

IN THE SUPREME COURT OF THE STATE OF NEVADA

BOBBY L. FRANKLIN,
Appellant(s),

vs.

D. J. LAUGHLIN, D/B/A BWD
PROPERTIES 2, LLC; BWD
PROPERTIES 3, LLC; AND BWD
PROPERTIES 4, LLC,
Respondent(s),

Electronically Filed
Mar 13 2015 02:34 p.m.
Tracie K. Lindeman
Clerk of Supreme Court

Case No: A707291

Docket No: 67364

RECORD ON APPEAL

ATTORNEY FOR APPELLANT
BOBBY L. FRANKLIN,
PROPER PERSON
3520 NEEDLES HWY., BOX 233
NEEDLES, CA 92363

ATTORNEY FOR RESPONDENT
WILLIAM R. URGAS, ESQ.
3800 HOWARD HUGHES PKWY.
WELLS FARGO TOWER, SIXTEENTH FL.
LAS VEGAS, NV 89169

**A-14-707291-C Bobby Franklin, Plaintiff(s)
vs.
D J Laughlin, Defendant(s)**

I N D E X

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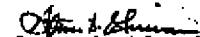
A-14-707291-C Bobby Franklin, Plaintiff(s)
vs.
D J Laughlin, Defendant(s)

I N D E X

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FILED

SEP - 9 2014


 CLERK OF COURT

1 APPL

2 Bobby L. Franklin

NAME

3 115 Shafter, P.O. Box 42

4 ADDRESS

5 Brackettville, TX. 78832

CITY, STATE, ZIP CODE

6 830-914-7954

7 TELEPHONE

IN PROPER PERSON

A-14-707291-C

PIFP

Application to Proceed In Forma Pauperis

4287491


 DISTRICT COURT
 CLARK COUNTY, NEVADA

11 Bobby L. Franklin,

12 Plaintiff,

13 vs.

14 D.J. Laughlin; et al.,

15 Defendant

Case No.: A-14-707291-C

Dept. No.: XX

APPLICATION TO PROCEED IN FORMA PAUPERIS

(Filing Fees/Service Only)

Pursuant to NRS 12.015, and based on the following Affidavit, I request permission from this Court to proceed without paying court costs or other costs and fees as provided in NRS 12.015, because I lack sufficient financial ability.

 RECEIVED
 SEP - 9 2014
 CLERK OF THE COURT

AFFIDAVIT

STATE OF NEVADA)
) ss.
 COUNTY OF CLARK)

I, Bobby L. Franklin, after being duly sworn, depose and state as follows:

I wish to file with this Court the pleading submitted with this Application. I cannot pay the filing fees and costs of this action because I lack sufficient income, assets, or other resources. Including myself, there are 1 adults and 0 children age(s) None in my household.

My total monthly income is:

From all sources including employment,
 self-employment, social security, child
 support, etc \$ 907.00
 Any other household income from another
 member of the household is \$ 0

My employer is None located at _____
 _____, my job title is _____

The following represents a list of all of my assets and their value:

Automobile	Value	Loan Balance
2001, Chevrolet, Impala YEAR, MAKE, AND MODEL	\$ <u>3,000</u>	\$ <u>0</u>
Mobile Home, House or Other Real Estate		
10 x 50, Trailer, 1955 SIZE, TYPE, AND YEAR	\$ <u>3,000</u>	\$ <u>2,430</u>
Bank Accounts	Value	Loan Balance
The Bank & Trust, checking NAME OF BANK AND TYPE OF ACCOUNT	\$ <u>0.07</u>	\$ <u>0</u>
Chase Bank, checking NAME OF BANK AND TYPE OF ACCOUNT	\$ <u>0</u>	\$ <u>0</u>
Other		
None DESCRIPTION	\$ _____	\$ _____

1 _____ \$ _____ \$ _____
2 _____ \$ _____ \$ _____

3 The following represents my total monthly expenses:

4	Rent or Mortgage		\$570.00
5	Phone, Gas, Electricity, and Other Utilities		\$150.00
6	Food		\$17.00
7	Child Care		\$0
8	Insurance		\$70.00
9	Medical		\$0
10	Transportation		\$60.00
11	Other: Auto Insurance		\$40.00
12	None		\$0
13	TOTAL MONTHLY EXPENSES		\$907.00

15 I request the Court hold a hearing on this Application if the Court is inclined to deny
16 same, so that I may testify as to my indigent status. I declare under penalty of perjury
17 that the foregoing is true and correct.

18 DATED this 1st day of September, 2014.

21 Bobby L. Franklin
22 (Signature)

FILED

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46

Ann. L. Johnson
CLERK OF THE COURT

A-14-707291-C
OIFP
Order to Proceed in Forma Pauperis
4267492



1 APPL

2 Bobby L. Franklin
NAME

3 115 Shafter, P.O. Box 42
4 ADDRESS

5 Brackettville, TX. 78832
CITY, STATE, ZIP CODE

6 830-914-7954
7 TELEPHONE

8 IN PROPER PERSON

9 DISTRICT COURT
10 CLARK COUNTY, NEVADA

11 Bobby L. Franklin,

12 Plaintiff,

13 vs.

14 D.J. Laughlin; et al.,

15 Defendant

Case No.: A-14-707291-C

Dept. No.: KX

17 ORDER TO PROCEED IN FORMA PAUPERIS
18 (Filing Fees/Service Only)

19 Upon consideration of Bobby L. Franklin's Application to Proceed in Forma
20 Pauperis and it appearing that there is not sufficient income, property, or resources with
21 which to maintain the action and good cause appearing therefore:

22 IT IS HEREBY ORDERED,

23 1. That Plaintiff, Bobby L. Franklin, shall be permitted to proceed In
24 Forma Pauperis with this action as permitted by NRS 12.015.

25 2. That Bobby L. Franklin shall proceed without the prepayment costs or
26 fees or the necessity of giving security, and the Clerk of the Court may file or issue any
27 necessary writ, pleading or paper without charge.

28 3. That the Sheriff or other appropriate officer within this State shall make
personal service of any necessary writ, pleading or paper without charge.

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CLERK OF THE COURT

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2

IT IS HEREBY ORDERED that Bobby L. Franklin's request to waive fees and costs is **DENIED** for the following reason:

A. The Party is not indigent.

B. Other:

DATED this

18th day of

September 2014

DISTRICT COURT JUDGE

Respectfully submitted by:

Bobly L. Franklin
Signature

Signature _____

Bobby L. Franklin

LODDY E.
PRINT NAME

115 Shafter, P.O. Box 42

110 01
ADDRESS\$

Brackettville, TX. 78832

CITY, STATE, ZIP CODE

830-914-7954

TELEPHONE

IN PROPER PERSON

FILED

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Ann L. Lanning
CLERK OF THE COURT

BOBBY L. FRANKLIN
dba DL&S Development
P.O. Box 42, 115 Shafter
Brackettville, TX. 78832

(830) 914-7954
dlepatent@hotmail.com
Plaintiff In Proper Person

DISTRICT COURT
CLARK COUNTY, NEVADA

A-14-707291-C
COMP
Complaint
4267485



BOBBY L. FRANKLIN,)
)
Plaintiff,)
)
vs.)
)
D.J. LAUGHLIN, dba BWD PROPERTIES 2,)
)
LLC, a Nevada Limited Liability Company,)
)
BWD PROPERTIES 3, LLC, a Nevada Limited)
)
Liability Company, BWD PROPERTIES 4,)
)
LLC, a Nevada Limited Liability Company,)
)
"Also all other persons unknown claiming any)
)
right, title, estate, lien or interest in the real)
)
property described in the complaint adverse)
)
to plaintiff's ownership, or any cloud upon)
)
plaintiff's title thereto.")
)
Defendants.)

Case No.: A-14-707291-CDept. No.: XX

Date of Hearing _____

Time of Hearing _____

COMPLAINT

This is a Quiet Title Action ("QTA") Complaint for a final Order to enforce the Plaintiff's estate and his *stare decisis* Title Deed legal rights that is attached herewith, which was re-recorded with the Clark County Recorder on 09/20/1993, for the 80-acre parcel of real estate that is legally described as the South 1/2 of the Southeast 1/4 of Section 16, Township 32 South, Range East, Mount Diablo Meridian. S1/2 SE1/4 T32S R66E MDM ("80 acres").

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SEP 22 2014

CLERK OF THE COURT

1 I. JURISDICTION

2 The jurisdiction of this Court is invoked under NRS 40.010. Pursuant to NRS 14.010, the
3 Plaintiff is mailing the County Recorder a notice of the pendency of this action on the same day
4 of mailing the Court Clerk this Complaint for filing and the Summons for process.

5 II. CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

6 The due process of law in the 5th and 14th Amendments to the United States Constitution
7 requires that the Plaintiff's attached *stare decisis* Title Deed rights that were re-recorded on
8 09/20/1993 must be considered and adjudged in a judicial court of law, before any subsequent
9 person or party can legally take, sell or adversely own such described real estate property.
10

11 "The proviso to Section 7 of the Congressional Act of March 3, 1891 (26 Stat. 1098, 43
12 U.S.C. 1165)" mandates Plaintiff as owner of the described 80 acres, as clearly explained in the
13 longstanding opinion of the Supreme Court of the United States in Stockley v. U.S., 260 U.S. 532
14 (1923), as attached herewith on exhibit.

15 III. NEVADA RULES OF CIVIL PROCEDURE 60(b)(4), NOTICE

16 Pursuant to Rule 60(b)(4), if the Defendant(s) or anybody else files any adverse judgment or
17 order that has disregarded its duty to examine or review the Plaintiff's administratively
18 exhausted Title Deed ownership rights on exhibit, it is "void", inconsistent with due process of
19 law, and the Plaintiff will motion this Court to set it aside from consideration and will request
20 sanctions for such fraud on court misconduct. Again, the Plaintiff's legal ownership "rights" in
21 his existing Title Deed attached here on exhibit were exhausted and dismissed in the final
22 *administrative* order, but were never considered or adjudged in any *judicial* court of law.
23

24 ///

25 ///

1 IV. RELIEF REQUESTED

2 For good cause shown, this judicial Court of law should set trial to examine the Plaintiff's
3 administratively exhausted and existing Title Deed rights on exhibit, and sign an order naming
4 who the legal owner of the described 80-acres is.

5 Sincerely,

6
7 Bobby L. Franklin

8 BOBBY L. FRANKLIN
9 P.O. Box 42
Bracckettville, TX. 78832

9/4/2014
DATED

10 Ph: 830-914-7954
11 Pc: dlepatent@hotmail.com
Plaintiff In Proper Person¹

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¹ Plaintiff's Affidavit is attached herewith, with the Title Deed exhibits.

AFFIDAVIT
OF FACTS

I, Bobby L. Franklin, Plaintiff above named, after being duly sworn, depose and state the following relevant facts:

1. In 1988, I purchased the described 80-acres from the Bureau of Land Management ("BLM"), and on 08/27/1988, I was issued the "receiver's receipt" instrument as my Deed, which is attached herewith as "Exhibit 1".
2. On 08/27/1990, the Department of the Interior Board of Land Appeals ("IBLA") *reversed* the BLM's *mineral* contest on the property in Bobby L. Franklin, 116 IBLA 29 (published). The BLM did not appeal such administrative IBLA decision into a judicial court.
3. On 09/20/1993, I re-recorded my *stare decisis* legal rights and receipt with the Clark County Recorder as Title Deed, which is attached herewith as "Exhibit 2".
4. On 12/19/1996, the IBLA officially dismissed jurisdiction of my Title Deed rights in Exhibit 1 and 2, and that was the *final* administrative decision of the Department of the Interior.
5. To this date, no judicial court of law has ever considered, examined or reviewed my existing 1993 Title Deed or legal rights that were administratively exhausted, in Exhibit 1 and 2.
6. The Defendant(s) are adversely claiming to own the described property in the Clark County Assessor's Office under 3 subdivision parcel numbers, but cannot get title insurance on such property because nobody ever conducted a title search. In fact, nobody can get title insurance to properly develop such 80-acres until my re-recorded Title Deed rights on exhibit are adjudged by a judicial court of law.

Susan L. Castro
NOTARY

9/4/2014
DATED

Bobby L. Franklin
BOBBY L. FRANKLIN
P.O. Box 42, 115 Shafer
Brackettville, TX. 78832



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EXHIBIT 1

FORM 0000001
FORM 1270-10

DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

PAGE: 1

CASE CONTRACT AD OF: 0/29/00
03-03-1077; 0190TAT0377; 43USC21-323, 323, CASE TYPE SERIAL NUMBER
RECENT LAND ACT 232000 HAN 49340

NAME AND ADDRESS

FRANKLIN BOOBY D
306 PACIFIC AVE
LAS VEGAS NV 89109
APPLICANT 100.000000 %

DESCRIPTION OF LAND

T. 32 S. R. 66 E. MOUNT DIABLO RD. CLASS COUNTY, NV
LAS VEGAS DISTRICT STATELINE RESERVE AREA
SEC. 16: 8281 10,000 ACRES

ACTIONS

DATE	CASE	TAKEN	REMARKS
8/10/1980	124	APLH RECD	
00000000		PENDING ACTION: LAS VEGAS DISTRICT	
8/10/1980	347	FILING PER RECEIVED	015;
8/10/1980	392	FUNDING RECEIVED	020;

GENERAL REMARKS

01 DLE

RECORDERS NOTE
FORMER POOR RECORD DUE TO
QUALITY OF ORIGINAL DOCUMENT

Page

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REV 48

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EXHIBIT 2

- 7

TITLE 42 OF THE CODE OF FEDERAL REGULATION

SECTION 1862.6 - PATENT TO ISSUE AFTER 2 YEARS FROM DATE OF MANAGER'S FINAL RECEIPT.

(A) THE DECISION OF THE SUPREME COURT OF THE UNITED STATES IN THOMAS J. STOCKLEY ET AL., APPELLANTS, V. THE UNITED STATES, DECIDED JANUARY 2, 1923 (260 U.S. 932, 67 L. ED. 390) HOLDS THAT AFTER THE LAPSE OF 2 YEARS FROM THE DATE OF THE ISSUANCE OF THE 'RECEIVER'S RECEIPT' UPON THE FINAL ENTRY OF ANY TRACT OF LAND UNDER THE HOMESTEAD, OR DESERT-LAND LAWS, SUCH ENTRY, ENTITLED TO PATENT UNDER THE PROVISIONS TO SECTION 7 OF THE ACT OF MARCH 3, 1891 (26 STAT. 1093; 43 U.S.C. 1163), REGARDLESS OF WHETHER OR NOT THE MANAGER'S FINAL CERTIFICATE HAS ISSUED.

(10) THE SUPREME COURT OF THE UNITED STATES IN PAYNE V. U.S. EX REL. NEWTON (255 U.S. 430, 65 L. ED. 720), DECIDED THAT NEWTON WAS ENTITLED TO A PATENT ON HIS HOMESTEAD ENTRY UNDER THE PROVISIONS TO SECTION 7 OF THE ACT OF MARCH 3, 1891, 2 YEARS HAVING ELAPSED FROM THE DATE OF THE ISSUANCE OF THE RECEIVER'S FINAL RECEIPT UPON FINAL ENTRY, AND THERE BEING NO CONTEST OR PROTEST PENDING AGAINST THE VALIDITY OF THE ENTRY, BUT STATED THAT THE PURPOSE OF THE STATUTE WAS:

TO REQUIRE THAT THE RIGHT TO A PATENT WHICH FOR 2 YEARS HAS BEEN EVIDENCED BY A RECEIVER'S RECEIPT, AND AT THE END OF THAT PERIOD STANDS UNCHALLENGED, SHALL BE RECOGNIZED AND GIVEN EFFECT BY THE ISSUE OF THE PATENT WITHOUT FURTHER WAITING OR DELAY, AND THUS TO TRANSFER FROM THE LAND OFFICERS TO THE REGULAR JUDICIAL TRIUNALS THE AUTHORITY TO DEAL WITH ANY SUBSEQUENT CONTROVERSY OVER THE VALIDITY OF THE ENTRY, AS COULD BE THE CASE IF THE PATENT WERE ISSUED IN THE ABSENCE OF THE STATUTE.

* THE RECEIPTS PROPERLY ISSUED BY THE RECEIVERS ARE NOW ISSUED BY THE MANAGERS.

AMENDMENT V TO THE U.S. CONSTITUTION

NO PERSON SHALL BE HELD TO ANSWER FOR A CAPITAL, OR OTHERWISE INFAMOUS CRIME, UNLESS ON A PRESENTMENT OR INDICTMENT OF A GRAND JURY, EXCEPT IN CASES ARISING IN THE LAND OR NAVAL FORCES, OR IN THE MILITIA, WHEN ACTUAL SERVICE IN TIME OF WAR OR PUBLIC DANGER; NOR SHALL ANY PERSON BE SUBJECT FOR THE SAME OFFENCE TO BE TWICE PUT IN JEOPARDY OF LIFE OR LIMB; NOR SHALL BE COMPELLED IN ANY CRIMINAL CASE TO BE A WITNESS AGAINST HIMSELF, NOR BE DEPRIVED OF LIFE, LIBERTY, OR PROPERTY, WITHOUT DUE PROCESS OF LAW; NOR SHALL PRIVATE PROPERTY BE TAKEN FOR PUBLIC USE, WITHOUT JUST COMPENSATION.

RE-RECORDED

CLARK COUNTY, NEVADA
JOAN L. SMITH, RECORDER
RECORDED AT REQUEST OF:

D. FICCOLIN

09-20-93 11:20 AM 16

BOOK 93060 PAGE 0015

FEE 10.00 RATE .00

"Appendix A" p.3

such alleged errors considered and reviewed, the writ of error herein should have issued out of the Circuit Court of Appeals of the proper circuit. Accordingly we hold that these several cases should be transferred to the Circuit Court of Appeals of the Seventh Circuit at the costs of the respective plaintiffs in error, that that court be thereupon possessed of the jurisdiction of the same and proceed to the determination of said writs of error as if such writs had issued out of such court.

And it is so ordered.

284 U. S. 510

STOCKLEY et al. v. UNITED STATES.

(Argued Nov. 20, 1922. Decided Jan. 2, 1923.)

No. 74.

1. Public lands. § 28—After issuance of receiver's receipt, issuance of register's certificate not required before limitations begin to run.

Act March 3, 1891, § 7 (Comp. St. § 5113), providing that, after the lapse of two years from the issuance of the receiver's receipt on the final entry, when there shall be no pending contest or protest against such entry, a final entryman shall be entitled to a patent, does not require the issuance of a register's certificate approving the final proof before the period of limitation stated therein begins to run, since it must be assumed Congress was familiar with the operations and practice of the Land Department and knew the difference between a receiver's receipt and a register's certificate.

2. Public lands. § 28—Change in department's practice does not change effect of statute of limitations, after receiver's receipt is issued.

The fact that after the enactment of the statute (Act March 3, 1891, § 7 (Comp. St. § 5113)) entitling an entryman to patent two years after the receiver's receipt is issued, the prior practice of the Land Department not to issue the receiver's receipt until the register's certificate approving the final proof was also issued, was changed so as to permit the issuance of the receiver's receipt when final proof was made, without waiting for its approval, cannot have the effect of changing the plain limitation prescribed by that statute, so as to require the issuance of the register's certificate also before the period starts to run.

3. Public lands. § 28—Receiver's receipt for final payment is "receipt upon the final entry."

A receiver's receipt, issued to a homestead claimant at the time the claimant made final proof showing compliance with all the requirements to entitle him to a patent under the homestead laws and paid all fees and commissions lawfully due, was a "receipt upon the final entry" under the homestead laws, within Act March 3, 1891, § 7 (Comp. St. § 5113), entitling the claimant to patent two years

after the issuance of such receipt, if no contest or protest is then pending.

4. Public lands. § 28—Receipt issued in excess of receiver's authority starts running of limitations.

Even if a receiver of the land office had no authority under the instructions of the land department to issue receiver's receipt to a homestead entryman at the time he did, the issuance of such receipt starts the running of the two-year period of limitation prescribed by Act March 3, 1891, § 7 (Comp. St. § 5113).

5. Public lands. § 28—Limitation of two years after issuance of receipt forecloses inquiry into mineral character of land.

The expiration of the two-year period of limitations after the issuance of the receiver's receipt upon final entry which, under Act March 3, 1891, § 7 (Comp. St. § 5113), entitles the entryman to a patent if no contest or protest is then pending, precludes a subsequent inquiry as to whether the entryman knew or should have known that the land was chiefly valuable for its minerals at the time he made his entry and final proof.

Appeal from the United States Circuit Court of Appeals for the Fifth Circuit.

Suit in equity by the United States against Thomas J. Stockley and others to have plaintiff adjudged to be the owner of a tract of land, to enjoin all interference therewith, and to require defendants to account for the value of oil and gas abstracted by them therefrom. Decree for plaintiff was affirmed by the Circuit Court of Appeals (271 Fed. 532), and defendants appeal. Reversed, and cause remanded to the District Court, with directions to dismiss the bill of complaint.

*Mr. S. L. Harold, of Shreveport, La., for appellants.

Mr. Assistant Attorney General Eiler, for the United States.

*Mr. Justice SUTHERLAND delivered the opinion of the Court.

This is a suit in equity brought by the United States, as plaintiff, against the appellants, as defendants, by which a decree was sought adjudging the plaintiff to be the owner of a tract of land in the parish of Caddo, La., enjoining all interference therewith, and requiring the defendants to account for the value of oil and gas abstracted by them therefrom.

The United States District Court for the Western District of Louisiana, upon the report of a master, found for the plaintiff and entered a decree in accordance with the prayer of the bill ordering a restoration of possession and awarding damages against some of the defendants, including Stockley, for about \$62,000.

The case comes to this court by appeal from the decree of the Circuit Court of Ap-

For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes

"Appendix B" p.4

ABR 92

44

DISTRICT COURT
CLARK COUNTY, NEVADA

FILED
NOV 21 2014

John L. ...
CLERK OF COURT

Bobby L. Franklin,

Plaintiff,

vs.

D.J. Laughlin, et al.,

Defendant

Case No.: A-14-707291-C

Dept No: 20

Affidavit of Service Return

(TITLE OF DOCUMENT:)

Date of Hearing:

Time of Hearing:

Signature

Bobby L. Franklin

Submitted By:

Bobby L. Franklin
(SIGNATURE)

Name:

Bobby L. Franklin

Address:

P.O. Box 70254

City/State/Zip:

Las Vegas, NV 89170

Telephone:

830-914-7954

Attorney For:

Plaintiff in Person

A-14-707291-C
ADS
Affidavit of Service
4415235



RECEIVED

NOV 21 2014

CLERK OF THE COURT

15



Laughlin Township Constable's Office

Jordan Ross, Constable

55 Civic Way
Laughlin NV 89029-1563
Administrative Office: 702-298-2311
Website: <http://www.laughlinconstable.org>

AFFIDAVIT OF SERVICE

STATE OF NEVADA)
 §
COUNTY OF CLARK)

FOR GENERAL USE – DO NOT USE FOR EVICTIONS

Case Information			
Plaintiff(s)	BOBBY L. FRANKLIN		
Defendant(s)	D.J. LAUGHLIN, et al		
Case #	A-14-707291-C	Department #	20

Declaration of Service			
The below named affiant, being a duly sworn law enforcement officer in the State of Nevada, deputized by the Laughlin Constable's Office, states: that at all times herein affiant was and is a citizen of the United States, over 18 years of age, is not a party to or interested in the proceeding in which this affidavit is made. That affiant received a copy of the following document(s):			
Document(s)	SUMMONS & COMPLAINT		
receiving said document(s) on the date and time below:			
Date Received	11/18/14	Time	2:30 <input type="checkbox"/> AM <input checked="" type="checkbox"/> PM
and served true and correct copy or copies of said document(s) at the date and time below:			
Date of Service	11/18/14	Time	3:30 <input type="checkbox"/> AM <input checked="" type="checkbox"/> PM
and that said document(s) were served in the following manner:			

- ☒ By serving the defendant D.J. Laughlin at 1650 S Casino Dr, Laughlin, NV 89029, their usual place of work.
- ☐ By serving the defendant [NAME] at [ADDRESS], their usual place of abode.
- ☐ By personally delivering and leaving a copy with [NAME], a person of suitable age and discretion living with the defendant [NAME] at the defendant's usual place of abode located at [ADDRESS].
- ☐ By personally delivering and leaving a copy with [NAME], a person of suitable age and discretion living with the defendant [NAME] at the defendant's usual place of abode located at [ADDRESS].
- ☒ Through and by personally delivering and leaving a copy with Hermon Walker, agent for defendant, D.J. Laughlin at the defendant's usual place of business located at 1650 S Casino Dr, Laughlin, NV 89029.
- ☐ Affiant was unable to serve defendant.

Declaration of Affiant	
I declare, on this date of service, under penalty of perjury under NRS 53.045 of the law of the State of Nevada that the foregoing is true and correct.	
Officer Name	Arnold Wetzstein
Officer Signature	
Rank	Deputy Constable PIN 1619

1 SUMM

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4
5 DISTRICT COURT
6 CLARK COUNTY, NEVADA
7

8 Bobby L. Franklin,

9 Plaintiff(s),

10 CASE NO. A-14-707291-C

11 DEPT. NO. 20

12 -vs-
13 D.J. Laughlin, et al.,14 Defendant(s).
15

16 SUMMONS - CIVIL

17 NOTICE! YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU
18 WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND WITHIN 20 DAYS.
19 READ THE INFORMATION BELOW.

20 TO THE DEFENDANT(S): A civil Complaint has been filed by the Plaintiff(s) against
21 you for the relief set forth in the Complaint.

- 22 1. If you intend to defend this lawsuit, within 20 days after this Summons is
23 served on you, exclusive of the day of service, you must do the following:
24 (a) File with the Clerk of this Court, whose address is shown below, a
25 formal written response to the Complaint in accordance with the rules
26 of the Court, with the appropriate filing fee.
27 (b) Serve a copy of your response upon the attorney whose name and
28 address is shown below.

Bobby L. Franklin
P.O. Box 70254
Las Vegas, NV. 89170

SUMM Civil/7/23/2009

- 1 2. Unless you respond, your default will be entered upon application of the
2 Plaintiff(s) and failure to so respond will result in a judgment of default
3 against you for the relief demanded in the Complaint, which could result in
4 the taking of money or property or other relief requested in the Complaint.
5 3. If you intend to seek the advice of an attorney in this matter, you should do
6 so promptly so that your response may be filed on time.
7 4. The State of Nevada, its political subdivisions, agencies, officers,
8 employees, board members, commission members and legislators each
9 have 45 days after service of this Summons within which to file an Answer
10 or other responsive pleading to the Complaint.
11

12
13 Submitted by:

14 Bobby L. Franklin
15 P.O. Box 70254
16 Las Vegas, NV. 89170
17
18
19

STEVEN D. GRIERSON
CLERK OF COURT

By: Kadira Beckom 10/10/2014
Deputy Clerk Date

KADIRA BECKOM
Regional Justice Center
200 Lewis Avenue
Las Vegas, NV 89155

20 **NOTE: When service is by publication, add a brief statement of the object of the**
21 **action. See Nevada Rules of Civil Procedure 4(b).**
22
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AFFIDAVIT OF SERVICE

STATE OF)
COUNTY OF) ss:

_____, being duly sworn, says: That at all times herein affiant was and is over 18 years of age, not a party to nor interested in the proceeding in which this affidavit is made. That affiant received _____ copy(ies) of the Summons and Complaint, _____ on the _____ day of _____, 20____ and served the same on the _____ day of _____, 20____ by:

(Affiant must complete the appropriate paragraph)

1. Delivering and leaving a copy with the Defendant _____ at (state address) _____
2. Serving the Defendant _____ by personally delivering and leaving a copy with _____, a person of suitable age and discretion residing at the Defendant's usual place of abode located at (state address) _____

[Use paragraph 3 for service upon agent, completing (a) or (b)]

3. Serving the Defendant _____ by personally delivering and leaving a copy at (state address) _____
 - (a) With _____ as _____, an agent lawfully designated by statute to accept service of process;
 - (b) With _____, pursuant to NRS 14.020 as a person of suitable age and discretion at the above address, which address is the address of the resident agent as shown on the current certificate of designation filed with the Secretary of State.
4. Personally depositing a copy in a mail box of the United States Post Office, enclosed in a sealed envelope, postage prepaid (Check appropriate method):

- ☐ Ordinary mail
☐ Certified mail, return receipt requested
☐ Registered mail, return receipt requested

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addressed to the Defendant _____ at Defendant's last known address which is
(state address) _____

I declare under penalty of perjury under the law of the State of Nevada that the
foregoing is true and correct.

EXECUTED this _____ day of _____, 20_____.

Signature of person making service

COPY

FILED

SEP 22 2 09 PM '14

Agnes L. L. L.
CLERK OF THE COURT

BOBBY L. FRANKLIN
dba DL&S Development
P.O. Box 42, 115 Shafter
Brackettville, TX. 78832

(830) 914-7954
dlepatent@hotmail.com
Plaintiff In Proper Person

-COPY-

DISTRICT COURT

CLARK COUNTY, NEVADA

BOBBY L. FRANKLIN,)
)
Plaintiff,)
)
vs.)
)
D.J. LAUGHLIN, dba BWD PROPERTIES 2,)
LLC, a Nevada Limited Liability Company,)
BWD PROPERTIES 3, LLC, a Nevada Limited)
Liability Company, BWD PROPERTIES 4,)
LLC, a Nevada Limited Liability Company,)
"Also all other persons unknown claiming any)
right, title, estate, lien or interest in the real)
property described in the complaint adverse)
to plaintiff's ownership, or any cloud upon)
plaintiff's title thereto.")
Defendants.)

Case No.: A-14-707291-C

Dept. No.: XY

Date of Hearing _____

Time of Hearing _____

COMPLAINT

This is a Quiet Title Action ("QTA") Complaint for a final Order to enforce the Plaintiff's estate and his *stare decisis* Title Deed legal rights that is attached herewith, which was re-recorded with the Clark County Recorder on 09/20/1993, for the 80-acre parcel of real estate that is legally described as the South ½ of the Southeast ¼ of Section 16, Township 32 South, Range 66 East, Mount Diablo Meridian. S1/2 SE1/416 T32S R66E MDM ("80 acres").

///

1 I. JURISDICTION

2 The jurisdiction of this Court is invoked under NRS 40.010. Pursuant to NRS 14.010, the
3 Plaintiff is mailing the County Recorder a notice of the pendency of this action on the same day
4 of mailing the Court Clerk this Complaint for filing and the Summons for process.

5 II. CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

6 The due process of law in the 5th and 14th Amendments to the United States Constitution
7 requires that the Plaintiff's attached *stare decisis* Title Deed rights that were re-recorded on
8 09/20/1993 must be considered and adjudged in a judicial court of law, before any subsequent
9 person or party can legally take, sell or adversely own such described real estate property.
10

11 "The proviso to Section 7 of the Congressional Act of March 3, 1891 (26 Stat. 1098, 43
12 U.S.C. 1165)" mandates Plaintiff as owner of the described 80 acres, as clearly explained in the
13 longstanding opinion of the Supreme Court of the United States in Stockley v. U.S., 260 U.S. 532
14 (1923), as attached herewith on exhibit.

15 III. NEVADA RULES OF CIVIL PROCEDURE 60(b)(4), NOTICE

16 Pursuant to Rule 60(b)(4), if the Defendant(s) or anybody else files any adverse judgment or
17 order that has disregarded its duty to examine or review the Plaintiff's administratively
18 exhausted Title Deed ownership rights on exhibit, it is "void", inconsistent with due process of
19 law, and the Plaintiff will motion this Court to set it aside from consideration and will request
20 sanctions for such fraud on court misconduct. Again, the Plaintiff's legal ownership "rights" in
21 his existing Title Deed attached here on exhibit were exhausted and dismissed in the final
22 *administrative* order, but were never considered or adjudged in any *judicial* court of law.
23

24 ///

25 ///

1 IV. RELIEF REQUESTED

2 For good cause shown, this judicial Court of law should set trial to examine the Plaintiff's
3 administratively exhausted and existing Title Deed rights on exhibit, and sign an order naming
4 who the legal owner of the described 80-acres is.

5 Sincerely,

6
7 s/Bobby L. Franklin
8 BOBBY L. FRANKLIN
9 P.O. Box 42
Brackettville, TX. 78832

09/04/2012
DATED

10 Ph: 830-914-7954
11 Pc: dlepatent@hotmail.com
12 Plaintiff In Proper Person¹
13
14
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¹ Plaintiff's Affidavit is attached herewith, with the Title Deed exhibits.

AFFIDAVIT
OF FACTS

I, Bobby L. Franklin, Plaintiff above named, after being duly sworn, depose and state the following relevant facts:

1. In 1988, I purchased the described 80-acres from the Bureau of Land Management ("BLM"), and on 08/27/1988, I was issued the "receiver's receipt" instrument as my Deed, which is attached herewith as "Exhibit 1".
2. On 08/27/1990, the Department of the Interior Board of Land Appeals ("IBLA") *reversed* the BLM's *mineral* contest on the property in Bobby L. Franklin, 116 IBLA 29 (published). The BLM did not appeal such administrative IBLA decision into a judicial court.
3. On 09/20/1993, I re-recorded my *stare decisis* legal rights and receipt with the Clark County Recorder as Title Deed, which is attached herewith as "Exhibit 2".
4. On 12/19/1996, the IBLA officially dismissed jurisdiction of my Title Deed rights in Exhibit 1 and 2, and that was the *final* administrative decision of the Department of the Interior.
5. To this date, no judicial court of law has ever considered, examined or reviewed my existing 1993 Title Deed or legal rights that were administratively exhausted, in Exhibit 1 and 2.
6. The Defendant(s) are adversely claiming to own the described property in the Clark County Assessor's Office under 3 subdivision parcel numbers, but cannot get title insurance on such property because nobody ever conducted a title search. In fact, nobody can get title insurance to properly develop such 80-acres until my re-recorded Title Deed rights on exhibit are adjudged by a judicial court of law.

Susan L. Castro
NOTARY

9/4/2014
DATED

Bobby L. Franklin
BOBBY L. FRANKLIN
P.O. Box 42, 115 Shafter
Brackettville, TX. 78832



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EXHIBIT 1

FORM 0000071
FORM 1270-10

DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

PAGE: 1

CASE CONTRACT NO. OF: 0/29/00
03-03-1077;0190TAT0377;43USC21-323,325, CASE TYPE SERIAL NUMBER
RECENT LAND ACT 232000 MAN 49340

NAME AND ADDRESS

FRANKLIN DODDY D
300 PERRY AVE
LAS VEGAS NV 89109
APPLICANT 100.00000 X

DESCRIPTION OF LAND

T. 32 S. R. 66 E. SECTION 16: 3221
ACRES
RECENT DIACLO KIR
CLASS DISTRICT UTATELKE
COUNTY, NV REQUIRE AREA
CO.000 ACRES

ACTIONS

DATE	CASE	TAXES	REMARKS
8/10/1900	124	APPL RECD	
00000000		PENDING ACTION: LAS VEGAS DISTRICT	
8/10/1900	347	FILING PER RECEIVED	013;
8/10/1900	392	FINIED RECEIVED	020;

GENERAL REMARKS

01 DLE

RECORDED MEMO
FORMULA FOR RECORD DUE TO
QUALITY OF ORIGINAL DOCUMENT

Page

S: SE 1/4 T32S R66E MDN

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EXHIBIT 2

- 7

TITLE 43 OF THE CODE OF FEDERAL REGULATION

SECTION 1062.6 - PATENT TO ISSUE AFTER 2 YEARS FROM DATE OF MANAGER'S FINAL RECEIPT.

(A) THE DECISION OF THE SUPREME COURT OF THE UNITED STATES IN THOMAS J. STODOLY ET AL., APPELLANTS, V. THE UNITED STATES, DECIDED JANUARY 2, 1923 (260 U.S. 532, 67 L. ED. 390) HOLDS THAT AFTER THE LAPSE OF 2 YEARS FROM THE DATE OF THE ISSUANCE OF THE 'RECEIVER'S RECEIPT' UPON THE FINAL ENTRY OF ANY TRACT OF LAND UNDER THE HOMESTEAD, OR DESERT-LAND LAWS, SUCH ENTRY, ENTITLED TO PATENT UNDER THE PROVISIONS TO SECTION 7 OF THE ACT OF MARCH 3, 1891 (26 STAT. 1093) 43 U.S.C. 1165), REGARDLESS OF WHETHER OR NOT THE MANAGER'S FINAL CERTIFICATE HAS ISSUED.

(B) THE SUPREME COURT OF THE UNITED STATES IN PAYNE V. U.S. EX REL. NEWTON (295 U.S. 430, 65 L. ED. 720), DECIDED THAT NEWTON WAS ENTITLED TO A PATENT ON HIS HOMESTEAD ENTRY UNDER THE PROVISIONS TO SECTION 7 OF THE ACT OF MARCH 3, 1891, 2 YEARS HAVING ELAPSED FROM THE DATE OF THE ISSUANCE OF THE RECEIVER'S FINAL RECEIPT UPON FINAL ENTRY, AND THERE BEING NO CONTEST OR PROTEST PENDING AGAINST THE VALIDITY OF THE ENTRY, BUT STATED THAT THE PURPOSE OF THE STATUTE WAS:

TO REQUIRE THAT THE RIGHT TO A PATENT WHICH FOR 2 YEARS HAS BEEN EVIDENCED BY A RECEIVER'S RECEIPT, AND AT THE END OF THAT PERIOD STANDS UNCHALLENGED, SHALL BE RECOGNIZED AND GIVEN EFFECT BY THE ISSUE OF THE PATENT WITHOUT FURTHER WAITING OR DELAY, AND THUS TO TRANSFER FROM THE LAND OFFICERS TO THE REGULAR JUDICIAL TRIBUNALS THE AUTHORITY TO DEAL WITH ANY SUBSEQUENT CONTROVERSY OVER THE VALIDITY OF THE ENTRY, AS WOULD BE THE CASE IF THE PATENT WERE ISSUED IN THE ABSENCE OF THE STATUTE.

* THE RECEIPTS FORMERLY ISSUED BY THE RECEIVERS ARE NOW ISSUED BY THE MANAGERS.

AMENDMENT V TO THE U.S. CONSTITUTION

NO PERSON SHALL BE HELD TO ANSWER FOR A CAPITAL, OR OTHERWISE INFAMOUS CRIME, UNLESS ON A PRESENTMENT OR INDICTMENT OF A GRAND JURY, EXCEPT IN CASES ARISING IN THE LAND OR NAVAL FORCES, OR IN THE MILITIA, WHEN ACTUAL SERVICE IN TIME OF WAR OR PUBLIC DANGER, NOR SHALL ANY PERSON BE SUBJECT FOR THE SAME OFFENSE TO BE TWICE PUT IN JEOPARDY OF LIFE OR LIMB, NOR SHALL BE COMPELLED IN ANY CRIMINAL CASE TO BE A WITNESS AGAINST HIMSELF, NOR BE DEPRIVED OF LIFE, LIBERTY, OR PROPERTY, WITHOUT DUE PROCESS OF LAW, NOR SHALL PRIVATE PROPERTY BE TAKEN FOR PUBLIC USE, WITHOUT JUST COMPENSATION.

RE-RECORDED

CLARK COUNTY, NEVADA
JOAN L. STAFF, RECORDER
RECORDED AT REQUEST OF: v

D. FROOLIN

09-20-13 11:50 16

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FILED 10-03-13 12:00 .00

Appendix A p.3

such alleged errors considered and reviewed, the writ of error herein should have issued out of the Circuit Court of Appeals of the proper circuit. Accordingly we hold that these several cases should be transferred to the Circuit Court of Appeals of the Seventh Circuit at the costs of the respective plaintiffs in error, that that court be thereupon possessed of the jurisdiction of the same and proceed to the determination of said writs of error as if such writs had issued out of such court.

And it is so ordered.

CHAS. S. 334

STOCKLEY et al. v. UNITED STATES.

(Argued Nov. 20, 1922. Decided Jan. 2, 1923.)

No. 74.

1. Public lands ~~§ 58~~—After issuance of receiver's receipt, issuance of register's certificate not required before limitations begin to run.

Act March 3, 1891, § 7 (Comp. St. § 5113), providing that, after the lapse of two years from the issuance of the receiver's receipt on the final entry, when there shall be no pending contest or protest against such entry, a final entryman shall be entitled to a patent, does not require the issuance of a register's certificate approving the final proof before the period of limitation stated therein begins to run, since it must be assumed Congress was familiar with the operations and practice of the Land Department and knew the difference between a receiver's receipt and a register's certificate.

2. Public lands ~~§ 58~~—Change in department's practice does not change effect of statute of limitations, after receiver's receipt is issued.

The fact that after the enactment of the statute (Act March 3, 1891, § 7 (Comp. St. § 5113)) entitling an entryman to patent two years after the receiver's receipt is issued, the prior practice of the Land Department not to issue the receiver's receipt until the register's certificate accepting the final proof was also issued, was changed so as to permit the issuance of the receiver's receipt when final proof was made, without waiting for its approval, cannot have the effect of changing the plain limitation prescribed by that statute, so as to require the issuance of the register's certificate also before the period starts to run.

3. Public lands ~~§ 58~~—Receiver's receipt for final payment is "receipt upon the final entry."

A receiver's receipt, issued to a homestead claimant at the time the claimant made final proof showing compliance with all the requirements to entitle him to a patent under the homestead laws and paid all fees and commissions lawfully due, was a "receipt upon the final entry" under the homestead laws, within Act March 3, 1891, § 7 (Comp. St. § 5113), entitling the claimant to patent two years

after the issuance of such receipt, if no contest or protest is then pending.

4. Public lands ~~§ 58~~—Receipt limited in excess of receiver's authority starts running of limitations.

Even if a receiver of the land office had no authority under the instructions of the land department to issue receiver's receipt to a homestead entryman at the time he did, the issuance of such receipt starts the running of the two-year period of limitation prescribed by Act March 3, 1891, § 7 (Comp. St. § 5113).

5. Public lands ~~§ 58~~—Limitation of two years after issuance of receipt for mineral inquiry into mineral character of land.

The expiration of the two-year period of limitations after the issuance of the receiver's receipt upon final entry which, under Act March 3, 1891, § 7 (Comp. St. § 5113), entitles the entryman to a patent if no contest or protest is then pending, precludes a subsequent inquiry as to whether the entryman knew or should have known that the land was chiefly valuable for its minerals at the time he made his entry and final proof.

Appeal from the United States Circuit Court of Appeals for the Fifth Circuit.

Suit in equity by the United States against Thomas J. Stockley and others to have plaintiff adjudged to be the owner of a tract of land, to enjoin all interference therewith, and to require defendants to account for the value of oil and gas abstracted by them therefrom. Decree for plaintiff was affirmed by the Circuit Court of Appeals 271 Fed. 632, and defendants appeal. Reversed, and cause remanded to the District Court, with directions to dismiss the bill of complaint.

*333

*Mr. S. L. Herold, of Shreveport, La., for appellants.

Mr. Assistant Attorney General Riter, for the United States.

*336

*Mr. Justice SUTHERLAND delivered the opinion of the Court.

This is a suit in equity brought by the United States, as plaintiff, against the appellants, as defendants, by which a decree was sought adjudging the plaintiff to be the owner of a tract of land in the parish of Caddo, La., enjoining all interference therewith, and requiring the defendants to account for the value of oil and gas abstracted by them therefrom.

The United States District Court for the Western District of Louisiana, upon the report of a master, found for the plaintiff and entered a decree in accordance with the prayer of the bill ordering a restoration of possession and awarding damages against some of the defendants, including Stockley, for about \$62,000.

The case comes to this court by appeal from the decree of the Circuit Court of Ap-

For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes

"Appendix B" p.4

FILED
NOV 24 2014

[Signature]
CLERK OF COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

A-14-707291-C
AOS
Affidavit of Service
4415486



Bobby L. Franklin,

Plaintiff(s),

CASE NO. A-14-707291-C

DEPT. NO. 20

-vs-
D.J. Laughlin, et al.,

Defendant(s).

SUMMONS - CIVIL

NOTICE! YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU
WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND WITHIN 20 DAYS.
READ THE INFORMATION BELOW.

TO THE DEFENDANT(S): A civil Complaint has been filed by the Plaintiff(s) against
you for the relief set forth in the Complaint.

1. If you intend to defend this lawsuit, within 20 days after this Summons is
served on you, exclusive of the day of service, you must do the following:
 - (a) File with the Clerk of this Court, whose address is shown below, a
formal written response to the Complaint in accordance with the rules
of the Court, with the appropriate filing fee.
 - (b) Serve a copy of your response upon the attorney whose name and
address is shown below.

Bobby L. Franklin
P.O. Box 70254
Las Vegas, NV. 89170

SUMM Civil/7/23/2009

RECEIVED
NOV 24 2014

CLERK OF THE COURT

- 1 2. Unless you respond, your default will be entered upon application of the
2 Plaintiff(s) and failure to so respond will result in a judgment of default
3 against you for the relief demanded in the Complaint, which could result in
4 the taking of money or property or other relief requested in the Complaint.
5 3. If you intend to seek the advice of an attorney in this matter, you should do
6 so promptly so that your response may be filed on time.
7 4. The State of Nevada, its political subdivisions, agencies, officers,
8 employees, board members, commission members and legislators each
9 have 45 days after service of this Summons within which to file an Answer
10 or other responsive pleading to the Complaint.
11

12
13 Submitted by:

14 Bobby L. Franklin
15 P.O. Box 70254
16 Las Vegas, NV.
17 89170
18
19

STEVEN D. GRIERSON
CLERK OF COURT

By: KADIRA BECK
Deputy Clerk

Regional Justice Center
200 Lewis Avenue
Las Vegas, NV 89155



20 **NOTE: When service is by publication, add a brief statement of the object of the**
21 **action. See Nevada Rules of Civil Procedure 4(b).**
22
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Laughlin Township Constable's Office

Jordan Ross, Constable

55 Civic Way
Laughlin NV 89029-1563
Administrative Office: 702-298-2311
Website: <http://www.laughlinconstable.org>

AFFIDAVIT OF SERVICE

STATE OF NEVADA)
§
COUNTY OF CLARK)

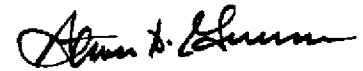
FOR GENERAL USE - DO NOT USE FOR EVICTIONS

Plaintiff	BOBBY L. FRANKLIN
Defendant	D.J. LAUGHLIN, et al
Case	A-14-707291-C
Department	20

Declaration of Service	
The below named affiant, being a duly sworn law enforcement officer in the State of Nevada, deputized by the Laughlin Constable's Office, states: that at all times herein affiant was and is a citizen of the United States, over 18 years of age, is not a party to or interested in the proceeding in which this affidavit is made. That affiant received a copy of the following document(s):	
Document(s)	SUMMONS & COMPLAINT
receiving said document(s) on the date and time below:	
Date	11/18/14 2:30 PM
and served true and correct copy or copies of said document(s) at the date and time below:	
Date of Service	11/18/14 3:30 PM
and that said document(s) were served in the following manner:	

- ☒ By serving the defendant D.J. Laughlin at 1650 S Casino Dr, Laughlin, NV 89029, their usual place of work.
- ☐ By serving the defendant [NAME] at [ADDRESS], their usual place of abode.
- ☐ By personally delivering and leaving a copy with [NAME], a person of suitable age and discretion living with the defendant [NAME] at the defendant's usual place of abode located at [ADDRESS].
- ☐ By personally delivering and leaving a copy with [NAME], a person of suitable age and discretion living with the defendant [NAME] at the defendant's usual place of abode located at [ADDRESS].
- ☒ Through and by personally delivering and leaving a copy with Hermon Walker, agent for defendant, D.J. Laughlin at the defendant's usual place of business located at 1650 S Casino Dr, Laughlin, NV 89029.
- ☐ Affiant was unable to serve defendant.

I declare, on this date of service, under penalty of perjury under NRS 53.045 of the law of the State of Nevada that the foregoing is true and correct.	
Officer Name	Arnold Weitzstein
Officer Signature	<i>Arnold Weitzstein</i>
Rank	Deputy Constable 1619



CLERK OF THE COURT

1 WILLIAM R. URG, ESQ.
2 Nevada Bar No. 1195
3 CHARLES T. COOK, ESQ.
4 Nevada Bar No. 1516
5 BRIAN C. WEDL, ESQ.
6 Nevada Bar No. 8717
7 JOLLEY URG, WOODBURY & LITTLE
8 3800 Howard Hughes Parkway
9 Wells Fargo Tower, Sixteenth Floor
10 Las Vegas, Nevada 89169
11 Telephone: 702.699.7500
12 Facsimile: 702.699.7555
13 E-mail: FedCt@juww.com
14 E-mail: ctc@juww.com

15 *Attorneys for D.J. Laughlin, BWD Properties 2,*
16 *LLC, BWD Properties 3, LLC and BWD*
17 *Properties 4, LLC*

18 **DISTRICT COURT**
19 **CLARK COUNTY, NEVADA**

20 BOBBY L. FRANKLIN,

21 Plaintiff,

22 vs.

23 D.J. LAUGHLIN, dba BWD PROPERTIES 2,
24 LLC, a Nevada Limited Liability Company,
25 BWD PROPERTIES 3, LLC, a Nevada Limited
26 Liability Company, and BWD PROPERTIES 4,
27 LLC, a Nevada Limited Liability Company,
28 "Also all other persons unknown claiming any
right, title, estate, lien or interest in the real
property described in the complaint adverse to
plaintiff's ownership, or any cloud upon
plaintiff's title thereto."

Defendants.

Case No.: A-14-707291-C
Dept. No. XX

**DEFENDANT'S MOTION TO
EXPUNGE LIS PENDENS AND
MOTION TO DISMISS COMPLAINT**

Date of Hearing: 01/14/15
Time of Hearing: 9:00 AM

Defendant, D.J. Laughlin, by and through his attorneys, Jolley Urga Woodbury & Little, hereby move this Court for an Order Expunging Lis Pendens pursuant to NRS 14.015 and an Order Dismissing Plaintiff's Complaint pursuant to NRCP 12(b)(5). Mr. Laughlin reads the caption of this matter to indicate there is only one Defendant, D.J. Laughlin, and the "dba"

Page 1 of 13

K:\CLIENT FILES\WRU\BWD Properties 9175\02000 Franklin-Owens\Pleadings Case#707291 - District Court\drafts\14-12-08 Motion to Expunge Lis Pendens.doc

1 signifies doing business as entities not necessarily named as defendants. To the extent the Court
2 believes that BWD Properties 2, 3 and 4 are also defendants, they join this Motion.

3
4 **NOTICE OF MOTION**

5 TO: Plaintiff above-named

6 PLEASE TAKE NOTICE that the undersigned will bring the foregoing **Defendant's**
7 **Motion to Expunge Lis Pendens and Motion to Dismiss Complaint** on for hearing in
8 Department No. XX of the above-entitled Court on the 14 day of January, 2015 at
9 9:00 A.m. or as soon thereafter as counsel may be heard.

10 DATED this 8th day of December, 2014.

11 JOLLEY URGa WOODBURY & LITTLE

12
13 By: 

14 William R. Urga, Esq.

15 Brian C. Wedl, Esq.

16 3800 Howard Hughes Pkwy., #1600

17 Las Vegas, Nevada 89169

18 *Attorneys for D.J. Laughlin, BWD*

19 *Properties 2, LLC, BWD Properties 3, LLC*

20 *and BWD Properties 4, LLC*

POINTS AND AUTHORITIES

I.

INTRODUCTION

This action stems from Plaintiff's efforts to create a dispute over title to real property located near Laughlin, Nevada. Beginning in 1988, the Franklin family attempted, but ultimately failed, to obtain title to land near Laughlin through the Desert Land Entry Act. The history of this attempt is explained in full detail below, but the end result is that the Franklins did not obtain title to the land, and it remained with the BLM.

In 2006, Defendant, D.J. Laughlin, purchased land from the BLM – a portion of which was the land that the Franklins attempted to obtain title years earlier. Mr. Laughlin then transferred the land to BWD Properties 2, LLC, BWD Properties 3, LLC, and BWD Properties 4, LLC (collectively "BWD"). Each of these entities are valid and active Nevada limited liability companies, and Mr. Laughlin is not "doing business as" these entities as Mr. Franklin alleges.

Since Mr. Laughlin's purchase and subsequent transfer to BWD, the Franklin family has been on a misguided quest to assert its ownership in the property in question. For years, the Franklins have been filing lawsuits and recording various documents clouding title to the land¹. As a result of the numerous lawsuits, United States District Judge Roger L. Hunt issued an order on April 21, 2008 enjoining Bobby L. Franklin from filing "any civil action based on his 1988 Desert Land Entry application or the property at issue in that application without first obtaining leave of the Court."²

Also in 2008, BWD obtained an order from United States District Judge Brian Sandoval enjoining the Franklins, "and anyone claiming under or through them, . . . from asserting, claiming, or setting up any right, title, or interest in or to the property" in question and "from filing any instruments, documents, and claims in the office of the Clark County Recorder that

¹ Plaintiff's current Complaint and related lis pendens, which is attached hereto as Exhibit A, are the subject of this Motion.

² See Order and Injunction filed April 21, 2008, attached hereto as Exhibit B, 5:7-9 (hereinafter the "Hunt Order").

1 would slander, interfere with, compromise, or cloud Plaintiffs' title to the property."³ The
2 Franklins have violated both the Hunt Order and Sandoval Order on multiple occasions, with the
3 current Complaint being the latest in a long line of violations.

4 More pertinent to this Motion to Dismiss is Mr. Franklin's inability to state a claim on
5 which relief can be granted. Mr. Franklin asserts ownership rights in real property, yet his claim
6 has been reviewed by the BLM and federal courts, both of which have concluded that Mr.
7 Franklin has no right to this property. He has been enjoined from filing lawsuits such as the
8 current Complaint, and he has been enjoined from recording documents that would cloud title to
9 the property such as the recorded lis pendens. This matter has been conclusively and properly
10 decided on far too many occasions, and this court should dismiss Mr. Franklin's Complaint and
11 expunge the related lis pendens

12 II.

13 FACTS

14 A. Plaintiff's Desert Land Entry Act Claims and Subsequent Actions Against 15 the United States

16 On August 18, 1988, Bobby Len Franklin filed application N-49548 under the Desert
17 Land Entry Act ("DLE") concerning 80 acres of land located in Southern Nevada. (The "N-
18 49548 Property"). See Sandoval Order attached hereto as Exhibit C⁴. The Bureau of Land
19 Management ("BLM") denied Franklin's application because the land was appropriated by
20 mining claims and thus unsuitable for disposition under the DLE. *Id.* at 2:9-12. Franklin
21 appealed the decision to the Interior Board of Land Appeals ("IBLA") which reversed and
22 remanded to BLM for further findings because the record lacked sufficient evidence that the land
23 was mineral in character. *Id.* at 2:12-15. On remand, the BLM denied the application for a
24 second time and advised Franklin of his right to appeal the decision to the IBLA within 30 days.

25 ³ See Order filed September 29, 2008, attached hereto as Exhibit C, 8:27-9:2 (hereinafter the "Sandoval
26 Order").

27 ⁴ Defendant requests that the Court take Judicial Notice of the facts and law contained in the Sandoval
28 Order attached as Exhibit C pursuant to NRS 47.130 – 47.170. See also, *Brelia v. Preferred Equities Corp.*, 109 Nev. 842, 847, 858 P.2d 1258, 1261 (1993) (a court may consider matters of public record and orders when ruling on a Motion to Dismiss).

1 *Id.* at 2:15-17. Franklin did not appeal to the IBLA but instead filed an action against the United
2 States in Federal Court which was dismissed for failure to exhaust administrative remedies. *Id.*
3 at 2:17-19. The Ninth Circuit Court of Appeals affirmed. *Id.* at 2:20-21.

4 On November 21, 1989, Bobby Dean Franklin filed application N-52292 under the DLE
5 concerning another 80 acres of land located North of and abutting the N-49548 Property (the "N-
6 52292 Property"). *Id.* at 2:22-25. The BLM denied the application because the lands for which
7 the application was filed were mineral in character. *Id.* at 2:25-26. Bobby Dean Franklin was
8 advised of his right to appeal the decision within 30 days; however, Bobby Dean Franklin did
9 not appeal. *Id.* at 2:26-28. Instead, Bobby Dean Franklin filed an action against the United
10 States in federal court which was dismissed for failure to exhaust administrative remedies. The
11 Ninth Circuit Court of Appeals affirmed. *Id.* at 3:1-4.

12 **B. The Franklin Family's History of Improper Actions**

13 Over the years, the Franklins were involved in a number of actions related to the N-
14 49548 Property and the N-52292 Property, none of which resulted in any success for the
15 Franklins. These actions are described in Exhibits C and involve Franklin recording at least
16 eight (8) different Notices and agreements in the Office of the Clark County Recorder between
17 1999 and 2006. *Id.* at 3:17-27. Since that time, he has recorded at least two (2) more. *See*
18 Exhibits A and H. He has also filed numerous lawsuits detailed in Exhibit B.

19 **C. D.J. Laughlin Purchased the Land at Issue from the BLM**

20 In 2006, as the result of a BLM land auction, the United States granted D.J. Laughlin title
21 to three (3) parcels located in Clark County, Nevada (the "Property"). Exhibit C at 3:5-6. The
22 Property was granted by way of land patents, including patent 27-2006-0071, patent 27-2006-
23 0070, and patent 27-2006-0069. *Id.* at 3:7-8. Laughlin then transferred his interest in the
24 Property to BWD. *Id.* at 3:16-17. The Property included the acreage upon which the Franklins
25 had submitted DLE applications. *Id.* at 3:6-7.

26 **D. The Court Granted BWD's Quiet Title Action and Ordered Injunctive Relief**

27 On November 21, 2006, BWD brought suit in the United States District Court, District of
28

1 Nevada seeking an order quieting title in its favor and enjoining the Franklins from asserting,
2 claiming, or setting up any rights title or interest in the property issued to BWD by the United
3 States. In turn, the Franklins answered BWD's complaint and counterclaimed, requesting the
4 court quiet title in their favor. BWD filed its motion for summary judgment which was granted.

5 To this end, Judge Sandoval issued an order that stated in pertinent part:

6 IT IS FURTHER ORDERED that Defendants, and anyone
7 claiming under or through them, are permanently enjoined from
8 asserting, claiming or setting up any right, title or interest in or to
9 the property described in patent 27-2006-071, patent 27-2006-
0070, and patent 27-2006-0069 under the DLE applications N-
49548 and N-52292, or on any other ground or basis.

10 IT IS FURTHER ORDERED that Defendants, and anyone
11 claiming under or through them, are enjoined from filing any
12 instruments, documents, and claims in the office of the Clark
County Recorder that would slander, interfere with, compromise,
or cloud Plaintiffs' title to the property.

13 Exhibit C, 8:21-9:11. The Sandoval Order was affirmed by the Ninth Circuit. See Exhibit D.

14 After BWD brought suit to quiet title, but before Judge Sandoval issued his order, Mr.
15 Franklin filed a separate suit on October 28, 2007. The lawsuit was disguised as a *Bivins* lawsuit
16 but was yet another attempt to quiet title to the property in question. See Exhibit B, 4:14-16. At
17 the request of the Defendants, Judge Hunt issued an order enjoining Bobby L. Franklin from
18 filing:

19 any civil action based on his 1988 Desert Land Entry application
20 or the property at issue in that application without first obtaining
21 leave of the Court. In seeking leave of the Court, Bobby L.
22 Franklin must submit a copy of this Order with his proposed
23 complaint, and certify and demonstrate that the claims he wishes to
present are new claims never before raised and disposed of by any
federal court. Upon failure to certify or upon a false certification,
Bobby L. Franklin may be found in contempt of court and
punished accordingly.

24 See the Hunt Order, Exhibit B, 5:7-13.

25 **E. Franklin Violated the Hunt Order and Filed Suit in Texas**

26 On or about December 20, 2010, Franklin violated the Hunt Order and filed an action in
27 United States District Court for the Western District of Texas, San Antonio Division. Based on
28 the Report and Recommendation of United States Magistrate Judge Nancy Stein Nowak,

1 Franklin's claim was dismissed because it violated the Hunt Order. *See* Report and
2 Recommendation and Order attached hereto as Exhibits E. The Texas Order was affirmed by
3 the Fifth Circuit, and the appeal was "dismissed as frivolous." *See* Exhibit F. Just as Franklin
4 had done in his previous actions, he filed a writ of certiorari with the Supreme Court of the
5 United States. In March 2012, the writ of certiorari was denied. *See* Exhibit G. The Order
6 dismissing the writ petition noted that the "petitioner has repeatedly abused this Court's
7 process." *Id.*

8 **F. Franklin Violated the Sandoval Order When He Recorded a Notice of Action**
9 **to Quiet Title in Clark County, Nevada**

10 On or about April 10, 2012, Franklin, under the guise of Daydream Land & Systems
11 Development Co., recorded, a "Notice of Action to Quiet Title" with the Clark County Recorder.
12 Exhibit H. While this two page "Notice of Action to Quiet Title" was improper because
13 Franklin had not actually filed an action, it was sufficient to cloud title to the property. The
14 Assessor's Parcel Number Franklin used on the first page of the Notice, APN 264-16-000-002, is
15 not a valid parcel number because the parcel formerly known as APN-264-16-000-002 has been
16 subdivided and assigned new parcel numbers APN 264-16-000-003, APN-264-16-000-004,
17 APN-264-16-000-005, and APN-264-16-000-006. Compare Exhibit I with Exhibit J indicating
18 the change in parcel numbers by the Clark County Assessor's Office regarding the Property at
19 issue herein. The parcels APN-264-16-000-004, APN-264-16-000-005, and APN-264-16-000-
20 006 are identical to the Property described in patent 27-2006-0071, patent 27-2006-0070, and
21 patent 27-2006-0069. These are owned by BWD and referenced in the Sandoval Order
22 enjoining defendants from "asserting, claiming or setting up any right, title or interest in or to the
23 property" or "filing any instruments, documents, and claims in the office of the Clark County
24 Recorder that would slander, interfere with, compromise, or cloud Plaintiffs' title to the
25 property." Thus, the "Notice of Action to Quiet Title" (Exhibit H) slandered and clouded
26 BWD's title.

27 On October 9, 2012, BWD filed a Motion to Expunge the Notice of Action to Quiet Title.
28 On March 7, 2013, the US District Court ordered that the Notice of Action to Quiet Title be

1 expunged. *See* Exhibit K. In that Order, the Court noted that Franklin had done exactly what he
2 was prohibited from doing. The Court declined to award sanctions at that time, but warned that
3 future violations would warrant sanctions.

4 **G. Franklin Violated the Hunt Order When He Filed This Complaint, and He**
5 **Violated the Sandoval Order When He Recorded The Lis Pendens.**

6 On September 22, 2014, Mr. Franklin filed the underlying Complaint with this Court. He
7 also recorded a Notice of Pendency of Quite Title Action with the Clark County Recorder on
8 September 17, 2014. A copy of the lis pendens is attached hereto as Exhibit A. Both documents
9 violate the orders discussed herein. Judge Hunt enjoined Mr. Franklin from filing any action
10 regarding the subject property without first seeking leave to do so, and Judge Sandoval enjoined
11 Mr. Franklin from recording any documents that would cloud title to the property. Through this
12 Motion, BWD requests that this Court expunge the lis pendens, dismiss the Complaint, and
13 sanction Mr. Franklin pursuant to the Hunt Order.

14 **III.**

15 **THE LIS PENDENS SHOULD BE EXPUNGED**

16 When a lis pendens is recorded, and a defendant requests a hearing, the person who filed
17 the lis pendens has the burden of proving numerous elements. *See* NRS 14.015. Specifically,

18 2. the party who recorded the notice of pendency of the action
19 must appear at the hearing and . . . establish to the satisfaction of the court
20 that:

21 (a) The action is for the foreclosure of a mortgage upon the real
22 property described in the notice or affects the title or possession of the real
23 property described in the notice;

24 (b) The action was not brought in bad faith or for an improper
25 motive;

26 (c) The party who recorded the notice will be able to perform any
27 conditions precedent to the relief sought in the action insofar as it affects
28 the title or possession of the real property; and

(d) The party who recorded the notice would be injured by any
transfer of an interest in the property before the action is concluded.

3. In addition to the matters enumerated in subsection 2, the party
who recorded the notice must establish to the satisfaction of the court
either:

(a) That the party who recorded the notice is likely to prevail in the
action; or

(b) That the party who recorded the notice has a fair chance of
success on the merits in the action and the injury described in paragraph

(d) of subsection 2 would be sufficiently serious that the hardship on him or her in the event of a transfer would be greater than the hardship on the defendant resulting from the notice of pendency,

and that if the party who recorded the notice prevails he or she will be entitled to relief affecting the title or possession of the real property.

Franklin's current Complaint and accompanying affidavit rehash the same arguments that Franklin and his family have been making for years. He claims he is the owner of the property at issue, and he believes that BWD's ownership is improper. This issue, however, has been decided. In fact, the Sandoval Order provides that "Defendants, and anyone claiming under or through them, have no right, title or interest in or to the property described in patent 27-2006-0071, patent 27-2006-0070, and patent 27-2006-0069 on the basis of DLE applications N-49548 and N-52292." *See* Exhibit C, 8:4-7. The order continues and clarifies that the BWD entities "are the 100% fee simple owners of the property described in patent 27-2006-0071, patent 27-2006-0070, and patent 27-2006-0069." *Id.* at 8:8-9. As mentioned previously, Franklin was also permanently enjoined from filing or recording documents to cloud BWD's title to the property.

Based on the facts outlined above, Franklin will not be able to show:

- that the current complaint and lis pendens was not brought in bad faith or for an improper motive (NRS 14.015(2)(b));
- that he would be injured by any transfer of an interest in the property before the action is concluded (NRS 14.015(2)(d));
- that he is likely to prevail in this action (NRS 14.015(3)(a)), or that he has a fair chance of success on the merits and the injury would be sufficiently serious (NRS 14.015(3)(b)); or
- that he will be entitled to relief affecting the title or possession of the real property. NRS 14.014(3).

Accordingly, Defendant requests that the Court order that the September 17, 2014 lis pendens recorded by Franklin be expunged.

IV.

THE COMPLAINT SHOULD BE DISMISSED

A. Legal Standard

In ruling on a motion to dismiss pursuant to N.R.C.P. 12(b)(5), a complaint will be dismissed if the Plaintiff could prove no set of facts that would entitle him to relief. *Buzz Slew, LLC v. City of Las Vegas*, 124 Nev. 224, 228, 181 P.3d 670, 672 (2008). The Nevada Supreme Court has held that the court may take into account matters of public record, orders, items present in the record of the case, including documents incorporated into the complaint, and any exhibits attached to the complaint when ruling on a motion to dismiss for failure to state a claim upon which relief can be granted. *Breliant v. Preferred Equities Corp.*, 109 Nev. 842, 847, 858 P.2d 1258, 1261 (1993). The exhibits attached hereto are either public records or court orders that this Court may consider.

B. The Hunt Order Prohibits Plaintiff From Filing The Complaint

The Complaint should be summarily dismissed with prejudice because Franklin has been permanently enjoined from filing any action regarding the property in question without first seeking leave of court. *See* Exhibit B, 5:7-13. Mr. Franklin did not comply with the Hunt Order and should be sanction accordingly. For that reason alone, the Court should dismiss Franklin's Complaint.

C. Franklin's Claims To The Property Have Already Been Decided

Even aside from the injunction in the Hunt Order, Franklin, in the Complaint, alleges that he is, or should be, the rightful owner of the property in question. This issue has been resolved. The US District Court has determined that BWD is the rightful owner and that Franklin has no right to the property. Franklin may disagree with this ruling, but he cannot claim that the issue is undecided.

Franklin further alleges that he is seeking an order regarding his *stare decisis* Title Deed Rights in the property. *See* Complaint, 1:19-23. Specifically, Franklin seeks to assert his rights under *Stockley v. U.S.*, 260 U.S. 532 (1923). *Id.* 2:13. This is also an allegation that Franklin

1 has been unsuccessfully making for years. In fact, in its January 10, 1995 decision, the Ninth
2 Circuit stated, "Franklin's reliance on *Stockley v. United States*, 260 U.S. 532 (1923), as support
3 for the proposition that he does not have to exhaust administrative remedies, is misplaced. The
4 suit in *Stockley* was brought by the United States, so exhaustion was not an issue." *Franklin v.*
5 *United States*, 43 F.3d 1140, *2 (1995). A copy of the Ninth Circuit decision is attached hereto
6 as Exhibit L.

7 Thus, the claims that Franklin is asserting, and the issues that he raises, have all been
8 decided by courts of competent jurisdiction, and his claim is therefore barred by the doctrine of
9 claim preclusion. The three-part test for determining whether claim preclusion should apply is
10 as follows: (1) the parties or their privies are the same, (2) the final judgment is valid, and (3) the
11 subsequent action is based on the same claims or any part of them that were or could have been
12 brought in the first case. *Five Star Capital Corp. v. Ruby*, 124 Nev. 1048, 1054, 194 P.3d 709,
13 713 (2008).

14 Here, all of the elements of claim preclusion are met. The US District Court Case that
15 resulted in the Sandoval Order contained the same parties – Bobby Len Franklin and the BWD
16 entities (or Mr. Laughlin allegedly doing business as those entities). The Sandoval Order is a
17 final judgment and is valid. In fact, it has been affirmed by the Ninth Circuit Court of Appeals.
18 Finally, the current action is based on the exact same facts and claims that have been previously
19 adjudicated. As such, claim preclusion applies, and the Court should dismiss Plaintiff's
20 Complaint.

21 **D. Mr. Franklin Should Be Sanctioned, and Mr. Laughlin Should Be Awarded**
22 **Attorney's Fees**

23 The Hunt Order specifically states that if Mr. Franklin violates the order by filing another
24 action without first seeking leave of the court, Mr. Franklin "may be found in contempt and
25 punished accordingly." See Exhibit B, 5:12-13. Furthermore, Mr. Franklin has no reasonable
26 grounds to bring this claim, and the current Complaint amounts to nothing more than blatant
27 abuse of the judicial system and harassment of Mr. Laughlin. Accordingly, Mr. Franklin should
28 be sanctioned in an amount of not less than \$10,000.00, and Mr. Laughlin should be awarded his

1 attorney's fees pursuant to NRS 18.010(2)(b).

2 V.

3 CONCLUSION

4 Mr. Franklin's alleged rights in the subject property have been adjudicated countless
5 times. His current Complaint is frivolous and barred by the doctrine of claim preclusion as well
6 as the Hunt Order. Therefore, Mr. Laughlin requests that the Court expunge the September 17,
7 2014 lis pendens, dismiss Mr. Franklin's Complaint with prejudice, award attorney's fees to Mr.
8 Laughlin, and sanction Mr. Franklin accordingly.

9 DATED this 8th day of December, 2014.

10 JOLLEY URGa WOODBURY & LITTLE

11 By: 
12

13 WILLIAM R. URGa, ESQ.

14 Nevada Bar No. 1195

15 CHARLES T. COOK, ESQ.

16 Nevada Bar No. 1516

17 BRIAN C. WEDL, ESQ.

18 Nevada Bar No. 8717

19 3800 Howard Hughes Parkway

20 Wells Fargo Tower, Sixteenth Floor

21 Las Vegas, Nevada 89169

22 Attorneys for D.J. Laughlin, BWD Properties 2,

23 LLC, BWD Properties 3, LLC and BWD

24 Properties 4, LLC
25
26
27
28

CERTIFICATE OF SERVICE BY MAIL

I, the undersigned, hereby certify that I am employed in the County of Clark, State of Nevada, am over the age of 18 years and not a party to this action. My business address is that of Jolley Urga Woodbury & Little, 3800 Howard Hughes Parkway, Suite 1600, Las Vegas, Nevada 89169.

On this day I served the **DEFENDANTS' MOTION TO EXPUNGE LIS PENDENS AND MOTION TO DISMISS COMPLAINT** by placing a true copy thereof enclosed in a sealed envelope, addressed as follows:

Bobby L. Franklin
P.O. Box 42, 115 Shafter
Brackettville, TX 78832

and placed the envelope in the mail bin at the firm's office.

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it is deposited with the U. S. Postal Service on the same day it is placed in the mail bin, with postage thereon fully prepaid at Las Vegas, Nevada, in the ordinary course of business. I certify under penalty of perjury that the foregoing is true and correct, and that this Certificate of Service by Mail was executed by me on December 8th, 2014 at Las Vegas, Nevada.


An employee of JOLLEY URG
WOODBURY & LITTLE

EXHIBIT “A”

2

Inst #: 20140917-0002279

Fees: \$18.00

N/C Fee: \$0.00

09/17/2014 02:56:56 PM

Receipt #: 2155751

Requestor:

BOBBY FRANKLIN

Recorded By: SAO Pgs: 2

DEBBIE CONWAY

CLARK COUNTY RECORDER

RECORDING COVER PAGE

(Must be typed or printed clearly in BLACK ink only
and avoid printing in the 1" margins of document)

APN# 264-16-000-002

(11 digit Assessor's Parcel Number may be obtained at:
<http://redrock.co.clark.nv.us/assrrealprop/ownr.aspx>)

TITLE OF DOCUMENT

(DO NOT Abbreviate)

NRS 14.010 - NOTICE OF PENDENCY OF QUIET TITLE ACTION

IN THE CLARK COUNTY, NEVADA DISTRICT COURT

Document Title on cover page must appear **EXACTLY** as the first page of the document
to be recorded.

RECORDING REQUESTED BY:

BOBBY L. FRANKLIN

RETURN TO: Name BOBBY L. FRANKLIN

Address P.O. Box 42

City/State/Zip Brackettville, TX. 78832

MAIL TAX STATEMENT TO: (Applicable to documents transferring real property)

Name _____

Address _____

City/State/Zip _____

This page provides additional information required by NRS 111.312 Sections 1-2.

An additional recording fee of \$1.00 will apply.

To print this document properly, do not use page scaling.

Using this cover page does not exclude the document from assessing a noncompliance fee.

P:\Common\Forms & Notices\Cover Page Template Feb2014

**NRS 14.010 – NOTICE OF PENDENCY OF QUIET TITLE ACTION
IN THE CLARK COUNTY, NEVADA DISTRICT COURT**

Re: S½ SE¼16 T32S R66E MDM

1. Names of Parties:

BOBBY L. FRANKLIN,)	
)	
Plaintiff,)	
vs.)	
)	
D.J. LAUGHLIN, dba BWD PROPERTIES 2,)	
LLC, a Nevada Limited Liability Company,)	
BWD PROPERTIES 3, LLC, a Nevada Limited)	
Liability Company, BWD PROPERTIES 4,)	
LLC, a Nevada Limited Liability Company,)	
"Also all other persons unknown claiming any)	
right, title, estate, lien or interest in the real)	
property described in the complaint adverse)	
to plaintiff's ownership, or any cloud upon)	
plaintiff's title thereto.")	
Defendants.)	
)	

2. Object of the action: Quiet Title Action.

**3. Legal Description of the Property: S½ SE¼16 T32S R66E MDM
"80 acres"**

EXHIBIT “B”

1
2
3
4
5
6
7
8 **UNITED STATES DISTRICT COURT**
9 **DISTRICT OF NEVADA**

10 ***

11 BOBBY L. FRANKLIN,

12 Plaintiff,

13 vs.

14 MARK CHATTERTON; DON LAUGHLIN;
15 THOMAS SMITLEY; UNITED STATES OF
AMERICA; and BRUCE WOODBURY,

16 Defendants.
17

Case No.: 2:07-cv-1400-RLH-RJJ

**ORDER
AND
INJUNCTION**

(Motion to Consolidate, or alternatively,
for Recusal-#21;
Motion to Enjoin Further Lawsuits-#47)

18 Before the Court is Plaintiff Bobby L. Franklin's **Motion to Consolidate into**
19 **Related Case pursuant to FRCP 42(a), or alternatively, Motion for Recusal (#21)**, filed
20 January 16, 2008. The Court has also considered Defendant Bruce Woodbury's Opposition (#29),
21 filed January 28, 2008, Defendants Mark Chatterton and the United States of America's
22 Opposition (#34), filed February 1, 2008, Defendant Don Laughlin's Opposition (#35), filed
23 February 1, 2008, and Plaintiff's Reply (#42), filed February 11, 2008.

24 Also before the Court is Defendants Mark Chatterton and the United States of
25 America's **Motion to Enjoin Further Lawsuits (#47)**, filed March 12, 2008. The Court has also
26 considered Defendant Bruce Woodbury's Joinder (#48), filed March 14, 2008, Defendant Thomas

1 Smitley's Joinder (#49), filed March 25, 2008, Defendant Don Laughlin's Joinder (#51), filed
2 March 31, 2008, Plaintiff's Opposition (#50), and Defendants Mark Chatterton and the United
3 States of America's Reply (#53), filed April 3, 2008.

4 BACKGROUND

5 This case arises out of the denial of Plaintiff's 1988 Desert Land Entry ("DLE")
6 application to acquire property under the Desert Land Act, 43 U.S.C. §§ 321 *et seq.* The act
7 allows individuals to claim up to 320 acres of unappropriated public desert lands by asserting that
8 they intend to reclaim the lands for irrigated agriculture. "Desert lands" are defined as "[a]ll lands
9 exclusive of timber lands and mineral lands which will not, without irrigation, produce some
10 agricultural crop." § 322.

11 In 1988, Plaintiff filed a DLE application for a plot of desert land near Laughlin,
12 Nevada. The Bureau of Land Management ("BLM") denied the application because the property
13 was the subject of prior mining claims. Plaintiff properly appealed the denial to the Interior Board
14 of Land Appeals ("IBLA"), which reversed and remanded the BLM's initial decision for further
15 review. In so doing, the IBLA required the BLM to make a determination of whether the land
16 should be classified as open to the DLE. *Bobby L. Franklin*, 116 IBLA 29, 31, 1990 WL 308036
17 (1990).

18 In compliance with the instructions in the 1990 IBLA decision, the BLM conducted
19 a mineral report on the property. The BLM found that the property was mineral in character and
20 thus it properly denied Plaintiff's DLE application. The BLM's decision notified Plaintiff of his
21 appeal rights. Rather than file an appeal with the IBLA, however, Plaintiff filed an action in
22 federal court to quiet title to the property. *Franklin v. United States*, No. cv-s-93-01140-PMP-
23 LRL (D. Nev. 1993). After finding that Plaintiff had failed to exhaust his administrative remedies,
24 the Court dismissed the case for lack of subject matter jurisdiction. Plaintiff appealed to the Ninth
25 Circuit, which affirmed the dismissal. *Franklin v. United States*, 46 F.3d 1140 (9th Cir. 1995)
26 (unpublished), *cert. denied*, 516 U.S. 829 (1995).

1 In 1995, Plaintiff enclosed approximately one acre of the property and began to
 2 occupy it. The BLM notified Plaintiff that his enclosure and use of the property was unauthorized
 3 and asked that he remove the fence and stop using the property. When Plaintiff failed to do so, the
 4 United States filed a trespass action. *United States v. Franklin*, No. cv-s-96-1089-LDG-LRL (D.
 5 Nev. 1996). In response, Plaintiff filed a counterclaim asserting ownership to the property and
 6 seeking to quiet title. On October 14, 1997, the Court permanently enjoined Plaintiff from further
 7 using or occupying the property or from further trespass on any other land owned by the United
 8 States and dismissed Plaintiff's counterclaim for lack of subject matter jurisdiction.

9 In 1997, Plaintiff filed his third suit regarding the property. *Franklin v. Bilbray*,
 10 No. cv-s-97-037-PMP (D. Nev. 1997). In that action, Plaintiff filed a 42-count complaint against
 11 more than twenty defendants. The United States moved to dismiss for a variety of reasons,
 12 including lack of subject matter jurisdiction. The Court again granted the United States' motion to
 13 dismiss, which was affirmed on appeal by the Ninth Circuit. *Franklin v. Bilbray*, 172 F.3d 56 (9th
 14 Cir. 1999) (unpublished), *cert. denied*, 528 U.S. 863 (1999).

15 In 2004, Plaintiff made another attempt to litigate the BLM's decision that the
 16 property was mineral in character. *Franklin v. United States Dep't of the Interior*, 2:04-cv-0128-
 17 RLH-PAL (D. Nev. 2004). In granting the United States' motion to dismiss, the Court held that it
 18 "lack[ed] jurisdiction to hear this case for the same reason it lacked jurisdiction to hear
 19 [Plaintiff]'s four previous claims arising from the rejection of his DLE claim. [Plaintiff] failed to
 20 appeal the 1993 rejection of his claim to the IBLA within 30 days of its issuance and therefore he
 21 has failed to exhaust his administrative remedies." *Id.* at Dkt. #18. The Court further held that
 22 even if it had jurisdiction, Plaintiff's claims were barred by the applicable statute of limitations
 23 and claim preclusion. *Id.* The Ninth Circuit affirmed. *Franklin v. United States BLM*, 125 F.
 24 App'x 152 (9th Cir. 2005) (unpublished), *cert. denied*, 546 U.S. 1004 (2005).

25 In November 2005, Plaintiff filed suit in the United States District Court for the
 26 District of Arizona against the United States, Assistant United States Attorney Blaine Welsh, and

1 United States District Court Judge Roger L. Hunt, requesting relief from this Court's June 7, 2004,
 2 Order under 28 U.S.C. § 1361 and Fed. R. Civ. P. 60(b). *Franklin v. United States*, No. cv'05
 3 3719 PHX NVW (D. Ariz. 2005). The Arizona court dismissed the complaint with prejudice
 4 because it failed to state a claim upon which relief could be granted and ordered that no amended
 5 complaint be filed because it would have been futile to do so. The Ninth Circuit affirmed.
 6 *Franklin v. Welsh*, 189 F. App'x 675 (9th Cir. 2006) (unpublished), *cert. denied*, 127 S. Ct. 1277
 7 (2007).

8 In 2006, Plaintiff filed a third-party complaint against the United States seeking yet
 9 again to quiet title to the property. *BWD Props. 2, LLC v. Franklin*, No. 2:06-cv-01499-BES-PAL
 10 (D. Nev. Nov. 21, 2006). The Court dismissed Plaintiff's third-party complaint for a variety of
 11 reasons, including lack of subject matter jurisdiction for failing to exhaust his administrative
 12 remedies, res judicata, and the running of the statute of limitations. *Id.* at Dkt. #62. Plaintiff filed
 13 a motion for reconsideration, which was denied. *Id.* at Dkt. #83.

14 On October 28, 2007, Plaintiff filed the instant action. Although disguised as a
 15 civil rights and *Bivens* action, the Complaint again attempted to quiet title to the same property at
 16 issue in all of Plaintiff's prior lawsuits. Consequently, the Court dismissed Plaintiff's Complaint
 17 for lack of subject matter jurisdiction, res judicata, and the running of the statute of limitations, but
 18 directed the Clerk of the Court not to close the case. (Dkt. #43.) Defendants Mark Chatterton and
 19 the United States of America subsequently filed their Motion to Enjoin Further Lawsuits, asking
 20 the Court to enter a pre-filing order enjoining him from filing further suits against the United
 21 States, its agencies, and its agencies' past or present employees arising out the denial of his DLE
 22 application to acquire property under the Desert Land Act. Defendants Don Laughlin, Thomas
 23 Smitley, and Bruce Woodbury filed separate joinders asking the Court to also enjoin further suits
 24 against Clark County, its past and present employees and commissioners, Thomas Smitley, Don
 25 Laughlin and his successors in title, BWD Properties 2, LLC, BWD Properties 3, LLC, and BWD
 26 Properties 4, LLC.

Based on Plaintiff's history of repeatedly filing frivolous and harassing claims arising from his 1988 DLE application, the Court enjoins Plaintiff from filing further lawsuits as detailed below. Consequently, the Court grants Defendants Mark Chatterton and the United States of America's Motion to Enjoin Further Lawsuits and denies Plaintiff's Motion to Consolidate, or alternatively, for Recusal as frivolous.

INJUNCTION

IT IS HEREBY ORDERED that Bobby L. Franklin may not file any civil action based on his 1988 Desert Land Entry application or the property at issue in that application without first obtaining leave of the Court. In seeking leave of the Court, Bobby L. Franklin must submit a copy of this Order with his proposed complaint, and certify and demonstrate that the claims he wishes to present are new claims never before raised and disposed of by any federal court. Upon failure to certify or upon a false certification, Bobby L. Franklin may be found in contempt of court and punished accordingly.¹

DISCUSSION

The All Writs Act, 28 U.S.C. § 1651(a), authorizes district courts to enter pre-filing injunctions against vexatious litigants. *Moy v. U.S.*, 906 F.2d 467, 469 (9th Cir. 1990). Pre-filing orders, however, are an extreme remedy and courts should not issue them "with undue haste because such sanctions can tread on a litigant's due process right of access to the courts." *Molski v. Evergreen Dynasty Corp.*, 500 F.3d 1047, 1057 (9th Cir. 2007). "Nevertheless, flagrant abuse of the judicial process cannot be tolerated because it enables one person to preempt the use of judicial time that properly could be used to consider the meritorious claims of other litigants." *Id.* (internal quotations omitted).

¹ The wording of the Court's Injunction is based in part on the Ninth Circuit's opinion in *Franklin v. Murphy*, 745 F.2d 1221, 1232 (9th Cir. 1984) (quoting *In re Green*, 669 F.2d 779, 787 (D.C. Cir. 1981)).

1 In *De Long v. Hennessey*, the Ninth Circuit set forth four guidelines for district
 2 courts to follow before entering pre-filing injunctions. 912 F.2d 1144, 1147–48 (9th Cir. 1990).
 3 First, the litigant must be afforded notice and an opportunity to oppose the pre-filing order before
 4 it is entered. *Id.* at 1147. Second, the court must create an adequate record for appellate review.
 5 *Id.* Third, the court must make substantive findings as to the frivolous or harassing nature of the
 6 litigant's actions. *Id.* at 1148. Fourth, the court must narrowly tailor the pre-filing order to the
 7 litigant's specific vice. *Id.*

8 **I. Notice and the Opportunity to Oppose**

9 “Due process requires notice and an opportunity to be heard.” *De Long*, 912 F.2d
 10 at 1147 (quoting *In re Powell*, 851 F.2d 427, 431 (D.C. Cir. 1988)). But “an opportunity to be
 11 heard does not require an oral or evidentiary hearing on the issue . . . [because] the opportunity to
 12 brief the issue fully satisfies due process requirements.” *Molski*, 500 F.3d at 1059 (quoting *Pac.*
 13 *Harbor Capital, Inc. v. Carnival Air Lines, Inc.*, 210 F.3d 1112, 1120 (9th Cir. 2000)). Here,
 14 Plaintiff has availed himself of the opportunity to oppose Defendants' Motion to Enjoin Further
 15 Lawsuits by filing his Opposition (#50). Moreover, the Court finds that Franklin was given
 16 adequate notice of Defendants' Motion and thus had sufficient time to prepare his Opposition. It
 17 also finds that oral argument is unnecessary because the Parties have adequately briefed the issue
 18 of whether the Court should enter a pre-filing order.

19 **II. Adequate Record for Review**

20 “An adequate record for review should include a listing of all the cases and motions
 21 that led the district court to conclude that a vexatious litigant order was needed.” *De Long*, 912
 22 F.2d at 1147. “At the least, the record needs to show, in some manner, that the litigant's activities
 23 were numerous or abusive.” *Id.* Here, the record before the Court is detailed in the Background
 24 section of this Order. Further, the Court hereby incorporates as part of its record Exhibits 1–17
 25 (Plaintiff's prior complaints and orders dismissing those complaints) submitted to the Court as
 26 part of Defendants Mark Chatterton and the United States of America's Motion to Enjoin Further

Lawsuits. (Dkt. #49, Attachments #1–18.) The Court also incorporates Plaintiff's Opposition in which he continues to assert the same failed arguments that have been dismissed time and time again, including in this case.

III. Frivolous or Harassing Nature of the Litigation

Before a district court issues a pre-filing injunction against a pro se litigant, it must make substantive findings concerning the frivolous or harassing nature of the litigant's actions based on the number and the content of the litigant's filings. *De Long*, 912 F.2d at 1148. Here, the Court finds that Plaintiff's claims in *United States v. Franklin*, No. cv-s-96-1089-LDG-LRL (D. Nev. 1996), *Franklin v. Bilbray*, No. cv-s-97-037-PMP (D. Nev. 1997), *Franklin v. United States Dep't of the Interior*, 2:04-cv-0128-RLH-PAL (D. Nev. Feb. 2, 2004), *Franklin v. United States*, No. cv'05 3719 PHX NVW (D. Ariz. 2005), *BWD Props. 2, LLC v. Franklin*, No. 2:06-cv-01499-BES-PAL (D. Nev. Nov. 21, 2006), and *Franklin v. Chatterton*, No. 2:07-cv-1400-RLH-RJJ are "patently without merit," *Moy*, 906 F.2d at 470, because they seek to relitigate the same issues that this Court dismissed in *Franklin v. United States*, No. cv-s-93-01140-PMP-LRL (D. Nev. 1993), which the Ninth Circuit affirmed, 46 F.3d 1140 (9th Cir. 1995), and in which the Supreme Court denied Plaintiff's petition for writ of certiorari, 516 U.S. 829 (1995). Moreover, the Court finds that Plaintiff has also used his filings as a means of harassment. While his initial filing in *Franklin v. United States*, No. cv-s-93-01140-PMP-LRL (D. Nev. 1993), involved only the United States as a defendant, his quixotic crusade has grown to include the BLM, current and former employees of the BLM, a federal judge,² state officials, county officials, a justice of the peace, an assistant United States Attorney, police, and a news publisher. The Court, therefore, finds that Plaintiff's filings have become increasingly frivolous and harassing.

/

² Chief Judge Hunt was a defendant in *Franklin v. United States*, No. cv'05 3719 PHX NVW (D. Ariz. 2005). He is also a target of Plaintiff's current Motion for Consolidation, or alternatively, for Recusal, which the Court finds is both harassing and frivolous.

1 **IV. Narrowly Tailored to Specific Vice**

2 "The fourth and final factor in the *De Long* standard is that the pre-filing order
3 must be narrowly tailored to the vexatious litigant's wrongful behavior." *Molski*, 500 F.3d at
4 1061. Here, the Court's pre-filing injunction is narrowly tailored to the Plaintiff's wrongful
5 conduct. The Injunction only requires Plaintiff to submit a copy of his complaint and this Order to
6 the Court for screening before he may file another lawsuit arising out of the facts and
7 circumstances of this case. The Court believes that its Order appropriately prevents Plaintiff from
8 harassing Defendants because he will not be permitted to serve them with another frivolous
9 lawsuit, while also preserving Plaintiff's right of access to the courts for any potentially
10 meritorious claim. Moreover, the requirement that he certify that his proposed complaint does not
11 contain claims previously adjudicated prevents further abuse of the Court's limited time and
12 resources.

13 **CONCLUSION**

14 Accordingly, and for good cause appearing,

15 IT IS HEREBY ORDERED that Plaintiff Bobby L. Franklin's Motion to
16 Consolidate, or alternatively, for Recusal (#21) is DENIED.

17 IT IS FURTHER ORDERED that Defendants Mark Chatterton and the United
18 States of America's Motion to Enjoin Further Lawsuits (#47) is GRANTED.

19 The Clerk of the Court is directed to close the case.

20
21 Dated: April 21, 2008.

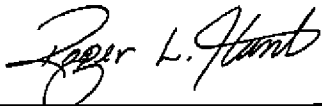
22 
23 _____
24 **ROGER L. HUNT**
25 Chief United States District Judge
26

EXHIBIT “C”

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

BWD PROPERTIES 2, LLC, a Nevada
Limited Liability Company; BWD
PROPERTIES 3, LLC, a Nevada Limited
Liability Company; and BWD PROPERTIES
4, LLC, a Nevada Limited Liability Company

Plaintiffs,

v.

BOBBY LEN FRANKLIN, an individual and
d.b.a. DAYDREAM LAND & SYSTEMS
DEVELOPMENT COMPANY; ROBERT
LEE FRANKLIN, an individual; BOBBY
DEAN FRANKLIN, an individual,

Defendants.

BOBBY LEN FRANKLIN; BOBBY DEAN
FRANKLIN,

Third-Party Plaintiffs,

v.

UNITED STATES,

Third-Party Defendant.

2:06-CV-01499-BES-PAL

ORDER

Presently before the Court is Plaintiff BWD Properties 2, LLC, BWD Properties 3, LLC, and BWD Properties 4, LLC's (collectively "BWD") Renewed Motion for Summary Judgment (#93) filed on March 14, 2008. Defendant Bobby Len Franklin filed his Opposition to Plaintiffs' Renewed Motion for Summary Judgment (#100) on March 27, 2008. BWD filed its Reply in

Support of Plaintiffs' Renewed Motion for Summary Judgment (#102) on April 10, 2008. Franklin filed his Opposition to Plaintiffs' Supplement Reply to its Renewed Motion for Summary Judgment (#104) on May 5, 2008. Also before the Court is Plaintiff Bobby Len Franklin's Motion to Consolidate Cases (#66), filed on October 29, 2007.

I. Background

On August 18, 1988, Bobby Len Franklin filed application N-49548 under the Desert Land Entry Act ("DLE") concerning eighty acres of land located in the Southern one-half of the Southeast quarter of Section 16, Township 32 South, Range 66 East, Mount Diablo Meridian, Clark County, Nevada (the "N-49548 Property"). (Mot. Summ. J. (#93) Ex. 1.) In October 1988, the Bureau of Land Management ("BLM") denied Bobby Len Franklin's application because the property was appropriated by mining claims and thus unsuitable for disposition under the DLE. *Id.* Bobby Len Franklin appealed the decision to the Interior Board of Land Appeals ("IBLA"), which reversed and remanded to BLM for further findings because the record did not contain evidence to support the conclusion that the land was mineral in character. *Id.* On remand, BLM denied the application. *Id.* at Ex. 2. BLM advised Bobby Len Franklin of his right to appeal the decision to the IBLA, and of the requirement that the appeal be filed within thirty days of receipt of the decision. *Id.* Bobby Len Franklin did not appeal the decision, however. Instead, he filed an action against the United States in federal court. *Id.* at Ex. 4. The action was dismissed for failure to exhaust administrative remedies. *Id.* at Ex. 5. The district court's decision was affirmed by the Ninth Circuit Court of Appeals ("Ninth Circuit"). *See Franklin v. United States*, 46 F.3d 1140 (9th Cir. 1995) (unpublished).

On November 21, 1989, Bobby Dean Franklin filed application N-52292 under the DLE concerning eighty acres of land located in the Northern one-half of the Southeast quarter of Section 16, Township 32 South, Range 66 East, Mount Diablo Meridian, Clark County, Nevada (the "N-52292 Property"). *Id.* Ex. 6. BLM denied the application in 1993 because the lands for which the application was filed were mineral in character. *Id.* at Ex. 7. Bobby Dean Franklin was advised of his right to appeal the decision and that his notice of appeal must be filed within thirty days of receipt of the decision. *Id.* Bobby Dean Franklin did not appeal.

1 Instead, he filed an action against the United States in federal court. Id. at Ex. 8. The action
2 was dismissed by the court for failure to exhaust administrative remedies. Id. at Ex. 6. The
3 court's order was affirmed by the Ninth Circuit. See Franklin v. United States, 46 F.3d 1141
4 (1995).

5 In 2006, the United States granted to D.J. Laughlin title to three parcels located in Clark
6 County, Nevada ("the property"). The property included the acreage upon which the Franklins
7 had submitted their DLE applications. The three parcels were granted by way land patents,
8 including patent 27-2006-0071, patent 27-2006-0070, and patent 27-2006-0069. Id. at Ex. 9;
9 (Laughlin Aff. (#94) ¶ 4.) Patent 27-2006-0071 relates to real property described as the East
10 one-half of the Southeast quarter of the Southeast quarter of Section 16, township 32 South,
11 Range 66 East, Mount Diablo Meridian, Nevada ("parcel two"). (Mot. Summ. J. Ex. 9). Patent
12 27-2006-0070 relates to land described as the West one-half of the Southeast quarter of the
13 Southeast quarter of Section 16, Township 32 South, Range 66 East, Mount Diablo Meridian,
14 Nevada ("parcel three"). Id. Ex. 11. Patent 27-2006-0069 relates to property described as the
15 Southwest quarter of the Southeast quarter of Section 16, Township 32 South, Range 66 East,
16 Mount Diablo, Meridian, Nevada ("parcel four"). Id. Ex. 13. Laughlin then transferred his
17 interest in all three parcels to BWD. Id. at Exs. 10, 12, 14. Since 1999, the defendants have
18 recorded the following documents against the property with the office of the Clark County
19 Recorder:

- 20 1. Notice of Lis Pendens, recorded October 6, 1999. Id. at Ex. 15.
- 21 2. Notice of Statutory Lien, recorded October 12, 1999. Id. at Ex. 16.
- 22 3. Notice of Lien, recorded October 12, 1999. Id. at Ex. 17.
- 23 4. Joint Notice of Artisans Lien, recorded October 18, 1999. Id. at Ex. 18.
- 24 5. Agreement to Sell Real Estate, recorded September 23, 2002. Id. at Ex. 19.
- 25 6. Agreement to Sell Real Estate, recorded October 11, 2002. Id. at Ex. 20.
- 26 7. Notice of Abeyance, recorded May 4, 2005. Id. at Ex. 21.
- 27 8. Notice of Joint Trespass, recorded April 13, 2006. Id. at Ex. 22.

28 In 1996, the United States filed a complaint against Bobby Len Franklin asserting a

1 trespass claim. Id. at Ex. 23. Bobby Len Franklin counterclaimed, arguing that he was in
 2 lawful possession of the property pursuant to his DLE application. Id. Bobby Len Franklin's
 3 counterclaim was dismissed for failure to exhaust administrative remedies. Id. The court also
 4 granted the United States's motion for summary judgment, and permanently enjoined Bobby
 5 Len Franklin from occupying the site or further trespassing any other land owned by the United
 6 States. Id.

7 BWD initiated the instant action on November 21, 2006, seeking an order quieting title
 8 in its favor. (Compl. (#1) ¶¶ 31-37.) BWD also seeks an permanent injunction enjoining the
 9 defendants from asserting, claiming, or setting up any right, title or interest in the property,
 10 attorney's fees and costs, and declaratory relief. Id. ¶¶ 38-58. On December 14, 2006, Bobby
 11 Len Franklin and Bobby Dean Franklin filed their answer and counterclaim, requesting the
 12 Court quiet title in their favor. (Bobby Len Franklin and Bobby Dean Franklin Ans. (#11).) The
 13 same day, Bobby Len Franklin and Bobby Dean Franklin filed third-party complaint against the
 14 United States. (Third-Party Compl. (#14).) On December 26, 2006, Robert Lee Franklin filed
 15 his answer and counterclaim asserting ownership in a portion of the property. (Robert Lee
 16 Franklin Ans. (#16).) On February 2, 2007, Donna Sue Owens filed her answer and
 17 counterclaim also asserting ownership in a portion of the property. (Donna Sue Owens Ans.
 18 (#26).) On September 28, 2007, the Court dismissed Bobby Len Franklin and Bobby Dean
 19 Franklin's third-party complaint for lack of subject matter jurisdiction. (Order (#62).) The Court
 20 based its decision on Bobby Len Franklin and Bobby Dean Franklin's failure to appeal the
 21 denials of their DLE applications. Id. at 4. On February 8, 2008, the Court denied Bobby Len
 22 Franklin's motion for reconsideration. (Order (#83).) BWD now seeks an order granting
 23 summary judgment in its favor, as well as a declaratory judgment and permanent injunction.
 24 (Mot. Summ. J. (#93) 10-11.) The only party to oppose the motion is Bobby Len Franklin.¹

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¹On March 9, 2007, the United States filed a suggestion of death in which it states that Bobby
 Dean Franklin died during the course of the instant litigation. (Suggestion of Death (#43) 1-2.) On
 November 5, 2007, the Court entered an order allowing the substitute of Shirley Eckles as Special
 Administratrix for purposes of this suit. (Order (#69) 5.) On March 26, 2008, the Court granted Donna
 Sue Owens's motion to substitute Bobby Len Franklin in her place because she quitclaimed her interest
 in a portion of the property at issue to Bobby Len Franklin. (Order) (#97) 1-2.) Thus, Bobby Len

II. Legal Standard

Summary judgment "shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(c). The burden of demonstrating the absence of a genuine issue of material fact lies with the moving party, and for this purpose, the material lodged by the moving party must be viewed in the light most favorable to the nonmoving party. Adickes v. S.H. Kress & Co., 398 U.S. 144, 157 (1970); Martinez v. City of Los Angeles, 141 F.3d 1373, 1378 (9th Cir. 1998). A material issue of fact is one that affects the outcome of the litigation and requires a trial to resolve the differing versions of the truth. Lynn v. Sheet Metal Workers Int'l Ass'n, 804 F.2d 1472, 1483 (9th Cir. 1986); S.E.C. v. Seaboard Corp., 677 F.2d 1301, 1306 (9th Cir. 1982).

If the moving party presents evidence that would call for judgment as a matter of law at trial if left uncontroverted, then the respondent must show by specific facts the existence of a genuine issue for trial. Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 250 (1986). "[T]here is no issue for trial unless there is sufficient evidence favoring the nonmoving party for a jury to return a verdict for that party. If the evidence is merely colorable, or is not significantly probative, summary judgment may be granted." Id. at 243-50 (citations omitted). "A mere scintilla of evidence will not do, for a jury is permitted to draw only those inferences of which the evidence is reasonably susceptible; it may not resort to speculation." British Airways Board v. Boeing Co., 585 F.2d 946, 952 (9th Cir. 1978); see also Daubert v. Merrell Dow Pharmaceuticals, Inc., 509 U.S. 579, 596 (1993) ("[I]n the event the trial court concludes that the scintilla of evidence presented supporting a position is insufficient to allow a reasonable juror to conclude that the position more likely than not is true, the court remains free . . . to grant summary judgment."). Moreover, "[I]f the factual context makes the non-

Franklin's opposition can be construed as opposing the motion on behalf of himself, as well as the interests originally asserted by Donna Sue Owens. Because the issues presented in the opposition are common to the claims of Bobby Dean Franklin's estate and Robert L. Franklin, however, the Court will consider the opposition as filed on their behalf as well.

moving party's claim of a disputed fact implausible, then that party must come forward with more persuasive evidence than otherwise would be necessary to show there is a genuine issue for trial." Blue Ridge Ins. Co. v. Stanewich, 142 F.3d 1145, 1143 (9th Cir. 1998) (citing Cal. Architectural Bldg. Products, Inc. v. Franciscan Ceramics, Inc., 818 F.2d 1466, 1468 (9th Cir. 1987)). Conclusory allegations that are unsupported by factual data cannot defeat a motion for summary judgment. Taylor v. List, 880 F.2d 1040, 1045 (9th Cir. 1989).

III. Discussion

In this action, BWD seeks to quiet title to the property identified in the patents issued to it by the United States. In a quiet title action under Nevada law, "the burden of proof rests with the plaintiff to prove good title in himself." Breliaut v. Preferred Equities Corp., 112 Nev. 663, 669, 918 P.2d 314, 318 (1996) (citations omitted). It is undisputed that BWD received patent 27-2006-0071, patent 27-2006-0070, and patent 27-2006-0069 from Laughlin, who received them from the United States at auction. (Opp'n (#100) 2-3.) That notwithstanding, the defendants contend that both Bobby Len Franklin and Bobby Dean Franklin properly obtained an interest in the land upon which they originally filed their DLE applications, and therefore to the extent that land falls within the boundaries of what the United States patented to Laughlin, the Court should quiet title in their favor. (Opp'n (#100) 2.)

"When the regulations governing an administrative decision-making body require that a party exhaust its administrative remedies prior to seeking judicial review, the party must do so before the administrative decision may be considered final and the district court may properly assume jurisdiction." Doria Mining and Eng'g Corp. v. Morton, 608 F.2d 1255, 1257 (9th Cir. 1979), cert. Denied, 455 U.S. 962 (1980). Under Department of Interior regulations, a potential plaintiff must exhaust administrative remedies before any administrative decision is subject to judicial review. 43 C.F.R. § 4.21(c). The disposition of public lands is subject to review by the IBLA. 43 C.F.R. § 4.1(b)(3)(i). Therefore, exhaustion of administrative remedies only occurs upon disposition of such an appeal by the IBLA. Id. § 4.21(c). The Franklins' DLE applications of 1988 and 1989 were denied by BLM. (Mot. Summ. J. Exs. 2, 7.) The Franklins, though, did not appeal the decisions to the IBLA. Instead, they immediately filed

1 suit in federal court. Id. at Exs. 4, 8. As a result, the Franklins failed to exhaust their
2 administrative remedies. Because the Franklins failed to exhaust their administrative remedies
3 as to their original DLE applications, any claim to an interest in the property asserted on the
4 basis of the Franklins' alleged ownership of parcels described in those applications must fail.
5 Therefore, the defendants have no right, title or interest in the property.

6 Because the defendants have no right, title or interest in the property, the documents
7 recorded with the Clark County Recorder's office constitute a cloud on title. The Court,
8 therefore, declares those documents to be null and void and hereby orders them expunged
9 from the record. Furthermore, the Court finds that BWD is entitled to a permanent injunction
10 preventing the defendants from further clouding title. "To obtain permanent injunctive relief,
11 a plaintiff must show '(1) that it has suffered an irreparable injury; (2) that remedies available
12 at law, such as monetary damages, are inadequate to compensate for the injury; (3) that,
13 considering the balance of hardships between the plaintiff and defendant, a remedy in equity
14 is warranted; and (4) that the public interest would not be disserved by a permanent
15 injunction.'" Geertson Seed Farms v. Johanns, No. 07-16458, Slip Op. 12009, 12023 (9th Cir.
16 Sept. 2, 2008) (citations omitted).

17 Here, BWD has suffered irreparable injury insofar as the defendants have continually
18 clouded the title of the property with unfounded recordings. Moreover, the possibility of future
19 unfounded recordings could make it difficult for BWD to obtain title insurance or convey clean
20 title. The remedies available at law are not sufficient because they will not compensate BWD
21 for the ramifications of improper recordings—e.g., the difficulties associated with potentially
22 conveying such property to a third party. The balance of hardships favors BWD because an
23 injunction prohibiting future recordings will work no harm on the defendants, who have no
24 rights in the property. The public will not be disserved. Rather, preserving the integrity of the
25 title of the property is in the benefit of the public. Therefore, the defendants are enjoined from
26 further clouding BWD's title by filing recordings related to their purported interest in the
27 property. BWD's request for attorney's fees is denied.
28

IV. Conclusion

In accordance with the foregoing, the Court orders as follows:

IT IS ORDERED that BWD's Motion for Summary Judgment (#93) is GRANTED.

IT IS DECLARED that Defendants, and anyone claiming under or through them, have no right, title or interest in or to the property described in patent 27-2006-0071, patent 27-2006-0070, and patent 27-2006-0069 on the basis of DLE applications N-49548 and N-52292.

IT IS FURTHER DECLARED that Plaintiffs are the 100% fee simple owners of the property described in patent 27-2006-0071, patent 27-2006-0070, and patent 27-2006-0069.

IT IS FURTHER DECLARED that all instruments, documents, and claims recorded by or on behalf of Defendants against the property in the office of the Clark County Recorder are null and void.

IT IS FURTHER ORDERED that the documents recorded in the Clark County Recorder's Office against the property, described here as Notice of Lis Pendens (recorded October 6, 1999), Notice of Statutory Lien (recorded October 12, 1999), Notice of Lien (recorded October 12, 1999), Joint Notice of Artisans Lien (recorded October 18, 1999), Agreement to Sell Real Estate (recorded September 23, 2002), Agreement to Sell Real Estate (recorded October 11, 2002), Notice of Abeyance (recorded May 4, 2005), and Notice of Joint Trespass (recorded April 13, 2006) are ordered expunged from the record of all such instruments or documents filed in the office of the Clark County Recorder.

IT IS FURTHER ORDERED that Defendants, and anyone claiming under or through them, are permanently enjoined from asserting, claiming, or setting up any right, title, or interest in or to the property described in patent 27-2006-0071, patent 27-2006-0070, and patent 27-2006-0069 under the DLE, applications N-49548 and N-52292, or on any other ground or basis.

IT IS FURTHER ORDERED that Defendants, and anyone claiming under or through them, are enjoined from filing any instruments, documents, and claims in the office of the Clark

1 County Recorder that would slander, interfere with, compromise, or cloud Plaintiffs' title to the
2 property.

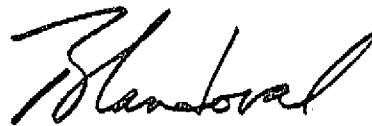
3 THE CLERK is ORDERED to enter judgment in favor of Plaintiffs and against
4 Defendants on Plaintiffs' claims.

5 THE CLERK is further ORDERED to enter judgment in favor of Plaintiffs and against
6 Defendants on Defendants' counterclaims.

7 IT IS FURTHER ORDERED that Plaintiff Bobby Len Franklin's Motion to Consolidate
8 Cases (#66) is DENIED as moot.

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10 THE CLERK is ORDERED to CLOSE THE CASE.

11 DATED: This 29th day of September, 2008.

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15 UNITED STATES DISTRICT JUDGE
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EXHIBIT “D”

FILED

NOT FOR PUBLICATION

DEC 16 2009

UNITED STATES COURT OF APPEALS

**MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS**

FOR THE NINTH CIRCUIT

BWD PROPERTIES 2, LLC; et al.,

No. 08-17643

**Plaintiffs-counter-defendants -
Appellees,**

D.C. No. 2:06-cv-01499-BES-PAL

v.

MEMORANDUM*

**BOBBY LEN FRANKLIN, DBA
Daydream Land & Systems Development
Company; et al.,**

**Defendants-counter-claimants
- Appellants,**

v.

**SHIRLEY ECKLES, Special
Administratrix of the Estate of Bobby
Dean Franklin; et al.,**

**Third-party-defendant -
Appellees.**

**Appeal from the United States District Court
for the District of Nevada**

*** This disposition is not appropriate for publication and is not precedent
except as provided by 9th Cir. R. 36-3.**

NW/Research

Brian E. Sandoval, District Judge, Presiding

Submitted November 17, 2009**

Before: ALARCÓN, TROTT, and TASHIMA, Circuit Judges.

Bobby Len Franklin and Robert Lee Franklin appeal pro se from the district court's judgment dismissing their third-party complaint against the United States, granting summary judgment in favor of BWD Properties 2, 3, and 4 ("BWD"), and permanently enjoining the Franklins from clouding title to certain lands in Nevada. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

The district court properly dismissed the third-party claims against the United States because the Franklins failed to exhaust the required administrative procedures and the district court therefore lacked subject matter jurisdiction. *See Doria Mining and Eng'g Corp. v. Morton*, 608 F.2d 1255, 1257 (9th Cir. 1979) ("When the regulations governing an administrative decision-making body require that a party exhaust its administrative remedies prior to seeking judicial review, the party must do so before the administrative decision may be considered final and the district court may properly assume jurisdiction."); *United States v. Alisal Water Corp.*, 431 F.3d 643, 650 (9th Cir. 2005) (stating de novo standard of review). We

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

previously rejected the Franklins' contentions regarding the Confirmation Statute, 43 U.S.C. § 1165, and *Stockley v. United States*, 260 U.S. 532 (1923), and they remain unavailing. See *Franklin v. United States*, 46 F.3d 1140 (9th Cir. Jan. 10, 1995) (unpublished mem.); *Franklin v. United States*, 46 F.3d 1141 (9th Cir. Jan. 10, 1995) (unpublished mem.).

The district court did not abuse its discretion by denying the Franklins' motion to reconsider. See *Sch. Dist. No. 1J, Multnomah County, Or. v. ACandS, Inc.*, 5 F.3d 1255, 1262-63 (9th Cir. 1993) (stating standard of review and grounds for relief). To the extent the Franklins sought to bring a claim under the Quiet Title Act, it was time-barred because they knew of the interest of the United States in 1993 or earlier, but commenced the action more than twelve years later. See 28 U.S.C. § 2409a(g) ("Any civil action under this section . . . shall be barred unless it is commenced within twelve years of the date upon which it accrued. Such action shall be deemed to have accrued on the date the plaintiff . . . knew or should have known of the claim of the United States.").

The district court properly granted summary judgment on the claims made by BWD because BWD offered undisputed evidence that they owned the properties over which they sought to quiet title, and the Franklins failed to raise a triable issue of their own cognizable interest in these properties. See *Brelliant v.*

Preferred Equities Corp., 918 P.2d 314, 318 (Nev. 1996) (per curiam) (stating burden of proof under Nevada law); *Alisal Water*, 431 F.3d at 651 (stating de novo standard of review for summary judgment).

The district court correctly determined that the various documents recorded by the Franklins were a cloud on the title of BWD's property and ordered the documents expunged, and did not abuse its discretion when it granted a permanent injunction against the Franklins. *See N. Cheyenne Tribe v. Norton*, 503 F.3d 836, 843 (9th Cir. 2007) (stating standard of review and listing factors to be considered for injunctive relief).

The Franklins' remaining contentions, including those regarding the denial of their motion to present supposedly new evidence, their proposed joint pre-trial order, and the substitution of Shirley Eckles, are unpersuasive.

AFFIRMED.

EXHIBIT “E”

FILED

JAN 18 2011

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY DEPUTY CLERK

BOBBY L. FRANKLIN,

Plaintiff,

v.

D.J. LAUGHLIN, d/b/a BWD Properties 2,
LLC, a Nevada Limited Liability Company,
d/b/a BWD Properties 3, LLC, a Nevada
Limited Liability Company, d/b/a BWD
Properties 4, LLC, a Nevada Limited
Liability Company; and
UNITED STATES,

Defendants.

CIVIL ACTION NO.

SA-10-CV-1027 XR

REPORT AND RECOMMENDATION

TO: Honorable Xavier Rodriguez
United States District Judge

This report and recommendation recommends dismissing this case. Previously, the district judge referred to me plaintiff Bobby L. Franklin's motion to proceed in forma pauperis (IFP).¹ In considering the motion, I observed that this case is appropriately dismissed under 28 U.S.C. § 1915(e). Section 1915(e) directs the court to dismiss an IFP proceeding at any time if the court determines that the action is frivolous or malicious, or fails to state a claim on which relief may be granted.² Similarly, the "district court may dismiss an action on its own motion

¹Docket entry # 1.

²28 U.S.C. § 1915(e). See *Newsome v. E.E.O.C.*, 301 F.3d 227, 232 (5th Cir. 2002) (affirming dismissal of pro se plaintiff's Title VII claim under section 1915(e)); *Gant v. Lockheed Martin Corp.*, 152 Fed. App'x 396, 397 (5th Cir. 2005) (affirming dismissal of non-prisoner's claim under section 1915(e)). But see *Allen v. Fuselier*, No. 01-30484, 2001 WL 1013189, at *1 (5th Cir. 2001) (determining that section 1915(e)(2)(B)(i) & (ii) do not apply to an INS detainee because he is not a prisoner under the Prison Litigation Reform Act and then affirming the

under Rule 12(b)(6) [of the Federal Rules of Civil Procedure] 'as long as the procedure employed is fair.'"³ Analyzing the merits of a plaintiff's claim in a report and recommendation and giving the plaintiff an opportunity to object to the recommendation is a fair process for dismissing a case.

Franklin seeks to sue defendants D.J. Laughlin, d/b/a BWD Properties 2 LLC, BWD Properties 3 LLC, BWD Properties 4 LLC, and the United States. In considering Franklin's motion, I observed that in District of Nevada Cause No. 07-CA-1400, Chief United States District Judge Roger L. Hunt enjoined Franklin from filing a civil action based on Franklin's 1988 Desert Land Entry (DLE) application or the property at issue in that application without first obtaining leave of court. Chief Judge Hunt instructed Franklin to submit a copy of the injunction order with any proposed future complaint, and certify and demonstrate that the claims he wishes to present are new claims never before raised and disposed of by any federal court.⁴

Chief Judge Hunt warned Franklin that he may be found in contempt of court if he failed to certify, or falsely certified, to the same. Because these instructions are clear about what is required to pursue a future claim, Franklin's motion presents the following question: Does Franklin seek to pursue a claim based on his 1988 DLE application or the property at issue in that application? Franklin's proposed complaint answers the question—the answer is "yes."

In the proposed complaint, Franklin asserted that this court has jurisdiction over the

dismissal of the detainee's claim under Federal Rule of Civil Procedure 12(b)(6)).

³*Bazrow v. Scott*, 136 F.3d 1053, 1054 (5th Cir. 1998). See *Carroll v. Fort James Corp.*, 470 F.3d 1171, 1177 (5th Cir. 2006) (explaining that the "district court may dismiss a complaint on its own for failure to state a claim" so long as a fair procedure is employed).

⁴See attached pre-filing injunction order in Cause No. 07-CV-1400 (D. Nev.).

United States as a defendant “to independently review and relieve the false court *proceedings* that ended on November 29, 2010.” Franklin identified that date—November 29, 2010—as the day the Supreme Court of the United States “denied reconsideration of its order denying Franklin leave to proceed in forma pauperis, which ended the *proceedings* under F.R.C.P. 60(b).”

Franklin’s motion to proceed IFP was part of his effort to challenge an order in which Chief Judge Hunt dismissed Franklin’s claims about his 1988 DLE application for lack of subject matter jurisdiction because Franklin failed to exhaust his administrative remedies.⁵ Franklin’s reference to “F.R.C.P. 60(b)” refers to Rule 60 of the Federal Rules of Civil Procedure. Rule 60 permits the district court to “relieve a party or its legal representative from a final judgment, order, or proceeding” for specified reasons. Franklin’s proposed complaint in this case shows he seeks relief from Chief Judge Hunt’s dismissal order.

In the proposed complaint, Franklin alleged that he purchased 80 acres of public land from the Department of the Interior in 1988 under the Desert Land Act. Under that statute,⁶ “individuals may apply for a desert-land entry to reclaim, irrigate, and cultivate arid and semiarid public lands.”⁷ If an applicant meets the statute’s final proof requirements, the Bureau of Land Management will issue a patent giving the applicant legal title to the land. Franklin complained in his proposed complaint that his patent application was denied. He complained further that

⁵See attached dismissal order in Cause No. 07-CV-1400 (D. Nev.).

⁶43 U.S.C. §§ 323-339.

⁷On March 3, 1877, the Desert Land Act was passed . . . to encourage and promote the economic development of the arid and semiarid public lands of the Western United States. Through the Act, individuals may apply for a desert-land entry to reclaim, irrigate, and cultivate arid and semiarid public lands.” U.S. Dep’t of Interior, Bureau of Land Mgmt., *available at* http://www.blm.gov/wo/st/en/prog/more/lands/desert_land_entries.html.

named defendants BWD corporations sought to quiet title on the land in the Nevada district court. He alleged that the Nevada district court falsely stated that he failed to exhaust his administrative remedies in administrative case nos. IBLA 96-111 and 96-163, and granted summary judgment in favor of BWD. Franklin alleged that the Nevada district court "wrongfully transferred Franklin's eighty acres of real property onto BWD, by falsely stating Franklin did not exhaust his administrative remedies. . . ." As relief, Franklin would ask the district court to "review the evidence to be re-filed, and relieve [Franklin] from all Court proceedings that falsely state Franklin failed to exhaust administrative remedies." These allegations show that Franklin seeks to pursue a claim based on his 1988 DLE application or the property at issue in that application, because he complains about 80 acres purchased under the Desert Land Act and the disposition of his application for a land patent. In addition, the proposed complaint shows that Franklin seeks to challenge Chief Judge Hunt's dismissal order, because the complaint refers to the order and complains about 80 acres of land purchased under the Desert Land Act. Because he seeks to pursue a claim based on his 1988 DLE application and/or the property at issue in that application, Franklin's case is foreclosed.

Chief Judge Hunt's dismissal order traced Franklin's protracted litigation history challenging the denial of his 1988 DLE application. In his complaint in that case,⁸ Franklin characterized defendants named in this case—Don Laughlin and BWD Properties—as co-conspirators to joint trespass on the land. Franklin stated that he had sought to resolve the dispute by seeking relief from the proper administrative officials in case nos. IBLA 96-111 and 96-163. About that effort, Chief Judge Hunt explained the following:

⁸See attached complaint in Cause No. 07-CV-1400 (D. Nev.).

In this, Plaintiff's seventh lawsuit regarding the denial of his 1988 DLE application, Plaintiff again asserts no basis on which to grant relief. This Court and others have found that Plaintiff's failure to exhaust his administrative remedies deprives them of subject matter jurisdiction to hear his claim. Additionally, this Court and others have found that even if it had jurisdiction, Plaintiff's claim would nevertheless be barred by both the statute of limitations and the doctrine of res judicata. The Court need not explain, yet again, the justifications for its findings. . . . Accordingly, the case is dismissed with prejudice.

Like the Nevada district court, this court need not explain why Franklin may not pursue a claim based on Franklin's 1988 DLE application or the property at issue in that application. The Nevada courts have provided Franklin with sufficient explanation. Rather than accept the explanation, Franklin seeks to use Rule 60(b) to avoid the result in Nevada district court. The Fifth Circuit has explained that "[t]ypically, relief under Rule 60(b) is sought in the court that rendered the judgment at issue."⁹ Moreover, the Fifth Circuit explained that, "Traditional rules of preclusion as adopted in federal case law—whether under the doctrine of collateral estoppel or res judicata—require that the party to be estopped from re-litigating a claim have had a full and fair opportunity to litigate the issue."¹⁰

Chief Judge Hunt's injunction order is clear. Franklin may not file another civil action based on his 1988 DLE application or the property at issue in that application without first obtaining leave of court. To obtain leave of court, Franklin must submit a copy of Chief Judge Hunt's injunction order with any proposed future complaint and certify and demonstrate that the claims he wishes to present are new claims never before raised and disposed of by any federal court. Although Franklin's proposed complaint in this case shows that he seeks to file a civil

⁹*Harper Macleod Solicitors v. Keaty & Keaty*, 260 F.3d 389, 394 (5th Cir. 2001).

¹⁰*Harper Macleod Solicitors*, 260 F.3d at 395.

action based on his 1988 DLE application and/or the property at issue in that application, Franklin did not submit a copy of the injunction order or certify and demonstrate that the claims he wishes to present are new claims never before raised and disposed of by any federal court. Moreover, the Ninth Circuit addressed the issues presented in Franklin's proposed complaint in Franklin's appeal of Chief Judge Hunt's dismissal order. The Ninth Circuit affirmed the dismissal of Franklin's claims, as well as the pre-filing injunction.¹¹

Based on the foregoing, a Rule 11 warning is appropriate. Rule 11 requires a party to certify that his claims are warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law or for establishing new law.¹² Franklin knows his claims are frivolous because Chief Judge Hunt has repeatedly explained why the court lacks jurisdiction over Franklin's claim about the 1988 DLE application and the property at issue in that application.¹³ Franklin violated Rule 11's requirement in this case by pursuing claims already presented in the Nevada district court and by pursuing claims for which a federal court lacks jurisdiction. This effort is not a new strategy for Franklin. While living in Arizona, Franklin sought to avoid Chief Judge Hunt's decision by relying on Rule 60(b) and asking the District of Arizona for a writ of mandamus.¹³ The District of Arizona dismissed Franklin's complaint with prejudice. Franklin now resides in Texas. He should not be permitted to continue his challenges

¹¹See attached Ninth Circuit opinion.

¹²Fed. R. Civ. P. 11(b)(2).

¹³See also attached dismissal order in Cause No. CV-S-04-0128-RLH & summary judgment order in Cause No. 06-CV-1499-BSE-PAL.

¹⁴See attached orders in Cause No. CV-05-3719-PHX-NVW (D. Ariz.).

in Texas. Rule 11 permits the court to sanction a party who violates Rule 11.¹⁴ Because Franklin may be unaware of the consequences of frivolous claims, I recommend warning him about Rule 11's requirements and the consequences of non-compliance.

Recommendation. Because Franklin seeks to pursue a claim based on his 1988 DLE application and/or the property at issue in that application, and because Franklin did not comply with Chief Judge Hunt's instructions—because he failed to submit a copy of the injunction order, and failed to certify and demonstrate that the claims he wishes to present are new claims never before raised and disposed of by any federal court—I recommend DENYING the motion for IFP status (docket entry #s 1 & 3) and DISMISSING this claim with prejudice. I also recommend dismissing this case because traditional rules of preclusion estop a litigant from re-litigating a claim for which he has had a full and fair opportunity to litigate. Finally, I recommend warning Franklin under Rule 11 about the possibility of sanctions for filing frivolous pleadings in Texas

federal courts. To the extent Franklin may complain about a lack of notice that the court is considering dismissing this case, Franklin should consider this report and recommendation as notice. Dismissing this case will moot Franklin's motion for leave to file papers electronically (docket entry # 4).

Instructions for Service and Notice of Right to Object/Appeal. The United States District Clerk shall serve a copy of this report and recommendation on all parties by either (1) electronic transmittal to all parties represented by attorneys registered as a "filing user" with the clerk of court, or (2) by mailing a copy to those not registered by certified mail, return receipt

¹⁴Fed. R. Civ. P. 11(c) ("If, after notice and a reasonable opportunity to respond, the court determines that Rule 11(b) has been violated, the court may impose an appropriate sanction on any . . . party that violated the rule or is responsible for the violation.").

requested. Written objections to this report and recommendation must be filed within 14 days after being served with a copy of same, unless this time period is modified by the district court.¹⁵

Such party shall file the objections with the clerk of the court, and serve the objections on all other parties and the magistrate judge. A party filing objections must specifically identify those findings, conclusions or recommendations to which objections are being made and the basis for such objections; the district court need not consider frivolous, conclusive or general objections.

A party's failure to file written objections to the proposed findings, conclusions and recommendations contained in this report shall bar the party from a *de novo* determination by the district court.¹⁶ Additionally, failure to file timely written objections to the proposed findings, conclusions and recommendations contained in this memorandum and recommendation shall bar the aggrieved party, except upon grounds of plain error, from attacking on appeal the unobjected-to proposed factual findings and legal conclusions accepted by the district court.¹⁷

SIGNED on January 13, 2011.

Nancy Stein Nowak

NANCY STEIN NOWAK
UNITED STATES MAGISTRATE JUDGE

¹⁵28 U.S.C. §636(b)(1); Fed. R. Civ. P. 72(b).

¹⁶*Thomas v. Arn*, 474 U.S. 140, 149-152 (1985); *Acuña v. Brown & Root*, 200 F.3d 335, 340 (5th Cir. 2000).

¹⁷*Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1428-29 (5th Cir. 1996).

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Case 5:10-cv-01027 Document 10-

Filed 02/15/2011 Page 1 of 6

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

BOBBY L. FRANKLIN.

Plaintiff,

Y. .

Civil Action No. SA-10-CV-1027-KR

**B.J. LAUGHLIN, d/b/a BWD PROPERTIES
2, LLC, D/B/A/ BWD PROPERTIES 3,
LLC, D/B/A BWD PROPERTIES 4, LLC;
AND UNITED STATES**

Defendants.

**ORDER ACCEPTING UNITED STATES
MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

On this date the Court considered the United States Magistrate Judge's Report and Recommendation (Docket Entry No. 5) and Plaintiff's objections thereto (Docket Entry No. 9).

After careful consideration, the Court will accept the recommendation and dismiss this case.

Background

Franklin filed a motion to proceed in forma pauperis (IFP) on Dec. 20, 2010.¹ Upon Magistrate Judge Nowak's order, he filed an amended motion on Jan. 4, 2011,² and he also filed a motion for leave to file electronically at that time.³ Franklin's proposed complaint seeks to sue defendants based on the denial of his land patent applications for land purchased from the

¹Mot. to Proceed JPP, Dec. 20, 2010 (Docket Entry No. 1).

²Am. Mgt. to Proceed IFP, Jan. 4, 2011 (Docket Entry No. 3).

¹Ex Parte Mot. for Leave to File Electronically, Jan. 4, 2011 (Docket Entry No. 4).

Department of the Interior in 1988 under the Desert Land Act. He also asserts that in 2008, a Nevada district court order falsely stated that he failed to exhaust administrative remedies.⁴ He alleges that the order "wrongfully transferred Franklin's eighty acres of real property onto BWD, by falsely stating Franklin did not exhaust his administrative remedies..." and requests that this Court "review the evidence to be re-filed, and relieve [Franklin] from all Court proceedings that falsely state Franklin failed to exhaust administrative remedies." Franklin appears to rely on Fed. R. Civ. P. 60(b) to bring this challenge.⁵

On April 21, 2008, Chief Judge Hunt of the District of Nevada issued an injunction requiring Franklin to present any future complaints, along with a copy of the injunction order, to Chief Judge Hunt for screening before he may file any other lawsuit based on his 1988 Desert Land Entry application or the property at issue in that application.⁶ Franklin did not file such a petition for leave with Chief Judge Hunt before filing this lawsuit in this Court.

Judge Nowak issued her Report and Recommendation on January 13, 2011, recommending that Franklin's IFP motion be denied, that his claim and this case be dismissed, and that this Court warn Franklin under Rule 11 of the potential sanctions for filing frivolous pleadings in federal courts.⁷ Her report concludes that Franklin's claim is foreclosed because it arises from his 1988 DLE

⁴ See Franklin v. Chatterton, et al., Order, Case No. 2:07-CV-01400-RLH-RJH (D. Nev. Feb. 12, 2008).

⁵ Rule 60(b) permits a district court to "relieve a party or its legal representative from a final judgment, order, or proceeding" for certain specified reasons. Fed. R. Civ. P. 60(b).

⁶ Franklin v. Chatterton, et al., Order and Injunction Case no. 2:07-CV-01400-RLH-RJJ (D. Nev. Apr. 21, 2008).

⁷ Report and Recommendation, Jan. 13, 2011 (Docket Entry No. 5).

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application and/or the property at issue in that application, and thus falls within Chief Judge Hunt's injunction. Franklin filed objections to Judge Nowak's report on January 25, 2011, within the 14 day deadline.³ See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b).

Legal Standard

Where no party has objected to the Magistrate Judge's Report and Recommendation, the Court need not conduct a de novo review of it. See 28 U.S.C. § 636(b)(1) ("A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings and recommendations to which objection is made"). In such cases, the Court need only review the Report and Recommendation and determine whether it is either clearly erroneous or contrary to law. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989). On the other hand, any Report or Recommendation that is objected to requires de novo review. Such a review means that the Court will examine the entire record and will make an independent assessment of the law. The Court need not, however, conduct a de novo review when the objections are frivolous, conclusory, or general in nature. *Battle v. United States Parole Commission*, 834 F.2d 419, 421 (5th Cir. 1987). In this case, Plaintiff objected to the Magistrate Judge's recommendation; so the Court will conduct a de novo review.

Analysis

Plaintiff's sole objection is that each of the cases on his prior claims "falsely state[s] that Franklin did not exhaust (his land patent) administrative remedies, and each case mistakenly omits any discussion, review or disposition on Franklin's land patent rights that were exhausted in the final

³Pl.'s Objections to Magistrate's Report and Recommendation, Jan. 25, 2011 (Docket Entry No. 9).

IBLA 95-111, 96-163 administrative proceedings and order.¹⁰ This assertion merely restates his claim for relief. It does not excuse Franklin from Chief Judge Hunt's injunction.

Neither does Franklin's attempt to bring a claim based on Rule 60(b) to challenge the prior dismissal of his claims excuse him from the injunction. As Judge Nowak noted, such challenges are typically brought in the court that rendered the judgment at issue.¹¹ Furthermore, Franklin has had full and fair opportunity to litigate this issue in numerous prior cases.¹² As Chief Judge Hunt's order concluded:

In this, Plaintiff's seventh lawsuit regarding the denial of his 1988 DLE application, Plaintiff again asserts no basis on which to grant relief. This Court and others have found that Plaintiff's failure to exhaust his administrative remedies deprives them of the subject matter jurisdiction to hear this claim. Additionally, this Court and others have found that even if it had jurisdiction, Plaintiff's claim would nevertheless be barred by both the statute of limitations and the doctrine of res judicata.

Finally, the Ninth Circuit has considered the arguments Franklin seeks to raise in this case, and affirmed the dismissal of his claims as well as the pre-filing injunction.¹³

Despite raising claims based on his 1988 DLE application and/or the property at issue in that application, Franklin did not submit to Chief Judge Hunt a copy of the injunction order and proof that his claims are new claims that have never been raised or disposed of before by any federal court. Accordingly, this lawsuit is barred by the injunction.

Furthermore, Franklin has violated Fed. R. Civ. P. 11 by pursuing claims that he knows or

¹⁰Pl.'s Objections at 1.

¹¹See *Harper Maclean Solicitors v. Keaty & Keaty*, 260 F.3d 389, 394 (5th Cir. 2001).

¹²See *id.* at 395.

¹³*Franklin v. Chatterton, et al.*, Case No. 08-16439 (9th Cir. Dec. 16, 2009).

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Filed 02/15/2011 Page 6 of 5

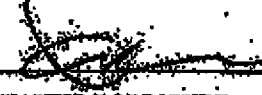
should know to be frivolous, due to repeated explanations by Chief Judge Hunt that the court lacks jurisdiction over these claims, Franklin did not respond or object to Judge Nowak's conclusion that he has violated Rule 11. The Court warns Franklin that the Court may sanction him if he again violates Rule 11 by filing frivolous claims before this Court.¹³ Such sanctions may include withdrawing his ability to appear before this Court, or monetary penalties, among others, as necessary to deter repetition of the conduct violating Rule 11.¹⁴

Conclusion

For the reasons discussed herein, the Court **ACCEPTS** the Magistrate Judge's recommendation, **DENIES** Franklin's motion to proceed **IFE**, **DISMISSES** this claim with prejudice, and formally warns Franklin that he may be subject to Rule 11 sanctions if he continues to raise frivolous claims before this Court.

It is so **ORDERED**.

SIGNED this 15th day of February, 2011.


XAVIER RODRIGUEZ
UNITED STATES DISTRICT JUDGE

¹³ Fed. R. Civ. P. 11(e).

¹⁴ See *Id.*

EXHIBIT “F”

Case 5:10-cv-01027 Document 18

Filed 11/18/2011 Page 1 of 4
United States Court of Appeals
Fifth Circuit

UNITED STATES COURT OF APPEALS

FILED

September 28, 2011

FOR THE FIFTH CIRCUIT

Lyle W. Cayce
Clerk

No. 11-60207
Summary Calendar

D.C. Docket No. 5:10-CV-1027

FILED

NOV 18 2011

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY [Signature]
DEPUTY CLERK

BOBBY L. FRANKLIN,

Plaintiff - Appellant

v.
D. J. LAUGHLIN, doing business as BWD Properties 2, L.L.C., a Nevada
Limited Liability Company, doing business as BWD Properties 3, L.L.C., a
Nevada Limited Liability Company, doing business as BWD Properties 4,
L.L.C., a Nevada Limited Liability Company; UNITED STATES OF
AMERICA,

Defendants - Appellees

Appeal from the United States District Court for the
Western District of Texas, San Antonio

Before HIGGINBOTHAM, DAVIS, and ELROD, Circuit Judges.

J U D G M E N T

This cause was considered on the record on appeal and the briefs on
file.

It is ordered and adjudged that the appeal is dismissed as frivolous.

ISSUED AS MANDATE: 11 NOV 2011

A True Copy
Attest

Clerk, U.S. Court of Appeals, Fifth Circuit

By: [Signature]
Deputy

New Orleans, Louisiana 11 NOV 2011

A

EXHIBIT “G”

Supreme Court of the United States
Office of the Clerk
Washington, DC 20543-0001

March 19, 2012

William K. Suter
Clerk of the Court
(202) 479-3011

Clerk
United States Court of Appeals for the Fifth Circuit
600 S. Maestri Place
New Orleans, LA 70130

Re: Bobby L. Franklin
v. D. J. Laughlin, et al.
No. 11-8263
(Your No. 11-50207)

Dear Clerk:

The Court today entered the following order in the above-entitled case:

~~The motion of petitioner for leave to proceed *in forma pauperis* is denied, and the petition for a writ of certiorari is dismissed. See Rule 39.8. As the petitioner has repeatedly abused this Court's process, the Clerk is directed not to accept any further petitions in noncriminal matters from petitioner unless the docketing fee required by Rule 38(a) is paid and the petition is submitted in compliance with Rule 33.1. See *Martin v. District of Columbia Court of Appeals*, 506 U.S. 1 (1992) (*per curiam*).~~

Sincerely,


William K. Suter, Clerk

EXHIBIT “H”

RECORDING COVER PAGE

(Must be typed or printed clearly in BLACK ink only
and avoid printing in the 1" margins of document)

APN# 264-16-000-002

(11 digit Assessor's Parcel Number may be obtained at:
<http://redrock.co.clark.nv.us/assrealprop/ownr.aspx>)

TITLE OF DOCUMENT
(DO NOT Abbreviate)

NOTICE OF ACTION TO QUIET TITLE

Document Title on cover page must appear EXACTLY as the first page of the
document to be recorded.

RECORDING REQUESTED BY:

Daydream Land & Systems Development Co

RETURN TO: Name Daydream Land & Systems Development Co

Address 526 Pecos Circle

City/State/Zip New Braunfels, TX. 78130-9127

MAIL TAX STATEMENT TO: (Applicable to documents transferring real property)

Name N/A

Address _____

City/State/Zip _____

This page provides additional information required by NRS 111.312 Sections 1-2.

An additional recording fee of \$1.00 will apply.

To print this document properly—do not use page scaling.

Inst #: 201204100002345

Fees: \$18.00

N/C Fee: \$0.00

04/10/2012 03:02:54 PM

Receipt #: 1125897

Requestor:

DAYDREAM LAND SYSTEMS DEVELOPMENT

Recorded By: MAT Pgs: 2

DEBBIE CONWAY

CLARK COUNTY RECORDER

To: D.J. Laughlin
1650 Casino Drive, PMB 500
Laughlin, NV. 89029-1512

Re: 264-16-000-002, 264-16-000-003, 264-16-000-004.

NOTICE OF ACTION TO QUIET TITLE

NOTICE of action to quiet title is hereby given, based on the following claims:

1. On 8/26/1988, my client purchased the described real property ("80 acres") from the United States ("government").
2. On 12/19/1996, my client did exhaust all administrative remedies with the government, where his *stare decisis*¹ land patent rights were dismissed.
3. On 9/29/2008, the government granted you ownership of such 80 acres, by mistakenly declaring my client "failed to exhaust administrative remedies" and is completely *void*² of my client's noted *stare decisis* rights.
4. A copy of my FFN Certificate instrument #19920323315077501 is attached.

My client's *stare decisis* land patent rights were administratively exhausted, but were never reviewed in a judicial court of law and equity.

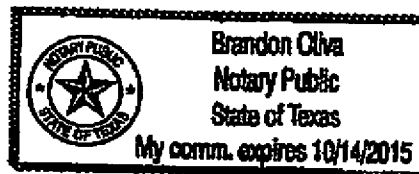
Pursuant to 28 U.S.C. 1746, I do declare and certify that the foregoing is true.

Bob L. Franklin
Daydream Land & Systems Development Co
526 Pecos Circle
New Braunfels, TX. 78130-9127

(830) 914-7954

4/4/2012
Date

State of Texas County of Comal
Subscribed and sworn before me on 4-4-12
(Date)
[Signature]
(Notary Signature)



¹ 43 U.S.C. §1165; 43 C.F.R. §1862.6; *Stockley v. United States*, 260 U.S. 532.

² Federal Rules of Civil Procedures, Rule 60(b)(4).

EXHIBIT “I”

EXHIBIT “J”

EXHIBIT “K”

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

BWD PROPERTIES 2, LLC, et al.,

Plaintiffs,

v.

BOBBY LEN FRANKLIN, et al.,

Defendants.

2:06-cv-1499-RCJ-PAL

ORDER

Currently before the Court are Plaintiffs' Motion for an Order Expunging "Notice of Action to Quiet Title" and for Sanctions against Defendant Bobby Len Franklin dba Daydream Land & System Development for Violating this Court's Order (#135), Defendants' Motion to Extend Time to Respond (#137), and Defendants' Motion for an Order to Strike Plaintiffs' Reply (#140).

BACKGROUND

The Plaintiffs in this case are BWD Properties 2, LLC; BWD Properties 3, LLC, and BWD Properties 4, LLC (collectively "BWD"). The Defendants in this case are Bobby Len Franklin, an individual and dba Daydream Land & Systems Development Company, Robert Lee Franklin, Bobby Dean Franklin, and Donna Sue Owens.

The following facts are taken from Judge Brian Sandoval's September 29, 2008 order. (See Order (#111) at 2-3). On August 18, 1988, Bobby Len Franklin filed application N-49548 under the Desert Land Entry Act ("DLE") concerning eighty acres of land located in the Southern one-half of the Southeast quarter of Section 16, Township 32 South, Range 66 East, Mount Diablo Meridian, Clark County, Nevada (the "N-49548 Property"). In October 1988, the

1 Bureau of Land Management ("BLM") denied Bobby Len Franklin's application because the
2 property was appropriated by mining claims and thus unsuitable for disposition under the DLE.
3 Bobby Len Franklin appealed the decision to the Interior Board of Land Appeals ("IBLA"),
4 which reversed and remanded to BLM for further findings because the record did not contain
5 evidence to support the conclusion that the land was mineral in character. On remand, BLM
6 denied the application. BLM advised Bobby Len Franklin of his right to appeal the decision
7 to the IBLA, and of the requirement that the appeal be filed within thirty days of receipt of the
8 decision. Bobby Len Franklin did not appeal the decision, however. Instead, he filed an action
9 against the United States in federal court. The action was dismissed for failure to exhaust
10 administrative remedies. The district court's decision was affirmed by the Ninth Circuit Court
11 of Appeals ("Ninth Circuit"). *See Franklin v. United States*, 46 F.3d 1140 (9th Cir. 1995)
12 (unpublished).

13 On November 21, 1989, Bobby Dean Franklin filed application N-52292 under the DLE
14 concerning eighty acres of land located in the Northern one-half of the Southeast quarter of
15 Section 16, Township 32 South, Range 66 East, Mount Diablo Meridian, Clark County, Nevada
16 (the "N-52292 Property"). BLM denied the application in 1993 because the lands for which the
17 application was filed were mineral in character. Bobby Dean Franklin was advised of his right
18 to appeal the decision and that his notice of appeal must be filed within thirty days of receipt
19 of the decision. Bobby Dean Franklin did not appeal. Instead, he filed an action against the
20 United States in federal court. The action was dismissed by the court for failure to exhaust
21 administrative remedies. The court's order was affirmed by the Ninth Circuit. *See Franklin v.*
22 *United States*, 46 F.3d 1141 (9th Cir. 1995).

23 In 2006, the United States granted to D.J. Laughlin title to three parcels located in Clark
24 County, Nevada ("the property"). The property included the acreage upon which the Franklins
25 had submitted their DLE applications. The three parcels were granted by way land patents,
26 including patent 27-2006-0071, patent 27-2006-0070, and patent 27-2006-0069. Patent
27 27-2006-0071 relates to real property described as the East one-half of the Southeast quarter
28 of the Southeast quarter of Section 16, township 32 South, Range 66 East, Mount Diablo

1 Meridian, Nevada. Patent 27-2006-0070 relates to land described as the West one-half of the
2 Southeast quarter of the Southeast quarter of Section 16, Township 32 South, Range 66 East,
3 Mount Diablo Meridian, Nevada. Patent 27-2006-0069 relates to property described as the
4 Southwest quarter of the Southeast quarter of Section 16, Township 32 South, Range 66 East,
5 Mount Diablo, Meridian, Nevada. Laughlin then transferred his interest in all three parcels to
6 BWD. Between 1999 and 2006, defendants had recorded multiple documents against the
7 property in the Clark County Recorder's Office.

8 In his September 2008 order, Judge Sandoval granted BWD's motion for summary
9 judgment and declared the following: (a) Defendants, and anyone claiming under or through
10 them, had no right, title or interest in or to the property described in patent 27-2006-0071,
11 patent 27-2006-0070, and patent 27-2006-0069 on the basis of DLE applications N-49548 and
12 N-52292; (b) Plaintiffs were the 100% fee simple owners of the property described in patent
13 27-2006-0071, patent 27-2006-0070, and patent 27-2006-0069; and (c) all instruments,
14 documents, and claims recorded by or on behalf of Defendants against the property in the
15 office of the Clark County Recorder were null and void. (Order (#111) at 8). Judge Sandoval
16 ordered that all documents recorded in the Clark County Recorder's Office against the
17 property were expunged from the record. (*Id.*).

18 Judge Sandoval further entered a permanent injunction stating that:

19 Defendants, and anyone claiming under or through them, are permanently
20 enjoined from asserting, claiming, or setting up any right, title, or interest in or
21 to the property described in patent 27-2006-0071, patent 27-2006-0070, and
22 patent 27-2006-0069 under the DLE, applications N-49548 and N-52292, or on
23 any other ground or basis.

22 Defendants, and anyone claiming under or through them, are enjoined from
23 filing any instruments, documents, and claims in the office of the Clark County
24 Recorder that would slander, interfere with, compromise, or cloud Plaintiffs' title
25 to the property.

24 (*Id.* at 8-9).

25 In December 2009, the Ninth Circuit affirmed. (Ninth Cir. Op. (#127) at 1-2). The Ninth
26 Circuit stated that the "district court properly granted summary judgment on the claims made
27 by BWD because BWD offered undisputed evidence that they owned the properties over
28

1 which they sought to quiet title, and the Franklins failed to raise a triable issue of their own
2 cognizable interest in these properties.” (*Id.* at 3). The Ninth Circuit further held that the
3 “district court correctly determined that the various documents recorded by the Franklins were
4 a cloud on the title of BWD’s property and ordered the documents expunged, and did not
5 abuse its discretion when it granted a permanent injunction against the Franklins.” (*Id.* at 4).

6 The pending motions now follow.

7 DISCUSSION

8 BWD files a motion to expunge the “Notice of Action to Quiet Title” that Bobby Len
9 Franklin via Daydream Land & Systems Development Co. filed with the Clark County
10 Recorder’s Office on April 10, 2012, in violation of this Court’s September 2008 order. (Mot.
11 to Expunge (#135) at 3; Notice of Action to Quiet Title (#135) at 12-13). BWD seeks an order
12 that expunges the notice and sanctions Bobby Len Franklin for intentionally violating this
13 Court’s order. (Mot. to Expunge (#135) at 3). BWD seeks a civil sanction and an award of
14 attorneys’ fees against Bobby Len Franklin. (*Id.* at 7-8).

15 The Notice of Action to Quiet Title states that: (1) on August 26, 1988, Bobby Len
16 Franklin via Daydream Land & Systems Development Co. purchased 80 acres from the
17 government, (2) on December 19, 1996, Bobby Len Franklin exhausted all administrative
18 remedies with the government, and (3) on September 29, 2008, the government granted BWD
19 ownership of the 80 acres “by mistakenly declaring [that Bobby Len Franklin] ‘failed to exhaust
20 administrative remedies.’” (Notice of Action to Quiet Title (#135) at 13). The Notice of Action
21 to Quiet Title referenced Assessor Parcel Numbers (“APN”) 264-16-000-002, 264-16-000-003,
22 and 264-16-000-004.¹ (*Id.*).

23
24
25
26 ¹ BWD notes that APN-264-16-000-002 has been subdivided and assigned new parcel
27 numbers APN-264-16-000-003, APN-264-16-000-004, APN-264-16-000-005, and APN-264-
28 16-000-006. (Mot. to Expunge (#135) at 6). Additionally, parcels APN-264-16-000-004, APN-
264-16-000-005, and APN-264-16-000-006 are identical to the property described in patent
27-2006-0071, patent 27-2006-0070, and patent 27-2006-0069 which, pursuant to this Court’s
September 2008 order, is owned by BWD.

1 In response², Bobby Len Franklin argues that there is "no statute of limitations for
2 judicial court review of such *void* judgments or orders under Fed. R. Civ. P. 60(b)(4)" and that
3 he will "never give up his land ownership claims, rights, or title, until the final administrative-
4 IBLA order that was certified on 12/19/1996 is reviewed in a judicial court of law and equity."
5 (Resp. to Mot. to Expunge (#138) at 2).

6 The IBLA order, dated December 19, 1996, reiterated the facts in this case. (See IBLA
7 1996 Order (#138) at 18-19). The order IBLA order stated that, "[b]y letters dated October 27,
8 1995, BLM informed the Franklins that it was closing the files in their desert land entry
9 application cases. The Franklins now appeal these letters." (*Id.* at 19). The IBLA found that
10 the Franklins could not "use BLM's response to its questions concerning desert land entry to
11 overcome their failure to appeal the November 12, 1993, decisions." (*Id.* at 20).

12 In reply³, BWD asserts that the IBLA order did not give the Franklins appeal rights and
13 notes that the order addresses the same issues previously addressed by this Court and the
14 Ninth Circuit. (Reply to Mot. to Expunge (#139) at 4). BWD also asserts that Bobby Len
15 Franklin's reliance on Rule 60(b)(4) is inaccurate because it has no bearing on the 1996 IBLA
16 order. (*Id.*).

17 As an initial matter, to the extent that Bobby Len Franklin is attempting to raise a Rule
18 60(b)(4) motion in his response, the Court finds that the motion is without merit. Federal Rule
19 of Civil Procedure 60(b)(4) provides that a "court may relieve a party or its legal representative
20 from a final judgment, order, or proceeding for the following reasons . . . the judgment is void."
21 Fed. R. Civ. P. 60(b)(4). Bobby Len Franklin has not demonstrated that this Court's
22 September 2008 order and the Ninth Circuit's affirmation of that order are void. The 1996
23

24 ² Bobby Len Franklin filed a motion for an extension of time, until November 9, 2012,
25 to file his response. (Mot. For Leave of Court (#137) at 1-2). The Court denies this motion
26 as moot because that time period has passed and Bobby Len Franklin has filed a response.

27 ³ Bobby Len Franklin filed a motion to strike BWD's reply because it was "supported
28 by immaterial judicial court decisions that dismissed its jurisdiction because Franklin had not
yet exhausted his administrative remedies." (Mot. to Strike (#140) at 3). The Court finds that
this motion is without merit and denies the motion to strike.

1 IBLA's order reiterates the same facts that this Court and the Ninth Circuit relied on. As such,
2 to the extent that Bobby Len Franklin is making a Rule 60(b)(4) motion, the Court denies that
3 motion.

4 Additionally, the Court grants BWD's motion to expunge the Notice of Action to Quiet
5 Title filed on April 10, 2012, with the Clark County Recorder based on this Court's September
6 2008 permanent injunction prohibiting Bobby Len Franklin, or anyone claiming under or
7 through him, from "filing any instruments, documents, and claims in the office of the Clark
8 County Recorder that would slander, interfere with, compromise, or cloud Plaintiffs' title to the
9 property." (See Order (#111) at 8-9). Bobby Len Franklin's Notice of Action to Quiet Title
10 does exactly what the permanent injunction prohibits him from doing. As such, the Court
11 grants BWD's motion to expunge the document.

12 With respect to the request for sanctions, "federal courts enjoy the inherent power to
13 sanction the full range of litigation abuses, and dismissal of the action is an allowable
14 sanction." *Munnings v. State of Nev.*, 173 F.R.D. 258, 261 (D. Nev. 1996) (citing *Chambers*
15 *v. NASCO*, 501 U.S. 32, 45, 111 S.Ct. 2123, 2133, 115 L.Ed.2d 27 (1991)). "The inherent
16 power is properly utilized to preserve the dignity of the court and the integrity of the judicial
17 process." *Id.*

18 The Court declines to impose sanctions on Bobby Len Franklin at this time for violating
19 this Court's September 2008 permanent injunction. Based on the record, the Court notes that
20 Bobby Len Franklin has only filed one document over a four year period with the Clark County
21 Recorder's Office in contravention of the permanent injunction. As such, the Court will not
22 sanction Bobby Len Franklin at this time for his filing. However, the Court forewarns all
23 Defendants, and anyone claiming under or through them, that if there are any future violations
24 of the permanent injunction, this Court will sanction them appropriately through this Court's
25 inherent powers. If a future violation occurs, BWD is directed to move for sanctions and to
26 submit its attorneys' fees and costs associated with defending against the violation.

27 Accordingly, BWD's Motion to Expunge and for Sanctions (#135) is GRANTED in part
28 and DENIED in part. The Court orders the Notice of Action to Quiet Title filed on April 10,

1 2012, with the Clark County Recorder's Office expunged. The Court denies BWD's request
2 for sanctions.

3 **CONCLUSION**

4 For the foregoing reasons, IT IS ORDERED that the Motion for an Order Expunging
5 "Notice of Action to Quiet Title" and for Sanctions Against Defendant Bobby Len Franklin dba
6 Daydream Land & System Development for Violating this Court's Order (#135) is GRANTED
7 in part and DENIED in part. The Court grants Plaintiffs' motion to expunge, but denies the
8 motion for sanctions.

9 IT IS FURTHER ORDERED that Defendant's Motion for Leave of Court to Respond
10 (#137) is DENIED as moot.

11 IT IS FURTHER ORDERED that Defendant's Motion for an Order to Strike Plaintiffs'
12 Reply (#140) is DENIED.

13
14 DATED: This 7th day of March, 2013.

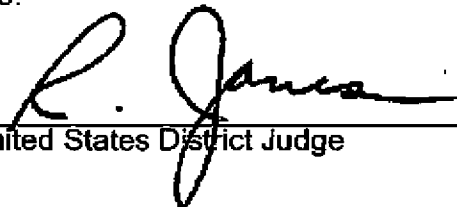
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17 United States District Judge
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EXHIBIT “L”

Franklin v. U.S., 46 F.3d 1140 (1995)

Unpublished Disposition
46 F.3d 1140

NOTICE: THIS IS AN UNPUBLISHED OPINION.
(The Court's decision is referenced in a "Table of
Decisions Without Reported Opinions" appearing in
the Federal Reporter. Use FI CTA9 Rule 36-3 for
rules regarding the citation of unpublished
opinions.)

United States Court of Appeals, Ninth Circuit.

Bobby Len FRANKLIN, Plaintiff-Appellant,

v.

UNITED STATES of America,
Defendant-Appellee.

No. 94-16026. | Submitted Dec. 19, 1994.* | Decided
Jan. 10, 1995.

Appeal from the United States District Court, for the
District of Nevada, D.C. No. CV-93-01140-PMP; Philip
M. Pro, District Judge, Presiding.

D.Nev.

AFFIRMED.

Before: SNEED, D.W. NELSON, and TROTT, Circuit
Judges.

Opinion

MEMORANDUM**

*1 Bobby Len Franklin appeals pro se the district court's dismissal for lack of subject matter jurisdiction of his action to acquire title to desert land in the form of a patent pursuant to 43 U.S.C. § 1165. Franklin contends that the district court erred by ruling that it lacked jurisdiction because Franklin failed to exhaust administrative remedies. We have jurisdiction pursuant to 28 U.S.C. § 1291. We review de novo the district court's determination that it lacked jurisdiction, *Carpenter v. Department of Transp.*, 13 F.3d 313, 314 (9th Cir.1994), and we affirm.

"When the regulations governing an administrative decision-making body require that a party exhaust its administrative remedies prior to seeking judicial review, the party must do so before the administrative decision may be considered final and the district court may properly assume jurisdiction." *Doria Mining and Eng'g Corp. v. Morton*, 608 F.2d 1255, 1257 (9th Cir.1979), cert. denied, 455 U.S. 962 (1980); see 5 U.S.C. § 704.

Department of the Interior regulations require exhaustion of administrative remedies before any administrative decision from the Department is subject to judicial review. 43 C.F.R. § 4.21(c); *Doria Mining*, 608 F.2d at 1257 (commenting on § 4.21(b), the precursor to § 4.21(c)). A decision rendered by department officials regarding the use and disposition of public lands is subject to review by the Interior Board of Land Appeals ("IBLA"). 43 C.F.R. § 4.1(b)(3)(i). Accordingly, administrative remedies regarding such a decision are deemed exhausted only upon disposition of an appeal by the IBLA. *Id.* § 4.21(c); *Doria Mining*, 608 F.2d at 1257.

Here, Franklin received an adverse decision from the Bureau of Land Management ("BLM") regarding the classification of land for which he had filed an application for desert land entry under the Desert Land Act, 43 U.S.C. §§ 321 et seq. Franklin, however, failed to appeal to BLM's decision to the IBLA. Thus, he failed to exhaust his administrative remedies. See *Doria Mining*, 608 F.2d at 1257. Accordingly, the district court did not err by dismissing Franklin's action for lack of jurisdiction.

Franklin contends that the district court should have asserted its jurisdiction under what is known as the Confirmation Statute, 43 U.S.C. § 1165, regardless of his failure to exhaust administrative remedies. This contention lacks merit.

Section 1165 provides in part:

That after the lapse of two years from the date of the issuance of the [receiver's] receipt ... upon the final entry of any tract of land under the homestead, timber-culture, desert-land, or preemption laws, or under this Act, and when there shall be no pending contest or protest against the validity of such entry, the entryman shall be entitled to a patent conveying the land by him entered, and the same shall be issued to him....

43 U.S.C. § 1165. Section 1165 places a restriction on the power of the Secretary of the Interior to contest an entryman's right to a patent on desert land and assures the entryman of rights to a patent if the Secretary fails to contest the entry within two years. *Grewell v. Watt*, 664 F.2d 1380, 1382 (9th Cir.1982). The statute, however, does not provide an independent basis for the district court's jurisdiction or excuse a party's failure to exhaust

Franklin v. U.S., 46 F.3d 1140 (1995)

administrative remedies.

*2 Franklin's reliance on *Stockley v. United States*, 260 U.S. 532 (1923), as support for the proposition that he does not have to exhaust administrative remedies, is misplaced. The suit in *Stockley* was brought by the United States, so exhaustion was not an issue. In cases where we have reached the merits of a claim brought under 43 U.S.C. § 1165, the plaintiff exhausted administrative remedies, see *Brandt-Erichson v. United States Dep't of the Interior, Bureau of Land Management*, 999 F.2d 1376, 1378 (9th Cir.1993), cert. denied, 115 S.Ct. 92 (1994); *Grewell*, 664 F.2d at 1381, or exhaustion was excused because it clearly would have been "redundant." See *Zwung v. Udall*, 371 F.2d 634, 636-37 (9th Cir.1967).

Franklin's failure to exhaust cannot be excused because exhaustion would not have clearly been redundant or futile. See *Aleknagic Natives, Ltd. v. Andrus*, 648 F.2d 496, 500-01 (9th Cir.1980). In fact, prior to filing the instant action in district court, Franklin was successful in his appeal to the IBLA of the BLM's decision rejecting

his desert land application. The IBLA instructed the BLM to reconsider Franklin's application and remarked that it found "no clear evidence in the record to support the conclusion that the land in question is mineral in character." In light of this decision, an appeal to the IBLA of the BLM decision, which is the true target of this action, might have been successful.

Because Franklin failed to exhaust his administrative remedies and exhaustion of those remedies was not excused, the district court did not err by dismissing Franklin's action for lack of jurisdiction.¹ See *Doria*, 608 F.2d at 1257.

AFFIRMED.

Parallel Citations

1995 WL 11102 (C.A.9 (Nev.))

Footnotes

* The panel unanimously finds this case suitable for decision without oral argument. Fed.R.App.P. 34(a); 9th Cir.R. 34-4.

** This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir.R. 36-3.

¹ Franklin's motions to strike various portions of appellee's answering brief are denied. Franklin's "Petition for Review to Set Aside" and request for sanctions against appellee are also denied.

End of Document

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CLERK OF THE COURT

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WILLIAM R. URGAS, ESQ.

Nevada Bar No. 1195

CHARLES T. COOK, ESQ.

Nevada Bar No. 1516

BRIAN C. WEDL, ESQ.

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Properties 2, LLC, BWD Properties 3, LLC and

BWD Properties 4, LLC

DISTRICT COURT

CLARK COUNTY, NEVADA

BOBBY L. FRANKLIN,

Plaintiff,

vs.

D.J. LAUGHLIN, dba BWD PROPERTIES 2, LLC, a Nevada Limited Liability Company, BWD PROPERTIES 3, LLC, a Nevada Limited Liability Company, and BWD PROPERTIES 4, LLC, a Nevada Limited Liability Company, "Also all other persons unknown claiming any right, title, estate, lien or interest in the real property described in the complaint adverse to plaintiff's ownership, or any cloud upon plaintiff's title thereto."

Defendants.

Case No.: A-14-707291-C

Dept. No. XX

**INITIAL APPEARANCE FEE
DISCLOSURE (NRS CHAPTER 19)**

Date of Hearing:

Time of Hearing:

Pursuant to NRS Chapter 19, as amended by Senate Bill 106, filing fees are submitted for

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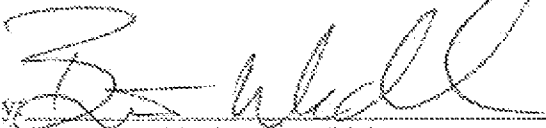
parties appearance in the above entitled action as indicated below:

D.J. Laughlin, Defendant \$223.00

TOTAL REMITTED: \$223.00

DATED this 8th day of December, 2014.

JOLLEY URG A WOODBURY & LITTLE

By: 

WILLIAM R. URG A, ESQ.

Nevada Bar No. 1195

CHARLES T. COOK, ESQ.

Nevada Bar No. 1516

BRIAN C. WEDL, ESQ.

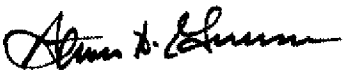
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Properties 2, LLC, BWD Properties 3, LLC and
BWD Properties 4, LLC*



CLERK OF THE COURT

CERT

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CHARLES T. COOK, ESQ.

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Properties 2, LLC, BWD Properties 3, LLC and

BWD Properties 4, LLC

DISTRICT COURT

CLARK COUNTY, NEVADA

BOBBY L. FRANKLIN,

Plaintiff,

vs.

**D.J. LAUGHLIN, dba BWD PROPERTIES 2,
LLC, a Nevada Limited Liability Company,
BWD PROPERTIES 3, LLC, a Nevada Limited
Liability Company, and BWD PROPERTIES 4,
LLC, a Nevada Limited Liability Company,
"Also all other persons unknown claiming any
right, title, estate, lien or interest in the real
property described in the complaint adverse to
plaintiff's ownership, or any cloud upon
plaintiff's title thereto."**

Defendants.

Case No.: A-14-707291-C

Dept. No. XX

**ADDITIONAL CERTIFICATE OF
SERVICE BY MAIL**

I, the undersigned, hereby certify that I am employed in the County of Clark, State of Nevada, am over the age of 18 years and not a party to this action. My business address is that of

1 Jolley Urga Woodbury & Little, 3800 Howard Hughes Parkway, Suite 1600, Las Vegas, Nevada
2 89169.

3 In addition to serving the **DEFENDANT'S MOTION TO EXPUNGE LIS PENDENS**
4 **AND MOTION TO DISMISS COMPLAINT** by mailing a copy to Bobby L. Franklin, P.O.
5 Box 42, 115 Shafer, Brackettville, Texas 78832, Plaintiff's address identified in the Complaint, I
6 also served the same by placing a true copy thereof enclosed in a sealed envelope, addressed as
7 follows:

8
9 Bobby L. Franklin
10 P.O. Box 70254
Las Vegas, Nevada 89170

11 and placed the envelope in the mail bin at the firm's office. This is the address used by the
12 Plaintiff in the "Affidavit of Service Return" filed on November 21, 2014.

13 I am readily familiar with the firm's practice of collection and processing correspondence
14 for mailing. Under that practice it is deposited with the U. S. Postal Service on the same day it is
15 placed in the mail bin, with postage thereon fully prepaid at Las Vegas, Nevada, in the ordinary
16 course of business. I certify under penalty of perjury that the foregoing is true and correct, and
17 that this Additional Certificate of Service by Mail was executed by me on December 9th, 2014
18 at Las Vegas, Nevada.

19
20 
21 An employee of JOLLEY URG
22 WOODBURY & LITTLE
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FILED

DEC 22 2014

John J. Schumacher
CLERK OF COURT

BOBBY L. FRANKLIN
dba DL&S Development
P.O. Box 70254
Las Vegas, NV. 89170

(830) 914-7954
dlepatent@hotmail.com
Plaintiff In Proper Person

DISTRICT COURT
CLARK COUNTY, NEVADA

BOBBY L. FRANKLIN,	) Case No.: <u>A-14-707291-C</u>
	) Dept. No.: <u>XX</u>
Plaintiff,)
vs.)
)
D.J. LAUGHLIN, dba BWD PROPERTIES 2, LLC, a Nevada Limited Liability Company,	) PLAINTIFF'S MOTION TO SET ASIDE
BWD PROPERTIES 3, LLC, a Nevada Limited Liability Company, BWD PROPERTIES 4, LLC, a Nevada Limited Liability Company,	) ALL EXHIBITS IN THE DEFENDANTS' PENDING MOTIONS THAT ARE
"Also all other persons unknown claiming any right, title, estate, lien or interest in the real property described in the complaint adverse to plaintiff's ownership, or any cloud upon plaintiff's title thereto."	) "VOID" OF THE SUBJECT 9/20/1993 TITLE DEED INSTRUMENT IN THE CLARK COUNTY RECORDER'S OFFICE
Defendants.	) Date of Hearing: <u>01/14/2015</u>
	) Time of Hearing: <u>9:00 AM</u>

Pursuant to Nevada Rules of Civil Procedures 60(b)(4), Plaintiff "Franklin" moves this Honorable Clark County Court of subject-matter jurisdiction to set aside all "Exhibits" in the Defendants' pending motion(s) that have disregarded and are "void" of the existing and subject 9/20/1993 Title Deed instrument in the Clark County Recorder's Office, and in the Complaint.

A Memorandum of Points and Authorities and Proof of Service is attached herewith.

Sincerely submitted by,

Bobby L. Franklin
BOBBY L. FRANKLIN
Plaintiff In Proper Person

12/17/2014
DATED

A-14-707291-C
MSTA
Motion to Set Aside
4421608



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Memorandum of Points and Authorities

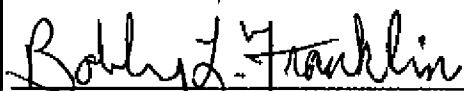
A "Void Judgment" is clearly defined in *Black's Law Dictionary*. Void judgments and orders from their federal court(s) is exactly what the Defendants' lawyers have infested in this Clark County District Court, knowingly intended to "expunge" Franklin's existing 1993 Title Deed without any examination or review of it; to "dismiss" Franklin's existing Title Deed rights; to sanction and fine Franklin for unreasonable amounts of money; and, to gag Franklin in prison to conceal his Title Deed rights. That is "Extortion", as clearly defined by *Black's Law Dictionary*.

HOW in this world can anybody "expunge" a Title Deed, without ever reading, evaluating or reviewing it? HOW can anybody legally take; sell; buy and transfer real estate property, without ever conducting a Title Search to find who owns it?

I. RELIEF REQUESTED

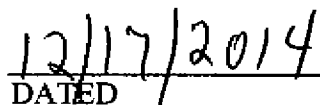
Based on the foregoing, all exhibits in the Defendants' pending motion(s) that are "void" of the subject 9/20/1993 Title Deed instrument in the Clark County Recorder's Office, shall be set aside.

Sincerely submitted by,



BOBBY L. FRANKLIN
dba DL&S Development
P.O. Box 70254
Las Vegas, NV. 89170

(830) 914-7954
dlepatent@hotmail.com
Plaintiff In Proper Person


DATED

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PROOF OF SERVICE

I, Plaintiff - BOBBY L. FRANKLIN hereby certify under penalty of perjury that I mailed by
USPS 1st class prepaid mail the above *PLAINTIFF'S MOTION TO SET ASIDE* to the
Defendant(s) attorneys at their following address:

Jolley Urga Woodbury & Little 12/17/2014
3800 Howard Hughes Pkwy, Suite 1600 DATE MAILED
Las Vegas, NV. 89169

Phone: 702-699-7500

Done by,

Bobby L. Franklin
BOBBY L. FRANKLIN
DL&S Development Co.
P.O. Box 70254
Las Vegas, NV. 89170

12/17/2014
DATED

Plaintiff In Proper Person
dlepatent@hotmail.com
830-914-7954

Bobby L. Franklin
P.O. Box 70254
Las Vegas, NV.
89170

FIRST CLASS

Clark, Clark County District Court
Regional Justice Center
200 Lewis Ave. 3rd Floor
Las Vegas, NV.
89155

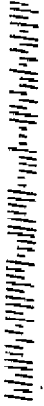
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CLERK OF COURT

1 BOBBY L. FRANKLIN
2 dba DL&S Development
3 P.O. Box 70254
4 Las Vegas, NV. 89170
5
6 (830) 914-7954
7 dlepatent@hotmail.com
8 Plaintiff *In Proper Person*


DISTRICT COURT
CLARK COUNTY, NEVADA

BOBBY L. FRANKLIN,	)	Case No.: <u>A-14-707291-C</u>
	)	Dept. No. <u>XX</u>
Plaintiff,)	
vs.)	
)	
D.J. LAUGHLIN, dba BWD PROPERTIES 2,	)	PLAINTIFF'S OPPOOSITION TO
LLC, a Nevada Limited Liability Company,	)	DEFENDANT'S MOTION TO
BWD PROPERTIES 3, LLC, a Nevada Limited	)	EXPUNGE LIS PENDENS AND
Liability Company, BWD PROPERTIES 4,	)	MOTION TO DISMISS COMPLAINT
LLC, a Nevada Limited Liability Company,)	
"Also all other persons unknown claiming any)	
right, title, estate, lien or interest in the real)	
property described in the complaint adverse	)	Date of Hearing: <u>01/14/2015</u>
to plaintiff's ownership, or any cloud upon)	
plaintiff's title thereto.")	
Defendants.	)	Time of Hearing: <u>9:00 AM</u>

17 Plaintiff "Franklin" hereby oppose the Defendants' two motions above; request this Court
18 deny consideration of all "exhibits" by the Defendants that are irrelevant or have failed to
19 examine or review the validity of Franklin's existing Title Deed in exhibit 1 and 2 of the
20 Complaint that was re-recorded on 9/20/1993 with the Clark County Recorder; and, request this
21 Court sanction the Defendants' lawyers for their fraud on the Court and their attempted
22 extortion.
23

24 A Memorandum of Points and Authorities; "Exhibit 3"; affidavit; and, proof of service are
25 attached herewith.

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CLERK OF THE COURT

A-14-707291-C
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Opposition to Motion
4421609


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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

The Defendant(s) falsely state that Franklin "failed" to obtain title to the described real estate. The Complaint with affidavit and exhibits 1 and 2 proves that on 8/27/1988, Franklin *purchased* the land from the BLM manager, and on 9/20/1993, Franklin re-recorded his Title Deed and *stare decisis* rights with the Clark County Recorder.

In 2006, the Defendant(s) claim they purchased such real estate from a "BLM and Auction", *after* Mr. Laughlin witnessed Franklin had physical possession of such 80 acres; after his BWD partner Tom Griffin "proposed" such Auction to happen; and, before anybody conducted a Title Search on the described real estate. Mr. Laughlin was the creator and he is still "Manager" of the captioned BWD Properties, as reported by the Nevada Secretary of State. The BLM is not party in this lawsuit. As stated in the Complaint, Franklin's existing 1993 Title Deed must be examined or reviewed in a judicial court of law, before any subsequent party can legally sell, buy or take such described real estate; and, before any court of law can expunge it.

The first questions to this Honorable Court of subject-matter jurisdiction:

1. Did D.J. Laughlin have any right to buy or transfer the real estate described in Franklin's 1993 Title Deed, without conducting a Title Search, and is that reason why BWD cannot get Title Insurance for such property?
2. Does David Lords from Scottsdale currently have an illegal large billboard on the 80 acres, attempting to sell such 80 acres on behalf of the Defendants, while clearly knowing it is in abeyance in this Court and that nobody can be issued a Title Insurance Policy for it until Franklin's 1993 Title Deed is examined or reviewed in a judicial court of law? (See, "Exhibit 3" attached herewith)
3. Have the Defendants' attorneys committed attempted "extortion" of the 80 acres?

II. FACTS

The Defendant(s) mass of exhibits at hand prove that the federal courts 1) refuse to ever examine or review the legal validity of Franklin's Title Deed in the Clark County Recorder's Office, under its *mistaken* notion that "The Franklins failed to exhaust their administrative remedies"; and thereby, 2) have enjoined the Franklin Title Deed from any federal court relief.

1 In 2006, the Defendant(s) did in fact sue the Franklin family in federal court, to quiet their
2 title, without any federal statute of subject-matter jurisdiction to do so.

3 On 9/29/2008, that federal court again overlooked Franklin's 1993 Title Deed and enjoined
4 Franklin from its federal court, all done under its "mistaken" notion that "The Franklins failed to
5 exhaust their administrative remedies." See, p7, lines 1 & 2 of Defendants' "Exhibit C". The
6 Franklins had the *final* administrative case and IBLA decision on exhibit, but that federal court
7 ignored it again. However, Franklin's 1993 Title Deed was not expunged from the Clark County
8 Recorder, and that federal court had closed the case in 2008.

9 Since 2008, such lawyers have repeatedly requested that federal court to "expunge"
10 Franklin's 1993 Title Deed, while knowing it was never examined or reviewed in any judicial
11 court of law. Moreover, such lawyers have been repeatedly requesting that federal court to re-
12 open the case, and place Franklin in *prison* for asking his Title to be examined. Months ago in
13 response, Franklin reminded that federal court that such lawyers are guilty of attempted
14 "extortion" *Black's Law Dictionary*. See, Document 164 of "Exhibit C". The Defendant lawyers
15 did not file reply to Franklin's response - Doc 164, and the federal court judge has not ruled on
16 Defendants' latest motion to expunge and imprison Franklin.

17 18 **III. NEVADA RULES OF CIVIL PROCEDURE 60(b)(4)**

19 As Franklin quoted from Black's Law Dictionary to the federal courts, any judgment or
20 order that overlooks its jurisdiction to examine the validity of Franklin's 1993 Title Deed is a
21 "void judgment" and must be set aside. The Defendants' lawyers clearly know that such Title
22 Deed has never been examined in any judicial court of law, and are asking the federal court to
23 lock Franklin in prison for asking examination of it. That is attempted "extortion", under Black's
24 Law Dictionary. Such lawyers also clearly know from the federal court exhibits that the
25 Franklins did in fact exhaust all administrative remedies on 12/19/1996, and the federal courts
mistakenly state the Franklins DID NOT. That is fraud on the federal court, perpetuated by such

1 lawyers, and is the good faith reason why Franklin is requesting this Clark County Court of Law
2 to examine the legal validity of Franklin's *existing* Title Deed and *stare decisis* rights that were
3 re-recorded by the Clark County Recorder in 1993, and is attached on exhibit in the Complaint.

4 Franklin has warned such lawyers to stop their misconduct that is stated above and in the
5 Complaint. Now, they motion this Court to expunge and dismiss by using a mass of federal court
6 judgments and orders that are ALL "void" of Franklin's *existing* 1993 Title Deed and his *stare*
7 *decisis* rights that were administratively exhausted and dismissed in the *final* decision of the
8 Department of the Interior (IBLA) on 12/19/1996.¹

9
10 Franklin will appear in this Court Hearing on 1/14/2015 at 9:00 AM with hard copy proof of
11 everything stated above.

12 IV. CONCLUSION

13 Based on the foregoing, all of the Defendants' "void" federal court judgments and orders in
14 their exhibits shall all be set aside from consideration in this Clark County District Court of
15 jurisdiction, and the Defendant(s) motion(s) to expunge Franklin's existing 1993 Title Deed and
16 motion to dismiss the Complaint must be DENIED.

17 Sincerely submitted by,

18
19 Bobby L. Franklin

20 BOBBY L. FRANKLIN
21 DL&S Development Co.
22 P.O. Box 70254
23 Las Vegas, NV. 89170

12/16/2014
DATED

24 Plaintiff *In Proper Person*
25

¹ If a judicial court of law would ever examine Franklin's existing *stare decisis* rights in his existing 1993 Title Deed, such Court would understand the legal and compelling reasons why the Franklins did not appeal to IBLA from BLM's 2nd or 3rd alleged "mineral" contest: 1. In 1990, such BLM "mineral" contest was *reversed* in Bobby L. Franklin, 116 IBLA 29 (published); 2. On 9/20/93, Franklin re-recorded such Title Deed; and, 3. On 12/19/96, such Title Deed rights were administratively exhausted and dismissed by the *final* IBLA order. If Franklins would have continued to administratively appeal further alleged or manufactured BLM *mineral* decisions, his 9/20/1993 Title Deed rights would have become legally null and void, defeating the entire purpose of such 2-year statute of limitations - "Limitations of two years after issuance of receipt forecloses inquiry into mineral character of land." See, "Exhibit 2" in the Complaint.

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Exhibit 3

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AVAILABLE 4 PARCELS COMMERCIAL



**Land Advisors
ORGANIZATION**

Dave Lords 602-376-2228

Picture taken on 11/30/2014 by Duane Smith,
Property Manager for Plaintiff's 80 acres

AFFIDAVIT
OF FACTS

I, Bobby L. Franklin, Plaintiff above named, after being duly sworn, do declare under penalty of perjury that the following relevant facts are true and supplemental to the affidavit in the Complaint:

1. In their motion(s) at hand, the Defendant(s) attorneys have entered about a hundred pages of federal court judgments and orders that are ALL either: a) "Void judgments" that failed to examine or review the legal validity of Franklin's existing 1993 Title Deed attached to his Complaint; or did, b) Mistakenly "expunge" such 1993 Title Deed by falsely stating "The Franklins failed to exhaust their administrative remedies; or thereby, c) "Enjoined" Franklin from due process of federal court jurisdiction and title relief.
2. It is unlawful and legally impossible for any judicial court of law to "expunge" a Title Deed from the Clark County Recorder, without ever examining or reviewing it. In fact, the Title Deed that was re-recorded in 1993 is still there, and will stay there until it is examined or reviewed in a judicial court of law.
3. The Defendant(s) lawyers' recent misconduct of "extortion" threats to imprison Franklin in federal court will be documented in this Court at the 1/14/2015 Hearing at 9:00 AM.

Sincerely submitted by,

NOTARY

DATED

12/16/2014 *Bobby L. Franklin*
BOBBY L. FRANKLIN
DL&S Development Co.
P.O. BOX 70254
Las Vegas, NV. 89170

INDIVIDUAL ACKNOWLEDGMENT

State/Commonwealth of Arizona }
County of Mohave } ss.

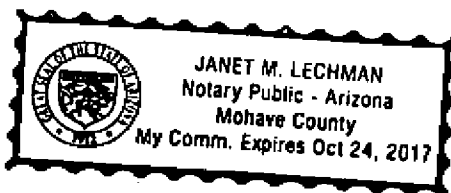
On this the 16th day of Dec, 2014, before me,
Janet M. Lechman, the undersigned Notary Public,
Name of Notary Public
personally appeared Bobby L Franklin,
Name(s) of Signer(s)

☐ personally known to me - OR -

☒ proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same for the purposes therein stated.

WITNESS my hand and official seal.



Place Notary Seal/Stamp Above

Janet M. Lechman
Signature of Notary Public

Any Other Required Information
(Printed Name of Notary, Expiration Date, etc.)

OPTIONAL

This section is required for notarizations performed in Arizona but is optional in other states. Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: Affidavit of Facts

Document Date: 12-16-14 Number of Pages: 1

Signer(s) Other Than Named Above: _____

Proof of Service

I, Plaintiff - BOBBY L. FRANKLIN hereby certify under penalty of perjury that I mailed by USPS 1st class prepaid mail the above *PLAINTIFF'S OPPOSITION* to this Court Clerk, and to the Defendant(s) attorneys at their following address:

Jolley Urga Woodbury & Little
3800 Howard Hughes Pkwy, Suite 1600
Las Vegas, NV. 89169

12/17/2014
DATE MAILED

Phone: 702-699-7500

Done by,

Bobby L. Franklin
BOBBY L. FRANKLIN
DL&S Development Co.
P.O. Box 70254
Las Vegas, NV. 89170

12/17/2014
DATED

Plaintiff In Proper Person
dlepatent@hotmail.com
830-914-7954

BOBBY L. FRANKLIN
dba DL&S Development
P.O. Box 70254
Las Vegas, NV. 89170

(830) 914-7954
dlepatent@hotmail.com
Plaintiff Pro Se

FILED

2014 DEC 30 A 10:10

Heather L. Williams
CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

BOBBY L. FRANKLIN,

Plaintiff,

) Case No.: A-14-707291-C
) Dept. No.: XX

vs.

D.J. LAUGHLIN, dba BWD PROPERTIES 2,
LLC, a Nevada Limited Liability Company,
BWD PROPERTIES 3, LLC, a Nevada Limited
Liability Company, BWD PROPERTIES 4,
LLC, a Nevada Limited Liability Company,
"Also all other persons unknown claiming any
right, title, estate, lien or interest in the real
property described in the complaint adverse
to plaintiff's ownership, or any cloud upon
plaintiff's title thereto."

**PLAINTIFF'S MOTION TO RECUSE
JUDGE TAO FROM THIS PROCESSED
QUIET TITLE ACTION**

Defendants.

) Date of Hearing: 01/14/2015
) Time of Hearing: 9:00 AM

Pursuant to justice in accordance with the Model Code of Judicial Conduct book of Canons
("Code"), Judge Jerome Tao should not preside in this Quiet Title Action ("QTA"), and this
QTA should be transferred to another Department that has no direct or indirect relationship or
interest in the described real estate, or in the outcome of this QTA.

A Memorandum of Points and Authorities, affidavit and the Proof of Service is attached.

Sincerely submitted by,


Bobby L. Franklin

BOBBY L. FRANKLIN
Plaintiff In Proper Person

12/24/2014
DATED

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Memorandum of Points and Authorities

On 12/24/2014, the Plaintiff read Judge Tao's short "Biography" that is published by this District Court. It clearly states that in 2011, Governor *Brian Sandoval* "appointed" him as a judge in this Court, and prior to such appointment, he was "a senior advisor to U.S. Senator *Harry Reid*."

Ex-Federal Judge *Brian Sandoval* and *Harry Reid* have both been directly involved in the described real estate for many years, adverse to Plaintiff's 1993 Title Deed in the Clark County Recorder's Office, and Mr. Tao was and may still be an employee for them both. In fact, *Brian Sandoval*'s **mistaken and void** judgment and orders are the subject of the Hearing set for 1/14/2015. That is clearly an employment relationship and conflict of interest for Judge Tao to have any involvement in this duly processed QTA.

Furthermore, the Defendants' lawyers clearly knew all of the above, and somehow arranged their motions to expunge title and dismiss this QTA, to wind up in Judge Tao's Department 20.

Lastly, the Law Firm representing the named Defendants is owned by Ex-Commissioner *Bruce Woodbury*, who is the man who directed the BLM Land Auction to happen, and is where the Defendants allegedly bought the described property, without conducting a Title Search on the described property of Plaintiff's 1993 Title Deed rights in the Clark County Recorder's Office.

I. RELIEF REQUESTED

Based on the attached affidavit, Judge Tao must be removed, and this QTA be assigned to a Judge that has no conflicting interest with *Brian Sandoval*, *Harry Reid*, *Bruce Woodbury*, or the named Defendants, and that has no interest in the described real estate in Laughlin, Nevada.

Sincerely submitted by, *Bobby L. Franklin*
BOBBY L. FRANKLIN
Plaintiff *pro se*

12/24/2014
DATED

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AFFIDAVIT OF FACTS

I, BOBBY L. FRANKLIN, Plaintiff above named hereby declare under penalty of perjury that the following facts are true, so help me God:

1. From 1989 to about 1999, *Harry Reid* and *Bruce Woodbury* were both releasing their weekly press releases in the local Laughlin Nevada Times and tv-2, explaining exactly how they were going to "swap" Section 16 to a variety of corporations, while clearly knowing that Franklin had ownership rights in Section 16. Their land *swap* failed.
2. From about 2003 onto 2005, Commissioner *Bruce Woodbury* had appointed his entire Laughlin Town government to propose and form a "BLM Land Auction", specifically created to sell Section 16, while clearly knowing Franklin had ownership rights in Section 16. Defendants D.J. Laughlin had appointed his BWD corporations' manager named Tom Griffin to be an official member to organize such proposed auction.
3. In 2006, D.J. Laughlin allegedly bought the disputed *80 acres* in Section 16 at such orchestrated land auction, after he witnessed Franklin had physical possession of it, and then he transferred it into his BWD corporations.
4. In 2008, Federal Judge *Brian Sandoval* granted Mr. Laughlin's BWD corporations as owner of such 80 acres and enjoined Franklin from it, all done in his *mistaken* judgment that "The Franklins failed to exhaust their administration remedies", and was "void" of Plaintiff's 1993 Title Deed rights in the Clark County Recorder's Office to be tried.
5. In 2011, Governor *Brian Sandoval* then appointed Mr. Tao as a judge in this Court, after Mr. Tao was "a senior advisor for U.S. Senator *Harry Reid*."
6. The named Defendants are represented by the Law Firm owned by *Bruce Woodbury*.
7. On 1/14/2015, a Hearing is set for Judge Tao to examine such evidence and the destiny of this processed QTA, after the fact he was employed by *Harry Reid* and he was appointed by *Brian Sandoval* as the Judge in this judicial Court of subject-matter jurisdiction.

Bobby L. Franklin
BOBBY L. FRANKLIN
dba DL&S Development
P.O. Box 70254
Las Vegas, NV. 89170

(830) 914-7954
dlepatent@hotmail.com
Plaintiff *pro se*

12/26/2014
DATED

NOTARY attached herewith

INDIVIDUAL ACKNOWLEDGMENT

State/Commonwealth of Arizona }
County of Yuma } ss.

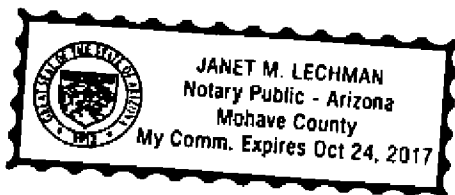
On this the 26th day of Dec, 2014, before me,
Janet M Lechman, the undersigned Notary Public,
Name of Notary Public
personally appeared Bobby L Franklin
Name(s) of Signer(s)

☐ personally known to me - OR -

☒ proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same for the purposes therein stated.

WITNESS my hand and official seal.



Place Notary Seal/Stamp Above

Janet M Lechman
Signature of Notary Public

Any Other Required Information
(Printed Name of Notary, Expiration Date, etc.)

OPTIONAL

This section is required for notarizations performed in Arizona but is optional in other states. Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: Affidavit of Facts

Document Date: 12-26-14 Number of Pages: 1

Signer(s) Other Than Named Above: _____

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PROOF OF SERVICE

I, Plaintiff - BOBBY L. FRANKLIN hereby certify under penalty of perjury that I mailed by USPS 1st class prepaid mail the above *PLAINTIFF'S MOTION TO RECUSE JUDGE TAO* to this Court Clerk and to the following party addresses:

Jolley Urga Woodbury & Little
3800 Howard Hughes Pkwy, Suite 1600
Las Vegas, NV. 89169
(Lawyers for the Defendants)
Phone: 702-699-7500

12/26/2014
DATE MAILED

Judge Jerome Tao,
Eighth Judicial Court, Department XX
Regional Justice Center, Courtroom 10D
200 Lewis Ave.
Las Vegas, NV. 89155
Phone: 702-671-4440

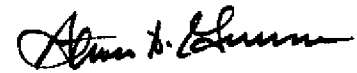
12/26/2014
DATE MAILED

Done by,

Bobby L. Franklin
BOBBY L. FRANKLIN
DL&S Development Co.
P.O. Box 70254
Las Vegas, NV. 89170

12/26/2014
DATED

Plaintiff *In Proper Person*
diepatent@hotmail.com
830-914-7954



CLERK OF THE COURT

OPPM

WILLIAM R. URGAS, ESQ.

Nevada Bar No. 1195

CHARLES T. COOK, ESQ.

Nevada Bar No. 1516

BRIAN C. WEDL, ESQ.

Nevada Bar No. 8717

JOLLEY URGAS WOODBURY & LITTLE

3800 Howard Hughes Parkway

Wells Fargo Tower, Sixteenth Floor

Las Vegas, Nevada 89169

Telephone: 702.699.7500

Facsimile: 702.699.7555

E-mail: FedCt@juww.com

E-mail: ctc@juww.com

*Attorneys for D.J. Laughlin, BWD Properties 2,
LLC, BWD Properties 3, LLC and BWD
Properties 4, LLC*

DISTRICT COURT

CLARK COUNTY, NEVADA

BOBBY L. FRANKLIN,

Plaintiff,

vs.

D.J. LAUGHLIN, dba BWD PROPERTIES 2,
LLC, a Nevada Limited Liability Company,
BWD PROPERTIES 3, LLC, a Nevada Limited
Liability Company, and BWD PROPERTIES 4,
LLC, a Nevada Limited Liability Company,
"Also all other persons unknown claiming any
right, title, estate, lien or interest in the real
property described in the complaint adverse to
plaintiff's ownership, or any cloud upon
plaintiff's title thereto."

Defendants.

Case No.: A-14-707291-C

Dept. No. XX

**OPPOSITION TO PLAINTIFF'S
MOTION TO SET ASIDE ALL
EXHIBITS IN THE DEFENDANTS'
PENDING MOTIONS THAT ARE
"VOID" OF THE SUBJECT 9/20/1993
TITLE DEED INSTRUMENT IN THE
CLARK COUNTY RECORDER'S
OFFICE**

Date of Hearing: 1/14/2015

Time of Hearing: 9:00 a.m.

Defendant, D.J. Laughlin, by and through his attorneys, Jolley Urga Woodbury & Little,
hereby opposes Plaintiff's Motion to Set Aside All Exhibits in the Defendants' Pending Motions
("Plaintiff's Motion").

Page 1 of 4

K:\CLIENT FILES\WRUBWD Properties 9175\02000 Franklin-Owens\Pleadings Case#707291 - District Court\drafts\14-12-24 Opp Mot to Set Aside Exhibits.doc

I.

INTRODUCTION

Plaintiff's Motion makes little to no sense which makes an opposition rather difficult. Defendant has attached numerous orders from courts that have all addressed Mr. Franklin's claim. Those orders are all quite valid and well-reasoned, and those orders may be considered by this Court. Mr. Franklin may not like those orders, but he may not unilaterally declare them "void." As such, Defendant's exhibits to the Motion to Expunge and Dismiss should not be "set aside." They should be considered by this Court and given all the weight and respect that Federal Court Orders deserve.

II.

THE EXHIBITS ARE NOT "VOID" AND THEY MAY BE CONSIDERED

Plaintiff has made it his life's mission to harass D.J. Laughlin and abuse the court system with frivolous lawsuits. He has recorded fugitive documents with the Clark County Recorder's Office, he has filed lawsuits in both state and federal courts, and he has appealed decisions to the Fifth Circuit, Ninth Circuit and the United States Supreme Court. Each and every Court has reviewed Plaintiff's claim to the subject property, and each and every Court has ruled against Plaintiff. None of the orders attached as exhibits have been overturned, reversed, or otherwise shown to be invalid, or, as Mr. Franklin would say, "void."

This Court should review and consider the Federal Court Orders in analyzing Defendant's Motion to Dismiss. *See Breliant v. Preferred Equities Corp.*, 109 Nev. 842, 847, 858 P.2d 1258, 1261 (1993) (a court may take into account matters of public record, orders, items present in the record of the case, including documents incorporated into the complaint, and any exhibits attached to the complaint when ruling on a motion to dismiss for failure to state a claim upon which relief can be granted). The exhibits and orders are important because one order, the Hunt Order (Exhibit B to Motion to Expunge and Dismiss) expressly prohibits Plaintiff from filing the instant action. The other orders show conclusively that BWD Properties 2, 3 and 4, own the property in question. There is no dispute, and there is no controversy to be

1 resolved. There is really nothing but unsupported accusations of Mr. Franklin – a man on a
2 misguided and unfounded crusade against Mr. Laughlin.

3 III.

4 CONCLUSION

5 The exhibits attached to Defendant's Motion to Expunge and Dismiss are proper and
6 valid documents that this Court may consider. They show that Mr. Franklin improperly filed the
7 Complaint, improperly recorded a lis pendens with the Clark County Recorder's Office, and that
8 Mr. Franklin has no ownership interest in or claim to the subject property. As such, Defendant
9 respectfully requests that Plaintiff's Motion be denied.

10 DATED this 5th day of January, 2015.

11 JOLLEY URG A WOODBURY & LITTLE

12 By: 
13

14 WILLIAM R. URG A, ESQ.

15 Nevada Bar No. 1195

16 CHARLES T. COOK, ESQ.

17 Nevada Bar No. 1516

18 BRIAN C. WEDL, ESQ.

19 Nevada Bar No. 8717

20 3800 Howard Hughes Parkway

21 Wells Fargo Tower, Sixteenth Floor

22 Las Vegas, Nevada 89169

23 Attorneys for D.J. Laughlin, BWD Properties 2,

24 LLC, BWD Properties 3, LLC and BWD

25 Properties 4, LLC
26
27
28

CERTIFICATE OF SERVICE BY MAIL

I, the undersigned, hereby certify that I am employed in the County of Clark, State of Nevada, am over the age of 18 years and not a party to this action. My business address is that of Jolley Urga Woodbury & Little, 3800 Howard Hughes Parkway, Suite 1600, Las Vegas, Nevada 89169.

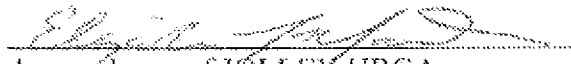
On this day I served the **OPPOSITION TO PLAINTIFF'S MOTION TO SET ASIDE ALL EXHIBITS IN THE DEFENDANTS' PENDING MOTIONS THAT ARE "VOID" OF THE SUBJECT 9/20/1993 TITLE DEED INSTRUMENT IN THE CLARK COUNTY RECORDER'S OFFICE** by placing a true copy thereof enclosed in a sealed envelope, addressed as follows:

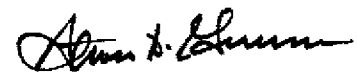
Bobby L. Franklin
P.O. Box 42, 115 Shafter
Brackettville, TX 78832

Bobby L. Franklin
P.O. Box 70254
Las Vegas, NV 89170

and placed the envelope in the mail bin at the firm's office.

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it is deposited with the U. S. Postal Service on the same day it is placed in the mail bin, with postage thereon fully prepaid at Las Vegas, Nevada, in the ordinary course of business. I certify under penalty of perjury that the foregoing is true and correct, and that this Certificate of Service by Mail was executed by me on January 5th, 2015 at Las Vegas, Nevada.


An employee of JOLLEY URG
WOODBURY & LITTLE



CLERK OF THE COURT

OPPM

WILLIAM R. URGAS, ESQ.

Nevada Bar No. 1195

CHARLES T. COOK, ESQ.

Nevada Bar No. 1516

BRIAN C. WEDL, ESQ.

Nevada Bar No. 8717

JOLLEY URGAS WOODBURY & LITTLE

3800 Howard Hughes Parkway

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E-mail: FedCt@juwww.com

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*Attorneys for D.J. Laughlin, BWD Properties 2,
LLC, BWD Properties 3, LLC and BWD
Properties 4, LLC*

DISTRICT COURT

CLARK COUNTY, NEVADA

BOBBY L. FRANKLIN,

Plaintiff,

vs.

D.J. LAUGHLIN, dba BWD PROPERTIES 2,
LLC, a Nevada Limited Liability Company,
BWD PROPERTIES 3, LLC, a Nevada Limited
Liability Company, and BWD PROPERTIES 4,
LLC, a Nevada Limited Liability Company,
"Also all other persons unknown claiming any
right, title, estate, lien or interest in the real
property described in the complaint adverse to
plaintiff's ownership, or any cloud upon
plaintiff's title thereto."

Defendants.

Case No.: A-14-707291-C

Dept. No. XX

**DEFENDANT'S OPPOSITION TO
PLAINTIFF'S MOTION TO RECUSE
JUDGE TAO FROM THIS
PROCESSED QUIET TITLE ACTION**

Date of Hearing: 1/14/2015

Time of Hearing: 9:00 am

Defendant, D.J. Laughlin, by and through his attorneys, Jolley Urga Woodbury & Little,
hereby files this Opposition to Plaintiff's Motion to Recuse Judge Tao From This Processed
Quiet Title Action (the "Motion to Recuse").

Page 1 of 4

K:\CLIENT FILES\WRU\BWD Properties 9175\02000 Franklin-Owens\Pleadings Case#707291 -District Court\drafts\15-01-02 Opp Motion to Recuse.doc

I.

INTRODUCTION

Counsel for Defendant is aware that Judge Tao was recently appointed to the newly-created Nevada Court of Appeals and will not be presiding over this case in the future. Thus, Plaintiff's Motion is as moot as it is misguided. Nevertheless, Defendant is compelled to respond to Plaintiff's Motion to address several issues.

II.

MR. FRANKLIN IMPROPERLY FILES MOTIONS WITHOUT REQUESTING A HEARING DATE OR PROVIDING A NOTICE OF MOTION.

Mr. Franklin has now filed two motions without requesting a hearing date. He filed a Motion to Set Aside Defendants' Exhibits, filed December 22, 2014, and the current Motion to Recuse filed December 30, 2014. Neither motion has a "Notice of Motion" and neither requests a hearing date. Instead, Mr. Franklin simply adopts Defendant's hearing date for his Motion to Expunge and Dismiss. This is improper, and both motions should be ignored. *See* EDCR 2.20(b).

III.

DEFENDANT'S COUNSEL DID NOT "ARRANGE" FOR THE MOTION TO EXPUNGE AND DISMISS TO "WIND UP IN JUDGE TAO'S DEPARTMENT"

Mr. Franklin has many conspiracy theories regarding the underlying real property. Mr. Franklin believes that several Nevada politicians have plotted against him to deprive him of some ownership in the property. In the Motion to Recuse, Mr. Franklin also accuses the law firm of Jolley Urga Woodbury & Little of arranging the "motion to expunge quiet title and dismiss this QTA, to wind up in Judge Tao's Department 20." *See* Motion to Recuse, 2:13-14. This is both insulting and incorrect.

Department 20 was the assigned department when Mr. Franklin filed his complaint. *See* Complaint filed September 22, 2014 on file herein. This was before either Mr. Laughlin or his

1 counsel made an appearance in this case. Furthermore, no attorney or law firm has the power to
2 select the department for any case or motion.

3 IV.

4 **THERE IS NO VALID REASON FOR JUDGE TAO TO RECUSE HIMSELF**

5 This may be a theoretical argument at this point because Judge Tao has been appointed to
6 the Nevada Court of Appeals, but Mr. Franklin has not pointed to a single valid reason for Judge
7 Tao to recuse himself. The grounds for disqualifying a judge are listed in NRS 1.230, but none
8 are applicable here. Judge Tao may have had a professional relationship with Senator Reid and
9 was appointed by Governor Sandoval, but that is no basis to suggest a bias. Much like calling
10 judgments "void" because Mr. Franklin does not care for them, suggesting judicial bias because
11 Mr. Franklin does not care for particular politicians is improper.

12 V.

13 **CONCLUSION**

14 Mr. Franklin's Motion to Recuse fails both procedurally and substantively. Therefore,
15 Defendant requests that that motion be denied.

16 DATED this 5th day of January, 2015.

17 JOLLEY URGa WOODBURY & LITTLE

18
19 By: 

20 WILLIAM R. URGa, ESQ.

21 Nevada Bar No. 1195

22 CHARLES T. COOK, ESQ.

23 Nevada Bar No. 1516

24 BRIAN C. WEDL, ESQ.

25 Nevada Bar No. 8717

26 3800 Howard Hughes Parkway

27 Wells Fargo Tower, Sixteenth Floor

28 Las Vegas, Nevada 89169

*Attorneys for D.J. Laughlin, BWD Properties 2,
LLC, BWD Properties 3, LLC and BWD
Properties 4, LLC*

CERTIFICATE OF SERVICE BY MAIL

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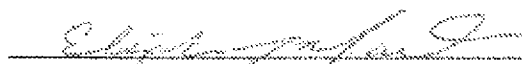
On this day I served the **DEFENDANT'S OPPOSITION TO PLAINTIFF'S MOTION TO RECUSE JUDGE TAO FROM THIS PROCESSED QUIET TITLE ACTION** by placing a true copy thereof enclosed in a sealed envelope, addressed as follows:

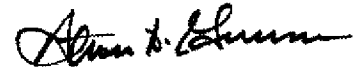
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An employee of JOLLEY URG
WOODBURY & LITTLE



CLERK OF THE COURT

RPLY

WILLIAM R. URG, ESQ.

Nevada Bar No. 1195

CHARLES T. COOK, ESQ.

Nevada Bar No. 1516

BRIAN C. WEDL, ESQ.

Nevada Bar No. 8717

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*Attorneys for D.J. Laughlin, BWD Properties 2,
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Plaintiff,

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Liability Company, and BWD PROPERTIES 4,
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"Also all other persons unknown claiming any
right, title, estate, lien or interest in the real
property described in the complaint adverse to
plaintiff's ownership, or any cloud upon
plaintiff's title thereto."

Defendants.

Case No.: A-14-707291-C

Dept. No. XX

**DEFENDANT'S REPLY IN SUPPORT
OF MOTION TO EXPUNGE LIS
PENDENS AND MOTION TO DISMISS
COMPLAINT**

Date of Hearing: 1/14/2015

Time of Hearing: 9:00 am

Defendant, D.J. Laughlin, by and through his attorneys, Jolley Urg, Woodbury & Little,
hereby files this Reply in Support of its Motion to Expunge Lis Pendens and Motion to Dismiss
Complaint.

Page 1 of 6

K:\CLIENT FILES\WRU\BWD Properties 9175102000 Franklin-Owens\Pleadings Case#707291 -District Court\drafts\14-12-24 Reply ISO Motion to Expunge and

I.

PLAINTIFF'S OPPOSITION IS MERITLESS.

It is becoming increasingly difficult to respond to Plaintiff's pleadings. For countless years, he has been making the same allegations in different forums and presenting them as if they were raised for the first time. The Opposition is the latest in a long line of pleadings that raise unsupported arguments on issues that have long been resolved.

The Federal Court Orders are valid and conclusively state that the BWD Properties are the owners of the subject land, and that Franklin's allegations are frivolous. That is, or should be, the end of the consideration. Franklin's claim that the orders are "void" is completely unsupported by any authority.

II.

NRCP 60 IS NOT APPLICABLE TO FEDERAL COURT ORDERS

Mr. Franklin's reliance on NRCP 60(b)(4) is misplaced, and this rule does him no good. The orders on which Defendant relies are Federal Court Orders not Nevada State Court orders. Mr. Franklin has attempted to use this procedural gimmick in federal court relying on Fed. R. Civ. P. 60, but his attempts have failed. The orders declaring BWD Properties' ownership in the subject property are perfectly valid.

III.

**FRANKLIN HAS VIOLATED THE HUNT ORDER
BY FILING THE COMPLAINT**

As discussed in the Motion to Expunge and Dismiss, Mr. Franklin has been specifically prohibited from filing "any civil action based on his 1988 Desert Land Entry application or the property at issue in that application without first obtaining leave of the Court." See Motion to Expunge and Dismiss, Exhibit B. Franklin violated this order when he filed his complaint, and he has not even attempted to offer an excuse for this violation. This alone warrants dismissal of the Complaint.

IV.

THE LIS PENDENS MUST BE EXPUNGED

Mr. Franklin's lis pendens should be expunged for numerous reasons. First, the Complaint was improperly filed in violation of the Hunt Order. See Exhibit B to Motion to Expunge and Dismiss. There should be no action pending, thus a notice of action should not be recorded.

Second, Franklin has been specifically prohibited from "filing any instruments, documents, and claims in the office of the Clark County Recorder that would slander, interfere with, compromise, or cloud [BWD Properties'] title to the property." See Sandoval Order attached as Exhibit C to Motion to Expunge and Dismiss. Mr. Franklin has violated this order by recording the lis pendens.

Finally, Franklin will not be able to meet the requirements of NRS14.015. He will not be able to show:

- that the current complaint and lis pendens was not brought in bad faith or for an improper motive (NRS 14.015(2)(b));
- that he would be injured by any transfer of an interest in the property before the action is concluded (NRS 14.015(2)(d));
- that he is likely to prevail in this action (NRS 14.015(3)(a)), or that he has a fair chance of success on the merits and the injury would be sufficiently serious (NRS 14.015(3)(b)); or
- that he will be entitled to relief affecting the title or possession of the real property. NRS 14.014(3).

For these reasons, the lis pendens should be expunged.

V.

THE COMPLAINT SHOULD BE DISMISSED

There are also numerous reasons to dismiss the Complaint with prejudice. First, Mr. Franklin has been permanently enjoined from filing any action regarding the property in question

1 without first seeking leave of court. *See* Motion to Expunge and Dismiss, Exhibit B (the "Hunt
2 Order"), 5:7-13. Mr. Franklin did not comply with the Hunt Order and should be sanctioned
3 accordingly.

4 Second, the underlying issue and claims are barred. The claims that Franklin is asserting,
5 and the issues that he raises, have all been decided by courts of competent jurisdiction, and his
6 claim is therefore barred by the doctrine of claim preclusion. *See Five Star Capital Corp. v.*
7 *Ruby*, 124 Nev. 1048, 1054, 194 P.3d 709, 713 (2008). The US District Court Case that resulted
8 in the Sandoval Order contained the same parties – Bobby Len Franklin and the BWD entities
9 (or Mr. Laughlin allegedly doing business as those entities). The Sandoval Order is a final
10 judgment and is valid. Finally, the current action is based on the exact same facts and claims
11 that have been previously adjudicated. As such, claim preclusion requires that the Court dismiss
12 Plaintiff's Complaint.

13 VI.

14 MR. FRANKLIN SHOULD BE SANCTIONED

15 The Hunt Order specifically states that if Mr. Franklin violates the order by filing another
16 action without first seeking leave of the court, Mr. Franklin "may be found in contempt and
17 punished accordingly." *See* Motion to Expunge and Dismiss, Exhibit B, 5:12-13. Furthermore,
18 Mr. Franklin has no reasonable grounds to bring this claim, and the current Complaint amounts
19 to nothing more than blatant abuse of the judicial system and continued harassment of Mr.
20 Laughlin. Accordingly, Mr. Franklin should be sanctioned in an amount of not less than
21 \$10,000.00, and Mr. Laughlin should be awarded his attorney's fees pursuant to NRS
22 18.010(2)(b).

23 VII.

24 CONCLUSION

25 Mr. Franklin's alleged rights in the subject property have been resolved time and time
26 again. His current Complaint and Opposition are frivolous and barred by the doctrine of claim
27 preclusion as well as the Hunt Order. They accomplish nothing more than further harassment of
28

1 Mr. Laughlin. Therefore, Mr. Laughlin requests that the Court expunge the September 17, 2014
2 lis pendens, dismiss Mr. Franklin's Complaint with prejudice, award attorney's fees to Mr.
3 Laughlin, and sanction Mr. Franklin.

4 DATED this 5th day of January, 2015.

5 JOLLEY URG WOODBURY & LITTLE

6
7 By: 

8 WILLIAM R. URG, ESQ.

9 Nevada Bar No. 1195

10 CHARLES T. COOK, ESQ.

11 Nevada Bar No. 1516

12 BRIAN C. WEDL, ESQ.

13 Nevada Bar No. 8717

14 3800 Howard Hughes Parkway

15 Wells Fargo Tower, Sixteenth Floor

16 Las Vegas, Nevada 89169

17 Attorneys for D.J. Laughlin, BWD Properties 2,
18 LLC, BWD Properties 3, LLC and BWD
19 Properties 4, LLC
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28

CERTIFICATE OF SERVICE BY MAIL

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On this day I served the **DEFENDANT'S REPLY IN SUPPORT OF MOTION TO EXPUNGE LIS PENDENS AND MOTION TO DISMISS COMPLAINT** by placing a true copy thereof enclosed in a sealed envelope, addressed as follows:

Bobby L. Franklin
P.O. Box 42, 115 Shafter
Brackettville, TX 78832

Bobby L. Franklin
P.O. Box 70254
Las Vegas, NV 89170

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An employee of JOLLEY URG
WOODBURY & LITTLE

FILED

JAN 14 2015

John L. Blum
CLERK OF COURT

BOBBY L. FRANKLIN
dba DL&S Development
P.O. Box 70254
Las Vegas, NV. 89170

ORIGINAL

(830) 822-4791
dlepatent@hotmail.com
Plaintiff *pro se*

DISTRICT COURT

CLARK COUNTY, NEVADA

BOBBY L. FRANKLIN,

Plaintiff,

vs.

D.J. LAUGHLIN, dba BWD PROPERTIES 2,
LLC, a Nevada Limited Liability Company,
BWD PROPERTIES 3, LLC, a Nevada Limited
Liability Company, BWD PROPERTIES 4,
LLC, a Nevada Limited Liability Company,
"Also all other persons unknown claiming any
right, title, estate, lien or interest in the real
property described in the complaint adverse
to plaintiff's ownership, or any cloud upon
plaintiff's title thereto."

Defendants.

) Case No.: A-14-707291-C

) Dept. No.: XX

) **PLAINTIFF'S REPLY TO**
) **DEFENDANTS' OPPOSITION TO**
) **PLAINTIFF'S MOTION TO SET ASIDE**
) **ALL EXHIBITS IN THE DEFENDANTS'**
) **PENDING MOTIONS THAT ARE**
) **"VOID" OF THE SUBJECT 9/20/1993**
) **TITLE DEED INSTRUMENT IN THE**
) **CLARK COUNTY RECORDER'S**
) **OFFICE**

) Date of Hearing: 01/14/2015

) Time of Hearing: 9:00 AM

Plaintiff "Franklin" hereby replies to the Defendants' captioned opposition.

Pursuant to Nevada Rules of Civil Procedures 60(b)(4), the Defendant attorneys are evading
the legal definition of its massive *void judgments or orders* infested in their exhibits.

A Memorandum of Points and Authorities and Proof of Service is attached herewith.

Sincerely submitted by,

Bobby L. Franklin
BOBBY L. FRANKLIN
Plaintiff *In Proper Person*

1/9/2015
DATED

A-14-707291-C
ROPP
Reply to Opposition
4425540



Memorandum of Points and Authorities

A "Void Judgment" is clearly defined in *Black's Law Dictionary*:

"Void judgment. One which has no legal force or effect, invalidity of which may be asserted by any person whose rights are affected at any time and at any place directly or collaterally. *Reynolds v. Volunteer State Life Ins. Co.*, Tex.Civ.App., 80 S.W.2d 1087, 1092. One which, from its inception is and forever continues to be absolutely null, without legal efficacy, ineffectual to bind parties or support a right, of no legal force and effect whatever, and incapable of confirmation, ratification, or enforcement in any manner or to any degree. Judgment is a "void judgment" if court that rendered judgment lacked jurisdiction of the subject matter, or of the parties, or acted in inconsistent with due process. *Klugh v. U.S.*, D.C.S.C., 620 F.Supp. 892, 901."

Black's Law Dictionary, Sixth Edition.

The federal courts have denied its jurisdiction to ever evaluate or review the legal validity of Franklin's re-recorded 1993 Title Deed rights that were administratively exhausted on 12/19/1996. It is *inconsistent with due process* for any judicial court of law to "expunge" Franklin's re-recorded 1993 Title Deed instrument, without ever evaluating or reviewing the legal validity of it.

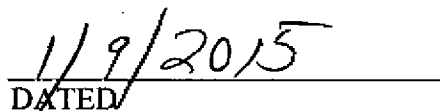
I. CONCLUSION

Based on the foregoing, all exhibits in the Defendants' Motion to Expunge and Dismiss that are "void" of the subject 9/20/1993 Title Deed instrument in the Clark County Recorder's Office, shall be set aside.

Sincerely submitted by,


BOBBY L. FRANKLIN

dba DL&S Development
P.O. Box 70254
Las Vegas, NV. 89170
(830) 822-4791
dlcpatent@hotmail.com
Plaintiff In Proper Person


DATED

1
2
3 **PROOF OF SERVICE**

4 I, Plaintiff - BOBBY L. FRANKLIN hereby certify under penalty of perjury that I mailed by
5 USPS 1st class prepaid mail the above *PLAINTIFF'S REPLY* to the Defendant(s) attorneys at
6 their following address:

7 Jolley Urga Woodbury & Little 1/9/2015
8 3800 Howard Hughes Pkwy, Suite 1600 DATE MAILED
9 Las Vegas, NV. 89169

10 Phone: 702-699-7500

11 Done by,

12 Bobby L. Franklin
13 BOBBY L. FRANKLIN
14 DL&S Development Co.
15 P.O. Box 70254
Las Vegas, NV. 89170

1/9/2015
DATED

16 Plaintiff *In Proper Person*
17 dlepatent@hotmail.com
18 830-914-7954
19
20
21
22
23
24
25

Billy L. Franklin
P.O. Box 70254
Las Vegas, NV - 89170

SN BERNARDINO
CA 923
09 JAN '15
PM 3 L



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1000 89155

Clark, Clark County District Court
Regional Justice Center
200 Lewis Ave. 3rd floor
Las Vegas, NV 89155

89155990099



CLERK OF THE COURT

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5 CHARLES T. COOK, ESQ.
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7 etc@juww.com
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14 Las Vegas, Nevada 89169
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16 Facsimile: 702.699.7555

17 *Attorneys for D.J. Laughlin, BWD Properties 2,*
18 *LLC, BWD Properties 3, LLC and BWD*
19 *Properties 4, LLC*

20 **DISTRICT COURT**
21 **CLARK COUNTY, NEVADA**

22 BOBBY L. FRANKLIN,

23 Plaintiff,

24 vs.

25 D.J. LAUGHLIN, dba BWD PROPERTIES 2,
26 LLC, a Nevada Limited Liability Company,
27 BWD PROPERTIES 3, LLC, a Nevada Limited
28 Liability Company, and BWD PROPERTIES 4,
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30 "Also all other persons unknown claiming any
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34 plaintiff's title thereto."

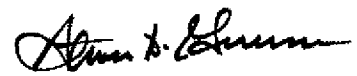
35 Defendants.

Case No.: A-14-707291-C
Dept. No. XX

36 **ORDER GRANTING DEFENDANT'S**
37 **MOTION TO EXPUNGE LIS PENDENS**
38 **AND MOTION TO DISMISS THE**
39 **COMPLAINT**

40 The Motion to Expunge Lis Pendens and Motion to Dismiss the Complaint filed by
41 Defendant, D.J. Laughlin, came on for hearing on January 14, 2015. The Defendant, D.J.
42 Laughlin, appeared by and through his counsel of record, Charles T. Cook, Esq. and Brian C.

Page 1 of 2



CLERK OF THE COURT

1 **NEOJ**

2 WILLIAM R. URGAS, ESQ.

3 Nevada Bar No. 1195

4 wru@juwww.com

5 CHARLES T. COOK, ESQ.

6 Nevada Bar No. 1516

7 ctc@juwww.com

8 BRIAN C. WEDL, ESQ.

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10 bcw@juwww.com

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14 Las Vegas, Nevada 89169

15 Telephone: 702.699.7500

16 Facsimile: 702.699.7555

17 *Attorneys for D.J. Laughlin, BWD Properties 2,*

18 *LLC, BWD Properties 3, LLC and BWD*

19 *Properties 4, LLC*

20 **DISTRICT COURT**

21 **CLARK COUNTY, NEVADA**

22 **BOBBY L. FRANKLIN,**

23 **Plaintiff,**

24 **vs.**

25 **D.J. LAUGHLIN, dba BWD PROPERTIES 2,**
26 **LLC, a Nevada Limited Liability Company,**
27 **BWD PROPERTIES 3, LLC, a Nevada Limited**
28 **Liability Company, and BWD PROPERTIES 4,**
LLC, a Nevada Limited Liability Company,
"Also all other persons unknown claiming any
right, title, estate, lien or interest in the real
property described in the complaint adverse to
plaintiff's ownership, or any cloud upon
plaintiff's title thereto."

Defendants.

Case No.: A-14-707291-C

Dept. No. XX

**NOTICE OF ENTRY OF ORDER
GRANTING DEFENDANT'S MOTION
TO EXPUNGE LIS PENDENS AND
MOTION TO DISMISS THE
COMPLAINT**

1 TO: ALL INTERESTED PARTIES:

2 PLEASE TAKE NOTICE that an Order Granting Defendant's Motion to Expunge Lis
3 Pendens and Motion to Dismiss the Complaint was duly entered in the above entitled matter on
4 the 20th day of January, 2015, a copy of which is attached hereto.

5 DATED this 21st day of January, 2015.

6 JOLLEY URGALAWYERS & LITTLE

7
8 By: 

9 WILLIAM R. URGALAWYER, ESQ.

10 Nevada Bar No. 1195

11 CHARLES T. COOK, ESQ.

12 Nevada Bar No. 1516

13 BRIAN C. WEDL, ESQ.

14 Nevada Bar No. 8717

15 3800 Howard Hughes Parkway

16 Wells Fargo Tower, Sixteenth Floor

17 Las Vegas, Nevada 89169

18 Attorneys for D.J. Laughlin, BWD Properties 2,

19 LLC, BWD Properties 3, LLC and BWD

20 Properties 4, LLC

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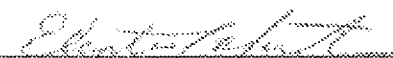
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Las Vegas, NV 89170

and placed the envelope in the mail bin at the firm's office.

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it is deposited with the U. S. Postal Service on the same day it is placed in the mail bin, with postage thereon fully prepaid at Las Vegas, Nevada, in the ordinary course of business. I certify under penalty of perjury that the foregoing is true and correct, and that this Certificate of Service by Mail was executed by me on January 21st, 2015 at Las Vegas, Nevada.


An employee of JOLLEY URGALAWYERS
WOODBURY & LITTLE


CLERK OF THE COURT

1 **OGM**
2 WILLIAM R. URG, ESQ.
3 Nevada Bar No. 1195
4 wru@juww.com
5 CHARLES T. COOK, ESQ.
6 Nevada Bar No. 1516
7 etc@juww.com
8 BRIAN C. WEDL, ESQ.
9 Nevada Bar No. 8717
10 bcw@juww.com
11 JOLLEY URG, WOODBURY & LITTLE
12 3800 Howard Hughes Parkway
13 Wells Fargo Tower, Sixteenth Floor
14 Las Vegas, Nevada 89169
15 Telephone: 702.699.7500
16 Facsimile: 702.699.7555

17 *Attorneys for D.J. Laughlin, BWD Properties 2,*
18 *LLC, BWD Properties 3, LLC and BWD*
19 *Properties 4, LLC*

20 **DISTRICT COURT**
21 **CLARK COUNTY, NEVADA**

22 **BOBBY L. FRANKLIN,**

23 Plaintiff,

24 vs.

25 D.J. LAUGHLIN, dba BWD PROPERTIES 2,
26 LLC, a Nevada Limited Liability Company,
27 BWD PROPERTIES 3, LLC, a Nevada Limited
28 Liability Company, and BWD PROPERTIES 4,
29 LLC, a Nevada Limited Liability Company,
30 "Also all other persons unknown claiming any
31 right, title, estate, lien or interest in the real
32 property described in the complaint adverse to
33 plaintiff's ownership, or any cloud upon
34 plaintiff's title thereto."

35 Defendants.

Case No.: A-14-707291-C
Dept. No. XX

**ORDER GRANTING DEFENDANT'S
MOTION TO EXPUNGE LIS PENDENS
AND MOTION TO DISMISS THE
COMPLAINT**

36 The Motion to Expunge Lis Pendens and Motion to Dismiss the Complaint filed by
37 Defendant, D.J. Laughlin, came on for hearing on January 14, 2015. The Defendant, D.J.
38 Laughlin, appeared by and through his counsel of record, Charles T. Cook, Esq. and Brian C.

Page 1 of 2

RECLIENT FILES\BWD Properties 2\14707291-C\Franklin-Defendant\Pleadings Case\201501-11-Order Granting Motion to Expunge and Dismiss(2).doc

JOLLEY URG, WOODBURY & LITTLE
attorneys at law
3800 HOWARD HUGHES PARKWAY, SUITE 1600, LAS VEGAS, NV 89169
TELEPHONE: (702) 699-7500 FAX: (702) 699-7555

<input type="checkbox"/> Voluntary Dismissal	<input type="checkbox"/> Summary Judgment
<input type="checkbox"/> Involuntary Dismissal	<input type="checkbox"/> Stipulated Judgment
<input type="checkbox"/> Stipulated Dismissal	<input type="checkbox"/> Default Judgment
<input type="checkbox"/> Motion to Dismiss by Def(s)	<input type="checkbox"/> Judgment of Acquittal

1 Wedl, Esq., of Jolley Urga Woodbury & Little; Plaintiff personally appeared and was not
2 represented by counsel. The Court, having reviewed the pleadings and moving papers on file
3 herein, having heard the arguments of counsel and Plaintiff, and good cause appearing, finds as
4 follows:

5 IT IS HEREBY ORDERED that Defendant's Motion to Expunge Lis Pendens be, and
6 hereby is, GRANTED. Accordingly, the document entitled "NRS 14.010 - NOTICE OF
7 PENDENCY OF QUIET TITLE ACTION IN THE CLARK COUNTY, NEVADA DISTRICT
8 COURT" recorded by Bobby L. Franklin on September 17, 2014, Instrument No. 20140917-
9 0002279, is hereby cancelled and expunged. The cancellation has the same effect as an
10 expungement of the original notice.

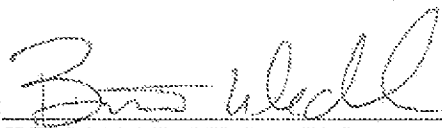
11 IT IS FURTHER ORDERED that Defendant's Motion to Dismiss the Complaint be, and
12 hereby is, GRANTED, and Plaintiff's Complaint is dismissed with prejudice; and

13 IT IS FURTHER ORDERED that any pending motions filed by Plaintiff are rendered
14 moot and therefore DENIED.

15 DATED this 16th day of January, 2015.

16
17 
18 DISTRICT COURT JUDGE

19 JOLLEY URG WOODBURY & LITTLE

20
21 By: 
22 WILLIAM R. URG, ESQ.
23 CHARLES T. COOK, ESQ.
24 BRIAN C. WEDL, ESQ.
25 3800 Howard Hughes Parkway
26 Wells Fargo Tower, Sixteenth Floor
27 Las Vegas, Nevada 89169
28 Attorneys for D.J. Laughlin,
BWD Properties 2, LLC, BWD Properties 3, LLC
and BWD Properties 4, LLC

Form 1. Notice of Appeal to the Supreme Court From a Judgment or Order of a District Court

No. A-14-707291-C

FILED
FEB 2 12 47 PM '15
Dept. No. 20

IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE
STATE OF NEVADA IN AND FOR
THE COUNTY OF CLARK

San L. Robinson
CLERK OF THE COURT

BOBBY L. FRANKLIN,

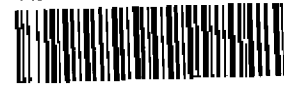
Plaintiff, }

v. }

D.J. LAUGHLIN, dba BWD PROPERTIES 2, }
LLC, a Nevada Limited Liability Company, }
BWD PROPERTIES 3, LLC, a Nevada Limited }
Liability Company, BWD PROPERTIES 4, }
LLC, a Nevada Limited Liability Company, }
"Also all other persons unknown claiming any }
right, title, estate, lien or interest in the real }
property described in the complaint adverse to }
plaintiff's ownership, or any cloud upon }
plaintiff's title thereto." }

Defendants. }

A-14-707291-C
NCAS
Notice of Appeal
4430081



NOTICE OF APPEAL

Notice is hereby given that BOBBY FRANKLIN, plaintiff above named, hereby appeals to the Supreme Court of Nevada from the final judgment or order that "dismissed" this Quiet Title Action Complaint; and, that "expunged" plaintiff's 9/20/1993 real estate Title and Deed *instruments* on exhibit in the Complaint, from the Clark County Recorder's Office, without ever reading the Affidavit of Facts or evaluating the legal validity of such *instruments* on exhibit in the Complaint, and that ignored the related motions on docket and denied oral argument on

them, entered in this QTA action on the 21st day of January, 2015.

Bobby L. Franklin
BOBBY L. FRANKLIN (*pro se*)
3520 Needles Hwy. Box 233
Needles, CA. 92363
830-822-4791
dlepatent@hotmail.com


1/29/2015
DATED

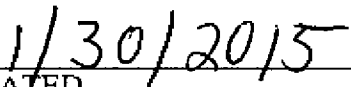
Proof of Service

I, BOBBY L. FRANKLIN certify under penalty of perjury that I prepaid USPS and 1st class mailed the foregoing *NOTICE OF APPEAL* to this Court and to the named Defendants' attorneys at:

JOLLEY URGAL WOODBURY & LITTLE
3800 Howard Hughes Pkwy, 16th Floor
Las Vegas, NV. 89169
(702) 699-7500
(Attorneys for the Defendants)

Sincerely,


BOBBY L. FRANKLIN
dba DL&S Development
P.O. Box 70254
Las Vegas, NV. 89170


DATED

(830) 822-4791
dlepatent@hotmail.com
Plaintiff In *Proper Person*

Edley Franklin
3520 Needles Hwy. Box 233
Needles, C.A. 92363

Clark,
Regional Justice Center
Clark County District Court
200 Lewis Ave. 3rd Floor
Las Vegas, NV. 89155



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FILED

FEB 2 12 47 PM '15


L. J. ...
CLERK OF THE COURT

BOBBY L. FRANKLIN
dba DL&S Development
3520 Needles Hwy, Box 233
Needles, CA. 92363

(830) 822-4791
dlepatent@hotmail.com
Plaintiff In Proper Person

DISTRICT COURT
CLARK COUNTY, NEVADA

BOBBY L. FRANKLIN,)
)
Plaintiff,)
)
vs.)
)
D.J. LAUGHLIN, dba BWD PROPERTIES 2,)
)
LLC, a Nevada Limited Liability Company,)
)
BWD PROPERTIES 3, LLC, a Nevada Limited)
)
Liability Company, BWD PROPERTIES 4,)
)
LLC, a Nevada Limited Liability Company,)
)
"Also all other persons unknown claiming any)
)
right, title, estate, lien or interest in the real)
)
property described in the complaint adverse)
)
to plaintiff's ownership, or any cloud upon)
)
plaintiff's title thereto.")
)
Defendants.)

A-14-707291-C
NCOA
Notice of Change of Address
4430082


Case No.: A-14-707291-C

Dept. No.: 20

Date of Hearing On Appeal

Time of Hearing _____

NOTICE OF CHANGE OF MAILING ADDRESS

NOTICE is given that the current mailing address of the Plaintiff - Bobby L. Franklin is:
3520 Needles Hwy, Box 233, Needles, CA. 92363.

Sincerely,

Bobby L. Franklin
BOBBY L. FRANKLIN (pro se)

1/29/2015
DATED

RECEIVED
FEB 02 2015
CLERK OF THE COURT

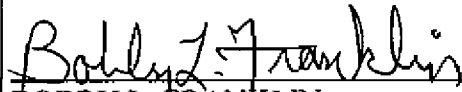
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Proof of Service

I, BOBBY L. FRANKLIN certify under penalty of perjury that I prepaid USPS and 1st class
mailed the foregoing *Notice* to this Court and to the named Defendants' attorneys at:

JOLLEY URGAL WOODBURY & LITTLE
3800 Howard Hughes Pkwy, 16th Floor
Las Vegas, NV. 89169
(702) 699-7500

Sincerely,



BOBBY L. FRANKLIN
dba DL&S Development
3520 Needles Hwy, Box 233
Needles, CA. 92363

(830) 822-4791
dlepatent@hotmail.com
Plaintiff *pro se*

1/30/2015
DATED

Form 5. Request for Rough Draft Transcript of Proceeding in the District Court

FILED

No. A-14-707291-C

Dept. No. 20
FEB 2 12 48 PM '15

IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE
STATE OF NEVADA IN AND FOR
THE COUNTY OF CLARK

Laura B. Williams
CLERK OF THE COURT

BOBBY L. FRANKLIN, Plaintiff }
v. }
D.J. LAUGHLIN, et al., Defendant }

REQUEST FOR ROUGH DRAFT TRANSCRIPT

TO: Susan Dolorfino (Court Reporter for Department 20, 702-671-4436)

BOBBY FRANKLIN, plaintiff named above, requests preparation of a rough draft transcript of certain portions of the proceedings before the district court, as follows:

Specific individual dates of proceedings for which transcripts are being requested is for the Hearing that transpired on 1/14/2015 @ 9:00 AM (a range of dates is not acceptable):

Specific portions of the transcript being requested is for all of such Hearing that lasted for about five minutes (e.g., suppression hearing, trial, closing argument, etc.):

This notice requests a transcript of only those portions of the district court proceedings that counsel reasonably and in good faith believes are necessary to determine whether appellate issues are present. Voir dire examination of jurors, opening statements and closing arguments of trial counsel, and the reading of jury instructions shall not be transcribed unless specifically requested above.

I recognize that I must serve a copy of this form on the above named court reporter and opposing counsel, and that the above named court reporter shall have ten (10) days from the receipt of this notice to prepare and submit to the district court the rough draft transcript requested herein.

Dated this 29th day of January, 2015 .

Bobby L. Franklin
BOBBY L. FRANKLIN (*pro se*)
3520 Needles Hwy. Box 233
Needles, CA. 92363

1/29/2015
DATED

830-822-4791
dlepatent@hotmail.com

A-14-707291-C
REQ
Request
4430084



RECEIVED
FEB 02 2015
CLERK OF THE COURT

21

2

Proof of Service

I, BOBBY L. FRANKLIN certify under penalty of perjury that I prepaid USPS and 1st class mailed the foregoing *REQUEST FOR ROUGH DRAFT TRANSCRIPT* to this Court

Clerk and to the named Defendants' attorneys at:

JOLLEY URGAL WOODBURY & LITTLE
3800 Howard Hughes Pkwy, 16th Floor
Las Vegas, NV. 89169

(702) 699-7500
(Attorneys for the Defendants)

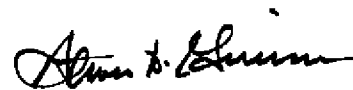
Sincerely,



BOBBY L. FRANKLIN
dba DL&S Development
P.O. Box 70254
Las Vegas, NV. 89170

1/30/2015
DATED

(830) 914-7954
dlepatent@hotmail.com
Plaintiff In *Proper Person*



CLERK OF THE COURT

ASTA

**IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE
STATE OF NEVADA IN AND FOR
THE COUNTY OF CLARK**

BOBBY L. FRANKLIN,

Plaintiff(s),

vs.

D.J. LAUGHLIN dba BWD PROPERTIES 2, LLC;
BWD PROPERTIES 3, LLC; BWD PROPERTIES
4, LLC,

Defendant(s).

Case No: A-14-707291-C

Dept No: XX

CASE APPEAL STATEMENT

1. Appellant(s): Bobby L. Franklin

2. Judge: J. Charles Thompson

3. Appellant(s): Bobby L. Franklin

Counsel:

Bobby L. Franklin
3520 Needles Hwy., Box 233
Needles, CA 92363

4. Respondent (s): D.J. Laughlin dba BWD Properties 2, LLC; BWD Properties 3, LLC; BWD Properties 4, LLC

Counsel:

William R. Urga, Esq.
3800 Howard Hughes Pkwy.
Wells Fargo Tower, Sixteenth Floor
Las Vegas, NV 89169

5. Appellant(s)'s Attorney Licensed in Nevada: N/A
Permission Granted: N/A
- Respondent(s)'s Attorney Licensed in Nevada: Yes
Permission Granted: N/A
6. Appellant Represented by Appointed Counsel In District Court: No
7. Appellant Represented by Appointed Counsel On Appeal: N/A
8. Appellant Granted Leave to Proceed in Forma Pauperis**: Yes, September 22, 2014
***Expires 1 year from date filed*
Appellant Filed Application to Proceed in Forma Pauperis: N/A
9. Date Commenced in District Court: September 22, 2014
10. Brief Description of the Nature of the Action: REAL PROPERTY - Title of Property
Type of Judgment or Order Being Appealed: Dismissal
11. Previous Appeal: No
Supreme Court Docket Number(s): N/A
12. Child Custody or Visitation: N/A
13. Possibility of Settlement: Unknown

Dated This 3 day of February 2015.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk
200 Lewis Ave
PO Box 551601
Las Vegas, Nevada 89155-1601
(702) 671-0512

cc: Bobby L. Franklin

FILED

FEB 24 2015

John L. Franklin
CLERK OF COURT

Form 5. Request for Rough Draft Transcript of Proceeding in the District Court

No. A-14-707291-C

Dept. No. 20

IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE
STATE OF NEVADA IN AND FOR
THE COUNTY OF CLARK

BOBBY L. FRANKLIN, Plaintiff }
v. }
D.J. LAUGHLIN, et al., Defendant }

A-707291

**SUPPLEMENTAL
REQUEST FOR ROUGH DRAFT TRANSCRIPT**

TO: Susan Dolorfino (Court Reporter for Department 20, 702-671-4436)

BOBBY FRANKLIN, plaintiff named above, requests preparation of a rough draft transcript of certain portions of the proceedings before the district court, as follows:

Specific individual dates of proceedings for which transcripts are being requested is for the Hearing that transpired on 1/14/2015 @ 9:00 AM (a range of dates is not acceptable):

Specific portions of the transcript being requested is for all of such Hearing that lasted for about five minutes (e.g., suppression hearing, trial, closing argument, etc.):

This notice requests a transcript of only those portions of the district court proceedings that counsel reasonably and in good faith believes are necessary to determine whether appellate issues are present. Voir dire examination of jurors, opening statements and closing arguments of trial counsel, and the reading of jury instructions shall not be transcribed unless specifically requested above.

I recognize that I must serve a copy of this form on the above named court reporter and opposing counsel, and that the above named court reporter shall have ten (10) days from the receipt of this notice to prepare and submit to the district court the rough draft transcript requested herein.

Dated this 29th day of January, 2015 .

s/Bobby L. Franklin
BOBBY L. FRANKLIN (*pro se*)
3520 Needles Hwy. Box 233
Needles, CA. 92363

01/29/2015
DATED

A-14-707291-C
SUPPL
Supplement
4435596



830-822-4791
dlcpatent@hotmail.com

RECEIVED
FEB 24 2015
CLERK OF THE COURT

Proof of Service

I, BOBBY L. FRANKLIN certify under penalty of perjury that I prepaid USPS and 1st class mailed the foregoing *REQUEST FOR ROUGH DRAFT TRANSCRIPT* to this Court

Clerk and to the named Defendants' attorneys at:

JOLLEY URGAL WOODBURY & LITTLE
3800 Howard Hughes Pkwy, 16th Floor
Las Vegas, NV. 89169

(702) 699-7500
(Attorneys for the Defendants)

Sincerely,

s/Bobby L. Franklin
BOBBY L. FRANKLIN
dba DL&S Development
P.O. Box 70254
Las Vegas, NV. 89170

01/30/2015
DATED

(830) 914-7954
dlepatent@hotmail.com
Plaintiff In *Proper Person*

Supplemental Proof of Service

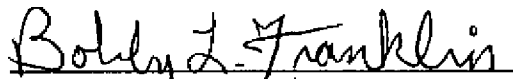
I, BOBBY L. FRANKLIN certify under penalty of perjury that I prepaid USPS and 1st
class mailed the foregoing *SUPPLEMENTAL REQUEST FOR ROUGH DRAFT*

TRANSCRIPT to this Court Clerk and to the named Court Reporter at:

SUSAN DOLORFINO, Court Reporter for Department XX
Regional Justice Center, Courtroom 10D
200 Lewis Ave.
Las Vegas, NV. 89155

(702) 761-4463
(Court Reporter)

Sincerely,



BOBBY L. FRANKLIN
3520 Needles Hwy. Box 233
Needles, CA. 92363

February 20, 2015
DATED

(830) 822-4791
dlepatent@hotmail.com
Plaintiff In *Proper Person*

Bobby L. Franklin
3520 Needles Hwy. Box 233
Needles, CA. 92363

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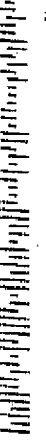


89155



1000

Clark,
Clark County District Court
Regional Justice Center
200 Lewis Ave.
Las Vegas, NV. 89155



1 **TRAN**

2 DISTRICT COURT
3 CLARK COUNTY, NEVADA

4 BOBBY L. FRANKLIN,

5 Plaintiff(s),

6 vs.

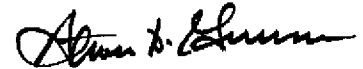
7 D.J. LAUGHLIN, dba BWD PROPERTIES
8 2, LLC, a Nevada Limited Liability
9 Company, BWD PROPERTIES 3, LLC,
10 a Nevada Limited Liability Company, and
11 BWD PROPERTIES 4, LLC, a Nevada
12 Limited Liability Company, "Also all other
13 persons unknown claiming any right, title,
estate, lien or interest in the real property
described in the complaint adverse to
plaintiff's ownership, or any cloud upon
plaintiff's title thereto."

14 Defendant(s).
15

CASE NO. A707291

Electronically Filed
03/02/2015 11:38:58 AM

DEPT. NO. XX



CLERK OF THE COURT

16 BEFORE THE HONORABLE SENIOR JUDGE LEE A. GATES

17 WEDNESDAY, JANUARY 14, 2015

18 RECORDER'S TRANSCRIPT OF DEFENDANT'S MOTION
19 TO EXPUNGE LIS PENDENS AND MOTION TO DISMISS COMPLAINT

20 APPEARANCES:

21 For the Plaintiff:

BOBBY L. FRANKLIN

22 For the Defendant:

23 CHARLES T. COOK, ESQ.
24 BRIAN C. WEDL, ESQ.

25 RECORDED BY: SUSAN DOLORFINO, COURT RECORDER/TRANSCRIBER

1 LAS VEGAS, NEVADA, WEDNESDAY, JANUARY 14, 2015, 8:59 A.M.

2 MR. COOK: Good morning, Your Honor, this is Charles Cook for the
3 Defendants, our motion, I believe, with Jolly Urga Woodbury & Little.

4 THE COURT: I'm sorry, I didn't hear that last part.

5 MR. COOK: Jolly Urga Woodbury & Little.

6 THE COURT: Okay. And you are?

7 MR. FRANKLIN: I'm Mr. -- I'm Bobby Franklin. I'm the Plaintiff.

8 THE COURT: This is on today for Defendant's Motion to Expunge Lis
9 Pendens and Motion to Dismiss Complaint.

10 MR. FRANKLIN: Can I respond to that, Your Honor?

11 THE COURT: Well, that's why we're here. First of all, it's Defendant's
12 Motion.

13 MR. FRANKLIN: Yes, Your Honor.

14 THE COURT: Proceed.

15 MR. COOK: In our motion, we're asking for a dismissal, we're asking for
16 an expungement of the lis pendens and for sanctions. I will discuss any of those
17 you'd like and I will answer any questions you'd like. There's a lot of stuff we've
18 submitted --

19 THE COURT: No, I just want to know if you want to add anything to your
20 pleading paper.

21 MR. COOK: I think the pleading papers bring it -- bring it to the light. I can
22 just generally gloss over the fact and say in 1988 --

23 THE COURT: Pardon me, I'm sorry --

24 MR. COOK: In 1988, Mr. Franklin attempted to file a desert land entry
25 application and obtain some property near Laughlin, Nevada. That process has

1 gone on to today's date.

2 THE COURT: Has anyone ever been successful at that?

3 MR. COOK: You mean other places?

4 THE COURT: Yeah.

5 MR. COOK: I don't know.

6 THE COURT: All right.

7 MR. COOK: But the Federal, I mean his real complaint is that the U.S.,
8 United States of America did not ever give him title to the --

9 MR. FRANKLIN: I object, Your Honor. That's false.

10 THE COURT: Well, anyway, let him speak, all right?

11 MR. COOK: And so all -- all of our Federal Courts have entertained his ideas.
12 We have an order from Judge Hunt, which basically evicts -- vexatious litigant order
13 that prohibits him from filing any additional matters unless it's prescreened with --
14 by the Court. We have the order from Judge Sandoval that declares a number of
15 things and it enjoins him from recording anything in the Recorder's Office and it also
16 declares that the current owner of the property BWD is owner of the hundred
17 percent of the property. The earlier orders, I think we have the Ninth Circuit Order in
18 1995 that confirm that Mr. Franklin has no interest there and it shut -- and that the
19 U.S. had to bring an action to stop his trespass. Here we are at twenty some years
20 later, in 2006 there was a BLM auction. Mr. Laughlin bought that -- this property in
21 2006. We filed an action in Federal Court in 2006 to quiet the title. We succeeded
22 and we are here today because Mr. Franklin continues to file documents in courts
23 and record documents in the County Recorder's Office in violation of both those
24 Federal orders.

25 THE COURT: All right. What do you have to say, sir?

1 MR. FRANKLIN: First of all, I'd like to point out, Your Honor, before I get into
2 any of the merits that it took them nineteen days, it took them nineteen days to file
3 their reply to their motion to expunge and dismiss and it took them nineteen days to
4 file a response to my motion to set aside. So, it took them nineteen days, so I put a
5 reply to my motion to set aside and it's not on the docket, so before I get into any of
6 the merits, I'd like to motion the Court under EDCR Rule 2.21 to set for oral
7 argument - set hearing for oral argument.

8 THE COURT: Hearing for oral argument in what?

9 MR. FRANKLIN: On the affidavits.

10 THE COURT: Denied. Proceed now on these.

11 MR. FRANKLIN: Okay. Okay. I remind the Court that my reply to my motion
12 to set aside is not on the docket, but -- and in that reply I served it six days ago, but
13 it didn't. You know -- there's a five day limit before the hearing, so because they
14 was late in opposing my motion, my reply didn't get on the docket. So, is what the
15 reply amounts to is all of the orders in their evidence denied, they had no subject
16 matter jurisdiction. They denied me subject matter jurisdiction over --

17 THE COURT: Who -- who you talking about they, the Federal Courts?

18 MR. FRANKLIN: Every Federal Court that they put in there denied subject
19 matter jurisdiction over my title --

20 THE COURT: And now what do you expect this Court, this lowly Court to do?

21 MR. FRANKLIN: To examine my title.

22 THE COURT: Well --

23 MR. FRANKLIN: It's never been examined.

24 THE COURT: Yeah well, you know -- the Federal Court has already said you
25 don't have any title.

1 MR. FRANKLIN: How can they expunge anything when there hadn't even
2 been examined or read? I have -- I have a legal title and I would like it to be
3 examined at a trial.

4 THE COURT: Well --

5 MR. FRANKLIN: What is in it? That's in my complaint and there's an affidavit
6 in my complaint too. I have some evidence. Can I show any evidence at this
7 hearing?

8 THE COURT: You have evidence of what?

9 MR. FRANKLIN: I have evidence is -- is what the Defendant is trying to do.
10 They're trying to say that there was a valid expungement in Federal Court? No, it
11 was not valid. I -- they said that I didn't exhaust administrative remedies. I filed it in
12 the Federal Court but they ignored it. I have proof that I did exhaust administrative
13 remedies on December 19th, 1996 on my title. It was dismissed in the Interior Board
14 of Land Appeals and they kept saying that it never happened. But it did and I have
15 evidence to prove that I did exhaust in a final administrative decision from the
16 Department of Interior my title was dismissed in their final order. Now I want it
17 reviewed. I want -- not reviewed, I want it examined or reviewed whether it go
18 through appeal but I want my title. My title never was examined by anybody. And
19 I'll show you the lie right-- can I show you the evidence? I'll show the Defendant
20 first.

21 THE COURT: Yeah, show the Defendant. Let them have a look at it before I
22 see it.

23 MR. FRANKLIN: You see all of this? This was in your Federal Court
24 Sandoval. This was the BLM here. This is why I filed title, Your Honor, because
25 before I filed -- before I exhausted administrative remedies, I knew -- I figured what

1 they was going to do. There was going to be more mischief involved, so I filed my
2 title to protect my rights. It's never been -- it's never been looked at before. It's
3 always been overlooked. Now this is the final administrative hearing right here. And
4 here's what Mr. Sandoval in nineteen nine -- 2008, 2008 he said that I didn't do what
5 I did. The evidence is here. I filed it in his Court and he said that I didn't do what I
6 did do.

7 MR. COOK: It'll be fine if the Judge wants to look at this. I would point out
8 though that this is coming from the Department of the Bureau of Land Management.
9 It looks like it's dated October 27th, 1995.

10 MR. FRANKLIN: That's the -- that's their decision. Here's the appeal right
11 here.

12 MR. COOK: And it ends with the last paragraph by saying you submitted
13 interrogatories on your visit of October 16th. It is not necessary to answer your
14 request as the decision to reject your application dated October 25th, 1993 was
15 appropriate. So I don't think --

16 MR. FRANKLIN: My title proves it was not appropriate. It's against the law --
17 I had it reversed in 1990. It's reversed. It's published in public record. I had it
18 reversed and it wasn't appealed. It was --

19 THE COURT: Well, where's -- I mean, did they give you anything that shows
20 you have title to the property?

21 MR. FRANKLIN: I got title. It's in my complaint.

22 THE COURT: What do you mean you got title? What did you have that
23 shows that you have title from the Federal Government to the land?

24 MR. FRANKLIN: It's in -- it's in the complaint.

25 THE COURT: The complaint is not a title, sir.

1 MR. FRANKLIN: It's filed with the -- here it is right in here. It's my title.

2 THE COURT: Bailiff, you want to bring this up whatever he's trying to show
3 me. Let me see it.

4 MR. FRANKLIN: The Complaint.

5 THE MARSHALL: He attached in his original papers.

6 THE COURT: Is that what he's --

7 MR. FRANKLIN: My purchase receipt -- I purchased it in 1988 and in 1993 I
8 filed my title. The proof of purchase is the first page, Exhibit One.

9 MR. COOK: I should probably add -- what he really needs is a deed from the
10 U.S. Government which would be in the form of a patent and he never got that.

11 MR. FRANKLIN: That's wrong. That's not how the county recorder works.

12 THE COURT: Well, Exhibit One is not a deed, it's just shows where you paid
13 a fifteen dollar filing fee.

14 MR. FRANKLIN: That's my receipt.

15 THE COURT: Okay.

16 MR. FRANKLIN: And then the last, the last of -- the second page on Exhibit
17 Two shows that the Supreme Court of the United States says that it's against the
18 law for BLM to come up with a -- down five years down the road saying it's mineral
19 in character again. It was already reversed once. They want me in Court in
20 administrative appeals for the rest of my life. My Dad already died during this stupid
21 process and I probably will too before its finished. It's not mineral in character. It's
22 not mineral land. I proved it in -- on appeal and then I appealed my title in 1996 and
23 I want my title examined before -- how can you expunge something if you don't even
24 read it. That's against due process to the extreme. Look at Article Five on the
25 Supreme Court. It says -- it says that it's against the law for them to say that it's

1 mineral -- mineral land, especially after it was already reversed. And that goes on
2 as three more pages to it, but it just shows what -- why that law is made so it can do
3 -- it won't have any of this indefinite mineral land, mineral land forever for the rest of
4 my life. They're going to manufacture decisions saying its mineral land. Well, that's
5 why the law is there. They can't do that. It's against the law.

6 MR. COOK: Your Honor, if you would like to look at Exhibit L in our -- to our
7 motion, that's an unpublished opinion from the Ninth Circuit that discusses Mr.
8 Franklin's argument --

9 MR. FRANKLIN: What year is that?

10 THE COURT: The *Stockley* case, somehow gives him some rights.

11 MR. FRANKLIN: What year -- what year was that made? Was that decided,
12 what year?

13 MR. COOK: What year are we talking about?

14 MR. FRANKLIN: The case you're reading.

15 MR. COOK: It's Exhibit L to my motion --

16 MR. FRANKLIN: That doesn't have -- what year was it -- was it

17 MR. COOK: 1995 -- Ninth Circuit.

18 MR. FRANKLIN: That's right. That's before I even went to appeal.

19 MARSHALL: Gentlemen, gentlemen, address the Judge please, not each
20 other.

21 MR. FRANKLIN: I didn't appeal -- I didn't make the final appeal until
22 December 19th, 1996. Now, those are all moot. All of that stuff is moot because I
23 hadn't even exhausted administrative remedies yet. It's all moot stuff. It's -- they
24 even denied subject matter jurisdiction. Is what it's called as a void judgment.
25 That's what I tried to get into a reply to my motion to set aside. A void judgment

1 when they deny subject matter jurisdiction to re -- to examine the stuff, it's against
2 due process of law. They can't expunge it.

3 THE COURT: Well, you know what? You haven't convinced me that you own
4 the property, sir. You come bringing in some case law that's not even specific to
5 these facts or case. So, the court is going to grant the motion.

6 [COLLOQUAY BETWEEN COURT AND MARSHALL -- NOT TRANSCRIBED]

7 MR. COOK: Thank you, Your Honor. Your Honor, can I also ask about the
8 sanction? Could I ask about the sanctions, Your Honor. We've had three Federal
9 Judges, two in Nevada and one in Texas that have warned him against frivolous
10 filings and warned him what Rule 11 is all about.

11 THE COURT: Well, you know what? You should go take it back and have
12 them impose the sanctions, all right. No, denied.

13 MR. COOK: Okay.

14 MR. FRANKLIN: Your Honor, can I show you --

15 THE COURT: No, I don't want to see anything else.

16 MR. COOK: I'm sorry, but just to clarify, you're also granting our motion to
17 expunge the lis pendens? Is that correct?

18 THE COURT: Yes.

19 MR. COOK: Thank you, Your Honor

20 MARSHALL: Thank you gentlemen, have a good day.

21 MR. COOK: Thank you.

22 COURT CLERK: Counsel, may I have your name.

23 MR. WEDL: Sorry, Brian Wedl, W-E-D-L.

24 COURT CLERK: Okay. Thank you.

25

PROCEEDING CONCLUDED AT 9:15 A.M.

ATTEST: Pursuant to Rule 3C(9) of the Nevada Rules of Appellate Procedure, I
acknowledge that this is a rough draft transcript, expeditiously prepared, not proofread,
corrected, or certified to be an accurate transcript.



SUSAN DOLORFINO
Court Recorder/Transcriber

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Title to Property	COURT MINUTES	January 14, 2015
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A-14-707291-C	Bobby Franklin, Plaintiff(s) vs. D J Laughlin, Defendant(s)	
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January 14, 2015	9:00 AM	Motion to Expunge Lis Pendens
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HEARD BY: Gates, Lee A.

COURTROOM: RJC Courtroom 10D

COURT CLERK: Linda Skinner

RECORDER: Susan Dolorfino

REPORTER:

PARTIES

PRESENT:	Cook, Charles Thomas	Attorney
	Franklin, Bobby L	Plaintiff

JOURNAL ENTRIES

- Mr. Cook advised he is asking for a dismissal, expunge lis pendens and costs. Arguments by Mr. Cook and Plaintiff Mr. Franklin in support of their respective positions. Following, COURT ORDERED, Defendant's Motion is GRANTED. Mr. Cook requested sanctions against Plaintiff. Court DENIED request.

Certification of Copy and Transmittal of Record

State of Nevada }
County of Clark } SS:

Pursuant to the Supreme Court order dated March 5, 2015, I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, do hereby certify that the foregoing is a true, full and correct copy of the complete trial court record for the case referenced below. The record comprises one volume with pages numbered 1 through 180.

BOBBY L. FRANKLIN,

Plaintiff(s),

vs.

D. J. LAUGHLIN dba BWD PROPERTIES 2,
LLC,

Defendant(s),

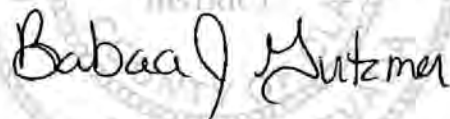
Case No: A707291

Dept. No: XX

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto
Set my hand and Affixed the seal of the
Court at my office, Las Vegas, Nevada
This 13 day of March 2015.

Steven D. Grierson, Clerk of the Court



Barbara J. Gutzmer, Deputy Clerk