

# ORAL ARGUMENT PREPARATION DOCUMENT

## IN THE IDAHO SUPREME COURT

Docket No. 52552-2024

DPW ENTERPRISES LLC and MOUNTAIN PRIME 2018 LLC v. JEREMY L. BASS, et al.

Case No. CV35-24-1063

### I. ARGUMENT STRUCTURE AND TIME ALLOCATION

#### A. Opening Statement (2-3 minutes)

1. May it please the Court, I am [ATTORNEY NAME] representing the Appellant, Jeremy L. Bass.
2. This appeal presents three critical issues:
  - The District Court’s premature grant of summary judgment without allowing essential discovery
  - Fundamental violations of procedural due process
  - Misapplication of Idaho Code § 45-1508’s good faith purchaser protections

#### B. Primary Arguments (23-24 minutes)

##### *1. Summary Judgment and Discovery (8-10 minutes)*

- a. Rule 56(d) Motion Denial
  - Demonstrate specific discovery needs related to:
    - Pre-auction communications
    - Trustee compliance documentation
    - Witness statements regarding auction irregularities
- b. Material Facts in Dispute
  - Video evidence of auction irregularities
  - Documentary evidence of pre-printed bid amounts
  - Witness testimony regarding trustee collusion

##### *2. Procedural Due Process (5-7 minutes)*

- a. Constitutional Requirements
  - Article I § 13 of Idaho Constitution

- Fourteenth Amendment protections
- b. Evidence Exclusion Impact
  - Prejudicial effect on fundamental property rights
  - Denial of meaningful opportunity to present defense

### *3. Statutory Interpretation (5-7 minutes)*

- a. Idaho Code § 45-1508 Analysis
  - Legislative intent and statutory construction
  - Prerequisites for good faith purchaser status
- b. Procedural Violations
  - Impact on sale validity
  - Relationship to statutory protections

### **C. Rebuttal Reserve (5 minutes)**

- 1. Primary focus on:
  - Responding to statutory interpretation arguments
  - Addressing factual mischaracterizations
  - Reinforcing procedural violations

## **II. EXHIBIT PREPARATION**

### **A. Visual Aids**

- 1. Auction Video Evidence
  - Timestamp references: [SPECIFIC TIMES]
  - Key moments highlighting irregularities
  - Technical requirements for courtroom presentation
- 2. Documentary Evidence
  - Email communications (chronological order)
  - Trustee deed discrepancies
  - Notice requirement documentation

### **B. Case Authority References**

- 1. Primary Cases

- Trotter v. Bank of N.Y. Mellon
- Mathews v. Eldridge
- Jenkins v. Boise Cascade Corp.

## 2. Supporting Authority

- Idaho Code § 45-1506
- Idaho Code § 45-1508
- Idaho Rule of Civil Procedure 56(d)

# III. ANTICIPATED QUESTIONS AND RESPONSES

## A. Procedural Questions

### 1. Standard of Review

- De novo review for summary judgment
- Abuse of discretion for discovery matters

### 2. Preservation of Issues

- Rule 56(d) motion filing
- Objections to evidence exclusion
- Constitutional claims raised below

## B. Substantive Questions

### 1. Good Faith Purchaser Status

- Elements required under statute
- Evidence of non-compliance
- Impact of procedural violations

### 2. Discovery Necessity

- Specific documents sought
- Relevance to material facts
- Prejudice from denial

# IV. CONCLUSION (2-3 minutes)

## A. Relief Requested

### 1. Reverse summary judgment

2. Remand for discovery
3. Award costs and fees

#### **B. Key Points Emphasis**

1. Procedural fairness requirements
2. Constitutional protections
3. Statutory compliance necessity

### **V. TECHNICAL TERMS AND DEFINITIONS**

#### **A. Legal Terminology**

1. Void ab initio
  - Definition: Legally void from inception
  - Application to trustee sale context
  - Relevant case law support
2. Good Faith Purchaser
  - Statutory definition under Idaho Code § 45-1508
  - Elements required for protection
  - Burden of proof requirements
3. Procedural Due Process
  - Constitutional foundations
  - Idaho-specific requirements
  - Application in foreclosure context

#### **B. Specialized Concepts**

1. Pre-Auction Collusion
  - Legal definition and elements
  - Evidence standards
  - Impact on sale validity
2. Rule 56(d) Requirements
  - Procedural prerequisites
  - Timing considerations

- Specificity requirements

## **VI. CONTINGENCY PLANNING**

### **A. Alternative Arguments**

#### **1. Primary Position**

- Complete reversal of summary judgment
- Full discovery rights
- Constitutional violations

#### **2. Secondary Position**

- Limited remand for specific discovery
- Partial invalidation of sale
- Procedural safeguards implementation

### **B. Factual Clarifications**

#### **1. Timeline of Events**

- Pre-auction activities: [DATES]
- Discovery requests: [DATES]
- Court rulings: [DATES]

#### **2. Documentary Support**

- Record citations
- Exhibit references
- Witness statements

## **VII. PROCEDURAL SAFEGUARDS**

### **A. Time Management**

#### **1. Timing Signals**

- Yellow light response protocol
- Reserved time tracking
- Priority point completion

#### **2. Point Preservation**

- Essential elements for each argument

- Minimum necessary presentation
- Fall-back positions

## **B. Panel Interaction**

### **1. Question Integration**

- Immediate acknowledgment protocol
- Direct answer requirement
- Transition back to outline

### **2. Respectful Disagreement**

- Acknowledgment of court's concern
- Alternative analysis presentation
- Supporting authority citation

## **VIII. EMERGENCY PROCEDURES**

### **A. Technical Issues**

#### **1. Exhibit Malfunction**

- Verbal description backup
- Written summaries
- Alternative presentation methods

#### **2. Time Management Issues**

- Priority point identification
- Abbreviated argument versions
- Essential conclusion elements

### **B. Unexpected Challenges**

#### **1. New Authority**

- Distinguished case handling
- Statutory interpretation alternatives
- Policy consideration responses

#### **2. Factual Disputes**

- Record citation preparation

- Alternative support identification
- Clarification procedures

## **IX. POST-ARGUMENT PROCEDURES**

### **A. Follow-up Submissions**

1. Citation of Additional Authority
  - Idaho Appellate Rule compliance
  - Timing requirements
  - Format specifications
2. Supplemental Briefing
  - Court request response
  - Voluntary submission protocol
  - Page limit compliance

### **B. Order Implementation**

1. Favorable Ruling
  - Proposed order preparation
  - Implementation timeline
  - Compliance verification
2. Adverse Ruling
  - Reconsideration standards
  - Alternative relief options
  - Further appeal considerations