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DEPARTMENT OF
WATER RESOURCES

SCANNED

FEB 10 2025

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IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re CSRBA

Case No. 49576

Consolidated Subcase Nos.
95-16445 (Farley) and
95-18409 (Gideon)

**VERIFIED PETITION FOR COSTS
AND ATTORNEY FEES**

Claimants Arthur and Katherine Gideon (“Gideon”), by and through undersigned counsel of record and pursuant to Idaho Rule of Civil Procedure 54, Idaho Code Section 12-121, and Section 29 of the parties’ RE-21 Real Estate Purchase and Sale Agreement, dated April 28, 2019 (the “REPSA”) (*see Affidavit of Andrew J. Waldera in Support of Motion for Summary Judgment Re Claim No. 95-18409* (Jan. 30, 2024), Ex. C), hereby move the Court for an award of Gideon’s reasonable costs and attorney fees incurred in this matter, totaling **\$112,805.85** (\$112,771.00 in attorney fees and \$34.85 in costs).¹

¹ *Amended CSRBA Administrative Order 1* (Mar. 4, 2015) (“AO1”) supplements, rather than supplants, otherwise applicable Idaho Rules of Civil Procedure, the Idaho Rules of Evidence, and the Idaho Appellate Rules. Consequently, Rule 54 applies in the context of this verified petition. AO1 §§ 1(a) and (b). The costs and fees requested are itemized, described, and calculated in/from **Exhibit A** attached hereto.

A. Gideon is the Prevailing Party in Subcase No. 95-18409 and This Petition is Timely

Pursuant to Idaho Rule of Civil Procedure 54, courts may award costs and fees to the “prevailing party” based upon contract or statute. I.R.C.P. 54(d)(1)(B) and 54(e)(1). The determination of prevailing party status and, therefore, whether to award costs and fees is a discretionary one, and such a determination will not be disturbed absent an abuse of that discretion. *See, e.g., Tricore Invs., LLC v. Estate of Warren ex rel. Warren*, 168 Idaho 596, 627, 485 P.3d 92, 123 (2021); *see also, Lower Payette Ditch Co. v. Harvey*, 152 Idaho 291, 295-296, 271 P.3d 689, 694-695 (2012).

When determining which, if any, of the parties “prevailed” in a matter, courts are to consider the final judgment or result of the action in relation to the relief sought by the respective parties. I.R.C.P. 54(d)(1)(B); *see also, Thornton v. Pandrea*, 161 Idaho 301, 315, 385 P.3d 856, 870 (2016). The issue is not who succeeded on more individual claims, but rather who succeeded on the main issue of the action. *Thornton*, 161 Idaho at 315, 385 P.3d at 870.

Rule 54 requires a party to seek costs and fees “at any time after . . . a decision of the court, but not later than 14 days after entry of judgment” or the right to request costs and fees is waived. I.R.C.P. 54(d)(4) and (e)(5). The Court’s *Memorandum Decision and Order of Partial Decrees* (Jan. 24, 2025) (“Order”), combined with its entry of *Partial Decree for Water Right No. 95-18409* (Jan. 24, 2025) (“Partial Decree”), disposed of the substantive entirety of Subcase No. 95-18409 through the entry of final judgment in Gideon’s favor by operation of the Partial Decree’s Rule 54(b) Certificate. This Verified Petition is timely filed, having been filed with the Court no later than February 7, 2025 (the 14th day after entry of the Partial Decree on January 24, 2025).

In the context of Subcase 95-18409, Gideon claimed the Partial Decree they ultimately received—a 13,000 gpd domestic and stockwater right appurtenant to their property (Parcel I) bearing a March 31, 1999 priority date. *Motion for Late Claim* (Jan. 31, 2023); *see also*, Order, pp. 2-3. As noted by the Court, Gideon’s Partial Decree embodies the “described [] water right elements that were removed from [Farley’s] claim no. 95-1644[5] when it was amended on January 25, 2019.” Order, p. 3.²

From the outset, Farley attempted to kill, in its entirety, Gideon Claim No. 95-18409. *See, e.g., Response in Opposition to Claimant Gideons’ Motion to File Late Notice of Claim* (Mar. 15, 2023) (“Late Claim Response”), pp. 7-8, and 11 (emphasis in original) (“[T]he Gideons are unlawfully attempting to secure ‘multiple’ water rights for a single domestic use on their property . . . the Gideons do not have any legal basis or ‘meritorious position’ to claim a second

² Gideon acknowledges that they initially objected to the diversion rate and place of use of recommended right no. 95-18409 in the Department’s initial *Director’s Report* (May 22, 2023) recommendation (“Initial Report”). Gideon initially claimed a diversion rate of 0.04 cfs as is common for domestic rights, and a small “thumb” of Parcel I place of use located in the NESW quarter quarter section of Section 9, Township 52N, Range 3W. *Compare, Notice of Claim* (Jan. 31, 2023) and Initial Report.

However, upon the Department’s additional investigation and explanation, Gideon immediately adopted and successfully prosecuted to partial decree Right No. 95-18409 as ultimately recommended in the Department’s *Supplemental Director’s Report* (Sept. 21, 2023) (“Supplemental Report”) from there forward. *See, e.g., Memorandum in Support of Motion for Summary Judgment Re Claim No. 95-18409* (Jan. 30, 2024), p. 3 (“The focus of the Gideon Motion and this memorandum is Gideon’s request that the Court adjudicate and decree Claim 95-18409 as recommended in IDWR’s [Supplemental] Report . . . Gideon [also] remains willing and agreeable to stipulating to the adjudication and decree of Claim No. 95-16445 as recommended in IDWR’s [Supplemental] Report as well.”); *see also, Id.*, pp. 15-16 (“[] Gideon respectfully requests that Claim No. 95-18409 be decreed as recommended in IDWR’s [Supplemental] Report. And finally, for the sake of completeness, Gideon does not object to the reciprocal decree of Claim No. 95-16445 as recommended in IDWR’s [Supplemental] Report for purposes of closing these consolidated subcases (Nos. 95-16445 and 95-18409) out.”); *Response to Farley’s Motion to Alter or Amend Special Master’s Memorandum Decision; Report and Recommendation* (Jul. 16, 2024) (“MAA Response”), pp. 3-4 (“Provided that Farley merely seeks [relief] . . . without any other adjustment or modification of the Order’s recommendation of Right No. 95-18409 . . . Gideon has no objection. As stated repeatedly, Gideon seeks no more that they are entitled to under Right No. 95-18409 . . .”), and *Response to Brian Farley’s Opening Brief on Challenge* (Oct. 31, 2024) (“Challenge Response”), p. 1, Note 1 (“Gideon’s focus remains the ultimate recommendation and decree of Right No. 95-18409.”).

constitutional use domestic water right . . . [w]ithout a justiciable controversy, the Gideons have no ‘good cause’ . . . they have no legal position to pursue the late claim . . . the Court [should] deny the motion to file late claim[] 95-18409”).

After failing in this regard given the Court’s grant of Gideon’s late claim motion, Farley later adopted a two-pronged approach: (a) continued efforts under various theories, including severance and withholding, legally effectual water right transfer via amended adjudication claim, and selective, partial abandonment, to kill Claim No. 95-18409 outright with Gideon taking nothing therefrom; or, in the alternative, (b) proportionately splitting the 13,000 gpd block of water between them based on their respective landholdings. *See, e.g., Response in Opposition to Claimant Gideons’ Motion for Summary Judgment Re Claim No. 95-18409* (Feb. 23, 2024) (“SJ Response”), *Motion to Alter or Amend Special Master’s Memorandum Decision; Report and Recommendation* (Apr. 29, 2024) (“MAA”), *Brian Farley’s Opening Brief on Challenge* (Oct. 31, 2024) (“Challenge Open”), and *Brian Farley’s Reply Brief on Challenge* (Nov. 12, 2024) (“Challenge Reply”) *generally*. In sum, Farley consistently and repeatedly litigated for an outcome whereby Gideon would receive nothing from Claim No. 95-18409 (rather Farley would retain the entirety of the 13,000 gpd block of water at issue for his sole use on his remaining property (Parcels S and T) to the exclusion of Gideon) or, in the alternative, that if Gideon were to receive something under Claim No. 95-18409, that something would be less than 13,000 gpd and, in fact, less than what Farley should otherwise receive under his proportionate split theory (63% to Farley versus 37% to Gideon).

Ultimately, Farley lost on both fronts entirely. Farley did not kill Claim No. 95-18409. *See* Partial Decree. And, his proportionate share-based arguments were roundly rejected too. Order, pp. 12-14. Conversely, Gideon exited this adjudication litigation with that which they

claimed and defended under, and consistent with, the Director's Supplemental Report. *See* Partial Decree.

Undoubtedly, Farley will respond to this verified petition seeking some kind of credit (prevailing party-in-part status) for having defended against Gideon's objections to Farley's Amended Claim No. 95-16445 in Subcase No. 95-16445. But any such attempt is superficial and legally insufficient because: (a) Gideon only ever sought that to which they were entitled by operation of their property purchase (i.e., that portion of 2009 original Claim No. 95-16445 appurtenant to Parcel I as noted in their objection materials in Subcase No. 95-16445 and repeatedly asserted throughout the Subcase No. 95-18409 proceedings); (b) Gideon has conservatively and narrowly tailored their cost and fee request to only those costs and fees incurred in connection with the inception and litigation of Subcase No. 95-18409 (the competing late claim procedural posture IDWR advised was necessary for director's report and recommendation purposes to obtain the water right that Gideon was entitled to); and (c) when this litigation is taken and reviewed as a whole, there is no legitimate dispute that Gideon is the party who prevailed on the main issue of the action—exiting the adjudication with the domestic and stockwater right sourced from the Lower Well that was (and remains) appurtenant to their property (Parcel I). *See, e.g., Thornton*, 161 Idaho at 315, 385 P.3d at 870 (again, when determining prevailing party status, the issue is not who succeeded on more individual claims, but rather who succeeded on the main issue of the action); *see also*, Partial Decree.

B. As the Prevailing Party in This Matter, Gideon is Entitled to an Award of Their Costs and Reasonable Attorney Fees by Simple Operation of Contract

As discussed above, Rule 54 provides for prevailing party cost and fee awards via statute “or” contract. I.R.C.P. 54(e)(1). Where awarded under contract, the discretionary factors of Section 12-121 (i.e., the baseless and frivolousness standard) and the more restrictive criteria/factors of

Rule 54(e) “are not applicable.” *Farm Credit Bank v. Wissel*, 122 Idaho 565, 568-569, 836 P.2d 511, 514-515 (1992); *see also*, *Bank of Idaho v. Colley*, 103 Idaho 320, 326, 647 P.2d 776, 782 (Ct. App. 1982).³ As noted above, Gideon seeks their fees as costs under contract (Section 29 of the REPSA by operation of Rule 54(e)(1)) **and** statute (Idaho Code Section 12-121 by operation of Rule 54(e)(2)).

When based in contract, claims for attorney fees are more akin to the obligation to pay a contractually-owed debt. *Axelrod v. Reid Ltd. P’shp*, ___ Idaho ___, 551 P.3d 777, 797 (2024), *quoting Bank of Idaho v. Colley*, 103 Idaho 320, 647 P.2d 776 (Ct. App. 1982). The parties’ contract “establish[es] a right to an award of attorney fees and costs.” *Axelrod*, ___ Idaho ___, 551 P.3d at 797, *quoting Farm Credit Bank v. Wissel*, 122 Idaho 565, 836 P.2d 511 (1992); *see also*, *Lamprecht v. Jordan, LLC*, 139 Idaho 182, 186, 75 P.3d 743, 747 (2003) (a valid contract between the parties containing an attorney fee provision “establish[es] a right to attorney fees.”).⁴

While *Farm Credit Bank* was recently overruled, in part, by *Miller*, it was only overruled “to the extent that [*Farm Credit Bank*] stood for the proposition that **non-prevailing parties** could be awarded attorney fees and costs pursuant to the terms of a contract”—a circumstance that does not arise here in the context of Subcase No. 95-18409. *Axelrod*, ___ Idaho ___, 551 P.3d at 798 (emphasis added). As clarified in *Axelrod*, *Farm Credit Bank* “still stands for the proposition that when there is a choice between a statute-based entitlement to attorney fees and a contract-based entitlement, the contractual standard applies . . . this standard was not overruled in *Miller*.” *Axelrod*, ___ Idaho ___, 551 P.3d at 798.

³ *Farm Credit Bank* was overruled on other grounds by *Miller v. Rocking Ranch No. 3 Property Owners’ Association, Inc.*, 173 Idaho 285, 541 P. 3d 1279, 1293-1294 (2024).

⁴ *Axelrod* likewise makes clear that where a claim for attorney fees is based in contract, the criteria of Rule 54(e)(3) “do not apply.” *Axelrod*, ___ Idaho ___, 551 P.3d at 797.

As the Court is aware (and squarely held), the parties' REPSA governed the terms of their real estate purchase and sale transaction and the subsequent Warranty Deed was both unambiguous and entirely consistent with the REPSA. Order, pp. 10-11; *see also*, *Memorandum Decision and Order on Gideons' Motion for Summary Judgment* (Mar. 19, 2024) ("SJ Order"), pp. 10-14, and *Order Granting in Part and Denying in Part Farley's Motion to Alter or Amend* (Aug. 9, 2024) ("MAA Order"), pp. 8-9. The REPSA plainly and unambiguously provided that "[a]ny and all water rights . . . appurtenant to the PROPERTY and owned by SELLER are included in and are part of the sale of this PROPERTY . . ., unless otherwise agreed by the parties in writing." REPSA § 7. And, the REPSA was a fully-integrated contract, binding on the parties, and unaltered by a subsequent writing by the parties. REPSA § 40; *see also*, Order, pp. 10-11.

On the question of attorney fees and costs, Section 29 of the REPSA expressly provides, in pertinent part:

"ATTORNEY'S FEES: If either party initiates or defends any . . . legal action . . . which [is] in any way connected with this Agreement, the prevailing party shall be entitled to recover from the non-prevailing party reasonable costs and attorney's fees, including such costs and fees on appeal."

As discussed in Section A above, and notwithstanding the plain and unambiguous terms of REPSA Section 7 and the parties' Warranty Deed, Farley attempted to withhold ownership of a "water right . . . appurtenant to the PROPERTY"—namely Right No. 95-18409—through a variety of legal theories. Conversely, Gideon had to intensely litigate to obtain the express benefit of the bargain they struck under the REPSA—their rightful ownership of Right No. 95-18409. This was not a situation where Farley yielded to the Court's grant of Gideon's late claim, or accepted the findings of the Supplemental Report. Instead, Gideon had to enforce their rights under Section 7 of the REPSA through summary judgment proceedings, motion to alter or amend proceedings, and, finally, presiding judge-based challenge proceedings. Farley exhausted every procedural

mechanism available to him under AO1 in an effort to deny Gideon real property rights and interests that were plainly theirs by operation of the REPSA and the Warranty Deed. To say that the “in any way connected with this Agreement” criterion of REPSA Section 29 was satisfied in this matter is a foregone conclusion that cannot be reasonably disputed.

This Court has awarded costs and fees as a matter of contract based on an underlying real estate purchase and sale agreement before. *See, e.g., Special Master’s Report and Recommendation Re: Sundance Investments Ltd. Partnership’s Request for Attorney Fees* (Subcase Nos. 63-31194A and 63-31194B) (May 17, 2010) (“Sundance Report and Recommendation”), pp. 7-10; *see also, Order Re: Attorney’s Fees and Costs* (Subcase Nos. 63-31194A and 63-31194B) (Jul. 2, 2010). This matter is largely analogous.

Both sets of cases (Gideon and Sundance) involved real estate transactions governed by purchase and sale agreements. The agreements in both cases expressly stated that the water rights “appurtenant to” (or “used on” in the Sundance subcases) the land at issue were included in the transaction. The agreements in both cases contained attorney fee provisions entitling the prevailing party to recover their reasonable costs and attorney fees related to enforcing the agreements. And, in both cases, the Court held that the parties’ respective purchase and sale agreements were binding on the parties thereto by operation of express integration/merger clauses.

In the Sundance subcases (Subcase Nos. 63-31194A and 63-31194B), as in Subcase 95-18409, “the record underlying final judgment shows that the determination of ownership of the water right was derived from the written Purchase and Sale Agreement.” *See Sundance Report and Recommendation*, p. 9, and *compare Order*, pp. 9-10 (“[T]hat portion of the Lower Well water right recommended in subcase 95-18409 was conveyed to the Gideons as an appurtenance to Parcel I via the plain language of the purchase and sale agreement as a matter of law.”). Therefore,

the attorney fee provision of the parties' respective purchase and sale agreements govern, and Gideon, like Sundance before it, is entitled to an award of their reasonable costs and fees incurred by operation of REPSA Section 29.

C. In Addition to Contract and, in the Alternative, Gideon is Entitled to an Award of Their Costs and Reasonable Attorney Fees Under Idaho Code Section 12-121

Though the Court need not (and should not) look any further than REPSA Section 29 for purposes of awarding Gideon their attorney fees as costs as requested, Gideon respectfully submits in the alternative that such an award is also proper by operation of Idaho Code Section 12-121.

Idaho Code Section 12-121 provides that:

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. This section shall not alter, repeal or amend any statute that otherwise provides for the award of attorney's fees. The term "party" or "parties" is defined to include any person, partnership, corporation, association, private organization, the state of Idaho or political subdivision thereof.

Idaho Code § 12-121; *see also*, I.R.C.P. 54(e)(2).

The award of attorney fees under Section 12-121 is discretionary, not mandatory; however, an award of attorney fees is appropriate when the court is left with the "belief that the case was brought, pursued, or defended frivolously, unreasonably, or without foundation." *Pocatello Hosp., LLC v. Quail Ridge Med. Inv's, LLC*, 157 Idaho 732, 742, 339 P.3d 1136, 1146 (2014) (quoting *Michalk v. Michalk*, 148 Idaho 224, 235, 220 P.3d 580, 591 (2009)). The disjunctive ("or"-based) use of the terms "brought" and "pursued" provides that the non-prevailing party may suffer an award of fees and costs even where a claim or defense is initially meritorious but is later rendered frivolous, unreasonable, or without foundation by subsequent events or information developed during the litigation. *Win of Michigan, Inc. v. Yreka United, Inc.*, 137 Idaho 747, 754, 53 P.3d 330, 337 (2002); *see also*, *Ortiz v. Reamy*, 115 Idaho 1099, 1101, 772 P.2d 737, 739 (Ct. App. 1989).

A “misperception of law is not, by itself, unreasonable conduct.” *Wing v. Amalgamated Sugar Co.*, 106 Idaho 905, 911, 684 P.2d 307, 313 (Ct. App. 1984), *overruled on other grounds by NBC Leasing Co. v. R&T Farms, Inc.* 112 Idaho 500, 733 P.2d 721 (1987). Instead, the question is whether the issues raised were “genuine and fairly debatable,” or “so plainly fallacious that they could be deemed frivolous, unreasonable or without foundation.” *Id.*

Gideon acknowledges that the threshold of frivolousness is a high bar. But Gideon submits that many of Farley’s arguments carried beyond a mere misperception of the law, and included instead calculated attempts to dodge and obfuscate the straightforward application of blackletter law.

Farley selectively and incompletely cited and applied various legal authorities. For example, he cited *Bothwell v. Keefer*, 53 Idaho 658, 27 P.2d 65 (1933) for the non-existent proposition that one parties’ unilateral intent satisfied the elements of water right severance and withholding under Idaho law. SJ Response, p. 10. After thoroughly demonstrating the error of Farley’s cited proposition (*see Claimant Gideons’ Reply in Support of Motion for Summary Judgment Re Claim No. 95-18409* (Mar. 4, 2024) (“SJ Reply”), pp. 14-16), Farley doubled down with the same citation and argument, again with emphasis added, at the motion to alter or amend phase. *Compare*, MAA, p. 14 and MAA Response, p. 9.

Farley likewise selectively quoted isolated portions of Idaho Code Section 42-108 in support of his contention that the statute provided him the legal right to “abandon” the Parcel I-appurtenant portion of original Claim No. 95-16445, and that the special master erred by impermissibly interfering with Farley’s purported statutory real property dispossession rights in that regard. *Compare*, MAA, p. 13 and MAA Response, p. 6. Farley’s incomplete and woefully selective quotation of the statutory language (with emphasis no less) was accompanied by his

abject failure to satisfy even the most basic cessation of use/relinquishment element of his abandonment claims. SJ Order, pp. 9-10, MAA Order, pp. 5-7, and Order, pp. 6-9. Farley's arguments were not only entirely at odds, and irreconcilable with his actions on the ground, but also with the plain language of Section 42-108 when read as a whole and the abandonment-related common law authorities he cited.

Farley disingenuously contended that Gideon had "no need" for a second domestic water right as claimed in Subcase No. 95-18409 because they already owned a right (95-17552) purportedly meeting their needs. *Compare*, SJ Response, pp. 17-19, MAA, p. 13, and SJ Reply, pp. 27-29, and MAA Response, p. 9. Farley's assertions in this regard were disingenuous at best, and deceptive at worst, given that they were directly at odds with express, trial-based findings of fact issued by Judge Christensen in the parties' Kootenai County property purchase litigation.

Farley ignored the plain language of Idaho Code Section 42-111, first by contending that multiple domestic exempt "wells" are prohibited by operation of the statute, second by arguing that multiple domestic water "rights" are prohibited by operation of the statute, and third by arguing that Gideon's Claim No. 95-18409 failed for a lack of quantifying historical beneficial use compliant with Idaho Code Section 42-1412(6). None of these assertions are consistent with the plain and unambiguous language of Idaho Code Sections 42-111 or 42-227; rather they were advanced and repeated in violation of the well-settled canons of statutory construction. *See, e.g.*, SJ Reply, pp. 27-33, Challenge Response, pp. 17-22, and Order, pp. 11-12. Moreover, Farley's arguments persisted in these regards despite the Presiding Judge having disposed of them "fully and finally" during the late claim stage. *See, e.g., Memorandum Decision and Order on Gideons' Motion for Summary Judgment; Special Master's Report and Recommendation* (Mar. 19, 2024) ("SJ Order"), pp. 15-17.

Farley represented that his “proportionate split” arguments were consistent with guiding “precedent . . . on how a water right should be split based upon a property sale if it is not defined in the agreement or the deed.” Challenge Open, p. 22. This was not the case.

Though Farley’s guiding “precedent” applies to the proportionate splitting of irrigation-purpose water rights, his so-called guiding “precedent” had no application whatsoever to the statutorily-governed domestic-exempt water rights at issue in this matter under Idaho Code Sections 42-111 and 42-227. MAA Response, pp. 17-20, Challenge Response, pp. 22-25, and Order, pp. 12-14. And as the special master correctly determined, the “proportionate split” contention was, even in the alternative, untimely having been raised for the first time at the alter or amend stage. MAA Order, pp. 9.⁵

To the extent Farley attempts to explain this precedential “guidance” away as a good faith extension of existing law, he in no way explained how or why the plain (and more specific subject matter) language of Idaho Code Sections 42-111 and 42-227 did not otherwise control despite the need to do so in direct response to Gideon arguments regarding the same. *Compare*, MAA Response, pp. 17-20, Challenge Response, pp. 22-25, and *Reply Brief on Challenge* (Nov. 12, 2024), p. 20 (asserting, in conclusory fashion absent analysis of the statutory language at issue, that “[a]lthough those cases addressed irrigation water rights, there is no reason to limit the legal premise . . .”; to the contrary, the plain language of Idaho Code Sections 42-111 and 42-227 are very much among the legal reasons why the legal premise cited ***does not apply***); *see also*, Order, pp. 12-14 (additional legal reasons rebutting Farley’s naked and conclusory assertions).

⁵ Though the Presiding Judge proceeded to address Farley’s proportionate split contention on the merits, he did not suggest that the special master’s timeliness-based refusal to entertain the contention was in error.

Farley inexplicably argued, despite his unity of title and despite simple operation of Idaho Code Sections 42-101, 42-220, 42-111, and 42-227 that the Warranty Deed in this matter: (a) was ambiguous; and (b) defeated the REPSA's merger/integration provisions while also modifying its plain water right conveyance terms (REPSA Section 7). MAA, pp. 18-21, *see also*, Challenge Open, pp. 15-19. Farley's contentions in this regard misconstrued the findings of the special master and turned the foregoing statutes and well-settled blackletter precedent on their head. MAA Response, pp. 12-16; *see also*, Challenge Response, pp. 12-17. The ease and simplicity with which both the special master and the Presiding Judge disposed of Farley's contentions in this matter underscores the frivolousness and unreasonableness of those contentions. MAA Order, pp. 8-9; *see also*, Order, pp. 7, 10-11.

In the context of legal arguments and their presentation, there is difference between leaving no stone unturned and dragging one over broken glass at every turn. Farley repeatedly glossed over and ignored (and failed to acknowledge and rebut) bad facts and his incomplete assertions of, and citations to, applicable law. For the foregoing, Gideon submits that Farley's contentions in this matter were frivolous and unreasonable thereby triggering the application of Idaho Code Section 12-121 ad Rule 54(e)(2).

D. Attorney Fee Accounting Under the Considerations of the Rule 54(e)(3) Factors, Including Consideration of REPSA Section 20 Under Rule 54(e)(3)(L)

Rule 54 contains a detailed list of factors that the Court must consider when awarding attorney fees. "While the district court does not have to 'address all of the I.R.C.P. 54(e)(3) factors in writing, the record must clearly indicate the court considered all of the factors.'" *Pocatello*

Hosp., LLC v. Quail Ridge Med. Inv's, LLC, 157 Idaho 732, 742, 339 P.3d 1136, 1146 (2014) (quoting *Hurtado v. Land O'Lakes, Inc.*, 153 Idaho 13, 23, 278 P.3d 415, 425 (2012)).⁶

As set forth below, all factors that must be considered under Rule 54 of the Idaho Rules of Civil Procedure weigh in favor of awarding Gideon the amount of \$112,771 in attorney fees as costs in this matter.

Undersigned counsel's representation of Gideon herein was pursuant to an express agreement with Gideon compensating undersigned counsel for the work performed on an hourly basis. The fee for undersigned counsel was not contingent. Gideon has been billed for the services provided by undersigned counsel on a monthly basis and Gideon has timely paid undersigned counsel for the services provided to date.

A true and accurate detail of the dates of service, services provided, rate charged for services, and time expended on this matter by counsel of record is attached hereto as **Exhibit A**. Exhibit A accurately describes the time and labor expended by counsel of record in this action for and on behalf of Gideon in the context of Subcase No. 95-18409. I.R.C.P. 54(e)(3)(A).⁷

⁶ The Rule 54(e)(3) factors presented in this Section D are presented only to the extent that the Court fails to award Gideon their requested costs and fees as a matter of contract. As discussed in Section B, and as reiterated by the Idaho Supreme Court in *Axelrod*, the criteria of Rule 54(e)(3) "do not apply" in the context of contract-based awards. *Axelrod*, ___ Idaho ___, 551 P.3d at 797.

⁷ The unstricken time entries and costs found in the Waldera invoices are the time entries and costs for which Gideon seeks their award of fee reimbursement. In the case of Mr. Schmidt, his invoices have been revised in a manner whereby the entirety of the time entries present are germane (*i.e.*, Mr. Schmidt's office deleted the inapplicable portions of his time entries rather than interlineating them in red as Mr. Waldera's office did). While the stricken (red-lined) entries are related to the parties' real property purchase disputes (including the conveyance of all appurtenant water rights), Gideon, again, has conservatively and narrowly tailored their cost and fee request to only those costs and fees incurred in connection with the inception and litigation of Subcase No. 95-18409 (the competing late claim procedural posture IDWR advised was necessary for director's report and recommendation purposes to obtain the water right partial decree that Gideon sought).

Counsel believes that this action did not entail novel or difficult questions of law. However, the matter was fact and time intensive given the need to review, relate, and present the record in the parties' Kootenai County proceedings (involving several hundred pages of trial testimony and several dozens of trial exhibits), and frame and apply the same to the unique procedural processes of the CSRBA. From there, the significant time and attention devoted to this matter was largely out of undersigned counsel's control. For better or worse, Farley challenged Gideon's late claim 95-18409 at every turn—at the late claim stage, the summary judgment stage, the alter or amend stage, and the challenge stage. Certainly, these procedural opportunities were available to Farley under AO1, but invoking those procedures expanded the scope of this litigation considerably. I.R.C.P. 54(e)(3)(B).

The attorneys for Gideon in this action were Andrew J. Waldera (undersigned) and Michael Schmidt. Mr. Waldera has practiced law for 22-plus years, has trial experience, and specializes to a significant degree in water rights-related matters. Mr. Schmidt has practiced law for 21-plus years, has trial experience, and represents the Gideons in ongoing Kootenai County action. The attorneys for Gideon have the requisite skill and ability to perform the functions assumed during the course of this action. I.R.C.P. 54(e)(3)(C).

Upon information and belief based on conversations with colleagues at similarly sized firms within the Treasure Valley legal market, undersigned counsel believes that the rates charged were comparable to (and likely under market for) prevailing charges for like work. Mr. Waldera's hourly rate was \$300, and Mr. Schmidt's hourly rate ranged between \$350 and \$385 during the course of this matter. Rates of consulted colleagues ranged between \$350 and \$475 per hour. Regarding the reasonableness of \$300 - \$350 per hour rate threshold, attached hereto as **Exhibit B** is a true and correct copy of *Respondents' Memorandum of Costs and Fees Pursuant to IAR 40*

and 41 (Aug. 20, 2024) related to the Idaho Supreme Court appeal in the matter of *Gomez v. Hurtado, et al.* (Idaho Supreme Court Case No. 50279-2022) (“Memo”). The Memo outlined hourly partner rates from undersigned counsel’s firm (Sawtooth Law Offices, PLLC) ranging between \$300 and \$350 per hour. Memo, p. 3. In response, the Idaho Supreme Court issued its *Order Awarding Costs and Attorney Fees* (Oct. 17, 2024), granting Hurtado the entirety of the sum of attorney fees requested (\$57,695) thereby deeming the partner-based hourly rates charged (\$300-\$350 per hour) as reasonable. *See*, Ex. B. I.R.C.P. 54(e)(3)(D).

As noted above, the fees charged in this matter are hourly, not contingent or fixed. I.R.C.P. 54(e)(3)(E).

Representation of Gideon in this action did not impose any significant limits upon the time of undersigned counsel such that undersigned counsel was not able to represent other clients. I.R.C.P. 54(e)(3)(F).

Undersigned counsel and Mr. Schmidt believe this to be the best case result for Gideon, having successfully prosecuted and received the entirety of Right No. 95-18409 as historically developed and used on (and appurtenant to) their property (Parcel I) sourced from the Lower Well despite Farley efforts to kill the claim in its entirety, with Gideon taking nothing therefrom or, in the alternative, Farley seeking a split proportion of the 13,000 gpd quantity of Right No. 95-18409 based on the parties respective landholdings (63% to Farley and 37% to Gideon—*see* MAA, pp. 21-23). Gideon prevailed via summary judgment-based disposition (as confirmed via additional alter or amend and challenge proceedings pursued by Farley) short of the additional expense of trial and related trial preparation activities (*e.g.*, additional discovery and depositions, witness preparation, pretrial deadlines, and trial itself). I.R.C.P. 54(e)(3)(G).

Undersigned counsel is not aware of any circumstances that made this case or representation of Gideon undesirable. I.R.C.P. 54(e)(3)(H).

Undersigned counsel and Mr. Schmidt have an ongoing professional relationship with Gideon related to the ongoing proceedings in the still-pending Kootenai County-based Property Purchase Litigation matter that was essentially stayed pending the outcome of these CSRBA proceedings. This relationship has spanned over two years now for Mr. Waldera, and five years now for Mr. Schmidt. I.R.C.P. 54(e)(3)(I). Undersigned counsel believes that he and Mr. Schmidt professionally, diligently, and successfully represented Gideon herein. *Id.*

To the extent relevant to the Court's decision on this verified petition, counsel for Gideon has no knowledge of awards in cases similar to the one at hand. I.R.C.P. 54(e)(3)(J).

Undersigned counsel used computerized legal research systems and methods relative to his representation of Gideon, but Gideon was not billed for such uses in any manner other than the time incurred by counsel. I.R.C.P. 54(e)(3)(K).

In addition to basing the attorney fee award request on Idaho Code Section 12-121 and Rule 54 (available at the discretion of the Court), counsel submits that REPSA Section 29 constitutes an independent contractual basis for the fee award. I.R.C.P. 54(e)(3)(L); *see also*, Section B, above.

As discussed in Section B, above, the entirety of the parties' water right claims arose under the REPSA and the closing of the transaction under the Warranty Deed in the manner prescribed under REPSA Sections 7, 8, and 40 in particular. These Subcase 95-18409 proceedings qualify as "any . . . legal action" in the parlance of REPSA Section 29. Having prevailed by exiting the adjudication with Right No. 95-18409 as recommended in the Supplemental Report, Gideon is contractually entitled to their "reasonable costs and attorney's fees" under Section 29 of the

REPSA. Provided that Gideon is found by the Court to be the prevailing party—which they are—the Court must award attorney fees as a matter of contract. The only remaining question under the contractual entitlement is what constitutes a reasonable fee award? *See, e.g., Axelrod*, ___ Idaho ___, 551 P.3d at 797, *quoting Farm Credit Bank v. Wissel*, 122 Idaho 565, 836 P.2d 511 (1992) (a valid contract containing a cost and fee provision “establish[es] a right to an award of attorney fees and costs.”); *see also, Lamprecht v. Jordan, LLC*, 139 Idaho 182, 186, 75 P.3d 743, 747 (2003) (a valid contract between the parties containing an attorney fee provision “establish[es] a right to attorney fees.”). Where awarded under contract, the discretionary factors of Section 12-121 and the more restrictive criteria/factors of Rule 54(e) “are not applicable.” *Farm Credit Bank*, 122 Idaho at 568-569, 836 P.2d at 514-515; *see also, Axelrod*, ___ Idaho ___, 551 P.3d at 797.

Undersigned counsel submits that the fees requested herein were actually incurred and paid by Gideon as invoiced to date. Counsel believes that the fees requested herein are reasonable and were necessary for Gideon’s successful defense of Right No. 95-18409. Accordingly, Gideon respectfully requests attorney fees as costs in the amount of \$112,771.

E. Conclusion and Reservation of Right to Supplement

Based upon the foregoing, Gideon respectfully requests that the Court award them their **costs of \$34.85**, and their reasonable **attorney fees as costs** incurred in the current amount of **\$112,771**, for a **total cost and fee award of \$112,805.85**. Gideon further reserves the right to supplement this verified petition in response to any Farley filings and hearings on this verified petition that may follow.⁸

⁸ Gideon is entitled to their reasonable costs and fees incurred preparing this verified petition and any additional litigation related to it. *See, e.g., Beco Constr. Co., Inc. v. J-U-B Engineers Inc.*, 149 Idaho 294, 298, 233 P.3d 1216, 1220 (2010) (“[W]e hold today that courts may award reasonable attorney fees incurred in connection with the effort to secure a reasonable amount of attorney fees.”), *overruled on other grounds by Keybank Nat’l Ass’n v. PAL I, LLC*, 155 Idaho 287, 311 P.3d 299 (2013); *see also, Med. Recovery Servs., LLC v. Siler*, 162 Idaho 30, 36, 394 P.3d 73, 79 (2017) (quoting with approval and applying

DATED this 6th day of February, 2025.

SAWTOOTH LAW OFFICES, PLLC

By _____

Andrew J. Waldera

Attorneys for Arthur V. and Katherine M. Gideon

[illegible]

ANDREW J. WALDERA, being first duly sworn, deposes and says:

He is one of the attorneys for the Claimants in the above-entitled cause and makes this verification for and on behalf of said Claimants; that he has prepared and reviewed the foregoing **VERIFIED PETITION FOR COSTS AND ATTORNEY FEES**, knows the contents thereof, and that the same are true to the best of his knowledge, information and belief.

ANDREW J. WALDERA

SUBSCRIBED AND SWORN to before me this 6th day of February, 2025.

NOTARY PUBLIC FOR IDAHO

Residing at Eagle, Idaho

My Commission Expires 12/1/2027



Beco Constr. Co.); and *Lettunich v. Lettunich*, 145 Idaho 746, 752, 185 P.3d 248, 264 (2008) (where one has a legal right to recover fees as the prevailing party in an action, “litigation over the amount of the attorney fee award is also part of the legal action for which [one] is entitled to an award of attorney fees”).

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 6th day of February, 2025, I caused a true and correct copy of the foregoing **VERIFIED PETITION FOR COSTS AND ATTORNEY FEES** to be served by the method indicated below, and addressed to the following:

Clerk of the Court
CSRBA
253 3rd Ave. North
P.O. Box 2707
Twin Falls, ID 83303-2707

() U.S. Mail, Postage Prepaid
☒ Hand Delivered
() Overnight Mail
() Facsimile
() iCourt/Email

Travis L. Thompson
163 Second Avenue West
P.O. Box 63
Twin Falls, ID 83303-0063
E tthompson@martenlaw.com

() U.S. Mail, Postage Prepaid
() Hand Delivered
() Overnight Mail
() Facsimile
(x) iCourt/Email

Director
Idaho Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0098

☒ U.S. Mail, Postage Prepaid
() Hand Delivered
() Overnight Mail
() Facsimile
() iCourt/Email



Andrew J. Waldera

EXHIBIT A

**Sawtooth Law Offices, PLLC**1101 W. River St., Ste. 110
Boise, ID 83702**Invoice No.**
20816**Bill To:**Via Email
Arthur and Katherine Gideon
23452 N. Derting Road
Hayden, ID 83835**Invoice Date:** 12/6/2022
Due Date: 12/21/2022
Project/Job:

Date	Item	Description	Hours	Rate	Amount
11/3/2022	AJW	Begin reviewing client trial and CSRBA materials regarding water right findings and claims.	0.5	300.00	150.00
11/4/2022	AJW	Conclude review and annotation of client district court and water court documents; review all available IDWR water right records lined to the "Lower well."	4.2	300.00	1,260.00
11/7/2022	AJW	Conclude review of PSA warranty deed and judicial MDO regarding water rights claims and assertions.	0.9	300.00	270.00
~~11/8/2022~~	~~AJW~~	~~Telephone conference with M. Schmidt regarding final case evaluation and FOF opportunities.~~	~~2.2~~	~~300.00~~	~~660.00~~
~~11/11/2022~~	~~AJW~~	~~Provide email comments in response to K. Gideon email regarding trial court evidence for use in CSRBA Court.~~	~~0.8~~	~~300.00~~	~~240.00~~
~~11/17/2022~~	~~AJW~~	~~Review and respond to M. Schmidt inquiry regarding separate Farley lawsuit regarding stockwater line cutting and capping (1.0); draft thumbnail outline of CRSBA argument outline (1.7).~~	~~2.7~~ 1.7	300.00	810.00 510.00
~~11/29/2022~~	~~AJW~~	~~Participate in SRBA status conference for Farley claim 95-16445; listen to prior CSRBA objection hearing audio provided by P. Schmidt; and review Christiansen MDO parcel number uses against those used in the parties CSRBA claims and objections.~~	~~1.4~~	~~300.00~~	~~420.00~~
~~11/30/2022~~	~~AJW~~	~~Telephone conference with M. Schmidt regarding CSRBA status conference.~~	~~0.9~~	~~300.00~~	~~270.00~~

Please contact us at (208) 629-7447 if you have questions or concerns about your account.

Invoice Total ~~\$2,190.00~~ **\$4,080.00**

Secure online bill payment is available on our website.

Payments/Credits **-\$4,080.00**

Tax ID 46-1297609

Balance Due **\$0.00**

Payment is due within 15 days. Any balance unpaid after 30 days is subject to a finance charge of 1.5% per month until paid.

www.sawtoothlaw.com

**Sawtooth Law Offices, PLLC**1101 W. River St., Ste. 110
Boise, ID 83702**Invoice No.**
21085**Bill To:**Via Email
Arthur and Katherine Gideon
23452 N. Derting Road
Hayden, ID 83835**Invoice Date:** 1/6/2023
Due Date: 1/21/2023
Project/Job:

Date	Item	Description	Hours	Rate	Amount
~~12/14/2022~~	~~AJW~~	~~Review and respond to CSRBA-related email from M. Schmidt.~~	~~1.8~~	~~300.00~~	~~540.00~~
~~12/19/2022~~	~~AJW~~	~~Respond to M. Schmidt email regarding Panhandle District Health inquiries regarding Farley's buried stockwater line.~~	~~0.3~~	~~300.00~~	~~90.00~~
12/20/2022	AJW	Telephone conference with M. Schmidt regarding Gideon trial testimony and facts supporting CSRBA litigation (1.2); ~~telephone conference with J. Peppin of PHD regarding Farley's water line claims on the Gideon property (.4).~~	~~1.6~~ 1.2	300.00	~~480.00~~ 360.00
~~12/21/2022~~	~~AJW~~	~~Participate in CSRBA scheduling conference and telephone conference with M. Schmidt regarding same afterward.~~	~~1.4~~	~~300.00~~	~~420.00~~
12/22/2022	AJW	Begin reviewing and annotating Farley deposition transcripts for evidentiary use in CSRBA proceedings.	1.4	300.00	420.00
~~12/27/2022~~	~~AJW~~	~~Telephone conference with G. Baxter, lead DAG for IDWR regarding IDWR need for competing late claim (.7); draft email to M. Schmidt regarding the same (.5).~~	~~1.2~~	~~300.00~~	~~360.00~~
12/28/2022	AJW	Begin drafting CSRBA motion for competing late claim to water right no. 95-16445 currently claimed by Farley.	0.9	300.00	270.00
12/30/2022	AJW	Continue review and annotation of trial transcript for use in CSRBA proceedings.	2.1	300.00	630.00

Please contact us at (208) 629-7447 if you have questions or concerns about your account.

Invoice Total ~~\$3,210.00~~ **\$1,680.00**

Secure online bill payment is available on our website.

Payments/Credits ~~\$3,210.00~~

Tax ID 46-1297609

Balance Due **\$0.00**

Payment is due within 15 days. Any balance unpaid after 30 days is subject to a finance charge of 1.5% per month until paid.

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**Sawtooth Law Offices, PLLC**

1101 W. River St., Ste. 110
Boise, ID 83702

Invoice No.
21366

Bill To:

Via Email
Arthur and Katherine Gideon
23452 N. Derting Road
Hayden, ID 83835

Invoice Date: 2/6/2023
Due Date: 2/21/2023
Project/Job:

Date	Item	Description	Hours	Rate	Amount
1/3/2023	AJW	Review and annotate Christensen trial transcript for CSRBA use.	2.6	300.00	780.00
1/4/2023	AJW	Review and annotate Christensen trial transcript for CSRBA use.	3.6	300.00	1,080.00
1/5/2023	AJW	Participate in CSRBA case status conference called by the court; telephone conference with M. Schmidt regarding case strategy and IDWR investigation process for late claims.	2.4	300.00	720.00
1/10/2023	AJW	continue reviewing and annotating trial transcript for use in CSRBA proceedings.	1.6	300.00	480.00
1/11/2023	AJW	Continue reviewing and annotating trial transfer for CSRBA water right claiming support purposes.	2.3	300.00	690.00
1/12/2023	AJW	Conclude review and annotation of trial transcript; draft status update email to client.	2.3	300.00	690.00
~~1/13/2023~~	~~AJW~~	~~Telephone conference with M. Schmidt and the Gideons regarding CSRBA case status and next steps.~~	~~0.5~~	~~300.00~~	~~150.00~~
1/19/2023	AJW	Conference with T. Thompson (Farley counsel) regarding CSRBA proceedings and likely outcomes and whether amicable settlement opportunity exists.	0.4	300.00	120.00
1/24/2023	AJW	Draft memo in support of motion for late notice of claim.	4	300.00	1,200.00
1/25/2023	AJW	Conclude drafting memorandum in support of water right claim; draft SF4 Motion for late claim, late claim, and affidavit of counsel.	4.7	300.00	1,410.00
1/26/2023	AJW	Draft affidavit of counsel and assemble affidavit exhibits.	1.6	300.00	480.00
1/30/2023	AJW	Perform final proof-reading, revisions and citation checks prior to filing client SF4 Motion for late claim and supporting papers.	2	300.00	600.00

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Tax ID 46-1297609

Invoice Total**Payments/Credits****Balance Due**

Payment is due within 15 days. Any balance unpaid after 30 days is subject to a finance charge of 1.5% per month until paid.

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Page 1

AJW

**Sawtooth Law Offices, PLLC**

1101 W. River St., Ste. 110
Boise, ID 83702

Invoice No.
21366

Bill To:

Via Email
Arthur and Katherine Gideon
23452 N. Derting Road
Hayden, ID 83835

Invoice Date: 2/6/2023
Due Date: 2/21/2023
Project/Job:

Date	Item	Description	Hours	Rate	Amount
1/30/2023		Idaho Department of Water Resources - Filing Fee - Notice of Late Claim to Water Right re 95-18409		25.00	[25.00] COST

Please contact us at (208) 629-7447 if you have questions or concerns about your account.

Secure online bill payment is available on our website.

Tax ID 46-1297609

Payment is due within 15 days. Any balance unpaid after 30 days is subject to a finance charge of 1.5% per month until paid.

Invoice Total	\$8,275.00	~~\$8,425.00~~
Payments/Credits	-25.00 COST	~~\$8,425.00~~
Balance Due	\$8,250.00	\$0.00

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**Sawtooth Law Offices, PLLC**

1101 W. River St., Ste. 110
Boise, ID 83702

Invoice No.
21939

Bill To:
Via Email
Arthur and Katherine Gideon
23452 N. Derting Road
Hayden, ID 83835

Invoice Date: 4/4/2023
Due Date: 4/19/2023
Project/Job:

Date	Item	Description	Hours	Rate	Amount
3/25/2023	AJW	Review and annotate Farley response in opposition to client late water right claim motion; begin outlining reply brief in support of client late claim.	2.1	300.00	630.00
3/27/2023	AJW	Draft reply brief in support of motion to file late claim.	7	300.00	2,100.00
3/28/2023	AJW	Conclude drafting reply brief in support of SF4 motion to file late claim.	3.4	300.00	1,020.00
3/29/2023	AJW	Review and supplement draft reply brief with footnotes and additional transcript citations.	3.4	300.00	1,020.00

Please contact us at (208) 629-7447 if you have questions or concerns about your account.

Secure online bill payment is available on our website.

Tax ID 46-1297609

Invoice Total \$4,770.00

Payments/Credits -\$4,770.00

Balance Due \$0.00

Payment is due within 15 days. Any balance unpaid after 30 days is subject to a finance charge of 1.5% per month until paid.

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**Sawtooth Law Offices, PLLC**

1101 W. River St., Ste. 110
Boise, ID 83702

Invoice No.
22220

Bill To:

Via Email
Arthur and Katherine Gideon
23452 N. Derting Road
Hayden, ID 83835

Invoice Date: 5/3/2023
Due Date: 5/18/2023
Project/Job:

Date	Item	Description	Hours	Rate	Amount
4/18/2023	AJW	Review parties' briefing and outline oral argument for late claim hearing (2.0); participate in CSRBA hearing on client motion for late claim (1.0); conference with T. Thompson post-hearing regarding possible settlement options (.3); travel to and from Twin Falls (3.6).	6.9	300.00	2,070.00
4/19/2023	AJW	Draft email update to client and co-counsel regarding hearing results and next steps.	2.7	300.00	810.00
~~4/20/2023~~	~~AJW~~	~~Draft response email to M. Schmidt and clients regarding Farley's current well access position (2.2); telephone conference with M. Schmidt and clients regarding lower well access issues and district court motions strategies (.7).~~	~~2.9~~	~~300.00~~	~~870.00~~
~~4/24/2023~~	~~AJW~~	~~Review and revise draft Waldera declaration in support of injunctive relief motion.~~	~~1.3~~	~~300.00~~	~~390.00~~
4/25/2023	AJW	Participate in subcase 95-16445 CSRBA status conference (.4); telephone conference with M. Schmidt regarding same and injunctive relief strategy (.5).	~~0.9~~ .4	300.00	~~270.00~~ 120.00
~~4/27/2023~~	~~AJW~~	~~Review and annotate M. Schmidt TRO/PI legal standard briefing.~~	~~0.5~~	~~300.00~~	~~150.00~~

Please contact us at (208) 629-7447 if you have questions or concerns about your account.

Secure online bill payment is available on our website.

Tax ID 46-1297609

Invoice Total ~~\$4,560.00~~ **\$3,000.00**

Payments/Credits -~~\$4,560.00~~

Balance Due **\$0.00**

Payment is due within 15 days. Any balance unpaid after 30 days is subject to a finance charge of 1.5% per month until paid.

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**Sawtooth Law Offices, PLLC**

1101 W. River St., Ste. 110
Boise, ID 83702

Invoice No.
22522

Bill To:

Via Email
Arthur and Katherine Gideon
23452 N. Derting Road
Hayden, ID 83835

Invoice Date: 6/6/2023
Due Date: 6/21/2023
Project/Job:

Date	Item	Description	Hours	Rate	Amount
5/5/2023	AJW	Telephone conference with IDWR DAG Lacey Rammell-O'Brien regarding Gideon late claim investigation timelines and whether additional info/evidence is needed to support claim; draft late claim director's report timing email to M. Schmidt for PI motion scheduling purposes.	1	300.00	300.00
5/29/2023	AJW	Review late claim director's report and draft matter update to client and co-counsel.	1.6	300.00	480.00

Please contact us at (208) 629-7447 if you have questions or concerns about your account.

Secure online bill payment is available on our website.

Tax ID 46-1297609

Invoice Total \$780.00

Payments/Credits -\$780.00

Balance Due \$0.00

Payment is due within 15 days. Any balance unpaid after 30 days is subject to a finance charge of 1.5% per month until paid.

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**Sawtooth Law Offices, PLLC**

1101 W. River St., Ste. 110
Boise, ID 83702

Invoice No.
22795

Bill To:

Via Email
Arthur and Katherine Gideon
23452 N. Derting Road
Hayden, ID 83835

Invoice Date: 7/11/2023**Due Date:** 7/26/2023**Project/Job:**

Date	Item	Description	Hours	Rate	Amount
~~6/19/2023~~	~~AJW~~	~~Begin supplementing draft PI motions papers with CSRBA Director's Report filing and related legal argument.~~	~~1~~	~~300.00~~	~~300.00~~
~~6/20/2023~~	~~AJW~~	~~Continue drafting portions of prehearing injunction supporting briefing.~~	~~2~~	~~300.00~~	~~600.00~~
~~6/21/2023~~	~~AJW~~	~~Conclude initial drafting of client PI support briefing.~~	~~2.2~~	~~300.00~~	~~660.00~~
~~6/22/2023~~	~~AJW~~	~~Revise and supplement draft briefing; draft email to M. Schmidt discussing revisions and motion scope.~~	~~1.7~~	~~300.00~~	~~510.00~~
~~6/28/2023~~	~~AJW~~	~~Review and revise final Schmidt draft and revision of client preliminary injunction brief and draft email to M. Schmidt regarding oral argument strategy.~~	~~2.2~~	~~300.00~~	~~660.00~~

Please contact us at (208) 629-7447 if you have questions or concerns about your account.

Secure online bill payment is available on our website.

Tax ID 46-1297609

Invoice Total ~~\$2,730.00~~

Payments/Credits ~~-\$2,730.00~~

Balance Due \$0.00

Payment is due within 15 days. Any balance unpaid after 30 days is subject to a finance charge of 1.5% per month until paid.

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**Sawtooth Law Offices, PLLC**1101 W. River St., Ste. 110
Boise, ID 83702**Invoice No.**
23070**Bill To:**Via Email
Arthur and Katherine Gideon
23452 N. Derting Road
Hayden, ID 83835**Invoice Date:** 8/4/2023
Due Date: 8/19/2023
Project/Job:

Date	Item	Description	Hours	Rate	Amount
~~7/7/2023~~	~~AJW~~	~~Review and annotate Farley opposition briefing to Gideon's preliminary injunction motion, begin drafting reply sections for M. Schmidt use.~~	~~5.2~~	~~300.00~~	~~1,560.00~~
~~7/10/2023~~	~~AJW~~	~~Conclude drafting, revising, and supplementing draft preliminary injunction reply brief (5.5); telephone conference with M. Schmidt regarding the same (-.5).~~	~~6~~	~~300.00~~	~~1,800.00~~
7/11/2023	AJW	Participate in CSRBA status conference regarding subcase 95-16445 (Farley claims) (.5); telephone conference with M. Schmidt regarding hearing outcome and preliminary injunction motion issues and arguments (-.6).	~~1.1~~ .5	300.00	~~330.00~~ 150.00
~~7/13/2023~~	~~AJW~~	~~Review parties preliminary injunction briefing and declarations, and prepare oral argument outline (1.9); participate in preliminary injunction motion oral argument (1.0).~~	~~2.9~~	~~300.00~~	~~870.00~~
~~7/13/2023~~	~~N/C~~	~~Telephone conference with M. Schmidt post hearing (AJW - no charge).~~	~~0.6~~	~~0.00~~	~~0.00~~
~~7/14/2023~~	~~AJW~~	~~Review CSRBA Administrative Order 1 compatibility with IRCP 34(a)(2) inspection request (-.4); telephone conference with clients and M. Schmidt regarding Christensen preliminary injunction ruling and CSRBA protest (-.5).~~	~~0.9~~	~~300.00~~	~~270.00~~
~~7/17/2023~~	~~AJW~~	~~Draft email to T. Thompson seeking amicable Lower Well inspection scheduling avoiding a Rule 34 request.~~	~~0.2~~	~~300.00~~	~~60.00~~
~~7/18/2023~~	~~AJW~~	~~Telephone conference with T. Thompson regarding well inspection and case status; draft client update email regarding the same.~~	~~1~~	~~300.00~~	~~300.00~~
~~7/21/2023~~	~~AJW~~	~~Draft objection to DR recommendation in subcase 95-18409 to address quantity shortfall.~~	~~1.2~~	~~300.00~~	~~360.00~~

Please contact us at (208) 629-7447 if you have questions or concerns about your account.

Invoice Total ~~\$5,550.00~~ **\$150.00**

Secure online bill payment is available on our website.

Payments/Credits ~~\$5,550.00~~

Tax ID 46-1297609

Balance Due **\$0.00**

Payment is due within 15 days. Any balance unpaid after 30 days is subject to a finance charge of 1.5% per month until paid.

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**Sawtooth Law Offices, PLLC**

1101 W. River St., Ste. 110
Boise, ID 83702

Invoice No.
23334

Bill To:

Via Email
Arthur and Katherine Gideon
23452 N. Derting Road
Hayden, ID 83835

Invoice Date: 9/6/2023**Due Date:** 9/21/2023**Project/Job:**

Date	Item	Description	Hours	Rate	Amount
~~8/3/2023~~	~~AJW~~	~~Review and respond to well inspection update email from M. Schmidt.~~	~~0.6~~	~~300.00~~	~~180.00~~
8/24/2023	AJW	Respond to client CRBA "game plan" inquiry for CSRBA litigation post-lower well inspection.	1.2	300.00	360.00

Please contact us at (208) 629-7447 if you have questions or concerns about your account.

Secure online bill payment is available on our website.

Tax ID 46-1297609

Payment is due within 15 days. Any balance unpaid after 30 days is subject to a finance charge of 1.5% per month until paid.

Invoice Total ~~\$540.00~~ **\$360.00**

Payments/Credits ~~\$540.00~~

Balance Due **\$0.00**

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**Sawtooth Law Offices, PLLC**

1101 W. River St., Ste. 110
Boise, ID 83702

Invoice No.
23624

Bill To:

Via Email
Arthur and Katherine Gideon
23452 N. Derting Road
Hayden, ID 83835

Invoice Date: 10/4/2023
Due Date: 10/19/2023
Project/Job:

Date	Item	Description	Hours	Rate	Amount
9/18/2023	AJW	Review CSRBA filings on Gideon and Farley subcases for IDWR 706 Reports; draft renewed settlement offer email to T. Thompson regarding water rights matters.	0.5	300.00	150.00
9/22/2023	AJW	Respond to client email regarding IDWR Rule 706 Report (.6); review IDWR claimant 706 Report and respond to M. Schmidt email regarding the same (1.3).	1.9	300.00	570.00

Please contact us at (208) 629-7447 if you have questions or concerns about your account.

Secure online bill payment is available on our website.

Tax ID 46-1297609

Payment is due within 15 days. Any balance unpaid after 30 days is subject to a finance charge of 1.5% per month until paid.

Invoice Total \$720.00

Payments/Credits -\$720.00

Balance Due \$0.00

www.sawtoothlaw.com

Bill To:
 Via Email
 Arthur and Katherine Gideon
 23452 N. Derting Road
 Hayden, ID 83835

Invoice Date: 11/6/2023
Due Date: 11/21/2023
Project/Job:

Date	Item	Description	Hours	Rate	Amount
10/2/2023	AJW	Review and respond to T. Thompson appointment cancellation regarding IDWR 706 reports and settlement potential in CSRBA; draft follow-up email to K. Gideon regarding the same.	0.3	300.00	90.00
10/3/2023	AJW	Participate in CSRBA scheduling conference and telephone conference with M. Schmltdt regarding the same.	1.6	300.00	480.00
10/5/2023	AJW	Draft CSRBA scheduling order in Consolidated Subcase Nos. 95-16445 and 95-18409.	0.4	300.00	120.00
10/23/2023	JAR	Respond to client mediation expectation email.	0.4	250.00	100.00
10/24/2023	AJW	Draft email to T. Thompson seeking settlement opportunity and enclosing ddraft CSRBA scheduling order (.5); review and respond to client mediation position emails (.5).	1	300.00	300.00
10/31/2023	AJW	Telephone conference with T. Thompson regarding settlement potential options (.6); draft email update to client (.7).	1.3	300.00	390.00

Please contact us at (208) 629-7447 if you have questions or concerns about your account.

Secure online bill payment is available on our website.

Tax ID 46-1297609

Invoice Total \$1,480.00

Payments/Credits -\$1,480.00

Balance Due \$0.00

Payment is due within 15 days. Any balance unpaid after 30 days is subject to a finance charge of 1.5% per month until paid.

www.sawtoothlaw.com

**Sawtooth Law Offices, PLLC**

1101 W. River St., Ste. 110
Boise, ID 83702

Invoice No.
24162

Bill To:

Via Email
Arthur and Katherine Gideon
23452 N. Derting Road
Hayden, ID 83835

Invoice Date: 12/6/2023**Due Date:** 12/21/2023**Project/Job:**

Date	Item	Description	Hours	Rate	Amount
11/2/2023	AJW	Draft client CSRBA mediation statement.	3.6	300.00	1,080.00
11/3/2023	AJW	Review, revise to supplemental draft mediation statement and forward to client for review.	1.6	300.00	480.00
11/7/2023	AJW	Telephone conference with T. Thompson regarding mediation postponement impacts on trial schedule and pretrial deadlines.	0.4	300.00	120.00
11/8/2023	AJW	Exchange emails with T. Thompson and the Court regarding potential new trial dates providing room for postponed mediation; draft email to clients regarding the same.	0.8	300.00	240.00
11/15/2023	AJW	Revise draft scheduling order to reflect new April 10-11 trial dates and pre-trial deadlines stemming from trial dates.	0.4	300.00	120.00

Please contact us at (208) 629-7447 if you have questions or concerns about your account.

Secure online bill payment is available on our website.

Tax ID 46-1297609

Payment is due within 15 days. Any balance unpaid after 30 days is subject to a finance charge of 1.5% per month until paid.

Invoice Total \$2,040.00

Payments/Credits -\$2,040.00

Balance Due \$0.00

www.sawtoothlaw.com

**Sawtooth Law Offices, PLLC**

1101 W. River St., Ste. 110
Boise, ID 83702

Invoice No.
24456

Bill To:

Via Email
Arthur and Katherine Gideon
23452 N. Derting Road
Hayden, ID 83835

Invoice Date: 1/4/2024
Due Date: 1/19/2024
Project/Job:

Date	Item	Description	Hours	Rate	Amount
12/13/2023	AJW	Review client mediation statement, IDWR 706 Report and key documents prior to mediation.	1	300.00	300.00
12/15/2023	AJW	Participate in CSRBA mediation at IDWR State Office.	6.5	300.00	1,950.00
12/22/2023	AJW	Draft settlement posture/timing email to M. Schmidt related to CSRBA process timing and summary judgment.	0.8	300.00	240.00
12/27/2023	AJW	Begin drafting client motion for summary judgment and supporting pages regarding CSRBA Claim No. 95-18409.	1	300.00	300.00

Please contact us at (208) 629-7447 if you have questions or concerns about your account.

Secure online bill payment is available on our website.

Tax ID 46-1297609

Invoice Total \$2,790.00

Payments/Credits -\$2,790.00

Balance Due \$0.00

Payment is due within 15 days. Any balance unpaid after 30 days is subject to a finance charge of 1.5% per month until paid.

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**Sawtooth Law Offices, PLLC**

1101 W. River St., Ste. 110
Boise, ID 83702

Invoice No.
24775

Bill To:

Via Email
Arthur and Katherine Gideon
23452 N. Derting Road
Hayden, ID 83835

Invoice Date: 2/5/2024**Due Date:** 2/20/2024**Project/Job:**

Date	Item	Description	Hours	Rate	Amount
1/10/2024	AJW	Draft email to T. Thompson communicating forthcoming motion for summary judgment and ongoing offer to Standard Form 5 stipulated settlement of the CSRBA matters.	0.4	300.00	120.00
1/22/2024	AJW	Continue reviewing trial transcript records and exhibits, continue drafting summary judgment brief.	1.2	300.00	360.00
1/23/2024	AJW	Continue trial materials review and summary judgment drafting.	4.2	300.00	1,260.00
1/24/2024	AJW	Cull Waldera affidavit exhibits and continue drafting summary judgment brief.	3	300.00	900.00
1/25/2024	AJW	Continue drafting summary judgment briefing.	5.5	300.00	1,650.00
1/26/2024	AJW	Conclude drafting summary judgment brief and begin revising the same.	5	300.00	1,500.00
1/29/2024	AJW	Draft motion for summary judgment and supporting affidavit of counsel; revise and supplement draft memo in support.	3.8	300.00	1,140.00
1/30/2024	AJW	Review and revise summary judgment documents; further supplement and cite check all transcript citations.	4	300.00	1,200.00
1/30/2024		Postage - MSJ and Supporting Documents to IDWR		9.85	9.85

COSTS

Please contact us at (208) 629-7447 if you have questions or concerns about your account.

Invoice Total **\$8,130.00** \$8,139.85

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Payments/Credits -\$8,139.85

Tax ID 46-1297609

Balance Due \$0.00

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**Sawtooth Law Offices, PLLC**

1101 W. River St., Ste. 110
Boise, ID 83702

Invoice No.
25091

Bill To:

Via Email
Arthur and Katherine Gideon
23452 N. Derting Road
Hayden, ID 83835

Invoice Date: 3/5/2024
Due Date: 3/20/2024
Project/Job:

Date	Item	Description	Hours	Rate	Amount
2/2/2024	AJW	Review and annotate Farley CSRBA discovery requests; draft strategy email regarding the same to M. Schmidt; draft follow up counter argument outline.	2.1	300.00	630.00
2/5/2024	AJW	Draft discovery requests of Farley.	1.5	300.00	450.00
2/6/2024	AJW	Telephone conference with M. Schmidt regarding trial evidentiary support needs.	0.7	300.00	210.00
2/8/2024	AJW	Telephone conference with T. Thompson regarding summary judgment hearing timing and settlement potential (.3); draft update email to client doubling as reply brief notes (1.3).	1.6	300.00	480.00
2/15/2024	AJW	Draft email to M. Schmidt regarding agency theory issue over what Ellis knew regarding severance intent.	1	300.00	300.00
2/21/2024	AJW	Review and annotate trial testimony of transaction agents Ellis and Elder.	2	300.00	600.00
2/23/2024	AJW	Review Christensen orders for precedential law of the case findings regarding severance (clear intent); review Farley and Gideon testimony regarding the same.	2.4	300.00	720.00
2/24/2024	AJW	Review and annotate Christensen MDOs for intent and dishonesty findings; research legal standars for applicability of best evidence rule, law of the case, parol evidence rule, burden of persuasion, and the lear evidence rule; research judicial bench trial latitude on mixed questions of fact and law.	3.6	300.00	1,080.00
2/26/2024	AJW	Review 2009 Booth summary judgment decision regarding grantor intent and authorities cited therein.	1.8	300.00	540.00
2/27/2024	AJW	Draft reply brief in support of motion for summary judgment.	6	300.00	1,800.00
2/28/2024	AJW	Draft reply brief in support of motion for summary judgment.	4.5	300.00	1,350.00

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Secure online bill payment is available on our website.

Tax ID 46-1297609

Invoice Total**Payments/Credits****Balance Due**

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Page 1

AJW

Sawtooth Law Offices, PLLC

S&W TOOTH LAW 1101 W. River St., Ste. 110
OFFICES, PLLC
Boise, ID 83702

Invoice No.
25091

Bill To:

Via Email
Arthur and Katherine Gideon
23452 N. Derting Road
Hayden, ID 83835

Invoice Date: 3/5/2024

Due Date: 3/20/2024

Project/Job:

Date	Item	Description	Hours	Rate	Amount
2/29/2024	AJW	Draft reply brief in support of motion for summary judgment.	10.2	300.00	3,060.00

Please contact us at (208) 629-7447 if you have questions or concerns about your account.

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Tax ID 46-1297609

Invoice Total	\$11,220.00
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Payments/Credits	-\$11,220.00
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Balance Due	\$0.00
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Page 2

AJW



Sawtooth Law Offices, PLLC
1101 W. River Street, Suite 110
Boise, ID 83702

INVOICE

Invoice No. 1065
Date: 03/31/2024
Due On: 04/15/2024

Arthur and Katherine Gideon
Via Email
23452 N. Derting Road
Hayden, ID 83835

Water Right Litigation adv. Farley

Date	Attorney	Notes	Quantity	Rate	Total
03/01/2024	AJW	Conclude drafting reply in support of motion for summary judgment; begin revising and supplementing the same.	6.70	\$300.00	\$2,010.00
03/02/2024	AJW	Revise reply brief.	1.20	\$300.00	\$360.00
03/03/2024	AJW	Revise and begin cite check reply brief and supplement facts with well float-based switches in cisterns.	2.30	\$300.00	\$690.00
03/04/2024	AJW	Supplement, revise, cite check cases, and cite check transcript citations; file reply brief.	6.40	\$300.00	\$1,920.00
03/05/2024	AJW	Review existing subcase 95-18409 record materials regarding Gideon Lower Well knowledge and expectations.	2.90	\$300.00	\$870.00
03/06/2024	AJW	Review record for Gideon understanding/intent evidence concerning Lower Well ownership – consider filing IRE 201 Request for Judicial Notice prior to summary judgment hearing; telephone conference with M. Schmidt regarding the same.	2.40	\$300.00	\$720.00
03/08/2024	AJW	Hearing preparation and argument outline.	2.10	\$300.00	\$630.00
03/10/2024	AJW	Review the parties' motion for summary judgment briefing and conclude outlining hearing oral argument notes.	2.70	\$300.00	\$810.00
03/11/2024	AJW	Participate in motion for summary judgment oral argument hearing (3.0); travel to/from (3.8).	6.80	\$300.00	\$2,040.00
03/23/2024	AJW	Begin outlining CSRBA petition for costs and fees.	1.00	\$300.00	\$300.00
03/25/2024	AJW	Continue outlining CSRBA petition for costs and fees and compare against prior Booth fee decisions.	1.00	\$300.00	\$300.00

Subtotal \$10,650.00

Total \$10,650.00

Payment (05/18/2024) -\$8,000.00

Payment (06/14/2024)	-\$500.00
Payment (07/30/2024)	-\$500.00
Payment (09/02/2024)	-\$500.00
Payment (10/01/2024)	-\$1,150.00
Balance Owing	\$0.00

Online Payment History

Date	Method	Description	Status	Amount
05/18/2024	Katherine M Gideon Visa ending in 8472	Linked payment for Arthur and Katherine Gideon	Completed	\$8,000.00
06/14/2024	Katherine M Gideon AMEX ending in 9577	Linked payment for Arthur and Katherine Gideon	Completed	\$500.00
07/30/2024	Katherine M Gideon Visa ending in 2728	Linked payment for Arthur and Katherine Gideon	Completed	\$500.00
09/02/2024	Katherine M Gideon Visa ending in 2728	Linked payment for Arthur and Katherine Gideon	Completed	\$500.00
10/01/2024	Katherine M Gideon Visa ending in 2728	Linked payment for Arthur and Katherine Gideon	Completed	\$1,150.00
Total Payments				\$10,650.00

Detailed Statement of Account

Current Invoice

Invoice Number	Due On	Amount Due	Payments Received	Balance Due
1065	04/15/2024	\$10,650.00	\$10,650.00	\$0.00

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(208) 629-7447 | sawtoothlaw.com

Payment is due within 15 days.
Any balance unpaid after 30 days is subject to a finance charge of 1.5% per month until paid.



Sawtooth Law Offices, PLLC
1101 W. River Street, Suite 110
Boise, ID 83702

INVOICE

Invoice No. 1412
Date: 04/30/2024
Due On: 06/14/2024

Arthur and Katherine Gideon
Via Email
23452 N. Derting Road
Hayden, ID 83835

Water Right Litigation adv. Farley

Date	Attorney	Notes	Quantity	Rate	Total
~~04/24/2024~~	~~AJW~~	~~Draft matter status update email to clients.~~	~~0.60~~	~~\$300.00~~	~~\$180.00~~
~~04/29/2024~~	~~AJW~~	~~Quick review of Farley filings to draft update email to K. Gideon; review Farley cited ex parte communications in Subcase No. 95-16445.~~	~~0.80~~	~~\$300.00~~	~~\$240.00~~

Subtotal	~~\$420.00~~
Total	~~\$420.00~~
Payment (10/01/2024)	-\$420.00
Balance Owing	\$0.00

Online Payment History

Date	Method	Description	Status	Amount
10/01/2024	Katherine M Gideon Visa ending in 2728	Linked payment for Arthur and Katherine Gideon	Completed	\$420.00
Total Payments				\$420.00

Detailed Statement of Account

Other Invoices

Invoice Number	Due On	Amount Due	Payments Received	Balance Due
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3853	02/25/2025	\$1,560.00	\$0.00	\$1,560.00
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Current Invoice

Invoice Number	Due On	Amount Due	Payments Received	Balance Due
1412	06/14/2024	\$420.00	\$420.00	\$0.00
Outstanding Balance				\$1,560.00
Total Amount Outstanding				\$1,560.00

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Sawtooth Law Offices, PLLC
1101 W. River Street, Suite 110
Boise, ID 83702

INVOICE

Invoice No. 2044
Date: 06/30/2024
Due On: 07/20/2024

Arthur and Katherine Gideon
Via Email
23452 N. Derting Road
Hayden, ID 83835

Water Right Litigation adv. Farley

Date	Attorney	Notes	Quantity	Rate	Total
06/10/2024	AJW	Review and annotate Farley motion to alter or amend special master Booth's SJ decision and begin outlining response brief in opposition	3.00	\$300.00	\$900.00
06/12/2024	AJW	Begin citation checking Farley motion to alter and amend status and cases to determine legal proposition/assertion accuracy	1.20	\$300.00	\$360.00
06/24/2024	AJW	Begin drafting response to Farley motion to alter or amend	0.80	\$300.00	\$240.00
06/25/2024	AJW	Continue drafting response to Farley MAA	1.30	\$300.00	\$390.00

Subtotal \$1,890.00

Total \$1,890.00

Payment (10/01/2024) -\$1,890.00

Balance Owing \$0.00

Online Payment History

Date	Method	Description	Status	Amount
10/01/2024	Katherine M Gideon Visa ending in 2728	Linked payment for Arthur and Katherine Gideon	Completed	\$1,890.00
Total Payments				\$1,890.00

Detailed Statement of Account

Current Invoice

Invoice Number	Due On	Amount Due	Payments Received	Balance Due
2044	07/20/2024	\$1,890.00	\$1,890.00	\$0.00

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Payment is due within 15 days.
Any balance unpaid after 30 days is subject to a finance charge of 1.5% per month until paid.



Sawtooth Law Offices, PLLC
1101 W. River Street, Suite 110
Boise, ID 83702

INVOICE

Invoice No. 2118
Date: 07/31/2024
Due On: 08/25/2024

Arthur and Katherine Gideon
Via Email
23452 N. Derting Road
Hayden, ID 83835

Water Right Litigation adv. Farley

Date	Attorney	Notes	Quantity	Rate	Total
07/09/2024	AJW	Continue drafting response to Farley MAA	1.00	\$300.00	\$300.00
07/10/2024	AJW	Continue drafting response to Farley MAA	4.50	\$300.00	\$1,350.00
07/11/2024	AJW	Continue drafting response to Farley MAA	5.70	\$300.00	\$1,710.00
07/12/2024	AJW	Continue drafting response brief to Farley MAA	4.60	\$300.00	\$1,380.00
07/15/2024	AJW	Conclude drafting Farley MAA response brief; begin revising	6.20	\$300.00	\$1,860.00
07/16/2024	AJW	Revise and supplement draft brief and rework/update Rule 11.2(b) legal standard of review to citations	3.30	\$300.00	\$990.00
07/23/2024	AJW	Review parties' briefs and outline oral argument (1.8); participation in MAA hearing in Twin Falls (1.8); travel to/from (3.8)	7.40	\$300.00	\$2,220.00

Subtotal \$9,810.00

Total \$9,810.00

Payment (10/01/2024) -\$1,540.00

Payment (10/01/2024) -\$8,270.00

Balance Owning \$0.00

Online Payment History

Date	Method	Description	Status	Amount
10/01/2024	Katherine M Gideon Visa ending in 2728	Linked payment for Arthur and Katherine Gideon	Completed	\$1,540.00

10/01/2024	Katherine M Gideon eCheck ending in 7825	Linked payment for Arthur and Katherine Gideon	Completed	\$8,270.00
Total Payments				\$9,810.00

Detailed Statement of Account

Current Invoice

Invoice Number	Due On	Amount Due	Payments Received	Balance Due
2118	08/25/2024	\$9,810.00	\$9,810.00	\$0.00

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(208) 629-7447 | sawtoothlaw.com

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Sawtooth Law Offices, PLLC
1101 W. River Street, Suite 110
Boise, ID 83702

INVOICE

Invoice No. 3211
Date: 10/31/2024
Due On: 11/25/2024

Arthur and Katherine Gideon
Via Email
23452 N. Derting Road
Hayden, ID 83835

Water Right Litigation adv. Farley

Date	Attorney	Notes	Quantity	Rate	Total
10/19/2024	AJW	Begin reviewing and annotating Farley Opening Brief on Challenge; MSJ and MAA hearing transcripts	1.20	\$300.00	\$360.00
10/23/2024	AJW	Review Booth MSJ and MAA Decisions; begin drafting response to Farley's Opening Brief on Challenge	4.20	\$300.00	\$1,260.00
10/24/2024	AJW	Continue drafting response to Farley Opening Brief on Challenge	6.60	\$300.00	\$1,980.00
10/25/2024	AJW	Continue drafting Response to Farley Opening Brief on Challenge	7.00	\$300.00	\$2,100.00
10/28/2024	AJW	Continue drafting Response to Farley's Opening Brief on Challenge	7.00	\$300.00	\$2,100.00
10/29/2024	AJW	Conclude drafting Response to Farley Opening Brief on Challenge (5.2); begin revising and shortening to come under requisite filing page limit (.8)	6.00	\$300.00	\$1,800.00
10/30/2024	AJW	Revise and cite check cases, statutes, and transcript citations	4.80	\$300.00	\$1,440.00

Subtotal \$11,040.00

Total \$11,040.00

Payment (11/25/2024) -\$7,000.00

Payment (11/25/2024) -\$4,040.00

Balance Owning \$0.00

Online Payment History

Date	Method	Description	Status	Amount
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11/25/2024	Katherine M Gideon Visa ending in 8814	Linked payment for Arthur and Katherine Gideon	Completed	\$7,000.00
11/25/2024	Katherine M Gideon Visa ending in 2728	Linked payment for Arthur and Katherine Gideon	Completed	\$4,040.00
			Total Payments	\$11,040.00

Detailed Statement of Account

Current Invoice

Invoice Number	Due On	Amount Due	Payments Received	Balance Due
3211	11/25/2024	\$11,040.00	\$11,040.00	\$0.00

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Sawtooth Law Offices, PLLC
1101 W. River Street, Suite 110
Boise, ID 83702

INVOICE

Invoice No. 3607
Date: 12/31/2024
Due On: 01/24/2025

Arthur and Katherine Gideon
Via Email
23452 N. Derting Road
Hayden, ID 83835

Water Right Litigation adv. Farley

Date	Attorney	Notes	Quantity	Rate	Total
12/09/2024	AJW	Begin reviewing and annotating Farley reply brief on challenge in preparation for oral argument	1.00	\$300.00	\$300.00
12/10/2024	AJW	Continue reviewing and annotating Farley challenge reply brief; review new case law citations; begin reviewing client reply brief and attending oral argument on challenge	2.40	\$300.00	\$720.00
12/11/2024	AJW	Continue parties' briefing materials review and oral argument preparation; re-listen to hearing audio recording of motion for late claim proceedings before J. Wildman	3.20	\$300.00	\$960.00
12/12/2024	AJW	Review Judge Christensen trial transcript citations pre-hearing (1.0); attend and participate in challenge hearing at SRBA courthouse (5.5)	6.50	\$300.00	\$1,950.00

Subtotal \$3,930.00

Total \$3,930.00

Payment (01/23/2025) -\$3,930.00

Balance Owning \$0.00

Online Payment History

Date	Method	Description	Status	Amount
01/23/2025	Katherine M Gideon Visa ending in 8814	Linked payment for Arthur and Katherine Gideon	Completed	\$3,930.00
Total Payments				\$3,930.00

Detailed Statement of Account

Current Invoice

Invoice Number	Due On	Amount Due	Payments Received	Balance Due
3607	01/24/2025	\$3,930.00	\$3,930.00	\$0.00

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(208) 629-7447 | sawtoothlaw.com

Payment is due within 15 days.
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Sawtooth Law Offices, PLLC
1101 W. River Street, Suite 110
Boise, ID 83702

INVOICE

Invoice No. 3853
Date: 01/31/2025
Due On: 02/25/2025

Arthur and Katherine Gideon
Via Email
23452 N. Derling Road
Hayden, ID 83835

Water Right Litigation adv. Farley

Date	Attorney	Notes	Quantity	Rate	Total
01/25/2025	AJW	Review and annotate Wildman decision on challenge and draft matter status update and fee petition inquiry/ recommendation email to clients	2.20	\$300.00	\$660.00
01/31/2025	AJW	Begin drafting verified petition for costs and fees	3.00	\$300.00	\$900.00

Subtotal \$1,560.00

Total \$1,560.00

Detailed Statement of Account

Current Invoice

Invoice Number	Due On	Amount Due	Payments Received	Balance Due
3853	02/25/2025	\$1,560.00	\$0.00	\$1,560.00
Outstanding Balance				\$1,560.00
Total Amount Outstanding				\$1,560.00

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**Sawtooth Law Offices, PLLC**

1101 W. River Street, Suite 110
Boise, ID 83702

INVOICE

Invoice No. 4008
Date: 02/06/2025
Due On: 02/21/2025

Arthur and Katherine Gideon
Via Email
23452 N. Derting Road
Hayden, ID 83835

Water Right Litigation adv. Farley

Date	Attorney	Notes	Quantity	Rate	Total
02/03/2025	AJW	Continue drafting cost and fee petition	5.00	\$300.00	\$1,500.00
02/04/2025	AJW	Continue drafting cost and fee petition	4.00	\$300.00	\$1,200.00
02/05/2025	AJW	Continue drafting cost and fee petition; begin reviewing and culling fee invoices for Exhibit A	7.00	\$300.00	\$2,100.00
02/06/2025	AJW	Revise and supplement draft verified petition for costs and fees; cite check legal authorities and briefing citations contained in the verified petition.	4.80	\$300.00	\$1,440.00
Subtotal					\$6,240.00
Total					\$6,240.00

Detailed Statement of Account**Other Invoices**

Invoice Number	Due On	Amount Due	Payments Received	Balance Due
3853	02/25/2025	\$1,560.00	\$0.00	\$1,560.00

Current Invoice

Invoice Number	Due On	Amount Due	Payments Received	Balance Due
4008	02/21/2025	\$6,240.00	\$0.00	\$6,240.00

Outstanding Balance	\$7,800.00
Total Amount Outstanding	\$7,800.00

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(208) 629-7447 | sawtoothlaw.com

Payment is due within 15 days.
Any balance unpaid after 30 days is subject to a finance charge of 1.5% per month until paid.

Time Report

Arthur V. & Katherine M. Gideon / Easement and Well Dispute

Date	Name	Hours	Amount	Rate	Narrative
12/20/2022	Schmidt, Michael G.	2.60	910.00	350.00	Review emails from Andy Waldera and client (.2); emails with Jason Peppin at PHD to set up telephone conference (.2); confirm time and update client (.1); prepare for and attend telephone conference (.4); attend additional telephone conference with Andy Waldera and provide detailed analysis of facts and history of case to assist with CSRBA action (1.2); email update to client (.2); email documents to Andy (.3).
01/02/2023	Schmidt, Michael G.	0.50	175.00	350.00	Review update emails from Andy and email update to clients (.3); review several emails from IDWR and Travis Thompson (.2).
01/05/2023	Schmidt, Michael G.	1.00	350.00	350.00	Prepare for status conference and review Andy's email/memo addressed to motion recommended by IDWR (5); attend hearing (.5).
01/13/2023	Schmidt, Michael G.	1.00	350.00	350.00	Prepare for and attend telephone conference with clients and Andy Waldera (.6); review Andy's email and save recent emails to file (.2); brief review of permit violation information (.2).
01/30/2023	Schmidt, Michael G.	0.60	210.00	350.00	Review motion draft from Andy and emails regarding same (.2); email approval to Andy for filing (.2); review declaration (.2).
01/31/2023	Schmidt, Michael G.	0.30	105.00	350.00	Review declaration and exhibits.
03/16/2023	Schmidt, Michael G.	1.00	350.00	350.00	Review CSRBA opposition filings and client emails and document with facts outlined (.7); email Waldera (.3).
03/17/2023	Schmidt, Michael G.	0.30	105.00	350.00	Review filings from Farley (.1); email Andy with question regarding Farley's promise/intent to supply water to Parcel I (.2).
04/04/2023	Schmidt, Michael G.	0.30	105.00	350.00	Review calendar and recent emails (.1); email Andy regarding upcoming Motion for Summary Judgment filing deadline to confirm his plans to draft and file same (.2).
04/05/2023	Schmidt, Michael G.	0.30	105.00	350.00	Review and respond to client email (.1); emails with Andy Waldera regarding Motion for Summary Judgment scheduling and arrange to confirm date is not on court's calendar (.2).
04/12/2023	Schmidt, Michael G.	0.30	105.00	350.00	Emails with clients and Andy Waldera regarding upcoming hearing (.2); review hearing notice to confirm time zone and property calendared (.1).
04/18/2023	Schmidt, Michael G.	1.70	595.00	350.00	Review motion briefing (.3); meet with clients (.4); attend CSRBA hearing (1.0).
04/19/2023	Schmidt, Michael G.	1.80	630.00	350.00	Review Court's trial ruling, complaint, post-trial briefing, and Motion for Summary Judgment briefing (1.0); several emails with Andy Waldera and Kathy Gideon regarding outcome of CSRBA hearing and impact/strategy for subsequent CSRBA and trial court (.8).
04/21/2023	Schmidt, Michael G.	0.10	35.00	350.00	Review late notice order granting claim.
04/25/2023	Schmidt, Michael G.	0.40	140.00	350.00	Attend status conference in CSRBA litigation.
05/05/2023	Schmidt, Michael G.	0.30	105.00	350.00	Emails with clients (.1); emails with Andy regarding IDWR recommendation schedule. (.2)
06/28/2023	Schmidt, Michael G.	1.10	385.00	350.00	Review Andy Waldera's edits and work on finalizing Motion for Summary Judgment documents.
07/11/2023	Schmidt, Michael G.	0.50	175.00	350.00	Attend hearing in CSRBA matter for understanding of impact on primary litigation in Kootenai County.

07/24/2023	Schmidt, Michael G.	0.30	105.00	350.00	Review Amended objection form from Farley and Andy/Kathy's emails (.2); draft and email to Andy map outlining overlap of additional undisputedly served by right (.1).
08/24/2023	Schmidt, Michael G.	0.30	105.00	350.00	Emails with Andy and clients regarding next steps and case status.
09/21/2023	Schmidt, Michael G.	2.00	700.00	350.00	Review Director's report and work on email/ memo analyzing decision ,s strategy and options and send to clients and Andy.
09/22/2023	Schmidt, Michael G.	0.50	175.00	350.00	Emails with Andy Waldera regarding his response to director's report (.3); review Andy's summary email and respond with questions (.2).
10/03/2023	Schmidt, Michael G.	1.70	620.50	365.00	Review emails and prepare for status conference (.3); attend status conference (.6); telephone conference with Andy Waldera; notes to file (.8).
10/09/2023	Schmidt, Michael G.	0.20	73.00	365.00	Review Andy's email and scheduling dates (.1); email clients and Andy with response (.1).
10/18/2023	Schmidt, Michael G.	0.20	73.00	365.00	Get caught up on CSRBA emails between client and Andy and confirm everything is calendared.
11/03/2023	Schmidt, Michael G.	1.10	401.50	365.00	Review correspondence from Andy and mediation statement (.3); legal research regarding tort claims act (.4); research for authority related to employee advice from government entities (found none in Idaho) (.2); email results of research and opinions to Andy (.2).
11/06/2023	Schmidt, Michael G.	0.20	73.00	365.00	Emails with Andy regarding coordination during mediation.
11/17/2023	Schmidt, Michael G.	0.20	73.00	365.00	Emails with Andy and clients regarding scheduling mediation.
11/20/2023	Schmidt, Michael G.	0.10	36.50	365.00	Email confirming availability for mediation.
11/21/2023	Schmidt, Michael G.	0.20	73.00	365.00	Review trial notice and information and calendar deadlines.
12/14/2023	Schmidt, Michael G.	0.10	36.50	365.00	Review correspondence regarding mediation.
12/15/2023	Schmidt, Michael G.	1.40	511.00	365.00	Email Andy and client regarding mediation meeting (.2); telephone conference with clients regarding mediation progress (.3); review mediation memo (.2); further telephone conference with clients and Andy regarding settlement discussions (.3); final telephone conference with Andy regarding failure of mediation and next steps (.4).
01/03/2024	Schmidt, Michael G.	0.20	73.00	365.00	Review emails and calendar for Gideons' attendance (remotely) to CSRBA Motion for Summary Judgment hearing (.1); further emails confirming (.1).
01/10/2024	Schmidt, Michael G.	0.20	73.00	365.00	Review email from Andy Waldera (.1); email response (.1).
01/30/2024	Schmidt, Michael G.	0.60	219.00	365.00	Review emails and information from Andy Waldera regarding Motion for Summary Judgment drafting (.2); review Motion for Summary Judgment memo draft and provide Andy with comments (.3); further emails with Andy (.1).
02/05/2024	Schmidt, Michael G.	1.60	584.00	365.00	Review emails and discovery from Andy and clients (.5); work on responses to discovery and conference with Terri Boyd-Davis regarding preparing my responses for Andy and client's review and input (.6); review Kathy's discovery responses draft (.5).

02/06/2024	Schmidt, Michael G.	2.40	876.00	365.00	Research easement case and save to Gideon Memo file (.8); review discovery set from Andy and respond with analysis and suggestions (.7); telephone conference with Andy to go through elements of claim, evidentiary issues, and trial plan and strategy (.3); email summary of discussion to client; email regarding discovery to client (4); calendar Motion for Summary Judgment and discovery deadlines (.2)
02/08/2024	Schmidt, Michael G.	3.00	1,095.00	365.00	Review emails from Andy (.2); email Andy for discovery served 9.2); work on answering Andy's question and review trial transcript, court's Motion for Summary Judgment decision and trial decision, taking excerpts and emailing to Andy (2.4); emails regarding Travis' extension request (.2)
02/09/2024	Schmidt, Michael G.	0.20	73.00	365.00	Review emailed discovery served on Farley (.1); review and calendar new Motion for Summary Judgment date/hearing (.1).
02/12/2024	Schmidt, Michael G.	0.30	109.50	365.00	Review and respond to client email and search for Notice of Hearing; email clients and Andy regarding same (.2); calendar reminder notice; review Notice of Hearing (.1).
02/15/2024	Schmidt, Michael G.	1.20	438.00	365.00	Review Andy's email and search through trial transcript to locate pertinent testimony related to communications to Pattie Ellis and Rob Elder (.9); draft email answering Andy's questions and highlighting trial testimony on the Lower Well disclosure and communications (.3).
02/23/2024	Schmidt, Michael G.	0.20	73.00	365.00	Emails with Terri Boyd-Davis regarding drafting request to attend Motion for Summary Judgment by Zoom (.1); calendar court deadlines (.1).
02/25/2024	Schmidt, Michael G.	2.00	730.00	365.00	Review Motion for Summary Judgment opposition memo and search for pleading where I addressed at trial court (.4); research notice law for non-real property filings (.6); work on email/memo to Andy to assist with briefing in reply (1.0).
02/26/2024	Schmidt, Michael G.	0.10	36.50	365.00	Telephone conference with Andy Waldera.
02/28/2024	Schmidt, Michael G.	1.60	584.00	365.00	Review discovery reminder notice and begin work on responding to same (.8); review correspondence with clients and Andy Waldera (.2); review Motion for Summary Judgment decision from Booth and analyze same and email Andy (.6).
03/03/2024	Schmidt, Michael G.	1.90	693.50	365.00	Review Motion for Summary Judgment Reply memo from Andy (.3); legal research regarding lay witness testimony; search trial transcript and pleadings for information regarding continued use of Lower Well between 2017-19 (.8); email comments and information regarding testimony to Andy (.3); review emails from Andy and Kathy and referenced trial testimony 9.2); review revised draft memo from Andy and emailed comments from Andy and Kathy (.3).
03/04/2024	Schmidt, Michael G.	0.30	109.50	365.00	Review email from Andy regarding trial date (.1) review filed Motion for Summary Judgment memo from Andy (.2).
03/06/2024	Schmidt, Michael G.	0.50	182.50	365.00	Telephone conference with Andy Waldera and discuss summary judgment.
03/11/2024	Schmidt, Michael G.	4.20	1,533.00	365.00	Prepare for client office conference and attend Motion for Summary Judgment hearing remotely (3.0); email notes to Andy (.5); telephone conference with Andy regarding hearing and next steps/contingencies depending on Booth's decision (.7).

03/20/2024	Schmidt, Michael G.	0.50	182.50	365.00	Review Motion for Summary Judgment decision and emails with Andy and clients regarding same (.4); calendar deadline (.1).
03/28/2024	Schmidt, Michael G.	0.10	36.50	365.00	Conference with Terri Boyd-Davis regarding removing deadlines from calendar and review emails regarding same from Andy Waldera's office.
04/29/2024	Schmidt, Michael G.	0.20	73.00	365.00	Review emails for update and office conference with Terri Boyd-Davis (.1); email Andy for update regarding appeal/reconsideration (.1).
05/28/2024	Schmidt, Michael G.	0.50	182.50	365.00	Telephone conference with clients (.3); email Andy regarding timeline (.2).
05/31/2024	Schmidt, Michael G.	0.20	73.00	365.00	Emails with clients.
06/13/2024	Schmidt, Michael G.	0.30	109.50	365.00	Review Andy's email summarizing CSRBA case to analyze impact on District Court case and update calendar with information in emails for reference.
07/23/2024	Schmidt, Michael G.	3.00	1,095.00	365.00	Review Andy's opposition brief and prepare for client meeting (1.0); attend hearing on Farley's Motion via Zoom with clients and take notes and email to Andy (1.5); conference with clients after hearing (.3); emails with client regarding timeline (.2).
07/24/2024	Schmidt, Michael G.	0.30	109.50	365.00	Emails with Kathy and review declaration with timeline.
08/11/2024	Schmidt, Michael G.	0.30	109.50	365.00	Review emails from client and respond to same (.2); review Booth's decision (.1).
08/26/2024	Schmidt, Michael G.	0.30	109.50	365.00	Get caught up on correspondence and review notice of challenge and correspondence regarding same (.2); email Andy for information regarding hearing once scheduled (.1).
09/18/2024	Schmidt, Michael G.	0.20	73.00	365.00	Review Challenge Scheduling order and emails with Andy and Kathy.
10/18/2024	Schmidt, Michael G.	0.40	154.00	385.00	Review opening brief from Farley and forward to Kathy.
10/29/2024	Schmidt, Michael G.	0.60	231.00	385.00	Review Andy's response brief to Farley's challenge and provide quick feedback and approval.
10/30/2024	Schmidt, Michael G.	0.20	77.00	385.00	Emails with Andy and Kathy and save to file.
10/31/2024	Schmidt, Michael G.	0.20	77.00	385.00	Review email regarding filing of opposition to filing and skim through filed version of brief.
12/11/2024	Schmidt, Michael G.	0.20	77.00	385.00	Review email and order from Andy Waldera and double check scheduling order and login information for tomorrow.
12/12/2024	Schmidt, Michael G.	1.20	462.00	385.00	Prep for client meeting (.5); meet with clients and attend hearing remotely; discuss with clients (.5); emails regarding hearing notes with Kathy (.2).
12/30/2024	Schmidt, Michael G.	0.90	346.50	385.00	Review client email and attached exhibits/transcripts (.3); search file for memo/transcript where I questioned Farley at trial regarding turning on ball valve between 2017 and 2019 on occasion (.4); review client response (.2).
01/25/2025	Schmidt, Michael G.	0.50	192.50	385.00	Review decision and emails regarding same (briefly).
01/27/2025	Schmidt, Michael G.	2.20	847.00	385.00	Review Andy and client's emails closely, print and review and notate court's decision (1.0); conference with Corey D. Metzner and Terri Boyd-Davis regarding considerations and recommendations for client (.4); work on email to provide client recommendations (.2); emails with client and Andy regarding next steps (.2); review proposed judgment (.2); print out time entries for review (.2).
		55.40	20,091.00		

EXHIBIT B

DAVID P. CLAIBORNE
[Idaho State Bar No. 6579]
EVAN T. ROTH
[Idaho State Bar No. 9033]
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Attorneys for Defendants/Counterplaintiffs/Respondents

IN SUPREME COURT OF THE STATE OF IDAHO

JOHN GOMEZ,

Plaintiff-Counterdefendant-
Appellant,

vs.

**GILBERT HURTADO and
JESUS HURTADO,**

Defendants- Counterplaintiff-
Respondents,

And

G & H DAIRY, LLC, an Idaho limited
Liability company,

Defendant-Counterclaimant

Supreme Court Case No. 50279-2022

Jerome County Case No. CV-2017-613

**RESPONDENTS' MEMORANDUM OF
COSTS AND FEES PURSUANT TO
IDAHO APPELLATE RULES 40 & 41**

COMES NOW, Respondents/Defendants, Jesus Hurtado and Gilbert Hurtado (collectively, "Respondents"), by and through their counsel of record, Sawtooth Law Offices, PLLC, and hereby

submit this Memorandum of Costs and Fees (“Memorandum”). This Memorandum is supported by the *Declaration of Counsel in Support of Memorandum of Costs and Fees* (“Declaration”) filed concurrently herewith, the content of which is incorporated herein as if set forth in full hereat. The Opinion awarding the Respondents their costs and fees was filed and announced on August 6, 2024. Accordingly, this Memorandum is timely submitted.

I. INTRODUCTION

On August 6, 2024, this Court issued its Opinion in the above captioned case, wherein this Court awarded the Respondents their costs pursuant to I.A.R. 40 and their attorney fees pursuant to I.A.R. 41 and Idaho Code section 12-121. The Court held that the Respondents were the prevailing party on appeal, and the Court held that:

Gomez failed to grapple with the plain language of the LOI that the district court relied on in determining that the LOI was unenforceable. Gomez's challenges to the dismissal of his claims for unjust enrichment, quasi-estoppel, breach of fiduciary duty, and the dissolution and winding up of G&H *were difficult to follow and Gomez failed to cite legal authority in support. In many instances, Gomez failed to articulate how the district court erred* or merely asked this Court to reweigh the evidence and second-guess the detailed and well-reasoned findings of fact and conclusions of law of the district court. Therefore, we conclude that his appeal was brought and pursued unreasonably and without a legal foundation.

Gomez v. Hurtado, ___ Idaho ___, ___, 2024 Ida. LEXIS 85, *39 (2024) (emphasis added).

Accordingly, the Respondents provide the following summary of attorney fees and costs incurred in this appeal, and request that the Court award the same.

II. SUMMARY OF ATTORNEY FEES AND COSTS

Respondents hereby submit the following summary of attorney fees and costs incurred in the defense of this appeal, which fees and costs undersigned counsel certifies are true, correct, and in compliance with I.A.R. 40(b), I.A.R. 41 and 54(d) and (e):

ATTORNEY'S FEES (Section IV, *Infra*)

<u>Attorney (or Paralegal)</u>	<u>Hours</u>	<u>Rate</u>	<u>Total</u>
Brian A. Faria (Associate)	156.7	\$250/hr	\$39,175.00
Evan T. Roth (Partner)	21.20	\$350/hr	\$7,420.00
David P. Claiborne (Partner)	15.80	\$300/hr	\$4,740.00
S. Bryce Farris (Partner)	8.50	\$300/hr	\$2,550.00
Andrew J. Waldera (Partner)	8.30	\$300/hr	\$2,280.00
Taylor A. Skramstad Walgamott (Law Clerk)	15.30	\$100/hr	\$1,530.00
TOTAL ATTORNEYS FEES:	225.10		\$57,695.00

COSTS (Section III, *Infra*)

<u>Source Name</u>	<u>Type</u>	<u>Date</u>	<u>Memo</u>	<u>Amount</u>
Clerk of the Court	Credit Card Charge	01/11/2023	Clerk of the Court - Copy Fee - Court documents re G & H	\$9.00
Clerk of the Court	Check	07/27/2023	Clerk of the Court - Augment Record Fee - Hurtado/Gomez Appeal	\$14.00
Clerk of the Court	Credit Card Charge	02/12/2024	Clerk of the Court - Filing Fee - Ntc. of Availability	\$6.00
Clerk of the Court	Credit Card Charge	02/28/2024	Clerk of the Court - Filing Fee - Ntc. of Argument	\$6.00
TOTAL COSTS:				\$35.00

III. COSTS-ITEMS ALLOWED AS A MATTER OF RIGHT

Respondents incurred \$35.00 as a result of the (1) required filing fees and charges for the copying fee for the Clerk, (2) filing fees associated with Respondents' request to augment the record, and (3) filing fees associated with Respondents' Notice of Availability and Notice of Argument. No other costs were incurred by Respondents in defending this appeal.

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IV. ATTORNEY FEES

Respondents are entitled to an award of attorney's fees under I.A.R. 41, I.R.C.P. 54(e) and Idaho Code section 12-121. Additionally, the amount Respondents request, \$57,695—is reasonable for defending this appeal. Included in this amount are the fees associated with preparing this Memorandum and accompanying Declaration. An analysis of the Rule 54(e)(3) factors is mandatory "[i]f the court grants attorney fees to a party or parties in a civil action[.]" *Frost v. Gilbert*, 169 Idaho 250, 271, 494 P.3d 798, 819 (2021). I.R.C.P 54(e)(3) sets forth the factors the court must consider to determine what amount is reasonable for an award of fees and costs. *Zenner v. Holcomb*, 147 Idaho 444, 459, 210 P.3d 552, 559 (2009). Those factors consist of the following:

- (A) the time and labor required;
- (B) The novelty and difficulty of the questions;
- (C) The skill requisite to perform the legal services properly and the experience and ability of the attorney in the particular field of law;
- (D) The prevailing charges for like work;
- (E) Whether the fee is fixed or contingent;
- (F) The time limitations imposed by the client or the circumstances of the case;
- (G) The amount involved and the results obtained;
- (H) The undesirability of the case;
- (I) The nature and length of the professional relationship with the client;
- (J) Awards in similar cases;
- (K) The reasonable cost of automated legal research, if the court finds it was reasonably necessary in preparing the party's case;
- (L) Any other factor which the Court deems appropriate in the particular case.

The Court is to consider each factor without placing undue weight on any given factor above. *Nalen v. Jenkins*, 113 Idaho 79, 81, 741 P.2d 366, 368 (Ct. App. 1987). The factors above are more fully set forth and addressed in the Declaration submitted herewith. The Court has discretion in determining the amount of an attorney fee award, and the rules do not require that the Court state how it determined the amount of the award. *Brinkman v. Aid Ins. Co.*, 115 Idaho 346, 351, 766 P.2d 1227, 1235 (1988). Both Rule 54(e)(1) and I.A.R. 41(d) allow for the inclusion of paralegal fees into the attorney fees sought, which would logically include law clerk fees as they perform some of the same tasks as a paralegal, including legal research.

Accordingly, the amount sought by the Respondents is commensurate with the labor and work involved in reaching Respondents' desired outcome. The Opinion clearly reflects that the Respondents were tasked with the labor of deciphering the Appellant's briefing, and Respondents were also tasked with providing all the relevant and necessary citations, both to the record and the law, which were largely omitted from the Appellant's briefing. Appellant's unreasonable appeal forced the Respondents to incur significant unnecessary cost in defending said appeal. Furthermore, the rates of Sawtooth Law Offices are reasonable, and a majority of the workload was delegated to the undersigned counsel who billed at a lesser rate than the other members of the firm. Some of the time spent in this action was not billed at all to the Respondents. Finally, all of the attorneys involved are experienced in the field, which they utilized to achieve the aforementioned result.

Respondents should also be awarded their fees for preparing this Memorandum. In *Beco Construction Company, Inc. v. J-U-B Engineers Inc.*, 149 Idaho 294, 233 P.3d 1216 (2010), the this Court stated:

[W]e hold today that courts may award reasonable attorney fees incurred in connection with the effort to secure a reasonable amount of attorney fees.

149 Idaho at 298, 233 P.3d at 1220; *see also Lettunich v. Lettunich*, 145 Idaho 746, 185 P.3d 248 (2008) (affirming district court's ruling awarding fees in connection with litigating the reasonableness of fees requested by the prevailing party, stating that "litigation over the amount of the attorney fee award is also part of the legal action for which he is entitled to an award of attorney fees"). Accordingly, Respondents should be permitted to recover fees incurred with respect to drafting this Memorandum and its supporting declaration.

V. CONCLUSION

In conclusion, an award of fees and costs to the Respondents in the total amount of \$57,730.00, is reasonable and warranted for the reasons set forth herein and in the Declaration of Counsel filed concurrently herewith.

VI. VERIFICATION

The undersigned hereby declares, under penalty of perjury of the laws of the State of Idaho, that the within and foregoing are to best of the undersigned's knowledge and belief true and correct and the costs and fees claimed are in compliance with Rule 54 of the Idaho Rules of Civil Procedure and Rules 40 and 41 of the Idaho Appellate Rules.

DATED this 20th day of August, 2024.

SAWTOOTH LAW OFFICES, PLLC

/s/ Brian A. Faria

Brian A. Faria
Attorney for Defendants/Counterplaintiffs
Respondents

CERTIFICATE OF SERVICE

I hereby certify that on August 20, 2024, a true and correct copy of the foregoing document was served by the method indicated below, and addressed to the following:

Brent Robinson
Robinson & Associates
P.O. Box 396
Rupert, ID 83350-0396
Fax: (208) 436-4717
btr@idlawfirm.com

- ☐ U.S. First Class Mail, Postage Prepaid
- ☐ U.S. Certified Mail, Postage Prepaid
- ☐ Federal Express
- ☐ Hand Delivery
- ☐ Facsimile
- ☒ Electronic Mail/iCourt E-File and Serve

/s/ Brian A. Faria

Brian A. Faria

IN THE SUPREME COURT OF THE STATE OF IDAHO

JOHN GOMEZ, an individual,

Plaintiff-Counterdefendant-
Appellant,

v.

GILBERT HURTADO, an individual;
and JESUS HURTADO, an individual,

Defendants-Counterclaimants-
Respondents,

and

G & H DAIRY, LLC, an Idaho limited
liability company,

Defendant-Counterclaimant.

Order Awarding Costs and Attorney Fees

Supreme Court Docket No. 50279-2022

Jerome County District Court No.
CV-2017-613

RESPONDENTS' MEMORANDUM OF COSTS AND FEES PURSUANT TO IDAHO APPELLATE RULES 40 & 41 and DECLARATION OF COUNSEL IN SUPPORT OF RESPONDENTS' MEMORANDUM OF COSTS AND FEES were filed by counsel for Respondents on August 20, 2024. An OBJECTION TO THE PARTIAL AWARD OF ATTORNEY'S FEES ON APPEAL and DECLARATION OF BRENT T. ROBINSON IN SUPPORT OF OBJECTION TO THE PARTIAL AWARD OF ATTORNEY'S FEES ON APPEAL were filed by counsel for Appellant on September 2, 2024. Therefore, after due consideration,

IT IS ORDERED that RESPONDENTS' MEMORANDUM OF COSTS AND FEES PURSUANT TO IDAHO APPELLATE RULES 40 & 41 is GRANTED. Attorney fees and costs are awarded to Respondent and against Appellant as follows:

Attorney Fees:	\$57,695.00
Costs:	<u>\$35.00</u>
Total:	\$57,730.00

Dated October 17, 2024.

By Order of the Supreme Court



For: Melanie Gagnepain
Clerk of the Courts