STATE OF IDAHO)
County of KOOTENAI)ss
FILED 12/31/19
AT 4:55 O'Clock P. M
CLERK, DISTRICT COURT
Deputy

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE STATE OF IDAHO IN AND FOR THE COUNTY OF KOOTENAI

AUTUMN RAMSRUD,

Plaintiff,

VS.

KURTIS RAMSRUD,

Defendants.

Case No. **CV28-19-2365**

MEMORANDUM DECISION AND ORDER GRANTING PLAINTIFF'S COSTS AND ATTORNEY FEES

I. PROCEDURAL HISTORY AND FACTUAL BACKGROUND.

On April 2, 2019, plaintiff Autumn L. Ramsrud (Autumn) filed a complaint against Kurtis J. Ramsrud (Kurtis), claiming that Kurtis was required to pay Autumn $22,500.00 plus interest at 5.25% (which at the time of the Complaint totaled $5,966.67) pursuant to their Decree of Divorce entered on June 14, 2013, and that he failed to make the monthly payments. Complaint 1-2, 4; ¶¶ IV-VI. On May 13, 2019, Kurtis filed his Answer, claiming that he performed all duties owed under the Decree of Divorce and thus did not fail to comply with the terms of the Decree. Answer and Counterclaim, 3, ¶ 7. Kurtis admitted Autumn made demand for payment on February 22, 2019, pursuant to Idaho Code §12-120(1), and that within 10 days, he had failed to make payment of that amount. *Id.* ¶ 8. Kurtis also filed a Counterclaim against Autumn claiming a set-off monies Autumn allegedly owed Kurtis for child support due to a change in the parenting plan. *Id.* 5-7; ¶¶

1-9. On May 23, 2019, Autumn filed Plaintiff/Counterdefendant's Answer to Counterclaim. One of the defenses raised to Kurtis' counterclaim was that such counterclaim was barred by the pending divorce action in Kootenai County case no. CV-12-7400, and thus, violated Idaho Rule of Civil Procedure 12(b)(8). Pl./Countercl. Def.'s Answer to Countercl. 1-2. Autumn also claimed attorney fees against Kurtis for the cost of defending against his Counterclaims. *Id.* 3.

. On November 5, 2019, Autumn filed Plaintiff Autumn Ramsrud's Motion for Summary Judgment and Motion to Dismiss Pursuant to I.R.C.P. Rule 12(b)(8), Paintiff's Memorandum in Support of Motion for Summary Judgment and Motion to Dismiss Pursuant to I.R.C.P. Rule 12(b)(8), and Affidavit of Autumn Ramsrud in Support of Motion for Summary Judgment and Motion to Dismiss Pursuant to I.R.C.P. Rule 12(b)(8). On that same date, Autumn filed a Notice of Hearing, scheduling oral argument on her motion for December 3, 2019. Under I.R.C.P. 56, Kurtis' response would have been due on November 19, 2019. Instead, on November 19, 2019, Kurtis filed a Notice of Objection and Request for Oral Argument, which read, in its entirety:

> COMES NOW, the Defendant, KURTIS J. RAMSRUD, by and through SUZANNA L. GRAHAM, his attorney of record herein, and hereby informs the Court that the Defendant objects to the Plaintiff's *Motion for Summary Judgment and Motion to Dismiss Pursuant to I.R.C.P. Rule 12(b)){8},* and requests that this motion be denied.
>
> The Defendant requests the opportunity to present evidence, witness' testimony, and/or oral argument in support of this objection and to cross examine the Plaintiff and her witnesses at hearing hereon.

Notice of Obj. and Req. for Oral Arg. 1. (italics in original).

At the oral argument on December 3, 2019, counsel for Kurtis stated the parties had reached an agreement, that judgment should be entered for the principal amount of $21,672.32 plus interest in the amount of $6,643.71, and that Kurtis' counterclaims should be dismissed. The Court indicated it would sign a judgment once presented.

On December 4, 2019, this Court entered its Order Granting Plaintiff's Motion to Dismiss and Motion for Summary Judgment, Judgment of Dismissal Without Prejudice of Defendant's Counterclaims, and Judgment, which awarded Autumn judgment against Kurtis for the principal amount of $21,672.32 plus interest in the amount of $6,643.71 (total $28,403.39), plus interest from that point at 5%.

On December 12, 2019, Autumn timely (under I.R.C.P. 54(d)(4)) filed a Memorandum of Costs and Fees, requesting costs in the amount of $321.23 and attorney fees in the amount of $9,441.73 (Mem. of Costs and Attorney Fees 2), pursuant to Idaho Code § 12-120(1), and an Affidavit of Mark A. Ellingsen in Support of Memorandum of Costs and Fees. On December 19, 2019, Kurtis timely (under I.R.C.P. 54(d)(5)) filed his Objection to Plaintiff's Memorandum of Costs and Fees. The issue of costs and fees are now at issue, pursuant to I.R.C.P. 54(d)(6).

II. STANDARD OF REVIEW.

Idaho Rule of Civil Procedure 54(d) states that costs *shall* be allowed as a matter of right to the prevailing party or parties unless otherwise ordered by the court. I.R.C.P. 54(d)(1)(A) (emphasis added). Costs include costs actually paid, which are awarded as a matter of right, and discretionary costs, which may be allowed upon a showing that the costs were necessary and reasonably incurred and should be assessed against the adverse party in the interest of justice. I.R.C.P. 54(d)(1)(C), (D). In ruling upon objections to discretionary costs, the trial court shall make express findings as to why each specific item of discretionary cost should or should not be allowed. I.R.C.P. 54(d)(1)(D). A court may upon its own motion disallow any items of discretionary costs and *shall* make express findings supporting such disallowance. *Id.* (emphasis added). In determining who is the prevailing party, the trial court shall in its discretion consider the final judgment or result in an action in relation to the relief sought by the parties.

I.R.C.P. 54(d)(1)(B).

An award of costs, as stated in the rule itself, is committed to the sound discretion of the court. *Zimmerman v. Volkswagen of America, Inc.,* 128 Idaho 851, 857, 920 P.2d 67, 73 (1996). The grant or denial of discretionary costs is also committed to the discretion of the court, such an award or denial will only be set aside for an abuse of that discretion. *Fish v. Smith,* 131 Idaho 492, 493, 960 P.2d 175, 176 (1998). Whether costs are exceptional is evaluated in the context of the nature of the case. *Hayden Lake Fire Prot. Dist. v. Alcorn,* 141 Idaho 307, 314, 109 P.3d 161, 168 (2005) (holding that the trial court's denial of expert fees was not an abuse of discretion where the court considered the nature of the class action and determined that although expert witnesses were necessary and their fees were reasonable, the costs were not exceptional for a class action suit.); *Fish,* 131 Idaho at 493-94, 960 P.2d at 176-77 (holding that trial court's denial of expert witness fees was not an abuse of discretion where it found the costs necessary and reasonable, but not exceptional because personal injury cases routinely require assessment of the accident and injuries by various doctors, accident reconstructionists, vocational experts, etc.)

III. ANALYSIS

A. Autumn is the Prevailing Party.

This Court has not explicitly ordered, adjudged, or decreed that Autumn is the prevailing party, pursuant to I.R.C.P. 54(d)(1). The Court now finds that Autumn is the prevailing party. She has prevailed on her claims in her Complaint, and she has successfully defended against Kurtis' counterclaim. Rule 54(d)(1)(B) provides a trial court may consider both the presence and absence of awards of affirmative relief in determining which party prevailed. *Chadderdon v. King,* 104 Idaho 406, 659 P.2d 160

(Ct. App. 1983). And a party need not be awarded affirmative relief in order to be the "prevailing party." *Id.* (trial court did not abuse its discretion in awarding costs and fees to defendant contractor where contractor prevailed on the main issue of the case but was denied affirmative relief on his counterclaim). Here, Autumn is the prevailing party, having been granted all relief sought in her Complaint and in light of Kurtis' counterclaim. In considering the final result (judgment in favor of Autumn by stipulation at oral argument on Autumn's motion for summary judgment) in relation to the relief sought (essentially identical to what was sought in Autumn's Complaint), this Court can exercise its discretion and properly determine Autumn is the prevailing party.

B. Costs as a Matter of Right.

In her Memorandum of Costs, Autumn is requesting costs as a matter of right in an amount of $321.23 for filing fees, service fees and postage. Mem. of Costs and Att'y Fees 2. No discretionary costs are sought by Autumn. No specific objection has been filed by Kurtis as to the amount of costs as a matter of right which were requested by Autumn pursuant to I.R.C.P. 54(d)(5). Obj. Pl.'s Mem. of Costs and Fees 1-3. Kurtis only makes general objection to costs and fees (*Id.*) which will be discussed immediately below. The failure to timely object to items in a memorandum of costs "shall constitute a waiver of all objections to the costs claimed." *Id.* This Court finds all costs as a matter of right should be allowed. Costs as a matter of right are awarded in favor of Autumn against Kurtis in the amount of $321.23.

C. Attorney Fees as Costs.

Factors found in I.R.C.P. 54(e)(3) determine the amount of an award of attorney's fees. These factors include:

(A) The time and labor required.
(B) The novelty and difficulty of the questions.
(C) The skill requisite to perform the legal service 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 (Computer Assisted Legal Research), if the court finds it was reasonably necessary in preparing a party's case.
(L) Any other factor which the court deems appropriate in the particular case.

Subsection (3) of Rule 54 obligates the Court to consider these factors through the use of mandatory "shall" language. The Rule requires the District Court to consider all eleven factors plus any others that the Court deems appropriate. *Lettunich v. Lettunich,* 141 Idaho 425, 435, 111 P.3d 110, 120 (2005). The Court need not address each one of the factors in its decision, but the record must demonstrate that the Court considered them all. *Parsons v. Mut. Of Enumclaw Ins. Co.,* 143 Idaho 743, 747, 152 P.3d 614, 618 (2007) (quoting *Boel v. Stewart Title Guar. Co.,* 137 Idaho 9, 16, 43 P.3d 168, 775 (2002)).

Autumn requests attorney fees as costs in the amount of $9,441.73. Mem. of Costs and Attorney Fees 2. The Affidavit of Mark A. Ellingsen in Support of Memorandum of Costs and Fees explains that amount. Three different attorneys, a legal assistant and paralegal within the firm of Witherspoon Kelley worked 31.80 hours combined on this case from start to finish. Aff. of Mark A. Ellingsen in Supp. of Mem. of Costs and Fees, Ex. A. This pertains to the criteria found in I.R.C.P. 54(e)(3)(A), "the time and labor required." The Court finds that given the amount of briefing required, the total time spent on the case is not only reasonable, but in fact, it is lower than would be expected based upon the record. Accordingly, the Court would adjust the amount requested upward based on that criteria alone. Most notable is the fact that had Kurtis

capitulated as to all relief requested, but had done so at the outset of this case, the amount of attorney fees would have been about $1,500.00. Aff. of Mark A. Ellingsen in Supp. of Mem. of Costs and Fees, Ex. A. Thus, Kurtis' own actions and positions taken are what resulted in the amount of hours being expended by Autumn's attorneys and staff. Kurtis chose not to pay the amount he clearly owed, Kurtis chose to bring a counterclaim which he himself later found to be baseless, at least as to its presentation before this Court.

The hourly rate of attorney Mark Ellingsen was $310.00 per hour at the start of the case, and $320.00 per hour beginning February 2019; the hourly rate of attorney Laura Aschenbrener is $200.00 per hour; the hourly rate of attorney Nathan Orlando is $190.00. per hour; paralegal Connie Maslowski $125.00 per hour and legal assistant Angel Chrisian is $110.00 per hour. Aff. of Mark A. Ellingsen in Supp. of Mem. of Costs and Fees, 2-3, ¶ 11; Ex. A. This pertains to the criteria found in I.R.C.P. 54(e)(3)(D), "the prevailing charges for like work." While the hourly rate of attorney Ellingsen appears to be on the high side for this community, he is an experienced attorney and there are attorneys with similar experience who charge that amount or more. Experience is really what is covered in I.R.C.P. 54(e)(3)(C), "the skill requisite to perform the legal service properly and the experience and ability of the attorney in the particular field of law." The Court is familiar with attorney Ellingsen's experience from litigation over the years, and attorney Ellingsen has detailed his experience in his Affidavit. Aff. of Mark A. Ellingsen in Supp. of Mem. of Costs and Fees, 1-2, ¶ 3. Any downward departure from the amount requested based on attorney Ellingsen's hourly rate would be offset by the relatively low amount of total hours requested. Attorney Aschenbrener's experience is not detailed in attorney Ellingsen's affidavit, but the Court is generally aware of her experience. Attorney Orlando's experience is not detailed in

attorney Ellingsen's affidavit, and unaware of his experience, but even if he were a relatively new attorney, his hourly rate is not unexpected, and he only performed one-half hour of work on this case. Finally, eighteen years ago, this Court was reluctant to award paralegal and legal assistant fees as costs in a case. However, eighteen years ago, attorneys did not charge $320.00 per hour. This Court is now convinced that it is appropriate for lawyers and law firms which utilize legal assistants and paralegals, to recoup those expenses as costs in litigation, as otherwise they would be performed at $320.00 per hour instead of $120.00 to $190.00 per hour. Autumn, in the first instance, and Kurtis in the second and final instance, saved money by Witherspoon Kelley using these people in this litigation. This Court finds the amounts sought by Autumn for paralegal and legal assistant to be reasonable, whether analyzed under I.R.C.P. 54(e)(3)(D), as this Court has done, or whether analyzed under the catch-all provision of I.R.C.P. 54(e)(3)(L). Either way, the amount sought is reasonable.

This Court finds the novelty and difficulty of the questions presented to be very simple. I.R.C.P. 54(e)(3)(B). While simple, again it was Kurtis' decision to not pay Autumn what he owed her, and his decision to make baseless arguments to defend that decision, which caused the number of hours to be expended. As such, this factor results in neither an upward or downward departure from the amount sought.

In his affidavit, attorney Ellingsen has set forth the facts of Autumn's representation relative to the factors set forth in I.R.C.P. 54(e)(3)(E)-(J), and the Court finds no reason for an upward or downward departure from the amount sought, based on those criteria. Attorney Ellingsen has not addressed automated research as set forth in in I.R.C.P. 54(e)(3)(K), but perhaps there was no such research. Most firms and many attorneys simply incorporate such cost as part of overhead, which in turn, is reflected in higher hourly rates. No mention is made by attorney Ellingsen as to the

catch all provision of in I.R.C.P. 54(e)(3)(L). This Court can find no reason for any upward or downward departure from the amount sought, as a result of I.R.C.P. 54(e)(3)(K) or (L).

Interestingly, counsel for Kurtis has not discussed any of the I.R.C.P. 54(e)(3)(A)-(L) criteria. Instead, her argument ignores the context of this litigation before this Court; in this litigation Kurtis essentially stipulated to all the relief Autumn sought in her Complaint, and ended up forsaking all he sought in his counterclaim. Kurtis' "objection" is as follows, as set forth in its entirety:

> 1. Parties should be encouraged to agree to judgment amounts due under a decree. In this case the issue is a verbal agreement that if Defendant did not pursue child support, Plaintiff would assume all liability of the student loan. There are numerous witnesses. However, upon discussion and review, it is clear that the Magistrate Court has continuing jurisdiction over the child support amount, accord and satisfaction laches, compromise and settlement. So this case continues in the Magistrate Court and offsetting judgments. At this time the Plaintiff owes approximately nine thousand dollars ($9,000) for delinquent child support since the Petition to Modify was filed and continual accrual occurs monthly.
>
> 2. Attorneys and litigants are strongly encouraged to pursue claims in appropriate judicial forums.
>
> 3. "Is the Petitioner a prevailing party to the action " is not yet determined, as the litigation with these parties and their claims continue in the Magistrate Court, which has continuing jurisdiction.
>
> 4. Determination of prevailing party in Family Law cases (IRFLP 901, 905 and 908B) are the factors to be utilized. At conclusion of the trial regarding retroactive child support and oral promise fraud, the Magistrate Judge shall make determination of the prevailing party. It was anticipated and prayed that Petitioner shall owe Respondent a judgment sum.
>
> 5. That the final Judgment on child support and retroactivity has not been heard yet.
>
> 6. The Judgment(s) between the parties are not final between one another as there continues to be pending judgment in the Magistrate Court.
>
> 7. Where both parties have gained a part of their contention (which is unknown at this time), the taxing of costs is largely in the discretion of the Court. *See* Campbell v. First National Bank, 13 Idaho 95, 88 P. 639 (1907).
>
> 8. The Court, when satisfied that justice demands, may divide or apportion costs between parties. *See* Simons v. Simmons 23 Idaho 485, 130 Pac. 784 (1913).

> In this action, justice mandates that the determination of costs be determined after full litigation of all issues between the parties.
>
> 9. The firm of Witherspoon Kelly [sic] has many lawsuits. This case had no specific facts that make the case difficult. In fact, Defendant's Counsel agreed that one-half the case was to be decided in Magistrate Court. The cost bill is excessive. The Defendant's Counterclaim issues continue to be pending in the Magistrate Court and the validity of the Counterclaim had not yet been judicially determined. *See* Joyce Livestock Company v. Hulet, 102 Idaho 129, 627 P.2d 308 (1981).
>
> 10. Both sub-paragraph 54(d)(l)(A) of IRCP 54 authorizing costs to the prevailing party and subsection (2) of IC 12-120 authorizing attorney fees to a prevailing party, are not applicable when there is no prevailing party. The Defendant's claims are correctly in the Magistrate Court and have not been heard yet. At this juncture all parties should pay their own costs until establishment of a prevailing party has been made. The Plaintiff has been dishonest and should not benefit from her fraudulent claims. *See* International Engineering Co. v. Daum Industries Inc., 102 Idaho 363, 630 P.2d 155 (1981).

Obj. Pl.'s Mem. of Costs and Fees 1-3. Taking every word of that "objection" as a proven fact (none of which was proven in this case), the inescapable conclusion made by Kurtis is, he made his defense in this case and brought his counterclaim in this case, inappropriately, without foundation, and without thinking it through. Had Kurtis thought that through at the inception of this case, after reading Autumn's Complaint, he could have saved himself several thousand dollars in Amanda's attorney fees for which he is now responsible, let alone his own attorney fees. If Kurtis has a set-off, this Court is not the court to hear such. A fundamental precept in law is you cannot ask two different courts in two different cases to decide the exact same issue. As set forth in Autumn's Memorandum in Support of Motion to Dismiss Pursuant to I.R.C.P. 12(b)(8):

> [Idaho Rule of Civil Procedure] Rule 12(b)(8) is the defense of another action pending between the parties for the same cause. The defense of pendency of another action is explained as follows:
>
> > Where two action between the same parties, on the same subject, and to test the same rights, are brought in different courts having concurrent jurisdiction, the court which first acquires jurisdiction, its power being adequate to the administration of complete justice, retains its jurisdiction and may dispose of the whole controversy, and no court of coordinate power is at liberty to interfere with its action.

> This rule tests on comity and the necessity of avoiding conflict in the execution of judgments by independent courts and is a necessary one because any other rule would unavoidably lead to perpetual collision and be productive of most calamitous results.

Diet Center, Inc. v. Basford, 124 Idaho 20, 22 (1993) (citing 21 C.J.S. *Courts* § 188, at 222 (1990).

> The determination of whether to proceed with an action where a similar case is pending elsewhere is committed to the trial court's sound discretion. This determination will not be overturned unless discretion has been abused. *Wing v. Amalgamated Sugar Co.*, 106 Idaho 905, 684 P. 2d 307 (Ct. App. 1984).

Diet Center, Inc. v. Basford, 124 Idaho 20, 22 (1993).

> In deciding whether to exercise jurisdiction over a case when there is another action pending between the same parties for the same cause, a trial court must evaluate the identity of the real parties in interest and the degree to which the claims or issues are similar. Wing, at 106 Idaho at 908, 684 P. 2d at 310. The trial court is to consider whether the court in which the matter already is pending is in a position to determine the whole controversy and to settle all the right of the parties. See 21 C.J.S. *Courts, supra*, § 188, at 222. Additionally, the court may take into account the occasionally competing objectives of judicial economy, minimizing costs and delay to the litigants, obtaining prompt and order disposition of each claim or issue, and avoiding potentially inconsistent judgments. *Wing*, 106 Idaho at 908, 684 P.2d at 3 10.

Diet Center, Inc, Idaho 124 at 22—23. The *Diet Center, Inc.* factors which warrant dismissal of Defendant's claims are (1) the identical parties in the two actions, (2) the identical claim of economic damages in the two actions, and (3) the obvious threat of potential inconsistent judgments, and even duplicative judgments, in the two actions.

In fact, this duplicative litigation tactic demonstrated by Defendant is similar to the conduct the Idaho Supreme Court addressed in the case *Bondy v. Levy*, 119 Idaho 961 (1991). In *Bondy*, Bondy filed a separate breach of contract action against Levy based upon a property settlement agreement/custody agreement which had been entered in a previous divorce proceeding involving these parties. While this breach of contract action was pending, Bondy also apparently attempted to collect the same money which she claimed was owed in the breach of contract action in the underlying divorce proceeding. In sum, Bondy attempted to collect the same past due support payments in two separate legal proceedings. While an I.R.C.P. 12 (b)(8) motion was never raised by Levy challenging these duplicative proceedings, the Idaho Supreme Court expressly commented in a footnote:

> Rule 8(e)(2) permitting the pleading of inconsistent claims

> contemplates the claims being filed in the same complaint. In this case, the claim for monies due under the contract for child support was filed in a separate complaint with the claim filed with the court to enter an order awarding child support, both of which were filed on March 9, 1987. Filing in separate actions by separate complaints would have made one or the other amenable to dismissal under I.R.C.P. 12(b)(8) which authorizes a motion to dismiss because "another action (is) pending between the same parties for the same cause." The pleadings do not reflect that such a motion to dismiss was filed in either of the two proceedings. What the record does reflect is that the action filed for breach of the settlement agreement proceeded to judgment, and the action for court-awarded child support is still pending in the district court. No claim under Rule 12(b)(8) having been made, we need not address that issue at this time.
>
> *Bondy v. Levy*, Idaho 119 at n.964. In the Divorce Case, the Magistrate Court has the exclusive authority to decide the issues related to child support and maintenance between the parties since it was the initial court which acquired jurisdiction over this particular issue and still retains the power t0 adjudicate this issue. Clearly, as noted by the Idaho Supreme Court in *Bondy*, Defendant's filing of this same claim in his pending counterclaim/affirmative defenses in this Court for alleged damages related to unpaid child support/maintenance constitutes litigating multiple actions regarding this issue which warrants the dismissal of Defendant's counterclaim and affirmative defenses related to these claims pursuant to I.R.C.P. 12(b)(8).

Mem. in Supp. of Mot.to Dismiss Pursuant to I.R.C.P. 12(b)(8), 4-6. Apparently, Kurtis agrees with Autumn's argument as he has stipulated to entry of judgment and dismissal of his counterclaim. The Court agrees with all that is argued by Autumn above. Kurtis should not have defended this Complaint to enforce a legitimate debt, and if there is any set-off, such did not belong before this Court, but as a matter of law, at all times, should have been made before the Magistrate Judge who had original and continuing jurisdiction over that issue.

Accordingly, the amount of $9,441.73 is approved as a reasonable attorney fee. Autumn has met all the requirements of Idaho Code § 12-120(1). The amount "pleaded" or sought by Autumn in her Complaint initially was under $35,000.00. Complaint, 4, ¶ 1. Autumn is the prevailing party. Written demand was made by

Autumn upon Kurtis more than ten days before commencement of this litigation. Complaint, 3, ¶ VIII, Ex. B.

IV. CONCLUSION AND ORDER.

For the reasons stated above, costs in the amount of $321.23 and reasonable attorney fees in the amount of $9,441.73 are awarded in favor of Autumn, to be paid by Kurtis, in this case, pursuant to Idaho Code § 12-120(1).

IT IS HEREBY ORDERED plaintiff is awarded costs in the amount of $321.23 and reasonable attorney fees in the amount of $9,441.73 against defendant, to be paid by defendant in this case, pursuant to Idaho Code § 12-120(1).

IT IS FURTHER ORDERED counsel for plaintiff is to prepare a judgment consistent with this memorandum decision and order.

Entered this 31st day of December, 2019.

John T. Mitchell, District Judge

Certificate of Service

I certify that on the 31st day of December, 2019, a true copy of the foregoing was mailed postage prepaid or was sent by interoffice mail, email or facsimile to each of the following:

Mark Ellingsen
608 Northwest Blvd, Ste 300
Coeur d'Alene, ID 83814
mae@witherspoonkelley.com ✓

Suzanna Graham
302 E. Linden Ave., Ste 103
Coeur d'Alene, ID 83814
office@slgattorney.com ✓

4:55pm

By _____
Jeanne Clausen, Secretary