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Counsel for Defendant Wayne LaMar Palmer

UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

SECURITIES AND EXCHANGE COMMISSION, Plaintiff, v. NATIONAL NOTE OF UTAH, LC, a Utah Limited Liability Company and WAYNE LaMAR PALMER, an individual, Defendants.	**MOTION TO UNFREEZE ASSETS TO PAY ATTORNEY FEES AND TO RETAIN EXPERT WITNESSES AND SUPPORTING MEMORANDUM** Civil No. 2:12-cv-00591-BSJ Judge Bruce S. Jenkins

Pursuant to F.R.C.P. 65, defendant, Wayne L. Palmer ("Palmer"), moves this Court for an order modifying preliminary injunctive relief to release frozen assets. *See* Order Appointing Receiver and Staying Litigation ("Receivership Order") (Dkt. No. 9.) and Stipulation to Entry of Preliminary Injunction as to Defendant Wayne LaMar Palmer. (Dkt Nos. 45 & 46.)

INTRODUCTION AND PROCEDURAL BACKGROUND

Simply put, Palmer seeks modification of injunctive relief freezing assets so that he can retain undersigned counsel. It is clear from the procedural history that Palmer needs representation and that the present legal action cannot be legitimately tried or resolved without

the assistance of defense counsel. Palmer does not have means to pay for competent legal help. His assets are frozen and inaccessible. And, Palmer does not have other means to pay for a defense.[1] The allegations herein involve complex law and facts—Palmer does not have the training or expertise to go to trial nor is he even in a position to understand how to resolve this matter short of trial. And, as explained more fully below, to force Palmer to litigate *pro se* against the massive litigation machine of the federal government is patently unfair and disregards the presumptions of innocence intrinsic in our judicial system.

The Securities and Exchange Commission ("SEC") initiated the action on June 25, 2012. (Dkt. No. 1) ("Complaint"). On that same day, the SEC filed and this Court granted a series of ex parte motions. (Dkt. Nos. 2, 3, 4, 7, 8 & 9.) Palmer, without admitting or denying the allegations contained in the Complaint or the ex parte motions, stipulated that "pending final adjudication . . . all receivership assets and recoverable assets and assets related to the conduct alleged in the Complaint belonging to Palmer shall remain frozen until further order of this Court." (Dkt. No. 46). It is this injunctive relief that the present motion seeks to modify. Furthermore, R. Wayne Klein (hereafter "Receiver") was appointed as receiver and he began to "transfer, compromise, or otherwise dispose of [Palmer's assets and National Note of Utah, LC's ("NNU") assets], other than real estate, in the ordinary course of business . . . ." (*See* Dkt. No. 9, ¶ 7(A), 7(B) and 19; Receiver Declaration ¶ 4.)

On August 24, 2012, lawyers Brennan H. Moss ("Moss") and Nathan S. Dorius ("Dorius") entered notices of appearance on behalf of Palmer. (Dkt. Nos. 47 & 48.) And, with the benefit of counsel, Palmer filed an Answer (Dkt. No. 56) to the SEC's Complaint. Unfortunately for Palmer, because of the asset freeze, his ability to pay for legal representation

[1] *See* January 5, 2015 Declaration of Wayne L. Palmer ("Palmer Decl.") ¶¶ 10–11.

soon became an issue. On or around January 25, 2013, Moss and Dorius withdrew as counsel. (Dkt. No. 140.) Palmer concedes that Moss and Dorius withdrew because Palmer had exhausted his means to timely pay for the legal representation. (Palmer Decl. ¶ 4.) Ultimately, Palmer was able to facilitate a means for limited payment of legal representation and, on May 20, 2013, Ronald C. Barker ("Barker"), entered a Notice of Appearance on behalf of all defendants. (Dkt. No. 309.) Unfortunately, Barker was not a long-term solution.

On July 19, 2013, the SEC filed a Motion for Summary Judgment. (Dkt. No. 377.) After numerous extensions and supplemental briefing, this Court heard argument on the SEC's motions for summary judgment. In essence, the SEC argued the facts were indisputable and that, as a matter of law, Palmer violated "the registration, antifraud provisions and the broker registration requirements of the federal securities laws." *See* Motion for Summary Judgment Against Defendant Wayne LaMar Palmer and Memorandum in Support Thereof at 1. (Dkt. No. 377.) Palmer responded by arguing that he believed the accounting procedures and policies relating to NNU and related entities were proper. (Dkt. Nos. 473 & 521.) He further argued that the movement of funds at issue was the result of bona fide transactions and that the statements he made were not misrepresentations. (Dkt. Nos. 473 & 521.) Palmer explained why subsequent agreements with holders of the notes whereby those holders agreed to defer interest payments created factual questions. (Dkt. No. 521.) Palmer also claimed that promissory notes sold to non-accredited investors were exempt from registration requirements because they were secured by an interest in real property, usually in the form of an assignment of beneficial interest and that notes from accredited investors were exempt per applicable law. (Dkt. No. 473, p.58.) Palmer further argued he was prejudiced because he did not have sufficient means to proffer a defense and that he was being deprived of due process. (*See* Dkt. No. 521 at 4 ("As a result of the SEC's

seizure of funds and assets, Palmer has been unable to employ experts and other professionals to assist in analyzing accounting records and to assist in his defense. Without funds to defend himself, Palmer has been denied due process, his right to counsel, etc.").)

In reply to Palmer's response, the SEC claimed Palmer's statements were "simply inadequate to overcome the evidentiary record developed by the SEC." (Dkt. No. 530.) The SEC claimed the evidence in the record affirmatively disproved Palmer's responsive arguments and that Palmer was not qualified to proffer evidence in contradiction to the record. *Id*. As such, the SEC claimed that notwithstanding Palmer's proffered evidence, the SEC was still entitled to summary judgment. *Id*. Significantly, the SEC in addressing Palmer's due process arguments noted that Palmer "has not even sought payment of his legal fees from the Receivership Estate." *See* Supplemental Reply Memorandum in Support of Summary Judgment at 3. (Dkt. No. 530.) At this point, Palmer was still represented by counsel. However, Palmer's representation was less than ideal. Palmer was doing much of the work because he could not pay for all the work needed to be done. And, ultimately, Barker withdrew and Palmer was faced with the prospects of preparing for trial *pro se*.[2] (Dkt. No. 591.) (Palmer Decl. ¶ 6.)

On July 9, 2014, this Court denied the SEC's request for entry of summary judgment. This Court's ruling is a clear indication that defense counsel is needed. Palmer has defenses—or at least factual issues that are disputed—and, therefore, arguments that must be presented to a fact finder for ultimate resolution. Palmer needs assistance in the presentation of those defenses given the type of case and Palmer's incontrovertible lack of legal experience.

[2] Subsequent to Mr. Barker's withdrawal, Paul T. Moxley ("Moxley") and Z. Ryan Pahnke ("Pahnke") agreed to appear on behalf of Palmer. (Dkt. Nos. 592 & 593.) Their representation was minimal as the means for paying for legal representation, resources from Palmer's family, was limited. When these funds were exhausted, Moxley and Pahnke withdrew and Palmer, having no means to pay for legal representation, had no choice but to move forward *pro se* at a critical juncture of the litigation. (Palmer Decl. ¶¶ 6–8.)

LEGAL STANDARDS

The decision to freeze or unfreeze assets is a discretionary matter. "It is well settled that this Court has authority to freeze personal assets temporarily and the corollary authority to release frozen personal assets, or lower the amount frozen." *SEC v. Duclaud Gonzales de Castilla*, 170 F. Supp. 2d 427, 429 (S.D.N.Y. 2001) (citing *SEC v. Unifund SAL*, 917 F.2d 98 (2d Cir. 1990); *SEC v. Am. Bd. Of Trade, Inc.*, 830 F.2d 431 (2d Cir. 1987); and *SEC v. Manor Nursing Ctrs., Inc.*, 458 F.2d 1082 (2d Cir. 1972)). While the primary purpose of freezing assets is to facilitate compensation of investors in the event a violation is established at trial, "the disadvantages and possible deleterious effect of a freeze must be weighed against the considerations indicating the need for such relief." *Id*. Here, the considerations weigh in favor of releasing limited assets to pay for a reasonable representation in a complex and complicated case where the assistance of defense counsel is needed.

ARGUMENT

I. This Court Should Follow Other District Courts That Have Exercised Discretion In Releasing Frozen Assets To Provide For Reasonable Attorney Fees and Defense Costs

There is ample precedent of federal district courts releasing frozen assets for the purpose of paying for attorney fees. *See SEC v. Dowdell*, 175 F. Supp. 2d 850, 855–56 (W.D. Va. 2001). For instance, the Seventh Circuit acknowledged in *SEC v. Quinn*, 997 F.2d 287, 289 (7th Cir. 1993), that the district court "indicated willingness to release small amounts so that [the defendant] could defend this suit, and on occasion the court did so." In *SEC v. Int'l Loan Network, Inc.*, 770 F. Supp. 678, 680 (D.D.C. 1991), a district court indicated, notwithstanding Ponzi scheme allegations and a prior asset freeze, that it had granted a "modification of the asset freeze to permit defendants to retain counsel on their behalf."

A request for frozen assets to be released to pay for attorney fees was also granted in *Duclaud Gonzales de Castilla*, 170 F.Supp.2d 427. The district court explained the defendants presented possible challenges to the SEC's evidence and that substantial legal work had already been performed in arguing summary judgment motions. *Id*. at 430. The district court released frozen assets for the limited purpose of paying legal expenses but precluded use of assets to pay for living expenses. *Id*. Similarly, here, ample work has been done and Palmer has defeated the SEC's motion for summary judgment. Also, possible challenges exist to the SEC's evidence. And, in this case, the request is limited to attorney fees and related litigation costs.

What is clear from these cases is that where assets are frozen and means for legal counsel do not exist, trial courts are concerned with the fairness of the proceedings:

> This court's central concern is the fairness of the proceedings. The court does not believe that it could achieve a fair result at the preliminary injunction hearing were it to deny defendants the ability to retain counsel. This is a complex legal matter, and lawyers are essential to the presentation of issues related to it. Therefore, the court is ordering the respective attorneys to file with the court, within the next ten days, reasonable estimates of the fees necessary to take them through the hearing on the preliminary injunction. If the estimates are reasonable, the court will approve them.

Dowdell, 175 F. Supp. 2d at 856. The district court was concerned with lack of representation at the preliminary injunction stage. In the present circumstance, the concern is even greater. Palmer has successfully defeated summary judgment and is faced with the prospects of preparing for trial. Yet Palmer has no training as to the rules of evidence or procedure. Fairness dictates a release of assets so that complex legal matters can be meaningfully presented and resolved.

II. Fundamental Fairness And Due Process Requires That Palmer Be Permitted Funds To Defend Himself

Despite the SEC's consistent representations and accusations of malfeasance, this Court has found there remain genuine issues of material fact to be tried. And, notwithstanding that finding, Palmer has, because of the freeze, been denied access to funds that would enable him to

mount even a modest defense at trial. In contrast, the SEC and the Receiver have incurred over a million dollars in legal fees and related litigation expenses. In fairness to Palmer, he must have access to experienced and knowledgeable counsel. Again, as made clear by the district court in *Dowdell*, "lawyers are essential" in the "presentation of complex legal issues." *Id.* at 855-56.[3]

Furthermore, an asset freeze—prior to any adjudication of wrongdoing—implicates the procedural protections mandated by the Due Process Clause of the Fifth Amendment. *See, e.g.*, *Doehr*, 501 U.S. at 11–12 (holding that due process protection is merited when there is deprivation of property and deprivation need not be "complete, physical, or permanent" to merit protection but that "even the temporary or partial impairments to property rights that attachments, liens, and similar encumbrances entail are sufficient to merit due process protections.") Here, the deprivation is clear and obvious. Palmer is entitled to a meaningful opportunity to be heard in his defense of this matter prior to the permanent deprivation of his property rights. Thus, the Due Process Clause mandates that Palmer be permitted to present an adequate defense. *See, e.g.*, *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976) (The right to be heard "before being condemned to grievous loss of any kind . . . is a principle basic to our society" and the "fundamental requirement of due process is the right to be heard at a *meaningful time and in a meaningful manner*.") (citations omitted and emphasis added).

What constitutes a "meaningful" opportunity to be heard varies with the circumstances and interests at stake. Due process, "unlike some legal rules, is not a technical conception with a

[3] While it is rarely acknowledged that one of the primary purposes of an SEC asset freeze is to function as a litigation tactic to pressure a defendant and to deny him an adequate defense, it must be conceded that that is indeed an effect. *See Bromberg & Lownfels on Securities Fraud and Commodities Fraud*, § 12:74 Injunctive Actions—Asset Freezes ("Courts typically acknowledge that the purpose of a freeze is to assure payment or disgorgement. Courts generally do not acknowledge another purpose of an asset freeze: to apply pressure to defendants and hamper their defense."); *see also Connecticut v. Doehr*, 501 U.S. 1, 21 (1991) (Recognizing generally that prejudgment attachments can be used as a "tactical device to pressure an opponent to capitulate."). Indeed, whether intentional or not, the SEC and Receiver are now in a position to make Palmer's trial defense virtually impossible—perhaps in the hope that the SEC can prevail simply by default at trial. Such consequence, intentional or not, cannot and should not be condoned or endorsed.

fixed content unrelated to time, place and circumstances." *Id*. at 334 (internal quotation marks and citation omitted); *see also Goldberg v. Kelly*, 397 U.S. 254, 268–69 (1970) ("[T]he opportunity to be heard must be tailored to the capacities and circumstances of those who are to be heard."). Here, the Court's asset freeze precludes Palmer from mounting even a minimal defense and prevents a meaningful opportunity to be heard. Palmer has no funds to obtain copies of documents or deposition transcripts. (*See* Palmer Decl. ¶ 11.) He has no means to take depositions or to even retain expert witnesses. (*See* Palmer Decl. ¶ 11.) In contrast, the SEC has massive resources at its disposal. Thus, forcing Palmer to litigate *pro se* and without resources or knowledge of how to present evidence is not a "meaningful opportunity to be heard" but rather, a mockery of the very legal process we esteem.[4]

While true that the SEC has an interest in preserving funds for disgorgement—if fraud or other wrongdoing is proved—and that any funds released to Palmer to pay for his defense will diminish available assets, that interest cannot be found to be so compelling that it undermines the fundamental fairness of the proceeding. To conclude otherwise is to put the proverbial cart before the horse—to completely disregard the very purpose of the Due Process Clause. Second, it is highly probable that although funds are diminished initially to pay for reasonable

[4] In *Mathews*, the Supreme Court established a three-part balancing test to assess the process due in a particular situation. That balancing test involves an assessment of: 1) "the private interest that will be affected by the official action;" 2) "the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute safeguards;" and 3) "the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." *Mathews*, 424 U.S. at 335. When viewed in the context of the present matter, the *Mathews* factors weigh heavily in favor of permitting Palmer access to funds to mount an adequate defense. The first *Mathews* factor, the private interest that will be affected, is readily apparent. It is Palmer's interest in his reputation and his property, an interest that is clearly within the scope of due process protection. The second *Mathews* factor is critical in the present context because there is a very real risk of an "erroneous deprivation" if Palmer is not permitted to mount an adequate defense. The probable value of safeguards—permitting Palmer to have limited and restricted access to his frozen funds so that he can retain competent counsel and present a meaningful defense—is substantial and will obviously result in a more fair and full trial of the merits of this case than if Palmer were required to proceed *pro se* with no access to documents or witnesses. This is incontrovertible fact. Finally, the Government's obvious interest should be in ensuring that justice is done and that both the Court and investors alike benefit from a complete and full airing of the facts. This cannot happen in this type of case absent adequate representation.

representation, retained counsel will make more efficient the very process that has become increasingly costly for the SEC, the Receiver and this Court as it deals with a *pro se* litigant who does not have the skill set required to handle a complex and complicated legal action.

If the Due Process Clause means anything at all, it means a meaningful opportunity to be heard before "grievous loss" is inflicted. There can hardly be a more grievous a loss, at least in a civil case, than that which Palmer faces here. His entire professional career, his personal and company assets, and whatever he can salvage of his personal reputation are all at stake in this action. To deprive him of virtually any real opportunity to present a defense and to force him to proceed on such unequal footing in comparison to the prosecution is to deprive him of his meaningful opportunity to be heard. To force him to proceed to trial with no expertise and no meaningful tools of advocacy and with neither lawyer nor expert witness to legally defend himself is to ensure that he will lose and is tantamount to entering a default judgment against him. Such a trial would be nothing but a charade and does not promote even the appearance of fairness or due process.[5]

IV. An Adequate Defense Minimally Requires Experienced Counsel, Expert Witnesses, And Access To Documents, Transcripts, Etc.

Palmer's request is needed and reasonable under the circumstances. Even an intelligent and bright businessman such as Palmer cannot be expected to function as his own attorney in a case involving the intricacies of the federal securities laws. Undersigned counsel is willing to represent Palmer at a discounted rate and is agreeable to review procedures imposed by this Court if this motion is granted, Mr. Stewart has agreed to represent Palmer at a rate of $295 per

[5] Again it is appreciated that the SEC is generally granted exceptional deference by the Courts, but that deference is not unlimited and the SEC is still subject to the requirements of the Due Process Clause. *See, e.g., SEC v. Smyth*, 420 F.3d 1225, 1232–33 (11th Cir. 2005) (finding that district court abused its discretion in granting SEC's motion for judgment as to disgorgement amount without providing defendant a meaningful opportunity to be heard at an evidentiary hearing in accord with due process).

hour, Mr. Bower and other partners at a rate of $275 per hour, and associate work at the rate of $160 per hour. As to Mr. Stewart's and Mr. Bower's respective levels of experience and expertise, the Court is invited to review their attached resumes. (*See* attachments A and B).

In addition to assets released to pay legal fees, assets are also needed to pay for related defense costs. According to all involved, the resolution of this case on the merits requires expert examination. The fact finder will be asked to examine highly technical matters and the SEC has itself designated expert witnesses to assist that fact finder in understanding the issues. Just as this complex legal proceeding has caused the SEC and the Receiver to incur (or agree to incur) substantial fees, over a million dollars, the complicated issues involved here also mandate that Palmer have access to experts, transcripts and documents. As it currently stands, Palmer does not have that opportunity because he cannot afford to retain experts or other expenses. Qualified experts expect to be paid. Here, Palmer has made contact and has expert witnesses willing to testify on his behalf. (*See* Palmer Decl. ¶ 12.) However, because of a lack of funds, these expert witnesses are unwilling to do the requisite work on behalf of Palmer's defense. (*See* Palmer Decl. ¶ 12.) Thus, in addition to requesting the release of assets to pay for legal fees, Palmer also requests a release of limited funds to pay for related defense costs, including expert witness fees and costs, as well as deposition, transcript and document expenses.[6]

CONCLUSION

For the foregoing reasons, it is respectfully requested that this Court grant Palmer's Motion to Unfreeze Assets to Pay Attorney Fees and to Retain Expert Witnesses.

[6] Expert witnesses have been contacted by Palmer and are willing to begin work. However, that work is dependent upon Palmer securing legal representation and upon the payment of a retainer. (*See* Palmer Decl. ¶ 12.) The rates and fees associated with those experts is provided in full in the Declaration of Wayne L. Palmer filed herewith.

DATED: January 6, 2015.

/s/ Monte N. Stewart
Monte N. Stewart
Daniel W. Bower
STEWART TAYLOR & MORRIS PLLC
Representing Wayne L. Palmer on a limited basis

CERTIFICATE OF SERVICE

I hereby certify that on the 6th day of January, 2015, I electronically filed the foregoing with the Clerk of Court using the CM/ECF System which sent notification of such filing to the following:

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/s/ Monte N. Stewart

ATTACHMENT A

MONTE NEIL STEWART

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Demonstrated expertise in high-stakes trial and appellate work involving securities laws, federal and state regulatory and administrative regimes, and constitutional law.

EDUCATION

2004 M.St. in Legal Research, Oxford University, United Kingdom, *with distinction*

1976 J.D., Brigham Young University, *summa cum laude* and first in class

1973 B.A., Brigham Young University, *summa cum laude* and *Highest Honors*

BAR ADMISSIONS AND RATING

California, 1976 (active status); Nevada, 1981 (active status); Utah, 1998 (active status); Idaho (2009) (active status); various federal district and circuit courts and the United States Supreme Court; A.V. rating since 1986

LEGAL EXPERIENCE

2008 – partner, Stewart Taylor & Morris PLLC, Boise, Idaho

- *serving as lead counsel in civil litigation and appellate matters with emphasis on securities laws, complex disputes, and constitutional law*

2004 – 2008 president, Marriage Law Foundation, Provo, Utah

- *conducted litigation on the constitutionality of man-woman marriage in the trial and appellate courts of nine states and in the United States Eighth Circuit Court of Appeals*

2001 – 2003 counsel to Utah's Governor and special assistant attorney general, Salt Lake City, Utah

- *as lead counsel relative to the placement of high-level nuclear waste, represented the State of Utah in federal district court and before the Unites States Tenth and D.C. Circuit Courts of Appeal*

1999 – 2001 director, Rex E. Lee Advocacy Program, J. Reuben Clark Law School, Brigham Young University, Provo, Utah; special assistant county attorney, *State v. Thomas Arthur Green*, Juab County, Utah

- *as director of the Advocacy Program, carried responsibility for the instruction of all first-year law students relative to legal writing and oral advocacy*
- *as a special prosecutor, prosecuted through both bench and jury trials high-profile criminal cases*

1998 – 1999 adjunct professor, J. Reuben Clark Law School, Brigham Young University; of counsel, Fillmore Belliston & Israelsen, Provo, Utah.

- *in of-counsel capacity, served as lead counsel in civil litigation matters for both business entities and individuals*

1994 – 1997 volunteer church and community service in Atlanta, Georgia

1992 – 1993 United States Attorney, District of Nevada, Las Vegas, Nevada

- *supervised the work, primarily criminal and civil litigation, of over thirty-five federal attorneys working out of two offices (Las Vegas and Reno)*

1981 – 1992 partner, Wright & Stewart, Las Vegas, Nevada

- *served as lead counsel in civil litigation and appellate matters for business entities and individuals, including numerous bench and jury trials*

1978 – 1981 associate, Gibson, Dunn & Crutcher, San Diego, California

- *focused on business tort claims and complex civil litigation*

1977 – 1978 law clerk, Chief Justice Warren E. Burger, United States Supreme Court, Washington, D.C.

1976 – 1977 law clerk, Judge J. Clifford Wallace, United States Court of Appeals for the Ninth Circuit, San Diego, California

1975 – 1976 editor-in-chief, Brigham Young University Law Review, Provo, Utah

SELECTED PUBLICATIONS

2012 *Marriage, Fundamental Premises, and the California, Connecticut, and Iowa Supreme Courts*, 2012 B.Y.U.L. REV. 193 (with Jacob Briggs and Julie Slater)

2008 *Marriage Facts*, 31 HARV. J.L. & PUB. POL'Y 313 (2008)

2007 *Marriage Facts and Critical Morality*, available at http://marriagelawfoundation.org/mlf/publications/Facts.pdf.

2007 *Dworkin, Marriage, Meanings – and New Jersey*, 4 RUTGERS J. L. & PUB. POL'Y 271 (2007)

2007 *Eliding in Washington and California*, 42 GONZAGA L. REV. 501 (2007)

2006 *Eliding in New York*, 1 DUKE J. CONST. L. & PUB. POL'Y SIDEBAR 37 (2006).

2006 *Genderless Marriage, Institutional Realities, and Judicial Elision,* 1 DUKE J. CONST. L. & PUB. POL'Y 1 (2006).

2005 *Marriage and the Betrayal of* Perez *and* Loving, 2005 B.Y.U. L. REV. 555 (with William C. Duncan).

2004 *Judicial Redefinition of Marriage*, 21 CANADIAN J. FAM. L. 11 (2004)

2004 *Investigating Possible Bias: The American Legal Academy's View of Religiously Affiliated Law Schools,* 54 J. LEGAL EDUC. 136 (2004) (with Prof. Dennis Tolley).

1988 *Compensatory Damages for Fraud in Nevada: A Proposed Approach*, 53 INTER ALIA F7 (1988).

1986 *Pleadings, Amendments to Pleadings and Supplemental Pleadings*, chapter 6, NEVADA CIVIL PRACTICE MANUAL (J. Thompson ed. 1986).

1977 *The* Winters *Doctrine as Federal Common Law*, 10 NAT. RESOURCES J. 457 (1977) (with Robert Grow).

1976 *HEW's Regulation under Title IX of the Education Amendments of 1972: Ultra Vires Challenges*, 1976 B.Y.U.L. REV. 133.

ATTACHMENT B

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EDUCATION

Juris Doctor, *Brigham Young University*, J. Reuben Clark Law School, Provo, UT, April 2004
- *Magna cum laude*
- Research Editor, Editorial Board; Brigham Young University Law Review, 2003-2004
- Staff Member, Brigham Young University Law Review, 2002-2003
- Hugh B. Brown Barrister Award, J. Reuben Clark Law School Faculty Award
- Pupil Member, A. Sherman Christensen American Inn of Court I
- Academic Merit Scholarship

Master of Arts, *Brigham Young University*, Department of Communications, Provo, UT, August 2001
- Major: Mass Communication; Emphasis: Research
- 3.98 GPA
- Ashton Research Grant Recipient

Bachelor of Arts, *Brigham Young University*, Department of Communications, Provo, UT, August 2000
- Major: Public Relations
- Athletic Scholarship - Basketball
- High Scholar Athlete Award
- Floyd Johnson Memorial Award Recipient: Cougar Club
- BYU Student Association & University Council Member

Associate of Arts and Sciences, *Ricks College*, Rexburg, ID, April 1997
- Major: Humanities
- Athletic Scholarship - Basketball
- NJCAA All-American & All-Academic Team Member
- Ricks College Athlete of the Year
- Ricks College Athletic Hall of Fame (2008 Inductee)

EXPERIENCE

Stewart Taylor & Morris, LLC, Boise, ID; Member (Partner), July 2009 - present
- Litigate complex civil matters with emphasis in securities law, constitutional matters and high-stakes commercial matters

Office of the Attorney General, State of Idaho; Deputy Attorney General, Appellate Unit; August 2006–July 2009
- Argued over thirty cases in the Idaho Supreme Court or Court of Appeals
- Coordinated and supervised extradition matters with other states and Idaho's Governor's Office

United States Court of Appeals, Ninth Circuit; The Honorable Stephen S. Trott; August 2005–August 2006
- Drafted bench memoranda, opinions and other court documents as directed by Judge Trott

Ray Quinney & Nebeker, Salt Lake City, UT; Associate, May-Aug. 2002; June-Aug. 2003; April 2004-August 2005.
- Litigated commercial disputes, including UCC, banking and tort cases, in state and federal court

Givens Pursley, Boise, ID; Summer Associate, April-June 2003
- Researched and drafted court documents and research memoranda as directed by litigation practice group

United States District Court, District of Idaho; The Honorable Edward J. Lodge, Semester Extern, January-April 2003
- Researched and drafted advisory bench memoranda and court orders

BYU Department of Communications, Provo, UT**;** Adjunct Professor, Aug. 2001-Aug. 2004
- Taught public speaking and selected topics in communication law classes as part-time faculty

BYU Law School, Provo, UT; Research Assistant for James R. Rasband, Sep. 2002-Jan. 2003
- Researched environmental and water issues preparing an article for publication

PUBLICATIONS & ACADEMIC CONFERENCES

BYU Journal of Public Law, Holding Virtual Pornography Creators Liable By Judicial Redress: An Alternative Approach To Overcoming The Obstacles Presented In *Ashcroft v. Free Speech Coalition*, Vol. 19, February 2004

Association for Qualitative Research, *The Role of Photographic Images on the Self-Concept and Self-Identity of Female Athletes*, Melborne, Australia; May 2001

Journal of Social and Sport Psychology, *The Impact of Photographic Images on the Self-Concept of and Self-Identity of Female Athletes*, Co-authored; Accepted August, 2002

Journalism & Mass Communications Abstracts, *The Reaction of Adolescent Female Volleyball Players to Photographic Portrayals of Female Athletes*; October 2001

BAR ADMISSION & RATING

Utah, 2004 (Active Status); Idaho, 2005 (Active Status); Oregon, 2012 (Active Status); various federal district and circuit courts; A.V. rating since 2014.