IN THE SUPREME COURT OF THE STATE OF NEVADA

BOBBY LEN FRANKLIN,)
Appellant,)
vs.)
D.J. LAUGHLIN, D/B/A/ BWD)
PROPERTIES 2, LLC; BWD)
PROPERTIES 3, LLC; AND BWD) Supreme Court Case No.: 67364
PROPERTIES 4, LLC,)
Respondents.) District Court No.: A-14-707291-C
)

APPELLANT'S MOTION FOR RECONSIDERATION OF THE RECORD OVERLOOKED

Sincerely submitted by:

Mr. Bobby Len Franklin (*pro se*)
D/B/A/ Daydream Land & Systems Development
Desert Land Entryman N-49548
3520 Needles Hwy. Box 233
Needles, CA. 92363

830-822-4791
dlepatent@hotmail.com

15-23389

PREFACE

Appellant *pro se,* Bobby Len Franklin ("I") move this Court for reconsideration of the official record as a matter of law, fact and equity for *all* the parties in this Case. My described 80 acre Title and Deed that was re-recorded with the Clark County Recorder on 9/20/1993; that is on "Exhibit 1 & 2"in the district court Complaint, still exists on microfiche in the Recorder's Office. The district court order to expunge *lis pendens* merely expunged the claim for this lawsuit, but my Title and Deed remains for others. The Respondents will never receive any Title Insurance on the described property to ever be able to build anything of value there, while my 1993 Title and Deed remains on it. Again, the described 80 acres will remain in the clouds forever and be subject to probate onto my family, until the legal validity and legal statutory effect of my 80 acre Title and Deed is finally tried in a *judicial court of law and equity,* as I stated in the district court Complaint and this appeal. If my Title and confirmation *rights* do not prevail in the district court trial on a remand by this Court, I will waive all my ownership rights to the Respondents in district court, for the described 80 acres.

Bobby Len Franklin
s/BOBBY LEN FRANKLIN

7/30/2015
DATED

This is a *pro se* appeal from the district court dismissing the QTA Complaint and expunging the *lis pendens* at the 1/14/2015 hearing, that:

1) Refused to read or examine the legal validity or legal effect of my statutory Title and Deeded land rights that was re-recorded with the Clark County Recorder on 9/20/1993, and is on "Exhibit 1 and 2" in the QTA Complaint;

2) Suppressed me from responding to any of the Defendants allegations;

3) Denied my request for an oral argument hearing;

4) Suppressed me from saying anything further; and then quickly,

5) Dismissed and expunged the case without stating any reason why.

The district court's QTA subject matter jurisdiction was undisputed, and is certainly valid. The timely Notice of Appeal was filed for this Court.

I. ON APPEAL

I filed Opening Brief and Motion for Stay to specifically remind all parties of the legal definition of any *"Void judgment"* under federal and Nevada Rule of Civil Procedure 60(b)(4), and will quote it again for convenience of this Court:

> ***"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 inconsistent with due process.
> Klugh v. U.S., D.C.S.C., 620 F.Supp. 892, 901."'
>
> *Black's Law Dictionary, Sixth Edition*

In Opposition to Motion for Stay, the Respondents filed a stack of un-indexed federal court orders or judgments that had *all* decided they "lacked jurisdiction of the subject matter" to ever examine or enforce my *existing* 80 acre Title & Deed that was re-recorded with the Clark County Recorder on 9/20/1993. The federal Circuit(s) affirmed such *lack of subject matter jurisdiction*. The Respondents also alleged that the reason they bought such 80 acres at their formed "BLM Land Auction in 2006", was because they had information that the BLM classified such 80 acres as "mineral in character" on 10/25/1993, and that such mineral classification had voided the Franklin 80 acre Title Deed rights.

In *Reply to Motion for Stay*, I quoted the law that is in my existing Title and Deeded rights that is on "Exhibit 2" in the Complaint:

> **5. "Public lands -98- 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 8, 1891, § 7 (Comp. St. § 5118) 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." *Stockley et al. v. US.,* 260 U.S. 532, at preface.
> See, my *Title* in "Exhibit 2" of the QTA Complaint.

My final "receipt" for the 80 acres was issued to me on **8/27/1988,** and is my Deed "Exhibit 1" in the QTA Complaint. Any BLM decision to classify the 80 acres as "mineral in character" after **8/27/1990,** was **illegal**, "foreclosed", null and void *ab initio*. "Moreover, the Respondents and/or the BLM never conducted a Title Search on the 80 acres, before they allegedly sold it, or bought it and transferred it into the BWD corporations.[1]" (See, Reply to Motion for Stay)

II. THE ORDER OF AFFIRMANCE, FILED 7/23/2015

This Court apparently concluded that the federal courts can *preclude* the examination or enforcement of my existing 1993 county Title and Deed for the 80 acres, when it has never been examined in any judicial court of law to ever **be** precluded. Please, let me prove from the admitted federal court record why the federal courts all decided they "lacked jurisdiction of the subject matter' and/or mistakenly *acted inconsistent with due process* of law, justice, or the truth:

1. First, this Court cites *Franklin v. United States*, 46 F.3d 1140 (9th Cir. 1995) as a reason to preclude trial. However, that case had no jurisdiction on the 80 acres because the 80 acre jurisdiction was on administrative appeal from

[1] "The three land patents that Mr. Laughlin received from the USA or BLM in 2006, against Franklin's 1993 Title & Deed, clearly states that the USA and its agencies have no further interest or liability on the described 80 acres."

BLM to IBLA from 1995 to 1996, as will be proven below, which is on the overlooked record.

2. Next, this Court cites *Franklin v. Laughlin*, No. 10-CV-1027, 2011 WL 672328 (W.D. Tex. 15, 2011) as a preclusion reason. However, that case found and had no jurisdiction on the 80 acres because the 80 acres is located in Clark County, Nevada, and not Texas.

3. Next, this Court cites *Franklin v. Chatterton*, Order and injunction, No. 2:07-CV-01400 (D. Nev. April 21, 2008, affd, 358 F. App'x 970 (9th Cir. 2009) as a preclusion reason. However, that case was a Civil Rights lawsuit that was again dismissed "for lack of subject matter jurisdiction" and never discussed my 1993 Title or Deed to ever **be** "resolved" or enjoined , which was affirmed to *lack jurisdiction* in another unpublished 9th Circuit memo of no precedent , and that brings us back to the legal definition of a *void judgment* under Rule 60(b)(4).

4. Lastly, this Court cites *BWD Props. 2, LLC v. Franklin*, Order, No. 2:06-CV-01499 as a reason for preclusion. However, on 9/28/2007, that case again decided a **"lack of subject matter jurisdiction"** to evaluate or enforce the legal effect of my existing 1993 Title and Deed that is on "Exhibit 1 and 2" in the district court QTA Complaint.

In short, every federal court case has ordered "lack of subject matter jurisdiction" to ever examine the legal effect of my 80 acre legal Title rights, thus are *all* "void judgments" of no legal force or effect, incapable of affirmation, which may be contested and set aside by anybody at any time or any place ... .

The two injunctions cited by this Court from the federal courts are also both "'*void judgments*"'; "inconsistent with due process" of law, justice and the truth because the Franklins **did** exhaust all IBLA remedies to enforce their 1993

Title and Deeded legal *rights*, in the *final* Interior decision, and is attached herewith as "Exhibit 4". However, both of the federal injunctions are entirely based on its mistaken falsehood that "The Franklins failed to exhaust their administrative remedies ... (and) therefore, have no right, title or interest in the property." and is attached herewith as "Exhibit 5".

III. ARGUMENT

As was declared in the (unsworn) affidavit in the district court Complaint:

1. On 8/27/1988, I, BOBBY FRANKLIN was issued the purchased "receipt" instrument as my Deed, which is in "Exhibit 1" in the district court Complaint. It was filed in the federal courts for many years to no avail or resolve.

2. On 8/27/1990, the IBLA *reversed* the BLM's "Mineral in Character" contest on the described 80 acres, in *Bobby L. Franklin*, 116 IBLA 29 (published).

3. On 9/20/1993, I re-recorded my *stare decisis* legal rights and final receipt with the Clark County Recorder as my Title and Deed, to prevent further extortion, and it is on "Exhibits 1 & 2" in the district court's QTA Complaint.

4. On 12/19/1996, the IBLA officially dismissed its jurisdiction to my Title Deed confirmation rights, in its *final* administrative decision, attached as "Exhibit 4".

5. On 2/15/2007, I filed "Exhibit 4" into federal court case 2:06-CV-1499, because that federal court had denied its "subject matter jurisdiction" over my Title Deed rights, by falsely stating the Franklins did **not** exhaust admin remedies.

6. On 9/29/2008, federal court 2:06-CV-1499 granted the BWD corporations as 100% owners of such 80 acres, and mistakenly enjoined my 1993 Title and confirmation rights in its file, ***all*** based upon its mistaken ignorance that "The Franklins failed to exhaust their administrative remedies (and) Therefore, have no right, title or interest in the property." and is attached herewith as "Exhibit 5".

It does not matter if such mistaken ignorance was intentional or not, it is clearly the latest of the federal "Void judgments" entered that falsely denied its "subject matter jurisdiction" to examine my confirmation Title rights that were exhausted in the final Interior decision. An act "inconsistent with due process" of law, and a mockery of justice and truth. The Franklins **did** exhaust all administrative remedies to their statutory Title and Deeded rights, in the *final* decision of the Department of the Interior. Therefore, I will continue to denounce such federal *injunction(*s), and I do request and expect this Court to set it aside.

IV. SUPPOSITION

Perhaps this Court should send this Case record to the Nevada Attorney General for his opinion:

Q. Can "void judgments" or orders from any federal court legally preclude any Nevada Court of its jurisdiction to set a case for trial?

V. RELIEF REQUESTED

Based on the foregoing reasons and the two exhibits attached herewith as evidence, the district court dismissal should be reversed, and remanded to set trial for the relief requested in the complaint.

Sincerely submitted by,

Bobby Len Franklin — 7/30/2015

BOBBY LEN FRANKLIN (pro se) — DATED

PROOF OF SERVICE

I certify under penalty of perjury that I mailed the foregoing *Motion for Reconsideration* and all its attachments to this Court Clerk and a copy to the following attorneys via prepaid USPS mail:

JOLLEY URGA WOODBURY & LITTLE
3800 Howard Hughes Pkwy.
Wells Fargo Tower, 16th floor
Las Vegas, NV. 89169
E-mail: FedCt@juww.com
Attorneys for Respondents

Sincerely submitted by,

Bobby Len Franklin

BOBBY LEN FRANKLIN
3520 Needles Hwy. Box 322
Needles CA. 92363

830-822-4791
dlepatent@hotmail.com

7/31/2015
DATE MAILED

"EXHIBIT 4"

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Las Vegas District Office
4765 Vegas Drive
Las Vegas, Nevada 89108

IN REPLY REFER TO:

N-49548
2520
(NV-050)

CERTIFIED MAIL NO. 2525101
RETURN RECEIPT REQUESTED

OCT 27 1995

Mr. Bobby D. Franklin
5036 Royal Avenue
Las Vegas, NV 89103

Dear Mr. Franklin:

Thank you for meeting with me over the past few weeks. I appreciate and respect your comments concerning your desert land entry application.

You had questions concerning the "receiver's receipt". This receipt deals with the payment of the balance of the $1.25 per acre purchase price of the land and is payable at the time that final proof of development to qualify for patent is filed. The $15 filing fee and the $0.25 per acre deposit payable with the filing of the application for entry have no standing to create any rights to receive title to land described in a desert land entry application. In order for any right to title to the land to vest in the applicant, the BLM must issue an entry allowed decision. Even then the right granted must be perfected by developing the land to meet the reclamation requirements of the desert land act. Development must be followed by timely submittal of final proof to document that development. As part of the final proof taking, the entryman must pay the balance of the purchase price, which is $1.00 per acre. To acknowledge payment of this balance, the "receiver's receipt" is issued. This is the receipt that triggers the two-year clock to mandate that BLM issue patent, or timely initiate contest of an inadequately developed entry. If contest does not occur timely, then and only then, is the entryman entitled to a patent.

You submitted "INTERROGATORIES" on your visit of October 16. It is not necessary to answer your request as the decision to reject your application, dated October 25, 1993, was appropriate.

DLE 025

Exhibit 4, p 2

Inasmuch as you have exhausted your appeals procedures, which were unsuccessful, we are closing your application file. If you have any questions, please contact Larry Sip of this office at 647-5063.

Sincerely,

Michael F. Dwyer
District Manager

DLE 026

- Exh. b + 4, p 3

Date NOV. 13, 1995

Bobby L. Franklin, BIA #8
HC 77, Box 41531
Pahrump, Nevada 89041
(702) 727-9251 or 368-4036

Mr. Michael Dwyer, District Manager
Las Vegas District, Nevada
Bureau of Land Management
4765 W. Vegas Drive
Las Vegas, Nevada 89108
(702) 647-5000;

Also copy to:
Regional Solicitor Pacific Southwest Region
U.S. Department of the Interior
2800 Cottage Way
Sacramento, CA 95825

NOTICE OF APPEAL

DLE N-49548, 43 CFR 2520 (NV-050)
Certified Mail No. 2525009, Oct. 27, 1995
In rem 43 CFR §1862.6; 43 USC §321; 43 USCA §1165.

To all concerned,

Notice of Appeal is hereby given from the decision of Mr. Michael Dwyer, District Manager, Las Vegas District, Nevada, Bureau of Land Management, dated October 27, 1995, for refusing to administer to Appellant his requested and rightfully entitled land patent as required under the Confirmation Statute 43 USCA 1165; in refusing to perform his plain ministerial Interior duty required under 43 CFR 1862.6; in entirely misconstructing Appellant's mandatory right to confirm and patent his entry under the Confirmation Statute of Limitations; in refusing to answer the "interrogatories" to the Franklin's rights to confirm and patent their entered land under Interior rulings, regulation, and Congressional law, which the Appellant submitted to the Appellee on 10/16/95; and thereby, adversely and incorrectly closing Appellant's DLE N-49548 application file without issuing Appellant his rightfully entitled land patent, in violation to Appellee's duty and the longstanding laws of the land.

Reasons, written and oral arguments, briefs, and/or other papers are attached to this document, and more written and oral paper will follow after this document is filed.

Sincerely,

Notary 11-13-95

Bobby L. Franklin
Appellant, pro se

STATE OF NEVADA
County of Clark

Note: The Appellant request that the Board admonish Appellee's Solicitor to have the attached submitted interrogatories answered.

DLE 027

- "Exhibit 10" -

No. _____

IN THE INTERIOR BOARD

OF LAND APPEALS

Bobby L. Franklin, Appellant / Petitioner.

vs.

Michael Dwyer, District Manager,
Las Vegas District, Nevada,
Bureau Of Land Management, Appellee / Respondent.

PETITION TO MANDATE THE RESPONDENT TO PERFORM HIS MINISTERIAL REQUIRED DUTY TO ISSUE PETITIONER HIS RIGHTFULLY ENTITLED PATENT

Appellant petitions the Board to mandate Respondent to perform his required ministerial duty and issue the Petitioner his rightfully entitled land patent to DLE N-49548, as required under the Confirmation Statute of Limitations of the Desert Land Laws of the United States 43 CFR 1862.6; 43 USC 321; 43 USCA 1165, by virtue of Franklin's full compliance with the Desert Land Laws on public lands of the United States, and there being no valid contest or protest against Franklin's entry for more than 2 years after the issuance to him of the receiver's receipt, authority perfectly clear and mandatory under the operation of law.

REASONS

The receiver's receipt, issued 8/26/88, along with the entered Case Abstract title, entered 8/27/88, are attached herewith as Exhibit 3.

ARGUMENT

43 CFR 1862.6 - Patent to issue after 2 years from the date of the Manager's final receipt. ..., regardless of whether or not the Manager's final certificate has issued.

43 USCA 1165 - This section 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. Stockley v U.S., La 1923 43 S.Ct. 188, 269 U.S. 532, 67 L.Ed. 390.

> "The question whether or not public land entered under the (homestead) Laws was mineral-bearing is not open after the lapse of 2 years from the issuance of receiver's receipt on final entry." Stockley, 67 L.Ed. at 390.

This Board should mandate Respondent his ministerial required duty to issue the Petitioner his rightfully entitled land patent.

DLE 028

NOTARY PUBLIC
STATE OF NEVADA
County of Clark
Geraldine Magnuson
My Appointment Expires Nov 25, 1998

11-13-95

Bobby L Franklin
Claimant / Petitioner
pro se
DLE-N-49548

United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
Interior Board of Land Appeals
4015 Wilson Boulevard
Arlington, Virginia 22203

DEC 19 1995

CERTIFIED

IBLA 96-111 96-163	:	N-52252 N-49548
BOBBY D. FRANKLIN BOBBY L. FRANKLIN	:	Desert Land Entries
	:	Motion to Consolidate Granted; Appeals Dismissed

ORDER

Bobby D. Franklin and his son Bobby L. Franklin appeal from identical letters dated October 27, 1995, issued by the Las Vegas District Manager, Bureau of Land Management (BLM), responding to questions regarding their desert land entry applications N-52252 and N-49548, filed pursuant to the Desert Land Act, as amended, 43 U.S.C. §§ 321-339 (1994). BLM noted that inasmuch as appellants had exhausted their appeals procedures, which were unsuccessful, it was closing their application files.

On August 8, 1988, Bobby L. Franklin filed his desert land entry application for lands located in the S½ of the SW¼, sec. 16, T. 32 S., R. 66 E., Mount Diablo Meridian. On November 21, 1989, Bobby D. Franklin filed his desert land entry application for adjacent lands in the N½ of the same SW¼.

Bobby L. Franklin appealed BLM's October 13, 1988, decision rejecting his claim on the basis that "the public lands affected by your DLE [desert land entry] Filing N-49548, are appropriated (by mining claims) and thereby rendered unsuitable under the Desert Land Act and not subject to disposition." Under 43 CFR 2520.0-8(a)(1), in order for lands to be subject to entry under the desert land law, they must be nonmineral in character. In Bobby L. Franklin, 116 IBLA 29 (1990), the Board reversed BLM's decision noting that the mere fact of location of a mining claim does not establish the mineral character of the land. The Board stated that it found no clear evidence in the record to support the conclusion that the land in question was mineral in character. Consequently, the Board remanded the case to BLM for reconsideration of Bobby L. Franklin's application and determination of whether the land should be classified as open to desert land entry.

Pursuant to the Board's decision, BLM produced a mineral report dated July 16, 1992, for the SW¼ of sec. 16 which found the land embraced by the Franklins' applications to be mineral in character and therefore not available for appropriation under the Desert Land Act. BLM issued two decisions on [illegible], 1993 denying the Franklins' applications based on the findings of the mineral report.

(19)

DLE 020

Neither Bobby D. Franklin nor Bobby L. Franklin appealed BLM's decision to this Board. Instead, they instituted action in Federal district court. Bobby Dean Franklin v. United States, CV-S-93-1283-HDM (LRL)(D. Nev. May 16, 1994); Bobby Lee Franklin v. United States, CV-93-01140-HDM. The Government moved to dismiss on the grounds that the Franklins had failed to exhaust their administrative remedies. The court granted the motion stating that when the Franklins received the adverse decisions from BLM, they were required to appeal to the Board. The court found that the Franklins' failure to do so constituted a failure to exhaust their administrative remedies. Therefore, the court concluded that it lacked jurisdiction to hear their appeals.

On appeal to the Ninth Circuit Court of Appeals, the court reviewed the district court de novo and affirmed the dismissal for lack of jurisdiction in two memorandum decisions dated January 10, 1996. Bobby L. Franklin v. United States, 46 F.3d 1140 (9th Cir.), cert. denied, 116 S.Ct. 100 (1995); Bobby D. Franklin v. United States, 46 F.3d 1141 (9th Cir.), cert. denied, 116 S.Ct. 123 (1995).

By letters dated October 27, 1995, BLM informed the Franklins that it was closing the files in their desert land entry application cases. The Franklins now appeal these letters. In their statement of reasons, the Franklins assert that the District Manager erred in refusing to issue patents as required by the Confirmation Statute, 43 U.S.C. § 1165 (1994) and 43 CFR 1862.6, the corresponding regulation.

In response, BLM contends that the appeals must be dismissed for lack of jurisdiction. BLM asserts that the Franklins are not "adversely affected" by the letters closing the files within the meaning of 43 CFR 4.410(a), and therefore these letters are not reviewable by the Board. BLM also points out that, to the extent that the appeals include reference to BLM's 1993 decisions denying their desert land entry claims, the appeals must fail because they were not timely filed. BLM asserts that absent a timely appeal, the Board must dismiss for lack of jurisdiction.

In a reply to BLM's response, Bobby L. Franklin essentially reiterates the arguments presented in his statement of reasons for appeal.

On November 4, 1996, the Franklins filed a motion to consolidate their appeals. In light of the fact that the BLM letters dated October 27, 1995, from which these appeals are taken are identical, and the arguments presented on appeal are the same, the motion for consolidation is granted.

The doctrine of administrative finality, like its judicial counterpart res judicata, bars reconsideration of prior actions which were or could have been subject to direct review, in subsequent or collateral proceedings, except upon a showing of compelling legal or equitable reasons. Keith Rush (On Reconsideration), 125 IBLA 346, 351 (1993) and cases cited. Where an appellant attempts to raise issues that were

31 ELE 000 (20)

finally decided in an earlier decision which was not appealed, the appeal is not timely as to those matters which could have been previously decided. The Wilderness Society, 106 IBLA 46, 53 (1988).

In its decisions dated September 12, 1995, BLM rejected the Franklins' desert land entry applications because the lands claimed by the applications were determined to be mineral in character and therefore not subject to entry as desert land. If the Franklins wanted to dispute the rejection of their applications, they were required to do so within 30 days of receipt of BLM's decisions. See 43 CFR 4.411(a). They did not do so. The timely filing of an appeal is jurisdictional and the failure to file timely mandates dismissal of the appeal. 43 CFR 4.411(c); D. R. Johnson Lumber Co., 105 IBLA 379, 382-83 (1988). The Franklins cannot use BLM's response to its questions concerning desert land entry to overcome their failure to appeal the November 12, 1995, decisions.

We note that the Franklins argued before the Ninth Circuit that the district court should have asserted its jurisdiction under the Confirmation Statute, 43 U.S.C. § 1165 (1994), regardless of their failure to exhaust administrative remedies. This statute 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 assumes the entryman of rights to a patent if the Secretary fails to contest the entry within two years. The Ninth Circuit disposed of this argument by stating that the statute does not provide an independent basis for the district court's jurisdiction or excuse a party's failure to exhaust administrative remedies.

To the extent appellants have raised arguments which we have not specifically addressed herein, they have been considered and rejected.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the motion to consolidate is granted and the appeals are dismissed.

John H. Kelly
Administrative Judge

I concur:

Franklin D. Arness
Administrative Judge

ELF 081

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(21)

"EXHIBIT 5"

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

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

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

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