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Grazer v. Jones Clerk's Record v. 5 Dckt. 38852

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Vol. 5 of 6

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

Docket No. 38852

ALLEN F. GRAZER

Plaintiff/Appellant

vs.

LAW CLERK

GORDON A. JONES et al

Defendants/Respondents

DAVID C. NYE District Judge

Appealed from the District Court of the SIXTH
Judicial District of the State of Idaho, in and for
FRANKLIN County.

LINCOLN HOBBS

Attorney for Appellants

LANE V. ERICKSON

Attorney for Respondents

Filed this FILED - COPY day of July, 2011

AUG 26 2011

Clerk

Deputy

Vol. 506

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Docket No. 38852

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FRANKLIN COUNTY CLERK

JH

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

ALLEN F. GRAZER, an individual,
Plaintiff,

v.

GORDON A. JONES, an individual;
GORDON A. JONES, personal representative
of THE ESTATE OF LINDA G. JONES,
deceased; J&J LIVESTOCK, LLC, a Utah
Limited Liability Company; and John Does 1-
10,

Defendants.

**MOTION FOR SUMMARY JUDGMENT
AND FOR ISSUANCE OF WRIT OF
EXECUTION**

Civil No. CV-2005-183

Judge David C. Nye

Comes now Allen F. Grazer and respectfully moves this Court for an Order granting summary judgment against Gordon A. Jones individually and Gordon A. Jones as personal representative of the Estate of Linda G. Jones, deceased and issuing a Writ of Execution allowing Grazer to execute against the real property located in Franklin County, Idaho more particularly described on Exhibit "A" and water shares owned or previously owned by Gordon A. Jones in Twin Lakes Canal Company.

**MOTION FOR SUMMARY JUDGMENT
AND FOR ISSUANCE OF WRIT OF
EXECUTION**

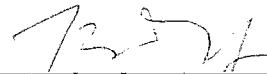
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This motion is supported by a Memorandum of Points and Authorities submitted herewith.

DATED this 16 day of February, 2011.

HOBBS & OLSON, L.C.



LINCOLN W. HOBBS
MARGARET H. OLSON
Attorneys for Plaintiff Allen F. Grazer

CERTIFICATE OF DELIVERY

I hereby certify that on the 10 day of February, 2011, I caused a true and correct copy of the foregoing to be served upon the following in the manner indicated:

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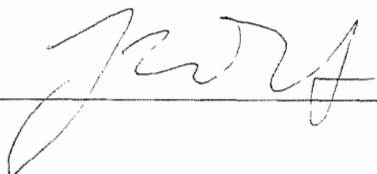
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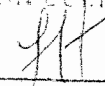
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FRANKLIN COUNTY CLERK



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

ALLEN F. GRAZER, an individual,

Plaintiff,

v.

GORDON A. JONES, an individual;
GORDON A. JONES, personal representative
of THE ESTATE OF LINDA G. JONES,
deceased; J&J LIVESTOCK, LLC, a Utah
Limited Liability Company; and John Does 1-
10,

Defendants.

**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
MOTION FOR SUMMARY JUDGMENT
AND ISSUANCE OF WRIT OF
EXECUTION**

Civil No. CV-2005-183

Judge David C. Nye

Comes now Allen F. Grazer ("Grazer") and respectfully submits this Memorandum of Points and Authorities in Support of his Motion for Issuance of Writ of Execution.

STATEMENT OF FACTS

1. On November 1, 2002, an action was commenced by Gordon A. Jones, a defendant herein, against Grazer, the plaintiff herein, in the Second District Court in and for the State of Utah entitled Gordon Jones and Richard Barney, Plaintiffs v. Allen Grazer, with a

MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
MOTION FOR SUMMARY JUDGMENT
AND ISSUANCE OF WRIT OF EXECUTION
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counterclaim action denoted as Allen F. Grazer, Counterclaim Plaintiff v. Gordon A. Jones and Richard Barney, Counterclaim Defendants, Consolidated Civil No. 020700570 (the “Utah Case”).

2. On December 22, 2004, Gordon A. Jones and Linda G. Jones executed a Quit-Claim Deed conveying title to the certain farm property located in Franklin County, Idaho (the “Property”) to J&J Livestock, LLC an entity purporting to be a Utah limited liability company. The Quit-Claim Deed was recorded in the office of the Franklin County Recorder at the request of Jason Jones, the son of the defendants, on December 27, 2004 as Entry No. 228503. A copy of the December 22, 2004 Quit-Claim Deed containing a legal description of the Property is attached as Exhibit “A.”

3. J&J Livestock, LLC (“J&J”) was not registered with the State of Utah as of the date of the conveyance. It was subsequently registered on December 28, 2004. It was last renewed with the State of Utah on February 7, 2006 and its registration has expired as of April 7, 2007. A copy of the business registration history from the State of Utah Division of Corporations is attached as Exhibit “B.”

4. On May 12, 2005, Grazer filed a complaint commencing this action to avoid a transfer of the Property from Gordon A. Jones and Linda G. Jones to J&J. The complaint further sought the issuance of a preliminary injunction enjoining Gordon A. Jones from transferring or disposing further disposition of the Property or other property pending the disposition of this matter. *See Docket Entry May 12, 2005*

5. A Lis Pendens was recorded as Entry 229796 against the Property in the action in the office of the Franklin County Recorder on the same date. A copy of the recorded Lis Pendens is attached as Exhibit "C."

6. On July 11, 2005, a judgment in the amount of \$1,886,727.87 together with post judgment interest and attorney's fees accruing thereon was entered in favor of Grazer and against Gordon A. Jones and others in the Utah Case (the "Judgment"). A copy of the recorded Judgment is attached hereto as Exhibit "D."

7. On June 30, 2005, Attorney Shawn W. Potter served an answer in this case on behalf of Gordon A. Jones, Linda G. Jones and J&J. *See Docket Entry dated July 8, 2005.*

8. On July 15, 2005, Gordon A. Jones and Linda G. Jones as managers of J&J executed a Quit Claim Deed conveying title to the Property back to Gordon A. Jones and Linda G. Jones, husband and wife. A copy of the Quit Claim Deed is attached hereto as Exhibit "E."

9. On July 22, 2005, the Judgment was recorded as Entry No. 231395 in the Office of the Franklin County Recorder. A copy of the recorded Judgment is attached hereto as Exhibit "D."

10. On August 1, 2005, Grazer filed a Notice of Filing Foreign Judgment in this case. *See Docket Entry August 1, 2005.*

11. On July 27, 2005, Defendants stipulated to the issuance of a Writ of Attachment in this case covering the Property and water shares of Twin Lakes Canal Company (the "Water Shares") benefitting the Property and agreed that an order "may enter enjoining them from

further transferring or disposing assets in the State of Idaho.” *See Docket Entry dated July 28, 2005.*

12. On August 12, 2005, Jason Jones, son of Gordon A. Jones and Linda G. Jones, recorded a Notice of Interest against the Property with the Franklin County Recorder. A copy of the recorded Notice of Interest is attached hereto as Exhibit “F.”

13. On August 22, 2005, this Court issued a Prejudgment Writ of Attachment and Injunction covering the Property and the Water Shares and enjoining the Defendants from “further transferring or disposing of assets in the State of Idaho.” *See Docket Entry dated August 22, 2005.*

14. On April 18, 2006, Gordon A. Jones filed a case under Chapter 7 of the Bankruptcy Code, staying further proceedings in this case. A copy of the Bankruptcy Petition is attached hereto as Exhibit “G.”

15. On April 19, 2007, Judge Judith A. Boulden of the United States Bankruptcy Court for the District of Utah signed an Order Approving Settlement Agreement and Authorizing Trustee’s Abandonment of Property of Estate (the “Bankruptcy Order”), pursuant to which the Chapter 7 Trustee, *inter alia*, abandoned all interest in the Property and Water Shares and Grazer was authorized “to fully pursue all his rights and claims against the aforesaid property in any State of Federal Court what would have jurisdiction absent the filing of the Debtor’s bankruptcy...” *Order p.3, ¶2.* A copy of the Order is attached hereto as Exhibit “H.”

16. The Settlement Agreement approved by the Order specifically states that Grazer has a “valid, enforceable security interest in all the remaining property of the Debtor’s

bankruptcy estate” including, *inter alia*, the Property at issue herein, the Idaho Fraudulent Conveyance Action (this current action) Fraudulent Conveyance Actions or any other action that could have been filed by a creditor prior to the filing of the Debtors bankruptcy case...to recover property owed to the Debtor or transferred to third parties by the Debtor” as property that was abandoned by the bankruptcy estate and/or for which Mr. Grazer obtained relief from the automatic stay. *Settlement Agreement*, p. 10, ¶ 4. A copy of the Settlement Agreement is attached hereto as Exhibit “I.”

17. The Settlement Agreement further provided that Grazer was “entitled to fully pursue all his rights and claims against the aforesaid property [including the Property herein], which rights and claims are not altered, amended or affected in any way by this Agreement or by the filing of the Debtor’s Bankruptcy Case.” *Id.*

18. On January 20, 2009, the Honorable Judith A. Boulden issued an Order granting a discharge of Gordon Jones’ remaining unsecured debt under 11 USC § 727. A copy of the Order of Discharge of Debtor is attached hereto as Exhibit “J.”

19. The Order of Discharge “prohibits any attempt to collect from the debtor a debt that has been discharged...However, a creditor may have the right to enforce a valid lien such as a mortgage or security interest, against the debtor’s property after the bankruptcy, if that lien was not avoided or eliminated in the bankruptcy case.” *Id.* (*Order*, p. 2, “Explanation of Bankruptcy Discharge in a Chapter 7 Case”). *Id.*

20. On February 19, 2010, Linda G. Jones died in Provo, Utah. *See Application for Appointment of Personal Representative, In the Matter of the Estate of Linda G. Jones*, Second

District Court, State of Utah, Probate No.103700100 (the "Application"). A copy of the Application is attached hereto as Exhibit "K."

21. The will of Linda G. Jones, attached to the Application, leaves all real and personal property not specifically devised by separate list (with regard to personal property) to the Gordon A. and Linda G. Jones Family Trust dated 10-19-2004 (the "Jones Trust"). *See Will of Linda G. Jones*. A copy of the Will is attached as Exhibit "A" to the Application.

ARGUMENT

POINT I

The Property is Described in the Writ of Attachment is Subject to Execution.

When a party holds a judgment in his favor for money, the judgment may be enforced by a writ of execution against all non-exempt property of the judgment debtor. *Idaho Code Ann.* §11-104. Idaho law specifies a broad range of property subject to execution by a judgment debtor:

11-201.PROPERTY LIABLE TO SEIZURE. All goods, chattels, moneys and other property, both real and personal, or any interest therein of the judgment debtor, not exempt by law, and all property and rights of property, seized and held under attachment in the action, are liable to execution. Shares and interest in any corporation or company, and debts and credits, and all other property both real and personal, or any interest in either real or personal property, and all other property not capable of manual delivery, may be attached on execution in like manner as upon writs of attachment. Gold dust must be returned by the officer as so much money collected, at its current value, without exposing the same to sale. Until a levy, property is not affected by the execution.

Idaho Code Ann. §11-201.

Separate debts of either spouse may be paid from community property. *Credit Bureau of Eastern Idaho, Inc. v. Lecheminant*, 235 P. 3d 1188 (Idaho 2010). Debts need not be incurred by the benefit of the community in order for the community to be liable. *Id. See also, Holt v. Empey*, 32 Idaho 106, 178 P. 703 (1919)(Community real estate liable to attachment and execution for the debts of the husband, whether incurred for his own use or for the benefit of the community).

In this case, it is uncontested that a judgment was validly entered against Gordon Jones in the Utah Case. The Judgment was duly filed as a foreign judgment in Idaho in pleadings in this case and recorded with the Franklin County Recorder. Both Gordon Jones and Linda Jones, prior to her death, stipulated to the attachment of the Property and the Water Shares. The Stipulation and the Writ of Attachment barred any further transfer of any property owned by Gordon Jones or Linda Jones in the State of Idaho. Grazer is entitled to collect on his Judgment against any assets available to Gordon Jones, including community assets.

POINT II

Grazer is Not Barred From the Issuance of a Writ of Execution by Statutes of Limitation.

Jones, in his Answer to the Second Amended Complaint asserts that Grazer is barred from obtaining a Writ of Execution by the provisions of *I.C. §§11-101 and 11-105*, which require that a writ of execution must issue within 5 years of the entry of the Judgment. This argument ignores first the fact that this action was filed on May 12, 2005 and the Property was attached pursuant to a Writ of Attachment on August 22, 2005, a mere month after the entry of the

Judgment. Further this matter has been delayed by the withdrawal and reentry of appearance of counsel for Gordon Jones.

This argument further ignores the provisions of the Idaho Code tolling the accrual of time for the purposes of calculating statutes of limitations. Section 5-234 provides:

5-234.ACTION STAYED BY INJUNCTION OR STATUTE. When the commencement of an action is stayed by injunction or statutory prohibition the time of the continuance of the injunction or prohibition is not part of the time limited for the commencement of the action.

I.C. §5-234.

In this case, the Judgment on which Grazer is executing was entered on July 11, 2005. *Statement of Facts* ¶6. Gordon Jones filed a Chapter 7 bankruptcy on April 16, 2006. *Id.* ¶14. The bankruptcy was discharged on January 20, 2009. *Id.* ¶18.

Pursuant to the provisions of the United States Bankruptcy Code, the automatic stay imposed by the bankruptcy filing precludes any action to be taken against the debtor or property owned by the debtor without leave of the bankruptcy court. *See 11 U.S.C. §362.* Accordingly, the three year period of time during which Gordon Jones was in bankruptcy and Grazer was prohibited from pursuing collection against any assets of Gordon Jones must be excluded from the five year period asserted as a defense by Gordon Jones. This motion is timely and within the period allowed under *I.C. §11-101* and *§11-105.*

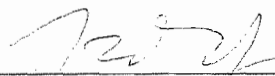
CONCLUSION

The Property and Water Shares are community property which is subject to execution for the debts of Gordon Jones. The bankruptcy of Gordon Jones tolled the time period within which

a Writ of Execution must issue in this case. Grazer requests that this Court enter an Order issuing a Writ of Execution against the Property and the Water Shares and directing that they be sold in accordance with Idaho law.

DATED this 10 day of February, 2011.

HOBBS & OLSON, L.C.



LINCOLN W. HOBBS

MARGARET H. OLSON

Attorneys for Plaintiff Allen F. Grazer

CERTIFICATE OF DELIVERY

I hereby certify that on the 10 day of February, 2011, I caused a true and correct copy of the foregoing to be served upon the following in the manner indicated:

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lzb@racinelaw.net
 Mail
 Fax 801-621-4436
 Fed Ex
 Hand Delivery
 Personally Served

Sixth Judicial District Court
Franklin County Clerk
39 West Oneida, Room 2
Preston ID 83263

Email
hampton@plmw.com
 Mail
 Fax (208) 852-2926
 Fed Ex
 Hand Delivery
 Personally Served

Courtesy Copies to:

Honorable David C. Nye
Sixth Judicial District Court Judge
P.O. Box 4165
Pocatello, ID 83205

Email
 Mail
 Fax (208) 236-7418
 Fed Ex
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 Personally Served

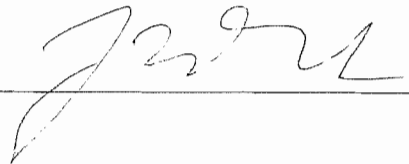


EXHIBIT "A"

228503

Recorded at the request of
Jason Jones

10:10
a.m. DEC 27 2004 p.m.

Mail Tax Notice To:
Gordon & Linda Jones
235 West 1400 North, Bountiful, UT 84010

V. ELLIOTT LARSEN, RECORDER
By Shauna Geddes Deputy
FRANKLIN COUNTY, IDAHO

QUIT-CLAIM DEED

GORDON A. JONES and LINDA G. JONES, Grantors of Davis County, State of Utah, hereby QUIT CLAIM to J&J LIVESTOCK L.L.C. for the sum of TEN DOLLARS AND OTHER GOOD AND VALUABLE CONSIDERATION, the following described tract of land in Franklin County, State of Idaho:

COMMENCING AT A POINT 53-3/4 RODS NORTH OF THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF SECTION 35, TOWNSHIP 14 SOUTH, RANGE 38 EAST OF THE BOISE MERIDIAN, FRANKLIN COUNTY, IDAHO, AND RUNNING THENCE WEST 240 RODS, THENCE NORTH 53-3/4 RODS, THENCE EAST 240 RODS; THENCE SOUTH 53-3/4 RODS TO THE PLACE OF BEGINNING.

EXCEPTING AND RESERVING A RIGHT-OF-WAY FOR ANY AND ALL IRRIGATION DITCHES AND CANALS, AND PUBLIC ROADS NOW EXISTING OR IN USE UPON AND ACROSS SAID PREMISES, AND EXCEPTING AND RESERVING THEREFROM A STRIP OF LAND 3 RODS WIDE ALONG THE EAST SIDE OF THE ABOVE-DESCRIBED LAND.

ALSO, THE SOUTH HALF OF THE SOUTHWEST QUARTER, THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER, AND THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 34, TOWNSHIP 14 SOUTH, RANGE 38 EAST OF THE BOISE MERIDIAN, FRANKLIN COUNTY, IDAHO.

TOGETHER WITH 36 SHARES OF THE CAPITAL STOCK OF TWIN LAKES CANAL COMPANY.

TAX SERIAL NO:
ADDRESS:

SUBJECT TO easements, restrictions, covenants and rights of way appearing of record or enforceable in law or equity.

WITNESS the hand of said Grantor(s) this 22 day of December, 2004.

Gordon A. Jones
GORDON A. JONES
Linda G. Jones
LINDA G. JONES

STATE OF UTAH :
: SS :
COUNTY OF DAVIS :

On the 22 day of December, 2004, personally appeared before me GORDON A. JONES and LINDA G. JONES who duly acknowledged they are the signers of the foregoing Deed.

Bonnie J. Shaffer
NOTARY PUBLIC

NOTARY PUBLIC
BONNIE J. SHAFFER
2141 Timothy Way
Bountiful, Utah 84010
My Commission Expires
February 10, 2005
STATE OF UTAH

C:\OFFICE\Users\Gordon\Documents\228503

EXHIBIT "B"

Utah Business Search - Details

J&J LIVESTOCK, LLC

Entity Number: 5800703-0160

Company Type: LLC - Domestic

Address: 235 W 1400 N Bountiful, UT 84010

State of Origin:

Registered Agent: GORDON ANDREW JONES

Registered Agent Address:

235 W 1400 N Bountiful UT 84010

Status

Status: Expired as of 04/05/2007

Status Description: Failure to File Renewal

Employment Verification: Not Registered with Verify Utah

History

Registration Date: 12/28/2004

Last Renewed: 02/07/2006

Additional Information

NAICS Code: 1121 **NAICS Title:** 1121-Cattle Ranching and Farming

EXHIBIT "C"

229796 1-2

FILED

05 MAY 12 PM 12:56

FRANKLIN COUNTY CLERK

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

DEPUTY

MARGARET H. OLSON (ID BAR #04680)
Of Counsel
HOBBS & OLSON, L.C.
Attorneys for Plaintiff Allen F. Grazer
525 South 300 East
Salt Lake City, Utah 84111
Telephone: (801) 519-2555
Facsimile: (801) 519-2999

Recorded at the request of

Margaret H. Olson

1:50 a.m. MAY 13 2005 p.m.

V. ELLIOTT LARSEN, RECORDER
By Shauna Grottes Deputy
FRANKLIN COUNTY, IDAHO

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

ALLEN F. GRAZER, an individual,
Plaintiff,

v.

GORDON A. JONES, an individual;
LINDA G. JONES, an individual;
J&J LIVESTOCK, LLC, a Utah
Limited Liability Company; and
John Does 1-10,
Defendants.

LIS PENDENS

Case No. CV-2005-153

Judge Harding

Notice is given that the above-entitled action was filed
in the above-entitled court on May 12, 2005 by Allen Grazer
against Gordon A. Jones, Linda G. Jones and J&J Livestock, LLC,
defendants. The action affects title to specific real property

LIS PENDENS

584

229796 22

or the right to possession of specific real property as identified in the Complaint in this action.

The specific real property affected by the action is located in Franklin County, State of Idaho and is described as follows:

COMMENCING AT A POINT 53-3/4 RODS NORTH OF THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF SECTION 35, TOWNSHIP 14 SOUTH, RANGE 38 EAST OF THE BOISE MERIDIAN, FRANKLIN COUNTY, IDAHO, AND RUNNING THENCE WEST 240 RODS, THENCE NORTH 53-3/4 RODS, THENCE EAST 240 RODS; THENCE SOUTH 53-3/4 RODS TO THE PLACE OF BEGINNING.

EXCEPTING AND RESERVING A RIGHT-OF-WAY FOR ANY AND ALL IRRIGATION DITCHES AND CANALS, AND PUBLIC ROADS NOW EXISTING OR IN USE UPON AND ACROSS SAID PREMISES, AND EXCEPTING AND RESERVING THEREFROM A STRIP OF LAND 3 RODS WIDE ALONG THE EAST SIDE OF THE ABOVE-DESCRIBED LAND.

ALSO, THE SOUTH HALF OF THE SOUTHWEST QUARTER, THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER, AND THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 34, TOWNSHIP 14 SOUTH, RANGE 38 EAST OF THE BOISE MERIDIAN, FRANKLIN COUNTY, IDAHO.

TOGETHER WITH 36 SHARES OF THE CAPITAL STOCK OF TWIN LAKES CANAL COMPANY.

DATED May 11 2005.

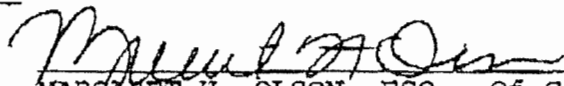

MARGARET H. OLSON, ESQ., Of Counsel
HOBBS & OLSON, L.C.
Attorneys for Allen F. Grazer

EXHIBIT "D"

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231395 1-4

FILED
JUL 11 2005
SECOND
DISTRICT COURT

LINCOLN W. HOBBS, ESQ. (4848)
MARGARET H. OLSON, ESQ. (6296)
TAMARA K. PRINCE, ESQ. (5224)
HOBBS & OLSON, L.L.C.
Attorneys for Defendant/Counterclaim
Plaintiff Allen F. Grazer
525 South 300 East
Salt Lake City, Utah 84111
Telephone: (801) 519-2555
Facsimile: (801) 519-2999

IN THE SECOND JUDICIAL DISTRICT COURT OF DAVIS COUNTY
FARMINGTON DEPARTMENT, STATE OF UTAH

GORDON JONES, an individual; and
RICHARD BARNEY, an individual,

Plaintiffs,

v.

ALLEN GRAZER, an individual,

Defendant,

ALLEN F. GRAZER,

Counterclaim Plaintiff,

v.

GORDON A. JONES; and RICHARD
BARNEY,

Counterclaim Defendants.

GORDON JONES, an individual; and
RICHARD BARNEY, an individual;

Third Party Plaintiffs.

v.

JUDGMENT AGAINST
COUNTERCLAIM DEFENDANTS
GORDON A. JONES AND RICHARD
BARNEY

Recorded at the request of
HOBBS & OLSON

_____ a.m. SEP 23 2005 p.m. ^{3:15}

V. ELLIOTT LARSEN, RECORDER
By Shauna Geddes Deputy
FRANKLIN COUNTY, IDAHO

Civil No. 020700570 CN

Judge Michael G. Allphin

JUDGMENT ENTERED

BY X

Judgment against Counterclaim Defendants Gordon A



JD18339733
020700570 NU-TREND ELECTRIC COMPANY,

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R W DESIGN, INC., a Utah corporation;
ROBERT W. SPEIRS PLUMBING, INC.,
a Utah corporation; SCOTT SESSIONS, an
individual; and NU-TREND ELECTRIC
COMPANY, a Utah corporation.

Third Party Defendants.

The above-entitled matter was tried before The Honorable Michael G. Allphin on April 26 through 29, 2005. Plaintiffs were represented by their counsel, David A. Van Dyke and Kent B. Scott; Defendant was represented by his counsel, Lincoln W. Hobbs and Tamara K. Prince.

Having heard the testimony, having reviewed the exhibits offered to and received by the Court, and having considered the law, and the Court having entered Findings of Fact and Conclusions of Law on June 17, 2005.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

1. Defendant Allen F. Grazer be awarded judgment against Gordon A. Jones and Richard Barney, jointly and severally, in the amount of \$1,585,000.00 plus additional consequential damages of \$40,669.97 for the contractor's fee, \$31,062.50 for payments to Vanel for repairs, \$9,968.41 for moving and storage expenses, \$133,512.61 for reasonable attorney's fees and costs through May 31, 2005, \$1,783.12 for direct legal costs through April 24, 2005, \$1,457.81 for direct legal costs after April 24, 2005, \$7,305.00 paid to expert Matthew Roblez, P.E., and prejudgment interest in the amount of \$75,968.45 through June 22, 2005 for a total amount of \$1,886,727.87;
2. Together with interest at the at the prejudgment rate accruing at the rate of \$70.59 until the date of judgment;

231395 3-4

2005 SEP 20 10:58 AM

3. Together with post-judgment interest accruing at the judgment rate, until paid:
IT IS FURTHER ORDERED that this Judgment shall be augmented by reasonable costs and attorneys' fees expended in connection with efforts that have been incurred since May 31, 2005 and that are necessitated in collecting this Judgment by execution or otherwise as shall be established by Affidavit.

DATED this 7th day of July, 2005.

BY THE COURT:

Michael G. Alphin
HON. MICHAEL G. ALPHIN
District Court Judge

APPROVED AS TO FORM:

BABCOCK, SCOTT & BABCOCK

Kent B. Seon
Kent B. Seon
David A. Van Dyke
Attorneys for Plaintiffs

HOBBS & OLSON

Tamara K. Prince
Lincoln W. Hobbs & Olson
Margaret H. Olson
Tamara K. Prince
Attorneys for Defendant

STATE OF UTAH
COUNTY OF DAVIS } ss.

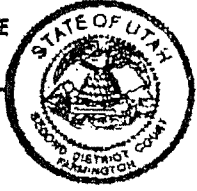
I HEREBY CERTIFY THAT THIS IS A TRUE COPY OF THE ORIGINAL ON FILE IN MY OFFICE

DATED THIS 14th DAY OF Sept 2005

ALYSON E. BROWN
CLERK OF THE COURT

BY Carol A. Brubaker DEPUTY

PAGE 3 OF 4



231395 4-4

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CERTIFICATE OF DELIVERY

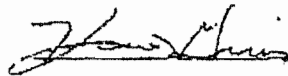
I hereby certify that on the 1 day of July, 2005, I caused a true and correct copy of the foregoing to be sent via facsimile and to be and mailed, first class, postage prepaid, to the following:

David A. Van Dyke, Esq.
2900 West Highway 24
Post Office Box 17
Tonsdale, UT 84773
Attorney for Plaintiffs/Counterclaim
Defendants/Third Party Plaintiffs
Gordon A. Jones and Richard Barney
FAX #435-425-3329

Kent B. Scott, Esq.
BABCOCK, SCOTT & BABCOCK
505 East 200 South, Suite 300
Salt Lake City, UT 84102
Co-Counsel for Plaintiffs/Counterclaim
Defendants/Third Party Plaintiffs
Gordon A. Jones and Richard Barney
FAX #531-7060

Stephen F. Noel, Esq.
SMITH KNOWLES P.C.
4723 Harrison Blvd., Suite 200
Ogden, UT 84403
Attorneys for Third-Party Defendants
R W Design, Inc. and Robert W. Speirs
Plumbing, Inc.
FAX #476-0399

Nu-Trend Electric Company
57 West 200 North
Bountiful, UT 84010
Third-Party Defendant *Pro Se*
Scott Sessions
289 West Tobe Drive
Centerville, UT 84014
Third-Party Defendant *Pro Se*



231394 1-2

FILED

05 AUG -1 PM 12:17

FRANKLIN COUNTY CLERK
J. Hampton
DEPUTY

MARGARET H. OLSON (ID BAR #04680)
Of Counsel
HOBBS & OLSON, L.C.
Attorneys for Plaintiff Allen F. Grazer
525 South 300 East
Salt Lake City, Utah 84111
Telephone: (801) 519-2555
Facsimile: (801) 519-2999

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

<p>ALLEN F. GRAZER, an individual, Plaintiff,</p> <p>v.</p> <p>GORDON A. JONES, an individual; and RICHARD BARNEY, an individual, Defendants.</p>	<p>NOTICE OF FILING FOREIGN JUDGMENT</p> <hr/> <p>Civil No. CV-2005-183 Judge Don L. Harding</p>
---	--

Pursuant to I.C. 10-1303, Plaintiff Allen F. Grazer hereby gives notice by through counsel, Margaret H. Olson, to the Defendants herein of his filing in this matter of the foreign judgment obtained in the Second Judicial District Court of Davis County, Farmington Department, State of Utah more particularly entitled *Gordon Jones and Richard Barney, Plaintiffs v. Allen Grazer*, with the Counterclaim action denoted as *Allen F. Grazer, Counterclaim Plaintiff v. Gordon A. Jones and Richard Barney, Counterclaim Defendants*, Consolidated Civil No. 020700570 CN.

231394 2-2

DATED this 29 day of July, 2005.

STATE OF IDAHO } ss
County of Franklin }
I HEREBY CERTIFY that the above and foregoing is a full and correct copy of the original thereof, as filed in accordance with the provisions of the rules of the court.

Date: September 23
V. ELLIOTT LARSEN
Clerk of the District Court
Linda A. [Signature]
Deputy Clerk



[Signature]

MARGARET H. OLSON

CERTIFICATE OF DELIVERY

I hereby certify that on the 29 day of July, 2005, I caused a true and correct copy of the foregoing to be mailed, first class, postage prepaid, to the following:

Shawn W. Potter, Esq.
BABCOCK, SCOTT & BABCOCK
505 East 200 South, Suite 300
Salt Lake City, UT 84102
Attorney for Defendants

Gordon A. Jones
235 West 1400 North
Bountiful, Utah 84010
Defendant/Judgment Debtor

Gordon A. Jones
3369 North Westside Highway,
Clifton, Idaho 83228
Defendant/Judgment Debtor

Richard Barney is 131 North
Terrace Drive, Clearfield, Utah
84015.
Defendant/Judgment Debtor

[Signature]

Recorded at the request of

Hobbs & OLSON

3:10
a.m. SEP 23 2005 p.m.

V. ELLIOTT LARSEN, RECORDER
By Shauna Geddes Deputy
FRANKLIN COUNTY, IDAHO

EXHIBIT "E"

230638

Recorded at the request of

HOBBS & OLSON

Mail Tax Notice To:
Gordon & Linda Jones
235 West 1400 North, Bountiful, UT 84010

_____ a.m. JUL 29 2005 p.m. 2:45

V. ELLIOTT LARSEN, RECORDER
By Shauna Geddes Deputy
FRANKLIN COUNTY, IDAHO

QUIT-CLAIM DEED

J&J LIVESTOCK L.L.C., Grantor of Davis County, State of Utah, hereby QUIT CLAIMS to GORDON A. JONES and LINDA G. JONES, husband and wife, for the sum of TEN DOLLARS AND OTHER GOOD AND VALUABLE CONSIDERATION, the following described tract of land in Franklin County, State of Idaho:

COMMENCING AT A POINT 53-3/4 RODS NORTH OF THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF SECTION 35, TOWNSHIP 14 SOUTH, RANGE 38 EAST OF THE BOISE MERIDIAN, FRANKLIN COUNTY, IDAHO, AND RUNNING THENCE WEST 240 RODS, THENCE NORTH 53-3/4 RODS, THENCE EAST 240 RODS; THENCE SOUTH 53-3/4 RODS TO THE PLACE OF BEGINNING.

EXCEPTING AND RESERVING A RIGHT-OF-WAY FOR ANY AND ALL IRRIGATION DITCHES AND CANALS, AND PUBLIC ROADS NOW EXISTING OR IN USE UPON AND ACROSS SAID PREMISES, AND EXCEPTING AND RESERVING THEREFROM A STRIP OF LAND 3 RODS WIDE ALONG THE EAST SIDE OF THE ABOVE-DESCRIBED LAND.

ALSO, THE SOUTH HALF OF THE SOUTHWEST QUARTER, THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER, AND THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 34, TOWNSHIP 14 SOUTH, RANGE 38 EAST OF THE BOISE MERIDIAN, FRANKLIN COUNTY, IDAHO.

TOGETHER WITH 36 SHARES OF THE CAPITAL STOCK OF TWIN LAKES CANAL COMPANY.

TAX SERIAL NO:
ADDRESS:

SUBJECT TO easements, restrictions, covenants and rights of way appearing of record or enforceable in law or equity.

WITNESS the hand of said Grantor(s) this 15 day of July, 2005.

J&J LIVESTOCK L.L.C.

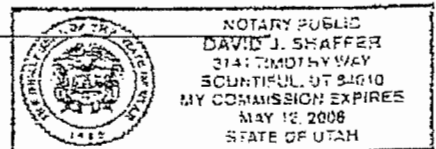
Gordon A. Jones
By: GORDON A. JONES, Manager

Linda G. Jones
By: LINDA G. JONES, Manager

STATE OF UTAH :
: 55 :
COUNTY OF DAVIS :

On the 15 day of July, 2005, personally appeared before me GORDON A. JONES and LINDA G. JONES as managers of J&J LIVESTOCK, L.L.C., who duly acknowledged they are the signers of the foregoing Deed.

David J. Shaffer
NOTARY PUBLIC



C:\OFFICE\BANKING\MONROE\2005\230638

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EXHIBIT "F"

230848

NOTICE OF INTEREST

NOTICE IS HEREBY GIVEN by JASON JONES that he claims an interest in and to the hereinafter described real property. This claim of interest is based upon improvements made, payments made and services rendered on the property. The agreed upon arrangement was that the undersigned would receive a portion of the property for compensation for the work performed.

The real property is located in Franklin County, State of Idaho, and more particularly described as follows: *owned by Gordon and Linda Jones*

COMMENCING AT A POINT 53-3/4 RODS NORTH OF THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF SECTION 35, TOWNSHIP 14 SOUTH, RANGE 38 EAST OF THE BOISE MERIDIAN, FRANKLIN COUNTY, IDAHO, AND RUNNING THENCE WEST 240 RODS, THENCE NORTH 53-3/4 RODS, THENCE EAST 240 RODS; THENCE SOUTH 53-3/4 RODS TO THE PLACE OF BEGINNING.

EXCEPTING AND RESERVING A RIGHT-OF-WAY FOR ANY AND ALL IRRIGATION DITCHES AND CANALS, AND PUBLIC ROADS NOW EXISTING OR IN USE UPON AND ACROSS SAID PREMISES, AND EXCEPTING AND RESERVING THEREFROM A STRIP OF LAND 3 RODS WIDE ALONG THE EAST SIDE OF THE ABOVE-DESCRIBED LAND.

ALSO, THE SOUTH HALF OF THE SOUTHWEST QUARTER, THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER, AND THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 34, TOWNSHIP 14 SOUTH, RANGE 38 EAST OF THE BOISE MERIDIAN, FRANKLIN COUNTY, IDAHO.

DATED this 12 day of August, 2005.

[Signature]
JASON JONES

Recorded at the request of

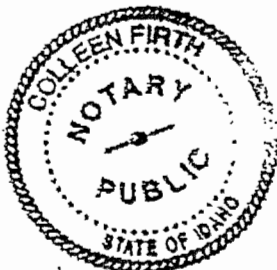
Jason Jones

 a.m. AUG 12 2005 p.m. 4:50

STATE OF IDAHO :
 : ss :
COUNTY OF FRANKLIN :

V. ELLIOTT LARSEN, RECORDER
By Carville Larsen Deputy
FRANKLIN COUNTY, IDAHO

SUBSCRIBED and sworn to before me this 12 day of August, 2005.



Colleen Firth
NOTARY PUBLIC *exp 06/10/2011*

EXHIBIT "G"

(Official Form 1) (10/05)

United States Bankruptcy Court District of Utah		Voluntary Petition
Name of Debtor (if individual, enter Last, First, Middle): Jones, Gordon A.		Name of Joint Debtor (Spouse) (Last, First, Middle):
All Other Names used by the Debtor in the last 8 years (include married, maiden, and trade names): Gordon Jones Construction, L.C. Gordon A. Jones d/b/a J & J Livestock		All Other Names used by the Joint Debtor in the last 8 years (include married, maiden, and trade names):
Last four digits of Soc. Sec. No. / Complete EIN or other Tax I.D. No. (if more than one, state all): [REDACTED]		Last four digits of Soc. Sec. No. / Complete EIN or other Tax I.D. No. (if more than one, state all):
Street Address of Debtor (No. & Street, City, and State) 235 West 1400 North Bountiful, Utah		Street Address of Joint Debtor (No. & Street, City, and State):
ZIPCODE 84010		ZIPCODE
County of Residence or of the Principal Place of Business: Davis		County of Residence or of the Principal Place of Business:
Mailing Address of Debtor (if different from street address):		Mailing Address of Joint Debtor (if different from street address):
ZIPCODE		ZIPCODE
Location of Principal Assets of Business Debtor (if different from street address above):		ZIPCODE
Type of Debtor (Form of Organization) (Check one box.) <input checked="" type="checkbox"/> Individual (includes Joint Debtors) <input type="checkbox"/> Corporation (includes LLC and LLP) <input type="checkbox"/> Partnership <input type="checkbox"/> Other (If debtor is not one of the above entities, check this box and provide the information requested below.) State type of entity:	Nature of Business (Check all applicable boxes) <input type="checkbox"/> Health Care Business <input type="checkbox"/> Single Asset Real Estate as defined in 11 U.S.C. § 101(51B) <input type="checkbox"/> Railroad <input type="checkbox"/> Stockbroker <input type="checkbox"/> Commodity Broker <input type="checkbox"/> Clearing Bank <input type="checkbox"/> Nonprofit Organization qualified under 26 U.S.C. § 501(c)(3)	Chapter or Section of Bankruptcy Code Under Which the Petition is Filed (Check one box) <input checked="" type="checkbox"/> Chapter 7 <input type="checkbox"/> Chapter 11 <input type="checkbox"/> Chapter 15 Petition for Recognition of a Foreign Main Proceeding <input type="checkbox"/> Chapter 9 <input type="checkbox"/> Chapter 12 <input type="checkbox"/> Chapter 15 Petition for Recognition of a Foreign Nonmain Proceeding <input type="checkbox"/> Chapter 13
Filing Fee (Check one box) <input checked="" type="checkbox"/> Full Filing Fee Attached <input type="checkbox"/> Filing Fee to be paid in installments (Applicable to individuals only). Must attach signed application for the court's consideration certifying that the debtor is unable to pay fee except in installments. Rule 1006(b) See Official Form 3A <input type="checkbox"/> Filing Fee waiver requested (Applicable to chapter 7 individuals only). Must attach signed application for the court's consideration. See Official Form 3B.		Nature of Debts (Check one box) <input type="checkbox"/> Consumer/Non-Business <input checked="" type="checkbox"/> Business
Statistical/Administrative Information <input checked="" type="checkbox"/> Debtor estimates that funds will be available for distribution to unsecured creditors. <input type="checkbox"/> Debtor estimates that, after any exempt property is excluded and administrative expenses paid, there will be no funds available for distribution to unsecured creditors.		THIS SPACE IS FOR COURT USE ONLY
Estimated Number of Creditors 1-49 50-99 100-199 200-999 1,000-5,000 5,001-10,000 10,001-25,000 25,001-50,000 50,001-100,000 OVER 100,000 <input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>		
Estimated Assets \$0 to \$50,000 \$50,001 to \$100,000 \$100,001 to \$500,000 \$500,001 to \$1 million \$1,000,001 to \$10 million \$10,000,001 to \$50 million \$50,000,001 to \$100 million More than \$100 million <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>		
Estimated Debts \$0 to \$50,000 \$50,001 to \$100,000 \$100,001 to \$500,000 \$500,001 to \$1 million \$1,000,001 to \$10 million \$10,000,001 to \$50 million \$50,000,001 to \$100 million More than \$100 million <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>		

(Official Form 1) (10/05)

FORM B1, Page 2

Voluntary Petition <i>(This page must be completed and filed in every case)</i>		Name of Debtor(s): Gordon A. Jones					
Prior Bankruptcy Case Filed Within Last 8 Years (If more than one, attach additional sheet)							
Location Where Filed: <i>N/A</i>		Case Number:	Date Filed:				
Pending Bankruptcy Case Filed by any Spouse, Partner or Affiliate of this Debtor (If more than one, attach additional sheet)							
Name of Debtor: <i>N/A</i>		Case Number:	Date Filed:				
District:		Relationship:	Judge:				
<p style="text-align: center;">Exhibit A</p> <p><small>(To be completed if debtor is required to file periodic reports (e.g., forms 10K and 10Q) with the Securities and Exchange Commission pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 and is requesting relief under chapter 11)</small></p> <p><input type="checkbox"/> Exhibit A is attached and made a part of this petition.</p>		<p style="text-align: center;">Exhibit B</p> <p><small>(To be completed if debtor is an individual whose debts are primarily consumer debts)</small></p> <p>I, the attorney for the petitioner named in the foregoing petition, declare that I have informed the petitioner that [he or she] may proceed under chapter 7, 11, 12, or 13 of title 11, United States Code, and have explained the relief available under each such chapter. I further certify that I have delivered to the debtor the notice required by § 342(b) of the Bankruptcy Code.</p> <p>X Not Applicable</p> <table style="width:100%; border: none;"> <tr> <td style="border: none;"><small>Signature of Attorney for Debtor(s)</small></td> <td style="border: none;"><small>Date</small></td> </tr> <tr> <td style="border: none;">Robert B. Lochhead</td> <td style="border: none;">1986</td> </tr> </table>		<small>Signature of Attorney for Debtor(s)</small>	<small>Date</small>	Robert B. Lochhead	1986
<small>Signature of Attorney for Debtor(s)</small>	<small>Date</small>						
Robert B. Lochhead	1986						
<p style="text-align: center;">Exhibit C</p> <p>Does the debtor own or have possession of any property that poses or is alleged to pose a threat of imminent and identifiable harm to public health or safety?</p> <p><input type="checkbox"/> Yes, and Exhibit C is attached and made a part of this petition.</p> <p><input checked="" type="checkbox"/> No</p>		<p style="text-align: center;">Certification Concerning Debt Counseling by Individual/Joint Debtor(s)</p> <p><input checked="" type="checkbox"/> I/we have received approved budget and credit counseling during the 180-day period preceding the filing of this petition.</p> <p><input type="checkbox"/> I/we request a waiver of the requirement to obtain budget and credit counseling prior to filing based on exigent circumstances (Must attach certification describing.)</p>					
Information Regarding the Debtor (Check the Applicable Boxes)							
Venue (Check any applicable box)							
<p><input checked="" type="checkbox"/> Debtor has been domiciled or has had a residence, principal place of business, or principal assets in this District for 180 days immediately preceding the date of this petition or for a longer part of such 180 days than in any other District.</p> <p><input type="checkbox"/> There is a bankruptcy case concerning debtor's affiliate, general partner, or partnership pending in this District.</p> <p><input type="checkbox"/> Debtor is a debtor in a foreign proceeding and has its principal place of business or principal assets in the United States in this District, or has no principal place of business or assets in the United States but is a defendant in an action or proceeding [in a federal or state court] in this District, or the interests of the parties will be served in regard to the relief sought in this District.</p>							
Statement by a Debtor Who Resides as a Tenant of Residential Property							
<i>Check all applicable boxes.</i>							
<p><input type="checkbox"/> Landlord has a judgment against the debtor for possession of debtor's residence. (If box checked, complete the following).</p> <p style="text-align: center;">_____</p> <p style="text-align: center;"><small>(Name of landlord that obtained judgment)</small></p> <p style="text-align: center;">_____</p> <p style="text-align: center;"><small>(Address of landlord)</small></p> <p><input type="checkbox"/> Debtor claims that under applicable nonbankruptcy law, there are circumstances under which the debtor would be permitted to cure the entire monetary default that gave rise to the judgment for possession, after the judgment for possession was entered, and</p> <p><input type="checkbox"/> Debtor has included in this petition the deposit with the court of any rent that would become due during the 30-day period after the filing of this petition.</p>							

(Official Form 1) (10/05)

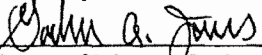
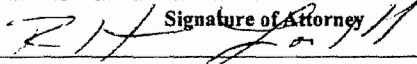
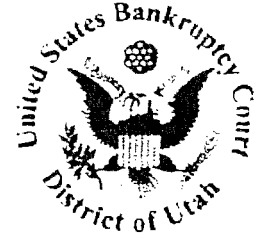
<p>Voluntary Petition <i>(This page must be completed and filed in every case)</i></p>	<p>Name of Debtor(s): Gordon A. Jones</p>
Signatures	
<p>Signature(s) of Debtor(s) (Individual/Joint)</p> <p>I declare under penalty of perjury that the information provided in this petition is true and correct. [If petitioner is an individual whose debts are primarily consumer debts and has chosen to file under chapter 7] I am aware that I may proceed under chapter 7, 11, 12 or 13 of title 11, United States Code, understand the relief available under each such chapter, and choose to proceed under chapter 7. [If no attorney represents me and no bankruptcy petition preparer signs the petition]- I have obtained and read the notice required by § 342(b) of the Bankruptcy Code.</p> <p>I request relief in accordance with the chapter of title 11, United States Code, specified in this petition.</p> <p><input checked="" type="checkbox"/> <u></u> Signature of Debtor Gordon A. Jones</p> <p><input checked="" type="checkbox"/> Not Applicable Signature of Joint Debtor</p> <p>_____ Telephone Number (If not represented by attorney)</p> <p>_____ Date</p>	<p>Signature of a Foreign Representative of a Recognized Foreign Proceeding</p> <p>I declare under penalty of perjury that the information provided in this petition is true and correct, that I am the foreign representative of a debtor in a foreign main proceeding, and that I am authorized to file this petition. A certified copy of the order granting recognition is attached.</p> <p><input checked="" type="checkbox"/> _____ (Signature of Foreign Representative)</p> <p>_____ (Printed Name of Foreign Representative)</p> <p>_____ Date</p>
<p><input checked="" type="checkbox"/> <u></u> Signature of Attorney for Debtor(s)</p> <p>Robert B. Lochhead, 1986 Printed Name of Attorney for Debtor(s) / Bar No.</p> <p>Parr Waddoups Brown Gee & Loveless Firm Name</p> <p>185 South State Street Suite 1300 Address</p> <p>Salt Lake City, UT 84111</p> <p>(801) 532-7840 (801) 532-7750 Telephone Number</p> <p>_____ Date</p>	<p>Signature of Non-Attorney Petition Preparer</p> <p>I declare under penalty of perjury that: 1) I am a bankruptcy petition preparer as defined in 11 U.S.C. § 110; 2) I prepared this document for compensation and have provided the debtor with a copy of this document and the notices and information required under 11 U.S.C. §§110(b), 110(h), and 342(b); and, 3) if rules or guidelines have been promulgated pursuant to 11 U.S.C. §110 setting a maximum fee for services chargeable by bankruptcy petition preparers, I have given the debtor notice of the maximum amount before preparing any document for filing for a debtor or accepting any fee from the debtor, as required in that section. Official Form 19B is attached.</p> <p><input checked="" type="checkbox"/> Not Applicable Printed Name and title, if any, of Bankruptcy Petition Preparer</p> <p>_____</p> <p>_____ Address</p>
<p>Signature of Debtor (Corporation/Partnership)</p> <p>I declare under penalty of perjury that the information provided in this petition is true and correct, and that I have been authorized to file this petition on behalf of the debtor.</p> <p>The debtor requests relief in accordance with the chapter of title 11, United States Code, specified in this petition.</p> <p><input checked="" type="checkbox"/> Not Applicable Signature of Authorized Individual</p> <p>_____ Printed Name of Authorized Individual</p> <p>_____ Title of Authorized Individual</p> <p>_____ Date</p>	<p><input checked="" type="checkbox"/> Not Applicable Signature of Bankruptcy Petition Preparer or officer, principal, responsible person, or partner whose social security number is provided above.</p> <p>Names and Social Security numbers of all other individuals who prepared or assisted in preparing this document unless the bankruptcy petition preparer is not an individual:</p> <p>_____ If more than one person prepared this document, attach additional sheets conforming to the appropriate official form for each person.</p> <p><i>A bankruptcy petition preparer's failure to comply with the provisions of title 11 and the Federal Rules of Bankruptcy Procedure may result in fines or imprisonment or both 11 U.S.C. §110; 18 U.S.C. §156.</i></p>

EXHIBIT "H"

The below described is SIGNED.



Judith A. Boulden

Dated: April 19, 2007

JUDITH A. BOULDEN
U.S. Bankruptcy Judge

Peter W. Billings, A0330
FABIAN & CLENDENIN
A Professional Corporation
Twelfth Floor
215 South State Street
P.O. Box 510210
Salt Lake City, Utah 84151
Telephone: 531-8900
e-mail: pbillings@fabianlaw.com

Attorneys for Gary E. Jubber, Chapter 7 Bankruptcy Trustee

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Salt Lake City, UT 84111
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Facsimile: (801) 532-1813
e-mail: julie@crslaw.com

Attorneys for Allen F. Grazer

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

In re:)	Bankruptcy No. 06-21277 JAB
)	(Chapter 7)
GORDON A. JONES,)	
)	ORDER APPROVING SETTLEMENT
Debtor.)	AGREEMENT AND AUTHORIZING
)	TRUSTEE'S ABANDONMENT OF
)	PROPERTY OF ESTATE
)	
)	

The Trustee's Motion to Approve Settlement Agreement and For Order

Authorizing Abandonment of Property of Estate filed by Gary E. Jubber, Chapter 7 Trustee ("Trustee") on February 16, 2007 ("Motion") came on for hearing before the Honorable Judith A. Boulden on March 28, 2007. Peter W. Billings, Fabian & Clendenin, appeared on behalf of the Trustee. Joseph M.R. Covey, Parr, Waddoups, Brown, Gee & Loveless appeared for the Debtor. Julie A. Bryan, Cohne, Rappaport & Segal and Lincoln W. Hobbs, Hobbs & Olson appeared for Allen Grazer. David J. Shaffer, Shaffer Law Offices, P.C. appeared for the Estate of Richard Barney. Other appearances, if any, were noted on the record

The Court having reviewed the pleadings on file, admitting evidence and hearing arguments presented, entered detailed findings of fact and conclusions of law on the record, which findings and conclusions are incorporated herein, and include, but are not limited to, the following:

FINDINGS AND CONCLUSIONS:

1. Gordon A. Jones, d/b/a J&J Livestock, d/b a Gordon Jones Construction, L.C. (the "Debtor") filed a voluntary petition under Chapter 7 of the Bankruptcy Code on April 18, 2006, commencing Case Number 06-21277 (the "Bankruptcy Case") in the United States Bankruptcy Court for the District of Utah ("Bankruptcy Court"). Gary Jubber (the "Trustee") is the duly appointed and acting Chapter 7 Trustee of the Debtor's bankruptcy estate.
2. That notice of the Motion and the hearing thereon was properly given to the Debtor and all parties-in-interest as required under the Bankruptcy Code or the Federal Rules of Bankruptcy Procedure.

3. Objections to the Motion were filed by the Debtor and by the Estate of Richard Barney. The Objections are overruled.
4. The Settlement Agreement was negotiated at arms' length and in good faith.
5. The Trustee's entry into the Settlement Agreement as a fair, reasonable and proper exercise of the Trustee's business judgment.
6. The Settlement Agreement and the relief requested in the Motion are reasonable, fair, equitable and in the best interest of the estate and its creditors.
7. That in considering this matter, the Court has reviewed and applied the standards set forth in the case of In re Kopexa Realty Venture Co., 213 B.R. 1020, 1022 (10th Cir. BAP 1997).

IT IS HEREBY ORDERED:

1. The Motion is granted and the Settlement Agreement is approved;
2. The Trustee is authorized to execute such documents as may be necessary and appropriate to effect, implement and consummate the Settlement Agreement. Except for the reserves set forth in the Settlement Agreement, the Trustee is authorized to abandon all property of the estate, as provided in the Settlement Agreement, and Grazer shall be deemed to have relief from the stay to pursue any and all state court remedies with respect to such property. Upon the Effective Date of the Settlement Agreement, the property that has been abandoned or for which Grazer has obtained relief from stay shall no longer be considered property of the Debtor's bankruptcy estate. Grazer shall be entitled to fully pursue all his rights and claims against the

aforesaid property in any State or Federal Court what would have jurisdiction absent the filing of the Debtor's bankruptcy; and

3. The property abandoned and/or for which Grazer has obtained relief from the automatic stay shall include but not be limited to the following:

A. **Estate's Interests in real property (along with all improvements and fixtures attached thereto), including, but not limited to the following:**

- (i) The Mountain View Apartments of Farmington located at 175 East State Street, Farmington, Utah (the "Apartments"), more particularly described as follows:

BEGINNING AT A POINT 82.50 FEET WEST ALONG THE NORTH LINE OF A STREET FROM THE SOUTHEAST CORNER OF LOT 1, BLOCK 12, PLAT "A", FARMINGTON TOWNSITE SURVEY, IN THE CITY OF FARMINGTON, THENCE WEST 32.5 FEET; THENCE NORTH 00°04'38" WEST 65.00 FEET; THENCE NORTH 45°02'19" WEST 42.46 FEET; THENCE WEST 85.00 FEET TO THE WEST LINE OF PROPERTY CONVEYED IN WARRANTY DEED IN BOOK 984 AT PAGE 838 IN THE RECORDS OF DAVIS COUNTY, UTAH; THENCE NORTH 00°04'38" WEST 153.86 FEET, MORE OR LESS, TO THE NORTH LINE OF LOT 2 OF SAID BLOCK 12; THENCE NORTH 89°59'37" EAST 263.00 FEET ALONG SAID NORTH LINE OF LOT 2 TO THE WEST LINE OF A STREET; THENCE SOUTH 00°04'38" EAST 156.00 FEET ALONG SAID STREET; THENCE WEST 115.00 FEET; MORE OR LESS, TO THE WEST LINE OF THE EAST HALF OF SAID LOT 1; THENCE SOUTH 00°04'38" EAST 92.89 FEET TO THE POINT OF BEGINNING.

PARCEL NO. 07-031-0075

Parcels of real property located in Davis County, Utah, including:

Tax Parcel I.D. No. 06-027-0006, with the following legal description:

A PART OF THE SOUTHEAST QUARTER OF SECTION 14, TOWNSHIP 2 NORTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN: BEGINNING AT A POINT ON THE SOUTH RIGHT OF WAY LINE OF AN EXISTING GRAVEL ROAD, SAID POINT BEING SOUTH 68.33 FEET AND EAST 33 FEET; FT CENTER OF SAID SECTION 14, THENCE NORTH 89°43'58" EAST ALONG AN EXISTING FENCE 166.0 FEET; THENCE SOUTH 0°21'31" EAST 502.14 FEET; THENCE WEST 169.17 FEET TO AN EXISTING FENCE; THENCE ALONG SAID EXISTING FENCE 501.35 FEET TO THE POINT OF BEGINNING.

("West Bountiful Parcel 6").

- (iii) Two Tax Parcel Nos. 06-027-01 17, 0123 (fka 06-027-0007) and 06-027-01 16, 0122, 0123 (fka 06-027-0008), with the following legal descriptions:

A PART OF SOUTHEAST QUARTER OF SECTION 14, TOWNSHIP 2 NORTH, RANGE 1 WEST, SALT LAKE MERIDIAN DESCRIBED AS FOLLOWS: BEGINNING AT A POINT ON THE SOUTH RIGHT OF WAY LINE OF AN EXISTING GRAVEL ROAD, SAID POINT BEING SOUTH 68.33 FEET AND EAST 33 FEET AND NORTH 89°43'58" EAST 166.02 FEET FROM CENTER OF SAID SECTION 14, THENCE NORTH 89°43'58" EAST ALONG AN EXISTING FENCE 100 FEET; THENCE SOUTH 00°21'31" EAST 502.61 FEET; THENCE WEST 100 FEET; THENCE NORTH 502.14 FEET TO THE POINT OF BEGINNING. (Parcel No. 06-027-0117, 0123 (fka 06-027-0007))

A PART OF SOUTHEAST QUARTER OF SECTION 14, TOWNSHIP 2 NORTH, RANGE 1 WEST, SALT LAKE MERIDIAN; BEGINNING ON SAID RIGHT OF WAY LINE OF AN EXISTING GRAVEL ROAD SAID POINT BEING SOUTH 68.33 FEET AND EAST 33 FEET AND NORTH 89°43'58" EAST ALONG AN EXISTING FENCE 366.02 FEET FROM CENTER OF SAID SECTION 14, THENCE SOUTH 89°43'58" WEST ALONG AN EXISTING FENCE 100 FEET; THENCE SOUTH 0°21'31" EAST 502.61 FEET; THENCE EAST 100 FEET; THENCE NORTH 0°21'31" WEST 503.08 FEET TO THE POINT OF BEGINNING.

(Parcel No. 06-027-01 16, 0122, 0123 (fka 06-027-0008))

("West Bountiful Parcels 7 and 8"); and

- (iv) Tax Parcel No. 06-027-01 18, 024, 0125 (fka 06-027-0009), with the following legal description:

A PART OF THE SOUTHEAST QUARTER OF SECTION 14, TOWNSHIP 2 NORTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, DESCRIBED AS FOLLOWS: BEGINNING AT A POINT ON THE SOUTH RIGHT OF WAY LINE OF AN EXISTING GRAVEL ROAD, SAID POINT BEING SOUTH 68.33 FEET AND EAST 399.02 FEET FROM THE CENTER OF SAID SECTION 14 AND RUNNING THENCE NORTH 89°43'58" EAST ALONG AN EXISTING FENCE 100 FEET; THENCE SOUTH 0°21'31" EAST 503.55 FEET; THENCE WEST 100 FEET; THENCE NORTH 0°21'31" WEST 503.08 FEET TO THE POINT OF BEGINNING. (Parcel No. 06-027-01 18, 024, 0125 (fka 06-027-0009))

("West Bountiful Parcel 9").

- (v) Real property located in Sanpete County, Utah, more particularly described as follows: LOT 3, SEC J, INDIAN RIDGE RANCH, CONT. 1.13 AC
- (vii) Real property and improvements located at or about 3369 No. Westside Hwy, Clifton, Idaho (the "Idaho Ranch"), more particularly described as follows:

COMMENCING AT A POINT 53-3/4 RODS NORTH OF THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF SECTION 35, TOWNSHIP 14 SOUTH, RANGE 38 EAST OF THE BOISE MERIDIAN, FRANKLIN COUNTY, IDAHO, AND RUNNING THENCE WEST 240 RODS, THENCE NORTH 53-3/4 RODS, THENCE EAST 240 RODS; THENCE SOUTH 53-3/4 RODS TO THE PLACE OF BEGINNING.

EXCEPTING AND RESERVING A RIGHT-OF-WAY FOR ANY AND ALL IRRIGATION DITCHES AND CANALS, AND PUBLIC ROADS NOW EXISTING OR IN USE UPON AND ACROSS SAID PREMISES, AND

EXCEPTING AND RESERVING THEREFROM A STRIP OF LAND 3 RODS WIDE ALONG THE EAST SIDE OF THE ABOVE-DESCRIBED LAND.

ALSO, THE SOUTH HALF OF THE SOUTHWEST QUARTER, THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER, AND THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 34, TOWNSHIP 14 SOUTH, RANGE 38 EAST OF THE BOISE MERIDIAN, FRANKLIN COUNTY, IDAHO.

TOGETHER WITH 36 SHARES OF THE CAPITAL STOCK OF TWIN LAKES CANAL COMPANY.

TAX SERIAL NO:
ADDRESS:

SUBJECT TO easements, restrictions, covenants and rights of way appearing of record or enforceable in law or equity.

B. **Personal Property or intangibles of the Debtor's bankruptcy estate of any kind whatsoever including but not limited to:**

- (i) accounts receivable;
- (ii) vehicles and equipment that have not been liquidated as part of the Debtors bankruptcy estate.
- (iii) The interest of the Debtor in any entity which the Debtor held (and may still hold) including but not limited to Gordon Jones Construction LLC.

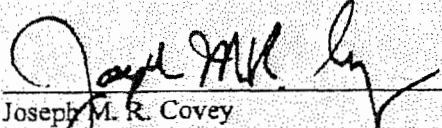
C. Causes of Action or Claims including but not limited to:

- (i) A fraudulent transfer action against Gordon A. Jones, Linda G. Jones, and J&J Livestock, LLC in the Sixth Judicial District Court in and for Franklin County, Idaho, commencing Civil Action No. CV-2005-183 (the "Idaho Fraudulent Conveyance Action"). The Idaho Fraudulent Conveyance Action which may now be pursued by Grazer in the Idaho Court in which it was filed or in any other Court with proper jurisdiction.
- (ii) An action in the Second District Court of Davis County, State of Utah against the Debtor, Linda G. Jones, Richard Barney and Renae Carnon Barney, and the Linda G. Jones Family Partnership, which causes of action were amended in the Amended Complaint dated January 5, 2006 against these Defendants and Jason Jones; GS Jones Construction, Inc.; J&J Livestock, LLC; Cheryl J. Gudmundson; G. Scott Jones; Richillyn Woodin, and Rochelle C. Barney (the "Utah Fraudulent Transfer Action"). The Utah Fraudulent Transfer Action may be pursued by Grazer in the Utah Second District Court of Davis County in which it was filed or in any other Court with proper jurisdiction.
- (iii) Fraudulent Conveyance Actions or any other action that could have been filed by a creditor prior to the filing of the Debtors bankruptcy case, or by the Trustee after the filing of the Debtor's bankruptcy case, to recover property owed to the Debtor or transferred to third parties by the Debtor. Such actions may be pursued by Grazer in any court with proper jurisdiction.

4. The Trustee shall dismiss Adversary Proceeding No 06-2449 filed by the Trustee.

Dismissal of that adversary proceeding shall in no way affect or prejudice the claims or causes of action for denial of discharge under 11 U.S.C. §§ 523 and 727 set forth by Grazer against the Debtor in Adversary Proceeding No. 06-02411.

APPROVED AS TO FORM:



Joseph M. R. Covey
Parr Waddoups Brown Gee & Loveless
Attorneys for Debtor, Gordon A. Jones

David J. Shaffer
Attorneys for Richard Barney

[END OF DOCUMENT]

APPROVED AS TO FORM:

Joseph M. R. Covey
Parr Waddoups Brown Gee & Loveless
Attorneys for Debtor, Gordon A. Jones



David J. Shaffer
Attorneys for Richard Barney

[END OF DOCUMENT]

CLERK OF THE COURT CERTIFICATE OF MAILING

The undersigned hereby certifies that a true and correct executed copy of the foregoing **ORDER APPROVING SETTLEMENT AGREEMENT AND AUTHORIZING TRUSTEE'S ABANDONMENT OF PROPERTY OF ESTATE** was mailed, postage fully prepaid, this _____ day of April, 2007 to the following:

United States Trustee
Ken Garff Building
405 South Main Street
Suite 300
Salt Lake City, UT 84111

Peter W. Billings
Gary E. Jubber
P.O. Box 510210
Salt Lake City, UT 84151

Gordon A. Jones
235 West 1400 North
Bountiful, UT 84010

Joseph M. R. Covey
Parr Waddoups Brown Gee & Loveless
185 South State Street
Suite 1300
Salt Lake City, UT 84111-1536

Linda G. Jones
235 West 1400 North
Bountiful, UT 84010

Julie Bryan
Cohne, Rappaport & Segal
257 E. 200 S., Ste. 700
Salt Lake City, UT 84111

Lincoln W. Hobbs
Hobbs & Olson
466 East 500 South
Suite 300
Salt Lake City, UT 84111

David J. Shaffer
Key Bank Building
562 South Main Street
Bountiful, UT 84010

EXHIBIT "I"

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT is made and entered into as of the 31st day of January 2007, by and between Gary E. Jubber (the "Trustee"), Trustee of the Chapter 7 Bankruptcy Estate of Gordon A. Jones, d/b/a J&J Livestock, d/b/a Gordon Jones Construction, L.C. Case No. 06-21277, and Allen F. Grazer ("Grazer"). The foregoing are individually referred to as "Party" and collectively referred to as the "Parties."

RECITALS

- A. Gordon A. Jones, d/b/a J&J Livestock, d/b/a Gordon Jones Construction, L.C. (the "Debtor") filed a voluntary petition under Chapter 7 of the Bankruptcy Code on April 18, 2006, commencing Case Number 06-21277 (the "Bankruptcy Case") in the United States Bankruptcy Court for the District of Utah ("Bankruptcy Court"). The Trustee is the duly appointed and acting Chapter 7 Trustee of the Debtor's bankruptcy estate.
- B. The Debtor's bankruptcy estate holds, formerly held, or may hold, an interest in real property (along with all improvements and fixtures attached thereto), including, but not limited to the following;

- (i) A condominium located at 175 East State Street, Bountiful, Utah (the "Maple Hills Condominium"), more particularly described as follows:

1851 MAPLE VIEW DRIVE BOUNTIFUL
UNIT 106, RIDGEWOOD OF MAPLE HILLS COND PHASE V.
TAX SERIAL NO.: 05-087-0106

- (ii) A residence located at 235 West 1400 North, Farmington, Utah (the "Residence"), more particularly described as follows:

All of Lot 147 Bay, View Park Subdivision, Plat E, according to the official plat thereof

TAX SERIAL NO.: 03-013-0147

ADDRESS: 235 West 1400 North Bountiful, Utah 84010

SUBJECT TO easements, restrictions, covenants and rights of way appearing of record or enforceable in law or equity.

- (iii) The Mountain View Apartments of Farmington located at 175 East State Street, Farmington, Utah (the "Apartments"), more particularly described as follows:

BEGINNING AT A POINT 82.50 FEET WEST ALONG THE NORTH LINE OF A STREET FROM THE SOUTHEAST CORNER OF LOT 1, BLOCK 12, PLAT "A", FARMINGTON TOWNSITE SURVEY, IN THE CITY OF FARMINGTON, THENCE WEST 32.5 FEET; THENCE NORTH 00°04'38" WEST 65.00 FEET; THENCE NORTH 45°02'19" WEST 42.46 FEET; THENCE WEST 85.00 FEET TO THE WEST LINE OF PROPERTY CONVEYED IN WARRANTY DEED IN BOOK 984 AT PAGE 838 IN THE RECORDS OF DAVIS COUNTY, UTAH; THENCE NORTH 00°04'38" WEST 153.86 FEET, MORE OR LESS, TO THE NORTH LINE OF LOT 2 OF SAID BLOCK 12; THENCE NORTH 89°59'37" EAST 263.00 FEET ALONG SAID NORTH LINE OF LOT 2 TO THE WEST LINE OF A STREET; THENCE SOUTH 00°04'38" EAST 156.00 FEET ALONG SAID STREET; THENCE WEST 115.00 FEET; MORE OR LESS, TO THE WEST LINE OF THE EAST HALF OF SAID LOT 1; THENCE SOUTH 00°04'38" EAST 92.89 FEET TO THE POINT OF BEGINNING.
PARCEL NO. 07-031-0075

- (iv) Parcels of real property located in Davis County, Utah, including:

- (a) Tax Parcel I.D. No. 06-027-0006, with the following legal

description:

A PART OF THE SOUTHEAST QUARTER OF SECTION 14, TOWNSHIP 2 NORTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN: BEGINNING AT A POINT ON THE SOUTH RIGHT OF WAY LINE OF AN EXISTING GRAVEL ROAD, SAID POINT BEING SOUTH 68.33 FEET AND EAST 33 FEET; FT CENTER OF SAID SECTION 14, THENCE NORTH 89°43'58" EAST ALONG AN EXISTING FENCE 166.0 FEET; THENCE SOUTH 0°21'31" EAST 502.14 FEET; THENCE WEST 169.17 FEET TO AN EXISTING FENCE; THENCE ALONG SAID EXISTING FENCE 501.35 FEET TO THE POINT OF BEGINNING.

("West Bountiful Parcel 6").

- (b) Two Tax Parcel Nos. 06-027-0117, 0123 (fka 06-027-

0007) and 06-027-0116, 0122, 0123 (fka 06-027-0008), with the following legal descriptions:

A PART OF SOUTHEAST QUARTER OF SECTION 14, TOWNSHIP 2 NORTH, RANGE 1 WEST, SALT LAKE MERIDIAN DESCRIBED AS FOLLOWS: BEGINNING AT A POINT ON THE SOUTH RIGHT OF WAY LINE OF AN EXISTING GRAVEL ROAD, SAID POINT BEING SOUTH 68.33 FEET AND EAST 33 FEET AND NORTH 89°43'58" EAST 166.02 FEET FROM CENTER OF SAID SECTION 14, THENCE NORTH 89°43'58" EAST ALONG AN EXISTING FENCE 100 FEET; THENCE SOUTH 0°21'31" EAST 502.61 FEET; THENCE WEST 100 FEET; THENCE NORTH 502.14 FEET TO THE POINT OF BEGINNING. (Parcel No. 06-027-0117, 0123 (fka 06-027-0007))

A PART OF THE SOUTHEAST QUARTER OF SECTION 14, TOWNSHIP 2 NORTH, RANGE 1 WEST, SALT LAKE MERIDIAN; BEGINNING ON SAID RIGHT OF WAY LINE OF AN EXISTING GRAVEL ROAD SAID POINT BEING SOUTH 68.33 FEET AND EAST 33 FEET AND NORTH 89°43'58" EAST ALONG AN EXISTING FENCE 366.02 FEET FROM CENTER OF SAID SECTION 14, THENCE SOUTH 89°43'58" WEST ALONG AN EXISTING FENCE 100 FEET; THENCE SOUTH 0°21'31" EAST 502.61 FEET; THENCE EAST 100 FEET; THENCE NORTH 0°21'31" WEST 503.08 FEET TO THE POINT OF BEGINNING. (Parcel No. 06-027-0116, 0122, 0123 (fka 06-027-0008))

("West Bountiful Parcels 7 and 8"); and

(c) Tax Parcel No. 06-027-0118, 024, 0125 (fka 06-027-0009),

with the following legal description:

A PART OF THE SOUTHEAST QUARTER OF SECTION 14, TOWNSHIP 2 NORTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, DESCRIBED AS FOLLOWS: BEGINNING AT A POINT ON THE SOUTH RIGHT OF WAY LINE OF AN EXISTING GRAVEL ROAD. SAID POINT BEING SOUTH 68.33 FEET AND EAST 399.02 FEET FROM THE CENTER

OF SAID SECTION 14 AND RUNNING THENCE NORTH 89°43'58" EAST ALONG AN EXISTING FENCE 100 FEET; THENCE SOUTH 0°21'31" EAST 503.55 FEET; THENCE WEST 100 FEET; THENCE NORTH 0°21'31" WEST 503.08 FEET TO THE POINT OF BEGINNING.

(Parcel No. 06-027-0118, 024, 0125 (fka 06-027-0009))

("West Bountiful Parcel 9").

- (v) Real property located in Sanpete County, Utah, more particularly described as follows:

LOT 3, SEC J, INDIAN RIDGE RANCH, CONT. 1.13 AC

- (vi) Real property and improvements located at or about 3369 No. Westside Hwy, Clifton, Idaho (the "Idaho Ranch"), more particularly described as follows:

COMMENCING AT A POINT 53-3/4 RODS NORTH OF THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF SECTION 35, TOWNSHIP 14 SOUTH, RANGE 38 EAST OF THE BOISE MERIDIAN, FRANKLIN COUNTY, IDAHO, AND RUNNING THENCE WEST 240 RODS, THENCE NORTH 53-3/4 RODS, THENCE EAST 240 RODS; THENCE SOUTH 53-3/4 RODS TO THE PLACE OF BEGINNING.

EXCEPTING AND RESERVING A RIGHT-OF-WAY FOR ANY AND ALL IRRIGATION DITCHES AND CANALS, AND PUBLIC ROADS NOW EXISTING OR IN USE UPON AND ACROSS SAID PREMISES, AND EXCEPTING AND RESERVING THEREFROM A STRIP OF LAND 3 RODS WIDE ALONG THE EAST SIDE OF THE ABOVE-DESCRIBED LAND.

ALSO, THE SOUTH HALF OF THE SOUTHWEST QUARTER, THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER, AND THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 34, TOWNSHIP 14 SOUTH, RANGE 38 EAST OF THE BOISE MERIDIAN, FRANKLIN COUNTY, IDAHO.

TOGETHER WITH 36 SHARES OF THE CAPITAL STOCK OF TWIN LAKES CANAL COMPANY.

TAX SERIAL NO:

ADDRESS:

SUBJECT TO easements, restrictions, covenants and rights of way appearing of record or enforceable in law or equity.

- C. The Trustee has recently learned that the Debtor's 70% interest in Gordon Jones Construction LLC ("Construction LLC") may possibly have some value. Investigation to date indicates that Construction LLC may have notes receivable in the face amount of approximately \$389,000. Of this face amount, an unknown portion is believed to be an obligation from the Debtor himself, and \$198,000 is purportedly owed by Mountain View Apartments. The obligation of Mountain View Apartments is either uncollectible due to Grazer's judgment lien or would reduce what is collectible from selling the Mountain View Apartments. In addition, \$82,000 of the notes receivable is a note from G. S. Jones Construction, Inc., which is owned by the Debtor's son and an unsecured creditor in this case. Based on investigation to date, the Trustee does not know whether any amounts can be collected on these notes, but is highly doubtful that a significant portion can be collected.
- D. At the time of the filing of the Bankruptcy Case, the Debtor disclosed an interest in various vehicles, equipment and other personal property located in Utah and Idaho, including a 1955 Ford T-Bird.
- E. On July 11, 2005, the Second Judicial District Court, Davis County, Utah, presiding over Case No. 02-0700570 (the "State Court Case"), entered Judgment which favored Grazer and against the Debtor and Richard Barney ("Barney") in the amount of \$1,886,727.87, plus pre- and post-judgment interest and reasonable costs and attorneys' fees expended in collection of the judgment after May 31, 2005 (the "Judgment"). Grazer has filed a proof of claim in the Debtor's bankruptcy estate, asserting that the Judgment has a balance owing of \$2,100,124.00, plus any applicable interest fees or costs as permitted by 11 U.S.C. § 506(b) (the "Grazer Claim").
- F. The Judgment and the Judgment Information Statement were recorded by the Davis County Recorder on July 18, 2005. As a result of that recording, Grazer asserts that he holds a judgment lien against all real property located in Davis County owned by the Debtor, including the Residence, the Maple Hills Condominium, the West Bountiful Lots and the Apartments.
- G. The Judgment was recorded by the Sanpete County Recorder on October 3, 2005. As a result of that recording, Grazer asserts that he holds a judgment lien against all real property owned by the Debtor located in

Sanpete County, including the Indianola Property.

- H. A Notice of Foreign Judgment was recorded in Franklin County, Idaho on August 5, 2005. The Judgment was recorded with Franklin County, Idaho Recorder on September 23, 2005. As a result of that recording, Grazer asserts that he holds a judgment lien against all real property owned by the Debtor in Franklin County, Idaho, including the Idaho Ranch.
- I. On or about October 4, 2005, Writs of Execution on the Judgment were served, which had been issued by the Court presiding over the State Court Action, on September 19, 2005, directing execution of all non-exempt personal property located in Salt Lake County, including the 1955 Ford T-Bird.
- J. Prior to the filing of the Bankruptcy Case, Grazer filed a fraudulent transfer action against Gordon A. Jones, Linda G. Jones, and J&J Livestock, LLC in the Sixth Judicial District Court in and for Franklin County, Idaho, commencing Civil Action No. CV-2005-183, which causes of action were amended in the proposed Amended Complaint pursuant to the court's Order to Amend dated January 22, 2005 against these Defendants and Jason Jones, (the "Idaho Fraudulent Transfer Action"). The Trustee removed the Idaho Fraudulent Conveyance Action to the Bankruptcy Court, but the action has been subsequently remanded back to state court.
- K. On or about August 5, 2005, Grazer commenced an action in the Second District Court of Davis County, State of Utah against the Debtor, Linda G. Jones, Richard Barney and Renae Carnon Barney, and the Linda G. Jones Family Partnership, which causes of action were amended in the Amended Complaint dated January 5, 2006 against these Defendants and Jason Jones; GS Jones Construction, Inc.; J&J Livestock, LLC; Cheryl J. Gudmundson; G. Scott Jones; Richilyn Woodin, and Rochelle C. Barney (the "Utah Fraudulent Transfer Action"). The Trustee removed the Utah Fraudulent Conveyance Action to the Bankruptcy Court, but the action has been subsequently remanded back to state court.
- L. Grazer believes that the Debtor has fraudulently transferred funds, personal property, and real property, in addition to the transfers referenced in the Utah Fraudulent Transfer Action and the Idaho Fraudulent Transfers Action (the "Other Fraudulent Transfer Actions").
- M. The validity of the Grazer's lien against the Debtor's interest in real and personal property is subject to dispute. Specifically, the Trustee could argue that the lien against real property is not valid because no final judgment was entered in the State Court Case. On the other hand, while execution under Rule 64E of the Utah Rules of Civil Procedure requires

entry of a "final judgment" before a writ of execution may issue, Utah Code Ann. § 78-22-1 provides that a "judgment" properly recorded creates a lien against real property. The Trustee is not aware of any basis by which Grazer would have a lien on the Debtor's 70% interest in Construction LLC. However, the Trustee recognizes that even if Grazer is deemed unsecured, he would hold over 96% of the unsecured claims.

- N. Time for filing proofs of claim has expired, and, other than the claim of Grazer, unsecured claims total \$84,773.00 and consist of: (1) a claim filed by Kent B. Scott of Babcock & Scott, in the amount of \$26,473.00; (2) a claim filed by G.S. Jones, Construction Inc., an entity purportedly owned by the Debtor's son, in the amount of \$20,000.00 (there may be an offset to this claim due to the 70% interest in the \$82,000 note receivable held by Construction LLC); (3) a claim filed by Linda G. Jones, the Debtor's spouse, in the amount of \$36,000.00; and (4) a claim filed by Steven Barton in the amount of \$2,300.00.¹ As the claimants set forth in (2) and (3) are insiders, the total of non-insider unsecured creditors is therefore \$28,773.00.
- O. Pursuant to an Order of the Bankruptcy Court entered September 14, 2006, with the consent of Grazer, the Trustee sold the Maple Hills Condominium for \$265,000.00. The order also provided for the sale of the estate's interest in the Residence to Linda Jones for \$72,500.00. Grazer asserts a lien on the proceeds of the sale of the Maple Hills Condominium and the Residence.
- P. Pursuant to an Order of the Bankruptcy Court entered October 25, 2006, with the consent of Grazer, the Trustee sold the 1995 Ford T-Bird, generating net proceeds of \$19,170.50. Grazer asserts a lien on those proceeds.
- Q. Based upon the Trustee's investigation and information now available to the Trustee, the Trustee estimates that, if all property of the Debtor's bankruptcy estate (excluding the Debtor's interest in Construction LLC, but including, but not limited to real and personal property, causes of action, intangibles, etc.) is properly and timely liquidated, such property would generate no more than \$1,300,000.00, less the costs, such as fees for the Trustee and his professionals and other costs of administering the estate and liquidating the property of the estate. Although the Trustee's information is limited as to the collectability of the notes receivable in Construction LLC, the Trustee believes that even a very optimistic recovery would be no more than an additional \$130,000 for the estate.
- R. All pre-petition claims, including Grazer's Claim and the unsecured

¹ Barton filed a Proof of Claim, Claim number 5, listing \$2,300.00 as both a priority and general unsecured claims. The parties believe that the total claim is \$2,300.00 and is not entitled to priority status.

claims set forth in "Recital N" of this Agreement, total \$2,184,897.00.

- S. Accordingly, the Trustee estimates that, with accruing administrative expenses, even if Grazer's Claim were deemed an unsecured claim (which Grazer denies), then distribution to unsecured creditors would be no more than sixty-five cents on the dollar (65%) and probably less. In the event that Grazer's Claim was deemed to be secured, distribution to unsecured creditors would likely be zero and the estate would likely be administratively insolvent.
- T. The Trustee and Grazer believe that litigation regarding the validity of Grazer's secured claim would involve costs and fees that would decrease the possible funds available to be paid to unsecured creditors.
- U. After arm's-length, good faith negotiations, the Trustee and Grazer agreed to resolve and compromise any and all claims and disputes which currently exist between them regarding Grazer's Claim and how to deal with all property of the bankruptcy estate of the Debtor, pursuant to the terms and conditions more fully set forth in this Agreement.

NOW, THEREFORE, based upon the foregoing recitals, which are incorporated into this Agreement, and for good and valuable consideration, including the covenants set forth herein, and subject to approval of this Agreement by the Bankruptcy Court, the Parties agree as follows:

1. Effectiveness of Agreement. This Agreement shall become effective on the second business day following ten days after the entry of an order by the Bankruptcy Court in the Debtor's Bankruptcy Case approving this Agreement, unless the order is stayed prior to the expiration of such period. (hereinafter, the "Effective Date"). The order approving this Agreement described herein shall be in a form expressly approved in writing by Grazer. In the event that the order approving this Agreement is stayed, the Trustee and Grazer shall each, independently, have the right to cancel this Agreement by filing a Notice of Cancellation with the Bankruptcy Court in the Bankruptcy Case. Upon filing of a Notice of Cancellation, this Agreement shall become null and void and the Trustee and Grazer shall each retain all rights and remedies that they would hold if this Agreement did not exist.

2. Priority for Use of Estate Cash and Reserves

The Trustee estimates that as of January 31, 2007, the estate will have approximately \$242,850.00 in cash primarily from the sale of assets and rents received. At the Effective Date, the cash shall be used and reserved in following priority:

First: An Administrative Expense Reserve of \$192,000 shall be established to pay administrative expenses, including taxes. PricewaterhouseCoopers, the Trustee's accountants estimate that the "worst case" for taxes incurred by the estate is \$82,000.00, assuming this Settlement is approved and there is no further liquidation of estate assets. The current best estimate of administrative expenses through the Effective Date is \$110,000.00, assuming this Settlement is approved. Assuming this Settlement is approved, the Trustee, his counsel and his accountants agree to seek court approval of final fees and costs of administrative claims of no more than \$110,000.00, provided, however, if the Trustee incurs additional fees and costs related to defending any appeal of the order approving this Agreement, such additional fees and costs, to the extent they are allowed by the Bankruptcy Court, may be added to the \$110,000.00 maximum fee. To the extent that such administrative fees and costs are allowed by the Bankruptcy Court as reasonable and necessary costs of administering the bankruptcy estate, the Trustee may pay the allowed administrative expenses from the Administrative Expense Reserve. The Trustee shall file all necessary tax returns pursuant to 11 U.S.C. § 505(b)(2). Provided the Trustee's accountant has the necessary information, the Trustee shall prepare such returns within thirty (30) days after the Effective Date. Before filing any income tax return for the Debtor's bankruptcy estate, the Trustee shall give Grazer not less than fifteen (15) days to review the return. Upon expiration of the time periods set forth in 11 U.S.C. § 505(b)(2), the balance of the Administrative Expense Reserve, including any funds not used to pay the amount of tax due from administration of the Debtor's bankruptcy estate, shall be paid first to fund any unfunded portion of Unsecured Creditors Reserve (less any amount of unsecured claims disallowed pursuant to Paragraph 9) and then to Grazer. If the allowed final fees and costs for the Trustee, his attorneys and his accounts are less than \$110,000.00, then the difference between the total of the final allowed such fees, costs and the \$110,000.00 shall be paid to Grazer.

Second: An Unsecured Creditors' Reserve of \$63,579.75 shall be established to pay the allowed unsecured claims of those creditors set forth in Recital N. Provided the Unsecured Creditors' Reserve is fully funded, each allowed claim shall be paid 75% of the allowed amount. If the Unsecured Creditors' Reserve is not fully funded after the expiration of the time period under 11 U.S.C. § 505(b)(2), then there shall be a pro rata reduction of the percentage paid. By way of example only, if the Unsecured Creditors' Reserve is funded in the amount of \$50,839.80, then the each allowed claim shall be paid 60% of the allowed amount. To the extent that any unsecured claims have been disallowed pursuant to Paragraph 9, the amount of Unsecured Creditors' Reserve shall be reduced by 75% (or the lesser percentage if not fully funded) for each dollar of disallowed claims, and such amount shall be paid to Grazer.

Third: Monies due to Grazer from 30% of rents collected from the apartments pursuant to Paragraph 3 below, which monies shall be paid as provided in paragraph 3 below.

3. Apartments. The Trustee has been collecting rents from the administration of the Apartments. After paying all costs associated with the Apartments (which costs do not include fees and costs of the Trustee, his attorneys or accountants), the Trustee acknowledges that from the net proceeds generated from the Apartments seventy percent (70%) of the funds are property of the estate and the other thirty percent (30%) are the property of Barney, who is also subject to the Judgment in favor of Grazer. Upon approval of this Agreement and the full funding of the Administrative Expense Reserve and the Unsecured Creditors' Reserve, the aforesaid 70% of the funds (or any portion thereof after the funding of the reserves) shall be paid to Grazer. Grazer shall obtain a writ of execution on the aforesaid 30% of the funds and, upon service of the execution, the funds shall be paid to Grazer.
4. Stipulation Abandonment/Relief From Stay. Except for the reserves and as otherwise expressly provided herein, the Trustee stipulates and agrees that Grazer has a valid, enforceable security interest in all the remaining property of the Debtor's bankruptcy estate and that there is no equity in said property for the benefit of unsecured creditors. Upon the Effective Date of the Agreement, except for the reserves set forth in paragraph 2 of this Agreement, any and all property of the Debtor's bankruptcy estate of any kind whatsoever, known and unknown, tangible and intangible, including, but not limited to real property (including, but not limited to that real property set forth in "Recital B" of this Agreement), personal property (including, but not limited to, the Debtor's interest in Construction LLC), causes of action (including, but not limited to, claims or causes of action against Barney and including, but not limited to, the Other Fraudulent Transfer Actions, the Utah Fraudulent Transfer Action and the Idaho Fraudulent Transfer Action) and accounts receivable (including, but not limited to, notes or accounts receivable in Construction LLC), shall be deemed abandoned and no longer property of the Debtor's bankruptcy estate, and Grazer shall be deemed to have relief from the stay to pursue any and all state court remedies against the Debtor and such property. Upon the Effective Date of this Agreement, Grazer shall be entitled to fully pursue all his rights and claims against the aforesaid property, which rights and claims are not altered, amended or affected in any way by this Agreement or by the filing of the Debtor's Bankruptcy Case.
5. Relief From Stay From Fraudulent Transfer Actions. Upon the Effective Date, the Trustee shall disclaim any interest in any and all fraudulent

transfer actions, known and unknown, and Grazer shall be deemed to have relief from the stay to pursue said fraudulent transfer actions including, but not limited to, the Utah Fraudulent Transfer Action, the Idaho Fraudulent Transfer Action, and the Other Fraudulent Transfer Actions, and all such actions shall no longer be the property of the Debtor's bankruptcy estate.

6. Non-Dischargeability Claims. Upon the Effective Date, the Trustee shall dismiss the non-dischargeability adversary proceeding (Adv. No. 06-2449) filed by the Trustee. Dismissal of that adversary proceeding shall in no way affect or prejudice the claims or causes of action for denial of discharge under 11 U.S.C. §§ 523 and 727 set forth by Grazer against the Debtor in Adversary Proceeding No. 06-02411.
7. Preference Actions. The Trustee shall not pursue actions under 11 U.S.C. § 547. To the extent that the facts may give rise to a preference action under state law or federal law (other than 11 U.S.C. § 547), then the Trustee disclaims any interest in such claims; Grazer shall be deemed to have relief from the stay to pursue any preference claims under state law or federal law (other than 11 U.S.C. § 547).
8. Effective Date and Distributions to Grazer. Upon the Effective Date, any funds of the Debtor's bankruptcy estate held by the Trustee or his professionals in excess of the amount contained in the Administrative Expense Reserve and the Unsecured Creditors' Reserve, as established under paragraph 2 of this Agreement, shall be distributed to Grazer for payment on his secured claim. If after the Effective Date, any surplus in the bankruptcy estate above that amount needed to fully fund the reserves in Paragraph 2 shall be paid to Grazer.
9. Distribution to Unsecured Creditors. Grazer shall have 150 days from the Effective Date to file an objection to the claims of any or all unsecured creditors, including, but not limited to those set forth in "Recital N" of this Agreement. In the event that such claims are disallowed, Grazer shall be entitled to distribution of any amounts due Grazer under the provisions of Paragraph 2 of this Agreement. If an unsecured claim set forth in "Recital N" is not the subject of an objection within 150 days of the Effective Date of this Agreement, then such claim shall be deemed allowed and such creditor shall be entitled to be paid on the creditor's claim under the provisions of Paragraph 2 of this Agreement. The Trustee agrees not to close the Bankruptcy case until all claims have been finally allowed or disallowed.
10. Release of Claims by Grazer. Except as otherwise expressly provided in this Agreement, upon the Effective Date Grazer releases any and all claims against the Debtor's bankruptcy estate, including, but not limited to, the right to assert a deficiency claim or any an unsecured claim against

the Debtor's bankruptcy estate; provided, however, that Grazer shall have the unconditional and absolute right and to be able to assert, pursue and prosecute any and all claims and rights of any kind whatsoever against the Debtor in Grazer's non-dischargeability action against the Debtor and shall have the unconditional and absolute right to enforce and execute in the State Court Case against the property abandoned by the bankruptcy estate pursuant to paragraph 4 of this Agreement. Except as otherwise expressly provided in this Agreement, upon the Effective Date, Grazer further releases and forever discharges the Trustee, attorneys, accountants and agents of the Trustee from any and claims, counterclaims, cross-claims, actions, demands, liabilities and responsibilities of every kind and nature whatsoever, whether known or unknown, suspected or unsuspected, asserted or unasserted, fixed or contingent, matured or unmatured, and whether existing now or in the past.

11. Release of Claims by the Trustee. Except as otherwise expressly provided in this Agreement, upon the Effective Date, the Trustee, on behalf of himself and Debtor's bankruptcy estate, herein releases and forever discharges Grazer and Grazer's successors, assigns, subsidiaries, affiliates, related entities, attorneys, accountants and agents, of and from any and all claims, counterclaims, cross-claims, actions, demands, liabilities, and responsibilities of any kind in nature whatsoever, whether known or unknown, suspected or unsuspected, asserted or unasserted, fixed or contingent, matured or unmatured, and whether existing now or in the past.
12. Amendment. This Agreement may not be modified, except by written instrument signed by all of the Parties.
13. Reservation of Rights. Nothing contained herein shall be deemed a waiver or release by any Party against any person or entity, other than as against a Party hereto and other than as against the persons and entities affiliated with a Party that are identified in the releases above, with respect to any rights, choses in action or claims that such Party may have against any other such person or entity. Grazer expressly reserves all claims, rights and causes of action of any nature whatsoever known or unknown, fixed or contingent, against the Debtor, and all other persons or entities not expressly released in paragraph 10 of this Agreement, including, but not limited to, the claims and causes of action set forth in the Complaint objecting to discharge of Adversary Proceeding No. 06-02411 pending in this Bankruptcy Case. This reservation of all claims, rights and causes of action of any nature whatsoever known or unknown, fixed or contingent, by Grazer includes any and all claims, rights and causes of action of any nature whatsoever known or unknown, fixed or contingent, against any person or entity not expressly released in paragraph 10 of this Agreement. Such persons or entities against whom Grazer is reserving any and all

claims, rights and causes of actions of any nature whatsoever known or unknown, fixed or contingent, against include, but are not limited to, creditors of the Debtor or the Bankruptcy Case, Renae Carnon Barney, Barney and Barney's family and other insiders of Barney, the Debtor, the Debtor's family, insiders of the Debtor, the children of the Debtor, J&J Livestock, Carvell Shaffer, G.S. Jones Construction, Inc., George Jones Construction, Construction LLC, Mountain View Apartments of Farmington and Linda Jones. Nothing contained herein shall in any way alter, affect, amend or change Grazer's claim against the Debtor or in any alter, affect, amend or change any judgment which Grazer may have against the Debtor or any other person or entity. Nothing contained herein shall in any way alter, affect, amend or change Grazer's right to execute in the State Court Case against the property abandoned by the bankruptcy estate pursuant to paragraph 4 of this Agreement.

14. No Intended Third-Party Beneficiaries. There are no intended third-party beneficiaries of this Agreement.
15. Attorneys' Fees and Costs. The Trustee's attorneys' fees and other costs incurred in negotiating, executing, obtaining approval of this Agreement and implementing this Agreement shall be included in the Administrative Expense Reserve set forth in paragraph 2 of this Agreement and shall be paid therefrom if the Bankruptcy Court allows such fees and costs as an administrative claim (with such fees and costs being limited as set forth in paragraph 2 of this Agreement). Grazer shall bear his own attorneys' fees and costs. However, if legally permissible, Grazer reserves the right to add to his claim and to seek an augmentation of the judgment in state court for the attorneys' fees and costs incurred in conjunction with this Agreement and with dealing with all issues that arose because of the Debtor's filing of his Bankruptcy Case.
16. Bankruptcy Court Approval. The Parties acknowledge that this Agreement is subject to notice to creditors in the Debtor's Bankruptcy Case and approval of the Bankruptcy Court. Within ten (10) days of the date of the execution of this Agreement, the Trustee shall cause to be drafted and filed in the Bankruptcy Case a motion seeking Bankruptcy Court approval of this Agreement and the Trustee shall set such motion for hearing as soon as possible.
17. Governing Law. This Agreement and the rights and obligations of the Parties hereunder shall be construed in accordance with and governed by the internal laws of the State of Utah, except to the extent such laws are superseded by the laws of the United States of America, and, in such instances, the laws of the United States shall be controlling.
18. Binding Effect, Entire Agreement, Amendment. Subject to the reservation

of rights as set forth in paragraph 13 of this Agreement, this Agreement is binding upon and shall inure to the benefit of the Parties and their respective heirs, successors, assigns, subsidiaries, affiliates, related entities, officers, directors, employees, agents, attorneys and representatives, subrogees, and to all persons or entities claiming by, through or under them, including any successor trustee for the Debtor's bankruptcy estate, and the Debtor. This Agreement is fully integrated and represents the entire understanding between the Parties, and there are no written or oral agreements between them which are not set forth herein. None of the provisions of this Agreement may be changed, discharged or terminated orally and may be modified or amended. Likewise, the rights available to each of the Parties under this Agreement cannot be waived or released orally, and may be waived or released only by an instrument, in writing, signed by the Party whose rights will be diminished or adversely affected by the waiver.

19. No Admissions. This Agreement has been drafted for settlement purposes only. Nothing in this Agreement, including the Recitals set forth herein, shall be deemed an admission of law or fact by any Party for any purpose, other than the settlement contemplated in this Agreement. If this Agreement is not approved by the Bankruptcy Court, it shall be null and void, and thereafter this Agreement may not be used by any Party for any purpose.
20. Advice of Counsel. Each Party acknowledges that it has been represented by counsel in the negotiation and preparation of this Agreement and that such Party (and, if applicable, such Party's counsel) have participated in and contributed to drafting of this Agreement. Accordingly, neither this Agreement, nor any portion hereof, may be construed against any of the Parties on the basis that such Party or such Party's counsel was the drafter hereof.
21. Construction. The headings are for reference and convenience only and shall not affect the construction or interpretation of any of the terms of this Agreement.
22. Authorization. The persons executing this Agreement on behalf of a Party hereby represent and warrant that they are duly authorized and empowered to execute the same, that they have carefully read this Agreement, and that this Agreement represents a binding and enforceable obligation of such Party. Each Party represents and warrants that they have not assigned any of the claims being released under this Agreement.
23. No Inducement. The Parties represent, warrant and agree that upon executing and entering into this Agreement, they, and each of them, are not relying upon and have not relied upon any representation, promise or

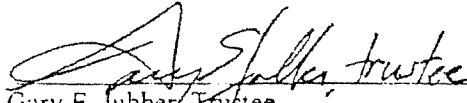
statement made by anyone which is not recited, contained or embodied in this Agreement.

24. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, and all such counterparts shall constitute one and the same Agreement. Facsimile signatures shall have the same force and effect as original signatures.

IN WITNESS WHEREOF, the parties have each executed this Agreement as of the date first set forth above.

GARY E. JUBBER, Trustee of the Chapter 7 Bankruptcy Estate of Gordon A. Jones, d/b/a J&J Livestock, d/b/a Gordon Jones Construction, L.C.

By:



Gary E. Jubber, Trustee
FABIAN & GLENDENIN
215 South State Street, 12th Floor
Salt Lake City, Utah 84151
Telephone: (801) 531-8900

ALLEN F. GRAZER

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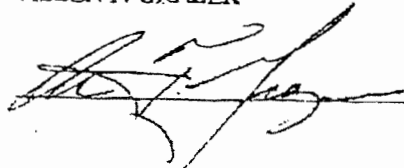
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GARY E. JUBBER, Trustee of the Chapter 7 Bankruptcy
Estate of Gordon A. Jones, d/b/a J&J Livestock, d/b/a
Gordon Jones Construction, L.C.

By:

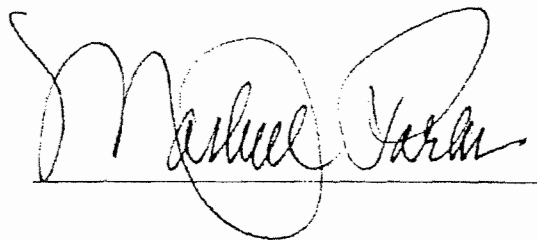
Gary E. Jubber, Trustee
FABIAN & CLENDENIN
215 South State Street, 12th Floor
Salt Lake City, Utah 84151
Telephone: (801) 531-8900

ALLEN F. GRAZER



CERTIFICATE OF SERVICE

I hereby certify that on the 20th day of February, 2007, I caused to be served a true and correct copy of *Exhibit "A" to Trustee's Motion to Approve Settlement Agreement and for Order Authorizing Abandonment of Property of Estate* via first class mail, postage pre-paid to all parties on the attached mailing matrix.



A handwritten signature in black ink, appearing to read "Michael J. Park", is written over a horizontal line.

Label Matrix for local noticing
1088-2
Case 06-11177
District of Utah
Salt Lake City
Tue Feb 20 12:17:10 MST 2007

Arthur Timothy
1169 W. 275 W.
Centerville UT 84014

Julie A. Bryan
Cohne Rappaport & Segal
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1900 W. Highway 24
P.O. Box 17
Teasdale, UT 84773

Farmington City
PO Box 160
Farmington UT 84025

Allen Grazer
c/o Lincoln Hobbs
Hobbs & Olson
525 South 300 East
Salt Lake City, UT 84111

Gordon A. Jones
215 West 1400 North
Bountiful, UT 84010 U.S.A.

Julia Bryan
Cohne, Rappaport & Segal
257 E. 200 S., Ste. 700
Salt Lake City UT 84111

Kirsten Nilssen
7100 South 300 West #105
Midvale UT 84047

John W. Lish
Wilda & Lish
1424 S. Legend Hills Dr.
Suite 128
Clearfield, UT 84015

A-1 Disposal
604 W. 300 E.
SLC UT 84103

Benchland Water District
485 E. Shepard Lane
Haystack UT 84037

Carol Shaffer
Shaffer Law Office
Key Bank Building
662 South Main
Bountiful, UT 84010

Davis County Treasurer
P.O. Box 618
Farmington, UT 84025

G.S. Jones Construction
400 West 100 South
Bountiful, UT 84010

Lincoln W. Hobbs
Hobbs & Olson
466 East 500 South
Suite 308
Salt Lake City, UT 84111

Gary E. Jubber
Fabian and Clendenin
215 South State Street
10th Floor
P.O. Box 510010
Salt Lake City, UT 84151

Fasteler & Associates
1838 E. Fort Union Blvd.
Salt Lake City, Utah 84121

LaKey Taylor, M.D.
520 E. Medical Drive #210
Bountiful, UT 84010

Robert B. Louchhead
Parr Waddoups Brown Bee & Loveless
165 South State Street
Suite 1300
Salt Lake City, UT 84111-1536

Allen F. Grazer
c/o Lincoln Hobbs
Hobbs & Olson
466 E. 500 S., Suite 308
Salt Lake City, Utah 84111

Bountiful City
700 South 100 East
Bountiful, UT 84010

Countrywide Home Loans, Inc.
c/o McCalla Rayner, LLC
BX Dept.
1544 Old Alabama Rd.
Roswell GA 30076

Dish Network
PO Box 9013
Littleton CO 80160

Grant Bishop, M.D.
405 Medical Drive #110
Bountiful, UT 84010

Intermountain Health Care
P.O. Box 27128
Salt Lake City, UT 84127

Gary E. Jubber or
Fabian & Clendenin
215 South State Street
10th Floor
P.O. Box 510010
Salt Lake City, UT 84151

Kent B. Scott
Babcock Scott & Babcock
505 E. 200 S., Suite 300
Salt Lake City UT 84102

Linda G. Jones
215 W. 1400 N.
Bountiful UT 84010

Douglas J. Payne
Fabian & Clendenin
215 South State Street
10th Floor
P.O. Box 510010
Salt Lake City, UT 84151

PricewaterhouseCoopers L.L.P.
One Utah Center
201 South Main Street
Suite 900
Salt Lake City, UT 84111

Master Gas
P.O. Box 46241
Salt Lake City, UT 84139

West
P.O. Box 2550
Omaha, NE 68131-2550

Richard Barney
155 W. Terrace Dr.
Clearfield UT

Richard W. Jones
Belgeson Waterfall & Jones
Centennial Bank Building, 3rd Floor
4405 Harrison Boulevard
Ogden UT 84403

Ridgewood Owners Association
175 E. 400 S., Ste 1400
SLC UT 84111

Steven E. Barton
1562 South 1000 West
Syracuse, UT 84075

D. Rip Swan
2150 S. 1100 E. Ste. 518
SLC, UT 84106

United States Trustee
Ken Garff Bldg.
405 South Main Street
Suite 100
Salt Lake City, UT 84111

Utah Power
1033 NE 5th Ave.
Portland OR 97256

Verizon
P.O. Box 96088
Bellevue, WA 98009

The following recipients may be/have been bypassed for notice due to an undeliverable (u) or duplicate (d) address.

(u) Countrywide Home Loans Inc.

(u) Paul Thronsen

End of Label Matrix
Mailable recipients 40
Bypassed recipients 2
Total 42

EXHIBIT G
(Settlement Agreement)

EXHIBIT "J"

United States Bankruptcy Court

District of Utah
Case No. 06-21277
Chapter 7

In re: Debtor(s) (name(s) used by the debtor(s) in the last 8 years, including married, maiden, trade, and address):
Gordon A. Jones
dba Gordon A. Jones d/b/a J & J Livestock,
dba Gordon Jones Construction, L.C.
235 West 1400 North
Bountiful, UT 84010
U.S.A.

Social Security No.:

[REDACTED]

Employer's Tax I.D. No.:

Petition date: 4/18/06

DISCHARGE OF DEBTOR

It appearing that the debtor is entitled to a discharge,

IT IS ORDERED:

The debtor is granted a discharge under section 727 of title 11, United States Code, (the Bankruptcy Code).

BY THE COURT

Dated: 1/20/09

Judith A. Boulden
United States Bankruptcy Judge

SEE THE BACK OF THIS ORDER FOR IMPORTANT INFORMATION.

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**EXPLANATION OF BANKRUPTCY DISCHARGE
IN A CHAPTER 7 CASE**

This court order grants a discharge to the person named as the debtor. It is not a dismissal of the case and it does not determine how much money, if any, the trustee will pay to creditors.

Collection of Discharged Debts Prohibited

The discharge prohibits any attempt to collect from the debtor a debt that has been discharged. For example, a creditor is not permitted to contact a debtor by mail, phone, or otherwise, to file or continue a lawsuit, to attach wages or other property, or to take any other action to collect a discharged debt from the debtor. [*In a case involving community property*: There are also special rules that protect certain community property owned by the debtor's spouse, even if that spouse did not file a bankruptcy case.] A creditor who violates this order can be required to pay damages and attorney's fees to the debtor.

However, a creditor may have the right to enforce a valid lien, such as a mortgage or security interest, against the debtor's property after the bankruptcy, if that lien was not avoided or eliminated in the bankruptcy case. Also, a debtor may voluntarily pay any debt that has been discharged.

Debts That are Discharged

The chapter 7 discharge order eliminates a debtor's legal obligation to pay a debt that is discharged. Most, but not all, types of debts are discharged if the debt existed on the date the bankruptcy case was filed. (If this case was begun under a different chapter of the Bankruptcy Code and converted to chapter 7, the discharge applies to debts owed when the bankruptcy case was converted.)

Debts that are Not Discharged.

Some of the common types of debts which are not discharged in a chapter 7 bankruptcy case are:

- a. Debts for most taxes;
- b. Debts incurred to pay nondischargeable taxes (applies to cases filed on or after 10/17/2005);
- c. Debts that are domestic support obligations;
- d. Debts for most student loans;
- e. Debts for most fines, penalties, forfeitures, or criminal restitution obligations;
- f. Debts for personal injuries or death caused by the debtor's operation of a motor vehicle, vessel, or aircraft while intoxicated;
- g. Some debts which were not properly listed by the debtor;
- h. Debts that the bankruptcy court specifically has decided or will decide in this bankruptcy case are not discharged;
- i. Debts for which the debtor has given up the discharge protections by signing a reaffirmation agreement in compliance with the Bankruptcy Code requirements for reaffirmation of debts.
- j. Debts owed to certain pension, profit sharing, stock bonus, other retirement plans, or to the Thrift Savings Plan for federal employees for certain types of loans from these plans (applies to cases filed on or after 10/17/2005).

This information is only a general summary of the bankruptcy discharge. There are exceptions to these general rules. Because the law is complicated, you may want to consult an attorney to determine the exact effect of the discharge in this case.

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60-60-60

EXHIBIT "K"

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AD2883

4. The names and addresses of the heirs and devisees of decedent (all of which are over the age of twenty-one years) are:

NAME	ADDRESS
GORDON A. JONES	235 West 1400 North, Bountiful, UT 84010
SCOTT JONES	400 West 100 South, Bountiful, Utah 84010
CHERYL GUDMUNDSON	59 West 1530 South, Orem, Utah 84058
JASON JONES	3369 North Westside Highway, Clifton ID 83228

5. No Personal Representative, Executor or Administrator has been appointed in the State of Utah or elsewhere.

6. Applicant has neither received, nor is aware of any demand for notice of any probate or appointment proceeding concerning the decedent that may have been filed in the State of Utah or elsewhere.

7. The time limit (three years subsequent to date of death) for informal probate and appointment has not expired.

8. Pursuant to the Personal Representative paragraph of Decedent's Last Will and Testament, Decedent nominated and appointed Applicant to act as Personal Representative without bond upon her demise.

9. The Applicant, to the best of his knowledge, information and belief, believes the Will to be validly executed.

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10. After the exercise of reasonable diligence, the Applicant is unaware of any instrument revoking the Will and the Applicant believes that the instrument which is the subject of this Application is the Decedent's Last Will and Testament.

11. The Will, which accompanies this Application as Exhibit A, is a valid and effective Will, having been executed on October 19, 2004, by Linda G. Jones.

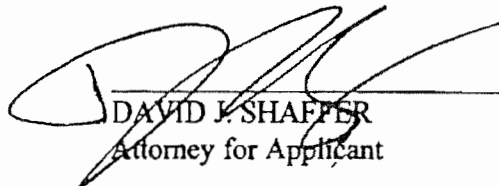
12. That Linda Ann Garfield Jones as named in the Certificate of Death attached hereto and incorporated by reference as Exhibit B, is one and the same person as that certain Lin October 19, 2004 Linda G. Jones who executed the Last Will and Testament which is the subject of this probate.

13. The Will of Linda G. Jones specifically states that no bond shall be required.

WHEREFORE, Applicant requests the following:

1. Notice be given to all heirs and issues of Decedent as named herein, unless otherwise waived the notice requirement, and any and all other parties entitled to receive notice.
2. Gordon A. Jones be appointed Personal Representative of the Estate of Decedent, Linda G. Jones to act without bond.
3. Upon qualification and acceptance, Letters of Testamentary be issued.

DATED this 22 day of March, 2010.



DAVID J. SHAFER
Attorney for Applicant

4/6/2010 1:03:28 PM 440643
4/6/2010 10:30:07 AM 442895

VERIFICATION

STATE OF UTAH :
 : ss:
COUNTY OF DAVIS :

Gordon A. Jones, being first duly sworn upon his oath, deposes and says:

That he is the Applicant in the above-entitled matter, has read the foregoing Application, and knows the contents thereof, and states that the same are true of his own knowledge, except as to those matters therein stated upon information and belief, and as to those matters, he believes them to be true.

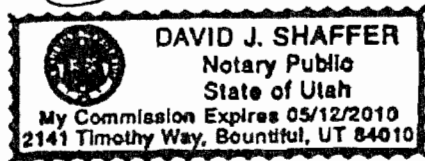
DATED this 17 day of March, 2010.

Gordon A. Jones
Gordon A. Jones, Applicant

On the 17 day of March, 2010 personally appeared before me Gordon A. Jones who duly acknowledged he is the Applicant and signer of the foregoing Verification.

[Signature]
NOTARY PUBLIC

C:\MyFiles\JonesGordon\inda.app.probate.frm



9992M 08:05:01 0102/97
0800M 05:58:11 0102/97
4/6/2010 10:30:07

EXHIBIT A

UNNOKA 8500... 010N 5 / 1
47672018 10:30:07 472807

Last Will and Testament
of
Linda G. Jones

I, LINDA G. JONES, a resident of Davis County, State of Utah, being of sound and disposing mind and memory and free from all menace, fraud, duress, undue influence or restraint whatsoever, do hereby make, publish and declare this to be my Last Will and Testament in the manner and form following:

PRIOR WILLS. I hereby revoke any and all other wills which I have previously made.

SCOPE OF WILL. Except as expressly provided in this Will, I declare that I have intentionally omitted to provide herein for my heirs living at the time of my death.

MARRIAGE AND FAMILY. I declare that I am the wife of GORDON ANDREW JONES and we are the parents of three children. Their names are as follows: CHERYL GUDMUNDSON, SCOTT JONES and JASON JONES.

DEBTS AND ESTATE EXPENSES. I direct that all of my debts and valid claims, all expenses of my last illness and burial and all costs and expenses in connection with the probate and distribution of my estate be paid as soon after my death as may be reasonably convenient out of my estate. I hereby authorize my Personal Representative as hereinafter appointed to settle and discharge any claims against my estate in his or her absolute discretion.

APPOINTMENT OF PERSONAL REPRESENTATIVE. I hereby appoint my husband, GORDON A. JONES, as Personal Representative of this my Last Will and Testament,

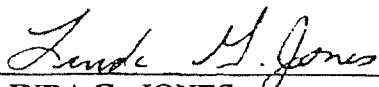
Linda G. Jones
LINDA G. JONES

and in the event he predeceases me or otherwise fails to act, I appoint **CHERYL GUDMUNDSON, SCOTT JONES and JASON JONES** as Co-Personal Representatives of this my Last Will and Testament, and direct that no bond be required of my Personal Representative under this my Last Will and Testament in any jurisdiction.

BEQUEST OF PERSONAL EFFECTS. Such articles of personal or household use or ornament, automobiles, objects of art, personal files and records, and all other tangible personal property of a non-income producing character as I may own at my death and all my unexpired insurance thereof, I give to my husband, if he survives me, or if my husband does not survive me, to my children who survive me in shares of substantially equal value and by right of representation to the issue of any deceased children.

BEQUEST OF ESTATE. The residue of property owned by me at my death, including all property, real, personal and mixed, of every name and nature and wheresoever situated, I give, devise and bequeath to **THE GORDON A. AND LINDA G. JONES FAMILY TRUST** dated 10-19-2004 signed by myself and my husband as Grantors, to be held for the purposes and distributed as therein provided, and also in accordance with any amendments to said Trust made prior to my death. It is my intention that said Trust be administered free from the continuing control of the court having jurisdiction of the settlement of my estate; provided, however, this sentence shall not limit the power of a trustee to take action for the judicial settlement of its account or for the power of any beneficiary to bring suit for an accounting.

If for any reason, property may not pass by way of or through the before-mentioned Trust, then all of the provisions of the Trust, herein before mentioned, are specifically


LINDA G. JONES

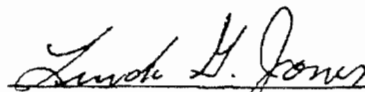
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made a part of this Will by reference and all properties held, administered and distributed pursuant to the terms thereof and the Personal Representative and/or Executor/Executrix will assume and perform all of the duties of the Trustee.

It is my intention to have in existence at the time of my death a separate writing pursuant to §75-2-513 of the *Utah Uniform Probate Code* which will direct the disposition of all or some of my items of tangible personal property, which may include, while not being limited to, items of personal or household use or ornament, automobiles, objects of art, personal files and records and other items of a non-income producing nature (including all unexpired insurance thereon). If such writing is not in existence at the time of my death, or to the extent that such writing does not provide for the disposition of all of my tangible personal property, then, such items of my tangible personal property not so disposed of I give to my children who survive me in shares of substantially equal value.

SEVERABILITY. If any provision of this, my Last Will and Testament, shall be unenforceable, the remaining portion shall, nevertheless, be carried into effect.

IN WITNESS WHEREOF, I, LINDA G. JONES, Testatrix, sign my name to this instrument this 19 day of Oct., 2004, and being first duly sworn under oath do hereby declare to the undersigned authority that I sign and execute this instrument as my Last Will and Testament and that I sign it willingly, that I execute it as my free and voluntary act for the purposes expressed in it, that I am eighteen years of age or older, of sound mind and under no constraint or undue influence.


LINDA G. JONES

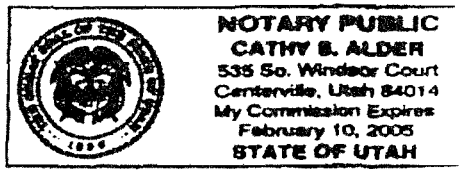
WE, THE WITNESSES, CARVEL R. SHAFFER and David T. Shaffer, sign our names to this instrument, being first duly sworn and do hereby declare to the undersigned authority that the Testatrix signs and executes this instrument as her Last Will and Testament, and that she signs it willingly and that each of us in the presence and hearing of the Testatrix and of each other hereby signs and executes this Will as witness to the Testatrix's signing, and that to the best of our knowledge, the Testatrix is eighteen years of age or older, of sound mind and under no constraint or undue influence.

[Signature of Carvel R. Shaffer]
[Signature of David T. Shaffer]

STATE OF UTAH :
: SS :
COUNTY OF DAVIS :

On the 19 day of October, 2004, personally appeared before me CARVEL R. SHAFFER and David T. Shaffer, the Witnesses, who duly acknowledged they are the signers of the foregoing Will.

[Signature of Cathy B. Alder]
NOTARY PUBLIC



[Signature of Linda G. Jones]
LINDA G. JONES

11/20/08 10:05:58 AM
4/6/2010 10:05:58 AM

EXHIBIT B

STATE OF UTAH
CERTIFICATION OF VITAL RECORDS

CERTIFICATE OF DEATH

State File Number: 2010002204

Linda Ann Garfield Jones

DECEDENT INFORMATION

Date of Death:	February 18, 2010	Time of Death:	16:25
City of Death:	Provo	County of Death:	Utah
Age:	68	Date of Birth:	██████
Place of Birth:	Payson, Utah	Sex:	Female
Armed Services:	No	Marital Status:	Married
Spouse's Name:	Gordon Andrew Jones	Usual Occupation:	Manager
Industry/Business:	Banking	Education:	High School or GED
Residence:	Bountiful, Utah	Father's Name:	Thomas Leonard Garfield
Mother's Name:	Ruth Irene Kay	Facility Type:	Hospital ER
Facility or Address:	Utah Valley Regional Medical Center		

INFORMANT INFORMATION

Name:	Cheryl Gudmundson	Relationship:	Daughter
Mailing Address:	59 West 1530 South, Orem, Utah 84058		

DISPOSITION INFORMATION

Method of Disposition:	Burial
Place of Disposition:	Vine Bluff Cemetery, Nephi, Utah
Date of Disposition:	February 28, 2010

FUNERAL HOME INFORMATION

Funeral Home:	Russon Brothers Mortuary - Bountiful
Address:	295 North Main Street, Bountiful, Utah 84010
Funeral Director:	Brent C Russon

MEDICAL CERTIFICATION

Certifying Physician: Chad Swanson MD, 1034 North 500 West, Provo (Utah), Utah 84604

CAUSE OF DEATH

Traumatic Arrest
Closed head injury, neck injury
Motor vehicle accident
Motor vehicle crash
Tobacco Use: Unknown if User
Medical Examiner Contacted: No Autopsy Performed: No Manner of Death: Accident

INJURY INFORMATION

Date of Injury:	February 18, 2010	Time of Injury:	15:34
Injury at Work:	No	Place of Injury:	Street
Location of Injury:	Mile marker 284 5, Provo, Utah		
How Injury Occurred:	Ejected from high speed motor vehicle crash		
Motor Vehicle Accident:	Driver		

Date Issued: March 8, 2010

This is an exact reproduction of the document registered in the State Office of Vital Statistics. Security features of this official document include: Intaglio Border, V & R Images in top cycloids, ultra violet fibers and hologram image of the Utah State Seal, over the words "State of Utah". This document displays the date, seal and signature of the State Registrar and the County/District Health Officer.



Barry E. Nangle


Barry E. Nangle, State Registrar
Office of Vital Statistics

648
* 061886450 *

Joseph K. Miner, MD

Joseph K. Miner, MD, MSPH
Director/Health Officer
County/District Health Department



FILED
 11 FEB 16 PM 3:17
 FRANKLIN COUNTY CLERK

 DEPUTY

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

ALLEN F. GRAZER,

Plaintiff,

vs.

GORDON A. JONES; LINDA G. JONES;
 JASON JONES, J&J LIVESTOCK, LLC,
 a Utah Limited Liability Company; and
 JOHN DOES 1-10,

Defendants.

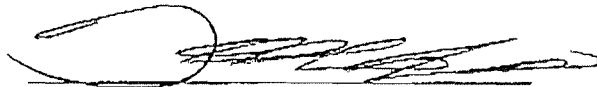
Case No: CV-2005-183

ORDER VACATING TRIAL

Based upon the pleadings filed by counsel the Court shall take this matter under advisement and VACATE the trial currently set for March 29, 2011.

IT IS SO ORDERED.

DATED: February 16, 2011



DAVID C. NYE
 District Judge

649

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 16th day of February, 2011, I served a true and correct copy of the foregoing document upon each of the following individuals in the manner indicated.

Lincoln W. Hobbs
Margaret H. Olson
HOBBS & OLSON, L.C.
466 East 500 South, Suite 300
Salt Lake City, UT 84111

Faxed to: (801) 519-2999

Lane V. Erickson
RACINE, OLSON, NYE, BUDGE, BAILEY
PO BOX 1391
Pocatello, ID 83204-1391

Faxed to: 232-6109

Linda Hampton
Linda Hampton, Deputy Clerk

650

TRANSACTION REPORT

FEB/16/2011/WED 03:24 PM

FAX (TX)

#	DATE	START T.	RECEIVER	COM.TIME	PAGE	TYPE/NOTE	FILE
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02/16/2011 15:25 2082367418

JUDGE NYE

PAGE 01

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 FRANKLIN COUNTY CLERK

 DEPUTY

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

ALLEN F. GRAZER,

Plaintiff,

vs.

GORDON A. JONES; LINDA G. JONES;
 JASON JONES, J&J LIVESTOCK, LLC,
 a Utah Limited Liability Company; and
 JOHN DOES 1-10,

Defendants.

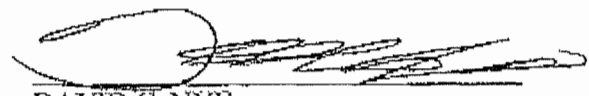
Case No: CV-2005-183

ORDER VACATING TRIAL

Based upon the pleadings filed by counsel the Court shall take this matter under advisement and VACATE the trial currently set for March 29, 2011.

IT IS SO ORDERED.

DATED: February 16, 2011


 DAVID C. NYE
 District Judge

651

TRANSACTION REPORT

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JUDGE NYE

PAGE 01

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 FRANKLIN COUNTY CLERK

 DEPUTY

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

ALLEN F. GRAZER,

Plaintiff,

vs.

Case No: CV-2005-183

GORDON A. JONES; LINDA G. JONES;
 JASON JONES, J&J LIVESTOCK, LLC,
 a Utah Limited Liability Company; and
 JOHN DOES 1-10,

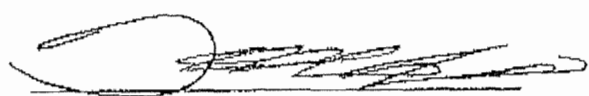
Defendants.

ORDER VACATING TRIAL

Based upon the pleadings filed by counsel the Court shall take this matter under advisement and VACATE the trial currently set for March 29, 2011.

IT IS SO ORDERED.

DATED: February 16, 2011


 DAVID C. NYE
 District Judge

652

FILED

11 FEB 23 AM 11:06

FRANKLIN COUNTY CLERK

[Signature]
BEHNEY

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

ALLEN F. GRAZER, an individual,)
)
Plaintiff,)

Case No. CV-05-183

-vs-

**NOTICE OF TAKING
SUMMARY JUDGMENT
UNDER ADVISEMENT**

GORDON A. JONES, an individual;)
GORDON A. JONES, Personal)
Representative of THE ESTATE OF)
LINDA G. JONES, deceased; J&J)
LIVESTOCK, LLC, A Utah limited liability)
company, and John Does, 1-10,)
)
Defendants.)

Both parties have filed summary judgment motions in this case and have waived oral argument on those motions. This case involves a court trial without a jury. Trial is set to begin on March 29, 2011. Pursuant to agreement of the parties in a telephonic status conference, the trial is vacated. The Court will issue a decision on the pending summary judgment motions. If a trial is still necessary after the summary judgment decision is rendered, the Court will hold another

telephonic status conference to schedule a new trial date.

Plaintiff filed his summary judgment motion on or about February 10, 2011, with the Court in Franklin County. Defendants filed their summary judgment motion on February 11, 2011, with the Court in Franklin County. Copies were received by the Judge in his resident chambers in Bannock County on February 21, 2011, and the summary judgment motions are deemed pending and under advisement as of February 21, 2011.

DATED February 23, 2011.



DAVID C. NYE
District Judge

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on the 23 day of February, 2011, I served a true and correct copy of the foregoing document upon each of the following individuals in the manner indicated.

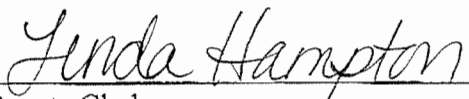
Lincoln W. Hobbs
Margaret H. Olson
HOBB & OLSON, L.C.
466 East 500 South, Suite 300
Salt Lake City, Utah 84111

U.S. Mail
 Overnight Delivery
 Hand Delivery
 Facsimile

Lane V. Erickson
RACINE, OLSON, NYE,
BUDGE & BAILEY, CHARTERED
P.O. Box 1391
Pocatello, Idaho 83204-1391

U.S. Mail
 Overnight Delivery
 Hand Delivery
 Facsimile

DATED this 23 day of February, 2011.



Deputy Clerk

Lane V. Erickson (ISB#: 5979)
RACINE, OLSON, NYE,
BUDGE & BAILEY, CHARTERED
P.O. Box 1391
Pocatello, Idaho 83204-1391
Telephone: (208)232-6101
Fax: (208)232-6109

FILED
11 FEB 24 AM 10:20
FRANKLIN COUNTY CLERK
[Signature]
DEPUTY

Attorney for Defendant Gordon A. Jones

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

ALLEN F. GRAZER, an individual,

Plaintiff,

vs.

GORDON A. JONES, an individual;
GORDON A. JONES, Personal Representative of
the ESTATE OF LINDA G. JONES, deceased;
J&J LIVESTOCK, LLC, a Utah limited liability
company, and John Does, 1-10,

Defendants.

Case No. CV-05-183

**DEFENDANT'S RESPONSE TO
PLAINTIFF'S MOTION FOR
SUMMARY JUDGMENT AND FOR
ISSUANCE OF WRIT OF
EXECUTION**

COMES NOW, the above-named Defendants GORDON A. JONES, an individual;
GORDON A. JONES, Personal Representative of the ESTATE OF LINDA G. JONES,
deceased, (hereafter collectively referred to herein as "Jones") by and through it's attorney of
record, Lane V. Erickson, and pursuant to the Court's Minute Entry and Order dated January 13,
2011, and Rule 56 of the I.R.C.P., hereby enters Defendants' Response to Plaintiff's Motion for
Summary Judgment and for Issuance of Writ of Execution dated, February 10, 2011.

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PROCEDURE AND BACKGROUND OF CASE

In a pre-trial hearing, the Court recognized that many, if not all of the issues present in this case might be resolved by the application of the law to facts which are not in dispute. For this reason, the Court entered its Minute Entry and Order dated January 13, 2011, wherein the Court indicated that each party file its Pre-Trial Brief setting forth the undisputed facts and any applicable law. The Court stated it would treat said pleadings as Motions for Summary Judgment. Each party was granted two weeks in which to respond to the other party's Pre-Trial Brief after which the Court would take the matter under advisement to determine if any issues remained upon which a trial could proceed.

This pleading is hereby submitted as Jones's Response to Plaintiff's Motion for Summary Judgment and for Issuance of Writ of Execution which was dated, February 10, 2011 (hereafter "Response").

RELIEF SOUGHT BY DEFENDANTS

The relief sought by Jones is set forth by Jones previously in its Pre-Trial Brief (Motion for Summary Judgment) filed with this Court on February 11, 2011. The remainder of this Response will set forth the legal reasons summary judgment should be granted in favor of Jones and this litigation should be dismissed in its entirety.

UNDIPUSTED FACTS OF THIS CASE

The undisputed facts in this case come from the pleadings on the record before this Court including Plaintiff's Second Amended Complaint, the exhibits Plaintiff attached thereto, and Plaintiff's recently filed Memorandum of Points and Authorities in Support of Motion for Summary Judgment and Issuance of Writ of Execution (hereafter "Plaintiff's Memorandum").

Jones incorporates by reference herein as if set forth fully the undisputed facts set forth in its Motion for Summary Judgment paragraphs 1-21. Jones further incorporates by reference the facts set forth in paragraphs 9, 10, 11, and 13 of Plaintiff's Memorandum.

APPLICATION OF LAW

I. STANDARD OF REVIEW

Jones incorporates by reference herein its statement of the law for the applicable standard of review as set forth in its Motion for Summary Judgment. There are no facts that are disputed. All of the facts are admitted to by Plaintiff in its Second Amended Complaint and in its Memorandum. By application of the law to these undisputed facts, this Court should grant summary judgment in favour of Jones and dismiss this litigation.

II. JONES'S PRIOR ARGUMENTS PRECLUDE ATTACHMENT OR EXECUTION

Jones incorporates by reference as if set forth fully all of its arguments in its Motion for Summary Judgment. These arguments, in summary, are that by operation of Idaho law, Plaintiff's judgment lapsed, his judgment lien lapsed, and Plaintiff failed to execute upon the judgment within 5 years as required by applicable Idaho law. With no judgment or judgment lien existing in favor of Plaintiff, any attachment that may have at one time existed cannot now be enforced. For these same reasons, Plaintiff cannot now seek to obtain a writ of execution when there is no valid judgment under Idaho law upon which a writ of execution can be issued.

Plaintiff argues that it is still allowed to execute upon any property held by Jones pursuant to Idaho law. (See Point I of Plaintiff's Argument page 6-7.) However, in making this argument, Plaintiff ignores the fact that he no longer holds any judgment or judgment lien. (See Motion for Summary Judgment.) When there is no judgment, there is no execution that can

occur. See I.C. §§ 11-101 and 105. As a result, based upon the law set forth in Jones' Motion for Summary Judgment, and the undisputed facts before this Court, the Plaintiff lost his Idaho judgment; he lost his judgment lien; and he lost his right to seek any sort of execution against any of Jones' property in Idaho including the Franklin property. Plaintiff cannot now come in and seek a writ of execution by motion to this Court. Plaintiff failed to properly exercise its rights and now has lost those rights. (See Motion for Summary Judgment.) Additionally, due to the Discharge Order entered in the bankruptcy case, Plaintiff is now an unsecured creditor who cannot proceed any further against the Franklin property. For these reasons, summary judgment should be granted in favor of Jones and this litigation should be dismissed.

III. PLAINTIFF'S ALLEGED WRIT OF ATTACHMENT IS UNENFORCEABLE

Additionally, Idaho's statutes concerning obtaining and maintaining writs of attachment as applied to the undisputed facts of this case invalidate the writ of attachment Plaintiff claims in his Memorandum to still hold. Each of the various statutes applicable to this analysis which invalidate any writ of attachment claimed by Plaintiff will be discussed separately below for the convenience of the Court.

A. Plaintiff Admits to Having a Judgment Lien Before a Writ of Attachment

Plaintiff's attachment, if obtained after a judgment lien was obtained, is void from the beginning by operation of Idaho law. At any time a plaintiff can seek to have the real property of a defendant attached as security for the satisfaction of any judgment that may be recovered where a contract is not secured by any lien upon the real property. I.C. § 8-501. The remedy by attachment is purely statutory and summary and a party must, in order to have the benefit of this statutory process, do everything required by the authorizing statutes. Heinrich v. Barlow, 87 Idaho 72, 80, 390 P.2d 831, 836 (1964). *If it has been secured, however inadequately,*

attachment cannot issue unless such security has without any act of the plaintiff or the person to whom the security was issued, become valueless. *Id.*, (Italics added).

In the present case, Plaintiff has admitted that the original lawsuit was based upon the contract between Plaintiff and Jones where Jones acted as the general contractor and built a home for Plaintiff. (See Plaintiff's Second Amended Complaint page 4 paragraphs 18 and 19.) Plaintiff claims to have obtained a judgment lien from the Utah State court litigation by filing and recording a Notice of Filing Foreign Judgment on August 5, 2005, as Franklin County Recorder's Instrument No. 231394. (See Plaintiff's Second Amended Complaint page 6 paragraph 31.) Plaintiff further admits that this Court issued a Prejudgment Writ of Attachment and Injunction on August 22, 2005 some 17 days after Plaintiff alleges to have already obtained a lien. (See Plaintiff's Memorandum page 4 paragraph 13.) A copy of the recorded Prejudgment Writ of Attachment and Injunction is attached hereto as Exhibit "1".

It is undisputed that the action was based upon contract, and that Plaintiff claims to have obtained a judgment lien against the Franklin property 17 days *before* the Prejudgment Writ of Attachment and Injunction was obtained and recorded. By operation of the law (I.C. 8-501), any writ of attachment Plaintiff claims to have obtained was void because Plaintiff already claimed to have a lien against the Franklin property. Plaintiff did not comply with the statutes concerning obtaining a valid writ of attachment. For this reason, by Plaintiff's own admissions, Plaintiff cannot have *ever* had any valid writ of attachment. Plaintiff's argument to the contrary should be rejected and this litigation should be summarily dismissed in favor of Jones.

B. Any Attachment is Lost if no Judgment Can be Obtained

Additionally, even if Plaintiff did have a valid writ of attachment, such writ is lost if no judgment can be obtained by Plaintiff in the course of the litigation. According to Idaho law, the

property a person has that is subject to attachment includes “all property in this state . . . if judgment be recovered, . . .” I.C. § 8-505. If a judgment is recovered the property can be sold to satisfy the judgment and execution. I.C. § 8-505. If no judgment is possible then no attachment can occur, or if it has occurred, it is released.

In the present case, Plaintiff lost both his judgment and his judgment lien by operation of Idaho law. (See Jones’s Motion for Summary Judgment.) Plaintiff is now barred from obtaining any judgment in Idaho. (See Jones’s Motion for Summary Judgment.) For this reason, no attachment can occur because there is no judgment that can ever support the attachment. If any attachment ever did exist, it must now be released by operation of law (see I.C. § 8-538) and this litigation should be summarily dismissed in favor of Jones.

C. The Sheriff and not the Plaintiff Must Exercise a Writ of Attachment

Furthermore, even if a valid judgment existed or could be obtained by Plaintiff, the original writ of attachment fails because it was not exercised by the sheriff. The statutory language concerning the exercising of a writ of attachment is plain. “The *sheriff* to whom the writ is directed and delivered *must* execute the same without delay, . . . as follows: 1. Real property standing upon the records of the county in the name of the defendant must be attached by filing with the recorder of the county a copy of the writ, . . .” I.C. § 8-506 (Italics added). This section provides a mandatory procedure for levying on real property pursuant to a writ of execution and a writ of attachment. Fulton v. Duro, 107 Idaho 240, 242, 687 P.2d 1367, 1369 (Ct. App. 1984), *aff’d*, 108 Idaho 392, 700 P.2d 14 (1985). There is no levy under a writ of attachment unless the acts required by statute are substantially performed. Id., 107 Idaho at 246, 687 P.2d at 1373.

In the present case, it is clear that the *sheriff* did not exercise the Prejudgment Writ of Attachment and Injunction claimed by Plaintiff. A copy of the Prejudgment Writ of Attachment and Injunction is attached hereto as Exhibit "1". It states on its face that it was "recorded at the request of Hobbs & Olson, September 12, 2005, at 12:30 pm." Hobbs and Olson are the attorneys for the Plaintiff. There is no evidence that the Prejudgment Writ of Attachment and Injunction was ever delivered to the Franklin County Sheriff. Nor is there any evidence that it was the sheriff that exercised the writ by recording it. Because I.C. § 8-506 provides a "mandatory procedure for levying" (see Fulton, supra) and this mandatory procedure is that the "sheriff to whom the writ is directed and delivered must execute the same without delay" (see I.C. § 8-506), then if the Franklin County Sheriff was never involved in the process, there could have been no valid exercising of the Prejudgment Writ of Attachment and Injunction.

The Plaintiff cannot take it upon himself to change the procedures set forth by statutory mandate. Nor can the Plaintiff choose to exercise for himself the powers the statutory mandate provides strictly to the sheriff. The failure of the Plaintiff to follow the statutory procedures invalidates any possible levying action of the Prejudgment Writ of Attachment and Injunction. Therefore, even if the Prejudgment Writ of Attachment and Injunction was ever validly issued and Plaintiff could show that he could at some point obtain a judgment in this litigation, Plaintiff's failure to follow the statutory procedures set forth above invalidates any writ of attachment Plaintiff could claim. As a result, this litigation should be summarily dismissed in favor of Jones.

D. Any Writ of Attachment Plaintiff Had Expired Under Idaho Law

Finally, assuming none of the above arguments existed, and even if Plaintiff had obtained a valid writ of attachment, it has now expired because Plaintiff did nothing to extend the writ.

“Whenever in any action, real estate has been levied upon under writs, either or attachment or of execution, such levy shall be a lien upon all real property for a period of two (2) years after the date of the levy . . .” I.C. § 8-539. “At the expiration of two (2) years, *the lien shall cease and any proceeding or proceedings against the property under the lien shall be barred;*” I.C. § 8-539 (Italics added). A party can file a motion to extend the time of the lien if it files a motion for an extension “not less than five (5) nor more than sixty (60) days before the expiration of said period of two (2) years from the date the original lien would expire,” I.C. § 8-539. A party can keep such a lien alive indefinitely if it properly seeks extension in the manner prescribed. I.C. § 8-539.

In the present case the facts are undisputed. Even assuming that a lien through levy was actually obtained by Plaintiff, this occurred on September 12, 2005, when it was recorded. (See the Prejudgment Writ of Attachment and Injunction attached hereto as Exhibit “1”.) Plaintiff filed no pleadings, or motions or requests with this Court seeking an extension of such a lien at any time. (See Court Docket Report.) It has now been more than 5 years since Plaintiff recorded the Prejudgment Writ of Attachment and Injunction. (See the Prejudgment Writ of Attachment and Injunction attached hereto as Exhibit “1”.) For these reasons, even if Plaintiff ever did have a lien through levy from the Prejudgment Writ of Attachment and Injunction, said lien and levy expired long ago. There is now no writ upon which Plaintiff can proceed. As a result, this litigation should be summarily dismissed in favor of Jones.

IV. PLAINTIFF’S CLAIM THAT HIS TIME IS EXTENDED FAILS

There is no agreement between the parties nor is there any applicable law, either state or federal, that extends the time for the Plaintiff to renew his judgment; to renew his judgment lien;

to renew his writ of attachment; or to proceed with any execution in the present litigation. The sections below separately analyze each of these issues for the convenience of the Court.

A. There is No Agreement for an Extension of Time

The only agreement that exists between the parties concerning any writs or the like is the Stipulation for Prejudgment Writ of Attachment and Injunction which was filed with the Court on July 28, 2005. A copy of the Stipulation for Prejudgment Writ of Attachment and Injunction is attached hereto as Exhibit “2”. There is nothing in this document that provides an extension of time as to any deadline associated with Plaintiff’s obtaining a writ. Because Jones never waived any of the deadlines associated with obtaining or maintaining a writ the only way an extension could exist is if one is provided by either state or federal law.

B. Applicable State Law Provides No Extension of Time for Plaintiff

There is no applicable state law that provides an extension to the Plaintiff in these proceedings relative to renewing his judgment, or renewing his judgment lien, or extending the writ of attachment or seeking any type or kind of execution.

The only state law basis that Plaintiff pointed to in his Memorandum for an extension of time was I.C. § 5-234. However, this section simply does not apply to the present case. This section has nothing to with renewing a judgment, or renewing a judgment lien, or extending a writ of attachment or obtaining an execution. Idaho Code §§ 5-201 *et seq.*, is the codification of the statutes of limitations in Idaho concerning the “commencement” of an action for various causes. The very first section of these statutes is entitled “Limitations in General” and states, “[c]ivil actions can only be *commenced* within the periods prescribed in this chapter after the

cause of action shall have accrued, except when, in special cases, a different limitation is prescribed by statute.” See, I.C. § 5-201 (Italics added). Section 5-234 uses similar language stating, “[w]hen the *commencement* of an action is stayed by injunction or statutory prohibition the time of the continuance of the injunction or prohibition is not part of the time limited for the *commencement* of the action. I.C. § 5-234 (Italics added). In both of these statutory sections the term “commencement” means to begin or to start an action. Essentially if a party fails to begin or start a cause of action and then an injunction or statutory prohibition exists, then section 5-234 might apply to allow a party to still begin a legal action once the injunction or statutory prohibition is removed.

In the present case, however, there is no dispute that Plaintiff commenced (began or started) these proceedings on May 12, 2005, by filing this case. There is also no dispute that Plaintiff claims to have obtained a judgment and a judgment lien from the Utah State court litigation by filing and recording in Idaho a Notice of Filing Foreign Judgment on August 5, 2005, as Franklin County Recorder’s Instrument No. 231394. (See Plaintiff’s Second Amended Complaint page 6 paragraph 31.) Plaintiff therefore “commenced” or began or started his causes of action long ago. He was not delayed nor was he stopped by any statute or injunction.

Plaintiff provided no applicable state law or statute that would extend the time for him to renew his expired judgment, or renew his expired judgment lien. Nor has Plaintiff provided any applicable state law or statute that would allow him to now seek an extension on his expired writ of attachment, if a valid writ ever existed. Finally, Plaintiff has failed to provide any applicable state law or statute that would allow him to seek an extension on his right to seek execution if such a right ever existed.

In summary, Plaintiff has provided no applicable state law or statute that this Court can look to as authority for Plaintiff to continue with these proceedings, because there is no state law that extends the time despite what Plaintiff claims. None of the applicable statutes including I.C. §§ 8-501 et seq., 10-1110 and 10-1111; or 11-101 and 105 provide for any such extension. Because there is no state statute or authority that extends any time to Plaintiff, this litigation should be summarily dismissed in favor of Jones.

C. Applicable Bankruptcy Law Provides No Extension of Time for Plaintiff

Additionally, there are no applicable federal or bankruptcy laws that provide any extensions of time to Plaintiff to prevent the dismissal of this litigation. Plaintiff, in his Memorandum, alludes to bankruptcy code 11 U.S.C. § 362 (which imposes the bankruptcy stay) as a basis for allowing him additional time to seek execution in the present litigation under I.C. §§ 11-101 and 105. It is anticipated that Plaintiff may make the same argument concerning a right to renew his expired judgment; a right to renew his expired judgment lien; and/or a right to enforce the writ of attachment he claims to hold.

Plaintiff's reliance upon bankruptcy code 11 U.S.C. § 362 is either made in ignorance of bankruptcy law or is a deliberate attempt to either confuse or mislead this Court concerning the effect the bankruptcy has upon the present case. Jones provides this section of law to alleviate any concerns the Court may have on this issue.

The correct section from the bankruptcy code declares that Plaintiff is entitled to NO extensions that would prevent the dismissal of this litigation. The applicable bankruptcy code is 11 U.S.C. § 108(c). In summary, this section states in relevant part that in a situation where a civil action was filed before the bankruptcy, the party who filed the civil action gets one of two

rights as to an extension of time to do anything necessary to preserve the party's rights. First, the party gets to keep their original state court deadlines if these deadlines extend beyond the bankruptcy (see § 108(c)(1)); or second, the party gets 30 additional days after the termination or expiration of the stay under section 362 *if, and only if*, their state court deadlines expire during the bankruptcy (see § 108(c)(2)). The bottom line in the present case is that there is no tolling of state court deadlines by the bankruptcy code as Plaintiff suggests.

In support of this statement about the applicability of 11 U.S.C. § 108(c), and the enforceability of state court deadlines, Jones provides the following bankruptcy case annotations uniformly applying this section of the bankruptcy code as described:

Where creditor's judgment lien against debtor expired by operation of law pursuant to state statute during pendency of bankruptcy proceeding, lapse of lien deprived creditor of right to enforce judgment, and thus any act required to renew judgment constituted continuation of civil action against debtor, and not merely maintenance of creditor's lien as trustee contended, and creditor was thus allowed extension of time to renew lien pursuant to 11 USCS § 108; however, because of bankruptcy court's prior denial of debtor's discharge, the automatic stay in debtor's case expired on August 2, 2002, creditor was thus required to renew judgment lien prior to September 1, 2002, [the 30 day extension] but because creditor did not renew the lien, the judgment became dormant on September 1, 2002 and was administered as an unsecured claim. Wessinger v Raab, (In re Greenberg) (2002, BC SD Ga) 288 BR 612.

Date for renewal of state court judgment assigned under state law applied, where it was the later of the two dates designated in 11 USCS § 108(c). Smith v Lachter (In re Smith) (2003, BAP9) 293 BR 220, 2003 CDOS 4258, 41 BCD 94, appeal after remand, remanded on other grounds (2006, BAP9) 352 BR 702.

Because 11 USCS § 108 applies to determine renewal period of state-court judgment, state's courts will treat affidavit filed before the end of the extended 30 day period under § 108 as timely because it served remedial purposes of Ariz. Rev. Stat. §§ 12-1551 and 12-1612. Lachter v Smith (In re Smith), (2004) 209 Ariz 343, 101 P3d 637, 441 Ariz Adv Rep 24.

11 USCS § 108(c) extends creditor's right to bring action through pendency of debtor's bankruptcy case only for 30 days after automatic stay expires by operation of law or is lifted by Bankruptcy Court, but statute does not, in and of itself, suspend running of statute of limitations; trustee's right to bring preference

action under Kentucky law, pursuant to 11 USCS § 544, expired 30 days after dismissal of Chapter 7 debtor's previous Chapter 11 petition where, by time of Chapter 7 filing, Kentucky statute of limitations had expired. In re Baird (1986, BC WD Ky) 63 BR 60, 15 CBC2d 231.

Where creditor is stayed from continuing action against debtor in bankruptcy, 11 USCS § 108(c) gives creditor additional 30 days to enforce its claims against debtor once creditor receives notice of termination of stay. Hazen First State Bank v Speight, (1989, CA8 Ark) 888 F2d 574, 19 BCD 1670.

11 USCS § 108(c) does not provide for tolling of any externally imposed time bars, but rather, only calls for applicable time deadlines to be extended for 30 days after termination of bankruptcy stay, if any such deadline would have fallen on earlier date; reference in § 108(c)(1) to "suspension" of time limits does not operate in itself to stop running of statute of limitations, but rather, this language merely incorporates suspensions for deadlines that are expressly provided in other federal or state statutes. Aslanidis v United States Lines, (1993, CA2 NY) 7 F3d 1067, CCH Bankr L Rptr P 75484, 26 FR Serv 3d 1451.

Creditor's security interest, perfected and valid at time of debtor's petition but due to lapse during pendency of proceedings, does not lapse where creditor fails to file continuation statement; rather, creditor's rights are preserved until the later of (1) the lapse of the financing statement under state law, or (2) 30 days after notice of lifting of automatic stay, as provided in 11 USCS § 108(c). In re Bond Enterprises, Inc., (1985, BC DC NM) 54 BR 366, CCH Bankr L Rptr P 70811.

With the proper bankruptcy law before this Court the analysis of this matter is simple.

In the present case, there is no dispute that Plaintiff claims to have obtained a judgment, and a judgment lien from the Utah State court litigation by filing and recording a Notice of Filing Foreign Judgment on August 5, 2005, as Franklin County Recorder's Instrument No. 231394. (See Plaintiff's Second Amended Complaint page 6 paragraph 31.) Plaintiff further claims that this Court issued a Prejudgment Writ of Attachment and Injunction on August 22, 2005. (See Plaintiff's Memorandum page 4 paragraph 13.) A copy of the Prejudgment Writ of Attachment and Injunction is attached hereto as Exhibit "1".

It is also undisputed that on April 18, 2006, Defendant Gordon Jones filed a Chapter 7 bankruptcy in Utah. Further, on January 31, 2007, the Chapter 7 Bankruptcy Trustee and

Plaintiff entered in a Settlement Agreement concerning among other things Plaintiff's litigation in Idaho against Jones for fraudulent transfers. (See Plaintiff's Second Amended Complaint paragraphs 35, 36, and 37 and Exhibit "G".) The Settlement Agreement states in pertinent part

The Trustee stipulates and agrees that Grazer has a valid, enforceable security interest in the [therein described] property of Debtor's bankruptcy [including the Franklin Property]. . . . Grazer shall be deemed to have relief from the stay to pursue any and all state court remedies against the Debtor and such property.

The Settlement Agreement further states that Plaintiff is entitled to fully pursue all his rights and claims against the aforesaid property, which rights and claims are not altered, amended or affected in any way by the Agreement or by the filing of the Jones's bankruptcy case. Further, the Settlement Agreement states that it is binding on Jones. (See Plaintiff's Second Amended Complaint paragraph 38, 39, and 40 and Exhibit "G".)

The Settlement Agreement was approved by the Bankruptcy Court in an Order dated April 19, 2007. (See Plaintiff's Second Amended Complaint paragraph 41 and the "second" Exhibit "G".) The Order described above, indicates that by reason of the recording of the Notice of Foreign Judgment, and the Stipulation of the chapter 7 Trustee, Plaintiff had a security interest in all the remaining property of the estate including the Franklin Property and had stay relief to pursue those security interests. (See Plaintiff's Second Amended Complaint paragraph 42 and the "second" Exhibit "G".)

By operation of the undisputed facts above and I.C. §§ 10-1110 and 1111, and §§ 11-101 and 105, any judgment, or judgment lien or right to execute upon a judgment held by Plaintiff began on August 5, 2005. Under these same provisions Plaintiff had 5 years upon which to renew any judgment, judgment lien or seek execution upon such a judgment. The 5 years ran on August 5, 2010.

It is undisputed that Plaintiff received stay relief from the bankruptcy court on April 19, 2007, when the Order was entered approving the above-described Stipulation. By operation of bankruptcy code 11 U.S.C. § 108(c) Plaintiff's state court rights to seek to renew any judgment, judgment lien or seek execution upon any judgment Plaintiff claimed to have obtained, were still alive and continued. These deadlines were not tolled nor were they extended.

Plaintiff had over 3 years, from April 19, 2007, (stay relief date) until August 5, 2010, (Idaho deadline date to renew or execute) in which to seek to renew his claimed judgment, judgment lien and to seek execution upon his claimed judgment. Because Plaintiff had time after the stay relief was granted to exercise his rights, he is just like those cases listed above where bankruptcy code § 108(c) provided no extensions. Plaintiff did nothing during those 3 years and has now lost the right to renew any judgment, judgment lien or seek execution upon any judgment Plaintiff claimed to have obtained. (See Jones's Motion for Summary Judgment.)

The same is true of the Prejudgment Writ of Attachment and Injunction which Plaintiff claims to have obtained on August 22, 2005. Because Plaintiff received stay relief on April 19, 2007, his right to seek a renewal of the two year lien created by the writ of attachment, if any was ever obtained, was not altered. Plaintiff had 4 months, between April 19, 2007, (stay relief date) and August 22, 2007, (deadline to extend writ of attachment) in which to exercise his state court right to seek the extension on his claimed writ of attachment. However, Plaintiff did nothing during those 4 months and as a result, Plaintiff has now lost the right to extend his claimed writ of attachment.

The Order of Discharge entered in the bankruptcy proceedings, now prevents Plaintiff, who lost his security interest in the Franklin property, from doing anything further concerning the Franklin property. (See Plaintiff's Second Amended Complaint page 8 paragraphs 43 and

44.) For these reasons, Plaintiff has no causes of action remaining upon which it can seek any relief or upon which any trial can proceed. As a result, this litigation should be summarily dismissed in favor of Jones.

CONCLUSION

The writ of attachment Plaintiff claims in its Memorandum was either invalid from the beginning or, if ever valid, has expired. There is no agreement for an extension nor is there any state or federal law that provides an extension of the time for Plaintiff to renew anything he claims to have held including his judgment, his judgment lien or any writ of attachment. Plaintiff also lost any opportunity he had to seek an execution. For these reasons, all of the causes of action contained in Plaintiff's Second Amended Complaint fail. Because there are no valid causes of action remaining before this Court, this matter should be dismissed summarily in favor of Jones.

DATED this 22nd Day of February, 2011.

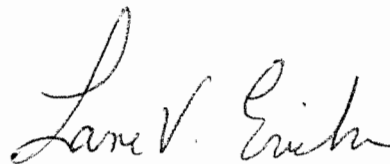
RACINE, OLSON, NYE, BUDGE &
BAILEY, CHARTERED

By: Lane V. Erickson
LANE V. ERICKSON
Attorney for Plaintiff

CERTIFICATE OF SERVICE

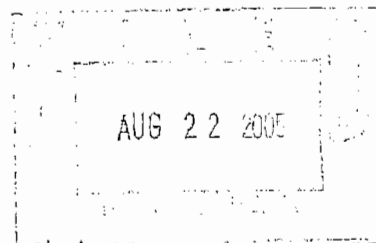
I hereby certify that on the 27th day of February, 2011, I caused a true, correct and complete copy of the foregoing document to be served by first class mail, upon the following, unless a different method of service is indicated:

Margaret Olson
Lincoln Hobbs
HOBBS & OLSON, LC
525 South 300 East
Salt Lake City, Utah 84111
801 519-2999 Fax
Attorneys for Plaintiff



LANE V. ERICKSON

231224 1-3



Recorded at the request of
Hubbs & Olson

MARGARET H. OLSON (ID BAR #04680)
Of Counsel

HOBBS & OLSON, L.C.

Attorneys for Plaintiff Allen F. Grazer _____ a.m. SEP 12 2005 p.m. 12:30

525 South 300 East

Salt Lake City, Utah 84111

Telephone: (801) 519-2555

Facsimile: (801) 519-2999

V. ELLIOTT LARSEN, RECORDER
By Camille Larsen Deputy
FRANKLIN COUNTY, IDAHO

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

ALLEN F. GRAZER, an individual,
Plaintiff,

v.

GORDON A. JONES, an individual;
LINDA G. JONES, an individual;
J&J LIVESTOCK, LLC, a Utah
Limited Liability Company; and
John Does 1-10,

Defendants.

PREJUDGMENT
WRIT OF ATTACHMENT AND
INJUNCTION

Civil No. CV-2005-183

Judge Don L. Harding

This matter has come before the Court on Plaintiff Grazer's Application for Prejudgment Writ of Attachment. The Court, having received the Stipulation of the parties and considered the Application together with the Memorandum in Support of Application for Prejudgment Writ of Attachment, and the Affidavit of Allen F. Grazer in Support of Prejudgment Writ of Attachment, has determined that the motion should be granted this 28TH day of July 2005 at 1:30 p.m.

1 - Prejudgment Writ of Attachment

EXHIBIT "1"

231224 23

Based upon the foregoing and for other good cause shown, IT IS HEREBY ORDERED:

1. This Writ of Attachment authorizes the Sheriffs in and for Franklin County, State of Idaho, to attach Gordon Jones' interest in over 200 acres of land in Franklin County, Idaho and water shares. These parcels are identified as Parcel Nos. 908.00, 908.01, and 915.00 with the following legal description:

COMMENCING AT A POINT 53-3/4 RODS NORTH OF THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF SECTION 35, TOWNSHIP 14 SOUTH, RANGE 38 EAST OF THE BOISE MERIDIAN, FRANKLIN COUNTY, IDAHO, AND RUNNING THENCE WEST 240 RODS, THENCE NORTH 53-3/4 RODS, THENCE EAST 240 RODS; THENCE SOUTH 53-3/4 RODS TO THE PLACE OF BEGINNING.

EXCEPTING AND RESERVING A RIGHT-OF-WAY FOR ANY AND ALL IRRIGATION DITCHES AND CANALS, AND PUBLIC ROADS NOW EXISTING OR IN USE UPON AND ACROSS SAID PREMISES, AND EXCEPTING AND RESERVING THEREFROM A STRIP OF LAND 3 RODS WIDE ALONG THE EAST SIDE OF THE ABOVE-DESCRIBED LAND.

ALSO, THE SOUTH HALF OF THE SOUTHWEST QUARTER, THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER, AND THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 34, TOWNSHIP 14 SOUTH, RANGE 38 EAST OF THE BOISE MERIDIAN, FRANKLIN COUNTY, IDAHO.

TOGETHER WITH 26 SHARES OF THE CAPITAL STOCK OF TWIN LAKES CANAL COMPANY.

SUBJECT TO EASEMENTS, RESTRICTIONS, COVENANTS AND RIGHTS OF WAY APPEARING OF RECORD OR ENFORCEABLE IN LAW OR EQUITY.

231224 3-3

- 2. Per the stipulation of the parties, no security shall be required of the Plaintiff under I.C. 8-503.
- 3. Defendants are hereby enjoined from further transferring or disposing of assets in the State of Idaho.
- 4. The issue of attorneys fees is reserved for a later time.

DATED this 22nd day of August, 2005.

BY THE COURT:

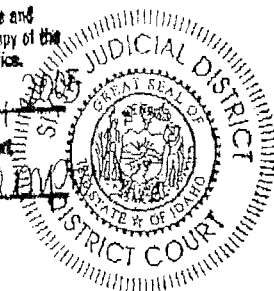
Don Z. Harding
 JUDGE HARDING
 District Court Judge

APPROVED AS TO FORM this 27th day of July, 2005:

BABCOCK, SCOTT & BABCOCK

Shawn Potter
 Shawn W. Potter, Esq.
 Attorneys for Defendants

STATE OF IDAHO } ss
 County of Franklin
 I HEREBY CERTIFY that the above and foregoing is a full and correct copy of the original thereof, as filed in my office.
 Dated: August 31, 2005
 V. ELLIOTT LARSEN
 Clerk of the District Court
 by Linda Ham
 Deputy Clerk



FILED

05 JUL 28 PM 12:23

FRANKLIN COUNTY CLERK

[Signature]
DEPUTY

MARGARET H. OLSON (ID BAR #04680)
Of Counsel
HOBBS & OLSON, L.C.
Attorneys for Plaintiff Allen F. Grazer
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Salt Lake City, Utah 84111
Telephone: (801) 519-2555
Facsimile: (801) 519-2999

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

ALLEN F. GRAZER, an individual,
Plaintiff,

v.

GORDON A. JONES, an individual;
LINDA G. JONES, an individual;
J&J LIVESTOCK, LLC, a Utah
Limited Liability Company; and
John Does 1-10,
Defendants.

STIPULATION FOR
PREJUDGMENT WRIT OF ATTACHMENT
AND INJUNCTION

Civil No. CV-2005-183

Judge Don L. Harding

Pursuant to I.C. 55-916(b) and 8-501, et. seq., Allen F. Grazer, Gordon Jones, Linda Jones, and J&J Livestock, LLC, by and through counsel, hereby stipulate to the following:

1. To a Writ of Attachment authorizing the Sheriffs in and for Franklin County, State of Idaho, to attach Gordon A. Jones' interest in over 200 acres of land and water shares in Franklin County, Idaho. These parcels are identified as Parcel Nos. 908.00, 908.01, and 915.00 with the following legal description:

COMMENCING AT A POINT 53-3/4 RODS NORTH OF THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF SECTION 35, TOWNSHIP 14 SOUTH, RANGE 38 EAST OF THE BOISE MERIDIAN, FRANKLIN COUNTY, IDAHO, AND RUNNING THENCE WEST 240 RODS, THENCE NORTH 53-3/4 RODS, THENCE EAST 240 RODS; THENCE SOUTH 53-3/4 RODS TO THE PLACE OF BEGINNING.

EXCEPTING AND RESERVING A RIGHT-OF-WAY FOR ANY AND ALL IRRIGATION DITCHES AND CANALS, AND PUBLIC ROADS NOW EXISTING OR IN USE UPON AND ACROSS SAID PREMISES, AND EXCEPTING AND RESERVING THEREFROM A STRIP OF LAND 3 RODS WIDE ALONG THE EAST SIDE OF THE ABOVE-DESCRIBED LAND.

ALSO, THE SOUTH HALF OF THE SOUTHWEST QUARTER, THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER, AND THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 34, TOWNSHIP 14 SOUTH, RANGE 38 EAST OF THE BOISE MERIDIAN, FRANKLIN COUNTY, IDAHO.

TOGETHER WITH 36 SHARES OF THE CAPITAL STOCK OF TWIN LAKES CANAL COMPANY.

SUBJECT TO EASEMENTS, RESTRICTIONS, COVENANTS AND RIGHTS OF WAY APPEARING OF RECORD OR ENFORCEABLE IN LAW OR EQUITY.

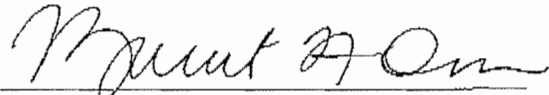
2. No security shall be required of the Plaintiff under I.C. 8-503.

3. The issue of attorneys fees is reserved for a later time.

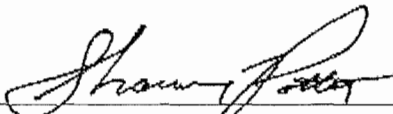
4. Defendants further stipulate that an order may enter enjoining them from further transferring or disposing assets in the State of Idaho.

DATED this 27 day of July, 2005.

HOBBS & OLSON, L.C.


MARGARET H. OLSON
Attorneys for Plaintiff
Allen F. Grazer

DATED this 27th day of July, 2005.

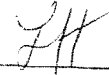

SHAWN W. POTTER, Esq.
(ID Bar #6391)
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57 West South Temple, 8th Floor
Salt Lake City, UT 84101

Attorneys for Gordon A. Jones and
Linda G. Jones; and J&J Livestock,
LLC

FILED

11 FEB 25 AM 11:04

FRANKLIN COUNTY CLERK



DEPUTY

LINCOLN W. HOBBS (ID BAR # 07325)
MARGARET H. OLSON (ID BAR #04680)
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IN THE SIXTH JUDICIAL DISTRICT COURT
IN AND FOR FRANKLIN COUNTY, STATE OF IDAHO

ALLEN F. GRAZER, an individual,
Plaintiff.

v.

GORDON A. JONES, an individual;
GORDON A. JONES, Personal Representative
of THE ESTATE OF LINDA G. JONES,
deceased; J&J LIVESTOCK, LLC, a Utah
Limited Liability Company; and John Does 1-
10.

Defendants.

**NOTICE OF INTENT TO FILE
RESPONSE TO DEFENDANT'S PRE-
TRIAL BRIEF AKA MOTION FOR
SUMMARY JUDGMENT**

Civil No. CV-2005-183

Judge David C. Nye

Comes now Plaintiff Allen F. Grazer and gives notice of his intent to file a Response to "Defendant's Pre-Trial Brief aka Motion for Summary Judgment" filed with the Court on February 11, 2011, but which Allen Grazer received today.


On February 23, 2011, Grazer received from the Court a "Notice of Taking Summary Judgment Under Advisement" in which the Court noted that both parties had filed Motions for Summary Judgment. Also on February 23, 2011, counsel for Grazer received, by fax, "Defendant's Response to Motion for Summary Judgment and for Issuance of Writ of Execution" in which Defendant noted that he had previously filed a Pre-Trial Brief aka Motion

for Summary Judgment on February 11, 2011 (the "Pre-Trial Brief"). The Notice from the Court and Defendant's Response were the first notice given to Grazer that Defendant had filed a Motion for Summary Judgment.

Defendant's Pre-Trial Brief (which was received from the Court via fax) included a Certificate of Service showing that Defendant's Pre-Trial Brief was mailed to an incorrect address for counsel for the Plaintiff, despite Plaintiff having filed a change of address with the court over five years ago, and having informed Defendant's counsel of the incorrect address previously, most recently on July 7, 2009. Grazer has notified Defendant's counsel by email dated today, February 23, 2011, of the inadequate service of the Pre-Trial Brief and counsel for Defendant has indicated he will not object to the response period commencing as of February 23, 2011.

DATED this 23 day of February, 2011.

HOBBS & OLSON, L.C.



LINCOLN W. HOBBS
MARGARET H. OLSON
Attorneys for Plaintiff Allen F. Grazer

CERTIFICATE OF DELIVERY

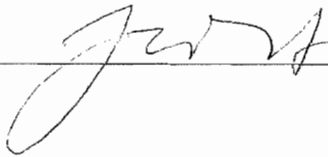
I hereby certify that on the 23 day of February, 2011, I caused a true and correct copy of the foregoing to be served upon the following in the manner indicated:

Lane V. Erickson
RACINE, OLSON, NYE, BUDGE & BAILEY
CHARTERED
P.O. Box 1391
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- ltz@racinelaw.net
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- Fed Ex
- Hand Delivery
- Personally Served

Sixth Judicial District Court
Franklin County Clerk
39 West Oneida, Room 2
Preston ID 83263

- Email Hampton@plmw.com
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- Fed Ex
- Hand Delivery
- Personally Served



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11 MAR -7 PM 3:00

FRANKLIN COUNTY CLERK

JH

DEPUTY

LINCOLN W. HOBBS (ID BAR # 07325)
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Facsimile: (801) 519-2999

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

ALLEN F. GRAZER, an individual,

Plaintiff,

v.

GORDON A. JONES, an individual;
GORDON A. JONES, Personal Representative
of THE ESTATE OF LINDA G. JONES,
deceased; J&J LIVESTOCK, LLC, a Utah
Limited Liability Company; and John Does 1-
10,

Defendants.

MOTION FOR PROTECTIVE ORDER

Civil No. CV-2005-183

Judge David C. Nye

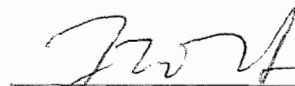
Plaintiff, Allen F. Grazer ("Grazer"), respectfully moves this Court for the issuance of a Protective Order in accordance with Idaho Rules of Civil Procedure, Rule 26(c). Grazer seeks a Protective Order as a result of Defendants First Set of Interrogatories and Requests for Production of Documents served after the expiration of the extended discovery cut-off dates set by the Court. The discovery improperly seeks discovery of information beyond the scope of what the Court allowed in the telephonic status conference held on January 13, 2011, where the Court limited discovery by the defendants to issues related to an Accounting of the Judgment and the issues related to the Water Shares in the Twin Lakes Canal Company. The discovery further

improperly seeks information that is irrelevant to the issues of this case, to wit, information as to after accruing profits and rents realized on property on which Grazer previously executed or which Grazer previously garnished. The production of this information is not only irrelevant and immaterial to the claims in this case, such production would be unduly burdensome, overly broad, and expensive to Grazer. Grazer has provided an accounting of amounts due, including credits for the value of property sold at execution or garnished as of the date of the execution or garnishment.

This Motion is supported by a Memorandum of Points and Authorities submitted herewith.

DATED this 3 day of March, 2011.

HOBBS & OLSON, L.C.



LINCOLN W. HOBBS
MARGARET H. OLSON
Attorneys for Plaintiff Allen F. Grazer

CERTIFICATE OF DELIVERY

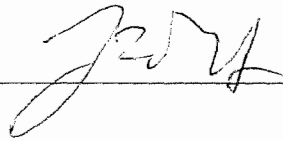
I hereby certify that on the 3 day of March, 2011, I caused a true and correct copy of the foregoing to be served upon the following in the manner indicated:

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Attorneys for Defendants Gordon A. Jones; Gordon A. Jones Personal Representative of the Estate of Linda G. Jones, deceased; and J&J Livestock, LLC

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FRANKLIN COUNTY CLERK

JH

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IN THE SIXTH JUDICIAL DISTRICT COURT
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ALLEN F. GRAZER, an individual,
Plaintiff,

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GORDON A. JONES, an individual;
GORDON A. JONES, Personal Representative
of THE ESTATE OF LINDA G. JONES,
deceased; J&J LIVESTOCK, LLC, a Utah
Limited Liability Company; and John Does 1-
10,

Defendants.

**MEMORANDUM IN SUPPORT OF
MOTION FOR PROTECTIVE ORDER**

Civil No. CV-2005-183

Judge David C. Nye

Plaintiff, Allen F. Grazer ("Grazer"), respectfully submits the following Memorandum of Points and Authorities in Support of his Motion for Protective Order.

STATEMENT OF FACTS

1. This action was commenced on May 12, 2005. It was stayed on April 18, 2006 by the filing of a bankruptcy by Gordon A. Jones and it was removed to the United States Bankruptcy Court for the District of Utah on July 17, 2006. On April 19, 2007, the Bankruptcy Court abandoned the property that is the subject of this action, and on May 7, 2007, Plaintiff requested a Scheduling and Management Conference.

2. No action was taken as a result of the May 7, 2007 Request for Scheduling and Management Conference so the Plaintiff filed another Request for Scheduling and Management Conference on December 26, 2007.

3. This action was set for trial on November 5 and 6, 2008. (*See* the Court's file.)

4. On or about July 17, 2010, the parties submitted a Joint Statement to the Court containing information for a scheduling order signed by counsel for all parties to the matter, including counsel for Defendant Gordon A. Jones.

5. On August 20, 2011, this Court entered a Scheduling Order (the "Scheduling Order") setting a first place trial setting of February 8-10, 2011.

6. The Scheduling Order further provided that "all discovery shall be propounded and served such that all responses are due no later than thirty (30) days before trial."

7. In accordance with the Scheduling Order, Grazer propounded Interrogatories and Requests for Production of Documents on December 3, 2010.

8. On January 13, 2011, a telephonic Status Conference (the "Status Conference") was held during which the Court vacated the February 8, 2011 trial setting and rescheduled the trial for March 29 – April 1, 2011.

9. The Court ordered that defendants file an answer by January 21, 2011.

10. The Court further ordered that defendant's additional allowed discovery should be propounded by January 21, 2011.

11. In response to Grazer's objection to the allowance of further discovery, the Court limited the scope of defendant's discovery to matters relating to the Accounting and the Water Shares in the Twin Lakes Canal Company.

12. The Court invited counsel for Grazer to seek redress from the Court should the defendant's discovery requests exceed the scope granted by the Court.

13. Defendants filed their answer on January 21, 2011.

14. On January 27, 2011, six (6) days after the extended discovery deadline set by the Court, defendant Jones mailed his First Set of Interrogatories and Requests for Production of Documents to Grazer.

ARGUMENT

Rule 26(c) of the Idaho Rules of Civil Procedure allows a court to issue an order to prevent a party from "annoyance, embarrassment, oppression, or undue burden or expense."

Upon motion by a party or by the person from whom discovery is sought, and for good cause shown, the court in which the action is pending or alternatively, on matter relating to a deposition, the court in the district where the deposition is to be taken may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following: (1) that the discovery not be had; (2) that the discovery may be had only on specified terms and conditions, including a designation of the time or place; (3) that the discovery may be had only by a method of discovery other than that selected by the party seeking discovery; (4) that certain matters not be inquired into, or that the scope of the discovery be limited to certain matters; (5) that discovery be conducted with no one present except persons designated by the court; (6) that a deposition after being sealed be opened only by order of the court; (7) that a trade secret or other confidential research, development, or commercial information not be disclosed or be disclosed only in a designated way; (8) that the parties simultaneously file specified documents or information inclosed [sic] in sealed envelopes to be opened as directed by the court.

I.R.C.P., Rule 26(c). Grazer asserts certain of the discovery requests are calculated to annoy, oppress or cause him undue burden or expense and that the requests were submitted beyond the extended discovery deadline established by the Court and should be stricken.

POINT I

The Discovery Requests were propounded beyond the extended discovery deadline and beyond the scope of discovery set by the Court and should not be allowed.

According to the Minute Entry and Order entered by the Court on January 13, 2011, "All discovery demands [were] to be made by January 21, 2011." *Minute Entry and Order.*

Defendants did not file their requests until six (6) days later. Because they were untimely, the Court should enter an Order relieving the Plaintiff from any obligation to respond to the discovery.

The Idaho Rules of Civil Procedure allow trial judges discretion in fashioning pretrial orders to efficiently manage cases. I.R.C.P. 16(a). A party or attorney who does not comply with pretrial orders or is otherwise deficient may be sanctioned pursuant to Rule 16(i) and, as referenced therein, Rule 37(b)(2), which outlines sanctions for the violation of discovery orders. Rule 37(b)(2) authorizes the court to strike pleadings in whole or in part, and to treat disobedience of orders as contempt of court. I.R.C.P. 37(b)(2)(C), (D). In accordance with Rule 37 of the Idaho Rules of Civil Procedure, certain sanctions may be imposed for failure to comply with discovery deadlines:

(2) Sanctions by court in which action is pending.

If a party or an officer, director, or managing agent of a party or a person designated under Rule 30(b)(6) or 31(a) to testify on behalf of a party fails to obey an order to provide or permit discovery, including an order made under subdivision (a) of this rule or Rule 35, the court in which the action is pending may make such orders in regard to the failure as are just, and among others the following:

(A) An order that the matters regarding which the order was made or any other designated facts shall be taken to be established for the purposes of the action in accordance with the claim of the party obtaining the order;

(B) An order refusing to allow the disobedient party to support or oppose designated claims or defenses, or prohibiting that party from introducing designated matters in evidence;

(C) An order striking out pleadings or parts thereof, or staying further proceedings until the order is obeyed, or dismissing the action or proceeding or any part thereof, or rendering a judgment by default against the disobedient party;

(D) In lieu of any of the foregoing orders or in addition thereto, an order treating as a contempt of court the failure to obey any orders except an order to submit to a physical or mental examination.

I.R.C.P. Rule 37(b)(2).

In this case, the matter has been pending since 2005. The matter previously has been set for trial in November 2008 when the same issues, with the exception of issues related to the Water Shares, were at issue. The length of time during which the action had been pending was raised at the time of the Status Conference on January 13, 2011, which gave rise to the limitation of the scope of discovery to an accounting of amounts due and issues related to the Water Shares. Defendants have had ample time to propound discovery and prepare for trial. Indeed, the first place setting, stricken by the Court at the Status Conference was set to commence on February 8, 2011, a mere three weeks after the date of the Status conference.

In a similar ruling relating to discovery, the Idaho Supreme Court has held that the trial court has the authority to cutoff discovery as of a date certain and to disallow further forays for information after that date. *See Brinkmeyer v. Brinkmeyer*, 135 Idaho 596; 21 P.3d 918, 922 (2001)(Party not unfairly prejudiced by discovery cutoff. No unfair cutoff of discovery by magistrate; magistrate enforced discovery deadlines already imposed. Parties should have already been prepared to try case.)

POINT II

The discovery requesting information relating to rents and profits on property purchased at execution is irrelevant and immaterial.

Interrogatories 7, 8, 9, 10, 15, 16, 17, 18, 19, and 20 and similar Requests for Production of Documents request information relating amounts obtained for rentals or transfers of property upon which Grazer has executed for the payment of his judgment. This information is irrelevant and immaterial to the issues in this case. Notwithstanding the untimeliness of the Defendant's discovery, Grazer will provide an accounting as to the amounts due under the Judgment with credits given for garnishments and executions as of the date of garnishment or sale. In an execution sale, the amount received at the sale is considered to be the market value of the property. *Thomas and Backman, Utah Real Property Law*, §14.03(a)(2). Foreclosure sale proceedings, and the rights of parties under them, are fixed at time highest bids are accepted by sheriff are binding and rights of all interested parties fixed and determined thereby. *Cole v. Canton Mining Co.*, 59 Utah 140, 202 P. 830 (1921).

Additionally, under Utah law, "the purchaser [at an execution sale] is entitled to the rents of the property or the value of the use and occupation of the property until redemption." *Utah R. Civ. P., Rule 69C(h)(i)(1)*. Further, upon the expiration of the time permitted for redemption, "the purchaser or last redemptioner is entitled to conveyance [of title]. After conveyance of title, the judgment debtor has no further claim for increases in value of the property sold for execution or rents received from such property.

With one exception,¹ there has been no redemption of the property sold. Title to property executed upon has been transferred to the purchaser at the execution sale. Defendants have no further claim against such property. Rents and profits received from any transfers of property on which Grazer has executed and which has not been redeemed have no application in this matter.

The purpose of the discovery rules is to take the surprise out of trials of cases so that all relevant facts and information pertaining to the action may be ascertained in advance of trial. Where it is sought to discover information which can have no possible bearing on the determination of the action on its merits, it can hardly be within the rule. It is not intended to supply information for the personal use of a litigant that has no connection with the determination of the issues involved in the action on their merits. (citations omitted).

Sanders v. Ayrhart, 89 Idaho 302; 404 P.2d 589 (1965)(citing *Jeppesen v. Swanson*, 243 Minn. 547, 68 N.W. 2d 649 (1955)).

CONCLUSION

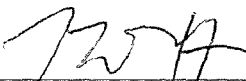
Jones was limited, in the telephonic scheduling conference, to discovery relating to an accounting of amounts due under the Judgment and issues relating to the Water Shares. That discovery was to be filed on or before January 21, 2011, and was not timely filed. The information requested under the additional discovery responses is available to Jones and the requests are calculated to harass and cause Grazer undue burden and expense. Additional information relating to the disposition of property after the transfer of title at an execution sale is irrelevant. For these reasons, Grazer respectfully submits that he is entitled to a protective

¹ An attempted redemption of certain property located in Bountiful, Utah is disputed and has been appealed to the Utah Court of Appeals, *Jones v. Grazer*, Appellate Case No. 20090983. The Utah Court of Appeals affirmed the setting aside of that Redemption *Grazer v. Jones*, 2011 UT App. 57.

order against providing any information although he intends to provide an accounting and information related to the Water Shares.

DATED this 3 day of March, 2011.

HOBBS & OLSON, L.C.



LINCOLN W. HOBBS
MARGARET H. OLSON
Attorneys for Plaintiff Allen F. Grazer

CERTIFICATE OF DELIVERY

I hereby certify that on the 3 day of March, 2011, I caused a true and correct copy of the foregoing to be served upon the following in the manner indicated:

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