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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,  <b>Plaintiffs,</b>  <b>v.</b>  Jeremy L. Bass; Dwayne Pike; and Unknown Parties in Possession of the real property commonly known as:  1515 21st Ave., Lewiston, ID 83501,  <b>Defendants.</b>	<b>DECLARATION OF COUNSEL IN SUPPORT OF PLAINTIFFS' OPPOSITION TO REQUEST FOR STAY</b>  Case No.: CV35-24-1063
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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/](http://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 <sup>st</sup> Ave Lewiston, ID 83501	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Email/iCourt
Ken Nagy Idaho Legal Aid Services, Inc. <a href="mailto:kennagy@idaholegalaid.org">kennagy@idaholegalaid.org</a> <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. NICH, 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 23<sup>rd</sup>, 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.

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11 MICHAEL McLAUGHLIN  
12 DISTRICT JUDGE  
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CERTIFICATE OF MAILING

I hereby certify that on the 17<sup>th</sup> 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

DECISION AND ORDER GRANTING STAY PENDING APPEAL UPON POSTING OF  
SECURITY- PAGE 1

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

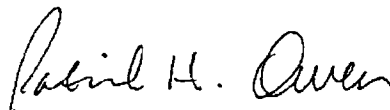
12 As an exercise of discretion, and pursuant to I.A.R. 13(b)(14), the Court will grant a stay  
13 pending appeal upon posting of sufficient security. Based upon the reasoning of the court in *Metz*  
14 *v. United States*, 130 F.R.D. 458 (D. Kan. 1990), the Court will require posting of security based  
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  
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1 District Court for the County of Boise.

2 IT IS SO ORDERED.

3 Dated this 19 day of June, 2014.

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5 \_\_\_\_\_  
6 Patrick H. Owen  
7 District Judge  
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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](#)

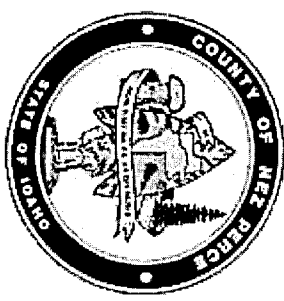
Tax information is for the year and 3 years previous. Application does not show or any tax exemptions. If you have questions please call 208 799-3030 or email: [Treasurer](#)

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

