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*Attorneys for Defendants Rockie and Leanne Walker*

DISTRICT COURT - SRBA  
 Fifth Judicial District  
 County of Twin Falls-State of Idaho

AUG 15 2025

By \_\_\_\_\_

*[Signature]*  
 Deputy Clerk

**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF  
 THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS**

In Re SRBA

Case No. SRBA 39576

Case No. 39576

**RESPONSE TO CARPENTERS'  
 MOTION TO FILE A CLAIM OF  
 FRAUD AND REQUEST RELIEF AND  
 MOTION TO REMOVE  
 DEFENDANTS' WATER RIGHTS**

Defendants Rockie Walker and Leanne Walker (the "Walkers"), by and through counsel, respond to Plaintiffs Brian Carpenter and Teresa Carpenter ("Carpenters") *Motion to File a Claim of Fraud and Request Relief*, filed June 6, 2025 ("Fraud Motion"), and the *Motion to Remove Defendants' Water Rights, Bury Illegal Southwest Ditch, Reinstate Historic Water Delivery, Enjoin Citation, Refer Criminal Violations, and Refer Findings to Lemhi County Civil Court*,<sup>1</sup> filed June 16, 2025 ("Removal Motions"), and request denial pursuant to Idaho Rules of Civil Procedure 12(b)(8) on the same basis as argued in Defendant Joshua McIntosh's ("McIntosh") August 8, 2025, *Motion to Dismiss*, as the same parties are presently litigating the same causes of action this matter in Lemhi County Case No. CV30-23-0114. Defendants further respond and seek denial of the Carpenters' Fraud Motion pursuant to Idaho Rules of Civil Procedure 12(b)(6) as motions to set aside a judgment under I.R.C.P. 60(b)(3) based on fraud must be done within six (6) months of the judgment. Dismissal under Idaho Rules of Civil Procedure 12(b)(6) is also proper as to Carpenters' Removal Motions and Fraud Motion because

<sup>1</sup> Counsel for Defendants received two motions on June 16, 2025, from the Carpenters which are identical but for missing pages (seven through nine (7 – 9)) in one. For simplicity, only the complete June 16th motion will be addressed here, however, to the extent necessary, Defendants object to both June 16th motions.

the relief requested concerns the water delivery system, alleged DEQ violations, and “criminal referrals,” not water right elements adjudicated in the SRBA Final Unified Decree. Accordingly, Carpenters fail to request relief the SRBA court can afford. To the extent that the Carpenters seek relief different than that pending or resolved in the Lemhi County case, the Walkers request denial pursuant to I.R.C.P. 12(b)(6) because there is no factual merit to their fraud argument and no basis in the law to rescind the Walkers and McIntosh’s water rights. Finally, the Walkers request an award of their attorney fees pursuant to section 12-121, Idaho Code, because, as explained below, the Carpenters motions are without merit and a frivolous attempt to circumvent a judgment they disfavor issued in the Lemhi County case.

### BACKGROUND

In spring of 2023 McIntosh initiated a civil suit against the Carpenters requesting delivery of his decreed water via a ditch which is now referred to as the Southwest Ditch.<sup>2</sup> Shortly after the Carpenters filed suit against the Walkers, complaining of a berm the Walkers constructed which ceased waste water flows from a ditch on the Walkers’ property called the North Ditch.<sup>3</sup> The cases were consolidated by Judge Thompson under Lemhi County Case No. CV30-23-0114.

The parties are all neighbors, and their properties were once unified by a common owner and benefitted by Water Right No. 74-733A.<sup>4</sup> As the parcels were severed each parcel took their proportionate share of the original water right and in the SRBA Final Unified Decree each of the parties’ respective parcels were assigned a water right matching the priority date of the original right.<sup>5</sup> Under the decree McIntosh’s parcel has water right no. 74-733E, the Carpenters water right no. 74-733G and the Walkers water right nos. 74-733F and 74-733H. *Id.* All of the parties’ water rights have the same priority, source, point of diversion (an L-8 Lateral off the Lemhi River), and purpose and period of use, while each of their quantities and place of use reflect their proportionate share of the original right as determined by acreage. *Id.* Under the “other provisions” the decree states the water right is “subject to such general provisions necessary for the definition of the rights.” *Id.* The general provisions for Basin 74, in which the parties’ water

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<sup>2</sup> The Walkers request this court take judicial notice of the *Complaint for Declaratory Judgment and Monetary Judgment* filed by Joshua A. McIntosh against Brian Carpenter and Teresa Carpenter on May 31, 2023, in the district court for the seventh judicial district for Lemhi County and designated as Case No. CV30-23-0114, pursuant to I.R.E. 201.

<sup>3</sup> The Walkers request this court take judicial notice of the *Complaint* filed by Brian Carpenter and Teresa Carpenter against Rockie Walker and LeAnne Walker on June 28, 2023, in the district court for the seventh judicial district for Lemhi County and designated as Case No. CV30-23-0139, pursuant to I.R.E. 201.

<sup>4</sup> The Walkers request this court take judicial notice of the *Order Re: Motions for Summary Judgment* issued by the Lemhi County court in CV30-23-0114 on November 7, 2024, pursuant to I.R.E. 201.

<sup>5</sup> The Walkers request this court take judicial notice of water right nos. 74-733E, 74-733G, 74-733F and 74-733H from the SRBA Final Unified Decree, issued August 25, 2014, in *In Re SRBA Case No. 39576*, pursuant to I.R.E. 201.

rights are located, do not address ditches or other conveyance systems which deliver water from a right's place of diversion to its place of use.<sup>6</sup>

The parties' claims in the Lemhi County case concern the ditches that comprise the water delivery system from the L-8 diversion to the respective parcels. After a first round of cross motions for summary judgment the court held that the Southwest Ditch, which parallels the river and is continuous through all the respective parcels, is the primary delivery system for the parties' water rights. (*Order Re: Motions for Summary Judgment*, pp. 3, 5.) And that the Carpenters could not compel the Walkers to resume their prior practice of discharging their waste water onto the Carpenter property from the North Ditch. *Id.*, pp. 8-9. After this decision, counsel for the Carpenters withdrew and since January 2025 the Carpenters represented themselves. In February and April the court issued two further decisions which confirmed that the Carpenters do not have an easement to the North Ditch and dismissed their claim for eminent domain for failure to comply with the statutory requirements.<sup>7</sup> Having addressed all of Carpenters' claims against the Walkers, the court issued a judgment dismissing the case with prejudice.<sup>8</sup>

Presently before the Lemhi County court is the Carpenters' motion to reconsider pursuant to I.R.C.P. 60(b) which seeks relief from the judgment of dismissal and reconsideration of the court's prior orders on summary judgment. Also pending are the Walkers' motion for attorney fees and costs and a motion to strike the Carpenter affidavits and McIntosh's final motion for summary judgment on the issue of damages only. As discussed below, the requested relief and the arguments the Carpenters make before this court are the same as those pending in their motions to reconsider<sup>9</sup> before the Lemhi County court.

### ARGUMENT

#### **1. The Carpenters' requests should be dismissed because the same claims, between the same parties, are currently pending before the Lemhi County civil court.**

For the sake of brevity, the Walkers adopt the arguments made in McIntosh's motion to dismiss and request dismissal of this action pursuant to I.R.C.P. 12(b)(8) and 11.2(a)(1) because

<sup>6</sup> The Walkers request this court take judicial notice of the *Partial Decree for General Provisions in Basin 74*, issued April 3, 2012, in In Re SRBA Case No. 39576, pursuant to I.R.E. 201.

<sup>7</sup> The Walkers request this court take judicial notice of the *Order Re: Walkers' Motion to Dismiss, or Alternatively Motion for Summary Judgment Regarding Eminent Domain* issued February 24, 2025, and the *Order Re: Walkers' Motion for Summary Judgment Express Easement and McIntosh's Second Motion for Summary Judgment*, issued April 1, 2025, in Lemhi County Case No. CV30-23-0114, pursuant to I.R.E. 201.

<sup>8</sup> The Walkers request this court take judicial notice of the *Judgment of Dismissal with Prejudice* issued on April 8, 2025, in Lemhi County Case No. CV30-23-0114, pursuant to I.R.E. 201.

<sup>9</sup> Between the withdrawal and present the Carpenters have submitted approximately 72 filings in the Lemhi County case, all of which make the same repetitive substantive arguments and rely on the same "evidence" as those filed in the above-captioned matter.

“another action pending between the same parties for the same case” exists here. While seldom necessary this rule is directly applicable to the Carpenters’ motions before this court and merits denial of their motions because the same arguments are pending or decided in the original cause of action. Unlike McIntosh, here the Walkers do have a final judgment which the Lemhi County court which the Carpenters attempt to collaterally attack in violation of I.R.C.P. 11.2(a)(1). To the extent this judgment is not final because of the Carpenters’ pending I.R.C.P. 60(b) motion to reconsider is under advisement of the Lemhi County court, the Carpenters’ motions here still should be denied under I.R.C.P. 12(b)(8) as explained in McIntosh’s motion to dismiss.

There is only one new request made in the Carpenters’ present motions before the SRBA court—termination of the Walkers and McIntosh’s water rights. As discussed below, the Carpenters’ request is meritless and should be denied.

**2. The Carpenters’ claims and grievances do not pertain to the Final Unified Decree and so they fail to make a claim upon which the court can grant relief.**

The Carpenters fundamentally misunderstand the purpose and role of the SRBA court and their Fraud Motion and Removal Motions are merely attempts to circumvent an unfavorable judgment they received in the Lemhi County civil case. This misunderstanding results in them requesting relief that this court cannot provide making dismissal of both of Carpenters’ motions under I.R.C.P. 12(b)(6) appropriate here.

“In Idaho, ditch rights and water rights are separate and independent from one another.” *Zingiber Inv., LLC v. Hagerman Highway Dist.*, 150 Idaho 675, 680 (2011) (citing *Savage Lateral Ditch Water Users Assoc. v. Pulley*, 125 Idaho 237, 242 (1993), overruled on other grounds by *City of Osburn v. Randel*, 152 Idaho 906 (2012) (review of trial court’s application of attorney fee statute). The elements of the water rights the SRBA court was charged with determining in the partial/final decree are: (a) the name and address of the claimant; (b) the source of water; (c) the quantity of water; (d) date of priority; (e) legal description of the point of diversion; (f) purpose of use; (g) period of use; (h) legal description of the place of use; (i) conditions on the exercise of any water right; (j) other remarks necessary for the definition of the right. Idaho Code §§ 42-1411, 42-1412. As discussed above, the parties’ rights adjudicated in the Final Unified Decree included all of these elements, except there were no remarks or other conditions on the use, such as a description of the delivery system from the common point of diversion to the parties’ different places of use.

On the whole, the Carpenters’ arguments ignore the water right elements that are at issue in the Final Unified Decree they seek to set aside. For example, the Carpenters claim there is a conspiracy between the Walkers and McIntosh to “conceal the historic 1946 ditch ... and fabricate the Southwest wastewater ditch as the main ditch” which is a “violation of Idaho Code

§ 42-1207.” (Fraud Motion, p. 2.) They also request the court “grant permission to bury the illegal Southwest ditch on the Carpenter property” and “[r]einststate three historic water delivery ditches [to] restore our 1893 water right.” (Removal Motion, p. 2.) Nothing in the decree addresses the parties’ ditch delivery system and so this relief is outside of what this court is authorized to address.

In addition to their ditch right arguments and requested relief the Carpenters seek a bevy of other forms of relief which are not in the purview of the SRBA court. For example, they request this court “Refer Defendants’ criminal violations, including Idaho Code §§ 18-5501, 18-7001, 18-4310, 41-293, 18-6710, and 18-7008, to the Twin Falls County Prosecutor and Idaho Department of Environmental Quality.” (Removal Motion, p. 2.) And “[i]ssue an immediate cease and desist order to halt E. coli contamination from the Southwest ditch.” (Removal Motion, p. 9.) None of these pertain to the Final Unified Decree and are not within the jurisdiction of the SRBA court. Indeed, the Carpenters were informed by the Lemhi County court their request for criminal referral (which they too made before Judge Stevan H. Thompson) is for the “prosecutor of the County a crime is alleged to have occurred in who may bring criminal charges. The Court cannot “refer” a matter for criminal prosecution, and the Court cannot itself bring criminal charges against any person as that would invade the province of the elected Prosecuting Attorney.” (*Order Re: Walkers’ Mot. for Summ. J. on Express Easement and McIntosh’s Second Mot. for Summ. J.*, p. 6.)

Similarly, the Carpenters’ request to “[e]njoin or dismiss our Idaho Code § 18-4310 citation (issued June 6, 2025) pending resolution of our Rule 60(b)(3) motion in Lemhi County or this SRBA motion” is not something the SRBA court is authorized to do as Carpenters’ criminal case is properly before the Lemhi County magistrate court.

In sum, almost none of Carpenters’ arguments and requests for relief are things that pertain to the Final Unified Decree or the authority of the SRBA court. Accordingly, they fail to state claims upon which this court can grant relief, and the Walkers respectfully request denial of both of Carpenters’ motions.

**3. Motions to set aside judgments pursuant to I.R.C.P. 60(b)(3) are barred six months after the judgment is issued. Accordingly, the Carpenters’ motions should be denied.**

The Carpenters bring their Fraud Motion pursuant to I.R.C.P. 60(b)(3) on the basis of fraud. Had the Carpenters read the complete rule then they would know that a final judgment may only be relieved on the basis of fraud “no more than 6 months after the entry of the judgment.” I.R.C.P. 60(c)(1). The Final Unified Decree was issued on August 25, 2014—11 years ago. Because the Carpenters’ Fraud Motion is time barred, and because the court does not

have jurisdiction over ditch disputes concerning property in Lemhi County, the Walkers respectfully request the court deny Carpenters' motions.

**4. Only one claim by the Carpenters pertains to the Final Unified Decree, however, by their own allegations the requested relief is factually meritless.**

If the court denies Carpenters' motion on the basis that they are time barred, then it need not consider arguments in this section. However, to the extent they must be addressed, the Carpenters' claim of fraud by the Walkers in relation to their claim for water right no. 74-733H is factually untrue.

Walkers' alleged "fraud" in their application to the SRBA Court for water right no. 74-733H is because they checked "none" when asked to describe other water rights used at the same place for the same purpose. (Fraud Motion, p. 2.) According to the Carpenters this was a lie because there was a "historic 1946 ditch and the Highway ditch ... [that] served other water rights." *Id.* The Carpenters' mistake, consistent throughout their motions, is convoluting ditch rights with water rights. However, these are separate rights and as discussed above, the Final Unified Decree did not address the parties' ditch rights. The Carpenters make no allegation that the Walkers' property served by water right no. 74-733H was being irrigated by a different water right, say, a ground water well. That is because no other water right was being utilized for the Walkers' property for the same purpose. Rather, the Walkers asked the SRBA court to decree to it their proportional share of the original right which was used when all the properties were unified.

This claim of fraud is the entire thrust for the Carpenters to reopen the Final Unified Decree and it is factually untrue. Because there was no fraud this court should not set aside the Walkers' decree or rescind or terminate it in another fashion. Without the Final Unified Decree being reopened the SRBA court does not have jurisdiction to address the other relief the Carpenters request.

**5. The Carpenters fail to cite to legal authority which would authorize this court to rescind or otherwise terminate the Walkers and McIntosh's decreed water rights, and accordingly denial of this request is proper.**

As discussed in McIntosh's Motion to Dismiss, almost all of the issues raised and relief requested by the Carpenters are the same as those being considered or already decided by the Lemhi County court and should be dismissed pursuant to I.R.C.P. 12(b)(8). The only different request for relief is the Carpenters' request that this court "remove Defendants' water rights [] for fraud, perjury, and violations of Idaho water laws, 42-1207, and 42-1102." (Removal Motion, p. 2., Fraud Motion, p. 4 ("Grant the relief requested, including revocation of water right 74-733H, injunctive relief, possible, revocation of all water rights for noncompliance."))

The Carpenters cite to no legal authority which would authorize this court to revoke or remove the Walkers and McIntosh's water rights. Section 42-1207, Idaho Code addresses relocation and piping of conveyance and drainage facilities. Nowhere in this code, nor in Chapter 12, allows for a water right to be terminated if there are violations of this statute. The same is true for section 42-1102, Idaho Code, which addresses rights of way and eminent domain, not removal of water rights. Rather, the only mechanism which can result in termination of a water right are forfeiture proceedings, or possibly adverse possession claims. Neither of which the Carpenters' claim has occurred here.

Because the Carpenters fail to provide this court with legal authority and relevant facts which would enable revocation or removal of the Walkers and McIntosh's water rights, the Walkers request this court deny the Carpenters' motions pursuant to I.R.C.P. 12(b)(6).

**6. The Walkers should be awarded their attorney fees and costs pursuant to section 12-121, Idaho Code, because the Carpenters' motions are a prohibited and frivolous collateral attack on the Lemhi County judgment.**

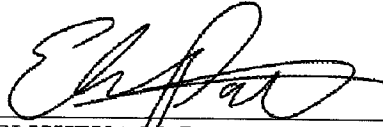
Parties are entitled to an award of attorney fees pursuant to section 12-121, Idaho Code, if an action is "brought, pursued or defended frivolously, unreasonably or without foundation." A case is frivolous if it is "not supported in fact or warranted under existing law and cannot be supported by a good faith argument for an extension, modification, or reversal of existing law." Idaho Code § 12-123. As discussed above, the Carpenters fail to provide a valid legal basis for their present action—a collateral attack which is essentially judge shopping. Their arguments are not supported in fact and certainly not supported under any existing law. The Carpenters cannot make a good faith argument for a modification or reversal of existing law because they fail to even acknowledge the existing law. Accordingly, the Walkers respectfully request that should the Carpenters' motions be denied they be awarded their reasonable attorney fees and costs.

**CONCLUSION**

The Walkers adopt and join in support of those arguments made in McIntosh's motion to dismiss and request denial of the Carpenters' motions on the same basis. To the extent that the Carpenters claim new relief which is not currently pending or decided in the Lemhi County court—removal of the Walkers and McIntosh water rights, the Carpenters' arguments fail. The Walkers also request this court deny the Carpenters' motions because their requested relief does not pertain to the Final Unified Decree over which this court has jurisdiction. Denial is also merited because the Carpenters' Fraud Motion is time barred under I.R.C.P. 60(c)(1) and, by their own alleged facts, without factual merit. Finally, the Walkers respectfully request an award of their reasonable attorney fees in having to defend against this frivolous collateral attack on the judgment received in the Lemhi County case.

DATED this 15 day of August 2025.

By:



ELISHEVA M. PATTERSON

*Attorney for Rockie and Leanne Walker*

### CERTIFICATE OF SERVICE

The undersigned certifies under penalty of perjury under the laws of the State of Idaho that, on the date given below, the undersigned caused to be served a copy of the foregoing document upon the following identified persons:

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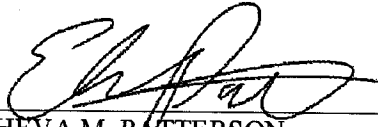
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DATED this 15th day of August.



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