

8-26-2011

# Grazer v. Jones Clerk's Record v. 6 Dckt. 38852

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Vol. 6 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 \_\_\_\_\_ day of July, 2011

**AUG 26 2011**

Clerk

Deputy

Vol 6 of 6

**38852**

Volume 6 of 6  
Docket No. 38852

TABLE OF CONTENTS

Volume 1 of 6

Complaint filed 5-12-05 ..... 1  
Lis Pendens filed 5-12-05..... 11  
Affidavit of Allen F. Grazer in Support of Prejudgment Writ of Attachment filed 6-23-05..... 47  
Answer filed 7-8-05..... 52  
Stipulation for Prejudgment Writ of Attachment and Injunction filed 7-28-05..... 57  
Notice of Filing Foreign Judgment filed 8-1-05 ..... 60  
Prejudgment Writ of Attachment and Injunction filed 8-22-05 ..... 62  
Order to Amend Complaint filed 11-22-05 ..... 65  
Notice of Removal of Civil Action by Trustee filed 7-19-06..... 68  
Notice of Withdrawal of Counsel filed 1-2-08 ..... 104  
Notice of Appearance filed 2-4-08..... 107  
Order for Status and Scheduling Conference (IRCP Rule 16(b) filed 2-12-08..... 109  
Order for Trial, Pretrial Schedule, and Pretrial Conference filed 3-13-08 ..... 112  
Motion to Withdraw as Attorney of Record filed 8-21-08 ..... 117  
Order of Reference filed 10-7-08 ..... 119  
Administrative Order of Reference filed 10-10-08..... 120  
Order of Reference filed 10-24-08 ..... 121  
Administrative Order of Reference filed 11-4-08..... 123  
Defendant Gordon A. Jones' Motion to Dismiss filed 5-13-09 ..... 124  
Affidavit of Lane V. Erickson in Support of Defendant Gordon A. Jones' Motion to Dismiss filed 5-13-09..... 129

Volume 2 of 6

Memorandum in Opposition to Gordon A. Jones' Motion to Dismiss filed 6-10-09..... 162  
Defendant Gordon A. Jones' Reply to Memorandum in Opposition and Motion for Sanctions filed 6-19-09..... 213  
Supplemental Affidavit of Lane V. Erickson filed 6-19-09 ..... 223  
Defendant Linda G. Jones' Joinder in Motion to Dismiss filed 7-2-09 ..... 262  
Memorandum in Opposition to Linda G. Jones' Joinder in Motion to Dismiss filed 7-22-09 ..... 266  
Plaintiff's Memorandum in Opposition to Defendant Gordon A. Jones' Motion for Sanctions filed 7-22-09..... 270  
Amended Complaint filed 7-31-09 ..... 281  
Minute Entry and Order filed 8-21-09 ..... 291  
Motion to File Second Amended Complaint filed 11-4-09..... 293

Volume 3 of 6

Memorandum in Support of Motion to File Second Amended Complaint filed 11-4-09 ..... 295  
Notice of Hearing filed 11-30-09 ..... 323  
Stipulation for Filing Second Amended Complaint filed 12-7-09 ..... 325  
Second Amended Complaint filed 12-7-09 ..... 329  
Affidavit of Service filed 2-25-10..... 429  
Notice of Special Appearance filed 2-26-10..... 432  
Defendant Jason Jones' Motion to Dismiss filed 2-26-10..... 434

TABLE OF CONTENTS - Continued

Volume 4 of 6

Affidavit of Jason Jones filed 2-26-10 .....	436
Affidavit of Barbara Jones filed 2-26-10 .....	439
Brief in Support of Motion to Dismiss filed 2-26-10 .....	444
Summons (20 Day) Jason Jones filed 3-23-10 .....	450
Memorandum in Response to Motion to Dismiss and Brief in Support of Motion to Dismiss (Of Defendant Jason Jones) filed 4-19-10 .....	452
Notice Regarding April 30, 2010 Hearing filed 4-28-10.....	472
Affidavit of Service filed 4-28-10.....	473
Second Notice of Special Appearance filed 5-3-10.....	476
Defendant Jason Jones' Renewed Motion to Dismiss filed 5-3-10 .....	478
Decision on Motion to Dismiss filed 6-11-10 .....	480
Order for Submission of Information for Scheduling Order filed 6-28-10 .....	489
Joint Statement Submitting Information for Scheduling Order filed 7-21-10 .....	492
Motion for Leave to File Third Amended Complaint filed 7-29-10 .....	496
Memorandum in Support of Motion for Leave to File Third Amended Complaint filed 7-29-10.....	498
Scheduling Order, Notice of trial Setting and Initial Pretrial Order filed 8-20-10.....	501
Defendant Linda G. Jones' Joinder in Objection to Motion to Dismiss filed 9-1-10.....	509
Motion to Substitute Gordon A. Jones, Personal Representative of the Estate of Linda G. Jones, deceased filed 9-20-10 .....	518
Memorandum in Support of Motion to Substitute Gordon A. Jones, Personal Representative of Estate of Linda G. Jones, deceased filed 9-20-10.....	521
Affidavit of Service filed 12-13-10 .....	526
Notice of Appearance filed 12-22-10.....	530
Minute Entry and Order filed 1-13-11 .....	532
Answer to Plaintiff's Second Amended Complaint filed 1-21-11 .....	534
Defendants' Pre-Trial Brief aka Motion for Summary Judgment filed 2-11-11.....	544
Affidavit of Lane V. Erickson in Support of Defendants' pre-Trial Brief aka Motion for Summary Judgment filed 2-11-11 .....	558

Volume 5 of 6

Motion for Summary Judgment and for Issuance of Writ of Execution filed 2-11-11 .....	566
Memorandum of Points and Authorities in Support of Motion for Summary Judgment and Issuance of Writ of Execution filed 2-11-11.....	569
Order Vacating Trial filed 2-16-11 .....	649
Notice of Taking Summary Judgment Under Advisement filed 2-23-11 .....	653
Defendant's Response to Plaintiff's Motion for Summary Judgment and for Issuance of Writ of Execution filed 2-24-11.....	656
Notice of Intent to File Response to Defendant's Pre-Trial Brief aka Motion for Summary Judgment filed 2-25-11.....	679
Memorandum in Support of Motion for Protective Order filed 3-7-11 .....	685

TABLE OF CONTENTS - Continued

Volume 6 of 6

Combined Response to Defendants' Pre-Trial Brief aka Motion for Summary Judgment and Reply to Defendants'  
    Response to Plaintiff's Motion for Summary Judgment and for Issuance of Writ of Execution filed 3-7-11..... 694  
Defendant's Reply to Plaintiff's Response filed 3-21-11 ..... 758  
Decision on Motions for Summary Judgment filed 4-1-11 ..... 767  
Judgment, Decree and Order filed 4-26-11 ..... 779  
Rule 54 Memorandum of Costs and Fees filed 4-28-11 ..... 783  
Affidavit of Lane V. Erickson in Support of Rule 54 Memorandum of Costs and Fees filed 4-28-11 ..... 788  
Decision on Costs and Fees filed 5-18-11 ..... 795  
Judgment on Costs filed 5-18-11 ..... 799  
Notice of Appeal filed 6-1-11 ..... 803  
Clerk's Certificate of Appeal filed 6-3-11 ..... 811

INDEX

Volume 1 of 6

Administrative Order of Reference filed 10-10-08.....	120
Administrative Order of Reference filed 11-4-08.....	123
Affidavit of Allen F. Grazer in Support of Prejudgment Writ of Attachment filed 6-23-05.....	47
Affidavit of Lane V. Erickson in Support of Defendant Gordon A. Jones' Motion to Dismiss filed 5-13-09.....	129
Answer filed 7-8-05.....	52
Complaint filed 5-12-05.....	1
Defendant Gordon A. Jones' Motion to Dismiss filed 5-13-09.....	124
Lis Pendens filed 5-12-05.....	10
Motion to Withdraw as Attorney of Record filed 8-21-08.....	117
Notice of Appearance filed 2-4-08.....	107
Notice of Filing Foreign Judgment filed 8-1-05.....	60
Notice of Removal of Civil Action by Trustee filed 7-19-06.....	68
Notice of Withdrawal of Counsel filed 1-2-08.....	104
Order for Status and Scheduling Conference (IRCP Rule 16(b) filed 2-12-08.....	109
Order for Trial, Pretrial Schedule, and Pretrial Conference filed 3-13-08.....	112
Order of Reference filed 10-24-08.....	121
Order of Reference filed 10-7-08.....	119
Order to Amend Complaint filed 11-22-05.....	65
Prejudgment Writ of Attachment and Injunction filed 8-22-05.....	62
Stipulation for Prejudgment Writ of Attachment and Injunction filed 7-28-05.....	57

Volume 2 of 6

Amended Complaint filed 7-31-09.....	281
Defendant Gordon A. Jones' Reply to Memorandum in Opposition and Motion for Sanctions filed 6-19-09.....	213
Defendant Linda G. Jones' Joinder in Motion to Dismiss filed 7-2-09.....	262
Memorandum in Opposition to Gordon A. Jones' Motion to Dismiss filed 6-10-09.....	162
Memorandum in Opposition to Linda G. Jones' Joinder in Motion to Dismiss filed 7-22-09.....	266
Minute Entry and Order filed 8-21-09.....	291
Motion to File Second Amended Complaint filed 11-4-09.....	293
Plaintiff's Memorandum in Opposition to Defendant Gordon A. Jones' Motion for Sanctions filed 7-22-09.....	270
Supplemental Affidavit of Lane V. Erickson filed 6-19-09.....	223

Volume 3 of 6

Affidavit of Service filed 2-25-10.....	429
Defendant Jason Jones' Motion to Dismiss filed 2-26-10.....	434
Memorandum in Support of Motion to File Second Amended Complaint filed 11-4-09.....	295
Notice of Hearing filed 11-30-09.....	323
Notice of Special Appearance filed 2-26-10.....	432
Second Amended Complaint filed 12-7-09.....	329
Stipulation for Filing Second Amended Complaint filed 12-7-09.....	325

INDEX - Continued

Volume 4 of 6

Affidavit of Barbara Jones filed 2-26-10 .....	439
Affidavit of Jason Jones filed 2-26-10 .....	436
Affidavit of Lane V. Erickson in Support of Defendants' pre-Trial Brief aka Motion for Summary Judgment filed 2-11-11 .....	558
Affidavit of Service filed 12-13-10 .....	526
Affidavit of Service filed 4-28-10 .....	473
Answer to Plaintiff's Second Amended Complaint filed 1-21-11 .....	534
Brief in Support of Motion to Dismiss filed 2-26-10 .....	444
Decision on Motion to Dismiss filed 6-11-10 .....	480
Defendant Jason Jones' Renewed Motion to Dismiss filed 5-3-10 .....	478
Defendant Linda G. Jones' Joinder in Objection to Motion to Dismiss filed 9-1-10 .....	509
Defendants' Pre-Trial Brief aka Motion for Summary Judgment filed 2-11-11 .....	544
Joint Statement Submitting Information for Scheduling Order filed 7-21-10 .....	492
Memorandum in Response to Motion to Dismiss and Brief in Support of Motion to Dismiss (Of Defendant Jason Jones) filed 4-19-10 .....	452
Memorandum in Support of Motion for Leave to File Third Amended Complaint filed 7-29-10 .....	498
Memorandum in Support of Motion to Substitute Gordon A. Jones, Personal Representative of Estate of Linda G. Jones, deceased filed 9-20-10 .....	521
Minute Entry and Order filed 1-13-11 .....	532
Motion for Leave to File Third Amended Complaint filed 7-29-10 .....	496
Motion to Substitute Gordon A. Jones, Personal Representative of the Estate of Linda G. Jones, deceased filed 9-20-10 .....	518
Notice of Appearance filed 12-22-10 .....	530
Notice Regarding April 30, 2010 Hearing filed 4-28-10 .....	472
Order for Submission of Information for Scheduling Order filed 6-28-10 .....	489
Scheduling Order, Notice of trial Setting and Initial Pretrial Order filed 8-20-10 .....	501
Second Notice of Special Appearance filed 5-3-10 .....	476
Summons (20 Day) Jason Jones filed 3-23-10 .....	450

Volume 5 of 6

Defendant's Response to Plaintiff's Motion for Summary Judgment and for Issuance of Writ of Execution filed 2-24-11 .....	656
Memorandum in Support of Motion for Protective Order filed 3-7-11 .....	685
Memorandum of Points and Authorities in Support of Motion for Summary Judgment and Issuance of Writ of Execution filed 2-11-11 .....	569
Motion for Summary Judgment and for Issuance of Writ of Execution filed 2-11-11 .....	566
Notice of Intent to File Response to Defendant's Pre-Trial Brief aka Motion for Summary Judgment filed 2-25-11 .....	679
Notice of Taking Summary Judgment Under Advisement filed 2-23-11 .....	653
Order Vacating Trial filed 2-16-11 .....	649



INDEX - Continued

Volume 6 of 6

Affidavit of Lane V. Erickson in Support of Rule 54 Memorandum of Costs and Fees filed 4-28-11 .....	788
Clerk's Certificate of Appeal filed 6-3-11 .....	811
Combined Response to Defendants' Pre-Trial Brief aka Motion for Summary Judgment and Reply to Defendants' Response to Plaintiff's Motion for Summary Judgment and for Issuance of Writ of Execution filed 3-7-11 .....	694
Decision on Costs and Fees filed 5-18-11 .....	795
Decision on Motions for Summary Judgment filed 4-1-11 .....	767
Defendant's Reply to Plaintiff's Response filed 3-21-11 .....	758
Judgment on Costs filed 5-18-11 .....	799
Judgment, Decree and Order filed 4-26-11 .....	779
Notice of Appeal filed 6-1-11 .....	803
Rule 54 Memorandum of Costs and Fees filed 4-28-11 .....	783

TABLE OF CONTENTS

Volume 1 of 6

Complaint filed 5-25-05 ..... 1  
Affidavit of Allen F. Grazer in Support of Prejudgment Writ of Attachment filed 6-23-05..... 47  
Answer filed 7-8-05..... 52  
Stipulation for Prejudgment Writ of Attachment and Injunction filed 7-28-05..... 57  
Notice of Filing Foreign Judgment filed 8-1-05 ..... 60  
Prejudgment Writ of Attachment and Injunction filed 8-22-05 ..... 62  
Order to Amend Complaint filed 11-22-05 ..... 65  
Notice of Removal of Civil Action by Trustee filed 7-19-06..... 68  
Notice of Withdrawal of Counsel filed 1-2-08 ..... 104  
Notice of Appearance filed 2-4-08..... 107  
Order for Status and Scheduling Conference (IRCP Rule 16(b) filed 2-12-08..... 109  
Order for Trial, Pretrial Schedule, and Pretrial Conference filed 3-13-08 ..... 112  
Motion to Withdraw as Attorney of Record filed 8-21-08 ..... 117  
Order of Reference filed 10-7-08 ..... 119  
Administrative Order of Reference filed 10-10-08..... 120  
Order of Reference filed 10-24-08 ..... 121  
Administrative Order of Reference filed 11-4-08..... 123  
Defendant Gordon A. Jones’ Motion to Dismiss filed 5-13-09 ..... 124  
Affidavit of Lane V. Erickson in Support of Defendant Gordon A. Jones’ Motion to Dismiss filed 5-13-09..... 129

Volume 2 of 6

Memorandum in Opposition to Gordon A. Jones’ Motion to Dismiss filed 6-10-09..... 162  
Defendant Gordon A. Jones’ Reply to Memorandum in Opposition and Motion for Sanctions filed 6-19-09..... 213  
Supplemental Affidavit of Lane V. Erickson filed 6-19-09 ..... 223  
Defendant Linda G. Jones’ Joinder in Motion to Dismiss filed 7-2-09 ..... 262  
Memorandum in Opposition to Linda G. Jones’ Joinder in Motion to Dismiss filed 7-22-09 ..... 266  
Plaintiff’s Memorandum in Opposition to Defendant Gordon A. Jones’ Motion for Sanctions filed 7-22-09..... 270  
Amended Complaint filed 7-31-09 ..... 281  
Minute Entry and Order filed 8-21-09 ..... 291  
Motion to File Second Amended Complaint filed 11-4-09..... 293

Volume 3 of 6

Memorandum in Support of Motion to File Second Amended Complaint filed 11-4-09 ..... 295  
Notice of Hearing filed 11-30-09 ..... 323  
Stipulation for Filing Second Amended Complaint filed 12-7-09 ..... 325  
Second Amended Complaint filed 12-7-09 ..... 329  
Affidavit of Service filed 2-25-10..... 429  
Notice of Special Appearance filed 2-26-10..... 432  
Defendant Jason Jones’ Motion to Dismiss filed 2-26-10..... 434

TABLE OF CONTENTS - Continued

Volume 4 of 6

Affidavit of Jason Jones filed 2-26-10 .....	436
Affidavit of Barbara Jones filed 2-26-10 .....	439
Brief in Support of Motion to Dismiss filed 2-26-10 .....	444
Summons (20 Day) Jason Jones filed 3-23-10 .....	450
Memorandum in Response to Motion to Dismiss and Brief in Support of Motion to Dismiss (Of Defendant Jason Jones) filed 4-19-10 .....	452
Notice Regarding April 30, 2010 Hearing filed 4-28-10 .....	472
Affidavit of Service filed 4-28-10 .....	473
Second Notice of Special Appearance filed 5-3-10 .....	476
Defendant Jason Jones' Renewed Motion to Dismiss filed 5-3-10 .....	478
Decision on Motion to Dismiss filed 6-11-10 .....	480
Order for Submission of Information for Scheduling Order filed 6-28-10 .....	489
Joint Statement Submitting Information for Scheduling Order filed 7-21-10 .....	492
Motion for Leave to File Third Amended Complaint filed 7-29-10 .....	496
Memorandum in Support of Motion for Leave to File Third Amended Complaint filed 7-29-10 .....	498
Scheduling Order, Notice of trial Setting and Initial Pretrial Order filed 8-20-10 .....	501
Defendant Linda G. Jones' Joinder in Objection to Motion to Dismiss filed 9-1-10 .....	509
Motion to Substitute Gordon A. Jones, Personal Representative of the Estate of Linda G. Jones, deceased filed 9-20-10 .....	518
Memorandum in Support of Motion to Substitute Gordon A. Jones, Personal Representative of Estate of Linda G. Jones, deceased filed 9-20-10 .....	521
Affidavit of Service filed 12-13-10 .....	526
Notice of Appearance filed 12-22-10 .....	530
Minute Entry and Order filed 1-13-11 .....	532
Answer to Plaintiff's Second Amended Complaint filed 1-21-11 .....	534
Defendants' Pre-Trial Brief aka Motion for Summary Judgment filed 2-11-11 .....	544
Affidavit of Lane V. Erickson in Support of Defendants' pre-Trial Brief aka Motion for Summary Judgment filed 2-11-11 .....	558

Volume 5 of 6

Motion for Summary Judgment and for Issuance of Writ of Execution filed 2-11-11 .....	566
Memorandum of Points and Authorities in Support of Motion for Summary Judgment and Issuance of Writ of Execution filed 2-11-11 .....	569
Order Vacating Trial filed 2-16-11 .....	649
Notice of Taking Summary Judgment Under Advisement filed 2-23-11 .....	653
Defendant's Response to Plaintiff's Motion for Summary Judgment and for Issuance of Writ of Execution filed 2-24-11 .....	656
Notice of Intent to File Response to Defendant's Pre-Trial Brief aka Motion for Summary Judgment filed 2-25-11 .....	679
Memorandum in Support of Motion for Protective Order filed 3-7-11 .....	685

TABLE OF CONTENTS - Continued

Volume 6 of 6

Combined Response to Defendants' Pre-Trial Brief aka Motion for Summary Judgment and Reply to Defendants'  
Response to Plaintiff's Motion for Summary Judgment and for Issuance of Writ of Execution filed 3-7-11..... 694  
Defendant's Reply to Plaintiff's Response filed 3-21-11 ..... 758  
Decision on Motions for Summary Judgment filed 4-1-11 ..... 767  
Judgment, Decree and Order filed 4-26-11 ..... 779  
Rule 54 Memorandum of Costs and Fees filed 4-28-11 ..... 783  
Affidavit of Lane V. Erickson in Support of Rule 54 Memorandum of Costs and Fees filed 4-28-11 ..... 788  
Decision on Costs and Fees filed 5-18-11 ..... 795  
Judgment on Costs filed 5-18-11 ..... 799  
Notice of Appeal filed 6-1-11 ..... 803  
Clerk's Certificate of Appeal filed 6-3-11 ..... 811

INDEX

Volume 1 of 6

Administrative Order of Reference filed 10-10-08.....	120
Administrative Order of Reference filed 11-4-08.....	123
Affidavit of Allen F. Grazer in Support of Prejudgment Writ of Attachment filed 6-23-05.....	47
Affidavit of Lane V. Erickson in Support of Defendant Gordon A. Jones' Motion to Dismiss filed 5-13-09.....	129
Answer filed 7-8-05.....	52
Complaint filed 5-25-05.....	1
Defendant Gordon A. Jones' Motion to Dismiss filed 5-13-09.....	124
Motion to Withdraw as Attorney of Record filed 8-21-08.....	117
Notice of Appearance filed 2-4-08.....	107
Notice of Filing Foreign Judgment filed 8-1-05.....	60
Notice of Removal of Civil Action by Trustee filed 7-19-06.....	68
Notice of Withdrawal of Counsel filed 1-2-08.....	104
Order for Status and Scheduling Conference (IRCP Rule 16(b) filed 2-12-08.....	109
Order for Trial, Pretrial Schedule, and Pretrial Conference filed 3-13-08.....	112
Order of Reference filed 10-24-08.....	121
Order of Reference filed 10-7-08.....	119
Order to Amend Complaint filed 11-22-05.....	65
Prejudgment Writ of Attachment and Injunction filed 8-22-05.....	62
Stipulation for Prejudgment Writ of Attachment and Injunction filed 7-28-05.....	57

Volume 2 of 6

Amended Complaint filed 7-31-09.....	281
Defendant Gordon A. Jones' Reply to Memorandum in Opposition and Motion for Sanctions filed 6-19-09.....	213
Defendant Linda G. Jones' Joinder in Motion to Dismiss filed 7-2-09.....	262
Memorandum in Opposition to Gordon A. Jones' Motion to Dismiss filed 6-10-09.....	162
Memorandum in Opposition to Linda G. Jones' Joinder in Motion to Dismiss filed 7-22-09.....	266
Minute Entry and Order filed 8-21-09.....	291
Motion to File Second Amended Complaint filed 11-4-09.....	293
Plaintiff's Memorandum in Opposition to Defendant Gordon A. Jones' Motion for Sanctions filed 7-22-09.....	270
Supplemental Affidavit of Lane V. Erickson filed 6-19-09.....	223

Volume 3 of 6

Affidavit of Service filed 2-25-10.....	429
Defendant Jason Jones' Motion to Dismiss filed 2-26-10.....	434
Memorandum in Support of Motion to File Second Amended Complaint filed 11-4-09.....	295
Notice of Hearing filed 11-30-09.....	323
Notice of Special Appearance filed 2-26-10.....	432
Second Amended Complaint filed 12-7-09.....	329
Stipulation for Filing Second Amended Complaint filed 12-7-09.....	325

INDEX - Continued

Volume 4 of 6

Affidavit of Barbara Jones filed 2-26-10 .....	439
Affidavit of Jason Jones filed 2-26-10 .....	436
Affidavit of Lane V. Erickson in Support of Defendants' pre-Trial Brief aka Motion for Summary Judgment filed 2-11-11 .....	558
Affidavit of Service filed 12-13-10 .....	526
Affidavit of Service filed 4-28-10 .....	473
Answer to Plaintiff's Second Amended Complaint filed 1-21-11 .....	534
Brief in Support of Motion to Dismiss filed 2-26-10 .....	444
Decision on Motion to Dismiss filed 6-11-10 .....	480
Defendant Jason Jones' Renewed Motion to Dismiss filed 5-3-10 .....	478
Defendant Linda G. Jones' Joinder in Objection to Motion to Dismiss filed 9-1-10 .....	509
Defendants' Pre-Trial Brief aka Motion for Summary Judgment filed 2-11-11 .....	544
Joint Statement Submitting Information for Scheduling Order filed 7-21-10 .....	492
Memorandum in Response to Motion to Dismiss and Brief in Support of Motion to Dismiss (Of Defendant Jason Jones) filed 4-19-10 .....	452
Memorandum in Support of Motion for Leave to File Third Amended Complaint filed 7-29-10 .....	498
Memorandum in Support of Motion to Substitute Gordon A. Jones, Personal Representative of Estate of Linda G. Jones, deceased filed 9-20-10 .....	521
Minute Entry and Order filed 1-13-11 .....	532
Motion for Leave to File Third Amended Complaint filed 7-29-10 .....	496
Motion to Substitute Gordon A. Jones, Personal Representative of the Estate of Linda G. Jones, deceased filed 9-20-10 .....	518
Notice of Appearance filed 12-22-10 .....	530
Notice Regarding April 30, 2010 Hearing filed 4-28-10 .....	472
Order for Submission of Information for Scheduling Order filed 6-28-10 .....	489
Scheduling Order, Notice of trial Setting and Initial Pretrial Order filed 8-20-10 .....	501
Second Notice of Special Appearance filed 5-3-10 .....	476
Summons (20 Day) Jason Jones filed 3-23-10 .....	450

Volume 5 of 6

Defendant's Response to Plaintiff's Motion for Summary Judgment and for Issuance of Writ of Execution filed 2-24-11 .....	656
Memorandum in Support of Motion for Protective Order filed 3-7-11 .....	685
Memorandum of Points and Authorities in Support of Motion for Summary Judgment and Issuance of Writ of Execution filed 2-11-11 .....	569
Motion for Summary Judgment and for Issuance of Writ of Execution filed 2-11-11 .....	566
Notice of Intent to File Response to Defendant's Pre-Trial Brief aka Motion for Summary Judgment filed 2-25-11 .....	679
Notice of Taking Summary Judgment Under Advisement filed 2-23-11 .....	653
Order Vacating Trial filed 2-16-11 .....	649

INDEX - Continued


Volume 6 of 6

Affidavit of Lane V. Erickson in Support of Rule 54 Memorandum of Costs and Fees filed 4-28-11 .....	788
Clerk's Certificate of Appeal filed 6-3-11 .....	811
Combined Response to Defendants' Pre-Trial Brief aka Motion for Summary Judgment and Reply to Defendants' Response to Plaintiff's Motion for Summary Judgment and for Issuance of Writ of Execution filed 3-7-11 .....	694
Decision on Costs and Fees filed 5-18-11 .....	795
Decision on Motions for Summary Judgment filed 4-1-11 .....	767
Defendant's Reply to Plaintiff's Response filed 3-21-11 .....	758
Judgment on Costs filed 5-18-11 .....	799
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Rule 54 Memorandum of Costs and Fees filed 4-28-11 .....	783

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FRANKLIN COUNTY CLERK



DEPUTY

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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.

**COMBINED RESPONSE TO  
DEFENDANTS' PRE-TRIAL BRIEF  
a/k/a/ MOTION FOR SUMMARY  
JUDGMENT AND REPLY TO  
DEFENDANTS' RESPONSE TO  
PLAINTIFF'S MOTION FOR  
SUMMARY JUDGMENT AND FOR  
ISSUANCE OF WRIT OF EXECUTION**

Civil No. CV-2005-183

Judge David C. Nye

Allen F. Grazer respectfully submits the following Combined Response to Defendants' Pre-Trial Brief a/k/a Motion For Summary Judgment And Reply to Defendants' Response to Plaintiff's Motion for Summary Judgment and for Issuance of Writ of Execution (the "Response and Reply").

**RELEVANT FACTS**

Grazer incorporates by reference his Statement of Facts as set forth in his Motion for Summary Judgment and for Issuance of Writ of Execution and restates facts relevant to this Response and Reply.



1. The Judgment at issue herein was entered in the State of Utah on July 11, 2005 (the "Judgment"). *Exhibit "D" to Plaintiff's Memorandum in Support of Motion for Summary Judgment and for Issuance of Writ of Execution (Plaintiff's Memorandum)*).

2. This action was commenced on May 12, 2005. *Undisputed Facts of this Case, Defendants' Pre-Trial Brief a/k/a Motion for Summary Judgment ("Defendants' Brief")*, ¶8.

3. Defendants stipulated to the issuance of a Writ of Attachment against the Property and, in light thereof, a Writ of Attachment was issued by this Court on August 5, 2005.

4. On April 13, 2006, the Utah Court in the case in which the Judgment was entered, ruled that the Judgment entered July 5, 2005 "effectively disposed of Mr. Grazer as a party as well as any of his claims against the plaintiffs [including the Defendant herein Gordon A. Jones] and the plaintiffs' claims against him." The court certified the July 2005 judgment as final, and augmented the prior judgment with an additional \$222,584.32.

5. On April 18, 2006, Gordon A. Jones filed a case under Chapter 7 of the Bankruptcy Code, staying further proceedings in this case. *Defendant's Brief* ¶14.

6. On July 17, 2006, the Chapter 7 Bankruptcy Trustee removed this Action from the jurisdiction of this State Court to the jurisdiction of the Utah Bankruptcy Court. A copy of the Notice of Removal is attached as Exhibit "A."

7. In April 2007, the Chapter 7 Trustee and Grazer entered into an Agreement, approved by the United States Bankruptcy Court for the District of Utah abandoning this cause of action from the bankruptcy estate and specifically authorizing Grazer to proceed with his action to collect against the real property at issue herein (the "Property"). *Defendant's Brief*, ¶15-17.

8. On January 20, 2009, an Order of Discharge was granted in the Gordon Jones Bankruptcy. The Order provides “However, a creditor may have the right to enforce a valid lien, such as a mortgage or a security interest, against the debtor’s property after the bankruptcy, if that lien was not avoided or eliminated in the bankruptcy case.” *Defendant’s Brief* ¶18

9. No action to avoid the judgment lien of Grazer was commenced in the Gordon Jones Bankruptcy. *Undisputed Facts of this Case*, ¶19, *Defendants’ Pre-Trial Brief a/k/a Motion for Summary Judgment (“Defendants’ Brief”)*.

10. On May 7, 2007 and again on December 26, 2007, Grazer requested a Scheduling and Management Conference in this Case.

11. On March 13, 2008, this Case was set for trial by Judge Don L. Harding, with trial dates of November 5 and November 6, 2008. *Court Docket*.

12. On August 18, 2008, Jones’ attorney, Lane Erickson, filed a Motion to Withdraw as Attorney of Record. An Order granting that Motion was entered on August 18, 2008. *Court Docket*.

13. On October 7, 2008, this Case was referred to the Honorable Peter D. McDermott for assignment to another District Judge, on the grounds that the Judge of record had been disqualified. The case was referred to Judge Stephen S. Dunn on October 9, 2008. *Court Docket*.

14. On October 14, 2008, Kent Hawkins was substituted as counsel for Linda Jones. *Court Docket*.

15. On October 29, 2008, in an Administrative Order of Relevance, the matter was reassigned to the Honorable David C. Nye, in light of the self-disqualification of the Honorable

Stephen S. Dunn.

16. The November 2008 trial dates were stricken.

17. On May 12, 2009, Lane V. Erickson filed a Motion to Dismiss on behalf of Jones supported by an Affidavit of Lane V. Erickson in which he stated that he was the attorney for Gordon A. Jones, noting that the case had been “assigned and reassigned to several judges who for various reasons disqualified themselves.” and further stating that the discharge granted in Jones’ bankruptcy had discharged the debt at issue herein. A copy of the Affidavit of Lane Erickson is attached hereto as Exhibit “B.”

18. On July 19, 2010, the attorneys for all parties submitted a Joint Statement Submitting Information for Scheduling Order stipulating to three trial dates with first setting to be in February, 2011. *Court Docket.*

19. On August 20, 2011, Judge David C. Nye entered a Scheduling Order, Notice of Trial Setting and Initial Pretrial Order setting the Trial in a 1<sup>st</sup> Setting commencing February 8, 2011. *Court Docket.*

20. On January 13, 2011, in a telephonic status conference requested by Defendants’ attorney, Lane V. Erickson, the February 2011 trial dates were stricken and trial dates were set for March 29, 2011 – April 1, 2011. *Court Docket.*

21. On February 16, 2011, this Court vacated the March 29, 2011 – April 1, 2011 trial setting. *Court Docket.*

## ARGUMENT

### POINT I

#### This Action was Commenced Within Six Years of The Entry of the Judgment.

Under Idaho law, “An action upon a judgment or decree of any court of the United States, or of any court or territory within the United States” must be commenced within six years of the entry of the judgment. I.C. §5-215. An action is commenced within the meaning of the chapter when the complaint is filed. I.C. § 5-228. Lastly, the period of time when a defendant is out of the state “is not part of the time limited for the commencement of the action.” I.C. §5-229. In this case, the Judgment was entered on July 11, 2005 in the Utah case. Under Idaho law, accordingly, Grazer would have until at least July 11, 2011 to commence an action upon his Judgment.

Idaho case law has addressed the issue of the survival of a judgment through the commencement of judicial action. In *Bashor v. Beloit*, 20 Idaho 592; 119 P.55 (1911). In *Bashor*, the Court held that the enactment of the statute limiting the time for execution to five years “was not intended to be the exclusive method by which a judgment might be revived or kept alive.” *Id.* at 57. The court specifically stated “Under our law, the right to maintain an action on a judgment is not dependent upon the right to issue an execution thereof but is dependent on and governed by the provisions of [prior] said sec. 4051, limiting the time in which an action may be brought on a judgment.” *Id.* The Court further cited to 23 Cyc, p.1447:

An action of debt on the judgment is always a proper form of proceeding; and where the statute provides a special remedy for the revival of judgments, as a writ of *scire facias* or a motion for that purpose, *it is not exclusive of the common-law right of action on the judgment, but cumulative thereof, so that the creditor may pursue either remedy.*

(Emphasis added). *Bashor* at 58.

On August 1, 2005, a Notice of Filing Foreign Judgment was filed in this case. *Court docket*. Section 10-1302 of the Idaho Code provides that once a foreign judgment is filed with an Idaho Court,

The clerk shall treat the foreign judgment in the same manner as a judgment of the district court of this state. A judgment so filed has the same effect and is subject to the same procedures, defenses and proceedings for reopening, vacating, or staying as a judgment of a district court of this state and may be enforced or satisfied in like manner...

*I.C.* §10-1302.

According to Idaho law, Grazer's judgment was filed with the Idaho Court in a timely manner. This action was commenced on May 12, 2005. A Second Amended Complaint, specifically asserting a cause of action to enforce the Judgment was filed, upon a Stipulation signed by Jones' counsel, on December 5, 2009, within the six year period. Grazer also filed, and recorded with the Franklin County Recorder, a Lis Pendens in connection with filing his action to enforce the Judgment. Under Idaho law, a Lis Pendens gives constructive notice from the date of its recording:

From the time of filing such notice for record only shall a purchaser or incumbrancer of the property affected thereby be deemed to have constructive notice of the pendency of the action, and only of its pendency against parties designated by their real names.

*I.C.* § 5-505.

Jones cites *G.R. Petroleum Inc, v. Clements*, 127 Idaho 119, 120, 898 P.2d 50 for the proposition that if no motion to renew a judgment is filed by a judgment creditor within five years, of the date of the judgment, the judgment lien expires. See Defendants' Brief p. 9-10. However, *G.R. Petroleum* clearly recognizes that once an action has been commenced within the limitations period, the judgment creditor is entitled to proceed upon the judgment:

The Uniform Act provides an expedited procedure for the recognition and enforcement of judgments rendered in sister states. *Prior to its enactment, a judgment creditor who wished to enforce a sister state judgment in Idaho was required to maintain an action on that judgment. See Leman v. Cunningham, 12 Idaho 135, 85 P. 212 (1906) (involving an action on a foreign judgment brought under the predecessor of I.C. § 5-215). Although this avenue remains available, I.C. § 10-1306, a judgment creditor can now choose to simply file a foreign judgment under the Uniform Act. Once it has been so filed, a foreign judgment becomes enforceable as an Idaho judgment as of the date of filing pursuant to I.C. § 10-1302.*

*G.R. Petroleum* at 121. *G.R. Petroleum* dealt with the attempted enforcement of a judgment that had been renewed in Oregon. The judgment creditor then attempted to enforce the judgment in Idaho. The Court held that the Idaho six year statute of limitations applied from the date of the original judgment. The Court then stated:

An action on a judgment is a new and separate action on the debt represented by a prior judgment. . . . Idaho courts could not refuse enforcement of the new judgment on the ground that I.C. § 5-215 would have barred a similar action in Idaho. Thus, we would be constitutionally required to recognize the new judgment so long as enforcement was sought within six years.

*Id.*

In *Smith v Smith*, 131 Idaho 800, 964 P.2d 667 (1998), a wife was allowed to renew a judgment, despite the argument that an order renewing the judgment had not been entered prior to the expiration of the five year period. The Court stated:

*It appears that prior to adoption of I.C. §10-111, a money judgment could be renewed only by bringing an action on the judgment within six years after its entry. See I.C. §§5-215, 11-105; Caxton Printers, Ltd. V Ulen, 59 Idaho 688, 86 P.2d 468 (1939); Gertstowt v. Humphrey, 53 Idaho 631, 27 P.2d 64 (1933); Bashor v. Beloit, 20 Idaho 592, 119 P.55 (1911). The apparent legislative purpose in adopting §10-1111 was to create a simpler means of judgment renewal which would not require the commencement of an entirely new action. We perceive no reason why the legislature would have intended to afford this simpler procedure only if the judgment debtor possessed real property to which a lien could attach. By its terms provides for the renewal of judgments, not just judgment liens. In our view the language in 10-111 upon which Vernon relies merely designates the time period which a renewal motion must be brought; it does not limit the statute's application to those judgments that are secured by an actual lien on real property then owned by the*

judgment debtor.

(Emphasis added). *Id.* at 802.

*Smith* thus recognized that 10-1111 was an additional renewal method to the prior method of bringing an action on the judgment within the six year period. The *Smith* Court also specifically noted that delays occurring during the action to renew would not allow the judgment to expire as a result of the statute of limitations while the action is pending.

We view I.C. §10-1111 to be in the nature of a statute of limitation; it sets the time limit for a judgment creditor to take action to renew the judgment. Once a plaintiff has filed a motion for renewal within the five-year time frame, the plaintiff has done all that he or she ordinarily need to do to obtain renewal, barring some valid challenge to the motion. The length of time that the court may require to act on the motion, and any delay that may be occasioned by the defendant filing an objection, are beyond the control of the plaintiff. In this case, Vernon's objection and his request for a hearing thereon prevented judicial action on Sharon's motion until after the five-year period had elapsed. Some slight delay also resulted from the voluntary recusal of the district judge to whom the renewal motion was originally assigned. Because Sharon's motion was filed within five years from entry of the judgment, however, the time limit of §10-1111 was satisfied.

*Id.*

Grazer has continuously pursued and maintained his action to enforce his Judgment. The action has been ongoing. Grazer should not be required to file, in the midst of very action he is pursuing, a separate action to renew the very judgment he is trying to collect. What Jones suggests would lead to an absurd result – although a judgment creditor has filed an action to collect a judgment, in the midst of the pending litigation, and due to actions totally beyond the Plaintiff's control, his cause of action disappears. Jones' interpretation would render the language of I.C. § 5-215 irrelevant. A judgment creditor who held a judgment in any court of the United States would be unable to bring an action to enforce its judgment between year 5 and 6 after the entry of the judgment.

POINT II

Any Expiration of a Period of Time Within Which Grazer Should have Taken an Action was Tolloed by the Bankruptcy of Jones.

In arguing that the limitations periods of I.C. 10-1101 et. seq preclude Grazer from pursuing collection of the Judgment granted in his favor against Gordon Jones, Jones completely disregards the automatic stay provisions of the United States Bankruptcy Code which preclude a creditor from taking *any* action to collect or perfect a lien for a debt during the pendency of the debtor's bankruptcy without the prior approval of the Bankruptcy Court.

Section 362 of the United States Bankruptcy Code provides:

- (a) Except as provided in subsection (b) of this section, a petition filed under section 301, 302, or 303 of this title, or an application filed under section 5(a)(3) of the Securities Investor Protection Act of 1970, operates as a stay, applicable to all entities, of—
- (1) the commencement or *continuation, including the issuance or employment of process*, of a judicial, administrative, or other action or proceeding against the debtor that was or could have been commenced before the commencement of the case under this title, or to recover a claim against the debtor that arose before the commencement of the case under this title;
  - (2) *the enforcement, against the debtor or against property of the estate, of a judgment obtained before the commencement of the case under this title;*
  - (3) any act to obtain possession of property of the estate or of property from the estate or to exercise control over property of the estate;
  - (4) *any act to create, perfect, or enforce any lien against property of the estate;*
  - (5) *any act to create, perfect, or enforce against property of the debtor any lien to the extent that such lien secures a claim that arose before the commencement of the case under this title ...*

(Emphasis added). 11 U.S.C. § 362(a)(1)-(5).

Jones filed bankruptcy on April 18, 2006 and was protected by the bankruptcy stay until April 19, 2007, during which Grazer was prohibited by the provisions of the automatic stay from proceeding with this case, moving for a writ of execution, renewing a judgment, or filing any action adverse to the property interests of the bankruptcy estate. Immediately following the



relief from the stay, Grazer renewed his pursuit of this action.

Idaho law recognizes that when an action is stayed by an injunction or statute, the time of during which the injunction or prohibition against action is in effect “is not part of the time limited for the commencement of the action.” I.C. §5-234. Defendants have argued, but provide no authority that this statute does not apply to the renewal of a judgment or the application for a Writ of Execution. *Defendants’ Response to Plaintiff’s Motion for summary Judgment and for Issuance of Writ of Execution, p. 10*. It is undisputed that the action to collect on the judgment is still viable in that it was commenced within the six-year period allowed under I.C. 5-215. Defendants argue Grazer’s Judgment lien has lapsed because he did not *commence* any action to renew the judgment or have an execution issued within the five-year period. However, the automatic stay prohibited Grazer from taking any affirmative action to do so.<sup>1</sup>

---

<sup>1</sup> If Jones’ argument respecting the five-year statute is applicable, a “Motion to Renew” needed to be filed on or before August 1, 2010, plus periods of tolling pursuant to I.C. 5-229 (Absence of Defendant from State). *See also, Simonton v. Simonton*, 33 Idaho 255, 193 P.386 (1920) and during the year of the bankruptcy I.C. 5-234 (five years after the filing of the Notice of Foreign Judgment).

The Idaho Rules of Civil Procedure require that “All pleadings shall so construed as to do substantial justice.” *I.R.C.P.*, Rule 8(f). The purpose and object of the code of procedure is to have actions tried upon their merits and not to have them dismissed on mere technicalities. *Nobach v. Scott*, 20 Idaho 558, 119 P. 295 (1911). In this action, even if other pleadings do not expressly ask for a renewal of a judgment, clearly the Second Amended Complaint, stipulated to by counsel for the Defendant on December 4, 2009 and filed December 7, 2009 seeks enforcement of the Judgment.

Keeping in mind Sec. 4207, R. C., now Sec. 5-801, I. C. A., providing that In the construction of a pleading for the purpose of determining its effect, its allegations must be liberally construed with a view to substantial justice between the parties.” (*Cantwell v. McPherson*, 3 Idaho 721, 34 P. 1095.) And the further rule that “In all the states which have adopted the code system of pleading the uniform rule is that, for the purpose of construing and determining the effect of the pleading, its allegations shall be liberally construed, with a view to substantial justice between the parties.” (4 Ency. Pl. & Pr., P. 749, Sec. 11; *Armstrong v. Billings*, 86 Mont. 228, 283 P. 226.) A pleading should be construed so as to allege all of the facts that can be implied by fair and reasonable intendment from the facts expressly stated.

*Fox v. Cosgriff*, 64 Idaho 448, 133 P.2d 930 (1943).

Defendants accuse counsel for the Defendant of being ignorant of bankruptcy law or deliberately attempting to mislead the Court. None of the cases cited by Jones, however, deal with enforcement of a judgment where the judgment creditor prosecuted a case for the collection and enforcement of the judgment under a state court action which had been timely filed within the statutory limitations period for the collection of a judgment. That is the case here. Grazer timely filed his action against a timely recorded judgment and after being authorized by the bankruptcy court to pursue his action against former assets of the bankruptcy estate, proceeded with enforcement. Further, Jones deliberately omits the specific language of the statute on which he purportedly relies for his incorrect theory that the bankruptcy stay does not toll the running of statutes of limitations. Section 11 U.S.C. § 108(c), cited by Jones provides:

(c) Except as provided in section 524 of this title, if applicable nonbankruptcy law, an order entered in a nonbankruptcy proceeding, or an agreement fixes a period for commencing or continuing a civil action in a court other than a bankruptcy court on a claim against the debtor, or against an individual with respect to which such individual is protected under section 1201 or 1301 of this title, and such period has not expired before the date of the filing of the petition, then such period does not expire until the later of—  
(1) *the end of such period, including any suspension of such period occurring on or after the commencement of the case; or*  
(2) 30 days after notice of the termination or expiration of the stay under section 362, 922, 1201, or 1301 of this title, as the case may be, with respect to such claim.

(Emphasis added). 11 U.S.C. §108(c). The statute itself takes into account the tolling or suspension of a statute of limitations occurring on the commencement of the bankruptcy case. The cases cited by Jones specifically state that the “end of the period, including any suspension” is determined by state law.

### POINT III

#### Idaho Law Allows for the Enforcement of a Judgment After the Five Year Period.

Even assuming the five-year period of I.C. 10-1110 applies, Idaho law allows the Court to expand that five-year period of time:

11-105. EXECUTION AFTER FIVE YEARS. In all cases other than for the recovery of money the judgment may be enforced or carried into execution after the lapse of five (5) years from the date of entry, by leave of the court, upon motion, or by judgment for that purpose, founded upon supplemental pleadings.

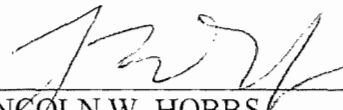
Grazer has attempted to bring this matter to trial or other resolution and has been met with administrative and procedural barriers beyond his control. Grazer submits that the removal of the bankruptcy to the bankruptcy court barred him from bringing a Motion before this Court for such an issuance. Further, the assignment, disqualification and reassignment of Judges and the entries and withdrawal of counsel for Jones further delayed the case. Grounds exist for this Court to grant judgment in this case. *See Bashor v. Beloit*, 20 Idaho 592, 119 P. 55 (1911) (Under the common law, the owner of a judgment may bring an action on it as a debt of record and prosecute the same to final judgment, notwithstanding the time for issuing an execution thereon had expired). *See also, Smith, supra.*

### CONCLUSION

Grazer clearly commenced his action within the six-year limitation period required for the enforcement of judgments. Commencing such action has kept the judgment alive while the action is pending. Grazer is entitled to enforce his judgment and to the issuance of a Writ of Execution to proceed with such enforcement.

DATED this 4 day of March, 2011.

HOBBS & OLSON, L.C.

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

**CERTIFICATE OF DELIVERY**

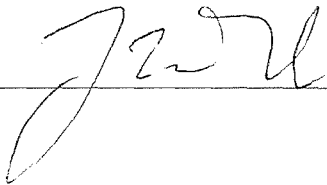
I hereby certify that on the 4 day of March, 2011, I caused a true and correct copy of the foregoing to be served upon the following in the manner indicated:

Lane V. Erickson  
RACINE, OLSON, NYE, BUDGE & BAILEY  
CHARTERED  
P.O. Box 1391  
Pocatello, ID 83204-1391  
Attorneys for Defendants Gordon A. Jones; Gordon A.  
Jones Personal Representative of the Estate of Linda G.  
Jones, deceased; and J&J Livestock, LLC

Email [lve@racinelaw.net](mailto:lve@racinelaw.net)  
[ltz@racinelaw.net](mailto:ltz@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](mailto:Hampton@plmw.com)  
 Mail  
 Fax (208) 852-2926  
 Fed Ex  
 Hand Delivery  
 Personally Served



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# EXHIBIT A

RECEIVED  
JUL 18 2006

BY: .....

Gary E. Jubber, A1758  
FABIAN & CLENDENIN,  
A Professional Corporation  
Twelfth Floor  
215 South State Street  
P.O. Box 510210  
Salt Lake City, Utah 84151  
Telephone: (801) 531-8900

Attorneys for Gary E. Jubber, Chapter 7 Trustee

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

In re )  
)  
)  
GORDON A. JONES, )  
)  
Debtor. )  
)  
)  
)  
\_\_\_\_\_)  
)  
ALLEN F. GRAZER, )  
)  
Plaintiff, )  
)  
)  
v. )  
)  
GORDON A. JONES, an individual; LINDA )  
G. JONES, an individual; J & J LIVESTOCK, )  
LLC, a Utah Limited Liability Company; and )  
JOHN DOES 1-20, )  
)  
Defendants. )  
\_\_\_\_\_)

Bankruptcy No. 06-21277 JAB  
(Chapter 7)  
  
**NOTICE OF REMOVAL OF CIVIL  
ACTION BY TRUSTEE**  
  
Adv. Pro. No. \_\_\_\_\_  
  
(Civil No. CV-2005-183, pending in the  
Sixth Judicial District Court,  
Franklin County, State of Idaho)

PLEASE TAKE NOTICE pursuant to 28 U.S.C. § 1452(a) and Bankruptcy Rule 9027, Gary E. Jubber, the duly appointed Chapter 7 Trustee of the above-captioned bankruptcy estate (the "Trustee"), hereby removes to this Court the state court action described below.

1. On May 12, 2005, an action was commenced in the Sixth Judicial District Court of Franklin County, State of Idaho, entitled "*Allen F. Grazer v. Gordon A. Jones, et al.*," and was assigned Case No. CV-2005-183.

2. Gordon A. Jones ("the Debtor") filed a voluntary Chapter 7 petition in the United States Bankruptcy Court for the District of Utah on April 18, 2006 ("Petition Date").

3. This Court has jurisdiction of this civil action under 28 U.S.C. § 157(a), 28 U.S.C. § 157(b)(2)(A) & (O), 28 U.S.C. § 1334(a), and it is, therefore, removable to this Court by the Trustee pursuant to the provisions of 28 U.S.C. § 1452(a) and Bankruptcy Rule 9027.

4. Upon removal, the proceeding will be a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A)(H) and (O).

5. The Trustee consents to the entry of final orders and judgment by the Bankruptcy Court.

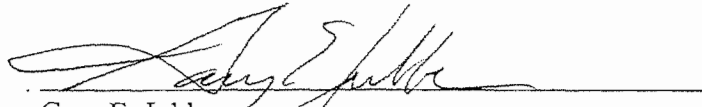
6. This Notice of Removal is filed within ninety (90) days of the Petition Date and is therefore timely removed pursuant to Rule 9027(a)(2).

7. A copy of the Complaint ("Complaint") filed in Sixth District Court in this matter is attached hereto as Exhibit "A," which is the only pleading currently in the Trustee's possession. The Trustee is in the process of obtaining copies of additional process and pleadings from the clerk of the state court. The Trustee will file the additional documents with this Court upon his receipt.



WHEREFORE, Gary E. Jubber, Chapter 7 Trustee, hereby removes this action from the Sixth Judicial District Court of Franklin County, Idaho, to this Court.

Dated this 17<sup>th</sup> day of July, 2006.



Gary E. Jubber  
FABIAN & CLENDENIN  
Attorneys for Gary E. Jubber, Chapter 7 Trustee

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the foregoing NOTICE OF REMOVAL OF CIVIL ACTION BY TRUSTEE to be mailed, postage prepaid, this 17<sup>th</sup> day of July, 2006, to the following:

Lincoln W. Hobbs  
Margaret H. Olson  
Tamara K. Prince  
Hobbs & Olson  
466 East 500 South, Suite 300  
Salt Lake City, UT 84111

Clerk of Court  
Sixth Judicial District Court  
of Franklin County, Idaho  
Franklin County Courthouse  
39 West Oneida, Room #2  
Preston, ID 83276

A handwritten signature in black ink, appearing to read "Marilee Park", is written over a horizontal line. The signature is stylized and cursive.

**Exhibit "A"**

FILED

05 MAY 12 PM 12:36

FRANKLIN COUNTY CLERK

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

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.

COMPLAINT

Case No. CV-2005-183

Judge Harding

Plaintiff hereby complains of Defendants as follows:

1. This is an action under the Uniform Fraudulent Transfer Act, Title 55, Chapter 9 of the Idaho Code. In anticipation of judgment, Defendants Gordon A. and Linda G. Jones formed a limited liability company and transferred real property located in Franklin County, Idaho to that LLC. This action seeks to

COMPLAINT

714

avoid the transfer, attach the property and enjoin further disposition by Defendants of the Franklin County property or of other property.

PARTIES AND JURISDICTION

2. Plaintiff Allen Grazer is an individual residing in Davis County, State of Utah.

3. Defendants Gordon A. Jones and Linda G. Jones (collectively "Jones") are husband and wife residing in Davis County, State of Utah. Prior to December 28, 2004 Jones owned real property in Franklin County, State of Idaho.

4. Defendant J&J Livestock, LLC is a Utah Limited Liability Company in good standing in the state of Utah. J&J Livestock, LLC owns real property in Franklin County, State of Idaho.

5. Jurisdiction over Defendants is proper under I.C. 5-514c(c).

6. Venue is proper in this county under I.C. 5-401(1).

GENERAL ALLEGATIONS

7. Beginning in 2002, Jones owned over 200 acres of land in Franklin County, Idaho. These parcels are identified as Parcels Nos. 908.00, 908.01 and 915.00 with the 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.

(hereinafter "the Franklin County property").

8. Commencing in 1993 Jones, as general contractor, built a home for Grazer in Davis County, Utah.

9. On November 1, 2002 Jones initiated litigation against Grazer seeking to collect approximately \$17,000 of unpaid invoices. Grazer counterclaimed alleging construction defects, negligence and breaches of contract and warranty. This action is known as *Gordon Jones and Richard Barney v. Allen Grazer*,

Second District Court, Davis County, Farmington Department,  
State of Utah, Case No. 020700570 CN ("the civil case").

10. The parties commenced the discovery phase of the civil case. In late 2004 Grazer and his experts began to discuss significant construction defects in the home, and began advising counsel for Gordon Jones of the severity of these defects.

11. On December 15, 2004, the Judge in the civil case sent a notice of trial, scheduling the matter for trial on April 26-29, 2005.

12. On December 22, 2004 Jones transferred, by quit claim deed, the Franklin County property to J&J Livestock, LLC. See Exhibit "A" ("the quit claim deed"). The deed was recorded on December 27, 2004.

13. J&J Livestock, LLC was formed in the state of Utah on December 28, 2004.

14. On April 26-29, 2005 Judge Alphin of the Second District Court in Utah heard the civil case. On April 26, 2005 Judge Alphin dismissed the claims brought by Jones and ruled in favor of Grazer on Jones' claims. On April 29, 2005 Judge Alphin declared his preliminary intention to award judgment in favor of Grazer and against Jones on Grazer's counterclaim. That

judgment has not yet been entered, pending arguments by counsel respecting the amount of damages to be awarded.

FIRST CLAIM FOR RELIEF  
(Declaratory Judgment)

15. Grazer realleges and incorporates by reference paragraphs 1 - 14 above.

16. The quit claim deed from Jones to J&J Livestock, LLC was recorded on December 27, 2004.

17. J&J Livestock, LLC did not exist until December 28, 2004. See Exhibit "A."

18. The quit claim deed, which purports to transfer all right, title and interest in the Franklin County property is void ab initio.

19. This court has the power under the Uniform Declaratory Judgment Act, I.C. 10-1201 *et seq.* to declare the deed void and to declare title to the Franklin County property remains in Jones, grantors under the quit claim deed.

SECOND CLAIM FOR RELIEF  
(Uniform Fraudulent Transfer Act)

20. Grazer realleges and incorporates by reference paragraphs 1 - 19 above.



21. As manager, member and registered agent, Jones materially controls, and at all times material hereto has controlled, J&J Livestock, LLC.

22. J&J Livestock, LLC was formed for the purpose of holding title to the Franklin County property.

23. Jones' quit claim deed to J&J Livestock, LLC was made at a time in discovery when Jones became aware of the extent of his potential and likely liability to Grazer.

24. Jones transferred the Franklin County property to J&J Livestock, LLC with actual intent to hinder, delay and defraud Grazer in the collection of a judgment.

25. At the time of the quit claim deed, Jones had received Grazer's expert's report, was facing a trial date on Grazer's claims and believed or reasonably should have believed that a judgment was imminent.

26. On information and belief, Jones did not receive a reasonably equivalent value in exchange for the transfer to J&J Livestock, LLC.

27. Grazer is entitled to an avoidance of the transfer to the extent necessary to satisfy his judgment.

28. This Court should attach the Franklin County property pursuant to I.C. 55-916(b).

29. Defendants and each of them should be enjoined from further disposing of property, real and personal, held in Franklin County, State of Idaho.

WHEREFORE Plaintiff prays for relief as follows:

1. For a declaratory order declaring the quit claim deed void ab initio and vesting title to the Franklin County property in Jones.

2. For judgment avoiding the transfer of the Franklin County property from Jones to J&J Livestock, LLC under the Uniform Fraudulent Transfer Act, I.C. 55-916(a).

3. For a writ of attachment attaching the Franklin County property to satisfy Grazer's judgment against Jones.

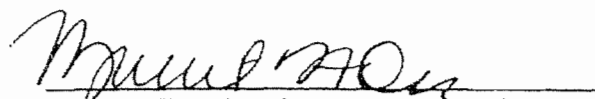
4. For an injunction prohibiting Jones, J&J Livestock, LLC and each of them from further disposing of property, real and personal held in Franklin County, State of Idaho.

5. For attorneys' fees and costs pursuant to (I.C. 12-121, 10-1201) and the parties' contract.

6. For such other and further relief as this Court deems just and equitable.

DATED this 1<sup>st</sup> day of May, 2005.

HOBBS & OLSON, L.C.



MARGARET H. OLSON, ESQ.

Of Counsel

Attorneys for Plaintiff

Allen F. Grazer

Plaintiff's address:

Allen F. Grazer  
1685 South Stone Hollow Court  
Bountiful, UT 84010-1069

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 Giddes 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

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.

Dominic J. Shaffer  
NOTARY PUBLIC



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

OPTIONAL FORM NO. 107

# EXHIBIT B

724

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

*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;  
LINDA G. JONES, an individual; J&J  
LIVESTOCK, LLC, a Utah limited  
liability company, and John Does, 1-10,  
  
Defendants.

Case No. CV-05-183

**AFFIDAVIT OF LANE V. ERICKSON  
IN SUPPORT OF DEFENDANT  
GORDON A. JONES'  
MOTION TO DISMISS**

STATE OF IDAHO            )  
  : ss  
County of Bannock        )

LANE V. ERICKSON, (hereafter "Affiant"), after first being duly sworn on oath, deposes  
and states as follows:

725

1. Affiant is the attorney for the Defendant Gordon A. Jones in the above-captioned proceedings; is 18 year so age or older; is competent to testify and makes the following statements under oath upon the best of his knowledge and belief;

2. Prior to April 26, 2005, the Defendant Gordon A. Jones sued Plaintiff in Utah state court to recover monies claimed to be due and owing for construction and contractor services that were rendered by Defendant Gordon A. Jones to the Plaintiff in the construction of a residential home for Plaintiff. Said litigation was designated as Davis County District Court Case No. 020700570CN.

3. In the course of this litigation Plaintiff countersued Defendant Gordon A. Jones for breach of contract. Trial was commenced in the above litigation before the Honorable Michael G. Allphin from April 26, 2005 through April 29, 2005. Findings of Fact and Conclusions of Law were entered by Judge Allphin on June 17, 2005. On July 11, 2005, a "Judgment Against Counterclaim Defendants Gordon A. Jones and Richard Barney" was entered by Judge Allphin. A true and correct copy of said Judgment is attached hereto as Exhibit "A" and is incorporated herein by reference as if set forth fully.

4. On May 12, 2005, Plaintiff filed the present litigation in the Sixth District, Franklin County Court alleging among other things that Defendant Gordon A. Jones had fraudulently transferred property in an attempt to avoid the judgment that was rendered against him by Judge Allphin in the above-described Utah state court litigation. A true and correct copy of the Court



Docket for the present case is attached hereto as Exhibit "B" and is incorporated herein by reference as if set forth fully.

5. In support of his claims against Defendant Gordon A. Jones, the Plaintiff filed a Notice of Filing Foreign Judgment on August 1, 2005, wherein he lodged with this Court a copy of the judgment rendered by Judge Allphin in the Utah state court litigation.

6. As a result of the Utah state court judgment entered by Judge Allphin, described more fully above, on April 18, 2006 Defendant Gordon A. Jones filed a Chapter 7 Bankruptcy in U.S. Bankruptcy Court for the District of Utah, as Case No. 06-21277. A true and correct copy of the Docket for the Chapter 7 Bankruptcy of Defendant Gordon A. Jones is attached hereto as Exhibit "C" and is incorporated herein by reference as if set forth fully.

7. The filing of the Chapter 7 Bankruptcy by Defendant Gordon A. Jones operated as a Stay in the present litigation pursuant to Federal Bankruptcy Code 11 U.S.C. § 362.

8. On May 30, 2006, and again on January 8, 2007, Chapter 7 Bankruptcy Trustee Gary E. Jubber filed a Notice of Removal of Civil Action, in the present litigation. See Docket entries on Exhibit "B".

9. On July 28, 2006, pursuant to applicable Bankruptcy Code sections, Plaintiff filed an Adversary Action against Defendant Gordon A. Jones for the purpose of obtaining a Judgment

against Defendant Gordon A. Jones that would allow Plaintiff to pursue his claims in the present case. Said Adversary Action was filed as Adversary Proceeding No. 06-02411 and was assigned to the Honorable Judith A. Boulden, U.S. Bankruptcy Court for the District of Utah.

10. While this occurred, the present case filed by Plaintiff in the Sixth District, Franklin County was assigned and reassigned to several judges who for various reasons disqualified themselves.

11. On January 20, 2009, U.S. Bankruptcy Judge Judith A. Boulden entered an Order Dismissing the above described Adversary Proceedings due to Plaintiff's having failed to properly prosecute the case by failing to file a proposed pretrial order or seek an extension of the deadline for doing so. A true and correct copy of Judge Boulden's Order Dismissing Adversary Proceeding is attached hereto as Exhibit "D" and is incorporated herein by reference as if set forth fully.

12. Also on January 20, 2009, U.S. Bankruptcy Judge Judith A. Boulden entered an Order granting the Discharge of Debtor, who was the Defendant Gordon A. Jones. A true and correct copy of said Discharge of Debtor is attached hereto as Exhibit "E" and is incorporated herein by reference as if set forth fully.

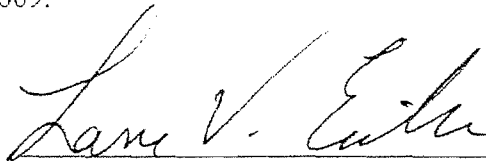
13. Pursuant to Federal Bankruptcy Code 11 U.S.C. 727, Defendant Gordon A. Jones, as the Debtor, is forever discharged of any and all debts that arose prior to his filing bankruptcy.

As a result of this discharge. Plaintiff is barred from seeking to recover under the Utah State Court Judgment attached hereto as Exhibit "A".

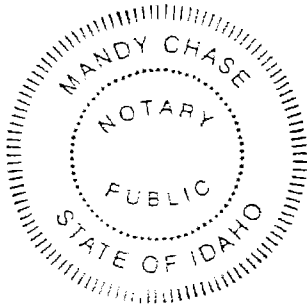
14. By reason of the decisions, orders, and granting of the discharge to Defendant Gordon A. Jones by the U.S. Bankruptcy Court for the District of Utah, Plaintiff has no "Foreign Judgment" upon which he can rely in the present case. Additionally, none of the causes of action based upon this Foreign Judgment can now form a valid cause of action against Defendant Gordon A. Jones without being a violation of the Discharge of Debtor order attached hereto as Exhibit "E".

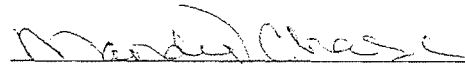
FURTHER SAITH AFFIANT NAUGHT.

DATED this 12<sup>th</sup> day of May, 2009.

  
\_\_\_\_\_  
LANE V. ERICKSON

SUBSCRIBED AND SWORN TO before me on this 12 day of May, 2009.



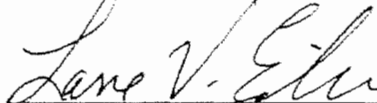
  
\_\_\_\_\_  
NOTARY PUBLIC FOR IDAHO  
Residing at: Pocatello, Idaho  
Commission expires: 5-8-2013

CERTIFICATE OF SERVICE

I hereby certify that on the 12<sup>th</sup> day of May, 2009, I caused a true, correct and complete copy of the foregoing document to be served by U.S. first-class mail, postage prepaid, 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  
*Attorneys for Plaintiff*

Kent L. Hawkins  
MERRILL & MERRILL CHARTERED  
P.O. Box 991  
Pocatello, Idaho 83204-0991  
*Attorney for Defendant Linda G. Jones*

  
\_\_\_\_\_  
LANE V. ERICKSON



---

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;

CERTIFICATE OF DELIVERY

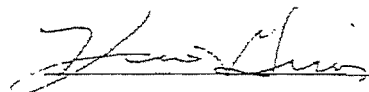
I hereby certify that on the 1 day of July, 2005, I caused a true and correct copy of the foregoing to be sent via facsimile and to be and mailed, first class, postage prepaid, to the following:

David A. Van Dyke, Esq.  
2900 West Highway 24  
Post Office Box 17  
Teasdale, 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*

  
\_\_\_\_\_

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 17<sup>th</sup> day of July, 2005.

BY THE COURT:

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

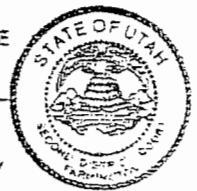
APPROVED AS TO FORM:

BABCOCK, SCOTT & BABCOCK

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

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 15 DAY OF July 2005  
ALYSON E BROWN  
CLERK OF THE COURT  
BY Alyson Brown DEPUTY  
PAGE 3 OF 4



HOBBS & OLSON

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



Case Number Result Page

Franklin

1 Cases Found.

Allen F. Grazer vs. Gordon A. Jones, etal.

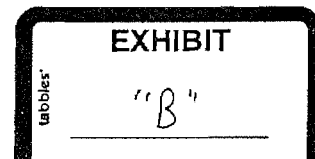
Case: CV-2005-0000183 District Filed: 05/12/2005 Subtype: Other Claims Judge: David C. Nye Status: Reopened 02/04/2008

Defendants: J & J Livestock, LLC Jones, Gordon A. Jones, Linda G. Plaintiffs: Grazer, Allen F.

Register Date of actions:

- 05/12/2005 New Case Filed - Other Claims  
Filing: A1 - Civil Complaint, More Than \$1000 No Prior Appearance Paid by: Hobbs & Olson, LC Receipt number: 0001351 Dated: 5/12/2005 Amount: \$77.00 (Check)
- 05/12/2005 Plaintiff: Grazer, Allen F. Appearance Margaret H. Olson
- 05/12/2005 Lis Pendens
- 06/15/2005 Application for Prejudgment Writ of Attachment
- 06/15/2005 Notice of Hearing
- 06/15/2005 Memorandum in Support of Application for Prejudgment Writ of Attachment
- 06/23/2005 Acceptance of Service
- 06/23/2005 Affidavit of Allen F. Grazer in Support of Prejudgment Writ of Attachment
- 06/30/2005 Summons issued: Gordon A. Jones/ Shawn Potter Esquire  
Hearing Scheduled (Hearing Scheduled 07/28/2005 01:30 PM) Plaintiff's Application for Prejudgment Writ of Attachment
- 07/01/2005 Filing: 11A - Civil Answer Or Appear. More Than \$1000 No Prior Appearance Paid by: J & J Livestock, LLC (defendant) Receipt number: 0001986 Dated: 7/8/2005 Amount: \$52.00 (Check)
- 07/08/2005 Summons - Gordon Jones
- 07/22/2005 Memorandum in Opposition to Plaintiff's Motion for Injunctive Relief and Prejudgment Writ of Attachment  
Hearing result for Hearing Scheduled held on 07/28/2005 01:30 PM: Hearing Vacated Plaintiff's Application for Prejudgment Writ of Attachment
- 07/27/2005 Stipulation for Prejudgment Writ of Attachment and Injunction
- 07/28/2005 Filing: S1 - Filing Foreign Judgment Judgment Creditor Paid by: Olson, Margaret H. (attorney for Grazer, Allen F.) Receipt number: 0002259 Dated: 8/1/2005 Amount: \$7.00 (Check)
- 08/01/2005 Notice Of Filing Foreign Judgment
- 08/01/2005 Affidavit of Margaret H. Olson re: Foreign Judgment
- 08/22/2005 Prejudgment Writ of Attachment and injunction
- 08/22/2005 Case Status Changed: closed
- 11/21/2005 Notice of Change of Address
- 11/21/2005 Case Status Changed: reopened
- 11/21/2005 Motion to Amend Complaint
- 11/21/2005 Memorandum in Support of Motion to Amend Complaint

735



11/22/2005 Order to Amend Complaint  
05/30/2006 Notice of Withdrawal of Counsel-Shawn Potter for Jones  
07/19/2006 Notice of Removal of Civil Action by Trustee  
07/19/2006 Case Status Changed: closed pending clerk action  
01/08/2007 Notice of Removal of Civil Action by Trustee-Jubber  
01/08/2007 Order Remanding Adversary Proceeding-Certified Copy  
12/28/2007 Request for Scheduling and Management Conference-Olson  
01/02/2008 Notice of Withdrawal of Counsel  
02/04/2008 Defendant: Jones, Gordon A. Appearance Lane V. Erickson  
02/04/2008 Defendant: Jones, Linda G. Appearance Lane V. Erickson  
02/04/2008 Defendant: J & J Livestock, LLC Appearance Lane V. Erickson  
02/04/2008 Notice Of Appearance - Lane Erickson  
02/12/2008 Hearing Scheduled (Status 03/13/2008 03:00 PM)  
03/13/2008 Hearing result for Status held on 03/13/2008 03:00 PM: Hearing Held  
03/21/2008 Hearing Scheduled (Bench Trial 11/05/2008 09:00 AM) afternoon of 6th if needed  
03/21/2008 Hearing Scheduled (Bench Trial Pretrial 10/09/2008 01:30 PM)  
05/16/2008 Plaintiff's Disclosure of Witness-Hobbs  
08/06/2008 Hearing result for Bench Trial Pretrial held on 10/09/2008 01:30 PM: Continued  
08/06/2008 Hearing Scheduled (Bench Trial Pretrial 10/23/2008 01:30 PM)  
08/06/2008 AMENDED Notice of Hearing  
08/18/2008 Hearing Scheduled (Motion to Withdraw 09/11/2008 01:45 PM) Motion to Withdraw Attorney-Lane Erickson  
08/21/2008 Motion to Withdraw as Attorney of Record-Erickson  
08/21/2008 Notice of Hearing for Motion to Withdraw as Attorney of Record-Erickson  
09/10/2008 Withdrawal of Motion to Withdraw as Attorney of Record-Erickson  
10/01/2008 Change Assigned Judge (batch process)  
10/07/2008 Administrative Order of Reference  
10/07/2008 Hearing Scheduled (Bench Trial 11/05/2008 09:00 AM)  
10/10/2008 Change Assigned Judge  
10/10/2008 Administrative Order of Reference  
10/15/2008 Defendant: Jones, Linda G. Appearance Kent Lee Hawkins  
10/15/2008 Substitution Of Counsel-Hawkins  
10/24/2008 Order of Reference  
11/04/2008 Change Assigned Judge

Connection: Secure

736

**DISCHARGED, CLOSED**

**U.S. Bankruptcy Court  
District of Utah (Salt Lake City)  
Bankruptcy Petition #: 06-21277**

*Assigned to:* Judith A. Boulden  
Chapter 7  
Voluntary  
Asset

*Date filed:* 04/18/2006  
*Date terminated:* 01/20/2009  
*Debtor discharged:* 01/20/2009

*Debtor disposition:* Standard Discharge

*Debtor*

**Gordon A. Jones**  
235 West 1400 North  
Bountiful, UT 84010  
U.S.A.  
801-694-1964  
SSN / ITIN: [REDACTED]  
*dba*  
Gordon A. Jones d/b/a J & J Livestock  
*dba*  
Gordon Jones Construction, L.C.

represented by **Joseph M.R. Covey**

Parr Waddoups Brown Gee &  
Loveless  
185 South State Street  
Suite 800  
Salt Lake City, UT 84111  
(801) 532-7840  
Fax : (801) 532-7750  
Email:  
jcovey@parrbrown.com

**Robert B. Lochhead**

Parr Waddoups Brown Gee &  
Loveless  
185 South State Street  
Suite 800  
Salt Lake City, UT 84111-  
1536  
(801) 532-7840  
Fax : (801) 532-7750  
Email:  
rlochhead@parrbrown.com

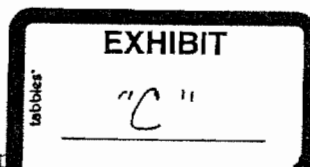
*Trustee*

**Gary E. Jubber tr**  
Fabian & Clendenin  
215 South State Street  
Suite 1200  
Salt Lake City, UT 84111  
(801) 531-8900

represented by **Douglas J. Payne**

Fabian & Clendenin  
215 South State Street  
Suite 1200  
Salt Lake City, UT 84111-  
2323  
(801) 531-8900  
Fax : (801) 596-2814  
Email:  
dpayne@fabianlaw.com

**737**



**Gary E. Jubber**  
 Fabian and Clendinin  
 215 South State Street  
 Suite 1200  
 Salt Lake City, UT 84111  
 (801) 531-8900  
 Fax : (801) 596-2814  
 Email:  
 gjubber@fabianlaw.com

*U.S. Trustee*  
 United States Trustee  
 Ken Garff Bldg.  
 405 South Main Street  
 Suite 300  
 Salt Lake City, UT 84111

Filing Date	#	Docket Text
01/22/2009	<u>121</u>	BNC Certificate of Service - Order of Discharge. (related document(s): Order Discharging Debtor(s) and Closing Case) Service Date 01/22/2009. (Admin.) (EOD: 01/22/2009)
01/20/2009		Order Discharging Debtor(s) and the Trustee has filed a Final Account of Trustee and has certified that the estate has been fully administered, and no timely objection has been filed. Accordingly, it is ORDERED that the trustee is discharged and THE CASE IS HEREBY CLOSED. Judge Judith A. Boulden (mtm) (EOD: 01/20/2009)
01/20/2009		Adversary Case 2:06-ap-2411 Disposed. (mtm) (EOD: 01/20/2009)
07/20/2008	<u>120</u>	Certificate of Service Re: Order. (related document(s): <u>119</u> Order on Motion for Ex Parte Relief) Service Date 07/20/2008. (Admin.) (EOD: 07/20/2008)
07/18/2008	<u>119</u>	Order Waiving Court Fees(Related Doc # <u>117</u> ). \$500.00 in court fees are waived (fsl, ) (EOD: 07/18/2008)
07/16/2008	<u>118</u>	Pending Order (Ex Parte) related documents(s): <u>117</u> Motion for Ex Parte Relief Filed by: (Jubber tr, Gary) [Order# 92861] (EOD: 07/16/2008)
07/16/2008	<u>117</u>	Motion for Ex Parte Relief for Waiver of Court Fees Filed by Gary E. Jubber tr (Jubber tr, Gary) (EOD: 07/16/2008)

738

06/20/2008		Reset Deadline -Notice of Fees Due by 9/5/2008. ( (gmg. )Trustee Jubber owes for 2 adversary fees. (EOD: 06/20/2008)
04/11/2008	<u>116</u>	Certificate of Service Re: Miscellaneous Pleadings Service Date 04/11/2008. (Admin.) (EOD: 04/11/2008)
04/09/2008		Clerk's Notice of Fees Due Amount Due:\$500.00 for Adversaries 06-2394 and 06-2395 Fee due by 4/16/2008. (fsl, ) (EOD: 04/09/2008)
04/09/2008		Remark. Case cannot be closed at this time. Fees are still owed in this case and there is an outstanding 727,Case 06-2411. (fsl, ) (EOD: 04/09/2008)
03/25/2008	<u>115</u>	Trustee's Supplemental Final Report filed by Trustee. (fsl, ) (EOD: 03/26/2008)
01/25/2008		Remark. AMENDED Court fees due in the amount of \$750.00 for adversary cases 06-2449, 06-2395, and 06-2394. \$250.00 previously paid for Adversary case 06-2449. 06-2395 and 06-2394 are removals filed by the trustee (fsl, ) (EOD: 01/25/2008)
01/25/2008	<u>114</u>	Debtor's Certification of Completion of Instructional Course Concerning Financial Management (Covey, Joseph) (EOD: 01/25/2008)
01/18/2008	<u>113</u>	Certificate of Service Re: Order. (related document(s): <u>112</u> Order Approving Chapter 7 Trustee's Final Report and Account) Service Date 01/18/2008. (Admin.) (EOD: 01/18/2008)
01/17/2008		Filing Fee Paid. Receipt Number: 255390 Fee Amount \$250 (related document(s): Remark) (mfm, ) (EOD: 01/17/2008)
01/16/2008	<u>112</u>	Order Approving Chapter 7 Trustee's Final Report & Account (fsl, ) (EOD: 01/16/2008)
01/14/2008	<u>111</u>	Pending Order (Ex Parte) related documents(s): <u>106</u> Trustee's Final Rpt/Acct - Asset Filed by: (Jubber tr, Gary) [Order# 84384] (EOD: 01/14/2008)
01/14/2008	<u>110</u>	Ex Parte Motion for Entry of Judgment/Order (related document (s): <u>106</u> Trustee's Final Rpt/Acct - Asset) Filed by Gary E. Jubber tr (Jubber tr, Gary) (EOD: 01/14/2008)
12/19/2007	<u>109</u>	Certificate of Service Re: Miscellaneous Pleadings Service Date 12/19/2007. (Admin.) (EOD: 12/19/2007)

739

12/17/2007	<u>108</u>	Clerk's Noticing Re: Trustee's Request (related document(s): <u>107</u> Trustee's Notice of Filing of Trustee's Final Report and Account Before Distribution) (fsl, ) (EOD: 12/17/2007)
12/17/2007		The trustee (or USTR) requests that the previously filed (related document(s): <u>107</u> ) be noticed to all creditors to the BNC. (Jubber tr, Gary) (EOD: 12/17/2007)
12/17/2007	<u>107</u>	Trustee's Notice of Filing of Trustee's Final Report and Account Before Distribution filed by Trustee (Jubber tr, Gary) (EOD: 12/17/2007)
12/14/2007	<u>106</u>	Trustee's Chapter 7 Asset Final Report filed by Trustee. (fsl, ) (EOD: 12/17/2007)
11/08/2007		Remark. Court fees in the amount of \$250.00 for adversary 06-2449. (fsl, ) (EOD: 11/08/2007)
11/08/2007		Trustee's Request for a Bill. (Jubber tr, Gary) (EOD: 11/08/2007)
10/31/2007	<u>105</u>	Certificate of Service Re: Order. (related document(s): <u>102</u> Order Regarding Claim) Service Date 10/31/2007. (Admin.) (EOD: 10/31/2007)
10/31/2007	<u>104</u>	Certificate of Service Re: Order. (related document(s): <u>101</u> Order Regarding Claim) Service Date 10/31/2007. (Admin.) (EOD: 10/31/2007)
10/31/2007	<u>103</u>	Certificate of Service Re: Order. (related document(s): <u>100</u> Order Regarding Claim) Service Date 10/31/2007. (Admin.) (EOD: 10/31/2007)
10/29/2007	<u>102</u>	Order Regarding Claim (related document(s): <u>84</u> Objection to Claim) Claim Number(s): <u>3</u> . Claim of G.S. Jones Construction is disallowed in its entirety. (fsl, ) (EOD: 10/29/2007)
10/29/2007	<u>101</u>	Order Regarding Claim (related document(s): <u>86</u> Objection to Claim) Claim Number(s): <u>4</u> . Claim filed by Linda G. Jones is disallowed in its entirety. (fsl, ) (EOD: 10/29/2007)
10/29/2007	<u>100</u>	Order Regarding Claim (related document(s): <u>88</u> Objection to Claim) Claim Number(s): <u>5</u> . Claim filed by Steven E. Barton is allowed only as a non-priority unsecured claim in the amount of \$2300.00 (fsl, ) (EOD: 10/29/2007)
		Ex Parte Motion for Entry of Judgment Order (related document (s): [ <u>84</u> Objection to Claim) Filed by Allen Grazer (Bryan, Julie)

740

10/25/2007	<u>99</u>	Modified on 10/25/2007 (fsl. ). (EOD: 10/25/2007)
10/25/2007	<u>98</u>	Pending Order (Hearing Scheduled) related documents(s): <u>84</u> Objection to Claim Filed by: (Bryan, Julie) [Order# 81127] (EOD: 10/25/2007)
10/25/2007	<u>97</u>	Ex Parte Motion for Entry of Judgment/Order (related document (s): <u>86</u> Objection to Claim) Filed by Allen Grazer (Bryan, Julie) Modified on 10/25/2007 (fsl. ). (EOD: 10/25/2007)
10/25/2007	<u>96</u>	Pending Order (Hearing Scheduled) related documents(s): <u>85</u> Objection to Claim Filed by: (Bryan, Julie) [Order# 81126] (EOD: 10/25/2007)
10/25/2007	<u>95</u>	Ex Parte Motion for Entry of Judgment/Order (related document (s): <u>88</u> Objection to Claim ) Filed by Allen Grazer (Bryan, Julie) Modified on 10/25/2007 (fsl. ). (EOD: 10/25/2007)
10/25/2007	<u>94</u>	Pending Order (Hearing Scheduled) related documents(s): <u>88</u> Objection to Claim Filed by: (Bryan, Julie) [Order# 81125] (EOD: 10/25/2007)
10/18/2007	<u>93</u>	Certificate of Service Re: Order. (related document(s): <u>92</u> Order on Application for Compensation, . . . ) Service Date 10/18/2007. (Admin.) (EOD: 10/18/2007)
10/16/2007	<u>92</u>	Order Granting Application for Compensation (Related Doc # <u>79</u> ) Granting for Gary E. Jubber tr, fees awarded: \$12808.13, expenses awarded: \$383.76, Granting Application for Compensation (Related Doc # <u>80</u> ) Granting for Gary E. Jubber, fees awarded: \$62785.46, expenses awarded: \$4576.37, Granting Application for Compensation (Related Doc # <u>81</u> ) Granting for PricewaterhouseCoopers L.L.P., fees awarded: \$29270.36, expenses awarded: \$175.92 (fsl. ) (EOD: 10/16/2007)
10/15/2007		Minute Entry Re: First and Final Application of Trustee's Accountant for Allowance of Compensation as an Administrative Expense. Motion granted. Fees of \$29,270.36 and expenses of \$175.92 allowed. Order executed. (JAB,arp,kc) (related document (s): <u>81</u> ) Appearances: Gary Jubber TR (arp) (EOD: 10/15/2007)
10/15/2007		Minute Entry Re: Verified Application for Allowance of Compensation and Reimbursement of Expenses of Fabian & Clendenin, Counsel for Trustee. Motion granted. Fees of \$62,785.46 and expenses of \$4,576.37 allowed. Order executed. (JAB,arp,kc) (related document(s): <u>80</u> ) Appearances: Gary Jubber TR (arp) (EOD: 10/15/2007)

741

10/15/2007		Minute Entry Re: Chapter 7 Trustee's Application for Compensation and Reimbursement of Expenses. Motion granted. Fees of \$12,808.13 and expenses of \$383.76 allowed. Order executed. (IAB,arp,kc) (related document(s): <u>79</u> ) Appearances: Gary Jubber TR (arp) (EOD: 10/15/2007)
10/01/2007	<u>91</u>	Certificate of Service (related document(s): <u>89</u> Notice of Hearing, ) <i>Supplemental Service-Notice of Objection Claim 5</i> Filed by Allen Grazer (Bryan, Julie) (EOD: 10/01/2007)
09/15/2007	<u>90</u>	Certificate of Service Re: Miscellaneous Pleadings Service Date 09/15/2007. (Admin.) (EOD: 09/15/2007)
09/14/2007	<u>89</u>	Notice of Hearing (related document(s): <u>88</u> Objection to Claim) <i>5 of Stephen E. Barton</i> Filed by Julie A. Bryan on behalf of Allen Grazer Hearing scheduled for 12/3/2007 at 02:00 PM at US Bankruptcy Court. (Bryan, Julie) Modified on 9/17/2007 (jt, ). (EOD: 09/14/2007)
09/14/2007	<u>88</u>	Objection to Claim Number(s): <u>5</u> . Name of Claimant: Stephen E. Barton. Filed by Allen Grazer (Bryan, Julie) (EOD: 09/14/2007)
09/14/2007	<u>87</u>	Notice of Hearing (related document(s): <u>86</u> Objection to Claim) <i>4 of Linda G. Jones</i> Filed by Julie A. Bryan on behalf of Allen Grazer Hearing scheduled for 12/3/2007 at 02:00 PM at US Bankruptcy Court. (Bryan, Julie) (EOD: 09/14/2007)
09/14/2007	<u>86</u>	Objection to Claim Number(s): <u>4</u> . Name of Claimant: Linda G. Jones. Filed by Allen Grazer (Bryan, Julie) (EOD: 09/14/2007)
09/14/2007	<u>85</u>	Notice of Hearing (related document(s): <u>84</u> Objection to Claim) <i>3 of GS Jones Construction</i> Filed by Julie A. Bryan on behalf of Allen Grazer Hearing scheduled for 12/3/2007 at 02:00 PM at US Bankruptcy Court. (Bryan, Julie) Modified on 9/17/2007 (jt, ). (EOD: 09/14/2007)
09/14/2007	<u>84</u>	Objection to Claim Number(s): <u>3</u> . Name of Claimant: G.S. Jones Construction. Filed by Allen Grazer (Bryan, Julie) (EOD: 09/14/2007)
09/13/2007	<u>83</u>	Clerk's Noticing Re: Trustee's Request (related document(s): <u>82</u> Notice of Hearing, ) (fsl, ) (EOD: 09/13/2007)
09/13/2007		The trustee (or USTR) requests that the previously filed (related document(s): <u>82</u> )be noticed to all creditors to the BNC. (Jubber tr, Gary) (EOD: 09/13/2007)

742



09/13/2007	<u>82</u>	Notice of Hearing (related document(s): <u>81</u> Application for Compensation, <u>80</u> Application for Compensation, <u>79</u> Application for Compensation) Filed by Gary E. Jubber tr on behalf of Gary E. Jubber tr Hearing scheduled for 10/15/2007 at 02:00 PM at US Bankruptcy Court. (Jubber tr, Gary) (EOD: 09/13/2007)
09/13/2007	<u>81</u>	Application for Compensation for PricewaterhouseCoopers L.L.P., Accountant, period: 5/11/2006 to 8/22/2007, fee: \$29,270.36, expenses: \$175.95. Filed by Gary E. Jubber (Jubber, Gary) (EOD: 09/13/2007)
09/13/2007	<u>80</u>	Application for Compensation for Gary E. Jubber, Trustee's Attorney, period: 5/8/2006 to 8/30/2007, fee: \$62,785.46, expenses: \$4,576.37. Filed by Gary E. Jubber (Jubber, Gary) (EOD: 09/13/2007)
09/13/2007	<u>79</u>	Application for Compensation for Gary E. Jubber tr, Trustee Chapter 7, period: 5/1/2006 to 8/30/2007, fee: \$12,808.13, expenses: \$383.76. Filed by Gary E. Jubber tr (Jubber tr, Gary) (EOD: 09/13/2007)
05/07/2007		Adversary Case 06-2449 Disposed. (lb) (EOD: 05/07/2007)
04/21/2007	<u>78</u>	Certificate of Service Re: Order Service Date 04/21/2007. (Admin.) (EOD: 04/21/2007)
04/19/2007	<u>77</u>	Order Granting Motion To Approve Settlement/Compromise. 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. Grazer shall be deemed to have relief from the stay to pursue any and all state court remedies with respect to such property. 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 USC 523 and 727 set forth by Grazer against the Debtor in Adversary No 06-2411. (Related Doc # <u>68</u> ) (ksh, ) (EOD: 04/19/2007)
04/18/2007	<u>76</u>	Pending Order (Hearing Held) related documents(s): <u>68</u> Motion to Approve Settlement/Compromise Filed by: (Jubber tr, Gary) [Order# 72397] (EOD: 04/18/2007)
		Minute Entry Re: Motion to Approve Settlement Agreement and for Order Authorizing Abandonment of Property Estate. Motion granted. Exhibits received. Witness: Gary Jubber. Findings of Fact and Conclusions made on the record. OTF Billings.

743

03/28/2007		(JAB,arp,kc,cf) (related document(s): <u>72</u> ) Appearances: Peter Billings and Gary Jubber TR, Julie Bryan and Nathan Hobbs ALLEN GRAZER, Joe Covey and Michael Hoppe DB, David Chaffer RICHARD BARNEY (arp) (EOD: 03/30/2007)
03/27/2007	<u>75</u>	Response to (related document(s): <u>73</u> , (related document(s): <u>74</u> Objections to Motions to Approve Settlement/Compromise, Filed by Allen Grazer (Bryan, Julie). (EOD: 03/27/2007)
03/26/2007	<u>74</u>	Objection to (related document(s): <u>72</u> Amended Motion to Approve Settlement/Compromise, filed by Trustee Gary E. Jubber tr) Filed by Richard Barney (ksh, ) (EOD: 03/26/2007)
03/23/2007	<u>73</u>	Objection to (related document(s): <u>68</u> Motion to Approve Settlement/Compromise filed by Trustee Gary E. Jubber tr) Filed by Gordon A. Jones (Covey, Joseph) (EOD: 03/23/2007)
02/20/2007	<u>72</u>	Amended Document (related document(s): <u>68</u> Motion to Approve Settlement/Compromise) <i>Exhibit "A" to Trustee's Motion to Approve Settlement Agreement and for Order Authorizing Abandonment of Property of Estate</i> Filed by Gary E. Jubber tr (Jubber tr, Gary) (EOD: 02/20/2007)
02/18/2007	<u>71</u>	Certificate of Service Re: Miscellaneous Pleadings Service Date 02/18/2007. (Admin.) (EOD: 02/18/2007)
02/16/2007	<u>70</u>	Clerk's Noticing Re: Trustee's Request (related document(s): <u>68</u> Motion to Approve Settlement/Compromise, <u>69</u> Notice of Hearing) (ksh, ) (EOD: 02/16/2007)
02/16/2007		The trustee (or USTR) requests that the previously filed (related document(s): <u>68</u> , <u>69</u> ) be noticed to all creditors to the BNC. (Jubber tr, Gary) (EOD: 02/16/2007)
02/16/2007	<u>69</u>	Notice of Hearing (related document(s): <u>68</u> Motion to Approve Settlement/Compromise) Filed by Peter W. Billings Jr. on behalf of Gary E. Jubber tr Hearing scheduled for 3/28/2007 at 02:00 PM at US Bankruptcy Court. (Billings, Peter) (EOD: 02/16/2007)
02/16/2007	<u>68</u>	Motion to Approve Settlement/Compromise <i>and for Order Authorizing Abandonment of Property of Estate</i> Filed by Gary E. Jubber tr (Billings, Peter) (EOD: 02/16/2007)
01/03/2007		Adversary Case 06-2395 Disposed. (arp, ) (EOD: 01/03/2007)
01/03/2007		Adversary Case 06-2394 Disposed. (arp, ) (EOD: 01/03/2007)

744

10/27/2006	<u>67</u>	Certificate of Service Re: Order Service Date 10/27/2006. (Admin.) (EOD: 10/27/2006)
10/25/2006	<u>66</u>	Order Regarding Motion To Sell (Related Doc # <u>56</u> ), Granting Motion To Amend Motion To Sell property free and clear of liens, with valid liens, if any, attaching to the sales proceeds. (Related Doc # <u>57</u> ) (ksh, ) (EOD: 10/25/2006)
10/12/2006	<u>65</u>	Pending Order (Ex Parte) related documents(s): <u>64</u> Ex Parte Application for Entry of Order Filed by: (Jubber tr, Gary) [Order# 62695] (EOD: 10/12/2006)
10/12/2006	<u>64</u>	Ex Parte Application for Entry of Order (related document(s): <u>57</u> Motion to Amend, Motion to Sell) Filed by Gary E. Jubber tr (Jubber tr, Gary) (EOD: 10/12/2006)
10/05/2006	<u>63</u>	Notice of Trustee's Intent to Abandon Property of the Estate: 1997 Ford Crown Victoria, 1997 Ford F350, 1991 Chevrolet R15. Filed by Douglas J. Payne on behalf of Gary E. Jubber tr (Payne, Douglas) (EOD: 10/05/2006)
09/16/2006	<u>62</u>	Certificate of Service Re: Order Service Date 09/16/2006. (Admin.) (EOD: 09/16/2006)
09/16/2006	<u>61</u>	Certificate of Service Re: Miscellaneous Pleadings Service Date 09/16/2006. (Admin.) (EOD: 09/16/2006)
09/14/2006	<u>60</u>	Clerk's Noticing Re: Trustee's Request (related document(s): <u>59</u> Notice of Hearing, <u>57</u> Motion to Amend, Motion to Sell) (ksh, ) (EOD: 09/14/2006)
09/14/2006		The trustee (or USTR) requests that the previously filed (related document(s): <u>59</u> , <u>57</u> )be noticed to all creditors to the BNC. (Jubber tr, Gary) (EOD: 09/14/2006)
09/14/2006	<u>59</u>	Notice of Hearing (related document(s): <u>57</u> Amended Motion to Sell) Filed by Gary E. Jubber tr on behalf of Gary E. Jubber tr Hearing scheduled for 10/11/2006 at 02:00 PM at US Bankruptcy Court. (Jubber tr, Gary) (EOD: 09/14/2006)
09/14/2006	<u>58</u>	Order Granting ?Motion to Approve Sale of Properties Free and Clear of Liens and for Approval of Compromise Regarding Sale of Co-Owner's Interest and Homestead Exemption Claims (Residential Property and Maple Hills Condo) Filed by Gary E. Jubber tr (Related Doc # <u>59</u> ) (bfg, ) (EOD: 09/14/2006)
		Minute Entry Re: Motion to Approve Sale of Properties Free and

745

09/13/2006		Clear of Liens and for Approval of Compromise Regarding Sale of Co-Owner's Interest and Homestead Exemption Claims. Motion granted. Order executed with modifications as set forth on the record. Exhibits received. (JAB,cmw,kc) (related document(s): <u>57</u> ) Appearances: Doug Payne ATTY FOR TR, Gary Jubber TR, Julie Bryant CR, Joe Covey DB (cmw) (EOD: 09/13/2006)
09/13/2006	<u>57</u>	Amended Motion to Approve Sale of Property of the Estate - 1955 Ford T-Bird (related document(s): <u>56</u> Motion to Approve Sale of Property of the Estate )Filed by Gary E. Jubber tr (Jubber tr, Gary) (EOD: 09/13/2006)
09/12/2006	<u>56</u>	Motion to Approve Sale of Property of the Estate - 1955 Ford T-Bird Filed by Gary E. Jubber tr (Jubber tr, Gary) (EOD: 09/12/2006)
09/08/2006	<u>55</u>	Response to (related document(s): <u>39</u> Motion to Sell, ) Filed by Allen Grazer (Bryan, Julie) (EOD: 09/08/2006)
08/31/2006	<u>54</u>	Certificate of Service Re: Order Service Date 08/31/2006. (Admin.) (EOD: 08/31/2006)
08/29/2006	<u>53</u>	Order Granting Trustee's Application to Employ Professional: Paul W. Throndsen, MAI and Appraisal Group, Inc. as Appraiser. (related document(s): <u>45</u> Application to Employ as a Professional) (ksh, ) (EOD: 08/29/2006)
08/27/2006	<u>52</u>	Certificate of Service Re: Order Service Date 08/27/2006. (Admin.) (EOD: 08/27/2006)
08/25/2006	<u>51</u>	Order Granting Trustee's Application to Employ Professional: D. Kip Swan as Real Estate Agent. (related document(s): <u>48</u> Application to Employ as a Professional) (ksh, ) (EOD: 08/25/2006)
08/24/2006		Deferred Adversary Fee. \$250.00. 06-2449. (clo, ) Modified on 11/2/2007 (clo, ). (EOD: 10/29/2007)
08/24/2006		Complaint by on behalf of Gary E. Jubber against Gordon A. Jones <u>06-02449</u> ; Nature of Suit(s): 424 (Obj/Revocation Discharge 727), Fee Amount DEFERRED. Filed by on behalf of Gary E. Jubber. (Payne, Douglas) Modified on 8/24/2006 (ksh, ). Modified on 8/25/2006 (clo, ). (EOD: 08/24/2006)
08/17/2006	<u>50</u>	Pending Order (Ex Parte) related documents(s): <u>48</u> Application to Employ as a Professional Filed by: (Jubber tr, Gary) [Order# 59240] (EOD: 08/17/2006)

746

08/17/2006	<u>49</u>	Affidavit of D. Kip Swan (related document(s): <u>48</u> Application to Employ as a Professional) Filed by Gary E. Jubber tr (Jubber tr, Gary) (EOD: 08/17/2006)
08/17/2006	<u>48</u>	Application to Employ D. Kip Swan as Real Estate Agent Filed By Trustee. (Jubber tr, Gary) (EOD: 08/17/2006)
08/17/2006	<u>47</u>	Pending Order (Ex Parte) related documents(s): <u>45</u> Application to Employ as a Professional Filed by: (Jubber tr, Gary) [Order# 59239] (EOD: 08/17/2006)
08/17/2006	<u>46</u>	Verified Statement of Paul W. Thronsen in Support of Trustee's Application for Authority to Employ Appraiser (related document (s): <u>45</u> Application to Employ as a Professional) Filed by Gordon A. Jones (Jubber tr, Gary) (EOD: 08/17/2006)
08/16/2006	<u>45</u>	Application to Employ Paul W. Thronsen, MAI and Appraisal Group, Inc. as Appraiser Filed By Trustee. (Jubber tr, Gary) (EOD: 08/16/2006)
08/14/2006	<u>44</u>	Supplemental Certificate of Service (related document(s): <u>43</u> Certificate of Service Re: Miscellaneous Pleadings) Filed by Gary E. Jubber tr (Jubber tr, Gary) (EOD: 08/14/2006)
08/12/2006	<u>43</u>	Certificate of Service Re: Miscellaneous Pleadings Service Date 08/12/2006. (Admin.) (EOD: 08/12/2006)
08/11/2006	<u>42</u>	Amended Notice of Appearance and Request for Notice Filed by Lincoln W. Hobbs , on behalf of Allen Grazer (Bryan, Julie) (EOD: 08/11/2006)
08/10/2006	<u>41</u>	Clerk's Noticing Re: Trustee's Request (related document(s): <u>40</u> Notice of Hearing, <u>39</u> Motion to Sell, ) (ksh, ) (EOD: 08/10/2006)
08/10/2006		The trustee (or USTR) requests that the previously filed (related document(s): <u>40</u> , <u>39</u> )be noticed to all creditors to the BNC. (Jubber tr, Gary) (EOD: 08/10/2006)
08/10/2006	<u>40</u>	Notice of Hearing (related document(s): <u>39</u> Motion to Approve Sale of Properties Free and Clear of Liens and for Approval of Compromise Regarding Sale of Co-Owner's Interest and Homestead Exemption Claims (Residential Property and Maple Hills Condo)) Filed by Gary E. Jubber tr on behalf of Gary E. Jubber tr Hearing scheduled for 9/13/2006 at 02:00 PM at US Bankruptcy Court. (Jubber tr, Gary) (EOD: 08/10/2006)
		Motion to Approve Sale of Properties Free and Clear of Liens and

747

08/10/2006	<u>39</u>	for Approval of Compromise Regarding Sale of Co-Owner's Interest and Homestead Exemption Claims (Residential Property and Maple Hills Condo) Filed by Gary E. Jubber tr (Jubber tr, Gary) (EOD: 08/10/2006)
07/28/2006	<u>38</u>	Certificate of Service Re: Order Service Date 07/28/2006. (Admin.) (EOD: 07/28/2006)
07/28/2006		Complaint by Allen Grazer against Gordon A. Jones 06-02411: Nature of Suit(s): 424 (Obj/Revocation Discharge 727) , Fee Amount \$ 250. Filed by Allen Grazer . (Bryan, Julie) (EOD: 07/28/2006)
07/27/2006	<u>37</u>	Certificate of Service Re: Order Service Date 07/27/2006. (Admin.) (EOD: 07/27/2006)
07/27/2006	<u>36</u>	Trustee's Objection to Motion for Relief from Automatic Stay filed by Trustee Re: (related document(s): <u>25</u> Motion for Relief From Stay). (Jubber tr, Gary) (EOD: 07/27/2006)
07/26/2006		Set Deadline - Last Date to Oppose Discharge. (related document (s): <u>35</u> Order on Motion to Extend Time) Last day to oppose discharge or dischargeability is 8/25/2006. (ksh, ) (EOD: 07/26/2006)
07/26/2006	<u>35</u>	Order Granting Motion to Extend Time to File Objections to Discharge. (Related Doc # <u>32</u> ) (ksh, ) (EOD: 07/26/2006)
07/25/2006	<u>34</u>	Order Granting Motion to Extend Time to Oppose Discharge (Related Doc # <u>30</u> ) Last day to oppose discharge or dischargeability is 7/31/2006. (ksh, ) (EOD: 07/25/2006)
07/25/2006	<u>33</u>	Pending Order (Ex Parte) related documents(s): <u>32</u> Stipulated Motion for Extension of Time to File Objections to Discharge Filed by: (Jubber tr, Gary) [Order# 57763] (EOD: 07/25/2006)
07/25/2006	<u>32</u>	Stipulated Motion for Extension of Time to File Objections to Discharge Filed by Gary E. Jubber tr (Jubber tr, Gary) (EOD: 07/25/2006)
07/21/2006	<u>31</u>	Pending Order (Agreed to/Stipulated) related documents(s): <u>30</u> Motion to Extend Time to Oppose Discharge Filed by: (Bryan, Julie) [Order# 57728] (EOD: 07/21/2006)
07/21/2006	<u>30</u>	Stipulated Motion to Extend Time to Oppose Discharge Filed by Allen Grazer (Bryan, Julie) (EOD: 07/21/2006)

748

07/18/2006		Complaint by on behalf of Allen F. Grazer against Gordon A. Jones , Linda G. Jones , Cheryl Gudmundson , G. Scott Jones , Jason Jones , GS Jones Construction, Inc. , J & J Livestock, LLC , Richard H. Barney , Renae Carnon Barney , Renae Carnon Barney Family Partnership , Rochelle C. Barney , Richillyn Woodin , Linda G. Jones Family Partnership , John Does 1 Through 20 06-02395; Nature of Suit(s): 459 (Notice of Removal) , Fee Amount DEFERRED \$ 250. Filed by on behalf of Allen F. Grazer . (Jubber tr, Gary) Modified on 7/18/2006 (ksh, ). (EOD: 07/18/2006)
07/18/2006		Complaint by on behalf of Allen F. Grazer against Gordon A. Jones , Linda G. Jones , J & J Livestock, LLC , John Does 1 Through 20 06-02394; Nature of Suit(s): 459 (Notice of Removal) , Fee Amount DEFERRED \$ 250. Filed by on behalf of Allen F. Grazer . (Jubber tr, Gary) Modified on 7/18/2006 (ksh, ). (EOD: 07/18/2006)
07/17/2006	<u>29</u>	Notice of Removal of Civil Action by Trustee (Civil No. 020700570CN, pending in the Second Judicial District Court, Davis County, Farmington Department, State of Utah) Filed by Gary E. Jubber tr on behalf of Gary E. Jubber tr (Jubber tr, Gary) (EOD: 07/17/2006)
07/17/2006	<u>28</u>	Notice of Removal of Civil Action by Trustee (Civil No. CV-2005-183, pending in the Sixth Judicial District Court, Franklin County, State of Idaho) Filed by Gary E. Jubber tr on behalf of Gary E. Jubber tr (Jubber tr, Gary) (EOD: 07/17/2006)
07/17/2006	<u>27</u>	Notice of Appearance and Request for Notice Filed by Julie A. Bryan on behalf of Allen Grazer (Bryan, Julie) (EOD: 07/17/2006)
07/17/2006		Receipt of filing fee for Motion for Relief From Stay(06-21277) [motion,mrlfsty] ( 150.00) (Lish, John). Receipt number 4803693, amount 150.00. (U.S. Treasury) (EOD: 07/17/2006)
07/17/2006	<u>26</u>	Notice of Hearing (related document(s): <u>25</u> Motion for Relief From Stay) Filed by John W. Lish on behalf of Countrywide Home Loans Inc. Hearing scheduled for 8/17/2006 at 09:30 AM at US Bankruptcy Court. (Lish, John) (EOD: 07/17/2006)
07/17/2006	<u>25</u>	Motion for Relief From Stay. Fee Amount: \$150, Filed by Countrywide Home Loans Inc. (Lish, John) (EOD: 07/17/2006)
06/17/2006	<u>24</u>	Certificate of Service Re: Miscellaneous Pleadings Service Date 06/17/2006. (Admin.) (EOD: 06/17/2006)

749

06/15/2006		Clerk's Notice For Creditors to File Claims. Proofs of Claims due by 9/15/2006. (ksh, ) (EOD: 06/15/2006)
06/14/2006		Trustee's Request for Creditors to File Claims filed by Trustee. (Jubber tr, Gary) (EOD: 06/14/2006)
06/07/2006	<u>23</u>	Certificate of Service Re: Order Service Date 06/07/2006. (Admin.) (EOD: 06/07/2006)
06/05/2006	<u>22</u>	Order Granting Trustee's Application to Employ Gil A. Miller and the firm of PricewaterhouseCoopers, L.L.P. as Professional Accountants. (related document(s): <u>16</u> Application to Employ as a Professional) (ksh, ) (EOD: 06/05/2006)
06/02/2006	<u>21</u>	Certificate of Service Re: Order Service Date 06/02/2006. (Admin.) (EOD: 06/02/2006)
05/31/2006	<u>20</u>	Order Granting Trustee's Motion to Employ Gary E. Jubber and the firm of Fabian & Clendenin as Attorney. (related document (s): <u>13</u> Application to Employ) (ksh, ) (EOD: 05/31/2006)
05/31/2006	<u>19</u>	Notice of Continued 341 Examination Filed by Gary E. Jubber tr on behalf of Gary E. Jubber tr (Jubber tr, Gary) (EOD: 05/31/2006)
05/25/2006	<u>18</u>	Pending Order (Ex Parte) related documents(s): <u>16</u> :Application to Employ as a Professional (Jubber tr, Gary) [Order# 54051] (EOD: 05/25/2006)
05/25/2006	<u>17</u>	Affidavit of Gil A. Miller (related document(s): <u>16</u> Application to Employ as a Professional) Filed by Gary E. Jubber tr (Jubber tr, Gary) (EOD: 05/25/2006)
05/25/2006	<u>16</u>	Application to Employ PricewaterhouseCoopers, L.L.P. as Accountant Filed By Trustee. (Jubber tr, Gary) (EOD: 05/25/2006)
05/18/2006	<u>15</u>	Pending Order (Ex Parte) related documents(s): <u>13</u> :Application to Employ (Jubber tr, Gary) [Order# 53553] (EOD: 05/18/2006)
05/18/2006	<u>14</u>	Affidavit of Gary E. Jubber (related document(s): <u>13</u> Application to Employ) Filed by Gary E. Jubber tr (Jubber tr, Gary) (EOD: 05/18/2006)
05/18/2006	<u>13</u>	Application to Employ Gary E. Jubber as Attorney Filed By Trustee. (Jubber tr, Gary) (EOD: 05/18/2006)

750



05/08/2006		Receipt of filing fee for Amended Matrix (FEE)(06-21277) [genary,genamurx] ( 26.00) (Covey, Joseph). Receipt number 4676463, amount 26.00. (U.S. Treasury) (EOD: 05/08/2006)
05/08/2006	<u>12</u>	Amended Matrix correcting addresses of creditors filed by Debtor (s). (Covey, Joseph) (EOD: 05/08/2006)
05/08/2006	<u>11</u>	Amended Matrix adding creditors filed by Debtor(s). (Covey, Joseph) (EOD: 05/08/2006)
05/03/2006	<u>10</u>	Payment Advices/Evidences of Payment filed by Debtor. (Covey, Joseph) (EOD: 05/03/2006)
05/03/2006	<u>9</u>	Disclosure of Compensation of Attorney for Debtor (per BR 2016) filed by Debtor(s). (Covey, Joseph) (EOD: 05/03/2006)
05/03/2006	<u>8</u>	Statistical Summary of Certain Liabilities (Covey, Joseph) (EOD: 05/03/2006)
05/03/2006	<u>7</u>	Schedules filed by Debtor(s). (Covey, Joseph) (EOD: 05/03/2006)
05/03/2006	<u>6</u>	Statement of Financial Affairs filed by Debtor(s). (Covey, Joseph) (EOD: 05/03/2006)
04/29/2006	<u>5</u>	341 Meeting Notice (see image for details) and BNC Certificate of Service. Service Date 04/29/2006. (Admin.) (EOD: 04/29/2006)
04/18/2006		First Meeting of Creditors & Notice of Appointment of Interim Trustee Gary E. Jubber tr with 341(a) meeting to be held on 05/23/2006 at 405 South Main Objections for Discharge due by 07/25/2006. (EOD: 04/18/2006)
04/18/2006		Creditor(s) uploaded (17 creditors). (ksh, ) (EOD: 04/18/2006)
04/18/2006	<u>4</u>	Amended Matrix Filed by Gordon A. Jones (Lochhead, Robert) (EOD: 04/18/2006)
04/18/2006	<u>3</u>	Statement of Social Security Number(s) Filed by Gordon A. Jones (Lochhead, Robert) (EOD: 04/18/2006)
04/18/2006	<u>2</u>	Credit Counseling Agency Briefing Certificate (Prefiling) Filed by Gordon A. Jones (Lochhead, Robert) (EOD: 04/18/2006)
		Receipt of filing fee for Voluntary Petition (Chapter 7)(06-21277)

751

04/18/2006		[misc,volp7a] ( 299.00). Receipt number 4634645, amount 299.00. (U.S. Treasury) (EOD: 04/18/2006)
04/18/2006	1	Chapter 7 Voluntary Petition. Filed by Gordon A. Jones (Lochhead, Robert) (EOD: 04/18/2006)

PACER Service Center			
Transaction Receipt			
02/25/2009 15:38:10			
PACER Login:	ro0102	Client Code:	
Description:	Docket Report	Search Criteria:	06-21277 Fil or Ent: filed Doc From: 0 Doc To: 99999999 Term: included Format: btm1
Billable Pages:	8	Cost:	0.64

752

The below described is SIGNED.



Dated: January 20, 2009

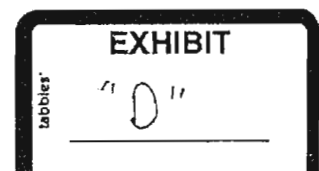
JUDITH A. BOULDEN  
U.S. Bankruptcy Judge

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF UTAH

<p>In re:</p> <p>GORDON A. JONES,</p> <p style="text-align: right;">Debtor.</p>	<p>Bankruptcy Number: 06-21277</p> <p>Chapter 7</p>
<p>ALLEN GRAZER,</p> <p style="text-align: right;">Plaintiff,</p> <p>v.</p> <p>GORDON A. JONES,</p> <p style="text-align: right;">Defendant.</p>	<p>Adversary Proceeding No. 06-2411</p> <p>Judge Judith A. Boulden</p>

ORDER DISMISSING ADVERSARY PROCEEDING

On April 23, 2007, the Court entered its Order Governing Scheduling and Preliminary Matters which required that the parties file a proposed pretrial order on or before May 27, 2008 or the above-captioned adversary proceeding would be dismissed. This deadline was extended until January 15, 2009 by the Court's Order Amending Order Governing Scheduling and Preliminary Matters entered on May 29, 2008. The parties have failed to file a proposed pretrial





\_\_\_\_\_000000\_\_\_\_\_

**SERVICE LIST**

Service of the foregoing **ORDER DISMISSING ADVERSARY PROCEEDING** will be effected through the Bankruptcy Noticing Center to each party listed below.

Julie A. Bryan  
Cohne Rappaport & Segal  
257 East 200 South, Suite 700  
P.O. Box 11008  
Salt Lake City, UT 84147-0008  
*Counsel for Plaintiff*

Joseph M.R. Covey  
Parr Brown Gee & Loveless  
185 South State Street  
Suite 800  
Salt Lake City, UT 84111  
*Counsel for Defendant*

Form **RAB18** (Official Form 18)(10/05)

### 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.:  
xxx-xx-2575

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).

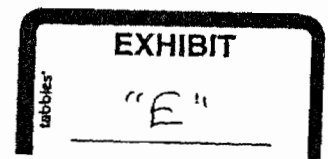
BY THE COURT

Dated: 1/20/09

Judith A. Boulden  
United States Bankruptcy Judge

SEE THE BACK OF THIS ORDER FOR IMPORTANT INFORMATION.

756



FORM RAB18 continued (10/05)

**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.

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 MAR 21 PM 1:31  
FRANKLIN COUNTY CLERK  
*JH*  
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 REPLY TO  
PLAINTIFF'S RESPONSE**

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 hereby submits its Reply to Plaintiff's Response.

**PROCEDURE AND BACKGROUND OF CASE**

On March 7, 2011, Defendants received Plaintiff's Combined Response to Defendants Pre-Trial Brief a/k/a Motion for Summary Judgment and Reply to Defendant's Response to



Plaintiff's Motion for Summary Judgment and for Issuance of Writ of Execution. In this pleading, Plaintiff provided a reply to Jones' Response.

This pleading is hereby submitted as Jones's Reply to Plaintiff's Response to Defendants' Motion for Summary Judgment (hereafter "Reply").

### **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 Reply will discuss the arguments set forth by Plaintiff in its Response.

### **UNDISPUTED FACTS OF THIS CASE**

As has been set forth previously, the undisputed facts in this case come from the Plaintiff's 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 all of the listed undisputed facts as if set forth fully.

### **APPLICATION OF LAW**

#### **I. AMENDMENTS RELATE BACK**

Plaintiff's Second Amended Complaint is the only pleading the Court may look to in these proceedings because it is the current pleading and it relates back to the original filing date. I.R.C.P. 15(c) clearly states that any amendment "relates back to the date of the original pleading." As a result of the application of this rule, the only pleading that can be considered is Plaintiff's Second Amended Complaint and any admissions made thereon including Plaintiff's Memorandum.

## **II. PLAINTIFF CANNOT CHANGE OR AVOID HIS OWN ADMISSIONS**

Plaintiff's own admissions, as set forth in its Second Amended Complaint and its Memorandum cannot now be changed or avoided by Plaintiff. The standard of review set forth in Jones' Motion for Summary Judgment correctly states that when a motion for summary judgment is being considered by a court, a party will be bound by its own admissions. See also, I.R.C.P. Rule 56(c). As is set forth below, and as is contained in Jones' Motion for Summary Judgment and Response, Plaintiff's own admissions, as set forth in his own pleadings, support granting summary judgment in favor of Jones.

### **A. Plaintiff Alleges and Admits that he Obtained a Foreign Judgment**

It is undisputed that in his Second Amended Complaint, Plaintiff alleges that he has a "foreign judgment". (See Plaintiff's Second Amended Complaint, paragraphs 31, 34, 45, and 80.) Plaintiff makes these same arguments and admissions in his Memorandum. (See Memorandum paragraph 10.) In its Motion for Summary Judgment, Jones previously set forth the statutes concerning obtaining and maintaining a foreign judgment in Idaho. Plaintiff cannot now change the facts to suit his interests or to make additional arguments.

As argued in Jones Motion for Summary Judgment and Response, pursuant to applicable Idaho law, Plaintiff's foreign judgment lapsed. Because there are no remaining causes of action before this Court upon which trial can proceed, summary judgment should be granted in favor of Jones.

### **B. Plaintiff Alleges and Admits that he Obtained a Judgment Lien**

Additionally, Plaintiff alleges and admits that he obtained a judgment lien. (See Plaintiff's Second Amended Complaint, paragraphs 31, 38, 40, 42, 44, 45, and 80.) Plaintiff

makes these same arguments and admissions in his Memorandum. (See Memorandum paragraphs 9, 16, 17, and 19.) In its Motion for Summary Judgment, Jones previously set forth the statutes concerning obtaining and maintaining a judgment lien in Idaho. Plaintiff cannot now change the facts to suit its interests or to make additional arguments. Pursuant to applicable Idaho law, Plaintiff's judgment lien lapsed. Because there are no remaining causes of action before this Court upon which trial can proceed, summary judgment should be granted in favor of Jones.

**C. None of Plaintiff's Pleadings Seek an Action on a Judgment and Even if They Had, They Would be Barred**

Further, Plaintiff made no allegations nor did he set forth any causes of action in his Second Amended Complaint that he was seeking an action on the foreign judgment or judgment lien. This is an important fact because while Idaho is a notice pleading state a party must still set forth "(2) a short and plain statement of the claim showing that the pleader is entitled to relief, and (3) a demand for judgment for the relief to which he deems himself entitled." I.R.C.P. 8(a)(1). A court is not free to create causes of action which a party's own alleged facts do not support.

In the present case, as is set forth in sections II.,A. and II.,B. above, Plaintiff provided no facts, and specifically set forth no allegations or causes of action in his Second Amended Complaint, indicating that he was seeking an "action on a judgment". Rather, all of his admissions, allegations and causes of actions evidence that Plaintiff deemed himself to have a valid foreign judgment and a valid judgment lien. (See Plaintiff's Second Amended Complaint, paragraphs 31, 34, 38, 40, 42, 44, 45, and 80.)

Additionally, the law cited by Plaintiff does not support Plaintiff's argument that he can now proceed with an action on the Utah state court judgment. Rather the law would bar Plaintiff from doing so. Plaintiff cites to G.R. Petroleum Inc., v. Clements, 127 Idaho 119, 898 P.2d 50 (1995) for the premise that he has a right to seek an action on the Utah state court judgment and that he did so by filing the present lawsuit back in 2005. However, this cannot be the case. In the same case cited by Plaintiff, the Idaho Supreme Court very plainly declared, "[a]s stated above, a judgment creditor holding a foreign judgment can choose between filing a formal action in Idaho on that judgment, or simply filing it under the Uniform [Foreign Judgment] Act." G.R. Petroleum, 127 Idaho at 121, 898 P.2d at 52 (emphasis added). From this it is clear that Plaintiff cannot do both but must choose one or the other.

Plaintiff argues that his Second Amended Complaint is evidence that he elected to proceed with an action on the judgment. However, this is not true. All of the causes of action Plaintiff listed in his Second Amended Complaint are to undue fraudulent conveyances he alleges Jones committed. Additionally, his own allegations in his Second Amended Complaint act as an affirmative admission that he chose or elected to obtain a foreign judgment and a judgment lien. (See II.,A. and II.,B. above.) From these admissions, the choice made by Plaintiff was to file the Utah state court judgment under Idaho's Uniform Foreign Judgment Act.

The law also does not support Plaintiff's claim that simply by filing a lawsuit he satisfied the requirement of renewing its judgment or judgment lien. For this argument, Plaintiff cites to Smith v. Smith, 131 Idaho 800, 964 P.2d 667 (1998). However, even in the quotation Plaintiff sets forth on page 8 of its Response, the language from the Idaho Supreme Court defeats Plaintiff's own argument. This quotation states in its second sentence, "[o]nce a plaintiff has filed a motion for renewal within the five-year time frame, the plaintiff has done all the he or

she ordinarily need to do to obtain renewal, barring some valid challenge to the motion.” Smith, 131 Idaho at 802 (emphasis added).

In the present case it is true that Plaintiff filed his lawsuit, alleging to have a foreign judgment and a judgment lien. However, Plaintiff never filed any motion to renew the foreign judgment or judgment lien it alleges to have obtained. Additionally, even under the most liberal reading, nothing in his Second Amended Complaint, or Memorandum or any pleading seeks or moves for a “renewal” from the Court of his judgment or judgment lien. The undisputed facts and admissions on the record evidence that Plaintiff failed to take the action required by Idaho law and as a result his foreign judgment and judgment lien lapsed.

For these reasons, and as analyzed and argued in Jones’ Motion for Summary Judgment and Response, Plaintiff’s foreign judgment and judgment lien lapsed and they cannot now be renewed. Due to Plaintiff’s failures and because it allowed its foreign judgment and judgment lien to lapse, he cannot seek to recover under either the foreign judgment or the judgment lien. Because there are no remaining causes of action before this Court upon which trial can proceed, summary judgment should be granted in favor of Jones.

The only argument remaining is that Plaintiff should somehow be allowed to now proceed with either filing a new action on the Utah state court judgment, or that he should be allowed to amend his pleadings to provide for such an action. However, as is set forth in section II.,D. below, once a bankruptcy discharge is entered, an unsecured creditor can take no further action.

**D. Plaintiff Admits that the Bankruptcy Discharge Eliminates Unsecured Claims**

Even if the law allowed Plaintiff to simultaneously file a foreign judgment and an action on the judgment, or would somehow now allow him to do so, the intervening bankruptcy now

stops Plaintiff from proceeding as an unsecured creditor. Jones refers the Court to its analysis of the effect of the bankruptcy as set forth in its Motion for Summary Judgment and its Response and incorporates the law, analysis and arguments set forth therein.

Plaintiff argues in its Response under Point II and Point III that the bankruptcy should somehow extend the period of time he has in which he should be able to seek to renew his foreign judgment and judgment lien. Plaintiff again relies upon 11 U.S.C. § 362 and Idaho Code § 5-234 for authority for this argument. Plaintiff's reliance upon these statutes a second time appears to be an attempt to confuse the Court. These issues were fully addressed by Jones in its Response and therefore Jones refers the Court to its Response for statements of applicable Idaho and bankruptcy law and analysis concerning this matter.

Jones does, however, provide the Court with Plaintiff's own admissions that only a valid lien would survive the Discharge Order entered by Judge Judith A. Boulden on January 20, 2009. (See Plaintiff's Second Amended Complaint paragraphs 37, 38, 39, 40, 41, 42, 43, 44, and 45.) Therefore, even if applicable Idaho law somehow allowed Plaintiff to now file an action to recover under the Utah state court judgment, the Discharge Order prevents Plaintiff from doing so because Plaintiff is now an unsecured creditor having allowed its judgment lien to lapse.

Alternatively, Plaintiff argues under Point III of his Response that pursuant to Idaho Code § 11-105, this Court should allow him to proceed. However, this argument again ignores the entry of the bankruptcy Discharge Order that Plaintiff has already admitted to. Plaintiff simply cannot now avoid its own admissions concerning the entry of the Discharge Order or its effect on the present case. Pursuant to applicable law Plaintiff cannot proceed.

Further, as an additional alternative argument, and in an apparent attempt to again confuse the Court, Plaintiff claims that Idaho Code § 5-234 in conjunction with Bankruptcy

Code 11 U.S.C. § 108(c) somehow allow him an extension of time. This is not the case. Idaho Code § 5-234 deals with “commencing” or beginning a lawsuit, not with continuing with a lawsuit. (See Jones’ Response.) Plaintiff already admits, and the record clearly shows, that Plaintiff “commenced” the present litigation in August 2005. Contrary to Plaintiff’s argument, Idaho Code § 5-234 does not provide a universal “tolling” feature to a case which has already been commenced. For the remainder of this argument Jones refers the Court to its analysis in its Response concerning Bankruptcy Code 11 U.S.C. § 108(c) and the cases cited thereto.

Finally, Plaintiff attempts to appeal to the Court’s sense of justice. Plaintiff claims that it has attempted to do everything in its power to bring this matter to trial but that it was prevented from doing so by “administrative and procedural barriers beyond his control.” What Plaintiff forgets to mention to the Court is that his ability to timely renew his foreign judgment and judgment lien were never taken away from him. His ability to timely seek an execution or attachment was never taken away from him. His ability to protect his own rights as set forth by Idaho law was never taken away from him. Plaintiff simply failed to protect his own rights and allowed years to pass without taking the action he now asks the Court to allow him to take. Plaintiff cannot now come to the Court seeking relief, because of his own failures. When a party fails to protect his own rights he loses those rights.

For these reasons, and as analyzed and argued in Jones’ Motion for Summary Judgment and Response, Plaintiff’s foreign judgment and judgment lien lapsed and they cannot now be renewed. Nor can Plaintiff, as an unsecured creditor, now seek an action on the Utah state court judgment because of the Discharge Order entered in the bankruptcy court. As a result, there are no remaining causes of action before this Court upon which trial can proceed. Because of this, summary judgment should be granted in favor of Jones.

**CONCLUSION**

Plaintiff admits and alleges that he has a foreign judgment and a judgment lien. By doing so, Plaintiff admits that he elected to proceed under Idaho's Uniform Foreign Judgment Act. As a result, Plaintiff cannot now claim to have elected to seek an action on the Utah state court judgment. Even if Plaintiff had, however, he cannot now proceed as an unsecured creditor due to the Discharge Order that Plaintiff admits was entered in the bankruptcy case. 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 21<sup>st</sup> Day of March, 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 21<sup>st</sup> day of March, 2011, I caused a true, correct and complete copy of the foregoing document to be served by first class mail, and facsimile transmission upon the following, unless a different method of service is indicated:

Margaret Olson  
Lincoln Hobbs  
HOBBS & OLSON, LC  
466 East 500 South, Suite 300  
Salt Lake City, Utah 84111  
801 519-2999 Fax  
*Attorneys for Plaintiff*

Lane V. Erickson  
LANE V. ERICKSON



FILED

11 APR -1 AM 9:44

FRANKLIN COUNTY CLERK

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT IN AND *MT*  
DEPUTY

FOR FRANKLIN COUNTY, STATE OF IDAHO

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-2005-183

**DECISION ON MOTIONS FOR  
SUMMARY JUDGMENT**

This matter comes before the Court by way of cross Motions for Summary Judgment submitted by both Plaintiff and Defendants, in accordance with the Court's request in its Minute Entry and Order dated January 13, 2011. After reviewing the documents submitted by the parties, the facts and the applicable law, the Court now issues its decision granting Summary Judgment in favor of Defendants.

**BACKGROUND**

Beginning in 2002, Plaintiff and Defendant Gordon A. Jones were engaged in litigation in Utah's Second District Court in Davis County, Utah concerning a contract to build a home ("Utah

case”). That litigation resulted in a judgment against Defendant Gordon A. Jones on July 11, 2005<sup>1</sup>, by Judge Allphin, in the amount of \$1,886,727.87 (“Utah Judgment”). On August 1, 2005, Plaintiff filed, in Franklin County, Idaho, a Notice of Filing Foreign Judgment concerning the Utah Judgment. On September 23, 2005, Plaintiff recorded in the Office of the Franklin County Recorder its Notice of Filing Foreign Judgment and the Utah Judgment.

Meanwhile, on May 12, 2005, Plaintiff filed a complaint in the Sixth District Court in Franklin County, Idaho, commencing this action to void a transfer of real property located in Franklin County from Gordon A. Jones and Linda G. Jones to J&J Livestock, LLC.<sup>2</sup> On July 15, 2005, J&J Livestock, LLC, executed a Quit Claim Deed conveying title to the Idaho property back to Gordon and Linda Jones. In the Idaho case, on July 28, 2005, (17 days after the Utah judgment) the parties filed a Stipulation for Prejudgment Writ of Attachment and Injunction concerning real property and related water shares in Franklin County, which prohibited Defendants from further transferring or disposing of their assets located in Idaho, and this Court entered an Order in accordance with that Stipulation on August 22, 2005.

On April 18, 2006, Defendant Gordon Jones filed for Chapter 7 bankruptcy in Utah (“Bankruptcy Case”). On April 19, 2007, the bankruptcy court approved a settlement agreement between the bankruptcy trustee and Plaintiff, which allowed Plaintiff relief from the bankruptcy stay to pursue any and all state court remedies against Jones and certain of his property, including the

---

<sup>1</sup> All dates referenced herein are “on or about” because the parties refer to different dates that are within one or two days of each. In order to avoid a factual dispute on the accuracy of the dates, they are deemed to be “on or about” the referenced date.

<sup>2</sup> The transfer by quitclaim deed from Jones to J&J Livestock occurred on or about December 22, 2004. However, J&J Livestock, LLC, was not formed until December 28, 2004.

real property located in Franklin County, Idaho. On January 20, 2009, the bankruptcy court issued an order discharging all of Jones' unsecured debt.

This Court, recognizing that the essential issues of this case might be resolved by application of the law to the undisputed facts, instructed the parties in its Minute Entry and Order on January 13, 2011, to each submit Pre-Trial Briefs setting forth the undisputed facts and any applicable law. The Court would treat the ~~pre-trial~~ Briefs as Motions for Summary Judgment. Both parties submitted their Briefs, and the Court now issues its decision on the Motions and grants Summary Judgment in favor of Defendants.

#### **STANDARD OF REVIEW**

Summary judgment is proper "if the pleadings, depositions, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." I.R.C.P. 56(c). However, "when both parties file motions for summary judgment relying upon the same facts, issues, and theories, 'the parties essentially stipulate that there is no genuine issue of material fact that would preclude the court from entering summary judgment.'" *Garcia v. State Tax Com'n of the State of Idaho*, 136 Idaho 610, 613, 38 P.3d 1266, 1269 (2002) (citation omitted).

When an action will be tried before a court without a jury, the court may, in ruling on the motions for summary judgment, draw probable inferences arising from the undisputed evidentiary facts. Drawing probable inferences under such circumstances is permissible because the court, as the trier of fact, would be responsible for resolving conflicting inferences at trial. *Losee v. Idaho Co.* 148 Idaho 219, 222, 220 P.3d 575, 578 (2009).

## DISCUSSION

The primary issue in this case is whether Plaintiff's right to execute on the Utah Judgment in Idaho against Defendant Gordon A. Jones and his Idaho property has expired. Idaho law sets forth the rules concerning how foreign judgments<sup>3</sup> become liens within the state:

A transcript or abstract of any judgment or decree of any court of this state or any court of the United States . . . certified by the clerk having custody thereof, may be recorded with the recorder of any county of this state . . . and from the time of such recording, and not before, the judgment so recorded becomes a lien upon all real property of the judgment debtor in the county, not exempt from execution, owned by him at the time or acquired afterwards at any time prior to the expiration of the lien . . . . The lien resulting from recording of a judgment . . . continues five (5) years from the date of the judgment . . . .

IDAHO CODE ANN. §10-1110 (2011). Additionally,

A copy of any foreign judgment certified in accordance with the act of congress or the statutes of this state may be filed in the office of the clerk of any district court of any county of this state. The clerk shall treat the foreign judgment in the same manner as a judgment of the district court of this state.

*Id.* §10-1302. Furthermore,

A foreign judgment filed under this act shall not become a lien as provided in section 10-1110, Idaho Code, unless a transcript or abstract thereof . . . has been recorded with the recorder of any county of this state in the manner provided by section 10-1110, Idaho Code, and upon said recording shall be a lien from the date thereof.

*Id.* §10-1306A. Therefore, a judgment rendered in another state can be registered and recorded in Idaho and become a valid lien within the state.

There is a statutory time limit within which a judgment creditor must execute on his or her judgment: “[T]he party in whose favor judgment is given may, at any time within five (5) years

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<sup>3</sup> A “foreign judgment” is defined as “any judgment, decree, or order of a court of the United States or of any other court . . . which is entitled to full faith and credit in this state.” IDAHO CODE ANN. §10-1301 (2011).

after the entry thereof, have a writ of execution issued for its enforcement . . . .” *Id.* §11-101. Idaho law also provides that when “real estate has been levied upon under writs, either of enforcement or execution, such levy shall be a lien upon all real property for a period of two (2) years after the date of levy.” *Id.* §8-539. A court may, under certain conditions, extend that two year period before its expiration upon motion of a party to the action. *See Id.* Furthermore, if an original writ of attachment’s two year period has expired, a judgment creditor may still enforce his or her judgment by a writ of execution within five years of the date of the judgment pursuant to Idaho Code §11-101. *Williams v. Paxton*, 98 Idaho 155, 157, 559 P.2d 1123, 1126 (1976).

Here, Plaintiff received a valid judgment in his favor against Defendant Gordon A. Jones in the Utah Case. Thereafter, Plaintiff filed a Notice of Filing Foreign Judgment in Idaho, and subsequently recorded it in Franklin County on September 23, 2005. Plaintiff also recorded the Utah Judgment in Franklin County that same day. These actions by Plaintiff complied with Idaho statutes. Plaintiff created a valid judgment lien in his favor against Defendant Gordon A. Jones’ real property in Idaho, as of September 23, 2005. Therefore, unless the judgment was properly and timely renewed, Plaintiff had five years from that day to execute on the lien, or it would expire and Plaintiff ~~is~~ would no longer be able to enforce the judgment.

The undisputed facts indicate that, in the five years following the creation of the judgment lien in Idaho, Plaintiff never attempted to renew or execute on the judgment. Under Idaho law, Plaintiff’s judgment lien expired on September 23, 2010, and he is no longer able to enforce or execute on the judgment in Idaho. While Plaintiff had a writ of attachment concerning the land pursuant to the stipulation as of August 22, 2005, Idaho law provides that such a writ, if not

renewed, expires after two years. Therefore, since it too was never renewed, Plaintiff's writ of attachment expired on August 22, 2007.

Plaintiff argues that his judgment has not expired because the time limitation for execution was tolled by virtue of Idaho Code §5-234, which provides: "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." Plaintiff argues that because the automatic stay,<sup>4</sup> which was imposed when Gordon Jones filed for bankruptcy on April 18, 2006, prevented him from executing on his judgment against Jones during the pendency of the Bankruptcy Case, the five year time limit for execution on his judgment was tolled or paused until the dismissal of the Bankruptcy Case on January 20, 2009. Under this argument, Plaintiff would be entitled to execute on the judgment now, because the time during the pendency of the Bankruptcy Case would not have counted towards the five years. Even if the Court accepted this argument, Plaintiff ignores the fact that he obtained relief from the bankruptcy stay on April 19, 2007, pursuant to the settlement agreement approved by the bankruptcy court. If the Court used this earlier date in determining when the time starting running again, then Plaintiff would have approximately one extra year in which to execute on the judgment.

However, the Court disagrees with the argument that the five year time limit for execution was tolled under Idaho Code §5-234 and the bankruptcy stay. The language of §5-234 provided above indicates that it applies to the "commencement of an action." The question then becomes

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<sup>4</sup> 11 U.S.C.A. §362 provides, generally, that immediately upon a debtor's filing of a petition for bankruptcy and throughout the pendency thereof, creditors are not allowed to initiate or continue any type of collection action against the debtor, including enforcement or execution of a judgment against the debtor.

whether executing on a judgment falls under the definition of “commencement of an action.” Idaho Code §5-228 provides that “[a]n action is commenced within the meaning of the chapter when the complaint is filed.” Furthermore, Rule 3(a)(1) of the Idaho Rules of Civil Procedure provides that “[a] civil action is commenced by the filing of a complaint with the court, which may be denominated as a complaint, petition, or application . . . .” These provisions indicate to the Court that the correct reading of §5-234 is that a deadline for the *filing of a complaint* is tolled when there is an injunction or statutory prohibition. The Court finds that §5-234 does not apply to the requirement that a judgment be executed on within five years of its issuance. Therefore, since the five year time limit was not tolled by §5-234, Plaintiff’s judgment expired in 2010, and is no longer subject to enforcement.

Additionally, applicable federal bankruptcy law provides that if a party is prevented from taking action against a debtor because of the automatic bankruptcy stay, and as a result a state statute of limitations for a claim expires during the pendency of the bankruptcy, the party is allowed an additional 30 days from the expiration of the bankruptcy stay in which to bring the action, despite the expiration of the statute of limitations. 11 U.S.C.A §108(c). However, if the state law statute of limitations does not expire before the expiration of the automatic stay, then the state law deadline still applies, despite the time during the stay in which the action was prohibited. *Id.* Furthermore, one federal court explained:

§108(c) does not provide for tolling of any externally imposed time bars . . . . The bankruptcy section only calls for applicable time deadlines to be extended for 30 days after notice of the termination of a bankruptcy stay, if any such deadline would have fallen on an earlier date.

*Aslanidis v. U.S. Lines, Inc.*, 7 F.3d 1067, 1073 (2nd Cir. 1993).

~~In this case,~~ Plaintiff obtained relief from the bankruptcy stay on April 19, 2007, and the entire Bankruptcy Case closed on January 20, 2009. Both of these dates were prior to the expiration of the five years Plaintiff had to execute on the judgment. Therefore, even under federal bankruptcy law, the bankruptcy stay did not affect or toll the time limit in which Plaintiff's judgment could be executed.

### CONCLUSION

Plaintiff obtained a judgment lien on Defendants' Idaho real property by recording the necessary foreign judgment documents. Plaintiff had five years under Idaho law in which he could execute on the judgment. Plaintiff failed to execute within five years and failed to renew the judgment or the writ of attachment, therefore the time for execution expired and the judgment against Defendants may no longer be enforced in Idaho. Neither Idaho law nor bankruptcy law provide any tolling of the five year period. Therefore, by proper interpretation and application of the law to the undisputed facts of the case, the Court finds that Plaintiff's judgment expired by operation of Idaho law. Plaintiff may no longer enforce the judgment against Defendants and their property in Idaho. Summary Judgment is granted in favor of Defendants.

DATED this <sup>March</sup> 31<sup>st</sup> day of April, 2011.



DAVID C. NYE  
District Judge



**CERTIFICATE OF SERVICE**

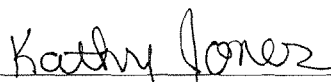
I HERBY CERTIFY that on the 1<sup>st</sup> day of April, 2011, I served a true and correct copy of the foregoing document upon each of the following individuals in the manner indicated.

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

- U.S. Mail
- Email:
- Overnight Delivery
- Hand Deliver
- Fax: 801-519-2999

Lane V. Erickson  
RACINE, OLSON, NYE, BUDGE & BAILEY,  
CHARTERED  
201 East Center  
Pocatello, Idaho 83201-6329

- U.S. Mail
- Email: lve@racinelaw.net;  
ltz@racinelaw.net
- Overnight Delivery
- Hand Deliver
- Fax: 208-232-6109

  
\_\_\_\_\_  
Deputy Clerk, Kathy Jones

TRANSACTION REPORT

P.01/01

APR/01/2011/F 09:49 AM

FAX (TX)

#	DATE	START T.	RECEIVER	COM. TIME	PAGE	TYPE/NOTE	FILE
001	APR/01	09:46AM	18015192999	0:03:04	10	OK	ECM 0658

FAX COVER SHEET

FRANKLIN COUNTY  
DISTRICT COURT  
39 W Oneida  
Preston, Idaho 83263  
Phone: (208) 852-0877 ext. 44  
Fax: (208) 852-2926  
\*\*\*\*\*

Date: 4-1-11

TO: Lincoln Hobbs

Fax Number 1-801-519-2999

From: Kathy Jones, Deputy Clerk

Message: Decision On Motions For Summary Judgment

10 pages including cover sheet

TRANSACTION REPORT

P.01/01

APR/01/2011/F 10:05 AM

FAX (TX)

#	DATE	START T.	RECEIVER	COM. TIME	PAGE	TYPE/NOTE	FILE
001	APR/01	10:03AM	2326109	0:01:37	10	OK	SG3 0660

FAX COVER SHEET

FRANKLIN COUNTY  
DISTRICT COURT  
39 W Oneida  
Preston, Idaho 83263  
Phone: (208) 852-0877 ext. 44  
Fax: (208) 852-2926  
\*\*\*\*\*

Date: 4-1-11

TO: Lane Erickson

Fax Number 232-6109

From: Kathy Jones, Deputy Clerk

Message: Decision On Motions For Summary Judgment

# FAX COVER SHEET

FRANKLIN COUNTY  
DISTRICT COURT  
39 W Oneida  
Preston, Idaho 83263  
Phone: (208) 852-0877 ext. 44  
Fax: (208) 852-2926  
\*\*\*\*\*

Date: 4-1-11

TO: Jane Erickson

Fax Number 232-6109

From: Kathy Jones, Deputy Clerk

Message: Decision On Motions For Summary  
Judgment

ORIGINAL

FILED

11 APR 26 AM 11:54

FRANKLIN COUNTY CLERK

JH  
DEPUTY

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

**JUDGMENT, DECREE AND ORDER**

The above-captioned matter came before the Court through the cross Motions for Summary Judgment submitted by both the Plaintiff and Defendants, in accordance with the Court's request in its Minute and Order dated January 13, 2011.

The Court, having reviewed the documents submitted by the parties, the facts and applicable law, and having entered its Decision on Motions for Summary Judgment on April 1, 2011 granting Summary Judgment in favor of the Defendants:

WHEREFORE, by virtue of the law and by reason of the premises aforesaid; IT IS HEREBY ADJUDGED, DECREED AND ORDERED as follows:

That the Defendants' Motion for Summary Judgment is granted and that Defendants are

the prevailing party in this matter;

FURTHER that the Plaintiff's Motion for Summary Judgment is denied and all of Plaintiff's Causes of Action as set forth in his Second Amended Complaint are now moot and are therefore, dismissed;

FURTHER that as a result of granting Defendants' Motion for Summary Judgment and denying Plaintiff's Motion for Summary Judgment, it is the Judgment, Decree and Order of the Court that Plaintiff's Foreign Judgment dated August 1, 2005, lapsed and is no longer a valid judgment;

FURTHER that the Judgment Lien in favor of Plaintiff entitled "Judgment Against Counterclaim Defendants Gordon A. Jones and Richard Barney" which was recorded by Plaintiff on September 23, 2005, as Franklin County Recorder's Instrument No. 231395, has lapsed and is no longer binding or enforceable pursuant to applicable law; Plaintiff is therefore hereby Ordered to immediately file and record a Release of Judgment and Judgment Lien in a form sufficient to conform with this Judgment, Decree and Order, such that the Judgment Lien created by the above-described "Judgment Against Counterclaim Defendants Gordon A. Jones and Richard Barney" no longer clouds title to the real property of the Defendants;

FURTHER Plaintiff is hereby Ordered to immediately file and record in a form sufficient to conform with this Judgment, Decree and Order, a Release of both the Lis Pendens, such that the Lis Pendens recorded by Plaintiff on May 13, 2005, as Franklin County Recorder's

Instrument No. 229796 is fully released and no longer clouds the title to the real property of the Defendants;

FURTHER Plaintiff is hereby Ordered to immediately file and record in a form sufficient to conform with this Judgment, Decree and Order, a Release of the Notice of Filing Forieign Judgment, such that the Notice of Filing Forieign Judgment recorded by Plaintiff on September 23, 2005, as Franklin County Recorder's Instrument No. 231394 is fully released and no longer clouds the title to the real property of the Defendants; and

FURTHER that by entry of this Judgment, Decree and Order, there are no remaining issues to be determined or tried in this matter. Therefore, this case shall be and is fully concluded by entry of this Judgment, Decree and Order.

DATED this 26 day of April, 2011.



  
HONORABLE DAVID C. NYE  
District Judge

**CERTIFICATE OF SERVICE**

I hereby certify that on the 26 day of April, 2011, I caused a true, correct and complete copy of the foregoing document to be served by U.S. first-class mail, postage prepaid, upon the following unless a different method of service is indicated:

Margaret Olson  
Lincoln Hobbs  
HOBBS & OLSON, LC  
466 East 500 South, Ste 300  
Salt Lake City, Utah 84111  
*Attorneys for Plaintiff*

**CERTIFIED COPY TO:**  
Lane V. Erickson  
RACINE, OLSON, NYE, BUDGE  
& BAILEY  
201 E. Center  
P.O. Box 1391  
Pocatello, ID 83204  
*Attorney for Defendants*

Jinda Hampton  
CLERK OF THE COURT/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

*Attorney for Defendant Gordon A. Jones*

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11 APR 28 AM 11:02

FRANKLIN COUNTY CLERK



DEPUTY

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

**RULE 54 MEMORANDUM  
OF COSTS AND FEES**

COMES NOW the above-captioned Defendants, 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 (hereafter collectively referred to herein as "Defendants"), by and through counsel, pursuant to Rules 54(d) and (e) of the Idaho Rules of Civil Procedure; Idaho Code §§ 12-120, and 12-121; and/or any otherwise applicable rule or law as set forth herein, and hereby submits the within Memorandum of Costs and Fees itemizing each claimed expense, cost and disbursement incurred by Defendants in these proceedings. Defendants support this Memorandum by the Affidavit of Lane V. Erickson filed

herewith.

The costs as a matter of right incurred in this action on behalf of the Defendants and to which the Defendants are entitled to receive as the prevailing party, pursuant to Rule 54(d)(1) of the Idaho Rules of Civil Procedures are as follows:

<u>Description</u>	<u>Amount</u>
Filing fees	\$ 48.00
Sheriff's service of process	\$ --
Service by Publication	\$ --
UCC record search request	\$ --
Deposition and/or hearing transcript costs	\$ --
Court certified copies of documents	\$ 2.00
Writ of Execution Fee	\$ --
Expert Fees	\$ --
Recording fees (to record Judgments)	\$ 16.00
Lot Book Report	\$ --
Facsimile costs	\$ --
Photocopies	\$ 15.00
Postage costs	\$ --
Telephone Conference Call	\$ 51.29
<b>TOTAL COSTS AS A MATTER OF RIGHT:</b>	<b><u>\$ 132.29</u></b>

The following items of discretionary costs were also necessarily and reasonably incurred in this action on behalf of the Defendants pursuant to Rule 54(e)(1) and Idaho Code §§ 12-120 and/or 121 and the additional law set forth herein:

Mileage/lodging costs	\$ 77.00
Attorney fees (see Affidavit of Lane V. Erickson filed herewith)	<u>\$ 15,454.50</u>
<b>TOTAL DISCRETIONARY COSTS:</b>	<b><u>\$ 15,531.50</u></b>

As required by applicable rules and laws, and in the interests of justice, the additional laws supporting an award to Defendants of the above-listed Discretionary Costs including

attorney's fees are as follows:

### **Well Settled Questions of Law**

Attorney's fees will be awarded under Idaho Code section 12-121, where a party's argument hinges on a question of law, if the question of law is well settled. See generally, Hutchinson v. State, 134 Idaho 18, 995 P.2d 363 (Ct. App. 1999) and Andrews v. Idaho Forest Indus., Inc., 117 Idaho 195, 786 P.2d 586 (Ct. App. 1990). In the present case, there were no factual disputes of any kind. Defendants cited to the facts listed in Plaintiff's Second Amended Complaint and subsequent pleadings. On April 1, 2011, the Court issued its Decision on Motions for Summary Judgment wherein it applied the law to the undisputed facts and then granted summary judgment in favor of Defendants, finding that, as a matter of law, Plaintiff's judgment and judgment lien had lapsed on September 23, 2010. This matter was resolved on a question of law that was well settled. Additionally the Defendants were the prevailing party. As a result of the above-cited laws, and in the interests of justice, Defendants as the prevailing party should be entitled to an award of all of their discretionary costs including all of their attorney's fees in this matter pursuant to I.C. § 12-121.

### **Frivolous Claims**

Additionally, attorney's fees may be awarded under I.C. § 12-121 and I.R.C.P. Rule 54(e) when the court finds that the case was brought or pursued frivolously, unreasonably or without foundation. Needs v. Idaho State Dep't of Cor., 115 Idaho 399, 766 P.2d 1280 (Ct. App. 1988). In the present case, it is undisputed that on December 22, 2004, Defendant Jones transferred the Franklin Property by quitclaim deed to Defendant J&J Livestock, LLC. Said quitclaim deed was

recorded on December 27, 2004, as Franklin County Recorder's Instrument No. 228503. (See Plaintiff's Second Amended Complaint paragraph 22 and Exhibit "A" attached thereto.) However, it is also undisputed that on July 15, 2005, the Defendants transferred the Franklin Property by quitclaim deed from Defendant J&J Livestock LLC *back* to Defendant Jones' individually. Said quitclaim deed was recorded on July 29, 2005, as Franklin County Recorder's Instrument No. 230638. (See Plaintiff's Second Amended Complaint paragraph 29 and Affidavit of Lane V. Erickson (hereafter "Erickson Affidavit") Exhibit "1".) Despite this transfer back to Defendant Jones' having occurred and despite Plaintiff's having knowledge of this transfer back, Plaintiff amended his complaint on July 31, 2009, and again amended his complaint a second time on December 7, 2009. In both of these amended complaints, Plaintiff's main causes of action were to undue what he alleged was the fraudulent conveyance of the Franklin Property which occurred on December 22, 2004. However, since this had already been corrected, it was unnecessary to plead or pursue such causes of action in Plaintiff's subsequently amended complaints. For these reasons, it is Defendants' position, that Plaintiff's pleadings and causes of action in his amended complaints were frivolous.

Additionally, because Plaintiff's judgment and judgment lien lapsed by operation of law on September 23, 2010, any actions, pleadings, or arguments Plaintiff made thereafter regarding his claimed right to proceed were also frivolous and form a basis for awarding Defendants with their discretionary attorney's fees and costs as set forth above. For these reasons, and in the interests of justice, Defendants, as the prevailing party, respectfully request that the Court award to them all of their discretionary costs, including all of their attorney's fees as set forth above.

To the best of the undersigned's knowledge and belief, the costs listed above are correct

and are claimed in compliance with the applicable Idaho Rules of Civil Procedure, and laws including, but not limited to, I.R.C.P. 54, Idaho Code § 12-120, 12-121 and/or all other cited laws and rules as set forth herein, and are also made in the interests of justice. Additionally, in compliance with all such rules, Defendants support this Memorandum with the accompanying Affidavit of Lane V. Erickson.

Dated this 27<sup>th</sup> day of April, 2011.

RACINE, OLSON, NYE, BUDGE  
& BAILEY, CHARTERED

By Lane V. Erickson  
LANE V. ERICKSON  
Attorney for Defendants

**CERTIFICATE OF SERVICE**

I hereby certify that on the 27<sup>th</sup> day of April, 2011, I caused a true, correct and complete copy of the foregoing document to be served by U.S. first-class mail, postage prepaid, upon the following unless a different method of service is indicated:

Margaret Olson  
Lincoln Hobbs  
HOBBS & OLSON, LC  
466 East 500 South, Ste 300  
Salt Lake City, Utah 84111  
*Attorneys for Plaintiff*

Lane V. Erickson  
LANE V. ERICKSON

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

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11 APR 28 AM 11:03  
FRANKLIN COUNTY CLERK  
*JH*  
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

**AFFIDAVIT OF LANE V. ERICKSON  
IN SUPPORT OF RULE 54  
MEMORANDU OF COSTS AND FEES**

STATE OF IDAHO                    )  
  : ss  
County of Bannock                )

LANE V. ERICKSON, after first being duly sworn on oath, deposes and states as follows:

1. Affiant is a citizen of the United States of America, a resident of Bannock County, Idaho; of legal age; and competent to be a witness.
2. Affiant is an attorney licensed to practice law in the State of Idaho and, if called upon to testify, could testify to the following, all of which are within his own personal

knowledge or based upon his professional judgment.

3. I am the attorney for Defendants 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, (hereafter collectively referred to herein as "Defendants"), and has continuously represented some or all of said Defendants in the present action since February 4, 2008.

4. I have been engaged in the active practice of law since 1999, and is a partner with the law firm of Racine, Olson, Nye, Budge & Bailey, Chartered, in Pocatello, Idaho. A substantial portion of Affiant's practice has involved litigation concerning real estate, foreign judgments and foreclosures of real property thereof.

6. Attached hereto as Exhibit "A" is a true and correct copy of the Detail Fee Transaction File List showing that the number of billable hours Affiant expended on behalf of the Plaintiffs in obtaining the Judgment is in the amount of 121.40 hours, which were billed at \$135.00 to \$165.00 per hour for a total attorney fee bill in the sum of \$15,454.50.

7. Pursuant to I.R.C.P. Rule 54(e)(3), Affiant provides an explanation of each of the criteria with regard to the attorney's fees described above and attached hereto as Exhibit "A":

A. The Detail Fee Transaction File List attached hereto as Exhibit "A" itemizes out the legal services provided to the Defendants for each such entry and also itemizes the time involved for each entry. Affiant refers to and incorporates herein by reference all such entries as if set forth fully and states that these are true and correct;

B. The novelty and difficulty of the questions and issues involved in this matter involved actively defending causes of action were moot or which either became moot by operation of applicable law. Plaintiff raised several issues related to the

intervening bankruptcy of Defendant Jones. Doing so required Defendants to provide to the Court a specialized analysis concerning the effect of the automatic stay on deadlines associated with state court rendered judgments. None of the analysis concerning this matter is widely known within the normal matters involving state court litigation;

C. Due to this litigation involving novel bankruptcy issues as well as state court issues, specialized knowledge and experience were necessary. As is set forth above, I've been in practice for over a decade and the analysis provided in this litigation goes beyond that skills and experience of an attorney with less experience;

D. I am familiar with the prevailing rate for attorneys in the southeast Idaho area engaged in the practice of law that required the specialized knowledge and experience needed in this litigation. A usual and customary fee for legal services of the kind provided in a matter such as this one if contested are in the sum of \$195.00 to \$215.00 per hour. The hourly rate I charged for this litigation was between \$135.00 to \$165.00 per hour as evidenced by the attached Exhibit "A".

E. The fees charged in this matter were at the hourly rates listed above and were not contingent;

F. There were no special time limitations involved in defending this matter;

G. The amount involved in this case is not a specific dollar amount. Rather, the result of the case is that Defendants can keep their Franklin Property ranch free from execution of the Plaintiff's foreign judgment. The ranch is approximately 200 acres in size, contains a residential home and several outbuildings normally associated with a ranching operation. It is estimated that the value is approximately \$250,000;

H. This particular case did not hold any aspects that would be more or less



desirable than other litigation;

I. As stated above, I've represented some or all of the Defendants continuously since February 2008. Originally, I represented Defendant Jones and Defendant J&J Livestock. As the case progressed, Defendant Linda Jones passed away. Upon the creation of her estate, I also took on the representation of Defendant Jones in his capacity as the personal representative of the Estate of Linda Jones;

J. Because this case involved novel legal questions, I am unable to find any similar cases for comparison. For this reason I am unable to provide the Court with any awards in similar cases which the Court can use for comparison;

K. While there are few itemized costs for research services, there are many time entries and attorney's fee charges associated with research. As is set forth above, this case required research of many state court and bankruptcy issues in order to present to the Court the applicable law that should be applied to the undisputed facts;

L. A final factor this Court should consider is the length of time that transpired where Plaintiff took no action to pursue this case. This case was pending for some time. While Plaintiff was active in filing various pleadings to amend his complaint for a third time, Plaintiff took no action to renew his judgment or judgment lien. The number of years this litigation was pending should be another factor considered by the Court in Defendants' request for an award of attorney fees;

8. Attached hereto as Exhibit "B" is a true and correct copy of the Detail Cost Transaction File List itemizing the total costs which have been paid by the Plaintiff in the sum of \$161.29.

9. Defendants should recover their costs and attorneys fees pursuant to the terms of

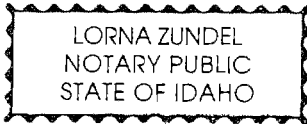
I.R.C.P. 54(e), Idaho Code § 12-120, 12-121; and/or all other citations to the applicable statutes and laws.

FURTHER SAITH AFFIANT NAUGHT.

DATED this 27<sup>th</sup> day of April, 2011.

By Lane V. Erickson  
LANE V. ERICKSON

SUBSCRIBED AND SWORN TO before me on this 27<sup>th</sup> day of April, 2011.



Lorna Zundel  
NOTARY PUBLIC FOR IDAHO  
Residing at: Pocatello, Idaho  
Commission expires: 4-10-2012

**CERTIFICATE OF SERVICE**

I hereby certify that on the 27<sup>th</sup> day of April, 2011, I caused a true, correct and complete copy of the foregoing document to be served by U.S. first-class mail, postage prepaid, upon the following unless a different method of service is indicated:

Margaret Olson  
Lincoln Hobbs  
HOBBS & OLSON, LC  
466 East 500 South, Ste 300  
Salt Lake City, Utah 84111  
*Attorneys for Plaintiff*

Lane V. Erickson  
LANE V. ERICKSON

**EXHIBIT "A"**

**Detail Fee Transaction File List**  
 ROBERT E. OLSON, NYE, BUDGE AND BAILEY CHARTERED

Client	Trans Date	Atty	H P	Tcode/ Task Code	Rate	Hours to Bill	Amount		Ref #
Attorney MAS MARK SHAFFER 0.0035575	02/25/2009	MAS	A	76	135.00	1.00	135.00	CONFERENCE WITH LANE RE: DISCHARGE OF BANKRUPTCY; TELEPHONE CONFERENCE WITH UTAH ATTORNEY; RECEIVE AND REVIEW FAX FROM UTAH ATTORNEY RE: FINALIZED JUDGMENT FROM STATE COURT; CONFERENCE WITH LANE RE: MOTION TO DISMISS CASE FILED IN FRANKLIN COUNTY	ARCH
0.0035575	02/26/2009	MAS	A	75	135.00	0.40	54.00	TELEPHONE CONFERENCE WITH UTAH ATTORNEY; CONFERENCE WITH LANE	ARCH
0.0035575	05/11/2009	MAS	A	62	135.00	0.40	54.00	JONES & J&J LIVESTOCK V.ALLEN GRAZER REVIEW AND EDIT MOTION TO DISMISS FOR CASE IN FRANKLIN COUNTY	ARCH
0.0035575	05/12/2009	MAS	A	53	135.00	0.40	54.00	JONES & J&J LIVESTOCK V.ALLEN GRAZER FINALIZE REVIEW AND EDIT OF MOTION TO DISMISS FOR CASE IN FRANKLIN COUNTY	ARCH
0.0035575	07/31/2009	MAS	A	76	135.00	2.80	189.00	JONES & J&J LIVESTOCK V.ALLEN GRAZER CONFERENCE Re: MOTION TO DISMISS HEARING; RESEARCH RE: VALIDITY OF FOREIGN JUDGMENT IF JUDGMENT NOT FINAL IN STATE FROM WHICH JUDGMENT ORIGINATED	ARCH
0.0035575	11/04/2009	MAS	A	58	135.00	0.50	67.50	JONES & J&J LIVESTOCK V.ALLEN GRAZER RECEIVE AND REVIEW MOTION TO FILE SECOND AMENDED COMPLAINT AND A MEMORANDUM IN SUPPORT OF MOTION TO FILE SECOND AMENDED COMPLAINT	ARCH
0.0035575	02/08/2011	MAS	A	62	135.00	0.80	108.00	JONES & J&J LIVESTOCK V.ALLEN GRAZER REVIEW AND EDIT PRE-TRIAL BRIEF A/K/A MOTION FOR SUMMARY JUDGMENT; CONFERENCE REGARDING PRE-TRIAL BRIEF AND STRATEGY OF CASE	ARCH
<b>Total for Attorney MAS</b>					<b>Billable</b>	<b>6.30</b>	<b>661.50</b>	<b>MARK SHAFFER</b>	
Attorney LVE LANE V. ERICKSON 0.0035575	01/29/2008	LVE	A	75	85.00	0.30	25.50	TELEPHONE CONFERENCE WITH JOE COVEY (UTAH ATTORNEY) RE: GORDON JONES LAWSUIT; NOTES TO FILE; CONDUCTED CONFLICT CHECK	ARCH
0.0035575	02/01/2008	LVE	A	58	165.00	1.30	214.50	JONES & J&J LIVESTOCK V.ALLEN GRAZER RECEIVED COMPLAINT AND REQUEST FOR SCHEDULING ORDER; MULTIPLE TELEPHONE CONFERENCE WITH ATTORNEY'S OFFICE	ARCH
0.0035575	02/12/2008	LVE	A	60	165.00	0.30	49.50	JONES & J&J LIVESTOCK V.ALLEN GRAZER RECEIVED COURT'S ORDER FOR STATUS AND SCHEDULING CONFERENCE; SCHEDULED HEARING	ARCH
0.0035575	02/13/2008	LVE	A	60	165.00	2.20	363.00	JONES & J&J LIVESTOCK V.ALLEN GRAZER OBTAINED DOCKET REPORT FOR LITIGATION PRIOR TO BANKRUPTCY; MULTIPLE TELEPHONE CONFERENCES WITH FRANKLIN COUNTY COURT	ARCH
0.0035575	03/13/2008	LVE	A	58	165.00	2.30	379.50	RE: COPIES OF LITIGATION DOCUMENTS; NOTES TO FILE; ANALYZED COMPLAINT; RESEARCHED FRAUDULENT TRANSFER STATUTES RELIED ON IN COMPLAINT; NOTES TO FILE RE: DRAFTING ANSWER TO COMPLAINT TO AVOID DEFAULT	ARCH
								JONES & J&J LIVESTOCK V.ALLEN GRAZER RECEIVE AND REVIEW PLAINTIFF'S COUNSEL'S NOTICE OF TELEPHONE STATUS CONFERENCE; MULTIPLE TELEPHONE CONFERENCES WITH GORDON JONES RE: STATUS OF CASE AND TELEPHONE HEARING; MULTIPLE TELEPHONE CONFERENCES WITH DAVE GALLAFENT (MERRILL AND MERRILL) RE: SUBSTITUTING IN AS COUNSEL; DISCUSSION OF CASE AND COMPLAINT; PREPARED FILE FOR DELIVERY TO DAVE GALLAFENT; NOTES TO FILE; MULTIPLE TELEPHONE CONFERENCES WITH DAVE	

794

Detail Fee Transaction File List  
R LANE, OLSON, NYE, BUDGE AND BAILEY CHARTERED

<u>C</u> lient	<u>Trans</u> <u>Date</u>	<u>Atty</u>	<u>H</u> <u>P</u>	<u>Tcode/</u> <u>Task Code</u>	<u>Rate</u>	<u>Hours</u> <u>to Bill</u>	<u>Amount</u>	<u>Ref #</u>
orney LVE LANE V. ERICKSON								
0.0035575	04/08/2008	LVE	A	58	165.00	0.10	16.50	ARCH
							GALLAFENT RE: DISCUSSION OF POSTURE OF CASE AND POTENTIAL DEFENSES JONES/GORDON & LINDA JONES & J&J LIVESTOCK V.ALLEN GRAZER RECEIVE AND REVIEW SUBSTITUTION OF COUNSEL AND CORRESPONDENCE FROM STEVE DUNN; MULTIPLE TELEPHONE CONFERENCES WITH STEVE DUNN; EXECUTED SUBSTITUTION OF COUNSEL; NOTES TO FILE JONES/GORDON & LINDA	
0.0035575	04/09/2008	LVE	A	75	165.00	0.10	16.50	ARCH
							JONES & J&J LIVESTOCK V.ALLEN GRAZER MULTIPLE TELEPHONE CONFERENCES WITH STEVE DUNN RE: SUBSTITUTION OF COUNSEL AND DISCUSSION OF COMMUNITY PROPERTY CLAIMS JONES/GORDON & LINDA	
0.0035575	04/17/2008	LVE	A	75	165.00	0.20	33.00	ARCH
							JONES & J&J LIVESTOCK V.ALLEN GRAZER TELEPHONE CONFERENCE WITH GORDON JONES; TELEPHONE CONFERENCE WITH DAVID SHAFFER; MULTIPLE TELEPHONE CONFERENCES WITH STEVE DUNN RE: PREPARING FOR OFFER TO LINDA JONES TO PURCHASE GORDON'S INTEREST IN FRANKLIN PROPERTY; NOTES TO FILE JONES/GORDON & LINDA	
0.0035575	04/21/2008	LVE	A	75	165.00	0.20	33.00	ARCH
							JONES & J&J LIVESTOCK V.ALLEN GRAZER TELEPHONE CONFERENCE WITH STEVE DUNN (ATTORNEY FOR LINDA JONES) RE: CONTACTING PLAINTIFF'S ATTORNEY AND DISCUSSING DISMISSAL OF LAWSUIT AND SETTLEMENT NEGOTIATIONS JONES/GORDON & LINDA	
0.0035575	10/07/2008	LVE	A	75	165.00	2.70	445.50	ARCH
							JONES & J&J LIVESTOCK V.ALLEN GRAZER MULTIPLE TELEPHONE CONFERENCES WITH LINCOLN HOBBS (PLAINTIFF'S ATTORNEY) AND WITH KENT HAWKINS (MERRILL & MERRILL) RE: REPRESENTATION IN THE PENDING TRIAL; MULTIPLE TELEPHONE CONFERENCES WITH COURT RE: JUDGE MITCH BROWN DISQUALIFYING HIMSELF AND VACATING TRIAL DATE; ANALYZED AND REVIEWED PLAINTIFF'S PLEADINGS AND PREPARATION FOR TRIAL; NOTES TO FILE JONES/GORDON & LINDA	
0.0035575	10/08/2008	LVE	A	75	165.00	0.60	99.00	ARCH
							JONES & J&J LIVESTOCK V.ALLEN GRAZER ADDITIONAL TELEPHONE CONFERENCE WITH AND EMAILS FORM AND TO KENT HAWKINS RE: TRIAL PREPARATION JONES/GORDON & LINDA	
0.0035575	10/13/2008	LVE	A	58	165.00	0.30	49.50	ARCH
							JONES & J&J LIVESTOCK V.ALLEN GRAZER RECEIVE ORDER OF REFERENCE FROM COURT; MULTIPLE TELEPHONE CONFERENCES WITH COURT RE: APPOINTMENT OF JUDGE DUNN; NOTES TO FILE JONES/GORDON & LINDA	
0.0035575	10/14/2008	LVE	A	232	165.00	1.60	264.00	ARCH
							JONES & J&J LIVESTOCK V.ALLEN GRAZER MULTIPLE DISCUSSIONS; EMAILS AND TELEPHONE CONFERENCES WITH KEN HAWKINS AND DAVID SHAFFER Re: PREPARATION FOR TRIAL; DISCUSSION OF TRANSFER DOCUMENTS; NOTES TO FILE JONES/GORDON & LINDA	
0.0035575	10/23/2008	LVE	A	75	165.00	0.40	66.00	ARCH
							JONES & J&J LIVESTOCK V.ALLEN GRAZER MULTIPLE TELEPHONE CONFERENCE WITH COURT RE: REASSIGNMENT OF JUDGE TO CASE; CANCELLATION OF PRETRIAL HEARING; NOTES TO FILE JONES/GORDON & LINDA	
0.0035575	11/13/2008	LVE	A	75	165.00	0.30	49.50	ARCH
							JONES & J&J LIVESTOCK V.ALLEN GRAZER MULTIPLE TELEPHONE CONFERENCE WITH COURT CLERK RE: RESCHEDULING TRIAL AND PRETRIAL; NOTES TO FILE JONES/GORDON & LINDA	
0.0035575	02/09/2009	LVE	A	58	165.00	0.60	99.00	ARCH
							JONES & J&J LIVESTOCK V.ALLEN GRAZER RECEIVE NOTICE OF DISCHARGE FROM CARVEL SCHAFFER; RESEARCH BANKRUPTCY DOCKET RE: STAY RELIEF; RESEARCH STATE COURT DOCKET REPORT RE: SCHEDULING OF TRIAL AND PRETRIAL BY NEW DISTRICT JUDGE; TELEPHONE CONFERENCE WITH CARVEL SCHAFFER; NOTES TO FILE JONES/GORDON & LINDA	

795

Detail Fee Transaction File List

F. LANE, OLSON, NYE, BUDGE AND BAILEY CHARTERED

Client	Trans Date	Atty	H P	Tcode/ Task Code	Rate	Hours to Bill	Amount	Ref #
torney LVE LANE V. ERICKSON	02/25/2009	LVE	A	75	165.00	1.30	214.50	ARCH
							JONES & J&J LIVESTOCK V.ALLEN GRAZER TELEPHONE CONFERENCE WITH DAVID RE; BANKRUPTCY ISSUES AND EFFECT DISMISSAL OF BANKRUPTCY ADVERSARY ACTION JONES/GORDON & LINDA	
	02/26/2009	LVE	A	53	165.00	1.60	264.00	ARCH
							JONES & J&J LIVESTOCK V.ALLEN GRAZER FINALIZE RESEARCH AND COLLECTION OF STATE COURT AND BANKRUPTCY COURT DOCUMENTS; TELEPHONE CONFERENCE WITH CARVEL SHAFFER; MEETING WITH MARK SHAFFER; PREPARE NOTES FOR MOTION TO DISMISS JONES/GORDON & LINDA	
	04/02/2009	LVE	A	60	165.00	0.70	115.50	ARCH
							JONES & J&J LIVESTOCK V.ALLEN GRAZER BEGIN DRAFTING MOTION TO DISMISS JONES/GORDON & LINDA	
	05/11/2009	LVE	A	224	165.00	2.10	346.50	ARCH
							JONES & J&J LIVESTOCK V.ALLEN GRAZER ANALYZE AND REVIEW BANKRUPTCY DOCKET; ORDERS AND DECISIONS; ANALYZE AND REVIEW UTAH STATE COURT JUDGMENTS AND ORDERS; ORGANIZE DOCUMENTS; DRAFT MOTION TO DISMISS JONES/GORDON & LINDA	
	05/12/2009	LVE	A	53	165.00	1.30	214.50	ARCH
							JONES & J&J LIVESTOCK V.ALLEN GRAZER FINALIZE MOTION TO DISMISS; DRAFT AFFIDAVIT OF LVE IN SUPPORT OF MOTION; PREPARE EXHIBITS; FILE WITH COURT AND SERVE ON PARTIES JONES/GORDON & LINDA	
	05/19/2009	LVE	A	58	165.00	0.40	66.00	ARCH
							JONES & J&J LIVESTOCK V.ALLEN GRAZER RECEIVE FILINGS FROM COURT; SCHEDULING HEARING ON MOTION TO DISMISS; LOCATE OPPOSING; SERVE WITH MOTION AND AFFIDAVITS JONES/GORDON & LINDA	
	05/26/2009	LVE	A	58	165.00	0.30	49.50	ARCH
							JONES & J&J LIVESTOCK V.ALLEN GRAZER RECEIVE CORRESPONDENCE FROM HOBBS RE: MOTION TO DISMISS JONES/GORDON & LINDA	
	06/08/2009	LVE	A	58	165.00	2.10	346.50	ARCH
							JONES & J&J LIVESTOCK V.ALLEN GRAZER RECEIVE AND REVIEW MEMORANDUM IN OPPOSITION TO JONE'S MOTION TO DISMISS; ANALYZED APPLICABLE BANKRUPTCY LAWS; DISCUSSION WITH DCG; NOTES TO FILE; TELEPHONE CONFERENCE WITH DAVID SCHAFER; RESEARCH POSSIBLE SANCTIONS; NOTES TO FILE IN PREPARATION FOR DRAFTING REPLY TO MEMORANDUM JONES/GORDON & LINDA	
	06/09/2009	LVE	A	55	165.00	1.70	280.50	ARCH
							JONES & J&J LIVESTOCK V.ALLEN GRAZER RESEARCH APPLICABLE BANKRUPTCY; LAW; RESEARCH SANCTIONS UNDER IRCP 11(A)(1); ORGANIZED EXHIBITS AND TESTIMONY FROM SUPPORTING AFFIDAVIT; ANALYZE AND REVIEW SETTLEMENT AGREEMENT RELIED ON BY PLAINTIFF'S ATTORNEYS; DRAFT REPLY TO MEMORANDUM IN OPPOSITION AND MOTION FOR SANCTIONS; AMENDED AND REVISED REPLY AND MOTION AND FILE WITH COURT; SCHEDULE HEARING ON MOTION TO DISMISS AND MOTION FOR SANCTIONS JONES/GORDON & LINDA	
	06/10/2009	LVE	A	55	165.00	0.60	99.00	ARCH
							JONES & J&J LIVESTOCK V.ALLEN GRAZER ADDITIONAL BANKRUPTCY RESEARCH ON 10TH CIRCUIT LAW Re; EFFECT OF DISCHARGE INJUNCTION; AMEND AND REVISE REPLY TO MEMORANDUM IN OPPOSITION AND MOTION FOR SANCTIONS; DRAFT SUPPLEMENTAL ERICKSON AFFIDAVIT JONES/GORDON & LINDA	
	06/11/2009	LVE	A	55	165.00	0.30	49.50	ARCH
							JONES & J&J LIVESTOCK V.ALLEN GRAZER ADDITIONAL RESEARCH ON BANKRUPTCY DISCHARGE INJUNCTION AND CREDITOR'S ABILITY TO PURSUE THIRD PARTIES; COMPILED RESEARCHED JONES/GORDON & LINDA	
	06/18/2009	LVE	A	58	165.00	0.40	66.00	ARCH
							JONES & J&J LIVESTOCK V.ALLEN GRAZER RECEIVED AND REVIEWED UTAH COURT RULINGS ON MOTIONS; TELEPHONE CONFERENCE WITH COURT CLERK RE: SCHEDULING HEARING ON MOTION TO DISMISS AND MOTION FOR SANCTIONS	

796

Detail Fee Transaction File List  
NE, OLSON, NYE, BUDGE AND BAILEY CHARTERED

Client	Trans Date	Atty	H P	Tcode/ Task Code	Rate	Hours to Bill	Amount	Ref #
Attorney LVE LANE V. ERICKSON							JONES/GORDON & LINDA JONES & J&J LIVESTOCK V.ALLEN GRAZER	
0.0035575	06/29/2009	LVE	A	75	165.00	0.30	49.50 TELEPHONE CONFERENCE WITH LINCOLN HOBBS RE: DISCUSSION OF PENDING MOTION AND APPOINTMENT OF JUDGE DAVID NYE TO CASE	ARCH
0.0035575	07/03/2009	LVE	A	58	165.00	0.60	49.50 JONES/GORDON & LINDA JONES & J&J LIVESTOCK V.ALLEN GRAZER RECEIVED AND REVIEWED DEFENDANT LINDA JONES JOINDER IN MOTION TO DISMISS; BEGAN PREPARING ORAL ARGUMENT	ARCH
0.0035575	07/06/2009	LVE	A	75	165.00	1.10	90.75 JONES/GORDON & LINDA JONES & J&J LIVESTOCK V.ALLEN GRAZER MULTIPLE TELEPHONE CONFERENCES WITH LINCOLN HOBBS RE: REPLY MEMORANDUM AND SUPPORTING AFFIDAVIT; TELEPHONE CONFERENCE WITH HAWKINS (ATTORNEY FOR LINDA JONES) RE: ARGUMENTS AT HEARING	ARCH
0.0035575	07/10/2009	LVE	A	58	165.00	0.30	24.75 JONES/GORDON & LINDA JONES & J&J LIVESTOCK V.ALLEN GRAZER RECEIVE LETTER FROM GRAZER'S ATTORNEY; DRAFT LETTER TO GRAZER'S ATTORNEY	ARCH
0.0035575	07/15/2009	LVE	A	30	165.00	0.20	16.50 JONES/GORDON & LINDA JONES & J&J LIVESTOCK V.ALLEN GRAZER LETTER TO TO HOBBS RE: MOTION FOR SANCTIONS	ARCH
0.0035575	07/22/2009	LVE	A	58	165.00	1.10	90.75 JONES/GORDON & LINDA JONES & J&J LIVESTOCK V.ALLEN GRAZER RECEIVE AND REVIEW GRAZER'S MEMORANDUM IN OPPOSITION TO MOTION FOR SANCTIONS; MEMORANDUM IN OPPOSITION TO LINDA JONES JOINDER IN MOTION TO DISMISS	ARCH
0.0035575	07/30/2009	LVE	A	75	165.00	0.80	66.00 JONES/GORDON & LINDA JONES & J&J LIVESTOCK V.ALLEN GRAZER MULTIPLE TELEPHONE CONFERENCE WITH DAVID GALLAFANT RE: DISCUSSION AND STRATEGIZING OF EFFORTS FOR HEARING ON MOTION TO DISMISS	ARCH
0.0035575	07/31/2009	LVE	A	75	165.00	3.80	313.50 JONES/GORDON & LINDA JONES & J&J LIVESTOCK V.ALLEN GRAZER MULTIPLE TELEPHONE CONFERENCE WITH DAVID GALLAFANT (ATTORNEY FOR MRS JONES) Re: COMBINING EFFORTS FOR ORAL ARGUMENT; OBTAINED AND PREPARE QUITCLAIM DEED FOR FILING WITH COURT; PREPARE FOR AND PARTICIPATE IN HEARING ON MOTION TO DISMISS IN PRESTON IDAHO; MEETING WITH DAVID GALLAFANT AND MRS JONES FOLLOWING HEARING	ARCH
0.0035575	08/03/2009	LVE	A	55	165.00	2.10	346.50 JONES/GORDON & LINDA JONES & J&J LIVESTOCK V.ALLEN GRAZER RESEARCHED UTAH'S CODE OF CIVIL PROCEDURE AND STATUTES FOR REQUIREMENT OF FINAL JUDGMENT AS REQUIREMENT PRIOR TO APPEAL AND EXECUTION; RESEARCHED IDAHO LAW RE: FOREIGN JUDGMENT MUST BE FINAL BEFORE IT CAN BE RECOGNIZED; MEETING AND DISCUSSION WITH MAS; REVIEWED UTAH COURT FINAL JUDGMENT AND LANGUAGE IN RULING FROM RENDERING JUDGE; NOTES TO FILE	ARCH
0.0035575	08/06/2009	LVE	A	75	165.00	0.30	49.50 JONES/GORDON & LINDA JONES & J&J LIVESTOCK V.ALLEN GRAZER TELEPHONE CONFERENCE WITH DAVE GALLAFANT Re: DISCUSSION OF AMENDED COMPLAINT; DISCUSSION OF FILING COUNTERCLAIM AND MOTION FOR SUMMARY JUDGMENT; NOTES TO FILE	ARCH
0.0035575	08/24/2009	LVE	A	75	165.00	0.40	66.00 JONES/GORDON & LINDA JONES & J&J LIVESTOCK V.ALLEN GRAZER TELEPHONE CONFERENCE WITH CARVEL SCHAFFER; TELEPHONE CONFERENCE WITH JARED STEADMAN; TELEPHONE CONFERENCE WITH LINCOLN HOBBS	ARCH
0.0035575	08/25/2009	LVE	A	75	165.00	0.20	33.00 JONES/GORDON & LINDA JONES & J&J LIVESTOCK V.ALLEN GRAZER TELEPHONE CONFERENCE WITH CARVEL SCHAFFER; TELEPHONE CONFERENCE WITH JARED STEADMAN	ARCH
							JONES/GORDON & LINDA JONES & J&J LIVESTOCK V.ALLEN GRAZER	

797

**Detail Fee Transaction File List**  
 F. J. NE, OLSON, NYE, BUDGE AND BAILEY CHARTERED

Client	Trans Date	Atty	H P	Tcode/ Task Code	Rate	Hours to Bill	Amount		Ref #
Attorney LVE LANE V. ERICKSON 0.0035575	11/24/2009	LVE	A	62	165.00	1.10	181.50	MULTIPLE TELEPHONE CONFERENCES WITH COURT CLERKS AND LINCOLN HOBBS REGARDING HEARING ON SECOND MOTION TO AMEND PLEADINGS; DISCUSSION WITH HOBBS REGARDING PROPOSED EXHIBITS FOR SECOND AMENDED COMPLAINT; ADDITIONAL TELEPHONE CONFERENCES WITH LINDA (FRANKLIN COUNTY COURT CLERK) JONES/GORDON & LINDA	ARCH
0.0035575	11/30/2009	LVE	A	139	165.00	0.80	132.00	RECEIVED ALL EXHIBITS FOR SECOND AMENDED COMPLAINT; RECEIVED AND REVIEWED PROPOSED STIPULATION AND NOTICE OF HEARING; SCHEDULED HEARING JONES/GORDON & LINDA	ARCH
0.0035575	12/03/2009	LVE	A	60	165.00	0.60	99.00	JONES & J&J LIVESTOCK V.ALLEN GRAZER ANALYZED AND REVIEWED GRAZER'S PROPOSED STIPULATION RE: SECOND AMENDED COMPLAINT; TELEPHONE CONFERENCE WITH JARED STEADMAN (ATTY FOR LINDA JONES); EXECUTED AND FILED STIPULATION JONES/GORDON & LINDA	ARCH
0.0035575	04/26/2010	LVE	A	60	165.00	0.30	49.50	JONES & J&J LIVESTOCK V.ALLEN GRAZER MULTIPLE EMAILS CORRESPONDENCE WITH JARED STEADMAN (ATTORNEY FOR JASON JONES) RE: MOTION TO DISMISS AND HEARING; DISCUSSION OF LITIGATION STRATEGY JONES/GORDON & LINDA	ARCH
0.0035575	07/13/2010	LVE	A	58	165.00	0.60	99.00	JONES & J&J LIVESTOCK V.ALLEN GRAZER RECEIVE AND REVIEW PROPOSED STATEMENT FOR SCHEDULING; MADE CHANGES AND REVISIONS TO STATEMENT; MULTIPLE EMAIL CORRESPONDENCE JONES/GORDON & LINDA	ARCH
0.0035575	07/16/2010	LVE	A	76	165.00	0.90	148.50	JONES & J&J LIVESTOCK V.ALLEN GRAZER MULTIPLE TELEPHONE CONFERENCES WITH KATY DAVIS; MULTIPLE TELEPHONE CONFERENCES WITH JARED STEADMAN; RECEIVED REVISED JOINT STATEMENT FOR SCHEDULING ORDER; EXECUTED AND MAILED JOINT STATEMENT TO HOBBS JONES/GORDON & LINDA	ARCH
0.0035575	08/13/2010	LVE	A	75	165.00	0.60	99.00	JONES & J&J LIVESTOCK V.ALLEN GRAZER TELEPHONE CONFERENCE WITH COURT CLERK REGARDING SCHEDULING HEARINGS; DISCUSSION OF PLAINTIFF'S FILING OF MOTION FOR NEW COMPLAINT JONES/GORDON & LINDA	ARCH
0.0035575	08/31/2010	LVE	A	75	165.00	1.10	181.50	JONES & J&J LIVESTOCK V.ALLEN GRAZER MULTIPLE TELEPHONE CONFERENCES WITH LINCOLN HOBBS OFFICE; TELEPHONE CONFERENCE WITH COURT CLERK; TELEPHONE CONFERENCE WITH JARED STEADMAN RE: HEARING JONES/GORDON & LINDA	ARCH
0.0035575	09/01/2010	LVE	A	224	165.00	2.40	396.00	JONES & J&J LIVESTOCK V.ALLEN GRAZER ANALYZED MOTION FOR LEAVE TO FILE THIRD AMENDED COMPLAINT; RESEARCHED COURT DOCKET; RESEARCHED IDAHO'S PROBATE STATUTES; DRAFTED AND FILED OBJECTION TO MOTION FOR LEAVE TO FILE THIRD AMENDED COMPLAINT JONES/GORDON & LINDA	ARCH
0.0035575	09/02/2010	LVE	A	56	165.00	1.80	297.00	JONES & J&J LIVESTOCK V.ALLEN GRAZER PREPARED FOR AND PRESENTED ARGUMENTS AT HEARING ON GRAZER'S MOTION TO AMEND COMPLAINT; SUCCESSFULLY OBTAINED ORDER DENYING MOTION TO AMEND COMPLAINT JONES/GORDON & LINDA	ARCH
0.0035575	09/10/2010	LVE	A	58	165.00	0.30	49.50	JONES & J&J LIVESTOCK V.ALLEN GRAZER RECEIVE AND REVIEW COURT'S ORDER DENYING MOTION TO AMEND PLEADINGS; DISCUSSION WITH HOBBS RE: RULE 25 JONES/GORDON & LINDA	ARCH
0.0035575	09/22/2010	LVE	A	58	165.00	0.60	99.00	JONES & J&J LIVESTOCK V.ALLEN GRAZER RECEIVE AND REVIEW GRAZER'S MOTION TO SUBSTITUTE PR IN CASE; FORWARDED TO GORDON JONES JONES/GORDON & LINDA	ARCH

798



**Detail Fee Transaction File List**  
 JONES, OLSON, NYE, BUDGE AND BAILEY CHARTERED

Client	Trans Date	Atty	H P	Tcode/ Task Code	Rate	Hours to Bill	Amount	Ref #
torney LVE LANE V. ERICKSON								
0.0035575	11/22/2010	LVE	A	75	165.00	0.30	49.50	ARCH
							JONES & J&J LIVESTOCK V.ALLEN GRAZER TELEPHONE CONFERENCE WITH DAN JONES RE: DOCUMENTS SERVED UPON HIM AS PR OF LINDA'S ESTATE; DISCUSSION OF HEARING SCHEDULED SUBSTITUTION OF PARTIES JONES/GORDON & LINDA	
0.0035575	12/14/2010	LVE	A	75	165.00	0.60	99.00	ARCH
							JONES & J&J LIVESTOCK V.ALLEN GRAZER TELEPHONE CONFERENCE WITH GORDON JONES; DRAFTED AND FILED NOTICE OF APPEARANCE; SERVED UPON GRAZER; LETTER TO GORDON REGARDING DISCOVERY DOCUMENTS FROM GRAZER JONES/GORDON & LINDA	
0.0035575	12/17/2010	LVE	A	75	165.00	0.80	132.00	ARCH
							JONES & J&J LIVESTOCK V.ALLEN GRAZER RECEIVED DISCOVERY; TELEPHONE CONFERENCE WITH GORDON JONES REGARDING DISCOVERY REQUESTS JONES/GORDON & LINDA	
0.0035575	12/21/2010	LVE	A	60	165.00	0.30	49.50	ARCH
							JONES & J&J LIVESTOCK V.ALLEN GRAZER DRAFTED AND FILED NOTICE OF APPEARANCE FOR ESTATE OF LINDA JONES JONES/GORDON & LINDA	
0.0035575	01/03/2011	LVE	A	75	165.00	1.80	148.50	ARCH
							JONES & J&J LIVESTOCK V.ALLEN GRAZER MULTIPLE TELEPHONE CONFERENCE WITH GORDON JONES; ANALYZED AND REVIEWED DISCOVERY REQUESTS; FAXED REQUESTS TO CARVEL SCHAFFER JONES/GORDON & LINDA	
0.0035575	01/07/2011	LVE	A	75	165.00	1.30	107.25	ARCH
							JONES & J&J LIVESTOCK V.ALLEN GRAZER MULTIPLE TELEPHONE CONFERENCE WITH GORDON JONES RE: DISCOVERY; MULTIPLE TELEPHONE CONFERENCE WITH LINCOLN HOBBS AND MARGARET OLESON; OBTAINED COPY OF SCHEDULING ORDER FROM COURT JONES/GORDON & LINDA	
0.0035575	01/10/2011	LVE	A	224	165.00	0.80	66.00	ARCH
							JONES & J&J LIVESTOCK V.ALLEN GRAZER ANALYZING DISCOVERY REQUESTS AND DEADLINES FOR TRIAL JONES/GORDON & LINDA	
0.0035575	01/11/2011	LVE	A	75	165.00	0.60	49.50	ARCH
							JONES & J&J LIVESTOCK V.ALLEN GRAZER MULTIPLE TELEPHONE CONFERENCE WITH LINCOLN HOBBS AND JUDGE NYE; SCHEDULED TELEPHONE STATUS HEARING; DRAFTED AND MAILED NOTICES JONES/GORDON & LINDA	
0.0035575	01/12/2011	LVE	A	224	165.00	2.40	198.00	ARCH
							JONES & J&J LIVESTOCK V.ALLEN GRAZER ANALYZED FILE IN PREPARATION OF TELEPHONE STATUS HEARING; TELEPHONE CONFERENCE WITH LINCOLN HOBBS; PREPARED DOCUMENTS FOR INCLUSION IN TRIAL BRIEFING; TELEPHONE CONFERENCE WITH CARVEL SCHAFFER; DISCUSSION OF UTAH APPEALS DOCUMENTS AND ADMISSIONS BY GRAZER IN THOSE DOCUMENTS JONES/GORDON & LINDA	
0.0035575	01/13/2011	LVE	A	56	165.00	3.60	297.00	ARCH
							JONES & J&J LIVESTOCK V.ALLEN GRAZER PREPARED FOR AND PARTICIPATED IN PRE-TRIAL HEARING; OBTAINED RULING FROM COURT SETTING FIRM TRIAL DEADLINES; TELEPHONE CONFERENCE WITH GORDON JONES RE: TRIAL, DISCOVERY AND ACCOUNTING; MULTIPLE EMAIL CORRESPONDENCE TO AND FROM SCHAFFER LAW OFFICE RE: DOCUMENTS AND EVIDENCE; RECEIVED DOCUMENTS FROM FRANKLIN COUNTY COURT RE: FOREIGN JUDGMENT JONES/GORDON & LINDA	
0.0035575	01/14/2011	LVE	A	55	165.00	2.80	231.00	ARCH
							JONES & J&J LIVESTOCK V.ALLEN GRAZER RESEARCHING POSSIBLE AFFIRMATIVE DEFENSES FOR ANSWER TO COMPLAINT; NOTES TO FILE; RECEIVED ADDITIONAL DOCUMENTATION FROM GORDON JONES FOR RESPONSES TO DISCOVERY REQUESTS JONES/GORDON & LINDA	
0.0035575	01/18/2011	LVE	A	58	165.00	0.40	33.00	ARCH
							JONES & J&J LIVESTOCK V.ALLEN GRAZER RECEIVED AND REVIEWED FAXED TAX DOCUMENTS FROM JONES FOR DISCOVERY REQUESTS JONES/GORDON & LINDA	
0.0035575	01/19/2011	LVE	A	60	165.00	2.70	222.75	ARCH
							JONES & J&J LIVESTOCK V.ALLEN GRAZER BEGAN DRAFTING ANSWER TO COMPLAINT;	

790

**Detail Fee Transaction File List**  
 FINE, OLSON, NYE, BUDGE AND BAILEY CHARTERED

Client	Trans Date	Atty	H P	Tcode/ Task Code	Rate	Hours to Bill	Amount	Ref #
torney LVE LANE V. ERICKSON							ORGANIZED EXHIBITS AND PAPERS FOR RESPONDING TO DISCOVERY; TELEPHONE CONFERENCE WITH GORDON JONES RE: RESPONSES TO DISCOVERY REQUESTS JONES/GORDON & LINDA	
0.0035575	01/20/2011	LVE	A	55	165.00	6.70	552.75 JONES & J&J LIVESTOCK V.ALLEN GRAZER RESEARCHING AFFIRMATIVE DEFENSES FOR ANSWER TO COMPLAINT; ORGANIZED RESEARCH; TELEPHONE CONFERENCE WITH DAVID SCHAFFER; TELEPHONE CONFERENCE WITH GORDON JONES; DRAFTING ANSWER TO COMPLAINT; DRAFTING ANSWERS TO DISCOVERY REQUESTS	ARCH
0.0035575	01/21/2011	LVE	A	53	165.00	4.40	363.00 JONES & J&J LIVESTOCK V.ALLEN GRAZER FINALIZED ANSWER TO SECOND AMENDED COMPLAINT; RESEARCHED THROUGH COURT CLERK AND THROUGH COUNTY RECORDER THE STATUS OF FOREIGN JUDGMENT AND WHETHER IT WAS RENEWED OR RE-RECORDED; DRAFTED INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS; SERVED ANSWER AND DISCOVERY REQUESTS UPON PLAINTIFFS JONES/GORDON & LINDA	ARCH
0.0035575	01/21/2011	LVE	A	55	165.00	1.10	90.75 JONES & J&J LIVESTOCK V.ALLEN GRAZER RESEARCHING STATUTES AND APPLICABLE CASE LAW FOR PRE-TRIAL BRIEF ON LOSS OF LIENS BY PLAINTIFF; NOTES TO FILE FOR BRIEF	ARCH
0.0035575	01/24/2011	LVE	A	53	165.00	2.10	173.25 JONES & J&J LIVESTOCK V.ALLEN GRAZER FINALIZED RESEARCH OF APPLICABLE STATUTES AND CASE LAW ON JUDICIAL ESTOPPEL, FAILURE TO RENEW JUDGMENT; FAILURE TO RE-RECORD; FAILURE TO EXECUTE; APPLICATION OF BANKRUPTCY DISCHARGE; FAILURE TO OBTAIN PROPERTY AUTHENTICATION OF JUDGMENT FOR FOREIGN JUDGMENT	ARCH
0.0035575	01/25/2011	LVE	A	60	165.00	3.60	297.00 JONES & J&J LIVESTOCK V.ALLEN GRAZER DRAFTED RESPONSE TO INTERROGATORIES; FAXED TO GORDON JONES; MULTIPLE TELEPHONE CONFERENCES WITH GORDON JONES	ARCH
0.0035575	01/26/2011	LVE	A	60	165.00	3.70	305.25 JONES & J&J LIVESTOCK V.ALLEN GRAZER DRAFTED RESPONSE TO GRAZER'S REQUEST FOR PRODUCTION OF DOCUMENTS; ORGANIZED AND PREPARED DOCUMENTS FOR DISCLOSURE; FINALIZED ANSWERS TO INTERROGATORIES; TELEPHONE CONFERENCE WITH GORDON JONES RE: VERIFICATION; RECEIVED JONES' VERIFICATION TO DISCOVERY RESPONSES	ARCH
0.0035575	01/28/2011	LVE	A	75	165.00	4.10	338.25 JONES & J&J LIVESTOCK V.ALLEN GRAZER TELEPHONE CONFERENCE WITH GORDON JONES RE: ADDITIONAL INFORMATION AND DOCUMENTATION FOR DISCOVERY RESPONSES; FINALIZED AND SERVED DISCOVERY RESPONSE ON GRAZER (LINCOLN)	ARCH
0.0035575	01/31/2011	LVE	A	53	165.00	0.60	49.50 JONES & J&J LIVESTOCK V.ALLEN GRAZER FINALIZED RESEARCH FOR TRIAL BRIEF	ARCH
0.0035575	02/01/2011	LVE	A	53	165.00	0.60	99.00 JONES & J&J LIVESTOCK V.ALLEN GRAZER FINALIZED RESEARCH FOR TRIAL BRIEF	ARCH
0.0035575	02/07/2011	LVE	A	55	165.00	0.80	132.00 JONES & J&J LIVESTOCK V.ALLEN GRAZER ADDITIONAL RESEARCH ON EXECUTION OF FOREIGN JUDGMENT; COMPILED RESEARCH FOR PRE-TRIAL BRIEF	ARCH
0.0035575	02/08/2011	LVE	A	53	165.00	3.70	610.50 JONES & J&J LIVESTOCK V.ALLEN GRAZER FINALIZED RESEARCH; DRAFTING PRE-TRIAL BRIEF; AFFIDAVIT OF LVE IN SUPPORT OF BRIEF; REVIEWED BANKRUPTCY AGREEMENTS AND ORDERS; REVIEWED ADDITIONAL APPLICABLE IDAHO CASE LAW	ARCH
0.0035575	02/10/2011	LVE	A	53	165.00	1.30	214.50 JONES & J&J LIVESTOCK V.ALLEN GRAZER FINALIZED PRE-TRIAL BRIEF A/K/A MOTION FOR	ARCH

791

**Detail Fee Transaction File List**  
 E, OLSON, NYE, BUDGE AND BAILEY CHARTERED

Client	Trans Date	Atty	H P	Tcode/ Task Code	Rate	Hours to Bill	Amount	Ref #
torney LVE LANE V. ERICKSON							SUMMARY JUDGMENT; DRAFTED AFFIDAVIT OF LVE IN SUPPORT; FILED WITH COURT AND SERVED ON GRAZER'S ATTORNEY LINCOLN HOBBS JONES/GORDON & LINDA	
0.0035575	02/11/2011	LVE	A	53	165.00	1.30	214.50 JONES & J&J LIVESTOCK V.ALLEN GRAZER RECEIVED AND REVIEWED GRAZER'S MOTION FOR SUMMARY JUDGMENT AND MOTION FOR WRIT OF EXECUTION; RESEARCH; NOTES TO FILE FOR RESPONSE BRIEF; RESEARCHING LAW FOR RESPONSE BRIEF	ARCH
0.0035575	02/17/2011	LVE	A	55	165.00	1.30	214.50 JONES/GORDON & LINDA JONES & J&J LIVESTOCK V.ALLEN GRAZER RESEARCHED LAW RELIED ON BY GRAZER RE: BANKRUPTCY; RESEARCHED ADDITIONAL BANKRUPTCY LAW RE: TOLLING OF STATUTE OF LIMITATIONS; RESEARCHED IDAHO'S STATUTE OF LIMITATIONS	ARCH
0.0035575	02/22/2011	LVE	A	54	165.00	1.30	214.50 JONES/GORDON & LINDA JONES & J&J LIVESTOCK V.ALLEN GRAZER AMENDED REVISED AND FINALIZED RESPONSE BRIEF TO GRAZER'S MOTION FOR SUMMARY JUDGMENT; FILED WITH COURT AND DELIVERED COPY TO JUDGE NYE'S CHAMBERS	ARCH
0.0035575	02/23/2011	LVE	A	227	165.00	0.80	132.00 JONES & J&J LIVESTOCK V.ALLEN GRAZER MULTIPLE EMAIL AND TELEPHONE CONFERENCE WITH LINCOLN HOBBS (ATTORNEY FOR GRAZER) RE: ORIGINAL BRIEF AND DEADLINES FOR FILING RESPONSE	ARCH
0.0035575	03/02/2011	LVE	A	55	165.00	0.30	49.50 JONES/GORDON & LINDA JONES & J&J LIVESTOCK V.ALLEN GRAZER ADDITIONAL RESEARCH ON EFFECT OF BANKRUPTCY ON FOREIGN JUDGMENT	ARCH
0.0035575	03/07/2011	LVE	A	58	165.00	0.90	148.50 JONES & J&J LIVESTOCK V.ALLEN GRAZER RECEIVED AND REVIEWED GRAZER'S MOTION AND MEMORANDUM FOR PROTECTIVE ORDER; NOTES TO FILE ON ARGUMENTS AND CLAIMS	ARCH
0.0035575	03/08/2011	LVE	A	58	165.00	1.10	181.50 JONES/GORDON & LINDA JONES & J&J LIVESTOCK V.ALLEN GRAZER RECEIVED GRAZER'S COMBINED REPLY TO JONES MOTION FOR SUMMARY JUDGMENT AND RESPONSE; ANALYZED ARGUMENTS AND PREPARED NOTES FOR REPLY	ARCH
0.0035575	03/15/2011	LVE	A	62	165.00	4.20	693.00 JONES/GORDON & LINDA JONES & J&J LIVESTOCK V.ALLEN GRAZER REVIEWED AND ANALYZED GRAZER'S RESPONSE TO MOTION FOR SUMMARY JUDGMENT; ADDITIONAL RESEARCH; DRAFTED AND FILED JONES' REPLY BRIEF TO GRAZER'S RESPONSE TO MOTION FOR SUMMARY JUDGMENT	ARCH
0.0035575	03/18/2011	LVE	A	53	165.00	1.60	264.00 JONES/GORDON & LINDA JONES & J&J LIVESTOCK V.ALLEN GRAZER FINALIZED AND FILED SUMMARY JUDGMENT REPLY	ARCH
0.0035575	03/21/2011	LVE	A	54	165.00	1.50	247.50 JONES/GORDON & LINDA JONES & J&J LIVESTOCK V.ALLEN GRAZER AMENDED, REVISED, FINALIZED AND FILED SUMMARY JUDGMENT REPLY	ARCH
0.0035575	04/01/2011	LVE	P	58	165.00	0.80	132.00 JONES/GORDON & LINDA JONES & J&J LIVESTOCK V.ALLEN GRAZER RECEIVED COURT'S DECISION AWARDDING SUMMARY JUDGMENT IN FAVOR OF GORDON JONES AND AGAINST GRAZER; TELEPHONE CONFERENCE WITH GORDON JONES	97
0.0035575	04/05/2011	LVE	P	75	165.00	0.30	49.50 JONES/GORDON & LINDA JONES & J&J LIVESTOCK V.ALLEN GRAZER TELEPHONE CONFERENCE WITH COURT CLERK RE: FINAL JUDGMENT	98

total for Attorney LVE Billable 115.10 14,793.00 LANE V. ERICKSON

**GRAND TOTALS**

Billable 121.40 15,454.50

**792**

**EXHIBIT "B"**

Detail Cost Transaction File List

WINE, OLSON, NYE, BUDGE AND BAILEY CHARTERED

Client	Trans Date	Atty	H P	Tcode/ Task Code	Rate	Amount	Ref #
Client ID 0.0035575 JONES/GORDON & LINDA							
0.0035575	02/13/2008	LVE	A	135		15.00 COPY CHARGES	ARCH
0.0035575	08/03/2009	LVE	A	129		77.00 RT MILEAGE POCATELLO/PRESTON	ARCH
0.0035575	02/18/2011	LVE	A	128		51.29 CONFERENCE CALL 1/13/11 - LVE	ARCH

Total for Client ID 0.0035575 Billable 143.29 JONES/GORDON & LINDA  
 JONES & J&J LIVESTOCK V. ALLEN GRAZER

GRAND TOTALS

Billable 143.29

794

FILED  
 11 MAY 18 AM 11:11  
 FRANKLIN COUNTY CLERK  
*JH*  
 DEPUTY

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

ALLEN F. GRAZER, an individual,  
  
 Plaintiff,

vs.

Case No: CV-2005-183

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.

**DECISION ON COSTS AND FEES**

On April 26, 2011, this Court entered judgment in favor of Defendants and against Plaintiff. Defendants Gordon A. Jones, individually and as personal representative of the Estate of Linda G. Jones, and J&J Livestock, LLC, filed a Rule 54 Memorandum of Costs and Fees on April 28, 2011. IRCP 54(d)(6) states that a party may object to the claimed costs of another party set forth in a memorandum of costs by filing and serving a motion to disallow part or all of the claimed costs. The rule gives the objecting party 14 days from the date of service of the memorandum of costs. The rule further states that failure to timely object to the items in the memorandum of costs shall constitute a waiver of all objections to the costs claimed.

Plaintiff has not timely objected to Defendants' memorandum of costs so any objection is

795

deemed waived. *Ade v. Batten*, 126 Idaho 114, 878 P.2d 813 (Ct. App. 1994). Plaintiff cannot now object. However, the lack of an objection to a memorandum of costs does not preclude the Court from exercising discretion in deciding whether to award attorney fees or in deciding the amount of costs and fees to be awarded. *Lowery v. Bd of County Comm'rs*, 115 Idaho 64, 764 P.2d 431 (Ct. App. 1988). IRCP 54(d)(7) states that the Court can enter an order setting the dollar amount of costs awarded at any time after the time for filing an objection has past. Therefore, the Court will address (1) costs as a matter of right; (2) discretionary costs; and (3) attorney fees.<sup>1</sup>

(1) **Costs as a matter of right.** Defendants are the prevailing parties. They are entitled to their costs as a matter of right pursuant to IRCP 54(d)(1). Defendants are awarded \$132.29 in costs as a matter of right.

(2) **Discretionary costs.** Defendants seek \$77.00 for mileage/lodging costs. In order to recover discretionary costs, the moving party must show that the requested costs were necessary, exceptional, and reasonably incurred. *See Auto. Club Ins. Co. v. Jackson*, 124 Idaho 874, 880-81, 865 P.2d 965, 971-72 (1994). Where the prevailing party fails to make such a showing, discretionary costs should be denied. *See id.*; *Roe v. Harris*, 128 Idaho 569, 917 P.2d 403 (1996) (affirming denial of costs for photocopying and long-distance telephone calls because Plaintiff failed to make showing that costs were necessary and exceptional). Here, Plaintiff states in his Memorandum of Costs that all requested discretionary costs were made and were reasonable and necessary exceptional costs. However, the costs sought by Plaintiff are for travel and lodging.

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<sup>1</sup> Defendants combined travel expenses and attorney fees as discretionary costs in their memorandum of costs. Because different standards apply to discretionary costs and attorney fees, the Court will discuss them separately.

These items are not exceptional. They are part of the cost of overhead. Plaintiff will not be awarded discretionary costs.

(3) **Attorney Fees.** Defendants seek \$15,531.50 in attorney fees. They base their claim on I.C. §§ 12-120 & 12-121. However, Defendants make no argument relative to I.C. § 12-120 and this Court sees no section of I.C. § 12-120 that applies to this case. No attorney fees will be awarded under I.C. § 12-120.

I.C. § 12-121 allows a Court the discretion to award attorney fees in any civil action. However, case law requires a finding that the trial court has the abiding belief that the losing party brought, pursued, or defended the action frivolously, unreasonably, or without foundation. *Zingiber Inv., LLC v. Hagerman Highway Dist.*, 249 P.3d 868 (2011). Where the law is well-settled such an abiding belief is appropriate. *Doe v. Idaho Dept. of Health & Welfare*, 150 Idaho 491, 248 P.3d 742 (2011).

Here, Plaintiff filed a valid foreign judgment in Idaho. However, he never renewed that judgment or the lien he had on Defendants' property. He claimed the bankruptcy stay tolled the expiration of his judgment and lien. Although this Court disagreed with Plaintiff's argument, the Court does not have the abiding belief that Plaintiff brought, pursued or defended this action frivolously, unreasonably or without foundation. Therefore, no attorney fees will be awarded under I.C. § 12-121.

#### CONCLUSION

Defendants Gordon A. Jones, individually and as personal representative of the Estate of Linda G. Jones, and J&J Livestock, LLC, are awarded \$132.29 in costs as a matter of right. They



are not awarded discretionary costs or attorney fees. A Judgment on Costs will be entered.

DATED this 18<sup>th</sup> day of May, 2011.



DAVID C. NYE  
District Judge

**CERTIFICATE OF SERVICE**

I HERBY CERTIFY that on the 18 day of May, 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

- U.S. Mail
- Email:
- Overnight Delivery
- Hand Deliver
- Fax: 801-519-2999

Lane V. Erickson  
RACINE, OLSON, NYE, BUDGE & BAILEY,  
CHARTERED  
201 East Center  
Pocatello, Idaho 83201-6329

- U.S. Mail
- Email: lve@racinelaw.net;  
ltz@racinelaw.net
- Overnight Delivery
- Hand Deliver
- Fax: 208-232-6109

Kathy Jones  
Deputy Clerk

798

FILED

11 MAY 18 AM 11:11

FRANKLIN COUNTY CLERK



DEPUTY

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

ALLEN F. GRAZER, an individual,  
  
Plaintiff,

vs.

Case No: CV-2005-183

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.

**JUDGMENT ON COSTS**

On April 26, 2011, this Court entered judgment in favor of Defendants and against Plaintiff. Defendants Gordon A. Jones, individually and as personal representative of the Estate of Linda G. Jones, and J&J Livestock, LLC, are the prevailing parties and are awarded their costs in the amount of \$132.29. Neither party is awarded attorney fees.

DATED this 18<sup>th</sup> day of May, 2011.



DAVID C. NYE  
District Judge

199

**CERTIFICATE OF SERVICE**

I HERBY CERTIFY that on the 18 day of May, 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

- U.S. Mail
- Email:
- Overnight Delivery
- Hand Deliver
- Fax: 801-519-2999

Lane V. Erickson  
RACINE, OLSON, NYE, BUDGE & BAILEY,  
CHARTERED  
201 East Center  
Pocatello, Idaho 83201-6329

- U.S. Mail
- Email: lve@racinelaw.net;  
ltz@racinelaw.net
- Overnight Delivery
- Hand Deliver
- Fax: 208-232-6109

Kathy Jones  
Deputy Clerk

800

TRANSACTION REPORT

P.01/01

MAY/18/2011/WED 11:36 AM

FAX ( TX )

#	DATE	START T.	RECEIVER	COM.TIME	PAGE	TYPE/NOTE	FILE
001	MAY/18	11:30AM	18015192999	0:03:09	7	OK	ECM 1449

801

TRANSACTION REPORT

P.01/01

MAY/18/2011/W 11:45 AM

FAX ( TX )

#	DATE	START T.	RECEIVER	COM.TIME	PAGE	TYPE/NOTE	FILE
001	MAY/18	11:41AM	2326109	0:01:06	7	OK	SG3 1451

802

FILED

11 JUN -1 PM 1:06

FRANKLIN COUNTY CLERK

*JH*

DEPUTY

LINCOLN W. HOBBS (ID BAR # 07325)  
MARGARET H. OLSON (ID BAR #04680)  
Of Counsel  
HOBBS & OLSON, L.C.  
Attorneys for Plaintiff/Appellant Allen F. Grazer  
466 East 500 South, Suite 300  
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/Appellant,  v.</p>	<p><b>NOTICE OF APPEAL</b></p>
<p>GORDON A. JONES, an individual; GORDON A. JONES, Personal Representative of THE ESTATE OF LINDA G. JONES, deceased; J&amp;J LIVESTOCK, LLC, a Utah Limited Liability Company; and John Does 1-10,  Defendants/Respondents.</p>	<p>Civil No. CV-2005-183  Judge David C. Nye</p>

TO: THE ABOVE NAMED RESPONDENTS, Gordon A. Jones, Gordon A. Jones, Personal Representative of the Estate of Linda G. Jones, Deceased; J&J Livestock, LLC, AND THE PARTIES' ATTORNEYS, Lane V. Erickson, RACINE, OLSON, NYE, BUDGE & BAILEY CHARTERED, P.O. Box 1391, Pocatello, ID 83204-1391, AND THE CLERK OF THE ABOVE-ENTITLED COURT.

NOTICE IS HEREBY GIVEN THAT:

1. The above-named Appellant, Allen F. Grazer ("Grazer"), appeals against the above-named Respondents to the Idaho Supreme Court from the Judgment, Decree and Order entered in the above-entitled action on the 26<sup>th</sup> day of April, 2011, Honorable Judge David C. Nye presiding.

2. That Grazer/Appellant has the right to appeal to the Idaho Supreme Court, and the

Judgment, Decree and Order described in paragraph 1 above is an appealable order under and pursuant to Rule 11(a)(1) I.A.R.

3. Grazer/Appellant submits the following preliminary statement of the issues on appeal which Grazer/Appellant intends to assert in the appeal; provided, any such list of issues on appeal shall not prevent Grazer/Appellant from asserting other issues on appeal:

- a. Did the trial court err in ruling that Grazer did not attempt to execute on his Judgment within five (5) years of the date of recording it with the Franklin County Recorder?
- b. Did the trial court err in ruling that Grazer's Judgment had lapsed despite the commencement and prosecution of the above captioned action?
- c. Did the trial court err in ruling that the time for executing on the Judgment was not tolled under I.C. §5-234?
- d. Did the trial court err in granting Jason Jones' Motion to Dismiss Grazer's complaint as against Jason Jones on the grounds that service was not effected within the time limits set forth in the Idaho Rules of Civil Procedure?
- e. Did the trial court err in granting Gordon Jones' Motion for Costs?

4. No order has been entered sealing all or any portion of the record.

5. No reporter's transcript has been requested.

6. The Appellant requests the following documents contained in the Court's file be included in the clerk's record in addition to those automatically included under Rule 28, I.A.R.:

## **2005 PLEADINGS**

Complaint (5/11/05), Lis Pendens (5/11/05), Application for Prejudgment Writ of Attachment and Memorandum in Support of Application for Prejudgment Writ of Attachment (6/13/05), Affidavit of Allen F. Grazer in Support of Prejudgment Writ of Attachment (6/15/05), Judgment Against Counterclaim Defendants Gordon A. Jones and Richard Barney (7/7/05), Stipulation for Prejudgment Writ of Attachment and Injunction and Prejudgment Writ of Attachment and Injunction (7/27/05), Notice of Filing Foreign Judgment (7/29/05), Answer (6/30/05), Prejudgment Writ of Attachment and Injunction (8/22/05), Stipulation for Prejudgment Writ of Attachment (08/05), Notice of Change of Address (11/18/05), Order to Amend Complaint (11/22/05)

## **2006 PLEADINGS**

Notice of Removal of Civil Action by Trustee (7/17/06)

## **2007 PLEADINGS**

Request or Scheduling and Management Conference (5/7/07), Request for Scheduling and Management Conference (12/26/07), Notice of Withdrawal of Counsel (12/28/07)

## **2008 PLEADINGS**

Notice of Appearance (2/1/08), Order for Trial, Pretrial Schedule, and Pretrial Conference (3/13/08), Motion to Withdraw as Attorney of Record (8/18/08), Order Approving Motion to Withdraw as Attorney of Record (8/18/08), Order of Reference (10/7/08), Administrative Order of Reference (10/9/08), Substitution of Counsel 10/14/08), Administrative Order of Reference (10/29/08)



## 2009 PLEADINGS

Defendant Gordon A. Jones' Motion to Dismiss (5/12/09), Affidavit of Lane V. Erickson in Support of Defendant Gordon A. Jones' Motion to Dismiss (5/12/09), Memorandum in Opposition to Gordon A. Jones' Motion to Dismiss (6/8/09), Defendant Gordon A. Jones' Reply Memorandum in Opposition and Motion for Sanctions (6/16/9), Supplemental Affidavit of Lane V. Erickson (6/16/09), Defendant Linda G. Jones' Joinder in Motion to Dismiss (7/1/09), Memorandum in Opposition to Linda G. Jones' Joinder in Motion to Dismiss (7/20/09), Plaintiff's Memorandum in Opposition to Defendant Gordon A. Jones' Motion for Sanctions (7/20/09), Court Minute Entry (7/31/09), Motion to File Second Amended Complaint (Hearing Requested) and Memorandum in Support of Motion to File Second Amended Complaint, and [proposed] Second Amended Complaint (11/2/09), Notice of Hearing [telephonic] (11/25/09), Stipulation for Filing Second Amended Complaint (12/4/09), Second Amended Complaint (12/4/09)

## 2010 PLEADINGS

Summons (20 Day) Jason Jones (1/28/10), Affidavit of Service (2/10/10), Notice of Special Appearance (2/25/10), Defendant Jason Jones' Motion to Dismiss (2/25/10), Brief in Support of Motion to Dismiss (2/25/10), Affidavit of Jason Jones (2/24/10), Affidavit of Barbara Jones (2/24/10), Summons (20 Day) Jason Jones (3/23/10), Memorandum in Response to Motion to Dismiss and Brief in Support of Motion to Dismiss (of Defendant Jason Jones) (4/15/10), Affidavit of Service (Jason Jones) (4/15/10), Notice Regarding April 30, 2010 Hearing (4/26/10), Defendant Jason Jones' Renewed Motion to Dismiss (5/3/10), Joint Statement Submitting Information for Scheduling Order (7/19/10), Motion for Leave to File Third Amended Complaint

(7/29/10), Memorandum in Support of Motion for Leave to File Third Amended Complaint (7/29/10), [proposed] Third Amended Complaint (7/29/10), Scheduling Order, Notice of Trial Setting, and Initial Pretrial Order (8/20/10), Objection to Motion for Leave to File Third Amended Complaint (9/1/10), Defendant Linda G. Jones' Joinder in Objection to Motion to Dismiss (9/1/10), Minute Entry and order (9/2/10), Motion to Substitute Gordon A. Jones, Personal Representative of the Estate of Linda G. Jones, deceased (9/17/10), Memorandum in Support of Motion to Substitute Gordon A. Jones, Personal Representative of the Estate of Linda G. Jones, deceased (9/17/10), Affidavit of Service on Gordon Jones [served 11/8/10] (12/8/10), Notice of Appearance (on behalf of Gordon A. Jones PR)(12/21/10)

### **2011 PLEADINGS**

Minute Entry and Order [Trial 3/29/11 to 4/1/11] (1/13/11), Answer to Plaintiff's Second Amended Complaint [Gordon Jones & Linda Jones Estate] (1/21/11), Motion for Summary Judgment and for Issuance of Writ of Execution (2/10/11), Memorandum of Points and Authorities in Support of Motion for Summary Judgment and for Issuance of Writ of Execution (2/10/11), Order Vacating Trial (2/16/11), Defendant's Response to Plaintiff's Motion for Summary Judgment and for Issuance of Writ of Execution (2/22/11), Defendants' Pre-Trial Brief aka Motion for Summary Judgment (dated 2/10/11), Affidavit of Lane V. Erickson in Support of Defendants' Pre-Trial Brief aka Motion for Summary Judgment (dated 2/10/11), Notice of Intent to File Response to Defendant's Pre-Trial Brief aka Motion for Summary Judgment (2/23/11), Motion for Protective Order (3/3/11), Memorandum in Support of Motion for Protective Order (3/3/11), Combined Response to Defendants' Pre-Trial Brief a/k/a Motion for Summary Judgment and Reply to Defendants' Response to Plaintiff's Motion for Summary Judgment and

for Issuance of Writ of Execution (3/4/11), Defendant's Reply to Plaintiff's Response (3/21/11), Decision on Motions for Summary Judgment (4/1/11), Judgment, Decree and Order (4/26/11), Rule 54 Memorandum of Costs and Fees (4/27/11), Affidavit of Lane V. Erickson in Support of Rule 54 Memorandum of Costs and Fees (4/27/11), Decision of Costs and Fees (5/18/11), Judgment of Costs 5/18/11 and correspondence, minute entries and orders.

7. I certify:

(a) No transcript has been requested from any reporter. Accordingly, no copy of this Notice of Appeal has been served on any reporter.

(b)(1)  that the clerk of the district court or administrative agency has been paid the estimated fee for preparation of the reporter's transcript.

(2)  That the appellant is exempt from paying the estimated transcript fee because no transcript has been ordered.

(c)(1)  that the estimated fee for preparation of the clerk's or agency's record has been paid.

(2)  That the Appellant is exempt from paying the estimated fee for preparation of the record because \_\_\_\_\_

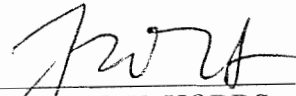
(d)(1)  That the appellate filing fee has been paid.

(2)  That Appellant is exempt from paying the appellate filing fee because \_\_\_\_\_.

(e)  That service has been made upon all parties required to be served pursuant to Rule 20, I.A.R.

DATED this 31 day of May, 2011.

HOBBS & OLSON, L.C.

  
\_\_\_\_\_  
LINCOLN W. HOBBS  
MARGARET H. OLSON  
Attorneys for Plaintiff/Appellant  
Allen F. Grazer

**CERTIFICATE OF DELIVERY**

I hereby certify that on the 31 day of May, 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  
Pocatello, ID 83204-1391  
Attorneys for Defendants Gordon A. Jones; Gordon A. Jones Personal Representative of the Estate of Linda G. Jones, deceased; and J&J Livestock, LLC

Email [lve@racinelaw.net](mailto:lve@racinelaw.net)  
[ltz@racinelaw.net](mailto:ltz@racinelaw.net)  
 Mail  
 Fax 801-621-4436  
 Fed Ex  
 Hand Delivery  
 Personally Served

Dave R. Gallafent  
Kent L. Hawkins  
Jared A. Steadman  
MERRILL & MERRILL  
CHARTERED  
109 N Arthur – 5<sup>th</sup> Flr  
P.O. Box 991  
Pocatello, ID 83204-0991  
Attorneys for Defendants Linda G. Jones and Jason Jones

Email  
[khawk@merrillandmerrill.com](mailto:khawk@merrillandmerrill.com)  
 Mail  
 Fax 208-232-2499  
 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](mailto:Hampton@plmw.com)  
 Mail  
 Fax (208) 852-2926  
 Fed Ex (208) 852-0877  
 Hand Delivery  
 Personally Served



FILED

11 JUN -3 PM 1:44

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE  
FRANKLIN COUNTY CLERK

STATE OF IDAHO, IN AND FOR THE COUNTY OF FRANKLIN

*JH*  
DEPUTY

\*\*\*\*\*

ALLEN F. GRAZER, an individual,

Plaintiff/Appellant,

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/Respondents.

Supreme Court No. \_\_\_\_\_

Clerk's Certificate of Appeal

Appeal from: **Sixth Judicial District, Franklin County**  
**Honorable DAVID C. NYE**

Case number from court: CV-2005-183

Order or judgment appealed from: Judgment, Decree and Order entered April 26, 2011

Counsel for Appellants: Lincoln Hobbs  
Margaret H. Olson  
HOBBS & OLSON, I.C.  
466 East 500 South, Suite 300  
Salt Lake City, UT 84111

Counsel for Respondents: Lane V. Erickson  
RACINE, OLSON, NYE, BUDGE & BAILEY, CHARTERED  
PO Box 1391  
Pocatello, ID 83204-1391

Appealed against: Gordon A. Jones, Gordon A. Jones, Personal Representative of the Estate of  
Linda G. Jones, Deceased; J&J Livestock, LLC,

Notice of Appeal filed: June 1, 2011

Appellate fee paid: Yes

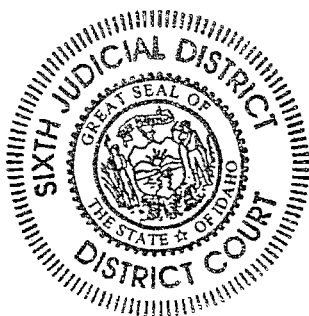
Request for additional (clerk's) record filed: No

Was reporter's transcript requested? No

Request for additional reporter's transcript filed: No

Name of Court Reporter: NA

Dated this 3<sup>rd</sup> day of June, 2011.



SHAUNA T. GEDDES, Clerk

By Linda Hampton  
Linda Hampton, Deputy Clerk

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

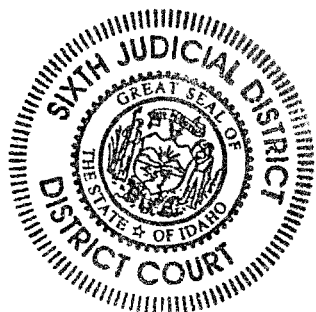
\* \* \* \* \*

	)	
	)	
ALLEN F. GRAZER, an individual,	)	
	)	
Plaintiff/Appellant,	)	Docket No. 38852
	)	
vs.	)	CERTIFICATE OF EXHIBITS
	)	
GORDON A. JONES, an individual;	)	
GORDON A. JONES, Personal	)	
Representation of THE ESTATE OF	)	
LINDA G. JONES, deceased; J&J	)	
LIVESTOCK, LLC, a Utah Limited	)	
Liability Company; and John Does 1-10,	)	
	)	
Defendants/Respondents.	)	
_____	)	

I, Shauna T. Geddes, Clerk of the District Court of the Sixth Judicial District of the State of Idaho, in and for the County of Franklin, do hereby certify that the following is a list of exhibits which were offered or admitted into evidence during the hearing in this cause:

NONE

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the said Court this 8<sup>th</sup> day of July, 2011.



SHAUNA T. GEDDES  
CLERK OF THE DISTRICT COURT

By Linda Hampton  
Linda Hampton, Deputy Clerk



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/Appellant,	)	Docket No. 38852
	)	
vs.	)	CLERK'S CERTIFICATE OF APPEAL
	)	
GORDON A. JONES, an individual;	)	
GORDON A. JONES, Personal	)	
Representation of THE ESTATE OF	)	
LINDA G. JONES, deceased; J&J	)	
LIVESTOCK, LLC, a Utah Limited	)	
Liability Company; and John Does 1-10,	)	
	)	
Defendants/Respondents.	)	
	)	

I, Shauna T. Geddes, Clerk of the District Court of the Sixth Judicial District, of the State of Idaho, in and for the County of Franklin, do hereby certify that the above and foregoing record in the above-entitled cause was compiled and bound under my direction as, and is a true, full and correct record of the pleadings and documents under Rule 28 of the Idaho Appellate Rules.

I do further certify that all exhibits, offered or admitted in the above-entitled cause, will be duly lodged with the Clerk of the Supreme Court the Clerk's Record as required by Rule 31 of the Idaho Appellate Rules.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Court at Preston, Idaho, this 8<sup>th</sup> day of July, 2011.



SHAUNA T. GEDDES  
CLERK OF THE DISTRICT COURT

By Linda Hampton  
Linda Hampton, Deputy Clerk

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/Appellant,

Docket No. 38852

vs.

CERTIFICATE OF SERVICE

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

I, Shauna T. Geddes, Clerk of the District Court of the Sixth Judicial District of the State of Idaho, in and for the County of Franklin, do hereby certify that I have personally served or mailed, by United States Mail, one copy of the CLERK'S RECORD to each of the Attorneys of Record in this cause as follows:

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

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

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the said Court this 20 day of July, 2011.



SHAUNA T. GEDDES  
CLERK OF THE DISTRICT COURT

By Linda Hampton  
Linda Hampton, Deputy Clerk