

FILED _____

AT _____ O'Clock _____ M
CLERK OF DISTRICT COURT

Deputy

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

KOOTENAI COUNTY,)
)
) *Plaintiff,*)
)
 vs.)
)
) **MICKI L. RAJANIEMI-JOYAL aka MICKI L.**)
) **JOYAL aka MICKI L. GREEN, et al,**)
)
) *Defendant.*)
)
)
)
)
)

Case No. **CV 2011 1838**

**MEMORANDUM DECISION AND
ORDER GRANTING MOTION TO
SET ASIDE DEFAULT AND
GRANTING MOTION TO
RECONSIDER, AND ORDER
VESTING TITLE AND POSSESSION
OF TRAILER IN DEFENDANT MICKI
L. RAJANIEMI-JOYAL**

I. PROCEDURAL HISTORY AND FACTUAL BACKGROUND.

This matter is before the Court on the Motion for Reconsideration filed by defendant Larry L. Leu (Leu) on February 7, 2012, and the Motion to Set Aside Default filed by defendant Micki Rajaniemi-Joyal (Micki Joyal) on February 21, 2012. Oral argument was held on March 21, 2012. Micki Joyal and Leu appeared *pro se* and counsel for the plaintiff Kootenai County appeared and took no position on the motions. Counsel for Kootenai County indicated that at least as of last week, the Kootenai County Sheriff still had possession of the 1995 Terry 30 foot fifth-wheel travel trailer (trailer) in dispute.

On March 2, 2011, Kootenai County filed this interpleader complaint. Kootenai County came into possession of a trailer as a result of an alleged theft. Interpleader Complaint, p. 3, ¶ 8. The Kootenai County Sheriff impounded the trailer on July 7,

2010, has been in possession of it since, and has been unable to determine the rightful owner of the trailer. *Id.*, pp. 4-5, ¶¶ 10-11. In addition to Micki Joyal and Leu, Kootenai County also named Donald Joyal, Sheena Anderson and Justin Brown as defendants possibly having an interest in the trailer. A review of the file shows Kootenai County obtained service on these individuals. On March 24, 2011, Leu, *pro se*, filed a pleading: “This is my answer to the complaint filed against me”, in which he claims to have purchased the trailer from Donald Joyal for \$2,000 to be paid in payments beginning November 2009. Attached to the pleading is a copy of what is, of sorts, a bill of sale purporting to sell the trailer on November 1, 2009. Also attached to the pleading is a copy of a State of Washington Vehicle Certificate of Ownership regarding the trailer, listing Donald and Micki Joyal as owners of the trailer. Also attached to the pleading is a copy of a power of attorney where Micki Joyal gave her, at the time, husband, Donald Joyal, power of attorney up until November 29, 2009, to specifically “4) file for a new title or lost title & Registratiton on 1995 5th Wheel travel trailer and sell it”, and “5) he may sell 5th wheel and sign my name.” Finally, attached to the pleading were copies of what appear to be receipts for payments for the trailer, apparently signed by Donald Joyal (though the “receipts” do not show who they were received from), and a handwritten note from Donald Joyal stating he has no interest in the trailer that was sold to Leu.

On April 15, 2011, Micki Joyal, *pro se*, filed a pleading captioned “summons”, claiming in essence that any sale by her then husband, Donald Joyal, was a sham. Micki Joyal attached various documents to that pleading.

On April 27, 2011, Kootenai County received a default judgment against Justin R. Brown, due to his failure to appear. On July 11, 2011, Kootenai County received a default judgment against Donald Joyal and Sheena Anderson, due to each of their

failures to appear. On September 16, 2011, this Court sent a Scheduling Order, Notice of Trial Setting and Initial Pre-Trial Order to the remaining parties, Kootenai County, Leu and Micki Joyal. That Order scheduled the matter for trial on January 9, 2012.

On January 9, 2012, neither Leu nor Micki Joyal appeared, and this Court granted Judgment against Leu and Micki Joyal, in favor of Kootenai County, and directed Kootenai County to sell the trailer at auction. A Judgment to that effect was filed on January 10, 2012.

II. ANALYSIS.

As mentioned above, this matter came before the Court on March 21, 2012, on the Motion for Reconsideration filed by defendant Larry L. Leu (Leu) on February 7, 2012, and the Motion to Set Aside Default filed by defendant Micki Rajaniemi-Joyal (Micki Joyal) on February 21, 2012. The Court heard oral argument on these motions. The Court exercises its discretion and grants these motions pursuant to I.R.C.P. 60(b), under mistake, inadvertence, surprise, or excuseable neglect. Leu claims he was outside the courtroom when the case was called. Apparently Leu did not know the case had been called at 9:00 a.m. Micki Joyal misunderstood the notice of trial setting and thought that the Court was going to make a decision based on the information in the file. At the March 21, 2012, hearing, the Court asked whether Micki Joyal and Leu had any additional evidence to present, and they indicated they did not. The Court then asked Micki Joyal and Leu whether they would like to present additional evidence at another time, and they indicated they did not. They each gave their arguments and the Court, after deliberation, issued its decision on the record.

The Court found that Micki Joyal is entitled to possession of the trailer. This is because the only evidence the Court has regarding the trailer is the Vehicle Certificate of Ownership presented by Leu, which shows the trailer, through the State of

Washington, to be in Donald Joyal and Micki Joyal's name. The Vehicle Certificate of Ownership lists both names and does not state "or" or "and". In any event, it does not matter from a factual standpoint, as the only evidence, again presented by Leu, is that Donald Joyal claims no interest in the trailer, and did so back in 2009. Also, Donald Joyal has been defaulted in this lawsuit, so he has no legal interest. The pertinent case law found by the Court is *R & R Contracting, Inc. v. Southwell*, 4 B.R. 626 (Bkrtcy. E.D. Wash. 1980). *Southwell* interprets Washington statutory and case law, and the present case involves a State of Washington Vehicle Certificate of Ownership. Under R.C.W. 62A.2-401(3)(a), "if the seller is to deliver a document of title, title passes at the time when he delivers such documents". 4 B.R. 626, 628-29. Transfer of the Washington Vehicle Certificate of Ownership was clearly indicated would occur in this case, and needed to occur, in order to give Leu clear ownership. That transfer from Donald Joyal never occurred. Not having a Vehicle Certificate of Ownership in his name, Leu is not entitled to the presumption he would be entitled if he had it. Without that presumption, Leu lacks sufficient evidence for this Court to find title of the trailer in Leu. Micki Joyal, on the other hand, appears as the owner (or co-owner) on the Vehicle Certificate of Ownership. Micki Joyal is entitled to that presumption, and thus, title vests in her. 4 B.R. 626, 629.

After the hearing, the attached letter was received by counsel for Kootenai County. Micki Joyal will have to pay the Sheriff the \$125.00 towing bill before the trailer can be released to her by the Sheriff.

III. ORDER.

IT IS HEREBY ORDERED the Motion for Reconsideration filed by defendant Larry L. Leu (Leu) on February 7, 2012, is GRANTED.

IT IS FUTHER ORDERED the Motion to Set Aside Default filed by defendant

Micki Rajaniemi-Joyal (Micki Joyal) on February 21, 2012, is GRANTED.

IT IS FUTHER ORDERED as between the remaining parties, Micki Joyal is the titled owner of the trailer, has all legal interest in the trailer, is entitled to immediate possession of the trailer, and the trailer is to be released by the Kootenai County Sheriff to her upon her payment to the Sheriff of the \$125.00 towing bill. Larry L. Leu has no legal right, interest or title to this trailer.

IT IS FURTHER ORDERED that once the trailer is released to Micki Joyal, this case is DISMISSED.

Entered this 22ND day of March, 2012.

John T. Mitchell, District Judge

Certificate of Service

I certify that on the _____ day of March, 2012, a true copy of the foregoing was mailed postage prepaid or was sent by interoffice mail or facsimile to each of the following:

<u>Lawyer</u>	<u>Fax #</u>	<u>Pro se party</u>
Darrin L. Murphey	446-1621	Micki L. Rajaniemi-Joyal aka Micki L. Green, pro se
		Larry L. Leu, Pro Se

Copy to Rocky Watson, Kootenai County Sheriff, Civil Division

Jeanne Clausen, Deputy Clerk