

Uldaho Law

## Digital Commons @ Uldaho Law

---

Idaho Supreme Court Records & Briefs, All

Idaho Supreme Court Records & Briefs

---

7-7-2017

### Kosmann v. Dinius Clerk's Record v. 1 Dckt. 45779

Follow this and additional works at: [https://digitalcommons.law.uidaho.edu/idaho\\_supreme\\_court\\_record\\_briefs](https://digitalcommons.law.uidaho.edu/idaho_supreme_court_record_briefs)

---

#### Recommended Citation

"Kosmann v. Dinius Clerk's Record v. 1 Dckt. 45779" (2017). *Idaho Supreme Court Records & Briefs, All*. 7454.

[https://digitalcommons.law.uidaho.edu/idaho\\_supreme\\_court\\_record\\_briefs/7454](https://digitalcommons.law.uidaho.edu/idaho_supreme_court_record_briefs/7454)

This Court Document is brought to you for free and open access by the Idaho Supreme Court Records & Briefs at Digital Commons @ Uldaho Law. It has been accepted for inclusion in Idaho Supreme Court Records & Briefs, All by an authorized administrator of Digital Commons @ Uldaho Law. For more information, please contact [annablaine@uidaho.edu](mailto:annablaine@uidaho.edu).

IN THE SUPREME COURT OF THE  
STATE OF IDAHO

DAVID A. KOSMANN, )  
 )  
 Plaintiff-Appellant, )  
 )  
 -vs- ) Supreme Court No. 45779-2018  
 )  
 LEO GILBRIDE, )  
 )  
 Defendant-Respondent, )  
 )  
 \_\_\_\_\_ )  
 )  
 DAVID A. KOSMANN, )  
 )  
 Plaintiff-Appellant, )  
 )  
 KEVIN DINIUS an individual; and DINIUS )  
 & ASSOCIATES, PLLC, an Idaho professional )  
 limited liability company, )  
 )  
 Defendants-Respondents. )  
 )

Appeal from the Third Judicial District, Canyon County, Idaho.

HONORABLE GENE A. PETTY, Presiding

Loren K. Messerly, ISB #7434, Messerly Law, PLLC  
2350 E. Roanoke Dr., Boise, Idaho 83712

Attorney for Appellant

Robert A. Anderson, Yvonne A. Dunbar, ANDERSON, JULIAN & HULL, LLP  
250 S. Fifth Street, Suite 700, PO Box 7426, Boise, Idaho 83707-7426

Attorney for Respondents

**CASE SUMMARY**

**CASE NO. CV-2013-795**

**David A Kosmann  
vs.  
Leo Gilbride**

§  
§  
§  
§  
§  
§

Location: **Canyon County District Court**  
 Judicial Officer: **Petty, Gene A.**  
 Filed on: **01/25/2013**  
 Case Number History:  
 Appellate Case Number: **45779-2018**  
 Previous Case Number: **CV-2013-795-C**

**CASE INFORMATION**

**Statistical Closures**

03/14/2017 Closed

Case Type: **AA- All Initial District Court Filings (Not E, F, and H1)**

**Bonds**

Transcript Bond \$200.00  
 2/2/2018 Posted  
 4/13/2018 Exonerated  
 Counts: 1

Case Status: **02/02/2018 Appealed Case - Supreme Court Appeal**

Cash Bond #CV-2013-795 \$78.65  
 2/9/2016 Converted  
 1/5/2016 Posted  
 Counts: 1

Transcript Bond #CV-2013-795 \$200.00  
 1/27/2016 Converted  
 8/14/2015 Posted  
 Counts: 1

Cash Bond #CV-2013-795 \$102.05  
 2/9/2016 Converted  
 8/10/2015 Posted  
 Counts: 1

Cash Bond #CV-2013-795 \$38,590.54  
 8/7/2015 Posted  
 11/7/2017 Ready to Convert  
 11/7/2017 Converted  
 11/7/2017 Converted  
 11/7/2017 Converted  
 1/19/2017 Converted  
 Counts: 1

Cash Bond #CV-2013-795 \$100.00  
 2/5/2016 Converted  
 6/2/2015 Posted  
 Counts: 1

**DATE**

**CASE ASSIGNMENT**

**Current Case Assignment**

Case Number	CV-2013-795
Court	Canyon County District Court
Date Assigned	05/17/2017
Judicial Officer	Petty, Gene A.

**PARTY INFORMATION**

**Plaintiff Kosmann, David A**










*Lead Attorneys*

**CASE SUMMARY****CASE NO. CV-2013-795****Messerly, Loren Keith***Retained*

208-407-2188(W)

**Defendant****Gilbride, Leo****Dinius, Kevin Eugene***Retained*

208-475-0100(W)

DATE	EVENTS & ORDERS OF THE COURT	INDEX
01/25/2013	New Case Filed Other Claims <i>New Case Filed-Other Claims</i>	
01/25/2013	 Summons Issued <i>Summons Issued</i>	
01/25/2013	Miscellaneous <i>Filing: A - All initial civil case filings of any type not listed in categories B-H, or the other A listings below Paid by: Dinius, Kevin E (attorney for Kosmann, David A) Receipt number: 0005022 Dated: 1/25/2013 Amount: \$96.00 (Check) For: Kosmann, David A (plaintiff)</i>	
01/25/2013	 Complaint Filed	
01/28/2013	 Motion <i>Motion for First (Automatic) Disqualification of Judge (Fax)</i>	
01/28/2013	 Notice of Appearance <i>Notice Of Appearance - Shepard</i>	
01/28/2013	Miscellaneous <i>Filing: II - Initial Appearance by persons other than the plaintiff or petitioner Paid by: Shepherd, Ronald (attorney for Gilbride, Leo) Receipt number: 0005312 Dated: 1/28/2013 Amount: \$66.00 (Check) For: Gilbride, Leo (defendant)</i>	
01/30/2013	 Notice <i>Notice of Service of a Discovery Document (fax)</i>	
01/31/2013	 Order <i>Order for First (Automatic) Disqualification of Judge</i>	
01/31/2013	Change Assigned Judge <i>Change Assigned Judge</i>	
01/31/2013	 Affidavit of Service <i>Affidavit Of Service 1/27/13 Leo (fax)</i>	
02/04/2013	Order <i>Order of Assignment</i>	
02/19/2013	 Answer <i>Answer, Counterclaim and Demand for Jury Trial</i>	
02/26/2013	 Miscellaneous <i>Request for Trial Setting (fax)</i>	
02/27/2013	Response to Request for Trial Setting <i>Defendants/Counterclaimants Response To Request For Trial Setting</i>	

**CASE SUMMARY**

**CASE NO. CV-2013-795**

02/28/2013  Notice of Taking Deposition Duces Tecum  
*Notice Of Taking Audio-Visual Deposition of Lio Gilbride -- Duces Tecu (fax)*

03/04/2013  Notice of Service  
*Notice Of Service of Discovery Responses*

03/08/2013  Notice of Service  
*Notice Of Service of Discovery Requests*

03/12/2013  Miscellaneous  
*Answer to Counterclaim (fax)*

04/09/2013  Notice of Service of Discovery Requests  
*Notice of Service of a Discovery Document (Fax)*

05/01/2013  Notice  
*Notice of Taking Deposition of David Kosmann*

05/03/2013  Notice  
*Notice of Continued Audio-Visual Deposition of Leo Gilbride -- Duces Tecum Pursuant to Idaho Rule of Civil Procedure (fax)*

05/07/2013  Notice  
*Amended Notice of Continued Audio-Visual Deposition of Leo Gilbride Duces Tecum (fax)*

05/13/2013  Notice of Service  
*Notice Of Service of A Discovery Document (fax)*

06/11/2013  Motion  
*Defendant's Motion For Partial Summary Judgment*

06/11/2013  Memorandum  
*Defendants Memorandum In Support of Motion For Partial Summary Judgment*

06/11/2013  Affidavit  
*Affidavit of Ron R Shepherd*

06/11/2013  Affidavit  
*Affidavit of Leo Gilbride*

06/11/2013  Notice of Hearing  
*Notice Of Hearing (Defendants Motion for Partial Summary Judgment) 7/11/13*

06/12/2013 Hearing Scheduled  
*Hearing Scheduled (Motion Hearing 07/11/2013 09:00 AM) motn for partial summary judgmnt*

06/20/2013  Motion  
*Plnt's Rule 56(f) Motion (fax)*

06/20/2013  Affidavit

**CASE SUMMARY**

**CASE NO. CV-2013-795**


- Affidavit in Support of Plnt's Rule 56(f) Motion (fax)*
- 06/20/2013  Notice of Hearing  
*Notice Of Hearing 7/11/13 @ 9:00am (fax)*
  - 06/25/2013  Notice  
*Notice of Service of a Discovery Document*
  - 06/26/2013  Motion  
*Motion for Leave to File First Amended Complaint (fax)*
  - 06/26/2013  Notice of Hearing  
*Notice Of Hearing-7/11/13 (fax)*
  - 06/27/2013  Affidavit  
*Affidavit of Michele Phillips*
  - 06/27/2013  Miscellaneous  
*Opposition to Defendant's Motion for Partial Summary Judgment*
  - 06/27/2013  Affidavit  
*Affidavit of Kevin E Dinius In Support of Opposition to Defendants Motion for Partial Summary Judgment*
  - 06/27/2013  Affidavit
  - 07/05/2013  Brief Filed  
*Reply Brief in Support of Motion for Summary Jdmt*
  - 07/05/2013  Memorandum  
*Memorandum in Opposition to Plnt's Motion for Leave to File First Amended Complaint*
  - 07/05/2013  Memorandum  
*Memorandum in Opposition to Plnt's Rule 56(f) Motion*
  - 07/05/2013  Notice of Substitution of Counsel
  - 07/11/2013 DC Hearing Held: Court Reporter: # of Pages:  
*Hearing result for Motion Hearing scheduled on 07/11/2013 09:00 AM: District Court Hearing Held*  
*Court Reporter: Kathy Klementson*  
*Number of Transcript Pages for this hearing estimated: less than 100 pages defn's motn for partial summary judgmnt / Plnt's Rule 56(f) Motn*
  - 07/11/2013 Hearing Held  
*Hearing result for Motion Hearing scheduled on 07/11/2013 09:00 AM: Hearing Held defn's motn for partial summary judgmnt / Plnt's Rule 56(f) Motn*
  - 07/11/2013 Hearing Held  
*Hearing result for Motion Hearing scheduled on 07/11/2013 09:00 AM: Motion Held defn's motn for partial summary judgmnt / Plnt's Rule 56(f) Motn*
  - 07/11/2013 Motion Denied  
*Hearing result for Motion Hearing scheduled on 07/11/2013 09:00 AM: Motion to Continue Denied ( Plnt's Rule 56(f) Motn)*


**CASE SUMMARY**


**CASE NO. CV-2013-795**


07/11/2013 Motion Denied  
*Motion for Partial Summary Judgment Denied in part - Court to render written decision on remaining issues.*


07/11/2013 **Motion Hearing** (9:00 AM) (Judicial Officer: Kerrick, Juneal C.)  
*defn's motn for partial summary judgmnt / Plnt's Rule 56(f) Motn Hearing result for Motion Hearing scheduled on 07/11/2013 09:00 AM: District Court Hearing Held  
Court Reporter: Kathy Klementson  
Number of Transcript Pages for this hearing estimated: less than 100 pages*

07/11/2013  Court Minutes


08/09/2013  Decision or Opinion  
*Order on Motion for Summary Judgment (plts motn to cont def summ judg-denied, defs motn for summ judg dismissing counts 1 & 3-granted, plts motn for leave to file amended comp, granted)*


08/14/2013  Complaint Filed  
*First Amended Complaint and Demand for Jury Trial (fax)*


08/14/2013  Motion  
*Motion for an Order to Mediate (fax)*


08/14/2013  Notice of Hearing  
*Notice Of Hearing 9/12/2013 (fax)*


08/14/2013 Hearing Scheduled  
*Hearing Scheduled (Motion Hearing 09/12/2013 09:00 AM) Motion for Order to Mediate*


08/19/2013  Miscellaneous  
*Request for Trial and Pretrial Setting (Fax)*


08/20/2013  Motion  
*Motion for Leave to Amend Counterclaim*

08/20/2013  Memorandum  
*Memorandum in Support of Motion for Leave to Amend Counterclaim*


08/20/2013  Notice of Hearing  
*Notice Of Hearing 9-12-13*

08/21/2013  Stipulation  
*Stipulation for Mediation (Fax)*

08/23/2013  Notice of Service of Discovery Requests  
*Notice of Service of a Discovery Document (Fax)*











08/23/2013  Response to Request for Trial Setting

08/26/2013 Miscellaneous  
*Response to Request for Trial Setting (Fax)*

09/05/2013  Motion

**CASE SUMMARY**



**CASE NO. CV-2013-795**

	<i>Motion for an Order to Deposit Funds (fax)</i>
09/05/2013	 Motion <i>Motion for an Order to Shorten time (fax)</i>
09/05/2013	 Notice of Hearing <i>Notice Of Hearing 9-12-13 (fax)</i>
09/05/2013	 Affidavit <i>Affidavit of Kevin E Dinius in support of Motion for an Order to Deposit Funds (fax)</i>
09/10/2013	 Objection <i>Objection to Motion for an Order to Deposit Funds (fax)</i>
09/12/2013	DC Hearing Held: Court Reporter: # of Pages: <i>Hearing result for Motion Hearing scheduled on 09/12/2013 09:00 AM: District Court Hearing Held</i> <i>Court Reporter: Kathy Klemetson</i> <i>Number of Transcript Pages for this hearing estimated: Less than 100</i>
09/12/2013	Hearing Held <i>Hearing result for Motion Hearing scheduled on 09/12/2013 09:00 AM: Hearing Held</i>
09/12/2013	Hearing Held <i>Hearing result for Motion Hearing scheduled on 09/12/2013 09:00 AM: Motion Held- Motion for Order to Mediate//Defendant's Motion to Amend Counterclaim//Plaintiff's Motion for an Order to Deposit Funds &lt;&lt;&lt;Stip reached as to all motions-attys to prepare appropriate orders&gt;&gt;&gt;</i>
09/12/2013	 Mediation Ordered* <i>Mediation Ordered</i>
09/12/2013	Hearing Scheduled <i>Hearing Scheduled (Mediation - DC 10/24/2013 09:00 AM)</i>
09/12/2013	<b>Motion Hearing</b> (9:00 AM) (Judicial Officer: Kerrick, Juneal C.) <i>Hearing result for Motion Hearing scheduled on 09/12/2013 09:00 AM: District Court Hearing Held</i> <i>Court Reporter: Kathy Klemetson</i> <i>Number of Transcript Pages for this hearing estimated: Less than 100</i>
09/12/2013	 Court Minutes
09/17/2013	 Answer <i>Answer to First amended Complaint and First Amended Counterclaim</i>
09/20/2013	 Order <i>Order Granting Motion for Leave to Amend Counterclaim</i>
09/26/2013	 Notice of Service of Discovery Requests <i>Notice of Service Re: Discovery (fax)</i>
10/10/2013	 Motion <i>Defendants Second Motion for Partial Summary Judgment</i>
10/10/2013	



**CASE SUMMARY**

**CASE NO. CV-2013-795**



	 Memorandum <i>Memorandum in Support of Defendants Second Motion for Partial Summary Judgment</i>
10/10/2013	 Affidavit <i>Affidavit of Leo Gilbride</i>
10/10/2013	 Notice of Hearing <i>Notice Of Hearing</i>
10/10/2013	Hearing Scheduled <i>Hearing Scheduled (Motion Hearing 11/07/2013 09:00 AM) Def Second Motion/Partial Summary Judgment</i>
10/16/2013	 Objection <i>Objection to Proposed Order to Deposit Funds (fax)</i>
10/24/2013	 Notice of Hearing <i>Notice Of Hearing-11/7/13 (fax)</i>
10/24/2013	 Miscellaneous <i>Opposition to Defendants Second Motion for Partial Summary Judgment (fax)</i>
10/24/2013	 Motion <i>Motion to Strike and Disregard Certain Testimony of Leo Gilbride (fax)</i>
10/24/2013	 Memorandum <i>Memorandum in Support of Motion to Strike and Disregard Certain Testimony of Leo Gilbride (fax)</i>
10/24/2013	 Notice of Hearing <i>Notice Of Hearing 11-7-13 (fax)</i>
10/25/2013	 Motion <i>Defendants Motion for Partial Reconsideration (fax)</i>
10/25/2013	 Memorandum <i>Memorandum in Support of Motion for Partial Reconsideration of the Courts Order on Motion for Summary Judgment (fax)</i>
10/25/2013	 Notice of Hearing <i>Notice Of Hearing 11-7-13 (fax)</i>
10/31/2013	 Miscellaneous <i>Opposition to Defendants Motion for Partial Reconsideration (fax)</i>
11/07/2013	DC Hearing Held: Court Reporter: # of Pages: <i>Hearing result for Motion Hearing scheduled on 11/07/2013 09:00 AM: District Court Hearing Held Court Reporter: Kathy Klemetson Number of Transcript Pages for this hearing estimated: Less than 100</i>
11/07/2013	Hearing Held <i>Hearing result for Motion Hearing scheduled on 11/07/2013 09:00 AM: Hearing Held</i>

**CASE SUMMARY**

**CASE NO. CV-2013-795**

11/07/2013	Hearing Held <i>Hearing result for Motion Hearing scheduled on 11/07/2013 09:00 AM: Motion Held-Defendant's Second Motion for Summary Judgment----Defendant's Motion for Partial Reconsideration---Plaintiff's Motion to Strike--Objection to Proposed Order to Deposit Funds-</i>
11/07/2013	Motion Denied <i>Motion Denied</i>
11/07/2013	<b>Motion Hearing (9:00 AM)</b> (Judicial Officer: Kerrick, Juneal C.) <i>Hearing result for Motion Hearing scheduled on 11/07/2013 09:00 AM: District Court Hearing Held Court Reporter: Kathy Klemetson Number of Transcript Pages for this hearing estimated: Less than 100</i>
11/07/2013	 Court Minutes
11/12/2013	 Miscellaneous <i>Request for Trial Setting (fax)</i>
11/14/2013	 Order <i>Order Denying Defn's Second Motion for Partial Summary Judgment and Motion for Partial Reconsideration</i>
11/14/2013	 Order <i>Order to Defosit Funds</i>
11/19/2013	 Response to Request for Discovery <i>Plaintiff's Response For Request For Trial Setting (fax)</i>
11/21/2013	 Miscellaneous <i>Order Setting Case for trial and pretrial conference</i>
11/21/2013	Hearing Scheduled <i>Hearing Scheduled (Jury Trial 12/02/2014 09:00 AM) 4 - day</i>
11/21/2013	Hearing Scheduled <i>Hearing Scheduled (Pre Trial 10/14/2014 08:30 AM)</i>
12/03/2013	 Notice of Service <i>Notice Of Service of Discovery Requests (fax)</i>
12/04/2013	 Stipulation <i>Stipulation for Scheduling and Planning (fax)</i>
12/18/2013	 Notice of Hearing <i>Notice Of Hearing (fax)</i>
12/18/2013	Hearing Scheduled <i>Hearing Scheduled (Motion Hearing 01/09/2014 09:00 AM) Defn's Motion to Releas Funds</i>
12/18/2013	 Motion <i>Defn's Motn for Order to Release Funds (fax)</i>
12/20/2013	 Notice of Taking Deposition Duces Tecum

**CASE SUMMARY**  
**CASE NO. CV-2013-795**

- Notice Of Taking Deposition of Michele Phillips (fax)*
- 12/20/2013  Notice of Taking Deposition Duces Tecum  
*Notice Of Taking Deposition of Justin Mccarthy (fax)*
- 12/24/2013  Notice of Taking Deposition Duces Tecum  
*Notice Of Taking Audio Visual Deposition of Justin Mccarthy Duces tecum Pursuant to Idaho Rule of Civil Procedure 30 (b) (4) (fax)*
- 01/03/2014  Notice of Service of Discovery Requests  
*Notice of Service of a Discovery Document (Fax)*
- 01/07/2014  Stipulation  
*Stipulation to Release Funds*
- 01/08/2014 Hearing Vacated  
*Hearing result for Motion Hearing scheduled on 01/09/2014 09:00 AM: Hearing Vacated Defn's Motion to Releas Funds*
- 01/08/2014  Order  
*Order to Release Funds*
- 01/09/2014 **CANCELED Motion Hearing (9:00 AM)** (Judicial Officer: Kerrick, Juneal C.)  
*Vacated*  
*Defn's Motion to Releas Funds Hearing result for Motion Hearing scheduled on 01/09/2014 09:00 AM: Hearing Vacated*
- 02/14/2014  Affidavit of Service  
*Affidavit Of Service-2-12-14 Justin McCarthy Sub (fax)*
- 03/07/2014  Miscellaneous  
*Defendants Disclosure of Expert Witness*
- 03/07/2014  Notice of Service  
*Notice Of Service of Discovery Responses*
- 03/20/2014  Notice of Service of Discovery Requests  
*Notice of Service Re: Discovery Responses (Def Third Suppl (fax)*
- 04/07/2014 Miscellaneous  
*Miscellaneous Payment: CD Copies Paid by: Kosmann, David A Receipt number: 0023254 Dated: 4/7/2014 Amount: \$6.25 (Check)*
- 04/10/2014  Miscellaneous  
*Subpoena Duces Tecum to Fairway Independent Mortgage Corporartion (fax)*
- 04/10/2014  Affidavit of Service  
*Affidavit Of Service 4/8/14 (fax)*
- 04/14/2014  Miscellaneous  
*Subpoena Duces Tecum to Canyon County Development Services (fax)*
- 04/14/2014  Affidavit of Service  
*Affidavit Of Service - (fax)*

**CASE SUMMARY**










**CASE NO. CV-2013-795**

- 05/21/2014  Motion  
*Defendants Third Motion for Partial Summary Judgment*
- 05/21/2014  Affidavit  
*Affidavit of Ron R Shepherd in Support of Defendants Third Motion for Partial Summary Judgment*
- 05/21/2014  Memorandum  
*Memorandum in Support of Defendants Third Motion for Partial Summary Judgment*
- 05/21/2014  Notice of Hearing  
*Notice Of Hearing 7-10-14*
- 05/21/2014 Hearing Scheduled  
*Hearing Scheduled (Motion Hearing 07/10/2014 09:00 AM) defs third motn for partial summ judg*
- 06/26/2014  Miscellaneous  
*Opposition to Defendant's Third Motion for Partial Summary Judgment*
- 06/26/2014  Miscellaneous  
*Declaration of David Kosmann in Support of Opposition to Defendant's Third Motion for Partial Summary Judgment*
- 07/10/2014 Hearing Held  
*Hearing result for Motion Hearing scheduled on 07/10/2014 09:00 AM: Hearing Held defs third motn for partial summ judg*
- 07/10/2014 Case Taken Under Advisement  
*Hearing result for Motion Hearing scheduled on 07/10/2014 09:00 AM: Case Taken Under Advisement defs third motn for partial summ judg*
- 07/10/2014 DC Hearing Held: Court Reporter: # of Pages:  
*Hearing result for Motion Hearing scheduled on 07/10/2014 09:00 AM: District Court Hearing Held  
Court Reporter: Kathy Klemetson  
Number of Transcript Pages for this hearing estimated: less than 100 pages*
- 07/10/2014 **Motion Hearing** (9:00 AM) (Judicial Officer: Kerrick, Juneal C.)  
*defs third motn for partial summ judg Hearing result for Motion Hearing scheduled on 07/10/2014 09:00 AM: Hearing Held*
- 07/10/2014  Court Minutes
- 07/24/2014  Order  
*Order on Defendant's Third Motion for Summary Judgment-DENIED*
- 08/04/2014  Notice of Taking Deposition Duces Tecum  
*Notice Of Taking Audio-Visual Deposition of Eric Arthur--Duces Tecum (fax)*
- 08/04/2014  Notice of Service  
*Notice Of Service of a Discovery Document (fax)*
- 08/27/2014  Substitution of Counsel

**CASE SUMMARY**





**CASE NO. CV-2013-795**

*Stipulation for Substitution Of Counsel-for Defendant (fax)*

- 08/28/2014  Notice of Taking Deposition Duces Tecum  
*Amended Notice Of Taking Audio-Visual Deposition of Eric Arthur-Duces Tecum Pursuant to Idaho Rule of Civil Procedure 30 (b) (4) fax*
- 08/28/2014  Notice of Taking Deposition Duces Tecum  
*Amended Deposition Subpoena Duces Tecum to Eric Arthur (fax)*
- 08/29/2014  Notice  
*Notice of Telephonic Status Conference 9-4-14 (fax)*
- 08/29/2014 Hearing Scheduled  
*Hearing Scheduled (Conference - Status 09/04/2014 11:00 AM) telephonic*
- 09/04/2014 DC Hearing Held: Court Reporter: # of Pages:  
*Hearing result for Conference - Status scheduled on 09/04/2014 11:00 AM: District Court Hearing Held*  
*Court Reporter: Kathy Klemetson*  
*Number of Transcript Pages for this hearing estimated: Less than 100*
- 09/04/2014 Hearing Held  
*Hearing result for Conference - Status scheduled on 09/04/2014 11:00 AM: Hearing Held*
- 09/04/2014 Hearing Vacated  
*Hearing result for Jury Trial scheduled on 12/02/2014 09:00 AM: Hearing Vacated 4 - day*
- 09/04/2014 Hearing Scheduled  
*Hearing Scheduled (Jury Trial 01/27/2015 09:00 AM) 4 days*
- 09/04/2014 **Status Conference (11:00 AM)** (Judicial Officer: Kerrick, Juneal C.)  
*Hearing result for Conference - Status scheduled on 09/04/2014 11:00 AM: District Court Hearing Held*  
*Court Reporter: Kathy Klemetson*  
*Number of Transcript Pages for this hearing estimated: Less than 100*
- 09/04/2014  Court Minutes
- 09/08/2014  Order  
*Amended Order Setting Pretrial Conference and Jury Trial*
- 09/15/2014  Stipulation  
*Stipulation to Reset Pre Trial Conference (fax)*
- 09/26/2014  Stipulation  
*Stipulation to Amend Order to Deposit Funds (w/order) (Fax)*
- 10/02/2014  Order  
*Order Amending Order to Deposit Funds*
- 10/02/2014  Order  
*Order Resetting Pre-Trial Conference*
- 10/02/2014 Hearing Vacated  
*Hearing result for Pre Trial scheduled on 10/14/2014 08:30 AM: Hearing Vacated*

**CASE SUMMARY**

**CASE NO. CV-2013-795**

10/02/2014	Hearing Scheduled <i>Hearing Scheduled (Pre Trial 11/06/2014 08:30 AM) Pre Trial Conference</i>
10/14/2014	<b>CANCELED Pre Trial</b> (8:30 AM) (Judicial Officer: Kerrick, Juneal C.) <i>Vacated</i> <i>Hearing result for Pre Trial scheduled on 10/14/2014 08:30 AM: Hearing Vacated</i>
11/06/2014	DC Hearing Held: Court Reporter: # of Pages: <i>Hearing result for Pre Trial scheduled on 11/06/2014 08:30 AM: District Court Hearing Held</i> <i>Court Reporter: Kathy Klemetson</i> <i>Number of Transcript Pages for this hearing estimated: Less than 100</i>
11/06/2014	Hearing Held <i>Hearing result for Pre Trial scheduled on 11/06/2014 08:30 AM: Hearing Held</i>
11/06/2014	 Notice of Hearing <i>Hearing result for Pre Trial scheduled on 11/06/2014 08:30 AM: Notice Of Hearing</i>
11/06/2014	Hearing Scheduled <i>Hearing Scheduled (Conference - Status 01/09/2015 09:30 AM) {BLOCK 1 HR}</i>
11/06/2014	<b>Pre Trial</b> (8:30 AM) (Judicial Officer: Kerrick, Juneal C.) <i>Hearing result for Pre Trial scheduled on 11/06/2014 08:30 AM: District Court Hearing Held</i> <i>Court Reporter: Kathy Klemetson</i> <i>Number of Transcript Pages for this hearing estimated: Less than 100</i>
11/06/2014	 Court Minutes
12/01/2014	 Notice of Service <i>Notice Of Service of Defn's fourth supplemental response (fax)</i>
12/02/2014	 Notice of Service <i>Notice Of Service of a Discovery Document (fax)</i>
12/02/2014	<b>Jury Trial</b> (9:00 AM) (Judicial Officer: Kerrick, Juneal C.) <b>12/03/2014-12/05/2014</b> <i>4 - day Hearing result for Jury Trial scheduled on 12/02/2014 09:00 AM: Hearing Vacated</i>
12/23/2014	 Brief Filed <i>Plaintiff's Pre-Trial Brief (Fax)</i>
12/23/2014	 Miscellaneous <i>Plaintiff's Witness and Exhibit List (Fax)</i>
12/23/2014	 Miscellaneous <i>Plaintiff's Proposed Jury Instructions Filed (Fax)</i>
12/26/2014	 Notice of Service <i>Notice Of Service (fax)</i>
12/29/2014	 Miscellaneous
12/29/2014	 Miscellaneous
12/30/2014	Miscellaneous <i>Defendants Witness List</i>

**CASE SUMMARY**

**CASE NO. CV-2013-795**

- 12/30/2014  Miscellaneous  
*Defendants Proposed Jury Instructions*
- 12/30/2014  Miscellaneous  
*Defendants Exhibit List*
- 12/31/2014  Pretrial Memorandum  
*Defendant's Pre-trial Memorandum (fax)*
- 12/31/2014  Notice of Service  
*Notice Of Service (fax)*
- 01/02/2015  Notice of Service  
*Notice Of Service (fax)*
- 01/08/2015  Miscellaneous  
*Declaration of Kevin E. Dinius In Support of Plaintiff's Motion in Limine*
- 01/08/2015  Motion  
*Plaintiff's Motion in Limine*
- 01/09/2015 DC Hearing Held: Court Reporter: # of Pages:  
*Hearing result for Conference - Status scheduled on 01/09/2015 09:30 AM: District Court Hearing Held*  
*Court Reporter: Kathy Klemetson*  
*Number of Transcript Pages for this hearing estimated: Less than 100*
- 01/09/2015  Hearing Held  
*Hearing result for Conference - Status scheduled on 01/09/2015 09:30 AM: Hearing Held*
- 01/09/2015  Hearing Scheduled  
*Hearing Scheduled (Motion Hearing 01/21/2015 01:30 PM) {BLOCK p.m.} Motion in Limine*
- 01/09/2015  Notice of Hearing  
*(Plaintiff's ) Notice Of Hearing (Mot in Limine)*
- 01/09/2015 **Status Conference (9:30 AM)** (Judicial Officer: Kerrick, Juneal C.)  
*Hearing result for Conference - Status scheduled on 01/09/2015 09:30 AM: District Court Hearing Held*  
*Court Reporter: Kathy Klemetson*  
*Number of Transcript Pages for this hearing estimated: Less than 100*
- 01/13/2015  Miscellaneous  
*Defendant's Response to Plaintiff's Motion in Limine*
- 01/13/2015  Affidavit  
*Affidavit of Counsel in Opposition to Plaintiff's Motion in Limine*
- 01/14/2015  Affidavit of Service  
*Affidavit Of Service-Justin 1-12-15 (Subpoena) (fax)*
- 01/16/2015  Affidavit of Service  
*Affidavit Of Service-1-15-15 Subpoena Justin (fax)*

**CASE SUMMARY**

**CASE NO. CV-2013-795**

- 01/21/2015 DC Hearing Held: Court Reporter: # of Pages:  
*Hearing result for Motion Hearing scheduled on 01/21/2015 01:30 PM: District Court Hearing Held*  
*Court Reporter: Kathy Klemetson*  
*Number of Transcript Pages for this hearing estimated: Less than 100*
- 01/21/2015  Hearing Held  
*Hearing result for Motion Hearing scheduled on 01/21/2015 01:30 PM: Motion Held-Plaintiff's Motion in Limine -{Denied with regard to exclusion of witnesses and reserved ruling on documentary evidence}*
- 01/21/2015 **Motion Hearing** (1:30 PM) (Judicial Officer: Kerrick, Juneal C.)  
*Hearing result for Motion Hearing scheduled on 01/21/2015 01:30 PM: District Court Hearing Held*  
*Court Reporter: Kathy Klemetson*  
*Number of Transcript Pages for this hearing estimated: Less than 100*
- 01/26/2015  Order  
*Order on Plaintiff's Motion in Limine*
- 01/26/2015  Pretrial Memorandum  
*Defendant's Supplemental Pre-trial Memorandum Re: Illegality of Contract (FAX)*
- 01/26/2015  Miscellaneous  
*Defendant's Supplemental Proposed Jury Instructions (FAX)*
- 01/26/2015  Miscellaneous  
*Defendant's Supplemental Proposed Special Verdict Form (FAX)*
- 01/26/2015  Brief Filed  
*Plaintiff's Supplemental Pre- Trial Brief*
- 01/26/2015  Miscellaneous  
*Declaration of Kevin E. Dinius in support of Plaintiff's Supplemental Pre-Trial Brief*
- 01/26/2015  Miscellaneous  
*Declaration of Cameron McFaddan*
- 01/27/2015  Jury Trial Started  
*Hearing result for Jury Trial scheduled on 01/27/2015 09:00 AM: Jury Trial Started*
- 01/27/2015  Miscellaneous  
*Hearing result for Jury Trial scheduled on 01/27/2015 09:00 AM: Jury Instructions Filed*
- 01/27/2015 **Jury Trial** (9:00 AM) (Judicial Officer: Kerrick, Juneal C.)  
**01/27/2015-01/30/2015**  
*Hearing result for Jury Trial scheduled on 01/27/2015 09:00 AM: Jury Trial Started*
- 01/28/2015  Hearing Held  
*Hearing result for Jury Trial scheduled on 01/27/2015 09:00 AM: Hearing Held {JT day 2}*
- 01/29/2015  Hearing Held  
*Hearing result for Jury Trial scheduled on 01/27/2015 09:00 AM: Hearing Held {JT day 3}*



**CASE SUMMARY****CASE NO. CV-2013-795**

01/29/2015	Hearing Held <i>Hearing result for Jury Trial scheduled on 01/27/2015 09:00 AM: Motion Held {Defendant's Motion to Dismiss Case Under Rule 41(b) and Rule 50(a) of the I.R.C.P.}</i>
01/29/2015	Motion Granted <i>Hearing result for Jury Trial scheduled on 01/27/2015 09:00 AM: Motion Granted {Specific Performance Claim}</i>
01/29/2015	Motion Denied <i>Motion Denied-{ Unjust Enrichment Claim} -Reserved Ruling on Fraud Claim</i>
01/29/2015	Court Trial Started <i>Court Trial Started-{Changed from JT to CT based on Stipulation of parties}</i>
01/29/2015	 Miscellaneous <i>Miscellaneous-Court Reporter's Estimated Costs of a Transcript of the Record for Appeal Purposes {\$1,800.}</i>
01/29/2015	 Exhibit List/Log
02/13/2015	 Memorandum <i>Defendants Post Trial Memorandum (fax)</i>
02/13/2015	 Miscellaneous <i>Defendants Proposed Findings of Fact and Conclusions of Law (fax)</i>
02/13/2015	 Brief Filed <i>Plaintiff's Post-Trial Brief</i>
02/13/2015	 Miscellaneous <i>Plaintiff's Proposed Findings of Fact and Conclusions of Law</i>
03/30/2015	 Decision or Opinion <i>Memorandum Decision Following Court Trial</i>
03/30/2015	 Judgment <i>Judgment (Counts I,II,III,V of Amended Comp Dismissed with Prej, Plt shall Recover \$30,990.00 against Def on Count IV of the amended Comp ,Count I of Counterclaim Dismissed with Prej, Count II of Counterclaim Def shall Recover from Plt Possession of Real Property, Count III of Counterclaim Dismissed without Prej</i>
03/30/2015	Civil Disposition Entered <i>Civil Disposition Judgment entered for: Gilbride, Leo, Defendant; Kosmann, David A, Plaintiff. Filing date: 3/30/2015</i>
03/30/2015	Status Changed <i>Case Status Changed: Closed</i>
03/30/2015	 Motion <i>Plaintiff's Motion for Reconsideration (fax)</i>
03/31/2015	Miscellaneous <i>Miscellaneous Payment: For Making Copy Of Any File Or Record By The Clerk, Per Page Paid by: Dinius Law Receipt number: 0020011 Dated: 3/31/2015 Amount: \$1.00 (Check)</i>
03/31/2015	Miscellaneous

# CASE SUMMARY

CASE NO. CV-2013-795

*Miscellaneous Payment: For Certifying The Same Additional Fee For Certificate And Seal Paid by: Dinius Law Receipt number: 0020011 Dated: 3/31/2015 Amount: \$1.00 (Check)*

- 04/10/2015  Motion  
*Defendant's Motion for Attorney Fees and Costs*
- 04/10/2015  Affidavit  
*Affidavit of Ron Shepherd*
- 04/10/2015  Memorandum of Costs & Attorney Fees  
*Defendant's Memorandum of Court Costs and Attorney Fees*
- 04/10/2015 Motion  
*Plaintiffs Amended Motion to Reconsider and to Amend Findings and Conclusions of the Memorandum Decision and Judgment (fax)*
- 04/10/2015  Memorandum  
*Memorandum in Support Plaintiffs Amended Motion to Reconsider and to Amend Findings and Conclusions of the Memorandum Decision and Judgment (fax)*
- 04/13/2015  Notice of Hearing  
*Notice Of Hearing - 05.14.15 (Fax) - Not Good Date*
- 04/13/2015  Notice of Hearing  
*Amended Notice of Hearing - 05.07.15 (Fax)*
- 04/13/2015 Hearing Scheduled  
*Hearing Scheduled (Motion Hearing 05/07/2015 09:00 AM) Pltf's Motn to Reconsider & Amend Findings*
- 04/13/2015 Status Changed  
*Case Status Changed: Closed pending clerk action*
- 04/13/2015  Motion  
*Plaintiff's Motion for Attorney Fees and Costs*
- 04/13/2015  Affidavit  
*Affidavit of Kevin E. Dinius in Support of Plaintiff's Motion for Attorney Fees and Costs*
- 04/13/2015  Memorandum of Costs & Attorney Fees  
*Memorandum in Support of Plaintiff's Motion for Attorney Fees and Costs*
- 04/20/2015 Miscellaneous  
*Miscellaneous Payment: For Making Copy Of Any File Or Record By The Clerk, Per Page Paid by: Kosmann, David A Receipt number: 0024015 Dated: 4/20/2015 Amount: \$2.00 (Cash)*
- 04/21/2015  Order  
*Order on Plaintiff's Motion to Amend Findings*
- 04/21/2015 Hearing Vacated  
*Hearing result for Motion Hearing scheduled on 05/07/2015 09:00 AM: Hearing Vacated Pltf's Motn to Reconsider & Amend Findings*
- 04/23/2015 Writ Issued  
*Writ Issued Canyon Co*

**CASE SUMMARY**

**CASE NO. CV-2013-795**

04/23/2015	Miscellaneous <i>Miscellaneous Payment: Writs Of Execution Paid by: Dinius &amp; Associates Receipt number: 0025233 Dated: 4/23/2015 Amount: \$2.00 (Check)</i>
04/27/2015	 Motion <i>Defendant's Motion to Disallow Plaintiff's Claimed Costs and Attorney's Fees (fax)</i>
04/27/2015	 Memorandum <i>Memorandum in Support of Defendant's Motion to Disallow Plaintiff's Claimed Costs and Attorney's Fees (fax)</i>
04/27/2015	 Notice of Hearing <i>Notice Of Hearing</i>
04/27/2015	Hearing Scheduled <i>Hearing Scheduled (Motion Hearing 06/11/2015 09:00 AM) Defs Mot to Disallow Plaintiff's Claimed Costs &amp; Fees</i>
04/27/2015	 Memorandum <i>Memorandum in Opposition of Defendants Motion for Attorney Fees and Costs (fax)</i>
04/28/2015	 Notice of Hearing <i>Notice Of Hearing 6-11-15 (fax)</i>
05/07/2015	<b>CANCELED Motion Hearing</b> (9:00 AM) (Judicial Officer: Kerrick, Juneal C.) <i>Vacated Plf's Motn to Reconsider &amp; Amend Findings Hearing result for Motion Hearing scheduled on 05/07/2015 09:00 AM: Hearing Vacated</i>
05/18/2015	 Affidavit <i>Affidavit of Interest Due (fax)</i>
05/19/2015	Writ Returned <i>Writ Returned - Original</i>
05/19/2015	Writ Issued <i>Writ Issued - Canyon County</i>
05/19/2015	 Miscellaneous <i>Miscellaneous Payment: Writs Of Execution Paid by: Dinius &amp; Associates Receipt number: 0030264 Dated: 5/19/2015 Amount: \$2.00 (Check)</i>
06/02/2015	Miscellaneous <i>Filing: L4 - Appeal, Civil appeal or cross-appeal to Supreme Court Paid by: Dinius, Kevin E (attorney for Kosmann, David A) Receipt number: 0032940 Dated: 6/2/2015 Amount: \$129.00 (Check) For: Kosmann, David A (plaintiff)</i>
06/02/2015	Appeal Filed in Supreme Court <i>Appealed To The Supreme Court</i>
06/02/2015	 Notice of Appeal <i>Notice of Appeal-Plaintiff</i>
06/02/2015	Bond Posted - Cash <i>Bond Posted - Reporters Fee (Receipt 32942 Dated 6/2/2015 for 100.00)(Record)</i>

**CASE SUMMARY**

**CASE NO. CV-2013-795**

- 06/02/2015  Motion  
*Defendant's Motion for Stay of Execution and Motion to Shorten Time (fax)*
- 06/02/2015  Notice of Hearing  
*Notice Of Hearing (fax)*
- 06/04/2015  Memorandum  
*Memorandum in response to plailntiff's objection to defendant's motion for costs and attorney fees*
- 06/09/2015  Objection  
*Objection to Defendant's Motion for Stay of Execution and Motion to Shorten Time (Fax)*
- 06/11/2015 DC Hearing Held: Court Reporter: # of Pages:  
*Hearing result for Motion Hearing scheduled on 06/11/2015 09:00 AM: District Court Hearing Held  
Court Reporter: Kathy Klemetson  
Number of Transcript Pages for this hearing estimated: Less than 100*
- 06/11/2015 Hearing Held  
*Hearing result for Motion Hearing scheduled on 06/11/2015 09:00 AM: Hearing Held*
- 06/11/2015 Hearing Held  
*Hearing result for Motion Hearing scheduled on 06/11/2015 09:00 AM: Motion Held-Def's Mot to Disallow Plaintiff's Claimed Costs & Fees/plts opposition to defendants motn for fees and costs {Written Ruling to be issued}*
- 06/11/2015 Hearing Held  
*Hearing result for Motion Hearing scheduled on 06/11/2015 09:00 AM: Motion Held-Defendant's Motion to Stay Execution-*
- 06/11/2015 Motion Granted  
*Hearing result for Motion Hearing scheduled on 06/11/2015 09:00 AM: Motion Granted-Defendant's Motion to Stay Execution-pending further order of the Court on the attorney fees and costs-*
- 06/11/2015  Order  
*Order granting motion for stay of execution*
- 06/11/2015 **Motion Hearing (9:00 AM)** (Judicial Officer: Kerrick, Juneal C.)  
*Hearing result for Motion Hearing scheduled on 06/11/2015 09:00 AM: District Court Hearing Held  
Court Reporter: Kathy Klemetson  
Number of Transcript Pages for this hearing estimated: Less than 100*
- 06/11/2015  Court Minutes
- 06/18/2015  Order  
*Order on Motions to Disallow Costs and Fees*
- 06/19/2015  Order  
*Order Vacating Order Granting Stay of Execution*
- 07/02/2015  Judgment  
*Amended Judgment \$1,732.25 (against Plaintiff)*
- 07/02/2015 **Judgment - Other:**

**CASE SUMMARY****CASE NO. CV-2013-795**

Comment (Plt shall Recover \$30,990.00 (See Judgment) (7-2-15 Amended Judgment against Plaintiff Costs \$1,732.25 01.20.17 SATISFIED )  
 Party (Gilbride, Leo)  
 Party (Kosmann, David A)

07/07/2015  Affidavit  
*Affidavit of Interest Due (fax)*

07/08/2015 Writ Issued  
*Writ Issued Canyon*

07/08/2015 Miscellaneous  
*Miscellaneous Payment: Writs Of Execution Paid by: Dinius LAw Receipt number: 0040141  
 Dated: 7/8/2015 Amount: \$2.00 (Check)*

07/10/2015 Miscellaneous  
*Filing: L4 - Appeal, Civil appeal or cross-appeal to Supreme Court Paid by: Reid, James G  
 (attorney for Gilbride, Leo) Receipt number: 0040549 Dated: 7/10/2015 Amount: \$129.00  
 (Check) For: Gilbride, Leo (defendant)*

07/10/2015 Appeal Filed in Supreme Court  
*Appealed To The Supreme Court (Def Cross Appeal)*

07/10/2015  Notice of Appeal  
*Defendant's Notice of Cross-Appeal*

07/16/2015  Order  
*S C - Order Conditionally Dismissing Appeal*

07/28/2015  Motion  
*Defendant's motion for stay of execution and permission to Deposit Funds (Fax)*

07/29/2015  Order  
*S C - Order Granting Motion to Dismiss (for Plaintiff Kosmann)*

07/29/2015  Remittitur  
*Partial Remittitur (for Plaintiff Kosmann)*

08/05/2015  Writ Returned  
*Writ Returned Unsat*

08/06/2015  Stipulation  
*Stipulation For Substitution of Counsel (fax)*

08/07/2015  Notice  
*Notice of attorney fees lien*

08/07/2015  Order  
*Order Granting Defendants Motion for Stay of Execution and Permission to Deposit Funds (to  
 deposit \$38,590.54)*

08/07/2015 Inactive  
*Inactive*

08/07/2015 Status Changed  
*Case Status Changed: Inactive*

**CASE SUMMARY****CASE NO. CV-2013-795**

08/07/2015 Bond Posted - Cash  
*Bond Posted - Cash (Receipt 45950 Dated 8/7/2015 for 38590.54)*

08/07/2015  Miscellaneous  
*Proof of Service by Mail - Def (fax)*

08/10/2015 Bond Posted - Cash  
*Bond Posted - Cash (Receipt 46160 Dated 8/10/2015 for 102.05)(Clerk's Record)*

08/11/2015  Notice of Appeal  
*Defendant's AMENDED Notice of Appeal (fax)*

08/14/2015  Writ Returned  
*Writ Returned*

08/14/2015 Bond Posted - Cash  
*Bond Posted - Cash (Receipt 47314 Dated 8/14/2015 for 200.00)(Deposit Transcript)*

09/16/2015  Order  
*S C - Order RE: Payment of Fee for Transcripts*

12/01/2015  Objection  
*Objection and Request for Additions to the Clerk's Record Before it is Settled (fax)*

12/03/2015  Stipulation  
*Stipulation to Make Additions to the Clerk's Record before it is Settled (fax)*

12/11/2015  Order  
*Order Granting Additions to The Clerk's Record Before It Is Settled*

01/05/2016 Bond Posted - Cash  
*Bond Posted - Cash (Receipt 518 Dated 1/5/2016 for 78.65)(additon to Record)*

01/13/2016 Miscellaneous  
*Miscellaneous Payment: CD Copies Paid by: Kaufman & Reid (Layne Watkins) Receipt number: 0002271 Dated: 1/13/2016 Amount: \$6.25 (Credit card)*

01/13/2016 Miscellaneous  
*Miscellaneous Payment: Mailing Fee For Copies Paid by: Kaufman & Reid (Layne Watkins) Receipt number: 0002271 Dated: 1/13/2016 Amount: \$2.50 (Credit card)*

01/13/2016 Miscellaneous  
*Miscellaneous Payment: Technology Cost - CC Paid by: Kaufman & Reid (Layne Watkins) Receipt number: 0002271 Dated: 1/13/2016 Amount: \$3.00 (Credit card)*

01/27/2016 Bond Converted  
*Bond Converted (Transaction number 336 dated 1/27/2016 amount 200.00)(transcript)*

02/05/2016 Bond Converted  
*Bond Converted (Transaction number 455 dated 2/5/2016 amount 100.00)(refund deposit for record, dismissed before record done)*

02/09/2016 Bond Converted  
*Bond Converted (Transaction number 513 dated 2/9/2016 amount 78.65)*

02/09/2016 Bond Converted

**CASE SUMMARY**

**CASE NO. CV-2013-795**


*Bond Converted (Transaction number 514 dated 2/9/2016 amount 102.05)*

- 12/12/2016  Miscellaneous  
*S C - Opinion (Affirmed The Judgment of the District Court)*
- 12/19/2016  Motion  
*Motion for release of funds fax*
- 12/19/2016  Memorandum  
*Memorandum in support of motion for release of funds fax*
- 12/20/2016  Notice of Hearing  
*Notice Of Hearing of Kosmann's Motion for Release of Funds (fax)*
- 12/21/2016 Hearing Scheduled  
*Hearing Scheduled (Motion Hearing 01/12/2017 09:00 AM) release of funds*
- 01/04/2017  Miscellaneous  
*Defendant's Response to Motion for Release of Funds-fax*
- 01/04/2017  Miscellaneous  
*Defendant's Response to Motion for Release of Funds-fax*
- 01/06/2017  Remittitur  
*Remittitur*
- 01/11/2017  Notice  
*Notice of Attorney Fee Lien (Fax)*
- 01/11/2017  Affidavit  
*Declaration of Kevin E. Dinius in Response to Motion for Release of Funds (Fax)*
- 01/12/2017 DC Hearing Held: Court Reporter: # of Pages:  
*Hearing result for Motion Hearing scheduled on 01/12/2017 09:00 AM: District Court Hearing Held*  
*Court Reporter: Kathy Klemetson*  
*Number of Transcript Pages for this hearing estimated: Less than 100*
- 01/12/2017 Hearing Held  
*Hearing result for Motion Hearing scheduled on 01/12/2017 09:00 AM: Hearing Held*
- 01/12/2017 **Motion Hearing** (9:00 AM) (Judicial Officer: Kerrick, Juneal C.)  
*Hearing result for Motion Hearing scheduled on 01/12/2017 09:00 AM: District Court Hearing Held*  
*Court Reporter: Kathy Klemetson*  
*Number of Transcript Pages for this hearing estimated: Less than 100*
- 01/12/2017  Court Minutes
- 01/13/2017  Affidavit  
*Affidavit of Loren K Messerly Re 1/12/17 Motion for release of funds hearing and attorney Lien of Kevin dinius*
- 01/17/2017  Transcript Filed  
*Transcript Filed*

**CASE SUMMARY**


**CASE NO. CV-2013-795**


01/18/2017  Miscellaneous  
*Motion to Compel and Arbitration (fax)*

01/18/2017  Notice of Hearing  
*Notice Of Hearing Feb 2, 2017 9:00 am (fax)*


01/18/2017 Affidavit  
*Affidavit of Kevin E. Dinius in support of motion to compel arbitration (fax)*

01/18/2017 Hearing Scheduled  
*Hearing Scheduled (Motion Day - Civil 02/02/2017 09:00 AM) motn to compel arbitration*

01/18/2017  Order  
*Order on Motion for Release of Funds*


01/18/2017  Declaration

01/19/2017 Bond Converted  
*Bond Converted (Transaction number 222 dated 1/19/2017 amount 6,543.35)*

01/20/2017  Satisfaction of Judgment  
*Satisfaction Of Judgment*


01/25/2017  Notice  
*Notice of Errata RE: Affidavit of Loren K Messerly RE 01/12/2017 Motion for Release of Funds Hearing and Attorney Lien of Kevin Dinius (Fax)*

01/27/2017  Memorandum  
*Plaintiff's Memorandum in Opposition to Kevin Dinius' Motion to Compel Arbitration*

01/27/2017  Affidavit  
*Affidavit of Loren K Messerly in Support of Plaintiff's Opposition to Kevin Dinius' Motion to Compel Arbitration*


01/27/2017 Miscellaneous  
*Miscellaneous Remarks- Made Vol #7 & Expando #3*

01/30/2017 Hearing Scheduled  
*Hearing Scheduled (Motion Hearing 02/09/2017 09:00 AM) motn to compel arbitration*

01/30/2017  Notice of Hearing  
*Amended Notice Of Hearing*

02/02/2017 Hearing Scheduled  
*Hearing Scheduled (Motion Hearing 02/08/2017 09:00 AM) motn to compel arbitration*

02/03/2017  Notice of Hearing  
*Notice Of Hearing Feb 8, 2017 9:00 am*

02/03/2017  Motion  
*Motion to strike affidavit of loren k. messerly in support of plaintiffs opposition to kevin dinius' motion to compel arbitration (fax)*

02/03/2017



**CASE SUMMARY**

**CASE NO. CV-2013-795**

-  Memorandum  
*Memorandum in support of the motion to strike affidavit of loren k. messerly in support of plaintiffs opposition to kevin dinius' motion to compel arbitration (fax)*
- 02/03/2017  Notice of Hearing  
*Notice Of Hearing (fax)*
- 02/03/2017  Motion  
*Motion for an order to shorten time (fax) (with order)*
- 02/06/2017  Miscellaneous  
*Reply Memorandum In Support Of Motion To Compel Arbitration-Fax*
- 02/06/2017  Miscellaneous  
*Declaration OF David A.Kosmann In Support Of Opposition To Dinius'Motion To Compel Arbitration & Response To Dinius'Motion To Strike-Fax*
- 02/07/2017  Motion  
*Motion To Strike Declaration Of David A.Kosmann In Support Of Opposition To Dinius'Motion To Compel Arbitration & Response To Dinius'Motion To Strike wo/order-Fax*
- 02/07/2017  Memorandum  
*Memorandum In Support Of Motion To Strike Declaration Of David A.Kosmann In Support Of Opposition To Dinius'Motion To Compel Arbitration & Response To Dinius'Motion To Strike - Fax*
- 02/07/2017  Notice of Hearing  
*Notice Of Hearing-Fax*
- 02/07/2017  Order  
*Order to Shorten Time*
- 02/07/2017  Motion  
*Motion For An Order To Shorten Time-Fax*
- 02/08/2017 DC Hearing Held: Court Reporter: # of Pages:  
*Hearing result for Motion Hearing scheduled on 02/08/2017 09:00 AM: District Court Hearing Held*  
*Court Reporter: Kathy Klemetson*  
*Number of Transcript Pages for this hearing estimated: Less than 100*
- 02/08/2017 Hearing Held  
*Hearing result for Motion Hearing scheduled on 02/08/2017 09:00 AM: Hearing Held*
- 02/08/2017 Hearing Held  
*Hearing result for Motion Hearing scheduled on 02/08/2017 09:00 AM: Motion Held- Motion to Compel Arbitration and Motions to Strike {written ruling to be issued}*
- 02/08/2017 **Motion Hearing (9:00 AM)** (Judicial Officer: Kerrick, Juneal C.)  
*Hearing result for Motion Hearing scheduled on 02/08/2017 09:00 AM: District Court Hearing Held*  
*Court Reporter: Kathy Klemetson*  
*Number of Transcript Pages for this hearing estimated: Less than 100*
- 02/08/2017  Court Minutes

# CASE SUMMARY

CASE NO. CV-2013-795

02/22/2017	 Transcript Filed <i>Transcript Filed for 2-8-2017 Hearing Kathy Klemetson</i>
02/28/2017	 Motion <i>Kosmann's Motion for Leave to File Supplemental Memorandum in Opposition to Kevin Dinius' Motion to Compel Arbitration; Memorandum in Support (w/order)</i>
03/02/2017	 Objection <i>Objection to Kosmann's motion for leave to file supplemental memorandum in opposition to Kevin Dinius' motion to compel arbitration (fax)</i>
03/14/2017	 Order <i>Order granting Kosmann's Motion for Leave to File Supplemental Memorandum in Opposition to Kevin Dinius' Motion to Compel Arbitration</i>
03/14/2017	 Memorandum <i>Memorandum Decision and Order on Motion to Compel Arbitration, Motion to Strike Messerly Affidavit, Motion to Strike Kosmann Declaration, Moiton for Leave to file Supplemental Memorandum</i>
03/14/2017	Status Changed <i>Case Status Changed: closed pending clerk action</i>
04/10/2017	 Memorandum <i>Plaintiff's supplemental Memorandum in opposition to Kevin Dinius' motion to compel arbitration (fax)</i>
04/10/2017	Affidavit <i>Affidavit of David A Kosmann in support of opposition to Dinius' motion to compel arbitration and response to Dinius' motion to strike (fax)</i>
04/10/2017	 Declaration
04/17/2017	 Memorandum <i>Supplemental Memorandum In Support Of Dinius' Motion To Compel Arbitration</i>
04/17/2017	 Affidavit <i>Supplemental Declaration Of Kevin Dinius In Support Of Dinius' Motion To Compel Arbitration</i>
05/17/2017	Change Assigned Judge <i>Change Assigned Judge</i>
05/17/2017	Hearing Scheduled <i>Hearing Scheduled (Motion Hearing 06/08/2017 09:00 AM) Dinius's motion to compel arbitration</i>
05/17/2017	 Notice of Hearing <i>Notice Of Hearing</i>
05/23/2017	 Motion <i>Motion Kosmann's Motion for Release of Funds Held by the Court (Fax)</i>
05/23/2017	 Notice of Hearing

**CASE SUMMARY**

**CASE NO. CV-2013-795**








*Notice Of Hearing on: Kosmann's Motion for Release of Funds Held by the Court (Fax)*

- 06/02/2017  **Objection**  
*Objection to motion for reslease of funds (fax)*
- 06/06/2017  **Notice of Appearance**  
*Notice Of Appearance Kevin Dinius for Defendant (fax)*
- 06/08/2017 **DC Hearing Held: Court Reporter: # of Pages:**  
*Hearing result for Motion Hearing scheduled on 06/08/2017 09:00 AM: District Court Hearing Held*  
*Court Reporter: Kathy Klemetson*  
*Number of Transcript Pages for this hearing estimated: Less than 100*
- 06/08/2017 **Hearing Held**  
*Hearing result for Motion Hearing scheduled on 06/08/2017 09:00 AM: Hearing Held*
- 06/08/2017 **Hearing Held**  
*Hearing result for Motion Hearing scheduled on 06/08/2017 09:00 AM: Motion Held- Motion to Compel Arbitration and Plaintiff's Motion to Release Funds {under advisement}*
- 06/08/2017 **Motion Hearing (9:00 AM) (Judicial Officer: Petty, Gene A.)**  
*Hearing result for Motion Hearing scheduled on 06/08/2017 09:00 AM: District Court Hearing Held*  
*Court Reporter: Kathy Klemetson*  
*Number of Transcript Pages for this hearing estimated: Less than 100*
- 06/08/2017  **Court Minutes**
- 07/07/2017  **Notice**  
*Notice of Change of Firm (fax)*
- 07/07/2017  **Decision or Opinion**  
*Memorandum Decision and Order Denying Dinius's Motion to Compel Arbitration - DENIED*
- 07/07/2017  **Decision or Opinion**  
*Memorandum Decision and order on plaintiff's motion for release of funds - DENIED*
- 09/14/2017 **Hearing Scheduled**  
*Hearing Scheduled (Mental Hearing 10/02/2017 01:30 PM) RE Motion to Enforce Settlement*
- 09/18/2017  **Notice of Hearing**  
*Notice Of Hearing*
- 10/02/2017 **DC Hearing Held: Court Reporter: # of Pages:**  
*Hearing result for Motion Hearing scheduled on 10/02/2017 01:30 PM: District Court Hearing Held*  
*Court Reporter: Monica Fuhs (M&M)*  
*Number of Transcript Pages for this hearing estimated: Less than 100*
- 10/02/2017 **Hearing Held**  
*Hearing result for Motion Hearing scheduled on 10/02/2017 01:30 PM: Hearing Held*
- 10/02/2017 **Hearing Held**  
*Hearing result for Motion Hearing scheduled on 10/02/2017 01:30 PM: Motion Held-Motion for Leave to File Supplmntl Brf*
- 10/02/2017 **Motion Granted**

**CASE SUMMARY**




**CASE NO. CV-2013-795**

*Hearing result for Motion Hearing scheduled on 10/02/2017 01:30 PM: Motion Granted*

- 10/02/2017 **Motion Hearing** (1:30 PM) (Judicial Officer: Petty, Gene A.)  
*Hearing result for Motion Hearing scheduled on 10/02/2017 01:30 PM: District Court Hearing Held*  
*Court Reporter: Monica Fuhs (M&M)*  
*Number of Transcript Pages for this hearing estimated: Less than 100*
  
- 10/02/2017  Court Minutes
  
- 10/05/2017  Decision or Opinion  
*Memorandum Decision and Order Granting Motion for Leave to File Supplemental Materials - GRANTED*
  
- 11/03/2017  Decision or Opinion  
*Memorandum Decision and Order to Enforce Settlement Agreement and Order to Release Funds (\$32,047.19)*
  
- 11/22/2017  Judgment
  
- 11/27/2017 **Claim Granted** (Judicial Officer: Petty, Gene A.)  
 Comment ()  
 Party (Gilbride, Leo; Kosmann, David A; Law, Dinius)  
 Monetary/Property Award  
     In Favor Of: Kosmann, David A  
     Against: Gilbride, Leo; Law, Dinius  
     Entered Date: 11/27/2017  
     Current Judgment Status:  
         Status: Active  
         Status Date: 11/27/2017  
     Monetary Award:  
         Amount: \$15,000.00
  
- 11/27/2017 **Claim Granted** (Judicial Officer: Petty, Gene A.)  
 Comment ()  
 Party (Gilbride, Leo; Kosmann, David A; Law, Dinius)  
 Monetary/Property Award  
     In Favor Of: Gilbride, Leo; Law, Dinius  
     Against: Kosmann, David A  
     Entered Date: 11/27/2017  
     Current Judgment Status:  
         Status: Active  
         Status Date: 11/27/2017  
     Monetary Award:  
         Amount: \$200.00
  
- 01/24/2018  Decision or Opinion  
*Memorandum Decision and Order on Plaintiff's Motion to Reconsider and Defendants' Second Motion to Strike*
  
- 02/02/2018 Appeal Filed in Supreme Court
  
- 02/02/2018  Notice of Appeal
  
- 02/02/2018 Bond Posted for Transcript  
*Reporters Fee*
  
- 03/07/2018  Supreme Court Document Filed-Misc  
*Order Conditionally Dismissing Appeal*

**CASE SUMMARY**

**CASE NO. CV-2013-795**

03/08/2018	 Supreme Court Document Filed-Misc <i>Order Withdrawing Conditional Dismissal and Reinstating Appeal</i>
04/13/2018	 Supreme Court Document Filed-Misc <i>Order Granting District Court Clerk's Motion for Extension of Time</i>
05/18/2018	 Appeal Cover/Title Page

DATE	FINANCIAL INFORMATION
------	-----------------------

<b>Defendant</b> Gilbride, Leo	
Total Charges	206.75
Total Payments and Credits	206.75
<b>Balance Due as of 5/18/2018</b>	<b>0.00</b>
<b>Other Party</b> Unknown	
Total Charges	2.00
Total Payments and Credits	2.00
<b>Balance Due as of 5/18/2018</b>	<b>0.00</b>
<b>Plaintiff</b> Kosmann, David A	
Total Charges	468.25
Total Payments and Credits	468.25
<b>Balance Due as of 5/18/2018</b>	<b>0.00</b>
<b>Attorney of Record</b> Messerly, Loren Keith	
Civil Cash Bond Account Type Balance as of 5/18/2018	<b>138.25</b>
<b>Defendant</b> Gilbride, Leo	
Civil Cash Bond Account Type Balance as of 5/18/2018	<b>0.00</b>
<b>Defendant</b> Gilbride, Leo	
Civil Cash Bond Account Type Balance as of 5/18/2018	<b>0.00</b>
<b>Plaintiff</b> Kosmann, David A	
Civil Cash Bond Account Type Balance as of 5/18/2018	<b>0.00</b>
<b>Plaintiff</b> Kosmann, David A	
Civil Cash Bond Account Type Balance as of 5/18/2018	<b>0.00</b>
<b>Plaintiff</b> Kosmann, David A	
Civil Cash Bond Account Type Balance as of 5/18/2018	<b>0.00</b>

**FILED**  
9 5 1 2 A.M. P.M.

**MAR 30 2015**

**CANYON COUNTY CLERK  
T. CRAWFORD, DEPUTY**

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON

_____	)
DAVID KOSMANN,	)
	)
Plaintiff,	)
	)
vs.	)
	)
LEO GILBRIDE,	)
	)
Defendant.	)
_____	)
And Related Counterclaims	)
_____	)

**JUDGMENT**

**CV-2013-795-C**

**JUDGMENT IS ENTERED AS FOLLOWS:**

Counts I, II, III and V of the Amended Complaint are DISMISSED, with prejudice;  
Plaintiff shall recover the sum of \$30,990.00 against Defendant on Count IV of the  
Amended Complaint;

Count I of the Counterclaim is DISMISSED, with prejudice;

On Count II of the Counterclaim, Defendant Leo Gilbride shall have and recover from  
Plaintiff David Kosmann possession of the real property located at 1020 W. Homedale Road,

**JUDGMENT**

- 1 -

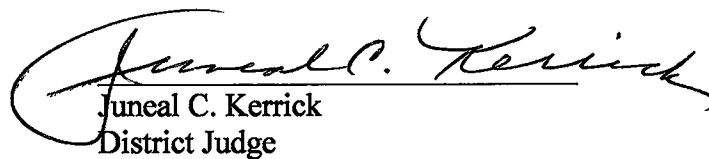
*CRAWFORD*

Caldwell, Canyon County, Idaho, legally described as 04-3N-3W SW DUNNS PLAT LOT 6

BLK 1; and

Count III of the Counterclaim is DISMISSED, without prejudice.

DATED this 27<sup>th</sup> day of March, 2015.

  
Juneal C. Kerrick  
District Judge

**JUDGMENT**

- 2 -

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served upon the following, either by U.S. Mail, first class postage prepaid; by hand delivery; by courthouse basket; or by facsimile copy:

Kevin E. Dinius  
Michael J. Hanby II  
Dinius Law  
5680 E. Franklin Rd., Suite 130  
Nampa, Idaho 83687  
Facsimile: 208-475-0101

James G. Reid  
Jennifer R. Mahoney  
Kaufman Reid, PLLC  
1211 W. Myrtle, Suite 350  
Boise, ID 83702  
Facsimile: 208-342-4657

Dated this 30 day of March, 2015.

CHRIS YAMAMOTO  
Clerk of the District Court

By: TC  
Deputy Clerk

**JUDGMENT**

- 3 -



**FILED**  
8/10 A.M. P.M.

**AUG 07 2015**

**CANYON COUNTY CLERK  
P SALAS, DEPUTY**

Kevin E. Dinius  
DINIUS LAW  
5680 E. Franklin Rd., Suite 130  
Nampa, Idaho 83687  
Telephone: (208) 475-0100  
Facsimile: (208) 475-0101  
ISB No. 5974  
*kdinius@diniuslaw.com*

Attorneys for Plaintiff

**IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON**

DAVID KOSMANN,	)	<b>CASE NO. CV13-795C</b>
	)	
Plaintiff,	)	
	)	
-vs-	)	
	)	
LEO GILBRIDE,	)	
Defendant.	)	<b>NOTICE OF ATTORNEY FEE LIEN</b>

NOTICE IS HEREBY GIVEN that in accordance with Idaho Code and relevant Idaho case law, KEVIN E. DINIUS, 5680 East Franklin Road, Suite 130, Nampa, Idaho 83687, hereby claims an attorney fee lien from the gross proceeds of any and all demands, monies, funds, settlements, judgments, payments, and subrogation sums which DAVID KOSMANN, or his legal representative(s) may receive or may be recorded on his behalf from the following named persons, firms or corporations, to-wit:

LEO GILBRIDE

The forenamed person is claimed by the above-named Plaintiff to be liable for Plaintiff's damages.

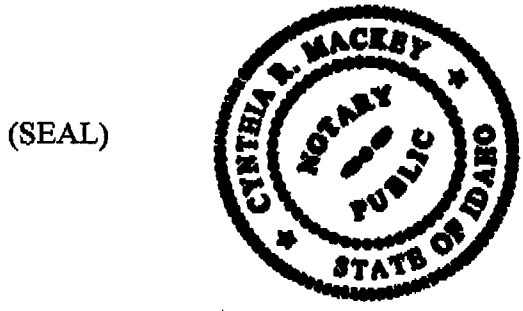
This lien is filed/served pursuant to Idaho law and a fee agreement granting a lien entered into by the Plaintiff with KEVIN E. DINIUS and for work performed pursuant thereto.

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

By: [Signature]  
Kevin E. Dinius

STATE OF IDAHO            )  
  : ss  
County of Canyon         )

On this 6<sup>th</sup> day of August, 2015, before me, the undersigned, a Notary Public in and for said State, personally appeared KEVIN E. DINIUS, known or identified to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.



[Signature]  
Notary Public for Idaho  
My Commission Expires: 7/17/2015

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that on the 16<sup>th</sup> day of August, 2015, a true and

correct copy of the above and foregoing document was served upon the following by:

James G. Reid  
KAUFMAN REID, PLLC  
1211 W Myrtle St, Ste 350  
Boise, ID 83702

- 
- 
- 
- 

US Mail  
Overnight Mail  
Hand Delivery  
Facsimile - No. 342-4657

Loren K. Messerly  
GREENER BURKE SHOEMAKER  
OBERRECHT, P.A.  
950 W Bannock St, Ste 950  
Boise, ID 83702

- 
- 
- 
- 

US Mail  
Overnight Mail  
Hand Delivery  
Facsimile - No. 319-2601

  
\_\_\_\_\_  
for DIMIUS LAW

JAMES G. REID, ISB #1372  
 JENNIFER REID MAHONEY, ISB #5207  
 KAUFMAN REID, PLLC  
 1211 W. Myrtle, Suite 350  
 Boise, Idaho 83702  
 Telephone: (208) 342-4591  
 Facsimile: (208) 342-4657  
[jreid@krlawboise.com](mailto:jreid@krlawboise.com)  
[jmahoney@krlawboise.com](mailto:jmahoney@krlawboise.com)

**FILED**  
 5:30 A.M. P.M.

**AUG 07 2015**

CANYON COUNTY CLERK  
 J HEIDEMAN, DEPUTY

Attorneys for Defendant

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE  
 STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON

	* * *	
DAVID KOSMANN,	)	Case No. CV13-795C
	)	
Plaintiff,	)	
vs.	)	ORDER GRANTING DEFENDANT'S
	)	MOTION FOR STAY OF EXECUTION
LEO GILBRIDE,	)	AND PERMISSION TO DEPOSIT
	)	FUNDS
Defendant .	)	

THE COURT, having considered the Defendant's Motion for Stay of Execution and Permission to Deposit Funds, and pursuant to I.A.R. 13, hereby orders that the Defendant be permitted to deposit funds in the amount of \$38,590.54 with the Clerk of the Canyon County Court. Upon receipt of funds to the Court and upon provision of the

*Jean*  
*Subsequent to any subsequent objections under I.A.R. 13.*

ORDER GRANTING DEFENDANT'S MOTION FOR STAY OF EXECUTION AND PERMISSION TO DEPOSIT FUNDS - 1

Court's receipt of said funds to opposing counsel - any execution upon the Judgment in this matter will be stayed pending appeal.

SO ORDERED this 10 day of August, 2015.

*Juneal C. Kerrick*  
\_\_\_\_\_  
Hon. Juneal C. Kerrick

**CERTIFICATE OF SERVICE**

I hereby certify that on the \_\_\_\_ day of AUG 07 2015, 2015, a true and correct copy of the foregoing was served upon all parties listed below by:

- U. S. mail, postage prepaid
- hand delivery
- e-mail
- facsimile

James G. Reid  
Kaufman Reid, PLLC  
1211 W. Myrtle St., Suite 350  
Boise, ID 83702

Kevin Dinius  
Dinius & Associates  
5680 E. Franklin Rd., Suite 130  
Nampa, ID 83687

*J. Deman*  
\_\_\_\_\_  
Deputy Clerk

ORDER GRANTING DEFENDANT'S MOTION FOR STAY OF EXECUTION AND PERMISSION TO DEPOSIT FUNDS - 2

FILED  
A.M. 2:10 P.M.

# In the Supreme Court of the State of Idaho

SEP 16 2015

CANYON COUNTY CLERK  
K WALDEMER, DEPUTY

DAVID KOSMANN, \_\_\_\_\_ )  
 )  
 Plaintiff- Respondent, )  
 )  
 v. )  
 )  
 LEO GILBRIDE, )  
 )  
 Defendant-Appellant. )

ORDER RE: PAYMENT OF FEE FOR TRANSCRIPTS

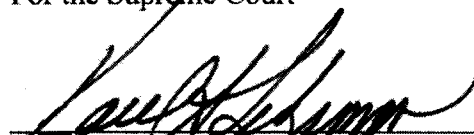
Supreme Court Docket No. 43296-2015  
Canyon County No. CV-2013-795

On September 15, 2015, District Court Reporter Kathy J. Klemetson notified this Court that, after written notification being mailed to Appellant counsel regarding the amount due for the transcripts requested, the fee (\$1,430.00) for preparation of the Reporter's Transcripts has not yet been paid. Therefore,

IT HEREBY IS ORDERED that unless the required fee (\$1,430.00) for preparation of the Reporter's Transcripts is paid to the District Court Reporter ON OR BEFORE SEVEN (7) DAYS FROM THE DATE OF THIS ORDER, this appeal will proceed on the Clerk's Record only.

DATED this 16<sup>th</sup> day of September, 2015.

For the Supreme Court



Karel A. Lehrman, Chief Deputy Clerk for  
Stephen W. Kenyon, Clerk

cc: Counsel of Record  
District Court Clerk  
Court Reporter Kathy J. Klemetson  
District Judge Juneal C. Kerrick

Entered on JSI  
By: kg

**LOREN K. MESSERLY, ISB # 7434**  
**GREENER BURKE SHOEMAKER OBERRECHT P.A.**  
Counselors and Attorneys at Law  
950 West Bannock Street, Suite 950  
Boise, ID 83702  
Telephone (208) 319-2600  
Facsimile (208) 319-2601  
*lmesserly@greenerlaw.com*

Attorneys for Defendant

**F I L E D**  
A.M. 3:30 P.M.  
**DEC 11 2015**  
CANYON COUNTY CLERK  
T. CRAWFORD, DEPUTY

**IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON**

DAVID A. KOSMANN,  
  
Plaintiff,  
  
v.  
  
LEO GILBRIDE,  
  
Defendant.

Case No. CV- 2013-795C

**ORDER GRANTING ADDITIONS TO  
THE CLERK'S RECORD BEFORE IT  
IS SETTLED**

The Stipulation to Make Additions to the Clerk's Record Before It Is Settled having been filed by the parties, and good cause appearing therefor:

IT IS HEREBY ORDERED that the following additions be made to the Clerk's Record on Appeal:

1. Plaintiff's Proposed Jury Instructions filed on 12/23/2014;
2. Defendant's Proposed Jury Instructions filed 12/30/2014;
3. Defendant's Supplemental Proposed Jury Instructions filed on 1/26/2015;
4. Defendant's Supplemental Proposed Special Verdict Form filed on 1/26/2015;
5. Plaintiff's Motion for Attorney Fees and Costs filed on 4/13/2015;

6. Affidavit of Kevin E. Dinius in Support of Plaintiff's Motion for Attorney Fees and Costs filed on 4/13/2015;
7. Memorandum in Support of Plaintiffs Motion for Attorney Fees and Costs filed on 4/13/2015;
8. Defendant's Motion to Disallow Plaintiff's Claimed Costs and Attorney's fees filed on 4/27/2015;
9. Memorandum in Support of Defendant's Motion to Disallow Plaintiff's Claimed Costs and Attorney's fees filed on 4/27/2015;
10. Memorandum in Response to Plaintiff's Objection to Defendant's Motion for Costs and Attorney Fees filed on 6/4/2015;
11. Order Granting Motion for Stay of Execution entered on 6/11/2015;
12. Order Vacating Order Granting Stay of Execution entered on 6/19/2015;
13. Order Granting Defendants Motion for Stay of Execution and Permission to Deposit Funds entered on 8/7/2015.

SO ORDERED this 10<sup>th</sup> day of December, 2015.


  
\_\_\_\_\_  
Honorable Juneal C. Kerrick



**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 11 day of December, 2015, a true and correct copy of the within and foregoing instrument was served upon:

James G. Reid Jennifer Reid Mahoney KAUFMAN REID 1211 W Myrtle, Suite 350 Boise, Idaho 83702 Facsimile: (208) 342-4657	<input checked="" type="checkbox"/> U.S. Mail Postage Prepaid <input type="checkbox"/> Facsimile: 342-4657 <input type="checkbox"/> Hand- Delivery
Loren K. Messerly GREENER BURKE SHOEMAKER OBERRECHT PA 950 W. Bannock St., Ste 950 Boise, Idaho 83702 Facsimile: (208) 319-2601	<input checked="" type="checkbox"/> U.S. Mail Postage Prepaid <input type="checkbox"/> Facsimile: 319-2601 <input type="checkbox"/> Hand- Delivery
Kathy Waldemer CANYON COUNTY APPEALS CLERK 1115 Albany St. Caldwell, ID 83605	<input type="checkbox"/> U.S. Mail Postage Prepaid <input type="checkbox"/> Facsimile: <input checked="" type="checkbox"/> Hand- Delivery <input type="checkbox"/> E-Mail:

  
\_\_\_\_\_  
Clerk

**FILED**  
A.M. 1:28 P.M.  
**JAN 20 2017**

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON  
CANYON COUNTY CLERK  
T. PETERSON, DEPUTY

DAVID KOSMANN,  
Plaintiff,

vs.

LEO GILBRIDE,  
Defendant.

\_\_\_\_\_  
\*  
\*  
\*  
)  
)  
)  
)  
)  
)  
)  
)  
)  
)  
\_\_\_\_\_

Case No. CV 2013-795C  
SATISFACTION OF JUDGMENT

Pursuant to the Court's Order on Motion For Release of Funds dated January 18, 2017, the Judgment entered by the Court in the above-captioned matter on March 30, 2015, as amended by the Amended Judgment of July 2, 2015, is SATISFIED.

DATED this 20 day of January, 2017.

CANYON COUNTY CLERK

  
\_\_\_\_\_

**FILED**  
A.M. 7:50 P.M.  
MAY 23 2017

Loren K. Messerly, ISB # 7434  
GREENER BURKE SHOEMAKER OBERRECHT P.A.  
950 West Bannock Street, Suite 950  
Boise, Idaho 83702  
Telephone (208) 319-2600  
Facsimile (208) 319-2601  
*lmesserly@greenerlaw.com*

CANYON COUNTY CLERK  
R GRAY, DEPUTY CLERK

Attorneys for Plaintiff

**IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON**

DAVID KOSMANN,

Plaintiff,

v.

LEO GILBRIDE,

Defendant.

Case No. CV13-795C

Assigned Judge: Genc A. Petty

**KOSMANN'S MOTION FOR  
RELEASE OF FUNDS HELD BY  
THE COURT**

Plaintiff, David A. Kosmann ("Kosmann"), by and through his attorney of record, Greener Burke Shoemaker Oberrecht p.a., hereby moves this Court for an order releasing all funds (\$32,047.19) currently deposited with the Court related to the litigation between Leo Gilbride ("Gilbride") and Kosmann. The funds were being held during an appeal that Gilbride brought to the Idaho Supreme Court. That appeal was recently denied and Gilbride released any claim to the funds. The motion is supported by a Memorandum filed concurrently herewith.

///

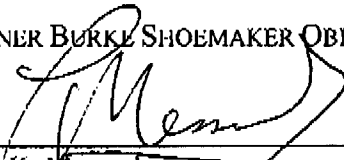
///

///

///

DATED this 23<sup>rd</sup> day of May, 2017.

GREENER BURKE SHOEMAKER OBERRECHT P.A.



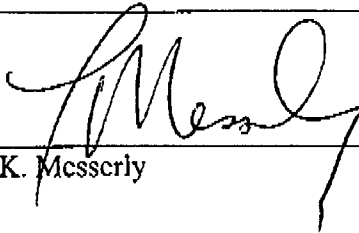

---

Loren K. Messerly  
Attorneys for Plaintiff, David A. Kosmann

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 23<sup>rd</sup> day of May, 2017, a true and correct copy of the within and foregoing instrument was served upon:

Kevin Dinius DINIUS LAW 5680 E. Franklin Road, Suite 130 Nampa, Idaho 83687	<input checked="" type="checkbox"/> U.S. Mail Postage Prepaid <input type="checkbox"/> Facsimile: 342-4657 <input type="checkbox"/> Hand- Delivery <input type="checkbox"/> E-Mail: <a href="mailto:kdinius@diniuslaw.com">kdinius@diniuslaw.com</a>
--	---




---

Loren K. Messerly

**F I L E D**  
A.M. P.M.  
JUN 01 2017

CANYON COUNTY CLERK  
M MARTINEZ, DEPUTY

Kevin E. Dinius  
Sarah Hallock-Jayne  
DINIUS LAW  
5680 E. Franklin Rd., Suite 130  
Nampa, Idaho 83687  
Telephone: (208) 475-0100  
Facsimile: (208) 475-0101  
ISB Nos. 5974, 5745  
*kdinius@diniuslaw.com*  
*shallockjayne@diniuslaw.com*

Attorneys for Plaintiff

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON

_____	)	
DAVID KOSMANN,	)	<b>CASE NO. CV13-795C</b>
	)	
Plaintiff,	)	<b>OBJECTION TO MOTION FOR</b>
	)	<b>RELEASE OF FUNDS</b>
-vs-	)	
	)	
LEO GILBRIDE,	)	
	)	
Defendant.	)	
_____	)	

COMES NOW, Kevin Dinius and hereby submits this objection to Kosmann's Motion for Release of Funds Held by the Court. This objection is supported by the *Declaration of Kevin E. Dinius in Response to Motion for Release of Funds*, dated January 11, 2017, on file herein.

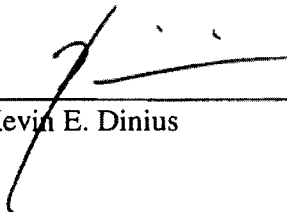
The funds held by the Court are subject to Dinius Law's Notice of Attorney Fee Lien and the dispute between the parties related to Dinius Law's claims for attorney fees and costs is

pending before this Court upon Dinius Law's Motion to Compel Arbitration.

Dinius Law will agree to the release of funds currently held by the Clerk of the Court to be held in Mr. Messerly's Trust Account or Dinius Law's Trust Account pending resolution of the pending fee dispute between Dinius Law and David Kosmann.

DATED this 1<sup>st</sup> day of June, 2017.

DINIUS LAW

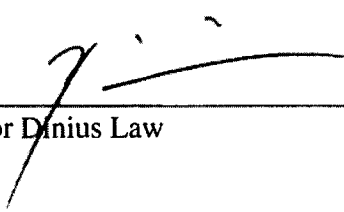
By  \_\_\_\_\_  
Kevin E. Dinius

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 1<sup>st</sup> day of June, 2017, I served a true and correct copy of the foregoing by delivering the same to each of the following attorneys of record, by the method indicated below, addressed as follows:

Loren K. Messerly  
GREENER BURKE SHOEMAKER  
OBERRECHT, P.A.  
950 W Bannock St, Ste 950  
Boise, ID 83702

- US Mail
- Overnight Mail
- Hand Delivery
- Facsimile - No. 319-2601

 \_\_\_\_\_  
for Dinius Law

F(14) L E D  
A.M. P.M.

JUL 07 2017

CANYON COUNTY CLERK  
J COTTLE, DEPUTY CLERK

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON

DAVID A. KOSMANN,

Plaintiff,

vs.

LEO GILBRIDE,

Defendant.

Case No. CV-2013-795\*C

**MEMORANDUM DECISION AND  
ORDER ON PLAINTIFF'S MOTION FOR  
RELEASE OF FUNDS**

**I.**

**INTRODUCTION**

This matter comes before the Court on Plaintiff's Motion for Release of Funds, filed on May 23, 2017.

**II.**

**DISCUSSION**

Plaintiff requests that the Court release all funds related to the original litigation between Plaintiff Kosmann and Defendant Gilbride. Kevin Dinius filed an objection to the Motion on June 1, 2017 on the basis that any funds currently held by the Court in relation to this litigation are subject to Dinius's Notice of Attorney Fee Lien. The Court heard arguments from the parties on this issue at a Motion Hearing on June 8, 2017, after which the Motion was taken under advisement.

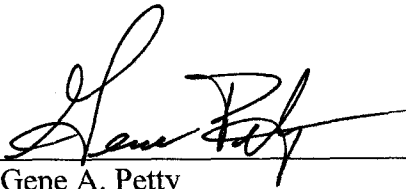
There is an ongoing dispute in this case between Kosmann and his former counsel, Dinius, regarding the fee to which Dinius is entitled for his work on the case between January 2013 and approximately July 2015. A determination of which party would be entitled to receive the contested funds upon their release by the Court depends on a resolution of this underlying attorney fee dispute. It would be premature for the Court to order them released at this time, before the fee dispute between Kosmann and Dinius is decided. The parties may raise this issue again when the merits of the fee dispute are decided by the Court.

**III.**

**ORDER**

For the foregoing reason, IT IS HEREBY ORDERED that Plaintiff's Motion is DENIED WITHOUT PREJUDICE.

Dated this 7<sup>th</sup> day of July, 2017.

  
Gene A. Petty  
District Judge



**CERTIFICATE OF SERVICE**

The undersigned certifies that on 1 day of July, 2017, s/he served a true and correct copy of the original of the foregoing ORDER ON DEFENDANT'S MOTION TO COMPEL ARBITRATION on the following individuals in the manner described:

James G. Reid  
KAUFMAN REID, PLLC  
1211 W. Myrtle St., Ste. 350  
Boise, ID 83702


Loren K. Messerly  
GREENER BURKE SHOEMAKER OBERRECHT, P.A.  
950 W. Bannock St., Ste. 950  
Boise, ID 83702

Kevin E. Dinius  
Sarah Hallock-Jayne  
DINIUS LAW  
5680 E. Franklin Rd., Ste. 130  
Nampa, ID 83687

Robert A. Anderson  
Yvonne A. Dunbar  
ANDERSON, JULIAN & HULL LLP  
C.W. Moore Plaza  
250 S. Fifth St., Ste. 700  
P.O. Box 7426  
Boise, ID 83707-7426

CHRIS YAMAMOTO,

Clerk of the Court

By:   
Deputy Clerk of the Court