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2025 FEB. 10 AM 10:53

PATTY O. WEEKS  
CLERK OF THE DIST. COURT  
DEPUTY

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 LLCs,

Plaintiffs,

v.

JEREMY L. BASS; DWAYNE PIKE, and  
UNKNOWN PARTIES IN POSSESSION  
OF THE REAL PROPERTY KNOWN AS:

1515 21<sup>ST</sup> Ave., Lewiston, ID 83501

Defendants.

CASE NO. CV35-24-1063

OPINION AND ORDER ON  
PLAINTIFFS' MOTION FOR  
ATTORNEY FEES AND COSTS  
AND DEFENDANT'S MOTION  
TO STAY AND MOTION TO  
WAIVE SUPERSEDEAS BOND

This matter came before the Court on Plaintiffs' Motion for Attorney Fees and Costs and the Defendant's Motion to Stay and Motion to Waive Supersedeas Bond. The Plaintiffs are represented by Lewis Stoddard, of the firm Halliday, Watkins & Mann. Defendant Bass is representing himself as a pro se litigant. Defendant Pike is represented by Ken Nagy, of Idaho Legal Aid.<sup>1</sup> The Court heard argument on the motion via Zoom on January 21, 2025. The Court, having heard argument and being fully advised in the matter, hereby renders its decision.

<sup>1</sup> Mr. Pike and counsel were present at this hearing for the status conference. Mr. Nagy did present argument on the issues before the Court. Ultimately, the Court notes that the issues pertaining to Mr. Pike are separate from the claims against Defendant Bass. The case against Mr. Pike is ongoing and Mr. Pike is not currently facing ejectment from the property.

## BACKGROUND

The Plaintiffs (hereinafter “DPW”) initiated this lawsuit with the intent to eject the Defendants from real property located at 1515 21<sup>st</sup> Street, in Lewiston, Idaho. The facts of the case are set forth in the *Memorandum Opinion and Order on Plaintiffs’ Motion for Summary Judgment*, entered by this Court on November 5, 2024. Summary judgment was granted in favor of DPW against Defendant Bass, summary judgment was denied as to Defendant Pike. Defendant Bass filed a motion for reconsideration, which was denied on December 16, 2024. On the same date, this Court entered a judgment against Defendant Bass, with a certificate pursuant to I.R.C.P. 54(b) to make the judgment final. Pending before the Court are the Plaintiffs’ motion for attorney fees and costs and the Defendant’s motion to stay and motion to waive supersedeas bond.

## ANALYSIS

### **1. The Plaintiffs are entitled to attorney fees and costs.**

The Plaintiffs are seeking an award of attorney fees pursuant to I.C. §§ 6-316, 12-121 and I.R.C.P. 54(e)(1) and (2). The Plaintiffs are the prevailing party pursuant to I.R.C.P. 54(d)(1)(B). The Plaintiffs motion for summary judgment was granted on all claims against Defendant Bass, therefore, the Plaintiffs prevailed in the action as to Defendant Bass.

Further, the Plaintiffs have established that this action, as to Defendant Bass, an award of attorney fees is appropriate pursuant to I.C. § 12-121. “In any civil action, the judge may award reasonable attorney's fees to the prevailing party or parties when the judge finds that the case was brought, pursued or defended frivolously, unreasonably or

without foundation.” *Id.* “The awarding of attorney fees and costs is within the discretion of the trial court and subject to review for an abuse of discretion.” *Millard v. Talburt*, 544 P.3d 748, 762 (Idaho 2024) *citing Smith v. Mitton*, 140 Idaho 893, 897, 104 P.3d 367, 371 (2004).

The Court finds that Defendant Bass defended the action frivolously, unreasonably and without foundation. Defendant Bass repeatedly argued issues that were not related to the ejection issue, but a wholly separate case regarding the default of payments on Bass’s mortgage. This is noted in the *Opinion and Order on Defendant Bass’s Motion for Reconsideration*, filed on December 16, 2024. Therefore, an award of attorney fees is warranted in this matter.

The Plaintiffs seek a total award of attorney fees in the amount of \$9,330.00 and costs in the amount of \$ 296.91. The Court has reviewed the *Declaration of Attorney Fees and Costs*, filed by the Plaintiffs on November 27, 2024. The request is reasonable based upon the requirements of I.R.C.P. 54(e)(3). The Court has considered all factors, including the time and labor required, the novelty and difficulty of the questions, the skill requisite to perform the legal service properly and the experience and ability of the attorney in this field of law, as well as the remaining factors listed in this rule. The Court finds the fees requested are reasonable based upon the requirements of the rule.

Therefore, the Plaintiffs motion for fees in the amount of \$9,330.00 and costs in the amount of \$ 296.91 is granted. The Plaintiffs are directed to submit an amended judgment to reflect this order.

**2. The Defendant's motion to stay is denied. The Court will not address the motion for waiver of supersedeas bond because the issue is moot.**

Defendant Bass asks this Court to stay the ejection action pending the appeal of this matter. Bass asserts that there is a threat of irreparable harm to him if the stay is not granted, because he would face immediate eviction from his primary residence. He also asserts he would lose over \$400,000 in equity in the property and face a severe financial hardship.<sup>2</sup> *See Memorandum in Support of Motion to Stay*, filed January 2, 2025.

Defendant Bass also filed an *Affidavit of Melissa Jean Gunsh* on January 17, 2025, wherein Ms. Gunsh averred that Defendant Bass has resided at her place of residence since February of 2024, which is during the pendency of this ejection action.

Based upon the record as a whole, the Court finds no basis to stay the judgment in this matter. The Court has found no merit in any of Defendant Bass's conclusory arguments in this matter, and the recent filing by Defendant Bass that he is not residing at the property further supports this conclusion. Because the motion to stay is denied, there is no basis for the Court to consider the requirement of a supersedeas bond in this case.

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<sup>2</sup> Defendant Bass also raises concern that an ejectment would affect the co-defendant in this case, Defendant Pike. The Court notes that the Plaintiff's motion for summary judgment was denied with respect to Defendant Pike. The case involving Pike's rental rights is ongoing, and thus, Pike does not face ejectment from the property as a result of the case against Bass.

## ORDER

The Plaintiffs' Motion for Attorney Fees and Costs is hereby GRANTED. The Plaintiffs are directed to submit an Amended Judgment consistent with the foregoing Analysis. Defendant Bass's Motion to Stay is hereby DENIED.

IT IS SO ORDERED.

Dated this 10<sup>th</sup> day of February 2025.

  
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MICHELLE M. EVANS – District Judge

CERTIFICATE OF MAILING

I hereby certify that a true copy of the foregoing OPINION AND ORDER ON PLAINTIFFS' MOTION FOR ATTORNEY FEES AND COSTS AND DEFENDANT'S MOTION TO STAY AND MOTION TO WAIVE SUPERSEDEAS BOND was delivered via email by the undersigned at Lewiston, Idaho, this 10<sup>th</sup> day of February, 2025 to:

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Ken Nagy  
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PATTY O. WEEKS, CLERK

By *Jerry L. Nagy*  
Deputy

