

Lewis N. Stoddard, Bar No. 7766
Halliday, Watkins & Mann, P.C.
300 W. Main St., Ste. 150
Boise, ID 83702
Phone: 801-355-2886
Facsimile: 801-328-9714
lewis@hwmlawfirm.com
Attorney for Plaintiff | HWM File No. ID21698

**IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT,
OF THE STATE OF IDAHO IN AND FOR THE COUNTY OF NEZ PERCE**

DPW Enterprises LLC and Mountain Prime 2018 LLC, Plaintiffs, v. Jeremy L. Bass; Dwayne Pike; and Unknown Parties in Possession of the real property commonly known as: 1515 21st Ave., Lewiston, ID 83501, Defendants.	DECLARATION OF ATTORNEY FEES AND COSTS Case No.: CV35-24-1063
---	---

STATE OF IDAHO)
 : ss.
County of Ada)

LEWIS N. STODDARD, being first duly sworn, on oath deposes and says:

- 1.) That I am one of the attorneys of record for plaintiff.
- 2.) I have been actively engaged in the practice of law in Idaho since 2007.
- 3.) The hourly rate for legal services provided to Plaintiffs in this matter is \$300 per hour, which is a reasonable rate compared to hourly rates of other attorneys in this area with similar experience of my own. By way of further explanation, I have spent the past decade specializing in the representation of creditors in secured transaction litigation including judicial foreclosures and

post-foreclosure actions for ejectment and possession. I am licensed to practice in Alaska, Idaho, Washington (Inactive), Wyoming, Montana, and Tennessee. I am admitted to the federal courts and bankruptcy courts of Alaska, Idaho, and Montana and before the 9th Circuit Court of Appeals and routinely appear on state court matters and federal bankruptcy court matters in Alaska, Idaho and Montana.

4.) Attached hereto as Exhibit A are true and correct copies of the billings for legal services provided to Plaintiffs in this matter necessary to secure Judgment in Plaintiff's favor as against Defendant Jeremy Bass. The basis for attorney fees is Idaho Code §§ 6-316, 12-121, and I.R.C.P. 54(e)(1) and (2). While a second Defendant, Dwayne Pike has also opposed this matter, billing entries for work performed in relation to Mr. Pike have been omitted and redacted from the attached billings.

5.) A Summary of those costs and attorney fees incurred by Plaintiffs thus far, with the exception of time spent on preparing an opposition to Defendant Bass' Motion for Stay, preparation of the present Affidavit as well as time to be spent at the hearing on Bass' present motions set for December 6, 2024 and review of any Reply Memorandums and preparation for the hearing are as follows:

ATTORNEY'S FEES:

Attorney:	Rate:	Hours:	TOTAL FEES:
Lewis N. Stoddard	\$300.00	24.1	\$7,230.00

COSTS:

Complaint Filing Fee:	\$233.91
Service of Process on Defendant Bass:	\$45.00
Additional Filing Costs:	\$18.00

In addition to the foregoing, and not included in the billings are 3 hours to respond to Defendant

Bass' request for stay, 2 hours to prepare this Affidavit, and counsel would anticipate .5 hours to review reply materials submitted by Mr. Bass, and 1.5 hours to prepare for and participate in the hearings set for December 6, 2024 resulting in an additional 7 hours not reflected in the attached billings. This would bring the total fees to \$9,330.00

6.) To the best of my knowledge and belief, the costs and fees claimed are correct and are in compliance with I.R.C.P. 54(d)(5).

CERTIFICATION UNDER PENALTY OF PERJURY

I certify under penalty of perjury pursuant to the law of the state of Idaho that the foregoing is true and correct.

DATED This November 27, 2024.

HALLIDAY WATKINS & MANN, P.C.

By: /s/ Lewis N. Stoddard
Lewis N. Stoddard
Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this November 27, 2024, a true and correct copy of the above and foregoing document was served, which service was effectuated by the method indicated below and addressed as follows:

Jeremy L. Bass 1515 21 st Ave Lewiston, ID 83501	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Email/iCourt
Ken Nagy Idaho Legal Aid Services, Inc. kennagy@idaholegalaid.org <i>Counsel for Dwayne Pike</i>	<input type="checkbox"/> U.S. Mail <input checked="" type="checkbox"/> Email/iCourt

/s/ Lewis N. Stoddard
Lewis N. Stoddard

Invoice Date

11/24/2024



HALLIDAY
WATKINS
& MANN

Invoice Number

710867

HALLIDAY, WATKINS & MANN, P.C.
ATTORNEYS AT LAW
8851 SOUTH SANDY PARKWAY, SUITE 200
SANDY, UT 84070
801-355-2886

DPW Enterprises, LLC
10028 S. Morgan Grove Way
Sandy, UT 84092

RE: DPW Enterprises, LLC, N/A
vs. Jeremy L. Bass, Current occupant and Dwayne Pike

Property Address: 1515 21st Ave., Lewiston, ID 83501
OURFILE: ID21698

BILLING SUMMARY:

HOURLY FEES

DATE	HOURLY DESCRIPTION	RECOVERABLE	RATE	HOURS	AMOUNT
11/05/2024	review and analyze order re: summary judgment and correspond with client re: same (.4): [REDACTED] (Stoddard, Lewis)	No	\$300.00	[REDACTED]	[REDACTED]
11/07/2024	BASS- begin preparing 54(b) Judgment re: Bass. - Non-Recoverable BASS- begin preparing 54(b) Judgment re: Bass. (Stoddard, Lewis)	No	\$300.00	0.40	\$120.00
11/07/2024	Review and analyze Defendant Bass Motion to Reconsider, Memorandum in Support and Motion for Stay - Non-Recoverable Review and analyze Defendant Bass Motion to Reconsider, Memorandum in Support and Motion for Stay (Stoddard, Lewis)	No	\$300.00	1.30	\$390.00
11/19/2024	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

11/22/2024	Attorney Fee ID - Eviction Hourly Non-Recoverable Prepare opposition memorandum to Defendant Bass Motion for Reconsideration. (Stoddard, Lewis)	No	\$300.00	2.90	\$870.00
------------	---	----	----------	------	----------

TOTALS

DESCRIPTION	AMOUNT
Total Hourly Fees on this invoice	\$1,710.00
Total Amount Due	\$1,710.00

Thank you for the opportunity to be of service.

Invoice Date

10/25/2024



HALLIDAY
WATKINS
& MANN

Invoice Number

707282

HALLIDAY, WATKINS & MANN, P.C.
ATTORNEYS AT LAW
8851 SOUTH SANDY PARKWAY, SUITE 200
SANDY, UT 84070
801-355-2886
[REDACTED]

DPW Enterprises, LLC
10028 S. Morgan Grove Way
Sandy, UT 84092

RE: DPW Enterprises, LLC, N/A
vs. Jeremy L. Bass, Current occupant and Dwayne Pike

Property Address: 1515 21st Ave., Lewiston, ID 83501
OURFILE: ID21698

BILLING SUMMARY:

COSTS			
DATE	COST DESCRIPTION	RECOVERABLE	AMOUNT
10/01/2024	Filing Cost ID - Eviction Complaint Non-Recoverable	No	\$6.00

HOURLY FEES					
DATE	HOURLY DESCRIPTION	RECOVERABLE	RATE	HOURS	AMOUNT
10/01/2024	[REDACTED] Review and prepare non-opposition to Bass Motion to amend to add verification (.3) (Stoddard, Lewis)	No	\$300.00	[REDACTED]	
10/02/2024	[REDACTED]				
10/08/2024	Attorney Fee ID - Eviction Hourly Non- Recoverable; Prepare for and participate in hearing on Jeremy Bass Motion to Dismiss. (Stoddard, Lewis)	No	\$300.00	1.30	\$390.00
10/10/2024	[REDACTED]				

10/16/2024	Attorney Fee ID - Eviction Hourly Non-Recoverable; correspond with Defendant Bass re: non-service of MSJ response (.3); review and analyze MSJ opposition and supporting affidavit by Bass (.9). (Stoddard, Lewis)	No	\$300.00	1.20	\$360.00
10/16/2024	Attorney Fee ID - Eviction Hourly Non-Recoverable; prepare Reply Memo in Support of Motion for Summary Judgment re: Bass. (Stoddard, Lewis)	No	\$300.00	2.80	\$840.00
10/22/2024	Attorney Fee ID - Eviction Hourly Non-Recoverable; prepare for and participate in hearing on Plaintiff's Motion for Summary Judgment. (Stoddard, Lewis)	No	\$300.00	1.40	\$420.00
10/22/2024	Attorney Fee ID - Eviction Hourly Non-Recoverable; review and analyze three separate Sur Reply briefs filed by Defendant Bass. (Stoddard, Lewis)	No	\$300.00	0.70	\$210.00

TOTALS

DESCRIPTION	AMOUNT
Total Costs on this invoice	\$6.00
Total Hourly Fees on this invoice	
Total Amount Due	

Thank you for the opportunity to be of service.

Invoice Date

09/18/2024

HALLIDAY
WATKINS
& MANN

Invoice Number

702731

HALLIDAY, WATKINS & MANN, P.C.
ATTORNEYS AT LAW
8851 SOUTH SANDY PARKWAY, SUITE 200
SANDY, UT 84070
801-355-2886
[REDACTED]

DPW Enterprises, LLC
10028 S. Morgan Grove Way
Sandy, UT 84092

RE: DPW Enterprises, LLC, N/A
vs. Jeremy L. Bass, Current occupant and Dwayne Pike

Property Address: 1515 21st Ave., Lewiston, ID 83501
OURFILE: ID21698

BILLING SUMMARY:

COSTS			
DATE	COST DESCRIPTION	RECOVERABLE	AMOUNT
09/16/2024	Filing Cost ID - Eviction Motion for Summary Judgment Non-Recoverable	No	\$6.00
09/17/2024	Mailings - Other Eviction Mailings Non-Recoverable	No	\$3.15

HOURLY FEES					
DATE	HOURLY DESCRIPTION	RECOVERABLE	RATE	HOURS	AMOUNT
09/10/2024	[REDACTED]				
09/11/2024					
09/12/2024					

09/12/2024					
09/16/2024	Attorney Fee ID - Eviction Hourly Non-Recoverable - Correspond with clients re: execution of Declarations and further prepare Motion for Summary Judgment and Memorandum in support for filing (Stoddard, Lewis)	No	\$300.00	0.70	\$210.00
09/17/2024	Attorney Fee ID - Eviction Hourly Non-Recoverable - Prepare for and participate in Status Conference hearing (Stoddard, Lewis)	No	\$300.00	0.90	\$270.00

TOTALS	
DESCRIPTION	AMOUNT
Total Costs on this invoice	\$9.15
Total Hourly Fees on this invoice	\$1,710.00
Total Amount Due	\$1,719.15

Thank you for the opportunity to be of service.

Invoice Date

09/09/2024

HALLIDAY
WATKINS
& MANN

Invoice Number

701647

HALLIDAY, WATKINS & MANN, P.C.
ATTORNEYS AT LAW
376 EAST 400 SOUTH, SUITE 300
SALT LAKE CITY, UTAH 84111
801-355-2886
[REDACTED]DPW Enterprises, LLC
10028 S. Morgan Grove Way
Sandy, UT 84092RE: DPW Enterprises, LLC, N/A
vs. Jeremy L. Bass, Current occupant and Dwayne PikeProperty Address: 1515 21st Ave., Lewiston, ID 83501
OURFILE: ID21698

BILLING SUMMARY:

HOURLY FEES					
DATE	HOURLY DESCRIPTION	RECOVERABLE	RATE	HOURS	AMOUNT
08/14/2024					
08/15/2024					
08/15/2024					
08/19/2024					
08/22/2024	Attorney Fee ID - Eviction Hourly Non-Recoverable Review Answer, motion to dismiss and Memorandum filed by former owner and prepare email to client. (Stoddard, Lewis)	No	\$300.00	1.50	\$450.00

08/23/2024	Attorney Fee ID - Eviction Hourly Non-Recoverable Call with client re: litigation strategy re: former owner and negotiations with tenant. (Stoddard, Lewis)	No	\$300.00	0.20	\$60.00
08/27/2024					
08/27/2024	Attorney Fee ID - Eviction Hourly Non-Recoverable Prepare Motion for Summary Judgment against Jeremy Bass and Notice of Hearing (.3); prepare memorandum in support of motion for summary judgment against Jeremy Bass and opposition to motion to dismiss (3.7). (Stoddard, Lewis)	No	\$300.00	4.00	\$1,200.00
09/09/2024	Attorney Fee ID - Eviction Hourly Non-Recoverable Bass MSJ- Obtain hearing date and further prepare notice of hearing (.2); prepare Affidavit of Counsel in support of MSJ (.7) (Stoddard, Lewis)	No	\$300.00	0.90	\$270.00

TOTALS

DESCRIPTION

Total Hourly Fees on this invoice

Total Amount Due

Thank you for the opportunity to be of service.

Invoice Date

08/07/2024



HALLIDAY
WATKINS
& MANN

Invoice Number

697931

HALLIDAY, WATKINS & MANN, P.C.
ATTORNEYS AT LAW
376 EAST 400 SOUTH, SUITE 300
SALT LAKE CITY, UTAH 84111
801-355-2886

DPW Enterprises, LLC
10028 S. Morgan Grove Way
Sandy, UT 84092

RE: DPW Enterprises, LLC, N/A
vs. Jeremy L. Bass, Current occupant and Dwayne Pike

Property Address: 1515 21st Ave., Lewiston, ID 83501
OURFILE: ID21698

BILLING SUMMARY:

COSTS

DATE	COST DESCRIPTION	RECOVERABLE	AMOUNT
07/08/2024	Filing Cost ID - Eviction Complaint Non-Recoverable	No	\$233.91
08/02/2024	Service ID - Eviction Summons and Complaint Non-Recoverable	No	\$45.00
08/02/2024	Service ID - Eviction Summons and Complaint Non-Recoverable	No	\$125.00
08/02/2024	Service ID - Eviction Summons and Complaint Non-Recoverable	No	\$45.00
08/05/2024	Filing Cost ID - Eviction Affidavit of Services Recoverable	No	\$6.00

HOURLY FEES

DATE	HOURLY DESCRIPTION	RECOVERABLE	RATE	HOURS	AMOUNT
07/08/2024	Attorney Fee ID - Eviction Hourly Non-Recoverable Prepare Complaint for Ejectment to address 90 day PTFA extension (2.1); prepare summons for Defendants (.2); Prepare Non-Military Affidavit and run military checks (.5) (Stoddard, Lewis)	No	\$300.00	2.90	\$870.00
07/16/2024	Attorney Fee ID - Eviction Hourly Non-Recoverable Prepare update to client on status of ejectment action. (Stoddard, Lewis)	No	\$300.00	0.10	\$30.00
08/05/2024	Attorney Fee ID - Eviction Hourly Non-Recoverable Review status of service and service returns. (Stoddard, Lewis)	No	\$300.00	0.20	\$60.00

TOTALS

DESCRIPTION	AMOUNT
Total Costs on this invoice	
Total Hourly Fees on this invoice	
Total Amount Due	

Thank you for the opportunity to be of service.

Lewis N. Stoddard, Bar No. 7766
Halliday, Watkins & Mann, P.C.
300 W. Main St., Ste. 150
Boise, ID 83702
Phone: 801-355-2886
Facsimile: 801-328-9714
lewis@hwmlawfirm.com
Attorney for Plaintiff | HWM File No. ID21698

**IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT,
OF THE STATE OF IDAHO IN AND FOR THE COUNTY OF NEZ PERCE**

DPW Enterprises LLC and Mountain Prime 2018 LLC, Plaintiffs, v. Jeremy L. Bass; Dwayne Pike; and Unknown Parties in Possession of the real property commonly known as: 1515 21st Ave., Lewiston, ID 83501, Defendants.	JUDGMENT RE: JEREMY L. BASS Case No.: CV35-24-1063
---	--

JUDGMENT IS ENTERED AS FOLLOWS:

1.) Plaintiff is entitled to immediate possession of the real property commonly known as 1515 21st Ave., Lewison, ID 83501 as against any interests claimed by Jeremy L. Bass and a Writ of Ejectment/Restitution shall issue instructing the Nez Perce County Sheriff to remove Jeremy L. Bass from the real property and to return the premises to Plaintiff. Jeremy L. Bass shall have 72 hours from the date of this Judgment to remove his belongings from the premises. Should Jeremy L. Bass fail to vacate within 72 hours of the date of this Judgment, the Nez Perce County Sheriff shall execute the Writ and return possession to Plaintiff and Plaintiff shall be entitled to remove and dispose of all remaining property of Jeremy L. Bass, including any motor vehicle that

may be removed pursuant to section [49-1806](#), Idaho Code, that remains on or about the premises without any further compensation or consideration to Jeremy L. Bass.

2.) Plaintiff is entitled to an award of its attorney fees and costs as against Defendant Jeremy L. Bass in the amount of \$9,330.00 in attorney fees and \$296.91 in costs for a total Judgment Amount of \$9,626.91. The Judgment amount shall bear interest from the date that Judgment is entered at the rate allowed by law on Judgments.

3.) Plaintiff is entitled to seek to recover post-judgment attorney's fees and costs incurred in attempting to collect on the judgment as allowed by Idaho Code § 12-120(5).

DATED _____, 2024.

By: _____
DISTRICT COURT JUDGE

RULE 54(b) CERTIFICATE

With respect to the issues determined by the judgment or order entered by the Honorable Judge Michelle M. Evans granting Plaintiff's Motion for Summary Judgment as against Defendant Jeremy L. Bass, it is hereby CERTIFIED, in accordance with Idaho Rule of Civil Procedure 54(b), that the Court has determined that there is no just reason for the delay of the entry of a final judgment and that the Court has and does hereby direct that the above judgment or order shall be a final judgment upon which an appeal may be taken.

DATED _____, 2024.

By: _____
DISTRICT COURT JUDGE

CLERK'S CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this _____, 2024, a true and correct copy of the above and foregoing document was served, which service was effectuated by the method indicated below and addressed as follows:

Jeremy L. Bass 1515 21 st Ave Lewiston, ID 83501	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Email/iCourt
Ken Nagy Idaho Legal Aid Services, Inc. kennagy@idaholegalaid.org <i>Counsel for Dwayne Pike</i>	<input type="checkbox"/> U.S. Mail <input checked="" type="checkbox"/> Email/iCourt
Lewis N. Stoddard HALLIDAY WATKINS & MANN, P.C. lewis@hwmlawfirm.com	<input type="checkbox"/> U.S. Mail <input checked="" type="checkbox"/> Email/iCourt

Deputy Clerk

Lewis N. Stoddard, Bar No. 7766
Halliday, Watkins & Mann, P.C.
300 W. Main St., Ste. 150
Boise, ID 83702
Phone: 801-355-2886
Facsimile: 801-328-9714
lewis@hwmlawfirm.com
Attorney for Plaintiff | HWM File No. ID21698

**IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT,
OF THE STATE OF IDAHO IN AND FOR THE COUNTY OF NEZ PERCE**

DPW Enterprises LLC and Mountain Prime 2018 LLC, Plaintiffs, v. Jeremy L. Bass; Dwayne Pike; and Unknown Parties in Possession of the real property commonly known as: 1515 21st Ave., Lewiston, ID 83501, Defendants.	PLAINTIFFS' RESPONSE IN OPPOSITION TO DEFENDANT JEREMY L. BASS'S MOTION FOR RECONSIDERATION Case No.: CV35-24-1063
---	--

COMES NOW, Plaintiffs by and through his counsel of record, Lewis N. Stoddard, and hereby submits their Response Memorandum in Opposition to Defendant's Motion for Reconsideration. As is set forth below, Defendant's Motion is without proper legal or factual support and should be denied.

I. INTRODUCTION

The undisputed facts of this case reflect that on February 29, 2024, Plaintiffs attended a Trustee's Sale of the real property commonly known as 1515 21st Ave., Lewiston, ID 83501 ("Property"), which took place on the front steps of the Nez Perce County Courthouse, wherein they were the successful purchaser of the Property paying \$165,346.71. A Trustee's Deed was

issued in favor of Plaintiffs which was recorded on March 2, 2024 and which pursuant to Idaho Code § 45-1508 terminated all interest of Defendant Jeremy Bass in the Property. Yet over 8 months later Defendant Jeremy Bass refuses to relinquish possession based upon a number of conclusory and speculative theories for which Mr. Bass presents no evidence. Ultimately, the Court granted summary judgment in favor of Plaintiffs and as against Defendant Bass noting that nothing in the record supported his various assertions.

Mr. Bass now seeks reconsideration of the Court's November 5, 2024 summary judgment ruling, but again, beyond setting forth conclusory assertions and a regurgitation of Idaho Case law pertaining to Trustee's Sales, Mr. Bass fails to present any evidence to support his speculative theories, or new facts or theories that bear on the correctness of the Court's Order. Specifically, while Mr. Bass continues to argue that the Trustee's Sale was improper because there was no default, there was collusion, or there was a violation of the statutory requirements for such a sale, he fails to present any evidence or new facts to support any of his arguments and the record is otherwise devoid of any evidence to support his positions. Accordingly, the request for reconsideration must be denied.

II. STANDARD OF REVIEW

"When considering a motion to reconsider under I.R.C.P. 11(a)(2) the district court should take into account any new facts or information presented by the moving party that bear on the correctness of the district court's order." *Coeur d'Alene Mining Co., v. First Nat'l Bank of N. Idaho*, 118 Idaho 812, 823, 800 P.2d 1026, 1037 (1990); *see also Agrisource, Inc., v. Johnson*, 332 P.3d 815, 156 Idaho 903 (2014). Reconsideration in the trial court "usually involves new or additional facts, and a more comprehensive presentation of both law and fact." *Id.* Indeed the chief virtue of a reconsideration is to obtain a full and complete presentation of all available facts. *Id.*

“The burden is on the moving party to bring the trial court’s attention to the new facts...” the trial court is not required to “search the record to determine if there is any new information that might change the specification of facts deemed to be established.” *Id.*

In submitting a motion for reconsideration pursuant to Rule 11(a)(2)(B) of the Idaho Rules of Civil Procedure, the moving party has the burden of bringing to the Court's attention through affidavit, depositions or admissions, new facts bearing on the correctness of an interlocutory order. *Devil Creek Ranch, Inc. v. Cedar Mesa Reservoir & Canal Co.*, 126 Idaho 202, 205, 879 P.2d 1135, 1138 (1994); *Coeur d’Alene Mining Co.*, 118 Idaho at 824, 800 P.2d at 1038 (“The burden is on the moving party to bring the trial court’s attention to the new facts.”). *Accord*, *Johnson v. N. Idaho Coll.*, 153 Idaho 58, 62, 278 P.3d 928, 932 (2012)(“A motion for reconsideration is a motion which allows the court—when new law is applied to previously presented facts, when new facts are applied to previously presented law, or any combination thereof—to reconsider the correctness of an interlocutory order.”). Even where a moving party does not present any new facts, it must still demonstrate “errors of law or fact in the initial decision.” *Johnson v. Lambros*, 143 Idaho 468, 147 P.3d 100 (Ct. App. 2006).

III. ARGUMENT

Mr. Bass seeks to have this court reconsider its ruling granting summary judgment in favor of Plaintiffs and has submitted two separate briefs both in the form of his motion and a separate memorandum which do nothing more than present the same three conclusory, speculative, and factually unsupported grounds that the Court already previously considered and rejected. Mr. Bass otherwise presents no new facts or information that bears on the correctness of the Court’s decision. Stated differently, Mr. Bass has not met his burden to support reconsideration, where his motion merely expresses his disagreement with the Court’s ruling. Accordingly, the motion

should be denied.

First, Mr. Bass asserts there was no valid default, but he presents no evidence to support such contention or to contradict the recorded Notice of Default in the land records of Nez Perce County, Idaho on August 17, 2022 as Instrument No. 902262. In fact, Defendant has, on more than one occasion, taken completely opposite positions from arguing that he never took the subject loan or that it was forged, which he attempted to litigate unsuccessfully in a separate lawsuit before the Honorable Mark T. Monson in CV35-22-1875, to arguing some sort of agreement to allow him to pay off the loan which he contends somehow eliminated his default. Regardless of the position, completely lacking from Defendant's submissions to the Court, both in opposition to the motion for summary judgement or in support of his motion for reconsideration, is any evidence to support his conclusory assertion of no valid default or any purported verbal agreement, which, even if construed as true, would not be enforceable under Idaho's Statue of Frauds. *See* I.C. 9-505(1). Stated differently, Mr. Bass presents zero evidence, by way of proof of payment or otherwise, that he timely made all payments due and owing under the Note and Deed of Trust, such that he was not in default of his loan obligations at the time of the trustee's sale.¹ Rather, the undisputed record before the Court was that Mr. Bass was in default for the monthly payment due on January 1, 2020 and each month thereafter which existed at the time of the Trustee's Sale. *See* Declaration of Counsel in Support of Plaintiff's Motion for Summary Judgment, Ex. B.

Second, Mr. Bass continues to assert that there was collusion, but again fails to provide any evidence to support such claim. In fact, beyond his own self-serving speculation, all of the evidence before the Court illustrates a proper Trustee's sale was held which was properly noticed,

¹ It is also worth noting that while Mr. Bass has espoused numerous issues with his prior lender and Trustee, he's done nothing to pursue those claims against them, including any claim that the underlying foreclosure was wrongful.

properly advertised, held in a public forum (front steps of the Nez Perce County Courthouse), and open to anyone who wished to attend including the Defendant who attended. Mr. Bass presents no authority which makes it illegal for a Trustee conducting a sale to disclose the opening credit bid to interested parties, nor any legal support making it impermissible for an interested purchaser to attend a Trustee's sale with pre-printed cashier's checks in varying amounts to facilitate its purchase of a Property. In fact, Idaho law requires the same where a successful purchaser must pay the price bid forthwith. *See* I.C. § 45-1506(9). In fact, contrary to Defendant's contention that *Breckenridge Property Fund 2016, LLC v. Wally Enterprises, Inc.*, 170 Idaho 649 (2022) is inapplicable to this case because the checks that Breckenridge brought to the sale "did not specify exact bid amounts, as they were to be filled in if Breckenridge won the bid," the facts of *Breckenridge* clearly note that Breckenridge had given its representative "**cashier's checks in various amounts** made payable to an affiliated entity which Breckenridge planned to simply endorse over and deliver to the Trustee as payment if they were the successful purchaser. (emphasis added). With the foregoing in mind, Defendant's continued assertions of collusion are without support and where mere speculation or a scintilla of evidence is insufficient to create a genuine issue of material fact, summary judgment was proper granted in favor of Plaintiff and Defendant's request for reconsideration is baseless.

Third, Defendant asserts that there was a failure to comply with the statutory requirements for non-judicial foreclosure. Again, beyond merely asserting a failure to comply, Defendant provides no specificity with respect to what he alleges was statutorily required but not followed. Ultimately, this omission is intentional because the facts of this case reflect that the statutory process for non-judicial foreclosure was complied with and the presumptions afforded under Idaho law make it unnecessary for the Court to comb the records to try to ferret out the basis of

Defendant's arguments.

For starters, Idaho law provides that the Trustee's Deed itself is prima facie evidence of the truth of the recitals and the affidavits identified therein and with respect to a purchaser in good faith for value the recitals and affidavits are conclusive. I.C. § 45-1510. While Defendant focuses on Plaintiffs' status as bona fide purchasers because he contends they knew or were on notice of his allegations against his prior lender and Trustee, Idaho law provides that "status as a bona fide purchaser in good faith, at least in the context of a non-judicial foreclosure sale, is generally not available where a purchaser is on inquiry notice of a **potential defect of statutory notice provisions.**" *See Federal Home Loan Mortg. Corp. v. Appel*, 143 Idaho at 47. Numerous Idaho Cases including *Breckenridge Property Fund 2016, LLC v. Wally Enterprises, Inc.*, 170 Idaho 649 (2022) have noted that "the sale is final once the trustee accepts the bid as payment in full unless there are issues surrounding the notice of the sale." Similar to the failure of Breckenridge to identify defects in the notice of sale and the Idaho Supreme Court's reiteration that Idaho Code § 45-1508 promotes finality, where Defendant Bass has failed to argue or presented the court with any evidence to support a defect in the statutory notices given in the underlying non-judicial foreclosure, the sale is final and the record establishes that Plaintiffs are bona fide purchasers in good faith rendering the recitals and affidavits identified in the Trustee's Deed conclusive in their favor.

Moreover, even if there were a statutory notice defect as generally alleged by Bass, Idaho law provides that such defect does not affect "the validity of the sale as to persons so notified nor as to any such persons having **actual notice of the sale.**" *See* I.C. 45-1508 (emphasis added). Here, the record contains video proof, submitted by Defendant himself, establishing that he had actual notice of the underlying sale, which he personally attended in order to protest. *See* Affidavit

of Jeremy L. Bass in Support of Defendant's Response to Plaintiffs' Motion for Summary Judgment, filed on October 15, 2024, ¶4(c). Accordingly, Defendant's attempt to challenge the validity of the Trustee's Deed given to Plaintiffs based upon assertions of notice defects fails as a matter of law where the undisputed facts of the case demonstrate that he had actual knowledge of the sale, and attended the same.

Lastly, Defendant's Motion takes issue with the Court's decision not to consider his multiple sur replies. Beyond merely disagreeing with the Court's decision, Defendant points to no authority which gives him the right to file anything more than an answering brief in opposition to Summary Judgment, nor can he where I.R.C.P. 56 is very clear that only an answering brief is allowed. Nevertheless, even if the court were to consider Defendant's various pleadings at this juncture, they still do not warrant reconsideration.

For instance, Defendant's Response to Plaintiff's Allegations in Section C sought to raise entirely new arguments not previously raised in any of Defendant's prior briefing including new claims of purported violations of federal law, and lack of jurisdiction which have never been pled by Defendant. Idaho law is clear that "[t]he only issues considered on summary judgment are those raised by the pleadings," and that if a party facing a motion for summary judgment decides it has alleged the wrong claim for relief or wants to raise another claim, it must amend *Mickelsen Constr., Inc. v. Horrocks*, 299 P.3d 203, ___ Idaho ___, (2013); citing to *Nelson v. Big Lost River Irrigation Dist.*, 148 Idaho 157, 160 (2009); see also *Vanvooren v. Astin*, 141 Idaho 440, 443 (2005); *Gardner v. Evans*, 110 Idaho 925, 939, 719 P.2d 1185, 1199 (1986)(declining to address a new claim for defamation as it had not been raised in the pleadings and thus there was a failure

to give adequate notice of the claim.)² Under I.R.C.P. 8(c), any matter “constituting avoidance or affirmative defense” must be set forth affirmatively. Furthermore, Idaho law provides that “a nonmoving defendant has the burden of supporting a claimed affirmative defense on a motion for summary judgment.” *Chandler v. Hayden*, 147 Idaho 765, 771, 215 P.3d 485, 491 (2009). Therefore, summary judgment is appropriate when the nonmoving party fails to establish the existence of an element essential to that party’s case on which that party will bear the burden of proof at trial. *Badel v. Beeks*, 115 Idaho 101, 102, 765 P.2d 126, 127 (1988) (citing *Celotex v. Catrett*, 477 U.S. 317, 106 S.Ct. 2548 (1986)).

In Defendant’s Response to Plaintiff’s Allegations in Section D, Defendant sought to argue for the first time that he was not given proper notice to vacate under Idaho law relying upon Idaho Code § 55-208; however, Defendant’s argument is misplaced. For starters, there is no notice requirement as it pertains to an action for ejectment. Rather, Defendant was given a 3 day notice to vacate as a courtesy, but otherwise one is not required. Second, Defendant’s reliance upon Idaho Code § 55-208 is misplaced as the notice requirements set forth therein only pertain to “a tenancy or other estate **at will**,” which Defendant’s tenancy is not. (emphasis added). Rather, Idaho Code § 45-1506(11) unambiguously notes that “the purchaser at the trustee’s sale shall be entitled to possession of the property on the tenth day following the sale, and any person remaining in possession thereafter under any interest except one prior to the deed of trust shall be deemed to be **tenants at sufferance**.” (emphasis added.) Accordingly, Defendant’s argument contesting

² Federal jurisprudence is in accord. See *Rodriguez v. Countrywide Homes*, 668 F. Supp. 2d 1239, *1245, 2009 U.S. Dist. LEXIS 105433, **14 (E.D. Cal. 2013)(noting that a plaintiff cannot oppose summary judgment based upon a new theory of liability because it would essentially blind side the defendant); citing to *Coleman v. Quaker Oats Co.*, 232 F.3d 1271, 1292-1293 (9th Cir. 2000)(where plaintiff did not include legal theory in complaint and did not identify the theory at any time prior to summary judgment, she could not rely on the theory for the first time in summary judgment.)

proper notice under Idaho Code § 55-208 fails.

In Defendant's Response to Plaintiff's Allegations in Section E, Defendant attempts to justify his reliance and citation to fictitious cases which Defendant appears to have simply made up in order to give the appearance of validity to his baseless arguments. Defendant admits his various citations do not exist and asserts that their inclusion was a mere mistake, but conspicuously fails to provide the correct citations to the authority upon which he was relying. Accordingly, Defendant's additional brief has no bearing on the correctness of the Court's ruling granting summary judgment.

IV. CONCLUSION

For the foregoing reasons, Defendant's Motion for reconsideration should be denied. Defendant fails to present the Court with any new or additional facts, or a more comprehensive presentation of both law and fact which bears on the correctness of the Court's ruling granting summary judgment in favor of Plaintiffs.

DATED This November 27, 2024.

HALLIDAY WATKINS & MANN, P.C.

By: /s/ Lewis N. Stoddard
Lewis N. Stoddard
Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this November 27, 2024, a true and correct copy of the above and foregoing document was served, which service was effectuated by the method indicated below and addressed as follows:

Jeremy L. Bass 1515 21 st Ave Lewiston, ID 83501	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Email/iCourt
Ken Nagy Idaho Legal Aid Services, Inc. kennagy@idaholegalaid.org <i>Counsel for Dwayne Pike</i>	<input type="checkbox"/> U.S. Mail <input checked="" type="checkbox"/> Email/iCourt

/s/ Lewis N. Stoddard
Lewis N. Stoddard

Lewis N. Stoddard, Bar No. 7766
Halliday, Watkins & Mann, P.C.
300 W. Main St., Ste. 150
Boise, ID 83702
Phone: 801-355-2886
Facsimile: 801-328-9714
lewis@hwmlawfirm.com
Attorney for Plaintiff | HWM File No. ID21698

**IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT,
OF THE STATE OF IDAHO IN AND FOR THE COUNTY OF NEZ PERCE**

<p>DPW Enterprises LLC and Mountain Prime 2018 LLC,</p> <p style="text-align: center;">Plaintiffs,</p> <p style="text-align: center;">v.</p> <p>Jeremy L. Bass; Dwayne Pike; and Unknown Parties in Possession of the real property commonly known as:</p> <p>1515 21st Ave., Lewiston, ID 83501,</p> <p style="text-align: center;">Defendants.</p>	<p>DECLARATION OF COUNSEL IN SUPPORT OF PLAINTIFFS’ OPPOSITION TO REQUEST FOR STAY</p> <p>Case No.: CV35-24-1063</p>
---	---

STATE OF IDAHO)
 : ss.
County of Ada)

LEWIS N. STODDARD, being first duly sworn, on oath deposes and says:

- 1.) I am one of the attorneys of record for plaintiff.
- 2.) Attached hereto as Exhibit A is a true and correct copy of an Order RE: Motions issued by the Idaho Supreme Court in Docket No. 46509-2018/Madison County District Court Case No.: CV-2015-74.
- 3.) Attached hereto as Exhibit B is a true and correct copy of an Order Dismissing Stay on Appeal issued by the Honorable Judge Michael McLaughlin in Ada County Case No. CVOC

11-13288.

4.) Attached hereto as Exhibit C is a true and correct copy of a Decision and Order Granting Stay Pending Appeal Upon Posting of Security issued by the Honorable Judge Patrick Owen in Boise County Case No. CV-2012-0000072.

5.) Attached hereto as Exhibit D is a true and correct copy of a printout from the Nez Perce County Assessor's Office of the value of the subject property, obtained from www.gis.co.nezperce.id.us/npcmap/.

CERTIFICATION UNDER PENALTY OF PERJURY

I certify under penalty of perjury pursuant to the law of the state of Idaho that the foregoing is true and correct.

DATED This November 27, 2024.

HALLIDAY WATKINS & MANN, P.C.

By: /s/ Lewis N. Stoddard
Lewis N. Stoddard
Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this November 27, 2024, a true and correct copy of the above and foregoing document was served, which service was effectuated by the method indicated below and addressed as follows:

Jeremy L. Bass 1515 21 st Ave Lewiston, ID 83501	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Email/iCourt
Ken Nagy Idaho Legal Aid Services, Inc. kennagy@idaholegalaid.org <i>Counsel for Dwayne Pike</i>	<input type="checkbox"/> U.S. Mail <input checked="" type="checkbox"/> Email/iCourt

/s/ Lewis N. Stoddard
Lewis N. Stoddard

EXHIBIT “A”

IN THE SUPREME COURT OF THE STATE OF IDAHO

BENEFICIAL FINANCIAL I, INC.,

Plaintiff-Respondent,

v.

MARILYNN T. THOMASON,

Defendant-Appellant,

and

The Unknown Heirs, Assigns and Devisees
of BYRON T, MADISON COUNTY, IDAHO;
JOHN BAGLEY, TERRENCE BAGLEY,
BEARD ST. CLAIR GAFFNEY PA, GREG
V. THOMASON, DIANA THOMASON, W.
BRENT EAMES, LIBERTY PARK
IRRIGATION COMPANY, RIGBY,
ANDRUS & RIGBY CHARTERED,
SECURITY FINANCIAL FUND, LLC,
MERRILL & MERRILL CHARTERED,
ABUNDANT LAND HOLDINGS, LLC,
THOMAS C. LUTHY, LAURA B. LUTHY,
FORSBERG LAW OFFICES, CHTD, R.
SAM HOPKINS, and DOES 1 through 20,

Defendants.

Order Re: Motions

Docket No. 46509-2018

Madison County District Court
CV-2015-74

1. THOMASON'S MOTION FOR DISQUALIFICATION, I.R.C.P. RULE 40(d), THOMASON'S MOTION FOR STAY I.A.R. 13 with THOMASON'S BRIEF & EXHIBITS FOR: MOTION FOR STAY I.A.R 13, and THOMASON'S NOTICE OF HEARING: MOTION FOR STAY I.A.R. 13 were filed by Appellant Marilyn Thomason on July 29, 2019.
2. An OPPOSITION TO APPELLANT'S MOTION TO DISQUALIFY, an OPPOSITION TO APPELLANT'S REQUEST FOR STAY, and an AFFIDAVIT OF COUNSEL IN SUPPORT OF RESPONDENT'S OPPOSITION TO APPELLANT'S REQUEST FOR STAY with attachments, were filed by counsel for Respondents on August 6, 2019.

The Court is fully advised; therefore, good cause appearing,

IT IS HEREBY ORDERED that THOMASON'S MOTION FOR DISQUALIFICATION be, and is hereby, DENIED. Justice Moeller has recused himself from this appeal, and Appellant has failed to state adequate grounds to support disqualification as to the remainder of the request.

IT IS FURTHER ORDERED that THOMASON'S MOTION FOR STAY be, and is hereby, DENIED, unless Appellant posts a bond in at least the amount of \$176,190.81.

Dated August 26, 2019.

By Order of the Supreme Court

A handwritten signature in black ink, reading "Karel A. Lehrman". The signature is written in a cursive, flowing style with a large initial 'K'.

Karel A. Lehrman
Clerk of the Courts

cc: Marilyn T. Thomason, pro se Appellant
Counsel of Record

EXHIBIT “B”

NO. 10:49 PM

OCT 18 2013

OCT 17 2013

CHRISTOPHER B. RICH, Clerk
SHERIFF'S OFFICE
DEPUTY

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

FEDERAL HOME LOAN MORTGAGE
CORPORATION,

Case No. CVOC 11-13288

Plaintiff-Respondent,

vs.

ORDER DISMISSING STAY ON
APPEAL

MARGARET A. BUTCHER; DENNIS D.
BUTCHER; and John Does 1 – 10, whose
true identity is unknown, as Occupants of
the Premises located at 10512 W. Achillea
Street, Star, Idaho, 83669,

Defendant-Appellants.

The court, upon review of the pleadings, will deny the Appellants' Motion for Stay
Pending Appeal.

The court is satisfied from the record that there is little, if any, likelihood of
prevailing on appeal.

As noted in Judge Sticklen's decision, "Defendant failed to comply with the Idaho
Rules of Appellate Procedure. Her failure to identify issues on appeal and to direct the
court's attention to error in the underlying decision was fatal to her appeal. Defendant
should not be allowed to cure these deficiencies by simply filing another appeal, more
than eighteen months after the initial magistrate decision."

1 Furthermore, in denying the appeal, Judge Sticklen noted that "there is no
2 genuine issue of material fact that Ms. Butcher was in default on her mortgage
3 obligations, that she received proper notice of the non-judicial foreclosure sale, and that
4 the sale was properly conducted." (Memorandum decision of Judge Sticklen filed May
5 23rd, 2013). As noted in the amended notice of appeal, Defendant fails to contest these
6 findings.

7 IT IS SO ORDERED.

8 DATED this _____ day of October 2013.

9
10 

11 MICHAEL McLAUGHLIN
12 DISTRICT JUDGE
13
14
15
16
17
18
19
20
21
22
23
24
25
26

CERTIFICATE OF MAILING

I hereby certify that on the 17th day of October 2013 I mailed (served) a true and correct copy of the within instrument to:

Wesley W. Hoyt
ATTORNEY AT LAW
165 Deerfield Dr
Clearwater, ID 83552

Derrick J. O'Neill
ROUTH CRABTREE OLSEN, PS
300 Main St, Ste 150
Boise, ID 83702

CHRISTOPHER D. RICH
Clerk of the District Court

By: 
Deputy Clerk

EXHIBIT “C”

RECEIVED
JUN 20 2014
BY:

DISTRICT COURT BOISE COUNTY, IDAHO
Recorded in Book _____ Page _____
Filed JUN 19 2014 No. _____
MARY PRISCO, Clerk
By ~~INGA JOHNSON~~

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

BANK OF AMERICA, N.A. successor by
merger to BAC Home Loans Servicing, LP
fka Countrywide Home Loans Servicing,
LP,

Plaintiff,

vs.

Case No. CV-2012-0000072

DECISION AND ORDER GRANTING
STAY PENDING APPEAL UPON
POSTING OF SECURITY

MICHELLE F. MIMS, (deceased);
Unknown Heirs, Assigns and Devisees of
MICHELLE F. MIMS; GARY D.
PETERSON; JAMES ROLAND RODES
AND SHIRLEY LOIS RODES, husband
and wife; PENSICO TRUST COMPANY,
CUSTODIAN FBO TEENA R. LAWTON
IRA, STATE OF IDAHO RECOVERY,
DAVID A. LAWTON; THOMAS K.
MOORE, JR. and Does 1-10 as individuals
with an interest in the property legally
described as:

The South half (S1/2) of the Northeast
Quarter (NE1/4) of the Northeast Quarter
(NE1/4) and North half (N1/2) of the
Southeast Quarter (SE1/4) of the Northeast
Quarter (NE1/4), of Section 16, Township
9, Range 4 East, Boise, Meridian, Boise
County, Idaho.

Excepting therefrom the following
described parcel:

The East 30 feet of the South one half of

1 the Northeast Quarter of the Northeast
2 Quarter in Section 16, Township 9 North,
Range 4 East, Boise Meridian

3 Which may commonly be known as: 126
4 West Castle Creek Road, Garden Valley,
Idaho 83622

5 Defendants.

6 Defendant Gary D. Peterson ("Peterson") has made application for a stay pending appeal.
7 The application is opposed by Plaintiff Bank of America, N.A. The Court conducted a hearing
8 into this matter on June 17, 2014 . Plaintiff was represented by its counsel, Lewis N. Stoddard,
9 RCO Legal, PC., who was present by telephone. Peterson was present by telephone. The
10 proceeding was on the record.
11

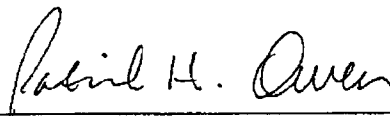
12 As an exercise of discretion, and pursuant to I.A.R. 13(b)(14), the Court will grant a stay
13 pending appeal upon posting of sufficient security. Based upon the reasoning of the court in *Metz*
14 *v. United States*, 130 F.R.D. 458 (D. Kan. 1990), the Court will require posting of security based
15 upon the approximate rental value of the property. The Court will take 10% of the property's
16 assessed value and multiply that amount by two years. Exhibit C to the June 5, 2014 affidavit of
17 Lewis N. Stoddard shows that the 2012 assessed value was in the amount \$182,355.
18

19 Accordingly, the Court will grant of stay pending appeal upon the posting of security in
20 the amount of \$36,471.00. Upon posting of security in this amount, the Court will grant a stay
21 of the enforcement of the April 10, 2014 Order for Sale of Foreclosure, and the April 10, 2014
22 Judgment and Decree of Foreclosure. Security shall be posted with the Clerk of the Fourth
23
24
25

1 District Court for the County of Boise.

2 IT IS SO ORDERED.

3 Dated this 19 day of June, 2014.

4 

5 _____
6 Patrick H. Owen
7 District Judge
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE OF MAILING

I hereby certify that on the 19 day of June, 2014, I mailed (served) a true and correct copy of the within instrument to:

LEWIS N. STODDARD
RCO LEGAL, PC
300 MAIN ST, STE 150
BOISE, ID 83702

GARY D. PETERSON
126 WEST CASTLE CREEK ROAD
GARDEN VALLEY, ID 83622

IAN W. GEE
ATTORNEY AT LAW
805 S. MIDDLE FORK ROAD
GARDEN VALLEY, ID 83622

MARY PRISCO
Clerk of the District Court

By

Deputy Clerk

REGA JOHNSON

EXHIBIT “D”

Nez Perce County, Idaho

Assessor & Treasurer Map About Help Contact

Introduction

Assessor & Treasurer

Welcome to the Nez Perce County Property Information web mapping application. This page gives an overview of Nez Perce County property appraisal information. The application does not display all aspects of information that is used to determine values; however, it provides a general overview of that data.

Efforts are made to display current and correct information. If there are questions or concerns please call 208 3010 or email: [Assessor](#)

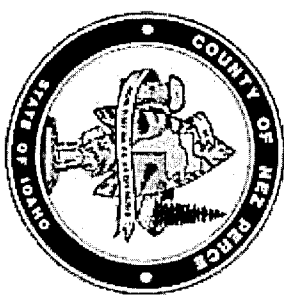
Tax information is for the year and 3 years previous. Application does not show or any tax exemptions. If you have questions please call 208 799-3030 or email: [Treasurer](#)

For information about all categories: [Categories](#)

For information on deed documents of record please contact the [Nez Perce County Recorder](#)

- Search
- Print
- Identify Property
- Identify Layers
- Measure

Property Information



Selected Properties: 1

☒ RPL0880010010A

Owner(s): DPW ENTERPRISES LLC MOUNTAIN PRIME 2018 LLC

- Legal
- Taxes
- Assessor
- Residential
- Commercial
- Photos
- Sketches

Assessor information for 2024 (values subject to change)

Category	Quantity	Units	Value	Exempt	Net
20	0.244	AC	\$49,750	\$20,287	\$29,463
41	0	--	\$256,795	\$104,713	\$152,082

Totals:	0.244	AC	\$306,545	\$125,000	\$181,545
---------	-------	----	-----------	-----------	-----------

- Buffer
- Zoom All
- Zoom Current

Lewis N. Stoddard, Bar No. 7766
Halliday, Watkins & Mann, P.C.
300 W. Main St., Ste. 150
Boise, ID 83702
Phone: 801-355-2886
Facsimile: 801-328-9714
lewis@hwmlawfirm.com
Attorney for Plaintiff | HWM File No. ID21698

**IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT,
OF THE STATE OF IDAHO IN AND FOR THE COUNTY OF NEZ PERCE**

DPW Enterprises LLC and Mountain Prime 2018 LLC, Plaintiffs, v. Jeremy L. Bass; Dwayne Pike; and Unknown Parties in Possession of the real property commonly known as: 1515 21st Ave., Lewiston, ID 83501, Defendants.	MEMORANDUM IN OPPOSITION TO DEFENDANTS' MOTION FOR STAY Case No.: CV35-24-1063
---	--

COMES NOW Plaintiffs by and through their counsel of record and do hereby submit the following Memorandum in Opposition to Defendant Jeremy L. Bass's Motion for Stay which is both pre-mature and unwarranted.

I. INTRODUCTION AND BACKGROUND.

On February 29, 2024 Plaintiffs purchased the real property commonly known as 1515 21st Ave., Lewiston, ID 83501 at a Trustee's Sale for \$165,346.71. Pursuant to Idaho Code § 45-1506(11) Plaintiffs were entitled to possession of the Property on the 10th day following the sale and yet 8 months later, Defendant Jeremy L. Bass continues to occupy the property, continues to refuse to relinquish possession while residing in the property for free.

On November 5, 2025, the Court issued its Memorandum Opinion and Order on Plaintiffs'

Motion for Summary Judgment granting summary judgment in favor of Plaintiffs and as against Defendant Bass. The following day, on November 6, 2024, Defendant Bass filed a Motion for Reconsideration as well as the present request for stay pursuant to I.R.C.P. 62(b). Final Judgment has not otherwise been entered at this point in time.

With the foregoing background and procedural posture in mind, Defendant's request for stay is improper. First, no judgment has yet been entered and as such, I.R.C.P. 62(b) which is the legal basis of Defendant's request does not apply. Second, Defendant has shown no basis for entry of stay and even if he had, I.R.C.P. 62 provides that the Court may impose such conditions for the security of the adverse part as are proper. Here, given that Defendant continues to occupy a property that he no longer owns and no longer pays for all to the harm of Plaintiff's who tendered \$\$165,346.71 and continue to be denied possession by Defendant's continued occupation, if a stay is granted by this Court, a significant bond should be required.

II. ARGUMENT.

Defendant's Request for Stay is meritless and should be denied.

For starters, Defendant's request is premature. Defendant filed for reconsideration and a stay the day after the Court granted summary judgment and before Plaintiff had even sought entry of final Judgment or the award of attorney fees and costs and a corresponding Writ. As it stands presently, Defendant is under no threat of removal from the premises and accordingly his request should be denied.

Second, Defendant's legal basis for seeking a stay is inapplicable. Specifically, Defendant cites to I.R.C.P. 62(b) which is does not apply where Rule 62(b) only applies to staying execution of a "judgment, or any proceedings to enforce it," pending disposition of a motion under Rule 50, Rule 52(b), Rule 59, or Rule 60. In the present case, there has been no entry of a final judgment,

or any form of writ to enforce it from which a stay of execution may be sought. Additionally, there are no motions under Rule 50, Rule 52(b), Rule 59, or Rule 60 pending. Accordingly, Rule 62(b) and any request for stay thereunder is improper and should be denied.

Even if Defendant's motion were to be construed as seeking a stay under I.R.C.P. 62(a), or construed as some form of advance request for stay after Judgment is entered or a motion that Defendant intends to renew upon entry of final judgment, whether to enter a stay under I.R.C.P. 62(a) or I.A.R. 13(b)(14) is discretionary and only upon "such conditions for the security of the adverse party as are proper" under Rule 62(a), or "upon posting of such security and upon such conditions as the district court shall determine" under I.A.R. 13(b).

In the case at hand, Defendant disingenuously asserts that a stay will help prevent him from significant harm through the loss of the Property and will cause minimal disruption to Plaintiffs who have other recourses and remedies, without identifying any. Defendant is mistaken.

First, Defendant had the opportunity to contest his underlying loan and the underlying foreclosure prior to it being completed through a Trustee's Sale and which he unsuccessfully attempted to litigate so on at least one occasion which was found to be meritless and dismissed. Since that time, Defendant allowed the underlying Trustee's sale to take place and he has taken no further action against either the Trustee or his lender to have the sale set aside, or to seek damages for wrongful foreclosure. Instead, Defendant has set idle, seeking to try to indirectly litigate purported issues he has with his lender and trustee who are both non-parties to this suit and then to use his disputes as a basis to deny Plaintiffs possession. Idaho law is clear that Plaintiffs are entitled to possession of the Property and that the sale is final where they are good faith purchasers for value and where Defendant had actual notice of the underlying sale. If Defendant has issues with that sale or believes it to be wrongful, his proper recourse is against the Trustee and Lender,

and not against Plaintiffs who merely purchased the Property at a public auction.

As for the harm to the Plaintiffs, they have paid \$165,346.71 to purchase the subject property which continues to be occupied by Defendant who is paying nothing, all while continuing to demand and/or require rent from a purported tenant Dwayne Pike, notwithstanding the fact he is no longer the owner of the same. In essence, Defendant has and is profiting from the present litigation. In addition, Plaintiffs have and will continue to incur attorney fees and costs as they are forced to respond to Defendant's baseless motions and arguments.

For the foregoing reasons, if and when the Court is asked to address a timely request for a stay, it should require a significant bond. *See Naylor & Norlin v. Lewiston & S.E. Elec. Ry. Co.*, 14 Idaho 722 (1908)(wherein, the court noted that the amount of the stay bond should cover waste and use and occupation of the premises); *see also Merrill v. Gibson*, 142 Idaho 692 (Ct. App. 2005)(wherein a bond that was set by the trial court as a condition of a stay of execution pending appeal of an order to vacate the premises in a quiet title action was challenged, and upheld and said bond was to be used in the event the appellant lost his appeal and did not remove his personal belongings from the property within a reasonable time.)

While it is Plaintiffs' position that no stay is warranted in this case where Defendant failed to present any evidence to support his speculative and conclusory arguments, if a stay is considered by the court, Defendant should not be allowed to profit from continued litigation, by seeking a stay to prevent ejectment from the Property for which payments were previously in default, which was purchased by Plaintiffs' who tendered \$165,346.71,¹ and which Defendant continues to occupy and collect rent from a tenant residing therein under a purported claim of ownership. Accordingly,

¹ Defendant has on multiple occasions argued that the \$165,346.71 purchase price that Plaintiffs paid for the Property as the highest bidders at the Trustee's Sale is well below the fair market value for the property.

any stay this Court may order should be conditioned upon the posting of security for the minimum amount of \$165,346.71, which is the price paid by Plaintiffs.

To help guide the court in its determination of a proper bond, attached are a number of decisions from other Idaho Courts which have denied a stay outright, required a bond in the amount of the total underlying debt, or used the taxed assessed value of the property to determine a proper bond amount.

For instance, attached as Exhibit A to the Declaration of Counsel is a decision by the Idaho Supreme Court in connection with Madison County Case No. CV-2015-74, wherein a property owner attempted to contest a judicial foreclosure of her real property, which was authorized by the District Court. On appeal, the property owner sought the entry of a stay to prevent the foreclosure from taking place during the pendency of the appeal, which the Idaho Supreme Court denied unless a bond was posted in the amount of the underlying amounts due and owing on the loan in the amount of \$176,190.81.

Attached as Exhibit B to the Declaration of Counsel is a decision by the Honorable Michael McLaughlin in Ada County Case No. CVOC 11-13288 which involved a post-foreclosure action for ejectment. The underlying Property was purchased by Federal Home Loan Mortgage Company (“FHLMC”) which filed a post-foreclosure eviction complaint for ejectment and restitution of the property against the former borrower/occupant of the property. FHLMC prevailed and the borrower/occupant appealed and requested a stay, which was denied by the District Court which noted the findings of the lower court that found that the borrower/occupant failed to create an issue of material fact with respect to the default on the mortgage obligations, receipt of property notice of the non-judicial foreclosure sale, and proper conduct of the sale.

Lastly, attached as Exhibit C to the Declaration of Counsel is a true and correct copy of a

Decision and Order Granting Stay Pending Appeal upon Posting of Security issued by the Honorable Judge Patrick Owen in Boise County Case No. CV-2012-0000072. In that case, Judge Owen noted that the imposition of a stay is discretionary and elected to grant a stay pending appeal upon posting of sufficient security and based upon the reasoning of *Metz v. United States*, 130 F.R.D. 458 (D.Kan. 1990), set a bond amount by taking 10% of the property's assessed value and multiplying that amount by two years. Should the Court take a similar position, then Nez Perce County assessor records indicate that the assessed value of the Property is \$306,545.00 which would result in a bond amount under *Metz* of \$61,309.00.

III. CONCLUSION.

For the foregoing reasons, Defendant's Motion for Stay should be denied outright or alternatively if the Court considers imposition of a stay, it should be conditioned upon the posting of a bond in an amount sufficient for the security of Plaintiffs' which Plaintiffs request be in an amount no less than what they paid to purchase the underlying Property.

DATED November 27, 2024.

HALLIDAY WATKINS & MANN, P.C.

By: /s/ Lewis N. Stoddard
Lewis N. Stoddard
Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this November 27, 2024, a true and correct copy of the above and foregoing document was served, which service was effectuated by the method indicated below and addressed as follows:

Jeremy L. Bass 1515 21 st Ave Lewiston, ID 83501	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Email/iCourt
Ken Nagy Idaho Legal Aid Services, Inc. kennagy@idaholegalaid.org <i>Counsel for Dwayne Pike</i>	<input type="checkbox"/> U.S. Mail <input checked="" type="checkbox"/> Email/iCourt

/s/ Lewis N. Stoddard
Lewis N. Stoddard