lawson are associated, SVC, LLC, are being sued in Wyoming by Dairy Systems. Dairy Systems has not sued Clayson, but Clayson is a party to that litigation. In fact, Dairy Systems and Clayson are represented by the same attorney, Blake Atkin, in the Wyoming case and are united in their effort to collect the debt from the defendants in this case.

230

14 Q. Regarding the debt to Dairy Systems, has
15 Dairy Systems filed suit against you?

16 A. No.

17 Q. You know that Dairy Systems has filed suit

18 against Don Zebe, Rick Lawson, and Laze, LLC, in
19 Wyoming; correct?
20 A. Yes.
21 Q. In fact, if you would just verify for me
22 that Exhibit No. 43 and 44 -- Exhibit No. 43 is the
23 amended counterclaim by which Dairy Systems brought a
24 counterclaim against Laze, LLC, Zebe and Lawson for
25 the bills that it incurred in doing the work at the

231

1 cheese plant; correct?
2 A. Yes.
3 Q. And then Exhibit No. 44 in a cross claim
4 Dairy Systems also sued the LLC called SVC, LLC, for
5 those same debts; correct?
6 A. Okay.
7 Q. Do you agree?
8 A. Yes.

Clayson deposition, pp. 230 - 231

In Dairy Systems' Amended Counterclaim against Laze, LLC, Zebe and Lawson in the Wyoming case, Dairy Systems seeks to foreclose a lien for the services and materials, seeks to enforce the alleged reimbursement agreement with Clayson as "intended beneficiaries" and seeks to recover on breach of contract theories plead in two different Causes of Action. In addition, and by way of a Cross-claim, Dairy Systems seeks to recover the debt from SVC, LLC in which Zebe and Lawson are members. The Cross-claim seeks to enforce the alleged reimbursement agreement with Clayson as "intended beneficiaries" and seeks to recover on breach of contract theories plead in two different Causes of Action. The unusual circumstances of this case place the Defendants, Laze, LLC, Zebe and Lawson in the position of incurring duplicate liability for the same debt, one

to Dairy Systems in the Wyoming litigation and a second time to Clayson in the Idaho litigation. Because both actions are pending in state courts and involve different parties¹ there is no procedure for consolidating the two cases.

The remaining claims Clayson has against the defendants are equitable claims. Clayson seeks to invoke the equitable remedy of unjust enrichment to recover from the defendants the debt Clayson owes to Dairy Systems. *Cozzetto v. Wisman*, 120 Idaho 721, 725 (Idaho Ct. App. 1991) (one who has been unjustly enriched at the expense of another must make restitution to the other) With the exception of an alleged payment of \$50,000 by Clayson to Dairy Systems, Clayson has not paid Dairy Systems the \$220,000 to \$250,000² Dairy Systems claims it is owed. Thus, the defendants have not been unjustly enriched at the expense of Clayson, except only arguably to the extent of the alleged \$50,000 payment by Clayson to Dairy Systems.

Clayson also seeks to invoke the equitable remedy of quantum meruit for an implied in fact contract. *Gray v. Tri-Way Constr. Servs.*, 147 Idaho 378, 387 (Idaho 2009) (doctrine of quantum meruit is a remedy for an implied-in-fact contract and permits a party to recover the reasonable value of services rendered or material provided on the basis of an implied promise to pay) As it pertains to Clayson's claim for recovery of the Dairy Systems' debt, Clayson did not render the service or

¹Dairy Systems is a Utah corporation. It performed the work at issue in Wyoming. Therefore, it is unlikely this Court has personal jurisdiction over Dairy Systems unless it voluntarily submitted itself to the jurisdiction of the Idaho courts. See Dairy System's Cross-claim against SVC, LLC at paragraph 1 where Dairy Systems alleges it is a Utah corporation and at paragraphs 3 and 4 where it alleges it provided the work and materials in Thayne, Wyoming. (Exhibit 44 to Deposition of Clayson)

² See Dairy Systems' Amended Counterclaim against Laze, LLC, Zebe and Lawson seeking \$220,836.12 and Dairy Systems' Cross-claim against SVC, LLC claiming "over \$250,000." (Exhibits 43 and 44 to Deposition of Clayson) Clayson actually claims this debt is \$290,323.45. (Exhibit 38A to Deposition of Clayson, at p. 10 - Answer to Interrogatory No. 3)

provide the material except possibly to the extent that Clayson allegedly paid Dairy Systems \$50,000 to get the work started. Clayson is not entitled to recover the Dairy Systems debt under the theory of “quantum meruit” except to the extent he can prove he paid Dairy Systems and then only to the extent of the reasonable value.

Because this is an equitable action, this Court exercising its equitable powers should invoke the equitable doctrines of quasi-estoppel and/or judicial estoppel to prohibit Clayson from putting on evidence or seeking to recover the Dairy Systems’ debt except only to the extent that Clayson can prove that he paid Dairy Systems and then only to the extent of the reasonable value of that for which he paid. To do otherwise, this action puts defendants at risk for duplicate liability. Dairy Systems is seeking recovery of its debt from defendants in Wyoming and that should determine the liability for that debt.

Quasi-estoppel applies to the facts of this case because Dairy Systems and Clayson are taking the position in Wyoming that it is the defendants here (Laze, LLC, Zebe and Lawson) who are liable for the Dairy Systems’ debt and it would be unconscionable for Clayson to seek and obtain the same recovery in the Idaho case on the theory that he either paid it or is liable for it:

... doctrine of quasi-estoppel applies when: (1) the offending party took a different position than his or her original position, and (2) either (a) the offending party gained an advantage or caused a disadvantage to the other party; (b) the other party was induced to change positions; or © it would be unconscionable to permit the offending party to maintain an inconsistent position from one he or she has already derived a benefit or acquiesced in.

Terrazas v. Blaine County, 147 Idaho 193, 200 (Idaho 2009)

Judicial estoppel applies to the facts of this case because Dairy Systems and Clayson are taking the position in Wyoming that it is the defendants here (Laze, LLC, Zebe and Lawson) who

are liable for the Dairy Systems' debt and it is inconsistent for Clayson to seek and obtain the same recovery in the Idaho case on the theory that he either paid it or is liable for it:

"The doctrine of judicial estoppel prohibits 'a party from assuming a position in one proceeding and then taking an inconsistent position in a subsequent proceeding.'" *Riley v. W.R. Holdings, LLC*, 143 Idaho 116, 121-22, 138 P.3d 316, 321-22 (2006) (quoting *A & J Constr. Co. v. Wood*, 141 Idaho 682, 688, 116 P.3d 12, 18 (2005)). "Idaho courts may apply the doctrine even if the prior proceeding was a bankruptcy action." *Riley*, 143 Idaho at 122, 138 P.3d at 322. Generally when a litigant, through sworn statements, "obtains a judgment, advantage or consideration from one party, he will not thereafter, by repudiating such allegations and by means of inconsistent and contrary allegations or testimony, be permitted to obtain a recovery or a right against another party, arising out of the same transaction or subject matter." *Loomis v. Church*, 76 Idaho 87, 93-94, 277 P.2d 561, 565 (1954). "Because judicial estoppel is an equitable doctrine existing to protect the dignity of the judicial process it is 'invoked by a court at its discretion.'" *Riley*, 143 Idaho at 122, 138 P.3d at 322 (quoting *Sword v. Sweet*, 140 Idaho 242, 252, 92 P.3d 492, 502 (2004)).

Indian Springs LLC v. Indian Springs Land Inv., LLC, 147 Idaho 737, 748 (Idaho 2009)

For the foregoing reasons, this Court should enter an order *in limine* preventing Plaintiff from offering evidence or seeking to recover the debt owed to Dairy Systems, except only to the extent of the \$50,000 that Plaintiff alleges he paid Dairy Systems.

B. PLAINTIFF SHOULD BE BARRED FROM PRESENTING EVIDENCE OF A PARTNERSHIP AGREEMENT AND/OR OF A PLANT AGREEMENT

During the continuation of Clayson's deposition on September 30, 2010, the following colloquy took place between Clayson and his attorney, Blake Atkin, regarding the Addendum³ whereby Clayson assigned his rights in the Commercial Real Estate contract:

282

8 EXAMINATION
9 BY MR. ATKIN:
10 Q. Mr. Clayson, you were asked earlier about
11 Exhibit No. 24. Do you recall that?

³The Addendum was Exhibit No. 24 to the deposition of Clayson

12 A. Okay.

13 Q. Why did you give that assignment, why did
14 you sign that document?

15 A. Why did I sign it? Because of a previous
16 agreement that we had made that in lieu of giving them
17 the plant, that I would get \$500,000, which was later
18 changed to \$500,000 in premiums on the milk, once the
19 plant was up and going, and that they would pay back,
20 reimburse me on my expenses and take my milk at a
21 Class III price and I would get the whey to offset the
22 freight.

23 Q. Who is they?

24 A. Rick and Don.

Clayson deposition, Volume II, p. 282

In its Memorandum Decision dated September 14, 2010, this Court held that there was no partnership between the parties⁴ and there was no contract for the payment of \$500,000 either in cash or through the purchase of milk⁵. Because of this Court's holding that "it is reasonably possible that Clayson assigned his rights over to the Defendants to purchase the Plant in reliance of these payments or assumptions"⁶, it is impossible not to discuss the Addendum whereby Clayson assigned his rights in the Commercial Real Estate contract. However, the mention of the Addendum should not be license for Clayson or his attorney to interject the contract and partnership claims which have already been eliminated from the case by summary judgment.

For the foregoing reasons, this Court should enter an order *in limine* preventing Plaintiff from offering evidence regarding a partnership or plant agreement or any other kind of an agreement to pay him \$500,000 or buy his milk.

⁴Memorandum Decision, p. 15

⁵Memorandum Decision, pp. 18 and 27

⁶Memorandum Decision, p. 21

C. PLAINTIFF SHOULD BE BARRED FROM PRESENTING EVIDENCE OF OUT-OF-POCKET EXPENSES WHICH ARE NOT SUPPORTED BY PROOF OF PAYMENT

During discovery Clayson produced a handwritten list of expenses⁷, a typewritten list of expenses⁸ and incorporated the same list in a discovery response⁹. The list identifies the following out-of-pocket expenses which Clayson claims to have incurred in refurbishing the Plant:

A	Plumbing July	\$ 2,250.00
B	Plumbing August	\$12,800.00
C	Refrigeration on Restaurant	\$ 823.00
D	Registration IMPU	\$ 750.00
E	Toasters Restaurant	\$ 120.00
F	Jensen Paint Plant	\$13,100.00
G	Other Paint Plant	\$ 3,250.00
H	Tile Repair Plant	\$ 1,100.00
I	Josh Labor	\$ 5,600.00
J	April Labor	\$ 6,200.00
K	Mark Labor Plant & Rest	\$ 5,400.00
L	Roof Repair Supplies	\$ 1,800.00
M	Cleaning	\$ 1,023.00
N	Vacuum Cleaner	\$ 140.00
O	Office Furniture	\$ 4,942.00
P	Vicking Eq. Check Off	\$ 2,430.00
Q	Computer	\$ 400.00
R	Cash Register	\$ 360.00
S	Time Clock	\$ 320.00
T	Restaurant (John)	\$11,300.00
	Dairy Systems	<u>\$50,000.00</u>
	TOTAL	\$124,108.00

Clayson has been requested repeatedly to produce invoices, bank records, credit card payments or other proof of payment of these out-of-pocket expenses. (See Clayson Deposition

⁷Clayson deposition Exhibit 39

⁸Clayson deposition Exhibit 40 @ ClaysonCC000008

⁹Clayson deposition Exhibit 38A at pp. 9 - 10 - Response to Interrogatory No. 3)

Exhibit 35, Responses to Requests for Production 4, 5, and 6; Clayson Deposition Exhibit 38A, Response to Request for Production No. 33, 34, 35 and 36; Clayson Deposition Exhibit 38, Duces Tecum Deposition Notice) During the continuation deposition of Clayson on September 30, 2010, Clayson was questioned about his proof and requested to identify checks, credit card charges or other proof of payment of each of the above. He could only identify \$28,145.94 in checks, credit card charges or other proof of payment:

267

- 19 Q. Okay, on Exhibit No. 39 I have tried to keep
20 track of what we found here, so on A I have found
21 checks totaling \$1,872. Do you agree?
22 A. Okay.
23 Q. On line Item B we found evidence to support
24 \$10,772.41. Do you agree?
25 A. Okay.

268

- 1 Q. On D we found \$500. Agreed?
2 A. Right.
3 Q. On F we found \$379. Do you agree?
4 A. Yes.
5 Q. On I we totaled these and it came to
6 \$3,817.02 for checks to Josh. Do you agree?
7 A. If that's what they added up to, right.
8 Q. And on J, which was April's checks, we came
9 up with \$5,585.51. Do you agree?
10 A. Okay.
11 Q. On K \$2,282 for Mark?
12 A. Okay.
13 Q. On Item L for roof repair we came up to
14 \$800. Do you agree?
15 A. Yes.
16 Q. On Item P we found \$1,778 and I think those
17 were all credit card charges totaling that; correct?
18 A. Yes.
19 Q. And then on the cash register we found a
20 credit charge to Staples which was more than the \$360
21 for cash register but you felt that that was the
22 charge for the cash register and so we recorded it at
23 \$360, assuming that there may have been some charges

24 in addition to that. Do you agree?

25 A. Right.

269

1 Q. And that's all we have been able to find to

2 support this summary Exhibit 39; correct?

3 A. Yes.

Clayson Deposition, Vol. II, pp. 267 - 269

This Court previously was called upon to compel Plaintiff to produce documents to support its claims in this case and this Court noted that bank records, credit card statements and the like were within the control of Plaintiff and were required to be produced. (*See* Memorandum Decision dated April 1, 2010) Clayson was deposed on July 14, 2010 and was unable to produce records to support payment of most of the out-of-pocket expenses he claimed:

201

10 Q. I want you to read each one of these requests.

11 Maybe to just shortcut it this way, I want you to read

12 through this, these are all documents that we went

13 through in your duces tecum notice, and I am going to

14 serve on you a new set of requests to make certain that

15 we get the specific documents, and it includes things

16 like the bank accounts that you identified and things of

17 that nature.

18 A. You have got the Star Valley one in here

19 (indicating).

20 Q. I have got the Star Valley one, but I don't

21 have your personal account and that's the one you said

22 you made some of these purchases. I don't have the

23 credit card statements where you made other purchases.

24 So you are going to produce those because you have access

25 to those; correct?

202

1 A. Right.

Clayson Deposition, Vol. II, pp. 201 - 202

A new set of discovery was served on Clayson following his July 14 deposition and he was scheduled for a continuation deposition. The continuation deposition was vacated because of Mr.

Clayson's illness, but he did file a response to the new set of discovery. (See Exhibit 38A to Deposition of Clayson) On September 30, 2010, a month before trial, Clayson's continuation deposition was concluded. However, a month before trial Clayson was only able to verify less than 25% of the out-of-pocket expenses he claims with cancelled checks or credit card statements.

Defendants have gone to great lengths to verify the out-of-pocket expenses Clayson claims. The burden is on Clayson to prove that he incurred out-of-pocket expenses in improving the Plant and making it operational. The lists, without back-up information, which have been submitted by Clayson to prove his claim are inadmissible. The list of expenses is neither an IRE 803(6) business record or an IRE 1006 summary and is, therefore, inadmissible as hearsay (IRE 801 "statement . . . offered in evidence to prove the truth of the matter asserted"). *City of Idaho Falls v. Beco Constr. Co.*, 123 Idaho 516, 522 (Idaho 1993)

For the foregoing reasons, this Court should enter an order *in limine* preventing Plaintiff from offering evidence of out-of-pocket expenses beyond the \$28,145.94 he identified in his deposition. As a side-note the defense does not concede that these expenses should be reimbursed dollar for dollar even if Plaintiff is successful in establishing an implied-in-fact contract because the expenses were not reasonable (i.e. the same or similar work could have been accomplished for less) or was not incurred to renovate or refurbish the plant (e.g. line item "D Registration IMPU was for Clayson's attendance at a convention")¹⁰.

¹⁰The measure of damages in a claim of unjust enrichment is the value of the benefit bestowed upon the defendant which, in equity, would be unjust to retain without recompense to the plaintiff. The measure of damages is not necessarily the value of the money, labor and materials provided by the plaintiff to the defendant, but the amount of benefit the defendant received which would be unjust for the defendant to retain. *Gillette v. Storm Circle Ranch*, 101 Idaho 663, 666 (Idaho 1980)

D. PLAINTIFF SHOULD BE BARRED FROM PRESENTING EVIDENCE OF A \$50,000 PAYMENT TO DAIRY SYSTEMS

At the time of Clayson's first deposition on July 14, 2010, he had not found the \$50,000 check he claims to have paid Dairy Systems from his own personal account as demonstrated by the following colloquy:

178

24 Q. The last page, the statement that's dated
25 September 30, 2008, has a Bates stamp Clayson 000163, the

179

1 payment on September 16, 2008, that's out of your
2 personal account?
3 A. Where are we at here, now?
4 Q. Last page.
5 A. Okay.
6 Q. That's out of your account, personal account,
7 not the Star Valley account?
8 A. No, that would be out of my personal account.
9 Q. That was the one where, U.S. Bank?
10 A. Yes.
11 Q. Do you know, when it says PMT No. 1038, is
12 that your check number out of that account?
13 A. Probably is.
14 Q. So when you provided those records, it ought
15 to be easy for me to go to Check No. 1038 and find it;
16 correct?
17 A. Yes.

Clayson deposition, Vol. I, pp. 178 - 179

118

11 Q. But you can't tell me the date that you did
12 it?
13 A. Well, if I had a little time I could find it.
14 Q. How would you do that?
15 A. Go back and find the check.
16 Q. What do you mean, find what check?
17 A. The personal check that I gave him.

Clayson deposition, Vol. I, p. 118

At the time of Clayson's second deposition on September 30, 2010, Clayson was questioned about the whereabouts of the check and he claimed it had been produced:

269

4 Q. Now, on Exhibit No. 38A, the other item that
5 was on here that wasn't on Exhibit No. 39 was the
6 check to Dairy Systems for \$50,000.
7 A. Yes.
8 Q. Have you found that check?
9 A. Have I found it?
10 Q. Yes.
11 A. I don't know. Did we not send it in?
12 MR. ATKIN: It's been produced several
13 times.
14 MR. COOPER: Where has it been produced
15 several times?
16 MR. ATKIN: It's exhibit to depositions --
17 MR. COOPER: Come and show me where that's
18 at.
19 A. Are they denying they didn't get it?
20 Q. Didn't you make it out to Dairy Systems?
21 A. Right.
22 Q. I have no idea what Dairy Systems says. I
23 found two checks for \$50,000. You told me that none
24 of those checks were ever funded. And the last time
25 we were here you didn't have the check. So has it

270

1 been produced someplace else? I mean we went through
2 this at length last time and you said that it came out
3 of your personal account --
4 A. It did.
5 Q. -- and you were going to find it. Have you
6 found it?
7 A. I haven't, I guess. I thought we did, I
8 thought we sent it with that other.
9 Q. Well, Exhibit No. 9 to this deposition, the
10 last time we went through this, there is the two
11 \$50,000 checks and those are the two checks you said
12 were never funded; correct?
13 A. Correct.
14 Q. You told me there was another account or
15 another check for \$50,000 and it wasn't on the Star
16 Valley Bank, it was on your personal account.

17 A. Right, it's the one I gave them that they
18 cashed.
19 Q. And we don't have it, do we?
20 A. I thought we did.
21 MR. COOPER: Do you have it?
22 MR. ATKIN: I thought we had produced it.
23 MR. COOPER: It hasn't been produced here.
24 So if you have got it someplace, do you have it in the
25 materials that you brought today?

271

1 MR. ATKIN: I don't have it today.
2 MR. COOPER: If it's been produced, you
3 ought to be able to fax it to me tomorrow, shouldn't
4 you?
5 MR. ATKIN: Yes.
6 MR. COOPER: I am going to expect it to be
7 faxed to me tomorrow. Is that fair?
8 MR. ATKIN: Yes.

Clayson deposition, Vol. II, pp. 269 - 271

The following day, Mr. Atkin did fax a largely illegible check purporting to be the \$50,000 check to Dairy Systems. (See Affidavit of Gary L. Cooper) However, no bank statement was produced showing the check cleared the account. Defendants have gone to great lengths to verify the out-of-pocket expenses Clayson claims, including the \$50,000 payment to Dairy Systems. The burden is on Clayson to prove that he incurred out-of-pocket expenses in the form of a \$50,000 payment to Dairy Systems. Even Clayson admits that the best evidence of the debts and expenses he incurred would be a check or credit card charge:

275

7 Q. What do you consider to be the best evidence
8 of the debts and expenses that you incurred to
9 refurbish that plant?
10 A. Best evidence?
11 Q. The best evidence of it.
12 A. Well, if you look at the outside, if you had
13 been there before we started, I know the person that
14 was probably the most noticeable to and impressed was
15 Morris when he came back.

16 Q. But if I wanted to verify those things,
17 wouldn't I have to find a check or a credit card
18 charge? Isn't that the best evidence of it?
19 A. Yes.

Clayson deposition, Vol. II, p. 275

For the foregoing reasons, this Court should enter an order *in limine* preventing Plaintiff from offering evidence of the \$50,000 payment by check to Dairy Systems.

E. PLAINTIFF SHOULD BE BARRED FROM PRESENTING OPINION OR EXPERT EVIDENCE

The burden is on Clayson to prove the amount of the benefit he provided to the defendants or the reasonable value of expenses incurred by him in refurbishing the Plant. It is difficult to imagine how Clayson can do that without offering opinion evidence. In fact, during his continuation deposition and in his most recent discovery responses Clayson confirms that he intends to offer opinion evidence to prove his case:

INTERROGATORY NO. 4: For the damages you allege in Count Two of your Complaint, please identify specifically how your damages are calculated and identify every document which exists which would support your claim for damages.

RESPONSE: In addition to the amounts set forth in response to interrogatory no. 3, if a jury determines that the plaintiff cannot establish a contract with the defendants, then plaintiff is entitled to the difference between the value of what the defendants received from the plaintiff and the amount that they paid for that benefit. It is undisputed that defendants paid \$800,000 for the cheese plant opportunity that they purchased pursuant to the assignment that plaintiff delivered to them.

Defendants commissioned appraisals of the equipment they purchases and it totaled \$2,760,100.00. Likewise, Defendants requested and obtained an appraisal of the land and plant and the value was reported to be \$2,100,000.00. Thus, the difference between the value of the property that defendants received and the amount they paid for it is no less than \$4,060,100.00. Under an equitable calculation of his damages, if plaintiff cannot prove a contract that is the amount he is entitled to. See Exhibit 38A to the Deposition of Clayson, Vol. II at pp. 10 - 11

During his continuation deposition Clayson was questioned about his response to the discovery identified as Exhibit 38A to his deposition:

274

5 Q. Back to Exhibit No. 38A, Page 11, you refer
6 to an appraisal of equipment of \$2,760,100.

7 A. Okay.

8 Q. That's this document Exhibit No. 11; is that
9 right, the one that was prepared by, what is it,
10 William --

11 A. Bill Sulzer.

12 Q. For that amount. That's the document you
13 are talking about; correct?

14 A. Yes.

15 Q. You also make reference in that Exhibit 38A
16 at Page 11, the answer to Interrogatory No. 4 that
17 defendants obtained an appraisal of the land and plant
18 which was reported to be 2,100,000.

19 Have you ever seen a copy of that appraisal?

20 A. I don't know.

21 Q. Do you have a copy of it?

22 A. I don't have a copy.

23 Q. Have you obtained an appraisal of the
24 property?

25 A. I haven't, no.

275

1 Q. When you come up with this difference in
2 value of \$4,060,000, isn't what you did is you added
3 the \$2,760,000 and \$2,100,000 and then subtracted
4 \$800,000, that's how you got to that number; is that
5 correct?

6 A. Right.

Deposition of Clayson, Vol. II , pp. 274 - 275

During questioning by his own attorney, Clayson again revealed that his claim for unjust enrichment will require expert testimony to prove:

284

8 Q. Mr. Clayson, do you have an idea of the
9 value of the property that you were transferring to
10 the defendants with that Exhibit No. 24?

11 MR. COOPER: Objection, lack of foundation,

12 speculation.
13 A. 500,000 -- or 5 million.
14 Q. What do you base that on?
15 MR. COOPER: Objection, lack of foundation,
16 speculation.
17 A. Based on the appraisals that were done.
18 MR. COOPER: Objection, hearsay, move to
19 strike.
20 Q. In addition to that, what was it -- were you
21 just transferring real estate and plant to them, or
22 what were you giving these guys?
23 A. Well, had they had followed the plan that
24 was originally set up --
25 Q. Whose plan?

285

1 A. The business plan that I presented them
2 with, that they went and got the money from the bank
3 with, they are possibly making a lot of money there.
4 For example, the powder, if they had followed the
5 plan, bought the powder, they would have made a
6 million dollars last year on powder by standardizing
7 the milk with powder and selling it, cheese on the
8 block market.
9 Q. So you were transferring more to them than
10 just the real estate and the plant?
11 MR. COOPER: Objection, leading, move to
12 strike.
13 A. All the connections, Joe selling the cheese.
14 Morris and Joe had markets of 25 over. I know they
15 never got that when they run it, but they could have.
16 Q. Had you put any effort into developing any
17 relationships that are useful in this business?
18 A. Yes.
19 Q. What was that?
20 A. Department of Ag, the IMPA, Idaho Milk
21 Producers, various people that would sell products to
22 us to make cheese, yeast salesmen, truckers, lots of
23 things.
24 Q. What were you going to get from the
25 Department of Agriculture?

286

1 A. They were doing the guarantee on the money.
2 Plus I have remained in there as an owner. There was

3 a grant for 750 -- there was a grant that would be
4 expended for taking an ag product and making it into a
5 better product.

6 Q. 750 --

7 A. Thousand dollar grant that didn't have to be
8 paid back.

9 Q. Who was that from?

10 A. The Department of Ag.

11 MR. ATKIN: That's all I have.

12 RE-EXAMINATION

13 BY MR. COOPER:

14 Q. Did you say that was ever paid or not paid?

15 A. Well, it was never -- we didn't qualify for
16 it when I went off the business plan.

Deposition of Clayson, Vol. II , pp. 284 - 286

In its Scheduling Order dated December 23, 2009 and in the Order Modifying Deadlines in Order Setting Jury Trial, this Court required Plaintiff to disclose expert and fact witnesses 45 days before trial and experts were to be disclosed "in the manner and with the specificity required by IRCP 26(b)(4)(A)(I)." Plaintiff has disclosed no expert witnesses. Therefore, he cannot present evidence of the value of the equipment, the value of the land, the value of the improvements or the value of the benefit he transferred to the defendants because that evidence requires expert testimony.

For the foregoing reasons, this Court should enter an order *in limine* preventing Plaintiff from offering opinion evidence or expert testimony.

F. PLAINTIFF SHOULD BE BARRED FROM PRESENTING EVIDENCE OF THE VALUE OF HIS OWN WORK

In *Gillette v. Storm Circle Ranch*, 101 Idaho 663, 667 (Idaho 1980), the Idaho Supreme Court addressed the proof necessary to prove the value of unjust enrichment of improvements to land in the form of fall work:

We also conclude that the judgment against Storm Circle must also be reversed. Although Gillette submitted proof of the cost to him of his fall work, where Storm Circle sold the farm before the crops were harvested, mere proof of his costs

was inadequate to establish the value of any benefit which Storm Circle may have received from that fall work. Unjust enrichment is an equitable doctrine and is inapplicable where the plaintiff in an action fails to provide the proof necessary to establish the value of the benefit conferred upon the defendant. See *Nielson v. Davis*, supra. Although damages need not be proven with mathematical precision, the damages, i. e., the value of any benefit unjustly received by the defendant in an action based upon unjust enrichment, must be proven to a reasonable certainty. Cf. *Olson v. Quality-Pak Co.*, 93 Idaho 607, 469 P.2d 45 (1970); *Big Butte Ranch, Inc. v. Grasmick*, 91 Idaho 6, 415 P.2d 48 (1966) (damages for breach of contract must be proven to a reasonable certainty).

In Clayson's first deposition in July of 2010, he was questioned about his claim for reimbursement of the work he personally performed to get the cheese plant ready to produce cheese:

120

4 Q. Let's go to Paragraph No. 8 of that complaint.

5 It says that you spent countless hours in working and
6 supervising the work in preparation for reopening of the
7 plant. Based on what you and I have said before, my
8 understanding is you don't have any time slips or
9 documents that were made contemporaneously with doing
10 this that documented the hours; correct?

11 A. Correct.

12 Q. And you haven't attempted after the fact to
13 document those hours?

14 A. No.

15 Q. Are you making a claim for reimbursement of
16 the countless hours in working and supervising?

17 A. That's part of it.

18 Q. So how would one calculate that?

19 A. How would we calculate how much time was
20 spent?

21 Q. Yes.

22 A. Oh, I guess you would just probably go an
23 average of 10, 12 hours a day with the exception of

24 Sunday until I left.

25 Q. And how much are you charging for this

121

1 supervising time?

2 A. Oh, I suppose ten, fifteen an hour.

3 Q. What period of time are we talking about and
4 how much are you claiming?

5 A. You know, I don't think that's very much of
6 what our claim is.

7 Q. I am just trying to figure out whether it is
8 part of your claim.

9 A. It's part of it.

10 Q. So how much is it?

11 A. I don't know, I haven't added that part up.

12 Q. Because you are just making it up as you sit
13 there?

14 A. No, I am just saying, you know, I don't know
15 how we calculated that at the time because I can't
16 remember.

17 Q. Well, and there isn't a dollar amount in --

18 A. No, there isn't, is there.

19 Q. -- in Paragraph 8.

20 A. No, there isn't. All it's saying is that,
21 hey, the guy was up there and done something and he
22 didn't get compensated for it.

23 Q. So have you made a demand on anybody for a
24 dollar amount associated with that?

25 A. I don't know if we have or not. I am sure if

122

1 we get ready and settle this, we could come up with a
2 number.

Clayson deposition, Vol. I, pp. 120 - 122

In Clayson's continuation deposition on September 30, 2010, he was again asked about this claim:

271

9 Q. Now, the last time in your deposition, Mr.
10 Clayson, we went through the allegation that you have,
11 that you performed countless hours of labor on this
12 refurbishing and remodeling of the restaurant and the
13 cheese plant, and at that time you had not identified
14 the number of hours or a total for that. Have you
15 done anything more to firm up that claim?

16 A. How many hours?

17 Q. Yes.

18 A. No. Do you need that?

19 Q. It's whether you need it or not. Have you
20 done anything further? Are you able to provide me
21 with any more documentation on that?

22 A. How would I document that?

23 Q. I have no idea, it's not my claim. Are
24 there any documents that document it? Did you keep
25 track of it while you were doing it?

272

1 A. No.

Clayson deposition, Vol. II, pp. 271 - 272

The measure of damages in a claim of unjust enrichment is the value of the benefit bestowed upon the defendant which, in equity, would be unjust to retain without recompense to the plaintiff. The measure of damages is not necessarily the value of the money, labor and materials provided by the plaintiff to the defendant, but the amount of benefit the defendant received which would be unjust for the defendant to retain.

Gillette v. Storm Circle Ranch, 101 Idaho 663, 666 (Idaho 1980)

Clayson cannot prove the value of the money, labor and materials he provided let alone the value of the benefit bestowed upon the defendants by reason of his own personal labor. For the foregoing reasons, this Court should enter an order *in limine* preventing Plaintiff from offering


evidence that he expended his own personal time refurbishing or renovating the Star Valley Cheese Plant or the value of his labors.

CONCLUSION

For the reasons stated above, this Court should enter an Order *in limine* preventing Plaintiff from offering evidence or seeking to recover the debt owed to Dairy Systems, except only to the extent of the \$50,000 that Plaintiff alleges he paid Dairy Systems; preventing Plaintiff from offering evidence regarding a partnership or plant agreement or any other kind of an agreement to pay him \$500,000 or buy his milk; preventing Plaintiff from offering evidence of out-of-pocket expenses beyond the \$28,145.94 he identified in his deposition; preventing Plaintiff from offering evidence of the \$50,000 payment by check to Dairy Systems; preventing Plaintiff from offering opinion evidence or expert testimony; and preventing Plaintiff from offering evidence that he expended his own personal time refurbishing or renovating the Star Valley Cheese Plant or the value of his labors.

DATED this 4th day of October, 2010.

COOPER & LARSEN



GARY L. COOPER

CERTIFICATE OF SERVICE

I hereby certify that on the 4^h day of October, 2010, I served a true and correct copy of the foregoing to:

Blake S. Atkin
7579 North Westside Hwy
Clifton, ID 83228

U.S. mail
 Email: blake@atkinlawoffices.net
 Hand delivery
 Fax:

Atkins Law Offices
837 South 500 West, Ste 200
Bountiful, UT 84010

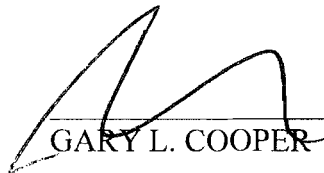
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 Fax: 801-533-0380

John D. Bowers
Bowers Law Firm
PO Box 1550
Afton, WY 83110

U.S. mail
 Email: john@thebowersfirm.com
 Hand delivery
 Fax: 307-885-1002

Honorable Stephen S. Dunn
District Judge
P. O. Box 4126
Pocatello, ID 83205

U.S. mail
 Email: karlav@bannockcounty.us
 Hand delivery
 Fax: 236-7012




GARY L. COOPER

On or about the 26th day of July, 2010, Gary L. Cooper filed an Affidavit in Support of Motion for Summary Judgment/Motion to Dismiss. Attached to that Affidavit was the following: transcript of Volume I of the deposition Gaylen Clayson together with Deposition Exhibit 13, Exhibit 14, Exhibit 16, Exhibit 17, Exhibit 19, Exhibit 24 and Exhibit 29. These documents are not submitted a second time but are referenced in the Memorandum in Support of Motion in Limine.

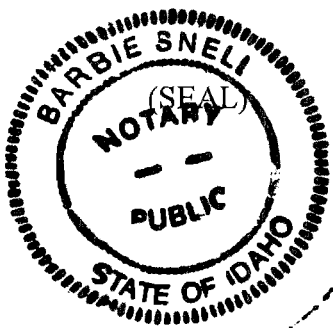
Attached to this Affidavit are true and correct copies of the following documents:


1. Transcript of Volume II of the deposition of Gaylen Clayson together with Deposition Exhibits 9, 10A, 11, 24, 35, 38, 38A, 39, 40, 40A, 41, 43 and 44
2. Fax from Blake Atkin to Gary L. Cooper dated October 1, 2010, with illegible copy of check purporting to be the \$50,000 check from Clayson to Dairy Systems..

DATED this 4th day of October, 2010.


GARY L. COOPER

SUBSCRIBED AND SWORN to before me this 4th day of October, 2010.




NOTARY PUBLIC FOR IDAHO
Residing at Pocatello
My commission expires: 6-2-2011

5

CERTIFICATE OF SERVICE

I hereby certify that on the 4^h day of October, 2010, I served a true and correct copy of the foregoing to:

Blake S. Atkin
7579 North Westside Hwy
Clifton, ID 83228

U.S. mail
 Email: blake@atkinlawoffices.net
 Hand delivery
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District Judge
P. O. Box 4126
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 Fax: 236-7012



GARY L. COOPER



DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

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GAYLEN CLAYSON,)
Plaintiff,)
vs.) Case No.
DON ZEBE, RICK LAWSON, and)
LAZE, LLC,) 09-02212-OC
Defendants.)
_____)
DON ZEBE, RICK LAWSON, and)
LAZE, LLC.,)
Counterclaim Plaintiff,)
vs.)
GAYLEN CLAYSON,)
Counterclaim Defendant.)
_____)

VOLUME II

ORAL DEPOSITION OF GAYLEN W. CLAYSON

Taken on September 30, 2010

REPORTED BY:

PAUL D. BUCHANAN, RPR, RMR,
CSR No. 7, and Notary Public

5

1 IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT
 2 IN AND FOR THE COUNTY OF LINCOLN, STATE OF WYOMING
 3
 4 LAZE, LLC, a Wyoming limited) Civil No.
 5 liability company; DON ZEBE;) 2009-89-DC
 6 and RICK LAWSON,)
 7 Petitioners,)
 8 v.)
 9 DAIRY SYSTEMS COMPANY INC.,)
 10 a Utah Corporation,)
 11 Respondent.)
 12 _____)
 13 DAIRY SYSTEMS COMPANY, INC.,)
 14 Counterclaim Plaintiff,)
 15 v.)
 16 LAZE, LLC, a Wyoming limited)
 17 liability company, DON ZEBE)
 18 and RICK LAWSON,)
 19 Counterclaim Defendants.)
 20 _____)
 21 LAZE, LLC, a Wyoming limited)
 22 liability company, DON ZEBE,)
 23 and RICK LAWSON,)
 24 Third Party Plaintiffs,)
 25 v.)

1 APPEARANCES:
 2
 3 For Gaylen Clayson: BLAKE S. ATKIN
 4 Atkin Law Offices
 5 Attorneys at Law
 6 7579 North Westside Highway
 7 Clifton, Idaho
 8
 9 For Zebe, Lawson and Laze (Idaho Case):
 10 GARY L. COOPER
 11 Cooper & Larsen
 12 Attorneys at Law
 13 151 North Third Avenue
 14 Pocatello, Idaho
 15
 16 Also Present: Don Zebe
 17 Rick Lawson
 18
 19
 20
 21
 22
 23
 24
 25

1 GAYLEN CLAYSON, MORRIS)
 2 FARINELLA,)
 3 Third Party Defendants.)
 4 _____)
 5 GAYLEN CLAYSON, MORRIS)
 6 FARINELLA,)
 7 Third Party Defendants/)
 8 Counterclaim Plaintiffs.)
 9 vs.)
 10 DON ZEBE, RICK LAWSON, SVC,)
 11 LLC, and LAZE, LLC.,)
 12 Third Party Plaintiffs/)
 13 Counterclaim Defendants.)
 14 _____)
 15 DAIRY SYSTEMS COMPANY, INC.,)
 16 Cross-Claim Plaintiff,)
 17 vs.)
 18 SVC, LLC,)
 19 Cross Claim Defendant.)
 20 _____)
 21
 22
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1 I N D E X
 2
 3 Examination By: Page
 4
 5 Mr. Cooper 218
 6 Mr. Atkin 282
 7 Mr. Cooper 283
 8 Mr. Atkin 284
 9 Mr. Cooper 286
 10
 11 Exhibits:
 12
 13 No. 10A - Bank of Star Valley Records 231
 14 No. 38A - Plaintiff's Discovery Responses 219
 15 No. 39 - List of Expenses 228
 16 No. 40 - Chase Credit Card Statements 222
 17 No. 40A - Bank of America Credit Card 222
 18 Statements
 19 No. 41 - Chase Credit Card Statement 225
 20 No. 42 - List of Expenses 273
 21 No. 43 - Amended Counterclaim - Wyoming 230
 22 No. 44 - Dairy System's Cross-Claim 230
 23
 24
 25

1 BE IT REMEMBERED that on September 30, 2010,
2 at the hour of 2:00 p.m. the deposition of GAYLEN W.
3 CLAYSON, produced as a witness at the instance of the
4 defendants in the above-entitled action now pending in
5 the above-named court, was taken before Paul D.
6 Buchanan, CSR #7, and notary public, State of Idaho,
7 in the law offices of Cooper & Larsen, 151 North Third
8 Avenue, Second Floor, Pocatello, Bannock County,
9 Idaho.

10
11 WHEREUPON, the following proceedings were had:

12
13 GAYLEN W. CLAYSON,

14 called at the instance of the defendants, having been
15 first duly sworn, was examined and testified as
16 follows:

17
18 EXAMINATION

19 BY MR. COOPER:

20 Q. Mr. Clayson, this is a resumption of the
21 deposition that we started back on July 14 of 2010,
22 and just to kind of bring us up to speed on this, at
23 the time we recessed your deposition I submitted some
24 written discovery requests seeking some more
25 information. I have received a response to that and I

1 have marked that as Deposition Exhibit No. 38A, and
2 that was signed by your attorney.

3 Have you had an opportunity to read what is
4 entitled Plaintiff's Response to Defendants' Discovery
5 to Plaintiff?

6 A. I glanced through most of it, yes.

7 Q. In a few minutes we are going to go through
8 that but I just want to cover a couple of other
9 things. You are familiar with Exhibit No. 24? We
10 went over this in some --

11 A. Okay.

12 Q. You recall that document?

13 A. Yes.

14 Q. You know what it is now; right?

15 A. Yes.

16 Q. It's dated November 4, 2008, and that is in
17 fact your signature on that document; correct?

18 A. Yes.

19 Q. In return for signing that document did Don
20 Zebe or Rick Lawson agree to do anything?

21 A. I guess I'm not sure what I am referring to.
22 Was there an agreement made? What are you saying?

23 Q. Yes. In connection with signing this
24 assignment did Don Zebe or Rick Lawson agree to do
25 anything?

1 A. I don't recall anything at this time.

2 Q. At the time this agreement was executed was
3 Don Zebe present in the same room where you signed it?

4 A. I don't remember where I signed it at.

5 Q. Then I think your answer to the next
6 question is going to be the same, but do you recall
7 whether Rick Lawson was in the same room when you
8 signed that document?

9 A. I don't.

10 Q. When you signed that document, was there
11 anyone else present in the room?

12 A. I don't know.

13 Q. Well, it was notarized by a Sheri Jan Jeter,
14 who was a notary public for the State of Idaho
15 residing in Pocatello. Do you know who Sheri Jan
16 Jeter is?

17 A. No.

18 Q. Do you recall that you signed this Addendum
19 A1, the assignment in front of a notary?

20 A. I don't, I don't remember it.

21 Q. Let's go to the first exhibit there, Exhibit
22 No. 38A. Turn to Page 3. When I served this, if I
23 recall correctly I served it on the day of your
24 deposition, I requested that you produce Bank of
25 America credit card statements for the time period

1 June 1, 2008, through October 30, 2008. And the
2 response was such documents will be produced. Have
3 you produced those documents?

4 THE WITNESS: Didn't we produce those
5 documents?

6 MR. ATKIN: I think so.

7 A. I thought we did.

8 Q. When?

9 A. I don't know.

10 Q. Who was the account holder with Bank of
11 America, in whose name was the account?

12 A. I'm not sure on that.

13 (Pause in proceedings.)

14 Q. Wasn't Bank of America your personal
15 account?

16 A. I'm not sure; either mine or my wife's.

17 Q. I mean it was a personal account, it wasn't
18 a business account for --

19 A. It could have been under Cedar Arch Dairy, I
20 can't recall at this point.

21 MR. COOPER: Blake, when did you produce
22 this?

23 MR. ATKIN: You know what, I don't know the
24 answer to that question.

25 MR. COOPER: I don't think you did.

1 MR. ATKIN: Are you asking --
 2 MR. COOPER: Bank of America records.
 3 No. 1 --
 4 MR. ATKIN: There are some Bank of America
 5 records here. Those aren't the ones, Exhibit No. 40?
 6 Q. Well, there is Chase.
 7 MR. ATKIN: There is also Bank of America.
 8 MR. COOPER: Where is Bank of America at?
 9 MR. ATKIN: If you go back in that pile.
 10 MR. COOPER: To what exhibit?
 11 MR. ATKIN: Exhibit No. 40.
 12 MR. COOPER: So what you are telling me --
 13 oh, I do see Bank of America, I apologize.
 14 Q. (By Mr. Cooper.) Exhibit No. 40, are these
 15 the Bank of America records that you referred to?
 16 A. Yes.
 17 MR. COOPER: Let's mark those as Exhibit
 18 40A. I am going to put a sticker on those records
 19 where they begin.
 20 Q. So let's just talk about Exhibit 40A right
 21 now. I asked you to produce credit card statements
 22 for the time period June 1, 2008, through October 30,
 23 2008. Are these credit card statements?
 24 A. Yes.
 25 Q. And they appear to be for what period of

1 time?
 2 A. Well, August, September, August, September.
 3 Q. Would you agree that it appears --
 4 A. October, November.
 5 Q. Where is October-November?
 6 A. On the end.
 7 Q. So it appears to be for the period August,
 8 September, October, and November. Did you have this
 9 account before that time?
 10 A. Yes.
 11 Q. Were you not able to find the records prior
 12 to August of --
 13 A. Didn't use it before then, it was kind of
 14 dormant during that time.
 15 Q. So what you did is you produced all of the
 16 records for uses in that period of time that I asked
 17 for; is that correct?
 18 A. Yes.
 19 Q. So these are correct?
 20 A. As far as I am aware, they are.
 21 Q. We'll come back to these and I'll ask some
 22 more questions about them. I just want to make sure I
 23 know what I have got, and, as you can see, I wasn't
 24 tracking completely. Request No. 34 on Exhibit
 25 No. 38A, I asked for the U.S. Bank credit card

1 statements for the time period June 1, 2008, through
 2 October 30, 2008. Exhibit No. 40 are records from
 3 Chase and it looks like you had a MasterCard at Chase;
 4 is that correct?
 5 A. It looks like it.
 6 Q. And that was in your personal name -- excuse
 7 me, in your wife's name, Donna R. Clayson; is that
 8 right?
 9 A. Right.
 10 Q. Were you able to use that account?
 11 A. Yes, I was on it.
 12 Q. You were on it as well. And it looks like I
 13 have mixed in here, there is a U.S. Bank account in
 14 there as well, the second page; correct?
 15 A. Yes.
 16 Q. And then it picks up with Chase, U.S. Bank,
 17 it looks like they are mixed in there pretty
 18 liberally. So let's try to figure out for Chase what
 19 we have here. We have records, the first page is for
 20 October 19 to November 18. The third page is for the
 21 period October 19 to November 18. And then the last
 22 two pages of that exhibit are some typewritten
 23 records. Can you tell me what those are?
 24 A. I guess expenses that were incurred up
 25 there.

1 Q. Where did this information come from? The
 2 portion that says 9/5/2008 debit, Maverik Country
 3 Store, minus \$50.08, how was this generated? This
 4 didn't come from the bank; correct?
 5 A. I am thinking, I didn't do that, but I am
 6 thinking they pulled it off from these credit cards.
 7 Q. Who did?
 8 THE WITNESS: Is that Julie that did that?
 9 I can't remember who did it.
 10 A. I think it was, my accountant.
 11 Q. Your accountant you think is the person that
 12 generated these two pages that have Bates numbers
 13 Clayson CC8 and 9; correct?
 14 A. Yes.
 15 Q. Go to Exhibit No. 41. That's another Chase
 16 statement for the period 2/19/09 through 3/18/09; is
 17 that correct?
 18 A. Yes.
 19 Q. And that's for the same account?
 20 A. I'm not sure what this one is. It must be a
 21 different account. I wouldn't know what it would be
 22 in there for if it covers that period.
 23 Q. That's what I wondered, too.
 24 A. Just pulled up every credit card we had, I
 25 guess.

1 Q. It doesn't appear --
 2 A. No.
 3 Q. -- that there were any charges during that
 4 period of time.
 5 A. No.
 6 Q. Let's go back to Exhibit No. 38A. I asked
 7 for U.S. Bank credit card statements, and Exhibit
 8 No. 40 contains some of those and that is for an
 9 account in the name of Gaylen and Donna. Is that how
 10 that was held?
 11 A. Yes.
 12 Q. And even though it's kind of mixed in here
 13 with the Chase Bank, you found all of the credit card
 14 statements for the relevant period where charges were
 15 made, correct, and produced them?
 16 A. Yes.
 17 Q. So between the U.S. Bank, the Chase, and the
 18 Bank of America statements that comprise Exhibit 40,
 19 40A, and 41, we have all of the relevant statements;
 20 is that right?
 21 A. I would think so, yes.
 22 Q. Did you also produce your U.S. Bank personal
 23 account?
 24 A. I'm not sure what we done on that.
 25 Q. Well, it looks like you produced one for

1 the discovery responses. And I want you to go to your
 2 response to Interrogatory No. 3, which is found at
 3 Pages 9 and 10.
 4 A. Okay.
 5 Q. Does the list on Page 9 and at the top of
 6 Page 10, which ends in a total of \$124,108, in other
 7 words, all of the charges above that, do those charges
 8 represent the expenses that you incurred in renovating
 9 the Star Valley Cheese plant to make it operational?
 10 A. It appears that it could represent all of
 11 that; I can't think of anything --
 12 Q. There is one other thing, and that's Dairy
 13 Systems, and that's the next two lines.
 14 A. Right.
 15 Q. Besides Dairy Systems, does this represent
 16 the total of all of the expenses that you are claiming
 17 that you incurred in renovating the Star Valley Cheese
 18 plant to make it operational?
 19 A. Yes.
 20 Q. So I just want to go back and check this
 21 against some other things here. Look at Exhibit
 22 No. 39.
 23 A. Okay.
 24 Q. Take a moment and look at that. As I look
 25 at it, it appears to be identical to the list in

1 Gaylen and Donna. Did you have one in a business
 2 name?
 3 A. No.
 4 Q. So remind me, for the operations at the Star
 5 Valley Cheese Company you had a checking account in
 6 Star Valley, Wyoming, and we went over that
 7 previously.
 8 A. Yes.
 9 Q. In fact let's just verify for the record
 10 that that's these records that we marked as Exhibit
 11 No. 10 previously; is that right?
 12 A. Okay.
 13 Q. For the Bank of Star Valley; right?
 14 A. Yes.
 15 Q. And then you had various personal credit
 16 cards that you ran some of the expenses through; is
 17 that right?
 18 A. Yes.
 19 Q. So between the Star Valley Bank records and
 20 these credit card records I should have every place
 21 where a charge for a renovation or improvement at the
 22 Star Valley Cheese Company was processed through; is
 23 that right?
 24 A. I would think so, yes.
 25 Q. So now let's turn back to Exhibit No. 38A,

1 answer to Interrogatory No. 3 on Exhibit No. 38A with
 2 the exception of the last item, and that's that Dairy
 3 Systems \$50,000 check. Do you agree?
 4 A. It appears that way. Where was that page
 5 at?
 6 Q. Exhibit No. 38A, Pages 9 and 10. Just take
 7 a moment and compare it. I don't want to rush you
 8 through that.
 9 (Pause in proceedings.)
 10 A. Okay.
 11 Q. Do you agree?
 12 A. Yes.
 13 Q. Now, who prepared Exhibit No. 39?
 14 A. This one here (indicating)?
 15 Q. Yes, the handwritten one.
 16 A. I'm not sure; it looks like my writing
 17 there.
 18 Q. That's what I thought, it's your
 19 handwriting, isn't it?
 20 A. It appears to be.
 21 Q. Now, how did you prepare Exhibit No. 39,
 22 what were you looking at to come up with these
 23 numbers?
 24 A. We just went through the checks -- or the --
 25 yeah, the different things that we had spent, you

1 know, the credit cards and --
 2 Q. So you looked at either that Star Valley
 3 account or the credit card statements that we just
 4 identified; correct?
 5 A. Probably, yes.
 6 Q. So we are going to go through that process.
 7 A. Okay.
 8 Q. But I am going to have to make another copy
 9 of Exhibit No. 10 so you have got the same thing as I
 10 do.
 11 MR. COOPER: Let's go off the record for a
 12 minute.
 13 (Discussion off the record.)
 14 Q. Regarding the debt to Dairy Systems, has
 15 Dairy Systems filed suit against you?
 16 A. No.
 17 Q. You know that Dairy Systems has filed suit
 18 against Don Zebe, Rick Lawson, and Laze, LLC, in
 19 Wyoming; correct?
 20 A. Yes.
 21 Q. In fact, if you would just verify for me
 22 that Exhibit No. 43 and 44 -- Exhibit No. 43 is the
 23 amended counterclaim by which Dairy Systems brought a
 24 counterclaim against Laze, LLC, Zebe and Lawson for
 25 the bills that it incurred in doing the work at the

1 cheese plant; correct?
 2 A. Yes.
 3 Q. And then Exhibit No. 44 in a cross claim
 4 Dairy Systems also sued the LLC called SVC, LLC, for
 5 those same debts; correct?
 6 A. Okay.
 7 Q. Do you agree?
 8 A. Yes.
 9 MR. COOPER: Let's go off the record.
 10 (Discussion off the record.)
 11 MR. COOPER: I am going to mark this as
 12 Exhibit No. 10A, because we are going to mark this one
 13 up.
 14 Q. I am going to take Exhibit No. 39 and I am
 15 going to do this. The left-hand column here, I am
 16 going to put an A, B, C by each one of these line
 17 items. I put an A through T for each of the line
 18 items on Exhibit No. 39, so as we go through these
 19 credit card and bank records, when you find a charge
 20 which goes to plumbing or whatever the other line
 21 items are, we are going to put an A by it so we can
 22 identify it.
 23 A. Okay.
 24 Q. So there is the list. Let's start with
 25 letter A. You know this better than I do so I don't

1 want to waste time going through records where it's
 2 not going to be. For the line item plumbing for July,
 3 where are we going to find that, in the checks or the
 4 credit cards?
 5 A. I am thinking in the checks.
 6 Q. So that would be in the Star Valley Bank;
 7 correct?
 8 A. Yes.
 9 Q. So you start looking there and when you find
 10 one that matches the July plumbing, tell me and we'll
 11 make a mark by it so we can keep track of this.
 12 A. Now, these checks, all they have is the
 13 amount that it was made out for, right, it doesn't say
 14 who they are to?
 15 Q. Well, I'll tell you, I think maybe initially
 16 what you are looking at are deposits and it wouldn't,
 17 but if you go over to Bank of Star Valley 000011, you
 18 are going to start seeing checks, and it does have the
 19 amounts.
 20 A. It does, but it doesn't say who to, does it?
 21 Q. Yes. When you finally get to a check -- you
 22 are looking at the deposits.
 23 A. Okay.
 24 (Pause in proceedings.)
 25 Q. As we look through these, who are we looking

1 for?
 2 A. I am trying to think who the guy was up
 3 there, a local fellow.
 4 Q. Is it Johnson Plumbing?
 5 A. Where do you find that?
 6 Q. Well, I am looking on Bank of Star Valley
 7 14, and you will find one for Johnson Plumbing, July
 8 24, '08. But the reason I asked you if it was Johnson
 9 is on Exhibit No. 39 someone has written to the
 10 right-hand side of July and it looks like it says
 11 Richter or Rick, I can't make it out. Can you help me?
 12 A. Where is that at?
 13 Q. Exhibit No. 39, right there (indicating).
 14 And I thought maybe that was the name of the plumber
 15 or something.
 16 A. I'm not sure. No, I think the Johnson was
 17 one of them there. It was two or three different --
 18 there is another Johnson Plumbing over here
 19 (indicating).
 20 Q. What I want you to do is on Exhibit No. 10A,
 21 I want you to take your pen, and by each one that goes
 22 into that 2,250 I want you to put an A beside it.
 23 Which one are you marking, is it 543?
 24 A. 543.
 25 Q. And 540, is that the other one?

1 A. Yes.
 2 Q. So you are going to put an A beside it. Did
 3 you do that?
 4 A. Yes.
 5 Q. Why don't you put it out to either the left
 6 border or the right border so there won't be confusion
 7 about it.
 8 A. (Witness complies.)
 9 Q. Turn to the next page, there is another one,
 10 July 29; right?
 11 A. Yes.
 12 Q. So you put an A beside that?
 13 A. Yes.
 14 Q. Now, you have got this for July plumbing,
 15 what did that mean, checks that you wrote in July for
 16 plumbing charges?
 17 A. Yes, in the restaurant.
 18 Q. So we have identified all of them; is that
 19 right?
 20 A. Well, unless some of them would have carried
 21 over into August.
 22 Q. Take a look at that and see if that's the
 23 case.
 24 A. Okay. Here is a Johnson Plumbing on the
 25 bottom, 8/6/08, Check No. 508.

1 finding that check amount.
 2 Q. The 1,857 and 2,200, what's the difference
 3 there?
 4 A. Three or four hundred.
 5 MR. ATKIN: \$218 check to Johnson Plumbing,
 6 Page 15.
 7 A. Page 15, I better mark it, I guess. Where
 8 is Page 15?
 9 Q. It's the one that has just got two checks on
 10 it.
 11 A. Okay. What's the difference?
 12 MR. ZEBE: Is it 2,250?
 13 MR. COOPER: It was.
 14 MR. ZEBE: \$393.
 15 A. Look for a parts place. That could be on
 16 the cards, too. Let me go through them real quick.
 17 Q. I just want you to remember that the line
 18 item here is the July plumbing, and, as I said, I
 19 don't have any charge cards for July, because I don't
 20 think you were using credit cards then.
 21 A. How would I have paid for that? I can't
 22 imagine we would have paid cash for that because I
 23 don't know how we would have tracked it back.
 24 MR. ZEBE: He thinks it's a 6 and I think
 25 it's an 8, so I can't add, I am sorry.

1 Q. The check is actually dated July 4 of 2008,
 2 isn't it.
 3 A. Yes.
 4 Q. So you are going to put an A beside that
 5 one?
 6 A. Yes.
 7 Q. That's for 665?
 8 A. Yes.
 9 Q. Do you see any other checks that you feel
 10 should go into that?
 11 (Pause in proceedings.)
 12 A. I am thinking there was some parts that made
 13 that up.
 14 Q. Go ahead and see if you can find them.
 15 A. What are we at now?
 16 MR. ZEBE: 1,857.
 17 A. I think there were some parts and I'm not
 18 sure what we put them under.
 19 Q. I don't see any credit card statements for
 20 July, so I wouldn't find those parts in that, would I?
 21 A. I don't know.
 22 Q. Well, you are welcome to take a look.
 23 (Pause in proceedings.)
 24 A. What would the difference be on what we have
 25 got now and what we need? That might help just

1 THE WITNESS: 320, 330.
 2 (Pause in proceedings.)
 3 MR. ZEBE: 378.
 4 Q. I just looked at the detail on the checks
 5 for July and August and I don't see one in that
 6 amount. Have you been able to find any place where
 7 that amount appears, Mr. Clayson?
 8 A. No, that's what I am thinking it must be a
 9 part, parts. We bought some parts for those urinals
 10 in there, that's what I am thinking it was, but I
 11 don't remember how we paid for them.
 12 Q. Let's move to the second item, B, if we run
 13 across it somehow in looking at this stuff, we will
 14 add it back to it. B is still plumbing, and that's
 15 \$12,800 for September plumbing. Do you agree?
 16 A. Yes, and I have got one here on Page 36 for
 17 Casey Monson, B, which would be \$10,772, and I know
 18 there is another payment to him but I'm not sure how
 19 we did that one.
 20 Q. Mr. Clayson, we would be looking for a
 21 check; correct?
 22 A. I'm thinking that's the way it would have to
 23 be.
 24 Q. And are you able to find a check for more
 25 than --

1 A. The original check is \$10,772, and we have
2 got 12,800, so it would be --

3 MR. LAWSON: \$2,027.59

4 A. Yes. He did that before. That was on his
5 first time in there which I am thinking was a week or
6 two ahead of that. That was on September 30. He
7 worked in there sometime after the first, I think it
8 was. I remember paying --

9 Q. How much was it?

10 A. Two thousand bucks. He lives in Blackfoot,
11 I can get a recap from him on that.

12 Q. Well, if you want to make a supplemental
13 response to discovery, I would suggest that you do it
14 and provide those records immediately. What did you
15 come up with --

16 MR. LAWSON: \$10,772.41.

17 Q. Let me just ask you this, on these two
18 plumbing items, A and B, what was this for?

19 A. Well, the first one was primarily in the
20 restaurant. When we got there they had a pump or
21 something that was pumping from the bathroom into the
22 main system, because it was all shut down. But they
23 never serviced the valves and they was leaking and
24 just various times he came back and fixed pieces in
25 the restrooms.

1 Q. Well, it was actually repairs to equipment
2 versus unplugging a plugged line --

3 A. Right. And then the second one, he went
4 into the back, in the plant, and they hadn't
5 winterized it when they shut it down, and there was
6 pipes broken.

7 Q. So he made repairs to equipment.

8 A. Major repairs on the plumbing.

9 Q. And the plumbing, okay.

10 A. And in conjunction with that, if he still
11 has it, I will have him give us a copy of what he did.

12 Q. If you have that, get it, produce it in a
13 supplemental discovery response.

14 THE WITNESS: You write that down so we have
15 it.

16 Q. Let's go to C, it's for \$823 and the
17 abbreviation Ref on restaurant. Help interpret.

18 A. Probably refurbishing but I don't know. I
19 am thinking, it comes to mind, that was the first,
20 when we did the -- I don't know, I would have to look
21 through here to find it.

22 Q. Do. That's why I have got all of this
23 stuff. Do you know who it would be to or are you just
24 going to look for a number that matches?

25 A. I'm not sure what it is. What's the next

1 one there, D is -- oh, that's for the milk, we joined
2 that Idaho Milk Producers Association.

3 Q. How did you pay for that?

4 A. I'm thinking it was out of a check. I seen
5 it, I thought, when we went through here, it would be
6 in probably August.

7 Q. What was its purpose? What was the purpose
8 of being registered with that --

9 A. Well, if you are a member of that
10 association, you get updated on the markets and the
11 changes in the laws and packaging and all of that
12 stuff that goes with milk. Everybody is a member of
13 it that produces milk or processes. They had their
14 big convention deal in August, and --

15 Q. But you weren't producing any cheese at that
16 point.

17 A. No, we weren't, but they suggested that
18 we --

19 Q. Who is "they"?

20 A. The IMPA sent us a letter and said we
21 understand that you are going to be producing milk and
22 we invite you to come to our annual meeting in Sun
23 Valley and join the association.

24 Q. Did you go to it?

25 A. Yes.

1 Q. So is this \$750, is that for attending the
2 convention as well as becoming a member?

3 A. I think it was.

4 Q. You would agree with me that that in no way
5 enhanced the value of the building or its equipment;
6 correct?

7 A. No, I would say that being a member of that
8 puts you in line to get it moving into production.

9 Q. But it didn't increase the value of the
10 building or the lot or any of the equipment in it, did
11 it?

12 A. Well, if you are going to run the plant, you
13 about need to be a member, so however you want to
14 interpret it.

15 Q. But you weren't running the plant at that
16 point; correct?

17 A. Not yet.

18 Q. And you certainly could have become a member
19 at some later time.

20 A. But they had their annual meeting and there
21 was things there that were presented --

22 Q. That were useful in your dairy operation
23 here in Idaho; correct?

24 A. No, they weren't for dairymen, they were for
25 milk processors.

1 Q. Have you found the check?
 2 A. I haven't. It must be back earlier.
 3 Q. Go ahead, take your time.
 4 (Pause in proceedings.)
 5 Q. Have you been able to find it?
 6 A. No, I am just trying to recall. I run
 7 across it earlier. Well, let's move on and then when
 8 we come across it, I can mark it off.
 9 Q. That's fine. I agree with you. Let's go to
 10 E. What's that?
 11 A. It's a toaster for the restaurant.
 12 Q. Where are we going to find that, in the
 13 checks or the credit cards?
 14 A. Probably the credit cards. I am going to
 15 start down on these Jensen's paint, do I put that on
 16 the side of here (indicating)?
 17 Q. Yes, what are you on, Exhibit 40A?
 18 A. I am on F. And part of that was we bought
 19 the paint that went with that.
 20 Q. And so just tell me which ones you are
 21 marking.
 22 A. Columbia Paint on a Bank of America.
 23 Q. And that's for \$1,256.74?
 24 A. Yes. And on the second page, Columbia
 25 Paint, Idaho Falls.

1 Q. For \$379.14, okay.
 2 A. And down on the bottom Columbia Paint,
 3 626.37 --
 4 Q. I think it may be \$628.37.
 5 A. And then the balance of that would be a
 6 check -- let's see, how would we have gotten that
 7 check to them.
 8 Q. Who would we be looking for?
 9 A. Well, it would be a check to Jensen. I am
 10 thinking we wrote that on one of the Bank of
 11 America's, but I am not sure how you would find out
 12 what the check --
 13 Q. Instead of Star Valley?
 14 A. I'm thinking. Let's see, balance
 15 transfers -- no. Let's see. Where would they show
 16 the check?
 17 Q. You are thinking it's what, U.S. Bank?
 18 A. No, it's on Bank of America.
 19 Q. Bank of America, okay.
 20 A. But I don't see where they do -- it says
 21 checks, you know, in the categories on Page 10 and 11
 22 or whatever that is -- right here (indicating), they
 23 have got these checks that are wrote out but they
 24 don't say what they are for.
 25 Q. What page are you looking at, what's the

1 Bates number up there?
 2 A. Page 10.
 3 Q. I am looking at it, too.
 4 MR. ZEBE: What's the painting number,
 5 3,250 --
 6 THE WITNESS: That's what the paint came to
 7 that we paid for.
 8 MR. COOPER: 13,100; correct?
 9 MR. ZEBE: No, 3,250.
 10 THE WITNESS: No, 13,100.
 11 MR. ZEBE: That's your paint, okay.
 12 A. I think that other paint is the paint that
 13 went on the floors.
 14 Q. Let's not go to that one. Let's just stay
 15 on F. \$13,100 is what we are looking for.
 16 A. We should have a check out of one of these
 17 credit cards that paid him the difference.
 18 MR. ZEBE: \$10,815.95 is the balance.
 19 A. Let's see, we could have wrote the deal out
 20 to Star Valley and then paid him that way.
 21 Q. Would it have been in August?
 22 A. Let's see, where is that paint at? It was
 23 8/20, so it's probably the end of August.
 24 MR. COOPER: Off the record.
 25 (Discussion off the record.)

1 Q. Did you find anything else for F?
 2 A. No.
 3 Q. So what do we have so far on F?
 4 MR. ZEBE: We have got a balance --
 5 MR. COOPER: No, how much do we have found?
 6 MR. ZEBE: \$2,284.05.
 7 Q. Do you want to move to the next one, G?
 8 A. Yes. That's just other paint --
 9 Q. Is that what it says, other paint?
 10 A. Yes, that's probably the -- I'm not sure
 11 what that would be. Probably it's under -- there is a
 12 store out at the edge of town, tile and carpet.
 13 Q. What you are saying is you think you bought
 14 some paint out there or something?
 15 A. Yeah, I know we did some. We did some with
 16 hardware, some that we painted floors with.
 17 Q. Is it Carpets Plus Color Tile, is that what
 18 you are looking for?
 19 A. Yes, where is that at?
 20 Q. I found it on this typewritten thing but I
 21 haven't found anything like that on a charge card
 22 or --
 23 A. Where do you find it on there?
 24 Q. It's on Exhibit No. 40, the last two pages,
 25 you will see that there is a debit charge at Carpets

1 Plus Color Tile, there are several of them in
 2 September of '08.
 3 A. Yes.
 4 Q. So where do I find those?
 5 A. Where is it at here, which page?
 6 Q. Here (indicating). It has a Bates number of
 7 Clayson 8 and 9.
 8 (Pause in proceedings.)
 9 Q. Have you found any checks or credit card
 10 charges or debit charges to support that?
 11 MR. ZEBE: Gary, I found something here.
 12 (Discussion off the record.)
 13 Q. Mr. Clayson, look at Exhibit No. 40A, the
 14 first page. You marked an item on Columbia Paint on
 15 that first page of Exhibit 40A for \$1,256.74. But
 16 then go up to the top, do you see where that was
 17 credited back?
 18 A. I think he charged that after we had paid
 19 him or didn't have authorization or something, I can't
 20 remember what that was.
 21 Q. So the Columbia Paint credited back to you,
 22 so it's a wash; correct?
 23 A. Right, on that one it was.
 24 Q. And then the same thing happened on the --
 25 where is that charge at? If you go to the third page

1 time to go through here and made sure we had all of
 2 the records from which we could do that.
 3 A. I think these balance transfers down here
 4 are checks that are made out.
 5 Q. What document are you looking at?
 6 A. On any of them, Page 4 --
 7 Q. Exhibit 40A?
 8 A. Yes, 40A, there is a Page 4. You have
 9 several --
 10 Q. Let's just make sure we are on the same
 11 thing. What do you mean Page 4?
 12 A. Well, in the thing here --
 13 Q. Well, what's the Bates number up there, is
 14 it 13?
 15 A. 10 of 1 or whatever. 13, I guess is the
 16 page.
 17 Q. Bates number Clayson 13. So what are you
 18 looking at there?
 19 A. Well, you have got your Check 9H, Check
 20 9H --
 21 Q. Where are you looking at?
 22 A. Right there (indicating). I don't know what
 23 it means. But that's where the money is coming out of
 24 and I don't know -- it's from checks but they don't
 25 show the checks he wrote. Do you follow what I mean?

1 of Exhibit No. 40A, the 628.37, that was also credited
 2 back, wasn't it?
 3 A. That's on where?
 4 Q. Well, you marked it on Page 3, but if you
 5 stay on Page 1, do you see just above the credit we
 6 just talked about, there is another credit for that
 7 exact amount.
 8 A. Yes, I think he had charged the paint or
 9 they did or something, and then we had already paid
 10 him so they credited back.
 11 Q. So can you find the check for -- how much
 12 have we been able to verify on that?
 13 MR. ZEBE: \$379.
 14 MR. COOPER: Even?
 15 MR. ZEBE: Even.
 16 Q. So have you been able to find a check or
 17 a -- I assume you have dealt with him in a check,
 18 right, rather than a credit card?
 19 A. Yes, it was a check from the credit card but
 20 I am not sure how we paid that. Whether we gave him a
 21 check wrote on the credit card or whether we put that
 22 in an account. Too bad April is not around; she is
 23 the one that done that.
 24 Q. Well, if you can find anything here to
 25 verify those numbers, tell me. That's why I spent the

1 Q. It just tells you what the fee is for doing
 2 that, what the rate is.
 3 A. Well, but there were some checks wrote and I
 4 don't see -- because then it updates your balance,
 5 see, purchases of such and such and then I don't show
 6 any records of checks and I know we wrote three or
 7 four checks out to get the balance that high.
 8 Q. Well, if you go over on the first page of
 9 Exhibit No. 40A, I think it lists your checks.
 10 A. Where is that at?
 11 Q. The first page of Exhibit 40A. There is a
 12 check for 10,000, a check for 8,621, there is a check
 13 for 9,000.
 14 A. Well, that's what we need to find out, what
 15 they are.
 16 Q. I agree, but based on what you have in front
 17 of us, what you have produced, you can't determine
 18 that, can you?
 19 A. I can't determine that because it doesn't
 20 show what the check is for.
 21 Q. So have you been able to identify anything
 22 that goes under G for other paint for the plant?
 23 A. Not a significant amount under that.
 24 Q. Well, I am willing to look at anything.
 25 A. Well, you have got some to True Value there

1 I know for paint, but it doesn't say paint on there.
 2 Q. And you can't tell whether it was paint or
 3 something else; right?
 4 A. No, not without . . .
 5 Q. So let's just talk about these two things
 6 about paint to the plant. What was painted?
 7 A. Well, we painted the exterior, all of the
 8 cement.
 9 Q. Was that Jensen that did that?
 10 A. Yes.
 11 Q. So the bigger charge was for painting the
 12 exterior.
 13 A. Yes. He painted all the exterior, the base
 14 and all the way around, the wood up front on the
 15 restaurant. And then he went inside and painted the
 16 vat room, all the vat floor, and the silos, painted
 17 them, and the unloading, the receiving area, he
 18 painted all of that. Some of the other paint, as I
 19 think about it, we painted the floors in that room.
 20 Q. In what room?
 21 A. In the receiving room with a real hard
 22 surface paint, you know, one that's water resistant.
 23 We painted some other areas that were high use up in
 24 the make room on the floor that was there. But I know
 25 they are in the check part and I am going to have to

1 get a copy of the checks to find out how we broke them
 2 out. Evidently we wrote out the checks.
 3 Q. You will agree with me, though, as far as
 4 the paint, Items F and G, the only thing we have been
 5 able to verify here is a charge of \$379 for paint;
 6 correct?
 7 A. Right.
 8 Q. So let's go to H. What is that? Is that
 9 tile repair in the plant?
 10 A. Yes.
 11 Q. For \$1,100. Where would we find that?
 12 Would we find that in the checks on Star Valley or in
 13 one of the credit card or bank statements of your
 14 personal?
 15 A. Well, I am thinking that -- where is that
 16 place that we had, the tile place?
 17 Q. Remember that was in Exhibit No. 40 and it
 18 was Clayson Page 8 and 9, the Color Tile. But can you
 19 find that in the actual statements themselves?
 20 A. Where do you find Color Tile, where is that?
 21 Q. Up. Do you see it says Carpets Plus Color
 22 Tile, there are two of them right there, 9/19?
 23 A. That's probably where that one is. I mean
 24 that amounts to \$2,000.
 25 Q. But this is just somebody's summary here. I

1 want to find it in your actual statements.
 2 A. Evidently we are pulling them, I don't know
 3 how we did that, but we pulled off from here
 4 (indicating) --
 5 Q. Show me where.
 6 A. Well, I don't know. I guess all I am saying
 7 is if you took the 34,000 and broke it down, that's
 8 where you would find it. It looks to me that's what
 9 we are going to have to do, is have them --
 10 Q. Well, for the moment, other than that
 11 summary that somebody else, perhaps your accountant
 12 prepared, you can't find for me any specific debit
 13 charge or credit charge or check that supports for the
 14 tile repair; correct?
 15 A. Right.
 16 Q. So let's go to Item I, it looks like it's
 17 Josh, labor for \$5,600; correct?
 18 A. Yes.
 19 Q. Who is Josh and what labor was he
 20 performing?
 21 A. Well, we hired Josh as a plant operation man
 22 back in, I guess it was, what, August. And we just
 23 used him to --
 24 Q. Who is "we"?
 25 A. Who was up there, I guess me and Rick and

1 Don. We hired him to come in and get the plant ready
 2 to go. So he helped the plumber, he helped the
 3 electrician, he helped everybody.
 4 Q. This isn't somebody who was just working in
 5 the restaurant, he was actually out there trying to --
 6 A. He was working in the plant trying to get it
 7 ready.
 8 Q. You say that was in August and his name
 9 is --
 10 A. Josh Flud.
 11 Q. Josh Flud. I assume you gave him a check.
 12 A. Yes, he has got several checks in here.
 13 Q. He is Item I.
 14 A. Let's look at both of his and April's, I and
 15 J.
 16 Q. Perfect.
 17 A. And they started about the same time,
 18 probably the first of August, let's go for that.
 19 Q. What did you say his name was?
 20 A. Josh Flud. Here is one for April -- how did
 21 I get clear to 9?
 22 Q. If you go to Bank of Star Valley, Bates
 23 No. 23, there is an April McMurdo. Is she the April?
 24 A. Yes.
 25 Q. There is also a guy by the name of Josh

1 Peavler. Is that the same Josh you are looking for?
 2 A. It shouldn't be. I didn't know there were
 3 two Joshes up there.
 4 Q. Look at Bank of Star Valley, it's Check
 5 No. 557 for \$150. I can't read the handwriting.
 6 A. Let's go through J while we are going
 7 through these. Let's do I, J, and K, because they are
 8 all checks.
 9 Q. Is that Mark Pitman?
 10 A. Yes.
 11 Q. So we are going to be in August; right?
 12 A. Yes, July and August on most of that.
 13 Q. I didn't find any in July. Did you?
 14 A. Not yet. Okay, one on Mark on the bottom of
 15 19, it would be K. There is one for April on 20 --
 16 Q. But isn't that April McMurdo?
 17 A. Yes.
 18 Q. You have got her name as April Longstein
 19 or --
 20 A. Well, that's who it is. I don't know who
 21 that --
 22 Q. Well, there is a Heidi McMurdo, is that the
 23 same? A sister?
 24 A. Daughter. April just worked in the office
 25 getting everything on --

1 Q. Okay. So that's J?
 2 A. J.
 3 Q. And that's at Check No. -- there is no check
 4 number, counter check, on Page 20; right?
 5 A. Right. There is one on Mark on 8/8.
 6 Q. That's on Page 21.
 7 A. Yes.
 8 Q. There is another one other on the other
 9 side, Check 514; right?
 10 A. Yes.
 11 Q. Check 518, also for Mark; right?
 12 A. Where are you?
 13 Q. On Page 21. There were three for Mark on
 14 that page; right?
 15 A. Right.
 16 Q. Did you mark them?
 17 A. Yes.
 18 Q. Let's go to Page 22.
 19 A. Bottom of the page on the \$500.
 20 Q. Check 559. Now, the check just above that,
 21 the one to Josh, this isn't the Josh you are looking
 22 for; is that right?
 23 A. I don't think so; I'm not sure who that is.
 24 Q. If you go to Page 23, there is a check to
 25 April, Check 569 for \$708.16. Is that her?

1 A. The first page, the first side of it?
 2 Q. Yes. Do you see Page 23, the check at the
 3 top right?
 4 A. Okay, that would be J. There is one on the
 5 first column for 605.
 6 Q. Check No. 579?
 7 A. Yeah. The next page, Mark.
 8 Q. And then the next one begins at Page 30, do
 9 you agree?
 10 A. Okay.
 11 Q. One to Mark at the bottom left.
 12 A. Okay. The next one is one to April.
 13 Q. The one for \$816.53?
 14 A. Yes.
 15 Q. Bottom right, another one for 667.66?
 16 A. Right. Josh Flud --
 17 Q. On the bottom left. He is I.
 18 A. He is I. I think we paid him some other way
 19 to start with, I can't remember how that was.
 20 Q. There is also another one for Josh Flud,
 21 Check No. -- well, it's not a check number, 9/5/08 for
 22 \$981.67.
 23 A. Yes. Josh Flud on 10/3. Did you find that
 24 one?
 25 Q. I did.

1 A. And then there is one on Page 34 on the
 2 bottom, Josh Flud, I, for \$30.
 3 Q. Right.
 4 A. Mark Pitman on the top of 35, \$100; Josh
 5 Flud, 819.
 6 Q. Point 74.
 7 A. Mark Pitman on 36, \$300; April Murdock
 8 (sic), \$742.
 9 Q. What page are you on?
 10 A. No. 36. Josh Flud, 37, \$662.
 11 Q. Point 72.
 12 A. April Murdock (sic), bottom of Page 37,
 13 \$678.70. Mark Pitman, bottom of 38 --
 14 Q. Let me just ask you this while we are on
 15 that one. Do you see that there are three checks all
 16 the same date that look to be exactly the same, each
 17 one of them for \$514. Are those three duplicate
 18 checks?
 19 A. What does it say on the bottom of there, for
 20 what?
 21 Q. It looks like glazier. Look, I mean it's
 22 weird how they have done this because they record
 23 those and the amount that they record for those checks
 24 is different than what is written on the check. Do
 25 you have any explanation for that?

1 A. No.
 2 Q. And they look to be exactly a duplicate
 3 check; wouldn't you agree?
 4 A. Yes. But they wrote them down different,
 5 and that's probably the way they are, but I don't know
 6 how -- unless they couldn't find the other two checks.
 7 Q. I have no idea. But you don't recall a time
 8 when you gave him three checks for the exact same
 9 amount; right?
 10 A. No, I don't. I would go with what's on top,
 11 wouldn't you?
 12 Q. I think the only way you can do this is --
 13 A. Go back and find out why they --
 14 Q. -- is go with the one that was recorded for
 15 514 rather than the one that says 100 and the other
 16 one that says 786.69 for the same check. There has
 17 got to be a glitch someplace as near as I can tell
 18 right now.
 19 A. I would say that's all of them, wouldn't
 20 you?
 21 Q. Yes, that's all I found. So it's whatever
 22 it totals to, correct, because it all would have been
 23 done with checks on Star Valley; correct?
 24 A. I'm not sure, but I am thinking it was.
 25 There may have been some on others, but I don't recall

1 now.
 2 Q. If you can identify them, do so. But
 3 otherwise we will go with what we recorded. Correct?
 4 A. Yes.
 5 Q. So now the next one is Category L for roof
 6 repair supplies for \$1,800. Where are we going to
 7 find that?
 8 A. Well, some of that was in this one from --
 9 let me find it right here. The lumberyard down the
 10 road there, Star Valley Lumber, Etna. I am trying to
 11 think how we paid that. That might have been with a
 12 check from the credit card.
 13 Q. Let me help you out here. If you would go
 14 to Exhibit 40A and go to Clayson 14, you will see a
 15 charge to Star Valley Lumber, Etna, Wyoming --
 16 A. Where is that?
 17 Q. Page 14. For \$800. Do you see where I am
 18 at?
 19 A. No, I don't see where you are at.
 20 THE WITNESS: Where are you at? Yours might
 21 be clearer than mine.
 22 MR. ATKIN: Right here (indicating).
 23 A. Paid by phone, yes. That would be part of
 24 it.
 25 Q. So that's 800.

1 A. And I am sure the rest of it was labor.
 2 Q. Meaning that it was paid some other way --
 3 A. Yes, it would have been -- it had to have
 4 been paid by one of the credit card checks.
 5 Q. Can you find a charge that supports that?
 6 A. They don't show them. I will have to get
 7 that broke down from the credit cards.
 8 Q. So at least right now all we can verify on L
 9 is 800 bucks; right?
 10 A. Yes.
 11 Q. Let's go to M. What's that for? I can't
 12 read that, something like --
 13 A. It was some --
 14 Q. What did you write there, what does that
 15 say?
 16 A. Special cleaning. It was for just cleaning
 17 them floors to get the oils off from them so we could
 18 paint them.
 19 Q. How was that paid for?
 20 A. Man, I don't know.
 21 Q. Do you remember where the stuff was
 22 obtained, the cleaner?
 23 A. I don't.
 24 Q. So we are unable to verify M with a
 25 charge --

1 A. It had to come off from one of these checks
 2 that we had on the credit cards. I just remember
 3 buying the product.
 4 Q. We can't break it down, though; correct?
 5 A. Not at this time.
 6 Q. Let's look at N and O, lines N and O. One
 7 is for a vacuum cleaner and one is for office
 8 furniture. Did you take that stuff with you, the
 9 vacuum cleaner and the office furniture?
 10 A. No, the one isn't -- the office deal was for
 11 the typewriter -- I did take the vacuum, though. The
 12 office furniture was the cash register and something
 13 else in the restaurant. That would be from Staples.
 14 Q. Well, read it what it says there. What does
 15 it say? Office furniture 3 bed something, or am I
 16 just --
 17 A. Oh, there were three beds, office -- yeah,
 18 we bought three bunk beds.
 19 Q. Three bunk beds, that's what it says.
 20 A. Yes, for the guys working there, just
 21 working, living in Thayne, just cleaning and stuff.
 22 Q. Did you remove those?
 23 A. No, they are still there.
 24 Q. Where was that purchased at and what are we
 25 looking for, a check or --

1 A. I am not sure what we have got on that one.
 2 Is that on the other one?
 3 Q. On which one? Can I help you with what you
 4 are looking for?
 5 A. I am looking to see -- we have another copy
 6 just like this (indicating)?
 7 Q. I think what you are looking for is Exhibit
 8 No. 38A, Page 10. And it's on there, office
 9 furniture, \$4,942.
 10 A. When did we do this? Do you have any idea,
 11 is there any date on that?
 12 Q. I don't know when you did the written one.
 13 The discovery responses that you are looking at there,
 14 Exhibit No. 38A, are dated August 16, 2010.
 15 A. I need to go back through and revise that
 16 one, find out what it is.
 17 Q. Let's go to P.
 18 A. That's for the Viking equipment. We had
 19 them come in and start that equipment up and service
 20 it and go through it.
 21 Q. And how were they paid, by check or what?
 22 A. We paid their plane and stuff. I think all
 23 that was was their expenses. It should be on the
 24 card.
 25 Q. Which card are we looking for?

1 A. Probably Bank of America. It would be
 2 Sunshine -- Greenbay, yes, that's it, \$869 for
 3 probably the fly --
 4 Q. What page are you looking at -- okay,
 5 Sunshine, Greenbay, Wisconsin, 869, so that's for P?
 6 A. Yes.
 7 Q. And then there is a \$40 charge down there,
 8 that's also in it?
 9 A. Yes.
 10 Q. What else?
 11 A. Here is part of our 750 on the --
 12 Q. Registration expense?
 13 A. Yes, \$500, meeting network in Boise.
 14 Q. So we have been able to verify \$500 there.
 15 We are back to this Viking, so we have got it looks
 16 like a thousand and 9, \$869 plus 40. Do you see
 17 anything else that goes with that?
 18 A. I'm sure we paid their housing and stuff,
 19 but I'm not sure how we did that. We paid their
 20 airfare, housing.
 21 Q. Are you able to identify it anywhere?
 22 A. No. Here is the one for Staples for some
 23 office equipment.
 24 Q. So we have got, what, a thousand and --
 25 A. Well, there are two of them.

1 Q. Where at?
 2 A. There are two invoices, one for each one of
 3 them for 869.
 4 Q. Oh, I see, I am sorry, I see that. So there
 5 are two at 869 and one at 40, it looks like; right?
 6 A. Yes.
 7 Q. So what does that total --
 8 A. I am sure the rest was in accommodations and
 9 stuff when they got here, but I am not finding how we
 10 did that.
 11 Q. I am sorry, you said you found something --
 12 A. Staples, \$500, \$445.
 13 Q. \$445.19, is that the one you are looking at?
 14 A. Yes.
 15 Q. That goes where?
 16 A. It must be part of the equipment.
 17 Q. Well, we are coming to computer, cash
 18 register --
 19 A. There it is, time clock or the cash
 20 register, one of them. Let's put it as R.
 21 Q. Well, was the cash register 360 or was it
 22 445.19?
 23 A. I am not sure how we did that.
 24 Q. Maybe what you are saying is the cash
 25 register was 360 but you bought some other

1 miscellaneous stuff that's not on this list?
 2 A. Could have been.
 3 Q. Would you agree with me that the number we
 4 ought to put with R is 360?
 5 A. Sure.
 6 Q. And then the computer for 400 and the time
 7 clock for 320, where did you purchase those?
 8 A. I was thinking the time clock was at
 9 Staples. I don't remember the computer purchase,
 10 where that came from. We got that from one of the
 11 employees up there. That might have been out of a
 12 check or cash on him. I can't remember the guy that
 13 well, just that he had done some work on them, trying
 14 to get them up and going. And then we bought another
 15 computer from him because we were short.
 16 I need to break those checks down to find
 17 out what they are. There is \$20,000, \$30,000 that
 18 came in in checks that . . . You know, I would sure
 19 think that April would have had some files up there
 20 that we could pull out that would have all of this
 21 stuff in it. We haven't run across that yet?
 22 Q. I haven't found anything to that effect.
 23 A. She was there for three or four months.
 24 Q. Can you find me anything that supports the
 25 \$400 computer or the 320 time clock?

1 A. No, I don't.
 2 Q. So let's go to T, restaurant, John, \$11,300.
 3 What's that?
 4 A. Well, that was a check that I gave him to
 5 buy the grill, the new apparatus, the vent system, and
 6 do the work.
 7 Q. What's his name?
 8 A. John. I don't know his last name.
 9 Q. And do you find that check in here
 10 someplace? I haven't seen a check for that much
 11 money.
 12 A. No, it was a check, I know that, but I am
 13 not sure --
 14 Q. Well, was it on Star Valley?
 15 A. Did we run across it in there?
 16 Q. I'll tell you, I have never seen a check for
 17 that much in Star Valley, there was never that much in
 18 that account.
 19 A. I don't think it was. It had to come in
 20 from a credit card.
 21 Q. Are you able to find a check in any of those
 22 statements that would support that amount?
 23 A. You know, if it's in there -- it should be a
 24 transfer amount.
 25 MR. ATKIN: Clayson 8 on Exhibit No. 40.

1 A. It wasn't a labor, it was to do labor on the
 2 restaurant.
 3 Q. Well, was it to do labor -- I thought you
 4 said you gave it to him to purchase equipment.
 5 A. It was both. He hired a company to come in
 6 and do all of that.
 7 Q. But I mean you haven't found a check or a
 8 credit card check or any reference to it at all?
 9 A. I am trying to figure out how I did pay
 10 that. I'll have to break down the ones from Bank of
 11 America. I'm not sure -- I don't think it was on
 12 there because it looks like that one was the total
 13 balance. I'll have to find that check. It was
 14 definitely a check.
 15 Q. Now, I just want to restate. On Exhibit
 16 No. 39 I tried to keep track --
 17 THE WITNESS: Will you write that down, we
 18 need to get a check from John on the restaurant.
 19 Q. Okay, on Exhibit No. 39 I have tried to keep
 20 track of what we found here, so on A I have found
 21 checks totaling \$1,872. Do you agree?
 22 A. Okay.
 23 Q. On line Item B we found evidence to support
 24 \$10,772.41. Do you agree?
 25 A. Okay.

1 Q. On D we found \$500. Agreed?
 2 A. Right.
 3 Q. On F we found \$379. Do you agree?
 4 A. Yes.
 5 Q. On I we totaled these and it came to
 6 \$3,817.02 for checks to Josh. Do you agree?
 7 A. If that's what they added up to, right.
 8 Q. And on J, which was April's checks, we came
 9 up with \$5,585.51. Do you agree?
 10 A. Okay.
 11 Q. On K \$2,282 for Mark?
 12 A. Okay.
 13 Q. On Item L for roof repair we came up to
 14 \$800. Do you agree?
 15 A. Yes.
 16 Q. On Item P we found \$1,778 and I think those
 17 were all credit card charges totaling that; correct?
 18 A. Yes.
 19 Q. And then on the cash register we found a
 20 credit charge to Staples which was more than the \$360
 21 for cash register but you felt that that was the
 22 charge for the cash register and so we recorded it at
 23 \$360, assuming that there may have been some charges
 24 in addition to that. Do you agree?
 25 A. Right.

1 Q. And that's all we have been able to find to
 2 support this summary Exhibit 39; correct?
 3 A. Yes.
 4 Q. Now, on Exhibit No. 38A, the other item that
 5 was on here that wasn't on Exhibit No. 39 was the
 6 check to Dairy Systems for \$50,000.
 7 A. Yes.
 8 Q. Have you found that check?
 9 A. Have I found it?
 10 Q. Yes.
 11 A. I don't know. Did we not send it in?
 12 MR. ATKIN: It's been produced several
 13 times.
 14 MR. COOPER: Where has it been produced
 15 several times?
 16 MR. ATKIN: It's exhibit to depositions --
 17 MR. COOPER: Come and show me where that's
 18 at.
 19 A. Are they denying they didn't get it?
 20 Q. Didn't you make it out to Dairy Systems?
 21 A. Right.
 22 Q. I have no idea what Dairy Systems says. I
 23 found two checks for \$50,000. You told me that none
 24 of those checks were ever funded. And the last time
 25 we were here you didn't have the check. So has it

1 been produced someplace else? I mean we went through
 2 this at length last time and you said that it came out
 3 of your personal account --
 4 A. It did.
 5 Q. -- and you were going to find it. Have you
 6 found it?
 7 A. I haven't, I guess. I thought we did, I
 8 thought we sent it with that other.
 9 Q. Well, Exhibit No. 9 to this deposition, the
 10 last time we went through this, there is the two
 11 \$50,000 checks and those are the two checks you said
 12 were never funded; correct?
 13 A. Correct.
 14 Q. You told me there was another account or
 15 another check for \$50,000 and it wasn't on the Star
 16 Valley Bank, it was on your personal account.
 17 A. Right, it's the one I gave them that they
 18 cashed.
 19 Q. And we don't have it, do we?
 20 A. I thought we did.
 21 MR. COOPER: Do you have it?
 22 MR. ATKIN: I thought we had produced it.
 23 MR. COOPER: It hasn't been produced here.
 24 So if you have got it someplace, do you have it in the
 25 materials that you brought today?

1 MR. ATKIN: I don't have it today.
 2 MR. COOPER: If it's been produced, you
 3 ought to be able to fax it to me tomorrow, shouldn't
 4 you?
 5 MR. ATKIN: Yes.
 6 MR. COOPER: I am going to expect it to be
 7 faxed to me tomorrow. Is that fair?
 8 MR. ATKIN: Yes.
 9 Q. Now, the last time in your deposition, Mr.
 10 Clayson, we went through the allegation that you have,
 11 that you performed countless hours of labor on this
 12 refurbishing and remodeling of the restaurant and the
 13 cheese plant, and at that time you had not identified
 14 the number of hours or a total for that. Have you
 15 done anything more to firm up that claim?
 16 A. How many hours?
 17 Q. Yes.
 18 A. No. Do you need that?
 19 Q. It's whether you need it or not. Have you
 20 done anything further? Are you able to provide me
 21 with any more documentation on that?
 22 A. How would I document that?
 23 Q. I have no idea, it's not my claim. Are
 24 there any documents that document it? Did you keep
 25 track of it while you were doing it?

1 A. No.
 2 Q. During your deposition last time you told me
 3 that you could get invoices or receipts for the roofer
 4 that did the work. Have you done that?
 5 A. This is the materials for it right there
 6 (indicating).
 7 Q. Well, okay, but you told me that there were
 8 also invoices and receipts. I assume this roofer
 9 charged you for labor.
 10 A. They evidently are in that file up there at
 11 the plant. April would have filed them.
 12 Q. Is there any place where you can get those?
 13 A. Other than just going back to the hardware
 14 store or the lumberyard and getting what we purchased
 15 on that date.
 16 Q. And you haven't done that; is that right?
 17 A. I haven't done it yet.
 18 Q. Let's just track on a couple of these.
 19 Exhibit No. 41, you told me that that's after the date
 20 that you left the plant, I mean it's April 12, 2009.
 21 There isn't anything on Exhibit No. 41 that would be
 22 pertinent to this that you can see; is that right?
 23 A. No.
 24 Q. Exhibit No. 42 --
 25 A. Unless it was just a carry-over on there. I

1 would have to break that down.
 2 Q. I know, but as you look at it, there isn't
 3 anything that's apparent; correct?
 4 A. I guess I need to break it down and find out
 5 where it was. Let's leave it in there for the time
 6 being and I'll get an overview of it and maybe there
 7 is a check in there that we need.
 8 Q. Now, Exhibit No. 42, Clayson 16 and 17.
 9 This, again, is probably your accountant pulled these
 10 off of some sort of a statement or something and
 11 compiled them; correct?
 12 A. It looks like they came off from the one
 13 from Bank of America.
 14 Q. But you didn't prepare this; correct?
 15 A. No.
 16 Q. And you believe it was probably your
 17 accountant that did?
 18 A. Yes.
 19 Q. And they pulled them off of some support
 20 documents but we don't know what those documents are,
 21 do we?
 22 A. Not for sure at this point. Have you looked
 23 at this one (indicating) to see if they tracked that?
 24 Q. If you can figure it out, tell me.
 25 A. Yeah, Staples is on there.

1 Q. So you think that this Exhibit No. 42 was
2 pulled off of the Bank of America statement Exhibit
3 No. 40A; correct?
4 A. It appears to be that way.
5 Q. Back to Exhibit No. 38A, Page 11, you refer
6 to an appraisal of equipment of \$2,760,100.
7 A. Okay.
8 Q. That's this document Exhibit No. 11; is that
9 right, the one that was prepared by, what is it,
10 William --
11 A. Bill Sulzer.
12 Q. For that amount. That's the document you
13 are talking about; correct?
14 A. Yes.
15 Q. You also make reference in that Exhibit 38A
16 at Page 11, the answer to Interrogatory No. 4 that
17 defendants obtained an appraisal of the land and plant
18 which was reported to be 2,100,000.
19 Have you ever seen a copy of that appraisal?
20 A. I don't know.
21 Q. Do you have a copy of it?
22 A. I don't have a copy.
23 Q. Have you obtained an appraisal of the
24 property?
25 A. I haven't, no.

1 Q. When you come up with this difference in
2 value of \$4,060,000, isn't what you did is you added
3 the \$2,760,000 and \$2,100,000 and then subtracted
4 \$800,000, that's how you got to that number; is that
5 correct?
6 A. Right.
7 Q. What do you consider to be the best evidence
8 of the debts and expenses that you incurred to
9 refurbish that plant?
10 A. Best evidence?
11 Q. The best evidence of it.
12 A. Well, if you look at the outside, if you had
13 been there before we started, I know the person that
14 was probably the most noticeable to and impressed was
15 Morris when he came back.
16 Q. But if I wanted to verify those things,
17 wouldn't I have to find a check or a credit card
18 charge? Isn't that the best evidence of it?
19 A. Yes.
20 Q. Did you ever tell Dairy Systems at some
21 point that you were getting a grant of \$4 million?
22 A. No.
23 Q. Were you ever trying to get a grant that
24 totaled as much as \$4 million?
25 A. Well, Rick and Don were in pursuit of it.

1 Q. I am asking about you.
2 A. We were all pursuing it.
3 Q. And this \$4 million was to come from whom?
4 A. Probably the State of Wyoming.
5 Q. And did you tell Dairy Systems that you were
6 trying to get that?
7 A. No.
8 Q. Did you tell Dairy Systems that you were the
9 owner of the plant?
10 A. Told them we were trying to purchase it.
11 Q. That's what you told them, you didn't tell
12 them that you owned it?
13 A. No.
14 Q. So if you filled out a document in which you
15 said that you were the owner of it, that wouldn't have
16 been correct?
17 A. Correct.
18 Q. Well, let's make sure that it's a clear
19 answer. Correct, that wasn't the truth?
20 A. No, I hadn't purchased it. Intentions to.
21 As far as Morris was concerned, he had sold it, we had
22 a deal to buy it.
23 Q. Did you ever have any conversations with the
24 electrician, Mike Lowe?
25 A. That was the man working for Dairy Systems?

1 Q. He was the electrician.
2 A. I am sure I must have.
3 Q. Tell me what you can remember about those
4 conversations.
5 A. I can't remember anything. I didn't really
6 talk -- I mean Mike wasn't the man to have my
7 communications with.
8 Q. You were dealing with Dairy Systems?
9 A. Klark and John.
10 Q. Did either Klark or John ever tell you that
11 they were licensed to work in Wyoming on electrical
12 stuff?
13 A. Never asked them.
14 Q. Did Klark or John ever tell you that they
15 had authority to do electrical work in Wyoming?
16 A. I never asked them.
17 Q. Did Klark or John ever tell you that their
18 corporation was authorized to conduct business in the
19 State of Wyoming?
20 A. Never came up.
21 Q. Did Klark or John tell you that they were
22 paying sales tax or other taxes in Wyoming?
23 A. Never told me.
24 Q. If you thought that Dairy Systems did not
25 have authority to work in Wyoming, would you still

1 have contracted with them?
 2 A. If I thought they didn't?
 3 Q. Yes. Would you still have contracted with
 4 them?
 5 A. Probably not. I would have made sure that I
 6 was legal.
 7 Q. Because you never would have done something
 8 that you thought was going to be a violation of law;
 9 correct?
 10 A. Correct.
 11 Q. Did you listen to Morris Farinella's
 12 deposition this morning?
 13 A. No.
 14 Q. You weren't present with your attorney when
 15 that was going on?
 16 A. You did it this morning?
 17 Q. Yes.
 18 A. Oh, over the phone. No, I was in Firth
 19 putting out a fire.
 20 Q. Until closing on February 24 of 2009, who
 21 was the owner of that plant?
 22 MR. ATKIN: Objection, calls for a legal
 23 conclusion.
 24 Q. You still have to answer.
 25 A. I don't know.

1 Q. Well, it wasn't you, was it?
 2 A. No.
 3 MR. ATKIN: Same objection, calls for a
 4 legal conclusion.
 5 Q. Well, didn't you just tell me that you never
 6 told anybody, specifically you never told Mike Lowe or
 7 Dairy Systems that you were the owner; correct?
 8 A. Just told them we were buying it.
 9 Q. But you didn't tell them that you were the
 10 owner?
 11 A. That I purchased it, no.
 12 Q. Because that hadn't happened.
 13 A. No.
 14 Q. Did Farinella, Morris Farinella ever tell
 15 you to get this work done by Dairy Systems on this
 16 plant?
 17 A. He didn't tell me specifically who to get to
 18 do it, no.
 19 Q. Did he tell you to do that work regardless
 20 of who did it?
 21 A. He said get it ready for operations, you are
 22 going to own it.
 23 Q. So you felt that that was authorization for
 24 you to do anything that you wanted with that plant,
 25 just as if you were the owner?

1 A. Right. Our intention was to get going the
 2 end of 2008.
 3 MR. COOPER: Let's take a break for a few
 4 minutes.
 5 (Short recess.)
 6 Q. This Star Valley account which we have been
 7 looking at, Exhibit No. 10 -- do you know what I am
 8 talking about?
 9 A. Okay.
 10 Q. The money that was used to fund that account
 11 came from the operation of the restaurant; correct?
 12 A. Most of it.
 13 Q. Did you claim any of the income on your own
 14 tax return, the income from the operation of the
 15 restaurant that went into this account?
 16 A. No.
 17 Q. Why?
 18 A. I guess I never took anything. I didn't
 19 take anything out of the restaurant incomewise.
 20 Q. And you weren't entitled to; correct?
 21 A. Well, I could have.
 22 Q. But someone would have had to authorize it?
 23 A. What do you mean?
 24 Q. Well, either Morris Farinella would have had
 25 to authorize it or the bankruptcy trustee; correct?

1 A. No.
 2 Q. Why?
 3 A. Because Morris said you run the operation,
 4 just do it how you want to do it, it's your deal, go
 5 ahead.
 6 Q. And that money that came in from the
 7 restaurant you had to account --
 8 A. The restaurant wasn't in the bankruptcy at
 9 that time.
 10 Q. That's your understanding of it?
 11 A. That's my understanding.
 12 Q. So if Morris Farinella looks at that
 13 differently, he would be more likely to understand
 14 that than you, wouldn't he?
 15 MR. ATKIN: Objection, calls for
 16 speculation.
 17 A. I don't know how he looks at it other than
 18 what he told me. I don't know what he told you.
 19 Q. But the fact of the matter is you never
 20 declared any of the income from this restaurant --
 21 A. Didn't take any.
 22 Q. Well, you never declared any of this --
 23 A. No.
 24 Q. -- any of the income from this restaurant or
 25 any of the expenses associated with the restaurant on

1 your tax returns.
 2 A. No.
 3 Q. Whether it be in an LLC or a personal tax
 4 return?
 5 A. No.
 6 MR. COOPER: Thank you. No further
 7 questions.
 8 RE-EXAMINATION
 9 BY MR. ATKIN:
 10 Q. Mr. Clayson, you were asked earlier about
 11 Exhibit No. 24. Do you recall that?
 12 A. Okay.
 13 Q. Why did you give that assignment, why did
 14 you sign that document?
 15 A. Why did I sign it? Because of a previous
 16 agreement that we had made that in lieu of giving them
 17 the plant, that I would get \$500,000, which was later
 18 changed to \$500,000 in premiums on the milk, once the
 19 plant was up and going, and that they would pay back,
 20 reimburse me on my expenses and take my milk at a
 21 Class III price and I would get the whey to offset the
 22 freight.
 23 Q. Who is they?
 24 A. Rick and Don.
 25 MR. ATKIN: That's all I have.

1 RE-EXAMINATION
 2 BY MR. COOPER:
 3 Q. When did that conversation take place?
 4 A. Oh, back in September.
 5 Q. Who else was present when the conversation
 6 took place?
 7 A. Jeff was there.
 8 Q. Where did it take place?
 9 A. Oh, different places we talked about it up
 10 to the plant. Later in Rick's office they had -- it
 11 went from 500 cash at the closing to 250 and then it
 12 was, hey, there is no way we can come up with the
 13 money up front, if we are going to do this deal, you
 14 are going to have to work with us.
 15 Q. Specifically the agreement that you
 16 testified to as to expenses that they were going to
 17 reimburse you, where did that conversation take place?
 18 A. In Star Valley.
 19 Q. Who else was present?
 20 A. Jeff heard it.
 21 Q. And when did it take place?
 22 A. Oh, I don't know, just different times.
 23 Q. How many times?
 24 A. Just in the conversations as we talked about
 25 getting it up and going, that's what was understood.

1 Q. And was there ever anything in writing that
 2 identified what those expenses were to be?
 3 A. No.
 4 MR. COOPER: Thank you. No further
 5 questions.
 6 RE-EXAMINATION
 7 BY MR. ATKIN:
 8 Q. Mr. Clayson, do you have an idea of the
 9 value of the property that you were transferring to
 10 the defendants with that Exhibit No. 24?
 11 MR. COOPER: Objection, lack of foundation,
 12 speculation.
 13 A. 500,000 -- or 5 million.
 14 Q. What do you base that on?
 15 MR. COOPER: Objection, lack of foundation,
 16 speculation.
 17 A. Based on the appraisals that were done.
 18 MR. COOPER: Objection, hearsay, move to
 19 strike.
 20 Q. In addition to that, what was it -- were you
 21 just transferring real estate and plant to them, or
 22 what were you giving these guys?
 23 A. Well, had they had followed the plan that
 24 was originally set up --
 25 Q. Whose plan?

1 A. The business plan that I presented them
 2 with, that they went and got the money from the bank
 3 with, they are possibly making a lot of money there.
 4 For example, the powder, if they had followed the
 5 plan, bought the powder, they would have made a
 6 million dollars last year on powder by standardizing
 7 the milk with powder and selling it, cheese on the
 8 block market.
 9 Q. So you were transferring more to them than
 10 just the real estate and the plant?
 11 MR. COOPER: Objection, leading, move to
 12 strike.
 13 A. All the connections, Joe selling the cheese.
 14 Morris and Joe had markets of 25 over. I know they
 15 never got that when they run it, but they could have.
 16 Q. Had you put any effort into developing any
 17 relationships that are useful in this business?
 18 A. Yes.
 19 Q. What was that?
 20 A. Department of Ag, the IMPA, Idaho Milk
 21 Producers, various people that would sell products to
 22 us to make cheese, yeast salesmen, truckers, lots of
 23 things.
 24 Q. What were you going to get from the
 25 Department of Agriculture?

1 A. They were doing the guarantee on the money.
2 Plus I have remained in there as an owner. There was
3 a grant for 750 -- there was a grant that would be
4 expended for taking an ag product and making it into a
5 better product.

6 Q. 750 --

7 A. Thousand dollar grant that didn't have to be
8 paid back.

9 Q. Who was that from?

10 A. The Department of Ag.

11 MR. ATKIN: That's all I have.

12 RE-EXAMINATION

13 BY MR. COOPER:

14 Q. Did you say that was ever paid or not paid?

15 A. Well, it was never -- we didn't qualify for
16 it when I went off the business plan.

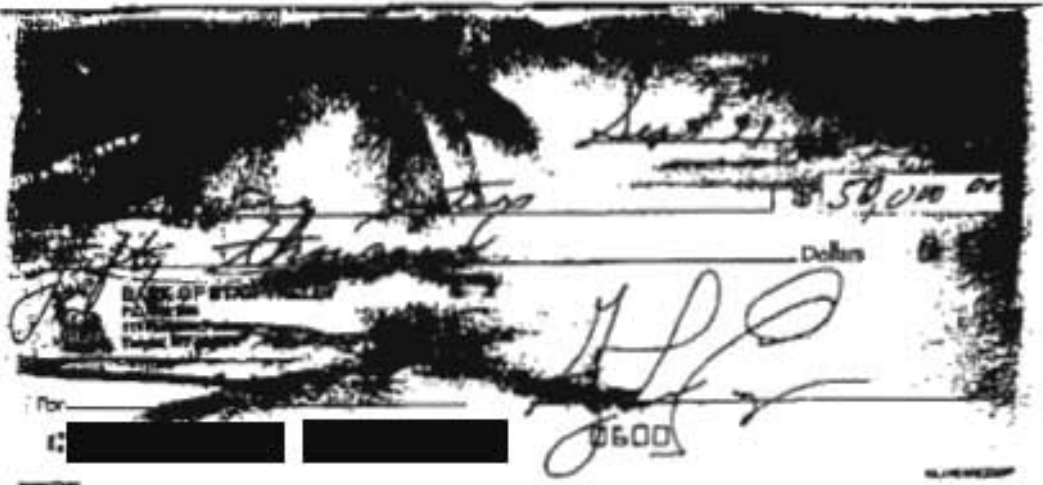
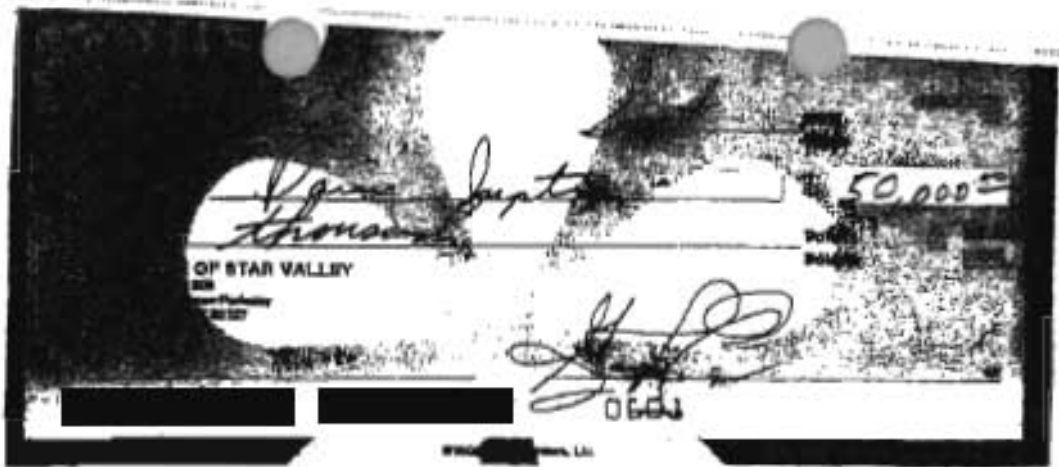
17 MR. COOPER: Thank you. No further
18 questions.

19 (Witness excused at 4:40 p.m.)

20 (Signature requested.)

21
22
23
24
25





CLAYSON000067

DEPOSITION
EXHIBIT
9



33

ARDING DATA ACCOUNT SUMMARY

Bank of Star Valley 000001

The information contained on this form is for the Financial Institution's use only.

June 27, 2008

Account Holder: GAYLEN W. CLAYSON
Street: 710 E 600 N
FIRTH, ID 83236
Mailing: P O BOX 436
THAYNE, WY 83127

Financial Institution: Bank of Star Valley
Thayne
PO Box 92B
113 Petersen Parkway
Thayne, WY 83127

Reporting TIN: [REDACTED]
Business Phone: (208) 681-2896
Home Phone: (208) 346-6562
CIF Number:

Backup Withholding Status: Customer is not subject to Backup Withholding

Account Information

Product Category: Checking; Non-Interest Checking
Account Number: [REDACTED]
Opening Date: 06-30-2008

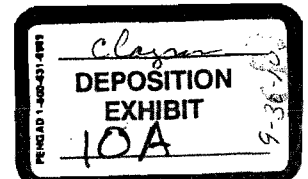
Product Name: Business Checking

Account Purpose: Non Consumer
Service Charge: Regular

Funds Source	Amount	Existing Funds
Check	606.00	N
Cash Back		
Opening Deposit	606.00	

OFAC CHECKLIST

- NO, Does Not Apply
- YES, Applies
- Physical Address
- Credit Report
- Picture ID
- Date of Birth



BOARDING DATA ACCOUNT SUMMARY (Continued)

Account Type: Sole Proprietorship

Account Ownership: Sole Proprietorship

Signers and Identification

Number of Signers Required: 1

<u>Signer Name/SSN</u>	<u>Address</u>	<u>Phone</u>	<u>Employer</u>
GAYLEN W. CLAYSON SSN/TIN: [REDACTED]	710 E 600 N FIRTH, ID 83236	Primary: (208) 346-6562	SELF

Contact Information

Primary Phone: (208) 346-6562
Work Phone: (208) 681-2896

Instructions:
Instructions:

Identification

DOB: [REDACTED] SHELLEY, ID
 Primary ID Type: Drivers License Number: [REDACTED] Issued: 09-05-2003 Exp. Date: 09-19-2011
 Issued By: ID, USA
 Secondary ID Type: Number: Issued: Exp. Date:
 Issued By:

No records

Opening Information

Branch Number: 02 Branch Name: Thayne
 Officer ID: SLW
 Open By: BSLW1601
 Verified By: ChexSystems SLW
 Checks Ordered: YES

<u>Type of Check</u>	<u>Check Book</u>	<u>Check Type</u>	<u>Color/Design</u>	<u>Quantity</u>
PERSONAL		TRIAL 50		Single
Comments:				

Bank of Star Valley

210 22

Account Holder Name(s): GAYLEN W. CLAYSON

Reporting SSN/TIN: [REDACTED]

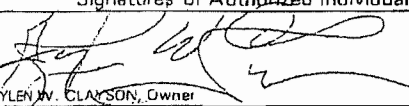
Mailing Address: P.O. BOX 436, THAYNE, WY 83127

Street Location: 710 E 600 N, FIRTH, ID 83236

Telephone Number: (208) 346-6562 Work #: (208) 681-2896

Number of Signatures Required: 1 CIF Number:

Signatures of Authorized Individuals. This Agreement is subject to all terms below.

X 
GAYLEN W. CLAYSON, Owner

(Signatures and printed names of each account signer)

The authorized Agent(s) signing above agree(s), that the Account Holder's Account(s) will be governed by the terms set forth in the Deposit Account Agreement and Disclosure, the Time Certificate of Deposit or Confirmation of Time Deposit Agreement (if applicable), the Rate and Fee Schedule, the Funds Availability Policy Disclosure, the Substitute Check Policy Disclosure, and the Electronic Funds Transfer Agreement and Disclosure, (if requested below), as amended by the Financial Institution from time to time. The authorized Agent(s) also acknowledge that they have received at least one copy of these deposit account documents. The Authorized Signer(s) understand(s) accounts opened after 2:00 PM are dated effective the next business day.

Account Purpose: Non Consumer

EFT Services: Yes

BUSINESS TYPE: Sole Proprietorship

ACCOUNT TYPE Business Checking

ACCOUNT NUMBER [REDACTED] OPENED BY BSLW1601

Date Opened	Date Revised	Opening Deposit	ATM Card	Verified By	Account Formerly With
06-30-08		\$606.00	N	ChexSystems	
Date Closed	Closing Balance	Closed By	Reason For Closing	Statement Disposition	Service Chg Disposition
				Mail	Regular

DEPOSIT PROC, Ver. 8.66.00.004 Copr. Harland Financial Solutions, Inc. 1996, 2008. All Rights Reserved. WY - WY - L703SG.24 4X6 TR-8352

Bank of Star Valley

Account Holder Name(s): GAYLEN W. CLAYSON

Reporting SSN/TIN: 519-68-7848

Mailing Address: P.O. BOX 436, THAYNE, WY 83127

Street Location: 710 E 600 N, FIRTH, ID 83236

Telephone Number: (208) 346-6562 Work #: (208) 681-2896

Number of Signatures Required: 1 CIF Number:

Signatures of Authorized Individuals

X
GAYLEN W. CLAYSON, Owner

The following information may be used for telephone instructions, or if a signature varies.

Further identify individual(s) for telephone instructions
MMN = Mother's Maiden Name

Bank of Star Valley 000004

Name:	GAYLEN W. CLAYSON	SSN:	[REDACTED]
Street:	710 E 600 N, FIRTH, ID 83236		
Mailing:			
Phone:	(H): (208) 346-6562 (W): (208) 681-2896		
Job:	DAIRY FARMER, SELF		
DOB:	09-19-1953, SHELLEY, ID		
ID:	Drivers License RK200900H	MMN:	

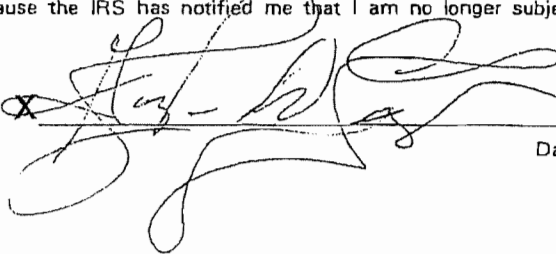
Name:		SSN:	
Street:			
Mailing:			
Phone:	(H): (W):		
Job:			
DOB:			
ID:		MMN:	

TIN/BACKUP WITHHOLDING

Reporting SSN: [REDACTED]

Important: Under penalties of perjury, I certify that the number shown above is my correct taxpayer identification number, I am a U.S. person (including a U.S. resident alien), and that (check appropriate box):

- I am not subject to backup withholding, because I am exempt from backup withholding, or because I have not been notified by the IRS that I am subject to backup withholding as a result of failure to report all interest or dividends, or because the IRS has notified me that I am no longer subject to backup withholding.
- I am subject to backup withholding.

Signature of Authorized Individual: 

Date

6/27/08

CERTIFICATE OF AUTHORITY

(for Deposit Accounts)

Account Holder: GAYLEN W. CLAYSON
P O BOX 436
THAYNE, WY 83127

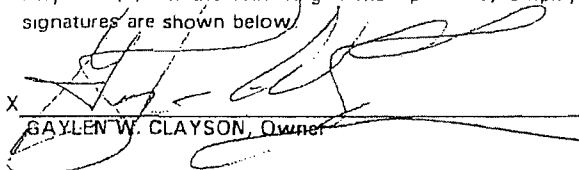
Financial Institution: Bank of Star Valley
Thayne
PO Box 928
113 Petersen Parkway
Thayne, WY 83127

IN CONSIDERATION OF the existing or proposed banking relationship between GAYLEN W. CLAYSON and Financial Institution, the persons signing below jointly and severally and on behalf of GAYLEN W. CLAYSON represent to Financial Institution and certify to Financial Institution that:

Account Holder. GAYLEN W. CLAYSON is the complete and correct name of the Account Holder.

Signature Authorization. The Financial Institution named above, at any one or more of its offices or branches, is designated as a depository for the funds of GAYLEN W. CLAYSON, which may be withdrawn on checks, drafts, advices of debit, notes or other orders for the payment of monies bearing the following appropriate number of signatures:

Any one (1) of the following named partners, employees or designated individuals of GAYLEN W. CLAYSON ("Agents"), whose actual signatures are shown below:

X 
GAYLEN W. CLAYSON, Owner

and that the Financial Institution shall be and is authorized to honor and pay the same whether or not they are payable to bearer or to the individual order of any Agent or Agents signing the same. The Financial Institution is hereby directed to accept and pay without further inquiry any item drawn against Account 21003322 with the Financial Institution bearing the signature or signatures of Agents, as authorized above or otherwise, even though drawn or endorsed to the order of any Agent signing the same or tendered by such Agent for cashing or in payment of the individual obligation of such Agent or for deposit to the Agent's personal account, and the Financial Institution shall not be required or be under any obligation to inquire as to the circumstances of the issue or use of any item signed in accordance with the resolutions contained herein, or the application or disposition of such item or the proceeds of the item.

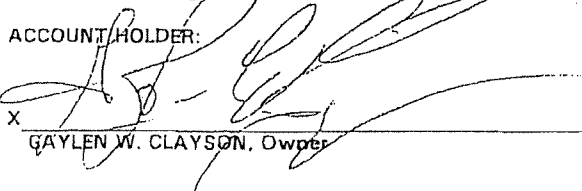
Agent's Authority. Any one of such Agents is authorized to endorse all checks, drafts, notes, and other items payable to or owned by Account Holder for deposit with the Financial Institution, or for collection or discount by the Financial Institution; and to accept drafts and other items payable at the Financial Institution.

The above named Agents are authorized and empowered to execute such other agreements, including, but not limited to, special depository agreements and arrangements regarding the manner, conditions, or purposes for which funds, checks, or items of Account Holder may be deposited, collected, or withdrawn and to perform such other acts as they deem reasonably necessary to carry out the provisions of these resolutions. The other agreements and other acts may not be contrary to the provisions contained in this Certificate of Authority.

Duration. The authority hereby conferred upon the above named Agents shall be and remain in full force and effect until written notice of any amendment or revocation thereof shall have been delivered to and received by the Financial Institution at each location where an account is maintained. Financial Institution shall be indemnified and held harmless from any loss suffered or any liability incurred by it in continuing to act in accordance with this authorization. Any such notice shall not affect any items in process at the time notice is given.

The rights of Financial Institution under this agreement are in addition to any other rights Financial Institution may have. Financial Institution need not accept this agreement for it to become effective. This agreement is dated: _____

ACCOUNT HOLDER:

X 
GAYLEN W. CLAYSON, Owner

GAYLEN CLAYSON
 PO BOX 436
 THAYNE WY 83127

1
 10

July 1, 2008
 Page 1

Account Number XXXXXXXXXX BUSINESS CHECKING June 30, 2008 - July 1, 2008

Beginning Balance		.00
Deposits	1	606.00
Checks	0	.00
Electronic Checks	0	.00
Withdrawals	0	.00
Ending Balance		606.00

Deposits and Other Credits		Activity				
<u>Date</u>	<u>Amount</u>	<u>Date</u>	<u>Description</u>	<u>Number</u>	<u>Amount</u>	<u>Balance</u>
6/30/08	606.00	6/30/08	DEPOSIT		606.00	606.00

WE APPRECIATE YOUR FRIENDSHIP AND HEARTWARMING SUPPORT, AND
 THE OPPORTUNITY TO SERVE YOU.
 THANK YOU FOR BANKING WITH "YOUR" COMMUNITY BANK

REMEMBER, YOU CAN ACCESS YOUR ACCOUNT INFORMATION 24-HOURS
 A DAY, 7 DAYS A WEEK BY DIALING "TELEPRESS" - 885-0001.



6/30/08 Amount 6,000

Gaylin Clayson

DATE		DESCRIPTION	AMOUNT
		DEPOSIT	
		WITHDRAWAL	
		INTEREST	
		TOTAL DEPOSIT	6,000.00
		TOTAL WITHDRAWAL	
		TOTAL INTEREST	
		TOTAL BALANCE	

SEE STATEMENT FOR
DETAILED LISTING OF
TRANSACTIONS
PAGE TWO

BANK OF STAR VALLEY

1001 6/30/08 17:00:07 001120
NEW ACCOUNT DEPOSIT



GAYLEN CLAYSON
 PO BOX 436
 THAYNE WY 83127

64

August 5, 2008

19

Page 1

Account Number XXXXXXXXXX BUSINESS CHECKING July 2, 2008 - August 5, 2008

Beginning Balance 606.00
 Deposits 17 31,886.75
 Checks 45 23,161.72-
 Electronic Checks 0 .00
 Withdrawals 7 7,058.61-
 Ending Balance 2,272.42

Deposits and Other Credits			Activity				
Date	Amount		Date	Description	Number	Amount	Balance
7/07/08	1,065.00		7/03/08	CHECK	91	150.00-	456.00
7/08/08	4,104.30		7/07/08	DEPOSIT		1,065.00	1,521.00
7/10/08	2,357.45		7/07/08	CHECK	94	210.00-	1,311.00
7/14/08	2,777.00		7/07/08	CHECK	93	326.84-	984.16
7/15/08	1,130.00		7/07/08	CHECK	96	494.00-	490.16
7/15/08	2,971.00		7/08/08	DEPOSIT		4,104.30	4,594.46
7/21/08	3,593.00		7/08/08	CHECK	98	75.23-	4,519.23
7/22/08	2,112.00		7/08/08	CHECK	92	112.09-	4,407.14
7/23/08	1,067.00		7/08/08	CHECK	95	228.00-	4,179.14
7/24/08	1,343.00		7/09/08	CLARKE AMERICAN CHK ORDER		8.61-	4,170.53
7/25/08	1,330.00		7/10/08	DEPOSIT		2,357.45	6,527.98
7/29/08	1,042.00		7/10/08	CHECK	99	93.00-	6,434.98
7/29/08	2,750.00		7/11/08	CREDIT CARD ELECT PYMT PRENOTE			6,434.98
8/01/08	1,080.00		7/11/08	CREDIT CARD ELECT PYMT		3,000.00-	3,434.98
8/04/08	1,278.00		7/14/08	DEPOSIT		2,777.00	6,211.98
8/05/08	550.00		7/15/08	DEPOSIT		1,130.00	7,341.98
8/05/08	1,337.00		7/15/08	DEPOSIT		2,971.00	10,312.98
			7/16/08	CHECK	97	53.51-	10,259.47
			7/16/08	CHECK	525	130.44-	10,129.03
			7/17/08	CHECK	528	500.00-	9,629.03
			7/18/08	CHECK	530	28.00-	9,601.03
			7/18/08	CHECK	527	150.00-	9,451.03
			7/18/08	CHECK	529	516.00-	8,935.03
			7/21/08	DEPOSIT		3,593.00	12,528.03
			7/21/08	CHECK	500	97.66-	12,430.37
			7/21/08	CHECK	526	105.03-	12,325.34
			7/21/08	CHECK	531	233.54-	12,091.80
			7/21/08	CHECK	501	10,000.00-	2,091.80
			7/22/08	DEPOSIT		2,112.00	4,203.80
			7/22/08	CREDIT CARD ELECT PYMT		3,000.00-	1,203.80
			7/22/08	CHECK	534	87.45-	1,116.35
			7/22/08	CHECK	533	322.51-	793.84
			7/22/08	CHECK	532	665.26-	128.58
			7/22/08	1 OVERDRAFT ITEM ON 7/21/08		25.00-	103.58
			7/23/08	DEPOSIT		1,067.00	1,170.58
			7/23/08	CHECK	536	440.00-	730.58
			7/24/08	DEPOSIT		1,343.00	2,073.58
			7/24/08	CHECK-FP	504	1,000.00-	1,073.58
			7/24/08	CHECK	502	63.00-	1,010.58



GAYLEN CLAYSON

August 5, 2008

Page 2

Account Number BUSINESS CHECKING Continued

Number	Date	Amount	Date	Description	Number	Amount	Balance
505	7/25/08	60.00	7/24/08	1 OVERDRAFT ITEM ON 7/23/08		25.00-	985.58
506	8/01/08	250.00	7/25/08	DEPOSIT		1,330.00	2,315.58
507	8/01/08	1,800.00	7/25/08	CHECK	505	60.00-	2,255.58
525*	7/16/08	130.44	7/25/08	CHECK	539	294.00-	1,961.58
526	7/21/08	105.03	7/25/08	CHECK	540	824.00-	1,137.58
527	7/18/08	150.00	7/28/08	CHECK	541	36.33-	1,101.25
528	7/17/08	500.00	7/28/08	CHECK	542	141.00-	960.25
529	7/18/08	516.00	7/28/08	CHECK	543	165.00-	795.25
530	7/18/08	28.00	7/28/08	CHECK	503	279.35-	515.90
531	7/21/08	233.54	7/29/08	DEPOSIT		1,042.00	1,557.90
532	7/22/08	665.26	7/29/08	DEPOSIT		2,750.00	4,307.90
533	7/22/08	322.51	7/29/08	CHECK	537	133.76-	4,174.14
534	7/22/08	87.45	7/30/08	CHECK	546	74.00-	4,100.14
536*	7/23/08	440.00	7/30/08	CHECK	538	115.00-	3,985.14
537	7/29/08	133.76	7/30/08	CHECK	548	218.00-	3,767.14
538	7/30/08	115.00	7/30/08	CHECK	545	233.00-	3,534.14
539	7/25/08	294.00	7/31/08	CHECK	544	150.00-	3,384.14
540	7/25/08	824.00	8/01/08	DEPOSIT		1,080.00	4,464.14
541	7/28/08	36.33	8/01/08	CHECK	547	183.75-	4,280.39
542	7/28/08	141.00	8/01/08	CHECK	506	250.00-	4,030.39
543	7/28/08	165.00	8/01/08	CHECK	549	432.00-	3,598.39
544	7/31/08	150.00	8/01/08	CHECK	507	1,800.00-	1,798.39
545	7/30/08	233.00	8/04/08	DEPOSIT		1,278.00	3,076.39
546	7/30/08	74.00	8/04/08	CHECK		650.00-	2,426.39
547	8/01/08	183.75	8/05/08	DEPOSIT		550.00	2,976.39
548	7/30/08	218.00	8/05/08	DEPOSIT		1,337.00	4,313.39
549	8/01/08	432.00	8/05/08	CHECK		204.16-	4,109.23
Withdrawals and Other Debits			8/05/08	CHECK		311.08-	3,798.15
			8/05/08	CHECK		525.73-	3,272.42
			8/05/08	CREDIT CARD ELECT PYMT		1,000.00-	2,272.42
Date	Description	Amount					
7/09	CLARKE AMERICA	8.61					
7/11	CREDIT CARD EL						
7/11	CREDIT CARD EL	3,000.00					
7/22	CREDIT CARD EL	3,000.00					
7/22	1 OVERDRAFT IT	25.00					
7/24	1 OVERDRAFT IT	25.00					
8/05	CREDIT CARD EL	1,000.00					

WE APPRECIATE YOUR FRIENDSHIP AND HEARTWARMING SUPPORT, AND THE OPPORTUNITY TO SERVE YOU.

THANK YOU FOR BANKING WITH "YOUR" COMMUNITY BANK

REMEMBER, YOU CAN ACCESS YOUR ACCOUNT INFORMATION 24-HOURS A DAY, 7 DAYS A WEEK BY DIALING "TELEPRESS" - 885-0001.



7/07/08 Amount 55.00

Gaylon Clayson

DEPOSIT TICKET form for 7/07/08 with amount 55.00. Includes fields for name, date, and amount.

7/08/08 Amount 4,104.30

DEPOSIT TICKET form for 7/08/08 with amount 4,104.30. Includes fields for name, date, and amount.

7/10/08 Amount 2,357.45

DEPOSIT TICKET form for 7/10/08 with amount 2,357.45. Includes fields for name, date, and amount.

7/14/08 Amount 2,777.00

DEPOSIT TICKET form for 7/14/08 with amount 2,777.00. Includes fields for name, date, and amount.

7/15/08 Amount 1,130.00

DEPOSIT TICKET form for 7/15/08 with amount 1,130.00. Includes fields for name, date, and amount.

7/15/08 Amount 2,971.00

DEPOSIT TICKET form for 7/15/08 with amount 2,971.00. Includes fields for name, date, and amount.

7/21/08 Amount 3,593.00

DEPOSIT TICKET form for 7/21/08 with amount 3,593.00. Includes fields for name, date, and amount.

7/22/08 Amount 2,112.00

DEPOSIT TICKET form for 7/22/08 with amount 2,112.00. Includes fields for name, date, and amount.

7/23/08 Amount 1,067.00

DEPOSIT TICKET form for 7/23/08 with amount 1,067.00. Includes fields for name, date, and amount.

7/24/08 Amount 1,343.00

DEPOSIT TICKET form for 7/24/08 with amount 1,343.00. Includes fields for name, date, and amount.

7/25/08 Amount 1,330.00

DEPOSIT TICKET form for 7/25/08 with amount 1,330.00. Includes fields for name, date, and amount.

7/29/08 Amount 1,042.00

DEPOSIT TICKET form for 7/29/08 with amount 1,042.00. Includes fields for name, date, and amount.

7/29/08 Amount 2750.00

CLAYTON W. CLAYTON
 PO BOX 428
 THURSDAY, WY 82074
 DATE: July 29th 2008
 BANK OF STAR VALLEY
 P.O. Box 2002
 2002 7/29/08 10:24:17 000000
 CHECKING DEPOSIT
 14441322 2750.00 2750.00

8/01/08 Amount 1,080.00

NAME: Clayton Clayton 0.0000 1080.00
 ACCOUNT NO. 21003382
 DATE: 8-01-08
 BANK OF STAR VALLEY
 P.O. Box 2002
 2002 8/01/08 17:31:51 000000
 CHECKING DEPOSIT
 14441322 1080.00 1080.00

8/04/08 Amount 1,278.00

NAME: Clayton Clayton 0.0000 1278.00
 ACCOUNT NO. 21003382
 DATE: 8-04-08
 BANK OF STAR VALLEY
 P.O. Box 2002
 2002 8/04/08 9:34:07 000000
 CHECKING DEPOSIT
 14441322 1278.00 1278.00

8/05/08 Amount 550.00

CLAYTON W. CLAYTON
 PO BOX 428
 THURSDAY, WY 82074
 DATE: 8-5-08
 BANK OF STAR VALLEY
 P.O. Box 2002
 2002 8/05/08 13:12:51 000000
 CHECKING DEPOSIT
 14441322 550.00 550.00

8/05/08 Amount 1,337.00

CLAYTON W. CLAYTON
 PO BOX 428
 THURSDAY, WY 82074
 DATE: 8-05-08
 BANK OF STAR VALLEY
 P.O. Box 2002
 2002 8/05/08 15:12:32 000000
 CHECKING DEPOSIT
 14441322 1337.00 1337.00

8/04/08 Amount 650.00

NAME: Maude Peterson 0.0000 650.00
 ACCOUNT NO. 21003382
 DATE: Aug 4/08
 BANK OF STAR VALLEY
 P.O. Box 2002
 2002 8/04/08 13:12:51 000000
 CHECKING DEPOSIT
 14441322 650.00 650.00

8/05/08 Amount 204.16

NAME: Carrie Peterson 0.0000 204.16
 ACCOUNT NO. 21003382
 DATE: Aug 5/08
 BANK OF STAR VALLEY
 P.O. Box 2002
 2002 8/05/08 15:12:32 000000
 CHECKING DEPOSIT
 14441322 204.16 204.16

8/05/08 Amount 311.08

NAME: Kenneth F. Fath 0.0000 311.08
 ACCOUNT NO. 21003382
 DATE: Aug 5/08
 BANK OF STAR VALLEY
 P.O. Box 2002
 2002 8/05/08 15:12:32 000000
 CHECKING DEPOSIT
 14441322 311.08 311.08

8/05/08 Amount 525.73

NAME: Zach Walker 0.0000 525.73
 ACCOUNT NO. 21003382
 DATE: Aug 5/08
 BANK OF STAR VALLEY
 P.O. Box 2002
 2002 8/05/08 15:12:32 000000
 CHECKING DEPOSIT
 14441322 525.73 525.73

7/03/08 Check 91 Amount 150.00

CHECK NO. 91
 DATE: 7-03-08
 AMOUNT: 150.00
 BANK OF STAR VALLEY
 P.O. Box 2002
 2002 7/03/08 15:12:32 000000
 CHECKING DEPOSIT
 14441322 150.00 150.00

7/08/08 Check 92 Amount 112.09

CHECK NO. 92
 DATE: 7-08-08
 AMOUNT: 112.09
 BANK OF STAR VALLEY
 P.O. Box 2002
 2002 7/08/08 15:12:32 000000
 CHECKING DEPOSIT
 14441322 112.09 112.09

7/07/08 Check 93 Amount 326.84

CHECK NO. 93
 DATE: 7-07-08
 AMOUNT: 326.84
 BANK OF STAR VALLEY
 P.O. Box 2002
 2002 7/07/08 15:12:32 000000
 CHECKING DEPOSIT
 14441322 326.84 326.84



7/07/08 Check 95 Amount 210.00

Check 95: Pay to the order of Riverside Greenhouse, \$210.00, dated 07-02-08. Bank of Star Valley.

7/08/08 Check 96 Amount 228.00

Check 96: Pay to the order of KRSV Radio, \$228.00, dated 7/1/08. Bank of Star Valley.

7/07/08 Check 96 Amount 494.00

Check 96: Pay to the order of Miles Beverage Inc, \$494.00, dated 07/03/08. Bank of Star Valley.

7/16/08 Check 97 Amount 53.51

Check 97: Pay to the order of High Community, \$53.51, dated 7/16/08. Bank of Star Valley.

7/08/08 Check 98 Amount 75.23

Check 98: Pay to the order of JBC, \$75.23, dated 7/8/08. Bank of Star Valley.

7/10/08 Check 99 Amount 93.00

Check 99: Pay to the order of Star Valley, \$93.00, dated 7/10/08. Bank of Star Valley.

7/21/08 Check 500 Amount 97.66

Check 500: Pay to the order of JBC, \$97.66, dated July 18/08. Bank of Star Valley.

7/21/08 Check 501 Amount 10,000.00

Check 501: Pay to the order of JBC, \$10,000.00, dated July 18/08. Bank of Star Valley.

7/24/08 Check 502 Amount 63.00

Check 502: Pay to the order of Four Corners, \$63.00, dated July 24/08. Bank of Star Valley.

7/28/08 Check 503 Amount 279.35

Check 503: Pay to the order of Four Corners, \$279.35, dated July 28/08. Bank of Star Valley.

7/24/08 Check 504 Amount 1,000.00

Check 504: Pay to the order of Gaylen Clayton, \$1,000.00, dated July 24/08. Bank of Star Valley.

7/25/08 Check 505 Amount 60.00

Check 505: Pay to the order of DADS, \$60.00, dated July 24/08. Bank of Star Valley.



5

8/01/08 Check Amount 250.00

Bank of Star Valley check #524 dated 8/01/08 for \$250.00 payable to J.P. Water...

8/01/08 Check 507 Amount 1,800.00

Bank of Star Valley check #507 dated 8/01/08 for \$1,800.00 payable to Gordon Clark...

7/16/08 Check 525 Amount 130.44

Bank of Star Valley check #525 dated 7/16/08 for \$130.44 payable to...

7/21/08 Check 526 Amount 105.03

Bank of Star Valley check #526 dated 7/21/08 for \$105.03 payable to...

7/18/08 Check 527 Amount 150.00

Bank of Star Valley check #527 dated 7/18/08 for \$150.00 payable to...

7/17/08 Check 528 Amount 500.00

Bank of Star Valley check #528 dated 7/17/08 for \$500.00 payable to...

7/18/08 Check 529 Amount 516.00

Bank of Star Valley check #529 dated 7/18/08 for \$516.00 payable to...

7/18/08 Check 530 Amount 28.00

Bank of Star Valley check #530 dated 7/18/08 for \$28.00 payable to...

7/21/08 Check 531 Amount 233.54

Bank of Star Valley check #531 dated 7/21/08 for \$233.54 payable to...

7/22/08 Check 532 Amount 665.26

Bank of Star Valley check #532 dated 7/22/08 for \$665.26 payable to...

7/22/08 Check 533 Amount 322.51

Bank of Star Valley check #533 dated 7/22/08 for \$322.51 payable to...

7/22/08 Check 534 Amount 87.45

Bank of Star Valley check #534 dated 7/22/08 for \$87.45 payable to...



7/23/08 Check 536 Amount 440.00

GAYLEN W. CLAYSON
 PO BOX 436
 THAYNE, WY 82137

July 21/08

Pay to the order of
 Cedar Archery Range \$ 440.00
 four hundred forty

BANK OF STAR VALLEY
 P.O. BOX 436
 THAYNE, WY 82137

0536 0000013376

7/29/08 Check 537 Amount 133.76

GAYLEN W. CLAYSON
 PO BOX 436
 THAYNE, WY 82137

July 21/08

Pay to the order of
 One hundred thirty three and 76/100

BANK OF STAR VALLEY
 P.O. BOX 436
 THAYNE, WY 82137

0537 0000013376

7/30/08 Check 538 Amount 115.00

GAYLEN W. CLAYSON
 PO BOX 436
 THAYNE, WY 82137

July 21/08

Pay to the order of
 Cash \$ 115.00
 one hundred fifteen

BANK OF STAR VALLEY
 P.O. BOX 436
 THAYNE, WY 82137

0538

7/25/08 Check 539 Amount 294.00

GAYLEN W. CLAYSON
 PO BOX 436
 THAYNE, WY 82137

July 21/08

Pay to the order of
 Molly Brown \$ 294.00
 two hundred ninety four

BANK OF STAR VALLEY
 P.O. BOX 436
 THAYNE, WY 82137

0539

7/25/08 Check 540 Amount 824.00

GAYLEN W. CLAYSON
 PO BOX 436
 THAYNE, WY 82137

July 21/08

Pay to the order of
 Johnson Plumbing \$ 824.00
 eight hundred twenty four

BANK OF STAR VALLEY
 P.O. BOX 436
 THAYNE, WY 82137

0540

7/28/08 Check 541 Amount 36.33

GAYLEN W. CLAYSON
 PO BOX 436
 THAYNE, WY 82137

July 21/08

Pay to the order of
 Cash \$ 36.33
 thirty six and 33/100

BANK OF STAR VALLEY
 P.O. BOX 436
 THAYNE, WY 82137

0541

7/28/08 Check 542 Amount 141.00

GAYLEN W. CLAYSON
 PO BOX 436
 THAYNE, WY 82137

July 21/08

Pay to the order of
 Cash \$ 141.00
 one hundred forty one

BANK OF STAR VALLEY
 P.O. BOX 436
 THAYNE, WY 82137

0542 0000014100

7/28/08 Check 543 Amount 165.00

GAYLEN W. CLAYSON
 PO BOX 436
 THAYNE, WY 82137

July 21/08

Pay to the order of
 Johnson Plumbing \$ 165.00
 one hundred sixty five

BANK OF STAR VALLEY
 P.O. BOX 436
 THAYNE, WY 82137

0543

7/31/08 Check 544 Amount 150.00

GAYLEN W. CLAYSON
 PO BOX 436
 THAYNE, WY 82137

July 21/08

Pay to the order of
 KRSY Bank \$ 150.00
 one hundred fifty

BANK OF STAR VALLEY
 P.O. BOX 436
 THAYNE, WY 82137

0544

7/30/08 Check 545 Amount 233.00

GAYLEN W. CLAYSON
 PO BOX 436
 THAYNE, WY 82137

July 21/08

Pay to the order of
 Matheson Plumbing \$ 233.00
 two hundred thirty three

BANK OF STAR VALLEY
 P.O. BOX 436
 THAYNE, WY 82137

0545

7/30/08 Check 546 Amount 74.00

GAYLEN W. CLAYSON
 PO BOX 436
 THAYNE, WY 82137

July 21/08

Pay to the order of
 Cash \$ 74.00
 seventy four

BANK OF STAR VALLEY
 P.O. BOX 436
 THAYNE, WY 82137

0546

8/01/08 Check 547 Amount 183.75

GAYLEN W. CLAYSON
 PO BOX 436
 THAYNE, WY 82137

July 21/08

Pay to the order of
 Cash \$ 183.75
 one hundred eighty three and 75/100

BANK OF STAR VALLEY
 P.O. BOX 436
 THAYNE, WY 82137

0547

7/30/08 Check 548 Amount 218.00

GAYLEN W. CLAYSON 548
 PO BOX 426
 THAYNE, WY 82127
 Date: 7-29-08
 Pay to the Order of: *Janson Plumbing* \$ 218.⁰⁰
Two hundred Eighteen
 BANK OF STAR VALLEY
 P.O. Box 809
 112 Poppleton Parkway
 Thayne, WY 82127
 [Signature]
 0548

A

8/01/08 Check 549 Amount 432.00

GAYLEN W. CLAYSON 549
 PO BOX 426
 THAYNE, WY 82127
 Date: July 29/08
 Pay to the Order of: *Janson Plumbing* \$ 432.⁰⁰
Four hundred thirty two
 BANK OF STAR VALLEY
 P.O. Box 809
 112 Poppleton Parkway
 Thayne, WY 82127
 [Signature]
 0549



GAYLEN CLAYSON
 PO BOX 436
 THAYNE WY 83127

74

September 2, 2008

Page 1

19

Account Number XXXXXXXXXX BUSINESS CHECKING August 6, 2008 - September 2, 2008

Beginning Balance		2,272.42
Deposits	17	40,653.73
Checks	57	28,462.34-
Electronic Checks	0	.00
Withdrawals	3	6,602.95-
Ending Balance		7,860.86

Deposits and Other Credits

Activity

Date	Amount	Date	Description	Number	Amount	Balance
8/07/08	1,361.00	8/06/08	CHECK		103.00-	2,169.42
8/08/08	1,360.00	8/06/08	CHECK		113.30-	2,056.12
8/11/08	1,910.00	8/06/08	CHECK	508	665.00-	1,391.12
8/11/08	2,582.73	8/07/08	DEPOSIT		1,361.00	2,752.12
8/12/08	1,230.00	8/07/08	CHECK	511	93.00-	2,659.12
8/13/08	1,019.00	8/07/08	CHECK	100	112.00-	2,547.12
8/14/08	900.00	8/08/08	DEPOSIT		1,360.00	3,907.12
8/15/08	1,790.00	8/08/08	CHECK	513	214.00-	3,693.12
8/18/08	1,538.00	8/08/08	CHECK	514	300.00-	3,393.12
8/18/08	1,780.00	8/08/08	CHECK		354.50-	3,038.62
8/20/08	8,550.00	8/11/08	DEPOSIT		1,910.00	4,948.62
8/22/08	2,000.00	8/11/08	DEPOSIT		2,582.73	7,531.35
8/25/08	3,150.00	8/11/08	CHECK	510	70.10-	7,461.25
8/27/08	1,858.00	8/11/08	CHECK	517	233.00-	7,228.25
8/28/08	1,860.00	8/11/08	CHECK	509	488.64-	6,739.61
9/02/08	1,400.00	8/12/08	DEPOSIT		1,230.00	7,969.61
9/02/08	6,365.00	8/12/08	CHECK	518	100.00-	7,869.61
		8/12/08	CHECK	515	200.00-	7,669.61
		8/13/08	DEPOSIT		1,019.00	8,688.61
		8/13/08	CHECK	520	2,000.00-	6,688.61
		8/13/08	CREDIT CARD ELECT PYMT		2,594.34-	4,094.27
		8/14/08	DEPOSIT		900.00	4,994.27
		8/14/08	CHECK		246.26-	4,748.01
		8/14/08	CREDIT CARD ELECT PYMT		4,000.00-	748.01
		8/15/08	DEPOSIT		1,790.00	2,538.01
		8/15/08	CHECK	522	50.00-	2,488.01
		8/18/08	DEPOSIT		1,538.00	4,026.01
		8/18/08	DEPOSIT		1,780.00	5,806.01
		8/18/08	CHECK		21.90-	5,784.11
		8/18/08	CHECK	512	128.65-	5,655.46
		8/18/08	CHECK		131.25-	5,524.21
		8/18/08	CHECK		200.00-	5,324.21
		8/18/08	CHECK		220.50-	5,103.71
		8/18/08	CHECK		429.10-	4,674.61
		8/18/08	CHECK		530.00-	4,144.61
		8/18/08	CHECK		880.95-	3,263.66
		8/19/08	CHECK		65.20-	3,198.46
		8/19/08	CHECK		90.00-	3,108.46
		8/19/08	CHECK		92.30-	3,016.16
		8/19/08	CHECK		92.30-	3,016.16

Checks

Number	Date	Amount
	8/06/08	103.00
*	8/06/08	113.30
*	8/08/08	354.50
*	8/14/08	246.26
*	8/18/08	21.90
*	8/18/08	131.25
*	8/18/08	200.00
*	8/18/08	220.50
*	8/18/08	429.10
*	8/18/08	530.00
*	8/18/08	880.95
*	8/19/08	65.20
*	8/19/08	90.00
*	8/19/08	92.30
*	8/20/08	40.50
*	8/26/08	22.33
100*	8/07/08	112.00
508*	8/06/08	665.00



GAYLEN CLAYSON

September 2, 2008

Page 2

Account Number XXXXXXXXXX BUSINESS CHECKING Continued

Number	Date	Amount	Date	Description	Number	Amount	Balance
509	8/11/08	488.64	8/19/08	CHECK	519	1,800.00-	1,216.16
510	8/11/08	70.10	8/20/08	DEPOSIT		8,550.00	9,766.16
511	8/07/08	93.00	8/20/08	CHECK		40.50-	9,725.66
512	8/18/08	128.65	8/20/08	CHECK	551	198.00-	9,527.66
513	8/08/08	214.00	8/20/08	CLARKE AMERICAN CHK ORDER		8.61-	9,519.05
514	8/08/08	300.00	8/21/08	CHECK	521	166.00-	9,353.05
515	8/12/08	200.00	8/21/08	CHECK	550	1,168.24-	8,184.81
517*	8/11/08	233.00	8/21/08	CHECK	553	6,500.00-	1,684.81
518	8/12/08	100.00	8/22/08	DEPOSIT		2,000.00	3,684.81
519	8/19/08	1,800.00	8/22/08	CHECK	523	19.00-	3,665.81
520	8/13/08	2,000.00	8/25/08	DEPOSIT		3,150.00	6,815.81
521	8/21/08	166.00	8/25/08	CHECK	582	110.45-	6,705.36
522	8/15/08	50.00	8/25/08	CHECK	583	110.65-	6,594.71
523	8/22/08	19.00	8/25/08	CHECK	585	212.95-	6,381.76
550*	8/21/08	1,168.24	8/25/08	CHECK	578	257.70-	6,124.06
551	8/20/08	198.00	8/25/08	CHECK	579	605.25-	5,518.81
552	8/26/08	103.15	8/26/08	CHECK		22.33-	5,496.48
553	8/21/08	6,500.00	8/26/08	CHECK	552	103.15-	5,393.33
555*	8/28/08	1,200.00	8/26/08	CHECK	584	106.15-	5,287.18
556	9/02/08	61.85	8/26/08	CHECK	576	200.00-	5,087.18
557	8/27/08	150.00	8/26/08	CHECK	577	333.33-	4,753.85
558	8/26/08	4,000.00	8/26/08	CHECK	586	487.08-	4,266.77
559	8/28/08	500.00	8/26/08	CHECK	558	4,000.00-	266.77
560	9/02/08	429.85	8/27/08	DEPOSIT		1,858.00	2,124.77
562*	9/02/08	126.61	8/27/08	CHECK	557	150.00-	1,974.77
568*	9/02/08	36.09	8/27/08	CHECK	587	236.35-	1,738.42
569	9/02/08	708.16	8/28/08	DEPOSIT		1,860.00	3,598.42
575*	9/02/08	140.00	8/28/08	CHECK	559	500.00-	3,098.42
576	8/26/08	200.00	8/28/08	CHECK	555	1,200.00-	1,898.42
577	8/26/08	333.33	8/29/08	CHECK	588	300.00-	1,598.42
578	8/25/08	257.70	9/02/08	DEPOSIT		1,400.00	2,998.42
579	8/25/08	605.25	9/02/08	DEPOSIT		6,365.00	9,363.42
582*	8/25/08	110.45	9/02/08	CHECK	568	36.09-	9,327.33
583	8/25/08	110.65	9/02/08	CHECK	556	61.85-	9,265.48
584	8/26/08	106.15	9/02/08	CHECK	562	126.61-	9,138.87
585	8/25/08	212.95	9/02/08	CHECK	575	140.00-	8,998.87
586	8/26/08	487.08	9/02/08	CHECK	560	429.85-	8,569.02
587	8/27/08	236.35	9/02/08	CHECK	569	708.16-	7,860.86
588	8/29/08	300.00					

Withdrawals and Other Debits

Date	Description	Amount
8/13	CREDIT CARD EL	2,594.34
8/14	CREDIT CARD EL	4,000.00
8/20	CLARKE AMERICA	8.61

WE APPRECIATE YOUR FRIENDSHIP AND HEARTWARMING SUPPORT, AND THE OPPORTUNITY TO SERVE YOU.

THANK YOU FOR BANKING WITH "YOUR" COMMUNITY BANK

REMEMBER, YOU CAN ACCESS YOUR ACCOUNT INFORMATION 24-HOURS A DAY, 7 DAYS A WEEK BY DIALING "TELEPRESS" - 885-0001.

8/07/08 Amount 61.00

NAME GAYLEN CLAYSON CASH 1361.00
 ACCOUNT NO. [REDACTED]
 DATE 8/7/08
 BANK OF STAR VALLEY
 P.O. Box 8007
 284 Washington
 Arden, WY 83110
 CHECKING DEPOSIT \$ 1361.00
 111113322 2,752.12 1,361.00
 1023063561 14

8/08/08 Amount 1,360.00

NAME GAYLEN CLAYSON CASH 1360.00
 ACCOUNT NO. [REDACTED]
 DATE 8/8/08
 BANK OF STAR VALLEY
 P.O. Box 8007
 284 Washington
 Arden, WY 83110
 CHECKING DEPOSIT \$ 1360.00
 111113322 3,907.12 1,360.00
 1023063561 14

8/11/08 Amount 1,910.00

DEPOSIT TICKET
 GAYLEN W. CLAYSON
 P# 807-883-2810
 PO BOX 430
 THAYNE, WY 82127
 DATE 8-11-08
 BANK OF STAR VALLEY
 P.O. Box 8007
 284 Washington
 Arden, WY 83110
 CHECKING DEPOSIT \$ 1910.00
 111113322 4,948.62 1,910.00
 1023063561 14

8/11/08 Amount 2,582.73

DEPOSIT TICKET
 NAME GAYLEN CLAYSON CASH 1915.00
 ACCOUNT NO. [REDACTED] 667.73
 DATE 8/11/08
 BANK OF STAR VALLEY
 P.O. Box 8007
 284 Washington
 Arden, WY 83110
 CHECKING DEPOSIT \$ 2582.73
 111113322 7,298.35 2,582.73
 1023063561 14

8/12/08 Amount 1,230.00

DEPOSIT TICKET
 NAME GAYLEN CLAYSON CASH 1230.00
 ACCOUNT NO. [REDACTED]
 DATE 8/12/08
 BANK OF STAR VALLEY
 P.O. Box 8007
 284 Washington
 Arden, WY 83110
 CHECKING DEPOSIT \$ 1230.00
 111113322 7,969.61 1,230.00
 1023063561 14

8/13/08 Amount 1,019.00

DEPOSIT TICKET
 NAME GAYLEN CLAYSON CASH 1019.00
 ACCOUNT NO. [REDACTED]
 DATE 8/13/08
 BANK OF STAR VALLEY
 P.O. Box 8007
 284 Washington
 Arden, WY 83110
 CHECKING DEPOSIT \$ 1019.00
 111113322 4,094.27 1,019.00
 1023063561 14

8/14/08 Amount 900.00

DEPOSIT TICKET
 NAME Clayson CASH 900.00
 ACCOUNT NO. [REDACTED]
 DATE 8/14/08
 BANK OF STAR VALLEY
 P.O. Box 8007
 284 Washington
 Arden, WY 83110
 CHECKING DEPOSIT \$ 900.00
 111113322 500.00
 1023063561 14

8/15/08 Amount 1,790.00

DEPOSIT TICKET
 NAME [REDACTED] CASH 1790.00
 ACCOUNT NO. [REDACTED]
 DATE 8/15/08
 BANK OF STAR VALLEY
 P.O. Box 8007
 284 Washington
 Arden, WY 83110
 CHECKING DEPOSIT \$ 1790.00
 111113322 2,578.01 1,790.00
 1023063561 14

8/18/08 Amount 1,538.00

DEPOSIT TICKET
 NAME [REDACTED] CASH 1538.00
 ACCOUNT NO. [REDACTED]
 DATE 8/18/08
 BANK OF STAR VALLEY
 P.O. Box 8007
 284 Washington
 Arden, WY 83110
 CHECKING DEPOSIT \$ 1538.00
 111113322 1,578.00
 1023063561 14

8/18/08 Amount 1,780.00

DEPOSIT TICKET
 NAME [REDACTED] CASH 1780.00
 ACCOUNT NO. [REDACTED]
 DATE 8/18/08
 BANK OF STAR VALLEY
 P.O. Box 8007
 284 Washington
 Arden, WY 83110
 CHECKING DEPOSIT \$ 1780.00
 111113322 5,156.41 1,780.00
 1023063561 14

8/20/08 Amount 8,550.00

DEPOSIT TICKET
 NAME [REDACTED] CASH 8550.00
 ACCOUNT NO. [REDACTED]
 DATE 8/20/08
 BANK OF STAR VALLEY
 P.O. Box 8007
 284 Washington
 Arden, WY 83110
 CHECKING DEPOSIT \$ 8550.00
 111113322 5,757.55 8,550.00
 1023063561 14

8/22/08 Amount 2,000.00

DEPOSIT TICKET
 GAYLEN W. CLAYSON
 P# 807-883-2810
 PO BOX 430
 THAYNE, WY 82127
 DATE 8/22/08
 BANK OF STAR VALLEY
 P.O. Box 8007
 284 Washington
 Arden, WY 83110
 CHECKING DEPOSIT \$ 2000.00
 111113322 5,819.05 2,000.00
 1023063561 14



8/25/08 Amount 150.00

NAME _____ CASH

ACCOUNT NO. _____

DATE 8/25/08

BANK OF STAR VALLEY
P.O. Box 8007
304 Washington
Alton, WY 82118
CHECKING DEPOSIT

3,150.00
1,111.322
6,224.71
3,150.00

3150.00

8/27/08 Amount 1,858.00

NAME _____ CASH 1858.00

ACCOUNT NO. _____

DATE 8/27/08

BANK OF STAR VALLEY
P.O. Box 8007
304 Washington
Alton, WY 82118
CHECKING DEPOSIT

1,858.00
1,111.322
3,969.32

1858.00

8/28/08 Amount 1,860.00

NAME Gaylen Clayton CASH

ACCOUNT NO. _____

DATE 8/28/08

BANK OF STAR VALLEY
P.O. Box 8007
304 Washington
Alton, WY 82118
CHECKING DEPOSIT

1,860.00
1,111.322
3,071.32

1860.00

9/02/08 Amount 1,400.00

NAME Gaylen Clayton CASH 1400.00

ACCOUNT NO. _____

DATE 9-2-08

BANK OF STAR VALLEY
P.O. Box 8007
304 Washington
Alton, WY 82118
CHECKING DEPOSIT

1,400.00
1,111.322
2,511.32

1400.00

9/02/08 Amount 6,365.00

NAME Gaylen Clayton CASH

ACCOUNT NO. _____

DATE 9/02/08

BANK OF STAR VALLEY
P.O. Box 8007
304 Washington
Alton, WY 82118
CHECKING DEPOSIT

6,365.00
1,111.322
7,476.32

6365.00

8/06/08 Amount 103.00

NAME Gaylen Clayton CASH 103.00

ACCOUNT NO. _____

DATE 8/6/08

BANK OF STAR VALLEY
P.O. Box 8007
304 Washington
Alton, WY 82118
CHECKING DEPOSIT

103.00
1,111.322
1,214.32

103.00

8/06/08 Amount 113.30

NAME Gaylen Clayton CASH 113.30

ACCOUNT NO. _____

DATE 8/6/08

BANK OF STAR VALLEY
P.O. Box 8007
304 Washington
Alton, WY 82118
CHECKING DEPOSIT

113.30
1,111.322
1,224.62

113.30

8/08/08 Amount 354.50

NAME Wagner CASH 354.50

ACCOUNT NO. _____

DATE 8/8/08

BANK OF STAR VALLEY
P.O. Box 8007
304 Washington
Alton, WY 82118
CHECKING DEPOSIT

354.50
1,111.322
1,466.32

354.50

8/14/08 Amount 246.26

NAME Heidi Matthews CASH 246.26

ACCOUNT NO. _____

DATE 8/14/08

BANK OF STAR VALLEY
P.O. Box 8007
304 Washington
Alton, WY 82118
CHECKING DEPOSIT

246.26
1,111.322
1,357.58

246.26

8/18/08 Amount 21.90

NAME Ramona Sinclair CASH 21.90

ACCOUNT NO. _____

DATE 8-15-08

BANK OF STAR VALLEY
P.O. Box 8007
304 Washington
Alton, WY 82118
CHECKING DEPOSIT

21.90
1,111.322
1,133.22

21.90

8/18/08 Amount 131.25

NAME Gaylen Clayton CASH 131.25

ACCOUNT NO. _____

DATE 8-15-08

BANK OF STAR VALLEY
P.O. Box 8007
304 Washington
Alton, WY 82118
CHECKING DEPOSIT

131.25
1,111.322
1,242.57

131.25

8/18/08 Amount 200.00

NAME Myra Jaton CASH 200.00

ACCOUNT NO. _____

DATE 8/18/08

BANK OF STAR VALLEY
P.O. Box 8007
304 Washington
Alton, WY 82118
CHECKING DEPOSIT

200.00
1,111.322
1,311.32

200.00



8/18/08 Amount 10.50

8-18-08

Pay to the Order of Carmen Alameda \$220.50

Two hundred twenty & fifty

BANK OF STAR VALLEY
P.O. Box 8007
344 Washington
Alameda, WY 83416
111117322

Wages 7-27 thru 8-9

8/18/08 Amount 530.00

8-15-08

Pay to the Order of Jim Yoho \$530.00

Five hundred thirty and 00/100

BANK OF STAR VALLEY
P.O. Box 8007
344 Washington
Alameda, WY 83416

Wages 7-27 thru 8-9

8/19/08 Amount 65.20

8-15-08

Pay to the Order of Jeremy Smith \$65.20

Sixty five and 20/100

BANK OF STAR VALLEY
P.O. Box 8007
344 Washington
Alameda, WY 83416

Wages 7-27 thru 8-9

8/19/08 Amount 92.30

8-15-08

Pay to the Order of Jawna Halverson \$92.30

Ninety two dollars and 30/100

BANK OF STAR VALLEY
P.O. Box 8007
344 Washington
Alameda, WY 83416

Wages 7-27 thru 8-9

8/26/08 Amount 22.33

8-15-08

Pay to the Order of Amy Eastwood \$22.33

Twenty two and 33/100

BANK OF STAR VALLEY
P.O. Box 8007
344 Washington
Alameda, WY 83416

Wages 7-27 thru 8-9

8/06/08 Check 508 Amount 665.00

8-15-08

Pay to the Order of John Phillips \$665.00

Six hundred sixty five and 00/100

BANK OF STAR VALLEY
P.O. Box 8007
344 Washington
Alameda, WY 83416

Wages 7-27 thru 8-9

8/18/08 Amount 429.10

8-15-08

Pay to the Order of Janis Smith \$429.10

Four hundred twenty nine and 10/100

BANK OF STAR VALLEY
P.O. Box 8007
344 Washington
Alameda, WY 83416

Wages 7-27 thru 8-9

8/18/08 Amount 880.95

8-15-08

Pay to the Order of April M. Smith \$880.95

Eight hundred eighty and 95/100

BANK OF STAR VALLEY
P.O. Box 8007
344 Washington
Alameda, WY 83416

Wages 7-27 thru 8-9

8/19/08 Amount 90.00

8-15-08

Pay to the Order of Carrie Artgo \$90.00

Ninety and 00/100

BANK OF STAR VALLEY
P.O. Box 8007
344 Washington
Alameda, WY 83416

Wages 7-27 thru 8-9

8/20/08 Amount 40.50

8-15-08

Pay to the Order of Krista Pratt \$40.50

Forty dollars and 50/100

BANK OF STAR VALLEY
P.O. Box 8007
344 Washington
Alameda, WY 83416

Wages 7-27 thru 8-9

8/07/08 Check 100 Amount 112.00

8-07-08

Pay to the Order of Sells Well Jewelry \$112.00

One hundred and twelve dollars and 00/100

BANK OF STAR VALLEY
P.O. Box 8007
344 Washington
Alameda, WY 83416

Wages 7-27 thru 8-9

8/11/08 Check 509 Amount 488.64

8-11-08

Pay to the Order of Christina \$488.64

Four hundred eighty eight and 64/100

BANK OF STAR VALLEY
P.O. Box 8007
344 Washington
Alameda, WY 83416

Wages 7-27 thru 8-9



A

8/11/08 Check Amount 70.10

GAYLEN W. CLAYSON 510
 PH 207-683-2310
 PO BOX 436
 THAYNE, WY 83127

Aug 4/08
 Pay to the Order of Farm Co \$ 70.10
Seventy dollar and 10/100
 BANK OF STAR VALLEY
 P.O. Box 436
 113 Progressive Parkway
 Thayne, WY 83127

For [Signature]
 0510 0000007010

8/07/08 Check 511 Amount 93.00

GAYLEN W. CLAYSON 511
 PH 207-683-2310
 PO BOX 436
 THAYNE, WY 83127

8-6-08
 Pay to the Order of Town of Thayne \$ 93.00
Ninety three and 00/100
 BANK OF STAR VALLEY
 P.O. Box 436
 113 Progressive Parkway
 Thayne, WY 83127

For [Signature]
 0511

8/18/08 Check 512 Amount 128.65

GAYLEN W. CLAYSON 512
 PH 207-683-2310
 PO BOX 436
 THAYNE, WY 83127

8-7-08
 Pay to the Order of High Country Lines \$ 128.65
One hundred twenty eight and 65/100
 BANK OF STAR VALLEY
 P.O. Box 436
 113 Progressive Parkway
 Thayne, WY 83127

For 738831 + 737804
 0512

8/08/08 Check 513 Amount 214.00

GAYLEN W. CLAYSON 513
 PH 207-683-2310
 PO BOX 436
 THAYNE, WY 83127

Aug 8/08
 Pay to the Order of Mark Lott \$ 214.00
Two hundred fourteen
 BANK OF STAR VALLEY
 P.O. Box 436
 113 Progressive Parkway
 Thayne, WY 83127

For [Signature]
 0513

8/08/08 Check 514 Amount 300.00

GAYLEN W. CLAYSON 514
 PH 207-683-2310
 PO BOX 436
 THAYNE, WY 83127

Aug 8/08
 Pay to the Order of Mark Lott \$ 300.00
Three hundred
 BANK OF STAR VALLEY
 P.O. Box 436
 113 Progressive Parkway
 Thayne, WY 83127

For [Signature]
 0514

8/12/08 Check 515 Amount 200.00

GAYLEN W. CLAYSON 515
 PH 207-683-2310
 PO BOX 436
 THAYNE, WY 83127

Aug 8/08
 Pay to the Order of Steve Brown \$ 200.00
Two hundred
 BANK OF STAR VALLEY
 P.O. Box 436
 113 Progressive Parkway
 Thayne, WY 83127

For wirk @ SVChap
 0515

8/11/08 Check 517 Amount 233.00

GAYLEN W. CLAYSON 517
 PH 207-683-2310
 PO BOX 436
 THAYNE, WY 83127

Aug 8/08
 Pay to the Order of Carmen Herbster \$ 233.00
Two hundred thirty three
 BANK OF STAR VALLEY
 P.O. Box 436
 113 Progressive Parkway
 Thayne, WY 83127

For [Signature]
 0517

8/12/08 Check 518 Amount 100.00

GAYLEN W. CLAYSON 518
 PH 207-683-2310
 PO BOX 436
 THAYNE, WY 83127

Aug 12/08
 Pay to the Order of Mark Lott \$ 100.00
One hundred
 BANK OF STAR VALLEY
 P.O. Box 436
 113 Progressive Parkway
 Thayne, WY 83127

For [Signature]
 0518

8/19/08 Check 519 Amount 1,800.00

GAYLEN W. CLAYSON 519
 PH 207-683-2310
 PO BOX 436
 THAYNE, WY 83127

Aug 19/08
 Pay to the Order of Leeds Dairy \$ 1800.00
Eighteen hundred
 BANK OF STAR VALLEY
 P.O. Box 436
 113 Progressive Parkway
 Thayne, WY 83127

For [Signature]
 0519 0000180000

8/13/08 Check 520 Amount 2,000.00

GAYLEN W. CLAYSON 520
 PH 207-683-2310
 PO BOX 436
 THAYNE, WY 83127

Aug 13/08
 Pay to the Order of Golden Key Painting \$ 2000.00
Two thousand
 BANK OF STAR VALLEY
 P.O. Box 436
 113 Progressive Parkway
 Thayne, WY 83127

For [Signature]
 0520

8/21/08 Check 521 Amount 166.00

GAYLEN W. CLAYSON 521
 PH 207-683-2310
 PO BOX 436
 THAYNE, WY 83127

Aug 13/08
 Pay to the Order of Mailep Kenney \$ 166.00
Sixty six and 00/100
 BANK OF STAR VALLEY
 P.O. Box 436
 113 Progressive Parkway
 Thayne, WY 83127

For [Signature]
 0521

8/15/08 Check 522 Amount 50.00

GAYLEN W. CLAYSON 522
 PH 207-683-2310
 PO BOX 436
 THAYNE, WY 83127

Aug 13/08
 Pay to the Order of Tom Fotto \$ 50.00
fifty
 BANK OF STAR VALLEY
 P.O. Box 436
 113 Progressive Parkway
 Thayne, WY 83127

For [Signature]
 0522

8/22/08 Check Amount 19.00

CAYLEN W. CLAYTON
 PAY TO THE ORDER OF
 TRUSTEE, WY 82701

8/22/08

Pay to the order of Richard King Co \$19.00
Norden

BANK OF STAR VALLEY

⑆102306356⑆ [redacted] 0573

8/21/08 Check 550 Amount 1,168.24

CAYLEN W. CLAYTON
 PAY TO THE ORDER OF
 TRUSTEE, WY 82701

8/21/08

Pay to the order of Regis \$1,168.24
Shane

BANK OF STAR VALLEY

⑆102306356⑆ [redacted] 0550 ⑆0000116824⑆

8/20/08 Check 551 Amount 198.00

CAYLEN W. CLAYTON
 PAY TO THE ORDER OF
 TRUSTEE, WY 82701

8/20/08

Pay to the order of Jan McQuill \$198.00
One hundred and ninety eight

BANK OF STAR VALLEY

⑆102306356⑆ [redacted] 0551

8/26/08 Check 552 Amount 103.15

CAYLEN W. CLAYTON
 PAY TO THE ORDER OF
 TRUSTEE, WY 82701

8/26/08

Pay to the order of Famous Brothers Office \$103.15
One hundred three and 15/100

BANK OF STAR VALLEY

⑆102306356⑆ [redacted] 0552 ⑆000010315⑆

8/21/08 Check 553 Amount 6,500.00

CAYLEN W. CLAYTON
 PAY TO THE ORDER OF
 TRUSTEE, WY 82701

8/21/08

Pay to the order of Front bonded by front \$6,500.00
Sixty five hundred

BANK OF STAR VALLEY

⑆102306356⑆ [redacted] 0553

8/28/08 Check 555 Amount 1,200.00

CAYLEN W. CLAYTON
 PAY TO THE ORDER OF
 TRUSTEE, WY 82701

8/28/08

Pay to the order of Rody Degan \$1,200.00
twelve hundred

BANK OF STAR VALLEY

⑆102306356⑆ [redacted] 0555 ⑆0000120000⑆

9/02/08 Check 556 Amount 61.85

CAYLEN W. CLAYTON
 PAY TO THE ORDER OF
 TRUSTEE, WY 82701

9/02/08

Pay to the order of Print Star \$61.85
Sixty one and 85/100

BANK OF STAR VALLEY

⑆102306356⑆ [redacted] 0556

8/27/08 Check 557 Amount 150.00

CAYLEN W. CLAYTON
 PAY TO THE ORDER OF
 TRUSTEE, WY 82701

8/27/08

Pay to the order of Justin Peasler \$150.00
one hundred fifty

BANK OF STAR VALLEY

⑆102306356⑆ [redacted] 0557 ⑆0000150000⑆

8/26/08 Check 558 Amount 4,000.00

CAYLEN W. CLAYTON
 PAY TO THE ORDER OF
 TRUSTEE, WY 82701

8/26/08

Pay to the order of Suave \$4,000.00
four thousand

BANK OF STAR VALLEY

⑆102306356⑆ [redacted] 0558

8/28/08 Check 559 Amount 500.00

CAYLEN W. CLAYTON
 PAY TO THE ORDER OF
 TRUSTEE, WY 82701

8/28/08

Pay to the order of Mark Johnson \$500.00
five hundred

BANK OF STAR VALLEY

⑆102306356⑆ [redacted] 0559

9/02/08 Check 560 Amount 429.85

CAYLEN W. CLAYTON
 PAY TO THE ORDER OF
 TRUSTEE, WY 82701

9/02/08

Pay to the order of Shane Food Service \$429.85
four hundred and twenty nine and 85/100

BANK OF STAR VALLEY

⑆102306356⑆ [redacted] 0560 ⑆000042985⑆

9/02/08 Check 562 Amount 126.61

CAYLEN W. CLAYTON
 PAY TO THE ORDER OF
 TRUSTEE, WY 82701

9/02/08

Pay to the order of Stephenie Peterson \$126.61
one hundred twenty six and 61/100

BANK OF STAR VALLEY

⑆102306356⑆ [redacted] 0562 ⑆000012661⑆

9/02/08 Check Amount 36.09

CLAYTON W. CLAYTON
 PO BOX 100
 TRAFLET, WY 82432

8-29-08

Pay to the order of Sandi McKinney \$ 36.09
Thirty six and 00/100

BANK OF STAR VALLEY
 1023063561

9/02/08 Check 569 Amount 708.16

CLAYTON W. CLAYTON
 PO BOX 100
 TRAFLET, WY 82432

8-29-08

Pay to the order of Heidi McKinney \$ 708.16
Seven hundred eight and 16/100

BANK OF STAR VALLEY
 1023063561

9/02/08 Check 575 Amount 140.00

CLAYTON W. CLAYTON
 PO BOX 100
 TRAFLET, WY 82432

Aug 21/08

Pay to the order of Allyce Canyon \$ 140.00
One hundred and 00/100

BANK OF STAR VALLEY
 1023063561

8/26/08 Check 576 Amount 200.00

CLAYTON W. CLAYTON
 PO BOX 100
 TRAFLET, WY 82432

Aug 21/08

Pay to the order of Valley Truck LLC \$ 200.00
Two hundred and 00/100

BANK OF STAR VALLEY
 1023063561

8/26/08 Check 577 Amount 333.33

CLAYTON W. CLAYTON
 PO BOX 100
 TRAFLET, WY 82432

8-22-08

Pay to the order of Liebana Frank \$ 333.33
Three hundred thirty three and 33/100

BANK OF STAR VALLEY
 1023063561

8/25/08 Check 578 Amount 257.70

CLAYTON W. CLAYTON
 PO BOX 100
 TRAFLET, WY 82432

8-22-08

Pay to the order of Kelia Platt \$ 257.70
Two hundred fifty seven and 70/100

BANK OF STAR VALLEY
 1023063561

8/25/08 Check 579 Amount 605.25

CLAYTON W. CLAYTON
 PO BOX 100
 TRAFLET, WY 82432

8-22-08

Pay to the order of Heidi McKinney \$ 605.25
Six hundred five and 25/100

BANK OF STAR VALLEY
 1023063561

8/25/08 Check 582 Amount 110.45

CLAYTON W. CLAYTON
 PO BOX 100
 TRAFLET, WY 82432

8-22-08

Pay to the order of Heidi McKinney \$ 110.45
One hundred ten and 45/100

BANK OF STAR VALLEY
 1023063561

8/25/08 Check 583 Amount 110.65

CLAYTON W. CLAYTON
 PO BOX 100
 TRAFLET, WY 82432

8-22-08

Pay to the order of Sandi Hokanson \$ 110.65
One hundred ten and 65/100

BANK OF STAR VALLEY
 1023063561

8/26/08 Check 584 Amount 106.15

CLAYTON W. CLAYTON
 PO BOX 100
 TRAFLET, WY 82432

8-22-08

Pay to the order of Jeremy Speth \$ 106.15
One hundred six and 15/100

BANK OF STAR VALLEY
 1023063561

8/25/08 Check 585 Amount 212.95

CLAYTON W. CLAYTON
 PO BOX 100
 TRAFLET, WY 82432

8-22-08

Pay to the order of Casey Poston \$ 212.95
Two hundred twelve and 95/100

BANK OF STAR VALLEY
 1023063561

8/26/08 Check 586 Amount 487.08

CLAYTON W. CLAYTON
 PO BOX 100
 TRAFLET, WY 82432

8-22-08

Pay to the order of Romy Eastwood \$ 487.08
Four hundred eighty seven and 08/100

BANK OF STAR VALLEY
 1023063561

8/27/08 Check Amount 236.35

8/29/08 Check 588 Amount 300.00

GAYLEN W. CLAYTON 587
 PH 207-863-2510
 PO BOX 636
 THAYNE, WY 82127

8-22-08

Pay to the Order of James Leath \$ 236.35
Two hundred thirty six and 35/100

BANK OF STAR VALLEY
 112 Main Street
 Thayne, WY 82127

WG 925 8-11-8-16
 OFFIC IN CH
 1: 402306356: 0587

GAYLEN W. CLAYTON 588
 PH 207-863-2510
 PO BOX 636
 THAYNE, WY 82127

Aug 28/08

Pay to the Order of Mark Peterson \$ 300.00
Three hundred

BANK OF STAR VALLEY
 112 Main Street
 Thayne, WY 82127

1: 402306356: 0588



GAYLEN CLAYSON
 PO BOX 436
 THAYNE WY 83127

124

October 7, 2008

Page 1

25

Account Number [REDACTED] BUSINESS CHECKING September 3, 2008 - October 7, 2008

Beginning Balance		7,860.86
Deposits	46	58,468.30
Checks	101	55,587.47-
Electronic Checks	2	593.81-
Withdrawals	10	10,120.29-
Ending Balance		27.59

Deposits and Other Credits		Activity				
Date	Amount	Date	Description	Number	Amount	Balance
9/04/08	670.00	9/03/08	CHECK	571	76.95-	7,783.91
9/04/08	2,487.00	9/03/08	CHECK	564	125.62-	7,658.29
9/08/08	4,362.00	9/03/08	CHECK	570	140.34-	7,517.95
9/09/08	535.13	9/03/08	CHECK	572	264.31-	7,253.64
9/11/08	2,802.00	9/03/08	CHECK	563	672.67-	6,580.97
9/11/08	9,000.00	9/04/08	DEPOSIT		670.00	7,250.97
9/11/08	120.04	9/04/08	DEPOSIT		2,487.00	9,737.97
9/12/08	940.00	9/04/08	CHECK	596	100.00-	9,637.97
9/12/08	379.00	9/04/08	CHECK	561	172.52-	9,465.45
9/15/08	397.32	9/04/08	CHECK	589	663.87-	8,801.58
9/15/08	988.84	9/04/08	CREDIT CARD ELECT PYMT		2,000.00-	6,801.58
9/17/08	546.42	9/05/08	CHECK	594	30.00-	6,771.58
9/18/08	724.70	9/05/08	CHECK	554	160.00-	6,611.58
9/18/08	4,595.00	9/05/08	CHECK	599	165.69-	6,445.89
9/19/08	813.55	9/05/08	CHECK	573	172.54-	6,273.35
9/19/08	1,085.48	9/05/08	CHECK		354.00-	5,919.35
9/22/08	787.29	9/05/08	CHECK	591	839.75-	5,079.60
9/22/08	979.12	9/05/08	CHECK	595	3,413.91-	1,665.69
9/22/08	452.74	9/08/08	DEPOSIT		4,362.00	6,027.69
9/22/08	630.11	9/08/08	CHECK	566	76.95-	5,950.74
9/22/08	685.79	9/08/08	CHECK		163.23-	5,787.51
9/23/08	3,000.00	9/08/08	CHECK		274.79-	5,512.72
9/24/08	657.14	9/08/08	CHECK		613.42-	4,899.30
9/24/08	517.82	9/08/08	CHECK		816.53-	4,082.77
9/24/08	3,000.00	9/08/08	CHECK		981.67-	3,101.10
9/25/08	869.00	9/09/08	DEPOSIT		535.13	3,636.23
9/25/08	290.23	9/09/08	CHECK	598	112.69-	3,523.54
9/26/08	422.06	9/09/08	CHECK	592	136.20-	3,387.34
9/29/08	847.49	9/09/08	CHECK		162.01-	3,225.33
9/29/08	1,841.98	9/09/08	CHECK	574	1,300.00-	1,925.33
9/29/08	454.42	9/09/08	CONOCO PAYMENT CHECK PYMT	593	500.00-	1,425.33
9/29/08	631.10	9/10/08	CHECK		120.04-	1,305.29
9/29/08	777.94	9/10/08	CHECK	9999	204.69-	1,100.60
9/30/08	795.12	9/10/08	CHECK		320.94-	779.66
10/01/08	221.83	9/11/08	DEPOSIT		2,802.00	3,581.66
10/02/08	455.89	9/11/08	DEPOSIT		9,000.00	12,581.66
10/02/08	478.34	9/11/08	BANKCARD SETTLEMENT		120.04	12,701.70
10/02/08	5,000.00	9/11/08	AUTO WITHDRAWAL		57.18-	12,644.52
10/02/08	411.35	9/11/08	AUTO WITHDRAWAL		832.51-	11,812.01



GAYLEN CLAYSON

October 7, 2008

Page 2

BUSINESS CHECKING			Continued		
Date	Amount	Description	Number	Amount	Balance
10/03/08	1,454.75	9/12/08 DEPOSIT		940.00	12,752.01
10/03/08	407.99	9/12/08 BANKCARD SETTLEMENT		379.00	13,131.01
10/06/08	720.00	9/12/08 CHECK	9999	100.00-	13,031.01
10/06/08	337.82	9/12/08 CHECK	9999	514.00-	12,517.01
10/06/08	365.06	9/12/08 CHECK	9999	786.69-	11,730.32
10/06/08	379.44	9/15/08 BANKCARD SETTLEMENT		397.32	12,127.64
10/07/08	150.00	9/15/08 BANKCARD SETTLEMENT		988.84	13,116.48
		9/15/08 CHECK		95.94-	13,020.54
		9/15/08 CHECK		179.53-	12,841.01
		9/15/08 CHECK	9999	330.50-	12,510.51
		9/15/08 CHECK		473.52-	12,036.99
		9/15/08 CHECK		603.15-	11,433.84
		9/15/08 CHECK		667.66-	10,766.18
		9/15/08 BK OF AM CRD ACH PAYBYPHONE		100.00-	10,666.18
		9/17/08 BANKCARD SETTLEMENT		546.42	11,212.60
		9/17/08 CHECK		119.97-	11,092.63
		9/17/08 CHECK		146.45-	10,946.18
		9/17/08 CHECK		178.95-	10,767.23
		9/17/08 CHECK		234.01-	10,533.22
		9/17/08 CHECK		262.53-	10,270.69
		9/17/08 CLARKE AMERICAN CHK ORDER		8.61-	10,262.08
		9/17/08 CREDIT CARD ELECT PYMT		2,791.13-	7,470.95
		9/18/08 DEPOSIT		724.70	8,195.65
		9/18/08 DEPOSIT		4,595.00	12,790.65
		9/18/08 CHECK		169.70-	12,620.95
		9/18/08 CHECK	567	334.40-	12,286.55
		9/18/08 CHECK	524	400.06-	11,886.49
		9/18/08 CHECK		419.69-	11,466.80
		9/18/08 CHECK	580	507.30-	10,959.50
		9/18/08 CHECK		898.25-	10,061.25
		9/19/08 DEPOSIT		813.55	10,874.80
		9/19/08 BANKCARD SETTLEMENT		1,085.48	11,960.28
		9/19/08 CHECK	602	5,715.99-	6,244.29
		9/22/08 DEPOSIT		787.29	7,031.58
		9/22/08 DEPOSIT		979.12	8,010.70
		9/22/08 BANKCARD SETTLEMENT		452.74	8,463.44
		9/22/08 BANKCARD SETTLEMENT		630.11	9,093.55
		9/22/08 BANKCARD SETTLEMENT		685.79	9,779.34
		9/22/08 CHECK	610	154.69-	9,624.65
		9/22/08 CHECK	609	154.69-	9,469.96
		9/22/08 CHECK	606	288.23-	9,181.73
		9/22/08 CHECK		688.15-	8,493.58
		9/22/08 CHECK	614	700.00-	7,793.58
		9/22/08 CHECK	612	742.81-	7,050.77
		9/22/08 CHECK	607	819.74-	6,231.03
		9/23/08 TRANSFER PER MORRIS		1,000.00	9,231.03
		9/23/08 CHECK	613	294.77-	8,936.26
		9/23/08 CHECK	603	300.00-	8,636.26
		9/23/08 CHECK	617	300.00-	8,336.26
		9/23/08 CHECK	615	1,000.00-	7,336.26
		9/23/08 TRANSFER PER MORRIS		3,000.00-	4,336.26
		9/24/08 DEPOSIT		657.14	4,993.40
		9/24/08 BANKCARD SETTLEMENT		517.82	5,511.22
		9/24/08 DEPOSIT-AUTO		3,000.00	8,511.22
		9/24/08 CHECK	9999	65.95-	8,445.27



GAYLEN CLAYSON

October 7, 2008

Page 3

Account Number		BUSINESS CHECKING		Continued			
Number	Date	Amount	Date	Description	Number	Amount	Balance
581	10/03/08	346.77	9/24/08	CHECK	608	170.85-	8,274.42
589*	9/04/08	663.87	9/25/08	DEPOSIT		869.00	9,143.42
591*	9/05/08	839.75	9/25/08	BANKCARD SETTLEMENT		290.23	9,433.65
592	9/09/08	136.20	9/25/08	CHECK	604	147.89-	9,285.76
594*	9/05/08	30.00	9/25/08	CHECK	616	311.10-	8,974.66
595	9/05/08	3,413.91	9/26/08	BANKCARD SETTLEMENT		422.06	9,396.72
596	9/04/08	100.00	9/26/08	CHECK	619	44.57-	9,352.15
598*	9/09/08	112.69	9/26/08	CHECK	626	84.74-	9,267.41
599	9/05/08	165.69	9/26/08	CHECK	629	431.76-	8,835.65
602*	9/19/08	5,715.99	9/26/08	CHECK	639	700.00-	8,135.65
603	9/23/08	300.00	9/29/08	DEPOSIT		847.49	8,983.14
604	9/25/08	147.89	9/29/08	DEPOSIT		1,841.98	10,825.12
605	9/29/08	168.00	9/29/08	BANKCARD SETTLEMENT		454.42	11,279.54
606	9/22/08	288.23	9/29/08	BANKCARD SETTLEMENT		631.10	11,910.64
607	9/22/08	819.74	9/29/08	BANKCARD SETTLEMENT		777.94	12,688.58
608	9/24/08	170.85	9/29/08	CHECK	621	26.24-	12,662.34
609	9/22/08	154.69	9/29/08	CHECK	635	118.65-	12,543.69
610	9/22/08	154.69	9/29/08	CHECK	627	152.27-	12,391.42
611	9/30/08	353.02	9/29/08	CHECK	633	162.08-	12,229.34
612	9/22/08	742.81	9/29/08	CHECK	605	168.00-	12,061.34
613	9/23/08	294.77	9/29/08	CHECK	628	296.23-	11,765.11
614	9/22/08	700.00	9/29/08	CHECK	631	662.72-	11,102.39
615	9/23/08	1,000.00	9/29/08	CHECK	636	678.70-	10,423.69
616	9/25/08	311.10	9/30/08	DEPOSIT		795.12	11,218.81
617	9/23/08	300.00	9/30/08	CHECK	630	60.95-	11,157.86
619*	9/26/08	44.57	9/30/08	CHECK	634	330.33-	10,827.53
620	10/02/08	10,772.41	9/30/08	CHECK	611	353.02-	10,474.51
621	9/29/08	26.24	9/30/08	DILLARD'S AMEX CHECKPYMT	618	93.81-	10,380.70
622	10/01/08	422.73	9/30/08	CREDIT CARD ELECT PYMT		1,000.00-	9,380.70
623	10/03/08	32.00	10/01/08	BANKCARD SETTLEMENT		221.83	9,602.53
625*	10/01/08	1,500.00	10/01/08	CHECK	632	50.72-	9,551.81
626	9/26/08	84.74	10/01/08	CHECK	637	186.23-	9,365.58
627	9/29/08	152.27	10/01/08	CHECK	622	422.73-	8,942.85
628	9/29/08	296.23	10/01/08	CHECK	625	1,500.00-	7,442.85
629	9/26/08	431.76	10/02/08	DEPOSIT		455.89	7,898.74
630	9/30/08	60.95	10/02/08	DEPOSIT		478.34	8,377.08
631	9/29/08	662.72	10/02/08	DEPOSIT		5,000.00	13,377.08
632	10/01/08	50.72	10/02/08	BANKCARD SETTLEMENT		411.35	13,788.43
633	9/29/08	162.08	10/02/08	CHECK-FP	620	10,772.41-	3,016.02
634	9/30/08	330.33	10/02/08	CHECK	641	720.50-	2,295.52
635	9/29/08	118.65	10/02/08	1 OVERDRAFT ITEM ON 10/01/08		25.00-	2,270.52
636	9/29/08	678.70	10/03/08	DEPOSIT		1,454.75	3,725.27
637	10/01/08	186.23	10/03/08	BANKCARD SETTLEMENT		407.99	4,133.26
638	10/06/08	116.44	10/03/08	CHECK	640	23.07-	4,110.19
639	9/26/08	700.00	10/03/08	CHECK	623	32.00-	4,078.19
640	10/03/08	23.07	10/03/08	CHECK		131.14-	3,947.05
641	10/02/08	720.50	10/03/08	CHECK	581	346.77-	3,600.28
643*	10/03/08	631.44	10/03/08	CHECK	643	631.44-	2,968.84
644	10/03/08	700.00	10/03/08	CHECK	644	700.00-	2,268.84
9999*	9/10/08	204.69	10/03/08	CHECK		700.00-	1,568.84
9999*	9/12/08	100.00	10/03/08	BANKCARD SETTLEMENT		305.86-	1,262.98
9999*	9/12/08	514.00	10/06/08	DEPOSIT		720.00	1,982.98
9999*	9/12/08	786.69	10/06/08	BANKCARD SETTLEMENT		337.82	2,320.80
9999*	9/15/08	330.50	10/06/08	BANKCARD SETTLEMENT		365.06	2,685.86
9999*	9/24/08	65.95	10/06/08	BANKCARD SETTLEMENT		379.44	3,065.30



GAYLEN CLAYSON

October 7, 2008

Page 4

Account Number [REDACTED] BUSINESS CHECKING			Continued				
Number	Date	Amount	Date	Description	Number	Amount	Balance
9999*	10/07/08	243.24	10/06/08	CHECK		107.13-	2,958.17
9999*	10/07/08	1,250.00	10/06/08	CHECK	638	116.44-	2,841.73
Electronic Checks			10/06/08	CHECK		146.45-	2,695.28
			10/06/08	CHECK		327.33-	2,367.95
			10/06/08	CHECK		819.74-	1,548.21
			10/07/08	ADVANCE FROM 2-21003322		150.00	1,698.21
Number	Date	Amount	10/07/08	CHECK		63.46-	1,634.75
593	9/09/08	500.00	10/07/08	CHECK		113.92-	1,520.83
618	9/30/08	93.81	10/07/08	CHECK	9999	243.24-	1,277.59
Withdrawals and Other Debits			10/07/08	CHECK	9999	1,250.00-	27.59
Date Description Amount							
9/04 CREDIT CARD EL 2,000.00							
9/11 AUTO WITHDRAWA 57.18							
9/11 AUTO WITHDRAWA 832.51							
9/15 BK OF AM CRD A 100.00							
9/17 CLARKE AMERICA 8.61							
9/17 CREDIT CARD EL 2,791.13							
9/23 TRANSFER PER M 3,000.00							
9/30 CREDIT CARD EL 1,000.00							
10/02 1 OVERDRAFT IT 25.00							
10/03 BANKCARD SETTLE 305.86							

WE APPRECIATE YOUR FRIENDSHIP AND HEARTWARMING SUPPORT, AND THE OPPORTUNITY TO SERVE YOU.
 THANK YOU FOR BANKING WITH "YOUR" COMMUNITY BANK
 REMEMBER, YOU CAN ACCESS YOUR ACCOUNT INFORMATION 24-HOURS A DAY, 7 DAYS A WEEK BY DIALING "TELEXPRESS" - 885-0001.

Account Number [REDACTED] OVERDRAFT PROTECTION October 3, 2008 - October 7, 2008

Credit Limit	2,000.00	Interest Rate	18.0000%	Beginning Balance	.00
Available Balance	1,850.00	Annual Percentage Rate	18.0000%	Payments and Credits	0 .00
Late Charge	.00	Daily Periodic Rate	.049315%	Advances and Debits	1 150.00
		Average Daily Balance	30.00	Ending Balance	150.00
		Current Finance Charges	.07	Payoff Amount	10/07/08 150.00
		2008 Finance Charges	.00	Current Payment Due	25.00
				Past Due Amount	.00
				Total Late Charges Due	.00
				Total Payment Due	10/17/08 25.00

Activity

Date	Description	Number	Amount	Principal	Interest	Late	Balance
10/07/08	ADVANCE TO [REDACTED]		150.00	150.00			150.00

Minimum Payment is the Greater of \$25.00 or 10.000% of the Outstanding Principal Balance
 Total Payment Due Will be Deducted From Checking Account 21003322 on 10/17/08



02100332225

9/04/08 Amount 670.00

DEPOSIT TICKET

GAYLEN W. CLAYSON
PH 307-483-2510
PO BOX 438
THAYNE, WY 82127

DATE: 9/04/08

BANK OF STAR VALLEY
P.O. Box 8007
113 Paramount Parkway
Thayne, WY 82127

CHECKING DEPOSIT
9/04/08 10:13:36 000926
\$ 670.00

14 1023063564

9/04/08 Amount 2,487.00

DEPOSIT TICKET

NAME: Gaylen Clayson

ACCOUNT NO.:

DATE: 9/04/08

BANK OF STAR VALLEY
P.O. Box 8007
113 Paramount Parkway
Thayne, WY 82127

CHECKING DEPOSIT
9/04/08 16:22:16 000750
\$ 2,487.00

14

9/08/08 Amount 4,362.00

DEPOSIT TICKET

NAME: _____

ACCOUNT NO.:

DATE: 9/08/08

BANK OF STAR VALLEY
P.O. Box 8007
113 Paramount Parkway
Thayne, WY 82127

CHECKING DEPOSIT
9/08/08 14:15:26 001600
\$ 4,362.00

14

9/09/08 Amount 535.13

DEPOSIT TICKET

NAME: Gaylen Clayson

ACCOUNT NO.:

DATE: 9/09/08

BANK OF STAR VALLEY
P.O. Box 8007
113 Paramount Parkway
Thayne, WY 82127

CHECKING DEPOSIT
9/09/08 16:08:43 000210
\$ 535.13

14

9/11/08 Amount 2,802.00

DEPOSIT TICKET

NAME: _____

ACCOUNT NO.:

DATE: 9/11/08

BANK OF STAR VALLEY
P.O. Box 8007
113 Paramount Parkway
Thayne, WY 82127

CHECKING DEPOSIT
9/11/08 14:32:32 000060
\$ 2,802.00

14

9/11/08 Amount 9,000.00

DEPOSIT TICKET

GAYLEN W. CLAYSON
PH 307-483-2510
PO BOX 438
THAYNE, WY 82127

DATE: 9/11/08

BANK OF STAR VALLEY
P.O. Box 8007
113 Paramount Parkway
Thayne, WY 82127

CHECKING DEPOSIT
9/11/08 14:32:30 001400
\$ 9,000.00

14

9/12/08 Amount 940.00

DEPOSIT TICKET

GAYLEN W. CLAYSON
PH 307-483-2510
PO BOX 438
THAYNE, WY 82127

DATE: 9-12-08

BANK OF STAR VALLEY
P.O. Box 8007
113 Paramount Parkway
Thayne, WY 82127

CHECKING DEPOSIT
9/12/08 14:38:40 001420
\$ 940.00

14

9/18/08 Amount 724.70

DEPOSIT TICKET

GAYLEN W. CLAYSON
PH 307-483-2510
PO BOX 438
THAYNE, WY 82127

DATE: 9-18-08

BANK OF STAR VALLEY
P.O. Box 8007
113 Paramount Parkway
Thayne, WY 82127

CHECKING DEPOSIT
9/18/08 11:09:01 000740
\$ 724.70

14

9/18/08 Amount 4,595.00

DEPOSIT TICKET

GAYLEN W. CLAYSON
PH 307-483-2510
PO BOX 438
THAYNE, WY 82127

DATE: 9-17-08

BANK OF STAR VALLEY
P.O. Box 8007
113 Paramount Parkway
Thayne, WY 82127

CHECKING DEPOSIT
9/17/08 15:34:22 000030
\$ 4,595.00

14

9/19/08 Amount 813.55

DEPOSIT TICKET

GAYLEN W. CLAYSON
PH 307-483-2510
PO BOX 438
THAYNE, WY 82127

DATE: 9-19-08

BANK OF STAR VALLEY
P.O. Box 8007
113 Paramount Parkway
Thayne, WY 82127

CHECKING DEPOSIT
9/19/08 12:30:53 000600
\$ 813.55

14

9/22/08 Amount 787.29

DEPOSIT TICKET

GAYLEN W. CLAYSON
PH 307-483-2510
PO BOX 438
THAYNE, WY 82127

DATE: 9-22-08

BANK OF STAR VALLEY
P.O. Box 8007
113 Paramount Parkway
Thayne, WY 82127

CHECKING DEPOSIT
9/22/08 14:05:39 002250
\$ 787.29

14

9/22/08 Amount 979.12

DEPOSIT TICKET

GAYLEN W. CLAYSON
PH 307-483-2510
PO BOX 438
THAYNE, WY 82127

DATE: 9-20-08

BANK OF STAR VALLEY
P.O. Box 8007
113 Paramount Parkway
Thayne, WY 82127

CHECKING DEPOSIT
9/20/08 11:51:42 000900
\$ 979.12

14



9/24/08 Amount 14

DEPOSIT TICKET

GAYLEN W. CLAYSON
PH 307-863-2510
PO BOX 408
THAYNE, WY 83127

DATE 9-24-08

BANK OF STAR VALLEY
P.O. Box 8007
304 Washington
Albany, WY 83710

CHECKING DEPOSIT
111113322

AMOUNT \$ 657.14

9/25/08 Amount 869.00

DEPOSIT TICKET

GAYLEN W. CLAYSON
PH 307-863-2510
PO BOX 408
THAYNE, WY 83127

DATE 9/25/08

BANK OF STAR VALLEY
P.O. Box 8007
304 Washington
Albany, WY 83710

CHECKING DEPOSIT
111113322

AMOUNT \$ 869.00

9/29/08 Amount 847.49

DEPOSIT TICKET

NAME Gaylen Clayson

ACCOUNT NO. [REDACTED]

DATE 9-29-08

BANK OF STAR VALLEY
P.O. Box 8007
304 Washington
Albany, WY 83710

CHECKING DEPOSIT
111113322

AMOUNT \$ 847.49

9/29/08 Amount 1,841.98

DEPOSIT TICKET

NAME Gaylen Clayson

ACCOUNT NO. [REDACTED]

DATE 9-29-08

BANK OF STAR VALLEY
P.O. Box 8007
304 Washington
Albany, WY 83710

CHECKING DEPOSIT
111113322

AMOUNT \$ 1,841.98

9/30/08 Amount 795.12

DEPOSIT TICKET

GAYLEN W. CLAYSON
PH 307-863-2510
PO BOX 408
THAYNE, WY 83127

DATE 9-30-08

BANK OF STAR VALLEY
P.O. Box 8007
304 Washington
Albany, WY 83710

CHECKING DEPOSIT
111113322

AMOUNT \$ 795.12

10/02/08 Amount 455.89

DEPOSIT TICKET

GAYLEN W. CLAYSON
PH 307-863-2510
PO BOX 408
THAYNE, WY 83127

DATE 10-1-08

BANK OF STAR VALLEY
P.O. Box 8007
304 Washington
Albany, WY 83710

CHECKING DEPOSIT
111113322

AMOUNT \$ 455.89

10/02/08 Amount 478.34

DEPOSIT TICKET

GAYLEN W. CLAYSON
PH 307-863-2510
PO BOX 408
THAYNE, WY 83127

DATE 10-2-08

BANK OF STAR VALLEY
P.O. Box 8007
304 Washington
Albany, WY 83710

CHECKING DEPOSIT
111113322

AMOUNT \$ 478.34

10/02/08 Amount 5,000.00

DEPOSIT TICKET

NAME Gaylen Clayson

ACCOUNT NO. [REDACTED]

DATE 10-2-08

BANK OF STAR VALLEY
P.O. Box 8007
304 Washington
Albany, WY 83710

CHECKING DEPOSIT
111113322

AMOUNT \$ 5,000.00

10/03/08 Amount 1,454.75

DEPOSIT TICKET

NAME Gaylen Clayson

ACCOUNT NO. [REDACTED]

DATE 10/3/08

BANK OF STAR VALLEY
P.O. Box 8007
304 Washington
Albany, WY 83710

CHECKING DEPOSIT
111113322

AMOUNT \$ 1,454.75

10/06/08 Amount 720.00

DEPOSIT TICKET

NAME Gaylen Clayson

ACCOUNT NO. [REDACTED]

DATE 10/6/08

BANK OF STAR VALLEY
P.O. Box 8007
304 Washington
Albany, WY 83710

CHECKING DEPOSIT
111113322

AMOUNT \$ 720.00

9/05/08 Amount 354.00

DEPOSIT TICKET

NAME Gaylen Clayson

ACCOUNT NO. [REDACTED]

DATE 9-5-08

BANK OF STAR VALLEY
P.O. Box 8007
304 Washington
Albany, WY 83710

CHECKING DEPOSIT
111113322

AMOUNT \$ 354.00

9/08/08 Amount 163.23

DEPOSIT TICKET

NAME Carmen Hernandez

ACCOUNT NO. [REDACTED]

DATE 9-5-08

BANK OF STAR VALLEY
P.O. Box 8007
304 Washington
Albany, WY 83710

CHECKING DEPOSIT
111113322

AMOUNT \$ 163.23



9/08/08 Amount 274.79

9-5-08

Carie Antiga \$274.79

Two hundred seventy four and 79/100

BANK OF STAR VALLEY
P.O. Box 8007
264 Washington
Albany, WY 82106

Wages 8-25-8-31

C102306356C

9/08/08 Amount 816.53

9-5-08

April McMurdo \$816.53

Eight hundred sixteen and 53/100

BANK OF STAR VALLEY
P.O. Box 8007
264 Washington
Albany, WY 82106

Wages 8-25-8-31

C102306356C

9/09/08 Amount 162.01

9-5-08

Tawoni Hobanson \$162.01

One hundred sixty two and 1/100

BANK OF STAR VALLEY
P.O. Box 8007
264 Washington
Albany, WY 82106

Wages 8-25-8-31

C102306356C

9/10/08 Amount 320.94

9-5-08

Daniel Smith \$320.94

Three hundred twenty and 94/100

BANK OF STAR VALLEY
P.O. Box 8007
264 Washington
Albany, WY 82106

Wages 8-25-8-31

C102306356C

9/15/08 Amount 179.53

9-12-08

Carie Antiga \$179.53

One hundred seventy nine and 53/100

BANK OF STAR VALLEY
P.O. Box 8007
264 Washington
Albany, WY 82106

Wages 9-1-9-7 paid in full

C102306356C

9/15/08 Amount 603.15

9-12-08

Joshua Flud \$603.15

Six hundred three and 15/100

BANK OF STAR VALLEY
P.O. Box 8007
264 Washington
Albany, WY 82106

Wages 9-1-9-7 paid in full

C102306356C

9/08/08 Amount 613.42

9-5-08

Stephanie Dillon \$613.42

Six hundred thirteen and 42/100

BANK OF STAR VALLEY
P.O. Box 8007
264 Washington
Albany, WY 82106

Wages 8-25-8-31

C102306356C

9/08/08 Amount 981.67

9-5-08

Joshua Flud \$981.67

Nine hundred eighty one and 67/100

BANK OF STAR VALLEY
P.O. Box 8007
264 Washington
Albany, WY 82106

Wages 8-25-8-31

C102306356C

9/10/08 Amount 120.04

9-5-08

Heidi McMurdo \$120.04

One hundred twenty and 4/100

BANK OF STAR VALLEY
P.O. Box 8007
264 Washington
Albany, WY 82106

Wages 8-25-8-31

C102306356C

9/15/08 Amount 95.94

9-12-08

Heidi McMurdo \$95.94

Ninety five and 94/100

BANK OF STAR VALLEY
P.O. Box 8007
264 Washington
Albany, WY 82106

Wages 9-1-9-7 paid in full

C102306356C

9/15/08 Amount 473.52

9-12-08

Stephanie Dillon \$473.52

Four hundred seventy three and 52/100

BANK OF STAR VALLEY
P.O. Box 8007
264 Washington
Albany, WY 82106

Wages 9-1-9-7 paid in full

C102306356C

9/15/08 Amount 667.66

9-12-08

April McMurdo \$667.66

Six hundred sixty seven and 66/100

BANK OF STAR VALLEY
P.O. Box 8007
264 Washington
Albany, WY 82106

Wages 9-1-9-7 paid in full

C102306356C

9/17/08 Amount 9.97

9-12-08
Pay to the Order of Laurie Johnson \$ 119.27
One hundred nineteen and 95/100
BANK OF STAR VALLEY
P.O. Box 8007
384 Washington
Alton, WY 83110
Wages 9-1-9-7 paid in full
1023063564

9/17/08 Amount 178.95

9-12-08
Pay to the Order of Jeremy Speth \$ 178.25
One hundred seventy eight and 95/100
BANK OF STAR VALLEY
P.O. Box 8007
384 Washington
Alton, WY 83110
Wages 9-1-9-7 paid in full
1023063564

9/17/08 Amount 262.53

9-12-08
Pay to the Order of Laurie Speth \$ 262.53
Two hundred sixty two and 53/100
BANK OF STAR VALLEY
P.O. Box 8007
384 Washington
Alton, WY 83110
Wages 9-1-9-7 paid in full
1023063564

9/18/08 Amount 419.69

9-12-08
Pay to the Order of Jami Luthi \$ 419.69
Four hundred nineteen and 69/100
BANK OF STAR VALLEY
P.O. Box 8007
384 Washington
Alton, WY 83110
Wages 9-1-9-7 paid in full
1023063564

9/22/08 Amount 688.15

9-16-08
Pay to the Order of Great Mountain West Supply \$ 688.15
Six hundred eighty eight and 15/100
BANK OF STAR VALLEY
P.O. Box 8007
384 Washington
Alton, WY 83110
#6772 panel in full
1023063564

10/03/08 Amount 700.00

10/3/08
Pay to the Order of James R. Welch \$ 700.00
Seven hundred + 00/100
BANK OF STAR VALLEY
P.O. Box 8007
384 Washington
Alton, WY 83110
10/3/08 001170
11111322
1023063564

9/17/08 Amount 146.45

9-12-08
Pay to the Order of Carmen Hernandez Frutts \$ 146.45
One hundred forty six and 45/100
BANK OF STAR VALLEY
P.O. Box 8007
384 Washington
Alton, WY 83110
Wages 9-1-9-7 paid in full
1023063564

9/17/08 Amount 234.01

9-12-08
Pay to the Order of Sara Freeman \$ 234.01
Two hundred thirty four and 01/100
BANK OF STAR VALLEY
P.O. Box 8007
384 Washington
Alton, WY 83110
Wages 9-1-9-7 paid in full
1023063564

9/18/08 Amount 169.70

9-5-08
Pay to the Order of Jami Luthi \$ 169.70
One hundred sixty nine and 70/100
BANK OF STAR VALLEY
P.O. Box 8007
384 Washington
Alton, WY 83110
Wages 8-25-8-31
1023063564

9/18/08 Amount 898.25

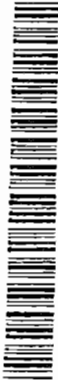
9-15-08
Pay to the Order of Glacier Food Service Inc \$ 898.25
Eight hundred ninety eight and 25/100
BANK OF STAR VALLEY
P.O. Box 8007
384 Washington
Alton, WY 83110
Luthi - free
1023063564

10/03/08 Amount 131.14

10-3-08
Pay to the Order of Robert Haviland \$ 131.14
One hundred thirty one and 14/100
BANK OF STAR VALLEY
P.O. Box 8007
384 Washington
Alton, WY 83110
10/3/08 12:07:15 000600
ON US CHECK
11111322
1023063564

10/06/08 Amount 107.13

10-3-08
Pay to the Order of Leather Enshwood \$ 107.13
One hundred + seven and 13/100
BANK OF STAR VALLEY
P.O. Box 8007
384 Washington
Alton, WY 83110
10/3/08 000710
1023063564



10/06/08 Amount 146.45

10-3-08

10/06/08

one hundred forty six and 45/100

Bank of Star Valley

1023063564

10/06/08 Amount 327.33

10-3-08

10/06/08

Three hundred twenty seven and 33/100

Bank of Star Valley

1023063564

10/06/08 Amount 819.74

10-3-08

10/06/08

Eight hundred nineteen and 74/100

Bank of Star Valley

1023063564

10/07/08 Amount 63.46

10-3-08

10/07/08

Sixty three and 46/100

Bank of Star Valley

1023063564

10/07/08 Amount 113.92

10-3-08

10/07/08

One hundred thirteen and 92/100

Bank of Star Valley

1023063564

9/18/08 Check 524 Amount 400.06

9-18-08

9/18/08

Four hundred and 6/100

Bank of Star Valley

1023063564

9/05/08 Check 554 Amount 160.00

9-5-08

9/05/08

One hundred sixty

Bank of Star Valley

1023063564

9/04/08 Check 561 Amount 172.52

9-4-08

9/04/08

One hundred seventy two and 52/100

Bank of Star Valley

1023063564

9/03/08 Check 563 Amount 672.67

9-3-08

9/03/08

Six hundred seventy two and 67/100

Bank of Star Valley

1023063564

9/03/08 Check 564 Amount 125.62

9-3-08

9/03/08

One hundred twenty five and 62/100

Bank of Star Valley

1023063564

9/08/08 Check 566 Amount 76.95

9-8-08

9/08/08

Seventy six and 95/100

Bank of Star Valley

1023063564

9/18/08 Check 567 Amount 334.40

9-18-08

9/18/08

Three hundred thirty four and 40/100

Bank of Star Valley

1023063564



9/03/08 Check Amount 140.34

GAYLEN W. CLAYSON 570
 PH 307-863-2510
 PO BOX 436
 THAYNE, WY 82127

Date: 8-29-08

Pay to the Order of Heidi M. Marks \$140.34
 One hundred forty and 34/100

BANK OF STAR VALLEY

Way Co. 8-17-8-23

⑆ 10 2306 356⑆

9/03/08 Check 571 Amount 76.95

GAYLEN W. CLAYSON 571
 PH 307-863-2510
 PO BOX 436
 THAYNE, WY 82127

Date: 8-29-08

Pay to the Order of Tichenna Spack \$76.95
 Seventy six and 95/100

BANK OF STAR VALLEY

Way Co. 8-17-8-23

⑆ 10 2306 356⑆

9/03/08 Check 572 Amount 264.31

GAYLEN W. CLAYSON 572
 PH 307-863-2510
 PO BOX 436
 THAYNE, WY 82127

Date: 8-29-08

Pay to the Order of Jamie Smith \$264.31
 Two hundred sixty four and 31/100

BANK OF STAR VALLEY

Way Co. 8-17-8-23

⑆ 10 2306 356⑆

9/05/08 Check 573 Amount 172.54

GAYLEN W. CLAYSON 573
 PH 307-863-2510
 PO BOX 436
 THAYNE, WY 82127

Date: 8-29-08

Pay to the Order of Jeremy Smith \$172.54
 One hundred seventy two and 54/100

BANK OF STAR VALLEY

Way Co. 8-17-8-23

⑆ 10 2306 356⑆

9/09/08 Check 574 Amount 1,300.00

GAYLEN W. CLAYSON 574
 PH 307-863-2510
 PO BOX 436
 THAYNE, WY 82127

Date: Sept 9-08

Pay to the Order of Reed Davis \$1300.00
 Three hundred and no/100

BANK OF STAR VALLEY

BOA STARES

Way Co. 8-17-8-23

⑆ 10 2306 356⑆

9/18/08 Check 580 Amount 507.30

GAYLEN W. CLAYSON 580
 PH 307-863-2510
 PO BOX 436
 THAYNE, WY 82127

Date: 8-22-08

Pay to the Order of Jamie Smith \$507.30
 Five hundred seven and 30/100

BANK OF STAR VALLEY

Way Co. 8-17-8-23

⑆ 10 2306 356⑆

10/03/08 Check 581 Amount 346.77

GAYLEN W. CLAYSON 581
 PH 307-863-2510
 PO BOX 436
 THAYNE, WY 82127

Date: 8-22-08

Pay to the Order of Taylor Lewison \$346.77
 Three hundred forty six and 77/100

BANK OF STAR VALLEY

Way Co. 8-17-8-23

⑆ 10 2306 356⑆

9/04/08 Check 589 Amount 663.87

GAYLEN W. CLAYSON 589
 PH 307-863-2510
 PO BOX 436
 THAYNE, WY 82127

Date: 9-1-08

Pay to the Order of Silver Star \$663.87
 Six hundred sixty three and 87/100

BANK OF STAR VALLEY

Way Co. 8-17-8-23

⑆ 10 2306 356⑆

9/05/08 Check 591 Amount 839.75

GAYLEN W. CLAYSON 591
 PH 307-863-2510
 PO BOX 436
 THAYNE, WY 82127

Date: 9-1-08

Pay to the Order of Lower Valley Energy \$839.75
 Eight hundred thirty nine and 75/100

BANK OF STAR VALLEY

Way Co. 8-17-8-23

⑆ 10 2306 356⑆

9/09/08 Check 592 Amount 136.20

GAYLEN W. CLAYSON 592
 PH 307-863-2510
 PO BOX 436
 THAYNE, WY 82127

Date: Sept 3/08

Pay to the Order of Fajana Inc \$136.20
 One hundred thirty six and 20/100

BANK OF STAR VALLEY

Way Co. 8-17-8-23

⑆ 10 2306 356⑆

9/05/08 Check 594 Amount 30.00

GAYLEN W. CLAYSON 594
 PH 307-863-2510
 PO BOX 436
 THAYNE, WY 82127

Date: Sept 3/08

Pay to the Order of Laska Clark \$30.00
 Thirty and no/100

BANK OF STAR VALLEY

Way Co. 8-17-8-23

⑆ 10 2306 356⑆

9/05/08 Check 595 Amount 3,413.91

GAYLEN W. CLAYSON 595
 PH 307-863-2510
 PO BOX 436
 THAYNE, WY 82127

Date: Sept 3/08

Pay to the Order of Phoenix \$3413.91
 Three thousand four hundred thirteen and 91/100

BANK OF STAR VALLEY

Way Co. 8-17-8-23

⑆ 10 2306 356⑆

9/04/08 Check Amount 100.00

GAYLEN W. CLAYSON
 PH 207-463-2314
 PO BOX 436
 THAYNE, WY 82127

696

9-4-08

Pay to the Order of Mary Lipton \$100.00

One hundred and 00/100

BANK OF STAR VALLEY
 P.O. Box 436
 Thayne, WY 82127

For Mrs.

⑆102306356⑆ [redacted] 0596

K

9/09/08 Check 598 Amount 112.69

GAYLEN W. CLAYSON
 PH 207-463-2314
 PO BOX 436
 THAYNE, WY 82127

598

9-4-08

Pay to the Order of High Country Lumber Service \$112.69

One hundred twelve and 69/100

BANK OF STAR VALLEY
 P.O. Box 436
 Thayne, WY 82127

For 742955 in full

⑆102306356⑆ [redacted] 0598

9/05/08 Check 599 Amount 165.69

GAYLEN W. CLAYSON
 PH 207-463-2314
 PO BOX 436
 THAYNE, WY 82127

599

9-5-08

Pay to the Order of Janice Tickkinnon \$165.69

One hundred sixty five and 69/100

BANK OF STAR VALLEY
 P.O. Box 436
 Thayne, WY 82127

For Mrs. S. Tickkinnon

⑆102306356⑆ [redacted] 0599

9/19/08 Check 602 Amount 5,715.99

GAYLEN W. CLAYSON
 PH 207-463-2314
 PO BOX 436
 THAYNE, WY 82127

602

9-17-08

Pay to the Order of High Country Lumber Service \$5,715.99

Five thousand seven hundred fifteen and 99/100

BANK OF STAR VALLEY
 P.O. Box 436
 Thayne, WY 82127

For 742955 in full

⑆102306356⑆ [redacted] 0602

9/23/08 Check 603 Amount 300.00

GAYLEN W. CLAYSON
 PH 207-463-2314
 PO BOX 436
 THAYNE, WY 82127

603

Sept 19/08

Pay to the Order of Donny Clays \$300.00

Three hundred and 00/100

BANK OF STAR VALLEY
 P.O. Box 436
 Thayne, WY 82127

For Mrs. S. Clays

⑆102306356⑆ [redacted] 0603

9/25/08 Check 604 Amount 147.89

GAYLEN W. CLAYSON
 PH 207-463-2314
 PO BOX 436
 THAYNE, WY 82127

604

9-18-08

Pay to the Order of High Country Lumber Service \$147.89

One hundred forty seven and 89/100

BANK OF STAR VALLEY
 P.O. Box 436
 Thayne, WY 82127

For 742955 in full

⑆102306356⑆ [redacted] 0604

9/29/08 Check 605 Amount 168.00

GAYLEN W. CLAYSON
 PH 207-463-2314
 PO BOX 436
 THAYNE, WY 82127

605

9-19-08

Pay to the Order of 4 J Enterprises Inc \$168.00

One hundred sixty eight and 00/100

BANK OF STAR VALLEY
 P.O. Box 436
 Thayne, WY 82127

For 742955 in full

⑆102306356⑆ [redacted] 0605

9/22/08 Check 606 Amount 288.23

GAYLEN W. CLAYSON
 PH 207-463-2314
 PO BOX 436
 THAYNE, WY 82127

606

9-19-08

Pay to the Order of Stephanie Dillon \$288.23

Two hundred eighty eight and 23/100

BANK OF STAR VALLEY
 P.O. Box 436
 Thayne, WY 82127

For 742955 in full

⑆102306356⑆ [redacted] 0606

9/22/08 Check 607 Amount 819.74

GAYLEN W. CLAYSON
 PH 207-463-2314
 PO BOX 436
 THAYNE, WY 82127

607

9-19-08

Pay to the Order of Joshua Elvel \$819.74

Eight hundred nineteen and 74/100

BANK OF STAR VALLEY
 P.O. Box 436
 Thayne, WY 82127

For 742955 in full

⑆102306356⑆ [redacted] 0607

I

9/24/08 Check 608 Amount 170.85

GAYLEN W. CLAYSON
 PH 207-463-2314
 PO BOX 436
 THAYNE, WY 82127

608

9-19-08

Pay to the Order of Sara Freeman \$170.85

One hundred seventy and 85/100

BANK OF STAR VALLEY
 P.O. Box 436
 Thayne, WY 82127

For 742955 in full

⑆102306356⑆ [redacted] 0608

9/22/08 Check 609 Amount 154.69

GAYLEN W. CLAYSON
 PH 207-463-2314
 PO BOX 436
 THAYNE, WY 82127

609

9-19-08

Pay to the Order of Carmon Hernandez \$154.69

One hundred fifty four and 69/100

BANK OF STAR VALLEY
 P.O. Box 436
 Thayne, WY 82127

For 742955 in full

⑆102306356⑆ [redacted] 0609

9/22/08 Check 610 Amount 154.69

GAYLEN W. CLAYSON
 PH 207-463-2314
 PO BOX 436
 THAYNE, WY 82127

610

9-19-08

Pay to the Order of Tayson Kokanson \$154.69

One hundred fifty four and 69/100

BANK OF STAR VALLEY
 P.O. Box 436
 Thayne, WY 82127

For 742955 in full

⑆102306356⑆ [redacted] 0610

9/30/08 Check Amount 353.02

GAYLEN W. CLAYSON
 PO BOX 438
 THAYNE, WY 82127

9-19-08

Pay to the Order of Lanni Luttis \$ 353.02
Three hundred fifty three and 00/100

BANK OF STAR VALLEY
 113 Franklin Building
 Star Valley, WY 82127

9-8-9-14-08-14
 1023063561

9/22/08 Check 612 Amount 742.81

GAYLEN W. CLAYSON
 PO BOX 438
 THAYNE, WY 82127

9-19-08

Pay to the Order of April McMurdo \$ 742.81
Seven hundred forty two and 81/100

BANK OF STAR VALLEY
 113 Franklin Building
 Star Valley, WY 82127

9-8-9-14-08-14
 1023063561

9/23/08 Check 613 Amount 294.77

GAYLEN W. CLAYSON
 PO BOX 438
 THAYNE, WY 82127

9-19-08

Pay to the Order of Janice L. Luttis \$ 294.77
Two hundred ninety four and 77/100

BANK OF STAR VALLEY
 113 Franklin Building
 Star Valley, WY 82127

9-8-9-14-08-14
 1023063561

9/22/08 Check 614 Amount 700.00

GAYLEN W. CLAYSON
 PO BOX 438
 THAYNE, WY 82127

9-19-08

Pay to the Order of John Anderson \$ 700.00
Seven hundred and 00/100

BANK OF STAR VALLEY
 113 Franklin Building
 Star Valley, WY 82127

9-8-9-14-08-14
 1023063561

9/23/08 Check 615 Amount 1,000.00

GAYLEN W. CLAYSON
 PO BOX 438
 THAYNE, WY 82127

9/20/2008

Pay to the Order of Cyrus, Michelle, Corbett \$ 1,000.00
One thousand and 00/100

BANK OF STAR VALLEY
 113 Franklin Building
 Star Valley, WY 82127

9-8-9-14-08-14
 1023063561

9/25/08 Check 616 Amount 311.10

GAYLEN W. CLAYSON
 PO BOX 438
 THAYNE, WY 82127

Sept 23/08

Pay to the Order of Glenn \$ 311.10
Three hundred eleven and 10/100

BANK OF STAR VALLEY
 113 Franklin Building
 Star Valley, WY 82127

9-8-9-14-08-14
 1023063561

9/23/08 Check 617 Amount 300.00

GAYLEN W. CLAYSON
 PO BOX 438
 THAYNE, WY 82127

Sept

Pay to the Order of Mark Peterson \$ 300.00
Three hundred and 00/100

BANK OF STAR VALLEY
 113 Franklin Building
 Star Valley, WY 82127

9-8-9-14-08-14
 1023063561

9/26/08 Check 619 Amount 44.57

GAYLEN W. CLAYSON
 PO BOX 438
 THAYNE, WY 82127

9-25-08

Pay to the Order of Hastings \$ 44.57
Forty four and 57/100

BANK OF STAR VALLEY
 113 Franklin Building
 Star Valley, WY 82127

9-8-9-14-08-14
 1023063561

10/02/08 Check 620 Amount 10,772.41

GAYLEN W. CLAYSON
 PO BOX 438
 THAYNE, WY 82127

Sept 20/08

Pay to the Order of Cassy Menden \$ 10,772.41
Ten thousand seven hundred seventy two and 41/100

BANK OF STAR VALLEY
 113 Franklin Building
 Star Valley, WY 82127

9-8-9-14-08-14
 1023063561

9/29/08 Check 621 Amount 26.24

GAYLEN W. CLAYSON
 PO BOX 438
 THAYNE, WY 82127

9-25-08

Pay to the Order of Radio Shack \$ 26.24
Twenty six and 24/100

BANK OF STAR VALLEY
 113 Franklin Building
 Star Valley, WY 82127

9-8-9-14-08-14
 1023063561

10/01/08 Check 622 Amount 422.73

GAYLEN W. CLAYSON
 PO BOX 438
 THAYNE, WY 82127

Sept 20/08

Pay to the Order of Heidi Jensen \$ 422.73
Four hundred twenty two and 73/100

BANK OF STAR VALLEY
 113 Franklin Building
 Star Valley, WY 82127

9-8-9-14-08-14
 1023063561

10/03/08 Check 623 Amount 32.00

GAYLEN W. CLAYSON
 PO BOX 438
 THAYNE, WY 82127

Sept 20/08

Pay to the Order of Lost Motion \$ 32.00
Thirty two and 00/100

BANK OF STAR VALLEY
 113 Franklin Building
 Star Valley, WY 82127

9-8-9-14-08-14
 1023063561

10/01/08 Check # Amount 1,500.00

9/26/08 Check 626 Amount 84.74

GAYLEN W. CLAYTON
PO BOX 404
TOWN, WY 82450

9-26-08

Pay to the order of Rebecca Daisy \$1500.00
One thousand five hundred and no/100

Bank of Star Valley

Signature: [Handwritten Signature]

CLAYTON 1500 0000150000

GAYLEN W. CLAYTON
PO BOX 404
TOWN, WY 82450

9-26-08

Pay to the order of Carie Adams \$84.74
Eighty four and 74/100

Bank of Star Valley

Signature: [Handwritten Signature]

CLAYTON 84 74

9/29/08 Check 627 Amount 152.27

9/29/08 Check 628 Amount 296.23

GAYLEN W. CLAYTON
PO BOX 404
TOWN, WY 82450

9-26-08

Pay to the order of Juene Johnson \$152.27
One hundred fifty two and 27/100

Bank of Star Valley

Signature: [Handwritten Signature]

CLAYTON 152 27

GAYLEN W. CLAYTON
PO BOX 404
TOWN, WY 82450

9-26-08

Pay to the order of Stephanie Nelson \$296.23
Two hundred ninety six and 23/100

Bank of Star Valley

Signature: [Handwritten Signature]

CLAYTON 296 23

9/26/08 Check 629 Amount 431.76

9/30/08 Check 630 Amount 60.95

GAYLEN W. CLAYTON
PO BOX 404
TOWN, WY 82450

9-26-08

Pay to the order of Allyson Jackson \$431.76
Four hundred thirty one and 76/100

Bank of Star Valley

Signature: [Handwritten Signature]

CLAYTON 431 76

GAYLEN W. CLAYTON
PO BOX 404
TOWN, WY 82450

9-26-08

Pay to the order of Allyson Jackson \$60.95
Sixty and 95/100

Bank of Star Valley

Signature: [Handwritten Signature]

CLAYTON 60 95

9/29/08 Check 631 Amount 662.72

10/01/08 Check 632 Amount 50.72

GAYLEN W. CLAYTON
PO BOX 404
TOWN, WY 82450

9-26-08

Pay to the order of Jessie Clark \$662.72
Six hundred sixty two and 72/100

Bank of Star Valley

Signature: [Handwritten Signature]

CLAYTON 662 72

GAYLEN W. CLAYTON
PO BOX 404
TOWN, WY 82450

9-26-08

Pay to the order of Lisa Johnson \$50.72
Fifty and 72/100

Bank of Star Valley

Signature: [Handwritten Signature]

CLAYTON 50 72

9/29/08 Check 633 Amount 162.08

9/30/08 Check 634 Amount 330.33

GAYLEN W. CLAYTON
PO BOX 404
TOWN, WY 82450

9-26-08

Pay to the order of Laura Bernadine Sutton \$162.08
One hundred sixty two and 8/100

Bank of Star Valley

Signature: [Handwritten Signature]

CLAYTON 162 08

GAYLEN W. CLAYTON
PO BOX 404
TOWN, WY 82450

9-26-08

Pay to the order of Lisa Johnson \$330.33
Three hundred thirty and 33/100

Bank of Star Valley

Signature: [Handwritten Signature]

CLAYTON 330 33

9/29/08 Check 635 Amount 118.65

9/29/08 Check 636 Amount 678.70

GAYLEN W. CLAYTON
PO BOX 404
TOWN, WY 82450

9-26-08

Pay to the order of Allyson Jackson \$118.65
One hundred eighteen and 65/100

Bank of Star Valley

Signature: [Handwritten Signature]

CLAYTON 118 65

GAYLEN W. CLAYTON
PO BOX 404
TOWN, WY 82450

9-26-08

Pay to the order of Allyson Jackson \$678.70
Six hundred seventy eight and 70/100

Bank of Star Valley

Signature: [Handwritten Signature]

CLAYTON 678 70



10/01/08 Check Amount 186.23

GAYLEN W. CLAYSON
PH 307-883-2810
PO BOX 438
THAYNE, WY 83127

9-26-08 Date

Pay to the Order of Janice P. South \$ 186.23
One hundred eighty six and 23/100 Dollars

BANK OF STAR VALLEY
P.O. Box 438
117 Pennsylvania Parkway
Thayne, WY 83127

For Invoice 9-15-9-21 paid in full

⑆ 10 2306 356 ⑆ [Redacted] 0639

10/06/08 Check 638 Amount 116.44

GAYLEN W. CLAYSON
PH 307-883-2810
PO BOX 438
THAYNE, WY 83127

9-26-08 Date

Pay to the Order of Jeremy South \$ 116.44
One hundred thirteen and 44/100 Dollars

BANK OF STAR VALLEY
P.O. Box 438
117 Pennsylvania Parkway
Thayne, WY 83127

For Invoice 9-15-9-21 paid in full

⑆ 10 2306 356 ⑆ [Redacted] 0638

9/26/08 Check 639 Amount 700.00

GAYLEN W. CLAYSON
PH 307-883-2810
PO BOX 438
THAYNE, WY 83127

9-26-08 Date

Pay to the Order of John Gruber \$ 700.00
Seven hundred and 00/100 Dollars

BANK OF STAR VALLEY
P.O. Box 438
117 Pennsylvania Parkway
Thayne, WY 83127

For 9-15-9-21 paid in full

⑆ 10 2306 356 ⑆ [Redacted] 0639

10/03/08 Check 640 Amount 23.07

GAYLEN W. CLAYSON
PH 307-883-2810
PO BOX 438
THAYNE, WY 83127

9-26-08 Date

Pay to the Order of Warming Child Support Enforcement \$ 23.07
Twenty three and 07/100 Dollars

BANK OF STAR VALLEY
P.O. Box 438
117 Pennsylvania Parkway
Thayne, WY 83127

For Invoice # 117401

⑆ 10 2306 356 ⑆ [Redacted] 0640

10/02/08 Check 641 Amount 720.50

GAYLEN W. CLAYSON
PH 307-883-2810
PO BOX 438
THAYNE, WY 83127

Oct 1/08 Date

Pay to the Order of Tanya Good \$ 720.50
Seven hundred twenty and 50/100 Dollars

BANK OF STAR VALLEY
P.O. Box 438
117 Pennsylvania Parkway
Thayne, WY 83127

⑆ 10 2306 356 ⑆ [Redacted] 0641

10/03/08 Check 643 Amount 631.44

GAYLEN W. CLAYSON
PH 307-883-2810
PO BOX 438
THAYNE, WY 83127

10/3/08 Date

Pay to the Order of Stephane Dillon \$ 631.44
Six hundred & thirty one and 44/100 Dollars

BANK OF STAR VALLEY
P.O. Box 438
117 Pennsylvania Parkway
Thayne, WY 83127

⑆ 10 2306 356 ⑆ [Redacted] 0643

10/03/08 Check 644 Amount 700.00

GAYLEN W. CLAYSON
PH 307-883-2810
PO BOX 438
THAYNE, WY 83127

10/2/08 Date

Pay to the Order of John Gruber \$ 700.00
Seven hundred and 00/100 Dollars

BANK OF STAR VALLEY
P.O. Box 438
117 Pennsylvania Parkway
Thayne, WY 83127

⑆ 10 2306 356 ⑆ [Redacted] 0644

9/10/08 Check 9999 Amount 204.69

GAYLEN W. CLAYSON
PH 307-883-2810
PO BOX 438
THAYNE, WY 83127

9-5-08 Date

Pay to the Order of Jeremy South \$ 204.69
Two hundred four and 69/100 Dollars

BANK OF STAR VALLEY
P.O. Box 438
117 Pennsylvania Parkway
Thayne, WY 83127

⑆ 10 2306 356 ⑆ [Redacted] 9999

9/12/08 Check 9999 Amount 100.00

GAYLEN W. CLAYSON
PH 307-883-2810
PO BOX 438
THAYNE, WY 83127

9/10/08 Date

Pay to the Order of MARK Pittman \$ 100.00
One hundred and 00/100 Dollars

BANK OF STAR VALLEY
P.O. Box 9007
394 Washington
Alton, WY 83120

⑆ 10 2306 356 ⑆ [Redacted] 9999

9/12/08 Check 9999 Amount 514.00

GAYLEN W. CLAYSON
PH 307-883-2810
PO BOX 438
THAYNE, WY 83127

9/10/08 Date

Pay to the Order of MARK Pittman \$ 514.00
Five hundred fourteen and 00/100 Dollars

BANK OF STAR VALLEY
P.O. Box 9007
394 Washington
Alton, WY 83120

⑆ 10 2306 356 ⑆ [Redacted] 9999

9/12/08 Check 9999 Amount 786.69

GAYLEN W. CLAYSON
PH 307-883-2810
PO BOX 438
THAYNE, WY 83127

9/10/08 Date

Pay to the Order of MARK Pittman \$ 786.69
Seven hundred eighty six and 69/100 Dollars

BANK OF STAR VALLEY
P.O. Box 9007
394 Washington
Alton, WY 83120

⑆ 10 2306 356 ⑆ [Redacted] 9999

9/15/08 Check 9999 Amount 330.50

GAYLEN W. CLAYSON
PH 307-883-2810
PO BOX 438
THAYNE, WY 83127

9-12-08 Date

Pay to the Order of Blacien Food Services Inc. \$ 330.50
Three hundred thirty and 50/100 Dollars

BANK OF STAR VALLEY
P.O. Box 9007
394 Washington
Alton, WY 83120

⑆ 10 2306 356 ⑆ [Redacted] 9999

9/24/08 Check Amount 65.95

10/07/08 Check 9999 Amount 243.24

9-17-08

Pay to the Order of Farmacia Brothers \$ 65.95

Sixty five and 95/100 Dollars

BANK OF STAR VALLEY
P.O. Box 8007
304 Washington
Alton, WY 82710

For 1904477 paid in full

⑆102306356⑆

10/14/07

Pay to the Order of Great Western \$ 1250.00

One Thousand two hundred fifty Dollars

BANK OF STAR VALLEY
P.O. Box 8007
304 Washington
Alton, WY 82710

For

⑆102306356⑆

10/07/08 Check 9999 Amount 1,250.00

10/14/07

Pay to the Order of Great Western \$ 1250.00

One Thousand two hundred fifty Dollars

BANK OF STAR VALLEY
P.O. Box 8007
304 Washington
Alton, WY 82710

For

⑆102306356⑆



GAYLEN CLAYSON
 PO BOX 436
 THAYNE WY 83127

11

November 4, 2008

25

Page 1

Account Number XXXXXXXXXX BUSINESS CHECKING October 8, 2008 - November 4, 2008

Beginning Balance		27.59
Deposits	21	7,813.15
Checks	2	500.86-
Electronic Checks	0	.00
Withdrawals	14	7,196.56-
Ending Balance		143.32

Deposits and Other Credits

Activity

Date	Amount	Date	Description	Number	Amount	Balance
10/08/08	150.00	10/08/08	ADVANCE FROM 2-21003322		150.00	177.59
10/13/08	1,292.89	10/08/08	CHECK	516	120.00-	57.59
10/14/08	350.52	10/08/08	1 RETURNED ITEM ON 10/07/08		25.00-	32.59
10/14/08	501.71	10/09/08	GAYLEN CLAYSON RTRN CK	1045	5,000.00-	4,967.41-
10/14/08	700.02	10/13/08	DEPOSIT		1,292.89	3,674.52-
10/15/08	316.39	10/13/08	1 RETURNED ITEM ON 10/10/08		25.00-	3,699.52-
10/17/08	71.83	10/14/08	BANKCARD SETTLEMENT		350.52	3,349.00-
10/20/08	50.00	10/14/08	BANKCARD SETTLEMENT		501.71	2,847.29-
10/20/08	28.31	10/14/08	BANKCARD SETTLEMENT		700.02	2,147.27-
10/20/08	366.61	10/15/08	BANKCARD SETTLEMENT		316.39	1,830.88-
10/20/08	533.73	10/15/08	3 RETURNED ITEMS ON 10/14/08		75.00-	1,905.88-
10/21/08	50.00	10/16/08	3 RETURNED ITEMS ON 10/15/08		75.00-	1,980.88-
10/22/08	401.06	10/17/08	BANKCARD SETTLEMENT		71.83	1,909.05-
10/24/08	400.00	10/17/08	1 RETURNED ITEM ON 10/16/08		25.00-	1,934.05-
10/24/08	280.34	10/20/08	ADVANCE FROM 2-21003322		50.00	1,884.05-
10/27/08	264.60	10/20/08	BANKCARD SETTLEMENT		28.31	1,855.74-
10/27/08	312.52	10/20/08	BANKCARD SETTLEMENT		366.61	1,489.13-
10/27/08	1,082.70	10/20/08	BANKCARD SETTLEMENT		533.73	955.40-
10/29/08	363.51	10/20/08	FIRST AMERICAN P RESUBMIT		10.00-	965.40-
10/30/08	146.59	10/21/08	ADVANCE FROM 2-21003322		50.00	915.40-
10/31/08	149.82	10/21/08	CLARKE AMERICAN CHK ORDER		18.35-	933.75-
		10/21/08	1 RETURNED ITEM ON 10/20/08		25.00-	958.75-
		10/22/08	BANKCARD SETTLEMENT		401.06	557.69-
		10/24/08	ADVANCE FROM 2-21003322		400.00	157.69-
		10/24/08	BANKCARD SETTLEMENT		280.34	122.65
		10/24/08	CHECK	647	380.86-	258.21-
		10/27/08	BANKCARD SETTLEMENT		264.60	6.39
		10/27/08	BANKCARD SETTLEMENT		312.52	318.91
		10/27/08	BANKCARD SETTLEMENT		1,082.70	1,401.61
		10/27/08	TRANSFER PER GAYLEN		597.81-	803.80
		10/27/08	TRANSFER PER GAYLEN		803.80-	.00
		10/29/08	BANKCARD SETTLEMENT		363.51	363.51
		10/29/08	TRANSFER PER GAYLEN		363.51-	.00
		10/30/08	BANKCARD SETTLEMENT		146.59	146.59
		10/31/08	DEPOSIT		149.82	296.41
		10/31/08	TRANSFER PER GAYLEN		146.59-	149.82
		11/04/08	PER ACCT CHARGE		6.50-	143.32

Checks

Number	Date	Amount
516	10/08/08	120.00
647*	10/24/08	380.86

Withdrawals and Other Debits

Date	Description	Amount
10/08	1 RETURNED ITE	25.00
10/09	GAYLEN CLAYSON	5,000.00
10/13	1 RETURNED ITE	25.00
10/15	3 RETURNED ITE	75.00
10/16	3 RETURNED ITE	75.00
10/17	1 RETURNED ITE	25.00
10/20	FIRST AMERICAN	10.00
10/21	CLARKE AMERICA	18.35



GAYLEN CLAYSON

November 4, 2008

Page 2

Account Number [REDACTED] BUSINESS CHECKING Continued

Date	Description	Amount
10/21	1 RETURNED ITE	25.00
10/27	TRANSFERPER GA	597.81
10/27	TRANSFER PER G	803.80
10/29	TRANSFER PER G	363.51
10/31	TRANSFER PER G	146.59
11/04	PER ACCT CHARG	6.50

WE APPRECIATE YOUR FRIENDSHIP AND HEARTWARMING SUPPORT, AND THE OPPORTUNITY TO SERVE YOU.

****THANK YOU FOR BANKING WITH "YOUR" COMMUNITY BANK****

REMEMBER, YOU CAN ACCESS YOUR ACCOUNT INFORMATION 24-HOURS A DAY, 7 DAYS A WEEK BY DIALING "TELXPRESS" - 885-0001.

Account Number [REDACTED] OVERDRAFT PROTECTION October 8, 2008 - November 3, 2008

CLOSING STATEMENT

Credit Limit	2,000.00	Interest Rate	18.0000%	Beginning Balance	150.00
Available Balance	.00	Annual Percentage Rate	18.0000%	Payments and Credits	1 803.80-
Late Charge	.00	Daily Periodic Rate	.049315%	Advances and Debits	4 650.00
		Average Daily Balance	314.58	Ending Balance	.00
		Current Finance Charges	3.72	Payoff Amount	11/03/08 .00
		2008 Finance Charges	3.80	Current Payment Due	.00
				Past Due Amount	.00
				Total Late Charges Due	.00
				Total Payment Due	0/00/00 .00

Activity

Date	Description	Number	Amount	Principal	Interest	Late	Balance
10/08/08	ADVANCE TO [REDACTED]		150.00	150.00			300.00
10/20/08	ADVANCE TO [REDACTED]		50.00	50.00			350.00
10/21/08	ADVANCE TO [REDACTED]		50.00	50.00			400.00
10/24/08	ADVANCE TO [REDACTED]		400.00	400.00			800.00
10/27/08	TRANSFER PER GAYLEN		803.80-	800.00-	3.80-		.00

Minimum Payment is the Greater of \$25.00 or 10.000% of the Outstanding Principal Balance



10/13/08 Amount 292.89

NAME Gaylen Clayton CASH 1030.00
 ACCOUNT NO. [REDACTED] 26289
 DATE _____
 BANK OF STAR VALLEY
 P.O. Box 8027 10/13/08 13:38:24 001250
 354 Washington
 Arden, WY 83110 CHECKING DEPOSIT
 \$ 1292.89
 1023063561 14

10/31/08 Amount 149.82

NAME Gaylen Clayton CASH
 ACCOUNT NO. [REDACTED]
 DATE 10/31/08
 BANK OF STAR VALLEY
 P.O. Box 8027 10/31/08 13:07:22 001130
 354 Washington
 Arden, WY 83110 CHECKING DEPOSIT
 \$ 149.82
 1023063561 14

10/08/08 Check 516 Amount 120.00

GAYLEN W. CLAYSON 516
 #4 001-603-2510
 PO BOX 436
 THAYNE, WY 83127
 Date 10/8/08
 Pay to the Order of Lynedon County \$ 120.00
 @ Financial Party
 BANK OF STAR VALLEY
 P.O. Box 8027
 354 Washington
 Arden, WY 83110
 For [REDACTED] 0516
 1023063561

10/24/08 Check 647 Amount 380.86

GAYLEN W. CLAYSON BANK OF STAR VALLEY 0647
 PO BOX 436 99-03571823 10/16/2008
 THAYNE, WY 83127
 Pay to the Order of TIMEPAYMENT CORP \$ 380.86
Three Hundred Eighty Dollars and 86 Cents
 MEMO. 31114150 This must be returned by your company
 The Signatory Registered
 #0647P C 1023063561 [REDACTED]



GAYLEN CLAYSON
HOLD

3

December 2, 2008

00

Page 1

Account Number XXXXXXXXXX BUSINESS CHECKING November 5, 2008 - December 2, 2008

CLOSING STATEMENT

Beginning Balance		143.32
Deposits	1	.00
Checks	1	111.92-
Electronic Checks	0	.00
Withdrawals	2	31.40-
Ending Balance		.00

Deposits and Other Credits

Date	Amount
11/18/08	

Checks

Number	Date	Amount
	11/10/08	111.92

Withdrawals and Other Debits

Date	Description	Amount
11/05	1 RETURNED ITE	25.00
11/17	1 RETURNED ITE	6.40

Activity

Date	Description	Number	Amount	Balance
11/05/08	1 RETURNED ITEM ON 11/04/08		25.00-	118.32
11/10/08	CHECK		111.92-	6.40
11/17/08	1 RETURNED ITEM ON 11/14/08		6.40-	.00
11/18/08	CLOSING DEPOSIT			.00

WE APPRECIATE YOUR FRIENDSHIP AND HEARTWARMING SUPPORT, AND THE OPPORTUNITY TO SERVE YOU.

THANK YOU FOR BANKING WITH "YOUR" COMMUNITY BANK

REMEMBER. YOU CAN ACCESS YOUR ACCOUNT INFORMATION 24-HOURS A DAY, 7 DAYS A WEEK BY DIALING "TELXPRESS" - 885-0001.



11/10/08 Amount 1.92

10-3-08

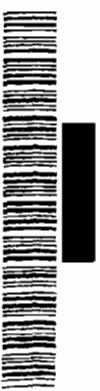
Pay to the order of Jeremy Speth \$ 111.92

One hundred eleven and 92/100 Dollars

BANK OF STAR VALLEY
P.O. Box 8207
304 Washington
Alton, WY 83110

for _____

⑆ 102306356⑆





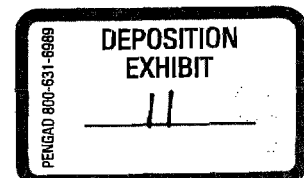
Star Valley Cheese
US Highway 89
Thayne, WY 83127

September 29, 2008

Sirs,

Bill Sulzer an agent for Statco Engineering offers the following appraisal of process and support equipment at the Star Valley Cheese Plant located on Highway 89 in Thayne, WY.

Bush Vacuum Pump Type 0630C.A1A1 SN 5525	\$ 4,000
Solia Shredder W/3 Heads G450 SN 459910	2,000
100 Gallon Tank	250
Vacuum Cyclone	250
Root Vacuum Pump 56RAI-V SN 842141	2,000
Stainless Steel Table with Platform 3'x5'x4'	1,000
Fitz Mill W/Accessories FA500PB SN 545B	15,000
Weightronix Scale W/Table	2,000
CEM Moisture Oven Lab Wave 9000	3,000
300 Gallon Plastic Totes (5)	500
250 Gallon Farm Tank	300
Damrow Curd Auger	3,500
6"x8' SS Auger	300
Crepaco #3 Pump W/Belt Drive	500
Starter Tanks W/Controls (3)	9,000
Pasteurized CIP System Tanks, Pumps, Valves	7,000
9 Port Flow Panel	1,800
Tri Clover C-216 Pump W/Motor	1,500
CE Howard 5,000 Gallon Tank No1355 Style HAU-1 1945	3,000
5,000 Gallon Storage Tanks (2)	6,000
Strahman Hose Station	500
Portable Tube N Tube Heater	2,000
Tri Clover PR10 W/Drive	2,000
Cherry Burrell AH Pump SN AH15416	100
Tube N Tube Heater SN 020992	4,000
Westphalia Separator SN 1643910	50,000
Tri Clover PR125 W/Drive SN584676-01	3,000
Alfa Laval H7-RC Plate Heat Exchanger MFG # 3010067560	15,000
Hot Water Set Pump, Valve, Tube N Shell	2,200
Waukesha Pump SN 89607-WA	2,000
Balance Tank	2,500



Holding Tube	3,500
Tri Clover 700 Series FDV W/Control Box	9,000
Strahman Hose Station	700
Tri Clover PR300 Pump W/Drive	5,000
Damrow "OO" Vats (4)	120,000
SS Table 30"x96"	2,000
HTST Control Panel AS /S	7,500
SS Table 30"x96"	1,500
SS Double Sink With Drain Boards	1,500
Misc. Lab Equipment	5,000
Damrow Finish Table DRE46-27214CRSPBS-12534283	20,000
Damrow Finish Table DRE46-27214CRSPB-1273463	20,000
Complete Set Agitators for Finish Tables	10,000
Curd Pusher for Finish Tables	3,000
Supreme Cooker With Mill	150,000
Viking Mixer Molder Model 4698	700,000
Damrow Curd Mill	5,000
SS Brine System	25,000
Tri Clover 4410 Pump With Motor	3,500
Cryovac Bagger	2,000
Cryovac Vacuum Sealer Model 8610T-14E SN 0723519	100,000
Bush Vacuum Pump MWV1013-NIAI SN PC1080107	3,000
WR Grace Shrink Tunnel Model 6570BFT SN 3860272	6,000
Associated Conveyors	2,000
Champion Floor Scrubber	3,000
Air Compressor 6x6 Piston	500
Ingersoll Rand Rotary Compressor SSR-EP30 SN JX2746U00300	5,000
100 Gallon Receiver Tank	100
Girton Ice Bank IBC5084 SN97041801	3,500
Bohm Unit Cooler F1114002H SN DOD6175	1,500
Niagra Fan Cooler Model 1004 6 Units in Set	12,000
Dual Con Therm Unit	5,000
Mueller 300 Gallon Processor PCPV SN PCPV-10721	1,500
Crepaco Pump	500
300 Gallon Balance Tank	1,500
Tri Clover C-218 Pump With Motor	1,500
Waukesha 130 U2 W/Motor SN 351758 04	2,500
Press Tote With Screens, Weights and Hoist (2)	6,000
Waukesha 216 Pump With Motor	1,500
Waukesha 220 Pump With Motor	3,500
Tri Clover C-114 Pump With Motor	900
CE Howard 5,000 Gallon Tank Style 557-A No 1940	1,500
CE Howard 5,000 Gallon Tank Style 1135A No 2384	1,500
Tetra Pak Plate Heat Exchanger Model C8-SH SN 30107-99011	18,000

Tri Clover C-218 Pedestal Pump W Motor	2,500
Cherry Burrell Processor Model FPD SN 600-81-903	3,000
Tri Clover C-218 Pump With Motor	2,000
Vane Churn Model 80 Size CU70 SN 2595	5,000
Tri Clover C-328 Pump With Motor	2,500
500 Gallon Processor Model PW500 SN 68020202	3,000
Powder Addition Funnels (2)	600
Tri Clover C-216 Portable Pump with Motor	2,500
Raw CIP System 3 Tank With Pumps	25,000
Tri Clover C-216 Pump (2)	4,000
Strahman Mix Station	900
5 Port Flow Panel	1,000
Silo 3 Mueller SN A5892	20,000
Cream Silo Damrow SN 67130	12,000
Jabsco Flex Impeller Pump	700
Tri Clover C-328 Pump With Motor	3,000
Silo 2 SN 788	30,000
Silo 1 SN 120027-2	30,000
Process Valves, Piping and Fittings	50,000
Shop Equipment and Parts	15,000
Boilers Gas Fired (3)	225,000
Waste Water Treatment Plant as a Unit	900,000

APPRAISAL TOTAL \$2,760,100

We thank you for the opportunity to assist you with this appraisal. Please contact me with any questions on the values assigned.

Thank you

William Sulzer
Systems Design Engineer



5

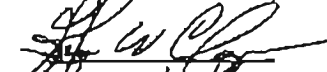
ADDENDUM A1

Addendum, to Contract to buy and Sell Real Estate (Commercial) dated October 17, 2008 by and between Gaylen W. Clayson and Jeff Randall and or assigns buyer and Seller Star Valley Cheese Inc.


Gaylen W. Clayson and Jeff Randall hereby assign all rights of said Contract to buy and Sell Real Estate to SVC, LLC a Wyoming LLC.

Said principles are Rick Lawson and Donald Zebe members of SVC, LLC.


Gaylen W. Clayson


Date 11/4/08

Jeff Randall


Date 11-4-08

Witness


exp 9/18/09
Paratello, Ad 83301

SINIRI JAN JETER
Notary Public
State of Idaho



Blake S. Atkin (ISB# 6903)
7579 North Westside Highway
Clifton, Idaho 83228
Telephone: (208) 747-3414

ATKIN LAW OFFICES, P.C.
837 South 500 West, Suite 200
Bountiful, Utah 84010
Telephone: (801) 533-0300
Facsimile: (801) 533-0380

Attorney for Plaintiff/Counterclaim Defendant

**IN THE SIXTH JUDICIAL DISTRICT COURT IN AND FOR
BANNOCK COUNTY, STATE OF IDAHO**

GAYLEN CLAYSON,

Plaintiff,

v.

DON ZEBE, RICK LAWSON, and LAZE,
LLC,

Defendants,

DON ZEBE, RICK LAWSON, and LAZE,
LLC,

Counterclaim Plaintiffs,

v.

GAYLEN CLAYSON,

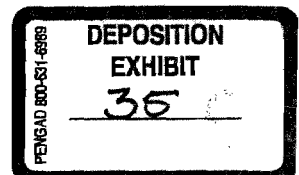
Counterclaim Defendant.

**PLAINTIFF'S RESPONSE TO
DEFENDANTS' FIRST REQUEST
FOR PRODUCTION OF
DOCUMENTS**

Case No: CV-2009-02212-OC

Judgc: Stephen S. Dunn

Plaintiff/Counterclaim Defendant, Gaylen Clayson (hereinafter "Plaintiff"), by and through his counsel of record, hereby responds to the Defendants' First Request for Production of Documents, dated December 22, 2009, as follows:



GENERAL OBJECTIONS TO DOCUMENT REQUESTS

Plaintiff makes and hereby incorporates by reference the following general objections, whether or not separately set forth, in response to each of the Document Requests:

1. Plaintiff objects to the Document Requests insofar as they are inconsistent with or go beyond the requirements of the applicable Idaho Rules of Civil Procedure.
2. Plaintiff objects to the Document Requests insofar as they request information relating to matters that are not relevant to the pending lawsuit or reasonably calculated to lead to the discovery of admissible evidence, and/or are overly broad, unduly burdensome, vague, or ambiguous.
3. Plaintiff objects to the Document Requests insofar as they seek information that is covered by the attorney client privilege and/or the attorney work product doctrine.
4. Plaintiff objects to the Document Requests insofar as they are redundant or repetitive; any answer or portion thereof to any of the Document Requests that is applicable to or responsive in any way to any other of the Document Requests is incorporated into the answer to such other of the Discovery Requests.
5. Plaintiff objects to the Document Requests insofar as they seek information already in the possession or control of the Defendants or available to the public.
6. Plaintiff objects to the Document Requests insofar as they seek any information under the control of an entity which is not a party to this action.

The general objections above, whether or not they and/or any additional objections are separately set forth in response to any of the Document Requests below, are hereby expressly incorporated into each answer and response. By asserting additional objections Plaintiff does not in any way waive any of the foregoing general objections. Without limitation of any kind upon

the foregoing objections, and without waiving them, Plaintiff responds to the Document Requests to the best of his present ability as follows:

REQUESTS FOR PRODUCTION OF DOCUMENTS

REQUEST NO. 1: Produce all written and all electronic documents that relate to any employment, independent contractor, or managerial contracts, leases, or purchase agreements between yourself and Mr. Farinella and/or any entity with which he is associated regarding the operation of the Thayne cheese plant and/or restaurant.

ANSWER: Such documents will be produced.

REQUEST NO. 2: Produce all written and electronic documents that relate to any lease of the Thayne cheese plant and/or restaurant between you and Mr. Farinella, or any business entity with which he is associated.

ANSWER: Such documents will be produced.

REQUEST NO. 3: Produce all written and electronic documents that authorize you to manage, make repairs to, or spend money on any aspect of the operation of the Thayne cheese plant and/or restaurant.

ANSWER: Such documents will be produced.

REQUEST NO. 4: Produce all written and electronic documents relating to receipts, invoices, cancelled checks, or money orders that evidence any and all renovations, repairs, upkeep, or preparations for the opening and/or operation of the Thayne cheese plant and/or restaurant.

ANSWER: Such documents will be produced.

REQUEST NO. 5: Produce all written and electronic documents that relate to the work that was done at the Thayne cheese factory and/or restaurant by any and all contractors or employees relating to any renovations or repairs made during 2008 through February 2009.

ANSWER: Such documents will be produced.

REQUEST NO. 6: Produce all written and electronic documents that relate to the time that you worked at the Thayne cheese factory and/or restaurant, including any time cards, work histories, or diaries that show your time and/or work performed at the cheese factory.

ANSWER: Such documents will be produced.

REQUEST NO. 7: Produce all written and electronic documents that relate to any offer to purchase the cheese factory made by you to Mr. Farinella, or any entity with which he is associated, including but not limited to offers, counteroffers, purchase agreements, communications between parties, communications with the bankruptcy trustee, and all other documentation that relates to the purchase.

ANSWER: Such documents will be produced.

REQUEST NO. 8: Produce all written and electronic documents that relate to the alleged partnership agreement between yourself and the Defendants, including but not limited to, offers, counteroffers, purchase agreements, business plans, communications between parties, communications with the bankruptcy trustee, agreements to purchase milk, any and all agreements for the price of the milk purchase, and all other documentation that relates to the alleged partnership and/or purchase of the alleged partnership.

ANSWER: Such documents will be produced.

REQUEST NO. 9: Produce all written and electronic documents that relate to the sale or any other removal of any and any property located on the Thayne cheese factory and/or restaurant premises that was sold or disposed of during 2008 through February 2009. This includes but is not limited to the ice cream machine, the whey dryer, any and all metal, all other machines, wiring, or hardware that was sold or removed from the premises of the cheese factory. The

documentation requested would include but not be limited to sales contracts, receipts, cancelled checks, deposit slips, money orders, and all other forms of agreements, contracts, monies paid and any documents authorizing the removal of the property.

ANSWER: Plaintiff has no such documents in his possession.

REQUEST NO. 10: Produce all written and electronic documents that relate to your business whether by you individually or doing business as any entity, including but not limited to Cedar Arch Dairy and/or Cedar Arch Dairy Operation, LLC. This includes but is not limited to:

- a. Any and all documents relating to the organization of the dairy business. This would include any formation documents, corporation, partnership, or sole proprietorship documents, operating agreements meeting minutes, and list of directors or officers;
- b. Any and all documents for the past three (3) years that show the sale, contracts, and prices of dairy products with any other wholesaler, retailer, or other business;
- c. Financial statements and tax returns for the previous five (5) years relating to your business in selling your dairy products.
- d. Any documents evidencing your membership in any dairy coop or association and any contracts or agreements related thereto.

ANSWER: Plaintiff objects to this request on the ground that it seeks information that is neither relevant nor calculated to lead to the discovery of admissible evidence and on the ground that it is overly broad and unduly burdensome.

REQUEST NO. 11: Produce all of your personal financial documents, including but not limited to bank statements for all your accounts since January 1, 2008 to present, all federal and state tax returns for the last five years and any and all loan applications since January 1, 2008.

ANSWER: Plaintiff objects to the foregoing Request on the grounds that it seeks information that is neither relevant nor calculated to lead to the discovery of admissible evidence and that it is overbroad and unduly burdensome.

REQUEST NO. 12: Produce for inspection any personal diary, journal and/or dayplanner.

ANSWER: Plaintiff has no such documents in his possession.

REQUEST NO. 13: Produce all invoices sent to Glambia or any other entity to which you have provided milk for the past three years.

ANSWER: Plaintiff objects to this request on the ground that it is overbroad and unduly burdensome. Without waiving this objection, Plaintiff will produce documents from which can be derived the volume of milk sold by Plaintiff since October 2008.

REQUEST NO. 14: Produce all contracts or other documents evidencing Class III milk prices to Glambia or any other entity over the last three years to present.

ANSWER: Such documents will be produced.

REQUEST NO. 15: Produce all written and electronic documents that relate to your membership in Snake River Dairyman's Association and/or any other coop or dairy association. This request includes, but is not limited to contracts, all correspondence, letters of termination, resignation and/or withdrawal.

ANSWER: Plaintiff objects to this request as overbroad and unduly burdensome and not calculated to lead to the discovery of admissible evidence.

REQUEST NO. 16: Produce all documents that evidence any damages you claim in this matter.

ANSWER: Such documents will be produced.

REQUEST NO. 17: Produce all documents that evidence your efforts to mitigate your damages claimed in this matter.

ANSWER: Such documents will be produced.

REQUEST NO. 18: Produce all documents evidencing any contract or agreement with Laze, LLC.

ANSWER: Such documents will be produced.

REQUEST NO. 19: Produce all documents evidencing any contract or agreement with Don Zebe individually.

ANSWER: Such documents will be produced.

REQUEST NO. 20: Produce all documents evidencing any contract or agreement with Rick Lawson individually.

ANSWER: Such documents will be produced.

REQUEST NO. 21: Produce all correspondence with Val Pendleton.

ANSWER: Such documents will be produced.

REQUEST NO. 22: Produce all business plans prepared by you or in your possession for the Thayne cheese plant and/or restaurant.

ANSWER: Plaintiff has no such documents in his possession.

REQUEST NO. 23: Produce all correspondence with Dairy Systems Company, Inc. and/or any of its shareholders and/or employees.

ANSWER: Plaintiff has no such documents in his possession.

REQUEST NO. 24: Produce all correspondence with Morris Farinella and/or any business entity with which he is associated.

ANSWER: Plaintiff has no such documents in his possession.

REQUEST NO. 25: Produce all correspondence with any Defendant.

ANSWER: Plaintiff has no such documents in his possession.

REQUEST NO. 26: Produce all correspondence with Jeff Randall.

ANSWER: Plaintiff has no such documents in his possession.

REQUEST NO. 27: Produce all documents evidencing any benefit(s) conferred by you on Don Zebe and/or Rick Lawson in their individual capacities.

ANSWER: Such documents will be produced.

REQUEST NO. 28: Produce all documents evidencing the value of the benefit conferred upon the Defendants at \$5.5 million.

ANSWER: Such documents will be produced.

REQUEST NO. 29: Produce all documents evidencing the expenditure by the Defendants of \$2.3 million. Please also include any documents evidencing any such expenditures of Don Zebe and/or Rick Lawson in their individual capacities.

ANSWER: Such documents will be produced.

REQUEST NO. 30: Produce all documents evidencing any criminal complaint made by Rick Lawson. Please include any documents evidencing a complaint wherein Mr. Lawson alleged Mr. Clayson was guilty of larceny, that Mr. Clayson stole an ice cream machine worth \$15,000.00, or that evidence any other allegation against Mr. Lawson in the Third Cause of Action in your Amended Complaint.

ANSWER: Such documents will be produced.

REQUEST NO. 31: Produce all documents evidencing any criminal complaint made by Laze, LLC. Please include any documents evidencing a complaint wherein Laze, LLC alleged Mr. Clayson was guilty of larceny, that Mr. Clayson stole an ice cream machine worth \$15,000.00, or

that evidence any other allegation against Laze, LLC in the Third Cause of Action in your Amended Complaint.

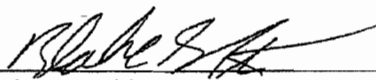
ANSWER: Such documents will be produced.

REQUEST NO. 32: Produce all documents evidencing any criminal complaint made by Don Zebe. Please include any documents evidencing a complaint wherein Mr. Zebe alleged Mr. Clayson was guilty of larceny, that Mr. Clayson stole an ice cream machine worth \$15,000.00, or that evidence any other allegation against Mr. Zebe in the Third Cause of Action in your Amended Complaint.

ANSWER: Such documents will be produced.

DATED this 1st day of February, 2010.

ATKIN LAW OFFICES, P.C.



Blake S. Atkin
*Attorney for the Plaintiff/Counterclaim
Defendant*

Blake S. Atkin (ISB# 6903)
7579 North Westside Highway
Clifton, Idaho 83228
Telephone: (208) 747-3414

ATKIN LAW OFFICES, P.C.
837 South 500 West, Suite 200
Bountiful, Utah 84010
Telephone: (801) 533-0300
Facsimile: (801) 533-0380

Attorney for Plaintiff/Counterclaim Defendant

**IN THE SIXTH JUDICIAL DISTRICT COURT IN AND FOR
BANNOCK COUNTY, STATE OF IDAHO**

GAYLEN CLAYSON,

Plaintiff,

v.

DON ZEBE, RICK LAWSON, and LAZE,
LLC,

Defendants,

DON ZEBE, RICK LAWSON, and LAZE,
LLC,

Counterclaim Plaintiffs,

v.

GAYLEN CLAYSON,

Counterclaim Defendant.

**CERTIFICATE OF SERVICE OF
PLAINTIFF'S RESPONSE TO
DEFENDANTS' FIRST REQUEST
FOR PRODUCTION OF
DOCUMENTS**

Case No: CV-2009-02212-OC

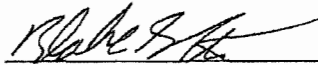
Judge: Stephen S. Dunn

I HEREBY CERTIFY that I caused a copy of **PLAINTIFF'S RESPONSE TO
DEFENDANTS' FIRST REQUEST FOR PRODUCTION OF DOCUMENTS** to be

delivered by U.S. Mail, first class, postage prepaid, on the 1st day of February, 2010, to the following:

Joshua T. Smith
John D. Bowers
Bowers Law Firm, PC
685 South Washington
P.O. Box 1550
Afton, Wyoming 83110

ATKIN LAW OFFICES, P.C.



Blake S. Atkin

Attorneys for the Povey Defendants

CERTIFICATE OF SERVICE

The undersigned certifies that on the 1st day of February, 2010, 2009, he caused to be served a true and correct copy of the foregoing **CERTIFICATE OF SERVICE OF PLAINTIFF'S RESPONSE TO DEFENDANTS' FIRST REQUEST FOR PRODUCTION OF DOCUMENTS** following by the method of delivery designated below:

Joshua T. Smith
John D. Bowers
Bowers Law Firm, PC
685 South Washington
P.O. Box 1550
Afton, Wyoming 83110

U.S. Mail Hand delivery Fax

Bannock County Court
624 E. Center St.
Pocatello, ID 83205

U.S. Mail Hand delivery Fax



Blake S. Atkin

Gary L. Cooper - Idaho State Bar #1814
 COOPER & LARSEN, CHARTERED
 151 North Third Avenue, Second Floor
 P.O. Box 4229
 Pocatello, ID 83205-4229
 Telephone: (208) 235-1145
 Facsimile: (208) 235-1182

Counsel for Defendant

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
 STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

GAYLEN CLAYSON,)
)
 Plaintiff,)
)
 vs.)
)
 DON ZEBE, RICK LAWSON, AND)
 LAZE, LLC.,)
)
 Defendants,)
 _____)
)
 DON ZEBE, RICK LAWSON, AND)
 LAZE, LLC.,)
)
 Counterclaim Plaintiff,)
)
 vs.)
)
 GAYLEN CLAYSON,)
)
 Counterclaim Defendants,)
 _____)

CASE NO. CV-2009-0002212-OC

**AMENDED NOTICE OF DEPOSITION
 OF GAYLEN CLAYSON AND
 SUBPOENA DUCES TECUM**

TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE that Laze, LLC, a Wyoming Limited Liability Company, Don Zebe and Rick Lawson, will take the testimony of Gaylen Clayson, pursuant to the Idaho Rules of Civil Procedure, before a certified court reporter on Wednesday, July 14, 2010 beginning at the hour



of 9:00 a.m. at the Office of Cooper & Larsen, located at 151 N. Third Ave, Second Floor, Pocatello, Idaho 83205. The examination shall continue from day to day thereafter until completed. Saturdays, Sundays and holidays excluded, unless the parties stipulate otherwise.

You are further notified to provide the following documents at the date and time specified above:

1. All written and all electronic documents that relate to any employment, independent contractor, or managerial contracts, leases, or purchase agreements between yourself and Mr. Farinella and/or any entity with which he is associated regarding the operation of the Thayne cheese plant and/or restaurant.
2. All written and electronic documents that relate to any lease of the Thayne cheese plant and/or restaurant between you and Mr. Farinella, or any business entity with which he is associated.
3. All written and electronic documents that authorize you to manage, make repairs to, or spend money on any aspect of the operation of the Thayne cheese plant and/or restaurant.
4. All written and electronic documents relating to receipts, invoices, cancelled checks or money orders that evidence any and all renovations, repairs, upkeep, or preparations for the opening and/or operation of the Thayne cheese plant and/or restaurant.
5. All written and electronic documents that relate to the work that was done at the Thayne cheese factory and/or restaurant by any and all contractors or employees relating to any renovations or repairs made during 2008 through February 2009.
6. All written and electronic documents that relate to the time that you worked at the Thayne cheese factory and/or restaurant, including any time cards, work histories or diaries that show your time and/or work performed at the cheese factory.

7. All written and electronic documents that relate to any offer to purchase the cheese factory made by you to Mr. Farinelta, or any entity with which he is associated, including but not limited to, offers, counteroffers, purchase agreements, communications between parties, communications with the bankruptcy trustee, and all other documentation that relates to the purchase.

8. All written and electronic documents that relate to the alleged partnership agreement between yourself and the Defendants, including but not limited to, offers, counteroffers, purchase agreements, business plans, communications between parties, communications with the bankruptcy trustee, agreements to purchase milk, any and all agreements for the price of the milk purchase, and all other documentation that relates to the alleged partnership and/or purchase of the alleged partnership.

9. All written and electronic documents that relate to the sale or any other removal of any and any property located on the Thayne cheese factory and/or restaurant premises that was sold or disposed of during 2008 through February 2009. This includes but is not limited to the ice cream machine, the whey dryer, any and all metal, all other machines, wiring, or hardware that was sold or removed from the premises of the cheese factory. The documentation requested would include but not be limited to sales contracts, receipts, cancelled checks, deposit slips, money orders, and all other forms of agreements, contracts, monies paid and any documents authorizing the removal of the property.

10. All written and electronic documents that relate to your business whether by you individually or doing business as any entity, including but not limited to Cedar Arch Dairy and/or Cedar Arch Dairy Operation, LLC. This includes but is not limited to:

a. Any and all documents relating to the organization of the dairy, business. This would

- include any formation documents, corporation: partnership, or sole proprietorship documents, operating agreements meeting minutes, and list of directors or officers;
- b. Any and all documents for the past three (3) years that show the sale, contracts, and prices of dairy products with any other wholesaler, retailer, or other business;
 - c. Financial statements and tax returns for the previous five (5) years, relating to your business in selling your dairy products.
 - d. Any documents evidencing your membership in any dairy co-op or association and any contracts or agreements related thereto.
11. All of your personal financial documents, including but not limited to bank statements for all your accounts since January 1, 2008 to present, all federal and state tax returns for the last five years and any and all loan applications since January 1, 2008.
12. Any personal diary, journal and/or dayplanner.
-
13. Invoices sent to Glambia or any other entity to which you have provided milk for the past three years.
14. All contracts or other documents evidencing Class III milk prices to Glambia or any other entity over the last three years to present.
15. All written and electronic documents that relate to your membership in Snake River Dairyman's Association and/or any other co-op or dairy association. This request includes, but is not limited to contracts, all correspondence, letters of termination, resignation and/or withdrawal.
16. All documents that evidence any damages you claim in this matter.
17. All documents that evidence your efforts to mitigate your damages claimed in this matter.
18. All documents evidence any contract or agreement with Laze, LLC.

19. All documents evidencing any contract or agreement with Don Zebe individually.
20. All documents evidencing any contract or agreement with Rick Lawson individually.
21. All correspondence with Val Pendleton.
22. All business plans prepared by you or in your possession for the Thayne cheese plant and/or restaurant.
23. All correspondence with Dairy Systems Company, Inc. and/or any of its shareholders and/or employees.
24. All correspondence with Morris Farinella and/or any business entity with which he is associated.
25. All correspondence with any Defendant.
26. All correspondence with Jeff Randall.
27. All documents evidencing any benefit(s) conferred by you on Don Zebe and/or Rick Lawson in their individual capacities.
28. All documents evidencing the value of the benefit conferred upon the Defendants at \$5.5 million.
29. All documents evidencing the expenditure by the Defendants of \$2.3 million. Please also include any documents evidencing any such expenditures of Don Zebe and/or Rick Lawson in their individual capacities.
30. All documents evidencing any criminal complaint made by Rick Lawson. Please include any documents evidencing a complaint wherein Mr. Lawson alleged Mr. Clayson was guilty of larceny, that Mr. Clayson stole an ice cream machine worth \$15,000.00, or that evidence any other allegation against Mr. Lawson in the Third Cause of Action in your Amended Complaint.

30. All documents evidencing any criminal complaint made by Laze, LLC. Please include any documents evidencing a complaint wherein Laze, LLC alleged Mr. Clayson was guilty of larceny, that Mr. Clayson stole an ice cream machine worth \$15,000.00, that evidence any other allegation against Laze, LLC in the Third Cause of Action in your Amended Complaint,

32. All documents evidencing any criminal complaint made by Don Zebe. Please include any documents evidencing a complaint wherein Mr. Zebe alleged Mr. Clayson was guilty of larceny, that Mr. Clayson stole an ice cream machine worth \$15,000.00, or that evidence any other allegation against Mr. Zebe in the Third Cause of Action in your Amended Complaint,

33. All co-op agreements, or any other agreements of any kind relating to Best Whey Co-op.

34. Any marketing agreements between Best Whey Co-op and Dairy Farmers of America or any other entity.

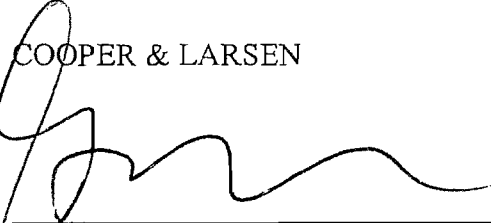
35. Any documents relating to the establishment and formation of Best Whey Co-op, including documents evidencing any and all members of the Co-op.

36. Any agreements between Best Whey Co-op and you and/or Cedar Arch Dairies.

37. The list of dairy producers possessed by Best Whey Co-op, including but not limited to any Star Valley Wyoming producers.

38. All financial documents relating to Best Whey Co-op, including but not limited to bank statements, loan applications and tax returns.

DATED this 17th day of June, 2010.

COOPER & LARSEN


GARY L. COOPER

CERTIFICATE OF SERVICE

I hereby certify that on the 17th day of June, 2010, I served a true and correct copy of the foregoing to:

Blake S. Atkin
7579 North Westside Hwy
Clifton, ID 83228

- U.S. mail
- Express mail
- Hand delivery
- Fax:

Atkins Law Offies
837 South 500 West, Ste 200
Bountiful, UT 84010

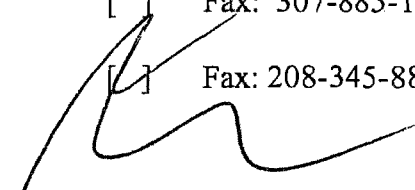
- U.S. mail
- Express mail
- Hand delivery
- Fax: 801-533-0380

John D. Bowers
Bowers Law Firm
PO Box 1550
Afton, WY 83110

- U.S. mail
- Express mail
- Hand delivery
- Fax: 307-885-1002

M&M Court Reporting

- Fax: 208-345-8800



GARY L. COOPER



Blake S. Atkin (ISB# 6903)
7579 North Westside Highway
Clifton, Idaho 83228
Telephone: (208) 747-3414

ATKIN LAW OFFICES, P.C.
837 South 500 West, Suite 200
Bountiful, Utah 84010
Telephone: (801) 533-0300
Facsimile: (801) 533-0380

Attorney for Plaintiff/Counterclaim Defendant

**IN THE SIXTH JUDICIAL DISTRICT COURT IN AND FOR
BANNOCK COUNTY, STATE OF IDAHO**

GAYLEN CLAYSON,

Plaintiff,

v.

DON ZEBE, RICK LAWSON, and LAZE,
LLC,

Defendants.

DON ZEBE, RICK LAWSON, and LAZE,
LLC,

Counterclaim Plaintiffs,

v.

GAYLEN CLAYSON,

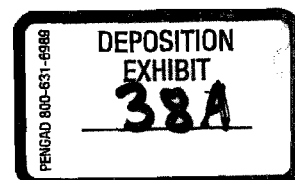
Counterclaim Defendant.

**PLAINTIFF'S RESPONSE TO
DEFENDANTS' DISCOVERY TO
PLAINTIFF**

Case No: CV-2009-02212-OC

Judge: Stephen S. Dunn

Plaintiff/Counterclaim Defendant, Gaylen Clayson (hereinafter "Plaintiff"), by and through his counsel of record, hereby responds to the Defendants' Discovery to Plaintiff, dated July 14, 2010, as follows:



GENERAL OBJECTIONS TO DOCUMENT REQUESTS

Plaintiff makes and hereby incorporates by reference the following general objections, whether or not separately set forth, in response to each of the Document Requests:

1. Plaintiff objects to the Document Requests insofar as they are inconsistent with or go beyond the requirements of the applicable Idaho Rules of Civil Procedure.
2. Plaintiff objects to the Document Requests insofar as they seek information that is covered by the attorney client privilege and/or the attorney work product doctrine.
4. Plaintiff objects to the Document Requests insofar as they are redundant or repetitive; any answer or portion thereof to any of the Document Requests that is applicable to or responsive in any way to any other of the Document Requests is incorporated into the answer to such other of the Discovery Requests.
5. Plaintiff objects to the Document Requests insofar as they seek information already in the possession or control of the Defendants or available to the public.
6. Plaintiff objects to the Document Requests insofar as they seek any information under the control of an entity which is not a party to this action.

The general objections above, whether or not they and/or any additional objections are separately set forth in response to any of the Document Requests below, are hereby expressly incorporated into each answer and response. By asserting additional objections Plaintiff does not in any way waive any of the foregoing general objections. Without limitation of any kind upon the foregoing objections, and without waiving them, Plaintiff responds to the Document Requests to the best of his present ability as follows:

REQUESTS FOR PRODUCTION OF DOCUMENTS

REQUEST NO. 33: Produce Bank of America credit card statements for the time period June 1, 2008 through October 30, 2008.

RESPONSE: Such documents will be produced.

REQUEST NO. 34: Produce U.S. Bank credit card statements for the time period June 1, 2008 through October 30, 2008.

RESPONSE: Such documents will be produced.

REQUEST NO. 35: Produce Chase credit card statements for the time period June 1, 2008 through October 30, 2008.

RESPONSE: Such documents will be produced.

REQUEST NO. 36: Produce U.S. Bank personal account records for Gaylen Clayson and Donna Clayson for the months June 1, 2008 through October 30, 2008.

RESPONSE: Such documents will be produced.

REQUEST NO. 37: Produce all records from Glanbia Foods for the period October 1, 2008 through December 31, 2008, documenting purchase and sales of milk from Cedar Arch Dairies, including any contracts.

RESPONSE: Such documents have been produced.

REQUEST NO. 38: Produce all records from High Desert for the period October 1, 2008 through January, 2009, documenting purchase and sales of milk from Cedar Arch Dairies, including any contracts.

RESPONSE: Such documents have been produced.

REQUEST NO. 39: Produce all records from Nelson/Ricks in Rexburg for approximately ninety (90) days beginning January, 2009 through end date, documenting purchase and sales of milk from Cedar Arch Dairies, including any contracts.

RESPONSE: Such documents have been produced.

REQUEST NO. 40: Produce all records from Glanbia Food for the period April 1, 2009 through March 31, 2010 or end date, documenting purchase and sales of milk from Cedar Arch Dairies, including any contracts.

RESPONSE: Such documents have been produced.

REQUEST NO. 41: Produce all records from IFS for the period beginning April 1, 2010, to present, documenting purchase and sales of milk from Cedar Arch Dairies, including any contracts.

RESPONSE: Such documents have been produced.

REQUEST NO. 42: Produce the organizational documents for Cedar Arch Dairies, LLC.

RESPONSE: Such documents have been produced.

REQUEST NO. 43: Produce the organizational documents for Cedar Arch Dairy Operations, LLC.

RESPONSE: Such documents have been produced.

REQUEST NO. 44: Produce the organizational documents for Best Way or Best Whey Co-Op.

RESPONSE: Such documents have been produced.

REQUEST NO. 45: Produce all records from your accountant Julie Hawes for the years 2007, 2008 and 2009 regarding the sale of dairy products.

RESPONSE: Such documents have been produced.

REQUEST NO. 46: Produce all records from your accountant Julie Haws concerning the operation of the restaurant at Star Valley Cheese at Thayne, Wyoming, including payroll reports and quarterly reports.

RESPONSE: Such documents have been produced.

REQUEST NO. 47: Produce all financial statements provide to Key Bank in the years 2007, 2008, 2009 and to date in 2010.

RESPONSE: Such documents have been produced.

REQUEST NO. 48: Produce the IFS Marketing Agreement that you or Cedar Arch Dairies has.

RESPONSE: Such documents have been produced.

REQUEST NO. 49: Produce any tax returns filed by Best Way or Best Whey Co-Op.

RESPONSE: No such documents exist.

REQUEST NO. 50: Produce any agreement between Best Way or Best Whey Co-Op and Cedar Arch Dairies.

RESPONSE: Such documents have been produced.

REQUEST NO. 51: Produce the written notice from Cedar Arch Dairies to Snake River Dairyman Co-Op by which Cedar Arch Dairies gave notice of its intent to terminate its relationship with Snake River Dairyman Co-Op.

RESPONSE: No such documents exist.

REQUEST NO. 52: Please produce a copy of each and every exhibit Plaintiff intends to use at the trial of this case.

RESPONSE: Plaintiff objects to this request on the ground that it is premature.

Plaintiff has not yet determined which exhibits he will use at the trial of this matter.

GENERAL OBJECTIONS TO INTERROGATORIES

Plaintiffs make and hereby incorporate by reference the following general objections, whether or not separately set forth, in response to each of the Interrogatories:

1. Plaintiffs object to the Interrogatories insofar as they are inconsistent with or go beyond the requirements of the applicable Idaho Rules of Civil Procedure.

2. Plaintiffs object to the Interrogatories insofar as they request information relating to matters that are not relevant to the pending lawsuit or reasonably calculated to lead to the discovery of admissible evidence, and/or are overly broad, unduly burdensome, vague, or ambiguous.

3. Plaintiffs object to the Interrogatories insofar as they seek information that is covered by the attorney client privilege and/or the attorney work product doctrine.

4. Plaintiffs object to the Interrogatories insofar as they are redundant or repetitive; any answer or portion thereof to any of the Interrogatories that is applicable to or responsive in any way to any other of the Interrogatories is incorporated into the answer to such other of the Interrogatories.

5. Plaintiffs object to the Interrogatories insofar as they seek information already in the possession or control of the Defendants or available to the public.

6. Plaintiffs object to the Interrogatories insofar as they seek any information under the control of an entity which is not a party to this action.

The general objections above, whether or not they and/or any additional objections are separately set forth in response to any of the Interrogatories below, are hereby expressly

incorporated into each answer and response. By asserting additional objections Plaintiffs do not in any way waive any of the foregoing general objections. Without limitation of any kind upon the foregoing objections, and without waiving them, Plaintiffs respond to the Interrogatories to the best of their present ability as follows:

INTERROGATORIES

INTERROGATORY NO. 1: With respect to all witnesses which Plaintiff intends or expects to call at trial, please provide the following information:

- A. The name of the witness;
- B. The address and telephone number of the witness; and
- C. A brief summary of the expected testimony of each such witness.

RESPONSE: Plaintiff objects to this interrogatory on the ground that it is premature. Plaintiff has not yet determined which witnesses he will call at the trial of this matter. Without waiving this objection, plaintiff expects that he will call the following as witnesses:

Gaylen Clayson. Mr. Clayson will testify about the relationship he had with Morris Farinella, the relationship he had with the US Department of Agriculture, about his experience as a Dairy farmer, about his work and involvement and expenditures made in efforts to reopen the cheese Plant in Thayne Wyoming. He will testify about the contracts and agreements he had with Morris Farinella with respect to the Cheese Plant. He will testify about his relationship with the defendants, about their business relationships, the agreements that they had and the efforts that he made to fulfill his contractual obligations to the defendants. He will testify about the out of pocket expenses he incurred in preparing the cheese plant to reopen and he will testify about the obligations, including the obligation he incurred to Dairy Systems in preparing the cheese plant for reopening.

Don Zebe. See the deposition of Don Zebe. In addition, Mr. Zebe will be interrogated with regard to all other issues in the case.

Rick Lawson. See, testimony of Rick Lawson at hearing on petition to remove Dairy System's lien. In addition, Mr. Lawson will be interrogated with regard to all other issues in the case.

Val Pendleton. Mr. Pendleton will testify about the relationship of Gaylen Clayson with him and with Morris Farinella and about aspects of the contract to sell the cheese plant to Mr. Clayson.

Morris Farinella. Mr. Farinella will testify that he agreed to sell the cheese plant to Gaylen Clayson and that he actually followed through on that agreement. He will also testify about the Taylor Ice Cream Machine and that it was not stolen by Mr. Clayson.

Joe Farinella. Mr. Farinella will testify about conversations and statements made by defendants about their relationship with Gaylen Clayson.

Officials from the city of Thayne Wyoming who will testify that they had a good working relationship with Gaylen Clayson.

Jeff Randall. See, deposition of Jeff Randall.

Klark Gailey. Mr. Gailey will testify about statements and actions by defendants indicating that they did assume a partnership with Gaylen Clayson and responsibility to pay the debts he had incurred at the cheese plant.

John Gailey. Mr. Gailey will testify about statements and actions by defendants indicating that they did assume a partnership with Gaylen Clayson and responsibility to pay the debts he had incurred at the cheese plant.

INTERROGATORY NO. 2: Please provide Defendants with a list of all exhibits which Plaintiff intends or expects to utilize at the trial of this case, giving a description of each exhibit and a summary of the exhibit's expected relevance to this action.

RESPONSE: Plaintiff objects to this interrogatory on the ground that it is premature. Plaintiff has not yet determined which documents that he will use at trial.

INTERROGATORY NO. 3: For the damages you allege in Count One of your Complaint, please identify specifically how your damages are calculated and identify every document which exists which would support your claim for damages.

RESPONSE: Plaintiffs damages are calculated as follows:

Reimbursement of out of pocket expenses:

Plumbing July	\$2,250.00
Plumbing August	\$12,800.00
Refrigeration on Restaurant	\$823.00
Registration IMPU	\$750.00
Toasters Restaurant	\$120.00
Jensen Paint Plant	\$13,100.00
Other Paint Plant	\$3,250.00
Tile Repair Plant	\$1,100.00
Josh Labor	\$5,600.00
April Labor	\$6,200.00
Mark Labor Plant & Rest.	\$5,400.00
Roof Repair Supplies	\$1,800.00
Cleaning	\$1,023.00

Vacuum Cleaner	\$140.00
Office Furniture	\$4,942.00
Vicking Eq. Check Off	\$2,430.00
Computer	\$400.00
Cash Register	\$360.00
Time Clock	\$320.00
Restaurant (.John)	\$11,300.00
Dairy Systems	\$50,000.00
Total	\$124,108.00

The amount needed to pay off Dairy Systems, the only remaining outstanding debt that defendants agreed to assume but have not yet paid. \$290,323.45.

\$500,000.00, the amount of partnership equity defendants promised to pay plaintiff.

\$303,564.00 representing the difference between the amount defendants promised to pay plaintiff for his milk less the cost of the whey disposal verses the amount plaintiff has been able to obtain from the sell of his milk on the spot market while he waited for defendants to fulfill their agreement.

INTERROGATORY NO. 4: For the damages you allege in Count Two of your Complaint, please identify specifically how your damages are calculated and identify every document which exists which would support your claim for damages.

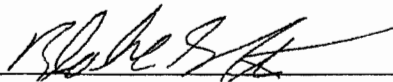
RESPONSE: In addition to the amounts set forth in response to interrogatory no. 3, if a jury determines that the plaintiff cannot establish a contract with the defendants, then plaintiff is entitled to the difference between the value of what the defendants received from the plaintiff

and the amount that they paid for that benefit. It is undisputed that defendants paid \$800,000 for the cheese plant opportunity that they purchased pursuant to the assignment that plaintiff delivered to them.

Defendants commissioned appraisals of the equipment they purchases and it totaled \$2,760,100.00 Likewise, Defendants requested and obtained an appraisal of the land and plant and the value was reported to be \$2,100,000.00 Thus the difference between the value of the property that defendants received and the amount they paid for it is no less than \$4,060,100.00 Under an equitable calculation of his damages, if plaintiff cannot prove a contract that is the amount he is entitled to.

DATED this 16th day of August, 2010.

ATKIN LAW OFFICES, P.C.



Blake S. Atkin
*Attorney for the Plaintiff/Counterclaim
Defendant*



A	2,250	10/10
B	12,800	10/10
C	823	10/10
D	750	10/10
E	180	10/10
F	13,100	10/10
G	3,280	10/10
H	1,100	10/10
I	5,600	10/10
J	6,200	10/10
K	5,400	10/10
L	1,800	10/10
M	1,023	10/10
N	1,400	10/10
O	4,940	10/10
P	2,430	10/10
Q	400	10/10
R	360	10/10
S	320	10/10
T	11,300	10/10

Plumbing July Reche
 Plumbing Sept - Plu
 Ref on Restaurant
 Registration Exm T.M.P.A
 TOILETS Rest.
 JASON part Plant
 other part Plant
 Toilet Repair Plant
 Josh Labor
 A.P.P. Leagator Plant
 MARK Labor Plant & Co
 Roof Repair supply
 Saguel Cleaning 15 gal p
 Vacuum Cleaner
 O.P.A. Furniture 3 bed rooms
 U.P. King Eq. check at
 Compton
 Cash Receipt
 Time Clock
 Restaurant (John)

Viking



Statement for account number **1 888 2918 8883**
 New Balance: \$7,725.00 Payment Due Date: 12/13/08
 Jan Amount: \$0.00 Minimum Payment: \$154.00



ClaytonCC000001

\$

Make your check payable to:
 Chase Card Services
 Please write amount enclosed.
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 Plan. For rates, the benefits &
 disclosures on back of card.

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AUG 2 2010

549104072918866300015400007725005731648

4140 8th E 2288 S
 DONNA R CLAYSON
 TULSA, OK 74106
 PRTH ID 83206-1205



CARDMEMBER SERVICE
 PO BOX 94014
 PALATKA, IL 60094-0114



⑆500016028⑆ 49909291886634⑆



Opening/Closing Date:
 Payment Due Date:
 Minimum Payment Due:

10/19/08 - 11/19/08
 12/13/08
 \$154.00

CUSTOMER SERVICE
 In U.S. 1-800-945-2000
 Español 1-888-446-3308
 TDD 1-800-945-8080
 Pay by phone 1-800-436-7988
 Outside U.S. call collect
 1-002-034-8200

MASTERCARD CARD SUMMARY

Account Number: 5401 6400 2918 8883

Previous Balance	\$0.00	Total Credit Line	\$10,300
Purchases, Cash, Debits	-\$7,825.00	Available Credit	\$2,475
Finance Charges	+\$225.00	Cash Advance Line	\$10,300
New Balance	\$7,725.00	Available for Cash	\$2,475

ACCOUNT SERVICES
 P.O. Box 10208
 Wilmington, DE 19800-5208

PAYMENT ADDRESS
 P.O. Box 94014
 Palatka, IL 60094-0114

VISIT US AT:
www.chase.com/mccards

CHASE PERFECTCARD REWARDS SUMMARY

Previous balance	\$0.00
Rebates earned from purchases	\$0.00
Total remaining rebates	\$0.00

For questions about your account please call
 Cardmember Services at 1-800-945-2000.

With PerfectCard, earn a 3% rebate on eligible gas purchases and a 1% rebate on all other purchases. Rebates are automatically credited to your account. See Program terms for details.

TRANSACTIONS

Date	Reference Number	Merchant Name or Transaction Description	Amount	
			Credit	Debit
11/13	3429880325000017088208	10/13 CHECK TO CASH		\$1,500.00
11/17	3429880325000017088208	TRANSACTION FEE		185.00
11/12	3429880325000010000000	10/11 CHECK TO NATIONAL CITY		2,000.00
11/18	3429880325000010000000	TRANSACTION FEE		50.00

FINANCE CHARGES

Category	Daily Periodic Rate	Comp. APR	Average Daily Balance	Finance Charge		Transaction Fee	Accumulated Fin Charge	FINANCE CHARGES
				Due To	Periodic Rate			
Purchases	V .03295%	11.99%	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Cash advances	V .05477%	19.99%	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Convenience check	V .03295%	11.99%	\$0.00	\$0.00	\$225.00	\$0.00	\$0.00	\$225.00
Promotional summary	.00000%	0.00%	\$1,317.09	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Total finance charges								\$225.00

Effective Annual Percentage Rate (APR): 36.96%

Please see information About Your Account section for balance computation method, grace period, and other important information.

The Corresponding APR is the rate of interest you pay when you carry a balance on any transaction category.

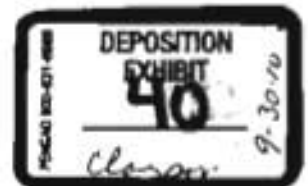
The Effective APR represents your total finance charges - including transaction fees such as cash advance and balance transfer fees - expressed as a percentage.

IMPORTANT NEWS

Receive \$10 off Florida's finest citrus when you identify yourself as a Chase Cardmember at A's Family Farm and BIG SAVINGS on 20 lbs. Navel Oranges, Grapefruit or Mince. First Time Buyers Only-\$28.95 Plus SH, Limb E, Early 01/15. Visit www.any citrus.com Or Call: 1-888-231-2314 Dept. 067

Did you know you can use your credit card to access cash whenever you need it? All you need is your PIN (Personal Identification Number) and an ATM. Just call 1-800-257-4970 to create your PIN today.

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February Statement for activity from Jan. 17, 2009 through Feb. 17, 2009
GAYLEN CLAYSON and DONNA CLAYSON

Inquiries: 1-866-411-2079
BNK 8 11 Page 1 of 1

Your U.S. Bank Premier Line Plus account at a glance... Account: 4355 7785 6652 7408

Activity Summary

Previous Balance.....	\$14,498.63
Payments and Credits.....	\$522.00
Purchases, Advances & Other Debits.....	\$0.00
FINANCE CHARGES.....	\$103.44
New Balance.....	\$14,080.07

Credit and Payment Information

Credit Line.....	\$14,500.00
Available Credit.....	\$419.93
Minimum Payment Due (Current Month).....	\$244.00
Minimum Payment Due (Past Due).....	\$0.00
Total New Minimum Payment Due.....	\$244.00
Payment Due Date.....	Mar. 14, 2009

To avoid late charges, your payment must be posted by the due date of 03/14/09. Paying the new balance will not pay off your account. If you wish to pay your account in full, please call Customer Service for the payoff amount.

Transactions	Post Date	Trans Date	Rel Nbr	Description of Transaction	Amount
Payments and Credits	01/21	01/21	5152	PAYMENT THANK YOU.....	522.00 CR
Finance Charges	02/17			***FINANCE CHARGE***INTEREST.....	103.44

Rate Summary

Balance Type	Balance By Type	Avg. Daily Balance	Daily Periodic Rate	Rate Type	Interest	Corresp. APR	APR This Period	Grace Period
TIER 2 DISCOUNT BAL	\$5,035.34	\$5,065.07	0.021917%	VARIABLE	\$35.52	8.00%	8.00%	N
TIER 2 DISCOUNT BAL	\$4,118.78	\$4,090.10	0.021917%	VARIABLE	\$28.68	8.00%	8.00%	N
TIER 1 DISCOUNT BAL	\$2,065.89	\$2,049.72	0.024657%	VARIABLE	\$16.17	9.00%	9.00%	N
TIER 1 DISCOUNT BAL	\$2,059.14	\$2,043.03	0.024657%	VARIABLE	\$16.11	9.00%	9.00%	N
BALANCE TRANSFER	\$0.00	\$0.00	0.027397%	VARIABLE	\$0.00	10.00%	0.00%	N
PURCHASES	\$800.92	\$793.96	0.027397%	VARIABLE	\$6.96	10.00%	10.00%	N
ADVANCES	\$0.00	\$0.00	0.027397%	VARIABLE	\$0.00	10.00%	0.00%	N

Important Messages

Each time you or a third party on your behalf, pays your bill by personal check, you authorize us to convert that payment into an electronic debit. If the check is processed electronically, the checking account will be debited for the amount on the check and the debit will appear on your account statement. If you have any questions, please contact us at the Inquiries phone number located on this statement.

End of Statement

Please detach and send coupon with check payable to: U.S. Bank



0943557785665274080000244000014080071

To change your address or for Customer Service please call: 1-866-411-2079 Every Hour! Every Day!

Your Account Number:	4355 7785 6652 7408
Total New Balance:	\$14,080.07
Minimum Payment Due:	\$244.00
Payment Due Date:	Mar. 14, 2009
Enter Amount of Payment Enclosed:	

000063716 1 SP 0.420 106481086279476 P

GAYLEN CLAYSON
DONNA CLAYSON
710 E 600N
FIRTH ID 83236

U.S. Bank
P.O. Box 790408
St. Louis, MO 63179-0408



New Balance \$7,725.00 Payment Due Date 12/13 Past Due Amount \$0.00 Minimum Payment \$154.00



ClaysonCC000003

\$

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Chase Card Services.
Please write amount enclosed.
New address or e-mail? Print on back.

I want to purchase optional
Chase Payment Protector
Plan. I've read the Benefits &
Disclosures on back of insert.

549104092918866300015400007725005731648

46100 BEX 2 32300 D
DONNA R CLAYSON
710 E 600 N
FIRTH ID 83236-1205



CARDMEMBER SERVICE
PO BOX 94014
PALATINE IL 60094-4014



⑆5000 160 28⑆ 49909 29 188663 4⑆



Opening/Closing Date: 10/19/08 - 11/18/08
Payment Due Date: 12/13/08
Minimum Payment Due: \$154.00

CUSTOMER SERVICE
In U.S. 1-800-945-2000
1-888-446-3308
TDD 1-800-955-8068
Pay by phone 1-800-436-7958
Outside U.S. call collect
1-302-594-8200

MASTERCARD CARD SUMMARY

Account Number: 5491 0409 2918 8663

Previous Balance	\$0.00	Total Credit Line	\$10,200
Purchases, Cash, Debits	+\$7,500.00	Available Credit	\$2,475
Finance Charges	+\$225.00	Cash Access Line	\$10,200
New Balance	\$7,725.00	Available for Cash	\$2,475

ACCOUNT INQUIRIES

P.O. Box 15298
Wilmington, DE 19850-5298

PAYMENT ADDRESS

P.O. Box 94014
Palatine, IL 60094-4014

VISIT US AT:

www.chase.com/creditcards

CHASE PERFECTCARD REWARDS SUMMARY

Previous balance	\$0.00
Rebates earned from purchases	\$0.00
Total remaining rebates	\$0.00

For questions about your account please call
Cardmember Services at 1-800-945-2000.

With PerfectCard, earn a 3% rebate on eligible gas purchases and a 1% rebate on all other purchases. Rebates are automatically credited to your account. See Program terms for details.

TRANSACTIONS

Date	Reference Number	Merchant Name or Transaction Description	Amount	
			Credit	Debit
11/13	34266883225008017089476	76712 CHECK TO CASH		\$5,500.00
11/17	34266883225008017089476	TRANSACTION FEE		165.00
11/14	34266883235008030253903	78711 CHECK TO NATIONAL CITY		2,000.00
11/18	34266883235008030253903	TRANSACTION FEE		60.00

FINANCE CHARGES

Category	Daily Periodic Rate 31 days in cycle	Corresp. APR	Finance Charge		Transaction Fee	Accumulated Fin Charge	FINANCE CHARGES
			Average Daily Balance	Due To Periodic Rate			
Purchases	V .03285%	11.99%	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Cash advances	V .05477%	19.99%	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Convenience check	V .03285%	11.99%	\$0.00	\$0.00	\$225.00	\$0.00	\$225.00
Promotional summary	.00000%	0.00%	\$1,387.09	\$0.00	\$0.00	\$0.00	\$0.00

Total finance charges \$225.00

Effective Annual Percentage Rate (APR): 36.00%

Please see information About Your Account section for balance computation method, grace period, and other important information.

The Corresponding APR is the rate of interest you pay when you carry a balance on any transaction category.

The Effective APR represents your total finance charges - including transaction fees such as cash advance and balance transfer fees - expressed as a percentage.

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Receive \$10 off Florida's finest citrus when you identify yourself as a Chase Cardmember at Alf's Family Farms!!!
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First Time Buyers Only-\$26.95 Plus S&H, Limit 2, Ends 01/15.
Visit www.enjoycitrus.com Or Call: 1-888-231-2314 Dept.06X

Did you know you can use your credit card to access cash whenever you need it? All you need is your PIN (Personal Identification Number) and an ATM.
Just call 1-800-297-4970 to create your PIN today.

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October Statement for activity from Sep. 18, 2008 through Oct. 20, 2008
GAYLEN CLAYSON and DONNA CLAYSON

Inquiries: 1-866-411-2079
 BNK 46 11 Page 1 of 2

U.S. Bank Premier Line Plus

**U.S. Bank Welcomes
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Welcome to the purchasing power and flexibility of the U.S. Bank Premier Line Plus. It's all you need every time you make a big purchase. Whether you're planning an exciting vacation or making home improvements, the U.S. Bank Premier Line Plus is the personal line of credit that is there for whatever you need, whenever you need it. By this time you should have received your Visa Platinum Access Card and the U.S. Bank Premier Line Plus terms and agreement, if not please call 1-866-411-2079. At U.S. Bank, we are committed to our Five Star Service Guarantee to bring the best banking in America to our customers.

David Herpers
 Vice President
 US Bank National Association ND

Your U.S. Bank Premier Line Plus account at a glance... Account: 4355 7785 6652 7408

Activity Summary

Previous Balance	\$0.00
Payments and Credits	\$0.00
Purchases, Advances & Other Debits	\$12,500.00
FINANCE CHARGES	\$40.69
New Balance	\$12,540.69

Credit and Payment Information

Credit Line	\$15,000.00
Available Credit	\$2,459.31
Minimum Payment Due (Current Month) ...	\$166.00
Minimum Payment Due (Past Due)	\$0.00
Total New Minimum Payment Due	\$166.00
Payment Due Date	Nov. 14, 2008

To avoid late charges, your payment must be posted by the due date of 11/14/08. Paying the new balance will not pay off your account. If you wish to pay your account in full, please call Customer Service for the payoff amount.

Transactions	Post Date	Trans Date	Ref Num	Description of Transaction	Amount
Purchases,	10/01	10/01	1493	FINANCIAL INSTITUTION CASH ADVANCE	6,500.00
Advances, Debits	10/15	10/15	0056	FINANCIAL INSTITUTION CASH ADVANCE	4,000.00
	10/16	10/16	0061	FINANCIAL INSTITUTION CASH ADVANCE	2,000.00
Finance Charges	10/20			***FINANCE CHARGE***INTEREST	40.69

Continued on Next Page

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513LRR

GAYLEN CLAYSON
 DONNA CLAYSON
 710 600N E
 FIRTH ID 83236-0000



Your Account Number:	4355 7785 6652 7408
Total New Balance:	\$12,540.69
Minimum Payment Due:	\$166.00
Payment Due Date:	Nov. 14, 2008
Enter Amount of Payment Enclosed:	

U.S. Bank
 P.O. Box 790408
 St. Louis, MO 63179-0408





October Statement for activity from Sep. 18, 2008 through Oct. 20, 2008
GAYLEN CLAYSON and DONNA CLAYSON

Inquiries: 1-866-411-2079
Page 2 of 2

Rate Summary Balance Type	Balance By Type	Avg. Daily Balance	Daily Penalty Rate	Rate Type	Interest	Compou APR	APR This Period	Grace Period
TIER 2 DISCOUNT BAL	\$6,532.05	\$3,939.39	0.024657%	VARIABLE	\$32.05	9.00%	9.00%	N
TIER 2 DISCOUNT BAL	\$4,005.91	\$727.27	0.024657%	VARIABLE	\$5.91	9.00%	9.00%	N
TIER 1 DISCOUNT BAL	\$2,002.73	\$303.03	0.027397%	VARIABLE	\$2.73	10.00%	10.00%	N
BALANCE TRANSFER	\$0.00	\$0.00	0.030136%	VARIABLE	\$0.00	11.00%	0.00%	N
PURCHASES	\$0.00	\$0.00	0.030136%	VARIABLE	\$0.00	11.00%	0.00%	N
ADVANCES	\$0.00	\$0.00	0.030136%	VARIABLE	\$0.00	11.00%	0.00%	N

Important Messages

Federal law requires us to give you a notice regarding negative credit reporting. Please refer to the reverse of your statement for this important notice.

Order your Annual Account Summary starting November 1, 2008! The summary provides a comprehensive record of all your 2008 transactions organized into categories for easy identification. It's a great tool for household budgeting, tax preparation and expense management. To order, log on to your account at usbank.com or call Cardmember Service by December 15, 2008.

Receive added security with Online Statements Only! Stop your paper statements from being mailed to you and receive Online Statements Only. With this new feature you will deter fraud, reduce paper and enjoy additional convenience! Login today to U.S. Bank Internet Banking!

Receive Account Alerts! Sign up for convenient online alerts at usbank.com to help you keep up with account activity. Receive your alerts via e-mail or text message and get the information when, where and how you want it!

Optional Overdraft Protection! Sign up today for overdraft protection so you can protect your U.S. Bank checking account from overdrafts, returned checks, or the must have item you've been dreaming of! Call 888-852-5786 to learn more!

Each time you or a third party on your behalf, pays your bill by personal check, you authorize us to convert that payment into an electronic debit. If the check is processed electronically, the checking account will be debited for the amount on the check and the debit will appear on your account statement. If you have any questions, please contact us at the Inquiries phone number located on this statement.

To contact us regarding your account 4355 7785 6652 7408

By Telephone:
Every Hour! Every Day!
Voice: 1-866-411-2079
TDD: 1-888-352-6455
Fax: 1-866-568-7729

Send Inquiries to:
Customer Service
P.O. Box 6352
Fargo, ND 58125-6352

Send Payments to:
U.S. Bank
P.O. Box 790408
St. Louis, MO 63179-0408

By E-Mail:
visit our website:
usbank.com

End of Statement



November Statement for activity from Oct. 21, 2008 through Nov. 18, 2008
 GAYLEN CLAYSON and DONNA CLAYSON

Inquiries: 1-866-411-2079
 Page 2 of 2

Important Messages

We appreciate your new business, however, as of the date of this statement we have not received your first payment. Please send your payment today and call us at 1-877-838-4347.

Receive added security with Online Statements Only! Stop your paper statements from being mailed to you and receive Online Statements Only. With this new feature you will deter fraud, reduce paper and enjoy additional convenience! Login today to U.S. Bank internet Banking!

Receive Account Alerts! Sign up for convenient online alerts at usbank.com to help you keep up with account activity. Receive your alerts via e-mail or text message and get the information when, where and how you want it!

Optional Overdraft Protection! Sign up today for overdraft protection so you can protect your U.S. Bank checking account from overdrafts, returned checks, or the must have item you've been dreaming of! Call 888-852-5786 to learn more!


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If you exceed your Credit Limit, we may assess an Overlimit Fee. Please review your Cardmember Agreement for more information on Account fees.

Each time you or a third party on your behalf, pays your bill by personal check, you authorize us to convert that payment into an electronic debit. If the check is processed electronically, the checking account will be debited for the amount on the check and the debit will appear on your account statement. If you have any questions, please contact us at the Inquiries phone number located on this statement.

To contact us regarding your account, call 1-866-411-2079

 **By Telephone:**
Every Hour! Every Day!
 Voice: 1-866-411-2079
 TDD: 1-888-352-6455
 Fax: 1-866-568-7729

 **Send Inquiries to:**
 Customer Service
 P.O. Box 6352
 Fargo, ND 58125-6352

 **Send Payments to:**
 U.S. Bank
 P.O. Box 790408
 St. Louis, MO 63179-0408

 **By E-Mail:**
 visit our website:
usbank.com

End of Statement



November Statement for activity from Oct. 21, 2008 through Nov. 18, 2008
 GAYLEN CLAYSON and DONNA CLAYSON

Inquiries: 1-866-411-2079
 BNK 8 11 Page 1 of 2

Your U.S. Bank Premier Line Plus account at a glance Account: 4355 7785 6652 7408

Activity Summary

Previous Balance	\$12,540.69
Payments and Credits	\$0.00
Purchases, Advances & Other Debits	\$2,029.00
FINANCE CHARGES	\$103.30
New Balance	\$14,672.99

Credit and Payment Information

Credit Line	\$15,000.00
Available Credit	\$327.01
Minimum Payment Due (Current Month) ...	\$278.00
Minimum Payment Due (Past Due)	\$166.00
Total New Minimum Payment Due	\$444.00
Payment Due Date	Dec. 13, 2008

To avoid late charges, your payment must be posted by the due date of 12/13/08. Paying the new balance will not pay off your account. If you wish to pay your account in full, please call Customer Service for the payoff amount.

Transactions	Post. Date	Trans Date	Ref. Nbr	Description of Transaction	Amount
Purchases,	10/28	10/28	0000	24-HOUR CASH ADVANCE	2,000.00
Advances, Debits	11/18			LATE PAYMENT FEE	29.00
Finance Charges	11/18			***FINANCE CHARGE***INTEREST	103.30

Rate Summary

Balance Type	Balance By Type	Avg. Daily Balance	Daily Periodic Rate	Rate Type	Interest	Corresp. APR	***APR*** This Period	Grace Period
TIER 2 DISCOUNT BAL	\$6,578.75	\$6,532.05	0.024657%	VARIABLE	\$46.70	9.00%	9.00%	N
TIER 2 DISCOUNT BAL	\$4,034.55	\$4,005.91	0.024657%	VARIABLE	\$28.64	9.00%	9.00%	N
TIER 1 DISCOUNT BAL	\$2,018.64	\$2,002.73	0.027397%	VARIABLE	\$15.91	10.00%	10.00%	N
TIER 1 DISCOUNT BAL	\$2,012.05	\$1,517.24	0.027397%	VARIABLE	\$12.05	10.00%	10.00%	N
BALANCE TRANSFER	\$0.00	\$0.00	0.030136%	VARIABLE	\$0.00	11.00%	0.00%	N
PURCHASES	\$29.00	\$0.00	0.030136%	VARIABLE	\$0.00	11.00%	0.00%	N
ADVANCES	\$0.00	\$0.00	0.030136%	VARIABLE	\$0.00	11.00%	0.00%	N

Continued on Next Page

Please detach and send coupon with check payable to: U.S. Bank



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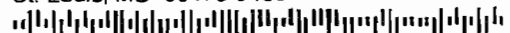
To change your address or for Customer Service please call:
 1-866-411-2079 **Every Hour! Every Day!**

Your Account Number:	4355 7785 6652 7408
Total New Balance:	\$14,672.99
Minimum Payment Due:	\$444.00
Payment Due Date	Enter Amount of Payment Enclosed
Dec. 13, 2008	

99LRR

GAYLEN CLAYSON
 DONNA CLAYSON
 710 E 600N
 FIRTH ID 83236

U.S. Bank
 P.O. Box 790408
 St. Louis, MO 63179-0408



\$ 2,250.00	Plumbingn July	A
\$ 12,800.00	Plumbing August	A
\$ 823.00	Refegeration on Resturant	
\$ 750.00	Registration Idaho Milk Producer Association	
\$ 120.00	Toasters Resturant	
\$ 13,100.00	Jensen Painted the Plant	A
\$ 3,250.00	Other paint on the plant	A
\$ 1,100.00	Tile repair cookers	
\$ 5,600.00	Josh Labor	
\$ 6,200.00	April employee at the plant	
\$ 5,400.00	Mark Labor Plant and Resturant	
\$ 1,800.00	Roof Repair Supplies	
\$ 1,023.00	Cleaning	
\$ 2,430.00	Vicking Eq Check off	
\$ 400.00	Computor	
\$ 360.00	Cash Register	
\$ 320.00	Time Clock	
\$ 11,300.00	Resturant (Labor) John	
\$ 69,026.00		

9/5/2008	DEBIT	MAVERIK CNTRY STRE 276 THAYNE	-50.08
9/8/2008	DEBIT	CHEVRON 00204566 AMERICAN F	-60
9/8/2008	DEBIT	TUCANOS BRAZILIAN GRIL SALT LAKE	-89.02
9/9/2008	DEBIT	MAVERIK CNTRY STRE 276 THAYNE	-3.14
9/9/2008	DEBIT	MAVERIK CNTRY STRE 276 THAYNE	-60.6
9/9/2008	DEBIT	THAYNE TRUE VALUE HARD THAYNE	-34.57
9/16/2008	DEBIT	FLYING J BLACKFOOT	-56.27
9/17/2008	DEBIT	THAYNE TRUE VALUE HARD THAYNE	-9.18
9/19/2008	DEBIT	CARPETS PLUS COLOR TIL 307-885-7	-428.51
9/22/2008	DEBIT	CARPETS PLUS COLOR TIL 307-885-7	-1680
9/22/2008	DEBIT	WAXIE CORPORATE SAN DIEGO	-310.68
9/22/2008	DEBIT	WAXIE CORPORATE 858-29281	-28.27
9/24/2008	DEBIT	THAYNE TRUE VALUE HARD THAYNE	-144.53
9/24/2008	DEBIT	THAYNE TRUE VALUE HARD THAYNE	-17.84
9/25/2008	DEBIT	ALPINE THRIFTWAY ALPINE	-50
9/26/2008	DEBIT	TUCANOS BRAZILIAN GRIL SALT LAKE	-54.97
9/26/2008	DEBIT	PILOT 00002949 MSC	-62.77
9/26/2008	DEBIT	MAVERIK CNTRY STRE 276 THAYNE	-63.88
9/29/2008	DEBIT	FLYING J CHUBBUCK	-41.92
9/29/2008	DEBIT	FLYING J CHUBBUCK	-59.83
9/29/2008	DEBIT	STAR VALLEY LUMBER OPE ETNA	-112.16
9/29/2008	DEBIT	STAR VALLEY LUMBER OPE ETNA	-50.82
10/1/2008	DEBIT	MAVERIK CNTRY STRE 276 THAYNE	-58.19
10/1/2008	DEBIT	THAYNE TRUE VALUE HARD THAYNE	-131.25
10/1/2008	DEBIT	CARDIFF FINANCIAL SANTA ANA	-115.5
10/2/2008	DEBIT	STAR VALLEY LUMBER OPE ETNA	-273.02
10/2/2008	DEBIT	MAVERIK CNTRY STRE 276 THAYNE	-19.04
10/3/2008	DEBIT	THE HOME DEPOT 1802 IDAHO FAL	-106.85

10/3/2008 DEBIT	STAR VALLEY LUMBER OPE ETNA	-848.98
10/3/2008 DEBIT	LOWES #01906* IDAHO FAL	-306.28
10/3/2008 DEBIT	THAYNE TRUE VALUE HARD THAYNE	-82.92
10/3/2008 DEBIT	THAYNE TRUE VALUE HARD THAYNE	-30.22
10/6/2008 DEBIT	STAR VALLEY LUMBER OPE ETNA	-27.3
10/9/2008 DEBIT	THAYNE TRUE VALUE HARD THAYNE	-52.48
10/10/2008 DEBIT	USAIRWAYS0377522658784 NASHVILLE	-270
10/10/2008 DEBIT	CTX AP270301JFMZFGP8 CHEAPTICK	-10.99
10/15/2008 DEBIT	TRADING POST GAS FORT HALL	-51.14
		-5853.2



Account Name: DONNA R CLAYSON
GAYLEN W CLAYSON
Account Number: 3746 303268 81481

September 2008 Statement
Credit Line: \$35,000.00
Cash or Credit Available: \$967.32

Bank of America



Account Information

Summary of Transactions	
Previous Balance	\$4,176.80
Payments and Credits	\$1,965.11
Balance Transfers	\$27,821.00
Purchases and Adjustments	\$2,737.07
Periodic Rate Finance Charges	\$288.88
Transaction Fee Finance Charges	\$297.00
New Balance Total	\$34,132.86

Billing Cycle and Payment Information

Days in Billing Cycle	31
Closing Date	09/29/08
Payment Due Date	10/18/08
Current Payment Due	\$826.00
Past Due Amount	\$0.00
Total Minimum Payment Due	\$826.00

Customer Service

For information on your Account visit
www.bankofamerica.com
Call toll-free 1-800-800-4861
TDD hearing-impaired 1-800-346-3178
Main Payment to:
BANK OF AMERICA
P.O. BOX 15019
WILMINGTON, DE 19886-5019
Main Billing (for info) to:
BANK OF AMERICA
P.O. BOX 13028
WILMINGTON, DE 19886-5028

Transactions

Payments and Credits	Promotional Offer ID	Posting Date	Transaction Date	Reference Number	Account Number	Amount
COLUMBIA PAINT IDAHO FALLS ID		09/10		8106	1481	928.74 CR
COLUMBIA PAINT REGURG ID		09/10		8106	1481	1,256.74 CR
PAY BY PHONE PAYMENT		09/12				100.00 CR
Balance Transfers						
CHECK CHECK #001098	CIGH-R7VJF	09/07	09/09		1481	10,000.00
BALANCE TRANSFER TRANSACTION FEE	CIGH-R7VJF	09/03	09/26		1481	88.00
CHECK CHECK #001092	CIGH-R7VJF	09/04	09/02		1481	8,021.00
BALANCE TRANSFER TRANSACTION FEE	CIGH-R7VJF	09/04	09/02		1481	88.00
SELF CHECK #001099	CIGH-R7VJF	09/11	09/11		1481	9,000.00
BALANCE TRANSFER TRANSACTION FEE	CIGH-R7VJF	09/16	09/11		1481	88.00
Purchases and Adjustments						
WAL-MART 5484 THAYNE VALLE ID		09/25	09/25	7104	1481	141.10
RED LOBSTER 25000821 ROCKAWAY ID		09/25	09/25	7215	1481	48.89
FLYING J 098111001118 BLACKFOOT ID		09/28	09/23	8101	1481	31.58
VALLEY MARKET 00000000 THAYNE WY		09/27	09/26	8015	1481	16.74
COLUMBIA PAINT REGURG ID		09/28	09/25	0109	1481	1,256.74
HI MOUNTAIN FLORAL G S AFTON NY		09/29	09/27	9011	1481	158.23
FLYING J 0981110001119 CHARLBUCK ID		09/30	09/28	8101	1481	60.01
THAYNE TRUE VALLE HARD THAYNE WY		09/30	09/28	4015	1481	32.38
THAYNE TRUE VALLE HARD THAYNE WY		09/30	09/28	5012	1481	101.29
THAYNE TRUE VALLE HARD THAYNE WY		09/30	09/28	6017	1481	178
HI MOUNTAIN FLORAL G S AFTON NY		09/30	09/28	3018	1481	298.15
TEXACO WOODBRIDGE WY		09/30	09/28	3017	1481	58.50
THAYNE TRUE VALLE HARD THAYNE WY		09/30	09/29	1017	1481	81.80
VALLEY MARKET 00000000 THAYNE WY		09/30	09/30	0013	1481	23.88
VALLEY MARKET 00000000 THAYNE WY		09/30	09/30	0019	1481	13.80
VALLEY MARKET 00000000 THAYNE WY		09/30	09/30	0015	1481	113.81
VALLEY MARKET 00000000 THAYNE WY		09/30	09/30	5011	1481	45.93
VALLEY MARKET 00000000 THAYNE WY		09/30	09/30	1017	1481	30.10

Transactions continued on page 2

20 0341326800062500000100000000374630326881481

BANK OF AMERICA
P.O. BOX 15019
WILMINGTON, DE 19886-5019



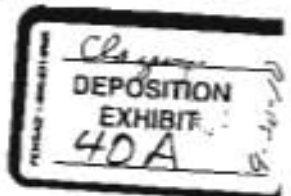
DONNA R CLAYSON
GAYLEN W CLAYSON
700 E 613 N
FIRTH ID 83236

Check here for a change of mailing address or phone number.
Please provide all corrections on the reverse side.

ACCOUNT NUMBER:	3746 303268 81481
NEW BALANCE TOTAL:	\$34,132.86
PAYMENT DUE DATE:	10/18/08
Make Payment Amount Known	\$

Make the payment coupon along with a check or money order payable to BANK OF AMERICA

524022250 07070326881481





Prepared for: DONNA R CLAYSON
 GAYLEN W CLAYSON
 Account Number: 3746 303268 61481

August 2008 Statement
 Credit Limit: \$35,000.00
 Cash or Credit Available: \$29,824.20

Transaction Continued

Purchases and Adjustments	Promotional Offer ID	Posting Date	Transaction Date	Reference Number	Account Number	Amount
VALLEY MARKET 00000000 THAYNE WY		08/22	08/20	8016	1481	0.03
THAYNE TRUE VALUE HARD THAYNE WY		08/22	08/20	8014	1481	183.48
THAYNE TRUE VALUE HARD THAYNE WY		08/23	08/21	5013	1481	25.19
BERWAY 300633 AFTON WY		08/23	08/21	1007	1481	8.28
COLUMBIA PAINT IDAHO FALLS ID		08/23	08/21	6109	1481	379.14

REWARDS POINTS
 5,174 MONTHLY EARNING
 0 MERCHANT BONUS POINTS
 6,163 TOTAL POINTS AVAILABLE

Important Information About Your Account

CONGRATULATIONS! YOUR CREDIT LIMIT HAS BEEN INCREASED TO \$35,000.00.

Finance Charge Schedule

Category	Promotional Transaction Types	Day Periodic Rate	Corresponding Annual Percentage Rate	APR Type	Amount Subject to Finance Charge
Balance Transfers		0.0094889%	24.99%	S	\$0.00
Offer CK9H-R7VJB	BT, CB, DB	0.02463%	8.99%	P	\$0.00
Offer CK9H-R7VJC	BT, CB, DB	0.02463%	8.99%	P	\$0.00
Offer CK9H-R7VJD	BT, CB, DB	0.02463%	8.99%	P	\$0.00
Offer CK9H-R7VJF	BT, CB	0.02463%	8.99%	P	\$0.00
Offer CK9H-R7VJG	CB, DB	0.02463%	8.99%	P	\$0.00
Cash Advances		0.0094889%	24.99%	S	\$0.00
Purchases		0.0094889%	24.99%	S	\$0.00

Annual Percentage Rate for this Billing Period:

(Includes Periodic Rate Finance Charges and Transaction Fee Finance Charges that results in an APR which exceeds the Corresponding APR above.)

See Corresponding Annual Percentage Rate Above

APR Type Definitions: Promotional Transaction Types: BT - Balance Transfer, CB - Check treated as Balance Transfer, DB - Direct Deposit treated as Balance Transfer; APR Type: S - Standard APR (APR normally in effect), P - Promotional APR (APR for limited time on eligible transactions)



ClaysonCC000012

Account for: DONNA R CLAYSON
GAYLEN W CLAYSON
Account Number: 3746 303268 01481

August 2008 Statement
Credit Line: \$35,000.00
Cash or Credit Available: \$28,224.20



Account Information

Summary of Transactions	
Previous Balance	\$0.00
Payments and Credits	\$0.00
Purchases and Adjustments	\$5,175.80
Periodic Rate Finance Charges	\$0.00
Transaction Fee Finance Charges	\$0.00
New Balance Total	\$5,175.80

Billing Cycle and Payment Information	
Days in Billing Cycle	30
Closing Date	06/23/08
Payment Due Date	09/12/08
Current Payment Due	\$51.00
Past Due Amount	\$0.00
Total Minimum Payment Due	\$51.00

For information on your Account, visit
www.bankofamerica.com
Call toll-free 1-800-368-6331
TDD hearing-impaired 1-800-346-3178

See Payments at
BANK OF AMERICA
P.O. BOX 15019
WILMINGTON, DE 19866-5019

See Fees at
BANK OF AMERICA
P.O. BOX 15028
WILMINGTON, DE 19850-5028

Transactions

	Promotional Offer ID	Posting Date	Transaction Date	Reference Number	Account Number	Amount
Purchases and Adjustments						
R		06/12	06/08	8159	1481	446.19
		06/11	06/08	4100	1481	21.52
		06/13	06/11	3015	1481	50.20
		06/13	06/11	3013	1481	63.45
		06/18	06/13	2018	1481	48.81
		06/13	06/12	7108	1481	14.86
		06/14	06/12	8019	1481	13.06
		06/14	06/12	8015	1481	52.77
		06/15	06/13	0104	1481	168.00
		06/15	06/13	5106	1481	828.00
		06/15	06/13	6106	1481	40.00
		06/15	06/13	3013	1481	50.00
		06/16	06/13	8014	1481	3.99
		06/15	06/13	4016	1481	65.00
		06/16	06/14	6014	1481	82.85
		06/16	06/14	8014	1481	60.00
		06/16	06/14	3012	1481	28.08
		06/16	06/14	8017	1481	3.25
		06/18	06/15	7011	1481	22.88
		06/18	06/15	6011	1481	126.00
		06/18	06/15	5018	1481	197.60
		06/18	06/15	3017	1481	500.00
		06/18	06/15	0016	1481	21.49
		06/18	06/15	9016	1481	50.00
		06/18	06/15	8014	1481	39.75
		06/20	06/18	6018	1481	1.90
		06/20	06/19	8012	1481	56.47
		06/21	06/19	1102	1481	628.37
		06/22	06/19	4017	1481	270.66

Transactions continued on page 3

20 0051758000005100028392000000374630326881481

BANK OF AMERICA
P.O. BOX 15019
WILMINGTON, DE 19866-5019

DONNA R CLAYSON
GAYLEN W CLAYSON
700 E 613 N
FIFTH ID 83236

Check here for a change of mailing address or phone number(s).
Please provide all corrections on the reverse side.

Payment Information

ACCOUNT NUMBER: 3746 303268 01481

NEW BALANCE TOTAL: \$5,175.80

PAYMENT DUE DATE: 09/12/08

Enter Payment Amount Enclosed

\$

Mail the payment coupon along with a check or money order payable to: BANK OF AMERICA



1:5240222501: 07070326881481481

ClaysonCC000013

Bank of America



Prepared for: **DONNA R CLAYSON
GAYLEN W CLAYSON**
Account Number: 3748 303268 81481

September 2008 Statement
Credit Limit: \$25,000.00
Cash or Credit Available: \$987.32

Transaction Summary

Purchases and Adjustments	Promotional Offer ID	Posting Date	Transaction Date	Reference Number	Account Number	Amount
JUAN B HOUSE OF TACOS THAYNE WY		09/02	09/01	3012	1481	36.99
VALLEY MARKET 00000000 THAYNE WY		09/03	09/01	2019	1481	10.18
MAVERIK COUNTRY STORES THAYNE WY		09/03	09/01	5010	1481	44.99
VALLEY MARKET 00000000 THAYNE WY		09/03	09/01	8013	1481	36.05
WAL-MART 5434 IDAHO FALLS ID		09/03	09/02	1106	1481	42.17
SUBWAY 180551 ASTON WY		09/04	09/02	4018	1481	10.20
FLYING SADDLE RESTAURA ALPINE WY		09/10	09/08	7012	1481	40.00
GREYHORN KEN COX COOKS IDAHO FALLS ID		09/12	09/10	7013	1481	59.67
PAY BY PHONE FEE		09/12	09/12		1481	15.00

WORLDPOINTS
838 MONTHLY EARNINGS
0 BONUS POINTS
6,999 TOTAL POINTS AVAILABLE

Finance Charge Schedule

Category	Promotional Transaction Types	Day Periodic Rate	Corresponding Annual Percentage Rate	APR Type	Balance Subject to Finance Charge
Balance Transfers		0.008468%	24.99%	S	\$0.00
Offer CK9H-R7VJD	BT, CB, DB	0.02463%	8.99%	P	\$0.00
Offer CK9H-R7VJF	BT, CB	0.02463%	8.99%	P	\$18,463.26
Offer CK9H-R7VJG	CB, DB	0.02463%	8.99%	P	\$0.00
Cash Advances		0.008468%	24.99%	S	\$0.00
Purchases		0.008468%	24.99%	S	\$6,869.12

Annual Percentage Rate for this Billing Period: 24.99%

(Includes Periodic Rate Finance Charges and Transaction Fee Finance Charges that results in an APR which exceeds the Corresponding APR above.)

APR Type Definition: Promotional Transaction Types: BT - Balance Transfer, CB - Check treated as Balance Transfer, DB - Direct Deposit treated as Balance Transfer; APR Type: S - Standard APR (APR normally in effect), P - Promotional APR (APR for limited time on eligible transactions)



Page 3 of 4

ClaysonCC000014

Member ID: DONNA R CLAYSON
 GAYLEN W CLAYSON
 Account Number: 3746 303268 81481

October 2008 Statement
 Credit Limit: \$25,000.00
 Cash or Credit Available: \$214.52



Account Information

Summary of Transactions

Previous Balance	\$34,132.88
Payments and Credits	- \$626.00
Purchases and Adjustments	- \$815.00
Periodic Rate Finance Charges	+ \$362.80
Transaction Fee Finance Charges	+ \$0.00
New Balance Total	\$34,065.68

Billing Cycle and Payment Information

Days in Billing Cycle	31
Closing Date	10/24/08
Payment Due Date	11/18/08
Current Payment Due	\$706.00
Past Due Amount	\$0.00
Total Minimum Payment Due	\$706.00

For Information on Your Account Visit
 www.bankofamerica.com
 Toll-free 1-800-900-8661
 TDD hearing-impaired 1-800-348-3175
Make Payments At
 BANK OF AMERICA
 P.O. BOX 15019
 WILMINGTON, DE 19886-5019
Make Payments At
 BANK OF AMERICA
 P.O. BOX 13025
 WILMINGTON, DE 19805-6025

Transactions

Payments and Credits	Promotional Offer ID	Posting Date	Transaction Date	Reference Number	Account Number	Amount
PAY BY PHONE PAYMENT		10/18				626.00 DR
Purchases and Adjustments						
STARBUCKS WILMINGTON CTNA WY		09/28	09/28	9018	1481	800.00
PAY BY PHONE FEE		10/18	10/18		1481	15.00

WORLDPOINTS
 800 MONTHLY EARNINGS
 0 MERCHANT BONUS POINTS
 7,798 TOTAL POINTS AVAILABLE

Finance Charge Schedule

Category	Promotional Transaction Types	Libor Period Rate	Corresponding Annual Percentage Rate	APR Type	Balance Subject to Finance Charge
Balance Transfers		0.065400%	24.99%	S	\$0.00
Offer CK0H-R7VJF	BT, CB	0.024630%	8.99%	P	\$27,921.44
Offer CK0H-R7VJG	CB, DB	0.024630%	8.99%	P	\$0.00
Cash Advances		0.065400%	24.99%	S	\$0.00
Purchases		0.065400%	24.99%	S	\$7,048.04

Annual Percentage Rate for this Billing Period: 12.21%
 (Includes Periodic Rate Finance Charges and Transaction Fee Finance Charges that results in an APR which exceeds the Corresponding APR above.)

APR Type Definitions: Promotional Transaction Types BT - Balance Transfer, CB - Check treated as Balance Transfer, DB - Direct Deposit treated as Balance Transfer; APR Type: S - Standard APR (APR normally in effect), P - Promotional APR (APR for limited time on eligible transactions)

20 0346854800070600000625000000374630326881481

BANK OF AMERICA
 P.O. BOX 15019
 WILMINGTON, DE 19886-5019

DONNA R CLAYSON
 GAYLEN W CLAYSON
 700 E 613 N
 FIRTH ID 83236

Check here for a change of mailing address or phone number. Please provide all information on the reverse side.

Payment Reference #

ACCOUNT NUMBER: 3746 303268 81481

NEW BALANCE TOTAL: \$34,065.68

PAYMENT DUE DATE: 11/18/08

Date Payment Amount Received

\$

Mail the payment coupon along with a check or money order payable to: BANK OF AMERICA

45240222501 07070326881481P

ClaysonCC000015

Prepared for: DONNA R CLAYSON
GAYLEN W CLAYSON
Account Number: 3746 303266 61461

November 2008 Statement
Credit Line: \$35,000.00
Cash at Credit Available: \$665.90

Bank of America



Account Information

Summary of Transactions

Previous Balance	\$34,865.48
Payments and Credits	\$710.00
Purchases and Adjustments	\$0.00
Periodic Rate Finance Charges	\$336.62
Transaction Fee Finance Charges	\$0.00
New Balance Total	\$34,314.10

Billing Cycle and Payment Information

Days in Billing Cycle	29
Closing Date	11/22/08
Payment Due Date	12/17/08
Current Payment Due	\$678.00
Past Due Amount	\$0.00
Total Minimum Payment Due	\$678.00

For Information on Your Account Visit:
www.bankofamerica.com
Call toll-free 1-800-800-4661
TDD hearing-impaired 1-800-346-3178

New Payments to:
BANK OF AMERICA
P.O. BOX 15019
WILMINGTON, DE 19886-5019

My Billing Statement to:
BANK OF AMERICA
P.O. BOX 15028
WILMINGTON, DE 19850-5028

Transaction

Payments and Credits	Promotional Offer ID	Posting Date	Transaction Date	Reference Number	Account Number	Amount
PAYMENT-THANK YOU		11/22	11/22			710.00

WORLDPOINTS

- 0 MONTHLY EARNINGS
- 0 MERCHANT BONUS POINTS
- 7,799 TOTAL POINTS AVAILABLE**

Reserve Charge Schedule

Category	From/To Transaction Types	Daily Periodic Rate	Corresponding Annual Percentage Rate	APR Type	Balance Subject to Finance Charge
Balance Transfers		0.068469%	24.99%	S	\$0.00
Other CKSH-RVWJF	BT, CB	0.024630%	8.99%	P	\$27,872.88
Cash Advances		0.068469%	24.99%	S	\$0.00
Purchases		0.068469%	24.99%	S	\$7,207.00

Annual Percentage Rate for this Billing Period:

(Includes Periodic Rate Finance Charges and Transaction Fee Finance Charges that results in an APR which exceeds the Corresponding APR above.)

12.32%

APR Type Definitions: Promotional Transaction Types: BT - Balance Transfer, CB - Check treated as Balance Transfer; APR Type: S - Standard APR (APR normally in effect), P - Promotional APR (APR for limited time on eligible transactions)

20 0343141000067800000710000000374630326661461

BANK OF AMERICA
P.O. BOX 15019
WILMINGTON, DE 19886-5019

DONNA R CLAYSON
GAYLEN W CLAYSON
700 E 613 N
FIRST ID 83236

Check here for a change of mailing address or phone number(s). Please provide all corrections on the reverse side.

ACCOUNT INFORMATION

ACCOUNT NUMBER: 3746 303266 61461

NEW BALANCE TOTAL: \$34,314.10

PAYMENT DUE DATE: 12/17/08

Enter Payment Amount

\$

Use this payment coupon with a check or money order payable to BANK OF AMERICA

⑆524022250⑆ 07070326661461⑆



5



Statement Date:
02/19/09 - 03/18/09

Manage your account
www.chase.com/act

Minimum Payment: \$147.00
Payment Due Date: 04/12/09

Additional contact in
conveniently located on

ACCOUNT SUMMARY		MASTERCARD Account Number: 5481 0409 2918 8663	
Previous Balance	\$7,438.72	Total Credit Line	\$7,700
Payment, Credits	-\$148.00	Available Credit	\$905
Purchases, Cash, Debits	+\$39.00	Cash Access Line	\$7,700
Finance Charges	+\$64.65	Available for Cash	\$305
New Balance	\$7,394.27		

CHASE PERFECTCARD REWARDS SUMMARY

Previous balance	\$0.00	For questions about your account please
Rebates earned from purchases	\$0.00	Cardmember Services at 1-800-945-2000
Total remaining rebates	\$0.00	

With PerfectCard, earn a 3% rebate on eligible gas purchases and a 1% rebate on all other purchases. Rebates are automatic credited to your account. See Program terms for details.

ACCOUNT ACTIVITY

Date of Transaction	Merchant Name or Transaction Description	\$/
03/15	Payment - Thank You	
02/19	DECLINED CHECK FEE	

FINANCE CHARGES

Category	Daily Periodic Rate 28 days in cycle	Corresp. APR	Average Daily Balance	Finance Charge Due To Periodic Rate	Transaction Fee / Service Charge	Accumulated Fin Charge	FIN CHA
Purchases	V .03079%	11.24%	\$52.18	\$0.45	\$0.00	\$0.00	
Cash advances	V .05271%	19.24%	\$0.00	\$0.00	\$0.00	\$0.00	
Convenience check	V .03076%	11.24%	\$7,435.59	\$64.10	\$0.00	\$0.00	

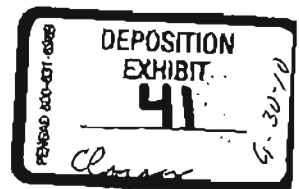
Total finance charges

Effective Annual Percentage Rate (APR): 11.24%

Please see Information About Your Account section for balance computation method, grace period, and other important information. The Corresponding APR is the rate of interest you pay when you carry a balance on any transaction category. The Effective APR represents your total finance charges - including transaction fees such as cash advance and balance transfer fees - expressed as a percentage.

IMPORTANT NEWS

Want more Cash Back Rewards?
Make sure you are using your Chase Card on all your everyday purchases, and to pay your monthly bills. Earn up to 10% when you shop online shop through www.chase.com/rewardsplus where we have all your favorite merchants with great offers!





STATE OF WYOMING)
) ss.
COUNTY OF LINCOLN)

IN THE DISTRICT COURT
THIRD JUDICIAL DISTRICT
CV-2009-89-DC

LAZE, LLC, a Wyoming limited)
liability company; DON ZEBE;)
and RICK LAWSON,)

Petitioners,)

v.)

DAIRY SYSTEMS COMPANY,)
INC.,)

Respondent.)

DAIRY SYSTEMS COMPANY,)
INC.,)

Respondent/
Counterclaim Plaintiff,)

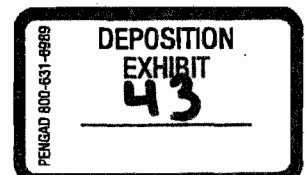
v.)

LAZE, LLC, a Wyoming limited)
Liability company; DON ZEBE; and)
RICK LAWSON,)

Petitioners/
Counterclaim Defendants.)

AMENDED COUNTERCLAIM

Respondent, Counterclaim Plaintiff Dairy System Company, Inc. complains of
Petitioners, Counterclaim Defendants Laze, LLC, Don Zebe, and Rick Lawson and
alleges as follows:



JURISDICTION AND PARTIES

1. Respondent, Counterclaim Plaintiff Dairy Systems Company, Inc., (hereinafter "Dairy Systems") did work on the property owned by Counterclaim Defendant Laze, LLC.

2. Petitioner, Counterclaim Defendant Laze, LLC, (hereinafter "Laze") purports to be a Wyoming limited liability company, but on information and belief is an Idaho Limited Liability Company, and is the owner of record of certain real property located in Lincoln County, State of Wyoming (the "Property"), which respective property is more particularly described as follows:

See Exhibit "A" attached to original counterclaim for legal description.

3. Petitioners, Counterclaim Defendants Don Zebe and Rick Lawson are members of Laze, LLC.

4. Jurisdiction and venue are proper herein.

GENERAL ALLEGATIONS

5. On or about April 21, 2009, Counterclaim Plaintiff Dairy Systems filed a Lien Statement against the real property owned by Laze, a copy of which is attached as Exhibit B to the original counterclaim and incorporated herein by reference.

6. Counterclaim Defendant Laze, LLC, is the reputed owner of the Property that is the subject of the Lien Statement.

8. Defendants Don Zebe, Rick Lawson, Laze, LLC and a former owner and or agent of the owner of the property, Gaylen Clayson, engaged Counterclaim Plaintiff's services to be provided to the Property. A list of those services provided to the property is attached to the Lien Statement.

9. Materials and services were performed and provided by Counterclaim Plaintiff for the benefit of Counterclaim Defendants and the property in the amount of \$220,836.12. See attachments to the Lien Statement for description of the services provided.

10. Counterclaim Defendants have failed to pay amounts due and owing.

11. Counterclaim Plaintiff has made repeated demands to Counterclaim Defendants for payment of amounts due and owing.

12. Counterclaim Defendants have refused Counterclaim Plaintiff's demands for payment.

FIRST CAUSE OF ACTION
(Lien Foreclosure)

13. Plaintiff incorporates Paragraphs 1 through 12 by reference as though fully set forth herein.

14. The services and materials at issue herein supplied by Counterclaim Plaintiff were incorporated into real properties presently owned by Counterclaim Defendant Laze, LLC. At the time the services and materials were supplied they were supplied under contract with or with the explicit approval of the owner of the property or an agent for the owner of the property. Further the contract was ratified by Laze LLC.

15. Counterclaim Defendant Laze, LLC, owns or professes to have an ownership interest in the real property described above.

16. Because of the failure of these Counterclaim Defendants to pay Counterclaim Plaintiff their entitlements under their contract or the reasonable value of the goods and materials provided by Counterclaim Plaintiff, Counterclaim Plaintiff did cause a Lien Statement to be filed against the parcel of property heretofore described by

recording the same in the Office of the Lincoln County Clerk in Kemmerer, Wyoming. A copy of the Lien Statement is attached as Exhibit B to the original counterclaim.

17. A copy of the lien was delivered to the purported owner of the property by certified mail within thirty (30) days of the filing of the notice of the lien.

18. Said lien is a valid lien against the heretofore described property. The lien has not been paid or discharged, and there is still due and owing on the lien the following amount: \$220,836.12, together with pre-judgment and post-judgment interest at a reasonable rate, plus attorney fees and costs.

19. Counterclaim Plaintiff, by this action, seeks to exercise said lien and to foreclose the interest of Counterclaim Defendants in the Property.

20. Claims, if any, of any other person or entity who may assert an interest in the respective properties should be litigated herein and priorities should be established.

21. Counterclaim Plaintiff is entitled to reasonable attorney fees for the preparation and recording of the lien, and also for reasonable attorney fees for the foreclosure of the lien and prosecution of this action.

SECOND CAUSE OF ACTION

22. Counterclaim Plaintiff realleges and reincorporates by reference the allegations made in paragraphs 1 – 21 above.

23. Don Zebe and Rick Lawson and on information and belief, their LLC, Laze LLC., entered into a contract with Gaylen Clayson whereby they made certain promises to Gaylen Clayson in exchange for his interest in a partnership between them and assignment to them of the right to purchase the property subject to this action.

24. One of the promises made by Don Zebe and Rick Lawson and Laze LLC as part of this contract was to pay the debt that Gaylen Clayson, on behalf of the partnership, had incurred to Dairy Systems for the work performed on the cheese plant. The parties to that agreement intended to benefit Dairy Systems by performance of that contract and confer on Dairy Systems the right to enforce the obligations of Zebe and Lawson and Laze under the contract.

25. Dairy Systems was an intended beneficiary of this contract between Gaylen Clayson and Don Zebe and Rick Lawson and Laze LLC.

26. Recognition of a right to performance of this contract in Dairy Systems is appropriate to effectuate the intention of the parties.

27. Performance of the promise will satisfy the obligation of Gaylen Clayson to pay the money owed to Dairy Systems.

28. The circumstances of the contract between Gaylen Clayson and Don Zebe and Rick Lawson and Laze LLC indicate that Gaylen Clayson intended to give Dairy Systems the benefit of the promised performance by Zebe and Lawson and Laze LLC.

29. Zebe and Lawson and Laze LLC have breached the contract by failing and refusing to pay Dairy Systems.

30. As a direct and proximate result of the breach by Zebe and Lawson and Laze LLC, Dairy Systems has been damaged by an amount to be proved at trial but which is not less than \$220,000.

THIRD CAUSE OF ACTION

31. Counterclaim Plaintiff realleges and reincorporates by reference the allegations made in paragraphs 1-30 above.

32. Dairy Systems rendered valuable services to Gaylen Clayson, Don Zebe and Rick Lawson and Laze LLC while they were acting as partners in a venture to purchase, refurbish and put back on line the cheese plant.

33. Not only were the services accepted, enjoyed and used by Zebe and Lawson, and Laze LLC, but they actually participated in the decision to employ Dairy Systems to bring the cheese plant back on line.

34. Under the circumstances, Zebe and Lawson and Laze LLC knew that Dairy Systems would expect to be paid for the work it was performing, and in fact, Zebe and Lawson and Laze LLC promised to pay Dairy Systems once they had obtained their financing.

35. It would be unjust to allow Zebe and Lawson and their company Laze, LLC, to keep the benefit conferred upon them by Dairy Systems without requiring them to pay the value of the materials supplied and the work performed.

36. Zebe and Lawson and their company Laze, LLC, have breached the contract by failing and refusing to pay Dairy Systems.

37. As a direct and proximate result of the breach by Zebe and Lawson and their company Laze, LLC, Dairy Systems has been damaged by an amount to be proved at trial but which is not less than \$220,000.

FOURTH CAUSE OF ACTION

38. Counterclaim Plaintiff realleges and reincorporates by reference the allegations made in paragraphs 1-37 above.

39. In about August 2008, Gaylen Clayson hired Dairy Systems to bring back on line the cheese plant. At the time Dairy Systems knew that Gaylen Clayson had two partners, Don Zebe and Rick Lawson.

40. Dairy Systems provided materials and labor to perform the work they had been hired to do and provided monthly statements of the work performed and materials supplied.

41. In October 2008, Don Zebe informed Dairy Systems that Galen Clayson had been bought out of the partnership and that from that point on Don would be making the decisions.

42. Zebe and Lawson told Dairy Systems that they did not have the money to pay what was owed to Dairy Systems and its subcontractors and materialmen, but that they did not want any liens filed on the property while they were attempting to get financing and that if Dairy Systems would refrain from filing liens and keep liens from being filed on the property, Zebe and Lawson would see that Dairy Systems was paid once they had obtained their financing. Dairy Systems refrained from filing a lien itself and paid subcontractors and materialmen so as to prevent liens from being filed until after Zebe and Lawson had obtained their financing.

43. By their actions and words, Zebe and Lawson and their company Laze, LLC, ratified the contract that Dairy Systems had with Gaylen Clayson and entered into a new contract with Dairy Systems to pay them for their work.

44. Laze further ratified the agreement by asking Dairy Systems to take steps to preserve the work that had been done against freezing temperatures on the promise that

payment for that work would be paid along with the rest of the contract once the financing had been obtained.

45. Dairy Systems would not have performed the work had it not been for the promise by Zebe, Lawson, and Laze, LLC, to honor the prior contract which would be paid once financing was obtained.

46. Zebe, Lawson, and Laze, LLC, breached their contracts with Dairy Systems by not paying them once the financing had been obtained.

47. As a direct and proximate result of the breach, Dairy Systems has been damaged in an amount to be proved at trial but which is not less than \$220,000.

WHEREFORE, having complained of Counterclaim Defendants, Counterclaim Plaintiff prays for judgment against Counterclaim Defendants as follows:

1. On its first cause of action, for a decree of foreclosure enforcing Plaintiff's liens and foreclosing the interest of Counterclaim Defendants Laze, LLC, Don Zebe, and Rick Lawson and any other interested parties in the property described above, and ordering the Sheriff of Lincoln County to sell the real property described in this Counterclaim in accordance with the laws and practices of this Court, and to further apply the sale proceeds from the subject property to reduce and/or satisfy the debt owed to Counterclaim Plaintiff, in the manner established by law. Should a deficiency result after sale of the property, that Counterclaim Plaintiff be given a judgment for such deficiency against the Counterclaim Defendants who currently own the property.
2. On its second cause of action, judgment in an amount to be proven at trial but which is not less than \$220,000.

3. On its third cause of action, judgment in an amount to be proven at trial but which is not less than \$220,000.
4. On its fourth cause of action, judgment in an amount to be proven at trial but which is not less than \$220,000.
5. For costs of Court and reasonable attorney fees.
6. For an order providing that any judgment obtained herein may be augmented to include the reasonable costs and attorney's fees expended in collecting said judgment by execution or otherwise.
7. For such other and further relief as the Court deems appropriate.

DATED this 11th day of June, 2009.

ATKIN LAW OFFICES, P.C.



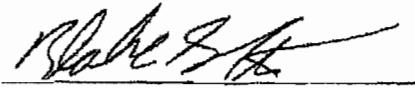
Blake S. Atkin
ATKIN LAW OFFICES, P.C.
837 South 500 West, Suite 200
Bountiful, UT 84010
Telephone: (801) 533-0300
Facsimile: (801) 533-0380
Admitted Pro Hac Vice
Attorneys for Respondent/Counterclaim Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on the 11th day of June, 2009, I served a true and correct copy of the foregoing Amended Counterclaim by placing the same in the United States Mail, first class, postage prepaid, at Bountiful, Utah, correctly addressed to the following:

Scott A. Sargent
Scott A. Sargent Law Office
P.O. Box 847
Kemmerer, Wyoming 83101

Joshua T. Smith
Bowes Law Firm, PC
685 South Washington
P.O. Box 1550
Afton, Wyoming 83110





00

FILED
BY Gauly Dyson

STATE OF WYOMING)
) ss.
COUNTY OF LINCOLN)

IN THE DISTRICT COURT APR - 2 2010

THIRD JUDICIAL DISTRICT
KENNETH B. ROBERTS
CLERK OF DISTRICT COURT
LINCOLN COUNTY, STATE OF WYOMING

LAZE, LLC, a Wyoming Limited)
Liability Company; DON ZEBE;)
and RICK LAWSON,)

Petitioners,)

v.)

DAIRY SYSTEMS COMPANY,)
INC.,)

Respondent.)

**DAIRY SYSTEMS COMPANY, INC.'S
CROSS-CLAIM**

DAIRY SYSTEMS COMPANY,)
INC.,)

Respondent/
Counterclaim Plaintiff,)

v.)

LAZE, LLC, a Wyoming Limited)
Liability Company; DON ZEBE; and)
RICK LAWSON,)

Petitioners/
Counterclaim Defendants.)

LAZE, LLC, a Wyoming Limited)
Liability Company, DON ZEBE,)
RICK LAWSON,)

Third Party Plaintiffs,)

v.)

GAYLEN CLAYSON, MORRIS)
FARINELLA,)

Third Party Defendants.)

DEPOSITION
EXHIBIT
44

GAYLEN CLAYSON, MORRIS)
 FARINELLA,)
)
 Third Party Defendants/)
 Counterclaim Plaintiffs,)
)
 v.)
)
 DON ZEBE, RICK LAWSON,)
 SVC, LLC, and Laze, LLC,)
)
 Third Party Plaintiffs/)
 Counterclaim Defendants.)
)
 _____)
)
 DAIRY SYSTEMS COMPANY,)
 INC.,)
)
 Cross-Claim Plaintiff,)
)
 v.)
)
 SVC, LLC,)
)
 Cross-Claim Defendant.)

DAIRY SYSTEMS COMPANY, INC.'S CROSS-CLAIM

PARTIES

1. Cross-Claim Plaintiff Dairy Systems Company, Inc., is a Utah corporation and did work on the property owned by Cross-Claim Defendant SVC, LLC.
2. Cross-Claim Defendant SVC, LLC, purports to be a Wyoming Limited Liability Company, of which Cross-Claim Defendants Don Zebe ("Zebe") and Rick Lawson ("Lawson") are members.

BACKGROUND FACTS

3. Third Party Defendant Gaylen Clayson ("Clayson"), Zebe, Lawson, Laze, LLC, and SVC, LLC, engaged Dairy Systems Company, Inc., to provide services to the Cheese Plant, located in Thayne, Wyoming.

4. Pursuant to that agreement, Dairy Systems Company, Inc., spent over \$250,000 worth of time and materials on the Cheese Plant preparing it for reopening.

5. Materials and services were performed and provided by Dairy Systems Company, Inc., for the benefit of SVC, LLC, and the property.

6. SVC, LLC, has failed to pay the amounts due and owing.

7. Dairy Systems Company, Inc., has made repeated demands for payment of amounts due and owing.

8. SVC, LLC, has refused Dairy Systems Company, Inc.'s demands for payment.

FIRST CAUSE OF ACTION

9. Dairy Systems Company, Inc., incorporates by reference paragraphs 1 through 8 above.

10. Zebe, Lawson, Laze, LLC, and upon information and belief, their LLC, SVC, LLC, entered into a contract with Clayson whereby they made certain promises to Clayson in exchange for his interest in a partnership between them and assignment to them the right to purchase the property which is the subject of this action.

11. One of the promises made by Zebe, Lawson, Laze, LLC, and upon information and belief, their LLC, SVC, LLC, as part of this contract was to pay the debt that Clayson, on behalf of the partnership, had incurred to Dairy Systems Company, Inc., for the work performed on the Cheese Plant. The parties to that agreement intended to benefit Dairy Systems Company,

Inc., by performance of that contract and confer on Dairy Systems Company, Inc., the right to enforce the obligations of Zebe, Lawson, Laze, LLC, and SVC, LLC, under the contract.

12. Dairy Systems Company, Inc., was an intended beneficiary of this contract between Clayson, Zebe, Lawson, Laze, LLC, and SVC, LLC.

13. Recognition of a right to performance of this contract in Dairy Systems Company, Inc., is appropriate to effectuate the intention of the parties.

14. Performance of the promise will satisfy the obligation of Clayson to pay the money owed to Dairy Systems Company, Inc.

15. The circumstances of the contract between Clayson, Zebe, Lawson, Laze, LLC, and SVC, LLC, indicate that Clayson intended to give Dairy Systems Company, Inc., the benefit of the promised performance by Zebe, Lawson, Laze, LLC, and SVC, LLC.

16. Zebe, Lawson, Laze, LLC, and SVC, LLC, have breached the contract by failing and refusing to pay Dairy Systems Company, Inc.

17. As a direct and proximate result of the breach by Zebe, Lawson, Laze LLC, and SVC, LLC, Dairy Systems Company, Inc., has been damaged in an amount to be proved at trial but which is not less than \$220,000.

SECOND CAUSE OF ACTION

18. Dairy Systems Company, Inc., realleges and reincorporates by reference the allegations made in paragraphs 1 through 17 above.

19. Dairy Systems Company, Inc., rendered valuable services to Clayson, Zebe, Lawson, Laze, LLC, and SVC, LLC, while they were acting as partners in a venture to purchase, refurbish and put back on line the Cheese Plant.

20. Not only were the services accepted, enjoyed and used by Zebe, Lawson, Laze,

LLC, and SVC, LLC, but they actually participated in the decision to employ Dairy Systems Company, Inc., to bring the Cheese Plant back on line.

21. Under the circumstances, Zebe, Lawson, Laze, LLC, and SVC, LLC, knew that Dairy Systems Company, Inc., would expect to be paid for the work it was performing, and in fact, Zebe, Lawson, Laze, LLC, and SVC, LLC, promised to pay Dairy Systems Company, Inc., once they had obtained their financing.

22. It would be unjust to allow Zebe, Lawson, Laze, LLC, and SVC, LLC, to keep the benefit conferred upon them by Dairy Systems Company, Inc., without requiring them to pay the value of the materials supplied and the work performed.

23. Zebe, Lawson, Laze, LLC, and SVC, LLC, have breached the contract by failing and refusing to pay Dairy Systems Company, Inc.

24. As a direct and proximate result of the breach by Zebe, Lawson, Laze, LLC, and SVC, LLC, Dairy Systems Company, Inc., has been damaged in an amount to be proved at trial but which is not less than \$220,000.

THIRD CAUSE OF ACTION

25. Dairy Systems Company, Inc., realleges and reincorporates by reference the allegations made in paragraphs 1 through 24 above.

26. In about August 2008, Gaylen Clayson hired Dairy Systems Company, Inc., to bring back on line the Cheese Plant. At the time, Dairy Systems Company, Inc., knew that Clayson had two partners, Zebe and Lawson.

27. Dairy Systems Company, Inc., provided materials and labor to perform the work they had been hired to do and provided monthly statements of the work performed and materials supplied.

28. In October 2008, Zebe informed Dairy Systems Company, Inc., that Clayson had been bought out of the partnership, and that from that point on Zebe would be making the decisions.

29. Zebe and Lawson told Dairy Systems Company, Inc., that they did not have the money to pay what was owed to Dairy Systems Company, Inc., and its subcontractors and materialmen, but that they did not want any liens filed on the property while they were attempting to get financing and that if Dairy Systems would refrain from filing liens and keep liens from being filed on the property, Zebe and Lawson would see that Dairy Systems Company, Inc., was paid once they had obtained their financing. Dairy Systems Company, Inc., refrained from filing a lien itself and paid subcontractors and materialmen so as to prevent liens from being filed until after Zebe and Lawson had obtained their financing.

30. By their actions and words, Zebe, Lawson, Laze, LLC, and SVC, LLC, ratified the contract that Dairy Systems Company, Inc., had with Clayson and entered into a new contract with Dairy Systems Company, Inc., to pay them for their work.

31. Zebe, Lawson, Laze, LLC, and SVC, LLC, further ratified the agreement by asking Dairy Systems Company, Inc., to take steps to preserve the work that had been done against freezing temperatures on the promise that payment for that work would be paid along with the rest of the contract once the financing had been obtained.

32. Dairy Systems Company, Inc., would not have performed the work had it not been for the promise by Zebe, Lawson, Laze, LLC, and SVC, LLC, to honor the prior contract which would be paid once financing was obtained.

33. Zebe, Lawson, Laze, LLC, and SVC, LLC, breached their contract with Dairy Systems Company, Inc., by not paying them once the financing had been obtained.

34. As a direct and proximate result of the breach by Zebe, Lawson, Laze, LLC, and SVC, LLC, Dairy Systems Company, Inc., has been damaged in an amount to be proved at trial but which is not less than \$220,000.

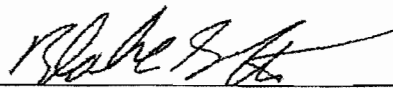
PRAYER FOR RELIEF

WHEREFORE, having complained of Zebe, Lawson, Laze, LLC, and SVC, LLC, Dairy Systems Company, Inc., prays for judgment against SVC, LLC, as follows:

1. On its First Cause of Action, judgment in an amount to be proven at trial but which is not less than \$220,000;
2. On its Second Cause of Action, judgment in an amount to be proven at trial but which is not less than \$220,000;
3. On its Third Cause of Action, judgment in an amount to be proven at trial but which is not less than \$220,000;
4. For costs of Court and reasonable attorney fees;
5. For an order providing that any judgment obtained herein may be augmented to include the reasonable costs and attorney's fees expended in collecting said judgment by execution or otherwise; and,
6. For such other and further relief as the Court deems appropriate.

DATED THIS 30th day of March, 2010.

ATKIN LAW OFFICES, P.C.



Blake S. Atkin
ATKIN LAW OFFICES, P.C.
837 South 500 West, Suite 200
Bountiful, UT 84010
Telephone: (801) 533-0300
Facsimile: (801) 533-0380

*Admitted Pro Hac Vice
Attorney for Respondent/Counterclaim Plaintiff*

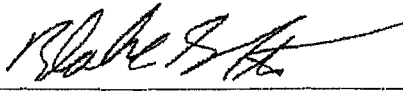
CERTIFICATE OF SERVICE

I hereby certify that on the 30th day of March, 2010, I served a true and correct copy of the foregoing **DAIRY SYSTEMS COMPANY, INC.'S CROSS-CLAIM** by placing the same in the United States Mail, first class, postage prepaid, at Bountiful, Utah, correctly addressed to the following:

Scott A. Sargent
Scott A. Sargent Law Office
P.O. Box 847
Kemmerer, Wyoming 83101

Joshua T. Smith
Bowers Law Firm, PC
685 South Washington
P.O. Box 1550
Afton, Wyoming 83110

Third Judicial District Court
Lincoln County
P.O. Box 2077
Evanston, Wyoming 82931-2077





LAW OFFICES
ATKIN LAW OFFICES

A PROFESSIONAL CORPORATION

837 South 500 West

Bountiful, Utah 84010

TELEPHONE 1 (801) 533-0300

FACSIMILE 1 (801) 533-0380

e-mail: batkin@atkinlawoffices.net

FACSIMILE TRANSMISSION SHEET

CONFIDENTIALITY NOTE

The information contained in this facsimile message is legally privileged and confidential information intended only for the use of the individual or company named below. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copy of the facsimile is strictly prohibited. If you have received the facsimile in error, please immediately notify us by telephone and return the original message to us at the address above via the United States Postal Service. Thank you.

DATE: Oct 1, 2010

TO: Gary Cooper

FAX NUMBER: (208) 235-1182

FROM: Blake Atkin

RE: \$50,000 check - Clayson v. Zeble

TOTAL NUMBER OF PAGES(including cover sheet): 2

IF PROBLEMS ARISE PLEASE CONTACT:

COMMENTS:

Gary:

I am faxing the \$50,000 check
you requested I fax to you today

Blake Atkin

