

FRANK L. CHAPIN
SYDNEY L. GUTIERREZ-CHAPIN
319 Church Street
Sandpoint, Idaho 83864
Telephone: (208) 263-5131
Facsimile: (208) 263-3390
E-Mail: sydney@televar.com

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STEPHEN B. MCCREA
ATTORNEY AT LAW
IDAHO

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF IDAHO

FRANK CHAPIN and) Case No. 02-20218
SYDNEY L. GUTIERREZ-CHAPIN)
Debtors,) OBJECTION TO
) OBJECTION TO SALE
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)
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)

COMES NOW Debtors, Frank L. Chapin and Sydney L. Gutierrez-Chapin, appearing pro se, who hereby object to the Objection To Sale filed by Stephen B. McCrea, Attorney at Law on May 18, 2004.

It is not our intention to take up the court's time with items which may appear frivolous. However, the objection as filed by Mr. McCrea contains multiple inaccuracies. He has also attached documentation which is not complete and which is taken out of context. If his objection were granted, it would benefit the debtors. However, we must take issue with this document.

Mr. McCrea states in his objection he is the "attorney for creditors, Frederick Leaf;.....". This is not a true statement. Frederick Leaf is not a creditor of our bankruptcy estate. He can only be considered, at this time, as a person of interest. It is the Debtor's understanding the matter of any judgment

27/04

against Doctor Leaf was settled in the Superior Court of Washington for Spokane County No. 01-2-6413-9. Attached as Exhibit A is the Stipulation For Dismissal And Order for Dismissal filed September 19, 2003 and Stipulation And Order Vacating Judgment Against Frederick A. Leaf. Also attached is a Mandate from the Court of Appeals, Division III, State of Washington. These documents fail to evidence any debt against Frank L. Chapin by Frederick Leaf.

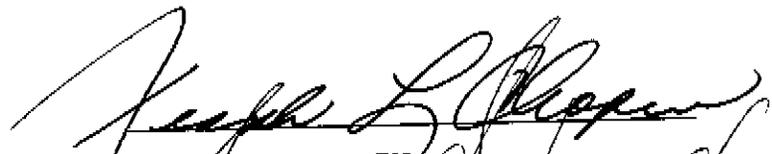
With regard to the Affidavit of Paul M. Fruci which is attached as Exhibit C; this document has no bearing on the bankruptcy estate of Frank L. Chapin and Sydney L. Gutierrez-Chapin. Sydney L. Gutierrez-Chapin was not and is not involved in the "Leaf Issues". Mr. Fruci's document filed in The District Court of the First Judicial District of the State of Idaho contains statements which have been arrived at by assumption and hearsay. Amounts listed in his affidavit are incorrectly identified. This affidavit was filed by Frederick Leaf who wished to obtain a judgment against the exact same properties which he is also pursuing in three adversary proceedings against the Debtors. It now appears he is also pursuing these exact same properties in three separate arenas.

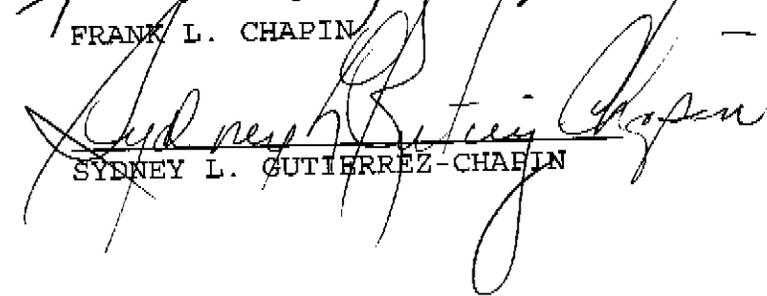
REQUEST

It is the Debtors' request the Court deny Mr. McCrea's Objection To Sale as this is not the proper venue in which this action should be heard. It is the Debtor's contention that Frederick Leaf is not as creditor of the Debtor, Frank L. Chapin. He has no proven claim.

The Debtors would also request the Court enjoin Frederick Leaf from continued filing of objections to bankruptcy trustee actions in this bankruptcy court.

DATED this 24th day of May, 2004.


FRANK L. CHAPIN


SYDNEY L. GUTIERREZ-CHAPIN

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 24 day of May, 2004, I caused to be served a true and correct copy of the foregoing OBJECTION TO OBJECTION TO SALE by Federal Express, and addressed to the following:

U. S. Trustee
304 N. 8th , Room 347
Boise, ID 83701

Clerk, Bankruptcy Court
205 N. Fourth St.
Coeur d'Alene, ID 83814

I HEREBY CERTIFY that on this 24 day of May, 2004, I caused to be served a true and correct copy of the foregoing OBJECTION TO SALE by Federal Express, and addressed to the following:

C. Barry Zimmerman
Chapter 7 Trustee
P.O. Box 1240
Coeur d'Alene, ID 83814

James H. Magnuson
Attorney for Chapter 7 Trustee
P.O. Box 2288
Coeur d'Alene, ID 83816

Stephen B. McCrea
P.O. Box 1501
Coeur d'Alene, ID 83816-1501

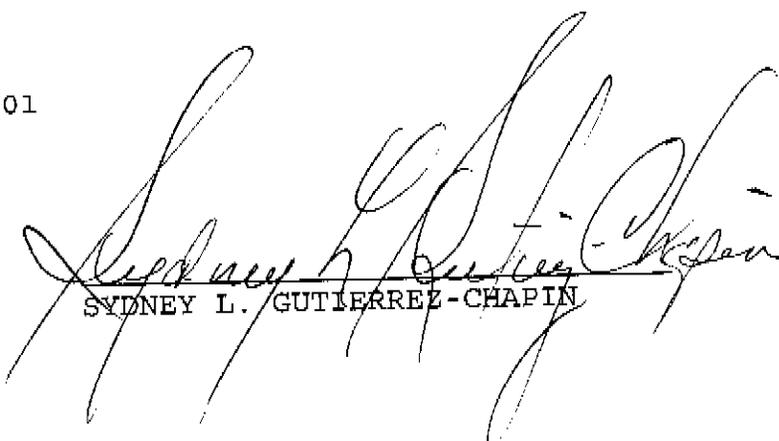

SYDNEY L. GUTIERREZ-CHAPIN

EXHIBIT A

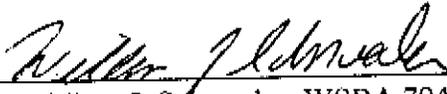
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STIPULATION

The Parties stipulate through their counsel that the above-entitled action against Frederick A. Leaf may be dismissed with prejudice and without costs to any party, and notice of presentment of the Stipulation and Order is hereby waived.

DATED this 18 day of September, 2003.

PAINE, HAMBLÉN, COFFIN,
BROOKE & MILLER LLP

By: 
William J. Schroeder, WSBA 7942
Attorneys for American Lutheran Church,
Jerilyn A. Klungvedt, John C. Wagner,
Daniel C. Wagner, Lynette J. Brekke,
Karen Saxowsky, Donald Wagner, Linda
Wagner and Jeryln Biercma

DELAY, CURRAN, THOMPSON,
PONTAROLO & WALKER, P.S.

By: 
Joseph P. Delay, WSBA #2044
Attorneys for the Estate of Christina Leaf

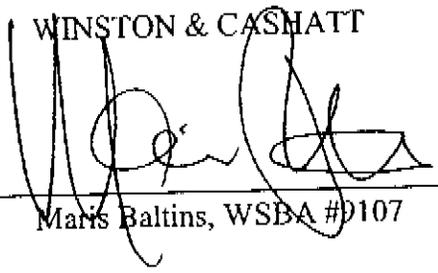
STAMPER, RUBENS, STOCKER &
SMITH, P.S.

By: 
Michael H. Church, WSBA #24957
Attorneys for Plaintiff Intervenor
The Foundation for Deaconess and
Valley Healthcare

PAINE, HAMBLÉN, COFFIN, BROOKE & MILLER LLP
717 WEST SPRAGUE AVENUE, SUITE 1200
SPOKANE, WASHINGTON 99201-3505 PHONE (509) 455-6000

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WINSTON & CASHATT



By: _____
Maris Baltins, WSBA #0107

and

CAIRNCROSS & HEMPELMANN, P.S.
John Rizzardi, WSBA #9388

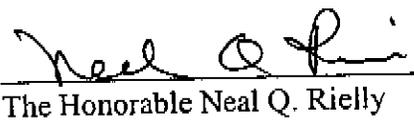
Attorneys for Defendant and Third-Party
Plaintiff Frederick A. Leaf

ORDER

On hearing the above Stipulation, and the Court being fully advised in the premises,

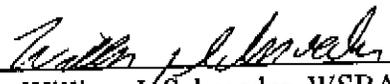
IT IS ORDERED that the above action against Defendant Frederick A. Leaf is hereby
dismissed with prejudice and without costs.

Dated this 19 day of September, 2003.


The Honorable Neal Q. Rielly

Presented by:

PAINE, HAMBLLEN, COFFIN,
BROOKE & MILLER LLP

By:  _____
William J. Schroeder, WSBA 7942
Attorneys for American Lutheran Church,
Jerilyn A. Klungvedt, John C. Wagner,
Daniel C. Wagner, Lynette J. Brekke,
Karen Saxowsky, Donald Wagner,
Linda Wagner and Jeryln Bierema

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FILED
SEP 19 2003
THOMAS R. FALLQUIST
SPOKANE COUNTY CLERK

SUPERIOR COURT OF WASHINGTON FOR SPOKANE COUNTY

THE AMERICAN LUTHERAN CHURCH,
JERILYN KLUNGTVEDT, JOHN C.
WAGNER, DANIEL C. WAGNER, LYNETTE
J. BREKKE, KAREN SAXOWSKY, DONALD
WAGNER, LINDA WAGNER, AND
JERILYN BIEREMA, AND PLAINTIFF
INTERVENOR THE FOUNDATION FOR
DEACONESS AND VALLEY
HEALTHCARE,

Plaintiffs,

v.

FRANK L. CHAPIN, Individually and as Co-
Personal Representative of the Estate of
Christina Leaf, and FREDERICK A. LEAF,
Individually and as Co-Personal Representative
of the Estate of Christina Leaf

Defendants.

FREDERICK A. LEAF,

Plaintiff,

v.

JOHN MURRAY AND HIS MARITAL
COMMUNITY; and ROBERT E.
KOVACEVICH AND HIS MARITAL
COMMUNITY

NO. 02-2-06413-9

STIPULATION AND ORDER VACATING
JUDGMENT AGAINST FREDERICK A.
LEAF

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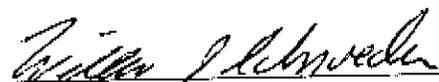
STIPULATION

IT IS HEREBY STIPULATED by and among The American Lutheran Church, Jerilyn Klungtvedt, John C. Wagner, Daniel C. Wagner, Lynette J. Brekke, Karen Saxowsky, Donald Wagner, Linda Wagner, Jerilyn Bierema, and The Foundation for Deaconess and Valley Healthcare ("Plaintiffs"), the Estate of Christina A. Leaf ("Estate"), and Frederick A. Leaf ("Leaf") that the summary judgment entered by this Court on or about April 22, 2002 and the final judgment entered by this Court on or about October 18, 2002 against Frederick A. Leaf may be vacated, with prejudice. It is further stipulated that the subjoined Order may be entered without further notice of presentation to any party.

DATED this 17th day of ^{September} ~~August~~, 2003.

PAINÉ, HAMBLEN, COFFIN,
BROOKE & MILLER LLP

DELAY, CURRAN, THOMPSON,
PONTAROLO & WALKER, P.S.

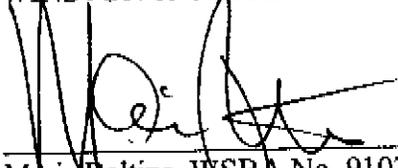

William A. Schroeder, WSBA No. 7942
Attorneys for The American Lutheran Church,
Jerilyn Klungtvedt, John C. Wagner,
Daniel C. Wagner, Lynette J. Brekke,
Karen Saxowsky, Donald Wagner,
Linda Wagner, and Jerilyn Bierema


Joseph P. Delay, WSBA No. 2044
Attorneys for the Estate of Christina
A. Leaf

STAMPER, RUBENS, STOCKER
& SMITH, P.S.

WINSTON & CASHATT


Michael H. Church, WSBA No. 24957
Attorneys for Plaintiff Intervenor
The Foundation for Deaconess and
Valley Healthcare


Maris Baltins, WSBA No. 9107
and
John Rizzardi, WSBA No. 9388
Attorneys for Defendant and Third Party
Plaintiff Frederick A. Leaf

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ORDER

On hearing the above Stipulation, and the Court being fully advised in the premises;
NOW, THEREFORE,

IT IS ORDERED that the summary judgment against Frederick A. Leaf entered by this Court on or about April 22, 2002 and the final judgment against Frederick A. Leaf entered by this Court on or about October 18, 2002 are hereby vacated, with prejudice.

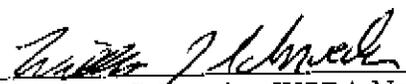
DONE IN OPEN COURT this 19 day of September, 2003.



The Honorable Neal Q. Rielly

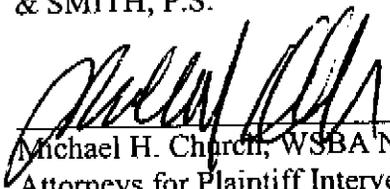
PRESENTED BY:

PAINE, HAMBLIN, COFFIN,
BROOKE & MILLER LLP



William A. Schroeder, WSBA No. 7942
Attorneys for The American Lutheran Church,
Jerilyn Klungvedt, John C. Wagner,
Daniel C. Wagner, Lynette J. Brekke,
Karen Saxowsky, Donald Wagner,
Linda Wagner, and Jerilyn Bierema

STAMPER, RUBENS, STOCKER
& SMITH, P.S.



Michael H. Church, WSBA No. 24957
Attorneys for Plaintiff Intervenor
The Foundation for Deaconess and
Valley Healthcare

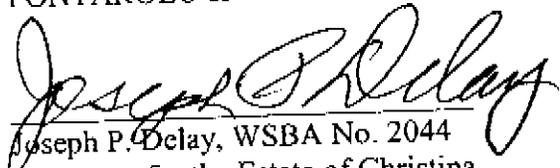
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STIPULATION AND ORDER VACATING
JUDGMENT AGAINST FREDERICK A. LEAF- 3

Cairncross & Hempelmann, P.S.
Law Offices
524 Second Avenue, Suite 500
Seattle, Washington 98104-2323
Phone: 206-587-0700 • Fax: 206-587-2308

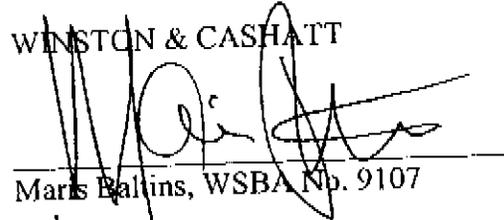
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DELAY, CURRAN, THOMPSON,
PONTAROLO & WALKER, P.S.



Joseph P. Delay, WSBA No. 2044
Attorneys for the Estate of Christina
A. Leaf

WINSTON & CASHATT



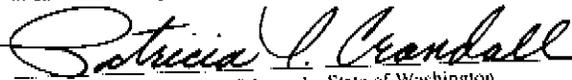
Maris Ballins, WSBA No. 9107
and
John Rizzardj, WSBA No. 9388
Attorneys for Defendant and
Third Party Plaintiff Frederick A. Leaf

EXHIBIT B

21523-7-III, Page Two
Mandate

This is to certify that the Court of Appeals of the State of Washington, Division III, considered and granted a motion to dismiss the appeal in the above-entitled case on September 19, 2003. Accordingly, this cause is mandated to the Superior Court from which this appeal was taken for further proceedings in accordance with the determination of that court.

In testimony whereof, I have hereunto set my hand and affixed the seal of said Court at Spokane, this 22nd day of September, 2003.



Clerk of the Court of Appeals, State of Washington
Division III

cc: Maris Baltins
Carl E. Hueber
Tamara W. Murock
William J. Schroeder
Laura D. Mcaloon
Joseph P. Delay
Michael H. Church
Timothy J. Graham
Hon. Neal Q. Rielly



EXHIBIT C

1 TAMARA W. MUROCK
BRIAN T. MCGINN
2 WINSTON & CASHATT
250 Northwest Boulevard, Suite 107A
3 Coeur d'Alene, Idaho 83814
4 Telephone: (208) 667-2103

5 Attorneys for Plaintiff
6
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8
9

10 IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE STATE
11 OF IDAHO, IN AND FOR THE COUNTY OF BONNER

12 FREDRICK A. LEAF,)

13 Plaintiff,)

) Case No. CV-02-01655

14 vs.)

) AFFIDAVIT OF PAUL M. FRUCI
)

15 FINANCIAL MANAGAMENT SERVICES,)
16 INC., an Idaho corporation; S and F, LLC, an)
Idaho limited liability company; FRANK L.)
17 CHAPIN, P.A., an Idaho professional)
association; and HOODOO MOUNTAIN)
18 RANCHETTE TRUST, an Idaho irrevocable)
trust,)
19)

20 Defendants.)

21 STATE OF WASHINGTON)

22 : ss

23 County of Spokane)

24 PAUL M. FRUCI, being first duly sworn on oath, deposes and says that:
25
26

AFFIDAVIT OF PAUL M. FRUCI
PAGE 1

LAW OFFICES OF
Winston & Cashatt
250 NORTHWEST BLVD., SUITE 107A
COEUR D'ALENE, IDAHO 83814
(208) 667-2103
FAX (208) 765-2121

received

1 1. I am a Certified Public Accountant, licensed to practice in the State of Washington. I
2 make this Affidavit upon personal knowledge and am competent to testify thereto.

3 2. Since October of 2002, I have been employed by Frederick A. Leaf, M.D. to provide
4 accounting analysis with respect to the financial interrelationships between the above-named defendants,
5 to-wit, Financial Management Services, Inc. (hereinafter, "FMS, Inc."), S and F, LLC, Frank L. Chapin,
6 P.A., and Hoodoo Mountain Ranchette Trust.

7 3. As part of my analysis, I reviewed the following documents:

- 8 a. The General Ledger for FMS, Inc. for years 1994 through 2001;
- 9 b. Deposits and Check, Funds Flow;
- 10 c. Inventory of Estate of Christina Leaf 1993;
- 11 d. Recap of GL Funds payable to Leaf Account;
- 12 e. Hoodoo Mountain Ranchette Trust Returns;
- 13 f. S and F, LLC Returns;
- 14 g. 1997-2001 print outs of account 4480 "Control Frank L. Chapin PA";
- 15 h. S and F, LLC Balance Sheets for years 1999 through 2001;
- 16 i. Monthly Statement for Estate of Christina Leaf account held at Panhandle State
17 Bank for September and October, 1996; and
- 18 j. March 1997 Monthly Statement for Financial Management Services, Inc. account
19 at Panhandle State Bank.

20 4. In the General Ledgers of FMS, Inc., I found that the funds in the amount of \$748,809.14
21 were received from the liquidation of Christina Leaf's New York Life Insurance Company (hereinafter
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1 "New York Life") annuity and initially deposited into the Estate of Christina Leaf account at Panhandle
2 State Bank on September 30, 1996.

3 5. On October 4, 1996, funds in the amount of \$748,809.14 were withdrawn from the Estate
4 of Christina Leaf account and deposited into an account held by FMS, Inc. at Panhandle State Bank.

5 6. The funds were immediately withdrawn from the FMS, Inc. account and deposited into
6 another New York Life annuity.

7 7. Proceeds generated from this New York Life annuity were paid to FMS, Inc.

8 8. In my opinion, the monies belonging to the Estate of Christina Leaf which were
9 deposited into the FMS, Inc. accounts were used to fund operations of S and F, LLC an entity created to
10 hold certain properties acquired by FMS, Inc. Examples of such direct payments from FMS, Inc. to S
11 and F, LLC can be identified in the General Ledgers of FMS, Inc. One example includes a check
12 written October 15, 1998 from FMS, Inc. to S and F, LLC in the amount of \$107,011.14. Another
13 example is a check written November 3, 1999 from FMS, Inc. to S and F, LLC in the amount of
14 \$4,300.00.
15

16 9. In my opinion, the monies belonging to the Estate of Christina Leaf which were
17 deposited into the FMS, Inc. accounts, were directly used to fund the acquisition of certain properties by
18 FMS, Inc. and support the conduct of the operations of such properties. These properties, which were
19 later transferred to and are presently owned by defendant S and F, LLC, include those parcels of real
20 property commonly known as: (1) Linden Property; (2) Dunromin Property; (3) Glabb Ranch Property;
21 (4) Home Place; and (5) Jachetta Property.

22 10. Based upon the FMS, Inc. General Ledgers, the following types of transactions are
23 illustrative of the financial relationship between FMS, Inc. and the properties held by S and F, LLC:
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1 a. Linden Property. From 1996 through 2001, FMS, Inc. made direct payments for
2 the Linden Property expenses, including mortgage, repairs and maintenance, real estate taxes
3 legal fees, accounts receivable and utilities.

4 b. Dunromin Property. In 2000, FMS, Inc. made direct payments for repairs and
5 maintenance on the Dunromin Property.

6 c. Glabb Ranch Property. From 1996 through 2001, the FMS, Inc. made direct
7 payments for the Glabb Ranch Property expenses, including mortgage, advertising, outside
8 services, repairs and maintenance, real estate taxes, legal fees and utilities.

9 d. Home Place Properties. From 1996 through 2001, FMS, Inc. made direct
10 payments for the Home Place Property expenses, including insurance, outside services, repairs
11 and maintenance, real estate taxes, snowplow and utilities.

12 e. Jachetta Property. From 1996 through 2000, FMS, Inc. made direct payments for
13 the Jachetta Property expenses, including mortgage, professional fees, repairs and maintenance,
14 real estate taxes, legal fees and utilities.

15
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17 11. In my opinion, the monies belonging to the Estate of Christina Leaf which were
18 deposited in the FMS, Inc. account were also used to conduct and support the operations involving
19 property located at 319 Church Street, Sandpoint, ID 83864, owned by defendant Hoodoo Mountain
20 Ranchette Trust.

21
22 12. Based upon the FMS, Inc. General Ledgers, from 1997 through 1999, FMS, Inc. used
23 monies belonging to the Estate of Christina Leaf to pay the rent expenses associated with the property
24 held by Hoodoo Mountain Ranchette Trust.

1 13. Attached hereto as Exhibit "A" is a true and correct copy of such illustrative direct
2 payments from FMS, Inc. for the benefit of the properties held by S and F, LLC and Hoodoo Mountain
3 Ranchette Trust.

4 14. In addition, On August 4, 2003, I was provided with a copy of the Order Granting Partial
5 Summary Judgment Against Frederick A. Leaf, M.D., filed April 22, 2003 in the case of *American*
6 *Lutheran Church, et al. v. Frank L. Chapin and Frederick A. Leaf*, No. 01-206413-9. A true and correct
7 copy of the Order Granting Partial Summary Judgment Against Frederick A. Leaf, M.D. is attached
8 hereto as Exhibit "B".

9 15. Given the judgment amount of \$915,689.07, the amount of post-judgment interest of
10 12%, limited to the per diem rate of \$185.11 from March 22, 2002 to August 7, 2003 is \$92,740.11. The
11 total due on the Court's Order Granting Partial Summary Judgment Against Frederick A. Leaf, M.D., is
12 therefore \$1,008,429.18 as of August 7, 2003.

13 DATED this 13 day of August, 2003.

14
15 
16
17 PAUL M. FRUCI

18 SUBSCRIBED and SWORN TO before me this 13th day of August, 2003.




Notary Public in and for the State of Washington,
residing at Spokane
My appointment expires: 6/26/07

Leaf Case
All Transactions for properties listed (1996-2001)

		DR	CR	
Linden	1996	Mortg Payable	8029.80	
		Repairs and Maintenance	267.22	
		Taxes on RE	699.06	
			8996.08	0.00
	1997	Funds Payable	7360.65	
		Mortgage Payable	669.15	
		Rents Received		735.00
		Taxes on RE	363.15	
			8392.95	735.00
	1998	Funds Payable	7360.65	
		Rents Received		125.00
		Taxes on RE	224.06	
		Utilities Expense	115.41	
			7700.12	125.00
	1999	Funds Payable	2007.45	
		Mortgage Payable	8614.95	2007.45
			10622.40	2007.45
	2000	Accounts Payable	3345.75	669.15
		Mortgage Payable	3345.75	
		Legal Fees	325.37	
		7016.87	669.15	
2001	Funds Payable	769.15		
	Escrow Fees	24.00		
		793.15	0.00	
Total		43521.57	3536.60	

Jachetta	1996	Mtg Payable (escrow)	**	120.28	
		Rents Rcvd			420.00
		Insurance-Home place		274.00	
		Interest Expense		162.02	
		Professional Fees		20.00	
			576.30	420.00	
	1997	Mortgage Payable	**	282.30	
		Utilities Expense		37.94	
			320.24	0.00	
	1998	Account Payable	**		4063.40
		Mortgage Payable		282.30	
		Rents Received			150.00
			64.65		
			346.95	4213.40	
	1999	Accounts Payable	**	5000.00	
		Mortgage Payable		282.30	
		Rents received			720.00
			20.30		
			5302.60	720.00	
	2000	Legal Fees		463.00	
Repairs and Maint			251.95		
Utilities			447.31		
		1162.26	0.00		
Total			7708.36	5353.40	

** Only one payment to this mortgage account was labeled Jachetta, but probably all payments on mortgage are Jachetta.

Totals w/ all payments:
 1996 \$2,389.85 1998 \$2667.92
 1997 \$2793.00 1999 \$1976.10

EXHIBIT

tabbies

"A"

Glabb

1996	Mortg Payable	36000.00	
	Rents Received		3977.00
	Advertising	16.00	
	Repairs and Maintenance	140.08	
	Repairs and Maintenance	11332.97	
	Taxes on RE	1222.55	
	Utilities Expense	1346.30	
		<u>50057.90</u>	<u>3977.00</u>
1997	Funds Payable- Glabb Ranch		2000.00
	Mortgage Payable	33000.00	
	Rents Received		3503.77
	Outside Services	380.00	
	Repairs and Maintenance	2602.00	
	Taxes on RE	1404.02	
	Utilities Expense	2158.93	
		<u>39544.95</u>	<u>5503.77</u>
1998	Prepaid Rent		400.00
	Funds Payable	3000.00	
	Mortgage Payable	45000.00	
	Rents Received		1430.87
	Advertising	29.00	
	Repairs and maintenance	496.70	
	Utilities	1057.37	
		<u>49583.07</u>	<u>1830.87</u>
1999	Funds Payable	9000.00	
	Mortgage Payable	27000.00	
	Rents Received		260.00
	Repairs and Maintenance	2646.98	
	Utilities	1401.08	
		<u>40048.06</u>	<u>260.00</u>
2000	Mortgage Payable	6000.00	
	Rents Received		550.00
	Legal Fees	503.74	
	Repairs and maintenance	133.50	
	Snowplow Expense	80.00	
	Utilities	1858.07	87.70
		<u>8575.31</u>	<u>87.70</u>
2001	Funds Payable	39000.00	
		<u>39000.00</u>	<u>0.00</u>
Total		226809.29	11659.34

Home Place

1996	Repairs and Maintenance	16.79	
	Taxes on RE	593.16	
	Utilities Expense	640.05	
1997	Insurance	277.00	
	Outside Services	50.00	
	Taxes on RE	308.21	
	Utilities Expense	290.05	
		<u>2175.26</u>	<u>0.00</u>
1998	Utilities	168.15	
		<u>168.15</u>	<u>0.00</u>
1999	Utilities	273.44	
		<u>273.44</u>	<u>0.00</u>
2000	Snowplow expense	50.00	
	Utilities	189.17	
		<u>239.17</u>	<u>0.00</u>
Total		2856.02	0.00

Hoodoo Mtn Ranch			
1997	Control	850.34	
	Rent Expense	4400.00	
		<u>5250.34</u>	0.00
1998	Fee Income-Monthly		360.00
	Rent Expense	4800.00	
		<u>4800.00</u>	<u>360.00</u>
1999	Control	1000.00	
	Accounting Fees	400.00	
	Rent Expense	4885.50	1200.00
		<u>6285.50</u>	<u>1200.00</u>
Total		16335.84	1560.00
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Dunromin	2000	Repairs and Maint	
			70.00
			<u>70.00</u>
			0.00
Total		70.00	0.00

— There are several entries for S & F LLC. Two examples are 10-15-98, check #1216 for \$107,011.14; and 11-3-99 check #806 for \$4,300.00.