

3-7-2016

# Ada County Prosecuting Attorney v. Demint Clerk's Record Dckt. 44026

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IN THE SUPREME COURT OF THE STATE OF IDAHO

ADA COUNTY PROSECUTING ATTORNEY,

Plaintiff-Appellant,

vs.

NINE THOUSAND FOUR HUNDRED FIFTEEN AND  
64/100 DOLLARS (\$9,415.64) UNITED STATES  
CURRENCY,

Defendant-Respondent,

and

WILLIAM SCOTT DEMINT,

Claimant-Respondent,

and

1998 FORD F150, VIN 1FTRX18L9WKB27754; TWELVE  
THOUSAND SEVEN HUNDRED NINETY-FOUR  
DOLLARS AND 00/100 (\$12,794.00) UNITED STATES  
CURRENCY; APPROXIMATELY FOUR HUNDRED  
FORTY-ONE AND FORTY-SEVEN HUNDREDTHS  
(441.47) GRAMS METHAMPHETAMINE;  
APPROXIMATELY TWELVE AND SEVENTY-NINE-  
HUNDREDTHS (12.79) GRAMS MARIJUANA; TEN (10)  
16-MG PILLS HYDROMORPHONE; ONE (1) TAURUS  
MILLENNIUM 9-MM HANDGUN, MODEL PT111,  
SERIAL NO. TSC27053, WITH ONE (1) MAGAZINE OF  
TEN (10) ROUNDS 9-MM AMMUNITION; TWO (2)  
FOLDING KNIVES; ONE (1) VIPERTEK TASER; ONE (1)  
DIGITAL SCALE WITH RESIDUE AND BLACK CASE;  
FOUR (4) DIGITAL SCALES IN BOXES; ONE (1) GREEN  
METAL CONTAINER; ONE (1) ORANGE MESH BAG;  
ONE (1) RED MESH BAG; ONE (1) BLACK MESH BAG;  
ONE (1) BLUE CHASE BANK BAG; VARIOUS PLASTIC  
ZIPLOC BAGS; TWO (2) GLASS PIPES WITH BURNT  
RESIDUE; ONE (1) SMALL METAL SMOKING PIPE  
WITH BURNT RESIDUE; TEN (10) GLASS BONGS; AND  
THIRTY-ONE (31) GLASS PIPES,

Defendants.

Supreme Court Case No. 44026

CLERK'S RECORD ON APPEAL

Appeal from the District Court of the Fourth Judicial District, in and for the County of Ada.

HONORABLE D. DUFF MCKEE

CATHERINE A. FREEMAN

JOSEPH C. MILLER

ATTORNEY FOR APPELLANT

ATTORNEY FOR RESPONDENT

BOISE, IDAHO

BOISE, IDAHO

Date	Code	User	Judge
9/8/2014	NCOC	CCMARTJD	New Case Filed - Other Claims
	COMP	TCLAFFSD	Complaint Filed
	SMFI	TCLAFFSD	(2) Summons Filed
9/18/2014	CERS	TCMEREKV	Certificate Of Service Of Process 9.15.14
9/19/2014	CERS	CCVIDASL	Certificate Of Service of Process 9.17.14
9/24/2014	CERS	CCTHIEKJ	Certificate Of Service 9.23.14
11/14/2014	NOAP	CCMCLAPM	Notice Of Appearance(Miller for DeMint)
	ANSW	CCMCLAPM	Verified Answer and Claim to Seized Property
11/19/2014	HRSC	DCKORSJP	Hearing Scheduled (Scheduling Conference 12/10/2014 02:30 PM)
		DCKORSJP	Order for SchedulingConference and Order Re: Motion Practice
12/10/2014	CONT	DCKORSJP	Continued (Scheduling Conference 12/18/2014 02:30 PM)
12/18/2014	DCHH	DCKORSJP	Hearing result for Scheduling Conference scheduled on 12/18/2014 02:30 PM: District Court Hearing Held Court Reporter: Penny Tardiff Number of Transcript Pages for this hearing estimated: Less than 100
	HRSC	DCKORSJP	Hearing Scheduled (Scheduling Conference 04/09/2015 02:30 PM)
12/19/2014	ORDR	DCKORSJP	Order Governing Proceedings
1/7/2015	NOTC	CCVIDASL	Notice of Substitution of Counsel (Ellis for Ada County Posecuting Attorney)
	MOTN	CCVIDASL	Motion for Order Allowing Default and Default Judgment as to Joshua Allen Thomas
	AFFD	CCVIDASL	Affidavit for Default as to Joshua Allen Thomas
1/16/2015	ORDR	DCKORSJP	Order Allowing Default as to Joshua Allen Thomas
	DEFJ	DCKORSJP	DEFAULT JUDGMENT as to Joshua Allen Thomas
	CDIS	DCKORSJP	Civil Disposition entered for: Thomas, Joshua Allen, Other Party; Ada County Prosecuting Attorney, Plaintiff. Filing date: 1/16/2015
2/13/2015	ANSW	CCBARRSA	Answer to Claimant's Counter Claim (Amber Ellis for Ada County Prosecutors)
4/9/2015	DCHH	DCKORSJP	Hearing result for Scheduling Conference scheduled on 04/09/2015 02:30 PM: District Court Hearing Held Court Reporter: Penny Tardiff Number of Transcript Pages for this hearing estimated: Less than 100
4/28/2015	STIP	CCBARRSA	Stipulation for Scheduling and Planning

Date	Code	User	Judge
5/11/2015	HRSC	DCKORSJP	Hearing Scheduled (Status Conference 08/20/2015 02:30 PM)
	HRSC	DCKORSJP	Hearing Scheduled (Pretrial Conference 09/03/2015 02:30 PM)
	HRSC	DCKORSJP	Hearing Scheduled (Court Trial 10/05/2015 08:30 AM) 2 days
		DCKORSJP	Notice of Trial Setting and Order Governing Further Proceedings
6/5/2015	MISC	CCMYERHK	Court Ordered Status Report
	NOTS	CCMYERHK	Notice Of Service
6/9/2015	ORDR	CCBARRSA	Court Ordered Status Report
7/6/2015	MOTN	CCVIDASL	Motion for Summary Judgment
	AFFD	CCVIDASL	Affidavit of Amber Ellis
			Document sealed
	AFFD	CCVIDASL	Affidavit of James Roberson
			Document sealed
	AFFD	CCVIDASL	Affidavit of Deputy Kevin Lowry
	AFFD	CCVIDASL	Affidavit of Detective David Anderson
	AFFD	CCVIDASL	Affidavit of Sergeant Matthew Clifford
	MEMO	CCVIDASL	Memorandum in Support of Summary Judgment
7/8/2015	NOTH	CCMYERHK	Notice Of Hearing
	HRSC	CCMYERHK	Hearing Scheduled (Motion 08/06/2015 02:45 PM) Plaintiff's Motion For Summary
7/27/2015	MOTN	CCWRIGRM	Stipulated Motion to Continue
7/31/2015	HRVC	DCKORSJP	Hearing result for Motion scheduled on 08/06/2015 02:45 PM: Hearing Vacated Plaintiff's Motion For Summary
8/4/2015	NOTC	CCBARRSA	Notice of Substitution of Counsel (Kale D. Gans for State) [file stamped 8/03/2015]
8/5/2015	ORDR	DCKORSJP	Order to Continue
8/12/2015	NOTC	CCBARRSA	Notice of Substitution of Counsel (Catherine Freeman for Ada County Prosecuting Atty.)
8/20/2015	DCHH	DCKORSJP	Hearing result for Status Conference scheduled on 08/20/2015 02:30 PM: District Court Hearing Held Court Reporter: Penny Tardiff Number of Transcript Pages for this hearing estimated: Less than 100
	HRVC	DCKORSJP	Hearing result for Pretrial Conference scheduled on 09/03/2015 02:30 PM: Hearing Vacated
	HRVC	DCKORSJP	Hearing result for Court Trial scheduled on 10/05/2015 08:30 AM: Hearing Vacated 2 days

Date	Code	User	Judge
8/20/2015	HRSC	DCKORSJP	Hearing Scheduled (Motion for Summary Judgment 10/29/2015 01:30 PM)
	HRSC	DCKORSJP	Hearing Scheduled (Pretrial Conference 12/10/2015 02:30 PM)
	HRSC	DCKORSJP	Hearing Scheduled (Court Trial 01/19/2016 08:30 AM) 2 days
8/21/2015	ORDR	DCKORSJP	Order Denying Stay of Trial for Appeal but Granting Continuance
10/20/2015	NOTS	CCMYERHK	Notice Of Service
10/29/2015	DCHH	DCKORSJP	Hearing result for Motion for Summary Judgment scheduled on 10/29/2015 01:30 PM: District Court Hearing Held Court Reporter: Penny Tardiff Number of Transcript Pages for this hearing estimated: Less than 100
	HRSC	DCKORSJP	Hearing Scheduled (Motion for Summary Judgment 12/03/2015 03:30 PM)
11/12/2015	OBJT	CCLOWEAD	Objection to Motion For Summary Judgment
11/19/2015	AFFD	CCATKIFT	Affidavit of Catherine A. Freeman in Support of Motion for Summary Judgment
	REPL	CCATKIFT	Document sealed Reply Memorandum in Support of Plaintiff's Motion for Summary Judgment
12/3/2015	DCHH	DCKORSJP	Hearing result for Motion for Summary Judgment scheduled on 12/03/2015 03:30 PM: District Court Hearing Held Court Reporter: Penny Tardiff Number of Transcript Pages for this hearing estimated: Less than 100
12/4/2015	ORDR	DCKORSJP	Order to Transport (William Demint)
12/8/2015	MEMO	DCOLSOMA	Memorandum Decision and Order Granting in Part Summary Judgment
	JDMT	DCOLSOMA	Judgment
12/10/2015	DCHH	DCKORSJP	Hearing result for Pretrial Conference scheduled on 12/10/2015 02:30 PM: District Court Hearing Held Court Reporter: Penny Tardiff Number of Transcript Pages for this hearing estimated: Less than 100
	MISC	DCKORSJP	Plaintiff's Witnesses and Exhibits List
	FFCL	DCKORSJP	Pretrial Proposed Findings Of Fact And Conclusions Of Law
12/11/2015	OBJT	CCBARRSA	Objection to Motion for Summary Judgment
12/14/2015	MISC	DCKORSJP	Final PreTrial Order
12/22/2015	CERT	CCWRIGRM	Certificate Of Mailing

Date	Code	User		Judge
12/22/2015	ORDR	CCWRIGRM	Order Denying Certification of and Copying a Sealed Document	Lynn G Norton
1/4/2016	OBJT	CCBARRSA	Plaintiff's Objection to Claimant William Scott Demint's Witness/ Exhibit List and Proposed Findings and Conclusions	Lynn G Norton
1/8/2016	ORDR	DCKORSJP	Amended Final PreTrial Order	Lynn G Norton
1/15/2016	STIP	TCLAFFSD	Stipulation To Exhibit List	Lynn G Norton
1/19/2016	DCHH	CCVILLTL	Hearing result for Court Trial scheduled on 01/19/2016 09:00 AM: District Court Hearing Held Court Reporter: Vanessa Gosney Number of Transcript Pages for this hearing estimated: more than 500	D. Duff McKee
	CTST	CCVILLTL	Court Trial Started	D. Duff McKee
1/27/2016	JDMT	CCNELSRF	Judgment	Lynn G Norton
	CDIS	CCNELSRF	Civil Disposition entered for: Demint, William Scott, Other Party; ADA COUNTY PROSECUTOR'S OFFICE, Plaintiff; 1998 Ford F150,, Defendant. Filing date: 1/27/2016	Lynn G Norton
	STAT	DCKORSJP	STATUS CHANGED: closed	Lynn G Norton
2/24/2016	AFSE	CCBUTTAR	Affidavit In Support Of Writ Of Execution	Lynn G Norton
	EXAC	CCBUTTAR	Execution Issued - Ada Co.	Lynn G Norton
3/7/2016	NOTA	CCATKIFT	NOTICE OF APPEAL	Lynn G Norton
	APSC	CCATKIFT	Appealed To The Supreme Court	Lynn G Norton
3/24/2016	NOTA	CCHEATJL	Amended NOTICE OF APPEAL	Lynn G Norton
3/31/2016	SRWW	TCLAFFSD	Sheriffs Return On Writ & Writ - Ada	Lynn G Norton
4/21/2016	NOTC	TCSIMOSL	Notice of Transcript Lodged - Supreme Court No. 44026	Lynn G Norton

NO. \_\_\_\_\_  
A.M. \_\_\_\_\_ P.M. 4

SEP 08 2014

CHRISTOPHER D. RICH, Clerk  
By JAMIE MARTIN  
DEPUTY

**GREG H. BOWER**  
ADA COUNTY PROSECUTING ATTORNEY

**JAMES K. DICKINSON**  
Senior Deputy Prosecuting Attorney  
Civil Division  
200 W. Front Street, Room 3191  
Boise, ID 83702  
(208) 287-7700  
Idaho State Bar No. 2798

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

ADA COUNTY PROSECUTING )  
ATTORNEY, )

Plaintiff, )

vs. )

1998 FORD F150, VIN )  
1FTRX18L9WKB27754; TWELVE )  
THOUSAND SEVEN HUNDRED )  
NINETY-FOUR AND 00/100 DOLLARS )  
(\$12,794.00) UNITED STATES )  
CURRENCY; NINE THOUSAND FOUR )  
HUNDRED FIFTEEN AND 64/100 )  
DOLLARS (\$9,415.64) UNITED STATES )  
CURRENCY; APPROXIMATELY FOUR )  
HUNDRED FORTY-ONE AND FORTY- )  
SEVEN-HUNDREDTHS (441.47) GRAMS )  
METHAMPHETAMINE; )  
APPROXIMATELY TWELVE AND )  
SEVENTY-NINE-HUNDREDTHS (12.79) )  
GRAMS MARIJUANA; TEN (10) 16-MG )  
PILLS HYDROMORPHONE; ONE (1) )  
TAURUS MILLENNIUM 9-MM )  
HANDGUN, MODEL PT111, SERIAL NO. )  
TSC27053, WITH ONE (1) MAGAZINE )  
OF TEN (10) ROUNDS 9-MM )

Case No. **CV OC 1417003**

**COMPLAINT *IN REM* FOR  
FORFEITURE UNDER IDAHO CODE  
§ 37-2744**

42



AMMUNITION; TWO (2) FOLDING )  
 KNIVES; ONE (1) VIPERTEK TASER; )  
 ONE (1) DIGITAL SCALE WITH )  
 RESIDUE AND BLACK CASE; FOUR (4) )  
 DIGITAL SCALES IN BOXES; ONE (1) )  
 GREEN METAL CONTAINER; ONE (1) )  
 ORANGE MESH BAG; ONE (1) RED )  
 MESH BAG; ONE (1) BLACK MESH )  
 BAG; ONE (1) BLUE CHASE BANK )  
 BAG; VARIOUS PLASTIC ZIPLOC )  
 BAGS; TWO (2) GLASS PIPES WITH )  
 BURNT RESIDUE; ONE (1) SMALL )  
 METAL SMOKING PIPE WITH BURNT )  
 RESIDUE; TEN (10) GLASS BONGS; )  
 AND THIRTY-ONE (31) GLASS PIPES, )  
 )  
 Defendants. )  
 \_\_\_\_\_ )

Plaintiff, Ada County Prosecuting Attorney, by and through his attorney of record, James  
 K. Dickinson, for a cause of action against the Defendants, complains and alleges that:

**GENERAL ALLEGATIONS**

**I.**

Plaintiff is the Ada County Prosecuting Attorney.

**II.**

Defendants (hereinafter "Defendant Property") are:

- A. 1998 Ford F150, VIN 1FTRX18L9WKB27754;
- B. Twelve Thousand Seven Hundred Ninety-Four and 00/100 Dollars (\$12,794.00) United States Currency;
- C. Nine Thousand Four Hundred Fifteen and 64/100 Dollars (\$9,415.64) United States Currency;
- D. Approximately Four Hundred Forty-One and Forty-Seven-Hundredths (441.47) Grams Methamphetamine;
- E. Approximately Twelve and Seventy-Nine-Hundredths (12.79) Grams Marijuana;

- F. Ten (10) 16-mg Pills Hydromorphone;
- G. One (1) Taurus Millennium 9-mm Handgun, Model PT111, Serial No. TSC27053, with One (1) Magazine of Ten (10) Rounds 9-mm Ammunition;
- H. Two (2) Folding Knives;
- I. One (1) Vipertek Taser;
- J. One (1) Digital Scale with Residue and Black Case;
- K. Four (4) Digital Scales in Boxes;
- L. One (1) Green Metal Container;
- M. One (1) Orange Mesh Bag;
- N. One (1) Red Mesh Bag;
- O. One (1) Black Mesh Bag;
- P. One (1) Blue Chase Bank Bag;
- Q. Various Plastic Ziploc Bags;
- R. Two (2) Glass Pipes with Burnt Residue;
- S. One (1) Small Metal Smoking Pipe with Burnt Residue;
- T. Ten (10) Glass Bonges; and
- U. Thirty-One (31) Glass Pipes.

### III.

This Court has jurisdiction in this matter pursuant to Idaho Code § 37-2744.

### IV.

This Court has venue pursuant to Idaho Code §§ 37-2744(d)(2) and/or 37-2744(d)(3) in that the Defendant Property was seized in Ada County and is now, and during the pendency of this action will remain, in Ada County.

**V.**

On or about August 20, 2014, in Ada County, State of Idaho, authorized agents of the Ada County Sheriff's Office lawfully seized the Defendant Property under the authority of Idaho Code § 37-2744.

**VI.**

Defendant Property was in the possession of William Scott Demint and/or Joshua Allen Thomas at the time of seizure.

**VII.**

This is a civil *in rem* forfeiture action against the Defendant Property under Idaho Code § 37-2744. Failure to file a verified answer to this Complaint within twenty (20) days will subject Defendant Property to forfeiture to the Ada County Prosecuting Attorney for credit to the local drug enforcement donation account.

**COUNT I**

**VIII.**

The allegations of paragraphs I through VII are realleged.

**IX.**

Defendant Property 1998 Ford F150, VIN 1FTRX18L9WKB27754 is subject to forfeiture as a conveyance which was used, or was intended for use, to transport or to facilitate the transportation, delivery, receipt, possession, or concealment, for the purposes of distribution or receipt of a controlled substance(s), namely Methamphetamine, Marijuana, and Hydromorphone, by William Scott Demint and/or Joshua Allen Thomas in violation of Idaho Code § 37-2744 and the Idaho Uniform Controlled Substances Act, Idaho Code § 37-2701, *et seq.*

**COUNT II**

**X.**

The allegations of paragraphs I through VII are realleged.

**XI.**

In the alternative, Defendant Property 1998 Ford F150, VIN 1FTRX18L9WKB27754 is subject to forfeiture as equipment which has been used and/or was intended for use in manufacturing, compounding, processing, delivering, importing, or exporting of a controlled substance(s), namely Methamphetamine, Marijuana, and Hydromorphone, by William Scott Demint and/or Joshua Allen Thomas in violation of Idaho Code § 37-2744 and the Idaho Uniform Controlled Substances Act, Idaho Code § 37-2701, *et seq.*

**COUNT III**

**XII.**

The allegations of paragraphs I through VII are realleged.

**XIII.**

In the alternative, Defendant Property 1998 Ford F150, VIN 1FTRX18L9WKB27754 is subject to forfeiture for being used and/or intended for use as a container for a controlled substance, namely Methamphetamine, Marijuana, and Hydromorphone, by William Scott Demint and/or Joshua Allen Thomas in violation of Idaho Code § 37-2744 and the Idaho Uniform Controlled Substances Act, Idaho Code § 37-2701, *et seq.*

**COUNT IV**

**XIV.**

The allegations of paragraphs I through VII are realleged.

**XV.**

Defendant Property Twelve Thousand Seven Hundred Ninety-Four and 00/100 Dollars (\$12,794.00) United States Currency is subject to forfeiture as money or currency subject to forfeiture pursuant to Idaho Code § 37-2744(a)(6), as it was found in close proximity to property described in Idaho Code § 37-2744(a)(1), (2), (3), (5), (7) and/or (8), and/or was used or intended for use in connection with the illegal manufacturing, distribution, dispensing, or possession of property described in Idaho Code § 37-2744(a)(1), (2), (3), (5), (7) and/or (8).

**COUNT V**

**XVI.**

The allegations of paragraphs I through VII are realleged.

**XVII.**

In the alternative, Defendant Property Twelve Thousand Seven Hundred Ninety-Four and 00/100 Dollars (\$12,794.00) United States Currency is subject to forfeiture as money or currency subject to forfeiture pursuant to Idaho Code § 37-2744(a)(6), as it was furnished or intended to be furnished in exchange for a contraband controlled by Idaho Code §§ 37-2701, *et seq.*, and/or is a proceed used or intended to be used to violate the Idaho Uniform Controlled Substances Act, Idaho Code §§ 37-2701, *et seq.*

**COUNT VI**

**XVIII.**

The allegations of paragraphs I through VII are realleged.

**XIX.**

Defendant Property Nine Thousand Four Hundred Fifteen and 64/100 Dollars (\$9,415.64) United States Currency is subject to forfeiture as money or currency subject to forfeiture pursuant to

Idaho Code § 37-2744(a)(6), as it was used or intended for use in connection with the illegal manufacturing, distribution, dispensing, or possession of property described in Idaho Code § 37-2744(a)(1), (2), (3), (5), (7) and/or (8).

**COUNT VII**

**XX.**

The allegations of paragraphs I through VII are realleged.

**XXI.**

In the alternative, Defendant Property Nine Thousand Four Hundred Fifteen and 64/100 Dollars (\$9,415.64) United States Currency is subject to forfeiture as money or currency subject to forfeiture pursuant to Idaho Code § 37-2744(a)(6), as it was furnished or intended to be furnished in exchange for a contraband controlled by Idaho Code §§ 37-2701, *et seq.*, and/or is a proceed used or intended to be used to violate the Idaho Uniform Controlled Substances Act, Idaho Code §§ 37-2701, *et seq.*

**COUNT VIII**

**XXII.**

The allegations of paragraphs I through VII are realleged.

**XXIII.**

Defendant Property Approximately Four Hundred Forty-One and Forty-Seven-Hundredths (441.47) Grams Methamphetamine is a controlled substance listed in Schedule II, Idaho Code § 37-2707, which has been manufactured, distributed, dispensed, acquired, possessed, or held in violation of the Idaho Uniform Controlled Substances Act and Idaho Code §§ 37-2701, *et seq.*, and is subject to summary forfeiture pursuant to Idaho Code § 37-2744(d)(1), with no evidence appearing that William Scott Demint and/or Joshua Allen Thomas possessed the Defendant

Property Approximately Four Hundred Forty-One and Forty-Seven-Hundredths (441.47) Grams Methamphetamine by any lawful means as set out in the Idaho Uniform Controlled Substances Act, Idaho Code §§ 37 -2701, *et seq.*

**COUNT IX**

**XXIV.**

The allegations of paragraphs I through VII are realleged.

**XXV.**

Defendant Property Approximately Twelve and Seventy-Nine-Hundredths (12.79) Grams Marijuana is a controlled substance listed in Schedule I, Idaho Code § 37-2705, which has been manufactured, distributed, dispensed, acquired, possessed, or held in violation of the Idaho Uniform Controlled Substances Act and Idaho Code §§ 37-2701, *et seq.*, and is subject to summary forfeiture pursuant to Idaho Code § 37-2744(d)(1), with no evidence appearing that William Scott Demint and/or Joshua Allen Thomas possessed the Defendant Property Approximately Twelve and Seventy-Nine-Hundredths (12.79) Grams Marijuana by any lawful means as set out in the Idaho Uniform Controlled Substances Act, Idaho Code §§ 37-2701, *et seq.*

**COUNT X**

**XXVI.**

The allegations in paragraphs I through VII are realleged.

**XXVII.**

Defendant Property Ten (10) 16-mg Pills Hydromorphone is a controlled substance listed in Schedule II, Idaho Code § 37-2707(b)(1), which has been manufactured, distributed, dispensed, acquired, possessed, or held in violation of the Idaho Uniform Controlled Substances Act and Idaho Code §§ 37-2701, *et seq.*, and is subject to summary forfeiture pursuant to Idaho

Code § 37-2744(d)(1), with no evidence appearing that William Scott Demint and/or Joshua Allen Thomas possessed the Defendant Property Ten (10) 16-mg Pills Hydromorphone by any lawful means as set out in the Idaho Uniform Controlled Substances Act, Idaho Code §§ 37 -2701, *et seq.*

**COUNT XI**

**XXVIII.**

The allegations of paragraphs I through VII are realleged.

**XXIX.**

Defendant Property One (1) Taurus Millennium 9-mm Handgun, Model PT111, Serial No. TSC27053, with One (1) Magazine of Ten (10) Rounds 9-mm Ammunition; Two (2) Folding Knives; and One (1) Vipertek Taser are subject to forfeiture as weapons or firearms, which have been used to facilitate a violation of the Idaho Uniform Controlled Substances Act, Idaho Code § 37-2701, *et seq.*

**COUNT XII**

**XXX.**

The allegations of paragraphs I through VII are realleged.

**XXXI.**

Defendant Property One (1) Digital Scale with Residue and Black Case; and Four (4) Digital Scales in Boxes are subject to forfeiture as equipment which has been used, and/or was intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting of a controlled substance(s), namely Methamphetamine, Marijuana, and Hydromorphone by William Scott Demint and/or Joshua Allen Thomas in violation of Idaho Code § 37-2744 and the Idaho Uniform Controlled Substance Act, Idaho Code § 37-2701, *et seq.*



**COUNT XIII**

**XXXII.**

The allegations of paragraphs I through VII are realleged.

**XXXIII.**

In the alternative, Defendant Property One (1) Digital Scale with Residue and Black Case; and Four (4) Digital Scales in Boxes are subject to forfeiture as property found in close proximity to property described in Idaho Code §§ 37-2744(a)(1) and/or (2), namely Methamphetamine, Marijuana, and Hydromorphone, or the Defendant Property One (1) Digital Scale with Residue and Black Case; and Four (4) Digital Scales in Boxes have been used, or intended for use, in connection with the illegal manufacture, distribution, dispensing, or possession of property described in Idaho Code §§ 37-2744(a)(1) and/or (2).

**COUNT XIV**

**XXXIV.**

The allegations of paragraphs I through VII are realleged.

**XXXV.**

Defendant Property One (1) Green Metal Container; One (1) Orange Mesh Bag; One (1) Red Mesh Bag; One (1) Black Mesh Bag; One (1) Blue Chase Bank Bag; and Various Plastic Ziploc Bags are subject to forfeiture under Idaho Code § 37-2744(a)(3) as property used, or intended for use, as containers for property in Idaho Code § 37-2744(a)(1), namely Methamphetamine, Marijuana, and Hydromorphone.

**COUNT XV**

**XXXVI.**

The allegations of paragraphs I through VII are realleged.

XXXVII.

Defendant Property Two (2) Glass Pipes with Burnt Residue; One (1) Small Metal Smoking Pipe with Burnt Residue; Ten (10) Glass Bongs; and Thirty-One (31) Glass Pipes are subject to forfeiture as drug paraphernalia as defined by Idaho Code § 37-2701, and are deemed contraband and are subject to summary forfeiture pursuant to Idaho Code §§ 37-2744(a)(7) and 37-2744(d)(1), with no evidence appearing that William Scott Demint and/or Joshua Allen Thomas possessed said Defendant Property Two (2) Glass Pipes with Burnt Residue; One (1) Small Metal Smoking Pipe with Burnt Residue; Ten (10) Glass Bongs; and Thirty-One (31) Glass Pipes by any lawful means as set forth in the Idaho Uniform Controlled Substances Act, Idaho Code §§ 37-2701, *et seq.*

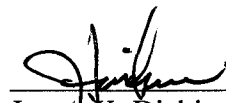
**WHEREFORE**, Plaintiff prays for relief as follows:

1. That Defendant Property be forfeited pursuant to Idaho Code § 37-2744;
2. That Plaintiff be awarded its costs and attorney fees pursuant to Idaho Code §§ 12-120, 12-121, and other applicable Idaho laws; and
3. For such other relief as the Court deems just and proper under the circumstances.

**DATED** this 7 day of September, 2014.

**GREG H. BOWER**  
Ada County Prosecuting Attorney

By:



James K. Dickinson  
Senior Deputy Prosecuting Attorney

LYNN G. NORTON

GREG H. BOWER  
ADA COUNTY PROSECUTING ATTORNEY

SEP 08 2014

CHRISTOPHER D. RICH, Clerk  
By JAMIE MARTIN  
DEPUTY

JAMES K. DICKINSON  
Senior Deputy Prosecuting Attorney  
Civil Division  
200 W. Front Street, Room 3191  
Boise, ID 83702  
(208) 287-7700  
Idaho State Bar No. 2798

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

ADA COUNTY PROSECUTING )  
ATTORNEY, )

Plaintiff, )

vs. )

1998 FORD F150, VIN )  
1FTRX18L9WKB27754; TWELVE )  
THOUSAND SEVEN HUNDRED NINETY- )  
FOUR AND 00/100 DOLLARS (\$12,794.00) )  
UNITED STATES CURRENCY; NINE )  
THOUSAND FOUR HUNDRED FIFTEEN )  
AND 64/100 DOLLARS (\$9,415.64) )  
UNITED STATES CURRENCY; )  
APPROXIMATELY FOUR HUNDRED )  
FORTY-ONE AND FORTY-SEVEN- )  
HUNDREDTHS (441.47) GRAMS )  
METHAMPHETAMINE; )  
APPROXIMATELY TWELVE AND )  
SEVENTY-NINE-HUNDREDTHS (12.79) )  
GRAMS MARIJUANA; TEN (10) 16-MG )  
PILLS HYDROMORPHONE; ONE (1) )  
TAURUS MILLENNIUM 9-MM )  
HANDGUN, MODEL PT111, SERIAL NO. )  
TSC27053, WITH ONE (1) MAGAZINE OF )  
TEN (10) ROUNDS 9-MM AMMUNITION; )  
TWO (2) FOLDING KNIVES; ONE (1) )  
VIPERTEK TASER; ONE (1) DIGITAL )  
SCALE WITH RESIDUE AND BLACK )

Case No **CV 00 1417003**

**SUMMONS**

*Sp*

CASE; FOUR (4) DIGITAL SCALES IN )  
 BOXES; ONE (1) GREEN METAL )  
 CONTAINER; ONE (1) ORANGE MESH )  
 BAG; ONE (1) RED MESH BAG; ONE (1) )  
 BLACK MESH BAG; ONE (1) BLUE )  
 CHASE BANK BAG; VARIOUS PLASTIC )  
 ZIPLOC BAGS; TWO (2) GLASS PIPES )  
 WITH BURNT RESIDUE; ONE (1) SMALL )  
 METAL SMOKING PIPE WITH BURNT )  
 RESIDUE; TEN (10) GLASS BONGS; AND )  
 THIRTY-ONE (31) GLASS PIPES, )  
 )  
 Defendants. )  
 \_\_\_\_\_ )

**NOTICE: AN IN REM ACTION HAS BEEN FILED AGAINST THE ABOVE-DESCRIBED PROPERTY BY THE ABOVE-NAMED PLAINTIFF. THE COURT MAY ENTER JUDGMENT TERMINATING ANY RIGHT YOU MAY HAVE IN THE DEFENDANT PROPERTY WITHOUT FURTHER NOTICE UNLESS YOU RESPOND WITHIN TWENTY (20) DAYS. READ THE INFORMATION BELOW.**

TO: Joshua Allen Thomas

You are hereby notified that in order to defend this lawsuit, an appropriate written response must be filed with the above-designated court within 20 days after service of this Summons on you.

If you fail to so respond, the court may enter judgment against you as demanded by the Plaintiff in the Complaint.

A copy of the Complaint is served with this Summons. If you wish to seek the advice or representation by an attorney in this matter, you should do so promptly so that your written response, if any, may be filed in time and other legal rights protected.

An appropriate written response requires compliance with Rule 10(a)(1) and other Idaho Rules of Civil Procedure and shall also include:

1. The title and number of this case.

2. If your response is an Answer to the Complaint, it must contain admissions or denials of the separate allegations of the Complaint and other defenses you may claim.

3. Your signature, mailing address, and telephone number, or the signature, mailing address, and telephone number of your attorney.

4. Proof of mailing or delivery of a copy of your response to Plaintiff's attorney, as designated above.

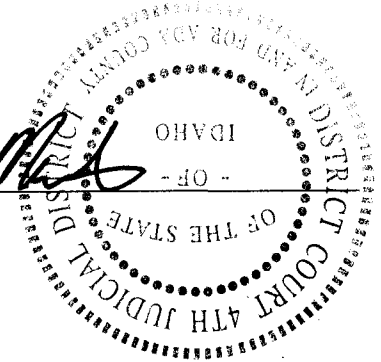
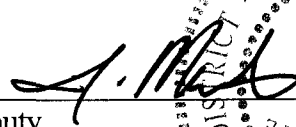
To determine whether you must pay a filing fee with your response, contact the Clerk of the above-named court.

DATED this 8 day of September, 2014.

**CHRISTOPHER D. RICH**  
Clerk of the District Court  
200 W. Front Street  
Boise, ID 83702  
(208) 287-6900

By: \_\_\_\_\_

Deputy



LYNN G. NORTON

GREG H. BOWER  
ADA COUNTY PROSECUTING ATTORNEY

SEP 08 2014

CHRISTOPHER D. RICH, Clerk  
By JAMIE MARTIN  
DEPUTY

JAMES K. DICKINSON  
Senior Deputy Prosecuting Attorney  
Civil Division  
200 W. Front Street, Room 3191  
Boise, ID 83702  
(208) 287-7700  
Idaho State Bar No. 2798

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

ADA COUNTY PROSECUTING )  
ATTORNEY, )

Case No. **CV OC 1417003**

Plaintiff, )

SUMMONS

vs. )

1998 FORD F150, VIN )  
1FTRX18L9WKB27754; TWELVE )  
THOUSAND SEVEN HUNDRED NINETY- )  
FOUR AND 00/100 DOLLARS (\$12,794.00) )  
UNITED STATES CURRENCY; NINE )  
THOUSAND FOUR HUNDRED FIFTEEN )  
AND 64/100 DOLLARS (\$9,415.64) )  
UNITED STATES CURRENCY; )  
APPROXIMATELY FOUR HUNDRED )  
FORTY-ONE AND FORTY-SEVEN- )  
HUNDREDTHS (441.47) GRAMS )  
METHAMPHETAMINE; )  
APPROXIMATELY TWELVE AND )  
SEVENTY-NINE-HUNDREDTHS (12.79) )  
GRAMS MARIJUANA; TEN (10) 16-MG )  
PILLS HYDROMORPHONE; ONE (1) )  
TAURUS MILLENNIUM 9-MM )  
HANDGUN, MODEL PT111, SERIAL NO. )  
TSC27053, WITH ONE (1) MAGAZINE OF )  
TEN (10) ROUNDS 9-MM AMMUNITION; )  
TWO (2) FOLDING KNIVES; ONE (1) )  
VIPERTEK TASER; ONE (1) DIGITAL )  
SCALE WITH RESIDUE AND BLACK )

*Handwritten mark*

CASE; FOUR (4) DIGITAL SCALES IN )  
 BOXES; ONE (1) GREEN METAL )  
 CONTAINER; ONE (1) ORANGE MESH )  
 BAG; ONE (1) RED MESH BAG; ONE (1) )  
 BLACK MESH BAG; ONE (1) BLUE )  
 CHASE BANK BAG; VARIOUS PLASTIC )  
 ZIPLOC BAGS; TWO (2) GLASS PIPES )  
 WITH BURNT RESIDUE; ONE (1) SMALL )  
 METAL SMOKING PIPE WITH BURNT )  
 RESIDUE; TEN (10) GLASS BONGS; AND )  
 THIRTY-ONE (31) GLASS PIPES, )  
 )  
 Defendants. )  
 \_\_\_\_\_ )

**NOTICE: AN IN REM ACTION HAS BEEN FILED AGAINST THE ABOVE-DESCRIBED PROPERTY BY THE ABOVE-NAMED PLAINTIFF. THE COURT MAY ENTER JUDGMENT TERMINATING ANY RIGHT YOU MAY HAVE IN THE DEFENDANT PROPERTY WITHOUT FURTHER NOTICE UNLESS YOU RESPOND WITHIN TWENTY (20) DAYS. READ THE INFORMATION BELOW.**

TO: William Scott Demint

You are hereby notified that in order to defend this lawsuit, an appropriate written response must be filed with the above-designated court within 20 days after service of this Summons on you.

If you fail to so respond, the court may enter judgment against you as demanded by the Plaintiff in the Complaint.

A copy of the Complaint is served with this Summons. If you wish to seek the advice or representation by an attorney in this matter, you should do so promptly so that your written response, if any, may be filed in time and other legal rights protected.

An appropriate written response requires compliance with Rule 10(a)(1) and other Idaho Rules of Civil Procedure and shall also include:

1. The title and number of this case.

2. If your response is an Answer to the Complaint, it must contain admissions or denials of the separate allegations of the Complaint and other defenses you may claim.

3. Your signature, mailing address, and telephone number, or the signature, mailing address, and telephone number of your attorney.

4. Proof of mailing or delivery of a copy of your response to Plaintiff's attorney, as designated above.

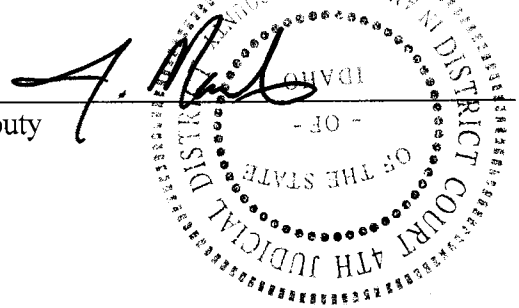
To determine whether you must pay a filing fee with your response, contact the Clerk of the above-named court.

DATED this 8 day of September, 2014.

**CHRISTOPHER D. RICH**  
Clerk of the District Court  
200 W. Front Street  
Boise, ID 83702  
(208) 287-6900

By: \_\_\_\_\_

Deputy





**GREG H. BOWER**  
ADA COUNTY PROSECUTING ATTORNEY

**JAMES K. DICKINSON**  
Senior Deputy Prosecuting Attorney  
Civil Division  
200 W. Front Street, Room 3191  
Boise, ID 83702  
(208) 287-7700  
Idaho State Bar No. 2798

NO. \_\_\_\_\_ FILED \_\_\_\_\_  
A.M. 11 P.M.

SEP 18 2014

CHRISTOPHER D. RICH, Clerk  
By KYLE MEREDITH  
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

ADA COUNTY PROSECUTING )  
ATTORNEY, )  
 )  
Plaintiff, )  
vs. )  
 )  
1998 FORD F150, VIN )  
1FTRX18L9WKB27754; TWELVE )  
THOUSAND SEVEN HUNDRED NINETY- )  
FOUR AND 00/100 DOLLARS (\$12,794.00) )  
UNITED STATES CURRENCY; NINE )  
THOUSAND FOUR HUNDRED FIFTEEN )  
AND 64/100 DOLLARS (\$9,415.64) )  
UNITED STATES CURRENCY; )  
APPROXIMATELY FOUR HUNDRED )  
FORTY-ONE AND FORTY-SEVEN- )  
HUNDREDTHS (441.47) GRAMS )  
METHAMPHETAMINE; )  
APPROXIMATELY TWELVE AND )  
SEVENTY-NINE-HUNDREDTHS (12.79) )  
GRAMS MARIJUANA; TEN (10) 16-MG )  
PILLS HYDROMORPHONE; ONE (1) )  
TAURUS MILLENNIUM 9-MM )  
HANDGUN, MODEL PT111, SERIAL NO. )  
TSC27053, WITH ONE (1) MAGAZINE OF )  
TEN (10) ROUNDS 9-MM AMMUNITION; )  
TWO (2) FOLDING KNIVES; ONE (1) )  
VIPERTEK TASER; ONE (1) DIGITAL )  
SCALE WITH RESIDUE AND BLACK )  
CASE; FOUR (4) DIGITAL SCALES IN )

Case No. CV OC 14 17003

**CERTIFICATE OF SERVICE OF  
PROCESS**

BOXES; ONE (1) GREEN METAL )  
CONTAINER; ONE (1) ORANGE MESH )  
BAG; ONE (1) RED MESH BAG; ONE (1) )  
BLACK MESH BAG; ONE (1) BLUE )  
CHASE BANK BAG; VARIOUS PLASTIC )  
ZIPLOC BAGS; TWO (2) GLASS PIPES )  
WITH BURNT RESIDUE; ONE (1) SMALL )  
METAL SMOKING PIPE WITH BURNT )  
RESIDUE; TEN (10) GLASS BONGS; AND )  
THIRTY-ONE (31) GLASS PIPES, )  
) )  
Defendants. )  
\_\_\_\_\_ )

STATE OF IDAHO )  
) ss.  
County of Ada )

In accordance with I.R.C.P. 4 and 5, I hereby certify that I am an officer authorized by law to serve process, and/or that I am a person over the age of 18 years and not a party to this action, and that I served a copy of the SUMMONS AND COMPLAINT in this action on **Joshua Allen Thomas**, being the person named in said document(s) on the 15 day of Sept., 2014, at (time) 10:00 a.m. ~~pm~~ at (address, including city and state) 7200 Barnstar Boine Falls by one or more of the following:

- Delivering copies of the above-named documents to him personally; or by
- Leaving copies thereof at his dwelling house or usual place of abode with some person over the age of 18 years then residing therein, namely \_\_\_\_\_; or by
- Delivering copies of the above-named documents to an agent authorized by appointment or by law to receive service of process, for that individual.

SWORN to this 15 day of Sept, 2014.

Printed Name: D. Ogilvie #801  
Title: Marshal

**GREG H. BOWER**  
ADA COUNTY PROSECUTING ATTORNEY

NO. \_\_\_\_\_ FILED \_\_\_\_\_  
A.M. \_\_\_\_\_ P.M. **452**

**JAMES K. DICKINSON**  
Senior Deputy Prosecuting Attorney  
Civil Division  
200 W. Front Street, Room 3191  
Boise, ID 83702  
(208) 287-7700  
Idaho State Bar No. 2798

**SEP 19 2014**

**CHRISTOPHER D. RICH, Clerk**  
By **JAMIE MARTIN**  
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

ADA COUNTY PROSECUTING )  
ATTORNEY, )  
)  
Plaintiff, )

**Case No. CV OC 14 17003**

**CERTIFICATE OF SERVICE OF  
PROCESS**

vs. )

1998 FORD F150, VIN )  
1FTRX18L9WKB27754; TWELVE )  
THOUSAND SEVEN HUNDRED NINETY- )  
FOUR AND 00/100 DOLLARS (\$12,794.00) )  
UNITED STATES CURRENCY; NINE )  
THOUSAND FOUR HUNDRED FIFTEEN )  
AND 64/100 DOLLARS (\$9,415.64) )  
UNITED STATES CURRENCY; )  
APPROXIMATELY FOUR HUNDRED )  
FORTY-ONE AND FORTY-SEVEN- )  
HUNDREDTHS (441.47) GRAMS )  
METHAMPHETAMINE; )  
APPROXIMATELY TWELVE AND )  
SEVENTY-NINE-HUNDREDTHS (12.79) )  
GRAMS MARIJUANA; TEN (10) 16-MG )  
PILLS HYDROMORPHONE; ONE (1) )  
TAURUS MILLENNIUM 9-MM )  
HANDGUN, MODEL PT111, SERIAL NO. )  
TSC27053, WITH ONE (1) MAGAZINE OF )  
TEN (10) ROUNDS 9-MM AMMUNITION; )  
TWO (2) FOLDING KNIVES; ONE (1) )  
VIPERTEK TASER; ONE (1) DIGITAL )  
SCALE WITH RESIDUE AND BLACK )  
CASE; FOUR (4) DIGITAL SCALES IN )

SV

BOXES; ONE (1) GREEN METAL )  
CONTAINER; ONE (1) ORANGE MESH )  
BAG; ONE (1) RED MESH BAG; ONE (1) )  
BLACK MESH BAG; ONE (1) BLUE )  
CHASE BANK BAG; VARIOUS PLASTIC )  
ZIPLOC BAGS; TWO (2) GLASS PIPES )  
WITH BURNT RESIDUE; ONE (1) SMALL )  
METAL SMOKING PIPE WITH BURNT )  
RESIDUE; TEN (10) GLASS BONGS; AND )  
THIRTY-ONE (31) GLASS PIPES, )  
) )  
Defendants. )  
\_\_\_\_\_ )

STATE OF IDAHO )  
) ss.  
County of Ada )

In accordance with I.R.C.P. 4 and 5, I hereby certify that I am an officer authorized by law to serve process, and/or that I am a person over the age of 18 years and not a party to this action, and that I served a copy of the SUMMONS AND COMPLAINT in this action on **William Scott Demint**, being the person named in said document(s) on the 17 day of Sept, 2014, at (time) 10:05 a.m./p.m. at (address, including city and state) 515 S. 6<sup>th</sup> Boise, ID by one or more of the following:

- Delivering copies of the above-named documents to him personally; or by
- Leaving copies thereof at his dwelling house or usual place of abode with some person over the age of 18 years then residing therein, namely \_\_\_\_\_; or by
- Delivering copies of the above-named documents to an agent authorized by appointment or by law to receive service of process, for that individual.

*shelly miller*

SWORN to this 17 day of Sept, 2014.

*Vicki Cloutier*  
Printed Name: Vicki Cloutier  
Title: Marshal

**GREG H. BOWER**  
ADA COUNTY PROSECUTING ATTORNEY

**SEP 24 2014**

**JAMES K. DICKINSON**  
Senior Deputy Prosecuting Attorney  
Civil Division  
200 West Front Street, Room 3191  
Boise, ID 83702  
(208) 287-7700  
Idaho State Bar No. 2798

CHRISTOPHER D. RICH, Clerk  
By KATRINA THIESSEN  
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT

OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

ADA COUNTY PROSECUTING )  
ATTORNEY, )

**Case No. CV OC 14 17003**

Plaintiff, )

**CERTIFICATE OF SERVICE**

vs. )

1998 FORD F150, VIN )  
1FTRX18L9WKB27754; TWELVE )  
THOUSAND SEVEN HUNDRED NINETY- )  
FOUR AND 00/100 DOLLARS (\$12,794.00) )  
UNITED STATES CURRENCY; NINE )  
THOUSAND FOUR HUNDRED FIFTEEN )  
AND 64/100 DOLLARS (\$9,415.64) UNITED )  
STATES CURRENCY; APPROXIMATELY )  
FOUR HUNDRED FORTY-ONE AND )  
FORTY-SEVEN-HUNDREDTHS (441.47) )  
GRAMS METHAMPHETAMINE; )  
APPROXIMATELY TWELVE AND )  
SEVENTY-NINE-HUNDREDTHS (12.79) )  
GRAMS MARIJUANA; TEN (10) 16-MG )  
PILLS HYDROMORPHONE; ONE (1) )  
TAURUS MILLENNIUM 9-MM HANDGUN, )  
MODEL PT111, SERIAL NO. TSC27053, )  
WITH ONE (1) MAGAZINE OF TEN (10) )  
ROUNDS 9-MM AMMUNITION; TWO (2) )  
FOLDING KNIVES; ONE (1) VIPERTEK )  
TASER; ONE (1) DIGITAL SCALE WITH )  
RESIDUE AND BLACK CASE; FOUR (4) )  
DIGITAL SCALES IN BOXES; ONE (1) )  
GREEN METAL CONTAINER; ONE (1) )

ORANGE MESH BAG; ONE (1) RED MESH )  
 BAG; ONE (1) BLACK MESH BAG; ONE (1) )  
 BLUE CHASE BANK BAG; VARIOUS )  
 PLASTIC ZIPLOC BAGS; TWO (2) GLASS )  
 PIPES WITH BURNT RESIDUE; ONE (1) )  
 SMALL METAL SMOKING PIPE WITH )  
 BURNT RESIDUE; TEN (10) GLASS BONGS; )  
 AND THIRTY-ONE (31) GLASS PIPES, )  
 )  
 )  
 Defendants. )  
 \_\_\_\_\_ )


I HEREBY CERTIFY that on this 23 day of September, 2014, I served a true and correct copy of the Subpoena Duces Tecum to the following person by the following method:

Joseph Miller, Attorney at Law  
 Mauk Miller & Burgoyne  
 515 S 6<sup>th</sup> Street  
 PO Box 1743  
 Boise, ID 83701

\_\_\_\_\_ Hand Delivery  
 U.S. Mail  
 \_\_\_\_\_ Certified Mail  
 Facsimile

DATED this 23 day of September, 2014.

GREG H. BOWER  
 Ada County Prosecuting Attorney


By:   
 \_\_\_\_\_  
 James K. Dickinson  
 Senior Deputy Prosecuting Attorney

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 23<sup>rd</sup> day of September, 2014, I served a true and correct copy of the foregoing CERTIFICATE OF SERVICE to the following person by the following method:

Joseph Miller, Attorney at Law  
 Mauk Miller & Burgoyne  
 515 S 6<sup>th</sup> Street  
 PO Box 1743  
 Boise, ID 83701

\_\_\_\_\_ Hand Delivery  
 U.S. Mail  
 \_\_\_\_\_ Certified Mail  
 Facsimile

  
 \_\_\_\_\_  
 Legal Assistant

NOV 14 2014

CHRISTOPHER D. RICH, Clerk  
By PATRICK McLAUGHLIN  
DEPUTY

Joseph C. Miller  
MAUK MILLER & BURGOYNE, LLC  
515 S. 6<sup>th</sup> St.  
Boise, ID 83702  
Tel: (208) 287-8787  
Fax: (208) 287-8788  
E-mail: office@idahojustice.com  
ISBN: 7485

Counsel for Claimant

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

ADA COUNTY PROSECUTING )  
ATTORNEY, )  
 )  
Plaintiff, )

Case No. CV-OC-2014-17003

vs. )

**NOTICE OF APPEARANCE**

1998 FORD F150, VIN )  
1FTRX18L9WKB27754; TWELVE )  
THOUSAND SEVEN HUNDRED )  
NINETY-FOUR AND 00/100 )  
DOLLARS (\$12,794.00) UNITED )  
STATES CURRENCY; NINE )  
THOUSAND FOUR HUNDRED )  
FIFTEEN AND 64/100 DOLLARS )  
(\$9,415.64) UNITED STATES )  
CURRENCY; APPROXIMATELY FOUR )  
HUNDRED FORTY-ONE AND FORTY- )  
SEVEN-HUNDREDTHS (441.47) )  
GRAMS METHAMPHETAMINE; )  
APPROXIMATELY TWELVE AND )  
SEVENTY-NINE-HUNDREDTHS )  
(12.79) GRAMS MARIJUANA; TEN )  
(10) 16-MG PILL HYDROMORPHONE; )  
ONE (1) TAURUS MILLENNIUM 9- )  
MM HANDGUN, MODEL PT111, )  
SERIAL NO. TSC27053, WITH ONE (1) )  
MAGAZINE OF TEN (10) ROUNDS 9- )  
MM AMMUNITION; TWO (2) )  
FOLDING KNIVES; ONE (1) )  
VIPERTEK TASER; ONE (1) DIGITAL )  
SCALE WITH RESIDUE AND BLACK )

CASE; FOUR (4) DIGITAL SCALES IN )  
BOXES; ONE (1) GREEN METAL )  
CONTAINER; ONE (1) ORANGE MESH )  
BAG; ONE (1) RED MESH BAG; ONE )  
(1) BLACK MESH BAG; ONE (1) BLUE )  
CHASE BANK BAG; VARIOUS )  
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RESIDUE; ONE (1) SMALL METAL )  
SMOKING PIPE WITH BURNT )  
RESIDUE; TEN (10) GLASS BONGS; )  
AND THIRTY-ONE (31) GLASS PIPES, )  
 )  
Defendants. )  
 )  
 )

---

TO: DISTRICT JUDGE LYNN NORTON AND ADA COUNTY PROSECUTORS

PLEASE TAKE NOTICE that Joseph C. Miller of the firm Mauk Miller & Burgoyne, LLC, hereby appears as counsel of record for Claimant WILLIAM SCOTT DEMINT in the above-referenced case. Future mailings and contact should be directed to Joseph C. Miller at Mauk Miller & Burgoyne, LLC, 515 S. 6<sup>th</sup> St., Boise, ID 83702, Tel: 287-8787, Fax: 287-8788, [office@idahojustice.com](mailto:office@idahojustice.com).

DATED this 13<sup>th</sup> day of November, 2014.

**MAUK MILLER & BURGOYNE, LLC**

  
\_\_\_\_\_  
Joseph C. Miller  
Counsel for Defendant

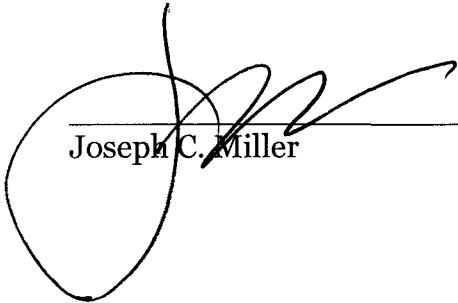


**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 13<sup>th</sup> day of November, 2014, I served true and correct copies of the foregoing document by delivering the same to the following persons, by the method indicated below, pursuant to I.R.C.P.5(f):

James K. Dickinson  
Ada County Deputy Prosecutor  
200 W Front St, Rm. 3191  
Boise, ID 83702  
Fax (208) 287-7709

- U.S. Mail, postage prepaid
- Hand-Delivered
- Overnight Mail
- Facsimile



\_\_\_\_\_  
Joseph C. Miller

NOV 14 2014

CHRISTOPHER D. RICH, Clerk  
By PATRICK McLAUGHLIN  
DEPUTY

Joseph C. Miller  
MAUK MILLER & BURGOYNE, LLC  
515 S. 6<sup>th</sup> St.  
Boise, ID 83702  
Tel: (208) 287-8787  
Fax: (208) 287-8788  
e-mail: office@idahojustice.com  
ISBN: 7485

Counsel for Claimant

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

ADA COUNTY PROSECUTING	)	
ATTORNEY,	)	Case No. CV-OC-2014-17003
	)	
Plaintiff,	)	<b>VERIFIED ANSWER AND CLAIM</b>
	)	<b>TO SEIZED PROPERTY</b>
vs.	)	
	)	I.C. § 37-2744
1998 FORD F150; et. al.,	)	
	)	Fee Category: I.1.
Defendants.	)	Filing Fee: \$136.00
	)	

TO: DISTRICT JUDGE LYNN G. NORTON

**ANSWER**

COMES NOW William Scott DeMint (hereinafter "Claimant"), by and through counsel, and upon receiving notice of Plaintiff's COMPLAINT IN REM FOR FORFEITURE UNDER IDAHO CODE SECTION 37-2744, does hereby object, respond to and oppose Plaintiff's claims, pursuant to Idaho Code § 37-2744, as follows:

1. Any paragraph of the petition, or portion thereof, not explicitly admitted is denied.
2. Claimant admits paragraphs I, II, III, IV, and VI, of the complaint.
3. Claimant admits in part and denies in part paragraph V of the complaint, as follows:

2

- a. Claimant admits that agents of the Ada County Sheriff's Office lawfully seized the Defendant property described paragraph II, subparts D, E, J, R, and S.
- b. Claimant denies that agents of the Ada County Sheriff's Office lawfully seized the Defendant property described paragraph II, subparts A, B, C, F, G, H, I, K, L, M, N, O, P, Q, T and U.
4. Paragraph VII of the Complaint is a statement of law rather than an allegation of facts and Claimant has no basis on which to admit or deny this paragraph. (*See* Paragraph 1 of Claimant's Answer, *supra*.)
5. Paragraphs VIII, X, XII, XIV, XVI, XVIII, XX, XXII, XXIV, XXVI, XXVIII, XXX, XXXII, XXXIV, and XXXVI also allege no facts and Claimant has no basis on which to admit or deny this paragraph. (*See* Paragraph 1 of Claimant's Answer, *supra*.)
6. Claimant denies paragraphs IX, XI, XIII, XV, XVII, XIX, XXI, XXIII, XXV, XXVII, XXIX, XXXI, XXXIII, XXXV, and XXXVII of the complaint.
7. Claimant denies any allegations in the prayer for relief in the complaint.

### **COUNTER CLAIM**

COMES NOW Claimant WILLIAM SCOTT DEMINT and for a counter-claim against Plaintiff hereby lays claim to some of the items of the Defendant property at issue in this action and objects to the seizure and forfeiture of said property on the following grounds:

#### THE FORD F150

8. Claimant is the sole legal owner of, and currently holds sole title to the vehicle in question.
9. Claimant is the sole registered owner of the vehicle, per the Idaho Transportation Department.
10. The vehicle is insured by only the Claimant.
11. Since its purchase, the vehicle has always been in the possession of Claimant.
12. The vehicle has never been loaned to or driven by another party. Claimant is the only person who has ever driven the vehicle.
13. The vehicle has never been used nor intended to be used to transport or in any manner facilitate the transportation, delivery, receipt, possession or

concealment, for the purpose of distribution or receipt of controlled substances or associated raw materials, products or equipment.

14. If evidence exists to show that the vehicle was used or intended for use for transportation, delivery, receipt, possession, concealment or distribution of controlled substances or their raw materials, products or equipment, Claimant did not know and could not have known through the exercise of reasonable diligence that the vehicle was used, was being used or was intended for use in such manner.

THE \$12,794.00 US. CURRENCY

15. Claimant is the sole legal owner of the \$12,794.00 United States currency at issue in this action.
16. Of the total \$12,794.00, \$195.00 was found in Claimant's wallet during the arrest and search giving rise to this action.
17. That \$195.00 in currency was never furnished, given or received in exchange for controlled substances or their associated raw materials, products or equipment, nor is it traceable to any such exchange.
18. That \$195.00 was not found in close proximity to any of the following, particularly any of the following items at issue in the criminal case giving rise to this action:
  - a. Controlled substances;
  - b. Raw materials, products or equipment used or intended for use in manufacturing, possessing or distributing controlled substances;
  - c. Property which is used or intended for use as a container for controlled substances or their associated raw materials, products or equipment;
  - d. Books, records or research products or materials which are used or intended for use in violation of the Uniform Controlled Substances Act;
  - e. Drug paraphernalia; or
  - f. Simulated controlled substances.
19. The \$195.00 in currency was not used and has never been used nor intended to be used to facilitate in any manner the transportation, delivery, receipt, possession or concealment, for the purpose of distribution or receipt of controlled substances or associated raw materials, products or equipment, nor is it the

product of any manufacture, possession, distribution or sale of controlled substances or their associated raw materials, products or equipment.

20. If evidence exists to show that the \$195.00 in currency was used or intended for use to facilitate the transportation, delivery, receipt, possession, concealment or distribution of controlled substances or their raw materials, products or equipment, or that the currency is the product of such activity, Claimant did not know and could not have known through the exercise of reasonable diligence that the currency was used, was being used, was intended for use in such manner, or was the product of such activity.

THE \$9,145.64 US. CURRENCY

21. Claimant is the sole legal owner of the \$9,415.64 United States currency at issue in this action.
22. This currency at issue is money proceeds from the sale of real property located in the state of Florida, which real property was inherited by Claimant and Claimant's siblings upon the death of their parent.
23. The currency was never furnished, given or received in exchange for controlled substances or their associated raw materials, products or equipment, nor is it traceable to any such exchange.
24. The entire amount of this Defendant currency was seized and taken from a lawfully established bank account in Claimant's name.
25. The currency was not found in close proximity to any of the following, particularly any of the following items at issue in the criminal case giving rise to this action:
- a. Controlled substances;
  - b. Raw materials, products or equipment used or intended for use in manufacturing, possessing or distributing controlled substances;
  - c. Property which is used or intended for use as a container for controlled substances or their associated raw materials, products or equipment;
  - d. Books, records or research products or materials which are used or intended for use in violation of the Uniform Controlled Substances Act;
  - e. Drug paraphernalia; or
  - f. Simulated controlled substances.
26. The currency was not used and has never been used nor intended to be used to facilitate in any manner the transportation, delivery, receipt, possession or

concealment, for the purpose of distribution or receipt of controlled substances or associated raw materials, products or equipment, nor is it the product of any manufacture, possession, distribution or sale of controlled substances or their associated raw materials, products or equipment.

27. If evidence exists to show that the currency was used or intended for use to facilitate the transportation, delivery, receipt, possession, concealment or distribution of controlled substances or their raw materials, products or equipment, or that the currency is the product of such activity, Claimant did not know and could not have known through the exercise of reasonable diligence that the currency was used, was being used, was intended for use in such manner, or was the product of such activity.
28. The currency was not found at a location suspected of illicit drug activity, particularly the illicit drug activity at issue in the criminal case giving rise to this forfeiture action.

THE TAURUS MILLENNIUM 9mm HANDGUN, THE TWO FOLDING KNIVES,  
AND THE VIPERTEK TASER

29. Claimant is the sole legal owner of the Defendant handgun, folding knives, and taser at issue in this action.
30. The handgun, knives and taser were never furnished, given or received in exchange for controlled substances or their associated raw materials, products or equipment, nor are they traceable to any such exchange.
31. The handgun, knives and taser were not found in close proximity to any of the following, particularly any of the following items at issue in the criminal case giving rise to this action:
  - a. Controlled substances;
  - b. Raw materials, products or equipment used or intended for use in manufacturing, possessing or distributing controlled substances;
  - c. Property which is used or intended for use as a container for controlled substances or their associated raw materials, products or equipment;
  - d. Books, records or research products or materials which are used or intended for use in violation of the Uniform Controlled Substances Act;
  - e. Drug paraphernalia; or
  - f. Simulated controlled substances.

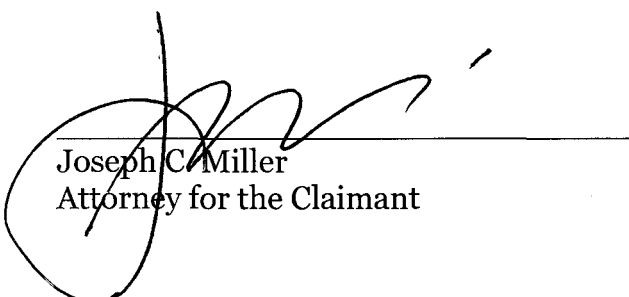
32. The handgun, knives and taser were not used and have never been used nor intended to be used to facilitate in any manner the transportation, delivery, receipt, possession or concealment, for the purpose of distribution or receipt of controlled substances or associated raw materials, products or equipment, nor are they the product of any manufacture, possession, distribution or sale of controlled substances or their associated raw materials, products or equipment.
33. If evidence exists to show that the handgun, knives and taser were used or intended for use to facilitate the transportation, delivery, receipt, possession, concealment or distribution of controlled substances or their raw materials, products or equipment, or that they are the product of such activity, Claimant did not know and could not have known through the exercise of reasonable diligence that they were used, were being used, were intended for use in such manner, or were the product of such activity.
34. Claimant is entitled to a speedy hearing on this matter, as provided for by I.C. § 37-2744.

**WHEREFORE**, Claimant prays for relief and entry of judgment as follows:

1. That the court set this matter for hearing at the earliest possible date and time convenient for the court, pursuant to I.C. §37-2744;
2. That the court immediately return to Claimant his property unlawfully seized and at issue in this action;
3. That the court award Claimant his attorney fees and costs incurred in this action, pursuant to I.C. §§ 12-120, 12-121, I.R.C.P. 54(e), and other applicable Idaho laws;
4. For any and all other relief the court may deem just and proper.

DATED this 13<sup>th</sup> day of November, 2014.

**MAUK MILLER & BURGOYNE, LLC**

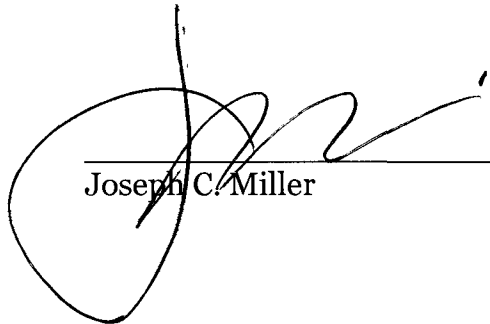
  
\_\_\_\_\_  
Joseph C. Miller  
Attorney for the Claimant

**CERTIFICATE OF SERVICE**

I hereby certify that on this 13<sup>th</sup> day of November, 2014, I caused a true and correct copy of the foregoing document to be served on the following, pursuant to I.R.C.P. 5(f), as indicated below:

James K. Dickinson  
Ada County Deputy Prosecutor  
200 W. Front St.  
Boise, ID 83702  
Fax: 287-7709

- U.S. Mail
- Hand Delivery
- Courier
- Facsimile Transmission



\_\_\_\_\_  
Joseph C. Miller



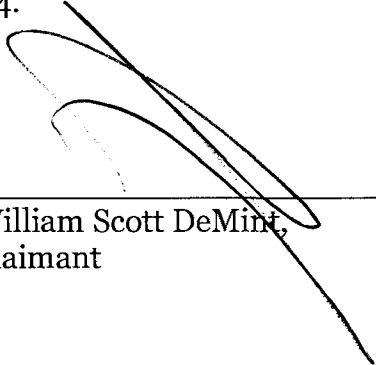
VERIFICATION

STATE OF IDAHO )  
 ) ss.  
County of ADA )

WILLIAM SCOTT DEMINT, being first duly sworn upon oath, deposes and says:

- 1. I am the owner and Claimant of the subject property in the civil action entitled *Ada County Prosecuting Attorney v. 1998 Ford F150, et. al.*, Ada County Case No. CV-OC-2014-17003.
- 2. I have read the foregoing VERIFIED ANSWER AND CLAIM TO SEIZED PROPERTY, know the contents thereof, and believe the same to be true and correct.

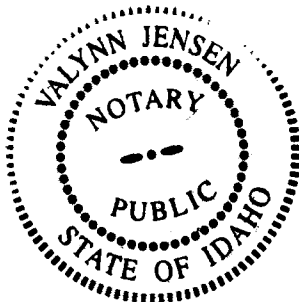
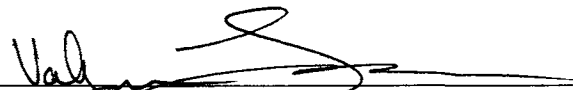
DATED this 13 day of November, 2014.




---

William Scott DeMint,  
Claimant

SUBSCRIBED AND SWORN TO before me on this 18<sup>th</sup> day of November, 2014.


---

NOTARY PUBLIC FOR IDAHO  
Residing at: Ada County, Boise, Idaho  
My commission expires: 4/21/2020

FILED  
Wednesday, November 19, 2014 at 11:11 AM  
CHRISTOPHER D. RICH, CLERK OF THE COURT  
By: *Sammie Hoxen*  
Deputy Clerk

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

ADA COUNTY PROSECUTING  
ATTORNEY,

Plaintiff,

vs.

1998 FORD F150, et al.

Defendant.

Case No. CV-OC-2014-17003

**ORDER FOR SCHEDULING  
CONFERENCE AND ORDER RE:  
MOTION PRACTICE**

IT IS HEREBY ORDERED that the above-captioned case is scheduled for a scheduling conference to commence on **WEDNESDAY, DECEMBER 10, 2014 at 02:30 PM** at the Ada County Courthouse, 200 West Front Street, Boise, Idaho.

The purpose of the conference will be to enter a scheduling order regarding the deadlines contained in the attached schedule. All parties must appear at this time in person or through counsel. Counsel must be fully familiar with the case and have authority to stipulate to scheduling deadlines, bind his or her client on all matters set forth in I.R.C.P. 16(a), (b) and (c), and to commit to such other matters as may be reasonably anticipated to be discussed.

**In lieu of this scheduling conference, all parties may stipulate** to deadlines and other information required in the enclosed **Stipulation for Scheduling and Planning**. This stipulation must be completed and signed by all parties, and filed with the court before the scheduling conference.

IT IS FURTHER ORDERED that the following shall apply to motions filed in this case.  
**ORDER FOR SCHEDULING CONFERENCE AND ORDER RE: MOTION PRACTICE- 1**

000041

A. MOTIONS GENERALLY (applies to **every** motion)

1. One additional copy of the motion and of all moving or opposing papers (including affidavits and briefs) must be submitted to the judge's chambers when such documents are filed or lodged with the clerk of the court. If in your brief you rely upon any case decided by an appellate court outside of Idaho, you must attach a copy of that case to the copy of your brief submitted to the judge's chambers.

2. The amount of time each side will be allotted for oral argument on a motion are set in the local rules of the Fourth Judicial District. If you need the Court to enlarge the time beyond fifteen (15) minutes each side, please contact the Clerk.

3. If a notice of hearing is not filed within fourteen (14) days after the motion is filed, the motion will be deemed withdrawn.

4. No motion will be heard within twenty-eight (28) days before trial unless the motion could not have been heard earlier.

B. MOTIONS TO COMPEL DISCOVERY

1. A motion to compel discovery must be accompanied by an affidavit showing that efforts were made to resolve the dispute before the motion was filed.

2. Reasonable expenses incurred when successfully prosecuting or opposing a motion to compel discovery shall be awarded as provided in Rule 37(a)(4) of the Idaho Rules of Civil Procedure.

C. MOTIONS FOR SUMMARY JUDGMENT

1. The party moving for summary judgment shall prepare as **separate** documents: (a) motion, (b) legal memorandum containing a written statement of reasons in support of the motion, and (c) a concise statement of the material facts. Each statement of a fact shall include a reference to the particular place in the record which supports that fact. The legal memorandum shall include a statement, supported by authority, of the elements of any claim or defense relevant to the motion.

2. The party opposing a motion for summary judgment shall prepare as **separate** documents: (a) legal memorandum containing a written statement of reasons in opposition to the motion, and (b) a concise statement of the facts which are genuine issues of material fact and/or which are material facts omitted from the moving party's statement of facts. Each statement of a fact shall

include a reference to the particular place in the record which supports that fact. The legal memorandum shall include a statement, supported by authority, of the elements of any claim or defense relevant to the motion.

3. The service of briefs and affidavits shall be according to the schedule set forth in Idaho Rule of Civil Procedure 56(c).

4. The hearing on a motion for summary judgment will be set AFTER the moving party has submitted the motion, legal memorandum and statement of facts. The hearing date can then be obtained from the judge's court clerk. This pertains to all motions for summary judgment and motions for partial summary judgment.

Dated this 19<sup>th</sup> day of November, 2014.



---

LYNN G. NORTON  
District Judge

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

ADA COUNTY PROSECUTING  
ATTORNEY,

Plaintiff,

vs.

1998 FORD F150, et al.

Defendant.

Case No. CV-OC-2014-17003

**STIPULATION FOR SCHEDULING  
AND PLANNING**

The above parties hereby stipulate to the following scheduling deadlines:

**A. EXPERT WITNESSES**

**(Plaintiff's experts)**

1. \_\_\_\_\_ days before trial, plaintiff shall disclose each person plaintiff intends to call as an expert witness at trial and state the subject matter on which the witness is expected to testify.

2. \_\_\_\_\_ days (**at least 90**) before trial, plaintiff shall disclose all information required by Rule 26(b)(4) of the Idaho Rules of Civil Procedure regarding expert witnesses.

3. \_\_\_\_\_ days before trial, defendant shall complete any depositions of the plaintiff's initial expert witnesses.

**(Defendant's experts)**

4. \_\_\_\_\_ days before trial, defendant shall disclose each person defendant intends to call as an expert witness at trial and state the subject matter on which the witness is expected to testify.

5. \_\_\_\_\_ days (**at least 90**) before trial, defendant shall disclose all information required by Rule 26(b)(4) of the Idaho Rules of Civil Procedure regarding expert witnesses.

6. \_\_\_\_\_ days before trial, plaintiff shall complete any depositions of the defendant's expert witnesses.

**(Plaintiff's rebuttal experts)**

7. \_\_\_\_\_ days before trial, plaintiff shall disclose each person plaintiff intends to call as an expert witness at trial to rebut new information or issues disclosed or raised by the defendant.

8. \_\_\_\_\_ days (**at least 42**) before trial, plaintiff shall disclose all information required by Rule 26(b)(4) of the Idaho Rules of Civil Procedure regarding the rebuttal expert witnesses.

9. \_\_\_\_\_ days before trial, defendant shall complete any depositions of the plaintiff's rebuttal expert witnesses.

**B. LAY WITNESSES**

1. \_\_\_\_\_ days (**at least 42**) before trial, plaintiff shall disclose each person plaintiff intends to call as a lay witness at trial (excluding impeachment witnesses).

2. \_\_\_\_\_ days (**at least 42**) before trial, defendant shall disclose each person defendant intends to call as a lay witness at trial (excluding impeachment witnesses).

3. \_\_\_\_\_ days before trial, plaintiff shall disclose each lay witness (excluding impeachment witnesses) plaintiff intends to call at trial to rebut new information or issues disclosed or raised by the defendant.

4. \_\_\_\_\_ days before trial, all parties shall complete any depositions of lay witnesses.

**C. DEADLINES FOR INITIATING DISCOVERY**

1. \_\_\_\_\_ days before trial is the last day for serving interrogatories, requests for production, requests to permit entry upon land or other property, and requests for admission.

2. \_\_\_\_\_ days before trial is the last day for filing motions for a physical or mental examination.

**D. DEADLINE FOR SUPPLEMENTAL RESPONSES TO DISCOVERY**

\_\_\_\_\_ days before trial, all parties must serve any supplemental response to discovery required by Rule 26(e) of the Idaho Rules of Civil Procedure.

**E. STIPULATIONS TO ALTER DISCOVERY DEADLINES**

The parties may alter any discovery deadline by written agreement without the necessity of obtaining a court order.

**F. PRETRIAL MOTIONS**

1. \_\_\_\_\_ days before trial is the last day to file motions to add additional parties to the lawsuit.
2. \_\_\_\_\_ days before trial is the last day to file a motion to amend the claims between existing parties to the lawsuit, including to add a claim for punitive damages.
3. All other non-dispositive pretrial motions (excluding motions in limine) must be filed and heard twenty-one (21) days before trial.

**G. MOTIONS FOR SUMMARY JUDGMENT OR OTHER DISPOSITIVE MOTIONS**

All motions for summary judgment or other dispositive motions must be filed at least **ninety-one (91) days** and heard at least **sixty (60) days** before trial.

**H. TRIAL SETTING**

1. This case can be set for a trial to commence on or after \_\_\_\_\_.  
**(The case must be concluded within 18 months from the date the complaint was filed pursuant to Idaho Court Administrative Rule 57.)**
2. It is estimated the trial will take \_\_\_\_\_ days.
3. This case is to be tried as a:  
 court trial  
 jury trial
4. Parties preference for trial dates: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**I. MEDIATION**

1. The parties agree to mediation: yes \_\_\_\_\_ no \_\_\_\_\_

2. If yes:

a. The parties agree to submit to mediation with a mediator mutually agreed upon under the time limits in I.R.C.P. 16(k).

b. Mediation shall begin \_\_\_\_\_ days prior to trial. The mediation must be completed and the report received by the court at least 45 days prior to trial.

c. Unless otherwise agreed in writing between the parties, the cost of mediation shall be equally divided between the parties.

**The parties reserve the right to amend this stipulation by agreement of all parties, subject to Court approval; each party reserves the right to seek amendment hereof by Court order, and to request further status conferences for such purpose, in accordance with I.R.C.P. 16(a) and 16(b).**

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

Appearances:

Counsel for Plaintiff(s)                      James K Dickinson  
Attorney at Law

Counsel for Defendant(s)                      Joseph C Miller  
Attorney at Law



**CERTIFICATE OF MAILING**

I hereby certify that on this 19<sup>th</sup> day of November, 2014, I mailed (served) a true and correct copy of the within instrument to:

JAMES K DICKINSON  
ATTORNEY AT LAW  
200 W FRONT STREET  
BOISE ID 83702

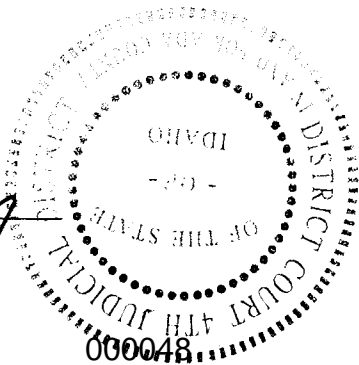
By United States mail  
 By telefacsimile  
 By personal delivery  
 By overnight mail/Federal Express

JOSEPH C MILLER  
ATTORNEY AT LAW  
515 S 6<sup>TH</sup> STREET  
BOISE ID 83702

By United States mail  
 By telefacsimile  
 By personal delivery  
 By overnight mail/Federal Express

CHRISTOPHER D. RICH  
Clerk of the District Court

By:   
Deputy Court Clerk



<u>Time</u>	<u>Speaker</u>	<u>Note</u>
<u>02:16:52 PM</u>		Ada County v. 1998 Ford F150 CVOC14-17003 Scheduling Conference
<u>02:29:30 PM</u>	Plaintiff Attorney - Jim Dickinson	
<u>02:29:34 PM</u>	Personal Attorney - Joe Miller	
<u>02:30:07 PM</u>	Judge Norton	reviews the file.
<u>02:30:48 PM</u>	Plaintiff Attorney -	comments and requests another setting and as late a trial setting as possible.
<u>02:31:51 PM</u>	Judge Norton	advises when Mr. Demint is set for his criminal trials and inquires if they want to set this out or just set it for a status conference.
<u>02:32:56 PM</u>	Personal Attorney -	requests it be set for a status conference.
<u>02:33:03 PM</u>	Judge Norton	comments with Mr. Miller's interspersed comments.
<u>02:36:29 PM</u>	Personal Attorney -	advises they proposed an offer to the State and so requests a status conference.
<u>02:36:41 PM</u>	Plaintiff Attorney -	has no objection to a status conference.
<u>02:36:59 PM</u>	Judge Norton	continues the matter to April 9 at 2:30 for a scheduling conference.

DEC 19 2014

CHRISTOPHER D. RICH, Clerk  
By JANINE KORSEN  
DEPUTY

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

ADA COUNTY PROSECUTING )  
ATTORNEY, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
1998 FORD F 150, et al, )  
 )  
Defendant. )  
 )  
William Demint, Claimant )  
\_\_\_\_\_ )

Case No. CV OC 2014-17003

**ORDER GOVERNING PROCEEDINGS  
UNDER I.C. § 37-2744(d)(3)(D)**

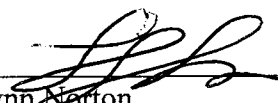
Idaho Code § 37-2744(d)(3)(D) provides a forfeiture proceeding shall be set for hearing before the court without a jury on a day not less than thirty (30) days after a verified answer is filed and the proceeding shall have priority over other civil cases. A verified answer was filed in this case by William Demint on November 14, 2014. No verified answer has been filed by Joshua Allen Thomas. A scheduling conference was set for December 10, 2014 but the judge was unable to attend because she was presiding over a jury trial in another county at that time and could not leave the jury. The scheduling conference was reset to December 17, 2014.

Appearances:

James Dickinson on behalf of the Plaintiff  
Joseph Miller on behalf of claimant, William Demint  
No appearance was made by Joshua Allen Thomas

The claimant Demint waived the right to trial within thirty days of the answer being filed because of CR-FE-2014-12188 and CR-FE-2014-4549. A scheduling conference in this case is rest to April 9, 2015 at 2:30 p.m. to set deadlines for discovery, witness disclosures, and motions.

IT IS HEREBY ORDERED this 18<sup>th</sup> day of December, 2014.

  
Lynn Norton  
District Judge

JWCC:PA, A°

NO. \_\_\_\_\_ FILED  
A.M. \_\_\_\_\_ P.M. \_\_\_\_\_

JAN 07 2015

CHRISTOPHER D. RICH, Clerk  
By JAMIE MARTIN  
DEPUTY

JAN M. BENNETTS  
ADA COUNTY PROSECUTING ATTORNEY

AMBER ELLIS  
Deputy Prosecuting Attorney  
Civil Division  
200 West Front Street, Room 3191  
Boise, ID 83702  
(208) 287-7700  
Idaho State Bar No. 7713

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

ADA COUNTY PROSECUTING )  
ATTORNEY, )

Plaintiff, )

vs. )

1998 FORD F150, VIN )  
1FTRX18L9WKB27754; TWELVE )  
THOUSAND SEVEN HUNDRED NINETY- )  
FOUR AND 00/100 DOLLARS (\$12,794.00) )  
UNITED STATES CURRENCY; NINE )  
THOUSAND FOUR HUNDRED FIFTEEN )  
AND 64/100 DOLLARS (\$9,415.64) UNITED )  
STATES CURRENCY; APPROXIMATELY )  
FOUR HUNDRED FORTY-ONE AND )  
FORTY-SEVEN-HUNDREDTHS (441.47) )  
GRAMS METHAMPHETAMINE; )  
APPROXIMATELY TWELVE AND )  
SEVENTY-NINE-HUNDREDTHS (12.79) )  
GRAMS MARIJUANA; TEN (10) 16-MG )  
PILLS HYDROMORPHONE; ONE (1) )  
TAURUS MILLENNIUM 9-MM HANDGUN, )  
MODEL PT111, SERIAL NO. TSC27053, )  
WITH ONE (1) MAGAZINE OF TEN (10) )

Case No. CV OC 14 17003

NOTICE OF SUBSTITUTION OF  
COUNSEL

al

ROUNDS 9-MM AMMUNITION; TWO (2) )  
FOLDING KNIVES; ONE (1) VIPERTEK )  
TASER; ONE (1) DIGITAL SCALE WITH )  
RESIDUE AND BLACK CASE; FOUR (4) )  
DIGITAL SCALES IN BOXES; ONE (1) )  
GREEN METAL CONTAINER; ONE (1) )  
ORANGE MESH BAG; ONE (1) RED MESH )  
BAG; ONE (1) BLACK MESH BAG; ONE (1) )  
BLUE CHASE BANK BAG; VARIOUS )  
PLASTIC ZIPLOC BAGS; TWO (2) GLASS )  
PIPES WITH BURNT RESIDUE; ONE (1) )  
SMALL METAL SMOKING PIPE WITH )  
BURNT RESIDUE; TEN (10) GLASS BONGS; )  
AND THIRTY-ONE (31) GLASS PIPES, )  
\_\_\_\_\_ )

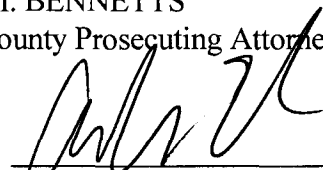
**NOTICE IS HEREBY GIVEN** that James K. Dickinson of the Ada County Prosecuting Attorney's Office, Civil Division, is no longer the attorney of record for the Plaintiff in the above-captioned matter.

**FURTHER, NOTICE IS HEREBY GIVEN** that from and after the time of filing hereof, Amber Ellis, Deputy Prosecuting Attorney for the Ada County Prosecuting Attorney's Office, will represent the Plaintiff in these proceedings, and all pleadings, notices, and correspondence concerning this matter should be addressed to: Amber Ellis, Ada County Prosecutor's Office, 200 W. Front Street, Rm 3191, Boise, Idaho 83702.

**DATED** this 7<sup>th</sup> day of January, 2015.

JAN M. BENNETTS  
Ada County Prosecuting Attorney

By: \_\_\_\_\_

  
Amber Ellis  
Deputy Prosecuting Attorney

**CERTIFICATE OF SERVICE**

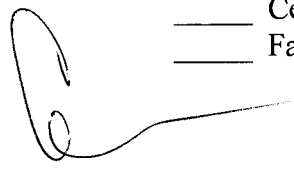
I HEREBY CERTIFY that on this 7<sup>th</sup> day of January, 2015, I served a true and correct copy of the foregoing NOTICE OF SUBSTITUTION OF COUNSEL to the following persons by the following method:

Joshua Allen Thomas  
LE #094879  
Ada County Jail  
7200 Barrister  
Boise, Idaho 83704

Hand Delivery  
 U.S. Mail  
 Certified Mail  
 Facsimile

Joseph C. Miller  
Mauk Miller & Burgoyne, LLC  
515 S. 6<sup>th</sup> St  
Boise, ID 83702

Hand Delivery  
 U.S. Mail  
 Certified Mail  
 Facsimile



---

NO. 11 FILED  
A.M. 11 P.M.

**JAN M. BENNETTS**  
ADA COUNTY PROSECUTING ATTORNEY

**JAN 07 2015**

**CHRISTOPHER D. RICH, Clerk**  
By **JAMIE MARTIN**  
DEPUTY

**AMBER ELLIS**  
Deputy Prosecuting Attorney  
Civil Division  
200 West Front Street, Room 3191  
Boise, ID 83702  
(208) 287-7700  
Idaho State Bar No. 7713

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

ADA COUNTY PROSECUTING )  
ATTORNEY, )

**Case No. CV OC 14 17003**

Plaintiff, )

**MOTION FOR ORDER  
ALLOWING DEFAULT AND  
DEFAULT JUDGMENT AS TO  
JOSHUA ALLEN THOMAS**

vs. )

1998 FORD F150, VIN )  
1FTRX18L9WKB27754; TWELVE )  
THOUSAND SEVEN HUNDRED NINETY- )  
FOUR AND 00/100 DOLLARS (\$12,794.00) )  
UNITED STATES CURRENCY; NINE )  
THOUSAND FOUR HUNDRED FIFTEEN )  
AND 64/100 DOLLARS (\$9,415.64) UNITED )  
STATES CURRENCY; APPROXIMATELY )  
FOUR HUNDRED FORTY-ONE AND )  
FORTY-SEVEN-HUNDREDTHS (441.47) )  
GRAMS METHAMPHETAMINE; )  
APPROXIMATELY TWELVE AND )  
SEVENTY-NINE-HUNDREDTHS (12.79) )  
GRAMS MARIJUANA; TEN (10) 16-MG )  
PILLS HYDROMORPHONE; ONE (1) )  
TAURUS MILLENNIUM 9-MM HANDGUN, )  
MODEL PT111, SERIAL NO. TSC27053, )  
WITH ONE (1) MAGAZINE OF TEN (10) )  
ROUNDS 9-MM AMMUNITION; TWO (2) )  
FOLDING KNIVES; ONE (1) VIPERTEK )  
TASER; ONE (1) DIGITAL SCALE WITH )

MOTION FOR ORDER ALLOWING DEFAULT AND DEFAULT JUDGMENT AS TO  
JOSHUA ALLEN THOMAS – PAGE 1

SV

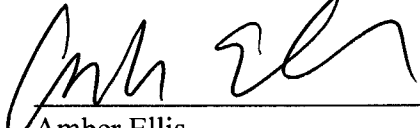
RESIDUE AND BLACK CASE; FOUR (4) )  
DIGITAL SCALES IN BOXES; ONE (1) )  
GREEN METAL CONTAINER; ONE (1) )  
ORANGE MESH BAG; ONE (1) RED MESH )  
BAG; ONE (1) BLACK MESH BAG; ONE (1) )  
BLUE CHASE BANK BAG; VARIOUS )  
PLASTIC ZIPLOC BAGS; TWO (2) GLASS )  
PIPES WITH BURNT RESIDUE; ONE (1) )  
SMALL METAL SMOKING PIPE WITH )  
BURNT RESIDUE; TEN (10) GLASS BONGS; )  
AND THIRTY-ONE (31) GLASS PIPES, )  
) )  
Defendants. )  
\_\_\_\_\_ )

COMES NOW, Plaintiff, by and through its attorney of record, James K. Dickinson, Senior Deputy Prosecuting Attorney, and respectfully moves the court, pursuant to Idaho Rule of Civil Procedure 55, for an Order Allowing Default and for Default Judgment against Joshua Allen Thomas on the grounds and for the reasons that Joshua Allen Thomas has been duly and regularly served as provided by law; the time has elapsed in which Joshua Allen Thomas must answer or otherwise defend the Complaint on file herein; and Joshua Allen Thomas has failed to answer or otherwise defend said Complaint.

This Motion is further based upon the records, files, and pleadings of the above-entitled matter and upon the Affidavit of Amber Ellis, entitled Affidavit for Default, filed herewith.

DATED this 6<sup>th</sup> day of January, 2015.

JAN M. BENNETTS  
Ada County Prosecuting Attorney

By:   
\_\_\_\_\_  
Amber Ellis  
Deputy Prosecuting Attorney



**CERTIFICATE OF SERVICE**

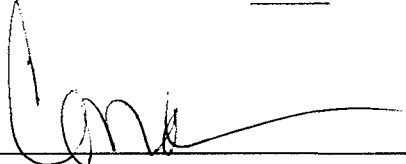
I HEREBY CERTIFY that on this 7<sup>th</sup> day of January, 2015, I served a true and correct copy of the foregoing MOTION FOR ORDER ALLOWING DEFAULT AND DEFAULT JUDGMENT AS TO JOSHUA ALLEN THOMAS to the following person(s) by the following method(s):

Joshua Allen Thomas  
LE #094879  
Ada County Jail  
7200 Barrister  
Boise, Idaho 83704

Hand Delivery  
 U.S. Mail  
 Certified Mail  
 Facsimile (208) 287-8788

Joseph C. Miller  
Mauk Miller & Burgoyne, LLC  
515 S. 6<sup>th</sup> St  
Boise, ID 83702

Hand Delivery  
 U.S. Mail  
 Certified Mail  
 Facsimile (208) 287-8788

  
\_\_\_\_\_  
Legal Assistant

NO. \_\_\_\_\_  
A.M. \_\_\_\_\_ P.M. \_\_\_\_\_

JAN 07 2015

CHRISTOPHER D. RICH, Clerk  
By JAMIE MARTIN  
DEPUTY

JAN M. BENNETTS  
ADA COUNTY PROSECUTING ATTORNEY

AMBER ELLIS  
Deputy Prosecuting Attorney  
Civil Division  
200 West Front Street, Room 3191  
Boise, ID 83702  
(208) 287-7700  
Idaho State Bar No. 7713

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

ADA COUNTY PROSECUTING )  
ATTORNEY, )

Plaintiff, )

vs. )

1998 FORD F150, VIN )  
1FTRX18L9WKB27754; TWELVE )  
THOUSAND SEVEN HUNDRED NINETY- )  
FOUR AND 00/100 DOLLARS (\$12,794.00) )  
UNITED STATES CURRENCY; NINE )  
THOUSAND FOUR HUNDRED FIFTEEN )  
AND 64/100 DOLLARS (\$9,415.64) UNITED )  
STATES CURRENCY; APPROXIMATELY )  
FOUR HUNDRED FORTY-ONE AND )  
FORTY-SEVEN-HUNDREDTHS (441.47) )  
GRAMS METHAMPHETAMINE; )  
APPROXIMATELY TWELVE AND )  
SEVENTY-NINE-HUNDREDTHS (12.79) )  
GRAMS MARIJUANA; TEN (10) 16-MG )  
PILLS HYDROMORPHONE; ONE (1) )  
TAURUS MILLENNIUM 9-MM HANDGUN, )  
MODEL PT111, SERIAL NO. TSC27053, )  
WITH ONE (1) MAGAZINE OF TEN (10) )  
ROUNDS 9-MM AMMUNITION; TWO (2) )  
FOLDING KNIVES; ONE (1) VIPERTEK )  
TASER; ONE (1) DIGITAL SCALE WITH )  
RESIDUE AND BLACK CASE; FOUR (4) )

Case No. CV OC 14 17003

**AFFIDAVIT FOR DEFAULT AS  
TO JOSHUA ALLEN THOMAS**

21

DIGITAL SCALES IN BOXES; ONE (1) )  
 GREEN METAL CONTAINER; ONE (1) )  
 ORANGE MESH BAG; ONE (1) RED MESH )  
 BAG; ONE (1) BLACK MESH BAG; ONE (1) )  
 BLUE CHASE BANK BAG; VARIOUS )  
 PLASTIC ZIPLOC BAGS; TWO (2) GLASS )  
 PIPES WITH BURNT RESIDUE; ONE (1) )  
 SMALL METAL SMOKING PIPE WITH )  
 BURNT RESIDUE; TEN (10) GLASS BONGS; )  
 AND THIRTY-ONE (31) GLASS PIPES, )  
 )  
 Defendants. )  
 \_\_\_\_\_ )

STATE OF IDAHO )  
 ) ss.  
 County of Ada )

**AMBER ELLIS**, being first duly sworn upon oath, deposes and says:

1. I am an attorney at law duly licensed to practice in the State of Idaho. I am the attorney for the Plaintiff in the above-entitled action, and this action was commenced by the filing of a Complaint in the above-entitled court.

2. This affidavit is made upon my personal knowledge.

3. Pursuant to Idaho Code § 37-2744(d)(3), Joshua Allen Thomas, believed to be a possible claimant of the Defendant Property listed in the Complaint, was served a copy of the Summons and Complaint by way of personal service the 15<sup>th</sup> day of September, 2014, per a Certificate of Service, which document has been filed with the Court.

4. More than twenty (20) days have elapsed since said date of service.

5. The time in which Joshua Allen Thomas may make answer to the Complaint has expired. Upon information and a review of the file herein, it appears Joshua Allen Thomas has failed to answer or otherwise defend said Complaint, and the time within which to do so has not been extended either by agreement or upon order of the Court.

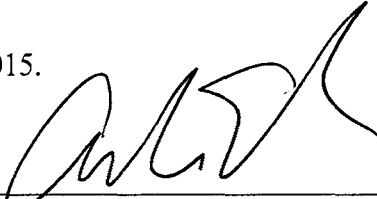
6. Upon information and upon all the records on file herein, Joshua Allen Thomas is not a person in the military service of the United States as defined by Section 101(1) of the Act of Congress, cited as the Service Members Civil Relief Act of 2003, or as defined by any other Act of Congress or the State Legislature duly adopted and approved.

7. Upon information and belief Joshua Allen Thomas is not an infant or incompetent person and is not being represented in this action by a guardian or any other such representative who has appeared herein.

8. The address most likely to give Joshua Allen Thomas, a possible claimant of the Defendant Property herein, notice is Ada County Jail, LE #094879, 7200 Barrister, Boise, Idaho 83704.

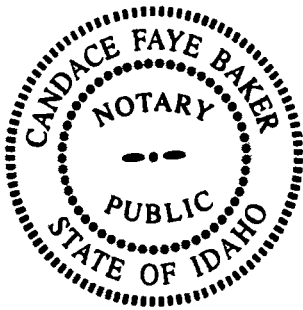
9. This Affidavit is made in support of a Motion for Order Allowing Default and Default Judgment and forfeiture of Twelve Thousand Seven Hundred Ninety-Four and 00/100 Dollars (\$12,794.00) United States Currency; Nine Thousand Four Hundred Fifteen and 64/100 Dollars (\$9,415.64) United States Currency; Approximately Four Hundred Forty-One and Forty-Seven-Hundredths (441.47) Grams Methamphetamine; Approximately Twelve and Seventy-Nine-Hundredths (12.79) Grams Marijuana; Ten (10) 16-mg Pills Hydromorphone; One (1) Taurus Millennium 9-mm Handgun, Model PT111, Serial No. TSC27053, with One (1) Magazine of Ten (10) Rounds 9-mm Ammunition; Two (2) Folding Knives; One (1) Vipertek Taser; One (1) Digital Scale with Residue and Black Case; Four (4) Digital Scales in Boxes; One (1) Green Metal Container; One (1) Orange Mesh Bag; One (1) Red Mesh Bag; One (1) Black Mesh Bag; One (1) Blue Chase Bank Bag; Various Plastic Ziploc Bags; Two (2) Glass Pipes with Burnt Residue; One (1) Small Metal Smoking Pipe with Burnt Residue; Ten (10) Glass Bongs; and Thirty-One (31) Glass Pipes, pursuant to statutes in such cases made and provided.

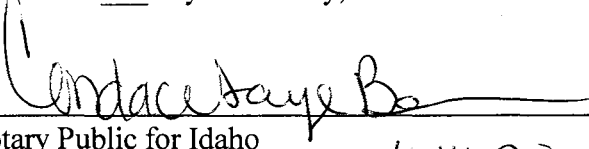
DATED this 6<sup>th</sup> day of January, 2015.

  
Amber Ellis  
Deputy Prosecuting Attorney

STATE OF IDAHO    )  
                              ) ss.  
County of Ada        )

SUBSCRIBED AND SWORN to before me this 6<sup>th</sup> day of January, 2015.



  
Notary Public for Idaho  
Commission Expires: 4-14-20

### CERTIFICATE OF SERVICE


I HEREBY CERTIFY that on this 7<sup>th</sup> day of January, 2015, I served a true and correct copy of the foregoing AFFIDAVIT FOR DEFAULT AS TO JOSHUA ALLEN THOMAS to the following person(s) by the following method(s):

Joshua Allen Thomas  
LE #094879  
Ada County Jail  
7200 Barrister  
Boise, Idaho 83704

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

Joseph C. Miller  
Mauk Miller & Burgoyne, LLC  
515 S. 6<sup>th</sup> St  
Boise, ID 83702

- Hand Delivery
- U.S. Mail
- Certified Mail
- Facsimile (208) 287-8788

  
Legal Assistant

RECEIVED  
JAN 07 2015  
Ada County Clerk

NO. \_\_\_\_\_  
FILED \_\_\_\_\_  
A.M. \_\_\_\_\_ P.M. 1:00

JAN 16 2015

CHRISTOPHER D. RICH, Clerk  
By JANINE KORSEN  
DEPUTY

JAN M. BENNETTS  
ADA COUNTY PROSECUTING ATTORNEY

AMBER ELLIS  
Deputy Prosecuting Attorney  
Civil Division  
200 West Front Street, Room 3191  
Boise, ID 83702  
(208) 287-7700  
Idaho State Bar No. 7713

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

ADA COUNTY PROSECUTING )  
ATTORNEY, )

Case No. CV OC 14 17003

Plaintiff, )

ORDER ALLOWING DEFAULT  
AS TO JOSHUA ALLEN THOMAS

vs. )

1998 FORD F150, VIN )  
1FTRX18L9WKB27754; TWELVE )  
THOUSAND SEVEN HUNDRED NINETY- )  
FOUR AND 00/100 DOLLARS (\$12,794.00) )  
UNITED STATES CURRENCY; NINE )  
THOUSAND FOUR HUNDRED FIFTEEN )  
AND 64/100 DOLLARS (\$9,415.64) UNITED )  
STATES CURRENCY; APPROXIMATELY )  
FOUR HUNDRED FORTY-ONE AND )  
FORTY-SEVEN-HUNDREDTHS (441.47) )  
GRAMS METHAMPHETAMINE; )  
APPROXIMATELY TWELVE AND )  
SEVENTY-NINE-HUNDREDTHS (12.79) )  
GRAMS MARIJUANA; TEN (10) 16-MG )  
PILLS HYDROMORPHONE; ONE (1) )  
TAURUS MILLENNIUM 9-MM HANDGUN, )  
MODEL PT111, SERIAL NO. TSC27053, )  
WITH ONE (1) MAGAZINE OF TEN (10) )  
ROUNDS 9-MM AMMUNITION; TWO (2) )  
FOLDING KNIVES; ONE (1) VIPERTEK )  
TASER; ONE (1) DIGITAL SCALE WITH )  
RESIDUE AND BLACK CASE; FOUR (4) )

JM


DIGITAL SCALES IN BOXES; ONE (1) )  
 GREEN METAL CONTAINER; ONE (1) )  
 ORANGE MESH BAG; ONE (1) RED MESH )  
 BAG; ONE (1) BLACK MESH BAG; ONE (1) )  
 BLUE CHASE BANK BAG; VARIOUS )  
 PLASTIC ZIPLOC BAGS; TWO (2) GLASS )  
 PIPES WITH BURNT RESIDUE; ONE (1) )  
 SMALL METAL SMOKING PIPE WITH )  
 BURNT RESIDUE; TEN (10) GLASS )  
 BONGS; AND THIRTY-ONE (31) GLASS )  
 PIPES, )  
 )  
 Defendants. )  
 \_\_\_\_\_ )

IT APPEARING from the records of the above-entitled case that Joshua Allen Thomas, having been duly served with process, has failed to answer within the time allowed; that Joshua Allen Thomas has made no appearance in this action; that the time for an appearance and an answer to the Complaint on file in this action has expired; and

IT FURTHER APPEARING in the above-entitled cause, from the Affidavit of Amber Ellis, attorney for the Plaintiff, that Joshua Allen Thomas is not a person in the military service of the United States as defined by Section 101(1) of the Act of Congress, cited as the Service Members Civil Relief Act of 2003, or as defined by any other Act of Congress or the State Legislature duly adopted and approved; and that Joshua Allen Thomas is not an infant or incompetent person;

IT IS THEREFORE HEREBY ORDERED that, pursuant to I.R.C.P. 55, default may be entered herein against Joshua Allen Thomas named in this action.

DATED this 15<sup>th</sup> day of January, 2015.

  
 \_\_\_\_\_  
 Hon. Lynn G. Norton  
 4<sup>th</sup> Judicial District Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 16<sup>th</sup> day of January, 2015, I served a true and correct copy of the foregoing ORDER ALLOWING DEFAULT AS TO JOSHUA ALLEN THOMAS to the following persons by the following methods:

Amber Ellis  
Deputy Prosecuting Attorney  
Civil Division  
200 W. Front Street, Room 3191  
Boise, ID 83702

Hand Delivery  
 U.S. Mail  
 Interdepartmental Mail  
 Facsimile

Joshua Allen Thomas  
LE #094879  
Ada County Jail  
7200 Barrister  
Boise, Idaho 83704

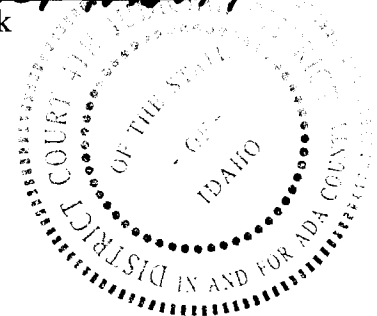
Hand Delivery  
 U.S. Mail  
 Certified Mail  
 Facsimile

Joseph C. Miller  
Mauk Miller & Burgoyne, LLC  
515 S. 6<sup>th</sup> St  
Boise, ID 83702

Hand Delivery  
 U.S. Mail  
 Certified Mail  
 Facsimile

CHRISTOPHER D. RICH  
Clerk of the Court

By: *Janine Hansen*  
Deputy Clerk





RECEIVED

JAN 07 2015

Ada County Clerk

JAN M. BENNETTS  
ADA COUNTY PROSECUTING ATTORNEY

AMBER ELLIS  
Deputy Prosecuting Attorney  
Civil Division  
200 West Front Street, Room 3191  
Boise, ID 83702  
(208) 287-7700  
Idaho State Bar No. 7713

NO. \_\_\_\_\_  
A.M. \_\_\_\_\_ FILED P.M. 1:00

JAN 16 2015

CHRISTOPHER D. RICH, Clerk  
By JANINE KORSEN  
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

ADA COUNTY PROSECUTING )  
ATTORNEY, )

Plaintiff, )

vs. )

1998 FORD F150, VIN )  
1FTRX18L9WKB27754; TWELVE )  
THOUSAND SEVEN HUNDRED NINETY- )  
FOUR AND 00/100 DOLLARS (\$12,794.00) )  
UNITED STATES CURRENCY; NINE )  
THOUSAND FOUR HUNDRED FIFTEEN )  
AND 64/100 DOLLARS (\$9,415.64) UNITED )  
STATES CURRENCY; APPROXIMATELY )  
FOUR HUNDRED FORTY-ONE AND )  
FORTY-SEVEN-HUNDREDTHS (441.47) )  
GRAMS METHAMPHETAMINE; )  
APPROXIMATELY TWELVE AND )  
SEVENTY-NINE-HUNDREDTHS (12.79) )  
GRAMS MARIJUANA; TEN (10) 16-MG )  
PILLS HYDROMORPHONE; ONE (1) )  
TAURUS MILLENNIUM 9-MM HANDGUN, )  
MODEL PT111, SERIAL NO. TSC27053, )  
WITH ONE (1) MAGAZINE OF TEN (10) )  
ROUNDS 9-MM AMMUNITION; TWO (2) )  
FOLDING KNIVES; ONE (1) VIPERTEK )  
TASER; ONE (1) DIGITAL SCALE WITH )  
RESIDUE AND BLACK CASE; FOUR (4) )  
DIGITAL SCALES IN BOXES; ONE (1) )  
GREEN METAL CONTAINER; ONE (1) )

Case No. CV OC 14 17003

DEFAULT JUDGMENT AS TO  
JOSHUA ALLEN THOMAS

Handwritten initials

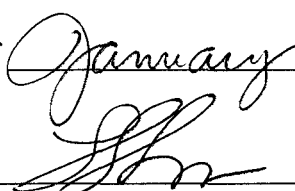
ORANGE MESH BAG; ONE (1) RED MESH )  
 BAG; ONE (1) BLACK MESH BAG; ONE (1) )  
 BLUE CHASE BANK BAG; VARIOUS )  
 PLASTIC ZIPLOC BAGS; TWO (2) GLASS )  
 PIPES WITH BURNT RESIDUE; ONE (1) )  
 SMALL METAL SMOKING PIPE WITH )  
 BURNT RESIDUE; TEN (10) GLASS BONGS; )  
 AND THIRTY-ONE (31) GLASS PIPES, )  
 )  
 Defendants. )  
 \_\_\_\_\_ )

JUDGMENT IS ENTERED AS FOLLOWS: The Order Allowing Default having been entered, the allegations set forth in the Complaint on file herein shall be deemed admitted and Plaintiff shall have judgment as follows:

That Joshua Allen Thomas be denied any right to make any claim pursuant to Idaho Code § 37-2744, and that any and all right, title, or interest to the Defendant Property be forfeited by default to Plaintiff.

That Plaintiff be authorized to destroy, use, or sell said Defendant Property and apply the proceeds, as appropriate, in accordance with the Uniform Controlled Substances Act, Idaho Code §§ 37-2701, et seq.

IT IS SO ORDERED this 15<sup>th</sup> day of January, 2015.

  
 \_\_\_\_\_  
 Hon. Lynn G. Norton  
 4<sup>th</sup> Judicial District Judge

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 10<sup>th</sup> day of January, 2015, I served a true and correct copy of the foregoing DEFAULT JUDGMENT AS TO JOSHUA ALLEN THOMAS to the following persons by the following methods:

Amber Ellis  
Deputy Prosecuting Attorney  
Civil Division  
200 W. Front Street, Room 3191  
Boise, ID 83702

Hand Delivery  
 U.S. Mail  
 Interdepartmental Mail  
 Facsimile

Joshua Allen Thomas  
LE #094879  
Ada County Jail  
7200 Barrister  
Boise, Idaho 83704

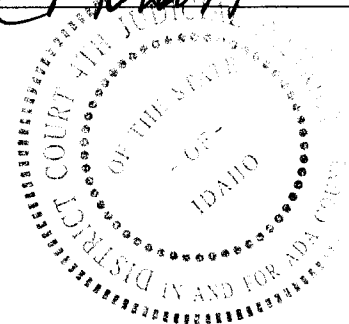
Hand Delivery  
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 Certified Mail  
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Joseph C. Miller  
Mauk Miller & Burgoyne, LLC  
515 S. 6<sup>th</sup> St  
Boise, ID 83702

Hand Delivery  
 U.S. Mail  
 Certified Mail  
 Facsimile

**CHRISTOPHER D. RICH**  
Clerk of the Court

By: *Carrie Hansen*  
Deputy Clerk



**JAN M. BENNETTS**  
ADA COUNTY PROSECUTING ATTORNEY

**FEB 13 2015**

**CHRISTOPHER D. RICH, Clerk**  
By **SANTIAGO BARRIOS**  
DEPUTY

**AMBER ELLIS**  
Deputy Prosecuting Attorney  
Civil Division  
200 W. Front Street, Room 3191  
Boise, ID 83702  
(208) 287-7700  
Idaho State Bar No. 7713

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

ADA COUNTY PROSECUTING )  
ATTORNEY, )  
)  
Plaintiff, )  
vs. )  
)  
1998 FORD F150, VIN )  
1FTRX18L9WKB27754; TWELVE )  
THOUSAND SEVEN HUNDRED )  
NINETY-FOUR AND 00/100 DOLLARS )  
(\$12,794.00) UNITED STATES )  
CURRENCY; NINE THOUSAND FOUR )  
HUNDRED FIFTEEN AND 64/100 )  
DOLLARS (\$9,415.64) UNITED STATES )  
CURRENCY; APPROXIMATELY FOUR )  
HUNDRED FORTY-ONE AND FORTY- )  
SEVEN-HUNDREDTHS (441.47) GRAMS )  
METHAMPHETAMINE; )  
APPROXIMATELY TWELVE AND )  
SEVENTY-NINE-HUNDREDTHS (12.79) )  
GRAMS MARIJUANA; TEN (10) 16-MG )  
PILLS HYDROMORPHONE; ONE (1) )  
TAURUS MILLENNIUM 9-MM )  
HANDGUN, MODEL PT111, SERIAL NO. )  
TSC27053, WITH ONE (1) MAGAZINE )  
OF TEN (10) ROUNDS 9-MM )  
AMMUNITION; TWO (2) FOLDING )  
KNIVES; ONE (1) VIPERTEK TASER; )  
ONE (1) DIGITAL SCALE WITH )  
RESIDUE AND BLACK CASE; FOUR (4) )

**Case No. CV OC 2014-17003**  
**ANSWER TO CLAIMANT'S**  
**COUNTER CLAIM**

DIGITAL SCALES IN BOXES; ONE (1) )  
 GREEN METAL CONTAINER; ONE (1) )  
 ORANGE MESH BAG; ONE (1) RED )  
 MESH BAG; ONE (1) BLACK MESH )  
 BAG; ONE (1) BLUE CHASE BANK )  
 BAG; VARIOUS PLASTIC ZIPLOC )  
 BAGS; TWO (2) GLASS PIPES WITH )  
 BURNT RESIDUE; ONE (1) SMALL )  
 METAL SMOKING PIPE WITH BURNT )  
 RESIDUE; TEN (10) GLASS BONGS; )  
 AND THIRTY-ONE (31) GLASS PIPES, )  
 )  
 Defendants. )  
 \_\_\_\_\_ )

COMES NOW, Plaintiff, Ada County Prosecuting Attorney (Plaintiff), by and through her attorney of record, Amber Ellis, and in answer to Claimant, William Scott DeMint, Counterclaim admits, denies, and alleges as follows:

**I.**

Plaintiff denies each and every allegation of Claimant's Counterclaim not herein specifically and expressly admitted.

**II.**

**FIRST DEFENSE**

As and for an affirmative defense, Plaintiff asserts and alleges that a counterclaim is not an appropriate pleading for an action In Rem.

**THE FORD F150**

**III.**

Answering paragraphs 8 through 12 of Claimant's Counterclaim, Plaintiff is without information sufficient to form a belief as to the truth of the allegations contained therein and therefore deny same.

#### IV.

Answering paragraphs 13 and 14 of Claimant's Counterclaim, Plaintiff asserts and alleges, consistent with the Complaint, that Defendant Property 1998 Ford F150, VIN 1FTRX18L9WKB27754 is subject to forfeiture as a conveyance which was used, or was intended for use, to transport or to facilitate the transportation, delivery, receipt, possession, or concealment, for the purposes of distribution or receipt of a controlled substance(s), namely Methamphetamine, Marijuana, and Hydromorphone, by William Scott Demint and/or Joshua Allen Thomas in violation of Idaho Code § 37-2744 and the Idaho Uniform Controlled Substances Act, Idaho Code § 37-2701, *et seq.*

In the alternative, Defendant Property 1998 Ford F150, VIN 1FTRX18L9WKB27754 is subject to forfeiture as equipment which has been used and/or was intended for use in manufacturing, compounding, processing, delivering, importing, or exporting of a controlled substance(s), namely Methamphetamine, Marijuana, and Hydromorphone, by William Scott Demint and/or Joshua Allen Thomas in violation of Idaho Code § 37-2744 and the Idaho Uniform Controlled Substances Act, Idaho Code § 37-2701, *et seq.*

In the alternative, Defendant Property 1998 Ford F150, VIN 1FTRX18L9WKB27754 is subject to forfeiture for being used and/or intended for use as a container for a controlled substance, namely Methamphetamine, Marijuana, and Hydromorphone, by William Scott Demint and/or Joshua Allen Thomas in violation of Idaho Code § 37-2744 and the Idaho Uniform Controlled Substances Act, Idaho Code § 37-2701, *et seq.*

Plaintiff is without information sufficient to form a belief as to the truth of the remaining allegations contained therein and therefore deny the same.

**THE \$12,794.00 U.S. CURRENCY**

**V.**

Answering paragraph 15 of Claimant's Counterclaim, Plaintiff is without information sufficient to form a belief as to the truth of the allegations contained therein and therefore deny same.

**VI.**

Answering paragraph 16 of Claimant's Counterclaim, Plaintiff admits that \$195 was found in Claimant's wallet during the arrest and search giving rise to this action.

**VII.**

Answering paragraphs 17 through 20, Plaintiff asserts and alleges, consistent with the Complaint, that Defendant Property Twelve Thousand Seven Hundred Ninety-Four and 00/100 Dollars (\$12,794.00) United States Currency is subject to forfeiture as money or currency subject to forfeiture pursuant to Idaho Code § 37-2744(a)(6), as it was found in close proximity to property described in Idaho Code § 37-2744(a)(1), (2), (3), (5), (7) and/or (8), and/or was used or intended for use in connection with the illegal manufacturing, distribution, dispensing, or possession of property described in Idaho Code § 37-2744(a)(1), (2), (3), (5), (7) and/or (8).

In the alternative, Defendant Property Twelve Thousand Seven Hundred Ninety-Four and 00/100 Dollars (\$12,794.00) United States Currency is subject to forfeiture as money or currency subject to forfeiture pursuant to Idaho Code § 37-2744(a)(6), as it was furnished or intended to be furnished in exchange for a contraband controlled by Idaho Code §§ 37-2701, *et seq.*, and/or is a proceed used or intended to be used to violate the Idaho Uniform Controlled Substances Act, Idaho Code §§ 37-2701, *et seq.* Plaintiff is without information sufficient to form a belief as to the truth of the remaining allegations contained therein and therefore deny the same.

**THE \$9,145.64 U.S. CURRENCY**

**VIII.**

Answering paragraphs 21 and 22 Plaintiff is without information sufficient to form a belief as to the truth of the allegations contained therein and therefore deny the same.

**IX.**

Answering paragraphs 23 through 28, Plaintiff asserts and alleges, consistent with the Complaint, that the \$9,145.64 U.S. Currency of Claimant's Counterclaim, Ada County Prosecuting Attorney admits that Defendant Property Nine Thousand Four Hundred Fifteen and 64/100 Dollars (\$9,415.64) United States Currency is subject to forfeiture as money or currency subject to forfeiture pursuant to Idaho Code § 37-2744(a)(6), as it was used or intended for use in connection with the illegal manufacturing, distribution, dispensing, or possession of property described in Idaho Code § 37-2744(a)(1), (2), (3), (5), (7) and/or (8).

In the alternative, Defendant Property Nine Thousand Four Hundred Fifteen and 64/100 Dollars (\$9,415.64) United States Currency is subject to forfeiture as money or currency subject to forfeiture pursuant to Idaho Code § 37-2744(a)(6), as it was furnished or intended to be furnished in exchange for a contraband controlled by Idaho Code §§ 37-2701, *et seq.*, and/or is a proceed used or intended to be used to violate the Idaho Uniform Controlled Substances Act, Idaho Code §§ 37-2701, *et seq.* Plaintiff is without information sufficient to form a belief as to the truth of the remaining allegations contained therein and therefore deny the same.

**THE TAURUS MILLENNIUM 9mm HANDGUN, THE TWO FOLDING KNIVES, AND  
THE VIPERTEK TASER**

**X.**

Answering paragraphs 29 through 33, Plaintiff asserts and alleges, consistent with the Complaint, that the Taurus Millennium 9mm Handgun, The Two Folding Knives, and The



Vipertek Taser of Claimant's Counterclaim, Ada County Prosecuting Attorney admits that Defendant Property One (1) Taurus Millennium 9-mm Handgun, Model PT111, Serial No. TSC27053, with One (1) Magazine of Ten (10) Rounds 9-mm Ammunition; Two (2) Folding Knives; and One (1) Vipertek Taser are subject to forfeiture as weapons or firearms, which have been used to facilitate a violation of the Idaho Uniform Controlled Substances Act, Idaho Code § 37-2701, *et seq.* Plaintiff is without information sufficient to form a belief as to the truth of the remaining allegations contained therein and therefore deny the same.

**XI.**

Answering paragraph 34, Plaintiff asserts that I.C. § 37-2744 is the relevant statute to this action.

**WHEREFORE**, Plaintiff prays for relief as follows:

1. That Defendant Property be forfeited pursuant to Idaho Code § 37-2744;
2. That Plaintiff be awarded its costs and attorney fees pursuant to Idaho Code §§ 12-120, 12-121, and other applicable Idaho laws; and
3. For such other relief as the Court deems just and proper under the circumstances.

**DATED** this 13<sup>th</sup> day of February, 2015.

JAN M. BENNETTS  
Ada County Prosecuting Attorney

By: \_\_\_\_\_

Amber Ellis

Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 13<sup>th</sup> day of February, 2015, I served a true and correct copy of the foregoing ANSWER TO CLAIMANT'S COUNTER CLAIM to the following person(s) by the following method:

Joseph C. Miller  
MAUK MILLER & BURGOYNE, LLC  
515 S. 6<sup>th</sup> Street  
Boise, Idaho 83702

Hand Delivery  
 U.S. Mail  
 Certified Mail  
 Facsimile: (208) 287-8788

Robette Meyers

Time	Speaker	Note
<u>12:37:28 PM</u>		Ada County v. 1998 Ford F150 CVOC14-17003 Scheduling Conference
<u>02:28:18 PM</u>	Plaintiff Attorney - Jim Dickinson	
<u>02:28:22 PM</u>	Personal Attorney - Joe Miller	
<u>02:28:24 PM</u>	Judge Norton	reviews the file.
<u>02:28:49 PM</u>	Personal Attorney -	advises Mr. Demint is set for sentencing in mid-May so we can proceed on this case.
<u>02:29:00 PM</u>	Plaintiff Attorney -	comments regarding a trial date and advises 1 - 1 1/2 days for trial.
<u>02:30:44 PM</u>	Judge Norton	comments and sets a trial for Oct. 5 at 9:00 for a 2 day Court Trial.
<u>02:31:26 PM</u>	Personal Attorney -	requests 2 days.
<u>02:31:30 PM</u>	Plaintiff Attorney -	requests a Jury Trial unless they waive it.
<u>02:32:07 PM</u>	Judge Norton	reviews the file and thought it was a Court Trial.
<u>02:32:17 PM</u>	Personal Attorney -	is fine with it being a Court Trial.
<u>02:32:25 PM</u>	Plaintiff Attorney -	advises Ms. Ellis might file a summary judgment.
<u>02:32:34 PM</u>	Judge Norton	advises it now has to be filed 90 days before trial.
<u>02:32:54 PM</u>	Plaintiff Attorney -	can agree to the cutoff dates with Mr. Miller
<u>02:33:10 PM</u>	Judge Norton	will let the parties fill out the Stipulation and advises to have it filed within 7 days.
<u>02:33:56 PM</u>	Plaintiff Attorney -	will do that.

*Debra / Justice  
4/29/15  
09*

04/17/2015 10:10 FAX 287 7719

Ada Cty Prosecutor Civil

0002/0005

NO \_\_\_\_\_  
A.M. \_\_\_\_\_ FILED P.M. **2:10**

**APR 28 2015**

CHRISTOPHER D. RICH, Clerk  
By SANTIAGO BARRIOS  
DEPUTY

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

ADA COUNTY PROSECUTING  
ATTORNEY,

Plaintiff,

vs.

1998 FORD F150, et al.

Defendant.

Case No. CV-OC-2014-17003

**STIPULATION FOR SCHEDULING  
AND PLANNING**

The above parties hereby stipulate to the following scheduling deadlines:

**A. EXPERT WITNESSES**

**(Plaintiff's experts)**

1. 120 days before trial, plaintiff shall disclose each person plaintiff intends to call as an expert witness at trial and state the subject matter on which the witness is expected to testify.

2. 90 days (at least 90) before trial, plaintiff shall disclose all information required by Rule 26(b)(4) of the Idaho Rules of Civil Procedure regarding expert witnesses.

3. 60 days before trial, defendant shall complete any depositions of the plaintiff's initial expert witnesses.

**(Defendant's experts)**

4. 105 days before trial, defendant shall disclose each person defendant intends to call as an expert witness at trial and state the subject matter on which the witness is expected to testify.

5. 90 days (at least 90) before trial, defendant shall disclose all information required by Rule 26(b)(4) of the Idaho Rules of Civil Procedure regarding expert witnesses.

*SAB*

6. 60 days before trial, plaintiff shall complete any depositions of the defendant's expert witnesses.

**(Plaintiff's rebuttal experts)**

7. 60 days before trial, plaintiff shall disclose each person plaintiff intends to call as an expert witness at trial to rebut new information or issues disclosed or raised by the defendant.

8. 45 days (at least 42) before trial, plaintiff shall disclose all information required by Rule 26(b)(4) of the Idaho Rules of Civil Procedure regarding the rebuttal expert witnesses.

9. 30 days before trial, defendant shall complete any depositions of the plaintiff's rebuttal expert witnesses.

**B. LAY WITNESSES**

1. 100 days (at least 42) before trial, plaintiff shall disclose each person plaintiff intends to call as a lay witness at trial (excluding impeachment witnesses).

2. 100 days (at least 42) before trial, defendant shall disclose each person defendant intends to call as a lay witness at trial (excluding impeachment witnesses).

3. 70 days before trial, plaintiff shall disclose each lay witness (excluding impeachment witnesses) plaintiff intends to call at trial to rebut new information or issues disclosed or raised by the defendant.

4. 50 days before trial, all parties shall complete any depositions of lay witnesses.

**C. DEADLINES FOR INITIATING DISCOVERY**

1. 120 days before trial is the last day for serving interrogatories, requests for production, requests to permit entry upon land or other property, and requests for admission.

2. 120 days before trial is the last day for filing motions for a physical or mental examination.

**D. DEADLINE FOR SUPPLEMENTAL RESPONSES TO DISCOVERY**

60 days before trial, all parties must serve any supplemental response to discovery required by Rule 26(e) of the Idaho Rules of Civil Procedure.

**E. STIPULATIONS TO ALTER DISCOVERY DEADLINES**

The parties may alter any discovery deadline by written agreement without the necessity of obtaining a court order.

**F. PRETRIAL MOTIONS**

1. 120 days before trial is the last day to file motions to add additional parties to the lawsuit.

2. 60 days before trial is the last day to file a motion to amend the claims between existing parties to the lawsuit, including to add a claim for punitive damages.

3. All other non-dispositive pretrial motions (excluding motions in limine) must be filed and heard twenty-one (21) days before trial.

**G. MOTIONS FOR SUMMARY JUDGMENT OR OTHER DISPOSITIVE MOTIONS**

All motions for summary judgment or other dispositive motions must be filed at least **ninety-one (91)** days and heard at least **sixty (60)** days before trial.

**H. TRIAL SETTING**

1. This case can be set for a trial to commence on or after October 5, 2015.  
(The case must be concluded within 18 months from the date the complaint was filed pursuant to Idaho Court Administrative Rule 57.)

2. It is estimated the trial will take 2 days.

3. This case is to be tried as a:  
 court trial  
 jury trial

4. Parties preference for trial dates: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**I. MEDIATION**

1. The parties agree to mediation: yes x no \_\_\_\_\_

2. If yes:

a. The parties agree to submit to mediation with a mediator mutually agreed upon under the time limits in I.R.C.P. 16(k).

b. Mediation shall begin 100 days prior to trial. The mediation must be completed and the report received by the court at least 45 days prior to trial.

c. Unless otherwise agreed in writing between the parties, the cost of mediation shall be equally divided between the parties.

The parties reserve the right to amend this stipulation by agreement of all parties, subject to Court approval; each party reserves the right to seek amendment hereof by Court order, and to request further status conferences for such purpose, in accordance with I.R.C.P. 16(a) and 16(b).

Dated this 23<sup>rd</sup> day of April, 2015.

Appearances:

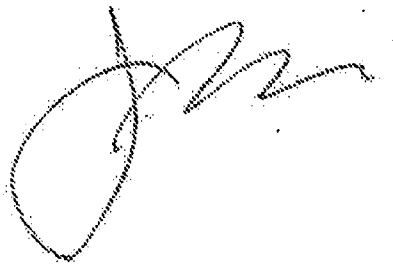
Counsel for Plaintiff(s)

Amber Ellis  
Attorney at Law

*4-27-15 Amber Ellis*

Counsel for Defendant(s)

Joseph C. Miller  
Attorney at Law



CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 28th day of April, 2015, I served a true and correct copy of the foregoing STIPULATION FOR SCHEDULING AND PLANNING to the following person by the following method:

Joseph C. Miller  
MAUK MILLER & BURGOYNE, LLC  
515 S. 6<sup>th</sup> Street  
Boise, Idaho 83702

Hand Delivery  
 U.S. Mail  
 Certified Mail  
 Facsimile: (208) 287-8788

  
\_\_\_\_\_



BY: *Jamie Bowen*  
Deputy Clerk

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

ADA COUNTY PROSECUTOR'S OFFICE,

Plaintiff,

vs.

1998 FORD F150,  
\$12,794.00 US CURRENCY,  
\$9,415.64 US CURRENCY,  
APPROX 441.47 GRAMS  
METHAMPHETAMINE,  
APPROX 12.79 GRAMS MARIJUANA,  
TEN 16-MG PILLS HYDROMORPHONE,  
1 TAURUS MILLENNIUM 9-MM  
HANDGUN,  
2 FOLDING KNIVES,  
1 VIPERTEK TASER,  
1 DIGITAL SCALE WITH RESIDUE AND  
BLACK CASE,  
4 DIGITAL SCALES IN BOXES,  
1 GREEN METAL CONTAINER,  
1 ORANGE MESH BAG,  
1 RED MESH BAG,  
1 BLACK MESH BAG,  
1 BLUE CHASE BANK BAG,  
VARIOUS PLASTIC ZIPLOC BAGS,  
2 GLASS PIPES WITH BURNT RESIDUE,  
1 SMALL METAL SMOKING PIPE WITH  
BURNT RESIDUE,  
10 GLASS BONGS,  
31 GLASS PIPES,

Defendant.

Case No. CV-OC-2014-17003

NOTICE OF TRIAL SETTING  
AND ORDER GOVERNING  
FURTHER PROCEEDINGS

This case is hereby set for a Court Trial to commence on **MONDAY, OCTOBER 05, 2015 at 08:30 AM**. The trial is scheduled for **2** days.

*JH*

A settlement/status conference is hereby set for **THURSDAY, AUGUST 20, 2015 at 2:30 p.m.** If the parties agreed to mediation in their scheduling stipulation, the mediation must be completed and the report received by the court by this date.

A pretrial conference is hereby set for **THURSDAY, SEPTEMBER 3, 2015 at 2:30 p.m.** All pretrial materials in I.R.C.P. 16 must be filed on or before the pretrial conference date. A copy of exhibit lists, witness lists, and requested jury instructions (jury trial) or proposed findings of fact and conclusions of law (court trial) shall be submitted no later than this hearing. It is sufficient for the parties to identify unmodified pattern jury instructions by number. Counsel will retain the exhibits until the day of trial and will not lodge actual exhibits with the clerk. All parties must be represented at the pretrial conference. Counsel must be the handling attorney, or be fully familiar with the case and have authority to bind the client and law firm to all matters within I.R.C.P. 16. This conference will include a discussion of whether an alternate judge may be available to try this case, if necessary, and any changes to the dates or time the alternate judge may require. If scheduling issues remain, an additional status conference will be set at the pretrial conference.

IT IS HEREBY FURTHER ORDERED that the dates stipulated to by all counsel in the Stipulation for Scheduling and Planning be so ordered.

IT IS HEREBY ORDERED:

**A. TRIAL EXHIBITS:** Before trial, each party shall call the Judge's clerk or secretary at 287-7564 to find out how to mark their exhibits and shall pre-mark all exhibits the party intends to offer into evidence using evidence stickers of the type used by the Clerk's Office.

**B. DRAWING JURORS: (if Jury Trial)** Jurors names for seating order will be randomly drawn by the computer before the date of trial. If counsel intend to observe this process, they must contact the court clerk.

**C. VOIR DIRE: (if Jury Trial)** Voir dire of respective jurors by counsel will be limited to a total of **40 minutes** per side, unless otherwise ordered by the Court.

**D. TRIAL PROCEEDING**

Trials scheduled for four days or more will generally be conducted from 9:00 a.m. to 2:00 p.m., EXCEPT ON THE FIRST DAY OF TRIAL AND THE LAST DAY OF TRIAL, with two 15-minute breaks. Trials of three days or less will be conducted from 8:30 a.m. to 5:00 p.m. on Mondays, 8:30 a.m. to 12:30 p.m. on Tuesdays, and 9 a.m. to 5 p.m. on Wednesdays.

Unless otherwise specified, no trial proceedings will take place on Thursdays because of the Court's criminal arraignment and civil motion calendars in Ada County. Trials over four days may have to recess for intervening matters set on the court's calendar. If you have questions about the timing of other matters set on the court's calendar, please contact the clerk.

**E. DOUBLE-SETS:** This case has been double-set with other cases. Because of statutory and constitutional speedy trial requirements, criminal cases will have preference over civil trials.

**F. OBJECTIONS TO TRIAL DATE**

**ANY OBJECTION TO THE TRIAL DATE MUST BE FILED AND SERVED WITHIN FOURTEEN (14) DAYS AFTER THE DATE OF SERVICE OF THIS ORDER AND MUST BE ACCOMPANIED BY A LIST OF UNAVAILABLE DATES OF THE PARTY MAKING THE OBJECTION. IF THERE IS A TIMELY OBJECTION, THEN ALL OTHER PARTIES WILL HAVE SEVEN (7) DAYS AFTER THE SERVICE OF SUCH OBJECTION TO FILE WITH THE COURT THEIR UNAVAILABLE DATES TO BE CONSIDERED IN ANY RESCHEDULING. FAILURE TO TIMELY OBJECT WILL WAIVE ANY OBJECTION TO THE TRIAL DATE.**

**G.** Notice is hereby given, pursuant to Idaho Rule of Civil Procedure 40(d)(1)(G), that an **alternate Judge** may be assigned to preside over the trial of this case. The following is a list of potential alternate judges:

Hon. G. D. Carey	Justice Gerald Schroeder
Hon. Dennis Goff	Hon. Kathryn Sticklen
Hon. Renae Hoff	Hon. Linda Trout (mediations only, limited)
Hon. Daniel C. Hurlbutt, Jr.	Hon. Darla Williamson
Hon. James Judd	Hon. Ronald Wilper
Hon. D. Duff McKee	Hon. William Woodland
Hon. James Morfitt	<b>All Sitting Fourth District Judges</b>

Unless a party has previously exercised their right to **disqualification without cause** under Rule 40(d)(1), each party shall have the right to file one (1) motion for disqualification without cause as to any alternate judge not later than ten (10) days after service of this notice.

**H. WITNESS DISCLOSURES/EXPERT WITNESSES:** A party's obligation to fully and timely respond to discovery requests is governed by the Idaho Rules of Civil Procedure and is distinct from this order and from any obligation imposed by this order. No party may rely upon this order or any deadline it imposes as justification for failing to timely respond earlier to discovery requests or supplement prior responses. Unless requested of a party through discovery under earlier timelines, the following governs disclosure of witnesses before the pre-trial conference. With the exception of impeachment witnesses under I.R.C.P 16(h), each party shall disclose the existence and identity of intended or potential expert or lay witnesses to the extent required by interrogatories or other discovery requests propounded by another party. There is no independent duty to disclose expert or lay witnesses except as required to adequately respond to discovery requests or supplement prior responses, unless the court has specifically ordered the disclosure. If discovery requests seeking disclosure of expert witnesses are propounded, the plaintiff upon whom such requests are served shall, in good faith, disclose the existence and identity of potential or intended expert witnesses and the subject matter and the substance of any

opinions of such experts at the earliest opportunity, and in no event later than **one hundred-twenty (120) days** before trial. A defendant upon whom such requests are served shall, in good faith, identify any potential or intended expert witnesses and the subject matter and substance of any opinions of such experts at the earliest opportunity, and in no event later than **ninety-five (95) days** before trial. Required expert disclosures are governed by Rule 26 and note there were amendments to that rule effective July 1, 2014.

**This provision means that when an expert is identified, he or she must have performed such investigation as may be necessary, reviewed such documents as may be necessary, and reached conclusions or opinions as may be required so that disclosure of that information, or such other information as may be requested by discovery or by I.R.E. 703 and 705 will be disclosed no later than 120 days or 95 days prior to trial.** The expectation that an expert may be deposed is not a ground for failure to make disclosures called for by discovery, by rule of evidence, or by Rule 26(b)(4) IRCP. Experts may be prohibited from testifying to any opinions or foundation for such opinions that have not been the subject of timely and proper disclosure. If an opinion or foundation for an opinion of an expert changes in any fashion after previous disclosures have been made there is a duty to immediately supplement such information pursuant to Rule 26(e) IRCP.

Any party upon whom discovery is served who intends or reserves the right to call any expert witness in rebuttal or surrebuttal shall, in good faith, identify such experts at the earliest opportunity, and **in no event later than forty-two (42) days** before trial. A defense expert intended to be called during the defense case in chief is not a “rebuttal” witness within the terms of this order.

Any party upon whom discovery requests are served seeking disclosure of lay witnesses shall, in good faith, disclose the identity of all such witnesses at the earliest opportunity, and **in no event later than forty-two (42) days** before trial. Absent a showing of good cause and a lack of unfair prejudice to any other party, any witness who has not been timely disclosed will not be permitted to testify at trial.

**I. MOTIONS IN LIMINE:** All motions in limine must be filed before the pretrial conference and heard at least fourteen (14) days before the trial date.

**J.** Counsel shall **jointly file** a brief **status report between 120 days and 130 days** before trial to confirm scheduled mediation, whether the case is proceeding, whether the case will be ready for trial at the time scheduled, or request a rule 16 status conference.

**K.** Any stipulation to vacate or continue the trial by the parties is not binding upon the court. **A hearing must be properly noticed** and held for the court to consider such stipulation.

**L. JUDGMENTS:** If you have not taken the opportunity to review the changes to Rule 54 related to judgments, please take an opportunity to note the changes to Rule 54(a) effective July 1, 2014. The Idaho Supreme Court requires proposed judgments to follow this language precisely (and no longer permits an order of dismissal or voluntary dismissal—only a document titled “Judgment”). A portion of the amended rule reads, “A judgment shall begin with the

words 'JUDGMENT IS ENTERED AS FOLLOWS: . . .,' and it shall not contain any other wording between those words and the caption." Please be sure any proposed judgment complies with the current rule.

DATED this 11<sup>th</sup> day of May, 2015.



LYNN G. NORTON

District Judge

**CERTIFICATE OF MAILING**

I hereby certify that on this 11<sup>th</sup> day of May, 2015, I mailed (served) a true and correct copy of the within instrument to:

JAMES K DICKINSON  
AMBER ELLIS  
ATTORNEYS AT LAW  
200 W FRONT STREET  
BOISE ID 83702

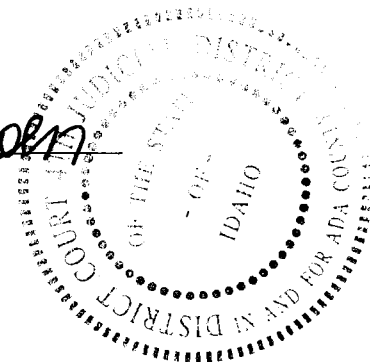
By United States mail  
 By telefacsimile  
 By personal delivery  
 By overnight mail/Federal Express

JOSEPH C MILLER  
ATTORNEY AT LAW  
515 S 6<sup>TH</sup> STREET  
BOISE ID 83702

By United States mail  
 By telefacsimile  
 By personal delivery  
 By overnight mail/Federal Express

CHRISTOPHER D. RICH  
Clerk of the District Court

By:   
Deputy Court Clerk



JUN 05 2015

**JAN M. BENNETTS**  
ADA COUNTY PROSECUTING ATTORNEY

CHRISTOPHER D. RICH, Clerk  
By SANTIAGO BARRIOS  
DEPUTY

**AMBER ELLIS**  
Deputy Prosecuting Attorney  
Civil Division  
200 W. Front Street, Room 3191  
Boise, ID 83702  
(208) 287-7700  
Idaho State Bar No. 7713

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

ADA COUNTY PROSECUTING )  
ATTORNEY, )

**Case No. CV OC 2014-17003**

Plaintiff, )

**COURT ORDERED STATUS  
REPORT**

vs. )

1998 FORD F150, VIN )  
1FTRX18L9WKB27754; TWELVE )  
THOUSAND SEVEN HUNDRED )  
NINETY-FOUR AND 00/100 DOLLARS )  
(\$12,794.00) UNITED STATES )  
CURRENCY; NINE THOUSAND FOUR )  
HUNDRED FIFTEEN AND 64/100 )  
DOLLARS (\$9,415.64) UNITED STATES )  
CURRENCY; APPROXIMATELY FOUR )  
HUNDRED FORTY-ONE AND FORTY- )  
SEVEN-HUNDREDTHS (441.47) GRAMS )  
METHAMPHETAMINE; )  
APPROXIMATELY TWELVE AND )  
SEVENTY-NINE-HUNDREDTHS (12.79) )  
GRAMS MARIJUANA; TEN (10) 16-MG )  
PILLS HYDROMORPHONE; ONE (1) )  
TAURUS MILLENNIUM 9-MM )  
HANDGUN, MODEL PT111, SERIAL NO. )  
TSC27053, WITH ONE (1) MAGAZINE )  
OF TEN (10) ROUNDS 9-MM )  
AMMUNITION; TWO (2) FOLDING )  
KNIVES; ONE (1) VIPERTEK TASER; )  
ONE (1) DIGITAL SCALE WITH )  
RESIDUE AND BLACK CASE; FOUR (4) )

DIGITAL SCALES IN BOXES; ONE (1) )  
 GREEN METAL CONTAINER; ONE (1) )  
 ORANGE MESH BAG; ONE (1) RED )  
 MESH BAG; ONE (1) BLACK MESH )  
 BAG; ONE (1) BLUE CHASE BANK )  
 BAG; VARIOUS PLASTIC ZIPLOC )  
 BAGS; TWO (2) GLASS PIPES WITH )  
 BURNT RESIDUE; ONE (1) SMALL )  
 METAL SMOKING PIPE WITH BURNT )  
 RESIDUE; TEN (10) GLASS BONGS; )  
 AND THIRTY-ONE (31) GLASS PIPES, )  
 )  
 Defendants. )  
 \_\_\_\_\_ )

COMES NOW, Ada County Prosecuting Attorney's Office, by and through counsel, and Claimant William Scott DeMint, by and through counsel, and report as follows to the Court pursuant to its Scheduling Order:

- (1) Plaintiff attempted to obtain the signature of Claimant's counsel on a status report and was unable to do so;
- (2) Plaintiff attempted to contact Claimant's counsel regarding a status report and was unable to do so;
- (3) Discovery in this case is still pending.
- (4) Mediation in this case has not been scheduled.
- (5) Assuming Claimant thoroughly and timely answers discovery propounded by Plaintiff, the parties will be ready for trial on October 5, 2015.

**DATED** this 9<sup>th</sup> day of June 2015

**JAN M. BENNETTS**  
 Ada County Prosecuting Attorney

By: Amber Ellis  
 Amber Ellis  
 Deputy Prosecuting Attorney



**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 5<sup>th</sup> day of June 2015, I served a true and correct copy of the foregoing COURT ORDERED STATUS REPORT to the following person by the following method:

Joseph C. Miller  
Mauk Miller & Burgoyne  
515 S. 6<sup>th</sup> ST.  
Boise, ID 83702

Hand Delivery  
 U.S. Mail  
 Certified Mail  
 Facsimile (208) 287-8788

Bobette Meyers  
Legal Assistant

JUN 05 2015

CHRISTOPHER D. RICH, Clerk  
By SANTIAGO BARRIOS  
DEPUTY

**JAN M. BENNETTS**  
ADA COUNTY PROSECUTING ATTORNEY

**AMBER ELLIS**  
Deputy Prosecuting Attorney  
Civil Division  
200 W. Front Street, Room 3191  
Boise, ID 83702  
(208) 287-7700  
Idaho State Bar No. 7713

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

ADA COUNTY PROSECUTING )  
ATTORNEY, )  
)  
Plaintiff, )  
)  
vs. )  
)  
1998 FORD F150, VIN )  
1FTRX18L9WKB27754; TWELVE )  
THOUSAND SEVEN HUNDRED )  
NINETY-FOUR AND 00/100 DOLLARS )  
(\$12,794.00) UNITED STATES )  
CURRENCY; NINE THOUSAND FOUR )  
HUNDRED FIFTEEN AND 64/100 )  
DOLLARS (\$9,415.64) UNITED STATES )  
CURRENCY; APPROXIMATELY FOUR )  
HUNDRED FORTY-ONE AND FORTY- )  
SEVEN-HUNDREDTHS (441.47) GRAMS )  
METHAMPHETAMINE; )  
APPROXIMATELY TWELVE AND )  
SEVENTY-NINE-HUNDREDTHS (12.79) )  
GRAMS MARIJUANA; TEN (10) 16-MG )  
PILLS HYDROMORPHONE; ONE (1) )  
TAURUS MILLENNIUM 9-MM )  
HANDGUN, MODEL PT111, SERIAL NO. )  
TSC27053, WITH ONE (1) MAGAZINE )

**Case No. CV OC 2014-17003**  
**NOTICE OF SERVICE**

*AM*

OF TEN (10) ROUNDS 9-MM )  
 AMMUNITION; TWO (2) FOLDING )  
 KNIVES; ONE (1) VIPERTEK TASER; )  
 ONE (1) DIGITAL SCALE WITH )  
 RESIDUE AND BLACK CASE; FOUR (4) )  
 DIGITAL SCALES IN BOXES; ONE (1) )  
 GREEN METAL CONTAINER; ONE (1) )  
 ORANGE MESH BAG; ONE (1) RED )  
 MESH BAG; ONE (1) BLACK MESH )  
 BAG; ONE (1) BLUE CHASE BANK )  
 BAG; VARIOUS PLASTIC ZIPLOC )  
 BAGS; TWO (2) GLASS PIPES WITH )  
 BURNT RESIDUE; ONE (1) SMALL )  
 METAL SMOKING PIPE WITH BURNT )  
 RESIDUE; TEN (10) GLASS BONGS; )  
 AND THIRTY-ONE (31) GLASS PIPES, )  
 )  
 Defendants. )  
 )

In compliance with Rule 26(b)(4), I.R.C.P., and this Court's scheduling order, the Ada County Prosecuting Attorney gives notice that on this date, ADA COUNTY PROSECUTING ATTORNEY'S OFFICE EXPERT WITNESS DISCLOSURE was served upon Joseph C. Miller, counsel for Claimant William Scott Demint, by causing the document to be mailed to Joseph C. Miller, Mauk Miller & Burgoyne, LLC, 515 S. 6<sup>th</sup> St. Boise, Idaho 83702.

**DATED** this 9<sup>th</sup> day of June 2015.

**JAN M. BENNETTS**  
 Ada County Prosecuting Attorney

By: Heather McCarthy  
 Amber Ellis  
 Deputy Prosecuting Attorney

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 5<sup>th</sup> day of June 2015, I served a true and correct copy of the foregoing NOTICE OF SERVICE to the following person by the following method:

Joseph C. Miller  
Mauk Miller & Burgoyne  
515 S. 6<sup>th</sup> ST.  
Boise, ID 83702

Hand Delivery  
 U.S. Mail  
 Certified Mail  
 Facsimile

*Bonnie Meyers*  
Legal Assistant

NO. \_\_\_\_\_  
A.M. \_\_\_\_\_ FILED P.M. 12:30

JUN 09 2015

CHRISTOPHER D. RICH, Clerk  
By SANTIAGO BARRIOS  
DEPUTY

**JAN M. BENNETTS**  
ADA COUNTY PROSECUTING ATTORNEY

**AMBER ELLIS**  
Deputy Prosecuting Attorney  
Civil Division  
200 W. Front Street, Room 3191  
Boise, ID 83702  
(208) 287-7700  
Idaho State Bar No. 7713

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

ADA COUNTY PROSECUTING )  
ATTORNEY, )  
)  
Plaintiff, )  
)  
vs. )  
)  
1998 FORD F150, VIN )  
1FTRX18L9WKB27754; TWELVE )  
THOUSAND SEVEN HUNDRED )  
NINETY-FOUR AND 00/100 DOLLARS )  
(\$12,794.00) UNITED STATES )  
CURRENCY; NINE THOUSAND FOUR )  
HUNDRED FIFTEEN AND 64/100 )  
DOLLARS (\$9,415.64) UNITED STATES )  
CURRENCY; APPROXIMATELY FOUR )  
HUNDRED FORTY-ONE AND FORTY- )  
SEVEN-HUNDREDTHS (441.47) GRAMS )  
METHAMPHETAMINE; )  
APPROXIMATELY TWELVE AND )  
SEVENTY-NINE-HUNDREDTHS (12.79) )  
GRAMS MARIJUANA; TEN (10) 16-MG )  
PILLS HYDROMORPHONE; ONE (1) )  
TAURUS MILLENNIUM 9-MM )  
HANDGUN, MODEL PT111, SERIAL NO. )  
TSC27053, WITH ONE (1) MAGAZINE )  
OF TEN (10) ROUNDS 9-MM )  
AMMUNITION; TWO (2) FOLDING )  
KNIVES; ONE (1) VIPERTEK TASER; )

Case No. CV OC 2014-17003  
**COURT ORDERED STATUS  
REPORT**

ONE (1) DIGITAL SCALE WITH )  
 RESIDUE AND BLACK CASE; FOUR (4) )  
 DIGITAL SCALES IN BOXES; ONE (1) )  
 GREEN METAL CONTAINER; ONE (1) )  
 ORANGE MESH BAG; ONE (1) RED )  
 MESH BAG; ONE (1) BLACK MESH )  
 BAG; ONE (1) BLUE CHASE BANK )  
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 BURNT RESIDUE; ONE (1) SMALL )  
 METAL SMOKING PIPE WITH BURNT )  
 RESIDUE; TEN (10) GLASS BONGS; )  
 AND THIRTY-ONE (31) GLASS PIPES, )  
 )  
 Defendants. )  
 \_\_\_\_\_ )

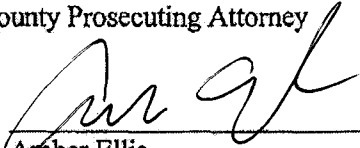
COMES NOW, Ada County Prosecuting Attorney's Office, by and through counsel, and Claimant William Scott DeMint, by and through counsel, and report as follows to the Court pursuant to its Scheduling Order:

- (1) Discovery in this case is still pending.
- (2) Mediation in this case has not been scheduled.
- (3) Assuming Claimant thoroughly and timely answers discovery propounded by

Plaintiff, the parties will be ready for trial on October 5, 2015.

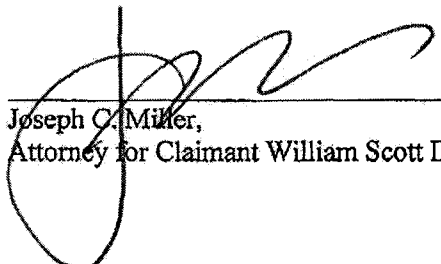
**JAN M. BENNETTS**  
 Ada County Prosecuting Attorney

DATED this 9<sup>th</sup> day of June 2015

By:   
 Amber Ellis  
 Deputy Prosecuting Attorney

**CLAIMANT**

DATED this 3<sup>rd</sup> day of June 2015

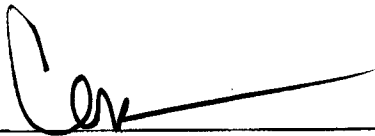
By:   
 Joseph C. Miller,  
 Attorney for Claimant William Scott DeMint

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 9<sup>th</sup> day of June 2015, I served a true and correct copy of the foregoing COURT ORDERED STATUS REPORT to the following person by the following method:

Joseph C. Miller  
Mauk Miller & Burgoyne  
515 S. 6<sup>th</sup> ST.  
Boise, ID 83702

- Hand Delivery
- U.S. Mail
- Certified Mail
- Facsimile (208) 287-8788




---

Legal Assistant



**ADA COUNTY PROSECUTING ATTORNEY  
JAN M. BENNETTS**

**Criminal Division**  
200 W. Front Street, Rm 3191  
Boise, Idaho 83702

Phone (208) 287-7700  
Fax (208) 287-7709

**Civil Division**  
200 W. Front Street, Rm 3191  
Boise, Idaho 83702

Phone (208) 287-7700  
Fax (208) 287-7719

**Juvenile Division**  
6300 Denton Street  
Boise, Idaho 83704

Phone (208) 577-4900  
Fax (208) 577-4909

---

June 9, 2015

Honorable Lynn G. Norton  
District Court Judge  
Ada County Courthouse  
200 W. Front Street  
Boise, Idaho 83702

RE: *Ada County Prosecuting Attorney v. 1998 Ford F150, et al.*  
Ada County Case No. CV OC 14 17003

Dear Judge Norton:

I am writing to clarify the corrected filing of the court ordered status report. On Friday June 5, 2015, I caused my office to submit a single party status report, believing that I had not received a signed report from Mr. Miller. As I was out of town at the time, I believed that we had not received such a report because it had not been received by facsimile or by U.S. mail. When I returned to town, I discovered that Mr. Miller had in fact emailed me the signed report on June 3, 2015. As such, I am filing the joint status report at this time to clarify the status of this case.

Sincerely,

JAN M. BENNETTS  
Ada County Prosecuting Attorney

By:   
Deputy Prosecuting Attorney

AE:cfb

Enclosure

cc: Joseph C. Miller, Attorney for Claimant William Scott DeMint



NO. 859 FILED  
A.M. P.M.

JUL 06 2015

CHRISTOPHER D. RICH, Clerk  
By STEPHANIE VIDAK  
DEPUTY

**JAN M. BENNETTS**  
ADA COUNTY PROSECUTING ATTORNEY

**AMBER ELLIS**  
Deputy Prosecuting Attorney  
Civil Division  
200 W. Front Street, Room 3191  
Boise, ID 83702  
(208) 287-7700  
Idaho State Bar No. 7713

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

ADA COUNTY PROSECUTING )  
ATTORNEY, )  
)  
Plaintiff, )  
vs. )  
)  
1998 FORD F150, VIN )  
1FTRX18L9WKB27754; TWELVE )  
THOUSAND SEVEN HUNDRED NINETY- )  
FOUR AND 00/100 DOLLARS (\$12,794.00) )  
UNITED STATES CURRENCY; NINE )  
THOUSAND FOUR HUNDRED FIFTEEN )  
AND 64/100 DOLLARS (\$9,415.64) )  
UNITED STATES CURRENCY; )  
APPROXIMATELY FOUR HUNDRED )  
FORTY-ONE AND FORTY-SEVEN- )  
HUNDREDTHS (441.47) GRAMS )  
METHAMPHETAMINE; )  
APPROXIMATELY TWELVE AND )  
SEVENTY-NINE-HUNDREDTHS (12.79) )  
GRAMS MARIJUANA; TEN (10) 16-MG )  
PILLS HYDROMORPHONE; ONE (1) )  
TAURUS MILLENNIUM 9-MM )  
HANDGUN, MODEL PT111, SERIAL NO. )  
TSC27053, WITH ONE (1) MAGAZINE OF )

**Case No. CV OC 2014 17003**

**MOTION FOR SUMMARY  
JUDGMENT**

21

TEN (10) ROUNDS 9-MM AMMUNITION; )  
 TWO (2) FOLDING KNIVES; ONE (1) )  
 VIPERTEK TASER; ONE (1) DIGITAL )  
 SCALE WITH RESIDUE AND BLACK )  
 CASE; FOUR (4) DIGITAL SCALES IN )  
 BOXES; ONE (1) GREEN METAL )  
 CONTAINER; ONE (1) ORANGE MESH )  
 BAG; ONE (1) RED MESH BAG; ONE (1) )  
 BLACK MESH BAG; ONE (1) BLUE )  
 CHASE BANK BAG; VARIOUS PLASTIC )  
 ZIPLOC BAGS; TWO (2) GLASS PIPES )  
 WITH BURNT RESIDUE; ONE (1) SMALL )  
 METAL SMOKING PIPE WITH BURNT )  
 RESIDUE; TEN (10) GLASS BONGS; AND )  
 THIRTY-ONE (31) GLASS PIPES, )

Defendants. )

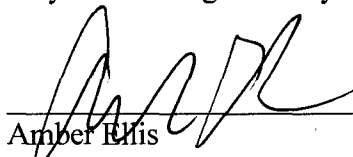
COMES NOW, Plaintiff, Ada County Prosecuting Attorney, by and through her attorney of record, Amber Ellis, Deputy Prosecuting Attorney, Ada County Prosecutor's Office, Civil Division, and moves this Court for an order granting summary judgment upon the grounds, and for the reason, that there are no genuine issues of fact and that the Plaintiff is entitled to the judgment as a matter of law.

This *Motion* is based upon Rule 56(a) of the Idaho Rules of Civil Procedure, the record and file herein, and the Affidavits and Brief in support thereof filed in this matter, and as more fully explained in the accompanying *Memorandum in Support of Motion for Summary Judgment*.

DATED this 2<sup>nd</sup> day of July, 2015.

JAN M. BENNETTS  
 Ada County Prosecuting Attorney

By:

  
 Amber Ellis  
 Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 6<sup>th</sup> day of July, 2015, I served a true and correct copy of the foregoing MOTION FOR SUMMARY JUDGMENT to the following person by the following method:

Joseph C. Miller  
Mauk Miller & Burgoyne  
515 S. 6<sup>th</sup> ST.  
Boise, ID 83702

Hand Delivery  
 U.S. Mail  
 Certified Mail  
 Facsimile (208) 287-8788

Robetta Meyers  
Legal Assistant

JUL 06 2015

CHRISTOPHER D. RICH, Clerk  
By STEPHANIE VIDAK  
DEPUTY

**JAN M. BENNETTS**  
ADA COUNTY PROSECUTING ATTORNEY

**AMBER ELLIS**  
Deputy Prosecuting Attorney  
Civil Division  
200 W. Front Street, Room 3191  
Boise, ID 83702  
(208) 287-7700  
Idaho State Bar No. 7713

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

ADA COUNTY PROSECUTING )  
ATTORNEY, )

**Case No. CV OC 2014 17003**

Plaintiff, )

**AFFIDAVIT OF DEPUTY KEVIN  
LOWRY**

vs. )

1998 FORD F150, VIN )  
1FTRX18L9WKB27754; TWELVE )  
THOUSAND SEVEN HUNDRED )  
NINETY-FOUR AND 00/100 DOLLARS )  
(\$12,794.00) UNITED STATES )  
CURRENCY; NINE THOUSAND FOUR )  
HUNDRED FIFTEEN AND 64/100 )  
DOLLARS (\$9,415.64) UNITED STATES )  
CURRENCY; APPROXIMATELY FOUR )  
HUNDRED FORTY-ONE AND FORTY- )  
SEVEN-HUNDREDTHS (441.47) GRAMS )  
METHAMPHETAMINE; )  
APPROXIMATELY TWELVE AND )  
SEVENTY-NINE-HUNDREDTHS (12.79) )  
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PILLS HYDROMORPHONE; ONE (1) )  
TAURUS MILLENNIUM 9-MM )  
HANDGUN, MODEL PT111, SERIAL NO. )  
TSC27053, WITH ONE (1) MAGAZINE )  
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AMMUNITION; TWO (2) FOLDING )  
KNIVES; ONE (1) VIPERTEK TASER; )

SV

ONE (1) DIGITAL SCALE WITH )  
 RESIDUE AND BLACK CASE; FOUR (4) )  
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 BURNT RESIDUE; ONE (1) SMALL )  
 METAL SMOKING PIPE WITH BURNT )  
 RESIDUE; TEN (10) GLASS BONGS; )  
 AND THIRTY-ONE (31) GLASS PIPES, )  
 )  
 Defendants. )  
 \_\_\_\_\_ )

STATE OF IDAHO )  
 ) ss.  
 County of Ada )

**Kevin Lowry** of the Ada County Sheriff's Office, being first duly sworn and upon oath, and being over the age of eighteen (18) and otherwise competent to testify in this matter, deposes and says:

1. That I am a duly appointed, qualified, and acting peace officer within the County of Ada, State of Idaho.
2. That this affidavit is made upon my personal knowledge.
3. That I have been a deputy with the Ada County Sheriff's Office assigned to the patrol unit since July 2007. I am POST certified and hold an Advanced POST certificate. I have over 1800 hours of POST and department training.
4. I have had over 1200 hours of training with a drug detection canine. Drug detection canine Nina and I were certified as a team in Idaho.
5. Nina has been trained to alert to the scent of narcotics or on any item that has been recently contaminated with the odor of narcotics.

6. When Nina smells narcotics, she is trained to sniff intensely, wag her tail vigorously, and come to a final resting position, which is a sit.

7. On August 20, 2014, I stopped William Scott DeMint (driver) and Joshua Allen Thomas in a maroon Ford F-150 with Idaho License plates 1G66321 for speeding (68 MPH in 55 MPH construction zone) and failure to signal a lane change for 5 seconds.

8. During the stop, Mr. Thomas was so nervous he put out his cigarette, then later put the burnt end of his cigarette back into his mouth.

9. Mr. DeMint also appeared very nervous and was unable to locate his insurance on paper or on his cell phone.

10. I asked Mr. DeMint to step out of the vehicle, which Mr. DeMint did and came to the back of the vehicle. I asked Mr. DeMint about illegal narcotics due to his extreme nervousness. Mr. DeMint stated that there was nothing illegal in the vehicle. Mr. Thomas also exited the vehicle and also stated that there was nothing illegal in the vehicle.

11. I deployed my drug detection canine, Nina, around the exterior of the vehicle for a "free air sniff" of the vehicle. As Nina came to the driver side open window, her behavior changed. As she sniffed the open window, her ears perked up, her sniffing became very intense and her tail started to wag vigorously. Nina gave a final alert by sitting.

12. I recognized Nina's change in behavior from my training and experience to be an alert to the odor of illegal narcotics. This alert from Nina is consistent with prior alerts from Nina when the odor of narcotics was present in an area.

13. I then deployed my drug detection canine, Nina, inside the bed of the truck. Nina alerted to a green bag and a green metal first aid kit sitting next to each other.

14. Inside the metal first aid kit, I saw a large amount of white crystal substance, a large amount of cash, a digital scale and a green leafy substance. The white crystal substance had the appearance of methamphetamines.

15. Due to the large amount of suspected methamphetamines, digital scale, suspected marijuana and packaging material, Mr. DeMint and Mr. Thomas were placed under arrest for possession of paraphernalia and trafficking methamphetamines.

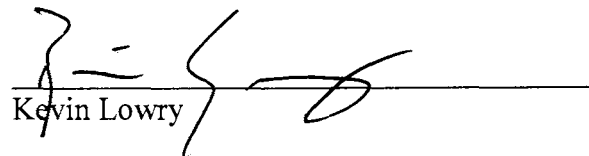
16. Sergeant Matthew Clifford placed three sets of five paper bags in a row in different hallways in the station. Prior to placing the seized money in the paper bags, I deployed Nina on all three sets of paper bags. Nina did not alert on any of the bags.

17. After sniffing the clean bags, Sergeant Clifford put the seized money (\$4,980.00 U.S. Currency, \$7,619.00 U.S. Currency, and \$195.00 U.S. Currency found in DeMint's truck on August 20, 2014) each in in one bag of each of the sets of clean bags. Nina alerted on all three bags which contained the seized money.

18. On August 20, 2014, the registered owner of the 1998 Ford F150 was William Scott DeMint.

**Further your affiant sayeth naught.**

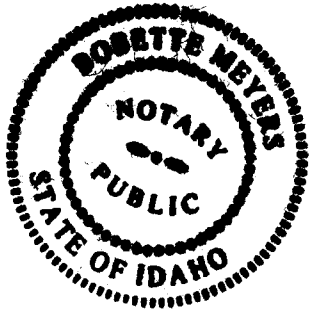
**DATED** this 2 day of July, 2015.

  
Kevin Lowry

STATE OF IDAHO )  
 ) ss.  
County of Ada )

SUBSCRIBED AND SWORN to before me this 2nd day of July, 2015.

Bobette Meyers  
Notary Public for Idaho  
Commission Expires 6/18/2018



### CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 6th day of July, 2015, I served a true and correct copy of the foregoing AFFIDAVIT OF KEVIN LOWRY to the following person by the following method:

Joseph C. Miller  
Mauk Miller & Burgoyne  
515 S. 6<sup>th</sup> ST.  
Boise, ID 83702

Hand Delivery  
 U.S. Mail  
 Certified Mail  
 Facsimile (208) 287-8788

Bobette Meyers  
Legal Assistant



NO. 827 FILED  
A.M. 8:27 P.M.

JUL 06 2015

CHRISTOPHER D. RICH, Clerk  
By STEPHANIE VIDAK  
DEPUTY

**JAN M. BENNETTS**  
ADA COUNTY PROSECUTING ATTORNEY

**AMBER ELLIS**  
Deputy Prosecuting Attorney  
Civil Division  
200 W. Front Street, Room 3191  
Boise, ID 83702  
(208) 287-7700  
Idaho State Bar No. 7713

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

ADA COUNTY PROSECUTING )  
ATTORNEY, )

Case No. CV OC 2014 17003

Plaintiff, )

**AFFIDAVIT OF DETECTIVE DAVID  
ANDERSON**

vs. )

1998 FORD F150, VIN )  
1FTRX18L9WKB27754; TWELVE )  
THOUSAND SEVEN HUNDRED )  
NINETY-FOUR AND 00/100 DOLLARS )  
(\$12,794.00) UNITED STATES )  
CURRENCY; NINE THOUSAND FOUR )  
HUNDRED FIFTEEN AND 64/100 )  
DOLLARS (\$9,415.64) UNITED STATES )  
CURRENCY; APPROXIMATELY FOUR )  
HUNDRED FORTY-ONE AND FORTY- )  
SEVEN-HUNDREDTHS (441.47) GRAMS )  
METHAMPHETAMINE; )  
APPROXIMATELY TWELVE AND )  
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GRAMS MARIJUANA; TEN (10) 16-MG )  
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HANDGUN, MODEL PT111, SERIAL NO. )  
TSC27053, WITH ONE (1) MAGAZINE )  
OF TEN (10) ROUNDS 9-MM )  
AMMUNITION; TWO (2) FOLDING )  
KNIVES; ONE (1) VIPERTEK TASER; )

8/

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 AND THIRTY-ONE (31) GLASS PIPES, )  
 )  
 Defendants. )  
 \_\_\_\_\_ )

STATE OF IDAHO )  
 ) ss.  
 County of Ada )

**David Anderson** of the Ada County Sheriff's Office, under penalty of perjury, and being over the age of eighteen (18) and otherwise competent to testify in this matter, does hereby certify and declare and says:

1. That I am a duly appointed, qualified, and acting peace officer within the County of Ada, State of Idaho.
2. That this affidavit is made upon my personal knowledge.
3. That I have been a detective with the Ada County Sheriff's Office assigned to the narcotics unit since November of 2011. I have been with the Ada County Sheriff's Office since March of 2008. Prior to my assignment to the Narcotics Unit, I was assigned to Patrol where I participated in several drug investigations. I am POST certified and hold an Advanced POST certificate. I have prior experience as a police officer for the Los Angeles Police Department in California and was so employed from November of 2002 until April of 2005 and again from

November of 2007 until March of 2008. I have over 1000 hours of POST and department training in California and I have over 800 hours of POST and department training in Idaho.

4. I have over 180 hours of specialized training directly related to narcotics and narcotics investigations including the 80 hour Basic Narcotics Investigator Course. I have worked on numerous narcotics investigations and am familiar with the manner in which illegal narcotics are used, possessed, bought and sold. Specifically, I have taken part in narcotics related search warrants and am familiar with the ways in which cocaine, methamphetamine, marijuana and heroin are used, packaged, manufactured and sold. Further, I am familiar with the nature of evidence routinely found in drug-related cases.

5. On August 20, 2014 I assisted Officer Kevin Lowry in collecting and processing evidence found in a maroon Ford F-150 with Idaho License plates 1G66321 ("DeMint's Truck"), owned by William Scott Demint.

6. In the bed of Demint's Truck was a green metal container. Inside the container there was a removable top portion which contained several mesh bags and a blue Chase bank bag containing three Ziploc baggies of suspected methamphetamine and \$4,980.00 U.S. currency. I performed a NIK test on the first bag, which tested presumptive positive for methamphetamine. Also inside a mesh bag in the green metal container was suspected marijuana, on which I performed a NIK test, which tested presumptive positive for marijuana.

7. In the lower portion of the green metal container in Demint's Truck I found \$7,619.00 U.S. Currency along with ten (10) suspected 16-milligram hydromorphone pills.

8. An additional \$195.00 U.S. Currency was recovered from DeMint's wallet by Detective Roberson.

9. I found an approximate total of 441.47 grams of methamphetamine in Demint's

Truck; 12.79 grams of marijuana; and ten (10) 16-milligram pills of hydromorphone. Defendant property one (1) orange mesh bag contained portions of the methamphetamine and Defendant property one (1) red mesh bag contained portions of the methamphetamine as well.

10. I also found a Taurus Millennium 9-mm handgun, Model # PT111, Serial # TSC27053 in the side portion of the glove compartment of Demint's Truck. The handgun was loaded with ten (10) 9-mm rounds with a round in the chamber, and had one magazine of ten (10) rounds of 9-mm ammunition as well. From my training and experience investigating narcotics I know that firearms are often used to facilitate illegal drug transactions.

11. I also found two (2) folding knives on the front passenger seat of Demint's Truck and one (1) Vipertek Taser under the center console of the front seat. From my training and experience investigating narcotics I know that weapons such as knives and tasers are often used to facilitate illegal drug transactions.

12. I also found the following on August 20, 2014, while processing the evidence located in Demint's Truck: Four (4) digital scales in their boxes on the center front floorboard of Demint's Truck; thirty-one (31) glass pipes wrapped in bubble wrap and found on the rear floorboard of Demint's Truck; ten (10) glass bongs wrapped in bubble wrap and held inside plastic bags found on the rear floorboard of Demint's Truck; one (1) small metal smoking pipe with burnt residue found on the person of Joshua Thomas; one (1) glass pipe with burnt residue inside one (1) black mesh bag found on the rear center floorboard of DeMint's Truck next to Joshua Thomas's wallet; one (1) glass pipe with burnt residue inside one (1) orange mesh bag found in the green metal container in the bed of Demint's Truck; and one (1) digital scale with residue and a black case inside the green metal container in the bed of Demint's Truck.

**I declare under penalty of perjury pursuant to the law of the State of Idaho that the**

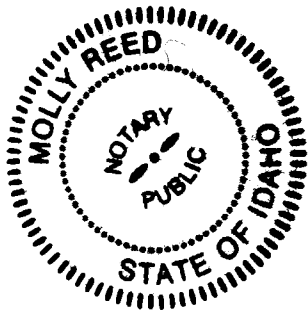
foregoing is true and correct.

DATED this 26<sup>th</sup> day of June, 2015.

*David Anderson*  
Det. David Anderson

STATE OF IDAHO )  
                                  ) ss.  
County of Ada    )

SUBSCRIBED AND SWORN to before me this 26<sup>th</sup> day of June, 2015.



*Molly Reed*  
Notary Public for Idaho  
Commission Expires 9-29-2020

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 6<sup>th</sup> day of July, 2015, I served a true and correct copy of the foregoing AFFIDAVIT OF DETECTIVE DAVID ANDERSON to the following person by the following method:

Joseph C. Miller  
Mauk Miller & Burgoyne  
515 S. 6<sup>th</sup> ST.  
Boise, ID 83702

- Hand Delivery
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*Solette Meyers*  
Legal Assistant

NO. 889 FILED P.M.

JUL 06 2015

CHRISTOPHER D. RICH, Clerk  
By STEPHANIE VIBAK  
DEPUTY

**JAN M. BENNETTS**  
ADA COUNTY PROSECUTING ATTORNEY

**AMBER ELLIS**  
Deputy Prosecuting Attorney  
Civil Division  
200 W. Front Street, Room 3191  
Boise, ID 83702  
(208) 287-7700  
Idaho State Bar No. 7713

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

ADA COUNTY PROSECUTING )  
ATTORNEY, )  
)  
Plaintiff, )  
vs. )  
)  
1998 FORD F150, VIN )  
1FTRX18L9WKB27754; TWELVE )  
THOUSAND SEVEN HUNDRED )  
NINETY-FOUR AND 00/100 DOLLARS )  
(\$12,794.00) UNITED STATES )  
CURRENCY; NINE THOUSAND FOUR )  
HUNDRED FIFTEEN AND 64/100 )  
DOLLARS (\$9,415.64) UNITED STATES )  
CURRENCY; APPROXIMATELY FOUR )  
HUNDRED FORTY-ONE AND FORTY- )  
SEVEN-HUNDREDTHS (441.47) GRAMS )  
METHAMPHETAMINE; )  
APPROXIMATELY TWELVE AND )  
SEVENTY-NINE-HUNDREDTHS (12.79) )  
GRAMS MARIJUANA; TEN (10) 16-MG )  
PILLS HYDROMORPHONE; ONE (1) )  
TAURUS MILLENNIUM 9-MM )  
HANDGUN, MODEL PT111, SERIAL NO. )  
TSC27053, WITH ONE (1) MAGAZINE )  
OF TEN (10) ROUNDS 9-MM )  
AMMUNITION; TWO (2) FOLDING )  
KNIVES; ONE (1) VIPERTEK TASER; )

Case No. CV OC 2014 17003  
**AFFIDAVIT OF SERGEANT  
MATTHEW CLIFFORD**

28

ONE (1) DIGITAL SCALE WITH )  
 RESIDUE AND BLACK CASE; FOUR (4) )  
 DIGITAL SCALES IN BOXES; ONE (1) )  
 GREEN METAL CONTAINER; ONE (1) )  
 ORANGE MESH BAG; ONE (1) RED )  
 MESH BAG; ONE (1) BLACK MESH )  
 BAG; ONE (1) BLUE CHASE BANK )  
 BAG; VARIOUS PLASTIC ZIPLOC )  
 BAGS; TWO (2) GLASS PIPES WITH )  
 BURNT RESIDUE; ONE (1) SMALL )  
 METAL SMOKING PIPE WITH BURNT )  
 RESIDUE; TEN (10) GLASS BONGS; )  
 AND THIRTY-ONE (31) GLASS PIPES, )  
 )  
 Defendants. )  
 \_\_\_\_\_ )

STATE OF IDAHO )  
 ) ss.  
 County of Ada )

**Matthew Clifford** of the Ada County Sheriff's Office, being first duly sworn and upon oath, and being over the age of eighteen (18) and otherwise competent to testify in this matter, deposes and says:

1. That I am a duly appointed, qualified, and acting peace officer within the County of Ada, State of Idaho.
2. That this affidavit is made upon my personal knowledge.
3. That I have been a sergeant with the Ada County Sheriff's Office assigned to the Patrol Service Bureau since June of 2012. I have been with the Ada County Sheriff's Office since August of 2000. Prior to my assignment as a patrol sergeant, I was a Deputy assigned to Patrol where I participated in hundreds of drug investigations. I am POST certified and hold an Advanced and Supervisor POST certificate. I have over 2400 POST hours and department training in Idaho.

4. I have over 50 hours of specialized training directly related to narcotics and narcotics investigations. I have worked on numerous narcotics investigations and am familiar with the manner in which illegal narcotics are used, possessed, bought and sold. I have taken part in narcotics related search warrants and am familiar with the ways in which cocaine, methamphetamine, marijuana and heroin are used, packaged, manufactured and sold. Further, I am familiar with the nature of evidence routinely found in drug-related cases.

5. I have had over 1300 hours of training with drug detection canine and I am currently the Drug Detection K9 Unit Supervisor. Drug detection canine Nina and Deputy Kevin Lowry were certified as a team in Idaho.

6. Nina has been trained to alert to the scent of narcotics or on any item that has been recently contaminated with the odor of narcotics.

7. When Nina smells narcotics, she is trained to sniff intensely, wag her tail vigorously, and come to a final resting position, which is a sit.

8. On August 20, 2014 Deputy Lowry and I stopped William Scott DeMint (driver) and Joshua Allen Thomas in a maroon Ford F-150 with Idaho License plates 1G66321 for speeding (68 MPH in 55 MPH construction zone) and failure to signal a lane change for five (5) seconds.

9. During the stop, Mr. Thomas and Mr. DeMint appeared nervous and agitated.

10. Deputy Lowry deployed his drug detection canine, Nina, around the exterior of the vehicle for a "free air sniff" of the vehicle. As Nina came to the driver side open window, her behavior changed. As she sniffed the open window, her ears perked up, her sniffing became very intense and her tail started to wag vigorously. Nina gave a final alert by sitting.





CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 6<sup>th</sup> day of July, 2015, I served a true and correct copy of the foregoing AFFIDAVIT OF SERGEANT MATTHEW CLIFFORD to the following person by the following method:

Joseph C. Miller  
Mauk Miller & Burgoyne  
515 S. 6<sup>th</sup> ST.  
Boise, ID 83702

Hand Delivery  
 U.S. Mail  
 Certified Mail  
 Facsimile (208) 287-8788

Robette Meyers  
Legal Assistant

NO. \_\_\_\_\_ FILED \_\_\_\_\_  
A.M. 8:57 P.M.

JUL 06 2015

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By STEPHANIE VIBAK  
DEPUTY

**JAN M. BENNETTS**  
ADA COUNTY PROSECUTING ATTORNEY

**AMBER ELLIS**  
Deputy Prosecuting Attorney  
Civil Division  
200 W. Front Street, Room 3191  
Boise, ID 83702  
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IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

ADA COUNTY PROSECUTING )  
ATTORNEY, )

**Case No. CV OC 2014-17003**

Plaintiff, )

**MEMORANDUM IN SUPPORT OF  
SUMMARY JUDGMENT**

vs. )

1998 FORD F150, VIN )  
1FTRX18L9WKB27754; TWELVE )  
THOUSAND SEVEN HUNDRED )  
NINETY-FOUR AND 00/100 DOLLARS )  
(\$12,794.00) UNITED STATES )  
CURRENCY; NINE THOUSAND FOUR )  
HUNDRED FIFTEEN AND 64/100 )  
DOLLARS (\$9,415.64) UNITED STATES )  
CURRENCY; APPROXIMATELY FOUR )  
HUNDRED FORTY-ONE AND FORTY- )  
SEVEN-HUNDREDTHS (441.47) GRAMS )  
METHAMPHETAMINE; )  
APPROXIMATELY TWELVE AND )  
SEVENTY-NINE-HUNDREDTHS (12.79) )  
GRAMS MARIJUANA; TEN (10) 16-MG )  
PILLS HYDROMORPHONE; ONE (1) )  
TAURUS MILLENNIUM 9-MM )  
HANDGUN, MODEL PT111, SERIAL NO. )  
TSC27053, WITH ONE (1) MAGAZINE )  
OF TEN (10) ROUNDS 9-MM )  
AMMUNITION; TWO (2) FOLDING )

KNIVES; ONE (1) VIPERTEK TASER; )  
ONE (1) DIGITAL SCALE WITH )  
RESIDUE AND BLACK CASE; FOUR (4) )  
DIGITAL SCALES IN BOXES; ONE (1) )  
GREEN METAL CONTAINER; ONE (1) )  
ORANGE MESH BAG; ONE (1) RED )  
MESH BAG; ONE (1) BLACK MESH )  
BAG; ONE (1) BLUE CHASE BANK )  
BAG; VARIOUS PLASTIC ZIPLOC )  
BAGS; TWO (2) GLASS PIPES WITH )  
BURNT RESIDUE; ONE (1) SMALL )  
METAL SMOKING PIPE WITH BURNT )  
RESIDUE; TEN (10) GLASS BONGS; )  
AND THIRTY-ONE (31) GLASS PIPES, )  
) )  
Defendants. )  
\_\_\_\_\_ )

COMES NOW, the Ada County Prosecuting Attorney, by and through its counsel of record, Amber Ellis, Deputy Prosecuting Attorney, and submits this Memorandum in support of its motion for summary judgment.

**I.  
RELEVANT FACTS**

On August 20, 2014, Officer Kevin Lowry with the ACSO stopped William Scott DeMint (driver) and Joshua Allen Thomas in a maroon Ford F-150 with Idaho License plates 1G66321 for speeding (68 MPH in 55 MPH construction zone) and failure to signal a lane change for 5 seconds. Lowry Aff. ¶ 7. During the stop, Mr. Thomas was so nervous he put out his cigarette, then later put the burnt end of his cigarette back into his mouth. Lowry Aff. ¶8. Mr. DeMint also appeared nervous and was unable to locate his insurance paperwork. Lowry Aff. ¶9. During the stop, a drug detection canine (Nina) alerted on the exterior of the vehicle, by the driver side open window. Lowry Aff. ¶¶ 11 & 12. Nina also alerted to a green bag and a green metal first aid kit. Lowry Aff. ¶ 13.

On August 20, 2014, the Ford F-150 was registered to DeMint and continues to be registered to DeMint. Lowry Aff. ¶ 18.

On August 20, 2014 Detective Anderson collected and processed evidence found in a maroon Ford F-150 with Idaho License plates 1G66321 (“DeMint’s Truck”), owned by William Scott DeMint. Anderson Aff. ¶ 5. In the bed of DeMint’s truck was a green metal container. Anderson Aff. ¶ 6. Inside the container there was a removable top portion which contained several mesh bags and a blue Chase bank bag containing three Ziploc baggies of suspected methamphetamine and \$4,980.00 U.S. currency. Anderson Aff. ¶ 6. Detective Anderson performed a NIK test on the first bag, which tested presumptive positive for methamphetamine. *Id.* Also inside a mesh bag in the green metal container was suspected marijuana, which also tested presumptive positive for marijuana. *Id.* In the lower portion of the green metal container in DeMint’s truck Detective Anderson found \$7,619.00 U.S. Currency along with 10 suspected 16 milligram hydromorphone pills. Anderson Aff. ¶ 7. An additional \$195.00 U.S. Currency was recovered from DeMint’s wallet. Anderson Aff. ¶ 8. These amounts comprise Defendant Property Twelve Thousand Seven Hundred Ninety-Four Dollars U.S. Currency.

In total, Detective Anderson found an approximate total of 441.47 grams of methamphetamine in DeMint’s Truck; 12.79 grams of marijuana, and ten 16-milligram pills of hydromorphone. Anderson Aff. ¶ 8. Defendant property 1 orange mesh bag contained portions of the methamphetamine and Defendant property 1 red mesh bag contained portions of the methamphetamine as well. *Id.*

Also found inside DeMint’s truck was a Taurus Millennium 9 mm handgun, Model # PT111, Serial # TSC27053 in the side portion of glove compartment of DeMint’s truck. Anderson Aff. ¶ 10. The handgun was loaded with ten 9 mm rounds with a round in the

chamber, and had one magazine of 10 rounds of 9-mm ammunition as well. *Id.* Also found were two folding knives on the front passenger seat of DeMint's Truck and 1 Vipertek Taser under the center console of the front seat. Anderson Aff. ¶ 11. Detective Anderson knew from his training and experience investigating narcotics that firearms, knives, and tasers are often used to facilitate illegal drug transactions. *Id.*

Detective Anderson also found the following on August 20, 2014 while processing the evidence located in DeMint's truck: 4 digital scales in their boxes on the center front floorboard of DeMint's truck; 31 glass pipes wrapped in bubble wrap and found on the rear floorboard of DeMint's truck; 10 glass bongs wrapped in bubble wrap and held inside plastic bags found on the rear floorboard of DeMint's truck; 1 small metal smoking pipe with burnt residue found on the person of Joshua Thomas; 1 glass pipe with burnt residue inside 1 black mesh bag found on the rear center floorboard of DeMint's truck next to Joshua Thomas's wallet; 1 glass pipe with burnt residue inside 1 orange mesh bag found in the green metal container in the bed of DeMint's truck; and 1 digital scale with residue and a black case inside the green metal container in the bed of DeMint's truck. Anderson Aff. ¶ 12.

Mr. DeMint and Mr. Thomas were placed under arrest for the possession of methamphetamine. Lowry Aff. ¶ 15. During an interview, both men stated they were not employed at the time. Roberson Aff. ¶ 6.

Once back at the Sheriff's Office, Deputy Lowry directed his drug detection dog, Nina, to sniff three sets of 5 paper bags in a row in different hall ways at the station. Clifford Aff. ¶¶ 13 & 14; Lowry Aff. ¶¶ 16 & 17. Nina alerted on all three bags containing money. *Id.*

After DeMint was booked in the Ada County Jail, James Roberson and Javier Bustos began monitoring DeMint's jail phone calls. Roberson Aff. ¶ 7 (affidavit filed under seal to

protect personal information). On August 20, 2014, DeMint called a woman at xxx-xxx-0962. *Id.* He gave her instructions on how to access his laptop and gave her his password to his Chase bank account. *Id.* DeMint explained that she needed to transfer the money out of his account right away. *Id.* He stated that there was \$10,000 in the account and he was afraid it was going to be taken. *Id.*

DeMint then called a man at xxx-xxx-0619. Roberson Aff. ¶ 8. He gave instructions about what to do with his bank account. *Id.* He said that half of the money should be put on his “books” and the other half given to “Linda.” *Id.* DeMint explained that he needed the money transferred or they would confiscate it. *Id.* He told the man that he was caught with a quarter to half pound of “dope” and \$8,000 to \$10,000 cash. *Id.*

DeMint was charged with trafficking in methamphetamine, a violation of I.C. section 37-2732B(A)(1). On March 31, 2015, DeMint pleaded guilty to that charge. *See* Guilty Plea Hearing Transcript in *State v. William S. DeMint*, CRFE-2014-0012188. (Ellis Aff. Ex. C). DeMint testified that he “did, in fact, have in [his] possession over 400 grams in my pickup truck that I own and therefore trafficking methamphetamine.” Transcript at 16. He also testified that he knew that he had the methamphetamine in his truck on August 20. *Id.*

On August 22, 2014 Roberson served a seizure warrant on DeMint’s Chase bank account at 542 Chinden Boulevard Garden City, Idaho 83714. Roberson Aff. ¶ 9. The Chase branch manager assisted in freezing DeMint’s account. *Id.* There was \$9,415.62 in the account. *Id.* On August 26, 2014 Sean Bishop of JP Morgan Chase informed Roberson that Chase would be sending a cashier’s check in the amount of \$9,415.64 to comply with the seizure warrant. *Id.*

DeMint’s bank statement for the month of July show a beginning balance of -\$161.04. Chase bank records (Ellis Aff. Ex. A). On July 16 the statement shows a deposit in the amount

of \$26,268.19 with a description “Book Transfer Credit B/O: suntrust Bank Bene-D By Fed Orlando GA.” *Id.* After that large deposit, a number of cash withdrawals occurred, including a withdrawal of \$4,000.00 on July 17, a withdrawal of \$5,000.00 on July 21, and a withdrawal of \$4,500.00 on July 30. *Id.* DeMint’s bank statement for the month of July shows an ending balance of \$3,709.59. *Id.*

DeMint’s bank statement for the month of August shows a beginning balance of \$3,709.59. *Id.* A number of cash deposits occurred, including a deposit of \$4,650.00 on August 13, a deposit of \$1,000 on August 18, and a deposit of \$5,450.00 on August 18. *Id.* On August 29, the banking statement reflects a withdrawal of \$9,415.64, which was the cashier’s check used to satisfy the seizure warrant. *Id.* The bank records reflect that DeMint spent \$5,393.95 in August, and many of these expenses were incurred for gas and hotels in Idaho, Nevada, California and Washington. *Id.*

This civil forfeiture action was filed on September 8, 2014. Service of Process was made on potential claimants William S. DeMint and his passenger Joshua Allen Thomas. William Scott DeMint filed a verified answer and Claim to seized property on November 14, 2014. An order allowing default and Default Judgment were entered against Joshua Allen Thomas on January 16, 2015, leaving DeMint as the only claimant. Claimant DeMint claimed the following items of defendant property:<sup>1</sup>

- (1) 1998 FORD F150, VIN 1FTRX18L9WKB27754;
- (2) TWELVE THOUSAND SEVEN HUNDRED NINETY-FOUR AND 00/100 DOLLARS (\$12,794.00) UNITED STATES CURRENCY;
- (3) NINE THOUSAND FOUR HUNDRED FIFTEEN AND 64/100 DOLLARS (\$9,415.64) UNITED STATES CURRENCY;

---

<sup>1</sup> Mr. DeMint termed his claim as a “counterclaim,” however, it does not appear that a counterclaim is a proper pleading in an *in rem* case. Instead, he simply has made a claim for the particular items of defendant property.



- (4) ONE (1) TAURUS MILLENNIUM 9-MM HANDGUN, MODEL PT111, SERIAL NO. TSC27053, WITH ONE (1) MAGAZINE OF TEN (10) ROUNDS 9-MM AMMUNITION;
- (5) TWO (2) FOLDING KNIVES;
- (6) ONE (1) VIPERTEK TASER.

Plaintiff Ada County Prosecuting Attorney now moves for summary judgment on the grounds that, as a matter of law, the undisputed evidence demonstrates that all items of Defendant Property were used in violation of the Uniform Controlled Substances Act and are therefore subject to forfeiture. The Ada County Prosecutor's Office respectfully requests that this Court grant this Motion for Summary Judgment.

## II.

### STANDARD FOR SUMMARY JUDGMENT

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). To meet this burden, the moving party must challenge in its motion and establish through evidence that no issue of material fact exists for an element of the nonmoving party's case. *Smith v. Meridian Joint Sch. Dist. No. 2*, 128 Idaho 714, 719, 918 P.2d 583, 588 (1996). The nonmoving party may not rest upon the mere allegations or denials of that party's pleadings, but the party's response by affidavits or as otherwise provided in this rule, must set forth specific facts showing that there is a genuine issue for trial. I.R.C.P. 56(e). "Once the moving party establishes the absence of a genuine issue of material fact, the burden shifts to the nonmoving party to show the existence of a genuine issue of material fact." *Chandler v. Hayden*, 147 Idaho 765, 769, 215 P.3d 485, 489 (2009). The nonmoving party must submit more than just conclusory assertions that an issue of material fact exists to establish a genuine issue. *Van v. Portneuf Medical Center*, 147 Idaho

552, 556, 212 P.3d 982, 986 (2009). “A mere scintilla of evidence or only slight doubt as to the facts is not sufficient to create a genuine issue for the purposes of summary judgment.” *Id.*

### III.

#### ARGUMENT

##### **A. Defendant Property 1998 Ford F150 is subject to Forfeiture as a Conveyance Used to Transport Controlled substances for the Purpose of Distribution.**

Idaho Code section 37-2744 provides that conveyances, including vehicles, are subject to forfeiture “which are used, or intended for use, to transport, or in any manner to facilitate the transportation, delivery, receipt, possession or concealment, for the purpose of distribution or receipt of” controlled substances. *See* I.C. § 37-2744(a)(4).

DeMint is the registered owner of the 1998 Ford F150. In his Answer, DeMint asserts the “innocent owner” defense. However, by his own statement in his guilty plea, methamphetamine was in his truck and he knew the methamphetamine was in the truck. Guilty Plea Transcript at 16 (Ellis Aff. Ex. C). Because DeMint knew methamphetamine was inside the truck, and he plead guilty to trafficking, this defense does not apply. The statute describes the defense as follows: “No conveyance is subject to forfeiture under this section if the owner establishes that he *could not have known in the exercise of reasonable diligence* that the conveyance was being used, had been used, was intended to be used or had been intended to be used” to transport or to facilitate transportation, delivery, receipt, possession or concealment of a controlled substance. *See* I.C. § 37-2744(a)(4)(B) (emphasis added).

The undisputed facts demonstrate that the “innocent owner” defense does not apply to this case. DeMint acknowledged under oath that he knew the methamphetamine was in his truck on August 20, 2014, and as such, the truck is subject to forfeiture as a conveyance used to

facilitate the delivery of a controlled substance, namely methamphetamine. As such, as a matter of law, Defendant Property 1998 Ford F150 is subject to forfeiture and Plaintiff asks this Court to enter an Order to that effect.

**B. Defendant Property Twelve Thousand Seven Hundred Ninety Four Dollars U.S. Currency Is Subject To Forfeiture Because It Was Used, Or Was Intended For Use In Connection With The Illegal Manufacture And/Or Possession Of Marijuana.**

Idaho Code § 37-2744 provides that currency is subject to forfeiture “which has been used or intended for use in connection with the illegal manufacture, distribution, dispensing or possession” of controlled substances. In the bed of DeMint’s truck was a green metal container. Anderson Aff. ¶ 6. Inside the container there was a removable top portion which contained several mesh bags and a blue Chase bank bag containing three Ziploc baggies of suspected methamphetamine and \$4,980.00 U.S. currency. *Id.* Detective Anderson performed a NIK test on the first bag, which tested presumptive positive for methamphetamine. *Id.* Also inside a mesh bag in the green metal container was suspected marijuana, which also tested presumptive positive for marijuana. *Id.*

In the lower portion of the green metal container in DeMint’s truck Detective Anderson found \$7,619.00 U.S. Currency along with 10 suspected 16 milligram hydromorphone pills. Anderson Aff. ¶ 7. An additional \$195.00 U.S. Currency was recovered from DeMint’s wallet by Detective Roberson. *Id.* Mr. DeMint admitted that he had no employment, and ultimately plead guilty to trafficking in methamphetamine. Roberson Aff. ¶ 6. Additionally, canine Nina alerted on all three amounts of currency. Clifford Aff. ¶¶ 13 & 14; Lowry Aff. ¶¶ 16 & 17.

Positive alert dog sniff evidence has been accepted by a number of circuits as sufficient to establish by a preponderance of the evidence a substantial connection between seized currency

and illegal drugs. See *United States v. Funds in the Amount of Forty-Five Thousand Fifty Dollars*, 2007 WL 2323307, \* 4 (D. N. Ill. 2007) (citing *United States v. Funds in Amount of Thirty Thousand Six Hundred Seventy Dollars*, 403 F.3d 448, 467 (7th Cir. 2005) (upholding a district court's grant of summary judgment to the government in a forfeiture action, where a positive dog sniff was the most important evidence offered to establish a 'substantial connection' between the seized currency and illegal narcotics). See also *United States v. \$159,880.00 in U.S. Currency, More or Less*, 387 F.Supp.2d 1000, 1015 (S. D. Iowa 2005) (“[T]he Eighth Circuit and other circuit courts of appeal have found that positive alerts by drug dogs constitute evidence supporting the government's claim that certain funds were substantially connected to illegal drugs.”)

“Although the presence of a large amount of currency, standing alone, does not always suffice to establish a connection between the currency and illegal drug trafficking, other circumstantial evidence can establish by a preponderance of the evidence that the currency was connected to such illegal activity.” *United States of America v. \$20,000.00 in U.S. Currency*, 2004 WL 86369, \*2 (D. Minn. 2004) (citing *United States v. \$141,770.00 in U.S. Currency*, 157 F.3d 600, 603 (8<sup>th</sup> Cir. 1998); *United States v. \$345,510 in U.S. Currency*, Civ. No. 01-497, slip op. at 6 (D. Minn. Jan. 2, 2003)). In this case, in addition to the odor of narcotics on the Defendant Property currency, the Defendant Property currency was in proximity to controlled substances. Further, DeMint plead guilty to trafficking methamphetamine and he was unemployed. Roberson Aff. ¶ 6. The currency was used or intended for use—or it was direct proceeds—related to DeMint's illegal distribution and possession of methamphetamine.

Summary judgment should be granted because the undisputed facts indicate that the Twelve Thousand Seven Hundred Ninety Four Dollars U.S. Currency was used or intended for use

in connection with the illegal manufacture, distribution, dispensing, or possession of methamphetamine.

**C. Defendant Property \$12,794.00 U.S. Currency Is Subject To Forfeiture Because It Was In Close Proximity To Controlled substances.**

Idaho Code § 37-2744(6)(A) allows for the forfeiture of “[a]ll moneys, currency . . . found in close proximity” to marijuana. Detective Anderson located \$4,980.00 U.S. Currency inside a blue Chase bank bag along with three Ziploc baggies of methamphetamine. Anderson Aff. ¶ 6. The blue Chase bank bag was, in turn, located inside a green metal container in DeMint’s truck. *Id.* He located another \$7,619.00 U.S. Currency in the lower portion of the same green metal container along with ten 16-milligram hydromorphone pills. *Id.* Finally, \$195 U.S. Currency was found in DeMint’s wallet, which was on his person when he was driving his truck containing approximately 441.47 grams of methamphetamine, 12.79 grams of marijuana and hydromorphone pills. *Id.* ¶ 7. DeMint later plead guilty to trafficking methamphetamine.

Idaho Code § 37-2744(6)(A) allows for the forfeiture of “[a]ll moneys, currency . . . found in close proximity” to marijuana. Nothing else is required. Close proximity means near. *See* BLACK’S LAW DICTIONARY, p. 1241; THE AMERICAN HERITAGE DICTIONARY, pp. 252; 1054. The legislature sets the parameters of forfeiture of currency and did so when the statute was amended. The legislature made it clear by amending the statute that forfeiture of currency required only close proximity to a controlled substance. In addition, the Idaho Supreme Court has addressed this specific issue when it indicated that the 1986 amendment to Idaho Code § 37-2744 makes forfeiture of money mandatory “simply because it was found in close proximity to contraband controlled substances.” *State of Idaho v. One 1977 Subaru Two Door*, 114 Idaho 43, 45, 753 P.2d 254, 256 n.1 (1988). Because the Defendant Property currency was

found in close proximity to the controlled substances in DeMint's truck, the Defendant Property currency is subject to forfeiture.

**D. Defendant Property Nine Thousand Four Hundred Fifteen Dollars and 64/100 Dollars U.S. Currency Is Subject To Forfeiture Because It Was Used, Or Was Intended For Use In Connection With The Illegal Manufacture And/Or Possession Of Marijuana.**

Idaho Code § 37-2744 provides that currency is subject to forfeiture “which has been used or intended for use in connection with the illegal manufacture, distribution, dispensing or possession” of controlled substances. Defendant Property Nine Thousand Four Hundred Fifteen Dollars and 64/100 Dollars U.S. Currency was seized from DeMint's bank account. Mr. DeMint claims, in his Answer, that the money was from the sale of inheritance property in Florida. A review of DeMint's bank records demonstrate that—even if DeMint received money from an inheritance—he had withdrawn that money and replaced it with cash deposits from his drug sales. Chase Bank Records (Ellis Aff. Ex. A). Further, in his jail phone calls, DeMint asked individuals outside of the jail to attempt to withdraw the money from his account to put on his commissary books, and to give to “Linda,” an individual who was apparently responsible for gathering all of DeMint's belongings while he was in jail. Jail Phone Calls transcript pp. 17-19; 50-52; 56 & 58 (Ellis Aff. Ex. B)

DeMint's bank statement for the month of July show a beginning balance of -\$161.04. Chase Bank Records (Ellis Aff. Ex. A). On 7/16 the statement shows a deposit in the amount of \$26,268.19 with a description “Book Transfer Credit B/O: suntrust Bank Bene-D By Fed Orlando GA.” *Id.* After that large deposit, a number of cash withdrawals occurred, including a withdrawal of \$4,000.00 on July 17, a withdrawal of \$5,000.00 on July 21, and a withdrawal of

\$4,500.00 on July 30. DeMint's bank statement for the month of July shows an ending balance of \$3,709.59.

DeMint's bank statement for the month of August shows a beginning balance of \$3,709.59. *Id.* A number of cash deposits occurred, including a deposit of \$4,650.00 on August 13, a deposit of \$1,000 on August 18, and a deposit of \$5,450.00 on August 18. *Id.* Withdrawals were made through debit transactions to numerous gas stations and hotels in Idaho, Nevada, California and Washington. *Id.* The total ATM and debit card withdrawals for August amounted to \$5,393.95. *Id.* On August 29, the banking statement reflects a withdrawal of \$9,415.64, which was the cashier's check used to satisfy the seizure warrant. *Id.*

Mr. DeMint plead guilty to trafficking in methamphetamine and was otherwise unemployed. His cash deposits into his accounts during July and August were not from employment, but were rather from his illegal drug activities and sales. Even assuming the truth of Mr. DeMint's claim that some of the money in the bank account was from an inheritance, he had commingled that money with his drug sale money, and begun to use the alleged inheritance money to facilitate his continued drug sales.<sup>2</sup>

In July, Mr. DeMint's bank account had a negative balance. Chase Bank Records (Ellis Aff. Ex. A). The only funds that were deposited were cash funds and the alleged inheritance. *Id.* Mr. DeMint was not employed at the time of his arrest. *Id.* Although \$26,268.19 was deposited on July 16, within two weeks Mr. DeMint's account had been reduced to \$3,709.59. *Id.* Therefore, as of August 1, the only arguably "legitimate" funds in his account was that

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<sup>2</sup> Tracing of money does not require that the identical money be traced. Just as a credit in a bank account may be found to represent the cash proceeds from a sale of drugs. *United States v. Banco Cafetero Panama*, 797 F.2d 1154, 1158 (2nd Cir. 1986); *United States v. Check No. 25128 in the Amount of \$ 58,654.11*, 122 F.3d 1263, 1264, (9th Cir. Alaska 1997).

\$3,709.59. *Id.* However, Mr. DeMint continued spending money to facilitate his drug sales and he spent \$5,393.95 in August for traveling and gas. *Id.* Detective Roberson received information that DeMint traveled to Utah and California to purchase methamphetamine. DeMint's bank records show him doing just that. The \$5,393.95 spent in August was far in excess of the last \$3,709.59 remaining from his alleged inheritance. As of the date of Mr. DeMint's arrest, the money remaining in his account was either proceeds from illegal drug sales, or money otherwise used or intended for use in facilitating his continued illegal drug activities. As such, Plaintiff asks this Court to enter summary judgment and order the forfeiture of Defendant Property Nine Thousand Four Hundred Fifteen Dollars and 64/100 Dollars U.S. Currency.

**E. The Taurus Handgun, Vipertek Taser and Two Folding Knives are subject to forfeiture as they were used to facilitate a violation of the controlled substances law.**

All weapons or firearms that were used in any manner to facilitate a violation of the controlled substances law are subject to forfeiture. Idaho Code § 37-2744(a)(9). Defendant Property One (1) Taurus Millennium 9-MM Handgun, Model PT111, Serial No. TSC27053, with one (1) magazine of ten (10) rounds 9-mm ammunition was found in DeMint's truck. Anderson Aff. ¶ 10. The two folding knives and the Vipertek Taser were also found in DeMint's truck under the center console of the front seat, within easy reach of any occupants. Anderson Aff. ¶ 11.

DeMint has plead guilty to possession with intent to distribute, and when the above described weapons and firearms were found, officers also located approximately 441.47 grams of methamphetamine, 12.79 grams of marijuana and hydromorphone pills. These weapons and



firearms were used to facilitate a violation of the controlled substances law, and as such are subject to forfeiture.

**F. All Controlled Substances and Drug Paraphernalia Are Summarily Forfeited To The State.**

The following items are controlled substances, subject to summary forfeiture to the state:

(1) Defendant Property Approximately Four hundred Forty-One and Forty-Seven-Hundredths (441.47) grams methamphetamine; (2) Defendant Property Approximately Twelve and Seventy-Nine-Hundredths (12.79) grams marijuana; and (3) Defendant Property Ten (10) 16-MG pills hydromorphone. Idaho Code § 37-2705. Idaho Code § 37-2744(d)(1) provides that controlled substances are “deemed contraband and shall be summarily forfeited to the state.”

The following items of Defendant Property are drug paraphernalia, subject to summary forfeiture to the state:

- (A) One (1) Digital Scale with Residue and Black Case;
- (B) Four (4) digital scales in boxes;
- (C) One (1) green metal container;
- (D) One (1) orange mesh bag;
- (E) One (1) red mesh bag;
- (F) One (1) black mesh bag;
- (G) One (1) blue Chase bank bag;
- (H) Various plastic Ziploc baggies;
- (I) Two (2) glass pipes with burnt residue;
- (J) One (1) small metal smoking pipe with burnt residue;
- (K) Ten (10) glass bong; and

(L) Thirty-one (31) glass pipes.

Anderson Aff. ¶ 12.

Items A and B listed above are both scales used or intended for use in weighing controlled substances, and as such are drug paraphernalia. *See* Idaho Code § 37-2701(n)(5). Item A, One Digital Scale, was found in a container with methamphetamine, packaging material, and marijuana. Item B, four digital scales, were found on the center front floorboard of the truck in their boxes. Anderson Aff. ¶ 12.

Items C, D, E, F, G, and H are all containers that contained various amounts of methamphetamine and marijuana found in DeMint's truck, and as such are drug paraphernalia. *See* Idaho Code § 37-2701(n)(9)&(10). Items I, J, K, and L are all "equipment, products, [or] materials" used for inhaling a controlled substance, as they were objects used or intended for use to inhale a controlled substance. *See* Idaho Code § 37-2701(n). Item I, two glass pipes with residue, were found in mesh bags along with controlled substances. Item J was found on Mr. Thomas's person, and has burnt residue showing it was used as drug paraphernalia. Items K and L were wrapped up in DeMint's truck. Idaho Code § 37-2744(d)(1) provides that controlled substances and drug paraphernalia are "deemed contraband and shall be summarily forfeited to the state." Further, Claimant DeMint has made no claim to these items. As such, items A-L of Defendant Property are subject to summary forfeiture to the state pursuant to Idaho Code, and Plaintiff respectfully requests this Court to enter an order to that effect.

#### IV.

#### CONCLUSION

Since there is no issue of material fact, as a matter of law, the Ada County Prosecutor's Office is entitled to Summary Judgment. The undisputed evidence demonstrates that all items of

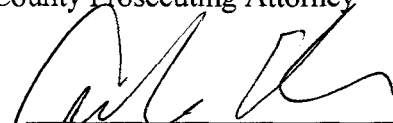
Defendant Property were used in violation of the Uniform Controlled Substances Act and are therefore subject to forfeiture. The Ada County Prosecutor's Office respectfully requests that this Court grant this Motion for Summary Judgment.

Oral argument requested.

DATED this 2<sup>nd</sup> day of July, 2015.

Jan M. Bennetts  
Ada County Prosecuting Attorney

By:

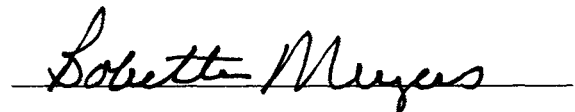
  
Amber Ellis  
Deputy Prosecuting Attorney

#### CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 6<sup>th</sup> day of July, 2015, I served a true and correct copy of the foregoing MEMORANDUM IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT to the following persons by the following method:

Joseph C. Miller  
Mauk Miller & Burgoyne  
515 S. 6<sup>th</sup> ST.  
Boise, ID 83702

Hand Delivery  
 U.S. Mail  
 Certified Mail  
 Facsimile (208) 287-8788



Admitted Service  
7/9/15  
09

NO. \_\_\_\_\_ FILED \_\_\_\_\_  
A.M. 832 P.M. \_\_\_\_\_  
JUL 08 2015

CHRISTOPHER D. RICH, Clerk  
By TENILLE GRANT  
DEPUTY

**JAN M. BENNETTS**  
ADA COUNTY PROSECUTING ATTORNEY

**AMBER ELLIS**  
Deputy Prosecuting Attorney  
Civil Division  
200 W. Front Street, Room 3191  
Boise, ID 83702  
(208) 287-7700  
Idaho State Bar No. 7713

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

ADA COUNTY PROSECUTING )  
ATTORNEY, )

**Case No. CV OC 2014 17003**

Plaintiff, )

**NOTICE OF HEARING**

vs. )

1998 FORD F150, VIN )  
1FTRX18L9WKB27754; TWELVE )  
THOUSAND SEVEN HUNDRED NINETY- )  
FOUR AND 00/100 DOLLARS (\$12,794.00) )  
UNITED STATES CURRENCY; NINE )  
THOUSAND FOUR HUNDRED FIFTEEN )  
AND 64/100 DOLLARS (\$9,415.64) )  
UNITED STATES CURRENCY; )  
APPROXIMATELY FOUR HUNDRED )  
FORTY-ONE AND FORTY-SEVEN- )  
HUNDREDTHS (441.47) GRAMS )  
METHAMPHETAMINE; )  
APPROXIMATELY TWELVE AND )  
SEVENTY-NINE-HUNDREDTHS (12.79) )  
GRAMS MARIJUANA; TEN (10) 16-MG )  
PILLS HYDROMORPHONE; ONE (1) )  
TAURUS MILLENNIUM 9-MM )  
HANDGUN, MODEL PT111, SERIAL NO. )  
TSC27053, WITH ONE (1) MAGAZINE OF )

A

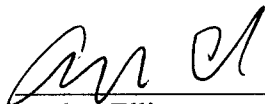
TEN (10) ROUNDS 9-MM AMMUNITION; )  
TWO (2) FOLDING KNIVES; ONE (1) )  
VIPERTEK TASER; ONE (1) DIGITAL )  
SCALE WITH RESIDUE AND BLACK )  
CASE; FOUR (4) DIGITAL SCALES IN )  
BOXES; ONE (1) GREEN METAL )  
CONTAINER; ONE (1) ORANGE MESH )  
BAG; ONE (1) RED MESH BAG; ONE (1) )  
BLACK MESH BAG; ONE (1) BLUE )  
CHASE BANK BAG; VARIOUS PLASTIC )  
ZIPLOC BAGS; TWO (2) GLASS PIPES )  
WITH BURNT RESIDUE; ONE (1) SMALL )  
METAL SMOKING PIPE WITH BURNT )  
RESIDUE; TEN (10) GLASS BONGS; AND )  
THIRTY-ONE (31) GLASS PIPES, )

Defendants. )  
\_\_\_\_\_ )

**YOU WILL PLEASE TAKE NOTICE** that the above-entitled case is set for hearing on Plaintiff's Motion for Summary, on Thursday the 6th day of August, 2015, at 2:45 p.m. before the Honorable Lynn G. Norton, District Judge, Ada County Courthouse, 200 W. Front Street, Boise, Idaho.

DATED this 8<sup>th</sup> day of July, 2015.

JAN M. BENNETTS  
Ada County Prosecuting Attorney

By:   
Amber Ellis  
Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 8<sup>th</sup> day of July, 2015, I served a true and correct copy of the foregoing NOTICE OF HEARING to the following person by the following method:

Joseph C. Miller  
Mauk Miller & Burgoyne  
515 S. 6<sup>th</sup> ST.  
Boise, ID 83702

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 Facsimile (208) 287-8788

  
\_\_\_\_\_  
Legal Assistant

Noted  
Janine  
ORB  
7-20-15

NO. \_\_\_\_\_  
A.M. \_\_\_\_\_ FILED P.M. 12/5

JUL 27 2015

CHRISTOPHER D. RICH, Clerk  
By STEPHANIE VIDAK  
DEPUTY

Joseph C. Miller  
MAUK MILLER & BURGOYNE, LLC  
515 S. 6<sup>th</sup> St.  
Boise, ID 83702  
Tel: (208) 287-8787  
Fax: (208) 287-8788  
E-mail: office@idahojustice.com  
ISBN: 7485

Counsel for Claimant

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

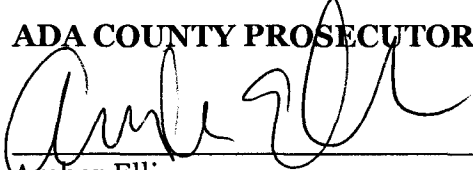
ADA COUNTY PROSECUTING )  
ATTORNEY, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
1998 FORD F150, VIN )  
1FTRX18L9WKB27754; et. al., )  
 )  
Defendants. )

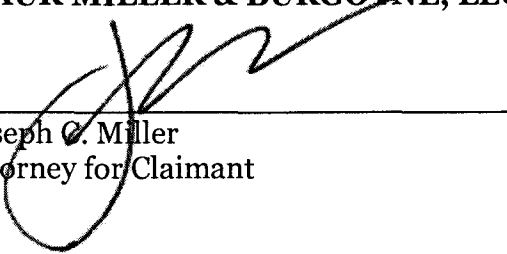
Case No. CV-OC-2014-17003

**STIPULATED MOTION TO  
CONTINUE**

COMES NOW the Claimant, WILLIAM SCOTT DEMINT, by and through counsel, and affirms that the parties have stipulated to an agreement to move the court to continue all hearings and deadlines currently scheduled in this matter until resolution of Claimant's appeal which he has filed in the underlying criminal case, case number CR-FE-14-12188, which gave rise to this matter. Inasmuch as Claimant is the Defendant in the underlying criminal case and inasmuch as his appeal in that case is still pending, proceeding on this matter may infringe on his Fifth Amendment rights and protections in the criminal matter.

DATED this 22<sup>nd</sup> day of July, 2015.

**ADA COUNTY PROSECUTOR**  
  
Amber Ellis  
Ada County Deputy Prosecutor

**MAUK MILLER & BURGOYNE, LLC**  
  
Joseph C. Miller  
Attorney for Claimant

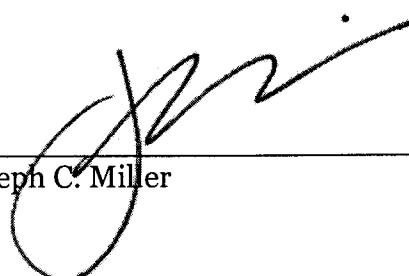
*mw*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 22<sup>nd</sup> day of July, 2015, I served true and correct copies of the foregoing document by delivering the same to the following persons, by the method indicated below, pursuant to I.R.C.P.5(f):

Amber Ellis  
Ada County Deputy Prosecutor  
200 W Front St.  
Boise, ID 83702  
Fax: (208) 287-7709

- U.S. Mail, postage prepaid
- Hand-Delivered
- Overnight Mail
- Facsimile

  
\_\_\_\_\_  
Joseph C. Miller



Admitted  
6/4/15  
of

AUG 03 2015

CHRISTOPHER D. RICH, Clerk  
By KATRINA HOLDEN  
DEPUTY

**JAN M. BENNETTS**  
ADA COUNTY PROSECUTING ATTORNEY

**KALE D. GANS**  
Deputy Prosecuting Attorney  
Civil Division  
200 W. Front Street, Room 3191  
Boise, ID 83702  
(208) 287-7700  
Idaho State Bar No. 9013

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

ADA COUNTY PROSECUTING )  
ATTORNEY, )  
)  
Plaintiff, )

Case No. CV OC 2014 17003

vs. )

**NOTICE OF SUBSTITUTION OF  
COUNSEL**

1998 FORD F150, VIN )  
1FTRX18L9WKB27754; TWELVE )  
THOUSAND SEVEN HUNDRED NINETY- )  
FOUR AND 00/100 DOLLARS (\$12,794.00) )  
UNITED STATES CURRENCY; NINE )  
THOUSAND FOUR HUNDRED FIFTEEN )  
AND 64/100 DOLLARS (\$9,415.64) )  
UNITED STATES CURRENCY; )  
APPROXIMATELY FOUR HUNDRED )  
FORTY-ONE AND FORTY-SEVEN- )  
HUNDREDTHS (441.47) GRAMS )  
METHAMPHETAMINE; )  
APPROXIMATELY TWELVE AND )  
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GRAMS MARIJUANA; TEN (10) 16-MG )  
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TAURUS MILLENNIUM 9-MM )  
HANDGUN, MODEL PT111, SERIAL NO. )  
TSC27053, WITH ONE (1) MAGAZINE OF )  
TEN (10) ROUNDS 9-MM AMMUNITION; )

2/3

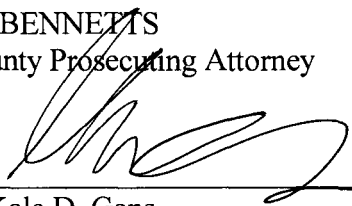
TWO (2) FOLDING KNIVES; ONE (1) )  
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 CASE; FOUR (4) DIGITAL SCALES IN )  
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 METAL SMOKING PIPE WITH BURNT )  
 RESIDUE; TEN (10) GLASS BONGS; AND )  
 THIRTY-ONE (31) GLASS PIPES, )  
 )  
 Defendants. )  
 \_\_\_\_\_ )

NOTICE IS HEREBY GIVEN that Amber Ellis of the Ada County Prosecuting Attorney's Office, Civil Division, is no longer the attorney of record for the Plaintiff in the above-captioned matter, and that from and after the time of filing hereof, Kale D. Gans, Deputy Prosecuting Attorney for the Ada County Prosecuting Attorney's Office, will represent Plaintiff in these proceedings, and all pleadings, notices, and correspondence concerning this matter should be addressed to: Kale D. Gans, Ada County Prosecutor's Office, 200 W. Front Street, Rm 3191, Boise, Idaho 83702.

JAN M. BENNETTS  
 Ada County Prosecuting Attorney

DATED this 3<sup>rd</sup> day of August, 2015

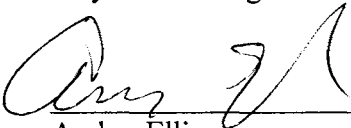
By:

  
 Kale D. Gans  
 Deputy Prosecuting Attorney

JAN M. BENNETTS  
 Ada County Prosecuting Attorney

DATED this 3<sup>rd</sup> day of August, 2015

By:

  
 Amber Ellis  
 Deputy Prosecuting Attorney

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 3<sup>rd</sup> day of August, 2015, I served a true and correct copy of the foregoing NOTICE OF SUBSTITUTION OF COUNSEL to the following person by the following method:

Joseph C. Miller  
Mauk Miller & Burgoyne  
515 S. 6<sup>th</sup> ST.  
Boise, ID 83702

Hand Delivery  
 U.S. Mail  
 Certified Mail  
 Facsimile (208) 287-8788

  
\_\_\_\_\_  
Legal Assistant

RECEIVED  
JUL 27 2015  
Ada County Clerk

NO. \_\_\_\_\_ FILED \_\_\_\_\_  
A.M. \_\_\_\_\_ P.M. 1:35

AUG 05 2015

CHRISTOPHER D. RICH, Clerk  
By JANINE KORSEN  
DEPUTY

Joseph C. Miller  
MAUK MILLER & BURGOYNE, LLC  
515 S. 6th St.  
Boise, ID 83702  
Tel: (208) 287-8787  
Fax: (208) 287-8788  
E-mail: office@idahojustice.com  
ISBN: 7485

Counsel for Claimant

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**


ADA COUNTY PROSECUTING )  
ATTORNEY, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
1998 FORD F150, VIN )  
1FTRX18L9WKB27754; et. al., )  
 )  
Defendants. )  
 )

Case No. CV-OC-2014-17003

**ORDER TO CONTINUE**

A MOTION WITH GOOD CAUSE having been filed in this matter, the parties having stipulated to the continuance of all hearings and deadlines in this matter, it is hereby ordered that this matter be continued until after the resolution of Claimant's appeal in Ada County Case No. CR-FE-14-12188, at which point this matter will be reset for status review and rescheduling. A status review to determine the status of the appeal in the criminal case shall be set for the 20th day of August, 2015, at 2:30 a.m. (p.m.) in Ada County District Court.

DATED this 31st day of July, 2015.

  
\_\_\_\_\_  
Lynn Norton  
District Judge

JM

CLERK'S CERTIFICATE OF SERVICE

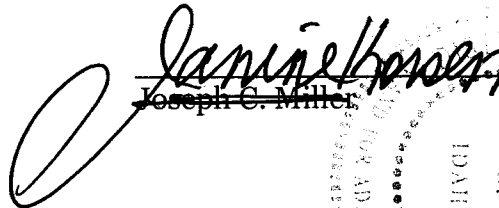
I HEREBY CERTIFY that on this 5<sup>th</sup> day of AUGUST ~~July~~, 2015, I served true and correct copies of the foregoing document by delivering the same to the following persons, by the method indicated below, pursuant to I.R.C.P.5(f):

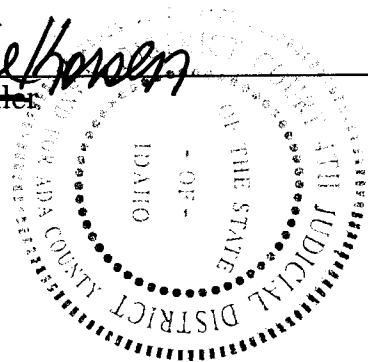
Amber Ellis  
Ada County Deputy Prosecutor  
200 W Front St.  
Boise, ID 83702  
Fax: (208) 287-7709

- U.S. Mail, postage prepaid
- Hand-Delivered
- Overnight Mail
- Facsimile

Joseph C. Miller  
Mauk Miller & Burgoyne, LLC  
515 S. 6<sup>th</sup> St.  
Boise, ID 83702  
Fax: (208) 287-8787

- U.S. Mail, postage prepaid
- Hand-Delivered
- Overnight Mail
- Facsimile

  
~~Joseph C. Miller~~



**AUG 12 2015**

**CHRISTOPHER D. RICH, Clerk**  
By **SANTIAGO BARRIOS**  
DEPUTY

**JAN M. BENNETTS**  
ADA COUNTY PROSECUTING ATTORNEY

**CATHERINE A. FREEMAN**  
Deputy Prosecuting Attorney  
Civil Division  
200 W. Front Street, Room 3191  
Boise, ID 83702  
(208) 287-7700  
Idaho State Bar No. 9223

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

ADA COUNTY PROSECUTING )  
ATTORNEY, )

**Case No. CV OC 2014 17003**

Plaintiff, )

**NOTICE OF SUBSTITUTION OF  
COUNSEL**

vs. )

1998 FORD F150, VIN )  
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THOUSAND SEVEN HUNDRED NINETY- )  
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HUNDREDTHS (441.47) GRAMS )  
METHAMPHETAMINE; )  
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GRAMS MARIJUANA; TEN (10) 16-MG )  
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HANDGUN, MODEL PT111, SERIAL NO. )  
TSC27053, WITH ONE (1) MAGAZINE OF )  
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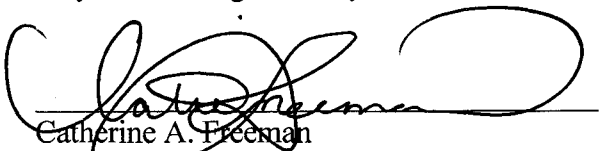
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TWO (2) FOLDING KNIVES; ONE (1) )  
VIPERTEK TASER; ONE (1) DIGITAL )  
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METAL SMOKING PIPE WITH BURNT )  
RESIDUE; TEN (10) GLASS BONGS; AND )  
THIRTY-ONE (31) GLASS PIPES, )  
) )  
Defendants. )  
\_\_\_\_\_ )

NOTICE IS HEREBY GIVEN that Kale D Gans of the Ada County Prosecuting Attorney's Office, Civil Division, is no longer the attorney of record for the Plaintiff in the above-captioned matter, and that from and after the time of filing hereof, Catherine A. Freeman , Deputy Prosecuting Attorney for the Ada County Prosecuting Attorney's Office, will represent Plaintiff in these proceedings, and all pleadings, notices, and correspondence concerning this matter should be addressed to: Catherine A. Freeman, Ada County Prosecutor's Office, 200 W. Front Street, Rm 3191, Boise, Idaho 83702.

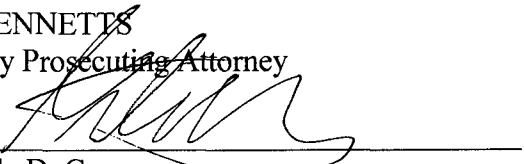
JAN M. BENNETTS  
Ada County Prosecuting Attorney

DATED this 10<sup>th</sup> day of August, 2015

By:   
Catherine A. Freeman  
Deputy Prosecuting Attorney

JAN M. BENNETTS  
Ada County Prosecuting Attorney

DATED this 11<sup>th</sup> day of August, 2015

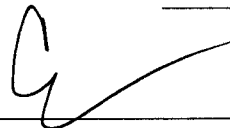
By:   
Kale D. Gans  
Deputy Prosecuting Attorney

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 12<sup>th</sup> day of August, 2015, I served a true and correct copy of the foregoing NOTICE OF SUBSTITUTION OF COUNSEL to the following person by the following method:

Joseph C. Miller  
Mauk Miller & Burgoyne  
515 S. 6<sup>th</sup> ST.  
Boise, ID 83702

- Hand Delivery
- U.S. Mail
- Certified Mail
- Facsimile (208) 287-8788



\_\_\_\_\_  
Legal Assistant



Time	Speaker	Note
02:51:00 PM		Ada County v. 1998 Ford F150 CVOC14-17003 Conference <span style="float: right;">Status</span>
02:51:07 PM	Plaintiff Attorney - Katherine Freeman	
02:51:12 PM	Personal Attorney - Joseph Miller	
02:51:16 PM	Judge Norton	reviews the file and inquires why they want a continuance.
02:52:39 PM	Personal Attorney -	comments regarding the appeal on Mr. Demint and advises he asked for the continuance.
02:53:44 PM	Plaintiff Attorney -	does not object to waiving this out but will leave it in the Ct's discretion.
02:54:01 PM	Judge Norton	inquires.
02:54:10 PM	Personal Attorney -	responds.
02:54:13 PM	Judge Norton	will not just delay the case and inquires if they need a delay in the trial.
02:57:15 PM	Personal Attorney -	advises they do.
02:57:45 PM	Judge Norton	inquires if the County will be filing any MSJ's.
02:57:53 PM	Plaintiff Attorney -	advises yes she will be and advises Amber Ellis already filed one before she got this case.
02:58:34 PM	Judge Norton	comments and inquires how much time they need to complete discovery.
02:58:53 PM	Personal Attorney -	requests 30 days.
02:58:59 PM	Plaintiff Attorney -	is fine with that.
02:59:05 PM	Judge Norton	inquires.
02:59:13 PM	Personal Attorney -	responds.
02:59:31 PM	Judge Norton	comments and gives by Sept. 21st to complete discovery and then has 2 weeks to respond and the State will have 7 days to reply.
03:01:15 PM	Judge Norton	continues the matter to Oct. 29 at 1:30 for a Motion for Summary Judgment.
03:01:51 PM	Personal Attorney -	inquires as to a new trial date.
03:02:30 PM	Judge Norton	advises she can set one now if they want one.
03:03:18 PM	Personal Attorney -	would like one.
03:03:21 PM	Plaintiff Attorney -	would like to reserve a date.
03:03:27 PM	Judge Norton	advises it is a 2 day Court Trial and sets it for Jan. 19 at 8:30 and to Dec. 10 at 2:30 for the PTC.

AUG 21 2015

CHRISTOPHER D. WICH, Clerk  
By JENNIFER KORSSEN  
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

ADA COUNTY PROSECUTING  
ATTORNEY,

Plaintiff,

vs.

1998 FORD F150, VIN  
1FTRX18L9WKB27754; et.al.,

Defendant.

Case No. CV-OC-2014-17003

ORDER DENYING STAY OF TRIAL FOR  
APPEAL BUT GRANTING  
CONTINUANCE

Following a hearing on August 20, 2015, the court denied the motion to vacate the trial and stay all proceedings until after the appeal in CR-FE-2014-12188. For reasons stated on the record, the court granted additional time for the Claimant to respond to the requests for discovery, vacated and reset the trial of this matter.


The Claimant is to respond to discovery requests by September 21, 2015. The hearing on the Plaintiff's Motion for Summary Judgment is set for October 29, 2015 at 1:30 p.m.

The trial and pretrial conference previously set in the Notice of Trial Setting and Order Governing Further Proceedings filed May 11, 2015 are vacated and reset as follows:

**The case is hereby set for a Court Trial to commence on Tuesday, January 19, 2016 at 8:30 a.m. The trial is scheduled for 2 days.**

**A pretrial conference is hereby set for Thursday, December 10, 2015 at 2:30 p.m.**  
The remainder of the paragraph related to the pretrial conference remains the same.

Dated this 20<sup>th</sup> day of August, 2015.

  
Lynn G. Norton  
District Judge

JH

CERTIFICATE OF MAILING

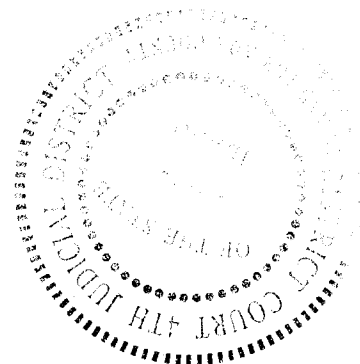
I hereby certify that on this 21<sup>st</sup> day of August, 2015, I mailed (served) a true and correct copy of the within instrument to:

CATHERINE A FREEMAN  
ADA COUNTY PROSECUTOR  
INTERDEPARTMENTAL MAIL

JOSEPH C MILLER  
ATTORNEY AT LAW  
515 S 6<sup>TH</sup> STREET  
BOISE ID 83702

CHRISTOPHER D. RICH  
Clerk of the District Court

By: *Jamie Howen*  
Deputy Court Clerk



OCT 20 2015

CHRISTOPHER D. RICH, Clerk  
By HALEY MYERS  
DEPUTY

Joseph C. Miller  
MAUK MILLER, LLC.  
515 S. 6<sup>th</sup> St.  
Boise, ID 83702  
Tel: (208) 287-8787  
Fax: (208) 287-8788  
e-mail: [office@idahojustice.com](mailto:office@idahojustice.com)  
ISBN: 7485

Attorney for Plaintiff

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

ADA COUNTY PROSECUTING  
ATTORNEY,

Plaintiff,

vs.

1998 FORD F150, VIN  
1FTRX18L9WKB27754; et. al.,

Defendants.

Case No. CV-OC-2014-17003

**NOTICE OF SERVICE**

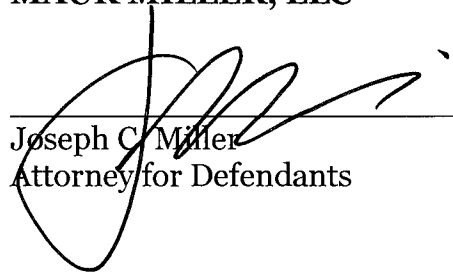
NOTICE IS HEREBY GIVEN that on the 20<sup>th</sup> day of October, 2015 a true and correct copy of DEFENDANT'S FIRST SET OF ANSWERS AND RESPONSES TO PLAINTIFF'S FIRST SET OF INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS TO DEFENDANT, along with a copy of this Notice of Service, was delivered to Plaintiff via the method indicated below, addressed as follows:

Catherine A. Freeman  
Ada County Deputy Prosecutor  
200 W. Front St.  
Boise, ID 83702  
Fax: 287-7709

- U.S. Mail
- Hand Delivery
- Courier
- Facsimile Transmission

DATED this 20<sup>th</sup> day of October, 2015.

**MAUK MILLER, LLC**

  
\_\_\_\_\_  
Joseph C. Miller  
Attorney for Defendants

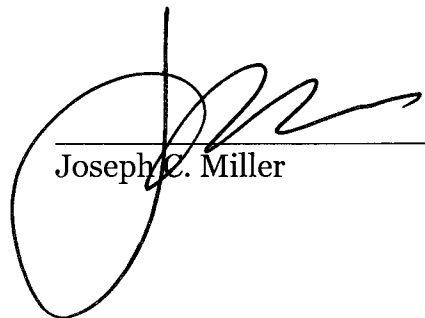
*Handwritten mark*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 20th day of October, 2015, I served a true and correct copy of the foregoing document by delivering the same to the following persons, by the method indicated below, pursuant to I.R.C.P.5(f):

Catherine A. Freeman  
Ada County Deputy Prosecutor  
200 W. Front St.  
Boise, ID 83702  
Fax: 208-287-7709

- U.S. Mail, postage prepaid
- Hand-Delivered
- Overnight Mail
- Facsimile



\_\_\_\_\_  
Joseph C. Miller

Time	Speaker	Note
02:52:00 PM		Ada County v. 1998 Ford F150 CVOC14-17003 Mtn Summary Judgment
02:52:06 PM	Plaintiff Attorney - Catherine Freeman	
02:52:12 PM	Personal Attorney - Joe Miller	
02:52:14 PM	Judge Norton	reviews the file.
02:52:51 PM	Plaintiff Attorney -	argues her Motion for Summary Judgment.
02:53:32 PM	Personal Attorney -	argues in opposition.
02:56:03 PM	Judge Norton	comments and will allow the Petitioner to file a response by Nov. 12th and will allow the Respondent to file a reply by Nov. 19th and the Respondent can file a Memorandum of Costs and will grant the County's costs and it is to be paid for by the attorney for the Petitioner.
02:59:05 PM	Personal Attorney -	comments.
02:59:08 PM	Judge Norton	continues the matter to Dec. 3 at 3:30 and any Memorandum of Fees or Costs has to be filed within 14 days of today's date.

NOV 12 2015

CHRISTOPHER D. RICH, Clerk  
By STACEY LAFFERTY  
DEPUTY

Joseph C. Miller  
MAUK MILLER, LLC.  
515 S. 6<sup>th</sup> St.  
Boise, ID 83702  
Tel: (208) 287-8787  
Fax: (208) 287-8788  
e-mail: [office@idahojustice.com](mailto:office@idahojustice.com)  
ISBN: 7485

Attorney for Claimant

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

ADA COUNTY PROSECUTING  
ATTORNEY,

Plaintiff,

vs.

1998 FORD F150, VIN  
1FTRX18L9WKB27754; et. al.,

Defendants.

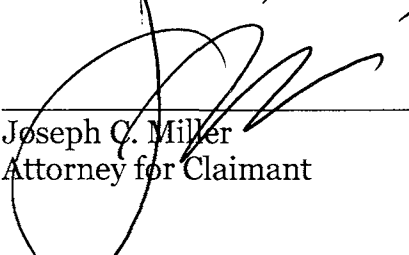
Case No. CV-OC-2014-17003

**OBJECTION TO MOTION FOR  
SUMMARY JUDGMENT**

COMES NOW Claimant WILLIAM SCOTT DEMINT, by and through counsel, and, pursuant to Rule 56(c) of the Idaho Rules of Civil Procedure, hereby objects in part to Plaintiff's MOTION FOR SUMMARY JUDGMENT. Claimant's objection is supported by his BRIEF IN SUPPORT OF OBJECTION TO MOTION FOR SUMMARY JUDGMENT, filed herewith, as well as all of the pleadings, depositions and admissions on file and the entire record and file herein.

DATED this 12<sup>th</sup> day of November, 2015.

**MAUK MILLER, LLC**

  
\_\_\_\_\_  
Joseph C. Miller  
Attorney for Claimant

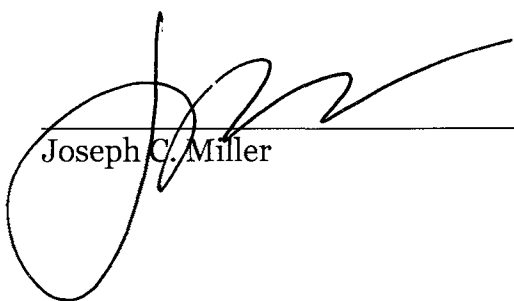
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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 12<sup>th</sup> day of November, 2015, I served a true and correct copy of the foregoing document by delivering the same to the following persons, by the method indicated below, pursuant to I.R.C.P.5(f):

Ada County Deputy Prosecutor  
200 W. Front St.  
Boise, ID 83702  
Fax: 208-287-7709

- U.S. Mail, postage prepaid
- Hand-Delivered
- Overnight Mail
- Facsimile



\_\_\_\_\_  
Joseph C. Miller



Joseph C. Miller  
MAUK MILLER, LLC.  
515 S. 6<sup>th</sup> St.  
Boise, ID 83702  
Tel: (208) 287-8787  
Fax: (208) 287-8788  
e-mail: [office@idahojustice.com](mailto:office@idahojustice.com)  
ISBN: 7485

Attorney for Claimant

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

ADA COUNTY PROSECUTING  
ATTORNEY,

Plaintiff,

vs.

1998 FORD F150, VIN  
1FTRX18L9WKB27754; et. al.,

Defendants.

Case No. CV-OC-2014-17003

**BRIEF IN SUPPORT OF  
OBJECTION TO MOTION FOR  
SUMMARY JUDGMENT**

COMES NOW Claimant WILLIAM SCOTT DEMINT, by and through counsel, and submits this brief in support of his objection to Plaintiff's MOTION FOR SUMMARY JUDGMENT in the above-referenced case.

**I.**

**FACTS AND BACKGROUND**

Claimant does not dispute the facts as presented in Plaintiff's motion, except that he does dispute having ever told law enforcement that he was unemployed at the time of his arrest. Claimant offers no facts or evidence to bring into dispute the issue of summary judgment as to the 1998 Ford F150 pickup, the \$12,794.00 in U.S. currency, the Taurus Millennium 9mm handgun, the two folding knives, and the Vipertek Taser. However, Claimant does dispute and object to Plaintiff's motion as to the \$9,415.64 in

U.S. currency seized from his Chase bank account.

On May 20, 2015, Plaintiff served on Claimant a FIRST SET OF INTERROGATORIES, REQUESTS FOR PRODUCTION, AND REQUESTS FOR ADMISSION TO CLAIMANT WILLIAM SCOTT DEMINT. On October 20, 2015, Claimant served on Plaintiff DEFENDANT'S FIRST SET OF ANSWERS AND RESPONSES to the above request. (See Exhibit A, attached.) Claimant's answers and responses were given under oath. *Id.* In his answers to Interrogatories 4, 8, 9, 12, 15, 16, 20, 21, 22, Claimant explained the source of the money in his Chase bank account. *Id.* He explained that some of the money was his share of proceeds from the sale of a house in Florida which he and his siblings inherited from their parents and that some of the money was from gambling. *Id.* Claimant asserted, under oath, that none of the money in his bank account was derived from the sale of drugs or from any drug-related activity. *Id.* Claimant also asserted that he had been employed up until the time of his arrest. *Id.*

## II.

### ARGUMENTS AND ANALYSIS

#### A.

**Plaintiff's motion must be denied because Plaintiff's motion cannot stand up to the strict scrutiny the court must give to motions for summary judgment.**

First, when presented with a motion for summary judgment, the court must give the benefit of the doubt to the non-moving party. The court "should liberally construe the facts in the record in favor of the nonmoving party and draw all reasonable inferences from the record in favor of the nonmoving party." *Hecla Mining Company v. Star-Morning Mining Company*, 839 P.2d 1192, 1198, 122 Idaho 778, 784 (Idaho 1992) (See also *Kepler-Fleenor v. Fremont County*, 268 P.3d 1159, 152 Idaho 207, 210 (Idaho 2012) and *King v. Lang*, 136 Idaho 905, 909, 42 P.3d 698, 702 (2002).) Any question as to the facts in this case, therefore, must be resolved in Claimant's favor and in favor of allowing the case to proceed to trial.

Further, "[t]he burden of persuasion imposed on a moving party by Rule 56 is a stringent one...Summary judgment should not be granted **unless it is clear** that a trial is unnecessary, and **any doubt** as to the existence of a genuine issue for trial should be

resolved against the moving party.” *Celotex Corp. v. Catrett*, 106 S.Ct. 2548, 91 L.Ed.2d 26, 477 U.S. 317, 322 (1986) (emphasis added). In this case, there does exist a genuine issue for trial on the question of whether the money in Claimant’s bank account was the proceeds of illicit drug activity, as asserted by Plaintiff, or Claimant’s legal inheritance and gambling winnings, as demonstrated in his sworn answers to Plaintiff’s Interrogatories.

Finally, “[i]f reasonable persons could reach differing conclusions or draw conflicting inferences from the evidence, summary judgment must be denied.” *Smith v. Meridian Joint School District No. 2*, 918 P.2d 583, 587, 128 Idaho 714, 718 (Idaho 1996). Here, Claimant’s sworn answers to Plaintiff’s Interrogatories conflict with the assertions made by Plaintiff on key facts. At trial, it is just as possible for reasonable jurors to believe Claimant as it is for them to believe Plaintiff. It is precisely this possibility that mandates that Plaintiff’s motion must be denied.

**B.**

**Plaintiff’s motion should be denied because Claimant’s burden is lower than Plaintiff’s and Claimant has met his burden.**

If a party bears the burden of proof at trial, then when confronted with a motion for summary judgment said party must make a showing that she possesses sufficient evidence on each element of her case in order to survive summary judgment. “The plain language of Rule 56(c) mandates the entry of summary judgment, after adequate time for discovery and upon motion, against a party who fails to make a showing sufficient to establish the existence of an element essential to that party’s case, **and on which that party will bear the burden of proof at trial.**” *Celotex Corp. v. Catrett*, 106 S.Ct. 2548, 91 L.Ed.2d 26, 477 U.S. 317, 322 (1986) (emphasis added); *Smith v. Meridian Joint School District No. 2*, 918 P.2d 583, 588, 128 Idaho 714, 719 (Idaho 1996). (Although the U.S. Supreme Court was referring to Federal Rule of Civil Procedure 56(c) in *Celotex*, Idaho Rule of Civil Procedure 56(c) is nearly identical. The Court’s reasoning in *Celotex* should therefore apply here.)

In this case, Claimant bears no burden whatsoever. The Plaintiff carries the entire burden of proving, to a preponderance of the evidence, that the property seized was used or intended for use in violation of Chapter 27, Title 37, of Idaho Code. *I.C. 37-2744(d)(2)*. Notwithstanding, Claimant has provided evidence regarding the money

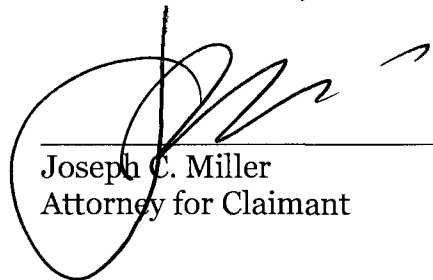
seized from his bank account, in the form of his sworn answers to Plaintiff's Interrogatories, that the money in his bank account was obtained from the sale of a house he inherited from his parents and from gambling proceeds.

**III.**  
**CONCLUSION**

As there exists a genuine issue as to the material facts in this case regarding the money seized from Claimant's Chase bank account, Claimant respectfully requests that the court deny Plaintiff's motion and allow the case to proceed to trial as to that item of property.

DATED this 12<sup>th</sup> day of November, 2015.

**MAUK MILLER, LLC**

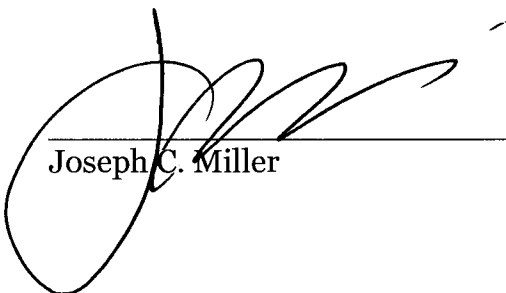
  
\_\_\_\_\_  
Joseph C. Miller  
Attorney for Claimant

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 12<sup>th</sup> day of November, 2015, I served a true and correct copy of the foregoing document by delivering the same to the following persons, by the method indicated below, pursuant to I.R.C.P.5(f):

Ada County Deputy Prosecutor  
200 W. Front St.  
Boise, ID 83702  
Fax: 208-287-7709

- U.S. Mail, postage prepaid
- Hand-Delivered
- Overnight Mail
- Facsimile



---

Joseph C. Miller

# EXHIBIT A

Joseph C. Miller  
MAUK MILLER, LLC  
515 S. 6<sup>th</sup> St.  
Boise, ID 83702  
Tel: (208) 287-8787  
Fax: (208) 287-8788  
e-mail: office@idahojustice.com  
ISBN: 7485

Attorney for Defendant

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

ADA COUNTY PROSECUTING  
ATTORNEY,

Plaintiff,

vs.

1998 FORD F150, VIN  
1FTRX18L9WKB27754; et. al.,

Defendants.

Case No. CV-OC-2014-17003

**DEFENDANT'S FIRST SET OF  
ANSWERS AND RESPONSES  
TO PLAINTIFF'S FIRST SET OF  
INTERROGATORIES AND  
REQUESTS FOR PRODUCTION  
OF DOCUMENTS TO  
DEFENDANT**

TO: Plaintiff, Ada County Prosecuting Attorney, Civil Division, 200 W. Front Street,  
Room 3191, Boise, Idaho, 83702.

COMES NOW the Defendant, WILLIAM SCOTT DEMINT, by and through counsel,  
and hereby provides the following answers and responses to PLAINTIFF'S FIRST SET OF  
INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS TO  
DEFENDANT:

## INTERROGATORIES

**INTERROGATORY NO. 1:** Please state for yourself and your spouse, if any, your current and all prior names, including aliases or nicknames, Social Security numbers, visa or green card numbers, current address, and all addresses for the last three (3) years. For each address, please list the inclusive months and years you or your spouse, if any, lived at each address.

**ANSWER NO. 1:**

**William Scott DeMint  
Idaho State Correctional Center  
P.O. Box 70010  
Boise, Idaho 83707  
SSN: [REDACTED]**

**I have been incarcerated since August 20, 2015. I have no physical address due to the nature of my job. Please see the attached bank statement (Exhibit B) to verify my lodging arrangements when I was not at work.**

**INTERROGATORY NO. 2:** If you have ever been arrested or convicted of a crime in any country, please state the date of the arrest or conviction, the charge(s), the name and address of the court in which you were convicted, the offense you were charged with or were convicted of, and the sentence or other outcome (i.e. prison term, probation).

**ANSWER NO. 2: Please see attached criminal record. (Exhibit A).**

**INTERROGATORY NO. 3:** Please list and identify any exhibits that you intend to or may introduce into evidence at the trial in the above-entitled matter and state the name and address of the person presently having possession of said exhibits.

**ANSWER NO. 3: Exhibits to be introduced into evidence at trial have yet to be determined. Upon determination, the above information will be supplied in accordance with the court's scheduling order.**



**INTERROGATORY NO. 4:** Please identify each and every witness you plan to or may call to testify at the trial of this action and provide a detailed summary of the facts to which each such witness will testify.

**ANSWER NO. 4:**

**1. Scott DeMint: I will testify to the sale of my parents' house in Florida, my gambling addiction, and my spending habits.**

**2. Chase Bank; 373-3131;  
175 N. Capital  
Boise, ID 83702**

**Chase Bank can verify the deposit and the source of the money.**

**3. Sun Trust Bank; 1-800-786-8787**

**4. Lynda Hinson  
120 Windsom Rd.  
Centerville, TN 37033**

**Lynda Hinson is my sister and can testify as to the source of the money.**

**5. Richard DeMint –Richard is my brother and can testify as to the source of the money.**

**6. Tom DeMint - Tom is my brother and can testify as to the source of the money.**

**7. Richard DeMint Jr. – Richard Jr. is my brother and can testify as to the source of the money.**

**8. Lynda Westwood  
3725 Jackie Ln.  
Boise, ID 83704  
208-658-7762**

**Lynda Westwood is my friend and can testify to the sale of my parent's home.**

**INTERROGATORY NO. 5:** Please identify any experts you have engaged for consultation or assistance who are expected to testify at the trial of this cause, including their educational background starting with college or university experience; any field of specialization, special training, or skills possessed by the expert; the specific substance of

the expected testimony of the expert, including all opinions; and all facts, data, knowledge, or information relied upon by the expert in forming opinions or testimony.

**ANSWER NO. 5: Experts expected to testify at trial have yet to be determined. Upon determination, the above information will be supplied in accordance with the court's scheduling order.**

**INTERROGATORY NO. 6:** To the extent not answered in the foregoing Interrogatories, please identify every person known to you to have any knowledge or information pertaining to:

- a. The use or intended use of Twelve Thousand Seven Hundred Ninety-Four Dollars (\$12,794.00) U.S. Currency for purposes in violation of the Uniform Controlled Substances law;
- b. The use or intended use of Nine Thousand Four Hundred Fifteen and 64/100 Dollars (\$9,415.64) U.S. Currency for purposes in violation of the Uniform Controlled Substances law;
- c. The use or intended use of the 1998 Ford F150, VIN 1FTRX18L9WKB27754 for purposes in violation of the Uniform Controlled Substances Law; and
- d. Any of your actions in violation of the Uniform Controlled Substances Act.
- e. Any of your actions or actions of any driver, operator, or passenger in Defendant Property 1998 Ford F150, VIN 1FTRX18L9WKB27754 relating to the purchase, sale, transportation, delivery, or manufacture of a controlled substance.

**ANSWER NO. 6: Besides myself, please see Answer No. 4 for identification of persons with knowledge and information.**

**INTERROGATORY NO. 7:** Please state whether you intend to rely upon any statement made by any police officer. If your answer is in the affirmative, please state the place of the conversation; the date of the conversation; the name, address, and telephone number of each person present at the conversation; and what was said by each party in the conversation.

**ANSWER NO. 7: I do not intend to rely upon any statements made by any police officer.**

**INTERROGATORY NO. 8:** Please identify in specific detail each and every letter, invoice, bill, writing, memorandum, report, photograph, recording, or other document, object, or thing which makes reference to or relates to any factual matter involved in this action or which relates to any item of discoverable evidence. State the name, address, and telephone number of each custodian or each item described.

**ANSWER NO. 8:** The attached Chase bank (Exhibit B) statement shows the legal deposit of \$26,268.19 on July 16, 2015 which I received from the sale of my parent's home.

**INTERROGATORY NO. 9:** Please specifically state the facts to be relied on in support of your general denials and affirmative defenses set out in your Answer and Counterclaim.

**ANSWER NO. 9:** I made the money through a legal sale of my parents' home. I continued my gambling habit as I always have. At no point was the money in the bank used for drugs.

**INTERROGATORY NO. 10:** Please identify each and every employer for whom you have worked and for whom your spouse, if any, has worked during the past three (3) years, specifying for each the following: the inclusive dates of employment; the duties of employment; the amount of gross and net monthly salary; the reasons for leaving the employment, and the address and telephone number of each employer.

**ANSWER NO. 10:** I have driven truck for numerous companies in the past 3 years but I do not recall dates or addresses. Following are the names of the companies I worked for: CK Transport, D&D Transportation, It's Me Trucking, and Bar D Express.

**INTERROGATORY NO. 11:** Please identify the name and nature of any business that you own, operate, or control and specify the following for the past three (3) years: the address of the business; the types of goods and/or services offered; the inclusive dates of ownership; the amount of gross and net monthly salary; and the names of all employees and their rates of pay.

**ANSWER NO. 11: I have not owned, operated or controlled any business in the past three (3) years.**

**INTERROGATORY NO. 12:** In addition to the income listed by you in answer to the Interrogatories immediately preceding, please list the sources of all other income received, whether earned or unearned, by you or your spouse from any source(s) for the last three (3) years, including but not limited to gifts; bequests; gambling winnings; judgments; settlements; monies in trust; interest income; proceeds from the sale of collectibles; loans; or lines of credit, specifying the following for each source: the name and address of the person or organization from which the income was received, the date(s) and amount(s) of income received, and the reason such income was paid to you.

**ANSWER NO. 12: Over the past 3 years, I have won various amounts of money from gambling, most of it being in 2014.**

**INTERROGATORY NO. 13:** Please itemize the amounts spent by yourself, your spouse, if any, and all dependents, on a monthly basis, during each of the past three (3) years, for the following: food; clothing; shelter; utilities; entertainment; insurance; medical and dental services; furniture; jewelry; vacations; travel; transportation; gifts; education; business; alimony; child support; rental storage or for safety deposit boxes; improvements or fixtures to any real or personal property owned by your or your spouse, if any; amounts spent for rental or leased vehicles; and all other expenses. For each dependent, please list the name, date of birth, and current business and residence addresses and telephone number.

**ANSWER NO. 13: Due to my incarceration, I have no way of getting the information to answer this Interrogatory.**

**INTERROGATORY NO. 14:** State the name and address of the financial institution, the account number, and the identity of the account holder for all financial accounts held by yourself or your spouse, if any, for the last three (3) years. Financial accounts include, but are not limited to, savings accounts; checking accounts; private accounts; money market funds; IRA's; municipal bonds; Treasury bills; loans; mortgages;

stocks; bonds; commodities; stock options; trust funds; accounts held by third parties in which you or your spouse have an interest; or any other financial investments, indebtedness, assets, or liabilities of any type.

**ANSWER NO. 14:**

**Chase Bank  
P.O. Box 659254  
San Antonio, TX 78265  
Account No.: 000000216196880**

**INTERROGATORY NO. 15:** Please list all real and/or personal property you or your spouse, if any, purchased or sold, at any time during the last three (3) years by type of property; address, date of sale or acquisition; the amount paid to or by you or your spouse; the identity of the purchaser or seller; the date sold or purchased; and the amount if any realized or paid by you or your spouse from such sale or purchase of all real or personal property sold or acquired. "Property" in this Interrogatory refers to items, which have a fair market value greater than \$500.00.

**ANSWER NO. 15:** I sold my parents' home for approximately \$130,000.00. From the sale of the home, I received and deposited \$26,268.19 on July 16, 2014. The address of the Florida property is 1939 63<sup>rd</sup> Ave., North, St. Petersburg, Florida, 33702.

**INTERROGATORY NO. 16:** Please identify the Florida real property referenced in Paragraph 22 and include: the address, parcel characteristics, fair market value, sale price, date of sale, and from whom the property was inherited.

**ANSWER NO. 16:** The address of the Florida property is 1939 63<sup>rd</sup> Ave., North, St. Petersburg, Florida, 33702. I do not know any of the details or characteristics of the sale of the property in Florida, nor do I have access to any.

**INTERROGATORY NO. 17:** Please list the name, relationship to you, and current residence address of all persons who have resided with you within the last two (2) years.

**ANSWER NO. 17:** No one has resided with me within the last two (2) years.

**INTERROGATORY NO. 18:** Please describe in full and complete detail your activities for the 72-hour period immediately preceding your arrest. Your description should include, but not be limited to, the following: your exact location at all times during the 72-hour period; the name, current address, and telephone number of all persons with whom you stayed or with whom you met during that period; the name and current or last known address and telephone number of all persons with whom you conversed by telephone during that period; and the telephone numbers of the telephones used, the name and current or last known address and telephone number of all persons with whom you conversed in person during that period and the amount of currency and controlled substances in your possession at all times.

**ANSWER NO. 18:** I object to this Interrogatory due to my appeal.

**INTERROGATORY NO. 19:** For each time prior to the seizure of the items of Defendant Property that you purchased or sold a controlled substance, please identify the substance; the place; time; amount; cost; source, including name and address of the source; and the purpose of each such purchase.

**ANSWER NO. 19:** I object to this Interrogatory due to my appeal.

**INTERROGATORY NO. 20:** If you contend that the Twelve Thousand Seven Hundred Ninety-Four Dollars (\$12,794.00) U.S. Currency or Nine Thousand Four Hundred Fifteen and 64/100 Dollars (\$9,415.64) U.S. Currency were not found in close proximity to controlled substances, drug paraphernalia, raw materials, products, and equipment of any kind which were used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substances or counterfeit substances in violation of the Uniform Controlled Substances Act; and/or do not constitute proceeds from drug-related activities in violation of the Uniform Controlled Substances Act; and/or were not used or intended to be used in exchange for controlled substances, then please set forth each and every fact upon which you base your contention and identify each and every witness (by name, address, and telephone number), and identify each and every document (and the name, address, and telephone number of the custodian of the document) which supports or contradicts your denial.

**ANSWER NO. 20: Please see my answers to Interrogatories number 8, 9, 10, 12 and 15.**

**INTERROGATORY NO. 21:** If you contend that you own or have an interest in Twelve Thousand Seven Hundred Ninety-Four Dollars (\$12,794.00) U.S. Currency or Nine Thousand Four Hundred Fifteen and 64/100 Dollars (\$9,415.64) U.S. Currency, identify each person or entity from which you acquired all or any portion of Twelve Thousand Seven Hundred Ninety-Four Dollars (\$12,794.00) U.S. Currency or Nine Thousand Four Hundred Fifteen and 64/100 Dollars (\$9,415.64) U.S. Currency and what consideration was given in exchange.

**ANSWER NO. 21: Please see my answers to Interrogatories number 8, 9, 10, 12 and 15.**

**INTERROGATORY NO. 22:** For each person or entity listed in your answer to the Interrogatory immediately preceding, state the amount of or interest in Twelve Thousand Seven Hundred Ninety-Four Dollars (\$12,794.00) U.S. Currency or Nine Thousand Four Hundred Fifteen and 64/100 Dollars (\$9,415.64) U.S. Currency acquired from each such person or entity and the date such property was acquired by you.

**ANSWER NO. 22: No one else has an interest in the Twelve Thousand Seven Hundred Ninety-Four Dollars (\$12,794.00) U.S. Currency or Nine Thousand Four Hundred Fifteen and 64/100 Dollars (\$9,415.64) U.S. Currency.**

**INTERROGATORY NO. 23:** With regard to your alleged ownership of the Defendant Property, 1998 Ford F150, VIN 1FTRX18L9WKB27754, identify from whom said Defendant Property was obtained; what consideration, if any, was given in exchange for the Defendant Property; when you obtained the property; if money or other consideration was given in exchange for the 1998 Ford F150, VIN 1FTRX18L9WKB27754, who provided that consideration; who dealt with the seller and/or broker or otherwise negotiated the acquisition of the property; and any documents referencing or relating to any matter stated in response to this Interrogatory.

**ANSWER NO. 23: I do not have access to this information.**

**INTERROGATORY NO. 24:** Please state all facts showing that you neither knew nor could have known in the exercise of reasonable diligence that the Defendant Property 1998 Ford F150, VIN 1FTRX18L9WKB27754 was being used, had been used, was intended to be used, or had been intended to be used to violate or facilitate violation of the Uniform Controlled Substances Act, identifying all persons with knowledge of such facts, and identifying all documents relating to said facts.

**ANSWER NO. 24: I object to this Interrogatory due to my appeal.**

**INTERROGATORY NO. 25:** If you contend that the 1998 Ford F150, VIN 1FTRX18L9WKB27754 was not used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substances or counterfeit substances in violation of the Uniform Controlled Substances Act; or were not used, or intended for use, as a container for any controlled substances, raw materials, products, and/or equipment of any kind in violation of the Uniform Controlled Substances Act, please set forth each and every fact upon which you base your contention and identify each and every witness (by name, address, and telephone number) and identify each and every document (and the name, address, and telephone number of the custodian of the document) which supports or contradicts your denial.

**ANSWER NO. 25: I object to this Interrogatory due to my appeal.**

### **REQUESTS FOR PRODUCTION**

**REQUEST FOR PRODUCTION NO. 1:** Please produce each document and/or item identified in or in support of your answer to Interrogatory Nos. 1 through 25.

**RESPONSE NO. 1: Please see attached bank statement from Chase Bank.  
(Exhibit B)**



**REQUEST FOR PRODUCTION NO. 2:** Please produce copies of your federal, state, and local income tax returns for the last three (3) years and all other documents and physical objects showing your gross and net incomes for the last three (3) years for you and your spouse.

**RESPONSE NO. 2:** Due to my incarceration, I do not have access to these documents.

**REQUEST FOR PRODUCTION NO. 3:** Please produce each document and/or physical object showing all income sources and amounts identified within your answers to Interrogatory Nos. 10, 11 and 12.

**RESPONSE NO. 3:** Due to my incarceration, I do not have access to these documents.

**REQUEST NO. 4:** Please produce all documents and all physical objects showing continuous balances for all accounts for the last two (2) years for all answers to Interrogatory No. 14.

**RESPONSE NO. 4:** Due to my incarceration, I do not have access to these documents.

**REQUEST NO. 5:** Please produce all documents evidencing your ownership of, claim to, or interest in said 1998 Ford F150, VIN 1FTRX18L9WKB27754.

**RESPONSE NO. 5:** Due to my incarceration, I do not have access to these documents.

**REQUEST NO. 6:** Please produce all documents evidencing your claim that the \$9,415.64 U.S. Currency was proceeds from the sale of real property.

**RESPONSE NO.6:** Due to my incarceration, I do not have access to these documents.

## REQUESTS FOR ADMISSION

**REQUEST FOR ADMISSION NO. 1:** Please admit the entire Twelve Thousand Seven Hundred Ninety-Four Dollars (\$12,794.00) U.S. Currency was used in connection with the illegal sale of controlled substances.

**RESPONSE NO. 1:** I object to this request due to my appeal.

**REQUEST FOR ADMISSION NO. 2:** Please admit the entire Nine Thousand Four Hundred Fifteen and 64/100 Dollars (\$9,415.64) U.S. Currency was used in connection with the illegal sale of controlled substances.

**RESPONSE NO. 2:** Denied.

**REQUEST FOR ADMISSION NO. 3:** Please admit the entire Twelve Thousand Seven Hundred Ninety-Four Dollars (\$12,794.00) U.S. Currency was intended for use in connection with the illegal sale of controlled substances.

**RESPONSE NO. 3:** I object to this request due to my appeal.

**REQUEST FOR ADMISSION NO. 4:** Please admit the entire Nine Thousand Four Hundred Fifteen and 64/100 Dollars (\$9,415.64) U.S. Currency was intended for use in connection with the illegal sale of controlled substances.

**RESPONSE NO. 4:** Denied.

**REQUEST FOR ADMISSION NO. 5:** Please admit a portion of the Twelve Thousand Seven Hundred Ninety-Four Dollars (\$12,794.00) U.S. Currency was used in connection with the illegal sale of controlled substances.

**RESPONSE NO. 5:** I object to this request due to my appeal.

**REQUEST FOR ADMISSION NO. 6:** Please admit a portion of the Nine Thousand Four Hundred Fifteen and 64/100 Dollars (\$9,415.64) U.S. Currency was used in connection with the illegal sale of controlled substances.

**RESPONSE NO. 6:** Denied.

**REQUEST FOR ADMISSION NO. 7:** Please admit a portion of the Twelve Thousand Seven Hundred Ninety-Four Dollars (\$12,794.00) U.S. Currency was intended for use in connection with the illegal sale of controlled substances.

**RESPONSE NO. 7:** **I object to this request due to my appeal.**

**REQUEST FOR ADMISSION NO. 8:** Please admit a portion of the Nine Thousand Four Hundred Fifteen and 64/100 Dollars (\$9,415.64) U.S. Currency was intended for use in connection with the illegal sale of controlled substances.

**RESPONSE NO. 8:** **Denied.**

**REQUEST FOR ADMISSION NO. 9:** Please admit the Defendant Property 1998 Ford F150, VIN 1FTRX18L9WKB27754 was used to transport controlled substances.

**RESPONSE NO. 9:** **I object to this request due to my appeal.**

**REQUEST FOR ADMISSION NO. 10:** Please admit you knew before August 20, 2014 the Defendant Property 1998 Ford F150, VIN 1FTRX18L9WKB27754 was used to transport controlled substances.

**RESPONSE NO. 10:** **I object to this request due to my appeal.**

**REQUEST FOR ADMISSION NO. 11:** Please admit the Defendant Property 1998 Ford F150, VIN 1FTRX18L9WKB27754 was used to transport controlled substances for the purpose(s) of distribution and/or receipt of a controlled substance.

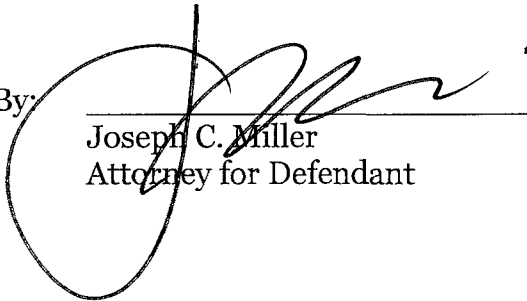
**RESPONSE NO. 11:** **I object to this request due to my appeal.**

**REQUEST FOR ADMISSION NO. 12:** Please admit you knew before August 20, 2014 the Defendant Property 1998 Ford F150, VIN 1FTRX18L9WKB27754 was used to transport controlled substances for the purpose(s) of distribution and/or receipt of a controlled substance.

**RESPONSE NO. 12:** **I object to this request due to my appeal.**

DATED this <sup>20<sup>th</sup></sup> day of October, 2015.

MAUK MILLER, LLC

By:   
\_\_\_\_\_  
Joseph C. Miller  
Attorney for Defendant


VERIFICATION

STATE OF IDAHO, )  
 ) ss.  
County of ADA. )

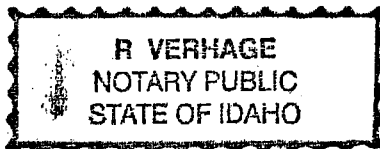
WILLIAM SCOTT DEMINT, being first duly sworn, deposes and says that:


- 1. I am the Defendant in the civil action entitled *Ada County Prosecuting Attorney v. 1998 Ford F150 et al., Ada County Case No.: CV-OC-2014-17003*
- 2. I have read the foregoing DEFENDANT'S FIRST SET OF ANSWERS AND RESPONSES TO PLAINTIFF'S FIRST SET OF INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS TO DEFENDANT, know the contents thereof, and believe the same to be true.

DATED this 8<sup>th</sup> day of ~~September~~ OCTOBER, 2015.

  
\_\_\_\_\_  
William Scott DeMint,  
Defendant

SUBSCRIBED AND SWORN TO before me on this 8<sup>th</sup> day of ~~September~~ October, 2015.



  
\_\_\_\_\_  
NOTARY PUBLIC FOR IDAHO  
Residing at: Casper County  
My commission expires: 5/13/19

# EXHIBIT A

Received Time: 05:03:09 04-02-14 Source ORI: FL1110000  
Summary: QR: PUR=C FBI=656791KA4  
View Message Details

CR.FL1110000  
04:03 04/02/2014 03116  
04:03 04/02/2014 01251 ID001013A  
TXT

HDR/2L0103Q9,MRI2032232  
ATN/BRIAN NAUGLE

HDR/2L0103Q9,MRI2032232  
ATN/BRIAN NAUGLE

\*\*\*\*\* CRIMINAL HISTORY RECORD \*\*\*\*\*  
Data As Of 2014-04-02

\*\*\*\*\* Introduction \*\*\*\*\*

This rap sheet was produced in response to the following request:

FBI Number 656791KA4  
State Id Number FL02823386 (FL)

)  
Purpose Code C  
Attention BRIAN NAUGLE

The information in this rap sheet is subject to the following caveats:

BECAUSE ADDITIONS OR DELETIONS MAY BE MADE AT ANY TIME, A NEW COPY SHOULD BE REQUESTED WHEN NEEDED FOR FUTURE USE (FL)

THIS RECORD CONTAINS FLORIDA INFORMATION ONLY. WHEN EXPLANATION OF A CHARGE OR DISPOSITION IS NEEDED, COMMUNICATE DIRECTLY WITH THE AGENCY THAT CONTRIBUTED THE RECORD INFORMATION. THIS RECORD MAY ONLY BE USED FOR CRIMINAL JUSTICE PURPOSES AS DEFINED BY THE CODE OF FEDERAL

REGULATIONS. (FL)

THIS IS A MULTI-SOURCE OFFENDER RECORD. (FL)

\*\*\*\*\* IDENTIFICATION \*\*\*\*\*

Subject Name(s)  
DEMINT, SCOTT WILLIAM  
DEMINT, WILLIAM SCOTT (AKA)  
DEMINT, SCOTT (AKA)  
DEMINT, RICHARD SKEETER (AKA)

Subject Description  
FBI Number State Id Number  
656791KA4 FL02823386 (FL)

)  
County Number

Sex Race  
Male White  
Height Weight  
5'03" 150  
Hair Color Eye Color  
Brown Brown

Scars, Marks, and Tattoos  
Code Description, Comments, and Images

SC L HND  
Place of Birth  
FLORIDA  
Residence  
Residence as of

DISCOVERY

2000 GANDY BLVD 61, ST PETE, FL

Fingerprint Images

\*\*\*\*\* CRIMINAL HISTORY \*\*\*\*\*  
Cycle 001

Tracking Number 001  
Earliest Event Date 1989-04-29

Arrest Date 1989-04-29  
Arrest Case Number 134874  
Arresting Agency FL0521400  
ST. PETERSBURG POLICE DEPARTMENT  
Arrest Type ADULT  
Charge 001

Charge Number 134874  
Charge Tracking Number 0002085303  
Charge Literal MARIJUANA-POSSESS-  
Agency FL0521400

ST. PETERSBURG POLICE DEPARTMENT  
NCIC Offense Code 3562  
Counts 001  
Severity Unknown

Charge 002  
Charge Number 134874  
Charge Literal DRUGS - EQUIP - POSSESS-  
Agency FL0521400

ST. PETERSBURG POLICE DEPARTMENT  
NCIC Offense Code 3550  
Counts 001  
Severity Unknown

Charge 003  
Charge Number 134874  
Charge Literal TRESPASSING-  
Agency FL0521400

ST. PETERSBURG POLICE DEPARTMENT  
NCIC Offense Code 5707  
Counts 001  
Severity Unknown

==== Cycle 002 =====

Tracking Number 002  
Earliest Event Date 1990-12-26

Arrest Date 1990-12-26  
Arrest Case Number 134874  
Arresting Agency FL0521400  
ST. PETERSBURG POLICE DEPARTMENT  
Arrest Type ADULT  
Charge 001

Charge Number 134874  
Charge Tracking Number 0003551213  
Charge Literal SHOPLIFTING-  
Agency FL0521400

ST. PETERSBURG POLICE DEPARTMENT  
NCIC Offense Code 2303  
Counts 001  
Severity Unknown

Charge 002  
Charge Number 134874  
Charge Literal PROB VIOLATION-  
Agency FL0521400

ST. PETERSBURG POLICE DEPARTMENT  
Charge Description REF SELL MARIJ  
NCIC Offense Code 5012  
Counts 002  
Severity Unknown

==== Cycle 003 =====

Tracking Number 003  
Earliest Event Date 1991-12-15

DISCOVER



Arrest Date 1991-12-15  
 Arrest Case Number 134874  
 Arresting Agency FL0521400  
 ST. PETERSBURG POLICE DEPARTMENT  
 Arrest Type ADULT  
 Charge 001  
 Charge Number 134874  
 Charge Tracking Number 0004545124  
 Charge Literal LARCENY-  
 Agency FL0521400  
 ST. PETERSBURG POLICE DEPARTMENT  
 Charge Description GRAND  
 NCIC Offense Code 2399  
 Counts 001  
 Severity FELONY

*Cycle 3  
 dropped from  
 Grand Larceny  
 to Larceny*

*dropped to mis*

Court Disposition (Cycle 003)  
 Court Disposition Date 1992-03-11  
 Court Case Number 92000762FMA  
 Court Agency FL0520000  
 PINELLAS COUNTY SHERIFF'S OFFICE  
 Charge 001  
 Charge Number 001  
 Charge Tracking Number 0004545124  
 Charge Literal LARCENY-  
 NCIC Offense Code 2399  
 Counts 001  
 Disposition (Convicted 1992-03-11; GUILTY/CONVICTED)

==== Cycle 004 =====

Tracking Number 004  
 Earliest Event Date 1991-12-30

Arrest Date 1991-12-30  
 Arrest Case Number 134874  
 Arresting Agency FL0521400  
 ST. PETERSBURG POLICE DEPARTMENT  
 Arrest Type ADULT  
 Charge 001  
 Charge Number 134874  
 Charge Tracking Number 0004546446  
 Charge Literal BURGLARY-  
 Agency FL0521400  
 ST. PETERSBURG POLICE DEPARTMENT  
 Charge Description COMMERCIAL  
 NCIC Offense Code 2299  
 Counts 001  
 Severity FELONY

**DISCOVERY**

*Felony*

Court Disposition (Cycle 004)  
 Court Disposition Date 1992-03-09  
 Court Case Number 91021271CFA  
 Court Agency FL0520000  
 PINELLAS COUNTY SHERIFF'S OFFICE  
 Charge 001  
 Charge Number 001  
 Charge Tracking Number 0004546446  
 Charge Literal BURGLARY-  
 NCIC Offense Code 2299  
 Counts 001  
 Severity FELONY  
 Disposition (Convicted 1992-03-09; GUILTY/CONVICTED)

==== Cycle 005 =====

Tracking Number 005  
Earliest Event Date 1992-07-07

Arrest Date 1992-07-07  
Arrest Case Number 185870  
Arresting Agency FL0520000  
PINELLAS COUNTY SHERIFF'S OFFICE  
Arrest Type ADULT

Charge 001  
Charge Number 185870  
Charge Tracking Number 0005459812  
Charge Literal MARIJUANA-SELL-  
Agency FL0520000  
PINELLAS COUNTY SHERIFF'S OFFICE  
NCIC Offense Code 3560  
Counts 001  
Severity FELONY

Charge 002  
Charge Number 185870  
Charge Literal MARIJUANA-POSSESS-  
Agency FL0520000  
PINELLAS COUNTY SHERIFF'S OFFICE  
NCIC Offense Code 3562  
Counts 001  
Severity Unknown

Prosecutor Disposition (Cycle 005)  
Prosecution Date 1992-07-07  
Prosecutor Agency FL052015J 6TH CIRCUIT COURT - CLEARWATER  
Charge 001

Charge Number 001  
Charge Tracking Number 0005459812  
Charge Literal MARIJUANA-SELL-  
Charge Description Suppl Arr Degree:1ST  
Charge Description Suppl Arr Level:FELONY  
Charge Description SALE OR DELIVERY 20 GRAMS OF CANNABIS  
Charge Description COUNSEL TYPE:PUBLIC DEFENDER  
Statute WIT SELL ETC OTHER SCHEDULE III OR IV  
(FL893.13(1A2); )  
NCIC Offense Code 3560  
Counts 001  
Severity FELONY  
Enhancing Factor 3RD DEGREE  
Disposition (Other 1992-07-22; N/A

DISCOVERY



Court Disposition (Cycle 005)  
Court Disposition Date 1992-09-09 ( SAME)  
Court Case Number 521992CF010396AXXXNO  
Court Agency FL052015J  
6TH CIRCUIT COURT - CLEARWATER

Charge 001  
Charge Number 001  
Charge Tracking Number 0005459812  
Charge Literal MARIJUANA-SELL-  
Charge Description SALE OR DELIVERY 20 GRAMS OF CANNABIS  
Charge Description COUNSEL TYPE:PUBLIC DEFENDER  
Charge Description TRIAL TYPE:NONE  
Charge Description PLEA TYPE:NOLO CONTENDRE  
Statute WIT SELL ETC OTHER SCHEDULE III OR IV

NCIC Offense Code 3560  
Counts 001  
Severity FELONY  
Enhancing Factor 3RD DEGREE  
Disposition (Convicted 1992-09-09; GUILTY/CONVICTED)

Sentencing (Cycle 005)  
Sentence Date 1992-09-09  
Sentencing Agency FL052015J 6TH CIRCUIT COURT - CLEARWATER  
Court Case Number 521992CF010396AXXXNO  
Charge 001  
Charge Number 001  
Charge Literal MARIJUANA-SELL-

Sentence CREDITED TIME-0002 DAYS

Sentence RESTITUTION \$140

Sentence COURT COST- \$305

Sentence SPECIAL SENTENCE PROVISIONS-SENTENCED UNDER  
SENTENCING GUIDELINES

----- Cycle 006 -----  
Tracking Number 006  
Earliest Event Date 1996-12-30 Incident Date 1996-12-29

Arrest Date 1996-12-30  
Arrest Case Number 134874  
Arresting Agency FL0521400

ST. PETERSBURG POLICE DEPARTMENT

Arrest Type ADULT  
Charge 001  
Charge Number 134874  
Charge Tracking Number 0009743638  
Charge Literal AGGRAV BATTERY-  
Agency FL0521400

ST. PETERSBURG POLICE DEPARTMENT

NCIC Offense Code 1318  
Counts 001  
Severity FELONY

**DISCOVERY**

Prosecutor Disposition (Cycle 006)  
Prosecution Date 1996-12-30  
Prosecutor Agency FL052015J 6TH CIRCUIT COURT - CLEARWATER  
Charge 001

Charge Number 001  
Charge Tracking Number 0009743638  
Charge Literal AGGRAV BATTERY-  
Charge Description Suppl Arr Degree:2ND  
Charge Description Suppl Arr Level:FELONY  
Charge Description AGGRAVATED BATTERY GREAT BODILY HARM  
Charge Description COUNSEL TYPE:PRIVATE ATTORNEY  
Statute AGGRAV. BATTERY- (FL784.045(1A); )

NCIC Offense Code 1318  
Counts 001  
Severity FELONY

Enhancing Factor 2ND DEGREE  
Disposition (Other 1996-12-18; N/A)

*cycle 5  
NOTING  
originated 1988  
sentenced to 30MT  
prison picture and  
booking sheet in  
discovery*

Apr 2, 2014 5:03:29 AM

Printed By: 6388MIKE12 from: AADAAD06

Court Disposition (Cycle 006)

Court Disposition Date 1997-06-06 ( AMENDED)

Court Case Number 521996CF023077AXXXNO

Court Agency FL052015J

6TH CIRCUIT COURT - CLEARWATER

Charge 001

Charge Number 001

Charge Tracking Number 0009743638

Charge Literal BATTERY-

Charge Description BATTERY

Charge Description COUNSEL TYPE:PRIVATE ATTORNEY

Charge Description TRIAL TYPE:NONE

Charge Description PLEA TYPE:NOLO CONTENDRE

Statute BATTERY (

FL784.03

; )

NCIC Offense Code 1319

Counts 001

Severity FELONY

Enhancing Factor 3RD DEGREE

Disposition (Convicted 1997-06-06; GUILTY/CONVICTED

Sentencing (Cycle 006)

Sentence Date 1997-06-06

Sentencing Agency FL052015J 6TH CIRCUIT COURT - CLEARWATER

Court Case Number 521996CF023077AXXXNO

Charge 001

Charge Number 001

Charge Literal BATTERY-

Sentence

\*\* MESSAGE EXCEEDED 14400 CHARACTERS-HAS BEEN SEGMENTED BY NLETS \*\*

\*\* PART 1 OF 2 \*\*

MRI 2032236 IN: NL11 2002 AT 2014-04-02 05:03:08

OUT: AADAAD06 44 AT 2014-04-02 05:03:09

Received Time: 05:03:09 04-02-14

Source ORI:

FLIII0000

Summary: QR: PUR=C FBI=656791KAA

View Message Details

CR.FLIII0000

04:03 04/02/2014 03116

04:03 04/02/2014 01251 ID001013A

TEXT

DISCOVERY

HDR/2L0103Q9,MRI2032232

ATN/BRIAN NAUGLE

CONFINEMENT- IN COUNTY

Sentence

CREDITED TIME-0160 DAYS

Sentence

RESTITUTION \$1504

Sentence

SPECIAL SENTENCE PROVISIONS-RESENTENCING

==== Cycle 007 =====

Tracking Number 007

Earliest Event Date 1998-07-20

000179

Arrest Date 1998-07-20  
 Arrest Case Number 185870  
 Arresting Agency FL0520000  
 PINELLAS COUNTY SHERIFF'S OFFICE  
 Arrest Type ADULT  
 Charge 001  
 Charge Number 185870  
 Charge Tracking Number 0011625000  
 Charge Literal PROB VIOLATION-  
 Agency FL0520000  
 PINELLAS COUNTY SHERIFF'S OFFICE  
 Charge Description ATT AGGRAV BATT  
 NCIC Offense Code 5012  
 Counts 001  
 Severity Unknown

-----  
 Court Disposition (Cycle 007)  
 Court Disposition Date 1998-07-20( REARREST)  
 Court Case Number 521996CF023077AXXXNO  
 Court Agency FL052015J  
 6TH CIRCUIT COURT - CLEARWATER  
 Charge 001  
 Charge Number 001  
 Charge Tracking Number 0011625000  
 Charge Literal Probation Violation Reference OBT 0009743638  
 Counts 001  
 Severity FELONY

\*\*\*\*\* INDEX OF AGENCIES \*\*\*\*\*  
 Agency ST. PETERSBURG POLICE DEPARTMENT  
 ; FL0521400;  
 UNKNOWN CONTACT

Address

-----  
 Agency PINELLAS COUNTY SHERIFF'S OFFICE  
 ; FL0520000;  
 LIEUTENANT R. SCOTT STINER

DISCOVERY

Address

-----  
 Agency 6TH CIRCUIT COURT - CLEARWATER  
 ; FL052015J;  
 ALONA CLAVO

Address

\* \* \* END OF RECORD \* \* \*

\*\* MESSAGE EXCEEDED 14400 CHARACTERS-HAS BEEN SEGMENTED BY NLETS \*\*

\*\* PART 2 OF 2 \*\*

MRI 2032237 IN: NLI1 2003 AT 2014-04-02 05:03:09

OUT: AADAAD06 45 AT 2014-04-02 05:03:09

Received Time: 05:02:54 04-02-14 Source ORI: IDIII0000  
Summary: FQ: PUR=C SID=ID00280579  
View Message Details

THIS RESPONSE IS BASED ON YOUR INQUIRY OF  
SID/ID00280579 PUR/C ATN/BRIAN NAUGLE

THIS RECORD MAY BE USED ONLY FOR CRIMINAL JUSTICE PURPOSES AS DEFINED BY THE  
FEDERAL BUREAU OF INVESTIGATION, IDAHO CODE CHAPTER 67, TITLE 30 AND IDAHO  
CODE CHAPTER 52, TITLE 19.

AN ARREST WITHOUT DISPOSITION IS NOT AN INDICATION OF GUILT.

\* \* IDAHO CRIMINAL HISTORY \* \*

THE SUBJECT OF THIS CRIMINAL RECORD INQUIRY HAS BEEN CONVICTED OF A  
FELONY CRIME AS DEFINED BY IDAHO CODE 18-111 AND 18-111A.

INDIVIDUAL MAY BE PROHIBITED FROM POSSESSING OR ACQUIRING FIREARM OR  
AMMUNITION PURSUANT TO FEDERAL GUN CONTROL ACT OF 1968 AND IDAHO CODE 18-310.

IDENTIFICATION

SID NUMBER FBI NUMBER SOCIAL SECURITY NUMBER  
ID00280579 656791KA4 [REDACTED]

NAME: DEMINT, WILLIAM SCOTT  
ALIAS: ~~DEMENT DEMENT SCOTT WILLIAM~~  
DEMINT DEMINT RICHARD SKBETER

DATE(S) OF BIRTH:  
03-09-1971

SEX RACE HEIGHT WEIGHT EYE HAIR SKIN  
M W 503 160 BLU BRO

DISCOVERY

COB POB III STATUS  
US ST PETERSBURG FL MULTI-STATE OFFENDER

CRIMINAL HISTORY

CYCLE 1

ARREST

DATE OF ARREST: 04-01-2014  
ARREST AGENCY: IDISP0300 IDAHO STATE POLICE REGION THREE  
PRINT ID#: ID1110190474  
CHARGE: 1  
OFFENSE LITERAL: 37-2732 (c) {F} CONTROLLED SUBSTANCE-POSSESSION OF  
STATUTE: 37-2732-C  
SEVERITY: FELONY  
COUNTS: 1  
ARRESTING CASE NUMBER:

CHARGE: 2  
OFFENSE LITERAL: 37-2734A {M} DRUG PARAPHERNALIA POSSESSION OF  
STATUTE: 37-2734-A  
SEVERITY: MISDEMEANOR  
COUNTS: 2

ARRESTING CASE NUMBER:

CHARGE: 3  
 OFFENSE LITERAL: 67-2901-A {M} POE-MOTOR CARRIER-DEPARTMENT OF LAW  
 STATUTE: 67-2901-A  
 SEVERITY: MISDEMEANOR  
 COUNTS: 3  
 ARRESTING CASE NUMBER:

===== CYCLE 2 =====

----- ARREST -----

DATE OF ARREST: 02-12-2012  
 ARREST AGENCY: ID001015C IDOC-IDAHO STATE PENITENTIARY  
 PRINT ID#: ID5550043716  
 CHARGE: 1  
 OFFENSE LITERAL: CONTROLLED SUBSTANCE-POSSESSIO  
 STATUTE: 37-2732(C) (2)  
 SEVERITY: FELONY  
 COUNTS: 1  
 ARRESTING CASE NUMBER: 85013

===== CYCLE 3 =====

----- CUSTODY -----

DATE RECEIVED: 02-12-2012  
 CUSTODY AGENCY: ID001015C IDOC-IDAHO STATE PENITENTIARY  
 CASE NUMBER: H0700072  
 PRINT ID#: ID5550043716  
 CHARGE: 1  
 OFFENSE LITERAL: Controlled Substance-Possession of LSD  
 STATUTE: 37-2732(C) (2)  
 SEVERITY: FELONY  
 COUNTS: 1  
 COURT: ID001015C ADA COUNTY 4TH DISTRICT COURT  
 COURT DATE: 02/12/2012  
 COURT CHARGE:

===== CYCLE 4 =====

----- ARREST -----

DATE OF ARREST: 02-11-2010  
 ARREST AGENCY: ID001015C IDOC-IDAHO STATE PENITENTIARY  
 PRINT ID#: ID5550025888  
 CHARGE: 1  
 OFFENSE LITERAL: POSSESSION OF A CONTROLLED SUB  
 STATUTE: 37-2732(C) (2)  
 SEVERITY: FELONY  
 COUNTS: 1  
 ARRESTING CASE NUMBER: 85013

DISCOVERY

===== CYCLE 5 =====

----- ARREST -----

DATE OF ARREST: 03-22-2007  
 ARREST AGENCY: ID001015C IDOC-IDAHO STATE PENITENTIARY  
 PRINT ID#: ID5550015059  
 CHARGE: 1  
 OFFENSE LITERAL: FORGERY  
 STATUTE: 18-3601  
 SEVERITY: FELONY  
 COUNTS: 1  
 ARRESTING CASE NUMBER: 85013

CHARGE: 2  
 OFFENSE LITERAL: POSSESSION OF A CONTROLLED SUB  
 STATUTE: 37-2732(C) (2)  
 SEVERITY: FELONY  
 COUNTS: 1

ARRESTING CASE NUMBER: 85013

===== CYCLE 6 =====

----- ARREST -----

DATE OF ARREST: 08-09-2006  
ARREST AGENCY: ID0010200 GARDEN CITY POLICE DEPARTMENT  
PRINT ID#: ID1110083318

CHARGE: 1  
OFFENSE LITERAL: S1B F ATTEMPTED GRAND THEF  
STATUTE: 18-2407  
SEVERITY: FELONY  
COUNTS: 1  
ARRESTING CASE NUMBER: 254466

CHARGE: 2  
OFFENSE LITERAL: FORGERY  
STATUTE: 18-3601  
SEVERITY: FELONY  
COUNTS: 1  
ARRESTING CASE NUMBER: 254466

CHARGE: 3  
OFFENSE LITERAL: S37-2732 (A) F CONTROLLED S  
STATUTE: 37-2732 (A)  
SEVERITY: FELONY  
COUNTS: 1  
ARRESTING CASE NUMBER: 254466

CHARGE: 4  
OFFENSE LITERAL: RESISTING AND OBSTRUCTING OFFI  
STATUTE: S18-705  
SEVERITY: MISDEMEANOR  
COUNTS: 1  
ARRESTING CASE NUMBER: 254466

CHARGE: 5  
OFFENSE LITERAL: DRUG PARAPHERNALIA POSSESSION  
STATUTE: S37-2734A  
SEVERITY: MISDEMEANOR  
COUNTS: 1  
ARRESTING CASE NUMBER: 254466

CHARGE: 6  
OFFENSE LITERAL: THEFT OF LOST PROPERTY  
STATUTE: S18-2403-2C  
SEVERITY: MISDEMEANOR  
COUNTS: 1  
ARRESTING CASE NUMBER: 254466

**DISCOVERY**

----- COURT DISPOSITION -----

CHARGE: 1  
OFFENSE LITERAL: CONT SUBS POSS/DEL/MANUF  
STATUTE: 37-2732  
SEVERITY: FELONY  
COUNTS: 1  
COURT ORI: ID001025J  
COURT DATE: 02-11-2010  
DISPOSITION: CONVICTED  
PRISON DETERMINATE: 1Y 6M  
PRISON INDETERMINATE: 6Y  
PRISON DATE: 02-11-2010  
REMARKS: PAROLE VIOLATION...ORIGINAL ISCI 2007/03/22...REMANDED  
2010/02/11

===== CYCLE 7 =====

----- ARREST -----

DATE OF ARREST: 10-31-2002  
ARREST AGENCY: ID0010000 ADA COUNTY SHERIFF'S OFFICE  
PRINT ID#: ID1110017146



CHARGE: 1  
 OFFENSE LITERAL: GRAND THEFT  
 STATUTE: 18-2407(1)  
 SEVERITY: FELONY  
 COUNTS: 1  
 ARRESTING CASE NUMBER: 254466

----- COURT DISPOSITION -----

CHARGE: 1  
 OFFENSE LITERAL: PETIT THEFT  
 STATUTE: 18-2407(2)  
 SEVERITY: MISDEMEANOR  
 COUNTS: 1  
 COURT ORI: ID001025J  
 COURT CASE: M0211715  
 COURT DATE: 12-16-2002  
 DISPOSITION: CONVICTED  
 JAIL SENTENCED: 365D  
 JAIL SUSPENDED: 335D  
 PROBATION: 2Y  
 RESTITUTION: \$30  
 REIMBURSEMENT: \$150  
 COURT COST: \$313

END OF RECORD

MRI 2032229 IN: CCHQ 108 AT 2014-04-02 05:02:54  
 OUT: AADAAD06 42 AT 2014-04-02 05:02:54

DISCOVERY

Apr 2, 2014 5:02:29 AM

Printed By: 6388MIKE12 from: AADAAD06

Received Time: 05:02:16 04-02-

IDIHOT000

Summary: DQ: NAM=DEMINT,

View Message Details

ILED REPLY

ID001013A

TST/N.NAM/DEMINT, WILLIAM

\*\*\*\* NO N-IHOT RECORD FOUND FOR INQUIRY ABOVE \*\*\*\*

MRI 2032206 IN: HFS 1505 AT 2014-04-02 05:02:16

OUT: AADAAD06 39 AT 2014-04-02 05:02:16

DISCOVERY

000185

Received Time: 05:02:16 04-02-14 Source ORI: IDNCIC000  
Summary: DQ: NAM=DEMINT, WILLIAM DOB=19710309  
View Message Details

1L0103Q9,MRI2032204  
ID001013A

NO NCIC WANT NAM/DEMINT,WILLIAM DOB [REDACTED] RAC/U SEX/M  
\*\*\*MESSAGE KEY QWS SEARCHES WANTED PERSON FILE FELONY RECORDS REGARDLESS OF  
EXTRADITION, ALL MISDEMEANOR RECORDS INDICATING POSSIBLE EXTRADITION FROM  
THE INQUIRING AGENCY'S LOCATION, AND ALL INTRASTATE MISDEMEANOR RECORDS.  
ALL OTHER NCIC PERSONS FILES ARE SEARCHED WITHOUT LIMITATIONS.

MRI 2032207 IN: NCIC 1516 AT 2014-04-02 05:02:16  
OUT: AADAAD06 40 AT 2014-04-02 05:02:16

DISCOVERY

Received Time: 05:02:04 04-02-14 Source ORI: ID001015V
Summary: DQ: OLN=595079263
View Message Details

OLN/595079263

MAY BE THE SAME AS: PAGE 01 FOR OFFICIAL INVESTIGATION PURPOSES ONLY
OLN [REDACTED] PRIVACY FLAG.

NAM/DEMINT, WILLIAM SCOTT. \*\* OPR STATUS/VALID.
RES/ \*\* CDL STATUS/VALID.
3975 JACKIE LANE CLASS/A. \*\* EXP/03-09-2018.
BOISE ID 83704. OLT/DRIVER LICENSE.
MAIL/
P.O. BOX 45212
BOISE ID 83711-5212.

SEX/M. HAI/BRO. EYE/BLU. [REDACTED] ORGAN DONOR
HGT/503. WGT/170. [REDACTED] CNTY/JERO.

AKA OLN/595079263 AKA OLS/ID
D553937710890. FL.
CITN/05-09-1996C. 04-14-1996A.BASIC RULE. FL. FLORIDA.
CITN/07-13-1998C. 06-28-1998A.DWP SUSPEND. FL. FLORIDA.
CITN/07-21-1999C. 11-21-1996A.BASIC RULE. FL. FLORIDA.
CITN/11-22-1999C. 09-22-1999A.NO PASSING. FL. FLORIDA.
CITN/12-08-2000C. 08-23-2000A.BASIC RULE. CA. CALIFORNIA.
CITN/01-04-2001C. 08-03-2000A.SPD 15+OVR. CA. CALIFORNIA.
CITN/08-07-2001C. 06-23-2001A.BASIC RULE. OR. OREGON,
CITN/05-21-2002C. 08-23-2001A.BASIC RULE. FL. FLORIDA.
CITN/12-16-2002C. 09-22-2002A.BASIC RULE. OR. OREGON.
CITN/08-05-2003C. 06-29-2003A.BASIC RULE. OH. OHIO.
CITN/11-24-2003C. 03-21-2003A.CV-DWP-CDLWD. OR. OREGON.
CITN/11-24-2003C. 03-21-2003A.TRF CTRL DVC. OR. OREGON.
CITN/01-08-2004C. 12-15-2003A.FOLLOW CLOSE. ISP.ELECTRONIC.
CITN/08-09-2005C. 07-15-2005A.BASIC RULE. ISP.ELECTRONIC.
SUSP/09-12-2006.UNTL/12-11-2006. INFRACTIONS. REIN FULL.09-25-2006.OP
SUSP/09-12-2006.UNTL/12-11-2006. INFRACTIONS. FULL. 09-25-2006.OP
CITN/12-23-2009C. 11-28-2009A.BASIC RULE. SHR.ADA.
ORD DEGREE/INFR.
SUSP/02-01-2010.UNTL/05-02-2010. INFRACTIONS. REIN FULL.02-11-2010.OP
SUSP/02-01-2010.UNTL/05-02-2010. INFRACTIONS. FULL. 02-11-2010.CD
CITN/11-15-2013C. 08-14-2013A.BASIC RULE. OR. OREGON.
CITN/11-25-2013C. 09-24-2013A.BASIC RULE. IA. IOWA.
ADDITIONAL LICENSE TYPES CONTINUED ON NEXT PAGE...

DISCOVERY

MAY BE THE SAME AS: PAGE 02 FOR OFFICIAL INVESTIGATION PURPOSES ONLY

\*\*\*\*\* IDAHO IDENTIFICATION CARD ONLY - NOT A DRIVERS LICENSE \*\*\*\*\*
OLN/ZE338962G. PRIVACY FLAG.
NAM/DEMINT, WILLIAM SCOTT. ID.CARD STATUS/VALID.
RES/
3975 JACKIE LANE \*\* EXP/03-09-2015.
BOISE ID 83704. OLT/IDENTIFICATION CARD.
MAIL/
P.O. BOX 45212
BOISE ID 83711-5212.

SEX/M. HAI/BRO. EYE/BLU. [REDACTED] ORGAN DONOR
HGT/503. WGT/170. [REDACTED] CNTY/ADA.

Received Time: 05:46:02 08-21-14

Source ORI:

ID001015V

Summary: DQ: OLN=ZE338962G

View Message Details

OLN/ZE338962G

MAY BE THE SAME AS PAGE 01 FOR OFFICIAL INVESTIGATION PURPOSES ONLY

OLN [REDACTED] PRIVACY FLAG.
NAM/DEMINT, WILLIAM SCOTT. \*\* OPR STATUS/VALID.
RES/ \*\* CDL STATUS/VALID.
3975 JACKIE LANE CLASS/A. \*\* EXP/03-09-2018.
BOISE ID 83704. OLT/DRIVER LICENSE.
MAIL/
P.O. BOX 45212
BOISE ID 83711-5212.

SEX/M. HAI/BRO. EYE/BLU [REDACTED] ORGAN DONOR
HGT/503. WGT/170 [REDACTED] CNTY/JERO.

AKA OLN/595079263 AKA OLS/ID
D553937710890. FL.

CITN/05-09-1996C. 04-14-1996A.BASIC RULE. FL. FLORIDA.
CITN/07-13-1998C. 06-28-1998A.DWP SUSPEND. FL. FLORIDA.
CITN/07-21-1999C. 11-21-1996A.BASIC RULE. FL. FLORIDA.
CITN/11-22-1999C. 09-22-1999A.NO PASSING. FL. FLORIDA.
CITN/12-08-2000C. 08-23-2000A.BASIC RULE. CA. CALIFORNIA.
CITN/01-04-2001C. 08-03-2000A.SPD 15+OVR. CA. CALIFORNIA.
CITN/08-07-2001C. 06-23-2001A.BASIC RULE. OR. OREGON.
CITN/05-21-2002C. 08-23-2001A.BASIC RULE. FL. FLORIDA.
CITN/12-16-2002C. 09-22-2002A.BASIC RULE. OR. OREGON.
CITN/08-05-2003C. 06-29-2003A.BASIC RULE. OH. OHIO.
CITN/11-24-2003C. 03-21-2003A.CV-DWP-CDLWD. OR. OREGON.
CITN/11-24-2003C. 03-21-2003A.TRF CTRL DVC. OR. OREGON.
CITN/01-08-2004C. 12-15-2003A.FOLLOW CLOSE. ISP.ELECTRONIC.
CITN/08-09-2005C. 07-15-2005A.BASIC RULE. ISP.ELECTRONIC.
SUSP/09-12-2006.UNTL/12-11-2006. INFRACTIONS. REIN FULL.09-25-2006.OP
SUSP/09-12-2006.UNTL/12-11-2006. INFRACTIONS. FULL. 09-25-2006.CD
CITN/12-23-2009C. 11-28-2009A.BASIC RULE. SHR.ADA.
ORD DEGREE/INFR.
SUSP/02-01-2010.UNTL/05-02-2010. INFRACTIONS. REIN FULL.02-11-2010.OP
SUSP/02-01-2010.UNTL/05-02-2010. INFRACTIONS. FULL. 02-11-2010.CD
CITN/11-15-2013C. 08-14-2013A.BASIC RULE. OR. OREGON.
CITN/11-25-2013C. 09-24-2013A.BASIC RULE. IA. IOWA.
ADDITIONAL LICENSE TYPES CONTINUED ON NEXT PAGE...

MAY BE THE SAME AS: PAGE 02 FOR OFFICIAL INVESTIGATION PURPOSES ONLY

\*\*\*\*\* IDAHO IDENTIFICATION CARD ONLY - NOT A DRIVERS LICENSE \*\*\*\*\*

OLN/ZE338962G. PRIVACY FLAG.
NAM/DEMINT, WILLIAM SCOTT. ID CARD STATUS/VALID.
RES/
3975 JACKIE LANE \*\* EXP/03-09-2015.
BOISE ID 83704. OLT/IDENTIFICATION CARD.
MAIL/
P.O. BOX 45212
BOISE ID 83711-5212.

SEX/M. HAI/BRO. EYE/BLU [REDACTED] ORGAN DONOR
HGT/503. WGT/170 [REDACTED] CNTY/ADA.

DISCOVERY

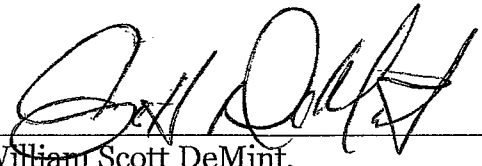
VERIFICATION

STATE OF IDAHO, )  
 ) ss.  
County of ADA. )

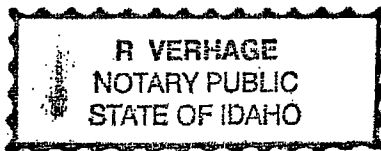
WILLIAM SCOTT DEMINT, being first duly sworn, deposes and says that:


1. I am the Defendant in the civil action entitled *Ada County Prosecuting Attorney v. 1998 Ford F150 et al., Ada County Case No.: CV-OC-2014-17003*
2. I have read the foregoing DEFENDANT'S FIRST SET OF ANSWERS AND RESPONSES TO PLAINTIFF'S FIRST SET OF INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS TO DEFENDANT, know the contents thereof, and believe the same to be true.

DATED this 8th day of ~~September~~ <sup>OCTOBER</sup>, 2015.

  
\_\_\_\_\_  
William Scott DeMint,  
Defendant

SUBSCRIBED AND SWORN TO before me on this 8th day of ~~September~~ <sup>October</sup>, 2015.



  
\_\_\_\_\_  
NOTARY PUBLIC FOR IDAHO  
Residing at: Casper County  
My commission expires: 5/13/19

# EXHIBIT B

**CHASE**  
 JPMorgan Chase Bank, N.A.  
 P O Box 659754  
 San Antonio, TX 78265 - 9754

June 06, 2014 through July 07, 2014  
 Account Number: 00000216196880

**CUSTOMER SERVICE INFORMATION**

Web site: Chase.com  
 Service Center: 1-800-935-9935  
 Deaf and Hard of Hearing: 1-800-242-7383  
 Para Espanol: 1-877-312-4273  
 International Calls: 1-713-262-1679

00008953 DRE 702 219 18914 NNNNNNNYNN 1 000000000 04 0000  
 WILLIAM S DEMINT  
 PO BOX 45212  
 BOISE ID 83711-5212



**CHECKING SUMMARY** Chase Total Checking

	AMOUNT
Beginning Balance	\$577.05
Deposits and Additions	3,326.35
ATM & Debit Card Withdrawals	- 3,070.44
Electronic Withdrawals	- 750.00
Fees and Other Withdrawals	- 244.00
<b>Ending Balance</b>	<b>-\$161.04</b>

**TRANSACTION DETAIL**

DATE	DESCRIPTION	AMOUNT	BALANCE
	Beginning Balance		\$577.05
06/06	It's ME Inc. Quickbooks PPD ID: 1722616653	1,144.11	1,721.16
06/06	Card Purchase 06/04 Gila/Msb 800-616-0166 800-5687004 TX Card 4127	- 200.00	1,521.16
06/06	Card Purchase 06/04 Inn America A Budget MO Boise ID Card 4127	- 67.80	1,453.36
06/09	Card Purchase With Pin 06/06 Shady Acres Green River UT Card 4127	- 34.18	1,419.18
06/11	Card Purchase 06/09 West Winds Restauran Green River UT Card 4127	- 40.00	1,379.18
06/11	Card Purchase 06/09 West Winds Restauran Green River UT Card 4127	- 40.00	1,339.18
06/11	Card Purchase With Pin 06/10 Flying J #621 Limon CO Card 4127	- 44.76	1,294.42
06/11	Card Purchase With Pin 06/10 Flying J #621 Limon CO Card 4127	- 6.72	1,287.70
06/11	Card Purchase With Pin 06/11 Pilot #0252 Kearney MO Card 4127	- 2.14	1,285.56
06/12	Card Purchase 06/11 Huddle House 781 Salina Salina KS Card 4127	- 28.00	1,257.56
06/12	Card Purchase 06/11 Pilot 00002527 Kearney MO Card 4127	- 10.76	1,246.80
06/12	Card Purchase With Pin 06/12 Flying J #652 Lebanon IN Card 4127	- 17.25	1,229.55
06/13	It's ME Inc. Quickbooks PPD ID: 1722616653	182.58	1,412.13
06/13	Card Purchase With Pin 06/13 Mapco Exp 8631 Hwy 25 Cross Plains TN Card 4127	- 5.32	1,406.81

*Handwritten notes:*  
 WORK PAY  
 Wedding  
 WORK  
 WORK  
 WORK  
 WORK pay





June 06, 2014 through July 07, 2014  
 Account Number: 000000216196880

*Work Logging*

**TRANSACTION DETAIL** (continued)

DATE	DESCRIPTION	AMOUNT	BALANCE
07/07	Non-Chase ATM Withdraw 07/05 2025 South 900 West Salt Lake Cit UT Card 4127	- 323.95	147.93
07/07	Card Purchase 07/06 Hotels.Com 800-246-8357 WA Card 4127	- 121.96	25.97
07/07	Card Purchase 07/05 Money 4 You 801-593-0865 UT Card 4127	- 51.50	-25.53
07/07	Card Purchase 07/06 Hotels.Com 800-246-8357 WA Card 4127	- 65.51	-91.04
07/07	Non-Chase ATM Fee-With	- 2.00	-93.04
07/07	Insufficient Funds Fee For A \$51.50 Card Purchase - Details: 0705Money 4 You 801-593-0865 UT 04347696931034127	- 34.00	-127.04
07/07	Insufficient Funds Fee For A \$65.51 Card Purchase - Details: 0706Hotels.Com 800-246-8357 WA 04347696931034127	- 34.00	-161.04
<b>Ending Balance</b>			<b>-\$161.04</b>



A monthly Service Fee was not charged to your Chase Total Checking account. Here are the four ways you can avoid this fee during any statement period.

- **Have direct deposits totaling \$500.00 or more.**  
 (Your total direct deposits this period were \$3,204.39. Note: some deposits may be listed on your previous statement)
- **OR, keep a minimum daily balance in your checking account of \$1,500.00 or more**  
 (Your minimum daily balance was -\$449.00)
- **OR, keep an average qualifying deposit and investment balance of \$5,000.00 or more**  
 (Your average qualifying deposit and investment balance was \$403.00)
- **OR, pay at least \$25.00 in qualifying checking-related services or fees.**  
 (Your total qualifying checking-related services or fees paid were \$244.00)

**OVERDRAFT AND RETURNED ITEM FEE SUMMARY**

	Total for This Period	Total Year-to-date
Total Overdraft Fees *	\$238.00	\$559.00
Total Returned Item Fees	\$0.00	\$102.00

\* Total Overdraft Fees includes Insufficient Funds Fees, and Extended Overdraft Fees

Total Refunds for Overdraft or Returned Item Fees Identified above: \$0.00 \$68.00



JPMorgan Chase Bank, N.A.  
 P O Box 659754  
 San Antonio, TX 78265-9754

July 08, 2014 through August 06, 2014  
 Account Number: 00000216196880

00008956 DRE 702 219 21914 NNNNNNNNNN 1 00000000 04 0000  
 WILLIAM S DEMINT  
 PO BOX 45212  
 BOISE ID 83711-5212

**CUSTOMER SERVICE INFORMATION**

Web site: Chase.com  
 Service Center: 1-800-935-9935  
 Deaf and Hard of Hearing: 1-800-242-7389  
 Para Espanol: 1-877-312-4273  
 International Calls: 1-713-262-1679



**CHECKING SUMMARY**

Chase Total Checking

	AMOUNT
Beginning Balance	-\$161.04
Deposits and Additions	27,284.91
ATM & Debit Card Withdrawals	- 9,257.92
Electronic Withdrawals	- 616.36
Fees and Other Withdrawals	- 13,540.00
Ending Balance	\$3,709.59

**TRANSACTION DETAIL**

DATE	DESCRIPTION	AMOUNT	BALANCE
	Beginning Balance		-\$161.04
07/08	Deposit 1379426538	250.00	88.96
07/09	Card Purchase 07/09 Pilot East Boise ID Card 4127	- 42.95	46.01
07/10	Card Purchase 07/08 Safari Inn LLC Boise ID Card 4127	- 426.44	-380.43
07/10	Insufficient Funds Fee For A \$426.44 Card Purchase - Details: 0708Safari Inn LLC Boise ID 04347696931034127	- 34.00	-414.43
07/15	It's ME Inc. Quickbooks PPD ID: 1722616653	766.72	352.29
07/16	Book Transfer Credit B/O: Suntrust Bank Bene-D By Fed Orlando GA 32809-6213 Org:/0001113726814 Pinellas Park Title CO Ogb: Aba/061000104 Stb Atlanta GA Ref: 1939 63Rd Ave Trn: 2932809197Ez	26,288.19	26,620.48
07/16	Non-Chase ATM Withdraw 07/16 2710 Main Street Boise ID Card 4127	- 203.00	26,417.48
07/16	Non-Chase ATM Fee-With	- 2.00	26,415.48
07/17	Card Purchase 07/16 Mcdonald's F22567 Boise ID Card 4127	- 10.03	26,405.45
07/17	Card Purchase 07/16 Stor-It Self Storage 208-344-6997 ID Card 4127	- 45.00	26,360.45
07/17	Non-Chase ATM Withdraw 07/16 2710 Main Street Boise ID Card 4127	- 203.00	26,157.45
07/17	Card Purchase With Pin 07/17 Maverik Country Store2 Boise ID Card 4127	- 106.42	26,051.03
07/17	07/17 Withdrawal	- 4,000.00	22,051.03
07/17	Card Purchase With Pin 07/17 Fred Meyer Fred Meyer Garden City ID Card 4127	- 7.20	22,043.83
07/17	Non-Chase ATM Fee-With	- 2.00	22,041.83

*work payroll*  
*work pay*  
*house*

*Gambling*



July 08, 2014 through August 06, 2014  
Account Number: 000000216196880

**TRANSACTION DETAIL** (continued)

DATE	DESCRIPTION	AMOUNT	BALANCE
07/21	Card Purchase 07/17 Shilo Inn Boise River Boise ID Card 4127	- 192.10	21,849.73
07/21	Card Purchase 07/18 Riverside Hotel Boise ID Card 4127	- 168.37	21,681.36
07/21	Card Purchase 07/18 Miller Law 208-287-8787 ID Card 4127	- 3,090.00	18,591.36
07/21	Card Purchase 07/20 Hotels.Com 800-246-8357 WA Card 4127	- 336.74	18,254.62
07/21	Chase Quickpay Electronic Transfer 4043676107 To Bethany Longstroth	- 500.00	17,754.62
07/21	Card Purchase W/Cash 07/19 Wal-Mart Super Center Garden City ID Card 4127 Purchase \$44.10 Cash Back \$100.00	- 144.10	17,610.52
07/21	Card Purchase With Pin 07/19 Shell Service Station Garden City ID Card 4127	- 31.84	17,578.68
07/21	Card Purchase 07/21 Hotels.Com 800-246-8357 WA Card 4127	- 109.88	17,468.80
07/21	Card Purchase 07/21 Burger King #1688 Boise ID Card 4127	- 7.19	17,461.61
07/21	Card Purchase 07/21 Chevron 00210452 Marsing ID Card 4127	- 36.67	17,424.94
07/21	Card Purchase With Pin 07/21 Flying J #770 Winnemucca NV Card 4127	- 32.26	17,392.68
07/21	07/21 Withdrawal	- 5,000.00	12,392.68
07/22	Card Purchase 07/21 Gtl*Inmate Phone Svc 877-650-4249 AL Card 4127	- 100.00	12,292.68
07/22	Card Purchase With Pin 07/22 Arco Paypoint 82042 Yuba City CA Card 4127	- 47.10	12,245.58
07/22	Card Purchase With Pin 07/22 Flying J #770 Winnemucca NV Card 4127	- 37.98	12,208.20
07/23	Card Purchase 07/22 Select Management 678-823-4700 GA Card 4127	- 137.98	12,070.22
07/23	Card Purchase 07/23 Hotels.Com 800-246-8357 WA Card 4127	- 171.76	11,898.46
07/24	Card Purchase 07/23 Jack IN The Box#6057 Caldwell ID Card 4127	- 8.46	11,890.00
07/25	Card Purchase 07/24 Extendedstay 828 Boise ID Card 4127	- 434.98	11,455.02
07/25	Card Purchase With Pin 07/25 Wal-Mart #2508 Boise ID Card 4127	- 72.69	11,382.33
07/25	Card Purchase With Pin 07/25 Wal-Mart #2508 Boise ID Card 4127	- 19.64	11,362.69
07/28	Card Purchase 07/25 Gila/Msb 800-616-0166 800-5687004 TX Card 4127	- 392.00	10,970.69
07/28	Card Purchase With Pin 07/26 Shell Service Station Boise ID Card 4127	- 65.02	10,905.67
07/28	Card Purchase With Pin 07/26 #00193 Albertsons Boise ID Card 4127	- 6.98	10,898.69
07/28	Card Purchase 07/27 Maverik City Stre #205 Boise ID Card 4127	- 80.02	10,818.67
07/29	Card Purchase 07/28 Mcdonald's F22567 Boise ID Card 4127	- 6.34	10,812.33
07/29	Card Purchase 07/29 Idaho Gov State of ID 208-332-0102 ID Card 4127	- 187.48	10,624.85
07/29	Prog Direct Ins Ins Prem Pol 903391451 Tel ID: 9409348096	- 116.36	10,508.49
07/30	Card Purchase 07/29 Maverik City Stre #205 Boise ID Card 4127	- 35.00	10,473.49
07/30	Card Purchase 07/29 Maverik City Stre #205 Boise ID Card 4127	- 3.91	10,469.58
07/30	Card Purchase 07/29 Maverik City Stre #205 Boise ID Card 4127	- 50.87	10,418.71
07/30	Card Purchase 07/29 Aladdin Bail Bonds 596 760-4319911 CA Card 4127	- 260.00	10,158.71
07/30	Card Purchase 07/30 Pilot Winnemucca NV Card 4127	- 61.01	10,097.70
07/30	07/30 Withdrawal	- 4,500.00	5,597.70
07/30	Card Purchase With Pin 07/30 Shell Service Station Yuba City CA Card 4127	- 90.99	5,506.71
07/30	Card Purchase With Pin 07/30 Dungeon Yuba City CA Card 4127	- 257.62	5,249.09
07/31	Card Purchase 07/30 Shell Oil 57444669402 Boise ID Card 4127	- 17.00	5,232.09
07/31	Card Purchase 07/30 T-Mobile Ivrr Payment 800-937-8997 WA Card 4127	- 99.64	5,132.45

Lodging  
Lodging  
TRANSP & F&K  
BILLS

WORK  
AMBLING  
Lodging  
Lodging

WORK  
GAMING



July 08, 2014 through August 06, 2014  
Account Number: 000000216196880

**TRANSACTION DETAIL** (continued)

DATE	DESCRIPTION	AMOUNT	BALANCE
07/31	Card Purchase 07/31 Hotels.Com 800-246-8357 WA Card 4127	- 68.66	5,063.79
07/31	Card Purchase With Pin 07/31 Pilot #0485 Winnemucca NV Card 4127	- 71.97	4,991.82
07/31	Card Purchase With Pin 07/31 Jacksons Food S Boise ID Card 4127	- 56.01	4,935.81
07/31	Non-Chase ATM Withdraw 07/31 2510 Main St. Boise ID Card 4127	- 142.50	4,793.31
07/31	Non-Chase ATM Fee-With	- 2.00	4,791.31
08/01	Card Purchase 07/31 Bonanza Inn Hotel Yuba City CA Card 4127	- 24.99	4,766.32
08/01	Card Purchase 07/30 Pilot 00004853 Winnemucca NV Card 4127	- 7.47	4,758.85
08/01	Card Purchase 07/31 The Egg Factory Boise ID Card 4127	- 35.00	4,723.85
08/01	Card Purchase With Pin 08/01 Rite Aid Corp. Boise ID Card 4127	- 60.37	4,663.48
08/01	Card Purchase With Pin 08/01 Walmart/S Wal-Mart Sup Boise ID Card 4127	- 32.12	4,631.36
08/04	Card Purchase 08/01 Stor-It Self Storage 208-344-6997 ID Card 4127	- 75.00	4,556.36
08/04	Card Purchase 08/01 Mcdonald's F22567 Boise ID Card 4127	- 6.54	4,549.82
08/04	Card Purchase 08/02 Tvc Mca Motor Club 8 Tvcmatrix.Com OK Card 4127	- 48.85	4,500.97
08/04	Card Purchase With Pin 08/03 Big Lots #04119 7001 W Boise ID Card 4127	- 39.21	4,461.76
08/04	Card Purchase With Pin 08/04 Walmart/S Wal-Mart Sup Boise ID Card 4127	- 36.48	4,425.28
08/04	Recurring Card Purchase 08/01 Aladdin Bail Bonds 596 760-4319911 CA Card 4127	- 130.00	4,295.28
08/05	Card Purchase With Pin 08/05 The Home Depot #1809 Eagle ID Card 4127	- 491.69	3,803.59
08/05	Card Purchase With Pin 08/05 Shell Service Station Boise ID Card 4127	- 66.09	3,737.50
08/06	Card Purchase 08/05 Mcdonald's F249 Boise ID Card 4127	- 27.91	3,709.59
<b>Ending Balance</b>			<b>\$3,709.59</b>



A monthly Service Fee was not charged to your Chase Total Checking account. Here are the four ways you can avoid this fee during any statement period.

- **Have direct deposits totaling \$500.00 or more.**  
(Your total direct deposits this period were \$1,494.50. Note: some deposits may be listed on your previous statement)
- **OR, keep a minimum daily balance in your checking account of \$1,500.00 or more**  
(Your minimum daily balance was -\$414.00)
- **OR, keep an average qualifying deposit and investment balance of \$5,000.00 or more**  
(Your average qualifying deposit and investment balance was \$8,286.00)
- **OR, pay at least \$25.00 in qualifying checking-related services or fees.**  
(Your total qualifying checking-related services or fees paid were \$40.00)

Page 3 of 6



JPMorgan Chase Bank, N.A.  
 P O Box 659754  
 San Antonio, TX 78265-9754

August 07, 2014 through September 05, 2014  
 Account Number: 000000216196880

00008962 DRE 702 219 24914 NNNNNNNNNN 1 000000000 04 0000  
 WILLIAM S DEMINT  
 PO BOX 45212  
 BOISE ID 83711-5212

**CUSTOMER SERVICE INFORMATION**

Web site: Chase.com  
 Service Center: 1-800-935-9935  
 Deaf and Hard of Hearing: 1-800-242-7383  
 Para Espanol: 1-877-312-4273  
 International Calls: 1-713-262-1679



**CHECKING SUMMARY**

Chase Total Checking

	AMOUNT
Beginning Balance	\$3,709.59
Deposits and Additions	11,100.00
ATM & Debit Card Withdrawals	- 5,393.95
Fees and Other Withdrawals	- 9,449.64
Ending Balance	-\$34.00

**TRANSACTION DETAIL**

DATE	DESCRIPTION	AMOUNT	BALANCE
	Beginning Balance		\$3,709.59
08/07	Card Purchase 08/06 Maverik Ctry Stre #205 Boise ID Card 4127	- 84.18	3,625.41
08/07	Card Purchase 08/07 Chevron 00210452 Marsing ID Card 4127	- 25.00	3,600.41
08/07	Card Purchase With Pin 08/07 Ion Truck Plaza Marsing ID Card 4127	- 30.91	3,569.50
08/07	Card Purchase With Pin 08/07 Flying J #770 Winnemucca NV Card 4127	- 63.00	3,506.50
08/07	Card Purchase With Pin 08/07 Flying J #770 Winnemucca NV Card 4127	- 39.51	3,466.99
08/07	Card Purchase With Pin 08/07 Dungeon Yuba City CA Card 4127	- 491.34	2,975.65
08/07	Card Purchase With Pin 08/07 Walmart/S Wal-Mart Sup Yuba City CA Card 4127	- 12.76	2,962.89
08/08	Card Purchase 08/08 Hotels.Com 800-246-8357 WA Card 4127	- 71.95	2,890.94
08/08	Card Purchase 08/07 Georgia 888-9121526 GA Card 4127	- 284.00	2,606.94
08/08	Card Purchase 08/07 Burger King #3776 Marysville CA Card 4127	- 16.83	2,590.11
08/08	Card Purchase 08/08 Dungeon Yuba City CA Card 4127	- 57.34	2,532.77
08/08	Card Purchase With Pin 08/07 Arco Paypoint Yuba City CA Card 4127	- 79.40	2,453.37
08/08	Card Purchase With Pin 08/08 Flying J #770 Winnemucca NV Card 4127	- 75.00	2,378.37
08/11	Card Purchase 08/07 Shilo Inn Boise River Boise ID Card 4127	- 553.35	1,825.02
08/11	Card Purchase 08/08 Sonic 4814 Yuba City CA Card 4127	- 11.78	1,813.24
08/11	Card Purchase 08/08 Garrity 66 Nampa ID Card 4127	- 70.94	1,742.30
08/11	Card Purchase 08/08 Mcdonald's F7873 Boise ID Card 4127	- 32.04	1,710.26
08/11	Card Purchase 08/11 Hotels.Com 800-246-8357 WA Card 4127	- 236.72	1,473.54

*Fuel*  
*Lodging*  
*Lodging*  
*Lodging*

25,146 94

JAN M. BENNETTS  
ADA COUNTY PROSECUTING ATTORNEY

NO. \_\_\_\_\_  
AM. \_\_\_\_\_ FILED PM 3/11

NOV 19 2015

CHRISTOPHER D. RICH, Clerk  
By STEPHANIE VIDAK  
DEPUTY

CATHERINE A. FREEMAN  
Deputy Prosecuting Attorney  
Civil Division  
200 W. Front Street, Room 3191  
Boise, ID 83702  
(208) 287-7700  
Idaho State Bar No. 9223

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

ADA COUNTY PROSECUTING )  
ATTORNEY, )

Case No. CV OC 2014-17003

Plaintiff, )

REPLY MEMORANDUM IN  
SUPPORT OF PLAINTIFF'S  
MOTION FOR SUMMARY  
JUDGMENT

vs. )

1998 FORD F150, VIN )  
1FTRX18L9WKB27754; TWELVE )  
THOUSAND SEVEN HUNDRED NINETY- )  
FOUR AND 00/100 DOLLARS (\$12,794.00) )  
UNITED STATES CURRENCY; NINE )  
THOUSAND FOUR HUNDRED FIFTEEN )  
AND 64/100 DOLLARS (\$9,415.64) UNITED )  
STATES CURRENCY; APPROXIMATELY )  
FOUR HUNDRED FORTY-ONE AND )  
FORTY-SEVEN-HUNDREDTHS (441.47) )  
GRAMS METHAMPHETAMINE; )  
APPROXIMATELY TWELVE AND )  
SEVENTY-NINE-HUNDREDTHS (12.79) )  
GRAMS MARIJUANA; TEN (10) 16-MG )  
PILLS HYDROMORPHONE; ONE (1) )  
TAURUS MILLENNIUM 9-MM HANDGUN, )  
MODEL PT111, SERIAL NO. TSC27053, )  
WITH ONE (1) MAGAZINE OF TEN (10) )  
ROUNDS 9-MM AMMUNITION; TWO (2) )  
FOLDING KNIVES; ONE (1) VIPERTEK )  
TASER; ONE (1) DIGITAL SCALE WITH )  
RESIDUE AND BLACK CASE; FOUR (4) )  
DIGITAL SCALES IN BOXES; ONE (1) )  
GREEN METAL CONTAINER; ONE (1) )

*Norton/Jernie  
11-20-15 JH*

*J*

ORANGE MESH BAG; ONE (1) RED MESH )  
BAG; ONE (1) BLACK MESH BAG; ONE (1) )  
BLUE CHASE BANK BAG; VARIOUS )  
PLASTIC ZIPLOC BAGS; TWO (2) GLASS )  
PIPES WITH BURNT RESIDUE; ONE (1) )  
SMALL METAL SMOKING PIPE WITH )  
BURNT RESIDUE; TEN (10) GLASS )  
BONGS; AND THIRTY-ONE (31) GLASS )  
PIPES, )

Defendants. )

COMES NOW, Plaintiff, the Ada County Prosecuting Attorney, by and through its counsel of record, the Ada County Prosecuting Attorney's Office, Civil Division, and submits this Reply Memorandum in Support of its Motion for Summary Judgment.

#### I. STANDARD

The nonmoving party may not rest upon the mere allegations or denials of that party's pleadings, but the party's response by affidavits or as otherwise provided in this rule, must set forth specific facts showing that there is a genuine issue for trial. I.R.C.P. 56(e). If the moving party challenges an element of the nonmoving party's case on the basis that no genuine issue of material fact exists, the burden then shifts to the nonmoving party to present evidence that is sufficient to establish a genuine issue of material fact. *Smith v. Meridian Joint School District No. 2*, 128 Idaho 714, 719, 918 P.2d 583, 588 (1996). The nonmoving party must submit more than just conclusory assertions that an issue of material fact exists to establish a genuine issue. *Coghlan v. Beta Theta Pi Fraternity*, 133 Idaho 388, 401, 987 P.2d 300, 313 (1999). "[A] mere scintilla of evidence or only slight doubt as to the facts is not sufficient to create a genuine issue for purposes of summary judgment." *Samuel v. Hepworth, Nungester & Lezamiz, Inc.*, 134 Idaho 84, 87, 996 P.2d 303, 306 (2000).

## II. ARGUMENT

### A. No Genuine Issues of Material Fact Exist With Regard to Defendant Property Nine Thousand Four Hundred Fifteen and 64/100 Dollars (\$9,415.64) United States Currency

In his Brief in Support of Objection to Motion for Summary Judgment, Claimant William DeMint asserts that there is a dispute of material fact as to the Defendant Property Nine Thousand Four Hundred Fifteen and 64/100 Dollars (\$9,415.64). Specifically, Mr. DeMint claims the money, which was found within his Chase bank account, was derived partially from his sale of inheritance property and partially from gambling, rather than from drug sales, as Plaintiff asserts. However, Mr. DeMint has not provided evidence sufficient to create an issue of material fact as to the currency.

Mr. DeMint posits that “[i]n this case, Claimant bears no burden whatsoever.” *Brief in Support of Objection to Motion for Summary Judgment*, p. 3. However, this assertion is incorrect. As mentioned above, if a moving party establishes through evidence that no issues of material fact exist, “the burden then shifts to the nonmoving party to present evidence that is sufficient to establish a genuine issue of material fact.” *Smith*, 128 Idaho at 719, 918 P.2d at 588. Because Plaintiff has shown, through supporting affidavits, that no issues of material fact exist, the burden shifted to Mr. DeMint to show otherwise.

However, conclusory statements do not suffice to create issues of material fact. “[T]he opposing party’s case must not rest on mere speculation. A mere scintilla of evidence is not enough to create a genuine issue of fact. (citation omitted). The opposing party’s case must ‘set forth the facts with particularity; for if general averments were sufficient the summary judgment procedure would lose its utility. . .’” *Tingley v. Harrison*, 125 Idaho 86, 89, 867 P.2d 960, 963 (1994) (citation omitted). Further, the Supreme Court of Idaho has ruled that it is critical “that



support for and opposition to a motion for summary judgment be based upon factual details of *equal specificity* regardless of whether the source is depositions or affidavits.” *Vincen v. Lazarus*, 93 Idaho 145, 149, 456 P.2d 789, 793 (1969) (emphasis added). Plaintiff has provided specific evidence showing the absence of any genuine issues of material fact here. Thus, the burden shifted to Mr. DeMint to set forth facts, with particularity, and of equal specificity to Plaintiff’s evidence, showing that a material fact does exist. He has failed to do so.

Mr. DeMint relies solely on his own self-serving statement that the money within his Chase bank account was derived from both the sale of inheritance property and gambling<sup>1</sup>. Despite Plaintiff’s attempt to procure proof of Mr. DeMint’s assertion, Mr. DeMint has failed to provide any evidence outside his self-serving statement which support his contentions. For example, in Plaintiff’s First Set of Interrogatories and Requests for Production, Plaintiff requested that Mr. DeMint provide the sources of all income received by him for the last three (3) years, from whom he received such income, the dates and amounts of such income, and reason such income was paid to him. *See Freeman Aff.*, Exh. A, p. 6. In response to the detailed question, Mr. DeMint vaguely replied “Over the past 3 years, I have won various amounts of money from gambling, most of it being in 2014.” *See Freeman Aff.*, Exh. A, p. 6. Plaintiff also requested information about the sale of the inheritance property, including address, parcel characteristics, fair market value, sale price, date of sale, and from whom the property was inherited. *See Freeman Aff.*, Exh. A, p. 7. Mr. DeMint provided only the address then stated, “I do not know any of the details or characteristics of the sale of the property in Florida, nor do I have access to any.” *See Freeman Aff.* Exh. A, p. 7. Additionally, Plaintiff requested from Mr.

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<sup>1</sup> It is important to note that the only evidence Mr. DeMint provides in support for his Objection to Motion for Summary Judgment, Mr. DeMint’s discovery responses to Plaintiff, are in a form which may not be considered by the Court, per I.R.C.P. 56(e).

DeMint copies of his federal, state, and local income tax returns for the last three (3) years. *See* Freeman Aff., Exh. A, p. 11. Mr. DeMint responded that he was without access to the documentation due to his incarceration. *See* Freeman Aff., Exh. A, p. 11. To date, Mr. DeMint has provided no evidence to support his contention that he received income from either the sale of inheritance property or gambling or that the \$9,415.64 was from those sources. Though Mr. DeMint may wish this Court to believe that he received the property in question from a legitimate source, he has provided no specific facts supporting his position. Thus, he has not provided evidence sufficient to create a genuine issue of material fact in this case.

The facts on record show that Defendant Property Nine Thousand Four Hundred Fifteen and 64/100 Dollars (\$9,415.64) was used in violation of the Idaho Controlled Substances Act. Per Idaho Code § 37-2744, currency is subject to forfeiture “which has been used or intended for use in connection with the illegal manufacture, distribution, dispensing or possession” of controlled substances. Mr. DeMint pled guilty to trafficking in methamphetamine. *See* Ellis Aff. in Support of Motion for Summary Judgment, Ex. C. While in the Ada County Jail, Mr. DeMint contacted two separate people via recorded jail phone calls and requested that they divert his Chase bank account funds elsewhere, as he was worried they were going to be confiscated. *See* Roberson Aff. ¶¶ 7-8. Further, a review of Mr. DeMint’s bank account demonstrate that—even if Mr. DeMint received money from an inheritance—he had withdrawn that money and replaced it with cash deposits from his drug sales. Additionally, Mr. DeMint’s spending habits correlate with information received by Detective Roberson that Mr. DeMint had travelled to Utah and California to purchase methamphetamine. *See* Roberson Aff. ¶ 5. Mr. DeMint’s bank records show that he spent \$5,393.95 in August, a large portion of which was incurred for gas and hotels in Idaho, Nevada, California, and Washington. *See* Ellis Aff. in Support of Motion for Summary

Judgment, Exh. A. Lastly, Mr. DeMint was not employed at the time of his arrest<sup>2</sup>, so the facts do not support his depositing \$26,268.19 on July 16, 2014 and thereafter depositing a sum of \$11,100 in August of 2014.

The evidence on record shows that Defendant Property Nine Thousand Four Hundred Fifteen and 64/100 Dollars (\$9,415.64) was used or intended for use in the illegal distribution of methamphetamine. Thus, Plaintiff respectfully requests summary judgment on the issue.

**B. Claimant Asserts No Issues of Material Fact Exist With Regard to the Remaining Defendant Property**

In his Brief in Support of Objection to Motion for Summary Judgment, Claimant only asserts that issues of material facts exist as to Defendant Property Nine Thousand Four Hundred Fifteen and 64/100 Dollars (\$9,415.64) United States Currency. He does not refute that the remaining Defendant Property is subject to forfeiture. Thus, no issues of material facts exist as to the remaining Defendant Property, and Plaintiff respectfully requests that this Court enter summary judgment as to those items.

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<sup>2</sup> Mr. DeMint informed law enforcement that he was unemployed on the date of his arrest. *Roberson Aff.* ¶ 6. Though Mr. DeMint's Brief in Opposition states that he was in fact employed at the time of his arrest, there is no evidence on the record—within his discovery responses or otherwise—which show that he was employed at that time. When Plaintiff requested Mr. DeMint's employment records (i.e. names, dates, salary, etc.), Mr. DeMint answered, "I have driven truck for numerous companies in the past 3 years but I do not recall dates or addresses. Following are the names of the companies I worked for: CK Transport, D&D Transportation, It's Me Trucking, and Bar D Express." See *Freeman Aff.*, Exh. A, p. 5. Mr. DeMint never contends that he was employed at the time of his arrest or that the \$9,415.64 represents money derived from employment.

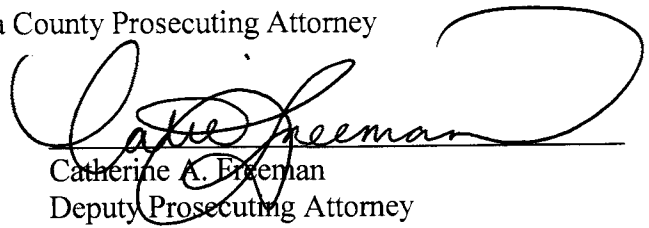
**III. CONCLUSION**

For the above-stated reasons, Plaintiff respectfully requests that this Court enter summary judgment in its favor.

DATED this 19<sup>th</sup> day of November, 2015.

**JAN M. BENNETTS**  
Ada County Prosecuting Attorney

By:

  
Catherine A. Freeman  
Deputy Prosecuting Attorney

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 19<sup>th</sup> day of November, 2015, I served a true and correct copy of the foregoing REPLY MEMORANDUM IN SUPPORT OF PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT to the following person(s) by the following method(s):

Joseph C. Miller  
Mauk Miller & Burgoyne  
515 S. 6<sup>th</sup> Street  
Boise, ID 83702

Hand Delivery  
 U.S. Mail  
 Certified Mail  
 Facsimile

  
\_\_\_\_\_  
Legal Assistant

Time	Speaker	Note
03:41:44 PM		Ada County v. 1998 Ford F150 CVOC14-17003 Mtn Summary Judgment
03:41:46 PM		
03:41:47 PM	Plaintiff Attorney - Catherine Freeman	
03:41:49 PM	Personal Attorney - Joseph Miller	
03:42:05 PM	Judge Norton	comments and reviews the file.
03:43:02 PM	Plaintiff Attorney -	argues the Motion for Summary Judgment.
03:43:47 PM	Personal Attorney -	argues in opposition.
03:46:42 PM	Plaintiff Attorney -	responds.
03:46:58 PM	Judge Norton	will issue a written decision and advises she will not grant summary judgment as to the money that is in the bank account.
03:49:49 PM	Personal Attorney -	advises his client will need to be transported.
03:51:10 PM	Judge Norton	advises the Clerk will do a transport order.

Noted  
11/19/15

FILED  
Friday, December 04, 2015 at 02:44 PM  
CHRISTOPHER D. RICH, CLERK OF THE COURT  
BY: Janine Hansen  
Deputy Clerk

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

ADA COUNTY,  
  
Plaintiff,  
  
vs.  
  
WILLIAM DEMINT,  
  
Defendant.

Case No. CV-OC-2014-17003

ORDER TO TRANSPORT

It appearing that the above-named Defendant is in the custody of the Idaho Department of Corrections, and that it is necessary that **WILLIAM DEMINT** be brought before this Court for **COURT TRIAL ON TUESDAY, JANUARY 19, 2016 AT 08:30 AM.**

IT IS THEREFORE ORDERED That the Ada County Sheriff bring **WILLIAM DEMINT** from the Penitentiary to the Court at said time and on said date;

IT IS FURTHER ORDERED That immediately following said Court appearance the Sheriff return **WILLIAM DEMINT** to the custody of the Idaho State Penitentiary;

IT IS FURTHER ORDERED That the Idaho Department of Corrections release **WILLIAM DEMINT** to the Ada County Sheriff for the purpose of the

ORDER TO TRANSPORT

jh

aforementioned appearance and retake him into custody from the Sheriff upon his return to the Penitentiary.

IT IS FURTHER ORDERED That the Clerk of this Court serve a copy hereof upon the Idaho Department of Corrections and the Ada County Sheriff forthwith and certify to the same.

Dated: Friday, December 04, 2015



---

LYNN G NORTON  
District Judge

ORDER TO TRANSPORT

000207



**CERTIFICATE OF MAILING**

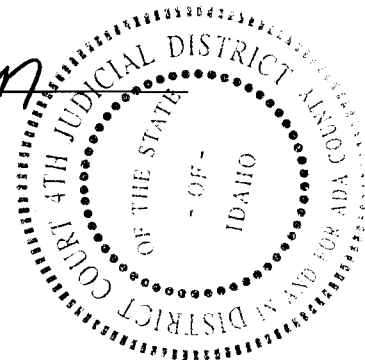
I hereby certify that on FRIDAY, DECEMBER 04, 2015, I mailed  
(served) a true and correct copy of the within instrument to:

Department of Corrections  
Faxed

Ada County Jail  
Faxed

CHRISTOPHER D. RICH  
Clerk of the District Court

By: *Samuel Hosen*  
Deputy Court Clerk



DEC 08 2015

CHRISTOPHER D. RICH, Clerk  
By MIREN OLSON  
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

ADA COUNTY PROSECUTING  
ATTORNEY,

Plaintiff,

vs.

1998 FORD F150, VIN  
1FTRX18L9WKB27754, TWELVE  
THOUSAND SEVEN HUNDRED NINETY-  
FOUR AND 00/100 DOLLARS (\$12,794.00)  
UNITED STATES CURRENCY; NINE  
THOUSAND FOUR HUNDRED FIFTEEN  
AND 64/100 DOLLARS (\$9,415.64)  
UNITED STATES CURRENCY;  
APPROXIMATELY FOUR HUNDRED  
FORTY-ONE AND FORTY-SEVEN-  
HUNDREDTHS (441.47) GRAMS  
METHAMPHETAMINE;  
APPROXIMATELY TWELVE AND  
SEVENTY-NINE-HUNDREDTHS (12.79)  
GRAMS MARIJUANA; TEN (10) 16-MG  
PILLS HYDROMORPHONE; ONE (1)  
TAURUS MILLENNIUM 9-MM  
HANDGUN, MODEL PT111, SERIAL NO.  
TSC27053, WITH ONE (1) MAGAZINE OF  
TEN (10) ROUNDS 9-MM AMMUNITION;  
TWO (2) FOLDING KNIVES; ONE (1)  
VIPERTEK TASER; ONE (1) DIGITAL  
SCALE WITH RESIDUE AND BLACK  
CASE; FOUR (4) DIGITAL SCALES IN  
BOXES; ONE (1) GREEN METAL  
CONTAINER; ONE (1) ORANGE MESH  
BAG; ONE (1) RED MESH BAG; ONE (1)  
BLACK MESH BAG; ONE (1) BLUE  
CHASE BANK BAG; VARIOUS PLASTIC  
ZIPLOC BAGS; TWO (2) GLASS PIPES  
WITH BURNT RESIDUE; ONE (1) SMALL

Case No. CV-OC-2014-17003

MEMORANDUM DECISION AND ORDER  
GRANTING IN PART SUMMARY  
JUDGMENT

MEMORANDUM DECISION AND ORDER GRANTING IN PART SUMMARY  
JUDGMENT

mmj

METAL SMOKING PIPE WITH BURNT  
RESIDUE; TEN (10) GLASS BONGS; AND  
THIRTY-ONE (31) GLASS PIPES,

Defendants.

Plaintiff Ada County Prosecuting Attorney's Motion for Summary Judgment (filed July 6, 2015) came before the Court for oral argument on December 3, 2015.

#### Appearances

Catherine Freeman for Plaintiff  
Joseph Miller for Claimant William Scott DeMint

#### FACTS AND PROCEDURAL BACKGROUND

This case involves a forfeiture under Idaho Code § 37-2744. On or around Aug. 20, 2014, William Scott DeMint and Joshua Allen Thomas were pulled over in a maroon 1998 Ford F150 pickup truck for speeding and improperly changing lanes.<sup>1</sup> During the traffic stop, a drug detection canine alerted on the vehicle.<sup>2</sup> A search of the vehicle ensued, and quantities of methamphetamine, a green leafy substance, drug paraphernalia, and cash were found.<sup>3</sup> The green leafy substance later tested positive for marijuana.<sup>4</sup> The following is a list of substances that were found in the pickup truck:

- \$12,794.00 (found in different locations in the pickup truck, including in DeMint's wallet)
- 441.47 grams of methamphetamine
- 12.79 grams of marijuana
- 10 16-milligram hydromorphone pills
- A loaded Taurus Millennium 9 mm handgun
- 2 folding knives
- A Vipertek Taser
- Various glass pipes, digital scales, glass bong, metal pipes, mesh bags and other paraphernalia<sup>5</sup>

<sup>1</sup> Affidavit of Deputy Kevin Lowry, filed Jul. 6, 2015, ¶ 7.

<sup>2</sup> Id., ¶ 11.

<sup>3</sup> Id., ¶ 13 – 14.

<sup>4</sup> Affidavit of Detective David Anderson, filed Jul. 6, 2015, ¶ 6.

<sup>5</sup> Id., ¶¶ 6 – 12.

DeMint and Thomas were placed under arrest for possession of paraphernalia and trafficking methamphetamine.<sup>6</sup> The pickup truck was registered to DeMint at the time of the traffic stop and arrest.<sup>7</sup>

After DeMint was arrested, his calls from the Ada County Jail were monitored.<sup>8</sup> It was discovered from these calls that though DeMint was unemployed, DeMint had approximately \$10,000 in a bank account.<sup>9</sup> These funds were seized pursuant to a warrant served on the bank where the funds were located.<sup>10</sup> The bank issued a cashier's check in the amount of \$9,415.64 in response to the seizure warrant.<sup>11</sup>

On Sep. 8, 2014, Plaintiff Ada County Prosecuting Attorney filed a Complaint *in rem* for civil forfeiture of the items listed above, the cash found in the pickup, and cash in the bank account, pursuant to Idaho Code § 37-2744.<sup>12</sup> Summonses were issued to DeMint and Thomas, which were served on them shortly thereafter. Only DeMint filed an Answer as allowed in Idaho Code § 37-2744(d).<sup>13</sup> DeMint's Answer was untimely under Idaho Code § 37-2744(d)(3)(B), as it was filed on Nov. 14, 2014, which was more than twenty days after it was served.<sup>14</sup> Despite this, no objection to the late Answer was filed, and the Plaintiff only pursued a default against Thomas, which was granted on Jan. 16, 2015.<sup>15</sup>

Plaintiff filed a Motion for Summary Judgment on Jul. 6, 2015, with supporting affidavits and memorandum.<sup>16</sup> The hearing on this motion was originally set for Aug. 6, 2015.<sup>17</sup> However, on Jul. 27, 2015, the parties filed a Stipulated Motion to Continue this matter pending resolution of the underlying criminal case. After a status conference on Aug. 20, 2015, the Court declined

<sup>6</sup> Affidavit of Sergeant Matthew Clifford, filed Jul. 6, 2015, ¶ 12.

<sup>7</sup> Affidavit of Deputy Kevin Lowry, filed Jul. 6, 2015, ¶ 18.

<sup>8</sup> Affidavit of James Roberson, filed under seal Jul. 6, 2015, ¶ 7.

<sup>9</sup> Id., ¶¶ 6 – 7.

<sup>10</sup> Id., ¶ 9.

<sup>11</sup> Id.

<sup>12</sup> Complaint *In Rem* for Forfeiture under Idaho Code § 37-2744, filed Sep. 8, 2014.

<sup>13</sup> Verified Answer and Claim to Seized Property, filed Nov. 14, 2014.

<sup>14</sup> See Certificate of Service of Process, filed Sep. 19, 2015 (stating DeMint was personally served on Sept. 17, 2014).

<sup>15</sup> Order Allowing Default as to Joshua Allen Thomas, filed Jan. 16, 2015.

<sup>16</sup> Affidavit of Amber Ellis, filed under seal Jul. 6, 2015; Affidavit of James Roberson, filed under seal Jul. 6, 2015; Affidavit of Deputy Kevin Lowry, filed Jul. 6, 2015; Affidavit of Detective David Anderson, filed Jul. 6, 2015; Affidavit of Sergeant Matthew Clifford, filed Jul. 6, 2015; Memorandum in Support of Summary Judgment, filed Jul. 6, 2015.

<sup>17</sup> Notice of Hearing, filed Jul. 8, 2015.

to stay the case, but agreed to reset the trial date, and also reset the hearing on the Plaintiff's Motion for Summary Judgment to October 29, 2015.<sup>18</sup>

Originally scheduled for Oct. 29, 2015, the hearing was rescheduled to Dec. 3, 2015 to allow Defendant to file responsive briefing. Defendant filed a response and memorandum<sup>19</sup> on Nov. 12, 2015. Defendant presented no evidence objecting to summary judgment regarding any of the items seized except for the \$9,415.64 seized from his bank account.<sup>20</sup> Defendant contends this money came from an inheritance, specifically the sale of his parents' house.<sup>21</sup>

Plaintiff filed reply briefing on Nov. 19, 2015, along with a supporting affidavit.<sup>22</sup> Except as discussed below, the Court has considered the documents filed in support of the Motion for Summary Judgment.

#### LEGAL STANDARD

“As a preliminary matter, the forfeiture proceeding is a civil in rem action against the seized property which is named as the party defendant.” *Richardson v. One 1972 GMC Pickup*, 121 Idaho 599, 601, 826 P.2d 1311, 1313 (1992). *See also* Idaho Code § 37-2744(d). “[H]owever, the owners of the property are entitled to appear in the proceeding as the claimants, as provided in I.C. § 37-2744(d)(3).” *Cade v. One 1987 Dodge Lancer Shelby 4-door, VIN 1B3BX68E3HN436087*, 125 Idaho 754, 755, 874 P.2d 565, 566 (Ct. App. 1993) rev'd on other grounds sub nom. *Cade v. One 1987 Dodge Lancer Shelby 4-Door, VIN 1B3BX68E3HN435087*, 125 Idaho 731, 874 P.2d 542 (1994). “With the exception of special procedural rules directing the manner in which notice is given and the appropriate manner for a claimant to respond, the Idaho Rules of Civil Procedure apply to forfeiture proceedings.” *Richardson*, 121 Idaho at 600, 826 P.2d at 1312.

As in other civil cases, summary judgment is available for resolution of a civil forfeiture case. The standard utilized is the same as for other summary judgment motions. *See McHugh v. Reid*, 156 Idaho 299, 302-03, 324 P.3d 998, 1001-02 (Ct. App. 2014). “The purpose of summary judgment proceedings is to eliminate the necessity of trial where facts are not in dispute and

<sup>18</sup> Order Denying Stay of Trial for Appeal but Granting Continuance, filed Aug. 21, 2015.

<sup>19</sup> Objection to Motion for Summary Judgment, filed Nov. 12, 2015.; Brief in Support of Objection to Motion for Summary Judgment, filed Nov. 12, 2015.

<sup>20</sup> Brief in Support of Objection to Motion for Summary Judgment, filed Nov. 12, 2015, p. 1.

<sup>21</sup> *Id.*, p. 2.

<sup>22</sup> Reply memorandum in Support of Plaintiff's Motion for Summary Judgment, filed Nov. 19, 2015; Affidavit of Catherine A. Freeman in Support of Motion for Summary Judgment, filed Nov. 19, 2015.

where existent and undisputed facts lead to a conclusion of law which is certain.” *Id.* at 306, 324 P.3d at 1005.

Summary judgment is an appropriate remedy if the nonmoving party’s “pleadings, affidavits, and discovery documents . . . read in a light most favorable to the nonmoving party, demonstrate no material issue of fact such that the moving party is entitled to a judgment as a matter of law.” *Thomson v. City of Lewiston*, 137 Idaho 473, 476, 50 P.3d 488, 491 (2002) (quoting I.R.C.P. 56(c)). Summary Judgment is available for a claimant, “upon all or any part thereof,” of a claim or counterclaim, if moved at least twenty days after service of process upon the adverse party. I.R.C.P. 56(a).

Generally, the court must construe the evidence liberally and draw all reasonable inferences in favor of the nonmoving party. *Hei v. Holzer*, 139 Idaho 81, 84-85, 73 P.3d 94, 97-98 (2003). If the facts, with inferences favorable to the nonmoving party, are such that reasonable persons could reach differing conclusions, summary judgment is not available. *Hayward v. Jack’s Pharmacy Inc.*, 141 Idaho 622, 625, 115 P.3d 713, 716 (2005). However, civil forfeiture proceedings are done without jury. Therefore, such proceedings utilize the modified summary judgment standard applicable when there is a court trial. Under such circumstances,

When an action will be tried before the court without a jury, the judge is not constrained to draw inferences in favor of the party opposing a motion for summary judgment but rather the trial judge is free to arrive at the most probable inferences to be drawn from uncontroverted evidentiary facts.

*Loomis v. City of Hailey*, 119 Idaho 434, 437, 807 P.2d 1272, 1275 (1991). “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. However, conflicting evidentiary facts must still be viewed in favor of the nonmoving party.” *McHugh* at 302-03, 324 P.3d at 1001-02 (citations omitted).

The moving party bears the initial burden of proving the absence of a genuine issue of material fact, and then the burden shifts to the nonmoving party to come forward with sufficient evidence to create a genuine issue of material fact. *See Sanders v. Kuna Joint School Dist.*, 125 Idaho 872, 874, 876 P.2d 154, 156 (1994). When the nonmoving party bears the burden of proving an element at trial, the moving party may establish a lack of genuine issue of material fact by establishing the lack of evidence supporting the element. *Id.* (concluding moving party’s  
MEMORANDUM DECISION AND ORDER GRANTING IN PART SUMMARY  
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burden “may be met by establishing the absence of evidence on an element that the nonmoving party will be required to prove at trial”). “Such an absence of evidence may be established either by an affirmative showing with the moving party’s own evidence or by a review of all the nonmoving party’s evidence and the contention that such proof of an element is lacking.” *Id.* at fn. 2. A party opposing a motion for summary judgment “may not rest upon the mere allegations or denials of that party’s pleadings, but the party’s response ... must set forth specific facts showing that there is a genuine issue for trial.” I.R.C.P. 56(e). Such evidence may consist of affidavits or depositions, but “the Court will consider only that material ... which is based upon personal knowledge and which would be admissible at trial.” *Harris v. State, Dep’t of Health & Welfare*, 123 Idaho 295, 297-98, 847 P.2d 1156, 1158-59 (1992). If the evidence reveals no disputed issues of material fact, then only a question of law remains on which the court may then enter summary judgment as a matter of law. *Purdy v. Farmers Ins. Co. of Idaho*, 138 Idaho 443, 445, 65 P.3d 184, 186 (2003).

#### ANALYSIS

##### A. Late Filed Declaration

This case has had some procedural hiccups along the way. As stated above, this matter has been scheduled several times for hearing. At the Oct. 29, 2015, Defense counsel came before the Court and requested a reset, essentially falling upon his sword because he had not previously filed any responsive briefing. The Court allowed responsive and reply briefing to be filed. However, the Court did not otherwise modify the requirements of I.R.C.P. 56(c). This rule states, “[A]ffidavits and supporting brief shall be served at least twenty-eight (28) days before the time fixed for the hearing.” I.R.C.P. 56(c). There is no provision in this rule for affidavits to be filed with reply briefing. The Court did not give Plaintiff permission to file additional affidavits, despite the other alteration of timelines.

The purpose of the timing and briefing deadline rules is to give the parties adequate time to respond and support their cases. *See Sun Valley Potatoes, Inc. v. Rosholt, Robertson & Tucker*, 133 Idaho 1, 5, 981 P.2d 236, 240 (1999); *Matter of Estate of Keeven*, 126 Idaho 290, 296, 882 P.2d 457, 463 (Ct. App. 1994). The Court has discretion to disregard untimely filings. *See Cumis Ins. Soc’y, Inc. v. Massey*, 155 Idaho 942, 946, 318 P.3d 932, 936 (2014) (“This Court reviews a district court’s decision to accept an untimely filed affidavit in connection with summary judgment, and a court’s decision to relieve a party from a stipulation, for an abuse of

discretion.”); *Arregui v. Gallegos-Main*, 153 Idaho 801, 805, 291 P.3d 1000, 1004 (2012), reh'g denied (June 7, 2012). In this case, the Affidavit of Catherine A. Freeman filed on Nov. 19, 2015 was filed only 14 days before the hearing. Further, it was filed attached to a reply brief. The Court has discretion to disregard harmless error. *See* I.R.C.P. 61. However, this is not an error, “which does not affect the substantial rights of the parties.” *Id.* Defendant is incarcerated, and his ability to respond to a late filed affidavit is limited. Therefore, the Court does not consider the Nov. 19 Affidavit of Catherine Freeman.

**B. Disposition of the Non-Bank Account Items Seized**

Defendant does not present any evidence disputing that seizure of any of the items, other than the bank account funds. Therefore, the Court grants summary judgment in favor of Plaintiff with regard to each of these items.

**C. \$9,415.64 Cash in the Bank Account**

With regard to the \$9,415.64 cash contained in DeMint’s bank account, Plaintiff argues that it is subject to forfeiture because it was, “intended for use in connection with the illegal manufacture, distribution, dispensing or possession,” of controlled or contraband substances under Idaho Code § 37-2744(a)(6)(A).<sup>23</sup>

The facts show that after DeMint was arrested, he made a number of phone calls to various people, asking them to empty his bank account, as he feared it would be frozen.<sup>24</sup> DeMint was unemployed at the time he was arrested, but appears to have had an active bank account, starting with a negative balance at the beginning of July 2014, and then fluctuating as high as \$26,268.19, ending the month at \$3,709.59.<sup>25</sup> Mr. DeMint’s bank account had a similarly active August, 2014, going as high as \$10,321.01, and ending with the withdrawal of \$9,415.64 pursuant to the seizure warrant.<sup>26</sup>

Plaintiff would have the Court infer from these facts that all of this banking activity was in connection with DeMint’s trafficking or other illegal drug-related activity. Perhaps it was. However, DeMint alleges in his Verified Answer that this money is inheritance money.<sup>27</sup> Perhaps it was. Defendant supports his argument by providing copies of his bank account

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<sup>23</sup> Memorandum in Support of Summary Judgment, filed Jul. 6, 2015, pp. 12 – 14.  
<sup>24</sup> Affidavit of Amber Ellis, filed under seal Jul. 6, 2015, Ex. B.  
<sup>25</sup> *Id.*, Ex. A.  
<sup>26</sup> *Id.*  
<sup>27</sup> Verified Answer and Claim to Seized Property, filed Nov. 14, 2014, ¶ 22.



monthly statements, showing when the inheritance money was received.<sup>28</sup> Normally, the Court would not look at documents attached to the brief. “Except when live testimony is allowed, exhibits must be mentioned in, or attached to, a party's verified complaint or affidavit.” *Johnson v. City of Homedale*, 118 Idaho 285, 288, 796 P.2d 162, 165 (Ct. App. 1990). “I.R.C.P. 56(e) requires that items offered in support of or opposition to a motion for summary judgment must be attached to the party's affidavit verifying the items' authenticity.” *Puckett v. Oakfabco, Inc.*, 132 Idaho 816, 820, 979 P.2d 1174, 1178 (1999). However, in this case, Defendant has attached a copy of his verified discovery responses.<sup>29</sup> While these may have been more appropriately attached to an affidavit, the verified discovery responses are made under oath, and so adequately fill the place of an affidavit or declaration. Further, there is no objection made to the Court considering such documents, and therefore, any objection to them is waived.<sup>30</sup>

Contrary to Plaintiff's assertions, this evidence creates an issue of fact. The evidence presented by Defendant is not conclusory, nor is it a mere scintilla of evidence. He contends he received a certain amount of money from the sale of his parents' house, and shows when it was deposited. While the Court is neither at liberty to give such evidence any weight nor determine whether more evidence will be required to convince a jury of this fact, the Court is obliged to make all inferences in favor of the non-moving party. *McHugh* at 302-03, 324 P.3d at 1001-02. Based on this, the Court cannot grant summary judgment regarding forfeiture of the \$9,514.64, because there is a question of fact as to whether it was connected to Defendant's illegal activities.

### CONCLUSION

Based on the foregoing, Plaintiff's Motion for Summary Judgment is:

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<sup>28</sup> Brief in Support of Objection to Motion for Summary Judgment, filed Nov. 12, 2015, Ex. A.

<sup>29</sup> Id.

<sup>30</sup> *Camp v. Jiminez*, 107 Idaho 878, 881, 693 P.2d 1080, 1083 (Ct. App. 1984); *Naccarato v. Vill. of Priest River*, 68 Idaho 368, 372, 195 P.2d 370, 373 (1948) (“A party who fails to object to the admission of evidence waives an objection to the subsequent admission of the same or similar evidence.”); *Tolmie Farms, Inc. v. J.R. Simplot Co.*, 124 Idaho 613, 617, 862 P.2d 305, 309 (Ct. App. 1992) aff'd in part, rev'd in part, 124 Idaho 607, 862 P.2d 299 (1993) (“[U]nless noncompliance of an affidavit with Rule 56(e) is brought to the lower court's attention by a proper objection and motion to strike, it is waived.”). See also *Hilliard v. Murphy Land Co., LLC*, 158 Idaho 737, 351 P.3d 1195, 1198 (2015), reh'g denied (July 20, 2015) (“[N]o motion is necessary to object to the admissibility of affidavits filed in connection with a summary judgment motion and that such objections can be made at the hearing.”) and *Hecla Min. Co. v. Star-Morning Min. Co.*, 122 Idaho 778, 782 – 83, 839 P.2d 1192, 1196 – 97 (1992) (“There is no authority in this state that requires a motion to strike or an objection before a trial court may exclude or not consider evidence offered by a party.”).

GRANTED to Plaintiff on the issue of the forfeiture of the 1998 Ford F150, VIN 1FTRX18L9WKB27754, to the Plaintiff;


GRANTED to Plaintiff on the issue of forfeiture of the \$12,794.00 cash;

GRANTED as to the Taurus Millennium 9-mm handgun, Model PT111, Serial No. TSC27053, one (1) magazine of ten (10) rounds 9-mm ammunition; two (2) folding knives, and one (1) Vipertek taser which are to be forfeited to the Plaintiff;

GRANTED as to one (1) digital scale with residue and black case; four (4) digital scales in boxes; one (1) green metal container; one (1) orange mesh bag; one (1) red mesh bag; one (1) black mesh bag; one (1) blue chase bank bag; various plastic ziploc bags; two (2) glass pipes with burnt residue; one (1) small metal smoking pipe with burnt residue; ten (10) glass bongs; and thirty-one (31) glass pipes; and

DENIED to Plaintiff on the issue of forfeiture of the \$9,415.64 seized from William DeMint's bank account.

ORDERED and dated this 3<sup>rd</sup> day of December, 2015.

  
\_\_\_\_\_  
Lynn G. Norton  
District Judge

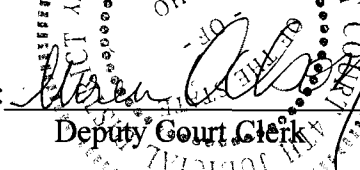
CERTIFICATE OF MAILING

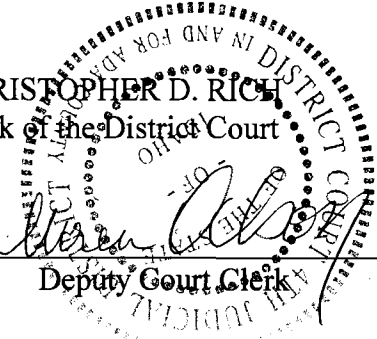
I hereby certify that on this 8 day of December, 2015, I mailed (served) a true

and correct copy of the within instrument to:

ADA COUNTY PROSECUTOR  
ATTENTION: CATHERINE FREEMAN  
INTERDEPARTMENTAL MAIL

JOSEPH MILLER  
MAUK MILLER & BURGOYNE  
515 S 6<sup>TH</sup> STREET  
BOISE, IDAHO 83702

CHRISTOPHER D. RICH  
Clerk of the District Court  
By:   
Deputy Court Clerk



DEC 08 2015

CHRISTOPHER D. RICH, Clerk  
By MIREN OLSON  
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

ADA COUNTY PROSECUTING  
ATTORNEY,

Plaintiff,

Case No. CV-OC-2014-17003

vs.

JUDGMENT

1998 FORD F150, VIN  
1FTRX18L9WKB27754, TWELVE  
THOUSAND SEVEN HUNDRED NINETY-  
FOUR AND 00/100 DOLLARS (\$12,794.00)  
UNITED STATES CURRENCY; NINE  
THOUSAND FOUR HUNDRED FIFTEEN  
AND 64/100 DOLLARS (\$9,415.64)  
UNITED STATES CURRENCY;  
APPROXIMATELY FOUR HUNDRED  
FORTY-ONE AND FORTY-SEVEN-  
HUNDREDTHS (441.47) GRAMS  
METHAMPHETAMINE;  
APPROXIMATELY TWELVE AND  
SEVENTY-NINE-HUNDREDTHS (12.79)  
GRAMS MARIJUANA; TEN (10) 16-MG  
PILLS HYDROMORPHONE; ONE (1)  
TAURUS MILLENNIUM 9-MM  
HANDGUN, MODEL PT111, SERIAL NO.  
TSC27053, WITH ONE (1) MAGAZINE OF  
TEN (10) ROUNDS 9-MM AMMUNITION;  
TWO (2) FOLDING KNIVES; ONE (1)  
VIPERTEK TASER; ONE (1) DIGITAL  
SCALE WITH RESIDUE AND BLACK  
CASE; FOUR (4) DIGITAL SCALES IN  
BOXES; ONE (1) GREEN METAL  
CONTAINER; ONE (1) ORANGE MESH  
BAG; ONE (1) RED MESH BAG; ONE (1)  
BLACK MESH BAG; ONE (1) BLUE  
CHASE BANK BAG; VARIOUS PLASTIC  
ZIPLOC BAGS; TWO (2) GLASS PIPES  
WITH BURNT RESIDUE; ONE (1) SMALL  
METAL SMOKING PIPE WITH BURNT

MEMORANDUM DECISION AND ORDER GRANTING IN PART SUMMARY  
JUDGMENT

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mn

RESIDUE; TEN (10) GLASS BONGS; AND  
THIRTY-ONE (31) GLASS PIPES,

Defendants.

JUDGMENT IS ENTERED AS FOLLOWS:


The 1998 Ford F150, VIN 1FTRX18L9WKB27754, is to be forfeited to the Plaintiff.

Twelve Thousand Seven Hundred Ninety-Four and 00/100 Dollars (\$12,794.00) United States Currency is to be forfeited to the Plaintiff.

The Taurus Millennium 9-mm handgun, Model PT111, Serial No. TSC27053, one (1) magazine of ten (10) rounds 9-mm ammunition; two (2) folding knives, and one (1) Vipertek taser are to be forfeited to the Plaintiff.

One (1) digital scale with residue and black case; four (4) digital scales in boxes; one (1) green metal container; one (1) orange mesh bag; one (1) red mesh bag; one (1) black mesh bag; one (1) blue chase bank bag; various plastic ziploc bags; two (2) glass pipes with burnt residue; one (1) small metal smoking pipe with burnt residue; ten (10) glass bonges; and thirty-one (31) glass pipes are to be forfeited to the Plaintiff.

Dated this <sup>3<sup>rd</sup></sup> day of December, 2015.

  
\_\_\_\_\_  
Lynn G. Norton  
District Judge

CERTIFICATE OF MAILING

I hereby certify that on this 8 day of December, 2015, I mailed (served) a true

and correct copy of the within instrument to:

ADA COUNTY PROSECUTOR  
ATTENTION: CATHERINE FREEMAN  
INTERDEPARTMENTAL MAIL

JOSEPH MILLER  
MAUK MILLER & BURGOYNE  
515 S 6<sup>TH</sup> STREET  
BOISE, IDAHO 83702

CHRISTOPHER D. RICH  
Clerk of the District Court

By: 

Deputy Court Clerk

Time	Speaker	Note
02:22:53 PM		Ada County v. 1998 Ford F150 CVOC14-17003 Pre-Trial Conference
02:22:59 PM	Plaintiff Attorney - Katherine Freeman	
02:23:04 PM	Personal Attorney - Joseph Miller	
02:23:07 PM	Judge Norton	reviews the file and inquires if still going to trial.
02:23:43 PM	Plaintiff Attorney -	advises yes it is.
02:23:48 PM	Judge Norton	inquires if still 2 days.
02:23:59 PM	Plaintiff Attorney -	responds regarding certified transcripts.
02:24:27 PM	Personal Attorney -	hasn't seen those yet.
02:24:31 PM	Plaintiff Attorney -	wants some from the criminal hearings.
02:24:50 PM	Personal Attorney -	advises he has to see those first.
02:25:10 PM	Judge Norton	will require the parties to meet and confer about the admissibility of any exhibits and comments regarding the trial setting and slate of alternate Judges.
02:28:07 PM	Plaintiff Attorney -	submits a witness and exhibit list to the Court and Findings of Fact and Conclusions of Law.
02:29:24 PM	Judge Norton	inquires if the Claimant has his to be filed.
02:29:33 PM	Personal Attorney -	has not filed his yet but will supply them to the court and advises he only has two witnesses total and a couple of exhibits.
02:30:10 PM	Judge Norton	advises to get them in by 5:00 pm.
02:31:16 PM	Judge Norton	inquires as to written or oral arguments.
02:31:21 PM	Plaintiff Attorney -	will leave that in the discretion of the Court.
02:31:30 PM	Personal Attorney -	will also leave that in the discretion of the Court.
02:31:36 PM	Judge Norton	advises she will ask again and advises it doesn't matter to her and can submit closing arguments in writing if they want to.
02:32:31 PM	Judge Norton	advises there may be an alternate Judge on this case and will sent out a final pre-trial order.
02:33:28 PM	Personal Attorney -	inquires if this will go to trial that day no matter what.
02:33:45 PM	Judge Norton	advises if we can try it or have an alternate Judge it will go that day, otherwise you never know.
02:34:44 PM	Personal Attorney -	inquires as to the hours for the trial.
02:34:49 PM	Judge Norton	advises 9-5 on Monday and 9-12:30 on Tuesday because of Drug Court.

<u>02:35:07 PM</u>	Judge Norton	advises them to meet and confer regarding the admissibility of any witnesses also.
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**JAN M. BENNETTS**  
ADA COUNTY PROSECUTING ATTORNEY

**DEC 10 2015**

**CATHERINE A. FREEMAN**  
Deputy Prosecuting Attorney  
Civil Division  
200 West Front Street, Room 3191  
Boise, ID 83702  
(208) 287-7700  
Idaho State Bar No. 9223

**CHRISTOPHER D. RICH, Clerk**  
By **JANINE KORSEN**  
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

ADA COUNTY PROSECUTING )  
ATTORNEY, )

**Case No. CV OC 2014-17003**

Plaintiff, )

**PLAINTIFF'S WITNESSES AND  
EXHIBITS LIST**

vs. )

1998 FORD F150, VIN 1FTRX18L9WKB27754; )  
TWELVE THOUSAND SEVEN HUNDRED )  
NINETY-FOUR AND 00/100 DOLLARS )  
(\$12,794.00) UNITED STATES CURRENCY; )  
NINE THOUSAND FOUR HUNDRED )  
FIFTEEN AND 64/100 DOLLARS (\$9,415.64) )  
UNITED STATES CURRENCY; )  
APPROXIMATELY FOUR HUNDRED )  
FORTY-ONE AND FORTY-SEVEN- )  
HUNDREDTHS (441.47) GRAMS )  
METHAMPHETAMINE; APPROXIMATELY )  
TWELVE AND SEVENTY-NINE- )  
HUNDREDTHS (12.79) GRAMS )  
MARIJUANA; TEN (10) 16-MG PILLS )  
HYDROMORPHONE; ONE (1) TAURUS )  
MILLENNIUM 9-MM HANDGUN, MODEL )  
PT111, SERIAL NO. TSC27053, WITH ONE (1) )  
MAGAZINE OF TEN (10) ROUNDS 9-MM )  
AMMUNITION; TWO (2) FOLDING KNIVES; )  
ONE (1) VIPERTEK TASER; ONE (1) )  
DIGITAL SCALE WITH RESIDUE AND )  
BLACK CASE; FOUR (4) DIGITAL SCALES )  
IN BOXES; ONE (1) GREEN METAL )  
CONTAINER; ONE (1) ORANGE MESH BAG; )  
ONE (1) RED MESH BAG; ONE (1) BLACK )

*W*

MESH BAG; ONE (1) BLUE CHASE BANK )  
 BAG; VARIOUS PLASTIC ZIPLOC BAGS; )  
 TWO (2) GLASS PIPES WITH BURNT )  
 RESIDUE; ONE (1) SMALL METAL )  
 SMOKING PIPE WITH BURNT RESIDUE; )  
 TEN (10) GLASS BONGS; AND THIRTY-ONE )  
 (31) GLASS PIPES, )  
 )  
 )  
 Defendants. )  
 )

---

**COMES NOW**, Plaintiff, the Ada County Prosecuting Attorney, by and through its attorneys of record, Catherine A. Freeman, Deputy Prosecuting Attorney, in accordance with this Court's Order Governing Proceedings and Setting Trial, hereby submits Plaintiff's Witnesses and Exhibits Lists.

**WITNESSES**

The Ada County Prosecuting Attorney may call the following individuals to testify at trial in this case:

1. William Scott DeMint
2. Joshua Allen Thomas
3. Shalom Tudi
4. Aaron Reese
5. Sergeant Matthew Clifford, Ada County Sheriff's Office
6. Deputy Kevin Lowry, Ada County Sheriff's Office
7. Detective David Anderson, Ada County Sheriff's Office
8. Detective James Roberson, Ada County Sheriff's Office
9. Detective Javier Bustos, Ada County Sheriff's Office
10. Deputy Morgan Case, Ada County Sheriff's Office
11. Sergeant Derek Savage, Ada County Sheriff's Office
12. Sergeant Steve Robinson, Ada County Sheriff's Office
13. Deputy Jonathan Sorenson, Ada County Prosecutor's Office
14. Sean Bishop of JP Morgan Chase Bank
15. Amber Carlisle of JP Morgan Chase Bank
16. Agent of JP Morgan Chase Bank
17. Tamara A. Weber, CSR
18. Christie Valcich, CSR-RPR
19. Ada County Deputy Clerk
20. Transcriptionist

## EXHIBITS

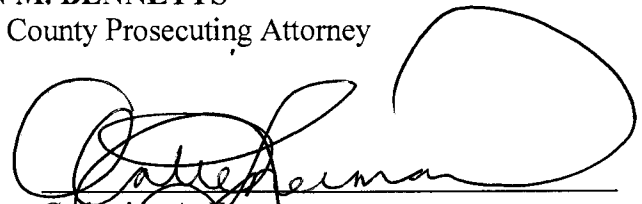
The Ada County Prosecuting Attorney may introduce the following exhibits at trial in this case:

1. Certified Judgment of Conviction in Ada County Case No. CR-FE-2014-0012188;
2. Certified transcript of audio of DeMint's contact with officers on August 20, 2014;
3. Affidavit for Asset Seizure Warrant;
4. Seizure Warrant for DeMint's JP Morgan Chase bank records;
5. Certified JP Morgan Chase bank records for William DeMint;
6. Cashier's check for \$9,415.64;
7. Recordings of William DeMint's jail telephone call(s);
8. Certified transcripts of William DeMint's jail telephone call(s);
9. Defendant's First Set of Answers and Responses to Plaintiff's First Set of Interrogatories and Requests for Production of Documents to Defendant;
10. Photographs;
11. Guilty Plea Hearing Transcript from March 31, 2015;
12. Guilty Plea Hearing Audio from March 31, 2015.

**DATED** this 10<sup>th</sup> day of December, 2015.

**JAN M. BENNETTS**  
Ada County Prosecuting Attorney

By:



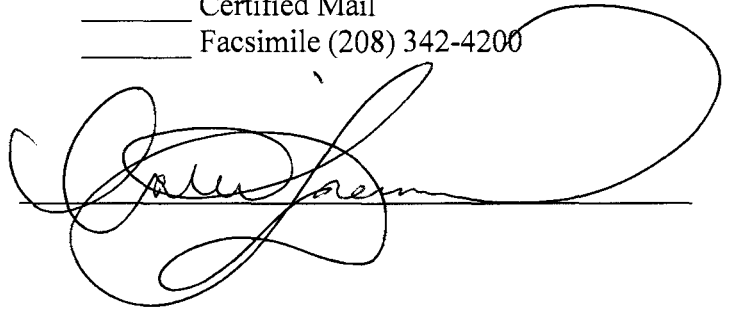
Catherine A. Freeman  
Deputy Prosecuting Attorney

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 10<sup>th</sup> day of December, 2015, I served a true and correct copy of the foregoing PLAINTIFF'S WITNESSES AND EXHIBITS LIST to the following person(s) by the following method:

Joseph C. Miller  
Mauk Miller & Burgoyne, LLC  
515 S. 6<sup>th</sup> St  
Boise, ID 83702

Hand Delivery  
 U.S. Mail  
 Certified Mail  
 Facsimile (208) 342-4200



A large, stylized handwritten signature in black ink, appearing to read 'Joseph C. Miller', is written over a horizontal line.

**DEC 10 2015**

**CHRISTOPHER D. RICH, Clerk**  
By **JANINE KORSEN**  
DEPUTY

**JAN M. BENNETTS**  
ADA COUNTY PROSECUTING ATTORNEY

**CATHERINE A. FREEMAN**  
Deputy Prosecuting Attorney  
Civil Division  
200 W. Front Street, Room 3191  
Boise, ID 83702  
(208) 287-7700  
Idaho State Bar No. 9223

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

ADA COUNTY PROSECUTING )  
ATTORNEY, )

**Case No. CV OC 2014-17003**

Plaintiff, )

**PRETRIAL PROPOSED FINDINGS  
OF FACTS AND CONCLUSIONS OF  
LAW**

vs. )

1998 FORD F150, VIN )  
1FTRX18L9WKB27754; TWELVE )  
THOUSAND SEVEN HUNDRED )  
NINETY-FOUR AND 00/100 DOLLARS )  
(\$12,794.00) UNITED STATES )  
CURRENCY; NINE THOUSAND FOUR )  
HUNDRED FIFTEEN AND 64/100 )  
DOLLARS (\$9,415.64) UNITED STATES )  
CURRENCY; APPROXIMATELY FOUR )  
HUNDRED FORTY-ONE AND FORTY- )  
SEVEN-HUNDREDTHS (441.47) GRAMS )  
METHAMPHETAMINE; )  
APPROXIMATELY TWELVE AND )  
SEVENTY-NINE-HUNDREDTHS (12.79) )  
GRAMS MARIJUANA; TEN (10) 16-MG )  
PILLS HYDROMORPHONE; ONE (1) )  
TAURUS MILLENNIUM 9-MM )  
HANDGUN, MODEL PT111, SERIAL NO. )  
TSC27053, WITH ONE (1) MAGAZINE )  
OF TEN (10) ROUNDS 9-MM )  
AMMUNITION; TWO (2) FOLDING )  
KNIVES; ONE (1) VIPERTEK TASER; )  
ONE (1) DIGITAL SCALE WITH )

*JM*

RESIDUE AND BLACK CASE; FOUR (4) )  
DIGITAL SCALES IN BOXES; ONE (1) )  
GREEN METAL CONTAINER; ONE (1) )  
ORANGE MESH BAG; ONE (1) RED )  
MESH BAG; ONE (1) BLACK MESH )  
BAG; ONE (1) BLUE CHASE BANK )  
BAG; VARIOUS PLASTIC ZIPLOC )  
BAGS; TWO (2) GLASS PIPES WITH )  
BURNT RESIDUE; ONE (1) SMALL )  
METAL SMOKING PIPE WITH BURNT )  
RESIDUE; TEN (10) GLASS BONGS; )  
AND THIRTY-ONE (31) GLASS PIPES, )  
) )  
Defendants. )  
\_\_\_\_\_ )

COMES NOW, the Ada County Prosecuting Attorney, by and through its counsel of record, the Ada County Prosecuting Attorney’s Office, Civil Division, and submits its Pretrial Proposed Findings of Facts and Conclusions of Law.

I.

**ISSUES PRESENTED**

Plaintiff seeks civil forfeiture of Defendant Property Nine Thousand Four Hundred Fifteen and 64/100 Dollars (\$9,415.64) United States Currency per Idaho Code § 37-2744, *et al.*

II.

**PROCEDURAL BACKGROUND**

Plaintiff filed the instant action on September 8, 2014. On July 6, 2015, the Plaintiff filed a Motion for Summary Judgment with supporting memorandum and affidavits. On December 3, 2015, this Court heard Plaintiff’s Motion for Summary Judgment, and on December 8, 2015, the Court issued a ruling denying summary judgment as to Defendant Property Nine Thousand Four Hundred Fifteen and 64/100 Dollars (\$9,415.64) United States Currency and granting summary

judgment as to remaining Defendant Property. Trial is scheduled to occur on January 19<sup>th</sup> and 20<sup>th</sup>, 2016.

### III.

#### APPLICABLE STANDARD

Idaho Code § 37-2744 subjects to forfeiture all property “which has been used or intended for use in connection with the illegal manufacture, distribution, dispensing or possession” of controlled substances. The Section further provides that forfeiture proceedings are in rem civil actions and that the standard of proof is preponderance of the evidence. *Id.*

### IV.

#### FINDINGS OF FACT

1. On or about August 20, 2014, Claimant William Scott DeMint (“DeMint”) was pulled over by Officer Lowry for speeding and failure to signal a lane change for five seconds.
2. When Officer Lowry pulled DeMint over, DeMint was in possession of, among other items: approximately four hundred forty-one and forty-seven-hundredths (441.47) grams methamphetamine, approximately twelve and seventy-nine-hundredths (12.79) grams marijuana, and ten (10) sixteen-milligram pills hydromorphone.
3. During the traffic stop, DeMint was arrested under suspicion of trafficking methamphetamine.
4. At the time of his arrest, DeMint was unemployed.
5. While at the Ada County Jail, Mr. DeMint made two phone calls requesting that people divert funds from his Chase Bank Account because he was afraid such funds would be confiscated.

6. On August 22, 2014, the Ada County Sheriff's Office served a seizure warrant on DeMint's Chase bank account.

7. On August 22, 2014, DeMint's Chase bank account contained Defendant Property Nine Thousand, Four Hundred Fifteen and 64/100 Dollars (\$9,415.64) United States Currency.

8. JP Morgan Chase sent a cashier's check in the amount of \$9,415.64 to the Ada County Sheriff's Office to comply with the seizure warrant.

9. DeMint's bank records for the month of July 2014 shows a beginning balance of -\$161.04.

10. On July 16, 2014, DeMint's bank records show a deposit in the amount of \$26,268.19 with a description "Book Transfer Credit B/O: suntrust Bank Bene-D By Fed Orlando GA."

11. After DeMint's large deposit on July 16, 2014, a number of cash withdrawals occurred, including a withdrawal of \$4,000.00 on July 17, a withdrawal of \$5,000.00 on July 21, and a withdrawal of \$4,500.00 on July 30.

12. DeMint's bank records for the month of July shows an ending balance of \$3,709.59.

13. DeMint's bank records for the month of August shows a beginning balance of \$3,709.59.

14. DeMint made a deposit of \$4,650.00 on August 13, a deposit of \$1,000.00 on August 18, and a deposit of \$5,450.00 on August 18, 2014.

15. DeMint's bank records reflect that DeMint spent \$5,393.95 in August, and many of these expenses were incurred for gas and hotels in Idaho, Nevada, California, and Washington.



16. On August 29, 2014, DeMint's bank records reflect a withdrawal of \$9,415.64, which was the cashier's check used to satisfy the seizure warrant.

17. On March 31, 2015, DeMint pled guilty to Trafficking in Methamphetamine.

18. DeMint received Defendant Property Nine Thousand Four Hundred Fifteen and 64/100 Dollars (\$9,415.64) United States Currency from the illegal manufacture, distribution, dispensing or possession of controlled substances.

19. Defendant Property Nine Thousand Four Hundred Fifteen and 64/100 Dollars (\$9,415.64) United States Currency is subject to forfeiture per Idaho Code §37-2744, *et al.*

## V.

### CONCLUSIONS OF LAW

1. The Court concludes that DeMint violated the Idaho Controlled Substances Act by trafficking methamphetamine on or about August 20, 2014.

2. Based on the testimony and evidence submitted in this matter, the Court concludes that DeMint received Defendant Property Nine Thousand, Four Hundred Fifteen and 64/100 Dollars (\$9,415.64) United States Currency from the illegal manufacture, distribution, dispensing or possession of controlled substances.

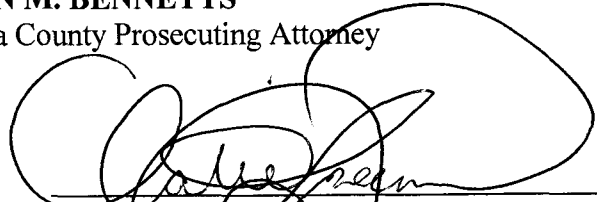
3. The Court concludes that DeMint was unemployed at the time of his arrest on August 20, 2014, and that the evidence does not support his receiving Defendant Property Nine Thousand, Four Hundred Fifteen and 64/100 Dollars (\$9,415.64) United States Currency from any legitimate source.

4. The Court concludes that Defendant Property Nine Thousand, Four Hundred Fifteen and 64/100 Dollars (\$9,415.64) United States Currency is subject to forfeiture per Idaho Code § 37-2744, *et al.*

DATED this 10th day of December, 2015.

**JAN M. BENNETTS**  
Ada County Prosecuting Attorney

By:

A large, stylized handwritten signature in black ink, appearing to read 'Catherine A. Freeman', is written over a horizontal line.

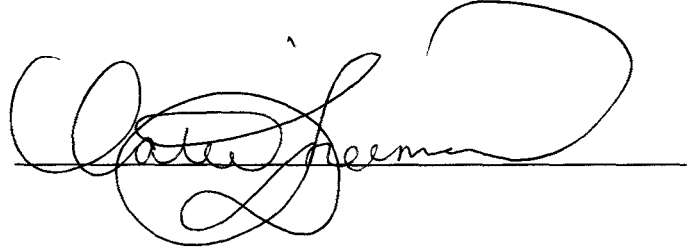
Catherine A. Freeman  
Deputy Prosecuting Attorney

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 10<sup>th</sup> day of December, 2015, I served a true and correct copy of the foregoing PRETRIAL PROPOSED FINDINGS OF FACTS AND CONCLUSIONS OF LAW to the following person(s) by the following method:

Joseph C. Miller  
Mauk Miller & Burgoyne, LLC  
515 S. 6<sup>th</sup> St  
Boise, ID 83702

Hand Delivery  
 U.S. Mail  
 Certified Mail  
 Facsimile (208) 342-4200



A handwritten signature in cursive script, appearing to read "Joseph C. Miller", is written over a horizontal line.

Porton  
Justice  
12-14-15

DEC 11 2015

CHRISTOPHER D. RICH, Clerk  
By SANTIAGO BARRIOS  
DEPUTY

Joseph C. Miller  
MAUK MILLER, LLC.  
515 S. 6<sup>th</sup> St.  
Boise, ID 83702  
Tel: (208) 287-8787  
Fax: (208) 287-8788  
e-mail: [office@idahojustice.com](mailto:office@idahojustice.com)  
ISBN: 7485

Attorney for Claimant

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

ADA COUNTY PROSECUTING  
ATTORNEY,

Plaintiff,

vs.

1998 FORD F150, VIN  
1FTRX18L9WKB27754; et. al.,

Defendants.

Case No. CV-OC-2014-17003

**OBJECTION TO MOTION FOR  
SUMMARY JUDGMENT**

COMES NOW the Claimant, WILLIAM SCOTT DEMINT, by and through counsel, and hereby makes the following disclosures of potential witnesses and exhibits and findings and conclusions of law in anticipation of the upcoming trial in this case.

**WITNESSES**

Claimant may call the following as witnesses in his behalf:

1. Claimant;
2. Lynda Westwood, 3725 Jackie Ln., Boise, ID 83704, 208-658-7762.
  - a. Ms. Westwood is a friend of Claimant and can testify regarding the source of funds seized from Claimant's bank account.
3. Lynda Hinson, 120 Windsom Rd., Centerville, TN 37033.

**ORIGINAL**

2/3

- a. Ms. Hinson is Claimant's sister and can testify regarding the source of funds seized from Claimant's bank account.
4. Any individuals identified as witnesses for the Plaintiff.

#### **EXHIBITS**

Claimant may seek to introduce into evidence any of the documents, records, or other tangible evidence disclosed by the State in its pleadings, discovery materials, or any documents filed by Plaintiff in this matter.

In addition, Claimant may seek to introduce copies of his bank statements from the bank account from which the funds in question were seized.

#### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

The Claimant requests the Court make the following findings of fact and conclusions of law:

1. The money seized by the State from Claimant's bank account was not the proceeds of illicit drug activity.
2. The money seized by the State from Claimant's bank account was not used or going to be used for illicit drug activity.
3. The money seized by the State from Claimant's bank account was not in any way related to illicit drug activity.
4. The money seized by the State from Claimant's bank account was obtained legally or was the proceeds of legal activities.
5. The money seized by the State from Claimant's bank account is therefore not subject to forfeiture.

Claimant reserves the right to request additional findings of fact and conclusions of law depending on the evidence presented at trial.

DATED this 10<sup>th</sup> day of December, 2015.

**MAUK MILLER, LLC**

\_\_\_\_\_  
Joseph C. Miller  
Counsel for Claimant

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 10<sup>th</sup> day of December, 2015, I served a true and correct copy of the foregoing document by delivering the same to the following persons, by the method indicated below, pursuant to I.R.C.P.5(f):

Ada County Deputy Prosecutor  
200 W. Front St.  
Boise, ID 83702  
Fax: 208-287-7709

- U.S. Mail, postage prepaid
- Hand-Delivered
- Overnight Mail
- Facsimile



---

Joseph C. Miller

DEC 14 2015

CHRISTOPHER D. RICH, Clerk  
By JANINE KORSEN  
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF

THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

ADA COUNTY PROSECUTING  
ATTORNEY,

Plaintiff,

vs.

1998 FORD F150, VIN  
1FTRX18L9WKB27754, TWELVE  
THOUSAND SEVEN HUNDRED NINETY-  
FOUR AND 00/100 DOLLARS (\$12,794.00)  
UNITED STATES CURRENCY; NINE  
THOUSAND FOUR HUNDRED FIFTEEN  
AND 64/100 DOLLARS (\$9,415.64)  
UNITED STATES CURRENCY;  
APPROXIMATELY FOUR HUNDRED  
FORTY-ONE AND FORTY-SEVEN-  
HUNDREDTHS (441.47) GRAMS  
METHAMPHETAMINE;  
APPROXIMATELY TWELVE AND  
SEVENTY-NINE-HUNDREDTHS (12.79)  
GRAMS MARIJUANA; TEN (10) 16-MG  
PILLS HYDROMORPHONE; ONE (1)  
TAURUS MILLENNIUM 9-MM  
HANDGUN, MODEL PT111, SERIAL NO.  
TSC27053, WITH ONE (1) MAGAZINE OF  
TEN (10) ROUNDS 9-MM AMMUNITION;  
TWO (2) FOLDING KNIVES; ONE (1)  
VIPERTEK TASER; ONE (1) DIGITAL  
SCALE WITH RESIDUE AND BLACK  
CASE; FOUR (4) DIGITAL SCALES IN  
BOXES; ONE (1) GREEN METAL  
CONTAINER; ONE (1) ORANGE MESH  
BAG; ONE (1) RED MESH BAG; ONE (1)  
BLACK MESH BAG; ONE (1) BLUE  
CHASE BANK BAG; VARIOUS PLASTIC  
ZIPLOC BAGS; TWO (2) GLASS PIPES  
WITH BURNT RESIDUE; ONE (1) SMALL

Case No. CV-OC-2014-17003

FINAL PRETRIAL ORDER

METAL SMOKING PIPE WITH BURNT  
RESIDUE; TEN (10) GLASS BONGS; AND  
THIRTY-ONE (31) GLASS PIPES,

Defendants.

APPEARANCES:

Catherine Freeman for the Plaintiff  
Joseph Miller for the Claimant William DeMint

This matter came before the Court for a pretrial conference on December 10, 2015.

**The Notice of Trial Setting and Order Governing Further Proceedings is amended  
as follows:**

Paragraph G is amended to add the following to the list of potential alternate judges:

Hon. Thomas Neville  
Hon. Cheri Copsey

The remainder of paragraph G remains the same.

**This case is hereby set for a two-day court trial before Judge Norton to commence  
on January 19, 2016 at 9 a.m. The parties are to be present in the courtroom at 8:30 a.m.  
The trial schedule is anticipated to be 9 a.m. to 5 p.m. on Monday and 8:30 a.m. to 12:30  
p.m on Tuesday. There are three other trials still set that week. If an alternate judge is  
assigned to this case or the time or date of trial need to be reset, another pretrial order will  
be sent.**

At the pretrial conference, the court and parties discussed whether there were stipulations to the admissibility of evidence, stipulations of facts, or an exchange of exhibits. The State filed an exhibit list. The claimant is to file an exhibit list by 5 p.m. on December 10, 2015. The parties are to meet and confer before the trial related to these stipulations so these matters can be presented to the court on the morning the trial begins.



Although the State filed a witness list naming 20 witnesses, at the pretrial conference, the State said it would actually call about five witnesses. The claimant had not filed a witness list but anticipated calling two witnesses. The claimant is to file a witness list by 5 p.m. on December 10, 2015. The parties are to confer on the number of witnesses each are to call at trial. The parties did not bring to the court's attention any scheduling conflicts with their witnesses. Any scheduling conflicts of witnesses should be noticed to the court, with that notice also provided to the other party, in advance of the trial.

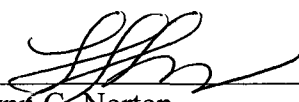
The State filed its proposed findings of fact and conclusions or law. The claimant is to file any proposed findings of fact and conclusions of law by 5 p.m. on December 10, 2015.

There are no pending motions to be heard by the court at this time. The court entered its Memorandum Decision and Order Granting In Part Summary Judgment on December 8, 2015. So, the remaining issue for trial is the Plaintiff's claim for the \$9,415.64 seized from Mr. DeMint's bank account and whether it was from the sale of Mr. DeMint's parents' house.

The Court discussed the presentation of evidence. If the parties intend to use computer or other electronic devices in the courtroom during the trial, they should call the District Court Clerk and set up a time **in advance of the trial** to ensure the device works.

If the parties reach a settlement in this case prior to trial, such settlement must be in writing and conform to the requirements of Idaho Rules of Civil Procedure 54, 60 and 75. A trial will not be vacated until all settlement documents are filed with the court **and the court approves such settlement.**

AND IT IS SO ORDERED. Dated this 10<sup>th</sup> day of December, 2015.

  
\_\_\_\_\_  
Lynn G. Norton  
District Judge

CERTIFICATE OF MAILING

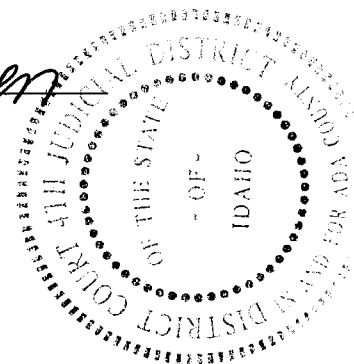
I hereby certify that on this 15<sup>th</sup> day of December, 2015, I mailed (served) a true and correct copy of the within instrument to:

Catherine A Freeman  
Deputy Prosecuting Attorney  
Interdepartmental Mail

Joseph C. Miller  
Attorney at Law  
515 S 6<sup>th</sup> Street  
Boise ID 83702

CHRISTOPHER D. RICH  
Clerk of the District Court

By *Jamie Kessen*  
Deputy Court Clerk



FILED  
Tuesday, December 22, 2015 at 03:40 PM  
CHRISTOPHER D. RICH, CLERK OF THE COURT  
BY: *Rowen Wright*  
Deputy Clerk

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

ADA COUNTY PROSECUTOR'S OFFICE,  
Plaintiff,

vs.

1998 FORD F150,  
\$12,794.00 US CURRENCY,  
\$9,415.64 US CURRENCY,  
APPROX 441.47 GRAMS  
METHAMPHETAMINE,  
APPROX 12.79 GRAMS MARIJUANA,  
TEN 16-MG PILLS HYDROMORPHONE,  
1 TAURUS MILLENNIUM 9-MM  
HANDGUN,  
2 FOLDING KNIVES,  
1 VIPERTEK TASER,  
1 DIGITAL SCALE WITH RESIDUE AND  
BLACK CASE,  
4 DIGITAL SCALES IN BOXES,  
1 GREEN METAL CONTAINER,  
1 ORANGE MESH BAG,  
1 RED MESH BAG,  
1 BLACK MESH BAG,  
1 BLUE CHASE BANK BAG,  
VARIOUS PLASTIC ZIPLOC BAGS,  
2 GLASS PIPES WITH BURNT RESIDUE,  
1 SMALL METAL SMOKING PIPE WITH  
BURNT RESIDUE,  
10 GLASS BONGS,  
31 GLASS PIPES,  
Defendant.

CASE NO. CV-OC-2014-17003  
CERTIFICATE OF MAILING

I, CHRISTOPHER D. RICH, the undersigned authority, do hereby certify that I have mailed, by United States Mail, one copy of the: **ORDER DENYING CERTIFICATION OF AND COPYING A SEALED DOCUMENT** as notice pursuant to Rule 77 (d) I.R.C.P. to each of the parties or attorneys of record in this cause in envelopes addressed as follows:

*WJ*

ADA COUNTY PROSECUTOR'S OFFICE  
(Interdepartmental Mail)

Janae Peterson  
Ada County Prosecuting Attorney  
(Interdepartmental Mail)

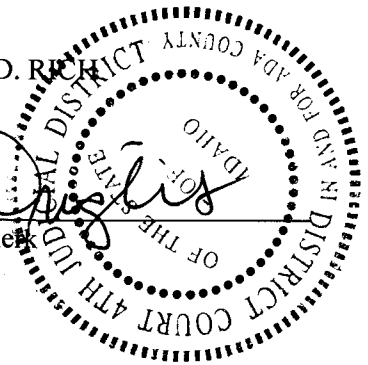
Catherine A Freeman  
Attorney at Law  
200 W. Front St, Rm 3191  
Boise ID 83702

Joseph C Miller  
Attorney at Law  
515 S 6<sup>th</sup> St  
Boise, ID 83702

Dated: Tuesday, December 22, 2015

CHRISTOPHER D. RICH  
Clerk of the Court

By:   
Deputy Clerk



DEC 22 2015

CHRISTOPHER D. RICH, Clerk  
By ROSE WRIGHT  
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF

THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

ADA COUNTY PROSECUTING  
ATTORNEY,

Plaintiff,

vs.

1998 FORD F150, VIN  
1FTRX18L9WKB27754, TWELVE  
THOUSAND SEVEN HUNDRED NINETY-  
FOUR AND 00/100 DOLLARS (\$12,794.00)  
UNITED STATES CURRENCY; NINE  
THOUSAND FOUR HUNDRED FIFTEEN  
AND 64/100 DOLLARS (\$9,415.64)  
UNITED STATES CURRENCY;  
APPROXIMATELY FOUR HUNDRED  
FORTY-ONE AND FORTY-SEVEN-  
HUNDREDTHS (441.47) GRAMS  
METHAMPHETAMINE;  
APPROXIMATELY TWELVE AND  
SEVENTY-NINE-HUNDREDTHS (12.79)  
GRAMS MARIJUANA; TEN (10) 16-MG  
PILLS HYDROMORPHONE; ONE (1)  
TAURUS MILLENNIUM 9-MM  
HANDGUN, MODEL PT111, SERIAL NO.  
TSC27053, WITH ONE (1) MAGAZINE OF  
TEN (10) ROUNDS 9-MM AMMUNITION;  
TWO (2) FOLDING KNIVES; ONE (1)  
VIPERTEK TASER; ONE (1) DIGITAL  
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CHASE BANK BAG; VARIOUS PLASTIC  
ZIPLOC BAGS; TWO (2) GLASS PIPES  
WITH BURNT RESIDUE; ONE (1) SMALL  
METAL SMOKING PIPE WITH BURNT

Case No. CV-OC-2014-17003

ORDER DENYING CERTIFICATION OF  
AND COPYING A SEALED DOCUMENT

ORDER DENYING CERTIFICATION OF AND COPYING A SEALED DOCUMENT 1

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*mw*

RESIDUE; TEN (10) GLASS BONGS; AND  
THIRTY-ONE (31) GLASS PIPES,

Defendants.

Janae Peterson of “ACPA” lodged a “Request to Inspect, Duplicate or Transcribe Exempt or Sealed Records,” requested a certified copy of the Certificate of Records re: Jail Phone Calls—attached as part of Exhibit B to Affidavit of Amber Ellis. The Affidavit of Amber Ellis was filed under seal on July 6, 2015. Exhibit B is titled, “Certificate of Records Re: Jail Phone Calls” and is signed by Deputy Jonathan Sorenson. The certificate refers to “the attached disc labeled ‘William Scott Demint Jail Calls’” but there was no disc attached to the affidavit.

Under I.C.A.R. 32(g)(15), documents filed in camera are exempt from disclosure. I.C.A.R. 32(g) deals with document exempt from disclosure. I.R.C.P. 3(c)(3)(b) seems to indicate that anything filed with the Court under seal, “shall be exempt from disclosure pursuant to Idaho Court Administrative Rule 32; however, courts will share the unredacted copy with other government agencies as required or allowed by law without court order or application for purposes of the business of those agencies.” I.R.C.P. 3(c)(3)(b). The court notes that I.R.C.P. 3 generally deals with the commencement of an action and there is no showing that it applies in this case. Since, there has been no showing in the request filed that this is a document that the unsealing and disclosure of this document is required or allowed by law, the court will not unseal the document and provide it pursuant to Rule 3.

I.C.A.R. 32(i) seems to provide the process for unsealing and inspection of sealed documents. It states:


Physical and electronic records, may be disclosed, or temporarily or permanently sealed or redacted by order of the court on a case-by-case basis. Any person or the court on its own motion may move to disclose, redact, seal or unseal a part or all of the records in any judicial proceeding. *The court shall hold a hearing on the motion after the moving party gives notice of the hearing to all parties to the judicial proceeding and any other interested person, guardian ad litem, court visitor, ward or protected person, personal representative, guardian, or conservator designated by the court.* The court may order that the record immediately be redacted or sealed pending the hearing if the court finds that doing so may be necessary to prevent harm to any person or persons. In ruling on whether specific records should be disclosed, redacted or sealed by order of the court, the court shall determine and make a finding of fact as to whether the interest in privacy or public disclosure predominates. If the court redacts or seals records to protect

predominating privacy interests, it must fashion the least restrictive exception from disclosure consistent with privacy interests.

I.C.A.R. 32(i) (emphasis added). Under this rule, before the court can unseal, there must be a motion filed and a hearing with notice to all parties. This has not been done in this case.

Therefore, without a motion and hearing, the court DENIES the request to unseal and provide a copy of the certificate.

Dated this 21<sup>st</sup> day of December, 2015.

  
\_\_\_\_\_  
Lynn Norton  
District Judge

JAN 04 2016

CHRISTOPHER D. RICH, Clerk  
By SANTIAGO BARRIOS  
DEPUTY

**JAN M. BENNETTS**  
ADA COUNTY PROSECUTING ATTORNEY

**CATHERINE A. FREEMAN**  
Deputy Prosecuting Attorney  
Civil Division  
200 W. Front Street, Room 3191  
Boise, ID 83702  
(208) 287-7700  
Idaho State Bar No. 9223

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

ADA COUNTY PROSECUTING )  
ATTORNEY, )  
)  
Plaintiff, )  
vs. )  
)  
1998 FORD F150, VIN )  
1FTRX18L9WKB27754; TWELVE )  
THOUSAND SEVEN HUNDRED )  
NINETY-FOUR AND 00/100 DOLLARS )  
(\$12,794.00) UNITED STATES )  
CURRENCY; NINE THOUSAND FOUR )  
HUNDRED FIFTEEN AND 64/100 )  
DOLLARS (\$9,415.64) UNITED STATES )  
CURRENCY; APPROXIMATELY FOUR )  
HUNDRED FORTY-ONE AND FORTY- )  
SEVEN-HUNDREDTHS (441.47) GRAMS )  
METHAMPHETAMINE; )  
APPROXIMATELY TWELVE AND )  
SEVENTY-NINE-HUNDREDTHS (12.79) )  
GRAMS MARIJUANA; TEN (10) 16-MG )  
PILLS HYDROMORPHONE; ONE (1) )  
TAURUS MILLENNIUM 9-MM )  
HANDGUN, MODEL PT111, SERIAL NO. )  
TSC27053, WITH ONE (1) MAGAZINE )  
OF TEN (10) ROUNDS 9-MM )  
AMMUNITION; TWO (2) FOLDING )  
KNIVES; ONE (1) VIPERTEK TASER; )

Case No. CV OC 2014-17003

**PLAINTIFF'S OBJECTION TO  
CLAIMANT WILLIAM SCOTT  
DEMINT'S WITNESS/EXHIBIT LIST  
AND PROPOSED FINDINGS AND  
CONCLUSIONS**

SM



ONE (1) DIGITAL SCALE WITH )  
 RESIDUE AND BLACK CASE; FOUR (4) )  
 DIGITAL SCALES IN BOXES; ONE (1) )  
 GREEN METAL CONTAINER; ONE (1) )  
 ORANGE MESH BAG; ONE (1) RED )  
 MESH BAG; ONE (1) BLACK MESH )  
 BAG; ONE (1) BLUE CHASE BANK )  
 BAG; VARIOUS PLASTIC ZIPLOC )  
 BAGS; TWO (2) GLASS PIPES WITH )  
 BURNT RESIDUE; ONE (1) SMALL )  
 METAL SMOKING PIPE WITH BURNT )  
 RESIDUE; TEN (10) GLASS BONGS; )  
 AND THIRTY-ONE (31) GLASS PIPES, )  
 )  
 Defendants. )  
 \_\_\_\_\_ )

COMES NOW, Plaintiff, the Ada County Prosecuting Attorney, by and through its counsel of record, Catherine A. Freeman, Deputy Prosecuting Attorney, and submits this Objection to Claimant William Scott DeMint’s Witness/Exhibit List and Proposed Findings and Conclusions.

**I. OVERVIEW**

On May 11, 2015, this Court entered a Notice of Trial Setting and Order Governing Further Proceedings setting the original trial date of October 5, 2015. At that time, the Court set a Pretrial Conference for Thursday, September 3, 2015, and ordered that a copy of exhibit lists, witness lists, and proposed findings of fact and conclusions of law be submitted no later than the Pretrial Conference. The Court later entered an Order Denying Stay of Trial for Appeal but Granting Continuance, which continued the trial date until January 19, 2016 and the Pretrial Conference to December 10, 2015. That Order stated that “[t]he remainder of the paragraph related to the pretrial conference remains the same.”

At the Pretrial Conference held on December 10, 2015, Plaintiff provided the Court and Claimant William Scott DeMint a copy of Plaintiff’s Witnesses and Exhibits List and Pretrial

Proposed Findings of Fact and Conclusions of Law. Mr. DeMint did not provide the Court or Plaintiff with a copy of his exhibit list, witness list, or proposed findings of fact and conclusions of law. At the hearing, the Court stated that Mr. DeMint was required to file such by 5 p.m. that day. The Court then entered a Final Pretrial Order signed December 10 and filed December 14, 2015 which reiterated that the claimant was required to file his witness list, exhibit list, and proposed findings of fact and conclusions of law "by 5 p.m. on December 10, 2015."

Mr. DeMint did not file his exhibit list, witness list, or proposed findings of fact and conclusions of law until December 11, 2015. Further, Plaintiff did not receive a copy of Mr. DeMint's Witness/Exhibit List and Proposed Findings and Conclusions via fax and was unable to obtain a copy from the Clerk until December 23, 2015.

## II. ARGUMENT

This Court ordered Plaintiff and Mr. DeMint to submit their witness and exhibit lists and their proposed findings of fact and conclusions of law at the pretrial conference, and the parties have known of this requirement since the Court's Notice dated May 11, 2015. At the pretrial conference on December 10, 2015, when Mr. DeMint failed to supply the required documents, the Court informed Mr. DeMint that he was required to file them by 5 p.m. that day. The Court reiterated the deadline in its Final Pretrial Order which was signed December 10 and filed December 14, 2015. Mr. DeMint did not file the required documents until December 11, 2015.

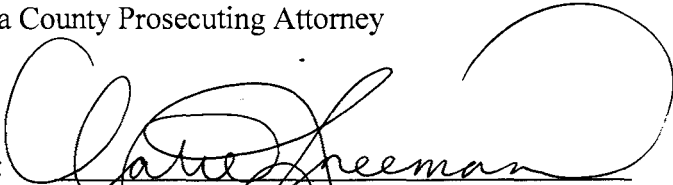
Further, Plaintiff did not receive a copy of Mr. DeMint's witness and exhibit lists and proposed findings of fact and conclusions of law via fax, and was unable to obtain a copy from the Clerk until on December 23, 2015, over a week after its filing. Thus, Plaintiff was not in possession of Mr. DeMint's witness and exhibit lists and proposed findings of fact and conclusions of law until less than a month before trial. This gives Plaintiff three and a half weeks

to prepare for Mr. DeMint's witnesses and exhibits, when the Court's ordered timing would have allowed over five weeks of preparation. This would prejudice Plaintiff, as Mr. DeMint had an extra week and a half to prepare for Plaintiff's exhibits and witnesses.

Because Mr. DeMint missed his filing deadline, and because the delay will prejudice Plaintiff, Plaintiff respectfully requests that this Court exclude Mr. DeMint's Witness/Exhibit List and Proposed Findings and Conclusions and that the Court prevent Mr. DeMint from utilizing such witnesses and exhibits at trial.

DATED this 4th day of January, 2016.

**JAN M. BENNETTS**  
Ada County Prosecuting Attorney

By:   
Catherine A. Freeman  
Deputy Prosecuting Attorney

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 4<sup>th</sup> day of January, 2016, I served a true and correct copy of the foregoing PLAINTIFF'S OBJECTION TO CLAIMANT WILLIAM SCOTT DEMINT'S WITNESS/EXHIBIT LIST AND PROPOSED FINDINGS AND CONCLUSIONS to the following person(s) by the following method:

Joseph C. Miller  
Mauk Miller & Burgoyne, LLC  
515 S. 6<sup>th</sup> St  
Boise, ID 83702

Hand Delivery  
 U.S. Mail  
 Certified Mail  
 Facsimile (208) 287-8788

Janae S Peterson  
Legal Assistant

JAN 08 2016

CHRISTOPHER D. RICH, Clerk  
By JANINE KORSEN  
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

ADA COUNTY PROSECUTING  
ATTORNEY,

Plaintiff,

vs.

1998 FORD F150, VIN  
1FTRX18L9WKB27754, TWELVE  
THOUSAND SEVEN HUNDRED NINETY-  
FOUR AND 00/100 DOLLARS (\$12,794.00)  
UNITED STATES CURRENCY; NINE  
THOUSAND FOUR HUNDRED FIFTEEN  
AND 64/100 DOLLARS (\$9,415.64)  
UNITED STATES CURRENCY; ET AL;

Defendants.

Case No. CV-OC-2014-17003

AMENDED FINAL PRETRIAL  
ORDER

**The Notice of Trial Setting and Order Governing Further Proceedings is amended**

**as follows:**

Hon. Duff McKee was disclosed as potential alternate judge for this case. Judge McKee will be assigned to try this case. The remainder of the Notice of Trial Setting and Order Governing Further Proceedings and the Final Pretrial Order remain the same.

AND IT IS SO ORDERED. Dated this 8<sup>th</sup> day of January, 2016.

  
Lynn G. Norton  
District Judge

JA CC: TT, Δ

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PM

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JAN 15 2016

CHRISTOPHER D. RIGH, Clerk  
By JAMIE MARTIN  
DEPUTY

JAN M. BENNETTS  
ADA COUNTY PROSECUTING ATTORNEY

CATHERINE A. FREEMAN  
Deputy Prosecuting Attorney  
Civil Division  
200 W. Front Street, Room 3191  
Boise, ID 83702  
(208) 287-7700  
(208) 287-7719 (facsimile)  
ISB No. 9223

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

ADA COUNTY PROSECUTING )  
ATTORNEY, )

Case No. CV OC 14 17003

Plaintiff, )

STIPULATION TO EXHIBIT LIST

vs. )

1998 FORD F150, VIN )  
1FTRX18L9WKB27754; TWELVE )  
THOUSAND SEVEN HUNDRED )  
NINETY-FOUR AND 00/100 DOLLARS )  
(\$12,794.00) UNITED STATES )  
CURRENCY; NINE THOUSAND FOUR )  
HUNDRED FIFTEEN AND 64/100 )  
DOLLARS (\$9,415.64) UNITED STATES )  
CURRENCY; APPROXIMATELY FOUR )  
HUNDRED FORTY-ONE AND FORTY- )  
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METHAMPHETAMINE; )  
APPROXIMATELY TWELVE AND )  
SEVENTY-NINE-HUNDREDTHS (12.79) )  
GRAMS MARIJUANA; TEN (10) 16-MG )  
PILLS HYDROMORPHONE; ONE (1) )  
TAURUS MILLENNIUM 9-MM )  
HANDGUN, MODEL PT111, SERIAL NO. )  
TSC27053, WITH ONE (1) MAGAZINE )

CF? Norton/Janine  
1/19/16 JH

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 METAL SMOKING PIPE WITH BURNT )  
 RESIDUE; TEN (10) GLASS BONGS; )  
 AND THIRTY-ONE (31) GLASS PIPES, )  
 )  
 Defendants. )  
 )

COMES NOW, Claimant William Scott DeMint, by and through his attorney of record, Joseph C. Miller of Mauk Miller, LLC, and the Plaintiff, by and through its attorney of record, Catherine A. Freeman of the Ada County Prosecutor's Office, and hereby stipulate and agree to the admission of the following exhibits in the trial set to begin on January 19, 2016:

NO.	DESCRIPTION
1	Certified Judgment of Conviction for <i>State of Idaho vs. William Scott DeMint</i> , Case No. CR-FE-2014-0012188
2	Audio of Mr. DeMint's Phone Calls from the Ada County Jail on August 20, 2014 (Redacted)
3	Transcripts of Mr. DeMint's Phone Calls from the Ada County Jail on August 20, 2014 (Redacted)
4	Mr. DeMint's Bank Records (Redacted)

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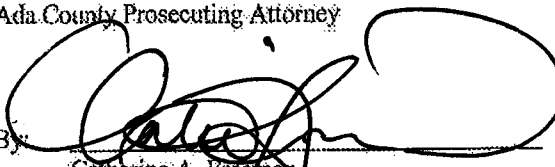
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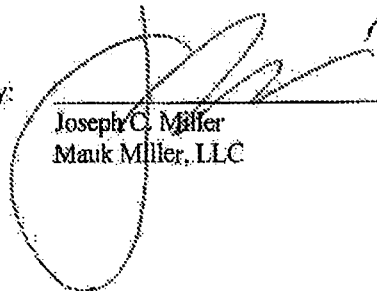
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DATED this 14<sup>th</sup> day of January, 2016.

JAN M. BENNETTS  
Ada County Prosecuting Attorney

By:   
Catherine A. Freeman  
Deputy Prosecuting Attorney

DATED this 14<sup>th</sup> day of January, 2016.

By:   
Joseph C. Miller  
Maik Miller, LLC



Time	Speaker	Note
<u>08:16:31 AM</u>		<b>CVOC14-17003 Ada County v 1998 Ford Court Trial - Day 1</b>
<u>08:18:36 AM</u>	State Attorney	Catherine Freeman and Heather McCarthy
<u>08:19:00 AM</u>	Personal Attorney	Joseph Miller on behalf of the claimant William DeMint
<u>09:11:42 AM</u>	Judge	Calls case
<u>09:13:16 AM</u>	C. Freeman	Opening statement
<u>09:18:49 AM</u>	J. Miller	Opening statement
<u>09:23:37 AM</u>	State Attorney	Argues objection to Defendant's witness list - the list was filed one day late
<u>09:26:10 AM</u>	Personal Attorney	Responds to the objection - has fax confirmation of filing on time
<u>09:27:33 AM</u>	State Attorney	Responds - stands by the objection
<u>09:28:16 AM</u>	Judge	overrules the objection
<u>09:28:26 AM</u>	State Attorney	counsel have stipulated to four exhibits
<u>09:29:21 AM</u>	State Attorney	Calls Kevin Lowry, sworn, direct examination
<u>09:29:57 AM</u>	Personal Attorney	will stipulate to the officer's training and experience
<u>09:31:45 AM</u>	Personal Attorney	stipulated to the admissions and judgment of conviction
<u>09:32:51 AM</u>	State Attorney	Exhibit # 1 previously marked is identified - counsel have stipulated to the admission of the exhibit
<u>09:33:33 AM</u>	Judge	Exhibit # 1 is admitted
<u>09:33:41 AM</u>	Judge	excuses the witness
<u>09:34:53 AM</u>	State Attorney	Calls James Roberson, sworn, direct examination
<u>09:35:58 AM</u>	Personal Attorney	will stipulate to the officer's training and experience
<u>09:38:06 AM</u>	State Attorney	Exhibit # 5 previously marked is identified
<u>09:38:23 AM</u>	Personal Attorney	Objection - exhibit was not disclosed till this morning
<u>09:38:49 AM</u>	State Attorney	laying foundation - does not plan on admitting exhibit but may use it for impeachment
<u>09:45:33 AM</u>	State Attorney	Exhibit # 2 previously marked is identified - counsel have stipulated to the admission of the exhibit
<u>09:46:58 AM</u>	State Attorney	Exhibit # 3 previously marked is identified - counsel have stipulated to the admission of the exhibit
<u>09:48:42 AM</u>	State Attorney	Moves to admit Exhibit # 3
<u>09:48:53 AM</u>	Judge	Exhibit # 3 is admitted

<u>09:49:41 AM</u>	State Attorney	Moves to admit Exhibit # 2
<u>09:49:43 AM</u>	Judge	adequate foundation has been laid for Exhibit # 2 but will not admit it at this time
<u>09:53:51 AM</u>	State Attorney	Exhibit # 4 previously marked is identified - counsel have stipulated to the admission of the exhibit
<u>09:54:12 AM</u>	State Attorney	Moves to admit Exhibit # 4
<u>09:54:16 AM</u>	Personal Attorney	No Objection
<u>09:54:17 AM</u>	Judge	Exhibit # 4 is admitted
<u>09:59:09 AM</u>	Personal Attorney	Objection - hearsay
<u>09:59:16 AM</u>	State Attorney	Responds
<u>09:59:21 AM</u>	Judge	Re-phrase the question
<u>10:02:37 AM</u>	Personal Attorney	Objection - Judgment was already admitted
<u>10:03:15 AM</u>	State Attorney	Responds
<u>10:04:30 AM</u>	Judge	Objection is overruled
<u>10:05:07 AM</u>	Personal Attorney	Objection - relevance
<u>10:05:13 AM</u>	State Attorney	Responds
<u>10:05:15 AM</u>	Judge	Objection is overruled
<u>10:10:24 AM</u>	Personal Attorney	Objection -
<u>10:10:25 AM</u>	Judge	Objection is sustained
<u>10:10:43 AM</u>	Personal Attorney	Objection -
<u>10:10:45 AM</u>	Judge	Objection is sustained
<u>10:10:58 AM</u>	Personal Attorney	Cross-examination of the witness - James Roberson
<u>10:13:16 AM</u>	State Attorney	Objection - relevance
<u>10:13:18 AM</u>	Judge	Objection is overruled
<u>10:28:57 AM</u>	State Attorney	Re-direct examination of the witness - James Roberson
<u>10:29:14 AM</u>	Personal Attorney	Objection - asked & answered
<u>10:29:16 AM</u>	Judge	Objection is sustained
<u>10:31:06 AM</u>	Personal Attorney	Objection -
<u>10:31:08 AM</u>	Judge	Objection is sustained
<u>10:31:13 AM</u>	Personal Attorney	Re-cross examination of the witness - James Roberson

<u>10:31:53 AM</u>	Judge	excuses the witness
<u>10:32:15 AM</u>	State Attorney	The Plaintiff rests
<u>10:32:17 AM</u>	Personal Attorney	moves for a directive verdict
<u>10:32:55 AM</u>	State Attorney	Responds
<u>10:43:12 AM</u>	Personal Attorney	Responds re: directive verdict
<u>10:44:21 AM</u>	State Attorney	Responds
<u>10:45:06 AM</u>	Judge	There is not sufficient evidence to prove the check in the bank is drug related. Grants the motion for directive verdict. Mr. Miller will submit an appropriate order.

RECEIVED  
JAN 21 2016  
ADA COUNTY CLERK

NO. \_\_\_\_\_  
A.M. \_\_\_\_\_ FILED P.M. 2:50

Joseph C. Miller  
MAUK MILLER, LLC  
515 S. 6<sup>th</sup> St.  
Boise, ID 83702  
Tel: (208) 287-8787  
Fax: (208) 287-8788  
e-mail: office@idahojustice.com  
ISBN: 7485

JAN 27 2016

CHRISTOPHER D. RICH, Clerk  
By RIC NELSON  
DEPUTY

Counsel for Claimant

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

ADA COUNTY PROSECUTING )  
ATTORNEY, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
1998 FORD F150; et. al., )  
 )  
Defendants. )

Case No. CV-OC-2014-17003

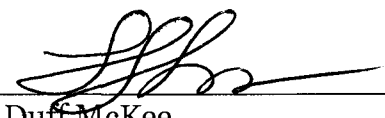
**JUDGMENT**

I.R.C.P. 54(a)

JUDGMENT IS ENTERED AS FOLLOWS:

The Nine thousand four hundred fifteen and 64/100 dollars (\$9,415.64) United States Currency (in the form of a cashier's check for that amount issued by Chase Bank) seized by the Plaintiff in this case is not subject to forfeiture and shall be immediately released to counsel for Claimant Williams Scott DeMint to be held in trust for the Claimant.

DATED this 22<sup>nd</sup> day of January, 2016.

*for*   
D. Duff McKee  
District Judge

**CLERK'S CERTIFICATE OF SERVICE**

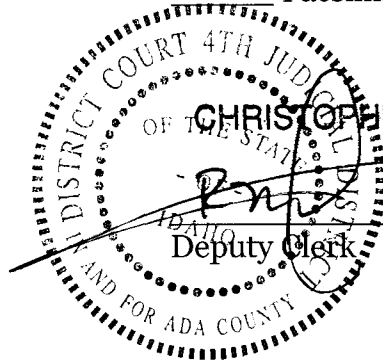
I hereby certify that on this 27 day of January, 2016, I caused a true and correct copy of the foregoing document to be served on the following, pursuant to I.R.C.P. 5(f), as indicated below:

Catherine Freeman  
Ada County Deputy Prosecutor  
200 W. Front St.  
Boise, ID 83702  
Fax: 287-7709

U.S. Mail  
 Hand Delivery  
 Courier  
 Facsimile Transmission

Joseph C. Miller  
Mauk Miller, LLC  
515 S. 6<sup>th</sup> St.  
Boise, ID 83702  
Fax: 287-8788

U.S. Mail  
 Hand Delivery  
 Courier  
 Facsimile Transmission



CHRISTOPHER D. RICH

FEB 24 2016

CHRISTOPHER D. RICH, Clerk  
By ALESIA BUTTS  
DEPUTY

Joseph C. Miller  
MAUK MILLER & HAWKINS, PLLC  
515 S. 6<sup>th</sup> St.  
Boise, ID 83702  
Tel: (208) 287-8787  
Fax: (208) 287-8788  
e-mail: office@idahojustice.com  
ISBN: 7485

Counsel for Claimant

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

ADA COUNTY PROSECUTING )  
ATTORNEY, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
1998 FORD F150; et. al., )  
 )  
Defendants. )  
\_\_\_\_\_ )

Case No. CV-OC-2014-17003  
**AFFIDAVIT IN SUPPORT OF  
WRIT OF EXECUTION**  
I.C. 11-101 et. seq.  
I.R.C.P. 69

STATE OF IDAHO )  
 ) ss.  
County of Ada )

COMES NOW counsel for Claimant, JOSEPH C. MILLER, as Affiant and, being duly sworn upon oath, does depose and say:

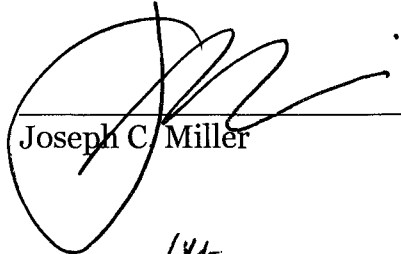
1. I am over the age of eighteen (18) years.
2. I am testifying from personal knowledge.
3. I am otherwise fully competent to testify to the matters stated herein.
4. I am the attorney for William Scott DeMint, Claimant of the Defendant property in this matter.

48

5. I hereby verify that the interest requested in the Writ of Execution was computed pursuant to Idaho Code § 28-22-104 and Rule 69 of the Idaho Rules of Civil Procedure.
6. I hereby verify that the interest requested was computed using the current base rate of 5.375%, as set by the Idaho State Treasurer on July 1, 2015, as required by statute.
7. I hereby verify that the interest was computed accurately.

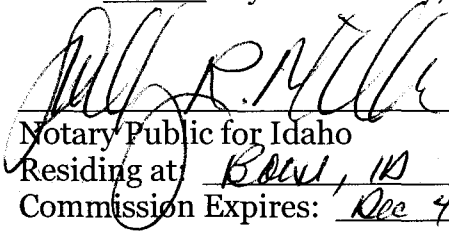
Further your affiant sayeth not.

DATED this 24<sup>th</sup> day of February, 2016.

  
\_\_\_\_\_  
Joseph C. Miller

SUBSCRIBED AND SWORN to before me this 24<sup>th</sup> day of February, 2016.



  
\_\_\_\_\_  
Notary Public for Idaho  
Residing at Bow, ID  
Commission Expires: Dec 4, 2020

MAR 07 2016

CHRISTOPHER D. RICH, Clerk  
By TYLER ATKINSON  
DEPUTY

JAN M. BENNETTS  
ADA COUNTY PROSECUTING ATTORNEY

CATHERINE A. FREEMAN  
Deputy Prosecuting Attorney  
Civil Division  
200 W. Front Street, Room 3191  
Boise, ID 83702  
(208) 287-7700  
(208) 287-7719 (facsimile)  
ISB No. 9223

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

ADA COUNTY PROSECUTING )  
ATTORNEY, )  
 )  
Appellant, )  
vs. )  
 )  
1998 FORD F150, VIN )  
1FTRX18L9WKB27754; TWELVE )  
THOUSAND SEVEN HUNDRED )  
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(\$12,794.00) UNITED STATES )  
CURRENCY; NINE THOUSAND FOUR )  
HUNDRED FIFTEEN AND 64/100 )  
DOLLARS (\$9,415.64) UNITED STATES )  
CURRENCY; APPROXIMATELY FOUR )  
HUNDRED FORTY-ONE AND FORTY- )  
SEVEN-HUNDREDTHS (441.47) GRAMS )  
METHAMPHETAMINE; )  
APPROXIMATELY TWELVE AND )  
SEVENTY-NINE-HUNDREDTHS (12.79) )  
GRAMS MARIJUANA; TEN (10) 16-MG )  
PILLS HYDROMORPHONE; ONE (1) )  
TAURUS MILLENNIUM 9-MM )  
HANDGUN, MODEL PT111, SERIAL NO. )  
TSC27053, WITH ONE (1) MAGAZINE )

Case No. CV OC 14 17003  
NOTICE OF APPEAL



OF TEN (10) ROUNDS 9-MM )  
 AMMUNITION; TWO (2) FOLDING )  
 KNIVES; ONE (1) VIPERTEK TASER; )  
 ONE (1) DIGITAL SCALE WITH )  
 RESIDUE AND BLACK CASE; FOUR (4) )  
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 ORANGE MESH BAG; ONE (1) RED )  
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 BAG; ONE (1) BLUE CHASE BANK )  
 BAG; VARIOUS PLASTIC ZIPLOC )  
 BAGS; TWO (2) GLASS PIPES WITH )  
 BURNT RESIDUE; ONE (1) SMALL )  
 METAL SMOKING PIPE WITH BURNT )  
 RESIDUE; TEN (10) GLASS BONGS; )  
 AND THIRTY-ONE (31) GLASS PIPES, )  
 )  
 Respondents. )  
 \_\_\_\_\_ )

**TO:** CLAIMANT WILLIAM SCOTT DEMINT AND THE CLAIMANT'S ATTORNEY,  
 JOSEPH C. MILLER, Mauk Miller & Burgoyne, LLC, P.O. Box 1743, Boise, Idaho 83701,  
 AND THE CLERK OF THE ABOVE ENTITLED COURT.

**NOTICE IS HEREBY GIVEN THAT:**

1. The above-named Appellant, Ada County Prosecuting Attorney, appeals against Claimant William Scott Demint to the Idaho Supreme Court from the Judgment entered in the above-entitled action on the 22<sup>nd</sup> day of January, 2016, and filed the 27<sup>th</sup> day of January, 2016, Honorable Judge D. Duff McKee presiding.

2. That the party has a right to appeal to the Idaho Supreme Court, and the judgment described in paragraph 1, above, is an appealable order under and pursuant to Idaho Appellate Rule 11.1.

3. A preliminary statement of this issues on appeal which the appellant then intends to assert in the appeal; provided, any such list of issues on appeal shall not prevent the appellant from asserting other issues on appeal, is as follows:

- a. Whether the Court erred in entering a directed verdict in favor of Claimant.
- b. Whether the Court erred in ruling that Defendant Property Nine Thousand Four Hundred Fifteen and 64/100 Dollars (\$9,415.64) United States Currency is not subject to forfeiture per Idaho Code Section 37-2744 and the Idaho Uniform Controlled Substances Act, Idaho Code §§ 37-2701, *et seq.*
4. The following documents were filed under seal:
  - a. Affidavit of Amber Ellis
  - b. Affidavit of James Roberson
5. The entire reporter's transcript from the trial in this case has previously been prepared by the court reporter.
6. The Appellant requests the following documents be included in the clerk's record in addition to those automatically included under Rule 28, Idaho Appellate Rules:
  - a. Register of Actions
  - b. Complaint
  - c. Verified Answer and Claim to Seized Property
  - d. Default Judgment as to Joshua Allen Thomas
  - e. Answer to Claimant's Counter Claim
  - f. Motion for Summary Judgment
  - g. Affidavit of Amber Ellis
  - h. Affidavit of James Roberson
  - i. Affidavit of Deputy Kevin Lowry
  - j. Affidavit of Detective David Anderson

- k. Affidavit of Sergeant Matthew Clifford
- l. Memorandum in Support of Summary Judgment
- m. Objection to Motion for Summary Judgment
- n. Affidavit of Catherine A. Freeman in Support of Motion for Summary Judgment
- o. Reply Memorandum in Support of Motion for Summary Judgment
- p. Memorandum Decision and Order Granting in Part Summary Judgment
- q. Judgment
- r. Plaintiff's Witnesses and Exhibits List
- s. Pretrial Proposed Findings of Fact and Conclusions of Law
- t. Final Pretrial Order
- u. Amended Final Pretrial Order
- v. Stipulation to Exhibit List
- w. Judgment

7. The Appellant requests the following documents, charts, or pictures offered or admitted as exhibits to be copied and sent to the Supreme Court:

- a. Audio of Claimant DeMint's Phone Calls from the Ada County Jail on August 20, 2014 (Redacted)
- b. Transcripts of Claimant DeMint's Phone Calls from the Ada County Jail on August 20, 2014 (Redacted)
- c. Claimant DeMint's Bank Records (Redacted)

8. I certify:

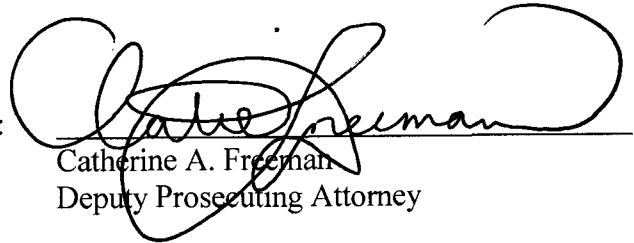
- a. That a copy of this Notice of Appeal has been served on the reporter.

- b. That the reporter has been paid the estimated fee for preparation of the transcript.
- c. That the Appellant is exempt from paying the estimated fee for preparation of the record as Appellant is a County office.
- d. That the Appellant is exempt from paying the appellate filing fee as Appellant is a County office.
- e. That service has been made upon all parties required to be served pursuant to Idaho Appellate Rule 20.

DATED this 7<sup>th</sup> day of March, 2016.

**JAN M. BENNETTS**  
Ada County Prosecuting Attorney

By:

  
Catherine A. Freeman  
Deputy Prosecuting Attorney

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 7<sup>th</sup> day of March, 2016, I served a true and correct copy of the foregoing NOTICE OF APPEAL to the following person(s) by the following method:

Joseph C. Miller  
Mauk Miller & Burgoyne, LLC  
515 S. 6<sup>th</sup> St  
Boise, ID 83702

Hand Delivery  
 U.S. Mail  
 Certified Mail  
 Facsimile

Janae S Peterson  
Legal Assistant

CF- Norton  
3/25/14

NO \_\_\_\_\_ FILED 2:50  
A.M. \_\_\_\_\_ P.M.

MAR 24 2016

CHRISTOPHER D. RICH, Clerk  
By SANTIAGO BARRIOS  
DEPUTY

**JAN M. BENNETTS**  
ADA COUNTY PROSECUTING ATTORNEY

**CATHERINE A. FREEMAN**  
Deputy Prosecuting Attorney  
Civil Division  
200 W. Front Street, Room 3191  
Boise, ID 83702  
(208) 287-7700  
(208) 287-7719 (facsimile)  
ISB No. 9223

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

ADA COUNTY PROSECUTING )  
ATTORNEY, )

Appellant, )

vs. )

NINE THOUSAND FOUR HUNDRED FIFTEEN )  
AND 64/100 DOLLARS (\$9,415.64) UNITED )  
STATES CURRENCY, )

Defendant-Respondent, )

and )

WILLIAM SCOTT DEMINT, )

Claimant-Respondent, )

and )

1998 FORD F150, VIN 1FTRX18L9WKB27754; )  
TWELVE THOUSAND SEVEN HUNDRED )  
NINETY-FOUR AND 00/100 DOLLARS )  
(\$12,794.00) UNITED STATES CURRENCY; )  
APPROXIMATELY FOUR HUNDRED FORTY- )

**Case No. CV OC 14 17003**

**AMENDED NOTICE OF APPEAL**

9/2

ONE AND FORTY-SEVEN-HUNDREDTHS )  
 (441.47) GRAMS METHAMPHETAMINE; )  
 APPROXIMATELY TWELVE AND SEVENTY- )  
 NINE-HUNDREDTHS (12.79) GRAMS )  
 MARIJUANA; TEN (10) 16-MG PILLS )  
 HYDROMORPHONE; ONE (1) TAURUS )  
 MILLENNIUM 9-MM HANDGUN, MODEL )  
 PT111, SERIAL NO. TSC27053, WITH ONE (1) )  
 MAGAZINE OF TEN (10) ROUNDS 9-MM )  
 AMMUNITION; TWO (2) FOLDING KNIVES; )  
 ONE (1) VIPERTEK TASER; ONE (1) DIGITAL )  
 SCALE WITH RESIDUE AND BLACK CASE; )  
 FOUR (4) DIGITAL SCALES IN BOXES; ONE (1) )  
 GREEN METAL CONTAINER; ONE (1) )  
 ORANGE MESH BAG; ONE (1) RED MESH )  
 BAG; ONE (1) BLACK MESH BAG; ONE (1) )  
 BLUE CHASE BANK BAG; VARIOUS PLASTIC )  
 ZIPLOC BAGS; TWO (2) GLASS PIPES WITH )  
 BURNT RESIDUE; ONE (1) SMALL METAL )  
 SMOKING PIPE WITH BURNT RESIDUE; TEN )  
 (10) GLASS BONGS; AND THIRTY-ONE (31) )  
 GLASS PIPES, )  
 )  
 )  
 Defendants. )  
 \_\_\_\_\_ )

**TO:** CLAIMANT WILLIAM SCOTT DEMINT AND THE CLAIMANT'S ATTORNEY,  
 JOSEPH C. MILLER, Mauk Miller & Burgoyne, LLC, P.O. Box 1743, Boise, Idaho 83701,  
 AND THE CLERK OF THE ABOVE ENTITLED COURT.

**NOTICE IS HEREBY GIVEN THAT:**

1. The above-named Appellant, Ada County Prosecuting Attorney, appeals against Claimant William Scott Demint to the Idaho Supreme Court from the Judgment entered in the above-entitled action on the 22<sup>nd</sup> day of January, 2016, and filed the 27<sup>th</sup> day of January, 2016, Honorable Judge D. Duff McKee presiding.

2. That the party has a right to appeal to the Idaho Supreme Court, and the judgment described in paragraph 1, above, is an appealable order under and pursuant to Idaho Appellate Rule 11.1.

3. A preliminary statement of this issues on appeal which the appellant then intends to assert in the appeal; provided, any such list of issues on appeal shall not prevent the appellant from asserting other issues on appeal, is as follows:

a. Whether the Court erred in entering a directed verdict in favor of Claimant.

b. Whether the Court erred in ruling that Defendant Property Nine Thousand Four Hundred Fifteen and 64/100 Dollars (\$9,415.64) United States Currency is not subject to forfeiture per Idaho Code Section 37-2744 and the Idaho Uniform Controlled Substances Act, Idaho Code §§ 37-2701, *et seq.*

4. The following documents were filed under seal:

a. Affidavit of Amber Ellis, filed July 6, 2015

b. Affidavit of James Roberson, filed July 6, 2015

5. The entire reporter's transcript from the trial, held on January 19, 2016, has previously been prepared by the court reporter.

6. The Appellant requests the following documents be included in the clerk's record in addition to those automatically included under Rule 28, Idaho Appellate Rules:

a. Register of Actions

b. Complaint, filed September 8, 2014

c. Verified Answer and Claim to Seized Property, filed November 14, 2014

d. Default Judgment as to Joshua Allen Thomas, filed January 16, 2015

e. Answer to Claimant's Counter Claim, filed February 13, 2015

f. Motion for Summary Judgment, filed July 6, 2015

g. Affidavit of Amber Ellis, filed July 6, 2015



- h. Affidavit of James Roberson, filed July 6, 2015
- i. Affidavit of Deputy Kevin Lowry, filed July 6, 2015
- j. Affidavit of Detective David Anderson, filed July 6, 2015
- k. Affidavit of Sergeant Matthew Clifford, filed July 6, 2015
- l. Memorandum in Support of Summary Judgment, filed July 6, 2015
- m. Objection to Motion for Summary Judgment, filed November 12, 2015
- n. Affidavit of Catherine A. Freeman in Support of Motion for Summary Judgment, filed November 19, 2015
- o. Reply Memorandum in Support of Motion for Summary Judgment, filed November 19, 2015
- p. Memorandum Decision and Order Granting in Part Summary Judgment, filed December 8, 2015
- q. Judgment, filed December 8, 2015
- r. Plaintiff's Witnesses and Exhibits List, filed December 10, 2015
- s. Pretrial Proposed Findings of Fact and Conclusions of Law, filed December 10, 2015
- t. Final Pretrial Order, filed December 14, 2015
- u. Amended Final Pretrial Order, January 8, 2016
- v. Stipulation to Exhibit List, January 15, 2016
- w. Judgment, January 27, 2016

7. The Appellant requests the following documents, charts, or pictures offered or admitted as exhibits at trial on January 19, 2016, to be copied and sent to the Supreme Court:

- a. Audio of Claimant DeMint's Phone Calls from the Ada County Jail on August 20, 2014 (Redacted)
  - b. Transcripts of Claimant DeMint's Phone Calls from the Ada County Jail on August 20, 2014 (Redacted)
  - c. Claimant DeMint's Bank Records (Redacted)
8. I certify:
- a. That a copy of this Notice of Appeal has been served on the reporter.
  - b. That the reporter has been paid the estimated fee for preparation of the transcript.
  - c. That the Appellant is exempt from paying the estimated fee for preparation of the record as Appellant is a County office.
  - d. That the Appellant is exempt from paying the appellate filing fee as Appellant is a County office.
  - e. That service has been made upon all parties required to be served pursuant to Idaho Appellate Rule 20.

DATED this 24<sup>th</sup> day of March, 2016.

**JAN M. BENNETTS**  
Ada County Prosecuting Attorney

By: Heather McCarty  
Catherine A. Freeman  
Deputy Prosecuting Attorney

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 24<sup>th</sup> day of March, 2016, I served a true and correct copy of the foregoing NOTICE OF APPEAL to the following person(s) by the following method:

Joseph C. Miller  
Mauk Miller & Burgoyne, LLC  
515 S. 6<sup>th</sup> St  
Boise, ID 83702

Hand Delivery  
 U.S. Mail  
 Certified Mail  
 Facsimile

Vanessa Gosney  
Court Reporter  
200 W. Front Street, Rm 5113  
Boise, ID 83702

Hand Delivery  
 Interdepartmental Mail  
 Certified Mail  
 Facsimile

*Janice S Peterson*  
Legal Assistant

Appeal office  
4/1/16  
KF

NO. \_\_\_\_\_ FILED \_\_\_\_\_  
A.M. \_\_\_\_\_ P.M. \_\_\_\_\_

3/30/2016

MAR 31 2016

CHRISTOPHER D. RICH, Clerk  
By STACEY LAFFERTY  
DEPUTY

ADA COUNTY PROSECUTING ATTORNEY \*\*REVERSE JUDGMENT\*  
-VS-  
1998 FORD F150 ET AL

ADA COUNTY - 4TH JUDICIAL DISTRICT CVOC201417003

SHERIFF'S RETURN ON WRIT OF EXECUTION SHERIFF'S# 1603027

RECEIVED BY SHERIFF ON 2/24/2016

I, STEPHEN BARTLETT, SHERIFF, DO HEREBY CERTIFY THAT AFTER DUE SEARCH AND DILIGENT INQUIRY, WAS UNABLE TO LOCATE, AND THEREFORE DID NOT SERVE THE WRIT OF EXECUTION TO THE PLAINTIFF:

ADA COUNTY PROSECUTING ATTORNEY  
JAN BENNETT  
200 W FRONT STREET  
BOISE, ID 83702

FOR THE FOLLOWING REASON(S): ATTEMPTED SERVICE ON 3/07/2016 & 3/15/2016 AND WAS ADVISED JAN BENNETT WAS NOT IN THE OFFICE. VERBAL INSTRUCTIONS WERE RECEIVED ON 3/28/2016 FROM DEFENDANT'S ATTORNEY TO MAKE RETURN ON THE WRIT~NOTICE OF APPEAL HAS BEEN FILED.

I RETURN THE WRIT OF EXECUTION ATTEMPTED, NOT SERVED, AND ASSESS MY FEES OF \$55.00. **PAID BY ADVANCE FEES.**

STEPHEN BARTLETT, SHERIFF  
ADA COUNTY, IDAHO

BY *Diane Proctor*  
DEPUTY DIANE PROCTOR

MAUK MILLER & HAWKINS PLLC  
JOSEPH C MILLER  
POB 1743  
BOISE, ID 83701-1743

*JP*

Joseph C. Miller  
 MAUK MILLER & HAWKINS, PLLC  
 515 S. 6<sup>th</sup> St.  
 Boise, ID 83702  
 Tel: (208) 287-8787  
 Fax: (208) 287-8788  
 e-mail: office@idahojustice.com  
 ISBN: 7485

ACSU CIVIL FEB24 16PM 4:15

Counsel for Claimant

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE  
 STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

ADA COUNTY PROSECUTING	)	
ATTORNEY,	)	Case No. CV-OC-2014-17003 ✓
	)	
Plaintiff,	)	<b>WRIT OF EXECUTION</b>
	)	
vs.	)	
	)	I.C. 11-101 et. seq.
1998 FORD F150; et. al., ✓	)	I.R.C.P. 69
	)	
Defendants.	)	
	)	

THE STATE OF IDAHO to the Sheriff of the County of Ada:

On January 22, 2016, Claimant WILLIAM SCOTT DEMINT recovered a judgment against the Plaintiff in this case for:

Total Sum of Judgment:	\$9,415.64 ✓
Amount(s) paid by defendant(s):	\$ 0.00
Plus accruing costs:	\$ 0.00
Plus accrued interest:	\$ 42.37 (5.375%)
<b>TOTAL AMOUNT NOW DUE AND OWING:</b>	<b>\$9,458.01</b>

YOU, the Sheriff, are required to satisfy the judgment, with post-judgment interest accruing at the legal rate and accruing costs, out of the personal property of Plaintiff ADA COUNTY PROSECUTING ATTORNEY and make return of this writ within ten (10) days after receipt of this writ.

DATED this 24<sup>th</sup> day of February, 2016

CLERK OF THE DISTRICT COURT  
 CHRISTOPHER D. RICH  
 Deputy Clerk

TO: CLERK OF THE COURT  
IDAHO SUPREME COURT  
451 WEST STATE STREET  
BOISE, IDAHO 83702

NO. \_\_\_\_\_  
FILED  
A.M. \_\_\_\_\_ P.M. 3:55

APR 21 2016

CHRISTOPHER D. RICH, Clerk  
By SUZANNE SIMON  
DEPUTY

ADA COUNTY PROSECUTOR'S )  
OFFICE, )  
 ) Supreme Court No. 44026  
Plaintiff-Appellant, )  
vs. ) Case No. CVOC-14-17003  
 )  
1998 Ford F150, )  
 )  
Defendants-Respondents. )  
\_\_\_\_\_ )

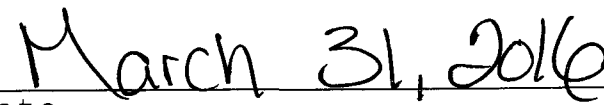
**NOTICE OF TRANSCRIPT LODGED**

Notice is hereby given that on March 31, 2016, I lodged a transcript 103 pages of length for the above-referenced appeal with the District Court Clerk of the **County of Ada** in the Fourth Judicial District.

**HEARING DATES INCLUDED:**

Trial, Jan 19, 2016

  
\_\_\_\_\_  
Vanessa M. Starr, Official Court Reporter

  
\_\_\_\_\_  
Date

SS

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

ADA COUNTY PROSECUTING ATTORNEY,

Plaintiff-Appellant,

vs.

NINE THOUSAND FOUR HUNDRED FIFTEEN AND  
64/100 DOLLARS (\$9,415.64) UNITED STATES  
CURRENCY,

Defendant-Respondent,

and

WILLIAM SCOTT DEMINT,

Claimant-Respondent,

and

1998 FORD F150, VIN 1FTRX18L9WKB27754; TWELVE  
THOUSAND SEVEN HUNDRED NINETY-FOUR  
DOLLARS AND 00/100 (\$12,794.00) UNITED STATES  
CURRENCY; APPROXIMATELY FOUR HUNDRED  
FORTY-ONE AND FORTY-SEVEN HUNDREDTHS  
(441.47) GRAMS METHAMPHETAMINE;  
APPROXIMATELY TWELVE AND SEVENTY-NINE-  
HUNDREDTHS (12.79) GRAMS MARIJUANA; TEN (10)  
16-MG PILLS HYDROMORPHONE; ONE (1) TAURUS  
MILLENNIUM 9-MM HANDGUN, MODEL PT111,  
SERIAL NO. TSC27053, WITH ONE (1) MAGAZINE OF  
TEN (10) ROUNDS 9-MM AMMUNITION; TWO (2)  
FOLDING KNIVES; ONE (1) VIPERTEK TASER; ONE (1)  
DIGITAL SCALE WITH RESIDUE AND BLACK CASE;  
FOUR (4) DIGITAL SCALES IN BOXES; ONE (1) GREEN  
METAL CONTAINER; ONE (1) ORANGE MESH BAG;  
ONE (1) RED MESH BAG; ONE (1) BLACK MESH BAG;  
ONE (1) BLUE CHASE BANK BAG; VARIOUS PLASTIC  
ZIPLOC BAGS; TWO (2) GLASS PIPES WITH BURNT  
RESIDUE; ONE (1) SMALL METAL SMOKING PIPE  
WITH BURNT RESIDUE; TEN (10) GLASS BONGS; AND  
THIRTY-ONE (31) GLASS PIPES,

Defendants.

Supreme Court Case No. 44026

CERTIFICATE OF EXHIBITS

I, CHRISTOPHER D. RICH, Clerk of the District Court of the Fourth Judicial District of  
the State of Idaho in and for the County of Ada, do hereby certify:

That the attached list of exhibits is a true and accurate copy of the exhibits being  
forwarded to the Supreme Court on Appeal.

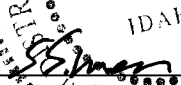
CERTIFICATE OF EXHIBITS

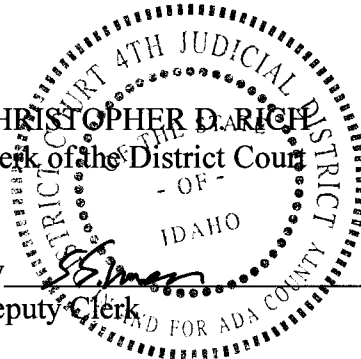
000278

I FURTHER CERTIFY, that the following documents will be submitted as CONFIDENTIAL EXHIBITS to the Record:

1. Affidavit of Amber Ellis (filed under seal), filed July 06, 2015.
2. Affidavit of James Roberson (filed under seal), filed July 06, 2015.
3. Affidavit of Catherine A. Freeman in Support of Motion for Summary Judgment (filed under seal), filed November 19, 2015.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the said Court this 22nd day of April, 2016.

CHRISTOPHER D. RICH  
Clerk of the District Court  
- OF -  
IDAHO  
By   
Deputy Clerk





**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

**HONORABLE D. DUFF MCKEE**

**January 19, 2016**

Clerk: Tara Villereal

Court Reporter: Vanessa Gosney

**ADA COUNTY PROSECUTOR'S  
OFFICE,** )

**Case No. CV-OC-2014-17003**

Plaintiff, )

vs. )

**EXHIBIT LIST  
COURT TRIAL**

**WILLIAM DEMINT, et al.,** )

Defendants. )

Counsel for Plaintiff: Catherine Freeman & Heather McCarthy

Counsel for Defendant: Joseph Miller

**PLAINTIFF'S EXHIBITS**

**Status**

**Date**

		<b><u>Status</u></b>	<b><u>Date</u></b>
1.	Copy of Judgment of Conviction	Admitted	01/19/16
2.	CD – Audio of Jail Calls	Identified & Offered	01/19/16
3.	Transcript of Jail Calls	Admitted	01/19/16
4.	Bank Statements	Admitted	01/19/16
5.	CD – Police Interview	Identified	01/19/16

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

ADA COUNTY PROSECUTING ATTORNEY,

Plaintiff-Appellant,

vs.

NINE THOUSAND FOUR HUNDRED FIFTEEN AND  
64/100 DOLLARS (\$9,415.64) UNITED STATES  
CURRENCY,

Defendant-Respondent,

and

WILLIAM SCOTT DEMINT,

Claimant-Respondent,

and

1998 FORD F150, VIN 1FTRX18L9WKB27754; TWELVE  
THOUSAND SEVEN HUNDRED NINETY-FOUR  
DOLLARS AND 00/100 (\$12,794.00) UNITED STATES  
CURRENCY; APPROXIMATELY FOUR HUNDRED  
FORTY-ONE AND FORTY-SEVEN HUNDREDTHS  
(441.47) GRAMS METHAMPHETAMINE;  
APPROXIMATELY TWELVE AND SEVENTY-NINE-  
HUNDREDTHS (12.79) GRAMS MARIJUANA; TEN (10)  
16-MG PILLS HYDROMORPHONE; ONE (1) TAURUS  
MILLENNIUM 9-MM HANDGUN, MODEL PT111,  
SERIAL NO. TSC27053, WITH ONE (1) MAGAZINE OF  
TEN (10) ROUNDS 9-MM AMMUNITION; TWO (2)  
FOLDING KNIVES; ONE (1) VIPERTEK TASER; ONE (1)  
DIGITAL SCALE WITH RESIDUE AND BLACK CASE;  
FOUR (4) DIGITAL SCALES IN BOXES; ONE (1) GREEN  
METAL CONTAINER; ONE (1) ORANGE MESH BAG;  
ONE (1) RED MESH BAG; ONE (1) BLACK MESH BAG;  
ONE (1) BLUE CHASE BANK BAG; VARIOUS PLASTIC  
ZIPLOC BAGS; TWO (2) GLASS PIPES WITH BURNT  
RESIDUE; ONE (1) SMALL METAL SMOKING PIPE  
WITH BURNT RESIDUE; TEN (10) GLASS BONGS; AND  
THIRTY-ONE (31) GLASS PIPES,

Defendants.

Supreme Court Case No. 44026

CERTIFICATE OF SERVICE

I, CHRISTOPHER D. RICH, the undersigned authority, do hereby certify that I have  
personally served or mailed, by either United States Mail or Interdepartmental Mail, one copy of  
the following:

CERTIFICATE OF SERVICE

000281

CLERK'S RECORD AND REPORTER'S TRANSCRIPT

to each of the Attorneys of Record in this cause as follows:

CATHERINE A. FEEMAN

JOSEPH C. MILLER

ATTORNEY FOR APPELLANT

ATTORNEY FOR RESPONDENT

BOISE, IDAHO

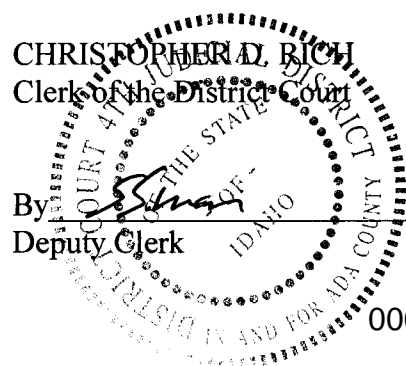
BOISE, IDAHO

Date of Service: APR 22 2016

CERTIFICATE OF SERVICE

CHRISTOPHER D. RICH  
Clerk of the District Court

By [Signature]  
Deputy Clerk



000282

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

ADA COUNTY PROSECUTING ATTORNEY,

Plaintiff-Appellant,

vs.

NINE THOUSAND FOUR HUNDRED FIFTEEN AND  
64/100 DOLLARS (\$9,415.64) UNITED STATES  
CURRENCY,

Defendant-Respondent,

and

WILLIAM SCOTT DEMINT,

Claimant-Respondent,

and

1998 FORD F150, VIN 1FTRX18L9WKB27754; TWELVE  
THOUSAND SEVEN HUNDRED NINETY-FOUR  
DOLLARS AND 00/100 (\$12,794.00) UNITED STATES  
CURRENCY; APPROXIMATELY FOUR HUNDRED  
FORTY-ONE AND FORTY-SEVEN HUNDREDTHS  
(441.47) GRAMS METHAMPHETAMINE;  
APPROXIMATELY TWELVE AND SEVENTY-NINE-  
HUNDREDTHS (12.79) GRAMS MARIJUANA; TEN (10)  
16-MG PILLS HYDROMORPHONE; ONE (1) TAURUS  
MILLENNIUM 9-MM HANDGUN, MODEL PT111,  
SERIAL NO. TSC27053, WITH ONE (1) MAGAZINE OF  
TEN (10) ROUNDS 9-MM AMMUNITION; TWO (2)  
FOLDING KNIVES; ONE (1) VIPERTEK TASER; ONE (1)  
DIGITAL SCALE WITH RESIDUE AND BLACK CASE;  
FOUR (4) DIGITAL SCALES IN BOXES; ONE (1) GREEN  
METAL CONTAINER; ONE (1) ORANGE MESH BAG;  
ONE (1) RED MESH BAG; ONE (1) BLACK MESH BAG;  
ONE (1) BLUE CHASE BANK BAG; VARIOUS PLASTIC  
ZIPLOC BAGS; TWO (2) GLASS PIPES WITH BURNT  
RESIDUE; ONE (1) SMALL METAL SMOKING PIPE  
WITH BURNT RESIDUE; TEN (10) GLASS BONGS; AND  
THIRTY-ONE (31) GLASS PIPES,

Defendants.

Supreme Court Case No. 44026

CERTIFICATE TO RECORD

I, CHRISTOPHER D. RICH, Clerk of the District Court of the Fourth Judicial District of the  
State of Idaho, in and for the County of Ada, do hereby certify that the above and foregoing record in  
the above-entitled cause was compiled under my direction and is a true and correct record of the

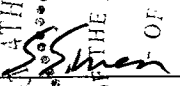
CERTIFICATE TO RECORD

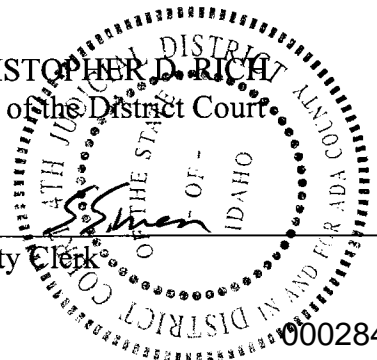
000283

pleadings and documents that are automatically required under Rule 28 of the Idaho Appellate Rules, as well as those requested by Counsel.

I FURTHER CERTIFY, that the Notice of Appeal was filed in the District Court on the 7th day of March 2016.

CHRISTOPHER D. RICH  
Clerk of the District Court

By   
Deputy Clerk



CERTIFICATE TO RECORD

000284